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UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS
FIRST SESSION

VOLUME 117—PART 30

NOVEMBER 2, 1971 TO NOVEMBER 8, 1971

(PAGES 38679 TO 40114)

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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, November 2, 1971*

The House met at 12 o'clock noon.

Rev. William E. Smith, Th. D., D.D., senior minister, North Broadway United Methodist Church, Columbus, Ohio, offered the following prayer:

Infinite God, our Father, we humbly seek Your guidance and ask Your blessings as we take up the pressing problems confronting our land. Help us to remember that we are ultimately accountable not to the Nation, nor to history, but to You, Architect of the universe, Father of all men, Author of liberty.

Grant us, therefore, a high sense of responsibility that will not fail amid the pressures and conflicts and storms of life. Wisdom we have. Knowledge has been given us. Now grant us courage to do Your will.

"He has showed you, O man, what is good:
And what does the Lord require of you
But to do justice, to love kindness,
And to walk humbly with your God?"
—Micah 6: 8.

We earnestly pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MRS. ROSE THOMAS

The Clerk called the bill (H.R. 2067) for the relief of Mrs. Rose Thomas.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MARIA LUIGIA DI GIORGIO

The Clerk called the bill (H.R. 2070) for the relief of Maria Luigia Di Giorgio.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

WILLIAM D. PENDER

The Clerk called the bill (H.R. 5657) for the relief of William D. Pender.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

JANIS ZALCMANIS, GERTRUDE JANSONS, LORENA JANSONS MURPHY, AND ASJA JANSONS LIDERS

The Clerk called the bill (H.R. 6100) for the relief of Janis Zalcmanis, Gertrude Jansons, Lorena Jansons Murphy, and Asja Jansons Liders.

There being no objection, the Clerk read the bill as follows:

H.R. 6100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 36(c) of the Trading With the Enemy Act, as amended, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Janis Zalcmanis the sum of $28,624.31, to Gertrude Jansons the sum of $9,541.44, to Lorena Jansons Murphy the sum of $9,541.44, and to Asja Jansons Liders the sum of $9,541.44, in full satisfaction of their claims to statutory interest at the rate of 6 per centum, as provided by section 3771 of the Internal Revenue Code of 1939, on taxes erroneously paid to the Internal Revenue Service from their vested property by the Office of Alien Property on March 15, 1946, and later refunded to them, without interest, on March 29, 1955

No part of each amount appropriated in this Act in excess of 20 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

MRS. ANNA MARIA BALDINI DELA ROSA

The Clerk called the bill (H.R. 3713) for the relief of Mrs. Anna Maria Baldini Dela Rosa.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MRS. ELEANOR D. MORGAN

The Clerk called the bill (H.R. 7569) for the relief of Mrs. Eleanor D. Morgan.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CHARLES COLBATH

The Clerk called the bill (H.R. 4310) for the relief of Charles Colbath.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MRS. CARMEN PRADO

The Clerk called the bill (H.R. 6108) for the relief of Mrs. Carmen Prado.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

RENE PAULO ROHDEN-SOBRINHO

The Clerk called the bill (H.R. 5181) for the relief of Rene Paulo Rohden-Sobrinho.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CATHERINE E. SPELL

The Clerk called the bill (H.R. 7312) for the relief of Catherine E. Spell.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to

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the request of the gentleman from Missouri?

There was no objection.

DOROTHY G. McCARTY

The Clerk called the bill (S. 1810) for the relief of Dorothy G. McCarty.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FRANK J. McCABE

The Clerk called the bill (H.R. 1862) for the relief of Frank J. McCabe.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DONALD L. BULMER

The Clerk called the bill (H.R. 1994) for the relief of Donald L. Bulmer.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

MRS. MARINA MUNOZ DE WYSS (NEE LOPEZ)

The Clerk called the bill (H.R. 5579) for the relief of Mrs. Marina Munoz de Wyss (nee Lopez).

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

EDDIE TROY JAYNES, JR., AND ROSA ELENA JAYNES

The Clerk called the bill (S. 306) for the relief of Eddie Troy Jaynes, Jr., and Rosa Elena Jaynes.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HELEN ROSE BOTTO

The Clerk called the bill (H.R. 1966) for the relief of Helen Rose Botto.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

VITO SERRA

The Clerk called the bill (H.R. 5586) for the relief of Vito Serra.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CARMEN MARIA PENA-GARCANO

The Clerk called the bill (H.R. 6342) for the relief of Carmen Maria Pena-Garcano.

Mr. HALL. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

S. SGT. J. C. BELL, JR., U.S. AIR FORCE

The Clerk called the bill (H.R. 3227) for the relief of S. Sgt. J. C. Bell, Jr., U.S. Air Force.

There being no objection, the Clerk read the bill as follows:

H.R. 3227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $4,000 to Staff Sergeant J. C. Bell, Junior, of Las Vegas, Nevada, in full settlement of his claim against the United States for reimbursement for medical and hospital expenses incurred by him in 1966 in Wichita, Kansas, on behalf of his dependent mother as the result of erroneous information given him by Air Force personnel concerning the availability of facilities for the treatment of his mother at Government medical facilities. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

Page 1, line 5, strike "$4,000" and insert "$3,992.80".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

CALL OF THE HOUSE

Mr. HAYS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Will the gentleman withhold that until the bill is passed?

Mr. HAYS. No, Mr. Speaker. I insist on my point of order.

The SPEAKER. The gentleman from Ohio makes the point of order that a quorum is not present. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 339]

Abbitt	Ford, William D.	Moss
Abernethy	Fraser	Murphy, Ill.
Abourezk	Frelinghuysen	Murphy, N.Y.
Absug	Gallagher	Nix
Addabbo	Garmatz	O'Hara
Anderson, Tenn.	Gaydos	O'Neill
Ashley	Gialmo	Pike
Badillo	Goldwater	Powell
Baring	Gray	Pryor, Ark.
Barrett	Green, Oreg.	Purcell
Blaggi	Gubser	Rees
Bingham	Gude	Reid, N.Y.
Blanton	Halpern	Robinson, Va.
Brademas	Hanna	Robison, N.Y.
Brasco	Hansen, Idaho	Rodino
Burleson, Tex.	Harrington	Roe
Byrne, Pa.	Hansha	Rooney, N.Y.
Cabell	Hathaway	Rooney, Pa.
Camp	Hawkins	Rosenthal
Carey, N.Y.	Hébert	Rousselot
Chamberlain	Helstoski	Roybal
Chisholm	Hicks, Mass.	Sandman
Clancy	Holifield	Sarbanes
Clark	Howard	Satterfield
Clay	Jacobs	Saylos
Colmer	Jarman	Scheuer
Conte	Karth	Seiberling
Cotter	Keating	Shipley
Coughlin	Kee	Skubitz
Crane	Keith	Snyder
Culver	Koch	Stanton, J. William
Daniel, Va.	Lent	Stokes
Daniels, N.J.	Long, La.	Stubblefield
Davis, S.C.	McClure	Terry
Dellums	McEwen	Thompson, N.J.
Dent	Macdonald, Mass.	Veysey
Derwinski	Madden	Vigorito
Diggs	Mathias, Calif.	Whitehurst
Donohue	Mazzoli	Whitten
Downing	Meeds	Williams
Dulski	Minshall	Wilson, Charles H.
Edmondson	Monagan	Wolff
Edwards, Calif.	Montgomery	Wright
Edwards, La.	Moorhead	Wydler
Eilberg	Morgan	Yatron
Eshleman	Morse	
Fish		
Ford, Gerald R.		

The SPEAKER. On this rollcall 290 Members have answered to their names, a quorum

By unanimous consent, further proceedings under the call were dispensed with.

S. SGT. J. C. BELL, JR., U.S. AIR FORCE

The SPEAKER. The question is on the passage of the bill (H.R. 3227) for the relief of S. Sgt. J. C. Bell, Jr., U.S. Air Force.

The bill was passed.

A motion to reconsider was laid on the table.

WILLIAM H. NICKERSON

The Clerk called the bill (H.R. 4064) for the relief of William H. Nickerson.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CERTAIN INDIVIDUALS AND ORGANIZATIONS

The Clerk called the bill (S. 113) for the relief of certain individuals and organizations.

There being no objection, the Clerk read the bill as follows:

S. 113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Milford R. Graham, publisher of the Devils Lake Daily Journal, and Joseph R. Walter, postmaster at Devils Lake, North Dakota, are relieved of liability to the United States in the amount $3,351.61, representing postage due on copies of such journal which were mailed during the period from July 1967 through July 1969, at postage rates which were incorrectly assessed by officials of the Post Office Department.

SEC. 2. The Velva Lutheran Parish, of Velva, North Dakota, and Mrs. Ruth O. Cavanaugh and Richard G. Miller, postmasters at Velva, North Dakota, are relieved of liability to the United States in the amount of $256.89, representing postage due on copies of the publication "Christ in Our Home" which were mailed by such parish during the period from January 1968 through June 27, 1969, at postage rates which were incorrectly assessed by officials of the Post Office Department.

SEC. 3. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated to any person or organization named in the first section and section 2 of this Act, the sum of any amounts withheld or received from such persons or organizations on account of the indebtedness relieved by this Act.

(b) No part of any amount appropriated under this section shall be paid or delivered to or received by any agent or attorney on account of service rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this subsection is a misdemeanor punishable by a fine not to exceed $1,000.

With the following committee amendments:

Page 2, line 3: After "North Dakota", insert "and Mildred C. Payne".

Page 2, line 4: Strike "$256.89" and insert "$267.97".

Page 2, line 7: Strike "June 27, 1969" and insert "July 29, 1969".

The committee amendments were agreed to.

The bill as ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

Mr. BROWN of Michigan. Mr. Speaker, I ask unanimous consent that the further call of the Private Calendar be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

BLESSED SACRAMENT CHURCH

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, in the Eastwood section of Syracuse in my district there, rises a magnificent medieval type church structure dedicated to the Blessed Sacrament. Towering in calm dignity over a busy modern thoroughfare, the present Blessed Sacrament Church is a far cry from the one-story converted barn which served as the site for its first Mass.

It was to honor the men and women who started Blessed Sacrament Parish in this barn and the laity and clergy who contributed to its dynamic growth since 1921 that more than 1,200 people gathered on Sunday, October 17, 1971—to celebrate a golden anniversary.

Fifty years ago a small parish totalling 54 members was started to serve the growing eastern edge of Syracuse. Today Blessed Sacrament's congregation has grown to 8,300 members. And it has become a binding force in the religious and social life of Eastwood, both in a Roman Catholic and in an ecumenical sense.

Blessed Sacrament's first pastor, Father Richard J. Shanahan, opened the grammar school in 1931. The present church structure was dedicated 21 years later in 1952 by Syracuse Bishop Walter Foery.

In 1956, the then Chancellor of the Syracuse Diocese, Msgr. Robert E. Dillion was named pastor and continues in the post today. Monsignor Dillon, whom I have the pleasure of calling a good friend, has done an outstanding job at Blessed Sacrament. He is one of Central New York's most dedicated and respected clergymen.

Of all the strong social forces which work to form a sense of community within American society, the Catholic parish offers a unique blend of the spiritual and the practical. Blessed Sacrament Parish has certainly contributed both its spiritual and practical share. From the thousands of baptisms and weddings to the recently highly acclaimed parish entertainment efforts and summer basketball programs, Blessed Sacrament is an exemplary segment of 1971 America, meeting both its spiritual and social obligations, with an enthusiasm that is a good indication of the way the work to come will be met in the next 50 years.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1736. An act to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes.

S. 2339. An act to provide for the disposition of judgment funds on deposit to the credit of the Pueblo of Laguna in Indian Claims Commission, docket numbered 227, and for other purposes.

UNIFORMED SERVICES HEALTH PROFESSIONS REVITALIZATION ACT

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 644 and ask for its immediate consideration.

CALL OF THE HOUSE

Mr. CLEVELAND. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. SISK. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 340]

Abbitt	Ford, Gerald, R.	Moss
Abernethy	Ford, William D.	Murphy, Ill.
Abourezk	Frelinghuysen	Murphy, N.Y.
Absug	Frenzel	Nix
Addabbo	Gallagher	O'Hara
Anderson, Tenn.	Garmatz	O'Neill
Ashley	Gaydos	Pelly
Badillo	Gialmo	Pike
Baring	Goldwater	Powell
Barrett	Gray	Pryor, Ark.
Blaggi	Gubser	Rees
Biester	Hagan	Reid, N.Y.
Bingham	Halpern	Robison, N.Y.
Blackburn	Hanna	Rodino
Blanton	Hansen, Idaho	Roe
Brademas	Hansen, Wash.	Rooney, N.Y.
Brasco	Harrington	Rooney, Pa.
Broyhill, N.C.	Hansha	Rosenthal
Burleson, Tex.	Hathaway	Rousselot
Byrne, Pa.	Hawkins	Roybal
Cabell	Helstoski	Sandman
Camp	Hicks, Mass.	Saylor
Carey, N.Y.	Howard	Scheuer
Cederberg	Jacobs	Seiberling
Chamberlain	Jarman	Skubitz
Chisholm	Karth	Snyder
Clancy	Kastenmeier	Springer
Clark	Keating	Stanton, J. William
Clay	Kee	Stokes
Colmer	Keith	Stubblefield
Cotter	Koch	Stuckey
Coughlin	Kuykendall	Symington
Crane	Lent	Teague, Calif.
Daniel, Va.	Long, La.	Terry
Davis, S.C.	McClure	Thompson, N.J.
Dellums	Macdonald, Mass.	Van Deerlin
Derwinski	Madden	Veysey
Diggs	Mailliard	Vigorito
Donohue	Mathias, Calif.	Whitehurst
Downing	Mazzoli	Whitten
Dulski	Meeds	Williams
Eckhardt	Mills, Ark.	Wilson, Bob
Edmondson	Minshall	Wilson, Charles H.
Edwards, Calif.	Monagan	Wolff
Edwards, La.	Montgomery	Wyatt
Eilberg	Moorhead	Wydler
Eshleman	Morgan	Yatron
Fish	Morse	
Foley		

The SPEAKER. On this rollcall, 282 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MOTION TO ADJOURN OFFERED BY MR. HAYS

Mr. HAYS. Mr. Speaker, in view of the fact that this is an election day around the country, I move that the House do now adjourn.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. HAYS. Mr. Speaker, I object to the vote on the ground that a quorum is

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not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 8, nays 286, not voting 135, as follows:

[Roll No. 341]

YEAS—8

Boland	Hays	Patten
Delaney	Landgrebe	Stanton,
Hanley	Martin	James V.

NAYS—286

Adams	Evins, Tenn.	Mahon
Alexander	Fascell	Mann
Anderson,	Findley	Mathia, Ga.
Calif.	Fisher	Matsunaga
Anderson, Ill.	Flood	Mayne
Andrews, Ala.	Flowers	Melcher
Andrews,	Flynt	Metcalfe
N. Dak.	Foley	Michel
Annunzio	Ford,	Mikva
Archer	William D.	Miller, Calif.
Arends	Forsythe	Miller, Ohio
Ashbrook	Fountain	Mills, Ark.
Aspin	Fraser	Mills, Md.
Aspinall	Frey	Minish
Baker	Fulton, Tenn.	Mink
Begich	Fuqua	Mitchell
Belcher	Galifianakis	Misell
Bell	Gibbons	Mollohan
Bennett	Gonzalez	Mosher
Bergland	Goodling	Moss
Betts	Grasso	Myers
Bevill	Green, Oreg.	Natcher
Blackburn	Green, Pa.	Nedzi
Blatnik	Griffin	Nelsen
Boggs	Griffths	Nichols
Bolling	Gross	Obey
Bow	Grover	O'Hara
Bray	Gude	O'Konski
Brinkley	Hagan	Passman
Brooks	Haley	Patman
Broomfield	Hall	Pelly
Brotzman	Hamilton	Pepper
Brown, Mich.	Hammer-	Perkins
Brown, Ohio	schmidt	Pettis
Broyhill, N.C.	Harvey	Peyser
Broyhill, Va.	Hastings	Pickle
Burke, Fla.	Hébert	Pirnie
Burke, Mass.	Hechler, W. Va.	Poage
Burlison, Mo.	Heckler, Mass.	Podell
Burton	Henderson	Poff
Byrnes, Wis.	Hicks, Wash.	Preyer, N.C.
Byron	Hillis	Price, Ill.
Caffery	Hogan	Price, Tex.
Carney	Hollifield	Pucinski
Carter	Horton	Purcell
Casey, Tex.	Hosmer	Quie
Cederberg	Hull	Quillen
Celler	Hungate	Railsback
Chappell	Hunt	Randall
Clausen,	Hutchinson	Rangel
Don H.	Ichord	Rarick
Clawson, Del	Johnson, Calif.	Reuss
Cleveland	Johnson, Pa.	Rhodes
Collier	Jonas	Riegle
Collins, Ill.	Jones, Ala.	Roberts
Collins, Tex.	Jones, N.C.	Robinson, Va.
Conable	Jones, Tenn.	Rogers
Conte	Kastenmeier	Roncalio
Conyers	Kazen	Rostenkowski
Corman	Kemp	Roush
Crane	King	Roy
Culver	Kluczynski	Runnels
Daniels, N.J.	Kyl	Ruppe
Danielson	Kyros	Ruth
Davis, Wis.	Landrum	Ryan
de la Garza	Latta	St Germain
Dellenback	Leggett	Scherle
Denholm	Lennon	Schmitz
Dennis	Link	Schneebeli
Devine	Lloyd	Scott
Dickinson	Long, Md.	Sebelius
Dingell	Lujan	Shipley
Dorn	McClory	Shoup
Dow	McCloskey	Shriver
Dowdy	McCollister	Sikes
Drinan	McCormack	Sisk
Duncan	McCulloch	Slack
du Pont	McDade	Smith, Calif.
Dwyer	McDonald,	Smith, Iowa
Edwards, Ala.	Mich.	Smith, N.Y.
Edwards, Calif.	McFall	Spence
Erlenborn	McKay	Springer
Esch	McKinney	Staggers
Evans, Colo.	McMillan	Steed
Steele	Tiernan	Wilson, Bob
Steiger, Ariz.	Udall	Winn
Steiger, Wis.	Ullman	Wright
Stephens	Vander Jagt	Wyatt
Stratton	Vanik	Wylie
Stuckey	Waggonner	Wyman
Sullivan	Waldie	Yates
Talcott	Wampler	Young, Fla.
Taylor	Ware	Young, Tex.
Teague, Calif.	Whalen	Zablocki
Teague, Tex.	Whalley	Zion
Thompson, Ga.	White	Zwach
Thomson, Wis.	Widnall	
Thone	Wiggins	

NOT VOTING—135

Abbitt	Ford, Gerald R.	Morse
Abernethy	Frelinghuysen	Murphy, Ill.
Abourezk	Frenzel	Murphy, N.Y.
Abzug	Gallagher	Nix
Addabbo	Garmatz	O'Neill
Anderson,	Gaydos	Pike
Tenn.	Gettys	Powell
Ashley	Giaimo	Pryor, Ark.
Badillo	Goldwater	Rees
Baring	Gray	Reid, N.Y.
Barrett	Gubser	Robison, N.Y.
Biaggi	Halpern	Rodino
Biester	Hanna	Roe
Bingham	Hansen, Idaho	Rooney, N.Y.
Blanton	Hansen, Wash.	Rooney, Pa.
Brademas	Harrington	Rosenthal
Brasco	Harsha	Rousselot
Buchanan	Hathaway	Roybal
Burleson, Tex.	Hawkins	Sandman
Byrne, Pa.	Helstoski	Sarbanes
Cabell	Hicks, Mass.	Satterfield
Camp	Howard	Saylor
Carey, N.Y.	Jacobs	Scheuer
Chamberlain	Jarman	Schwengel
Chisholm	Karth	Selberling
Clancy	Keating	Skubitz
Clark	Kee	Snyder
Clay	Keith	Stanton,
Colmer	Koch	J. William
Cotter	Kuykendall	Stokes
Coughlin	Lent	Stubblefield
Daniel, Va.	Long, La.	Symington
Davis, Ga.	McClure	Terry
Davis, S.C.	McEwen	Thompson, N.J.
Dellums	McKevitt	Van Deerlin
Dent	Macdonald,	Veysey
Derwinski	Mass.	Vigorito
Diggs	Madden	Whitehurst
Donohue	Mailliard	Whiten
Downing	Mathias, Calif.	Williams
Dulski	Mazzoli	Wilson,
Eckhardt	Meeds	Charles H.
Edmondson	Minshall	Wolff
Edwards, La.	Monagan	Wydler
Eilberg	Montgomery	Yatron
Eshleman	Moorhead	
Fish	Morgan	

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNIFORMED SERVICES HEALTH PROFESSIONS REVITALIZATION ACT OF 1971

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. Res. 644

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2) to establish a Uniformed Services University of the Health Sciences. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against such substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of such consideration, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 644 provides an open rule with 1 hour of general debate for consideration of H.R. 2, Uniformed Services Health Professions Revitalization Act of 1971. The resolution also provides that it shall be in order to consider the committee substitute as an original bill for the purpose of amendment and that all points of order are waived for failure to comply with clause 7 of rule XVI—question of germaneness.

The purpose of H.R. 2 is to establish, within 25 miles of the District of Columbia, a Uniformed Services University of Health Sciences with authority to grant advanced degrees.

The first graduating class will be not later than 10 years after enactment of the legislation and there shall be not less than 100 graduates each year.

The university shall be run by a board of regents and funds will be appropriated for and provided by the Department of Defense. Members of the board will serve for 6 years.

Students shall be commissioned officers, who shall serve on active duty with full pay and allowances in pay grade O–1. Upon graduation they shall be appointed in a regular component to serve for at least 7 years, except that not more than 20 percent may agree to perform civilian Federal duty for 7 years.

Procedures for the selection of students will be prescribed by the Secretary of Defense.

Annual and supplemental appropriations for the DOD are authorized for the planning, construction, development, improvement, operation and maintenance, the cost of construction being limited to $20 million in any 1 year. Estimated costs for the next 5 years are $20.3 million in fiscal year 1972, $41.8 million in fiscal year 1973, $52.6 million in fiscal year 1974, $62.6 million in fiscal year 1975 and $64 million in fiscal year 1976.

The legislation is designed to overcome the critical shortage of career-oriented military personnel qualified in the health professions.

Mr. Speaker, I urge adoption of the rule in order that the bill may be considered.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as was stated by the gentleman from California (Mr. SISK), House Resolution 644 will permit consideration of H.R. 2 under an open rule with 1 hour of debate waiving all points of order on the committee amendment.

The bill, as reported by the Committee on Armed Services, is directed toward overcoming the critical shortage of career oriented military personnel qualified in the health profession and the inability of the services to retain these persons in a career status.

Although the critical shortage of career oriented military personnel qualified in the health professions has long been a matter of grave concern within the armed forces, recent changes in the draft law, together with the announced intention of the executive branch to attempt to go to an all-volunteer force, has now made this problem genuinely acute and one of emergency proportions.

The fiscal impact of enactment of this legislation in the first year will be approximately $20 million. Thereafter the annual cost will increase to approximately $50 million or $60 million. The Committee on Armed Services advises that the 5-year cost projection of this legislation is approximately $245 million. The bulk of this cost, approximately $210 million, will be expended in supporting the scholarship program.

Mr. Speaker, I happen to recall there is a waiver of points of order in this particular resolution and I cannot help but try to have a little fun here today. Going back to the old sayings that chickens always come home to roost and if you wait long enough everything comes to him who waits—the distinguished gentleman from Missouri, my friend (Mr. HALL) has from time to time been a little bit critical of the Rules Committee on waivers of points of order.

He appeared before the Rules Committee and requested this waiver on behalf of the Committee on Armed Services. I yield now to the gentleman from Missouri to explain this particular waiver of points of order and why it is necessary.

Mr. HALL. Mr. Speaker, the Members cannot imagine the depth of my feeling of gratitude for my colleague, the gentleman from California (Mr. SMITH) for having yielded to me on this particular point of order.

Mr. Speaker, I happen to have before me clause 7 of rule XVI, and I would say if ever there was a crow that came home to roost, I am having to eat that crow made up in humble pie. The rule, of course, has to do with the indivisibility on a motion to strike, and says:

That a motion to strike out being lost shall neither preclude amendment nor a motion to strike out and insert.

Of course, it does not involve transfer of funds and I do appreciate my friend, the gentleman from California, bringing this to the attention of my host of friends, I am sure the reverberations will be heard from coast to coast and from the far flung spume of the ocean to the high tossed cumulus clouds. As the sounds reverberate through the eons, I will recall my colleagues' thoughts.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

I think the words of our distinguished friend, the gentleman from Missouri, ought to be inserted in the CONGRESSIONAL RECORD in 10-point type complete with illustrations in living color.

Mr. SMITH of California. Mr. Speaker, I urge the adoption of the rule and I have no further requests for time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HÉBERT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2) to establish a Uniformed Services University of the Health Sciences.

The SPEAKER. The question is on the motion offered by the gentleman from Louisiana.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 2, with Mr. DORN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Louisiana (Mr. HÉBERT) will be recognized for 30 minutes, and the gentleman from Missouri (Mr. HALL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. HÉBERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, fellow members, I rise in support of H.R. 2, as reported by your Committee on Armed Services.

As many Members of this body are aware, this legislative proposal is one which I have nurtured for more than 20 years. It is a concept which, with your support, will soon become a reality. I firmly believe that enactment of this legislation is absolutely essential to the future well-being of the men and women of our Armed Forces.

The bill as reported by the committee is designed to overcome the critical shortage of career-oriented military personnel qualified in the health professions and the inability of the uniformed services to retain these personnel in a career status.

The fact that our Nation has a shortage of manpower in the health sciences, and particularly in the area of trained physicians, scarcely requires any elaboration.

The critical shortage of physicans has been acknowledged by both the President of the United States and the American Medical Association. The President's National Advisory Commission on Health Manpower in November 1967 expressed grave concern over this problem, and in its report strongly recommended that—

The production of physicians should be increased beyond presently planned levels by a substantial expansion in the capacity of existing medical schools and *by continued development of new schools.* (Italics supplied.)

The current shortage of physicians is estimated to be approximately 50,000. However, whatever the estimate may be, the fact remains that an acute shortage does exist.

The Congress has recently taken very positive action in its effort to alleviate this shortage of physicians, and other trained health manpower. Therefore, it is hoped that if these various statutory programs are fully funded by the Congress and fully implemented by the executive branch they will go far towards alleviating this shortage in the distant future. However, notwithstanding these actions by the Congress which are directed toward improving the supply of non-Federal physicians, the fact remains that an increase in the supply of non-Federal physicians in no way insures the availability of physicians both quantitatively and qualitatively to meet the requirements of the Armed Forces.

Our Armed Forces are a voracious consumer of physician manpower. At the present time there are approximately 14,000 physicians on active duty in the Armed Forces. Since 1967 our military services have required the annual input of approximately 4 to 5,000 physicians to satisfy their health care requirements.

The critical shortage of career oriented military personnel qualified in the health professions has long been a matter of grave concern within the Armed Forces. Recent changes in the draft law together with the announced intention of the executive branch to go to an "all-volunteer force" has now made this problem acute and one of emergency proportions.

The President's Commission on an all-volunteer force—Gates Commission—in commenting on this general subject in 1970, stated—

80% of all male physicians in the United States under 35 have served in the Armed Forces or have held reserve commissions. No other group in our society has had such heavy relative demands placed upon it for military service. Only 4% of male physicians under 35 who are eligible for service have not yet served. In the last four years, more than 4500 doctors entered active duty service annually—fully 60% of the number graduating from medical school each year.

Despite this tremendous input of physician manpower into the Armed Forces, the retention rate of this large group since the Korean war is less than 1 percent.

This last statistic reflecting a retention rate of less than 1 percent emphasizes the almost total inability of our Armed Forces to maintain an adequate number of career-minded physicians in our Armed Forces.

In order to illustrate the problem of physician retention in the Armed Forces, let me cite a few simple statistics.

In fiscal year 1969 the number of physicians who elected to become members of the Regular Medical Corps was 491. That same year, the services lost 497, mostly through resignations.

The next year, fiscal year 1970, 328 physicians elected to become members of the Regular Corps, but almost twice as many, 588, chose to leave the Regular Corps, again mostly through resignations and not retirements.

In fiscal year 1971, the services were able to persuade only 252 physicians to join the Regular Corps, while during the same time frame more than twice that

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number, 631, left the armed services—mostly again by resignations.

Obviously, if this rate of attrition continues, the services will have no career Medical Corps of any consequence, with a corresponding devastating impact on the quality of medical care provided our Armed Forces personnel.

One element of the armed services physician problem—procurement—has in the past been relatively simple of solution by virtue of the draft law. This law, for practical purposes, has been the legal "crutch" which has enabled the armed services to ignore the realities of their demonstrated inability to retain adequate numbers of physicians on a career basis.

The luxury of that "crutch" will now no longer be available for the armed services. As you know, under the recently enacted amendments to the draft law, the end of the doctor draft will soon become a reality.

The President has stated that he hopes to go to an all-volunteer force, including physicians, by 1973. The fact is, whether he does or does not, within less than 7 years he will, for practical purposes, be unable to draft physicians. This condition will result because of changes in the draft law and the President's decision to eliminate all future undergraduate student deferments.

Thus, the problem of physician procurement and retention can no longer be given superficial attention. It is one that now requires immediate and dramatic action.

These are the basic considerations which prompted the legislative action now recommended by the Committee on Armed Services.

The legislation developed by the Committee on Armed Services will attack this problem on three broad fronts:

First. It will attack the problem on a short-term basis by establishing a very comprehensive scholarship program for the training of professionals in the health fields for careers in the Armed Forces;

Second. It will attack the long-term procurement and retention problems of these health professionals in the Armed Forces by establishing a Uniformed Services University of the Health Sciences which will include the development of a medical school for the production of career oriented physicians as well as contributing to the enhancement of the prestige and dignity of a professional medical career in the Armed Forces; and

Third. The bill, if enacted, would lift existing statutory restraints on the promotion of medical and dental officers to flag and general officer rank. Thus, with the lifting of these restrictions, medical and dental officers in the armed services may be given the military recognition demanded by their professional capabilities and responsibilities.

FISCAL ASPECTS

Enactment of this legislation will provide the Department of Defense and the armed services with new statutory authority involving three specific areas of possible increased costs. These areas of cost, as I have previously mentioned, include:

First, the establishment of a university of the health sciences;

Second, a comprehensive scholarship program for the health professions; and

Third, increased promotion opportunity to flag and general officer rank for medical and dental officers.

Of the three programs I have enumerated, the one which will involve the greatest expenditure of Federal funds is the scholarship program. That program will initially cost approximately $20 million in the first year, with costs rising thereafter to $40 to $50 million per year. The total 5-year cost projection is approximately $210 million.

The university of the health sciences and the medical school will have a minimal cost in its first year, approximating $327,000 and increasing slightly thereafter until the brick and mortar stage is reached and the medical school is constructed. The 5-year cost projection for this program is approximately $35 million. Since the program contemplates graduation of the first class of medical students within a maximum of 10 years, the 10-year cost projection is important. The Department of Defense estimates that the total 10-year cost of operation of the university of the health sciences and the medical school, including all of the pay and allowances of the faculty, students and operating personnel, as well as facilities costs would involve approximately $105 million.

Finally, the lifting of promotion restrictions to flag and general officer rank for medical and dental officers will result in some additional personnel costs. However, we are talking about relatively few people, and the cost, I am told, will be minimal and will not require any increased appropriations for the Department of Defense.

DEPARTMENT OF DEFENSE POSITION

The general objectives of this legislation received the support of Department of Defense witnesses. As a matter of fact, the scholarship program is a Department of Defense and executive branch legislative recommendation.

COMMITTEE POSITION

This legislation was the subject of extensive hearings by the Committee on Armed Services. At the outset there were some "doubting Thomases" on the committee. However, after receipt of very comprehensive testimony there was not a dissenting vote on the committee. The bill was reported out unanimously with 33 members voting aye.

CONCLUSION

Mr. Chairman, that, in very broad form, is the legislative proposal before you. Each of the three elements of the program embodied in this legislative proposal is vital to the success of the whole.

However, I am absolutely convinced that the most critical element of this legislative proposal involves the creation of a medical school.

My opinion and conviction in this regard was immeasureably fortified by the testimony the committee had received from various expert witnesses. For example, Dr. James Cain of the Mayo Clinic, former chairman of President Lyndon B. Johnson's National Advisory Committee to the Selective Service System for the Selection of Physicians, Dentists, and Allied Medical Personnel, and currently a member of the American Medical Association's Council on National Security, categorized this concept as a tremendous breakthrough for U.S. medicine.

Dr. Cain stated:

I think this medical school and its possibilities are limited really only by our dreams and our imagination.

The enthusiasm reflected in this distinguished physician's testimony was repeated by many others.

The creation of a medical school for the training of physicians for our Armed Forces is a dream which I have fostered for more than 20 years. During much of that time I stood almost alone in advocating this concept. Today, I am happy to say, this idea has now engendered tremendous support and enthusiasm.

I hope the Members of this body will share that enthusiasm and give unanimous approval to this bill.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman.

Mr. JONAS. Mr. Chairman, I have asked the distinguished gentleman to yield in order to respond to several questions.

I notice that this university is to be established within 25 miles of the District of Columbia. What is the rationale behind that restriction?

Mr. HÉBERT. The question is a most valid one and I am very happy to explain. In the establishment of a medical school, one of the most important factors and one of the most important ingredients in the establishment of a medical school is the availability of research and the availability of individual patient treatment.

This particular area, the Washington area, perhaps, is one of the finest areas in which this resource can be found. We have Bethesda, the great Walter Reed Hospital, the National Institutes of Health and we have quite a number of medical schools as well. So within this area you are not isolated, the training facilities you have here already at your beck and call.

Mr. JONAS. May I respond by saying that I certainly concur in the view that any medical school ought to be located in close proximity to a hospital and research facilities. As a matter of fact, I think the trend today is to establish medical schools in teaching hospitals, in connection with the hospitals. I wonder if the committee gave any consideration to the conversion of Walter Reed into a teaching hospital, to do the teaching there in connection with the hospital's operation.

Just last week this House approved an appropriation bill which appropriates $100 million to expand and remodel and bring up to date the facilities at Walter Reed. Now did the committee give any consideration to establishing this university as a part of Walter Reed and making it a teaching hospital?

Mr. HÉBERT. The gentleman has put his finger on the very spot—this is one of the reasons, because you have the availability of Walter Reed and Bethesda both, and particularly after the new hospital which the Appropriations Committee provided funds for. This will be a teaching hospital and it is one of the cogent reasons why we looked for it in this area.

Mr. JONAS. But if you build an institution at a location removed from Bethesda and Walter Reed, you have the question of transportation of students. My question goes to the point of whether or not it would not be advisable to make Walter Reed a teaching hospital and to put the university within the facilities of Walter Reed so that patients would be available in the same complex?

Mr. HÉBERT. That can easily be done in the planning stage once the building is authorized at Walter Reed. We do not say that you have to build here or there.

Mr. JONAS. If there is ground available and the brick and mortar is available at Walter Reed, I think it would be excellent.

We are going to spend about $100 million for a remodeled facility at Walter Reed which will have a patient load already fixed and established. I should think instead of building a new university at some other location serious consideration should be given to locating it within the Walter Reed complex.

Mr. HÉBERT. I agree with the gentleman.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Florida.

Mr. ROGERS. I certainly appreciate what the gentleman has done with his committee in bringing this legislation before the House. I do have some reservations about embarking on just an Armed Services program where we have existing medical schools where this project could be undertaken. I merely wished to ask a few questions which may be helpful to me in my thinking.

First, I am sure the gentleman realizes that we recently passed a $3 billion bill to enhance medical education, and to build new medical universities. As I understand the proposed program, you would have a scholarship program which in effect would use existing medical colleges. In fact, the majority of the program, I presume, would be the scholarship program using existing medical schools since your program will amount to 5,000 students at any one time; 5,000 is the correct figure is it not?

Mr. HÉBERT. Yes.

Mr. ROGERS. Therefore, your military medical school will produce 100 per year. But that does not happen for 10 years. That would be 1,000 that you could produce beginning 10 years from now. So 20 years from now, by building this medical college, you would have produced 1,000 doctors.

The major thrust of the program would use existing schools through the scholarship program, which I think is probably the right course to go for the major effect. But I do question the fact that the requirement of 7 years service would be necessary in order to qualify for a scholarship. And the reason I say this is I am afraid the young men and women may not be attracted to the program unless it is scaled somewhat more realistically. I understand the committee's reason for doing this. You want something back, and I think it is necessary to have some quid pro quo. But we have had a scholarship program, a forgiveness program. Now, it has not been 100 percent, but it has been a scholarship forgiveness program. And do you know how many have taken advantage of it in this Nation? Nine, three of whom are optometrists.

So I do not want to be in opposition to the bill, but I do want to express these reservations. I have great concern as to whether this will really answer the problem, because I think even giving them their scholarships outright and requiring 7 years service is not going to attract the numbers you may anticipate. I think having those who want to come into the service for a career, those people will be properly motivated. But I am not sure that this is going to answer the problem in the long run. These people might be educated all over the country. Maybe it would be better because they would get an exposure nationwide rather than a monolithic approach. We would not expect just one State university to train everybody.

But I am not going to oppose the bill. I did want to express my reservation and hope the committee will look into this. The only reservation that I did have and that I would really be concerned with is building more schools. But I understand you have conditioned this on a study to see what would happen, and this bill would provide for the building of only one.

Mr. HÉBERT. In reply to the gentleman from Florida, I merely wish to say that his concern is the committee's concern, also. The scholarship is not the answer to the problem. In other words, every time you put a youngster in such a school, you keep a civilian doctor out of service in the community. Ours is to be a military medical school. The orientation will be military. But the education will be the same that you will find in a civilian school, and the schools are to be controlled by a board of civilian regents.

Mr. ROGERS. I thank the gentleman.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Ohio.

Mr. LATTA. The gentleman will recall that at the time this bill was before the Rules Committee I raised a question about the method to be used in selecting students to attend this university.

At that time I asked the distinguished chairman why we could not select these applicants in the same manner as applicants for the service academies. By this method we would have some geographic distribution of these students. Has the gentleman had the time to ponder this suggestion?

Mr. HÉBERT. Yes, I have. We have considered this but I do not think it would be practicable to have congressional control. It would be against something we have been fighting so long to have. We are not looking for geographical distribution. We are looking for the best qualified. It is a different proposition from the military academies. Here we are dealing with the lives and the health of the individuals. Maybe as we go along with this, this can be remedied, but at the present time I see no hope of having congressional selection. We do not have enough annual enrollment to go around, anyway.

Mr. LATTA. If the gentleman will yield further, I am not interested in congressional control nor having any say over the appointment of these individuals, but I am interested in seeing to it that individuals from my district, for example, who might want to attend this university and secure free medical education, have an equal opportunity for selection. With this university located in the East, I do not see how you can overcome the tendency to have more of these applicants applying and being accepted from this area. Without some assurance of geographic distribution being written into the law, I can visualize a disproportionate number of students being appointed from Washington, Virginia, Maryland, or New York at the expense of students seeking admission from Ohio.

I also raised the question that we are going to have various groups demanding that you have so many of their particular group or so many of that particular group represented in this university each year. I do not think that is what the gentleman wants to accomplish. He wants the best possible applicants for this university, and I think we can get the best possible applicants by having the 435 congressional districts represented in the selection.

Mr. HÉBERT. I am sure every individual district and every section of the country will get proper consideration. If I did not think they would, I would not sponsor this legislation.

Mr. LATTA. If the gentleman will yield further, will he explain how this will be accomplished if we do not have an opportunity to make recommendations of outstanding applicants which might come to our attention?

Mr. HÉBERT. There is no prohibition against making any recommendations. Any individual Member of Congress can recommend any individual he wants to.

Mr. LATTA. I agree with the gentleman but if it does not mean anything to make a recommendation there is no use making it. Is the gentleman saying that the regulations to be prescribed by the Secretary—he will consider these recommendations?

Mr. HÉBERT. He should take these recommendations into account and I think he should invite congressional recommendations.

Mr. LATTA. I thank the gentleman.

Mr. HALL. Mr. Chairman, I yield such time as he may consume to the ranking minority member on the Armed Services Committee, the gentleman from Illinois (Mr. ARENDS).

Mr. ARENDS. Mr. Chairman, I favor

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H.R. 2, the Uniformed Services Health Professions Revitalization Act of 1971. Within the past year we have passed many measures to assist the Department of Defense in moving to a zero draft and an all-volunteer armed force. While these measures may be effective for most of the individuals needed by the Armed Forces, they are not adequate to attract the number of health professionals that will be required for the Department of Defense to provide first-rate medical services to members of the Armed Forces. We are all very aware of the critical shortage that exists in our Nation in certain health professions, particularly doctors of medicine and dentistry. We are also fully aware of the difficulty that the Armed Forces have had since World War II in attracting and retaining medical and dental officers. Over the years we have relied upon the so-called doctor draft to supply the Armed Forces with physicians and dentists. We must provide replacements for the doctor draft. In my opinion, H.R. 2 will contribute greatly toward that end.

Under H.R. 2, the Armed Forces would have the authority to select outstanding students in civilian universities in the health professions and commission them as second lieutenants or ensigns. The Armed Forces would also pay for the tuition and fees of these students while they were in their professional training. Upon completion of professional training, the students would be commissioned in their respective professional corps within the Armed Forces and would be required to serve on active duty for a specified period of time in return for the scholarships they received. This scholarship program would induce young people interested in the health professions to begin their practice within our Armed Forces and to become qualified, not only in the usual specialities of their professions, but also in military health matters.

A student who went all the way through medical school under the scholarship program would be required to remain on active duty for at least 4 years. If he should choose to specialize while he is in the service, he would be required to remain much longer and we can expect that most who do so would make a career of military medicine. This, in turn, would reduce the rapid turnover of health professionals that the Armed Forces have had in recent years, thereby improving the quality of medicine available for all members of the Armed Forces.

While the scholarship program contained in H.R. 2 would assist in filling the recruiting gap created by the expiration of the draft, we must also be concerned about longer range measures to improve the supply of health professionals for the Armed Forces and the health services for other members of the Armed Forces. H.R. 2 meets the longer range problem by directing the establishment of a Uniformed Services University of the Health Sciences within a 25-mile radius of the District of Columbia. It also requires the Secretary of Defense to examine other suitable areas for similar universities. Under the program of H.R. 2, the outstanding facilities of the Department of Defense would become part of the university. The university would have a medical school and other postgraduate schools that are necessary for the education or continuing education of dedicated young people who desire to make a career of military medicine. In my opinion, the creation of this educational system will assist the Armed Forces in insuring that members of the Armed Forces receive only the finest health services.

As the draft expires, we cannot ignore the effect it will have on the medical departments of the Armed Forces. The chairman of the Armed Services Committee held long hearings on the best means of softening the adverse effects from the draft expiration and I believe that the outstanding program he has provided in H.R. 2 will do just that.

I encourage support of H.R. 2.

Mr. HALL. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, in the beginning let me answer a question, that seems perhaps to have been asked with not a complete answer, by stating that first the Uniformed Services Medical Academy will create a new output of physicians in addition to the ones that the Uniformed Services scholarships will interest in medicine.

Second, in response to my friend and colleague from Florida (Mr. ROGERS) let me call his attention to the middle paragraph on page 14 of the committee report under the title, "Implementation of the Scholarship Program" with the simple background that the Armed Services Committee leaned over backwards not to spell out the entire minutiae and details, but there is a sentence in the middle of that paragraph which simply states:

> The Secretary of Defense would prescribe the amount of obligated service required—

Parenthetically, for scholarships, that is—

> Except that he could not prescribe a period of less than one year for each year of subsidy.

In other words, it is a one for one return on the scholarship program, whereas the graduates from the Uniformed Services Military School of Medicine would be required to pay back the 7 years.

The hope on the part of the Committee on Armed Services was by that time, putting our best foot forward toward retention of regular medical officers of the regular medical corps, we could induce them to remain and serve a lifetime career of dedication.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Florida.

Mr. ROGERS. I am glad to have that distinction made. As I understood it, suppose one of these young men who graduated under the scholarship program accepted a Reserve commission. I read the report, on page 21, and understood when he would be commissioned as an officer of the Reserve component then he would have to serve for 7 years. Perhaps I was mistaken in that.

Mr. HALL. Perhaps the gentleman is confusing the fact that he is a reservist on active duty while in the scholarship program, just as the man is "a reservist" on active duty while matriculating through the Uniformed Services School of Medicine.

Mr. ROGERS. There is just one other question I had some concern about. It is that 20 percent of the graduates of any one class may agree to perform civilian Federal duty with, for example, the Veterans' Administration or the Public Health Service. I wonder if it is wise to put in that exception so long as this is geared to handle the problem for the armed services as such?

Mr. HALL. I will say frankly to my discerning friend from Florida that this is necessary in this day and age when we also have to have U.S. Public Health Service officers. As the gentleman knows, they have been granted constructive military credit so long as they are assigned to strictly U.S. Public Health Service duties. We needed the sanction of the Secretary of the Department of Health, Education, and Welfare along with that of the Secretary of Defense, in order to get this bill out. So it is a practical consideration.

But it goes to show that there is fallout benefit from this Uniformed Academy of Military Medicine, so to speak, which will always benefit the civilian components of the United States.

Mr. ROGERS. Yes. The only point I wanted to make was that those bills have already passed to handle those programs. But I understand what the gentleman is saying.

Mr. HALL. I thank the gentleman.

Mr. Chairman, I should like to proceed for just a minute with my statement, and then I shall be most happy to yield up to the limit of my time that we have for the consideration of this bill. I believe I will answer many of the questions in the statement I prepared to complement that of the distinguished chairman of the committee, the gentleman from Louisiana.

Mr. JONAS. Mr. Chairman, will the gentleman yield on that point?

Mr. HALL. If it is on that point, I am glad to yield to the gentleman from North Carolina.

Mr. JONAS. The gentleman in the well referred to the middle paragraph on page 14. Will he tell me whether I correctly interpret that to mean that the 1,800 scholarships would be granted to students who have already been accepted in medical schools or who are attending medical schools?

Mr. HALL. The original 1,800 are composed as shown in that table right below which allocates them to the three component services of the Department of Defense. They would almost all be freshmen, but they would have been accepted by the dean or the committee on admissions for matriculation in medical schools, of course, with the prior notice of the capitation programs and scholarships to be granted, or they would already have begun school in some cases.

They would be new students. The first year there would be 1,800 and the second year the same number, so eventually we will have the same component. That is why the fiscal cost rises in the first 3 years.

Mr. JONAS. Do you mean, then, that there would be 1,800 students who would otherwise not go to medical school?

Mr. HALL. It is our hope to stimulate that many, because there are indeed tens of thousands of qualified applicants who apply for entrance to medical schools each year but who are not admitted because of lack of capacity. Although the medical schools have gone from 68 to 108 since the end of World War II and the number of graduates has gone from 6,800 to over 10,400 a year, we still have the same ratio of physicians to patients in the United States that we had in 1949.

Mr. JONAS. It is not the intent of the committee or the Government to take over the financial responsibility for tuition and so forth for students who would have gone to medical school irrespective of this program?

Mr. HALL. Absolutely not; because, of course, they will have to hold up their hands and be sworn into the service before they can matriculate in the scholarship program and reserve programs.

Mr. CARNEY. Mr. Chairman, will the gentleman yield for a short question?

Mr. HALL. Of course.

Mr. CARNEY. Does this apply to students of osteopathic as well as medical schools?

Mr. HALL. It does. If my good friend from Ohio will look at the report, he will find all of the allied health sciences listed about two-thirds of the way down on page 13.

Mr. CARNEY. Thank you.

Mr. HALL. Mr. Chairman, I rise in support of H.R. 2 as reported by the Committee on Armed Services and urge its unanimous approval by this body.

I am excited about it and have had a change of opinion about it through the years, as someone remarked before.

I want to pay particular notice to our distinguished chairman, the gentleman from Louisiana (EDDIE HÉBERT) who chairs the Committee on Armed Services. He has done his usual masterful job of explaining the general purposes and provisions of this bill. Therefore, I will attempt to avoid any duplication of the material that he has already presented to the House. However, I do believe it important that I emphasize once again the underlying problem which makes approval and implementation of this legislation timely and absolutely imperative.

The Armed Forces of the United States are simply not capable of either attracting—or retaining—the skilled medical manpower that is required to provide for and satisfy the quality health care requirements of the men and women of our Armed Forces which is an ethical, moral, and legal obligation. The inability to retain qualified medical personnel on a career basis is clearly evident in the fact that despite the tremendous input of trained physician manpower into the Armed Forces each year, we have been able to retain less than 1 percent on a career basis.

I am certain that no organization, in or out of Government, which experiences a turnover of employees of this magnitude could long survive. It is therefore abundantly clear that the action and added incentives we have taken heretofore to attract and retain physicians in the Armed Forces has simply been too little and too late. We are in direct competition with the primary and dedicated drive of every medical student, namely—humanitarian care of people in private practice.

The testimony received by the Committee on Armed Services corroborated my personal views on this matter. Money alone is not the answer. Physicians, like every other human being, require recognition and challenge as a part of the compensation they receive for their endeavors. A university of this kind proposed by this legislation will go far toward satisfying that requirement. It will offer an opportunity for our personnel in the health professions to advance in their chosen careers, as well as to do teaching and research. It will enable them to obtain further professional accreditation in their chosen specialties, become academic professors, and ascend their colleagues ladder in equity.

It will, in my opinion, as a former Assistant Surgeon General responsible for all military and civilian personnel, provide the fountainhead or the focal point for the professional leadership, possibly missing in military medicine today.

I would like to point out that the concept of a Government medical and allied health professional school is neither novel nor new. There are at least 18 countries that now have government medical schools for their armed forces, nine are self-contained schools, with the medical course under military direction, while nine are administrative military organizations for groups of students who study at regular civilian medical schools. Many of these medical schools have been operating for a long time and both the level of medical training as well as the caliber of the physicians they produce have not been the subject of any significant criticism. As a matter of fact, in some of these countries these medical training programs are the Nation's principal source of trained physicians. The fallout benefit to civilian requirements has always been, and will be great.

I think it also pertinent to point out that in our country today the vast majority of the medical schools in being, are no longer "private schools" but in fact public institutions with their support coming primarily from State and Federal funds.

I therefore do not share the reservations that some members of the medical profession seem to have concerning the establishment of a medical school of this kind. I have evolved through that stage and recognize modern requirements and facts of life.

I am quite aware of the fact that the creation of a medical school de novo is ordinarily a long and arduous process covering a span from 5 to 10 years. A dean and faculty of medicine, and associated medical disciplines, must be laboriously recruited and assembled. In addition, costly capital outlays must be forthcoming to build facilities such as an administrative center, basic science buildings, laboratory, research facilities for the basic and clinical sciences, housing for faculty and students, and teaching hospitals with an adequate patient census.

Fortunately, much of these resources are already in being and available in the Washington metropolitan area. There are in the Washington metropolitan area, military and Federal medical resources whose full potential in contributing an increased production of physicians has almost scandalously, never been fully utilized. Within the environs of the Nation's Capital, for example, may be found the National Institutes of Health, the Armed Forces Institute of Pathology, the Armed Forces Radio-Biology Research Institute, the National Library of Medicine, Walter Reed Army Institute of Research, Walter Reed Hospital, the Naval Medical School and Research Institute, the Naval Hospital at Bethesda, Andrews Air Force Base Malcolm Grow Hospital, the Walter Reed Army Institute of Nursing, and the Hospital of the Veterans' Administration. These facilities, with their staffs, their patient population, their clinics, laboratories, libraries and classrooms form major assets for the creation of a medical education center.

These elements represent an enormous capital investment, all national assets, all currently operational, all mature institutions, many of which have national and international reputations. It would appear to be no longer justifiable, in the fact of the urgent requirements for expansion of our medical education system, to leave these resources untapped. It is time for the Federal Government to capitalize on them by the creation of a medical school which will meet at least a portion of the medical needs of our Armed Forces and thus serve the Nation as a whole. Conversely, failure to do so in a time of recognized need based on progressively increasing demands for services, is most unfortuitous and nearsighted.

This bill will provide the Department of Defense with the authority required to initiate the necessary actions which will result in the establishment of a Uniformed Services University of the Health Sciences with its first major project the actual establishment of a medical school, for the training of uniformed services personnel.

This bill, as amended by the committee and as described by the chairman, will do three things:

First, it will establish the Uniformed Services University of the Health Sciences, with initial emphasis on the creation of a medical school;

Second, it will authorize the concurrent establishment of a very comprehensive scholarship program for the training of professionals in the civilian health fields for careers in the Armed Forces; and

Third, it will lift existing statutory restraints on the promotion of medical and dental officers to flag and general officer rank.

The combination of these actions should go far toward increasing the attractiveness of a career in the health professions in the Armed Forces.

We certainly know that action must be taken and taken immediately. The solution provided by this legislative proposal is one endorsed by not only your

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Committee on Armed Services but the Department of Defense as well.

I, therefore, urge every Member of this body to support this legislation so that it may receive the unanimous approval of the House.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. HALL. Of course, I yield to the gentleman from Texas.

Mr. GONZALEZ. First, I wish to add my compliments to the gentleman for his most enlightening presentation and my compliments to the chairman of the committee, the distinguished gentleman Louisiana (Mr. HÉBERT).

Mr. Chairman, I rise in support of this legislation. However, I have one question to ask. Since the statistics show that this is a very critical field, how does the gentleman explain the fact that the doctors are not going into the service, or if they do, staying in the service? What is the overriding factor there?

Mr. HALL. There are many factors, some of which I touched upon in my statement. There is a lack of recognition on the part of the medical community of the service doctor and a lack of teaching and research professions. I know this comes as a shock to those who do not realize the centralization of research within the armed services. But most of all, those that remain have that inherent desire of the individual who dedicates himself to humanitarian care but who has to compete with his colleagues and fellow man in rendering quality medical care.

They can render quality medical care perhaps by rote in the uniformed services, and I speak from over 8½ years of experience on active duty in the service as a medical officer myself, but they cannot do it in the same degree of competition that they get from hanging out their shingle in their own hometown and meeting the competitive thrust of the favored doctor-patient relationship.

Mr. GONZALEZ. I thank the gentleman.

Mr. HALL. Mr. Chairman, I now would like to yield 5 minutes to my distinguished friend and colleague, the gentleman from New York (Mr. PIRNIE).

Mr. PIRNIE. Mr. Chairman, I rise in support of H.R. 2 as reported by the Committee on Armed Services, and strongly urge its approval by every Member of this body.

I am reminded also, as the chairman has stated, that this is a dream of 20 years, but that period of 20 years has been very well spent. It has brought the dream into clear perspective. It has enlisted people who might otherwise have been opposed to its sound objectives, and therefore, as was developed in the testimony before our committee, there is substantial approval. There is recognition of the need, and there is recognition of the validity of the approach as we try to generate an environment in which professional excellence will be the hallmark of the military doctor, so that he can pursue his profession within the armed services as a credit to the profession.

I know that this is going to be accomplished without sacrificing excellence in the civilian environment. That has been the goal of our chairman, and it has been the foundation upon which the basic plans have been developed. We seek not only a solution for a pressing problem, but a landmark in excellence in a field which vitally affects the health and happiness of our people, in and out of uniform.

Mr. Chairman, both Chairman HÉBERT and Dr. HALL have provided the House with comprehensive explanations of this legislation. Therefore, I will confine my remarks to responding to certain elements of criticism which I consider unjustified.

Briefly, there are those who directly or indirectly maintain that since the Uniformed Services University of Health Sciences will be a federally sponsored institution, it will therefore, somehow, produce second-class graduates not equal to the professional capabilities of those otherwise trained.

This criticism is clearly without basis in fact. On the contrary, there is much evidence to indicate that the quality of training and the quality of the type of graduate produced by an institution of this kind will be well above that obtained in nonfederally sponsored educational institutions.

For example, the Service Academies, which are operated and administered by the Army, Navy, and Air Force, have developed and maintained academic standards that assuredly place them among the finest undergraduate educational institutions in the United States today.

As a member of the Board of Visitors of one of the Service Academies, I have been privileged over a period of years to become intimately familiar with the academic program typical of each of these Academies, and can testify that their faculties, their libraries, their student bodies, and their intellectual accomplishments are outstanding.

To illustrate, graduates of the Air Force Academy, when tested with their contemporaries from the civilian sector, have consistently finished among the top 10 schools in the country in comparative test scores.

Likewise, graduates of the Military Academy at West Point and the Naval Academy at Annapolis have done remarkably well in these comparative test scores. Obviously, this reflects the continual striving for academic excellence in these federally sponsored undergraduate training institutions.

The accomplishments of graduates of the Service Academies require no elaboration. Their distinguished military and civilian careers are well established. Dozens of universities and colleges throughout the country are now headed by former students of the Service Academies. The Academies each year are honored by having graduates designated as Rhodes scholars—an honor which not only distinguishes the young man so designated but the institution which provided the academic training that made this award possible.

These facts present a very dramatic and solid refutation of the allegation that a federally sponsored educational institution cannot attain and maintain the high academic standards of nonfederally administered educational institutions. However, it should be noted, the proposed medical school for the uniformed services will not be administered by the military departments. It will, in fact, be administered by a board of regents composed almost entirely of civilians appointed by the President of the United States.

The board of regents will consist of nine civilians appointed by the President with the advice and consent of the Senate. These civilians will undoubtedly be outstanding educators and prominent members of the medical profession.

The board will also include representatives of the Secretary of Defense and each of the Surgeons General of the United States.

Thus, the board of regents of this new school will, in fact, be no less civilian oriented than other non-Federal medical schools through the country.

This board of regents will not be service dominated.

This board of regents will not be politically dominated.

This board of regents will, however, be dedicated to the purpose of making this medical school the finest of its kind in the entire world.

This board of regents will be dedicated to producing physicians equipped and trained to function as global physicians—physicians who will encounter and be able to cope with the myriad of medical problems that occur anywhere in the world even under the sea and in the infinite vastness of space.

The appraisal that I am attempting to convey regarding this concept is shared by many members of the medical profession. Let me for a moment quote one of the distinguished witnesses who appeared before the committee, Dr. James Cain, consultant in medicine at the Mayo Clinic, former chairman of President Johnson's National Advisory Committee to the Selective Service System for the selection of physicians, dentists and allied medical personnel, and currently a member of the American Medical Association's Council on National Security, who projected this concept as follows:

> This school could be a model for the country, and it should be. I think this medical school and its possibilities are limited really only by our dreams and our imagination.

This concept, developed so carefully by our chairman, Mr. HÉBERT, has been described as an idea "whose time has come."

It has been long awaited. Let us not wait any longer. Our Committee on Armed Services reported this bill out unanimously with 33 members voting "aye." It deserves the same unqualified approval in the House.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. PIRNIE. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I want to commend the gentleman from New York for the statement that he has made, and also the gentleman from Missouri for the leadership and the expertise which he has provided in the development of this bill, and especially do I wish to commend our chairman, the gentleman from Louisiana (Mr. HÉBERT), who not only provided leadership in bringing this bill to the House floor, but also for persevering in a concept which was sound over 20 years ago, when he first advanced the same, and is still sound today.

The purpose of this legislation is to educate and develop career-oriented medical officers, and I feel quite confident that if administered properly the dreams of the gentleman from Louisiana will be realized.

Mr. Chairman, I thank the gentleman for yielding.

Mr. PIRNIE. I thank the gentleman for the statement he has made.

Mr. HALL. Mr. Chairman, may I inquire how much time we have remaining?

The CHAIRMAN. The Chair will advise the gentleman there are 12 minutes remaining.

Mr. HALL. Mr. Chairman, I now would like to yield 5 minutes to the distinguished gentleman from Texas, a member of the committee (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I add my support to H.R. 2, the Uniformed Services Health Professions Revitalization Act of 1971. I believe that H.R. 2 will do more to improve the quality of health care for our service members than any single matter this body has considered in many years. Since World War II the Congress has been greatly concerned with providing sufficient numbers of members of the health professions for our Armed Forces. This concern is heightened at the present time because of the national shortage of members of certain health professions. In my opinon, H.R. 2 will give the Department of Defense the authority it needs to procure and retain outstanding health professionals. It will do so by enabling them to assist in producing members of the health professions and, therefore, their gains will not be at the expense of the civilian sector.

H.R. 2 has three major parts. The first part directs the Secretary of Defense to establish a Uniformed Services University of the Health Sciences. This university will graduate its first class of 100 medical students within 10 years. It will also be the focal point for all health educational activities within the Department of Defense. In my opinion the establishment of this university is both a logical and necessary step. A medical school or any other in the clinical health profession requires more than a building, textbooks, and teachers. It requires a wide variety of patients and a health care facility so that the students can receive the proper training. We have, within the Washington, D.C. area, some of the finest hospitals in the country at Walter Reed Army Medical Center, the National Naval Medical Center, and at Andrews Air Force Base. Considering the critical shortage in our country of health professionals, we cannot allow the magnificent teaching opportunities presented by these hospitals to go to waste any longer. They should become a part of a health sciences university and H.R. 2 would make them part of the Uniformed Services University of Health Sciences.

The second part gives the Secretary of Defense the authority to establish scholarship programs for members of the health professions. During the first fiscal year of operation he could provide scholarships for nearly 2,000 students and the number of scholarships could be increased annually until 5,000 students were in the program. It is my belief that such a scholarship program is necessary to attract enough physicians and dentists into the Armed Forces.

The third portion of H.R. 2 would permit the Secretary of Defense to determine the number of medical and dental general officers that he needed to most effectively operate his health services. At the present time the authorizations for general officer for physicians and dentists are part of the larger authorizations of the Armed Forces. Consequently, in most instances, an additional flag rank officer in the Medical or Dental Corps leads to one less general officer in the line of the Armed Forces. As the result of this, the Armed Forces only have enough flag officers to fill the top health managerial positions. This means that to become a general or admiral, a physician, regardless of how highly skilled in his specialty he may be, must leave the patient for the desk. This is an intolerable situation that must be corrected. H.R. 2 would allow the Secretary of Defense to provide for sufficient flag officers in the Medical and Dental Corps so that a highly skilled specialist could continue his specialty practice after promotion. This body passed a similar provision in 1967 but that provision was rejected by the Senate. I believe that we were on the right course in 1967.

Mr. Chairman, the bill authorizes the Secretary of Defense to propose additional similar institutions, at appropriate locations, if feasible and necessary. If and when that happens, San Antonio should, and I think will, be on top of the list. As the Nations No. 1 military city, located there a vast medical complex—both military and civilian. Indeed, the Alamo City is due to become the Nation's foremost medical center, with the finest facilities to be found anywhere. Also located there is the great and prestigious Southwest Research Institute.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I yield to my distinguished colleague, the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, I thank my colleague, the gentleman from Texas, and compliment him for his efforts on behalf of this legislation and echo his sentiments with regard to the very special qualities and potentials in the San Antonio area.

I intend to offer an amendment to the committee bill, which would leave discretionary with the Secretary, the site location.

Since this institution is to be specialized in nature, I believe that its actual location should be a matter of administrative discretion. Clearly there are many places in the United States that could serve well as the site for this school, not least of them being my own area of San Antonio. In San Antonio, we already have a host of facilities that would admirably complement the new school, and make it the best possible institution. For example San Antonio has a new civilian medical school. There is a major new veterans hospital being built on the same site, and not far away the University of Texas is constructing a new campus for a major school. Within minutes of all this there is Brooke Army Medical Center, already world famous for its work in the treatment of serious burns. There is also a major Air Force Medical Center at Lackland Air Force Base, not to mention the School of Aerospace Medicine at Brooks Air Force Base. Given all this I could not imagine a more likely spot to locate the proposed new institution. The committee bill would however, bar even the consideration of San Antonio, or any other place—and there are many others in the country—that might be far more suited for this school than anything available in the Washington metropolitan area. Notwithstanding my own interests in San Antonio, I believe that simple prudence demands that we should allow the executive full discretion in seeking out the best possible site for this important school for the training of military medical personnel.

I urge the adoption of my amendment, which I believe will perfect the bill.

Mr. HALL. Mr. Chairman, I would like very much to yield 5 minutes at this time to the gentleman from Florida, my distinguished friend on the Committee on Armed Services, who has cosponsored this and similar legislation since before I came to Congress (Mr. CHARLES E. BENNETT).

Mr. BENNETT. Mr. Chairman, I thank my colleague very much.

Mr. Chairman, this is truly an idea that has come in its time.

It is unique in another aspect as well and that is that we have a chairman of the Committee on Armed Services who has worked for this idea with great perseverance against many years of opposition. This idea was always a sound idea, but somehow or another it never was put in exact focus in the way it should be and now it has been done; and done largely because of the gentleman's perseverance and his idealism. It is a great and well deserved tribute to him.

Another rather unique thing about this bill is that Dr. HALL, on the minority side, who is one of the most intelligent, bright, and dedicated men it has ever been my opportunity to meet, is a man who has gone into this in great depth and with great clarity and with great precision. I think this legislation is a product of many fine things and one is the dedication of that man from Missouri who has this tremendous capacity and perseverance and who has worked so hard and effectively on this legislation.

Mr. Chairman, I would say one other thing as being particularly unique about this legislation and that is that it comes to grip with something that has been overlooked in the past: That is that having doctors come always through private medical schools has not in fact produced fully an opportunity for men who really look at the medical career in the military as a special type of career. I have spent about 2 years of my life in military hospitals as a patient and I know whereof I speak.

There are men in such hospitals who have indeed given their lives to the idea of serving their fellow man who have fought on the battlefields for this country. They are a special type of people. They are wonderful people. A similar type of people, in my opinion, could be

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brought to a military medical educational institution. We could bring there together for instruction purposes these men who have already been such anonymous but great men in making medical strides for our military men.

I just believe this military medical education plan, can be, perhaps, the finest in the world, and it can turn out men who are in truth dedicated to serving America by serving those who have served on the front lines of our country.

I have been interested in establishing a medical school for the Armed Forces for almost two decades. It seems very consistent with the proposals of George Washington in 1790 and 1796 when he recommended a national university and also a national military academy. Since 1955, I have introduced bills such as this in each session of the Congress to achieve a better medical program for our military which would also help all U.S. citizens.

In this Congress, I have introduced a bill, H.R. 578, to provide for the establishment of a U.S. Armed Forces Medical School and to establish an Armed Forces health professions scholarship program. The thrust of my legislation was similar, if not identical, to the bill that we are now considering today.

There is a critical health manpower need in the United States today, as was pointed out in the recent report on the Comprehensive Health Manpower Training Act of 1971. While we have approximately 332,000 physicians in active practice today, we need 50,000 more today, and the National Institute of Public Health reports we will be 28,000 doctors short by 1980.

An Armed Forces Medical School would help solve this shortage of doctors not only in the military, but also for civilians, particularly in areas of great need. It will help eliminate the doctors' draft, which we have had to rely upon for too many years to obtain adequate physicians for our military.

A military medical school would stop the rapid turnover of doctors in the Armed Forces, which one report states totals some 5,000 each year. It would save the Government money in training and indoctrination costs because there would be greater permanency of service. Students attending the military medical school would be the best trained in America, and the staff and faculty would be of high quality, drawing upon the expertise of the civilian practice and the military.

For years, I have had unfavorable reports on the bills I have introduced from the Department of Defense but, at long last, this year we have the total support of the Department of Defense. During the hearings, one member of the committee stated, "This is an old idea whose time has come," and I could not agree with him more.

Mr. Chairman, section 2116 of this bill requires the Secretary of Defense to report on the feasibility of establishing medical, educational institutions similar to the uniformed services university, at locations he deems appropriate. I sincerely hope the Secretary will recommend Jacksonville, Fla., for such an institution. The large number of military personnel in that area and the medical and hospital facilities there, both civilian and military, would seem to make that location ideal.

Today, more than 53,000 of our physicians are graduates of foreign medical schools. This means that about one in every six physicians is a foreign graduate, and this proportion is rising.

The chairman, in his usual fine manner, has given in general terms the structure and organization of the Uniformed Services University of the Health Sciences. In my opinion, this certainly is the right approach to solving the long-term problem. But this bill is more embracing. It proposes to attack the short-term problem of training professionals in the health fields for careers in the Armed Forces by approving a comprehensive scholarship program which was advocated by the Department of Defense.

At the present time, each of the military departments now has a program involving a partial subsidization of medical education in return for obligated service. These programs, however, are small and lack uniformity.

This bill would provide a statutory basis for a larger and uniform program covering all the health professions for which there is a need in the military medical services and which require training beyond the baccalaureate level. Under this program, qualified persons accepted by or already attending an accredited graduate school and who are pursuing an education in one of the health professions, may be appointed as second lieutenants or ensigns, ordered to active duty with full pay and allowances, and stationed at their respective civilian colleges or universities. In addition, their tuition, books, and other educations fees would be paid for by the Government. In return for this financial assistance, participants would incur an active duty obligation the amount of which would be determined under regulations prescribed by the Secretary of Defense.

It is recognized that the pay and allowances of second lieutenants and ensigns would provide participants with funds considerably greater than those now generally available to students in the health professions under various other Federal scholarship and loan programs. But it must be recognized that the other loan and scholarship programs now available do not involve any obligation for military service and that, in fact, acceptance of such funds generally involve no obligation whatsoever.

As the cost for an education in the health professions continues to increase, many gifted and deserving young people must of financial necessity rule out any possibility of their entering the health professions. The establishment of the program covered by this proposal will offer these young people an opportunity otherwise denied them. At the same time, greater stability would accrue to the military medical services if the program is successful.

The program contemplated will be partially successful if it results in significant improvement in the number of commissioned officers in the health professions who serve on active duty beyond 2 years. We believe it will be completely successful if it results in a retention rate upon completion of obligated service of at least 10 percent of those who participated.

For the first year, a total of 1,800 scholarships are proposed. Depending then upon need and availability of funds, the annual input could be raised to 5,000 by fiscal year 1977 by expanding medical and dental participation and adding the various other health professions required for an all-volunteer program.

While students for the program will be sought from all professional institutions, it is anticipated that some institutions will play a major role in educating students in the health professions for the uniformed services. It is also anticipated that in such cases, it will be preferable for the Department of Defense to negotiate directly with the institutions to annually accept a certain number of students who are jointly selected by the Department of Defense and the institutions.

In general, such institutions will be those that are located in the vicinity of major medical facilities of the uniformed services and that enter into comprehensive affiliation agreements with the Department of Defense for post-graduate and continuing education of health personnel in those facilities.

Gentlemen, this bill is designed primarily to assist the military by the additional production of career oriented medical officers, but it will create a benefit in practically every community in the United States. As we move toward an all-volunteer force, I can think of no more vital piece of legislation that we could consider than the one we are considering here today. We in the Congress have a responsibility to provide proper medical care for our military forces, and without such a bill as this, if the doctor draft law expires, we would be unable to provide such care.

I urge the support of every Member of this body to help attain the goal of an all-volunteer force by voting for this bill.

Mr. HALL. Mr. Chairman, I yield myself 1 minute.

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. HALL. Mr. Chairman, I certainly want to thank the distinguished gentlemen who have had such kind remarks about this bill, and especially about our distinguished chairman from Louisiana and our staff who have worked so long and redrafted so many bills in order to make it adequate, and bring to pass this idea whose time has come aborning today, as we would say in the profession.

I think the experience of the gentleman from Florida in military hospitals explains his prolonged dedication to helping to draft this bill I would merely want to supplement what he has said, in addition to what I have already commented in thanking him, introducing him, and in yielding time to him, by saying perhaps many people who are regular files of the Medical Department in the Regular Army who do get out and follow a will-o'-the-wisp today do not take full cognizance of the many benefits of the in-service care of patients and, furthermore, of the benefits that accrue from their lifetime of dedicated service, and it is toward this end that we are trying to stimulate retention and inducement to stay in the service.

Mr. Chairman, at this time I would like to yield to the gentleman from North Carolina, a distinguished member of the Committee on Appropriations (Mr. JONAS).

The CHAIRMAN. The gentleman from North Carolina is recognized.

Mr. JONAS. Mr. Chairman, I have asked for this time in order to try to get in the RECORD some estimates of the cost of this program that we are asked to vote for today. I understand there are two separate programs. One is the scholarship program, and the projected costs are pretty well set forth on pages 15 and 16. I understand the estimate of the scholarship program is that it will cost $20 million the first year and then go up to $40 or $50 million, in that range, thereafter, and in the last 3 years, as shown on the chart on page 16, it is expected to continue at a rate of $50 million a year.

Mr. HÉBERT. That is our understanding.

Mr. JONAS. That answers my question with respect to the scholarships.

With respect to the establishment of a university, I see in section 2117, page 13 of the bill, that there is an open-ended authorization there, depending on appropriations for the Department of Defense in regular bills and supplements. Any sums appropriated for the Department of Defense can be used for the construction of this hospital. Is that correct?

Mr. HÉBERT. There is a limitation of $20 million for this particular project in any one fiscal year.

Mr. JONAS. I did notice that it is $20 million a year, but how many years will that run? Will it require more than 1 year for construction? Would it be $20 million 1 year, $40 million for the next 2 years, making $60 million, if it takes 3 years? What does this mean?

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman's question. I invite his attention to the fiscal data appearing on page 26 of the report under the heading of "Fiscal Data," and also the data on pages 15 and 16.

Now, in specific answer to the question, that is the authorization of up to $20 million, it is necessarily vague at this time. If the gentleman insists on the term "open-ended," it is simply because we do not know at this stage whether they will convert a building in being, as someone here suggested a while ago, at the Army Medical Center, to the basic science school which is necessary before we get into the clinical years and all these hospital and other research and training facilities that are available, or whether they will have to build a new basic science building, or where they will build it. But it was the thinking of the committee that we should leave this up to the Secretary because in the bill itself we ask the Secretary to report back each year to the Committee on Armed Services. Of course, there is the final check of the gentleman's own committee, the Committee on Appropriations.

Mr. JONAS. Mr. Chairman, if the gentleman will permit me, I had noticed that table on page 26. But I noticed the one on page 22 also, and I was trying to reconcile them. The table on page 26 shows the estimated cost over a 6-year period of $241 million. Is that correct?

Mr. HALL. That is for operation as well as brick and mortar, and the scholarship program, and the Armed Services Medical School combined.

Mr. JONAS. That is the combined, overall total estimated cost of the entire legislation?

Mr. HALL. That is correct.

Mr. JONAS. University plus scholarship?

Mr. HALL. That is correct.

Mr. JONAS. I thank the gentleman for yielding.

Mr. HALL. Mr. Chairman, I have no further requests for time at this point, and I reserve the balance of my time.

Mr. HÉBERT. Mr. Chairman, I yield to the gentleman from California (Mr. LEGGETT) for a unanimous-consent request.

Mr. LEGGETT. Mr. Chairman, I think the criticality of the pending legislation has been well pointed out by the previous speakers. Certainly I commend the unified approach to this legislation. It is strongly supported on both the Democratic side of the committee, and also on the Republican side. It came out of the committee unanimously. We reconciled most of the objections and differences which have arisen about this legislation.

Certainly it seems to me that the health crises, which might be a subject of contention in this country as far as the domestic area, there is no question as far as the health crises in military medicine is concerned. We are going to have to meet this crises as our draft evaporates within the next few years. I believe there is no doubt about the fact that we need two medical slots for every medical student who currently is in training in the United States today. I believe the university is needed, and the scholarship program is needed. I believe this is the most cost effective program we have in our defense budget.

Mr. Chairman, I commend the gentleman and the committee for this legislation.

Mr. Chairman, let us consider the following undisputed facts which argue in favor of establishing a military medical school and a military medical scholarship program.

First. Our present military medical manpower is largely produced by the doctor draft. Of 14,075 physicians presently in uniform, only 5,301 were not drafted.

The doctor draft will not be available much longer. It is based on the fact that nearly all young American doctors enjoyed student deferments in college and/or medical school; therefore, they are subject to the draft until they reach age 35. With the approaching end of all student deferments, this source of medical manpower will disappear.

Second. The United States in general suffers from a tremendous shortage of physicians, which results from a tremendous shortage of medical schools. For every student who enters medical school, another fully qualified student must be turned away. In other words, we could well use twice as many medical schools as we now have.

Third. Even with the present heavy Federal and State subsidies, medical school is tremendously expensive for the student and his family. Medical school does not permit the part-time work or fellowships that are common in graduate school, and scholarships and loans are relatively scarce.

Fourth. There is a particular shortage of doctors in rural and low-income areas. This accounts for America's scandalously low ranking among the countries of the world in terms of average life expectancy and infant survival.

The proposed military medical school and military scholarship programs will not by themselves solve any of these problems, but they will contribute to their solution. Let us take these problems one at a time:

First, the military manpower problem. The proposed medical school will graduate 100 physicians per year, of which 80 will be required to serve 7 years in the military, not including their years of internship and residency. This means that each year we will be acquiring 560 new man-years of medical manpower. In addition, it is probably fair to assume that virtually all of these men will choose to serve internships and residencies in the military; if we estimate a 1-year internship and a 3-year residency as an average, this gives us another 320 new man-years acquired each year.

The military medical scholarship program will pay educational expenses plus 0–1 level salary to medical students at existing schools, in return for 1 year military obligation for each year in the program. The program will finance 5,000 students on the average this gives us 5,000 new man-years every year. Assuming they serve their internship and residency in the military, this adds another 5,000 man-years.

Now let us add it up. Ignoring interns and residents, the program will provide a minimum of 5,560 new man-years of medical manpower each year. Adding interns and residents, we have 10,880.

In addition, improved pay scales and promotion practices will presumably persuade some of these doctors to remain in the military after their obligation has expired. But even if it does not, when one considers that today's Armed Forces, which employ considerably higher manpower levels than we will be seeing in the next 10 or 20 years, require only 14,000 physicians, it is evident that this bill will go a long way toward our military medical manpower requirements.

Second. The military medical school will turn out 100 new physicians every year, to the direct or indirect benefit of the Nation's general medical needs. We need many times this number, of course, but 100 will help.

Third. Approximately 1,350 medical students each year will be able to enter this program which will provide them with all educational expenses plus a comfortable living allowance. This will enable other scarce scholarship and loan

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funds to be distributed to other needy students who might otherwise have to drop out for financial reasons. Personally, I believe we should be heading toward free medical education for all who can qualify. This bill will be a step in that direction.

Fourth. The military medical school will graduate 20 physicians per year who will not serve in uniform, but will be obligated to serve 7 years in Federal civilian service. In addition, the bill allows the services to transfer the obligation of scholarship recipients to Health, Education, and Welfare if military medical manpower conditions permit. Thus, we will have at least 20 young physicians each year who will be sent for at least 7 years each to the poverty areas of our Nation where doctors are most urgently needed. They will, of course, receive a comfortable income from the Federal Government during their service.

Mr. HALL. Mr. Chairman, I yield now to the distinguished gentleman from New York (Mr. KING) a member of the committee, such time as he may consume, and the balance of my time I yield to the distinguished chairman of the committee.

Mr. KING. Mr. Chairman, as a member of the Committee on Armed Services I rise in support of H.R. 2. I compliment the chairman, and the gentleman from Missouri (Mr. HALL) for the work they have done on this bill.

Mr. Chairman, I think it advisable to put in the RECORD a synopsis of the bill at this point:

H.R. 2 AS AMENDED AND REPORTED BY THE HOUSE ARMED SERVICES COMMITTEE

1. Adds a new chapter 104 to title 10 U.S. Code.

a. Establishes a Uniformed Services University of the Health Sciences, with degree-granting authority, within 25 miles of D.C.

b. University would graduate 100 medical students annually, with first graduating class within 10 years.

c. University would be governed by a Board of Regents composed of nine civilians appointed by the President with the advice and consent of the Senate, a representative of the Secretary of Defense, and the surgeons general of the uniformed services.

d. The Board of Regents could establish postdoctoral, postgraduate, and technological institutes, as well as continuing education programs.

e. A student at the University would be on active duty in pay grade O–1 and would incur a seven year service obligation.

f. Up to 20 percent of the graduates could serve their obligation through civilian Federal service.

g. The Secretary of Defense would be required to report to the Armed Services Committees on the feasibility of establishing similar educational institutions at other locations.

h. Appropriations for construction of facilities could not exceed $20 million in any fiscal year.

2. Adds a new chapter 105 to title 10 U.S. Code.

a. Authorizes Secretaries of military departments to establish scholarship programs for health professions.

b. Students in the scholarship programs would attend civilian institutions in the United States or Puerto Rico for up to four years in courses leading to degrees in the health professions.

c. A student in the scholarship program would be on active duty in the grade O–1 and would incur a service obligation of at least one year for each year of education while in the program.

d. Not more than 5,000 students could be in the scholarship programs at any time.

e. The Secretary of Defense could contract with civilian institutions for the payment of tuition and other educational expenses incurred by students in the scholarship programs.

3. Amends sections 3202(e) and 8202(e) of title 10 to remove Army and Air Force medical and dental officers from the numerical restrictions of the respective officer grade limitation acts.

4. Amends section 5793 of title 10 to authorize the Secretary of the Navy to determine the needs of the Navy for officers in the flag ranks in the Medical Corps and the Dental Corps.

Mr. PRICE of Illinois. Mr. Chairman, I support H.R. 2, the Uniformed Services Health Professions Revitilization Act of 1971. I think this is a significant step forward in providing for the medical care of our servicemen and servicewomen.

Many parts of our Nation are faced with a shortage of adequate health services. As we work on other measures to solve those problems, we must be sure that the members of our Armed Forces do not suffer from a shortage of quality health care.

For many years now, we have used the doctor draft as the mechanism for acquiring health professionals, especially in medicine and dentistry, for the Armed Forces. At the present time the Armed Forces are attempting to move to an all-volunteer force. As they do so, it would be grossly unfair to continue to use the doctor draft and to discriminate against the members of the health professions by requiring them to serve involuntarily in the Armed Forces.

If the Armed Forces cannot continue to draft physicians and dentists, they must have substitute methods of procuring these essential health personnel. I believe H.R. 2 will give the Department of Defense some very valuable tools that can be used to counteract the expiration of the draft.

H.R. 2 contains a scholarship program through which the Department of Defense can assist in the education of dedicated young people, who would like to follow a career in military medicine, in return for a specified number of years service after they graduate from a professional school. Under H.R. 2, the Secretary of Defense will be able to commission individuals in various medical or dental schools or he will be able to enter into agreements under which a medical school or a dental school would educate a certain number of students for the Department of Defense. The latter will be particularly desirable where medical schools are located near our large military medical facilites because the students could spend part of their time as students practicing in the military medical facility. By the time they graduate they would already be familiar with military medicine practices.

In addition to the scholarship provision, H.R. 2 would provide for the establishment of a uniformed services university of the health sciences. This university could, by using the tremendous health resources of the Armed Forces in the Washington D.C. area, become one of the finest health universities in the United States. This fact was affirmed repeatedly in the hearings held by Mr. HÉBERT on H.R. 2. While the primary purpose of the university would be to educate health professionals for the Armed Forces, it might, in the long run prove to be of even greater value in its effect on the quality of military medicine. The university would coordinate all health educational and research efforts in the Armed Forces. These programs would be under the guidance of a board of regents that I am certain will represent the finest minds in the country in their respective fields. It is my belief that the university would closely tie military medicine to the mainstream of the most outstanding aspects of our civilian health education programs.

Finally, H.R. 2 will give the Secretary of Defense the authority to determine his own needs for general and flag officers in the medical and dental professions without affecting the general and admiral authorizations for the line of the services. This measure is long overdue. At the present time, with the limited number of flag rank positions for physicians and dentists, the most highly skilled neurosurgeon or the surgeon performing open heart surgery must leave the operating room if he is selected to be a general or an admiral. He must do so because the few authorizations for flag rank are reserved for the top medical and dental leadership physicians. With the additional authority contained in H.R. 2, the Secretary of Defense will be able to provide sufficient authorizations so that the most outstanding clinical specialists can be promoted to flag rank and continue to be the leaders in their specialty fields.

I urge support of H.R. 2.

Mr. HÉBERT. Mr. Chairman, in the few seconds remaining I shall take the opportunity to echo what the gentleman from Missouri (Mr. HALL) has said in connection with the work of our staff.

I think the Members of this House know this again exemplifies the team effort of the Committee on Armed Services. We have no partisan lines. It is a team that is working every day to keep America as strong as we can, and to contribute to our security.

Our staff, as usual, worked very hard, and in close cooperation with Pentagon officials. As a result of this great team effort we have come forth with this legislation today, which I do hope will be unanimously approved.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

H.R. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Health Professions Revitalization Act of 1971".

Mr. HÉBERT. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DORN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2) to establish a Uniformed Services University of the Health Sciences, had come to no resolution thereon.

PARLIAMENTARY INQUIRY REGARDING ORDER OF BUSINESS TOMORROW

Mr. HÉBERT. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. HÉBERT. As I understand the situation as of now, and as related to tomorrow, our understanding is that a continuation of consideration of the bill H.R. 2 will be the first order of business when the House meets tomorrow?

The SPEAKER. Not under the program, the Chair will answer. There are two unfinished matters pending before the House. One is the Higher Education Act, which has been the unfinished business for several days. It is a matter of discretion of the Chair, and the Chair would like to discuss this matter with all parties concerned.

Mr. HÉBERT. I hope the Chair will, because it was my understanding this would be the first order of business tomorrow. That was the reason the committee rose, in deference to the wishes of the Chair.

The SPEAKER. The Chair will take that up with parties concerned.

THE CHILDREN ARE STILL WAITING

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RYAN. Mr. Speaker, in 1967, the Congress passed an amendment to the medicaid law mandating the creation of a program of preventive health care for millions of poor children throughout the Nation. Now—4 years later—that law still has not been implemented.

On September 16, I brought to the attention of the House the fact that due to the failure of the Department of Health, Education, and Welfare to put this program into action, some 6 million children have been denied desperately needed medical services. Today, in an editorial condemning the failure of HEW to live up to its responsibilities, the Washington Post estimates the number of children who would be eligible for the benefits of this program at 13 million. Whether it be 6 million or 13 million, one thing is clear: The callous neglect of the needs of poor children by this administration is totally inexcusable.

On August 16, I wrote to the Secretary of Health, Education, and Welfare calling upon him immediately to implement this program. On September 21, I received his response—expressing his "concern" for the need of this program and informing me that he had signed regulations which would be published in the Federal Register "very shortly." That was 6 weeks ago. The children are still waiting.

At this point I include in the RECORD the editorial from the November 2 Washington Post regarding the failure of the Department of Health, Education, and Welfare to carry out its responsibilities to the children of this Nation:

AN UNUSED HEALTH LAW

Preventive medicine is a simple idea: you visit the doctor before you get sick, rather than after. In that way, a potentially serious illness is possibly caught in its early stages and blocked before it gets beyond control. Such logic has been followed by millions who go in for cancer check-ups or heart tests. This makes sense economically—because of the money saved—and medically, because catching a disease early is considerably less demanding on the patient, doctor and hospital than catching it later.

This was largely the thinking of the House Ways and Means Committee in 1967 when a proposal came before it for a federal program to examine millions of poor children for potential illness or disease and then correcting them. The committee was attracted by the economic advantages of the program—better to pay out a little now than a lot later. Accordingly, President Johnson signed into law in January, 1968, the idea of preventive medical care for welfare children who seldom if ever see a doctor. The law was an amendment to the Social Security Act.

Now, nearly four years later, the children of poverty and sickness are still waiting for the government to begin the program. The alibis and stalls of the administration—it costs too much, the regulations will be out shortly so don't be impatient—reveal a bleak record of federal indifference both to the poor and to the basic logic of preventive medicine. In a recent Washington Post story by Nick Kotz, it was revealed by HEW officials that the regulations of the program—overdue now by 27 months—are being held up by the Office of Management and Budget. Saving money is the obvious reason, but in the long run how much actual saving will there be? In comparison to what will have to be spent later, nothing will be saved; vast sums are likely to be lost.

As for the health problems of the young poor, the Mississippi Medical Commission recently reported that its examination of 1,178 children showed 1,301 medical abnormalities, including: 305 cases of multiple cavities, 241 cases of anemia, 97 cases of faulty vision, 217 cases of enlarged tonsils, 51 cases of hernia, 48 cases of intestinal parasites, 58 cases of poor hearing and 32 other conditions requiring immediate treatment.

Perhaps if no program had been created by Congress for these tragedies, it might be understandable that these sick children are uncared for (and never mind the vast federal sums spent on defective military airplanes or farm subsidies). But the law is there, with some 13 million covered by it. Granted, medicaid and welfare are not simple programs to administer; but how is it possible that after three years action on this section of the law—to help prevent diseases among children—has yet to begin?

A CONSTITUTIONAL AMENDMENT DEALING WITH PRAYER IN PUBLIC BUILDINGS

(Mr. McKAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McKAY. Mr. Speaker, much information has been introduced into the RECORD regarding the proposed constitutional amendment dealing with prayer in public buildings. Much of this information presents the legal and historical justification for the position taken by the Supreme Court in the Engel and Abington cases. This information is certainly welcome and I have considered much of it with interest.

Yet I cannot approach this issue simply by considering legal and historical precedent. The proposed amendment involves considerations which are, to me, fundamental and highly personal.

It is disheartening, to me, to hear proponents of this amendment tell us that the Supreme Court, in the school prayer cases, found in favor of nonbelievers against the legitimate wishes of the religious people of the land—that the advantages of those decisions are entirely secular. Nothing is further from the truth. The protection afforded by those decisions are as meaningful to the religious man as to the atheist. For anyone who truly takes his faith seriously, who has searched his mind and heart for an understanding of his God, who has developed out of his religious experience a belief about the place, values, and form of prayer as the deepest verbal expression of man's religious feelings, for any such person, the possibility of the state interfering with these deeply held feelings is indeed ominous.

I, personally, find the proposed amendment offensive because I cannot be equivocal about my religious belief. I have devoted much of my life to developing my understanding and respect for the Lord, and my understanding of Him is, certainly "denominational." Therefore, the "nondenominational" prayer advocated by this amendment cannot be acceptable to me. I am unwilling to participate in forms of religious exercise which accord to Him less respect than my faith requires, and I would be offended to have my Government regularly sponsor and support any such exercise as a part of the public school curriculum.

I am a member of the L.D.S. faith. I have held positions of responsibility and authority within that church. I prefer that my children be committed to that faith, and that they approach prayer with the special considerations required by the Mormon Church. I cannot, therefore, be comfortable with the thought that any institution of the State will involve them in religious services which do not measure up to the obligations taught by the church.

But just as I want my children to pray as Mormons, so I understand that my fellows of different faiths feel equally strongly about their children worshipping as befits their background. However strongly I feel about my faith, I would not impose it on others against their will. Not only would such an imposition be antithetical to the most basic American concepts of freedom, it would also endanger, in the long run, my own capacity to worship as my conscience dictates. Indeed, members of my faith need only recall what happened to their ancestors in Illinois, Ohio, and Missouri to recognize how precious religious freedom is, and how cruel intolerance can be when aided or ignored by the State.

Faced with my reluctance to have my children participate in religious exercises which do not embody their understanding of religious experience, and finding equally distasteful the thought of using the state to impose my religious preferences on others through the public

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schools, I am left, inescapably, with the conclusion that the public school classrooms are not appropriate for state-prescribed, involuntary religious exercises. My conscience, as an American, as a Mormon, as a free man, requires that conclusion. Nothing less can protect the basic principles of freedom on which the country was founded. Nothing less can protect for me and my children the commitment and devotion to the Lord as we understand Him. Too much blood was lost by the early members of my faith at the hands of religious intolerance for me to be complacent about any effort to alter the freedom of religion which is so basic to the American system.

PROPOSAL CONCERNING NONDENOMINATIONAL PRAYER IN PUBLIC BUILDINGS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIBBONS. Mr. Speaker, very soon we will be voting on a proposal concerning nondenominational prayer in public buildings. As you know, Mr. Speaker, this proposal comes to us under a very difficult parliamentary situation in which debate will be limited to 1 hour and no amendments allowed. Unfortunately, there have been no hearings by the appropriate committee of the Congress on this proposal.

Should this proposal be adopted and become a part of our Constitution, it will be the first time in the entire history of this country that the first amendment to the Constitution of the United States has been changed.

The proposed amendment is as follows:

Section 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress.

Because Mr. WYLIE's proposal raised so many questions in my mind, I propounded a set of questions and asked him to respond to them. Mr. WYLIE has responded to each question and I would like to have his response included in the RECORD so that each Member may have an opportunity to review each question and answer.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 1, 1971.

Hon. SAM GIBBONS,
U.S. House of Representatives,
Washington, D.C.

DEAR SAM: My apologies for the delay in responding to your letter of October 12.

My response to the 23 questions you asked in said letter is as follows:

1. Question: Who is to determine what is a nondenominational prayer?

Answer: The local school authorities would determine this, subject to judicial review which should be exercised in the event those authorities clearly abuse their discretion. The United States Constitution is premised in its division of powers upon the principle of subsidiarity, that governmental functions are best entrusted to the lowest level of government able to accomplish them. To be sure, there are powers that are denied therein to any government, state or federal, such as the right to deprive a person of life, liberty or property without "due process of law." But the issue of school prayer is one which, prior to the Supreme Court prayer decisions in 1962 and 1963, was safely left to the good sense of the people in the localities involved. What is a nondenominational prayer is not the kind of question which requires a uniform national solution.

2. Question: Assuming a school elects to have a nondenominational prayer, is it to be given during the regular school hours?

Answer: It would be lawful under the amendment, for the school authorities to provide for the recitation of a prayer during school hours. Of course, it would be proper for the courts to intervene to prevent abuse, for example, if the practice were carried out in such a way and at such frequency and length as to interfere with the educational function of the school. It seems to me, the ordinary practice of opening the school day with a prayer, or of otherwise including prayer as an incidental part of the school day, would not constitute such an abuse.

3. Question: Who in the school will give the prayer?

Answer: The person giving the prayer should be a volunteer from among the faculty, administration or student body of the school. Clearly, no person could be compelled to give the prayer or otherwise participate.

4. Question: May it be given out loud or silently?

Answer: This should be left to the judgment of the local school authorities.

5. Question: Does your amendment envision that a school board should prescribe a certain prayer of their choosing as being the nondenominational prayer for their school system?

Answer: Not necessarily. It could be composed by a student. It could be the prayer from the *Engel* case, which the Supreme Court said was nondenominational or it could be the prayer of the Senate or House Chaplain. A local school board would have the power to say that a prayer is not nondenominational, I would think.

6. Question: If not the school board, then would it be the principal or the teacher?

Answer: The composition or selection of the prayer would be the function of the local school authorities. In the usual case, this would be the local school board. This board would have the power to delegate the task of composition or selection to a principal or teacher or, for that matter, a student. In all situations, serious abuse could be redressed by judicial action.

7. Question: Would your amendment allow police or judicial action to prohibit a prayer in a public building because it did not meet their interpretation of being a nondenominational prayer?

Answer: Of course, judicial action would be appropriate to prevent serious abuse in this as in all other areas of our national life which involve the application and protection of constitutional rights. It would, however, be a matter within the primary cognizance of the courts rather than the police authorities. Procedurally, any action to prohibit a prayer would follow the cases already decided on this question.

8. Question: Under your amendment can the federal government decide what is a nondenominational prayer?

Answer: See the answer to question 4. If, however, a federal school is involved, it would be within the power of the appropriate federal official to decide whether a prayer is nondenominational. His decision would, of course, be subject to judicial review, just as now.

9. Question: Who in the federal government would decide?

Answer: There is nothing mandatory in the language of this amendment which could be implied from your question. The primary purpose of this amendment is to protect the right of the people to the free exercise of their religion. If the people desire to include a prayer in the activity in question, the public official would have no power to forbid it, provided that the conduct of the prayer did not substantially interfere with the primary function of the school or other activity involved. The amendment would not confer on any official, state or federal, a power to prescribe a prayer so as to compel anyone to recite it or otherwise participate in it. The amendment only reinforces the right to the free exercise of religion. Again, I would assume that the official in charge of any specific activity where a prayer was a part would have the primary responsibility to say whether it was or was not nondenominational.

10. Question: Does your proposed amendment prevent the giving in a public building of a prayer that has not been classified as nondenominational?

Answer: The amendment would legitimize prayer if it is "nondenominational." As I mentioned, an example of an appropriate nondenominational prayer would be the New York State Regents' Prayer, which was composed by a Jewish rabbi, a Catholic priest, and a Protestant minister and was the subject of the decision by the Supreme Court in *Engel v. Vitale*, 370 U.S. 421 (1962). This prayer read: "Almighty God, we acknowledge our dependence upon Thee, and we beg thy blessings upon us, our parents, our teachers, and our country." Other prayers could readily be considered sufficiently nondenominational within the meaning of the amendment. It goes without saying that judicial review would be available to prevent serious abuse in this as in other areas.

It is fair to say, also, that a prayer could be nondenominational in the context of the overall school program even if it would be regarded as sectarian if considered in isolation. It would seem to be legitimate for the appropriate authorities to permit the different religions represented in the school or other activity to take turns in offering a prayer of their respective religions. Considering the matter in its totality, the overall character of such a policy would be nondenominational. And it is important, too, that such a policy would foster greater understanding and tolerance among the various creeds. Particularly in grade schools, this is an objective earnestly to be desired.

11. Question: When are persons not "lawfully assembled" under your amendment?

Answer: Trespassers, or disorderly persons, of course, would not be "lawfully assembled." School children, members of a city council, participants at a public meeting and persons lawfully present at other lawful gatherings in public buildings would be included.

"Assemble"—according to Webster's Seventh New Collegiate Dictionary—means to collect into one place or group; to meet together.

12. Question: Many church-related hospitals receive public funds—will your amendment restrict persons in these buildings to nondenominational prayers?

Answer: No. The amendment is designed to expand the rights of free exercise of religion as they now exist. Church-related hospitals or schools receiving public funds are not now precluded from permitting sectarian prayer on their premises. The amendment would not change their status in this regard. The amendment is permissive. It would restore to public schools and such other institutions as may be restricted by the Supreme Court's prayer decisions, the right to permit the participants therein to engage in nondenominational prayer.

13. Question: Under your amendment must all prayers in public buildings be nondenominational?

Answer: Where an institution is now precluded by the Supreme Court's decisions from allowing any prayer of any type, the amendment would restore their right to allow prayer provided that it is nondenominational. There are other situations which are clearly beyond the reach of the Supreme Court's school prayer decisions as presently construed. A municipal auditorium may presently be rented to an evangelist to conduct a sectarian service. Since the amendment is designed to expand rather than restrict the right to the free exercise of religion, such an arrangement and other similar situations which are presently allowed, would not be prohibited.

14. Question: Is the purpose of your amendment to negate the Establishment Clause of the First Amendment by establishing a nondenominational prayer as a religion?

Answer: The allowance of nondenominational prayer does not constitute a "law respecting an establishment of religion," in the words of the First Amendment. The Supreme Court's school prayer decisions, which held that such a practice in public schools violates the establishment clause, were wrongly decided.

15. Question: Would you please define prayer as used in your resolution. Is it to be silent? Oral? In unison? To whom is it to be addressed? God? Jesus? Our Father? May it end with the words "In Jesus' name. We pray, amen"?

Answer: The content and format of the prayer would be determined by the people and appropriate authorities. See question 10 above.

16. Question: Is the nondenominational prayer limited to the Christian religion? Is nondenominational prayer limited to the Judeo-Christian faith?

Answer: No. See question 10 above.

17. Question: Do you envisage that "participation" as used in your proposal in all cases be "voluntary" or "non compulsory"? If your answer is "yes," why were these words not included in the proposal?

Answer: Participation must be voluntary in all cases. These words were not included in the amendment because they are unnecessary. The amendment does not infringe upon the right to the free exercise of religion. Instead it reinforces that right. Under the Free Exercise Clause of the First Amendment, no person can be compelled to participate in prayer. This situation would remain unchanged.

18. Question: If the nondenominational prayer that you propose is to be used in the classroom, and is voluntary or non-compulsory as far as the pupil is concerned, does the teacher have the same right as the pupil in this regard?

Answer: Yes. It would violate the teacher's right to the free exercise of his religion if he were compelled to participate.

19. Question: If the nondenominational prayer is voluntary, how is a dissenting pupil or teacher to respond while the prayer is being offered?

Answer. The teacher or pupil who chooses not to participate would be free to stand or sit silently or to leave the room. Compulsion to participate would be forbidden, and judicial relief would be available in appropriate cases. However, the fact that a decision not to participate may result in some embarrassment to the non-participant would not be a sufficient reason to prohibit others from participating in the prayer. Also, there is a strong educational advantage to be attained by the amendment. Dean Erwin N. Griswold, now the Solicitor General of the United States, described the advantages of school prayer in an article in 1963:

"Let us consider the Jewish child, or the Catholic child, or the nonbeliever, or the Congregationalist, or the Quaker. He, either alone, or with a few or many others, of his views, attends a public school, whose School District, by local action, has prescribed the Regents' Prayer. When the prayer is recited, if this child or his parents feel that he cannot participate, he may stand or sit, in respectful attention, while the other children take part in the ceremony. Or he may leave the room. It is said that this is bad, because it sets him apart from the other children. It is even said that there is an element of compulsion in this—what the Supreme Court has called an "indirect coercive pressure upon religious minorities to conform." But is this the way it should be looked at? The child of a nonconforming or minority group is, to be sure, different in his beliefs. That is what it means to be a member of a minority. Is it not desirable that, at the same time, he experiences and learns the fact that his difference is tolerated and accepted? No compulsion is put upon him. He need not participate. But he, too, has the opportunity to be tolerant.

He allows the majority of the group to follow their own tradition, perhaps coming to understand and to respect what they feel is significant to them.

Is this not a useful and valuable and educational and, indeed, a spiritual experience for the children of what I have called the majority group? They experience the values of their own culture; but they also see that there are others who do not accept those values, and that they are wholly tolerated in their nonacceptance. Learning tolerance for other persons, no matter how different, and respect for their beliefs, may be an important part of American education, and wholly consistent with the First Amendment. I hazard the thought that no one would think otherwise were it not for parents who take an absolutist approach to the problem, perhaps encouraged by the absolutist expressions of Justices of the Supreme Court, on and off the bench. (Griswold, Absolute Is In the Dark, 8 Utah L. Rev. 167, 177, (1963)).")

20. Question: Are you attempting in any way to nullify the Establishment Clause of the First Amendment?

Answer: No. On the contrary, the Supreme Court's school prayer decisions themselves violate the intent of the Establishment Clause. That intent was aptly described by Judge Thomas Cooley, a leading constitutional scholar of the nineteenth century, as follows:

By establishment of religion is meant the setting up or recognition of a state church, or at least the conferring upon one church of special favors and advantages which are denied to others. It was never intended by the Constitution that the government should be prohibited from recognizing religion, or that religious worship should never be provided for in cases where a proper recognition of Divine Providence in the working of government might seem to require it, and where it might be done without drawing any invidious distinctions between different religious beliefs, organizations, or sects [Cooley, Principles of Constitutional Law (Boston, 1898), 224–25].

The school prayer decisions of the Supreme Court have the effect of establishing agnosticism as the official public religion of this nation. In the 1963 school prayer case, Mr. Justice Brennan wrote in his concurring opinion that the words "under God" in the pledge of allegiance are not necessarily unconstitutional in light of the Court's decision, because: "The reference to divinity in the revised pledge of allegiance, for example, may merely recognize the fact that our Nation *was believed to have been founded 'under God.'*" [*Abington School District v. Schempp*, 374 U.S. 203, 304 (1963) (Emphasis added)]. Apparently the words "under God" can be retained only if they are not seriously meant to be believed. Under this rationale, it would violate the Constitution for a public official to affirm as a fact that the Declaration of Independence is true when it affirms that men are endowed with unalienable rights "by their Creator."

The amendment is designed to reverse the Supreme Court's establishment of agnosticism as the national religion. It is designed to permit the American people, lawfully assembled in public buildings, to affirm as a fact that this is indeed "one nation, under God," that indeed there is a Creator higher than the state.

21. Question: If you concede the right to pray is an unalienable right and government may not constitutionally prohibit prayer, will not all those who are lawfully assembled in a public building be denied their constitutional right if the appropriate public body has not decided upon a nondenominational prayer?

Answer: The basic right involved here is the individual right to the free exercise of religion. It would be the duty of the public body or officials involved to give due and reasonable recognition to that right. However, it still would be appropriate for that public body or those officials to conclude in a given case that the inclusion of prayer would interfere with the primary purpose of the assembly concerned. This decision would have to be based on reasonable grounds and it would be subject to judicial review to prevent serious abuse.

22. Question: If a public body was unable to determine what was a nondenominational prayer, or if a dissatisfied citizen disagreed with the decision, would this type of action be appealable to the Federal courts?

Answer: The federal and state courts would have jurisdiction to prevent serious abuse here. The amendment does not in any way limit access to the courts for constitutional relief.

23. Question: What do you mean by "in part"? Is it a majority of the funds or any part, no matter how small?

Answer: Presumably, the expenditure of public funds would have to be significant in light of the overall expense of operating the institution in question. The provisions of the amendment would not be brought to bear by a merely trivial or insignificant governmental expenditure. The amendment is primarily aimed at truly public institutions such as public schools. It would apply, for example, to a public school even though part of that school's budget were met by a donation from a private foundation. If the school is public, the pupils will be allowed to pray. If the school is essentially private, even though it receives substantial public support, the amendment would not change their present status. At the present time, those schools are permitted to allow even sectarian prayers. When the amendment says "nothing contained in this Constitution shall abridge the right . . . to participate in nondenominational prayer," it does not change the present rule applicable to private schools, since neither nondenominational nor sectarian prayer is forbidden therein. What the amendment would do is to change the rule presently applicable to schools which are authentically public. In those schools, both nondenominational and sectarian prayer are now forbidden by the Supreme Court. The amendment would allow nondenominational prayer in those schools.

It is my hope these answers will resolve any doubts which you may have had with regard to H.J. Res. 191, and I look forward to your affirmative vote on November 8.

Very truly yours,

CHALMERS P. WYLIE,
Member of Congress.

SPECIAL ORDER ON PRAYER AMENDMENT

(Mr. SCHWENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

XUM

Mr. SCHWENGEL. Mr. Speaker, next Monday, November 8, the Members of this body will no doubt be called on to cast one of the most important votes of their political careers. I refer to House Joint Resolution 191, upon which it is anticipated we will vote Monday. It is important not because of the impact the vote may have on those careers, but because we will be altering the first amendment to our Constitution for the first time in our history. The implications of this action and its impact will be felt for generations. The proposed action has been referred to by some as "doing violence to the first amendment," and still others have said "it repeals the first sentence of the first amendment." We must not do this with less than full and complete debate.

Because of the great importance of this question, and because of the fact that the House procedure under which the question comes to the floor limits debate to 1 hour, the gentleman from California (Mr. CORMAN) and I have obtained special orders of I hour apiece on Thursday, November 4. During this period, we invite proponents, as well as opponents of the proposition to join us on the floor to discuss and debate this vital issue. Hopefully, the discussions during the special orders will permit each of us to better understand the question upon which we will vote next Monday.

Now that the measure has actually been scheduled for action on the floor of the House, there has been a resurgence of interest in the question among church leaders. This concern should be aired on the floor.

Mr. Speaker, even though the 2 hours allowed by special order will not be adequate time to fully cover and discuss the question of doing violence to the first amendment it will give us some time to point to the implications and possible damaging affects to the religion of our country that has served us so well through the years.

Mr. Speaker, I urge my colleagues to join with the gentleman from California and myself to better prepare ourselves to cast intelligent votes on this very important proposition.

Mr. Speaker, I have just received the following letter from Tilford E. Dudley, director of the Washington Office of the Council for Christian Social Action, United Church of Christ. The letter, together with the enclosed statement give further indication of the growing concern of church leaders with respect to the so-called prayer amendment.

UNITED CHURCH OF CHRIST,
COUNCIL FOR CHRISTIAN SOCIAL ACTION,
Washington, D.C., October 29, 1971

Re: The Prayer Amendment.

DEAR CONGRESSMAN: You will soon be considering the proposed constitutional amendment permitting devotional prayer in the public schools. I'm sure you are interested in the position of church bodies.

Enclosed is the resolution of the Executive Council of the United Church of Christ, adopted October 13, opposing the amendment because it might be "interpreted as over-riding or reversing the Supreme Court decisions . . . banning prescribed prayers in public schools."

The United Church of Christ is a Protestant denomination formed by the merger of the Congregational and the Evangelical & Reformed Churches. It has 7,000 local churches with about 2,000,000 members. Its top deliberative body, the General Synod with about 700 delegates, meets biennially. The Synod elects the Executive Council, both its 21 members and the 4 church officers who are members ex officio. The Executive Council is empowered to act for the Synod between Synod sessions.

The Division of Christian Education of the United Church Board for Homeland Ministries adopted a statement opposing the amendment on October 19. It said the practical effect of the proposal would "signal the end of . . . the historic neutrality of government toward religion" and require the government to become a theological arbiter. It said the public schools "should serve the learnings needs of children, not their devotional needs."

On June 10, 1963 the U.C.C. Council for Christian Social Action adopted a similar statement, saying that 'devotional activities . . . should not be included in the curriculum of the public schools."

Respectfully yours,
Enclosure.

TILFORD E. DUDLEY,
Director, Washington Office.

UNITED CHURCH BOARD FOR HOMELAND MINISTRIES—DIVISION OF CHRISTIAN EDUCATION, EDWARD A. POWERS, GENERAL SECRETARY

(Statement Adopted by the Divisional Committee on Christian Education, October 19, 1971)

The Division of Christian Education of the United Church Board for Homeland Ministries is deeply concerned about the proposed Wylie "Prayer" Amendment (H.J. Res. 191) calling for the legitimation of "nondenominational prayer" in publicly funded facilities.

The historic neutrality of government toward religion stated in the "no establishment—free exercise" clauses of the present Bill of Rights has kept national public life free from sectarian controversy and permitted the fullest latitude for the voluntary profession and practice of religious freedom. The practical effect of the proposed change would signal the end of this American tradition and could bring about a scramble for state approval by one religious denomination or another. To assume that consensus can be achieved about a non-denominational prayer is unrealistic in the light of American cultural diversity and religious pluralism. Its adoption would require the government and the courts to become theological arbiters, judging which prayers addressed to the Deity are acceptable to the state and which are not. Nothing could be more alien to the spirit of prayer than to shape it to the requirements of the state.

Though we are concerned about the integrity of religion, we are equally concerned about the integrity of the schools. It is no secret that the backers of the proposed change hope and intend to upset the present constitutional prohibition on *official* prayer in the public schools. It is worth noting that there is no such prohibition on *voluntary* prayer by believing individuals when they deem it appropriate nor can there be any such prohibition of a voluntary act in accordance with the free exercise clause of the First Amendment.

The schools have a monumental educational task in these days of rapid change and social upheaval. Diverting them from that task and adding theological concerns to their educational agenda would be tragic. The public schools, in a religiously pluralistic society, should serve the learning needs of children, not their devotional needs. If anyone imagines that the religious groups of America could agree on "non-denominational" prayer or accept the state's definition without conflict, he does not understand the dynamics of religious commitment. The public schools must not become the arena for such controversy. For the integrity of the schools as well as the integrity of religion, we urge the defeat of this proposed change in the Bill of Rights.

RELIGION IN THE PUBLIC SCHOOLS

(A Resolution Adopted by the Executive Council of the United Church of Christ, October 13, 1971)

The Executive Council of the United Church of Christ supports the Supreme Court decisions banning prescribed prayers and prescribed Bible reading in the public schools, calls attention to the aspect of the Supreme Court decision which affirmed the freedom of the schools to engage in the study of religion, and opposes House Joint Resolution 191 which seeks to amend the United States Constitution.* The Executive Council believes this proposed amendment has the danger of being interpreted as over-riding or reversing the Supreme Court decisions and permitting prescribed prayer in public schools.

At the same time, believing that the health of our communities depends upon widely shared and deeply held moral values resting upon fundamental convictions about the meaning of human life and that our society's well being also requires scrupulous fairness to all such convictions and full religious liberty, the Executive Council

(1) strongly supports efforts of schools to increase and improve the teaching of moral values and the appreciation of the role of religion in the development of our heritage, and

(2) urges the Instrumentalities, Conferences and churches of the United Church of Christ to work to help the public understand both the scope and the limitations of the Supreme Court decisions concerning prescribed prayers and prescribed Bible reading in the public schools.

DRIVING OUT THE FLY-BY-NIGHTERS

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, in cosponsorship with several of our colleagues, I plan to introduce legislation tomorrow that is intended to drive fly-by-night airline charter services out of business.

The need for this bill is amply demonstrated by some truly disgraceful statistics. Last summer, according to Federal agency estimates, as many as 11,000 Americans, mostly students, were stranded just in Europe. I saw many of them myself and believe me, these kids were hard to miss. They crowded the airports and even the streets of London and other big cities, hungry and waiting for money from home—and all through no fault of their own.

Why?

Many, it turned out, had been gulled into paying roundtrip prices for what proved to be only one-way airline tickets. The vouchers of return which these kids were sold turned out to be as useless as soup coupons since the airlines could not honor them. At least three of the under-regulated charter services disbanded their companies this year and vanished after defrauding college students.

The few controls that now apply to these fly-by-night outfits are nearly unenforceable, in part because the international nature of charter operations frequently places them beyond the regular jurisdiction of U.S. authorities. Thus unhampered by realistic regulations, illegal charter operators can and have actually continued to function with impunity even after the Government moves against them.

Our bill, hopefully, would bring some order out of the present chaos, by requiring the Federal licensing and bonding of "indirect air carriers of passengers"—individuals and organizations acting as middlemen in buying transportation wholesale for resale to eligible travelers. And under our proposal, licensees could promote charter travel only among members of charter worthy affinity groups, as determined by the Civil Aeronautics Board.

I should point out that the CAB already has authority to impose these controls, but so far has limited itself to regulating charters organized specifically for study tours. Other student groups, as well as nonstudents, are unprotected. At the very least, this bill could be the nudge the CAB needs.

Under our legislation, prospective charter organizers would have to demonstrate managerial competence, financial stability, and eligibility for bonding, in order to obtain a license to operate. Once licensed the charterer would have to adhere to all pertinent regulations—just as airlines must.

University officials who have spoken out on this issue are nearly unanimous in denouncing the haphazard and often illegal methods employed at present to arrange—and that is too orderly a verb to use in this context—student charter flights.

Understandably, college and university officials are loath to assume contractural responsibility for the operation of these affinity group charter flights. Those officials are not in the travel business and should not be expected to master its complexities. So unscrupulous operators, over whom neither the schools nor the Federal Government can exercise much control, rush in to fill the breach.

I said earlier that based on Federal Agency estimates up to 11,000 Americans were stranded in Europe this past summer. The State Department uses a more conservative figure—it says 6,000 of our citizens were stranded by illegally operating charter organizers who failed to provide return air transportation. And these estimates do not begin to measure those who are defrauded before ever leaving the United States.

Clearly, the situation calls for prompt remedial action. The current situation is a national disgrace—for the carriers, the regulatory system and respect for the law. But with the controls we are proposing, charter services would become effectively self-policing, for legitimate licensees would not be shy about blowing the whistle on their shady competitors.

I would like to express my great appreciation to Mr. BROWN of Ohio, Mr. LEGGETT, Mr. MCFALL and Mrs. MINK, who are joining me as initial cosponsors of the legislation. I hope many more of our colleagues on both sides of the aisle will also sign the bill when it is reintroduced at a later date.

*Nothing contained in the Constitution shall abridge the right of persons lawfully assembled in any public building, which is supported in whole or in part through expenditure of public funds, to participate in non-denominational prayer.

CONGRESSMAN PUCINSKI ARRANGES FOR A WRIT OF HABEAS CORPUS SEEKING RELEASE OF IRISH INTERNEES BEING HELD BY BRITISH

(Mr. PUCINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PUCINSKI. Mr. Speaker, a Belfast mother visiting her sister in my congressional district in Chicago has set the stage for a historic class action law suit against British authorities before the International World Court of Justice seeking release of her 20-year-old son and all other Irish internees being held without charges or bond since August 9.

The Irish mother is Mrs. Brigid Toolan McDonnell, of Belfast, who is visiting her sister, Mrs. Martha Power, of 3429 N. Oriole, in my district.

Mrs. McDonnell sought my assistance and that of Congressman MORGAN MURPHY, because both of us recently inspected the rioting in Belfast.

After hearing Mrs. McDonnell's tragic plight, I arranged for noted international attorney Luis Kutner, head of the Commission for International Due Process of Law, to prepare Mrs. McDonnell's petition for a writ of habeas corpus seeking the release of her son, Patrick Brendan McDonnell. I am confident that because of his outstanding reputation in international law, Attorney Kutner will be successful in this writ.

Mrs. McDonnell, a citizen of Northern Ireland, alleges in a sworn affidavit that her son, Patrick, 20, a carpenter's apprentice, was arrested in his home in Belfast at 4:25 a.m., August 10, "without just cause or provocation—brutally assaulted, tortured, and is still imprisoned."

She said he was arrested at his home, 15 Slemish Way, Belfast, Northern Ireland, and to this day has not been charged with any offense or admitted to bail.

Mrs. McDonnell listed the names of 201 other internees being held without charges or bail and asks in her petition that they too be released immediately.

The distraught mother stated in her sworn petition:

Subsequent to the aforesaid arrests, Petitioners were imprisoned, hooded, manacled to steel bars, denied the privilege of toilet facilities varying from 10 to 28 days, were brutally beaten about the person and particularly about the genitals, were pursued by Alsatian dogs through fields of broken glass, rock and sharp twigs, taken hooded into helicoptors and then pushed or forced to jump from various heights, beaten with sticks and batons, their faces pushed into the mud and dirt, deprived of clothing and shoes, forced to sing all the verses of "God Save The Queen" and if Petitioners failed to remember all the verses were beaten and called "Irish Pigs."

Mr. Kutner alleges in Mrs. McDonnell's petition that these acts of cruelty, punishment, and deprivation of human rights continue to this day.

The petition states the action is being brought on behalf of Patrick and the other internees—

Pursuant to the laws of Northern Ireland, the Human Rights Articles of the United Nations Charter, the Human Rights Principles of the Universal Declaration of Human Rights and the appropriate statutes of the Council of Europe, signed May 5, 1949, to which the United Kingdom of Great Britain and Northern Ireland, amongst others, are Signatories thereto.

Mr. Speaker, I cannot see how Britain can deny the petition since all of the internees are being held without charges or bail.

Both Congressman MURPHY and I were convinced during our recent visit to Northern Ireland that the illegal detention of the internees is one of the main causes of the rioting and terrorism.

There was relatively little turmoil in Northern Ireland before the British began mass arrests on August 9 of those Catholics in Northern Ireland merely suspected of participating in the turmoil. It is significant that the warrant for the arrest of Patrick merely states he is being arrested on "suspicion that he may commit a crime against the state."

The world does not know these men are being held without bail on the mere suspicion they "may" commit a crime.

I believe Mrs. McDonnell is entitled to her day in court on behalf of her son. The procedure we suggest has validity, because the action is being brought by a citizen of Northern Ireland.

We are fortunate, Mr. Speaker, that we were able to find a citizen of Northern Ireland to bring the action. Neither Prime Minister Heath nor Brian Faulkner can accuse us—as they did Senator KENNEDY—of meddling in the internal affairs of Britain, because this action is being brought by a citizen of Northern Ireland herself.

Attorney Kutner has assured me the lawsuit challenges the legality of the Special Powers Act of 1922 under which the internees were arrested. He said the suit is against Queen Elizabeth, Minister Brian Faulkner, and other Northern Ireland officials.

Since we were unable to find an attorney in Belfast who would bring the action on behalf of Mrs. McDonnell, attorney Kutner is petitioning the ombudsman of Northern Ireland to prosecute the habeas corps writ on behalf of Mrs. McDonnell.

Mr. Kutner has told me if this move fails, he will petition Queen Elizabeth to personally order release of the internees. He said he must exhaust all local remedies before he can bring the habeas corpus writ before the World Court.

It will be interesting to see Great Britain stand before the world on these charges since Britain invented the Bill of Rights and the Magna Carta.

Mr. Speaker, this class action suit is unprecedented but I am absolutely confident it will stand up.

Mrs. McDonnell is taking the legal action, because it is her only chance to see her son free again. She has dismissed any suggestion her son is a member of the Irish Republican Army or has participated in any violence against the British.

XUM

I am convinced, Mr. Speaker, the British should either book or release these prisoners. They violate England's highest traditions by keeping these political prisoners in custody a single day longer.

If they are booked on trumped up charges, Attorney Kutner will go to Belfast to defend them. We would be pleased to see what evidence the British are using for these arrests.

Mrs. McDonnell's husband is a carpenter in Belfast. She plans to depart Chicago Monday for a brief visit to Canada where she has another sister and then return home to Belfast.

I am confident the historic legal action we have taken will help free her son and the other internees. I am pleased Mrs. McDonnell is not fearful of any recrimination when she returns to Belfast, because it is the only action she could take to set her son free. If anything should happen to her, because she seeks the release of her son in a lawful manner, England would inherit the wrath of the entire world.

Attorney Kutner is generally recognized as one of the world's leading authorities on international law regarding human rights and world habeas corpus. He has authored 17 books on international agreements regarding human rights and has enlisted international jurists in his cause.

I am pleased Mr. Kutner has expressed confidence the British will be faced with a historic decision in releasing the internees, because their detention violates a series of international agreements on human rights to which Britain is a signatory.

We are fortunate to be able to enlist the help of this world renowned expert on habeas corpus in behalf of the Irish internees.

The historic brief filed by attorney Kutner on Mrs. McDonnell's behalf follows:

[In the City of Belfast High Court, Belfast, Northern Ireland]

PETITION FOR WRIT OF HABEAS CORPUS

Mrs. Brigid Toolan McDonnell, for and on behalf of her son, Patrick Brendan McDonnell and all Internees unnamed and all Petitioner Internees identified as follows:

PETITIONERS

Gerry Adams, David Anderson, Edward Andrews, Charles Arthur, J. Auld, Phil Barnesley, Ivan Barr, G. Bateson, Mick Brady, Sean Boyle, Geordie Burns, Jimmy Burns, Frank Cahill, Frank Campbell, Gerry Campbell, Joe Campbell, Mr. Carmichael, Denis Cassin, Eugene Cassin, Liam Cassin, Pat Chivers, Joseph Clarke, and Billy Close.

John Collins, R. Collins, Joe Conway, Mr. Corr, John Corr, Oliver Cosgrove, Tony Cosgrove, Mr. Coyle, Brian Curry, John Joseph Curry, Denis Darby, J. Davey, Paul Devlin, Henry Diamond, Mr. Doherty, Tony Doherty, Mr. Dorrity, Seamas Drumm, Gerry Dunlop, and T. Dwyer.

Michael Farrell, Mr. Finnegan, Mr. Fleming, Charles Fleming, Frank Fitzsimmons, F. Fox, Tom Flatley, B. Garvin, Robbie George, Mr. Gormley, Jack Green, Dermot Hannaway, Kevin Hannaway, Peter Hartley, Patrick Hartley, M. Harvey, J. Haslett, Donal Healy, Dennis Heggarty, Martin Henderson, Joe Hughes, Thomas Johnson, and John Kearney.

Mr. Kearns, Edward Keenan, Sean Keenan, Dermot Kelly, Dermot Kelly, Oliver Kelly, Patrick Kelly, Pat Kelly, William Kelly, Billy Kelly, Jim Kennedy, Felix Kelly, Raymond Kennedy, Kevin Kennedy, Mr. Kennedy, Eamonn Kerr, Eamonn Kerr 'Hatchet', Mr. Kerr, Donal Kiely, and Harry Larkin.

Seamas Lavery, Cathal Lenaghan, Jim Liddy, Seamas Lochran, Paddy Loy, E. Lyttle, Gerry Mackey, Francis Madden, Pat McGee, Jim Magennis, Mr. Maguire and two sons, Gerald Maguire, J. Maguire, Seamas Maguire, Mr. Monaghan, Tom Moore, Jack Moore, Edward Montgomery, Michael Montgomery, and Angelo Morelli.

Tony Morelli, James Mullan, Brian Mullan, Paddy Mullan, Michael Mullan, Liam Mullan, Patrick Murray, George Jack Mullan, Peter Mulhall, Peter Mulhall, J. Mulholland, Gerry Mullan, John D. Murphy, Paddy Murphy, Sean Murphy, Sean Mateer, Liam McAuley, Billy McBirney, Eddie McBirney, and Barney McBride.

Jim McCabe, P. McCaffery, Thomas Edward McCloskey, Sean McComish, John McCormack, Lou McCrory, Kevin McCorry, J. McCorry, Phil McCullough, Neil McCullough, J. McKidowney, Malachy McEnroe, Neil McErlean, Pat McErlean, Jimmy McEwan, James McFaul, Joseph McFall, and Jim McFall and two sons.

Paddy McGeough, Jr., Dan McGettigan, Joe McGurk, Michael McGirr, Frank McGlade, John McGlinchey, John McGuffin, Brendan McGarth, Frank McGuigan, Francis McHugh, Francis McHugh, Jr., John McKenna, Brendan McKenna, Jim McKenna "Bet", Harry McKeown, Jim McLaughlin, Arthur McMillan, James McQuade, Killian McHicholl, and James McReynolds.

Arthur Newcombe, R. Norby, John O'Doherty, Deesie O'Hagan, Gerry O'Hara, George O'Hara, Mr. O'Hara, Sean O'Neill, John O'Rawe, Brian O'Reilly, Councillor James O'Kane, Billy O'Neill, Hugh C. O'Neill, Pat O'Sullivan, Seamas O'Toole, Mr. Orr, Mr. Owens, Brian Patterson, Frank Patterson, and Alex (Sandy) Patterson.

L. Quinn, Patrick Quinn, Billy Reid, Dick Rodgers, Sean Hodgers, Mr. Rooney, Gerry Ruddy, Mr. Scullion, George Shannon, Billy Shannon, Liam Shannon, Liam Shannon, Liam Sheppard, Paddy Smith, Mr. Sweeney, Martin Walsh, and J. Willen.

VERSUS

Elizabeth the Second, by the Grace of God, of the United Kingdom of Great Britain and Northern Ireland and of Our other realms and territories Queen, Head of the Commonwealth, Defender of the Faith; and

Rt. Hon. Brian Faulkner, Minister of Home Affairs for Northern Ireland; and

Sir Edmund Compton, Parliamentary Commissioner for Administration, Belfast, Northern Ireland; and

J. M. Benn, Commission for Complaints, Belfast, Northern Ireland, Respondents.

I

Now comes Brigid Toolan McDonald, Petitioner, for and on behalf of her son, Petitioner Internee Patrick Brendan McDonnell, and on behalf of all other Petitioner Internees hereinabove captioned and all other Internees unnamed and makes this petition for writ of habeas corpus on behalf of the foregoing Petitioner Internees, and in support thereof states:

(1) That she brings this action on behalf of Patrick Brendan McDonnell and on behalf of other Internees similarly situated pursuant to the laws of Northern Ireland, the Human Rights Articles of the United Nations Charter, the Human Rights Principles of the Universal Declaration of Human Rights and the appropriate statutes of the Statute of the Council of Europe, signed May 5, 1949 to which the United Kingdom of Great Britain and Northern Ireland, amongst others, are Signatories thereto:

(2) (a) That there are common questions of law and fact affecting the several rights of the Petitioners not to be deprived of due process and equal protection of the laws through the unreasonable and arbitrary imprisonment of the Petitioners herein.

(b) That the claims of the Petitioner Internees on whose behalf this Petition is filed are typical of the claims of each of the others and the relief sought against the Defendants is typical of the relief sought by all members of the Class of Internees herein concerned.

(c) That the members of the Petitioners' Class herein are so numerous that it would be impractical to bring them all before this Court.

(d) That the interests of the Class of Internees herein are adequately represented by the Petitioners herein,

(e) That the prosecution of separate Petitions for the Writ of Habeas Corpus by individual members of the Petitioner's Class of Internees would create a risk of inconsistent or varying adjudications with respect to the individual members of the Internees Class which would establish incompatible standards for the Respondents herein named who oppose the Class of Petitioners herein,

(f) That adjudications with respect to individual members of the Internees Class herein would, as a practical matter, be dispositive of the interests of the other Class members, not internee parties, but subject to the adjudications,

(g) That the parties opposing the Petitioner Internee Class herein have acted on grounds generally applicable to the Internee Class, thereby making appropriate final and declaratory relief with respect to the Petitioner Internee Class as a whole;

(3) That the questions of law and fact common to the members of the Class predominate over any questions affecting only individual members of this Internee Class and this Class Action petition for writ of habeas corpus is superior to the other available methods for the fair and efficient determination of the controversy allegations that the Petitioner Internees herein are being arbitrarily imprisoned and detained and are being denied the minimal safeguards of due process of law in that the imprisonments of each and every one of them are not and have not been subject to any fair and impartial judicial proceedings.

II

(1) That the Special Power Act of 1922 was invoked by the Respondents to seize, imprison, detain and torture the Petitioners herein as will be particularized in detail hereinafter;

(2) That on or about August 10, 1971 at the hour of 4:25 A.M., Petitioner Patrick Brendan McDonnell, without just cause or provocation, was seized at his home, 15 Slemish Way, Belfast, Northern Ireland, brutally assaulted, tortured and is still imprisoned;

(3) That the United Kingdom of Great Britain and Northern Ireland are members of the United Nations, Signatories to the United Nations Charter, Signatories to the Universal Declaration of Human Rights, and Signatories to the Statute of the Council of Europe signed at London on May 5, 1949.

(4) That the Constitutional Position of Northern Ireland is that of being part of the United Kingdom as armed by the Ireland Act of 1949;

(5) That Executive Power continues to be vested in the Crown of the United Kingdom unimpaired as regards Irish Services, i.e. with respect to the Northern Ireland Services, the government exercises on behalf of the Crown any prerogative or executive power of the Crown, the exercise of which may be delegated to him by the Crown. In the administration of the Special Powers Act of 1922, the powers so delegated are exercised through departments established by the Governor or by Act of Parliament of Northern Ireland; and the officers who administer these departments are appointed by the Governor and hold office during his pleasure. They, and such other persons (if any) as the Governor may appoint are the Ministers of Northern Ireland must be members of the Privy Council of Northern Ireland and constitute the Privy Council known as the Executive Committee of Northern Ireland for the purpose of aiding and advising the Governor in the exercise of his Executive Power in relation to the Northern Ireland Services.

III

(1) That the Petitioners herein are arbitrarily detained and imprisoned and subject to torture without formal charge or indictment, denied access to legal counsel or the right to be represented, denied bail, denied due process of law, and denied the right to be brought and tried before a third impartial tribunal;

(2) That the Special Powers Act identified as 12 & 13 George 5. A.D. 1922 (7 April) subjects the Petitioners herein to a Court of summary jurisdiction and such purported legal procedure is a mockery of justice and a diabolical deprivation of fundamental Human Rights in that Petitioners have been detained without formal charge, have been denied access to counsel, denied bail, and have been subjected to physical torture, maiming, and psychological experiences intended to deprive them of their reason and senses;

(3) That the Arrest Orders against the Petitioners herein of 10 August, 1971 falsely charge without any competent evidence or direct accusation of being "suspected of acting or being about to act in a manner prejudicial to the preservation of peace or the maintenance of order, at H. M. Prison, Crumlin Road and therein to detain him until he has been charged by the direction of the Attorney General or brought before a Magistrate's Court"; that said Orders for Detention for the Petitioners herein were signed by the Rt. Hon. Brian Faulkner, Minister of Home Affairs of Northern Ireland;

(4) That subsequent to the aforesaid arrests, Petitioners were imprisoned, hooded, manacled to steel bars, denied the privilege of toilet facilities varying from 10 to 28 days, were brutally beaten about the person and particularly about the genitals, were pursued by Alsatian dogs through fields of broken glass, rock and sharp twigs, taken hooded into helicopters and then pushed or forced to jump from various heights, beaten with sticks and batons, their faces pushed into the mud and dirt, deprived of clothing and shoes, forced to sing all the verses of "God Save the Queen" and if the Petitioners failed to remember all the verses were then brutally beaten and expletives and epithets of "Irish Pig" and other vulgarities shouted at the Petitioners in a threatening manner;

(5) That the foregoing acts of cruelty, punishment and deprivation of Human Rights continue to this day, notwithstanding an Internment Order of 14 September, 1971 being executed and served upon the Petitioners five (5) weeks subsequent to their arbitrary arrest orders.

IV

(1) That the Acts complained of herein are in conflict with respective obligations under the United Nations Charter, the Universal Declaration of Human Rights, and the European Convention on Human Rights in that:

(a) Article 3 of the European Convention on Human Rights provides that:

"No one shall be subject to torture or to inhuman or degrading treatment or punishment."

This is identical to Article 5 of the Universal Declaration of Human Rights.

(b) Article 3 of the Universal Declaration of Human Rights provides that:

"Everyone has the right to life, liberty and security of person."

(c) Article 9 of the Universal Declaration of Human Rights provides that:

"No one shall be subject to arbitrary arrest, detention or rule."

(d) Article 10 of the Universal Declaration of Human Rights provides that:

"Every one is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him."

(2) Article 5 of the European Convention of Human Rights provides that:

"No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law."

Under the Special Powers Act of 1922 no procedure is prescribed by law. Said Act permits varying procedures in the absolute discretion of the civil authority and thus in derogation of "procedure prescribed by law."

(1) Petitioners complain of further deprivations of their fundamental Human Rights to liberty and individual freedom in that Respondents violate Article 5(1)(c) of the European Convention in that specific provision is made that a person may be lawfully arrested or detained for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offense or when reasonably considered necessary to prevent his committing an offense or fleeing after having done so. Petitioners have been denied a fair and impartial hearing before competent legal authority. It is therefore alleged that the Respondents violate Article 5(1)(c) and Article 5(3) of the European Convention;

(2) That there are violations of Article 5(2) of the European Convention in that it is provided that any one who is arrested will be informed promptly of the reasons for his arrest and of any charge brought against him. The Special Power Act of 1922 under which the Petitioners herein are being detained make no provision for informing the detainees of the reasons for their arrest, but, on the contrary the Act specifically provides that they may be held without being formally charged with any crime;

(3) That the Respondents deny to the Petitioners the guarantees under Article 14 of the European Convention which states that:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as race, sex, color, language, religious, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

(4) That Article 2 of the Universal Declaration of Human Rights reiterates the rights of Article 14 in the European Convention;

(5) That the Respondents have violated the principle of non-discrimination by:

(a) Discriminating on the basis of religion between Catholic and non-Catholic.

(b) Using religion as a factor in determining and defining an "extremist".

VI

(1) That the Respondents violate Article 15 of the Convention of the European Convention of Human Rights in that they have imprisoned Petitioners under a proclaimed "Public Emergency" threatening the life of the Nation. Article 15 of the Convention provides, interalia:

(a) In time of war or other public emergency threatening the life of the nation, any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation provided that such measures are not inconsistent with its other obligations under International Law. . . .

(b) Any High Contracting Party availing itself of this right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures it has taken and the reasons therefore.

It shall also inform the Secretary General of the Council of Europe when such measures have ceased to operate and the provisions of the Convention are again being fully executed."

(2) Petitioners allege that the Respondents have failed to comply with the foregoing requirements and therefore their continued imprisonment is illegal;

(3) That the United Kingdom and Northern Ireland are Signatories to the United Nations Conference on the Law of Treaties, 1969, in which 110 States participated. The United Kingdom and Northern Ireland solemnly agreed to preserve their application to all Treaties and Rules of Customary Treaty law. Article 26 of the Treaty Convention provided that a State "is bound to carry out in good faith its Treaty obligations." The United Kingdom and Northern Ireland voluntarily obligated themselves to the Preamble to the Charter of the United Nations which affirms the determination of the peoples of any United Nation:

"To establish conditions under which justice and respect for the obligations arising from treaties . . . can be maintained."

Paragraph 2 of Article 2 expressly provides that members:

"Shall fulfill in good faith the obligations assumed by them in accordance with the . . . Charter."

The United Kingdom and Northern Ireland have agreed to assume the obligations to act in accordance with good faith as being not only general principle of law, but also the essence of an International Law obligation.

Wherefore, because the Respondents' continued arbitrary detention of the Petitioners herein violates Respondents' obligations in the aforesaid Charter, Convention of the European Convention of Human Rights, the Universal Declaration of Human Rights and in particular, Northern Ireland's obligations under Article 5(1)(c), Article 5(3), Article 5(2) and Article 14 of the Convention; and whereas the detention of the Petitioners is without any procedure prescribed by law, both nationally and internationally, Petitioners pray that they be discharged forthwith and unconditionally restored to their individual liberty and freedom;

Further, that this Honorable Court designate and appoint the Ombudsman of Northern Ireland to prosecute this petition for the writ of habeas corpus and that the Court grant such other relief as may be deemed meet in the premises.

BRIGID TOOLAN MCDONNELL,
(For and on behalf of her son, Internee Patrick Brendan McDonnell and other Internees named and unnamed.)

State of Illinois, County of Cook, ss:

Now comes Brigid Toolan McDonnell and upon first being duly sworn on oath deposes and says that she is a citizen and resident of Belfast, Northern Ireland, residing at 15 Slemish Way; Andersontown; that she is the mother of the Petitioner Internee Patrick Brendan McDonnell and that she is empowered to file this Petition for Writ of Habeas Corpus and make this affidavit in behalf of her son and the other Internees named and unnamed; that she has read the foregoing Petitioner for the Writ of Habeas Corpus hereinabove by her subscribed and the allegations therein contained are true in substance and in fact and those allegations on information and belief are true to her best information, knowledge and belief; and further deponent sayeth not.

NEW GUIDELINES FOR FUTURE SECURITY

(Mr. DON H. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DON H. CLAUSEN. Mr. Speaker, I am inserting in the RECORD today a speech I recently gave in my congressional district which I have entitled "New Guidelines for Future Security." It is my thought that perhaps some of my colleagues will find my remarks of interest in considering the question of the constitutional authority of the Congress to declare war.

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Now that we are embarked on a positive program of phased withdrawal from the Vietnam conflict, I am recording these remarks in the RECORD in the hope that the Congress and the executive branch will direct their attention toward clarifying what I believe to be the "gray area" with respect to the warmaking power. I refer to the general area of unconventional or guerrilla warfare—the kind that has been waged in Southeast Asia for so long.

As we all know, clearcut authority exists for other types of warfare; particularly conventional and nuclear warfare. With the Vietnam experience still with us, however, I believe we must address ourselves to this question of unconventional warfare as it relates to the future and it is my hope that these remarks will make a genuine contribution toward shared responsibilities as we move to restructure our security alliances with our free nation allies:

NEW GUIDELINES FOR FUTURE SECURITY

Today, I've chosen to depart from the traditional type of Memorial Day Address. I've chosen the community of my birthplace and this event to say some things that I believe need to be said.

At present, our nation is embroiled in controversy and debate over the so-called "war-making power of the Congress."

At issue, is the fundamental question of which branch of the Federal Government (the Executive or the Legislative) has the power and the authority to commit American troops to an armed conflict on foreign soil.

One side to the debate contends that only the Congress has the Constitutional authority to declare war—thus, raising a question regarding the "legality" of both the Korean conflict and the war in Vietnam.

The other side believes just as strongly that, as Commander in Chief of our Armed Forces, the President of the United States is empowered to deploy and employ those forces in conformance with existing American treaty commitments—especially when such commitments are accompanied by a Congressional Resolution such as the new defunct "Gulf of Tonkin Resolution," as it applied to the war in Vietnam.

As most people are aware, our history is repleat with examples of American troops being involved in hostile action abroad in the absence of either a formal declaration of war or a supporting resolution by the Congress.

The essential questions, however, have grown to a crescendo in recent years: "Should President Truman have asked the Congress to declare war on North Korea before committing U.S. troops in support of South Korea? Should President Johnson, following the 'Gulf of Tonkin incident' have asked the Congress to declare war on North Vietnam before committing large scale forces and escalating that conflict in support of South Vietnam?"

In contemporary times, particularly since World War II, the Congress has repeatedly gone on record as recognizing that, with the advent of the Atomic Age and the development of nuclear and hydrogen superweapons, the Legislative Branch of our Federal Government was just not structured to provide the kind of quick reaction capability response that is absolutely essential in the event of a nuclear attack. Such a flexible response, it was argued, could best be rendered by the Commander in Chief if the lives of literally millions of Americans were to be spared. Therefore, the President has the clear cut assigned authority and control over our nuicear weapons systems.

But, as we all know, neither Korea nor Vietnam involved the use of nuclear hydrogen weapons—yet, the Chief Executive in both instances, acted somewhat unilaterally (at least in the early stages) to commit U.S. troops to an armed conflict on foreign soil.

The next logical question, of course, is why? One basic factor that stands out boldly about both Korea and Vietnam, is that neither could be ranked as "conventional" wars—conventional in the sense of World Wars I and II, or even the "War Between the States" for that matter.

In neither case, Korean nor Vietnam, was the U.S. directly threatened nor were U.S. citizens, territory or property directly attacked or invaded by a foreign power. This, I believe, is a significant point.

Indeed, very early in our Korean involvement, terms like "Police Action", Armed Intervention" and "Conflict" began to emerge. In Vietnam, there were others—"Counter Revolution", "Anti-Guerrilla", and "Pacification."

But, today, people are beginning to realize, quite appropriately, that what all these catch phrases added up to, very simply, was that our age-old and widely accepted concept and definition of "war" was totally obsolete.

As a result, the term "unconventional warfare" came into popular use but, regrettably, I question whether or not it ever gained much public understanding or acceptance.

What is unconventional warfare as we see it today? Basically, it is a war fought by soldiers in civilian clothing who look exactly like the very people our men were sent to Korea and Vietnam to "save." It is a war in which there are no front lines, no trenches, and absolutely no semblance of the established and widely accepted principles of modern warfare. It is a war in which the adversary most often is nothing more than a "shadow being chased through the jungle."

Twice in this 20th Century, the U.S. has responded to threats to freedom on the Continent of Asia, posed by carefully conceived plans of "unconvention guerrilla warfare"—a concept directed toward disguising the true nature of aggression, dividing old allies in the Free World, and raising serious questions and deep divisions here at home about our government's motives and credibility.

The Constitution gives the Executive Branch of our government certain specific duties. For instance, the President, as Commander in Chief of our Armed Forces, is required to protect the country against invasion. This includes invasion of our own country or any other country with whom we have security treaty commitments.

The Founding Fathers realized that foreign relations could not be effectively carried on by Congress, on a day-to-day basis. When confrontations do occur, there must be continuing recognition by potential enemies that the United States is not powerless to act and will not have to wait for protracted debate in Congress before military forces can be used to thwart an attack. This means that the responsibility for defense is in the hands of the President and he must act at once if the Nation's safety is in any way endangered or the interests of the American people are threatened.

There is no way to avoid entanglement in foreign wars as long as irresponsible totalitarian regimes, determined to destroy freedom as we know it, are engaged in plots to overthrow and control governments around the world. Not only is trouble of a military nature involved, but there is incitement of riots, bombings and other domestic disorders by subversive agents.

Today, we are seeing just how successful this new communist disruptive concept has actually been and it would certainly appear that, as Americans, we are truly paying the price for our failure to recognize or understand what is happening to us and to the non-communist world as a result.

Quite frankly, the United States Constitution, as originally drafted, cannot adequately deal with either nuclear or unconventional warfare. Thus, I submit, that any attempt to apply the war-making clause of the Constitution to the realization of a nuclear attack, or the reality of contemporary communist revolutionary aggression, is as outmoded and obsolete as conventional warfare itself.

As you ponder that conclusion, ask yourself this question: "What does the word 'war' mean to you?" Does it conjure up memories of a sneak attack on Pearl Harbor, armies clashing on the Western Front in France, island-hopping in the Pacific, dog fights in the skies over Germany?

If it does, then don't feel bad because that's precisely what most people over 30 think war is. But, if you want to get a different perspective, ask your sons and daughters what they think war is—especially if they happen to be under 21.

We can't meet the challenges and the threats of the Nuclear Age with horse and buggy provisions. It just won't work and, if we, as people, continue to insist on trying, then I can only conclude that we'd better start now to prepare for the consequsnces.

What is needed, in my judgment, is not a bill in the Congress to further inhibit the President's ability to defend us or our freedom, but a new, realistic and understandable definition of war, and new guidelines for our future security commitments, which are acceptable to and understood by the Congress and the Executive Branch.

In all candor, I can tell you forthrightly that, at the present time, and this may come as somewhat of a shock, the United States of America has no official definition of war!

I have asked the Library of Congress to research this question for me and they agree. And, while our Constitution talks about war, nowhere does it tell us what war really is. Is it any wonder that a vast majority of the people in this country are confused?

Just how this can be resolved is not really clear at the present time, but I'm searching and studying it to find the answer. Perhaps it will require a Constitutional Amendment or a Joint Resolution of the House and Senate. But, whatever format it takes, I feel very strongly that we must get this basic question settled very soon.

Somehow, we must spell out very clearly that war, as we know it now, can exist in at least 3 forms: conventional, unconventional and nuclear. And each requires a separate response and distinct authority as to the relationship between the Executive and Legislative in each instance.

My own view, after considerable thought and study, is that the President does and, indeed, must have unilateral authority to act in the event of a nuclear attack with dispatch and all the resources at his disposal before a formal declaration of war. In both conventional and unconventional situations, however, the Congress should be consulted and have the opportunity to express its consent or objection to any commitment of troops on foreign soil, whether or not such action is accompanied by or followed with a request to declare war.

And, let me make it very clear that this does not mean that the President or our Commanders in the field would be powerless to act in the event of an overt act of aggression against the United States or its citizens, wherever they may be. The authority to defend and react to an attack has always rested with our Field Commanders as it did at Pearl Harbor.

What we are talking about here, specifically, is a situation whereby hundreds of thousands of American Troops are committed to combat in a foreign country before Congress has an opportunity to express its will and without a formal declaration of war.

Vietnam, in my view, is a case in point and a classic example for America, of how not to fight a war.

The American people want this changed! And, certainly, those Americans who were sent to Vietnam to fight with "one arm tied behind their backs" in a war where victory was not the objective, represent the true agony of the Vietnam dilemma.

I believe a new definition of war along the lines that I allude to here will accomplish several worthwhile goals.

First, it will help to inform and educate the American people as to the several threats to our security that now exist and how our Country can and will respond to each.

Second, it will formalize and stabilize the respective roles and responsibilities of both the Executive and Legislative Branches of Government.

And third, it will permit the United States to re-structure its treaty alliances whereby our allies will know, once and for all, that the basic responsibility for defending their freedom and their lands rests with them!

If there is one lesson to be learned from this very frustrating Vietnam experience, it is that we, as a Nation, must never again commit our men to a foreign security threat unless they have the full backing of the Government and our people. This will require a broader understanding of our new guidelines for future security commitments with and to our free world friends.

To that end, I believe the days of committing large contingents of American troops abroad and then getting involved in an escalating hostile situation before the Congress has an opportunity to express its will, should be ended.

President Nixon has said that he supports this approach.

The American people are saying that they want thier elected Representatives in the Congress to have not only the power to declare war, but a far greater and more influential voice in commiting American troops to any combat situation in the future.

In conventional warfare, following a formal declaration of war by the Congress, the authority, rules and guidelines for military commitment are clear cut and fully understood by service personnel and civilians alike. Traditionally, the military strategy was developed on the premise that everyone would do what was necessary to achieve victory. The country and its people were fully mobilized and directed their total efforts toward that goal.

But, in unconventional "guerrilla warfare" the question of authority has been left to flounder in the gray area of uncertainty. This, in my view, is where the Congress, the Executive and our American leadership has been derelict in not addressing themselves to this key question.

What should be the U.S. role in dealing with this new type of threat to our free world security—a threat that has been carefully conceived and planned to disrupt and destroy freedom and free institutions by our idealogical adversaries, the Soviet Union.

People have expressed concern over the possibility of starting World War III. Has it not occurred to you that, quite possibly, World War III started some time ago? In retrospect, didn't the recognition and description of the "cold war" really mark the beginning of World War III?

The "cold war" means economic, political, psychological, technological and guerrilla warfare. In a word, it means, to me ideological warfare—a war between economic and political systems—a war to capture the attention and minds of people—a war between free democratic institutions or processes and a controlled, imposed, totalitarian system.

Based upon my observations, I believe President Nixon, through his diplomatic initiatives, and the Nixon Doctrine, is addressing himself to this question. The Congress, however, has been the "reluctant Dragon"—too slow to accept and too unwilling to adapt to the realities of this "jet-space-nuclear age" threat to our security, our systems and our way of life. Similarly, every American must develop a new sense of awareness and adjust their thinking to the "signs of our times".

While a superior defense posture is the essential ingredient for maintaining security, we must also recognize the need to develop an offense strategy and posture. We must expand our efforts to mobilize the non-military capabilities of the United States and move toward an economic, political, phychological and technological offensive of our own—in concert with our free world friends.

The military security and treaty organization agreements must also be updated to reflect more of a shared responsibility rather than Uncle Sam trying to carry the major burden on our shoulders. A truly integrated Free Nation Security organizational structure must evolve.

But, of equal and possibly more overriding importance is the need to greatly accelerate the effort toward economic and political integration of all free people and countries demonstrating a willingness and desire to participate in the building of free institutions, a free enterprise economy and government of, by, and for the people.

America must develop and lead a Freedom Ideological Offensive—this is the kind of "win policy" that can enjoy broad acceptance. It could determine the destiny of man.

The Congress, the Executive and the American people must develop this common "unity of purpose" and diffuse the polarization and dissention that is far too prevalent in our land.

In conclusion, ladies and gentlemen, I want to ask both your indulgence and your understanding for having selected this topic to speak to you about on Memorial Day. But, I believe all of you who know me, know how much I love my country and how deep my respect is for those who have served it so honorably and faithfully in its greatest hours of need.

I believe we all agree that Memorial Days exist primarily because of wars—past and present. And, I believe, too, that all Americans, and most especially our veterans, are just as concerned about preventing future wars as I am.

As we meet here today to honor those who have given their all for this great and wonderful country in which we live, our thoughts can best be described as "a Nation at war, praying for peace".

Certainly, peace and end to war are the ultimate goals of all mankind. But the road to peace, as someone once said, is never straight or smooth—it's filled with ruts—it twists and it turns. Only one thing appears for certain, and that is that our search for it must never cease.

Somewhere, that road, like all roads, must end, and, in the meantime, we have no choice but to intensify and redouble our efforts, our dedication, and our commitment to finding that most precious of all commodities—peace, with freedom, justice and liberty for all mankind.

This was the commitment made by the veterans of the past—especially those who gave their lives, those to whom we pay our respect today, Memorial Day, 1971.

The least we can do is carry forward our share of this cause—in all its forms.

MINORITY HIRING BECOMING A BUREAUCRATIC MESS

The SPEAKER. Under a previous order of the House, the gentleman from Montana (Mr. SHOUP) is recognized for 10 minutes.

Mr. SHOUP. Mr. Speaker, there is continuing concern over the problems of various minority groups in this country, especially with their problems with employment. A few weeks ago we defeated a piece of legislation that would have given the Equal Employment Opportunity Commission policing powers that rightfully belong with the courts.

Mr. Speaker, I cited in my remarks then, in opposition to this legislation, that discrimination is a very hard thing to legislate for or against. One thing that is too often left out of the discussion is the mountain of meaningless red-tape that has been created for small businessmen trying to comply with good minority hiring practices. He ends up burled in a sea of paper, having to ask questions of his employees that he has no business asking, and provide information to our ever-increasing information-gathering Federal bureaucracy.

I have received substantial comment from my constituents on the problem, and would like to submit part of a letter from a Montana businesswoman for your information. Mrs. M. C. Musgrove operates a small flooring business in Butte, Mont. Her comments are as follows:

We do a great deal of contract work, and much of it involves federal moneys. We are now completing the Western Care Nursing Home in Helena, and have the Low Rent Housing contract for flooring also. We were required to submit an Affirmative Plan for the hiring and training of persons from minority groups.

I really did not mind checking with the local CAA office and the State Employment Service for a census of minority groups in Butte and Silver Bow county, and can reel off the statistics like ABC's—400 Indians (including non-Indians married to Indians), 54 Blacks, 274 Spanish and 63 Orientals (including Filipinos), but when I was required to "inventory" my employees, and ask them what I felt were very personal questions, and none of our business, I felt like writing in red pencil across the 8 page communique telling us how to develop the Plan, "We don't care if they are black, white or sky-blue pink, if they can do the work, we'll hire them."

I was obliged to ask each employee his ethnic derivation and his religion. When I was in school, I resented being asked my nationality, and always put down "American." I have consistently refused, at the times when I entered a hospital, to tell them my religion, countering the question with the reply: "It's none of your business." And now that the "inventory" is complete, I fear we are going to be charged with discriminating against Protestants in our business, as all of our employees are Catholics. And both my husband and I are Protestants.

To implement our Affirmative Plan, we sent notices of our willingness to give preference to persons of minority groups who were qualified flooring mechanics, and to give preference to persons of minority groups when we hire an apprentice, to all divisions of the Anti-Poverty Program, the State Employment Office, the Welfare Office, Model City Program, North American Indian Alliance, and two persons who are leaders in the Spanish-speaking community. There are no Oriental or Negro associations in the area. About the only minority I did not cover was Republicans—and they are a minority in Silver Bow County!

Surely there is no excuse for making a complicated mess out of equal employment opportunity. Such an involved, frustrating procedure for the employer takes the context of efforts to help minorities out of the realm of reality and into the realm of the absurd. A lot of paper is being shuffled, but I question if much actual benefit is being realized.

Employers who are, for the most part, trying very hard to cooperate, certainly

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should not be asked to delve into their employees' personal lives. What does a man's religion have to do with his ability to work? Mrs. Musgrove made a very good point about Protestants and Catholics and about any other minority group in any frame of discussion, for that matter.

Perhaps it is about time we do as she suggests, and start talking about Americans, rather than further dividing an already house-divided by tacking all kinds of special-interest-group names on one another. Perhaps if we work more toward erasing the fragmentation of our society, we will be able to become a more unified country. Certainly such a unified sense of national harmony is not possible when we continually emphasize disunity through social fragmentation, as we are so dedicatedly doing now.

TO REFORM THE MINING LAWS

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. KYL) is recognized for 10 minutes.

Mr. KYL. Mr. Speaker, I am introducing the administration's proposed Mining Laws of 1971, and I request that the bill be referred to the appropriate committee of the House for consideration.

This bill would repeal the Mining Law of 1872 and provide discretionary authority to the Secretary of the Interior to harmonize mining activity with the needs of other users and of the environment. Additionally, the bill provides for payment to the Federal Government of fair return for the minerals taken off the public domain. The minerals covered are the so-called hard rock minerals such as gold, silver, lead, zinc, copper, and uranium. The present basic location-patent system would be retained, but with some significant changes.

Commercial prospecting would require a license to be issued for a nominal fee permitting no significant disturbance of the earth or an exploration and production permit which would authorize exclusive prospecting over a given area and production. The exploration and production permit would contain conditions for environmental protection and require rent and royalty payments.

Public domain lands within the national park system, the national wildlife refuge system, the national wilderness preservation system, lands within the petroleum and oil shale reserves and Outer Continental Shelf lands would be excepted from the act.

Permits to explore and develop upon lands believed to contain commercially valuable mineral deposits would be subject to competitive bidding.

Discovery of a mineral deposit capable of commercial development would entitle a permittee to a patent to the mineral deposit together with certain rights to rent the surface lands. A minimum royalty of 3 percent would be required for the life of the deposit. Abandonment for 30 years or written notice to abandon would terminate the royalty and the permittee's mineral rights.

Valid and existing rights under present law would be preserved except that unpatented mining claims would have to be recorded within 1 year after enactment or be conclusively presumed abandoned.

This bill is another of the administration's proposals to present a balanced approach to the management of our public lands. The problem of competing uses of our lands must be met and workable solutions must be found. This bill offers a solution to one aspect of the problem. I am in hopes that other meritorious suggestions will follow and that through the legislative process we can produce that balanced approach we are seeking.

Mr. Speaker, I am introducing a bill the purpose of which is to reform the mineral leasing laws. This bill was proposed by executive communication dated October 12, 1971 and may be termed "The Mineral Leasing Reform Act of 1971."

The Mineral Leasing Reform Act of 1971 would amend the existing mineral leasing laws in six major ways:

First. It would provide one general mineral leasing statute for the several mineral leasing laws now on the books and remove the distinction between the leasing of public domain lands and the leasing of acquired lands.

Second. It would incorporate specific environmental protections in line with the administration's proposed Mined Area Protection Act of 1971 which encourages States to regulate the environmental aspects of mining on State and private lands.

Third. It would consolidate the responsibility for administering federally owned leasable minerals in the Department of the Interior, excepting construction minerals such as sand and gravel, the leasing or sale of which would be left to each surface managing agency.

Fourth. Deposits of minerals on Federal lands, not otherwise leasable under present law, would become leasable under this bill excepting mineral deposits in National Parks and monuments, national wildlife refuges and national wildernesses, naval petroleum or oil shale reserves, Indian lands and the Outer Continental Shelf which is subject to other law.

Fifth. Certain minerals presently subject to the location system under the Mining Law of 1872 or sale under the materials act would be covered by this bill. All minerals in acquired lands including hard rock minerals, sulphur in all States, calcium and magnesium, bedded minerals and construction minerals would be covered. Oil and gas would be defined to include all hydrocarbons except coal and oil shale thereby distinguishing tar sands from oil and gas.

Sixth. All leases, with minor exceptions, would be issued competitively.

This bill is one of several administration proposals which, in sum, are designed to revise and improve the management of our lands. The concepts contained in this proposal are significant. They merit scrutiny by all concerned, and, I would hope, constructive criticism.

NEEDED, WEIGHTED VOTING IN THE UNITED NATIONS

The SPEAKER. Under a previous order of the House, the gentleman from New Hampshire (Mr. WYMAN) is recognized for 15 minutes.

Mr. WYMAN. Mr. Speaker, it is public knowledge that many U.N. member countries were pleased by the U.N. vote against the U.S. position favoring a two-China policy. That some countries so voted against the United States had previously been the recipient of hundreds of millions of dollars of U.S. foreign aid merely underlines the proposition that no one can buy friends. Nor can a foreign aid program that does not require certain sensible conditions precedent—which ours has failed to do—earn more than the grudging thanks of the recipient of the handout.

Year after year the United States has given money away to nations in foreign aid without requiring internal reform by these nations. This was supposed to be a terrible thing to do because it would interfere with their internal affairs. The result has been that much of our aid mended nothing, reformed little, and ended up to haunt us through larger and larger deficits and less and less appreciation from abroad.

Today in the United Nations certain changes must be made if it is to remain to the advantage of the United States to continue as a member of the U.N. One of these is that the voting in the U.N. should be weighted. It should be measured by a formula that, for example, gives a nation a weighted vote determined by a factor of 25 percent for population and 75 percent for gross national product.

U.N. voting is no place for the principle of one man, one vote, or one nation, one vote lest we be stark out of our minds. In a world in which the population approaches 4 billion people of which we have less than 220 million and in which we have a substantial percentage of the world's wealth and the largest of the world's gross national products, it would be sheer lunacy to continue to agree to be bound by the votes of an international organization in which tiny island nations, rural, undeveloped nations, and virtual protectorates have an equal vote to that of the United States of America or the Soviet Union. If we do continue with such a voting structure in the U.N., we are bound to be stolen blind.

After a weighted voting pattern has been achieved, it should then be made clear that the contribution of member nations to the financial affairs of the U.N. shall at the most be in the percentage of each member nation's weighted vote. With the respective GNP's determining three-fourths of a nation's vote, the richer countries will, or course, bear the brunt of the financial cost which is as it should and must be.

There is also a very serious question whether the latest vote to admit Red China and give it a seat on the Security Council does not suggest that the U.N. headquarters should be moved away from the United States. The subversion, espionage, and the like that is made possible by the U.N. presence and protected through its diplomatic immunity is unhealthy whether in New York or any other part of the United States. It is doubtful whether the United Nations headquarters should be physically situated in any member nation. It would seem preferable to place it in some internationalized small part of the world and there provide a new location for the headquarters of the United Nations.

Mr. Speaker, unless these things are done, unless the inequitable and disproportionate share of cost of U.N. affairs is lifted from the shoulders of the United States; unless there can be reasonable prospect and assurance that it is to our best national interests to remain in the United Nations, it is time to carefully consider what would be involved in disassociating ourselves from the U.N. and forming a new international union of states under new and more equitable rules of association and voting.

Frankly, ever since the days of Alger Hiss, the charter and structure of the U.N. has been suspect in the minds of many in relation to the best interests of the United States of America. Of course, it is better to be talking than fighting. In this sense, it would be most unwise for this Nation to withdraw to isolationist seclusion. At the same time, it seems unwise for the United States to continue to agree to be bound by the votes of an international organization in which Communist nations and nations sympathetic therewith control a pattern of voting that is against the interests of this Nation.

In this connection, I insert in the RECORD at this point two recent columns which appeared in the Washington Star by William F. Buckley, Jr., and one by Richard Wilson:

LET'S CHANGE THE WAY WE PLAY THE U.N. GAME

(By William F. Buckley Jr.)

The general elation over at the United Nations was most graphically expressed when after the vote defeating the United States on the important procedural point, the delegate of Tanzania stepped forward to the podium and danced a jig. The jig expressed that special delight one feels on beating a giant.

We, of course, are the giant in the situation and, although there was another giant and a few middleweights lined up against us, it was the first time that the United States, premier economic and until very recently premier military figure in the world, went down to inglorious defeat: On a resolution sponsored by Albania, a little, reclusive country—composed primarily of rocks and serfs, with here and there a slavemaster—whose principal export is Maoism.

And, of course, the backdrop was perfect: The skyline of New York, metropolitan hearth of the giant who was felled by a coalition led by Albania, which tallied the vote of Byelorussia as the equal of France and England and weighed the principles of the U.N. Charter not at all.

The trouble with fantasies is that they do not endure, not in the real world. Inevitably, when a collection of nations comes together to frustrate the will of a powerful nation, the frustration boomerangs.

If membership in the U.N. is greatly worth having, it is because the U.N. has much to offer its members. Foremost is power and prestige.

Insofar as the U.N. engages in activities that reveal its weaknesses (say, its failure to bring peace in India); or that reveal theoretical hypocrisy (for instance, its insistence on universality alongside its refusal to recognize Rhodesia); or its capricious politics (the expulsion of Taiwan), it diminishes that which made membership desirable in the first place. It is as if everyone wanted to go to Harvard because Harvard has so fine a reputation, and gradually Harvard begins admitting everyone who wants to go to Harvard. What happens is that gradually Harvard loses the reputation that made it desirable in the first instance.

Actually, it has been quite a while since first it became apparent that the U.N. had no clothes. Its high-water mark was the Korean War, when we dressed up our soldiers as agents of the U.N. and went along with the act.

But soon after that—very soon after that—we were confronting, in connection with events in Poland, in Hungary, in Tibet, on the Sino-Indian border, all over the world, the military and moral powerlessness of the U.N. And shrewd international specialists, like Hans Morgenthau, were warning that it is important to remember that "the U.N. is a procedure, not a policy."

It was inevitable that the U.N. should become primarily an instrument of embarrassment, in the most recent instance, the embarrassment of the United States through the manipulation of Taiwan.

It makes a difference when we are singled out for humiliation. The U.N.'s condemnation of Israel a few years ago made no difference at all to Israel, because Israel is profoundly convinced of the correctness of its policies. The condemnation of China as an aggressor made absolutely no difference to China because China, like Russia, like Herbert Marcuse, insists that such condemnations as are directed against its activity are expressions of bourgeois morality: Indeed, they are more likely to collect condemnations as proof of their effectiveness, than be embarrassed by them.

But this is not true of the United States of America. We care very deeply when we see committed, primarily in order to embarrass us, manifest injustices by an international body of which we are a founder, the principal subsidizer, and in which we are an active participant. We care enough to do something about it.

We cannot refound the U.N., removing the Utopian gleam from the eyes of its architects. To alter substantially our subsidy is interpretable as an act of petulance, which, for all that there is actuarial and spiritual justification for it, makes us somehow ill-at-east.

The answer is to revise the nature of our participation in the U.N. which is as inevitable as the movement toward midnight in Cinderella's clock. They danced a jig on taking Moscow, in 1811, but little by little, they discovered that there was nothing there.

A U.N. HOME OUTSIDE U.S. SEEMS JUSTIFIED

(By Richard Wilson)

George Bush, the personable Texas politician who underwent a baptism of fire as United Nations ambassador, held his tongue immediately after the Taiwan vote but is now beginning to talk. What he is saying will shock the well-meaning friends of the U.N. but needs to be said nevertheless.

They do not like us at the U.N. The "glee" on the Taiwan vote deplored by President Nixon was actually far more, according to Bush—an ugly expression of hatred, incomprehensible to our friends who are dismayed by it into thinking that maybe this is the end of the noble experiment in international amity.

Maybe it is the beginning of the end.

Bush has suggested that the U.N. might keep its permanent headquarters in New York but hold its General Assembly sessions in various world capitals.

The question can be fairly asked, why is Bush now harping on the ugly mood of hatred and fanning what already is a sizable reaction of disgust with the U.N. in this country?

For one thing, the Nixon administration is making it clear the United States will not take this kind of treatment lying down. Bush piously decries retaliation against the five or six delegations which deceived the United States on their voting intentions. The United States is too big for that kind of thing, so it is said. But the fact is that a couple of the delegations of little countries who misled Bush and the secretary of state have already been put on notice that the United States will not forget the deception, and the others will be made aware of this also.

A little judicious retaliation is precisely what a great many people in Congress desire, but it goes farther than that.

From now on the affairs of the U.N. will be dominated by anti-Americanism, whatever the effectiveness of judicious retaliation. There is no Communist bloc anymore but there might as well be so far as making the U.N. a forum for hatred of the United States is concerned. The U.N. also serves as a rallying point for those elements in this country who have carried their own opposition to American policy to the point of hatred.

Furthermore, the U.N. is a haven and staging area for international espionage and an accepted "cover" for secret police agents. It will become more so when the Chinese send their delegation to New York.

All this suggests that there are serious questions on whether or not the U.N. headquarters belongs in any country whose interests are so deeply involved as the United States, Russia and Communist China. Part of the hatred expressed at the U.N. undoubtedly arises from the bad treatment some of the delegations think they have gotten and the absence of much respect for them either in New York or Washington.

Such disrespect may now increase on the wave of reaction against an unfair and unprincipled act in expelling the government on Taiwan. It is especially ominous that the view is widely held that the next move may be against Israel by Arab nations supported by the Soviet Union. This could cause quite a stir in New York.

In reality, of course, the U.N. is a hollow but noisy shell. When important issues are to be resolved the major powers will not and cannot permit decisions to be made against their interests.

Ambassador Bush's suggestion on holding General Assembly meetings in various world capitals is worth considering as a preliminary to moving the U.N. permanently to neutral ground, such as Switzerland. The buildings in New York could easily be put to more constructive use.

FEDERAL STRIKE FORCES AND THE ATTACK ON ORGANIZED CRIME

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 15 minutes.

Mr. ASPIN. Mr. Speaker, in a recent issue of the National Journal there was an excellent article on the administration's efforts in attacking organized crime and especially on the use of Federal "strike forces."

These strike forces are teams of investigators and prosecutors working together in a single geographic area. They have been the administration's major weapon in its attack on organized crime in the last couple of years. At present there are 18 strike forces operating in various cities across the United States.

These strike forces appear to have been a generally effective way of pooling intelligence-gathering, investigative, and prosecutorial resources for the various Federal agencies involved in anticrime efforts. I believe the administration deserves real praise for the development and use of the strike forces.

However, Mr. Speaker, it is clear that a great deal more needs to be done to coordinate Federal activities in the fight

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against organized crime. At present, there are 10 separate Government agencies responsible for the various, and often overlapping, aspects of the law-enforcement problem. The Federal strike forces have generally worked well, because they have utilized a coordinated, concerted, and comprehensive approach in going after organized crimes in the cities in which the strike forces have been operating. A great deal more coordination is precisely what is needed in other activities to make some real headway in the fight against organized crime.

Unfortunately, relations among the 10 Federal agencies responsible for law enforcement have often been characterized by petty bureaucratic jealousies, lack of communication, and general confusion. The National Journal article cites one ludicrous and near tragic incident in which an agent from the Treasury Department's Bureau of Customs and an agent from the Justice's Bureau of Narcotics and Dangerous Drugs were each, independently, assigned to tail a narcotics smuggler from the Mexican border to a large city, where a pickup was supposed to occur. Neither agent was aware of the other being assigned to the case and, when they saw each other at the pickup area, they both started firing at each other. Fortunately, neither of the agents was killed.

Mr. Speaker, I believe that it is vital for the administration to initiate far-reaching reforms for further consolidation and coordination of the Federal Government's attack on organized crime. It is hard enough to make a real dent against organized crime even with the most effective possible use of the Government's resources. The establishment of the strke forces is an important step in the right direction, but a great deal more needs to be done—and soon.

GI DRUG ABUSE—A NATIONAL DISGRACE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 15 minutes.

Mr. ROSENTHAL. Mr. Speaker, I am today introducing legislation to deal with what is rapidly becoming a national disgrace—the destruction of the lives of thousands of American servicemen through narcotics addiction.

For too long now, the Department of Defense has been an unwitting contributor to the profits of drug pushers, both by failing to control the flow of illegal drugs into U.S. military bases at home and overseas, and by neglecting to provide adequate treatment and facilities for those servicemen who have succumbed to the scourge of addiction.

The issue must be faced now. For too long it has been suppressed in the interest of protecting the image of the service. My bill aims directly at the most vital concern—not image but reality, the well-being of the individual serviceman, the treatment and cure of his drug dependency, and his return to a productive life. This is not only to his advantage, but it also is in the best interest of the Armed Forces and the Nation as a whole.

An Army survey has revealed that nearly one out of six U.S. servicemen has used heroin while stationed in Vietnam, and half of those men were considered by the Army to have a "serious drug involvement." In the past 2 years, 16,000 American servicemen have been discharged for drug-related reasons. Of those, about 11,000 received less-than-honorable discharges, which means they were ineligible for Veterans' Administration treatment—if it had been available. It has been estimated that as many as 20,000 to 30,000 American servicemen in Vietnam are using heroin.

The military is simply not equipped to cure drug addicts. There is a shortage of doctors and hospital space. The limited detoxification program announced earlier this year by the Pentagon has had little success. The much-touted urinalysis program quickly ran into snags. Dr. Jerome Jaffe, the President's antidrug chief, has acknowledged that "servicemen are substituting everything from beer to their grandmother's urine in these tests."

These tests have shown that at least 5 percent of the 100,000 or so GI's tested in Vietnam since the program began this summer had used hard drugs within the 3 days prior to being checked.

An Army poll taken last spring in Vietnam and cited in recent testimony by Dr. Jaffee showed 16.15 percent of the GI's surveyed used heroin. Approximately half were "casual" or "experimental" users, according to the study, and another 8.43 percent were "heavy" or "habitual" users.

These figures indicate that of the approximately 200,000 American servicemen still in Indochina, anywhere from 10,000 to 30,000 are using heroin and other addictive drugs.

Even if the loopholes in the detection system are corrected, the Pentagon is not equipped to provide adequate relief for those addicts it does uncover. Only men remaining in the service are being moved to stateside hospitals for treatment; the Defense Department lacks the authority to hold addicts beyond the scheduled date of separation from the service. If an addict does not wish to stay in the service for treatment, he cannot be required to seek treatment and rehabilitation as a civilian. The armed services make no followup checks to determine if discharged addicts find their way into treatment programs stateside.

The Defense Department's plans to hold narcotics addicts in the service for detoxification accomplishes nothing, except to spur drug users into finding new ways of beating the detection tests and getting out. The prospect of having to stay in the military for a longer period would hardly induce an addict to seek help voluntarily. For treatment and cure to have hope of being effective, it must be removed from the environment that was largely responsible for the problem in the first place.

For these reasons, I feel it is necessary to provide for a thorough program of medical care and detoxification outside the military environment, and that is what the bill I am introducing today does.

The military has neither the facilities, as I said, nor, in my opinion, the inclination to treat drug addiction within its ranks as the serious medical emergency it is. In fact, the attitude still exists in some segments of the military that drug addiction is a crime and not an illness. Until just recently, a serviceman found to be using narcotics was often court-martialed or subjected to other reprisals, and was nearly always dishonorably discharged. He thus was ineligible for veterans' benefits and other medical services just when he had the greatest need for them.

Servicemen who had become addicted were turned back on the streets with little hope of treatment, counting the hours until the next fix and searching for ways to pay for a $50-a-day habit. So, ironically, the Armed Forces of the United States, whose job is to defend the country from its enemies abroad, has unwittingly and unintentionally contributed to the spread of drug-related crimes across the cities and towns of America.

The Pentagon has long overlooked the obvious way to handle addicted servicemen—by treating them as human beings who are sick, and who need help. Drug addiction should be treated as an illness, not as a crime.

My bill would establish an effective method of treating members of the Armed Forces who are drug users. It provides for the honorable discharge of addicted servicemen, and their civil commitment to the already existing drug treatment facilities set up by the Public Health Service under the Narcotic Addict Rehabilitation Act of 1966—NARA—or any other appropriate public or private hospital or facility available for the care and treatment of drug dependent persons. These hospitals can do what the limited military programs cannot—they can provide long-term medical care, if needed, away from the pressures of military life. Costs of treating these former servicemen would be reimbursed by the Department of Defense.

Honorable discharges would be provided retroactively to all former servicemen who had been given discharges less than honorable solely on the basis of personal use of drugs or possession of drugs. These men would automatically become eligible for veterans' benefits, especially health and medical, and other services previously denied them, but not for disability pensions unless they also have a service-connected disability.

Another provision of my bill would require that the confidentiality in the doctor-patient relationship be protected in the Armed Forces. All too often an addict who might desire treatment has had to resort to elaborate subterfuge to keep his illness hidden, because he feared the reaction of superior officers. My bill would put an end to this in two ways:

First, the release of an addict from the Armed Forces would be based on the certification to the appropriate service Secretary by a qualified Armed Forces physician that the serviceman is drug dependent, and unable to perform his duties. The Secretary would then take action to separate the member from the military and arrange for his civil commitment. This provision would take the determination of illness outside the chain of command and place it where it belongs—in competent medical hands.

Second, any request for treatment, or information obtained by a service doctor relating to the treatment of a drug addict, will be deemed confidential and be inadmissable under the Uniform Code of Military Justice for any purpose of prosecution.

Assurance of confidentiality in the doctor-patient relationship would encourage a drug user to seek treatment without fear of court martial.

It is to the advantage of the military services to remove drug addicted personnel from their ranks, where they can be of little productive use. But the Armed Forces must also insure that these persons are not just dropped into the streets to contribute to the spread of drug-related crimes in civilian life. In July of this year, the House Foreign Affairs Subcommittee on Europe, which I chair, sponsored a trip to drug rehabilitation centers in New York City and saw known narcotics hangouts in the Harlem ghetto. Many of the unemployed young men sitting in drug-induced stupors on the sidewalks were Vietnam veterans who contribute to the profits of organized crime by buying and selling dangerous drugs, and add to the statistics for assault and robbery against the public. As more troops are withdrawn from Southeast Asia, this danger will increase daily unless something is done now to stop it.

The provision of title 3 of the NARA provide adequate safeguards of the rights of addicts committed to the program. It provides for long term treatment facilities. It removes the addict from the stress of the military environment. This bill calls for funding of drug rehabilitation programs for ex-servicemen out of Defense Department funds.

To summarize, my bill includes:

First. The discharge, under honorable conditions, of drug dependent servicemen, upon a physician's recommendation, and their civil commitment to Public Health Service hospitals or other appropriate facilities under the provisions of the NARA.

Second. The retroactive granting of such discharges to those previously discharged dishonorably by reason of narcotics dependency.

Third. The establishment of medical confidentiality in the doctor-patient relationship in the military, and exclusion of information obtained therein from any prosecution of the patient for use or possession of drugs. The ban on prosecution would not apply to crimes which might have been committed while under the influence of narcotics.

The purpose of my bill is to encourage the cure of drug-addicted military personnel. It is not concerned with punishment or discipline. It is the responsibility of the military to insure that servicemen who become addicted are returned to civilian life free from this scourge.

We have sent a generation of young men to war. We owe them, and the Nation, more than to send back a generation of narcotics addicts into the streets of America.

A copy of the bill and a section-by-section analysis follow:

H.R. 11532

A bill to provide for the discharge of members of the armed forces from active military service by reason of physical disability when suffering from drug dependency, to authorize the civil commitment of such members concurrent with their discharge, to provide for retroactive honorable discharges in certain cases, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 61 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 1222. Disability separation for drug dependence; civil commitment

"(a) Upon the determination of a physician in the medical service of the armed force concerned that a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training) under section 270(b) of this title for a period of more than 30 days, is unfit to perform the duties of his office, grade, rank, or rating because he is a drug dependent person, the Secretary concerned shall retire, discharge, or separate, as appropriate, such member from active military service on the basis of physical disability.

"(b) Not less than 30 days prior to the date on which any member is to be retired, discharged, or separated from active military service pursuant to subsection (a) of this section, the Secretary concerned shall file a petition with the United States attorney for whichever of the following districts the member chooses:

"(1) the district in which such member will be separated from active military service,

"(2) the district within which the permanent home of record of such member is located, or

"(3) any other district where facilities for treatment may be available

requesting that such member be admitted to a hospital of the Public Health Service for treatment of his drug dependence. The Secretary shall not file a petition with respect to any member if the Secretary determines that such member has voluntarily filed, or will file, within the 30-day period prior to his expected date of separation from active military service, a petition with the appropriate United States attorney requesting that such member be admitted to a hospital of the Public Health Service for treatment of his drug dependence. Any petition filed by the Secretary concerned or a member under this section shall set forth the name and address of the member with respect to whom the petition is filed, the scheduled date of his separation from active military service, and the facts or other data on which the Secretary bases the separation of such member from active military service by reason of drug dependence.

"(c) The provisions of section 302(b) and 302(c), sections 303 through 316, and title IV, of the Narcotic Addict Rehabilitation Act of 1966, shall apply in the case of any person with respect to whom a petition is filed under subsection (b) of this section in the same manner and to the same extent as if such petition had been filed by a narcotic addict or a related individual under section 302(a) of such Act, except that the term 'narcotic addict' as used in such provisions of such Act shall for purposes of consideration of, and commitment and treatment pursuant to, petitions filed under subsection (b) be deemed to mean a drug dependent person as defined in subsection (d) of this section.

"(d) When so specified in an appropriation or other Act, the Secretary of Defense shall make allotments and transfers to the Secretary of Health, Education, and Welfare for disbursement by him under the various headings of appropriations made to the Department of Health, Education, and Welfare of such amounts as are necessary for the care and treatment of former servicemen who are provided treatment under this section. The amounts to be charged the Department of Defense for treatment received by former servicemen under this section shall be calculated on the basis of a per diem rate approved by the Office of Management and Budget.

"(e) For purposes of this section:

"(1) The term 'drug dependent person' means a person who is using a substance which induces a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterised by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence.

"(2) The terms 'narcotic drug' and 'depressant or stimulant substances' shall have the same meanings as are prescribed for those terms by section 102 of the Controlled Substances Act.

"(3) The term 'treatment' includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the drug dependent person by ending his dependence on narcotic drugs or depressant or stimulant substances and his susceptibility to dependence on such drugs or substances.

"(4) The term 'hospital of the Public Health Service' means any hospital or other facility of the Public Health Service especially equipped for the accommodation of drug dependent persons, and any other appropriate public or private hospital or other facility available to the Secretary of Health, Education, and Welfare for the care and treatment of drug dependent persons."

(b) The table of sections at the beginning of chapter 61 of such title is amended by adding at the end thereof a new item as follows:

"1222. Disability separation for drug dependence; civil commitment."

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary concerned shall, pursuant to such regulations as the Secretary of Defense shall prescribe, grant a discharge under honorable conditions to any member of the Armed Forces who was discharged or separated from active duty under dishonorable conditions (whether or not such discharge resulted from sentence imposed by a court-martial) because such member—

(1) was a drug dependent person within the meaning of section 1222(d)(1) of title 10, United States Code, or

(2) personally used or possessed for his personal use any narcotic drug or depressant or stimulant substance.

(b) Notwithstanding any other provision of law, any statement or information related by, or obtained with respect to, any member of the Armed Forces on active duty in the course of—

(1) any request or inquiry by such member for treatment or rehabilitation for drug dependency, or

(2) any such treatment or rehabilitation received by such member, shall be deemed to be confidential medical information and is inadmissible for any purpose whatsoever related to any prosecution of any charge against such member under chapter 47 of title 10, United States Code, involving the use or possession of any narcotic drug or depressant or stimulant substance.

SECTION-BY-SECTION ANALYSIS OF MAJOR PROVISIONS

To provide for the discharge of members of the armed forces from active military service by reason of physical disability when suffering from drug dependency, to authorize

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the civil commitment of such members concurrent with their discharge, to provide for retroactive honorable discharges in certain cases, and for other purposes.

A new section is to be added to Chapter 61 of Title 10, the U.S. Code:

1222. "Disability separation for drug dependence; civil commitment."

(a) The Secretary of a branch of the armed forces shall, upon the recommendation of a qualified service physician that a member of that service on active duty for more than 30 days is unfit to perform his functions because of drug dependency, discharge retire or separate that member from military service for physical disability.

This provision leaves the determination of the nature of a serviceman's dependence on narcotics in the hands of doctors, and the Secretary shall treat his case as they, rather than non-medical officers in the chain of command, shall recommend.

(b) Not less than 30 days before the termination of an addicted serviceman's active duty, the Secretary concerned shall petition the U.S. Attorney in

(1) the district in which the member will be separated from military service, or

(2) the district in which the member's permanent residence is located, or

(3) any other district where facilities are available,

Whichever the member chooses, requesting his civil commitment to a hospital of the Public Health Service for treatment of drug dependency. The petition will include the name and address of the member, the date of the termination of his service, and the data leading to the Secretary's action in discharging the serviceman by reason of addiction.

This provision provides for the civil commitment of addicts in the military in Public Health Servce hospitals specifically equipped to handle them. The military is not equipped to cure drug addicts. Addicts should be completely removed from the military environment, which may have been a contributing factor in their becoming addicted. They would be no asset to the military anyway, and the prospect of having to return to active duty after rehabilitation might make curing them or drug dependency more difficult.

(c) The procedures used for the civil commitment of addicted servicemen shall be those of Sections 302(b) and 302(c), section 303 through 316, and title IV, of the Narcotic Addict Rehabilitation Act of 1966. The NARA provisions provide adequate procedural safeguards, and they are designed to expedite the entry of the addict into a rehabilitation program.

(d) Costs of care and treatment of former servicemen under this act will be reimbursed to the Department of Health, Education and Welfare by the Dept. of Defense.

(e) 1. A "drug dependent person" is one who uses a substance which induces a state of psychic or physical dependence, which in turn hampers the serviceman's performance of his duties.

2. The terms "narcotic drug" and "depressant or stimulant substances" are those so defined by section 102 of the Controlled Substances Act.

3. "Treatment" means confinement and care in an institution, supervised aftercare in the community, and also medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services.

4. A 'hospital of the Public Health Service' is any hospital or facility of the Public Health Service, or any other public or private hospital or any other facility available to the Secretary of Health, Education, and Welfare, which is equipped to handle cases of narcotics addiction.

SECTION 2

(a) Each service Secretary, subject to such regulations as the Secretary of Defense shall prescribe, shall grant a retroactive discharge under honorable conditions to all those dishonorably discharged from active duty (whether by court martial or not) because they were

(1) drug dependent as defined in Section 1222(d)(1)g Title 10 of the U.S. Code; or

(2) personally used or possessed a narcotic drug.

The "amnesty" provision gives honorable discharges to all those dishonorably released from the military for drug use. The current crisis of drug addiction in the military is directly related to the large numbers of men drafted and the difficult physical conditions of Southeast Asia.

The retroactivity provision would have the effect of making the recipients of the honorable discharges eligible for veterans' benefits and treatment presently denied to them as a consequence of their dishonorable discharges.

(b) Medical confidentiality at all stages in the treatment of addicts in the armed forces, and the exclusion of any information obtained thereby from any prosecution, is designed to eliminate an addict's reluctance to identify himself and seek help. Identification of addicts, and their treatment and removal from military service, should be encouraged, not restrained by a soldier's fear of punishment or other reprisal. The addicted serviceman's concern should be with getting a doctor's diagnosis, and beginning the procedures for discharge, civil commitment and treatment, not with the action of his superior officers.

A LETTER TO PRESIDENT NIXON CONCERNING FOREIGN DIGNITARIES AND CIVIL LIBERTIES IN THIS COUNTRY

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. JAMES V. STANTON) is recognized for 10 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, I rise to inform my colleagues about a letter I am posting today to the President of the United States. The letter, a copy of which I append here to my remarks, is self-explanatory. I would like at this point, however, to make a few additional observations.

First, it seems to me that in a case such as this, the U.S. Secret Service, which is properly concerned with the physical safety of visiting foreign dignitaries, has options other than the one exercised in this case. For example, the Secret Service agents could quietly place under observation any person who they fear might be inclined toward physically assaulting an official of a foreign government.

Second, we must take great care not only to protect visitors from other countries, but also to safeguard the civil liberties of citizens of our country. Our own people should not feel intimidated, nor should they be given any reason to fear that our own Government frowns on the expression of views honestly held.

Third, whatever the current foreign policy of the United States might be, it should not be permitted to conflict with our own Bill of Rights. Fourth, when a citizen is called upon to answer to a Federal policeman for his political views, we are starting a very dangerous trend in this country which erodes the most basic of our democratic principles. And when a man feels he might lose his livelihood because of his views, this danger is compounded.

Fifth, I do not understand why my constituent was asked to submit to photographs. What does the Secret Service intend to do with these photographs? So far, I have not been given a satisfactory answer to this question.

Sixth, what about those of us who may have criticized Mr. Brezhnev or Mr. Kosygin or Generalissimo Franco or Fidel Castro or Mao Tse-tung or Anwar Sadat or Marshal Ky? Will the Secret Service want our photographs, too, should these persons be invited to the United States?

Seventh, it seems to me that all this reflects a rather ominous trend in this country that seems to be carrying us back to that unhappy era when we were suffering from the excesses of McCarthyism.

At this point, I insert my letter to the President of the United States here, together with some other materials and newspaper articles that have a bearing on this situation:

CONGRESS OF THE UNITED STATES,
Washington, D.C., November 2, 1971.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to report to you gross violations of the civil rights of one of our constituents, Mr. Borivoje M. Karapandzich, of 7104 Lawn Avenue, Cleveland, Ohio. I feel certain that you as Mr. Karapandzich's President, are as concerned as I am as his Congressman about protecting his freedom to speak out as he sees fit, without having to answer for his views to a federal policeman. Because strong remedial action is called for by you as the chief law enforcement officer of our country, I am apprising you of the facts in this case—evidence gathered in an investigation conducted by me last weekend in my Congressional District.

What got me started was a letter I received in my Washington office late last Friday, October 29, 1971, as I was about to depart for a visit to my constituency. The letter from Mr. Karapandzich, as you can see from the copy which I enclose for your perusal, was addressed not only to me but also to the Senators from Ohio—The Honorable William B. Saxbe and the Honorable Robert Taft, Jr. You will note in the letter that Mr. Karapandzich told how he was questioned in his home by agents of the U.S. Secret Service and then asked to go downtown the next day to have his picture taken by the Secret Service agents. The questioning evidently stemmed from the fact that Mr. Karapandzich is an outspoken foe of the Tito regime in Yugoslavia.

On reading the letter, I, of course, knew that here we were being confronted with a dilemma that is classic in a democracy such as ours. On the one hand, nothing should be permitted to happen which might discourage Mr. Karapandzich or any other citizen for honestly asserting his beliefs, however valid or invalid they might be, and that certainly he should not be insulted for having exercised his freedom of speech and freedom of the press.

On the other hand, you had invited Mr. Josip Broz (Tito) to the United States, for reasons of diplomacy with which I have no quarrel. As a guest of the United States, Tito must, of course, be protected against bodily harm, and you and the Secret Service are charged with this responsibility. If the Secret Service has any good reason to believe that Mr. Karapandzich might seek to physically harm Tito, then its agents had a clear duty to take whatever steps are legal and necessary to assure Tito's safety.

In weighing both these considerations, I reflected that it was fortunate I was already headed for Cleveland, where I could take time out to make a first-hand determination of the facts. As Mr. Karapandzich's Congressman, I felt I owed him a response of some kind to this letter, and I visited him in his home the following morning, Saturday, October 30, 1971. In our talk Mr. Karapandzich elaborated on the story he related in his letter.

He said that Mr. Cozart and the second Secret Service agent came to his front door about 7:30 p.m. on the evening in question, without having telephoned in advance. Mr. Karapandzich said he was home at the time with his wife and his 18-year-old daughter. He said the agents were polite and courteous—"correct" was the word he used—at all times, but that they asked him questions that were highly disturbing. For instance, Mr. Karapandzich said, they asked him whether he had any "guns" or "bombs". Mr. Karapandzich said he replied that, while he had always been highly critical of Tito, he had never advocated violence against him.

In his narrative, Mr. Karapandzich said the agents finally left his home after advising him to come downtown to the Secret Service office the following day to have his picture taken. If he were not to come downtown, the agents said, according to Mr. Karapandzich, that they would return and photograph him in his home. Mr. Karapandzich said that, on leaving work the following day at 5 p.m. he stopped in the Secret Service office, and the photographs were taken.

In answer to my questions, Mr. Karapandzich said he was a naturalized American citizen, that he had been in this country for some twenty years and that he had never been arrested or accused of a crime. He said he worked at the Cleveland City Hall as an engineering aide. Then he implored me to write a letter for him to his superior at City Hall, attesting to his loyalty as an American citizen. He said he needed the letter because he feared that the Secret Service might go to his superior with derogatory information against him, and that this might cause him to lose his job.

My conclusion after the interview was that Mr. Karapandzich appeared to me to have been truthful and to genuinely be suffering mental anguish as a result of the visit from the Secret Servicemen. However, I decided that I should check with the Secret Servicemen also, to determine whether they had any additional facts about the case—facts of which I might not be aware. I went downtown that Saturday to the Secret Service office but, as I expected, the office was closed, and I decided I would wait until Monday, November 1, 1971.

On that day—yesterday—I again went to the Secret Service office and found Mr. Cozart there. The most significant fact to emerge from my interview with him was that he, Mr. Cozart, claimed to have no information that might lead him to believe that Mr. Karapandzich might seek to physically assault Tito, or to have this done by someone else. In general, Mr. Cozart confirmed the story given me by Mr. Karapandzich.

I then requested that Mr. Karapandzich be given a written apology, but this request was not satisfied. I was told, in fact, that what had happened in Mr. Karapandzich's case was in accord with the routine of the Secret Service—a fact which I find highly disturbing.

Having been given no satisfaction by the Secret Service, I address myself to you, Mr. President. I urge you to direct the Chief of the Secret Service in Washington to write a letter to Mr. Karapandzich apologizing for the conduct of his agents. I also ask that you direct that official to give written assurances that this sort of incident will not be repeated with respect to any resident of the 20th Congressional District of Ohio, whether the resident is an immigrant, as Mr. Karapandzich is; a son or daughter or grandchild of an immigrant, as so many of my constituents—and your constituents—are; or a native-born American. I feel, Mr. President, that such assurances are necessary because the political leaders of many countries—in addition to Yugoslavia—regularly come under criticism on one ground or another by residents of Cleveland, Ohio. Because these dignitaries might also visit the United States, as Tito has done, I would like to feel that our constituents have nothing to fear as a result of their having spoken their minds. Please help me assure them they have nothing to fear.

I must add, Mr. President, that I feel very strongly about this matter. I ask that you communicate this fact to the Chief of the Secret Service—that, unless the apologies and assurances are forthcoming, I shall see to it that litigation is brought in the U.S. District Court of Northern Ohio. A Court order will be sought enjoining the Secret Service from engaging in the course of conduct which prompted Mr. Karapandzich's complaint to me and to his two Senators.

I would prefer to have the assurances and not to go to court. Because matters of foreign policy are involved here, I feel it would be best not to have any confrontation between officials serving different branches of the United States government. However, if I can obtain no assurances on behalf of our constituents, I will have no alternative but to follow through in the Court.

Thank you for giving this matter your attention. I would appreciate an early reply.

Sincerely,

JAMES V. STANTON,
Member of Congress.

CLEVELAND, OHIO,
October 27, 1971.

Hon WILLIAM B. SAXBE,
U.S. Senator of Ohio,
New Senate Office Building,
Washington, D.C.

Hon. ROBERT TAFT, JR.,
U.S. Senator of Ohio,
New Senate Office Building,
Washington, D.C.

Hon. JAMES V. STANTON,
Congressman of the 20th District,
Longworth House Office Building,
Washington, D.C.

DEAR SENATORS AND CONGRESSMAN: On Tuesday, October 12, 1971, two gentlemen came to my home who introduced themselves as secret agents for the security of the President and Vice President of the United States, and as members of the U.S. Secret Service, Department of the Treasury in Washington, D.C. One of them, a Mr. Bob Cozart, interrogated me all evening. On the following day, Wednesday, October 13, 1971, Mr. Cozart photographed me four times!

DEAR SENATORS AND CONGRESSMAN:

I am a citizen of these United States of America.

I am a loyal citizen and true patriot of my new homeland.

I have been neither arrested nor condemned for anything.

I have never had any criminal inclinations whatsoever.

Therefore, the lives of the President and Vice-President of the United States have never been threatened or endangered by me. Their lives are endangered by Josip Broz Tito, communist dictator of Yugoslavia who only in one instance, in the city of Kovceje massacred twenty thousand innocent Yugoslavs. Therefore, Tito is the criminal and murderer, not I.

DEAR SENATORS AND CONGRESSMAN:

I am appealing to you to protect my honor, my reputation, and my human dignity from these secret agents of the present administration in Washington; an administration that invites and hosts international criminals, yet subjects its loyal citizens to harassment and discrimination. Meanwhile, if you do not protect my infringed upon human and citizen rights, I shall be forced to seek protection from the World Association of Judges, 75 rue de Lyon, Geneva 13, Suisse.

Any consideration and assistance given in my behalf will be greatly appreciated.

Thank you very much.

With best wishes and warmest regards.

Very truly yours,

BORIVOJE M. KARAPANDZICH,
Free American-Yugoslav Writer.

[From the Washington Post, Nov. 2, 1971]

TITO CRITIC TELLS OF U.S. "HARASSMENT"

CLEVELAND, November 1.—U.S. Rep. James V. Stanton (D-Ohio) said today he had demanded an apology from the Secret Service for what he alleged was undue harassment of a Yugoslav immigrant here.

Stanton told newsmen that unless he got satisfaction from the Secret Service he would file suit in U.S. District Court seeking to enjoin the federal agency from further harassment.

Stanton's complaint involved Borivoje M. Karapandzich, an outspoken critic of Yugoslavian President Tito. Karapandzich, who works at City Hall as an engineering aide, has writen a book highly critical of Tito, who is currently touring the United States.

Stanton said Karapandzich had written him complaining that Secret Service agents went to his home Oct. 12 and questioned him at length about his attitude toward Tito and asked if he had any weapons in the House.

Stanton further said Karapandzich agreed to go to the Federal Building here at the agents requests for a picture. Karapandzich told Stanton all this caused him "mental anguish."

Stanton called the agents' actions a violation of civil liberties which could not be tolerated.

In Washington, the Secret Service had no immediate comment.

[From the Washington Post, Oct. 29, 1971]

FBI QUERIES POSSIBLE OPPONENTS OF TWO SUPREME COURT NOMINEES

(By John P. MacKenzie)

The FBI has carried its investigation of President Nixon's two Supreme Court nominees into the unfamiliar territory of the civil rights and civil liberties workers who uncovered damaging evidence against previous Nixon choices for the bench.

Agents in at least five cities have met with a mixed but mostly chilly reception after asking potential opponents of William H. Rehnquist and Lewis F. Powell Jr. whether they had any information and whether they planned to fight the confirmations.

Reaction to the FBI inquiries ranged from surprise at the bureau's sudden interest to outrage that the interest extended beyond data-gathering to the plans of persons considered unsympathetic to the Nixon administration.

Professor Gary Orfield of Princeton, who testified against confirmation of Clement F. Haynsworth Jr. and G. Harrold Carswell, said he was asked whether he expected to testify at Senate hearings opening on Wednesday.

Stanford law professor Anthony Amsterdam, who publicly opposed the possible nomination of Judge Mildred Lillie, was asked whether he would give his views on the court nominees either to the Senate or the American Bar Association, which is conducting its own investigation. Both men refused to commit themselves on the subject.

Among those who said they were questioned by the FBI was Richard T. Seymour, a lawyer with the Washington Research Project Action Council, a civil rights organization.

Seymour, whose investigation of Carswell produced evidence that he had helped convert a public golf course to a private club to avoid admitting Negroes, was called first at his Washington office. On that call the FBI learned that Seymour had already left for Phoenix, Ariz., where Rehnquist practiced law before becoming an assistant attorney general in 1969.

Reached at a Phoenix motel yesterday, Seymour told the Washington Post that an

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FBI agent had contacted him by telephone on Wednesday.

Seymour said the agent expressed some confusion as to why he was supposed to contact him but that it concerned Rehnquist. The agent asked about Seymour's background, his purpose and whether he had developed any new information.

The young lawyer told the agent that he had turned up "nothing worth talking about yet." Then, said Seymour, "I asked him if he had any information. He said he couldn't disclose it without permission from higher-ups. I said we operated under the same system."

Seymour said the brief conversation was "very friendly—there was no attempt to scare me." Other individuals questioned expressed the same view.

Marian Wright Edelman, Seymour's superior at the Washington Research Project Action Council, said she received a call Wednesday in Massachusetts from the FBI's Washington office. The agent asked her to talk with a man from the FBI's Boston office, said Mrs. Edelman, who divides her time between Washington and Cambridge, Mass.

Mrs. Edelman, said she told the FBI that she had nothing to contribute as of now about either Rehnquist or Powell but she would call the bureau if anything developed.

From the agents' questions, Mrs. Edelman said she had concluded "they clearly never heard of any of us."

The FBI took the brunt of criticism last year for failing to discover derogatory information on Carswell before critics did. Many in the bureau and elsewhere in government felt that the criticism was not entirely deserved bcause of the short notice and secrecy restrictions under which field agents were forced to operate.

Harvard law professor Laurence H. Tribe, another private attorney consulted by the FBI, said he has had three FBI inquiries since Oct. 18, when The Post published his study of the recent judicial record of Judge Lillie, then a top name on the administration's list of potential nominees.

Tribe said the agent who called first said he was not conducting a formal check on Judge Lillie but wanted to be ready in case Washington asked for one. Asked the source of his interest in the candidate and what his professional opinion was, Tribe said he replied that he was acting as a scholar and former law clerk concerned about the Supreme Court and that he had a low opinion of the California judge.

Wednesday of this week Tribe received a personal visit and a telephone call from another agent, this time about Rehnquist and Powell. The FBI, Tribe said, wanted to know if he was conducting a comparable study of the two nominees. TRibe said he was annoyed at the question and refused to answer it.

[From the Washington Post, Oct. 29, 1971]

NORTH CAROLINA GOVERNOR FUMES ABOUT SECRET SERVICE

CHARLOTTE, N.C., October 28.—Gov. Bob Scott is angry over the way Secret Service guards treated him during President Nixon's visit for Billy Graham Day Oct. 15, The Charlotte Observer said today in a copy-righted article.

The Observer quoted Scott as saying an official of the Federal Aviation Administration, told him his plane could not land if it arrived after 1:45 p.m., 15 minutes prior to Mr. Nixon's scheduled arrival.

"I said, 'Look, I'm the governor of North Carolina,' Scott said. 'Are you telling me that I can't land in my own state?' I said, 'Now I'm up here and I intend to get down and I don't have a parachute, so we're going to land when we get there.

"He told me that if we landed after the specified time they would take the pilot's license. And I said, 'Go ahead and take it. I'll give him another job.'

"I also told him that I was the governor of the state the President was coming to and that if necessary I could order highway crews to get construction under way on every street leading to the airport."

His plane arrived at 1:30 p.m.

The Secret Service wouldn't let Scott fly the state flag from his car in the presidential caravan from Douglas Airport to the Coliseum, which further irritated the governor.

And once at the Coliseum for a tribute to Graham, the article said, Scott was again offended by the Secret Service.

"They just almost didn't let me out of the auditorium," Scott said. "I came down the stairs to go out the door to my car, but the Secret Service wouldn't let me out.

"I argued with them for a good while, identified myself as the governor of North Carolina, pointed out my aides and my car, but nothing doing. I just thought it was overdone—in fact, ridiculous," Scott said.

After the presidential entourage arrived at the airport for Mr. Nixon's departure, Scott said, the Secret Service twice brushed him aside when he attempted to shake hands with Mr. Nixon just before the President boarded his jet.

[From the Washington Post, Oct. 30, 1971]

WHITE HOUSE REGRETS SNUB

The White House said yesterday that if North Carolina Gov. Bob Scott was mistreated by Secret Service agents during President Nixon's visit to Charlotte two weeks ago, it was cause for regret.

The Charlotte Observer reported Thursday that Scott, a Democrat, was angry over Secret Service treatment of him when Nixon visited the city Oct. 15 to honor the Rev. Billy Graham.

"It's always unfortunate when a misunderstanding of this sort occurs," said Nixon's press secretary, Ronald L. Ziegler.

[From the Washington Evening Star, Oct. 29, 1971]

PLAN IS DRAWN BY UNITED STATES TO FIRE "SUBVERSIVES"—DISMISSAL WOULD BE AUTOMATIC

(By Joseph Young)

The Nixon administration is drafting plans for the automatic firing of all federal employes who are members of any organization the government decides is "subversive" or "revolutionary-terrorist."

The plan would abolish present legal safeguards adopted following the witch-hunt of the Joseph McCarthy era in the 1950s and the loyalty programs of the late 1940s.

It would apply to both "sensitive" as well as "non-sensitive" jobs in government.

Mere membership in a group listed by the attorney general as "subversive" is not now grounds to fire a federal employe. The government must prove that an employe is an "active and knowing" member of such an organization.

The proposed new standards would bring the dismissal of an employe if the government decided his continued employment "would not promote the efficiency of the service."

Apprised of the administration's proposed changes, federal employe union leaders expressed alarm that this could result in a new witch-hunt in the federal service.

They also express concern that the proposal would mean virtually any employee could be fired on vague charges.

The union leaders ask who is to determine in these rapidly changing times of social stress and upheaval which organizations are "subversive" or "revolutionary" and which are not?

Federal union leaders say there is a grave danger that government employes belonging to groups demanding an end to the fighting in Vietnam or in the cause of school and housing integration and other social issues would stand to lose their jobs if the plan becomes effective.

Asst. Atty. Gen. Robert C. Mardian, chief of the Justice Department's internal security division, referred to the proposal in remarks prepared for an Atomic Energy Commission security conference. Mardian has also indicated the administration's thinking on the matter in testimony before Congress.

The ideas discussed by Mardian are only "working proposals," a Justice Department spokesman said today.

"These proposals," he said, "are simply part of our current evaluation of the existing security system. Officials have not yet decided whether it would take new legislation or only a presidential order to put the proposals into effect, if a decision is made to implement them, the spokesman added.

In his remarks to the AEC group, he described as "legalism," federal court decisions which carefully circumscribed operations of internal security programs.

He said that "legal distractions . . . have placed an onerous, if not impossible, burden on government and industrial security officers," and that the new standards are part of several proposals to correct this.

Among others he named was a July 2 executive order from President Nixon authorizing the Subversive Activities Control Board to hold hearings and designate groups that fall into the "subversive" or "revolutionary-terrorist" category.

This order is under attack in Congress. There have been bills introduced by Sen. Sam Ervin, D-N.C., to bar use of federal funds to enforce the order.

Mardian argued that evaluating the membership in groups "dedicated to revolutionary-terrorist" principles would offer a "more realistic" test than present standards.

Mardian argued that government agencies should be able to fire employes if membership in an offending group would diminish his agency's efficiency.

Mardian added that "the vast majority of Americans would . . . agree that persons who are knowing members" of such groups "should not be employed in even non-sensitive positions, not simply because they are disloyal, but because such people are not likely to improve the delivery of governmental services of a government system they are trying to destroy."

Queried by Jared Stout of the Newhouse News Service as to which additional organizations would be named as subversive or which kind of activities by federal employes would be regarded as subversive or revolutionary-terrorist, Justice Department spokesmen declined to do so.

A Justice Department spokesman said the proposed plan could take the form of either legislation or a presidential executive order.

[From the Washington Post, October 30, 1971]

UNITED STATES WEIGHS CHANGES IN CHECKING WORKERS

Assistant Attorney General Robert C. Mardian said yesterday the government is considering a change in procedures to tighten security requirements for federal probationary employees hired prior to security checks.

The change as outlined by Mardian in an interview and in July 29 testimony to the House Committee on Internal Security as well as in a speech this week to the Atomic Energy Commission Security Conference.

Under the proposal, which has not yet been approved at the White House, a government agency would have to certify that the continued employment of a probationary employee "will promote the efficiency of the service."

Mardian said the change is designed to deal with the problem of probationary federal employees who turn out, after hiring, to be members of "subversive" or "revolutionary-terrorist" organizations.

Under present procedures, he said, the government can rid itself of such probationary employees only if it can prove they have engaged in criminal or other misconduct or that there is a reasonable doubt of their loyalty to the government.

Mardian flatly denied a Washington Star story which said a plan in the drafting stage calls for automatic firing of all federal employees who are members of any organization deemed to be subversive or revolutionary-terrorist.

He said the courts have held that mere membership in such organizations is not sufficient grounds for dismissal, from federal service. These decisions, he said, permit action against a federal employee only if the government can prove he knowingly involved himself in furthering the illegal objectives of a "subversive" organization.

No major plan to change the security rules regarding permanent federal employees is being contemplated, Mardian said.

Anthony L. Mondello, general counsel of the Civil Service Commission, said no plan such as described in the Star article is known to commission officials, including Chairman Robert E. Hampton.

HOW LONG?

The SPEAKER. Under a previous order of the House, the gentleman from New Mexico (Mr. RUNNELS) is recognized for 5 minutes.

Mr. RUNNELS. Mr. Speaker, the wife of one of our prisoners of war being held in North Vietnam has forwarded a most interesting calendar to me. This calendar is being distributed by an organization in Santa Fe, N. Mex., called Rescue Line, Inc. A statement by Louis R. Stockstill titled "How Long?" is printed on the back of this calendar.

I insert this statement in the RECORD for the benefit of my colleagues:

HOW LONG?

There was a time when U.S. participation in the Vietnamese war may have been justified. But today our President, with the apparent blessing of a majority of our people, is firmly committed to withdrawal.

Hundreds of thousands of our troops have been returned home. Others continue to be withdrawn, and those left behind constitute an ever diminishing number, operating from an ever diminishing position of strength.

While on the other side of the battle-lines within South Vietnam, and across the borders of Cambodia, Laos and North Vietnam, nearly 1,700 American soldiers, sailors, airmen, Marines and civilians are still being held as prisoners of war or listed as missing in action and presumed to be prisoners. Some have been held captive five, six and seven years. Some have died in the POW compounds. Others may now be dying or facing the growing threat of death. Most families of these men still do not know if they are even living.

Over the years, our Government has sought through a variety of avenues to win full identification of the prisoners, and to obtain improved treatment for them. But not a single effort can be termed completely successful.

Now, seven years after the first American was taken prisoner, too few alternatives remain . . .

One of the hopes that an increasing number of POW-MIA families have is that North Vietnam and her allies may be willing to list all of the men they hold and begin a program of repatriation if our Government will set a firm withdrawal date. And they feel we must now make that offer—the offer of a specific withdrawal date, contingent only upon the institution of an immediate repatriation program that will assure the return of all prisoners of war by the conclusion of the withdrawal. They feel that if the offer is rejected, we will have lost nothing . . . if we do not make it, we will have closed a door.

Other POW-MIA families feel that we must wait and see if our Government's efforts will produce results in time to save the lives of at least some of the prisoners—known and unknown.

Americans must take a stand and whichever alternative we believe in, we must make it known to our elected officials in Washington. If we do not, we will have failed in our responsibility to those Americans who continue to rot and die in the prisoners of war camps throughout Indochina.

Write to your elected officials today. Tomorrow may be too late for the prisoners and missing.

ALL-OUT ATTACK ON PROBLEMS OF THE ELDERLY

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 15 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I rise today to address my remarks and hopefully the attention of all of the Members in this House to the continuing plight of the elderly in our society. There is probably nothing new in what I am going to say, nothing that probably has not been proposed or said before, and certainly nothing new about the subject itself. Yet, this just convinces me all the more that it is necessary to say it all again, to try one more time, to focus attention on the whole range of problems which continue to beset the elderly of this Nation. For in spite of all the bills which have been filed each session of Congress for as long as I have been here, all the many colleagues over the years who have joined in cosponsoring these bills, even in spite of such landmark legislation as medicare and medicaid and a series of welcome increases in social security benefits, the crisis facing the elderly of this Nation seems to be continuing unabated and is probably in many ways a problem offering less promise of solution today than 10 years ago. Because, despite these undeniable steps in the right direction—these major victories for the elderly—not only the elderly but every Member of Congress has come to realize that the situation has not really materially improved and seems to get worse with each passing year. Certainly, the cries of anguish from the elderly across this country have not been stilled. But instead seem to be augmented with each passing year—years crowded with the birthdays of millions who suddenly find themselves officially classified by Government bureaus as elderly.

It has become customary in Government circles to refer to those over 65 as elderly, yet a moment's reflection on one's own experiences and personal associations would indicate to every Member here that there is something terribly arbitrary about that figure. We all know that for some, the problems of old age—such as increasing disabilities and infirmities, incapacity to earn a decent living, loneliness, and isolation from the dominant younger generations, are readily identifiable problems facing many in our population below the age of 65 all of which serves to underline the tragedy we are facing. We have not really made all that much progress towards solving the problems of those over 65 let alone the similar problems of those under 65 which, in essence, are problems of the elderly.

Much has been said about the political implications of all of this, yet ironically nothing much seems to have resulted. All respected commentators seem to be in agreement that one of the new features of the landscape in the 1960's was the muscle demonstrated by the senior citizens of the Nation.

The events leading to the passage of medicare convinced most commentators that the electorate now included a new bloc which had to be reckoned with new national organizations representing the interests of the elderly fulltime in Washington made their appearance on the American scene. Any public figure who ignored the interests of the elderly would do so at their own peril. And yet, in spite of all the legislation filed which failed to pass and even the legislation which was filed and did pass; in spite of all the speeches both on the hustings and in the Halls of Congress; the more I read my mail, the more I visit my district, the more I read the papers. I am convinced that we have not really made a significant dent in tackling the curse of being old in this country. It is as if the elderly, after years of neglect, were in fact overly grateful, only to wake up a few years later to realize that they were not really that much better off than they had been before.

Inflation in the final analysis has proved to be a fast runner, indeed, and easily overtaken the elderly who could not hope to keep up. For cruel as inflation is to every segment of the economy, like so much else in our modern society, it looks with more favor on those who are younger and more competitive and can stay ahead of the game than those who have lived the good life, saved for the rainy day, or are dependent upon the support of friends or governments. For those on a fixed income, whether it be in the form of a Government check, a pension plan, or their own savings accrued through a lifetime of hard work, inflation has been nothing short of disastrous. Spiraling hospital costs have led to the imposition of regulations and restrictions, cutbacks, and rate increases that have left medicare a mere shadow of its former promise of later years spent free from worry about medical bills. Social security benefits when finally passed, could only be viewed as long delayed responses to cost of living increases which were experienced many months before and since overtaken by more recent and sharper increases—a classic case of how the legislative process itself just does not seem to be keeping up with the race against inflation which is exhausting our elderly. Adequate housing, by the time it is proposed, argued, funded, constructed, and opened proves to be hopelessly short of the needs of the

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moment and a further source of dismay and heartbreak to the many thousands who are turned away for every one who is accepted.

I realize, without going any further, that I have touched upon problems which are too complicated to be ticked off lightly and brushed over in passing. In the next few days I intend to treat each of these major problem areas facing the elderly of this Nation in a separate speech with my proposals and suggestions for tackling them. The only thing I can say about all of them together is that the time for nibbling at opportunity is long since gone. If there ever was a time to seize the opportunity and the occasion in a full embrace, to take a brandnew departure from existing approaches and to, in effect, espouse a revolution in our thinking about the aged, now is that time. If we have learned no other lesson in the decade of the 1960's in our approach to the problems of the elderly, it is that the traditional piecemeal, bit-by-bit, step-by-step approach simply has not worked. The resulting patchwork of laws and programs and benefits for the elderly have been straining at the seams and have not proved strong enough to, in any sense, protect the elderly from the vicissitudes of old age. The elderly in this country are justifiably fed up with those who are either faint hearted or half hearted in their approach to the problems of the aged. The 1960's started off by unleasing hopes that were bound to be dashed before the decade was over, with the result that, at the decade's end, we knew full well that there was probably less hope for either a new or a fair deal or even a great society for the elderly than when the decade began.

We are all familiar with the practice in other lands and cultures of leaving the elderly and aged in the snow to die so the younger, healthier members can move on to fight for their own survival, free of the encumberance of the infirmities of the very aged. Our society, on the contrary, has always prided itself on its more humane and Christian approach. But is an approach which allows our elderly to spend their last days in ceaseless concern about paying bills, deeply worried about the costs of medical attention and availability of hospital space, withering away neglected in totally inadequate nursing homes, or at the end of long queues waiting for a vacancy in that great mirage which is known as housing for the elderly—is such an approach any more Christian, any more humane than the more honest and primitive practice of other lands and times? This is the piercing question we must ask ourselves, for the elderly are no island unto themselves. There is a part of all of us that is growing old. We, too, have to be worried deep down about the fate of the elderly if for no other reason than the purely selfish realization that we are all concerned about what the future holds for us. That someday we, too, will be there is too often taken as meaning we can put off the day of final reckoning and the day is far away. Nothing could be further from the truth.

There is nothing wrong with public officials addressing themselves to any problem in this Nation. The public continue to find themselves confronted with the plight of the elderly is that so little has been done and so much remains to be done. As long as there is such a huge constituency out there that has needs which have gone unrecognized and unsolved for so long and are in danger of becoming a national disgrace, then it behooves each and every public official to try, and to try again, to try to do all in his power to bring about a new national consciousness, awareness, approach—whatever you want to call it—to the problems of the elderly. Tomorrow, I will begin my discussion of these problems by focusing on a new approach to the concept of social security. In a subsequent address, I will focus on the problem of medical care and costs for the elderly; in my final address, I will discuss the need for an all-out national program of housing for the elderly. Taken all together, you will have the product of one Congressman's reflections and soul searching on what he feels to be, without a doubt, the most pressing and depressing problem of our time.

J. EDWIN WHITE HAS SERVED HIS FELLOW MAN

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 20 minutes.

Mr. FUQUA. Mr. Speaker, life moves at such a pace that we seldom have the time to stop and reflect, to take the time to earnestly and sincerely think about those who have made the good things in life possible.

The same statement could be made of a commercial institution, of a university, a community and county as well as an individual.

For some time now I have been planning to stop and say a simple but heartfelt thank you to a man who has meant so much in my life that I could never personally repay him. I do not do this only because of what he has done for me, but because I have seen him labor so long and so hard for so many civic, educational, and other worthwhile endeavors.

He is not the type of individual who seeks the headlines, not because he does not deserve them, but I think he seeks to avoid them. Yet, there are so many civic endeavors in Tallahassee, Fla., that have had his support and guidance, he deserves this and many other tributes.

He is Mr. J. Edwin White, a man I consider to be one of the most unselfish men and tireless workers I have ever known.

The oldest of three children who lived to maturity, his father was the late J. L. White and his mother's maiden name was Annie Dickson Brameli. An older brother passed away at the age of 6 months.

Born in Maysville, Ky., he completed the first grade before the family moved to Tallahassee in about 1912, and because the school would not accept his credits, he had to start over again.

He likes to tell about the little Kentucky school where he started. The first row was the first grade, the second row the second grade, and on down the line.

His father farmed in Kentucky, but changed that pursuit when he moved to Tallahassee, following two other brothers who had moved to Florida and encouraged him to come down. They were an interesting family, one of his father's brothers having been a medical doctor at Johns Hopkins University and who discovered one of the first cures for diphtheria.

When his family moved to Leon County, one of his uncles had the historic Prince Murat place, and another had a farm on what is now part of the Florida State University.

J. L. White moved to a place west of town—Tallahassee being a community of 3,000 to 4,000—and pursued a business life primarily in real estate. Some farming was done by a tenant farmer on the place and the father raised what he termed selected plants to sell. They were hardly stock that required breeding and care.

In spite of all the activity, things were tough for the family just as they were for many Americans at that time.

He has a right to be proud of that heritage and I suppose that part of the difficult conditions that followed him through his young adult life perhaps made him a little more concerned about his fellowman.

He graduated from Leon High School in 1924 and although he had a tremendous desire to attend the University of Florida, it was just impossible.

He went to work for $12 a week for the old O. I. Gramling & Co., unloading carloads of hay, sugar, oats, hay, and whatever else was at hand. A friend said that he could outwork most any man around and could stack some items three times higher than an ordinary room.

He wanted to do better and secured a job with the Internal Improvement Board. He had planned to attend a business school that was opening, but a position came open in the Florida boom of 1924–25, and he worked for the IIF of Florida in the Everglades Drainage District.

A meeting he attended as an officer of the Methodist Epworth League in Bradenton, Fla., convinced him that he needed to travel, to find something with more opportunity.

For this reason, he took a job with Smith, Richardson & Conroy, selling produce. But today, he says he was more of an order-taker than a salesman. He said in a recent conversation that he would talk to a customer and ask if he wanted anything instead of trying to sell. The thing that was important was that he was learning about people and it was a valuable training experience.

About 6 months later an opportunity came to represent the Meredian Grain & Elevator Co. of Meredian, Tenn., so he got the job traveling south—Georgia, Florida, and Alabama.

The turning point in his life perhaps came when a Mr. Wilson of that company called him into the office one day and pointed out to the young inexperienced salesman what he was doing wrong and said he wanted to give him a job in the office, but that frankly, no one could read his handwriting.

Well, what seemed to be a great tragedy at the time was the best thing that could happen to an ambitious young man who lacked training and experience. The determination was never to leave him.

Four years had passed and his classmates were coming back from college.

He knew that somehow he had to secure more education if he was ever going to compete successfully.

He went to the Citizens Bank of Tallahassee and borrowed $250 to go to a business school which is now out of existence, Bowling Green Business University of Bowling Green, Ky. It cost $175 for tuition and he needed a penmanship course, but could not afford the $20 for tuition.

He found that an opening was coming up in the penmanship class for a student who would assist in checking, so that tuition was paid. He was at the office early the next morning and got the job. It was an eventful year for a determined young man.

He had decided to stay in Kentucky, but just as the course was ending, his mother wired him that his father was dying. So, his treasured graduation certificate had to be sent to him by mail as he came home. His father was an invalid for a number of years and he decided not to return to Kentucky to take a job offer in a bank there.

A job with the telephone company as a cost accountant occupied his time for a couple of years before he went to work for the Levy family as a property manager. The Levy's owned a tremendous amount of the business and other property in Leon County at the time.

All of this was merely to be training for the real undertaking of his business life, and that was to become the Tallahassee Federal Savings & Loan Association. Ten hard years were to provide what was needed to have the tenacity to build with dollars an institution which will probably move past $100 million in assets in the next year.

The Federal Home Loan Bank Board Act, or Home Owners Loan Act, had been passed in 1933 so that families could refinance their homes and save them from repossession as America suffered through the horrors of depression.

Mr. White and the original directors heard of its passage and got together to start a new institution. A Mr. Francis Mason who was the chairman of the Federal Agency helped them get a charter.

It is not easy to make real the difficulty of this task, for this was uncharted ground and took considerable courage on the part of men like Mr. White at that time. Other institutions had tried and failed. To put it simply, it was no easy chore, but an arduous one that men of less tenacity would have abandoned long before turning the corner to success.

Mr. White walked the streets to get the $1,500 needed to incorporate. The book that he used to sell shares for the original institution is one of his prized possessions.

The term used was a full page share which meant $100 a month deposited. But, many persons came in for 50 cents a month and thus, would have the corresponding portion of page share.

They did not have too many $100 investors. That individual was rare.

The original group that got together numbered 12, with 11 becoming directors and Mr. White served as the secretary-treasurer for the 11-man board. The only surviving original director is the current chairman of the board, Mr. Jack Simmons, Sr.

Mr. Simmons also was to serve as the first President of the new institution.

Mr. White was making $90 a month as a manager of the Levy properties and opened up an office for the new institution on the ground floor of his office building. There was no separate telephone and no salaries—only hard work and a dream.

It should be pointed out that most of the savings and loan institutions in Florida as we know them today started in south Florida. Tallahassee Federal was among the first in north Florida.

During the boom, there had been what was known as building and loan associations which were State chartered. As the boom burst, there were 64 and only four survived. There were two in Tallahassee which did not go broke, but were liquidated.

The memory of those institutions was to haunt men with a dream like J. Edwin White.

When one sees the huge building housing the association today, it is hard to believe it was several years before they could hire a lady to work in the office.

The first employee was a man named Francis Black who wanted to be an airlines pilot. He needed to study geography, so he kept the office, answered the phone, and studied for $1 a day while Mr. White walked the streets soliciting accounts.

Mr. Black achieved his goal and today continues in a most successful career as a pilot for Eastern Airlines.

A porter then did part-time work answering the phone when Mr. White was out of the office.

Today, there are 50 employees of this large financial institution.

On December 1, 1940, assets had grown to $1 million and the growing institution moved to quarters on Park Avenue, site of the present police headquarters in Tallahassee. That site was to be remodeled and revamped on four different occasions as the association grew until there was simply no space left.

This brought on the move to purchase property from the Catholic Church on North Monroe Street and adjoining lands, till the association owned almost the entire block. It was on this site that Tallahassee Federal was to build the magnificent structure that houses its operation today and which has been cited time and time again for its architectural beauty.

This was not an easy accomplishment. Two presidents followed Mr. Simmons with Mr. White becoming a member of the board in 1948 as the secretary-treasurer, who for the first time became not only the operating official but a member of the board.

At this time he also left his position with the Levy Co. to go to work with Tallahassee Federal on a full-time basis. It was a far cry from that day when the doors first opened and he noted that at that time he had thought a salary of $100 a month would be the greatest thing in the world.

There were tremendous problems in every direction to be solved as Tallahassee Federal evolved. One man kept fighting and working—whatever hours and whatever time and no matter what the heartaches—that was J. Edwin White.

While there are others who have made great contributions, this stands as a monument to his fierce determination to succeed against odds when most men turn back. Today he has achieved the success which some of his friends of many years ago said they always felt he would attain.

If there is one thing they said impressed them about this man at every stage, it was his determination. There was something about this quiet and shy young man that caused those who really cared to know that here was somebody special.

And they were right. Today he is the success they predicted and which those of us who know him best today feel is richly deserved.

In all of the trials and tribulations of life, he has had a helpmate who has stood loyally by his side. Norma Bauer came to Florida State College for Women as an assistant dietician. They were married on May 14, 1932, and she has been a great inspiration.

It has been said many times that behind every successful man stands a good woman. Certainly this is true in the case of J. Edwin White.

Mrs. White is a gracious and good lady who has made great contributions to the life of her community in her own right. It could well be said that she was his mainstay when things were the most difficult—and having her for a strong right arm made it all worthwhile.

They have one child, a daughter, Amelia Ann, named after Mrs. White's grandmothers.

She is married to Mr. Thomas E. Rowell, Jr., and they have two children, Thomas, III, and Anna Marie. They are 5½ and 2½ years old and it goes without saying that they are the apple of their grandparents' eyes.

He became president in 1957, but whatever his title, he has been the managing officer of the institution.

It is interesting to note that a member of the association has one vote for each $100 or fraction thereof he has invested, up to a maximum of 50 votes.

Mr. White had dreamed of a home for his institution as assets passed $1 million mark after another. He began his plan with a huge lobby and winding staircase. He gave his ideas to a draftsman and the plans began to develop—a traditional southern style architecture, both courtly and elegant—beautiful and practical.

The lady who worked with Mr. White on the plans for the building was an accomplished draftsman, had studied architecture, and worked with several architects. She worked with him for over a year on the initial plans. The building was carefully thought out for the future and an institution of tremendous size could be housed within its overall master plan.

While the present building appears completed, the future has not been neglected. It is designed so that the south walls can be eliminated after an adjoining structure is added, and the staff

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moved into additional quarters in a minimum of time.

This is certainly planning for the future and attests to the ambitious dream of Mr. White—for when Tallahassee Federal moved into these quarters in June of 1959, assets were only $26 million. Talk of reaching $100 million might have seemed humorous to all but this one quiet man who will set that goal in the very near future.

Today, Tallahassee Federal has assets of $67 million—their goal is $100 million by the end of next year—and anyone who knows Mr. White knows they will reach that mark.

The building of Tallahassee Federal would be enough of a contribution for an ordinary man. Mr. White is not an ordinary man.

One of the leaders in the profession, he served as president of the Florida Savings and Loan League in 1943 and did all of its legislative work from 1938 until 1956 when the association was able to secure the services of another close friend of mine, Robert Fokes.

Bob said to me recently when we talked about Mr. White that no man "responds more quickly or devotes more time and talent to civic activities, university affairs and charitable drives than does Edwin White. Tallahassee and Leon County are both replete with improvements to the public good as a result of his endeavors."

Each State names a director of the U.S. Savings and Loan League, a position held for 2 years by Mr. White.

Edwin White's leadership in the savings and loan business is not confined to the State of Florida. He has been a member of the U.S. Savings and Loan League's legislative committee for over 15 years. This committee hammers out the legislative goals of the savings and loan business and is one of the key committees in the operation of the U.S. Savings and Loan League. Mr. White has attended every U.S. League legislative conference held in Washington, D.C., since 1957.

Thus, on a national level, he has worked to improve the savings and loan business. Currently, there are in excess of 47 million savers and approximately 12 million borrowers utilizing the services of the savings and loan business. Nationally, savings and loans finance approximately 45 percent of all single-family homes. Mr. White's contribution on a national level is well recognized by leaders in the savings and loan industry as is evidenced by his reappointment to the legislative committee by 15 presidents of the U.S. Savings and Loan League.

Stephen Slipher, legislative director of the U.S. League, says that:

Ed White has been a dedicated and effective member of our Legislative Committee and his work has been an important part of our legislative effort over the years.

He is a steward in the Trinity Methodist Church. His church has meant much to him as he served as an officer of its youth organization, at that time, the Epsworth League, which had a great influence on his life.

The very excellent Tallahassee Rotary Club saw him render outstanding service as president in 1943, having been a member since 1936.

He served as president for two terms, served as a director, of the Tallahassee Board of Realtors. He continues to hold his real estate license which was such an important part of his life with the Levy Co. Of course, those lessons have been invaluable in making tremendous decisions on loans, sometimes innovative, for Tallahassee Federal.

He has been a director and president of the Leon County Cancer Society, heading up three drives. He has been a director of the United Fund for 10 years and served as its chairman.

The Seminole Boosters is an organization of supporters of the athletic program at the Florida State University in Tallahassee. Again, J. Edwin White was one of its organizers and made the first contribution. When Coach Bill Peterson moved the Seminoles into the forefront of the Nation with his football teams, it was Mr. White who spearheaded drives which brought in $10,000 the first year and $14,000 another for a great coach at a great institution.

One of the first directors of Tallahassee Community College, he has been active for many years in the Masons—holding membership in both the Scottish and York Rites as well as the Shriners.

He has been the recipient of an award as Boss of the Year from the National Secretaries Association and has served in so many activities and promotions to benefit Tallahassee, its educational institutions and citizens, that it would be impossible to enumerate.

Always interested in government, he served as State treasurer of the successful campaign of LeRoy Collins for Governor.

One of the closest friends I have ever had, the late Dr. C. Paul Vickers, took me down to see Mr. White before I ran for Congress. I know that I was just a small county representative who wanted to do things, and somehow I think he understood.

While I was a little frightened, to be honest, at our first meeting I left there feeling that I had a friend. Little did I know that he was going to become one of my closest friends and advisers and contribute so much to my life.

We won the first campaign against overwhelming odds. About 6 years ago, it looked as if my career might be interrupted when the legislature combined my district with that of a fine gentleman and who had served some seven terms. Mr. White, I remember, never blinked an eye at the odds and we went to work.

Stated as honestly as I know how, there are three or four men whom I consider to have been essential in that campaign, and it could not have been won without their help. Mr. White is one of those men and I could never repay the debt of gratitude which I owe him.

William Hussey, executive vice president of the Florida Savings and Loan League, told me this recently:

As a recognized leader in our industry for more than a quarter of a century, Mr. White served as President of the Florida Savings and Loan League in 1943 and for some 25 years served as chairman of our state legislative committee. In his position as committee chairman he was instrumental in assisting the design and implementation of the annual legislative program of the League and a catalytic agent in determining policy.

Mr. White's uniqueness of character singles him out as a colorful, dynamic savings and loan personality who stands firmly behind his ideals and philosophies.

Mr. White feels strongly about the savings and loan institutions across the land:

Our purpose is to allow families to own their homes. Perhaps just as important, we try to advise them so that they don't try to buy something which we know they can't afford.

Tallahassee Federal has been a major part of my life. I hope that we have built an institution that is strong, that for time to come will continue to serve people. In all of those activities in which I have played a part, I have wanted very much to try to do something for my fellow man and perhaps make the road just a little easier for someone else.

Recently, a certified public accountant sent out a form letter to the 22,000 depositors of Tallahassee Federal to ascertain if their accounts were correct.

Mrs. Carrie Barwick of Panacea, Fla., is one of those depositors and there are 6,000 loans which have been made with the funds of depositors like her.

Here is what she had to say in response to the inquiry about whether or not her account was correct:

I believe this is correct. But to my honest opinion, what Mr. White says is true.

If everyone loved the underdog as Mr. White does, what a wonderful world this would be. The very poor (very poor) look just as wonderful as a millionaire, if not better, to Our God Loving Mr. White.

That does not seem like a business place alone—it seems like going home. Everyone is kind, friendly and considerate as God's chosen people. Please forgive me for writing a love letter along with business. Without love for people that need help plus kind words, to me it would seem like a prison.

Mr. White loves fine things and one of his hobbies has been collecting coins and stamps as well as antiques.

This interest recently caused a lady to bring by a document which proved to be the long lost Forbes Purchase papers, signed by President Tyler. It was a land purchase which had tremendous impact on one section of our Nation and is a part of history. Mr. White purchased it.

Typically, after checking to find that it was an important national document, he gave it to the United States as a gift. I have had the personal thanks of the national archivist for his generosity.

In my remarks here today I have tried to say something about a man who is a part of the institution we know as savings and loan associations. They cross the Nation and they serve America. In making these remarks, I hope to pay tribute to all of the good works which they have accomplished for this Nation and its people.

And I wanted to say something about a man and to say thank you for a great many friends of his in Tallahassee and Florida who felt that someone should express a simple note of gratitude for them.

And finally, I wanted to say something about a fine man whose friendship means more than can be expressed here. I am pleased to have the personal knowledge that there are a great many others who feel the same.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

An address given by William Lindholm a year ago underscores the greatness of this country by comparing our progress to that of the Soviet Union. Mr. Lindholm pointed out that if we were to match Soviet production we would have to destroy about two-thirds of our railroad mileage; destroy about 60 percent of our houses, destroy about 60 percent of our steel mills, and reduce our overall standard of living by about 60 percent. To quote Mr. Lindholm:

There is just no contest. We are strongest nation the world has ever seen, and we have shared our wealth as no nation has ever done.

ENVIRONMENTAL RECOMMENDATIONS OF THE PUBLIC LAND LAW REVIEW COMMISSION

(Mr. UDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. UDALL. Mr. Speaker, it was my honor to serve as a member of the Public Land Law Review Commission under the able chairmanship of our distinguished colleague, WAYNE N. ASPINALL of Colorado.

The historic Public Land Law Review Commission report has been both praised and criticized, but I believe it was in most respects a responsible report which will stand the test of time. Some of the criticism has been directed at an alleged failure to make adequate environmental recommendations.

A recent paper deals with the report and centers on the environmental recommendations and their status. I think it sufficiently important that I wish to make it available to my colleagues and the public.

Mr. Speaker, Jerome C. Muys, Washington attorney and former assistant general counsel of the Public Land Law Review Commission, recently addressed participants in a National Institute of the American Bar Association on the environmental recommendations of the Commission and the legislative and administrative status of their implementation. Mr. Muys is an outstanding lawyer who made a great contribution to the Public Land Law Review Commission.

The Institute, having as its general theme "Law of the Environment," was held in Washington on October 7 and 8, and was attended by members of the bar. Mr. Muys' remarks were made during a session on "Land Use Policy and Control" and as such are of particular interest to members of the Committee on Interior and Insular Affairs where our Subcommittee on the Environment is considering national land use policy legislation.

My colleague, Mr. ASPINALL, joins me in my assesment of Mr. Muys and the importance of his paper. I commend his remarks, which I submit for the record as follows, to the attention of my colleagues:

THE ENVIRONMENTAL RECOMMENDATIONS OF THE PUBLIC LAND LAW REVIEW COMMISSION AND THE LEGISLATIVE AND ADMINISTRATIVE STATUS OF THEIR IMPLEMENTATION

(By Jerome C. Muys)

I. BACKGROUND OF THE PLLRC REPORT (JUNE 1970)

A. There was recognition by both Congress and the Executive Branch in the early 1960's of the need for a comprehensive review of federal land policy.[1] The result was the creation of the Public Land Law Review Commission (PLLRC) by the act of September 19, 1964, which charged the Commission to:

(i) study existing statutes and regulations governing the retention, management, and disposition of the public lands;

(ii) review the policies and practices of the federal agencies charged with administrative jurisdiction over such lands insofar as such policies and practices relate to the retention, management, and disposition of those lands; and

(iii) compile data necessary to understand and determine the various demands on the public lands which now exist and which are likely to exist within the foreseeable future.

(iv) recommend such modifications in existing laws, regulations, policies, and practices as will, in the judgment of the Commission, best serve to carry out the policy that . . . "the public lands of the United States shall be (a) retained and managed or (b) disposed of, all in a manner to provide the maximum benefits for the general public."[2]

The nineteen member Commission was formally organized the following year and its study program was launched in early 1966. Its comprehensive study program encompassed some 33 separate studies and, coupled with the extensive information and view points obtained from numerous public hearings and its 34 member Advisory Council and the 50 Governors' representatives, formed the basis for the Commission's recommendations.[3]

II. THE PLLRC REPORT

The Commission submitted its report, *One Third of the Nation's Land*, to Congress and the President in June 1970. The initial reaction to the lengthy and complex report spanned the spectrum of opinion, generally being condemned by spokesmen for a number of conservation groups before the ink was dry. Several irresponsible articles by national news magazines were also highly critical. The only publications to date reflecting any serious analysis of the report are the Natural Resources Council of America's "What's Ahead For Our Public Lands" (1970) and the proceedings of a symposium sponsored by the University of Wyoming last summer contained in the December 1970 issue of the Wyoming *Land and Water Review*.

III. THE BASIC THRUST OF THE PLLRC REPORT

The fundamental thrust of the more than 400 Commission recommendations is that Congress should declare that the public lands should be retained in Federal ownership unless it is determined, as a result of recommended land use planning procedures, that maximum benefit from particular lands could best be realized through disposition to non-Federal ownership, state, local, or private.

Beyond that basic policy declaration, Congress is urged to exercise its Constitutional authority with respect to the Federal lands (art. IV, sec. 3, cl. 2) by generally providing more specific goals for public land management and better guidelines for the exercise of managerial discretion by the Federal land management agencies. At the heart of the Commission's recommendations is a proposal for the Federal agencies of a land use planning system which will give appropriate recognition to all values of the public lands in the context of greater public participation in the planning process and improved coordination both within the Federal Government and between the Federal land agencies and state and local governments.

To establish a more equitable relationship between the Federal Government and the users of the Federal lands, Congress is urged to require that the Federal Government receive full value for the sale or use of all public lands and resources and impose more stringent environmental controls on all permitted public land uses, while users are to be assured firm tenure and security of investment within the terms of their use rights and privileges. Improved administrative adjudication procedures, accompanied by expanded provision for judicial review, are recommended to insure fairness in administrative decisionmaking to both individual applicants and users, as well as the general public.

Improved intergovernmental relationships between the Federal Government and the states is the objective of Commission recommendations that Congress (1) clarify jurisdictional responsibilities in controversial areas such as water rights administration and fish and wildlife regulation on public lands, and (2) establish a comprehensive payment in lieu of taxes system to provide equitable compensation to state and local governments because of the tax immunity of federal lands.

IV. THE COMMISSION'S ENVIRONMENTAL RECOMMENDATIONS

It is difficult to sort out from the more than 400 Commission recommendations those which may indisputably be characterized as "environmental", inasmuch as almost all public land policies may lay some claim to such characterization. Nevertheless, environmental recommendations by the Commission may be grouped into at least five categories for purposes of analysis.

A. Environmental quality as a public land policy goal

Environmental quality should be recognized by law as an important objective of public land management, and public land policy should be designed to enhance and maintain a high quality environment both on and off the public lands. (Rec. 16).

"To assure that environmental quality be given the attention it deserves on the public lands *we propose that the enhancement and maintenance of the environment, with rehabilitation where necessary, be defined as objectives for all classes of public lands.* This proposal goes beyond the existing statutes by giving environmental quality a status equivalent to those uses of the public lands which now have explicit recognition, and by indicating that through design and management, environmental quality can be improved as well as preserved." (Rep. p. 70).

B. Planning for environmental quality

(1) Public land agencies should be required to plan land uses to obtain the greatest "net public benefit". (Rec. 2). This must involve a weighing of all benefits and costs

[1] See "The Public Land Law Review Commission—Background and Need", House Interior and Insular Affairs Comm. Print No. 39, 88th Cong., 2d Sess. (1964).

[2] 43 U.S.C.A. §§ 1391, 1394 (1971 Supp.).

[3] See Pearl, *The Public Land Law Review Commission: Its Purposes, Objectives, and Program*, 2 Calif. West. L. Rev. 92 (1966); Gibbons, *The Public Lands—Whence? Whither? A Midstream View of the Public Land Law Review Commission*, 2 Nat. Res. Lawyer 179 (1969); Muys, *The Public Land Law Review Commission Study—Issues and Interests*, 3 Nat. Res. Lawyer 315 (1970).

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of alternative land use decisions. The Commission recognized that "the terms 'benefits' and 'costs' have a decidedly economic ring, but we do not intend by the use of these terms to place emphasis on economic uses and values. It is essential to give full consideration to noneconomic factors in this planning process, and many of our recommendations elsewhere in this report, particularly in connection with environmental quality, fish and wildlife, and some forms of outdoor recreation, are directed to this important end." (Rep. p. 46). The Commission could not have made any clearer its conviction that Federal land use planning must give full recognition to environmental values.

(2) Congress should specify the factors to be considered by the agencies in land use planning and decisionmaking, including environmental factors, and an analytical system should be developed for their application. The public land agencies should be required to formulate long-range, comprehensive land use plans for each state or region, relating such plans not only to internal agency programs but also to land use plans and attendant management programs of other agencies. Specific findings should be provided in their plans, indicating how various factors were taken into account. (Recs. 2, 5, 19). The Commission would extend the National Environmental Policy Act's requirement for environmental impact statements for "*major* Federal actions significantly affecting the quality of the human environment" to *all* public land use plans and decisions. "There should be a record available with all such plans and decisions from which can be determined the extent to which environmental factors were considered. This should be accepted as a normal process in land management." (Rep. p. 77).

Further, Congress should provide for greater use of studies of environmental impacts as a precondition to certain kinds of uses (Rec. 20). Such studies would be required where severe, often irreversible environmental impacts are involved in a particular kind of land use, and would provide the basis for a decision to select alternative sites or routes "or even not to proceed with the project at all." (Rep. p. 80).

(3) Congress should require classification of the public lands for environmental quality enhancement and maintenance. (Rec. 18). Recognizing that "the development of knowledge about the tolerance of particular environments to various uses at an early stage is essential, both to meaningful planning for land uses in a particular area and to the development of appropriate operating rules and controls for permitted uses" (Rep. p. 74), the Commission recommends that a standard system of environmental quality classifications should be developed and, after Congressional approval, employed by the Federal land administering agencies in classifying the public lands for environmental management" (Rep. p. 75).

Such a classification system would be the foundation for a number of the Commission's environmental protection recommendations, such as its proposal that domestic livestock grazing should be excluded from so-called "frail" lands which, because of their soil characteristics and limited rainfall, exhibit a delicate ecological balance which, once upset by grazing, might not be susceptible of restoration. (Rep. p. 108).

(4) Congress should require that management of public lands recognize the highest and best use of particular areas of land as dominant over other authorized uses. (Rec. 4). As to lands set aside for primary purposes, such as parks and wilderness areas, Congress should direct the agencies to manage them for secondary uses that are compatible with the primary purpose. (Rep. p. 48). On "multiple use" lands administered by the Bureau of Land Management and the Forest Service, the Commission recommends that the agencies "identify those areas that have a clearly identifiable highest use" for designation as "dominant use areas."

On such areas "other uses would be allowed where compatible" so that "the same sort of relationship between dominant and secondary uses would exist on these lands as now exists, for example, between the dominant and secondary uses of national wildlife refuges and national recreation areas" (Rep. p. 51). This recommendation would make explicit as a matter of land use planning and management a concept implicit in the Multiple Use Act of 1960 and which has in fact been implemented to a large extent by the Forest Service and the BLM. The Commission made it clear that dominant use zones would not be established by Congress, but by the agencies through the Commission's recommended land use planning system. Nor would the BLM and the Forest Service be required to make a dominant use designation for *all* lands under their jurisdiction. "It should be clearly established that only those areas that have an identifiable highest primary use at the time of classification should be placed in a dominant use category. The remaining lands would remain in a category where all uses are considered equal until such time as dominant use becomes apparent." (Rep. p. 51). Furthermore, any dominant use classification would not be frozen for all time, but would be subject to modification through the recommended land use planning process as public values, resource needs, or other determinants may change.

The Commission's dominant use recommendations are discussed in some detail with respect to its timber and fish and wildlife recommendations (Recs. 28 and 64). Although the same principle is involved in each instance, conservationists have condemned the concept with respect to timber, but applauded its utilization in connection with protection of fish and wildlife habitat. With respect to timber dominant areas, the Commission explained its concept as follows:

Criteria for establishing timber production as a dominant use of public forest lands must involve consideration of other existing or potential uses. Those lands having a unique potential for other uses should not be included in timber production units. Critical watersheds, for example, where cutting may be prohibited or sharply limited, should not be included. Similarly, important, or potentially important, intensive recreation use sites close to urban areas should not be included, on the other hand, watershed, recreation, or other uses would not be precluded on lands in the system.

Timber production should be the dominant use, but secondary uses should be permitted wherever they are compatible with the dominant use. Generally these areas would be available for recreation use except during the period when timber is being harvested and the time thereafter required to permit new growth to get started. It may also be necessary to impose greater restrictions than now exist on grazing during periods when timber stands are being regenerated. (Rep. p. 93).

Fish and wildlife dominant zones would include areas in which endangered species are found and those in which actual habitat is provided, such as key big game wintering or summering areas or choice bird nesting and feeding areas. Key fish zones might consist of portions of stream systems or in some cases the whole watershed. (Rep. p. 168).

C. Preservationist programs should be expanded

(1) An immediate effort should be undertaken to identify and protect those unique areas of national significance that exist on the public lands, with special emphasis on Alaska. (Rec. 78). A major aspect of this recommendation would be to make BLM lands eligible for addition to the National Wilderness Preservation System.

(2) Congress should provide for the creation and preservation of a natural area system for scientific and educational purposes. (Rec. 27). "As the need to understand the ecological consequences of man's activities has become more evident, the preservation of examples of all significant ecosystems has become important to provide a basis for comparisons in the study of the natural environment." (Rep. p. 87).

(3) All nonconforming uses in national parks, monuments, and historic sites should be prohibited by statute. (Rep. p. 205).

(4) The values for which national parks and wilderness areas have been set aside should not be destroyed by overuse for intensive outdoor recreation purposes. (Rep. p. 206).

D. Improvisg environmental control mechanisms

(1) Under the contractual and licensing authority which governs most uses of the public lands, there is ample authority to include provisions for environmental protection in such control instruments as timber sale contracts, mineral leases, grazing permits, and recreational and other special use permits. The adequacy of authority with respect to certain uses, such as mining activities under the Mining Law of 1872, and certain occupancy uses, particularly road construction and utilization on the public domain, is questionable. (Rep. p. 81). However those apparent gaps would be closed if Commission recommendations are implemented.

The Commission's recommendation concerning the Mining Law of 1872 (Rec. 48) is perhaps its most controversial, having generated one of the few dissenting statements found in the report. (Rep. pp. 130–32). Conservationists have long urged the outright repeal of the 1872 law and the substitution of a leasing system along the lines of the Mineral Leasing Act of 1920, which applies to oil and gas and certain other minerals. The Commission majority, however, recommended that Congress preserve the basic location-patent system of the 1872 law and superimpose certain features generally embodied in a leasing system, namely greater agency management control over mining operations, a rental and royalty system to assure fair returns to the Federal Government, and the imposition by permit or contract of environmental conditions to govern, respectively, the exploration and development phases of mining operations. In practical effect the Commission's recommended hybrid system embodies most of the elements of a leasing system, except that the Secretary of the Interior would not be given discretionary authority to screen individual exploration or development projects as he does under the Mineral Leasing Act of 1920. In order to bar mining from environmentally sensitive areas he would have to rely on the classification authority which the Commission recommends he be provided by Congress. (Rec. 7). The Commission would broaden and make permanent the classification authority conferred on the Secretary by the temporary Classification and Multiple Use Act of 1964, which expired when the Commission ceased to exist last year. Under that authority the Secretary would be able to suspend the operation of the recommended location-patent system from any lands which, as a result of the land use planning processes recommended by the Commission, he deemed it necessary to insulate from hard rock mining operations. However, he would have to do so in advance of the initiation of any rights under the modified mining law.

(2) Those who use the public lands and resources should be required by statute to conduct their activities in a manner that avoids or minimises adverse environmental impacts, and should be responsible for restoring areas to an acceptable standard where their use has an adverse impact on the environment. (Rec. 25). The required protective or rehabilitative measures should be made a part of a federal permit, license, contract or other control document so that potential users will have a clear understanding of what is required of them, and will have to consider the associated costs in determining the economic feasibility of their enterprise. (Rep. p. 85).

(3) Federal land administering agencies should be authorized to protect the public land environment by (1) imposing protective covenants in disposals of public lands, and (2) acquiring easements on non-Federal lands adjacent to public lands. (Rec. 24.).

(4) Congress should authorize and require the public land agencies to condition the granting of rights or privileges to the public lands or their resources on compliance with applicable environmental control measures governing operations *off* public lands which are closely related to the right or privilege granted. (Rec. 23).

This Commission recommendation "is premised on the conviction that the granting of public land rights and privileges can and should be used, under clear congressional guidelines, as leverage to accomplish broader environmental goals off the public lands" (Rep. p. 81). Firms that are in violation of federal, state or local environmental quality standards would not be eligible to obtain public land resources for use in the plant where the violation occurs, and the granting of federal public land privileges would similarly be subject to termination for such violations. (Rep. pp. 102–03).

E. Indirect environmental benefits

(1) The recommended opening up of the federal agencies' planning and decisionmaking procedures (Recs. 11, 109) should afford greater opportunity for presentation and consideration of environmental factors.

(2) The Commission's recommendations for full value pricing of public land resources (Rec. 136) should help assure that certain uses with significant environmental impacts, such as mining, are not encouraged by unjustifiable subsidies.

(3) The replacement of all existing public land revenue-sharing programs with a more equitable payments-in-lieu-of-taxes program to compensate state and local governments for the tax immunity of Federal lands (Recs. 101–103) should minimize pressures to shape land use decisions solely to produce revenues, even though such decisions might be in conflict with sound land use management practices.

V. CONGRESSIONAL AND ADMINISTRATIVE IMPLEMENTATION

Representative Wayne N. Aspinall, former Public Land Law Review Commission Chairman and Chairman of the House Committee on Interior and Insular Affairs, has laid out a legislative program for his Committee designed to implement the Commission's recommendations and produce a comprehensive revision of public land law. His intent is to enact an initial broad statement of public land policies, followed by public land use planning legislation and procedural and substantive legislation dealing with specific uses of the public lands, e.g., recreation and timber. There is no indication of a similar "game plan" on the Senate side as yet. Some Members of the House and the Senate, such as Senator Jackson, a PLLRC member, have considered that top-priority items should be (1) the enactment of an Organic Act granting the Bureau of Land Management permanent land management authority, and (2) major revision of the Mining Law of 1872 (both major PLLRC recommendations) and have introduced bills to those ends. Other bills dealing with grazing, water rights, payments in lieu of taxes, and certain procedural matters have also been introduced.

In addition, the Nixon Administration, after about a year in which little positive response to the Commission's recommendations was evident, has recently declared that it considers enactment of Administration proposals to (1) create a Department of Natural Resources, (2) establish a national land use policy, and (3) grant the Bureau of Land Management permanent land management authority its priority items in the land use field.

Just exactly how the legislative priorities will shake down in Congress remains to be seen, but Rep. Aspinall's approach appears soundest and best designed to produce a rational comprehensive package of land use legislation. For the immediate future, it would be a significant accomplishment if the 92nd Congress could enact legislation dealing with public land policy goals and land use planning directives, perhaps as part of a package including national land use policy legislation.

House action has centered on H.R. 7211, the Public Lands Policy Act of 1971, on which a week of hearings were held in July, and proposed national land use policy legislation, on which hearings were held in September.

Testimony on H.R. 7211 was mixed, generally endorsing the bill's approach but with differing reactions to various specifics. A number of witnesses obviously did not understand the bill's limited purpose, and urged repeal of the mining law or other specific action in areas of their particular interest. However, there was much constructive criticism and, since Rep. Aspinall made it clear that he was not wedded to the particular provisions of H.R. 7211, it seems likely that consensus can be reached within the committee on an acceptable public lands policy bill.

In the Senate, Senator Jackson's Interior Committee has held extensive hearings on national land use policy legislation and, more recently, on Senator Jackson's bill to provide permanent management authority for the Bureau of Land Management and to replace the Mining Law of 1872 with a leasing system. There was also limited consideration in the Senate hearings of S. 2540, a modified version of H.R. 7211, the proposed Public Lands Policy Act of 1971, and S. 2542, an American Mining Congress proposal to revise the Mining Law of 1872 generally along the lines of the PLLRC recommendations, but omitting some of the Commission's recommended environmental safeguards.

Although the Nixon Administration has been slow to submit legislation implementing the PLLRC recommendations, a number of the Commission recommendations have been implemented administratively.

VI. NATIONAL LAND USE POLICY PROPOSALS

In addition to its extensive recommendations concerning land use planning goals and procedures with respect to Federal lands, the Commission had also recommended that Congress provide financial assistance to the public land states to facilitate statewide land use planning efforts and that such planning efforts should be within a regional institutional framework patterned after the river basin planning commissions authorized by the Water Resources Planning Act of 1965. (Recs. 14 and 15). In the 91st Congress, Senator Jackson introduced legislation generally along the lines recommended by the Commission, but applying to all 50 states. Extensive hearings were held on the bill and it was reported out of Committee with amendments at the close of the 91st Congress. It has been reintroduced as S. 632 in the 92nd Congress.

Meanwhile the Nixon Administration had developed a more limited national land use policy proposal which was introduced in the 92nd Congress as S. 992. Hearings have been held on the two bills by both the Senate and House Interior and Insular Affairs Committees.

Both proposals are broader than the Commission's recommendations, which were limited to public land use planning considerations. The essential thrust of each is to bolster state action in the land use planning field through federal financial assistance and to provide for improved coordination of all federal activities with the State's planning effort.

The Jackson bill is more comprehensive and also includes some provisions for coordination of federal land use planning efforts, although not as detailed as the Commission recommended. Some policy directives and guidelines for the federal land management agencies seem essential if Congress is to declare a truly "national" land use policy, inasmuch as the Federal Government owns approximately one-third of the nation's land. In addition, S. 632 provides various sanctions if the states fail to undertake statewide planning efforts.

The Administration bill would have the states concentrate their planning and control activities on "areas of critical environmental concern" and "key facilities" (airports, interstate highway interchanges, and major recreational developments) of more than local significance or impact. Its premise is that a narrower focus will be more successful than a more comprehensive effort and will restrict the federal and state involvement to matters more appropriate to those levels of government. S. 992's "carrot" grant program is more modest than S. 632, reflecting its narrower scope, and it contains no "stick" comparable to the sanctions provided for in S. 632. Finally, it would vest administrative responsibility for the grant and review program in the Secretary of the Interior, who is directed to coordinate with the Secretary of HUD, in contrast to Senator Jackson's proposal to have the program administered by the Federal Water Resources Council, which already administers water resources planning grants. Senator Jackson's bill has reportedly been substantially revised in this respect and will be taken up by the Senate Committee in the near future.

MATCHING OF GIFTS BY EMPLOYEES OF THE FEDERAL GOVERNMENT TO INSTITUTIONS OF HIGHER EDUCATION

(Mr. MILLER of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of California. Mr. Speaker, I am introducing today a bill providing for the matching of gifts made by employees of the Federal Government to institutions of higher education.

The purpose of this bill is simple and straightforward, and so is the mechanism for implementing it.

We have had abundant evidence that our colleges and universities are going deeper into the red with each passing year. The bill seeks to help reverse that trend. It would do so by encouraging and stimulating persons who have benefited from college training to increase their financial support to these institutions. It proposes to do this by authorizing, under proper safeguards, the Secretary of Health, Education, and Welfare to match such gifts made by Federal employees.

Specifically the bill would do this: It would authorize and direct the Secretary of HEW to make a donation of any amount, from $10 to $5,000 in any calendar year, to match any properly validated financial gift made by an employee of the Federal Government, including members of the Armed Forces, to any duly accredited or approved institution of higher education within the United States.

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The responsibility is assigned to the Secretary of HEW to issue appropriate rules and regulations governing the procedure, including the definition of eligible institutions, verification that a gift has been made, and assuring that the terms and conditions of the gift are legally valid and not adverse to the interests of the United States. The Secretary is also instructed to make publicly known the terms and conditions of the program.

Mr. Speaker, it is not necessary to document in detail before this Congress the plight of American institutions of higher learning today.

Budgets of our colleges and universities have climbed from $6.6 billion in 1960 to well above $20 billion today. Their student bodies between 1960 and 1970 have doubled, from 3.5 million to 7 million. Today, more than half the students leaving high school go on to some kind of advanced education. At the same time, the costs of education per student are rising. Private fund raising and private giving has flattened out, and is unlikely to rise further unless new ways are found to stimulate it. The alternatives that face us, therefore, seem to be these: for the Federal Government to bail out these institutions, for the institutions to accept smaller student bodies of only affluent students, or for the encouragement of private giving. My proposal deals with the third alternative.

I do not mean to disparage the idea of broad Federal aid to education at all levels. It is probably necessary for us to entertain legislation to this end also. Such measures are already under consideration. But I suggest that while we undertake the difficult and complicated task of designing appropriate legislation, on a very substantial scale, to restore the financial health of our institutions of higher education, we also move immediately to tap a source of private funds.

My concept is based on the experience of some 450 business organizations which, according to the American Alumni Council, had employee matching gift programs in operation at latest reports. The program was first launched in 1955, with the Corporate Alumnus Program of the General Electric Co.

According to a statement published by the American Alumni Council:

> Graduates and former students of our educational institutions—including employee-alumni of matching gift companies—are rendering increased financial support. From $143 million in alumni gifts in 1957–58 to $292 million in 1966–67 is a growth pattern that is on the right track.

While it is difficult to obtain precise figures, the latest information available to me shows that, under the corporate-matching program, about $15 million annually was being contributed to America's colleges and universities. This included the gifts and the matching grants made from among the 3-million-plus eligible employees. It is probable that actual figures are somewhat higher than this since complete reports could not be obtained from all American businesses. I am suggesting that, under the proposed bill, this figure would very likely be more than doubled. This is because the number of eligible Federal participants is more than 60 percent above the number of eligible participants in the private program.

I ask the Congress to lend its support to sustain and promote this pattern of growth.

What are the particular advantages of the plan I suggest?

To begin with, it is based on a matter of simple equity. If 450 private business corporations believe it sound policy to match the donations of their employees to colleges and universities, I suggest that the government should treat its employees with similar consideration. It will add to the attractiveness of government service to domonstrate this.

Second, this is a plan to add to the health of those institutions of higher learning which produce the resources of trained manpower basic to American industry, invention, innovation, and economic well-being.

Third, it affords an opportunity to encourage individual initiative in giving. It magnifies the effect of the private donation, which has long been a primary source of support for our colleges and universities. It strengthens the relationship between the colleges, their alumni, and their friends and helps to establish a habit among our citizens of contributing to socially essential educational services.

Fourth, the plan calls attention to the donation-sharing principle, and should encourage additional corporations to add their names to the list of those already participating in this excellent arrangement.

Fifth, it demonstrates in a practical way that the policy of donation-sharing is compatible with public administration, so as to encourage emulation by the States and perhaps also the municipalities of our Nation, in such a way as to encourage enlarged giving by their employees to institutions of higher education.

Sixth, the plan serves notice to the colleges and universities themselves that it is up to them to prove to their alumni and friends that they are worthy of these donations. They must not only meet the formal requirements of the program, as to accreditation, but also they must give evidence that they are worthy recipients in terms of educational quality, innovation, and tight fiscal management.

Seventh, to tap this source of revenue can be a means of stabilizing the total flow of dollars to our colleges. By diffusing and institutionalizing donations and donation sharing, we can create a modest but dependable and expanding source of income our institutions can count on in the future.

The feature of the plan that appeals most to me is the fact that it strengthens the valuable American characteristic of individual initiative in giving. It is gratifying that American corporations can be credited with this innovative social invention. It has proved its usefulness in operation in private industry; I see no valid reason why the Federal Government should not join, endorse and expand its operation.

Mr. Speaker, the names of the companies already taking part in this type of program follow—although my list is not completely up to date and I apologize for those I may have missed.

Also, I am submitting the text of the bill for the RECORD.

COMPANIES ENGAGED IN MATCHING GRANT PROGRAMS

Abbott Laboratories.
A. S. Abell Co. Foundation, Inc.
Abex Corp.
Aeroglide Corp.
Aerojet-General Corp.
Aetna Life Affiliated Companies.
Air Products & Chemicals, Inc.
Air Reduction Co., Inc.
Allegheny Ludlum Steel Corp.
Allied Chemical Corp.
Allis Chalmers Mfg. Co. Subsidiaries.
Alcoa.
American Airlines.
American Bank & Trust Co. of Pa.
American Brands, Inc.
American Can Co.
American Enka Corp.
American Express Co.
American & Foreign Power Co., Inc.
American Home Products Corp.
American Metal Climax Foundation.
American Oil Foundation.
American Optical Co.
American Potash & Chemical Corp.
American Smelting & Refining Co. (ASARCO).
American Standard, Inc.
American States Insurance.
American Sterilizer Co.
American Stock Exchange.
American Sugar Refining Co.
American Tobacco Co.
Arkwright Boston Mfg. Mutual Ins. Co.
Armco Steel Corp.
Armstrong Cork Co.
Ashland Oil & Refining Co.
Associated Box Corp.
Associated Spring Corp.
Athos Steel & Aluminum, Inc.
Atlantic Richfield Foundation.
Atlas Chemical Industries, Inc.
Atlas Rigging & Supply Co.
Bank of America Foundation N.T. & S.A.
Bank of California.
Bank of New York.
Bankers Life Co.
Barton & Gillet Co.
Bechtold Co.
Becton, Dickinson Fd.
Bigelow-Sanford, Inc. (S & H Fd.)
Bishop Trust Co., Ltd.
Bloch Brothers Tobacco Co.
Blue Bell, Inc.
Borg-Warner Corp.
Boston Mfg. Mutual Ins. Co.
Bowen & Gurin & Barnes, Inc.
G. A. Brakely & Co., Inc.
Bristol-Myers Co.
Brown-Forman Distillers Corp.
Brunswick Corp.
Buffalo Savings Bank.
Burlington Industries, Inc.
Buah Universal, Inc.
Business Men's Assurance Co. of America.
Business Press International, Inc.
Butterick Co., Inc.
Cabot Corp.
Callahan Road Improvement Co.
Campbell Soup Co.
Canadian General Electric Co., Ltd.
Carborundum Co.
Carpenter Technology Corp.
Carrier Corp.
Carter Wallace, Inc.
Cavalier Corp.
Central Illinois Light Co.
Central & South West Corp.
Cerro Corp.
Champion Papers, Inc.
Chase Manhattan Bank.
Chemical Bank.
Chemical Construction Corp.

Chicago Pneumatic Tool Co.
Chicopee Mfg. Co.
Chrysler Corp.
Cities Service Co. & Subsidiaries.
Citizens & Southern National Bank.
Clark Equipment Co.
Clarkson Industries, Inc.
Cleveland-Cliffs Iron Co.
Cleveland Electric Illuminating Co.
Cleveland Institute of Electronics.
Clevite Corp.
James B. Clow & Sons, Inc.
Coates & Clark, Inc.
Colgate-Palmolive Co.
Colonial Parking, Inc.
Columbus Gas System, Inc.
Columbian Carbon Co.
Columbus Mutual Life Insurance Co.
Combustion Engineering, Inc.
Commercial Solvents Corp.
Connecticut General Life Ins. Co.
Connecticut Light & Power Co.
Connecticut Mutual Life Ins. Co.
Consolidation Coal Co.
Consumers Power Co.
Container Corp of America (Concora).
Continental Assurance Co. (CNA Foundation).
Continental Can Co., Inc.
Continental Corp. Foundation.
Continental Oil Co.
Cook Foundation.
Cooper Industries, Inc.
Copley Press, Inc.
Copolymer Rubber & Chemical Corp.
Corn Products Co. (CPC International Inc.).
Corning Glass Works.
Crompton Co., Inc.
Crouse-Hinds Co.
Cummings Engine Co., Inc.
Cutler-Hammer, Inc.
Cyprus Mines Corp.
Dayton Malleable Iron Co.
Deering Milliken, Inc.
Denver U.S. National Bank.
Diamond Crystal Salt Co.
Diamond Shamrock Corp.
A. B. Dick Co.
Dickson Electronics Corp.
Difco Laboratories.
Donaldson, Lufkin & Jenrette, Inc.
Dow Badische Co.
Dow Chemical Corp.
Dow Corning Corp.
Draper Corp.
Dresser Industries, Inc.
Wilbur B. Driver Co.
Dun & Bradstreet Group Companies.
Eastern Car & Construction Co.
Eastern Gas & Fuel Association.
Eaton-Dikeman Co.
Eaton Yale & Towne, Inc.
Ebasco Industries.
Thomas A. Edison Industries, (McGraw-Edison Co.).
Frank W. Egan & Co. (Egan Machinery Co.).
Electric Bond & Share Co.
Electric Storage Battery Co. (ESB Foundation).
Emery Industries, Inc.
Ensign-Bickford Co.
Equitable of Iowa.
Esso Education Foundation.
Ex-Cell-O Corp.
Factory Mutual Engineering Div.-Associated Factory Mutual Fire Ins.
Federal-Mogul Corp.
Federated Department Stores, Inc.
Ferro Corp.
Firemen's Mutual Insurance Co.
Firestone Tire & Rubber Co.
First & Merchants National Bank.
First National Bank of Hawaii.
First National Bank of Miami.
First National Bank of Oregon.
First National City Bank of New York.
First New Haven National Bank.
First Pennsylvania Banking & Trust Co.
Fluor Corp., Ltd.
Ford Motor Co.
Ford Motor Co. of Canada, Ltd.
Forty-Eight Insulations, Inc.
Foster Wheeler Corp.
H. B. Fuller Co.
E. & J. Gallo Winery.
Gardner-Denver Co.
Gates Rubber Co.
Geigy Chemical.
General Atronics Corp.
General Casualty Co. of Wisconsin.
General Electric Co.
General Foods Corp.
General Learning Corp.
General Mills, Inc.
General Motors.
General Public Utilities Corp.
General Telephone & Electronics Corp.
General Tire & Rubber Co.
M. A. Gesner of Illinois, Inc.
Getty Oil Co.
Gibbs & Hill, Inc.
Gillette Co. (All U.S. Division & Subsidiaries).
Ginn & Co.
Girard Trust Bank.
Glens Falls Ins. Co.
Glidden Co.
Goldman, Sachs & Co.
B. F. Goodrich Co.
Goodyear Tire & Rubber Co.
Gorham Co.
W. T. Grant Co.
Graphic Printing Co., Inc.
Great Northern Paper Co.
Griswold-Eshleman Co.
Guardian Life Insurance Co. of America.
Gulf Oil Corp.
Gulf States Utilities Co.
Gurin, Barnes, Roche & Carlson, Inc.
Halliburton Co.
Hamilton Standard.
Hamilton Watch Co.
Hanes Corp.
Harris-Intertype Corp.
Harris Trust & Savings Bank.
Harsco Corp.
Hart Schaffner & Marx.
Hartford Electric Light Co. (Helco).
Hartford Insurance Group.
Hawaiian Telephone Co.
Hayes-Albion Corp.
Hercules, Inc.
Hershey Foods Corp. & Associated Companies.
Hewlett-Packard Co.
Hill Acme Co.
Hoffman-LaRoche, Inc.
Honeywell, Inc.
Hooker Chemical Co.
Hoover Co.
J. M. Huber Corp.
Hughes Aircraft Co.
Humble Oil & Refining Co.
Illinois Tool Works, Inc.
Industrial National Bank of R.I.
Ingersoll-Rand.
Inmount Corp.
Insurance Co. of North America (INA).
Interchemical Corp.
International Basic Economy Corp.
International Business Machines Corp.
International Flavors & Fragrances, Inc.
International Paper Co.
International Salt Co.
International Telephone & Telegraph Corp. (ITT).
Interspace Corp.
Irving Trust Co.
Irwin Management Co., Inc.
Itek Corp.
Jefferson Mills, Inc.
Jefferson Pilot Corp.
Jefferson Standard Broadcasting Co.
Jefferson Standard Life Insurance Co.
Jewel Companies, Inc.
John Hancock Mutual Life Insurance Co.
Johnson & Higgins.
Johnson & Johnson.
S. C. Johnson & Son, Inc.
Jones & Laughlin Steel Corp.
Kaiser Steel Corp.
Kendall Co.
Kerite Co.
Kern County Land Co.
Kersting Brown & Co., Inc.
Walter Kidde & Co., Inc.
Walter Kidde Construction.
Kidder, Peabody & Co.
Kimberly-Clark Corp.
Kingsbury Machine Tool Corp.
Kiplinger Foundation.
Richard C. Knight Insurance Agency, Inc.
Knox Gelatin, Inc.
Koehring Co.
H. Kohnstamm Co., Inc.
Koiled Kords, Inc. (Cook Fdn.).
Koppers Co., Inc.
Lamson & Sessions Co.
Lawyers Cooperative Publishing Co.
Lehigh Portland Cement Co.
Lever Brothers Co.
Little, Brown & Co.
P. Lorillard Corp.
Louisiana Power & Light Co.
Loyal Protective Life Insurance Co.
Lubrizol Corp.
Ludlow Corp.
Lumnus Co.
Lutheran Mutual Life Insurance Co.
MFB Mutual Insurance Co.
M. & T. Chemicals, Inc.
MacLean-Fogg Lock Nut Co.
Mallinckrodt Chemical Works.
P. R. Mallory & Co., Inc.
Manufacturers Hanover Trust.
Manufacturers Mutual Fire Insurance Co.
Marathon Oil Co.
Marine Corp.
Marine Midland Grace Trust of New York.
Martin-Marietta Corp.
Martha Washington Kitchens, Inc.
Massachusetts Mutual Life Insurance Co.
Matalene Surgical Instrument Co.
Maytag Co.
McCormick & Co., Inc.
McGraw-Edison Power Systems.
McGraw-Hill, Inc.
McNeil Laboratories, Inc.
Medusa Portland Cement Co.
Mellon National Bank & Trust Co.
Merck & Co., Inc.
Metals & Controls Corp.
Metropolitan Life Insurance Co.
Mettler Instrument Corp.
Middlesex Mutual Assurance Co.
Midland-Ross Corp.
Miehle-Goss Dexter, Inc.
Mobil Oil Corp.
Mohasco Industries, Inc.
Monroe Auto Equipment Co.
Monsanto Chemical.
Montgomery Ward & Co.
Moody's Investors Service, Inc.
Moog, Inc.
Morgan Construction Co.
Morgan Guaranty Trust Co. of N.Y.
Morgan Worcester, Inc.
Motorola, Inc.
Munsingwear, Inc.
Mutual Boiler & Machinery Ins. Co.
Mutual Life Insurance Co. of New York.
Mutual of Omaha Ins. & United Benefit Life Ins. Co.
National Biscuit Co.
National Cash Register Co.
National Distillers & Chemicals Co.
National Lead Co.
National Steel Corp.
Nationwide Mutual Insurance Companies.
Natural Gas Pipeline Co. of America.
New England Gas & Electric Association.
New England Merchants National Bank.
New England Mutual Life Insurance Co.
Newhall Land & Farming Co.
New Orleans Public Service Inc.
Newport News Shipbuilders Dry Dock Co.
New York Times.
New Yorker Magazine.
Norden Corp.
North American Car Corp.
North American Rockwell Corp.

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Northeast Utilities Service Co.
Northwestern Mutual Life Insurance Co.
Northwestern National Life Insurance Co.
Norton Co.
W. W. Norton & Co., Inc.
John Nuveen & Co.
Occidental Charitable Petroleum Foundation, Inc.
Oklahoma Gas & Electric Co.
Old Stone Bank.
Olin Mathieson Chemical Corp.
Oneida, Ltd.
Ortho Pharmaceutical Corp.
Owens-Corning Fiberglas Corp.
Owens-Illinois Inc.
Oxford Industries, Inc.
Pan American Airways.
Pan American Petroleum Fdn. Inc.
Panhandle Eastern Pipeline Co.
Parker-Hannifin Corp.
Paul Revere Life Insurance Co.
Peat, Marwick, Mitchell & Co.
Pennsylvania Power & Light Co.
Pennwalt Chemicals Corp.
Penton Publishing Co.
Personnel Products Co.
Petro-Tex Chemical Corp.
Phelps Dodge Corp.
Philip Morris Co., Inc.
Phillips Petroleum Co.
Phoenix Insurance Co. of Hartford.
Pickands Mather & Co.
Pillsbury Co.
Pilot Life Insurance Co.
Pitney-Bowes, Inc.
Pittsburgh National Bank.
Pittsburgh Plate Glass Co. (PPG Industries.)
Plainfield Cytology Laboratory, Inc.
Polaroid Corp.
Pratt-Whitney Aircraft.
Preformed Line Products Co.
Price Waterhouse & Co.
Provident Life & Accident Ins. Co.
Provident Mutual Life Ins. Co. of Philadelphia.
Provident National Bank.
Prudential Insurance Co. of America.
Pullman, Inc.
Putnam Management Co., Inc.
Quaker Chemical Products Co.
Quaker Oats Foundation.
Ralston Purina Co.
Reader's Digest.
Reed & Barton.
Regent Insurance Co.
Reliable Electric Co. (Cook Fdn.).
Reliance Insurance Co.
Rex Chainbelt, Inc.
R. J. Reynolds Foods, Inc.
R. J. Reynolds Tobacco Co.
Riegel Paper Corp.
Riegel Textile Corp.
Rio Algom Mines, Ltd.
Rochester Germicide Co.
Rockefeller Brothers Fund, Inc.
Rockefeller Family & Associates.
Martha Baird Rockefeller Fund for Music, Inc.
Rockwell Manufacturing Co.
Rockwell Standard.
Rohm & Haas Co.
Rust Engineering Co.
Sadtler Research Laboratories, Inc.
St. Regis Paper Co.
Sanborn Co.
Sanders Associates, Inc.
Schering Corp.
S. C. M. Glidden-Durkee.
Scott Paper Co.
Joseph E. Seagram & Sons, Inc.
Sealright Co., Inc.
Security National Bank of Long Island.
Security Van Lines, Inc.
Seton Leather Co.
Sherwin-Williams Co.
Sherwood Medical Industries, Inc.
Shulton, Inc. (Foundation).
Signal Oil & Gas Co.
Signode Corp.
Simmons Co.
Sinclair-Kopper Co.
Sinclair Oil Corp.
Singer Co.
SKF Industries, Inc.
Smith, Kline & French Laboratories.
Smith-Lee Co., Inc.
Smith Monuments, Inc.
Socony Mobil.
Southland Corp.
Sperry & Hutchinson Co.
Spruce Falls Power & Paper Co., Ltd.
Squibb Beech-Nut, Inc.
Stackpole Carbon Co.
Standard Oil of Indiana & Subsidiaries.
Standard Oil of New Jersey & Affiliates.
Standard Oil of Ohio (Sohio).
Standard Pressed Steel Co.
Stanley Works.
Stauffer Chemical Co.
Sterling Drug Co., Inc.
J. P. Stevens & Co., Inc.
Stone & Webster.
Suburban Propane Gas Corp.
Sunray DX Oil Co.
W. H. Sweney & Co.
Sylvania Electric Products, Inc.
Syntex Corp.
Taylor Corp.
Tektronix, Inc.
Teledyne Inc. & Subsidiaries.
C. Tennant Sons & Co. of N.Y.
Tenneco, Inc.
Texaco, Inc.
Texas Company.
Texas Eastern Transmission Corp.
Texas Instruments.
Textile Machine Works.
Textron, Inc.
J. Walter Thompson Co.
J. T. Thorpe Co.
Time, Inc.
Times Publishing Co. & Congressional Quarterly, Inc.
Towers, Perrin, Forester & Crosby, Inc.,
Towmoter Corp.
Tracor, Inc.
Trans World Airlines, Inc. (TWA).
Travelers Insurance Companies.
Turner Construction Co.
Union Commerce Bank
Union Electric Co.
Union Oil Co. of California.
Uniroyal.
Uni-Serv Corp.
United Aircraft.
United Bank of Denver.
United-Carr, Inc. (Sub of TRW Inc.).
United Engineers & Constructors, Inc.
United Fruit Co.
United Illuminating Co.
United Life & Accident Insurance Co.
United States Borax & Chemical Corp.
United States Plywood-Champion Papers Inc.
United States Trust Co. of New York.
Upjohn Co.
Varian Associates.
Victualic Co. of America.
Vulcan Materials Co.
Walker Manufacturing Co.
Wallace-Murray Foundation.
Wallace & Tiernan, Inc
Wallingford Steel Co.
Warner Brothers (Warnaco).
Warner-Lambert Pharmaceutical Co.
Warner & Swasey Co.
Washington National Insurance Co.
Watkins-Johnson Co.
Charles J. Webb II.
Welch Foods, Inc.
Wellington Management Co.
Western Publishing Co.
Westinghouse Air Brake Co.
Westinghouse Electric Corp.
Weyerhaeuser Co.
Whirlpool Corp.
White Motor Corp
Whitney Blake Co. (Cook Fdn.).
John Wiley & Sons, Inc.
Williams & Co.
Winn-Dixie Stores, Inc.
Winter Co., Inc.
Wolverine World Wide, Inc.
Wyandotte Chemicals Corp.
Xerox Corp.
Arthur Young & Co.
Young & Rubicam.

H.R. 11529

A bill providing for the matching of gifts made by employees of the Federal Government to institutions of higher education

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that institutions of higher education in the United States are experiencing serious financial difficulties, and that present aid, public and private, is proving inadequate to meet this demonstrable and urgent need. It is, therefore, the policy of the Federal Government to promote contributions to such institutions through all feasible channels.

SEC. 2. In view of this policy, the Secretary of Health, Education, and Welfare is authorized and directed to match, on an unrestricted basis, any financial gift made by an employee of the Federal Government, including members of the Armed Forces of the United States, to any duly accredited or approved institution of higher education within the United States.

SEC. 3. Such matching gifts shall be made by the Secretary only when:

(a) the donor submits an appropriate request for a matching gift;

(b) the terms and conditions of the donor's gift are legally valid and are not adverse to the interests of the United States as determined by the Secretary;

(c) submission of proper evidence of the actual donation has been completed; and

(d) the amount of the donor's gift is not less than $10 nor more than $5,000 in any calendar year.

SEC. 4. The Secretary is authorized to:

(a) define "institution of higher education" for the purposes of this Act;

(b) make such rules and regulations as may be necessary to carry out the program herein authorized; and

(c) make available to all appropriate parties and to the public information concerning the program and its procedures.

SEC. 5. Nothing in this Act shall encourage or permit coercion of individual employees of the Federal Government by any other employee or official of that Government in order to exact such a gift.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

NONDENOMINATIONAL PRAYER IN PUBLIC SCHOOLS

(Mr. WYLIE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WYLIE. Mr. Speaker, because I know better, I have never given the slightest credence to the propaganda-style statements that the people of the United States as a whole are opposed to guaranteeing the right of nondenominational prayer to children in the public schools. I have always recognized that these statements are not the fact because of the tremendous volume of mail I receive, not just from my own district, my own State, but from all over the country, with respect to the proposal to amend the Constitution to guarantee this right that will be called up in this body on Monday next. A heavy preponderance of that mail favors the proposed amendment to correct what most people believe to be a wrong perpetrated by the Supreme Court.

But I am nonetheless happy at this time to be able to inform my colleagues that a poll taken by the National Enquirer—a weekly newspaper which now has the largest circulation of any newspaper in the United States—shows that 92.6 percent of those responding in a 2-week period are in favor of prayer in schools and of a constitutional amendment to guarantee that as a right.

This, Mr. Speaker, is no piddling poll, based on the opinion of a minuscule portion of our population. More than 50,000 persons took the trouble to respond to the Enquirer's poll—a great contrast with the 1,000 or 2,000 who are interviewed in the normal and widely published opinion polls. Every single poll taken since June 26, 1962, shows an increase in the number of Americans favoring a constitutional amendment on school prayer.

I am greatly impressed with the heavy margin favoring the school prayer amendment. I hope that my colleagues will—as representatives of all the people and not just special interest groups—be impressed also.

In this connection, I would like to say also that I think the National Enquirer has done a great public service by conducting this poll, and I would like to express my appreciation to Mr. Generoso Pope, Mr. Henry Dorman, and the other executives and editors of the National Enquirer for their interest and for their dedicated service in helping to determine, for the record, just how the people do feel about this urgent matter.

RURAL RENEWAL

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DORN. Mr. Speaker, rural renewal is urgent. Our cities have had urban renewal, which we favor. But urban renewal cannot solve a growing nationwide problem alone. We need a rural renewal program.

We continue to pour billions of dollars into programs designed to aid the overcrowded areas, but with little apparent progress in solving the overall national problem. The problems of housing, pollution, employment, and crime increase in the cities. Yet migration to the metropolitan areas continues, and underpopulation becomes a problem for rural areas. In recent years, whole sections of the Nation experienced population loss, and in our own area we have counties that have lost population. This underpopulation was not as well publicized as the crowded and deteriorated conditions in the cities, but rural population loss is part of the same problem.

The time is past due for intensified new efforts to stem the flow of people to the urban areas. I am today cosponsoring legislation, the Rural Development Incentive Act, to expand economic and social opportunities in rural America. This bill would provide tax incentives for job-creating industries to locate in rural job development areas. More industry in rural areas would stabilize the rural population and in time would reverse the flow of people into the cities.

Mr. Speaker, our form of government was based on the values of rural America. Jeffersonian democracy presupposed the existence of a strong and stable rural population, and Jefferson's writings indicate his fear of overcrowded cities. For reasons of social and political stability, for better housing and a better environment, now is the time for rural renewal.

AIR FORCE GENERAL SAYS "WE NEED TO GET OUT OF VIETNAM"

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, I have long held that the Vietnam war has been a disaster for our military establishment and our military preparedness. First, it has diverted resources from national security needs to an area not related to our national security. Second, it has grievously damaged the morale of the armed services, and has exacerbated the tension between our military and American society as a whole.

I am pleased to note that Gen. George Brown, head of the U.S. Air Force Systems Command, has expressed similar views in a recent speech to the Society of Experimental Test Pilots. As paraphrased by Government Executive magazine, General Brown said in part:

> A prevailing hostility is festering across the U.S. not only toward technology but toward the entire military in the fester. And though they make little public point of it, it is apparent that the military, at least as much as the rest of the Nation, welcomes the President's program of U.S. withdrawal from Southeast Asia.
>
> "Though I hope we have the good sense to do it in an orderly manner so we don't throw down the drain everything we've invested out there," says Brown, "I do think," he adds, "we need to get out of Vietnam."
>
> . . . the Army wants out to rebuild morale and strength. Navy wants out mostly because it needs badly those Southeast Asia funds to bolster the vital role of the Sixth Fleet in the Mediterranean. "And the Air Force," says Brown, "goes mostly to the Army point but is coming around to the second as well," i.e. freeing up resources to replace an aging tanker fleet, to get the airborne command post program moving, the B–1 and other pressing requirements.

While I am afraid that our Vietnam investment has, in fact, gone down the drain and there is blessed little we can do about it, I suggest that General Brown's point is well taken, and President Nixon would do well to heed it. We have more important things to concern us than the survival and comfort of the Thieu dictatorship.

SENATOR MUSKIE'S CANDOR

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, the junior Senator from Maine, EDMUND MUSKIE, recently met with a group of black political leaders in my State of California. During the course of their discussion, they asked him about the possibility of a black vice presidential candidate on his ticket in the event he obtained the Democratic nomination for President.

The conventional response would have been for the Senator to assure them that his mind was completely open to the possibility. He could have said this despite the fact that his mind was not open, due to his conviction that a ticket containing a black vice presidential nominee could not be elected. He would thus have avoided ruffing the black leaders, and when the time came he could simply have proceeded to pick a white running mate.

Instead, he chose the more difficult but more honest course. He told them he would not choose a black running mate because such a ticket could not win. As a consequence of his honesty, he has received a good deal of criticism.

In my view, the criticism is not justifiable. It is not justifiable from the black spokesmen, who are surely aware that Mr. MUSKIE was stating a political fact of life at this time: A very unfortunate fact, a fact hopefully on its last legs, but a fact nevertheless. I am surprised and disappointed that the black leaders have shown this preference for evasion over honesty.

It is not justifiable from the other contenders for the Democratic nomination, none of whom are going to choose a black running mate either.

Senator MUSKIE's record on voting rights, education, civil rights, and racial matters in general is impeccable. It is, therefore, particularly inappropriate, unjustified, and hypocritical that his statement should be criticized by the Nixon administration which has attempted to appoint racists and segregationists to the Supreme Court, has cooperated in the disenfranchisement of blacks in the Deep South, and has generally attempted to sell blacks down the tubes at every opportunity and to undo the racial progress the country has made in the past decade.

I insert at this point in the RECORD an editorial from the Willows, Calif., Daily Democrat entitled "We Admire Muskie's Candor."

> WE ADMIRE MUSKIE'S CANDOR
>
> In the opinion of Sen. Edmund Muskie a white Presidential and a black Vice-President nominee is not electable in the U.S. in 1972.
>
> For being so honest in expressing his own judgment, Senator Muskie is being criticized not only by Republican party leaders but by a few Democrats who are openly aspiring to the presidency.
>
> Perhaps the Senator exercised poor political judgment for being so candid, but we admire his frankness. None of those who are censuring him for what he said can prove that he is a racist. The Senator's record on that score is clear. And that is more than some of his critics can say for themselves.
>
> Those who are attacking the Democratic Senator are playing for the Negro vote. But the average black voter is not so easily deceived and swayed. He knows that Muskie is unbiased and unprejudiced and would not object to having a Negro running mate if he were convinced that the ticket would succeed at the polls.
>
> The contemptible things there are being said about Muskie's remark do not distract from the fact that Muskie's reply was the self-evident truth.
>
> The Republican and Democratic spokesmen who are trying to take political advantage of the Senator's candor are hypocrites. He was

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brave and spoke the truth, knowing that it was a political risk for himself.

In fact, he might have inspired a public reaction that will eventually make it possible for a white presidential nominee with a black running mate to be elected to the White House. This would be an historic achievement for Senator Muskie.

THE PRESIDENT IS TOO GROWN UP TO CRAWL FOR THE POW'S

(Mr. LEGGETT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. LEGGETT. Mr. Speaker, on October 27, President Nixon was reported by columnist Jack Anderson to have said about the American prisoners of war:

I am not going to crawl to get them out. I am too grown up to crawl.

This statement so horrified a number of POW families that they felt compelled to send him a strongly worded letter. They have courteously provided me with a copy, which I have here with me today. The wording of the letter is quite strong, perhaps even intemperate. I myself would not express myself in this way, but then, of course, it is not my son who is rotting away in a prison camp for no defensible reason.

Their letter says in part:

Your statement, "I am too grown up to crawl," made from the safety and comfort of the White House, is in our eyes an expression of petty vanity unworthy of the office you hold.

Your priorities are inverted. We should not have to remind you that as Commander in Chief your primary responsibility is not to save your own face but to save the lives of those under you who are rotting and dying in a war in which the nation no longer believes.

Mr. Speaker, fortunately it is not necessary to crawl in order to get the prisoners back. All we have to do is to set a date for total withdrawal by a fixed date, the sooner the better, and to condition this offer on satisfactory arrangements for the safety of the withdrawing troops and release of the prisoners of war.

Let us hope the President will announce such a proposal—a sincere, straightforward proposal, not a "loaded" effort to make propaganda points—as the crux of his Vietnam statement scheduled for next month.

The full text of the letter follows:

POW/MIA FAMILIES FOR
IMMEDIATE RELEASE,
October 27, 1971.

DEAR MR. PRESIDENT: We are aghast at your statement on prisoners of war, as reported in Jack Anderson's column of October 27. You are reported to have said, "We are going to end the Vietnam war. We are going to end it in such a way as to get the POWs out. I am not going to crawl to get them out. I am too grown up to crawl."

Perhaps it will not be necessary to "crawl." But we are horrified by your implication that you would not do it even if it were the only way to recover the prisoners.

Because of the policies of you and your predecessor, "crawling" is the least of the humiliating actions that have been imposed upon our loved ones in the prison camps.

Your statement, "I am too grown up to crawl", made from the safety and comfort of the White House, is in our eyes an expression of petty vanity unworthy of the office you hold.

Your priorities are inverted. We should not have to remind you that as Commander in Chief your primary responsibility is not to save your own face but to save the lives of those under you who are rotting and dying in a war in which the nation no longer believes.

It takes a big man to humble himself on behalf of those for whom he is responsible; evidently you are not that man. In addition, you specifically doom our men to indefinite captivity by insisting on maintaining air support and a residual ground force to preserve the Thieu government. In contrast, the majority of your prospective opponents have declared themselves in favor of setting a date for total withdrawal in the near future, provided only that the prisoners are returned and the safety of the withdrawing troops secured. One of them has specifically said he would crawl into the conference room if that would bring the prisoners home. Unlike you, he evidently values the prisoners more than his pride.

From today onward, we will do everything in our power to see that *any one* of these candidates is elected, so that the men in the prison camps will have the responsible leadership to which they are entitled.

We will be happy to reverse our position if you return our men to us. But unless and until that day arrives, we must assume that your present promise to end the war and get the POWs out is as empty as your past promises have been.

Despairingly,

———— ————.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to:

Mr. MURPHY of Illinois (at the request of Mr. ROSTENKOWSKI) for Monday, November 1 and Tuesday, November 2, on account of a death in the family.

Mr. MAZZOLI (at the request of Mr. BOGGS), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUJAN) to revise and extend their remarks and include extraneous matter:)

Mr. SHOUP, for 10 minutes, today.
Mr. KYL, for 10 minutes, today.
Mr. DERWINSKI, for 5 minutes, today.
Mr. WYMAN, for 15 minutes, today.

(The following Members (at the request of Mr. DENHOLM) to revise and extend their remarks and include extraneous matter:)

Mr. ASPIN, for 15 minutes, today.
Mr. ROSENTHAL, for 15 minutes, today.
Mr. JAMES V. STANTON, for 10 minutes, today.
Mr. CONYERS, for 60 minutes, today.
Mr. GONZALEZ, for 10 minutes, today.
Mr. RUNNELS, for 5 minutes, today.
Mr. BURKE of Massachusetts, for 15 minutes, today.
Mr. FUQUA, for 20 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PRICE of Illinois to extend his remarks during consideration of H.R. 2.

(The following Members (at the request of Mr. LUJAN) and to include extraneous matter:)

Mr. BROWN of Ohio.
Mr. RAILSBACK in six instances.
Mr. BUCHANAN.
Mr. HASTINGS.
Mr. LATTA.
Mr. DEVINE.
Mr. HUNT in two instances.
Mr. HOSMER in two instances.
Mr. WYMAN in two instances.
Mr. SCHMITZ in two instances.
Mr. DON H. CLAUSEN.
Mr. MCCLORY in two instances.
Mr. GOLDWATER.
Mr. SCHERLE in two instances.
Mr. ZWACH.
Mr. DUNCAN.
Mr. MCCULLOCH.
Mr. DERWINSKI.
Mr. BLACKBURN.
Mr. SCHWENGEL in two instances.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous matter:)

Mr. CORMAN in two instances.
Mr. ADAMS in three instances.
Mr. CONYERS in 10 instances.
Mr. BEGICH in five instances.
Mr. DINGELL.
Mr. DIGGS in two instances.
Mrs. HANSEN of Washington.
Mr. HAGAN in three instances.
Mr. KLUCZYNSKI in two instances.
Mr. FOUNTAIN in two instances.
Mr. RARICK in three instances.
Mr. ROGERS in five instances.
Mr. RANGEL in three instances.
Mr. WALDIE in five instances.
Mr. GONZALEZ in three instances.
Mr. MURPHY of New York.
Mr. HICKS of Washington in two instances.
Mr. RYAN in three instances.
Mr. ROY.
Mr. BENNETT.
Mr. HARRINGTON in two instances.
Mr. ALEXANDER in two instances.
Mr. FULTON of Tennessee.
Mr. MAHON.
Mr. RONCALIO.
Mr. TIERNAN in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1736. An act to amend the Public Buildings Act of 1959, as amended, to provide for financing the acquisition, construction, alteration, maintenance, operation, and protection of public buildings, and for other purposes; to the Committee on Public Works.

S. 2339. An act to provide for the disposition of judgment funds on deposit to the credit of the Pueblo of Laguna in Indian Claims Commission, docket numbered 227, and for other purposes; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 3, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1247. A letter from the Secretary of the Army, transmitting a report on the number of officers on duty with Headquarters, Department of the Army, and detailed to the Army General Staff, on September 30, 1971, pursuant to 10 U.S.C. 3081(c); to the Committee on Armed Services.

1248. A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend chapter 83 of title 5, United States Code, relating to adopted child; to the Committee on Post Office and Civil Service.

RECEIVED FROM THE COMPTROLLER GENERAL

1249. A letter from the Comptroller General of the United States, transmitting a report on alcoholism among military personnel; to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 11350. A bill to increase the limit on dues for U.S. membership in the International Criminal Police Organization (Rept. No. 92-599). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Science and Astronautics. H.R. 11487. A bill to authorize the Administrator of the National Aeronautics and Space Administration to convey certain lands in Brevard County, Fla. (Rept. No. 92-600). Referred to the Committee of the Whole House on the State of Union.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 640. A bill to amend the Tariff Schedules of the United States to permit the importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins free of duty (Rept. No. 92-601). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 3786. A bill to provide for free entry of a four octave carillon for the use of Marquette University, Milwaukee, Wis. (Rept. No. 92-602). Referred to the Committee of the Whole House.

Mr. MILLS of Arkansas: Committee on Ways and Means. H. R. 4678. A bill to provide for the free entry of a carillon for the use of the University of California at Santa Barbara (Rept. No. 92-603). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROTZMAN (for himself, Mr. ANDERSON of Illinois, Mr. FORSYTHE, Mr. COUGHLIN, Mr. ST GERMAIN, Mr. ROONEY of Pennsylvania, Mr. HARRINGTON, and Mr. DONOHUE):

H.R. 11522. A bill to require that all schoolbuses be equipped with seat belts for passengers and seat backs of sufficient height to prevent injury to passengers; to the Committee on Interstate and Foreign Commerce.

By Mr. BURTON (for himself, Mrs. MINK and Mr. BEGICH):

H.R. 11523. A bill to provide that the President of the United States shall designate as Governor and Lieutenant Governor of American Samoa the individual who is nominated by the electors of American Samoa for each such position, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DORN:

H.R. 11524. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. FULTON of Tennessee:

H.R. 11525. A bill to insure adequate health care to children suffering from major illnesses, to insure adequate care to all infants born in low-income families, and to insure adequate maternal care to all women in low-income families; to the Committee on Ways and Means.

By Mr. KYL:

H.R. 11526. A bill to reform the mineral leasing laws; to the Committee on Interior and Insular Affairs.

H.R. 11527. A bill to reform the mining laws; to the Committee on Interior and Insular Affairs.

By Mr. MATSUNAGA:

H.R. 11528. A bill to amend section 312 of the Immigration and Nationality Act with respect to certain tests for naturalization; to the Committee on the Judiciary.

By Mr. MILLER of California:

H.R. 11529. A bill providing for the matching of gifts made by employees of Federal Government to institutions of higher education; to the Committee on Education and Labor.

By Mr. RANDALL:

H.R. 11530. A bill to amend section 700 of title 18, United States Code, relating to desecration of the flag of the United States; the Committee on the Judiciary.

H.R. 11531. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology and production, and for other purposes; to the Committee on Ways and Means.

By Mr. ROSENTHAL:

H.R. 11532. A bill to provide for the discharge of members of the armed forces from active military service by reason of physical disability when suffering from drug dependency, to authorize the civil commitment of such members concurrent with their discharge, to provide for retroactive honorable discharges in certain cases, and for other purposes; to the Committee on Armed Services.

By Mr. SCOTT (for himself, Mr. ANDERSON of Illinois, Mr. BEVILL, Mr. BLACKBURN, Mr. CÓRDOVA, Mr. DANIELSON, Mr. FRENZEL, Mr. GUBSER, Mr. HALPERN, Mr. LENNON, Mr. MCCLURE, Mr. MIKELL, Mr. PIRNIE, Mr. PRICE of Texas, Mr. PRYOR of Arkansas, Mr. ROE, Mr. RYAN, Mr. SIKES, Mr. STEPHENS, Mr. THONE, Mr. WARE, Mr. YOUNG of Florida, Mr. SEBELIUS, Mr. SHRIVER, and Mr. DEL CLAWSON):

H.R. 11533. A bill to authorize the Secretary of the Interior to establish the George Washington Boyhood Home National Historic Site in the State of Virginia; to the Committee on Interior and Insular Affairs.

By Mr. TEAGUE of Texas:

H.R. 11534. A bill to amend title 38 of the United States Code to authorize the enrollment of eligible veterans in a course offered by an educational institution which has moved to another location, provided certain conditions are met; to the Committee on Veterans' Affairs.

By Mr. WALDIE (for himself, Mr. BRASCO, Mr. WILLIAM D. FORD, Mr. NIX, and Mr. CHARLES H. WILSON):

H.R. 11535. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DICKINSON:

H. Con. Res. 443. Concurrent resolution expressing the sense of the Congress with respect to the method of assessment of the financial obligation of each member state of the United Nations; to the Committee on Foreign Affairs.

By Mr. MATSUNAGA:

H. Con. Res. 444. Concurrent resolution expressing the sense of Congress relating to the furnishing of relief assistance to persons affected by the Pakistani Civil War; to the Committee on Foreign Affairs.

By Mr. ABBITT (for himself, Mr. DOWNING, and Mr. DANIEL of Virginia):

H. Res. 681. Resolution urging the President to press for U.S. agricultural trade rights with the European Economic Community; to the Committee on Ways and Means.

By Mr. FOUNTAIN (for himself, Mr. JONAS, Mr. LENNON, Mr. TAYLOR, Mr. HENDERSON, Mr. BROYHILL of North Carolina, Mr. JONES of North Carolina, Mr. GALIFIANAKIS, Mr. MIZELL, Mr. PREYER of North Carolina, and Mr. RUTH):

H. Res. 682. Resolution urging the President to press for U.S. agricultural trade rights with the European Economic Community; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FULTON of Tennessee:

H.R. 11536. A bill for the relief of the Andrew Jackson Lodge No. 5, Fraternal Order of Police, of Nashville, Tenn.; to the Committee on Public Works.

By Mrs. HECKLER of Massachusetts:

H.R. 11537. A bill for the relief of Henryk and Nelly Gogacz; to the Committee on the Judiciary.

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SENATE—*Tuesday, November 2, 1971*

The Senate met at 10 a.m. and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Mighty God, Lord of the Nations, direct us in all our doings by Thy most gracious favor, and further us with Thy continual help, that this day and in all the days that lie ahead, we may be strong enough and wise enough to choose the hard right against anything else. Purify our motives; keep our vision high and our ideals untarnished. To our courage add prudence, to our power add compassion. Make us mighty in our love of Thee and Thy ways. Bring peace to the whole earth. And finally, by Thy mercy, may we hear Thee say, "Well done, good and faithful servant."

In Thy holy name, we pray. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter.

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 2, 1971.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. HUGHES thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1026) to amend the Small Reclamation Projects Act of 1956, as amended, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 2248) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1662. An act to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station, Lemoore, Calif., included in said district, and for other purposes;

H.R. 3817. An act to amend titles 10, 32, and 37, United States Code, to authorize the establishment of a National Guard for the Virgin Islands;

H.R. 8389. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities;

H.R. 9180. An act to provide for the temporary assignment of a U.S. magistrate from one judicial district to another;

H.R. 9323. An act to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes; and

H.R. 9961. An act to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 387) requesting the Secretary of State to call for an international moratorium of 10 years on the killing of all species of whale, porpoise, and dolphin (comprising the order of cetaceans), in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 4590) to amend the Tariff Schedules of the United States with respect to the dutiable status of certain articles.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. HUGHES).

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 1662. An act to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station, Lemoore, Calif., included in said district, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 3817. An act to amend titles 10, 32, and 37, United States Code, to authorize the establishment of a National Guard for the Virgin Islands; to the Committee on Armed Services.

H.R. 8389. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for the development and operation of treatment programs for certain drug abusers who are confined to or released from correctional institutions and facilities;

H.R. 9180. An act to provide for the temporary assignment of a U.S. magistrate from one judicial district to another; and

H.R. 9323. An act to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 387) requesting the Secretary of State to call for an international moratorium of 10 years on the killing of all species of whale, porpoise, and dolphin (comprising the order of cetaceans) was referred to the Committee on Foreign Relations.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 1, 1971, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the orders which were previously entered for the recognition of, first, Senator MCCLELLAN, and then Senator RIBICOFF be reversed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REPORT OF SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS ENTITLED "FRAUD AND CORRUPTION IN MANAGEMENT OF MILITARY CLUB SYSTEMS AND ILLEGAL CURRENCY MANIPULATIONS AFFECTING SOUTH VIETNAM" (S. REPT. NO. 92-418)

INTRODUCTION OF BILLS

Mr. MCCLELLAN. Mr. President, on behalf of the Senate Committee on Government Operations, I submit a report of its Permanent Subcommittee on Investigations, entitled "Fraud and Corruption in Management of Military Club Systems and Illegal Currency Manipulations Affecting South Vietnam."

This report covers a series of hearings held in 1969, 1970, and 1971, relating to widespread corruption, abuses, and improprieties in nonappropriated fund activities at American military installations abroad, particularly in Southeast Asia, and to the black market in currency in South Vietnam.

Mr. President, I call attention to the excellent leadership and service of my distinguished colleague, the Senator from Connecticut (Mr. RIBICOFF), in this extensive and difficult investigation. I appointed him acting chairman of the subcommittee for this inquiry, and much of the credit for the substantial and important results of the investigation belongs to him. At this point in my remarks, I would like to yield to the able Senator from Connecticut, who, I believe, will place in the RECORD evidence of the significant accomplishments of the subcommittee during its 3 years of work on this investigation.

Mr. RIBICOFF. Mr. President, I wish to associate myself with the chairman as he files this report. At his request, I served as acting chairman for this investigation.

Before briefly summarizing the subcommittee's work in connection with this inquiry, I want to express my deepest gratitude for the generous and selfless support and cooperation I received from the other members of the subcommittee. Without the help of the distinguished chairman and Senators MUNDT and PERCY, JACKSON, ERVIN, ALLEN, JAVITS, and GURNEY, the important results we achieved would not have been possible. It is a distinct pleasure to serve with these distinguished and responsible Senators.

This report reveals widespread fraud and corruption within military nonappropriated fund activities such as open mess systems and post exchanges; and the existence of the illicit or black market money exchange in the Republic of Vietnam.

We have completed a long and productive investigation. Our findings, conclusions, and recommendations reflect the need for several reforms within the Government. Copies of the report have been forwarded to the Departments of Defense and the Treasury, and other agencies. I am pleased, of course, that so many remedial actions have been initiated already within the agencies. But much work remains and I hope that the agencies involved will promptly enact the reforms we have recommended. The problems we have studied have been ignored for too long already.

As noted in the introduction of the report, at the end of World War II, most Americans hoped that U.S. soldiers would come home and that never again would large numbers of GI's be stationed abroad. But just the opposite happened. The American GI remained overseas and, as the postwar years went by, U.S. commitments on foreign soil actually grew.

The strategic implications of this huge foreign-based military presence were debated and analyzed by the executive branch, Congress, the press, and the public as the Nation sought to carry out a foreign policy that relied in part on the potential for armed conflict.

Concerned with matters of war and peace, neither the Department of Defense nor Congress paid enough attention to a side effect of large foreign-based military reservations. That side effect was the massive—and captive—economic market created by these overseas installations.

The market consisted of what were termed "nonappropriated fund activities." So big and lucrative was this market that a multibillion dollar industry grew up around it. Since World War II, the nonappropriated fund industry has grown and prospered as the American military presence abroad tended to stabilize or increase, particularly in Vietnam and other areas of Southeast Asia.

Nonappropriated funds are moneys used by the military that are not appropriated by the Congress. They are self-generating and are returned to the activities from which they came or are used in support of other nonappropriated fund activities. Major nonappropriated fund activities include post exchanges and clubs and open messes.

The post exchanges or PX's of the Armed Forces are discount department stores that sell to active and retired military personnel and their families. PX's are located in the United States and abroad wherever large numbers of American servicemen are encamped.

Exchanges are the third largest American department store chain. In 1969, gross sales for exchanges were $3.5 billion. That year Sears, Roebuck & Co. gross sales were $9.6 billion while the J. C. Penney Co. registered $3.6 billion. Rounding out the top five were F. W. Woolworth, with $2.3 billion gross sales, and Montgomery Ward & Co. with $2.2 billion.

The clubs and messes of the U.S. military are onbase facilities that provide for Armed Forces personnel the services of a bar and grill, nightclub and relaxation center, all located in one establishment. Combined sales of clubs and messes in 1968 were about $750 million.

The post exchange had its origin in an 1895 War Department order. The general order establishing the PX's stated that their primary purpose was—

To supply the troops, at reasonable prices, the articles of ordinary use, wear and consumption not supplied by the Government and afford them means of rational entertainment.

Regarding clubs and open messes, the concept that servicemen should have a facility onbase where they can meet socially among themselves goes back to the American Revolution.

While nonappropriated fund activities are not created by statute, Congress and the courts on numerous occasions have recognized and approved their existence. Congress has stipulated, for example, that civilian employees paid from nonappropriated funds are not under the U.S. Civil Service. But Congress has also directed that these employees are to be included in social security and Federal death and disability compensation protection.

Moreover, Congress has recognized and approved the claim of the Departments of War and Defense to regulate and control nonappropriated fund activities. Yet the Congress has not authorized its own watchdog agency, the General Accounting Office—GAO—to examine nonappropriated fund expenditures and operations.

In late 1968, the staff of the Senate Permanent Subcommittee on Investigations found evidence to indicate that corruption, fraud, graft, and mismanagement were prevalent in certain clubs and messes in Vietnam and elsewhere. It was also alleged that similar illicit and irregular practices were taking place in post exchanges in Vietnam and elsewhere.

In addition, some of the vendors and brokers who sold goods and services to exchanges and clubs were alleged to be trading their proceeds in the Vietnamese black market in currency.

The subcommittee staff recommended to the chairman, Senator JOHN L. MCCLELLAN, of Arkansas, that a full-scale investigation be conducted. The chairman approved, as did the committee on Government Operations and the Subcommittee on Investigations. The subcommittee then proceeded under the authorization of Senate Resolution 26, 91st Congress, 1st session; Senate Resolution 308, as amended, 91st Congress, 2d session, and Senate Resolution 31, 92d Congress, 1st session. The inquiry was titled "Fraud and Corruption in Management of Military Club Systems and Illegal Currency Manipulations Affecting South Vietnam."

Senator MCCLELLAN designated me to serve as acting chairman for the investigation. I had been acting chairman of the Investigations Subcommittee in the 1967-68 inquiry into fraud and mismanagement of American AID programs in Vietnam.

Subcommittee chief counsel Jerome S. Adlerman assigned assistant counsel LaVern J. Duffy and investigator Carmine Bellino to lead the investigation. From my own staff, I assigned to the case my special assistant, Fred Asselin. Also detailed to the inquiry were Philip W. Morgan, the subcommittee chief counsel to the minority, and John Brick of the subcommittee staff.

Executive hearings were held in my office in early March of 1969. Staff investigations were then conducted in Vietnam, Japan, Hong Kong, Singapore, Thailand, Malaysia, Indonesia, the Philippines, Okinawa, West Germany and many American cities.

Hearings were held in 1969 on September 30, October 1, 2, 3, 6, 7, 8, 9, 13, 22, and 23, and November 18, 19, 20, and 21.

In 1970, hearings were conducted March 4 and July 13.

In November of 1970, Senator EDWARD J. GURNEY and staff investigators went to Vietnam, Korea, the Philippines, and Guam as the inquiry continued. Senator GURNEY reported his findings from the trip in a Government Operations Committee report and 1971 hearings were held by the subcommittee on January 27, February 17, 18, 19, 22, and 23, March 1, 2, 3, 4, 8, 9, 10, 12, 15, 16, and 17.

The investigation was concluded March 17 1971. In the 35 days of hearings, 651 exhibits were introduced in connection with the testimony of 78 witnesses.

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Many businesses selling to nonappropriated fund activities of the U.S. military have been honest and fair. It was not the purpose of the subcommittee to make a blanket indictment of all firms in this field.

But many other enterprises providing goods and services to U.S. military exchanges and clubs were neither fair nor honest. They used improper practices as a matter of routine. As broker representatives, for example, they implicated several well known and major U.S. firms in their illicit activities. The subcommittee sought to expose these corrupt and corrupting brokers and the weaknesses in the nonappropriated fund system that allowed such corruption to flourish.

The investigation's most timely revelations had to do with nonappropriated fund activities in Vietnam and the Vietnamese black market in currency. But also examined was evidence that showed certain vendors, brokers, and military personnel had been involved in questionable activities long before they arrived in Vietnam. Witnesses asserted that U.S. Government files contained information on these people sufficient to have prevented them from gaining a hold on nonappropriated fund activities in Vietnam.

The staff of the Senate Permanent Subcommittee on Investigations worked most effectively on this inquiry. Their diligence and enterprise are a credit to the chairman, Senator McClellan, who has assembled a group of experienced, capable investigators. The efforts of LaVern J. Duffy and Carmine S. Bellino were particularly outstanding.

I also want to commend Fred Asselin of my staff for his work on the investigation and the long hours he spent in writing this report. All of us depend upon good staff work to assist us in meeting our responsibilities. These men and women work in anonymity for our best interests and the best interests of the country.

On occasion a staff member works far beyond anything we could ask. Fred Asselin's work on this investigation fits that select category. For the past 2½ years he has labored tirelessly here and in Vietnam to see that every fact and every lead was checked out. Some of the major discoveries of this investigation resulted directly from his dedicated efforts.

When the hearings were over, he immediately began to compile the material necessary for our report. Working nights and weekends he singlehandedly produced the draft which in large part comprises the 300 printed pages we file today. All of us are in his debt for this monumental effort.

At the conclusion of the hearings, the subcommittee assmbled 41 findings and conclusions and 15 recommendations, all of which are contained in the report which the chairman has filed today. I ask unanimous consent that the findings, conclusions, and recommendations be printed at this point in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

Findings and Conclusions

Investigation by the subcommittee into military clubs and post exchanges in the Far East and Europe showed that corruption, criminality, and moral compromise were common to the operations of these nonappropriated fund activities.

The corruption was a two-way street. Military personnel—both uniformed and civilian—stole, received kickbacks and gratuities and otherwise profited dishonestly from their association with clubs and exchanges. But they could not have carried out their improprieties without the encouragement, support, and complicity of vendors, brokers, and salesmen who paid the kickbacks and offered the gifts. Certain of these sales representatives were agents for American companies. Businesses that encouraged corruption, whether by specific policy or by tolerating their agents' questionable practices, must share the blame for some of the corruption that took place.

At issue in the matter of corruption of military personnel is another consideration one step removed from the simple giving and taking of bribes. It can be the moral atmosphere this kind of behavior creates within the American military community. If laws and ethics can be openly violated with impunity in one part of military life—in the operation of NCO clubs, for example—the lawlessness and unethical practices may be imitated elsewhere. This was demonstrated in the Augsburg investigation. One sergeant, wishing to remain in Germany where he enjoyed illicit profits from the club system, was reported to have been able to extend his tour time and again by paying off an assignments clerk back in Washington. The corruption that began in the club system, therefore, extended to the personnel assignments branch of the Department of the Army.

The subcommittee does not wish to imply that the military as a whole is under any general indictment. There is no evidence to support such an implication. However, sufficient evidence was presented to support the conclusion that greater vigilance was in order as was greater attentiveness to duty by persons up and down the chain of command.

Finally, to this subcommittee, corruption, mismanagement, and inefficiency are relevant to the extent that they demonstrate the need for reform in the operations of the Federal Government. When these conditions are found it is the duty of this subcommittee to recommend the appropriate corrective action which may take the form of remedial legislation or other administrative measures. The following findings and conclusions—and the subsequent recommendations in Section 23—are offered in that light.

1. Two years of investigation and hearings by the subcommittee relating to the operations of the military service club system and the Army/Air Force Exchange System, in the Far East and in Europe, disclosed a pattern of corruption and criminality within the systems. Too often, dishonest practices were considered the normal and customary means of operation. Testimony and documentary evidence showed that the military services failed to properly administer and police the operations of the nonappropriated funds which are used to finance military clubs and PX systems throughout the world.

An example of the kind of corruption that became an everyday practice in sales activities within the U.S. military market was the furnishing of illegal gratuities and favors by brokers and salesmen to military personnel and civilians employed by the armed services. Military regulations prohibit contracting officers, custodians, and persons under their supervision from accepting gratuities of any kind. Yet, some large American corporations ignored the regulations and, in their dealings with nonappropriated fund activities, paid hotel bills, supplied free transportation, and provided gifts and costly entertainment to military and civilian personnel in order to promote sales. These flagrant violations of military regulations contributed to a general decay in ethical standards within the nonappropriated fund procurement area and led to the widespread and more serious offense of paying bribes and kickbacks.

A significant amount of the blame for the spread of such corruption must be shared by the several investigative agencies of the military services which frequently failed to enforce existing regulations, and sometimes did not even make any attempt to do so.

2. While military law enforcement agencies often failed to investigate properly allegations of wrongdoing within the club systems and exchanges, there were many occasions in which criminal investigative teams did seek to carry out their mandate—and tried to uncover corruption in nonappropriated fund activities. For example in Korea, Augsburg, Fort Benning, and Vietnam, CID agents uncovered information that should have led to stepped up investigative effort and ultimately to prosecution. But senior officers in these instances took actions that prevented the CID from doing its work. On several occasions, the barriers were created by the senior military police officer in the Army, the Provost Marshal General, Maj. Gen. Carl Turner.

3. The action taken by the Department of Defense recently which provides for the suspension of vendors who violate its regulations is long overdue. The subcommittee believes that such action will be strengthened if the military sales industry itself will voluntarily take the appropriate steps to police its own activities in dealings with nonappropriated fund procurement personnel.

4. The subcommittee is critical of vendors who give free merchandise or cash promotional allowances in order to promote sales. Such gifts are often covers for kickbacks or invitations to the military buyers involved to steal and pocket the cash. The subcommittee's hearings established that this was a device Sgt. William E. Higdon used to collect kickbacks while he served as a custodian in South Vietnam. For example, the Liggett & Meyers Tobacco Co., Inc., through its broker in Vietnam, Glenn Faulks, paid Sergeant Higdon $12 per case of cigarettes for "promotional" allowances. Faulks gave Higdon $7,200 for purchasing 600 cases of L. & M. cigarettes in 1967 and 1968.

Glenn Faulks in order to increase sales, made payoffs to warehouse and depot personnel in Vietnam in order to push Falstaff beer and National Distillers products over other brands. Faulks also authorized the payment of bribes to key procurement personnel strategically located in liquor funds in the Far East in order to obtain sales figures of competitors that were classified confidential.

5. The Vietnam Regional Exchange was a poorly planned military project. Many of its planners and managers were naive and incompetent when they were not corrupt. For example, the notion that American soldiers in combat zones should be offered such luxury items as diamonds, precious stones, and furs in their exchanges seems ludicrous.

Exchange officials often operated as if they were managing a series of retail outlets in Arlington, Va., or Fort Bliss, Tex. Vietnam was a war zone, subject to all the problems American armies have faced in previous wars, but the lessons of the past were lost on post exchange planners as tons and tons of luxury items were brought into the country. This was a serious mistake because it (1) created managerial, personnel, merchandising and shipping problems that were a time-consuming burden to American authorities charged with the prosecution of the war; (2) provided a virtually unpoliceable pipeline through which luxury goods were placed upon the volatile, inflationary, and inflated Vietnamese economy in the form of black market goods; and (3) tempted businesses to bribe American officials, civilian and military, to promote their products into more commanding selling positions within the exchanges.

6. Col. Jack Ice, the former commanding officer of the Vietnam Regional Exchange, is subject to severe criticism for his role in a $4,000 transaction with Colonel Yi of the Army of the Republic of Korea. Ice said that Yi sent him $4,000 in cash from Vietnam and asked him to hold it. Ice said further that Yi later requested the return of the money, and Ice complied. However, Colonel Yi and diamond merchant Jacques Adler said the $4,000 was a bribe that Yi had paid to Ice for a PX laundry concession. Whatever the true reason for the $4,000 transaction, Colonel Ice never should have become involved in it. There can be little doubt that it was either a black market currency scheme or it was a bribe.

7. Testimony in the subcommittee's hearings showed that the system which provided entertainment for U.S. troops in Vietnam through open mess systems needed reform at every level. Evidence showed that many club custodians in Vietnam demanded and received kickbacks from booking agents and entertainers. An Army CID survey found that custodians "could easily gross" $12,000 a month in kickbacks from agents and entertainers. Additionally, some custodians demanded the sexual favors of girls in the shows they booked for the clubs.

As an added inducement, agents offered custodians paid vacations to Hong Kong and other cities in the Orient. Performers themselves underwent considerable abuse. Agents sometimes conspired with custodians to cheat performers of their earnings. Other agents refused to let entertainers hold their own passports, using the passports as leverage in contract negotiations and other matters. Some show people in isolated or war-torn areas were not fed properly, if they were fed at all, and were assigned to primitive and unsanitary quarters.

The subcommittee understands that men at war have not always adhered to many of the conventional civilities associated with live entertainment performed under less violent and stressful circumstances. In addition, certain of the abuses documented in the investigation could just as easily have occurred in the United States in any civilian-oriented entertainment booking system. However, American GI's in Vietnam are a captive audience and they deserve the very best entertainment possible.

Too often, the corruption and mismanagement that riddled entertainment booking procedures in Vietnam resulted in inferior shows for the troops. This is the real scandal in the scandalous behavior of certain military personnel in entertainment booking in Vietnam. The subcommittee believes the Armed Services should have devoted more attention and more concern to troop entertainment and should not have allowed abuses to be so common or so blatant.

8. Many American brokers and salesmen representing large American firms were reminiscent of camp followers of former times moving with U.S. troops from Korea to Vietnam to West Germany. They used every corrupting device—gifts, bribes, kickbacks, free housing, entertainment, sex—to persuade PX and club personnel to buy their goods. One of the camp followers was William J. Crum. Using illegal and unethical practices, he became the most powerful and influential salesman in Korea and later in South Vietnam. Although the Army CID and top military officers in Korea were aware of his improper conduct in the late 1950's and early 1960's, he was permitted to move his operations from Korea to Vietnam without hindrance, and in Vietnam he continued to achieve wealth and exercise influence.

An example typical of Crum's methods was his providing a luxurious villa in 1965 to the principal procurement executives of the Army-Air Force Exchange System. Not only did he place them in his debt in this fashion, but he bragged about it to officials of James Beam Distillers and Carling Brewery, whom he represented as a broker in Vietnam.

9. Crum for the past 2 years has refused to make himself available to the subcommittee for interview.

His assertions of innocence made on the Mike Wallace show for CBS which received nationwide coverage are hardly a substitute for his appearance before the subcommittee to answer the serious charges made against him where his statement could be subjected to careful cross examination.

Senator Ribicoff on March 17, 1971, advised counsel for Crum that the subcommittee would go any place in the world at any American Embassy where the witness could be questioned under oath. On June 18, 1971, counsel for Crum again advised the subcommittee that Crum would not make himself available for interrogation, because of "both medical and psychiatric reasons."

10. Mel Peterson, the vice president of James Beam, knew Crum was hosting senior PX officials in his Saigon villa. In one communication from Crum, in fact, Peterson was advised that the cost of renovating the villa for the "PX gang" was $4,000 or $5,000. Peterson acted improperly when he encouraged Crum to obtain favored treatment for Jim Beam products from PX personnel living in the villa.

Peterson and the James Beam Co. itself unhesitatingly accepted the profits from the Vietnam sales promoted by William Crum. By the same token, they should be made to bear certain of the responsibility for actions Crum implemented for the sake of their products.

11. Mel Peterson also acted improperly in 1968 when he prevailed upon a longtime friend, Lou Bernard, the civilian buyer for the Far East Locker Fund in Tokyo, to stockpile 3,000 cases of whisky, free of storage charges, in expectation of a shortage in Vietnam. Subsequently, Peterson arranged for Bernard's son to receive a college scholarship financed by the Blum-Kovler Foundation that was headed by the president of Jim Beam and the former chairman of the board of the company. The impropriety of this kind of indirect gift is plain. Such practices should be subject to the same prohibitions and the same penalties as the giving of gifts and gratuities directly, as set forth in military regulations.

12. William Crum used promotional allowances given him by Carling Brewery to pay bribes and kickbacks. Although evidence does not establish that Carling officials knew that Crum was misusing the funds they gave him to promote sales of their beer, they were aware of other improper activities of Crum in selling their products. They should have required Crum to supply actual receipts indicating how their promotional funds were spent, but they failed to do so.

Carling Brewery officials also should be made to bear a share of the burden for the illicit actions of their sales agent in Vietnam, William Crum. Moreover, the "know no evil" posture assumed by Carling's former Vietnam sales manager, G. P. (Tommy) Thompson, contributed little to the success of this investigation—nor did it reflect favorably upon the company he represented.

13. Sarl Electronics and William Crum established and maintained a virtual monopoly over competing firms in the selling and leasing to nonappropriated fund activities of slot machines, amusement machines, and other equipment. Crum's success is monopolizing the business is attributable to the assistance and protection he received from Brig. Gen. Earl F. Cole, Deputy Chief of Staff for Personnel and Administration in Vietnam, from senior PX officials, and from other U.S. Government personnel.

14. Cole, who had administrative control over the service club system and the Army CID in Vietnam, was aware of the customs violations and other improper activities of William Crum. In spite of his knowledge of Crum's improprieties, Cole intimidated certain Army CID units and their personnel and deterred them from further investigation of the activities of Crum and his Sarl Electronics.

15. When Earl F. Cole learned late in 1967 that Maj. Clement St. Martin, the officer in charge of clubs at Long Binh, had uncovered the conspiracy between club custodian Sgt. William E. Higdon and vendor William J. Crum, and when Cole learned that St. Martin also had information that implicated Cole, Cole managed to stop St. Martin's investigation and then had St. Martin transferred from Long Binh to Cam Ranh Bay.

16. A number of high-ranking officers in Vietnam were aware as early as January of 1968 that Cole had interceded a number of times on behalf of Sarl Electronics and William Crum. They also were aware of Sergeant Higdon's improper conduct. The silent acquiescence of senior officers in the whitewashing of the entire case enabled General Cole to move on to Europe, where he became head of the Army Air Force Exchange system. The failure of his superiors to act in Vietnam also enabled Cole to continue his improper activities in Europe, where he favored certain vendors, among them the Tom Brothers, who had been in Vietnam. Evidence in the record shows that the matters relating to Gen. Earl Cole and Sarl Electronics were not pursued in Vietnam because there were high-ranking officers involved and because further investigations might prove embarrassing to the Army.

17. During the period while the subcommittee was investigating the conspiracy which involved General Cole and Sarl Electronics, the Department of the Army continued to cover up and "whitewash" its investigation of Brigadier General Cole. The Army, in fact, prematurely closed its case on General Cole on February 9, 1970. However, when the Army learned that the subcommittee was proceeding with its investigation and had uncovered evidence indicating improprieties in Cole's activities in Europe, the Army swiftly reopened it case on General Cole on March 11, 1970. The evidence in question was in the hands of the Army long before the Cole case was closed in February of 1970, although the CID had not pursued the matter. Brig. Gen. Harley Moore, formerly the Army's top CID officer in Europe, was asked his professional opinion about the premature closing of the Cole case on February 9, 1970. He called the Army's action "abysmally negligent."

The attempt by the Army to cover up the Cole matter was a calculated plan to ease Cole out of the service with the least possible embarrassment to the Army.

18. In September of 1968, General Cole arranged with one of William Crum's associates to provide accommodations for Col. Robert Ivey, the top legal adviser to the U.S. Army in Vietnam, in a suite at the Hilton Hotel in Hong Kong. Most of the bill was paid by one of Crum's firms, Price & Co. Cole was aware at the time he made this arrangement that it was an attempt to compromise Colonel Ivey. Cole knew that all vendors, including the firms Crum was associated with, Price & Co. and Sarl Electronics, would seek renewals late in 1968 of their authorization permits to sell goods to the military clubs. He also knew that Colonel Ivey, as the staff judge advocate, would participate in approving or rejecting the applications.

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Earl Cole's conduct in his attempt to compromise a fellow officer in order to benefit William Crum is reprehensible, particularly in light of the fact that a general officer made the compromise attempt.

19. Cole exercised lack of judgment in writing to the exchange headquarters in Dallas to lend his name to an obvious promotional attempt by William Crum, broker for Carling's Black Label beer, to increase its importation allowances. This is a vivid illustration of how Cole helped Crum promote his products. The fact that Cole was working in the pacification program—and had nothing whatsoever to do with clubs or exchanges—compounds his wrongdoing in this matter.

20. The leasing arrangement with slot machines whereby the distributor of the machines kept ownership and continued to extract a percentage of the proceeds should never have been permitted in Vietnam. Brigadier General Cole's efforts to impose and perpetuate this leasing agreement in the clubs on behalf of Sarl Electronics conflicts with his frequent assertion that the welfare and morale of the American GI's were among his highest concerns. If the coin-operated gambling devices were necessary for the morale and welfare of the troops—as Cole believed—then at least all the proceeds from these machines should have been returned to the GI clubs once the machines were paid for. Again, in his position in the pacification program, Cole tried to intercede with the officers at the Saigon port by arranging for the customs clearance of slot machines for Sarl Electronics.

21. In October of 1969, Cole allowed a weekend to go by before reporting to Army authorities that men who called themselves Jeff Bromley and Larry Gordon had offered him a $50,000 bribe to invoke the 5th amendment before this subcommittee. Any official of the U.S. Government, civilian or military, who is offered a bribe should report it. Cole did not—and for that he must be severely criticized. The most fundamental standards of public service should have called for a different reaction to the bribe offer than the response Cole made; that is, to proceed to his former secretary's apartment in Munich where he spent the weekend.

22. Colonel Cole gave two conflicting explanations as to how William Crum managed to have his name engraved on a silver cigarette case presented as a going-away gift to Gen. William Westmoreland when he left Vietnam. Cole informed Senators that the gift was presented to General Westmoreland as a memento from senior American officials who worked in the pacification program in Vietnam. Cole denied he had anything to do with the fact that Crum's name was also engraved on the cigarette box. Crum, Cole said, added his name on his own without Cole's knowing about it. Cole said he purchased the cigarette case at the International House after the other senior pacification officials each contributed about $5 toward the cost of it. Further, Cole could not recall discussing the cigarette box with Mr. Crum. But the Army Chief of Staff, General Westmoreland, heard a different explanation from Cole, according to a special Army report on this subject. According to this report, Cole "admitted" to General Westmoreland April 27, 1970, that he had "purchased the box through Mr. Crum." In addition, the Army report states, "It was during this meeting" between Cole and General Westmoreland "that General Westmoreland learned for the first time that the box was not in fact a joint gift from the officers whose names were embossed on it." The subcommittee concludes, therefore, that Cole lied to Senators or to General Westmoreland.

23. Cole denied under oath that he interceded or assisted William Crum and Sarl Electronics in Vietnam or that he authorized the storage of Sarl Electronics supplies at Long Binh which had been fraudulently imported into Vietnam. These denials, made first before the Army CID under oath in October 1969 and again before this subcommittee, are in direct conflict with the preponderance of evidence in this hearing record. The evidence is abundantly clear that Cole did, on numerous occasions, intercede and did actively promote the fortunes of William Crum and Sarl Electronics in Vietnam during the years 1967–68. The record also contains direct conflicts of testimony about Cole's trips to Hong Kong in 1967–68 and his last weekend of October 10–12, 1969.

A copy of this report, with its findings, is being referred to the Department of Justice for appropriate action.

The committee also finds that Earl F. Cole's conduct falls squarely under article 134 of the Uniform Code of Military Justice in that his actions in Vietnam and in Europe were prejudicial to good order and discipline of the Armed Forces. The seriousness of his misconduct as detailed in these hearings would have been cognizable by general court-martial.

24. The Army succeeded, until the subcommittee's investigation, in "covering up" two earlier cases involving corrupt activities of a clique of Army sergeants, including the first Sergeant Major of the Army, William O. Wooldridge. The first case was at Augsburg, Germany, and the second was at Fort Benning, Ga.

A small group of noncommissioned officers, including Wooldridge and Sgts. William Higdon, Seymour Lazar, Theodore Bass, William Bagby, and Narvaez Hatcher, while serving in 1963 in positions of trust with the 24th Infantry Division in Augsburg, monopolized and manipulated the club and mess system for their own financial gain. For example, evidence in the hearings showed that the illegal "skimming" operations they used to remove money for themselves from the slot machines within the Division's club system approximated $300,000 to $350,000 annually.

25. The Commander of the 24th Infantry Division, Maj. Gen. William A. Cunningham, is subject to criticism for his failure to act responsibly to halt the graft and corruption within the club system when evidence of wrongdoing was brought to his attention by the Division's club officer, Maj. William George.

26. Not until Gen. Edwin L. Rowny assumed command of the 24th Division from General Cunningham in 1965 was there an order for an outside investigation of the club system by the Army CID. The investigation was incomplete. Significantly, when the Army saw fit in July of 1966 to promote Wooldridge to become the first Sergeant Major of the Army—the highest rank for enlisted men—the serious charges involving Wooldridge and his associates which had surfaced in the Augsburg case had not been investigated. They still had not been pursued in May 1967 when the Augsburg case was closed and was downgraded to a classification which did not require the documents relating to it to be filed as a permanent record in the Army's repository at Fort Holabird, Md.

The "coverup" and the reluctance of the Army CID to pursue vigorously the investigation of the Augsburg case were designed to protect the Army from any embarrassment that might flow from a complete and thorough inquiry into Sergeant Major Wooldridge's activities while he served with the 24th Infantry Division.

27. The mishandling of the Augsburg case has further significance because Wooldridge and his associates, excepting Sgt. William E. Higdon, in 1967, became subjects in another Army CID investigation of graft and corruption within the club system at Fort Benning, Ga. This time the Army's top police officer—the Provost Marshal General of the Army, Maj. Gen. Carl Turner—took a number of extraordinary actions designed to protect Sergeant Major Wooldridge from investigation by Turner's own organization, the Army CID.

For example, General Turner directed the deletion of all references to Wooldridge's name in the Fort Benning inquiry. He also refused to grant his men permission to interrogate Wooldridge about his involvement in the Augsburg case. The CID agents at Fort Benning learned about the Augsburg case when one of the CID investigators who worked on the Augsburg matter told a Fort Benning CID investigator about it. A formal request was then made of General Turner to release the Augsburg file to Fort Benning. Turner refused. Turner's arbitrary action was taken after he was aware that the contents of the Augsburg file indicated a pattern of illegal activity similar to that being disclosed at Fort Benning.

28. Before the Fort Benning case surfaced, General Turner had already acted improperly in connection with his official duties relating to Wooldridge. In April of 1967, U.S. Customs, acting on an informant's information, discovered that Wooldridge was attempting to smuggle liquor into the United States from Vietnam. Turner's reaction was to question the motives of the informant rather than address himself to the merits of the case.

29. The "protection" given by General Turner to Wooldridge and his associates was, in effect, a grant of immunity to them from investigation by the Army CID which Turner headed. The Army's top law enforcement official was grossly negligent in the performance of his official duties.

30. During hearings the subcommittee established that General Turner had used his position as Provost Marshal General for his own financial gain by profiting from the sales of a number of firearms that had been turned over to him by law enforcement agencies for use by the military. When this disclosure by the subcommittee was imminent, General Turner resigned from the position he then held, Chief Marshal of the United States.

31. The favored treatment given by General Turner to Wooldridge, Hatcher, Lazar, and other sergeants was quickly capitalized upon by them when they moved to Vietnam where all but Wooldridge were club system officials. They established a corporation, Maredem, Inc., through which they could sell club supplies to the club systems they controlled. During their first year of operation, Maredem sales were $1.2 million. Approximately 87 percent of this volume of business came from clubs controlled by Sergeants Higdon and Hatcher and William Bagby, another Augsburg veteran.

32. Sergeants Higdon, Lazar, and Hatcher stole Government equipment to benefit themselves through the Maredem company. On August 26, 1967, Sergeant Lazar bought for the 1st Infantry Division club system a 20-ton walk-in freezer for approximately $9,000. In January 1968, Sergeant Hatcher, who replaced Lazar as custodian of the 1st Infantry Division, shipped the freezer to Sergeant Higdon, the custodian at Long Binh, headquarters of the U.S. Army in Vietnam. On January 22, 1968, Higdon paid his own company, Maredem, $13,415.86 for the freezer which Maredem had never owned and which was actually the property of the 1st Infantry Division.

33. The failure of the Army to investigate properly and to pursue vigorously the cases of corruption at Augsburg and at Fort Benning enabled Sergeant Major Wooldridge and his clique to move to Vietnam to continue their corrupt activities. The Army CID, in January of 1968, again failed to investigate thoroughly the charges against Brig. Gen. Earl Cole, Sergeant Higdon, and William Crum and his companies.

34. The action taken by the Secretary of Defense to reorganize the Army CID with vertical control from the Washington level of the agency's worldwide operations in the future will go a long way toward preventing the premature closing of cases and the covering up of investigations. The subcommittee has shown that corruption flourishes and proliferates when those conditions are tolerated.

35. The example of Leo D. Slotnick, Navy custodian on Guam, illustrates how one person, occupying the same position of trust and sensitivity for 20 years without supervision, can grow in power. Slotnick, when he was in the United States in 1969, was showered with gratuities by a vendor, National Distillers. They gave him and members of his family free hotel accommodations, air transportation from the west coast to New York, and a chauffeured limosine upon his arrival in New York. In addition, Slotnick made a practice of asking other vendors for favors.

In the person of Leo D. Slotnick, the subcommittee finds an illustration of everything that is wrong with the manner in which military nonappropriated funds are managed. Subject to no true supervision, no independent audit, no General Accounting Office bookkeeping procedures, no constraints under which Government employees in appropriated fund programs must work, Leo Slotnick became a man answerable to no code of behavior but the dictates of his own conscience. No Federal employee should live in such a sanctuary.

36. The subcommittee's hearings disclosed the serious shortcomings in communication and data exchange which have prevailed among U.S. military investigative agencies such as the Army CID, the Air Force OSI, and Navy Intelligence.

The activities of William Crum illustrate the situation which prevailed. Information about his conduct in Korea in the 1950's, although known to the Army CID in Korea, was not relayed to other investigative agencies of the military services. Consequently, after his activities finally forced him to leave Korea, he was free to move back into the same business, using the same methods, elsewhere in the Far East. In Vietnam in 1965 Crum provided a villa to top Navy PX procurement personnel. Later, during the same year Crum supplied another villa, this time to the top procurement personnel of the Army/Air Force Exchange System.

For nearly two decades, the several investigative agencies of the military services had information that William J. Crum engaged in questionable activities in pursuit of business with the U.S. Armed Forces in the Far East. This subcommittee exposed the trail of improprieties and corruption left by Crum throughout the Far East. The armed services had never taken effective action to control Crum's illicit practices. Rather, he was befriended and protected by general officers. Were it not for this investigation, William Crum might still be selling his wares in Vietnam.

37. The Army, Air Force, Navy, and Marine Corps should have taken steps long before this investigation to coordinate their debarment proceedings and investigative work concerning club and exchange vendors and concessionaires. The reputation for illicit practices which the Service Games organization enjoyed as late as 1962 was sufficient information to prohibit this enterprise from conducting any business in the Vietnam theater of war.

38. For many years since the United States started maintaining large contingents of troops in Europe and the Far East, slot machine profits have been the greatest single source of revenue for military service clubs abroad. It is equally true that slot machines also have been the greatest single cause of corruption within the club system. Disclosures in the subcommittee's hearings demonstrated the magnitude of the corruption, for example, in details of the slot machine "skimming" operations within the club system of the 24th Infantry Division at Augsburg, Germany.

Sarl Electronics was the Vietnam distributor for the Service Games complex of companies overseen by Martin J. Bromley in the Far East and in Europe since the end of World War II. The Service Games operation, including more than two dozen associated and subsidiary companies, has had since its founding a history of corruption. Charges against the complex and its operators and employees have included many customs violations in many countries, the use of fraudulent military purchase orders, violations of military transport regulations, bribes, illegal gratuities to military and civilian personnel of the armed services, smuggling, and many other irregularities in the slot machine field in Korea, Japan, Okinawa, the Philippines, Germany, Guam, Vietnam, Thailand, and other American military stations.

A Military Assistance Command/Vietnam (MACV) directive removed slot machines from military reservations in Vietnam early in 1971. At this writing, however, the Army has shown no inclination to ban slot machines worldwide. After 2 years of hearings and unprecedented embarrassments to the Army, the subcommittee finds the Army's lack of action in this regard an invitation to further corruption. Among the other services, the Air Force is showing better judgment and is phasing out slot machines on air bases abroad and will be rid of them completely in 1972. But the Marine Corps and Navy, like the Army, are continuing to tolerate the machines in foreign installations. Again, the subcommittee finds this most unwise. [On October 13, 1971—before this report was published—the Army announced that slot machines would be removed from all its installations worldwide by July of 1972.]

39. The existence of the currency black market in South Vietnam worked at cross purposes with the American effort in that country to help stabilize the piaster. In an already inflationary atmosphere, the black market in money seriously set back U.S. programs aimed at creating a more normal monetary situation. The currency black market enabled many persons, Americans among them, to profit from the Vietnam war. They undercut the Allied effort at the same time. In addition, seeing Americans openly trading in the currency black market was not a particularly inspiring sight for the Vietnamese, who were frequently admonished about corruption within their Government.

40. The appropriate Federal agencies had ample experience with war-time economics to have, first, anticipated the widespread existence of a currency black market in Vietnam and, second, taken steps, in conjunction with the Government of Vietnam, to prevent the black market from reaching the dimensions it did.

A number of American banks were derelict in their responsibility to their own Government in not taking effective steps 5 and 6 years ago to prevent the use of their facilities in the currency black market in Vietnam. In addition, the Treasury Department and other agencies of the executive branch were derelict in not urging the banking industry to take the necessary actions to insure that black market, transactions in American banks would be kept to a minimum. Simple procedures would have been helpful such as briefings to bankers by Government officials on how the currency black market works and what kinds of transactions to be on the lookout for.

Following the subcommittee's disclosures involving the currency black market in Vietnam, the executive branch established the Interdepartmental Action Task Group, Vietnam (IATG) which was formed by the State, Treasury, and Defense Departments and AID to deal with the illegal currency manipulations affecting South Vietnam. The action in establishing this special task group at the highest level to handle this most difficult and perplexing problem is commendable.

41. The Washington, D.C., law firm of Trammell, Rand, Nathan & Bayles was attorney for a number of persons and firms which were under investigation in the hearings. The subcommittee makes no finding about the propriety of the law firm's multiple representation of these persons and entities.

RECOMMENDATIONS

1. The subcommittee recommends that the Department of Defense consolidate all nonappropriated fund activities (NAF), including the clubs and messes, Army and Air Force Exchange System and welfare funds, into one Defense governing body with a board of directors and board secretariat which would provide the Secretary of Defense with an in-house organizational structure to control and audit NAF operations of all Department of Defense components such as the Army, Air Force, Navy, and Marine Corps. The following advantages would come from such a Defense governing body for nonappropriated funds:

(a) It would provide each DOD component with a board representative and thus a voice in its own operations, as well as a voice in overall DOD organized NAF activities.

(b) It would provide one controlling body to oversee the entire NAF structure in lieu of the existing splintered groups.

(c) It would establish organizational control at the highest levels.

(d) There is a need for uniformity in all phases of management—financial, personnel and logistics. This uniformity can be accomplished by providing direction through a single policy group, such as the proposed board.

(e) The four services need a common and centralized approach to such matters as employment, employment benefits, and other operational aspects of nonappropriated fund activities. For example, each service today has its own employment system, and all of them differ widely in rules, regulations and conditions of employment. Board control would bring uniformity in all important areas.

2. The subcommittee recommends for the consideration of the Congress legislation that would create a Department of Defense Inspector General of Assistant Secretary rank who would investigate malfeasance and wrongdoing within all the services. This position would resemble that of Inspector General for Foreign Assistance at the Department of State. The DOD Inspector General would report directly to the Secretary of Defense. In drafting the legislation creating the State Department Inspector General for Foreign Assistance, the Congress noted that "One of the major problems which has always confronted the Secretary of State in connection with the foreign aid program has been that information as to the shortcoming has not penetrated to him until too late for proper preventive and remedial action." The subcommittee believes this point is also applicable to the Department of Defense. It is not intended that the DOD Inspector General have responsibility for carrying out routine audits or other control operations. It is expected that the operating agencies will carry out their own investigation, auditing and evaluating activities. The Inspector General would have access to the audits, reports and the records of those having operating responsibility rather than perform such services. The IG's staff should include pesonnel with backgrounds in criminal investigation, accounting, Government service and military affairs.

3. The subcommittee recommends for the

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consideration of the Congress legislation that would authorize the General Accounting Office to have access to the records and other files of nonappropriated activities just as it has access to the records and files of appropriated fund activities.

4. The subcommittee recommends that the Alcohol, Tobacco and Firearms Division of the Treasury Department conduct a nationwide survey of police departments, sheriff's offices, State and Federal law enforcement agencies to determine how each of these disposes of firearms and other weapons confiscated from criminal suspects and others. At the conclusion of this survey, the Treasury Department would be directed to make its findings available to the Congress, along with recommendations as to how a nationwide and uniform system of disposing of confiscated weapons could be implemented.

5. The subcommittee recommends for the consideration of the Congress legislation that would prohibit any Federal official, military or civilian, from personally collecting or accumulating or transferring confiscated or contraband weapons except when it can be fully documented that the weapons are for the use of a duly accredited museum or Government training center. Documentation would consist of a notarized statement from the commanding officer or director of the museum or center which would specifically state the prospective uses of the weapons and which would contain the additional stipulation that the weapons would not be resold under any circumstances but would be destroyed when their stated uses end.

6. The subcommittee recommends that all contracts entered into by a U.S. military nonappropriated fund activity contain a clause asserting that refusal by the contracting company to subject its records to audit and examination by duly authorized military or congressional investigative units could be grounds for automatic termination of the contract. To achieve this end, the subcommittee recommends that the Department of Defense carry out a study to determine the best and most fair manner in which to draft and insert this clause into non-appropriated fund contracts and to report its findings to the Congress in no less than 6 months.

7. The subcommittee recommends that the Department of Defense conduct a study to determine an effective system whereby the Exchange Service will be able to assure the subcommittee that the assets of the vendors who do business with the Exchange Service will be subject to the service of legal process. This should be done in such a manner that the vendor contractually designates an official, duly authorized by the Department of Defense, as its attorney to receive such service—within the Continental United States if need be—and the designation should be irrevocable during the period that the vendor, or any successor in interest, is eligible to do Exchange business, or during the lifetime of the contract. The result of this study should be reported to the Congress no later than 6 months after the filing of this report. The Subcommittee also recommends to the Congress that legislation to accomplish this goal be considered, depending upon the outcome of the Pentagon study.

Such a system should be accompanied by a requirement that a vendor make available to the Exchange Service the names and addresses of the officers, major stockholders, and principal employees of the vendor company at the time of making application for permission to do business with the Exchange Service. This information should be kept in a permanent record and be available to Regional Exchanges and to the various investigative agencies of the Federal Government and the Congress, upon request.

8. The subcommittee recommends that the Army reevaluate and review the position of Sergeant Major of the Army. If the Army finds that the position is largely one of public relations and good will, then the occupant of that position should not be allowed to intervene in matters such as the assignment of enlisted personnel. If, on the other hand, it is found that the Sergeant Major of the Army is fulfilling genuine advocacy functions in connection with the rights and needs of enlisted men, then he should be vested with the responsibility and authority of representing enlisted men in well-defined terms that are made known to enlisted men throughout the Army.

9. The subcommittee recommends that the Department of Defense ban all slot machines from all property owned, leased, rented or otherwise controlled by any service of the U.S. Armed Forces. It is further recommended that this order banning slot machines be published immediately and that the effective date be no later than 6 months from the date of issuance or no later than 1 year from the publication of this report. A slot machine is defined as any coin-operated game of chance which pays out money or tokens or items of value.

10. The subcommittee recommends that the Department of Defense survey the live entertainment programs offered by clubs and open mess systems in this country and abroad and evaluate their efficiency and report its findings to the Congress within 1 year. The subcommittee recommends for consideration that a system be worked out whereby certain minimal entertainment costs of the U.S. Armed Forces be line items in the military appropriations budget. This recommendation is in keeping with the opinion expressed by the acting chairman, Senator Ribicoff, that American servicemen should have certain minimal entertainment performed in their clubs and messes at no cost to them directly or to nonappropriated funds generally.

11. The subcommittee recommends that all overseas military post exchanges and PX and other club concessions such as gift shops be prohibited from selling items of no general use or application in the region in which they are sold as determined by NAF organizational body outlined in the first recommendation of this section. For example, furs should not be sold in exchanges or concessions in Southeast Asia. In addition, the subcommittee recommends that overseas exchanges evaluate each of the items they sell on the basis of real needs as well as quality and cost. There was no need in Vietnam for diamonds and precious metals or furs, for instance, but the goods were sold in Vietnam outlets anyway. Quick response to demand should be tempered by good judgment.

12. The subcommittee recommends that legislation be introduced creating an independent commission to evaluate the relative financial benefits to active and retired servicemen and their families from non-appropriated fund activities, particularly exchanges and exchange concessions and commissaries. The commission would evaluate the efficiency of these activities and report its findings to the Congress with recommendations for reform where needed.

13. It is recommended the Army and Air Force Exchange System and the locker funds in the Far East and Europe reevaluate their policy of classifying sales figures, the type and brand name of liquor used in or purchased by open messes or customer preference. It is hoped that by making this data readily available to all vendors or their representatives it would nullify any advantage that one competitor might have over another through the use of bribery and payoffs to obtain such data.

14. The investigation has shown the need for a code of ethics for businesses which deal with Department of Defense personnel involved in nonappropriated fund activities. The subcommittee recommends that the several trade associations representing the firms in this area take the necessary initiative to formulate and implement such a code. It is hoped that this code would reflect the requirements made of DOD personnel as contained in the DOD Directive 5500.7 "Standards of Conduct."

It is further recommended that the Department of Defense undertake appropriate steps to refresh its personnel as to the language and meaning of the above mentioned directive and on a continuing basis make every effort to insure that all personnel are so apprised of its provisions and spirit.

15. The subcommittee recommends that the Internal Revenue Service conduct a study to determine the extent to which businesses are able to give gratuities to Government employees and to write off these contributions as business expenses. This study would be conducted to ascertain the need for improving tax laws, regulations, information requirements, and tax return instructions to require disclosure of, or production of records kept of, contributions and gratuities paid to Federal employees including military personnel by businesses filing tax returns with the IRS. The result of this study should be reported to the Congress no later than 6 months after the issuance of this report.

By Mr. RIBICOFF (for himself, Mr. MCCLELLAN, Mr. PERCY, Mr. JACKSON, Mr. GURNEY, and Mr. ALLEN):

S. 2782. A bill to provide for the review by the General Accounting Office of nonappropriated fund activities within the executive branch of the Government; referred to the Committee on Government Operations.

S. 2783. A bill to establish a commission to study and evaluate the financial and social benefits received by active and retired members of the Armed Forces of the United States for nonappropriated fund activities; and

S. 2784. A bill to establish within the Department of Defense an Office of Inspector General for the purpose of investigating malfeasance and misfeasance within all branches of the Armed Forces of the United States; referred to the Committee on Armed Services.

S. 2785. A bill to prohibit the unauthorized acquisition, collection, or transfer of confiscated or contraband firearms by Government employees; referred to the Committee on the Judiciary.

Mr. RIBICOFF. Mr. President, for the chairman (Mr. MCCLELLAN) and myself and for Senators PERCY, JACKSON, ALLEN, and GURNEY, I introduce for appropriate reference four bills to carry out those recommendations which require legislation.

The bills would, first, establish within the Department of Defense an Office of Inspector General for the purpose of investigating malfeasance and misfeasance within all branches of the Armed Forces of the United States; second, provide for the review by the General Accounting Office of nonappropriated fund activities within the executive branch of the Government; third, establish a commission to study and evaluate the financial and social benefits received by active and retired members of the Armed Forces of the United States from nonappropriated funds; and, fourth, prohibit the unauthorized acquisition of confiscated or contraband firearms by Government employees.

Mr. President, I ask unanimous consent that the bills be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2782

A bill to provide for the review by the General Accounting Office of nonappropriated fund activities within the executive branch of the Government

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the operations of nonappropriated funds and related activities within the executive branch, the systems of accounting and internal controls and any internal or independent audits or reviews of such funds and activities shall be subject to review by the Comptroller General of the United States in accordance with such principles and procedures and under such rules and regulations as he may prescribe. The Comptroller General and his duly authorized representatives shall have access to such books, accounts, records, documents, reports, files and other papers, things, or property relating to such funds and activities as are deemed necessary by the Comptroller General.

(b) Each nonappropriated fund activity within the executive branch of the Government shall furnish to the Comptroller General at such times and in such form as he shall require an annual report of the operations of such activity, including an annual statement of financial operations, financial condition, and cash flow.

S. 2783

A bill to establish a commission to study and evaluate the financial and social benefits received by active and retired members of the Armed Forces of the United States from nonappropriated fund activities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) known as the Nonappropriated Fund Activities Commission (hereinafter referred to as the "Commission").

(b) The Commission shall consist of nine members who shall be appointed by the President.

(c) The term of office of each member of the Commission shall be three years with three original members appointed for one year, three for two years and three for three years, members shall be eligible for reappointment and shall serve until their successors are appointed.

(d) The President shall designate a Chairman from among the members of the Commission. Any vacancy in the membership of the Commission shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(e) Five members of the Commission shall constitute a quorum, but a lesser number shall constitute a quorum for the purpose of conducting hearings.

(f)(1)(A) The Commission shall study and evaluate the financial and social benefits received by active and retired members of the Armed Forces of the United States and their families from nonappropriated fund activities, including, but not limited to, the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Stores Ashore, Navy exchanges, Marine Corps exchanges, revenue-producing funds, welfare funds, and sundry or association funds, and other instrumentalities of the United States under the jurisdiction of the Armed Forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Armed Forces.

(B) For the purposes of this section, the term—

(i) "nonappropriated fund activity" shall mean an entity established by the authority of the Secretary of the Army, Navy, or Air Force for the purpose of administering moneys not appropriated by the Congress for the benefit of military personnel or civilian employees of the appropriate service and not incorporated under the laws of any State or the District of Columbia;

(ii) "revenue-producing fund" means a self-sustaining nonappropriated fund established to sell merchandise and services to military and civilian personnel at military installations and to provide financial support to welfare funds;

(iii) "welfare fund" means nonappropriated fund established and maintained by income derived primarily from proceeds by revenue-producing activities and other authorized sources; and

(iv) "sundry or association fund" means a nonappropriated fund, other than a revenue-producing fund or a welfare fund, pertaining to self-sustaining funds and to associations whose active membership is composed of limited groups of military personnel on active duty and eligible civilian employees or any combination of such membership.

(2) The Commission is authorized to request and accept from any executive department or agency, or congressional committee, any information and assistance deemed necessary to carry out its function under this Act. Each such department and agency is authorized, to the extent permitted by law and within the limits of available funds, to furnish information and assistance to the Commission.

(3) The Commission may issue such reports regarding its findings and recommendations as it deems advisable, and shall submit an annual report of its findings and recommendations to the President and the Congress not later than the first day of February of each year.

(g)(1) The Commission, or at its direction, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member. Subpenas may be issued under the signature of the Chairman or Vice Chairman and may be served by any person designated by the Chairman or the Vice Chairman.

(2) In the case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Attorney General of the United States, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

(h) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director and such additional staff personnel as he deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(i)(1) A member of the Commission who is otherwise an officer or employee of the United States shall serve without additional compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties of the Commission.

(2) A member of the Commission from private life shall receive $100 per day when engaged in the actual performance of duties of the Commission, and shall receive reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

SEC. 2. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this Act.

S. 2784

A bill to establish within the Department of Defense an office of Inspector General for the purpose of investigating malfeasance and misfeasance within all branches of the Armed Forces of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 138. Inspector General: appointment; powers and duties

"(a) There is an Inspector General of the Department of Defense, appointed by the President by and with the advice and consent of the Senate. The Inspector General shall report directly and be directly responsible to the Secretary of Defense.

"(b) The Inspector General shall conduct investigations within the Department to determine if misfeasance or malfeasance exists in the procurement, handling, and distribution of services and supplies. In order to carry out his duties under this section, the Inspector General is authorized to arrange for, direct, or conduct such reviews, inspections, and audits as he considers necessary. The Inspector General shall maintain continuous observation and review of such procurement, handling, and distribution for the purpose of—

"(1) determining the extent to which such procurement, handling, and distribution are in compliance with applicable laws and regulations; and

"(2) making recommendations for the correction of deficiencies in, or for improving the organization, plans, or procedures relating to, such procurement, handling, and distribution.

"(c) In order to eliminate duplication and to assure full utilization of existing data, the Inspector General shall give due regard, in carrying out his activities under this section, to the audit, investigative, and inspection activities of other agencies of the Government, including the Inspectors General of the Army, Navy, Marine Corps, and the Air Force, and

"(d) The Inspector General shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material of the Department relating to any activity which he is charged to investigate"

(b) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(95) Inspector General, Department of Defense."

(c) The table of sections for such chapter is amended by adding at the end thereof the following:

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"138. Inspector General: appointment; powers and duties."

S. 2786

A bill to prohibit the unauthorized acquisition, collection, or transfer of confiscated or contraband firearms by Government employees

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following two paragraphs:

"(21) The term 'confiscated firearm' means any firearm seized by an employee of the United States, any State, or any political subdivision of a State, while acting in the course of his employment or under color of law.

"(22) The term 'contraband firearm' means any firearm the possession of which is unlawful under Federal law or under applicable law of any State or political subdivision of such State."

(b) Chapter 44 of title 18, United States Code, is amended by redesignating section 928 as 929, and by inserting after section 927 the following new section:

"§ 928. Unauthorized acquisition of confiscated or contraband firearms by employees of the United States

"(a) Except as provided in subsection (b), no employee of the United States who is serving in the civil service or the uniformed services (as defined in section 2101 of title 5) shall acquire, collect, or transfer any confiscated or contraband firearm.

"(b)(1) Subsection (a) shall not apply to the acquisition of any such firearm by an employee of the United States so serving if—

"(A) that employee is authorized in writing to acquire such firearm for the use of a duly accredited museum or Government training center; and

"(B) such authority is signed by the director of such museum, or the officer in charge of such center, and the authority sets forth the uses to which such firearm will be put and stipulates that the firearm will be destroyed when its stated use terminates.

"(2) Subsection (a) shall not apply to the acquisition of any such firearm by such an employee through purchase from a Federal, State, or local governmental agency at any sale open to the public, or through purchase from a licensed dealer.

"(3) Subsection (a) shall not apply to the acquisition of any such firearm by such an employee when necessary in the performance of his duty as such an employee. Any such employee who acquires such a firearm in the performance of his duty shall report such acquisition to the head of the agency or department by which he is employed and shall make such disposition of such firearm, not inconsistent with the purposes of this section, as the head of such agency or department shall direct."

(c) The table of sections for such chapter is amended by striking out the last item and inserting in lieu thereof the following:

"928. Unauthorized acquisition of confiscated or contraband firearms by employees of the United States.

"929. Separability."

Mr. RIBICOFF. Mr. President, I ask unanimous consent that I may yield the remainder of my time to the distinguished chairman of the committee.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I wish to express my appreciation to the distinguished Senator from Connecticut for his complimentary remarks about my work as chairman of the subcommittee. Without the cooperation of able, distinguished, and dedicated Senators like Senator RIBICOFF, the subcommittee could not operate successfully and would not cover its area of responsibility. The valued assistance of all members of the committee is deeply appreciated.

The Senator from Connecticut had prime responsibility in this particular investigation. I was occupied with other matters at the time, and I asked him to direct this investigation and hold the hearings as acting chairman of this particular investigation.

The Senator from Connecticut did an excellent and a magnificient job. The results of his labors and guidance and supervision and direction of this inquiry have now been presented in the report that the committee filed today. I am very grateful to the Senator from Connecticut.

Mr. President, the distinguished senior Senator from Connecticut has placed in the RECORD the carefully considered findings of the subcommittee relating to the shocking conditions of corruption, bribery, thievery, and mismanagement which have plagued the service clubs and the post exchanges, as well as findings on illegal manipulations in the currency black market of South Vietnam. He has reported our recommendations for drastically needed corrective actions by the Federal agencies involved. He has described the four legislative measures which he has introduced and which I am very pleased to cosponsor. The important provisions of these bills deserve the close consideration of the Congress. It should be clear to anyone who reads this report carefully that existing statutes have been inadequate to correct and eliminate certain kinds of improprieties disclosed by our investigation.

I have written to the Secretary of Defense and to the Secretary of the Treasury, forwarding copies of the Subcommittee's report and requesting them to advise the subcommittee about their considerations of the recommendations which would require executive actions by their Departments to correct or remedy conditions disclosed in the investigation. I also asked the Secretary of Defense to comment upon the legislative measures affecting his Department which have been introduced today by the Senator from Connecticut (Mr. RIBICOFF).

Additionally, I have asked the Comptroller General of the United States, on behalf of the subcommittee, to compile a list of nonappropriated fund activities which are carried on within any and all Government agencies, with the request that the list include each organization's name, purpose, revenue, and capital assets. To my knowledge, no similar compilation ever has been made of such activities, which are known to abound among Federal agencies. The results of the GAO's effort should be both informative and helpful to the Congress in its consideration of legislation designed to regulate and supervise the various organizations.

There is another aspect of this report and of the 3-year inquiry which preceded it which has not been mentioned as yet by my able colleague. I refer to section 21 of the report, bearing the subtitle: "Corrective, Administrative, and Judicial Actions Taken Following Subcommittee Hearings and Investigations of Military Club Systems and Currency Black Market."

Section 21 is very important and highly significant. It is clear evidence of the extraordinary effectiveness of wide-ranging and deep-probing congressional investigations such as the one we are discussing and numerous others conducted by the Senate Permanent Subcommittee on Investigations. Section 21 of the report is a tribute to the acting chairman and to the subcommittee and its staff. That section is not simply a listing of four or five corrective actions taken as direct results of the subcommittee's work. There are more than 60 such actions, Mr. President, all of them related directly to the evidence disclosed by the subcommittee in its lengthy hearings. Brief summaries of these corrective, disciplinary, and prosecutive measures are listed chronologically in section 21. I cannot refer to each one in these remarks, but I can categorize them briefly and discuss a few of the more significant.

There have been a number of criminal actions taken against persons whose illegal activities likely never would have been exposed if the subcommittee had not conducted its investigation. Many administrative and regulatory actions have been taken by the Department of Defense, the Department of the Treasury, by the several military services, and by area commanders. Many income tax investigations are underway. Customs regulations and procedures have been revised and expanded. There have been important changes in monetary regulations for servicemen in Vietnam.

Here are just a few specific actions already taken which are direct results of the subcommittee's hearings:

First. The Air Force and the Army announced their intention to ban slot machines from their installations throughout the world. Our investigation showed clearly that the mere presence of slot machines in military clubs initiated chains of crime including customs violations, bribery, fraud, and widespread "skimming" or stealing of the proceeds.

Second. The U.S. Army Criminal Investigation Command has been established under direct supervision of the Chief of Staff to exercise centralized command, authority, direction and control of Army criminal investigative activities worldwide. Our investigation showed that the operation of the Army CID, prior to and during our hearings, was woefully inadequate in the vital law enforcement factors of coordination, cooperation and central authority, because its units operated under local command autonomy throughout the world. One of the principal significant disclosures of our hearings was that top ranking noncommissioned officers in the club system operated an illicit and corrupt syndicate in one command after another, and some of them even formed a corporation to conduct their business of dealing with themselves for high personal profits.

A centralized CID, operating without the coverups that plagued the local CID units, might have discovered the conspiracy long before it gained its greatest effectiveness in the chaotic conditions in South Vietnam. All the information necessary to expose the conspirators had been buried, sometimes deliberately, in commands scattered across the world.

Third. The Department of Defense and the military services have directed many major corrective changes in regulations for nonappropriated fund activities. Among the most important are:

Reforms to assure "management integrity" in such activities; more stringent regulations on solicitation and sales in Vietnam; more care in screening selections of club personnel; investigative surveys of non-appropriated fund activities.

Regular audits for clubs and messes by independent certified or licensed accountants.

Centralized procurement for nonappropriated fund activities in Vietnam. Vendors and salesmen no longer can deal with custodians of clubs and messes.

Establishment of internal control systems and procedures in all Army nonappropriated fund activities; assignment of all club and mess personnel to the local commander's staff; development of a worldwide system for debarring for cause commercial firms from doing business with nonappropriated funds.

Prohibition of vendors from promoting their goods within club systems, with suspension or debarment penalties for violations.

Fourth. Criminal actions have been taken against persons whose illegal activities were first disclosed in the subcommittee's hearings. For example, the former provost marshal of the U.S. Army, who subsequently was chief marshal of the United States, is now serving a prison term for income tax evasion and violations of Federal laws relating to commercial transactions in firearms. The former custodian of the club system at U.S. Army headquarters at Long Binh, Vietnam, has been convicted by military court-martial of larceny and receiving stolen goods and has been dishonorably discharged and fined $25,000.

The members of the sergeants' syndicate who formed a corporation to deal with themselves on purchases within the club systems in Vietnam are about to stand trial in Federal court for conspiracy to defraud the United States.

Fifth. The subcommittee's report finds that former Brig. Gen. Earl F. Cole should have been court-martialed for his improprieties in connection with Sarl Electronics and Price & Co. and other entities in Vietnam. Both companies referred to were operated by William J. Crum, who became wealthy in Vietnam by corrupting American military and service personnel. Earl F. Cole was reduced to the rank of colonel, stripped of his Distinguished Service Medal, and retired by the Army.

Sixth. Certain high-ranking employees of the Post Exchange Service in South Vietnam, because of the subcommittee's disclosure of their improprieties—particularly the acceptance of luxurious quarters provided by William J. Crum—have been discharged from the Post Exchange Service or have retired.

Seventh. The Internal Revenue Service has undertaken criminal investigations of certain persons whose illegal activities were first disclosed in the subcommittee's hearings. At least 50 such investigations have been considered by IRS; approximately 100 civil examinations of tax returns have been initiated.

Eighth. Congress enacted Public Law 91-508, which is designed to deter use of secret foreign bank accounts for illegal purposes.

Mr. President, I have cited only eight examples of the 60-odd substantial and effective results of the subcommittee's investigation, all of which were initiated prior to the submission today of the subcommittee's comprehensive, informative and consequential report. I ask unanimous consent that the entire section listing these results, pages 280 through 284 of the report, be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, once again, I wish to emphasize that this report of the Senate Permanent Subcommittee on Investigations offers proof positive to the skeptics, to those who may ask how congressional investigations actually serve the Nation, that their effectiveness is far-reaching and greatly beneficial to the improvement of the fundamental processes and procedures of Government. I consider this report outstanding and firmly believe it to be the culmination of an excellent performance of duty by the acting chairman, Senator RIBICOFF, by the other members of the subcommittee, and by the staff.

EXHIBIT 1

XXI. CORRECTIVE, ADMINISTRATIVE, AND JUDICIAL ACTIONS TAKEN FOLLOWING SUBCOMMITTEE HEARINGS AND INVESTIGATIONS OF MILITARY CLUB SYSTEMS AND CURRENCY BLACK MARKET

June 5, 1969.—The Air Force issued the first of a series of reforms to insure "management integrity" of clubs, PX's and other nonappropriated fund activities.

July 15, 1969.—Gen. Creighton Abrams, commander of U.S. Forces in Vietnam, issued new, more stringent regulations on solicitation and sales of goods and services on U.S. military reservations in Vietnam.

August 12, 1969.—Defense Secretary Melvin Laird directed each of the services to review the handling of funds in open mess systems.

August 14, 1969.—The Army took back the Distinguished Service Medal from Sergeant Major Wooldridge and transferred him out of the MACV Command to the White Sands Missile Range, New Mexico.

August 29, 1969.—An Army office of central procurement for nonappropriated fund activities was created in Vietnam. The effect of this action was that vendors and sales representatives would no longer deal directly with custodians but would negotiate with the central procurement office.

September 1, 1969.—The Air Force initiated a program calling for 106 "investigative surveys" in non appropriated fund activities.

September 5, 1969.—The Army established the CID Agency at the Pentagon to coordinate and monitor criminal investigations within the Army.

September 7, 1969.—Gen. William C. Westmoreland, U.S. Army Chief of Staff, personally relieved Brig. Gen. Earl F. Cole as Commander of the European Exchange System.

September 23, 1969.—The Army initiated a more "careful screening procedure" for the selection of custodians and other club system personnel.

September 26, 1969.—The Army took back the Distinguished Service Medal from Major General Turner.

October 1, 1969.—General Abrams directed stronger enforcement of the MACV requirements that all bank drafts purchased from military banking facilities and all United States postal money orders be mailed out of Vietnam at the moment of purchase.

October 17, 1969.—Defense Secretary Laird directed "immediate action" to assure that clubs and messes would be audited regularly by independent certified or licensed accountants.

November 30, 1969.—The MACV Command terminated all amusement machine rental and service contracts with Sarl Electronics.

December 1969.—The Interdepartmental Action Task Group, Vietnam (IATG) was formed by the U.S. State, Treasury and Defense Departments and AID, to help the Vietnamese eliminate the black market in currency manipulation.

December 23, 1969.—General Abrams revised procurement procedures for nonappropriated fund activities in Vietnam.

Late 1969.—An IRS agent went to Saigon to investigate income reports in currency manipulation and service club fraud matters. IRS sent three agents permanently in February 1970, and two more agents temporarily in November 1970. New tax investigations were started on all persons involved prominently in the subcommittee's investigation.

January 15, 1970.—MACV directed that postal money orders issued without fee could be cashed only in military banking facilities or banks in the United States. If cashed in foreign banks, the Post Office was to refuse to honor them.

February 1970.—A Federal grand jury for the Central District of California handed down a 21-count indictment against Wooldridge, Higdon, Lazar, Hatcher, Theodore (Sam) Bass, William Bagby, Clifford Terhune, and Irene Terhune. The indictment charged conspiracy to defraud the United States, false and fraudulent claims against the United States, bribery of public officials and concealment of material fact. Trial was set for October 1971.

February 1, 1970.—The Air Force and Army began a joint review of the Army-Air Force Exchange Service accounting system.

March 10, 1970.—Sergeant Higdon was charged by the Army with larceny and receiving stolen goods during his assignment in the club system at Long Binh. Court-martial proceedings were set for the Redstone Arsenal, Huntsville, Ala.

June 17, 1970.—The Army-Air Force Pacific Exchange System was notified by the Internal Revenue Service of a $1.6 million tax lien levied on the Star Distributing Co.

July 1, 1970.—The Army set in motion procedures to establish career fields for military personnel in the management and operation of clubs.

July 30, 1970.—Brig. Gen. Earl F. Cole's application for retirement was accepted and, at the same time, he was reduced in grade to colonel.

August 31, 1970.—Peter Mason, the PX official who had lived in a villa in Saigon provided by William Crum, was terminated by the post exchange for "abandonment of position."

September 26, 1970.—Congress enacted Public Law 91-508, Financial Recordkeeping and Currency and Foreign Transactions Reporting Act of 1970, to deter use of secret foreign bank accounts for illegal purposes. Final effective regulations on the act will be published on November 1, 1971.

October 5, 1970.—The exchange rate system was revised to provide a new parallel rate of exchange of 275 piasters for one dollar, while the effective official rate continued

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at 118 to one dollar. (The black market rate on July 19, 1971, was 371 piasters to a dollar for a $10 bill and the military payment certificates or MPC rate had turned into a discount with a $10 MPC at a 267 to 1 rate. Servicemen no longer have reason to negotiate MPC other than through legal channels.)

(Third country nationals employed by American enterprises are paid primarily in piasters for needs in Vietnam; the balance is sent in dollars directly to banks in their own countries.)

October 26, 1970.—The Army awarded a management consultant contract for a comprehensive study of the management structure of nonappropriated fund activities and organization.

December 1970.—AID authorized two customs investigations adviser positions on the U.S. Customs advisory team to assist the Vietnam Fraud Repression Service in its operations and to act as liaison with U.S. enforcement agencies.

January 8, 1971.—The Army issued new and expanded regulations for club operations, abolishing the requirement for boards of governors and directing that club officers and custodians be assigned to the respective local commander's staff.

January 12, 1971.—A Federal grand jury in Alexandria, Va., returned an indictment against General Turner for violation of the Federal Firearms Act and income tax laws.

January 20, 1971.—The Department of the Army published comprehensive regulations prescribing specific internal control systems and procedures in all Army nonappropriated fund activities, similar to those utilized in commercial organizations.

January 25, 1971.—Leo D. Slotnick, manager of the Navy open mess in Guam, was terminated from this position as a result of improper procurement procedures in the purchase of liquor.

January 26, 1971.—The Army issued a new regulation for the control, operation, procurement, and disposal of coin-operated amusement machines, including slot machines.

February 1, 1971.—The Army awarded a contract for a demonstration project to determine the feasibility of a credit program in the clubs as a means of reducing the cash flow.

February 19, 1971.—Fred Burgess, a PX official who lived in a villa provided by Crum's associate, Joseph DeMarco, resigned from the post exchange system a month before his appearance before the subcommittee where he invoked the fifth amendment.

February 26, 1971.—The Air Force ordered that no slot machines would be allowed on its installations after July 1, 1972.

February 27, 1971.—The Army-Air Force Exchange System required all personnel in the Pacific area receiving living quarters allowances to certify that their landlords were not doing business with the post exchange.

March 16, 1971.—Defense Secretary Laird ordered an immediate evaluation of the integrity control systems of all nonappropriated fund activities; the development of a comprehensive nonappropriated fund debarment system to be effective worldwide; and the development of a vertically controlled Army criminal investigation system combining all Army CID resources on a worldwide basis.

March 19, 1971.—Theodore Miller was discharged by the Army-Air Force Exchange Service as a result of subcommittee disclosures that he and Fred Burgess had been provided villas in Saigon by Joseph De Marco.

March 22, 1971.—Richard Llewellyn was discharged by the Army-Air Force Exchange Service as a result of subcommittee disclosures that he had lived in a villa provided by William Crum in Saigon in 1966.

March 27, 1971.—The Army and the Air Force proposed a review of the motion picture service, a worldwide nonappropriated fund activity.

March 29, 1971.—The Air Force began a review of management control techniques and began to develop an independent review of the management structure and control features of all Air Force nonappropriated fund activities.

March 31, 1971.—MAOV banned all slot machines from U.S. military installations in Vietnam.

April 9, 1971.—General Turner pleaded guilty in Federal court in Alexandria and was sentenced to 3 years in prison.

April 12, 1971.—The Marine Corps revised the manual for clubs and messes to provide additional safeguards through tighter control of procurement and operation regulations.

April 14, 1971.—A joint task force, composed of Army, Air Force, and exchange procurement exports, was established to examine Exchange Service procurement policies.

April 20, 1971.—Clarence Swafford was discharged by the Army-Air Force Exchange Service as a result of subcommittee disclosures that he had lived in a villa in Saigon provided by William Crum in 1966.

April 21, 1971.—The Army issued instructions to prohibit the introduction of free goods into open messes without adequate documentation, assuring that such goods are properly accountable.

April 21, 1971.—Vendor promotion of goods within open messes was prohibited. Violation of this policy will be cause for suspension or disbarment of vendors from doing business with nonappropriated funds activities.

Late April 1971.—Two U.S. Customs advisers were assigned full time, together with personnel on temporary duty, to facilitate Vietnam's stepped-up drive to choke off the flow of contraband through Tan Son Nhut Airport.

May 1, 1971.—The Army took steps to establish mobile club management assistance teams.

May 13, 1971.—General Turner pleaded nolo contendere to violation of income tax laws. He was sentenced to 1 year's confinement and fined $25,000. Nine months of the confinement was suspended on payment of this fine.

May 17, 1971.—The Navy's Chief of Naval Personnel denied Leo D. Slotnick's appeal to be reinstated as manager of the clubs on Guam.

May 24, 1971.—General Westmoreland directed the establishment of a planning committee for the development of an Army CID command.

May 26, 1971.—Ralph White resigned his position with the Army-Air Force Exchange System. White had lived in the Saigon villa provided PX officials by William Crum in 1966.

Late May 1971.—U.S. Customs furnished two Import Specialists to work operationally in the Saigon harbor on the valuation and tariff classification of merchandise imported into Vietnam.

June 1971.—Two U.S. Customs advisers were assigned to assist the Joint Narcotics Investigations Detachment of the U.S. Military Assistance Command, Vietnam, since the purchase and trade of narcotics often involve illegal currency transactions.

June 11, 1971.—Sergeant Higdon was convicted by a military court martial at the Redstone Arsenal and sentenced to a dishonorable discharge and fined $25,000.

July 1971.—A comprehensive Army Open Mess Operating Manual was completed and forwarded to the printers for publication.

August 1971.—IRS was considering criminal investigations of 50 persons, and had made field investigations in 31 cases in connection with persons involved in this inquiry. There were 10 criminal investigations underway and 35 civil examinations had been completed, and more than 60 were underway.

September 17, 1971.—The U.S. Army Criminal Investigation Command (USACIDC) was established. The Army announced that this Command would operate under the direct supervision of the Chief of Staff and would exercise centralized command, authority, direction, and control of Army criminal investigative activities worldwide. Secretary of the Army Robert F. Froehlke said the Command would provide criminal investigative support to all Army elements and activities throughout the world. Froehlke designated Col. Henry H. Tufts as commanding officer of the USACIDC.

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Illinois is recognized for 15 minutes.

Mr. PERCY. Mr. President, I am pleased to join my distinguished colleagues who have already spoken in behalf of this report pertaining to mismanagement of the military club systems and post exchanges.

The work which has resulted in this report has been difficult and tedious. Our subcommittee staff made the first of five trips to Vietnam in early April 1966, and these trips provided the basis for some 33 days of public hearings and 2 days of executive hearings, the transcripts of which were subsequently released to the public. The report itself—300 pages in length—is in my opinion well-balanced and thorough; its attention to detail alone indicates the amount of time and energy expended in its preparation.

Our distinguished chairman, Senator McCLELLAN, is particularly deserving of recognition for his insight and persistence in rooting out the evidence to make this case and for his unusual candor and objectivity in pursuing it.

Senator RIBICOFF, on whose shoulders fell the major responsibility for the actual conduct of the hearings, deserves much credit for his highly significant contributions. It is appropriate to point out that he was eminently fair in drawing out the sensitive testimony from often reluctant or inarticulate witnesses and is in large measure responsible for the record we are now able to present to the Senate and the American people. Senator GURNEY's trip to Vietnam added significantly to the committee findings.

The outstanding work of the staff, of course, should not go unmentioned. While I think it safe to say that we Senators do not always agree on everything, there would be little disagreement among us as to the quality of assistance we have received from the staff throughout this investigation. I am aware that I am running a certain risk in naming some staff members without naming all, however, I nevertheless feel that special mention ought to be made of the impressive contributions of Mr. Jerome S. Adlerman, who, until last month when he retired, served as chief counsel of the subcommittee. These investigations were the last full set in which he participated, and I think that perhaps they, more than any of the others, reflect the high quality of his work.

Many conclusions can be drawn from the evidence mustered in these hearings, as is clear from the 41 specific findings and conclusions listed at the end of the report. But if we were to summarize these 41 into a single conclusion, I suppose it would have to be that in Vietnam, at least, corruption seemed to have become a way of life. The manner in which it took root and grew—indeed, flourished—was shocking. And it seems to have reached every level of the command structure.

Some of the stories unraveled in these hearings have taken on almost a fictional quality and some of the characters have already become legends of wrongdoing. The corruption which has been documented is insidious, demoralizing, and destructive, and it moves people of ordinary sensibilities to seek its eradication.

But it seems to me that, insofar as this subcommittee is concerned, this sort of corruption is relevant only to the extent that it points the direction we should look in our efforts to find its sources and propose remedies. What circumstances permitted these conditions to flourish? What weaknesses in the command structure, what inadequacies in existing regulations and procedures, what laxity in oversight by the Department of Defense—and by Congress, for that matter—what changes in the morale of American fighting men have caused the development and growth of this almost unbelievable tale?

I might point out that on several occasions when I was in Europe visiting NATO, I observed the wrath of the enlisted men, the wrath of the staff sergeants and other officers who had followed the proceedings very closely. The proceedings of this subcommittee were reported widely in the European press as well as in military publications. Many of them said to me, "I am ashamed to wear the uniform when I see how it has been dishonored by men who exploited GI's and have disgraced the uniform that we wear."

Perhaps more important than the investigation itself are the proposals which are made to overcome the situations either created by or resulting from the circumstances uncovered. In my opinion, this subcommittee falls short of meeting its full responsibilities when the investigative process stops short of these recommendations. I am particularly pleased, therefore, that we have been able to include in the body of this report several significant proposals to deal with the findings of the investigation. In addition, the four bills which we introduce today and of which I am pleased to cosponsor represent in my judgment, the best sort of followthrough. In short, Mr. President, I feel on this investigation, we have done the most complete job possible.

What has been done in this case goes beyond what is usually done; namely, a report is submitted, filed, someone looks at it, and that is the end of it. I would like to commend the subcommittee and the chairman not only for fulfilling their obligation to file the report, which covers a multitude of problems, but also for simultaneously introducing legislation to help correct the situations we have uncovered.

I should add that throughout these investigations we have had complete cooperation from the top levels of the military whose efforts to change and correct many of the conditions that we found were seriously undertaken. We felt it unfortunate that we had to be the instrument by which these conditions have been brought to public light, but certainly, with respect to most of the conditions we found, once they were uncovered and brought to the attention of high-ranking military officials, action resulted.

I think it should be pointed out that the inclusion of literally hundreds of names and the depicting of intricate webs of wrongdoing do not reflect a desire or intention on the part of the subcommittee to "convict," directly or by innuendo, those so named and implicated. We cannot afford to lose a deep sensitivity for the fragile nature of a man's reputation. Though the members of the subcommittee were, on occasion, outraged by the implications of the testimony—and I confess that I was among them—I believe that it bears reiteration that the hearings were prompted by a genuine desire to uncover what was amiss in the "system." The inclusion of names, titles, and positions, therefore, was merely the means by which we have attempted to identify and understand relationships and responsibilities in order to attempt to understand the problem in full.

There are other conclusions which might be properly drawn and deserve mention as well. Without overrating the evidence, I am inclined to find support to some extent in these hearings for our moving ahead with the implementation of an all-volunteer military. Too often it seemed some of the soldiers who became embroiled in these conspiracies were open to such offers of bribes, kickbacks, payoffs, and favors because of the inadequate and unfair manner in which they were compensated for their military work.

Many times we had information to support the fact that private enterprise would come in, through special, high-salaried men, who knew that the pay received by these military men in charge of these responsibilities was not at all commensurate with the tremendous responsibilities they bore, and they capitalized upon the pressures resulting from the high cost of maintaining families and the very low pay these men received to induce them to take these offers.

While it is true that incorruptible men cannot be corrupted, we nevertheless ask for trouble when we draft men in such a way that they virtually have no choice as to whether or not they serve and then pay them so little. An all-volunteer force, it seems to me, would reduce the likelihood of this sort of vulnerability to corruption.

The Senate of the United States has taken a major step forward by providing for the pay increases recently authorized in legislation before Congress to provide these incentives.

Even though it may be impossible to draw specific conclusions from the following, we should at least raise as a possibility the fact that some of the corruption which seems to have marked our involvement in the Vietnam war is due to the fact that this has been and continues to be an unpopular war, into which thousands of American men have entered demoralized and have left, if in fact they were able to leave at all, completely disillusioned. The toll in Vietnam has to be counted in terms other than body counts if we are to reach an accurate total cost figure. These hearings have added another factor—that of corruption and dishonesty—in that tabulation.

Certainly, when the Vietnamese people and the daily newspapers there see evidence of corruption by American military officers, it lends credence to the corruption that has for so long run rampant in the Vietnamese society, sometimes at the highest levels, and this results in furthering the corruption, which is all done at the expense of the American people.

Mr. President, at my request we have included in the summary of this report—page 285—a statement to the effect that the subcommittee does not wish to imply that the military as a whole is under any general indictment; there is simply no evidence to support such an implication. I repeat it here merely for emphasis. It has been my experience throughout these hearings that we were dealing with a minuscule percentage of our total military force wherever and whenever we found evidence of this corruption. The vast majority of American military personnel conduct themselves with great honor and dignity. Many of them, at considerable sacrifice to their own personal lives, have devoted themselves to the interests of this country. Though certain of their comrades have cast a cloud over the entire system at times, the 3 million men and women in the armed services should not feel that they, nor the uniform they wear, have been demeaned in any way.

Despite the fact that I have pointed this out, and other Senators have pointed it out many times as well in the hearings, on not one single occasion to my knowledge has the press talked about the fact that these investigations involved a very small percentage, a minuscule percentage, a fraction of 1 percent, possibly, of the total number of men in uniform. The very large number, the overwhelming majority, of the men serve their country and uniform with great honor.

Mr. President, this report represents the best work of the Permanent Subcommittee on Investigations. We have sought to accomplish our work in a manner that reflects the important commission under which we exist. I am proud to associate myself with the distinguished Senators who have spearheaded this undertaking and with the report which is the fruit of our labors. I commend this to the careful attention of the Congress and to the country.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Florida is recognized for 15 minutes.

Mr. GURNEY. Mr. President, I am very pleased to join with my colleagues who have spoken here today on the occasion of the filing of the report of the Permanent Subcommittee on Investigations concerning fraud in the military clubs and post exchange systems, as well as the illegal currency manipulations affecting South Vietnam.

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I also wish to join with my colleague, the distinguished Senator from Illinois (Mr. PERCY), in congratulating both the distinguished chairman of our committee and investigations subcommittee, Senator JOHN L. MCCLELLAN, the distinguished acting chairman of the subcommittee, Senator ABRAHAM RIBICOFF, and I wish to commend the distinguished ranking member of the subcommittee, Senator CHARLES PERCY, for having done such outstanding work in authorizing the subcommittee to look into this matter, in supervising the investigation thereof, and in marshaling the evidence throughout the course of the hearings that preceded this report. Then, also, too much praise cannot be given to the extremely able staff of the subcommittee, who literally went around the world digging out the evidence in month after month of hard wark, to set the stage for these very meaningful hearings. Of course, the report itself is an excellent and comprehensive work and its substantive aspects are far reaching indeed.

In fact, as I read the report, it occurred to me that it would be very difficult to make limited comments on it because there are so many areas of important evidence that are covered. For example, there is the serious matter of corrupt activities by the original group of senior sergeants—including a former sergeant major who held the highest noncommissioned position in the entire Army—which commenced in Augsburg, Germany, continued in Fort Benning, Ga., and moved on to Vietnam. The success of these greedy individuals is appalling enough. They held positions of trust and respect, and used their offices as aids in operating a business corporation to sell products back to the clubs and messes they managed. When that is coupled with the activity of the top military police officer in the Army, "covering up" for the brazen private and personal activities of the top sergeant major in the Army, and "sitting on," or openly prohibiting his own Criminal Investigations Division from pursuing any matters that would uncover the truth, the record emerges as a shocking and bizarre tale of wheeling and dealing.

Yet this is really only the beginning, because there is a separate factual account about the same provost marshal general who obtained hundreds of small arms and handguns from Chicago and Kansas City, Mo., police departments, ostensibly to be used for military training or to be placed in military museums. That man is now in Federal prison for violating certain statutes relating to commercial transactions in firearms when he proceeded to sell some of the guns, and for income tax evasion when he failed to declare the income that resulted from the sales.

There are many other astounding stories in this report. Other sergeants were equally involved, some of whom appeared before the subcommittee and, as their senior sergeants did before them, invoked their constitutional privilege not to testify because they believed that such testimony might tend to incriminate them.

The manner in which the entertainment of troops in Vietnam was handled is a shocking account by itself. The combination of kickbacks and other forms of illicit favors for those in charge of troop entertainment, along with the generally shoddy quality of entertainment for which high prices were paid, were disgraceful. Add to these matters the disclosures made by the subcommittee about kickbacks, bribes, and gratuities paid in the club systems—and, later in our hearings, in post exchange procurement—and it becomes an understatement to say that the military was grossly negligent in the handling of this major portion of our war effort.

Of course, there were many more chapters to the narrative—many of them sad, but all true. There were the "fast buck artists," the types like William Crum who have lived, worked, and prospered in the Far East since the end of World War II, and who "get the job done" by using corrupt practices to sell their wares and products to the military services. Certain American business concerns in turn have had their own representatives making frequent trips to the area of greatest sales impact—South Vietnam. They were willing to pass money around under the guise of "sales promotions" or "promotional allowances" to men like William Crum to "get the jump" on their competitors.

Another group of very successful businessmen is involved in the combine. I refer to the service games complex—Martin Bromley and his associates—who have prospered in a slot machine empire on a worldwide basis. Evidence showed that the Bromley organization has a long history of customs violations and other abuses while they profited heavily from products that have nothing to do with the war effort. This, too, could well be a separate narrative.

Finally, there were certain enterprising military officers of relatively high rank in positions of influence who, through their own naivete, their own feelings of importance, or their own desire for personal gain, deserted or neglected the principles of honor and character that are symbols of military leadership. Through positive "pressure" actions, or through obstructive inactions, they made it possible for the William Crums to operate freely. The efforts of the corrupters also were aided by the general lack of concern, or even silent acquiescence by other officers of equal or higher rank who preferred to put on blinders rather than "get involved" in these strange activities.

VISIT TO VIETNAM

Our distinguished chairman, Senator JOHN L. MCCLELLAN, a year ago authorized me to travel to Vietnam and other places in Asia on matters relating to the investigation. Senate staff members accompanied me on this trip. I made my comments known to the chairman in a 90-page subcommittee report printed in May of 1968.

One of the things that came to my immediate attention was the lack of austerity in our American presence; in fact, the lack of austerity, or to put it another way—the affluence—had increased noticeably since my previous visit to Vietnam as a Member of the House of Representatives. I mentioned this specifically because I believe that we have been involved in an economic war just as much as we have in a shooting war in South Vietnam over the years. The Department of the Treasury should share some of the responsibility, and the blame, for not acting earlier to do something about this. In my opinion, too many of the decisions in this important area were left to the young economists working for the AID Mission in Saigon. I have pointed out where I believe they made their mistakes in my report to the chairman.

The point here—as evidenced by the subcommittee report—is that there was a similar lack of concern about nonappropriated funds, which, combined with the black market in illicit currency transactions, meant a tremendous amount of waste and inefficiency accompanying our presence in Vietnam.

I do not have the figures for the amount of club business conducted in Vietnam within the last few years—although the distinguished acting chairman (Mr. RIBICOFF) mentioned $750 million annually in the open mess business alone, which I assume is on a worldwide basis. The figures I received from the Defense Department indicate, however, that there were 2,720 Army-Air Force operated post exchanges in Vietnam, presumably in 1970, and that the overall income was $440,591,000, with a profit of $46,586,000 for 1 year.

Thus, the mismanagement, coupled with the fraud and corruption that occurred in the operation of these nonappropriated fund activities, have not only hurt the GI, for whom they were intended, but they have been an important part of a chain of needless monetary expenditures that have accompanied American troops overseas, particularly in Vietnam.

OBSERVING CONDITIONS AT FIRSTHAND

While traveling in Vietnam, one can easily understand how these sordid conditions came about. At the same time, however, it is hard to understand why our Military Establishment—the Army, in particular—allowed them to take root.

I am reminded of Col. Edmund Castle, U.S. Army, retired, a witness before the subcommittee. Colonel Castle was the post commander at Long Binh Post from March 1968 until February 1969. He was wounded in a firefight in which he led a small band of headquarters-oriented GI's in courageously holding off a superior attacking force.

Colonel Castle testified that when he arrived at Long Binh Post, he found it to be "a dirty, stinking hole." Security was especially lax and headquarters troops—not noted for their combat expertise—seemed content to head for the nearest bar at day's end. Castle likened the post to a "boom town," stating that as each unit moved in, it brought its own club with it.

With the exception of a few larger clubs, Castle said, most of them were in small or old tropical buildings. Rats were frequently seen running across the floors, sanitation was badly lacking, and food—particularly easy-to-prepare soups and hot snacks—was virtually nonexistent. Storage areas were equally nonexistent. There were no inventories and no central procurement. Club-sponsored, instead of PX-controlled, concessions were everywhere. In effect, said Colonel Castle: "They were nothing more than mere joints."

There were also too many clubs. Colonel Castle counted 30 major clubs where he said 10 would be plenty. In this setting, the deputy chief of staff for personnel and administration approved the minutes of the board of governors' meetings—not the post commander, Colonel Castle. Post facilities were being used for the storage of slot machines and ice machines belonging to a private enterprise, Sarl Electronics—operated by William Crum. The crates that were stored had the Long Binh mess system's address on them.

Colonel Castle called all of these things "most unusual," particularly since this was the largest supply depot in Vietnam and it also was the headquarters for the U.S. Army, Republic of Vietnam—USARV.

Colonel Castle testified before the subcommittee upon relatively short notice and under great physical handicap. Not only do I commend him—as did the subcommittee at the time of his testimony—but I wish that his testimony would be required reading for the officials of our Defense Establishment.

In addition, I was advised by our own staff members that, in the course of visiting the club headquarters for one of our combat divisions that I will leave unnamed, they found a sergeant-custodian operating his office out of a small combined tent and hut. Books and records were haphazardly kept in an unsecured tent away from his office. The sergeant, with a very limited educational background, was busily writing checks—totaling thousands of dollars—to major suppliers in this country, his authority having been "rubberstamped" in advance by the unit's board of governors, composed of other sergeants ostensibly primarily engaged in promoting the war effort. Upon examination of some of that divisional club's correspondence, the staff found that the sergeant, when confronted with bills from suppliers for large orders placed by his predecessor, would reply to the effect that:

> We don't have the necessary funds to pay you right now, but we will handle your account when the funds become available.

In this environment, the William Crum and their associates could move openly, with little semblance of control over their activities being exercised at any level.

I think it should also be pointed out that if senior officers had paid more attention to the advise given to them by their juniors, and then had taken firm stands themselves, a great deal of this chicanery could have been eliminated when first discovered. I am referring more specifically to the diligent actions of the young legal officers at the Port of Saigon, working with Vietnamese customs officials, who "smelled" something wrong with the volume of slot machines, other coin-operated amusement machines, and vehicles belonging to Sarl Electronics that were coming through the port—duty free—consigned to clubs and messes. Although pressured by Gen. Earl F. Cole to release this equipment, they reported their actions to their own commanders, who did nothing about the problem. While the military is steeped in the tradition of the caste system, nevertheless other officers of equal or near-equal rank should not simply have "shrugged their shoulders" when such improprieties on the part of a general officer were being called to their attention by alert, well-educated, junior officers.

GENERALS TURNER AND COLE

The real tragedy of Maj. Gen. Carl C. Turner, the former Provost Marshal General of the Army and, later, the Chief of the U.S. Marshals, in my opinion, was not just that he practiced deception in his sworn testimony before the subcommittee about the number of handguns he had obtained from city police departments, and the purposes for which they were to be used. He also indicated he had withheld the exposure of the actions of the Sergeant Major of the Army, William O. Wooldridge, in an attempt to avoid embarrassment to the Army Chief of Staff, Gen. Harold K. Johnson. General Turner's deceptions proved to be more embarrassing and more undermining to the military structure when the truth ultimately was revealed.

Brig. Gen. Earl F. Cole was the witness who frequently professed that he had done nothing wrong, but who was confronted with sworn testimony to the contrary from about 20 witnesses either in the hearing room or through the introduction of their affidavits into the hearing record. He was precise about the self-serving information that he supplied to the subcommittee but, upon pertinent cross-examination, he stated approximately 200 times that he either "did not recall" or that he "did not remember." The real tragedy of General Cole, in my opinion, is that through his actions, or obstructions, he aided and abetted the very things that he steadfastly maintained that he was trying to prevent and, in so doing, he served to whittle away at the system that he repeatedly maintained he was trying to preserve.

THE U.S. MILITARY

In making these comments, I want it clearly understood that it has not been my intention to suggest anything like a blanket indictment of the military, nor to imply that this report should reflect unfavorably upon the U.S. military forces, particularly the professional soldiers and the young servicemen who have performed so admirably in Vietnam under extremely adverse conditions. This Nation has a military force as fine, as courageous and as dedicated as the world has ever produced. Our defense posture is strong and I believe we should keep it that way.

RECOMMENDATIONS

I think that the "corrective actions" to which our distinguished chairman referred and the proposed legislation, which I have joined in cosponsoring, will go a long way toward remedying the problems that this subcommittee has uncovered. Our recommendations, too, are timely and I will be looking forward to the results of the various studies that we have requested the executive departments to make.

I do not intend to take the time of the Senate to detail these recommendations one by one. Each and every one of them is important. I would like to say, however, that recommendation No. 13, insofar as it pertains to military locker funds, is of special interest to me, and I wish that the subcommittee had been able to look into this subject more closely, although it is quite apparent that we have had our hands full investigating military clubs and messes and post exchanges.

I say this because subcommittee staff members and I interviewed Louis Bernard, manager of the Far East Locker Fund, located in Japan, while we were in Tokyo. This fund, which does the procurement for all alcoholic beverages, except beer, for the Armed Services in the Far East, including Korea, has grown, since the Japanese occupation, to a capitalization of $1 million and to a $6 million year volume of business. These locker funds exist elsewhere in the Pacific area as well as in Europe. Only in Vietnam has the procurement of similar beverages been handled by the post exchange system.

It is interesting to note that Mr. Bernard found Jim Beam whisky to be the most popular brand of bourbon in the Far East among the military forces, although he admitted there was a greater demand for it, as compared with its closest competitor, Old Crow, in the Far East than in the United States. He was at a loss to explain this. He said Jim Beam did offer a greater rebate, but he doubted if this was passed on to the consumer at a club. In fact, he agreed that for a person making a package purchase, the price for Jim Beam and for Old Crow was exactly the same.

Mr. Bernard said that in his 11 years as manager of the locker fund, he could not recall that the board of governors had ever questioned Jim Beam's preferred position either. He did say something about Jim Beam having "aggressive representation at the point of sales," but he never quite explained this statement.

Both Bernard and his assistant, John Doyle, did recall that the Far East Locker Fund—FELF—had received an order from the Vietnam Regional Exchange in March of 1967 for some 3,000 cases of Jim Beam whiskey. Doyle stated that although Vietnam did not specifically ask for Jim Beam, they gave Vietnam a list of what they had and that "it just so happened that Jim Beam, being the largest seller, we had the largest backup stock in our warehouses." They also stated that they thought Col. Jack Ice, who was prominently mentioned in the hearings and in the report, was in charge of the

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Vietnam Regional Exchange at the time the order was placed.

The foregoing is particularly interesting because of the testimony of Mel Peterson, vice president of the International Division of the Jim Beam Distilling Co. Peterson stated that, because of the 3 to 5 month leadtime involved from the time of placing an order at the distillery until its delivery to Vietnam, he had placed an order with FELF in 1967 to stockpile some 3,000 cases for him. Peterson saw nothing wrong in asking his good friend, Bernard, to do this, nor did he see anything wrong in having the nonappropriated fund activity of FELF stockpile the Jim Beam product to satisfy an anticipated market demand from another totally separate nonappropriated fund activity, the Vietnam Regional Exchange. Nor did Peterson see anything wrong with assisting Bernard's son in winning a scholarship to law school from the Blum-Kovler Foundation, even though Harry Blum was a former board chairman of James B. Beam Distilling Co., and Kovler, at the time of the hearings, was the current president of the same corporation.

If that is any indication of the way locker funds are conducted, then it would appear that the subcommittee's work is not completely finished.

CONCLUSION

I think the fact that this work of the subcommittee is a unanimous report is, in itself, worthy of comment. I feel that it has been constructive, objective, and of genuine assistance to both the men and women serving in the various branches of our military services and to the Department of Defense as well.

I have enjoyed working with my colleagues in all of the many phases leading up to this report, and I am looking forward to the future work of the subcommittee as well.

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order, the distinguished Senator from Alabama (Mr. ALLEN) is now recognized for 15 minutes.

Mr. ALLEN. Mr. President, I should like to associate myself with the remarks of my colleagues on the subcommittee in their praise of the distinguished senior Senator from Arkansas (Mr. MCCLELLAN), chairman of the Government Operations Committee of the Senate and chairman of the Senate Permanent Subcommittee on Investigations, for his overall leadership, direction, and wise counsel and also the equally distinguished Senator from Connecticut (Mr. RIBICOFF), who was the acting chairman of the Senate Permanent Subcommittee on Investigations during these hearings on fraud and corruption in management of military club systems and illegal currency manipulations affecting Vietnam. His fairness and objectivity during these complicated and lengthy hearings was inspiring. As a new member of this distinguished subcommittee, it was my privilege to participate in these hearings.

I have been informed that before the formal filing of this report today, various Government agencies have taken substantial remedial action to correct the abuses brought out in the course of these hearings.

In that connection, Mr. President, one of the problems the subcommittee encountered during its investigation of the military club systems in the Far East related to the reluctance of certain foreign companies doing business with the Army/Air Force Exchange Service and the various club systems in Vietnam to make available their financial records to authorized representatives of the Federal Government.

As the subcommittee hearings reflect, three companies, namely, Sarl Electronics, Price and Co., and Century Trading Co., chartered out of Hong Kong, all doing substantial business with the U.S. military in the Far East and under the control and domination of William Crum, were suspected of kickbacks to the U.S. military. Members of the subcommittee staff in June of 1969 were unsuccessful in their attempt to interview the principals of these three companies. Later, letters signed by the acting chairman, Senator RIBICOFF, were hand-delivered to the officials of these companies. These letters requested certain financial records relating to their existing contracts with the clubs and messes in Vietnam and the Army/Air Force Exchange Service. Again these companies refused to cooperate.

I offer this background from the subcommittee hearings, Mr. President, because it was the basis upon which the subcommittee made recommendation No. 6, contained on page 298 of this report. The recommendation reads:

6. The subcommittee recommends that all contracts entered into by a U.S. military nonappropriated fund activity contain a clause asserting that refusal by the contracting company to subject its records to audit and examination by duly authorized military or congressional investigative units could be grounds for automatic termination of the contract. To achieve this end, the subcommittee recommends that the Department of Defense carry out a study to determine the best and most fair manner in which to draft and insert this clause into nonappropriated fund contracts and to report its findings to the Congress in no less than 6 months.

Mr. President, after this recommendation was made, members of the subcommittee staff met with General Counsel of the Army and Air Force Exchange Service to discuss this recommendation. I am pleased to announce, for the first time, Mr. President, that the Army and Air Force Exchange Service has agreed to include an inspection of records clause in all Army/Air Force Exchange Service contracts for services such as agency concessions, vending machine contracts, and construction contracts of $2,000 or more. The clause would be included in fixed-price contracts which contain provisions for, first, price renegotiation, and second, more favored customer price. Failure of the contracting company to subject its records to audit and examination would be grounds for termination of the contract.

This is another significant result of the subcommittee's hearings, in addition to those already contained in the report and placed in the RECORD by the chairman. The Army and Air Force Exchange Service is to be commended for its action in accepting this key recommendation.

In addition, I call to the attention of the Congress the provisions of the four significant legislative measures which have been introduced today by Senator RIBICOFF, and which I am pleased to cosponsor. Enactment of these bills will do much to deter and eliminate certain of the improprieties which were disclosed by the subcommittee's investigation.

I am hopeful also that the other very important and constructive recommendations contained in this report will be adopted and acted upon promptly and firmly by the various Federal agencies involved. Their actions also will go a long way to prevent recurrences of the abuses brought out during our hearings.

AUTHORIZATION FOR PRINTING OF REPORT ON FRAUD AND CORRUPTION IN MANAGEMENT OF MILITARY CLUBS

Mr. MCCLELLAN. Mr. President, I submit a resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 189

Resolved, That there be printed for the use of the Committee on Government Operations one thousand additional copies of a report by its Permanent Subcommittee on Investigations entitled "Fraud and Corruption in Management of Military Club Systems—Illegal Currency Manipulations Affecting South Vietnam."

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCLELLAN. Mr. President, this resolution would authorize the printing of 1,000 additional copies of the report entitled "Fraud and Corruption in Management of Military Club Systems—Illegal Currency Manipulations Affecting South Vietnam." That is the report we filed this morning, which we have been discussing for the last hour. These additional copies will be needed. The demand for them is increasing all the time. If we have them printed now, with the original printing, it will result in considerable saving to the Government. Since there is a known demand for the copies, it is logical to arrange for them now.

This matter has been discussed with the chairman, the distinguished Senator from North Carolina (Mr. JORDAN), and the ranking minority member, the distinguished Senator from Alaska (Mr. STEVENS), of the Committee on Rules and Administration.

This action also has been cleared with the joint leadership.

The ranking minority member of the subcommittee has been notified of this resolution and has approved it.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 189) was agreed to.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may be able to suggest the absence of a quorum, without prejudice to Mr. ALLEN,

the Senator, the recognition of whom was provided for by the order entered on yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, the four speakers who were allotted not to exceed 15 minutes each under the orders entered yesterday did not use the full time. Therefore, I ask unanimous consent that one of those speakers, the Senator from Illinois (Mr. PERCY), may now be allotted up to 5 minutes of that time which has not been utilized thus far.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. I thank very much the distinguished acting majority leader.

(The remarks of Mr. PERCY when he introduced S. 2786 through S. 2790 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. GAMBRELL). Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes.

Mr. GURNEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NATION'S GRAVE FINANCIAL POSITION

Mr. BYRD of Virginia. Mr. President, each day I become more concerned as to the Nation's very grave financial position. I have the feeling that this concern is shared, not in Congress, and I emphasize again, not in Congress, but among individual citizens of our country.

There is, I think, considerable lack of confidence on the part of the people. One indication of that is the steadily declining stock market. Averages dropped 14 points yesterday. The market is now lower than it was prior to August 15 when the President made his statement in regard to the need for a wage-price freeze.

I have the feeling that the people of our Nation sense that something is wrong in Washington.

Mr. President, something is wrong in Washington. Our financial situation is worsening every month and almost every day.

The Federal funds deficit for the fiscal year just ended was $30 billion. The Federal funds deficit for the fiscal year we are now in will be $35 billion. So the Nation has back to back deficits in just 2 fiscal years of $65 billion. That is one reason, in my judgment, and a very substantial reason, why there is a justified lack of confidence in Washington.

QUORUM CALL

Mr. BYRD of Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF LEWIS F. POWELL, JR., ENDORSED BY DELEGATE WILLIAM FERGUSON REID OF VIRGINIA

Mr. BYRD of Virginia. Mr. President, I invite the attention of the Senate to a letter which I received endorsing the nomination by President Nixon of Lewis F. Powell, Jr., of Richmond, as an Associate Justice of the Supreme Court of the United States.

This letter was from Delegate William Ferguson Reid, who represents Richmond and Henrico County in the Virginia General Assembly. Dr. Reid, the first Negro elected to the Virginia General Assembly during this century, said in his letter to me:

I am writing you to endorse the nomination by President Nixon of Mr. Lewis F. Powell Jr. as an associate justice of the U.S. Supreme Court.

Mr. Powell is a man of unquestioned professional and intellectual stature, and I have not found anyone who did not consider him to be a reasonable, fair-minded man.

I would appreciate your expressing my support for Mr. Powell's nomination to the appropriate committee of the U.S. Senate.

Signed by William Ferguson Reid, member of the house of delegates, representing Richmond and Henrico County.

I am pleased to invite the attention of the Senate to Dr. Reid's endorsement of Mr. Powell.

Dr. Reid is an outstanding member of the Virginia Legislature. He is a highly respected citizen of his community. He has had a close association with Lewis Powell. He knows him well.

I think it appropriate that the Senate should be aware of the high esteem in which Dr. Reid holds the new Supreme Court appointee. Dr. Reid, himself a reasonable and fairminded man, recognizes such qualities in Mr. Powell.

I concur in Dr. Reid's appraisal of Mr. Powell.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HUGHES) laid before the Senate the following letters, which were referred as indicated:

REPORTS OF OFFICERS ON DUTY WITH HEADQUARTERS, DEPARTMENT OF THE ARMY

A letter from the Secretary of the Army, transmitting, pursuant to law, reports on the number of officers on duty with Headquarters, Department of the Army and detailed to the Army General Staff, as of September 30, 1971 (with accompanying reports); to the Committee on Armed Services.

SUSPENSION OF DEPORTATION OF AN ALIEN

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law an order suspending deportation in the case of Mary N. Jones, formerly Mary N. Mettri and also formerly Mary N. Allen (with accompanying papers); to the Committee on the Judiciary.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation (with accompanying papers); to the Committee on the Judiciary.

REPORT ON ALCOHOLISM AMONG MILITARY PERSONNEL

A letter from the Comptroller General of the United States, transmitting, at the request of the Chairman of the Subcommittee on Alcoholism and Narcotics, Senate Committee on Labor and Public Welfare, a report on alcoholism among military personnel (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED AMENDMENT OF UNITED STATES CODE, RELATING TO ADOPTED CHILD

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to amend chapter 83 of title 5, United States Code, relating to adopted child (with an accompanying paper); to the Committee on Post Office and Civil Service.

PETITIONS

Petitions were laid before the Senate and refered as indicated:

By the ACTING PRESIDENT pro tempore (Mr. HUGHES):

The petition of Alberta Biedenborn, relating to the matter of public education; to the Committee on Labor and Public Welfare.

The petition of Mrs. Charles M. Buehl, relating to the matter of public education; to the Committee on Labor and Public Welfare.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. HUGHES) on today, November 2, 1971, signed the enrolled bill (S. 30) to establish the Arches National Park in the State of Utah, which had previously been signed by the Speaker of the House of Representatives.

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REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MANSFIELD, from the Committee on Appropriations, with amendments:

H.R. 11418. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes (Rept. No. 92-419).

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs, without amendment:

S. 2781. A bill to amend section 404(g) of the National Housing Act (Rept. No. 92-420).

By Mr. HART, from the Committee on Commerce, with amendments:

H.R. 5060. An act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft, together with supplemental views (Rept. No. 92-421).

By Mr. HATFIELD, from the Committee on Interior and Insular Affairs, with an amendment:

S. 1977. A bill to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes (Rept. No. 92-422).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations and a treaty were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

William D. Eberle, of Connecticut, to be Special Representative for Trade Negotiations, with the rank of Ambassador Extraordinary and Plenipotentiary;

Fred J. Russell, of California, to be Ambassador Extraordinary and Plenipotentiary to Denmark;

Donald B. Easum, of Virginia, a Foreign Service officer of class 1, to Ambassador Extraordinary and Plenipotentiary to the Republic of Upper Volta;

Richard W. Murphy, of Virginia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary to the Islamic Republic of Mauritania;

L. Dean Brown, of the District of Columbia, Nathaniel Davis, of New Jersey, Hermann F. Eilts, of Pennsylvania, Joseph A. Greenwald, of Illinois, Philip C. Habib, of California, Joseph J. Jova, of Florida, and Sheldon B. Vance, of Minnesota, foreign service officers, for promotion from class 1 to the class of career minister; and

Burnett F. Anderson, of New Jersey, and Miss Barbara M. White, of Illinois, foreign service information officers, for promotion from class 1 to the class of career minister for information.

By Mr. MANSFIELD (for Mr. FULBRIGHT), from the Committee on Foreign Relations, without reservation:

Executive J, 92d Congress, first session, Agreement Between the United States of America and Japan Concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo on June 17, 1971 (Executive Rept. No. 92-10).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF (for himself, Mr. MCCLELLAN, Mr. PERCY, Mr. JACKSON, Mr. GURNEY, and Mr. ALLEN):

S. 2782. A bill to provide for the review by the General Accounting Office of nonappropriated fund activities within the executive branch of the Government; Referred to the Committee on Government Operations.

S. 2783. A bill to establish a commission to study and evaluate the financial and social benefits received by active and retired members of the Armed Forces of the United States for nonappropriated fund activities; and

S. 2784. A bill to establish within the Department of Defense an office of Inspector General for the purpose of investigating malfeasance and misfeasance within all branches of the Armed Forces of the United States. Referred to the Committee on Armed Services.

S. 2785. A bill to prohibit the unauthorized acquisition, collection, or transfer of confiscated or contraband firearms by Government employees. Referred to the Committee on the Judiciary.

By Mr. PERCY:

S. 2786. A bill to provide credit sales and guaranties of military equipment and services to Israel;

S. 2787. A bill to provide assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan;

S. 2788. A bill to provide contributions to the United Nations development program;

S. 2789. A bill to provide contributions to the medical research programs of the World Health Organization; and

S. 2790. A bill to provide contributions to the United Nations Children's Fund. Referred to the Committee on Foreign Relations.

By Mr. TAFT (for himself and Mr. CRANSTON):

S. 2791. A bill to provide assistance to other nations in undertaking population control programs. Referred to the Committee on Foreign Relations.

By Mr. HARTKE (by request):

S. 2792. A bill to provide for the establishment of a national cemetery at Sylmar, Calif. Referred to the Committee on Veterans' Affairs.

By Mr. HARTKE (for himself, Mr. TALMADGE, Mr. THURMOND, and Mr. HANSEN) (by request):

S. 2793. A bill to amend title 38 of the United States Code to modify the provisions relating to payment of pension, and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 2794. A bill to amend the National Flood Insurance Act of 1968 to increase flood insurance coverage of certain properties, to authorize the acquisition of certain properties, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. NELSON:

S. 2795. A bill to take over a project in the State of Wisconsin pursuant to section 14 of the Federal Power Act. Referred to the Committee on Commerce.

By Mr. MCGOVERN:

S. 2796. A bill to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. BENTSEN:

S. 2797. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation; and

S. 2798. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. EAGLETON:

S. 2799. A bill to provide for the donation of surplus food commodities to local penal and correctional institutions, and for other purposes. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY:

S. 2786. A bill to provide credit sales and guaranties of military equipment and services to Israel;

S. 2787. A bill to provide assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan;

S. 2788. A bill to provide contributions to the United Nations development program;

S. 2789. A bill to provide contributions to the medical research programs of the World Health Organization; and

S. 2790. A bill to provide contributions to the United Nations Children's Fund. Referred to the Committee on Foreign Relations.

Mr. PERCY. Mr. President, I am introducing today five bills that I consider extremely important to the Nation and to the world. These five bills would provide for foreign assistance now not authorized because of the failure of the Senate to approve a foreign aid bill. I do not yet know, as a result of the deliberations of the Committee on Foreign Relations, what procedure they will use; but, in the interest of evidencing my deep concern about certain aspects of the foreign aid bill I am introducing these five specific pieces of legislation.

The first bill would provide credit sales and guarantees of military equipment and services to Israel up to the amount of $350 million. It would be unthinkable to me that at this stage we could even think of having the Senate go back home for its holiday season without having fully discharged our responsibility to provide such measure of support as we can provide through credit sales and guarantees for adequate military equipment and supplies for the State of Israel, in order to insure the balance of power in that area and to insure Israel's security.

They are not asking for manpower. They are asking for credit and assistance and help, the type that we simply could not refuse under the present circumstances in that area. It is for this reason that I introduce this bill today.

The second bill is to provide assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan, up to an amount not to exceed $250 million.

Mr. President, it would be unthinkable to me that, with the international problem faced by the world today in Pakistan and India, as a result of 9 million or more refugees having fled their homes in East Pakistan, we would not bear our share of this responsibility.

For 25 years we have done what we can, through $9 billion of economic assistance to India, to support this democracy in its struggle for survival. As this process has been evidencing success, it would be unthinkable today for us, at this time of tremendous need, in this region so important to world peace, to not help relieve the burden of pressure that India feels in its budgetary process directly as a result of the influx of refugees.

It is estimated that, by the end of the year, there may well be more than 10 million refugees and that the cost may exceed or be approaching $1 billion a year for the maintenance of those refugees. For the United States to abdicate its responsibility—to be a world drop-out—would be unthinkable.

The third bill is one to provide $100 million for the United Nations development program.

At this point, I ask unanimous consent to have printed in the RECORD the remarks of Paul G. Hoffman at the Second Committee of the General Assembly of the United Nations, which constitute his farewell address.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

NO TIME LIKE THE FUTURE

Mr. President: Fifteen years ago, in the fall of 1956, I joined this second committee of the General Assembly as a Representative of the United States of America. On the basis of many discussions with my fellow members from the developing countries, I came to believe strongly that the underlying cause of poverty in the low-income nations was *not* a lack of resources. Rather it was a failure—a *tragic* failure—to realize the potentials of the natural wealth and human talents at the disposal of those countries. It seemed to me, therefore, that there was urgent need for a large-scale programme specifically designed to help the developing nations make progressively better use of their vast latent power to speed their own progress.

The members of the second committee agreed that such an action programme *was* essential. They appointed a sub-committee which worked diligently and creatively for some two years to determine just how this type of technical cooperation could best be moved from concept to reality. They decided that a new United Nations agency was called for, and recommended the creation of the special fund. Among others, Ambassador Henry Cabot Lodge became interested—more than that, he became enthusiastic—about the approach the special fund represented. And he persuaded the United States of America to pledge that it would contribute *one* dollar for every *two* dollars that might be raised for such a programme from all other sources.

Mr. President, in 1958, on this very same fourteenth of October—precisely four thousand, seven hundred and forty-eight days ago—the United Nations General Assembly, by Resolution 1240, officially established the proposed special fund. I give the exact number of days which have elapsed since the passage of Resolution 1240, because the basic meaning of everything that has been accomplished by the special fund—and its successor, the UNDP—is to be found in the impact of our work *on daily* human lives. Development *planning* must often take the perspective of years and decades. But development *progress* must gain momentum day by day. For people—and it is people and their human needs that concern us here—must be able to see, and sense, and take hope from perceptible changes for the better in their lives.

In fact, when Secretary-General Dag Hammarskjold invited me to become managing director of the special fund, I accepted out of a deep-seated conviction that at least *three* fundamental changes were needed in world affairs. First, I believed that there had to be a change in the old ways of peacemaking and peace-keeping—since such traditional methods as maintaining a balance of power, creating spheres of influence or building alliances and ententes had proved to have dangerous and sometimes fatal weaknesses. Thus I saw the potential role of the United Nations—based as it was on the principle of collective security—as being supremely important.

But I was also convinced that if the United Nations did not function in ways substantially different from those of the League of Nations, it, too, would fade into formalized futility. Specifically, I felt that the United Nations must be made as directly relevant as possible to the daily lives and future hopes of all the world's peoples. And since there was such desperate need—in everyone's interest—to help speed the economic and social progress of the world's low-income countries, it seemed clear that a major U.N. role in that effort would do much to give the organization this life-sustaining relevance.

Finally, I felt that some fairly radical changes were called for in the development process itself. As I indicated earlier in these remarks, I believed that such changes must focus on a better and fuller utilization of low-income country resources. For example, the low-income countries obviously required large-scale capital investments—both domestic and external—to finance urgently needed and often quite costly improvements in agriculture, industry, infrastructure and other economic sectors. Yet they could not realistically count on a long-term continuation of these capital flows, unless they could accurately identify and assess those natural resources that were truly investment-worthy. For while, as I have noted, it seemed clear in 1959 that the low-income countries *did* possess vast untapped natural riches, their location generally remained to be tracked down and their specific usefulness in the complex development process remained to be discovered.

Then, again, the people of the low-income countries had to be helped to acquire the skills and knowledge which would allow them to assume control of their own development and—particularly—of the domestic resources for fueling that development. Only in this way could these countries become fully independent both economically and politically—and take their rightful place as full members of the world community.

Finally, if either of these new directions were to be followed with any real hope of success, the low-income countries would have to acquire the scientific and technological capabilities that are essential both for creating economic wealth and for using it to advance human well-being.

This interlocking pattern—which soon came to be known as "pre-investment and technical cooperation"—was not only somewhat experimental but also a bit paradoxical. On the one hand, because pre-investment was a rather indirect approach, it could not be expected to produce such rapid short-term results as could, for example, the direct provision of capital. On the other hand, it seemed the surest path to long-*term* progress—progress that would have steadily growing momentum and lasting impact because it was based on the *internal* growth resources of the developing countries themselves rather than on perpetual injections of outside stimulants.

Mr. President, many events that have taken place since I assumed my first United Nations post have strengthened the convictions I held at that time. With regard to peacekeeping, for example, when governments have provided the UN with the support required to do the job, the organization has compiled a far more constructive record than is generally appreciated. In fact, to borrow a phrase from the national sport of my own country, its batting average in this regard is better than that ever registered by any other peace-keeping mechanism. Moreover, the UN has acquired matchless facilities for quiet diplomacy, for conciliation, for relieving tensions through public dialogue or debate, and for constabulary action. These capabilities, if allowed their full potential scope, would make our organization what the peoples of the world originally dreamt it would be—the eventual guarantor of a world without war.

It can also fairly be said that the UN's involvement in efforts to realize another great human dream—the dream of a world without *want*—have strengthened all aspects of the organization. Although its economic and social activities have been quantitatively modest, they have made the UN newly relevant to more than a hundred governments and to hundreds of millions of people. Thus, the United Nations' future now rests on a far firmer base than that ever possessed by any previous international organization.

A prime reason for this, of course, is the fact that on balance the development efforts of the United Nations family have largely met the expectations with which they were undertaken. Speaking of the UNDP alone, its cooperation with low-income countries all over the world has already helped rewrite our planet's catalogue of such vital natural resources as arable land, water for irrigation and power production, industrial minerals, conventional and exotic fuels, and the varied wealth of the oceans. Moreover, the projects that uncovered these resources, and others aimed at evaluating low-income country opportunities for productive commercial enterprises, have helped to stimulate five thousand million dollars of follow-up investment capital.

In addition, well over six hundred thousand men, women and young people of the developing nations have been locally trained in the skills required for exploiting domestic resources to produce domestic benefits. Because much of this training work involves the teaching of teachers and the instructing of instructors, new knowledge and new abilities are multiplying themselves and spreading very widely from small core-groups.

The achievements of UNDP-assisted institutes for applied technical research cannot, naturally, be quantified in the same statistical fashion. Nevertheless, there is ample evidence that this work has appreciably strengthened the technological muscle of the developing nations. What is happening here is not a mere transfer of technology from the industrialized to the low-income countries. It is an organic adaptation and root-taking process—in the course of which, incidentally, some new technologies are springing up which may find an even fuller flowering as they are re-seeded in the wealthier countries to whose problems they are also applicable.

One example which immediately comes to mind, is the use of saline water for irrigation. The rather fascinating story of that project is told in the portfolio entitled "In a Real and Vital Way" which I have had the privilege of providing to the members of this committee. And that portfolio presents only a minute part of the indisputable evidence that multilateral pre-investment and technical cooperation is no longer experimental but essential.

Beyond these tangible accomplishments, there are a number of intangible gains which merit mention here. The special fund, and later the UNDP, have used their resources to help finance and coordinate the field activities of the UN's Department of Economic and Social Affairs and of sixteen other international agencies affiliated with the UN family. In this way the UN system has made available to the low-income countries development wisdom and experience from every part of the world—including the hard-won practical know-how of the developing countries themselves. We are proud that one third of the experts serving abroad under UNDP programming and financing come from low-income countries that are receiving UNDP assistance.

The UNDP's participating agencies, for their part, have not only restructured themselves individually for effective development work in the field. They have also made re-

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markable progress towards welding themselves into an integrated development system which—though by no means fully perfected—is already unique in the annals of international and inter-organizational cooperation.

Furthermore, in 1958, the United Nations needed a greatly expanded field development network—because development is a grass-roots matter which cannot be successfully masterminded from a detached and lofty distance. I take particular satisfaction from the fact that, starting with twenty-eight resident representatives of the technical assistance board, the UNDP now has almost one hundred full-time, local and regional offices. All of these, today, have great responsibilities and great opportunities to function as leaders of the most experienced development coalition the world has ever known. Moreover, through its field offices, our UN development system can maintain direct and intimate contact with the needs, opportunities, activities and aspirations of the low-income countries we serve.

I would not lay claim, Mr. President, to a record of total success. We have experienced a number of serious problems and shortfalls affecting, on occasion, the quantity, quality and rapidity of our response to low-income country needs. As this committee knows, at the June 1968 meeting of the UNDP's governing council, I asked that council to authorize the undertaking of what was called a "capacity study". This study aimed at providing recommendations for so restructuring the UNDP that it would be able—with normal evolutionary changes—to handle a $1,000 million programme by 1976, with approximately half the resources for such a programme coming from the recipient countries. Such restructuring was necessary because of a four-fold growth in services rendered by the UNDP over the years since 1959, and an even greater growth in the diversity and depth of those services.

On the basis of the capacity study, of the UNDP's own experience, and—above all—of the work undertaken by our governing council, a consensus on restructuring was reached. To the best of our ability, the changes recommended in that consensus have been fruitfully carried out. We have established four regional bureaus, a bureau for programme coordination, and a bureau for policy planning. This latter bureau is concerned with evaluating our programme's progress and effectiveness, and with providing long-range guidelines on new directions the UNDP might take. It also serves the advisory panel on programme policy, whose members include some of the most distinguished experts in the entire development field. Working under the chairmanship of Mr. David Morse, this panel searches for the best means of helping developing countries to cope with such pervasive and critical problems of unemployment, malnutrition, the population explosion and the relationship between development and environmental protection through new and more adequate forms of technical cooperation. The panel reports its findings to the administrator who, in turn, submits them to the inter-agency consultative board and then—if appropriate—to the governing council for action.

To sum up in a very few words what has happened since 1959, our programme has not only grown in the size and scope of its activities. It has not only evolved a new physical and operational structure. It has also, I believe, become continuously more knowledgeable about the staggering dimensions and unbelievable complexities of the development process and continuously more flexible and innovative in meeting the demands of that process.

In this connexion, Mr. President, I have mentioned some truths that seemed clear to me when I became managing director of the United Nations Special Fund. But there were also many truths which I did *not* then clearly see and quite a number which I didn't see at all.

To begin with, it was common knowledge in 1959 that both gross national products and individual productivity rates throughout the low-income countries had to be greatly and rapidly increased. Sophisticated development thinkers also perceived the necessity for establishing production priorities—so that, for example, industrialization would have an adequate agricultural base, and so that there would be some kind of division of labour among the various low-income countries in their productive output. But at that time few, if any, had grasped the essential truth that a more equitable *distribution* of both the means of production and of newly produced wealth was equally essential. In fact, only lately have we come to realize that this and other types of social reform are not only moral and political imperatives, but vital incentives to productivity itself. For it is a simple human truth that no one can or will work hard or well for long, unless he is rewarded with an adequate income and adequate opportunities for a life of decency and dignity.

This brings me to one of the most acute dangers which we did not foresee at the start of the 1960s—the crisis of unemployment that now casts so dark a shadow over the 1970s. Hundreds of millions are already jobless or underemployed throughout the developing countries, and—because of the population upsurge—their numbers are constantly climbing. This is a mainspring of social unrest and even of violence. It shackles national productivity. Worst of all, it rots the human spirit in as deadly a way as disease ravishes the human body. Unemployment and underemployment are twin plagues which must be overcome—and this may well turn out to be the number one priority of the second development decade.

Considering the problem of health in more literal terms, I also did not fully appreciate, in 1959, the direct relationship between health improvement and economic growth. Healthy people can produce more than they consume. Sick people consume more than they produce. And while major improvements in disease prevention and medical treatment have been realized by the low-income countries, this remains a major problem area.

In 1959, it was also difficult to detect the symptoms of the urban breakdown that now threatens so large a part of the developing world. Going almost equally unchecked was the deterioration of the countryside which has proved to be a major cause of many troubles afflicting the cities. Now, it is glaringly apparent that new ways must be sought to reduce urban overcrowding by making it possible for people to earn a decent living and live a decent life in rural areas. The "green revolution" is evidence of the contribution that applied agricultural research can make to solving this problem. But further research must be carried out, and the results even more widely applied, so that the benefits of the green revolution will grow, and expand their impact to increasing numbers of people in ever larger parts of the world. Greater agricultural productivity is, of course, only one of many changes which must take place if rural life is to be a better life. Education must be oriented to specific rural needs. Industrialization must be decentralized to rural areas. Above all, the will to modernize and the willingness to accept change must be invigorated.

Again in 1959, many of us fell short of fully understanding the fact that a revolution was needed in all areas of education and training. We knew, of course, that the illiterate and the unskilled were numbered in the hundreds of millions. But we did not realize the vital importance of closely orienting education and training to the demands of development itself. Nor did we truly appreciate that this orientation had to be accomplished without neglecting cultural needs, or smashing supportive cultural patterns. For man not only does not, but cannot, live by bread alone.

The overwhelming impact of the population explosion was also only dimly felt at the start of the 1960s. Now, however, we know that the war against poverty and poverty of opportunity simply cannot be won so long as masses of unwanted children continue to be born into a world that cannot adequately feed, clothe, house, and school them—or, even give them the loving care which is as essential to their healthy growth as having enough to eat.

A further problem which we sensed—but about which we were too little concerned a decade or so ago—was the problem of protecting our planet's environment and conserving its resources. For this, I have less excuse than most, since it was two of my own countrymen—President Theodore Roosevelt and Governor Gifford Pinchot—who over sixty years ago first sounded the environmental alarm. The clamour of that alarm is today almost deafening—and for very good reason. We have used up this planet's natural resources at a frighteningly reckless rate. We have so polluted the atmosphere, the water and the soil that with almost every breath of air and every bite of food, we also too often ingest an assortment of environmental poisons.

Yet I firmly believe, Mr. President, that there is *no* irreconcilable conflict between development and environmental protection. Quite to the contrary, they can and must be mutually supportive. I would like to dwell briefly on this point because it is rightly of such great public concern.

First of all, increased productivity is necessary for providing both the financial and the technical resources to undo the environmental damage that has already been done. Second—and here the work of the UNDP provides confirming testimony—development properly carried out is a *means* of resource improvement and conservation. In fact, our projects of land irrigation, soil improvement, reforestation, fishery development, hydro-electric and geothermal power production and urban planning are environment-oriented by their very nature. Third, the new earth resources satellites which will soon be orbiting our planet, are equipped both to locate new resources, and to detect the early signs of resource damage or depletion. This is another example of the potential marriage between development and conservation, with technology as the beneficient broker.

Furthermore, I have read some recent research reports which throw an interesting light on this entire situation. From this research, it seems probable that our growing pollution problems are *not* primarily caused by excessive growth in production. A more basic reason may be that we are turning out *new types* of goods, and using *new types* of productive methods which are highly pollution prone. It has been suggested, therefore, that one way in which the pollution crisis can be substantially eased is through an increased use of such renewable, natural substances as wood, rubber and animal fibres. I find, this suggestion intriguing because, for obvious reasons, it would offer the low-income countries significantly better opportunities in international trade.

There is another truth about the development process which was perhaps not sufficiently recognized in 1959. This has to do with the importance of building a network of global trading relationships in which the low-income countries can make their essential contributions to a healthier global economy—and through which they can earn increasing amounts of the capital they need for modernizing their productive machinery. To this end, the wealthier countries must make concessionary adjustments in both their tariff barriers and their import quota systems—since these present "rules of the game" put most of the low-income countries at an unfair and insuperable disadvantage in the international market place. As a by-product, they also perpetuate today's globally distorted patterns of international trade, and prevent a truly rational division of productive labour. For their part, however, the developing countries must not so over-protect their domestic industries as to keep production costs at levels which would both limit domestic consumption and prevent a sizable growth in exports. This kind of export growth is essential to the low-income countries—as I have just suggested—since it constitutes their primary means of earning foreign exchange. In short, a delicate balance must be struck that will serve the interests of both the low-income countries and the entire global economy—a difficult, but surely not unattainable, goal.

One step toward reaching it would be the provision and use of external aid in ways that would more directly help the developing countries to strengthen their trading capabilities, both with each other and with the rest of the world. A growing number of UNDP supported projects are devoted to this end—as well as to helping the low-income nations increase their earnings from such so-called "invisibles" as the tourist trade. Might I also add my voice to that of the under-secretary-general for economic and social affairs, Mr. Philippe de Seynes, who so eloquently expressed to this committee the need for the current re-examination of world fiscal policies to take into account the requirements of the low-income countries—not as a peripheral matter but as part of the vital centre.

Finally, and of great importance, I did not adequately appreciate the role that a stable government—and a centralization of development responsibility—play in the development process. Unless such responsibility is accepted at the very highest levels—by a prime minister, or a single member of his cabinet, or a central planning authority—progress will be unnecessarily slow and erratic. At the same time, experience has also demonstrated the importance of *popular* participation in planning, as well as in carrying out, development activities. For there is a direct link between the degree of participation and the depth of motivation.

Mr. President, the list of problems I have just cited would seem enough to stagger the stoutest of heart—even though that list is by no means all-inclusive. Yet, there is another—and I think fundamentally more valid—way of reacting to this roster of difficulties. For the problems we face today are essentially *not* new problems. They were present, at least in embryo, long before the start of the 1960s. The fact that today we can and do recognize these problems is to me a source of great encouragement. For it is a matter of historical record that the gravest political and economic crises which have confronted the world in the twentieth century came to a head because men could not see, or would not face, their basic causative factors. The other side of the coin is equally a matter of record. Whenever we recognized our dangers and defined their dimensions accurately, we have always been able to cut them down to manageable size. In many cases, we have even been able to convert them into opportunities for progress. In short, while the 1970s are pregnant with possible disaster, these same years can also give birth to both a far more livable world and a far better way of life for all its people.

But if this is going to happen, certain economic, political and social conditions must be met. In the political field we must ease international tensions, thus creating a climate which will permit us to reduce our present obsession with armaments to a more realistic level based on actual security needs. It simply mocks reason that the wealthier nations are devoting some two hundred thousand million dollars every year to building their defense capabilities, and less than fifteen thousand million dollars to helping their poorer next-door neighbours combat the poverty and poverty of opportunity which are major sources of international tension.

At the same time, we must also move rapidly toward a goal which may now be unattainable in the political sphere but is quite feasible in the economic. For while it may take nations a long time to learn how to stop shooting, or even shouting, at one another, they can surely come to terms with the fact that—from an economic standpoint—our planet is no longer many worlds. Actually, it is very close to being one *one* world—and all our economic policies must be shaped in conformity with this growing interdependence.

I can attest to the feasibility of that aim on the basis of my personal experience as administrator of the European Recovery Programme. It has been quite rightly said that there are vast differences between the Marshall Plan and our current development efforts, because the one dealt with the basically simpler problem of reconstruction while the other involves the much more difficult business of building from the ground up. Yet if the methods were different, some of the goals are very much the same. So, too, can be some of the end results.

Specifically speaking, the integration of Western Europe's national economies and the eventual creation of a European Common Market were indispensable prerequisites for progress toward recovery. That integration moved rapidly ahead and the common market came into being. Not only did this help stimulate an almost miraculous economic growth in the participating countries, it also welded their economies so tightly and complexly together as to make it highly unlikely that war can ever again erupt between those nations of Europe that were long traditional enemies. In the same sense, a *globally* integrated economy—one in which the richer and the poorer countries both contribute and receive as equal partners—is a prime prerequisite for tomorrow's development progress. And to the extent that we do create this one economic world, we shall also build an irreversible momentum towards world peace.

I think I can add, Mr. President, without being accused of self-serving, that an important part of this progress toward economic globalism must be a substantial strengthening and expansion of multilateral development programs. Every survey made of today's development scene agrees on the need for increasing the ratio of multilateral to bilateral assistance, from its present level of approximately ten per cent to between 20 and 25 per cent.

As regards the UNDP, let me take this opportunity to make a final restatement of our need for increased resources. It is true that voluntary pledges have grown from some 54 million dollars for 1959 to some 240 million dollars for 1971. But that 240 million dollars, in my view, represents just about half of what the developing countries require and could absorb from the UNDP system—and about half of the amount which that system is rapidly equipping itself to dispense with full effectiveness. Thus, I should like to express once again my fervent hope that—by no later than 1976—voluntary contributions to the UNDP will reach the 500 million dollar level.

To these political and economic considerations, let me add a brief word about the need for new *social* approaches. As I have already said, extensive social reform is essential to permit a much wider distribution of wealth and a much greater equality of opportunity than most of the world's people now enjoy. But there is another type of social reform which I consider no less imperative. By this I refer to the need for more mature and far-sighted approaches to the use of technology.

Frankly speaking, the way we have handled technology resembles far too closely the way that the sorcerer's apprentice in the fairy tale tried to employ powers which he did not understand and could not fully control. Far too much of our technological wizardry has been devoted to creating unspeakably frightful weapons. Far too much of it has also been heedlessly employed for exploiting the earth's resources, rather than for rationally using and continually replenishing them. And far too much of our technology has been applied without due consideration for its impact on the human spirit, on our cultures and on our ways of life. As a result—while technology has made it possible for hundreds of millions of people to improve their material conditions—our planet is in many ways becoming a more dangerous and less humanly satisfying homesite for the entire race of man.

In view of this trend, we must make a clear-cut decision. Either we take fuller control of our technology and consciously turn it to more humanistic ends, or eventually our technology will control and completely dehumanise us.

As I appear before you for the last time, Mr. President, I will take the liberty of saying a very few personal things that I have long wanted to say. The days of my involvement with development have been among the richest, the most fulfilling, and the most gratifying of my life. They have been enriched by invaluable associations with men and women of good will from every part of the world. They have been fulfilling because my work has been more absorbing, more challenging and more interesting than anything I have ever done or could even imagine doing. And they have been gratifying because I have had the chance to see that progress toward a better world is in fact being made. That progress is far too slow—and it is appalling to contemplate the fact that in large parts of our planet poverty and poverty of opportunity still kill and permanently cripple quite as many people as would be killed or permanently crippled in a conventional war. Nevertheless, conditions are demonstrably better in several respects than they were ten years ago. Beyond this, there is a visibly growing momentum in both the development process, and the process of international cooperation for development. If we take full advantage of our opportunities to accelerate that momentum, we can create a future quite unlike any time that ever was before. We can build the first truly humanistic society in all of human history—a society in which the great majority of men, women and children can find personal happiness, personal fulfillment, personal meaning and purpose in the days and years of their lives.

May I close by saying that major credit for whatever may have been accomplished by the United Nations Development Program belongs to Secretary-General U Thant. He is not only intellectually but emotionally concerned with speeding development progress for he comes from a poor country, and poverty is something he has seen and lived with. His unfailing encouragement and support for our program has been one of its strongest moving forces.

I would also be remiss if I did not place on the record here the great contributions made by my present and former associates in the UNDP—the headquarters staff, the field staff, the international experts and their national counterparts. I only wish that I could name every one of them, for these many thousands of men and women—who have been called the U.N.'s ploughshare armies—deserve to be personally known for their deeds and their dedication. I am sure

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that my successor will be supported with the same high competence and unswerving loyalty that has always characterized the U.N. development family. And I am equally sure that this committee will be the same wise and generous source of strength for the UNDP's new administrator that it has always been for me.

My warmest thanks go to both the present and past members of our program's governing council. Through the years, they have shown continuing evidence of their deep concern for development. And they have translated this powerful feeling into effective practical action by the enlightened guidance they have provided to the program's administration.

Very shortly I shall step down from the post I have held for four thousand, seven hundred and forty-eight days. But I shall never step away from the convictions that brought me to that post, or from a concern about the future of development. For, Mr. President, I regard development as one of the greatest causes to which mankind has ever devoted itself in all its long history—a cause which the future may reveal as the seedbed for a flowering of human well-being that could cover the face of this planet.

Mr. PERCY. Mr. Hoffman is one of the most gifted and dedicated Americans who has ever served an international organization. For more than 10 years he has helped guide the destiny of the Second Committee and the Special Fund of the United Nations.

As Mr. Hoffman indicated in the concluding portion of his remarks:

It is appalling to contemplate the fact that in large parts of our planet poverty and poverty of opportunity still kill and permanently cripple quite as many people as would be killed or permanently crippled in a conventional war.

Clearly, his remarks indicate the dramatic progress made with American assistance to help the other developed nations in the world help the developing portion of the world to close the gap. Certainly, his remarks give solid evidence as to the investment nature of the contribution we would make for development through the United Nations.

Mr. President, the fourth bill I offer is a bill to provide for $312,000 for a contribution to the medical research program of the World Health Organization.

For the United States not to participate in this program of such importance to world health would be, to me, an unthinkable act on our part.

Mr. President, lastly, I offer a bill to provide for $13 million for a contribution to the United Nations Children's Fund.

At this time in world history, for the United States with more than a trillion-dollar economy—just having expended $130 billion in Vietnam, and with a defense budget that exceeds $70 billion—to say that we cannot afford it, or that we will abdicate our responsibility to contribute $13 million to the United Nations Children's Fund again would be an unthinkable and an unconscionable act by the United States.

Certainly the Senate did not intend that by its vote of protest against the foreign aid bill. There are certain measures in the bill that can be improved, things included that should be omitted and things that were not included that should be included; but let us work the will of the Congress and the Senate in finding a way, certainly before we go home for the Christmas holidays, for the Senate to fulfill its responsibility and its obligation.

I know that the Senate will fulfill and meet that obligation.

I thank the distinguished acting majority leader for yielding me this time.

By Mr. TAFT (for himself and Mr. CRANSTON):

S. 2791. A bill to provide assistance to other nations in undertaking population control programs. Referred to the Committee on Foreign Relations.

Mr. TAFT. Mr. President, I am sure that none of us need to be reminded that the world's population is expected to double to over 7 billion people by the year 2005. An increase of this magnitude will present not only problems of hunger and starvation but in addition will generate social, political, and economic problems of untold dimension.

When I was a Member of the House, I was able to secure earmarking for funds for international programs of population control. Last week I offered an amendment to the foreign aid authorization bill that would have earmarked $125 million for each of the fiscal years 1972 and 1973. This amendment was accepted but with the defeat of the foreign aid authorization bill, American support for world population control has been undercut.

In fiscal 1967 without any earmarking provision the total amount spent on population control programs was only $4.4 million. In 1968 with earmarking of $35 million arising from my amendment in the House Foreign Affairs Committee, the total expenditures increased to $34,750,000. For 1969 with earmarking at $50 million total expenditures increased to $45,444,000. For 1970 earmarking was raised to $75 million and expenditures went to $74.5 million. In 1971 the earmarking was $100 million and total expenditures were approximately $96 million.

I today introduce for appropriate reference a bill to provide $125 million for fiscal 1972 and $150 million for fiscal 1973. I am pleased that the distinguished Senator from California (Mr. CRANSTON) joins me as a cosponsor of this measure.

The effectiveness of these programs has been well documented. The following tables, prepared by the Agency for International Development, Office of Population, indicates the effective manner in which these funds have been utilized:

SELECTED MEASURES OF FAMILY PLANNING PROGRAM PERFORMANCE

EQUIVALENT DOLLAR EXPENDITURE PER ELIGIBLE COUPLE

Country	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970
Coverage:										
Chile				0.17	0.31	0.79	0.75	1.22		
India	0.04	0.07	0.07	.12	.22	.23	.43	.47		
Korea		.10	.17	.32	.39	.70	.73	1.00		
Malaysia							.41	.56	0.64	
Pakistan						.35	.56	.76		
Taiwan				.09	.33	.29	.33	.42	.44	
Tunisia								1.13		

PERCENT OF ELIBIGLE COUPLES CONTRACEPTING VIA THE PROGRAM AT ENO OF YEAR

Acceptance:										
Chile				1.2	4.6	7.2	8.8	12.7		
India	0.4	0.5	1.1	1.6	3.0	4.4	6.3	8.1		
Korea		.1	.7	8.1	13.2	18.8	20.4	20.1	23.0	
Malaysia							.9	4.3	7.0	
Pakistan						2.8	7.9	14.0	17.8	
Taiwan				2.3	6.2	8.9	11.4	13.1	14.0	
Tunisia				.3	1.8	3.1	3.4	3.9	5.0	

BIRTHS AVERTED AS PERCENT OF BIRTHS EXPECTED IN ABSENCE OF PROGRAM

Effectiveness:										
Chile					1.3	5.2	8.1	9.8	14.0	
India	0.2	0.4	0.5	1.0	1.5	2.8	4.1	5.9	7.5	
Korea			.1	.6	6.2	10.5	15.2	16.2	15.7	18.1
Malaysia								.9	4.4	7.2
Pakistan							2.3	6.5	11.6	14.9
Taiwan					1.9	4.9	6.8	8.6	9.5	9.9
Tunisia					.3	1.9	3.2	3.5	4.0	5.1

The issue for us must be the quality of human life on this planet. If future generations are not to be crowded together as mice in a cage, we must act decisively to control the world's population.

Overpopulation cannot be measured simply in terms of food supply. In a very real sense overpopulation must be viewed in terms of good air, good water, and open space. As industrialization proceeds around the world, we will be exhausting the world's resources at an ever increasing rate. If the standard of living of the world's people is not to suffer a terrible decline, we must recognize the responsibility of the world's people to control the population on this planet.

The AID program is off to a good start on this program and it would be a tragic thing if we were to allow the foreign aid vote last week to undercut such a vital and important effort.

Mr. President, I have recently received a booklet entitled "Rapid Population Growth," prepared by a study committee of the National Academy of Sciences with the support of the Agency for International Development. This appears to be an excellent document and I ask unanimous consent to insert at this point in the RECORD a portion of the first chapter of that booklet.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN OVERVIEW OF THE PROBLEM

Many people believe, as Malthus did at first, though he later changed his mind, that the numbers of human beings will always increase up to a level set by the available food supply, or by enemies and disease. "Gigantic, inevitable famine stalks in the rear of misery and vice to limit the numbers of mankind." Even though death rates today are lower than they have ever been, and the proportion of the world's human population that is seriously malnourished is probably less than at any time since the Old Stone Age, the belief is widespread that uncontrolled population growth in the earth's poor countries is leading to catastrophe. It is possible, however, to take a different view, based on what we know about the history of human populations and on the behavior of many people at the present time—a view that social inventions will lead to a deliberate limitation of fertility by individual couples.

At the same time the technical potentialities exist, not only to feed all human beings, but greatly to improve the quality of human diets, at least until the end of this century. During the next 20 years no change in human fertility patterns can have much effect on the dimensions of the world food problem. And the natural resources available to present technology are sufficient to allow a vast improvement in the standard of living of all the people who will inhabit the earth 20 to 30 years from now. This is not to say that such an improvement in diets or standard of living will inevitably occur. It will depend on the improvement of social and economic institutions, and on the growth of cooperation and interdependence among the peoples of the world.

Nevertheless, a reduction in present rates of population growth is highly desirable from many points of view, because high fertility and rapid population growth have seriously adverse social and economic effects. A reduction in human fertility is an important component of social and economic development, although such a reduction cannot be a substitute for large capital investments and massive transfers of technology.

Rapid population growth has economic, social, and political effects. It also interacts with public education, health and welfare, and the quality of the environment in which people live. As we shall show, many of these consequences are not well understood, and their magnitude is uncertain. The significance of others is less than is generally believed. Without at this time assigning quantitative values, we may very briefly list the categories of consequences that are usually recognized. In later sections, these consequences are discussed more fully.

CATEGORIES OF CONSEQUENCES

Economic consequences

Rates of population growth in many less developed countries are at least half the rates of economic growth and in some cases almost equal the latter. Chiefly because of the high fertility of these countries, the ratios of children to adults are very high when compared with these ratios in developed countries, and the numbers of young people reaching the age of labor force participation are rapidly increasing. Both of these factors produce serious economic consequences.

Rapid population growth slows down the growth of per capita incomes in less developed countries and tends to perpetuate inequalities of income distribution. It holds down the level of savings and capital investment in the means of production and thereby limits the rate of growth of gross national product. Food supplies and agricultural production must be greatly increased to meet the needs of rapidly growing populations, and this constrains the allocation of resources to other economic and social sectors. The number of persons entering the labor force grows very rapidly. Because the number of people seeking employment is larger than the number of available jobs, unemployment and underemployment are increasingly serious problems. An even larger number of workers cannot be absorbed in the modern (industrialized) sector. They are forced into unproductive service occupations or back into the traditional (agricultural) sector with its low productivity and bare subsistence wage levels. Large supplies of cheap labor tend to hold back technological change, and industrialization is slowed by mass poverty, which reduces the demand for manufactured goods. Low savings rates and low labor skill inhibit the full development and utilization of natural resources in some countries, while in others the growing populations outrun the levels at which renewable resources can be sustained, and the resource base deteriorates. Widespread poverty, the low productivity of labor, the growing demands for food, and slow industrialization distort and degrade the international trade of the less developed countries.

Social effects

Large-scale internal migration and rapid urbanization are among the most important social effects of rapid population growth. The growing numbers of children who survive their parents place new strains on intergenerational relationships. Social mobility is impeded by continuing widespread poverty. Because only a fraction of the growing population can be absorbed into the modern sector, the numbers of people in the traditional sector rapidly increase and the gap between the two continually widens. Thus two "nations," one relatively well off and the other backward and poor, exist side by side in the same country.

Political effects

Political and social conflicts among different ethnic, religious, linguistic, and social groups are greatly worsened by rapid population growth. Political and administrative stresses are increased by the rural-urban migration which is partly caused by this growth, and by increasing demands for government services in health, education, welfare, and other functions. The large proportions of young people, particularly those who are unemployed or have little hope for a satisfactory future, form a disruptive and potentially explosive political force, although there is no evidence that rapid population growth is by itself the cause or even the major contributing factor in violence and aggression.

Consequences for education

Because the numbers of children grow even more rapidly than the total population, the need for educating ever larger numbers inhibits the raising of enrollment ratios and improvement in the quality of education. High proportions of children reduce the amount out of any given educational budget that can be spent for the education of each child. Because each cohort, or age group, of the population is larger than its predecessor, it is difficult to recruit sufficient numbers of teachers from among the adult population.

Health, welfare, and child development

The cost, adequacy, and nature of health and welfare services are affected by rapid population growth in much the same way as are those of educational services. In the individual family, maternal death and illness are increased by high fertility, early and frequent pregnancies, and the necessity of caring for excessive numbers of children. The physical and mental development of children is often retarded in large families because of inadequate nutrition and the diseases associated with poverty, and because the children are deprived of sufficient adult contact. Poor and crowded housing in the urban slums of rapidly growing cities produces further illness and retardation.

Necessarily rapid increases in agricultural production, both of crops and livestock, in many areas increase erosion, soil and water deterioration, and destruction of wildlife and natural areas. Pollution, caused by the indiscriminate use of pesticides, poisons people and domestic and wild animals.

EFFORTS TO SOLVE THE PROBLEM

Over a billion births will have to be prevented during the next 30 years to bring down the world's population growth rate from the present 2 percent per year to an annual rate of 1 percent by the year 2000. The task may well be the most difficult mankind has ever faced, for it involves the most fundamental characteristic of all life—the need to reproduce itself. An unprecedented effort is demanded, yet success will depend on the private actions of hundreds of millions of individual couples.

Until very recently, few nations had explicit population-influencing policies. Like the movement of a glacier, population changes were barely perceptible from year to year and yet were inexorable in character, seemingly beyond the range of government policy. Only within the last few years, when the vastly accelerated rates of population growth have become apparent to all, have governments recognized the needs and the possibility of actions to protect their people from the consequences of their own fertility and to effect reductions in fertility. Population policies are thus a new and untested area for politicians and administrators, who have neither tradition nor public consensus to guide them.

Nevertheless, many governments of developing countries are now adopting policies aimed at reducing birth rates and high rates of population growth. During the 1960's fifteen governments in Asia, nine in Africa, and fifteen in Latin America and the Caribbean area began to undertake fertility control programs, or to give support to unofficial programs in the absence of explicit formulation of government policy. The total population of the countries which have or support family planning programs is nearly 1,900 million, 80 percent of the population of the less developed world. Several of the rich countries, many intergovernmental agencies, and private foundations are providing financial

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help and expert advice for these fertility control programs.

By Mr. HARTKE (by request):

S. 2792. A bill to provide for the establishment of a national cemetery at Sylmar, Calif. Referred to the Committee on Veterans' Affairs.

Mr. HARTKE. Mr. President, today I am introducing, by request, a bill which would provide for the establishment of a national cemetery at Sylmar, Calif., within the boundaries of the former San Fernando Veterans' Administration Hospital which was destroyed in the February 9 earthquake and in which 42 veterans died. Geological tests have precluded the rebuilding of the hospital on this site, and the President has announced that this land will be declared surplus by the Veterans' Administration and made into a park.

I had an opportunity to visit the area where the San Fernando Veterans' Administration Hospital stood, and I talked with many of the concerned citizens about the President's proposed plan to turn the area into a park. It would appear that the needs of the people would be better met by the establishment of a national cemetery rather than a park.

I believe, as the 25,000 persons who signed the petition of the Sunland-Tijunga American Legion Post No. 250 believe, that this is a unique opportunity to create a national cemetery on the 94.2-acre site which would be a fitting memorial to those who died in the earthquake and serve as a final resting place for our honored dead.

There is no question of the need for additional burial space for veterans in California. There are over 3,000,000 veterans residing in the State eligible for burial in a national cemetery, but grave sites in existing national cemeteries are not available. The establishment of a national cemetery on this site could do much to alleviate the problem.

I ask unanimous consent that a copy of the Sunland-Tijunga American Legion Post No. 250 petition together with the resolution of the California legislature requesting the establishment of a national cemetery in California and the full text of the bill be printed in the RECORD following these remarks.

There being no objection, the material was ordered to be printed in the RECORD as follows:

S. 2792

A bill to provide for the establishment of a national cemetery at Sylmar, California

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized and directed to establish a national cemetery at Sylmar, California, within the boundaries of the former San Fernando Veterans' Administration Hospital Reservation, California, containing approximately 94.2 acres. The General Services Administration shall make this property available to the Department of the Army for the establishment of a national cemetery from the property which has transferred to the General Services Administration for disposal as being excess to the needs of the Veterans' Administration. The exact metes and bounds description of the real property to be made available shall be determined by the Secretary of the Army.

SEC. 2. The Secretary of the Army shall provide for the care and maintenance of the national cemetery established under the authority of the Act.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

CALIFORNIA ASSEMBLY JOINT RESOLUTION No. 54—RELATIVE TO THE ESTABLISHMENT OF A NATIONAL CEMETERY IN CALIFORNIA

Whereas, There are presently almost 3,000,000 veterans residing in California eligible for burial in a national cemetery, yet the three existing national cemeteries in California are closed to future veteran burials because of lack of space; and

Whereas, The initial earthquake of February 9, 1971, destroyed the San Fernando Veterans Hospital; and

Whereas, Geological experts question the advisability of rebuilding a hospital or any other major structure on the site, and the Veterans Administration does not plan to rebuild this facility; and

Whereas, This large piece of government-owned land would be an extremely suitable final resting place for our honored dead; and

Whereas, Such a cemetery would involve no cost to the federal government as far as land is concerned and the operational costs would be minimal; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to consider such a site, together with all other potential sites, for a national cemetery, and establish one or more such national cemeteries in California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

PETITION SUNLAND-TUJUNGA AMERICAN LEGION POST NO. 250

Whereas, there is no space available within California National Cemeteries for the remains of the honored dead veterans of America's various wars,

Whereas, the initial earthquake of February 1971 destroyed the San Fernando Veterans Hospital and took the lives of 42 veterans,

Whereas, geological experts question the advisability of rebuilding a hospital or any other major structure on the site,

Whereas this hollowed ground could well fit the needs of a major national memorial cemetery,

Now therefore we the undersigned citizens of the United States and residents of California petition the Congress of the United States to put aside this land already owned by the government of the United States as a suitable resting place for the honored dead of our nation's various wars under the name of the San Fernando National Memorial Cemetery.

By Mr. HARTKE (for himself, Mr. TALMADGE, Mr. THURMOND, and Mr. HANSEN) (by request):

S. 2793. A bill to amend title 38 of the United States Code to modify the provisions relating to payment of pension, and for other purposes. Referred to the Committee on Veterans' Affairs.

Mr. HARTKE. Mr. President, today I am introducing, by request, together with Senators TALMADGE, THURMOND, and HANSEN, a bill which would provide a liberalization of our income maintenance programs and parents' dependency and indemnity compensation. This bill was recommended in an October 29, 1971, transmittal letter to the President of the Senate from the Administrator of Veterans' Affairs.

This bill proposes amendments which would modify the pension rates and income limitations by substituting new formula for the existing statutory tables.

Mr. President, as you know, I am deeply concerned that we meet the needs of our veterans through an adequate and equitable veterans' benefits program, and that we not forget the sacrifices of these gallant men and women.

The Subcommittee on Compensations and Pensions, under the able leadership of its chairman, Mr. TALMADGE, will carefully consider the provisions of this and other bills in a hearing to be held Monday, November 8.

Mr. President, I ask unanimous consent that the text of the October 29, 1971, transmittal letter be printed in the RECORD at this point followed by the text of the bill and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS AFFAIRS,
Washington, D.C., October 29, 1971.

The Honorable SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: For some time the Veterans Administration and the Congress have been concerned as to the adequacy of our income maintenance programs of pension and parents' dependency and indemnity compensation.

It seems to us that those programs, based on need, should be so structured as to better allocate benefits according to relative need. They should also be sensitive enough to avoid a disproportionate reduction of benefits when outside income increases. The current rate and income limitation structures are deficient in those respects.

In our judgment, a formula approach would better meet the aforementioned criteria, and remedy existing deficiencies. Adoption of a formula could permit those with little or no income to keep more of each dollar of outside income than those with greater income. Also, aggregate income could be protected for those remaining on the rolls regardless of the source of that income.

In this connection, we have been advised that the Cost of Living Council has exempted income maintenance programs, like our pension and parents' dependency and indemnity compensation, from coverage during the current freeze period.

Enclosed for your consideration is a draft bill "To amend title 38 of the United States Code to modify the provisions relating to payment of pension, and for other purposes", which embodies the outline formula approach. For your convenience, a section-by-section analysis is also enclosed. It is estimated that the first-year cost of the proposal would approximate $91.4 million, gradually increasing to $98.7 million in the fifth year.

I am advised by the Office of Management and Budget that enactment of the draft bill would be consistent with the objectives of the Administration.

Sincerely,

DONALD E. JOHNSON,
Administrator.

Enclosures.

S. 2793

A bill to amend title 38 of the United States Code to modify the provisions relating to payment of pension, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 521 of title 38 United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $130. For each $1 of annual income in excess of $300 up to and including $700, the monthly rate shall be reduced three cents; for each $1 of annual income in excess of $700 up to and including $1,300, the monthly rate shall be reduced four cents; for each $1 of annual income in excess of $1,300 up to and including $1,600, the monthly rate shall be reduced five cents; for each $1 of annual income in excess of $1,600 up to and including $2,100, the monthly rate shall be reduced six cents, and for each $1 of annual income in excess of $2,100 up to and including $2,600, the monthly rate shall be reduced seven cents. No pension shall be paid if annual income exceeds $2,600."

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: if annual income is $500 or less, the monthly rate of pension shall be $140 for a veteran and one dependent, $145 for a veteran and two dependents, and $150 for three or more dependents. For each $1 of annual income in excess of $500 up to and including $900, the particular monthly rate shall be reduced two cents; for each $1 of annual income in excess of $900 up to and including $2,700, the monthly rate shall be reduced three cents; for each $1 of annual income in excess of $2,700 up to and including $3,200, the monthly rate shall be reduced four cents; and for each $1 of annual income in excess of $3,200 up to and including $3,800, the monthly rate shall be reduced six cents. No pension shall be paid if annual income exceeds $3,800."

(c) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $85. For each $1 of annual income in excess of $300 up to and including $700, the monthly rate shall be reduced one cent; for each $1 of annual income in excess of $700 up to and including $1,200, the monthly rate shall be reduced three cents; and for each $1 of annual income in excess of $1,200 up to and including $2,600, the monthly rate shall be reduced four cents. No pension shall be paid if annual income exceeds $2,600."

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $600 or less, the monthly rate of pension shall be $104. For each $1 of annual income in excess of $600 up to and including $1,100, the monthly rate shall be reduced one cent; for each $1 of annual income in excess of $1,100 up to and including $2,500, the monthly rate shall be reduced two cents; and for each $1 of annual income in excess of $2,500 up to and including $3,800, the monthly rate shall be reduced three cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $3,800."

(e) Subsection (d) of such section 541 is amended by striking out "16" and inserting in lieu thereof "$17".

(f) Subsection (a) of section 542 of title 38, United States Code, is amended by striking out "$40" and "$16" and inserting in lieu thereof "$42" and "$17", respectively.

SEC. 2. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $800 or less the monthly rate of dependency and indemnity compensation shall be $100. For each $1 of annual income in excess of $800 up to and including $1,200, the monthly rate shall be reduced three cents; for each $1 of annual income in excess of $1,200 up to and including $1,600, the monthly rate shall be reduced four cents; for each $1 of annual income in excess of $1,600 up to and including $1,900, the monthly rate shall be reduced five cents; for each $1 of annual income in excess of $1,900 up to and including $2,100, the monthly rate shall be reduced six cents; and for each $1 of annual income in excess of $2,100 up to and including $2,600, the monthly rate shall be reduced seven cents. No dependency and indemnity compensation shall be paid if annual income exceeds $2,600.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula."

(b) Subsection (c) of such section 415 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $800 or less, the monthly rate of dependency and indemnity payable to each shall be $70. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced two cents; for each $1 of annual income in excess of $1,100 up to and including $1,700, the monthly rate shall be reduced three cents; and for each $1 of annual income in excess of $1,700 up to and including $2,600, the monthly rate shall be reduced four cents. No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $2,600."

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,000 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $67. For each $1 of annual income in excess of $1,000 up to and including $1,300, the monthly rate shall be reduced one cent; for each $1 of annual income in excess of $1,300, up to and including $3,400, the monthly rate shall be reduced two cents; and for each $1 of annual income in excess of $3,400 up to and including $3,800, the monthly rate shall be reduced three cents. No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $3,800."

(d) Subsection (g) of such section 415 is amended by redesignating paragraph (2) as (3), and by inserting immediately after subparagraph (1)(M) the following new paragraph:

"(2) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar."

SEC. 3. Section 503 of title 38, United States Code, is amended by (a) inserting "(a)" immediately preceding "In" at the beginning of such section, and (b) adding at the end thereof the following new subsections:

"(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

"(c) The Administrator may provide by regulation for the exclusion from income under this chapter of amounts paid by a veteran, widow, or child for unusual medical expenses."

SEC. 4. This Act shall take effect on January 1, 1972.

SECTION-BY-SECTION ANALYSIS OF DRAFT BILL

To amend title 38 of the United States Code to modify the provisions relating to payment of pension, and for other purposes

The *first section* is concerned with non-service-connected disability pension for veterans of service during the Mexican border period, World War I, World War II, Korean conflict, or the Vietnam era, and non-service-connected death pension for widows and children of such veterans.

Subsection (a) would substitute a formula for the existing rate and income limitation table governing payment to single veterans. The formula would provide a maximum monthly rate of pension payable at a minimum income level, and each veteran's rate would be computed by reducing the maximum rate by a specified number of cents for each dollar by which specified income levels are exceeded. The resulting monthly rates would range downward from $130 for single veterans with annual income of $300, or less, to $14 for annual income of $2,600.

Subsection (b) would provide a comparable formula for veterans with dependents starting with maximum monthly pension rates of $140 where there is one dependent, $145 for two dependents, and $150 for three or more dependents, based on annual income of $500, or less. Said rates would range downward to $22, $27, or $32, respectively, at annual income of $3,800.

Subsection (c) would establish a similar formula for widows without children, beginning with a maximum monthly pension rate of $85 for annual income of $300 or less, ranging downward to $10 at $2,600 annual income.

Subsection (d) provides a formula for widows with a child. Pension rates would begin at $104 based on annual income of $600 or less, and range downward to $41 at $3,800 annual income. Provision is also made in this subsection to insure that a widow with a child would not receive less in pension than would be paid to the child if there were no widow.

Subsection (e) would raise from $16 to $17 the monthly pension rate payable to a widow for each child in excess of one.

Subsection (f) would raise the monthly pension rate payable to a child where there is no widow from $40 to $42. Also, the existing monthly rate of $16 for each additional child in such a case would be increased to $17.

The *second section* of the draft bill proposes formulas, similar to those described above relating to pension, for payment of

monthly dependency and indemnity compensation to parents of veterans who died of service-connected causes.

The formula of *subsection* (a) deals with payment of dependency and indemnity compensation to an only surviving parent. Under it the monthly benefit would be fixed at $100 for an annual income of $800 or less, ranging downward to $10 at $2,600 annual income.

The formula of *subsection* (b) relates to cases of two parents not living together. It would provide for payment of monthly dependency and indemnity compensation at the rate of $70 for each parent with annual income of $800 or less, ranging downward to $10 at $2,600 annual income.

The formula of *subsection* (c) concerns cases of two parents living together and those of a parent who has remarried and is living with his spouse. The dependency and indemnity compensation rates thereunder begin at $67 per month for each parent where combined annual income is $1,000 or less, and range downward to $10 each at combined annual income of $3,800.

Subsection (d) of section 2 would provide, with regard to computation of annual income for dependency and indemnity compensation purposes, that where a fraction of a dollar is involved such income shall be fixed at the next lower dollar.

Section 3 would provide with regard to computation of annual income for pension purposes (a) that where a fraction of a dollar is involved annual income shall be fixed at the next lower dollar; and (b) authority for the Administrator to provide by regulation for the exclusion of amounts paid by a veteran, widow, or child for unusual medical expenses.

Section 4 would make the provisions of the bill effective January 1, 1972.

Mr. HANSEN. Mr. President, it gives me great pleasure to rise today to join with the distinguished chairman of the Veterans' Affairs Committee to add my support to legislation designed to insure that America's veterans and their survivors receive adequate pensions, and to provide improved procedures for determining the amount of the benefit to be paid to each veteran or his survivor.

For the first time since I have been a Member of the Senate, the Congress has received the support of the executive branch in efforts to increase veterans' benefits. The Nixon administration is to be congratulated for recognizing the needs of these citizens who have devoted a portion of their lives to the service of their country in the Armed Forces. However, this legislation submitted by the administration did not end with the recommendation of increased pension benefits which take into account social security increases and cost-of-living increases. Instead, the proposal supported by the administration in its testimony before the House committee and in its letter to the President of the Senate, provides a formula approach which will allocate benefits according to relative need, and will avoid a disproportionate reduction of benefits when outside income increases.

This is a novel approach. It seeks to provide a solution to veterans' benefit problems to recur everytime the Congress increases benefits under other Federal programs, such as social security. This program will at last provide some coordination among the pension programs available to our citizens.

The Senate Committee on Veterans' Affairs will hold hearings on this legislation next Monday, November 8. It is my sincere hope that the committee will take early action to report veterans' pension legislation to the Senate. We have waited too long. The Senate leadership has already announced a tentative program intended to allow the Senate to adjourn sine die by December 1.

If great waste in the administration of the veterans' pension program is to be avoided, the Congress must act before January 1972. Failure on the part of Congress to take action will result in millions of beneficiaries under this program being overpaid in January. The Government must then be reimbursed for these overpayments which will place a burden on the recipients. In addition, the Veterans' Administration will be forced to recompute the pension benefits to be received by veterans and their survivors in light of the social security increases effective next January. Then, if Congress acts to provide increases in veterans' pensions when it reconvenes next January, the pension benefits will have to be recomputed a second time.

This we can foresee. If the Congress intends to adjust Veterans' pension benefits, it should act now. I can fully appreciate the pressures faced by all Senators in the last days of a session. However, the program endorsed by the administration is a most constructive program. It will improve the operation of the pension program and will provide a needed increase in the benefit levels. It is important that the committee on Veterans' Affairs and the Senate expedite action on this legislation so that it will not be set aside in the closing days of the first session of the 92d Congress.

By Mr. WILLIAMS (for himself and Mr. CASE):

S. 2794. A bill to amend the National Flood Insurance Act of 1968 to increase flood insurance coverage of certain properties, to authorize the acquisition of certain properties, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

NATIONAL FLOOD INSURANCE ACT AMENDMENTS

Mr. WILLIAMS. Mr. President, on August 1, 1968, the Congress passed the National Flood Insurance Act. The purpose of this legislation was to create a national flood insurance program to be made available through the cooperative efforts of the Federal Government and the insurance industry to individuals who wished protection against the peril of floods. Under the act, owners of property in flood-prone areas are required to pay a reasonable premium for insurance with the Federal Government subsidizing the difference between the premium payments and the full actuarial cost.

Since August 1, 1968, we have had a series of floods, some more serious than others. Probably the most costly disaster was Hurricane Doria which caused great damage all along the eastern seaboard and, in particular, to the citizens of the State of New Jersey. Municipal and industrial damage alone amounted to approximately $150 million.

Virtually all of New Jersey's counties were hard hit. Extensive damage to residential homesites and small businesses occurred in addition to the destruction of public facilities such as water and sewage systems, roads, bridges, and schools.

From our experiences with this disaster one fact has become crystal clear: The present flood insurance program is inadequate to deal with holocausts such as Hurricane Doria. And our Nation's citizens should not be forced to pay the price for legislative inadequacies which could not have been foreseen. These citizens of New Jersey have already paid immeasurably in terms of human suffering—damage which money can never replace. They should not be left destitute, dependent upon relief agencies and the largess of private charities.

Governor Cahill has acted to ease the plight of our State's citizens. His administration immediately moved to help expedite disaster relief and in urging Small Business Administration loans. Working together we have already gained the approval of 1,046 SBA loan applications in the amount of $3.5 million with 2,252 applications representing $10.4 million still pending. But permanent solutions are necessary. Governor Cahill and I, from this catastrophic disaster which has affected millions of our State's citizens, have developed certain legislative amendments to the National Flood Insurance Act which will permanently ease the hardships caused by such unpredictable disasters.

Therefore, together with my colleague, the senior Senator from New Jersey (Mr. CASE), I am today introducing comprehensive amendments to the National Flood Insurance Act.

Under current law, Federal disaster assistance is not available to compensate for any loss of real or personal property which could have been covered by flood insurance where such insurance had actually been available 1 year prior to the loss. Section 1 of my bill would delay the effective date of this "prohibition against duplication of benefits" until December 31, 1973. While such a prohibition was intended to encourage the purchase of flood insurance by all eligible parties and to insure maximum participation in the program bringing with it an end to over-reliance on disaster relief programs it has not had that effect. Poor communications between the residents of my State, the governmental agencies administering the program, and the selling insurance companies have left many individuals in the dark concerning the availability of flood insurance. This lack of adequate communications resulted in many people not taking advantage of their opportunity to participate in the program. Therefore, during the recent disaster, many of New Jersey's citizens who suffered substantial flood damage are through no fault of their own ineligible for disaster relief from other Federal programs. Such hardships should be alleviated until all of the parties responsible for the implementation of the flood insurance program work out a better method of advertising its availability at the local level.

Section 2 of my bill would extend the present termination date of December 31, 1971, for the emergency program to December 31, 1973. This provision would give communities an additional 2 years for adopting stringent land use and flood abatement measures while at the same time allowing them to qualify for Federal flood insurance coverage. Presently, through the Nation, only 720 out of the 7,000 communities eligible for coverage have been approved for flood insurance and the Department of Housing and Urban Development is approving new applications at an all too leisurely pace. By extending for 2 additional years the far less complicated methods for qualification which are contained in the emergency program, many of the over 277 eligible but not certified communities in New Jersey will be able to qualify for coverage.

Section 3 would raise the maximum amount of insurance coverage available on single dwelling units, multiple dwelling units, and small businesses. It would also extend coverage to all residential properties rather than limiting insurance to structures containing a maximum of four dwelling units.

During Hurricane Doria, we found that even where insurance was purchased it did not in many instances pay for actual damage. Homeowners and small businessmen after paying premiums found they were only covered for a portion of the loss which was incurred. This, in my opinion, is an unrealistic approach to insurance coverage which should not be tolerated. I am, therefore, proposing that for a one-family residence Federal subsidized flood insurance coverage be increased from $17,500 to $25,000, that for a single structure containing two dwelling units aggregate coverage be increased from $30,000 to $42,500 and that for each unit in excess of two an additional $15,000 in coverage be made available.

Currently the contents of a dwelling unit may only be insured at the federally subsidized rate for $5,000. This figure is totally inadequate to meet replacement costs at today's prices. My bill would double this amount to $10,000. For small businesses, which were particularly hard hit by flood damage, my bill would increase coverage from $30,000 to $42,500 on the structure and from $5,000 to $10,000 on its contents.

Section 4 corrects a deficiency in existing law and encourages orderly planning and improved land use. It allows the flood insurance program in the case of disasters or catastrophic floods which destroy more than 50 percent of a facility to make total damage payments and to acquire the facility and land for other uses which are more appropriate in flood-prone areas. In addition, where it can be shown that the unsubsidized actuarial charges exceed the value of a given property over a period of 4 years, such property may be purchased through a flood plain clearance program as part of the national flood insurance program.

Finally, under current law all new construction within designated special flood hazard zones built after the area is identified as such by the Department of Housing and Urban Development is ineligible for subsidized Federal flood insurance. Many communities delay in applying for flood insurance until their flood-prone lands are fully developed, thus making hazardous recently developed properties eligible for flood insurance coverage. To avoid this type of situation which increases premium costs to the Government, section 5 of my bill would make all new construction started after December 31, 1971, within special flood hazard zones ineligible for subsidized Federal flood insurance.

Mr. President, the Federal flood insurance program was intended to insure our Nation's citizens against property damage caused by floods. Unfortunately, our experiences over the past several years, which culminated with Hurricane Doria, show without a shadow of a doubt that there are serious inadequacies in the program. My bill will go a long way toward curing these inadequacies and toward making flood insurance coverage available in realistic amounts to many more of our Nation's citizens.

By Mr. NELSON:

S. 2795. A bill to take over a project in the State of Wisconsin pursuant to section 14 of the Federal Power Act. Referred to the Committee on Commerce.

A BILL TO RECAPTURE THE CHIPPEWA FLOWAGE IN WISCONSIN

Mr. NELSON. Mr. President, today I am introducing, for appropriate reference, a bill that provides for the United States to take over and manage a federally licensed power project in northern Wisconsin that is popularly known as the Chippewa flowage. The bill also provides that several thousand acres of project lands within the boundary of the Lac Courte Oreilles Indian Reservation be restored to the reservation for the use and benefit of the Indians.

The flowage is a 17,000-acre water reservoir created under terms of a license issued in 1921 by the Federal Power Commission. Like scores of other hydropower projects throughout the country, the flowage was built to provide the electrical energy to meet the needs of an expanding population.

There is no power generated at this reservoir. Rather, it has been utilized to stabilize flow of the Chippewa River to assure a supply of water at hydrogeneration sites many miles downstream.

The operator of the flowage, the Northern States Power Co., has a large system which covers the eastern portion of Wisconsin, central and southern Minnesota, and parts of North Dakota and South Dakota. The company concedes that hydropower has become of minor significance during the last several years as the trend continues toward large fossil fuel and nuclear generators. In fact, several hydro sites and small steam plants in the NSP system have been abandoned very recently, and others are scheduled for abandonment.

Coupled with this, there is a growing demand, prompted by increased leisure time and a generally improved state of affluence, for outdoor recreational areas.

The Chippewa flowage, near Hayward, Wis., has all the potential of being a remarkable recreation area.

Due to a biological accident, the flowage reservoir has become prime habitat for the muskellunge, perhaps the greatest American sport fish found in inland waterways. In addition, the 12,000 acres of shorelands within the project boundary have been spared of development for the most part. There stands a dense and scenic forest that provides the home for osprey, eagles and many other forms of wildlife. The bays, inlets, islands and floating bogs of the Chippewa flowage have helped make it a legend as a fisherman's and outdoorsman's retreat.

In the operation of the flowage for power purposes, water levels are reduced by as much as 21 feet every year to augment flow of the Chippewa River. This rise and fall, or "yo-yo" effect, as it is called, has a deleterious effect on the propagation of fish, according to environmentalists and fishery biologists who have at least casually studied this reservoir. These people contend that even though fishing on the reservoir is considered to be good, it could be much better if the water level would be stabilized and sound fishery management practices put into effect. There is underway a comprehensive environmental study by the Upper Great Lakes Regional Commission to determine the ecological implications of the present use of the flowage.

In addition to the environment of the reservoir itself, there is growing concern about the future use of the shorelands of the flowage.

With some minor exceptions, these shorelands have been preserved in a wilderness State. This is a credit due the Northern States Power Co.

However, there can be no assurance that potentially ruinous development of the flowage shorelands will not occur.

The same increased leisure and affluence that is creating more demand for outdoor recreation areas is creating a concurrent demand for secondary home sites and resort complexes. Pressures are strong for developing the choicest property around lakes and next to rivers. In many areas there is massive development, and each places more and more restrictions on the availability of open lands for the enjoyment of the general public.

Without setting aside lands in the public domain, we very well could have developments ringing all the choice waterways. Unless the Government exercises its important responsibility of providing public out-of-door areas, the wilderness experience could become but a memory and our waterways inevitably will become more and more contaminated with the wastes of overdevelopment.

The Chippewa flowage is very near the Minneapolis-St. Paul metropolitan area and is reasonably close to the Milwaukee-Chicago and Madison urban areas.

The present management of the Northern States Power Co. agrees that development of the flowage should be restricted, and they have stated informally that the company would endeavor to preserve the lands in question.

However, this policy—if formally

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adopted—can be considered to be only temporary, continuing so long as the philosophy of the incumbent managers is able to prevail. I want to add here that I have a deep admiration for many of the officers of the Northern States Power Co. They have been inclined to agree in the need to preserve outdoor recreation areas for enjoyment by the public. This is laudable.

Nevertheless, personnel changes in the management of this fine company coupled with events that are impossible to contemplate certainly could result in a change of philosophical outlook. There could never be absolute assurance that the flowage's shorelands would continue to be restricted from development.

There has been a good deal of discussion in Wisconsin during the past 2 years regarding the future of the Chippewa flowage. And there is near unanimous agreement that the flowage should be preserved as a recreational wilderness retreat. Many of those people and organizations who have written to me or otherwise have expressed an opinion on this subject are in favor of the Congress exercising its prerogative of recapturing federally licensed power projects after the life of the license has expired. I agree with the proponents for recapture, and I have offered this bill to accomplish that end.

The original license issued by the Federal Power Commission in 1921 expired on August 8 of this year. It is now under an extension of at least 1 calendar year to allow time for the issues to be resolved.

Although the company has conceded that hydrogeneration of electricity rapidly is becoming a thing of the past so far as its own system is concerned, it has stated that the Chippewa flowage still has some importance.

However, there need not be a material effect on the company from a power production standpoint. Water will continue to flow in the Chippewa River whether the flowage reservoir is utilized exclusively for power purposes. There are many other sources of electricity available to the company both within its system and outside it to provide the energy that can be attributed to the flowage. Also, the flowage generally is useful during the winter months, whereas the peak demand for electricity these days now occurs during the summer. All this is contrasted with the period of time when the flowage was necessary several years ago. At that time, there was not the availability of other energy sources; at that time the high energy use period was in the winter, before the advent of air conditioning.

In balance, the flowage today is far more valuable as an outdoor recreational area than it is as a power reservoir. This reservoir, and others like it throughout the country, were not intended to be permanent sources for power. That is why the Commission issued a license to run a period of 50 years, and that is why the Federal Power Act provided language for the Federal Government to recapture these projects.

The Federal Power Act provided that the Commission will formally consider applications for relicensing of power projects when the original license expires. Also, the Commission is empowered to order relicensing if it so decides, based upon testimony available to it after hearings have been held. If the Commission decides the project should be reclaimed by the Federal Government, it is directed by the act to make this recommendation to the Congress for final disposition.

However, the act provides further that if any Federal department or agency recommends Federal takeover of a project and if the Commission itself decides in favor of relicensing, then the whole issue is held in abeyance for 2 years during which time the Congress must decide for or against formal takeover.

In the case of the Chippewa flowage, the U.S. Department of Agriculture has formally recommended that the project be recaptured by the Federal Government and that the lands be placed within the boundaries of the contiguous Chequamegon National Forest. In addition, the Interior Department has stated that it also may recommend recapture.

At a press briefing conducted by the Interior Department on October 4, a spokesman indicated that the Interior Department may further recommend that the project lands within the boundary of the Lac Courte Oreilles Indian Reservation be restored to the reservation when the project is recaptured by the Federal Government.

The argument for restoration of these Indian lands is overwhelming. The Lac Courte Oreilles people have had to make unusual sacrifices to enable creation of the flowage. An Indian village was relocated, burial sites were inundated and ricefields destroyed. The Indians claim that compensation for these losses has been insufficient at best. In addition, some 525 acres of lands owned by the Lac Courte Oreilles currently are under lease for the project. The Indians have said they will not agree to extend the lease on these tribal lands, and thereby have considerable legal leverage in this matter. The Indians have stated further that they are strongly in favor of recapture and restoration to their reservation some 6,000 acres of project lands that lie within the reservation's boundary.

The Lac Courte Oreilles have informed me that they would be agreeable to stipulations that would restrict development of their shoreline to facilities for entry to the flowage. This is provided for in the legislation that I have introduced.

I look forward to the time when the Chippewa flowage can be recaptured by the Federal Government and placed in public trust for the use and benefit of an increasing number of people who desire the establishment of public wilderness areas in which they can spend their leisure.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2795

A bill to take over a project in the State of Wisconsin pursuant to Section 14 of the Federal Power Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the property, both real and personal, now included within Federal Power Commission licensed project No. 108 and owned and operated by the Northern States Power Company in the State of Wisconsin, the license for which under the Federal Power Act expired on August 8, 1971, is hereby taken over by the United States pursuant to Section 14 of the Federal Power Act.

SEC. 2. (a) Any lands taken over pursuant to this Act which originally were part of the Lac Courte Oreilles Indian Reservation or were owned by members of the Lac Courte Oreilles Indian Tribe shall be conveyed to the Secretary of the Interior to be held in trust for the use and benefit of the Lac Courte Oreilles Tribe of Lake Superior Chippewa Indians: *Provided,* That the Lac Courte Oreilles Tribe shall preserve that body of water known as the Chippewa Flowage on lands conveyed under this section, and provided further that the Tribe shall restrict development and utilization of the shoreline area of the Chippewa Flowage to facilities for access to the water.

(b) The Council on Environmental Quality, after holding appropriate proceedings and after consultation with the Bureau of Outdoor Recreation in the U.S. Department of Interior, is to determine the manner in which the remaining real and personal property, taken over pursuant to this Act, is to be operated for non-power purposes, so as best to promote the unique wilderness and recreational attributes of the area. The Council is further directed to determine the Federal agency which is willing to and best able to operate the remaining real and personal property in conformity with the aforementioned non-power purposes and the Federal Power Commission is directed to issue a non-power license, pursuant to Section 15 of the Federal Power Act, to such agency.

(c) The Federal Power Commission is further directed to determine, through an appropriate proceeding, the recapture price, within the meaning of Section 14 of the Federal Power Act, that is to be paid to the Northern States Power Company as a result of the take over of Project No. 108 and such sum is hereby authorized to be appropriated and paid to the Northern States Power Company out of the Land and Water Conservation Fund Act of 1956, as amended.

By Mr. McGOVERN:

S. 2796. A bill to amend the Foreign Assistance Act of 1961, and for other purposes. Referred to the Committee on Foreign Relations.

Mr. McGOVERN. Mr. President, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961, and I ask that an outline of the bill be printed at the conclusion of my remarks.

Last Friday the Senate voted to kill the foreign assistance bill brought to the floor by the Foreign Relations Committee and subsequently amended. Under the circumstances I believe that vote was both proper and necessary.

I do not believe, however, that the Senate's decision was a retreat to isolationism or an abandonment of responsibility for peaceful development elsewhere in the world. The margin of defeat was supplied by other factors—by despair at the fruits of our military assistance programs, by disgust at the restoration of aid to the military regime in Greece, and by a determination to take binding action with respect to the continued American involvement in Indochina.

Most elements of the committee bill remain in the vital self-interest of the United States. Most are also touched with a sense of great urgency.

While recognizing the need for a fundamental change in approach—and I hope the administration also recognizes this need—we must, therefore, move speedily to restore the best and most urgent elements of the aid program.

In light of the delicate and difficult conditions prevailing now in the Middle East, we cannot permit delay in assuring that Israel will have the military equipment essential to maintain the balance of forces, or the support required to undergird an economy depleted by the threat of war. Like the committee bill, my proposal contains $300 million in authority for sales to Israel under the Foreign Military Sales Act, and $85 million for security supporting assistance.

We cannot turn our backs on the desperate plight of refugees from the struggle in East Pakistan. My bill supplies the full $250 million requested for that purpose.

We cannot ignore the cruel circumstances still facing Arab refugees. My bill continues the aid program charted in prior years to improve their plight.

We cannot allow continued assistance, in line with the administration's performance and announced intentions, to the regimes in Pakistan and Greece which suppress, with varying degrees of brutality, the aspirations of their own people. My bill would suspend aid to both countries.

We cannot allow to go unchallenged and grow unabated the sad appearance that the United States considers its aid programs to be political weapons, or bribes, to require recipients to accept our domination on such questions as China's representations in the United Nations.

Instead my bill restores the full administration request for multilateral agencies, including those of United Nations; it includes the full amounts for economic development loans and technical assistance requested by the administration; and—to achieve an early end to the conditions which allow political retaliation—it accelerates to June 30, 1973, the phaseout of the bilateral aid program.

We ought not to continue the merging of economic and military aid. I frankly doubt that there is any case, aside from the immediate emergency situation in Israel, where military assistance in recent years has been more boon than bane, more for protection against external threats than for protection of an existing government against its own population. Except for the situation in Israel, my bill splits off military assistance to be dealt with separately if at all.

We cannot permit any further delay in setting a deadline for withdrawal from the conflict in Indochina, assuring protection of our withdrawing forces and release of all prisoners of war before the withdrawal is completed. The Senate has twice gone on record in support of that solution. My bill incorporates the one method we have of assuring that it will be adopted—a fund cutoff, under the McGovern-Hatfield formula.

The Foreign Relations Committee has labored diligently on this issue, and their bill includes many features which eminently deserve retention. They have provided constructive action on such problems as the international drug traffic, on population control, and on the proper relationship between the executive and legislative branches on issues bearing on involvement in war. Those provisions are also included.

Mr. President, little time remains before our targeted adjournment date. There is, however, sufficient time to rescue the foreign aid program, to rebuild it, and to restore some measure of hope to millions of people around the globe.

In a few days we will consider military appropriations legislation totalling nearly $70 billion, and we will be told that it reflects urgent U.S. responsibilities worldwide.

But if we perceive and accept such responsibilities, then I submit that we can at least devote to works of peace a tiny fraction of our tributes to the works of war.

In that spirit, I hope this legislation will receive consideration and approval without delay.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

MCGOVERN FOREIGN ASSISTANCE BILL—OUTLINE

I. ECONOMIC ASSISTANCE DEVELOPMENT LOAN FUND

A. Authorizes $400 million for each of fiscal 1972 and 1973 for development lending. This equals the Administration's request for fiscal 1972, and increases the Committee bill by $80 million for each of the two years.

B. Retains Committee provisions repealing authority to appropriate under remaining balances from prior years, and continuing authority to use proceeds from loan repayments for further lending.

C. Does not extend the requirement that 50 per cent of loan funds be used for development through private enterprise.

D. Requires that the bilateral development loan program be phased out no later than June 30, 1973, instead of June 30, 1975, as provided in the Committee bill, and authorizes the President to transfer any funds under Part I to multilateral lending or development agencies.

II. TECHNICAL ASSISTANCE AND SPECIAL PROGRAMS

A. Authorizes $231,300,000 for technical assistance for fiscal 1972 and 1973, raising the Committee bill to the full amount requested by the Administration.

B. Authorizes $30 million for American schools, hospitals and libraries abroad, but provides that funds shall be available for such institutions if they are administered by U.S. citizens, even though they may not be owned by U.S. citizens.

C. Authorizes appropriation of $10 million in Egyptian pounds to assist in the reopening of the Suez canal, conditioned upon agreement by the parties that the canal will be open on equal terms to all nations, including Israel.

D. Extends worldwide housing a guaranty authority through June 30, 1974, and increases the ceiling by $50 million, to $180 million.

E. Authorizes assistance to any foreign country or international organization for the purpose of controlling drugs, with minimum funding of $25 million, and authorizes the President to suspend aid to countries which are not taking action to prevent drugs processed, produced or transported within their boundaries from entering the United States.

F. Makes possible Overseas Private Investment Corporation guarantees for investments by U.S. investors in Yugoslavia and Romania.

G. Extends existing authority on agricultural credit and self-help community projects through June 30, 1974.

H. Alliance for Progress—restores the full Administration request for $364 million, with a $129 million ceiling on grants.

I. Authorizes $125 million in each of fiscal 1972 and 1973 for population and family planning programs.

J. Authorizes $143 million for each of fiscal 1972 and 1973 for voluntary contributions for international organizations and programs, including a minimum of $15 million for the UN Children's Fund.

K. Authorizes $[illegible] million in each of fiscal 1972 and 1973 for the Indus Basin development project, through the World Bank Consortium.

L. Authorizes $1 million in each of fiscal 1972 and 1973 for technical and vocational training of Arab refugees, through an additional contribution to the United Nations Relief and Works Agency, and authorizes another $1 million in each year to be appropriated from Egyptian pounds owned by the United States for assistance to Arab refugees.

M. Authorizes the $250 million requested by the President for the relief of refugees from East Pakistan in India and for humanitarian relief in East Pakistan, to be distributed to the maximum extent possible through international institutions and voluntary agencies.

III. MILITARY ASSISTANCE

A. The general provisions for new military assistance authority are eliminated from the bill.

B. Eliminates the use of Food for Peace funds for common defense and internal security purposes by recipient countries.

C. Continues authority for the President to draw on Department of Defense stocks for military assistance, provided that reimbursement is made from military assistance funds.

D. Reduces to $10 million the ceiling on the value of defense articles the United States can furnish to Latin American countries in any fiscal year.

E. Incorporates Committee provisions requiring that any military assistance to South Vietnam, Laos and Thailand be funded out of the regular military assistance program under the Foreign Assistance Act, that there be specific Congressional authorization prior to the use of funds for financing operations by Southeast Asian forces beyond their own borders, and requiring that the President supply to the Congress copies of any agreements bearing on such operations.

F. Requires that a foreign country receiving military grant aid or excess defense articles pay 25 percent of the value in its own currency.

G. Security Supporting Assistance—authorizes $85 million for security supporting assistance for Israel only.

IV. PROHIBITIONS AGAINST ASSISTANCE

A. Provides that no assistance shall be furnished under the Foreign Assistance Act, and no sales made or guaranteed under the Foreign Military Sales Act, to Greece.

B. Suspends all military, economic and other assistance to the Government of Pakistan, including sales of military equipment

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and agricultural commodities, except for food and other humanitarian assistance distributed under international auspices. Suspension lasts until the President reports that the Government of Pakistan is cooperating fully in allowing conditions in East Pakistan to return to stability and in permitting refugees to return to their homes.

V. FOREIGN MILITARY SALES

A. Authorizes $300 million under the Foreign Military Sales Act for Israel only.

B. Repeals the President's authority to waive the ceiling on military credit sales and grant aid to Latin America and Africa. The ceiling on such transactions with Latin America is raised to $100 million, instead of the $150 million requested.

C. Requires that any grant of excess defense articles be applied to the annual ceiling on surplus military equipment and charged to appropriations for military assistance.

VI. SPECIAL PROVISIONS ON INDOCHINA

A. Provides that no funds authorized or appropriated under this or any other Act shall be available to deploy or maintain U.S. forces in Indochina or to conduct military operations in or over Indochina after six months after the date of enactment, conditioned upon release of U.S. prisoners of war within five months from the date of enactment.

B. Provides that the U.S. may not pay allowances to foreign forces in excess of those paid to U.S. forces.

C. Limits assistance to Cambodia to $250 million. Prohibits the expenditure of funds for U.S. advisors for military forces in Cambodia, and limits U.S. personnel in Cambodia to 200.

VII. REPEAL OF FORMOSA RESOLUTION

The "Joint Resolution Authorizing the President to Employ the Armed Forces of the United States for Protecting the Security of Formosa, the Pescadores and Related Possessions and Territories of That Area" is repealed, thus requiring Congressional authority for any such action.

VIII. ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

A. Authorizes continued U.S. participation in the Interparliamentary Union and increases the annual funding to $102,000.

B. Authorizes changes recommended by the Administration with respect to the Inter-American Social Development Institute.

C. Requires annual authorizations for appropriations for the Department of State and the U.S. Information Agency.

D. Authorizes $51,800,000 for administrative expenses of the Agency for International Development.

E. Requires a 25 percent reduction in military aid mission personnel serving abroad by September 30, 1972.

F. Limits the President's authority to transfer funds from one assistance program to another by requiring ten days notice in writing to the Speaker of the House and the Senate Foreign Relations Committee; requires notification to the Congress of amounts planned for each country within 30 days after passage of the Foreign Aid appropriations bill, and prohibits giving any country more than 10 percent more than the amount specified in the absence of a finding and 10 days notice to the Congress that the additional amount is vital to the national security.

By Mr. BENTSEN:

S. 2797. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation; and

S. 2798. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes. Referred to the Committee on Veterans' Affairs.

Mr. BENTSEN. Mr. President, I am today introducing two bills dealing with veterans compensation which I feel are most necessary in light of the ever-rising cost of living in this country. Among wage earners, cost-of-living increases tend to be met by salary increases. It is those on a fixed income, including veterans and veterans' dependents, who must bear the brunt of the burden of the rise in prices. Surely we must seek to find means to bring veterans' compensation more closely in line with today's cost-of-living.

These two bills, I believe, will accomplish that goal.

The general purpose of the first bill is to provide a cost-of-living increase in dependency and indemnity compensation benefits payable to survivors of veterans who died as a result of service-connected disabilities. About 176,000 widows and 46,000 children would receive a 10 percent increase in their monthly dependency and indemnity compensation rates.

Widows who presently receive death compensation benefits and are not now eligible to receive the greater dependency and indemnity compensation benefits may receive dependency and indemnity compensation benefits after January 1, 1972.

It provides an average increase of 6.5 percent in dependency and indemnity compensation payments for approximately 68,500 dependent parents and increases the annual income limitation for dependent parents receiving dependency and indemnity compensation by $300. It prevents all parents receiving dependency and indemnity compensation benefits from having a reduction in such benefit or the loss of aggregate income because of the increase in social security benefits in 1971. Moreover, it provides an additional aid-and-attendance allowance of $55 per month for dependent parents receiving dependency and indemnity compensation if such parent is a patient in a nursing home or so nearly helpless or blind that he requires the regular aid and attendance of another person.

The bill establishes a new formula for payment of dependency and indemnity compensation benefits to eligible dependent parents which would be more responsive to increases in income from other sources and would prevent loss of aggregate income when dependent parents receive increases in other income.

The second bill would provide a cost-of-living increase in non-service-connected pension rates payable to approximately 1.6 million veterans and widows and prevents these pensioners from losing any of their VA pensions because of the 1971 increase in their social security benefits. The purpose of this bill, basically, is to make an upward adjustment of the income limits to accommodate the social security increases.

It increases by $300 the annual income limitations for the non-service-connected pension program, thus providing an income limitation of $2,600 for single pensioners and $3,800 for pensioners with dependents.

It provides an average increase of about 6.5 percent in non-service-connected pension benefits for veterans and widows.

As a result of the increase in the income limitations and pension rates, veterans, and widows receiving social security benefits will be benefited as well as all pensioners regardless of the source of their income.

It establishes a new formula for payment of pension which will be more responsive to the needs of veterans and widows, and as long as a pensioner's income does not exceed the annual limitation, the bill would preclude the loss of aggregate income in the future when a pensioner might receive an increase in income from some other source, regardless of the source.

It increases the pension rates payable to eligible children receiving non-service-connected death benefits.

In determining a pensioner's income for pension purposes, it excludes the counting of income which is paid by the claimant for unusual medical expenses.

In the case of death of a veteran's spouse, it permits the Veterans' Administration to continue paying the veteran as a married veteran until the end of the calendar year rather than terminating benefits as a married veteran the month of the spouse's death.

It increases by $300 the annual income limitations for veterans and widows receiving under the pension program which was in existence prior to July 1, 1960.

It also liberalizes the present law in reference to the number of days a veteran of the Mexican War must have served in Mexico or on the Mexican Border to receive non-service-connected pensions.

In effect, then, this is a non-service-connected compensation based on the level of the veteran's other income.

No one is more cognizant of the budget deficit, and Federal spending. However, the widows and dependents of those who gave so much and the pensioned veterans should not be made to bear this additional burden. I said recently that domestic programs must have priority over foreign aid spending. This is an example in point.

I wish to stress the importance of these two measures in keeping veterans and veterans' dependents from being adversely affected by inflation and by the social security increases voted in April by the Congress. The brave men who offered their lives in service to their country, as well as their dependents, have no recourse but to face the curse of inflation and spiraling prices on a fixed income. The Congress must move to make an upward adjustment of this income, I would hope for the support of this body on these two measures.

By Mr. EAGLETON:

S. 2799. A bill to provide for the donation of surplus food commodities to local penal and correctional institutions, and for other purposes. Referred to the Committee on Agriculture and Forestry.

SURPLUS COMMODITIES FOR CORRECTIONAL INSTITUTIONS

Mr. EAGLETON. Mr. President, I am today introducing a bill that would make local penal and correctional institutions eligible to receive surplus commodities.

Under present law, surplus foods available to the Department of Agriculture through price support and surplus removal programs may be donated to nonprofit school lunch programs, nonprofit summer camps for children, and to assist needy persons in households and in charitable institutions.

In addition, the Agriculture Act of 1956 specifically authorized the donation of surplus foods acquired under price support operations to Federal penal and correctional institutions and to State correctional institutions for minors.

Although this statute excluded State penal institutions and State correctional insitutions for adults, I have been advised by the Department of Agriculture that they do make surplus commodities available to these institutions.

City and county penal and correctional institutions, however, remain ineligible to receive surplus foods.

Many counties in Missouri and in other States have budgetary problems which result in very limited food service allotments for the inmates of their jails. The quality of food service in these institutions could be substantially improved through the donation of surplus commodities.

Since the basic purpose of the applicable law and regulations is to provide food assistance to needy persons in institutions, I can see no logical reason to distinguish between the inmates of State prisons and of local jails.

My bill would correct the discriminatory nature of the present law by making surplus commodities equally available to penal institutions at all levels of government.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1408

At the request of Mr. MUSKIE, the Senator from California (Mr. CRANSTON) was added as a consponsor of S. 1408, to amend the Internal Revenue Code of 1954 so as to permit certain tax-exempt organization to engage in communications with legislative bodies.

S. 1781

At the request of Mr. NELSON, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 1781, to amend section 8 of the Federal Water Pollution Control Act, relating to grants for the construction of treatment works.

S. 2125

At the request of Mr. HARTKE, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 2125, a bill to amend chapter 19 of title 38 of the United States Code to extend coverage under Servicemen's Group Life Insurance to cadets and midshipmen at the service academies of the Armed Forces.

S. 2467

At the request of Mr. HOLLINGS, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2467, to amend the Natural Gas Act.

S. 2512

At the request of Mr. GURNEY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2512, the Social Security and Medicare Improvement Act of 1971.

S. 2530

At the request of Mr. GURNEY, the Senator from Idaho (Mr. JORDAN) was added as cosponsor to S. 2530, a bill to protect the right of privacy of persons by authorizing private suits when unsolicited obscene material is sent through the mails.

S. 2632

At the request of Mr. JAVITS, the Senator from Pennsylvania (Mr. SCOTT) was added as a cosponsor of S. 2632, the "Employment Incentive Act of 1971."

SENATE JOINT RESOLUTION 108

At the request of Mr. CRANSTON, the Senators from Maryland (Mr. BEALL and Mr. MATHIAS) were added as cosponsors of Senate Joint Resolution 108, to declare a U.S. policy of achieving population stabilization by voluntary means.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION 45

At the request of Mr. CRANSTON, the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator, from Oklahoma (Mr. BELLMON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BOGGS), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from North Dakota (Mr. BURDICK), the Senator from Florida (Mr. CHILES), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from North Carolina (Mr. ERVIN), the Senator from Hawaii (Mr. FONG), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. GRIFFIN), the Senator from Florida (Mr. GURNEY), the Senator from North Carolina (Mr. JORDAN), the Senator from Idaho (Mr. JORDAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), the Senator from Utah (Mr. Moss), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Delaware (Mr. ROTH), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alabama (Mr. SPARKMAN), the Senator from Alaska (Mr. STEVENS), the Senator from Georgia (Mr. TALMADGE), and the Senator from Connecticut (Mr. WEICKER), be added as cosponsors to Senate Concurrent Resolution 45, providing for United Nations Charter review.

EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENTS

AMENDMENTS NOS. 573 AND 574

(Ordered to be printed and to lie on the table.)

Mr. ERVIN submitted two amendments, intended to be proposed by him, to the joint resolution (S.J. Res. 150) proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 575

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HARTKE submitted an amendment, intended to be proposed by him, to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 582

(Ordered to be printed and referred to the Committee on Finance.)

Mr. MONDALE submitted amendments, intended to be proposed by him, to House bill 10947, supra.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 576 THROUGH 581

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself, Mr. ALLEN, Mr. ELLENDER, Mr. GAMBRELL, and Mr. GURNEY) submitted six amendments, intended to be proposed by them, jointly, to the bill (S. 2515) to further promote equal employment opportunities for American workers.

CONTINUATION OF DUTY-FREE STATUS OF CERTAIN GIFTS BY MEMBERS OF THE ARMED FORCES—AMENDMENTS

AMENDMENT NO. 583

(Ordered to be printed and to lie on the table.)

Mr. MONDALE submitted amendments, intended to be proposed by him, to the bill (H.R. 8312) to continue for 2 additional years the duty-free status of certain gifts by members of the Armed Forces serving in combat zones.

ADDITIONAL EDUCATIONAL BENEFITS FOR VIETNAM VETERANS—AMENDMENTS

AMENDMENT NO. 584

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. McGOVERN. Mr. President, I submit, for appropriate reference, an amendment to the GI bill for Vietnam veterans, S. 1918, which I originally introduced on May 20, 1971.

This amendment is the result of the consultations I have held with many of the young veterans who would be eligible for assistance under the terms of the original bill. I believe that with this amendment the GI bill for Vietnam veterans is a more equitable piece of legislation.

The bill originally extended only to those veterans who had actually served in the Indochina theater of operations.

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In the GI bill of rights that was enacted during the Second World War no distinction was made among veterans on the basis of the place of their service. Because I have tried to model this bill as much as possible on the original GI bill I would like to remove that distinction in S. 1918. It would extend to all Vietnam era veterans.

Present law limits the period of eligibility for educational assistance to 36 months. Because a college education is usually of 4 years duration, I propose that eligibility for the Vietnam veterans who have been called upon to make great sacrifices for their country be extended to permit them to complete their course of studies—including a full college education.

Finally, we have set the subsistence allowance at the poverty level. Because, as the cost of living increases, the value of this allowance would be reduced, I propose that the subsistence allowance keep pace with the cost of living.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 584

Amend the title to read as follows: "A bill to amend chapter 34 of title 38, United States Code, to provide additional educational benefits to eligible Vietnam veterans."

On page 4, lines 11 through 15 strike out clause (A) and insert in lieu thereof "(A) served on active duty for a period of more than 180 days any part of which occurred during the Vietnam era, and was discharged or released therefrom under conditions other than dishonorable, or".

On page 5 immediately after subsection (f) insert the following:

"(g) Notwithstanding any other provisions of law, no eligible Vietnam veteran shall receive educational assistance or a monthly subsistence allowance under this chapter in excess of forty-eight months."

Section 1661(c) of title 38, United States Code, is amended by inserting ", section 1683 A(g) of this chapter," immediately after "subsection (b)".

On page 3 immediately after the subsection designation "(c)" insert "(1)".

One page 3 immediately after line 11 insert "(2) The amounts specified in this subsection shall be adjusted by the Administrator at the beginning of each fiscal year to reflect changes in the cost of living as reflected in the consumer price index as determined by the Bureau of Labor Statistics in the period of the twelve months immediately preceding that fiscal year.".

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 475

At the request of Mr. PEARSON, the Senator from Vermont (Mr. AIKEN), the Senator from Oklahoma (Mr. BELLMON), the Senator from Nevada (Mr. BIBLE), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Idaho (Mr. HATFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG), were added as cosponsors of amendment No. 475, to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 541

At the request of Mr. STEVENSON, the Senator from Indiana (Mr. HARTKE), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of amendment No. 541, to the bill (H.R. 8312) to continue for two additional years the duty-free status of certain gifts by members of the Armed Forces serving in combat zones.

AMENDMENT NO. 559

At the request of Mr. RIBICOFF, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 559, to H.R. 1, the Social Security Amendments of 1971.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 2, 1971, he presented to the President of the United States the enrolled bill (S. 30) to establish the Arches National Park in the State of Utah.

ADDITIONAL STATEMENTS

DEATH OF FORMER SENATOR A. WILLIS ROBERTSON, OF VIRGINIA

Mr. TALMADGE. Mr. President, I am grieved by the passing of former U.S. Senator Willis Robertson of Virginia. Willis Robertson was my close personal friend, and I value very highly our warm association in the Senate.

Senator Robertson gave his State and Nation more than half a century of dedicated and concientious service, including 20 years in the U.S. Senate. When I first came to the Senate 15 years ago, I came to know Willis Robertson as an able Senator and a close personal friend. We worked together in the Senate, and shared many a pleasant hour in the field. Senator Robertson was an ardent outdoorsman, who loved nature and all sports, especially hunting and fishing, which we enjoyed together on many, many occasions. Despite his age, Willis Robertson was a virtual paragon of physical fitness. Although he was some 20 years my senior, I often found it difficult to equal his pace in the field or by the stream.

He served as the State of Virginia's first Commissioner of Game and Inland Fisheries from 1926 to 1932, when he first entered Congress. Throughout all his years of public service, he fought hard to preserve the scenic beauty and natural resources of his own State and all across the land.

Willis Robertson was a great scholar in many areas and was a member of Phi Beta Kappa. He was an eminent historian and one of the most learned students of the Bible ever to serve in the Senate.

Willis Robertson was a gentleman in every sense of the word. I shall sorely miss him. Mrs. Talmadge joins me in extending our deepest sympathy to the members of his family.

CHINA, THE UNITED NATIONS, AND FOREIGN AID

Mr. HANSEN. Mr. President, the Washington Star of October 31, published an excellent editorial concerning the deliberations of this body, which I think deserves reprinting in the RECORD.

The article recognizes that the Foreign Assistance Act defeat reflected only marginally the United Nation's expulsion of Nationalist China, and more appropriately was a product of the reality of our times as opposed to the perhaps more idealistic and less practical rhetoric of an earlier decade.

It is pointed out in the article that the U.N. "pattern of voting in previous years indicated that at best the United States could expect to delay the expulsion of the Nationalists for another year."

Another important point is that—

The Senate's rejection of the foreign aid bill was preceded by balloting that opposed cuts in American contributions to United Nations agencies, showing that the China vote has not blinded all our legislators to the U.N.'s basic value to the world.

The editorial takes note that with the emergence of China as a nuclear power and onto the world scene, and with the reality of Japan's apparent limitless economic strength and the forecast rivalry between them:

It will be the task of this administration and of subsequent ones to maintain the closest of relations with Tokyo while seeking to improve links with Peking, and this will be no easy task.

The editorial considers several other areas of the world, and in my view, draws the conclusion that the practical and realistic approach to world peace that our President has followed, as laid down in the Guam Doctrine and in other actions, makes good sense.

The editorial concludes with a significan quote from remarks by President Nixon:

The only issue before us now is how we can be most effective in meeting our responsibilities, protecting our interests and thereby building peace.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CHINA, THE UNITED NATIONS, AND FOREIGN AID

Even before Monday night's vote at Turtle Bay, many if not most Americans were angry at the United Nations, our "allies" or both. There also was plenty of disillusionment, on and off Capitol Hill, about the Vietnam war and our support of military establishments in Southeast Asia and elsewhere. Such negative thoughts about longstanding American policies backing various friends abroad came together on Friday in the Senate's shocking vote to kill the entire foreign aid bill.

The U.N. defeat, in which the admission of Communist China was accomplished only with the expulsion of the Nationalists, was largely of our own making. The foreign-aid turndown in the Senate, while affected marginally by the U.N. experience, resulted from the accumulation of our own confusions, disagreements and disappointments.

While the balloting in New York on October 25, and in Washington four days later unquestionably will have its place in the history of our times, a date far more destiny-freighted was that of July 25, 1969. On that day, on the remote Pacific island of Guam, President Nixon held a backgrounder for newsmen at the Top of the Mar Hotel. At that seemingly informal, spur-of-the-moment affair, the President enunciated what he modestly refers to as the Nixon Doctrine.

The kernel of that doctrine, as explained to Congress by the President on February 18, 1970, is that

". . . the United States will participate in the defense and development of allies and friends but that America cannot—and will not—conceive *all* the plans, design *all* the programs, execute *all* the defense of the free nations of the world. We will help where it makes a real difference and is considered in our interest."

Another President, on the occasion of his inauguration, had stated on January 20, 1961, that every nation should know

". . . whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of liberty."

Brave words and noble ones. And yet, in the event, the price had proved too high the burden too heavy, the hardship too severe. Economically weakened by the Vietnam war after two decades of profligate spending at home and abroad, emotionally spent by the divisive nature of the Southeast Asian conflict, the nation and its people simply were neither able nor willing to make good on John Kennedy's words.

And so what Richard Nixon had to say at Guam is a very real sense reflected the hard realities of the present decade as opposed to the optimism of 1961. As such Guam signaled recognition of the fact that a new era in world history was upon us and that nothing ever again could be the same. All else since then, including Monday's vote at the United Nations, has flowed from the Guam proclamation.

For it was clear that, if the United States was no longer to function as the world's policeman old arrangements would have to be molded and new alignments sought. There thus was ushered in a period of international fluidity in terms of diplomacy, monetary policy and trade. In such an uncertain period of resurgent nationalism and xenophobia, both here and abroad, it was unrealistic to think the United States could emerge with all its former pride and prestige intact.

On the specific question of the China vote, the pattern of voting in previous years indicated that at best the United States could expect to delay the explusion of the Nationalists for another year. Had Taipei been willing to drop its claim of sovereignty over the mainland, contenting itself with membership in the U.N. as the government of Taiwan, the situation would have been different. But that was not the case and, with Dr. Kissinger in Peking to arrange details of the President's visit, other nations were in no mood to compromise *their* future relations with Peking by enlisting in an obviously losing cause.

The Senate's rejection of the foreign aid bill was preceded by balloting that opposed cuts in American contributions to United Nations agencies, showing that the China vote has not blinded all our legislators to the U.N.'s basic value to the world.

For the organization itself did nothing to humiliate either us or the Nationalist Chinese. Individual governments can, of course, be held accountable for their public acts. But the institution itself, for all its imperfections, remains a force for peace in a dangerous world and it would be folly for the United States to weaken it out of pique.

With the retreat (for that is what it is) of American power from the mainland of Southeast Asia and the watering down of our overseas commitments elsewhere, what we are witnessing is the end of a bipolar power structure in which world hegemony was loosely divided between Moscow and Washington. In Asia, Communist China, with its huge population and primitive atomic weapons, and Japan, with its limitless economic strength coupled with military weakness, are emerging as rival centers of power. It will be the task of this administration and of subsequent ones to maintain the closest of relations with Tokyo while seeking to improve links with Peking, and this will be no easy task.

Thursday night's vote in the House of Commons means that Britain, Ireland, Denmark and Norway soon will join—and strengthen—the already-powerful six-nation European Common Market. Europe's economic and political integration long has been a major foreign-policy objective of the United States

Speculative attacks on the dollar, halted only by the President's closure of the gold window, coupled with rising competition from European products in our domestic markets, ending with the imposition of the 10-percent surcharge, have generated a great deal of anti-European feeling in this country, none of which was dispelled by the fact that only three NATO members (Greece, Luxembourg and Portugal) supported the United States on the China question.

But it would be folly to forget that our political interests are so intertwined with those of Western Europe as to be virtually indistinguishable. A strong Western Europe is essential to the security of the United States and, despite all the hokum of American protectionists, is vital as well to our economic prosperity: Overall, the United States runs a surplus on its balance of trade with the EEC, which in 1970 amounted to about $1.8 billion.

Insofar as Europe is concerned, our bilateral relations with West Germany are as vital to our interests as are our relations with Japan in Asia. Because Russia and only Russia can give her what she wants in terms of German reunification, Germany at times in the future may be tempted to cast her lot with the East rather than the West. It must be one of the foremost goals of American policy to see to it that this never happens.

It will require the better part of a decade for the new shape of the world around these five power centers to emerge. There will continue to be dangerous powderkegs such as the Indian subcontinent and the Middle East to trouble the uneasy peace of the world, with Southern Africa perhaps soon to follow. In Latin America, the prospects for progress, stability and democracy remain as uncertain as ever.

In short, we are entering a new epoch which is as promising as it is dangerous. Mr. Nixon has vowed to give us an era of negotiation rather than confrontation and his visits to Peking and Moscow will be earnests of that pledge. But the American people have to realize that there can be no return to isolationism, to "normalcy," to "America First." While there can be a limitation on armaments, there can be no disarmament. While there can be a diminution of the U.S. military presence, there can be no total withdrawal to our own shores. We can encourage American industry but we cannot build tariff walls around ourselves and expect to prosper while others starve. We need not have enemies but we must have friends. While there undoubtedly are expendable items in the rejected foreign aid bill, there are essential provisions that must be revived in some leigalative form before Congress adjourns.

In the bitterness of the aftermath of the China debacle, we would do well to remember that America cannot live in isolation if it expects to live in peace. As Mr. Nixon once put it, "the only issue before us now is how we can be most effective in meeting our responsibilities, protecting our interests and thereby building peace."

ADDRESS BY SENATOR MUSKIE BEFORE WEIZMANN INSTITUTE

Mr. RIBICOFF. Mr. President, since 1948, when Israel became a nation, the United States and Israel have had a very special relationship. In times of trouble, Israel has been able to depend upon the support of the United States. That support rests upon the convictions of the American public and the steadfastness of American leaders. Today, one of Israel's strongest supporters is the distinguished Senator from Maine (Mr. MUSKIE). He understands that American interests depend upon Israel's survival. He clearly demonstrated that understanding in a speech he delivered last September at the Weizmann Institute, in Chicago.

I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

We meet tonight at the end of a week which marked the beginning of the Jewish people's 5732nd year. The Jewish people live in a land which has no national borders . . . in France and Germany—in Russia and Spain—in the United States and in South America. Their greatness has been shaped through 6000 years of hope and despair . . . six thousand years of building and rebuilding . . . homeland and exile . . . joy and pain.

And now there is Israel . . . a young country sustained by an abiding faith in mankind's oldest heritage. I felt the meaning of that faith when I went to Israel only nine months ago.

I felt it when I stood in Yad Veshem, the memorial to six million dead Jews who will always live in the memory of their martyrdom.

I felt it in the bomb shelter of Kibbutz Gesher, where children had painted wall pictures of the peace that is their dream instead of the war that is their fate.

I felt it when I saw a desert land caressed into giving life . . . and I knew the border of Israel by the way the green ended and the brown began.

I talked with David Ben Gurion at the Kibbutz S'deBoker, and with Golda Meir, whose spirit is as young as the country she leads.

For years, I had seen the Congressional reports on the Middle East: statistics and projections . . . analyses and conclusions. But not until I was in Israel, did I truly feel in my heart what I had known in my head for a long time. Only then, did I appreciate the full force of Israel's urgent, moral claim on our support—not merely the support of our words—but the support of our deeds.

And in the Middle East I also learned again a stark and simple truth—that the security of Israel is closely related to the security of the United States.

In 1971, this truth must be the foundation for American foreign policy. It is no longer enough—and it was never enough—to rely on the diplomacy of mere reaction to Russian power politics in the Middle East. What seem like details of diplomacy to us may be matters of survival for Israel. Both our policy and our strength must remain constant—so Israel can become as certain

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of our support as she is of her own resolution.

We must back Israel's demand for defensible borders. From the beginning of nationhood in 1948 to the determined defense of 1967, the weakness of Israel's frontier was an enemy's best ally. The way to prevent a new and similar alliance now is an internationally recognized border adjustment. That would not be unusual and it would not be unfair. As I pointed out to Premier Kosygin in Moscow, Israel needs the kind of border security Russia claimed to need after the Finnish War and World War II—the security of frontiers that are a shield against attack instead of an invitation to aggression.

And Israel deserves more than that. She deserves the right to determine her own fate—and every other country in the Middle East should have the same right. The great powers should help—but they cannot decide. A lasting peace will result only from negotiations by the parties directly involved. And the United States must do nothing to undermine Israel's bargaining position.

But there is something our country can and must do. Though we hope as much as Israel for a permanent peace, we must also assure her of enough power to deter renewed war. The right aim is to stop the arms race in the Middle East. But arms control on one side and an arms increase on the other will only tighten the tensions and encourage more bloodshed and violence.

That would threaten our own security—and that is another reason why we must secure the strength of Israel.

I have believed that from the beginning. I believed it in 1967 when I co-sponsored the Symington-Javits Resolution for a just settlement in the Middle East.

I believed it in 1970 and last August when I supported more planes for Israel. And I believe it today—as I renew that support.

For months, Israel has been requesting more Phantom Jets. The Administration has heard the request again and again—and what the Israelis have heard in return is silence.

But silence will not counter a massive Soviet shipment of fighter aircraft to Egypt and Syria. Silence will not give Israel arms for defense and a chance to protect the balance of power in the Middle East. In 1971, an America truly committed to Israel's survival must provide Israel with tools to do the work of survival.

And the United States should also recognize that Israel's economic development is as important to her security as any arms we could send her . . . that the burden of defense can damage even one of history's most stunning economic miracles. And the Weizmann Institute is painfully aware of the tightening squeeze in Israel. Last year, the Institute suffered severe cutbacks in Israeli appropriations, leaving it with a deficit of $3 million.

So I believe we have a responsibility to Israel larger than providing the weapons of war. I believe we have a responsibility to help preserve the prosperity built in peace. So along with nine other members of the Senate, I have sent a letter to the Secretary of State insisting that Israel should now qualify for economic assistance. The United States was the first nation to recognize Israel. We cannot be anything but first in the quality of our support for Israel's safety.

Months ago, while I stood in the Gesher bomb shelter and looked at the children's portraits of a peaceful day, my thoughts drifted to other places . . .

To a pyramid built to honor the man who enslaved the twelve tribes of Israel in his land.

To the cindered and desolate shell of Auswichtz, the grim remnant of genocide.

And to the frozen plains of Siberia, where pogroms ended in the snow.

And at that moment, I made a silent pledge—that as long as I have any influence on the course of this nation's history, I will do everything I can to guarantee that the children of Israel have and hold their promised land.

I have learned what that means in my own lifetime. I remember my father's explanation of America's meaning to him—to a man who finally found in Rumford, Maine, a decent refuge from the oppression of Eastern Europe.

The kind of life he built there and the kind of life Jews have built in Israel are things too precious to lose. Surrounded by hostile forces, the Israelis have fashioned a nation where there was none before. They started with only a hope and a prayer. All they ask now—and what we must give—is our help in realizing their hope: a time-of peace.

Shalom.

SPEEDY TRIAL

Mr. PERCY. Mr. President, the New York Times on Sunday, October 31, reported the decision by the Judicial Conference of the United States to request amendment of the Federal Rules of Criminal Procedure in order to require that all U.S. courts set up "speedy trial" timetables. This is indeed great news. I commend the conference and urge the distinguished members of the Supreme Court to accept its recommendation.

The article also properly pointed out that this development must be considered in large part a response to the frequent and persistent urging of the able Senator from North Carolina, Senator ERVIN, who has introduced in two successive sessions of Congress now, the speedy trial bill, of which I am pleased to be a cosponsor. Senator ERVIN deserves high commendation for his perseverance and his astute judgment on this important issue.

As I indicated in testimony before the Constitutional Rights Subcommittee when this bill was the subject of hearings, the principle which the legislation seeks to advance, and which the Judicial Conference now seeks to implement, is not revolutionary. It does not advocate untested ideas. The goal is simply to make the guarantee embodied in the sixth amendment right to a speedy and public trial more than a hollow promise. There is and there can be no opposition to this principle.

I would hope that the action of the Judicial Conference, however, would be considered merely a "first step." It is reasonable to assume that if we are serious in our desire to extend to all persons accused of criminal acts the right to a speedy trial, the Congress is going to have to come forward with further structural guidelines and certain financial support in order to insure the best hope for success. S. 895, the Speedy Trial Act of 1971, is, in my judgment, the best existing vehicle for these additional reforms, and, though I have recommended certain changes in some of the provisions of that bill, I would, nevertheless, hope that the Senate could move in the very near future to consider it on the floor and pass it.

Again, I commend the Judicial Conference and the distinguished Senator from North Carolina (Mr. ERVIN), and ask unanimous consent that the newspaper article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. JUDGES SEEK EARLIER TRIALS—HIGH COURT ASKED TO AMEND RULES TO REQUIRE SPEEDIER ACTION ON DEFENDANTS

(By Fred P. Graham)

WASHINGTON, October 30.—The Federal judiciary hierarchy has decided to establish time limits for the trial of criminal cases in all United States courts, without waiting for Congress to act on a pending "speedy trial" bill.

In a statement released today, Chief Justice Warren E. Burger announced that the Judicial Conference of the United States had formally asked the Supreme Court to amend the Federal Rules of Criminal Procedure to require all United States courts to set up "speedy trial" timetables.

The procedures recommended by the Judicial Conference would be similar to court rules recently established by the highest court of New York, the Court of Appeals, and the United States Court of Appeals for the Second Circuit, which covers New York, Connecticut and Vermont.

UP TO DISTRICT COURTS

The New York rules require criminal trials within 90 days and the Second Circuit allows six months. Under the Judicial Conference's proposal, each Federal District Court would set up its own time schedule within which defendants would have to be tried and sentenced.

Senator Sam J. Ervin Jr., North Carolina Democrat, has been pushing a speedy trial bill that would require defendants in Federal Courts to be brought to trial within 60 days. It has languished in a judiciary subcommittee, with the Justice Department arguing that provisions favorable to prosecutors should be added.

The Judicial Conference, a 25-member group of ranking Federal jurists, is the administrative and policy-making arm of the Federal Judiciary. If the Supreme Court accepts the recommendation and adds a speedy trial requirement to the rules of procedure, they will become binding unless Congress objects.

A similar procedure will be followed with regard to a comprehensive new compilation of rules called the Uniform Rules of Evidence.

The Judicial Conference approved the rules, which were the product of a six-year study by a committee of judges, law professors and lawyers. The rules provide the first compilation of Federal evidentiary law, which previously had to be gleaned from widely scattered case decisions.

COMPLAINTS ON LIBERALS

A hitch developed in the preparation of the rules last year when the Justice Department, Senator John L. McClellan of Arkansas and other prosecution-oriented lawyers protested that the committee which had been appointed by former Chief Justice Earl Warren, had been stacked with liberals. They asserted that some of the rules unduly favored criminal suspects.

The Supreme Court ordered another review of the proposed rules, and a number of points that had been criticized as pro-defendant were changed.

The Government's authority to conceal identities of its informers was broadened, the latitude of prosecutors to cross-examine defendants about their past convictions was upheld, and convicted persons were prohibited from calling jurors to testify about alleged misconduct in the jury room.

In each of these instances, and in others that were changed to meet the Justice Department's objections, the Committee appointed by Justice Warren had recommended more liberal rules.

The Judicial Conference, which met at the Supreme Court Thursday and yesterday under the chairmanship of Chief Justice Burger, approved a number of reforms for expediting criminal cases that the Chief Justice has advocated in speeches.

One calls upon the United States Courts of Appeals to speed up criminal appeals by not requiring a full transcript for some appeals and by requiring that the lawyer who handled the trial usually also handle the appeal and by deciding some appeals based upon the briefs without oral arguments.

The Judicial Conference also recommended that criminal cases that promise to be long and complex be given special handling, as is now true of civil cases.

At present, criminal cases are assigned to judges on a strict rotation basis. The proposed new system would modify that for potential lengthy criminal trials, which would be assigned to special "available" judges.

Some defense lawyers have opposed this idea for criminal trials, saying that "hanging" judges might be made available for such duty.

A UNIQUE GATHERING IN THE NAME OF UNITY

Mr. MONTOYA. Mr. President, over the weekend of October 23 through 25, Spanish-speaking people from across the Nation converged upon Washington for a conference. Its theme was national unity among the country's 12 million Spanish-speaking people. Such a gathering has been due for a very long time. I was joined in calling this conference by three of my distinguished colleagues of the other body: Representative EDWARD ROYBAL of California; Representative HERMAN BADILLO or New York; and Representative MANUEL LUJAN of my home State of New Mexico.

Much has come of this conference already. Still more will emerge in the final reckoning. Most important, it did take place. It did highlight the worst evils afflicting the Nation's Spanish-speaking population. It did offer a major forum from which we were able to sensitize the Nation and our mass media to the plight of our community.

Representative ROYBAL delivered an opening series of remarks that succinctly summed up our situation and goals. Those remarks deserve to be brought to the attention of the Senate. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH OF CONGRESSMAN EDWARD R. ROYBAL

It is a pleasure to welcome you to this historic meeting, dedicated to the development of a national strategy for collective and unified action. Those of us who were able to attend this conference bring from our communities and barrios the hope that we will act as a united people, and emerge from this conference a powerful united force in this country.

The search for unity is more than a search for symbolic cultural solidarity. It is more than a dream—more than mere defiance against continuing inequities committed against the Spanish speaking people. It is the strong human desire for self preservation, a desire that compels us to seek a united strategy to overcome the many problems which weigh most heavily upon us.

For too long we have been drained politically and culturally, and we are tired. Tired of being overwhelmed by the power and influence of the dominant group which has left our communities weak and isolated. Tired of being first to be drafted, first in the battlefield and last in opportunity. And we are also tired of having all of the battlefields of the world in which to die but no place at home in which to live in dignity, equal in employment, equal in housing and education.

We are here to cause change, to decide our own priorities, to make our own recommendations for solution and action. We cannot in two days solve problems that have existed for more than a hundred years, but we can agree on issues of immediate concern that deeply affect the welfare of our people.

We seek to end an occupational caste system that excludes us, an educational system that has failed us, a political structure that denies us full representation, and a totally inadequate health and social service program that does not meet our needs.

Today's conference is a planning session, to create a representative national committee which would lay the groundwork for a permanent coalition strategy and structure in the coming months. This working committee would develop mechanisms for a financially viable, nationwide organization and prepare a platform of national priorities. This process will not take place overnight. But today we must begin.

While we are seeking this national consensus, we must remember at the same time to balance our display of strength with mutual respect for each other, regardless of our past disagreements, our differences in ideology, status or party affiliation. It may be well that we follow the example of the Republican Party by adopting the eleventh commandment—speak no ill of your brother. We must end once and for all our envidias that divide us, our chiflетas that destroy us, and generate for ourselves a growing sense of unity. This is our last and only hope for unity, and I am proud to join you in this purpose.

AMERICAN AIRPOWER

Mr. GOLDWATER. Mr. President, more important probably than the vote in the United Nations last week which should have made it perfectly obvious to every thinking American that we are no longer regarded as the world's leader, the deterioration of our armed services is going to make our position even more critical.

I have long been warning about this slippage and I have begged the President of the United States to present the entire facts of the case so that the people will not think that just a handful of us who are termed "hawks" are worried about this situation.

An article furnished by the New York Times service entitled "Generals Think Air Force in Critical Weapons Period," is typical of the plight of the service and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GENERALS THINK AIR FORCE IN CRITICAL WEAPONS PERIOD

NEW YORK.—Air Force commanders believe their service has entered a critical period in which American strategic and tactical air power is declining while that of the Soviet Union is expanding.

The three chief elements in the Air Force's problem, according to senior generals, are:

1. The Air Force's basic weapons systems, the B52 bomber and the F4 fighter-bomber, are nearing obsolescence and must be replaced, at high cost, by the B1 and F15.

2. Intelligence gathered by satellites indicates that the Soviet Union has established a solid lead over the United States in land-based intercontinental ballistic missiles, is building emplacements for larger missiles and has deployed the fractional orbital bombardment system, or FOBS, which enables Soviet commanders to bring their missiles down on a target from any direction. This makes it possible for the missile to escape many of the existing means of detection.

3. These developments are taking place against a national background of budgetary stringency.

Gen. Bruce K. Holloway, commander-in-chief of the Strategic Air Command, deplored what he termed "the lack of understanding (and) the indifference to the threat we face," and emphasized that the Air Force "must get the needed modernization" if the United States is to have a credible deterrent in this decade.

The Air Force generals are aware of the Nixon administration's commitment to the current talks on limiting strategic arms. And they say that they, too, hope that the talks will succeed. But their intelligence sources report a continuing build-up of Soviet nuclear weapons.

Air Force promotion of the new B-1 bomber has encountered opposition based on Russia's de-emphasis of the heavy bomber.

Every airman consulted, from generals at the Pentagon to mechanics at Da Nang in South Vietnam, emphasized that weapons and equipment, not morale, are the Air Force's first problem.

Last June 30, the Air Force had 125,000 officers and 625,000 enlisted men.

This all-volunteer force has benefited from the draft. The consensus is that half of the Air Force, like the other services, will face a problem if the draft is abandoned in favor of a volunteer Army.

Gen. John D. Ryan, the Air Force chief of staff, maintained that morale was good.

"The main problem is modernization," the general continued. "Over 50 per cent of our combat aircraft are 10 years old.

The Air Force now has about 3,675 combat planes—bombers, fighters and fighter-bombers and interceptors.

The Strategic Air Command's manned nuclear bomber force is built around the B52, of which about 490 are active. SAC received its first B52 in June, 1955. The latest model, the B52H, came off the production line in 1962.

The Air Force also has 75 FB111s, a medium-range bomber with a payload of 37,500 pounds and a speed of mach 2.2, or 2.2 times the speed of sound—the newest Air Force bomber. The original F111 model encountered grave difficulties, but this trouble has not affected the FB111 model. But the Air Force insists that the FB111 cannot be considered a substitute for the B1 because its range at low altitudes is limited and its capacity to accommodate advanced penetration aids is restricted.

Of the Air Force's 2,350 active fighters, slightly more than 1,000 are F4s, which have a speed of mach 2.4 and can be armed with bombs and missiles. But it was designed in the 1950s and went into service nine years ago.

The Air Force deploys two of America's three basic types of strategic offensive forces: Manned bombers and land-based intercontinental ballistic missiles. The Navy's ballistic missile (Polaris or Poseidon) submarines are the third missile system in what the Pentagon calls the triad.

The current level of the Minuteman forces, 1,000 missiles, was reached in April, 1967. There are also 54 Titan missiles.

The Minuteman 1, which has been in serv-

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ice since 1962, is to be phased out. By the end of 1974, SAC will have a missile force of about 500 Minuteman 3s and 500 Minuteman 2s.

The Titan 2 has been operational since 1963. It carries a payload of five to 10 megatons—largest of the American intercontinental ballistic missiles—and has a range of 7,250 miles. The Air Force has three Titan 2 squadrons, consisting of 18 missiles each.

Brig. Gen. Harry N. Cordes, SAC's deputy chief of staff for intelligence, views the Soviet missile threat as a "mix" in which offensive and defensive weapons are blended to a degree unknown in the West.

Their offense is represented by an ICBM force of about 1,600 launchers.

The Air Force reports this could reach well over 2,000 hardened ICBMs by 1975.

The Soviet strategic rocket forces also deploy about 700 medium and intermediate range ballistic missiles; 70 cover targets in China and Japan, and 630 cover targets in Western Europe.

The Russian defensive system ranges from antiaircraft artillery to antimissile missiles.

Moscow is protected by 64 launchers firing the Galosh missile.

These and other defensive weapons are knit to new and more accurate radar systems.

The Soviet Union also has a force of more than 3,000 fighter interceptors; three new types have come into service in the last five years.

Soviet air strength is not confined to missiles and bombers. A tactical air force of about 5,000 planes includes several high performance aircraft.

Tactical and strategic commanders of the U.S. Air Force differ on many points, including the usefulness of high-performance aircraft in ground support. Tactical commanders also feel that their fighters and bombers can do the job assigned to strategic bombers if the tactical planes can fly from advanced bases. But the consensus is that the Air Force must have the B1 and the F15.

Maj. Gen. Douglas T. Nelson, B1 systems program director, offered the rationale for the manned bomber in a recent speech.

One point was that, while ICBMs are inflexible—once launched, the commitment to attack the target is irrevocable—the manned bomber is under control and can be ordered to carry out its mission or can be recalled.

Congressional critics have argued that, instead of a vast investment on the B1, the B52 should be retained.

"Even if we were to spend those large sums of money to beef up the structure and were even to refit it with more efficient engines," Nelson said, "the B52's ability to penetrate air defenses expected by the early 1980s must be expected to seriously degrade."

The B1s will have high subsonic speeds at low altitude and supersonic capability at high altitude. It will carry twice the bomb load of the original B52s, and will be armed with short range attack missiles, or SRAM.

The original B1 contract of June 5, 1970, called for five flight test aircraft and two static and fatigue test airframes from the North American Rockwell Corp. Since then, the requirement has been reduced to three flight test aircraft and a ground test aircraft. Delivery of the first production aircraft is expected in October, 1977.

No date has been set for the F15's entry into service, but it is expected by the mid-1970s.

The F15 is capable of combat air patrol, fighter escort and fighter sweeps, and has been designed to out-fight any known or projected Soviet or Chinese fighter plane.

A $1.1-billion contract was awarded to the McDonnell Douglas Aircraft Corp. for the design, engineering and fabrication of the F15. The first test plane is scheduled to fly next July.

THE ELDERLY IN AMERICA'S DESTINY

Mr. CHURCH. Mr. President, as chairman of the Health Care Subcommittee of the Special Committee on Aging, the Senator from Maine (Mr. MUSKIE) has been deeply involved with the problems of the elderly. His subcommittee has held hearings across the country on the many problems involved with delivering adequate health care to older Americans. Out of those hearings, Senator MUSKIE has developed a keen understanding of the changes that must be made in our health care delivery system in order to meet the health care needs of all senior citizens. Senator MUSKIE has discussed these changes in a speech he delivered this past September in Florida. I ask unanimous consent that the speech, entitled "The Elderly in America's Destiny," be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE ELDERLY IN AMERICA'S DESTINY

I always look forward to leaving the semantic confusion of Washington and coming back to the real America. In the Senate, we tend to see our nation on paper alone—and we sometimes forget that behind each volume of analysis and statistics, there are human beings facing very tough human problems.

And so, whenever I can, I try to meet the people who live the lives I see before me on paper each day.

And the *real* lives of the elderly . . . the retired worker . . . and the pensioner can never be described by statistics or analysis.

No statistic can ever convey the feeling of living in a country where age too often builds barriers and imposes loneliness.

And no academic analysis can capture the despair which older Americans feel when their country turns its back on half a century of productive service and contribution.

How can others forget so soon all that you have done for us?

How can the rest of us forget the bond of our common humanity—that, with good fortune, we will all grow old?

I do not understand the psychology of those who so fear the onset of age that they fail to see the knowledge and the wisdom that comes with passing years.

But I think I understand the politics of that psychology—and its impact on the health and prosperity of America's elderly.

Every year, our country spends a gigantic sum of money to meet pressing social needs. Because there is never enough money to go around, hard political decisions must be made—choices which inevitably short-change some areas of vital concern.

And for too long the politics of choice have short-changed our senior citizens, sacrificing their needs to the needs of others.

Some of our government spending is required each year by law—and so the government has no choice.

Some of our spending is demanded by large, wealthy, powerful lobbies—and the government makes no choice.

And some of our spending is called for by influential bureaucracies within the government itself—and there is only one choice to make.

But there are few lobbies powerful enough, few bureaucracies influential enough, and few laws comprehensive enough to shield the elderly from the politics of choice.

So when inflation robs dollars of their purchasing power, you . . . and too many others who lack political power . . . you pay the price.

And when we fight a hundred-billion-dollar war in Southeast Asia which leaves us with less to spend at home, you pay the price.

For years, inflation has stolen the value of your money, and with it your chances for a decent standard of life. You know what inflation does to fixed incomes. Statistics tell me—but no one has to tell you. While workers can fight for pay increases, those who have given so much to America cannot even fight to stay where they are.

There is much we must do about inflation now.

We can adopt strong policies to bring wages and prices down—which should have been done in 1969.

And we must create a tough, fair-minded, anti-inflation program after the 90-day freeze has ended.

This would help the elderly, because it would help all the victims of inflation. And we must win this victory for price stability in 1971.

But what will happen when we experience the next inflation?

What will happen to you when the next inflation forces America to play again the politics of choice?

The plain fact is that unless we protect the elderly now . . . you will pay for the next inflation, as you have paid before.

We can, of course, increase social security benefits, so that the incomes of older Americans can catch up with higher prices in the economy. The presently proposed 5% increase is not enough. We must do more immediately.

But benefit increases alone are no safeguard for the future. They merely make an apologetic attempt to remedy the neglect of the past.

The federal government seldom acts preventively. The usual rule in the game of choice is to ignore the problem until it can be seen and felt. And so yesterday's challenge becomes today's crisis—and is dealt with only after great harm has been done. When Washington finally raises social security payments, the action is always too late, and often too little.

Relief comes only after suffering—only after you and millions like you have felt the full, crippling force of skyrocketing prices.

We have promised you something better than this losing hand in the game of choice—and the promise must now be kept.

I believe that the federal government should enact legislation to insure that your social security benefits will increase *automatically* as the cost of living goes up. Only in this way, can we stop inflation from eroding your income before prices rise again. Only then, can you finally secure what America pledged over three decades ago—a truly decent life for older Americans.

And we must do more.

We must liberalize the social security retirement test. Too often, those who deserve assistance are denied benefits because of legal technicalities.

We must provide full payments for needy widows and widowers at the age of 65—to guarantee that the emotional emptiness left by the loss of a loved one will not be matched by material deprivation.

And we must increase benefits for those who delay their retirement beyond the age of 65. We should welcome and encourage the continued exercise of your talents and energies.

But even an expanded and progressive social security system is far from enough. It can preserve the income of the elderly . . . but it cannot protect their health.

For that—we must look hard at the medical system in this nation.

And we must look again at the politics of choice—at the sad truth that government lets your resources fall behind while your health care costs continue to climb . . . at a faster rate than any other price in the national economy.

The cost you pay to cover doctor bills under Medicare has doubled since the program started. And Congres is now considering hospital fee increases that may push those prices even higher.

If the trend continues, senior citizens will soon be paying as much of their strained resources for medical care as they did when a health care program for the elderly was only a distant dream.

These are the statistics and projections I see on my desk in Washington. They are disturbing and discouraging. They are numbers, and the numbers add up to a crisis.

But numbers cannot convey the true meaning of that crisis.

They do not show the pain of arthritis.

They do not show the tedious days of waiting for treatment.

They do not show how the elderly pay the costs of an unfair medical system with lingering illness or financial hardship.

Our older Americans have done so much for this country . . . it is time for this country to do more for them.

One answer is to hold down the cost of medicare.

But that requires choices—and we have seen what the odds are in the game of choice.

If we happen to be fighting a war in Southeast Asia—or if a lobby or a bureaucracy intervenes—then the elderly are left to a time of sickness—or to medical bills which they cannot afford.

The only fair solution is a new system of national health insurance, built upon a foundation of national planning and intelligent re-organization.

We must guarantee complete and comprehensive medical care for all Americans.

We must, once and for all, take the dollar sign out of your medical decisions.

And we must devise new and creative systems for the delivery of health care . . . to put medical services where the people and the problems are.

That is why I proposed legislation—which the Senate has already adopted—to build new medical schools and train doctors for the special treatment required by senior citizens.

And I have also proposed

The construction of special clinics in areas heavily populated by the elderly—

The development of health care teams to bring aid to those shut in at home—

And the provision of new transportation facilities to take the elderly to and from distant hospitals and clinics.

The first duty of our government is to protect America's vital resources. And there is no resource more important or more essential than what you have to offer the rest of us.

I favor automatic social security benefit increases and comprehensive health insurance . . .

Not because we owe you something—although we do . . .

Not because we should feel an obligation to those who gave so much to their country—although we should . . .

But because these reforms are a valuable investment in our nation's future.

We have much to learn from our senior citizens . . . things we cannot learn from anyone else.

You have seen so much, and you have learned so much.

You must shake your heads when you hear the alarmed cries that America is inevitably going under—for you have shared with this land far darker hours.

You have seen a nation of soup-kitchens and breadlines, staggered by the economic collapse we call the Great Depression. You have helped that nation rebuild itself into the richest society in the history of man.

You have seen an America stunned at Pearl Harbor get up off the mat and preserve the chance for freedom in the world.

You can tell this country—with an authority born of pain and hunger, of growth and laughter, of knowledge and wisdom—you can tell us all how good and how great America can be.

And we need you, and your wisdom, to help take us there . . . just as Winston Churchill, at the age of 76, took Britain to its finest hour.

Each of you, in your own perhaps more personal way, can work now for a finer hour in this country.

You proved to us, in other times, that it can be done.

Now, when we need you, as we have before, you can prove to us that old is beautiful.

You can prove to us—to a nation which more than ever needs to listen—that the words of Robert Kenedy ring true:

"Youth is not a time of life, but a state of mind."

THE FARMERS HOME ADMINISTRATION

Mr. BELLMON. Mr. President, the Farmers Home Administration of the U.S. Department of Agriculture continues to improve on its outstanding record of the past 2 years under the guidance of my fellow Oklahoman, Administrator James V. Smith.

Through better planning and administration of its programs, and with reliance more on private capital than appropriated Government funds, Farmers Home has succeeded in doubling, in some cases tripling, the resources it brings into rural areas for family farm and community development.

What was a $450 million-a-year program of rural housing credit in the fiscal year 1969 is now a $1½ billion supplement to housing credit available in rural areas during the current year.

In the program to modernize rural America's water and waste disposal services, this agency with President Nixon's active support has expanded its loan participation from $100 million to $300 million a year.

And in response to its most difficult challenge, the Farmers Home Administration has brought about an upward movement in its farm credit services.

For several years in the 1960's, this bedrock source of credit for the smaller and beginning farmer and rancher was backtracking—falling off both in the amount of resources available and number of farm families served.

However, within the past year, Administrator Smith and his organization have developed new methods of participation with other lenders in the field of agricultural finance. These innovations, combined with President Nixon's action to increase the agency's insured loan resources, have doubled the volume of farm credit directly extended and stimulated by Farmers Home. It is now in the range of $1 billion a year.

The significance of this achievement, both to the State of Oklahoma and to agriculture throughout the Nation, was set forth in an article which appeared in the Daily Oklahoman of Oklahoma City on October 19.

Mr. President, I ask unanimous consent that the article be inserted in the RECORD.

There being no objection, the article was ordered to be printed ni the RECORD, as follows:

FARM LOANING BIGGEST EVER

(By Jim Reid)

Supplemental credit available to the nation's farmers through the Farmers Home Administration this year will be the highest in history, a top FHA official said in Oklahoma City Monday.

James V. Smith, FHA administrator, said thousands of farm families could benefit from more than $1.1 billion in credit in fiscal 1972 as the result of cooperative efforts between the FHA and commercial lenders.

"We project that more than $37.5 million will be available to Oklahoma farmers in fiscal '72," he said.

Smith, former Oklahoma congressman from Chickasha, is in the state for the dedication of several water conservation projects.

He said the FHA's farm ownership program is aimed to reach $35 million—$15 million of government money, with private lenders participating at a level of $10 million.

Projected figures for the farm operating loan program is $12.5 million of which $3 million—triple last yeaf's figure—comes from regular commercial lenders, he said.

Smith said the farm program received a substantial boost from President Nixon when he extended the lending level to $350 million this year, $62 million more than 1971.

If Congress approves legislation changing the program from an appropriation basis to an insured basis, Smith said, notes of farm borrowers would be sold to investors who, in turn, would be insured against loss on the notes.

The investors' money would replenish a revolving fund and would be available for more loans, as is the case now with farm ownership loans, he explained, adding:

"We are hopeful that in fiscal '72, private credit sources will cooperate by lending some $250 million to our farm ownership borrowers across the nation, thus extending our $350 million budget and that there will be an additional $150 million in private money available to those families now participating in our $275 million operating credit program.

"When we add these sums to the $140 million emergency farm loan program, we're looking at more than a billion dollar program—double the credit available in 1971. A third of this amount will have been provided by the private enterprise system."

Smith said the cooperative effort requires the FHA and the commercial source to make simultaneous loans to a borrower, with the commercial source having first claim on the security.

The cooperative plan has had limited use for some years in the short-term operating loan program. Figures released by the agency show that, for the fiscal year ending this past June 30, other lenders provided some 16,000 FHA operating loan borrowers with more than $106 million.

Last January, cooperative loan arrangements for the farm ownership program were

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announced, and some $8.5 million in private credit was made available to FHA borrowers during the last few months of fiscal '71.

Smith said the plan has been favorably received by commercial lenders, and private participation is expected to rise sharply this year.

"We are pleased with the fine cooperation extended by banks and other credit sources to make this plan work," he said.

Smith will take part, along with House Speaker Carl Albert and other dignitaries, in Friday's dedication of a watershed project at Maysville.

The watershed, jointly funded by the FHA and the Soil Conservation Service, will provide a municipal water supply, recreation and flood control in the Maysville area.

Smith will be dedicating other projects in Harmon, Greer and Beckham counties and will wind up his state visit next weekend when he addresses members of the Oklahoma Lumbermen's Association during that organization's 25th anniversary convention.

BILL BENTON RECEIVES BAR ASSOCIATION AWARD

Mr. RIBICOFF. Mr. President, William Benton, the publisher and chairman of the Encyclopedia Britannica, has had a career equaled by few American men or women. He founded one of the Nation's leading advertising firms, served as Assistant Secretary of State in the Truman administration, represented Connecticut in the U.S. Senate from 1949 to 1953, and served as President Kennedy's Ambassador to UNESCO.

In recognition of his outstanding contributions to Connecticut and the Nation, the Connecticut Bar Association on October 19 awarded my old friend Senator Benton its Distinguished Public Service Award for 1971.

Upon receiving this most deserved honor, Senator Benton, a nonlawyer, spoke of the role the legal profession has played and will play in shaping our Nation. I ask unanimous consent that Mr. Benton's remarks and the bar association's citation be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

ADDRESS OF WILLIAM BENTON

The award you give me is the greatest honor that has come to me in the state of Connecticut except my election to the United States Senate. I am deeply touched. I thank you for it.

I am proud to stand here in the shadow of my distinguished precedecessors of the last three years—Dr. Philip Jessup, Mr. John Hersey, and Governor Raymond Baldwin, who was also my predecessor in my Senate seat. Doesn't Governor Baldwin's lifetime of public service present us the most distinguished record of any citizen in all the long history of our state?

Further, I am pleased to be honored in the year when your Association boasts a president from my home community of Fairfield—Mr. Noman Parsells, majority leader of our state House of Representatives from 1955 to 1957.

Once I considered trying to become a member of your honored profession. I missed out on its learning and dignity by only a hair's breadth. On my graduation from Yale in 1921, my family, many of whom have been either Congregational ministers or college professors, learned with dismay that I had been contaminated by Yale's gilded youth of post-World-War-One. I announced that I was determined to become the first member of the family ever to enter business. Dolefully my mother pleaded with me. She said, "If you won't go into something respectable, won't you at least become a lawyer?" I wish she were here tonight. Your new president, Mr. Carl Nielsen, a fellow Trustee of mine of the University of Connecticut, tells me Governor Baldwin said he was sorry his mother wasn't present to hear his introduction because she would have been the only one in the room who believed what was said of him.

My mother enrolled me in the Harvard Law School. Those were the days when anyone could get in with a Yale diploma. My room was reserved. Then, on my way through New York to Cambridge, my emotions rebelled at the thought of those three long years. My emotions—and not for the last time—conquered my intellect. I secured a job in an advertising agency.

Defiantly from New York I wrote my mother: "Dear Mother, I am not going to be a lawyer. I have a job with a wonderful company. We prepare the advertising for Quaker Oats, Sunkist Oranges, Pepsodent, Palmolive Soap." My mother replied, "Dear Son, I am sorry to hear you have gone into a business that says Palmolive Soap is a good soap."

(It's a good thing I decided against becoming a lawyer. Mother wouldn't have let me defend guilty client. I never could have made a really *good* living.)

And thus I missed the privilege of being a listener today instead of an outsider. And I must confess that until today I have fairly successfully avoided contact with the law. I have never been arrested. I have never served on a jury. I have never even been in a courtroom. I have employed a few lawyers—too many, to be truthful—and have wrangled with a great many more. But when I see so many of you in one room at the same time, I feel much like the parrot who escaped from his cage, flew in through an open window, and settled on a table in the midst of a conference of bishops. "Oh, my," the parrot croaked, "what a hell of a lot of bishops."

I regard the law as the greatest of the professions, the finest career in our business society open to a talented young man or woman. Some commentators, of course, do not share my respect for the law. Lord Brougham described a lawyer as "a gentleman who rescues your estate from your enemies and puts it in his own pocket." I looked up Lord Brougham. I know enough about the law to throw out his testimony as prejudiced. He was a lawyer himself.

Still another view of the legal profession was provided by a famous ex-lawyer in a fireside chat from the White House in the mid-thirties when he cheerfully characterized your profession with the phrase, "the fellows who write the small print on your insurance policy."

I searched farther for my citations, however, and thus I want to share with you Alexis de Tocqueville's comment written 136 years ago. "In America there are no nobles or literary men, and the people are apt to mistrust the wealthy; lawyers consequently form the highest political class and the most cultivated portion of society . . . If I were asked where I place the American aristocracy, I should reply without hesitation that it is not among the rich, who are united by no common ties, but that it occupies the judicial bench and the bar."

If I were a member of your profession, I would be honored by the legacy of the bar, and excited by the fact that today the practice of law attracts and holds an ever-increasing number of the brightest people in our society. Look at the current record of the School of Law of the University of Connecticut. More than 2,600 young people have applied to enter the School this fall. This is a 70 percent increase in applications over last year, and this in the face of declining university enrollments across the nation!

What is it that increasingly attracts to the law our most purposeful and idealistic young men and women? Can it be that the law is the most supple of disciplines, that it stretches a man's mind—and not merely at the beginning when he's preparing for the bar examinations? Each year through life—for the lawyer—the stretch becomes bigger and tougher. The problems and opportunities grow and keep growing. Can the same be said about a banker—an innkeeper—or about an obstetrician?

And what other profession is so mixed up with the art of politics? Norman Parsells and Raymond Baldwin can testify to this, not to forget Ken Bradley, Abe Ribicoff, Brien McMahon, Governor Meskill, John Bailey, and many another distinguished leader in both parties.

The issues at law that attracted these leaders, that attract today's generation of students, and that attracted most if not all of you, are inextricably involved with social problems, with the great struggles and perplexities of our times. The study of law must be a broader study than merely one of cases and decisions and the dry words of the honored dead. The proper study of law is the whole of our society, the whole of economics, of sociology, of all the social sciences, and the law schools which recognize this—such as those we boast here in Connecticut—will move forward in national leadership.

I am proud to be among you tonight. This occasion, honored by a group so distinguished as the Connecticut Bar Association, will remain with me as a memory to cherish forever. I thank you for such a milestone.

THE 1971 DISTINGUISHED PUBLIC SERVICE AWARD OF THE CONNECTICUT BAR ASSOCIATION

The Connecticut Bar Association, with special pride in his achievements, presents its Distinguished Public Service Award for 1971 to William Benton, legislator, diplomat, educator, author, publisher, businessman, philanthropist, patron of the arts, a distinguished citizen of Connecticut.

A tenth generation resident of this State, Senator Benton, after his graduation from Yale, entered the field of business and developed to worldwide recognition the advertising firm of Benton & Bowles.

Thereafter, he entered the field of education as academic vice-president of the University of Chicago, and subsequently became publisher of the Encyclopedia Britannica. Then followed Government service as Assistant Secretary of State in the Truman Administration, where he organized the program which gave rise to the Voice of America broadcasts and led the United States into participation in UNESCO. He later served as Ambassador to UNESCO under the Kennedy Administration.

Apart from his other activities, he has found time to serve as trustee for six colleges and universities, as well as trustee of the American Shakespeare Festival Theater, the Wadsworth Atheneum and the Noah Webster House Foundation.

He served this State as its Senator from 1949 to 1953. Perhaps his brightest hour came as United States Senator, when he, among few others, challenged the awesome power of Joseph McCarthy and led the defense of civil liberties and freedom against the onslaught of McCarthyism.

The Connecticut Bar Association, in recognition of his contributions to our life and times, and for his having made us all the richer thereby, is honored and privileged to present to William Benton its Distinguished Public Service Award.

SECRETARY STANS SEES NEED FOR BALANCED APPROACH TO ENVIRONMENTAL PROBLEMS

Mr. GRIFFIN. Mr. President, in a thoughtful and farsighted address, Secretary of Commerce Maurice H. Stans recently stressed the need for a balanced approach to solving our environmental problems. I ask unanimous consent that the text of his address before the 40th International Conference of the Financial Executives Institute in Houston, Tex., on October 26, 1971, be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE MAURICE H. STANS

Mr. Chairman, it is a very great pleasure for me to be here today for this meeting of the Financial Executives Institute.

Many of you are old friends, and we have much in common to discuss—because of the financial background we share and because the relationship between business and government is constantly becoming more important to all of us.

Today I was faced with a choice of talking about the subject most on your mind, but of a changing and passing nature—the President's Economic Program—or, a matter of more long-run concern to business, industry and the public—the question of a balanced national approach to the environmental issues facing the nation.

The latter is the one I have chosen to discuss.

ENVIRONMENT

A concern that must be seen in perspective is the matter of the environment and the anti-pollution movement in the country today.

This is a very emotional issue in many quarters. It is a very political one in many quarters. The public for its part is demanding action—actively, vocally, impatiently demanding immediate action to resolve pollution problems.

This creates opportunities to make progress. But it also presents some difficulties.

President Nixon has declared that the nation has been long overdue in halting its abuses of the air, land and water. He has made a commitment to eliminate pollution and to cleanse the atmosphere and conditions in which we live.

So there is no question that the environment ultimately has to be cleaned up, that we have to deal with pollution.

The question is, how do we go about doing this? And in the most sensible way?

PRIORITIES

The public's desire for immediate solutions is understandable; its impatience may be justified, in many respects.

But we cannot have single track minds in which the environmental issue overrides everything. That is how some people would have us look at our problems.

But if we yield unquestionably to every popular demand, if we settle for quick, immediate solutions to one set of problems, we can very quickly catapult ourselves into others that are much more serious.

There is evidence that this is happening—and it could lead to an environmental backlash.

So before we act out of panic—out of ecological hysteria, or misinformation—I think it is time to stand back, and look at the environmental problem in the whole.

It is high time for the entire nation to weigh the needs against the demands and say: "Wait a Minute, here—what are our priorities?"

We need to weigh our technological capabilities against the demands for immediate change and say: "Wait a Minute—can we really get there from here?"

We need to weigh each specific proposal against economic reality and say: "Wait a Minute, how do the benefits compare with the costs?"

PROBLEMS

In other words, the problem is: how do we develop public and private policies in which economics and technology are factored into every environmental assessment?

Let me spell it out.

Industry has been indiscriminately accused by some of ignoring the pollution problems of our times and being responsible for most of them.

The charge is dead wrong and it is unfair.

Industry, of course, must bear a share of the blame. But the fact recognized by too few people is that many of the worst polluters are outside of industry—municipalities, other governments, agriculture, and the public itself. Witness the fact that hundreds, perhaps thousands, of American communities pour millions of tons of untreated sewage into waters every day.

RESPONSE

By contrast, almost across the board, American industries have launched vastly complex and expensive efforts to help clean up the air, water and landscape of the country.

For example:

The chemical industry in 1970 spent $600 million for pollution abatement.

The iron and steel industry has spent more than a billion dollars on air and water facilities, and almost two-thirds of that in the last two years.

The automobile industry currently is investing a quarter of a billion dollars a year in pollution research and development.

The electric industries will spend two-thirds of a billion dollars on pollution control this year alone.

The paper industry is spending $321 million for air and water pollution control this year.

The petroleum industry is spending more than $500 million in pollution control this year, and in addition is developing expensive facilities in other countries to reduce the sulphur content of fuel oils being shipped here.

The oil and tanker industries are working closely with the government to eliminate oil discharges and accidental spills into the oceans.

The fact is that, on average, American companies will have increased their pollution control spending by almost 50 percent this year over the last year. They will spend some $18 billion over the next five years to meet the requisite standards.

Unfortunately business has failed to make these achievements credibly known to the American people. The idea still persists in many quarters that industry is doing almost nothing to fight pollution and what it does do is only because it is being dragged across the line. Neither is true.

There are deliberate polluters, of course, but most business has been working at pollution control for a long time—and it can be proud of its conservation records.

PROGRESS

As a result of industry's efforts, the nation is visibly cleaner today than it was in the past.

PRESSURES

But the critics of industry press the public to insist upon quick solutions to these complex problems.

The people, in turn, press the Congress.

As a result, arbitrary timetables have been imposed, and severe regulations have been applied; research has been forced to divert from the orderly paths of science and technology; and untested ideas have been put to action before they are ready.

All of this has given some people a false feeling that the problems will all go away if we only put enough squeeze on business to act.

The trouble is that in the development of these pressures, reason sometimes gets lost and extremes become the result.

Many of the results have been beneficial to be sure, but some have been ill-conceived and harmful to people, to business, and to the country.

PHOSPHATES

Let me give you a few examples, starting with phosphate detergents—the washday ingredient that has recently come to typify the pollution villains.

Environmental pressures against phosphates were based on the argument that they accelerated the growth of algae which can destroy life in the waters.

Because of these pressures, the sale of detergent phosphates was banned by state and local governments over the country on a random, crazy-quilt geographic basis.

But in the rush, perhaps someone should have said, "Wait a minute—what are we really doing here?"

As we now know, the answer is that we were taking foolish actions instead of careful ones.

DANGERS

First we set out to find a substitute for phosphates. But what happened?

Detergent manufacturers spent millions of dollars switching over to NTA, a substance used in Sweden and Canada—but it was shoved aside at the request of the government because some officials were concerned that it might create health hazards. Additional safety tests are now being carried on, but NTA cannot be used.

Then other substitutes began reaching the public containing caustic materials that were dangerous, especially to children. If those products get in a child's eyes, they can blind. Or if they are accidentally swallowed, they can maim or even kill. They have done so.

To limit these risks, the FDA has instituted labeling requirements for caustic detergents.

Unfortunately, the fact is that small children creeping on the floor next to the washing machine can't read them.

Some chemical substitutes for phosphates also wash out the flame-proofing in children's cotton sleepers which the textile industry has been working hard to develop.

FACTS

At this point more facts began to come to light:

First, phosphates are not of themselves polluters. They are nutrients, harmless to people and in fact a necessary element in human life.

Second, various scientific studies revealed that huge amounts of phosphates were pouring into the nation's waters from human waste, agricultural runoff and natural erosion—in many places far more than from detergents.

Next, Congress was given scientific testimony that 85 percent of the people do not contribute phosphate waste to waters that can be affected by them, because of where they live.

Also, Congress took scientific testimony that removal of phosphates alone could rarely reduce the growth of algae.

Finally, evidence has accumulated that the general use of certain caustic substitutes in detergents could cost up to $2 billion a year in wear and tear on clothes and on washing machines.

CIRCLE

As a result, the Surgeon General of the United States has now advised state and

local governments not to ban phosphates, and has recommended that housewives return to using phosphate detergents.

And the Environmental Protection Agency has advocated a $500 million program to deal with phosphates from all sources through improved sewage treatment plants in affected areas.

So today we are back roughly where we started about two years ago, doing what we should have done in the beginning. We are dealing with phosphates at the treatment plants in specific trouble areas, not in legislative councils and public forums all across the nation.

In the long trip around this circle, all we have done is delay progress and confuse the people—at great inconvenience and unnecessary cost to the public, to industry and to government.

My purpose in citing these points is not to defend phosphates, or the industries that use them, or the products that contain them. Instead it is a way of saying,

"Wait a Minute. Before we rush helter-skelter into immediate responses to such problems of nationwide concern, isn't it prudent first to take the time to know what we are doing? To weigh all of the factors and consequences involved?"

POWERPLANT SITINGS

For another example, take the siting of new electric power plants.

This is all too familiar to many of you, I am sure.

The nation's need for more electric power is rapidly outrunning our capacity to generate it, and our demands for energy are going to double by 1980.

The answer would seem to be simply to build more power plants.

But in many areas of the country it has become almost impossible to do so.

Environmentalist pressures in the courts have placed the entire atomic power program in suspense, just as we face our years of greatest need.

The total amount of public and private construction being held up by environmental actions in the United States today is somewhere between $5 and $10 billion—and many of these are the electric power plants we must have to meet our needs.

So we are losing both electric power, and at least a $5 billion shot in the arm that our country could use for new jobs and the economy.

EXAMPLES

We all know the power trouble that New York City has been having for years. Con Ed is being forced to seek as many as 40 different approvals, many of them on environmental grounds alone, and until it can get clean atomic power it has had to build high-cost, short-term gas turbine plants that further pollute the skies of New York.

Houston is another case in point. Generating plant construction has been blocked because of complaints that the effluents, even after a costly cooling process, would raise the temperature of the discharge basin some two degrees above the present temperature levels.

Isn't it time someone said: Wait a Minute.

If we fix the right priorities—if we integrate our environmental, technological and economic interests—*all* of them can be served without one dominating the other.

The President has urged the Congress to enact legislation to resolve the power plant siting problem. He wants to assure public discussion of plans, quick and proper resolution of environmental issues, and timely construction of the facilities.

A law along such lines is urgently needed.

DDT

Another case in point is insecticides.

We all know there are valid arguments against some of them, but in the rush away from them, we can create massive new problems.

For example, in New Jersey, without DDT, more than one million oak trees have been blighted by the Gypsy moth.

Without DDT, forest insects went rampant in Sweden, eating away the raw material of that country's biggest industry.

DDT is estimated to have saved 500 million lives throughout the world.

Without DDT in India there would be 100 million cases of malaria each year instead of a few hundred thousand.

In Ceylon, without DDT, malaria cases went from almost none up to 10 percent of the population.

In Sweden, Ceylon, Venezuela and others, without DDT insects became so devastating that laws against DDT have been repealed or amended.

In parts of the United States, without DDT, insects have made it increasingly difficult to grow lettuce, lima beans, sweet corn, and so on.

Now, in time perhaps, substitutes for present insecticides can be developed and proved out. But in the meantime, most of the substitutes are uncertain or don't even exist.

The whole question is whether by precipitous action we will create an expensive gap between the present means and the later solutions.

Again, this is not a brief for DDT. This is just a way of saying:

"Wait a Minute. Before we act precipitously and ban products for one reason, shouldn't we at least be certain that the cure is not worse than the disease?"

ONE-INDUSTRY TOWNS

What about one-industry towns? Today a growing number of small communities across the country are fearful that they will lose their life is their single sustaining industry is forced to close, either because of rigid environmental protection controls or because they can't cope with the economic cost of complying.

For example:

In one California community, environmental regulations closed down the biggest industry, a cement plant. The result—175 men out of work.

The same thing happened to a small chemical plant in West Virginia. One hundred and thirty men became jobless.

There are many others.

Isn't it time for someone to say "Wait a Minute?"

Are the environmental dangers so imminent, so critical, that we have to throw thousands of productive people out of work? Are the dangers so great, so immediate, that whole communities must be run through the economic wringer?

Isn't it time that we first measure all the evidence, recognizing legitimate concerns on the one hand, weighing them fairly against valid considerations on the other, then act reasonably and carefully to protect both the environment and the jobs? It may take a bit longer but the end result would be far more satisfactory.

SST

For another example, Congress killed the SST.

The two prototype airplanes could have been used to test the environmental consequences of supersonic flight.

Instead, forty thousand jobs were lost, along with an estimated $450 million in million in wages and other benefits, together with losses in research, technology, aircraft leadership and foreign trade—all immeasurable.

Shouldn't we at a nation have said "Wait a Minute?" Are we so afraid to build just two experimental airplanes that we would willingly sacrifice thousands of jobs, jeopardize the economic health of an entire city, forego the technological advantage of an entire industry, and deny major benefits to our balance of payments?

Isn't it time we weigh our potential against the risk in every reasonable case?

PIPELINE

What about the Trans-Alaska pipeline?

Again, people have said, let's not build it because of the possible adverse consequences to the environment".

No one suggests that we ignore these possible dangers. Everyone agrees that we must take every known precaution to protect the environment.

But there is another side of the coin—the nation's need for the oil and the benefits to Alaska.

Isn't it time somebody says on things like this, "Wait a Minute?"

We already have the technological means to provide reasonable protection against dangers to the Alaskan environment. Are we so afraid of what might happen that we will sacrifice the enormous new sources of oil we need for our homes, our cars, our jobs, our country? Will we sacrifice potential jobs for thousands of people who would be employed in the shipping industries, in Alaska and elsewhere? Will we turn our backs on all of the economic benefits to that state and to the country?

The environmental risks are recognized, but isn't it time we recognize that other considerations must also be taken into account in the national interest?

EMISSION STANDARDS

And what about the tougher emissions standards for transportation? Certainly they should be sought and should be achieved.

But—wait a minute—in the past decade the amount of hydrocarbons given off by an automobile has already been reduced by 80 percent, carbon monoxide emissions by 70 percent. And with existing capabilities, these improvements can continue in an orderly way.

But a mandatory standard of the Clean Air Act demands a 90 percent reduction below the remaining levels by 1975.

For hydrocarbons, according to experts, that level is as much as foliage gives off in the average yard of the average American home in the average suburb.

The same experts estimate that every car would have to be parked for two days after getting its tank filled—literally—because gasoline going from the pump to the car gives off at least twice the daily allowable hydrocarbons for that car.

Spreading one ounce of house paint releases the same daily quota of hydrocarbons.

Burning up two logs on the fire in the fireplace also emits the daily quota.

The list of examples could go on.

The Environmental Protection Agency has reported to Congress that we simply do not have the technology to comply with some of the standards that have been set in accordance with law.

To try to achieve these standards will result in millions of dollars of added costs, which inevitably have to go into higher consumer prices.

If we try to solve our environmental problems more quickly than our technology permits, not only will we raise costs sharply and suddenly, but we will also increase the number of false steps that we take along the way. The incomplete state of our knowledge leads directly to pitfalls that can't be foreseen.

So isn't it time to say: Wait a Minute. Let's weigh each need against the technological realities and let's not impose any more arbitrary deadlines that can't be met with the technology in sight.

Let's do the things we can do first, while making orderly progress against the others.

OFFSHORE DRILLING

What about offshore drilling? Certainly we should take every possible practical step to stop polluting the oceans.

But—wait a minute.

We have learned many things from the unfortunate spill at Santa Barbara.

For one, university studies have proved that oceans are very sturdy systems, able to take far more environmental punishment than man would ever willingly inflict.

Before we make offshore drilling too difficult let's recognize that by the end of this decade, offshore wells will have to provide 30 percent of our oil. And it will also provide much of the low-sulphur fuel that is urgently needed for clean air.

PROPOSALS

As all of you know so well, there are many other matters which we could cite and say "Wait a Minute." These examples make the point.

Let me give you some specifics as to guidelines in dealing with these matters in the future.

First, a determination of the economic impact should be required before environmental acts are mandated.

The public must know what the costs will be, what the alternatives are, and whether it will get its money's worth.

Second, a technological determination should be prepared in connection with any governmental action, indicating the time required to carry it out.

Third, we must avoid panicky, ad hoc approaches to the problems of air, land and water pollution, and develop feasible, long-range plans to deal with them on a balanced basis of regular, gradual improvements, always with consideration of the public interest and of the economic and technological factors involved.

Fourth, government should study whether companies and industries can finance the improvements that they are being required to make without prejudice to their financial security or their normal capital improvements and consider whether assistance might be required.

Fifth, the Congress should be urged to support all of the President's environmental plans relating to other than the business areas, so that industry's progress will be matched by progress in municipal disposal and other nonindustrial pollution problems.

Sixth, coordinated methods should be developed for governments to reach prompt conclusive decisions on power plant locations, as proposed by the President, in order to end those critical delays.

And finally, antitrust attitudes should be reviewed to determine the possibility of cooperative industry attempts, working together to resolve environmental problems.

OBSERVATIONS

Let me add this set of simple observations before I finish.

First, none of the major problems we face can be resolved instantly, all of them are too complex. They call for long-range programs and careful consideration of priorities and financing.

Second, business alone cannot be held responsible for all of our pollution. The burdens of responsibility and cost must be shared by all levels of government, by agriculture and by the public.

And third, the technology we need in order to solve our problem must be developed in many fields. We have a tremendous flow of uncoordinated, uncertain, imprecise data about the environment, and industry faces a severe shortage of environmental engineering specialists.

Fourth, we have to achieve greater conformity of state and local actions dealing with pollution control before we bog down the whole country in conflicting regulations and deadlines.

MANKIND

Finally, we have to recognize that even our manmade problems, in some instances, are essential to satisfying human existence on this planet. After all every new birth brings us instantly a new polluter. But even the most ardent of the environmentalists have yet to call for "no new starts" there.

Here again I suppose we could say, "Wait a Minute."

But what I am talking about is the necessity to recognize that the pollution problem exists in a real world, and it calls for balance and objectivity.

I can reduce it all to absurdity:

If we had no cars on the street, there would be no automobile pollution.

If we built no power plants, we would have no pollution from utilities.

If we washed no clothes we would have no pollution of our waterways, and so on.

But what kind of country would we have left?

The line between that kind of nonsense and the kind of sense we need to resolve the problem requires a sense of reality in dealing with the economic and technological factors, and with the impatience of those who would like to clean up the country overnight.

CONCLUSION

The time has come to bring these things into focus and stop overheating the view that we are killing ourselves today.

Without pause or equivocation, we must continue to halt pollution of the world, but we must do it realistically, soundly.

This point of view is supported by people like Dr. Philip Handler, President of the National Academy of Sciences, who not long ago said this: "My special plea is that we do not, out of a combination of emotional zeal and ecological ignorance, romanticizing about the "good old days' that never were, hastily substitute environmental tragedy for existing environmental deterioration. Let's not replace known devils by insufficiently understood unknown devils."

So all we seek fundamentally in these considerations is a balance of values, a weighing of proper priorities, a measuring of the costs against the benefits.

And, gentlemen, if we approach our problems in that spirit of balance and fairness, we can meet our ecological needs, clean up the country and do so without undue economic risks for anyone, all within the framework of continued technological progress.

That is the way I think we ought to do it.

UNBENIGN NEGLECT TOWARD LATIN AMERICA

Mr. CHURCH. Mr. President, the Senator from Massachusetts (Mr. KENNEDY) recently discussed U.S. policy toward the nations of Latin America in an appearance before the Chicago Council on Foreign Relations. His forthright discussion merits our thoughtful attention.

I wish to identify three of the changes proposed by Senator KENNEDY in his speech on October 12. First, is the matter of our military missions. They are troublesome and should be brought home, Senator KENNEDY urges. Second, is the matter of American investment. "We should halt the tendency to identify U.S. Government interests with the interests of U.S. private investment," Senator KENNEDY counsels. Third, is the matter of Cuba. Our current policy toward Cuba is both "outdated and unrealistic," in the view of Senator KENNEDY. If President Nixon can wisely discard a frozen policy toward China, the Senator argues, then the United States should do no less toward Cuba.

I commend Senator KENNEDY on his address and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR EDWARD M. KENNEDY, TO THE CHICAGO COUNCIL ON FOREIGN RELATIONS, OCT. 12, 1971

It gives me great pleasure to address this gathering tonight. For the Chicago Council on Foreign Relations traditionally has been one of the major centers for the positive and continuing review of United States foreign policy.

I am pleased as well because this Council gave President Kennedy a tremendous reception when he spoke here in 1954; and just four years ago you welcomed me at the seminar on the draft that the Council cosponsored.

And so I have many reasons for appreciating the opportunity to address you this evening. And although perhaps our most pressing domestic concern is the economy and our most pressing foreign concern—an end to the tragic war in Vietnam, I have come here tonight to speak of another part of the world. I have come to speak about our relations with a part of the world which is closer in culture, closer in history, closer in geography, and more important to our long-term national interest than Vietnam.

I have come to talk about Latin America. For this Administration has ignored and forgotten the 250 million souls who inhabit the nations of this hemisphere. It takes events such as the decision in Chile yesterday on the copper mines to remind us that we have failed to create a policy sensitive to the changes taking place in Latin America.

And so, I hope tonight to suggest ways in which our policy must change if it is to reflect the reality of the hemisphere today. I believe such a policy is urgently needed, for our relations with Latin America have dipped to their lowest point since 1958, when Vice President Nixon's car was attacked in Caracas.

In fact, the present era in U.S.-Latin American affairs began shortly after that incident. It began with headlines and romantic accounts of the coming to power of Fidel Castro. For on that day in January 1959, when Castro entered Havana, a fundamental rupture with the past occurred.

Not just because he called himself a communist, nor because he spoke for a strong nationalism seeking an end to U.S. economic and political influence, but because in many more subtle ways, Fidelism marked the end of an epoch in which the U.S. could both blithely dominate and disregard the hemisphere.

Castro's coming to power symbolized the appearance of forces in Latin America which had long been submerged, unknown forces that German Arciniegas of Colombia has called "the mute repressed America . . . a vast reservoir of revolution . . . Nobody knows exactly what these . . . silent men and women think, feel, dream, or await in the depths of their beings."

Aware of those forces, and deeply disturbed by the enduring poverty and oppression that scarred their lives, President Kennedy sounded a call for the Alliance for Progress, Alianza para el Progreso—a vast cooperative effort, unparalled in magnitude and nobility of purpose, to satisfy basic needs of the American people for homes, work and land, health and schools . . ."

Lofty goals for the Americas were established—goals of social progress, goals of political reform, goals of economic development. But for all its strength of purpose, the Alliance lost its way.

It lost its way because it never fully was given the chance to succeed, because not enough funds were authorized, because not enough concern was shown by many in the U.S. and in Latin America for the social and political goals which had played such a

major part in the original concept of the Alliance.

But above all else, the dissipation of Latin American confidence and U.S. interest in the Alliance occurred because it fell beneath the shadow of the cold war and our fear of awakening to another Cuba in the hemisphere.

The open and bloody intervention in the Dominican Republic in 1965 marked the beginning of the end.

And then as Vietnam devoured our resources and dominated our perspective, the Alliance drifted toward oblivion.

By 1968 by the close of the Johnson Administration, Latin America was hoping for a new American commitment. But that commitment never came. Instead, there came a strange hiatus in United States policy toward Latin America.

The ill-fated mission of Governor Rockefeller did not fill the gap: To a continent of proud nations which had been studied for a decade, the time for study was over. The time instead was ripe for action. For action based on what was already known, for action based on a thousand studies gathering dust on a thousand government shelves.

Latin America is still waiting for us to act.

For two and a half years, this Administration has treated the other nations of the hemisphere with neglect, neglect more malign than benign. It has adopted a policy devoid of rhetoric, but a policy devoid of substance as well.

We send military missions as used weapons salesmen. We send police training teams to promote more efficient internal security. And the close ties with the military and police in many countries identify the United States with the most repressive and antidemocratic elements of Latin America.

Especially in Brazil, where torture has been an acceptable instrument of political retaliation, and the Dominican Republic, where political assassinations now have become too frequent to be ignored, the presence of U.S. military advisors is enough for others to brand us with complicity.

The Administration's blindness to our identification with repression in Latin America is deplorable. It is the same blindness that permits us to send military aid to Pakistan while that country's armies are producing a nation of refugees. It is a blindness that prevents it from understanding why Vice President Agnew's official visit to the Greece of the Generals is not in our national interest. Isn't it time for this country to cease being the provider of dictators and the accomplice of tyrants?

There are other expressions of the Nixon approach to Latin America and they are equally disconcerting.

The election of a Marxist president in Chile ushered in a period of great delicacy as thoughtful men of both nations groped to find the path of accommodation.

A wise Administration policy would have recognized the Chilean experiment in socialism had been decided by the people of Chile in an election far more democratic than the charade we saw last week in Vietnam.

But the Administration response was brusque and frigid, colored by its attachment to the ideology of the cold war. We can never know whether a more sensitive policy toward Chile might have helped to avoid the expropriation decision, which we learned of today.

President Nixon decided not to send the traditional note of congratulations to the Chilean President on his election.

The White House snubbed a personal invitation from President Allende for the U.S. Carrier Enterprise to dock in Santiago, after Admiral Zumwalt's acceptance had been widely and favorably publicized in Chilean newspapers.

The Administration blocked Export-Import Bank financing of jets for Chile's national airlines as a way of publicly pressuring Chile to reach a satisfactory solution of the copper controversy. Now we find the government of Chile negotiating with the Soviet Union for those jets.

Similar heavy-handed policies have been used by this country in the Inter-American Development Bank and other multilateral lending organizations. The multilateral aim is to depoliticize development assistance and it is a perversion to twist those institutions into being exponents of U.S. foreign policies.

The arrogance of the current U.S. attitude toward Latin America was displayed once more by the abrupt imposition of the 10 percent surtax, which came without warning and without consultation.

And when the specific circumstances of Latin America are noted, the Latin nations' ire becomes even more understandable. The account books on trade and capital added up to trade surplus of $590 million for the U.S. last year, and a total net flow of capital to the U.S. of $2.3 billion.

Innocent of any share in the balance of payments deficit, the nations of the hemisphere rightfully wonder how much consideration their interests are given in the White House when they are made to suffer for the real or imagined sins of others.

Instead of the policy of neglect which characterizes this Administration's attitude toward Latin America today, we must define for the 70's a new atmosphere, a new policy that reaches out to the needs of the Latin American people as they themselves define them. It means reversing every element of the Nixon Administration policies I have described.

We should bring home the military missions. We should bring home the police missions. We should end the gifts of millions of dollars of military hardware, weapons which are too often used to bolster the political status quo.

We should halt the tendency to identify U.S. government interests with the intersts of U.S. private investment. Private investment must come to terms with a changed environment, an environment dominated by the force of nationalism. If that occurs, there can be benefits to both country and corporation.

We should reinvigorate the spirit of the Alliance Those nations actively seeking to bring about social justice and political freedom are the nations whose efforts deserve our most generous bilateral assistance.

We should not try to carry out our specific foreign policies through multilateral agencies as though the Inter-American Development Bank were a subsidiary of the State Department. Those agencies' concern must be social and economic development regardless of which government is the applicant. And it should be through those institutions that the bulk of our assistance flows.

Finally, we should acknowledge wide political diversity in Latin America. There must be an awareness that a Chilean experiment in socialism is in the end a Chilean decision.

And in this new approach toward Latin America, we must start by changing an outdated and unrealistic policy toward Cuba.

For if there is a single element in our posture toward Latin America that symbolizes an archaic cold war strategy, it is the effort to isolate the Republic of Cuba.

The isolation of Cuba today stems from events which occurred at the start of the decade but the history of our relations spans the entire life of that nation. However clumsy our efforts in the Spanish American War, the end result was an independent Cuba. But from that time forward, we acted toward the Pearl of the Antilles with overbearing protectiveness.

Before ending our occupation of Cuba, we forced her to accept as part of her Constitution, the Platt Amendment—a grant of power giving the United States the right to intervene almost at will.

For three decades, U.S. Marines were not an infrequent sight on the streets of Havana. And in the years following the 1934 repeal of the Platt Amendment, our support of Batista and our domination of the island's economy produced a deep-seated resentment toward the colossus to the north.

And so when Fidel Castro and his bearded followers came out of the Sierra Maestra, the brief honeymoon with the U.S. was followed all too soon by a deterioration in our relations.

Anti-American rhetoric kept pace with the increasing Communist orientation of the Cuban Revolution, and in January 1961 after reciprocal recriminations and provocations, President Eisenhower broke off diplomatic relations.

Soon after came the Bay of Pigs, and from that moment forward, the Castro government increasingly relied on Soviet aid in fear of another U.S. sponsored invasion. As Soviet military advisors and Soviet equipment poured into Havana, the U.S. succeeded in early 1962 in securing the exclusion of Cuba from the OAS.

The introduction of a threatening Soviet military presence into the hemisphere culminating in the Cuban missile crisis, Castro's call for revolution and guerrilla warfare and the very existence of an avowedly Communist regime in Latin America—these were the reasons why the U.S. undertook a policy of isolation against the government of Cuba.

And in 1964, that policy was accepted by most of Latin America. Venezuela filed formal charges of aggression against Cuba after a cache of Cuba-supplied weapons was uncovered. Virtually all the OAS members, formally abandoned diplomatic ties with the Cuban government and it was then that the U.S. successfully urged adoption of a hemispheric policy of economic boycott.

The State Department still leans heavily on those arguments of the past to justify our present frozen policy toward Cuba. Yet the times have changed and the character of the supposed threats has drastically changed.

The Soviet strategic challenge to the United States subsided with the decisive actions of President Kennedy nine years ago this month. The quarantine brought a retreat by the USSR and the removal of offensive Soviet missiles from Cuban soil. And it is understood that the United States will not tolerate manifest threats to the physical security of this country. The possibility that the Port of Cienfuegos might become a permanent Soviet nuclear submarine base brought quick action last October. It also brought a reaffirmation of the 1962 agreement by the Soviet Union and assurances that activities at Cienfuegos would not violate the 1962 accord.

More important, the Soviet presence on Cuba as a threat to our existence is inconsequential today when weighed against 1500 Soviet intercontinental ballistic missiles or Soviet missile launching submarines. There is no longer a Soviet strategic danger on Cuba which can excuse our current policies toward that nation.

The second justification for our policy has been Cuba's intervention in the internal affairs of other nations in the hemisphere. The export of revolution has been the major charge against Cuba. But if we are to be honest, we as much as they have violated the principle of non-intervention.

To be sure, the small bands of Cubans who drifted in and out of Latin American nations over the past decade have broached that principle, but hardly in a way that is comparable to the landing of U.S. Marines in the Dominican Republic in 1965.

And the threat itself from Cuba has been exaggerated. Che Guevara was more a symbol than a threat and he finally was swallowed up in the valleys of Bolivia. His failure was less the work of U.S. aided Bolivian military forces than the refusal of Bolivian peasants to support foreign rebels on their soil.

And the failure in Bolivia was not the only Castro failure. Early in the decade his attempt to export revolution failed in Venezuela. It failed in Panama. And it failed in the Dominican Republic.

To credit Castro for the continuing unrest and political rebellion is to credit him with more than he deserves.

The Tupamaros of Uruguay, the urban terrorists of Brazil and Guatemala do not appear because their members have passed a six-week training course in Cuba. Nor will they disappear if they never receive another cent from Cuba nor ever experience a single hour of Cuban indoctrination.

It is not Cuba that creates a revolutionary movement but the peculiar and separate circumstances in the Latin nations themselves.

And the ultimate answer to the threat of popular revolution is not to take recourse in arms; but to end the conditions that give rise to that threat; to end the misery of hunger, to end the misery of poverty, to end the misery of disease, to end the misery of injustice.

Castro himself has begun to turn inward. Economic crises at home, blatant failures at past attempts to turn the Andes into another Sierra Maestra, and pressure from the Soviet Union, all have produced a decline in both the rhetoric and reality of revolution as a prime Cuban export.

Does then the simple existence of a Communist regime in the Hemisphere justify our policy?

If it does then why do we find nothing wrong with the arrival in a few weeks time of President Tito of Yugoslavia. He will dine at the White House. He will be feted by the President. Yet he too is a Communist.

If the evil of communism justifies our policies against Cuba, then how is it that one of the high points of President Nixon's trip to Europe in 1969 was his stay in Communist Rumania.

But the most incredible contradiction is found if we look at our present course toward normalizing relations with the People's Republic of China.

Let us compare the two. China has been actively supporting the North Vietnamese with money, with guns, and with advice for the past decade in a war that has drained this nation physically and spiritually. Yet we now recognize that it was folly to view the People's Republic of China as a figment of the imagination of the rest of the world. We have come to understand that by opening relations with China, there may be a reduction in hostility between our two nations, and a step forward on the road to peace.

Why can we not show the same rationality in our policy toward Cuba?

China is a nation with some 800 million persons and the capacity to offer a real strategic threat to the U.S. Yet the President can make plans to visit Peking because of "his profound conviction that all nations will gain from a reduction of tensions and a better relationship between the United States and People's Republic of China."

Cuba is a nation of 8 million persons and it has no realistic capacity to threaten the security of this country. Yet we maintain the most vigorously hostile attitude toward that nation, unwilling to yield, unwilling to take the initiative in reducing our mutual hostility.

Is it not time to end the double standard we apply to our relations with Cuba and to our relations with all over communist governments?

When Henry Kissinger can fly 9,000 miles to Peking as the prelude to a normalization of relations with the People's Republic of China, then surely we can offer to send him 90 miles to Havana to do the same.

Just as with the People's Republic of China, the normalization of relations with Cuba does not in any way imply approval of the internal policies of the Cuban government, policies which have produced 500,000 refugees. Obviously we do not approve of the costs in human suffering which have accompanied those policies. But the artificial policy of isolation in no way represents a rational response.

The effects of our policy are open to serious question. Castro has not fallen. His economy, though suffering from serious difficulties, has not been destroyed by the boycott. His relations with the rest of the world remain virtually unaffected.

The major result, the most glaring and obvious result has been to force the Cuban government into closer alliance with the Soviet Union and the East European nations.

Between 1961 and 1964, Soviet-Cuban trade remained steady. With the imposition of the boycott, that trade jumped by 15 percent in 1965 and it has steadily progressed. By 1970 it was 100 percent more than it was in 1964.

Surely it is not in our national interest to see Cuba forced into greater integration into the Soviet economic system.

Lesser dependence on the Soviet Union should be our goal. Yet the policy of economic isolation has produced the opposite effect.

Nor has this policy been one of unanimity within the nations of the hemisphere. Mexico never accepted the restrictions. Nor has Jamaica, which entered the CAS after the boycott went into effect. Canada, although not a member, disdained to follow our lead. And our Eastern allies have long ago rejected the boycott.

British buses are on Cuban streets, Spanish built fishing boats are in Cuban harbors, and a multitude of European and Japanese products are on Cuban market shelves.

Most recently, Chile, under then President Frei, reinstated trade with Cuba, and the current Allende government has expanded those arrangements. Other Latin American nations also state privately that the boycott makes little sense today. Venezuela, which originally charged Cuba with aggression, now has quietly suggested that there be an end to the boycott.

If our Latin neighbors are ready to re-examine past policies toward Cuba, it is time for the United States to respond. For we should be the ones taking the initiative. Instead it is the United States which once again is holding back, futilely seeking to retain a policy which has outlived its rationale.

But in taking that initiative, let us forego the affront to the other nations of Latin America that would come from a unilateral, unexpected shift in policy. Let us learn from our recent experience with Japan. Had they been consulted and informed in a timely fashion before we announced plans for normalizing relations with China, then their reaction might have been far different.

This does not mean that we must wait until all other Latin American nations are ready to follow suit. But it does mean that they should be made aware of what we intend to do and why and they should be given time to respond.

First, I would suggest that we inform our allies ahead of time. Then at an early meeting of the OAS we should recommend an end to the economic boycott. I believe that approach will be welcomed by most other Latin American nations.

Second, I believe the United States should explore with Cuba an end to restrictions on travel and the restoration of commercial air service between our two countries. Not only would this eliminate the major portion of airline hijackings but hopefully, it would also open the way to a speedier reunification of refugee families. We should do all that we can to promote the free exchange of people and ideas, the exchange of scientific and cultural programs, the exchange of educational, medical and intellectual leaders. And we should suggest the open door policy to the other nations of the Americas.

Third, dependent upon the success of these proposals, we should begin to explore the complex and difficult matter of re-establishing formal diplomatic relations with Cuba. At the outset, we should announce our willingness to open consular offices. Consular relations frequently exist in the absence of formal diplomatic contacts and they often pioneer toward their establishment. If we have diplomatic relations with the Soviet Union, if we have diplomatic relations with the Eastern European nations, if we are moving in that direction with Peking, then surely it cannot be unrealistic to see the renewal of diplomatic relations with Cuba at the end point of a new policy of normalization.

Finally, we should explore the possibility of ending the presence on the island of Cuba of two foreign military forces; the large Soviet military presence and the U.S. naval base at Guantanamo. Just as we have begun to explore mutual troop reductions in Europe, I see no reason why our long-range agenda for change should not include this question. The mutual withdrawal of those two military forces would be not only in the interest of hemispheric serenity but also in the interest of Cuba. To have contingents of foreign nations—Soviet or Americans—on Cuban soil cannot be a long-term objective of any Cuban government.

The reaction from Cuba to initiatives seeking an end to hostility may be negative; but that does not mean we should not try.

Moreover, I believe that contrary to the official view, there are elements to indicate Cuban willingness to begin the slow process of reducing tension between this nation and Cuba. In the past year, more and more U.S. newspapermen have been permitted to enter Cuba and last month, for the first time, an official U.S. group—an amateur volleyball team—was permitted to enter the country and compete.

Also, volleyball diplomacy has been followed by baseball diplomacy. Only three days ago, a Cuban baseball team traveled to Puerto Rico to participate in pre-olympic competition. It marked the first time that an official Cuban team has accepted an offer to take part in international competition on U.S. territory.

While these events do not in themselves cause optimism for those of us who believe a normalization of relations with Cuba is in the best long run interest of the hemisphere; nevertheless, I believe they offer some incentive to move away from the rhetoric and policies of the past. No country in which baseball is the national sport can remain in the Soviet orbit forever.

Patience in the end will be our ally in this endeavor. But if we begin today by exploring the foundation for an improved relationship in the remainder of the decade, we will be offering the present and further leaders of Cuba a well-defined and hopefully attractive alternative to the existing antagonism between us.

By history, by culture, by geography, Cuba is a part of the Western Hemisphere. Along with our hemisphere allies, we should join in exploring the path toward the re-integration of Cuba into the Western Hemisphere Community of nations. We owe ourselves the obligation to take the first step.

NUTRITIONAL LABELING

Mr. SCHWEIKER. Mr. President, as a member of the Health Committee and the Select Committee on Nutrition, I am deeply concerned over the problem of nutrition in America. We may be the

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most overfed people in the world, but we grossly neglect our bodies when it comes to supplying them with the proper nutrients. I find it difficult to understand why we take better care of our automobiles than we do of our bodies.

Recently the guest on my bimonthly radio and television report to Pennsylvania was nutrition consultant, Robert B. Choate. Last year he received considerable public attention from his Senate committee testimony questioning the nutritional value of an American institution—the breakfast cereal. Mr. Choate has been a hunger adviser to President Nixon and is publicly raising many crucial questions about American diet and food purchasing habits.

Our discussion touched upon a number of important subjects, including nutritional labeling, children's food, and the role of advertising in our food selection process. More often than not, the American housewife will purchase the product that is most heavily advertised, regardless of its nutritional content.

Mr. Choate agrees with me that there is a need for complete nutritional labeling on packaged and canned foods. I have introduced S. 2634, the Nutritional Labeling Act of 1971, which requires such labeling of all food containers, and hope action can be forthcoming on the bill.

In addition, we need greater educational efforts in our country so that all people, rich and poor alike, can understand dietary and nutritional needs for better health.

Robert Choate's comments will be of interest to all my colleagues, and I request that the transcript of my television and radio discussion with him be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

FOLLOWING IS THE TEXT OF "YOUR SENATOR'S REPORT," A PROGRAM DONE BY SENATOR RICHARD S. SCHWEIKER (R-PA.) AND SENATOR HUGH SCOTT (R-PA.) FOR BROADCAST ON TELEVISION AND RADIO STATIONS IN PENNSYLVANIA

Guest: Robert B. Choate, nutrition expert.

SCHWEIKER. Hello, I'm Dick Schweiker, United States Senator from Pennsylvania. I am going to talk today about your nutrition with a man who warned you about your breakfast cereal, Robert B. Choate.

ANNOUNCER. From Washington, we present, "Your Senator's Report," a report to Pennsylvania from the United States Senate by Senators Richard S. Schweiker and Senator Hugh Scott. Here now is Senator Schweiker.

SCHWEIKER. I am delighted to have as my guest today, the man who is Chairman of the Council on Children, Media and Merchandising. He also has been a private consultant on hunger and poverty. He has been a hunger advisor to President Nixon and has done similar work for former Secresry of HEW, Robert Finch. He has been a consultant to the Senate Select Committee on Nutrition and Human Needs, and played a major role in 1969 White House Conference on Food, Nutrition and Health. Most recently he has been active in the drive to improve the advertising of food, and food products.

I'm very glad to have you on the show today, Bob, and I want to say as a member of the Health Committee and as a member of the Select Committee on Nutrition, I have been increasingly concerned about the very things that you have been speaking out rather loudly and clearly on. I think you, single-handedly, have brought to the American public in a very dramatic way, some of the concerns that all of us feel. I wonder if you would explain, Bob, a little bit about what you are trying to tell the American people today?

CHOATE. I started out being very wary or suspicious as to how we assured the poor of this country that they would have an adequate food supply, starting in 1967, when I was very involved in what was then called the "Hunger Campaign." Now days the problem isn't really do we have enough food in this country, or any country around the world, it is how do we deliver the food in the proper form under our economic system, so that everybody has a chance to get 3 square meals a day.

Right now I do think we have enough calories in this country, and I suspect, even most of the poor can get almost enough calories each day to keep them in good body health. But it is the quality of the food, the nutritional content of that food, that is really in need of further examination. That is what I have been working on this year.

SCHWEIKER. In fact we probably get much more than the amount of calories that most of us need here in this country, in terms of the affluent part, but we sure don't get it in the right way.

CHOATE. I think most of us are safe from malnutrition by overeating.

SCHWEIKER. I would like to pursue a little bit the problem when a housewife goes into a grocery store. What guides and help does she have, what approach can she use, to meet the problem of proper nutrition for her family and how does this relate to the warning that you have given us?

CHOATE. Senator, I think we have to look at this in historic content. After World War II, the food supply of this country really started to radically change. Pre-World War II, if you put a meal on the table, chances are you could still identify the meat, the potatoes, the vegetables, the milk; you could identify the original sources of those nutrients. However, today's diet in America is 50 percent pre-prepared outside of the place where you actually consume it. This statistic applies to the home, applies to the restaurant, probably applies to this Capitol Building. Fifty percent of our food supply is prepared elsewhere.

Also in our food supply, there are now a great many chemical additives, a great many nutritional additives, which totally warp the old four basic food groups slogans that were so earnestly advocated by the Department of Agriculture. In short, you can eat a composite food today, a convenience food that has been heavily advertised over television, and you really have no idea of what nutrients are in it. The Government has not mandated that we should have on the labels of such foods what nutrients are in it. It has been more or less left up to chance. A great many housewives in America today have no idea of what is in their food supply.

SCHWEIKER. I know that you have also been active in pointing out where labeling today, which is very little and very modest, is very confusing to the housewife. I wonder if you would explain how this system operates and how confusing it is to a housewife to know what to pick out of a counter to have the proper nourishments for her family?

CHOATE. I think we are a nation of nutritional illiterates. I think most of us used to pick up our food knowledge from our grandmother or mother as we shelled peas in the kitchen or rolled up batter or put cookies in the oven. In effect we picked it up from one generation down to the next. I don't think there is any place that the generation gap is more evident than in the kitchen today.

Most of the food knowledge being picked up by housewives and their children is coming off the television set. If they then follow those admonitions that come over the television saying buy this, buy that, and go into the store and look at the label trying to figure out what are the ingredients and what are the nutrients in it, you will find that the label on most of these foods is highly deficient. If the food has been standardized, a great many of the items in that food, don't have to be listed. It is quite possible that even with some of the major food companies, they do not know the nutritional content of the foods that they are producing. That is what is really horrifying.

SCHWEIKER. I gather from what you are saying that our TV advertising today is rather inadequate to really meaningfully help the housewife with her nutritional problems?

CHOATE. Let me talk about it first as quality and then as to quantity. In quality, up until this year the majority of foods advertised to the American public are what are called fun foods, or convenience foods. They are sold to them on some sort of glamorous or fantasy basis with really no explicit instructions as to what is in the food and as to what nutrients you get out of it, or even what nutrients you should look for. Let me show you this chart, which we made up. If you were to look at the foods that are advertised on television, these are the foods that are advertised to adults from morning, noon, afternoon, and evening. But if you look at the foods that are advertised to children, this bar-graph shows how limited is the nature, or how concentrated is the nature, of the foods advertised to kids and they are primarily pastries, candies, cookies, soft-drinks, cereal, and snacks. Most of the foods advertised to children today are advertised to them on their sweetened basis.

So you have a tremendous force now starting to invade the household. I think television has become third parent in the household. I think the third parent has been telling kids, you asked for sugar, you asked for something sweet, don't mind what nutrients are in, don't mind what ingredients are in, just go get the sweet thing off the shelf. I think as Jean Mayer and others have pointed out, our nutritional health in this nation is on the decline.

SCHWEIKER. I believe I have read some research and have seen it discussed in my committee on Nutrition, that this sugar emphasis can in fact not only cause malnutrition but actually lead to some serious complicating diseases. I believe there is research being done about the sugar that we generally consume in relation to protein and other elements, and can well be a source of some of the diseases that eventually affects us.

CHOATE. Dr. Mayer is very knowledgeable on that, I'm not a nutritionist so, I can't really comment on that subject. But I can say this, if you and I are suppose to eat 2500 calories a day, and half of those calories are coming from the sugar that is in our food, and sugar is a form of calorie that has absolutely no nutrients in it, that means that the other half of our food supply must have more nutrients in it to make up for the sugar content in our diet which in effect is doing nothing but supplying us with mere calories. The sugar content in our food has a double impact. One, it may be physically bad for us and biologically bad for us. Secondarily, the sugar emphasis in our diet is making it that much more important that the rest of our diet be of a higher quality, so that we can make up for the nutrients that we don't get in these sugared products.

SCHWEIKER. We use a word nutrients a lot on our show today. I wonder if you would define for our Pennsylvanians what you mean by this, what are the basic nutrients. What are they? How do they differ from the other things that we talk about, sugar, carbohydrates, proteins, etc.?

CHOATE. There are probably 60, certainly 35 nutrients known by eminent researchers, needed in our daily diet. Some of these have just been discovered. We are starting to find every year new nutrients that should be included in our diet, but the most familiar ones are the vitamins, vitamin A, then the B vitamins, ribodiavin, thiamine, and niacin, then vitamin C, the most common one of all, and vitamin D. Then we need the minerals, calcium and iron, and of course we need protein. Now those are the nutrients. When we speak about carbohydrates and fats, we are talking about forms of food. I don't believe that a carbohydrate or a fat is a nutrient. I think it is a form of food. The nutrients really are the vitamins and the minerals and the proteins that we need in our daily diet to keep it healthy.

SCHWEIKER. Is it accurate to also say that a nutrient is the device or the mechanism by which our food is absorbed, utilized and actually nourished in our bodies? In other words, it stops the food simply from passing through our bodies. I wonder if you would explain that?

CHOATE. I like to draw the parallel, which I quite often do with young audiences, describing nutrients like octane in your gas tank. You put gallons into your tank, you put calories into your stomach. But it is what is in those gallons in the tank that really makes your car purr and take off. I think it is the nutrients in our food supply that determine whether we are in good body health or bad body health. Nutrients are the, let's call them chemicals, they really are, they are part of the fuel system, but they are the chemicals in our fuel system that go into our gut which keeps us in good body health.

SCHWEIKER. One thing that greatly disturbs me, and of course, our Select Committee on Nutrition has come across this time and time again, is that we have several kinds of malnutrition in this country. One is mostly advertised and publicized quite visibly and that is poor people who can't afford the proper diet, or adequate calories in some cases, or are malnourished, or undernourished, or lack the essential ingredients for just basic growth, health and survival.

There is another area here where I think up to recently our country hasn't even been aware of, and that is the middle-class American, the American who does have the money when his wife goes to the grocery store to purchase within reason most anything on the counter for their eating. Here we have a malnutrition problem based on the fact that we obviously don't know what we need, don't pay attention to it, or don't bother.

I think the real illustration that I would use, since you used the car analogy, I would like to use it in this way, that Americans probably spend more time and more attention and more money taking care of their cars, than they do their body. They take them in for lube and oil check ups, they take them in for servicing, and they do all kinds of things that we would never think of doing to our body, until we have an illness. Of course, then it is rather late. Then the doctor only makes do with what is left after the wreckage internally has been done. I think this is really a vital point today that many people are malnourished because we don't know.

CHOATE. I think that the young people of today are starting to show a new interest in the nature of their food supply, but certainly most of the teenagers of today are really very harsh on their bodies by evidence of what they consume. A good hamburger and a good glass of milk is a great meal. But a whole mess of french fries and a coke is not a good meal. I think we have today a more sedentary type of life then we did say 20 or 30 years ago. Our calorie demands are not up at the 3500 calories per day level. They are now down to the 2200 or 2500 level, and we have not adapted our food supply to recognize that we are more sedentary.

Here I get back again to my dear friend television. A moderate tv-watching child today sees 5,000 food commercials per year. That means by the time that child is 16 years old, he has seen 80,000 food commercials. Mother and grandmother can't compete with that kind of brainwashing. The teacher in the class room is ill-equipped to compete with that brainwashing. That child has gotten 80,000 messages by the time that child is 16 years old telling that child what to eat. And if you look at what is advertised in the way of edibles on tv, it is primarily junk foods, foods that do not have a good nutritional content. Not only that, but the message that is aimed at the kid tells him that this is sweet, that this is sexy, this is fun, this is happy, but it doesn't tell him a thing about what is in the food supply.

I think that it is imperative that we start to make this very effective communication medium a nutrition educator for this nutritionally illiterate country. Then the person who is overweight and fat will start to realize that you just can't keep shoveling it in before you are going to adversely affect your health. And they will also start to be sympathetic to the poor who literally cannot get the right nutrients in the right proportions.

SCHWEIKER. I would like to give witness here to the power of television advertising on children. Bob, I have, as my Pennsylvanians know, five children and they are in that very impressionable tv age. I know that also your studies show that in addition to the food advertising for children, the other high frequency advertising is toys. What is the breakdown between toys and food for children?

CHOATE. The food industry provides television with I would say over 60 percent of its income. On a year around basis, foods greatly outnumber toys. In the months of October and November the toy advertising is much more intense. First Halloween, then Thanksgiving, and then for Christmas. Toy advertisements perhaps outnumber food advertisements for children in the pre-Christmas season. But the rest of the time foods are definitely the biggest item advertised to kids.

SCHWEIKER. Continuing my point, during the Christmas season, children come up with Santa Claus lists that are strictly related to the matter of what they saw on tv. It used to be that they had their own ideas and their own lists but now everything is a list from the tv toy schedule. Believe me I have spent some great amounts of time going to 5 or 6 toy stores to find the thing that they advertise that was never there. So I can personally vouch for the fact that they have a tremendous impact in toy advertising, and I am sure they must in food advertising too.

CHOATE. There is another thing going on, Senator. When you and I went to the toy store as a kid, we would walk it around, we would wind it up, push the buttons, we would in effect experiment with it there before we took it home. We knew what we were getting. Today's kid is absolutely convinced by that 30 or 60 second commercial that he ought to buy that toy. He walks in, picks up the box, puts down his money and walks out, never doubting that that toy is going to be exactly as he saw it represented on television. And of course it isn't. He gets home and it either breaks or has to be wound up and has to be manipulated from the side and he didn't realize it by looking at the ad, and the kid starts then to be suspicious of everybody who is trying to sell anything.

I think the huckstering of items to children is a matter that needs senatorial attention. I think we do a great deal of selling to children in this country, and a great deal of selling through them to get to the adults. Not all of the advertising is honest, particularly that advertising which is aimed at kids.

SCHWEIKER. I certainly believe that this is an area that does deserve serious study by the Senate in many of our committees, and I certainly hope that we can pursue it. We are, as you said, a nation of nutritional illiterates and I would like to see what we can do to correct this.

I had just introduced a bill, as a matter of fact, which I think is a landmark in this area, because it is the first bill, that I am aware of, introduced to require nutritional labeling, which would put on the cans, on the packages, on the foods that are purchased at our supermarkets and grocery stores, some kind of easy readable earmarking of what nutrients, what vitamins and minerals, and what proteins and carbohydrates are contained in that package. I wonder if you would give me a little bit of your reaction to this approach, and what else we might be thinking about here?

CHOATE. I don't know if your audience will believe this, but it was only the early '60's when the Food and Drug Administration started to wonder not only about the poisons in the drug supply, but whether they were effective. The efficacy of drugs. It was only 1969 that the Food and Drug Administration started to wonder about the efficacy of foods. They had been worried whether foods were poisonous or not, but they are never really worried about whether they do anything for you as they go on through you. FDA, the Food and Drug Administration, today is handicapped by the fact that it cannot require a food manufacturer to put on the label what are the nutrients in his product. It wasn't too many months ago that a great many of the nation's biggest food firms didn't know what nutrients were in their products either. I made a statement, which I still stand by, in 1969 that of the 100 major food companies in the United States, over half of them didn't have a nutritionist on their payroll at any level where they could influence the executive suite.

It is amazing how completely snowed we have been in this country by what I call our cornucopia complex. We have always figured that we have had so much food that we don't have to worry about food, so just eat anything and you will be taken care of. But now we are starting to find that since World War II the nature of the foods has changed, that they are being prepared off the premises, that they may appear to be one thing, but actually contain another.

It is imperative that we have a bill such as yours which in effect would tell the customer who is interested, what is in that can, what is in that frozen package, what is in that plastic bag. Up until now the Food and Drug Administration has had no power to mandate that food companies put on the label what are the nutrients in that food. Can you imagine, a gasoline company trying to sell gasoline without listing what are the additives in that gasoline?

Mr. SCHWEIKER. I think you have an illustration here that you might want to talk about in terms of showing the confusion and some of the complexities that the housewife is confronted with when she tries to decipher the system, which is rather inadequate, that we do use.

CHOATE. Over the last four years that I have been actively involved in the food policies of the United States, I have watched the influence of the United States Department of Agriculture on our food habits, I have deplored their advocating the four basic food groups which I don't think is a proper way to teach nutrition today. But I went into the Department of Agriculture and I said how would a prudent, but very budget conscious housewife go into the grocery store and select vegetables and fruits so that she would get maximum dollars worth and maximum nutrients. In other words, not pay for the premium beautiful huge apples, but buy the best apple for the price. And I made up this list over here of second quality la-

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bels for cherries, peaches, apples, carrots, tomatoes, and potatoes, and I found out from the Department of Agriculture what the housewife would have to know if she were to buy those cherries, peaches and apples in the fresh condition, or in the frozen condition or in the canned condition. And you see that there must be nine different terms there that that housewife must remember for those various items if she is to maximize her dollar and get the best possible food for the lowest possible cost.

I think when the Department of Agriculture is so unconcerned with the average housewife, is so unwilling to help her make prudent decisions in the market place, then somebody ought to start to take a look at the policies of the Department of Agriculture. That is a chart of utter bureaucratic confusion.

SCHWEIKER. I think it well illustrates exactly why we do need a minimum standard for nutritional labeling that will give the housewife a quick easy way to find out exactly what she is getting in terms of nourishment for her food dollar for her family.

One other area that we have touched on, but I would like to talk about for a few minutes, is a matter of nutritional education. I think I was very much astounded, in some of the nutritional hearings and some of the work that our committee has been doing, to find out that not only are we a nation of nutritional illiterates, but as you go back to our educational systems we have very little input here into nutritional education. Go through your grade school, your elementary school or your high school. When do we ever tell our young people what is to their advantage to eat, what is to their disadvantage not to eat, to help build healthy bodies, and have a healthful life. We have very little if any education in this area Bob, I know that you have some views on this. What are some of your thoughts in this area?

CHOATE. I think the nutritional educators of today are looking back at the foods of the 1920's and 1930's and perhaps the '40's, and I am really cognizant of the fact that over half of the nation's food supply now comes in the prepared form. Most of the nutritional education in the classroom ill-prepares a student to go into the supermarket and figure out whether pizza is better than steak, whether spaghetti is more fattening than steak, which it is not, or whether a frozen vegetable is better than the canned vegetable. That child or that student going into the supermarket just has no rules of the thumb to find out how to get a balanced food supply.

Most of the literature used by home economics teachers in the classroom is supplied by commercial interests, and of course, they blow their own horn. The literature may be accurate as to their own product, but it hardly represents a balanced way to present to a child what he or she should adopt as food patterns for the rest of their life. The fascinating thing is three times a day, 365 days a year for the rest of our life, we affect our health by what we put down our gullet. It is appalling how little we know about what is in most of the foods that are going down our gullet today.

SCHWEIKER. Being on the education committee, Bob, I have been working on legislation which I hope to introduce that will set up an incentive for our schools, particularly our lower and middle grades, to start preparing our children for some kind of nutritional information. We haven't worked out the form and structure of it yet, but we are going to have a bill, and we are going to introduce it, very soon.

CHOATE. I think the prudent advocacy of proper food habits can be combined with consumer awareness which I also think ought to be taught in the classroom. I think we can take the second, third, fourth, and fifth graders, and teach them how to be prudent buyers in the supermarket, whether they are buying volume, quarts, packages, bags, foods, or cleaning items. I think we can teach prudent consumer habits as we teach wise food habits.

SCHWEIKER. One of the things that I have come across, I don't know if your research and work has borne this out, is that in our medical schools today there are very little, in fact if any, nutritional related courses to preventive medicine. I have heard this charge made a number of times, I wonder what your reaction is to that?

CHOATE. I think Dr. Jean Mayer of Harvard, said that of the approximate 90 major medical institutions in this country, only six of them give a proper course in nutrition, and he could really only name three. Doctors are not a great source of nutritional information. In fact, when Mayer canvassed doctors, dentists, nurses, and their secretaries in the Boston area, he found that usually the secretaries knew more about the nutrition than the professionals for whom they worked.

SCHWEIKER. I mentioned a moment ago in our discussion, that we take better care of our automobiles in terms of maintenance, then we do our bodies, and I think one other thing that we seem to lack in this country—I might say that other countries are ahead of us here, in this nutritional effort—one other thing that we lack is in many large factories there is a routine procedure for preventive maintenance for following through with that machine or that operation so that it doesn't get out of whack, so that it doesn't get sick. Here we spend millions of dollars in this country giving preventive maintenance to our machines and equipment and very little, if any, preventive maintenance in terms of health, or nutrition or education or nutritional checkups that would do the same thing for our bodies. Once again, we treat our machines, we treat our cars, far better then ourselves.

I think this is the nutritional era that we have entered into and I think it is a challenge for all of us, and we are delighted, Bob, for your leadership and your instigation of many questioning and many open-ended questions that we all have to answer. I see that our time is up, and I thank you very much for being on my show today.

CHOATE. My pleasure Senator. Thank you very much, and stay with these bills, please.

JUDGMENT BY RUMOR

Mr. GOLDWATER. Mr. President, I served in this body during the days of the so-called McCarthy era and I can recall vividly the development of that phrase as meaning anyone who wanted to judge somebody else by rumors.

Peculiarly, in fact, it is almost funny, nearly every one of the groups and publications that attacked Senator McCarthy for his so-called smear tactics are now engaged in precisely the same practice. We have lived through it with two Supreme Court nominees this year and now the radical liberals who comprise these groups are attacking my fellow Arizonan, William Rehnquist, on these same flimsy, inaccurate, dishonest positions that they so violently opposed in the days of McCarthy.

An editorial appearing in the Arizona Republic on Sunday, October 31, makes these charges in a far better way than I can, so I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

VICIOUS ANTI-REHNQUIST TACTICS

The liberal campaign against Supreme Court nominee William Rehnquist is now taking shape, and it is a very ugly campaign indeed.

For the same liberal organizations and publications which so piously decry guilt-by-association and smear tactics, are attempting to smear Rehnquist as a racist. And they are doing so by distorting his philosophical position beyond recognition and by trying to tie him in with the far right.

Although the New York Times (in its Oct. 22 story on President Nixon's two nominees) initially said that both Lewis Powell and Rehnquist have reputations as "moderate on civil rights," the Times has since used its news columns to amplify the false charges of Arizona State. Sen. Cloves Campbell that Rehnquist was a John Bircher and the flawed charge of the Rev. George Brooks that Rehnquist "was the only major person of stature in the state who opposed the Arizona civil rights bills in 1968." (There was no Arizona civil rights bill in 1968.)

The charge has been leveled that Rehnquist opposed integration of high schools and public accommodations in Phoenix.

Neither charge is true.

What Rehnquist said was that the neighborhood school concept, which is neutral on the question of integration or segregation, should not be abandoned since it has worked well. Furthermore, he said, the schools' job is to educate children, not to foster social change and thereby lessen the schools' ability to perform their primary job.

And he is right about that, as the overwhelming majority of Americans—all but zealous civil rights groups—would agree.

Rehnquist's opposition to Phoenix's public accommodations ordinance was the traditional private property argument—that suddenly "racist" concept that dates from the time of Aristotle and finds sanction in natural, customary, and conventional law.

Rehnquist said flatly that federal, state, or local government "should treat all of its citizens equally without regard to race or creed." He added that the proposed public accommodations ordinance was not directed at the conduct of government, but at the conduct of the proprietors of privately owned businesses.

"Freedom means the right to manage one's own affairs," he added, "not only in a manner that is pleasing to all, but in a manner which may displease the majority. To the extent that we substitute, for the decision of each businessman as to how he shall select his customers, the command of the government telling him how he must select them, we give up a measure of our traditional freedom."

What Rehnquist argued was the classical liberal defense of private property, the view held by our Founding Fathers . . . who no doubt would also be smeared as racists by today's liberals.

The fact is that the institution of private property reflects both the growth of civilization and the expansion of freedom. As Prof. Gottfried Dietze of Johns Hopkins has pointed out, the great documents of the democratic revolutions, written in the 17th or 18th century, in England, America, and France, consider property rights as equal to such freedoms as speech, press, and assembly.

Simply because today's statist liberals regard it a social good to restrict property on pseudo-humanitarian grounds—pseudo, in that private property defends minority as well as majority opinions—is no reason why the rest of us should be bludgeoned into abandoning a principled position that reflects the experience of ages.

But the wolf packs sniping at Rehnquist are not interested in principled arguments or intellectual distinctions. They are out to defeat the conservative Mr. Rehnquist by any means possible, including destroying his reputation by any vicious and unfair means.

GEORGE MEANY'S BUREAU OF LABOR STATISTICS STATEMENT

Mr. HUMPHREY. Mr. President, for the past month, I have repeatedly called attention to the politicization of the Bureau of Labor Statistics. Technical press conferences are canceled, major statistical reports are ended, professional personnel are shifted, political analysts are appointed to sensitive data interpretation positions—the list is almost endless.

George Meany, president of the AFL–CIO, recently sent a letter to Secretary of Labor James D. Hodgson indicating that the AFL–CIO was "deeply disturbed" over the manipulations at the Bureau of Labor Statistics. In his letter, President Meany pointed to the shift and downgrading of key career personnel, to the ending of urban poverty reports and to the ending of public unemployment press conference announcements as evidence that the Bureau was under attack by the administration for doing its job in a professional manner.

Mr. Meany called on Secretary Hodgson to exercise some leadership and reverse "these troublesome developments."

I agree.

I ask unanimous consent that President Meany's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GEORGE MEANY'S LETTER

AFL–CIO President George Meany today released the following text of a letter delivered to Secretary of Labor James D. Hodgson last Friday:

The AFL–CIO is deeply disturbed by the continuing series of events that indicate an alarming attempt to politicize the Bureau of Labor Statistics.

The announcement, several days ago, that the publication of quarterly reports on employment and unemployment conditions in urban poverty areas will be discontinued during 1972—incidentally an election year—is the most recent of the shocking examples of what is happening to the Bureau of Labor Statistics.

It came on the heels of the reorganization of the agency, with shifts and downgrading of key career personnel, combined with the separation of interpretation of economic data from the collection and analysis of such information. That development, in turn, came only a few months after career, nonpartisan statisticians were barred from the long-time practice of interpreting monthly employment-unemployment reports at public press briefings.

The Bureau of Labor Statistics produces basic statistics on the operation of the American economy, which are used by labor and management in collective bargaining agreements and in business contracts. This information is also used by other government agencies and by the public, at large, in following economic trends.

Up to now, organized labor, business—indeed the entire American public—has had confidence in the integrity of this agency's work, despite occasional differences of judgment on some issues. It would be a real tragedy if this confidence were to be destroyed and it would be destroyed if the BLS and the vital information it collects, interprets and publishes became political propaganda or became suspect as such.

These troublesome developments are of sufficient importance to require reversal by you, as Secretary of Labor. We firmly believe such action should be prompt, effective and unequivocal in order that the integrity of the BLS be protected from even the suspicion of political manipulation.

INCREASE IN LABOR PRODUCTIVITY; EMPHASIS IN HUMAN POTENTIAL

Mr. PERCY. Mr. President, the American Telephone & Telegraph Co. has been well known for its leadership in internal manpower and development training programs. At the meeting of the Business Council on October 15 and 16, Mr. H. I. Romnes, chairman of American Telephone & Telegraph, described his company's recent efforts to obtain increased productivity in the difficult labor intensive sectors of its operations. This has led to an emphasis on human potential—an effort to enlarge the capacities of people, "not to diminish man but enhance him."

It is very interesting to note that the Bell system has determined that the process of fragmentation and specialization of jobs may well have gone too far. Mr. Romnes suggests that—

> Instead of routinizing jobs, we should be making them more complicated . . . by making it our explicit aim to structure jobs that are big enough so that employees feel them worth doing and worth doing well.

Nothing could be more important now than increasing the productivity of American enterprise. This is the responsibility of individual companies and A.T. & T. deserves wide recognition for its outstanding efforts and its consistent position of leadership.

Business council proceedings are off the record but I requested and Mr. Romnes has given me permission to place his remarks in the RECORD. I ask unanimous consent that his message on labor productivity be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

LABOR PRODUCTIVITY

When Don Burnham first outlined what was expected of me this morning he was kind enough to say that I could be most useful to this occasion simply by sharing what he called the "fine things" the telephone business has done to advance labor productivity. This I am glad to do, observing only that if we have lessons to impart, they derive not so much from our accomplishments as from our hopes, not so much from what we've done but what we're trying to do.

I shall be talking about "labor" in the broad sense—including professional and management people and "knowledge workers" as well as union-represented and other nonmanagement people. Also, I shall be concentrating on ways to improve labor productivity in ways other than the application of capital since Bob Ingersoll has covered that subject very well.

The classic index of productivity in the telephone business is the number of employees per 10,000 telephones. It is not a very sophisticated index but it provides a sufficient measurement of gross trends. In 1950 it took 148 employees to serve 10,000 telephones; in 1960, 96. Today it takes 80. Over the past five years, however, the downward sweep of this curve has begun to flatten out—partly because of a slowdown in our growth rate. In short, our experience has not been unlike that of the economy at large.

Looking back over the years, there is no doubt that the telephone industry owes the dramatic increases in productivity it has accomplished to the very large capital investments it has made to embody advanced technology in its plant. But there is no doubt either that new increments of productivity improvement by this route are harder and harder to come by. The mechanization of switching is to all intents and purposes complete. Direct distance dialing is available virtually everywhere. Microwave radio and coaxial cable carry great bundles of communications channels back and forth across the nation at a cost per circuit mile that is one-third of what it was 20 years ago.

What remains stubbornly resistant to dramatic improvements of this kind are the labor-intensive segments of our business—connecting and disconnecting telephones, installing outside plant and a variety of clerical functions. We by no means despair of accomplishing further advances in productivity—including some dramatic ones—through technology. Electronic switching and the wave guide cable are just two examples of current opportunities. But in the stubborn areas I have been talking about we are seeking productivity improvement, not alone through technology, but through the patient and concerted application of our energies to achieving small increments of improvement that cumulatively over time may match the accomplishments of capital-supported science and technology. Our aim in these efforts is not to supplant people but to enlarge their capabilities, not to diminish man but enhance him.

In this connection I cannot help but wonder whether we in business may not become so bemused by the demonstrated power of technology in advancing productivity that we have come to neglect opportunities for improvement on "the human side of enterprise."

How serious we in the Bell System are about these opportunities you may judge from the fact that early last year AT&T undertook a restructuring of its top management that explicitly recognized the crucial importance of the human element to the success of our business. In the course of this restructuring, we appointed an executive vice president-human affairs. It is his responsibility, complementing the responsibility of the executive vice president-operations and engineering, to see that human considerations are given as much weight in the highest counsels of management as we have conventionally given to technical and economic considerations.

Without for a moment minimizing the magnitude of its task or the time it will take to accomplish it, let me say that among the hopes we have for this new organization is that it will help find ways to structure jobs in ways that recognize the need of employees to feel that how well they as individuals perform does in fact make a difference.

What progress we can make along these lines and how soon remains to be seen. There are some, I know, who will argue that these hopes are not very realistic. There are some who will remind me that amid the diversions and distractions of today's society, jobs aren't as important to people as they were when most of us went to work. And there will be some who will say that work for its own sake, for the personal satisfactions it provides, simply doesn't "send" people anymore.

Regrettably, there is more than a little validity in these observations. What we have been asking ourselves, however, is—assuming these things to be true, do they need to be true? Perhaps there are limits to the progress in productivity that can be accomplished by the traditional methods of work simplification and work fragmentation. Perhaps in this day and age, instead of routinizing jobs, we should be making them more complicated. Perhaps—by making it our explicit aim to structure jobs that are big enough so that employees feel them worth

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doing and worth doing well—we will discover that the pride in workmanship whose loss we lament has not been lost at all but has merely been submerged.

The concept of job enrichment has been around for some time and it has had its failures as well as its successes, inside our business as well as outside. Admittedly there are jobs—and perhaps a great many—that are not susceptible to enrichment, that are necessarily routine. But I think we are a long way from having fully exploited the improvements in productivity that the so-called "work itself" concept can accomplish.

For example, two Bell companies recently introduced new procedures for the compilation and editing of telephone directories. Previously, the job of putting together directories for smaller-sized communities involved nearly two dozen separate tasks performed by about 16 girls working on a number of different directories. One girl would handle the typing; another would check her work; a third would deal only with routing copies to people for further review; still another would verify the accuracy of advertisements in the Yellow Pages; and so on. Turnover among the girls was high and consequently the error level—as well as overtime—was going up instead of down.

Both locations were considered good places to test the "work itself" concept. New methods were instituted that provided each of the girls with increased responsibility and more opportunity to exercise initiative and creativity. Instead of 16 girls working on each directory, each girl became responsible for an entire small city directory of her own. In just over a year, they had shared ideas, revised steps needed in the preparation of phone books, and vastly reduced their backlog. In both companies, attendance improved noticeably, turnover dropped, excessive overtime became a thing of the past, and errors were reduced to one-eighth of what they had been.

What is notable about this case history—and dozens of others I could mention—is that no large inputs of capital were required to get at the roots of problems that were retarding productivity. All that was required was a healthy respect for the human use of human beings—and for their ability to calculate their own needs and chart their own course.

The rest of what I have to contribute on the topic of labor productivity falls under the heading of just plain good management. I hesitate to offer it to an audience comprised—virtually by definition—of good managers. It goes without saying that the clarity with which management defines its goals, the incentives it provides for meeting them and the indices it uses to measure progress—all have a direct, if not readily quantifiable, influence on productivity. These are fundamentals and I shall not expand on them.

Everybody recognizes the relationship between training and labor productivity. I wonder, however, whether we have sufficiently recognized the impact on productivity of corporate organization structure and the degree to which it facilitates—or, conversely hampers—the coordination that effective output requires.

In 1976 our business will be 100 years old. Not many of you in this room represent businesses quite so advanced in years. But in these times of change a business doesn't have to be 100 years old or 50 or even 10 to discover that an organization structure that once made sense no longer does so and may upon examination prove to be a barrier to productivity rather than a means of enhancing it. Here is an example:

Traditionally, the Operations Department of the Bell telephone companies have been divided into three parts—Traffic, Plant and Commercial—with the three parts conjoined under common supervision only at the sixth level of management. This tripartite structure had—still has—enormous strengths—in building expertise, men and women who really knew their jobs. What has led some of the Bell companies to contemplate changing this classic structure is that interdepartmental coordination, once safely assumed on the basis of long experience with standardized routines consistently pursued and in their time a major contributor to productivity, can no longer be taken for granted in the face of the volume and variety of customer service needs we confront today. It is this consideration that led the companies to establish—experimentally at least—what they call customer service units encompassing all three of our traditional operating disciplines and erasing the departmental boundaries among them. The aim: to establish total responsibility for all aspects of customer service as close to the community as possible. What effect this development will have on the number of employees it takes to serve 10,000 telephones remains to be seen. But I for one believe that we shall be neglecting one of the major factors affecting labor productivity if we fail to take account, not only of job structure, but organization structure as well.

Brought up in the Bell System, I was brought up in the "systems concept." In all our arsenal, I suppose, there is no more powerful agent of productivity improvement than this.

Lately, however, as I have contemplated those aspects of our business that at the outset of this talk I described as stubbornly resistant to productivity improvements, I have begun to wonder whether our application of the system concept has been sufficiently comprehensive. In short, I have begun to look for ways to structure our organization so that we may apply systems analysis not only to the technological aspects of our business but to the entire process—costs, prices, products, people—by which our service is created and delivered.

This is the approach we are taking to the development of our Business Information System—BIS for short—a project aimed at equipping the telephone companies to collect, store and recover on demand the massive amounts of information their operations will require in the future. When it is complete, this system—or system of systems—will represent the largest single application of computer technology outside of government.

Viewed narrowly, BIS—except for the scale on which it is being undertaken—is just another example of how capital-supported technology contributes to improved productivity. But BIS is not an end in itself. It is being developed, not so much for what it will accomplish, but what it is going to permit our people to accomplish. By assigning to computers the jobs they can do best, we hope to free our people for the job they can do best—the jobs that require judgment and initiative and personal consideration.

Implementing BIS is going to require more capital than I care to contemplate. At the other end of the scale is a development that requires none at all. It's so simple that I hesitate to mention it before so sophisticated an audience. It is called "Snip-and-Take." If this concept works—it's being tried in a number of our companies—no longer will an installer have to climb into his truck to go out and remove the telephones of a customer who is moving. (How frequently we must do this you may judge from the fact that in the course of a year—to gain 4 million telephones—we may have to install 25 million, remove 21 million.) Instead, when the customer moves, he snips the cords himself with a pair of scissors and takes his instruments to his new location and the company gives him a credit on his bill. I can't help but wonder how many more ideas like this might emerge—and what their combined effect on our employees-per-10,000-telephones index might be—were we to apply the same disciplined and systematic approach to operations analysis that we have traditionally applied to technology.

Surely a step in this direction would be an explicit recognition that enhancing labor productivity is a responsibility of *all* of management, not of line management alone. I am sure all of us recognize that marketing people for example have a special responsibility not simply for selling more things but for optimizing the utilization of people and plant. In our own business, rate plans that encourage our customers to call at off-peak hours and dial their own calls, represent quite as direct a contribution to productivity improvement as any piece of labor-saving technology or employee-incentive system.

What is wanted, then, is ideas—and ideas are the stock in trade of the so-called "knowledge worker" who is coming to exercise a more and more important role in modern management. We do not have adequate tools to measure the productivity of knowledge workers and probably we never shall. But I submit that the knowledge worker's great and growing influence on the operations of business—on the productivity of others—makes a consideration of *his* productivity a necessary ingredient of any realistic discussion of the topic assigned to me today. It is no coincidence, for example, that as the number of employees for each 10,000 telephones has been going down, the number of engineers we employ for each 10,000 telephones has been going up.

I have no prescription to offer that will assure the productivity of the knowledge worker. I offer only my own observation—and that is that the knowledge worker's creativity and the relevance of his initiatives depends on the degree to which we can engage him in the realistic problems of the business, short-term and long-term. Too often our organization charts cast the knowledge worker—indeed the knowledge worker is all too prone to cast himself—as an isolated specialist to be consulted only within a narrow if highly rarefied area of expertise. In my observation a candid sharing of business prospects and problems with this new breed of management people affords an opportunity we cannot afford to neglect—the opportunity to advance not only the knowledge workers' productivity but—through their insights—the productivity of others as well.

I have reserved the topic of labor relations till last. The effects of strikes on the productivity of the U.S. economy—and on our individual businesses—are immediate and calculable. During the first eight months of this year U.S. industry has lost some 29 million man days because of strikes—with strikes in the Bell System representing a not insignificant part of that total. Less readily calculable is the impairment of our productivity potential imposed by outmoded or artificial work rules and by barriers to free entry to the job market. In this area Roger Blough's Construction Users' Roundtable has performed yeoman service in pointing up the need to redress the balance of bargaining power in an industry where the wage settlements of recent years have far exceeded advances in productivity, thereby fueling a cost-push inflation we now recognize only the most stringent measures can stem. The Roundtable has performed yeoman service, too, in pointing up the degree to which the urgency of our own demands on the construction industry increases not only the bills we pay for building but our own labor costs as well. Not the least of the insights that the Roundtable has developed is the effect on productivity of extended scheduled overtime. The Roundtable's studies show that after the first two or three weeks of scheduled overtime, output per man hour steadily declines and that after seven to nine weeks work output for the extended week is actually less than it would be on a 40-hour week.

With respect to labor relations and its effect on the economy, I can only echo what I hear said with increasing fervor on both sides of the bargaining table: There must be a better way. There is a growing recognition, it seems to me, of the barrenness of the biennial or triennial struggle for advantage—in most cases illusory advantage—that collective bargaining in all too many instances has become. Let me conclude with the hope that somehow out of the government-industry-labor cooperation that the New Economic Policy requires if it is to succeed will come a recognition that, whatever differences divide us, the goals we hold in common—the remedying of our social ills, a better life for all Americans—depend in the final analysis on our ability to sustain a steady improvement in the productivity of our economy.

THE INTERNATIONAL ECONOMIC SITUATION

Mr. FANNIN. Mr. President, there has been a great deal of comment in this Chamber and in the press about the gloom-and-doom aspects of the world situation. We have heard a great many statements saying that America must not, cannot, should not, ought not to and otherwise would be ill-advised to carry on with its present world monetary policies.

The truth is that Europeans and Canadians and Japanese and others understand the need for what we are doing to fix the problem of our balance of payments.

In fact, many widely respected writers abroad are commenting on the actions we have taken, commenting with respect and understanding.

One is Peter Jay of the London Times who is known on both sides of the Atlantic.

Mr. President, I ask unanimous consent that Mr. Jay's October 22 article, "Mr. Connally's Grand Slam," be entered in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London Times, Oct. 22, 1971]

MR. CONNALLY'S GRAND SLAM

(By Peter Jay)

It is becoming clearer and clearer that Mr. John Connally, Secretary of the United States Treasury, is in process of bringing off one of the most successful and brilliantly executed diplomatic triumphs of recent years. Indeed, his success looks like being the kind of thing about which career diplomats dream, but which they seldom achieve.

This would be gall and wormword, not only to the professional anti-Americans and prophets of monetary gotterdammerung, but also to those Democrats and liberals in the United States who are sustained by their superior faith that President Nixon's administration in general and Mr. Connally in particular must be a bunch of non-intellectual ham-fisted incompetents. Not, however, so.

Let there be no misunderstanding. Mr. Connally is not, heaven be praised, some new Solomon of enlightenment briefly come to earth in Washington. He is as hard a nosed and as election-minded a politician as one is likely to find west of Cardiff South-East. As an early and brief member of President Kennedy's administration he had the ambiguous distinction of earning as poor an opinion from Mr. George Ball, the architect of the State Department's belief that the Common Market was the best thing to happen to the United States, since Cornwallis, as he earned a golden opinion from Mr. Robert McNamara, the World Bank's eloquent prophet of inter-continental revolution.

Pride and prejudice apart, the simple truth is that Mr. Connally set his hand to the task of correcting the inequities of the United States' international economic position and that he is now close to taking every trick in the game. The fact that United States' interests have on this occasion coincided with the interests of an open and prosperous world economic order has been a vital bonus for those not concerned in Mr. Nixon's reelection.

To wit, the currencies of the major countries other than the United States are now going to be effectively revalued in terms of the dollar by (a weighted average of) approaching ten per cent. Much greater flexibility of international exchange rates is going to become a feature of world currency relationships, whether or not the Common Market will or can accept intra-EEC flexibility.

It is further taken almost for granted in official discussions of permanent reform of the world monetary system that gold, both as a standard and as a store of value, will be phased out. The only question is to settle the mechanics of this operation. It is also accepted that the huge officially held dollar balances built up over recent years will (in so far as they do not automatically unwind themselves) be converted into some newly created international money, such as International Monetary Fund Special Drawing Rights.

Moreover, in the interval before this happens, it is accepted that these balances cannot be converted in any way that could be awkward for the United States. It is further apparent that Japan and the Common Market are going to have to make real concessions—some now and some later—to the United States on the questions of defence and aid "burden-sharing" and of unfair trading practices, about which the United States is so indignant.

Finally, it is apparent that it will be a very long time before the United States economic partners are going to resume their favourite sport of reading lectures to the United States about its balance of payments deficit or about its domineering ways in world affairs. If one thing has been absolutely clear since August 15, it has been that what Japan and west Europe would most have liked from the United States would have been a promise to forget the whole business and to go back to running its normal deficits and to telling its partners, albeit politely, what they should do to help.

The whole thing is precisely reminiscent of Mr. McNamara's Nuclear Planning Group for Nato, put forward in response to continuous moans that the United States was monopolizing nuclear strategy. When Mr. McNamara offered the technical data for joint deliberations and suggested that West Germany should prepare a paper for a discussion about "multiple fingers on the nuclear trigger" you could in the words of one eye-and-ear witness "have heard a pin drop for several minutes".

Most of the problems of protectionism, of burgeoning multi-national companies, of a one-sided dollar standard, of excessive dollar balances outside the United States, and of the decay of the Bretton Woods system are no more than manifestations of the dollar's recent over-valuation in terms of other currencies resulting from the determination of the other countries to run excessive payments surpluses. By tackling that problem at the roots Mr. Connally is doing more to resolve all of these problems than everyone else put together.

How has Mr. Connally done it? Basically by seizing a piece of useless desert which did not belong to him (in the form of the illegal import surcharge and the illegal suspension of dollar convertibility), giving the impression that he would never give it up and then conceding a small part of it in return for real concessions, in terms of exchange rates, trading practices, the shape of the monetary system and "burden-sharing", where he wanted them. It would be outrageous, were it not wholly justified by the general interest of mankind, as well as being in the interests of the United States and of Mr. Nixon.

Moreover, the tactics have been as good as the strategy. Mr. Volcker, Mr. Connally's Treasury deputy in these matters, has made it quite clear in recent weeks that the United States was willing to wait and to let "dirty" floating continue for a while. The partners have come to realize that this scares them even more than settling on Mr. Connally's terms. And by pretending to threaten last weekend to make a private deal with Germany Mr. Connally himself successfully frightened the whole Common Market into a determination to hang together on Mr. Connally's gibbet rather than to hang separately on it. It is nice, just for once, to have a real professional on the side of light.

NEW CAREERS IN THE MEDICAL FIELD

Mr. CRANSTON. Mr. President, Sylvia Porter recently published a series of articles citing the many new careers which are being developed in the medical field, and pointing out that a solution to the major problems of the health care system, that is, scarcity of highly trained health professionals, and the high cost of care, can be found in greater utilization of these new types of paraprofessionals. I fully concur with this thesis. Moreover, with a continuing high level of unemployment, an additional benefit in human terms is the opportunity offered for a meaningful, satisfying career to many individuals who are limited by lack of finances from pursuing one of the more traditional medical professions.

In many of the newly developing health paraprofessional careers, training and educational programs are geared to prepare for more advanced educational programs and job responsibilities, so that training received for one career level can be applied to training for a higher level or in a related field. A career as a health paraprofessional, thus, is no longer a deadend job, but instead can provide a lifetime of career development and growth to the individual.

These articles list some of the many new health manpower alternatives available today, and explain the value of these innovative programs to the Nation's health and manpower systems. I feel they will be of great interest to Members of the Senate, and ask unanimous consent, Mr. President, that they be included in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Aug. 9, 1971]

NEW CAREERS FOR H-S GRADS

(By Sylvia Porter)

Hospitals are slated to become the biggest single new source of jobs by 1975,—for a great variety of health workers as well as physicians and nurses. This prediction

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comes from Dr. Edwin Crosby, president of the American Hospital Assn.

Are you, the high school student, aware of the range of opportunities open in the health professions and occupations? Do you know how greatly upgraded have been pay scales in this area?

It well may be that you would be interested in a career in the field of health. Here's a rundown on some.

Home Health Aide: trained, usually at a high school vocational school or adult education center to perform a wide variety of services in the homes of sick or disabled patients at a fraction of the cost of staying in a hospital. More than 200,000 such workers are now needed, estimates the National Council on Homemaker's Services in New York—but only 15,000 workers are available. Typical pay of home health aides is $125–$150 a week.

Assistant in Drug Addiction Centers: in demand to administer methadone in methadone maintenance clinics, "talk down" drug abusers suffering from bad trips, analyze patient specimens, etc.

Orthoptist: to help people, especially children, to correct eye defects and defective visual habits under the supervision of an ophthalmologist (an M.D. specializing in visual disorders).

Assistant Operating Room Secretary: to schedule operations and arrange for appropriate staff to be on hand.

Translator: to work in hospitals in Spanish-speaking and French-Canadian communities as bridge between patient and physicians and-or hospital administration.

Medical Emergency Technician: to ride in ambulances and perform therapeutic and other functions in hospital emergency rooms.

Mental Health Nurse Practitioner: to assist in nursing care in mental institutions and perform non-professional tasks.

Operating Room Technician (surgical technician): to assist in the many aspects of care of patient, pre- and post-operative, in the operating or delivery room.

Senior Nursing Attendant: to assist in hospital nursing care, taking blood pressure and specimens: operate traction oxygen and fluid drainage equipment.

Clinical Administrative Assistant: to counsel the underprivileged on health care in neighborhood clinics.

Physicians' Assistant: to perform certain diagnostic and therapeutic procedures under physician's supervision—for instance, weigh and take patient histories; take blood pressure, electro-cardiograms and X-rays; process lab specimens.

Pharmacist's Aide: to assist the pharmacist in recordkeeping, labeling, compounding and packaging of drugs.

Patient Service Representative: to assist patients with health insurance, Medicare, Medicaid, other financial matters and to handle complaints about service received.

Cardiopulmonary Technician: to assist in the treatment of patients with heart-lung ailments: set up and operate oxygen equipment, work in an operating room and-or recovery room, provide certain emergency services associated with heart-lung disease.

Orthopedic Equipment Attendant: to maintain and service orthopedic devices used to repair broken bones.

Physical Therapist: to evaluate physical disabilities and use physical and breathing exercises as well as other techniques to help restore muscle co-ordination and strength.

Aides For Mental Retardates: specialists across the board are in demand in facilities for mental retardates—ranging from music therapists to speech clinicians.

The needs are overwhelming. The opportunities are almost endless. The variety of work in the entire area of health is growing steadily, becoming ever more impressive. And the paychecks—finally—are competing with those in almost any field open to the high school graduate.

[From the Washington Star, Aug. 11, 1971]

HEALTH CAREER TRAINING

(By Sylvia Porter)

Item: In Melrose, Ill., the Westlake Community Hospital is training blind students from Triton College as darkroom technicians to process X-rays. The blind, notes instructor Robert Walsh, who has been blind himself since he was 12, do not have psychological problems in adapting to total darkness.

Item: In Philadelphia, 10 hospitals are collaborating in a federally financed program to train more than 600 hardcore disadvantaged individuals as nursing aides, dietitians' helpers, ward clerks, surgical technicians. The training lasts 18 months, during which participants are paid $2 to $2.46 an hour.

Item: In California, the Stanford Medical Center is training 40 disadvantaged individuals in three stages—first, basic education; second, on-the-job training in paramedical jobs such as lab assistants; finally, if a student chooses, training as a physicians' assistant. The project is being financed by the Carnegie Corp. and the aim is to train 100 to 200 students each year.

Critical nationwide shortages of health personnel are opening the doors to expanded and innovative job training programs—at universities, high schools, junior colleges, hospitals. There are now 2,285 health training programs based in member hospitals, says the American Hospital Assn. in Chicago. A full 1,400 hospitals across the U.S. are being used by junior college students for training. The step-up in training has been spectacular.

The duration of health training programs is being significantly shortened to attract more students.

Career "'ladders" are being erected in hospitals to permit lower level, lower paid employes to progress upward to higher status, higher paid jobs. One ladder set up in 11 hospitals in Boston, Cleveland and Maryland allows a bottom-rung house or laundry or kitchen worker to move upward to nursing assistant, laboratory or X-ray specialist, licensed practical nurse. Pay scales along this ladder range between $91.50 and $136 a week.

And vitally important, the pay of health service workers of all kinds has been soaring. No longer is this among the worst paid of occupational fields—as this recent unpublished survey by the American Hospital Association underlines. It shows average starting weekly wages of hospital employes as of mid-1971—in both voluntary and public, union and non-union hospitals.

Licensed Practical Nurse	$120
Registered Nurse	163
X-ray Technician	142
Medical Social Worker	187
Occupational Therapist	164
Dietician	170
Pharmacist	224

These averages mean nothing in many cities, though. For instance, in San Francisco, the average pay of a hospital pharmacist is $321 a week. In New York, the average starting pay for a licensed practical nurse is $159, and for an RN, $207—and so it goes.

The directions in which we are starting to move are potentially meaningful.

The programs are primarily aimed at the health subprofessional—the man or woman who has not graduated from college and whose numbers are slated to soar during this decade.

The shorter training spans are designed not to lower the qualifications of the graduates but to hold students who simply could not afford to live for long periods on the modest stipends often paid in training programs.

And the objective is to tackle head-on a manpower gap which hurts all except the very wealthy.

Progress already is indisputable. As a result of the acceleration in training just in the past few years, the hospital manpower gap had been slashed by nearly two-thirds since 1966. As a result of the leadership by aggressive hospitals and universities, there is a mounting willingness among more timid institutions to copy the programs that appear successful.

The jobs are reaching out for the workers—at last.

[From the Washington Star, Aug. 12, 1971]

REDUCING HEALTH CARE COSTS

(By Sylvia Porter)

Let's say you or your daughter would like to become a nurse. Are you—or is she—aware of the new specialties now emerging in the nursing profession?

As just one instance, in New York City nurses are being trained as anesthetists capable of administering anesthetics in uncomplicated surgery not requiring the services of a full M.D. anesthesiologist.

Or let's say your child would like to be a dentist. If so, perhaps he should consider becoming a dental auxiliary. Such auxiliaries are now being trained at New York State University's Stony Brook Dental College in a two-year course to take over a large share of today's simple, uncomplicated dentist's duties, including much of the teeth cleaning and filling—at a fraction of the traditional cost to the patient.

Or let's say you or your son or daughter are determined to become a physician. If you are especially strong on math and engineering, you might want to consider becoming a biomedical engineer as an alternative. Your job would involve the design and development of medical instruments and prosthetic devices—ranging from electronic heart pacemakers to the application of laser technology in medicine. Typical earnings of today's full-fledged biomedical engineer with a Ph.D. degree are $20,000 to $25,000.

It's scarcely news that costs of health services of every kind have been skyrocketing—but just to remind you again of the brutal burden:

The average cost of spending a single day in a semi-private hospital room in the U.S. is up to $80. The minimum wage for hospital employes in New York City is now $130, nearly double the $76 minimum as recently as 1967. Also in New York, a newly licensed practical nurse earns an average of $159 a week and an RN earns an average starting salary of $207. Nationally, a beginning hospital pharmacist now earns an average of $224, according to a recent, unpublished survey by the American Hospital Assn. in Chicago.

The key force behind soaring medical costs has been the persistent shortage of professionals in all areas—physicians, dentists, nurses. Despite relatively huge infusions of public funds into medical and nursing schools, the professions have so far shown themselves incapable of solving this basic problem.

Yet, doctors themselves report that 20 percent of the tasks they perform today actually could be properly and more than adequately taken over by physicians' assistants, according to a recent study by the Tri-State Regional Medical Program (New Hampshire, Massachusetts, Rhode Island), headed by Dr. Leona Baumgartner at Harvard University, and the New Hampshire Medical Society.

The physician's assistant—capable of performing a wide range of duties ranging from taking patient histories to handling specific straightforward diagnostic and therapeutic procedures—could stretch the productivity of the typical physician by as much as 50 percent. And this is merely one category of the new health professionals being trained under 100 or more programs at universities across the country today.

What has become unmistakably clear—at last—is that professional health jobs must be redesigned as far as feasible so that new types and classes of professionals can be trained to enter all areas of health care.

What is obviously of urgent importance is that these new professionals be able to assume part of the tasks bogging down our traditional health professionals—with their 10 to 12 or more years of post-high school education.

And what is simple to grasp is the dollars-and-cents meaning to us, the patients, of these innovative health professionals training programs. We just don't need highly skilled doctors or nurses to help us with elementary health problems. We don't need to have a full-fledged professional take our uncomplicated medical histories or give us a routine blood pressure test.

A semi-professional earning $10,000 to $20,000 a year could take over in many areas from a professional earning $25,000 to $50,000—could give us the care we need and also slash our health costs in the process.

[The Sunday (Wash., D.C.) Star, Aug. 15, 1971]

WHAT IS HEALTH CARE FUTURE?

(By Sylvia Porter)

The University of Miami is launching a program to train 20 selected doctors of philosophy to become doctors of medicine in two years.

Northwestern University Medical School in Chicago has announced that it will begin a program in 1972 under which graduates of slum district high schools will be trained to become physicians within six years—as against the traditional eight. Their training will be geared toward practice in the inner city. At the start, only 25 will be trained in this privately funded program, but eventually the number is due to rise to 100 a year.

Dartmouth College in Hanover, N.H., kicked off a "Medex" program this past January to train 23 former medical corpsmen at its Medical School and Hitchcock Medical Center to become physicians' assistants. The training consists of a three-month stint at the Dartmouth Medical School and Hitchcock Medical Center, followed by one year of on-the-job training under the supervision of doctors in New Hampshire, Maine, Vermont and Massachusetts.

In Colorado, "Child Health Associates" are being trained and licensed to perform a wide range of diagnostic and therapeutic health services—including writing certain prescriptions. The training period for this new type of health professional is five years after high school graduation—less than half the normal required pediatric training period of 11 years.

These Child Health Associates will be capable of attending to the needs of an estimated 80 percent of all children normally seen by pediatricians. But they will do so at a fraction of the cost pediatricians would charge.

Elsewhere, "Surveillance Nurses" are supervising infectious disease controls in hospitals after they have had post-RN training, and "Coordinators of Patient Care" (also R.N.'s) in hospitals are evaluating the needs of patients who should have special home nursing care or be in nursing homes—and are then setting up the appropriate arrangements.

This is a sampling of the imaginative range of training programs for new categories of health professionals today.

During this week, these columns have looked at the health care field. Consider just these crucial points:

1. The nation is short of an estimated 50,000 physicians, 10,000 dentists, 60,000 licensed practical nurses and R.N.'s, 40,000 workers in the field of mental retardation, tens of thousands of environmental health workers.

2. The health manpower gaps are huge. While New York has 219 active physicians for every 100,000 inhabitants Mississippi has only 73 per 100,000. While there is one dentist for every 2,000 Americans, the ratio in black communities is only one dentist for every 10,000 inhabitants.

3. Behind relentlessly spiraling health costs are these shortages of health personnel the nation over. This is a crisis in every sense of the word. Over the past 20 years, the national health bill has soared from $12.1 billion to $75 billion—and it is predicted that this category of living costs will reach the $100 billion range in the next three-four years.

The choices can be plainly stated:

Shall we insist on permitting only medical "geniuses" to survive medical training and thus force millions of Americans to go without adequate or, in many cases, any medical care?

Shall we allow these dangerous manpower shortages and gaps to persist indefinitely?

Or shall we bring real flexibility and real innovation into the long-range approach to medical education in order to make sure the extremely valuable time and talents of professionals are not wasted on minor, uncomplicated afflictions?

And shall we make sure that we are training valuable health workers to fill the jobs that are begging for them and thereby tackle directly the increasingly intolerable burden of health costs?

THE FOREIGN AID BILL

Mr. GOLDWATER. Mr. President, because of the press of family business in Arizona I was unable to be present last Friday night when the Senate defeated the foreign aid bill by a vote of 41 to 27.

But I was interested to read in the newspapers that this action had come as a great surprise to the administration and to the Department of State and to some of the leaders in the Senate. I was interested because it was fully apparent to me before I left late Friday afternoon that the measure would be defeated by a sizable majority. It was fully apparent that a group of Senators who opposed U.S. military aid in any form and Senators who like myself have never believed in foreign economic aid would combine forces to scuttle the $2.9-billion program. And I wish to make it clear that if I had been here when the roll was called, I would have voted against the foreign aid measure just as I have on every occasion that has presented itself while I have been in the Senate.

Feeling as I do about the foreign aid program as it is now constituted, I do not welcome my President's statement that a vote against the bill was an irresponsible act. At the same time, I reject the remarks made by the senior Senator from New York (Mr. JAVITS) to the effect that those of us who opposed the bill were acting in anger because of the United Nations vote to oust the Republic of China.

Mr. President, the outright scuttling of the foreign aid program at this point in history is a very drastic action. But I believe the Senate's vote may bring about a long-needed recasting of the approach the United States takes to foreign aid in general. When President Eisenhower was in office, I suggested to him on a number of occasions that the foreign aid program—at least for legislative purposes—be separated into three individual programs; one pertaining to military assistance; one pertaining to technical assistance; and one pertaining to foreign economic aid.

My reasoning was simple enough. I merely wanted an opportunity to support military assistance and technical assistance, both of which are activities carried on by the United States in the foreign field of which I approve. But in supporting these two methods of assisting other nations I was not willing to underwrite what for many years amounted to a blank check on the American treasury for direct financial handouts to foreign countries.

Needless to say, my suggestions were never carried out and the reason was that it was easier from a parliamentary standpoint for an administration to get an omnibus, catchall type of foreign aid bill through the House and Senate.

Now the time has come when a separation of these activities will certainly have to be brought about if any kind of foreign aid is to be approved. Some way will have to be found to permit Senators who oppose military assistance to vote against military assistance as a separate question. By the same token, some way would have to be found to permit Senators like myself to vote against outright monetary handouts as a separate matter.

There is no question in my mind that some activity contained in the foreign aid bill deserves to be continued in our national interests. And there is no question in my mind that there are many activities contained in the bill which should have been discontinued long ago.

Regardless, I do not believe that the Senate's actions of last Friday was one taken in pique because of the United Nations vote in the matter of the Republic of China. Rather, I look upon it as an action that has been many years in coming and was long overdue. It seems fairly obvious that at long last the great dissatisfaction of the American people over the squandering of the taxpayers' money on questionable foreign aid projects is finally being heard. All you have to do is look at the list of Senators who have argued for, worked for, and voted for every foreign aid bill that has come up over the years, but who on Friday last voted to defeat the program.

And as far as the vote in the United Nations is concerned, I would remind my colleagues once again, that in my humble opinion, it was not a vote against Nationalist China, but a vote against the United States in a realinement of the world power structure. To me, the vote that ousted Taiwan meant that many countries who have long looked upon the United States as the world leader, do so no longer. Instead they lined up and supported what the Communist superpowers, the Soviet and the Red Chinese, wanted done. It was a drastic demonstration of how far our influence as a world leader has slipped.

In conclusion, let me say that I do not believe that the American people want this slippage to go on any further. And I would hope that from this point on we might begin to act like a mature nation, a member of the world family and a leader in the world family. This can be done in my opinion by putting our house in order, building back our defenses and in redesigning the foreign aid program.

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THE THRUST OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the purpose of the Genocide Convention is not to set up an international policing body to interfere in the internal affairs of member nations. The Convention is a declaration that the United States and all civilized nations are opposed to mass murder and that all of them will do their share to assure that the horrors of Nazi Germany are not repeated. We are all against genocide. We all abhor the brutal elimination of racial, ethnic, and religious groups. Now we have a chance to do something about it.

The Senate can ratify the Convention on the Prevention and Punishment of the Crime of Genocide. This would be an international commitment to decency and morality entirely consistent with our tradition of concern for the welfare of all. Ratification of this treaty is in keeping with our position as a leader of the free world. Now we can do more than just say that we are opposed to genocide. Now we can take constructive action to prevent the occurrence of the crime of genocide.

The Convention is for the prevention and punishment of genocide. The prevention will come through the nations of the world agreeing together that they will not tolerate acts of genocide. The punishment will come through each nation enacting and enforcing appropriate legislation within its own borders.

Mr. President, the time has come for the Senate to ratify the Genocide Convention.

THE KENNEDY CENTER'S SPECIALLY PRICED TICKET PROGRAM

Mr. PERCY. Mr. President, since the opening of the Kennedy Center on September 8, a number of questions have been asked as to what the center will be doing to make performances available to more young children, students, and lower economic groups. Many individuals believe, and rightly so, that the center should be in reality a national cultural center where a person may enjoy an evening of music or theater, regardless of his or her income status.

Today the center does offer specially priced tickets to students, military personnel in grade E–3 and below, low-income citizens, retired persons living on a fixed income, and the handicapped. Such persons may obtain a discount of up to 50 percent on the regular admission price and they need only complete a simple eligibility coupon to qualify. Furthermore, a permanent fund has been established to insure that the reduced ticket price can be continued.

To bring a measure of entertainment and education to a young child of the inner city or a lonely man in his retirement years is one of the special, but nevertheless important, goals of the Kennedy Center. It is certainly a goal whose attainment makes the long and difficult years of planning and fundraising worthwhile.

Mr. President, I ask unanimous consent that a statement prepared by the Kennedy Center describing the specially priced ticket program be printed in the RECORD. I know that it will be of interest to many Senators and to our constituents.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

The John F. Kennedy Center for the Performing Arts is providing specially priced tickets at discounts up to 50% of regular admission price for full time students under 26, military personnel in grade E–3 and below, low income citizens, retired people living on fixed incomes, and the handicapped. Seating at the reduced rate is available in all sections of the opera house, the concert hall, and the Eisenhower theatre from first row orchestra to last row balcony. Specially priced tickets are available for most performances at the Kennedy Center including the National Symphony, the American Ballet Theatre, and productions in the Eisenhower theatre. Money collected at a gala preview held in the spring plus concert proceeds donated by more than 50 Founding Artist performing free of charge, have been used to establish a permanent fund to guarantee the continued availability of specially priced tickets in the future. Additional funds were provided by the Hattie M. Strong Foundation.

Coupons are being distributed stating the terms of eligibility for the specially priced tickets. Anyone wishing to buy such a ticket should fill out a coupon with his name, address, and the performance date; sign it; and bring it in person to the Kennedy Center box office. To certify eligibility customers must show a student, military, or medicare I.D. card when purchasing a specially priced ticket. Low income citizens may buy specially priced tickets through any community agency representing them. Only one coupon per customer will be honored for each performance. Specially priced tickets will be sold on a first come, first serve basis. The coupon does not guarantee a seat at a particular performance, only the right to purchase specially priced tickets while the supply lasts for each production. Accordingly, customers are encouraged to get their tickets well in advance of the performance date. Specially priced tickets cannot be reserved by phone or bought by mail. They must be purchased with a coupon at the box office. 30 minutes free parking is provided for people buying tickets. The center is served by bus lines of the D.C. Transit System affording quick and easy access to and from the District, suburban Maryland and Virginia. Bicycle racks will be provided and patrolled by a security guard.

Although the specially priced tickets will be sold only at the Kennedy Center, the eligibility coupons will be widely distributed throughout the metropolitan area. Coupons may be obtained at or through local colleges and universities, community colleges; student unions and bookstores; student activities directors; public, parochial, and private schools; art museums and public libraries; the YMCA, scouting and other youth organizations; agencies serving foreign students; the U.S.O., military bases including Walter Reed Hospital, and enlisted men's clubs; youth hostels and travel agencies booking student tours; the Washington Convention and Visitors Bureau; hospitals, homes, and clinics catering to the handicapped and patients on medicare; and senior citizens clubs and other organizations associated with the National Council on the Aging. Coupons are also available at information areas in the center, however customers are strongly urged to pick up and fill out a coupon before coming to the center to avoid unnecessary delay.

Agencies representing low income citizens may arrange for specially priced tickets by writing to: John F. Kennedy Center for the Performing Arts, ATTN: Specially Priced Ticket Program, 726 Jackson Place, N.W., Washington, D.C. 20566. Eligible people planning to attend in a group such as school classes or senior citizens clubs can make special arrangements by writing the above address at least two weeks prior to the date of a particular performance.

Parents may bring their children to the Kennedy Center box office to purchase specially priced tickets for them in advance or on the day of a performance. A coupon should be filled out for each child. If similar tickets are purchased the children will probably be seated in the same section as their parents but in non-adjoining seats or in different rows depending on the random distribution of specially priced tickets for each performance. Specially priced tickets for children will help defray the cost of an evening's entertainment at the Kennedy Center for middle income as well as low income families.

Bike, hike, take a bus, or drive a car. The center is open to all from every walk and way of life. Dress at all events is comfortable and casual reflecting today's relaxed living.

The specially priced tickets bring the vast majority of the productions at the Kennedy Center within the price range of everyone regardless of occupation or economic circumstances.

MILITARY PERSONNEL COUPON 1971–72 SEASON (E–3 AND BELOW)

Present this completed coupon, together with a valid military identification card at the Kennedy Center Box Office, for a specially priced ticket.

Box Office hours are 10:00 a.m. to 9:00 p.m. Monday through Saturday, and 12 noon to 9:00 p.m. Sundays. See separate program listing for exact performance time and discount prices. No coupon will be accepted at the Box Office without valid military identification.

Reduced rate tickets are only for the use of E–3 and below military personnel.

No exchanges or money can be returned after purchase. This coupon is good only for one specially-priced ticket.

Please note that valid military identification should be carried and available upon request when entry is made to the Theater, Opera House, or Concert Hall.

RETIRED PERSONS COUPON 1971–72 SEASON

Present this completed coupon, together with a valid Medicare Identification Card at the Kennedy Box Office, for a specially priced ticket.

Box Office hours are 10:00 a.m. to 9:00 p.m. Monday through Saturday, and 12 noon to 9:00 p.m. Sundays. See separate program listing for exact performance time and discount prices. No coupon will be accepted at the Box Office without valid identification.

Reduced rate tickets are only for the use of retired persons on fixed incomes.

No exchanges or money can be returned after purchase. This coupon is good only for one specially-priced ticket.

Please note that valid Medicare Identification Card should be carried and available upon request when entry is made to the Theater, Opera House, or Concert Hall.

STUDENT TICKET COUPON 1971–72 SEASON

Present this completed coupon, together with a valid school identification card at the Kennedy Center Box Office, for a specially priced ticket.

Box Office hours are 10:00 a.m. to 9:00 p.m. Monday through Saturday, and 12 noon to 9:00 p.m. Sundays. See separate program listing for exact performance time and discount prices. No coupon will be accepted at the Box Office without valid school identification.

Reduced rate tickets are only for the use of full-time students, not over 26 years of age. The use by faculty, husbands, wives or family is not permitted.

No exchanges or money can be returned after purchase. This coupon is good only for one specially-priced ticket.

Please note that valid school identification should be carried and available upon request when entry is made to the Theater, Opera House, or Concert Hall.

JUST WHAT HAVE THINGS COME TO?

Mr. HANSEN. Mr. President, the Washington Star of last Sunday contains an article by Robert Rutland, who currently is editing the papers of James Madison at the University of Virginia.

The article outlines many of the people-problems which presently confront our great Nation, and which have posed difficulties in the past as well as in recent years.

While it is sometimes depressing to consider the sum of man's inhumanity to man, and the difficulties that a government such as ours confronts, this article seeks to encourage us by pointing out that there are values that are timeless and will stand us always in good stead. It points out that our forefathers have been down the rough road before and overcame what could easily have appeared to lesser men as completely insurmountable problems.

The author notes that—

Formerly, in times of great trouble, men looked to the Bible as a source of comfort when they were afflicted.

But suggests that perhaps some of our society has reached too high a degree of sophistication to search for guidance in the Holy Bible.

Let us hope this applies only to a minority.

The author compares the problems of the present to those of 1816, and offers this advice:

The Golden Rule still applies and will apply when the fantasies of 1971 are distant memories. And the wisdom of our Founding Fathers is not to be laughed at, either.

He added, that—

Not in 1816, and not in 1971, can men forget the decent principles that shaped this nation.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to printed in the RECORD, as follows:

FULL STOMACHS, EMPTY HEADS AND FOUNDING FATHERLY ADVICE

(By Robert A. Rutland)

CHARLOTTESVILLE, VA.—Somebody got raped in the block behind us, and all the tires were stripped off a car parked by a neighbor who was in playing bridge "and never heard a thing."

Well, it happens all the time, and as long as it doesn't hit a person between the eyes but only comes through on Page 28 of the newspaper, it is simply another sign of what things have come to.

What have they come to?

That's the kind of question people in the midst of a social revolution can masticate until it is like all the other questions of the day: bland-sounding and bound to produce nothing.

Maybe we are waiting around for the leader who is going to rouse us with a "Workers of the World!" chant or "These are the times that try men's souls" libretto.

No way. The machinery of today is not going to produce a leader unless he gets by the gantlet of Dr. Gallup, Lou Harris, the Republican Policy Committee, Larry O'Brien, George Meany, and Mayors Daley and Yorty. And, if he pleased that conglomerate, who could stand him?

Pity us that we don't have a John Winthrop in our midst, a man who stood looking westward in 1630 and advised his flock of pilgrims that in the new world they could make their way only if they would work "as one man" and "uphold a familiar commerce together in all meekness, gentleness, patience, and liberality . . . delight in each other, make others' conditions our own, rejoice together, mourn together, labor and suffer together. . . ."

But then, the pilgrims had hope. We have not had any—not for the past six years.

DETERIORATION OF QUALITY

As a people we have come to realize that a nation's wealth, or a person's wealth, is not to be measured in gold bullion or bank account balances but in terms of a qualitative approach to human concerns. Most of us have witnessed a general deterioration of quality in nearly every phase of national life, and it is this perception that causes a sense of indignation and frustration.

Public men, well-intentioned and elected by big majorities, delude themselves and deceive the electorate in the name of the general welfare. Industrialists, caught in the web of GNP and corporate profits, stress unit sales rather than individual quality.

Professional men find their office expenses rising and take shortcuts in their work in the name of economy. Students desire greater personal contact with professors and teachers, and learn to their dismay that the people who are supposed to lead them are often more interested in research interests and vacations than in teaching.

The unemployed find it easier to accept welfare than to fight a system that has stopped rewarding hard work. The older citizen is endangered because he is living on a pension plan that sounded good in 1950 but affords few comforts today.

The housewife finds that five dollars will barely fill a brown bag with groceries, that repairmen charge $19.50 to fix a clogged drain that goes bad the day after it is supposed to be fixed, and shoes for children seem to cost a fortune.

The factory worker is told by his shop steward that he shouldn't work so hard and is encouraged to think in terms of overtime, vacations, and even the four-day workweek.

New cars break down after a month of driving. Television sets short out before the first payment is due. Letters and packages mailed on Monday may still be undelivered a week later—across town. Taxes are at an all-time high and officials talk of new sources of revenue that include everything but Saturday night bingo in city hall.

Well, it will end. Not because it always has, but because the cycle of boom and bust was disrupted by the fiscal irresponsibility of the last 20 years, which is perhaps now about to erupt in a general decline of international trade, the resumption of tariff walls, the glut of farm products on world markets, the high unemployment rate in many of the most industrialized countries, and continued inattention to qualitative production.

DECLINE AND FALL

Those who scoff at such predictions console themselves by saying that the British Empire lasted from 1700 to 1946 and that Rome fell into disarray only after many centuries. Thus, how can the United States and Western Europe go to hell in a basket in 30 years? Television, jet propulsion, rocket fuel, electronic devices of all shapes and sizes and especially computers—these are the price we have paid for our worship of technology. They can hasten the decline and fall of a great power—compressing centuries into years.

Like Mount Everest scalers, we have been engrossed for two decades in the question, "Can it be done?" rather than the more fundamental question, "Should it be done?"

With regard to space shots, highway building, skyscrapers, universities-in-the-round, hydroelectric dams, nuclear power stations, or innercity fadeout the people in charge have been more often inclined to shout "yes" on the first question and ignore the second.

For a nation, long preoccupied with the magnitude of any project, a deterioration of human values has been the natural outcome. Possibly, from the size of Texas, we might have already learned that hugeness in itself is no virtue.

On the other hand, can the citizens of Rhode Island claim they leave their doors unlocked when they go to bed at night? Is Vermont's state university better than Berkeley because it is a smaller institution? Is life any better in Garden City, Kansas, than on Manhattan? Do the mass murders contrived by sick men in Austin or Chicago or Los Angeles prove anything about city life versus the country, or about crime and punishment, or about drugs as opposed to abstinence?

We would like to think so, but the old pat answers don't hold up. And in the world of art there is as much chaos as in that other fabled place of great claim—the church. A book acclaimed by leading critics a few years ago as a classic turns out only to have been well-promoted by its publisher, but not very well written. A painting that an oil man bought turns out to be a fake, and the other one he bought was an artistic put-on that this mixed-up society took seriously. The church, well, it is not the church of old where the minister wore black and spoke softly. He may be out in the streets pouring blood on draft files or leading a group experiment in human sexuality at some mountain retreat.

COMING LOOSE

Indeed, everything is coming loose—even those things we thought were well nailed down. Historians are challenging all the past concepts of truth from the democratic aura of the New England town meeting to Harry Truman's decision on the atomic bomb. Sociologists think the penal code is so rotten it is beyond repair. Parents fear the specter of drugs in their children's lives, and children see no difference between their parent's martini and a "joint."

Even the malaise itself is going to become a second great industry. Charles Reich's book, "The Greening of America," has provoked a new genre of literature that will doubtless include analyses by Lippmann, Hoffer, Buckley, Abbie Hoffman, and Hubert Humphrey.

It is easy enough to see what is falling apart, but no concept on how to pull us back together has yet struck home. In the older days, only the element of hunger would be needed to provoke rioting in the streets, a coup d'etat, or a fratricidal civil war. This apparently cannot happen today, because stomachs are full and heads are empty—a reversal of the classic pattern for real action and reform.

Formerly, in times of great trouble, men looked to the Bible as a source of comfort when they were afflicted. We are too secular a society to go searching for guidance in the Good Book and it may be true that we would not recognize reality if we saw it in this kool-aid-kulture-with-the-mag-wheels we are living in today. But there is some old

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advice that needs dusting off. The Golden Rule still applies and will apply when the fantasies of 1971 are distant memories. And the wisdom of our Founding Fathers is not to be laughed at, either.

Consider the situation of James Madison, who had seen the birth pangs of the Republic, watched it grow and falter, and then come of age. He agonized over the War of 1812 and was heartened to see that the great mistakes he and others made had not been irreparable. Perhaps the greatest adviser our country has ever had, Madison had one final bit of presidential advice for his country that bears repeating now. For do we not need now, as never before:

"A government pursuing the public good as its sole object, and regulating its means by the great principles consecrated in its charter, and by those moral principles to which they are so well allied; a government which watches over the purity of elections, the freedom of speech, and the press, trial by jury, and the equal interdict against encroachments and compacts between religion and state; which maintains inviolably the maxims of public faith, the security of persons and property, and encourages in every authorized mode that general diffusion of knowledge which guarantees to public liberty its permanency and to those who possess the blessing the true enjoyment of it; a government which avoids intrusion on the internal repose of other nations and repels them from its own . . . a government, in a word, whose conduct within and without may bespeak the most noble of all ambitions—that of promoting peace on earth and good will to men."

Madison said that on Dec. 3, 1816. He was talking to a country that had been close to disaster in a war that was all but lost until saved at the peace table.

In sum, Madison was talking to a people who were almost as bad off as we are. But Americans in 1816 revived themselves because a nation with a strong pulse, founded on the principles of 1776, simply cannot be allowed to die.

Not in 1816, and not in 1971, can men forget the decent principles that shaped this nation. A strong purgative may be needed, but the prognosis must be for a return to the vision of 1776, as Madison expressed it in 1816.

Despite all the hue and cry over pollution and desecration, our greatest natural resource is our hope. Social justice is no wild dream. Forests can be reseeded, streams cleared, skies freed of floating filth, and streets made safe again. But only if we believe it is worth doing because the legacy of 1776 must be handed on to generations unborn.

JUDGE SIDNEY GOLDMANN, ONE OF THE NATION'S LEADING JURISTS, READY TO RETIRE FROM THE BENCH

Mr. WILLIAMS. Mr. President, for two decades now, the people of New Jersey have benefited from the service on the State superior court of one of the Nation's most outstanding jurists, Judge Sidney Goldmann. On December 1, at the age of 67, Judge Goldmann will retire from the bench, although he will continue to be active in the tremendous range of civic, charitable, social, and cultural pursuits which have filled his life.

In my judgment, Judge Goldmann represents the very best qualities that we look for in our jurists; he also exemplifies the finest characteristics of concern for his fellowman that we seek in all Americans. Recently, two New Jersey newspapers printed articles examining Judge Goldmann's career and philosophy, and I ask unanimous consent for those articles to be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Trenton Times, Oct. 24, 1971]

JUDGE GOLDMANN, VERSATILE WIZARD

When Sidney Goldmann graduated magna cum laude from Harvard College in 1924, he was already a versatile 20-year-old.

A math prodigy at Trenton High four years before, he was offered virtually every scholarship prize awarded. By age 20, he had written a book, "The Bank of France, 1914–1924," which is still used at Harvard; untangled Einstein's theory; was assistant literary critic for the Boston Transcript and had played "Rhapsody in Blue" in concert, his rendition winning high critical acclaim.

He spent his spare time in a Boston poolroom, where he became an expert with the cue by the practical application of mathematics to the angles of the table and caroms of the ball.

Destined for a brilliant career in math, Goldmann promptly switched course, heeding the words of Harvard President A. Lawrence Lowell that there was a correlation between math and the law.

It was a momentous decision, not only for Goldmann but for the legal profession, because, from that day on, Goldmann has been a lawyer first and foremost, the last 20 years as a judge on the New Jersey Superior Court. His landmark decisions have brought him national acclaim and now, at age 67, he plans to retire Dec. 1.

The Mercer County Bar Association will honor him at a dinner at Cedar Garden the night before, and the list of those who plan to attend is staggering, starting with all members of the state's Supreme and Superior Courts.

They'll be honoring "Sidney Goldmann, judge," but to refer to this many-faceted man as merely a judge would be like calling Leonardo DaVinci a painter.

Supreme Court Associate Justice C. Thomas Schettino once remarked of Judge Goldmann that he could sit at the same table with Casey Stengel, Al Capp, Bertrand Russell, Salvador Dali and Duke Ellington and be at home with each.

But despite his brilliance in many fields, this warm and kindly gentleman would most likely consider that his most important contributions have been made in his community work. He is unashamed to answer a questioner, "Why have I done so much? I can answer you the same way Sir Edmund Hillary did when they asked him about Everest, "Because the problems are there—the poor, the young, the aged—they need guidance."

Puffing contentedly on a pipe in his State House chambers this week, Judge Goldmann reflected on his life, bringing to surface memory after memory, the bitter and the sweet.

There were his days at Harvard and a contest conducted in Boston to form a band of collegiate musicians to play in a luxury liner touring Europe. Goldmann won the jazz pianist's job over such competition as Eddie Duchin and Johnny Green.

But the legal field was beckoning, and Sidney Goldmann couldn't resist its lure. Looking back now, had he selected the right profession?

"Everybody's asked me that," laughs Goldmann. "Actually, President Lowell at Harvard called me in and asked me to give law a try. I went over to the law school just to taste it for a year, and I stuck. There was too much excitement and challenge there, and I saw the brilliance of the faculty.

"The greats were at Harvard Law School then; their books are all here," he says, waving his hand at the bookshelves that line his office. "On another campus, maybe I would have stayed with math, but I'm not sorry, not a bit."

Returning to Trenton, where he was admitted to the bar, Goldmann opened his office in 1929. Two days later, the stock market crashed.

Trying to eke out a living, Goldmann turned to community work. A little theater movement was sweeping the country then, and "out of hunger" Goldmann directed plays for whatever money he could earn at the old YMCA on Stockton Street.

When the group couldn't afford to pay for the rights to New York plays, Goldmann took French and German plays and translated them.

He vividly remembers one such play where the lead walked out. He stepped into the role ("I had no business being up there") and wound up as producer, director and lead. A girl in the audience thought he was rather good in the part. Her name was Beatrice and she later became his wife, a stunning beauty who has often been mistaken in New York restaurants for Ingrid Bergman.

"My wife makes up for what I lack," the judge commente proudly. "She sacrificed, letting me do all these things I do."

Goldmann rocketed to city fame when he and A. Harvey Saas launched an investigation of the Trenton Transit Co., resulting in a receivership that lasted until the fifties. They then probed the police department, resulting in indictments and resignations, and triggered a move to convert the city to a council-manager form of government, with Goldmann becoming city attorney and acting manager.

He achieved statewide prominence when he joined Gov. Charles Edison's sweeping probe of the State Highway Department, and his 700-page report, described as 1942's "Gone With The Wind" in the field of rights of way, led to the resignation of the highway commissioner and chief engineer.

In 1942 he joined Gov. Edison as executive clerk, later was appointed state librarian and state archivist by Gov. Alfred E. Driscoll. In 1947 he participated in New Jersey's constitutional revision, and he calls the five-volume report he edited, which led to a new constitution, "an exciting piece of my lifetime." Even today, veteran lawyers view the constitution as a monument to Goldmann, and others.

Meanwhile, Goldmann edited "The Community Messenger," a Jewish literary magazine, and wrote the "Symphony Notes" program for the Trenton Symphony "just to keep my hand in." In his spare time he helped to write and edit a "History of Trenton."

Goldmann was appointed to the Superior Court in 1951 and has been presiding judge of Appellate Division since 1954. His appeals court is regarded as one of the best in the nation.

Goldmann has also edited all 116 volumes of the New Jersey Supreme Court's Committee on Opinions, which reviews every opinion handed down in the state, and he has been ghost editor of 43 volumes of New Jersey Equity Reports.

"But don't tel me this is work," he says with a sly grin. "As you read you learn, so there's an element of self-education." He also served on the Committee of Revision of Statutes and is presently chairman of the Supreme Court Committee on Juvenile courts.

"How do I get the time? You have to extend your day to 18 hours a day, seven days a week," he says. "On Saturdays and Sundays, I'm the one who keeps the mice out of this place," he adds, waving at his chambers.

After hours were always devoted to community work (the Jewish Federation, American Jewish Committee, Jewish Welfare Board, Jewish Family Service, to name a few), and Goldmann would be first to explain that his greatest satisfaction came from his work with the Trenton Council on Human Relations. The latter group was in the forefront in the fight against bigotry, brought about desegregation of the city school system, broke the non-employment of Negroes line and worked to integrate Puerto Ricans into the community.

Now it is drawing to a close, at least the judicial phase of an extraordinary life. But Judge Goldmann, who estimates he will have written 2,140 opinions by the time he steps off the bench, hastens to add that he's retiring "just from here."

"I plan to sit back a couple of months and look at myself," he explains. "I've only had two vacations since 1935—when I toured the country in '55–56 and when I was invited in '61 to be the judge in residence at the Salzburg Seminar in American Studies.

"I crowded in a lot and loved it. I was lucky enough to come to the bench with a good taste of local and state law. Both were of inestimable help."

And what does he know now that he didn't know when he took the bench?

"Something I learned the first day," he says. "That law constantly has to change and grow to meet the changing problems of the day. The movement of the law must always be forward to meet the individual rights and liberties of such groups as the poor, the underprivileged, and juveniles."

And what is the most imoprtant thing for a lawyer to know?

"Most important of all," he answers, "is to know how to write English and think clearly. Too many lawyers know what they're aiming at but not how to say it. After all, time and diligent, honest effort are really all a lawyer has to offer a client."

The Goldmanns live at 101 Renfrew Ave. in Trenton and have a son, Donald, a graduate with honors from Harvard Medical School who is working with the Public Health Service in Atlanta. "He's brilliant in history—how do you like that?" says the judge.

One Trenton lawyer recalls that Goldmann is the only lawyer in memory who was invited to sit with the State Supreme Court when one of its members was absent.

For "Sidney Goldmann, judge" the testimonials are not difficult to find. His accomplishments are overwhelming to his peers.

But perhaps the following story best describes "Sidney Goldmann, human being."

When one of his associates was scouring various reference sources for accounts of his accomplishments in preparation for the Nov. 30 dinner, he discovered with dismay that one source was nearly dry. "They had almost nothing at all about you," he told the judge. "Nothing about your work with the highway department, with the city, with constitutional reform, with . . ."

Judge Goldmann interrupted his friend. "Well, if you know all about it, what does it matter what other people know?" he asked with a smile.

[From the Sunday Star-Ledger, Oct. 24, 1971]

TWENTY-YEAR CAREER ON THE BENCH—AMBITIOUS JUDGE HAS FULL DOCKET OF RETIREMENT PLANS

Life will continue to be a great adventure for Superior Court Judge Sidney Goldmann of Trenton, who is about to step down from the bench.

Witty, philosophical and self-assured are fitting descriptions of the judge, a man Gov. William T. Cahill has termed "an eminent jurist, one of the outstanding appellate judges not only in the state but in the country."

"I've got plans galore," Judge Goldmann said with relish as he discussed his retirement in his chambers in Trenton. "I want to write two books, work as a consultant, travel, return to piano playing and theater-going and also do some gardening."

A graduate of Harvard College and Harvard Law School, he was admitted to the Bar in New Jersey in 1928 and to the Bar of the United States Supreme Court in 1937. His career has included posts as executive clerk to former Gov. Charles Edison, city attorney and acting city manager of Trenton, state librarian, historian and archivist and Standing Master of the Supreme Court.

Judge Goldmann is presiding and administrative judge of the Appellate Division of Superior Court. He was appointed to the Superior Court bench in 1951 by former Gov. Alfred E. Driscoll. Gov. Robert B. Meyner reappointed him for life in 1956.

"I've been going at 70 miles an hour for so long that if I threw on the brakes I'd go right through the windshield," the judge said. "I intend to take a month in which to step back and take a look at myself and set priorities."

He's had only two vacations over the years—in 1956 he spent a month touring the West and in 1961 he spent a month in Salzburg, Austria, during a seminar on American studies.

Judge Goldmann is a life-long Trenton resident. He was married in 1936. He and his wife, Beatrice, have a son, Donald Alan, who graduated with top honors from Harvard College and Harvard Medical School and is now serving in the Army.

On the wall in the judge's chambers is a picture of Mrs. Goldmann, who bears a striking resemblance to Ingrid Bergman.

"When we walked in New York years ago people would stop her and ask for her autograph," he said.

His accomplishments in the field of mathematics earned an instructorship at Harvard which permitted him to teach first and second-year students while he was still a student, an unusual appointment.

"But I was caught up by the law when I came in contact with the great legal minds teaching at the Harvard Law School," he said. "I have found law work also requires analytical thinking and the ability to write declarative, simple sentences."

Judge Goldmann has written 2,200 opinions in 20 years. He has never ceased to be fascinated by his profession.

Although he believes decisions by the U.S. Supreme Court regarding the rights of criminals "balance on the plus side," Judge Goldmann still asks the question, "Did the Supreme Court go too far?"

"One or two of its decisions have hampered law enforcement, such as the decision that a prisoner must be advised of his right to remain silent and his immediate right to a lawyer after arrest," he said. "In the eyes of many thoughtful law enforcement officials the court did go too far."

The judge noted, however, that "even criminals have definite rights that must be recognized."

Speaking of the problems involving some young people today—drugs and disrespect for elders and the Establishment—Judge Goldmann said he "is not pointing a finger at anyone because you can't indict a whole people."

"But it is due to the general idea of permissiveness never implied in the original idea of progressive education," he said. "Certain basic foundation bricks must be put down upon which to build, and originally progressive education never advocated their abolishment; the whole idea has been misread and misinterpreted.

"Both parents and teachers are partly to blame for this idea of permissiveness. I think there has to be a drawing back, a swinging back of the pendulum."

The judge said, however, that anxiety is the "overriding consideration."

"There are clouds of anxiety over everything, both national and international," he said. "I don't understand some of the things these young people do but I do understand their thinking when they ask themselves, 'What kind of tomorrow is there?'"

He said he is greatly concerned that many young people profess an anti-Establishment sentiment but lack a definite target or plan of their own to replace it.

"They say, 'Let's wipe it out first' and I can't buy that," he said. "'What really worries me is that our hope must lie in these young people."

Judge Goldmann is deeply bothered by the prison system as it is today.

"After the trial is over the question remains of what to do with the man. Not only should he be punished but rebuilt as a useful citizen.

"Today the prisoner is at first bitter to find there is no provision for rehabilitation, then he begins to learn a lot of bad things in prison. The youngster is mixed with the older, hardened criminal.

"There is a critical lack of facilities and proper personnel for prison system reform. We need a complete change in our procedures with criminals."

Judge Goldmann is particularly proud of the fact that during Gov. Edison's term he played an important role in the investigation of the State Highway Department and authorized a widely known report on the subject which led to reorganization of the agency. He strongly advocated development of limited access roads such as the New Jersey Turnpike and Garden State Parkway.

As an example of his remarkable versatility, at the conclusion of his law school studies, a contest was conducted in Boston for collegiate musicians to form a band to play on the luxury liner Berengaria and then tour Europe. He was selected for the piano with such later greats as Eddie Duchin and Johnny Green, composer of 'Body and Soul,' in the competition.

WHAT IS BOTHERING AMERICANS TODAY

Mr. SAXBE. Mr. President, I read with great interest, but with very little surprise, the results of a recent Gallup poll detailing the concerns of the American people today.

The poll, as reported in the New York Times, states that economic problems have replaced the Vietnam war as the chief concern of our Nation. What makes this particularly significant, according to the pollsters, is that for the last 7 years the war has been chosen by more people as the most important problem facing the Nation.

Coincidentally, I have just completed tabulation of my own survey of Ohioans, and the results are strikingly similar. Indeed, inflation seems to have replaced the war as the issue most on the minds of the American people. But more on my own survey later.

Mr. Gallup's organization interviewed some 1,400 persons and found that 45 percent, nearly one in two, listed economic problems as the Nation's main concern. Twenty-five percent, one in four, picked the war as the chief concern. The poll found further that concern over the skyrocketing cost of living was at its highest level since 1936.

Ranking third behind the economy and the war as the topic most bothering

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Americans, according to Gallup, was crime. Twelve percent of those interviewed listed "crime and lawlessness" as the Nation's main problems.

Mr. President, we need only to pick up any newspaper or flip on a TV set to have the same result as found by Mr. Gallup driven home most forcefully. The issue of the pocketbook, the shrinking dollar, the runaway prices, and all the rest, dot our front pages daily.

I sent my own questionnaire out to some 200,000 Ohioans who make up my general mailing list. It was not done on any particularly scientific basis, but I do believe it reflects the thinking of the people in my State today. My question about concerns was only one of several in the questionnaire, but it was the first one and I regard it as the key to the survey itself.

Thirty-eight percent of the respondents picked inflation as "the issue bothering them most." Second was Vietnam, which drew 26 percent of the replies. Third place went to crime, with 18 percent, followed by unemployment and drugs—each 5 percent—and pollution, 4 percent.

As I said earlier, I think it is significant that my respondents and those in the Gallup survey were so close in their decisions. There were other interesting results in my questionnaire. For example:

On the subject of the war again, 62 percent of those replying said they supported President Nixon's program of phased withdrawal from Vietnam. Nineteen percent were for getting out immediately. Another 11 percent wanted us to set a definite withdrawal date. Finally, 8.7 percent suggested we do "whatever is necessary to win."

Next, I asked an opinion of the President's August 15 announcement of the wage and price freeze, and allied moves designed to strengthen the dollar. Fully 66 percent said they agreed with the President, while only 4 percent disagreed. In this same question, 30 percent believed the President did not go far enough, while only 1.2 percent said he went too far. Also in that question, I found it interesting that 79 percent described the moves on the economy as fair.

I asked Ohioans if they favored some sort of strategic arms limitation agreement with Russia, and found that 70 percent did and that only 30 percent did not. Also in the field of foreign relations, 77 percent of my respondents said they favored the President's upcoming trip to Peking; 22 percent did not. Seventy percent supported mainland China's entry into the United Nations. Concerning the strife in Pakistan, fully 91 percent of the respondents said they supported my amendment to suspend all military and economic aid to Pakistan until there is domestic stability there. Finally, 56 percent of the Ohioans answering said they favored continued arms assistance to Israel, while 43 percent opposed this.

A final word about my survey and the economy. I asked this question:

If you had to rank the major causes of inflation today, in what order would they be?

Half of the respondents, 50 percent, said runaway wage demands were the reason. Twenty-eight percent pinpointed excessive government spending; 10 percent chose our balance-of-trade deficit, and about 9 percent picked runaway price hikes.

I also asked Ohioans how they thought we should move toward solving the unemployment problem. The most replies, 30 percent, called for speeding tax cuts for individuals as proposed by the President. Next, with 26 percent, was the need to increase productivity, to increase jobs. In third place, with 22 percent, was a call to restore investment credits and other business incentives.

Mr. President, because I think they are particularly timely, I ask unanimous consent that the results of my survey be printed in the RECORD.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

SENATOR WILLIAM B. SAXBE, OHIO,
QUESTIONNAIRE NO. 1

More than 35,000 Ohioans answered Ohio questionnaire No. 1. The following is the result:

1. If you had to pinpoint the problems bothering you the most, what would they be?

	Percent
Inflation	38.50
Vietnam	26.25
Crime	18.00
Unemployment	5.25
Drug Control	5.00
Pollution	4.00
Other	3.00

2. The Vietnam war continues. Do you believe that the United States should:

a. Support President Nixon's program of phased withdrawal, 62.00%.

b. Set a definite withdrawal date, 10.50%.

c. Withdraw immediately, 19.25%.

d. Do whatever is necessary to win, 8.75%.

3. What do you think of President Nixon's August 15 announcement of a 90-day freeze on wages and prices and a broad range of allied moves designed to strengthen the dollar?

	Percent
Agree with the President	66.25
Disagree with the President	4.00
The President went too far	1.25
The President didn't go far enough	29.50

Do you think the plan is:

	Percent
Fair	79.25
Pro business	4.00
Pro labor	16.75

4. Would you be in favor of a strategic arms limitation agreement with Soviet Russia? Yes, 69.50%; No, 30.50%.

5. Are you in favor of a new program of comprehensive national health insurance designed to cover all Americans and to cut down on the cost of medical bills? Yes, 54.10%; No, 45.90%.

6. If you had to rank the major causes of inflation today, in what order would they be?

	Percent
Runaway price hikes	9.20
Runaway wage demands	50.10
Excessive Government spending	28.40
Balance of trade deficits	2.10
Other	10.20

7. How do you think we should move toward solving the unemployment problem?

a. Increase productivity, which should increase jobs, 26.40%.

b. Create public works projects, 17.80%.

c. Increase unemployment payments and/or welfare, 1.20%.

d. Speed tax cuts for individuals, as proposed by the President, 29.10%.

e. Restore investment credits and other business incentives, 22.50%.

f. Do nothing and let the economy follow its natural course, 3.00%.

8. What do you think the Congress should do about welfare reform?

a. Adopt the administration's family assistance plan, which will guarantee a floor income to a working family whose income falls below the poverty levels, 31.20%.

b. Leave the current system as it is, 4.60%.

c. Increase benefits and make them easier to obtain, 3.00%.

d. Cut benefits and tighten requirements, 61.20%.

9. Do you approve of President Nixon's planned trip to Peking? Yes, 77.50%; No, 22.50%.

10. Do you favor admitting Mainland China into the United Nations? Yes, 70.90%; No, 29.10%.

11. Are you for or against extension of the military draft? For, 56.20%; Against, 43.80%.

12. I have introduced an amendment to suspend all military and economic aid to Pakistan until there is domestic stability. Do you agree or disagree with this amendment? Agree, 91.90%; Disagree, 8.10%.

13. Do you think the United States should supply Israel with the arms it needs to defend itself (credits, credit sales, grants, loans, etc.)? Yes, 56.10%; No, 43.90%.

VIETNAM AMNESTY

Mr. McGOVERN. Mr. President, the conflict in Vietnam has produced more bitterness and hatred in this country than any other national experience since the Civil War. When it is finally over, our most urgent task will be to reconcile the differences and heal the wounds it leaves behind.

In this spirit, I urge that when the war ends amnesty be granted to those who, on the grounds of conscience, have refused to participate in the Vietnam tragedy. I believe we should follow the wise precedents set by President Lincoln's extension of amnesty to those who were actually fighting against their country in 1862, when the Civil War was still going on, and by President Andrew Johnson's reaffirmation of that policy in 1868.

At the same time we should consider that more than two and one-half million young Americans have served in Vietnam and have suffered the dangers of combat, widespread drug abuse, and a hostile population, for a cause in which many did not believe. It is a national shame that our society has been so stingy in providing for them when they return. They deserve the same treatment in jobs, educational allowances, medical attention, and other benefits as was offered to those of us who came back from World War II secure in the knowledge that the Nation appreciated what we had done.

Finally, I think no useful purpose can be served by an effort to pin on a few men the responsibility for a national disaster in which millions have shared. We must all feel some responsibility for this war. Instead of war crimes trials, we need to pull ourselves together in a firm resolution that it will never again be repeated.

Mr. President, a letter to the editor on amnesty written by a young man from my home State of South Dakota was recently printed in the Press & Dakotan of Yankton, S. Dak. I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD. The views expressed are representative of the feelings of countless Americans.

There being no objection, the letter to the editor was ordered to be printed in the RECORD, as follows:

TAKES COURAGE

EDITOR, PRESS AND DAKOTAN: I am writing in reference to your editorial of Oct. 28, 1971 dealing with a West Virginia veteran, C. D. Hylton's opinions about Senator McGovern's stand on amnesty for draft resisters who have either left the country or are in prison.

Granted, it does take courage to go to Vietnam and risk death, but a man who goes to jail for his convictions condemns himself to the reputation of a traitorous criminal and his family to shame and disgrace, no matter how unjust.

It takes a considerable amount of courage to say "no" to the U.S. government. The vast majority of draft resisters are keenly aware of their responsibilities of citizenship and are in a sense, giving their lives in order to turn this country away from its disastrous course in Vietnam.

Mr. Hylton mentioned lawful means of protest. The election of 1964 and 1968 offered us no choice in the war. The executive branch deceived Congress and the American people who consequently believed draft dodgers to be radical subversives and discounted their protests.

The rights of petition and assembly have been used over and over again. A man's fate, as far as becoming a conscientious objector, rests in the hands of his local draft board, hardly a shining example of the democratic process. For a man about to be drafted, what other legal means of protests are there?

Mr. Hylton states that sincerity is not the measure of right. I agree. A man shooting NVA in Vietnam against his moral convictions is insincere. Is insincerity the measure of right?

You implied that pardoning draft resisters would call into question the sanctity of law and that law and order would disappear. There used to be laws in this country that prevented black people from eating in the same restaurants as whites. In the United States we don't base justice on laws, we are supposed to base our laws on justice. If our laws are just, order will follow naturally.

I don't by any means favor amnesty for draft resisters to all wars—past or future, but I would like to see pardons granted to those who have resisted this particular war. I believe that recent history has proven these men right. It hasn't even come close to proving them wrong.

When I was 18, I joined the Marine Corps because I believed that the war was right. I spent a year in Vietnam as an infantryman with the 1st Marine Division. I now believe the war to be wrong.

If, by some chance, I were to be ordered back to active duty in Vietnam, I would go. I do not have the courage necessary to resist. It is inconceivable to me that men more courageous than I should be locked in prison because of their courage.

TOM MACEDANZ,
Yankton, S.D.

POST OFFICE COMMITTEE REPORT ON FEDERAL PAY COMPARABILITY ADJUSTMENTS—S. 2722

Mr. MOSS. Mr. President, this morning the Committee on Post Office and Civil Service unanimously approved a bill to permit Federal employees to receive their statutory pay increases on January 1 to the extent that wage-earners in the private sector are authorized wage adjustments.

As a member of the committee, I applaud today's action. By applying the same Pay Board guidelines to both the Federal and private employee, this legislation will insure equal treatment of all American workers whether they work for the Government or for private industry.

I have long fought for this principle of equal treatment. Early last month I attempted, unsuccessfully, to gain Senate approval of a resolution to terminate the President's special 6-month freeze on the Federal pay comparability adjustments scheduled for January 1972. Together with the Senator from Maryland (Mr. MATHIAS), I urged Congress to guarantee that Federal employees be treated like everyone else during phase II of the administration's economic program. We did not believe that Federal employees should have their wages frozen all the way through next June, while for everyone else, the freeze comes to an end later this month.

Today's committee action once again opens this whole issue for discussion. Federal employees and their families are once again given hope that they will receive their long-promised comparability adjustments next January. The Senate should not allow these hopes to be dashed once again on the rocks of political expediency.

Last month, the Senate adopted the principle of equal treatment, in the Moss-Mathias amendment. It declared its clear belief that the Federal employee should have his wage increases guided by the same phase II guidelines as apply to the private wage earner. Having raised false hopes with this amendment that the special 6-month freeze would be removed, the Senate then bowed to White House pressure and refused to adopt a resolution to dissolve the President's arbitrary freeze plan.

While I applaud today's committee action, I hesitate to encourage optimism on the part of Federal employees and their families. Instead, I would urge all those who supported this legislation in committee to push hard for Senate consideration on the floor before the end of this session. To the Republican Members who support the bill but who stood against earlier efforts for the Federal employee I can only ask: Where were you when the Senate voted to lift the freeze?

UNITED NATIONS DEVELOPMENT PROGRAM

Mr. JAVITS. Mr. President, I invite the attention of Senators to two items which are directly pertinent to the debate on foreign aid now underway in Congress and the administration.

First, the United Nations development program has just held its pledging conference, and it is worth noting that 119 countries pledged moneys to carry on the work of the UNDP.

It is also to be noted that of these 119 governments, 62 governments had increased their funding pledges this year. I also note that the U.S. delegate to the UNDP held forward the hope that a substantial U.S. pledging contribution would still be forthcoming. I ask unanimous consent that the New York Times article on this pledging conference be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. DELEGATE IS HOPEFUL OF U.N. PLEDGE

(By Sam Pope Brewer)

UNITED NATIONS, N.Y., Nov. 1—The United States delegate told the United Nations Development Program today that despite the Senate's rejection of the foreign aid bill, the delegation still hoped to get $100-million from Congress for development work next year, compared with $86-million this year.

The delegate, Bernard Zagorin, said during the annual one-day pledging conference that his delegation was awaiting Congressional action on the request.

In all, 119 countries pledged $172.7-million today, as against $146-million last year. A spokesman said that with the United States contribution and Japan's, both still to come, the year's pledges were expected to total more than $265-million. The final figure last year was $240-million.

Sweden made one of the strongest gestures of support at today's meeting with the announcement that her Government had raised her pledge for next year to $24-million, a million more than Sweden had originally planned to pledge. Mrs. Inga Thorsson of Sweden said her Government had asked Parliament for permission to add $2-million more which would make a total of $26-million for 1972.

The United Nations Development Program concentrates principally on providing preinvestment surveys for major agricultural and industrial projects in poorer countries. The follow-through capital usually comes from the International Bank for Reconstruction and Development.

Secretary General Thant said, in opening the conference, that in the program's 12 years, voluntary contributions had increased more than fourfold. He said that funds for the program had risen from about $115-million in 1959 to more than $530-million this year.

The program is one of the 11 major United Nations activities for which Congress is asked to authorize funds.

CAPITAL FUND LESS SUCCESSFUL

Less successful in getting big-power support is the United Nations Capital Development Fund. It was founded by developing nations as a source of capital that would not be under the dominance of the more developed countries; for that reason, it has never received large amounts of capital.

The Deputy Administrator of the Development Program, C. V. Narasimhan, said today that the Capital Development Fund had pledges of $4.4-million but that only $2-million had actually been paid in, up to today.

Paul G. Hoffman, attending his last pledging conference before retiring from the post of administrator of the Development Pro-

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gram at the age of 80, received a warm tribute from Mr. Thant.

Mr. Hoffman said that in view of the benefits that accrue from it, the Development Program should never have to ask for funds. Governments, he said, should compete to support it.

CONTRIBUTIONS TO THE U.N.

UNITED NATIONS, N.Y., Nov. 1.—Following, as supplied by the United Nations, is a table showing the total payments by each country to the United Nations for 1970, the latest year for which figures are available:

United States	$276,333,666
Soviet Union	41,999,270
France	27,471,630
Britain	48,544,890
Japan	16,668,221
China	10,520,569
Italy	20,075,798
Canada	34,333,811
Ukraine	5,716,829
India	11,051,855
Australia	8,870,861
Poland	6,032,024
Sweden	35,502,924
Netherlands	15,670,052
Belgium	6,637,269
Spain	5,025,322
Czechoslovakia	3,937,201
Mexico	3,755,848
Argentina	5,862,066
Brazil	2,864,622
Denmark	22,296,184
Austria	4,001,192
South Africa	1,326,077
Byelorussia	1,561,310
Hungary	1,643,542
Finland	4,270,863
Norway	10,936,540
Venezuela	2,115,090
Yugoslavia	2,699,660
Rumania	1,390,089
Turkey	2,061,432
Pakistan	2,732,711
New Zealand	2,138,085
Philippines	1,011,082
Greece	2,718,650
Indonesia	1,600,143
Iran	2,196,840
Chile	848,748
Israel	1,580,327
Colombia	1,054,605
Bulgaria	702,512
Egypt	1,836,308
Cuba	871,285
Portugal	337,300
Ireland	1,130,897
Thailand	826,116
Nigeria	580,913
Malaysia	580,436
Peru	488,405
Algeria	386,361
Morocco	837,367
Kuwait	854,641
Ghana	601,183
Iraq	391,354
Libya	202,776
Saudi Arabia	829,998
Uruguay	243,496
Burma	387,812
Ceylon	434,589
Guatemala	205,322
Lebanon	207,313
Luxembourg	229,854
Singapore	275,632
Afghanistan	293,062
Albania	161,682
Barbados	181,260
Bolivia	157,374
Botswana	91,791
Burundi	267,932
Cambodia	152,358
Cameron	221,006
Cen. Afr. Rep.	101,681
Chad	86,238
Congo (Kinsh.)	268,448
Costa Rica	230,749
Cyprus	188,290
Dahomey	175,925
Dominican Rep.	78,747
Ecuador	287,585
El Salvador	104,348
Equatorial Guinea	5,011
Ethiopia	297,333
Gabon	258,381
Gambia	101,591
Guinea	139,343
Guyana	251,992
Haiti	78,820
Honduras	156,229
Iceland	226,810
Ivory Coast	292,535
Jamaica	264,508
Jordan	337,745
Kenya	194,501
Zambia	257,130
Laos	142,442
Lesotho	128,421
Liberia	186,609
Madagascar	198,960
Malawi	152,490
Maldives	133,225
Mali	56,699
Malta	165,935
Mauritania	255,818
Mauritius	206,483
Mongolia	133,806
Nepal	207,388
Nicaragua	102,283
Niger	130,181
Panama	178,663
Paraguay	79,539
Southern Yemen	61,597
Congo (Brazza)	127,058
Rwanda	157,446
Senegal	237,888
Sierra Leone	297,961
Somalia	155,273
Sudan	282,819
Swaziland	63,516
Syria	229,304
Togo	171,432
Trinidad-Tobago	286,217
Tunisia	400,441
Uganda	162,437
Tanzania	261,483
Upper Volta	172,650
Yemen	80,602

Second, I ask unanimous consent to have printed in the RECORD an editorial entitled "New Directions in Foreign Aid," published in the New York Times. The Times' wise counsel on the type of compromise that will be necessary if a way out of this impasse is to be found is worthy of our careful study.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NEW DIRECTIONS IN FOREIGN AID

It is evident from reports emanating from yesterday's closed-door meeting of the Foreign Relations Committee that members are having second thoughts on the Senate's rash vote to kill the foreign aid authorization bill. But it is equally apparent that there is nothing approaching agreement on the new directions foreign aid must take in order to muster adequate support in the Congress.

Senator Fulbright and others are talking in terms of stop-gap legislation that would emphasize humanitarian programs, particularly those administered by international institutions, and greatly reduce the military component of aid which accounts for more than half of the Administration's foreign assistance package. There is merit in this approach, but it is doubtful whether a bill tailored to Mr. Fulbright's exacting requirements could command a majority at this time, especially in view of the support the Administration was able to rally behind its military proposals before Friday's final negative vote.

It would be equally unrealistic for the Administration to try now to ram the foreign aid bill through the Senate in anything like its present form. Although it was not the only factor by any means, an important component of the Administration's defeat on the aid bill was Congressional and national disillusionment with Presidential policies involving heavy military support for authoritarian governments, particularly in Southeast Asia. Unless there is some revision of these policies, and of the aid requests that are designed to support them, there is little hope for rebuilding a Congressional consensus in support of a broad foreign assistance program, even with the sweeping reorganization proposed last year by the Peterson Commission.

A period of hard bargaining is ahead in which both the President and his Congressional critics will have to make concessions. In the meantime, to prevent a national disgrace from turning into an international disaster, it is essential that Congress act promptly to keep the foreign aid machinery intact through another continuing resolution, extending the aid program at current levels beyond the Nov. 15 expiration date. In view of the depth of current disagreements, such an extension should allow at least ninety days for tempers to cool and for thoughtful reappraisal.

There is also need for prompt action to provide supplemental funds, as already requested by the Administration, to help care for the nine million or more Pakistani refugees. There surely can be no quarrel over this urgent humanitarian need.

In reconsidering foreign aid, it would be helpful if both Congress and the Administration disabused themselves of a myth that has been irresponsibly fostered lately by both the President and some of A.I.D.'s Congressional critics—the notion that the United States is bearing more than its share of the International development burden rightly assumed by the "have" nations for sharing with the "have nots."

Although the United States is still the largest contributor in absolute terms to overseas development programs, the United States contribution measured in terms of ability to pay—aid as a percentage of gross national product—ranks twelfth among the sixteen aid-donor nations. There is no place for pride or self-pity in this performance.

EDITORIAL COMMENT IN REJECTION OF FOREIGN BILL

Mr. McGEE. Mr. President, the Senate vote last week to kill the foreign aid program was not only shocking but also dangerous in its ramifications. I think one would be accurate in questioning the responsibility of such action.

The sudden termination of this historic program, which in my estimation remains essential to our interests in a peaceful world, must necessarily disturb anyone with a conscientious respect for democratic institutions.

The dangers inherent in last Friday's vote to involve a multitude of realities that this body must face. For one thing, it came at a time when we are attempting to diminish our profile in certain areas of the world in a responsible manner. This does not mean, and should not mean, that we are withdrawing completely from the arena of world politics and that we do not have a responsible role to play in the future. This is the furthest thing from fact. It does mean that we are in the process of lowering our profile while at the same time preparing our allies and friends for shouldering an increasing burden for their own welfare.

The rejection of the $3.2 billion foreign aid bill has raised dark clouds of doubt over the future of our international programs. In the Washington Evening Star of Monday, November 1, it was pointed out in the editorial entitled "The Challenge":

But much more to the point than the proper distribution of blame for the immediate past is the need for a positive approach to the immediate future. It's time to stop the name calling and to end the issuing of ultimatums by White House spokesmen, and Senate leaders, regarding the content of a substitute bill. It's time to end the politicking and to restore the bipartisan approach to foreign aid that created the program and that has kept it alive and well since its inception in 1948.

In an editorial published in the Christian Science Monitor of Monday, November 1, the writer noted:

The time may come when the system of alliances put together in the years immediately after World War II can be taken down safely. But it would be deadly dangerous to take it down too soon or too fast. The NATO alliance in particular is a major element in what stability there is in today's world. Anything which damages NATO damages the foundation on which the peace of the world now rests.

I believe this statement goes to the crux of the matter. There indeed may be a need for development of a new approach to foreign aid. However, this should not be accomplished by the killing of a program before a new program can be initiated. We have to demonstrate a willingness to cope with the real world.

Some of the practical effects of killing the foreign aid bill last Friday are outlined in an editorial published in the Washington Daily News of Monday, November 1. Some of these programs are humanitarian efforts which should never be used as a lever in our relations with other nations. It is our responsibility as a rich and powerful nation to aid other nations less fortunate than we are to develop a better quality of life. We have this moral obligation to those less fortunate.

And, finally, the most dangerous ramification of last Friday's action is the spur such action gives to a sense of isolationism in this country. Such a course is disastrous as we should have learned from our historical experience of the past. The question of world stability and peace is clearly before us.

All Americans should realize the terrible price we would have to pay for once again regressing into an isolationist posture. The benefits of a foreign aid program, as weighed against the probable consequences of isolationism, are far greater. It is a mere pittance to pay for maintaining world peace.

I ask that editorials published in the October 31 and November 1 issues of the Washington Star, the November issue of the Christian Science Monitor, the November 1 issue of the Washington Daily News, and the October 31 issue of the New York Times be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Sunday Star (Wash, D.C.) Oct. 31, 1971]

CHINA, THE UNITED NATIONS AND FOREIGN AID

Even before Monday night's vote at Turtle Bay, many if not most Americans were angry at the United Nations, our "allies" or both. There also was plenty of disillusionment, on and off Capitol Hill, about the Vietnam war and our support of military establishments in Southeast Asia and elsewhere. Such negative thoughts about long-standing American policies backing various friends abroad came together on Friday in the Senate's shocking vote to kill the entire foreign aid bill.

The U.N. defeat, in which the admission of Communist China was accomplished only with the expulsion of the Nationalists, was largely of our own making. The foreign-aid turndown in the Senate, while affected marginally by the U.N. experience, resulted from the accumulation of our own confusions, disagreements and disappointments.

While the balloting in New York on October 25, and in Washington four days later unquestionably will have its place in the history of our times, a date far more destiny-freighted was that of July 25, 1969. On that day, on the remote Pacific island of Guam, President Nixon held a backgrounder for newsmen at the Top of the Mar Hotel. At that seemingly informal, spur-of-the-moment affair, the President enunciated what he modestly refers to as the Nixon Doctrine.

The kernel of that doctrine, as explained to Congress by the President on February 18, 1970, is that

". . . the United States will participate in the defense and development of allies and friends but that America cannot—and will not—conceive *all* the plans, design *all* the programs, execute *all* the defense of the free nations of the world. We will help where it makes a real difference and is considered in our interest."

Another President, on the occasion of his inauguration, had stated on January 20, 1961, that every nation should know—

". . . whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of liberty."

Brave words and noble ones. And yet, in the event, the price had proved too high, the burden too heavy, the hardship too severe. Economically weakened by the Vietnam war after two decades of profligate spending at home and abroad, emotionally spent by the divisive nature of the Southeast Asian conflict, the nation and its people simply were neither able nor willing to make good on John Kennedy's words.

And so what Richard Nixon had to say at Guam in a very real sense reflected the hard realities of the present decade as opposed to the optimism of 1961. As such Guam signaled recognition of the fact that a new era in world history was upon us and that nothing ever again could be the same. All else since then, including Monday's vote at the United Nations, has flowed from the Guam proclamation.

For it was clear that, if the United States was no longer to function as the world's policeman, old arrangements would have to be molded and new alignments sought. There thus was ushered in a period of international fluidity in terms of diplomacy, monetary policy and trade. In such an uncertain period of resurgent nationalism and xenophobia, both here and abroad, it was unrealistic to think the United States could emerge with all its former pride and prestige intact.

On the specific question of the China vote, the pattern of voting in previous years indicated that at best the United States could expect to delay the expulsion of the Nationalists for another year. Had Taipei been willing to drop its claim of sovereignty over the mainland, contenting itself with membership in the U.N. as the government of Taiwan, the situation would have been different. But that was not the case and, with Dr. Kissinger in Peking to arrange details of the President's visit, other nations were in no mood to compromise *their* future relations with Peking by enlisting in an obviously losing cause.

The Senate's rejection of the foreign aid bill was preceded by balloting that opposed cuts in American contributions to United Nations agencies, showing that the China vote has not blinded all our legislators to the U.N.'s basic value to the world.

For the organization itself did nothing to humiliate either us or the Nationalist Chinese. Individual governments can, of course, be held accountable for their public acts. But the institution itself, for all its imperfections, remains a force for peace in a dangerous world and it would be folly for the United States to weaken it out of pique.

With the retreat (for that is what it is) of American power from the mainland of Southeast Asia and the watering down of our overseas commitments elsewhere, what we are witnessing is the end of a bipolar power structure in which world hegemony was loosely divided between Moscow and Washington. In Asia, Communist China, with its huge population and primitive atomic weapons, and Japan, with its limitless economic strength coupled with military weakness, are emerging as rival centers of power. It will be the task of this administration and of subsequent ones to maintain the closest of relations with Tokyo while seeking to improve links with Peking, and this will be no easy task.

Thursday night's vote in the House of Commons means that Britain, Ireland, Denmark and Norway soon will join—and strengthen—the already-powerful six-nation European Common Market. Europe's economic and political integration long has been a major foreign-policy objective of the United States.

Speculative attacks on the dollar, halted only by the President's closure of the gold window, coupled with rising competition from European products in our domestic markets, ending with the imposition of the 10-percent surcharge, have generated a good deal of anti-European feeling in this country, none of which was dispelled by the fact that only three NATO members (Greece, Luxembourg and Portugal) supported the United States on the China question.

But it would be folly to forget that our political interests are so intertwined with those of Western Europe as to be virtually indistinguishable. A strong Western Europe is essential to the security of the United States and, despite all the hokum of American protectionists, is vital as well to our economic prosperity: Overall, the United States runs a surplus on its balance of trade with the EEC, which in 1970 amounted to about $1.3 billion.

XUM

Insofar as Europe is concerned, our bilateral relations with West Germany are as vital to our interests as are our relations with Japan in Asia. Because Russia and only Russia can give her what she wants in terms of German reunification, Germany at times in the future may be tempted to cast her lot with the East rather than the West. It must be one of the foremost goals of American policy to see to it that this never happens.

It will require the better part of a decade for the new shape of the world around these five power centers to emerge. There will continue to be dangerous powderkegs such as the Indian subcontinent and the Middle East to trouble the uneasy peace of the world, with Southern Africa perhaps soon to follow. In Latin America, the prospects for progress, stability and democracy remain as uncertain as ever.

In short, we are entering a new epoch which is as promising as it is dangerous. Mr. Nixon has vowed to give us an era of negotiation rather than confrontation and his visits to Peking and Moscow will be earnests of that pledge. But the American people have to realize that there can be no return to isolationism, to "normalcy," to "America First." While there can be a limitation on armaments, there can be no disarmament. While there can be a diminution of the U.S. military presence, there can be no total withdrawal to our own shores. We can encourage American industry but we cannot build tariff walls around ourselves and expect to prosper while others starve. We need not have enemies but we must have friends. While there undoubtedly are expendable items in the rejected foreign aid bill, there are essential provisions that must be revived in some legislative form before Congress adjourns.

In the bitterness of the aftermath of the China debacle, we would do well to remember that America cannot live in isolation if it expects to live in peace. As Mr. Nixon once put it, "the only issue before us now is how we can be most effective in meeting our responsibilities, protecting our interests and thereby building peace."

[From the Evening Star, Nov. 1, 1971]

THE CHALLENGE

The Senate's rejection of the foreign aid bill must rank high among the legislative shockers of the century. And yet the aftermath of the stunning vote has been marked by an almost total lack of cheering. No one seems anxious to claim credit for the upset. Instead, the accusing fingers are pointing in all directions.

There is very little to cheer about. The rejection of the $3.2 billion aid bill, which has raised dark clouds of doubt over the future of the massive international program, was compounded out of an unnatural legislative alliance of conservative isolationism, liberal spite and pre-election-year absenteeism. Contributing to the coalition of discontent was resentment over the stinging rebuke dealt the United States by the expulsion of Nationalist China from the United Nations, and a growing and justified annoyance over the Nixon administration's refusal to take seriously the depth of the legislative disaffection.

But much more to the point than the proper distribution of blame for the immediate past is the need for a positive approach to the immediate future. It's time to stop the name calling and to end the issuing of ultimatums, by White House spokesmen and Senate leaders, regarding the content of a substitute bill. It's time to end the politicking and to restore the bipartisan approach to foreign aid that created the program and that has kept it alive and well since its inception in 1948.

There must be, as a starting point, agreement that the concept of foreign aid is still morally valid and in the best interests of the United States. It is not necessary to subscribe fully to the provisions of the rejected bill or to support in detail the shape that foreign aid has taken in recent years. Indeed, it would be difficult to find anyone in the executive or legislative branches who could argue persuasively that the structure of foreign aid is flawless.

What the Senate has done, in effect, is to force a showdown, to accelerate the process of revision that was expected to take years to accomplish. Now the luxury of leisure is gone. But that need not mean that the elaborate and generally sound concept of foreign aid will be replaced by a vacuum.

The first necessary legislative step is a continuing resolution to assure that the Senate vote will not add to human suffering, will not bring financial chaos to governments whose stability is of vital concern to this country, will not threaten the peace of the world by upsetting tenuous military balances.

With that accomplished, the real work can begin to restore, on a more secure basis, those humanitarian, economic and military assistance programs that must be retained to preserve America's conscience and security.

The vote to kill the foreign aid program was no one's triumph. But it need not be a tragedy. Those desperate forces that engineered the bill's defeat are now called upon to display those unusual talents for legislative creativity needed to meet the challange that they have brought about.

[From the Christian Science Monitor, Nov. 1, 1971]

THE FOREIGN AID CRISIS

The question posed by the Senate of the United States last Friday night is a most serious one.

The U.S. is engaged in a planned withdrawal from what is now seen to be overcommitment. That is the meaning of the Nixon doctrine. Almost all important elements in the American political community agree that continued military involvement in combat in Vietnam would be an overcommitment. There is a consensus now that there should be a withdrawal from that overcommitment. There is bound to be some withdrawal from other commitments elsewhere.

But the intent, and the hope, is that this can be accomplished in good order and without the loss on anything of vital importance. It is the difference between orderly withdrawal to shorter and stronger lines and panic retreat which can get out of control.

On Friday night last, in the Senate, the withdrawal was out of control. Foreign aid funds provide the daily coinage of the American system of alliances. The time may come when the system of alliances put together in the years immediately after World War II can be taken down safely. But it would be deadly dangerous to take it down too soon or too fast. The NATO alliance in particular is a major element in what stability there is in today's world. Anything which damages NATO damages the foundation on which the peace of the world now rests.

The action of the Senate on the foreign aid bill is not necessarily final. And a review of the foreign aid system is in order. Some aid is given unwisely. Probably there will be a new foreign aid bill in time to keep up the flow of aid through the pipelines. There is plenty of money already appropriated to keep the supplies flowing for long enough to permit a review and new legislation.

But how can this probability be made convincing to friends and allies in time to prevent them from acting on a contrary assumption?

President Nixon has called for "immediate restoration of the absolutely vital foreign assistance program."

The program is vital. There should be the earliest possible restoration of an aid program.

But what causes concern is whether President Nixon really does understand how to control this enormously difficult business of a great world power cutting back on its commitment.

The vote in the Senate to end foreign aid was 41–27. Mr. Nixon branded it as a "highly irresponsible action." It was. But Mr. Nixon himself set in motion the chain of events which unleashed that action.

First he antagonized the right wing of his own party by his decision to go to Peking. Then he organized an American pressure campaign in the United Nations on the Taiwan issue which backfired in a defeat on that issue. Mr. Nixon then retaliated with what The Times of London called "a snarl of petulance."

From the beginning foreign aid has been highly controversial in American politics. There never would have been a program in the beginning or one still in effect, without strong an unswerving support from the White House for an alliance policy. Unless the President leads in respect and friendship for friends and allies, the Congress will go isolationist. The urge is always there.

When the President himself speaks out in anger against foreigners, the Senate is bound to take it as a holiday from school. Mr. Nixon allowed himself the luxury of speaking against foreigners on the Taiwan issue. But those who voted against him in the UN on that issue included Canada, the most vital ally, and Israel, the most favored client.

This is not the way to manage the withdrawal of U.S. from overcommitments. The supreme commander cannot denounce his allies one day and expect the Senate to vote funds for those same allies the next day. The words of resentment spoken over the Taiwan vote invited the Senate to take its "highly irresponsible action" on foreign aid funds.

It is relatively easy to command a great army in victorious advance. Commanding it in a planned withdrawal is immensely more difficult. Mr. Nixon now must not try only to get the Senate to undo what was done last Friday night. He must also try to persuade friends and allies that he can remedy the damage, can get Congress back under control, and can in the future refrain from those unfortunate reflexive remarks which invite the very irresponsibility which he must then deplore.

The question in dangerous doubt is of the competence of the leadership.

[From the Washington Daily News, Nov. 1, 1971]

THE SENATE KILLS FOREIGN AID

In voting to kill abruptly the foreign aid program, the Senate acted last week with the utmost irresponsibility.

If its unwise step is not reversed promptly, which we hope and urge, severe damage will result to American goals and interests.

Like many Americans, this newspaper has not been an uncritical admirer of foreign aid. It has been marred by waste and boondoggle. The United States has carried most of the world's aid burden since the 1940s and, understandably, is tired of it.

And yet, we don't think the American people are ready to reject a simple moral principle: that the rich are obligated, domestically and internationally, to help the poor. There can be argument over how much to give, but the Senate has said "nothing," and that is clearly wrong.

There are signs that the Senate is having second thoughts about what it has done and will put together a temporary aid program. It should be encouraged by everyone to do so.

The sudden, unexpected vote on Friday came only four days after the United Nations rebuffed the United States and expelled Nationalist China from membership. We can deny it till we're blue in the face, but the whole world will see the aid shut-off as a mean, petulant reaction to the U.N. vote.

More important than how we look are the practical effects of killing the Administration's carefully worked out aid bill. Here are a few of the things the Senate voted against:

Economic help for South Vietnam, without which that country is almost certain to collapse, thus negating all of America's sacrifices there.

Food for the East Pakistani refugees, in effect telling them, "We Americans (the fattest people on earth) don't give a damn whether millions of you starve."

Credits for Israel to buy U.S. arms to balance the weapons Russia is pouring into Egypt.

Funds for the United Nations war on illegal drugs, a program which the United States, with its disastrous heroin problem, urged the world body to undertake.

One could go on indefinitely. But fundamentally it was a vote against feeding the starving, assisting the impoverished, backing U.N. peace-keeping forces, and helping a few of our small allies survive.

Ironically, the Senate's cop-out from foreign involvement came after decades of speeches there calling on other countries to carry a "fair share of the burden." Now when countries like West Germany and Japan have finally picked up their end, what have we done? Dropped ours.

The money involved is less than Americans spend annually on beer, cosmetics, or cat food. And the hasty, emotional decision to end foreign aid was unworthy of "the world's greatest deliberative body" or of a serious nation.

[From the New York Times, Oct. 31, 1971]

A FAILURE OF LEADERSHIP

The Senate defeat of the foreign aid bill was, as President Nixon promptly observed, "a highly irresponsible action." But the retreat from responsibility was abetted by Mr. Nixon himself. It was a failure in Presidential leadership that finally broke the coalition of conflicting interests that has sustained this vital program of constructive international cooperation for more than two decades.

Foreign aid legislation has always depended on the support of lawmakers with widely differing views of the proper role of the United States in world affairs. Basically, there are those who would rely primarily on military measures to secure American interests in a chaotic world and those who believe the best hope for American security lies in cooperative programs of economic, social and political development aimed at eliminating the underlying causes of instability and conflict.

The views of most members of Congress lie somewhere between these positions—or combine them. Presidents in the past have mustered majorities for foreign assistance by striking a balance.

President Nixon's recent actions, however, have helped to polarize Congressional sentiment on foreign aid. White House expressions of pique over the American defeat on the Taiwan issue in the United Nations reinforced the vengeful mood of Senate conservatives who sought to punish offending members of the world organization by cutting United States contributions to that body in particular and economic aid in general. The President's stubborn pursuit of a military solution in Indochina, moreover, and his as well as his predecessors' support to authoritarian regimes in many lands have deeply offended Senate liberals and fostered a growing disillusionment with American foreign policy. That disillusionment found expression in an indiscriminate attack on the whole foreign aid concept.

Although Mr. Nixon did not lift a finger to defend endangered American commitments to the financially pressed United Nations, the Administration fought tenaciously to eliminate a ban on military aid to Greece, to bar restrictions on the use of funds in Indochina, and to restore a $341-million authorization for an expending involvement in Cambodia, an amount which alone exceeds total United States contributions to the United Nations.

In the light of such Presidential leadership, one of the few hopeful aspects of the foreign aid debate was the decisive manner in which the Senate rejected efforts by Senators Buckley and Dominick to slash United States contributions to special agencies of the United Nations. Members of Congress and President Nixon himself have long urged that a greater proportion of American foreign assistance be channeled through such international institutions. It is a process that should now be rapidly accelerated in order to reduce those political pressures implicit in bilateral aid that have created so much resentment and discord at home and abroad.

FEDERAL IMPACT AID

Mr. MONTOYA. Mr. President, on October 28 the Senator from California (Mr. CRANSTON) submitted for the RECORD a table which demonstrated the backlog of need for funding of programs of assistance to public schools impacted because of Federal activity. I should like to take this opportunity to associate myself with his remarks.

Public schools depend primarily on the property tax for financial support. In communities where there is extensive Federal activity and landownership, the associated school district invariably finds its total property tax base considerably reduced. In addition, such a school district often has increased enrollment due to the presence of children of federally employed parents. The most obvious and frequent example of this dilemma is to be found in communities with military installations.

In 1950, Congress enacted legislation to assist school districts with this problem. Public Law 815 was intended to assist in needed school construction by making a Federal contribution to the school district for that purpose. Public Law 874 was designed to contribute to maintenance and operating costs of impacted schools. These two programs have met a clearcut need and made an invaluable contribution to public schools.

Although Federal activity has not consistently expanded over the past 10 years, the size and costs of these programs have. This growth is a function of enlarging numbers of schoolchildren and the increasing costs of school operation based on average daily membership.

As a result, Mr. President, funds appropriated under Public Law 864 and Public Law 815 have lagged behind requests for assistance. Literally hundreds of schools with desperate needs cannot receive the needed Federal assistance. This was never more obvious than in the Holloman School District in New Mexico, which is impacted by the presence of Holloman Air Force Base.

The Holloman Elementary School is the largest elementary school in New Mexico and one of the largest in the United States with an enrollment of 1,905 in kindergarten through the sixth grade. The entire Holloman Junior High School is housed in converted barracks buildings and has an enrollment of 420 in the seventh and eighth grades.

This school district has financed 44.4 percent of its construction through Federal funds, yet 68 percent of the students come from federally connected families, and 74 percent of the land in the surrounding county is federally owned.

Because of the huge backlog of applications and lack of funds, Holloman can receive no Public Law 815 assistance. This unfortunate situation is repeated hundreds of times throughout the Nation.

As a member of the Appropriations Subcommittee on Labor and Health, Education, and Welfare, I am extremely grateful to Senator CRANSTON for statistical information regarding the backlog of 815 and 864 applications. His data, received from the Office of Education and submitted for the RECORD on October 28, clearly demonstrates the need for substantially increased funds for these programs.

I should like to submit today further related information regarding unfunded eligible and potentially eligible applications. Table I–A indicates the order of priority indices and funds needed section 10 of Public Law 81–815 for Federal construction of school facilities on Federal property. Table II–A indicates combined priority listings for section 14 (a) and (b) applications. These sections authorize grants for construction of needed minimum school facilities to school districts which provide free public education to children residing on Indian Lands. Table III–A indicates the order of priority indices and funds needed for sections 5, 9, and 14(c). These sections provide funds for grants based on increases in federally connected membership.

Mr. President, it would require an additional appropriation of $200,000 to bring Impact Aid into a reasonable relationship with the needs of these public schools. The tables, which I ask unanimous consent to have printed in the RECORD, demonstrate how very productive this additional amount would be.

All items on table I–A, all items on table I–B, and all items on table III–A down to a 9.2 priority would be funded. I leave it to the Senate to evaluate for themselves the benefit of this funding for their own States.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

OCTOBER 1971—COMBINED PRIORITY LISTING, SEC. 10 APPLICATIONS—LIST I–A

Priority index	Number of applications per— Interval	Cumulative	Estimated entitlement per— Interval	Cumulative	Remarks
Group I—Repairs	3	3	171,004	171,004	
Group II—Transfer of ownership	6	9	4,140,200	4,311,204	
Group III—Unhoused pupils:					
100 and above					
90 to 99.9	1	10	1,500,000	5,811,204	
80 to 89.9	2	12	4,618,000	10,429,204	
70 to 79.9	4	16	12,930,000	23,359,204	
60 to 69.9	2	18	5,279,070	28,638,274	
50 to 59.9	4	22	6,411,350	35,049,624	
40 to 49.9	4	26	1,339,560	36,389,184	
30 to 39.9	6	32	4,163,593	40,552,777	
20 to 29.9	7	39	4,613,746	45,166,523	
10 to 19.9	3	42	2,526,600	47,693,123	
0.1 to 9.9	3	45	1,010,770	48,703,893	
Group IV—Remodeling needs "0" (zero priority—by fiscal year of application:					
1968	2	47	1,211,900	49,915,793	
1969	6	53	2,199,830	52,115,623	
1970	4	57	802,796	52,918,419	
1971	11	68	1,954,900	54,873,319	

ORDER OF PRIORITY INDEXES AND FUNDS NEEDED SEC. 10 OF PUBLIC LAW 81–815—LIST I

Project number and applicant	Priority Tentative	Firm	Funds needed Tentative	Firm
Group I:				
Mo–FED–2A21: Whiteman AFB		(1)		48,000
Mo–FED–1A21: Fort Leonard Wood	(1)		98,004	
PR–FED–3A21: Roosevelt Roads	(1)		25,000	
Group II:				
Ga–FED–1B20: Fort Benning	(1)		3,500,000	
Cal–FED–11A21: Camp Pendleton	(1)		75,000	
Cal–FED–8A21: Edwards AFB	(1)		75,000	
SDAK–FED–1A20: Ellsworth AFB		(1)		305,800
Tex–FED–6A22: Sheppard AFB	(1)		98,000	
Cal–FED–12A21: Parker Dam	(1)		86,400	
Group III:				
Mass–FED–1A20: Fort Devens	91.30		1,500,000	
Ariz–FED–10A21: Fort Huachuca	87.40		3,000,000	
Ala–FED–3A21: Fort Rucker		80.40		1,618,000
SCar–FED–5A21: Myrtle Beach AFB	79.34		1,800,000	
Mass–FED–5A20: Hanscom AFB	73.17		2,500,000	
Del–FED–1B19: Dover AFB		70.86		6,773,000
Va–FED–1A20: Quantico MCB		70.15		1,857,000
PR–FED–2A18: Fort Buchanan		68.86		3,591,860
NY–FED–1A20: West Point		63.93		1,687,210
Fla–FED–2A20: Tyndall AFB		56.51		1,702,700
Alas–FED–4C20: Eielson AFB		54.00		2,444,955
Ariz–FED–1A21: Williams SFB	53.28		400,000	
Ga–FED–1A21: Fort Benning		50.00		1,863,695
Kan–FED–1A20: Fort Riley	47.906		493,900	
PR–FED–3B18: Roosevelt Roads	41.37		530,660	
Ala–FED–4A20: Maxwell AFB		40.12		115,000
Va–FED–1A18: Quantico MCB		40.06		200,000
PR–FED–4A20: Fort Allen	39.32		420,550	
NCar–FED–2A18: Camp Lejeune MCB		38.43		1,291,558
Ariz–FED–10C21: Fort Huachuca	36.68		263,500	
Kans–FED–1B20: Fort Riley	36.52		150,395	
VA–FED–1B20: Quantico MCB	36.11		1,880,000	
Kans–FED–1C20: Fort Riley	33.52		157,590	
Ala–FED–2A20: Fort Mc Clellan	29.27		400,000	
Tes–FED–4A20: Lackland AFB		28.24		426,720
NCar–FED–2A21: Camp Lejeune MCB	27.35		593,278	
NCar–FED–2B18: Camp Lejeune		22.92		838,330
Alas–FED–4A20: Eielson AFB	22.52		1,325,000	
Ala–FED–4B20: Maxwell AFB		22.34		289,000
NCar–FED–2B2: Camp Lejeune MCB	20.79		741,418	
Mass–FED–2A21: Westover AFB	18.88		1,436,000	
Ga–FED–1B21: Fort Benning	17.60		303,000	
Va–FED–2A20: Fort Belvoir	12.14		787,600	
Ariz–FED–10D21: Fort Huachuca	8.79		263,500	
Ga–FED–1C21: Fort Benning	4.32		263,500	
Va–FED–2B20: Fort Belvoir	0		500,000	
Va–FED–2C20: Fort Belvoir	0		500,000	

[1] Not available.

OCTOBER 1971 COMBINED PRIORITY LISTING, SEC. 14 (a) AND (b) APPLICATIONS—LIST II–A

Priority index	Number of applications per— Interval	Cumulative	Estimated entitlement per— Interval	Cumulative	Remarks
100 and above					
90 to 99.9	1	1	145,026	145,026	
80 to 89.9					
70 to 79.9	2	3	499,000	644,026	
60 to 69.9	3	6	2,542,916	3,186,942	
50 to 59.9	5	11	3,572,419	6,759,361	
40 to 49.9	4	15	5,101,008	11,860,369	
30 to 39.9	2	17	651,000	12,511,369	
20 to 29.9	5	22	5,761,717	18,273,086	
10 to 19.9	8	30	7,202,745	25,475,831	
0.1 to 9.9	2	32	3,272,000	27,747,831	
(0) Zero priority applications ranked in sub-priority order:					
100					
90 to 99.9					
80 to 89.9					
70 to 79.9	2	34	709,705	28,457,536	
60 to 69.9					
50 to 59.9	1	35	1,153,000	29,610,536	
40 to 49.9	2	37	219,506	29,830,042	
30 to 39.9					
20 to 29.9	3	40	1,586,240	31,416,282	
10 to 19.9	1	41	482,220	31,898,502	
0.1 to 9.9	6	47	3,931,283	35,829,785	
0	6	53	2,615,916	38,445,701	

ORDER OF PRIORITY INDEXES AND FUNDS NEEDED SEC. 14—LIST II

Project number and applicant	Priority Tentative	Firm	Funds needed Tentative	Firm
Wash–602A21: Wellpinit S.D. #40		90.5		145,026
Minn–403A19: I.S.D. #707, Nett Lake		78.9		89,500
Ariz–1403A20 [1]: Sacaton Common S.D. #18		76.2		409,500
Minn–401A21: I.S.D. #38, Redlake	68.9		773,280	
Ariz–16A20: Yuma Co. S.D. #27, Parker	61.6		1,652,636	
Ariz–805A21: Union E.S.D. #62, Tolleson		61.6		117,000
Ariz–404A22: Chinle Common S.D. #24	59.2		1,502,961	
Ariz–708A21: Elem. S.D. #8, Page	55.7		649,112	
Ariz–517A20 [2]: Indian Oasis S.D. #40, Sells		51.8		901,512
Wash–403A21: Taholah S.D. #77		50.9		133,334
Ariz–904A21: Monument Valley H.S.D., Kayenta	50.8		385,500	
Ariz–413A22: Alchesay H.S.D		46.9		470,880
S. Dak–1801A22: Waubay I.S.D. #184		42.8		318,750
Ariz–517A21 [2]: Indian Oasis S.D. #40, Sells	42.0		3,055,834	
Ariz–1403A22 [1]: Sacaton Common S.D. #18	41.2		1,255,544	
Mont–404A18: Lodge Grass E.S.D. #27		38.2		152,000
Ariz–607A20: Kayenta E.S.D		36.0		499,000
Mont–1801A20: Harlem S.D		29.6		159,712
Mont–13A20: S.D. #6, Lame Deer	29.3		440,000	
N. Mex–513A22: Cuba Ind. S.D. #20	27.0		2,024,400	
Ariz–404B22: Chinle Common S.D. #24	22.8		2,596,105	
Ariz–902A22: Whiteriver E.S.D. #20		22.4		541,500
Kans–1802A20: Unif. S.D. #337		18.2		130,000
Mont–7A21: S.D. #30, Ronan	17.0		580,817	
Iowa–1701A19: Com. S.D. of South Tama Co		13.8		219,800
Oreg–13A20: Jefferson Co. S.D., Madras		13.1		226,000
Ariz–414A21: Tuba City E.S.D	13.0		5,454,280	
Calif–619A21: Bishop Union S.D		12.0		102,690
Mont–15A19: Blaine Co. S.D. #50, Hays		11.6		289,158
Utah–401A20: Unitah S.D., Vernal		10.5		200,000
S. Dak–502A21: E. Charles Mix S.D., –102	8.6		1,000,000	
Minn–12A20: I.S.D. #115, Cass Lake	3.4		1,272,000	

Footnotes at end of table.

ORDER OF PRIORITY INDEXES AND FUNDS NEEDED SEC. 14—LIST II—Continued

Project number and applicant	Priority Tentative	Firm	Funds needed Tentative	Firm
Wash–25A21: Clallam Co. S.D. #401	[3] (77.7)	(2)	667,705	
Wyo–403A19: Mill Creek S.D. #14, Lander		(75.5)		42,000
Wash–1902A22: Mt. Adams S.D	(52.1)		1,153,000	
Wash–512A22: Inchelium S.D. #70	(47.3)		49,506	
Nev–701A19: Elko Co. S.D., Elko		(43.7)		170,000
Ariz–404C22: Chinle C.S.D. #24	(29.6)		1,241,240	
Mont–1601A18: Lodge Grass H.S.D. #2		(22.6)		336,000
Wash–901A21: Oakville S.D. #400	(20.3)		9,000	
Alaska–1A19: Kodiak Island Bor. S.D	(12.3)		482,220	
Mont–8A19: Harlem E.S.D. #12		(9.3)		210,000
N. Mex–406A19: Grants Mun. S.D. #3		(7.9)		783,264
Wash–67A20: LaConner S.D. #311		(7.0)		264,000
Wash–56A20: Marysville, S.D. #25		(2.8)		600,000
N. Mex–402A19: Gallup-McKinley Co. Bd. of Ed		(2.5)		1,715,019
N. Mex–407A20: Town of Bernalillo		(2.2)		359,000
Ariz–404D22: Chinle C.S.D. #24	0		1,700,705	
Mont–405A18: Heart Butte S.D. #1		0		95,400
Mont–501A20: E.S.D. #16, Havre	0		314,000	
Nev–404A19: Humboldt Co. S.D		0		231,000
N. Dak–1901A21: Couture S.D. #27	0		246,556	
Wash–44A21: Wapato S.D. #207	0		28,255	

[1] The A22 project will eventually take the place of the A20.
[2] The A21 project will eventually take the place of the A20.
[3] Subpriorities.

OCTOBER 1971, COMBINED PRIORITY LISTING, SECS. 5, 9 AND 14(c) APPLICATIONS—LIST III–A

Priority index	Number of applications per— Interval	Cumulative	Estimated entitlement per— Interval	Cumulative	Remarks
100 and above	2	2	1,567,044	1,567,044	
90 to 99.9	1	3	1,875,000	3,442,044	
80 to 89.9	2	5	1,023,015	4,465,059	
70 to 79.9	2	7	360,312	4,825,371	
60 to 69.9	6	13	1,984,011	6,809,382	
50 to 59.9	6	19	3,701,177	10,510,559	
40 to 49.9	6	25	1,263,478	11,774,037	
30 to 39.9	13	38	9,730,396	21,504,433	
20 to 29.9	28	66	17,012,494	38,516,927	
10 to 19.9	74	140	25,916,269	64,433,196	
0.1 to 9.9	138	278	46,056,631	110,489,827	
(0) Zero priority applications ranked in sub-priority order:					
20 to 29.9	3	281	820,706	111,310,533	
10 to 19.9	11	292	2,394,388	113,704,921	
0.1 to 9.9	127	419	29,507,682	143,212,603	

ORDER OF PRIORITY INDEXES AND FUNDS NEEDED SECS. 5, 9, AND 14(C)—LIST III

Project number and applicant	Priority Tentative	Firm	Funds needed Tentative	Firm
Mont–906A20: S.D. #57 Harve (Sec. 9)	131.6		150,043	
Calif–246B20–1: San Francisco Unif. S.D	(W)105–6		1,417,001	
Ohio–8A21: Windham Exempted Village Sch. (Sec. 14(C))	95.7		1,875,000	
Ariz–2001A22: Continental S.D. #39	86.8		174,654	
N. Dak–2001A22: Walhalla Pub. D.S. #27 (Sec. 9)	84.0		848,361	
Ariz–508A22: Alpine E.S.D. #7	70.4		56,172	
La–602A21: Vernon Parish Sch. Bd	70.1		304,140	
Mont–1901A21: E.S.D. No. 14, Shelby (Sec. 9)	68.6		376,820	
Mont–1907A22: H.S.D. No. 10, Conrad (Sec. 9)		68.2		$33,845
Calif–1702A19: Kern Jt. Jr. Col. Dist	(W)	66.4		151,956
Mont–1908A22: E.S.D. No. 10, Conrad (Sec. 9)		65.4		402,410
Calif–546A20: Kern Jt. U.H.S.D., Bakersfield	(W)63.4		936,678	
Wyo–1601A18: S.D. No. 6, Lyman		61.8		82,302
Calif–246A20–1: San Francisco Unif. S.D	(W)59.2		1,089,688	
Ark–11A20: Gosnell S.D. No. 6, Blytheville	56.2		713,152	
Calif–9A18: Vallejo City Unif. S.D	(W)	56.1		367,137
Calif–246A21: San Francisco Unif. S.D	(W)56.0		1,121,456	
Calif–246A19–1: San Francisco Unif. S.D	(W)	52.2		391,447
Calif–1803A20: Mineral E.S.D	(W)	51.4		18,297
Ill–1704A19: U.S.D. No. 81 Joliet		47.4		54,375
Ill–1101A19: Wesclin Comm. U.S.D. #3		45.6		259,335
Tex–1801A20: United Cons. I.S.D., Laredo		44.1		587,182
Wash–1701A19: Grand Coulee S.D. #55–201–205J		43.7		229,236
N. Dak–1401A22: Langdon P.S.D. #23 (Sec. 9)		43.6		92,040
Ill–1703A19: Braceville E.S.D. #75		41.4		41,310
Ariz–701A21: Buena H.S.D. #40, Sierra Vista	39.2		313,076	
Calif–209A19: Long Beach Unif. S.D		38.2		693,148
Ala–1401A20: Daleville City Bd. of Ed		37.9		297,990
Ill–1A22: Mascoutah Comm. S.D. #10	37.0		1,785,411	
N.J–901A21: N. Burlington Co. Reg. S.D		36.6		976,495
Calif–1603A18: Stony Creek Jt. Unif. S.D		34.4		57,370
W. Va–801A21: Pandleton Co. Bd. of Ed	(W)33.4		59,850	
Calif–58A19–1: San Diego Unif. S.D		33.2		444,685
Calif–702A21: Central U.E.S.D., Lemoore	32.8		1,801,567	
Calif–14A21: Alameda Unif. S.D	32.0		2,050,727	
Fla–407A19: Dade Co. Bd. of Pub. Instr., Miami		31.2		331,816
Calif–811A21: Wheatland U.H.S.D		30.8		581,011
Idaho–201A20: S.D. No. 193, Mountain Home	(W)	30.0		337,250
Ill–201A20: Comm. H.S.D. #123, N. Chicago	28.9		237,475	
Tex–804A19: Judson I.S.D., Converse		28.9		392,350
Ariz–701A22: Buena H.S.D. #40, Sierra Vista	28.4		272,090	
Ark–11A21 Gosnell S.D. #6, Blytheville	28.4		237,140	
Ky–1901A21: Newport I.S.D	28.2		585,130	
Calif–58A19–2: San Diego Unif. S.D		27.8		446,769
Kans–1702A19: Unif. S.D. #502, Parsons		26.2		310,880
Tex–49A19: Flour Bluff I.S.D., Corpus Christi		26.0		348,041
Wash–1101A19: Coulee Dam S.D. #401		24.5		130,200
Tex–1502A21: Crowley I.S.D	24.2		103,500	
Ariz–201A21: Yuma Co. E.S.D. #1, Yuma	23.8		1,078,616	
Tex–61A21: Del Valle I.S.D	23.8		579,525	
W. Va–801A19: Pendleton Co. Bd. of Ed	(W)	23.8		36,062
Kans–1602A18: Cons. Unif. S.D. #101, Erie		23.6		113,460
Ill–4A19: O'Fallon Comm Cons. S.D. #90		22.8		148,410
Alaska–5A21: Greater Anchorage Area Bor. S.D	22.6		7,215,615	
Fla–7A19: Okaloosa Co. Bd. of Pub. Instr./Crestview		22.2		758,350
Mont–1904A21: H.S.D. No. 14, Shelby (Sec. 9)	22.2		48,140	
Ariz–501A21: Sierra Vista C.S.D. #68	22.1		288,840	
Ark–1201A19: Ashdown S.D. #31	22.0		108,447	
Ariz–502A21: Palominas Common S.D. #49	21.7		28,801	
Ill–601A19: Mascoutah Comm. H.S.D. #18		21.7		163,863
Ill–1703A20: Braceville E.S.D. #75	21.6		29,875	
Ill–1506A19: E.S.D. #104, Manhattan		21.4		29,835
Calif–50A21: Indian Wells Valley JL U.S.D	20.6		248,710	
Colo–12A19: Harrison S.D. #2, Colorado Spgs		20.4		350,520
Alaska–401A20: Alaska Dept. of Ed., Juneau	20.3		1,636,646	
Calif–401A22: Wheatland S.D	20.0		1,085,204	
Colo–1801A22: Summit S.D. Re–1, Frisco	18.6		76,860	
Ill–1705A20: Cent. E.C.S.D. #103, O'Fallon		18.4		34,615
Wis–1801A20: Jt. S.D. #1, Mauston		18.4		188,100
Calif–45A22: So. Bay U.S.D., Imperial Beach	17.8		842,330	
Calif–227A21: Adelanto S.D	17.4		436,016	
Nebr–1801A20: Shelton Pub. S.D. #19–41		17.4		25,670
Nebr–1A20: S.D. of the City of Bellevue		17.2		970,000
Tex–61A18: Del Valle I.S.D		17.0		169,344
Ind–1705A19: N. Central Sch. Cons., Palmyra		16.8		115,045
Kans–206A21: Ft. Leavenworth Unif. S.D. #207	16.8		323,076	
Calif–623A21: Ocean View S.D	16.6		205,870	
Calif–702A20: Central U.E.S.D., Lemoore		16.6		398,468
Ill–602A20: Rantoul Twp. H.S.D. #18		16.6		128,075
Wis–1001A21: Jt. S.D. #1, City of Bayfield	16.4		54,571	
Ill–1704A20: U.S.D. #81, Joliet	16.2		24,955	
Fla–7B19: Okaloosa Co. Bd. of Pub. Instr./Crestview		16.1		758,350
S. Car–501A21: Sumter Co. S.D. #2	(W)16.1		1,052,766	
Ariz–501A18: Sierra Vista C.S.D. #68		16.0		89,380
Okla–415A19: Claremore I.S.D. #1	16.0		136,530	
R.I–1A20: Town of Middletown Sch. Comm		15.9		1,060,951
R.I–2A19: Town of N. Kingstown Sch. Dept		15.8		831,733
Va–14A20: Sch. Bd. of King George Co		15.4		218,004
Calif–811A22: Wheatland U.H.S.D		14.6		281,126
N. Mex–503A20: Cloud Croft Mun. S.D. #11		14.4		32,832
Nebr–12A21: S.D. of Plattsmouth		14.2		111,720
Ohio–208A21: Wayne Twp. L.S.D., Dayton	14.2		536,710	
Va–5A20: Co. Sch. Bod. of Yorktown		14.2		1,052,650
Ill–1A20: Mascoutah Comm. S.D. #10		14.1		477,204
Minn–601A22: Ind. S.D. #390, Baudette	13.8		98,245	
Va–1A21: City of Virginia Beach Sch. Bd		13.8		2,700,855
Ariz–202A18: Tempe E.S.D. No. 3		13.7		560,914

Project number and applicant	Priority Tentative	Priority Firm	Funds needed Tentative	Funds needed Firm
N.J–601A19: Burlington Twp. Bd. of Ed		13.6		186,725
Okla–1B02A20: Shawnee I.S.D. #93	13.5		249,472	
Colo–12A22: Harrison S.D. #2, Colorado Spgs	13.4		409,920	
Kans–1501A19: Unif. S.D. #449, Easton		13.4		27,470
N. Mex–1A19: Alamogordo Mun. S.D. No. 1		13.3		566,995
Calif–815A22: Lemoore U.H.S.D	13.2		249,817	
Ariz–10A18: Avondale S.D. #44		13.0		91,723
Calif–246B21: San Francisco Unif. S.D	13.0		208,012	
Ill–17A19: Willmington Comm. Unit S.D. 209U		13.0		106,335
Tex–412A20: Copperas Cove I.S.D		12.9		139,050
La–1501A21: Bossier Parish Sch. Bd. Dist #3	12.7		146,520	
Ariz–507A18: Sunnyside H.S.D. #12 Tucson		12.6		55,917
Calif–45A21: S. Bay U.S.D., Imperial Beach	12.4		459,221	
Idaho–7A18: Jt. S.D. No. 204, Kamiah		12.4		25,425
Ill–702A20: Lebanon Com. H.S.D. #9		12.4		17,710
Ala–11A18: Enterprise City Bd. of Ed		12.0		146,472
Ill–701A19: Joliet Pub. Schs. Dist. #86		11.9		904,230
Ariz–201A20: Yuma Co. E.S.D. No. 1, Yuma		11.8		501,296
Ariz–701A19: Buena H.S.D. #40, Sierra Vista		11.6		38,700
Colo–206A22: El Paso C.S.D. #9, Fountain		11.6		172,935
Nebr–901A20: S.D. of Papillion		11.6		153,265
Calif–227A20: Adelanto S.D		11.5		252,092
Ohio–23A20: Beavercreek L.S.D., Xenia	11.4		408,690	
Ohio–211A21: Hamilton L.S.D. Columbus	11.4		430,036	
Wash–34A19: Central Kitsap S.D. #401, Silverdale		11.3		269,556
Calif–1606A19: Petaluma City S.D		11.0		199,995
Ala–10A20: Ozark City Schs		10.8		185,308
Ky–1601A19: Jefferson Co. S.D., Louisville		10.8		1,360,000
N. Mex–603A19: Las Lunas Cons. Schs		10.7		199,104
Wis–1802A20: Unif. S.D. #1, Ashland		10.6		179,640
Ohio–429A20: Southeast L.S.D., Ravenna	10.5		153,310	
Ala–10A21: Ozark City Schs	10.4		196,344	
Calif–638A20: Oxnard U.H.S.D		10.4		853,325
Calif–1607A18: Petaluma City S.D		10.4		192,888
Mass–1701A19: N. Andover Sch. Comm		10.2		142,800
Miss–701A20: Jackson Co. S.D., Pascagoula		10.2		131,775
Calif–815A20: Lambore U.H.S.D		10.1		250,467
Calif–50A20: Indian Wells Valley Jt. U.S.D		10.0		98,333
Calif–1101A19: Oceanside-Carlsbad Jr. Col. Dist		10.0		29,145
Colo–603A20: U.S.A.F. Academy S.D. #20		10.0		181,177
Fla–7C19: Okaloosa Co. Bd. of Pub. Instr		10.0		824,656
Mont–803A22: Great Falls H.S.D		10.0		397,453
Wash–59A20: South Kitsap S.D. #402		10.0		150,000
Ill–1604A19: Lincoln-Way H.S.D. No. 210, New Lenox		9.9		53,550
Va–1B21: City of Virginia Beach Sch. Bd		9.9		1,400,855
Calif–57A20: Chula Vista City S.D		9.8		836,740
Md–3A20: Bd. of Ed., Anne Arundel Co		9.8		3,689,940
Ariz–1901A21: Snowflake U.H.S.D. #60		9.6		34,279
Fla–3A19: Bay Co. Bd. of Ed., Panama City		9.6		549,349
Hawaii–201A22: Hawaii State Dept. of Ed	9.6		4,018,500	
Ill–2A21: Rantoul City Schs. Dist. #137	9.6		451,169	
Nev–601A20: Churchill Co. S.D., Fallon		9.6		209,965
N. Mex.–1A21: Alamogordo Mun. S.D. #1	9.6		1,223,005	
Guam–601A20: Dept. of Ed., Agana	9.6		1,248,125	
Ill–13A20: North Chicago E.S.D. #64		9.5		328,720
Calif–1411A19: Napa Jr. Col. Dist		9.4		64,069
N. Car–4A19: Cumberland Co. Bd. of Ed., Fayetteville		9.4		500,000
S. Car–1A18: Summerville S.D. #2		9.4		132,810
N. J.–202A18: Bd. of Ed., Twp. of Ocean		9.2		195,940
Guam–601A21: Dept. of Ed., Agana	9.2		2,298,294	
Calif–57A21: Chula Vista City, S.D	9.0		966,280	
Ind–1704A19: Scott Co. S.D., Austin		9.0		64,010
Ky–1601B19: Jefferson Co. S.D., Louisville		9.0		1,360,000
N.J–1103A18: Lenape Reg. H.S.D., Medford		9.0		105,000
Calif–50B21: Indian Wells Valley Jt. U.S.D	8.8		86,710	
Calif–623A20: Ocean View S.D		8.6		129,256
Ky–1601C19: Jefferson Co. S.D., Louisville		8.6		705,000
Fla–5A20: Clay Co. Sch. Bd., Green Cove Spgs		8.4		241,290
Kans–206A20: Ft. Leavenworth Unif. S.D. #207		8.4		135,850
Mo–1801A20: Richmond R-XIII S.D		8.4		66,555
Nev–601A22: Churchill Co. S.D., Fallon	8.2		196,930	
Nebr–1A21: S.D. City of Bellevue	8.0		488,880	
Ohio–9A18: Med River Green Local S.D		8.0		81,600
Ill–1709A19: Herrin Comm. U.S.D. No. 44		7.9		153,000
Ala–11A19: Enterprise City Bd. of Ed		7.8		127,429
Tex–1701A19: Sherman I.S.D		7.8		214,583
Calif–1802A20: San Joaquin Delta Col. Dist	7.6		269,640	
Kans–1801A20: Auburn-Washburn Unif. S. D. #371		7.6		183,597
Mo–3A19: Center S.D. #49		7.6		148,070
Tex–49A20: Flour Bluff I.S.D		7.6		106,852
Colo–505A20: El Paso C.S.D. #2, Security		7.4		281,870
Colo–505A21: El Paso C.S.D. #2, Security	7.4		232,000	
Ill–12A21: Comm. Cons. S.D. No. 70, Freeburg	7.4		41,170	
Ill–1601A19: Bradley-Bourbonnais Comm. H.S.D		7.4		57,375
Ill–1701A19: E.S.D. No. 96, Romeoville		7.4		143,055
Mich–604A21: Forsyth S.D., Gwinn		7.4		327,807
Tex–1504A19: Medina Valley I.S.D		7.4		32,450
Fla–5A18: Clay Co. Sch. Bd., Green Cove Spgs		7.3		183,184
Mo–1601A18: Fort Zumwalt S.D., O'Fallon		7.0		83,750
Tex–49A21: Flour Bluff I.S.D	7.0		162,900	
Calif–1604A18: Escalon Unif. S.D		6.8		57,285
Calif–47A21: Victor Valley Jt. U.H.S.D	6.6		336,889	
Pa–603A20: Pocono Mt. S.D., Swiftwater		6.6		213,497
Fla–5A19: Clay Co. Bd. of Ed., Green Cove Spgs		6.5		225,970
Calif–623A22: Ocean View S.D	6.4		184,186	
N.Car–501A18: Wayne Co. Bd. of Ed., Goldsboro		6.2		79,560
Miss–202A20: Long Beach Mun. Sep. S.D		6.1		76,125
Alaska–1002A22: Ketchikan Gateway Boro. S.D	6.0		259,350	
Calif–58A20: 1: San Diego Unif. S.D		6.0		91,485
Calif–608A19: Poway Unif. S.D		6.0		144,720
Hawaii–201A18: Hawaii State Dept. of Ed		5.8		372,645
Hawaii–201A21: Hawaii State Dept. of Ed	5.8		658,617	
Ill–19A21: Braidwood Comm. Cons. S.D. #5C	5.8		16,905	
Calif–203A19: Oceanside-Carlsbad U.H.S.D		5.6		145,825
Hawaii–201A20–3: Hawaii State Dept. of Ed		5.6		1,264,147
Ill–8A20: O'Fallon Twp. H.S.D. #203		5.6		62,770
Miss–701A19: Jackson Co. S.D., Pascagoula		5.6		68,775
Mo–805A19: Raymore–Peculiar S.D. RII		5.6		26,640
Ariz–501A19: Sierra Vista C.S.D. #68		5.4		30,960
Ill–1706A20: Gardner Comm. Cons. S.D. #72C	5.2		17,150	
N.Car–4B19: Cumberland Co. Bd. of Ed		5.1		361,930
N.Car.–1A18: Craven Co. Bd. of Ed., New Bern		5.0		130,455
Calif–45A19:1: S. Bay U.S.D., Imperial Beach		4.9		238,185
Ill–1508A19: Bradley E.S.D. #61		4.8		32,895
Wash–1701A21: Grand Coulee S.D. #55–201–205J	4.6		22,275	
Mich–416A19: Rudyard Twp. S.D. #11		4.4		116,736
Miss–2A18: Biloxi Mun. Sep. S.D		4.4		116,582
Ala–11A20: Enterprise City Bd. of Ed		4.5		137,385
Colo 505A22: El Paso C.S.D. #2, Security	4.4		167,079	
Md–7A19: Bd. of Ed., St. Mary's Co./ Leonardtown		4.2		287,300
Va–12A18: Prince George Co. Sch. Bd		4.1		99,085
Calif–7A19: Victor Valley Jt U.H.S.D		4.0		102,510
Tex–2A19: Ysleta I.S.D., El Paso		4.0		359,900
Ill–1505A20: New Lenox Dist. #122	3.8		31,200	
Ill–1603A20: Joliet Twp. H.S.D. #204	3.8		95,714	
Nev–603A19: Clark Co. S.D., Las Vegas		3.8		954,169
Calif–103A18: Oceanside-Carlsbad U.H.S.D		3.6		47,881
Calif–635A22: Travis Unif. S.D	3.6		195,714	
Ill–1709A20: Herrin Com. U.S.D. #44		3.6		64,400
Wash–1701A20: Grand Coulee S.D. #55–201–205J	3.6		13,300	
Calif–203A20: Oceanside-Carlsbad U.H.S.D		3.4		73,723
Calif–401A21: Wheatland S.D		3.4		68,782
Ga–11A20: Cobb Co. Bd of Ed		3.4		890,979
Hawaii–201A19: Hawaii State Dept. of Ed		3.4		524,932
Ill–1A19: Mascoutah Comm. Cons. S.D. #19		3.4		74,128
Nev–603A18: Clark Co. S.D., Las Vegas		3.4		809,396
Ariz–701A18: Buena H.S.D. #40, Sierra Vista		3.2		8,175
Calif–1802A21: San Joaquin Delta Col. Dist	3.2		158,270	
Nev–601A21: Churchill Co. S.D., Fallon		3.2		79,800
Okla–13A19: Moore I.S.D		3.2		133,180
Tex–213A20: Burkburnett I.S.D		3.1		77,557
Calif–58A21: San Diego Unif. S.D	3.0		3,067,820	
Hawaii–201A20–1: Hawaii State Dept. of Ed	3.0		364,650	
Kans–3A19: Derby Unif. S.D. #260		3.0		61,640
Mo–213A18: Cons. S.D. #1, Hickman Mills		3.0		135,340
Colo–505A19: El Paso C.S.D. #2, Security		2.9		74,520
Calif–246A19–1: San Francisco Unif. S.D		2.8		35,376
Alaska–1401A19: Fairbanks-North Star Bor. S.D	2.6		607,240	
Calif–608A20: Poway Unif. S.D		2.6		80,250
Colo–505A18: El Paso C.S.D. #2, Security		2.6		53,550
Miss–701A21: Jackson Co. S.D., Pascagoula	2.6		54,340	
Utah–3A19: Weber Co. S.D., Ogden		2.6		175,027
Iowa–1101A18: Lewis Central Comm. S.D		2.4		18,995
Ohio–8A20: Windham Exempted Village S.D	2.4		17,100	
Calif–61A18: Vista Unif. S.D		2.2		74,385
Hawaii–201A22–2: Hawaii State Dept. of Ed	2.2		520,538	
Ill–701A20: Joliet Pub. Schs. Dist. #86	2.2		108,675	
Calif–58A22: San Diego Unif. S.D	2.0		1,932,315	
Calif–227A22: Adelanto S.D	2.0		62,225	
Mo–407A18: Excelsior Springs S.D. #40		2.0		16,750
Calif–34A19–1: Oceanside U.S.D		1.9		127,836
Ill–13A19: North Chicago E.S.D. #64		1.9		100,291
Calif–57A09: Chula Vista City S.D		1.8		129,645
Idaho–1201A19: L.S.D. No. 1, Lewiston		1.8		38,500
Mo–1505A19: Hazelwood S.D		1.8		133,200
Calif–19A19: Muroc Unif. S.D		1.6		55,174
Calif–37A18: Coronado Unif. S.D		1.6		50,359
Colo–3A19: Colorado Springs, S.D. #11		1.6		184,230
Hawaii–201A22–1: Hawaii State Dept. of Ed	1.6		570,712	
Mich–801A20: Anchor Bay S.D., New Baltimore		1.6		50,825
Va–17A21: Co. Sch. Bd. of Prince Wm. Co	1.6		201,250	
Nebr–1B20: S.D. of the City of Bellevue		1.5		60,801
Hawaii–201B18: Hawaii State Dept. of Ed		1.2		326,340
Ala–11A21: Enterprise City Bd. of Ed	.8		34,200	

ORDER OF PRIORITY INDEXES AND FUNDS NEEDED SECS 5, 9, AND 14(C)—LIST III

Project number and applicant	Priority Tentative	Priority Firm	Funds needed Tentative	Funds needed Firm
Fla–1A20: Brevard Co. Bd. of Pub. Instr		0.8		312,417
Fla–5A21: Clay Co. Sch. Bd., Green Cove Spgs	.8		30,590	
Calif–405A19: Folsom-Cordova Jt. Unif. S.D		.6		84,018
Nev–603A21: Clark Co. S.D., Las Vegas	.6		440,496	
Colo–12A21: Harrison S.D. #2, Colo. Spgs	.4		9,800	
Mich–217A20: Oscoda Area Schools		.4		11,770
Tex–804A21: Judson I.S.D., Converse	(27.5)		743,175	
Calif–581A9–4: San Diego Unif. S.D		(25.9)		36,571
Okla–1801A20: Stuart I.S.D		(23.1)		40,960
Ill–1502A20: Thomasboro Comm. Cons. S.D. #130		(18.6)		37,835
Ill–1702A19: Custer Park S.D. #44C		(15.6)		22,185
La–901A21: Bossier Parish Sch. Bd. Dist. #27	(15.1)		375,920	
Miss–1102A21: Hancock Co. Unit, S.D	(14.1)		246,031	
Ill–1103A19: Gifford Comm. Cons. Gr. S.D. #188		(13.1)		34,425
Colo–1801A20: Summit S.D. Re–1, Frisco		(13.0)		60,175
Tex–213A19: Burkburnett I.S.D		(12.8)		317,361
Calif–707A18: Center Jt. S.D., North Highland		(12.5)		188,271
Ill–1707A19: Okawville Grade S.D. #46		(11.6)		20,655
N. Mex–513A19: Cuba Ind. Rural Schools		(11.0)		54,900
Tex–64A19: Northside I.S.D., San Antonio		(10.4)		1,036,630
Ill–3A19: Savanna Comm. Unit S.D. #300		(9.2)		110,925
Wis–1701A19: Jt. S.D. #1, Village of Black Earth	(8.9)		112,385	
Miss–5A20: Ocean Springs Mun. Sep. S.D		(8.8)		149,625
Ill–20A20: Reed-Custer Twp. H.S.D. #206		(8.7)		26,530
Ohio–15A20: Mad River Twp. L.S.D	(8.6)		1,137,150	
Tex–1601A18: Pasater I.S.D		(8.6)		6,160
Minn–1601A18: I.S.D. No. 15, St. Francis		(8.4)		94,500
N.J.–1701A19: Somers Point Bd. of Ed		(8.4)		65,000
Mo–18A19: Oak Grove Reorg. R–VI S.D		(8.2)		49,680
Ill–1603A18: Joliet Twp. H.S.D. #204		(8.1)		305,688
Ariz–506A21: Litchfield S.D. #79		(8.0)		56,440
N.J.–1601A18: Shore Reg. H.S.D., W. Long Branch		(8.0)		69,840
Minn–5A18: Circle Pines I.S.D. No. 12		(7.6)		191,595
Ohio–1801A20: Frontier L.S.D. New Matamoras	(7.6)		100,035	
Tex–1502A18: Crowley I.S.D		(7.6)		30,240
Ill–8A21: O'Fallon Twp. H.S.D. #203	(7.5)		70,840	
Tex–37A20: Azle I.S.D		(7.5)		139,725
Calif–1502A21: Washington U.S.D	(7.4)		46,010	
Mass–605A19: Town of Shirley Sch. Comm		(7.4)		61,950
Ind–1703A19: W. Washington Sch. Corp., Campbellsburg		(7.3)		76,120
Md–8A19: Bd. of Ed. of Prince George's Co		(7.3)		1,468,000
Va–13A21: Stafford Co. Schools		(7.3)		364,665
Ill–1901A21: Pootone Comm. U.S.D. #207U	(7.2)		93,975	
Ill–1602A18: Homer Comm. Cons. S.D. #33–C		(6.8)		16,215
Kans–1803A20: Santa Fe Trail Unif. S.D. #434		(6.7)		55,055
Calif–63A19: Oxnard S.D		(6.5)		435,161
Calif–63B19: Oxnard S.D		(6.5)		163,819
N.J–1104A20: Monmouth Reg. H.S.D		(6.5)		118,917
Tex–414A17: Dennison I.S.D		(6.4)		200,000
Calif–627A20: Los Alamitos S.D	(6.3)		597,700	
Ohio–508A18: Pickerington L.S.D		(6.3)		44,880
Ill–1708A19: Bourbonnais E.S.D. No. 53		(6.2)		58,905
Mo–11A18: Cons. S.D. #4, Grandview		(6.2)		200,000
Tex–81A20: Joshua I.S.D	(5.9)		34,425	
Calif–1602A18: Arena U.E.S.D., Point Arena		(5.8)		35,739
Ill–13B20: North Chicago E.S.D. #64		(5.8)		13,888
Ill–1710A19: Plainfield Comm. S.D. #202		(5.8)		146,880
Miss–202A18: Long Beach Mun. Sep. S.D		(5.8)		57,550
Minn–5A19: Circle Pines I.S.D. #12		(5.7)		167,320
Guam–601A19: Dept. of Ed., Agana		(5.7)		1,203,301
Calif–58A20–4: San Diego Unif. S.D		(5.6)		40,227
Calif–635A21: Travis Unif. S.D		(5.6)		529,074
Calif–1502A19: Washington U.S.D		(5.4)		25,125
Tex–1702A20: Northwest I.S.D		(5.3)		37,800
Wash–513A20: N. Mason S.D. #403		(5.1)		44,650
Calif–15A19: Moreno Valley Unif. S.D		(5.0)		420,492
Calif–635A19: Travis Unif. S.D		(5.0)		381,900
Ill–1803A20: Oswego Comm. U.S.D. No. 308	(5.0)		120,000	
Va–3A17: Fairfax Co. Sch. Bd		(4.9)		3,000,000
Va–17A19: Co. Sch. Bd. of Prince Wm. Co		(4.9)		1,565,610
Md–8A17: Bd. of Ed., Prince Geo. Co		(4.7)		2,980,536
Nebr–7A18: S.D. #2, Grand Island		(4.7)		209,070
N.Y–1501A17: U.F.S.D. No. 3, Brookhaven		(4.7)		159,390
Wash–1202A17: Waitsburg Jt. S.D. #401–10		(4.7)		15,700
Iowa–203A18: Burlington Comm. S.D		(4.6)		150,000
Ind–1702A19: Scott Co. S.D. #2, Scottsville		(4.5)		106,395
Ohio–1701A19: North Olmsted City Schs		(4.5)		120,090
Utah–1C17: Bd. of Ed. of Tooele Co		(4.5)		33,095
Mo–1502A17: S.D. of Marshall		(4.4)		56,115
N.Mex–1A20: Alamogordo Mun. S.D. #1		(4.4)		545,984
Calif–1513A17: Sylvan U.S.D., Modesto		(4.3)		90,200
Tex–80A17: Burleson I.S.D		(4.3)		54,500
Mo–801A19: Harrisonville H.S.D		(4.2)		46,800
Conn–604A17: Town of Monroe S.D		(4.0)		87,360
Md–7A20: Bd. of Ed. St. Mary's Co		(4.0)		382,700
Conn–406A20: Town of Ledyard S.D		(3.9)		154,350
N.J.–1402A17: Cherry Hill Township Schools		(3.9)		400,000
Wash–130IA17: Dayton S.D. #2		(3.9)		28,772
Ind–1701A19: E. Washington Sch. Corp., Pekin		(3.8)		39,790
Kans–803A17: Shawnee Mission Unif. S.D. No. 512		(3.8)		69,600
N.J.–1201A17: Bd. of Ed., Evesham Twp		(3.8)		67,890
Ga–14A19: Houston Co. Bd. of Ed		(3.7)		378,880
R.I.–401A20: Newport Sch. Dept		(3.6)		385,623
Ala–1A17: Huntsville City Bd. of Ed		(3.5)		558,600
Calif–1111A17: Riverdale Jt. U.S.D		(3.5)		27,060
N. Mex–402A19: Gallup-McKinley Co. Bd. of Ed		(3.5)		409,981
Tex–504A19: North East I.S.D., San Antonio		(3.5)		547,520
Alaska–1402A17: Greater Juneau Boro. S.D		(3.3)		118,720
Ariz–25A20: S.D. No. 1, Tucson	(3.3)		276,100	
Wash–4A18: Clover Park S.D. #400		(3.3)		785,317
Ky–4A17: Hardin Co. Bd. of Ed., Elizabethtown		(3.2)		135,660
Mo–206A19: Ft. Osage Reorg. S.D. No. 1		(3.2)		96,480
N. Mex–12A17: Las Cruces S.D. No. 2		(3.2)		266,750
Calif–1514A17: Walnut S.D		(3.1)		67,240
La–1A21: Bossier Parish Sch. Bd. Dist #13	(2.9)		404,928	
Wash–34A17: Cent Kitsap S.D. #401, Silverdale		(2.8)		110,763
Conn–406A18: Town of Ledyard S.D		(2.5)		74,128
Mo–1504A17: Lexington Reorg S.D. R–U		(2.5)		23,220
N. Dak–603A21: Minot Pub. S.D. #1	(2.5)		411,567	
Calif–405A17: Folsom-Cordova Jt. Unif. S.D		(2.3)		200,900
Iowa–203B18: Burlington Comm S.D		(2.3)		85,800
Md–1A19: Bd of Ed. Harford Co., Bel Air		(2.3)		546,550
N.J.–1501A18: Washington Twp. Pub. Schs		(2.3)		74,690
Md–1A17: Bd. of Ed. Harford Co., Bel Air		(2.2)		413,600
Ohio–15A17: Mad River Twp. L.S.D., Dayton		(2.2)		181,697
Calif–47A17: Victor Valley Jt. U.H.S.D		(2.1)		69,700
Calif–57A18–1: Chula Vista City S.D		(2.1)		242,820
Ohio–1103A17: Heath City S.D		(2.1)		27,930
Calif–1409A17: Buckeye U.E.S.D		(2.0)		10,660
Conn–3A19: Town of Groton		(2.0)		548,948
Ill–1503A20: Manteno Comm. U.S.D. #5	(2.0)		21,735	
N. Dak–501A17: Grand Forks Pub. S.D. #1		(2.0)		251,712
Ill–1506A20: E.S.D. #114, Manhattan		(1.8)		5,635
Kans–1803A18: Unif. S.D. #247, Cherokee		(1.8)		13,020
Calif–1516A18: Fountain Valley S.D		(1.7)		111,150
Ill–1505A18: New Lenox Dist. #122		(1.7)		19,740
Calif–234A18: Livermore Valley Jt. Unif. S.D		(1.6)		147,915
Tex–508A17: Pottsboro Common S.D		(1.6)		6,376
Calif–45A18: South Bay U.S.D., Imperial Beach		(1.4)		65,835
N. Mex–12A19: Las Cruces S.D. #2		(1.4)		141,520
Mo–1505A18: Hazelwood S.D		(1.3)		148,740
Calif–1203A17: Apple Valley S.D		(1.2)		9,840
Ohio–429A19: Southeast L.S.D., Ravenna		(1.2)		22,910
Calif–42A17: Seeley U.S.D		(1.1)		6,396
Tex–504B17: North East I.S.D., San Antonio		(1.1)		389,532
Calif–1516A2: Fountain Valley S.D	(1.0)		114,240	
Ill–1603A19: Joliet Twp. H.S.D. #204		(1.0)		45,135
Calif–57A17: Chula Vista City S.D		(.9)		91,020
R.I.–2A17: Town of N. Kingstown Sch. Dept		(.9)		33,440
Colo–12A20: Harrison S.D. #2, Colo. Spgs		(.8)		32,625
Ill–1604A20: Lincoln-Way H.S.D. #210	(.8)		9,660	
Va–501B17: City of Newport News Sch. Bd		(.8)		394,669
N.Y–409A17: Common S.D. #2, Blooming Grove		(.7)		39,537
Calif–40A19: Barstow Unif. S.D		(.6)		11,457
Calif–34A18–1: Oceanside U.S.D		(.5)		71,478
Nebr–7B17: S.D. #2, Grand Island		(.5)		22,808
Ill–1508A21: Bradley E.S.D. #61	(.2)		2,685	

Note: Zero priority applications, subpriority order—Figures in parentheses denote subpriority.

THE TRAGEDY IN ULSTER—VIEW OF THE LONDON SUNDAY TIMES

Mr. KENNEDY. Mr. President, with every passing week, the tragedy in Northern Ireland is compounded. The violence and the killing continue unabated, and the cries of the innocent victims go unheeded.

Two weeks ago, the Senator from Connecticut (Mr. RIBICOFF) and I submitted Senate Resolution 180, in an effort to arouse the conscience of the Senate and concerned peoples everywhere to the real honor of the tragedy that is taking place today in Ulster. A companion resolution was submitted in the House of Representatives by Representative HUGH CAREY of Brooklyn.

Our resolution called for a number of basic steps to be taken to end the crisis, including the withdrawal of British troops and the restoration of law enforcement to local control acceptable to all the parties, and a commitment to the

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reunification of Ireland. In the weeks and months to come, I intend to speak out again and again on this issue, and I hope that the resolution will receive the consideration of every Member of the Congress.

One of the most perceptive analyses of the situation in Ulster is contained in an important article in the London Sunday Times on September 19, 1971. The article describes the rising tide of death, destruction, and despair in Ulster, and makes the point that the cost of Britain's strenuous effort to maintain the status quo has now become unbearable. As a result, the article calls for profound and basic changes in Britain's relation to Northern Ireland, changes of the sort I believe are essential if peace is ever to come again to that troubled land.

Mr. President, I believe that the article will be of interest to all Senators who are concerned with the situation in Northern Ireland. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sunday Times, London, Sept. 19, 1971]

END OF THE OLD ULSTER—BEGIN THE PEACE

The Irish agony is moving towards resolution. Whether the resolution is in blood or reasoned argument depends to a great extent on two gatherings in the next eight days. Tomorrow a week the heads of the three Governments in the British Isles meet at Chequers. It is a last chance for a negotiated peace. Before their meeting, the special session at Westminster on Wednesday and Thursday could greatly strengthen Mr. Heath in pursuing with his fellow Prime Ministers the clear and imaginative line vital to a settlement.

British parliamentarians anxious to pull British troops clear of this ancient morass will first need to ask how the Heath Government stumbled so deep into it. Last week's signing of internment orders on no fewer than 219 IRA suspects gave the clue. Partly out of sloth, partly out of barrenness of ideas, partly out of a care that nothing should make waves for the Market boat, the Government's prime concern has been to keep the Stormont system in being at almost any cost; and that has meant agreeing to virtually anything the Northern Ireland Premier of the moment might ask as the means to keep his followers' hands from his throat.

The cost has been paid; and it has mounted steadily. It is counted not just in the deaths of twenty-three British soldiers but in rising despair among more than half a million members of the Northern minority. Until lately—until last week, even—it could still be decently argued that the cost was bearable. Not now. No nation can make systematic large-scale use of imprisonment without trial and expect his moral health to survive unimpaired. It is said but it must be said: Mr. Maudling never more clearly showed his total failure to measure up to his Irish responsibilities than when he allowed Mr. Faulkner to confirm the internment of those 219 men.

The crushing blow to his own hopes of persuading Opposition MPs from Stormont to take part in his own planned but purposeless talks is the best of the ill consequences. The worst grew from the fact the British Government is acting as the tool of a discredited Stormont administration. That list of men in prison is not Mr. Maudling's list. It is not, in its entirety the Army's list. It is a list authenticated by Mr. Faulkner with the Orange lodges at his back. The very least that Mr. Maudling should have insisted on was that the judge to check it should be drawn from England. A Northern Ireland tribunal, whatever the calibre of the individual men, is not acceptable to the Catholic minority and ought not to be acceptable to the British Government. It is on the say-so of Mr. Faulkner that the United Kingdom now joins the proud company of Greece, Portugal and South Africa as a country where a man against whom no charge will stick may still have his spirit broken by being held in prison without prospect of release.

FAULKNER'S DANEGELD

The interment order is not the last demand note which will be presented to the British Government. Mr. Faulkner is already losing ground again in the esteem of the hard men of the Unionist Party—men who may demand what they like of their leader because their party's permanent majority means that there can be no electoral sanction for bad government, and who choose to demand more and more repressive military measures in a struggle which military measures can demonstrably never win. Unless a halt is called, Mr. Faulkner will be back for more Danegeld; and if not he, then an accelerating line of his successors, each one with his fitness for office more directly proportionate to his negligible freedom of action. The next demand will be for the re-forming of that shabby Protestant-supremacist militia, the B men: the one after that will be for the eviction, by British soldiers, of tenants who withhold their rent as part of the Catholic civil disobedience campaign. Twelve thousand British soldiers, fearsomely equipped, are in effect on loan to men for whom the political use of intimidation is as familiar and comforting as a glass of stout.

The attempt to shore up Stormont must be abandoned. The existing system will not work decently, and no amount of tinkering will make it. Proportional representation? Supernumary institutions to give Catholics certain powers in certain areas? Sticking-plaster on a burst boiler. After interment, the minority will never again give its consent to being governed by the majority; and it is too large to be governed without. The present Northern Ireland state has no future. The problem of the Ulster Protestants was badly answered in 1921: a new answer must be found in 1971.

This week's parliamentary debate will be an occasion to evaluate some of the suggestions already canvassed. To have a chance of success, any new dispensation must offer certain assurances to each of the interested parties. To the majority in the North it must offer both continued association with the Crown and freedom from that fear of submergence in the Catholic South which is the more respectable part of the collective Protestant psychology. To the minority it must offer equal rights and fulfilment of their urge to self-determination. To the Republic it must offer the kind of stability throughout the island without which no part of it can prosper. To Britain it must offer military, even if it cannot offer financial, disengagement.

None of these conditions can be met without altering one thing in particular: the Border. Through the territorial avarice of the founding fathers, the Border imprisons large numbers of Catholics (notably in Tyrone, Fermanagh and Londonderry City) under the dominance of Protestants and so makes each group live in fear of the other. MPs must therefore ignore mystic twaddle from Mr. Powell about the inviolable unity of the realm. Where its unity is at issue, the realm's frontier is a gerrymander of no more than fifty years' standing. They must also encourage Mr. Heath to understand the need that his meeting with Mr. Faulkner and Mr. Lynch a few days later should be the forerunner of a full-scale constitutional conference.

DIRECT RULE

Mr. Heath would do well to make other uses of his Chequers meeting, too. He should require from Mr. Faulkner a speedy Bill outlawing religious discrimination, on the lines of the British Race Relations Act, which would move into the murky area of unfair hiring by private employers so signally untouched by the Ulster reform programme. He should demand that the holding of any guns in private hands be made illegal: this would at any rate curb the growth of the problem and make it easier for the Army to proceed against people who still held them. More important, he should insist that Westminster should recover total control of security, including the operation of the Special Powers Act and responsibility for the review of internment—which should follow at once. But, most important of all, he should get Mr. Faulkner's agreement to a constitutional conference from which no issues and no interested participants should be excluded.

There is some reason to believe that Mr. Lynch would be prepared to ease Mr. Faulkner's return to Belfast with this heavy message by publicly renouncing the Republic's classic aim of a reunified Ireland, at least in the foreseeable future. This could not be made a condition. If Mr. Faulkner will not finally agree to full constitutional discussions, then Mr. Heath—after due warning that this would be the inevitable consequence—should at once turn to the recourse which the British Government, with hindsight, might have been better advised to re-adopt at almost any point in the past two years: direct rule of Northern Ireland from Westminster. But this time there would be a clear proviso that it should last only so long as would be necessary to talk the whole matter to a settlement.

The Constitutional Commission which would then be appointed, with or without direct rule, would have no occasion to preside over the liquidation of Protestant Ulster. That would still survive—but in a form where its powers and its boundaries were in better tune with the economic and demographic realities. It would become a regional government within the United Kingdom, keeping its parliament as a regional assembly and its civil service as a regional administration, but sacrificing residual and ultimate authority to Westminster. London rather than Belfast would be responsible for internal order and impartial govesnment.

Among matters to be negotiated would be how many of the present Six Counties the new Ulster should keep; whether it should be formally made into a Protestant ghetto by the buying out of Catholics left within it; what relationship it should have with the all-Ireland Council or Parliament which figured in Britain's declared plans for the island fifty years ago, and which might now come to life; and how social and welfare provisions in the Republic, newly burdened with a probable influx of Northern Catholics, could be underwritten by the United Kingdom.

An accommodation reached along those lines would give Ulster Protestants a new security worth far more than the shaky eminence they now occupy. But they could not be expected to perceive this all at once. Would they rise in wrath? It is the great imponderable. The mere possibility has so far been thought reason enough to eschew all thought about borders and powers altogether. But if the rising is to come, it will come anyway. It might be provoked by the whiff of constitutional talks; it is just as likely to be brought on by exasperation at another few months of unsuccessful British military action. Either way, it would turn into a fight between the Protestants and the British Army. That is not a prospect to be regarded with anything but horror. Yet, hard saying through it is, sooner or later the threat must be faced. It has dictated British policy in Ireland for too long. Ulster Protestants pride themselves on being practical people. Many of them could not fail to realise the pointlessness of sacrificing everything they had in defence of privileges which have become a burden to them.

EXCLUDING THE IRA

There is another question which is just as difficult to answer: will the prospect of constitutional change check terrorism? It may not. Terrorist aims and organizations are anarchically diverse. The best reason for embarking on such change, as on Northern Ireland's original reform programme, is that it is right. We believe it will also be prudent, in that it will greatly diminish support for the IRA.

It comes down to a question of what the roots of terrorism are. In one or two places in Whitehall there is a wistful anxiety to believe a version of the international conspiracy theory: that the IRA is fed and watered by correspondence course from the Quebec Liberation Front and Sir Geoffrey Jackson's Tupamaros. The Army, who are fighting it, know that its real logistic base is profound Catholic distress and disillusion in the North and tenacious Catholic sympathy in the South. Only one thing now has any chance of altering that: a totally new constitutional deal for Ireland.

SOLAR ENERGY: THE ESCHER PROPOSAL

Mr. GRAVEL. Mr. President, is this country interested in advancing a system which could provide man with "a new, large-scale source of useful energy, food, pure water, and strategically important minerals?"

A system which would mean there need be no shortage of energy, food, or minerals for the world's present population commitment—in other words, no inevitable conflict over resources?

A system which does not produce the possibility of permanently poisoning the planet with radioactive waste, and does not produce mammoth amounts of nuclear bomb material all over the world?

Such a system using solar energy is outlined in a paper called "Helios-Poseidon, a Macro System for the Production of Storable, Transportable Energy and Foodstuffs from the Sun and the Sea," by William J. D. Escher, July 1971. The description quoted above is from page 3 of that paper.

Mr. President, I ask unanimous consent that the paper be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, unfortunately the diagrams in Mr. Escher's paper cannot be reproduced here, but they can be requested from Mr. Escher, whose address is Post Office Box 189, St. Johns, Mich.

The paper "Helios-Poseidon" is a 15-page "preview" document of a paper which Mr. Escher is preparing for presentation at the American Chemical Society in April 1972. The full paper will probably be available from Mr. Escher in the second part of November 1971.

Individuals who see the merit in his proposal will probably be interested also in an article called "Liquid Hydrogen as a Fuel for the Future," by Lawrence W. Jones, in the October 22, 1971 issue of Science magazine.

The solar energy system proposed by Mr. Escher is yet another indication that we could have a "sunshine economy" instead of a "plutonium economy," and that nuclear fission is definitely not the only or the best way to meet man's energy appetite.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

HELIOS-POSEIDON: A MACRO SYSTEM FOR THE PRODUCTION OF STORABLE, TRANSPORTABLE ENERGY AND FOODSTUFFS FROM THE SUN AND THE SEA

(By William J. D. Escher)

PREFACE

The proposed technical paper (title page) has been accepted for presentation in the session entitled "Non-fossil Chemical Fuels" scheduled for the Fuel Chemistry Division at the American Chemical Society National Meeting on April 9–14, 1972, to be held in Boston, Massachusetts.

The session co-chairmen are Dr. Derek P. Gregory, Assistant Director—Engineering Research, and Dr. Daniel Y. C. Ng, Manager—Special Projects, both of the Institute of Gas Technology, Chicago, Illinois.

The subject matter of the paper will be extracted from a wide number of technical areas associated with several unrelated professional disciplines and areas of industrial and scientific endeavor. The writing of it will be more in the nature of a conceptual synthesis, in contrast to the presentation of the results of analysis or the reporting of research in progress. This particular tack is felt to be entirely consistent with the future-looking nature of the session in which the paper will be presented.

Accordingly, the writer plans to consult actively with a number of specialists in the various areas of technology involved. These efforts are currently underway.

The purpose of this preliminary outline description, then, is to provide systems-level visibility into the paper's basic intent and scope for individuals and institutions who may be in contact with the writer during the preparation period of the paper. Appreciation is expressed in advance for the comments or assistance which may be provided in this conceptual synthesis effort.

St. Johns, Mich., July 25, 1971.

WILLIAM J. D. ESCHER.

ISSUES ADDRESSED

The background issues addressed in this paper represent a set of critical, first-order problems which are of long-range significance nationally and globally. Two general categories are involved: (1) Limitations of the Earth's natural resources, particularly those representing energy reserves and those resources associated with the production of food, and (2) Degradation of the Earth's ambient environment as this impinges on its fundamental habitability.

Under these two category-breakouts can be listed those notable problems which must be faced up to by the inhabitants of this planet, and which are seriously aggravated by the unprecedented rate of human population growth.

Viewing the situation of natural resources limitations, we note:

1. *Fossil-fuel runout*, as our finite reserves of natural gas, liquid petroleum constituents, and coal (in increasing order of remaining reserves) are consumed at ever-increasing rates in the decades ahead, to fuel man's energy-conversion needs.

2. *Depletion of natural fissionable materials* in present-day reactors, although breeder-reactor technology holds promise of alleviating such depletion by way of producing man-made equivalent fuel for future reserves.

3. *Peaking-out of "normal" agricultural production* as full use of productive farmland resources are approached, and practical limits in the advancement of conventional farming technology (synthetic fertilizers, irrigation techniques, pesticides and herbicide products, etc. advancements) are reached.

4. *Fresh-water sources taxed* severely by population centers to the extent water-rationing is frequently resorted to in matching supply and demand.

5. *Certain Metals and Process Chemicals in short supply*, particularly in the instance of national emergencies.

As factors of environmental degradation, we of the "developed nations" especially are exposed to these situations:

1. *Polluted air resource* as a result of emissions produced in the production of electrical power from fossil-fuel sources, in the manufacture of materials and products, and in segments of our transportation system—particularly automotive units.

2. *Polluted water resources* from the discharge of waste chemicals, sewage and agricultural-runoffs of chemical fertilizers, pesticides and animal wastes into our streams, rivers, estuaries and lakes.

3. *Undesirable consequences of thermal rejection*, principally from electrical generating stations (nuclear plants are worse offenders than fossil-fuel units), on aquatic life-forms, and in conjunction with excess nutrient-loading (item 2 above), producing eutrophication damage to our bodies of water.

4. *Potential localized and general ambient contamination by radiological constituents* associated with both normal and abnormal (i.e., accidental or induced "incidents") operation of nuclear reactors and the preparation and disposal of fissionable fuel over its life-cycle.

5. *Excessive background noise-level* in and near population centers from manufacturing, construction, transportation units, etc.

This dire listing does not pretend to be "all-inclusive"—although many of the first-order problems we currently are involved with outside of direct political, social and economic areas of concern, would seem to have been touched upon.

Rather, it is this *problem-set* which the conceptual Macro System next to be introduced hopefully offers a potential capability to counter or otherwise ameliorate.

PROBLEM STATEMENT

Develop a feasible technical approach which, in the face of escalating national and world population burdens—compounded by the simultaneous striving for increased standard of living and social affluence—will provide:

1. An adequate *energy-form supply* capable of delivery to any point in the world, and being capable of both conversion to electrical power and direct local heat-release to provide power needs.

2. A new and plentiful source of *food* for human consumption, particularly high-quality protein bearing foodstuffs, capable of being transported globally and stored for extended durations.

3. Supplementary sources of *fresh-water* for drinking, sanitary, and manufacturing-process applications.

4. An alternative source of certain strategically-important *metals and chemicals*, otherwise in danger of being in short supply on either a national or global basis.

Any candidate approach(es) must function, in effecting these provisions, with a minimum of environmental degradation in terms of chemical, thermal, radiological and biological contamination, either locally or accumulatively on a global basis.

More succinctly, restating the need: a new, large-scale source of useful energy, food, pure water, and strategically-important minerals—which offers *benign environmental interaction*—is required.

OVERVIEW OF THE CANDIDATE CONCEPT

A very large-scale, movable (i.e., free-floating) ocean-borne complex is envisioned which operates on incident solar energy. Purified water is prepared from ocean water by

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distillation as feedstock for deeply submerged electrolytic cells suspended from the floating surface assembly. Electrical power in the form of high voltage dc current is generated by solar-powered Rankine cycle dynamic turbine generators which operate during those daylight hours where solar energy can be effectively collected and concentrated by large mirrors of sufficiently good optical figure to create maximal practical temperatures at the focal-point boiler heat exchangers.

This electrical generation system and the associated transmission cables will be cryocooled with liquid hydrogen to maximize conversion efficiency and to minimize resistive losses in transmission to the depths. This will also serve to minimize the mass of conductive material required (e.g., copper, aluminum).

Directly linked to the solar/electric conversion system, and hence operating only during daylight hours, the electrolytic cells convert the distilled water feedstock to gaseous hydrogen and oxygen (at the stoichiometric ratio: O/F is 8:1 by mass, 1:2 by volume at the same temperature and pressure in the vicinity of ambient). Since electrolysis is conducted under ambient pressure, but at depth, the gaseous products are at high pressure with reference to the surface (differential gas/liquid hydrostatic head). Storage over a diurnal cycle of system operation is carried out in thin-walled containers at depth.

A portion of the hydrogen and oxygen is utilized at approximately a constant rate via an efficient static or dynamic energy conversion system to provide electrical power for around-the-clock operation of the entire complex. The remainder of the products are liquefied and stored at the surface as ambient-pressure cryogenics. The bulk of the electrical power requirement is for the liquefaction process which goes on continuously.

Large ocean-going cryogenic tankers transport the liquid hydrogen and liquid oxygen products to ports around the globe, where this energy form will be consumed, stored, or further transported inland by vehicular or pipeline means. A broad number of efficient hydrogen-oxygen, or hydrogen-air energy conversion devices is foreseen for various end-use applications such as transportation units, electrical peaking plants, etc.

These utility-serving cryogenically fueled devices can be made to operate without environmentally polluting emissions, and also with the absence of noise. Also, since the thermal efficiency of the envisioned energy conversion devices can be relatively high (vis-a-vis Brayton and Rankine cycle machines), specific thermal rejection of the converters is made minimal. (Fruitful use of the waste heat must, it is felt, be considered).

The exhaust product of these energy conversion devices is water at, dependent on system internal cleanliness, high purity. This can in the case of large-consumption units, e.g. an electrical generation station, be used to augment or supplant the local conventional water supply. Purified water can also be derived at the ocean-borne complex from the hydrogen-oxygen/electrical power converters and/or from the original solar powered distillation system by enlarging its capacity over that required for electrolytic cell feedstock production. For the latter, there must be added the cost of transportation of the product water, whereas as byproduct of the energy conversion process at population centers, the pure water is delivered automatically near the point of need.

Cold ocean water from the depth is used as a thermal sink for the operation of the entire ocean-borne complex, i.e. the macro system being described. The efficiency of the Rankine cycle, and any other vapor-liquid condensing power cycles will be thereby improved by minimizing the sink temperature. This cooling water, raised in temperature in the various component systems of the complex, is returned to the depth and so discharged into the colder waters as to induce large-scale convective upwelling of nutrient-ladened (e.g. nitrates, phosphates) depth water to the vicinity of the surface. Here, solar-energy driven utilization of these nutrients to provide edible aquatic forms takes place via photosynthesis and the establishment of favorable predator ecosystem chains.

Extraction of selected constituents of the resulting artificially-induced ecosystem, which will be "seeded" and "cultivated" appropriately to yield an optimal mix of seafoods, is carried out in the vicinity of the complex. Advanced fishing/marine-harvesting technology will be employed. Preparation of the resulting foodstuffs for subsequent preservation and shipment to world ports follows, with cryogenic means of cooling/freezing of the products being consistent with the intrinsic capability of the complex.

Finally, extraction of selected minerals and metals can presumably be efficiently carried out—at marketable prices with shipping costs included—as a result of one or more of the following attributes of the ocean-borne macro system:

1. Electrical power generation equipment is available in large scale, with the advantages of cryocooling
2. Mineral constituents of sea water will be concentrated in the preparation of the distilled water electrolytic cell feedstock
3. A physically stable and large platform is made available for in-situ extraction on and under the ocean surface
4. A sizable sink for extraction-process thermal and chemical rejection is available, well away from any population centers
5. Ocean-going transport facilities for shipping the extracted material and finished products are available at the complex

Summarizing, a candidate concept has been qualitatively sketched out in this section which provides a storable, transportable energy form (cryogenic hydrogen and oxygen); foodstuffs capable of long-range and extended shipping stretches; pure water at sites where the energy form is to be converted; and a favorable basis for the extraction of strategically important minerals from the sea.

The net environmental degradation which will be sustained in operating the macro system thus synthesized would seem to be dramatically reduced from the non "systems-engineered" applications of today's technology. At the same time, to be outlined in the next section, no really "new technology" is required to engineer the candidate concept.

NOTING TECHNOLOGICAL SOURCES

Before further description of the subject macro system is introduced, it is perhaps appropriate to briefly note some of the extant technology areas—and exemplary sources of demonstrated capability—which are likely to be drawn upon in the preparation of the paper. Here are several of the principal areas involved:

1. Developments over the past decade of solar-dynamic power generation systems, both of Rankine and Brayton design, in space-program supported advanced research and development.

(Example: NASA/TRW "Sunflower" project)

2. Large-area, low-cost, deployable reflecting materials which have very high reflective efficiency in the visible range.

(Example: NASA/Schjeldahl aluminized thin-film Yor Project "Echo")

3. Demonstration of very efficient and practical hydrogen-oxygen energy conversion devices, and new concepts currently being explored in both dynamic and static converters.

(Example: NASA/Pratt & Whitney Apollo H_2/O_2 Fuel Cells)

4. Work undertaken on cryocooled and superconducting generator/alternators and motors in several countries.

(Example: MIT project RP-92 sponsored by the Edison Electric Institute)

5. Resistive cryogenic and super conducting power transmission cable project activity now at the exploratory and demonstration point.

(Example: Linde-Union Carbide Corporation project RP-78-7 under Edison Electric Institute sponsorship)

6. Well-established state of development for large, long-lived electrolytic cells for the production of hydrogen and oxygen, with particular note of the potential for high-pressure, high-temperature electrolysis for improvement in efficiency and reduction in specific hardware requirements.

(Example: Line of commercially available "Stuart" cells from The Electrolyser Corporation, Ltd., Toronto)

7. Present (and projected, given a demand) capability for large-tonnage production and liquefaction plants for cryogenic oxygen and hydrogen.

(Example: Linde-Union Carbide Corporation's 60 Ton/day liquid hydrogen plant at Sacramento (presently deactivated due to the drop in demand from the space program)).

8. Demonstration of the practicability of large-scale ocean-going cryogenic tankers, with over 30 units ordered presently.

(Example: 28,000 ton capacity pair of tankers servicing the Richfield-Marathon Cooks Inlet, Alaska source for shipment to Japan).

9. Many diverse activities reflecting a phenomenal potential in Marine Farming, some of which utilize nutrient depth-water brought to the surface in the same manner as natural upwelling such as the rich fishing grounds of the Peru current system.

(Example: Lamont-Doherty Geological Observatory of Columbia University Project on St. Croix).

10. Routine production of a number of metals and minerals from sea water.

(Example: Magnesium and bromine production by Dow Chemical).

11. Routine use of cryogenic nitrogen for food freezing and refrigeration.

(Example: "Polarstream" truck and trailer installations by Linde-Union Carbide).

SOLAR ENERGY COLLECTION CHARACTERISTICS

From the standpoint of an earthbound solar energy collection system, the following principal factors and influences will affect the starting-point energy collection process:

1. Solar constant at Earth's solar radius (mean).
2. Atmospheric attenuation—a function of climatic, weather, altitude and sun-angle (horizon reference) effects.
3. Diurnal and seasonal sun-exposure cycles.

Item number one is, of course, an invariant "given" factor for the whole problem, whereas the remaining aspects—although fundamentally non-controllable—can at least have their limiting influences ameliorated to some extent by the selection of such circumstances as an optimal locale weatherwise, moving the collector seasonally, etc.

OCEAN RESOURCE CHARACTERISTICS

The Earth's oceans represent an enormous potential source and sink for conducting the energy and mass conversions under study. One is perhaps tempted to bring into play the term "inexhaustible" as a descriptor.

Water, both as H_2O and as hydrogen and oxygen its elemental constituents, is basic to the energy conversion and distribution function of the candidate macro system. As noted this water (pure) will be likely separated from sea-water by solar distillation.

The concentration of the two principal inorganic nutrients reflected markedly increase with depth. Also, the water temperature is seen to decrease with depth on the same general scale-magnitude. The combination of these facets of the oceans establishes the potential for the foodstuff-production goal of the macro system.

MACRO SYSTEM DESCRIPTION

Macro system level

Inputs are (1) Radiant energy from the sun and, (2) Mass from the sea. As well, the latter resource provides a thermal sink. Outputs (principal) are (1) Hydrogen and oxygen in storable, transportable cryogenic form, and, (2) Foodstuffs in the form of a variety of high-protein sea-foods. Although the collateral production of mineral substances, e.g. metal products, and pure water has been also cited, these are held as secondary, potential outputs for the purpose of the paper.

Constituent systems

Continuing to use self-explanatory block-diagram format, these are the six basic systems to be interfaced in comprising the macro system:

1. Solar/Electric Conversion System.
2. Water Purifier System.
3. Electrolytic Cells System.
4. Chemical/Electric Conversion System.
5. Cryogenic Liquefaction System.
6. Marine Farming System.

IN CLOSING

This "preview" of a forthcoming technical paper provides (1) a statement of the goals of the subject large-scale system, and (2) delineates a "trial" technical approach toward its synthesis. However, it is not to be implied that the "final" version of the ambitious project which we have labeled symbolically, Helios-Poseidon, will be identical to that configuration called out herein. Constituent systems may change in detail, or their entirety. And the method of tying the systems together may be modified, or change entirely.

Also, it is evident that this booklet presents an entirely *qualitative* picture, no numbers appear in the description.

It is proposed that the paper itself will go much further in the direction of optimizing the macro system synthesis, and quantifying its operation. Hopefully this will also include at least a first-order economic analysis.

But a large number of inputs are required by the writer before the above can be accomplished. As can be seen, many different normally-disparate fields are involved here. As an approach, the writer plans to play the role of a "generalist" in system synthesis, whereas it is hoped that dialogue with specialists in the individual disciplines involved will take place to provide this input.

Toward this end, the writer welcomes any and all comments and criticism at this point. Consideration of these can only improve the worth of the paper itself. Naturally all assistance of substance will be formally acknowledged in the published version, and courtesy copies supplied upon request.

It is hoped that the paper will represent a contribution of some significance to our long-range future welfare and well-being, both nationally and on a worldwide basis also.

PERSONAL RÉSUMÉ

(By William J. D. Escher)

Present Employer: Escher Technology Associates, St. Johns, Michigan (Owner and Founding Associate).

Address/Telephone: P.O. Box 189, St. Johns, Mich. 48879, 517/224-6726.

Education: BS in Engineering—The George Washington University, undergraduate studies at Cornell and Cleveland State University. Graduate studies at UCLA and the Univ. of Southern California, in systems engineering and aerospace management.

Professional Societies: National Society of Professional Engineers, American Institute of Aeronautics and Astronautics, Marine Technology Society, Cryogenic Society of America, Cornell Society of Engineers and British Interplanetary Society (Fellow).

Patents and Copyrights: Sole author of 5 patents, 3 of which are owned. Additional invention disclosures being processed by clients and former employers. Two copyright claims.

Honors and Awards: Twice cited for outstanding job performance (U.S. Naval Research Laboratory and The Marquardt Company), and received significant monetary awards for patent disclosures submitted (NASA and Rocketdyne).

Military Service: Two-years (1953–1955) U.S. Army in guided missile developments at Redstone Arsenal, Alabama. Honorable separation.

Publications: Approximately 50 papers and reports, several articles in national-circulation journals, and two motion picture films.

Professional Experience: Nineteen years in advanced-technology oriented research and development projects in government, private industry and (currently) in private practice.

BUSING TO ACHIEVE RACIAL BALANCE

Mr. BROCK. Mr. President, the results of the latest Gallup poll on the subject of busing to achieve racial balance appeared in this morning's Washington Post, further reinforcing a growing conviction that opposition to massive busing programs cuts across geographical as well as racial and political lines to add up to an impressive 76 percent who oppose busing children from one school zone to another for this reason. I ask unanimous consent that the results of this poll be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

76 PERCENT OF PUBLIC OPPOSES BUSING

(By George Gallup)

PRINCETON, N.J., Oct. 31.—In the latest nationwide survey, three in every four persons, voice opposition to the busing of Negro and white children from one school district to another.

Although an increasing number of school districts, particularly in the South, have followed court orders to bus students to achieve a better racial balance, opposition has remained firm. Both the latest survey and the previous one in late August show only 18 per cent in favor of busing.

However, views on busing have softened somewhat since a still earlier survey in the spring of 1970, when 11 per cent of all adults interviewed expressed support of busing.

The latest survey is based on in person interviews with 1,506 adults, 18 and older, in approximately 300 scientifically selected localities across the nation. Interviewing for the latest survey was conducted Oct. 8–11.

All persons who said they had heard or read about the issue were asked this question:

In general, do you favor or oppose the busing of Negro and white school children from one school district to another?

As the following table shows, overwhelming opposition to busing is found in all four major regions of the nation, particularly the South.

Whites, both in the South and outside the South, oppose busing, while a fairly close division of opinion is found among Negroes.

The national results and results by key groups.

[In percent]

	Favor	Oppose	No opinion
National	18	76	6
Whites	15	79	6
Negroes	45	47	8
East	22	71	7
Midwest	16	77	7
South	14	82	4
Far West	21	72	7

In a test election in which President Nixon is pitted against Sen. Edmund Muskie of Maine and Gov. George Wallace of Alabama, supporters of all three express overwhelming opposition to busing, as seen in the following table:

[In percent]

	Favor	Oppose	No opinion
Wallace supporters	8	89	3
Nixon supporters	10	85	5
Muskie supporters	25	65	8

Among the reasons given by those who oppose busing (1) Children should go to school where they live—busing is not fair to them nor to their parents; (2) it's an unneeded expense—the money could be better spent improving the quality of education for both races; (3) the time spent on long bus trips is enervating and a waste of time.

The chief reasons given by those in favor of busing are that busing will upgrade the quality of education for Negroes and in the long run will improve race relations in the nation.

URBAN CORRIDORS REVISITED

Mr. PELL. Mr. President, more than a year ago when the Senate was considering the passage of the Amtrak legistion, I suggested the consideration of an amendment which would have focused the legislation primarily on the provision of rail passenger service in the country's urban corridors.

I suggest this approach for a very simple economic reason. Passenger trains are usually economically viable only in densely populated urban corridors which are usually substantially less than 500 miles. For greater distances the airplane is unbeatable. For distances under 50 miles, the automobile or mass transit is unbeatable.

Unfortunately, my suggestions were not heeded; and Congress gave Amtrak the responsibility of attempting to run an economically viable system of both long distance and urban corridor service.

Consequently, I do not think that Congress should be surprised that Amtrak has asked us for additional funds to make up for the large losses that have been incurred on long-distance runs. My hope is that in our consideration of an additional grant to Amtrak we will also give consideration to the provision of loans and loan guarantees for improvements in roadbeds and facilities in urban corridors which have the capability of generating sufficient passenger revenues to repay those loans.

I was particularly struck by the recent report of the Interstate Commerce Com-

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mission on the operations of Amtrak. That report confirms what I had predicted more than a year ago: that the only profits made by Amtrak trains would be in the urban corridors, and the largest losses would be incurred on long-distance runs.

I ask unanimous consent that excerpts from the ICC report be printed at this point in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

INTERSTATE COMMERCE COMMISSION REPORT TO THE PRESIDENT AND THE CONGRESS

STATE OF PASSENGER SERVICE EFFECTIVENESS OF THE ACT

Highlights

Purpose of the Report

This report is submitted to the President and the Congress in accordance with Section 308(b) of the Rail Passenger Service Act of 1970, which required the Commission to report on the state of rail passenger service and the effectiveness of the Act. Because most of the passenger service is operated by National Rail Passenger Corporation (Amtrak), our report will deal primarily with the Amtrak operations.

Findings and Conclusions

Financial

Amtrak is substantially underfinanced and thus lacks the resources to make an evaluation of intercity rail passenger service.

Substantial additional funds are needed for present and future operations.

Substantial operating losses should be anticipated for many years.

Funds should be provided specifically for capital improvements and for research.

Operations

Scheduling deficiencies remain.

Additional equipment is needed.

An inequitable fare structure, inherited from the railroads, should be revised.

On-time train performance should be improved.

Train discontinuances

Present statutory discontinuance procedures should be changed to require at least a 30-day notice to the public prior to the discontinuance of trains not in the basic system.

Reporting dates

Amtrak's reporting period should be changed to a calendar year basis.

The Commission and the Department of Transportation should make their reports after the submission of Amtrak's report.

Recommendations

We recommend that Amtrak be given additional resources to enable it to make a proper determination of the intercity rail passenger service needs of the public. Consideration should be given to an immediate review of its present and long term financial needs. In providing additional financing we recommend that funds should be provided specifically for capital improvements and research and development of rail passenger service. If additional funds are merely provided to subsidize operating losses this will not promote the use of rail passenger service. Therefore substantial sums would have to be committed to improving the roadbed, improving the equipment, and refurbishing or relocating terminals.

Our other recommendations, the details of which are contained in this report, are designed to correct other deficiencies summarized above under the heading *"Findings and Conclusions"*.

Operating results by train

The breakdown requirement which allocates revenues and expenses by train does not present a fair statement of net income by train, since station expenses, certain station revenues and maintenance of way expenses are not allocated to trains. Accordingly, a summary of train net losses will not include all costs billed to Amtrak by the rail carriers.

However, in order to provide some measure of profit or loss by train, we allocated station expenses, revenue and maintenance of way expenses to trains on a proportional dollar basis for actual bills received in May and June.

The detail of our restated profit and loss by trains is contained in Appendix M. In summary, our computations indicate that practically all profitable trains were operated by Penn Central in the New York-Washington, D.C., corridor. Except for a few isolated cases, all other trains operated at a loss for the period. Although Penn Central billed Amtrak $3,689,018 to cover passenger losses for May, the passenger operations between New York and Washington showed a net profit of $93,484. Following is a summary of train net income and losses by point served for the month of May for all trains operated, except for Southern Pacific, which has not submitted a breakdown by train to Amtrak.

PROFIT OR LOSS BY TRAIN—MAY 1971

The Atchison, Topeka & Santa Fe Railway Co.

Point to point:	*Net profit (loss)*
Chicago-Houston	($617,816)
Chicago-Los Angeles	(1,178,879)
Los Angeles-San Diego	(104,894)
Net loss	(1,901,589)

Burlington Northern

Chicago-San Francisco/Oakland	(344,895)
Chicago-Twin Cities-Seattle	(785,803)
Seattle-Portland	(91,605)
Seattle-San Francisco/Oakland-San Diego	(17,825)
Net loss	(1,239,588)

Baltimore & Ohio/Chesapeake & Ohio Railroad Co.

Norfolk/Newport News	
Washington-Chicago	(271,715)
Net loss	(271,715)

Chicago, Milwaukee, St. Paul & Pacific

Chicago-Milwaukee	(163,677)
Discontinued—points served not available from Amtrak schedule	767
Chicago-Twin Cities-Seattle	(201,524)
Columbus Special	(2,843)
Net Loss	(367,277)

Gulf, Mobile & Ohio

Chicago-Springfield-St. Louis	(256,255)
Net loss	(256,255)

Illinois Central

Chicago-Carbondale	(436,345)
Net loss	(436,345)

Louisville and Nashville

Chicago-Tampa/St. Petersburg and Miami	(100,596)
Net loss	(100,596)

Missouri Pacific

New York-St. Louis-Kansas City	(150,341)
Net loss	(150,341)

Penn Central Transportation

Point to point—Con.	*Net profit (loss)*
New York-Tampa-St. Petersburg	(102,344)
New York-Boston	(389,028)
New York-St. Louis-Kansas City	(605,448)
Chicago-Detroit	(179,263)
Washington-St. Louis-Kansas City	(57,384)
New York-Philadelphia-Harrisburg	(62,999)
New York-Hartford-Springfield	(69,686)
New York-Pittsburgh-Chicago	(834,115)
New York-Albany-Buffalo	(915,742)
New Haven-Hartford-Springfield	(26,107)
Chicago-Cincinnati	(398,367)
Washington-Pittsburgh - Chicago	(83,171)
Harrisburg-Philadelphia	(79,547)
Philadelphia-Paoli	3,250
Washington-Boston	17,449
Net loss	(3,689,018)

Richmond, Fredericksburg, & Potomac

New York-Tampa/St. Petersburg and Miami (via Wash, Raleigh, Colum.)	(75,320)
New York-Miami	(58,045)
New York-Tampa/St. Petersburg (via Washington and Charleston)	(56,622)
Special NRHS	1,580
Net loss	(188,607)

Seaboard Coast Line

Chicago-Tampa/St. Petersburg-Miami (via Lafayette-Louisville)	(422,309)
New York-Tampa/St. Petersburg-Miami (via Washington, Raleigh, Columbia	(605,882)
New York-Miami	(519,808)
New York-Tampa/St. Petersburg-Miami (via Washington-Charleston)	(550,820)
Net loss	(2,098,819)

Union Pacific

Chicago-San Francisco/Oakland (tri-weekly between Denver and Oakland)	(98,612)
Net loss	(98,612)

Southern Pacific

Not provided	(711,155)
	(711,155)
Net loss—all railroads	(11,509,917)

Penn Central contends that passenger operations constitute the principal service and freight the byproduct in the Boston-Washington corridor, and further that the cost reimbursement provisions of the Amtrak contract are not just and reasonable for this territory of operations. Penn Central has petitioned that the Commission be directed to institute a current study to determine the proper share of expenses which should be assumed by Amtrak in the Boston-Washington corridor.

As can be seen from the foregoing, the trains operated over long distances incurred the greatest losses. These trains, principally operated by the Atchison, Topeka and Santa Fe, Seaboard Coast Line, and Burlington Northern, generally utilized less than 50% of their passenger capacity.

Mr. PELL. Mr. President, while I believe that it may not be wise to eliminate long-distance passenger service completely, I believe that when we in Congress decide to provide additional funds and loans to Amtrak, we should give careful consideration to focusing the investment of those funds in our country's congested urban corridors.

The Outlook section of the Washington Post, for Sunday, October 3, contains an excellent analysis of Amtrak's problem with long-distance trains and urban-corridor trains. I believe that the article provides some helpful information, so I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A FAST TRACK TO NOWHERE?

(By Robert J. Samuelson)

Six months after its start, Amtrak—the corporation that Congress created last year to save intercity passenger trains from extinction—is emerging as an exercise in wishful thinking.

Passenger patronage remains low, and Amtrak's finances are in deplorable shape. The company has already asked for $170 million more in federal funding. If Congress approves the request, the federal commitment to Amtrak will total $310 million. Yet the ples for more money may be only a harbinger of things to come; the final figure could go much higher.

It wasn't supposed to be this way. In Amtrak, Congress saw the best of all possible worlds. The original legislation envisioned that Amtrak, after an initial injection of federal funds, would turn a profit. Not only would there be a profit, freeing congressmen from the sticky issue of permanent subsidy, but by reviving passenger trains, Amtrak would help alleviate other transportation problems—highway and airport congestion. It would be one step towards a "balanced transportation system."

All these goals sit loftily in the Amtrak legislation, but almost anyone who has seriously followed Amtrak's painful beginning has realized that either the job is too big or the money is too small. Ultimately, Congress will be forced to increase its subsidies substantially or reconcile itself to a smaller system. By attempting to straddle the issue—another distinct possibility—it will simply deprive a few urbanized "corridors" of the expensive, high-speed trains that probably offer the only real promise of carrying significant numbers of passengers and diverting some traffic from airlines and cars.

VEXING PROBLEMS

Six months is not a very long time, and the extent of Amtrak's troubles is confused by a number of vexing problems that can probably be remedied—a history of poor service (inherited from private railroads), which has discouraged patronage; outmoded work rules that have raised costs; poor equipment; a 19th century reservations system; and an inhibiting alliance with private railroads, which still run most passenger trains under contracts from Amtrak.

Taken together, however, even these liabilities fail to account fully for the magnitude of Amtrak's problems. By its own estimate, Amtrak will spend nearly $2 for every $1 paid by passengers during the next two years. It will collect $333 million in revenues, but costs will total an estimated $610 million, resulting in a $277 million operating deficit. Atop this loss is the $147 million Amtrak plans to spend on new equipment to attract passengers back to the railroads.

These expenses will quickly exhaust the original funding—nearly $200 million from private railroads (as a price for abandoning their service to Amtrak), a $40 million federal grant, and a $100 million federally guaranteed loan. If the evidence from Canada, where a much more serious attempt has been made to preserve passenger service, is any indication, the losses will not be quickly reversed. Last year, the Canadian National spent $152 million on passenger trains and collected only $67 million (in Canadian dollars) from customers, resulting in an $85 million deficit. Canadian National now wants to discontinue 15 of its trains.

FUNDAMENTAL QUESTIONS

The obstacles impeding Congress' goal of self-sufficiency are staggering, and the questions underlying Amtrak's problems are basic.

Who, for example, wants to ride long-distance passenger trains? Amtrak has many lengthy routes, such as Chicago to New Orleans and Chicago to Seattle. But travelers have not shifted to planes and cars out of whimsy, and convincing large numbers to return to railroads will be difficult.

Except on some relatively short routes—New York to Washington, or New York to Boston, for example—passenger trains cannot come close to duplicating the airlines' time savings, which are so crucial to winning the loyalty of traveling businessmen. The airlines estimate that approximately half their revenues stem from business trips.

What about vacationers? Here the picture is not very comforting either. If they are not as time conscious as businessmen, vacationers are certainly price conscious. Amtrak is no bargain. A 16-hour trip from Washington to Chicago costs $43.25 in coach and $84.50 in a roomette, against $59 for the air fare and $33.95 for a bus ticket.

More importantly, the automobile is probably cheapest of all for a vacationing family. The 685-mile road trip from Washington to Chicago is likely to cost about $20 for gas and $9.05 for tolls. Perhaps the driver should count wear-and-tear on his car as a cost, but he probably doesn't. Perhaps his costs should also include a component for the intangible liabilities that highways create—pollution, destroyed neighborhoods, marred woodlands—but until someone figures out a way to calculate these, and until governments do the unpopular deed of writing the formula into law, the average driver won't count these costs either. On most family trips, then, trains will remain at a hopeless price disadvantage.

But even if Amtrak succeeded beyond the wildest hopes of its enthusiasts, how much could it relieve highway and airport congestion? Probably not much.

Some additional statistics are sobering. In 1970, intercity airline travel amounted to approximately ten times train travel (bus travel was 2½ times the train total), but intercity automobile travel was nine times the combined total of planes, trains and buses. Car travel is rising all the time, and it does not take an IBM–360 to calculate that even a phenomenal jump in train ridership can have only a limited impact on car movement.

The prospects for relieving some pressure on airports are probably more real, although these opportunities, too, are restricted. At major airports, short-haul travelers (those flying less than 500 miles) account for a large percentage of traffic. In Chicago, for example, about 46 per cent of all passengers fall into this category, according to a recent staff study at the Civil Aeronautics Board. In Washington, the comparable figure, according to the CAB study, is 67 per cent, and in San Francisco 51 per cent.

For various reasons, not all of these flights, of course, would make good, quick train rides. In San Francisco, air traffic to and from Los Angeles accounts for about 30 per cent of the total, but it seems improbable that trains could capture a large percentage of this traffic, although the distance is less than 500 miles. The train ride is nearly 10 hours, 9 more than a plane trip, and the cost is about the same—$16 for the train, $16.50 for the plane.

But there are places where the addition of quick trains can have an impact. The Metroliner probably offers the best example. In 1968, New York-Washington airline traffic (including Philadelphia) represented nearly 25 per cent of the Washington airports' total. Introduction of Metroliner service in early 1969—there was only one daily roundtrip then; there will be 12 next month—has apparently blunted air traffic growth (the economic slowdown has undoubtedly had an effect). In the second half of 1969, the airlines carried 810,000 passengers between New York and Washington; in the first half of this year, the figure was 731,000. During the same period, Metroliner riders between the two cities rose from 143,000 to 195,000.

If these figures are encouraging, most other rider statistics hold little consolation for Amtrack. Improving service—something which, by all accounts, Amtrak has done—may be essential to winning riders on relatively short routes, but even continental hospitality and graciousness may not be enough to neutralize the realities of time and cost on longer trips.

Not surprisingly, then, travel on medium-length and long-haul routes remains relatively light. Monitoring passengers at different cities along 36 routes during September, Amtrak found that on only three routes—New York to Washington, New York to Boston, and New York to Philadelphia—did daily customers exceed 1,000 at any one stop. Typical were the two daily trains between New York and Chicago via Cleveland; at Cleveland, a good middle measuring point, the daily average during the week of Sept. 13 was 105 passengers, an average of 52.5 per train. Runs like these are amassing Amtrak's deficits.

POLITICS VERSUS ECONOMICS

At the heart of Amtrak's troubles is a fundamental contradiction between the political and economic realities of its survival. Politically, a nationwide train system had been perceived as the *sine qua non* for sufficient congressional support to guarantee passage of the original legislation; now Amtrak thinks it needs an extensive train network to assure a friendly congressional atmosphere for additional funding.

The fears are understandable. Earlier this year, when the Department of Transportation reduced the trains Amtrak would run from 1970's 360 to 184, the walls from Capitol Hill were heard for months. The result: Amtrak restored service through the districts of a number of key members of Congress whose complaints were bitterest and whose power was most conspicuous—specifically, Senate Majority Leader Mike Mansfield (D-Mont.), and Rep. Harley O. Staggers (D-W. Va.), chairman of the House Interstate and Foreign Commerce Committee, which oversees Amtrak's affairs.

If Amtrak's politics seems to argue for a national system, the economics are quite something else. Economically, only a regional system, concentrating on relatively short corridors between large cities, might conceivably pass Congress' profit test: that is, cover its own expenses and generate sufficient revenue to permit Amtrak to borrow enough to improve bumpy roadbeds and buy new equipment.

Such an approach was considered—and shunned in Congress last year when the Amtrak legislation (then known as Railpax) was passed. The proposal, offered by Sens. Edward M. Kennedy (D-Mass.) and Claiborne Pell (D-R.I.), who feared that a national system would work to the detriment of the Northeast corridor, was withdrawn before ever coming to a vote for lack of sufficient support.

A TEST FOR MID-1973

The choice, however, is bound to arise again. No one really knows how many rail corridors there are where fast trains could attract enough patronage to help relieve airline or auto traffic. The number may be extremely small. And conceivably, as aviator

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interests sometimes argue, the emergence of Short-Takeoff-and-Landing (STOL) aircraft will doom rails even in the densely populated Northeast corridor. (The Department of Transportation, for one, doubts STOL's potency; DOT argues that higher costs and community opposition to new STOL airports will hamper the plane's commercial development.)

Moreover, if the government decides to test the corridor concept, the cost of installing rapid trains that have any chance of succeeding will probably be higher than is commonly imagined. Roadbed and track conditions in most of the country are such that trains cannot run faster than 70 to 90 miles an hour—speeds that can accommodate freight trains but not rapid passenger service.

In the Northeast corridor alone, DOT estimates the cost of its program—reducing the New York–Washington time from the current three hours to two, and cutting Boston–New York trips from 4½ hours to 2¾ hours—at $450 million. Given the bureaucratic propensity to underestimate costs, the final price might be significantly higher. And who knows the cost in other potential corridors: Detroit–Chicago, Chicago–St. Louis or Los Angeles–San Diego?

The national-system issue will be forced by July 1, 1973, if not sooner. On that date, the original Amtrak legislation allows the company to begin discontinuing trains that lose substantial amounts of money. Amtrak's own cash projections show almost no funds left by that time, even if Congress approves its newest request for $170 million. Many administration officials hint that they expect discontinuances. If they are right, the current outlays would amount to little more than an expensive and pointless holding action.

Congress, on the other hand, may well embrace a program of larger subsidies. There is a long subsidy tradition in transportation. Since 1950 alone the regional airlines have received more than $700 million in aid. The merchant marine since the mid-'30s has been receiving federal subsidies that now total more than $4 billion. And interstate highways, through the gasoline tax and trust fund, receive about $5 billion annually.

Passenger trains could join the list. By requiring Amtrak to run an extensive national train system and simultaneously to achieve financial self-sufficiency, Congress create two fictions in one piece of legislation. Someday it will have to disown one or the other.

ROLE OF THE FBI IN AMERICAN LIFE

Mr. CURTIS. Mr. President, the self-styled Committee for Public Justice has begun its so-called objective inquiry into the role of the FBI in American life. Considerable publicity was given prior to this inquiry conducted at Princeton University on October 29 and 30, 1971, and particularly to the fact that FBI Director J. Edgar Hoover had declined to have the FBI represented.

I think it should be noted that several newspapers agreed with Mr. Hoover's position in this regard. Two newspapers so commented editorially on October 19, 1971. They are the Omaha, Nebr., World-Herald and the Dallas, Tex., Morning News.

I also think it would be beneficial to all to read Mr. Hoover's entire communication to Mr. Duane Lockard in response to Mr. Lockard's invitation to Mr. Hoover to send an FBI representative to the conference at Princeton. Mr. President, I ask unanimous consent that the two editorials and Mr. Hoover's letter to Mr. Lockard, which the Committee for Public Justice has released, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Omaha (Nebr.) World-Herald, Oct. 19, 1971]

HOOVER SAYS NO

J. Edgar Hoover likes to play the horses, and it appears that he knows a fixed race when he sees one. He has refused to allow his agency's participation in a conference that seems to have been set up to give the FBI a hard time.

The meeting will be held at the end of October at Princeton University. It will be called an "Inquiry into the Role of the FBI in American Life." Prominent among the sponsors is former Atty. Gen. Ramsey Clark, who has tried to keep himself in the public eye lately by criticizing the FBI. A Princeton spokesman warned Hoover in advance that participants in the conference would have a critical approach.

In refusing to let the FBI take part, Hoover said the agency would be placed in the role of defendant before any evidence was brought out.

The decision probably will bring Hoover and the FBI another measure of criticism. But we believe Hoover chose the proper response. If any investigation of the FBI is needed, it should be done formally by Congress. The "inquiry" at Princeton shapes up as a witch hunt, and it is hard to blame the chief witch for not wanting to cooperate.

[From the Dallas (Tex.) Morning News, Oct. 19, 1971]

FBI ON "TRIAL"

The department of politics at Princeton University has asked J. Edgar Hoover to take part in its "Inquiry Into the Role of the FBI in American Life." Hoover's 7-page response tells why the FBI chief declines to be a defendant at his own trial.

He can't see any gain, Hoover has written the inquiry people, in putting the FBI into the role of defendant even before the evidence is gathered.

He doesn't mention the fact that his old boss, former Atty. Gen. Ramsey Clark—with whom he has since traded criticism—is one of the sponsors of the study. But the mere appearance of Clark's name is tip-off enough that this will be more an inquisition than an inquiry.

Princeton probably didn't really hope to get Hoover but his appearance would have guaranteed a great "trial." The panel of lawyers, writers and scholars (where are the law-enforcement people?) is reported eager to hear what Hoover has to say in his own defense.

It reminds us of the trial of Faithful in "Pilgrim's Progress," where the judge says, "Thou runagate, heretic and traitor dost thou hear what these honorable gentlemen have witnessed against thee?"

Even so, says Hoover, he's confident of "acquittal" if the evidence is fully developed and made public. The public verdict then should be that the FBI is doing its lawful job as well as anybody could.

Sure—but who said anything about a public verdict? This trial, Mr. Hoover, doesn't go by the rules of evidence.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., October 17, 1971.

MR. DUANE LOCKARD,
Department of Politics,
Princeton University,
Princeton, N.J.

DEAR MR. LOCKARD: Thank you for your letter of September 28, 1971, extending to me an invitation for a representative of the FBI to "strongly defend the Bureau and its role" during the forthcoming October conference which will, in your words, focus "primarily on the Federal Bureau of Investigation." We were aware of the plans for the conference, having read the announcements in the press, and some related remarks, critical of the FBI attributed to persons who apparently will be among the "judges" hearing this case. For example, the press reported, and attributed to persons who appeared to be both spokesmen for your group and "judges" at the inquiry, that ". . . the study could be criticized as being stacked against the FBI," that the FBI is not a "disenthralled seeker of truth," and that "the FBI for reasons I find unfortunate became ideological some time back and this put a scale over its eyes."

While I should like to believe that the correlation between your own words casting us in the role of a defendant, and the critical remarks made by some of the "judges" before the fact-finding inquiry had even begun is one of pure coincidence only, you will understand from that coincidence why I immediately recalled with some amusement the story of the frontier judge who said he would first give the defendant a fair trial and then hang him.

We acknowledge and appreciate your invitation to "defend," but we are declining in view of our serious doubt that any worthwhile purpose could be served by an FBI representative attending an inquiry casting him in the role of defendant before even the first fact is brought out, and condemned by the "judges" before trial begins. It simply is asking too much that any FBI representative appear personally under those circumstances. For that reason I shall try to explain briefly in this letter some of the facts of the FBI "defense," hoping that they will be considered material during the deliberations of your group and in any public reports which you may issue later.

Basically, our position is that the FBI need tailor no special "defense" of its own for this occasion. The basic facts on how the FBI is organized and how it discharges its duties have been so well known for so long, and to so many responsible persons, that they are obvious to all except those who are so blind that they do not wish to see.

The duties assigned to us seem as good a place as any to start. We are well aware that some complain of these claiming infringement on what they contend to be their rights and liberties. There are bank robbers who believe that we should not investigate bank robberies, and thieves and others charged with crimes after investigation who condemn us in court and out. More recently three are those who bomb, riot, and destroy both human life and property for what they claim to be more sophisticated reasons and who resent our investigations as an intrusion into what they esteem to be matters of their own conscience only. We frequently are the targets of personal abuse, of the most vile invectives at the command of both the totalitarian right and the totalitarian left. Yet, neither these nor those who appear to sympathize with them seem willing to publicly admit the basic and obvious fact that our investigative duties are not of our own choosing. They were delivered to us, with the requirement that we take all necessary action, by laws passed by the Congress and by rules and regulations laid down by the President and the Attorney General. We are forever in the unenviable position of the policeman being assaulted by the mob. He neither enacts the law nor judges the legality of it, but it usually is he, and he alone, who must dodge the brickbats hurled by those protesting against it. Any genuine fact-finding inquiry concerning the FBI will admit and underscore these facts.

In performing the duties assigned to us, we are not at all a law unto ourselves as some of our critics would have the American people believe. There are many who monitor us in some way or other; they are a system of checks and balances on the manner in which we perform our duties. Senators and Representatives are interested in how we work. They are free to express their interest and they often do so, individually or collectively. We must investigate our cases to the satisfaction of the Department of Justice, and within the context of such rules as it lays down for us. Our work must satisfy the United States Attorney, who makes an independent decision on whether the case we bring before him will or will not be prosecuted. The United States Magistrate exercises a supervisory authority to accept or reject the adequacy of our reasons shown for asking for an arrest warrant or a search warrant. Our cases which pass the inspection of our monitors up to this point then go before the Federal courts in the uncounted thousands. I am sure you will agree that our work is carefully evaluated in those forums.

In sum, we say that there are many who exercise some official vigilance over the manner in which the FBI performs its duties, that they are to be found in each of the three branches of Government, and that our performance has won the approval of the great majority of them. If your group doubts that the FBI has performed so well, we suggest a fact-finding poll of all living Presidents, Attorneys General, United States Senators, United States Representatives, United States Attorneys, United States Magistrates (and former Commissioners), and Federal judges, with all questions and all answers spread upon the public record so that the people of this nation might see for themselves. Perhaps we are mistaken, but we do believe that if this were done the "defense" of the FBI would be made by others highly qualified, and that it would be one on which we could rest our case.

If it be thought inappropriate to question some, such as the Federal judges, because they must remain impartial at all times, your group could accomplish the same fact-finding results by conducting a review of all reported Federal court decisions in cases investigated by the FBI during the past decade, or as far beyond that as you wish to go to make certain that your study has the necessary depth. You can list and cite for public view all such decisions, calling particular attention to those in which the courts have disapproved our action, and showing the percentage of those cases against the total of all that we have brought to the courts. I assume here that you would also call public attention to those decisions in which the courts have spoken well of FBI work. Further, we suggest that you consider, and report on, the Miranda Rule, the Mallory Rule, the Jencks Rule, the rule on fair line-ups, the arrest and search and seizure requirements of the Fourth Amendment, and all the many other rules laid down for control of the Special Agent or other law enforcement officers investigating a criminal case. You will find that we have set an excellent record for obedience to them. With relatively few exceptions our work has met with the approval of the Federal judges. The few exceptions concern us for we know that law enforcement, dealing constantly with those human rights held most sacred, theoretically has no tolerance for error. We know, of course, that we do err, but it is our request that the error be viewed in context and that we be granted the same tolerance extended to others for an occasional mistake.

We venture to suggest one condition which should be set on such polls. If one person in a group is to be polled, all should be polled and all should be reported openly and completely. Honest fact-finding admits of nothing less. If the FBI, investigating a criminal case, were to bring a witness against the accused and in any manner deliberately hide the many who would testify in his favor, you would be outraged and justifiably so. We would feel a sense of outrage at similar conduct directed against us. The technique of making one dissenter appear to be representative of a large group which, in fact, is not in agreement with him is a technique of deception and one which any court of inquiry ought to abhor.

I have been speaking of the fact that we try hard to merit the approval of the many who officially monitor our work, and apparently with a reasonable degree of success. We do more than that; we try to improve the investigatory process in those areas in which we are allowed some discretion. Examples of our innovation in this direction are in the public record and should be among the facts of official interest to your group. I shall call a few to your attention.

For centuries the common law which we brought with us from England has held that an officer lawfully may shoot a fleeing felon to prevent his escape. We found that power unnecessary for our particular purposes, and rejected it. The FBI rule now is, and long has been, that a Special Agent or other FBI officer may shoot only in self-defense or the defense of others. If the observance of this rule allows a fleeing felon to escape, we hopefully will apprehend him another day. The rule innovated by the FBI, on its own initiative, raises the sanctity of a human life a notch above that required by the law. We consider this to be significant and hope that you agree.

We have innovated improvements in other areas. During the past decade, Presidents, Governors, Attorneys General, legislators, and others have emphasized the need for police training and education. The FBI saw that need a long time ago. Our FBI National Academy, a 12-week course for selected police officers from states, counties, and cities, and some from friendly foreign nations, opened in 1935 and has been in continuous operation since that time. It is now being substantially expanded. More than 5,000 officers have received this instruction and we have been led to believe that at least the great majority consider it a contribution to better law enforcement.

In a quite different area, the FBI Laboratory has innovated for more effective and humanitarian law enforcement. During recent years, the Supreme Court and the lower courts have emphasized the humanitarian approach toward proving criminal cases more by physical evidence and less by confessions taken from the accused. We like to believe that they have done so on learning that the FBI Laboratory, established in 1932, proved that in many cases it can be done. Scientific examination of evidence leads to proof of guilt or innocence quite independent of anything said by the accused. We are as proud of the cases showing innocence as of those showing guilt and have not been reluctant to say so. That fact should be of interest to your group, for it is another example of professional and humanitarian law enforcement at its best.

Possibly even more important, we have innovated our own rules to better protect the constitutional rights of the accused. I am sure that at least most of those who attend your conference hailed as a great step forward the decision of the Supreme Court in the *Miranda* case which, briefly stated, grants the accused in custody a right to say nothing and a right to a lawyer. Do they know, also, that for decades prior to the Supreme Court edict in *Miranda*, all Special Agents of the FBI were, by our own house rule, over and above the requirements of the courts, advising criminal subjects of those same rights? The Supreme Court willingly took cognizance of that fact in the text of the *Miranda* decision in remarks quite laudatory of the FBI. Please note those remarks in *Miranda* v. *Arizona*, 384 U.S. 436, at 483 (1968), where the Court, speaking through Chief Justice Warren, stated, in part, that "Over the years the Federal Bureau of Investigation has compiled an exemplary record of effective law enforcement. . . ." I suggest that no fact-finding investigation of the FBI would be complete without calling public attention to those words of the Supreme Court.

We have innovated other rules which should commend themselves to you. For example, in recent years the Supreme Court has strongly emphasized the desirability of making arrests and searches by warrant, a protection for the citizen (and the officer) against overreaching by the officer whether by honest mistake or otherwise. That rule has been the FBI rule and practice for decades.

In short, we in the FBI have ourselves innovated on our own initiative, above and beyond the legal and administrative requirements laid down upon us, rules and practices designed for more lawful and humanitarian enforcement of the criminal law. This is a part of our "defense" and we hope that your group will consider it a fact worthy of being brought to public attention.

To do the work of the FBI we have assembled a staff which I believe is so capable that any deep and fair fact-finding study will find it to be one of outstanding honesty and ability. We have sought to develop and enforce work rules to guarantee the taxpayer a day's work, and even a little more, for a day's pay. We have tried to keep our employees free of the corrosive influence of bribery which sometimes has weakened an otherwise honest and effective law enforcement agency. We have admittedly demanded of FBI employees a standard of morality which could be approved by the majority of the American people. On a few occasions we have been told by those who officially monitor us that we have been too strict, but I submit to public judgment the view that in a law enforcement agency, a tax-supported institution, if there is to be error it should be on the side of being too strict rather than being too loose.

It is precisely in this area of employee relations that we have had a few of our most vocal critics. I think it inevitable in any large organization; some will disagree with the rules and some will disobey them. Yet, in our view, discipline is an absolute necessity. An undisciplined law enforcement agency is a menace to society. And discipline, I should add, must have many facets, not the least of which is to curb the enthusiasm of an overzealous Special Agent or official who, in his pursuit of the alleged criminal or subversive, tends to rationalize toward the belief that the end justifies the means, bitterly condemning the curbs on his zeal as a handcuff on what he alleges to be modern and efficient law enforcement. I trust that you will agree.

Here I may as well frankly recognize the fact that your group probably will hear criticism from former Special Agents of the FBI. I trust that you will review that criticism, and report it in proper context. Neither you nor I, nor any other person, can manage a large organization to the total satisfaction of all employees. You have the opportunity of placing this criticism in proper balance if you will take full note of the evidence favorable to the FBI. There is an organization known as The Society of Former Special Agents of the FBI, wholly private and in no way a part of the Government, whose members number in the thousands. It is unique, I believe, in the annals of Government employment. The organization exists, or so I have been told, because its members are proud of having served in the FBI. If your scales of justice are well balanced, I am sure that you will find that the views of these many greatly outweigh those of a dissident few and I think that fairness requires that the views of the many be so well represented in your inquiry that the difference in weight is made obvious.

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Somewhat related to these problems is that of decision making. I believe it my duty to encourage a full expression of employee views on FBI problems, and I do so encourage, quite contrary to statements made by some of the critics. I believe it my duty, as the appointed head of the FBI, to review all views and make the final decision, except where it should be referred to higher authority. I believe it the duty of the employee, once the final decision is made, to either faithfully carry out the directive or marshal convincing proof that it is in error. I submit for judgment the belief that there is no other way to operate and efficient law enforcement organization.

Perhaps the earlier reference to enforcement of the law within the strictures of the law brings up the subject of wiretapping. Being sure that it will come up at your conference, I would like to ask a favor of your group in the interest of fairness. I would think they would wish to show in their report, if such be issued, that Federal law permits wiretapping under controlled circumstances. Further, that in each and every wiretapping, regardless of circumstances, the FBI first obtains the written approval of the Attorney General. Also, that with respect to the wiretapping which occurred before passage of the present Federal statute, the FBI followed the opinions of a long line of Attorneys General that wiretapping was legal. Your attention is called to 63 Yale Law Journal 792, where the then Deputy Attorney General of the United States said, in part, that "It has long been the position of the Department of Justice that the mere interception of telephone communications is not prohibited by Federal law . . . every Attorney General, commencing with William D. Mitchell in 1931, has endorsed the desirability and need for the use of wiretapping as an investigative technique in certain types of cases." All these facts may be well known to your group, but for some reason they often are omitted in public charges that wiretapping by the FBI is without lawful basis. Some critics would have the public believe that the FBI has acted totally outside the law, when the fact is that we simply followed the legal advice given to us by the Attorney General. Your group can set the record straight for all to see, and I hope that you will do so.

These remarks cover the salient points of our "defense" and perhaps not so briefly as either of us might have wished. Obviously they do not cover everything. The ingenuity and the tenacity of our critics preclude a total answer. Were I to attempt to answer all charges I would be debating in this forum or that every day of the year, to the neglect of my duties. If I were to attempt to so answer, any critic could make any charge, even one totally fabricated, and force me into a forum of his own choosing. The result is that many charges must go unanswered. Some are false on their face, some are false by twisted innuendo, and some could be proved false only by the use of information which must be kept in confidence for legal or investigative reasons. This is not to deny that we, and I, have made mistakes. The judges and others sometimes have so advised us. We are only human.

One final thought. No remarks in our "defense" will still the voices of the critics, and these are not intended to do so. The critics have their rights of free speech under the First Amendment and I am sure they will continue to use those rights to the hilt. In at least many cases, we are denied an effective answer. As the Supreme Court has said so perceptively, ". . . it is the rare case where the denial overtakes the original charge. Denials, retractions, and corrections are not 'hot' news, and rarely receive the prominence of the original story." *Rosenblood v. Metromedia*, 39 L Ed 2d 296, 313 (1971). I hope that in bringing charges against us, if such be the case, you will bear in mind this handicap under which we must labor and bring it to public attention. Elementary fairness seems to so require. Moreover, a public official such as myself cannot successfully sue for libel or slander, even when the charges made against him are totally false, unless he can prove that those charges were made with actual malice. This is extremely difficult to prove, as anyone familiar with the recent court decisions on libel and slander well knows. The result is that in so many cases of criticism my only recourse is that of taking some personal pleasure in knowing that the critics have abundantly proven, in the reams and volumes that they have published, that one of their principal charges—that I am beyond criticism—is totally false.

I suggest that if evidence like that which I have briefly described here is fully developed and exposed to public view, the ultimate "verdict" must be that the FBI is a lawfully composed and operated public agency, staffed by honest and reasonably intelligent citizens doing a difficult job in the best way they know how and, moreover, doing it quite as well as it could be done by anyone else. While it may be quite true that we deserve some criticism, I think we also deserve an "acquittal." I think any deep and fair inquiry will command this result, and I remain hopeful of it despite the obviously partisan statements made by some of your group in announcing that the inquiry would be held.

Very truly yours,

JOHN EDGAR HOOVER,
Director.

THE REJECTION OF THE FOREIGN AID BILL

Mr. MONDALE. Mr. President, I recommend to the Senate a report yesterday by Charles Bailey, head of the Washington Bureau of the Minneapolis Tribune. His story quotes the President's counselor, Clark MacGregor, as describing the administration's legislative objective on the issue of foreign aid as being to "paint the Senate into a corner" by obtaining quick passage of a continuing resolution in the House.

Mr. MacGregor is further quoted as ascribing the defeat of the foreign aid bill to a temporary "mood" of anger and irritation.

Assuming that this accurately describes the administration's view of the Senate vote on the foreign aid bill, I am afraid that they have profoundly misunderstood the significance of that action.

Though I for one believe that the rejection of the entire aid bill was illadvised, I think we all have to recognize that this vote was the product of legitimate concerns over very real problems of both policy and administration in the conduct of our foreign aid program.

It will simply not do to dismiss so easily the many Senators who were longtime supporters of foreign aid, whose vote against the aid bill last Friday was cast after thoughtful consideration. We have only to read again the remarkable speech of the Senator from Idaho (Mr. CHURCH) as an example of the depth of feeling and analysis on this subject.

These problems with aid will not go away with some parliamentary tactic to embarrass or isolate the Senate. And they are certainly more than a passing irritation.

I believe we must revive the aid program. But there is no question that we must also reform it.

We can do neither if the administration fails to credit—as Mr. Bailey's story indicates—the seriousness and integrity of the Senate in dealing with the issue.

I ask unanimous consent that Charles Bailey's dispatch published in the Minneapolis Tribune be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NIXON FEELS AID BILL CAN BE REVIVED

(By Charles W. Bailey)

WASHINGTON D.C.—Nixon administration strategists are confident they can revive the foreign-aid program—killed by the Senate in a surprise vote last week—with the help of Democratic leaders in the House of Representatives.

Clark MacGregor, the former Minnesota congressman who is Mr. Nixon's top legislative counselor, told the Minneapolis Tribune Monday that he has "no doubt" that the Senate will reverse its action when it gets another chance to vote on the aid program.

MacGregor said he expects the House, with the backing of both Democratic and Republican leaders, will quickly approve a temporary extension of the aid program and send it to the Senate for another vote next week.

The objective, he said, is to "put pressure on the Senate to reverse itself—to paint the Senate into a corner by showing that a bipartisan foreign policy is still alive in the House though it may appear to be dead in the Senate . . . to show that the Senate is out of step with the House and with the President."

In an interview, MacGregor conceded that the administration might itself have contributed to the Senate rejection of the aid bill—by thinly veiled threats to veto the measure unless some restrictive clauses were removed, and Mr. Nixon's harsh words condemning the "glee" of some United Nations delegates after the world body rejected the U.S. proposal on Chinese representation.

But he said the main causes of the 41–27 vote to kill the program were the "unfortunate" timing of the vote, "a series of nagging irritating incidents" that angered key senators, and the disillusion of Democratic members of the Foreign Relations Committee after the Senate "rebuilt" the bill by striking out a number of committee provisions.

MacGregor, who left Washington before the Senate vote for a college football weekend and family reunion in Vermont, said the administration did not expect a vote Friday night—and did not anticipate that 27 senators would be absent when it came.

MacGregor said he checked with his aides at the Senate on Friday afternoon and then left town under the impression that there would be no problem over final passage of the bill. He said the fact that the administration had to concentrate on dealing with many amendments to the measure kept it from foreseeing the threat to the bill itself.

Mostly, however, MacGregor ascribed the Senate result to a "mood" in which "people got angry." He said that "if you could take the same bill, and bring it up, say, at 2 p.m. next Wednesday, it would pass."

He said House leaders and ranking committee members in both parties are being counted on to push a "continuing resolution"—a temporary expedient to keep the program going beyond its current Nov. 15 cutoff date while new permanent authorization is written—and also to move a formal appropriation bill through the House.

For the time being, MacGregor said, the administration is "asking some of our friends on the Senate Foreign Relations Committee to sit back and look the situation over" pending House acion.

The six active Republican members of that committee either voted for the bill or were announced in favor of it on the Senate roll-call. None of the committee's nine Democrats, who in the past have favored the program, voted for it.

MISSING IN ACTION OR PRISONERS OF WAR?

Mr. BAYH. Mr. President, I invite the attention of the Senate to an article entitled "Missing or Dead? Some POW Relatives Say They Are Misled by American Officials," published in the Wall Street Journal. This well-researched article tells the story of countless families who are still trying to guess whether their loved ones who have been classified as missing in action could possibly be prisoners of war or whether they are simply missing in action, because they are dead.

I am particularly aware of the pain involved in this guessing game, because Quentin R. Beecher is the son of close family friends of Marvella's and mine in Terre Haute, Ind. In 1967 Quentin crashed his helicopter 18 to 25 miles out in the South China Sea. There was no water-survival gear aboard, and an extensive 2-day rescue effort turned up nothing. Quentin's parents have long since come to the difficult conclusion that Quentin is dead. And yet, the Army will not remove their son from the list of those "Missing in Action." The resulting ambiguity is unsettling at best and suspect at worst.

Frankly, I have wondered if the reason for combining the prisoner-of-war numbers with the missing-in-action statistics is to boost the number of "war hostages" from 463 to around 1,600. Of course, this blurring of distinctions is necessary in some cases where true uncertainty exists as to the status of an individual. However, the bulk statistic of 1,600 prisoners has become more than a neutral figure; it has been used repeatedly by administrative sources as one important justification for staying in South Vietnam, despite the sincere protests of many—including myself—who believe that fruitful negotiations over prisoners can take place only after each side has made a forthright commitment to ending the war.

President Nixon has not yet shown the way to end the war; he has only taken steps to remove the war as an issue in 1972. But winding down the war will not secure the release of our prisoners; perhaps the administration understands the dilemma since we no longer hear the argument in favor of staying in Vietnam to secure the release of our prisoners. Just this summer, Republican National Chairman ROBERT DOLE said:

We have to be very candid about it. We don't want to stay there just for the prisoners, we don't want to get out just for the prisoners. They're very important, but they represent less than one half of one percent of the Americans who've died in Vietnam.

Meanwhile, countless families of the 1,600 young men must live with painful doubts—doubts over whether the term "missing in action" means their sons are prisoners of war or simply dead, and doubts as to whether the Government is really dedicated to securing the release of prisoners.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MISSING—OR DEAD? SOME "POW" RELATIVES SAY THEY ARE MISLED BY AMERICAN OFFICIALS

Four years ago, Mr. and Mrs. Samuel Beecher Jr. of Terre Haute, Ind., received a telegram from the Army:

"Your son Warrant Officer Quentin R. Beecher has been missing in Vietnam since 11 June 1967. . . ."

Two months later, the Beechers learned from the Army that their son's helicopter had run afoul of violent thunderstorms, become hopelessly lost, run out of fuel and gone down, not over a battlefield or an enemy sanctuary, but 18 to 25 miles out in the South China Sea. There wasn't any water-survival gear aboard. An extensive two-day rescue effort turned up nothing.

"It tooks us two torturous years, but we finally confronted reality," Mrs. Beecher says. Her husband, an attorney and a licensed pilot, adds, "I've crashed that helicopter a thousand times in my mind, and under those conditions there isn't any way Quentin could have made it."

CLASSIFYING THE MISSING

But the Army won't drop Quentin Beecher from the list of 1,610 servicemen missing in the Indochina conflict—a list that U.S. government officials prefer to call the Vietnam "prisoners of war/missing in action" (POW/MIA). Pointing to men who were declared dead in World War II and Korea but who later turned up alive, the Army, as well as the other military services, rules a Vietnam combatant missing and keeps him that way unless his body is discovered or an eyewitness is found. Because the laws of various states won't allow the wife of a missing man to remarry, Mr. Beecher had to arrange a Mexican divorce for his daughter-in-law.

The case of Quentin Beecher and his anguished parents typifies a development unheard of in previous U.S. wars. For as interviews with 70 other parents and wives in places like Virginia Beach, Va., Colorado Springs, Colo., and suburban Portland, Ore., show, a growing number of families of the missing contend that the military should have mercifully declared their loved ones dead long ago. And some also accuse the federal government of coldly stringing them along for selfish political reasons.

"I think they're misleading us for their own purposes," Mrs. Beecher says.

These parents and wives are aware of the problems of ever finding out what happened to crews of aircraft that explode in midair, to pilots of jets that never pull out of power dives and to infantrymen who just disappear in ominous jungles. Thus, these relatives concede that no man should be written off as dead when there is reasonable hope of finding him. But these families shake their heads in disbelief at U.S. policy, which was laid down in a June 1970 statement from the Defense Department. It said in part that "what we want from the enemy is . . . full accounting of all who are missing."

A PLOY FOR NEGOTIATIONS?

Some wives and parents go further. They believe that top-level U.S. policy makers are being deliberately misleading when they denounce the North Vietnamese as liars because the Hanoi officials say they can't produce an accounting of anything like 1,600 men. (North Vietnam has produced a list of 339 men it says have been captured. These wives and parents suspect that Washington's demand for the accounting is just a throwaway bargaining ploy for the Vietnam negotiations in Paris.

Many of these feelings surfaced earlier this week during a Washington meeting of the National League of Families of American Prisoners and Missing in Southeast Asia, the largest organization of its kind. Dissidents within the league picketed the White House and groaned over the remarks of at least one administration spokesman. They aimed a resolution at President Nixon that said the league "conveys to you . . . its extreme distress at the continuing failure to resolve the prisoner-of-war-missing-in-action tragedy."

Many families, however, do believe the government is doing the best job possible under difficult circumstances. Mrs. John K. Hardy Jr., wife of an Air Force officer shot down over North Vietnam, says she has had several meetings with presidential adviser Henry Kissinger and feels that "President Nixon can do something about the situation, he's the only one who can."

CLINGING TO HOPE

And as might be expected, many families cling to the hope, however faint, that Hanoi can account for their missing relative, that most of the 1,610 might in fact be alive. Mrs. Edward Beck, for instance, says she feels that her son, a Marine PFC who disappeared in South Vietnam, is a prisoner of the North. Producing a photo of prisoners in the North, she points to a man with his back to the camera and says she is convinced that he is her son. Other families, however, reportedly have identified this same man as their husband or son.

Such feelings often stem in part from the natural refusal to accept the death of a loved one, and in part from the vagueness of circumstances surrounding a man's disappearance. Whatever their basis, these intensely personal feelings have captured the imagination of official Washington.

The Pentagon concedes that as far as hard evidence goes, only 463 of the men on the list are thought to have been captured—378 of them in North Vietnam, 82 in South Vietnam and three in Laos. Nonetheless, a figure of about 1,600 has been used by administration officials and members of Congress.

At a March 4 news conference, President Nixon said that "There are 1,600 Americans in North Vietnamese jails under very difficult circumstances at the present time." (The White House subsequently said the figure used by Mr. Nixon referred to both those who are prisoners and those who are missing in action.)

The next month Defense Secretary Melvin Laird told crowds at the opening game of the major-league baseball season that "there are a great many men in uniform, some 1,600 of them who have not seen a ball game in a long time."

Last year, while telling a House subcommittee of his plans for a POW rally, Sen. Robert Dole of Kansas, chairman of the Republican National Committee, assured Congressmen that "we have not forgotten that there are almost 1,500 Americans who have been prisoners and who have been in danger not for two days, not for three days or four days."

The Senator's guess on the number of American GI prisoners was remarkably close to that contained in a concurrent Congressional resolution passed about the same time; it urged that "every possible effort" be made to obtain the release of prisoners. Part of its preamble stated that "1,500 American servicemen are imprisoned by Communist forces in Southeast Asia."

Asked for comment yesterday, White House Press Secretary Ronald L. Ziegler said: "In all of our fact sheets and virtually all of our statements, we break down the numbers between captured and missing." He added that "only on several occasions has the figure 1,600 been used, and then it was clearly stated that this referred to missing and captured." It is important, the press secretary said, "to apply the pressure to the other side—not here—to give the facts about the prisoners."

XUM

In February 1970, almost eight months after the Nixon administration took the wraps off the POW/MIA list, a public poll was conducted by Gallup International for Dallas computer magnate H. Ross Perot's POW group, United We Stand. It said 68% of those questioned had heard of the prisoner issue; of those, more than one-third estimated the number of prisoners at more than 2,000—higher than the politicians' top estimates.

Regardless of the actual number, the hopes of some families that their missing sons or husbands are still alive have been put to a severe test. Consider the case of Mrs. John Swanson, wife of an Air Force captain shot down four years ago while on a bombing mission over North Vietnam. (Like many other relatives of missing men, she has asked that her home town not be given to avoid nuisance telephone calls and mail.)

Several days after the crash, she received a letter from her husband's wing commander. It said that after Capt. Swanson's jet was hit by antiaircraft fire, he had headed for the sea, finally going down two miles off the coast of North Vietnam. "Although a good chute was sighted all the way to impact with the water," the letter said, "search and rescue personnel who arrived within 10 minutes were unable to rescue John."

Two months later, Mrs. Swanson received another letter, this time from the chief of the Air Force casualty section. Recounting earlier details, this letter said, "His ejection, fully deployed parachute and descent were observed by the pilot who had followed him."

What the Air Force didn't tell Mrs. Swanson she later found out from the pilot who had seen the chute. "He said it was very indefinite that my husband was even in that chute," Mrs. Swanson recalls. "He was very discouraging."

RAISING HOPES

But her hopes were raised almost two years later by yet another letter from the Air Force. This one said: "Intelligence information just received at this headquarters indicates that your husband may be a captive of the North Vietnamese. Unfortunately, the content of the information is extremely limited, and we are not absolutely certain of its reliability. . . . I cannot say anything more so as not to jeopardize the source."

Excited by the letter, Mrs. Swanson says she tried to elicit more information from the military. "They were closedmouthed about it, to say the least," she reports.

Confused, Mrs. Swanson turned to her only nonofficial source, the pilot who had followed her husband's plane out to sea. "I explained that I had received this letter," she says, "but he said that didn't alter the picture, that the odds aren't that good."

DELIBERATE EXPLOITATION?

While many of those among families of the missing accuse the federal government merely of badly handling the POW situation, a sizable number bitterly charge Washington with deliberately exploiting the bereaved for selfish political reasons.

One of those is Mrs. Louis Jones, whose husband was lost over Laos and whose brother was listed as missing and who never returned from Korea. She insists that families of the missing are being misled to believe that maintenance of a residual U.S. force in Vietnam is the only way to get an accounting of the missing.

"They tell us we can't trust the Communists, that we must keep a residual force in Vietnam until they account for the missing. Well, I wish my husband were held by the Australians. But he's not. If he's alive, he's held by the Communists, and these are the people we must deal with. If there were any living POWs who weren't allowed to return from Korea, it was probably because we still have a residual force there today."

Mrs. Jones adds that she isn't convinced living POWs were abandoned in Korea. But she also asserts that talk of a residual force for the sake of the missing is the administration's way of placating families, "of keeping us quiet."

Another is Mrs. Randolph Ford, whose husband, a Navy pilot, went down over North Vietnam in 1968 and who voted that same year for President Nixon. The Pentagon lists her husband as a prisoner, but Hanoi doesn't. "It shook me up when the administration made it appear we were there (in Vietnam) because of the POWs," she says angrily. "This is a bunch of bull. I resent using the POWs as an excuse to stay in Vietnam. Washington is just trying to save face."

Asserts Mrs. James Warner, whose son is a known prisoner and who headed the National League of Families in Michigan until she "resigned in disgust": "We've been used to drum up war sentiment."

PESSIMISM BY THE EXPERTS

Experts tend to be pessimistic about the chances of ever unraveling the fate of most of the missing. Bodies of those who have died in damp jungle areas are quick to decompose. Veterans fliers say that in cases of high-speed crashes, only a trained pathologist can possibly tell if human remains are in the wreckage.

And the experts are equally pessimistic about survival chances of those who were lost, alive, on the ground. Marine Lt. Col. Pat Caruthers, who heads up the Corp's rugged survival-training program, describes what it is like for a man lost in Vietnam.

"It depends on the terrain," he says. "If you're in elephant grass, it cuts your uniform to ribbons, and you usually don't have any medicine to stop the infection. If you're in the mountains, you've got rocks and bramble bush and just rough ground to put up with."

The colonel says that in any lowland area, rain becomes a problem: "Everything is under water, your feet look like prunes, any orifice or opening in the body becomes a problem, you get blood leeches which you can pick off all day, but all you do is open sores.

"If a man's not found within 10 days," the colonel concludes dryly, "he's got a real personal problem."

Late last year, Hanoi released a list of 339 men it identified as "pilots captured" in North Vietnam, along with a list of 20 GI's who, it said, had died of wounds or disease. The Vietcong have yet to release a list, but a spokesman told reporters in Paris this summer that a list of American prisoners held in South Vietnam would be released on the same date the U.S. begins a total withdrawal of troops from Southeast Asia. The Vietcong spokesman, Madame Nguyen Thi Binh, also said release of prisoners in both the North and the South would begin on that same date.

The Pathet Lao, a Hanoi ally not represented at the Paris peace talks, indicate only that they will "discuss prisoners when the U.S. pulls out of Laos." (Mrs. Stephen Hanson, whose husband, a Marine captain, was seen alive on the ground after his helicopter was shot down over Laos, says a high-ranking U.S. diplomat confided to her that there were "70 or 80" U.S. prisoners in Laos. State Department officials, however, say intelligence sources indicate the possibility of "around 30 men, and that's low-level stuff—things like reports of Caucasians spotted on the Ho Chi Minh Trail.")

Most families don't accept the Communist lists. But some are beginning to take those figures more seriously. "I can't see how the North Vietnamese can say somebody is dead or was never captured and then turn him up after the war," says Mrs. Billie Cartwright, wife of a Navy pilot missing over North Vietnam.

COMMUNIST READINESS?

About midyear, former Defense Secretary Clark Clifford, among others, began suggesting that the Communists were ready to deal: a list of all prisoners held in the South and their phased release to match a date for phased withdrawal of U.S. forces.

Since such suggestions became public, some families of the missing are complaining that the Nixon administration is changing its stand on the POW/MIA question. Mrs. William Mullen, wife of a Marine captain missing in Laos, recalls remarks by Defense Secretary Laird that apparently expressed U.S. policy last spring. At that time he told reporters: "We are willing to take every American out of Vietnam providing that (POW) question is settled."

Mrs. Mullen contrasts that stand with more recent comments by Press Secretary Ziegler. He said that a deal tied simply to the prisoners would impose "a deadline so precipitous that it wouldn't give the South Vietnamese the opportunity to defend themselves and determine their own future."

She also refers to Sen. Dole's statement this summer to CBS television reporter Bob Schieffer: "We have to be very candid about it. We don't want to stay there just for the prisoners, we don't want to get out just for the prisoners. They're very important, but they represent less than one half of one percent of the Americans who've died in Vietnam."

Referring to the U.S. officials, Mrs. Mullen observes: "They want to maintain their license to continue the war."

SHAKING UP WALL STREET

Mr. WILLIAMS. Mr. President, the Subcommittee on Securities, of which I am chairman, has begun a 2-year study of our Nation's securities markets. Perhaps the No. 1 goal of our study is the creation of a strong central market system. This goal cannot be created by a piecemeal approach and is not to be confused with the creation of a strong central marketplace through the regulatory suppression of competition.

M. J. Rossant, director of the Twentieth Century Fund, and an acknowledged expert in the field of securities, clearly and succinctly states the need for overall reform in an article which appeared in the October 21 New York Times. In my opinion, Mr. Rossant is 100-percent correct when he states that—

It has taken years of strain, culminating in the almost complete breakdown two years ago, to stimulate interest in reform of Wall Street. Now the movement appears in full swing. Congress and the Securities and Exchange Commission, both currently holding separate and frequently simultaneous hearings, are on the bandwagon of reform.

But we also must be careful not to perpetuate a system, such as fixed commission rates, which as Mr. Rossant so ably describes—"protect the inefficient firm and raise costs to investors."

Mr. Rossant concludes his article by stating:

There is more danger in proceeding with patchwork changes under the banner of reform than in taking the additional time and effort to decide just what market structure and what kind of market arrangements will best serve the economy and investors, large and small.

With this conclusion I wholeheartedly agree. It describes the spirit under which my subcommittee study is currently being undertaken and the results which we hope to ultimately achieve.

Mr. President, I enthusiastically recommend Mr. Rossant's article to all Senators who wish to be apprised of the problems now facing our Nation's securities markets and ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHAKING UP WALL STREET

(By M. J. Rossant)

It has taken years of strain, culminating in the almost complete break-down two years ago, to stimulate interest in reform of Wall Street. Now the movement appears in full swing. Congress and the Securities and Exchange Commission, both currently holding separate and frequently simultaneous hearings, are on the band-wagon of reform. So is the New York Stock Exchange. Its notions—and those of William McChesney Martin, at whose behest the Exchange's report on restructuring of the market place was prepared—have a hoary air about them.

The Exchange—and other groups making up the market place—have benefited from the delay in instituting reform. After initial resistance, which has been the New York Stock Exchange's traditional reaction to change, it agreed to the creation of the Securities Investor Protection Corporation for insuring clients against broker insolvency. It might have accepted other fundamental reforms of its anachronistic and slipshod practices when it was badly shattered by the failure of some of its members and the near-failure of others, but no serious move was made to do so because of the fear that it might lead to a full-fledged panic.

Since then the Exchange has recovered much of its aplomb and complacency. Its receptivity to reform is limited mainly to measuers that will protect or strengthen its own interests against the growing power of institutions and the advances in technology.

Admittedly, measures taken following deliberation are preferable to emergency action rushed through in the heat of crisis. Yet the present reform movement is unlikely to produce fundamental and significant changes on behalf of the investing public or the economy.

While the Martin report does propose a basic revamping of the market place, the kind of integrated structure it envisages, complete with specialists, fixed commission rates, exemption from antitrust legislation and other monopolistic features, would not represent progress. On the contrary, one knowledgeable observer has termed it a "great leap backward," which may be the reason it has the approval of many unreconstructed Exchange members. They have always fought against an encroachment on their way of doing business and regard the Martin report as an opportunity to regain all they have had to give up to competing markets and investing institutions.

But because the Exchange is no longer the invincible club with the prestige and power to cow either Congress or the Securities and Exchange Commission, it is doubtful that the more drastic recommendations of the Martin report will be adopted.

If institutions and their supporters are strong enough to prevent the "club" from having all its own way, it does not follow that they will succeed in getting all of theirs. What is much more likely is a deal between these two opposing interests rather than comprehensive reform.

The shape of things to come appears evident in the Exchange's new schedule of fixed commission charges on stock trades that, despite criticism from both member and nonmember firms who favor competitive and freely negotiated rates, has the S.E.C.'s blessing. It is demonstrable that fixed commissions protect the inefficient firm and raise costs to investors, but they seem to be here to stay.

Almost every other critical problem involving the market place—institutional members, the questionable use of customers securities and cash, the lack of competition, the lapses in self-regulation, the rise in conflicts of interest—require similar analysis rather than being settled piecemeal by compromises between competing interests.

There is more danger in proceeding with patchwork changes under the banner of reform than in taking the additional time and effort to decide just what market structure and what kind of market arrangements will best serve the economy and investors, large and small.

RETIRED FIREFIGHTER GOING STRONG AT 90

Mr. WILLIAMS. Mr. President, we often hear people speak of some men and women who seem to be "ageless" and who remain energetic, productive, and involved in events around them well past the time when society says they should be quietly put out to pasture.

One such truly "ageless" person is Mr. George W. Steele, of Union City, N.J., a retired firefighter who at the age of 90 still carries out his daily duties as State secretary of the New Jersey Firemen's Mutual Benevolent Association. Mr. Steele's story is a most encouraging one. I ask unanimous consent that a newspaper article concerning him be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ONLY 10 YEARS TO GO: "MR. FMBA" TO RETIRE—AT 100

Retired Fire Captain George W. Steele plans to retire from a "temporary" job he's had the past 55 years after about 10 more years—when he turns 100.

Until then, he plans to get up each weekday morning and walk the three blocks from his home to the Union City Fire Headquarters and his job as state secretary of the New Jersey Firemen's Mutual Benovolent Association, a job he took over "temporarily" back in 1916.

He's had the job ever since, and he's in no hurry to "retire" from it yet.

"I'll think about giving up this temporary job when I hit the century mark," said Steele, who is 90 years old.

Steele, who lives at 1405 Palisade Ave. began his fire fighting career in 1914 when he was appointed to serve with Truck 1 of the Union City Fire Department.

A year later, he joined the FMBA Local 12 and was quickly elected its state delegate. That's when he was asked to take on the FMBA secretaryship for a couple of weeks.

The "couple of weeks" quickly turned into a couple of years and Steele decided to keep his temporary job, even after he retired from the fire department with the rank of captain in 1947.

Steele knows the problems of fire fighting inside out, having spent many years as a tillerman, the one who steers the rear wheels of those long aerial ladder trucks.

Steel is as hale and hearty today as he was during his prime. Significantly, the retired captain took only 14 sick days, during his 33-year-long career in the fire department.

Steele and his wife, the former Miss Rebecca Ackerman, are happily looking forward to their 70th anniversary next year, surrounded by their children, grandchildren and great-grandchildren.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1971

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Chair now lays before the Senate the unfinished business, S. 2770, which the clerk will read.

The legislative clerk read the bill by title as follows:

A bill (S. 2770) to amend the Federal Water Pollution Control Act.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the debate and votes on S. 2770, the Federal Water Pollution Control Act Amendments of 1971, the following members of the staff of the Committee on Public Works be permitted in the Chamber: J. B. Huyett, Jr., M. Barry Meyer, Bailey Guard, Thomas C. Jorling, Leon Billings, Harold Brayman, Phillip Cummings, Richard Wilson, John Yago, Ann Garrabrandt, Rebecca Beauregard, and Judy Parente.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. MUSKIE. Mr. President, I yield myself such time as I may take.

This country once was famous for its rivers. In songs and poems and stories, Americans gloried in the now-quiet, now-roaring reaches of the river waters. A vigorous people, following their rivers to the oceans and beyond, built along the riverbanks a strong and productive economy.

But today, the rivers of this country serve as little more than sewers to the seas. Wastes from cities and towns, from farms and forests, from mining and manufacturing, foul the streams, poison the estuaries, threaten the life of the ocean depths. The danger to health, the environmental damage, the economic loss can be anywhere:

Just a 10-minute walk from this Chamber, the Potomac River is a hazard to health. The Georgetown Gap in the District of Columbia's sewer pipelines allows 15 million gallons of raw sewage to pour into the river every day.

A Federal biologist, speaking of mer-

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cury, says he can find no chemical potentially worse for man. Mercury is toxic. It is cumulative. It is persistent. While the biologist speaks, a factory discharges into the Detroit River a daily dose of 10 to 20 pounds of mercury.

In a single day, 10 million fish die in a Florida bay. It is not the first fish kill in the bay, and it is known that wastes are dumped into its waters, but the cause of death is given as a lack of oxygen in the bay.

An oil spill releases more than 700 tons of fuel oil into the waters off the Massachusetts coast. Later, scientists using a dredge find that more than 90 percent of the organisms brought up from the bottom in the area of the spill are dead or dying.

In 1969, the Council on Environmental Quality reports, nearly a fourth of this country's shellfish crop could not be harvested. The men and women who make their living from the shellfish crop suffered an economic loss of more than $60 million.

Industries also suffer economic loss. The value of lead washed down the rivers into the oceans every year is estimated at nearly $600 million. The copper lost through discharge into the rivers, if reclaimed and reused, would be worth $5 billion a year.

Mr. President, these are only a sampling of the symptoms. The Committee on Public Works, after 2 years of study of the Federal water pollution control program, concludes that the national effort to abate and control water pollution is inadequate in every vital aspect:

Many of the Nation's navigable waters are severely polluted, and major waterways near the industrial and urban areas are unfit for any purpose;

Rivers are the primary sources of pollution of coastal waters and the oceans, and many lakes and confined waterways are aging rapidly under the impact of increased pollution;

Rivers, lakes, and streams are being used to dispose of man's wastes rather than to support man's life and health; and

The use of any river, lake, stream, or ocean as a waste treatment system is unacceptable.

The committee believes the country should move now to restore and maintain the natural chemical, physical, and biological integrity of the Nation's waters. To achieve this objective, the committee recommends that the following be adopted as national policy:

The discharge of pollutants into the navigable waters be eliminated by 1985;

An interim goal of water quality be achieved by 1981 to provide for the propagation of fish, shellfish, and wildlife, and for recreation in and on the water;

The discharge of toxic pollutants in toxic amounts be prohibited;

Federal grant assistance be provided to any community which constructs a waste treatment facility which is consistent with the program set forth by the Congress;

A major research and demonstration effort be initiated to find the technological methods necessary to eliminate waste discharges; and

Regional waste management treatment programs be developed and implemented to assure adequate control of all sources of pollution in each State.

The legislation recommended by the committee proposes a major change in the enforcement mechanism—from water quality standards to effluent limits—of the Federal water pollution control program.

Under the 1965 act, water quality standards were to be set as the control mechanism. States were to decide the uses of water to be protected, the kinds and amounts of pollutants to be permitted, the degree of pollution abatement to be required, the time to be allowed a polluter for abatement.

The water quality standards program is limited in its success. After 5 years, many States do not have approved standards. Officials are still working to establish relationships between pollutants and water uses. Time schedules for abatement are slipping away because of failure to enforce, lack of effluent controls, and disputes over Federal-State standards.

The committee recommends the change to effluent limits as the best available mechanism to control water pollution. With effluent limits, the administrator can require the best control technology: He need not search for a precise link between pollution and water quality.

With this recommendation, the committee intends no criticism of the States in which water quality standards are approved nor of the State officials whose programs are superior in many respects to the Federal water pollution control program.

To the contrary, it is the committee's intent to restore the balance of Federal-State effort in the program as contemplated by the 1965 and 1966 acts. The committee is particularly concerned that there shall be a balanced effort in the discharge permit system initiated under section 13 of the 1899 Refuse Act.

The permits sytem establishes a direct link between the Federal Government and each source of discharge into the navigable waters. But the permit system exists independently from the Federal-State program set up by the 1965 act: The dual controls are incomplete and contribute to uncertainty among all concerned.

The permit system, as restated by this legislation, prohibits the discharge of pollutants into the navigable waters. The Federal administrator is responsible for control of any discharges of pollutants; he must move against the polluters.

The legislation will restore Federal-State balance to the permit system. Those States whose own programs are superior will be allowed to administer the permit system.

The most inspired defense of the procedure set forth in the bill appears in a University of Pennsylvania law review article by Prof. William H. Rodgers, Jr., of the University of Washington, in which he states:

> EPA can exercise a preventive authority it has never before enjoyed. There will be no more prerequisites to action that pollution in one state must cause health hazards in another. No more obligations to prove that the fish kill near the chemical plant actually was caused by the suspected culprit. No more useless two million dollar studies proving that sulfite waste liquor harms oysters. . . . Instead, EPA, acting with the approval of the corps, can specify necessary studies, treatment, and monitoring precautions as a condition to the permit. It can insist upon the non-degradation and best-technology principles now virtually ignored. It can, in short, reclaim much of the authority it has been denied under the Federal Water Pollution Control Act.

HISTORY

Let me now review briefly how the committee arrived at the recommendations contained in this legislation. As Senators know, Federal legislation in the field of water pollution control has been keyed primarily to an important principle of public policy: the States shall lead the national effort to prevent, control, and abate water pollution. As a corollary, the Federal role has been limited to support of, and assistance to, the states.

Given these basic provisions, State and Federal efforts in water pollution control went forward with little legislative change for nearly 10 years after 1948. It was a period of transition. To most Americans, the problems of water pollution control appeared to be localized and moderate.

In 1956, the Congress approved the first major legislative changes in the water pollution control program. Federal grants were authorized to assist States in preparing plans for pollution control and to help localities in building treatment plants. The authority for research and technical assistance was increased and broadened. Measures for controlling pollution of interstate waters were tightened.

In 1965, the Congress approved a second set of major legislative decisions for the water pollution control program. For the purpose of the pending legislation, perhaps the most important among these decisions were the assignment of a new responsibility to the States, the continued use of a 1948 enforcement procedure, and the establishment of a new agency to administer the Federal portion of the program.

The Congress moved again in 1966 to broaden and intensify the Federal support of State efforts in water pollution control. A 5-year authorization totaling $3.4 billion for grants to assist the construction of waste treatment plants was provided. The authorization scheduled $150 million for fiscal year 1967 and increased steeply during the 5 years to $1.25 billion for fiscal year 1971.

Last year, the Congress confronted several specific problems in water pollution control. The 1970 amendments added to the basic law new sections on liability for clean up of oil discharges, discharge of hazardous substances, discharge of sewage from vessels, demonstration projects for cleaning up pollution in the Great Lakes, acid mine drainage, regulation of Federal activities affecting water quality, and manpower training for water pollution control.

During the past 2 years, the committee has devoted 33 days to public hearings on pending water pollution bills.

A total of 171 witnesses were heard, and 470 statements were received and compiled in 6,400 pages of testimony. To develop the pending legislation, the Subcommittee on Air and Water Pollution and the Committee on Public Works conducted 45 executive sessions.

ADEQUACY OF STANDARDS

The setting of water quality standards for interstate navigable waters, as indicated above, is the keystone of the present program for control of water pollution. The standards are intended to function in two ways:

First. As a measure of performance, the standards are expected to establish the maximum level of pollution allowable in interstate waters.

Second. The standards also are intended to provide an avenue of legal action against polluters. If the wastes discharged by polluters reduce water quality below the standards, actions may be begun against the polluters.

The task of setting water quality standards, assigned to the States by the 1966 legislation, is lagging. More than 4 years after the deadline for submission of standards, only a little more than half of the States have fully approved standards. Of the 54 jurisdictions covered by the water pollution control program—the figure includes the 50 States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands—only 27 have fully approved standards. However, on their own motion, 44 States have also adopted intrastate water quality standards, in most cases quite similar to their standards for interstate waters.

The States have first responsibility for enforcement of their standards. When approved by the Environmental Protection Agency, however, the standards for interstate navigable waters become Federal-State standards.

A critical delay of enforcement for interstate water quality results from the water quality standards structure just described. The EPA Administrator may begin action to abate pollution only when:

First. Water quality of interstate waters is reduced below the established standards;

Second. Pollution originating in one State is endangering the health or welfare of persons in another State downstream; or

Third. The Governor of the State in which the pollution is originating consents to the proposed action.

ADEQUACY OF ENFORCEMENT

The continued use of the 1948 abatement procedure also contributes to delay. The record shows an almost total lack of enforcement. Under this procedure, only one case has reached the courts in more than two decades.

In that case, involving a Midwestern city, more than 4 years elapsed between initial conference and consent decree. The city later constructed a sewage treatment plant. Within 2 years, the plant was treating only half of the city's sewage. Five million tons of raw sewage were being dumped into the river each day.

Continued use of the 1948 abatement procedure, and the almost total lack of enforcement, encourage governing bodies and officials to search for other, more direct avenues of action against water polluters and water pollution.

One such approach which has been focused on is the use of section 13 of the 1899 Refuse Act, which declares a prohibition over the discharge of any matter into the navigable waters.

While the permit program created in late 1970 under the Refuse Act by the Administrator seeks to establish this direct approach, it is weak in two important respects: It is being applied only to industrial polluters, and authority is divided between two Federal agencies.

Experience with the permit system during the past 10 months suggests that the machinery used to date may be as cumbersome as the 1948 abatement procedure. Estimates of the number of permit applications to be received run as high as 300,000: estimates of the time required to process the application run as long as 4 years.

ADEQUACY OF FUNDING

The lack of adequate funding of grants to assist States and localities in constructing sewage treatment plants is causing critical problems.

Of the $3.4 billion authorized for this purpose by the 1966 legislation, only $2.2 billion was appropriated. The backlog of projects eligible for Federal payments has reached a total of nearly $2 billion.

As more States and localities move to take part in the construction program, the need for increased Federal spending is rising rapidly.

Five years ago, the committee estimated that more than $20 billion worth of sewage treatment plants would have to be built before 1972 in order to serve the population expected in 1980.

Responsible estimates received by the committee during its hearings last year place the total national need for the next 5 years at more than $30 billion. The figure covers only needs already identified by local officials.

In addition to these demands for increased Federal funding, there is another problem connected with the construction grant program. A 1969 report of the General Accounting Office raises a critical question concerning the use of Federal funds.

Based of a study of eight States, the GAO report discloses that more than $80 million of $1 billion in Federal grants awarded to those States through 1968 was used to help build about 400 municipal treatment plants. The report states, however, that the plants were designed to treat primarily the wastes of industries located within or near the municipal boundaries.

As the size of the Federal grant program and the costs of construction increase, this kind of indirect payment to industrial users of joint treatment plants also will increase.

ADEQUACY OF INFORMATION

The Federal water pollution control program suffers from a lack of information concerning discharges, amounts and kinds of pollution, abatement measures taken, and compliance.

The present water pollution control law allows the EPA administrator, after an enforcement conference, to require the filing of reports by polluting industries and municipalities. The reports are to include data on discharges and actions taken to abate pollution. However, two provisions of law prevent the Administrator from obtaining adequate information. Polluters are allowed to omit from their reports any information they believe to involve trade secrets or secret processes. And the Administrator has no legal right of entry so that he may check the polluters' operations.

The situation is not so damaging as it might be, since many State programs give their officials the right to enter and inspect plants for compliance with State discharge permits.

The 1969 report of the General Accounting Office, referred to earlier, suggests how much vital information is not available to Federal enforcement officials. The GAO investigated files of State permits on 80 industrial plants discharging wastes into a 170-mile reach of the Mississippi River. The files included information on the amount of wastes being discharged by only 52 of the 80 plants.

It should be noted that one of the most important aspects of the administration's 1899 Refuse Act permit program has been the accumulation for the first time of detailed information on the character of industrial pollution discharges.

ADEQUACY OF RESEARCH

The Federal water pollution control program also suffers from a lack of adequate research and demonstration beyond the traditional methods used in municipal treatment plants.

In primary treatment of sewage, between 30 to 50 percent of organic pollution is removed. When secondary treatment, between 50 and 90 percent is removed.

Neither of the traditional methods, then, can be completely satisfactory, and both have significant disadvantages. Primary treatment, for example, requires large capital expenditures and the use of extensive land areas.

The sludge remaining from secondary treatment can create special problems. Some localities burn sludge, thus contributing to air pollution. Other localities use sludge for landfill. Still others dump sludge into the oceans where it is hazardous to sea life.

The reliance of the Federal program upon primary and secondary treatment continues, although the program's efforts in research and demonstration is now more than 10 years old. The annual budget for research by the Water Quality Office of the Environmental Protection Agency amounts to less than $50 million.

THE LEGISLATION

Earlier in this statement, I discussed the two major changes proposed by the committee: the change from water quality standards to effluent limits as the control mechanism, and the use of the permit system against the discharge of pollutants.

I mentioned, too, the objective of the legislation and the committee's recommendation to set a national policy of eliminating the discharge of pollutants by 1985. Let me turn now to the details of the committee's response to the problems encountered in the areas of stand-

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ards, enforcement, funding, information, and research.

To achieve the national objective of no discharge of pollutants, the EPA Administrator is required to set up a two-phase program for applying effluent limits: the first based on best practicable technology; the second based on best available technology.

In phase I, to be implemented by 1976, all industrial pollution sources must apply the best practicable technology. Communities will be required to have secondary treatment construction programs by June 30, 1974.

In phase II, to be implemented by 1981, communities and industries will be required to apply, where the goal of no-discharge cannot be attained, the best available technology.

The Administrator of the Environmental Protection Agency is authorized to regulate discharges of pollutants through the use of an expanded permit program. But each State may establish at the earliest practicable date an enforceable procedure for discharges in the State. Federal guidelines for these procedures are to be issued. He also may ban the discharge of any toxic pollutant.

Progress toward the national goal is to be assisted through the following steps:

The legal base for use of Federal permits to regulate the discharge of pollutants is reinforced and improved.

The scope of the 1899 Refuse Act is broadened: the administrative capability is strengthened.

Effluent limits on all existing sources must, at a minimum, apply the best technology available by 1981.

Where the Administrator can identify a direct link between a polluter and water quality, the Administrator is authorized to tighten controls on the polluter.

Wherever attainable, an interim goal of water quality is to be achieved by 1981 providing for the protection and propagation of fish, shellfish, and wildlife, and for recreation in and on the water.

To assist States and localities, the bill proposes a 4-year program of Federal grants for construction of sewage treatment plants. The Federal share of matching funds totals $14 billion through fiscal year 1975.

The minimum Federal grant is set at 60 percent of project cost. If a State contributes as much as 10 percent of project cost, the Federal grant is increased by a matching 10 percent. A locality's share thus becomes 20 percent of project cost.

The bill requires grantees to use the best practicable methods for waste treatment. After fiscal year 1974, all grantees must evaluate available methods for recycling and reclaiming wastes, including the use of confined and contained disposal of pollutants.

Where any method other than these alternatives is chosen, the grantee must justify his choice. Regional waste treatment programs are required.

The allocation of construction grants is based upon population. In any reallocation of Federal funds not used for construction, priority is given to projects in States providing at least 10-percent assistance.

The bill also provides reimbursement for sewage treatment plants built without Federal assistance during earlier stages of the Federal program. Plants begun between fiscal year 1956 and fiscal year 1966 are eligible for grants equal to 30 percent of project cost. Plants begun after June 30, 1966, are eligible for grants equal to 50 percent of project cost. A total of $2.4 billion is authorized for this purpose.

A discretionary fund of $200 million is set aside for the Administrator's use where costs of regional sewage treatment plants may exceed State and local entitlement to the Federal grants. The fund is intended to assist such projects as the District of Columbia's Blue Plains plant, a major polluter of the Potomac River.

Grantees must adopt a system of user charges to assure that each class of users will help to pay the costs of operation and maintenance, including replacement of sewage treatments plants financed with Federal grants.

In this context, each industrial user of such facilities must agree by contract to pay back the portion of Federal share of construction cost allocable to the industrial user's wastes. These payments are to be received by the Administrator and deposited in the Federal Treasury.

The bill makes unlawful the dumping or disposal of any radiological, chemical, or biological warfare agent, or high-level radioactive waste into the oceans or the waters of the contiguous zone—3 to 12 miles—and the territorial seas—0 to 3 miles.

Discharges into the territorial seas or discharges from ocean outfalls are subject to the regulations applicable to discharges into the domestic, navigable waters.

For new, point-sources of pollutants, the bill requires the Administrator to set uniform standards of performance. These standards must reflect the maximum reduction of pollutants possible through use of the best available control technology. Twenty-eight types of industry listed by the bill are to be covered by the performance standards. Each State may develop and submit to the Administrator a procedure for enforcing the performance standards for new, point-sources located within the State.

The bill requires Governors and local officials, in cooperation with the Administrator, to develop plans for areawide waste treatment management in areas with critical water pollution control problems. The plans are to be completed by July 1, 1973.

In addition to municipal and industrial wastes, the areawide plans are to include procedures to control agricultural runoff, surface and underground mine runoff, construction runoff, and disposal of pollutants on land or in excavations.

The bill also requires the Administrator to conduct research into better methods of controlling pollutants from nonpoint sources such as agricultural runoff. A total of $10 million is set aside for the agricultural research.

Further, each State is required to adopt methods for control of pollution in fresh water lakes within the State. Restoration of water quality in these lakes is to be assisted by Federal funds.

The task of enforcing provisions of the bill is assigned to the Administrator. He is authorized to enforce permit violations immediately; or, if a State fails to act within 30 days after receipt of a notice of violation, the Administrator may issue an order to comply or go to court against the polluter.

Civil and criminal penalties are provided. A second conviction shall be punished by a fine of not more than $50,000 per day of violation, 2 years in prison, or both.

Under the bill, citizens themselves may go to U.S. district courts against polluters who violate effluent standards or compliance orders. Citizens may also go to court against the Administrator for failure to carry out nondiscretionary duties under the law.

ENVIRONMENTAL, ECONOMIC IMPACT

Two aspects of the pending legislation command the attention and require the evaluation of not only Senators but also the American people: What is the environmental impact of this legislation? What is the economic impact of this legislation?

The committee evaluated carefully the need to develop a water pollution control program which is environmentally sound. The stated objective of the act reflects the committee's decision to recognize fundamental principles of ecology. The committee also agrees that:

The policy proposed in the bill must reflect the bill's stated objective;

The information available on the effects of pollutants is insufficient to justify a continuation of present practices;

All speculation, all warning signs, and most responsible evidence suggest that the addition of foreign material to bodies of water alters the natural condition of the water; and

The addition of foreign material to bodies of water has been, is at the moment, and will continue to be, an environmentally unsound procedure.

The committee realizes that there is insufficient evidence to implement the policies and objectives of this act without additional information. At the same time, the committee recognizes the absolute requirement that goals be set, that a sound program be developed, that deadlines be established, and that a single set of requirements for each pollutant be established for a sufficient period of time so that communities and industries can plan for their needs over an extended period of time and can make sound decisions to carry out their plans.

Consequently, the 1985 deadline for achieving no-discharge of pollutants is a policy objective. It is not locked in concrete. It is not enforceable. It simply establishes what the committee thinks ought to be done on the basis of present knowledge.

The committee recognizes that there are technical limits to what can be done in order to achieve the no-discharge objective. More importantly, the committee is concerned that program administrators and enforcement officers do not know what these technical limits are.

Neither do they know the range of controls which can be applied to types of plants within various industries.

Let me give you a critical example: A Federal guideline issued under the 1965 act requires each industry to meet a minimum of secondary treatment or its equivalent. But today, 6 years later, program administrators cannot identify the equivalent of secondary treatment for each industry. I consider such an information gap within the State and Federal agencies a cause for major national concern.

Consequently, I am more than somewhat skeptical of a set of numbers circulated in recent days by Russell E. Train, Chairman of the Council on Environmental Quality. The numbers are purported to be accurate estimates of the economic impact of this legislation. Frankly, I suspect the accuracy is limited. But I am willing to accept the inaccuracy as a result of the lack of information on pollution and costs, and not of any attempt to characterize the pending bill.

The committee has been trying for years to get hard and fast estimates on the costs of water pollution control. But as recently as March of this year, the committee was being told the information is not available. I quote from the letter of EPA Administrator Ruckelshaus accompanying the Fourth Annual Report on the National Requirements and Costs of Water Pollution Control. The letter, dated March 13, 1971, is included in "The Cost of Clean Water":

> The size, complexity and dynamic nature of the municipal investment in waste treatment systems prevent the development of fixed long-term estimates and point toward a need for periodic appraisal.
>
> It is also abundantly clear that reappraisals must make adequate provisions for incorporating new solutions to waste problems rather than continuing commitment to out-dated plans or technologies. . . .
>
> There is no doubt that a massive investment program is needed, but the absolute magnitude of the investment required to produce a given set of waste reduction effects will vary depending upon the allocation of resources to projects and the degree of cost effectiveness with which investments are made.

Nevertheless, the numbers I refer to have now been provided to members of the Committee on Public Works by Chairman Train. From my study of the numbers, I reach the following conclusions:

First, the Council on Environmental Quality indicates that the first cost of continuing the administration's present program—which is recognized as environmentally inadequate—is $17 billion, and that this investment is expected to buy a pollution reduction of 90 percent. I take it that the estimate is based on the $12.6 billion to be invested in municipal waste treatment facilities during the next 3 to 6 years and on another $5 billion invested in industrial waste treatment facilities. But evidence presented to the committee clearly indicates that the investment will not achieve the 90-percent reduction in pollutants.

Second, Chairman Train predicts the removal of 95 to 99 percent of pollutants from municipal and industrial sources will require capital costs of $35.3 billion in this decade, or an average of $3.5 billion a year. This is no greater than the amount that the committee expects to be invested in the current fiscal year by municipalities and industries. In fact, the National League of Cities and the U.S. Conference of Mayors estimate the 6-year needs, for municipalities only, at between $33 billion and $37 billion.

Third, Chairman Train also estimates the costs for 100-percent elimination of pollutants from industrial and municipal sources by 1981 to be $94.5 billion. There is no basis in fact, on the record or in any report, for this estimate. According to Administrator Ruckelshaus, the Environmental Protection Agency cannot make such a projection. But I neither accept nor reject these figures. I do say that the committee does not expect the Nation to achieve a 100-percent elimination of pollutants from industrial and municipal sources 10 years from now.

Mr. President, the committee recognizes that doubts exist on the economic and social costs, the economic and social benefits, of the national objective stated in the pending bill. The committee also recognizes that doubts exist about the link between pollution and water quality.

That is why the committee recommends the comprehensive information and reporting sections of the bill which will provide for the Congress the knowledge to decide by the mid-1970's whether the course set now should be changed.

This knowledge also will help the Congress to decide whether the requirements will be tightened, whether the national priorities in this decade will allow the application of these kinds of controls, and whether the American people can afford to achieve, or not achieve, the goals of this legislation.

Reasonable cost is the basic test, under the pending bill, for eliminating discharges. In many instances, technology will not have been developed to the stage where no-discharge technology can be applied at reasonable costs. In other instances, the technology may already be reasonably available.

It is certainly true that most communities of the United States will not be able to recycle completely and reclaim their wastes at a reasonable cost by 1981. Therefore, to apply a price tag—as Mr. Train does—to a 100-percent elimination of pollutants can serve no purpose other than to frighten the people and intimidate the Congress.

Mr. President, I submit the time for fright and intimidation is past. Our senses tell us the quality of our environment is declining at an alarming rate. We smell the poisonous fumes; we see the cans, the paper, the plastics; we hear the rasp of machinery, the whine of engines. The fact of raw sewage floating in our rivers outrages us.

We are acutely aware, of course, that the deterioration of our environment is a new item recently added to an older, stubborn list of public problems. War, poverty, abuse of civil rights, urbanization still confront us. Some of us fear the country may be unable to grasp or to solve problems of such size. Some hesitate, waiting for someone else to move, to take the lead.

Others of us search for side roads, seeking to avoid a head-on collision with our polluted environment. Some suggest, for example, that concern for the environment is no more than a fad: If we will only wait, the cause for concern will pass by. Man, so that argument goes, is the most adaptable creature on earth: He will continue to flourish, adjusting slightly from time to time as his environment grows dirtier and dirtier.

Down another side road, consumers get the blame. Pollution is caused, so this argument goes, by consumers who demand the thousand of products available in the marketplace, and only consumers shall bear the cost of cleanup. The consumer, obviously, saves us all. By taking on the entire burden, he excuses the manufacturer whose factory fouls the water, and he excuses the government whose officials fail to act and to lead.

But while some of us search for side roads, the quality of our environment will continue to deteriorate. Pollution will grow and feed upon itself. Hazards and costs to our health and welfare will increase.

It is imperative that we attempt to stop pollution and to restore the quality of our environment. I suggest that we begin by adding to our approach some humble ideas about ourselves and our place upon the planet.

It may be, as some argue, that man is the most adaptable of earth's creatures. It may be that he can remain essentially the same, changing only slightly as he adjusts to higher levels of pollution.

But what we do not know, and what we cannot predict accurately, are the long-range effects upon man of prolonged exposure to bigger and bigger doses of pollution. Man, no less than the peregrine Falcon and the Mountain Lion, is an endangered species.

He is also the principal danger to himself, the principal polluter of his environment. Foul air, dirty water, ravaged land, are more than complex problems in resource management. What must be managed, and properly managed for our own protection, are our activities within our environment.

There is another humble idea that should be added to our approach: We live today in what an engineer might call a closed system. Some of our resources, once used, cannot be replaced. Others of our resources are renewable, but finite. No one is likely to invent more clean water, more clean air, more arable land.

These ideas are basic to the pending legislation. The committee believes the discharge of pollutants into lakes, rivers, and seas is a waste of substances already in limited supply. The committee believes the discharge of pollutants causes hazards to health and threatens the very existence of man.

It is upon this statement, Mr. President, that I rest the committee's case.

May I at this point express my appreciation to the Senator from West Virginia (Mr. RANDOLPH), the chairman of the full committee, to the Senator from Kentucky (Mr. COOPER), the ranking Republican member, and to the Senator

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from Delaware (Mr. BOGGS), who shares with me the responsibility for the work of the subcommittee as the ranking Republican member, and all of the members of the committee.

I also want to express special appreciation to members of the staff of the Committee on Public Works and the Subcommittee on Air and Water Pollution for their diligent effort in developing this important measure, particularly M. Barry Meyer, chief counsel; Bailey Guard, minority clerk; Thomas C. Jording, minority counsel; Leon G. Billings, senior staff member; Philip T. Cummings, assistant counsel; Richard D. Grundy, Harold H. Broyman, and Richard W. Wilson, and John W. Yago, professional staff members; Rebecca Beauregard, Ann Garrabrant, Margaret Nagel, Sally Walker, and Frances Williams, research and clerical assistants; Paul Chimes, on detail from the Government Printing Office; and Dr. Walten Westman, an ecologist made available to the subcommittee through a congressional fellowship.

As I said earlier, we had something like 44 executive markup sessions in putting this legislation together. We examined a wider range of options and possible solutions to these complex problems than I can recall in my 8 or 10 years of concern with this problem in the Senate. I might add that the attendance of both the committee members and staff has been, I think, without precedent in the work of this committee.

I think it has been a landmark piece of work.

I think that all of us, whatever our remaining minor differences over the bill, take a great deal of satisfaction with the legislative product we are presenting to the Senate this afternoon.

The committee members are agreed on all matters with the exception of minor differences which we will discuss later. We ask the Senate to pass this bill.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. RANDOLPH. Mr. President, I wish to commend the able chairman of our subcommittee for his fine work in drafting the legislation and his diligent efforts on behalf of the legislation.

I want to express now, very simply and very earnestly, my feelings as a Member of the committee and of the Senate, and also to say that the people of the United States have in the person of the Senator from Maine (Mr. MUSKIE) a man who has carried this program forward in its many facets and that generations yet to come will know the value of his work.

Mr. MUSKIE. Mr. President, I thank the distinguished Senator from West Virginia for his generous comments. I would like to add that without his constant support and work on this subcommittee, the committee could not have come forward with the pending bill.

Mr. GURNEY. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. GURNEY. Mr. President, I certainly commend the distinguished Senator and chairman of the subcommittee on his excellent statement and on the fine work he has done over the years in this vital matter of reporting legislation to clean up pollution.

I am curious about the statement on the opening page of the Senator's prepared remarks concerning the fish kill in the Florida Bay. Could the Senator tell me what the bay is and what caused the kill?

Mr. MUSKIE. Mr. President, I will get the information to the Senator during the course of the day and will have it printed in the RECORD.

Mr. GURNEY. Mr. President, I think that the Senator is probably talking about the red tide that killed fish. The red tide occurred in Florida as early as the last century and before the white men first came to Florida and when the Indians were the only inhabitants.

It is also known in the Bible, in the Book of Exodus, as one of the seven plagues.

While we have pollution in Florida and we want to clean it up, I do not think it has been as bad there as in any of the other States. I do not think this is as bad as the others.

Mr. MUSKIE. It is true that in my State, which used to be the Senator's State, natural conditions have produced a shortage of oxygen, but that natural shortage is increased by the dumping of human waste. I do not think that ought to be used as an excuse for adding to the shortage by the dumping of human pollution.

I do not have at my finger tips the information the Senator requested.

These lists of illustrations come from the committee file. We wanted to illustrate the widespread damage that waste discharges are creating. We could multiply this by many other examples.

Mr. GURNEY. I thank the Senator for yielding.

(Subsequently, Senator MUSKIE supplied the following statement.)

The water may not die completely; it will go through various stages—back and forth, perhaps, depending on such factors as the sewage load and the water temperature and the swiftness of currents and accidents of weather. Still, some rather disagreeable things may happen. Ten to 15 million menhaden, a commercial fish processed for bait and fertilizer and oil, were killed in Florida's Escambia Bay at Pensacola in a single day last summer. The bay receives industrial pollution, and the fish kill was just one of a series there over the last decade; the blame has been laid to the low level of oxygen in the water. The fish smothered. And the lobsters and crabs and fish that survive for long periods in water heavily polluted by sewage suffer from cancerlike growths and lesions and other diseases.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield for a question. I intend to yield next to the Senator from Delaware so that he may make his statement.

Mr. BEALL. I wish to make a brief comment. As a former member I think I can make an observation from a distance, if it is possible to make an observation from a distance around here. It was my privilege to be a member of the Committee on Public Works and a member of this subcommittee during the 26 weeks involved here in connection with the work of that subcommittee. I do not know of any other piece of legislation that could have received fairer hearings. All ideas were allowed to surface and they were discussed at length before the final legislation was put on paper. I think this legislation was put on paper many times.

We had a right to disagree and ask questions about certain effects of the bill, but at this time I wish to compliment the committee on the work they have done in bringing this legislation to the floor.

At the same time, being a little parochial, I would like to mention the statement made by the chairman of the subcommittee on page 9 where he referred to a "discretionary fund of $200 million" for the administrator's use "where costs of regional sewage treatment plans may exceed State and local entitlement to the Federal grants." This would allow the administrator flexibility in dealing with problems such as exist in the Washington metropolitan region. It is to be noted that there is in this legislation an opportunity to deal with the situation we have in the Potomac River and in connection with the Blue Plains plant, and other facilities here. I commend the Senator for dealing with this particular problem.

Mr. MUSKIE. I thank the Senator for his comments. We regretted the Senator changed committee assignments. I also compliment the Senator for having initiated the idea that is incorporated in the bill dealing with the Blue Plains project. I think it was the Senator's proposal that was incorporated in the bill. I think it is a very useful addition.

Mr. PASTORE. Mr. President, I call to the attention of my distinguished colleague the Senator from Maine, the author of this bill, to a point I think is essential. I note that in the committee report, in a discussion of the term "pollutant" on page 76 of that report, the committee very appropriately gives the following explanation:

It is necessary to define such materials so that litigable issues are avoided over the question of whether the addition of a particular material is subject to control requirements.

I also note that the definition of "pollutant" contained in section 502(f) of the bill, on page 164, includes the words "radioactive materials."

My question is this: Does this measure that has been reported by the committee in any way affect the existing law, that is, the existing Atomic Energy Act of 1954, insofar as the regulatory powers of the AEC are concerned with reference to radioactive material?

Mr. MUSKIE. It does not; and it is not the intent of this act to affect the 1954 legislation.

Mr. PASTORE. In other words, this bill does not change that feature of the Atomic Energy Act in any regard?

Mr. MUSKIE. That is correct.

Mr. PASTORE. I thank the Senator.

Mr. MUSKIE. May I say in addition, that legislation dealing with the setting of effluent limitations as they involve nuclear powerplants is now pending in the courts. The Senator is aware of that litigation.

For example, a recent decision of the U.S. Court of Appeals for the Eighth Circuit, in the case of Northern States Power and Light versus Minnesota, raises the issue. I would like to point out that the committee considered speaking specifically to that decision, but chose to remain silent so as not to prejudice the decision or any appeal from it.

Mr. PASTORE. Yes. As a matter of fact, that decision held that the Federal Government did preempt in this field under existing law. That is the opinion, and we hope this legislation does not change that opinion in any way, and does not affect existing law. That is all I am concerned with.

Mr. MUSKIE. The Senator is correct in his evaluation of the legislation on that point.

Mr. PASTORE. I thank the Senator.

PRIVILEGE OF THE FLOOR

Mr. BOGGS. Mr. President, on behalf of the Senator from Vermont (Mr. STAFFORD), a member of the committee, I ask unanimous consent that his legislative assistant, Mr. John Freshman, be permitted to remain in the Chamber during the consideration of this legislation, except during the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOGGS. Mr. President, I wish to express strong support for this legislation, the Federal Water Pollution Control Act Amendments of 1971.

This bill, I believe, is truly landmark legislation. It is legislation that sets a goal for the elimination of water pollution in our Nation, and places this Nation on a course that will achieve that goal eventually.

The distinguished floor manager of the bill (Mr. MUSKIE) has most ably and fully discussed this legislation section by section. I shall not attempt to repeat his careful analysis. Rather, I will discuss several aspects and provisions of the bill that merit special attention.

This legislation is firm and it is fair. It sets a goal that can be achieved, and must be achieved. It is the product of nearly four dozen executive sessions, and, I believe, has been greatly improved from the many imperfect draft versions that caused concern in some areas.

This legislation establishes as a national goal, the attainment of a standard for no discharge of pollutants by the year 1985. I do not believe we can say with certainty that such a goal can be reached by 1985. But I support creation of such a goal, and the concept of this legislation.

Our Nation must direct our efforts toward an elimination of pollution, where feasible, not just a reduction in pollution. By setting a no-discharge goal, we will direct research toward complete, rather than partial, solutions.

The information that will be obtained from the section 305 studies should enable the Congress, within a few years, to pinpoint with greater accuracy the date and cost for achieving a no-discharge goal, together with the enforcement mechanism necessary to achieve it.

Another major emphasis of this legislation must be the assistance it provides to States and to local communities toward developing systems to treat their wastes more effectively. Federal grants of up to 70 percent are provided to assist communities in treating their municipal wastes.

While I support the level of funding for the construction grant program in section 207, I believe the authorization of these grants by contract authority may be inappropriate. At a proper time during the consideration of the bill, I intend to offer an amendment, on behalf of myself and several colleagues, to strike the contract authority provision from the bill.

Ocean dumping must be an important aspect of any effective water pollution control program. As my colleagues are aware, the Committee on Public Works and the Committee on Commerce share jurisdiction over this aspect of the pollution control program.

The bill now under consideration controls the discharge of any pollutant into the ocean from an outfall pipe. This is true whether the outfall extends a few feet into the ocean or 100 miles. Further, this bill controls any discharge of pollutants from a vessel that occurs within the 3-mile limit. Section 402 permits would be required to make either type of discharge legal.

The Commerce Committee bill, which was developed with the concurrence of the Committee on Public Works, has been ordered reported, I understand. It would control any discharge of pollutants in the area 3 to 12 miles from shore, and would regulate the discharge of pollutants anywhere in the ocean, if the pollutants were generated in the United States.

The Committee on Public Works held a most informative hearing on ocean dumping in Rehoboth Beach, Del. That hearing clearly demonstrated the need for such control procedures. I want to commend my colleagues on both committees for their cooperative spirit in developing these two provisions, vital components to any water pollution control program.

These are some of the provisions that will gather headlines when this legislation is reviewed. But I believe I must point out to my colleagues two other provisions of the bill that merit attention.

First, an environmental enhancement demonstration project is authorized in individual river basins, or portions thereof by section 105(b). Such a demonstration would show what can be accomplished by land-use controls, in-stream enhancement, and other techniques for improving water quality.

The Council on Environmental Quality, I might add, proposed such a model river program in its first report a year ago.

To be most effective, such a demonstration project must be directed at a river basin which has a variety of pollution problems: municipal, industrial, and agricultural. It would be inappropriate on a heavily polluted industrial river. This is true for two reasons. First, the cleanup of industrial pollution is, properly, a responsibility of private industry. Such cleanup is mandated in title III of this bill. Second, a demonstration project on a river with varied pollution problems would produce the kind of information that would be most useful in all areas of the Nation.

A second provision with great merit appears in subsection (1) of section 104. This authorizes a study of methods to handle the problems associated with the disposal of waste oils, such as waste crankcase oil. Evidence presented to the committee indicates that well over 1 billion gallons of waste oil are produced each year in the United States. Some of this oil is re-refined for reuse as a lubricant. Some can be used as a fuel. But all too often, this waste oil ends up floating on our rivers or oozing into our soil.

In early 1969 the American people were greatly concerned when 60,000 barrels of oil were discharged into the ocean off Santa Barbara, Calif., from an oil well. According to calculations provided to me by the Environmental Protection Agency, that much waste oil is dumped on purpose into our environment every 36 hours.

The subsection directs EPA to undertake a study of the roadblocks to the recovery and reuse of waste oil, and to determine whether the Federal Government can and should encourage its reuse.

This is a useful amendment in an important bill. It is a bill that merit the support of my colleagues, and I urge their full support of this legislation.

In closing, Mr. President, I wish to commend my colleagues on the Subcommittee on Air and Water Pollution as well as the full Committee on Public Works, including our distinguished colleague from Maryland (Mr. BEALL), who served long and diligently on the committee before he assumed new duties.

They have devoted many, many hours to this bill during the past several months. Each has made important and helpful contributions toward the reported bill.

Certainly, the leadership by our chairman (Mr. RANDOLPH) was most instrumental in the preparation of this legislation. His work, together with that of the ranking Republican member of the committee (Mr. COOPER), and the chairman of the subcommittee (Mr. MUSKIE), has been both inspirational and helpful to each of us serving on this fine committee. I thank them and I commend them. I should like to thank the staff of the committee as well as the staffs for various members of the committee, all of whom have been of great assistance to each of us on the committee in development of this legislation.

Mr. President, I would like to direct the attention of the distinguished manager of the bill (Mr. MUSKIE) to some language that appears at the bottom of page 17 of the report on the bill—Senate Report 92-414. Unfortunately, a number of important typographical errors occurred in the printing of the report.

Some of the most significant errors occur in the discussion on subsection (b) of section 105, which authorizes the Environmental Protection Agency to establish a model river demonstration program. The report first notes the fact that this model river effort was proposed initially by the Council on Environmental Quality. Then it states:

While the Committee believes that this approach has great merit and would be useful in the heavily industrialized rivers.

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As the distinguished Senator from Maine (Mr. MUSKIE) will note, that is an incomplete sentence. But more important than matters of grammar, the phrase creates an implication directly contrary to the committee's intent. The language that was prepared by the committee and appeared in the final draft version of the report, reads:

> The Committee does not believe that such a demonstration project should be undertaken in the most heavily polluted industrial rivers.

May I ask my distinguished colleague if I am correct that the omission of this language was a typographical error? And am I also correct that it is the committee's intent that any model river demonstration project should be directed toward small river basins with a broad range of pollution problems?

Mr. MUSKIE. The distinguished Senator from Delaware (Mr. BOGGS) is correct. The correct language of the report stated specifically that such a demonstration project should not be undertaken in river basins with heavy concentrations of industrial pollution.

The intent of this provision is to create a program for improved water quality that encompasses a broad range of pollution problems, such as agricultural and other land runoff, municipal and industrial pollution, and in-stream enhancement techniques.

Mr. BOGGS. I thank my distinguished colleague. May I also point out that the report specified that the Brandywine River, which rises in Pennsylvania and flows eventually into the Delaware River, would serve as an excellent location for such a model river project. But the printed report contains another significant typographical error. The Brandywine River flows into the Christina River shortly before it reaches the Delaware River. It does not, as the report states, flow into the Christmas River.

Mr. MUSKIE. I thank my distinguished colleague. I am pleased that we have been able to clarify the record on these 2 points.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I yield to the distinguished chairman of the Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH), such time as he may need.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, this bill was the product of careful deliberation by the members of the Committee on Public Works and, of course, the Subcommittee on Air and Water Pollution.

Executive sessions of the committee and the Subcommittee on Air and Water Pollution numbered 45 over a period of 6 months. Throughout this time all members lent to this bill's consideration their capacity and their concern for well-reasoned environmental protection.

The measure was unanimously reported from the committee, reflecting the unanimity of spirit with which this legislation, as all the work of the Committee on Public Works, was approached.

I express special tribute to the leadership of Senator EDMUND S. MUSKIE, Chairman of our Subcommittee on Air and Water Pollution, who, throughout the extensive executive sessions led the discussions on the complexities of this legislation. His reasoned counsel was vital to the work we did early and late, and then on the final draft of the bill as it was brought to the floor of the Senate.

Also, I express genuine gratitude to Senator JOHN SHERMAN COOPER, the ranking Republican member of the committee, for his constant spirit of cooperation and his contribution to our full understanding of this important bill, which is so characteristic of the work he has carried forward with us for many, many years. He is not now in the Chamber. He is in his State of Kentucky as a participant, with his personal vote, in the election being held in that State. He will be in the Chamber later in the afternoon to participate in the passage of the bill.

Senator J. CALEB BOGGS, ranking minority member of the Subcommittee on Air and Water Pollution, is recognized for the constructive effort he has brought forth in bringing the committee into agreement and this bill to the floor, so that we might have unanimity of thought and hope for action in the Senate.

Other members of the committee have performed significant roles in our consideration of this legislation. Senator HOWARD BAKER, with his intelligent probing, helped give this proposal its logic and vigor.

Senator JOHN TUNNEY, a new member of our committee, contributed well, by focusing our attention on what value there might be in achieving a given water quality standard.

Senator LLOYD BENTSEN, another new member, leavened our discussions with considerations of the relationship between the benefits of stringent water pollution control and social and economic costs which would be imposed.

Senator JAMES BUCKLEY, yet a third new member of the committee, brought to our attention the intricacies of alternative methods for financing waste treatment works.

Senator BIRCH BAYH helped us greatly in our considerations of the citizen suit provisions.

As always, Senator THOMAS F. EAGLETON, vice chairman of our Subcommittee on Air and Water Pollution, kept us to our task. He challenged us on the plight of cities having constructed sewage treatment works before 1966.

Once again, Senators B. EVERETT JORDAN, JOSEPH M. MONTOYA, MIKE GRAVEL, BOB DOLE, and LLOYD WEICKER, and the newest member of our committee, Senator ROBERT STAFFORD, made valuable contributions to the legislation.

They, with Senator J. GLENN BEALL, who was assigned to another committee during the consideration of this bill, have, through their patience and efforts, brought to the floor this major thrust for clean water. I am also appreciative of the staff of the Committee on Public Works and the Subcommittee on Air and Water Pollution for their long hours and helpful efforts on this bill.

I know of their long and constructive efforts to help us bring this measure to the attention and support of the Senate.

The legislation we consider today is of enormous importance to our country.

As we move forward on a 14-year program to bring about a cleansing of the navigable streams and waters of this country, we are doing something that is not a timid approach, but which is an all-out effort—a congressional effort which I think is reflective of the concern of the people, younger and older, who represent an enlightened citizenry of the United States of America.

Its impact will be felt by every citizen and by every segment of our society. It is perhaps the most comprehensive legislation ever developed in its field.

It is perhaps the most comprehensive legislation that the Congress of the United States has ever developed in this particular field of the environment.

During the past 2 years the subcommittee conducted 30 days of hearings in Washington and elsewhere, to gather information and a wide range of viewpoints. We heard testimony from representatives of the administration and of State and local governments, from spokesmen for industries that will be affected by the bill's provisions, and from citizens and organizations who are concerned with the quality of the environment for the people of the United States, and, yes, the people of the world.

Legislation of this scope and magnitude cannot be properly developed without effective input from outside sources, and all of those with whom we counseled—and I think all of us on the committee, in one way or another, participated—made important contributions to what is designed to be the dialog of democracy, the legislative process. These discussions took place during the entire time bills dealing with water pollution were the subject of committee consideration. I do not believe in a closed door while the committee is deliberating or while legislation is being prepared.

I recall, as do others, the many valuable conversations, personal and in groups, that were held with representatives of major metropolitan sewerage agencies and with State water pollution control officials, including a meeting with the environmental committee of the Southern Governor's Conference representing 17 States. Many meetings took place with the staff members of the Environmental Protection Agency. They were not kept in outfield positions. They were inside this operation, and met with us. In addition, conservation organizations and environmental groups and corporate officers representing a broad spectrum of the American community were consulted. These meetings continued until the time that the bill was ordered reported by the committee. At every stage of the legislative process, the provisions under consideration by the committee were given as broad an exposure as possible so that any practical details could be worked out with all parties concerned.

This bill is strong; and the bill is tough. It will be effective in ending pollution of the Nation's waters. But it is also fair legislation. In the context of our country's resources and the great need to which it is addressed, this bill does not place excessive burdens on anyone. The necessity for clean water to maintain our way of life and to support our economy is so urgent that its maintenance should be assigned a high priority among our country's objectives.

This bill establishes pollution abatement goals to be achieved by stages through 1985. It authorized, as I have indicated large expenditures to assist in meeting these goals. At the same time, however, it provides flexibility in adjusting to changing conditions. As we work to restore the natural integrity of the waters, provisions for midcourse corrections will allow us to evaluate new data and to determine what alterations in the program may be necessary, particularly if adjustments in the financing arrangements are necessary.

While the costs of this program over the long term may appear to be high, they represent but a small portion of the country's wealth. They are, I am convinced, costs that can be borne though perhaps not easily, by our economy and expenditures that I believe will be willingly assumed by our people.

In recent elections, we have had a series of bond issues in this country; and when people have had to commit themselves financially for these programs of cleaning the air, cleaning the water, and bringing about better systems of sewage disposal, they have passed those bond issues overwhelmingly, indicating that they were willing to commit their dollars as well as their words. They indicated their willingness to commit a portion of the Nation's wealth to do this job—one State, in particular, committing itself to the extent of something like $780 million to help with water improvement programs.

The costs of this program will, of course, be expenditures, but they will be investments, and that is more important. They will return what we are spending as a dividend in the form of a better America for generations not yet born in this country, if we do our job now in the Congress of the United States.

With the American people behind us, within the context of the structure of our Democratic and Republican system as it functions here in the Congress, when our goals are effectively defined, we can work out these problems. Some may say this is a piecemeal way to do it, but I know that because of the complexity of the subject matter, we cannot handle all of these pollution matters in a short period of time. The fact that we have worked on this legislation for a period of 6 months indicates that you have to dig underneath and apply yourself very carefully, because there were points of clarification which, even for those of us who were very close to the subject matter in the committee, required a constant reshuffling of the matters, that we might understand them in the fullest degree.

Later in this decade we should be able to determine what will be the total cost of reaching the objective of this act, which is to eliminate all discharges of pollution into navigable waters from point sources, to the extent practicable, by 1985.

While the goals of this legislation are firm, we have not bound the Nation irrevocably. There is nothing namby-pamby about this bill. Flexibility for redetermining our ultimate goals has been left to the future.

The Congress and the administration at that time will have both an opportunity and an obligation to reexamine our targets and to either confirm what we do today or to reset our goals.

During the past 2 years, the committee became aware that although there have been major efforts over the years to eliminate water pollution, there is still a significant lack of information on the best and most effective ways to do this. We have now determined what our goals should be, and in this bill we have provided the mechanisms to close the information gap. The information that should be available a few years hence will permit intelligent, well-founded review of the program set forth in this bill.

This legislation represents a major change in the basic philosophy governing our attempts to eliminate water pollution. In altering our approach from standards of water quality to controls based on effluent limitations, we are starting down a new road, one that will reach the same goal but by a more direct and precise route.

The earliest environmental laws were aimed, and properly so, at the correction of past abuses. This enormous task remains incomplete, but we are now at the point where we can look with assurance toward the prevention of major environmental destruction in the future.

To those persons who say that this job cannot be done, I say that it can be done, and I do not approach this task with gloom and doom. I approach it with an earnest concern, knowing that Congress, responsive to responsible people, can bring about a bill of this scope and depth on the subject of the control of pollution—in fact, its total abatement—in the navigable waters of the United States, by the year 1985.

The committee has continued the emphasis on a partnership approach in environmental legislation so that State and local governments are involved to a high degree in pollution abatement and control. We realize that a clean environment cannot be created and sustained by legislative action alone. We also recognize that the Federal Government by itself cannot achieve the kind of environment we want.

At the same time, I stress very strongly that Congress has become very specific on the steps it wants taken with regard to environmental protection. We have written into law precise standards and definite guidelines on how the environment should be protected. We have done more than just provide broad directives of administrators to follow. We do not want continually to look over the shoulders of the administrators. But I hope I am correct in saying that very often in the past we understood the intent of Congress, but it was written in such broad language that the agency or the department of Government involved did not carry out the intent of Congress. We have often criticized the agencies—I have done it myself—but, really, we were too general in what we were giving to be specific as to guidelines and standards.

In the past, too many of our environmental laws have contained vague generalities. What we are attempting to do now is provide law that can be administered with certainty and precision. I think that is what the American people expect that we do.

While this legislation represents new approaches to the critical problem of water pollution, it reaffirms the committee's belief in the importance of strong and effective partnership between the Federal Government and the States. A substantial portion of the powers to eliminate pollution provided in this bill rests with the States. Within the directives provided by Congress, the States must assume a major portion of the responsibility for cleansing our water of the pollutants that have befouled them for far too long.

Another important feature of this bill is the recognition it gives to the effectiveness and cost of various abatement technologies. The requirements it makes are based on an important degree on the use of available technology that has been adequately demonstrated to be effective. So the available technology is something that we are going to use to the nth degree.

The committee does not want to impose impossible goals, nor does it intend to require expenditures so excessive that they would undermine our economy. Consequently, under the proposed legislation, controls must relate the economic and social benefits to be gained with the economic and social costs to be incurred. I mentioned this earlier, in speaking of the individual members of the committee, that Senator BENTSEN constantly and correctly called our attention to the impact and the cost of these programs, being strongly for them, but recognizing them as a part of our total economy.

As a Senator from West Virginia, a State whose economy is closely tied to the mining industry and one with a rugged terrain, I am aware of the particular problems of abating pollution that occur under these and similar circumstances.

In areas of the country where mining is a major activity, thousands of miles of streams have been adversely affected by acid drainage from both active and inactive mines. The water quality in these areas is severely impaired. Affected streams are unable to support fish and wildlife in any appreciable and are unsuitable for industrial, recreational and public water supply uses. In 1970, programs were authorized to demonstrate the technological and economic feasibility of control, on an areawide basis, of acid pollution caused by mining. The committee has subsequently determined that changes are needed in this program.

This bill doubles, from $15 million to $30 million, the authorizations for these demonstration programs. I helped to impress upon the members of the commit-

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tee the importance of doubling the money for these demonstration programs. It is intended that this increase be utilized in the Monongahela River Basin. It explicitly provides for projects utilizing sewage sludge and other municipal waste in the control of mine water pollution. Active involvement—and I am glad for that involvement—of the Appalachian Regional Commission is required for demonstration programs that would take place within the area of its jurisdiction. The bill also reduces the requirement of financial participation by the States in these programs and makes other changes to expedite their implementation. The reduction of pollution caused by mining is essential to improving the quality of life and establishing diversified economic bases in those large areas where it is a serious problem.

I hope that the agencies involved will move rapidly to utilize these funds so that an early start can be made in eliminating mining sources of pollution.

In many sections of the country there are large areas where population dispersal, soil conditions, and economic realities prohibit the development of conventional sewage collection and disposal systems.

Mr. President, as I conclude, I speak of the lives of millions of people affected by the nonexistence of sewage systems in rural and other lightly populated areas.

The bill under consideration contains provisions for demonstration programs to develop new approaches to rural sewage problems, and the committee strongly urges their implementation.

I mentioned earlier in my remarks that I had thanked the distinguished Senator from Missouri (Mr. EAGLETON) and other Senators for their intense interest in this subject which I believe is very important. The Senator from Missouri brought to our attention on several occasions the plight of the cities which constructed sewage treatment plants prior to 1966.

An important aspect with respect to maintaining controls over water quality is that relating to the dredging of waterways and the disposal of dredging spoils.

In the 1970 amendments to the Water Quality Act, the intent of Congress was stated to be that the dredging and disposal activities of private dredgers and the Army Corps of Engineers would be treated similarly.

In administering the legislation now under consideration, the committee desires an orderly procedure on the disposal of dredge spoils. Although the Corps of Engineers does not have final responsibility in this area, the committee intends that—and I as a member of the committee intend that under the provisions of this bill, the activities of private dredgers be regulated in the same manner as those of the corps.

The shift in this legislation from water quality standards to effluent controls does not obviate the need for temporary turbidity standards. We hope that while the Environmental Protection Agency will carefully examine proposed permits, it will work closely with the corps on the conduct of dredging essential to our Nation's waterborne transportation.

The Committee on Public Works has been deeply involved in the development of legislation to protect the environment for most of the years of the past decade. During that time we have become increasingly aware of the extent to which pollution of all types adversely affects the life of almost every American.

Last year, we developed legislation, which was enacted into law, that will greatly help to reduce the incidence of air pollution. We also produced legislation in 1970 to make headway in dealing with the severe problems posed by the huge quantities of solid waste generated by our society.

Today we ask the Senate to approve legislation enunciating a major objective for clean water and providing the means by which it may be achieved.

Water—and I repeat, having said it over and over again in many difficult ways—is the most basic of our natural resources. Without clean water in adequate quantities, our Nation, our society, our very lives cannot continue to be economically strong and physically healthy.

The creation and maintenance of clean water is not a goal for which we can lay down options. It is a task of great urgency one that must be approached with vigor and the commitment of the Nation's resources, and with well reasoned legislation like the commitment of the members of the Committee on Public Works which resulted in bringing this bill to the Senate floor.

I urge my colleagues to consider very carefully the provisions in this legislation. They may not be in complete agreement with every line written into it, but they can help us, before the day is over, to pass by a substantial and I hope an overwhelming majority, this legislation. Then I hope that, quickly, it can be passed in the House of Representatives, go to the White House and receive the signature of the President of the United States of America.

Now, Mr. President, I yield to the Senator from Missouri (Mr. EAGLETON) such time as he may desire.

Mr. EAGLETON. I thank the distinguished Senator from West Virginia.

Mr. President, I ask, how much time remains?

Mr. RANDOLPH. I will ask the Chair, what is the situation as to time?

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Maine (Mr. MUSKIE) has 42 minutes and the Senator from West Virginia has 42 minutes.

Mr. EAGLETON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 3 minutes.

Mr. EAGLETON. Mr. President, as all Members of the Senate know, no individual piece of legislation is a product of any one Senator. Almost any bill that comes before the Senate, especially bills that require debate, are the products of several Senators.

However, if I were to pick out the two Senators who gave the most significant input to the instant matter before us, I would have to select the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Maine (Mr. MUSKIE).

Literally hundreds of man-hours were put in by these two distinguished Senators, as well as their very able staffs.

This bill, Mr. President, is a landmark piece of legislation. It is a gigantic tribute to these Senators' ability, their patience, and their perseverance. The record should show the significant input these two distinguished Members of the Senate made with respect to this piece of legislation.

PRIVILEGE OF THE FLOOR

Mr. EAGLETON. Mr. President, I ask unanimous consent that during this debate and voting on this measure and on such amendments as may be offered, two members of the staff who have worked on this piece of legislation be permitted to remain on the floor. They are Mr. Douglas Bennet and Mr. Gene Godley.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren, a member of my staff, also be given the privilege of the floor during the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. EAGLETON. Mr. President, this bill, the Federal Water Pollution Control Act Amendments of 1971, is both a logical extension of, and a significant departure from, the existing water pollution control program.

The bill reflects a significant shift in focus from controlling pollution indirectly, through water quality standards, to an emphasis on direct control of effluents. Water quality standards will remain significant in the new program as an index of our progress, but they will serve less as an instrument of that progress.

It sets the goal of eliminating both industrial and municipal waste discharges into all U.S. waterways—ending all water pollution—by 1985.

In addition to making the elimination of water pollution by 1985 a national policy, the bill sets these other, interim goals:

By June 30, 1974, municipal sewage facilities should be able to provide the equivalent of secondary treatment.

By July 1, 1974, construction grants would be provided only for treatment facilities on a regional, or areawide basis, rather than on a city-by-city or town-by-town basis as in the past.

By January 1, 1976, industrial sources of pollution would be required to have the best available control technology.

By January 1, 1981, there would be no allowable discharge of pollutants from industrial sources.

There is also one general interim goal: To make lakes and streams clean enough, by 1981, for swimming and for the propagation of fish, shellfish, and wildlife.

To help States and localities, the bill would authorize $14 billion in Federal grants over a 4-year period for the construction and improvement of waste treatment plants. The Federal share would be 60 percent, and would rise to 70 percent if the State contributed 10 percent, leaving the locality to provide only 20 percent.

This new emphasis on effluent controls as such, and on the incremental tightening of control requirements leading up to elimination, with certain exceptions, of all discharges of pollutants from point of sources by 1985, is to be supported by an accelerated research effort—one of the more significant components of a $65 million research program under the bill.

EAGLETON AMENDMENT

Under a section of the bill that I proposed, local governments would be reimbursed for the full Federal share for sewage treatment plants built between 1956 and 1966.

Local governments would be eligible for an estimated $400 million under this section. In my State, Missouri, voters on October 5 approved by a margin of 3 to 1 a $150 million bond issue for water pollution control. Under the reimbursement section of the bill, St. Louis would be eligible for $13.32 million and Kansas City would be eligible for $7.76 million, which will enable them largely to offset their local share of the cost of the next round of new treatment facilities.

AGRICULTURAL POLLUTION

I was particularly concerned throughout the committee's deliberations with the application of this bill to agriculture.

While American farmers recognize the need for pollution control—they are, after all, our leading conservationists—I think we all recognize that the characteristics of agricultural pollution and the best means of controlling it are quite different from those associated with urban/industrial pollution.

Several portions of this bill apply specifically to the control of pollution from nonpoint agricultural sources.

Section 104(d)(1) calls upon the Administrator to initiate and carry out an accelerated effort to develop and apply practical waste management methods for nonpoint sources of pollution as well as point sources.

Section 104(b) authorizes a comprehensive program of study and research on improved methods of preventing and abating water pollution from agricultural operations specifically.

The information developed through these research programs will not just be written up in scientific journals and circulated within the academic community. Section 105 of the bill grants the FPA Administrator broad authority to provide financial assistance for demonstration projects.

Section 105(d) specifically authorizes demonstration project grants for methods of handling water pollution from agriculture. Once those methods have been demonstrated, the Administrator is authorized, in cooperation with the Secretary of Agriculture, to disseminate the information developed in order to facilitate adoption by farmers.

Section 304(e) calls upon the Administrator to issue information to the States and other Federal agencies on processes, procedures, and methods for controlling water pollution resulting, in general, from nonpoint sources, including agricultural activities, mining operations, construction work, and other sources. This is to be done only after consultation with appropriate Federal and State agencies—such as the Department of Agriculture.

This kind of consultation will have profound significance for the success of our national efforts to control water pollution.

As the Administrator develops the information that he will issue under section 304 and as the States act on that information in developing plans under section 209, an important and often difficult reconciliation of competing objectives will have to be accomplished. There are potential conflicts between laws and regulations for the control of water pollution and other laws and regulations designed for the protection of workers and for the protection of sanitation in the production of food products such as meat and milk, to cite just two examples. These conflicts must be reconciled in a way that protects all valid competing public policy objectives.

This task may be made more difficult by the separation of public health functions from water pollution control functions in governments both at the Federal level and in many of the States.

My objective was to make sure that the interests of farmers are permanently represented in the counsels dealing with pollution controls.

Is it the view of the chairman of the subcommittee that the Secretary and the States, in carrying out their respective functions, should make a concerted effort to accommodate these important, and potentially conflicting, public policy objectives?

Mr. MUSKIE. Mr. President, I am sure that this task may be made more difficult by the separation of public health functions from water pollution control functions in governments both at the Federal level and in many of the States.

I would hope that potential conflicts such as the Senator from Missouri has described between competing public policy objectives can be resolved on a timely basis, and in a manner which will not place farmers, dairymen, and others in an impossible position as a result of failure to accommodate competing public policy objectives in the development of water pollution control requirements.

I would like to pay special tribute to Senator EAGLETON of Missouri for his substantial contribution during the consideration of this bill. As chairman of the Subcommittee's Panel on Science and Technology, he held hearings that developed much of the information on which the bill is based. As vice chairman of the Air and Water Pollution Subcommittee of the Public Works Committee, he chaired several days at public hearings, including those in Kansas City, Mo., and New Orleans, La. Senator EAGLETON has been present during virtually all the deliberations on this bill and is to be commended for his participation and contribution.

Mr. EAGLETON. Mr. President, I was very proud, as vice chairman of the Air and Water Pollution Subcommittee, to work closely in developing this bill with the distinguished subcommittee chairman, Senator MUSKIE, with the distinguished chairman of the full Public Works Committee, Senator RANDOLPH, and with the members of the committee.

This bill is a tough measure, but I think it is also realistic. It signals a period of adjustments to new demands. Some of these adjustments will be painful. It will require breakthroughs in science, engineering, and economics, and changes in our everyday lives as well.

Many of our Nation's navigable waters are severely polluted. Major waterways adjacent to our industrial and urban areas are not fit for any purpose. Our rivers are the primary source of pollution of coastal waters and the ocean. Many of our lakes and other confined waters are being degraded rapidly.

America's waterways are a public resource. It is time we returned our rivers, lakes and streams and the oceans to their natural role as part of man's life support system, and stopped using them as a free waste treatment system.

PRESERVING OUR NATURAL WATER RESOURCES

Mr. MONTOYA. Mr. President, today the Senate faces an issue ironically created by one of this Nation's strengths, our affluence. The wealth of this country creates a troublesome by-product: waste. The ultimate recipients of our wastes turn out to be the few possessions we have that cannot be replaced by the huge productive capacity of this Nation. The land, the water, and the air are our priceless heritage, and we must endeavor to preserve and enhance these resources in every respect. The bill before us is an attempt to move this Nation rapidly along a path that will lead to clear streams, beautiful lakes, clean oceans, and unpolluted ground water.

The Federal water pollution program began in 1948, but through most of its existence it has remained underfunded, undermanned, and partially invisible. With the recent change in public attitudes, the reorganization in Federal structures, and the new emphasis on funds allocated to such purposes, we are now provided with an opportunity to move forward rapidly and aggressively in the recovery and preservation of the vital water supplies of our Nation.

Perhaps the keystone to this revolution of emphasis is a change in national attitudes. The key to water pollution control is recycling. As a nation, however, we have been reluctant to consume water once it has been polluted, no matter how efficient the cleansing processes of treatment plants have been. This attitude is now undergoing significant change. One indication of this change is reflected in the public attitudes of Santee, near San Diego, where the public has learned to accept the benefits of recreational lakes created by water recycled from municipal treatment plants.

A second indication is the endorsement by the California State Water Resources Control Board of the principle of reuse of waste water to meet future needs. It is fitting and proper that atti-

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tudes endorsing recycling begin to flourish in areas of the West. It is in my area of the country that water is such a scarce and necessary resource. This change in attitude is a very important development, because the hope of importing water to supply the needs of the West is rapidly becoming a fantasy. As we come to realize that the costs of such transportation may be as expensive as recycling, and that environmental concerns will in all likelihood negate wholesale transfers of water supplies from areas outside the West, we begin to realize the necessity for carefully preserving and protecting the scarce water now available in the Southwest.

It is ironic that we as a nation know very little about the benefits of clean water. Our Government has for years published a study entitled "The Costs of Clean Water," but there has yet to be published a comprehensive study of the benefits of clean water. Perhaps it is this attitude that has made the adoption of recycling such a slow process. As a nation, we still reclaim only 1 percent of all water used. This is certainly much too low, particularly in view of the fact that "raw sewage" is made up of 99.5 percent water. If we begin to see water as a scarce resource rather than a cost-free pollution recipient, we will begin to see the benefits of reclaiming these resources.

A TOUGH BUT REASONABLE BILL

Your committee has placed before you a tough bill. This body and this Nation would not have it be otherwise. Our legislation contains an important principle of psychology: Men seldom draw the best from themselves unless pressed by circumstances and deadlines. This bill contains deadlines and it imposes rather tough standards on industry, municipalities, and all other sources of pollution. Only under such conditions are we likely to press the technological threshold of invention into new and imaginative developments that will allow us to meet the objectives stated in our bill.

I believe that we should not quarrel with the objective of attaining clean water in this Nation by 1985 at the latest. Such a target is reasonable and possible. But I would point out quickly that the bill will allow reason to be applied when the benefits of attaining clean water are clearly and significantly out of line with the costs involved in attaining a high level of cleanliness in specific portions of water. This bill should and does include an "escape clause" to cover such circumstances. But it will not allow a wholesale deviation from the national objective of achieving clean water throughout this country.

Clean water means clean water. For many years the rhetoric associated with water pollution control has led one to believe that clean water would not require the elimination of pollutants. We have engaged in a game of self-deception, believing that halfway measures might allow us to attain clean water without paying a significant price. This bill does not engage in such doubletalk. Clean water means the elimination of the discharge of pollutants. That is the national standard adopted by this bill. Only when technology is not available to achieve such a goal will exceptions be made, and even then exceptions will not be made if the quality of the receiving body of water would be impaired beyond a level acceptable to public health and recreation standards. The bill provides for a target date of 1981 for all point sources other than publicly owned treatment works to eliminate the discharge of pollutants. It provides, however, a very reasonable mid-course correction date of 1976. The three dates set in the bill, 1976, 1981, and 1985, are all carefully interrelated. By selecting 1981 as a target date for the elimination of industrial pollutants, and allowing for adjustments to be made in the programs in 1976, we can, with unified national effort, attain the goal of clean water by 1985.

Breakthroughs are beginning to occur through the adoption of imaginative solutions to the treatment and disposal of pollutants. Many ecologists have argued that waste begins with a land-based population and must eventually end with a land-based disposal system. The simple logic of such an argument has been adopted in the Muskegon, Mich., regional treatment system, and has the possibility of becoming one of the leading solutions to our pollution problem.

In estuaries, oysters and other shellfish could be raised under carefully controlled conditions through the use of effluent discharge as a food source, and experiments designed to make such a scheme operational are presently being conducted at Woods Hole, Mass. Acquaculture, has long been part of the program of North Carolina University's sea grant program. The recharge of vital underground water sources is now being adopted in some portions of the southwest. All these developments portend significant breakthroughs in the development of imaginative solutions to what has become a pressing national problem. Under the pressure, encouragement, and financial support of this bill, such breakthroughs will begin to move at a more rapid pace.

RETAINING THE FEDERAL-STATE PARTNERSHIP

The States have and must retain a significant role in the water pollution program. In recognition of the need for additional Federal aid to State programs, this bill contains a formula that would allow States and municipalities to receive up to 70 percent of their construction costs in Federal grants. The State would still retain decisionmaking responsibility as to the priorities within its boundaries for construction programs.

The permit program, adopted by the Federal Government through its use of the 1899 Refuse Act, has caused considerable concern among States. This bill has attempted to address that problem by making the permit program a joint Federal-State effort. Under the pending legislation, the Federal Government would delegate the issuance of permits in some categories directly to States, and in other categories of more broadly based national concern, the Federal Government would retain control over the permitting. The States have had real grievances in the past: enforcement proceedings have been long and difficult, Federal moneys have been years behind the rhetoric of Federal officials, and reimbursement provisions for States who have gone ahead rapidly with construction programs have been unclear and inadequate.

This bill attempts to remedy many of the difficulties encountered in the past. Money should flow more rapidly to the States because of the contract authority provided in this bill. Generous reimbursement provisions have been included in title II of the bill. It is essential that the present Federal-State partnership remain intact, for the efforts of the States are still a vital part of the national program for attaining clean water.

THE NEED TO ANTICIPATE THE FUTURE

In many real ways, the work of the subcommittee and the full committee has been an attempt to foresee the needs of the Nation and lead this country toward solutions before crises develop further. Lake Michigan cannot be cleansed once the deep reaches of its bottoms are filled with the wastes of our affluent population. The same is true for Lake Tahoe, which has no traceable outflow, and therefore would be extremely slow in cleansing itself through natural processes. Though these examples are well known, the problem applies just as directly to many lesser known bodies of water throughout the country. Underground water is the life-blood of many sections of the Southwestern United States, and if these bodies become polluted, our attempts to cleanse them would in all probability be even more difficult than the anti-pollution measures adopted for surface waters. We cannot afford to allow these vital resources to be threatened further.

Nor can we wait for the concentration of toxic materials to become so visible that we realize the crisis that faces us. By that time it will be too late. Dr. Henry Schroder of the Dartmouth Medical School has told us that pollution by toxic metals "is a much more serious and insidious problem than pollution by organic substances," and that "there is little doubt that at the present rate of pollution, diseases due to lead toxicity will emerge within a few years." We must anticipate such problems before they overwhelm us.

In a Nation that spends almost $900 million on pet food and $5 billion on cosmetics per year, we can and must allocate the resources and the willpower necessary to solve the problem of water pollution. This bill will provide a long step in this direction if enacted by this body, and I urge that it be adopted.

Mr. BAKER. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 3 minutes.

Mr. BAKER. Mr. President, I take this opportunity to pay a well-earned tribute to the distinguished chairman of the full committee, the Senator from West Virginia (Mr. RANDOLPH), who has worked so ably and eloquently in bringing together the divergent viewpoints of committee members that we were able to report the bill without a dissenting vote. However the fact that the bill was ordered reported without a dissenting vote does not mean that there is no remaining controversy in the bill. There is.

Mr. President, I am confident, however, that the bill we act upon today is due to the good efforts of the distinguished chairman of the committee and the committee members and to the work of the chairman of the subcommittee, the Senator from Maine (Mr. MUSKIE).

As we proceed to compile a legislative history and to consider the amendments offered this afternoon, we will have before us a piece of legislation that will work in the best interests of the United States and in the best interest of the improvement of our environment.

I pay special tribute to the Senator from Kentucky (Mr. COOPER), the ranking minority member of the full committee, and to the Senator from Delaware (Mr. BOGGS), the ranking minority member of the subcommittee, for the excellent work that they and their staffs have done to enable us to bring order out of a difficult and complex field of inquiry. It forms a basis for the bill now pending before the Senate.

I offer this observation in my own words, being receptive to the comments and observations of those who preceded me in making general remarks and debate on the bill.

Mr. President, I have been a Member of the Senate since January 1967, and of this committee and subcommittee, since I first came to the Senate. I have watched firsthand the evolution and the development of much significant air and water pollution control legislation. I can safely say that in that 5-year period no bill has been presented to the Senate that was of greater consequence or importance than the pending bill.

I think that all members of the committee and certainly of the subcommittee realize the enormous importance of the new departure we take in the consideration of this piece of legislation. We understand the problems that are necessarily incident to the shift of direction that is implicit in the design of the pending bill.

The essential shift of policy contained in this bill is away from the concept of ambient quality and toward the concept of effluent controls. We are doing that, of course, and we are doing much, much more. Mostly we are recognizing for the first time that there is not a readily definable linear relationship between given effluent discharges and the quality of the receiving waters.

I favor this new approach.

I think we are being far more realistic in our approach by trying to control the discharge of a particular pollutant into either the air or water. At the same time, however, we must understand that in the institutional arrangements we are proposing, it will be difficult to adjust to the realities of the situation.

On that point, I close my remarks by saying that I fully support the concept of this new departure, this idea of controlling the discharges of pollutants instead of obtaining an average quality. I subscribe to the statement of my colleagues that this requires a midcourse correction in our techniques. However, I point out that a midcourse correction may not be an appropriate description of what we have to do. I think that when we adopt this new bill and the techniques involved in it, we will have to start making changes in the course of our flight and travel immediately, because I am certain that as we begin the implementation of this new program, we will have to be keenly flexible and open to the potential necessity for change.

I am determined to see that we do implement this program fully, but that we do not create a situation that is impossible of compliance. We have to have a strong Federal control, but we do not have to short circuit the great efforts of the State and local governments to be full partners in this business of trying to implement the program.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAKER. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for an additional minute.

Mr. BAKER. Mr. President, I feel that the bill is worthy of the affirmative consideration of the Senate. I feel that there are adjustments that will be offered and some that should be adopted.

I feel, on balance, that the pending bill may rank as one of the great and certainly one of the most far-reaching pieces of domestic legislation that has come before the Congress in recent years.

Mr. President, I reserve the remainder of my time.

Mr. RANDOLPH. Mr. President, I yield 3 minutes to the able Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes.

Mr. BENTSEN. Mr. President, I support S. 2770, the Federal Water Pollution Act Amendments of 1971.

As a member of the Air and Water Pollution Subcommittee, I want to express my gratitude to the distinguished chairman of the subcommittee (Mr. MUSKIE) and to the chairman of the Public Works Committee (Mr. RANDOLPH) for their long and diligent work on this measure. In some 45 days of executive session, they maintained an air of objectivity and fairness, and no Senator, including myself, who wanted his viewpoint expressed was denied a fair hearing.

I do not pretend to be satisfied with all of the provisions of this bill. It is a long and extremely complicated piece of legislation, and it has a number of controversial and potentially troublesome provisions in it. But it is, I am convinced, a substantially sound bill.

I wish to take just a moment to comment on some of the sections of the bill in which I have a particular interest.

As the Senator from Maine (Mr. MUSKIE) has noted, the bill sets up a two stage program for water pollution control. In phase I, which is to be implemented by 1976, all industrial pollution sources must apply the best practicable technology. Communities will be required to have secondary treatment construction programs by June 30, 1974. In phase II, to be implemented by 1981, communities and industries will be required to apply the best available technology.

I strongly support the strategy of attempting to control the discharge of effluents. I was concerned, however, that, in its earlier language, the bill was disregarding the economic and social costs inherent in such a massive program of water pollution control.

Of course, all of us recognize that we are going to have to pay a stiff price to clean up the Nation's waterways. We are going to require strong laws and effective enforcement. Water pollution control programs should be accorded a high place on the ladder of our national priorities.

At the same time, I was somewhat concerned that while shaping this legislation, we cannot and indeed must not overlook the economic implications of our actions. If these programs cause too severe economic dislocations, if the economic and social benefits of pollution control programs bear no reasonable relationship to the costs involved in implementing them, then all of our best efforts to clean up the waterways could be defeated in a backlash against those of us who are working to clean up the environment.

I do not want to see that happen. I want a tough and fair bill, one which industry and municipalities can read and know what is expected of them. There must be a reasonable relationship between costs and benefits if there is to be an effective and workable program.

Accordingly, while I have some reservations about the attainability of the target dates for a no-discharge policy of pollution control—even as a statement of policy—I am pleased to see language in various sections of the bill which recognizes that there are economic considerations involved in a determination of effluent limitations and water quality standards.

In phase II, which begins in 1976, the question of reaching a "best available technology" is tempered by language which requires the State or the Administrator to take into account the cost of achieving such controls. In section 302, which allows the Administrator to set a more restrictive standard for certain waters, the economic and social costs of achieving such standards must be balanced against the social and economic benefits sought to be obtained. And in the promulgation of Federal sources of performance for new sources of pollution—section 306—the Administrator is required to adjust the standards in individual cases if a reasonable cost-benefit relationship does not exist.

I do not believe the language in these key sections of the bill weakens the overall effect of the bill. On the contrary, I believe that it strengthens it by guarding against arbitrary and capricious actions of a State or Administrator in establishing unreasonable standards or limitations in situations in which overriding social and economic considerations are paramount.

Mr. President, if we are to gain public support for this massive effort to clean up our Nation's waters, we must initiate policies which deal forcefully and fairly with the problems of water pollution.

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There is no doubt that the problems are enormous. There is no doubt that we will suffer some disruptions in our economy because of our efforts; many marginal plants may be forced to close.

But, at the same time, we must recognize that our zeal to clean up can create unnecessary chaos unless we spell out what we want and prevent the unreasonable application of controls which do not have any relation to the goals we seek.

I sat through the great majority of the executive sessions on this measure, and I am convinced the members of the committee made a strong effort to come to grips with this very basic problem. I wish to express my appreciation to them as well as to the chairman for their work on this measure.

I urge the passage of this legislation.

Mr. President, I ask unanimous consent that my staff assistant, Mr. Ron Katz, may be permitted to remain on the floor during the consideration of this bill, other than during rollcall votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I yield 5 minutes to the Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. TUNNEY. Mr. President, I thank the very distinguished and able chairman of the full committee for giving me this opportunity to comment on the bill before us. I have never experienced in the 7 years that I have been in Congress—6 years in the House of Representatives and now 1 year in the Senate—the teamwork and the thoughtful consideration to varying points of view that were so obvious in the consideration and the mark-up of this legislation. I think it was a direct result of the leadership given to members of the committee. The Senator from West Virginia (Mr. RANDOLPH) at all times gave to individual members of the committee, including the most junior members, the opportunity to fully express their points of view.

The Senator from Maine (Mr. MUSKIE), during the subcommittee hearings and then in the subcommittee markup session, was, in my mind, a model as committee chairman in giving divergent points of view an opportunity to be fully expressed, to be digested, in working out if possible a reconciliation between divergent points of view, but always willing in the final analysis to have an up or down vote after the various provisions were fully evaluated.

Particularly, I would like to commend the Senator from Kentucky (Mr. COOPER) and the Senator from New York (Mr. BUCKLEY) for the type of thoughtful consideration they gave to the legislation and for counseling with me on various amendments I had on the bill. I found myself at various times being significantly helped and substantially benefited by the suggestions they made regarding various amendments I offered.

I think that this water quality bill is probably the most important environmental bill that the Congress of the United States has ever had the opportunity to consider. If it passes in its present form, I think it is going to be the most significant environmental bill to pass any legislature at any time in history.

The bill establishes as a goal by 1985 the ending of pollutant discharges. The bill provides the tools and the authority to tie water quality standards to effluent limitations. The bill makes $14 billion available to implement its policy objectives. This is a life-giving contribution to the ultimate good of the citizens of our country. For those of us who believe very sincerely that we are in an environmental crisis, and that we may be approaching the point of no return, these commitments demonstrate the importance of this legislation. I do not think Congress should wait any longer to enact a water quality bill which has real teeth in it.

Mr. President, I am delighted to join in introducing the Federal Water Pollution Control Act Amendments of 1971. It is clear, of course, that this legislation will substantially transform our present national water quality programs, and I believe it will for the first time provide the tools we need to clean up the Nation's waters, to return them to a quality which will allow full use by all our people, and to protect the wildlife and water-borne organisms upon which human survival depends.

I support the remarks offered by my distinguished subcommittee chairman, Senator MUSKIE, on this legislation. In addition, there are particular parts of this bill with which I have been especially concerned and which I would like to explore briefly.

DEADLINES AND STATUTORY GOALS

First, this bill for the first time declares as a matter of national policy where we are going and when we should be there in our water pollution control effort.

The national program which the committee has created, and which the distinguished Senator from Maine has described, would be carried through two distinct phases of execution. Both these phases, and the general objectives of the bill, are tied to specific time deadlines and carefully defined targets. In phase I, for point sources of pollutants, effluent limits shall be established not later than January 1, 1976, which comply with specifically defined levels of effluent control and treatment. As defined in section 301 (b)(1) of the bill, and as elaborated in the regulations which we anticipate the Administrator shall issue pursuant to section 301 and section 304, these 1976 goals shall be at least secondary treatment for publicly owned treatment works and the "best practicable control technology currently available" for other point sources—and in all events shall be those levels of treatment or control which comply with previously adopted State or Federal water quality or effluent control laws and regulations.

In phase II, a further national effort shall move toward eliminating by 1981 all pollutant discharges, or at least applying the best available control technology wherever any applicant can show to the Administrator that such technology cannot produce the "no discharge" goal.

As supplemental strategy, the Administrator can impose special effluent limitations related to specific water quality objectives. Again, these are tied to definite deadlines stated in section 101 of the legislation.

Wherever the Administrator or a State determines that the best available technology cannot provide a specifically defined water quality to allow swimming and protect wildlife, and where benefits are reasonably related to costs, then extra effluent limitations or alternative control strategies can be imposed which are reasonably calculated to provide that water quality. Under the objectives stated in section 101, this target is provided as an interim goal to be reached before 1981.

All these provisions of the Water Pollution Control Act Amendments of 1971 present an opportunity, and a challenge, to mobilize national resources efficiently and intelligently toward objectives which all of us can support. These are essential devices to allow rational program planning and allocation of funds, to marshal our scarce resources in the fight against environmental pollution. They will allow us to redeem the nearly $20 billion in public and private funds which have been invested in water quality programs during the past 20 years. During all this time, we have been nibbling at the edges of this problem. This bill now provides a set of clear goals and deadlines. At last, we will know where we are going and we will have specific yardsticks to measure our progress.

A NATIONAL WATER QUALITY STANDARD

In connection with the general concept of goals and deadlines, I have also been deeply interested in providing ample authority to attain, by 1981 wherever possible, a specific nationally defined water quality goal to make most of our waterways fit places for swimming and wildlife.

As is acknowledged in the committee report, there is great question whether it is possible to calculate accurately the relationship between particular pollutant discharges and the quality of the receiving waters.

There can be no question that such a relationship exists, and the committee raises none. There is frequently a question, however, whether administrators can be reasonably asked to determine effluent control strategies or limitations based upon a water quality goal which those strategies or limitations are intended to produce. For this reason, as set forth in the committee report, the statutory goals declared by the bill, particularly in section 301, are generally drawn in terms of specific effluent limitations to be achieved for particular point sources of pollution. This is a substantial change in present Federal policy, which focuses largely on State implementation plans to achieve particular water quality objectives.

I am particularly pleased, however, that the issue of water quality objectives does not rest there.

First, sections 104, 105, 304, 305, and other provisions of the bill authorize an expansion of our ability to determine the impact of effluent discharges on water quality. With this new information, especially in the water quality inventory authorized in section 305, the States and the Administrator should be placed beyond our present poverty of understanding and should be able with increasing frequency to create effluent limitations and control strategies rationally aimed at specific water quality targets.

In part, this will merely expand capacities which are already developed. Despite the controversy over whether we can calculate the relationship between water quality and pollutant discharges, there is substantial evidence that such calculations are possible and are in fact already being made the basis of water pollution control programs. The science of water quality control is progressing to a point where the impact of materials in effluents on water quality of a given waterway can be calculated. This calculation, while not perfect, can be used to assess the effluent limitations required to achieve specified stream quality standards.

As an example, a Federal study of the Delaware River estuary determined the amount of wastes that were being discharged and then calculated various levels of limitation on the total discharge wasteload required to achieve several goal levels of dissolved oxygen in the waterway. From the several alternatives calculated, the goal to be achieved was selected, and the required effluent limitations generated by this study formed the basis of the Delaware River Basin Commission control program now being carried out.

To do the necessary calculations, the Federal Delaware study personnel, working with municipal, State, and Federal agencies, and public and industrial groups, developed the following kinds of information:

First, hydrologic information such as streamflows and sewer overflows, and analytical tools such as tidal mixing models;

Second, quality and quantity of existing industrial, municipal, and tributary wasteloads and predictions of future loads from projections of population and industrial growth;

Third, existing water quality was assessed, as were the changes in quality needed for projected uses of the estuary's waters, such as for recreation and fish migration;

Fourth, maximum permissible discharge wasteloads for the waterway and individual effluent limitations required to meet alternative water uses and associated water quality levels, with estimates of their costs and the value of the benefits derived.

Similar information has been developed, for similar purposes, in quality control studies by the Water Quality Office of the Environmental Protection Agency on the Kanawha River; by Ohio on the Scioto River; by California on San Francisco Bay; and by the Interstate Sanitation Commission in the New York City area.

The information and techniques in systematic strategy creation which will be generated under the authority of sections 104, 105, 304, and 305 should expand the Administrator's capacity to develop information and programs such as those just described.

Beyond this first point, there is a second critical provision of this bill which authorizes an expanded use of systematic effluent limitations and alternative control strategies to reach a water quality objective: section 302.

Section 302 implements the interim goal—defined in section 101 of the act—of achieving by 1981, wherever attainable, a standard of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water, and assures that public water supplies, agricultural, and industrial uses will be protected.

Section 302 is triggered whenever the Administrator or a State reaches a judgment that discharges from a point source or group of point sources would interfere with the attainment or maintenance of the national water quality standard defined in section 302(a), even if the effluent limitations already required under the act were to be imposed. Where a State or the Administrator finds these are insufficient, under the criteria of section 302, tougher effluent limitations and alternative effluent control strategies must be established.

These tougher limitations must reasonably be expected to contribute to the attainment or maintenance of the national standard of water quality defined in section 302(a). This language has been carefully drawn with an eye to the difficulties often experienced in reliably connecting particular effluent controls with a particular water quality objective: the supplemental effluent limitations, including alternative effluent control strategies, shall "reasonably be expected" to "contribute" to the statutory water quality objective; a precise causal connection is unnecessary.

Section 302(b) states expressly that any of these tougher limitations and strategies can be required only after a hearing, where the Administrator or the State determines the economic and social costs of achieving the tougher controls are reasonably related to the economic and social benefits it would provide, and to determine whether or not such effluent limitations can be achieved with available technology or other alternative control strategies.

I believe the mandate of section 302 is a critical element of the programs authorized by this legislation.

The ultimate objective of the bill is to restore and maintain the natural chemical, physical, and biological integrity of the Nation's waters, and to end the discharge of pollutants into the navigable waters of the Nation by 1985.

We urgently need this declaration of national policy, at a time when environmental pollution desecrates the quality of our lives and even endangers human survival. It is an eventual goal which abandons any concept that water has an assimilative capacity with respect to pollutants, and it is therefore a decisive redirection in national policy.

In the meantime, however, the legislation provides the Nation with an urgent interim challenge and opportunity. On the way to the ultimate goal, we can, where we are able, focus our energies and resources on attaining wherever possible a national standard of water quality to allow recreation and protect wildlife and supporting water-borne organisms. The mandate to create strategies for reaching this goal will allow us to marshal our scarce resources rationally, because funds and energy will be drawn to the greatest problem areas.

The only exemptions will be drawn publicly, and based solely on an absence of reasonable relationship between social and economic costs and benefits. The interim goal will therefore itself be a decisive commitment to new priorities: to return, to the people of the Nation, the chance to use and enjoy waters which have too long been denied to us by the systematic destruction of our natural environment.

NEW TECHNOLOGY FOR POLLUTION CONTROL

As a third major point, I am deeply pleased that we have provided in this legislation substantial authority and funds to use the technological skills of thousands of men and women, now sadly unemployed, to create the new systems and strategies we will need to improve the quality of the Nation's waters.

Sections 104 and 105 of the bill authorize $610 million from 1972 through 1975 in research, development and demonstration programs to give the Administrator of the Environmental Protection Agency the technological tools and information needed to achieve the objectives of this legislation.

Further—and beyond research and development—sections 201 and 209 of the bill require comprehensive regional waste treatment management plans, created by designated local planning agencies, as a condition for any approval of construction grants—and under section 209, 100 percent of these planning costs will be federally funded during the first 2 years, tapering off to 70 percent thereafter. This affirmative mandate for systematic analysis and creation of cost-beneficial water quality strategies lies at the core of this legislation, and it will require the most sophisticated use of systems analytical techniques which our aerospace and similar industries can provide. It is plain from section 209 that much of this planning work can be contracted out to private groups.

In addition, the bill provides substantial funds for the comprehensive planning and other programs which must be created to control water pollution. Section 102 permits 50 percent of the costs of approved river basin planning to be federally funded at a Governor's request. $135 million is provided in section 106 for approved State pollution control programs. The broad authority for training grants in section 109 is extended, and can be funded from the $14 billion provided in sections 207 and 205. $200 million is specifically provided in 1972 and again in 1973 for building advanced waste treatment hardware.

Fourth, the $14 billion available in this bill can be committed to far more than simple brick-and-mortar treatment plants. The definition of "treatment

works" set forth in section 210 expressly includes economic, engineering, and other studies and plans necessary before construction can begin and any devices and systems for controlling municipal or industrial wastes. This bill opens up vast possibilities for Federal funding, at a possible maximum level of 70 percent, for the widest possible applications of new technologies not only to planning, but to the construction of hardware as well.

Mr. President, I can think of no better source of skills for this major new national effort than our stricken aerospace industries, and the thousands of skilled men and women now thrown on the scrap heap of unemployment. As those constituents of mine well know by now, this transition will not come overnight. But this bill creates the tough new water quality and effluent control standards which will create a massive new demand for technical skills. The bill also provides the authority and funding for the most sophisticated and cost-beneficial methods of attaining those goals. I am deeply pleased to have participated so extensively in creating this new opportunity for the humane use of technology in the national interest. It will create thousands of jobs for California and the Nation. It will allow us to improve the quality of our lives.

LAKE TAHOE POLLUTION CONTROL

As a final point, particularly important to California, this legislation recognizes, as declared in the committee report, that Lake Tahoe is a unique National resource urgently requiring effective Federal action to preserve its environmental quality.

The bill includes $6,000,000 specifically earmarked for expenditure by the Environmental Protection Agency on demonstration programs and projects to control water pollution and assist those planning activities by the Tahoe Regional Planning Agency which meet the requirements of the bill.

Further, the bill clarifies the authority of the Environmental Protection Agency to review, in consultation with the Tahoe Regional Planning Agency, substantially all Federal expenditures and other Federal activities in the basin—those which may result directly or indirectly in discharges or runoff causing water pollution. Conclusions in this review process must be published, and adverse findings referred to the Council on Environmental Quality. In this way, I hope that some central review and coordination may be brought to Federal activities in the Tahoe Basin, so that the matchless environmental quality of the Tahoe area will not be destroyed by the unthinking activities of the Federal Government itself.

Finally, the bill requires annual reports by the Environmental Protection Agency to the Congress on the environmental impact of development in the Tahoe Basin area; on the adequacy of plans developed by the Tahoe Regional Planning Agency to maintain and enhance environmental quality within the basin; and on the demonstration projects the bill authorizes.

CONCLUSION

Mr. President, I join in conclusion, as I did at the outset, with the distinguished Senator from Maine and others of my distinguished colleagues on the Public Works Committee in supporting this legislation. Under the leadership of Senator MUSKIE, and later under the guidance of the distinguished Senator from West Virginia, the Subcommittee on Air and Water Pollution and the full Committee on Public Works have given this legislation the most exhaustive consideration which I would have thought possible.

I am deeply grateful, for myself and for the Californians I represent as a new Member of the Senate, to have been invited to share so fully in all phases of the committee's deliberations on this bill. This legislation presents an opportunity for bold national action on some of the most difficult problems facing our country. Throughout the long months in which we drafted this bill, and during often taxing deliberations on questions of great importance, I have been extended, even as a new member of the committee, an extraordinary degree of attention and consideration. I believe this example of spirited but open debate, remarkably free of partisanship, is as much a source of hope to us all as is the legislation I join the committee in offering to the Senate.

I thank the Senator for yielding to me.

Mr. BIBLE. Mr. President, I agree with the committee views accompanying this bill that in the past water pollution control has all too often been sporadic, inconsistent, and improvised on an ad hoc basis. The bill now before the Senate represents a major step forward in what has got to be a continuing effort to enhance our environment through greater, more effective control of water pollution. This bill moves us along that path. Its special virtue is the fact that this legislation establishes a comprehensive long-range policy for the elimination of water pollution and makes it clear to all the kind of control expected in the years ahead. This is one of the most significant pieces of legislation we will consider in this Congress. And I congratulate the committee.

There is one feature of the bill which is of very special interest to me and to the people of my State of Nevada.

I refer to section 114 of the bill appearing at pages 43 through 46.

This section of the bill provides a special water pollution program for Lake Tahoe—the magificent, 22-mile long lake that straddles the Nevada-California border high in the Sierra Mountains above Reno and Carson City, Nev. Lake Tahoe is renowned the world over for its pristine clarity and unmatched beauty. It is a unique national asset that does call for special efforts to protect and preserve its environment, for unlike many other major lakes throughout the country Lake Tahoe has—at this point at least—largely escaped the ravages of urbanization.

But the ecology of the Tahoe Basin is fragile and delicately balanced. Recent years have seen increasing pressures for heavy development, and steps have had to be taken to provide for orderly area-wide planning designed to forestall damage to the Tahoe Basin.

Perhaps the most significant move in this direction was the joint effort of the States of Nevada and California in the creation of the Tahoe Regional Planning Agency. The agency is the result of an interstate compact negotiated and concluded by the two States. It represents the united determination of the people of Nevada and California that the Lake Tahoe Basin shall survive the advance of civilization.

I was privileged to sponsor the legislation here in the Congress grant—the Congress' consent to the Tahoe Regional Planning Area Compact, which was finally enacted in December, 1969 and approved as Public Law 91-148.

Turning to section 114 of this bill, I want to applaud this further special attention to Lake Tahoe and its problems. I commend my good friend and colleague Senator TUNNEY for his initiative in first bringing this proposal forward. He and I share the objective of preserving and enhancing the environment of the Lake Tahoe basin for the people of our two great States and for the Nation as well.

I do think, however, that it will be useful to establish some legislative history concerning this provision of the bill, and I have a number of questions I would like to ask the Senator from California.

First, I recall that when this proposal was first introduced by the Senator as S. 2374 the bill called for "agreements" between the Administrator of the Environmental Protection Agency and the Tahoe Regional Planning Agency under which demonstration and other projects authorized by the bill would be designed and carried out. The committee bill—at page 43 lines 15-25—provides only that EPA is to "consult" with the Planning Agency. EPA appears to be the action agency.

In view of the effort that went into creation of the Tahoe Regional Planning Agency, and because that agency was specifically designed to be the official areawide planning agency for the Tahoe Basin, it is important that that agency's authority not be undermined in any way.

Just what role does the committee anticipate that the bi-State agency will play in determining the design and in the implementation of projects authorized by subsection 114(a). Will EPA be in a position to move ahead with projects regardless of the position taken by our regional planning agency?

Mr. TUNNEY. Mr. President, I am delighted at the interest in this legislation which the distinguished senior Senator from Nevada has expressed, and I know that he and I share a common concern to preserve and enhance the priceless beauty of Lake Tahoe. Together with all Californians, I have a double reason for friendship with the distinguished Senator from Nevada; he represents our neighboring State of Nevada, and he has worked long and carefully in the cause of conservation. The bi-State agency responsible for protecting the quality of the Tahoe Basin was created under his leadership in the Senate. I am happy to work with him in perfecting the purpose of that legislation, to insure that the beauty of Lake Tahoe remains a resource

for the people of California, Nevada, and the Nation.

I am especially pleased that the distinguished Senator has provided us with an opportunity to discuss section 114 of this bill further. He and I share a common hope, in which the Public Works Committee joins, that this provision regarding Lake Tahoe will supplement constructively the long efforts—in which he has taken so large a part—to protect the lake. The entire thrust of the Tahoe provision is directed towards maintaining and enhancing the environmental quality of the Tahoe Basin. In this effort, we all hope and expect that the Environmental Protection Agency will be a welcome partner, working cooperatively with the Tahoe Regional Planning Agency wherever possible. Section 114 mandates full consultation of the Tahoe Regional Planning Agency by the Environmental Protection Agency. So long as the overriding environmental protection criteria of section 114 are met, subsections 114(a)(1) and 114(a)(5) are further intended to be channels through which substantial Federal funds can be made available by the Environmental Protection Agency to assist the Tahoe Regional Planning Agency in effort to make plans which protect the quality of the Tahoe Basin.

It is clear, of course, that section 114(a) provides independent authority to the Environmental Protection Agency to act apart from the Regional Planning Agency. But I am sure we all hope and expect that will be unnecessary, and that the Tahoe Regional Agency will serve the purposes for which it was originally intended. Section 114 anticipates no undermining of the powers legally vested in the bistate agency under the compact. It is expected that the agencies will work together toward the common goal of protecting and enhancing the Tahoe Basin. I am delighted to be joined by the distinguished Senator from Nevada in that hope.

Mr. BIBLE. Subsection 114(a)(1) of the bill provides that one of the projects authorized would be the preparation of detailed plans for the development and conservation of the region's water resources, accompanied by a study of possible alternative sources of water for municipal uses.

In commenting on this provision the Governor of Nevada commented that the allocation of water in the Tahoe Basin has been negotiated as part of a Nevada-California Interstate Water Compact which is now pending in the Congress awaiting congressional consent. The Governor feels a limitation of water in the basin is desirable as a limitation on population, and feels this provision of the bill should be omitted.

I realize that the projects described in subsection (a) are merely descriptive of the kinds of projects authorized by the bill, but I would appreciate having the committee's comments.

Mr. TUNNEY. The distinguished Senator raises a most important point. Nothing in section 114 is intended to promote development in the Tahoe Basin. If the last two decades in the Tahoe Basin have taught us anything, they have shown us that our first priority in the Tahoe Basin must be fully to protect the environmental quality of that area. I am deeply pleased that the Senator from Nevada would associate himself with this view. Further, the specific demonstration project in section 114(a)(1) through 114(a)(5) are optional, not mandatory: all must meet the overriding requirement of section 114(a) that they provide controls over nonpoint sources of pollution and also maintain and enhance the water quality of the Tahoe Basin. But the option to undertake any specific project lies with the EPA Administrator following full consultation with TRPA and other State and Federal agencies. His choices will be based on the purpose of section 114 to provide new assistance in protecting the Tahoe environment. I hope that the specific project mentioned by the Senator will be undertaken. But the bill does not require this kind of program.

Mr. BIBLE. Subsection 114(a)(3) authorizes programs for the recycling of pollutants and the reclamation of water for municipal or recreational purposes. In this connection, the Governor notes that sewage exportation from the Tahoe Basin is now nearing completion, and comments that recycling and reuse within the basin would be undesirable because it would allow for greater population. The Governor feels this authorization should be omitted.

What consideration did the committee give to the possibility that this kind of program might lead to more serious population problems in the basin? Is it intended that this kind of project would go forward?

Mr. TUNNEY. Again, I join in stating that the purpose of section 114 is not to encourage population growth in the basin, and that the particular project the Senator mentions is intended to serve only the interests of environmental protection.

Any decision by the Environmental Protection Agency should certainly be governed by the same factors, relating to environmental impact, which are stated in section 114(b) with respect to other Federal activities.

Moreover, I point out again that the project described by the Senator is permissive, not mandatory, although I hope it will be undertaken.

Mr. BIBLE. Finally, I think some clarification is needed concerning subsection 114(b). As I understand it, under section 309 of the Clean Air Act—the so-called "Policy Review" provision—the Administrator of EPA must review and make written determination in connection with every "major Federal agency action" significantly affecting the quality of the environment.

It is unclear to me just how EPA has defined the expression "major Federal agency action," but it seems reasonable to surmise that it does not include all agency actions.

Subsection 114(b) provides that for purposes of section 309 all Federal and federally assisted projects—including projects involving any Federal expenditure, license, permit, insurance, loan guarantee, and so forth—anywhere in the Tahoe Basin would be deemed "major Federal agency action" for purposes of this provision.

In other words all federally assisted projects would have to be reviewed by the EPA Administrator and no project could be undertaken until the Administrator has published his determinations.

As originally introduced by the Senator, S. 2374 would have prohibited any expenditure of Federal funds, any insurance or guarantee assistance, and so forth unless the EPA Administrator "certified" that the action would be consistent with Federal laws governing air and water quality and with the plans of the Tahoe Regional Planning Agency.

That provision of the earlier bill raised concern because it seemed to give a "veto" to EPA over any and all Federal and federally assisted projects in the Tahoe Basin. It also seemed to superimpose EPA on top of the bistate agency which was created by the people of Nevada and California to make the decisions concerning the region. The earlier "certification" requirement contained in S. 2374 was characterized by the Governor of Nevada as unwarranted Federal interference in State affairs.

I do not read subsection (b) of the committee bill as giving EPA a "veto." The language appears to be limited to giving the Administrator a review and comment function. And it appears that his determinations would be advisory in nature.

I hope the committee will comment on this. I also want to know whether section 114 contemplates that in the event of an adverse determination by EPA—which might be at variance with the judgment of the bistate agency—the Federal agency involved would be prohibited from spending funds on a Federal project in the basin, or approving applications for Federal assistance in the form of insurance or loan guarantees?

Mr. TUNNEY. The Senator is correct that section 114 does not give to the Environmental Protection Agency the veto over Federal actions which I have proposed in S. 2374, my bill on this subject. It seems to me that proposals for an EPA review and veto power over Federal actions are entirely appropriate, but must in fairness be deferred until full hearings can be held.

Instead, section 114(b) defines a broad range of Federal activities which would include all those which may result directly or indirectly in discharges or runoff into the navigable waters of the Tahoe Basin. For those activities, the Administrator is charged with the duty to do no more and no less than what section 309 of the Clean Air Act, as amended, would require him to do for major Federal agency actions in other cases. He must establish review procedures which effectively assess the environmental impact of the proposed Federal action, as set forth in section 309.

In my judgment, the full procedures of section 309 are well designed to do a vital job in the Tahoe Basin: to provide open review and responsible decisionmaking in the executive branch, in the interests of environmental protection. It would be a

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cruel disappointment to those who care so deeply about protecting the fragile ecology of the Tahoe area, if the Federal Government thoughtlessly destroyed our own attempts to protect the basin. For this reason, extreme caution is necessary in Federal activities. The full procedures of section 309 of the Clean Air Act, as amended, are vital to that end.

I am delighted that the distinguished Senator from Nevada has associated himself with these views. I welcome his wholehearted support in our common effort to preserve Lake Tahoe as a resource of beauty for the Nation.

Mr. BIBLE. I thank the Senator for his very helpful comments. He has made a valuable contribution to the legislative history of this very significant provision of the bill—a provision of great significance to both our States. It is clear that section 114 will aid and assist our Tahoe Regional Planning Agency in the fulfillment of its mission to protect the environment and assure orderly development within the Tahoe Basin and that section 114 will provide the means for assuring that Federal agency actions within the basin will not impair the ecology of the area. And I appreciate the Senator's assurance that nothing in section 114 gives the EPA Administrator any "veto" power over actions of other Federal agencies on projects involving the basin. This point has been the source of some concern, and I am glad it has been clarified.

I am particularly pleased that a primary effect of this provision will be to bring additional Federal funding to bear on the problems besetting Lake Tahoe. The types of demonstration projects and programs authorized by the bill should go a long way toward achieving the joint objective of the people of Nevada and California to preserve the beauties of Lake Tahoe for the benefit of the generations to come.

Again, I thank the distinguished Senator from California.

Mr. CANNON. I very much appreciate this further clarification of section 114 of the water pollution bill which pertains to Lake Tahoe. All Nevadans are vitally concerned with the future of this splendid national resource, and measures dealing with the beauty of the lake and its water quality must be thoroughly reviewed and discussed for all possible ramifications.

The committee is to be congratulated for its excellent work and Mr. TUNNEY has done an excellent job in presenting this opportunity for possible aid to the Lake Tahoe area.

Mr. TUNNEY. I thank the distinguished Senators from Nevada for their interest and for their kind remarks. Their participation in our common effort will add to our hopes that Lake Tahoe will be preserved for the future. I welcome their help.

Mr. CRANSTON. I thank my distinguished colleague (Mr. TUNNEY) for his clarification of section 114 of the water pollution legislation dealing with the water quality of Lake Tahoe. All Californians are greatly concerned with the preservation of this most beautiful natural resource. This section of the bill assures that additional Federal activities in the Lake Tahoe Basin will protect and enhance the environment of the area, and will complement the activities of the Tahoe Regional Planning Agency which has been established to protect the ecology in the Tahoe Basin. I am pleased to associate myself with section 114 of this bill.

Mr. TUNNEY. I am very pleased at this exchange of views, and I thank the distinguished senior Senator from California (Mr. CRANSTON), who has long worked in the cause of environmental protection. This is a most significant occasion. We have been able to secure a broad expression of agreement among the Senators from Nevada and California regarding section 114 and our common hopes that the environmental quality of Lake Tahoe will be preserved and enhanced. I thank my distinguished colleagues for joining in this effort.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. I yield 10 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 10 minutes.

Mr. DOLE. Mr. President, at the outset, as others have done, I would certainly commend every member of the committee and the Senator from West Virginia, the Senator from Maine, the Senator from Delaware, the Senator from Kentucky, and the Senator from Tennessee. Certainly, everyone on that committee spent many, many hours on this matter. Both Republican and Democratic staff members were most helpful to all of us in reaching some understanding and some agreement on the very difficult problems that did arise.

Mr. President, I would like to state my agreement with the views expressed by the committee in the report on this bill. The time is past being ripe for a consistent, comprehensive, long-range approach to the problems of water pollution in America. The value of our water resources is incalculable and the damage which their continued deterioration and degradation would inflict on present and future generations is too great to permit us the luxury of inaction or piecemeal attempts at solutions.

The pending bill provides the framework for a comprehensive approach to better water quality. It recognizes that the problem—or more appropriately the problems—of water pollution exist. Second, it places substantial emphasis on the necessity for thorough, ongoing, and detailed study of these problems. And, third, it undertakes to establish the means whereby understanding, technology, and national commitment can be harnessed to achieve the greatest possible progress consistent with the practical limitations of a free society.

I support the fundamental purposes of the bill reported by the committee. It adopts many of the proposals offered by the President in his February 10, 1971, environmental message, and it was developed through close and bipartisan cooperation between the committee and the administration.

AGRICULTURAL POLLUTION CONTROL

A major new thrust of this bill is in the field of agricultural pollution, and as a Senator from an agricultural State and a member of the Senate Agriculture Committee, this matter is of great interest to me.

The bill would amend the Federal Water Pollution Control Act to place responsibility on the States for instituting and expanding the control of water pollution related to agriculture. To assist the States in this effort, the Environmental Protection Agency, working closely with the Department of Agriculture, is directed by the bill to provide technical expertise and financial assistance for combating this serious, yet extremely complex, form of pollution. A total of $10 million is specifically provided for agricultural research.

This bill recognizes that the U.S. Department of Agriculture and the agricultural community in general have made great strides in improving the quality of the environment; therefore, the bill does not ignore or reject the contributions already made, but seeks to use them as a foundation for future progress.

Agricultural pollution control is concerned primarily with the following:

Sedimentation.
Animal wastes.
Fertilizers.
Pesticides, fungicides, and herbicides.
Forest and crop residues.
Agricultural processing wastes.
Inorganic salts and minerals.

The management and control of these factors are essential to the maintenance of environmental quality while providing food and fiber products in abundant quantity. I believe it is important to recognize that we are undertaking the first step in establishing an overall water pollution control system. So before solutions can be effected, we must, first, identify and define the problems which face us, and second, we must then take into account the available means of control and the costs of each type of control.

I believe discussion of three specific problem areas—pesticides, animal wastes, and fertilizers—will be helpful in understanding the complexity of the agricultural pollution problem and at the same time indicate the need for coordinated control programs.

Most of the problems of agricultural pollution deal with what are known as nonpoint sources. Very simply, a nonpoint source of pollution is one that does not confine its polluting discharge to one fairly specific location, such as a sewer pipe, a drainage ditch, or a conduit. In the area of agricultural pollution, a feedlot would generally be considered to be a nonpoint source as would pesticide and fertilizer runoff and accumulation.

PESTICIDES, HERBICIDES, AND FUNGICIDES

The importance of herbicides, fungicides, and pesticides is immense, and their role in our everyday lives is, for the most part, taken for granted by many Americans. But it has been estimated that without this family of agricultural chemicals, food production would be reduced by up to 40 or 50 percent and suffer substantial reductions in quality.

The statistics show that nature has done a thorough job of stacking the deck against man's food supply. Approximately 50,000 species of fungi cause more than 1,500 plant diseases, and, of about 30,000 species of weeds, 1,800 cause serious economic losses each year; and nearly 1,500 varieties of nematodes cause significant damage. In addition, there are more than 10,000 species of insects capable of causing large losses in food, feed, and fiber production. So artificial means of controlling these threats to our food and fiber supplies are vital to our survival; but in spite of the good done by these substances, they also possess the potential for harm.

The chief hazard of pesticide use lies in the long-lasting properties possessed by many of them. Some, such as DDT, retain their potency for virtually unlimited periods after application—and their residues are introduced into the soil with extremely undesirable consequences.

Pesticide residues in the soil are of concern in two ways. First, residues become attached to soil particles and may reach water through runoff and erosion. Second, some crops may pick up and accumulate excess residues when irrigated with water contaminated through runoff erosion.

Pesticide residues in water can result in their assimilation by low forms of life, which, by operation of natural food chains, can lead to high concentrations being found in higher organisms. This process can pose a significant danger to both animal and human life.

The use of pesticides and other agricultural chemicals will undoubtedly retain a high level of importance in agriculture for the foreseeable future. In the meantime efforts at both State and Federal levels are paying off in securing registration and adherence to recommended usages. Increased research is underway to develop alternative means of pest, weed, and fungal control. Experiments are underway to develop integrated programs in which cultural, mechanical, chemical, and biological methods are combined to achieve the greatest degree of control at the least expense to the environment.

Every possible effort must be made to see that in achieving control appropriate chemicals are applied at carefully controlled minimum rates. Off-target applications must be reduced, and soil and water conservation measures must be utilized to prevent movement of chemicals through runoff and erosion.

The ideal solution to the problem of pesticides and other chemical residues would be to employ only substances which degrade after application and leave no toxic or hazardous afterproducts. The difficulty in this solution, however, appears to be that the available alternative chemicals which are nonpersistent are extremely toxic to humans in the form in which they are effective in pest control.

Immediate dangers to human life are posed by these extremely toxic chemicals, such as parathion, which has been recommended as a substitute for DDT. These substances, commonly referred to as "hot" chemicals, are recommended for use because they do attack the pests against which persistent chemicals have proven effective, but they do not persist in their toxic state for long periods after application. Shortly after application, these chemicals start to disintegrate and are soon absorbed by natural processes, leaving no residual accumulation to endanger wildlife or man. The difficulty in their use arises out of their high original toxicity. These chemicals cause most of the deaths from pesticides in the Nation. Mere exposure to dust from a parathion sack has resulted in the death of children, and understandably, farmers are fearful to use these "hot" chemicals.

ANIMAL AND POULTRY WASTES

Until recently animal and poultry waste has not been considered a major pollutant. Prior to the past 10 to 15 years few problems existed, because animals were relatively widespread on pasture and rangeland and their manure was deposited on the ground to be naturally recycled through the soil and plant cover. Even housed livestock and poultry were supplied with bedding or litter to absorb moisture from manure and facilitate handling in solid form through spreading back on the land.

The picture has changed dramatically, however, as development of intensive livestock and poultry production on feedlots and in modern buildings has created massive concentrations of manure in small areas. The capacity of the soil and plant cover to recycle has been greatly surpassed. In these modern facilities the use of bedding and litter has been greatly reduced; consequently, the manure which is produced remains essentially in the liquid state and is much more difficult to handle without odor and pollution problems. Precipitation runoff from these areas picks up high concentrations of pollutants, which reduce oxygen levels in receiving streams and lakes and accelerate the eutrophication process.

The present situation and the outlook for future developments in livestock and poultry production show that waste management systems are required to prevent wastes generated in concentrated production areas from causing serious harm to surface and ground waters. Some 115 million dairy and beef cattle, 20 million sheep and lambs, 67 million hogs and pigs, and over 900 million poultry, turkeys, and broilers produce an estimated 1.6 to 1.8 billion tons of manure each year. This quantity is more than 12 times the amount produced by the human population. Fortunately, only a small portion of this manure is produced under concentrated conditions having a high potential for pollution. Estimates vary, but a reasonable assumption would be that no more than 20 percent total manure production poses a threat to our water resources. Of this 20 percent, of course, only a small fraction of the pollutants it contains will actually reach ground or surface waters through leaching or surface runoff. However, with increasing concentration of livestock and poultry production in modern facilities the pollution problem will become more serious.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAKER. Mr. President, I yield 5 additional minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for an additional 5 minutes.

Mr. DOLE. The situation is not one in which solutions appear to be of doubtful value or impossible to accomplish. At the present time waste management systems are being installed by animal and poultry producers with technical assistance from the U.S. Department of Agriculture and the States. The systems are proving to be effective in preventing pollutants from reaching surface and groundwaters. Systems are also being developed to recycle wastes through the land and its plant cover. Research is being carried out to improve waste management systems. Hearings held by the Air and Water Pollution Subcommittee in Kansas City this year disclosed the fact that those States, such as Kansas, having large numbers of feedlots are in the forefront of efforts to develop new techniques for waste management. Information and instruction programs are being conducted to notify producers of developments in waste management techniques and to train personnel in this field. Cost sharing under the rural environmental assistance program is being directed to assist in the installation of waste management systems. It appears that money and manpower limitations are the major deterrents to a rapid solution of animal waste problems.

As an example of the progress being made by States and agricultural industries in combating pollution, I would point out that in Kansas there are some 1,350 feedlots presently in operation. Of these, 1,150 are now in compliance with the standards established by the State division of environmental health. Out of the remaining 200 operations, 150 are presently undertaking steps to achieve compliance, and the other 50 have not yet been contacted by the health department to assess the compliance of their operations.

These statistics point out two important facts. First, the private interests involved in these operations are concerned and active in efforts to improve and preserve environmental quality. Second, the State has played a leading role in establishing and administering an environmental quality program. Both of these factors are important as we formulate the role which should be undertaken by the Federal Government in this area. The Federal Government has an important, a necessary role, but the States—in this case the State of Kansas—have proven abilities and sound records in the environmental field. And neither they nor the private interests which have cooperated and worked with them in the past should be unnecessarily burdened with superfluous Federal control or restrictions as they continue to work to clean up our Nation's waters.

FERTILIZERS

When virgin soils were first cultivated in America, they were rich in organic matter and plant nutrients and provided far more nitrogen and phosphorus than crops could use. In those early days losses to ground and surface waters, as well as to the atmosphere, were very high. As a result of cultivation over the years, these natural supplies have been gradually and greatly diminished, and with

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this diminution in natural nutrients came corresponding and accelerated use of fertilizers. By 1969, the annual application of almost 7 million tons of nitrogen fertilizer was still insufficient to replace the yearly drop in the soil's capacity to supply this vital element in plant growth. Today still greater amounts of all kinds of fertilizers are being applied.

This large-scale use of commercial fertilizer with high nitrogen and phosphorous content comes at a time of increasing public concern about eutrophication of lakes and streams and the presence of nutrients in ground water.

As the committee bill recognizes, much remains to be learned about eutophication. In the meantime, control of nitrogen and phosphorus in surface waters is receiving wide attention as a means of limiting growth of algae and aquatic plants. It is known that nitrogen and phosphorus are essential nutrients for the growth of algae and aquatic plants, and that they do not usually occur naturally in concentration which affect water quality. In addition, it is well established that nitrogen, when converted to nitrates, readily leaches to ground water, an important fact, because concentration of nitrate in excess of 45 mg/l in drinking water is considered hazardous. Other elements such as potassium, calcium, and magnesium are also necessary for such growth but are usually present in nature in abundant supply and present no great difficulty without the additional presence of nitrates and phosphorus.

Phosphorus in fertilizer is immediately tied up by clay particles in the soil upon application, so its primary route to becoming a problem is through soil erosion by flowing water. Thus, with proper fertilizer application and good land management phosphorus cannot be considered a significant problem in the use of fertilizers.

The best solution to problems arising from use of commercial fertilizers is sound management of their use. Fertilizer should be applied to crops only in necessary minimum effective amounts and at times when crops can utilize it. Good land management, through use of conservation practices to prevent soil erosion and reduce surface runoff from cultivated or fertilized areas, is the most practical approach to minimizing fertilizer problems.

CONCLUSION

It is my belief that the bill establishes an effective framework to provide for the application of the expertise developed by USDA and others in a program which will remedy the impact of agricultural activities on water pollution. It will do this by placing primary responsibility in the States, while still providing integrated programs to achieve water pollution control from all sources. Only in this manner will the quality of the Nation's water resources be insured and maintained.

Mr. President, as I point out in my statement, the agricultural sector of the economy has made substantial progress in adapting technology to the reduction of pollution.

There are two questions that I have discussed with the distinguished Senator from Maine (Mr. MUSKIE), the subcommittee chairman.

I address the following questions to the Senator from Maine (Mr. MUSKIE).

As I point out in my statement, the agricultural sector of the economy has made substantial progress in adapting technology to the reduction of pollution. Commercial cattle feeding operations—of which there are some 1,350 in Kansas—have made outstanding progress in reducing the environmental impact resulting from the operation of their facilities; however, it is felt that while progress has been made there are some limits on what can be achieved within the bounds of reason and practicality. This point is of considerable importance in the consideration of feedlot runoff prevention, because, while normal precipitation conditions can be anticipated and guarded against, it is extremely difficult if not impossible, to construct an absolutely fail-safe system for the prevention of feedlot runoff.

If zero discharge is to be insisted upon under the terms of this bill, an important question is raised as to whether a requirement is going to be established for the construction of systems which provide for zero probability of any runoff ever escaping.

Retention basins and other devices can be employed to accommodate any normal runoff from feedlots, but as a practical matter it is impossible to construct retention structures to handle the runoff from extreme rainfall conditions which could statistically be expected to occur. For instance, in Kansas the maximum probable precipitation resulting from a storm occurring in a 24-hour period within a 10-square-mile area is 24 to 28 inches. Such a torrential downpour has never occurred, but the statistical probability of its happening shows that it is entirely impractical and unfeasible to expect a feedlot operator to contain all the runoff associated with it. But the bill would seem to set such a requirement.

The question which I pose is: To what extent does the zero discharge requirement of the pending bill impose on feedlot operators a requirement for providing for containment of runoff resulting from the maximum probable 24-hour storm?

Mr. MUSKIE. As we understand the application of the zero discharge requirement as it relates to runoff from feedlots, containment facilities must be provided for feedlots which would provide complete control for the runoff resulting from the 24-hour storm to be experienced once in a 10-year period.

This would involve 3 inches of runoff water over the area concerned.

Mr. DOLE. Another question of real concern to many farmers, stockmen and others in agriculture involves the terms "point source" and "nonpoint source."

In my statement and in the supplemental views which I filed I mentioned that most sources of agricultural pollution are generally considered to be nonpoint sources. But would seem to be conceivable that some questions could arise, depending on the factual situations involved.

My question is, Simply, to what sources of guidance are we to look for further clarification of the terms "point source" and "nonpoint source?"—especially as related to agriculture.

Mr. MUSKIE. Guidance with respect to the identification of "point sources" and "nonpoint sources," especially as related to agriculture, will be provided in regulations and guidelines of the Administrator. The present policy with respect to the identification of agricultural point sources is generally as follows:

First. If a man-made drainage, ditch, flushing system or other such device is involved and if measurable waste results and is discharged into water, it is considered a "point source."

Second. Natural runoff from confined livestock and poultry operations are not considered a "point source" unless the following concentrations of animals are exceeded: 1,000 beef cattle; 700 dairy cows; 290,000 broiler chickens; 180,000 laying hens; 55,000 turkeys; 4,500 slaughter hogs; 35,000 feeder pigs; 12,000 sheep or lambs; 145,000 ducks.

Third. Any feedlot operation which results in the direct discharge of wastes into a stream which traverses the feedlot are considered point sources without regard to the number of animals involved.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, I yield 10 minutes to the distinguished junior Senator from New York.

Mr. BUCKLEY. Mr. President, first of all, I wish to add my thanks as a newly arrived Member of this body for the great consideration given me by both the chairman of the Committee on Public Works and the chairman of the subcommittee on Air and Water Pollution. I could not have had a fairer examination of various points I tried to make, nor could I have received greater help from my other colleagues on the committee. It has been a splendid introduction to the legislative process, and I just want to record my appreciation.

I would like to say that the measure we are now considering is legislation which, at least in its first stage, the first 5 years, is an enormous step forward in our common struggle to restore the quality of our environment. It is legislation which will establish a specific timetable for the achievement of national water quality standards, and I believe it correctly seeks to achieve these standards during this first phase by requiring that the best practical technology be applied to the control of industrial discharges of pollutants.

It also requires periodic review of applicable regulations, so that they can be tightened from time to time in the light of new technological developments.

The bill also launches a nationwide program of research which is designed to accumulate, as quickly as possible, the vast amount of information which we still do not have, which will be required in order to achieve our national goals, and it also seeks to stimulate the development of improvements in all types of waste control technology.

The bill further requires regional planning in order to most effectively and economically attack the problems of pollution.

On the debit side, there are certain features of the bill which I feel could have been improved; but rather than take the time of the Senate at this stage, I ask unanimous consent to have printed in the RECORD following my remarks a copy of my supplemental views which appear in the Committee Report, with a mathematical correction.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUCKLEY. One principal area which had been of tremendous concern to me and to others has had to do with the definition of these goals and their legislative effect. I speak specifically of that portion of section 101 which defines our goal as the elimination of the discharge of pollutants into the navigable waters by 1985 as the means through which to achieve the restoration and maintenance of the natural chemical, physical, and biological integrity of the Nation's waters.

At the time that I was required to submit my supplemental views, I had not yet had access to the report of the committee, nor had I heard the remarks which have been made earlier today by the distinguished chairman of the committee and the chairman of the subcommittee, Messrs. RANDOLPH and MUSKIE.

I am not satisfied that my concerns are no longer valued because the deficiencies which some of us saw in the legislation in its formal stages have now been fully cured.

What concerned me was typified by headlines such as the one I now read, which appeared immediately after the bill was reported out of committee. I quote from an Associated Press dispatch published in the New York Post:

Senate Bill Would Stop Water Pollution in Fourteen Years. The Senate Public Works Committee has turned out a tough new pollution fighting bill aimed at stopping waste discharge in all U.S. waters within 14 years.

It should be understood that "pollution" is defined in the bill to mean the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

My fear as confirmed by such news stories, was that the public would be led to expect something by legislative fiat which there is every reason to believe cannot be achieved by the year 1985, as much as all of us would like to see it achieved. I was afraid that this kind of instant acceptance of the meaning of the bill, plus the language of the report, and so on, might eliminate that "rule of reason" which the committee went to such trouble to write into the bill on the final day of its consideration—the rule of reason enshrined in language which the Senator from Texas (Mr. BENTSEN) introduced, to the effect that at each stage, the next standard would not be implemented if the social and economic costs clearly outweighed the social and economic benefits.

I am particularly glad to see the following language in the report, quoting from page 11:

The Committee recognizes the difficulty of implementing a no-discharge policy. The development of the midcourse correction information, required by Section 305, should provide the Congress and the public with the definitive data needed to evaluate fully the implications of a no-discharge policy. That information will assist the Nation in any decision on the proper enforcement mechanism to be established to support the goal, if appropriate, or a decision to refine the date for the attainment of the goal with greater precision, if required, or the extent of the exceptions to that goal, if any, or whether the costs associated with reaching this ultimate standard, in some instances, may far outweigh the benefits derived.

In other words, it seems to me that this quite clearly underscores what I understand from their earlier remarks to be the position of the distinguished chairmen of the relevant committees; namely, that we would not be legislating an absolute requirement to be fully implemented as of a magic date but, rather, that we could be providing, in the language of the report, "the direction and the mandate to direct research efforts toward the development of the technology to apply to the achievement of a no-discharge standard."

I feel, on reflection, that this language, as I have interpreted its import, will have the effect of placing the word "1985" in its proper focus as defining a goal, an ideal, but not legislating an end.

I would appreciate it if the manager of the bill at this time would confirm whether or not this is a correct understanding of the intent of the proposed legislation.

Mr. EAGLETON. I believe that the Senator from New York does state correctly the legislative intent of this bill. More specifically, I call to his attention the precise expression of the Senator from Maine (Mr. MUSKIE), who is the principal floor manager of the bill, on page 11 of his prepared floor statement, from which I read as follows:

Consequently, the 1985 deadline for achieving no discharge of pollutants is a policy objective. It is not locked in concrete. It is not enforceable. It simply establishes what the committee thinks ought to be done on the basis of present knowledge.

Mr. BUCKLEY. I thank the distinguished Senator.

Is it also clear that the intention of the midcourse correction is to provide Congress with the information in 1975 with which to reassess the objectives and reassess the desirability or the realism of those objectives?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUCKLEY. May I have 5 additional minutes?

Mr. COOPER. I yield 5 minutes to the Senator.

Mr. EAGLETON. No. The answer to the Senator's question is "yes."

Mr. BUCKLEY. One other question.

Some concern has been raised about stating "that the objective of the act is to restore and maintain the natural chemical, physical, and biological integrity of the Nation's waters." Some persons have referred to this as the "1491 standard," suggesting that this implies a mandate to return to the condition of the continent's waters as it existed the year before this continent was discovered by Christopher Columbus.

Would it be fair to say, rather, that we all recognize that it is impossible, for example, to restore the temperatures of our rivers without reforesting all the banks of all the tributary streams? In other words, is this not a standard to be defined by the administrator after he has received the kind of information called for in the bill?

Mr. EAGLETON. Section 304 of the act requires publication of water quality criteria which will define natural chemical, physical, and biological integrity.

I invite the attention of the Senator from New York to section 304(a)(2), at page 80 of the bill, which reads as follows:

(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this Act (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the natural chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality.

Mr. BUCKLEY. I thank the distinguished Senator.

In closing, I would just say that I feel satisfied now that these are not absolutes and that the Senate will be allowed ample opportunity to make the necessary corrections. But I urge that we begin the reexamination as soon as possible, as soon as the necessary information comes in, so that we can start the midcourse correction as soon as feasible after the requisite report is filed by the Administrator, for the reason that the longer we seem to be headed toward an objective which may prove to be impracticable, to that extent we may find ourselves diverting precious resources in some less productive directions.

Mr. President, I urge the Senate to pass this bill. I know that the distinguished Senator from Delaware (Mr. BOGGS) will offer an amendment, which I shall support. I believe that other refinements may be indicated, but it is a bill of which the Congress can be proud.

EXHIBIT 1

SUPPLEMENTAL VIEWS OF SENATOR JAMES L. BUCKLEY

The Federal Water Pollution Control Act Amendments of 1971 is landmark legislation in our national effort to achieve a quality environment. Moreover, it seems destined to be controversial because it may attempt to achieve too much on the basis of too little information; because it will increase the federal financial contribution to waste treatment plants to so high a percentage that the net effect may be a lower total national investment in such plants while placing an unnecessary new strain on an increasingly inflated federal budget; because despite the pious references to the primacy of the state role in water quality efforts, it may well threaten in too many instances to reduce the

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role of the states and local governments to that of "errand boy", so that the bill may, in fact, encourage states to withdraw from the national effort.

Lest my remarks be interpreted in too negative a vein, I want to make it clear that my complaint is that this constructive bill might have been better; that some of the ideal objectives to which it has given legislative shape might give rise to such unattainable expectations on the one hand, and to such unwarranted concerns on the other, that in the longer run, the bill may set back the cause of water quality and unnecessarily discredit the environmental movement. And finally, I am concerned that the concentration of scarce resources in attempting to achieve a perhaps impossible degree of performance in just one area of environmental concern may divert or postpone public and private investment in other areas where far more tangible, far more essential near-term results could be achieved.

In these remarks I will address myself to three principal areas. The first has to do with the naming of a specific target date (1985) for the achievement of the national goal of no-discharge; the second has to do with the size of the federal contribution; and the third with the responsibility relegated to the states:

ALLOCATION OF RESOURCES

Although it is technically true that no single provision in the bill specifically mandates the application of a "no-discharge" standard by 1985 or by any other date, it appears clear to me the bill will operate in such a way as to make it increasingly difficult for the Administrator or any State official charged with regulatory responsibilities under the Act to impose a standard less stringent than "no-discharge" particularly with respect to the "phase" ending on January 1, 1981 (section 301(b)(2)(A)).

I have no quarrel with the "no-discharge" standard as a statement of the ideal towards which we should focus our efforts. On the contrary, I would welcome as eagerly as any other American the quality of water that would result from the elimination of the discharge of all pollutants, intelligently defined.

However, we cannot lose sight of the fact that there is, somewhere, an outside limit to what the public—as taxpayers and consumers—will be willing to invest over any given period in the improvement of the environment. The commitment of resources to one sphere of activity means that those resources are no longer available for other competing needs where a given investment can, on balance, do more to move us towards achievement of all of our environmental goals.

I have little, if any, idea of the investment—in terms of the total resources available to us—that will be required to achieve the goals set forth in this legislation. But I do suspect that no one else does either; and that the attempt to reach an incremental degree of perfection beyond that required for a steady, dramatic improvement in water quality may dry up funds which could far better be utilized to achieve significant breakthroughs in other areas affecting the environment.

The bill is by no means devoid of provisions that address themselves to the kind of potential misallocation of resources that I have suggested. With the justifiable exception of the provisions of section 307, which would impose controls on toxic pollutants in harmful amounts, the imposition of any effluent standard (including "no-discharge") pursuant to the Act would be subject to some sort of economic test. The Committee devoted considerable time to the search for a way to balance the costs of control against the benefits achieved. Sections 302(b) and 306(b)(1)(D) are examples of the Committee's efforts to strike a balance. But these provisions themselves vest an awesome responsibility in the Administrator. Tens of thousands of individual effluent standards will be imposed pursuant to this Act, each of which will have to be tailor-made. Compliance with each of these standards will require the investment of nonproductive capital resources, whether the source of discharge be publicly or privately owned. In each instance, the Administrator or his designee will be called upon to make often complex economic determinations of the kind that are traditionally resolved in response to the imperatives of a system of markets and prices. National water quality standards must in fact be met, if we are to achieve our necessary goals. But to expect what may prove to be an inordinately theoretical standard of omniscience on the part of the Administrator, given our near-term technological capabilities, may unnecessarily restrict his ability to apply the rule of Common Sense in the achievement of effective progress.

The bill adopts the rather curious approach of establishing the "no-discharge" standard by 1985 as "national policy" (section 101(a)(1)) and then providing procedures whereby the Congress will be given the opportunity, somewhere in the mid-1970's, to decide whether such a policy is achievable or, in fact, desirable (section 305). I wholeheartedly support the idea that the Congress should continually review the progress of the program and make judgments as to its future course. But I confess to a concern that the opportunity to make the "mid-course correction" envisioned by section 305 may come too late to achieve its intended purpose, i.e., Congressional reevaluation of the 1985 "no-discharge" policy.

For example, section 301(b)(2)(A) would require the application of the "no-discharge" standard by 1981 to existing sources unless the owner of the source is able to persuade the Administrator that "no-discharge" is not "reasonable." It seems likely to me that, in light of the lead time required, dischargers will need to know not later than 1976 what will be expected of them by the 1981 deadline. And yet, it is in 1976 or 1977 that the Congress will be making its section 305 review of the "no-discharge policy." I anticipate confusion.

The wisdom to propose an answer to this dilemma is not at my command. While I acknowledge that the bill does not enforce a "no-discharge" standard by 1985, I continue to believe that the bill would be improved by deletion of the date itself. It holds out a promise to the American people that is, I fear, however desirable, unrealistic. And barring some welcome breakthrough in control technology, should the 1985 "goal" operate as an enforceable standard, I reluctantly conclude that the cost of implementing it—in terms of the total resources available to us—is likely to prove unacceptable, if not prohibitive. But worst of all, it may (a) breed an antienvironmentalist backlash which will set us back years in our struggle to save the environment, and (b) divert the large sums required to achieve, in the end, breakthroughs in such other urgent matters as developing pollution-free means of generating electricity.

FEDERAL SHARE

In the matter of the size of the federal contribution to the construction of waste treatment facilities, I cannot agree with the majority's view that it should be increased from a maximum of 55%, as provided in the current program, to a maximum of 70%. I am not at all persuaded that an accelerated investment in waste treatment works will be stimulated by increasing the federal share. Such an increase may, in fact, reduce the number of plants on which construction could begin during the next five years. Under present legislation, enacted in 1966, the size of the federal share is increased from 30% to 55% of the cost of an approved water treatment facility if the state undertakes to contribute 25% and if certain other requirements are met.

Although, as of September 1, 1971, thirteen states had still declined to qualify for additional federal contributions under the existing law, testimony before the Committee made it amply clear that the "heel dragging" had little, if anything, to do with the percentage of the federal share. The one major complaint was that the Federal contributions promised in early legislation were not sufficiently dependable. There is little reason to believe, therefore, that raising the federal ante will be very significantly more effective in causing the remaining states to make the grants contemplated in the proposed bill. Furthermore, those 38 states (including the District of Columbia) which already agree to pay 25% of the costs account for 90% of the total estimated [1] construction needs for fiscal years 1972, 1973 and 1974. Hence, in the overwhelming number of projects which might be built, the act of increasing the federal share will merely substitute federal dollars for state dollars. Since this bill encourages the states to contribute only 10% of the cost of construction to qualify for a 70% federal grant, there is little reason to expect these 38 states to maintain the 25% to 30% contribution which they presently make.

Furthermore, the increase in the federal share may well be to make it politically impossible for a State or community to move faster than the federal contribution will allow.

Given, for example, that the total amount of federal funds available in a single fiscal year is $2 billion, a 55% federal share would generate $3.63 billion worth of construction, whereas a 70% federal share would generate $2.86 billion worth, a difference of about $770 million in total construction which would be initiated in that year. By way of comparison, $770 million is the equivalent of the total estimated construction needs for as many as 26 states for fiscal year 1972; or, to be fair, as few as one state (e.g., Illinois) which has particularly burdensome water pollution abatement requirements.

There is ample testimony that delays in the construction or modernization of sewage treatment facilities under existing legislation are not so much attributable (if at all) to the size of the basic federal contribution as to other factors such as a community's own conception of its priorities, an unwillingness to go to the voters for an authorization of new debt issues, or, in some instances, a technical impediment imposed by statute (e.g., debt or interest ceilings) and, perhaps most importantly, the unavailability of federal funds. There are also, of course, those communities which simply do not have the credit rating required to enable them to borrow the necessary funds at a reasonable price. To some degree, the Administration's proposed Environmental Financing Authority will alleviate this difficulty. However, I cannot agree that the most efficacious and fiscally prudent means of dealing with these relatively limited number of situations is to increase the federal share and thereby restrict the number of plants on which construction could be initiated in a given fiscal year.

An additional observation one might make in this regard is that a periodic upping of the federal ante will have the counter-productive effect of inducing some communities to delay the planning and construction of modern sewage treatment facilities in the expectation of a better deal in a later year. If 70% this year is good, 90% in a few more years is better. And this expectation would not seem unreasonable, given legislation which has in fact been introduced.

[1] These estimates, "need assessments," were made by the Environmental Protection Agency as of December 1970, and were based on the standards in effect in the states at that time.

I readily acknowledge the need for a strong, residual federal presence behind environmental quality programs. The problems of the environment, as a rule, respect no political boundaries, and are, therefore, national. Where state and local governments, for whatever reason, are unwilling to act or unable to act, the federal government has a necessary obligation to intervene. But this bill, in my judgment, presupposes and anticipates inadequate state action.

My concern is not theoretical or doctrinaire. The active participation by state and local governments in this program, and a mood of cooperation and interdependence between those units of government and EPA, are essential to the success of the program. The federal government cannot possibly, as I see it, administer this program without the active cooperation of the states. And I question whether competent state officials will approach their responsibilities with dedication and enthusiasm, if their every act is subject either to prior approval or subsequent review by the Administrator.

STATE ROLE

From the outset the Committee's deliberations, I have been, and remain, concerned that the detailed requirements of this Act will work to erode the initiative and flexibility of the States in exercising "their primary responsibility and rights . . . to prevent and eliminate water pollution." Notwithstanding that it is the policy of the Congress to recognize, preserve, and protect that responsibility (section 101(b)), the overall effect of this bill is to mandate to the federal Administrator what I believe to be excessively broad and detailed responsibility over the most minute aspects of the State's programs. Section 106, for example, which grants federal funds and imposes conditions upon the States for the award of these funds, provides the Administrator with the authority (in subsection (j)) that, "notwithstanding the fact that a State is in compliance with the requirements of subsections (g) and (h) of this section to reduce, after notice and opportunity for hearing, the grant payable to such State in such fiscal year if he determines, based on criteria established in regulations promulgated by him, that the water pollution control program of such State is inadequate in whole or in part." Given the natural history of bureaucracies, such a provision could, at best, prove mischievous.

In addition to the direction that the Administrator must stipulate the elements which a state program must include, he is required to judge the acceptability of the system of charges which each and every applicant will impose upon all users of waste treatment services as a condition of receiving a grant; he must determine the capability of 50 States to qualify for delegation of authority for a waste discharge permit system; he must approve waste treatment management plans for each State and each regional agency created within each State; and he must, once he has disposed of all these duties, continue to be responsible, as the ultimate enforcer, for the maintenance of every last provision imposed upon him and upon the States by this Act, whether or not these minutiae actually affect the achievement of water quality standards.

In closing, I would like to say something rather personal. I am the only member of the Committee on Public Works who has not had previous legislative experience. I have had rather definite points of view on a number of provisions which at one time or another have appeared in the drafts of the legislation which is now before the Senate. But I know of no situation in private life where a newcomer would have been accorded greater consideration, or where differences of opinion would have been given a fairer hearing than that which was characteristic of both the Committee on Public Works and its Subcommittee on Air and Water Pollution. I feel particularly fortunate to be a member of both and to have been able to work with the two chairmen and the committee staff, who have made so great an effort to accommodate differences of approach to common objectives.

Mr. PROXMIRE obtained the floor.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk——

Mr. COOPER. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Kentucky?

Mr. PROXMIRE. Mr. President, I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. I thank the Senator from Wisconsin.

The PRESIDING OFFICER. How much time does the Senator from Kentucky yield himself?

Mr. COOPER. Ten minutes.

Mr. President, I have just come to the floor. I have been in my State. We have an election today, so I had to be in Kentucky to vote.

I want to say a few words on the bill, and I thank the Senator from Wisconsin for his great courtesy in allowing me to proceed at this time.

Mr. President, the Federal Water Pollution Control Act Amendments of 1971, which the Committee on Public Works has brought before the Senate, is a major bill. It should be known that it would have profound social and economic consequences, for it addresses in a comprehensive way an enormous task—that of ending, to the extent possible, water pollution and restoring to a natural condition the waters of our country.

This is an undertaking which will require a great national effort—one which cannot be accomplished by the Federal Government alone, but which must rely on local planning and initiative, the guidance and assistance of the States, and the cooperation of citizens, industry, businesses, and all of us. It will cost a very large amount—not only in Federal, State, and local funds which are raised by taxes, but also in charges for the use of waste treatment systems, and finally in the cost of things which will be produced in a way that does less damage to the environment.

I do not think anyone—as has been so well stated by the Senator from New York, Senator BUCKLEY—has yet been able to estimate how much the program will cost.

I make these points, because I hope the bill will be carefully studied and may be widely understood for what it is. I believe it can be as important as any measure which has come before Congress during my service in the Senate. Certainly our consideration in committee of the difficult and complex problems presented was as thorough and as extensive as any bill with which I have had experience. I am sure the chairman has already detailed the number of meetings we held—public hearings, the subcommittee executive sessions, the full committee executive sessions—and they proceeded over a period of almost 6 months.

I was very glad to have a part in development of the bill, for the subject of water pollution control and abatement is not a new one to me or to the committee. I recall in 1948 the first bill, the Taft-Barkley bill, which began this work by supporting research and providing loans to assist the financing of treatment facilities. Now with this act, together with the Clean Air Act last year, the country will have taken a new direction, and we will have supplied the means to have control in these two major areas, vital to life and health, which until now we have seen deteriorating.

As I am sure other members of the committee will point out, difficult issues are confronted in this bill, and I have no doubt that some difficulties and problems will remain. But I am very glad that the bill—which is truly a product of the Senate Committee on Public Works—was cosponsored by all the minority members of the committee, and that it can be said that the entire committee has come to agreement on the bill as a whole.

I am not a prophet, and it may be in vain to attempt to predict the future. Yet, we live and we guide our lives by planning for tomorrow, through prudent action, and with hope. So I will venture a look ahead.

I think it may well be that the generation we now refer to as "young people" will be able to look back, a generation from now, and mark this as an historic moment—as a time of turning, when the degradation of the environment, which inevitably accompanied the march of progress and the industrialization and urbanization of our country, slowed and was brought to a halt; as the time when sufficient energy and resources were redirected to the task of pollution control so that restoration of the environment began to overtake environmental degradation.

Many will view this as a pollution control bill. Others will say today that the bill declares that no one has the right to use the Nation's waters as a waste disposal mechanism; that there is no right to pollute, but rather an obligation to maintain the quality of those resources traditionally looked upon as free to all, but which we now wish to protect for all.

I believe the bill and its purpose goes even further than asserting that a public right resides in clean water. In a way, it recognizes an even more fundamental condition. It asserts the primacy of the natural order on which all, including man, depends. It declares an intention to restore the natural integrity of the Nation's waters.

These comments may be too philosophical, and I hasten to add that the deliberations of the committee were not philosophical but were practically directed to the specific operative provisions of the bill—were directed to finding the most effective means of dealing with real situations. But now that we can step back and look at the bill as a whole, I thought it would not be inappropriate for me to point out that it does have an underlying

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theme, one which seems to me to rely on the natural order, and one which is of some interest to me just as I have been interested during my life in the natural law.

Now, Mr. President, I wish to address myself briefly to an outline of the operative sections of the bill. It is correct that it would provide a very large amount of Federal financial assistance to the construction of municipal waste treatment facilities—$14 billion over a period of 4 years to support 60 to 70 percent of the costs of these works. It also provides large funds for research, for regional planning, and for other work. Meeting the strict requirements of the bill for the limitation of discharges of pollution will also impose very large costs on industry. This effort will require the best attention of program administrators, of State agencies and regional agencies, of businesses and of local groups.

There can be differences of opinion, and were in the committee, about the size and method of funding, and about the large scope of the various research, information, and enforcement requirements set forth in the bill. But the central issue addressed by the bill is the way water pollution control is now to proceed.

As the committee report, the chairman of the subcommittee, and others have pointed out, the bill would make a major change in the approach to water pollution control—from the use of water quality standards as a control and enforcement mechanism, to a system of permits for discharges, with each permit conditioned by specific effluent limitations. Effluent limitations are to be based, in general terms, upon the best available technology. In effect, technology is to be directed toward solving some of the problems which have accompanied technological development.

The bill in no sense abandons water quality as an objective to be achieved. But the water quality criteria will become a measure of achievement, rather than a control mechanism.

I see the change which lies at the heart of this bill as prescribing a different starting point, when one looks at any body of water or source of pollution. I will speak in general terms.

Until now and under the 1965 act—and I must say it is a view which is still widely held and supported—pollution control proceeds along these lines: We say to a person, company, or city:

> You may discharge waste into the water up to the point where that waste begins to marginally degrade a beneficial use assigned to that water.

The States have been called upon to classify their streams and waters for agriculture use, industrial use, municipal water supply, fish and wildlife, and recreation uses. Then, usually with the consideration of the "assimilative capacity of the receiving waters" and with the determination of an appropriate "mixing zone," an attempt was to be made to assign the remaining pollution or diluted pollution to sources which were considered to be responsible for that pollution. This was and is an inherently difficult procedure, and under the 1965 act has been a discouragingly slow process.

The bill before the Senate today starts at a different point. It says, in effect: "Do not put any pollutant in the water." Then it recognizes that very often this may not be practical, and cannot be accomplished right away. So it says, that to the extent a discharge of pollutants cannot be eliminated, you may continue to put waste into the water, provided you have first applied the best available technology for the removal of that waste. In the first period, until 1976, it is to be the "best practicable technology." In the second period, until 1981, it is to be the "best available technology." After that time, we assume that the best available technology will continue to improve.

This is a very direct approach. It is a pragmatic approach. I think we all acknowledge that, in the short run, it may often require larger expenditures then permitting discharges to the point where the water can be shown to be degraded for some use. But I think it is fair to say that after the most thorough examination, the committee concluded that the approach adopted in the bill promised to be a far more effective means of attacking the problems of water pollution control than the 1965 act.

I believe it would be a misinterpretation to view this bill as a "no-discharge" bill, if that term conveys the notion that the Committee expects every outfall to be shut off, or expects river systems—which are, after all, natural drainage systems—to no longer receive elements of the industrialization and urbanization which surrounds us. I believe the quality of water to which the bill is directed is not so very different from what we originally hoped might be accomplished under the 1965 and earlier acts.

But I consider also that the way a problem is approached can make all the difference in reaching a goal. And it is in this way that the committee bill makes a sharp break with present practice—for the beginning point is not the degree of pollution considered tolerable, but the elimination of polluting discharges to the extent that available technology allows.

The plan of action provided by the bill includes these elements: First, a national system of permits for all point sources of discharge, which can be largely delegated to the States as rapidly as they develop approved programs; Second, regional planning for waste disposal, encouraging also regional waste treatment management—which will require in most cases local zoning and land use controls; Third, a large program of Federal financial assistance for the construction of municipal waste treatment facilities; Fourth, specific requirements for the limitation of effluents, to be applied as a condition of the permits; Fifth, a major research, development and information effort.

These elements appear in different titles of the bill, which are closely related. Taken together, they provide a structure for the management of what is now called "waterborne waste."

The bill is longer than most reported by the committee—190 pages. However, I believe those who wish to understand its framework will do well to first review sections 101, 201, 209, 301 and 302, and 402.

In addition, there are sections directed to standards of performance for new sources, toxic and effluent pretreatment standards, Federal enforcement, citizen suits, and others which will be of specific interest to many concerns and groups.

Mr. President, I close by saying that all of us on the committee are grateful for the leadership of the chairman of the Committee on Public Works, the distinguished Senator from West Virginia (Mr. RANDOLPH) who, in his usual fair way and good judgment, was able to bring the bill to the floor of the Senate.

I would be remiss if I did not also say that the chairman of the subcommittee, the distinguished Senator from Maine (Mr. MUSKIE) has, over the years, brought leadership, drive, and creativity to this effort. He has made all of us students of the environment, and over the years has led the committee to the development and passage of water pollution control, air pollution control, and solid waste control bills, always stronger and more comprehensive.

It has been a great opportunity for me to work on these tremendously exciting bills.

May I say one more thing. I want to pay tribute to all the members of the committee. We had a wonderful attendance of both majority and minority members of the subcommmittee and of the full committee at our meetings. We talked, debated, and considered with each other for weeks, but we finally came to agreement on most things. We still have some amendments to offer. I pay my respects to all members of the committee, and I know they will understand when I thank the minority members and pay tribute to them: to the distinguished Senator from Delaware (Mr. BOGGS), the ranking member of the subcommittee, who has labored so effectively and conscientiously to protect the environment; to the distinguished Senator from Tennessee (Mr. BAKER), who gives us the benefit of great technical and legal knowledge; to the distinguished Senator from New York (Mr. BUCKLEY), a true conservationist, who came to the committee only this year, but has contributed to this bill, and to the distinguished Senator from Kansas, Senator DOLE, the more recent Members, Senator WEICKER of Connecticut, Senator STAFFORD of Vermont, and former member Senator BEALL have worked hard and faithfully to develop a workable bill.

Also, Mr. President, I want to thank the members of the committee staff who worked long and hard on this measure—Mr. Leon Billings, Mr. Barry Meyer, Mr. Phillip Cummings, and for the minority, Mr. Bally Guard, Mr. Thomas Jorling, and Mr. Harold Brayman—and I do not want to forget to thank all the young ladies of the staff who helped us—without them we could not have made much headway. And among the staff of members of the committee on our side, Mr. James Jordan and Miss Jacqueline Schafer participated at every step, together with Mr. Ward White, Mr. Timothy Brosnihan, Mr. John Freshman, and Mr. Joseph Carter.

Someone termed the work of the committee over the past 5 to 7 months—and I believe it correct—a true demonstration of the legislative process, and of the democratic process.

Mr. President, I would like to take this opportunity to pay deserved tribute to the President of the United States, President Nixon, for his unfailing advocacy and support of environmental bills and of programs to clean the air and water pollution, to clear land of solid waste, to protect and indeed restore our natural environment, for the benefit of all our people. He has sent to the Congress the required bills to secure these ends, and I have had the honor of introducing some of them. Of great importance, among others, is the Environmental Financing Act, which would provide a market for the obligations of those municipalities which cannot sell their obligations at reasonable rates.

I am sure that the President will continue to provide strong leadership.

Also I pay my respects to the Council on Environmental Quality and its Chairman, the Honorable Russell Train, and to the Environmental Protection Agency and its Director, the Honorable William D. Ruckelshaus, for their creative and effective work; also to the Corps of Engineers for its work with the 1899 Refuse Act.

Mr. President, I ask unanimous consent that a statement I had prepared earlier, which sets forth a more precise account of the bill, be included at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR COOPER

The bill, S. 2770, under consideration by the Senate today has already been described as landmark legislation.

Mr. President, I agree with that assessment. We have in this bill a comprehensive and integrated formula to achieve water quality.

For the first time the research and development provisions, the planning provisions, the regulatory control requirements, and the procedural requirements are all directed toward the achievement of a single, straightforward objective: to eliminate the discharge of pollutants into the water to achieve the natural chemical, physical, and biological integrity of the water. Focusing all basic program elements on this policy should enable our nation to develop and apply meaningful, long-term solutions to the problems of water pollution.

The procedures established under the bill are orderly and fair. They provide everyone, including the administering agencies, the public, and the affected industries, a right to be heard and a right to appeal. The provisions are intended to insure that all segments of our society will know what is expected of them in the next few years, and to generate the information necessary to make further judgments about the direction of the program.

I would like to try and summarize for my colleagues the key elements in this redirection of the Federal water pollution control effort. It is a change from control based on ambient standards, to one of controls applied directly to discharge sources.

The first major element is the principle that the discharge of pollutants into the navigable waters of the United States is not a right but rather a privilege. It is a privilege granted by authority of the Federal government that leads toward the ultimate elimination of the discharge of such pollutants. The authority to grant the privilege to discharge is carefully described by the bill so that individuals who are presently discharging pollutants have a clear objective against which to plan and clear time periods in which to comply.

A second major element of the bill is the application of control requirements directly upon discharge sources, with a standard of technology. No longer will controls be applied following an appraisal of the cause-effect relationship that occurs in the water after discharge. The existing practice of using ambient quality to determine effluent control has too often led to privately negotiated agreements on the "assimilative capacities" of streams.

A third major element of the bill imposes deadlines for achievement of the controls. The inclusion of deadlines, as used in the Clean Air Act, is necessary if there is to be planning, investment, and achievement that can be measured and, if appropriate, enforced.

A fourth major element is the provision for expanded research and development programs directed toward securing the technology required by the application of effluent controls. Prior to this bill, the Federal Water Pollution Control Act has provided very little guidance as to how the research and development authority shall be conducted. This bill directs that this authority support the objectives and policy of the Act.

A fifth major element in the bill is the mandate for regional planning. This is accompanied by a clear description of the planning requirements, which would incorporate all sources of pollution in an area, from point sources, to agricultural, mining, and urban runoff to the control of accumulated sources of pollution, such as deposits in harbors. Such broad planning is necessary to develop truly comprehensive and adequate waste management systems.

A sixth major element of the bill is the establishment of information and monitoring obligations. Without adequate information, the establishment of control requirements is impossible. Without monitoring and the measuring of performance, enforcement is impossible. The bill establishes clear, yet fair, requirements.

A seventh major provision is the revision of the method of enforcement. Under existing law, enforcement is undertaken through the cumbersome, time-consuming, and expensive method of conferences and hearings. These methods may have been necessary in order to determine the nature of violations. The bill now before the Senate establishes clear enforcement requirements. Henceforth, the issue of violation should be a relatively narrow question. Consequently, the enforcement method is direct. It should be noted that the Committee drew upon the enforcement provisions under the Refuse Act of 1899 which presently support the permit programs established by the President last December.

Out of these two procedures, the Committee has created an enforcement system providing enforcement authority that is generally concurrent for the Federal and State government. It recognizes, as the report has described, that the bulk of enforcement activity should be conducted by the State and local governments. Federal authority is to be preserved for the most important cases, cases in which the Federal government's involvement is particularly appropriate.

An eighth major element of the bill would direct that the Federal construction assistance program, for municipal waste treatment facilities, complement the objectives of the bill. Under existing law, there is little statutory guidance that integrates the construction grant program into the program to control pollution and implement water quality requirements. Consequently, we have had investment in inadequate technology, and investment in numerous, small facilities. Construction assistance in the future will provide, to the extent possible, that projects funded with Federal tax dollars must be the best practicable systems available: systems which will be comprehensive in their scope and character.

A ninth major element in the bill before us is the provision for public participation throughout all procedural activities established under the bill. Public participation is encouraged in the establishment of control requirements, the development of information, and in the enforcement process through citizens suits, a provision first applied in the Clean Air Amendments of 1970. Perhaps more than in any other Federal program, the regulation of environmental quality is of fundamental concern to the public. It is appropriate, therefore, that an opportunity be provided for citizen involvement.

A tenth major element of the bill is the requirement that the Administrator of the Environmental Protection Agency establish standards of performance governing all new sources of water pollutant. The Administrator shall establish such standards based on the best available technology. In this manner, the bill sets forth clearly that we must begin to prevent water pollution problems, rather than retroactively repair them. In addition, the provision establishing national standards of performance should eliminate any economic discrimination which could occur in our market system if new sources in varying locations were allowed to meet varying requirements.

An eleventh major element in the bill is the authority granted to the Administrator to set effluent standards for the control of the discharge of toxic pollutants. Toxic pollutants should be regulated decisively and expeditiously. In Section 307, S. 2770 would provide such authority.

The major elements I have described, taken together with many other substantive and procedural elements of the bill would authorize a program to bring the quality of the waters of this country to the level necessary to protect the natural state of those waters. In the final analysis, it is this natural state on which man is dependent.

The bill sets forth a legislative framework which is decisive in its commitment, precise in its requirements, and uncompromising in its objective. At the same time the bill requires substantive and procedural due process. Although heavy burdens are placed on all parties, it is a test that our Nation is willing to meet. It is legislation which will provide a framework of leadership. Such leadership is necessary to produce the greatness we have always associated with this country.

Mr. COOPER. Mr. President, I call attention to a provision of the bill, section 104(m), which I offered in committee and which was adopted. I hope very much it will be implemented, for I believe it will prove helpful. The suggestion, a good one, was brought to me by State Senator Scott Miller, and the University of Louisville.

I ask unanimous consent that the provision, and the language of the committee report concerning it, be included in the RECORD at this point.

There being no objection, the provision and report language were ordered to be printed in the RECORD, as follows:

Section 104. "(m) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as 'River Study Centers') for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship

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between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water-dependent activities. No such grant in any fiscal year shall exceed $1,000,000.

In view of the objective of the Act to restore the natural integrity of the nation's waters, the Committee has included a new subsection 104(m) authorizing the designation of River Study Centers, to be regionally located and provided with Federal financial support.

Through interdisciplinary studies, such centers could apply existing and developing knowledge to the problems, often complex and always interrelated, of growth and development within river basins and the impact of that development on the best use of water resources and on the value of water-dependent activities.

Long tradition and practice support the use of rivers for transportation, for water supply, for energy, for recreation and beauty—and, unfortunately, for waste disposal as well. It is now clear, however, that in many cases man's use has brought the natural drainage systems to a point of diminishing value, and often to a critical point neither anticipated nor well-understood.

Man's activities have had, and will continue to have, a profound effect upon our natural drainage systems. But on the whole, we have taken our river systems for granted and have given too little attention to the scope and character of these changes. It is time they were examined with more precision, so they may be taken more fully into account.

This proposal for the establishment of one or more River Study Centers was advanced at the suggestion of the University of Louisville, and the Committee believes the establishment of such Centers can make a contribution in the application of knowledge and experience to better planning and practice.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. COOPER. I yield.

Mr. MUSKIE. I should like to tell the distinguished Senator from Kentucky that earlier I paid my tribute to the members of the committee, the subcommittee, and the staff. I should like the Senator from Kentucky to know that, in my judgment, the Senate would not be considering the bill today but for his interest and involvement. I consider the contribution of the Senator from Kentucky to be the decisive factor in resolving this issue, and I want to express to him my personal appreciation—and what I am saying is more than the usual fluff which we sometimes hear in the Senate.

Mr. COOPER. I thank the Senator from Maine. It has been a privilege to work with him.

Mr. SAXBE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. SAXBE. Mr. President, first I should like to compliment the able Senator from Maine, the chairman of the subcommittee, and then the entire membership of the Committee on Public Works for the excellent work they have done on a subject in which we are all interested.

I am concerned, however, about one particular aspect of the bill, and it is whether intrastate agencies can be funded under the bill. Intrastate agencies have done a tremendous job in combating water pollution, and one of the agencies that has been in the forefront has been the Miami Conservancy District of Ohio. These agencies now face difficulties in funding. I introduced a bill (S. 601), which was referred to the committee, and which included intrastate fundings, in the hope that my bill would be incorporated in the bill now under consideration. I, therefore, should like to ask the distinguished Senator from Maine a few questions on the subject.

First, will intrastate agencies qualify for funding under section 106 of this bill, entitled "State Programs"?

Mr. MUSKIE. My reply to the Senator is yes, that such agencies can receive support funds under section 106 to the extent that they carry out programs for the elimination of water pollution in accordance with the requirements of that section. Such funds would have to be applied for by the State as a part of its grant and transferred to the intrastate agency.

Mr. SAXBE. I share the Senator's view.

My second question is: Will intrastate agencies qualify for planning and management funding under section 209 of this bill, entitled "Waste Treatment Management"?

Mr. MUSKIE. The answer to the Senator's question is, again, "Yes," indeed. Intrastate agencies are the type of entity which section 209 is intended to cover. When an agency such as the Senator from Ohio has described is designated by the Governor of the State as a planning agency responsible for developing an areawide waste treatment management plan, it becomes eligible for direct grants from the Environmental Protection Agency to support its activities in preparing such a plan. Of course, existing intrastate agencies may also be designated as management agencies under section 209.

Mr. SAXBE. I thank the Senator from Maine.

Mr. PEARSON. Mr. President, will the Senator from Maine yield for a question?

Mr. MUSKIE. I am happy to yield.

Mr. PEARSON. Will the Senator state whether the States have been heard from, so far as the final version of the bill is concerned?

Mr. MUSKIE. It depends on how one describes the final version of the bill. The States were kept apprised of developments.

Mr. PEARSON. I refer to the bill as reported to the Senate, of course.

Mr. MUSKIE. I want to be technically correct in what I am saying.

Actually, the printed bill which the Senate has before it has not been distributed to the States, so that they could comment on it in that form. I think the information that they did receive with respect to the contents of the bill, its details, and its thrust are pretty close to the final bill, and we have received comments from the States.

Mr. PEARSON. The other question I wish to ask the Senator is whether some estimate or judgment has been made as to the cost of achieving zero pollution by 1985, both as to capital cost and operative cost.

Mr. MUSKIE. There are no estimates of that kind that, in my judgment, have any validity. I covered this subject at some length in my statement earlier today. Chairman Russell Train of the Council on Environmental Quality has developed such estimates. I do not think they have any credibility with respect to the order of magnitude. It has been difficult enough to get figures that are fairly accurate—something on the order of $30 billion to $35 billion. But the 1985 target has not been related to costs. The bill does provide for water quality inventories which by the midseventies are designed to give us some hard estimates as to the cost of achieving no pollution discharge by 1985, when we have that information. Then it would be for Congress to decide whether achieving no discharge by 1985 is within the ability of the American people to absorb the cost.

Mr. PEARSON. I thank the Senator from Maine.

Mr. MUSKIE. Mr. President, I have sent to the desk a series of technical amendments. I ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc. Is the Senator asking for the approval of the amendments en bloc?

Mr. MUSKIE. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MUSKIE. I had agreed to yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, if the Senator from New York would like to have some time now, I shall be glad to yield to him. I have an amendment to offer that will take an hour.

Mr. JAVITS. Mr. President, I thank the Senator from Wisconsin.

Mr. President, we are very much interested in the whole prefinancing question. The Senator is aware that New York has been unusually forthcoming and very enterprising in the prefinancing of projects so long as it has had the moral commitment of the Federal Government that there would be reimbursement.

Certainly the committee has shown a most admirable recognition of the fact that the money is for reimbursement. The problem arises not through any absence of good faith or good will. Indeed, there is a very constructive outlook in the committee.

We are advised that the provision needs to be funded by appropriation before it is truly effective. We are also advised that there is just a chance that the amount provided might not be adequate.

I am advised that in my State of New York the money has been prefinanced to the extent of $2 billion against $1 billion authorization. It would be very helpful, naturally, if the feelings of the manager of the bill could be ascertained and if the Senator who is likely to be chairman of the subcommittee of the Appropriations Committee that will deal with this matter might also be heard from in connection with this dispute, so that my State and other States might have a sense of reassurance.

Certainly, the Committee on Public Works and the Senator from Maine have shown a most admirable recognition of this situation and of the responsibility which is involved and of the very constructive point of view that States should be encouraged to take this action and have the obligation made good rather than to be discouraged by sticking their necks out and finding out later that they will not be reimbursed.

Mr. MUSKIE. I would refer to the two phases. First, for the period 1956 to 1966, when the Federal grant or most advantageous grant was at a level of 30 percent of project cost, cities with a population over 250,000—I think that is the level—did not get that maximum Federal grant. So it is the intent of the legislation before us to, in effect, retroactively reimburse all communities for constructed plants in that period up to the maximum Federal grant in that period, to wit, 30 percent.

From 1966 on the maximum Federal grant was 50 percent plus another 5 percent for areawide treatment planning. It was my desire in this bill, and the committee went along with it, to reimburse States up to this maximum of 50 percent.

Whether a State received as much as 50 percent in this period depended on whether States had contributed up to 25 percent of the project cost—because many States had not done so, and the effect was to penalize those communities because of the States.

In the second phase the cost is 50 percent.

The figure in the bill, which covers both of these phases, based on the best estimates we were able to get, is $2.4 billion in all.

Mr. JAVITS. I note from the report that the committee said that if it should be found inadequate and the entitlement higher, the committee intends to seek authorization and appropriation for whatever is paid.

Mr. MUSKIE. That is correct. We will do that.

Mr. JAVITS. I thank the Senator very much.

I believe this is a most constructive course. I emphasize the fact also that it is overlooked that we wish to encourage and not discourage States in prefinancing. This is good for the United States and for the people.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. BUCKLEY. Mr. President, like my colleague, I am concerned about this point. It is an important point affecting 30 States having large outstanding contributions in reliance on an oral commitment by the Federal Government. These are large figures: In Michigan $162 million, in New York $900 million, and in Connecticut $104 million.

Many of these States will find they are hard put to proceed with programs already on the drawing board, even with the increase in the Federal share provided for in this legislation unless Congress at the same time appropriates the money required to make these very sizable reimbursements. Otherwise, programs would have to be put on the shelf and valuable time lost. I thank the Senator for yielding.

Mr. MUSKIE. I thank the Senator for his comment.

Mr. AIKEN. Mr. President, will the Senator yield for a statement and then a question?

Mr. MUSKIE. I am happy to yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, Lake Champlain, which lies between the States of Vermont and New York, is the largest fresh-water lake in the United States outside the Great Lakes.

It has an unusually high water quality standard but at the southern end of the lake near Ticonderoga, N.Y., Lake Champlain has been seriously polluted by discharges from a large paper mill.

The sludge deposited over many years now covers some 300 acres which is 12 feet deep at some points.

The paper mill is now closed and a new larger mill has been built and is operating several miles further north on the lake.

The paper company says that it has removed about 90 percent of its pollutants by the installation of new processes.

The Army Engineers estimate it will cost about $4 or $5 million to remove the sludge from the site of the old mill.

This sludge has been the subject of controversy for a number of years.

The residents on the Vermont side of the lake in that area have found the water to be unfit for swimming and fishing.

Air pollution blowing across the lake from the old millsite has been extremely offensive at times.

The old Federal Water Quality Administration held special pollution conferences and found the pollution should be abated but nothing was ever done.

The new Environmental Protection Agency also explored the problem but apparently lacks authority to do anything realistic about it.

I brought this problem to the attention of the ranking minority member of the committee (Mr. COOPER) some time ago, and I am gratified to know that language has been included in S. 2770 to permit specific action to be taken to remove the sludge.

I am advised that this language appears on page 22, lines 14, 15, and 16, namely:

(C) to eliminate the effects of pollution from inplace or accumulated sources of pollution.

Am I correct in believing that this language would authorize a project which would permit the removal of the sludge and a concurrent study of the effects of this removal upon the water quality of Lake Champlain?

Mr. MUSKIE. The Senator's understanding of the bill is correct that section 105 contains provisions that could be used to support a demonstration grant to repair accumulated sludge adjacent to the facilities on Lake Champlain.

I would like to point out that for the first time the bill recognizes the serious problem of inplace or accumulated sources of pollution. That is of concern to me in Maine because we have similar problems in our rivers on which papermills have been located. I commend the Senator for bringing this provision to the attention of the Senate at this time.

Mr. AIKEN. Mr. President, at the time Mr. Ruckelshaus was before the committee for approval as nominee-designate as Administrator, Environmental Protection Agency, I engaged in a colloquy with him with permission of the chairman (Mr. RANDOLPH). I ask unanimous consent that a copy of the colloquy I had with Mr. Ruckelshaus at that time may be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

STATEMENT OF WILLIAM B. RUCKELSHAUS, NOMINEE-DESIGNATE AS ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

The CHAIRMAN. I want to accommodate the Senator from Vermont who has another engagement. He comes to us from another of the committees involved.

Senator Aiken, we will be glad to have you ask questions or make a comment, even though we might proceed in some other order.

Senator AIKEN. Thank you, Senator Randolph, for inviting me to participate in the hearings this morning, and thank you for giving me the opportunity to make a short statement here and ask one question inasmuch as I have an unavoidable meeting at 10:30.

I want to say first off that I believe the selection of Mr. Ruckelshaus to be Administrator of this Agency is a very good selection. I think at this point he plans to do an excellent job for us.

I would like to present to him one situation and then ask one question.

For the last generation a large paper mill has operated on the west bank of Lake Champlain in the State of New York. Lake Champlain, I believe, is the largest freshwater lake in the United States outside the Great Lakes.

This paper mill, owned by the International Paper Company, as I say, has operated like most paper mills and has a very substantial output of sludge, now called pollution, I believe, from this mill into Lake Champlain.

At the present time, this sludge covers a bed of 300 acres, but the pollutionary effects go much beyond the sludge bed until the time has come now that, when we try to get usable water on the Vermont side of the lake, and three-fourths of the lake is in the State of Vermont, we find it will not pass for domestic consumption.

The paper mill is now building a new mill several miles farther down the lake from where the old one was. This will cost almost $100 million. It will provide very important employment. It will provide a market, they tell me, for about 1,000 cords of pulpwood a day and be very important to the economy of that area.

The paper company advises me that with the new processes they can control about 90 percent of this sludge. The other 10 percent, of course, is undesirable but possibly could be tolerated if the old sludge bed could be cleared up.

New York State has held that it wouldn't be nice to upset the sludge bed; it might do more harm than good. But nobody else believes that story at all. We think it should be cleared up.

The Army Engineers estimate it will cost $4 million to $5 million to put that lake in a position so that the new mill could operate and the water would be made usable for our people on the Vermont side of the lake.

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Vermont is planning to go into the courts. If they do that, it will delay the opening of the new mill, which I think is set for sometime this month or next. As I say, it will be a very important mill.

One of Secretary Hickel's last acts was to give New York State orders to present to him within a short time their plans for clearing up this sludge. Of course, the paper company feels they are not for it, that they will fight it to the end. They feel that having paper mills all over the United States, this case would constitute a precedent and if they have to clean up the Lake at Ticonderoga they will have to go to all the other places, the rivers and lakes where they have mills, and do the same thing. Naturally, they don't want to go to that expense.

New York, for a generation, and the Federal Government, too, have been collecting taxes from this mill. The mill furnished employment for several hundred people. It has been a market for the pulpwood of the area, which is very important. It has been my opinion that the Federal Government and New York, having made the gains from this operation, and being responsible for it, in a sense, should bear the cost of cleaning up Lake Champlain, which I insist is the most beautiful freshwater lake we have, and certainly the largest outside of the Great Lakes themselves.

So that is the question: Who is going to pay the cost? It is a situation which must be met because, if nothing is done about it, the entire lake is likely to be polluted from the New York side to such an extent that the water will be condemned for use on both sides of the lake.

The question I have is: Mr. Ruckelshaus, are you aware of this situation and, if you are approved for this position, do you intend to follow through and see that this pollution of great magnitude in Lake Champlain is handled properly, and that further pollution will be prohibited?

Mr. RUCKELSHAUS. Senator, I am aware of this situation in the broad outline that you have given me. I am also aware of the competing claims of the States of Vermont and New York.

I am aware that Secretary Hickel has given the State of New York, as I understand it, until December 15 to come up with a plan as to how the sludge bank will be removed. That order will remain in effect.

I believe that it is this precise kind of situation that the Environmental Protection Agency was created to take care of, where we have pollution of lakes and streams in this country and we have not been able to abate that pollution in the past.

I think it is this Agency's mission to see that as quickly as possible these pollutants and the pollutant effect of effluent from plants and from municipalities is cleaned up.

It is my intention, if I am confirmed as Administrator of this new Agency, to see that this mission is carried out. So I can assure you that when the State of New York submits its recommendation as to how the sludge should be removed, we will study it very carefully and make provision for the removal of pollutants from that lake.

Senator AIKEN. I thank you for your good intentions. I must say that up to now New York State has shown very little sympathy for the damage they have been causing to the lake and to the State of Vermont.

But the State and the Federal Government have undoubtedly collected in revenue many, many times the cost of restoring that lake, the waters of that lake, to a usable condition. I think they have an obligation to clean it up.

I thank you.

I thank you again, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Aiken. The Senator comes, as we know, from the Agriculture Committee, one of the committees that I mentioned as having been invited.

Mr. AIKEN. I thank the Senator from Maine for yielding to me.

ORDER OF BUSINESS

Mr. MUSKIE. Mr. President, we have a distinguished visiting delegation and I ask unanimous consent that the Senate suspend for 5 minutes so that the distinguished Senator from Wyoming (Mr. HANSEN) may present them to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. I thank my distinguished colleague from Maine very much for his courtesy.

VISIT TO THE SENATE BY JAPANESE GOVERNORS

Mr. HANSEN. Mr. President, it is my privilege and honor to announce that we have as our guests today in the Capitol a delegation of Governors from eight prefectures of Japan. They are here today as a part of an exchange visit with American Governors and to attend a Japanese-American Governors Conference.

This is the fifth visit of Japanese Governors to our country that has been developed under the cultural exchange program of our State Department, in cooperation with the Japanese-American Governors Conference.

Our guests today are:

Gov. Gonichiro Nishizawa of Nagano, (chairman)
Gov. Tokichi Abiko of Yamagata
Gov. Hiroshi Kuroki of Miyazaki
Gov. Yasunobu Takeichi of Tokushima
Gov. Kinichiro Nozaki of Shiga
Gov. Kunio Tanabe of Yamanashi
Gov. Kokichi Nakada of Toyama
Gov. Tokitada Sakai of Hyogo

Since 1962, several delegations of American Governors have visited Japan where they have met with Japanese Governors to discuss mutual problems.

It was my privilege in 1965, while Governor of Wyoming, to visit Japan as a guest of the Japanese Government and to participate in a joint conference. It was an unforgettable experience. Other Members of the Senate, while Governors, have also participated in these interesting and beneficial meetings.

Among the subjects discussed at the 1971 Japanese-American Conference last week were: "Preservation of Nature," proposed by the Japanese and "Relation Between National and Local Governments" which was discussed by the American side. The problem of textiles and international trade were also reviewed by the Conference. A joint policy statement was adopted at the close of the formal Conference. This statement urged a friendly approach to the solution of the textile problem and a mutual effort to overcome present difficulties without acrimony.

Gov. Warren E. Hearnes, of Missouri, immediate past chairman of the National Governors Conference, was host to the Conference and Gov. Arch A. Moore, Jr., of West Virginia, present chairman of the Governors' Conference and a former Member of Congress, served as chairman of the American Governors at the Joint Conference.

During their visit to the United States, our Japanese friends were received by the Governor of Hawaii where they visited the capitol and other historic places and then were guests of the Japanese community at a banquet.

In Washington State, the Governors toured the Boeing plant and the capitol at Olympia as guests of the Governor.

In Utah, they visited the Kennecott copper mine, the university, and the Mormon Temple.

As guests of the Governor of Missouri they visited the McDonnell Douglas Corp., the Institute for Psychiatry, the botanical gardens with an evening reception and attendance at a hockey game. The formal Joint Conference was held in St. Louis.

In Charleston, W. Va., they visited Union Carbide Center, the Weirton plant at Wheeling and attended a State dinner at the Governor's Mansion and a reception at the Greenbrier.

The weekend was spent at Williamsburg, where after a tour of historic sites a reception and dinner were given by the Governor.

On Monday, the Governor of Maryland arranged a tour of Annapolis, the Naval Academy and a luncheon on the State yacht. A reception and dinner were also given by the Governor.

Today, Secretary George Romney, who as Governor visited Japan, had a breakfast and a discussion of HUD programs with the Governors. The Governors then met with Vice President Agnew to discuss intergovernmental relations.

The Governors were guests of the Senior Senator of Delaware and myself at a luncheon at the Senate Office Building. The Senator from Delaware has also visited Japan. Many Senators, Cabinet officers and others who have visited Japan were also present.

Following our luncheon and a visit to this Chamber, they will tour the Kennedy Center and attend a reception at the Japanese Embassy. Tomorrow, the delegation will split up, some going to New York, others to South America and Tokyo.

I am convinced, as are many former Governors who serve in this body and who have visited Japan, that such visits and the exchange program will greatly increase international cooperation and understanding between our two great countries.

I thank my colleague from Maine for this courtesy.

MESSAGES FROM THE PRESIDENT— APPROVAL OF BILLS AND JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that the President had approved and signed the following acts and joint resolution:

On October 29, 1971:

S. 24. An Act to provide that the cost of certain investigations by the Bureau of Reclamation shall be nonreimbursable;

S. 74. An Act to provide for the conveyance of certain real property of the United States to the University of North Dakota, State of North Dakota;

S. 123. An Act to authorize the Secretary of the Interior to modify the operation of the Kortes unit, Missouri River Basin project, Wyoming, for fishery conservation;

S. 1151. An Act to authorize the Secretary of the Interior to revise a repayment contract with the San Angelo Water Supply Corporation, San Angelo project, Texas, and for other purposes; and

S. 1939. An Act for the relief of the Southwest Metropolitan Water and Sanitation District, Colorado.

On October 30, 1971:

S.J. Res. 167. Joint Resolution to extend the authority conferred by the Export Administration Act of 1969.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. BENTSEN) laid before the Senate messages from the President of the United States submitting sundry nominations, and withdrawing the nomination of John David Isaacs, of New York, for promotion from a Foreign Service officer of Class 7 to Class 6, which nominating messages were referred to the appropriate committee.

(The nominations received today are printed at the end of Senate proceedings.)

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1971

The Senate continued with the consideration of the bill (S. 2770) to amend the Federal Water Pollution Control Act.

Mr. MUSKIE. Mr. President, I yield to the Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I should like to inquire of the Senator about the reimbursement provision of subsection 206(b) relating to projects constructed in the period between June 30, 1956 and June 30, 1966. I assume that the difference in the language used in subsection (a) and subsection (b) is significant. Subsection (a)—dealing with projects constructed between 1966 and 1971 talks about projects that were "initiated in a State after June 30, 1966" whereas the pertinent portion of subsection (b) reads "was constructed with, or was eligible for, Federal financial assistance under this act between June 30, 1956 and June 30, 1966." The choice of different phraseology would not appear to be inadvertent. Thus, projects which were constructed largely or in part after June 30, 1956 and which were otherwise eligible for Federal financial assistance at that time would qualify for reimbursement under subsection 206(b).

Since, as I understand it, the entire reimbursement provision is remedial and intended to place on an equal footing all cities which, at an early date undertook to meet the problems of their areas, I assume that a community which entered into negotiations and which signed a contract prior to June 30, 1956 for water treatment facilities, but in which the bulk of the construction occurred after June 30, 1956 would be entitled to reimbursement for that portion of the construction which would occur after the June 30, 1956 date to the extent eligible for such Federal funding had the limits in the law not applied and had funds been available. This, of course, would be subject to the requirement that the project met the other criteria for eligibility, namely, that the project was approved by the State water pollution control agency and that the project would meet the requirements of the Federal Water Pollution Control Act. I would also assume that the eligibility, under such circumstances, would be on a pro rata basis so that the community would only receive reimbursement for that portion of the construction that occurred after June 30, 1956.

Mr. MUSKIE. The Senator's understanding is correct.

Mr. BEALL. Mr. President, will the Senator yield for a question?

Mr. MUSKIE. I yield.

Mr. BEALL. I invite the Senator's attention to page 77 of the bill, section 302(a), under "Water Quality Related Effluent Limitations," and note that this section allows a State or the Administrator to establish effluent limitations relating to water quality for specific portions of navigable waters to assure the protection of public water supplies and agricultural and industrial uses and the protection and propagation of fish, shellfish, and wildlife, and provides for recreation in and on the water.

I am wondering if it is intended that all navigable waters shall support body contact and recreational activities. If that is the case, it seems to me it is inconsistent with protecting the waters for agricultural and industrial purposes, and if that is so, the word should be "or" rather than "and."

Mr. MUSKIE. No. The objective is to protect water for the highest possible use, not the lowest. We are talking, not about protecting any of these activities in their present use, but to make the water of such quality as to be available for these purposes. There is a difference between the two. If water is clean enough to be used for drinking water, it is also clean enough to be used on the land for agricultural purposes. But if it is clean enough only to be used, say, for the absorption of cannery wastes, it is not clean enough to be used for agricultural purposes.

In other words, what we are trying to achieve here is the highest possible level of water quality as this program develops. That highest level obviously makes it possible to apply that water to all uses below that level. But it is not the intention of the language to protect the present use of that water without regard to what that use is doing to the quality of the water.

Mr. BEALL. I thought the purpose was to try to achieve that standard by 1985, which is the date in the bill, but at the same time there would be a recognition that the use for agricultural activities might take place, rather than for certain body contact with the water for which it was not developed or which might be inconsistent with having effluent limitations which would not support body-contact recreation.

Mr. MUSKIE. The Senator must read the language differently with respect to nonpoint sources, to be eliminated by 1985, and the bill as it applies to point sources, to be accomplished by 1981.

With reference to nonpoint sources, the Senator is correct. We have not yet developed the technology to deal with any of those problems. The bill undertakes, in other portions, to begin the process of developing those answers, which would involve land use and other controls of that kind.

Mr. BEALL. I am not quite sure I understand the answer to my question.

Mr. MUSKIE. Perhaps if the Senator would repeat his question, I might be able to focus on it for a better answer.

Mr. BEALL. I am interposing on the generosity of the Senator from Wisconsin. Perhaps, to clarify the record, I could ask the question and the answer could be clarified for the record.

The word "reasonably" appears on line 8 of page 78 of the bill, and that perhaps answers my question. Does the Senator think that the word "reasonably" grants the kind of flexibility that might be needed in accomplishing the objective of this section?

Mr. MUSKIE. That word relates to the fact that at the present time we are not able to establish direct links between water quality and the particular effluent discharge, especially when there is a multiplicity of effluent systems. We hope to develop those. As we do, we can perhaps more effectively establish water quality standards. That is what the word "reasonably" relates to.

Did the Senator have in mind the question of whether the controls we are discussing in the bill, in section 302, would have the effect of inhibiting general agricultural activities?

Mr. BEALL. Or general activities, or agricultural use.

Mr. MUSKIE. No. The discharge standard applies to point source control. Agricultural runoff is one form of agricultural activity that is a nonpoint source. It is a runoff into water that occurs perhaps miles away from the land that adjoins it.

There is no effective way as yet, other than land use control, by which you can intercept that runoff and control it in the way that you do a point source. We have not yet developed technology to deal with that kind of a problem. We need to find ways to deal with it, because a great quantity of pollutants is discharged by runoff, not only from agriculture but from construction sites, from streets, from parking lots, and so on, and we have to be concerned with developing controls for them.

TITLE I

Mr. BEALL. Section 101(b) on page 3 states the policy of Congress as protecting the States' responsibility to plan the "use" of water resources, but several subsequent provisions appear to deny the continued recognition of "water use" as a basis for water quality control. Is it the intention of this legislation to abandon the basis of many of the present State laws which are built around the concept of designating legitimate uses for specific waters and relating the quality and effluent limitations to support those uses?

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Mr. MUSKIE. The bill redirects the program of water pollution control from one of application of effluent controls through cause effect relationships to one of application of effluent limitations directly on all point sources based on technological responses. The bill does provide water quality objectives ultimately to restoration and maintenance of the natural chemical, physical, and biological integrity and in the interim water quality necessary to protect and propagate a balanced population of fish, shellfish, and wildlife and recreation in and on the water. To the extent existing State programs are compatible with these objectives, they would not be affected by this act.

Mr. BEALL. Section 106(h)(7) on page 31 would prevent the Administrator from ranking a grant to the State unless it has "procedures to assure the maintenance and enhancement of the quality of any waters in such State." Is not this a potential limitation on future industrial development of some regions or localities unless there is some modification of this language to recognize the need to balance social and economic benefits with social and economic costs?

Mr. MUSKIE. The question refers to a restatement of the nondegradation principle which has been an essential element of the 1965 act and which has been specifically reserved in this bill. Nondegradation does not prevent economic development. Rather it assures that such development will be made compatible with the environment.

TITLE II

Mr. BEALL. Section 201(b) on page 46 would require that "waste treatment management plans" provide for the application of the "best practicable water treatment technology" before any discharge into the receiving waters. The first expression of what the "best practicable water treatment technology" might be comes some 35 pages later in the bill in section 304(b)(1), but this expression is stated as complying only with section 301(b)(1). Should not the same factors stated in section 304(b)(1) for assessing "best practicable technology" apply to section 201(b)?

Mr. MUSKIE. The information published under section 304(b)(1) sets forth the factors related to point sources of discharge other than waste treatment works. Information published under section 304(d) sets forth the factors related to the control requirements placed on treatment works in phase I and phase II under the act.

Mr. BEALL. Section 306(a)(1) on page 90 defines the term "standard of performance" in terms of the greatest degree of effluent reduction achievable using "best available control technology." Section 304(b)(2)(B) specifies the factors to be taken into account in assessing the "best available technology" in order to comply with section 301(b)(2). Should not these same factors apply to assessing "best available technology" in section 306(a)(1)? If so, this could be done easily by cross-referencing section 304(b)(2)(B) in section 306(a)(1) after "best available control technology."

Mr. MUSKIE. Section 304(b)(2)(B) establishes the information necessary for existing point sources other than treatment works. Section 304(c) sets forth the information necessary to comply with standard of performance applicable to new sources established under section 306.

The PRESIDING OFFICER. All time of the Senator from Maine has expired. The Senator from Delaware has 56 minutes remaining.

Mr. BUCKLEY. Mr. President, if the Senator from Maine would like additional time, I would be glad to yield him some time.

Mr. MUSKIE. We are going to get time on another amendment.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. I ask unanimous consent that the amendment be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE's amendment is as follows:

EFFLUENT CHARGES

SEC. 315(a) It is the purpose of this Section to supplement the enforcement procedures of this Act by providing for desirable economic incentives to water users to conserve water and to minimize pollution through reduction in the quantity of waste products dumped into these waterways. It is also the purpose of this Section to encourage the formation of regional waste treatment management organizations pursuant to Section 209(a) of this Act.

(b)(1) In furtherance of the purpose of this Section, the Administrator and the Secretary of the Treasury shall prescribe such regulations as are necessary to establish and put into effect not later than June 30, 1972 a schedule of national effluent charges for all those discharges other than municipal sewage which detract from the quality of the water for municipal, agricultural, industrial, recreational, sport, wildlife, and commercial fish uses. These discharges shall include, but not be limited to, bio-chemical oxygen demand (BOD), suspended solids, thermal discharges, and toxic wastes. The charges shall be set at a level which will provide for the attainment of the standards and goals of this Act. Such regulations shall also provide for making available as public information all amounts collected pursuant to such charges.

(2) Any person who willfully fails to pay any charge as required by regulations established pursuant to this Section or who willfully fails to make any return, keep any records, supply any information, or to do any other act required by such regulations shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than one year, or both, together with costs of prosecution.

(3) The United State district courts shall, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States, have jurisdiction to restrain violations of regulations established pursuant to this Section.

(c) Revenues collected by the Secretary of the Treasury pursuant to such charges shall be deposited in a trust fund (hereinafter referred to as the "fund") in the Treasury to be available without further appropriation to the Administrator for use as prescribed in subsection (d).

(d) Money from the fund shall be available for distribution by the Administrator in each year for the purpose of funding Section 106 of this Act (to assist water pollution control programs of States and interstate agencies). Money in the fund in excess of this amount shall be available for the general purposes of Section 207 of this Act (grants for construction of treatment works).

(e) Organizations established pursuant to Section 209(a) of this Act shall, not later than 180 days after they are designated, provide for a schedule of effluent charges covering all navigable waterways within the boundaries of the area designated pursuant to Section 209(a)(2). Charges may be set at or above the level and on substances in addition to those designated by the Administrator pursuant to subsection (b)(1) of this Section. After approval by the Administrator, the charges may be imposed by the State or interstate agency, and all revenues therefrom shall henceforth accrue to the State or interstate agency to be used for the purpose of attaining the standards and goals of this Act.

BROAD SUPPORT FOR AN ECONOMIC INCENTIVE APPROACH

Mr. PROXMIRE. Mr. President, the language of this amendment is very similar to that of a bill—S. 2696—I have introduced which is cosponsored by the Senator from Nevada (Mr. CANNON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MANSFIELD), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. PERCY), and the Senator from Minnesota (Mr. HUMPHREY). It is an approach which has the enthusiastic support, I am happy to say, of a number of conservation organizations, including the Sierra Club, Friends of the Earth, the National Wildlife Federation, the National Audubon Society, and Environmental Action.

Great credit is due to the Air and Water Pollution Subcommittee, and particularly its chairman, the Senator from Maine (Mr. MUSKIE), who has worked tirelessly to produce this massive and comprehensive bill. I understand that a great deal of work, an unusual amount, was done on the bill in 14 days of public hearings in the spring of 1970, and further hearings in 1971, including field hearings in Delaware, Missouri, and Louisiana, and they have held more than 40 meetings in executive session meticulously working out the details of this far-reaching legislation.

Mr. President, I have served on a number of committees in the Senate in my 14 years here, and I do not recall any legislation I have had to do with where the executive markup sessions have been even half that long; so obviously a great deal of painstaking work has gone into the bill. Senator MUSKIE deserves tremendous credit for the enormous amount of time he has devoted to it, for his great courage in reporting out a very tough bill which pulls no punches, and for his outstanding leadership in this area—leadership which goes back to his early days in the Senate, as we all know.

S. 2770 CONTAINS MUCH-NEEDED IMPROVEMENTS

As I understand S. 2770, it streamlines the presently cumbersome enforcement procedures, which have plagued us, and which have resulted in ineffective action against polluters. The current procedure stems from the 1948 act. This procedure, which is extremely cumbersome, entails identifying violators, calling an enforcement conference, lengthy delays, followed by more conferences, followed by more delays, and—at the end of the tunnel—the possibility of lengthy litigation.

In one case where this procedure was followed, it took more than 15 years to settle the case. In the past 14 years, only fifty separate actions have been taken against polluters. Many conferences have had to be reconvened, some as many as five times. Four of the actions have proceeded as far as the public hearing stage, and in only one instance was court action taken.

So, in almost every case, it has paid the polluter to contest the enforcement rather than abate his pollution. And, with such a cumbersome procedure, the Federal Government can hardly afford to proceed against more than a handful of violators. Most polluters will go scot-free, and they know it.

S. 2770 streamlines enforcement procedures. If a State fails to act within 30 days after notification of a violation, EPA can issue an order and then go right to court. This is a much needed improvement over present law.

As I understand, S. 2770 also provides stiff penalties for violators. A second conviction carries a possible $50,000 a day fine, plus up to 2 years in jail for the responsible corporate officer.

There is also a provision for citizen suits. Citizens may take a violator into court directly, and may also sue to compel EPA to act. Both of these provisions markedly strengthen existing law.

THE GOALS OF S. 2770: CAN THEY BE ACHIEVED?

The matter of goals is where the bill deserves the greatest credit, but is also, I think, where the bill is most deficient.

The bill calls for current water quality standards to be attained by 1976; for waters to support the propagation of fish, shellfish, and wildlife by 1981; and for the elimination of all discharges by 1985.

Those goals are laudable, of course. I support them completely. But now for the $64 question: How do we achieve these goals? What assurances do we have that these goals will be any more attainable than the goals we have set for ourselves in the past, that have subsequently proved unattainable?

THE MISSING INGREDIENT: AN ECONOMIC INCENTIVE

The problem is still one of enforcement. Polluters are not going to be any more compliant to the new goals, and the new standards, than they have been in the past. And it is doubtful that the use of effluent standards, rather than water quality standards, will provide the hoped-for transformation overnight—EPA is still left with having to go to court against recalcitrant polluters, and with more than 100,000 outfalls in this country, court dockets could be jammed in no time if EPA seeks a broad-based enforcement of the act.

What is missing? How do we get universal compliance, without having to go to court?

The missing ingredient—an economic incentive. This is the one central element that has been totally lacking in present law. In my opinion, it is the major reason why present law has not worked, and has not been enforceable.

The law we are about to pass today suffers from the same defect—it contains no economic incentive. Absent this, I just cannot see how this law can be enforced.

My amendment is based on the bill which I have referred to heretofore. It would do these things:

First. Give industry the incentive present law lacks—and S. 2770 lacks—to spend the money it should on water pollution control.

Second. Impose effluent charges on industrial water polluters, in proportion to the amount of waste discharged. This makes each polluter financially responsible for his own pollution. It says to industry, "Pay or stop polluting." This is a language industry understands.

Third. The charge would be set at a level to attain the standards established pursuant to the act we are considering now.

Fourth. The money would go to a fund to provide the money for State and interstate river basin management associations to operate. It would help defray the gigantic costs which face us in this field.

ULTIMATE RESPONSIBILITY TO REST WITH REGIONAL OR STATE AGENCIES

Fifth. The charge system would initially be established by the Administrator, in conjunction with the Secretary of the Treasury. But we recognize that, in the long run, a system of national uniform effluent charges, applied across the board to all waterways, could hardly be as exact as a schedule of charges keyed to the needs of each waterway or river basin. Accordingly, we provide in this amendment that once the State or regional organization is set up pursuant to S. 2770, that agency will then have the primary responsibility for setting and collecting the effluent charges.

This is in keeping with the underlying philosophy that has been behind every major water pollution bill we have passed since 1948: that primary responsibility for controlling water pollution rests with the States—acting singly or in conjunction—and that the Federal role is to assist the States in achieving these goals.

EFFLUENT CHARGES: AN ENFORCEMENT AID FOR S. 2770

Mr. President, I emphasize that this amendment is not a substitute for the bill we are now considering. It is an addition to it—an essential addition if the bill is ever to be enforced.

I am reminded of President Andrew Jackson's comment following an 1832 Supreme Court ruling involving a conflict over the State of Georgia's claim to Indian lands. Jackson said:

The Supreme Court has made its decision. Now let them enforce it.

Without a provision for effluent charges or some other economic incentive, I very much fear that Congress will decide today that all discharges shall cease by 1985, and American industry will say "Congress has decided that we must not pollute any further. Now let them enforce it."

My amendment amends title III of the bill, the enforcement section of S. 2770.

ADVANTAGES

The advantages of these effluent charges are as follows:

First. They give industry an incentive to abate at the source, by supplying the profit advantage. The effluent charges cannot become a license to pollute as long as the charge is set higher than the cost of abatement—which the amendment would do.

This is the reason why the conservation organizations which had opposed this approach in the past now support it. They have testified before the Joint Economic Committee. They have gone on record clearly in support of this kind of economic incentive, because they now appreciate and support the fact that the charge can be set at a level which can effectively reduce pollution and do it very rapidly.

Second. This is a fair and equitable method. The one who pollutes should pay—not the Federal taxpayer at large.

CONTINUING INCENTIVE

Third. In the third place, the incentive is continuing; it operates even after standards are met. As new technology comes along, it may become possible to abate to even lower levels than we now have any right to expect. Effluent charges will compel industry to continue to seek out new technology, new ways of avoiding the charge.

Without my amendment there is very little incentive in the bill, as I understand, to develop new technology, economic incentive. This will be a continuing, clear economic basis for justifying the development of technology, because it will pay off.

Fourth. Mr. President, I think the principal argument for this is that it works. It has been tried in a number of cities, and in each case it has abated pollution very rapidly, within a matter of months.

THE RUHR EXPERIENCE

The best known situation is in the Ruhr, where, in the Genossenschaften, a charge system has been operating successfully for more than 50 years. Rivers in the Ruhr are cleaner than most of our rivers, many of which have treatment facilities on them.

There has been some misconception about the system employed in the Ruhr and whether that represents a true model for the effluent charge system we are proposing here. It has been said that the Ruhr associations make use of the Emscher River, which has been converted into an open sewer to handle the wastes that cannot be handled by the river basin association.

Mr. President, let us face that. First, there are some eight Genossenschaften—river basin associations—in the Ruhr in-

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dustrial area. Only one of these associations, the Ruhrverband, makes use of the Emscher to carry away the wastes that are not treated either by the collective facilities or by the plants themselves—the plants having been induced to treat most of their wastes because of the effluent charges that have been imposed on them.

Second, a mammoth treatment plant to cleanse the Emscher just prior to its mouth at the Rhine River is now being constructed by the river basin association. Effluent charges, of course, help to finance this project. Once completed, the entire system will be a closed system, and the ultimate discharge of the Ruhrverband into German waterways will be such as not to degrade or despoil the water.

Third, the other Genossenschaften have succeeded for years in maintaining a high level of water quality, and have done so without the use of any backup stream which can serve as an open sewer. Effluent charges have been the key ingredient in keeping the water clean.

The Ruhr system, then, is a genuine example of the success that can be achieved with effluent charges.

I might point out that on the Ruhr River is one of the greatest concentrations of industry in the world. It would be overwhelmingly polluted if they did not have some kind of effective economic disincentive such as the kind of charge I am proposing in this amendment.

I have referred to the success in the various municipalities that have tried this approach. In Otsego, Mich., there was a 66 percent reduction in waste loads in 3 months of charges. In Springfield, Mo., there was a similarly dramatic reduction. The State of Vermont is now trying charges on a statewide basis, to go into effect next year.

REDUCED FEDERAL COST

Fifth. Another advantage of this approach is that it greatly eases the burden on the Federal budget. The bill we are now considering will cost $14 billion over a 5-year period of full operation. My bill is estimated to cost $4.3 billion over the same period—in other words, about one-third as much—and with a similar size grant program. This estimate was made by an eminent economist who testified before the Joint Economic Committee. It was also made, I believe, by the Brookings foundation in a careful study they made in which they recommended the approach that my amendment would suggest.

LOWER DEMAND FOR HIGH-POLLUTING PRODUCTS

Sixth. Also, portions of the charges would be passed on to the consumer, thus allowing the marketplace to help abate pollution. This is only fair. Those of us who use products which have the effect of increasing pollution should have to pay the price; and the market system would adjust because the cost would be higher, and people would be inclined to purchase somewhat less of the polluting products. As consumers of products that pollute, we should bear a reasonable proportion of those costs.

FLEXIBILITY

Seventh. Lastly, this gives industry the flexibility it ought to have. It gives industry a chance to determine how best to abate its pollution. They might choose to construct a treatment plant, recycle waste water, alter production processes, use storage tanks, aim for byproduct recovery, or any of these in combination. The construction grant approach places too great an emphasis on the development of treatment facilities, as against other possibly more efficient means.

Mr. President, in addition to the conservation organizations I have already mentioned that support this approach, the Council on Environmental Quality, in its report this past August, said that a well constructed charge system "would quickly curb waste discharges" and that using the charge system in conjunction with the existing approach could "achieve environmental standards faster and cheaper." This indication of support for this approach from the administration is extremely welcome.

My amendment, I stress, is a supplement to and is not meant in any sense to be a criticism of the bill which Senator MUSKIE and the subcommittee worked so hard to develop and refine, and on which they have done such a good job. I do think it has a shortcoming, and this amendment would attempt to provide for that shortcoming.

I am proposing today that effluent charges be used as a enforcement tool, in conjunction with the procedures outlined in S. 2770, to achieve the very tough standards we are now setting for ourselves. Although I do not intend to call for a rollcall vote on my amendment, I would hope that the Senate would seriously consider this approach as a means of achieving what has so long eluded our grasp—water which is clean enough to drink, to swim in, to fish from, and to enhance our quality of life.

Mr. President, I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, may I first assure the distinguished Senator from Wisconsin that I have considered this approach to the pollution problem, and the committee has.

The Senator has submitted the proposed legislation. He testified before the committee last year, and we appreciated his testimony and took it into account.

In previous years, we also had testimoney by Dr. Allan Kneese, who is an expert and who I believe is the originator of the effluent tax approach in this country.

More than that, earlier in the 1960's, with the then Secretary of the Interior, Mr. Udall, pursuant to an agreement between President Johnson and the Chancellor of Germany at that time, I was privileged to serve as a member of a team which visited Germany. We visited the Ruhr Valley and examined its system of so-called effluent fees or effluent taxes, which I think could be more accurately described as user fees.

In any case, I have had considerable exposure to this approach; and the committee, after considering it and other proposals, has developed the measure now before the Senate.

I should like now to make a few observations with respect to Senator PROXMIRE's presentation.

First, with respect to the question of enforcement, adoption of the Proxmire amendment would not eliminate an enforcement problem. Even a tax must be enforced. At least, my impression of the existence of the Internal Revenue Service and the large number of employees it has suggests that enforcement can be a full-time job. So, whether we enforce an effluent fee or a no-discharge policy of effluent controls, we are going to need enforcement.

Adoption of the Proxmire amendment to this legislation would not eliminate the need for enforcement. It would add another requirement for enforcement. That is an important thing to remember.

With respect to effluent fees, it is important to note that effluent fees are a mechanism of effluent reduction, not effluent control. A polluter will control his discharges only to the degree that such control is cheaper than the fee—exploiting marginal economics.

If the degree of control achieved is adequate to implement effluent standards, the effluent fee is a useful means to implement existing public policy—if less control is achieved, then the fee is a license to pollute.

There is an underlying assumption that the fee will be set high enough to encourage corresponding investment in pollution control facilities in order to reduce costs. It can be argued that this would only be true if the fee were sufficient to cause plant closure if control were not implemented, in which case the polluter would either control or close down.

Questions should also be raised as to: first, uniformity of the fee—same fee for similar wastes, all rivers? Second, basis of assessment? Third, the question of the trust fund.

Now, Mr. President, I should like to go beyond the analysis of what the effluent fee is.

Last year, the subcommittee heard a number of witnesses discuss effluent charges and taxes. As a result of that testimony and additional recommendations from the Environmental Protection Agency and local sewer district officials, the committee has included an effluent treatment charges requirement, which relates to the Proxmire amendment.

Under this provision, all industrial users of publicly owned treatment works must repay their share of construction, operation, maintenance, and replacement of those works. Any portion of the cost of treatment works for industrial use which is paid by a Federal grant must be repaid.

To the extent that Senator PROXMIRE's amendment would require industry to pay a fixed fee for waste discharged into a publicly owned treatment works which will be assisted by Federal funds, his proposal is moot.

To the extent that communities presently charge user fees to industries, his proposal would be punitive, because it would be another charge on top of the charge already imposed.

To the extent that industries continue to discharge directly into the water, his proposal would—if it requires payments in excess of the cost of applying no-discharge technology—be an incentive to apply such technology and, if technology does not exist, to develop it.

Senator PROXMIRE's amendment then would have merit in a system which seeks to achieve no-discharge and which relies on control technology.

However, as with other proposals of this kind, there are two real problems:

First. Would the tax be assessed in a manner which would assure that the cost of discharge was greater than the cost of control alternatives?

How much greater would it be to stimulate polluters to build a treatment works rather than to pay for the license to continue polluting?

That is a very nice question that has never been satisfactorily answered.

Second. Would the Treasury Department view this kind of effluent tax as a revenue raising measure—as with the proposed lead and sulphur taxes—and thus seek to keep the assessment low enough to generate taxes and not reduce pollution?

On April 20, 1970, Senator PROXMIRE testified before the subcommittee in favor of his effluent charge bill. He cited three examples of effluent charges currently in use. He has referred to them this afternoon.

The following are quotes from his testimony:

(a) The city commission (Otsego, Michigan) decided to charge the company for all expenses for treating wastes from the industry above 500 pounds per day.

(b) Faced with sharply rising waste loads in 1963, Springfield (Missouri) decided to apply surcharge on industrial waste discharges above the normal strength of sewage.

(c) The activities of the Genossenschaften (Germany) are financed largely by a charge levied upon all waste discharges in the area . . . This effluent charge is determined by the quality and quantity of the waste discharged and computed upon the basis of the transportation and treatment costs occasioned by such discharge of waste, including costs of planning, construction, and operation of the integrated system.

Section 204(b) of the pending bill requires industries using publicly owned systems to pay user charges. Such charges are to reflect the factors that influence waste treatment including strength volume and delivery flow rate characteristics of waste.

Both examples (a) and (b) above would be covered by this requirement in the pending legislation.

Section 209 requires regional waste management planning and relates future grants to regional plans. To the extent that there can be similarity with the Ruhr experiment without creation of Federal regional water management agencies—pollution control TVA's—the bill meets the objective of the Proxmire amendment, so that there would be discharge of industrial waste which would discharge directly into the water.

It would appear, as noted above, that the only unique aspect of the Proxmire proposal is there would be a charge on industrial wastes which were discharged directly onto the water. As such, the Proxmire amendment would appear to be a potential disincentive to waste discharge. However, with the inclusion of deadlines and statutory control requirements, the proposal would only have marginal utility.

Additionally, it would create confusion; it would require an immense bureaucracy to accomplish a marginal task; and it would provide an opening for unacceptable enforcement compromises.

May I say finally, Mr. President, that the Proxmire amendment is something we took into consideration, as we did other possibilities. The 45 executive sessions of the subcommittee and the full committee, I think, reflect the intense consideration that was given by the committee to all aspects of the problem.

With the most ingenious structure of law and bureaucracy, bringing this problem under control will be a complex and difficult task. We undertook to put together as clearcut a philosophy, as clearcut a target, and as clearcut the guidelines for implementation of enforcement as we could possibly put together.

To add this effluent tax proposal on top of the structure represented in the committee bill would add another enforcement device, requiring additional bureaucracy, and creating further possible confusion with respect to the targets to be achieved and the performance to be required.

At the present time, under present law, industry must be concerned with water quality standards established under the 1965 law, the requirements to be developed as yet by the administration implementing the authority recently asserted under the Refuse Act of 1899, and the bill pending before us, unless the bill pending before us adequately conforms to all these requirements.

I simply do not believe that it would be wise to encumber the bill with this additional mechanism. The bill already, as I have indicated in my remarks, does a great deal of what the Senator from Wisconsin proposes. His contribution by his testimony to the subcommittee assisted us in putting that together, but to go the rest of the way and implant this as another mechanism on the structure of the bill itself would, in my opinion, unduly complicate what it is we are trying to do.

We have set up a target. It is clear enough. We have said in this bill to American industry:

For 1985 we want to end all discharges into all of our waterways. We are not going to permit you to do this by paying tax or a fee. We are not going to make an exception to the extent that it has to be made in balancing the cost against the cost of not enforcing it.

The target is clear. It is going to be costly. Increasingly we will find the development of regional development systems whose facilities will be financed by user fees imposed upon industrial and commercial users. And when we get to that point, we will have pretty much what the Senator from Wisconsin is talking about this afternoon. However, we will get to that point by the process of evolution that has been carefully structured into this bill. The cost will be very great. I do not think we should complicate it at this time by the addition of the pending amendment.

Mr. PROXMIRE. Mr. President, I appreciate very much what the distinguished Senator has said. I would like to answer the Senator briefly and then ask him some questions on the bill.

First, I point out that as far as bureaucracies are concerned, the purpose of the amendment is to avoid the creation of any large bureaucracy. If we were to enforce the bill as it now stands, we would have need for a new bureaucracy to do it.

One of the advantages of my proposal is that we have a very efficient tax collecting bureaucracy established in the Nation. We have an extraordinary record of paying taxes, perhaps better than any other developed country in the world.

Effluent changes would also create an understanding on the part of our corporation executives and others who want to use our developed technology to abate pollution, that pollution is a cost of doing business. Industry would strive to reduce taxes as it would to reduce any other costs, and hence to abate pollution.

So, we have a pattern which invites this kind of approach and we would not need a new, separate bureaucracy or, as the Senator from Maine said, an immense bureaucracy to achieve the purposes which the bill sets forth.

I do think that although we can criticize what has been done with this kind of approach elsewhere, as in Michigan, or in Springfield, Mo., or in the case of the Ruhr River, it has worked.

Mr. MUSKIE. Mr. President, it has worked because, in all of these cases we are talking about, a user charge which was geared to the cost of constructing, operating, and maintenance.

First, in the case of the Genossenschaften water supply engineering works, second, the engineering works for water quality have been structured around the river itself and designed to clean it up. Another river was to serve as a sewer. So, in the circumstances of the Ruhr, it is possible to structure an institution charge which is paid by the people who use the water and to construct waste treatment plans to be paid for by those who use them.

Everyone was required to use those works. So, a user charge was required.

There is no permission in the case of the Ruhr to charge those who use the facilities that have been built. They are required to build the facilities. The State required it. And they now pay for the costs in that manner.

We are trying to stimulate the same kind of institution in the pending bill.

We cannot give anyone the option of polluting for a fee. We are saying that our aim is to have no discharge and to require the construction of facilities under the pending bill; and the users will be required to pay fees to support the operation and maintenance.

So, there is a strong parallel between the Ruhr, which has worked, and this bill.

Mr. PROXMIRE. Maybe the Senator from Maine and the Senator from Wisconsin are talking about the same thing. I do not know whether the Senator wants to call it a user charge or an effluent tax. Whatever it is, I am certainly not licensing the discharge of a pol-

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lutant. If I were, I would not have the support of all the conservation associations that have enthusiastically supported this approach.

What this would do would be to amend the Muskie bill. It would not replace any part of it. It would not permit more pollution than the pending bill would permit. It would set forth the basis upon which people have to continue for the next few years until the pending bill is effective. Those persons or companies that pollute would have an economic disincentive. It would discourage them from polluting. And it would provide more of the funds necessary to purify the waters that have been polluted.

Mr. MUSKIE. Mr. President, with all respect to the Senator I cannot jump as easily to the conclusion as he does.

To add this to the bill would have the effect of complicating it, confusing it, and creating difficulties. I have lived with this through 45 executive sessions. I know how complicated it is to make a connection between what a particular pollutant discharges and the water quality that results. We have struggled over this problem. And this is directly related to the effluent tax that the Senator is discussing in his amendment.

He states in his amendment:

The Administrator and the Secretary of the Treasury shall prescribe such regulations as are necessary to establish and put into effect, not later than June 30, 1972, a schedule of national effluent charges for all those discharges other than municipal sewerage which detract from the quality of the water for municipal, agricultural, industrial, recreational, sport, wildlife, and commercial fish uses.

These discharges shall include, but not be limited to, biochemical oxygen demand, suspended solids, thermal discharges, and toxic wastes.

Before we can apply those tests, the connection must be established between a particular pollutant and the water quality impact. How else could we make a determination whether the tax is related to the objective of cleaning up the water?

In my statement this morning, I referred to an industry which discharges mercury into a river. A factory discharges into the Detroit River a daily dose of 10 to 20 pounds of mercury.

I do not know if it is in the current amendment or the previous one. The Senator proposed a 10-cents-a-pound penalty. If the minimum level is 10 cents a pound for a pound of mercury, it would not make a measurable impact with respect to the 20 pounds of mercury. That is an extreme example. That is a toxic metal.

We have the same problem that may not be as visible or as evident in establishing a connection between the basis of setting a tax to establish the connection between particular kinds of pollutants not affecting the biochemical demand, the kind of pollutants with respect to the environmental impact, and the dollar or penny fee that needs to be applied to be sure that the tax to be paid is more than the cost of cleaning it up.

There is no way. The committee heard the testimony of the Senator from Wisconsin. We heard the testimony of Dr. Kneese. We asked how we would establish a fee and determine if it would be higher than the cost of cleaning up the water.

How would the Senator avoid the possibility of setting the fee below the level of cleanup cost? We never have had satisfactory testimony. We invited it, but we do not have it in the record today. There is the general observation if you could somehow put together a tax above the cost of cleanup for every industry, and do it for every industry, there will be required an evaluation of these costs. How would that be done to insure they will be charging more for cleanup and not less? That is the problem, and not a single witness who has testified has ever given us an answer.

Mr. PROXMIRE. I understand a study was made in 1965 by the Federal Water Pollution Control Administration on the Delaware estuary which came up with specific estimates on charge levels and what water quality standards could be achieved by a given level of charges.

Mr. President, I ask unanimous consent that the study be printed in the RECORD at the conclusion of the debate on this amendment.

But this is not something so rare and exotic we have not had experience with it. As the Senator said, it has been used and tried. Perhaps the Senator prefers to call it something else, but it has been tried in Germany and elsewhere with success and in the next 15 years or so it would be a helpful supplement to the bill.

The Senator from Maine referred to mercury. With a pollutant as toxic as mercury, we might have to set virtually an infinite tax on it—tantamount to an outright ban. My suggestion of a charge level of 10 cents a pound related to BOD discharges—not to mercury as the Senator stated.

Let me ask the Senator a few questions about it and then I will agree that we can have a voice vote on the matter. I would like to ask the Senator this question. S. 2770 calls for the elimination of all discharge by 1985. Who is to determine if an industry is using the best available technology?

Mr. MUSKIE. With respect to phase I, as I refer to it, the definition of "best practicable control technology" is found on page 81, line 10 of the committee bill. I will read a portion of it. This is found in section 304, which relates to information and guidelines. The language beginning on line 10 has to do with regulations providing guidelines.

Mr. PROXMIRE. Did the Senator say page 81, line 10?

Mr. MUSKIE. Yes; page 81, line 10. Section (1)(A) states:

"(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

On the next page, page 82, the Senator will find this language as a guideline for the Administrator, beginning on line 5:

"(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best available control measures and practices including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment work); and

So what is involved here is not just technology but other techniques dealing with discharges.

May I add this point with respect to best available technology, which is the test to be applied between 1976 and 1981. By 1981 industries must meet the no-discharge standard unless they can demonstrate that is not feasible, and in that case they can turn to best available technology.

Mr. PROXMIRE. In both of those criteria they have to demonstrate to someone, and I presume the Administrator, the best available technology, and the judgment would be made by the Administrator. Is that correct?

Mr. MUSKIE. I suppose a similar judgment would be made on the effluent tax. If there is no technology the cost of which can be evaluated, that would tell someone who has to make an administrative judgment whether the tax is, indeed, above the cost of clean up, if there is no technology to process that.

Mr. PROXMIRE. Here is the advantage of the effluent tax. Then, it is up to the corporation itself to minimize its tax and in doing so reduce pollution. They will strive to find the best available technology to do that. They are in the business to make money.

Mr. MUSKIE. What is the test to be applied in the first place so that the judgment of the corporation can be applied? If you have no technology, what is given then for a benchmark?

Mr. PROXMIRE. It can be based on the amount of the damage. The Senator's user charge is based on cost.

Mr. MUSKIE. I understand effluent fee is based on the cost of cleaning. It cannot be related to damage. It has to be related to cost of cleaning up.

Mr. PROXMIRE. If we do not know the cost, it has to be related to damage.

Mr. MUSKIE. Someone has to make an administrative judgment.

Mr. PROXMIRE. Yes, but not on the effluent charge or whether the technology is advanced. That is for the people in the industry.

Mr. MUSKIE. And, if there is no technology available?

Mr. PROXMIRE. Then they have to pay a tax.

Mr. MUSKIE. What tax?

Mr. PROXMIRE. The tax on the basis of BOD, and other pollutants.

Mr. MUSKIE. Is it related to the cost of cleaning up?

Mr. PROXMIRE. It is if they know it, and if they do not, it is related to the cost of damage.

Mr. MUSKIE. That is a new factor introduced in this subject this afternoon. That has never been suggested in any hearings I have conducted. It was always geared to the cost of cleanup.

If a tax is proposed, how much higher is never identified, but higher than cleanup. Now, the Senator is talking about damage. If the Senator has witnesses who can make the connection for us between the environmental damage in the river basin to which the pollution is contributing and to x number of polluters—if the Senator has anyone who can tell how to relate the damage provision to a single polluter, we would like to know. We would restructure the bill.

Mr. PROXMIRE. I have said many times that we do have experience and we know it can be worked out.

In 1969, the General Accounting Office issued a comprehensive and rather critical report on the status of our water pollution control program. Among other things, GAO found that—

Waste treatment facilities have been constructed on waterways where major polluters—industrial or municipal—located nearby continued to discharge untreated or inadequately treated wastes in the waterways.

This was quite a condemnation of the entire construction grant approach.

What does S. 2270 do to meet this criticism—how do we prevent industries located near waste treatment facilities from simply dumping into the waterways? In fact, isn't the provision in this bill for user charges—so that the Federal share of municipal plants can be paid back—simply going to induce industry to continue the practice that GAO condemned? And would not effluent charges stop up this loophole?

Mr. MUSKIE. There are two approaches to this problem. One is the permanent section of the legislation, which involves enforcement of the provisions of the Refuse Act of 1899. I am sure the Senator knows that the Administration, operating under that provision of the law—which has not been used for the 70 years it has been on the books—is now undertaking to carve out a new kind of control built around Federal administration geared to effluent discharges. We have endeavored to strengthen the ties that permit that sort of control—the direct connection between the Administrator and the polluter—for the first time in the history of water pollution control in this country. We are structuring it to gear it to the same kind of guidelines as those which are spelled out in section 301 of the act.

May I point out, in addition, and it will be in the colloquy, that what we undertake to stimulate, in addition, is the development of the regional management approach to water quality.

Mr. PROXMIRE. If there is a widespread violation of this act, unless there is a dramatic reduction very promptly after this bill is passed—and there might very well be that—it seems to me it would be far more difficult to stop it than if we have the kind of effluent tax approach I am suggesting.

Mr. MUSKIE. I would like to suggest to the Senator that he might arrange to have someone examine the difficulties that the administration has encountered in developing the conditions to be proposed under Federal permits under the Refuse Act of 1899. There are something like 30,000 industrial polluters subject to this authority. To get the information to intelligently evaluate the environmental impact of all those discharges is one of the greatest bureaucratic challenges. Something like that would have to be done to establish the effluent tax once there was agreement as to what the effluent tax would relate to. They all have discharges. There are different categories of industries which are subject to some kind of regulation, but they vary, depending on the nature of the body of water into which they discharge, its quality, its force, its volume. So there are variations all across the board. As far as this committee has been able to find, there is not a simple, direct control that could be applied by any bureaucracy without any standards or minimal cost. There is not. It is a complicated business.

What concerns me about the Senator's proposal is that, in addition to the bureaucratic challenge that would be involved in implementing S. 2770, we would add the one imposed by the Senator's amendment; and I say to him, without taking the time to go into extended detail, that the two simply would not mesh that easily.

Mr. PROXMIRE. In section 209 of S. 2770, the bill stipulates that Governors shall designate areas "which, as a result of urban-industrial concentrations or other factors, have substantial water quality problems."

Why was this used as a basis for designating the area, and ultimately the water quality local agency? Would it not have been preferable to designate the area on a river basin basis? In other words, since discharges upstream may well affect the water quality downstream, should not one agency have jurisdiction over both upstream and downstream discharges—even though the urban-industrial concentrations may vary.

Mr. MUSKIE. We are trying to get at the control of pollution. To the extent that those regions can, in addition, reflect river basins, fine; but I might point out to the Senator that river basins are not the only waterways we are concerned with. We are concerned with estuaries. We are concerned with coastlines. We are concerned with lakes. We are not concerned only with river basins. We emphasized urban-industrial concentrations because it will identify the pollution sources, but we leave considerable discretion beyond that to the Governors to shape those regional waste management systems.

Mr. PROXMIRE. I have a couple of more questions. Then I will yield to the Senator from New York.

How long will it take for the provisions of the bill we are enacting today to become operative?

As I count, it takes—

Ninety days for the Environmental Protection Agency to publish guidelines for the identification of areas which have substantial water quality control problems—pursuant to section 209(a)(1);

Sixty days for the State Governor to identify the areas with substantial water quality problems, as outlined in the guidelines—section 209(a)(2);

One hundred and twenty days for the Governor to designate the boundary of the area and an organization capable of coming up with a plan for meeting the goals of this act—section 209(a)(2)A and 209(a)(2)B;

Two years for the organization so designated to come up with a water quality plan for meeting these goals—section 209(b)(1);

Six months grace period may be granted in meeting this deadline if it is determined that the plan is under development and likely to be effective—section 209(b)1; and

Ninety days for the Environmental Protection Agency to approve the plan submitted to it—section 209(c)(2).

This adds up to 3½ years. Only then do the operative provisions of S. 2770 begin to take over. Of course, to have the law enforced, it still may be necessary for EPA to issue an order of violation, sit down and attempt to persuade the polluter to comply, and eventually, take him to court—thus commencing years of litigation.

Would not effluent charges imposed by June 30, 1972, as my amendment provides, be much faster?

Mr. MUSKIE. No; it would not. The time periods which are set forth are reasonably accurate. The reason why these time frames are necessary is to make the connections between the effluent discharges, what they are, what their constituent limits are, what their impact on waterways is, what their impact on wildlife is, what their impact on fishlife is, so that we can identify every polluter and come to grips with the problem.

The effluent tax is based on a polluter's contribution to the deterioration of the environment, and is going to require the same kind of analysis. I do not know of any way to jump into this and know instantly how much damage the polluter has done, and have a violator's tax related to the particular damage he has done. Someone has to analyze it. That time frame is going to be necessary for anyone to make similar evaluations. Does the Senator know how to identify that kind of analysis in order to shape up an effluent tax?

Mr. PROXMIRE. What I am saying is that from the experience of Delaware study, to which I referred earlier, it could be done in a lot less than 3½ years, So my amendment would mean far quicker progress against pollution.

Mr. MUSKIE. I do not have that study before me, but I do not agree with the Senator on that period.

Mr. PROXMIRE. Sixth. In section 309 (b) of the bill, it states that "the Administrator shall commence a civil action for appropriate relief" in cases of violations.

Does this mean that EPA must sue wherever a violation occurs, and the polluter refuses to stop? Or does the Administrator have discretion to go after some polluters, and leave others to continue discharging?

Mr. MUSKIE. He is mandated to enforce it wherever a pollution occurs.

Mr. PROXMIRE. For every violation?

Mr. MUSKIE. Yes.

Mr. PROXMIRE. Where is the agency going to get the necessary manpower?

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Does not that mean that the courts will become crowded?

Mr. MUSKIE. The same place the Senator would have to get the manpower for his proposal—go out and recruit it.

Mr. PROXMIRE. We have the Internal Revenue Service to do that.

Mr. MUSKIE. I do not think they have the expertise to make a connection between the pollution and the damage to establish a tax.

Mr. PROXMIRE. I am talking about collection and enforcement.

Mr. MUSKIE. An agency cannot collect and enforce until it establishes a tax. Assuming it will collect a tax, who decides what the discharge has done? Someone must be able to do it with some capability of analyzing it from a chemical or biological standpoint. The Internal Revenue Service does not have that kind of capability.

Mr. PROXMIRE. We have had experience with this not only in Germany but here.

Mr. MUSKIE. May I say they are going to be busy regulating prices and wages.

Mr. PROXMIRE. I agree with what the Senator has said, but I would say, on the basis of the experience we have had, the proposal I have in my amendment, which has been tried, will not result in a colossal amount of time. It has not taken a long time. It has been put into effect in much less than the 3½ years, and it has been administered by a relatively small group.

Mr. MUSKIE. What the Senator has proposed to the Senate has not been tried in any of the three cases that the Senator has described, except in a rough kind of way.

Mr. PROXMIRE. I think the Senator is correct. The fundamental principle has been applied.

Mr. MUSKIE. In the way that the Senator has been talking about applying it, in this country, with all its great diversity, with its continental expanse, all its river basins. At most, in two cases, it was tried in the Ruhr Valley and in the Emscher, one of which was designated an open sewer, and the other designated to be cleaned up. The Emscher now is being cleaned up. But to try to apply it to ourselves, to put ourselves in that sort of situation, I say it simply would not work.

Mr. PROXMIRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 14 minutes remaining.

Mr. PROXMIRE. I yield 3 minutes to the Senator from New York.

Mr. BUCKLEY. Mr. President, I must agree with the Senator from Maine that the specific language which the Senator from Wisconsin would splice onto the bill under consideration simply would not work. There are too many edges which have to be meshed together.

But I do believe the concept of a tax on the discharge of pollutants is not inconsistent, nor would it set back the objectives of the bill.

Of course, the bill itself has abandoned the attempt, as an ultimate goal, of drawing a causal connection between the discharge of pollutants and the degradation of our streams. In effect, we are saying we know so little about the ultimate consequences of injecting new matter into water that it involves a presumption of pollution, and the way to insure ourselves against pollution is through the control and ultimate elimination of the discharge of pollutants.

I feel that this concept is workable, and that it can lead us toward the establishment of a trust fund concept, which would handle the tremendous future investment that will be required in all kinds of areas for environmental excellence.

I feel that we can find mechanisms for determining the extent and the amount of pollutants being let into our watersheds at each stage envisaged by the current act, and I would hope the Senator from Wisconsin will continue his efforts, after today, to come up with compatible legislation which would: First, generate extra pressure toward meeting deadlines suggested by this legislation, perhaps sooner than the objectives; and second, a means of funding a continuing battle to preserve the environment.

Mr. PROXMIRE. Mr. President, I thank the Senator from New York. Of course, I am disappointed that he is not for my amendment, but I am delighted that he agrees with the idea behind it. I shall continue to press for the adoption of the principle; I believe it has merit. And I shall continue to press for the objectives the Senator has outlined.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield 3 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, the force of our technology may be fatal to our environment if we do not quickly abandon the reckless procedure of polluting first and investigating and correcting our mistakes later. The dream of economic growth must be questioned—and questioned seriously if economic growth is to be synonymous with rancid water, barren soil, ear-shattering noise, noxious air, mountains of sewage, misused lands and injurious pesticides. What we end up with seems to be considerably less than a mixed blessing. Indeed, what we are left with is a curse.

I believe that in the area of water quality control S. 2770 goes a long distance in helping to mitigate the effects of that curse. But if we are really to abate the pollution of our lakes and rivers and streams, I am convinced that a better enforcement lever is needed.

The amendment that Senator PROXMIRE has introduced would set up a schedule of charges for substances which pollute the waters of this Nation. Charges would vary with the extent of damage inflicted on these waters and polluters would incur costs based on the quantity of their discharges. As improvements are made in manufacturing facilities to lessen the discharge of substances that detract from water quality, effluent charges would be reduced accordingly.

As a result of this amendment, 50 percent of the revenues thus collected would be redistributed to local communities for the construction of municipal waste-treatment facilities. The remainder would be assigned to a special trust to be allocated to regional associations formed to reduce water pollution. The arrangement can be expected to afford powerful economic incentives and promote communal initiatives to provide for a concentrated nationwide effort on the water pollution problems that beset us today.

This incentive would continue so long as it is less expensive to reduce the discharge than to pollute in the first instance.

The proposal seems clearly to be an equitable one. I believe that the cost of cleaning up industrial pollution should be borne primarily by the party which does the polluting, not by Federal taxpayers generally. An effluent tax would assure this result. Consequently, I join in supporting this amendment as a necessary and altogether proper mechanism for enforcing both effectively and fairly the water pollution laws that are already on the books and for insuring that the curse of pollution no longer will impair the economic growth of this great Nation.

Mr. President, I recently read an article in which the complaint of a citizen of Chicago was cited, with his utter frustration after walking by a drainage pipe coming out of an industrial plant, flowing into Lake Michigan, where the laws clearly state that since 1899 it has been illegal, in Lake County, Ind., and Cook County, Ill., to pour such pollutants into the water.

Mr. RANDOLPH. Since 1910.

Mr. PERCY. Excuse me; since 1910. I thank the Senator from West Virginia for the correction. I still was not born then.

I feel if there had been the ability to impose a tax on that industrial plant, instead of a process by which its owner is able to evade existing laws by a process that he has been able to carry it through the courts, and so forth; and if he knew he faced a tax, I feel that the frustrations of persons like this particular citizen, who wrote in despair, "What can we do to crack down on these violators?" might be answerable. I feel that that polluter himself would have found a way to eliminate the problem.

So I congratulate the Senator from Wisconsin on his amendment, which I think gets to the heart of the issue.

Mr. PROXMIRE. I thank the Senator very much. I think what he has said in such a brief time, especially the latter part of his remarks that he ad-libbed, really goes to the heart of the appeal I am proposing.

The fact is that we have tried this old court enforcement method for years—not, of course, with all the procedures that the new bill proposes—but it has not worked. On the other hand we know that if we impose a tax of this kind, we have the means to collect it, we have the custom of paying our taxes, and it will be enforced effectively. That is the very heart and soul of my proposal, and that is why I think the Senate should favorably view it.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. PROXMIRE. Before the Senator from Tennessee yields to the Senator from Minnesota, if the two Senators are not going to discuss this amendment, could I have a voice vote on it?

Mr. HUMPHREY. Will the Senator yield just briefly on the amendment?

Mr. PROXMIRE. Will the Senator from Tennessee permit me to yield briefly to the Senator from Minnesota?

Mr. BAKER. Yes. As a matter of fact, I have a comment I would like to make relative to this colloquy.

Mr. PROXMIRE. I yield.

Mr. HUMPHREY. I merely wanted to join the Senator in cosponsorship of this amendment. I think it is a very sound proposal. I think it does offer a way of security enforcement, and of the accomplishment of what has not been accomplished over the years.

The Senator from Wisconsin has pointed out the inadequacies of previous efforts. The tax proposal, I think, makes a lot of sense, and that is why I was happy to join with the Senator some time earlier, as a cosponsor of this particular proposal. I trust it will be accepted by the Senate. I think it is apparent that it is meritorious.

Mr. PROXMIRE. Mr. President, I thank the Senator from Minnesota and I am grateful and proud to have his support. He is indeed a cosponsor of the basic bill on which this amendment is based.

Mr. BAKER. Mr. President, will the Senator from Maine, if he has time remaining in opposition to the amendment, yield to me?

The PRESIDING OFFICER. The Senator from Maine has 45 minutes remaining.

Mr. MUSKIE. I yield to the Senator from Tennessee.

Mr. BAKER. If the Senator would yield me 5 minutes, I would be grateful.

Mr. President, I commend the Senator from Wisconsin for the purpose of his amendment, but I should like to respectfully disagree with the method and tack he has taken.

I agree with the Senator that so far the environmental protection statutes of the United States and the several States have not been totally effective. I think we will all agree that the original efforts in this direction, beginning at the Federal level in 1948, have been sketchy and spotty and incomplete. But dating from the more recent efforts in the 1960's and now, with this bill, in 1971, I think we will all agree that we have learned a great deal. One of the things we have learned, however, is that it is not an absence of statutes that has caused our problem but, rather, an absence of the will to enforce the statutes, or the practical enforceability of the concept.

I am sure we will all recall that a recent bit of legal archeology has unearthed the so-called Refuse Act of 1899, which is far more severe than the water quality bill before the Senate. The Refuse Act of 1899, which would apply to the discharge from the industrial plant that the distinguished senior Senator from Illinois referred to, and would absolutely prohibit that discharge into the receiving waters of the United States, is far more severe—and has been since 1899—than anything the distinguished Senator from Wisconsin proposes or anything that is proposed in this bill.

The heart of the matter is simply that we have not gotten around to enforcing the Refuse Act of 1899, nor had we even known that it existed, so far as most of us were concerned, until it was brought to our attention by litigants on behalf of the quality of the environment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BAKER. I will yield in a moment.

The Refuse Act of 1899 provides, if I recall the operative words, that it shall be unlawful to discharge any pollutant into the navigable waters of the United States or any tributaries thereof without a permit. There is an arguable question, I suppose, as to whether or not "without a permit" means that you can issue a permit which would permit a little or a lot of pollution. But I do not think that is the clear, central theme.

The point is that the Refuse Act of 1899 attempted to prohibit the discharge of pollutants into the receiving waters, and it did not work. It did not work because it was impractical; it did not work because apparently we do not have the will to enforce it; it did not work because it was not the right approach at the right time.

I think that imposing a tax or a user fee on the right to pollute, no matter whether it is a little or a lot, is also not the right way to approach it, but, rather, the proposal of this act, which says that it shall be the objective of this act "to restore and maintain the natural chemical, physical, and biological integrity of the Nation's waters," and that "in order to achieve this objective it is hereby declared to be a national policy that, consistent with the provisions of this act, the discharge of pollutants into the navigable waters be eliminated by 1985."

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. PROXMIRE. The amendment I am proposing would not delete one section of that bill. It would simply add to it. It would add to it a means which has not not been used before.

Does the Senator seriously suggest that if we had enacted a tax and charged the Internal Revenue Service with the responsibility of collecting that tax in 1899, it would have been ignored, it would not have been enforced, the tax would not have been paid, and the imposition of that tax would not have acted as a deterrent to pollution?

Mr. BAKER. I do not accept the implication by the Senator from Wisconsin that the people of the United States are more willing to abide by an Internal Revenue statute than by a categorical prohibition by statute as was the case in 1899. The law is the law, whether it is the Internal Revenue Code or otherwise; and while the Refuse Act said we shall not pollute, we did.

Mr. PROXMIRE. We did indeed pollute. It did not work. I challenge the Senator to suggest one instance in our history when Congress has given the Internal Revenue Service the responsibility for collecting a tax and that tax has been dead-lettered for 70 years.

Mr. BAKER. That is the point that bothers me about the Senator's amendment, because it seems to me—and I hope I am not being unfair—that the Senator from Wisconsin is suggesting that the only laws the people of the United States really take seriously are the internal revenue laws, and that is not so.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. I yield myself 1 minute.

I do not say they are the only laws the people take seriously. I do not agree with that, and the Senator from Tennessee would not. I am saying that, when you have something that is as difficult as combating pollution, when we have an industry which is built up on the basis of custom for many years of using a certain system to carry off its wastes, we have found that it is extraordinarily difficult to secure effective enforcement. Law after law has not worked, has not been effective. That is why I suggest we follow a new approach, an effluent tax; the tax route has always been enforced.

I challenge any Senator to give me an instance in which we have imposed a tax and charged the Internal Revenue Service with the responsibility of enforcing it and they have not collected it.

Mr. BAKER. Mr. President, I yield myself 3 minutes on the bill.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. MUSKIE. I thought that, as a matter of correction in the RECORD, the Senator might like the exact language of the Refuse Act of 1899. The word "pollutant" does not appear. It reads: "any refuse matter of any kind or description whatever other than that flowing from streets and sewers and passing therefrom in a liquid state"—

I am not sure that we had the concept of pollution in 1899.

Mr. BAKER. Nor did we have the concept of the Internal Revenue Service in 1899.

I think the central point is clearly made; and I believe that the Senator from Wisconsin might agree that if we lay aside the debate on whether it is easier and more effective to enforce a revenue statute than a general statute, the prohibition against the discharge of any pollutant is a superior method to the taxing of pollutants in some degree. I wonder whether the cause of environmental excellence is not better served if we disregard the relative value of the taxing statutes versus the environmental statutes.

Mr. PROXMIRE. The Senator is asking me the question, and I say that ideally there is no question about it. We would like to stop the discharge at once. We know that we cannot. The bill does not even envision that. The Senator from Maine, in his brilliant statement, pointed out that it will be 15 years or so before this is completely and fully effective; it is so difficult and complicated. This is

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why it seems to me much better to adjust to this by a tax which provides the disincentive and imposes the tax in such a way that it is a disincentive and, as the conservation organizations say, is "not a license to pollute."

Mr. BAKER. We do agree that ideally it would be better to proceed along the lines of prohibition of pollution in any degree at any time. Certainly, this bill does not, as the Senator says, try to eliminate all pollution at this time nor, ideally, even by 1985. But I think a careful reading of 190 pages of this bill will show that, beginning with section 101(a), where it states that the national purpose is the elimination of the discharge of pollutants into navigable waters by 1985, the ensuing 189 pages spell out in equisite detail precisely how we intend to go about trying to do it.

I submit that it is the most exhaustive—and I hope the most successful—effort we have ever made to reach the source of pollution and to reach it by statute and not by the disincentive of the Internal Revenue system.

Mr. PROXMIRE. I agree that this is a very fine bill, and the Senator from Tennessee, the Senator from Maine, and the other members of the committee have done good work on it—and I mean that sincerely. It is a great improvement. I am suggesting that my amendment is a supplementary proposal to assist. It is opposed by the committee; and, frankly, I do not expect to win this voice vote, much as I would like to. But I will persist in years to come.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was rejected.

Mr. MONDALE. Mr. President, I understood that the Senator from Tennessee would yield 5 minutes to me.

Mr. BAKER. Mr. President, I am happy to yield 5 minutes on the bill to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I thank the Senator from Tennessee for his courtesy. May I join my colleagues in commending the distinguished chairman of the full Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH) and the chairman of the Subcommittee on Air and Water Pollution, the Senator from Maine (Mr. MUSKIE) and other Senators, for their magnificent work in developing the legislation now before the Senate.

Mr. President, I share the profound sense of gratitude in the Senate for the outstanding work that they have done.

I believe each of us feels very deeply a sense of horror and outrage at the neglect that has transformed once idyllic rivers and lakes in America from scenic wonders into contaminated wastelands. Witness what has become of the Hudson and Delaware Rivers, the Chesapeake, the Potomac, the Savannah, the Mississippi, the Columbia, and even the remote rivers in the State of Maine. Our lakes, including Lake Erie, Michigan, Tahoe, and thousands of smaller fresh water lakes are in need of urgent care.

In recent months, Congress has sought to prevent the increasing pollution of our waterways. There is progress in the creation of a new Environmental Protection Agency and the Council on Environmental Quality.

But for the most part, we have had far too much talk about the need for stringent standards and enforcement, and far too little action. At stake in this issue is the most precious and limited natural resource in America today.

Our neglect of the Nation's water resources, our shortsightedness in despoiling essential supplies of water are fully documented.

According to the Council on Environmental Quality's 1971 report:

> Although the BOD level of wastes actually discharged has remained roughly constant in recent years, the overall quality of the Nation's water probably has deteriorated because of accelerated eutrophication, increased discharges of toxic materials, greater loads of sediment, and other factors.

The Environmental Protection Agency estimates that almost one-third of U.S. stream-miles are characteristically polluted, in the sense that they violate Federal water quality criteria. Less than 10 percent of all U.S. watersheds were characterized by EPA regional offices as unpolluted or even moderately polluted.

Part of our problem is that we have expended too much energy attempting to determine who is responsible for this situation, and too little time trying to correct it. I am afraid there is plenty of blame to go around, and a multitude of weaknesses in the Nation's water pollution control programs.

Intensive study of Federal water quality programs reveals that every link along the chain is weak; we lack firm standards, strict enforcement, necessary information, and adequate programs for research. All of these efforts are in turn hampered by a critical shortage of funding for water pollution control.

The proposal before us today offers a comprehensive program to remedy each of these problems. First, it would set a national policy of eliminating the discharge of all pollutants into the Nation's navigable waters by 1985, and it would set an interim goal of water quality protection by 1981. Second, this legislation would prohibit the discharge of toxic pollutants as an immediate priority toward total water pollution control. Third, it would greatly expand the Federal program of grants to communities in order to construct waste treatment works and assist in developing programs for regional waste treatment management. Finally, this legislation would initiate a major research and demonstration effort within EPA to expand knowledge and technological progress in the field of water quality.

Of special significance to my State of Minnesota, are two items in this bill which I would like to discuss at this time. Together these items constitute the essence of the Clean Lakes Act, which I first introduced with Senator BURDICK 5 years ago and which we reintroduced this year with the support of more than 30 cosponsors.

These sections would provide increased Federal support for the construction of waste treatment facilities and Federal grants for the restoration of the Nation's fresh water community lakes. There are more than one hundred thousand such lakes in the United States.

While it is not possible to assess the total value of these lakes to our country, a study of just the recreational value of certain lakes in California placed their worth at more than $2 million each.

Consider this value, and all the related values which cannot be measured, in light of the evidence that many of the Nation's fresh water community lakes are now being victimized by municipal and industrial pollutants, agricultural runoff, and accelerated sedimentation. Thousands of these lakes are dying; thousands more are in grave danger.

I am particularly concerned by this problem because one out of every eight of these lakes is located in the State of Minnesota. But the committee's report on S. 2770 states, on page 68:

> There is not a State in which the water quality of lakes is not seriously degraded.

Earlier I cited a study of the recreational value of lakes in California. In commenting on this information, the Council on Environmental Quality said that much of this value, "would be lost with the level of deterioration that is now found in many of the Nation's water bodies. The rapidly increasing demands for recreation and scenic amenities will raise the value of losses from pollution."

Last year, through an amendment which I offered in the Senate, the Congress voted to set aside $2 million in Federal funds to evaluate the effectiveness of existing technology to save lakes which are threatened by pollution. Although at that time we were happy at long last to get a pilot program of lake research underway, I point out that that $2 million represents just the recreational value of one lake surveyed in California.

With the help of these pilot programs, we have found that we can save many of the Nation's lakes with currently available methods and procedures for lake pollution control. The principle difficulty that must be overcome now is to apply needed Federal resources to restoring and protecting America's fresh water lakes. States and communities simply cannot afford to do the job alone.

Section 314 of S. 2770 would provide Federal grants for up to 70 percent of the cost of restoring the quality of publicly owned fresh water lakes. This money would be used to clean up thousands of lakes which are already polluted.

In addition, title II of the bill would increase to up to 70 percent the Federal share of constructing sewage treatment plants to prevent pollutants from entering our lakes in the first place.

An authorization of $300 million is provided over the next 3 years to fund the lake reclamation program, and $14 billion dollars is to be allocated over 4 years to build the treatment works.

In my own State of Minnesota, more

than 5,000 lakes have already been identified which could benefit from a Federal program for lake restoration. This money could be used to help communities like Albert Lea, Detroit Lakes, and Lake Minnetonka in Minnesota which have made valient efforts to clean up their lakes. Communities across the Nation would be assisted in the next 3 years to restore and protect their treasured lakes.

Mr. President, I am most grateful to the committee, and to Senators RANDOLPH and MUSKIE, for their enlightened concern about our cherished lakes. This is an historic step by the Congress. For the magnificent fresh water community lakes of this country are threatened now with destruction and this legislation is designed to prevent that destruction. I am hopeful that it will be fully funded and that we will begin, at long last, to save this irreplaceable resource for our country.

Mr. President, I ask unanimous consent to have printed in the RECORD page 68 of the committee report, under the heading "Clean Lakes."

In summary, I believe that the total legislative package before us today is a landmark in Federal pollution control law. It is a bill which is long overdue.

I would hope that my colleagues in the Senate will move promptly to adopt this vital legislation.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SECTION 314—CLEAN LAKES

All States shall identify and classify their lakes according to eutrophic condition, and set up procedures to control lake pollution and restore these lakes. Seventy percent grants are authorized to assist States in carrying out this program with $300,000,000 authorized over three fiscal years.

In many areas of the nation, fresh water lakes and reservoirs are seriously degraded by municipal-industrial pollutants, by agricultural runoff, and by accelerated sedimentation. These pollutants greatly accelerate the rate of eutrophication.

Lake Erie is an example of this process. There is not a State, however, in which the water quality of lakes is not seriously degraded.

Excessive eutrophication, accumulated sludge and other pollutants, reduced flow and severe water level fluctuations, and heavy sedimentation all are contributing to critical conditions which must be remedied promptly if the lakes are to recover and continue their natural function in our national life.

The Committee bill adopts the essence of legislation proposed by Senator Walter F. Mondale which requires each State to classify fresh water lakes according to water quality condition and to develop plans and methods for restoring those lakes. The plans are to be submitted to the Administrator for his approval.

Upon approval by the Administrator, such State will become eligible for Federal grants to pay 70 percent of the cost of carrying out the approved programs. A total of $300 million is authorized for these grants as follows: $50 million for fiscal year 1972, $100 million for fiscal year 1973, and $150 million for fiscal year 1974.

To complement the procedures set out, the bill authorizes the Administrator to develop methods, processes, and procedures to restore fresh water lakes. Only in this manner can the program be fully used. While the Committee recognizes that many such techniques will require development, many methods now available have considerable potential for cleaning and restoring water quality to lakes. In view of the urgent need in many areas of the Nation, these methods should be supported.

Mr. MUSKIE. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I am happy to yield to the Senator from Maine.

Mr. MUSKIE. I should like to express my thanks to the distinguished Senator from Minnesota for his persistent and continuing interest in this aspect of the problem, to preserve our fresh water community lakes. Each of us has a different perspective on different problems in this particular area. The Senator's contribution in keeping the committee alerted to all the facets of the clean lakes problem has been of tremendous assistance to us, and certainly in the public interest, and I compliment him for it.

His State and mine have a monopoly on the so-called clean lakes of this country. We want to preserve them. I suppose that is what the Senator has in mind.

Mr. MONDALE. I thank the Senator. I think that the nature of the cosponsorship of the bill indicates it is a national problem.

There are 32 cosponsors of the proposal. At present there are thousands of fresh water lakes dying from pollution. This proposal will go a long way towards fighting the problem and I am grateful to the Senator from Maine and all other Senators for their support.

Mr. HUMPHREY. Mr. President, I wish to commend the distinguished chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Maine for the dedication they have shown in their efforts to provide this Nation with clean air and clean water. I particularly commend the Senator from Maine for his knowledge, his expertise, and his fortitude, all of which are visibly evident in the bill before the Senate today.

The Subcommittee on Air and Water Pollution has held hearings both in Washington and in the field. They have seen first hand the problems of water pollution—in Rehoboth Beach, in New Orleans, and in the Great Lakes. They have seen great rivers become primary sources of pollution of the coastal water, they have seen streams used to remove man's waste. They have seen lakes, small and large, polluted and ruined for recreational purposes.

And, they, like all of us, are outraged. Our natural environment has become unnatural—because man has allowed it to be so.

The legislation before us today promises a hope of ending that condition. It establishes as a national goal the elimination of discharge of pollutants into the navigable waters by 1985.

This goal is admirable. And, I believe that it is fully reachable.

The legislation also makes major changes in the enforcement water pollution standards. In fact, it changes the emphasis from one of quality standards to one of limits on effluent discharges.

It strengthens the Water Refuse Act of 1899. And, it restores the Federal-State imbalance endangered by that act. This bill provides for a reintegration of the State role in water pollution control for those States who have a superior plan to the minimum one developed by the Environmental Protection Agency under the provisions of this bill, the State plan would be the main mechanism of enforcement. For those States whose plans are not equal to those developed by the Agency under the rules of this legislation, the States would have an incentive to improve these plans.

There is one section of this bill—section 314—known as Clean Lakes which requires each State to classify fresh water lakes according to water quality condition and to develop plans and methods for restoring those lakes. The committee report states that upon approval by the administration, the State will become eligible for Federal grants to pay 70 percent of the cost of carrying out the approved programs. This particular section has had wide cosponsorship—my able and distinguished colleague Senator MONDALE is to be commended for his leadership over several years in sponsoring this proposal. In this Congress I joined with him.

The bill contains grants and aids for the development of research and demonstration projects that will allow this Nation to use the best available technology for making our environment livable.

Finally, the bill provides a 4-year program of grants for sewage treatment and water quality facilities funded at a level of $14 billion through fiscal year 1975.

This bill is sound legislation. It is far-reaching legislation. And, it deserves the support of all Senators.

Mr. BURDICK. Mr. President, I rise in support of S. 2770. I am pleased to note that the clean lakes bill, known as S. 1017, which I cosponsored with Senator MONDALE, has been made a part of this legislation.

When we first introduced the original Clean Lakes Act in 1966, Senator MONDALE and I felt that it was an important first step toward pollution-free inland lakes. Essentially, the bill originally enabled the Federal Government to undertake basic study into the cause and prevention of lake pollution. When on April 3, 1970, the Water Quality Improvements Act incorporated our concept, a long struggle to protect our water resources had moved one step closer to its goal.

The bill which Senator MONDALE and I introduced in February of this year—the bill which has now been incorporated into the measure now before us—goes far beyond this research approach. It permits us to build upon the latest technology, some of which was developed under the auspices of our earlier proposal, and is aimed at the rehabilitation of lakes which are in danger of slipping beyond the point of no return.

Over the past years a wide variety of human endeavors has channeled an unrelieved flow of nutrients into the lakes of our Nation. Some of the offenders have been agricultural runoff, industrial and municipal waste, and even waste

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from lakeshore cottages and recreational facilities. In a very real sense, we who enjoy the use of the water have been a major source of the problem to which the present act is addressed.

The result has been the eutrophication, or the aging, of our inland bodies of water. In other words, algae has grown so rapidly that sufficient oxygen is not available to support other forms of life. Also, the desirable bacteria necessary to cleanse the waters of the refuse created in the natural life cycle have been pushed out. The result is water choked of life and filled with useless sludge.

Section 314 of today's bill embodies the essence of the bill we introduced earlier this year. It requires each State to classify fresh water lakes according to quality and to develop plans and methods for restoring those lakes which are found to be below accepted guidelines for purity. Upon approval of the plans by the Administrator of the Environmental Protection Agency, the State will be eligible for Federal funds. A total of $300 million is authorized over a 3-year period for these purposes. The bill before us also authorizes further study into the technology of solving eutrophication and related pollution problems.

We are grateful to the members of the Public Works Committee and the Water Pollution Subcommittee for incorporating this additional tool in the war against pollution. I know the clean lakes provisions will be of inestimable value in helping to solve a variety of our most troublesome water pollution problems.

Mr. TAFT. Mr. President, I am concerned that S. 2770 will undercut some of the most effective work that is being done in water conservation and water quality management. I refer particularly to the Miami Conservancy District which was created by the Ohio Legislature in 1914.

This conservancy district was originally involved only in flood control. However, the activities of the Miami Conservancy District were enlarged in 1968 to include water quality management. This organization has planned and implemented programs for pollution abatement in many Ohio counties. Among these are regional waste treatment facilities, the installation of floating aerators, and stream appearance programs.

Regrettably, the language of S. 2770 would undercut these efforts. Section 209 (c)(1) provides that the Governor of each State shall designate one or more waste treatment management agencies for the areas designated under subsection (a). This means that the critically important work of this agency will be at the mercy of a Governor who might well decide that he would rather have these tasks undertaken by an agency more politically responsible to him. In my judgment this is a mistake. We should not be politicizing water quality control. Skilled technicians should not have to be concerned about their jobs every time a new Governor is elected.

Second, I question the wisdom of separating planning from water quality management. The Miami Conservancy District has shown that a single agency can work more effectively where it is charged with responsibility for undertaking programs that it has planned itself.

I believe that the conferees on this bill would be well advised to give the Secretary standby authority to make direct grants to existing intrastate water quality management agencies.

In addition, the conferees should seriously consider joining the planning and management funds in a single agency where a continuous stream of technical expertise can be applied to specific water quality problems.

I have no quarrel at all with the idea that Governors should be able to designate agencies to engage in water quality control. What I do object to most strongly is the provision of this bill which could undercut some of the most effective water quality management work now going on in America.

By giving the Secretary standby authority to make direct grants to existing agencies, we will allow him to capitalize on the skills, expertise, and history of successful operations that some of these agencies possess.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on all amendments be limited to 30 minutes each, with the time thereon to be equally divided, in accordance with the previous agreement; with the exception of the amendment by the Senator from Delaware (Mr. BOGGS), the so-called contract authority amendment on which there remains 1 hour, to be equally divided; and the amendment of the Senator from Wisconsin (Mr. NELSON) on which the time be 1 hour instead of 2 hours, to be equally divided, in accordance with the previous agreement.

Mr. STEVENS. Mr. President, reserving the right to object, I have been on my feet for an hour waiting to get into colloquy concerning the effect of this bill on my State and I cannot agree to that at this time. I have had an amendment at the desk for 3 hours now. I intend to be heard.

Mr. BYRD of West Virginia. Mr. President, I repeat my unanimous-consent request, with the additional exception of the amendment of the distinguished Senator from Alaska (Mr. STEVENS) on which there be 1 hour, to be equally divided.

The PRESIDING OFFICER (Mr. ROTH). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of Virginia. Mr. President, will the Senator from Tennessee yield me 2 minutes?

Mr. BAKER. I yield 2 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 2 minutes.

Mr. BYRD of Virginia. Mr. President, I have had queries expressing the fear that the bill will take away from the States their right to control their own antipollution efforts and that the bill will have the effect of diminishing the States' own initiative in the area of water pollution.

Does the Senator from Maine believe that the presence of the sections granting extensive power to the Administrator of the Environmental Protection Agency, in the areas of preparing guidelines and accepting plans, will have the effect of reducing the role of the States?

Mr. MUSKIE. I am sorry, but I did not hear all that the distinguished Senator said. Did the Senator have reference to a particular section, may I ask?

Mr. BYRD of Virginia. I made particular reference to the power being granted the administrator of the Environmental Protection Agency in preparing guidelines and accepting plans, and whether that would have the effect of reducing the role of the States—that is, reducing their initiative.

Mr. MUSKIE. Let me say, in the first place, that I am aware some State authorities believe that it does. I do not. In the 1965 law, we codified the legislation for the first time and emphasized that State and local authority would be the primary authority. I still regard it as that. But there is a Federal role, and an important one. Most of the controversy surrounds the specific authority now being exercised by the Federal Government under the Refuse Act of 1899. As the Senator probably knows, under that act, resurrected last year by the administration, direct enforcement authority against polluters can now be applied by either a permit, the withholding of a permit, or under the conditions of a permit.

In the bill, we codified that authority in order to reestablish a balance between State and Federal authority, so that I think, with respect to the Refuse Act of 1899, the pending legislation restores the balance that we wanted to try to establish in 1965.

I am not sure that my answer would satisfy the people who have been making this point to the Senator; but my own view is that the State role is very great, indeed, under this bill, and the burdens will be very great, indeed.

Mr. BYRD of Virginia. The State will still have the initiatives under this proposal?

Mr. MUSKIE. It will have initiatives under several features of the bill.

Mr. BYRD of Virginia. It is the view of the chief patrons of the bill, the Senator from Maine (Mr. MUSKIE) and the Senator from West Virginia (Mr. RANDOLPH), that it does not diminish the role of the States?

Mr. MUSKIE. Not in my judgment.

Mr. BYRD of Virginia. I thank the Senator from Maine.

Mr. RANDOLPH. Mr. President, may I supplement what the Senator from Maine has said?

Mr. BYRD of Virginia. I would appreciate having the Senator from West Virginia do so.

Mr. RANDOLPH. I have listened to the colloquy between the able Senator from Virginia and the chairman of our subcommittee.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RANDOLPH. I ask for an additional minute.

Mr. BOGGS. Mr. President, I yield 1 minute to the Senator from West Virginia.

Mr. RANDOLPH. In the earlier period of the consideration of the bill, I had some misgivings, as the Senator from Virginia has expressed. But as we worked our way through the bill in the subcommittee and later in the full committee, I think the role of the States was one that we recognized must be strengthened and must be one of partnership; and also that the responsibilities must be recognized and participation encouraged. I believe that has been accomplished in the bill.

Mr. BYRD of Virginia. I thank the Senator from West Virginia. That is precisely the information I sought.

Mr. MOSS. Mr. President, I am pleased today to speak in support of an area in which I have long had interest.

In my 8 years on the Public Works Committee I participated in much of the early debate on cleaning up our Nation's waterways. I was a cosponsor of the original Federal Water Pollution Control Act in 1965. I remember when we were voices crying alone in the wilderness for more funding for sewage treatment plants. The Senate and the Nation have certainly come a long way since then. Now we are talking not about millions, but about billions of dollars for cleaning up our Nation's waters.

The bill we are considering today is a comprehensive program to eliminate water pollution. It is the kind of far-reaching legislation that I believe is long overdue.

Basically, the bill sets a goal of eliminating all discharges into our Nation's waterways by 1985. It sets an interim goal of making our streams and lakes "swimmable" by 1981. Current State water quality stndards would have to be met by 1976. The permit program would be extended to include discharges from municipal sewage systems. To help States and localities meet these standards, the bill provides for $14 billion in Federal grants over a 4-year period.

The successful implementation of this program will have a broad and profound impact on the quality of life in this country. Eighty percent of our population lives in the urban centers of our country. Almost without exception, these cities are located along the banks of rivers or lakes. In most cities the water now is totally unfit for human consumption or for recreation.

Cleanup of our waterways will again make water-based recreation a possibility for the millions of people who now inhabit our cities. Can you imagine what it will mean for Washington citizens again to be able to swim in the Potomac? We can say the same for nearly every large city in the country.

I congratulate the Public Works Committee members for their long and hard work. They have reported a truly outstanding bill. Moreover, the report was unanimous. This is as it should be. Pollution control is not the issue of one party, but a bipartisan, national concern. Every Member of the Senate should be able to support this bill. I urge its unanimous passage by the Senate today.

Mr. STEVENS. Mr. President, I have an amendment at the desk. It is offered on behalf of the Senator from Massachusetts and myself. If it is convenient to do so, I should like to call it up at this time.

Mr. MUSKIE. Does the Senator from Alaska have a short amendment?

Mr. STEVENS. Yes.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 43, line 13, delete "$1,000,000" and insert in lieu thereof "$2,000,000".

Mr. STEVENS. Mr. President, I yield myself as much time as I may need. I will make my presentation as short as possible.

First, I commend the chairman of the subcommittee, the Senator from Maine (Mr. MUSKIE), and the Senator from Tennessee (Mr. BAKER) for their great interest in the program initiated by the Senator from Massachusetts (Mr. KENNEDY) and me last year. We find, however, that the authorization is insufficient because new facilities and new techniques have had to be developed in order to try to put sewage and water control facilities into the very remote areas of my State. That is the reason we have sought an increase by $1 million. We will first have to go to the Committee on Appropriations for the money. I am indebted to the chairman for his comments that he will seek to help us in this regard.

I do have some questions for the Senator. We may take the time out of the time on the amendment. I will try to make them very short.

I point out to the chairman that Alaska has 56 percent of the total coastline of the country and 50 percent of the fresh water supply in this country remaining uncontaminated.

As I read section 305, a heavy duty is placed on my State.

It states:

Each State shall prepare and submit to the Administrator by July 1, 1974, and shall bring up to date each year thereafter, a report which shall include—

It then has subsections (A), (B), and (C). The first is a description of the water quality of all navigable waters in such State. The second is an analysis of the extent to which all navigable streams of such State provide for the protection and propagation of fish and wildlife. The third is an analysis of the extent to which the elimination of the discharge of pollutants and the level of water quality provides for the protection of fish.

I appreciate the goal the Senator seeks. My State particularly appreciates it. We have pure water and we want to keep it. However, as I understand the comments of the Commissioner of the Department of Environmental Conservation, our people feel that to comply with this section in our State, as vast as it is, would require us to dedicate our whole available budget for water pollution control and for the protection and preservation of our presently pure water to prepare a report to be submitted annually to the Administrator.

I would very much like to develop some legislative history here that would find a way to exempt our State from this deadline or else take some recognition in the bill of the situation in which Alaska finds itself. It is not an easy problem to solve for the chairman, I am sure, since we want to get a national standard. However, no other State in the Union has this problem.

I know of no real pollution in our State of any vast nature. As a matter of fact, we have the toughest State-passed water pollution and environmental quality measure in the Nation.

We seek some understanding on the part of the chairman and on the part of the committee of this vast problem and burden that this measure would place on the State of Alaska.

Mr. MUSKIE. Mr. President, the important and key bit of information sought under section 305 is to identify and make an inventory of all point sources of discharge of pollutants into all navigable waters and the waters of the contiguous zone.

The Senator knows his State better than I do, of course. Notwithstanding the tremendous coastline or the magnitude of the water resources in Alaska which, it is my understanding, are clean and undefiled, we have simply asked for an identification of the source of pollutants. That is an enormous task with respect to a State such as mine. I am sure that we have more sources to identify and more water to evaluate than perhaps Alaska. That is the important and key piece of information we seek.

Mr. STEVENS. Mr. President, we would be most happy to deliver that information. I think we could qualify under that without any question. We would keep track of that. That is subsections (A) and (B). The second, which is subsection (B) would be part of our State water plan. However, the first one, subsection (A), is an absolute burden on my State that Alaska cannot comply with in that period of time, I am informed.

Mr. MUSKIE. Mr. President, I am not a technician, and I would not want anything I say to presume that I qualify as having that kind of expertise. It would seem to me that as to the waterways in the State, there would not be too much difficulty in describing those. It is with respect to what natural quality has diminished or has been modified by the discharge of pollutants that diminish activities that we get into difficulties in evaluating.

Mr. STEVENS. Mr. President, subsection (A), if I could point out to the chairman, deals with seasonal, tidal, and other variations of all navigable waters and the waters of the contiguous zone in relation to the quality of the water required by the objectives of this act.

That will require us to undertake a massive report that the Commissioner of the Department of Environmental Conservation says we could not accomplish without massive funding. Probably it would require half of the funding under the act, and we will not get that, I am sure.

Mr. MUSKIE. May I say that what this act is trying to get at is man's activities as they defile the environment. It does not strike me from anything the Senator has said, let alone any impressions I had,

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that waterways of Alaska have been so defiled by man's activities as to constitute such a condition. We are not asking any State to purify the water above its natural state. We are trying to eliminate the consequences of man's activities.

Mr. STEVENS. This section has been interpreted, and in reading it I agree with our Department of Environmental Quality, to require an inventory of all navigable waterways of the State without regard to man's activities. If this is just in the area where the activities of man would change the water quality, we can comply with that without question.

Mr. MUSKIE. In this bill we are seeking to identify activities which have diminished the natural quality of water, to be alert to new activities, to establish for the record in accordance with a reasonable schedule a record of a water quality that exists as of a given time so that we can have a benchmark against which to measure in the future the result of man's activities. I am sure the administrative judgment on what is required under the section would be related to the actual situation in the State.

Mr. STEVENS. If the Senator is willing to limit section A to an inventory of those waters which are involved in subsection C which deals with those which are polluted by man's activities, I can understand it. If we have to prepare an inventory of all available water supplies of our State, together with a graded system on the quality of that water as it exists on the first day of each year after 1974, I can tell the Senator that we are one-fifth the size of the United States and it cannot be done in that time.

We have a fantastic coastline and I believe our waterline is 50 percent that of the entire United States. I am willing to rely on the record that we will be in compliance if it grades those areas affected by man's activities and the report is presented to the Administrator on that basis.

Mr. MUSKIE. I have no desire to mislead the Senator or apply anything but the rules of commonsense to what the committee bill requires. I am not the Administrator. If I were to try to begin issuing guidelines for every State represented here, I would be accepting an impossible task.

I am trying to suggest that the key piece of information is this: I think at some point that Alaska, or any other State, would be interested in having a record of its water in the natural state so that they can anticipate the result of man's activities, as man encroaches on them. It seems to me that the Administrator will require how much information he wants in a given time. I would not think he would make that burdensome.

Mr. STEVENS. I will move to another section, section 402. We have been involved with the Committee on Interior and Insular Affairs in connection with the land planning bill and the Committee on Commerce in connection with the ocean dumping bill.

I note that section 402 of this bill will cover navigable waters, including contiguous zones, and since I have asked questions on the other two bills pending, and we have an amendment to one of them that will protect this area, I would like to ask the chairman if my understanding is correct with respect to those people who are engaged in fishing. That is the major business of my State and it is a very large business in the Northwest. I understand those people involved in fishing and canning activities related to fishing will have to have a permit from the State, EPA, and the Coast Guard to dump waste from the activity, that is, the residue of the fish from the canning process, the waste from the canneries, and the cleaning of the fish onboard ship.

Am I correct? Will we have to have three permits, one from the State, one from the Environmental Protection Agency, and one from the Coast Guard to continue what we are doing now without a permit?

Mr. MUSKIE. The Coast Guard is under the jurisdiction of the Commerce Committee, and of course, the State is sovereign, but this would impose a requirement on substances discharged, yes.

Mr. STEVENS. As I understand section 402 it requires the establishment of a system of elimination of discharge. I am referring to page 158 of the bill. I wonder if the chairman has considered exempting those activities which are not, in fact, dealing with the type of pollutants involved here.

We, in our part of the country, and I am sure the people of Maine, would think that the product of cleaning fish is not pollution when it is dumped back in the ocean. It is considered food for the balance of the fishery resources in the area.

As I understand it, this definition covers those vessels which transport the discharges of fishing boats and canneries.

Mr. MUSKIE. With respect to the permit referred to on page 158, line 10, that provision was inserted at the request of the Committee on Commerce, as the Senator may know. They are involved in jurisdiction over this area. An agreement was worked out that was satisfactory to both committees. That particular language is inserted at the request of the Committee on Commerce. It did not originate from any policy decision in this committee.

Mr. STEVENS. I am aware of that, but at the same time the Committee on Commerce adopted a position that the disposition of waste from the fishing activities back into the ocean is not pollution. I do not see that in this bill. That is my point at this time. The bill is couched in terms of discharge into the territorial sea, and we, in fact, do discharge the portion of the fish remaining when they are cleaned, the heads and the tails, as they are processed. We do not consider that pollution.

Mr. MUSKIE. I assume it depends on where it is discharged. If it were in my backyard, it would be pollution; if it were in an estuary otherwise crowded with other activities, it might be pollution. If it were discharged several miles off the coast, it might be considered otherwise. This jurisdiction goes out to the 3-mile limit, not beyond; and beyond that, it is in the jurisdiction of the Commerce Committee. Perhaps we ought to adjust the jurisdiction of these committees, but it was not easy to work out the agreement which we worked out.

Mr. STEVENS. I beg to call the chairman's attention to page 152. I thought that was the agreement, but section 402 covers the waters of the contiguous zone, or the oceans, and that is beyond that 3-mile limit. We had an agreement on the contiguous zone and the estuary water. We had an agreement in the Commerce Committee that when we dump outside of the bays, where there is tidal action, it is not a pollutant. In the bays, I agree that it may be a pollutant, but outside, where there is tidal action, it is not a pollutant. Perhaps it is something that can be worked out, but I would like to be certain that the agreement we have worked out in the Commerce Committee would be reflected in this bill as it goes into conference. We are not seeking to pollute anything. We are seeking to dump natural waste of fish back into the ocean bottom, where it is not a pollutant.

Mr. MUSKIE. I refer the Senator to the definition of the word "pollutant" on page 164, and I understand this is very similar to the one in the Commerce Committee. It reads:

> The term 'pollutant' means, but is not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemicals wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment.

And so on.

> Provided, it does not mean (1) "sewage from vessels" within the meaning of section 312 of this Act; or (2) water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production . . .

And so forth.

> The term 'pollution' means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

Again, I do not get into the business of defining or applying these definitions to particular kinds of pollutants. That is an administrative decision to be made by the Administrator. Sometimes a particular kind of matter is a pollutant in one circumstance, and not in another. That is a decision to be made. I am very reluctant to try to make it on the floor of the Senate.

Mr. STEVENS. Perhaps I can approach it in this way. As I read the bill, it refers to the discharge of any pollutant, into the territorial sea. If I am wrong, perhaps I can reexamine it, but we did work out a provision in the two companion bills that this bill is related to. One of those bills is the ocean dumping bill and one is the coastal zone management bill. We would like to see the same guidelines in these three acts coming along so the fishing people know where they are. Unfortunately, if we get one standard into the ocean dumping bill and the same into the coastal zoning bill but this is not reflected in the bill now before the Senate, we will be required to provide three permits in order for a barge underneath a cannery to take the remains of the fish to the high seas and dump them.

Mr. MUSKIE. This bill does not prohibit the discharge; it prohibits the discharge of any pollutant. So we get back to what a pollutant is under a particular set of circumstances. I cannot interpret all of the circumstances. The Administrator can do so. I would like to do that, to be helpful to my colleague, but we are going to have to leave it to the judgment of the Administrator.

I agree also with what the Senator said about proliferation of permits. The world is becoming increasingly integrated, and it becomes increasingly difficult to define the jurisdiction of the committees. The Commerce Committee takes jurisdiction outside the 3-mile limit. Within the 3-mile limit, we take jurisdiction. We try to operate within the jurisdiction of the committee, and say that fish entrails, under certain conditions, are pollutants, no matter how natural they are, just as the disposition of human bodies might be pollutants, no matter how natural they are.

Mr. STEVENS. Does the chairman say that the bill does not apply to the oceans or beyond the 3-mile limit?

Mr. MUSKIE. Except for outfalls that originate on land and are discharged.

Mr. STEVENS. Has section 402(a)(1) been amended? Is there to be a competing system of permits different from what is provided in the two bills that I spent months working on? In this system that applies only to the 3-mile limit, we can understand why there is a prohibition for dumping fish entrails within the 3-mile limit, and why it is authorized under the ocean dumping bill. But my understanding is that this is overlapping.

Mr. MUSKIE. All I can say to the Senator is that the 3-mile limit, except for outfalls, outlines the limits of this committee's jurisdiction, and the Senator has that legislative history. We will try to find the language for the Senator.

Mr. STEVENS. On page 152, if I may call it to the attention of the chairman of the committee, it provides that the Administrator may "issue a permit for the discharge of any pollutant, or combination of pollutants, into the navigable waters, the waters of the contiguous zone, or the oceans."

It is my understanding—and I am happy to see the chairman of our Commerce Committee (Mr. MAGNUSON) present—that we had reached an understanding that we are limited to the 3-mile limit in this bill. But the bill of the Senator from Maine appears to go beyond the 3-mile limit; it goes into the contiguous zone and out into the ocean.

Mr. MUSKIE. It relates to navigable waters, waters of the contiguous zone, and waters up to the 3-mile limit. The reference to oceans relates to outfalls which originate on land and which may go beyond the 3-mile limit into the oceans. To that extent we have jurisdiction. Beyond that, the activities on the ocean are under the jurisdiction of the committee which the distinguished Senator from Washington heads. There is a very clear understanding between the two committees. There is no hedging. There are no ands, ifs, or buts. I do not know how to make it any clearer.

Mr. STEVENS. The Senator could make it clearer by telling us what he means by "contiguous zone or the oceans."

Mr. MUSKIE. That would cover outfalls.

Mr. MAGNUSON. Mr. President, if the Senator will yield I might say that what the Senator from Maine has said is my understanding of the interpretation.

Mr. MUSKIE. Let me read some language from page 166, line 11:

> The term "discharge" means (1) any addition of any pollutant to navigable waters from any point source, (2) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft, or (3) any addition of any pollution to publicly owned treatment works (as defined in section 210 of this Act) by any industrial user . . .

That seems clear to me. It may not be to the Senator.

Mr. STEVENS. If the understanding of the Senator is correct that the language means ocean or contiguous zones as explained by the Senator from Maine, and if there is nothing in this bill that purports to limit any activities of fishing or canning vessels beyond the 3-mile limit, and that is in fact included in the bill we are working on now in the Commerce Committee, I am pleased to retire my side.

That is my understanding of what the Senator from Washington has said and what the Senator from Maine has just said.

Mr. MUSKIE. That is absolutely correct.

Mr. STEVENS. I thank the Senator very much, and I am delighted that we have had the colloquy.

I mention one further item to the Senator from Maine, the chairman of the subcommittee. I am grateful to him for his courtesy to me. The department also raised the question of whether section 13 of the Rivers and Harbors Act of 1899 should be specifically repealed. As I understand, that is in conference and the Senator will try to work it out.

The PRESIDING OFFICER. The time of the Senator from Alaska has expired.

Mr. MUSKIE. Do I have time on the amendment?

The PRESIDING OFFICER. Yes, the Senator has time.

Mr. MUSKIE. Then I shall use my time. Yes, the Senator is correct; that will be taken care of, and presumably in conference.

Mr. STEVENS. Again I thank the Senator for his courtesy, and urge that the amendment be adopted.

Mr. MUSKIE. Yes. The amendment which the Senator has offered relates to the Alaska villages.

Mr. STEVENS. The Safe Water Facilities Act.

Mr. MUSKIE. And what it does is simply increase the authorization from $1 million to $2 million, which would seem to me to be an appropriate amendment, considering the increase in costs and the importance of moving forward with that project. I am willing to accept the amendment and take it to conference. I have checked with the minority, and we are both ready to take it.

Mr. STEVENS. I thank the Senator very much. I ask that the Senator (Mr. KENNEDY) be listed as a cosponsor of the amendment.

Mr. MUSKIE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment was agreed to.

Mr. NELSON. Mr. President, will the Senator from Maine yield for a question?

Mr. MUSKIE. I suggest that the Senator from Wisconsin call up his amendment, and use time on the amendment.

AMENDMENT NO. 442

Mr. NELSON. Mr. President, I call up my amendment No. 442, and ask that it be modified in the form that I now send to the desk. This modification, a substitute amendment, is sponsored by myself, the Senator from Nevada (Mr. BIBLE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. MONDALE).

The PRESIDING OFFICER. The clerk will state the amendment as modified.

Mr. NELSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with. I shall explain it at an appropriate time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON'S amendment (No. 442), as modified, is as follows:

At the end of the bill insert a new section as follows:

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 6. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g) (1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers as defined under the Federal Water Pollution Control Act, as amended), or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, as amended, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b) (5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with the requirements established under section 301, section 302, section 306, section 307 and section 403 of the Federal Water Pollution Control Act, as amended. Such statement shall be issued by the Administrator (or the State) at the time of consideration of any certification under section 401, or any per-

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mit under section 402 of the Federal Water Pollution Control Act, as amended.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1971 and not later than 180 days thereafter, prescribe regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection in conformity with the procedures for the issuance of any certification under section 401 or permits under section 402 of the Federal Water Pollution Control Act, as amended.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 for the purpose of this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

Mr. NELSON. Mr. President, before we proceed with the amendment, I should like to ask the Senator from Maine a couple of questions with respect to the bill.

I have a statement of facts here respecting the recycling of sewage and disposal of the sludge as fertilizer in Milwaukee. The Senator from Maine is familiar with the facts in the statement. I ask unanimous consent that the statement be printed in the RECORD, after which I shall pose my questions.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

MILWAUKEE'S MILORGANITE PROCESS AND THE RECYCLING OF SEWAGE WASTES

The Sewerage Commission of the City of Milwaukee has developed and is presently operating a sewage disposal system which recycles all types of liquid wastes into a usable and ecologically sound fertilizer product with the nationally known brand name of Milorganite.

In 1925, Milwaukee pioneered an activated sludge process which includes the recycling of tremendous quantities of high organic, solid by-products as the commercial fertilizer Milorganite. While the initial capital investment in this process was quite large and the operating costs do exceed that of most other sewage disposal plants, the sale of over 75,000 tons of Milorganite annually enables the taxpayers of Milwaukee to have a disposal system at a net cost that is lower than most other cities and which recycles the solid organic matter in sewage back to nature.

The economic recovery and sale of Milorganite is apparently due to two basic factors. One, Milorganite is an excellent product. As an ecologically sound organic product which recycles natural materials back to the earth, Milorganite consistently out performs chemical fertilizers in producing quality turf grasses. As such, Milorganite is consistently used by parks and golf courses throughout the country to the extent that supplies are available.

Secondly, because the solid by-products of the sewage treatment process can be recycled and sold as Milorganite, there are no costly sludge disposal problems. Thus the disposal costs represented by alternate or conventional methods of dealing with sewage sludge are avoided—that is, the costs of digestion, lagooning, incineration or transportation to remote locations are avoided in the Milorganite process as well as the ecologically unsound problems of disposal.

I have been informed that the usefulness and marketability of Milorganite are in direct proportion to the nitrogen content. As opposed to the experiences in other cities which have attempted to recover sludge economically, Milwaukee has been successful in economically recovering and selling Milorganite because it is the high nitrogen content of Milorganite that makes it a superior fertilizer and allows it to maintain its status as a highly marketable product throughout the country.

The explanation for the high nitrogen content of Milorganite lies in the unique composition of sewage contributed by the industries of Milwaukee. In particular, the breweries, tanneries, and meat packers of Milwaukee send a type of waste that is very high in B.O.D. or Biological Oxygen Demand. This addition to the regular sewage of the City makes possible the cultivation of types of bacteria in the activated sludge process which produce a solid by-product significantly higher in nitrogen content than that of other cities.

The Sewerage Commission of the City of Milwaukee has reported to me that the beneficial effects of these wastes on the Milorganite process has been demonstrated to their satisfaction over the past 15 years. In 1953 and again in 1969, there were strikes which completely shut down brewery operations in Milwaukee. By monitoring the activity in the sewage treatment plant, the Commission was able to assess the impact of this change in incoming sewage and document the effect in terms of graphs and statistics. The nitrogen content of Milorganite dropped steadily and numerous other problems developed such as an increase in ash from incineration facilities.

Mr. NELSON. In the portion of the committee report which explains section 201 of this bill, it states on page 23:

Beginning in fiscal 1975, the Administrator shall reject any Section 207 construction grant application which would result in any discharge of pollutants, unless the applicant demonstrates to the Administrator that alternative waste treatment techniques have been considered, and that the proposal will result in the best practicable treatment.

On that same page of the report, in further explaining what is meant by alternate techniques to the normal waste treatment operations, it says:

The Committee has, therefore, included a requirement that Federal assistance for the construction of waste treatment facilities must require, where appropriate, practices which will recycle and reclaim water and provide for the contained or confined disposal of pollutants. This bill would establish a policy in concert with the fundamental ecological principle that, to the extent possible, all materials should be returned to the cycles from which they were generated. Properly managed, this means pollutants do not escape or migrate to cause degradation of the water, air, or land environment.

The question is whether it is the committee's intent in this section to encourage the type of recycling of organic waste matter that I understand is represented by Milwaukee's production of Milorganite.

Mr. MUSKIE. It is the intent of the legislation to encourage the development of alternative methods to conventional treatment plants, and I refer the Senator to the following language on page 24 of the committee report, which I think may be a satisfactory reply to the Senator and to his constituents:

Third, conventional treatment is at best an interim solution; such facilities are easily over-taxed, their life expectancy is relatively short, and by themselves do not solve the problem of residual waste; i.e., sludge and other pollutants removed from the effluent.

Alternative waste treatment methods, which require the return of pollutants to natural cycles, are only new in the sense that they have re-emerged for application. This method is most commonly associated with the Muskegon project although other recent examples include work at Penn State University and Michigan State University and elsewhere.

It is our desire to encourage the development of new methods, and it would seem to me, without being an expert on the Milorganite process, that that might well be the kind of thing that ought to be explored.

Mr. NELSON. Will the Senator yield for a further question?

Mr. MUSKIE. I yield.

Mr. NELSON. With the imposition of a system of user charges under section 204 as a requirement for receiving a Federal grant, and with a direction to the Administrator of EPA to promulgate guidelines for the establishment and imposition of a user charge system as a guide to grant applicants under section 201, is it your understanding that these guidelines and user charge systems should be permitted some flexibility so that such systems can best implement the overall purposes of this act and meet the unique requirements which may exist in particular jurisdictions?

Furthermore, in considering—as a general rule—the volume and character of each discharge into a publicly owned system as the basis of determining the rate at which each user should be required to pay, would the specific consideration of the possible beneficial character of some waste characteristics—such as for recycling of solid organic material—be permitted?

Mr. MUSKIE. I think it is. I think that the following language from the committee report may also be of assistance:

These guidelines should take into account the diversity of legal and financial factors that exist from jurisdiction to jurisdiction, and each applicant should be permitted reasonable flexibility in the design of a system of user charges that meets the unique requirements of his own jurisdiction. As a general rule, the volume and character of each discharge into a publicly owned system should form the basis of determining the rate at which each user should be required to pay.

But the flexibility point is emphasized, and I think should be, because we are trying to encourage experiments and flexibility.

Mr. NELSON. Mr. President, I thank the Senator. I had assumed, from looking at the act, that that was the intent, but I appreciate the clarification, so that the legislative intent will be clear from our discussion on the Senate floor.

Mr. MUSKIE. I thank the Senator for having helped make that intent clear, because it is very important to do so.

Mr. NELSON. Mr. President, the amendment that is now pending, sponsored by Senators BIBLE, MCINTYRE, and myself——

Mr. JAVITS. Mr. President, will the Senator yield on that matter? Will the Senator add me as a cosponsor, since I am the ranking minority member of the Small Business Committee?

Mr. NELSON. I am pleased to have the Senator from New York as a cosponsor of the amendment.

Mr. JAVITS. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. I also ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, this is a simple amendment that provides for loans to small businesses, described as those with an employee average limit of 250 people, which, under rules that would be established in the statute, may be permitted loans in case it would be a hardship for them to install this pollution abatement equipment, as they are ordered to do. It provides an $800 million authorization, increasing the SBA revolving fund by that amount.

It is consistent with SBA's section 7 authority and regulations. The loans could be for up to $500,000, or 100 percent of the project's cost, whichever is less, with a maximum duration of 30 years. The interest would be the average cost to the U.S. Treasury of making the loans minus 2 percentage points. Currently, this would translate into a rate of about 4 percent.

Mr. President, the modified amendment which I propose would clarify provisions of the first amendment, including agency responsibilities, in order to assure the loan program's compatibility with SBA and EPA policies.

Cosponsoring the modified amendment with me are Senator ALAN BIBLE, chairman of the Senate Select Committee on Small Business, and Senator THOMAS MCINTYRE, chairman of the Subcommittee on Small Business of the Senate Banking Committee.

The proposal is partly based on legislation I introduced in 1966, and parallels bills by Senators MCINTYRE and BIBLE which have passed both Houses.

The substitute is acceptable to Senator EDWARD MUSKIE, author of the water quality bill and chairman of the Subcommittee on Air and Water Pollution.

This measure would authorize an $800 million program of long-term, low-interest loans to small businesses which may face substantial economic injury from Federal and State water cleanup requirements.

It is based on the conviction that we need not sacrifice either environmental standards or otherwise healthy business ventures in order to achieve clean water.

Pollution controls are critically necessary and the only alternative to an effective pollution control program is a massive environmental disaster.

What this amendment recognizes is that while many otherwise viable small businesses may not be able to afford the immediate cost of the capital investment necessary to meet the water pollution control requirements, they could in fact manage these costs if given the benefit of low-cost, long-term loans.

The concept is not new. Perhaps the best example of a remarkably successful low-interest, long-term loan effort is the Rural Electrification Administration. And as precedents under the SBA Act, similar loans have been provided for firms affected by the Wholesome Meat Act, the Coal Mine Health and Safety Act, or by federally aided construction programs.

Under this amendment to the pending water quality bill, S. 2770, a new subsection would be added to section 7 of the Small Business Act to authorize the water pollution control loans.

Consistent with the SBA section 7 authority and regulations, the loans could be for up to $500,000 or 100 percent of a project's cleanup cost, whichever is less, with a maximum duration of 30 years. The interest would be the average cost to the U.S. Treasury of making the loans, minus two percentage points—currently, this formula, which is now used at SBA, would translate into a rate of about 4 percent.

Protections for the Federal investment include an SBA Act requirement that an applicant firm be able to give reasonable assurances it can repay the loan, plus the $500,000 limitation by administration regulation on the loans, and the requirement for certification that the applicant's water cleanup plans are necessary and adequate.

Under the amendment, the Small Business Administration would be the operating agency, determining whether an applicant firm facing water cleanup requirements would suffer substantial economic injury without the loan.

The Environmental Protection Agency, or where appropriate under the Federal law, a State, would be required to certify that the applicant's waste treatment facility or process change would be necessary and adequate to comply with requirements under the Federal Water Pollution Control Act, including the provisions of this bill.

The provisions of the amendment will be explained in greater detail in the last section of this statement.

Provisions of the pending water quality bill which pose effects on small businesses include the section 301 requirements for best practicable water pollution control technology for all existing industrial sources by 1976, and for best available technology by 1981; the section 302 requirements necessary to implement the bill's interim national goal of water quality adequate for aquatic life and human recreation; the section 306 requirements for best available technology on new pollution sources; the section 307 requirements for effluent standards on toxic substances; the section 403 requirements for the application of these same requirements toward stopping ocean pollution, and the sections 401 and 402 pertification and permit provisions for implementing the above requirement.

In view of the scope of the present water quality bill and existing evidence regarding the impact of Federal requirements on small businesses, the $800 million authorization figure of this amendment is well justified.

For instance, a Small Business Administration study has found that of the capital needed by the country's 14,000 meatpacking firms to comply with the Wholesome Meat Act, some $132 million would be needed from nonprivate sources.

Altogether, there are some 280,000 other small business manufacturers in this country, 20 times the number of meatpackers, and nearly all of whom will be affected eventually in one way or the other by water pollution control requirements. If these firms needed aid on the same scale as have the meatpackers for compliance with the Wholesome Meat Act, the total nonprivate capital need could actually reach $2.6 billion.

As noted, the primary aim of the amendment is to enable small firms which could otherwise continue to compete in the marketplace to meet pollution control standards without being placed in financial jeopardy. The measure would restrict the loans to small businesses as defined under the Small Business Act.

Also, while this measure provides a loan program for water quality projects, because it is proposed as an amendment to the water quality bill which amends the Federal Water Pollution Control Act, the same approach would also be appropriate for air quality projects required of small businesses and I will introduce a similar bill to the Federal air quality laws to provide this loan program.

Although current Federal studies will provide more data, the evidence is already strong that any economic adversity that may result from environmental controls will hit hardest at the small firm and its community and its workers, an element already being squeezed out in the cold in our economy by the persistent American drive for bigness at any price.

For instance, in a 1970 study of the economic impact of air pollution controls on the 1,376 foundries in the gray iron industry, the National Air Pollution Control Administration learned that the larger the size of the firm, the smaller the annual cost of pollution controls as a percent of profits before taxes.

In the gray iron industry, the study found the annual cost of pollution controls to be 59 percent of profits before taxes for small firms—with a value of casting shipments under $0.5 million per year—to 11 percent for relatively large firms—value of more than $10 million in shipments.

In short, the NAPCA study concluded that pollution controls would weigh more heavily on small firms in this industry than on the large ones.

Current trends would only increase this disadvantage, they added.

It would appear that the growth of larger foundries, the relative increase in casting prices, the relative decrease in raw materials prices, and the increasing profit and capital shares of the industry will allow larger firms to distribute the burden of air pollution control more widely.

When the otherwise healthy small independent firm is forced to close, the tax base of the community is further weakened, and workers and their families are often forced back into already congested metropolitan areas, contributing to a spiraling demand for services from already strained urban resources. Far too frequently, the result is not only a tragic

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waste of human resources, but a further strike against our ability to ever restore the quality of our now chaotic environment.

The alternative to such incentives as extending pollution control loans would be waiving strict environmental standards where economic hardship could be shown. But the approach of giving variances to pollution controls based on economic grounds has long ago shown itself to be a risky course: All too often, the variances become a tool used by powerful political interests to obtain so many exemptions for pollution control standards and timetables on the flimsiest of pretenses that they become meaningless. In short, with variances, exceptions to pollution cleanup can become the rule, meaning further tragic delay in stopping the destruction of our environment.

In addition to the industrial pollution control loans proposed in this measure, we must also greatly increase Federal funding for the upgrading or construction of municipal waste treatment plants. Effective treatment at this key source is one of the major hurdles to our national clean water goal, and yet, with cities and States already staggering under gigantic demands for all services, efficient waste treatment could be more decades away without much greater Federal support. Recently, I reintroduced my proposal of 5 years ago to put the Federal funding of this vital part of the water quality effort on the same 90–10 basis as our Interstate Highway System. In addition to fulfilling the national commitment to water quality, this step could be as effective as any other method that could be devised to implement the tax-sharing concept now being so widely discussed.

In regard to the 90–10 proposal, it is encouraging to note that the water quality bill now before us would increase the Federal share to 70 percent, if States contribute 10 percent, totaling 80-percent Federal-State aid, certainly a big step in the right direction.

Also, it is encouraging to see the provisions in this measure to begin dealing with pollution of the oceans. I first proposed a similar program in a Senate bill in early 1970, with the conviction that this is one of the most urgent of our unresolved environmental problems.

Also, in a very significant step, the pending water quality bill includes a new Federal-State program for the restoration and protection of our inland lakes, one of our most pressing environmental needs. This program is based on a bill by Senator MONDALE which I have cosponsored and strongly support.

To summarize, no one tool will get clean water in this country. The task is too complicated and too enormous for that. We must set effective standards and obtain compliance through efficient enforcement. The immense financial and technological resources to get the cleanup job done must be stimulated by a program of incentives to industry and direct financial aid to municipalities.

Among these incentives is the loan program I am proposing today, extending Federal aid to those small businesses who would be crushed economically in meeting pollution control requirements but who could make it otherwise. An important benefit of the proposal should be aiding in reconciling any potential point of conflict that might occur between the goal of a decent environment and the goal of a diversity in American life based on the opportunity for small business and small communities to endure and be vigorously competitive.

I would like to conclude with a detailed explanation of this amendment:

PROVISIONS OF THE SUBSTITUTE AMENDMENT

Via the water quality bill, S. 2770, a new subsection would be added to section 7 of the Small Business Act to authorize water pollution control loans.

As precedents, section 7 has already been amended to authorize similar aid to small businesses adversely affected by the Federal Coal Mine Health and Safety Act, the Wholesome Meat Act, and to small businesses displaced by federally-aided construction.

ORGANIZATION OF PROGRAM

The Small Business Administration would be the operating agency, determining whether an applicant firm facing water cleanup requirements would suffer substantial economic injury without the loan. Protections are already built into the SBA Act to assure the firm would be otherwise healthy and able to repay the loan;

The Environmental Protection Agency, or where appropriate under the Federal law, a State, would be required to certify that the applicant's waste treatment facility or process change would be necessary and adequate to comply with requirements under the Federal Water Pollution Control Act;

The loans would be authorized for small businesses as defined by the Small Business Act, which means a firm independently owned and operated and not dominant in its field. An average employment limit of 250 is set for manufacturers to qualify;

The small business loans would be available for a firm's facilities for wastes needing pretreatment before being sent through a municipal waste treatment plant, for the interceptor sewers necessary to connect a firm with a municipal plant, and for the construction of water pollution control systems built by the firm itself. Loans would not be available for a firm's share in the construction of a municipal waste treatment plant, because in such federally-aided public plants, such firms will not have to make an initial capital outlay, but rather, pay back their construction share in increments through user charges.

FINANCING

Thus, $800 million would be authorized by increasing the SBA's revolving fund by this amount and stipulating that these funds will be spent for the water quality loans and loan guarantees. The $800 million figure is well justified by the anticipated small business water pollution control need;

As consistent with SBA section 7 authority and regulations, the loans could be for up to $500,000 or 100 percent of the project's cost, whichever is less, with a maximum duration of 30 years. The interest would be the average cost to the U.S. Treasury of making the loans—currently, this would translate into a rate of about 5⅞ percent.

I ask unanimous consent that the name of the Senator from Tennessee (Mr. BAKER) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIBLE. Mr. President, will the Senator yield?

Mr. NELSON. I yield to the Senator from Nevada whatever time he may require.

Mr. BIBLE. Mr. President, the Senator from Wisconsin (Mr. NELSON) has proposed what I believe to be a very constructive amendment. It would permit small firms required to conform to the new water quality standards in this Pollution Control Act to come to the Small Business Administration for emergency loan assistance in order to achieve compliance, and thus remain in business.

This amendment is along the lines of bills previously introduced by myself [1] and the Senator from New Hampshire (Mr. MCINTYRE).[2] This principle has enjoyed a broad cosponsorship and has been approved by several committees of the Senate and the House of Representatives. As a result, SBA's authority to make loans under section 7(b) of the Small Business Act was enacted as a part of or applied to, the Coal Mine Safety Act, the Occupational Health and Safety Act, the Wholesome Meat Act of 1967, the Wholesome Poultry Products Act of 1968, and the Egg Products Inspection Act of 1970. Senators MCINTYRE and NELSON, who are fellow members of the Select Committee on Small Business have been particularly interested in the impact of water pollution standards on small businesses over many years; as has Senator MUSKIE, who has been the pioneer of pollution control legislation for the better part of a decade now.

Because of the work of these Senators and particularly the cooperation of the author of this bill, the Senator from Maine (Mr. MUSKIE) this amendment has been brought to the right place at the right time. The needs of small business in the water quality field will enter an urgent phase upon the passage of this very comprehensive bill before the Senate today.

It is therefore appropriate and desirable that the Congress provide, within this bill, the remedy by which these 5¼ million smaller firms—including approximately 300,000 small manufacturers—can participate in the progress the bill will bring, rather than become its victims. Accordingly, Senators NELSON, MCINTYRE and myself, have attempted to formulate what we believe to be a sound, precedent-based, balanced amendment which would meet the needs of small businesses in every part of the country.

At Senator NELSON's suggestion, the amendment recommends that $800 million be added to the revolving fund of the Treasury which is available, under sections 4 and 7 of the Small Business Act, for disaster loans. This is actually a conservative figure, but is a place to start. I say that for the following reason: Since April of 1968, I have attempted to bring about a determination of the costs of compliance with the many consumer and environmental statutes Congress has enacted since the mid-1960's.

Pursuant to resolutions in both the 91st and 92d Congresses, we succeeded in having the Small Business Administration complete a study of the business expenses under one such new consumer statute, the Wholesome Meat Act of 1967. After an exhaustive survey, the SBA concluded that between 14,000 and 15,000 meat processors were newly affected by the act, and that the gap between the private capital available and what these companies felt they needed came to about $132 million.[3]

Since this number of companies is only one-twentieth of the estimated total of manufacturers in this country, the overall costs of compliance for all businesses under stringent water quality standards might well rise to 20 times that figure, or $2.6 billion. I further understand that a McGraw-Hill survey taken earlier this year indicated that business expected to spend over $18 billion to bring their facilities up to pollution standards existing before we take account of this act.

We know that 95 percent of all businesses in all of our States are "small business." They account for over 40 percent of the employment and 37 percent of our gross national product. They must account for a sizable part of the investments called for. We will thus have to face up to this problem if we want smaller firms across the Nation to continue in business, to provide jobs, community stability, and balance between our cities and countryside. We therefore feel that it is appropriate to put forward a figure of $800 million at this point—a little less than one-third of the possible ultimate cost—not only because of the immediate needs which we can foresee, but as a basis for mounting an even more serious effort in the future to refine our knowledge in these matters.

However, on the present state of the facts I feel that Senator NELSON's amendment is a good step forward in this cause, and I am pleased to support this amendment and urge its enactment.

Mr. MCINTYRE. Mr. President, will the Senator Yield?

Mr. NELSON. I yield.

Mr. MCINTYRE. Mr. President, I rise today to join with my distinguished colleague from Wisconsin (Senator NELSON) and the distinguished chairman of the Select Committee on Small Business, Senator BIBLE, in introducing an amendment to the National Water Quality Standards Act of 1971 to provide a special loan program for small businesses affected by enforcement and standards under the act.

This amendment would amend section 7(b) of the Small Business Act by adding a new section to the disaster loan authority now existing. This new section would authorize an $800 million increase in the disaster loan revolving fund for loans to small businesses affected by enforcement of the act. These would be low-interest loans at rates similar to those now charged under the disaster program. They would have a term of up to 30 years.

Reflecting the comments of my colleague from Wisconsin, I wish to indicate that this legislation is similar to a bill, which I introduced, that has twice been passed by the Senate and was the subject of hearings before the Senate Committee on Banking, Housing, and Urban Affairs. This amendment also has the personal support, as I understand it, of the distinguished chairman of the Air and Water Pollution Subcommittee, Senator MUSKIE.

It is important that this amendment be passed in conjunction with the water quality bill. The tough new provisions of the bill and the extensive Federal enforcement and financial commitments provided in it provide a sense of urgency to our twice expressed concern to assist small businesses in meeting the requirement of this pollution control legislation.

It is the smaller business that is hit hardest by these laws and their enforcement. And it is that same class of business that has the least resources to meet the demands of this enforcement. They have less technological resources. They have less of the capital reserve necessary to finance pollution controls. And they have less of the necessary financial capacity to hire the consultants and scientific personnel that can enable them to meet these new demands. Without assistance, many of these businesses may face extinction.

I wish to point out that sections of this bill will deal quite strictly with industrial pollution. First, standards for effluent release will be set on an industry-by-industry basis. And they will be set in the near future. Second, basic effluent standards will be set within the next few months on any effluent discharge from a point source into the waterways of the United States. And these standards will mark an entirely new concept of both Federal and State enforcement. The mandate of this bill is clear; industries are required to use the best practicable technology now to eliminate pollutant discharges and will be required to use the best available technology after 1976. With this in mind, I fear that any delay in providing financial assistance to affected small business may prove disastrous.

There are certain features of this amendment which I would like to discuss further. First, the SBA will be the administering agency for this loan program. This choice was based on SBA's well-known knowledge of small businesses and their problems. Second, this agency has a pre-existing and experienced organization throughout the country which can place the assistance mechanism where it is needed most.

Another feature of the amendment provides for certification by EPA of facilities financed with these loans to assure that water quality criteria are actually met. This feature will both protect the small businessman and assure that our national goals are realized. The certification mechanism is based on concepts utilized in formulating programs to help small businesses affected by the Coal Mine Safety Act and Wholesome Meat Act.

I wish to also mention that the basic policy of the amendment placing the program in the disaster loan section is based on the greater flexibility of this program in meeting immediate and concentrated needs. When enforcement begins under this bill, it is expected that certain areas will be affected in common and that enforcement orders will be of short duration. Because of this, it was felt that the SBA input should be geared to meet the need for maximum speed and concentration of resources. The disaster loan program fits that need.

These comments are intended to supplement those of my distinguished colleagues from Wisconsin and Nevada. I urge the Senate to again act on this program and provide a clear mandate to the House to take similar action in conjunction with the water quality legislation now pending before us. The future of hundreds of small businesses and the communities that depend on them for employment are at stake.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for an inquiry?

Mr. NELSON. I yield.

Mr. BYRD of West Virginia. Is it the Senator's intention to ask for the yeas and nays on his amendment?

Mr. NELSON. I intend to ask for the yeas and nays.

Mr. BYRD of West Virginia. Does the Senator wish to do that now?

Mr. NELSON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I think all Members of the Senate who have followed this type of assistance in many facets of our society recognize the strength of the amendment by the Senator from Wisconsin. That is why so many Senators wish to join him in this effort.

We did this in the Coal Mine Health and Safety Act, and I think it is very important for us to realize that it is not a windfall for so-called big business. Little businesses are going to be affected. Units of industry that are not large are going to need financing to meet, as Senator MUSKIE and others have said, the requirements of this legislation. So it is necessary that we give to the Small Business Administration, which is geared to this sort of program, the opportunity—yes, the responsibility—to help qualified small businesses to participate in this national effort.

Mr. NELSON. It applies not only to the Coal Mine Safety Act but also to the Meat Inspection Act and, I believe, to disaster relief loans to businessmen—under the same beneficial provisions of the interest rate.

Mr. RANDOLPH. That is correct.

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[1] Such as S. 1750 in the 91st Cong. and S. 1649 in the 92d Cong.

[2] S. 3522 in the 91st Cong. His 1971 bill, S. 1355, is presently pending before the House Committee on Banking as a part of S. 1905, the Small Business Amendments of 1971.

[3] The Effects of the Wholesome Meat Act of 1967 Upon Small Business, Committee Print, Sept. 16, 1971.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. MUSKIE. Mr. President, I compliment the distinguished Senator from Wisconsin for offering this amendment. The subcommittee has held economic impact hearings related to the cost of environmental controls, and we expect to continue them in order to develop a good record as to the cost of complying with environmental standards.

I think this amendment is very timely as an interim measure to deal with a readily observable cost impact which we ought to take into account.

I have discussed the amendment with the Senator from Delaware (Mr. BOGGS), who is the ranking Republican member of the subcommittee, and we are ready to take the amendment.

To the extent possible, small businesses will be expected to connect into municipal waste treatment systems. That is the purpose, of course, of developing municipal waste treatment systems. It is anticipated that a few small firms will find the construction of waste treatment and waste handling systems economical if an alternative municipal system is available, but, at the same time, there are certain wastes which municipal systems cannot readily treat and which must be removed in the industrial process. It is primarily to deal with those problems that this amendment is offered, and it is in that sense that we accept it.

Mr. NELSON. I thank the Senator.

Mr. President, the yeas and nays have been ordered, and I yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Wisconsin. On this question the yeas and the nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Florida (Mr. GURNEY), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting the Senator from Colorado (Mr. ALLOTT), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Ohio (Mr. TAFT) and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 92, nays 0, as follows:

[No. 286 Leg.]

YEAS—92

Aiken	Baker	Bellmon
Allen	Bayh	Bennett
Anderson	Beall	Bentsen
Bible	Griffin	Muskie
Boggs	Hansen	Nelson
Brock	Harris	Packwood
Brooke	Hart	Pastore
Buckley	Hartke	Pearson
Burdick	Hatfield	Pell
Byrd, Va.	Hollings	Percy
Byrd, W. Va.	Hruska	Proxmire
Cannon	Hughes	Randolph
Case	Humphrey	Ribicoff
Chiles	Jackson	Roth
Church	Javits	Saxbe
Cook	Jordan, N.C.	Schweiker
Cooper	Jordan, Idaho	Smith
Cotton	Kennedy	Sparkman
Cranston	Long	Spong
Curtis	Magnuson	Stafford
Dole	Mansfield	Stennis
Dominick	Mathias	Stevens
Eagleton	McClellan	Stevenson
Eastland	McGee	Symington
Ellender	McGovern	Talmadge
Ervin	McIntyre	Tower
Fannin	Metcalf	Tunney
Fong	Miller	Weicker
Fulbright	Mondale	Williams
Gambrell	Montoya	Young
Gravel	Moss	

NAYS—0

NOT VOTING—8

Allott	Inouye	Taft
Goldwater	Mundt	Thurmond
Gurney	Scott	

So Mr. NELSON'S amendment was agreed to.

Mr. McCLELLAN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 181, line 10, insert the following: Immediately after "thereof" insert "or interstate agency".

On page 181, line 16, insert the following: Immediately after "submission" insert "or interstate agency".

Mr. McCLELLAN. Mr. President, this is a technical amendment. I think the distinguished Senator from Maine, who is in charge of the bill, is familiar with the amendment. It has been submitted to him, and I am persuaded that there can be no opposition to it.

Mr. MUSKIE. The Senator is correct. I am willing to accept the amendment.

Mr. BOGGS. Mr. President, I am willing to accept the amendment.

Mr. McCLELLAN. Mr. President, I thank the Senator very much. However, before there is a vote on the amendment, I would like to take the occasion while I have the floor to have a brief colloquy with the distinguished Senator from Maine regarding other aspects of the bill.

Mr. President, I would request the distinguished Senator from Maine to direct his attention to section 209. I want to make reference to that section to illustrate a point with regard to interstate agencies and that is that they need congressional consent in advance to enter into interstate compacts to fulfill the requirements of S. 2770.

It is the intention of this section, is it not, to encourage the Governors, or if not the Governors, then the local elected officials in adjoining States with interstate urban-industrial concentrations, to cooperate in providing "areawide sewer treatment management plants."

Mr. MUSKIE. The Senator is correct. That is the intention.

Mr. McCLELLAN. Does not section 209(b)(2)(C) on page 62 encourage planning to include implementation and regulation features for subsequent enforcement of the plan?

Mr. MUSKIE. The Senator is correct.

Mr. McCLELLAN. Does not subsection (c)(2) on page 66 provide that these interstate agencies must be able to enforce the provisions of the plan and to, in effect, enforce this act throughout the area?

It places on those agencies the duty to enforce whatever agreement they make, as I interpret it.

Mr. MUSKIE. Yes, there are two options open. Either the State agency in the interstate area could assume the enforcement obligation of the interstate agency, and obviously there would be arguments based on efficiency.

Mr. McCLELLAN. Then, the distinguished Senator agrees with me that in addition to section 209, effective interstate enforcement and planning is called for throughout the bill.

Mr. MUSKIE. The Senator is correct, as a function of the region involved.

Mr. McCLELLAN. I wish to emphasize this and I call attention to article I, section 10 of our Constitution which provides that an interstate agency of this sort cannot enforce any interstate agreement containing such a plan without the consent of Congress.

I observe that the average length of time required for approval of a compact is measured in terms of years. The bill would encourage and almost command States to work together on a regional basis to solve interstate pollution problems. Yet, if each interstate river system required a separate approved compact before effective interstate action could begin, then it is quite apparent that the timetable in this bill could not be met because the compacts could hardly be approved by Congress on a timely basis if historic compact experience is a meaningful guide.

I, therefore, would most respectfully request the distinguished chairman of the Subcommittee on Air and Water Pollution and the distinguished chairman of the Committee on Public Works to give sympathetic and prompt attention to S. 907 when that bill reaches the Committee on Public Works. That bill is presently the pending business of the Committee on the Judiciary.

I hope that the committee can have an executive session to consider it and it will be reported soon. I hope the Committee on Public Works will carefully examine and expedite the consideration of S. 907 when the bill reaches it because S. 907 gives to the States congressional preconsent to enter into agreements which contain the enforcement powers required by S. 2770.

In other words, whatever is being done under this bill is encourage the formation of these interstate agencies whose agreements cannot be enforced; there is no enforcement power until Congress approves and grants that authority.

S. 907 grants that power to the States and agencies to make these interstate agreements.

I am not opposing this bill. I simply emphasize that if this bill is going to operate expeditiously we need to pass the other bill to grant the power the committee here wants exercised and insists be exercised.

I take this occasion to call this to the attention of the Senate because I am confident we will be able to get the other bill out of the Committee on the Judiciary and before the other committee so that prompt action may be taken on it. If that is done, and if that bill is enacted into law there will be a rounded-out program here and it will insure the success of the efforts being made here today.

Mr. MUSKIE. I thank the Senator, and I assure him we will give prompt consideration to that legislation. I have been aware of its existence. We held hearings on suggested compacts in this area. We hope the matter is handled expeditiously.

Mr. McCLELLAN. I think we are all in agreement that until that authority is present to make agreements there is no definite time for Congress to act, and if Congress gets congested from a number of these compacts from all over the country we will have a logjam and the entire program will be retarded. But if the other bill is passed it will expedite and insure effective results from the bill before us.

I thank the Senator for yielding to me.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MUSKIE. I yield back my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 562

Mr. BOGGS. Mr. President, I call up my amendment No. 562.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BOGGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 48, line 19, beginning with "Approval" strike all through the period in line 22, page 48.

On page 52, lines 21 and 22, strike "or authorized to be obligated".

On page 53, line 14, strike "for obligation".

On page 53, line 23, strike "and obligated".

On page 55, line 10, strike "or obligation authority".

On page 55, lines 13 and 14, strike "or obligation authority".

On page 58, line 8, strike "is" and insert in lieu thereof "are".

On page 58, line 11, beginning with the period strike all through the period on line 1, page 59, and insert in lieu thereof the following: ": for the fiscal year beginning July 1, 1972, $3,000,000,000; for the fiscal year beginning July 1, 1973, $4,000,000,000; for the fiscal year beginning July 1, 1974, $5,000,000,000."

On page 59, line 5, beginning with the word "to" strike all through the word "contracts" on line 6, page 59, and insert in lieu thereof "for grants".

On page 74, line 22, beginning with "(e)" strike all through the period on line 24, page 74.

Mr. BOGGS. Mr. President, I wish to state that if Members will stay in the Chamber, we will try to move rapidly on this amendment. At the conclusion of the debate, I anticipate there will be a rollcall vote.

At this time, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BOGGS. Mr. President, in connection with a previous commitment, I ask unanimous consent, without losing my right to the floor, that I may yield to the Senator from Nebraska for 5 minutes on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. I thank my distinguished friend for yielding.

Mr. President, I have received a telegram from the Honorable J. James Exon, Governor of Nebraska, concerning this bill.

I ask unanimous consent that the telegram may be printed in the RECORD at this point.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

LINCOLN, NEBR.,
October 29, 1971.

Hon. CARL T. CURTIS,
U.S. Senate, New Senate Office Building, Washington, D.C.:

I am deeply concerned over reports emanating from Washington with regard to proposed Senate amendments to the Water Pollution Control Act. Although I have not been able to obtain a copy of these proposed bills, I have sufficient reason to be most apprehensive about its outcome.

As I understand the proposed legislation it will extend the Federal Government regulations over water pollution control matters which are internal to the State. Already we have seen the 1899 Refuse Act bill used far beyond its original intent as a subterfuge to encroach upon the constitutional authority of the State. The proposed legislation appears to be one more unjustified step on the road to complete Federal take over.

No one is more concerned over the protection of water quality in this State than our Nebraskans. We have made much progress in correcting past mistakes and we are accelerating our program not only to include correctional action but to insure that preventive measures are initiated.

We will continue to demand our fair share of Federal funds to assist us in our program but we will resist the use of these moneys as a means to blackmail us into total submission.

We will continue to cooperate with the Federal Government and its regional offices, but we respectfully request that our State, county and city governments be respected in regard to their due authority and responsibility.

I request that these proposed Senate amendments to the Water Pollution Control Act be exposed to full and open hearings consistent with democratic process and in this way guarantee that the States' views be known to all Members of the Congress.

Sincerely,

J. JAMES EXON,
Governor of Nebraska.

Mr. CURTIS. Mr. President, I would like to adddress a question or two to the distinguished Senator in charge of the bill, the Senator from Maine (Mr. MUSKIE).

The Governor states, among other things:

As I understand the proposed legislation it will extend the Federal Government's regulations over water pollution control matters which are internal to the State.

Can the distinguished Senator enlighten us on that and tell us whether or not there are any recent changes in the bill from the time these questions arose?

Mr. MUSKIE. I think that the section of the bill which has aroused more comment of the kind which the Senator has brought to the attention of the Senate is that dealing with the permit authority. The permit authority is now being exercised without benefit of the pending legislation under the Refuse Act of 1899, and it does not require this legislation. What we try to do in this legislation is to codify that permit authority in a way to restore permit balance between Federal and State. This legislation envisages a State role in permits to control effluent discharge. That is not found in the act of 1899.

There are Governors and State pollution control authorities who read that as an enlargement of the Federal role. I do not see it as an enlargement of the Federal role, but, rather, a codification of the bill that reestablishes the relationship between the States and the Federal Government.

I can assure Governor Exon, if that is the provision of the bill he has in mind, that we have not eliminated the role of the State, but reestablished it in a clear-cut fashion.

Mr. CURTIS. He says:

Already we have seen the 1899 Refuse Act bill used far beyond its original intent as a subterfuge to encroach upon the constitutional authority of the State.

Mr. MUSKIE. So the Governor has that in mind. I will repeat what I just said. Perhaps I can say it a little more clearly. Under the Refuse Act of 1899 the Corps of Engineers has authority to prohibit the discharge of any refuse and matter of any kind. It was clearly not related to the idea of pollution when it was written in 1899. During the last 2 years it has been reexamined in the light of our pollution problems and now the executive branch has undertaken the use of the authority to control pollution by requiring permits of all polluters with conditions to be imposed by the Federal Government. The States have no role in the exercise of that authority.

We have discussed this matter with the executive branch, with Mr. Ruckelshaus, with other representatives of the administration, and they agree with the formulation we have written into the bill. What it does is continue the Federal Government's authority with respect to major polluters—and that is what they want to use it for—until such time as the States can develop permanent authority of their own. At that time it is the expectation of this bill and of this administration to have the States assume that permanent authority and to administer the law directly.

That kind of provision is not found in the Refuse Act.

So when I say that what we try to do is reestablish the State-Federal balance

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in the exercise of that permanent authority, that is what I mean.

So I think when the Governor looks at it in that light, he may look at it a little differently.

We in our committee have always felt, wholly apart from any philosophical views about States' rights and the balance of the Federal-State authority, that if we could have effective State programs supplemented by effective Federal programs, it was the best way to deal with the pollution problem, because it is too enormous in its scope to be handled entirely by Federal bureaucracy.

So we have been promoting, probing, and pushing the States to fashion the necessary authority. That is what we have done in the bill.

Mr. CURTIS. Is it the opinion of the Senator that the measure before us encroaches on the States in a lesser way than is now being done under the 1899 Refuse Act?

Mr. MUSKIE. Yes. The answer to that it a clear-cut "Yes."

Mr. CURTIS. Will the Executive be able to use this bill and the authority that he has claimed to have under the 1899 act, or does this bill supersede the 1899 act?

Mr. MUSKIE. This will supersede it at the right time. It does not by any provision in this bill, because the House has not acted. We need to get it into conference. If the House accedes to this approach and we are able to agree on an approach, then the 1899 act will be phased out and this act will be phased in.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. CURTIS. I yield.

Mr. BUCKLEY. I would like to add one word of explanation. I believe that there is a very significant change. In the last days of the executive sessions, the Administrator had reserved to him for 60 days the right to review the permit issued by the State authority and determine whether he could handle the problem, and then could veto it, in effect, which would cause the State to go over it again. This disturbed the State of New York a great deal. But the way the bill is now, the Administrator is invited in at the time of the application and he can guide and give the benefit of his knowledge to the State agency working on the permit, but after the issuance of the permit he does not have the right to come forward and then veto it.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. BOGGS. I yield 1 minute to the Senator.

Mr. COOPER. I would like to reinforce what the Senator from Maine said. In the first place, the Refuse Act was never intended to be a pollution control act, but, by Executive order, was made one and became precisely a control program of the Federal Government. It is much more dominated by the Federal Government than will be the case under this bill. I think that ought to be made clear.

Mr. MUSKIE. I thank the Senator.

Mr. BOGGS. Mr. President, I return to the discussion of amendment No. 562, which was cosponsored by Senators COOPER, BAKER, DOLE, and BUCKLEY. This amendment affects that portion of the Federal Water Pollution Control Act Amendments of 1971 authorizing grants for the construction of waste treatment facilities.

This provision is a major aspect of the bill. I believe that the level of funding authorized in the bill, as reported, is justified and necessary in order to accelerate our drive toward clean water throughout this Nation.

But I further believe that the contract authority provision—and that is the point of the amendment—is neither necessary nor useful. This amendment would simply strike out the contract authority provided in the bill. In place of it we would substitute the regular, normal procedure of annual appropriations.

This is the provision that allows the Administrator of the Environmental Protection Agency authority to enter into contracts prior to appropriations to commit section 207 construction grant funds for fiscal years 1973, 1974, and 1975.

The purpose of this amendment is quite simple. It authorizes these grant funds in fiscal years 1973, 1974, and 1975 to be provided through the normal appropriations process, rather than by contract authority, as now provided in the bill.

Each of the sponsors of this amendment is a cosponsor of this bill. I know that I reflect the view of the cosponsors when I say that our amendment will not lessen the effectiveness of the bill.

Rather, the annual review of the program by the Congress should serve to focus, each year, the attention and the support of the public on this program and the progress it has achieved. Our amendment will also enable the Congress to properly balance the need for construction grant funds against the other important authorizations in this legislation, which total over $5 billion.

But contract authority is a fiscal tool that is too restrictive. It lessens the flexibility of the Congress and the President to examine spending levels annually. In this case, it tends to overemphasize bricks and mortar to the possible detriment of research, reimbursement of earlier commitments, enforcement, demonstration projects, and other provisions in this bill.

This has particular importance in view of the accelerated research effort required by this legislation. Because of potential breakthroughs in technology, we believe it would be wise if the Congress, through the appropriations process, undertook an annual examination of the full water pollution control program and the needs for waste treatment grants.

The water pollution control program holds a very high priority in any list of national goals.

There is no doubt in my mind that the sense of urgency for water pollution control that exists in our Nation will assure continuity for the program. I believe that this sense of urgency will actually be magnified if the Congress and the public focus their attention on the program each and every year.

I am aware that many States are anxious and able to go forward with construction programs that exceed the limits of this year's or next year's annual allocation under the authorizations proposed in this bill. Some effort must be undertaken to encourage and enable these States to go forward with the assurance of Federal financial support.

It could be construed that our amendment would undermine this striving for continuity. If that is so, I would certainly support an effort to guarantee reimbursement for any State that moves forward with approved projects ahead of that time when sufficient State allocations exist. I have prepared language that would overcome any such deficiency.

I have not included such language with this amendment, because I believe that it is important to focus the attention of my colleagues on the merits and demerits of contract authority. This issue is an issue that should be isolated.

In closing, Mr. President, I urge my colleagues to support this amendment, and thus to delete the provision on contract authority.

Mr. President, I reserve the remainder of my time on the amendment.

Mr. MUSKIE. Mr. President, in this bill we have undertaken to do something that we have never done before on a problem with such long-range impact as this. We have set deadlines that must be met by industry, and presumably by all polluters, including governmental polluters. We have set a deadline in 1976 and we have set a deadline in 1981; and finally we set the goal of no discharges of pollutants into any waterways by 1985.

There is only one way to meet deadlines like that, and that is to make a total commitment now. If we indicate in any way any reservations about our commitment as a government and as a Congress to the achievement of those goals in the point of view of the public sector, what we have done is undermine the credibility of our determination to insist on that goal and its achievement by the private sector.

To achieve the deadlines we are talking about in this bill—I think all of us in the committee are proud of it, and we are committed to it—we are going to need the strongest kind of evidence of the Federal Government's commitment to pick up its share of the load. We cannot budge, with any credibility, from the kind of investment in waste treatment facilities that is called for by this bill. The municipalities, through the Conference of Mayors, have estimated at the request of the committee that the initial investment required is $30 to $35 billion. The authorization we have provided in this bill of $14 billion for 4 years to meet the Federal share is a hard, conservative figure. All we are saying in asking the Senate to approve contract authority is a commitment now to that $14 billion. If we have any hesitation about that commitment, then we will eliminate the contract authority and keep our options open.

What is the option? The option is to provide less than that $14 billion through the appropriations process. Why else would we want that option, unless we want the right to break that commitment at some point in the next 4 years?

Mr. President, I say to you that when the Senate enacts this bill—and I take it that it will—it must consider whether, at the same time that we approve the rhetoric, we are making the commitment with any conviction. We do not need the Appropriations Committee review every year to know that $14 billion is a hard-rock figure. So let us make the commitment now, and let the States and communities go ahead to find ways to pick up their share of the load.

That is what is involved. The administration, in submitting its 1970 version of the water pollution legislation, asked for this authority. Last year the administration asked for contract authority. And Secretary Hickel, in testifying on that bill said this:

> The lag between Federal authorizations and appropriations in the present legislation in the past has caused confusion and uncertainty among the States and communities.
>
> As they were uncertain about the level of Federal funds to be available on any given year, they could not adequately plan and finance their construction activities.
>
> The same lack of certainty has hampered the engineering and construction industry from gearing up for a sustained level of effort.
>
> Assured funding is a key component of the proposed legislation—it will enable the Federal Government to enter "grant agreements" with municipalities at the rate of $1 billion a year for 4 years.
>
> Pursuant to these agreements, the Federal Government will appropriate funds to satisfy obligations under these grant agreements, just as the Federal Government satisfies any other of its debt obligations.
>
> This change will assure communities of full Federal support and allow planning and construction to proceed without the traditional gap between funds authorized and funds appropriated.

In the message on the environment sent to the Congress by the President of the United States last year, he said:

> By thus assuring communities of all Federal support, we can enable planning to begin now for all needed facilities and construction to proceed at an accelerated rate.

I say to you, Mr. President, that only with the kind of commitment represented by contract authority will we truly reassure States and communities that we mean what we say when we say to them, "We expect you to build waste treatment facilities requiring $14 billion of Federal funds, and we will provide that authority."

Let me make the second argument for contract authority. Many communities in this country are required to underwrite the full construction cost of a project at the time bids are let, even though a Federal grant has been made. In other words, the community must make the commitment in advance. And without contract authority, their lesson has been, on the basis of the past 5 years, that they cannot be sure that the Federal funds will be forthcoming. The subcommittee has been requested repeatedly to change the law to require the Federal Government to contractually commit its share, so that the communities will not have to pledge local credit in excess of the actual local share of the project's cost. Contract authority would provide this necessary commitment of Federal funds.

Frankly Mr. President, it does not make any sense to me to impose this kind of a mandate and this kind of a requirement, with all the toughness we have been able to write into this law, upon States and communities, and to back off by ever so little from the Federal commitment that would be represented by contract authority.

We know $14 billion is going to be required if the States and communities do what we are demanding of them. So I say, let us put up the Federal share in a way, with language and an understanding, that makes it clear we are not backing off.

That is what is involved here, and that is why the President sought this authority last year. That is why Secretary Hickel testified for this authority last year, and that is why we must give it to them this year.

Mr. HART. Mr. President, will the Senator yield?

Mr. MUSKIE. I am happy to yield to the Senator from Michigan.

Mr. HART. Mr. President, the point just made by the manager of the bill, the Senator from Maine, is highlighted, I believe, by a very brief letter addressed to me by the mayor of the city of Detroit. It is dated November 2, and I ask unanimous consent that the letter be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HART. Mayor Gribbs makes this point:

> Given the immense complexity of planning sewage-treatment facilities and the goal of clean water by 1985, it is important that the funding of water pollution control be expedited.
>
> Thus, I urge you to vigorously oppose and vote against the Boggs amendment. . . .

Mayor Gribbs cites, chapter and verse, the necessity that a municipality, given the target of the obligation that this bill sets, be given the management freedom to proceed prudently with respect to the raising of the money.

EXHIBIT 1

CITY OF DETROIT,
November 2, 1971.

HON. PHILIP A. HART,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: Scheduled for consideration by the Senate today is the Water Pollution Control Act Amendments of 1971 (S. 2770). I strongly support this measure.

However, I understand that Senator Boggs has proposed an amendment which would fund the construction of sewage-treatment facilities through annual appropriations rather than the Public Works Committee's recommended one-year's annual appropriation and three years' contract authority.

Given the immense complexity of planning sewage-treatment facilities and the goal of clean water by 1985, it is important that the funding of water pollution control be expedited.

Thus, I urge you to vigorously oppose and vote against the Boggs amendment and, equally vigorously, support and vote for the Water Pollution Bill (S. 2770).

Sincerely,

ROMAN S. GRIBBS,
Mayor.

Mr. MUSKIE. I thank the Senator.

I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, contract authority is an essential tool for achieving the cooperation of State and local governments in the program of waste treatment facility construction.

The public investment needed to meet our municipal waste treatment requirements is of such magnitude that it must be programed and carried forward on an orderly basis. The importance of such a step-by-step procedure with the certainty of funds to carry it out has been proven with the success of our Federal-aid-highway program which has functioned with contract authority for a half-century.

The uncertainties in timing of the appropriations process are such that a means to provide advance assurance of funding is an absolute requirement. The Appropriations Committee of the Senate has done a truly fine job in providing funds for this waste treatment program, but the appropriations process still requires that everyone wait until the money bill is approved before they can go forward.

With contract authority, those concerned with the planning, construction and operation of waste treatment facilities will know ahead of time what will be available, and they will therefore be able to proceed accordingly.

Without this authority communities which have to commit their funds long in advance of the construction of facilities will not be sure of receiving the Federal aid which this bill promises.

I stress that contract authority will not deprive the Committee on Appropriations, so ably led by the Senator from Louisiana (Mr. ELLENDER) of its ability to independently review the program levels as they have reviewed other programs with contract authority, such as the highway safety program. They can, in advance of any particular fiscal year, direct by statute that the obligation level be lowered. I know they would do this only if insurmountable budgetary problems required it. The Appropriations Committee would have the ability to review, and this is essential, but with the recommendation for contract authority in the pending bill, the Congress will provide the funding certainty which States and cities need to carry out their crucial role of building the needed treatment works.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, a letter from the National League of Cities expressing, on behalf of local governments all over the Nation, their strong support for the retention of contract authority as it is contained in S. 2770.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
November 1, 1971.

HON. JENNINGS RANDOLPH,
U.S. Senate, New Senate Office Building,
Washington, D.C.

DEAR SENATOR RANDOLPH: The National League of Cities and the U.S. Conference of Mayors are unalterably opposed to any amendments of S. 2770 that would eliminate

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provisions granting the Administrator of the Environmental Protection Agency contractual authority for financing urgently needed waste treatment facilities.

Mayor Roman S. Gribbs of Detroit, Michigan, testified last February 8, 1971, before the Subcommittee of Air and Water Pollution on behalf of the National League of Cities and U.S. Conference of Mayors. In that testimony he stated:

"As we look to the future, however, we must recognize that the current structure of the (Clean Water Restoration Act of 1966) has created many problems. Cities have had serious difficulties in implementing programs with federal assistance. Significant revisions must be made to build an effective partnership with the federal government, states, and the cities if our goal is to develop and finance a water pollution control effort which will make noticeable progress in cleaning up the nation's waterways."

The specific objections to the current procedure were the inadequacy of the federal money and that the available money would come in uncertain fits and starts, making long-term planning impossible.

In an accompanying background paper, the National League of Cities and U.S. Conference of Mayors detailed its proposals for improvements to the Federal Water Pollution Control Act:

A third necessary amendment is to change the financing method in the Federal Water Pollution Control Act from the present annual appropriations process to provide an assured long-term commitment of Federal assistance upon which local governments can depend in developing their pollution control programs. Planning and financing the substantial construction projects necessary for truly comprehensive local pollution control program is a long-term process. Cities must enter into binding commitments extending over many years to provide their share of program financing. For federal aid to be effectively integrated into this program structure, its availability must be assured at the time local governments are planning the financing element of their projects.

Under the existing annual appropriations structure, there is no such assurance. Availability of funds depends on the uncertainties of the appropriations process. The result is that many localities proceed slower than they might on pollution control projects because they can only enter into financing commitments up to the extent of local resources which are likely to be available. Any federal assistance is accepted gladly and relieves severe strains on local financing structures, but if a level of federal assistance could be assured, many localities could proceed much more expeditiously to construct waste treatment facilities.

To provide this long-term commitment, the National League of Cities and the U.S. Conference of Mayors urge revision of the financing structure of the Federal Water Pollution Control Act to allow immediate obligation of a large sum of funds ($15 billion) to aid local projects with actual use of the federal funds spread over a reasonable period.

A financing structure approaching these criteria was adopted for the Urban Mass Transportation Act in the 1970 Amendments (P.L. 91-453). We suggest that similar language be added to the Federal Water Pollution Control Act unless a more effective means of long-term financing, at the funding levels we propose, can be developed.

In addition to making grant-in-aid support under the Federal Water Pollution Control Act more compatible with the realities of local funding, long-term financing would avoid several other problems which have developed with the present programs.

1. A system could be established, under the current population based allocation formula, for reallocation of funds from those states which do not need them to states that do, ahead of the time when these funds actually become available for expenditure. This would be possible because each state could develop a long-term plan for use of water pollution control funds and accurately estimate the amount of federal assistance required for its projects in any given year. Allocations made to those states which did not identify sufficient needs to use the full amount of their federal assistance in any particular year could be redistributed to other states, perhaps a year in advance of the time when these funds were scheduled, for expenditure under the Act.

2. Accurately estimating need levels upon which to base legislative authorizations is difficult because of changing perceptions of what level of water quality is required and improvements in water quality technology. Under the appropriations process money must first be appropriated and then projects found on which to use the money. Where projects are not found, federal dollars remain unused for periods of time.

3. Enforcement of water quality standards as they apply to localities could proceed with much greater fairness than at present because enforcement schedules could be tied to capacity of local financing and availability of federal assistance. With financing capability determined, enforcement could be developed which assure that water cleanup programs will proceed quickly and fairly, consistent with the financing capacity of local governments. We would not face situations, as we do today, where localities have almost impossible demands placed upon them to comply with water quality standards at a time when it is very difficult and perhaps impossible to scrape together sufficient funds to finance required water pollution projects.

S. 2770 is a major step toward meeting the needs of our nation's cities. But S. 2770 will be effective only if cities are assured the financial resources to do what the bill would require them to do. To adopt Amendment No. 562, proposed by Senator Boggs of Delaware, would seriously impair the cities' efforts to end the pollution of our nation's waters, and would render the Federal Water Pollution Control Act Amendments of 1971 much less effective than it can or must be.

Sincerely,

SAMUEL V. MERRICK,
Director, Congressional Relations.

Mr. MUSKIE. I thank the distinguished Senator.

Mr. President, I reserve the remainder of my time.

Mr. BOGGS. Mr. President, I yield to the ranking Republican member of the Committee on Public Works, who is a member of the subcommittee, the distinguished Senator from Kentucky.

Mr. COOPER. Mr. President, all of us joined in reporting this bill, and we support it strongly. We did disagree upon the method of financing, whether it should be by appropriations or by contract authority.

I make this point: The distinguished Senator from Maine has spoken correctly of the commitment we are making to the American people in this bill, and we have made this commitment.

The great commitment is found in those provisions which require compliance with the bill. The municipal facilities are required to come into compliance with this bill. If they do not, sanctions may be taken against the municipality, and Federal grants will not be made. The contract authority, or financing authority, only applies to the municipalities, so we are talking about municipalities.

I must say that since we have ordered these strict prohibitions and restrictions, which become effective in three phases, that is the chief commitment, and we must live up to it, whether by contract authority or by appropriations. I think it is as simple as that.

The sums in the bill are just estimates. In my judgment, in time they will be too small. We authorize $3, $4, and $5 billion for contracts. I think it is $14 billion all together, including fiscal 1972. It may be too small or too large. A few years experience will inform us.

I make one other point: We know about contract authority. My judgment is that in the first 2 years the $2 or $3 billion will not be presented for payment, but in about the fourth or fifth year, $6 or $8 billion could fall due for payment from the Treasury. My judgment is that Congress should keep reviewing this program, to keep the Congress interested in it, and not leave the Congress to be a mere disbursing agency—and that is what could happen under contract authority.

After 2 years of trial with this program, we might then want to go to contract authority—for I recognize its advantages when we know all the facts and have some experience.

I would say, with all respect for the chairman of our subcommittee, who, as we know, has given his thought and his effort and his heart to this matter, that I think it is more practical to look at this new program for a couple of years, and then see what actually is needed to carry this program along.

Mr. BOGGS. I thank the Senator from Kentucky for the points he has made, which certainly are most valid in this instance.

Mr. President, I yield to the distinguished Senator from Louisiana (Mr. ELLENDER), the President pro tempore and the chairman of the Committee on Appropriations, such time as he desires.

Mr. ELLENDER. Mr. President, I support the amendment offered by the Senator from Delaware. Certainly no one can deny that the water pollution control program should be implemented as rapidly as possible in view of the critical condition of many of our Nation's waterways. For this the bill provides $2 billion for the current fiscal year. I have no quarrel with that.

However, the bill also provides that the Administrator is authorized to incur obligations in the form of grant contracts in amounts aggregating $3 billion in fiscal year 1973, $4 billion in fiscal year 1974, and $5 billion in fiscal year 1975. This does not by any means assure the funds. The money will still have to be appropriated by Congress.

I strongly oppose such a fiscal procedure. It would provide carte blanche authority to be lodged in the executive branch over a period of several years without further legislative action. Regardless of what the intent may be, in effect it would obviate any further requirement for congressional review prior to the obligation of these huge amounts of money. I do not believe that we want to do that, I believe that the control of the purse should remain where the Constitution specifies it should remain—under the control of the Congress of the United States.

If the amendment is adopted, as I hope it will be, the Congress will retain that control of the purse strings and be able to review the program annually and provide such appropriations as it deems necessary and desirable. It may be that we would, in the years to come, appropriate sums equal to or even exceeding those described in the bill, but we would do so with the full facts before us, the experiences of the past to help guide our thinking, the budgetary impact of the requirements then present to assist our deliberations.

There is also another factor involved in this procedure. The use of the device of contract authorization is not new. Its origins may be lost in antiquity, but I can state definitely that as early as fiscal year 1926 it was utilized by the Department of the Navy to finance its aviation program, the Secretary of the Navy being authorized to enter into contracts totaling $4.1 million in addition to the regular appropriation. In the early 1950's, this method of financing was eliminated by the Congress which insisted that a department or agency request annually the funding required for a given program. This has the advantage of providing an annual review of on-going programs and also enables the Government as well as the taxpayers of the country to judge the full impact of funding actions. Although this procedure, through the years, has suffered some exceptions, I believe that, by and large, it has been a valuable contribution to sound fiscal policy. We do not know what will be the situation 1, 2, 3 years hence in an era of changing priorities. This method of financing will place another large amount in the area of uncontrollable items, not subject to annual controls. I would hate to see the Congress take such a long step backward at this time, involving as it does a very substantial amount of money.

For these reasons, I shall vote in favor of the amendment, and I hope that all those who believe congressional control and review of executive programs to be essential will do likewise.

Mr. President, I want to point out—my good friend, the Senator from Maine, will recall this—that we had no trouble in recent years in appropriating all the funds that the then Federal Water Pollution Control Agency said they could use, funds far in excess of the budget request. I know that because—as he knows—I handled the bill. When the authorization was for a billion dollars, the subcommittee and the full committee supported that amount, and I was successful in obtaining that sum without trouble. If I remain chairman of this committee, I feel confident that whatever sum is authorized and necessary will be appropriated to be spent in any given year. The Congress can better discharge its responsibility by an annual review of the needs of the municipalities than by merely letting the Administrator make the contracts without regard to congressional review. There is no assurance that the contract authorization will not be subsequently modified by Congress. It will merely be a contract to be entered into by the Administrator, hopefully to be paid by moneys to be appropriated by Congress. It is just that simple.

I believe it is a mistake for us to follow that procedure. I can well remember, since I have been in the Senate, that that effort was tried on many occasions with the Defense Department and particularly with the Navy Department. We had contract authorization, and there was such an abuse of the program of contract authorization that Congress saw fit to eliminate it in 1956, I believe. It is a poor way for Congress to discharge its responsibilities.

I am very hopeful that the amendment offered by the Senator from Delaware will be adopted.

I can give assurance that as long as I am chairman of the Committee on Appropriations, I will do my best to obtain from Congress any funds necessary up to the full authorization to carry out this worthy program.

Mr. BOGGS. I thank the distinguished Senator from Louisiana. I must point out that the distinguished Senator from Louisiana has been most understanding of this program and a real supporter of appropriations for water pollution control. I appreciate his comments on this amendment.

Mr. President, I yield to the ranking minority member of the Committee on Appropriations, the distinguished Senator from North Dakota (Mr. YOUNG), for such time as he may need.

Mr. YOUNG. Mr. President, I associate myself with the remarks of the distinguished Senator from Louisiana (Mr. ELLENDER), the chairman of the Appropriations Committee. The contract authority method was used extensively when I first came to the Senate on public works projects and on defense matters. There are many disadvantages. Congress lost control of projects and never knew exactly where they were financially. Here we have appropriations year by year so that Congress gets some kind of control that otherwise would go to the executive branch of the Government.

I believe that it would be a sad mistake if we made a practice of using a contract authority on major projects such as this, which we found to be unworkable years ago.

Mr. BOGGS. I thank the distinguished Senator from North Dakota for his comments. In view of his experience in these matters, his comments are most appropriate.

Mr. President, I now yield, for such time as he may need, to the distinguished Senator from Tennessee (Mr. BAKER), a member of the subcommittee. Senator BAKER made a great contribution to this legislation. As always, he has made a great contribution to the work of the committee and to the legislation reported by the committee.

Mr. BAKER. Mr. President, I rise in support of the amendment. I realize that we have used contract authority, as the distinguished chairman of the Appropriations Committee and the ranking minority member have just pointed out. I also realize that we have used it in this program of air and water pollution control legislation in the past. But now we are taking a giant step, so to speak. We are estimating that there will be some $14 billion necessary in Federal funds to carry out the program for the next 4 years.

It seems to me that under the leadership of the distinguished chairman of the full committee, and the distinguished chairman of the subcommittee, as well as the leadership given by Senators COOPER and BOGGS, this committee, in this field, has done a remarkable thing. It has brought a consensus to the field which we seldom see in important domestic legislation.

I believe, as a matter of fact, that the last pollution control bill passed the Senate without a dissenting vote. It seems to me that we should not launch into a financing technique or method likely to stir dissension in the Senate.

I am convinced that the distinguished chairman of the Appropriations Committee will well and amply take care of the requirements of the program.

I am convinced that all the members of the Appropriations Committee and the Public Works Committee are fully aware of the requirements of the program in the field of air and water pollution.

I am also convinced that we should not start such a big charge account now, as we would be starting with the contract authority technique.

I believe there is such a broad base of support for the program that we should proceed in the usual and traditional and certainly the better way—and that is the authorization procedure, instead of contract authority.

I commend the distinguished ranking minority on the subcommittee for introducing the amendment, which I am happy to cosponsor and which I wholeheartedly support.

Mr. BOGGS. I thank the distinguished Senator from Tennessee for his contribution to this amendment and for his pertinent and most forceful comments.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. EAGLETON). Fourteen minutes remain to the Senator.

Mr. BOGGS. Mr. President, I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, I yield 5 minutes to the distinguished Senator from Washington (Mr. MAGNUSON) who has had a great deal of experience with this matter of contract authority. He has recommended it from time to time, and I shall be delighted to listen to his comments.

Mr. MAGNUSON. Mr. President, I do not believe that we are in great disagreement here. Of course, on the whole philosophy of contract authority as it relates to the Appropriations Committee, I think, 95 times out of 100, we should do what has been suggested by the chairman of the Appropriations Committee; but once in a while and lately in particular, programs have been brought forward that could be accepted wholeheartedly,

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and Congress has accepted wholeheartedly; and there are some occasions when an exception has to be made. I do not disagree with my distinguished chairman and my other colleagues on the committee. I have supported them on this issue on other occasions.

I find that when we are trying to do something of this nature which everyone agrees that it should be done, we cannot do it without planning time. We ran into this same issue with the airport and airways bill and we gave them 2 years of planning time. We had 3 years in the bill, but finally we agreed to 2 years, as a compromise, so that they could do some planning. That issue revolved around airports and the people involved in the airways industry. Often they have to have a bond issue; and sometimes it takes a year just to get a bond issue in order to make their contribution. We allowed contract authority in urban renewal. We had a big fight in the Appropriations Committee—we all remember that—over a 2-year contract authority for urban renewal.

We have also allowed it for mass transit, because we cannot plan a mass transit system in any big city, from July 1 to July 1. It is true that the Appropriations Committee does not need to appropriate this money, as the chairman aptly stated. The contract can be made, and if we think it is not going well, or the program is not proceeding as it should, we can cut the money out, which we have done on occasion. There are other areas of activity. We have to allow this with the Department of Defense occasionally—in shipbuilding because one does not build a ship between July 1 and July 1. It takes a long time. We still have done well on this, but I think we have got to give some of the cities that will participate, particularly the big metropolitan areas—and I use Seattle as an example, with Metro which cleaned up Lake Washington, time to plan and a longer financial commitment.

Metro had to depend on some Federal contributions—as a matter of fact we have some funds in the bill for them.

I do not think this is too serious. I heard the words "back room financing"——

Mr. ELLENDER. Back door.

Mr. MAGNUSON. Back door financing, but some call it backroom—but we just cannot do these big projects on a year-to-year basis. This is a big job. This can only be done with some planning. The Appropriations Committee, if they find something is wrong and is not working the way it should, they can handle it. The committee has cut off funds because they were not needed, but we have got to give the cities, if they are going to do the job, a chance to get ready.

I introduced a bill, part of which is incorporated in this bill. Since I introduced that bill, I find that many of the smaller cities and communities also need time to see where they can get their financing and do their planning; otherwise I would not be for contract authority unless it was for a major project. I just mentioned four major areas. This problem is in that category, in my opinion. I do not like to see a metropolitan area plan a great big sewer project, as they have got to do on a 2- or 3-year basis, without a solid financial agreement with the Federal Government. Sometimes even the bond issue is conditioned upon the length of the commitment.

Congress cannot merely commit itself from one Congress to another. Just the contract commitment makes it easier to raise the money needed to do the part of the job that local governments are required to do.

I want to get moving on this problem. I do not want to see it stalled in any way. I will be the first one to join my colleagues on the Appropriations Committee to suggest a reduction in place A, if they are not doing the job. We will cut their money back and haul them before the committee to see what they are doing. That is why I mention the contract authority. It is not new. It is done in cases where it is necessary. I think that this great big job that the American people want done and will accept wholeheartedly is one of the places where it should be used.

Mr. President, I am happy to join in the general commendation of the Senate Public Works Committee, of its Subcommittee on Air and Water Pollution, of the respective chairmen, the Senator from West Virginia, Mr. RANDOLPH and the Senator from Maine, Mr. MUSKIE, and of the other members of the committee, as well as the staff, for the remarkable job they have done on the National Water Quality Standards Act of 1971.

The bill contains a number of very important and basic changes in the water pollution control program, and I am certain that, although some of them may be both innovative and controversial, taken as a whole, they will go a long way toward the national goal of cleaning up the Nation's waterways.

I am happy to note that the bill contains three specific provisions incorporating concept which were included in S. 1259 which I introduced and testified on before the Air and Water Pollution Subcommittee. Each of these have a special impact on major cities throughout the country, including Seattle, and the committee therefore deserves an expression of gratitude from those who live in metropolitan areas.

I am especially pleased—and I know that the city of Seattle and other major cities share this view—that the committee has included a provision for reimbursing those communities which undertook to construct water treatment facilities at the very inception of the Federal construction grant program in 1956, but which did not receive the full amount of Federal contribution that the water pollution control program envisioned. For example, the city of Seattle moved early and promptly, at the urging of Congress, to initiate action to construct the facilities necessary for reversing the trend toward pollution of the rivers and lakes in its area, and spent $118.6 million for the construction of projects in the period of 1956 through 1966. On the basis of the 30 percent Federal matching program, Seattle should have received a Federal contribution of $35.6 million but it actually received about $5.2 million, leaving a balance of over $30 million which should have been available for the Seattle program. On a more general basis, information was submitted to the Committee indicating that a group of the Nation's largest cities serving approximately 47½ million people received Federal contributions totaling about $92.5 million for the period 1956 through 1969, whereas 30 percent of the investment made by those cities, total almost $475 million. Thus, instead of receiving the full 30 percent, this group of cities received less than 6 percent.

It is my understanding that during the committee's consideration of this particular provision there was some conflict regarding the estimates of the total entitlement required to reimburse all eligible communities and agencies to bring the total Federal contribution for water treatment projects constructed between 1956 and 1966 to the 30 percent level provided in the early legislation. In order to avoid holding up the bill, the committee recommended a $400 million authorization for reimbursing cities for such projects; at the same time, it requested the Administrator of the Environmental Protection Agency to determine whether more than $400 million would be required and to report his findings to the Congress.

In my view, it is imperative that adequate funds be made available for this purpose since the rationale for the provision is to undo the discrimination which occurred in the early period of the water pollution control program as a result of limitations on grants to individual projects and of inadequate appropriations. In essence, the reimbursement provision is intended to put all communities on an equal footing and it would be a mistake to redeem only a part of our obligation to those cities that responded to the early encouragement and exhortation of the Congress by initiating the construction programs necessary to meet national and local needs. Accordingly, I hope that the actual amount of total entitlement will be determined in time for the House of Representatives to amend the authorization, if that proves to be required. In any event, I believe the record should be clear that it is not the intention of the Senate to "short-change" in any way those cities and municipalities that are entitled to reimbursement under the philosophy of the reimbursement provision of the bill—section 206—and if necessary, additional authorization of funds can be enacted separately.

I am especially pleased that the Public Works Committee included the concept that projects for which reimbursement was to be made available included not only those that received some Federal funds, but also those that received absolutely no Federal contribution but which by their nature were eligible for Federal contributions under the earlier legislation. This feature is of special concern to Seattle and other cities where combined storm and sanitary sewer systems required modification to make more reasonable and meaningful the construction of water treatment facilities. Thus, it is my understanding that such projects, even though not funded at all by the Federal Government, met the statutory definition of facilities eligible for construction grants and can be the subject of reimbursement under section 206.

This feature of the reimbursement provision is consistent with and is reinforced by the additional definition of "treatment works" contained in the committee bill—section 210(b)(2)—which expressly directs the Administrator of EPA to include facilities for the elimination or abatement of overflows from combined storm and sanitary sewer systems. This concept which was a part of my own bill (S. 1259), is once again, a problem especially acute for metropolitan systems. It is my understanding that it was not the intention of the committee to embark on a national program to rectify all combined sewer systems that exist in the country, but rather to establish the principle that where the construction of facilities to handle such overflows was the most efficient, economical, rational, and reasonable approach to a particular community's water pollution problem, it should be as much entitled to Federal contributions as any other water treatment facility.

In my view, it would be absolutely foolish and wasteful to insist that a city elect to construct waste treatment facilities adequate to handle enormous peak loads created by heavy rainfall which occurs only a few times a month, when a much smaller investment of public funds would afford a means of handling the storm water overflow with greatly reduced waste treatment handling facilities and equipment. This is the concept underlying the additional definition and implicit direction to EPA, and I heartily endorse it.

Another feature of my bill (S. 1259) incorporated into the committee's recommended bill is contract authority to enable municipalities to plan their long-term construction programs on a rational basis. This, too, is a factor of great importance to large city sewerage systems; whereas many of the smaller systems are easily able to accomplish their planning, design, engineering and construction program within a single year, this is virtually impossible for major metropolitan areas. The committee has wisely recommended a grant program extending over a number of years, and logically and consistently systems which are embarked on multimillion-dollar programs should be able to establish programs scheduled over a number of years and to make the necessary long-term commitments to implement them. This is an important feature and I am glad that the committee has made such a recommendation.

By the same token, I believe that the reimbursement funds which I have referred to earlier should also be made available to the communities that are entitled to them on a basis that will enable them to make long-term commitments. They should be permitted to draw against their total entitlement on a long-term basis when using the reimbursement funds as their local share of projects constructed in the future. The bill is not clear on that point, and I would hope that if explicit language is required, it will be adopted.

I have indicated previously that the committee in its consideration of this very important legislation accepted each of the three major points which I offered. I should also like to take note of the fact that I was assisted in very large measure in the development of those points by the Association of Metropolitan Sewerage Agencies—AMSA. AMSA, although a relatively small and young organization, is composed of 36 sewerage agencies in metropolitan areas throughout the country which serve nearly 40 million people. This organization which received its impetus from Charles V. "Tom" Gibbs, the executive director of the municipality of Metropolitan Seattle, and who also serves as the national president of AMSA, was extremely helpful to the committee in providing detailed data and analyses of the various aspects of the program considered by the committee. I am pleased that the combined experience and judgment of the men who operate the Nation's major sewerage systems are available to the Congress and to the executive branch through AMSA.

I know personally what can be accomplished in eliminating pollution and have frequently pointed to the dramatic results of the efforts of Seattle Metro to clean up Lake Washington. The increased national concern and awareness of the need to take remedial action and the willingness of the administration and of the Congress to make large sums of money available for that purpose is a very encouraging and positive development. I want to commend once again Chairman RANDOLPH and Chairman MUSKIE and the entire Public Works Committee for the comprehensive and thoughtful job they have done.

Mr. President, in light of the mutual assertions of jurisdiction over ocean dumping made by the Committees on Commerce and Public Works, I want to include in the legislative record of these amendments to the Federal Water Pollution Control Act a statement on the limitations of the agreement between the two committees.

At the outset let me affirm that section 403 of S. 2770, when coupled with the bill's general definition of "discharge" in section 502(n), accurately reflects the agreement between the two committees as to this legislation and as to H.R. 9727, the ocean dumping bill recently ordered reported by the Committee on Commerce. That is, the committees have agreed that the regulation of discharges of pollutants within the territorial and internal waters of the United States will be governed by the provisions of S. 2770. Beyond the territorial sea, in the contiguous zone and other high seas areas of the oceans, the regulation of transportation for dumping and dumping of materials originating in the United States will be governed by the provisions of H.R. 9727. I want to state for the record that the two committees have worked closely together to reach this understanding, and to achieve uniformity as to the dumping criteria, enforcement, and penalty provisions of the two bills.

The Committee on Commerce has exclusive legislative jurisdiction over transportation of pollutants within the internal and territorial waters of the United States, and beyond in the contiguous zone and other high seas areas of the oceans. The committee shares equally with the Committee on Public Works jurisdiction over legislation affecting the discharge of pollutants into the territorial waters of the United States, other than from outfalls. Beyond the territorial waters, the Committee on Commerce has exclusive legislative jurisdiction over discharge of pollutants originating in the United States into the contiguous zone and other high seas areas of the oceans, with the exception of outfalls extending into such areas.

Mr. President, I affirm the agreement between the Committees on Commerce and Public Works. But that agreement pertains only to these two pieces of legislation, and is not intended as a blanket resolution of jurisdictional issues over ocean pollution that exist between the two committees.

Mr. HOLLINGS. Mr. President, I want to second the remarks just made by the distinguished Senator from Washington (Mr. MAGNUSON), and particularly to emphasize that the agreement between the Committees on Commerce and Public Works does not resolve all jurisdictional issues between the committees on ocean pollution. Rather, the agreement is solely for the two bills pending before the Senate, S. 2770 and H.R. 9727, so the United States can make some headway to combat ocean pollution. The agreement should result in legislation that will become a model for international agreement to prevent pollution of the oceans.

The operative provisions of the agreement are that the discharge of pollutants from outfalls, vessels, or any other source, within the internal or territorial waters of the United States will be governed by the provisions of the Federal Water Pollution Control Act Amendments of 1971. The regulation of such discharges will be through a permit program, applying discharge criteria provided in section 403 of the act. But I want to call attention to section 402(d)(1) which relates to the regulation of safe transportation, handling, carriage, storage, and stowage of pollutants by the U.S. Coast Guard. Permits issued for dumping of pollutants within the internal and territorial waters of the United States will be subject to the regulations of the Secretary of Transportation governing safe transportation, handling, carriage, storage, and stowage, in addition to being consistent with the dumping criteria established by the Administrator of the Environmental Protection Agency. Note, however, that no permits for the transportation for dumping of pollutants within the internal or territorial waters will be issued; only permits for dumping. The reason is that the United States has exclusive jurisdiction over all activities within its internal and territorial waters, and can assert control over the act of dumping within such waters, whether by U.S. citizens or foreign citizens or foreign-flag vessels.

Outside the territorial waters of the United States the regulation of trans-

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portation for dumping and the dumping of pollutants would be governed by the provisions of H.R. 9727, the Marine Protection and Research Act of 1971, if enacted. The principal regulatory device in such waters would be permits for the transportation for the purpose of dumping pollutants. The rationale for such regulatory measures is that the high seas are international waters over which the United States has no authority to control the act of dumping except as to its own citizens or U.S.-flag vessels, and only to a limited extent by foreigners within the 9-mile contiguous zone. If the United States is to assert regulatory control over pollutants originating in the United States that would be dumped by foreign citizens or foreign-flag vessels in international waters, it must do so while the pollutants are still within the territorial jurisdiction of the United States. The regulatory technique chosen has been to control the transportation of pollutants for dumping before they enter foreign commerce from the United States.

The Committees on Commerce and Public Works have agreed on the regulatory techniques to be employed and the jurisdictional reach of their respective bills insofar as they relate to ocean dumping. But they have not resolved all jurisdictional questions between them, and I agree with Senator MAGNUSON's statement on the scope of the Commerce Committee's jurisdiction in the general subject area.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the language of the committee on contract authority in its report be printed. I think it makes it pretty clear.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The language of subsection (b) of section 207 provides that funds authorized for fiscal years 1973, 1974, and 1975, shall be available for obligation by contract upon their allocation to the States. The importance of assured Federal financial support to the achievement of the objectives of this title and to our national purpose of cleaning up polluted waterways cannot be overstated. The task is a massive one in terms of the work to be done and the funds to be expended.

In order to insure a properly phased program, States and local governments can go forward only when there is strong assurance that Federal funds will be available when needed. The Congress, through the Committees on Appropriations this year, fully funded authorizations for waste treatment facilities. In order to plan for construction of needed facilities and meet the deadlines of this act, communities must be able to anticipate with some certainty the level of Federal funding available. This can only be obtained through the process known as "contract authority."

Questions have been raised regarding the ability of State and local government to absorb the $14 billion which the bill would authorize over four fiscal years. Testimony before the committee, experience with the existing water pollution programs, and experience with other major Federal-aid construction programs indicate that it will be possible to build up to the levels of activity required to properly utilize the funds which title II would authorize for waste treatment facilities construction. The time for actual construction of facilities required to treat municipal and continued municipal and industrial wastes extends over four to seven years. The commitment to pay must be made at the time the project is approved with payment to be made over the construction period.

If Congress places upon State and communities the burden of carrying out this program, it should bind itself to pay the Federal share of the projects costs. The authority for obligation will not bar the committee on appropriations from reviewing the manner in which the program is being carried forward.

Mr. MUSKIE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 minutes.

Mr. MUSKIE. Mr. President, I am sure that I can add very little to what the distinguished Senator from Washington has said in his commonsense way about the importance of the contract authority in this matter.

I simply want to read from what the President said on this subject in his message on the environment last year.

The President said:

In the four years since the Clean Waters Restoration Act of 1966 was passed, we have failed to keep our promises to ourselves: Federal appropriations for constructing municipal treatment plants have totaled only about one-third of authorizations. Municipalities themselves have forced increasing difficulty in selling bonds to finance their share of the construction costs. Given the saturated condition of today's municipal bond markets, if a clean-up program is to work it has to provide the means by which municipalities can finance their share of the cost even as we increase Federal expenditures.

One of the tools the President recommended was this contract authority.

Mr. President, I would like to pay tribute to the Senator from Louisiana for the dedicated work he has done in bringing appropriations up to authorizations in the past 2 years. It is good to have a friend like him on the committee, let alone as chairman of the committee.

What we are talking about here is not something that ought to depend upon the good will or even upon the chairman of that committee. What we are talking about is the kind of Federal commitment upon which municipalities can build their planning requirements, their engineering requirements, their financial requirements, and the kind of momentum they need in order to get their people to support the taxes, the bond issues, the building of these sewer treatment facilities; the kind of public commitment upon which we can structure these organizations with this kind of Federal commitment.

Even though, as the Senator from Washington and the Senator from Louisiana have said, the Appropriations Committee can still exercise control, it is this kind of commitment which says to the country that the Federal Government means business.

That is what we are talking about here. It is this kind of matter to which the Senator from Washington has referred.

Mr. President, I withhold the remainder of my time.

Mr. BOGGS. Mr. President, the distinguished Senator from Mississippi (Mr. STENNIS) would like to make some comments on the amendment. I am happy to yield 3 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 3 minutes.

Mr. STENNIS. Mr. President, I thank the Senator from Delaware.

I want to emphasize at the beginning of my remarks that this is not a contest between committees, as I see it. My thoughts do not run in that vein.

I just raise the question of "where we are going?" Since I have been a Member of the Senate one safeguard or expenditure after another has fallen by the wayside. I refer to safeguards that tend to hold things in line and control appropriations as well as keeping various programs in shape, a great many new ones have come in.

I am not arguing against them. However, with respect to the idea of contract authority, I know by experience how easy it is to let a contract authority run away with itself if there is not some kind of checkrein to hold down the spending.

We do not pay much attention now to budget recommendations. Few are concerned about whether an item has a budget recommendation or not. We are not enough concerned about how much we are running over the budget recommendations and how much we spend beyond them. I understand that we are now spending at a rate of $35 to $40 billion a year over the budget this fiscal year.

Reference has been made here to the military department having contract authority. I do not know of any appreciable part of the military program that is carried on pursuant to what we call contract authority.

That was true to a considerable extent many years ago. The situation got very bad. It had to be abandoned and has been largely abandoned.

I am on both the Appropriations and Armed Services Committees. We sometimes spend several billion dollars, as Senators will remember, for squadrons of a particular plane. All of these sums are taken care of by annual appropriations with no contract authority and extend over several years.

My point is that it is not necessary to do it through contract authorizations. It is true we have set some precedents recently, as the Senator from Washington has mentioned. That is one of the reasons why I think we are running away in spending programs and dropping one appropriation safeguard after another.

According to the terms of this proposed bill, $12 billion is to be authorized as contract authority. The regular budget is way out of balance at the present time, however.

Mr. President, we will have a proposal in a few days to further reduce taxes. We act without enough consideration of what is going to become of the fiscal affairs of this Nation. This is not a matter of condemning the program. However, I say, let us call a halt here. Let us pass this amendment and stop and listen enough to get some understanding and some realization of where we are going and what it is going to cost and what the effect of these increases are and what they are going to mean in the long run.

Already we have had to impose price freezes. We will get down to the nitty-gritty of that problem and the freeze in a few months and we shall have serious trouble.

I thank the Senator for yielding to me.

Mr. BOGGS. Mr. President, I thank the distinguished Senator from Mississippi for his comments, which are based upon his insight, knowledge, and experience with this type of situation.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. May we have order in the Senate. The Senators will please retire to their seats and the attaches will retire to the rear of the Chamber so that we may hear the Senator from Delaware.

The Senator from Delaware may proceed.

Mr. BOGGS. Mr. President, I believe that an annual review by the Congress of this very significant, very important, and high priority program should serve to focus, each year, the attention and support of the public on this program and the progress it has achieved.

I believe this amendment would strengthen the program, rather than deter it. I urge the adoption of the amendment.

Mr. MUSKIE. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. MUSKIE. Mr. President, I want to make one point clear in response to the Senator from Mississippi and others. We are asking the States to embark upon a program that would commit them to expend $7 billion or $8 billion. Either we mean it or we do not. Their financial problems are as strait and as difficult as ours.

The thrust of the argument of the Senator from Mississippi is that we ought to reserve our options and back off on our commitments.

What options are we giving to the States and municipalities to back off? Either we want these treatment facilities built, or we do not. If we are saying to them, "We want you to do this job," let us put up our share where it belongs, right beside theirs. One of the provisions includes an authorization for almost $2.5 billion, and to do what? To reimburse the States for money they put up to build waste treatment facilities we should build. In other words, we are borrowing from the States $2.5 billion in this bill that we did not put up. Now we are saying: You put up another $8 billion, and maybe we will put up $14 billion as our share, and maybe we will not.

If we mean what we say in this bill, let us nail it down; if not, vote against the bill.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield.

Mr. PASTORE. Is the obligation of the contract authority, the Federal Government, contingent upon the States coming up with their commitment?

Mr. MUSKIE. Yes.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MUSKIE. I yield back my time.

Mr. BOGGS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Delaware (Mr. BOGGS). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Pennsylvania (Mr. SCOTT). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 34, nays 58, as follows:

[No. 287 Leg.]

YEAS—34

Allen	Curtis	Jordan, Idaho
Allott	Dole	Long
Baker	Dominick	McClellan
Bellmon	Eastland	Roth
Bennett	Ellender	Sarbe
Bible	Ervin	Stennis
Boggs	Fannin	Stevens
Brock	Fong	Talmadge
Buckley	Gambrell	Tower
Byrd, Va.	Hansen	Young
Cooper	Hruska	
Cotton	Jordan, N.C.	

NAYS—58

Aiken	Hartke	Packwood
Anderson	Hatfield	Pastore
Bayh	Hollings	Pearson
Beall	Hughes	Pell
Benteen	Humphrey	Percy
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, W. Va.	Kennedy	Ribicoff
Cannon	Magnuson	Schweiker
Case	Mansfield	Smith
Chiles	Mathias	Sparkman
Church	McGee	Spong
Cook	McGovern	Stafford
Cranston	McIntyre	Stevenson
Eagleton	Miller	Symington
Fulbright	Mondale	Tunney
Gravel	Montoya	Weicker
Griffin	Moss	Williams
Harris	Muskie	
Hart	Nelson	

NOT VOTING—8

Goldwater	Metcalf	Taft
Gurney	Mundt	Thurmond
Inouye	Scott	

So Mr. BOGGS' amendment was rejected.

Mr. MUSKIE. Mr. President, I yield to the distinguished majority whip.

Mr. BYRD of West Virginia. Mr. President, I thank the distinguished manager of the bill.

Mr. President, there will be two more rollcalls on amendments tonight, plus one rollcall on final passage. It is anticipated, therefore, that there will be three rollcall votes yet tonight.

Time on the amendment by the Senator from Louisiana (Mr. ELLENDER) has been reduced to 30 minutes, to be equally divided. Time on all other amendments has been reduced to 30 minutes, to be equally divided. I, therefore, ask unanimous consent at this time—having consulted with the Senator from Tennessee (Mr. BAKER) and the manager of the bill, Mr. MUSKIE—that the time on each of the two amendments to be offered by the Senator from Tennessee (Mr. BAKER) be reduced to 20 minutes, to be equally divided between the distinguished mover of the amendment (Mr. BAKER) and the distinguished manager of the bill (Mr. MUSKIE).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ELLENDER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At page 161, between lines 7 and 8 add new section:

"SEC. 404. (a) The Secretary of the Army may issue permits, after notice and opportunity for public hearing, for the discharge of dredged materials into the navigable waters at specified disposal sites.

(b) In identifying disposal sites for the purposes of subsection (a), the Secretary shall apply the criteria established pursuant to subsection (c)(1) of section 408 together with an evaluation of the impact of such sites on navigation and anchorage. In applying such criteria, the Secretary in cooperation with the Administrator, shall determine those sites which would not adversely affect shellfish beds, fisheries (including, spawning and breeding areas) or recreation areas."

Mr. ELLENDER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ELLENDER. Mr. President, this is a very simple amendment, and should not take long to explain.

It simply retains the authority of the Secretary of the Army to issue permits for the disposal of dredged materials. This is essential since the Secretary of the Army is responsible for maintaining and improving the navigable waters of the United States.

One of the main deficiencies of this bill is that it treats dredged materials the same as industrial waste, sewage, sludge, or refuse introduced into a river system, lake estuary or ocean. The disposal of dredged material does not involve the introduction of new pollutants; it merely moves the material from one location to another. If polluted discharges from municipal and industrial sources are controlled as required by this bill, the disposal of dredged material in open water presents no significant problem.

There is no competent evidence to show that there is any increase in pollution or permanent effect on the marine environment in and adjacent to open water disposal areas resulting from typical dredged materials. Studies conducted by

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the Government show that there is no measurable effect.

The River and Harbor Act of 1970 authorized the construction of diked disposal areas for those Great Lakes harbors which are heavily polluted, and authorized a study of the characteristics of dredged spoil, and alternate methods of its disposal, including the effect of such disposal on water quality. The Public Works Appropriation Act for fiscal year 1972 included $30 million to initiate construction of the diked disposal areas for some thirty Great Lakes harbors. The authorized study of the characteristics of the spoil material has not been completed, and it would be unreasonable to place unjustified restrictions on the disposal of such materials.

The bill under consideration extends the authority of the corps to construct similar diked disposal areas in other parts of the country where found necessary.

The amendment which I propose requires that the Secretary of the Army apply the criteria established pursuant to subsection (c) of section 403, together with an evaluation of the impact of such sites on navigation and anchorage. It further requires that, in applying such criteria, the Secretary in cooperation with the Administrator shall determine those sites which would not adversely affect shellfish beds, fisheries—including spawning and breeding areas—or recreation areas.

The principal difference is that the permit authority remains with the Secretary of the Army who has the responsibility for maintaining and improving the navigable waters of the United States rather than placing this responsibility on the Administrator. As I have just pointed out, the Secretary must follow the same criteria as the Administrator. The bill, as reported, would in effect give the Environmental Protection Agency a veto power over the spoil disposal areas required for construction and maintenance of all navigation projects. The Secretary of the Army will not be obligated to require strict compliance with the effluent requirements established by the Environmental Protection Agency in issuing permits. The strict adherence to the published standards would result in 90 percent of the ports and harbors of the United States being closed, until such time as land disposal areas are provided. This would create a catastrophical situation with respect to our foreign and domestic commerce.

Perhaps the most significant effect of applying standards for the discharge of effluents as it relates to moving spoil material from one place in the waterway to another, without the interjection of new pollutants, is the effect these arbitrary and unsupported standards will have on the benefit-to-cost ratio of navigation projects.

We all recognize the need to protect our environment, but it is also necessary that we maintain a healthy economy. This is inherent in the declaration of policy in the Environmental Protection Act of 1970 which states:

The Congress . . . , declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all *practicable* means and measures, including financial and technical assistance in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which *men and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.*

For these reasons, I urge support of my amendment.

As I have said, the only authority granted here is to give the Secretary of the Army the right to make these determinations, but using the same criteria as provided for in the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. I yield.

Mr. BYRD of West Virginia. Mr. President, I have now consulted with the assistant Republican leader, and in the interest of saving time, I ask unanimous consent that the time allotted on each of the remaining rollcall votes be 15 minutes, instead of 20 minutes, and that the warning bell sound at the end of the first 10 minutes on each rollcall.

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, one of the most difficult challenges that has faced the Subcommittee on Air and Water Pollution for the past 8 to 10 years has been an effective way of making the Federal Government comply with environmental requirements in the same way that the Federal Government asks citizens to comply. At every turn we have taken, we have found an excuse as to why the Federal Government should have a lesser or different standard of performance or compliance from that of a private citizen. This has been true of defense installations, of dredging, and of many other activities. There is always a reason why the Federal Government should not do what is required of other citizens.

Title IV, which is involved in Senator ELLENDER's amendment, is addressed to this problem. Section 401, the certification section, is the applicable section. What this section does is this: This section, largely taken from present law, requires that any applicant for a Federal license or permit provide the licensing agency with a certification from the State in which the discharge occurs that any such discharge will comply with sections 301 and 302, which are the environmental control sections.

Is that an unreasonable requirement? All we ask is that activities that threaten to pollute the environment be subjected to the examination of the environmental improvement agency of the State for an evaluation and a recommendation before the Federal license or permit be granted.

What Senator ELLENDER's amendment would do would be to exempt dredging. There is no question that the Secretary of the Army should retain authority to permit dredging operations for the purpose of navigable water and channel maintenance. It is a mission-oriented agency, and this is its mission. We do not undertake to turn that mission over to anybody else, and that specific activity should not be interfered with by the Environmental Protection Agency.

But, conversely, spoil disposal should be subject to EPA regulations. Spoil disposal is a pollutant. Any person who wished to dump polluted dredge spoil into navigable waters would be required, under this section, to get a permit from EPA or the State, just as would be required of other discharges.

The question of spoil disposal is one of cause, as is the question of pollution control in general. There is no question that the technology of alternative disposal of dredge spoil exists. The land disposal techniques advocated in title II as a result of the Corps of Engineers studies are available for disposition of dredge spoil.

So, what section 401 would require is that the pollution potential of the proposed dredge spoil be evaluated by EPA and that the environmental impact of disposing of dredge spoil in particular locations or sites, as recommended by the Corps of Engineers, be evaluated by EPA. If we eliminate those two checks by the only agency we have to evaluate environmental damage and make dredgers exempt, as no one else is under this bill, from this kind of monitoring and supervision, it means releasing them from all control.

The Corps of Engineers, a mission-oriented agency, is not equipped to evaluate the environmental impact of these dredging activities. It is equipped to form judgments on what is needed for navigation. This bill does not take that judgment-making authority from it. The amendment would shift the environmental evaluation authority from EPA to the Corps of Engineers, and the committee is against it. The committee considered this and rejected it. The committee position is "no," and I urge the Senate to vote "no" on this amendment.

Mr. STENNIS. Mr. President, will the Senator yield for a question?

Mr. MUSKIE. I yield.

Mr. STENNIS. Mr. President, as I understand the Senator from Louisiana, all he proposes by his amendment is to treat with dredge material, which has a very definite meaning, as I understand it; and his statement says that studies conducted by the Government show that there is no measurable effect by what are really dredge materials with reference to pollution. This would have to meet the same requirement, anyway, under his amendment, any project, as is set up for the standards to be used by environmental agencies. Is that not correct?

Mr. MUSKIE. No, not as I read it. Let me read the amendment:

The Secretary of the Army may issue permits, after notice and opportunity for public hearing, for the discharge of dredged materials into the navigable waters at specified disposal sites.

That is the Secretary of the Army. That is not the administrator of the EPA. So that is different.

In identifying disposal sites for the purpose of subsection (a), the Secretary—

Not the administrator of EPA, but the Secretary—

Shall apply the criteria established pursuant to subsection (c) (1) of section 403 . . .

In other words, the Secretary shall make the environmental judgments that under the bill are entrusted to the Administrator of EPA.

Mr. STENNIS. But they are the same standards that are being applied under the Senator's amendment and the bill.

Mr. MUSKIE. May I say to the Senator—and I will expand on the point—that we have found—and the hearings of our committee are replete with the evidence—that mission-oriented agencies whose mission is something other than concern for the environment simply do not adequately protect environmental values. That is not their mission. They would do a disservice to their mission if they would try to act as environmental protectors. The mission of the Corps of Engineers is to protect navigation. Its mission is not to protect the environment.

Mr. STENNIS. In the beginning, the Senator used the words "making excuses."

Mr. MUSKIE. No—exemptions.

Mr. STENNIS. I do not think there is anything about agencies making excuses for not doing this or that.

I found the Corps of Engineers to be as competent and capable an agency of the Government as I have ever run into and the job they do is excellent, truly outstanding. I am now chairman of the subcommittee that handles the public works appropriation bill, and I have been on the committee for 20 years, and thus I come in contact with the work of the corps nationwide. I know, if I am any judge of men—and I know them personally—that they are going all the way in doing the best they can under this new law. They are in sympathy with it. This amendment excepts this dredging. It does not touch the pollutants the Senator mentions, the pollutants, sludge, refuse, and so forth——

Mr. MUSKIE. Those pollutants are found in areas that are dredged. They form the bottom of the sludge. The Senator says the agencies are in sympathy with this legislation. They are, but they do not want to be under it. They do not want it to apply to them.

Mr. STENNIS. We authorized $30 million this year for a Great Lakes project where they have all these pollutants; it is to provide dikes to control the pollutants. This is a program handled by the Engineers.

Mr. MUSKIE. I do not understand. Will the Senator please tell me why, of all the misoriented agencies subject to the 40 percent—this includes the AEC and every other agency—why the Corps of Engineers only with respect to dredging should not be subject to what we are requiring of every other agency?

Mr. STENNIS. In order to get their job done. This project has got to stand by and wait and wait and wait for the application. They new Agency has not been in operation very long. I do not charge them with wrongdoing but they need time to develop. The Senator from Louisiana (Mr. ELLENDER) has now returned to the Chamber and I am willing to yield to him, but something must be done. This is a real problem as to how far we are going in stopping all the many hundreds of projects that are in progress already or beginning to make progress. If we stop progress on the ports and harbors all over this country for a while, stop working on improving them, the economy will stagnate.

Mr. MUSKIE. Will the Senator refer me to that provision in the bill that stops these activities——

Mr. STENNIS. That is the practical effect of it.

Mr. MUSKIE. Will the Senator expand on that for me, as to what the practical effect will be?

Mr. STENNIS. Here is an illustration right here, this dike project for the Great Lakes, a project which impressed our subcommittee very much on which, unless there can be some "go" sign given, at least on a temporary basis, until the adjustments can be made and the matter can be clarified, will be stopped and we will be stopping them all over the country—absolutely.

Mr. MUSKIE. May I say to the Senator that if the Senator means what he has just been saying, then he should vote against the bill, because what we are talking about is subjecting every activity in the private and public sector in the kind of place he is insisting for this dredging, whether we are talking about papermills, chemical mills, oil refineries, cotton mills, textile mills—they are all subject to this kind of scrutiny, and every other Federal activity is. So I can understand if the Senator says it goes too far and he will vote against the bill. Why he should advocate this kind of control over every other activity in the public and private sector simply for the exemption of dredging, is beyond me.

Mr. STENNIS. I submit that I advocate a reasonable basis. I think, as a practical matter, that it is a necessary one. I appreciate all the fine work the Senator has done on this bill, but indignation is not enough just to get a bill passed—

Mr. MUSKIE. No, and it is not enough to support an amendment, either.

Mr. STENNIS. We have got to have reasonable environmental protection and at the same time operate the economy of this country.

I thank the Senator very much for yielding to me.

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

Mr. MATHIAS. Mr. President, will the Senator from Maine yield so that I may ask him one or two questions on this subject?

Mr. MUSKIE. I am happy to yield to the Senator from Maryland.

Mr. MATHIAS. Section 209(b)(2)(C)(ii) on page 63 requires an areawide waste treatment plan to provide for the establishment of a program "to regulate the location, modification, and construction of any facilities . . . which may result in any discharge of pollutants." Would the certification procedures of section 401 or the permits of section 402 represent a sufficient program to regulate the location or construction of any facilities or would further procedures be required.

Mr. MUSKIE. It is intended that the requirements under section 209 will not necessarily be satisfied by compliance with section 401 and section 402. Sections 401 and 402 provide for controls over discharge. Section 209 anticipates controls over the location of facilities to comply with an overall plan for protection of the Nation's water. Section 209 is prevention oriented, not control oriented.

Mr. MATHIAS. Does Section 301(b)(2)(A) on page 76 contemplate that a State, or the Administrator if appropriate, might be able to set the 1981 effluent limitations almost on an individual point source by point source basis?

Mr. MUSKIE. Section 301(b)(2)(A) as well as section 301(b)(1) anticipate individual application of controls on point sources through the procedures under the permit program established under section 402.

Mr. MATHIAS. Section 304(a)(1) on page 79 requires the Administrator to develop criteria on the dispersal of pollutants.

Does this mean that he will develop criteria on the so-called mixing zones for pollutants or areas of heat dispersal for thermal discharges from steam electric generating plants?

Should a State take these criteria on dispersal of pollutants into account in setting effluent limitations?

Mr. MUSKIE. The answer is: Dispersal for purposes of 304(a)(1) does not mean mixing zones or areas of heat dispersal. It means the mechanisms or pathways by which pollutants move through aquatic systems. The pathway of DDT through the foodchains to higher levels of animal life is an example of what is meant by dispersal under section 304(a)(1).

Criteria under section 304(a) are to be applied in determining quality of water, not in setting effluent limitation. The information under section 304(b) is to be applied in setting effluent limitations.

Mr. MATHIAS. The Administrator has been trying to require all new steam electric powerplants adjacent to Lake Michigan to build cooling towers for condensing water being returned to the lake. Would this no discharge of a pollutant provision mean that every powerplant to be built anywhere in the United States in the future would have to have a cooling tower?

Would it be permissible, under the provisions of this legislation, for steam electric generating plants to have recognized as the best available technology the use of: Cooling ponds; cooling lakes; cooling canals or lagoons; spray ponds; damming a stream or creek to create a privately owned cooling lake; and once through cooling and discharge into the Gulf of Mexico, the Atlantic Ocean, or the Pacific Ocean?

Mr. MUSKIE. The establishment of control technology under the bill provides flexibility in application of various technological responses to meet a particular problem. In the case of power generating facilities, it is the discharges from towers, ponds, lakes, and so forth, that the committee is concerned with, not the technology.

Mr. MATHIAS. Section 106(h)(3) on

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page 30 provides that EPA shall not make any grant to assist a State in carrying out programs to prevent or eliminate water pollution unless the State has a procedure for preconstruction review of the location of all new sources. Can the States assume that the certification procedure of section 401 or the permit program of section 402 are to be construed as being sufficient procedure to meet the requirement of this section 106(h)(3)?

Mr. MUSKIE. A properly drawn permit program under section 402 could meet the requirements of section 106(h)(3).

Mr. MATHIAS. I thank the distinguished Senator from Maine for this helpful colloquy.

The PRESIDING OFFICER (Mr. WILLIAMS). Who yields time?

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MUSKIE. Mr. President, I suggest that the time for the quorum be taken out of no one's time.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will be seated.

Mr. MUSKIE. Mr. President, I would like to report to the Senate that I think the quorum call time was used fruitfully, and I do not really intend a pun.

Mr. President, I would like to offer a substitute for the Ellender amendment. I will read the amendment and then send it to the desk. The amendment reads as follows:

On page 159, between lines 14 and 15, add a new subsection, as follows:

(m) Any application for a permit under this section for the discharge of dredged spoil into the navigable waters (other than in confined disposal sites) shall be accompanied by a certificate from the Secretary of the Army that the area chosen for disposal is the only reasonably available alternative and, unless the Administrator finds that the matter to be disposed of will adversely affect municipal water supplies, shellfish beds, wildlife, fisheries (including spawning and breeding areas) or recreation areas, such permit shall issue.

Mr. President, I send the amendment to the desk as a substitute. This language has been worked out with agreement among those involved in the debate, and those on the other side of the issue who are concerned about the activity to be permitted or the environmental protections to be advanced.

The PRESIDING OFFICER. The time of the Senator from Maine has expired. Does the Senator from Louisiana yield back his time?

The Parliamentarian advises the Chair that before the substitute amendment is in order, all time must be yielded back.

Mr. MUSKIE. I yield back my time.

Mr. ELLENDER. I yield back my time.

Mr. PASTORE. May I ask a question before all time is yielded back?

Mr. MUSKIE. We are yielding back time in order to get more time on the substitute.

Mr. PASTORE. Very well. As long as I can ask my question.

The PRESIDING OFFICER. All time on the amendment is yielded back.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the reading of the substitute amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. And, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 159, between lines 14 and 15, add a new subsection, as follows:

"(m) Any application for a permit under this section for the discharge of dredged spoil into the navigable waters (other than in confined disposal sites) shall be accompanied by a certificate from the Secretary of the Army that the area chosen for disposal is the only reasonably available alternative and, unless the Administrator finds that the matter to be disposed of will adversely affect municipal water supplies, shellfish beds, wildlife, fisheries (including spawning and breeding areas) or recreation areas, such permit shall issue."

Mr. PASTORE. Mr. President, I notice there is a certificate to be given by the Secretary of the Army subject to some activity by the Administrator. Do we mean the Administrator of the EPA?

Mr. MUSKIE. Yes.

Mr. PASTORE. Does not the Senator think there should be some limitation of time? It could run up the cost if this matter is dilly-dallied.

Mr. MUSKIE. There is in the basic title.

Mr. PASTORE. This is an exception; it is being treated as an exception, is it not?

Mr. MUSKIE. Let me state what I think the language means. First, it retains the permit issuing authority in the EPA.

Mr. PASTORE. Right.

Mr. MUSKIE. That is the principal point. Second, it specifies the particular environmental risks that we conceived of as being incurred by the disposal of spoil. So in a sense, by being more specific rather than general it should expedite the process. Finally, it retains authority for the Secretary of the Army to make the judgments he should as to the economic feasibility or other feasibility in selecting the site.

Mr. PASTORE. Mr. President, may we have the amendment carefully read again?

The PRESIDING OFFICER. Will the Senator from Maine read the amendment?

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MUSKIE. Mr. President, the substitute amendment reads as follows:

On page 159, between lines 14 and 15, add a new subsection, as follows:

"(m) Any application for a permit under this section for the discharge of dredged spoil into the navigable waters (other than in confined disposal sites) shall be accompanied by a certificate from the Secretary of the Army that the area chosen for disposal is the only reasonably available alternative and, unless the Administrator finds that the matter to be disposed of will adversely affect municipal water supplies, shellfish beds, wildlife, fisheries (including spawning and breeding areas) or recreation areas, such permit shall issue."

Mr. PASTORE. Does that same rule apply with reference to all other procedures?

Mr. MUSKIE. My answer would be yes, but I want to be sure from the technical point of view that I am correct.

Basically, yes.

Mr. PASTORE. So that I will make myself clear, we authorize these projects by the Corps of Army Engineers. Many times we found if they are denied the costs automatically go up, and many times in local communities there is tremendous pressure that this be done, like dredging a harbor.

If it is left up to the EPA, which is only interested in the environment, without regard to the economic reasons, and it is left up to him to exercise discretion as he sees fit, at his own convenience, we may run up against a proposition where we have to increase the appropriation the next time we meet.

It strikes me that once the application is made with this certificate there should be an obligation on the part of the EPA to act in a reasonable period of time. I do not care if it is 2 weeks, 1 month, or 6 months, but there should be a time within which to act. Possibly it could be put in there that within a certain date he make such a determination.

Mr. MUSKIE. If we put that in, it would be a different procedure. This language states "such permit shall issue." It is a mandatory requirement.

Mr. PASTORE. But it states unless the Administrator finds thus and thus. Would he be given a year to find it out, 2 years, or 30 days to find it out?

Mr. STENNIS. A reasonable time.

Mr. MUSKIE. I do not know of any limitations that apply to the Secretary of the Army in putting those projects together. I remember, as Governor of my State, that I was interested in dredging harbors, and I did not find the Corps of Engineers the fastest agency on earth in meeting requirements. If time limitations are going to be applied, let them also be applied to the Corps of Engineers.

Mr. PASTORE. I have not been brought up to hate the Army Corps of Engineers. I think they do a good job. They are serving the public interest according to our authorizations and appropriations. They do not act on their own. They act by the mandate of Congress. I do not care if the Senator puts it in or not. I am just raising the question.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. MUSKIE. This substitute is offered on behalf of myself and the Senator from West Virginia (Mr. RANDOLPH) as chairman of the full committee, the Senator from Kentucky (Mr. COOPER), the ranking Republican member, the Senator from Delaware (Mr. BOGGS), who is the ranking Republican member of the subcommittee, and it has the consent of the introducer of the original amendment.

The PRESIDING OFFICER. Does the Senator from Delaware yield back the remainder of his time?

Mr. BOGGS. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the yeas and nays be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment as amended.

The amendment, as amended, was agreed to.

The bill is open to further amendment. Are there further amendments?

The Chair recognizes the Senator from Tennessee.

Mr. BAKER. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER (Mr. NELSON). The amendment will be read.

The legislative clerk proceeded to read the amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 183, line 2, insert the following new subsection:

"(d) The requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) as to water quality considerations shall be deemed to be satisfied—

"(1) by certification pursuant to section 401 of this Act with respect to any federal license or permit for the construction of any activity which may result in any discharge into the navigable waters of the United States; and

"(2) by certification pursuant to section 401 of this Act and the issuance of a permit pursuant to section 13 of the Act of March 10, 1899, or section 402 of this Act with respect to any federal license or permit for the operation of any activity which may result in any discharge into the navigable waters of the United States.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. NELSON). The Senate will be in order. Will those Senators who wish to carry on conversations retire to the cloakroom? The Senate will be in order. We will not proceed until the Senate is in order.

The Senate is not in order.

The Senate is still not in order.

The Senator from Tennessee will proceed.

Mr. BAKER. Mr. President, I must say that is the most "in order" I have ever heard in the Senate.

Mr. President, the purpose of this amendment is to clarify the relationship between the Federal Water Pollution Control Act, as this bill would amend it, and the National Environmental Policy Act of 1969.

Section 21(b) of the existing Federal Water Pollution Control Act provides that any Federal agency charged with the responsibility of issuing a Federal license or permit for the conduct of any activity which may result in any discharge into the navigable waters of the United States must, prior to the issuance of such license or permit, receive certification from the State in which such activity will be conducted that the activity will be conducted in a manner that will not violate water quality requirements. Section 21(b), with minor changes, appears as section 401 of the pending bill, S. 2770.

The National Environmental Policy Act of 1969—Public Law 91-190—vests in any Federal agency having jurisdiction over any action significantly affecting the quality of the human environment as affirmative duty to weigh environmental impact in determining whether a given action should proceed and, if so, how such an action can minimize its impact on the environment. The issuance of a license or permit by any Federal agency, when the activity licensed or permitted results in a discharge into the Nation's waters, is clearly one of the kinds of actions embraced by the National Environmental Policy Act—NEPA.

In July of this year the U.S. Court of Appeals for the District of Columbia handed down a far-reaching, and as yet unreported, decision in what has become known as the "Calvert Cliffs" case (U.S.C.A., D.C., — F. 2d. —, July 23, 1971). In its opinion the Court said, in part:

NEPA mandates a case-by-case balancing judgment on the part of federal agencies. In each individual case, the particular economic and technical benefits of planned action must be assisted and then weighed against the environmental costs; alternatives must be considered which would affect the balance of values.

I wholly concur with the Court's view of the affirmative mandate imposed by NEPA.

It seems to me most desirable, however, that each Federal permitting and licensing agency not be required by the operation of NEPA to develop special expertise vested by the Congress in other agencies. It was, in fact, to avoid this kind of duplication that the Congress enacted section 21(b) of the Federal Water Pollution Control Act in 1970. As I said earlier, section 21(b), with some modification, appears as section 401 of the pending bill.

My amendment would make it clear that, for the purposes of making the kind of "balancing judgment" required by NEPA, each individual Federal permitting and licensing agency would not be required to develop its own special expertise with respect to water quality considerations. My amendment should not in any way be construed to mean that water quality considerations do not play a role in such a "balancing judgment." On the contrary, where pertinent, water quality considerations must be considered by any agency when it decides, under the NEPA mandate, whether it is in the public interest to grant a license or permit and, if so, under what conditions and stipulations.

However, my amendment would relieve any such permitting or licensing agency of the responsibility for determining on its own the standard of performance or effluent limitation that must be applied to the activity under consideration for a license or permit. That determination would be made by a State or by EPA pursuant to sections 401 and 402 of the pending bill. Certification pursuant to section 401 or the issuance of a permit pursuant to section 402 would discharge a licensing or permitting agency from any further consideration as to what specific degree of effluent control was required with respect to water quality considerations for the activity under consideration.

Mr. President, if I may have the attention of the distinguished manager of the bill, I believe this is a matter that it is felt has its proper place in clarifying the decision in the Calvert Cliffs case. I believe it does no violence to the laudable purpose of the Calvert Cliffs case. I believe it is necessary if we are to avoid duplication which would inevitably occur. I would genuinely hope that the manager of the bill might consider accepting the amendment.

Mr. MUSKIE. Mr. President, as I understand it, the thrust of the amendment, which has been changed pursuant to my letter of October 27, 1971, is to preserve equally the authority to balance out the environmental protection. I believe we have an understanding as to the thrust of the amendment, and I have no objection to accepting it.

The PRESIDING OFFICER. Do Senators yield back the balance of their time?

Mr. BAKER. Mr. President, I yield back the balance of my time.

Mr. MUSKIE. Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BAKER. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER. The amendment of the Senator from Tennessee will be read.

The legislative clerk read the amendment, as follows:

It is proposed, on page 48, line 10, to delete the words ", by grant,".

Mr. BAKER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I yield myself such time as I may use, and I assure my colleagues I shall not detain the Senate very long.

I would like to address myself at this point to one aspect of the pending legislation that particularly troubles me, and that has to do with the explicit requirement in section 202, which appears on page 48 of the bill, that State financial assistance in the treatment works pro-

gram be in the form of direct, nonrecoverable grants.

My own State of Tennessee is among several States which have devised a method of financing the State share of the waste treatment works program that is, in my judgment, entirely legitimate and consistent with the spirit and the letter of existing Federal law. In 1970 the Tennessee General Assembly passed, in accordance with its sovereign constitutional procedures, a public act which authorized the sale of State bonds, the proceeds of which are used to pay to eligible applicants for waste treatment grants 25 percent of the project cost. Those bonds are retired by the revenues generated by the imposition of a State user charge on the users of the treatment works thus financed. This arrangement was unconditionally approved by the Department of the Interior, in which the Federal Water Pollution Control Administration was then operating.

Section 202 of the pending bill would explicitly prohibit the use of such a mechanism in the future. I find this an unwarranted intrusion into the freedom of each State to develop its own financial arrangements.

I also find this provision, and the rather strong language that appears on page 26 of the accompanying report, to be entirely inconsistent with the provisions of section 204 of S. 2770, beginning on page 49 of the bill, which would impose, as a precondition of any grant, a detailed system of user charges, and particularly that requirement of section 204 (b) (1) (B) which requires the recovery through user charges of the Federal share of the capital cost of each facility apportionable to each industrial user. I am at a loss to understand how we can, on the one hand, require the recovery of a part of the Federal "grant" and, on the other hand, prohibit the recovery by the States of part or all of the State "grant." It seems to me a clear case of a double standard.

In order to remedy what seems to me a wholly unwarranted and unjustifiable intrusion into the financial prerogatives of various States, I propose that the Senate strike the words "by grant" which appear on page 48, line 10.

It has been brought to my attention that the same or similar situation to the Tennessee situation exists in other States, and I name the States: Alabama, Colorado, Florida, Louisiana, Minnesota, North Dakota, Ohio, Tennessee, and Texas.

I do not represent on my own authority that the situation in each case is identical to the case which exists in Tennessee, but the net import of S. 2770 is to prohibit a State matching share program which puts up State money which is recovered by a system of the user charges. That, according to my present understanding, would invalidate the present standards in nine States.

To reiterate, but only briefly, I hardly think it fair, Mr. President, to pass S. 2770, which mandates that the Federal Government will recover its share, but to prohibit that the State government can recover its share, by user charges.

Mr. President, I reserve the remainder of my time.

Mr. MUSKIE. Mr. President, the issue raised by this amendment can be very simply stated. I think it is necessary to make a record on it, in the light of what happened to the 1966 act.

In the 1966 act, we established a basic Federal contribution for cost of treatment work. That was 30 percent. We also provided in the bill that the Federal contribution would increase to 50 percent in every State where the State contributed 25 percent.

Administratively, since that time, that provision of the 1966 act has been interpreted to make State loans equally eligible with State grants for the increased Federal contribution. I did not believe that that was equitable to those States which had already authorized and were making State grants to municipalities for the cost of treatment work.

I would like to put in the record now, since this is the first time the issue has arisen on the Senate floor, language from the House report on the 1966 act and from the conference report, to support what I have just said.

This language is from the House report:

> Under present law, the dollar limitations are removed and the Federal Government contributes 30 percent if the State contributes 30 percent to all projects in the State funded with Federal grants under this program from the same allocation. Under the bill, the dollar limitation would still be removed, but the 30-percent Federal grant would be increased to 40 percent, if the State made its 30-percent contribution.

Then, from the conference report, I quote this language:

> The 30-percent limitation imposed by clause 2 shall be increased to a maximum of 40 percent in the case of grants made from funds allocated to a State, if the State agrees to pay not less than 30 percent.

It was clearly our intention to make only State grants eligible for the increased Federal support. It has been interpreted otherwise, and we were confronted with that situation when we wrote this year's bill.

So we increased the Federal contribution, the basic contribution, to 60 percent, in order to wipe out the discrepancies between States which contributed grants and those which contributed loans. So that distinction was irrelevant, up to 60 percent.

We thought that would solve the problem. Then we said that in addition to that 60 percent, the Federal Government would provide another 10 percent if the States contributed a grant of 10 percent.

Now, the purpose of the Baker amendment is to return us to what I consider to be the inequity of the interpretation of the 1966 act.

By increasing the basic Federal act to 60 percent, we put everybody on an equal footing, whether they were getting State grants or State loans. Then we said—

> In making this fresh start, we still would like to retain at least a portion of those State grant programs which had been enacted under the 1966 Act, and if States want to enact loan programs in addition, without qualifying for Federal assistance, that is up to them, but X number of States have enacted programs with grants, and we would like to save some of them.

If we make loans equally eligible for increased Federal support, why should not States with grant programs wipe out the grant programs, substitute loan programs, and get the increased Federal support? That would impose a penalty upon the municipalities, which would then have to put up that extra 10 percent, and relieve the States of an obligation which they had willingly assumed.

I have in my hand a table listing some of the States that have put up grant money. They include Alaska, Arkansas, California, Connecticut, Delaware, the District of Columbia, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia Islands, Virginia, and Wisconsin.

That is important money to keep in this program, and some of these States are putting up as much as 30 percent of the project costs. If we give them 10 percent more Federal money, they might even keep the whole 30 percent in the program. But if we say to them, "You are eligible if you give up the 10-percent grants to the communities," why should not the States with straitened budgets withdraw their grant programs, turn to loan programs of 10 percent, and save the Federal support?

It makes no sense to me to reestablish an inequity that we went to great trouble in this bill to wipe out. I hope the Senate will vote "no" on the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. I yield myself 1 minute.

Mr. President, I disagree with the distinguished manager of the bill that this is a loan program. It seems to me that if the State of Tennessee provides the funds for the State's matching share, and advances them to a local instrumentality, and then requires of that instrumentality that the instrumentality levy and assess a user charge on its customers—not the local community, but its customers—to recover that State-local share, that is the State's business.

It is no loan. There is no loan document involved. The State may or may not borrow that money. It is a requirement, instead, that there be a user charge to recover the costs advanced by the State.

I believe if we go so far as to tell the States how they have to raise and spend their local matching share, as well as telling them how much, we have completely dealt the States out of this whole program.

I am willing now to yield back the remainder of my time.

Mr. MUSKIE. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. NELSON). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Tennessee (Mr. BAKER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Louisiana (Mr. ELLENDER), the Senator from Hawaii (Mr. INOUYE), the Senators from Montana (Mr. MANSFIELD and Mr. METCALF), and the Senator from Alabama (Mr. ALLEN) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Pennsylvania (Mr. SCOTT), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 38, nays 50, as follows:

[No. 288 Leg.]

YEAS—38

Allott	Dole	Miller
Baker	Dominick	Packwood
Beall	Eastland	Pearson
Bellmon	Ervin	Saxbe
Bennett	Fannin	Sparkman
Brock	Gambrell	Spong
Buckley	Griffin	Stennis
Burdick	Hansen	Stevens
Byrd, Va.	Hruska	Talmadge
Chiles	Jordan, N.C.	Tower
Cook	Jordan, Idaho	Weicker
Cotton	Long	Young
Curtis	Mathias	

NAYS—50

Aiken	Hart	Muskie
Anderson	Hartke	Nelson
Bayh	Hatfield	Pastore
Bentsen	Hollings	Pell
Bible	Hughes	Percy
Boggs	Humphrey	Proxmire
Brooke	Jackson	Randolph
Byrd, W. Va.	Javits	Ribicoff
Cannon	Kennedy	Roth
Case	Magnuson	Schweiker
Cooper	McClellan	Smith
Cranston	McGee	Stafford
Eagleton	McGovern	Stevenson
Fong	McIntyre	Symington
Fulbright	Mondale	Tunney
Gravel	Montoya	Williams
Harris	Moss	

NOT VOTING—12

Allen	Gurney	Mundt
Church	Inouye	Scott
Ellender	Mansfield	Taft
Goldwater	Metcalf	Thurmond

So Mr. BAKER's amendment was rejected.

Mr. CHILES. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. CURTIS). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with; and, without objection, the amendment will be printed in the RECORD.

The text of the amendment is as follows:

> On page 4, line 12, insert a new paragraph as follows:
>
> The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake, in the civil works program, projects for research, development, demonstration, and construction (including dredging) of works for the collection, purification, storage, and reuse of storm waters, sewage, and water-borne waste, for the purpose of preventing, abating and controlling water pollution. Those projects shall have priority which reflect the most favorable ratio of environmental benefits to cost. Projects authorized by this Act shall be subject to all the applicable provisions of law relating to flood-control projects, as determined by the Secretary of the Army.

Mr. BYRD of West Virginia. Mr. President, my understanding is that there are one or two additional amendments, neither of which will require rollcall votes.

I ask unanimous consent that time on any amendment be limited to 10 minutes, to be equally divided.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. CHILES. Mr. President, the purpose of the amendment would be to assign to the Corps of Engineers a role to play in regard to environmental work and, specifically, in controlling water pollution.

It has been brought out many times that the primary role of the Corps of Engineers has been to dredge, to despoil, really, to dig up the land, that their primary role has never been to conserve or protect.

The purpose of the amendment would be to assign to the Corps of Engineers a role in the civil works program, projects for research, development, demonstration, and construction—including dredging—of works for the collection, purification, storage, and reuse of storm waters, sewage, and waterborne waste, for the purpose of preventing, abating, and controlling water pollution.

This Amendment would allow the Corps of Engineers to be the good guys as well as the bad guys.

Mr. RANDOLPH. Mr. President, will the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. RANDOLPH. The concept expressed by the Senator from Florida is certainly an understandable one. However, in the consideration of this bill, I believe that the specific tasks set forth for the Corps of Engineers would be better handled if we examined the thinking of the Senator from Florida by hearings.

I talked with the able chairman of the Subcommittee on Rivers and Harbors and Flood Control, and assure the Senator from Florida that there will be hearings early in January of next year on the purpose of his amendment. I hope that we can clarify, perhaps even before the hearings, some of the situations which the Senator from Florida calls to our attention this evening.

Would that be satisfactory to the distinguished Senator from Florida?

Mr. CHILES. I am delighted to hear the proposal of the able chairman, the Senator from West Virginia (Mr. RANDOLPH) on this matter. I think that it would. This has been made clear to me in the proposal to dredge in the Miami River, which we were told the Corps of Engineers did not have authority to do. It can dredge for navigation purposes, but for cleaning up they did not have that authority to dredge. So it would certainly be for that purpose; and with that kind of assurance, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. PELL. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, further reading of the amendment will be dispensed with; and, without objection, the amendment will be printed in the RECORD.

The text of the amendment is as follows:

> On page 11, line 4, after the period, insert the following:
>
> In conjunction with the development of criteria under section 403 of this Act, the Administrator shall construct the facilities authorized for the National Marine Water Quality Laboratory established under this subsection.

Mr. PELL. Mr. President, the amendment I offer is brief and, I believe, noncontroversial, but it is important to the ultimate success of our entire national water quality program.

The amendment simply calls for the construction of laboratory facilities for the National Marine Water Quality Laboratory—laboratory facilities for which the Congress appropriated money a full 9 years ago.

The National Marine Water Quality Laboratory, located in West Kingston in my own State of Rhode Island, has the vital responsibility of developing scientific criteria for marine water quality standards. The dedicated laboratory staff is doing an excellent job, but its performance has been hampered by lack of adequate facilities.

The staff now does its work in temporary quarters in an abandoned, ramshackle factory. Sea water for the laboratory is actually trucked to the laboratory from the ocean and Narragansett Bay, some 9 miles away. In cases in which circulation of fresh marine water is required, the laboratory is forced to conduct its research on an old, rotting, surplus Government barge which has been condemned as unsafe for transportation uses.

An excellent site for a new laboratory has been donated to the Federal Government by the State of Rhode Island. The site is an ideal one on the shore of Narragansett Bay, in the center of an existing research complex that includes two other Federal laboratories with related missions—the Northeast Water Hygiene Laboratory and the Northeast Sports Fisheries Laboratory—and the ocean research laboratories of the University of Rhode Island's Graduate School of Oceanography.

The long delay in construction of this

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laboratory facility, whatever the reasons, is deplorable. Additional delay now, when the urgent need for research on water quality criteria is so clear, would be nothing short of a national disgrace.

As the distinguished manager of the bill knows so well, development of water quality criteria is basic not only to our national water quality program, but to any meaningful international environmental program as well.

One has only to read the legislation before us to realize the importance of water quality criteria. The bill is literally sprinkled with requirements for the development, and promulgation of criteria, information and guidelines on the specific effect of pollutants on human health, on marine organisms, and the marine environment generally.

It is quite clear that without a solid scientific base, of water quality criteria, the effectiveness of the entire national water quality program will be seriously hampered

In addition, we must consider the fact that we are now preparing for the first comprehensive international conference on environmental problems—the United Nations Conference on the Human Environment to be held in Stockholm next year. We are not going to be in a good position to get effective international agreements on ocean and atmospheric pollution control unless we have the basic scientific data, showing what damage specifically is done by specific pollutants.

That is what water quality criteria is all about, and I just do not believe that the laboratory assigned this vital mission should continue to work under the severe physical handicaps now existing.

Mr. President, I want to emphasize that I am not assigning to anyone blame for the delay in construction of this important laboratory facility. In fact, since we first provided funds for the laboratory, the Congress has transferred the water quality program, and the laboratory, from the Department of Health, Education, and Welfare to the Interior Department, and last year to the new Environmental Protection Agency. Each transfer prompted a full-scale organizational review which delayed the laboratory. There were, in addition, Federal construction freezes imposed during the height of expenditures for the war in Vietnam

I have kept in close touch with scientists and officials of EPA on this laboratory. I am satisfied that from a scientific and program viewpoint they want this laboratory facility very badly, so they can do a better job of protecting this country's marine environment.

My amendment simply tells the executive branch that we also consider it very important, and that we will give our environmental scientists the tools they need to do the very difficult job we have given them.

Mr. President, the Providence Journal and Evening Bulletin recently completed an exhaustive study of the water pollution problems and conditions in the State of Rhode Island. Mr. Robert C. Frederiksen, the distinguished environmental reporter for those newspapers, in summarizing the findings of that study, emphasized the importance of providing adequate, permanent facilities for the National Marine Water Quality Laboratory.

Mr. Frederiksen said:

> The years of delay in bringing this about and resulting delays in establishing salt water quality standards, monitoring and measuring methods, is nothing less than scandalous.

As one who has been pressing the executive branch for years to carry out the intent of the Congress by constructing this laboratory, I endorse that conclusion wholeheartedly.

Mr. President, I urge acceptance of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, the distinguished Senator from Rhode Island discussed this amendment with me earlier. It meets with the approval of both the ranking Republican, the Senator from Delaware (Mr. Boggs) and myself. It is consistent with several approaches in the bill.

Mr. COOK. Mr. President, if the Senator will yield, the Senator from Rhode Island just said that this money was appropriated 9 years ago.

I merely wish to make inquiry either of the distinguished Senator from Rhode Island or the distinguished manager of the bill.

If the money was appropriated 9 years ago and the Senator now wants to add this in the bill, how much increase in the cost of the project have we seen in allowing this thing to go for a period of 9 years? Are there sufficient funds to see that this can be built, or would there have to be a supplemental appropriation to do it?

Mr. PELL. Mr. President, the Senator has picked up a very valid point. Some of the funds originally appropriated still are available. However, additional funds would be required.

Mr. COOK. Mr. President, does the Senator have any idea what the increased cost is? Do we have the slightest idea what we are talking about in dollars and cents? If the cost of construction has gone up 5 to 6 percent a year and this is 9 years, we could be talking about doubling the original appropriation, if not more.

Mr. PELL. Mr. President, the funds are available to complete the laboratory by reprograming within the administration. It would be about $2 million additional that would be required.

Mr. COOK. What is the original sum that was appropriated for the project?

Mr. PELL. The original sum appropriated was in the neighborhood of $4 million both for a fresh water laboratory and for this salt water laboratory.

Mr. COOK. It is now approximately $2 million additional?

Mr. PELL. The Senator is correct.

Mr. COOK. Mr. President, is there any effort on the part of the manager of the bill to add the cost of the project?

Mr. PELL. No, because the funds are available from other sources within the administration.

Mr. COOK. Mr. President, I wanted to make that point.

Mr. COOPER. Mr. President, the Senator from Rhode Island very kindly spoke to me about the amendment and explained the long history of this proposal and the type of research such a facility could accomplish. I do not have any doubts about the merits. However, I must say that I do not think it is good practice in a bill such as this to single out special facilities.

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. BOGGS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment was agreed to.

Mr. BOGGS. Mr. President, I yield 2 minutes on the bill to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. MILLER. Mr. President, with a view of making legislative history, I would like to ask the distinguished manager of the bill a question with reference to section 206. I am referring to page 56 of the bill. With regard to this section raising the Federal share to not less than 50 percent on all projects on which construction has been initiated in a State after June 30, 1966, is it the intent that municipalities that initiated construction after that date would be eligible for not less than 50 percent of the cost of the project where the State had participated in the project?

Mr. MUSKIE. That is the intention. That is one of the two principal reasons why that was included in the bill.

Mr. MILLER. I thank the Senator. I would like to ask the Senator one other question, and this refers to approval by a State water control agency back prior to 1966. A good many States did not have a water control agency at that time. However, such agencies as the State department of health would give approval. Would that satisfy it for the purpose of the statute?

Mr. MUSKIE. It would. We are principally concerned with whether a project met the standards at that time. There would be other ways of determining that.

Mr. President, the Senator from Arizona has some questions. Do any other Senators have any other questions or amendments?

Mr. BOGGS. Mr. President, I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. FANNIN. Mr. President, I would like to pose a few questions to the manager of the bill.

Section 104 on page 7 authorizes the EPA Administrator to encourage, promote, render technical services to, and provide grants for "private organizations and individuals" to do all sorts of things from studies relating to the prevention and elimination of water pollution to conducting public investigations of pollution of any navigable water. Can anything in this legislation be construed as authorizing the EPA to make grants, to encourage, or to finance the activities of some of these special interest environmental groups in their efforts to intervene in State hearings, court cases, or citizen suit actions?

Mr. MUSKIE. Mr. President, I refer the Senator to page 3 of the bill, line 16. This is the only reference to any kind of outside interest groups. It reads in part:

> Public participation in the development, revision, and enforcement of any regulation or effluent limitation established by the administrator or any State under this act shall be provided for, encouraged, and assisted by the administrator and the States.

That language in the bill is not funded in any way. There is no provision for grants of any kind for that kind of activity, to encourage public participation.

Mr. FANNIN. Mr. President, I thank the Senator.

Does the provision of section 106(1)(1) on page 31 concerning the State program's requirement for a procedure hearing authority to prevent construction mean that a new source cannot be constructed unless it assumes the "maintenance and enforcement" of the water quality?

Mr. MUSKIE. Mr. President, the purpose of the amendment, of course, is to prevent the degradation of water below its present quality level.

Mr. FANNIN. I understand that. However, the question is: Does the provision of section 106(1)(1) on page 31 concerning the State program's requirement for a procedure hearing authority to prevent construction means that a new source cannot be constructed unless it assumes the "maintenance and enforcement" of the water quality?

Mr. MUSKIE. The Senator is correct. Any new source would have to meet the requirements of the act which include utilization of space available—that is, in the elimination of the effluents.

Mr. FANNIN. Mr. President, I wonder if the authority under the program involving the State has the authority or the ability to assume maintenance and enhancement of the water quality in all cases.

Mr. MUSKIE. This particular language relates to authority to prevent the construction of any new source which does not met the objective of the act.

Mr. FANNIN. Could they insist on maintenance and enhancement of water quality? Could they do that or demand that the water quality be maintained?

Mr. MUSKIE. The State is required to insist on that condition, that it meet the requirements of the act.

Mr. FANNIN. That is before these provisions apply.

Mr. MUSKIE. Those State applications for programs state that if they want the program supported under the authorization of section 106, these are the minimum requirements they must meet. This is for procedure and for review prior to the construction of new source locations. In other words, if the State wants this program supported, it must have a procedure for review of the new source location. Otherwise we deal with the damage that has been done in the past, and nothing with respect to whatever damage might be done in the future. This is intended to assure that States have authority to prevent damage in the future.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOGGS. I yield the Senator 2 additional minutes.

Mr. MUSKIE. I am not getting the thrust of the question.

Mr. FANNIN. The question relates to page 31. The Senator has the section before him.

Mr. MUSKIE. I read it.

Mr. FANNIN. Does the provision of section 106(1)(1) on page 31 concerning the State program's requirement for a procedure hearing authority to prevent construction mean that a new source cannot be constructed unless it assumes the "maintenance and enhancement of the water quality"?

Mr. MUSKIE. It provides what is required of new sources and makes reference to section 306 of the act. That provision applies nationwide. No new sources can be built which do not incorporate in design the best technology to deal with their efforts.

Mr. FANNIN. I think we get into a situation where the State would not have control in an interstate stream. The "maintenance and enhancement" of the water quality might be beyond their control.

Should not section 304(a)(2)(C) on page 80 which requires the administrator to publish specified information be clarified to mean classification of water quality "necessary to support legitimate water uses"?

Mr. MUSKIE. What page is the Senator referring to now?

Mr. FANNIN. Page 80, section 304(a)(2)(C).

Mr. MUSKIE. What is the question?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOGGS. Mr. President, I yield the Senator 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. FANNIN. On this page it requires the Administrator to publish specified information. Should it be clarified to mean classification of water quality "necessary to support legitimate water uses?"

As a clarification on that, I think the wording is indefinite.

Mr. MUSKIE. The Administrator is given several authorities in this bill with respect to making available to the States and agencies all levels of information relating to what it takes to restore and maintain "the natural chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans."

Then, subsection (b) states:

> On the factors necessary for the protection and propagation of shellfish, fish, and wildlife and to allow recreational activities in and on the water;

Then subparagraph (c) provides:

> On the measurement and classification of water quality.

That provision, which is the one the Senator addresses himself to, is especially important because at the present time it is difficult to identify a direct causal connection between a water quality that is desired and an input by an individual polluter. So we ask the Administrator to develop those techniques. That is what is involved here.

Mr. FANNIN. Section 306 on page 94 at subsection (b)(2) allows the administrator discretion in distinguishing among classes, types, and sizes within categories of new sources for the purposes of establishing performance standards. Since "steam electric powerplants" are specified as one of the separate categories and since their construction is tied more specifically to power requirements of a definite location, why should not the Administrator be allowed to recognize locational differences within these categories in establishing the performance standards?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOGGS. I yield the Senator 2 additional minutes.

Mr. MUSKIE. I must say that I do not hear the Senator as well as I should.

If we made those distinctions, what we would do is make it attractive for industries to move into areas where requirements are less restrictive, and we would be transferring pollution from one area to another. We think we need uniformity of regulations.

Mr. FANNIN. I said why should not the Administrator be allowed to recognize locational differences? You say they do.

Mr. MUSKIE. I say they should not, because unless there is uniformity of regulation, polluters will seek to escape stringent requirements of one area, and they will go to other areas where there are less stringent requirements.

Mr. FANNIN. I hope the Senator will realize they are not the same categories.

Mr. MUSKIE. All I can give is the committee position. On that I am quite clear.

Mr. President, there is one final amendment of the Senator from New York.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 8, between lines 22 and 23, insert the following:
>
> "(5) initiate, and promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social costs and benefits of activities which are subject to regulation under this Act; and shall transmit a report on the results of such research to the Congress not later than April 1, 1974.

Mr. BUCKLEY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. BUCKLEY. Mr. President, in several places in the act, for example in section 302(b)(1) and (2), the administration is required to make a determination of the social benefits and costs which would result in specific cases from the imposition of the higher standards of effluent controls which are called for in the act.

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As of this date we do not have adequate techniques for measuring relative social benefits and costs relating to activities which affect the environment, often in highly subtle ways.

I am advised by a representative of the EPA that such tools and techniques can be developed by the target date of April 1, 1974, which is the date incorporated in my amendment.

I would also like to point out now that we will need to develop a method to measure environmental and other social costs and benefits by 1974 in order for the Administrator to be able to provide Congress in 1975 with the analysis required by section 305(b)(2); and it is this analysis in turn which will be critical to Congress in determining the extent and nature of the so-called middle of the course that is indicated by the act.

I do not believe this is a controversial amendment. I have discussed it with the manager of the bill.

Mr. MUSKIE. Mr. President, I have discussed this amendment with the Senator from New York, and we will accept it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MUSKIE. I yield back my time.

Mr. BUCKLEY. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New York (Mr. BUCKLEY).

The amendment was agreed to.

Mr. MATHIAS. Mr. President, S. 2770 is one of the most ambitious bills to come before the 92d Congress. It is very long and necessarily intricate, but its objective is simple. Its goal is nothing less than to eliminate pollution from all waterways in the United States by 1985.

This goal is almost startling in its simplicity. After decades of abuse and degradation of our waterways, after years of earnest but fragmented efforts to recoup, we are finally and fully committing ourselves to an all-out campaign against water pollution. We are committing ourselves not only to rehabilitate our rivers, lakes and streams, but to reform our own habits and attitudes toward the use of those waterways.

We have talked about fighting water pollution for many years. Recently we have done far more than talk: we have invested large sums, established strong regulatory systems, and made great progress in public education. This work has not been ineffective. It has simply not been effective enough, as anyone knows who tours Baltimore Harbor, with its multicolored films of oil and undercurrents of sewage, or gazes on the Potomac as it laps, turgid and brown, against the shores of the National Capital.

Through this bill, cleaning up our waterways can become more than a distant dream, a rhetorical flourish and a pious hope. It will be established as a national goal, legislated not only in declarations of policy but in a measure which, at last, provides the means and the machinery we need.

The job will not be easy. It will not be short and it will not be cheap. The $14 billion which this bill provides for waste treatment grants during the next 4 years is likely to be only a downpayment for the entire job. The new systems of regulation proposed in this bill will place great responsibilities on all levels of government, on every businessman, and on the citizens who are taking an increasing role in the task of protecting our environment.

Yet I believe that, after several years of experimenting with various approaches, after years of gradually learning just how stubborn and pervasive water pollution can be, after years of growing public recognition of the urgency of reform, we are now ready for this bill and the all-out commitment it contains.

Mr. President, S. 2770 is encyclopedic, and I shall not attempt to outline all of its provisions and requirements. In brief overview, the bill establishes a comprehensive structure for dealing with, and ultimately treating or eliminating, all forms of water pollution, wherever it may originate and however it may find its way into a river, a lake, or the ocean. The bill greatly expands the Federal program of grants-in-aid for municipal waste treatment plants, with strict requirements for regional planning, high levels of waste treatment, charges on industrial users, and investigation of alternatives to using our waterways as catch basins for treated sewage. For the first time, this bill proposes a comprehensive system of effluent limitations, involving precise definitions of the nature of all discharges and detailed controls over what may be dumped and where. The existing permit and certification systems for discharges have been greatly improved. The bill also deals with such difficult types of pollution as acid mine drainage, land runoff, oil and hazardous substances, and ocean dumping.

Some may suggest that the very magnitude of the bill, and the complexity of its requirements, may make it virtually impossible to enforce. Others may feel that the amount of information and review involved will simply generate a huge bureaucracy, following the widespread suspicion that regulation only means redtape. I do not think this is the case. The Committee on Public Works, in the course of its extended and intensive work on this bill, has taken great pains to coordinate requirements and orchestrate new procedures with those already existing under other laws. The committee has also recognized the valuable initiatives which some States, such as Maryland, have taken in water pollution control, and has tried to encourage such States to proceed without delay.

Mr. President, in congratulating the entire committee for the tremendous effort which has produced this bill, I wish to take particular note of two provisions which will be of particular help to Maryland and the National Capital region.

The first is the authorization of $2 billion to reimburse the States, at last, for sums which they advanced for waste treatment projects in years when Federal appropriations were inadequate. Maryland has been a leader among those States which seized the initiative in the mid-1960's and moved ahead with the construction of waste treatment plants, contributing not only the State's own share, but many millions in State funds to make up for congressional failures to carry out the Federal commitment. I have been advocating repayment of the full Federal debt for several years, and am very pleased that this legislation will finally provide the means.

The second provision of particular importance to this area is the authorization of $200 million per year in additional grants for fiscal 1972 and 1973 for projects utilizing advanced treatment methods for the treatment of wastes on a regional scale in areas with severe water pollution problems. This is the so-called Blue Plains amendment, sponsored by the distinguished Senator from Missouri (Mr. EAGLETON), my colleague from Maryland (Mr. BEALL), and myself, and adopted unanimously by the committee. The amendment recognizes that while the grant funds provided in the bill are generous on a national basis, the allocation methods involved simply would not channel enough money to the District of Columbia and Maryland soon enough to keep the $360 million Blue Plains project on schedule toward its target date of completion by the end of 1974. The additional funds authorized by this amendment will fill this gap.

I am very much pleased that the committee has recognized the essential nature of this project, and shall read into the RECORD at this point the following language from the committee report:

> The Committee strongly believes that the Blue Plains project should not be delayed. While it will not provide a total, long-range solution to the water pollution problems of the Washington area, it is the essential first step in cleaning up the Potomac River. At the 70 percent Federal-aid level authorized in this bill, the Blue Plains project will require almost $97 million in Federal aid in fiscal 1972 and over $77 million in fiscal 1973, the years of its greatest obligation needs. These funding requirements far exceed the amounts from a population-based allocation formula which would be available to the participating states. The Administrator has assured the Committee that if suitable discretionary authority is provided, the full Federal share of the Blue Plains project will be made available to keep this project on schedule.
>
> The Committee expects this and other similar advance waste treatment projects to be funded on a priority basis. The Administration should report on funding deficiencies within one year after enactment.

Mr. President, in the near future I will be addressing myself to the additional work which must be done in the Washington area, beyond Blue Plains, to clean up the Potomac. Today I wish to thank the entire committee for adopting this amendment, thus insuring that we can make a substantial start without delay.

We are all painfully aware that we have made other national commitments in the past—for example, in the Full Employment Act of 1946, the Housing Act of 1949, and the Economic Opportunity Act of 1964—which have not yet been carried out. Those promises are no less urgent today as we make a new national commitment to restoring our waterways to health. In enacting and implementing this legislation, I trust that we will learn from the sobering experience of the past and will achieve a new level of national effort and cooperation, one which can enable and inspire us to conquer not only water pollution, but many other difficult problems as well.

Mr. HART. Mr. President, I rise to compliment the members of our Public Works Committee, and particularly the chairman (Mr. RANDOLPH) and the Air and Water Pollution Subcommittee chairman (Mr. MUSKIE) for bringing to us a major step forward in the complicated field of water pollution control. I know that this has been a long and exceedingly difficult endeavor and, in my book, we all owe a debt of gratitude to the members for reporting out unanimously this significant legislation. There are many sections of the bill on which I might comment favorably—the provision for a clean lakes program, for public participation, for citizens' suits, for reclamation of waste lubricating oil, for river study centers, for an attack on Great Lakes problems and many others. This is indeed a comprehensive bill and a giant forward step which I believe the American people have wanted and will applaud.

If I may, I would like to call the attention of the subcommittee chairman to a matter that is minor in nationwide terms but of parochial interest to a Senator from Michigan. I refer to section 104 (d) and (e) of the bill to be found on pages 10 and 11. The bill there authorizes not less than seven field laboratories and research facilities, one of which is to be located in the Midwest. The bill further states that "insofar as practicable each facility shall be located near institutions of higher learning in which graduate training in such research might be carried out."

The Senator from Maine may not be aware of it, but just such a laboratory was authorized under subsection 4(e) of Public Law 87-88, approved by the Congress on July 20, 1961. On January 11, 1963, the executive branch announced selection of the Ann Arbor campus of the University of Michigan as the site for the Water Pollution Control Laboratory to serve the Midwest, and designated the proposed laboratory as the Great Lakes Laboratory. The University of Michigan transferred to the Federal Government the necessary land for the laboratory on January 11, 1965. Funds for the laboratory were obtained from the Congress in the amount of $2,350,000, and on September 5, 1967, the Federal Water Pollution Control Administration notified the Congressional Appropriation Subcommittee of their intention to proceed with the construction of the laboratory. However, all of that history came to naught, and the Environmental Protection Agency informed me on October 4, 1971, that in lieu of the facility at Ann Arbor, EPA would take over a surplus naval airport facility at Grosse Ile, Mich., "which could provide a base for the development of the Great Lakes Laboratory."

I cite this long and—for the University of Michigan particularly—unhappy story to suggest that the University of Michigan has a legitimate and prior claim to any laboratory to be established in the Midwestern area under S. 2770, particularly as subsection (e) directs that—

> The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices, and a study of alternate means of solving water pollution problems (including additional waste treatment measures) with respect to such waters.

Quite beyond the fact that it is obviously well qualified to do an outstanding job, in this instance, it truly seems to me that the University of Michigan, which has been treated very shabbily by the Federal Government, has seniority rights.

Mr. WILLIAMS. Mr. President, I want to express my strong support for the Federal Water Pollution Control Act Amendments of 1971. This act will amend the existing Federal Water Pollution Control Act, and serve to further the accomplishments achieved to date under its authority. More important, the bill under consideration today will serve to correct some of the deficiencies of existing legislation. The objective of this latest amendment is to restore and maintain the natural, chemical, biological, and physical integrity of the Nation's waters. As a matter of national policy, this act declares that by 1981, this Nation's water will again be suitable for swimming and fish propagation, and that the discharge of pollutants should end by 1985.

To reach the ambitious goals established in the act, the bill has a two-phase approach toward solving our water pollution problem. In the first phase, all industrial pollution sources must be using the best practicable technology to abate pollution by 1976, and secondary treatment construction programs must be in effect in our communities by 1974.

In phase II of the program, the act seeks to stop the discharge of all pollutants into our waterways by 1981. If this high standard cannot be achieved at that time, communities and industries must at least have the "best available" technology to abate pollution discharge into our waterways. The final goal of this comprehensive legislation will be achieved by 1985, when our water is again clean and a national "no discharge" standard will maintain its purity. Thus, we may look forward in the next 15 years to enjoying the same pure waters that many of us remember so regretfully now.

I shall point out some of the portions of this bill which vary from previous legislation on this subject.

The bill improves on the effluent permit program by expanding the authority of the administrator in setting standards for these permits; it liberalizes construction grants and increases the Federal funds to $14 billion through fiscal year 1975; it requires the Administrator to set uniform standards of performance, and it establishes strict regulations for ocean dumping. In addition, the bill promotes areawide programs for waste treatment management, expands research programs and strengthens the Federal authority to deal with water pollution, and finally it provides heavy penalties for violations and gives individuals the right to sue to enforce the nondiscretionary provisions of this act.

Although I realize that the bill is not the final answer to all of the problems involved in purifying our polluted waters, I am strongly impressed by the effective beginning that this act makes. It would plug loopholes in previous legislation by streamlining the procedures to insure better water quality. It greatly increases Federal jurisdiction by applying to all navigable waters rather than just interstate and boundary waters. It is the first attempt to eliminate pollution from nonpoint sources and it enhances the control of industrialized pollution.

Section 206 of the bill will reimburse States, municipalities, and intergovernmental agencies for projects constructed by them for which the full Federal contribution to which they were entitled was not received. There is one method of reimbursement for projects initiated after June 30, 1966, and another method of reimbursement for projects built from the period 1956 to 1966.

Under these formulas, New Jersey will receive the following reimbursements:

[In millions]

Bergen County Water Authority	$4.04
Middlesex County	9.38
Passaic County Sewerage Authority	4.00

One of the most serious environmental problems facing the people of New Jersey, particularly those living on or near the shore, is the dumping of wastes into the ocean. Some 5 million tons of sewage sludge is poured into U.S. coastal waters every year, and close to 90 percent of it is dumped less than 6 miles off the New Jersey coast. This has caused miles of dead ocean, has destroyed beaches near metropolitan areas where we badly need recreational facilities because many of these citizens cannot afford to travel great distances, and has contaminated a substantial portion of the shellfish behind the barrier reef rendering them unfit for human consumption.

The Senate included in this wide-ranging bill a section establishing new regulations for ocean dumping which would, in my judgment, provide an effective and workable approach to solving this problem. The section combines major features of the bill I introduced, S. 1011, as well as of bills proposed by other Members of the Senate.

Under this bill a permit, to be issued by the Administrator of the Federal Environmental Protection Agency, would be required for the discharge or dumping of any kind of waste into ocean areas.

One key feature would prohibit the Administrator from issuing any permit for the dumping of toxic materials in coastal areas or on the high seas. Thus, that type of dumping of hazardous materials would be absolutely banned as of the effective date of the new law.

Those individuals, companies, political subdivisions or governmental agencies currently dumping sewage sludge and liquid effluents, could obtain permits to continue doing so only if they demonstrate positive plans to assure that within

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4 years the waste will be treated by the latest available control technology. This would include at least secondary treatment of liquid wastes and stabilization of all sludges.

I am very much pleased that an important provision of my original bill—aid to local governments to help them comply with the new law—is provided for in this bill, through an expanded system of construction grants. New language specifies that the first priority of these grants will be to promote recycling in order to bring about land disposal of wastes rather than discharge into waters. Another important provision is a requirement for the Administrator to hold a public hearing before issuing a permit. In addition, he would have to take into consideration effects of the proposed dumping on human health and welfare, fish and wildlife, shoreline and beaches, and on the ecological system as a whole. The applicant for a permit would be required to demonstrate that other possible dumping locations, and alternative methods of disposal, including land disposal and recycling, had been considered.

Mr. President, I take this opportunity to commend all of the members of the Committee on Public Works for their outstanding work on the bill. We are indeed fortunate to have a committee that has the sensitivity, determination, and foresight to report this kind of strong legislation. Special praise is due the Senator from West Virginia (Mr. RANDOLPH), chairman of the Public Works Committee, and the Senator from Maine (Mr. MUSKIE), chairman of the Subcommittee on Air and Water Pollution, which wrote the bill; without the strong support of these two men, we would not have the opportunity to enact such firm and comprehensive legislation.

Passage of the bill by the Senate will represent a great stride forward on the road toward restoring our environment. It will be, for our whole Nation, a milestone in the long journey back from the brink of ecological disaster.

For my State of New Jersey, the bill should provide the long-range solution to the very serious, and long-neglected problem of ocean dumping. This condition, in which we have allowed the ocean waters which wash on some of the finest beaches in the Nation to be used as cesspools, has gone unchecked for far too long. It has reached the point now where two vital industries in our State—tourism and shellfishing—are seriously threatened. Beyond that, ocean dumping of sewage wastes poses a very real and imminent danger to the health of millions of New Jerseyites and visitors from other States. Clearly, we would be grossly negligent in our duty if we failed to address ourselves to this problem.

I am, therefore, very gratified that an answer to the ocean dumping problem has been included in the bill, and I once again thank Senators RANDOLPH and MUSKIE for their cooperation in making sure that it was. As it now comes before the Senate, the bill represents a workable program of reclaiming water resources throughout the Nation, and a long-awaited solution to a problem of particular concern in New Jersey; I strongly urge its passage.

Mr. BYRD of West Virginia. Mr. President, I wish to express my support for S. 2770, the Federal Water Pollution Control Act of 1971. I am hopeful that this bill will accomplish the objectives we have been working toward for the past two decades, that of achieving clean water.

It is obvious that existing water pollution control legislation is inadequate, in that many of our navigable waterways are still being polluted; sewage effluent is still being dumped into our rivers, lakes, and streams; and most of the waterways near our industrial and urban areas are still polluted.

The objective of the pending legislation is to restore and maintain the "natural chemical, biological, and physical integrity of the Nation's waters." In an effort to reach this ultimate objective, it is expected that an interim goal will be achieved by 1981, which will provide a water quality capable of propagating fish, shellfish, and wildlife, and which will be safe for recreation.

In order to promote progress toward these standards, improved legal and administrative remedies are provided in the bill to enforce these standards and to see that they are maintained. I do feel, however, that this is a reasonable bill, with which industry and State and local governing units will be able "to live," and with which they can comply. There are no arbitrary standards incapable of compliance. If an industry cannot comply with phase II of the program and finds itself unable to meet the no discharge of pollutants standard, it must apply the best available control techniques. In order to be absolutely certain that these control techniques represent the latest state of the art, they will be reviewed and upgraded every 5 years.

To encourage the States and to assist them in improving their physical facilities for treating sewage effluent, this bill authorizes a 4-year program of Federal construction grants for sewage treatment plants, of which the Federal matching share totals $14 billion through fiscal year 1975. It also requires the Governors and other local officials to cooperate with the EPA in the development of plans for handling waste treatment management in areas with critical water pollution control problems.

I want to comment specifically on two sections of the bill. Section 103 authorizes the Administrator to study the nature of river systems and sewage in rural areas. I think this study is urgently needed. Urban cities are not the only areas in the country which have serious pollution problems. In my own State of West Virginia, numerous communities have water supplies which have become contaminated due to sewage effluent. If we can learn more about the nature of rivers and underground streams, which are the sources of our water supplies, I am sure that a great many of these problems can be abated through proper planning in the future.

Section 107 of the bill authorizes EPA in cooperation with the Appalachian Regional Commission to conduct demonstration projects for control of mine water runoff and related water pollution problems. This acid mine drainage is an unusually serious problem in my own State of West Virginia and in the surrounding States of the Appalachian Region, where a major portion of the Nation's mining industry is located. Earlier this year, the Appropriations Committee, at my request, included planning funds, in the agriculture, environmental, and consumer protection appropriations bill, for a soil and water laboratory at Beckley, W. Va., which will conduct research on many of these same problems related to acid mine drainage. I urge the Administrator of EPA to consult, and to work, with the Department of Agriculture on this vital research, demonstration project. I want to see results developed which will help West Virginia and other affected areas combat this devastating problem, and I feel this can best be achieved by coordinating all research efforts on this problem. My objective is to insure that maximum progress is made in finding solutions to the mine drainage and related problems which are not only polluting our waterways but are also plaguing the economic, social, and industrial development of this region.

Mr. President, I commend my distinguished colleague, Senator RANDOLPH, chairman of the Public Works Committee, Senator MUSKIE, chairman of the subcommittee, and other members of the committee for their diligent and thorough work in developing this legislation. While the objectives of this bill will not be reached overnight—nor will they be reached without many problems and adjustment pains—I think it is a worthwhile objective, and one which will, in the end, not only justify our efforts, but will also repay all of us with clean water.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MUSKIE. I yield back my time.

Mr. BOGGS. I yield back my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. MANSFIELD), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that, if presented and voting, the Senator from Louisiana (Mr. ELLENDER) and the Senator from Montana (Mr. MANSFIELD) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

The Senator from Pennsylvania (Mr. SCOTT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New Hampshire (Mr. COTTON) is detained on official business.

If present and voting, the Senator from Florida (Mr. GURNEY), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Ohio (Mr. TAFT), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 86, nays 0, as follows:

[No. 289 Leg.]

YEAS—86

Aiken	Ervin	Moss
Allott	Fannin	Muskie
Anderson	Fong	Nelson
Baker	Gambrell	Packwood
Bayh	Gravel	Pastore
Beall	Griffin	Pearson
Bellmon	Hansen	Pell
Bennett	Harris	Percy
Bentsen	Hartke	Proxmire
Bible	Hatfield	Randolph
Boggs	Hollings	Ribicoff
Brock	Hruska	Roth
Brooke	Hughes	Saxbe
Buckley	Humphrey	Schweiker
Burdick	Jackson	Smith
Byrd, Va.	Javits	Sparkman
Byrd, W. Va.	Jordan, N.C.	Spong
Cannon	Jordan, Idaho	Stafford
Case	Kennedy	Stennis
Chiles	Long	Stevens
Church	Magnuson	Stevenson
Cook	Mathias	Symington
Cooper	McClellan	Talmadge
Cranston	McGee	Tower
Curtis	McGovern	Tunney
Dole	McIntyre	Weicker
Dominick	Miller	Williams
Eagleton	Mondale	Young
Eastland	Montoya	

NAYS—0

NOT VOTING—14

Allen	Gurney	Mundt
Cotton	Hart	Scott
Ellender	Inouye	Taft
Fulbright	Mansfield	Thurmond
Goldwater	Metcalf	

So the bill (S. 2770) was passed, as follows:

S. 2770

An act to amend the Federal Water Pollution Control Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Water Pollution Control Act Amendments of 1971".

SEC. 2. The Federal Water Pollution Control Act is amended to read as follows:

"TITLE I—RESEARCH AND RELATED PROGRAMS

"DECLARATION OF POLICY

"SEC. 101. (a) The objective of this Act is to restore and maintain the natural chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared to be national policy that, consistent with the provisions of this Act—

"(1) the discharge of pollutants into the navigable waters be eliminated by 1985;

"(2) wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by 1981;

"(3) the discharge of toxic pollutants in toxic amounts be prohibited;

"(4) Federal financial assistance be provided to communities to construct waste treatment facilities;

"(5) regional waste treatment management programs be developed and implemented to assure adequate control of all sources of water pollutants in each State; and

"(6) a major research and demonstration effort be initiated to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.

"(b) It is the policy of the Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent and eliminate water pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this Act. It is further the policy of the Congress to support and aid research relating to the prevention and elimination of water pollution, and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention and elimination of water pollution.

"(c) The Administrator of the Environmental Protection Agency (hereinafter in this Act called 'Administrator') shall administer this Act.

"(d) Public participation in the development, revision, and enforcement of any regulation or effluent limitation established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States. The Administrator, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes.

"COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL

"SEC. 102. (a) The Administrator shall, after investigation, and in cooperation with older Federal agencies, State water pollution control agencies, interstate agencies, municipalities, industries, and the public prepare and develop comprehensive programs for eliminating pollution of navigable waters and ground waters. For the purpose of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharge of any pollutant which may affect such waters.

"(b) (1) Any storage or water releases for regulation of streamflow for the purpose of water quality control included in a reservoir or other impoundment project under other Federal law shall not be provided as a substitute for adequate treatment or other methods of eliminating waste at the source.

"(2) The need for and the value of storage for such purpose shall be determined by the Administrator, and his views on these matters shall be set forth in any report or presentation to Congress proposing authorization or construction of any reservoir including such storage for such purpose.

"(3) To the extent that such storage is determined by the Administrator to be needed in addition to adequate treatment or other methods of eliminating waste at the source, its value, as determined by the Administrator, shall be taken into account in determining the economic value of the entire project of which it is a part, and costs shall be allocated to the purpose of water quality control in a manner which will insure that all project purposes share equitably in the benefits of multiple-purpose construction.

"(4) Costs of water quality control features incorporated in any Federal reservoir or other impoundment under the provisions of this Act shall be determined and the beneficiaries identified and if the benefits are widespread or national in scope, the costs of such features shall be nonreimbursable.

"(c) (1) The Administrator shall, at the request of the Governor of a State, or a majority of the Governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a planning agency for a period not to exceed three years, if such agency provides for adequate representation of appropriate State, interstate, local, or (when appropriate) international interests in the basin or portion thereof involved and is capable of developing an effective, comprehensive water quality control and abatement plan for a basin or portion thereof.

"(2) Each planning agency receiving a grant under this subsection shall develop a comprehensive pollution control and abatement plan for the basin or portion thereof which—

"(A) is consistent with any applicable water quality objectives and criteria established pursuant to current law within the basin;

"(B) recommends such treatment works and sewer systems as will provide the most effective and economical means of collection, storage, treatment, and elimination of pollutants and recommends means to encourage both municipal and industrial use of such works and systems;

"(C) recommends maintenance and improvement of water quality criteria within the basin or portion thereof and recommends methods of adequately financing those facilities as may be necessary to implement the plan; and

"(D) as appropriate, is developed in cooperation with, and is consistent with any regional waste management plans developed pursuant to section 209 of this Act.

"(3) For the purposes of this subsection the term 'basin' includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby.

"INTERSTATE COOPERATION AND UNIFORM LAWS

"SEC. 103. (a) The Administrator shall encourage cooperative activities by States for the prevention and elimination of water pollution and shall encourage the enactment of improved and uniform State laws relating to the prevention and elimination of water pollution.

"(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and mutual assistance for the prevention and control of water pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by Congress.

"RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

"SEC. 104. (a) The Administrator, in support of programs for the prevention and elimination of water pollution, shall—

"(1) conduct, and promote the coordination and acceleration of, research, investigations, experiments, training, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, control, and elimination of water pollution;

"(2) encourage, cooperate with, and render technical services to water pollution control agencies and other public or private agencies, institutions, and organizations, and individuals, in the conduct of those activities referred to in paragraph (1) of this subsection;

"(3) establish advisory committees composed of recognized experts in various aspects of water pollution and representatives of the public to assist in the examination

and evaluation of research progress and proposals and to avoid duplication of research;

"(4) in cooperation with the States, and their political subdivisions, and other Federal agencies establish, equip, and maintain a water quality surveillance system for the purpose of monitoring the quality of navigable waters, ground waters, the waters of the contiguous zone, and the oceans, and shall report on such water quality in the report required under section 305 and subsection (a) of section 515 of this Act;

"(5) conduct, in cooperation with State water pollution control agencies and other interested agencies, organizations and persons public investigations concerning the pollution of any navigable waters and report on the results of such investigations; and

"(6) initiate, and promote the coordination and acceleration of research designed to develop the most effective practicable tools and techniques for measuring the social costs and benefits of activities which are subject to regulation under this Act; and shall transmit a report on the results of such research to the Congress not later than April 1, 1974.

"(b) In carrying out the provisions of subsection (a) of this section the Administrator is authorized to—

"(1) collect and make available, through publication and other appropriate means, the results and recommendations of such research for the purpose stated in subsection (a) (1) of this section;

"(2) cooperate with other Federal agencies, water pollution control agencies, other public and private agencies, institutions, and organizations, and individuals, in the preparation and conduct of such research;

"(3) make grants to water pollution control agencies, other public or nonprofit private agencies, institutions, and organizations, and individuals, for purposes stated in subsection (a) (1) of this section;

"(4) contract with public or private agencies, institutions, and organizations, and individuals, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) for the purpose stated in subsection (a) (1) of this section;

"(5) provide training and training grants for personnel of water pollution control agencies and other persons;

"(6) establish and maintain research fellowships, in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

"(7) collect and disseminate, in cooperation with other Federal agencies, and other public or private agencies, institutions, and organizations, basic data on the chemical, physical, and biological effects of varying water quality and other information pertaining to water pollution and the prevention and elimination thereof; and

"(8) develop effective and practical processes, methods, and devices for the prevention or elimination of water pollution.

"(c) In carrying out the provisions of subsection (a) of this section the Administrator shall conduct research on, and survey the results of other scientific studies on, the effects on the health or welfare of persons caused by the various known water pollutants. In order to avoid duplication of effort, the Administrator shall, to the extent practicable, conduct such research in cooperation with and through the facilities of the Secretary of Health, Education, and Welfare.

"(d) The Administrator shall establish, equip, and maintain field laboratories and research facilities, including, but not limited to, one to be located in the northeastern area of the United States, one in the Middle Atlantic area, one in the southeastern area, one in the midwestern area, one in the southwestern area, one in the Pacific Northwest, and one in the State of Alaska, for the conduct of research, investigations, experiments, field demonstrations and studies, and training relating to the prevention and elimination of water pollution. Insofar as practicable, each such facility shall be located near institutions of higher learning in which graduate training in such research might be carried out. In conjunction with the development of criteria under section 403 of this Act, the Administrator shall construct the facilities authorized for the National Marine Water Quality Laboratory established under this subsection.

"(e) The Administrator shall conduct research and technical development work, and make studies, with respect to the quality of the waters of the Great Lakes, including an analysis of the present and projected future water quality of the Great Lakes under varying conditions of waste treatment and disposal, an evaluation of the water quality needs of those to be served by such waters, an evaluation of municipal, industrial, and vessel waste treatment and disposal practices, and a study of alternate means of solving water pollution problems (including additional waste treatment measures) with respect to such waters.

"(f) (1) for the purpose of providing an adequate supply of trained personnel to operate and maintain existing and future treatment works and related activities, and for the purpose of enhancing substantially the proficiency of those engaged in such activities, the Administrator shall finance a pilot program, in cooperation with State and interstate agencies, municipalities, educational institutions, and other organizations and individuals, of manpower development and training and retraining of persons in, or entering into, the field of operation and maintenance of treatment works and related activities. Such program and any funds expended for such a program shall supplement, not supplant, other manpower and training programs and funds available for the purposes of this paragraph. The Administrator is authorized, under such terms and conditions as he deems appropriate, to enter into agreements with one or more States, acting jointly or severally, or with other public or private agencies or institutions for the development and implementation of such a program.

"(2) The Administrator is authorized to enter into agreements with public and private agencies and institutions, and individuals to develop and maintain an effective system for forecasting the supply of, and demand for, various professional and other occupational categories needed for the prevention, control, and abatement of water pollution in each region, State, or area of the United States and, from time to time, to publish the results of such forecasts.

"(3) In furtherance of the purposes of this Act, the Administrator is authorized to—

"(A) make grants to public or private agencies and institutions and to individuals for training projects, and provide for the conduct of training by contract with public or private agencies and institutions and with individuals without regard to sections 3648 and 3709 of the Revised Statutes;

"(B) establish and maintain research fellowships in the Environmental Protection Agency with such stipends and allowances, including traveling and subsistence expenses, as he may deem necessary to procure the assistance of the most promising research fellows; and

"(C) provide, in addition to the program established under paragraph (1) of this subsection, training in technical matters relating to the causes, prevention, and control of water pollution for personnel of public agencies and other persons with suitable qualifications.

"(4) The Administrator shall submit, through the President, a report to the Congress by December 31, 1971, summarizing the actions taken under this subsection and the effectiveness of such actions, and setting forth the number of persons trained, the occupational categories for which training was provided, the effectiveness of other Federal, State, and local training programs in this field, together with estimates of future needs, recommendations on improving training programs, and such other information and recommendations, including legislative recommendations, as he deems appropriate.

"(g) The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, and elimination of natural or manmade pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

"(h) The Administrator, in cooperation with the United States Coast Guard shall—

"(A) engage in such research, studies, experiments, and demonstrations as he deems appropriate, relative to the removal of oil from any waters and to the prevention, control, and elimination of oil or hazardous substance pollution;

"(B) publish from time to time the results of such activities; and

"(C) from time to time, develop and publish in the Federal Register specifications and other technical information on the various chemical compounds used as dispersants or emulsifiers in the control of oil or hazardous substance spills.

In carrying out this subsection, the Administrator may enter into contracts with, or make grants to, public or private agencies and organizations and individuals.

"(i) The Administrator shall engage in such research, studies, experiments, and demonstrations as he deems appropriate relative to equipment which is to be installed on board a vessel and is designed to receive, retain, treat, or discharge human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes with particular emphasis on equipment to be installed on small recreational vessels. The Administrator shall report to Congress the results of such research, studies, experiments, and demonstrations prior to the effective date of any standards established under section 312 of this Act. In carrying out this subsection the Administrator may enter into contracts with, or make grants to, public or private organizations and individuals.

"(j) In carrying out the provisions of this section relating to the conduct by the Administrator of demonstration projects and the development of field laboratories and research facilities, the Administrator may acquire land and interests therein by purchase, with appropriated or donated funds, by donation, or by exchange for acquired or public lands under his jurisdiction which he classifies as suitable for disposition. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of cash to the grantor or to the Administrator as the circumstances require.

"(k) (1) The Administrator shall, after consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, as soon as practicable but not later than two years after April 3, 1970, develop and issue to the States for the purpose of adopting effluent limitations pursuant to sections 301 and 302 of this Act and developing and carrying out plans under section 209 of this Act the latest scientific knowledge available in indicating the kind and extent of effects on health and welfare which may be expected from the presence of pesticides in the water in varying quantities. He shall revise and add

to such information whenever necessary to reflect developing scientific knowledge.

"(2) For the purpose of assuring effective implementation of water quality requirements adopted pursuant to paragraph (1) of this subsection the President shall, in consultation with appropriate local, State, and Federal agencies, public and private organizations, and interested individuals, conduct studies and investigations of methods to control the release of pesticides into the environment which studies shall include examination of the persistency of pesticides in the water environment and alternatives thereto. The President shall report on such investigation to Congress together with his recommendations for any necessary legislation as part of the report required under section 515 of this Act.

"(l) (1) The Administrator shall, in an effort to prevent degradation of the environment from the disposal of waste oil, conduct a study of (A) the generation of used engine, machine, cooling and similar waste oil, including quantities generated, the nature and quality of such oil, present collecting methods and disposal practices, and alternate uses of such oil; (B) the long-term, chronic biological effects of such oil disposal; and (C) the potential market for such waste oil, including the economic and legal factors relating to the purchase of products made from such waste oil, the level of subsidy, if any, needed to encourage the purchase by public and nonprofit agencies of products made from such oil, and the practicability of Federal procurement, on a priority basis, of products made from such oil. In conducting such study, the Administrator shall consult with affected industries and other interested persons.

"(2) The Administrator shall report the preliminary results of such study to the Congress within six months after the date of enactment of this Act and shall submit a final report to the Congress within eighteen months after the date of enactment of this Act.

"(m) The Administrator is authorized to make grants to one or more institutions of higher education (regionally located and to be designated as 'River Study Centers') for the purpose of conducting and reporting on interdisciplinary studies on the nature of river systems, including hydrology, biology, ecology, economics, the relationship between river uses and land uses, and the effects of development within river basins on river systems and on the value of water resources and water-dependent activities. No such grant in any fiscal year shall exceed $1,000,000.

"(n) The Administrator shall conduct continuing studies of the effects of pollution, including eutrophication and sedimentation, in the estuaries and estuarine zones of the United States.

"(o) (1) The Administrator shall conduct research and investigations on devices, systems, incentives, pricing policy, and other methods of reducing the total flow of sewage, including but not limited to rates of unnecessary water consumption in order to reduce the requirements for, and the costs of, sewage and waste treatment services. Such research and investigations shall be directed so as to develop devices, systems, policies, and methods capable of achieving the maximum reduction of unnecessary water consumption.

"(2) The Administrator shall report the results of such studies and investigations to the Congress within one year of the date of enactment of this Act, and annually thereafter in the report required under section 515 of this Act. Such report shall include recommendations for any legislation that may be required to provide for the adoption and use of devices, systems, policies, or other methods of reducing the rates of water consumption and reducing the total flow of sewage. Such report shall include an estimate of the benefits to be derived from adoption and use of such devices, systems, or other methods and also shall reflect estimates of any increase in private, public, or other costs that would be occasioned thereby.

"(p) In carrying out the provisions of subsection (a) of this section the Administrator shall, in cooperation with the Secretary of Agriculture, other Federal agencies and the States, carry out a comprehensive study and research program to determine new and improved, and the better application of existing methods of preventing and abating water pollution from agriculture, including the legal, economic, and other implications of the use of such methods.

"(q) The Administrator shall conduct a comprehensive program of research and investigation into new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating water pollution from sewage in rural and other areas where collection of sewage in conventional, community-wide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems.

"(r) There is authorized to be appropriated—

"(1) (A) not to exceed $65,000,000 for the fiscal year ending June 30, 1972;

"(B) not to exceed $70,000,000 for the fiscal year ending June 30, 1973;

"(C) not to exceed $75,000,000 for the fiscal year ending June 30, 1974; and

"(D) not to exceed $80,000,000 for the fiscal year ending June 30, 1975,

for carrying out the provisions of this section other than sub sections (f) and (p) of this section;

"(2) not to exceed $7,500,000 for the fiscal year ending June 30, 1972, for carrying out the provisions of subsection (f) (1) of this section;

"(3) not to exceed $2,500,000 for the fiscal year ending June 30, 1972, for carrying out the provisions of subsection (f) (2) of this section; and

"(4) not to exceed $10,000,000 for the fiscal year ending June 30, 1972, and for each fiscal year thereafter for carrying out the provisions of subsection (p) of this section.

"RESEARCH AND DEMONSTRATIONS PROGRAMS

"SEC. 105. (a) The Administrator is authorized to conduct in the Environmental Protection Agency, and to make grants to any State, municipality, or intermunicipal or interstate agency for the purpose of assisting in the development of—

"(1) any project which will demonstrate a new or improved method of preventing and eliminating the discharge into any waters of pollutants from sewers which carry storm water or both storm water and sewage or other pollutants; and

"(2) any project which will demonstrate advanced waste treatment methods (including the temporary use of new or improved chemical additives which provide substantial immediate improvement to existing treatment processes) or new or improved methods of joint treatment systems for municipal and industrial wastes.

Such grants shall include such amounts as are necessary for the purpose of reports, plans, and specifications in connection therewith.

"(b) The Administrator is authorized to make grants to any State or interstate agency to demonstrate, in river basins, or portions thereof, advanced waste treatment and environmental enhancement techniques to control pollution from all sources within such basins or portions thereof, including nonpoint sources, together with in-stream water quality improvement techniques.

"(c) In order to carry out the purposes of section 301 of this Act, the Administrator is authorized to (1) conduct in the Environmental Protection Agency, (2) make grants to persons, and (3) enter into contracts with persons, for research and demonstration projects for prevention of pollution of any waters by industry including, but not limited to, the control and elimination of the discharge of pollutants.

"(d) In carrying out the provisions of this section, the Administrator shall conduct, on a priority basis, an accelerated effort to develop, refine, and achieve practical application of:

"(1) waste management methods applicable (A) to point sources of pollutants to eliminate the discharge of pollutants, (B) to eliminate runoff of pollutants from nonpoint sources of pollution, and (C) to eliminate the effects of pollution from in-place or accumulated sources of pollution;

"(2) advanced waste treatment methods applicable to point sources, nonpoint sources, and in-place or accumulated sources of pollution, including methods for reclaiming and recycling water and confining and containig pollutants so they will not migrate to cause water or other environmental pollution; and

"(3) improved methods and procedures to identify and measure the effects of pollutants on the chemical, physical, and biological integrity of water, including those pollutants created by new technological developments.

"(e) (1) The Administrator is authorized to (A) make, in consultation with the Secretary of Agriculture, grants to persons for research and demonstration projects with respect to new and improved methods of preventing, controlling, and eliminating water pollution from agriculture, and (B) disseminate, in cooperation with the Secretary of Agriculture, such information obtained under this subsection, subsection (p) of section 104 of this Act, and subsection (e) of section 304 of this Act as will encourage and enable the adoption of such methods in the agricultural industry.

"(2) The Administrator is authorized, (A) in consultation with other interested Federal agencies, to make grants for demonstration projects with respect to new and improved methods of preventing, abating, reducing, storing, collecting, treating, or otherwise eliminating pollution from sewage in rural and other areas where collection of sewage in conventional, communitywide sewage collection systems is impractical, uneconomical, or otherwise infeasible, or where soil conditions or other factors preclude the use of septic tank and drainage field systems, and (B) in cooperation with other interested Federal and State agencies, to disseminate such information obtained under this subsection as will encourage and enable the adoption of new and improved methods developed pursuant to this subsection.

"(f) Federal grants under this section shall be subject to the following limitations:

"(1) no grant shall be made for any project unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Administrator; and

"(2) no grant shall be made for any project in an amount exceeding 75 per centum of the estimated cost thereof as determined by the Administrator.

"(g) No grant shall be made for any project under subsection (c) of this section unless the Administrator determines that such project will develop or demonstrate a new or improved method of treating industrial pollutants or otherwise prevent pollution of waters by industry, which method shall have industrywide application.

"(h) (1) For the purpose of this section there are authorized to be appropriated—

"(A) $70,000,000 for the fiscal year ending June 30, 1972;

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"(B) $75,000,000 for the fiscal year ending June 30, 1973;

"(C) $90,000,000 for the fiscal year ending June 30, 1974; and

"(D) $95,000,000 for the fiscal year ending June 30, 1975.

"(2) From such appropriations at least 10 per centum of the funds actually appropriated in each fiscal year shall be available only for the purposes of subsection (e) of this section.

STATE PROGRAMS

"SEC. 106. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

"$30,000,000 for the fiscal year ending June 30, 1972;

"$80,000,000 for the fiscal year ending June 30, 1973;

"$35,000,000 for the fiscal year ending June 30, 1974; and

"$40,000,000 for the fiscal year ending June 30, 1975;

for grants to States and to interstate agencies to assist them in carrying out programs for the prevention and elimination of water pollution. As used throughout this section, programs for the prevention and elimination of water pollution shall meet the requirements of subsection (h) of this section. As used throughout this section, the term "State" shall include, as appropriate, the term "interstate agency."

"(b) From the sums appropriated in any fiscal year pursuant to subsection (a) of this section allotments shall be made to the several States on the basis of population and the extent of the water pollution problem in the respective States, in accordance with regulations which the Administrator shall promulgate.

"(c) In each fiscal year, the Administrator shall pay to each State an amount not to exceed its allotment for such fiscal year under subsection (b) of this section, in accordance with the provision of this section.

"(d) (1) In order to qualify for payments under this section, each State shall certify that its expenditures of non-Federal funds for the recurrent expenses of carrying out its water pollution control program during the fiscal year for which payment is to be made, will be at least equal to its expenditure of non-Federal funds for such recurrent program expenses during the fiscal year ending June 30, 1971 (hereinafter referred to within this section as the 'base year'), and in addition—

"(A) with respect to the payment to be made for the fiscal year ending June 30, 1973, shall agree to expend in carrying out its water pollution control program for that fiscal year an amount equal to the amount, if any, by which its allocable share under subsection (b) of this section of the first $10,000,000 appropriated in such fiscal year exceeds such base year expenditure for recurrent program expenses;

"(B) with respect to the payment to be made for the fiscal year ending June 30, 1974, shall agree to expend in carrying out its water pollution control program for that fiscal year an amount equal to the amount, if any, by which its allocable share under subsection (b) of this section of the first $15,000,000 appropriated in such fiscal year exceeds such base year expenditure for recurrent program expenses; and

"(C) with respect to the payment to be made for the fiscal year ending June 30, 1975, shall agree to spend during such fiscal year for the purpose of carrying out its water pollution control program for that fiscal year an amount equal to the amount, if any, by which its allocable share under subsection (b) if this section of the first $20,000,000 appropriated in such fiscal year exceeds such base year expenditure for recurrent program expenses.

"(2) In the event the State is required by State law to be represented by a State law enforcement officer or agency in judicial proceedings to enforce water pollution control requirements, such State shall transfer that portion of any grant under this section, representing the contribution of the law enforcement officer or agency in carrying out the water pollution control program of the State, to such officer or agency. Such transferred portion shall be matched by the State law enforcement officer or agency in the same manner as the State matches the basic grant.

"(e) If in any fiscal year a State fails to meet the matching requirements of subsection (d) of this section, the Administrator may make a grant to such State in an amount not exceeding an amount which bears the same ratio to the allotment of such State in such fiscal year under subsection (b) of this section, as the actual expenditure of non-Federal funds by such State in carrying out its water pollution control program in such fiscal year bears to the matching requirement for such State for such fiscal year determined under subsection (d) of this section.

"(f) For purposes of subsection (d) of this section—

"(1) the determination of which program expenses are recurrent expenses and which are nonrecurrent expenses shall be made by the Administrator by regulation; and

"(2) the amount of non-Federal funds expended by a State in the base year for recurrent program expenses shall be deemed to be an amount which bears the same ratio to the total recurrent program expenses in such fiscal year as the total amount of non-Federal funds expended by the State in such fiscal year on all program expenses, both recurrent and nonrecurrent, bears to the total program expenses, both recurrent and nonrecurrent, for such fiscal year.

"(g) No grant shall be made under this section for the fiscal year ending June 30, 1972, to any State which has not filed with the Administrator within one hundred and twenty days after the enactment of this section—

"(A) a summary report of the current status of the State water pollution control program, including the criteria used by the State in determining priority of treatment works as provided in section 204 of this Act; and

"(B) such additional information, data, and reports as the Administrator may require.

"(h) Beginning in fiscal year 1973 the Administrator shall not make any grant under this section to any State which has not provided or is not carrying out as a part of its program—

"(1) the development or administration of plans under section 209 of this Act;

"(2) the establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, and to compile and analyze data on (including classification according to eutrophic condition), the quality of navigable waters and to the extent practicable, ground waters including biological monitoring; and provision for annually updating such data and including it in the report required under section 305 of this Act;

"(3) a procedure, meeting the requirement of subsection (i) of this section, for review (prior to construction) of the location of new sources to which a standard of performance established under section 306 of this Act will apply;

"(4) adequate provisions for intergovernmental cooperation and measures necessary to insure that the discharge of pollutants from sources located in any State will not interfere with the attainment of maintenance of water quality requirements in any portion of any other State;

"(5) (A) requirements for installation of equipment by owners or operators of point sources to monitor, as appropriate, effluents from such sources;

"(B) requirements for periodic reports by such owners or operators, which shall be available at reasonable times for public inspection, on the nature and amounts of such effluents, which reports shall be correlated by the State agency with any effluent limitations or standards established pursuant to this Act; and

"(C) authority comparable to that in section 504 of this Act and adequate contingency plans to implement such authority;

"(6) an approved inventory and ranking, in order of priority, of needs for construction of waste treatment works required under this Act; and

"(7) procedures to assure the maintenance and enhancement of the quality of any waters in such State.

"(i) The procedure for review, prior to construction, of the location of new sources shall—

"(1) provide for adequate authority to prevent the construction of any new source to which a standard of performance under section 306 of this Act will apply or other source at any location which the State determines will prevent the attainment or maintenance of the water quality objectives and the provisions of this Act, including the provisions of paragraph (7) of subsection (h) of this section, within such State; and

"(2) require that prior to commencing construction of any such sources, the owner or operator thereof shall submit to such sources, the owner or operator thereof shall submit to such State such information as may be necessary to permit the State to make a determination under paragraph (1) of this subsection.

"(j) The Administrator shall have authority in any fiscal year beginning after June 30, 1972, notwithstanding the fact that a State is in compliance with the requirements of subsections (d) and (h) of this section, to reduce, after notice and opportunity for hearing, the grant payable to such State in such fiscal year if he determines, based on criteria established in regulations promulgated by him, that the water pollution control program of such State is inadequate in whole or in part.

"(k) Any sums allotted under subsection (b) of this section in any fiscal year which are not allocated to or used by a State shall be reallotted in accordance with regulations promulgated by the Administrator.

"MINE WATER POLLUTION CONTROL DEMONSTRATIONS

"SEC. 107. (a) The Administrator in cooperation with the Appalachian Regional Commission and other Federal agencies is authorized to conduct, to make grants for, or to contract for, projects to demonstrate comprehensive approaches to the elimination or control of acid or other mine water pollution resulting from active or abandoned mining operations and other environmental pollution affecting water quality within all or part of a watershed or river basin, including siltation from surface mining. Such projects shall demonstrate the engineering and economic feasibility and practicality of various abatement techniques which will contribute substantially to effective and practical methods of acid or other mine water pollution elimination or control, and other pollution affecting water quality, including techniques that demonstrate the engineering and economic feasibility and practicality of using sewage sludge materials and other municipal wastes to diminish or prevent pollution affecting water quality from acid, sedimentation, or other pollutants and in such projects to restore affected lands to usefulness for forestry, agriculture, recreation, or other beneficial purposes.

"(b) Prior to undertaking any demonstration project under this section in the Appalachian region (as defined in section 403 of the Appalachian Regional Development Act of 1965, as amended), the Appalachian Regional Commission shall determine that such demonstration project is consistent with the objectives of the Appalachian Regional Development Act of 1965, as amended.

"(c) The Administrator, in selecting watersheds for the purposes of this section, shall be satisfied that the project area will not be affected adversely by the influx of acid or other mine water pollution from nearby sources.

"(d) Federal participation in such projects shall be subject to the conditions—

"(1) that the State shall acquire any land or interests therein necessary for such project; and

"(2) that the State shall provide legal and practical protection to the project area to insure against any activities which will cause future acid or other mine water pollution.

"(e) There is authorized to be appropriated $30,000,000 to carry out the provisions of this section, which sum shall be available until expended.

"POLLUTION CONTROL IN GREAT LAKES

"SEC. 108. (a) The Administrator, in cooperation with other Federal departments, agencies, and instrumentalities is authorized to enter into agreements with any State, political subdivision, interstate agency, or other public agency, or combination thereof, to carry out one or more projects to demonstrate new methods and techniques and to develop preliminary plans for the elimination or control of pollution, within all or any part of the watersheds of the Great Lakes. Such projects shall demonstrate the engineering and economic feasibility and practicality of removal of pollutants and prevention of any pollutant from entering into the Great Lakes in the future and other abatement and remedial techniques which will contribute substantially to effective and practical methods of water pollution elimination or control.

"(b) Federal participation in such projects shall be subject to the condition that the State, political subdivision, interstate agency, or other public agency, or combination thereof, shall pay not less than 25 per centum of the actual project costs, which payment may be in any form, including, but not limited to, land or interests therein that is needed for the project, and personal property or services the value of which shall be determined by the Administrator.

"(c) There is authorized to be appropriated $20,000,000 to carry out the provisions of this section, which sum shall be available until expended.

"TRAINING GRANTS AND CONTRACTS

"SEC. 109. (a) The Administrator is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of undergraduate students to enter an occupation which involves the design, operation, and maintenance of treatment works, and other facilities whose purpose is water quality control. Such grants or contracts may include payment of all or part of the cost of programs or projects such as—

"(1) planning for the development or expansion of programs or projects for training persons in the operation and maintenance of treatment works;

"(2) training and retraining of faculty members;

"(3) conduct of short-term or regular session institutes for study by persons engaged in, or preparing to engage in, the preparation of students preparing to enter an occupation involving the operation and maintenance of treatment works;

"(4) carrying out innovative and experimental programs of cooperative education involving alternate periods of full-time or part-time academic study at the institution and periods of full-time or part-time employment involving the operation and maintenance of treatment works; and

"(5) research into, and development of, methods of training students or faculty, including the preparation of teaching materials and the planning of curriculum.

"(b) (1) The Administrator may pay 100 per centum of any additional cost of construction of a treatment works required for a facility to train and upgrade waste treatment works operation and maintenance personnel.

"(2) The Administrator shall make no more than one grant for such additional construction in any State (to serve a group of States, where, in his judgment, efficient training programs require multi-State programs), and shall make such grant after consultation with and approval by the State or States on the basis of (A) the suitability of such facility for training operation and maintenance personnel for treatment works throughout such State or States; and (B) a commitment by the State agency or agencies to carry out at such facility a program of training approved by the Administrator.

"(3) The Administrator may make such grant out of the sums allocated to a State under section 205 of this Act, except that in no event shall the Federal cost of any such training facility exceed $1,000,000.

"TRAINING PROGRAM ALLOCATIONS

"SEC. 110. (a) A grant or contract authorized by section 109(a) of this Act may be made only upon application to the Administrator at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

"(1) sets forth programs, activities, research, or development for which a grant is authorized under section 109 of this Act and describes the relation to any program set forth by the applicant in an application, if any, submitted pursuant to section 111 of this Act;

"(2) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

"(3) provides for making such reports, in such form and containing such information, as the Administrator may require to carry out his functions under this section, and for keeping such records and for affording such access thereto as the Administrator may find necessary to assure the correctness and verification of such reports.

"(b) The Administrator shall allocate grants or contracts under section 109(a) of this Act in such manner as will most nearly provide an equitable distribution of the grants or contracts throughout the United States among institutions of higher education which show promise of being able to use funds effectively for the purpose of this section.

"(c) (1) Payment under this section may be used in accordance with regulations of the Administrator, and subject to the terms and conditions set forth in an application approved under subsection (a) of this section, to pay part of the compensation of students employed in connection with the operation and maintenance of treatment works, other than as an employee in connection with the operation and maintenance of treatment works or as an employee in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this section.

"(2) Departments and agencies of the United States are encouraged, to the extent consistent with efficient administration, to enter into arrangements with institutions of higher education for the full-time, part-time, or temporary employment, whether in the competitive or excepted service, of students enrolled in programs set forth in applications approved under subsection (a) of this section.

"SCHOLARSHIPS

"SEC. 111. (a) The Administrator is authorized to award scholarships in accordance with the provisions of this section for undergraduate study by persons who plan to enter an occupation involving the operation and maintenance of treatment works. Such scholarships shall be awarded for such periods as the Administrator may determine but not to exceed four academic years.

"(b) The Administrator shall allocate scholarships under this section among institutions of higher education with programs approved under the provisions of this section for the use of individuals accepted into such programs, in such manner and according to such plan as will insofar as practicable—

"(1) provide an equitable distribution of such scholarships throughout the United States; and

"(2) attract recent graduates of secondary schools to enter an occupation involving the operation and maintenance of treatment works.

"(c) The Administrator shall approve a program of an institution of higher education for the purposes of this section only upon application by the institution and only upon his finding—

"(1) that such program has as a principal objective the education and training of persons in the operation and maintenance of treatment works;

"(2) that such program is in effect and of high quality, or can be readily put into effect and may reasonably be expected to be of high quality;

"(3) that the application describes the relation of such program to any program, activity, research, or development set forth by the applicant in an application, if any, submitted pursuant to section 109 of this Act; and

"(4) that the application contains satisfactory assurances that (A) the institution will recommend to the Administrator for the award of scholarships under this section, for study in such program, only persons who have demonstrated to the satisfaction of the institution a serious intent, upon completing the program, to enter an occupation involving the operation and maintenance of treatment works, and (B) the institution will make reasonable continuing efforts to encourage recipients of scholarships under this section, enrolled in such program, to enter occupations involving the operation and maintenance of treatment works upon completing the program.

"(d) (1) The Administrator shall pay to persons awarded scholarships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(2) The Administrator shall (in addition to the stipends paid to persons under paragraph (1) of subsection (a) of this section) pay to the institution of higher education at which such person is pursuing his course of study such amount as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(e) A person awarded a scholarship under the provisions of this section shall continue to receive the payments provided in this section only during such periods as the Administrator finds that he is maintaining satisfactory proficiency and devoting full time to study or research in the field in which such scholarship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Administrator by or pursuant to regulation.

"(f) The Administrator shall by regulation provide that any person awarded a scholar-

ship under this section shall agree in writing to enter and remain in an occupation involving the design operation, or maintenance of treatment works for such period after completion of his course of studies as the Administrator determines appropriate.

"TRAINING PROGRAM AUTHORIZATIONS

"SEC. 112. (a) As used in sections 109 through 111 of this Act—

"(1) The term 'institution of higher education' means an educational institution described in the first sentence of section 1201 of the Higher Education Act of 1965 (other than an institution of any agency of the United States) which is accredited by a nationally recognized accrediting agency or association approved by the Administrator for this purpose. For purposes of this subsection, the Administrator shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(2) The term 'academic year' means an academic year or its equivalent, as determined by the Administrator.

"(b) There are authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1972, to carry out sections 109 through 111 of this Act (and planning and related activities in the initial fiscal year for such purpose). Funds appropriated shall be available until expended.

"ALASKA VILLAGE DEMONSTRATION PROJECTS

"SEC. 113. (a) The Administrator is authorized to enter into agreements with the State of Alaska to carry out one or more projects to demonstrate methods to provide for central community facilities for safe water and elimination or control of water pollution in those native villages of Alaska without such facilities. Such project shall include provisions for community safe water supply systems, toilets, bathing and laundry facilities, sewage disposal facilities, and other similar facilities, and educational and informational facilities and programs relating to health and hygiene. Such demonstration projects shall be for the further purpose of developing preliminary plans for providing such safe water and such elimination or control of water pollution for all native villages in such State.

"(b) In carrying out this section the Administrator shall cooperate with the Secretary of Health, Education, and Welfare for the purpose of utilizing such of the personnel and facilities of that Department as may be appropriate.

"(c) The Administrator shall report to Congress not later than January 31, 1973, the results of the demonstration projects authorized by this section together with his recommendations, including any necessary legislation, relating to the establishment of a statewide program.

"(d) There is authorized to be appropriated not to exceed $2,000,000 to carry out this section.

"POLLUTION CONTROL IN LAKE TAHOE

"SEC. 114. (a) The Administrator is authorized, in consultation with the Tahoe Regional Planning Agency (established pursuant to an interstate compact approved in Public Law 91-148, 83 Stat. 360, hereinafter referred to in this section as 'Agency') and other Federal and State agencies, to design and carry out projects to develop and demonstrate comprehensive water pollution control programs in areas subject to the jurisdiction of the Agency. Such demonstration programs and projects shall provide controls over nonpoint sources and shall maintain and enhance water quality within the Lake Tahoe Basin, and may include—

"(1) the preparation of detailed plans for development and conservation of the region's water resources, accompanied by a study of possible alternative sources of water for municipal uses;

"(2) the development of reliable and economical programs for recycling of pollutants and reclamation of water for municipal and recreational purposes within the interstate area;

"(3) the development of comprehensive programs for storm water collection and treatment;

"(4) the development of data on the impact of urban development in the area on regional water quality through soil siltation and other runoff; and

"(5) assist the Agency in the development of plans for meeting the demands of user populations within the limits imposed upon the area by its fragile ecology.

"(b) With respect to the area subject to the jurisdiction of the Agency, the Administrator shall review, in consultation with the Agency, any Federal or federally assisted public works project, any expenditures of Federal funds, any Federal licenses or permits, any Federal insurance, and any Federal guarantees of loans where in the judgment of the Administrator such projects, licenses or permits, or activities may result directly or indirectly in discharges or runoff into the navigable waters of such area. No such project shall be undertaken, no such funds shall be expended or licenses or permits granted and no such insurance, guarantees or loans shall be provided in the area subject to the jurisdiction of such Agency until the Administrator publishes his comments and determinations on such project, license or permit or activity as required by section 309 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.). For the purposes of such section 'major Federal agency action' shall include any Federal or federally assisted public works project, any expenditure of Federal funds, any Federal licenses or permits, any Federal insurance or any Federal guarantees of loans proposed in the area under the jurisdiction of the Agency. No permit shall be issued under section 402 of this Act which is inconsistent with any determination made pursuant to this subsection and section 309 of the Clean Air Act, as amended.

"(c) The Administrator shall report to the Congress, within one hundred and eighty days after the date of enactment of this Act and annually thereafter, on (1) the environmental impact of development in the Tahoe Basin; (2) the adequacy of plans developed by the Agency and the status of implementation of such plans; and (3) demonstration projects authorized by this section, including an analysis of the results.

"(d) There is authorized to be appropriated $6,000,000 to carry out the provisions of subsection (a) of this section, which sum shall be available until expended.

"TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

"PURPOSE

"SEC. 201. (a) It is the objective of this title to require, and to assist the development and implementation of, waste treatment management plans and practices which will eliminate the discharge of pollutants into the Nation's waters.

"(b) In order to accomplish this objective, waste treatment management plans and practices shall provide for the application of the best practicable waste treatment technology before any discharge into receiving waters, including reclaiming and recycling of water, and contained or confined disposal of pollutants so that such pollutants will not migrate to cause water or other environmental pollution.

"(c) Waste treatment management shall to the extent practicable be on a regional basis and shall provide control or treatment of:

"(1) all point sources of water pollution within each region, including municipal sewage and storm sewer outfalls, and industrial outfalls, including thermal discharges;

"(2) nonpoint sources of water pollution, including urban and rural runoff, acid and other mine drainage, siltation from surface mining, construction runoff, and salt water intrusion; and

"(3) in-place or accumulated pollution sources, including bottom loads, sludge banks, and harbor dredgings.

"(d)(1) The Administrator is authorized to provide Federal financial assistance to any State, municipality, or intermunicipal or interstate agency, for the purpose of assisting the construction of treatment works.

"(2) Beginning in fiscal year 1975, the Administrator shall not approve any request of a State, municipality, or intermunicipal or interstate agency for Federal financial assistance in the construction of treatment works which result in the discharge of pollutants into the navigable waters, unless it has been satisfactorily demonstrated to the Administrator that alternative waste management technique have been studied and evaluated and that the treatment works—

"(A) will provide for the application of the best practicable waste treatment technology (as required under subsection (b) of this section) over the life of such works; and

"(B) in the event that the technology required by subparagraph (A) of this paragraph will not result in the elimination of the discharge of pollutants, will provide, to the extent practicable, for the application of such technology at a later date.

"FEDERAL SHARE

"SEC. 202. Beginning with fiscal year 1972 the amount of the Federal share for approved treatment works under this title shall be 60 per centum of the estimated reasonable cost (as determined in accordance with regulations promulgated by the Administrator) thereof; except, that the amount of such share shall be increased to 70 per centum of such cost if the State agrees to pay, by grant, 10 per centum of the cost of all such treatment works for which grants are made or approved under this title in the same fiscal year.

"PLANS, SPECIFICATIONS, AND ESTIMATES

"SEC. 203. Engineering reports, plans, specifications, and estimates for each proposed project shall be submitted to the Administrator for approval. The Administrator shall act upon such reports, plans, specifications, and estimates as soon as practicable after the same have been submitted. Approval of any such project on the basis of detailed plans and specifications shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution. In taking such action, the Administrator shall be guided by the provisions of section 204 of this Act. The Administrator is authorized to advance up to 5 per centum of the reasonable estimated construction costs of a project after review of an engineering feasibility report, to enable applicants to complete detailed plans and specifications. The award of such advance payment shall not constitute a commitment by the United States for any further payment for such construction: *Provided*, That funds actually expended from such advance payment for purposes of developing plans and specifications need not be returned to the United States in the event no further grants for the construction of such project are awarded.

"GRANT CONDITIONS

"SEC. 204. (a) Before approving any treatment works project under this title the Administrator shall determine—

"(1) that such works are included in any applicable comprehensive river basin plan;

"(2) that such works are in conformity with the requirements of an approved State program, any applicable comprehensive metropolitan area plan and, after fiscal year 1974, any approved plan established pursuant to section 209 of this Act;

"(3) that such works (A) have been certified by the appropriate State water pollution control agency as entitled to priority over such other works in the State and (B) have qualified, or will qualify, for a permit under section 402 of this Act;

"(4) that any non-Federal costs of such works will be paid and that adequate provision satisfactory to the Administrator has been made for assuring proper and efficient operation, including the employment of trained management and operations personnel, and the maintenance of such works in accordance with a plan of operation approved by the State water pollution control agency or, as appropriate, the interstate agency, after construction thereof;

"(5) that provision has been made through ordinance, regulation, or contractual commitments, to assure that each industrial user whose pollutants will be discharged into such work will—

"(A) meet all applicable pretreatment requirements to assure compatibility with such treatment works, and

"(B) bear that portion of the project's costs, including construction, operation, and maintenance (including replacement) costs, allocable to such user; and

"(6) that the proposed size and capacity of such works, as determined by the State, relate directly to the needs to be served by such works, including sufficient reserve capacity. The amount of reserve capacity provided shall be approved by the Administrator taking into account a comparison of the cost of constructing such reserves as a part of the works to be funded with the anticipated cost of providing expanded capacity at a date when such capacity will be required.

"(b)(1) Notwithstanding any other provision of this title, before approving any treatment works project under section 203 of this Act, the Administrator shall determine that (A) there has been adopted, or will be adopted July 1, 1973, a system of charges to assure that by each category of users of waste treatment services, as determined by the Administrator, will pay its appropriate share of the costs of operation and maintenance (including replacement) of any waste treatment services; (B) provision has been made for the full recovery from the industrial users of the project of that portion of the estimated reasonable capital cost of construction of such project (as determined by regulations promulgated by the Administrator) allocable to the treatment of such industrial waste which are apportionable to the Federal share of the cost of construction; and (C) there exists legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance (including replacement of treatment works, as determined by the Administrator.

"(2) The Administrator shall, within one hundred and eighty days after the date of enactment of this Act, and after consultation with appropriate State and municipal agencies, issue guidelines applicable to payment of waste treatment costs by industrial and nonindustrial users of waste treatment services which shall establish (A) classes of users of such services, including categories of industrial users; (B) criteria against which to determine the adequacy of charges imposed on classes and categories of users reflecting the factors that influence the cost of waste treatment, including strength, volume, and delivery flow rate characteristics of waste; and (C) model systems and rates of user charges typical of various treatment works serving municipal-industrial communities.

"(3) Revenues derived from the recovery of capital costs from industrial users of waste treatment services apportionable to the Federal share of eligible project costs under paragraph (1) of this subsection shall be transmitted to the Administrator and deposited by him in the Treasury as miscellaneous receipts.

"GRANT ALLOCATIONS

"SEC. 205. (a) Except as provided in subsection (d) of this section, all sums appropriated or authorized to be obligated pursuant to section 207 of this Act for each fiscal year shall be allocated among the States, in accordance with regulations promulgated by the Administrator, in the ratio that the population of each State bears to the population of all the States.

"(b)(1) Any sums allocated to a State under subsection (a) of this section which have not been obligated by the end of the fiscal year for which authorized because of a lack of treatment works projects approved by the State water pollution control agency and certified as entitled to priority, shall be immediately reallocated in accordance with regulations promulgated by the Administrator, with priority in such reallocations to be given to States which pay, by grant, 10 per centum of the costs of all such projects in such State. Such reallocated sums shall remain available for the fiscal year following the end of the fiscal year for which they were authorized for obligation.

"(2) Any sum made available to a State by reallocation under this subsection shall be in addition to any funds otherwise available to such State under this title during any fiscal year.

"(c) For the purpose of this section population shall be determined on the basis of the latest available figures as certified by the Secretary of Commerce.

"(d)(1) Of the sums authorized to be appropriated and obligated pursuant to section 207 of this Act, not to exceed $200,000,000 may be allocated in each of fiscal years 1972 and 1973 by the Administrator to assist in the construction of projects utilizing advanced treatment methods for the treatment of wastes on a regional scale for areas with especially severe water pollution control problems.

"(2) No sums shall be allocated under paragraph (1) of this subsection in any fiscal year in which the sums available for reallocation in the previous fiscal year under subsection (b)(1) of this section equal or exceed $200,000,000.

"(e)(1) When all funds allocated to a State in any fiscal year under subsection (a) of this section have been obligated, and a State, municipality, or intermunicipal or interstate agency proceeds (or has proceeded on or after July 1, 1971) to construct any treatment works without all, or a portion of the Federal funds for which such State, municipality, or intermunicipal or interstate agency would have been eligible if funds were available, in accordance with all procedures and all requirements applicable to such treatment works, except insofar as such procedures and requirements limit a State to the construction of treatment works with the aid of Federal funds previously allocated to it, the Administrator, upon application by such State, municipality, or intermunicipal or interstate agency, and his approval of such application, is authorized to pay to such State, municipality, or intermunicipal or interstate agency the Federal share of the costs of construction of such treatment works when additional funds are allocated to such State under subsection (a) of this section if—

"(A) prior to the construction of the treatment works the Administrator approves the plans and specifications therefor in the same manner as other treatment works under this title; and

"(B) the treatment works conform to the applicable criteria adopted under section 204 of this title.

The Administrator may not approve an application under this subsection unless appropriation or obligation authority under section 207 of this Act is in effect for the fiscal year for which the application is sought beyond the amount allocated to such State under the appropriation or obligation authority of the current fiscal year, and no application may be approved which will exceed the State's expected allocation pursuant to such authorization.

"(2) In determining the allocation to any State for any fiscal year under the provisions of subsection (a) of this section, any such treatment works constructed by a State, municipality, interstate, or intermunicipal agency without the aid of Federal funds shall not be considered completed until an application under the provision of this section with respect to such treatment works has been approved by the Administrator.

"REIMBURSEMENT

"SEC. 206. (a) Any treatment works on which construction was initiated in a State after June 30, 1966, and which was approved by the State water pollution control agency and which the Administrator finds meets the appropriate requirements of section 8 of the Federal Water Pollution Control Act prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1971, but which was constructed without Federal financial assistance under such section or which received such assistance in an amount less than 50 per centum (or any higher percentage to which it would have been entitled) of the cost of the project or projects, shall receive reimbursement for State or local funds committed for such works prior to July 1, 1971.

"(b) Any treatment works which was constructed with, or was eligible for, Federal financial assistance under this Act between June 30, 1956, and June 30, 1966, and which was approved by the State water pollution control agency and which the Administrator finds meets the appropriate requirements of the Federal Water Pollution Control Act prior to the date of enactment of this Act but which was constructed without such assistance under such Act or which received such assistance in an amount less than 30 per centum of the cost of the project or projects, shall be eligible for payments in reimbursement of State or local funds committed for such works.

"(c) Funds provided under this section shall be used only for projects which have been approved for construction under this Act or to retire indebtedness incurred to finance the local share of projects previously approved under this Act. The total amount of reimbursement to be received by a State, municipality or intermunicipality or interstate agency under this section shall not exceed the difference between the amount of such assistance, if any, received for such prior project or projects, and 50 per centum (or any higher percentage to which it would have been entitled) of the cost of such projects eligible for reimbursement under subsection (a) of this section, and 30 per centum for projects eligible for reimbursement under subsection (b) of this section. Sums so appropriated shall remain available until expended.

"(d)(1) There is authorized to be appropriated $2,000,000,000 to carry out the provisions of subsection (a) of this section.

"(2) There is authorized to be appropriated $400,000,000 to carry out the provisions of subsection (b) of this section. Sums so appropriated shall remain available until expended.

"(3) From the sums appropriated under the authorization for this section, the Administrator shall allocate to each project approved for reimbursement an amount which bears the same ratio to the reimbursement approved for such project as the total of such sums appropriated bears to the total reimbursement authorized for all projects eligible for reimbursement as estimated by the Administrator.

XUM

"GRANT AUTHORIZATION

"SEC. 207. (a) There is authorized to be appropriated to carry out the programs and activities under this title for the fiscal year beginning July 1, 1971, $3,000,000,000. Sums so appropriated shall remain available until expended.

"(b)(1) To finance the programs and activities under this title, the Administrator is authorized to incur obligations in the form of grant contracts in amounts aggregating in fiscal year 1973 not to exceed $3,000,000,000; in fiscal year 1974 not to exceed $4,000,000,000; and in fiscal year 1975 not to exceed $5,000,000,000. These amounts shall become available for obligation upon the first day of each such fiscal year and shall remain available until obligated. There are authorized to be appropriated for liquidation of obligations incurred under this subsection not to exceed $3,000,000,000 prior to July 1, 1974, which amount may be increased to not to exceed an aggregate of $7,000,000,000 prior to July 1, 1975, and not to exceed an aggregate of $12,000,000,000 prior to July 1, 1976. Sums so appropriated shall remain available until expended.

"(2) From the sums authorized for fiscal years 1972, 1973, and 1974 under this section, not to exceed 5 per centum shall be available to the Administrator to incur obligations in the form of contracts for the purpose of carrying out subsection (f)(1) of section 209 of this Act and shall remain available until expended.

"DISBURSEMENT

"SEC. 208. The Administrator shall make payments under this title through the disbursing facilities of the Department of the Treasury.

"WASTE TREATMENT MANAGEMENT

"SEC. 209. For the purpose of encouraging and facilitating the development and implementation of areawide waste treatment management plans—

"(a)(1) The Administrator, within ninety days after the date of enactment of this Act and after consultation with appropriate Federal, State, and local authorities, shall by regulation publish guidelines for the identification of those areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems.

"(2) The Governor of each State, within sixty days after publication of the guidelines issued pursuant to paragraph (1) of this subsection, shall identify each area within the State which, as a result of urban-industrial concentrations or other factors, has substantial water quality control problems. Not later than one hundred twenty days following such identification and after appropriate consultation with the chief elected officials of local governments having jurisdiction in such areas, the Governor shall designate (A) the boundaries of each such area, and (B) an organization composed of elected officials from the general purpose local governments in such area and other appropriate individuals capable of developing an areawide waste treatment management plan for such area. The Governor may in the same manner at any later time identify any additional area (or modify an existing area) for which he determines areawide waste treatment management to be appropriate, designate the boundaries of such area, and designate an organization capable of developing an areawide waste treatment management plan for such area.

"(3) With respect to any area which, pursuant to the guidelines published under paragraph (1) of this subsection, is located in two or more States, the Governors of the respective States shall consult and cooperate in carrying out the provisions of paragraph (2), with a view toward designating the boundaries of the interstate area having common water quality control problems and for which an areawide waste treatment management plan would be most effective, and toward the designation, within one hundred and eighty days after publication of guidelines issued pursuant to paragraph (1) of this subsection, of a single representative organization capable of developing an effective waste treatment management plan for such area.

"(4) If a Governor does not act within the time required by paragraph (3) of this subsection, or if, in the case of an interstate area, the Governors of the States involved do not designate a planning organization within the time required by paragraph (3) of this subsection, the chief elected officials of local governments within such area may by agreement designate (A) the boundaries for such an area, and (B) an organization composed of elected officials from the general purpose local governments in such area and other appropriate individuals capable of developing an areawide waste treatment management plan for such area.

"(5) Existing regional planning agencies may be designated under paragraphs (2), (3), and (4) of this subsection.

"(6) The Governor shall designate a planning agency for all areas of a State which are not designated under paragraphs (2), (3), or (4) of this subsection.

"(7) Designations under this subsection shall be subject to the approval of the Administrator.

"(b)(1) No later than two years after designation of any organization or agency under subsection (a) of this section, each such organization or agency shall develop a waste treatment management plan consistent with section 201 of this Act, containing alternatives for waste treatment management, and applicable to all wastes generated within the area involved: *Provided*, That the Administrator may extend this requirement by six months for any plan which he determines is under development and will provide for an effective waste-water management program.

"(2) Any such plan shall provide for—

"(A) the establishment of construction priorities for such treatment works and time schedules for the initiation and completion of all treatment works;

"(B) the identification of treatment works necessary to meet the anticipated municipal and industrial waste treatment needs of the area over a twenty-year period (including an analysis of alternative waste treatment systems), including any requirements for the acquisition of land for treatment purposes; the necessary waste water collection and urban storm water runoff systems; and a program to provide the necessary financial arrangements for the development of such treatment works;

"(C) the establishment (to the extent practicable within the time required under this section, or, as soon thereafter as possible) of a regulatory program—

"(i) to implement the waste treatment management requirements of subsections (c) and (d) of section 201 of this Act;

"(ii) to regulate the location, modification, and construction of any facilities within such area which may result in any discharge or runoff of pollutants in such area;

"(iii) to assure that any industrial or commercial wastes discharged into any treatment works in such area meet applicable pretreatments requirements;

"(iv) to control the disposition of all residual waste generated in such area which could affect water quality; and

"(v) to control the disposal of pollutants on land or in subsurface excavations within such area to protect ground and surface water quality;

"(D) the necessary institutional framework including identification of waste treatment management agencies available for designation under subsection (e) of this section required to implement the plan;

"(E) the identification of the measures necessary to achieve the objective of this title, the period of time necessary to implement those measures, the cost of achieving such objective within such time, and the social and economic impact of achieving such objective within such time;

"(F) a process to (i) identify, if appropriate, agriculturally related nonpoint sources of pollution including runoff from fields used for manure disposal and the production of crops and from forest lands; and (ii) set forth procedures, processes, and methods (including land use requirements) to control such sources to the extent feasible;

"(G) a process to (i) identify, if appropriate, mine-related sources of pollution including runoff from new, current, and abandoned surface and underground mines; and (ii) set forth procedures, processes, and methods (including land use requirements) to control such sources to the extent feasible;

"(H) a process to (i) identify construction related sources of water pollution; and (ii) set forth procedures, processes, and methods (including land use requirements) to control such sources to the extent feasible; and

"(I) procedures to control salt water intrusion into rivers, lakes, and estuaries resulting from reduction of fresh water flow from any cause, including irrigation, obstruction, ground water extraction, and diversion, to protect water quality.

"(3)(A) Waste treatment management plans shall be certified by the Governor or his designee (or Governors or their designees, where more than one State is involved) and submitted to the Administrator for his approval within the time specified in subsection (b) of this section.

"(B) The Administrator shall approve any revision of a plan, or portion thereof, under this section if he determines that such revision meets the requirements of the section and has been adopted by the State after reasonable notice and public hearings.

"(4) Whenever the Governor of any State determines (and notifies the Administrator) that consistency with a State-wide regulatory program so requires, the requirements of clauses (F) through (I) of subsection (b)(2) of this section shall be developed and submitted by the Governor for application to all regions within such State. Funds for such purpose shall be provided under section 106 of this Act.

"(c)(1) The Governor of each State, in consultation with the planning agency designated under subsection (a) of this section, at the time a plan is submitted to the Administrator, shall designate one or more waste treatment management agencies for each area designated under subsection (a) of this section and submit a list of such designations to the Administrator.

"(2) The Administrator shall approve any such designation, within ninety days of designation, only if he finds that the designated management agency (or agencies) is authorized—

"(A) to carry out appropriate portions of the areawide waste treatment management plan developed under subsection (b) of this section;

"(B) to manage effectively waste treatment works and related facilities serving such area in conformance with any plan required by subsection (b) of this section;

"(C) directly or by contract, to design and construct new works, and to operate and maintain new and existing works as required by any plan developed pursuant to subsection (b) of this section;

"(D) to accept and utilize grants, or other funds from any source, for waste treatment management purposes;

"(E) to raise revenues, including the assessment of waste treatment charges;

"(F) to incur short- and long-term indebtedness;

"(G) to assure in implementation of its waste treatment management plan that each participating community pays its proportionate share of treatment costs;

"(H) to refuse to receive any wastes from any municipality or subdivision thereof, which does not comply with any provisions of an approved plan under this section applicable to such area; and

"(I) to accept for treatment, any industrial wastes which conform to effluent standards and pretreatment standards under section 307 of this Act, or other requirements necessary for water quality management, including requirements to monitor and report on the volume, character, and rate of flow of such industrial wastes.

"(3) The Administrator shall approve any revision of any designated area, at any time, in the same manner as required for the initial designation.

"(d) After July 1, 1974 (or such later date as authorized pursuant to subsection (b)(1) of this section), the Administrator shall not make any grant other than to the designated management agency or agencies, or their delegates for the construction of treatment works in any area for which a designation has been approved under this section. After such date, the Administrator shall not make any grant unless such works to be assisted are in conformance with a plan approved pursuant to subsection (b) of this section.

"(e) After July 1, 1974 (or such later date as authorized pursuant to subsection (b)(1) of this section), no permit under section 402 of this Act shall be issued to any point source which is in conflict with a plan approved pursuant to subsection (b) of this section.

"(f)(1) The Administrator shall provide financial assistance to any agency designated under subsection (a) of this section in the development of waste treatment management plans under subsection (b) of this section.

"(2) The Administrator is authorized, upon request of the Governor or the designated planning agency, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of waste treatment management plans under subsection (b) of this section.

"(3) The amount granted to any agency shall be 100 per centum of the costs of developing a waste treatment management plan under subsection (b) of this section for each of the first two fiscal years, and shall not exceed 75 per centum of such costs in any succeeding fiscal year.

"(g)(1) The Secretary of the Army acting through the Chief of Engineers, in cooperation with the Administrator and in accordance with policy guidelines developed by the Administrator within ninety days after the date of enactment of this Act, is authorized, upon request of the Governor or the designated planning agency, to consult with, and provide technical assistance to, any agency designated under subsection (a) of this section in the development of waste treatment management plans under subsection (b) of this section.

"(2) There is authorized to be appropriated to the Secretary of the Army such sums as may be necessary to carry out this subsection.

"(h)(1) In any case in which the Secretary of the Army (hereafter in this subsection called Secretary), is requested by a Governor of any State to acquire lands or interests in lands required by such State for any treatment works approved under section 203 of this Act for sites therefor, the Secretary is authorized, in the name of the United States and prior to the approval of title by the Attorney General, to acquire, enter upon, and take possession of such lands or interests in lands by purchase, donation, condemnation, or otherwise in accordance with the laws of the United States (including the Act of February 26, 1931; 46 Stat. 1421), if—

"(A) the Secretary has determined that either the State or appropriate planning agency is unable to acquire such lands or interests in lands with sufficient promptness; and

"(B) the Governor has agreed with the Secretary to pay, at such time as may be specified by the Secretary, an amount equal to the non-Federal costs incurred by the Secretary in acquiring such lands or interests in lands.

"(2) The authority granted by this section shall also apply to lands and interests in lands received as grants of land from the United States and owned or held by railroads or other corporations.

"(3) The costs incurred by the Secretary in acquiring any such lands or interests in lands may include the cost of examination and abstract of title, certificate of title, advertising, and any fees incidental to such acquisition. All costs incurred by the Secretary in connection with the acquisition of any such lands or interests in lands shall be paid from the funds for construction of treatment works allocated to the State upon the request of which such lands or interests in lands are acquired, any any sums paid to the Secretary by such State as its share of the costs of acquisition of such lands or interests in lands shall be deposited in the Treasury to the credit of the appropriation for treatment works and shall be credited to the amount allocated to such State as its allocation of funds for construction of treatment works or shall be deduced from other moneys due the State for reimbursement from funds authorized to be appropriated under section 206 of this Act.

"(4) The Secretary is further authorized and directed by proper deed, executed in the name of the United States, to convey any such lands or interests in lands acquired in any State under the provisions of this section, to the State or appropriate planning agency upon such terms and conditions as to such lands or interests in lands as may be agreed upon by the Secretary and the State or appropriate planning agency to which the conveyance is to be made.

"(i)(1) Whenever lands or interests in lands owned by the United States are required, the Administrator may make such arrangements with the agency having jurisdiction over such lands as may be necessary to give the State or appropriate planning agency constructing the project on such lands in accordance with paragraph (4) of subsection (h) of this section and adequate right-of-way and access thereto from adjoining lands and any such agency is directed to cooperate with the Administrator in this connection.

"(2)(A) If the Administrator determines that any part of the lands or interests in lands owned by the United States is reasonably necessary for treatment works under this Act, the Administrator shall file with the head of the agency supervisory the administration of such lands or interests in lands a map showing the portion of such lands or interest in lands, which it is desired to appropriate.

"(B) If within a period of four months after such filing, the head of such agency shall not have certified to the Administrator that the proposed appropriation of such land or material is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or shall have agreed to the appropriation and transfer under conditions which he deems necessary for the adequate protection and utilization of the reserve, then such land may be appropriated and transferred to the State, or its nominee, for such purposes and subject to the conditions so specified.

"(C) If at any time the need for any such lands for such purposes shall no longer exist, notice of the fact shall be given by the State to the Administrator and such lands shall immediately revert to the control of the head of the agency from which they had been appropriated.

"(j) The provisions of subsections (h) and (i) of this section shall apply only to projects constructed under the provisions of title II of this Act.

"DEFINITIONS

"SEC. 210. As used in this title—

"(a) The term 'construction' includes (1) preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of treatment works (2) the erection, building, acquisition, alteration, remodeling, improvement or extension of treatment works; and (3) the inspection and supervision of the construction of treatment works.

"(b)(1) The term 'treatment works' means any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement section 201 of this Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

"(2) In addition to the definition contained in paragraph (1) of this subsection, 'treatment works' means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste: *Provided, however*, That any application for construction grants which includes wholly or in part such methods or systems shall, in accordance with guidelines published by the Administrator pursuant to paragraph (3) of this subsection, contain adequate data and analysis demonstrating such proposal to be, over the life of such works, the most cost efficient alternative to comply with sections 301 or 302 of this Act, or the requirements of section 201 of this Act.

"(3) For the purposes of paragraph (2) of this subsection, the Administrator shall, within one hundred and eighty days after the date of enactment of this Act, publish and thereafter revise no less often than annually, guidelines for the evaluation of methods, including cost-effective analysis described in paragraph (2) of this subsection.

"(c) The term 'replacement' as used in this title means those expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which such works are designed and constructed.

"(d) The term 'industrial user' means those industries identified in the Standard Industrial Classification Manual, Bureau of the Budget, 1967, as amended and supplemented, under the category 'Division D—Manufacturing' and such other classes of significant waste producers as, by regulation, the Administrator deems appropriate under this title.

"(e) The term 'grant' shall be deemed to refer to a grant or to a grant contract, or to both, as the context may require.

XUM

"TITLE III—STANDARDS AND ENFORCEMENT

"EFFLUENT LIMITATIONS

"SEC. 301. (a) Except as authorized pursuant to this section and sections 302, 306, 307, and 402 of this Act, the discharge of any pollutant by any person shall be unlawful.

"(b) In order to carry out the purposes of this Act there shall be achieved—

"(1)(A) not later than January 1, 1976, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirements of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirements under section 307 of this Act; and

"(B) for publicly owned treatment works in existence on January 1, 1976, or approved pursuant to section 203 of this Act prior to June 30, 1974 (for which construction must be completed within four years of approval), secondary treatment as defined by the Administrator pursuant to section 304(d)(1) of this Act; or,

"(C) not later than January 1, 1976, any more stringent effluent limitation, treatment standards, or schedule of compliance established pursuant to any other State or Federal law or regulation, or required to implement any applicable water quality standard (i) established pursuant to the Federal Water Pollution Control Act prior to the date of enactment of this Act; or (ii) for intrastate waters, established pursuant to State law.

"(2)(A) not later than January 1, 1981, effluent limitations for point sources, other than publicly owned treatment works, (i) which shall require the elimination of the discharge of pollutants, unless on the basis of facts presented by the owner or operator of any such sources, among other information, the State under a program approved pursuant to section 402 of this Act (or, where no such program is approved, the Administrator) finds, that compliance is not attainable at a reasonable cost, in which event there shall be applied an effluent limitation based on that degree of effluent control achievable through the application of the best available technology, taking into account the cost of such controls, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of this Act, or (ii) in the case of a discharge into a publicly owned treatment works which meets the requirement of subparagraph (B) of this paragraph, which shall require compliance with any applicable pretreatment requirements and any requirement under section 307 of this Act; and

"(B) not later than January 1, 1981, compliance with the requirements established under section 201(d) of this Act for publicly owned treatment works.

"(c) any effluent limitation required by paragraph (2) of subsection (b) of this section shall be reviewed at least every five years and, if appropriate, revised pursuant to the procedure established under such paragraph.

"(d) Effluent limitations established pursuant to this section or section 302 of this Act shall be applied to all point sources of discharge in accordance with the provisions of section 402 of this Act.

"(e) Notwithstanding any other provisions of this Act it shall be unlawful to discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the navigable waters.

"WATER QUALITY RELATED EFFLUENT LIMITATIONS

"SEC. 302. (a) Whenever, in the judgment of a State or the Administrator, discharges from a point source or group of point sources, with the application of effluent limitations required under section 301(b)(2) of this Act, would interfere with the attainment or maintenance of that water quality in a specific portion of the navigable waters which shall assure protection of public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water, effluent limitations (including alternative effluent control strategies) for such point source or sources shall be established which can reasonably be expected to contribute to the attainment or maintenance of such water quality.

"(b) (1) Prior to establishment of any effluent limitation pursuant to subsection (a) of this section, the State or the Administrator shall issue notice of intent to establish such limitation and within ninety days of such notice hold a public hearing to determine the relationship of the economic and social costs of achieving any such limitation or limitations, including any economic or social dislocation in the affected community or communities, to the social and economic benefits to be obtained (including the attainment of the objectives of this Act) and to determine whether or not such effluent limitations can be implemented with available technology or other alternative control strategies.

"(2) If a person affected by such limitation demonstrates at such hearing that (whether or not such technology or other alternative control strategies are available) there is no reasonable relationship between the economic and social costs and the benefits to be obtained (including attainment of the objectives of this Act), such limitation shall not become effective and the State or the Administrator shall adjust such limitation as it applies to such person.

"(c) The establishment of effluent limitations under this section shall not operate to delay the application of any effluent limitation established under section 301 of this Act.

"AQUACULTURE

"SEC. 303. (a) The Administrator is authorized, after public hearings, to permit the discharge of a specific pollutant or pollutants under controlled conditions associated with an approved aquaculture project under Federal or State supervision.

"(b) The Administrator shall by regulation, within one year after the date of enactment of this Act, establish any procedures and guidelines he deems necessary to carry out this section.

"INFORMATION AND GUIDELINES

SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this Act (and from time to time thereafter revise) criteria of water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this Act (and from time to time thereafter revise) information (A) on the factors necessary to restore and maintain the natural chemical, physical, and biological integrity of all navigable waters, ground waters, waters of the contiguous zone, and the oceans; (B) on the factors necessary for the protection and propagation of shellfish, fish, and wildlife and to allow recreational activities in and on the water; and (C) on the measurement and classification of water quality.

"(3) Such criteria and information and revisions thereof shall be issued to the States and shall be published in the Federal Register and otherwise made available to the public.

"(b) For the purpose of adopting or revising effluent limitations under this Act the Administrator shall, after consultation with appropriate Federal and State agencies and other interested persons, publish within one year of enactment of this Act regulations providing guidelines for effluent limitations, and, at least annually thereafter, revise, if appropriate, such regulations. Such regulations shall—

"(1)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best practicable control technology currently available for classes and categories of point sources (other than publicly owned treatment works); and

"(B) specify factors to be taken into account in determining the control measures and practices to be applicable to any point sources (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best practicable control technology currently available to comply with subsection (b)(1) of section 301 of this Act, shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, and such other factors as the Administrator deems appropriate;

"(2)(A) identify, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, the degree of effluent reduction attainable through the application of the best available control measures and practices including treatment techniques, process and procedure innovations, operating methods, and other alternatives for classes and categories of point sources (other than publicly owned treatment works); and

(B) specify factors to be taken into account in determining the best measures and practices available to comply with subsection (B)(2) of section 301 of this Act to be applicable to any point source (other than publicly owned treatment works) within such categories or classes. Factors relating to the assessment of best available technology shall take into account the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, the cost of achieving such effluent reduction, and such other factors as the Administrator deems appropriate; and

"(3) identify control measures and practices available to eliminate the discharge of pollutants from categories and classes of point sources, taking into account the cost of achieving such elimination of the discharge of pollutants.

"(c) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to the States and appropriate water pollution control agencies within one hundred and eighty days after enactment of this Act (and from time to time thereafter) information on the processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of this Act. Such information shall include technical and other data, including costs, as are available on alternative methods of elimination or reduction of the discharge of pollutants. Such information, and revisions thereof, shall be published in the Federal Register and otherwise shall be made available to the public.

"(d)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within thirty days after enactment of this Act (and from time to time thereafter) information, in terms of amounts of constituents and chemical, physical, and biological characteristics of pollutants, on the degree of effluent reduction attainable through the application of secondary treatment.

"(2) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall publish within nine months after the date of enactment of this Act (and from time to time thereafter) information on alternative waste treatment management techniques and systems available to implement section 201 of this Act.

"(e) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue to appropriate Federal agencies, the States, water pollution control agencies, and agencies designated under section 209 of this Act, within one year after the effective date of this subsection (and from time to time thereafter) information including (1) guidelines for identifying and evaluating the nature and extent of nonpoint sources of water pollutants, and (2) processes, procedures, and methods to control water pollution resulting from—

"(A) agricultural and silvicultural activities, including runoff from fields and crop and forest lands;

"(B) mining activities, including runoff and siltation from new, currently operating, and abandoned surface and underground mines;

"(C) all construction activity, including runoff from the facilities resulting from such construction;

"(D) the disposal of pollutants in wells or in sub-surface excavations;

"(E) salt water intrusion resulting from reductions of fresh water flow from any cause, including extraction of ground water, irrigation, obstruction, and diversion; and

"(F) changes in the movement, flow, or circulation of any navigable waters or ground waters, including changes caused by the construction of dams, levees, channels, causeways, or flow diversion facilities.

Such information and revisions thereof shall be published in the Federal Register and otherwise made available to the public.

"(f)(1) For the purpose of assisting States in carrying out programs under section 402 of this Act, the Administrator shall publish, within ninety days after the date of enactment of this Act, and review at least annually thereafter and, if appropriate, revise guidelines for pretreatment of pollutants which he determines are not susceptible to treatment by publicly owned treatment works. Guidelines under this subsection shall be established to control and prevent the discharge into the navigable waters, the contiguous zone, or the ocean (either directly or through publicly owned treatment works) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

"(2) When publishing guidelines under this subsection the Administrator shall designate the category or categories of treatment works to which the guidelines shall apply.

"(g) The Administrator shall, within one hundred and eighty days from the date of enactment of this Act, promulgate guidelines establishing test procedures for the analysis of pollutants that shall include the factors which must be provided in any certification pursuant to section 401 of this Act or permit application pursuant to section 402 of this Act.

"(h) The Administrator shall (1) within sixty days after the enactment of this Act promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point sources of discharge subject to any State program under section 402 of this Act; and (2) within ninety days from the date of enactment of this Act promulgate guidelines establishing the minimum procedural and other elements of any State program under section 402 of this Act which shall include:

"(A) monitoring requirements;

"(B) reporting requirements (including procedures to make information available to the public); and

"(C) enforcement provisions.

"(i) The Administrator shall within six months after the effective date of this subsection (and from time to time thereafter), issue such information on methods, procedures, and processes as may be appropriate to restore and enhance the quality of the Nation's publicly owned fresh water lakes.

"(j)(1) The Administrator shall, within six months from the date of enactment of this Act, enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior to provide for the maximum utilization of the appropriate programs authorized under other Federal law to be carried out by such Secretaries for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 209 of this Act.

"(2) The Administrator, pursuant to any agreement under paragraph (1) of this subsection is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, or the Secretary of the Interior any funds appropriated under paragraph (3) of this subsection to supplement any funds otherwise appropriated to carry out appropriate programs authorized to be carried out by such Secretaries.

"(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 for the fiscal year ending June 30, 1973, and each fiscal year thereafter. Sums so appropriated shall remain available until expended.

"WATER QUALITY INVENTORY

"SEC. 305. (a) The Administrator, in cooperation with the States and with the assistance of appropriate Federal agencies, shall prepare a report to be submitted to the Congress on or before July 1, 1973, which shall—

"(1) describe the specific quality, as of January 1, 1973, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, of all navigable waters and the waters of the contiguous zone;

"(2) include an inventory of all point sources of discharge (based on a qualitative and quantitative analysis of discharges) of pollutants into all navigable waters and the waters of the contiguous zone; and

"(3) identify specifically those navigable waters, the quality of which

"(A) is adequate to provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allow recreational activities in and on the water;

"(B) can reasonably be expected to attain such level by 1976 or 1981; and

"(C) can reasonably be expected to attain such level by any later date.

"(b)(1) Each State shall prepare and submit to the Administrator by July 1, 1974, and shall bring up to date each year thereafter, a report which shall include—

"(A) a description of the water quality of all navigable waters in such State as of January 1, of the preceding year, with appropriate supplemental descriptions as shall be required to take into account seasonal, tidal, and other variations, correlated with the quality of water required by the objectives of this Act (as identified by the Administrator pursuant to criteria published under section 304(a) of this Act) and the water quality described in subparagraph (B) of this paragraph;

"(B) an analysis of the extent to which all navigable waters of such State provide for the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water;

"(C) an analysis of the extent to which the elimination of the discharge of pollutants and a level of water quality which provides for the protection and propagation of a balanced population of shellfish, fish, and wildlife and allows recreational activities in and on the water, have been or will be achieved by the requirements of this Act, together with recommendations as to additional action necessary to achieve such objectives and for what waters such additional action is necessary;

"(D) an estimate of (i) the economic and social costs necessary to achieve the objectives of this Act in such State; (ii) the economic and social benefits of such achievement; and (iii) an estimate of the date of such achievement; and

"(E) a description of the nature and extent of non-point sources of pollutants, and recommendations as to the programs which must be undertaken to control each category of such sources, including an estimate of the costs of implementing such programs.

"(2) The Administrator shall transmit such reports, together with an analysis thereof, to the Congress before April 1, 1975, and annually thereafter.

"NATIONAL STANDARDS OF PERFORMANCE

"SEC. 306. (a) For purposes of this section:

"(1) The term 'standard of performance' means a standard for the control of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

"(2) The term 'new source' means any source, the construction or modification of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard of performance under this section which will be applicable to such source.

"(3) The term 'source' means any building, structure, facility, or installation which discharges or may discharge any water pollutant.

"(4) The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a source.

"(5) The term 'modification' means any construction (other than construction of pollution abatement facilities as determined by the Administrator or appropriate State agency) which may alter the nature or may increase the amounts of water pollutants, or combinations of such pollutants, discharged by a source.

"(6) The term 'construction' means any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

XUM

"(b) (1) (A) The Administrator shall, within ninety days after the date of enactment of this Act publish (and from time to time thereafter shall revise) a list of categories of sources, which shall, at the minimum, include:

"pulp and paper mills;
"paperboard, builders paper and board mills;
"meat product and rendering processing;
"dairy product processing;
"grain mills;
"canned and preserved fruits and vegetables processing;
"canned and preserved seafood processing;
"sugar processing;
"textile mills;
"cement manufacturing;
"feedlots;
"electroplating;
"organic chemicals manufacturing;
"inorganic chemicals manufacturing;
"plastic and synthetic materials manufacturing;
"soap and detergent manufacturing;
"fertilizer manufacturing;
"petroleum refining;
"iron and steel manufacturing;
"nonferrous metals manufacturing;
"cotton ginning;
"phosphate manufacturing;
"steam electric powerplants;
"ferroalloy manufacturing;
"leather tanning and finishing;
"glass and asbestos manufacturing;
"rubber processing; and
"timber products processing.

"(B) As soon as practicable, but in no case more than one year, after a category of sources is included in a list under subparagraph (A) of this paragraph, the Administrator shall propose regulations establishing Federal standards of performance for new sources within such category. The Administrator shall afford interested persons an opportunity for written comment on such proposed regulations. After considering such comments, he shall promulgate, within one hundred and twenty days after publication of such proposed regulations, such standards with such adjustments as he deems appropriate. The Administrator shall, from time to time, as technology and alternatives change, revise such standards following the procedure required by this subsection for promulgation of such standards. Standards of performance, or revisions thereof, shall become effective upon promulgation.

"(C) Such standards of performance shall apply to all sources within such category, unless, upon application from an owner or operator of any source which as a result of modification is subject to this section, the Administrator determines, after public hearing, that the economic and social costs of implementing such standard bear no reasonable relationship to the social and economic benefits (including water quality objectives) to be obtained. Any such determination shall be accompanied by an appropriate adjustment of such standard for such source, which shall reflect the greatest degree of effluent reduction which the Administrator determines can reasonably be achieved by such source.

"(2) The Administrator may distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing such standards.

"(3) The provisions of this section shall apply to any new source owned or operated by the United States.

"(c) (1) Each State may develop and submit to the Administrator a procedure for applying and enforcing standards of performance for new sources located in such State. If the Administrator finds the State procedure is adequate he shall delegate to such State the authority he has under this Act to apply and enforce such standards (except with respect to new sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator from enforcing, under section 309 of this Act, any applicable standard of performance under this section.

"(d) After the effective date of standards of performance promulgated under this section, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to such source.

"TOXIC AND PRETREATMENT EFFLUENT STANDARDS

"SEC. 307. (a)(1) The Administrator shall, within ninety days after the date of enactment of this Act, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibition of the discharge of such toxic pollutants or combination of such pollutants) will be established under this section.

"(2) Within one hundred and eighty days after the date of publication of any list, or revision thereof, containing toxic pollutants or combination of pollutants under paragraph (1) of this subsection, the Administrator, in accordance with section 553 of title 5 of the United States Code, shall publish a proposed effluent standard (or a prohibition) for such pollutant or combination of pollutants and a notice for a public hearing on such proposed standard to be held within thirty days. As soon as possible after such hearing, but not later than six months after publication of the proposed effluent standard (or prohibition), unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, such standard (or prohibition) shall be promulgated.

"(3) If the Administrator finds that a modification of such proposed standard (or prohibition) is justified, a revised effluent standard (or prohibition) for such pollutant or combination of pollutants shall be promulgated immediately. Such standard (or prohibition) shall be reviewed and, if appropriate, revised at least every three years.

"(4) Any effluent standard promulgated under this section shall be at that level which the Administrator determines provides an ample margin of safety.

"(5) When proposing or promulgating any effluent standard (or prohibition) under this section, the Administrator shall designate the category or categories of sources to which the effluent standard (or prohibition) shall apply.

"(6) Any effluent standard (or prohibition) established pursuant to this section shall take effect on such date or dates as specified in the order promulgating such standard, but in no case more than one year from the date of such promulgation.

"(7) Prior to publishing any regulations pursuant to this section the Administrator shall, to the maximum extent practicable within the time provided, consult with appropriate advisory committees, States, independent experts, and Federal departments and agencies.

"(8) After the effective date of any effluent standard or prohibition promulgated under this subsection, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such effluent standard or prohibition.

"(b) (1) The Administrator shall, within ninety days after the date of enactment of this Act and from time to time thereafter, publish proposed regulations establishing pretreatment standards for discharges of pollutants into publicly owned treatment works (as defined in section 210 of this Act), for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. Not later than ninety days after such publication, and after opportunity for public hearing, the Administrator shall promulgate such pretreatment standards. Pretreatment standards under this subsection shall specify a time for compliance not to exceed three years from the date of promulgation and shall be established to prevent the discharge through treatment works (as defined in section 210 of this Act) of any pollutant which interferes with, passes through, or otherwise is incompatible with such works.

"(2) The Administrator shall, from time to time, as control technology, processes, operating methods, or other alternatives change, revise such standards following the procedure established by this subsection for promulgation of such standards.

"(3) When proposing or promulgating any pretreatment standard under this section, the Administrator shall designate the category or categories of sources to which such standard shall apply.

"(4) Pretreatment standards established pursuant to this subsection shall be applied pursuant to section 402 of this Act.

"(5) Nothing in this subsection shall affect any pretreatment requirement established by any State or local law not in conflict with any pretreatment standard established under this subsection and such requirements shall be applicable for the purposes of sections 301, 302, and 402 of this Act.

"INSPECTIONS, MONITORING AND ENTRY

"SEC. 308. (a) Whenever required to carry out the purposes of this Act, including but not limited to (1) developing or assisting in the development of any effluent limitation, prohibition, or effluent standard, pretreatment standard, or standard of performance under this Act; (2) determining whether any person is in violation of any such effluent limitation, prohibition or effluent standard, pretreatment standard, or standard of performance; (3) any requirement established under this section; or (4) carrying out sections 305, 311, 402, and 504 of this Act—

"(A) the Administrator shall require the owner or operator of any point source of pollutants to (i) establish and maintain such records, (ii) make such reports, (iii) install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods) (iv) sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and (v) provide such other information as he may reasonably require; and

"(B) the Administrator or his authorized representative, upon presentation of his credentials—

"(i) shall have a right of entry to, upon, or through any premises in which an effluent source is located or in which any records required to be maintained under clause (A) of this subsection are located, and

"(ii) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (A), and sample any effluents which the owner or operator of such source is required to sample under such clause.

"(b) (1) Each State may develop and submit to the Administrator a procedure for carrying out this section or portions thereof in such State. If the Administrator finds the State procedure is adequate, he shall delegate to such State any authority he has to carry out this section (except with respect to sources owned or operated by the United States).

"(2) Nothing in this subsection shall prohibit the Administrator from carrying out in a State, at any time, the authority granted under this section.

"(c) Any records, reports, or information obtained under this section shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act.

"FEDERAL ENFORCEMENT

"SEC. 309. (a)(1) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of any effluent limitation, under sections 301 or 302 of this Act, the Administrator shall notify the person in alleged violation and the State in which such violation is alleged to have occurred of such finding. If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order requiring such person to comply with such limitation or shall bring a civil action in accordance with subsection (b) of this section.

"(2) Whenever, on the basis of information available to him, the Administrator finds that violations of applicable effluent limitations under sections 301 or 302 of this Act are so widespread that such violations appear to result from a failure of the State to enforce such permit conditions, or limitations effectively, he shall so notify the State. If the Administrator finds such failure extends beyond the thirtieth day after such notice, he shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such limitations (hereafter referred to in this section as the period of 'federally assumed enforcement'), the Administrator shall enforce any applicable effluent limitation with respect to any person—

"(A) by issuing an order to comply with such limitation, or

"(B) by bringing a civil action under subsection (b) of this section.

"(3) Whenever, on the basis of any information available to him, the Administrator finds that any person is in violation of section 301 or 302 of this Act, or is in violation of sections 306 or 307 of this Act, or is in violation of any requirement of section 308 of this Act, or is in violation of a prohibition under section 301(a) of this Act or any permit, or condition thereof, issued under section 402 of this Act, he shall issue an order requiring such person to comply with such section or requirement, or he shall bring a civil action in accordance with subsection (b) of this section.

"(4) An order issued under this subsection (other than an order relating to a violation of (A) an effluent limitation under sections 301, 302 of this Act, or permit or condition thereof under section 402 of this Act; (B) section 306 of this Act; or (C) section 307 of this Act) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator or his delegate concerning the alleged violation. A copy of any order issued under this subsection shall be sent immediately by the Administrator to the State water pollution control agency of any State in which the violation occurs and other affected States. Any order issued under this subsection shall be by personal service and state with reasonable specificity the nature of the violation, specify a time for compliance, not to exceed thirty days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1) of this subsection) is issued to a corporation, a copy of such order (or notice) shall be served on any appropriate corporate officers.

"(b) The Administrator shall commence a civil action for appropriate relief, including a permanent or temporary injunction, whenever any person—

"(1) violates or fails or refuses to comply with any order issued under subsection (a) of this section; or

"(2) violates any effluent limitation under sections 301 or 302 of this Act during any period of federally assumed enforcement or more than thirty days after having been notified by the Administrator under subsection (a)(1) of this section of a finding that such person is violating such limitation; or

"(3) violates section 306 or 307 of this Act; or

"(4) fails or refuses to comply with any requirement of section 308 of this Act; or

"(5) violates the prohibition of subsection (a) of section 301 of this Act (except that the Administrator shall not exercise this authority prior to July 1, 1973, in cases where such violation is for the discharge of pollutants without a permit under section 402 of this Act, where the owner or operator has applied for such permit, and the State with an approved program under section 402 of this Act or the Administrator, where no program is approved, has not acted to deny such permit); or

"(6) violates, or has violated (i) any effluent limitation under sections 301 or 302 of this Act, (ii) section 306 of this Act, (iii) section 307 of this Act, or (iv) permit, or condition thereof, under section 402 of this Act.

Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation and to require compliance. Notice of the commencement of such action shall be given immediately to the appropriate State water pollution control agency.

"(c) (1) Any person who willfully or negligently—

"(A) violates any effluent limitation under sections 301 or 302 of this Act during any period of federally assumed enforcement or more than thirty days after having been notified by the Administrator under subsection (a)(1) of this section that such person is violating such condition or limitation;

"(B) violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) of this section;

"(C) violates a prohibition under section 301(a) of this Act; or

"(D) violates sections 306 or 307 of this Act;

"(E) violates a permit, or condition thereof, under section 402 of this Act;

shall be punished by a fine of not more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. In the case of a violation of (i) an applicable effluent limitation under section 301 or 302 of this Act; (ii) section 306 of this Act; (iii) section 307 of this Act; (iv) prohibition under section 301(a) of this Act; or (v) a permit, or condition thereof, under section 402 of this Act; the fine shall be not less than $2,500 per day of violation. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

"(3) For purposes of this subsection, person shall mean, where appropriate, any responsible corporate officers.

"(d) Any person (1) who has violated any prohibition under subsection (a) of section 301 of this Act, effluent limitation under sections 301 or 302 of this Act, standard of performance under section 306 of this Act, prohibition or effluent standard under section 307 of this Act, or permit, or condition thereof under section 402 of this Act, or (2) who violates or fails or refuses to comply with any order issued by the Administrator under subsection (a) of this section shall be subject to a civil penalty not to exceed $10,000 per day of such violation, failure, or refusal.

"(e) Whenever a municipality is a party to an action under this section, the State where such municipality is located shall be joined as a party to the action and shall assume financial responsibility for any expenses incurred as a result of complying with any judgment against the municipality if the laws of that State limit the capacity of the municipality to raise revenues needed to pay expenses required by such a judgment.

"INTERNATIONAL POLLUTION ABATEMENT

"SEC. 310. (a) Whenever the Administrator, upon receipt of reports, surveys, or studies from any duly constituted international agency, has reason to believe that pollution of any waters is occurring which endangers the health or welfare of persons in a foreign country, and the Secretary of State requests him to abate such pollution, he shall give formal notification thereof to the State water pollution control agency of the State or States in which such discharge or discharges originate and to the appropriate interstate water pollution control agency, if any. He shall also promptly call such a hearing, if he believes that such pollution is occurring in sufficient quantity to warrant such action, and if such foreign country has given the United States essentially the same rights with respect to the prevention and control of water pollution occurring in that country as is given that country by this subsection. The Administrator, through the Secretary of State, shall invite the foreign country which may be adversely affected by the pollution to attend and participate in the hearing, and the representative of such country shall, for the purpose of the hearing and any further proceeding resulting from such hearing, have all the rights of a State water pollution control agency. Nothing in this subsection shall be construed to modify, amend, repeal, or otherwise affect the provisions of the 1909 Boundary Waters Treaty between Canada and the United States or the Water Utilization Treaty of 1944 between Mexico and the United States (59 Stat. 1219), relative to the control and abatement of water pollution in waters covered by those treaties.

"(b) The calling of a hearing under this section shall not be construed by the courts, the Administrator, or any person as limiting, modifying, or otherwise affecting the functions and responsibilities of the Administrator under this section to establish and enforce water quality requirements under this Act.

"(c) The Administrator shall publish in the Federal Register a notice of a public hearing before a hearing board of five or more persons appointed by the Administrator. A majority of the members of the board and the chairman who shall be designated by the Administrator shall not be officers or em-

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ployees of Federal, State, or local governments. On the basis of the evidence presented at such hearing, the board shall within sixty days after completion of the hearing make findings of fact as to whether or not such pollution is occurring and shall thereupon by decision, incorporating its findings therein, make such recommendations to abate the pollution as may be appropriate and shall transmit such decision and the record of the hearings to the Administrator. All such decisions shall be public. Upon receipt of such decision, the Administrator shall promptly implement the board's decision in accordance with the provisions of this Act.

"(d) In connection with any hearing called under this subsection, the board is authorized to require any person whose alleged activities result in discharges causing or contributing to water pollution to file with it in such form as it may prescribe, a report based on existing data, furnishing such information as may reasonably be required as to the character, kind, and quantity of such discharges and the use of facilities or other means to prevent or reduce such discharges by the person filing such a report. Such report shall be made under oath or otherwise, as the board may prescribe, and shall be filed with the board within such reasonable period as it may prescribe, unless additional time is granted by it. Upon a showing satisfactory to the board by the person filing such report that such report or portion thereof (other than effluent data), to which the Administrator has access under this section, if made public would divulge trade secrets or secret processes of such person, the board shall consider such report or portion thereof confidential for the purposes of section 1905 of title 18 of the United States Code. If any person required to file any report under this paragraph shall fail to do so within the time fixed by the board for filing the same, and such failure shall continue for thirty days after notice of such default, such person shall forfeit to the United States the sum of $1,000 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States in the district court of the United States where such person has his principal office or in any district in which he does business. The Administrator may upon application therefor remit or mitigate any forfeiture provided for under this subsection.

"(e) Board members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing board business, entitled to receive compensation at a rate fixed by the Administrator but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5 of the United States Code, be fully reimbursed for travel, subsistence, and related expenses.

"(f) When any such recommendation adopted by the Administrator involves the institution of enforcement proceedings against any person to obtain the abatement of pollution of the waters subject to such recommendation, the Administrator shall institute such proceedings if he believes that the evidence warrants such proceedings. The district court of the United States shall consider and determine de novo all relevant issues, but shall receive in evidence the record of the proceedings before the conference or hearing board. The court shall have jurisdiction to enter such judgment and orders enforcing such judgment as it deems appropriate or to remand such proceedings to the Administrator for such further action as it may direct.

"OIL AND HAZARDOUS SUBSTANCE LIABILITY

"SEC. 311. (a) For the purpose of this section, the term—

"(1) 'oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

"(2) 'hazardous substance' means any substance designated pursuant to subsection (b) (2) of this section;

"(3) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;

"(4) 'vessel' means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

"(5) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(6) 'United States' means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(7) 'owner or operator' means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(2) 'person' includes an individual, firm, corporation, association, and a partnership;

"(9) 'remove' or 'removal' refers to removal of the oil or hazardous substance from the water and shorelines or the taking of such other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

"(10) 'onshore facility' means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

"(11) 'offshore facility' means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than a vessel or a public vessel;

"(12) 'act of God' means an act occasioned by an unanticipated grave natural disaster;

"(13) 'barrel' means 42 United States gallons at 60 degrees Fahrenheit.

"(b) (1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters, adjoining shorelines, or into or upon the waters of the contiguous zone.

"(2) (A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters or adjoining shorelines or the waters of the contiguous zone, present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

"(B) (i) The Administrator shall include in any regulation under subparagraph (A) of this paragraph a determination whether any such designated hazardous substance is subject to removal under this section.

"(ii) The Administrator shall, as part of any determination under clause (i) of this subparagraph, establish the rate of penalty, not to exceed $5,000 per barrel (or equivalent unit established by regulation by the Administrator) of discharge, to be imposed under subparagraph (C) of this paragraph, for each hazardous substance which he determines is not subject to removal. He shall establish such penalty based on the toxicity, degradability, and disposal characteristics of such substance.

"(C) The owner or operator of any vessel, onshore facility or offshore facility from which there is discharged any hazardous substance designated under subparagraph (A) of this paragraph and determined not subject to removal under subparagraph (B) of this paragraph shall be liable, subject to the defenses to liability provided under subsection (f) of this section, to the United States for a penalty per barrel of such substance discharged established under clause (ii) of subparagraph (B) of this paragraph, or $50,000 per discharge, whichever is greater.

"(3) The discharge of oil or hazardous substances into or upon the navigable waters, adjoining shorelines, or into or upon the waters of the contiguous zone in harmful quantities as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges of oil into the waters of the contiguous zone, where permitted under article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and any applicable water quality requirement.

"(4) The President shall by regulation, to be issued as soon as possible after the date of enactment of this paragraph, determine for the purposes of this section, those quantities of oil and any hazardous substance the discharge of which, at such times, locations, circumstances, and conditions, will be harmful to the public health or welfare of the United States, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches except that in the case of the discharge of oil or hazardous substances into or upon the waters of the contiguous zone, only those discharges which threaten the fishery resources of the contiguous zone or threaten to pollute or contribute to the pollution of the territory or the territorial sea of the United States may be determined to be harmful.

"(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection immediately notify the appropriate agency of the United States Government of such discharge. Any such person who fails to notify immediately such agency of such discharge shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

"(6) Any owner or operator of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is willfully or negligently discharged in violation of paragraph (3) of this subsection shall be assessed a civil penalty by the Secretary of the department in which the Coast Guard is operating of not more than $10,000 for each offense. No penalty shall be assessed unless the owner or operator charged shall have been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. Any such civil penalty may be compromised by such Secretary. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the owner or operator charged, the effect on the owner or operator's ability to continue in business, and the gravity of the violation, shall be considered by such Secretary. The Secretary of the Treasury shall withhold at the request of such Secretary the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to such Secretary.

"(c) (1) Whenever any oil or a hazardous substance is discharged, into or upon the navigable waters, adjoining shorelines, or into or upon the waters of the contiguous zone, the President is authorized to act to remove or arrange for the removal of such oil or substance at any time, unless he determines such removal will be done properly by the owner or operator of the vessel, onshore facility, or offshore facility from which the discharge occurs,

"(2) The President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances pursuant to this subsection. Such National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include but not be limited to—

"(A) assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies, including, but not limited to, water pollution control, conservation, and port authorities;

"(B) identification, procurement, maintenance, and storage of equipment and supplies;

"(C) establishment or designation of a strike force consisting of personnel who shall be trained, prepared, and available to provide necessary services to carry out the plan, including the establishment at major ports, to be determined by the President, of emergency task forces of trained personnel, adequate oil and hazardous substance pollution control equipment and material, and a detailed oil and hazardous substance pollution prevention and removal plan;

"(D) a system of surveillance and notice designed to insure earliest possible notice of discharges of oil and hazardous substances to the appropriate Federal agency;

"(E) establishment of a national center to provide coordination and direction for operations in carrying out the plan;

"(F) procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances;

"(G) a schedule, prepared in cooperation with the States, identifying (i) dispersants and other chemicals, if any, that may be used in carrying out the plan, (ii) the waters in which such dispersants and chemicals may be used, and (iii) the quantities of such dispersant or chemical which can be used safely in such waters, which schedule shall provide in the case of any dispersant, chemical, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants and other chemicals which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters; and

"(H) a system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed from the fund established under subsection (k) of this section for the reasonable costs incurred in such removal.

The President may, from time to time, as he deems advisable revise or otherwise amend the National Contingency Plan. After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimise damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

"(d) Whenever a marine disaster in or upon the navigable waters has created a substantial threat of a pollution hazard to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and the public and private shorelines and beaches of the United States, because of a discharge, or an imminent discharge, of large quantities of oil or a hazardous substance from a vessel the United States may (A) coordinate and direct all public and private efforts directed at the removal or elimination of such threat; and (B) summarily remove, and, if necessary, destroy such vessel by whatever means are available without regard to any provision of law governing the employment of personnel or the expenditure of appropriate funds. Any expense incurred under this subsection shall be a cost incurred by the United States Government for the purposes of subsection (f) in the removal of oil or hazardous substance.

"(e) In addition to any other action taken by a State or local government, when the President determines there is an imminent and substantial threat to the public health or welfare of the United States, including, but not limited to, fish, shellfish, and wildlife and public and private property, shorelines, and beaches within the United States, because of an actual or threatened discharge of oil or hazardous substance into or upon the navigable waters from an onshore or offshore facility, the President may require the United States attorney of the district in which the threat occurs to secure such relief as may be necessary to abate such threat, and the district courts of the United States shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

"(f) (1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance in an amount not to exceed $100 per gross ton of such vessel or $14,000,000, whichever is lesser, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

"(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity, and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Administrator is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of one thousand barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or a hazardous substance in violation of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

"(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) of this section for the removal of such oil by the United States Government in an amount not to exceed $8,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

"(g) In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of this section proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) of this section for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator

of a vessel which caused the discharge of oil or a hazardous substance in violation of this section, the liability of such third party under this subsection shall not exceed $100 per gross ton of such vessel or $14,000,000 whichever is the lesser. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred, if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

"(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) the United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

"(i) (1) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Court of Claims, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing causes.

"(2) The provisions of this subsection shall not apply in any case where liability is established pursuant to the Outer Continental Shelf Lands Act.

"(3) Any amount paid in accordance with a judgment of the United States Court of Claims pursuant to this section shall be paid from the fund established pursuant to subsection (k) of this section.

"(j) (1) Consistent with the National Contingency Plan required by subsection (c) (2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws, (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil and hazardous substances from such vessels in violation of this section.

"Any owner or operator of a vessel or an onshore facility or an offshore facility and any other person subject to any regulation issued under paragraph (1) of this subsection who fails or refuses to comply with the provisions of any such regulation, shall be liable to a civil penalty of not more than $5,000 for each such violation. Each violation shall be a separate offense. The President may assess and compromise such penalty. No penalty shall be assessed until the owner, operator, or other person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the owner, operator, or other person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by the President.

"(k) There is hereby authorized to be appropriated to a revolving fund to be established in the Treasury not to exceed $35,000,000 to carry out the provisions of subsections (c), (i), and (l) of this section. Any other funds received by the United States under this section shall also be deposited in said fund for such purposes. All sums appropriated to, or deposited in, said fund shall remain available until expended.

"(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Any moneys in the fund established by subsection (k) of this section shall be available to such Federal departments, agencies, and instrumentalities to carry out the provisions of subsections (c) and (i) of this section. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

"(m) Anyone authorized by the President to enforce the provisions of this section may, except as to public vessels, (A) board and inspect any vessel upon the navigable waters or the waters of the contiguous zone, (B) with or without a warrant arrest any person who violates the provisions of this section or any regulation issued thereunder in his presence or view, and (C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i) (1) of this section, arising under this section. In the case of Guam, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

"(o) (1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

"(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substances into any waters within such State.

"(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

"(p) (1) Any vessel over three hundred gross tons, including any barge of equivalent size, using any port or place in the United States or the navigable waters for any purpose shall establish and maintain under regulations to be prescribed from time to time by the President, evidence of financial responsibility of $100 per gross ton, or $14,000,000 whichever is the lesser, to meet the liability to the United States, except any liability in excess of $50,000 under paragraph (2) of subsection (b) of this section, to which such vessel could be subjected under this section. In cases where an owner or operator owns, operates, or charters more than one such vessel, financial responsibility need only be established to meet the maximum liability to which the largest of such vessels could be subjected. Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the President: (A) evidence of insurance, (B) surety bonds, (C) qualification as a self-insurer, or (D) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States.

"(2) The provisions of paragraph (1) of this subsection shall be effective one year after the effective date of the Water Quality Improvement Act of 1970. The President shall delegate the responsibility to carry out the provisions of this subsection to the appropriate agency head within sixty days after the date of enactment of this section. Regulations necessary to implement this subsection shall be issued within six months after the date of enactment of this section.

"(3) Any claim for costs incurred by such vessel may be brought directly against the insurer or any other person providing evidence of financial responsibility as required under this subsection. In the case of any action pursuant to this subsection such insurer or other person shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if an action had been brought against him by the claimant, and which would have been available to him if an action had been brought against him by the owner or operator.

"(4) Any owner or operator of a vessel subject to this subsection, who fails to comply with the provisions of this subsection or any regulation issued thereunder, shall be liable to a civil penalty of not more than $10,000 for each such violation to be assessed by the delegate of the President. Such penalty may be remitted or mitigated upon such terms as said delegate in his discretion may deem proper. No penalty shall be assessed until the owner or operator charged shall have been given notice and an opportunity for a hearing on such charge.

"(5) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States, as amended (4 U.S.C. 91), to any vessel subject to this subsection, which does not have evidence furnished by the delegate of the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

"(6) The Secretary of the Department in which the Coast Guard is operating shall (A) deny entry to any port or place in the United States or the navigable waters of the United States, to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection, which upon request, does not produce evidence furnished by the delegate of the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

"MARINE SANITATION DEVICES

"SEC. 312. (a) For the purpose of this section, the term—

"(1) 'new vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;

"(2) 'existing vessel' includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;

"(3) 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

"(4) 'United States' includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;

"(5) 'marine sanitation device' includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

"(6) 'sewage' means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;

"(7) 'manufacturer' means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;

"(8) 'person' means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;

"(9) 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(b) (1) As soon as possible, after the enactment of this section and subject to the provisions of section 104(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as 'standards') which shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and with maritime safety and the marine and navigation laws and regulations, governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

"(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

"(c) (1) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

"(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, types, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

"(d) The provisons of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b) (1) of this section and certifications under subsection (g) (2) of this section shall be promulgated and issued by the Secretary of Defense.

"(e) Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

"(f) (1) After the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

"(2) If, after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such vessel on the date of such compliance.

"(3) If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

"(g) (1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

"(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

"(3) Every manufacturer shall establish and maintain such records make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee as reasonable times to have access to and copy such records. All information reported to or otherwise obtained by, the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

"(h) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

"(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

"(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

"(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

"(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

"(i) The district courts of the United States shall have jurisdictions to restrain violations of subsection (g) (1) of this section and subsections (h), (1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce doc-

uments, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(j) Any person who violates subsection (g)(1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than $5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than $2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

"(k) The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilise by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section.

"(l) Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(m) In the case of Guam, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

"FEDERAL FACILITIES POLLUTION CONTROL

"SEC. 313. Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government (a) having jurisdiction over any property or facility, or (b) engaged in any activity resulting, or which may result, in the discharge or runoff of water pollutants shall comply with Federal, State, interstate, and local requirements respecting control and abatement of water pollution to the same extent that any person is subject to such requirements, including the payment of reasonable service charges. The President may exempt any effluent source of any department, agency, or instrumentality in the executive branch from compliance with any such a requirement if he determines it to be in the paramount interest of the United States to do so; except that no exemption may be granted from the requirements of section 306 or 307 of this Act. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods of not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemption from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.

"CLEAN LAKES

"SEC. 314. (a) Each State shall prepare or establish, and submit to the Administrator for his approval—

"(1) an identification and classification according to eutrophic condition of all publicly owned fresh water lakes in such State;

"(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

"(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

"(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under this subsection.

"(c)(1) The amount granted to any State for any fiscal year under this subsection shall not exceed 70 per centum of the funds expended by such State in such year for carrying out such a program.

"(2) There is authorised to be appropriated $50,000,000 for the fiscal year ending July 1, 1972; $100,000,000 for the fiscal year ending July 1, 1973; and $150,000,000 for the fiscal year 1974 for grants to States under this subsection which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under this section.

"TITLE IV—PERMITS AND LICENSES

"CERTIFICATION

"SEC. 401. (a)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that any such discharge will comply with sections 301 and 302 of this Act and any other applicable water quality requirement in such State. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it and, to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where a State or interstate agency has no authority to give such a certification, such certification shall be from the Administrator. If the State, interstate agency, or Administrator, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Administrator, as the case may be.

"(2) Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirement in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit.

"(3) The certification obtained pursuant to paragraph (1) of this subsection with respect to the construction of any facility shall fulfill the requirements of this subsection with respect to certification in connection with any other Federal license or permit required for the operation of such facility unless, after notice to the certifying State, agency, or Administrator, as the case may be, which shall be given by the Federal agency to whom application is made for such operating license or permit, the State, or if appropriate, the interstate agency or the Administrator, notifies such agency within sixty days after receipt of such notice that there is no longer reasonable assurance that there will be compliance with section 301 or section 302 of this Act or any applicable water quality requirements because of changes since the construction license or permit certification was issued in (A) the construction or operation of the facility, (B) the characteristics of the waters into which such discharge is made, (C) the water quality criteria applicable to such waters or (D) applicable effluent limitations or other requirements. This paragraph shall be inapplicable in any case where the applicant for such operating license or permit has failed to provide the certifying State, or, if appropriate, the interstate agency or the Administrator, with notice of any proposed changes in the construction or operation of the facility with respect to which a construction license or permit has been granted, which changes may result in violation of section 301 or section 302 of this Act or any other applicable water quality requirement.

"(4) Prior to the initial operation of any federally licensed or permitted facility or activity which may result in any discharge into the navigable waters and with respect to which a certification has been obtained pursuant to paragraph (1) of this subsection, which facility or activity is not subject to a Federal operating license or permit, the licensee or permittee shall provide an opportunity for such certifying State, or, if appropriate, the interstate agency or the Administrator to review the manner in which the facility or activity shall be operated or conducted for the purposes of assuring that applicable effluent limitations or other applicable water quality requirements will not be violated. Upon notification by the certifying State, or if appropriate, the interstate agency or the Administrator that the operation of any such federally licensed or permitted facility or activity will violate applicable effluent limitations or other water quality requirements such Federal agency may, after public hearing, suspend such license or permit. If such license or permit is suspended, it shall remain suspended until notification is received from the certifying State, agency, or Administrator, as the case may be, that there is reasonable assurance that such facility or activity will not violate applicable effluent limitations under sections 301 or 302 of this Act or other applicable water quality requirements.

"(5) Any Federal license or permit with respect to which a certification has been obtained under paragraph (1) of this subsection may be suspended or revoked by the Federal agency issuing such license or permit upon the entering of a judgment under this Act that such facility or activity has been operated in violation of applicable effluent limitations under sections 301 or 302 of this Act or other applicable water quality requirements.

"(6) No Federal agency shall be deemed to be an applicant for the purposes of this subsection.

"(7) In any case where actual construction of a facility has been lawfully commenced prior to the date of enactment of the Water Quality Improvement Act of 1970, no certification shall be required under this subsection for a license or permit issued after the rate of enactment of such Act of 1970 to operate such facility, except that any such license or permit (other than a permit required under section 402 of this Act or section 13 of the Act of March 3, 1899) issued without certification shall terminate at the end of the three-year period beginning on the date of enactment of such Act of 1970 unless prior to such termination date the person having such license or permit submits to the Federal agency which issued such license or permit a certification and otherwise meets the requirements of this section.

"(b) Nothing in this section shall be construed to limit the authority of any department or agency pursuant to any other provision of law to require compliance with any applicable water quality requirements. The Administrator shall, upon the request of any Federal department or agency, or State or interstate agency, or applicant, provide, for the purpose of this section, any relevant information on applicable effluent limitations or water quality criteria, and shall, when requested by any such department or agency or State or interstate agency, or applicant, comment on any methods to comply with such limitations or criteria.

"(c) In order to implement the provisions of this section, the Secretary of the Army, acting through the Chief of Engineers, is authorized, if he deems it to be in the public interest, to permit the use of spoil disposal areas under his jurisdiction by Federal licensees or permittees, and to make an appropriate charge for such use. Moneys received from such licensees or permittees shall be deposited in the Treasury as miscellaneous receipts.

"(d) Any certification provided under this section shall set forth any effluent limitations and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations under section 301 or 302 of this Act, standard of performance under section 306 of this Act, or prohibition, effluent standard, or pretreatment standard under section 307 of this Act, or any more stringent water quality requirements under State law as provided in section 510 of this Act and shall become a condition on any Federal license or permit subject to the provisions of this section.

"NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

"SEC. 402. (a)(1) The Administrator may, after opportunity for public hearing, issue a permit for the discharge of any pollutant, or combination of pollutants, into the navigable waters, the waters of the contiguous zone, or the oceans, upon condition that such discharge will meet any applicable requirements under sections 209, 301, 302, 306, 307, 306, and 403 of this Act, or prior to promulgation of regulations relating to such requirements, such conditions as the Administrator determines are necessary to carry out the provisions of this Act.

"(2) The Administrator shall prescribe for such permits to assure compliance with the requirements of paragraph (1) of this subsection, including conditions on data and information collection, reporting, and such other requirements as he deems appropriate.

"(3) Any permits for the discharge of pollutants into the navigable waters issued pursuant to section 13 of the Act of March 10, 1899, with the approval of the Administrator after June 11, 1971, and prior to June 30, 1972, shall be deemed to be permits issued under this title and shall continue in force and effect for their term unless revoked, modified, or suspended in accordance with the provisions of this Act.

"(b) At any time after the promulgation of the guidelines required by subsection (h)(2) of section 304 of this Act, the Governor of each State intending to participate in the National Pollutant Discharge Elimination System through its own program may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State, or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

"(1) To issue permits which—

"(A) apply, and insure compliance with effluent limitations under sections 301 and 302 of this Act, standards of performance under section 306 of this Act, effluent standards (or prohibitions) or pretreatment standards under section 307 of this Act, inspection, monitoring, and entry under section 308 of this Act, and other applicable requirements under this Act;

"(B) are for fixed terms not exceeding five years; and

"(C) can be terminated or modified for cause including, but not limited to, the following:

"(i) violations of any conditions of the permit;

"(ii) obtaining a permit by misrepresentation, or failure to disclose fully all relevant facts;

"(iii) changes in conditions that require either a temporary or permanent reduction or elimination of the permitted discharge;

"(D) control the disposal of pollutants in wells;

"(2) To inspect, monitor, enter, and require reports in a manner which will meet the requirements of subsection (b) of section 308 of this Act;

"(3) To insure that the public, and any other State the waters of which may be affected, receive notice of all applications for permits and to provide an opportunity for public hearing before a ruling on such application;

"(4) To insure that the Administrator receives notice of all applications (including a copy thereof) for permits;

"(5) To insure that any State (other than the permitting State), whose waters may be affected by the issuance of a permit may submit written recommendations to the permitting State (and the Administrator) with respect to any permit application and, if any part of such written recommendations are not accepted by the permitting State, that the permitting State will notify such affected State (and the Administrator) in writing of its failure to so accept such recommendations together with its reasons for so doing;

"(6) To insure that no permit will be issued if, in the judgment of the Secretary of the Army acting through the Chief of Engineers, anchorage and navigation of any of the navigable waters would be substantially impaired thereby; and

"(7) To abate violations of the permit or the permit program, including civil and criminal penalties and other ways and means of enforcement.

"(c)(1) Not later than ninety days after the date on which a State has submitted a program plan (or revisions thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(h)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements.

"(2) Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 304(h)(2) of this Act.

"(3) Whenever the Administrator determines after public hearing that a State is not administering a program approved under this section in accordance with requirements of this section, he shall so notify the State and, if appropriate corrective action is not taken within a reasonable time, not to exceed ninety days, the Administrator shall withdraw approval of such program.

"(d)(1) Each State shall transmit to the Administrator a copy of any permit application received by such State and provide notice to the Administrator of all actions related to the consideration of such permit applications, including all permits proposed to be issued by such State.

"(2) No permit shall issue until the Administrator is satisfied that the conditions to be imposed by the State meet the requirements of this Act.

"(3) The Administrator may, within thirty days after receipt of any permit application, waive the requirements of paragraph (2) of this subsection as to such permit application.

"(e) In accordance with guidelines promulgated pursuant to subsection (h)(2) of section 304 of this Act, the Administrator is authorized to waive the requirements of subsection (d) of this subsection at the time he approves a program pursuant to subsection (b) of this section for any category of point sources within the State submitting such program. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

"(f) The Administrator shall promulgate regulations establishing categories of point sources which he determines shall not be subject to the requirements of subsection (d) of this section in any State with a program approved pursuant to subsection (b) of this section. The Administrator may distinguish among classes, types, and sizes within any category of point sources.

"(g) A State or, where appropriate, the Administrator, shall act not later than July 1, 1973, on any permit application received pursuant to this section, within ninety days after promulgation of guidelines under section 304(h)(2) of this Act.

"(h) The Administrator or any State shall not issue a permit under this section for any point source unless such permit shall assure the maintenance and enhancement of the quality of any affected waters.

"(i) Any permit issued under this section for the discharge of pollutants into the navigable waters from a vessel or other floating craft shall be subject to any applicable regulations promulgated by the Secretary of the

Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage, and stowage of pollutants.

"(j) In the event any conditions of a permit for discharges from a publicly owned treatment works (as defined in section 210 of this Act) are violated, a State with a program approved under subsection (b) of this section or the Administrator, where no State program is approved, may proceed directly against any users of such works without prejudice to the rights of the municipality; and further, may restrict, or prohibit, the discharge of any pollutant to such treatment works by sources which did not discharge into such treatment works prior to a finding that such conditions were violated.

"(k) Nothing in this section shall be construed to limit the authority of the Administrator to take action pursuant to section 309 of this Act in connection with any violation of any permit, or condition thereunder, effluent limitation, or other requirement applicable under this Act.

"(l) Copies of any permit application and any permit issued under this section shall be available to the public, in an appropriate place (1) in each State; (2) in the appropriate regional office of the Environmental Protection Agency; and (3) with the Administrator. Such permit applications or permits, or portions thereof, shall further be available on request for the purpose of reproduction.

"(m) Any application for a permit under this section for the discharge of dredged spoil into the navigable waters (other than in confined disposal sites) shall be accompanied by a certificate from the Secretary of the Army that the area chosen for disposal is the only reasonably available alternative and, unless the Administrator finds that the matter to be disposed of will adversely affect municipal water supplies, shellfish beds, wildlife, fisheries (including spawning and breeding areas) or recreation areas, such permit shall issue.

"OCEAN DISCHARGE CRITERIA

"SEC. 403. (a) No permit under section 402 of this Act for a discharge into the territorial sea, the waters of the contiguous zone, or the oceans shall be issued, except in compliance with the guidelines established under subsection (c) of this section.

"(b) The requirements of subsection (d) (2) of section 402 of this Act may not be waived in the case of permits for discharges into the territorial sea, the waters of the contiguous zone, or the oceans.

"(c) (1) Before the issuance of any permit under section 402 of this Act for any discharge into the territorial sea, the waters of the contiguous zone, or the oceans, the Administrator shall, within one hundred and eighty days after enactment of this Act (and from time to time thereafter), promulgate guidelines for determining the degradation of such waters which shall include:

"(A) the effect of disposal of pollutants on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

"(B) the effect of disposal of pollutants on marine life including the transfer, concentration, and dispersal of pollutants or their byproducts through biological, physical, and chemical processes; changes in marine ecosystem diversity, productivity, and stability; and species and community population changes;

"(C) the effect of disposal of pollutants on esthetic, recreation, and economic values;

"(D) the persistence and permanence of the effects of disposal of pollutants;

"(E) the effect of the disposal at varying rates, of particular volumes and concentrations of pollutants;

"(F) other possible locations and methods of disposal or recycling of pollutants including land-based alternatives; and

"(G) the effect on alternate uses of the oceans, such as mineral exploitation and scientific study.

"(2) In any event where insufficient information exists on any proposed discharge to make a reasonable judgment on any of the guidelines established pursuant to this subsection the Administrator shall not issue a permit under section 402 of this Act.

"TITLE V—GENERAL PROVISIONS

"ADMINISTRATION

"SEC. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

"(b) The Administrator, with the consent of the head of any other agency of the United States, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of this Act.

"(c) Each recipient of financial assistance under this Act shall keep such records as the Administrator shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(d) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this Act.

"(e) (1) It is the purpose of this subsection to authorize a program which will provide official recognition by the United States Government to those industrial organizations and political subdivisions of States which during the preceding year demonstrated an outstanding technological achievement or an innovative process, method or device in their waste treatment and pollution abatement programs. The Administrator shall, in consultation with the appropriate State water pollution control agencies, establish regulations under which such recognition may be applied for and granted, except that no applicant shall be eligible for an award under this subsection if such applicant is not in total compliance with all applicable water quality requirements under this Act, or otherwise does not have a satisfactory record with respect to environmental quality.

"(2) The Administrator shall award a certificate or plaque of suitable design to each industrial organization or political subdivision which qualifies for such recognition under regulations established under this subsection.

"(3) The President of the United States, the Governor of the appropriate State, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall be notified of the award by the Administrator and the awarding of such recognition shall be published in the Federal Register.

"(f) Upon the request of a State water pollution control agency, personnel of the Environmental Protection Agency may be detailed to such agency for the purpose of carrying out the provisions of this Act.

"GENERAL DEFINITIONS

"SEC. 502. Except as otherwise specifically provided, when used in this Act:

"(a) The term 'State water pollution control agency' means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of water pollution.

"(b) The term 'interstate agency' means an agency of two or more States established by or pursuant to an agreement or compact approved by the Congress, or any other agency of two or more States, having substantial powers or duties pertaining to the control of pollution of waters as determined and approved by the Administrator.

"(c) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; or with respect to any river basin within the jurisdiction of an agency or instrumentality of the United States constituted pursuant to an Act of Congress and designated by the Governors or by statutes of the participating States in such basin, such basin agency, if the Administrator determines that such agency has sufficient authority to implement this Act for such river basin.

"(d) The term 'municipality' means a city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 209 of this Act.

"(e) The term 'person' means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.

"(f) The term 'pollutant' means, but is not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural, and other waste introduced into water: *Provided*, it does not mean (1) 'sewage from vessels' within the meaning of section 312 of this Act; or (2) water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil or gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the State in which the well is located.

"(g) The term 'pollution' means the man-made or man-induced alteration of the natural chemical, physical, biological, and radiological integrity of water.

"(h) The term 'navigable waters' means the navigable waters of the United States, portions thereof, and the tributaries thereof, including the territorial seas and the Great Lakes.

"(i) The term 'territorial seas' means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of three miles.

"(j) The term 'contiguous zone' means the entire zone established or to be established by the United States under article 24 of the Convention of the Territorial Sea and the Contiguous Zone.

"(k) The term 'ocean' means any portion of the high seas beyond the contiguous zone.

"(l) The term 'effluent limitation' means any restriction established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents of effluents which are discharged from point sources into navigable waters, the waters of the contiguous zone, or the ocean, including schedules and timetables for compliance.

"(m) The term 'schedule and timetable for compliance' means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, prohibition, or effluent standard.

"(n) The term 'discharge' means (1) any addition of any pollutant to navigable waters from any point source, (2) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft, or (3) any addition of any pollutant to publicly owned treatment works (as defined in section 210 of this Act) by any industrial user (as defined in section 210 of this Act).

"(o) The term 'toxic pollutant' means those pollutants, or combinations of pollutants, or disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Administrator, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction) and physical deformations, in such organisms or their offspring.

"(p) The term 'point source' means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

"(q) The term 'biological monitoring' shall mean the determination of the effects on aquatic life, including accumulation of pollutants in tissue, in receiving waters due to the discharge of pollutants (1) by techniques and procedures, including sampling of organisms representative of appropriate levels of the food chain, appropriate to the volume and the physical, chemical, and biological characteristics of the effluent, and (2) at appropriate frequencies and locations.

"(r) The term 'permit' means any permit or equivalent document or requirement issued to regulate the discharge of pollutants.

"WATER POLLUTION CONTROL ADVISORY BOARD

"SEC. 503. (a) (1) There is hereby established in the Environmental Protection Agency a Water Pollution Control Advisory Board, composed of the Administrator or his designee, who shall be Chairman, and nine members appointed by the President, none of whom shall be Federal officers or employees. The appointed members, having due regard for the purposes of this Act, shall be selected from among representatives of various State, interstate and local governmental agencies, of public or private interests contributing to, affected by, or concerned with water pollution, and of other public and private agencies, organizations, or groups demonstrating an active interest in the field of water pollution prevention and control, as well as other individuals who are expert in this field.

"(2) (A) Each member appointed by the President shall hold office for a term of three years, except that (i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (ii) the terms of office of the members first taking office after June 30, 1956, shall expire as follows: three at the end of one year after such date, three at the end of two years after such date, and three at the end of three years after such date, as designated by the President at the time of appointment, and (iii) the term of any member under the preceding provisions shall be extended until the date on which his successor's appointment is effective. None of the members appointed by the President shall be eligible for reappointment within one year after the end of his preceding term but terms commencing prior to the enactment of the Water Pollution Control Act Amendments of 1956 shall not be deemed 'preceding terms' for purposes of this sentence.

"(B) The members of the Board who are not officers or employees of the United States, while attending conferences or meetings of the Board or while otherwise serving at the request of the Administrator, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding $100 per diem, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.

"(b) The Board shall advise, consult with, and make recommendations to the Administrator on matters of policy relating to the activities and functions of the Administrator under this Act.

"(c) Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Environmental Protection Agency.

"EMERGENCY POWERS

"SEC. 504. (a) Upon receipt of evidence that a pollution source or combination of sources, including moving sources, is presenting an imminent or substantial endangerment to the health or welfare of persons, the Administrator shall issue orders requiring immediate abatement of any source of water pollution related to such endangerment.

"(b) Upon receipt of evidence that a pollution source or combination of sources, including moving sources, may present a substantial economic injury to persons because of their inability to market shellfish or shellfish products in commerce because of pollution from such sources, the Administrator shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order, in the district court of the United States for the district in which the persons owning, leasing, or otherwise controlling such source is located or resides or is doing business.

"CITIZEN SUITS

"SEC. 505. (a) Except as provided in subsection (b) of this section, any person may commence a civil action on his own behalf—

"(1) against any person (including (i) the United States, and (ii) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of (A) an effluent standard or limitation under this Act or (B) an order issued by the Administrator or a State with respect to such a standard or limitation, or

"(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary with the Administrator. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such an effluent standard or limitation, or such an order, or to order the Administrator to perform such act or duty, as the case may be, and to apply any appropriate civil penalties under section 309(d) of this Act.

"(b) No action may be commenced—

"(1) under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation (i) to the Administrator, (ii) to the State in which the alleged violation occurs, and (iii) to any alleged violator of the standard, limitation, or order, or

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with the standard, limitation, or order, but in any such action in a court of the United States any person may intervene as a matter of right.

"(2) under subsection (a)(2) of this section prior to sixty days after the plaintiff has given notice of such action to the Administrator, except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of sections 301, 302, and 307 of this Act, or in violation of permit, or conditions thereunder, under section 402 of this Act, or in violation of an order issued by the Administrator pursuant to section 309 of this Act. Notice under this subsection shall be given in such manner as the Administrator shall prescribe by regulation.

"(c) (1) Any action respecting a violation by a discharge source of an effluent standard or limitation or an order respecting such standard or limitation may be brought only in the judicial district in which such source is located.

"(2) In such action under this section, the Administrator, if not a party, may intervene as a matter of right.

"(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

"(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any effluent standard or limitation or to seek any other relief (including relief against the Administrator or a State agency).

"(f) For purposes of this section, the term 'effluent standard or limitation under this Act' means (1) effective July 1, 1973 an unlawful act under subsection (a) of section 301 of this Act; (2) an effluent limitation under section 301 or 302 of this Act; (3) standard of performance under section 306 of this Act; (4) prohibition, effluent standard or pretreatment standard under section 307 of this Act; (5) certification under section 401 of this Act; or (6) a permit or condition thereof issued under section 402 of this Act, which is in effect under this Act (including a requirement applicable by reason of section 313 of this Act).

"(g) A Governor of a State may commence a civil action (1) under subsection (a) without regard to the limitations of subsections (b) and (2) of this section, against the Administrator where there is alleged a failure of the Administrator to enforce a violation of an effluent standard or limitation under this Act occurring in another State causing an adverse effect on the health or welfare in his State, or causing a violation of any water quality requirements in his State;

"(h) Whenever a municipality is a party to a civil suit authorized under this section, the State in which that municipality is located shall be joined as a party to the action and shall assume financial responsibility for any expenses incurred as a result of any judgment against the municipality if the laws of that State limit the capacity of the municipality to raise revenues needed to pay expenses required by such a judgment.

"APPEARANCE

"SEC. 506. The Administrator shall request the Attorney General to appear and represent him in any civil or criminal action instituted under this Act to which the Administrator is a party. Unless the Attorney General notifies the Administration within a reasonable time, that he will appear in such action, attorneys appointed by the Administrator shall appear and represent him.

"EMPLOYEE PROTECTION

"SEC. 507. (a) No person shall discharge, or in any other way discriminate against, or cause to be discharged or discriminated

against any employee or any authorized representative of employees by reason of the fact that such employee or representative of any alleged violator has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

"(b) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator are subject to judicial review under this Act.

"(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees), as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

"(d) This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any prohibition or effluent limitation under section 301 or 302 of this Act, standards of performance under section 306 of this Act, effluent standard, prohibition or pretreatment standard under section 307 of this Act, or any other prohibition or limitation established under this Act.

"FEDERAL PROCUREMENT

"SEC. 508. (a) No Federal agency may enter into any contract with any person, who has been convicted of any offense under section 309 of this Act, for the procurement of goods, materials, and services if such contract is to be performed at any facility at which the violation which gave rise to such conviction occurred, and if such facility is owned, leased, or supervised by such person. The prohibition in the preceding sentence shall continue until the Administrator certifies that the condition giving rise to such conviction has been corrected.

"(b) The Administrator shall establish procedures to provide all Federal agencies with the notification necessary for the purposes of subsection (a) of this section.

"(c) In order to implement the purposes and policy of this Act to protect and enhance the quality of the Nation's water, the President shall, not more than one hundred and eighty days after enactment of this Act, cause to be issued an order (1) requiring each Federal agency authorized to enter into contracts and each Federal agency which is empowered to extend Federal assistance by way of grant, loan, or contract to effectuate the purpose and policy of this Act in such contracting or assistance activities, and (2) setting forth procedures, sanctions, penalties, and such other provisions, as the President determines necessary to carry out such requirement.

"(d) The President may exempt any contract, loan, or grant from all or part of the provisions of this section where he determines such exemption is necessary in the paramount interest of the United States and he shall notify the Congress of such exemption.

"(e) The President shall annually report to the Congress on measures taken in compliance with the purpose and intent of this section, including, but not limited to, the progress and problems associated with such compliance.

"ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

"SEC. 509. (a) In connection with any determination, or for purposes of obtaining information under title III or IV of this Act, the Administrator may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and he may administer oaths. Except for effluent data, upon a showing satisfactory to the Administrator that such papers, books, documents, or information or particular part thereof, if made public, would divulge trade secrets or secret processes, the Administrator shall consider such record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such paper, book, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Administrator, to appear and produce papers, books, and documents before the Administrator, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b)(1) A petition for review of action of the Administrator in promulgating any standard of performance under section 306 of this Act, or any determination made pursuant to subsection (b)(1)(C) of section 306 of this Act, or any effluent standard prohibition or treatment standard under section 307 of this Act or any determinstion as to a State permit program submitted under subsection (b) of section 402 of this Act may be filed by any interested person only in the United States Court of Appeals for the District of Columbia. A petition for review of the Administrator's action in approving or promulgating any effluent limitation under sections 301 or 302 of this Act, or issuing or denying any permit under section 402 of this Act, may be filed by any interested person only in the United States court of appeals for the appropriate circuit. Any such petition shall be within thirty days from the date of such determination, approval, promulgation, issuance, or denial, or after such date if such petition is based solely on grounds arising after such thirtieth day.

"(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(c) In any judicial proceeding in which review is sought of a determination under this Act required to be made on the record after notice and opportunity for hearing, if any party applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Administrator, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Administrator, in such manner and upon such terms and conditions as the court may deem proper. The Administrator may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original determination, with the return of such additional evidence.

"STATE AUTHORITY

"SEC. 510. Except as expressly provided herein, nothing in this Act shall (a) preclude or deny the right of any State or political subdivision thereof or interstate agency to adopt or enforce (1) any standard or limitation respecting discharges of water pollutants or combinations of such pollutants, or (2) any requirement respecting control or abatement of water pollution; except that if an effluent limitation, effluent standard, prohibition, pretreatment standard, or standard of performance is in effect under this Act, such State or political subdivision or interstate agency may not adopt or enforce any effluent limitation, effluent standard, prohibition, pretreatment standard, or standard of performance which is less stringent than the effluent limitation, effluent standard, prohibition, pretreatment standard, or standard of performance under this Act; or

"(b) be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters (including boundary waters) of such States.

"OTHER AFFECTED AUTHORITY

"SEC. 511. (a) This Act shall not be construed as (1) limiting the authority or functions of any officer or agency of the United States under any other law or regulation not inconsistent with this Act; (2) affecting or impairing the authority of the Secretary of Army (A) to maintain navigation or (B) under the Rivers and Harbors Act of 1899 (30 Stat. 1121); except that any certification under section 401 of this Act or permit under section 402 of this Act shall be conclusive as to the effect on water quality of any discharge resulting from any activity subject to section 10 of the Rivers and Harbors Act of 1899, or (3) affecting or impairing the provisions of any treaty of the United States.

"(b) The consultation and coordination requirements of the Act of March 10, 1934, as amended (16 U.S.C. 661, et seq.), shall apply under this Act only to the provisions of (1) section 306 of this Act; (2) the publication of information under section 304 of this Act; and (3) the establishment of guidelines under section 403 of this Act.

"(c) Discharges of pollutants into the navigable waters subject to the Rivers and Harbors Act of 1910 (36 Stat. 593; 33 U.S.C. 421) and the Supervisory Harbors Act of 1888 (25 Stat. 209; 33 U.S.C. 441–451b) shall be regulated pursuant to this Act, and not subject to such Act of 1910 and the Act of 1888 except as to effect on navigation and anchorage.

"(d) The requirements of the National Environmental Policy Act of 1969 (83 Stat. 852) as to water quality considerations shall be deemed to be satisfied—

"(1) by certification pursuant to section 401 of this Act with respect to any Federal license or permit for the construction of any activity which may result in any discharge into the navigable waters of the United States; and

"(2) by certification pursuant to section 401 of this Act and the issuance of a permit pursuant to section 13 of the Act of March 10, 1899, or section 402 of this Act with respect to any Federal license or permit for the operation of any activity which may result in any discharge into the navigable waters of the United States.

"SEPARABILITY

"SEC. 512. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

"LABOR STANDARDS

"SEC. 513. The Administrator shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on treatment works for which grants are made under this Act or by other contractors or grantees under this Act shall be paid wages at rates not less than those prevailing for the same type of work on construction in the immediate locality, as determined by the Secretary of Labor, in accordance with the Act of March 3, 1931, as amended, known as the Davis-Bacon Act (46 Stat. 1494; 40 U.S.C., sec. 276a through 276a–5), and the Secretary of Labor shall establish effective safety standards for the protection of such laborers and mechanics. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276c).

"EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

"SEC. 514. (a)(1) There is established an Effluent Standards and Water Quality Information Advisory Committee, which shall be composed of a Chairman and eight members who shall be appointed by the Administrator within sixty days after the date of enactment of this Act.

"(2) All members of the Committee shall be selected from the scientific community, qualified by education, training, and experience to provide, assess, and evaluate scientific and technical information on effluent standards and limitations.

"(3) Members of the Committee shall serve for a term of four years, and may be reappointed.

"(b)(1) No later than one hundred and eighty days prior to the date on which the Administrator is required to publish any proposed regulation required by section 304(b) of this Act, any proposed standard of performance for new sources required by section 306 of this Act, or any proposed toxic effluent standard required by section 307 of this Act, he shall transmit to the Committee a notice of intent to propose such regulations. The Chairman of the Committee within ten days after receipt of such notice may publish a notice of a public hearing by the Committee, to be held within thirty days.

"(2) No later than one hundred and twenty days after receipt of such notice, the Committee shall transmit to the Administrator such scientific and technical information as is in its possession, including that presented at any public hearing, related to the subject matter contained in such notice.

"(3) Information so transmitted to the Administrator shall constitute a part of the administrative record and comments on any proposed regulations or standards as information to be considered with other comments and information in making any final determinations.

"(4) In preparing information for transmittal, the Committee shall avail itself of the technical and scientific services of any Federal agency, including the United States Geological Survey and any national environmental laboratories which may be established.

"(c)(1) The Committee shall appoint and prescribe the duties of a Secretary, and such legal counsel as it deems necessary. The Committee shall appoint such other employees as it deems necessary to exercise and fulfill its powers and responsibilities. The compensation of all employees appointed by the Committee shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title V of the United States Code.

"(2) Members of the Committee shall be entitled to receive compensation at a rate to be fixed by the President but not in excess of the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title V of the United States Code.

"(d) Five members of the Committee shall constitute a quorum, and official actions of the Committee shall be taken only on the affirmative vote of at least five members: *Provided*, That a special panel composed of one or more members upon order of the Committee shall conduct any hearing authorized by this section and submit the transcript of such hearing to the entire Committee for its action thereon.

"(e) The Committee is authorized to make such rules as are necessary for the orderly transaction of its business.

"(f) At such time as there may be established any national environmental laboratories which are charged with similar authority as that required by this section, such Committee shall cease to exist, within one year.

"REPORTS TO CONGRESS

"SEC. 515. (a) Within ninety days following the convening of each session of Congress, the Administrator shall submit to the Congress a report in addition to any other report required by this Act, on measures taken toward implementing the purpose and intent of this Act, including, but not limited to, (1) the progress and problems associated with developing comprehensive plans, including river basin plans under section 102 of this Act and area wide plans under section 209 of this Act; (2) a summary of actions taken and results achieved in the field of water pollution control research, experiments, studies, and related matters by the Administrator and other Federal agencies and by other persons and agencies under Federal grants or contracts; (3) the progress and problems associated with the development of effluent limitations and recommended control techniques; (4) the status of State programs, including a detailed summary of the progress obtained as compared to that planned under State program plans for development and enforcement of water quality requirements; (5) the identification and status of enforcement actions pending or completed under such Act during the preceding year; (6) the status of State, interstate, and local pollution control programs established pursuant to, and assisted by, this Act; (7) a summary of the results of a survey to be taken by the Administrator annually to determine the efficiency of the operation and maintenance of treatment works constructed with grants under this Act, as compared to the efficiency planned when such grant was made; (8) his activities including recommendations under sections 109 through 111 of this Act; and (9) all reports and recommendations made by the Water Pollution Control Advisory Board.

"(b) The Administrator, in cooperation with State water pollution control agencies and other water pollution control planning agencies, shall make (1) a detailed estimate of the cost of carrying out the provisions of this Act; (2) a comprehensive study of the economic impact on affected units of government of the cost of installation of treatment facilities; and (3) a comprehensive analysis of the national requirements for and the cost of treating municipal, industrial, and other effluent to attain the water quality objectives as established by this Act or applicable State law. The Administrator shall submit such detailed estimate and such comprehensive study of such cost to the Congress no later than February 10 of each year.

"GENERAL AUTHORIZATION

"SEC. 516. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 108, 112, 113, 114, 206, 207, 209(f)(1), 304, and 314, $150,000,000 for the fiscal year ending June 30, 1972, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, and $350,000,000 for the fiscal year ending June 30, 1975. Sums so appropriated shall remain available until expended.

"SHORT TITLE

"SEC. 517. This Act may be cited as the 'Federal Water Pollution Control Act'."

OVERSIGHT STUDY

SEC. 3. In order to assist the Congress in the conduct of oversight responsibilities the Comptroller General of the United States shall conduct a study and review of the research, pilot, and demonstration programs related to prevention and control of water pollution, including waste treatment and disposal techniques, which are conducted, supported, or assisted by all agencies of the Federal Government pursuant to any Federal law or regulation and assess the conflict, coordination, and efficacy of such programs, and make an interim report to the Congress thereon by June 1, 1972, and a final report by March 1, 1973.

DIKED DISPOSAL AREAS

SEC. 4. Section 123 of the Rivers and Harbors Act of 1970 (84 Stat. 1818), is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

INTERNATIONAL AGREEMENTS

SEC. 5. The President shall undertake to enter into international agreements to apply uniform standards of performance for the control of the discharge and emission of pollutants from new sources, uniform controls over the discharge and emission of toxic pollutants, and uniform controls over the discharge of pollutants into the ocean. For this purpose the President shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the 1972 United Nations Conference on the Human Environment and other appropriate international forums.

LOANS TO SMALL BUSINESS CONCERNS FOR WATER POLLUTION CONTROL FACILITIES

SEC. 6. (a) Section 7 of the Small Business Act is amended by inserting at the end thereof a new subsection as follows:

"(g)(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lenders through agreements to participate on an immediate or deferred basis) to assist any small business concern in affecting additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers as defined un-

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der the Federal Water Pollution Control Act, as amended), or methods of operation of such concern to meet water pollution control requirements established under the Federal Water Pollution Control Act, as amended, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this subsection.

"(2) Any such loan—

"(A) shall be made in accordance with provisions applicable to loans made pursuant to subsection (b)(5) of this section, except as otherwise provided in this subsection;

"(B) shall be made only if the applicant furnishes the Administration with a statement in writing from the Environmental Protection Agency or, if appropriate, the State, that such additions or alterations are necessary and adequate to comply with the requirements established under section 301, section 302, section 306, section 307 and section 403 of the Federal Water Pollution Control Act, as amended. Such statement shall be issued by the Administrator (or the State) at the time of consideration of any certification under section 401, or any permit under section 402 of the Federal Water Pollution Control Act, as amended.

"(3) The Administrator of the Environmental Protection Agency shall, as soon as practicable after the date of enactment of the Federal Water Pollution Control Act Amendments of 1971 and not later than 180 days thereafter, prescribe regulations establishing uniform rules for the issuance of statements for the purpose of paragraph (2)(B) of this subsection in conformity with the procedures for the issuance of any certification under section 401 or permits under section 402 of the Federal Water Pollution Control Act, as amended.

"(4) There is authorized to be appropriated to the disaster loan fund established pursuant to section 4(c) of this Act not to exceed $800,000,000 for the purpose of this subsection."

(b) Section 4(c)(1)(A) of the Small Business Act is amended by striking out "and 7(c)(2)" and inserting in lieu thereof "7(c)(2), and 7(g)".

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MOSS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make such clerical and technical corrections in the engrossment of S. 2770 as are necessary, and that the bill be printed as it passed the Senate. I also ask unanimous consent to add as cosponsors Senators CASE, BROOKE, MATHIAS, PEARSON, ROTH, STEVENS, and HATFIELD.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVISION OF BOUNDARIES OF CANYONLANDS NATIONAL PARK, UTAH

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 26.

The PRESIDING OFFICER (Mr. CURTIS) laid before the Senate the amendment of the House of Representatives to the bill (S. 26) to revise the boundaries of the Canyonlands National Park in the State of Utah, which was to strike out all after the enacting clause, and insert:

That the Act providing for the establishment of the Canyonlands National Park (78 Stat. 934; 16 U.S.C. 271) is amended as follows:

(a) Delete section 1 and insert in lieu thereof:

"That in order to preserve an area in the State of Utah possessing superlative scenic, scientific, and archeologic features for the inspiration, benefit, and use of the public, there is hereby established the Canyonlands National Park which, subject to valid existing rights, shall comprise the area generally depicted on the drawing entitled 'Boundary Map, Canyonlands National Park, Utah', numbered 164-91004 and dated June 1970, which shows the boundaries of the park having a total of approximately three hundred and thirty-seven thousand two hundred and fifty-eight acres. The map is on file and available for public inspection in the offices of the National Park Service, Department of the Interior."

(b) In section 2—

(1) in the first sentence, delete the words "described in section 1 hereof or" which appear after the word "area";

(2) in the third sentence, insert the words "or any amendment thereto" after the word "Act"; and

(3) in the fifth sentence, insert the words "or any amendment thereto." after the word "Act".

(c) In section 3, after the word "Act" insert the words "or any amendment thereto".

(d) Add the following sections—

SEC. 6. Within three years from the date of enactment of this section, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132 (c) and (d)), his recommendations as to the suitability or nonsuitability of any area within the national park for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

"SEC. 7. (a) The Secretary of the Interior, in consultation with appropriate Federal departments and appropriate agencies of the State and its political subdivisions, shall conduct a study of proposed road alinements within and adjacent to the Canyonlands National Park. Such study shall consider what roads are appropriate and necessary for full utilization of the area for the purposes of this Act as well as to connect with roads of ingress and egress to the area.

"(b) A report of the findings and conclusions of the Secretary shall be submitted to the Congress within two years of the date of enactment of this Act, including recommendations for such further legislation as may be necessary to implement the findings and conclusions developed from the study.

"SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, not to exceed, however, $16,000 for the acquisition of lands and not to exceed $5,102,000 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development in the areas added by this Act."

Mr. MOSS. Mr. President, I move that the Senate agree to the amendments of the House of Representatives to S. 26.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, is my understanding correct that this bill has been cleared with the minority members of the Committee on Interior and Insular Affairs?

Mr. MOSS. That is correct. It has been an agreed action.

Mr. GRIFFIN. I thank the Senator.

Mr. MOSS. Mr. President, in accepting the House amendments to S. 26, a bill to extend the boundaries of Canyonlands National Park in Utah, the Congress completes some very important unfinished business which was started 7 years ago—in 1964.

At the time we passed the bill established Canyonlands National Park in the 88th Congress, and moved to protect and develop the truly unique and beautiful canyonlands in southeastern Utah for the enjoyment of all of our citizens, we recognized that the boundaries we were then establishing did not include several areas which were of national park stature and quality, and that we would have to come back at a later date to consider the boundaries again.

In taking final action on S. 26, and adding four additional superlative tracts to Canyonlands National Park, we are now fulfilling that obligation.

The expanded park of 337,258 acres will now include many of the most fragile and unique of the weirdly eroded rocks and towering spires, the widest of the sweeping mesas and river views, and the best of the ancient petroglyphs which have been discovered in this fabulous, red rock canyon country. They will all be placed under the management of the National Park Service where they can be guarded from thoughtless persons who might damage or desecrate them. Many of them will eventually be within viewing distance of thousands of Americans each year as roads, jeep trails, and horseback trails are built, while many others will be held in a wilderness area to be viewed only by those who want to backpack in and view them in solitude and isolation. Because Canyonlands is for the most part a pristine region, we have the opportunity to develop it in the way which will best suit the needs and desires of all of our people.

The Senate is willing to accept the amendments added by the House to the Canyonlands National Park bill because we feel they will help in developing the park in an orderly and wise manner. The House wilderness amendment, for example, provides that the wilderness study be completed in three years, instead of a 2-year period the Senate set, and specifies that it must be in accordance with the provisions of the Wilderness Act. There is no objection to this adjustment and clarification.

The House amended the Senate-passed bill which provided that the study of proposed road alinements within and adjacent to the Canyonlands National Park, necessary for full utilization of the area, be made by the Secretary of the Interior and Transportation, in consultation with the appropriate Federal departments and the State of Utah. The House removed the Department of Transportation as one of the agencies with major responsibility, and placed that responsibility fully in the hands of the Secretary of the Interior. It likewise provided that county governments should be consulted. Both of these changes seem desirable—certainly consultation with county governments on road alinements is equitable.

Another House amendment sets a limit on the amount which may be appropriated for the acquisition of privately owned lands—some $16,000 since the land to be added is almost exclusively Federal or State owned. The State lands are subject to in-lieu selections.

Likewise, the House set a limit on the amount which may be expended for development of the national park. This is in keeping with House policy, and the Senate committee is willing to agree on these provisions. The amounts are the figures of the National Park Service in its testimony.

Generally, the Senate feels that the House amendments are an improvement to S. 26, and is happy to accept them. The important point to be made here today is that we have—at long last—brought under the protection of the National Park Service the most significant of the scenic, geological and historic features of the area, and we are assured they will be protected for future generations to enjoy.

Our full attention should now be turned to the development of the expanded park so that it can realize its full scenic and tourist potential. I have been most disappointed at the rate at which roads and other developments have been scheduled and constructed for Canyonlands. We must move at a faster pace. I have worked hard to increase appropriations for Canyonlands, and I shall continue my efforts with renewed vigor now that we have expanded the boundaries. We must develop while we also protect this magnificent area.

I ask unanimous consent to have printed in the RECORD an article entitled "Utah's Threatened Canyons: A Land That Once Was Sea," written by Roger Jellinek and published in the New York Times of Sunday, October 31, 1971.

There being no objection, the article ordered to be printed in the RECORD, as follows:

UTAH'S THREATENED CANYONS: A LAND THAT ONCE WAS SEA

By Roger Jellinek

Only four-wheel-drive vehicles can master Elephant Hill. The mile-long zigzag track has a 40 percent grade and a Jeep is safe up to about 42 percent. I looked down at the wheels from my front seat in the Jeep and saw that each was separately negotiating what seemed to be a ruined stone staircase. Unnerving.

As we ground our way upward late on a warm, sunny afternoon three weeks ago, I was too worried about the steepness of the slope even to notice the terrain to right and left, and it was only after we lurched over the summit and started downhill that I could see the track in front of the Jeep. Small comfort. The windshield was screwed down and if I leaned forward I felt as if I would pitch out over the hood. As we eased our way down a particularly precipitous stretch, our wheels slipping and sliding, I had to break the silence and so I vaguely interrogated the driver.

"This must have really been something the first time you drove it," I said.

"Yup," he answered after a pause. "Well, that is, this is the first time. I mean driving it. I've been down it a couple of times as a passenger."

No more questions.

I was in southeastern Utah, in Canyonlands National Park, on my way into the 55,000-acre Needles area of spires, pillars and balanced rocks. The 257,600-acre park, established in 1964, surrounds the confluence of the Green and Colorado Rivers, above where the Colorado flows 1,800 feet deep through Cataract Canyon, then into Glen Canyon on the Arizona border, where a dam has formed Lake Powell, and on into the Grand Canyon. The whole region is one of the most exotic wildernesses in the world—an ancient seabed, or series of seabeds, the sand turned into sandstone and eroded by wind and water into fantastic shapes.

THE BEST TIME OF THE YEAR

I had wanted to see this country ever since reading Edward Abbey's "Desert Solitaire." I had seen something of it on a trip down the Grand Canyon section of the Colorado on a rubber raft this past summer, but had felt frustrated by being more or less confined to the river and its banks by fierce heat and canyon walls that made extended explorations of the terrain inadvisable. Now, however, it was autumn, the best time of the year in the Canyonlands.

My guides were a group from the Sierra Club who were visiting the park to celebrate the publication of the club's latest big picture book, "Slickrock: The Canyonlands of Southeastern Utah," with photographs by Philip Hyde and a text by Edward Abbey that is a polemic against local developers, road builders and power engineers. To publicize the issues, the club had invited all parties to an on-location discussion.

The main points to emerge from that discussion will be dealt with farther along in this article, for I would first like to give you some feeling of this threatened land. Soon after negotiating Elephant Hill we arrived at our campsite, Devil's Kitchen, a series of caves and overhangs (with, courtesy of the United States Park Service, all modern conveniences—fireplaces, trash cans and an outhouse). I went for a stroll before dinner. We were facing a long evening-blue meadow of rough grass, walled on one side by a sheer red cliff and on the other by an erosion-carved screen of stone needles, honey-colored in the late sun and silhouetted against an almost purple sky. An upward scramble was rewarded by a vista of theatrically lighted red buttes, a dimpled plain of golden slickrock—i.e., sandstone—domes and, miles on, the final rim, a serrated shadow that was our horizon.

Next morning we took our two vehicles a few miles along a great walled drive named Devil's Lane, passing at a wall of petroglyphs—drawings scratched into the rock by Indians. Then down a hellish incline aptly named SOB Hill (the periods are politely omitted on the maps) until we reached the end of the Jeep track. Shaking the sleep out of our bones, we entered a three-foot-wide crack and made our way for a couple of hundred yards through a tunnel in the rock, emerging suddenly in Chesler Park. We had cut through a massive crenellated wall ringing a vast and formal-looking meadow, perhaps a half-mile across, with a butte at the center like a castle keep. The explanation for this typical Needles formation is that originally the meadows were at the same level as the tops of the sandstone ridges and pillars, but underneath lay deposits of salt, and when water got into them the salt dissolved away and the surface collapsed, leaving the sandstone partitions standing, to be eroded by rain, cracked by snow and blasted by the wind into the Gaudi-like sculptures around us.

TINT BAROQUE SCULPTURE

Stepping off the trail I felt the ground crunch. Looking down I saw the same forms in miniature, for invisible lichen roots had cemented the sandy soil into baroque sculpture a couple of inches high, the crisp, lacy surface cut out by erosion. Crushed by a foot, the lichen crumbles into powder, and the ground will wash away. The frailty and severity of it all is astonishing, and it was saddening to see motorbike tracks crossing the grassland (one used to be able to enter Chesler by Jeep track, but the Park Service closed it this year).

We slipped through a chink in the wall and down into the dry streambed of Elephant Canyon. For the most part we stayed in the sandstone bed, polished black by winter waters. Occasionally we came to pools marked by cottonwoods luminous with autumn yellow where we refilled our canteens; though it was not hot, about 70 degrees, it was now very dry. When we had to leave the bed we followed stone cairns up and along the bank, brushing by junipers and pinyon pines that gave off a strong resinous scent in the bright morning sun. Some trees resembled those I knew—oak, holly, ash and others—but they were miniaturized, the leaves sparser. And there were cactus gardens, and the wind-twisted, sun-blasted trunks of dead pines. Water and sun, or lack of water and sun, defined everything. Even the rocks were given form as much by their shadows as by their eroded contours.

The trail was not difficult until we got to our goal at the head of the canyon, Druid Arch. Here we had to scramble up steep swathes of sandstone. Once I gained the requisite confidence, I was able to do it without too much trouble. The friction of sandstone against rubber soles (I had sneakers on) is such that one can run up walls of it, stinging like a fly. In any event, for me at least, the final view was worth all the trepidation and exertion.

We were now on a wide shelf. Below us the canyon cut its way through salmon-pink whorls of slickrock, so weathered as to look like mounts of dough. Above, there were walls fluted like a cathedral organ, but horizontally banded in red and gold. The slickrock seemed to flow from the pedestal of Druid Arch itself. There are about 150 such arches in the Needles, created when the stone within rocky fins and buttresses caves in. Druid Arch, a double arch, is 360 feet high, and is named for its resemblance to Stonehenge. We ate lunch at a respectful distance.

The long march home, some five hours, was no less spectacular. On the trail, with its frequent cairns and markers, I felt very secure. But once, concentrating on my footing, I missed a cairn and somehow the party went on without me. Within 50 yards I realized how quickly one could get lost. Everything looked familiar and yet unfamiliar. But I soon heard calls, and joined up again. It's no country to fool with and one should have some hiking experience before trying it on one's own; probably better to go with one of the local outfitters. They take people for a day or a week, on foot, horse, or by Jeep. You can even do it in an air-conditioned vehicle. Rates vary according to mode of transportation and length of stay, but overnight horseback trips, for example, run about $35.

Our trip ended when we finally emerged at the top of a cliff overlooking a small trailer camp and a black ribbon of asphalt curving artfully away into the distance toward the main highway. We got down by a staircase the Park Service had cut into the rock, holding onto a cable handrail. What will happen, I wondered, thinking of this tiny trailer camp, when motorized tourists by the thousands discover and invade this country with its fragile ecology, as with increasing leisure they surely will? Are hordes of campers and hikers going to trample the lichen and climb the soft sandstone? And what about the illusion that is so important to the enjoyment of a trip through this kind of country—the illusion that no one has ever been here before?

These thoughts at the end of the trail brought the conservationist issues sharply into focus for me and I would now like to

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share with you the gist of our on-location discussion as arranged by the Sierra Club.

SHRINKING POPULATION

Southeastern Utah, some 150 miles square, has a population of perhaps 20,000, down by a quarter in the last decade. Apart from cattle, which in this country need almost 1,000 grazing acres per head, the only industry has been the sudden uranium boom of the fifties, now mainly a romantic memory. (The Elephant Hill Jeep track was first driven by prospectors.) Two forces might get the Canyonland region's economy moving: mass tourism and the export of cheap electric power. Conservationist organizations like the Sierra Club feel that both are a great threat to a priceless scenic resource.

Local entrepreneurs have been having a frustrating taste of mass tourism. Just down the Colorado River from Canyonlands, Lake Powell has been attracting floods of vacationers from California and Arizona to its azure waters and 1,800 miles of fjordlike coastline, but as of now the overwhelming majority of these vacationers don't penetrate any deeper into Utah. So the state government and local developers want to tempt them in with a road built from Glen Canyon City, on the Arizona border, along the west shore of Lake Powell and on along the edge of Canyonlands National Park to Moab, the largest city in the area.

This proposed road, and the fact that there seems to be funds for building it, is regarded as nothing short of a catastrophe by conservationists. The road would cut "across the grain" of the Escalante River system on the west shore of Lake Powell. This area is considered to be one of the most beautiful of wilderness areas, the epitome of canyon country, and will be designated a National Wilderness Area if a Senate-approved bill is accepted by the House.

FINS OF ROCK

The road would also threaten the whole western edge of Canyonlands National Park, in particular an area known as the Maze, which I had seen from the air (a flight in a small plane costs $15 an hour). Scalloped fins of rock 300 feet high curl about each other, guiding dry stream beds in a winding shalom.

If the developers really want to get out-of-staters to spend their tourist dollars in Utah, contend the conservationists, then the Utah Highway Department should create a Canyon Country Parkway by improving a number of roads, some of them now unsurfaced, that link a half-dozen National Parks and Monuments on the edge of the canyon country, such as Zion, Bryce, Capitol Reef and Arches. This parkway would also have spurs to the Lake Powell marinas and be only about 30 miles longer than the proposed lakeshore wonder. Such a parkway would bring tourists through many now-dying communities, whereas the proposed road would touch none along the way. Fine, say the developers, but there are Federal funds available for the one (in the name of Economic Development) but apparently not the other.

Conservationists suggest that the "lakeshore drive" may have more to do with coal mining than tourism. Right next to the Escalante River, on the Kaiparowits Plateau, there is a soft-coal deposit possibly larger than all the soft coal mined in the world to date. A power consortium plans to build a generating plant there and has already asked for permission to dam the Escalante for a reservoir.

MORATORIUM ON PLANTS

There is a Department of the Interior moratorium now on a half-dozen planned power plants that would ring the area, pending an environmental study. The result will probably be a "compromise" on emission standards, but as the conservationists point out, any compromise is an irremediable loss; these are huge plants and however rigorous the controls, they must inevitably dump tons of fly ash every day on the pristine canyonlands. The Four Corners plant at Shiprock, N.M., has already drawn complaints from 100 miles away and its pollution has been clearly visible to orbiting astronauts. Ironically, the power is sold mainly to California, where pollution standards are too rigorous for such plants to be built.

The day after our trip through the Needles we visited Arches National Monument, just outside Moab, with its freakish rock forms. It had been thoroughly domesticated by the Park Service and I felt I was walking in a public garden. Debris was everywhere—little scraps of paper, cigarette butts and so on. Nothing much, but enough to spoil the experience for me by shattering the illusion that no one had ever been there before. There was one exception, a rash of cliffs and canyons called the Devil's Furnace, wilder than anything I had yet seen and not to be entered without a guide. We took a quick look anyway; it's the canyonland wilderness I'd like to remember.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah.

The motion was agreed to.

ADDITIONAL INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOLE (for himself, Mr. AIKEN, Mr. CURTIS, Mr. PEARSON, and Mr. YOUNG):

S. 2800. A bill to slow the migration of people from rural areas to urban areas by providing assistance for the development of rural areas so as to make such areas more economically attractive places to live and work, and to provide to farmers a preferential accessibility to such assistance. Referred to the Committee on Agriculture and Forestry.

By Mr. METCALF (for himself, Mr. JACKSON, Mr. ALLOTT, Mr. BELLMON, and Mr. STEVENS):

S. 2801. A bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor. Referred to the Committee on Interior and Insular Affairs and Foreign Relations, by unanimous-consent order.

By Mr. MATHIAS (for Mr. MUNDT):

S.J. Res. 171. Joint resolution to authorize and request the President to issue a proclamation designating the month of March 1972, as "Exceptional Children's Month." Referred to the Committee on the Judiciary.

ADDITIONAL STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. AIKEN, Mr. CURTIS, Mr. PEARSON, and Mr. YOUNG):

S. 2800. A bill to slow the migration of people from rural areas to urban areas by providing assistance for the development of rural areas so as to make such areas more economically attractive places to live and work, and to provide to farmers a preferential accessibility to such assistance. Referred to the Committee on Agriculture and Forestry.

THE RURAL REVITALIZATION ACT OF 1971

Mr. DOLE. Mr. President, our farmers need help. Over the past 30 years the farm population of America has steadily decreased from 20 million to less than 10 million today. And because of or in response to this decline in population has come a deterioration in the quality of life in America. This decline in the quality of life has permeated every aspect of the economic, social, and physical environment in rural America. Businesses are failing; schools, health facilities, and public services have suffered severe reductions in quality; and communities are deteriorating from lack of growth and outmigration of young people.

THE NEED FOR RURAL DEVELOPMENT

In light of these conditions, it is highly appropriate that the Senate Committee on Agriculture and Forestry created a special Subcommittee for Rural Development. The chairman of the full committee, the Senator from Georgia, is to be commended for his efforts in creating this subcommittee on which I have the honor of serving. The Senator from Minnesota, who was selected to chair the subcommittee, is a most capable and devoted supporter of the cause of rural America and its improvement.

In the past 10 months that subcommittee has visited many communities throughout the Nation to learn firsthand what is going on in rural America and to discover what rural America really needs—and wants. In the course of these hearings, it has become apparent that this country must undertake a major effort in the area of rural development. This effort must succeed in reversing the trends of the past 30 years and restore to rural America the vitality and strength which is so important to the entire Nation. I fully agree with this view and have supported numerous rural development proposals. However, there is an additional point to consider beside the need to stimulate growth and development in rural America.

FARMERS COME FIRST

As a result of these subcommittee hearings, I have received many comments from constituents and from friends in rural areas all over the Nation. One thing that is common to virtually all these comments is the idea that if rural America is to be helped, that help must begin with the farmers who remain there today.

It is high time that the farmers of this Nation were allowed a share in the benefits of our prosperous economy, and any rural development plan must establish as its foundation the concept of assuring substantial improvement in the lives of those who have stuck it out and resisted temptations to abandon their farms and communities and who are continuing their efforts to build a way of life for themselves and their families in our rural areas.

The first and most important consideration in any rural development plan should be: "What will this do to improve the income and living conditions of our farmers?" The average income of our farmers is only about $5,400 per year, which is $100 less than what many urban welfare lobby groups feel should be the national guaranteed income level.

It is true that farm income for all farmers has risen in the past 2 years faster than it did from 1961 to 1968. Their total income is now more than $16 billion. But farmers are still leaving their farms in large numbers, because the small increase in the net income has not kept pace with increases in the price they have to pay for farm implements, seed, fertilizer, chemicals, and other requirements for the production of our Nation's food and fiber. The Department of Agriculture reports that, while total farm income increased $1.6 billion during 1970, the cost of production increased $2 billion, resulting in a per capita average net income for 1970 which was $39 less than in 1969. Farmers, thus, earn only about 78 percent as much income as individuals in the nonfarm segment of our economy, and in most cases their hours are longer, and their work is much harder.

So, Mr. President, I would like to emphasize my belief that Congress must approach rural development from the basis of helping the farmer first—and assuring that any area or community development be evaluated first in terms of farmer's needs and rightful expectations. We have lost too many farmers already. We must devise a policy to keep the farmers who remain and to see that they enjoy the improved income and living conditions to which their contribution to our way of life entitles them.

NOT URBAN TRANSPLANTATION

We must also recognize that "rural development" does not mean "urban transplantation."

I have received mail from farmers who have seen media commentaries on some rural development proposals and are fearful that these programs seek to take over their farmland on a massive scale and develop new cities to accommodate people from problem urban centers. They picture something akin to the experience of the American Indian when lands were taken out by the Federal Government and made available for "development" by outsiders.

But this sort of thing is not going to happen. No Member of the Senate nor any member of the full Agriculture Committee would subject our farmers to any such policy in the attempt to solve the problems of our urban centers. But this apprehension exists, and we need to provide assurance to our farmers that their interests will be of paramount concern in any rural development program passed by Congress. And in devising a rural development plan we should make every effort to assure preferential treatment for our farmers.

PREFERENTIAL TREATMENT FOR FARMERS

I call for preferential treatment, because—while all of us, of course, would like to see rural development also serve the interest of improving the quality of life in urban areas by giving people an alternative to crowded city life—we must make the present residents of rural America the primary beneficiaries of rural development programs. After all, the farmer and the remaining small town resident is rural America, and development must focus on people, not things.

The time has come to stop looking down on our farmers and start looking to them if we want to improve rural America. People are now—as they always have been—the greatest in-place resource of rural America; and meaningful rural development legislation must emphasize our present resources of determined and highly dedicated people who deserve their fellow citizens' admiration, respect for their contributions to the national wellbeing, and who also deserve the Nation's assistance in making their lives more rewarding and more reflective of their efforts.

THE RURAL REVITALIZATION ACT

Today, I am introducing the Rural Revitalization Act of 1971, a rural development plan which gives the American farmer the priority he deserves and offers real hopes of stimulating new growth and prosperity in rural America.

Essentially, the bill will provide expanded Federal assistance to rural America for formulating long-range development plans and implementing those plans through support for local financial institutions.

The bill:

Creates the Rural Development Administration out of the Farmers Home Administration.

Strengthens present FHA farmer programs and expands existing FHA rural development programs.

Provides up to $750 million for comprehensive planning grants to rural communities and areas.

Directs:

The Secretary of Agriculture to establish preference for farmers who desire to participate in projects to accomplish segments of community plans.

Categorizes types of community programs and the types of financial assistance for which each would qualify:

Water and sanitation systems would qualify for guaranteed loans, subsidized interest payments and grants.

Community health and protection would qualify for guaranteed loans and subsidized interest payments.

Community service and economic expansion would qualify for guaranteed loans.

The Secretary would be permitted to add other eligible categories consistent with direction of the bill and establish the levels at which all would participate—loans up to 90 percent, interest subsidies up to 50 percent, and grants to equalize local situation because of lack of population.

Sets aside funds to be loaned through local financial institutions at current market rates with interest subsidies to provide benefit to borrowers and assistance in qualification for loans. Loan guarantees would be set at levels to enable financial institutions to participate in the risk and administration of plans while benefiting from interest received on loans.

Require that the comprehensive plan would have to provide for employment expansion along with community improvement and in sequence that will provide proper balanced growth.

Provides for guaranteed loans on land or home construction on land up to 20 acres, as long as agricultural commodities or livestock are not produced for sale in competition with farmers. An incentive subsidy of 1 percent of the interest charge on the loan would be paid by the Government.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2800

A bill to slow the migration of people from rural areas to urban areas by providing assistance for the development of rural areas so as to make such areas more economically attractive places to live and work, and to provide to farmers a preferential accessibility to such assistance

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Revitalization Act of 1971".

SEC. 2. (a) The Congress recognizes the mass migration from rural to urban areas that has taken place in the United States in recent decades and the vast problems such migration has created in urban areas. It is the purpose of this Act to slow down and reverse that migration by providing assistance for the economic development of rural areas.

(b) The Congress further recognizes that this mass migration was brought about by changing technology and by farmers being unable to continue farming on the prices they receive for their commodities, and that the migration of the farmers occurred as the result of a natural desire to maintain and improve their way of life.

SEC. 3. It is the purpose of the Act to give farmers a preference in the implementation of the provisions of this Act, and, to that end, the Secretary of Agriculture is authorized and directed to establish some form of preference to encourage and enable farmers to utilize the financial provisions of this Act to their benefit.

SEC. 4. The Farmers Home Administration of the Department of Agriculture shall hereafter be known as the "Rural Development Administration". All references in any law, rule, regulation, or directive pertaining to the Farmers Home Administration shall hereafter be deemed to refer to the Rural Development Administration for the purpose of planning and coordinating all rural development operations carried out by it under this or any other Act.

AMENDMENT TO THE CONSOLIDATED FARMERS HOME ADMINISTRATION ACT OF 1961

"SEC. 5. The Consolidated Farmers Home Administration Act of 1961, as amended, is amended by adding at the end thereof a new title as follows:

"TITLE V—PLANNING AND FINANCING ASSISTANCE FOR RURAL DEVELOPMENT

"SEC. 501. (a) In order to develop rural areas so as to make such areas more economically attractive places to live and work, the Secretary is authorized, in addition to the other authority granted by this Act, to assist

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rural communities in the planning and financing of rural community projects.

"(b) As used in this title—

"(1) The term "borrower" means any corporation, public or quasi-public agency, individual or partnership.

(2) The term "rural community planning unit" means a government body of agency; or authorized non-profit planning organization encompassing and interpreting the activities and goals of the rural community or area.

(3) The term "rural community project" means an overall plan for the development of a rural community or area in which all activities serving the individual and community needs are coordinated for the development and implementation of the activities under the auspices and control of a rural community planning unit.

(4) The term "lending institution" means any federally or state chartered bank, savings and loan association, cooperative lending agency, or any other legally organized lending agency located within a rural community project area.

(5) The term "rural community" or "area" means any open country, or any place, town, village, or city which is located at least 20 miles from any standard metropolitan statistical area as defined by the Bureau of the Census.

"(c) The provisions of this Act are supplementary to and not in place of any authority under section 701 of the Housing Act of 1954 (40 USC 461).

"SEC. 502. (a) The Secretary is authorized to make grants aggregating not to exceed $750,000,000 in any fiscal year to rural community planning units to help finance short and long range planning for rural communities or areas.

"(a) The Secretary shall establish within the Rural Development Administration a planning division through which the rural development planning assistance program provided for in section 501(a) and section 502(a) shall be administered.

"(c) All rural development plans financed in whole or in part with grants made under this secton shall be submitted by the rural community planning unit to the Secretary for approval. The plans may include a comprehensive program considering short-range and long-range aspects of the project or they may be in two stages with the first stage relating to the immediate development and construction of subprojects, while a second stage of planning may be included to anticipate long-range future population growth within the planning area and permit implementation of the plan without further delay for additional planning.

"SEC. 503. (a) The Secretary is authorized to provide financial assistance to rural borrowers for the implementation of the rural community project plan, or subprojects of such plan, approved under this title. In providing such assistance, the Secretary is authorized:

"(1) To guarantee up to 90 per centum of loans by lending institutions to rural borrowers for the implementation of approved rural community projects or subprojects thereto.

"(2) Make grants to rural borrowers for authorized projects in the case of sparsely populated areas to the extent necessary to accommodate repayments, but not to exceed 50 per centum of the project or subproject cost.

"(3) Pay to the lending institution an amount not to exceed 50 per centum of the interest rate paid to the lending institution by the borrower as an incentive subsidy to meet the market rate of interest where it is deemed necessary to establish the financial reliability of the borrower.

"(4) Formulate any combination of assistance authorized under paragraphs (1), (2), and (3) of this section and establish levels of participation within the limits of this section to assure maximum expedition of the fulfillment of the rural community project with maximum benefit to the farmers of the area.

"(5) To provide financial advice and consultation to the borrower, the rural planning unit and lending institution throughout the duration of the loan.

"(b) The Secretary shall establish a financial division within the Rural Development Administration through which all matters relating to the financing of rural community projects as provided in this section shall be administered.

"SEC. 504. The type of financial assistance authorized under section 503(a) shall be applied according to the following categories of projects:

"(1) Water and sanitation systems, which shall include (a) water systems, (b) sewer systems and (c) solid waste disposal systems. These facilities shall be eligible for guaranteed loans under section 503(a)(1), grants under section 503(a)(2), and subsidized interest payments under section 503(a)(3).

"(2) Community health and protection, which shall include (a) hospitals and clinic facilities and (b) fire, police, and civil defense facilities. These facilities shall be eligible for guaranteed loans under section 503(a)(1) and subsidized interest payments under section 503(a)(3).

"(3) Community services which shall include (a) transportation facilities, (b) recreation facilities, and (c) industrial and economic development to expand employment. These facilities shall be eligible for guaranteed loans under section 503(a)(1).

"(4) The Secretary may in his discretion authorize additional services within the foregoing categories consistent with the overall development of rural areas.

"SEC. 505. (a) To further encourage future rural population growth, the Secretary is authorized to guarantee loans made by lending institutions to individuals who desire to purchase land with a house, land and the cost of construction of a house thereon, or construction of a house on land owned by an individual borrwer, subject to the following conditions:

(1) the land shall be located in a rural area,

(2) the tract of land on which the house is located or to be located shall not exceed 20 acres in size, and

(3) the land shall not be utilized in the production of any agricultural commodity or the raising of any livestock for market or resale for the duration of the loan.

"(b) The Secretary is authorized to pay one percent of the interest charge to the lending institution for the loans authorized by this section for the life of the loan. The Secretary may prescribe such terms and conditions as he deems necessary to protect the interests of the United States and to insure that the payments under this section aids in accomplishing the purposes of this title."

By Mr. METCALF (for himself, Mr. JACKSON, Mr. ALLOTT, Mr. BELLMON, and Mr. STEVENS):

S. 2801. A bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor. Referred to the Committees on Interior and Insular Affairs and Foreign Relations, by unanimous-consent order.

Mr. METCALF. Mr. President, for some time I have been concerned with two aspects of national policy which, as the years pass, each increase in domestic importance and ever come into closer relationship, one with the other. I refer to the need to give productive direction and impetus to the study and resolution of our national minerals policy and our domestic oceans policy. The one concerns the foundation of the Nation's economic well-being; the other strongly influences this Nation's technological and scientific leadership in the community of nations.

As a Member of the Senate Interior and Insular Affairs Committee, which maintains a legislative overview of the administration of the Outer Continental Shelf Lands Act and of the Mining and Minerals Policy Act of 1970, and as chairman of the committee's Special Subcommittee on the Outer Continental Shelf, I have become increasingly aware of the vital interdependence between this Nation's mineral policy and its attitudes and actions in ocean affairs.

This awareness was strengthened during the hearings on September 22 and September 23, 1970, by the committee's Subcommittee on Minerals, Materials and Fuels. These hearings specifically inquired into U.S. policy concerning the recovery of mineral resources from the continental margin and the deep seabed. At that time we heard testimony concerning the Draft United Nations Convention on the International Seabed Area submitted by the U.S. delegation as a working paper on August 3, 1970, at the U.N. Seabed Committee meetings in Geneva.

Of particular interest to the subcommittee at that time, Mr. President, were two related matters:

First, the opinion of representatives from the American Mining Congress, the American Petroleum Institute, and the American Bar Association on the extent to which the workingpaper provides sufficient incentive to industry to step up its efforts in the recovery of seabed resources.

Second, the opinion of these witnesses on the adequacy of existing legal arrangements to provide such incentive during an interim period—the period prior to ratification of an international treaty.

The testimony and constructive criticism obtained from these witnesses, together with prior information gathered from a broad range of public and private opinion during hearings of the Special Subcommittee on the Outer Continental Shelf, led the members of that special subcommittee to the strong conviction that, while the essence of President Nixon's ocean policy statement of May 23, 1970—which preceded the workingpaper—deserved the support of the subcommittee, these two major tasks lay ahead of the committee in the further review of U.S. minerals and oceans policy:

First, to conduct a continuing extensive review of the workingpaper with a view toward seeking modification of it to conform with the subcommittee's interpretation of the President's intent and

the recommendations presented in the subcommittee's report of December 21, 1970.

Second, to conduct an investigation of the special problem of an interim policy which would insure continued exploration and exploitation of the natural resources of our continental margin under present law, and would establish appropriate protection for investments related to mineral recovery by U.S. nationals in areas of the deep seabed beyond the limits of exclusive national jurisdiction.

On the second point, Mr. T. S. Ary of the American Mining Congress testified that U.S. industry was close to being capable of exploiting the sizable quantities of hard minerals on the seabeds beyond the continental margins, and that domestic legislation was needed. He indicated that such legislation, if adopted in substantially similar form by other nations, could, through the principle of international reciprocity, "become the basis for common rules among nations regarding freedom of development and security of tenure among—ocean—miners."

I then advised Mr. Ary that if his organization would prepare legislation which dealt with the subject matter, I would introduce it for circulation and discussion. I received a draft late last month and shared it with members of the Committee on Interior and Insular Affairs.

I have been asked if legislation is still necessary. One reason for concluding that legislation merits consideration at this time is the increasing evidence that some of the more militant nations represented on the U.N. Seabed Committee would deny U.S. industry effective access to the minerals of the deep seabed. The first evidence of this was in December 1969 when some members of the U.N. Seabed Committee offered a resolution purporting to deny any nation access to deep seabed minerals until a future seabed treaty entered into force. The sponsors of this "moratorium resolution" hoped that by rapidly assembling a paper majority, they could overturn well-established international law doctrines which form the basis for the rights upon which U.S. nationals and the nationals of all other countries, may rely in ocean mining operations.

The U.S. delegation to the U.N., in voting against this "moratorium resolution" in the General Assembly indicated the commitment of this Nation to continued, unfettered seabed resources activity by U.S. nationals. Responding to my December 23, 1969 letter of inquiry about the moratorium resolution, John R. Stevenson, legal advisor to the Department of State, responded as follows in reference to this point:

> The Department does not anticipate any efforts to discourage U.S. nationals from continuing with their current exploration plans. In the event that U.S. nationals should desire to engage in commercial exploitation prior to the establishment of an internationally agreed regime, we would seek to assure that their activities are conducted in accordance with relevant principles of international law, including the freedom of the seas and that the integrity of their investment receives due protection in any subsequent international agreement.

It was partly out of his concern for the advancement of U.S. deep ocean technology and his interest in insuring that access by U.S. citizens to the minerals of the deep ocean floor remained unimpaired that our chairman, Senator HENRY M. JACKSON, assigned two staff members as observers to the July–August 1971 session of the U.N. Seabed Committee meeting in Geneva. The observers were Charles F. Cook, Jr., minority counsel, and Merrill W. Englund, my administrative assistant.

They have reported to our chairman. At least one of their conclusions of fact causes some concern. It is that U.S. private enterprise seeking to move forward with the development of deep ocean technology is apparently being threatened by an international political movement.

According to the staff report:

> A few militant nations expressed the view that the mineral resources of the deep seabed, beyond the limits of exclusive national jurisdiction, should be set aside for the sole use of developing nations and that an international monopoly, controlled by the developing nations, should exercise exclusive jurisdiction over the exploration, exploitation, processing and marketing of all deep seabed minerals. The power to limit production and fix prices by the regime is advanced on the theory that uncontrolled production could depress the prices of commodities produced onahore, upon which their economies depend. The Latin American countries put the above concept in more concrete form by presenting a working paper calling for an "enterprise" arrangement. The "enterprise" would constitute the organ of the international seabed authority which would be empowered "to undertake all technical, industrial or commercial activities relating to the exploration . . ." of the deep seabed "and exploitation of its resources. . . . The enterprise shall have independent legal personality. . . ." Thus, any person or corporation wishing to participate in mining the deep seabed would be forced to subject himself to the terms and conditions laid down by the officers of the "enterprise," who persumably would have the authority to refuse to allow any participation, or at best a joint venture arrangement, the terms and conditions of which would lopsidedly favor the "enterprise." These inferences are derived from the premise upon which the Latin American nations propounded their concept of an "enterprise." That is to say that the international agency would have the exclusive authority, as the agent for mankind, to explore and exploit the deep seabed.

The report, which I hope will be published as a committee print, contained the understandable recommendation that the committee should "develop legislation aimed at reinforcing U.S. rights to mine the deep seabed, encouraging continuation of U.S. leadership in deep sea technology and providing a climate conducive to U.S. investment in deep seabed exploration and exploitation."

Due to an apparent adverse international political climate, deep seabed mining by U.S. nationals may be in jeopardy. This possibility justifies consideration of legislation at this time.

Notwithstanding these international developments, however, whether legislation is presently appropriate must also be determined by the state of existing technology. For, if present U.S. deep ocean mining technology exists solely in the imaginations of a few engineers, legislation at this time would certainly be premature. So we take a look at the facts.

Programs to develop the techniques and equipment necessary to recover marine nodules, rich in manganese, copper, nickel, and cobalt, have been reported in the technical and general press. Commercial programs conceived and privately funded prior to announcement of the President's policy have resulted in recent and rapid increases in domestic deep ocean mining capability. Two operations in 1970 recovered such marine resources for the purpose of testing recovery equipment necessary to later-planned commercial operations. One such effort was carried out by Deepsea Ventures, Inc., an American company, using hydraulic dredging and an airlift pump. The other was a Japanese effort using a continuous rope to which dredge buckets were attached. Both efforts satisfied the expectations of their developers who are continuing their programs.

The American firm announced in 1971 that it was operating a pilot plant which successfully converted marine nodules to commercially salable metals with acceptable efficiency, a breakthrough which many had forecast to lie far in the future. It also announced soon after that it was prepared and eager to file an immediate claim on the minerals in a specific mid-Pacific mine site and complained that it was unable to identify any agency, national or international, which had the will or competence to grant such a claim.

In the meantime, Hughes Tool Co. and the operators of the Glomar Challenger, Global Marine, Inc., quietly proceeded with a deep ocean mining program which, according to reports, has a 35,000-ton ocean mining ship under construction and scheduled for completion in 1973. According to Dr. V. E. McKelvey of the Department of Interior's Geological Survey, a total of some 19 organizations in five nations are actively engaged in the development of technology associated with the recovery and processing of these deep ocean ores. These operators are fully occupied with the task of surmounting major technological and natural risks and, as a result of this preoccupation, naturally wish to reduce to a minimum the risks caused by such undertakings.

As a result of these technological and international developments, the American Mining Congress submitted the Deep Seabed Hard Mineral Resources Act in response to my request. It is structured to order only the affairs of U.S. nationals vis-a-vis each other, recognizes the legitimate interests of other nations in the uses of the seabeds and international ocean, and provides for its own subordination to any subsequent international agreement on a seabeds regime accepted by the United States. I introduce the Deep Seabed Hard Mineral Resources Act, for myself, Mr. JACKSON, Mr. ALLOTT,

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Mr. BELLMON, the senior minority member of the Special Subcommittee on the Outer Continental Shelf, and Mr. STEVENS, also a member of the subcommittee.

I hope that its circulation and the resulting discussion will further the dual mission of the Senate Interior and Insular Affairs Committee to aid the executive branch in formulating positions on ocean resource and minerals policy and to oversee developments in these areas generally. While the need for legislative action at this time seems to be clear, our introduction of the legislation does not necessarily represent an endorsement of each of its provisions. The cosponsors of this bill intend to press for early hearings on this bill in the light of developing U.S. seabeds minerals policy, to provide incentive for the continued exploration and exploitation of the minerals on our continental margins and on the deep seabed beyond the limits of exclusive national jurisdiction.

I ask unanimous consent that the bill and a summary be printed at this point in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2801

A bill to provide the Secretary of the Interior with authority to promote the conservation and orderly development of the hard mineral resources of the deep seabed, pending adoption of an international regime therefor

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Deep Seabed Hard Mineral Resources Act."

SEC. 2. [Definitions]

When used in this Act—

(a) "Secretary" means the Secretary of the Interior;

(b) "deep seabed" means the seabed and subsoil vertically below lying seaward and outside the Continental Shelf of the United States and the Continental Shelves of foreign states, as defined in the 1958 Convention on the Continental Shelf;

(c) "block" means an area of the deep seabed having four boundary lines which are lines of longitude and latitude, the width of which may not be less than one-sixth the length and shall include either of two types of blocks: (i) "surface blocks" comprising not more than 40,000 square kilometers and extending downward from the seabed surface to a depth of 10 meters; (ii) "subsurface blocks" comprising not more than 500 square kilometers and extending from 10 meters below the seabed surface downward without limitation;

(d) "hard mineral" means any mineral, metalliferous mud or other nonliving substance other than oil, gas, hydrocarbons and any other substance which both naturally occurs and is normally recovered in liquid or gaseous form;

(e) "development" means any operation of exploration and exploitation, other than prospecting, having the purpose of discovery, recovery, or delivery of hard minerals from the deep seabed;

(f) "prospecting" means any operation conducted for the purpose of making geophysical or geochemical measurements, bottom sampling or comparable activities so long as such operation is carried on in a manner that does not significantly alter the surface or subsurface of the deep seabed;

(g) "commercial recovery" means recovery of hard minerals at a substantial rate of of production (without regard to profit or loss) for the primary purpose of marketing or commercial use and does not include recovery for any other purpose such as sampling, experimenting in recovery methods, or testing equipment or plant for recovery or treatment of hard minerals;

(h) "person" means any government or unit thereof and any juridical or natural person;

(i) "reciprocating state" means any foreign state designated by the President as a state having legislation or state practice or agreements with the United States which establish an interim policy and practice comparable to that of the United States under this Act;

(j) "international registry clearinghouse" shall mean a recording agency or organization designated by the President in cooperation with reciprocating states.

SEC. 3. (Secretary's powers; requirement of license)

The Secretary shall administer the provisions of this Act and may prescribe such regulations as are necessary to its execution. No person subject to the jurisdiction of the United States shall directly or indirectly develop any portion of the deep seabed except as authorized by license issued pursuant to this Act or by a reciprocating state. Nothing in this Act or any regulation prescribed thereunder shall preclude, or impose any restriction upon, scientific research or prospecting by any person of any portion of the deep seabed not subject to an outstanding license issued under this Act or by any reciprocating state, or shall require any applicant for a license or any licensee to divulge any information which could prejudice its commercial position.

SEC. 4. [Exclusive licenses; limitations and conditions]

(a) The Secretary shall issue licenses pursuant to Sec. 5, recognizing rights, which shall be exclusive as against all persons subject to the jurisdiction of the United States or of any reciprocating state, to develop the block designated in such license, as follows: (i) as to each surface block, the rights shall extend to manganese-oxide nodules and all other hard minerals at the surface of the deep seabed or located vertically below to a depth not exceeding 10 meters; (ii) as to each subsurface block, the rights shall extend to all hard minerals located more than 10 meters beneath the surface of the deep seabed.

(b) Where a subsurface block leased to one person is subjacent to a surface block leased to a different person, the licensee of the subsurface block shall have the right to penetrate the surface block and the Secretary shall prescribe regulations to prevent undue interference by one with the other, giving reasonable priority to the first licensee. No license shall preclude scientific research by any person in licensed areas where such activities do not interfere with development by the licensees.

(c) Every license issued under this Act shall remain in force for 15 years and, where commercial recovery of hard minerals has been achieved from a licensed block within 15 years, such license shall remain in force so long as commercial recovery from the block continues. The Secretary shall prescribe, as conditions for every license issued pursuant to this Act, minimum annual expenditures as specified in Sec. 7, and requirements to protect the environment, prevent unreasonable interference with other ocean uses, and promote arbitral settlement of disputes. Where circumstances beyond the control of a licensee impair its ability to develop any portion of the deep seabed held under such license, the term of the license and the dates for complying with any other license condition shall be extended for an equal length of time.

SEC. 5. [Licensing procedures; clearinghouse]

(a) A license as specified in Sec. 4 shall be issued by the Secretary to the first qualified person who makes written application and tenders a fee of $5,000 for the block specified in the application, except for portions of the deep seabed excluded from licensing pursuant to Sec. 6. A person shall be deemed qualified for a license under this Act if and only if that person is a citizen of the United States, or a corporation or other juridical entity organized under the laws of the United States, its States, territories or possessions, and meets such technical and financial requirements as the Secretary may prescribe in order to assure effective and orderly development of the licensed portion.

(b) The Secretary shall act upon each license application within 60 days of its filing, and if the license is not issued or is issued for less than the entire portion of the deep seabed sought in the application, the Secretary shall in announcing his action to the applicant state reasons in writing for declining to issue the license for the entire portion sought. The Secretary shall, and the applicant or licensee may, notify within 14 days the international registry clearinghouse of the filing or withdrawal of an application for a license under this Act, the issuance, denial, expiration, surrender, transfer or revocation of such license, or the relinquishment of any licensed portion of the deep seabed.

(c) The function of the international registry clearinghouse shall consist solely of keeping records of notices of applications for licenses, the issuance, denial, transfer or termination of licenses, and the relinquishment of licensed portions of the deep seabed. Its records shall be available for public inspection during the business hours of every working day. Pending designation of such clearinghouse, notice to the Secretary shall constitute notice to the international registry clearinghouse within the meaning of this Act.

SEC. 6. [Areas withdrawn from licensing; density limitations]

(a) No license shall be issued under this Act for any portion of the deep seabed (i) which has been relinquished by the applicant under license issued by any state within the prior 3 years; (ii) which is subject either to a prior application for a license or an outstanding license under this Act or from a reciprocating state, provided that notice thereof has been received by the international registry clearinghouse within 14 days of such application or license; (iii) which if licensed would result in the applicant holding under licenses issued by any State or states more than 30 percent of that area of the deep seabed which is within any circle with a diameter of 1250 kilometers where the licensed area consists of surface blocks and 125 kilometers where the licensed area consists of subsurface blocks; or (iv) which if licensed would result in the United States licensing more than 30 percent of such area.

(b) No license shall be issued or transferred under this Act, and no person subject to the jurisdiction of the United States shall have any substantial interest in any license issued by any state, which would result in any person directly or indirectly holding, controlling or having any substantial interest in licenses for any portion of the deep seabed licensed by any state which that person could not hold directly under this Act because of the limitations of items (i) and (iii).

SEC. 7. [Minimum annual expenditures]

It shall be a condition of each license issued under this Act that the licensee make or cause to be made minimum expenditures for development of each licensed block in the following amounts per block until commercial recovery from such block is first achieved:

Year	*Amount per year*
1	$100,000
2–5	$200,000
6–10	$350,000
11–15	$700,000

Expenditures for off-site operations, facilities, or equipment shall be included in computing required minimum expenditures where such off-site expenditures are directly related to development of the licensed block or blocks. Expenditures in any year in excess of the required minimum may be credited to later years by the licensee.

SEC. 8. [Relinquishment; transfer or loss of license]

(a) Within 10 years of the date any block is licensed under this Act and not later than the start of commercial recovery from such block, the licensee shall by written notice to the Secretary relinquish 75 percent of such block measured laterally. The relinquishment shall be such that the unrelinquished area conforms to the shape of a block as defined under Sec. 2(c). The licensee shall select the area of the block to be relinquished and as many as four contiguous blocks of the same type held by the licensee may be treated as a single unit for purposes of selecting the 75 percent to be relinquished.

(b) Any license issued under this Act may be surrendered at will and, on written consent of the Secretary, transferred to any person who qualifies under Sec. 5(a) and is not precluded from holding such license by Sec. 6(b). Such license may be revoked for willful, substantial failure to comply with this Act, any regulation prescribed thereunder, or any license condition, in a proceeding in an appropriate United States District Court, provided that the Secretary has first given the licensee written notice of such violation and the licensee has failed to remedy the violation within a reasonable period of time.

SEC. 9. [Escrow fund]

A fund shall be established for assistance, as Congress may hereafter direct, to developing reciprocating states. The United States shall deposit in this fund each year an amount equivalent to —[1] percent of all license fees collected during that year by the United States pursuant to Sec. 5(a) and an amount equivalent to —[1] percent of all income tax revenues derived by the United States which are directly attributable to recovery of hard minerals from the deep seabed pursuant to licenses issued under this Act, provided that the amount deposited by the United States per license issued and per unrelinquished square kilometer under license shall not exceed the amount contributed for assistance to developing reciprocating states by other licensing reciprocating states (except developing states) per license issued by them and per unrelinquished square kilometer licensed by them. For the purposes of this section, "developing reciprocating state" means a reciprocating state designated by the President, taking into consideration per capita gross national product and other appropriate criteria.

SEC. 10. [Investment protection]

(a) Licenses issued under this Act may be made subject to any international regime for development of the deep seabed hereafter agreed to by the United States, provided that such regime fully recognizes and protects the exclusive rights of each licensee to develop the licensed block for the term of the license, and provided further that the United States fully reimburses the licensee for any loss of investment or increased costs of the licensee incurred within forty years after issuance of the license due to requirements or limitations imposed by the regime more burdensome than those of this Act. The United States shall bear any payment of whatever kind required of the licensee under the international regime. The Secretary shall determine in the first instance the amount owing on all claims for reimbursement under this subsection.

(b) On annual payment by any licensee of a premium of $—[2] per $1,000 of insured risk of loss, the United States shall guarantee to reimburse the licensee for any loss caused through any interference by any other person (whether or not violative of international law) with development by the licensee pursuant to the license and from any loss caused by recovery by any person not authorized by the licensee of hard minerals from any block subject to such a license. The Secretary shall determine in the first instance the amount owing on all claims for reimbursement under this subsection.

SEC. 11. [Non-discriminatory treatment]

All hard minerals recovered from the deep seabed under a license issued pursuant to this Act shall be deemed to have been recovered within the United States for purposes of the import and tax laws and regulations of the United States and such laws and regulations shall be administered so that there shall be no discrimination between hard minerals recovered from the deep seabed and comparable hard minerals recovered within the United States.

SEC. 12. [Penalties; rights of action]

(a) Any person subject to the jurisdiction of the United States may be enjoined from directly or indirectly violating this Act or any regulations prescribed thereunder, interfering with development pursuant to any license issued under this Act or by any reciprocating State, or removing without authority of the licensee any hard minerals from any block subject to such a license. Any such person who directly or indirectly commits such violation, interference, or removal, shall be liable to any person injured thereby for actual damages. Any such willful violation, interference, or removal by such person shall be a misdemeanor punishable by up to six months' imprisonment, a fine of $2,000, or both.

(b) The United States District Courts shall have original jurisdiction to enforce subsection (a) and to revoke licenses under Sec. 8(b), and such actions may be initiated in any judicial district where the defendant resides or may be found. Any regulation prescribed by the Secretary under this Act, any issuance, denial or condition of a license under this Act by the Secretary, any consent or refusal of consent by the Secretary to the transfer of such license, and any determination of the Secretary allowing or disallowing reimbursement under Sec. 10, shall be subject to judicial review on petition of any interested person in accordance with Ch. 158 of Title 28 of the United States Code.

SEC. 13. [Enactment date; separability]

This Act shall take effect on the date of its enactment. If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act or of any other application shall not be affected thereby.

[1] An appropriate amount to be determined by the Congress.

[2] A suitable premium to be determined by the Congress.

SUMMARY—DEEP SEABED HARD MINERAL RESOURCES ACT

Section 2. Definitions.

Section 3. Vests authority in Secretary of Interior to exercise "in personam" (as opposed to territorial) jurisdiction over U.S. miners on the high seas. Requires all U.S. miners to submit to this authority or that of recognized reciprocating State.

Section 4. Grants rights enforceable against all U.S. Citizens, nationals, or juridical persons.

1. Exclusive use of mine site.

2. 15 year development period.

3. Exploitation as long as commercial recovery continues.

4. Surficial minerals 40,000 km² reducable to 10,000 km².

5. Subsurficial minerals 500 km² reducable to 125 km².

Section 5. Rights arise from domestic license (cost $5,000). International registry is only an information clearinghouse.

Section 6. Limits State or Operator from exceeding density of 30% within 1250 km diameter circle. (Such a circle has an area 120 times that of a surficial claim after relinquishment.)

Section 7. Minimum expenditures to inhibit speculation and claim freezing:

Year 1, $100 K.

Year 2–5, $200 K/yr.

Year 6–10, $350 K/yr.

Year 10–15, $700 K/yr.

Amounts can be carried forward if in excess of minimum.

Sction 8. Relinquish 75% of area at start of commercial recovery or 10 years, whichever first.

Section 9. U.S. to establish international escrow fund based on a % of fees and income taxes paid. Distribute as Congress may direct.

Section 10. 1. Interim licenses subject to International Regime if:

2. U.S. agrees to reimburse for increased costs or lost assets (w/i 40 years) due to acts of Regime.

3. Provides OPIC-type insurance (at a premium) for interference originating external to Regime or prior to Regime.

Section 11. Seabed production deemed domestic production. Acts of U.S. resulting in conditions more burdensome than those imposed on land-derived minerals prohibited.

Section 12. Sets up civil and criminal jurisdiction over subject persons.

Section 13. Saving clause.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that a bill introduced today by the Senator from Montana (Mr. METCALF) and others relative to the development of hard mineral resources of the deep seabed, pending the development of an international regime therefor, be jointly referred to the Committee on Interior and Insular Affairs and the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. MATHIAS (for Mr. MUNDT):

S.J. Res. 171. Joint resolution to authorize and request the President to issue a proclamation designating the month of March 1972, as "Exceptional Children's Month." Referred to the Committee on the Judiciary.

Mr. MATHIAS. Mr. President, the year 1972 marks the 50th anniversary of the National Council for Exceptional Children. This organization has sought with

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persistence and considerable success to acquaint Americans with the problems and opportunities involved in working with exceptional children.

There are an estimated 9,000,000 children in America today who come within the definition of being exceptional. Were it not for the devoted efforts of the national council and of its member organizations all across the country, many of these children would be hidden, neglected or forgotten in some dark corner of our national consciousness. As a result of their efforts, however, more and more exceptional children are being enabled to lead lives which are healthy, happy, and productive.

The national council plans to celebrate its 50th anniversary by expanding its activity. Next March it will stage a national conference aimed at focusing attention on these children and their needs. Each State will be asked to undertake programs for public education and the enlistment of support.

To assist in the publicizing of these events and to extend the call for support of this fine work, I am pleased to introduce on behalf of the Senator from South Dakota (Mr. MUNDT) a joint resolution to designate March of 1972 as National Exceptional Children's Month.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2195

At the request of Mr. MATHIAS, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 2195, the Higher Education Support Act of 1971.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971—AMENDMENTS

AMENDMENT NO. 585

(Ordered to be printed and to lie on the table.)

Mr. PASTORE (for himself and Mr. CASE) submitted an amendment, intended to be proposed by them, jointly, to the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

AMENDMENT NO. 586

(Ordered to be printed and to lie on the table.)

PROPOSED AMENDMENT TO STRIKE TITLE II OF S. 986

Mr. HRUSKA. Mr. President, S. 986 is entitled "A bill to provide minimum disclosure standards for written product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities, and for other purposes."

Mr. President, the bill consists of two titles.

I rise to submit an amendment which seeks to delete title II thereof. I ask that the amendment be printed and lie on the table; and that the text of the amendment be printed at the conclusion of my remarks.

The bill's two titles should be considered in separate measures.

Their respective subjects are widely different in nature and in scope.

Title I is limited to warranties. It has for its subject the substantive law as proposed on "consumer product warranties."

As to warranties on consumer products, it contains definitions, standards, designations, and limitations requirements and prohibitions as to content. It seeks to enable the Federal Trade Commission to establish rules as to procedures and implementation of the title I provisions as to warranties. It contains provisions for enforcement by private remedies and by Government action; and authorizes use and application of various statutory provisions already enacted and relating to procedures, such as civil investigative demands.

Title II, on the other hand, deals with a separate and distinct subject. It seeks to vastly and drastically increase and broaden the powers and the duties of the Federal Trade Commission. It seeks a comprehensive and far-reaching restructuring of that body's method of functioning, its mission, its procedures, as well as its jurisdiction.

It would vest in the Commission a new and long-sought—and heretofore denied by Congress—rulemaking power. It would be given authority to issue legislative rules "defining with specificity acts or practices which are unfair or deceptive to consumers."

Such rules would have the force and effect of law, with substantial sanctions for violations thereof, ranging up to $10,000 for each violation.

It is thought by many to be an abdication of legislative power by Congress which is unprecedented—and perhaps even beyond the point in this regard contained in the National Recovery Act of the early 1930's. That act was declared unconstitutional by the Supreme Court in the Schlechter case.

The act would authorize the Commission to institute class actions in the courts "to redress injury to consumers" caused by acts or practices which were subject of cease and desist orders.

The Members of this body will recall that a bill for consumer's class actions was before the Senate in the last Congress. It failed of passage. It was the subject of hearings in the Committee on the Judiciary, after the bill had been reported by the Commerce Committee.

At a later time, it will be in order to discuss the substance and the effect and impact of such a bill as contained in title II.

For the present, it is stated that titles I and II should be considered separately.

First. Their subjects are different and distinct.

Second. Title I subject matter is properly in the purview and jurisdiction of the Committee on Commerce.

Third. But title II is properly a subject for the Committee on Judiciary, dealing as it does with adjective, procedural, law; and having a direct and massive potential impact on the entire Judiciary.

This latter reason was conceded by a consent to a brief period of time in which the Committee on the Judiciary was given in which to consider the measure.

However, the time was too short. The schedule of the Judiciary Committee was heavily committed for that period. The reference of the bill was made on the 16th or 17th of July when the bill was reported by the Commerce Committee. It was not practical nor expected that any action could be taken between then and September 7 when the Senate reconvened after its summer recess. The reference period expired on October 16.

Thus, in effect, the Judiciary Committee was accorded about 1 month in which to examine into the far-reaching and complicated proposal, arrange for witnesses, adjust its other commitments, and then have such subcommittee and committee consideration as necessary. This proved to be beyond the capability of the staff and committee in the short time remaining.

A further reason for considering the subject of title II in the Judiciary Committee and as a separate measure is the fact that earlier this year, there was rendered a report on selected independent regulatory agencies—including the Federal Trade Commission, by the President's Advisory Council on Executive Organization.

A great deal of inquiry and study went into the contents of that report. Findings and recommendations were made, with particular reference to the Federal Trade Commission, its jurisdiction, mission, and functioning.

It would be well to receive the benefit of views and testimony from those who worked on that report, as well as other authorities, before taking action in this Chamber. Other authorities should include the Judiciary who could testify as to the impact upon the courts of the restructuring of the Federal Trade Commission.

It is for these and other reasons that title II should be deleted from the bill numbered S. 896.

It should be noted that the administration had submitted a bill to amend the Federal Trade Commission Act, S. 1219. It is in a separate bill from S. 1221, an administration bill, which is entitled "a bill to provide increased warrant protection for consumers, and for other purposes."

The latter measure had for its general subject the material found in title I of S. 896.

That title I is self-sufficient within its own terms to proceed with the vital and highly important program for consumer protection, in the field of warranties.

Sound legislative procedure would defer action on a rebuilding of the Federal Trade Commission at this time, but to go ahead with the first part of S. 986.

Mr. President, although the substance and detail of title II will be discussed at length at a later time, it would be well to get a preliminary idea of the real import of the subject matter which my amendment seeks to delete from S. 986.

Hence, I ask unanimous consent that excerpts from the testimony of Gilbert H. Weil, as given in the Commerce Committee hearing on March 15 of this year, be inserted in the RECORD at the conclusion of my remarks.

Mr. Weil appeared before the committee to represent two of his clients: Association of National Advertisers and the Direct Mail Advertising Association. He is a partner of the law firm of Weil, Lee & Bergin, of New York City. On another occasion than when this testimony was given, he testified:

> My own background for almost 35 years has been one of active law practice with major emphasis upon the legal aspects of marketing, promotion and advertising. Over that time, I have been engaged, in one respect or another, almost unceasingly with matters before or related to the Federal Trade Commission.

Surely, with this record, the analysis of Mr. Weil and his conclusions and views are entitled to close and thoughtful consideration.

There being no objection, the amendment and excerpts were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 586

On page 24, strike out line 5 and insert in lieu thereof the following: "ranties and Consumer Remedies Study Act".

Beginning with line 20, page 42, strike out all of TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS to and including all of page 52, and in lieu thereof insert the following:

"TITLE II CONSUMER REMEDIES STUDY

"SEC. 201. (a) The Director of the Office of Consumer Affairs, in consultation with and with the assistance of the Attorney General of the United States, is authorized to contract with the National Institute for Consumer Justice (hereafter referred to as the "Institute"), a nonprofit corporation of the District of Columbia, to conduct a study or studies of means for improving the grievance-solving mechanisms and legal remedies of consumers, including, but not limited to the following:

"(1) methods of preventing consumer grievances from arising and of improving seller-buyer and debtor-creditor relationships;

"(2) existing and potential voluntary settlement procedures, including arbitration; and

"(3) the desirability of establishment of a nationwide system of small claims tribunals.

"(b) The Director of the Office of Consumer Affairs shall, within eighteen months of the enactment of this Act, submit a final report on such study or studies to the President and to Congress along with its recommendations, if any, for legislation.

"SEC. 202. (a) The Institute and each recipient of a contract from the Institute under this title shall keep such records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any funds provided under this title as are pertinent to the disposition and use of such funds.

"SEC. 203. There is authorized to be appropriated $500,000 to carry out the provisions of this title.

"SEPARABILITY

"SEC. 204. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby."

EXCERPTS FROM TESTIMONY OF GILBERT H. WEIL IN SENATE COMMITTEE ON COMMERCE, MARCH 15, 1971

(Starting on page 74 of S. 986 hearings)

Also, I shall confine my remarks entirely to title II of S. 986. I have not had any opportunity nor have I had any instructions from my clients with regard to title I, and the framework of my comments this morning will be to attempt to point out what I see as some of the real—not fanciful—but real potentialities of things that can happen if a bill such as S. 986 should become law.

It would turn topsy-turvey some of the most basic and most cherished principles of our political philosophy, and to me it seems inconceivable that the proponents of this bill are truly aware of the drastic nature of the implications of the bill.

There is some supporting evidence as to this lack of awareness. First of all, there is nothing in the record before this subcommittee to call to its members' attention what some of these potentialities are. Mr. Chairman, you have referred to 8 days of hearings before this subcommittee in the last session, but the point is that the really potent aspects of title II, and by this I refer to the rulemaking powers, the legislative powers that would be conferred upon the Federal Trade Commission, did not in any way enter into those hearings.

They were not discussed during any of those 8 days. They were not discussed during any of 8 hours nor of 8 minutes nor even of 8 seconds. The trade regulation rulemaking powers to be conferred upon the Commission emerged for the first time when the bill came out of executive session. There has been no opportunity for hearings on it before in front of this subcommittee. There were later in front of the Judiciary Committee, but that was a truncated set of hearings because a severe time limitation had been placed upon the Judiciary Committee in giving consideration to what was then S. 3201.

My concern over this lack of awareness is in a way borne out also, Mr. Chairman, by the remarks that you made in your opening statement on the bill. For there you described briefly your concept of what the bill would do in the following language—and I quote:

"This bill would give the Commission the tools it needs, power to issue preliminary injunction, the authority to seek realistic penalties against suppliers who commit unfair or deceptive acts, and the authority to provide specific remedial relief to the consumers injured by those suppliers."

Not one word regarding this tremendously important aspect of conferring virtually supralegislative powers upon the Federal Trade Commission.

When hearings were held last week the sole witness, I believe, in favor of the bill was Chairman Kirkpatrick of the FTC. He, too, in his comments, devoted no more than nine brief lines to this extremely important subject of the delegation of legislative powers and those nine lines were little more than a casual brushoff of that section of title II as being of not very great moment.

He said—and I quote again:

"The proposed amendment in Section 208 will make more definite the authority of the Commission to promulgate trade regulation rules defining unfair or deceptive acts or practices. Violation of any such rule is implicitly made an unfair or deceptive practice in violation of Section 5–A–1 of the Act.

"Although the Commission is confident that if challenged, it will be upheld in exercising its rule-making powers, it nonetheless strongly urges that Congress remove all doubt and make explicit the Commission's rule-making authority."

So he too evidently conceived of that portion of title II as being nothing more than a clarification and a codification of what the law presently is anyway, which, of course, if that were true, would not make it anything very drastic by way of a change in our present law.

On that subject, though, may I ask that there be included in the record of this hearing the supplement to the statement which I made before the Senate Judiciary Committee in the last session on S. 3201. That supplement appears in the printed proceedings of those hearings starting at page 222 and going to the top of page 237.[1]

The burden of that is to show that the Federal Trade Commission does not in fact or in law possess such legislative rulemaking powers today, and that legislation conferring them upon the Commission would be a drastic change indeed.

Senator MOSS. We have that before us, and it is in print. We will include it by reference in these hearings so that it will be noted that this is the supplement that you refer to.

Mr. WEIL. That will be fine, Mr. Chairman. I appreciate that very much.

Now actually what title II would do would be to establish the Federal Trade Commission as a supralegislative power. It could reach with its legislative activities all of the Nation's business and it would be supreme in that reach over all inconsistent State and Federal law, including congressional enactments with the exception of those which would include within them a specific disclaimer of the right of the Federal Trade Commission to reach into and proceed inconsistently with such law.

Under the specific remedial relief section of title II the Commission would be put into a position to tell business how to run its business. It could control, contrary to all law existing at the moment, trademark rights and the use of trademarks; then it could reach into profits and pricing; it could even command business to suspend doing business or even to discontinue doing business completely in one or more product lines or in given instances. The powers would be that great as the bill is presently drafted.

In effect, the specific remedial relief provisions would give the Commission powers to impose capital punishment not stopping short of the death sentence.

Senator MOSS. Economic death sentence; do you want to put that in there?

Mr. WEIL. It is not so limited in its lan-

[1] See Serial No. 91–48, Senate Commerce hearing, 91st Congress.

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guage. It says "any action." Under the present wording it could order hari-kari. I have purposely stated these potential effects in broad terms hoping that they seem so shocking to you that you are loath to believe me. I hope you do not believe me because if you do not believe me, it means you do not intend to produce those results.

If you believe me and are complacent about it, then I am indeed concerned. To the extent that time will allow, however, I stand ready in response to questions, or I will take it up on my own if we have time enough left, to prove to you out of actions and statements already made by the Federal Trade Commission that nothing I have said up to this moment is an over-statement or exaggeration or an impossibility.

S. 986 would provide the foundation and authority for the Commission to do all of these things which so far it has only been saying it would like to do or is planning to do or getting around to do; subject, however, if it does so, to court review to test its ability and the propriety of its doing so. S. 986 would knock out that ability of courts to review because it would confer that power by act of legislature explicitly upon the Commission.

In reviewing these aspects I am addressing myself to, I think another aspect is important too, and that is what is involved in the operation of the Commission. Mind you, all these far-reaching powers to which I have referred would be administered by an agency of five individuals.

A majority would control; so now we come down to three individuals. In some circumstances it could be two who could establish the law of the land because a quorum is three and a majority of the quorum has the authority to take Commission action. So we could conceivably on occasion come down to a situation where two individuals could establish in these extremely important areas of the Nation's business and affairs the law of the land.

More than that, these individuals are not elected; they are not answerable to nor are they responsible to any constituency and they hold office longer than the President of the United States, longer than any Senator, certainly longer than any representative.

Yet their mere declaration of that which they desire to be the controlling law of the Nation with regard to anything affecting commerce—because we have to take into account the other provision of 986 which would extend the jurisdiction to activities which affect commerce even though they are not in it. The reach of these individual people to control the business affairs of the Nation would, therefore, go right down into every locality and into every small operation. Nothing could be regional enough, local enough or small enough to escape the argument that its activities at least affect interstate commerce, and these nonelected individuals would have these powers over them.

I see no basis for court review. Once a statute comes on the books which says that the Commission can enact legislative regulations with regard to anything that it might deem to be an unfair practice, I see no ground for a court saying, "No, as a matter of law what you have decided is unfair is not unfair," because unfairness is a highly subjective standard. These powers of the Commission could even reach such matters as wage and price controls.

Suppose, for example, that the Commission should decide in its judgment—and that is all that counts here in the Commission's judgment—that it is unfair to consumers for labor to keep increasing its demands and then for business to keep increasing its prices because this feeds inflation and is unfair to the consumers.

So, despite all the problems that you could conceive of Congress having if it had to wrestle with the problem of wage-price controls, the Federal Trade Commission could cut right through that and simply issue its trade regulation rules saying what shall be done in those respects. They could reach farmers, they could reach laborers and union activities as long as they decide that whatever it is the farmer or the laborer or the union is doing redounds unfairly to the interest of consumers, and one would have to grant that in all of those areas they could find room to address themselves to activities of any of those groups or individuals on that basis.

For example, despite other Federal laws, they could forbid farmers to leave productive acreage unplanted and unharvested on the ground that doing so works adversely to the interest of consumers who would otherwise have the benefit of that produce. They could forbid the use of trademarks. They could forbid brand advertising or any other means of building good will because—and we know this from pronouncements that have been made by at least one present commissioner—there is an interest on the part of the Commission today, under the heading of rational purchase decisions, to look upon anything which would cause or induce a consumer to buy a product for reasons other than price-quality ratios as an unfair means of inducing a purchase based upon false values.

The concept that has been expressed in this respect is that it may constitute an unfair practice to create a reflex action on the part of consumers to automatically reach for a particular brand of product, when they enter a store, rather than compare all the competing brands and reach a purchase decision based upon rational evaluation of their relative price-quality ratios.

Essentially, that comes down simply to good will. That is what good will is about. It is the earning of consumer confidence in, and desire to purchase, a particular brand for its own sake. Yet, there is this visible movement within the Commission toward looking upon such good will as an unfair practice adverse to the interests of consumers.

And if, under the powers of title II of S. 986, the Commission were to promulgate trade regulation rules outlawing efforts designed to build brand consciouaness and good will, I would not be optimistic that much room would be left for a court to substitute its views as to what is fair or unfair for those of the agency which has been given such broad authority to impose its own.

The Commission could also, and there has been a good deal of talk on this recently, look upon good will building measures as creative of unfair barriers to entry and bar them on that basis.

In short, there is certainly within the scope of title II the opportunity for the Commission to legislate good will out of existence as a commercial objective or operation.

For those brands for which good will has already been acquired, the Commission, under the specific remedial section, might very well argue, and probably successfully, that in order to give redress—in other words, to get rid of the good will which has already been built and is still operative in the marketplace—that the company must suspend its operations, suspend all further promotion of the product perhaps even take it off the shelves, until that ill-gotten good will has been dissipated.

So, my death sentence reference is not extreme, Mr. Chairman. Title II would place into the hands of the Commissioners virtually unreviewable authority arbitrarily to make into the law of the land their own personal philosophies in the broad expanse of socioeconomic affairs.

Now, one may say that the things the Commission is trying to do are good; one may agree with them, or one may disagree with them. That is not the point. The point is who should be making the law of this land? Should it be these five, three, two nonelected individuals, or should it be the two Houses of Congress subject to ultimate Presidential review?

We can look at title II another way. For one thing, as I have been mentioning, it would delegate full legislative power over anything and everything that affects commerce that might be adverse to consumer interest to the Commission. That is a delegation of legislative power so broad that I think we might see a revitalization of the old *Schechter* doctrine. It seems to me that this delegation goes far beyond the scope of powers that were involved in *Schechter*.

Secondly, it would leave the Federal Trade Commission where it is today as being the complainant, the investigator, the prosecutor, sometimes the witness, and always the judge and jury to try and to decide its own cases against the people that it charges with violating its laws. We have been told by a respected former Federal Trade Commissioner, in a speech to which I am sure that he gave a great deal of soul searching before he made it in front of the American Bar Association, that unfairness of trials in front of the Commission is a fact of life, an inescapable fact; and this does not imply any personal impropriety, it simply is inherent in the structure.

I have in the hearings before the Judiciary Committee on S. 3201 appended the pertinent portions of that speech as appendix 1 to my remarks on pages 243 and 244, and I would ask, Mr. Chairman, if that portion of the previous print could also be referred to at this point and by reference made a part of this record.

Senator Moss. It will by reference be made a part of the record at this point.

Mr. WEIL. Thank you very much, Mr. Chairman.

Now, then, to these roles, which are already deplorable, of prosecutor, judge, and jury, sections 202 through 205 of S. 986 would add the only one that remains unadded so far; executioner.

Such a package of broadly delegated powers would seem to me to raise very serious questions of constitutionality. Apart from the problem of undue scope of delegation, the old *Schechter* principle that I have referred to, the redress provisions of the bill would additionally authorize the Commission to make awards to injured consumers after there has been a so-called trial for violating the so-called law. This, it seems to me, is a delegation of judicial powers. I don't know what more a court does than receive a complaint, conduct hearings, hear witnesses, receive the evidence, ultimately decide whether a violation of law has occurred, and if it decides that it has to make an award or order some other form of redress to the injured party.

This is what S. 986 would give the Commission authority to do, and it seems to me that it is plain judicial authority. So, we have two areas of constitutional concern with respect to undue delegation; but apart from that we have the further concept of separation of powers.

In this one agency there would be combined the legislative power, that of promulgating rules setting the law of the land, plus the executive power, investigation, and the initiation of prosecutions, plus the judicial power, to which I have just referred. What has happened to separation of powers? The dividing partitions have been completely ruptured and everything flowed into this one great big stew.

If the subcommittee intends such results, then the only arguments I have to urge are those which are based upon these constitutional questions. To them I would just mention without trying to orchestrate it at all at this point. It is pretty obvious, the additional constitutional problems of due process and of the first amendment, because of the chilling effect of the in terrorem powers that the Federal Trade Commission would have. In other words, business operators would have to be afraid to stand upon their rights because of all that the Commission could eventually do to them if the Commission should decide its own case in its own favor against them.

Thus, no matter how proper a businessman may feel his existing conduct is, if the Commission merely wags its finger at him he probably would have to consider very seriously, and I would say in most cases decide that the risk is too great, that there is too much to be lost, so that he had better change without a trial, without any due process, just because he is afraid of the clout that the Commission would have if he doesn't go along with whatever it tells him it wants him to do.

If, on the other hand, the subcommittee doubts that S. 986 would leave scope for powers as frightening as those I have described—and as I said before, I would welcome that doubt because then I would know that you don't really want that—then I stand ready in response to questions or otherwise to demonstrate that S. 986 in its present form does indeed need to be revised lest it do lead to those very results. If that be the situation, I most respectfully suggest that legislative responsibility requires no less than the use of draftsmanship sufficient to foreclose undesired and drastic results of such a magnitude as those that are involved here.

I think that rather than just continue, if there are any questions, I would like to try to field them.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT—AMENDMENTS

AMENDMENTS NOS. 587 THROUGH 589

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted three amendments, intended to be proposed by him, to the bill (S. 976) to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes.

ORDER TO HOLD H.R. 9961 AT THE DESK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that H.R. 9961, relative to credit unions, messaged to the Senate today by the House of Representatives, be held at the desk through tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

VACATION OF ORDER WITH RESPECT TO S. 986

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order with respect to S. 986, the Consumer Products Warranties bill, be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING OF H.R. 10367 WITH SENATE AMENDMENTS NUMBERED

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the bill (H.R. 10367) which was passed by the Senate yesterday, be printed with the Senate amendments numbered.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR COMMITTEES TO HAVE UNTIL MIDNIGHT TO FILE REPORTS

Mr. BYRD of West Virginia. I ask unanimous consent that Senate committees may have until midnight tonight to file reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that at the conclusion of the remarks by the distinguished Senator from Georgia (Mr. GAMBRELL) on tomorrow, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY CONSTRUCTION APPROPRIATIONS, 1972

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of routine morning business tomorrow, the Chair lay before the Senate the so-called Military Construction Appropriation Bill, H.R. 11418.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9:30 a.m.

After the two leaders have been recognized under the standing order, the distinguished junior Senator from Georgia (Mr. GAMBRELL) will be recognized for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair will lay before the Senate H.R. 11418, the military construction appropriation bill for 1972.

Under the agreement, 4 hours will be allotted to debate on the bill, 1 hour on each amendment in the first degree, and one-half hour on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions. At least one rollcall vote is expected on that bill.

After the disposition of the Military Construction Appropriation bill, the Senate will take up S. 1237, a bill for the repair of nonprofit medical care facilities. There is a time limitation of 1 hour on the bill, with one-half hour on any amendment thereto, and 20 minutes on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions.

Following the action on S. 1237, the Senate will take up S. 976, the motor vehicle safety bill. Under the time agreement, there will be 2 hours on the bill, 1 hour on any amendment in the first degree, and 1 hour on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions. Rollcall votes are likely on that measure.

So there will be rollcall votes tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:30 tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 51 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, November 3, 1971, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 2, 1971:

GEOLOGICAL SURVEY

Vincent E. McKelvey, of Maryland, to be Director of the Geological Survey, vice William T. Pecora, elevated.

OFFICE OF ECONOMIC OPPORTUNITY

Roy E. Batchelor, of Tennessee, to be an Assistant Director of the Office of Economic Opportunity, vice Phillip V. Sanches.

WITHDRAWAL

Executive nomination withdrawn from the Senate November 2, 1971:

DIPLOMATIC AND FOREIGN SERVICE

John David Isaacs, of New York, for promotion from a Foreign Service officer of class 7 to class 6, which was sent to the Senate on July 28, 1971.

EXTENSIONS OF REMARKS

NAVAL RESERVE CHANGE OF COMMAND CEREMONY

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 1, 1971

Mr. HOSMER. Mr. Speaker, Naval Reserve Group 5–1 Large serving the Baltimore area is one of the Nation's oldest and is its largest Naval Reserve organization. Fourteen commands containing nearly 1,300 enlisted personnel and 200 officers are under its cognizance. It is an outgrowth of the Maryland Naval Militia founded in 1775.

At impressive change of command ceremonies this summer aboard the USF *Constellation* Capt. John H. Hessey IV, USNR, retired, assumed command of the group from Capt. Judson Lord Smith, USNR, retired. The remarks by Captain Smith on that occasion were particularly fitting and extracts appear below:

EXCERPTS OF REMARKS BY CAPTAIN SMITH, USNR, RETIRED

For the first time in our country's history, we are drastically cutting back our armed forces and reducing our strength, while at the same time, a possible hostile nation is rapidly building a very large, effective and formidable fleet. Our defense budget in 1953 represented 13.7% of our gross national product. In 1971 it has dropped to about 6%. The Soviets are investing in research and development two times as much as we are. The Soviets are currently building 4 ships to our 1.

We, in the Navy, strongly advocate the blue water option, which is simply maintaining a forward line of defense—a line of defense far from the cities of our heartland. It means using ships, both surface and sub-surface, and the oceans of the world, as our major defensive deterrent.

In the face of these drastic reductions of our regular forces, it would certainly seem that our reserve forces are becoming more vitally important. Just as 50 old U.S. destroyers and the spirit of Sir Winston Churchill went so far in saving the free world in the 1940's, it may well be that strong, highly trained, and operationally ready reserve forces will prove the deterrent to prevent a third world war.

Some of you, I am sure are asking yourself "What is the Naval Reserve—really?" The Naval Reserve is actually many things to many people. I am sure that to some wives it may mean their husbands' freedom for a night out on the town. However, it's a deadly serious business and it means to most of us, enhanced readiness training, the achievement of satisfaction for service to country, the pride in being a navy man, and pride in uniform and in flag & country.

The Naval Reserve's mission is to train our people to that razor sharp edge to operational readiness that enables them to join the fleet on a highly competent basis at any given moment. During the past 2 years, we have instituted new concepts and procedures, and we feel we have made tremendous progress in operational readiness. The moment of truth, and the true test of a navy man is answered by the question: "Do I want to go to sea with him?" The answer as it relates to our people is a strong affirmative.

Our Naval Reserve here in the Baltimore community had its inception about 1775. Men from its various units have fought in 7 wars with distinguished records. High standards have been maintained over the years.

Naval Reserve Group 5–1 Large has the responsibility for training the largest number of naval reserve personnel of any naval reserve command in the country; the numbers run well over one thousand. There are 18 separate commands within the group.

This command was for my predecessors, as it has been for me, a trusteeship. It is a national asset belonging to our Nation and not to any individual. Each of us has attempted to build something finer on our predecessor's foundation.

The Naval Reserve is a tremendous bargain for this Nation. It is comprised of extremely talented people and their dedication is almost unbelievable. Two-thirds of the 35 officers on the group staff serve in a non-pay status. Our petty officers are extremely fine people—competent, talented, dedicated and are very important Americans. We also salute and pay tribute to their unselfish wives.

Possible hostile Nations also maintain very fine Naval Reserve Forces. However, and to paraphrase Mr. Thomas Jefferson and other early patriots, I will bet my bottom dollar; my life, limbs and property on our Naval Reserve people.

SENATOR HOWARD H. BAKER JR. IN SUPPORT OF THE PRAYER AMENDMENT

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 1, 1971

Mr. WYLIE. Mr. Speaker, recently, I received a letter from Senator HOWARD H. BAKER, Jr., son-in-law of the late Senator Everett McKinley Dirksen who sponsored a prayer amendment identical to House Joint Resolution 191. I got the idea from Senator Dirksen. Senator HUGH SCOTT has introduced a resolution which is very similar and which has 46 cosponsors. Senator BAKER'S letter deserves attention, it seems to me. The letter follows:

SEPTEMBER 24, 1971.

Hon. CHALMERS P. WYLIE,
Longworth House Office Building,
Washington, D.C.

DEAR CHALMERS: Please accept my congratulations on your splendid effort with respect to the prayer amendment.

As you know, on February 10 I introduced in the Senate S.J. Res. 32, which is identical to H.J. Res. 191. My proposal now has thirty-seven co-sponsors. You may recall that on October 13 of last year I offered the text of the amendment as an amendment to the Equal Rights amendment, which was then pending on the floor of the Senate. The prayer amendment was agreed to on a roll-call vote of 50–20. Final action on the Equal Rights amendment was never taken.

I want to cooperate with you in any way that I can in this matter. As a result of your successful drive to discharge the House Committee on the Judiciary from further consideration of H.J. Res. 191, the prospects for the amendment appear brighter than at any time in the past.

Sincerely,

HOWARD H. BAKER, JR.

POWERPLANT SITING

HON. CHET HOLIFIELD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 1, 1971

Mr. HOLIFIELD. Mr. Speaker, on many previous occasions I have been privileged to address this body on two national challenges of paramount importance to our Nation.

The pollution of our environment is a primarily challenge to our future. The second challenge, which is inseparable from the first, is to assure an adequate clean supply of electrical energy.

The impending crisis in the supply of electrical energy was made even more acute by a decision by the U.S. Court of Appeals for the District of Columbia Circuit in Calvert Cliffs Coordinating Committee against the Atomic Energy Commission. As a result of that decision, a major interpretation of congressional intent regarding the National Environmental Policy Act of 1969, the AEC has revised its licensing procedures; the true dimensions of the impact of those procedures on the two national goals mentioned above is unknown at this time—it will be significant. In that regard I place in the RECORD a copy of a letter dated October 15, 1971, from the Chairman of the Federal Power Commission to the Chairman of the Atomic Energy Commission.

Just prior to the Calvert Cliffs decision, the Joint Committee on Atomic Energy's Subcommittee on Legislation held extensive public hearings on legislation proposed by the Atomic Energy Commission to amend the licensing procedures for nuclear power reactors under the Atomic Energy Act. The testimony at those hearings almost unanimously supports the need for reform in the procedures for the approval of powerplant siting. This is not a problem which is limited to nuclear plants; it is not a problem within the exclusive province of the AEC, the Joint Committee, or even the Federal Government. My distinguished colleague TORBERT MACDONALD and other Members have labored long this session and in previous sessions to develop a sound legislative framework for overall powerplant siting. I commend them for their efforts and I urge all Members to support legislation which would bring guidance and order to the important policy area of powerplant siting which has been so long neglected that in most of our Nation, the siting approval process is chaotic, confused, uncoordinated, lengthy, and completely unpredictable.

I am convinced that legislation which would establish a workable framework for obtaining timely powerplant siting approvals at the Federal and State levels with due accommodation between licensing procedures and policies regarding energy and the environment is the priority task which must be accomplished if we are to continue to know the blessings of both a high energy civilization and healthy environment.

FEDERAL POWER COMMISSION,
Washington, D.C., October 15, 1971.

Hon. JAMES R. SCHLESINGER,
Chairman, Atomic Energy Commission,
Washington, D.C.

DEAR CHAIRMAN SCHLESINGER: Thank you for your letter of September 14, 1971, and the expressed recognition of the need to find suitable means of conducting prompt reviews of critical nuclear power plants in keeping with the requirements of the National Environmental Policy Act of 1969 (NEPA) and the need to insure an adequate and reliable national power supply. We are also responding to the related letter of September 29, 1971, from Harold L. Price, Director of Regulation. Mr. Price's letter deals with suggested procedures on which we will comment further. However, the material forwarded with his letter also conveys to us the understanding that the Atomic Energy Commission presently anticipates that the revised procedures are expected to cause minimum delays in the readiness for operation of a number of nuclear plants, of from six months to a year or more unless the AEC finds that emergency conditions prevail.

We are greatly concerned about the severe effects on electric power supply in many areas of the Nation if such delays should occur with respect to a number of nuclear plants which are already completed or are nearing completion.

In order to gauge the general effect of such delays, it is necessary to examine the relationship of individual nuclear plants to the available reserve capacity in each region of the country. For this purpose the FPC's Bureau of Power has prepared a Staff Report which is forwarded herewith, and indicates the assumptions on which it is based. Table A of the Staff Report shows the impact that scheduled delays in nuclear plants would have on the anticipated electric power generation reserves at critical periods from now through the winter of 1972–73. The table shows the planned capability, anticipated reserve, and the portion of the anticipated reserve that is due to scheduled nuclear plants in each of the nine Electric Power Reliability Council areas and for the Nation as a whole. From these data it appears that 16% of the Nation's reserve for the summer of 1972 is from scheduled nuclear plants not yet on line and that the resulting potential loss of the anticipated reserves would exceed 40% in several instances. In addition, in many cases we are concerned that the reserve appears to be dangerously low, even with the scheduled nuclear plants. Furthermore, these reserve numbers are also affected by completion dates of new fossil-fueled plants which are not fully assured.

It is our opinion that, in light of this Commission's responsibility for adequate and reliable power supply for the Nation and our joint concern for the discharge of the requirements of NEPA, there must be sufficient reserve of electric power capacity maintained in each major region as an essential feature of our national environmental enhancement policy. It is the intent of NEPA (Section 101 (b)) to ". . . (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; . . ." In our highly developed society sufficient electric power reserves are essential to public health and safety as well as the other environmental objectives indicated above. In addition to the obvious usage of electricity for major public health facilities such as sewage treatment plants and hospitals, other widely dispersed uses such as highway lighting and residential food refrigeration depend on a continuous and thus reliable supply of electricity. Furthermore, an adequate supply of electric energy is an essential element of programs of national interest for maintaining a vigorous and stable economy.

We believe that AEC should consider a pending operating license to represent an emergency situation if the absence of the projected nuclear power unit significantly reduces the available electric power supply below a prudent level of reserve on the pertinent system or region and there is no comparable demonstration of significant adverse effects on the natural environment from operation of the plant. It is our judgment that national concern for the consequences of particular power shortages requires that any such serious threat to a prudent reserve level needs to be considered as an "emergency" situation rather than judging that only the occurrence of an actual power shortage or blackout constitutes a condition of "emergency."

The Staff Report provides the basis for our serious concern about the potential effect of AEC procedures and their implementation. As you will see, it analyzes what may be the potential power situation in five significant power regions where the specific capacity reserve conditions at particular times are critical to the overall public interest. The reported specific impacts of the nuclear plants on these local load areas are shown in Table B. We anticipate that each of these situations and others may be referred at an early date by the AEC to this Commission for further review and comment.

The situations described make clear the need to consider seriously any procedural techniques applicable within the principles of NEPA and the Calvert Cliffs decision which can expedite consideration of total environmental factors, including the consequences of non-availability of needed power.

We believe that the Atomic Energy Commission could well conclude that emergency situations exist where it is readily foreseeable that adequate and reliable supplies of electric power are seriously threatened and that expedited procedures for considering potential questions of environmental effect are therefore justified under the provisions of the National Environmental Policy Act and the Calvert Cliffs decision.

As for the suggested procedures transmitted with Mr. Price's letter, we are entirely agreeable to accommodating them and fitting our procedures to those outlined by the AEC. The designated responsible senior officer for the FPC in these matters will be Mr. Frederick H. Warren, Advisor on Environmental Quality.

Please be assured that we stand ready to assist you in any way in which we may be effective in assuring the prompt disposition of these matters.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

FEDERAL POWER COMMISSION BUREAU OF POWER

ELECTRIC GENERATING CAPACITY SITUATION WINTER 1971–72—SUMMER 1972—WINTER 1972–73

The staff of the Bureau of Power has analyzed the possible impact of the Calvert Cliffs decision on the electric generating capacity situation during the winter of 1971–72, the summer of 1972 and the winter of 1972–73. It was recognized that these plants must receive full environmental appraisals consistent with the National Environmental Policy Act and the Calvert Cliffs decision. The results of this analysis show that if nuclear units now nearing completion are delayed tight power supply situations will prevail in some areas of the country.

This analysis has been prepared in two parts. First, the overall capacity situation in the Nation was analyzed. It was found that 16% of the reserve in the summer of 1972 is in nuclear units. This is broken down by regional reliability councils in Table A. A map showing the location of the councils is attached. It is apparent from inspection of this table that some regions are more affected by nuclear delays than others. The regions which seemed to be most severely affected were then analyzed in more detail and critical sub-regions were then identified. It became apparent that five areas in particular, namely New England, New York State, Florida, the Virginia-Carolinas area, and the northern Illinois-Wisconsin-upper Michigan area will have severe power shortage problems during the next 18 months. The detailed analysis of these areas is shown on Table B.

In preparing Table B assumptions were first made as to the reserve required for each area. In areas with adequate transmission lines to neighboring areas a 20 percent reserve was deemed adequate. In the case of Florida, due to inadequate transmission both within the state and to neighboring states, and the relatively large unit size as percent of load, it was judged that a greater reserve was necessary. The assumed scheduling of nuclear units was based on the staff's estimate after consultation with the regional reliability councils. In general, nuclear units were assumed to be delayed a year but in cases where active intervention is presently in progress or expected the anticipated delay was longer. Fossil units scheduled for service during the study period were assumed to be delayed six months. This is to account for the unexpected but usual problems of construction delay, difficulties during start-up of new units and predictable unreliability of immature units. The five critical areas are discussed separately in the succeeding paragraphs.

The New England Power Pool faces a critical power supply situation in the winter of 1971–72. With the Vermont Yankee and Pilgrim No. 1 nuclear units unavailable, the installed New England reserve after taking account of scheduled power supply from systems outside of the New England Power Pool will be 13.3% at the time of peak winter load. Thus, with neither nuclear unit available, this reserve of 1704 MW is 860 MW below the 2564 MW considered necessary to maintain an adequate level of reliability. Stated another way the delayed nuclear units each represents a threat to the needed regional reserve level: Vermont Yankee, 20% loss of reserve; Pilgrim No. 1 25% loss of reserve. During the summer of 1972, the reserve situation is adequate with 21.4 percent reserve even with Vermont Yankee, Pilgrim and Maine Yankee delayed. However, an even more critical reserve situation develops in the winter of 1972–73 when with the three above-mentioned nuclear plants delayed the reserve drops to 1,941 or 14.0%. If, in addition, Salem Harbor No. 4 fossil unit scheduled for October 1972 service should be delayed so as to be unavailable for the winter period, the reserve would be 1476 MW or 10.7%. These levels of reserve would most probably result in power curtailments during the winter 1972–73 and possible curtailments during the coming winter.

Indian Pt. No. 2 (873 MW) represents about 20% of the necessary New York Power Pool reserve which was anticipated to be 4,207 MW during the summer of 1972. The reserve with Indian Pt. No. 2 in service would be 21% of the projected load but it should be remembered that in the past several summers the New York Power Pool, and Consolidated Edison in particular, have had difficulty supplying the load even with slightly more than 21% reserve. If Indian

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Point No. 2 is delayed beyond the summer of 1972, the expected reserve would be 16.6%. The problem is further compounded because the New York Power Pool has a total of 986 MW of fossil generation scheduled for June of 1972 and 348 MW of gas turbine capability scheduled for July which has been counted as part of the Pool reserve. If this generation is delayed or experiences difficulties during startup and is not available for the summer peak, the reserve falls to 2,000 MW or about 10%. The result of this reduction in reserves would probably result in power supply problems considerably more severe than New York City has experienced in the past several years.

Florida, due to its lack of adequate transmission within the state and from adjoining states and its unit size, requires more reserve than other areas. With both Turkey Point Nos. 3 and 4 in service, Florida would have 2,280 MW or 19.3% reserve in the summer of 1972 and loss of each unit would represent a reduction of 30% in the desired reserve level or a total of 60% taken together. The 2,280 MW regional level is 1,026 MW less than is desired. Without Turkey Point Nos. 3 and 4, Florida would have a reserve of 894 MW or 7.6%. This is 2,412 MW less than the desired reserve. This low reserve margin would create an even more severe situation than described for New York and chronic power curtailments might be expected during the summer of 1972.

The northern portion of Mid America Interconnected Network (MAIN) Regional Reliability Council which includes northern Illinois, Wisconsin and upper Michigan is another area which will be critically affected. With both Quad Cities Nos. 1 and 2 and Point Beach No. 2 in service, this area will have 3,315 MW reserve or 18.0% during the summer of 1972. This is 368 MW less than the necessary 20% reserve. However, if those three units are not in service, the reserve falls by 52% to 1,604 MW or 8.7% of the area load. In addition, there is a fossil-fuel plant scheduled for service in northern Illinois in April 1972. If this plant is delayed, the reserve margin is further reduced to 764 MW of 4.2%. It should be pointed out that the Palisades Plant, even though not in the MAIN region, is in close geographic proximity and therefore could transmit power to the Chicago area over interconnections in event of emergency. Any delay in that plant further compromises the reliability of electric supply in the Chicago Metropolitan area.

The Virginia-Carolinas area is the fifth area with anticipated critical power supply problems during the summer of 1972. With Surry No. 1 and Oconee No. 1 in service, the area has 2,775 MW or 13.4 percent reserve which is 1,376 MW below the desired 20 percent reserve level. With these two plants delayed, the reserve is reduced by 60 percent of the desired reserve to 1,101 MW or 5 percent of the area load. The problem is further complicated in that there are two fossil-fuel units totaling 1,010 MW scheduled for service in June and July 1972. If both of these plants fail to meet their construction schedule or experience difficulties during start up the area reserve would be 90 MW or 0.4 percent. This situation would most probably result in recurring and widespread power curtailments throughout the summer.

As a result of this analysis, it is concluded that delays in the operation of nuclear units which are completed or nearing completion will cause serious power supply problems in the immediate future, particularly in the New England, New York, Southeast, and Mid-west areas. Consequently, it is apparent that every effort must be made to bring new capacity on line as scheduled.

TABLE A.—IMPACT OF NUCLEAR PLANTS ON REGIONAL RELIABILITY

Reliability council regions [1]	NPCC [2]	MAAC	SERC	ECAR	MAIN	MARCA	WSCC [2]	SPP	ERCOT	Total
Winter 1971-72:										
Planned capability (MW)	52,407	32,849	68,892	56,618	30,454	13,503	72,251	29,768	23,487	380,229
Anticipated reserve (MW)	10,110	9,329	12,498	10,813	8,132	2,341	13,064	9,845	11,095	87,227
Percent projected load	24	40	22	24	35	21	22	49	90	
Planned nuclear (MW)	2,043		2,324	700	902	404				6,375
Percent of anticipated reserve	20		19	6	11	17				
Summer 1972:										
Planned capability (MW)	54,763	34,559	76,836	59,270	34,562	14,522	74,430	32,440	25,448	406,830
Anticipated reserve (MW)	13,334	4,719	11,190	8,960	6,604	2,372	15,746	5,956	4,596	73,477
Percent projected load	32	16	17	18	24	20	27	22	22	
Planned nuclear (MW)	2,824		5,029	700	2,761	404	330			12,048
Percent of anticipated reserve	21		45	8	42	17	2			
Winter 1972-73:										
Planned capability (MW)	57,488	35,310	78,707	61,373	35,358	15,124	76,098	32,153	25,994	417,605
Anticipated reserve (MW)	12,062	7,865	14,791	11,965	11,422	3,157	12,775	11,454	12,499	97,990
Percent projected load	27	39	23	24	48	26	20	55	93	
Planned nuclear (MW)	2,835	1,065	5,903	800	3,288	404	330			14,625
Percent of anticipated reserve	24	11	40	7	29	13	3			

[1] See attached map for geographic areas of the councils.

[2] Includes Canadian members.

TABLE B.—EFFECTS OF GENERATING PLANT DELAYS ON RESERVE MARGINS

	Winter 1971-72	Summer 1972	Winter 1972-73
NEW ENGLAND POWER POOL			
Planned capability (including net of transactions)	15,694	16,882	17,749
Peakload, MW	12,820	12,300	13,846
Reserve, MW	2,874	4,582	3,903
Percent	22.4	37.3	28.2
Necessary reserve at 20 percent,[1] MW	2,564	2,460	2,769
Surplus (deficiency) MW	310	2,122	1,134
Vernon (nuclear, October 1971)	−513	−502	−513
Vermont Yankee Nuclear Power Corp., Vernon Township, Vt.:			
Net capacity, MW	15,181	16,380	17,236
Peakload, MW	12,820	12,300	13,846
Reserve, MW	2,361	4,080	3,390
Percent	18.4	33.2	24.5
Necessary reserve at 20 percent,[1] MW	2,564	2,460	2,769
Surplus (deficiency), MW	(203)	1,620	621
Pilgrim No. 1 (nuclear, December 1971)	−657	−657	−657
Boston Edison Co., Plymouth, Mass.:			
Net capability, MW	14,524	15,723	16,579
Peakload, MW	12,820	12,300	13,846
Reserve, MW	1,704	3,423	2,733
Percent	13.3	27.8	19.7
Necessary reserve at 20 percent,[1] MW	2,564	2,460	2,769
Surplus (deficiency), MW	(860)	963	(36)
Wicasset No. 1 (nuclear, May 1972)		−792	−792
Maine Yankee Atomic Power Corp., Wicasset, Maine:			
Net capability, MW		14,931	15,787
Peakload, MW		12,300	13,846
Reserve, MW		2,631	1,941
Percent		21.4	14.0
Necessary reserve at 20 percent,[1] MW		2,460	2,769
Surplus (deficiency) MW		171	(828)
Salem Harbor No 4 (fossil, October 1972)			465
New England Electric System, Salem, Mass:			
Net capability, MW			15,322
Peakload, MW			13,846
Reserve, MW			1,476
Percent			10.7
Necessary reserve at 20 percent,[1] MW			2,769
Surplus (deficiency), MW			(1,293)
NEW YORK POWER POOL			
Planned capability (including net of transactions)	23,534	24,247	25,733
Peakload, MW	18,020	20,040	19,050
Reserve, MW	5,514	4,207	6,683
Percent	30.6	21.0	35.1
Necessary reserve at 20 percent,[1] MW	3,604	4,008	3,810
Surplus (deficiency), MW	1,910	199	2,873
Indian Point No. 2 (nuclear, October 1971)	−873	−873	−873
Consolidated Edison Co., Buchanan, N.Y.:			
Net capability, MW	22,661	23,374	24,860
Peakload, MW	18,020	20,040	19,050
Reserve MW	4,641	3,334	5,810
Percent	25.8	16.6	30.5
Necessary reserve at 20 percent,[1] MW	3,604	4,008	3,810
Surplus (deficiency), MW	1,037	(674)	2,000
Bowline Point No. 1 (fossil, summer 1972)		−600	
(Orange & Rockland Utilities, Inc. Haverstraw, New York):			
Net capability, MW		22,774	
Peakload, MW		20,040	
Reserve, MW		2,734	
Percent		13.6	
Necessary reserve at 20 percent,[1] MW		4,008	
Surplus (deficiency), MW		(1,274)	
Narrows (barge-mounted gas turbines, July 1972)		−348	
Consolidated Edison Co., Brooklyn, N.Y.:			
Net capability, MW		22,426	
Peakload, MW		20,040	
Reserve, MW		2,386	
Percent		11.9	
Necessary reserve at 20 percent,[1] MW		4,008	
Surplus (deficiency), MW		(1,622)	
Northport No. 3 (fossil, June 1972)		−386	
Long Island Lighting Co., Northport, N.Y.:			
Net capability, MW		22,040	
Peakload, MW		20,040	
Reserve, MW		2,000	
Percent		10.0	

Footnotes at end of table.

TABLE B.—EFFECTS OF GENERATING PLANT DELAYS ON RESERVE MARGINS—Continued

	Winter 1971-72	Summer 1972	Winter 1972-73
NEW YORK POWER POOL—Continued			
Long Island Lighting Co., Northport, N.Y.—Continued			
Necessary reserve at 20 percent,[1] MW		4,008	
Surplus (deficiency), MW		2,008)	
Roseton No. 1 (fossil, November 1972)			−600
Central Hudson Gas & Electric Co, Roseton, N.Y.:			
Net capability, MW			24,260
Peakload, MW			19,050
Reserve, MW			5,210
Percent			27.3
Necessary reserve at 20 percent,[1] MW			3,810
Surplus (deficiency), MW			1,400
VIRGINIA-CAROLINAS (VA-CARS) [3]			
Planned capability (net of transactions)	21,057	23,530	24,656
Peakload, MW	17,749	20,755	19,065
Reserve, MW	3,308	2,775	5,591
Percent	18.6	13.4	29.3
Necessary reserve at 20 percent,[1] MW	3,550	4,151	3,813
Surplus (deficiency), MW	(242)	(1,376)	1,778
Surry No. 1 (nuclear, February 1972)		−788	−788
Virginia Electric & Power Co., Gravel Neck, Va.:			
Net capability, MW		22,742	23,868
Peakload, MW		20,755	19,065
Reserve, MW		1,987	4,803
Percent		9.6	25.2
Necessary reserve at 20 percent,[1] MW		4,151	3,813
Surplus (deficiency), MW		(2,164)	990
Oconee No. 1 (nuclear, March 1972)		−886	−886
Duke Power Co., Seneca, S. C:			
Net capability, MW		21,856	22,982
Peak load, MW		20,755	19,065
Reserve, MW		1,101	3,917
Percent		5.3	20.5
Necessary reserve at 20 percent,[1] MW		4,151	3,813
Surplus (deficiency), MW		(3,050)	104
Oconee No. 2 (nuclear, December 1972)			−886
Duke Power Co., Seneca, S.C.:			
Net capability, MW			22,096
Peakload, MW			19,065
Reserve, MW			3,031
Percent			15.9
Necessary reserve at 20 percent,[1] MW			3,813
Surplus (deficiency), MW			(782)
Wateree No. 2 (fossil, December 1971)	−385		
South Carolina Electric & Gas Co., Eastover, S.C.:			
Net capability, MW	20,711		
Peakload, MW	17,749		
Reserve, MW	2,422		
Percent	13.6		
Necessary reserve at 20 percent,[1] MW	3,550		
Surplus (deficiency), MW	(1,128)		
Sutton No. 3 (fossil, June 1972)		−420	
Carolina Power & Light Co., Wilmington, N.C.:			
Net capability, MW		20,436	
Peakload, MW		20,755	
Reserve, MW		681	
Percent		3.3	
Necessary reserve at 20 percent,[1] MW		4,151	
Surplus (deficiency), MW		(3,470)	
Cliffside No. 5 (fossil, July 1972)		−590	
Duke Power Co., Cliffside, N.C.; 50 miles west of Charlotte):			
Net capability, MW		20,846	
Peakload, MW		20,755	
Reserve, MW		(91)	
Percent		.4	
Necessary reserve at 20 percent,[1] MW		4,151	
Surplus, MW		(4,060)	
FLORIDA			
Planned capability (including ne of transaction)	12,465	14,090	14,105
Peakload, MW	11,120	11,810	12,410
Reserve, MW	1,345	2,280	1,695
Percent	12.1	19.3	13.7
Necessary reserve at 28 percent,[1] MW	3,114	3,306	3,475
Surplus (deficiency), MW	(1,769)	(1,026)	(1,780)
Turkey Point No. 4 (nuclear, July 1972)		−693	−725
Florida Power & Light Co., Turkey Point, Fla.:			
Net capability, MW		13,397	13,380
Peakload, MW		11,810	12,410
Reserve, MW		1,587	970
Percent		13.4	7.8
Necessary reserve at 28 percent [1]		3,306	3,475
Surplus (deficiency) MW		(1,719)	(2,505)
Turkey Point No. 3 (nuclear, April 1972)		−693	−725
Florida Power & Light Co., Turkey Point, Fla.:			
Net capability, MW		12,704	12,655
Peakload, MW		11,810	12,410
Reserve, MW		894	245
Percent		7.6	2.0
Necessary reserve at 28 percent,[1] MW		3,306	3,475
Surplus (deficiency), MW		(2,412)	(3,230)
Sanford No. 4 (fossil, April 1972)		−379	
Florida Power & Light Co., Sanford, Fla.:			
Net capability, MW		12,325	
Peakload, MW		11,810	
Reserve, MW		515	
Percent		4.4	
Necessary reserve at 28 percent,[1] MW		3,306	
Surplus deficiency, MW		(2,791)	
Bartow No. 4 (gas turbines, April 1972)		−200	
Florida Power Corp., St. Petersburg, Fla.:			
Net capability, MW		12,125	
Peakload, MW		11,810	
Reserve, MW		315	
Percent		2.7	
Necessary reserve at 28 percent,[1] MW		3,306	
Surplus (deficiency), MW		(2,991)	
MID-AMERICA INTERPOOL NETWORK (MAIN) NORTHERN ILLINOIS, WISCONSIN, AND UPPER MICHIGAN ONLY [5]			
Planned capability (including net of transactions)	19,909	21,729	23,787
Peakload, MW	14,961	18,414	15,773
Reserve, MW	4,948	3,315	8,014
Percent	33.1	18.0	50.8
Necessary reserve at 20 percent,[1] MW	2,992	3,683	3,155
Surplus (deficiency) MW	1,956	(368)	4,859
Quad Cities No. 1 [4] (nuclear, March 1972)		−405	−405
Commonwealth Edison Co., Cordova, Ill.:			
Net capability, MW		21,324	23,382
Peakload, MW		18,414	15,773
Reserve, MW		2,910	7,609
Percent		15.8	48.2
Necessary reserve at 20 percent,[1] MW		3,683	3,155
Surplus (deficiency), MW		(773)	4,454
Pt. Beach No. 2 (nuclear, October 1971)	−497	−497	−497
Wisconsin Electric Power Co., and Michigan Power Co., Two Creeks, Wis.):			
Net capability, MW	19,412	20,827	22,885
Peak load, MW	14,961	18,414	15,773
Reserve, MW	4,451	2,413	7,112
Percent	29.8	13.1	45.1
Necessary reserve at 20 percent,[1] MW	2,992	3,683	3,155
Surplus (deficiency), MW	1,459	(1,270)	3,957
Quad Cities No. 2 (nuclear, April 1972)		−809	−809
Commonwealth Edison Co., Cordove, Ill.):			
Net capability, MW		20,018	22,076
Peak load, MW		18,414	15,773
Reserve, MW		1,604	6,303
Percent		8.7	40.0
Necessary reserve at 20 percent,[1] MW		3,683	3,155
Surplus (deficiency), MW		(2,079)	3,148
Powerton No. 5 (coal, April 1972)		−840	
Commonwealth Edison Co., Pekin, Ill.:			
Net capability, MW		19,178	
Peakload, MW		18,414	
Reserve, MW		746	
Percent		4.2	
Necessary reserve at 20 percent,[1] MW		3,683	
Surplus (deficiency), MW		(2,919)	
Kewaunee No. 2 (nuclear, November 1972)			−527
Wisconsin Public Service Co.,[6] Carlton, Wis.:			
Net capability, MW			21,549
Peakload, MW			15,773
Reserve, MW			5,776
Percent			36.6
Necessary reserve at 20 percent,[1] MW			3,155
Surplus (deficiency), MW			2,621
Powerton No. 5 (coal, April 1972)		−840	
Commonwealth Edison Co., Pekin, Ill.:			
Net capability, MW		19,178	
Peakload, MW		18,414	
Reserve, MW		764	
Percent		4.2	
Necessary reserve at 20 percent,[1] MW		3,683	
Surplus (deficiency), MW		(2,919)	
Kewaunee No. 2 (nuclear, November 1972)			−527
Wisconsin Public Service Co.,[6] Carlton, Wis.:			
Net capability, MW			21,549
Peakload, MW			15,773
Reserve, MW			5,776
Percent			36.6
Necessary reserve at 20 percent,[1] MW			3,155
Surplus (deficiency), MW			2,621

[1] FPC staff estimate.

[2] Surry No. 2—788 MW, nuclear—Slipped to June 1973.

[3] Half of capacity committed to mid-American reliability coordinating agreement reserves.

[4] To be also owned by Wisconsin Power & Light Co. and Madison Gas & Electric Co.

Note: With Zion No. 1 (1,100 MW, nuclear, April 1972) slipped to summer 1973 and E. D. Edwards No. 3 (350 MW, coal, January 1972) slipped past winter 1971-72.

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PEOPLE WHO CARE ABOUT PEOPLE

HON. FRANK CHURCH

OF IDAHO

IN THE SENATE OF THE UNITED STATES

Tuesday, November 2, 1971

Mr. CHURCH. Mr. President, on October 20, I placed in the RECORD an article published in the Idaho Daily Statesman, which described the work being done by a remarkable couple in Boise, Idaho, to aid the elderly. I am pleased to say that since that article appeared, these wonderful people have continued their work at an increasing pace.

Once again I wish to commend Mr. and Mrs. Ernest K. Morehouse for their outstanding work for and with the senior citizens of the Boise Valley area. Their efforts indicate what people who care can do to improve the lives of those around them.

I ask unanimous consent that the most recent article on the work of Mr. and Mrs. Morehouse, published in the Idaho Daily Statesman of October 29, be printed in Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IDEAS OF "FRIENDS TO ELDERLY" BOOMERANG, BOOM, CREATE NEED FOR VOLUNTEER HELP

(By Carrie Ewing)

Ideas boomerang.

That's what happened when Mr. and Mrs. Ernest K. Morehouse, 2823 Innis, designated themselves as Friends to the Elderly and embarked on the task of collecting and distributing donated used television sets, radios and record players to needy elderly persons.

A second philanthropic effort of a fruit canning project for needy elderly and needy women with children has "gotten out of hand" to the extent the Morehouses are "begging" for help.

They need assistance in carrying out both programs.

The first project caught on so thoroughly that the originators called for help in locating a building of adequate space in which to store and service the sets before they are delivered to a recipient.

That building is at 610 Main, formerly occupied by Ability, Inc., and next door to the former Social Security Building. In storage there now are 145 television sets. Persons wishing to contribute TV sets, radios or record players may contact the Morehouses at their home number to make arrangements for unloading the article. The alley entrance is best, Morehouse said.

"When articles are donated to this extent," Morehouse said Wednesday, "it means many of them need repair. For this we need volunteers. We have access to five or six individuals who have offered their services, now that we have adequate space. But we need more repairmen. Two businesses, Wells Electronic Service, 821 West State, and Bo's Radio and TV Service, 6401 Fairview Avenue, repair two sets each month for us without charge."

More volunteer repairmen to offer help during leisure hours, as well as other persons to deliver and pick up the sets, are needed, Morehouse noted.

About 50 elderly persons are awaiting delivery of sets now, and are not able to receive them because help is not available.

Cash contributions are welcomed in order to defray cost of tubes and other parts for the sets.

Peaches, pears and plums—8,000 No. 2½ size cans—will be ready for distribution about mid-November. Most of the fruit was obtained from growers in Homedale and Emmett for the nominal fee of picking cost of $1 per bushel. Jay's fruit Stand, Homedale, donated 100 bushels. The fruit was being held in cold storage because of poor market and low price.

When the Morehouses heard of the possibility of obtaining the fruit, they launched the canning project under the auspices of the Ustick Cannery. Funds were solicited to meet various expenses.

Now, volunteers with cars will be needed to distribute the fruit. The exact time for distribution will be announced later.

Friends to the Elderly, Mr. and Mrs. Ernest K. Morehouse, request that persons who qualify for the fruit or the entertainment articles contact them at their home.

"As soon as we have taken care of the elderly, we hope to include the handicapped, women with children, the shut-ins and the blind in our TV distribution," Morehouse said. "We hope one day to see this program in operation all over the nation."

Incorporation papers for Friends to the Elderly may be drawn up and filed in the next few days, Morehouse added.

NOISE—FOURTH FORM OF POLLUTION

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. TIERNAN. Mr. Speaker, thousands of our citizens are becoming increasingly aware of a form of pollution which is reaching crisis proportions. Noise pollution is extremely dangerous to our physical and psychological health, and it is thus imperative that we act now to combat it.

Earlier this year I introduced H.R. 6002, the Noise Control Act of 1971. The Public Health and Environmental Subcommittee held hearings on this and other noise abatement bills in June. Chairman ROGERS and his subcommittee have now reported H.R. 11021 to the full Interstate and Foreign Commerce Committee. I applaud Chairman ROGERS and the other members of the subcommittee for their prompt action in this area and I am hopeful that the Congress will enact such a bill into law at the earliest possible date.

At this point in the RECORD I would like to include a copy of an article which appeared in the September issue of Environmental Science and Technology, "Noise—Fourth Form of Pollution":

NOISE—FOURTH FORM OF POLLUTION

Referred to as unwanted sound, sound out of place, sound without value, or vibrational energy out of control, noise in the environment has reached a level of national importance and public concern. Like other forms of pollution, noise is a by-product of twentieth century technology. But unlike other forms of pollution, noise is not persistent, not cumulative, and not transported over great distances by the atmosphere. Noise dies out rapidly once the noise generation process stops.

To be sure, noise pollution has not reached the crisis stage of the other three forms—air pollution, water pollution, and solid waste disposal. The fact that federal noise abatement programs are not to be transferred to the new Environmental Protection Agency (EPA) (ES&T, August 1970, page 627) does not indicate that noise pollution and its abatement are unimportant problems. It is merely that the other forms have been seen as demanding more urgent priorities.

Certainly, the public's noise awarenes increases each day. It may be true that the man-in-the-street's concern is directed at aircraft noise at this time. But chances are that if he is an industrial worker, he has heard of in-plant noise reduction programs.

In any event, noise is a growing nuisance. Some scientific evidence indicates that noise is harmful to physical and mental health; hearing loss is only one example. Other noise experts believe that man's tolerance to noise is quite high and that most environmental noise conditions can be adapted to without ill effects.

Essentially, noises can be grouped into three types—transportation noises, occupational noises, and community noises. Noises from all these sources have increased over the past ten years and will double in the next ten according to most indications.

TRANSPORTATION NOISE

Although aircraft noises are more often the source of nuisance complaints from the general public, highway noises run a close second, largely because nearly everyone is exposed to them in daily activities. Tire noises are the main problem. Assuming that a highway vehicle—whether a passenger car, bus, or truck—is in a good state of repair, highway noise is attributed to tires on the vehicle operating in excess of 60 m.p.h. At lower speeds, engine noises tend to predominate.

OCCUPATIONAL NOISE

Several industries can be singled out for occupational noisiness, including steel, papermaking, textile, petroleum, and wood products, to mention a few. In general, the noise sources in these industries are the machinery, in plants with metal to metal operating parts, or high-speed equipment such as blowers (petroleum cracking plants), looms (textile plants), or high-speed stamping operations (wood products). In some cases, the personnel exposure time is small. For example, it may be necessary to perform a maintenance check on a particular piece of noisy equipment once each day. But the check might only take 15 minutes. In other cases, however, the operator might be exposed to the noise for the full eight-hour day.

COMMUNITY NOISE

Community noises, both indoor and outdoor, are on the increase. In fact, these noises are beginning to approach in overall severity of those found in mechanized industry. Not only are dishwashers, lawnmowers, air conditioners, and the like recognized noise problems, the simple increase in numbers of such appliances produces a larger noise burden. Community noise exposures can therefore become a problem, if indeed they are not one already.

REGULATIONS

Both federal and state regulations have been enacted to reduce the noise burden. Most are directed at a particular noise source, are limited in scope, and are enforced poorly, if at all. Nevertheless, they are a beginning.

The first federal attempt to control noise of any kind was the 1968 noise standard for the certification of new aircraft (see box, page 722). This was soon followed by the amendment to the Walsh-Healey Public Contracts Act which regulates occupational noise exposure.

Many states have codes prohibiting excessive noise from transportation sources, mainly highways. Approximately 20 states pay workman compensation for hearing loss damage, but the awards are far from consistent across the U.S. In many cases, the state and local ordinances do not spell out actual decibel violation limits, and the mere existence of codes does not necessarily mean that they are enforced.

New York was the first state to adopt a highway antinoise statute in 1965. It defines excessive noise as 88 dBA at 50 ft. for a vehicle traveling at 35 m.p.h.

Perhaps the most comprehensive code is California's. It prohibits noise levels in excess of 82 dBA for passenger cars and 92 dBA for trucks and buses. There is also a California code requiring used cars be certified for noise worthiness before resale.

NOISE REDUCTION

There are essentially three ways to reduce noise. The first approach is to reduce noise at the source. Examples of this are the design and production of quieter aircraft engines, highway tires, industrial machinery, and home appliances.

A second approach is operational in nature. This approach is being followed by major airlines in their normally scheduled flights by following certain noise abatement takeoff and landing procedures at major airports in the country. The enclosure of machinery with sound absorbing materials is an example of the industrial operational noise reduction pattern already practiced by some industries.

The third is personnel protection through the wearing of devices such as ear plugs or ear muffs. In some cases, the second and third approaches are combined to reduce exposure to the lowest practicable levels.

Of course, the ultimate goal is to have remedies for the noise problems and to implement these by installation of new machinery, sound suppressing devices, and improved operational changes.

To attain this goal the federal government will spend approximately $34.1 million for noise abatement programs in fiscal year 1971, up from $32 million last fiscal year, when $29 million went for aircraft noise reduction and $3 million for all other programs.

FEDERAL NOISE PROGRAMS

Members of the federal noise club include the Departments of Commerce; Health, Education, and Welfare (HEW); Housing and Urban Development (HUD); Interior; Transportation (DOT); Labor; and the National Aeronautics and Space Administration (NASA). The noise committee of the Cabinet Committee on Environment (ES&T, December 1969, p. 1249) has been actively studying the noise problem. Its goal is to formulate a federal policy on noise, but the proposed and long awaited policy had not yet been adopted at press time.

Commerce, the lead agency for noise in the Cabinet committee, has organized a Commerce Technical Advisory Board which is focusing on the technological, economic, social, and legal aspects of the problem. Jack E. Goldman, a vice president of Xerox Corp., is chairman of the advisory board whose report, "The Noise Around Us: A Program for Progress," will be released this fall.

Each federal department conducts an active research and development program. Not surprisingly, DOT has two noise abatement offices, one for transportation noises in general and another specifically for aircraft noise, in the Federal Aviation Administration (FAA).

Charles R. Foster, head of the DOT Office of Noise Abatement, notes that his office's prime interest is to find technical ways to reduce noise at the source. Foster notes that DOT has a program at the National Bureau of Standards directed toward the design of a quieter tire without sacrificing safety. Truck tires are noisier than those on passenger cars and are replaced more frequently. The so-called footprint configuration, the depth and spacing of slits in the tire, might be redesigned to give better suction and, in essence, less noise.

DOT has contracted Serendipity, Inc. (Eastern Operations Div., Arlington, Va.) to attempt to come up with a noise pollution level for communities, which will include all transportation noises—aircraft, highway, and others. Serendipity is finding that the noise level from any individual source alone is not the real concern of the public. Rather, it is the incremental decibel change above the background that generally leads the public to complain.

John O. Powers, director of the FAA Office of Noise Abatement, concentrates on aircraft noise reduction and directs R&D to this end. Under an FAA contract, Rohr Corp. (Calif.) has performed a paper study to find the economic and operational impact of retrofitting (modifying the engine after initial production) aircraft to reduce noise. Reducing the noise level 5 dBA on takeoff and 10 dBA on landing is a difference that the general public would actually be able to notice. For a fleet of some 1200 planes, the cost approximates $750 million. The final Rohr findings are to be released soon.

Eugene L. Newman, chief of Labor's Office of Training in the Bureau of Labor Standards, has long been associated with industrial occupational noise. But Labor's enforcement activities under the Walsh-Healey Act are headed by Robert D. Gidel.

Walsh-Healey covers all government contracts for the procurement of goods, supplies, materials, etc., in excess of $10,000. Inspectors from the Department of Labor—safety engineers and industrial hygienists—inspected some 4000 locations in 1969, noise being one factor in their inspection. A status report of specific noise violations will be released this fall, along with a list of qualified consultants in the industrial occupational noise area. Newman points out that government contracts cannot be canceled on the basis of these inspections. But after serving notice of violation and failure to comply, Labor can be instrumental in preventing those companies from appearing on the list of eligible contractors for a period of three years.

Other noise abatement programs are in NASA, HUD, and HEW. Alexander Cohen, director of HEW's Bureau of Occupational Health and Safety (Cincinnati, Ohio), heads the federal programs dealing with health aspects of noise. A prime concern of the HUD program is reduction of noise nuisances in multifamily dwellings. NASA's program, the most costly in terms of the federal dollar, is a hardware development program ultimately aimed at the design of a quiet aircraft engine.

INDUSTRY'S APPROACHES

But the federal government does not stand alone in its noise abatement program, other organizations and industries also are involved. Another technical approach to reduce tire noises is spearheaded by John Carter, chairman of a tires subcommittee of the Society of Automotive Engineers. On the international scene, the Organization for Economic Cooperation and Development (OECD) plans to issue soon a report "Urban Traffic Noise."

Large industrial companies also are alerted to the noise problem, including Bell, Grumman, Du Pont, and Ford, to mention a few. To some, noise is not a new problem. Du Pont's audiometric testing of employees dates back to 1939. In 1965, Du Pont's Engineering Materials Laboratory began an extensive program directed at the fundamental aspects of structural and materials damping.

Some firms are establishing audiometric testing as part of an employee's routine prephysical examination. Not only does this type of information prove invaluable in hearing loss damage suits, but it also serves as a baseline against which hearing can be measured during periods of employment. The latter is particularly important because a number of young people already have a degree of hearing loss, according to one study. It might be the case that his employee's hearing would deteriorate more rapidly during his course of employment.

FUTURE LEGISLATION

A coordinated federal approach to noise control is embodied in the proposed clean air amendments, S. 3229, (ES&T, May 1970, p. 378), under which an office of noise abatement and control wouold be established. In time, this office probably will be set up; it could take a comprehensive look at the myriad federal noise programs now dispersed throughout the federal establishment.

Certainly little will be done to reduce noise pollution until the public becomes aroused. Then the public can bring about the necessary reduction through actions at the federal, state, and local levels.

FEDERAL REGULATIONS

P.L. 90-411. Effective July 12, 1968, commercial aircraft must comply with certain noise levels before certification.

FAA noise standard. Effective Dec. 1, 1969, the standard applies to all new design aircraft of the turbofan variety. Does not apply to existing aircraft.

Walsh-Healey Health and Saftety Regulations. Effective May 20, 1969, specifies a maximum allowable level of 90 dBA for a continuous 8-hour day exposure. Applies only to industries holding government contracts in excess of $10,000.

Federal funding

[All figures in millions]

NASA	$22.31
DOT	8.85
HEW	1.40
HUD	1.01
Commerce	0.50
Labor	0
Total	34.07

NOISE—USEFUL DEFINITIONS

Sound

Small local fluctuations in atmospheric pressure.

Frequency

The number of times a sound wave repeats itself in a unit of time. In acoustics, the unit of frequency is Hertz (Hz).

Human ear

Responds to the magnitude of these pressure fluctuations and to the rapidity with which the fluctuations occur. Human hearing ranges from 16–16,000 Hz.; it is most sensitive to frequencies from 500–6000 Hz., less sensitive to high and low frequencies.

Decibel (dB)

Unit of sound pressure level.

Decibel scale

Expresses magnitude of the pressure fluctuation, on a logarithmic scale.

C scale (dBC)

Gives a flat response across the entire sound spectrum.

A scale (dBA)

Places less emphasis on low frequency sounds, provides more weight to annoying high frequencies, and in general, correlates well with human response to a variety of noises.

Effective perceived noise decibel (EPNdB)

Unit developed specifically to rate aircraft noise.

EPNdB scale

Developed specifically as a measure of subjective reaction to annoyance of aircraft noise. It is similar to dBA scale but gives more weight to high frequency tones and includes adjustment for effective duration and discrete frequency components.

Sound level meter

Measures sound pressure levels but does not measure the qualities of sound to which humans respond.

Octave band analyzer

An instrument equipped with filters to measure a band of frequencies one octave

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wide. For example, the 1000 frequency octave band extends from 707–1414 Hz.

FEDERAL CIVILIAN EMPLOYMENT, SEPTEMBER 1971

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. MAHON. Mr. Speaker, I include a release highlighting the September 1971 civilian personnel report of the Joint Committee on Reduction of Federal Expenditures.

The release follows:

FEDERAL CIVILIAN EMPLOYMENT, SEPTEMBER 1971

Total civilian employment in the Executive, Legislative and Judicial Branches of the Federal Government in the month of September was 2,883,913 as compared with 2,930,599 in the preceding month of August. This was a net decrease of 46,686, due primarily to seasonal employment and summer employment of the "disadvantaged" under youth opportunity programs.

These figures are from reports certified by the agencies as compiled by the Joint Committee on Reduction of Federal Expenditures.

EXECUTIVE BRANCH

Civilian employment in the Executive Branch in the month of September totaled 2,844,544. This was a net decrease of 45,623 as compared with employment reported in the preceding month of August. Employment by months in fiscal 1972, which began July 1, 1971, follows:

Month	Employment	Increase	Decrease
July 1971	2,903,158	20,153	
August	2,890,167		12,991
September	2,844,544		45,623

Total employment in civilian agencies of the Executive Branch for the month of September was 1,708,671, a decrease of 31,840 as compared with the August total of 1,740,511. Total civilian employment in the military agencies in September was 1,135,873, a decrease of 13,783 as compared with 1,149,656 in August.

The civilian agencies of the Executive Branch reporting the largest net decreases were Postal Service 11,212, Agriculture Department with 6,102, Interior Department with 3,909, Treasury Department with 1,234 and Transportation Department with 1,223.

In the Department of Defense the largest decreases in civilian employment were reported by the Army with 6,737, Navy with 3,831, Air Force with 2,003 and Defense Supply Agency with 1,015.

Total Executive Branch employment inside the United States in September was 2,652,682, a decrease of 46,177 as compared with August. Total employment outside the United States in September was 191,862, an increase of 554 as compared with August.

The total of 2,844,544 civilian employees of the Executive Branch reported for the month of September 1971 includes 2,529,990 full time employees in permanent positions. This represents an increase of 3,686 in such employment from the preceding month of August. (See table 2 of accompanying report.)

The Executive Branch employment total of 2,844,544 includes some foreign nationals employed abroad, but in addition there were 97,736 Foreign Nationals working for U.S. agencies overseas during September who were not counted in the usual personnel reports. The number in August was 97,714.

LEGISLATIVE AND JUDICIAL BRANCHES

Employment in the Legislative Branch in the month of September totaled 31,403, a decrease of 1,103 as compared with the preceding month of August. Employment in the Judicial Branch in the month of September totaled 7,966, an increase of 40 as compared with August.

DISADVANTAGED PERSONS

The total of 2,883,913 reported by the Committee for September includes 25,572 disadvantaged persons employed under Federal opportunity programs, a decrease of 23,265 over the preceding month of August. (See table 4 of accompanying report.)

In addition, Mr. Speaker, I include a tabulation, excerpted from the Joint Committee report, on personnel employed full time in permanent positions by executive branch agencies during September 1971, showing comparisons with June 1970, June 1971, and the budget estimates for June 1972:

FULL-TIME PERMANENT EMPLOYMENT

Major agencies	June 1970	June 1971	September 1971	Estimated June 30, 1972[1]
Agriculture	82,912	84,252	84,590	87,300
Commerce	25,427	28,435	28,088	29,600
Defense:				
Civil functions	30,297	30,063	30,293	31,300
Military functions	1,129,642	1,052,741	1,065,086	1,051,600
Health, Education, and Welfare	102,297	104,293	106,390	102,100
Housing and Urban Development	14,661	16,030	15,902	16,700
Interior	59,349	57,570	58,022	59,100
Justice	38,013	42,662	43,071	46,800
Labor	10,217	11,352	11,906	12,100
State	23,618	23,398	23,310	23,700
Agency for International Development	14,486	13,477	13,255	11,100
Transportation	63,879	68,489	68,630	71,900
Treasury	86,020	90,135	91,054	100,400
Atomic Energy Commission	7,033	6,920	6,907	7,000
Civil Service Commission	5,214	5,324	5,307	5,900
Environmental Protection Agency[2]		5,959	6,332	8,900
General Services Administration	36,400	38,076	38,070	41,600
National Aeronautics and Space Administration	31,223	29,478	29,177	28,400
Office of Economic Opportunity	2,387	2,478	2,107	2,500
Panama Canal	14,635	13,967	14,049	14,900
Selective Service System	6,665	5,569	5,692	6,500
Small Business Administration	4,015	4,004	4,020	4,200
Tennessee Valley Authority	12,657	13,612	13,799	13,300
U.S. Information Agency	9,989	9,773	9,709	9,900
U.S. Postal Service	565,618	564,782	563,225	590,500
Veterans' Administration	148,497	158,635	159,298	160,800
All other agencies	27,420	28,838	30,229	31,200
Contingencies				10,000
Total	2,552,571	2,520,302	2,527,518	[2] 2,589,300
Public service careers (disadvantaged persons in Federal opportunity programs—see table 4, p. 14)		1,899	2,472	
Total	2,552,571	2,522,201	2,529,990	

[1] Source: As projected in fiscal year 1972 budget document; figures rounded to nearest hundred.
[2] Established as of Dec 2, 1970, by transfer of functions and personnel from Interior, HEW, Agriculture, Federal Radiation Council and Atomic Energy Commission.

[2] Does not reflect Presidential order of Aug. 15, 1971 for 5-percent personnel reduction estimated by the Director of Office of Management and Budget on Sept. 9, 1971, at 100,000 governmentwide, exclusive of the Postal Service.

HIGHER EDUCATION ACT OF 1971

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. DIGGS. Mr. Speaker, if I am compelled to be in attendance at the United Nations when the Higher Education Act of 1971 comes to the floor for a vote, I should like to take this opportunity to indicate my position on the various sections of that bill, H.R. 7248.

I am in full accord with the major thrust and purposes of this legislation as reported out of committee. I am opposed to any dilution of the sex discrimination provisions. I would support efforts to increase the authorization for the U.S. Commission on Civil Rights by $1 million, to enable the Commission to assume the new responsibility for investigating sex discrimination.

I regret the committee change in the educational opportunity grant—EOG—program requiring students to get their grants renewed each year, and hope there will be a restoration of the 4-year grant award. Although I support the committee approach to distribution of the EOG's, I should like to see some change in the formula allowing greater focus on the needy student; for example, that half the funds be targeted to the neediest students, and half to present distribution factors.

I approve the provision for general assistance to public and private institutions of higher education through the general institutional aid program, and the committee grant formula of two-thirds based on capitation and one-third on cost of education, the latter focusing on the needy student population.

I oppose any weakening of the youth camp safety standards.

IMPROVING THE REGULATORY PROCESS

HON. BROCK ADAMS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. ADAMS. Mr. Speaker, as we all know there has been considerable discussion about the regulatory process and the role of the Interstate Commerce Commission.

I would like to share with my colleagues the views of Mr. John A. Creedy, president of the Water Transport Association. In a recent speech before the annual meeting of the Transportation Research Forum, Mr. Creedy stated that industry in fact supports regulation and feels that it is important to examine the regulatory process to determine where it may be improved and strengthened. He pointed out that—

> The alternative—abolishing the ICC—would subject transportation to another form of regulation, the antitrust laws.

He went on to say that this type of regulation would be less effective in preventing serious misuse of economic power and permit the same abuses which brought about the passage of the Interstate Commerce Act.

The text of the speech follows:

REMARKS OF JOHN A. CREEDY, PRESIDENT, WATER TRANSPORT ASSOCIATION, TRANSPORTATION RESEARCH FORUM ANNUAL MEETING, SHERATON HOTEL, PHILADELPHIA, PA., OCT. 18, 1971

IMPROVING THE REGULATORY PROCESS

With all the innocence of ignorance, *Fortune* proclaimed last July: "Federal regulation of transportation is a failure."

The violence and broad sweep of the attacks on regulation in the past two years, particularly the attacks from academic quarters, have served the very useful function of crystallizing thinking among the different modes and among the shippers to a very much greater degree than has ever been true before.

There is a simple logic to the case advanced for deregulation. The goal of national economic policy should be the most efficient use of national resources. Competition is the most effective mechanism for assuring the most efficient use of resources. Regulation has artificially interfered with the competitive process and as a result rates are maintained to protect the inefficient. Great inefficiency and misallocation of national resources have resulted. The cure is to remove regulation and allow competitive forces to work their will, subject only to the antitrust laws.

No one can quarrel with the goal that national economic policy should produce the most efficient use of national resources; nor with the statement that competition is the most effective mechanism for assuring the most efficient use of resources.

However, one can demolish successfully the assumptions of the rest of the paragraph and particularly the conclusion that the goals on which everyone agrees cannot be achieved by the regulatory process. There is nothing inherent in the regulatory process that necessarily leads to misallocation of resources and the curtailment of healthy competition. Technology and capable management can achieve and have achieved just as much efficiency—and perhaps more—in transportation under regulation as has been achieved in the unregulated segment of the economy subject to the supervision of the antitrust laws, including the Federal Trade Commission.

Transportation is far from perfect; its needs are urgent and deserve prompt attention; regulation can be improved. But the facts simply do not sustain broad charges that carriers are holding up rates to protect inefficiency. Far from it. Prices in transportation have risen far less than either the wholesale or consumer price indices. In the past 10 years alone, major cost-saving innovations have been introduced by every mode. In trucking, there has been broad application wherever legally possible of the double-bottom truck system and vast improvement in terminalling and interchange. In railroading, automated classification yards, unit trains, multiple car services, specialized freight cars have all been successful in helping to confine the impact of rising labor and material costs. In water transportation larger and more efficient tows on the rivers have enabled the barge lines to hold rates at least significantly below 1947 levels and containerization has eliminated or greatly reduced handling charges while substantially improving service. Ocean barging, LASH and Seabee barge-on-ship systems are being introduced. Oil pipeline charges per ton mile are less than they were in 1947.

The complaint of misallocation of resources in transportation cannot be documented. There may well be certain railroad branch lines and even, as the result of recent mergers, some main lines, which can be phased out. But there is no over-capacity in transport equipment in any mode. On the contrary, if the transportation industry is to meet the challenge of a 50 per cent increase in capacity in only 10 years as will be required by the normal expansion of the economy, vast new investment will be required. Policies are needed which will encourage the flow of investment into transportation. The deregulation enthusiasts have to concede and do concede that their plans would very likely force investment out of transportation for a long initial period of "readjustment."

The result of this commendable candor is that those who, in the past, have talked loosely about "more freedom" in rate-making are faced with some interesting choices. "More freedom" has the sound of lower rates, but it brings with it also the certainty of higher rates, cessation of services, and unreliability of services.

Old proponents of "more freedom," the railroads, when faced with the logical necessity of giving up rate bureaus and coming under all the antitrust laws, complain that they don't really want all that freedom. Shippers want freedom for rate movement down but not up and certainly few want to discard rate bureaus. Faced with the total chaos that would result from freedom of entry in trucking, the shippers find themselves badly split. The hard core of the deregulation enthusiasts are a handful of very large shippers, who believe they have the economic muscle to take care of themselves under any circumstances, and certain academic economists who have an atavistic desire to see the blood run.

In practice this means that deregulation is unlikely, without rail, truck, water carrier and unanimous shipper support, to have much political chance. It therefore becomes all the more urgent to look at the regulatory process to determine where it may be improved and strengthened. Transportation and its customers will have to live by regulation and accommodate themselves to enlightened regulation as in their best interest.

Support of regulation may seem an unusual position for an industry to take, but the long search for an alternative over many years leads most students of the problem within the industry to this conclusion. The alternative—abolishing the ICC—would subject transportation to another form of regulation, the antitrust laws. A careful study of these laws clearly demonstrates that great gaps exist in antitrust coverage as applied to transportation. They would therefore be less effective in preventing serious misuse of economic power leading to monopoly than the Interstate Commerce Act. Such gaps would permit the same abuses which required the passage of the Interstate Commerce Act in the first place.

How then can the regulatory process be strengthened and improved in the public interest? Perhaps, as a beginning point, one should suggest in all logic that such regulatory agencies as the ICC recognize more fully that they have an important policy function that puts them in a leadership role whether they like it or not. Policy decisions actually made on a day-by-day basis are so fundamental and pervasive as to have the effect of planning. The Commission's historic tendency has been passive. It interprets the law, it judges the merits of cases brought before it and hopes and occasionally prays that the right cases, properly prepared, are brought before it with the right issues sharply focused.

In a fast-moving and changing world that isn't good enough, as some of the Commissioners have fully recognized. George Stafford, Chairman of the ICC, in a speech earlier this year to the Midwest Public Utilities Commissioners, made the following point:

"A regulatory agency, of course, is not primarily a transportation planning body, but I think that we owe a responsibility to the public to see that as large an element of rationality as possible is brought into the workings of the industries we regulate."

Mr. Stafford has coined a happy phrase by suggesting a responsibility for "an element of rationality."

While the regulatory agency may disclaim a planning function, it inevitably exercises one. Decisions in merger cases have the effect of planning the quality of transportation services for whole regions of the country. Decisions on rail rates to a port may have the effect of extinguishing coastwise steamship competition on Great Lakes bulk commodity transportation. Rate increase decisions affect the viability of different transport modes.

Operating authority decisions inevitably affect the level of service throughout the country. To the extent that transportation has a crucial role to play in the efficient performance of the economy, the decisions of the Commission are a crucial factor in determining the degree of competition, the level of the rates, the quality of the service, the adequacy of the capacity, and the incentives or lack of incentives for improvement and expansion. All these are essentially "planning" functions in the most vital sense of that much mis-used term.

Obviously, whether one is planning a military battle or a comprehensive transport system capable of meeting the needs of defense and the economy, the first requirement is reliable intelligence. Clearly, the Commission is faced with gaps in its knowledge which make an overall planning function difficult to perform. For example, two thirds of the trucking industry and about 90 per cent of the water carrier industry are unregulated. Very large segments of transportation are simply blank spaces on the map as far as factual information is concerned. From time to time, the Commission is provided with glimpses of what goes on in the unregulated segment of transportation, but the information is neither comprehensive nor consistent and therefore unreliable for the purposes of planning.

A highly persuasive argument can be made that the Commission already has the authority to require necessary information from carriers exempt from economic regulation of rates. A careful reading of the statutes makes clear that the exemption applies to the regulation of the rates—i.e. to the transportation—not to the carriers. Hence

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water carriers which engage in such transportation remain subject to other sections of the act, including, most importantly, full reporting on their operations and activities which has to mean, among other matters, the actual rates charged.

The legislative history of the 1940 act to regulate water carriers clearly establishes that the exemptions from economic regulation were intended to continue until such time as the Commission established the need for and recommended changes. In establishing the need for changes, the Commission was given the authority to require "annual periodical or specific reports from carriers, lessors, and associations (as defined in this section) . . . and to require . . . full, true and correct answers to all questions upon which the Commission may deem information to be necessary, classifying such carriers, lessors and associations as it may deem proper to any of these purposes . . ."

The key question of course is whether water carriers which engage in exempt transportation are indeed subject to the jurisdiction of the Commission in other respects. The simplistic argument to support the view that they are not relies on the language of, for example, section 303(b)—the dry bulk exemption—which being "nothing in this part shall apply to the transportation by a water carrier. . . ." It is fully conceded that nothing in Part III applies to transportation of dry bulk commodities, but clear Supreme Court decisions distinguish between authority over the "transportation" and authority over the water carriers themselves for the purpose of obtaining necessary information.

The Commission in an early case involving McAllister Lighterage Company took the mistaken view that since it did not have authority to regulate the transportation performed, and since it seemed clear to the Commission that the requirements for filing reports "are incidental to and in furtherance of the regulation of transportation," reporting was not intended "to apply to carriers not engaged in transportation subject to the Act." This opinion, delivered in 1948, was never challenged in the courts. Both before and after this opinion, however, the Supreme Court had upheld the Commission on the concept of selective jurisdiction, even when it wanted detailed reporting on amusement parks owned by a water carrier.

For example, in 1912, in the *ICC* v *Goodrich Transit Company* case, two carriers were involved, one derived 20 per cent of its revenues from regulated activities, the other 1 per cent. In addition, the second carrier operated two amusement parks.

The Commission ordered the water carriers to submit data on both regulated and unregulated activities. The Supreme Court upheld the Commission. The Court stated: "The object of requiring such accounts . . . is not to enable it (the Commission) to regulate the affairs of the corporations not within its jurisdiction, but to be informed concerning business methods of the corporations subject to the act that it may properly regulate such matters as are really within its jurisdiction."

Forty years later, in a case involving private carriage in which an oil pipeline was transporting oil exclusively owned by the company (*Champlin Refining Co* v *United States*), the Supreme Court held that reporting was required of the pipeline even though the pipeline was unregulated. The court said: "Collection of information has a significance independent from the imposition of regulations, whether or not such regulations ever come forth. Valuation and cost data of companies not subject to rate making may add to the statistical reliability of standards imposed on those companies which are."

Citing another case, the court pointed out that publicity alone may give effective remedy to abuse if any there be. The Court continued: "Disclosure may alter the future course of a company otherwise disposed to indulge in activities which the statute condemns. Disclosure provides the basis for prompt action should a future change in circumstances make full scale regulation appropriate. Finally, reports may bring to light abuses and thus provide the groundwork for future statutory amendments. We assume the Congress, which passed the Interstate Commerce Act was well aware of these benefits. We conclude, as before, that the Congress did not mean to eschew them by omitting a general provision empowering the Commission to collect pertinent data from all inter-state pipelines."

Another clear indication of Congressional intent as to the Commission's powers to require reporting from exempt carriers was provided last year with the passage of the so-called mixing rule act, H.R. 8298.

The mixing rule act provides a three-year period for study and final recommendations. The Senate Committee, in explaining why broader powers of investigation were not conferred on the Department of Transportation to obtain necessary information from both exempt and regulated carriers, specifically drew attention to the reporting powers of the Commission. The Report states: "the committee notes that several sections of the Interstate Commerce Act, specifically sections 304 and 313 (49 U.S.C. 904, 913), confer the necessary express authority to compel relevant information should this step be required."

Equal regulation accomplished through the repeal of out-moded exemptions has long been advocated by powerful segments of the transportation industry. A minimum requirement would cetrainly seem to be public disclosure of what is actually happening in the transportation market place. Only partial information is currently available.

Disclosure of transportation rates as distinguished from rate regulations as such would appear to be a minimum step in the direction of improved planning and therefore in the regulatory process generally. Accepted doctrine in this field is overwhelmingly in favor of open pricing. In their definition work entitled "The Control of Trusts," published in 1912, Professors John Bates Clark and John Maurice Clark observe: "The publishing of prices cannot reasonably be objected to on any sound ground of public policy." More recently, Professor Vernon A. Mund of the University of Washington, in a basic text "Government and Business" comments: "Provision to the public of information on prices, sales and supplies is an indispensable condition for the effective functioning of price competition. It is only when buyers and sellers are well informed on market conditions that they can objectively analyze market forces and buy and sell in the intelligent manner." Among the essential conditions for two-sided price competition, Professor Mund lists "publicity on prices and supplies available."

Other commentators have followed the same line of thinking. Professor Alfred Oxenfeldt of Columbia makes the obvious point that "the incentive for price discrimination is greatly increased by an assurance that it will be kept secret."

Factual intelligence on freight rates actually being charged would seem to be the minimum planning information the Commission would need. For example, there is no freight rate price index individually covering all modes similar to the consumers' and wholesale price indices so essential to the determining trend in the economy generally.

It is useful to stress that in collecting rate information the Commission would be serving an important function of improving the vigor of the competitive process.

Normally the regulatory agencies like to see the planning function vested in an authority outside the Commission. Commissioner Eastman did not think the Commission was well adapted for such work. But Judge Henry J. Friendly points out in his excellent book on The Federal Administrative Agenices: "What I think is vital is to recognize that an important part of the planning function must remain with the agencies as an essential part of their adjudicative task; to direct the agencies to apply 'plans', made by others but not having the force of law, to the very issues whose decisions is confined to them would . . . place them in a position of seeming responsibility for the activities they are directed to regulate, without the tools needed for its effective exercise."

It would, of course, be no use to rely on the Commission for additional work in the planning area, if the Office of Management and Budget continues its present inadequate funding of the I.C.C. Proposals have been made to have the funding of the regulatory agencies channel directly through Congress without the intermediary work of the OMB. If no other solution is available to adequate funding, the Congress might well consider taking on directly the funding responsibility for the agencies which are directly responsible to it.

While the propaganda of the critics of the Commission to the effect that rates are held up to protect the least efficient and that competition is handicapped are easily disproved by the facts, at least as they compare with the unregulated segment of the economy, the regulatory agencies no less than the antitrust division of the Justice Department have their problems with encouraging effective competition.

One is struck by the fact that when the intermodal competitive cases are appealed from the Commission to the courts and eventually through the courts to the Supreme Court, the issues have to take their place in the mainstream of national competition policy. The decisions which come down reflect the thinking of those distinguished jurists who are also struggling with competition issues in the antitrust cases of the day. To the extent there is a national competition policy, such a policy emerges from the court decisions.

If the objective of the Commission, no less than the antitrust division of Justice, is to stimulate healthy competition as the most effective guarantee of maximum business efficiency and performance, why wouldn't the same underlying principles work for transportation as for the economy generally? Distinguishing between healthy and unhealthy competition should be no different under regulation than under the antitrust laws. To the extent the antitrust experience is ahead of regulatory experience in this field or vice versa one can borrow from one another. The objective of the Commission, no less than the Justice Department is to stimulate competition. Indeed, the Commission has an opportunity to do a better affirmative job because, under regulation, abuses can be attacked at an earlier stage in the game. The Commission has the power to prevent abuses; the Justice Department can only counter-punch.

The goals are likely to be the same.

For example, few would dispute that a proper goal of national policy should be the most efficient use of national resources or that competition is the best method of achieving this goal.

In today's world of sophisticated cost-finding, it would be a difficult but not an impossible task to develop an objective test to determine relative efficiency. Once the most efficient competitor is determined, that carrier should not be precluded from competing by power tactics having nothing to do with efficiency.

Having reached this point one would inevitably find that the anti-competitive power tactics customarily employed in transportation have their counterparts in the unregulated segment of the economy. Indeed, any study which would undertake to compare the anti-competitive acts which had been struck down under the Sherman, Clayton, Robinson-Patman Acts and those commonly practiced in transportation would find a deadly parallel.

What could be more familiar in industry generally than the sharp-shooting practice of the railroads in reducing a rate solely to capture a particular piece of traffic and not making the rate cut evenhandedly to all customers. In a recent Supreme Court test involving traffic in ingot molds, the Court condemned the rail rate cut because it found the water carrier was the more efficient, that the railroads were more economically powerful and that, "in any rate war, the railroads would be able to outlast their competitor" and in the end this "would deprive shippers of cheaper water transportation."

There is, as everyone knows, a vigorous argument over how to measure relative efficiency of competing modes. This question cannot be covered adequately here in the space available. It is, in any event, the subject of a lengthy ICC proceeding, not yet concluded. But the argument, widely advanced, that some form of partial cost should be accepted as the test of relative efficiency seems inherently unsound. The common sense approach is one similar to that an engineer would make: what input of capital, labor and materials is made to achieve the output.

Many people stumble over the complications of public costs. The answer is two-fold. First, as a matter of principle, whenever public costs are financed out of the general revenues, Congress, the only arbiter of this question, has determined that the purpose of the program is to benefit the public as a whole. In such a case, the national overhead cost is irrelevant to the determination of relative efficiency in transportation or in any other industry or in agriculture where national overhead investment for research, development and operations may apply. Second, as an independent study for Water Transport Association has made clear, if public costs were counted against one mode, they would have to be counted against all modes equally. In such a computation the study showed that there would be plenty to count on the railroad side and probably a wash would result.

Hence, as a practical matter, relative efficiency is properly determined by the full private input necessary to produce the output. But this only results in a test of relative efficiency; it is not a rate floor. When the more efficient carrier goes below its full input costs, the competitor can, of course, follow that rate down.

Nor is it difficult to recognize the typical "price squeeze" when it is applied to transportation. A railroad, for example, may control both the rail rate to a river, ocean or lake port and the all-rail alternative. By manipulating either rate, since it controls both, it can shut out the water carrier leg of the rail-water service thus determining the nature and extent of its competition. An aluminum manufacturing company tried the same tactic by manipulating the price of ingot in a situation where it was the sole supplier of ingot both to its own fabricating mill and to a non-integrated competitor. The courts found this device to be an anti-competitive one.

These two examples serve to illustrate that when the issues are stripped to their essentials, an attempt to substitute power tactics for efficiency can readily be recognized whether in transportation or in the economy generally. A conscious effort by the ICC to use rule-making to condemn generally recognized tactics such as are commonly observed in the unregulated segments of the economy could substantially improve competitive conditions in transportation.

There is no easy short cut to the problem of stimulating vigorous competition, although the Commission, from the record appears to have done a more effective job in this area than the antitrust division of Justice in recent years.

Another major field for new thinking by the Commission is the financial health of the carriers generally. Commissioner Kenneth H. Tuggle in a recent speech before the National Tank Truck Carriers pointed out the obvious dilemma of those with a knee-jerk reaction to rate increases who accuse the ICC of being too close to the carriers. Which do they want? A government operated system or a free enterprise system? Commissioner Tuggle points out:

"If the private citizen is to retain his right to own property and to employ that property in service for the public, and to seek a fair return, then our goals take on a somewhat different cast. In the field of transportation, these goals would be, first, that the public obtain the service it needs and wants—whenever, wherever and however called for by a reasonable, significant public demand; and second (as a corollary essential to the achievement of the first) that those persons providing that service obtain a fair return on the property devoted to the service.

"Good service and a fair return. We cannot have one without the other. In my humble opinion, it's as simple as that. One follows the other; round and round they go as counter-balances in an eternal cycle."

All the new thinking on this crucial subject will not originate with the Commission. There are, for instance, a number of rescue operations needed for viable transportation companies, chiefly railroads, and these rescues can best be achieved by a government operation modeled on the old Reconstruction Finance Corporation which helped railroads and other companies essential to the public interest to weather the depression. Also, the Congress can restore tax incentives such as the investment tax credit, to transportation with very constructive results.

But the Commission itself could help by modernizing its approach to cost justification.

The real thief of course is inflation. The companies who sell the things transport has to buy increase their prices until they are able to cover an adequate profit, replacement and expansion of facilities at current prices and all their increased costs. Transport rate levels lag far behind the prices paid for the materials, equipment and facilities purchased by transportation.

The oil pipelines are buried far beneath the surface so no one notices them, but they enjoy a system I greatly admire. Every year the ICC revalues their assets and sets an 8 per cent or more rate of return on revalued assets. Thus they have a built-in annual defense against the inroads of inflation.

The rest of surface transportation has to arrive at some similar built-in defense against inflation.

Interestingly enough, in its famous valuation case during and after World War I, the Commission started down the road to a sound approach to a rate base and rate levels. It was required to value railroad properties on the basis of their replacement value at current prices.

They never carried through, partly, I suspect, because they thought that in a period of rising prices they might be accused of giving the carriers a windfall—an old reflection of the present built-in antipathy of the public to paying a reasonable price for transport. Then prices of transport equipment went down in the 1920's and again in the 1930's and the carriers opposed the idea. Their inconsistency helped to alienate important support, including that of Commissioner Eastman, for the proposition despite its basic validity. The Commission said that using replacement cost would produce unsettling fluctuations in rates at a time when the carriers needed stability. Finally using replacement cost, except in the original valuations when it was discovered that the old records had been destroyed and there was literally nothing else to do, seemed complicated.

But something very fundamental has changed since then. Prices of equipment and facilities don't fluctuate any more—they go in only one direction—up. The time thus may have come to take another look at replacement cost as a standard for rate levels. We have had 30 years of sustained inflation. I know of no economist who does not expect inflation to continue to the end of the century; they only differ on whether it will be creeping inflation or galloping inflation. Willy-nilly we have stability in direction the Commission of the 1920's didn't have—we know which way prices of our equipment and facilities are going—it is up.

Do we any longer have any use for the compromises then adopted: keep the rate base virtually untouched and vary the rate of return particularly if, for example, a rate of return of 12 per cent or more may be politically impossible for surface transportation to achieve?

Is there not now a good case to be made for doing the job properly?

Would it be so difficult? The theory of it is easy to grasp. To simplify the point, we assume free convertibility of capital. I buy today a piece of machinery for $1,000,000. Let us say that a year from now it costs $1,200,000 to replace it. What is the value of my investment in that machine at that time? The answer has to be the price I have to pay to replace it. How much is a railroad worth? Precisely what it would cost to replace its service capability.

Now it seems to us that we have to head in that direction if transportation is ever to get on top of the inflation problem. We don't have to do it all at once. There would be least controversy over using replacement cost for freight cars and locomotives, or boats and barges as a standard for reflecting rate levels. There would be some controversy over real estate, but less over terminals and facilities which have to be replaced, expanded and improved.

Most of the critics of replacement cost complain of the complexities of arriving at a current valuation of assets, but we have solved much more complicated problems. Annual revaluations of oil pipelines probably isn't easy either.

There are a variety of indexes for the change in the value of the dollar, for example. We know a 1950 dollar is not the same as a 1970 dollar, and what the change has been. Is there any sensible reason for treating it as if it were the same and not reflecting the amount of the change in the accounts of transport companies?

Many companies outside transportation are beginning to restate their accounts in terms of current price levels as a guide to sound business policies.

An increasing number of companies are publicly reporting current value of assets along side of their conventional financial statements. The critical importance of doing so is the very real danger that companies may declare dividends which, in fact, exceed their income after applying price level adjustments. Such companies, instead of conserving capital, are actually unintentionally distributing liquidating dividends to their shareholders.

Ignoring the inroads of inflation as transportation has had to do—to a very large extent because of an obsolete approach to cost justification of rate levels—has prevented conservation of capital. Transportation has distributed that capital, one might say, to its

customers in the form of freight rates which were too low. And this is a common pricing problem for all of transportation.

A major result of the present system is that modernization is neglected, improved productivity cannot be purchased and a positive incentive exists for a company to hang on as long as possible to the unnecessarily expensive ways of doing things. Encouragement of replacement of production capacity means incentive to improve productivity, to eliminate costly practices and to streamline and modernize generally.

Those who discourage price levels necessary to support investment in productivity improvement in an inflationary economy pay increasingly higher rates because there is no productivity offset.

The time has come for across the board new thinking about our pricing practices that will really help prevent a downward spiral in efficiency. The use of replacement cost is worth exploring because it could be so helpful so quickly.

Let us now venture into an area of Commission activity which would be a substantial departure from past practice but could provide a public interest short cut to solving the knotty problem of improving rail and water coordination in situations in which the public would be greatly advantaged. Never before has there been such an urgent public need for it because of the growing shortage of overall transportation capacity. Never has the economy so badly needed a combination of the best efficiency of low cost rail and the best efficiency of low cost water transportation. Assuming that the transportation industry, working together, can develop a program that will get the railroads over the worst of their emergency financial problems, the economy will still be in trouble if it can't find a short cut to increasing its transport capacity. The Department of Transportation estimates that transport capacity in the nation will have to increase by 50 per cent over the next 10 years if the expanding economy is to be properly served. This is quite a challenge; requiring heavy investment for all modes. Since money for investment is a scarce commodity, there is and will continue to be, intense pressure to use the money in a way that will produce the most efficient result. For vast tonnages, combining rail and water service produces the best efficiencies for the public and could provide the very short cut to increased capacity at lower costs.

Since the Commission has a clear responsibility to see that the public enjoys the benefits of intermodal coordination, it would seem logical for it to institute periodic reviews of the success or lack of success of shipper and carrier efforts to promote coordination. A few show cause orders initiated by the Commission as to why joint rates should not be instituted in particular situations would have a salutary effect on the whole intermodal climate.

What's needed for a breakthrough in intermodal rail-water coordination is the application of the basic principle of fair competition—that the connecting carrier should not be shut out of the business by rate manipulation which represents the abuse of economic power rather than exercise of relative efficiency. The present situation in which, too often, the railroad is, in effect, in a position to determine whether the all-rail service has any competition at all from the water-rail alternative cries out for improvement. Such a situation would be speedily condemned in any other segment of the economy.

The insistence of the railroad that it must get its longest haul is no different from the urge of enterprises in any field to expand their business volume. All are interested in enlarging their share of the market. None has a right to do so by exploiting a position of superior economic power to squeeze a dependent competitor. Success or failure of individual competitors should reflect comparative economic merit rather than comparative economic power.

The Water Transport Association has recently published a study of the possible economies which would result from the combination of Great Lakes vessels and trainload service on grain from Buffalo into New England. This situation appears to be a classic example of what happens when competition is eliminated. Over the past decade, rail rates into New England on grain have steadily risen until they are far and away above the rates on grain from similar origins travelling similar distances into the southeast, where there is active barge and truck competition. The result has been a steady decline of the New England poultry industry. Our study proposes self-unloader service into Buffalo from Toledo and other lake ports, improved efficiency in the transfer of grain at Buffalo, and unit trains from Buffalo to New England. We suggest that a reduction of about 50 per cent in rates would be possible by improving productivity all around.

Instead of presiding over a monopoly of a declining market, we suggest that the railroads, in combination with the lake service, can reverse the decline of the New England poultry industry and develop new and ever-increasing traffic. It is quite remarkable that the New England farmer can be shut out of his own home market by high freight rates which are nevertheless subject to regulation.

Again this is not simply a private matter between railroads and water carriers. The public interest in improved efficiency resulting from competition is very great. The absence of the prod of competition such as exists in the southeast has resulted in severe damage to New England agriculture.

The Port of Buffalo and the water carriers have a right to expect that the rates and services from Buffalo to New England consuming points will be the same, cost and distance considered, as the all-rail alternative. If there is no rate discrimination against the Port of Buffalo, the lake carriers and the port will have an opportunity to assert their best efficiencies in order to participate in the movement. If there is discrimination against the port, then the lake carriers of course will be precluded from competing. We have also, incidentally, suggested the possibility of lake vessel service via Georgian Bay ports connecting with Canadian railroads into New England. We have received some interest from Canadians on this alternative.

Evidence that the issue is not regarded as a private matter comes from the New England Governors' Conference. All six New England Governors requested the ICC and the railroads study the proposal. The ICC was asked to consider the possibility of exercising its power to prescribe joint water-rail rates into New England.

In the light of the long history of difficulty over rail-water coordination, informal discussions with members of the Commission of potentials for lower cost overall transport services in the public interest resulting from combining the best efficiencies of water and rail should work as a short cut for improving coordination not only for the benefit of Buffalo and New England but for all of the Great Lakes region.

Other regulatory Commissions have been successful in moral suasion or jawboning the industries they regulate. They have said: we have the power to institute a proceeding and make you do something you know you ought to do in the public interest, but we would much prefer to have you do it voluntarily. A word to the wise has been sufficient. Costly and time-consuming litigation has been avoided while everyone's *right* to litigate has been preserved.

We would like to see the Commission take leadership in some of these areas in which very large transport savings appear possible by issuing some sort of policy statement recognizing the Commission's responsibility for the proper functioning of the industry under the statute. On the New England proposal, perhaps such a policy statement might go something like this:

"Our attention has been called to the concern the New England poultry industry has over the competitive disadvantage under which it suffers because of disparity in freight rates on feed grains as between New England and the Southeast. The National Transportation Policy places a responsibility on the Commission to develop, coordinate and preserve a national transport system by water, highway and rail as well as other means, adequate to meet the needs of the commerce of the country. The railroads and the water carriers are required to provide transportation service upon reasonable request and through routes and rates with common carriers by water are also mandated. It is clearly in the public interest that the best efficiencies of both water and rail services, in combination, be offered to the public. The Commission would be pleased to see both rail and water carriers examine the potential for improving the efficiencies of services into New England and propose joint rail-water rates reflecting the unit train efficiencies commonly available for commodity movements in this and other sections of the country."

If the ICC were to issue a policy statement along these lines it would be very helpful. I doubt very much if the railroads could afford to ignore it. I think something would be done to improve the efficiency of grain transportation into New England via a water-rail route.

An unprecedented announcement by the Commission in August may mean that it is beginning to think in terms of asserting more of a leadership role. On September 16, an informal Commission staff conference was held in the ICC's largest hearing room to discuss the proposal for opening a lake-rail route in order to improve efficiency in the handling of feed grains for the northeast. The proposal and the problems of Northeastern agriculture were fully explored. The Eastern Railroads volunteered to provide an answer within 60 days.

Faced with a similar problem of disparity of freight rates discriminating against the South in the 1930's, the State of Georgia filed a famous complaint case which dragged on for many years but was finally decided favorably for Georgia. Is repetitive litigation always necessary? The water carriers believe it should not be necessary, in a rational world, to go through the ceremonial rain dance of a law suit when the issues and the facts are so clearly laid out. It should be possible for the Commission to exercise its moral authority to bring about a voluntary solution.

In summary, therefore, one concludes that the Commission is an essential factor in the proper functioning of the transportation system in the public interest.

Since, inevitably, through its decisions it exercises a powerful planning function, it should recognize that function in a more formal way and exercise its powers to develop the information it needs both in the regulated and unregulated segment of the transport industry. Needless to say, planning input from the Department of Transportation, the Department of Defense and elsewhere would always be welcome.

The Commission has been as successful, probably more successful than the antitrust division of Justice, in stimulating vigorous competition. It could improve the use of its powers, particularly in the rule-making field, to set as a goal improved efficiency in the use of the nation's transport resources. In identifying anti-competitive devices, it could find many useful analogies from experience in the non-regulatory field since anti-competitive practices tend to be the same in all areas. As for specific tests of relative efficiency, the Commission has in its final stages a cost-finding proceeding intended to resolve precisely that question.

In discharging its responsibility for assuring the financial stability of the carriers, the Commission should modernize its approach to costs so as to recognize and deal with the problem of inflation. In two current proceedings—the rate structure investigation and the rate base investigation—its information on the relation of rates to costs and its information on revenue and earnings needs should be greatly expanded. As a first step it should be able to eliminate all rates below out-of-pocket costs and gradually increase some rates and reduce others.

Finally, it should assume more leadership in seeing to it that "as large an element of rationality as possible" is brought into the workings of the regulatory process. The exercise of informal powers of suasion to prevent repetitive litigation and assure the public of the most efficient means of transportation must be regarded as a vital aspect of the Commission's responsibility.

"HUNGARY, 1956" BY LAWRENCE J. HOGAN

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. SCHERLE. Mr. Speaker, following is a poem written by one of our colleagues, the gentleman from Maryland, LAWRENCE J. HOGAN. It commemorates the brave struggle of the Hungarian people in 1956, a struggle made futile by the overwhelming might of Soviet oppression and the American willingness to challenge it.

Congressman HOGAN's verse is particularly appropriate at this moment, when the United States is negotiating with the Communist Government of Hungary to return the Holy Crown of St. Stephen which we have held for safekeeping since World War II. The true nature of the enemy with whom we are dealing is clearly revealed in this vivid history of the brief and tragic uprising. One need read no further than these lines to understand why it would be a rank betrayal of the Hungarian nation to surrender the sacred symbol of her sovereignty to the oppressive dictatorship which now rules her land.

With your permission, Mr. Speaker, I will insert our colleague's poem in the RECORD in full.

The poem follows:

HUNGARY, 1956

(By Lawrence J. Hogan)

Under Soviet oppression
And tyrannous aggression
People lived in deep despair
And dark clouds hung everywhere
In this nation without hope or goals.
But, under burned-out coals,
Freedom smoldered there
Beneath that blanket of despair.

Then, just as pressure of stifling suffocation
On a dying fire makes spontantous combustion,
The long-dormant spark exploded
To enflame a patriotism so long eroded.
Old men and young boys,
Heady with freedom's joys,
Became rag-tag soldiers adrift,—
Gambling God's most precious gift
For a chance to rescue their nation
By risking wild confrontation;
To make a choice
Which is no choice:
Quick, rewarding death
Or slow, living death.

Soft-skinned boys emerge as men
To learn what life might have been.
Old men forget infirmities
And women ignore their frailties,
As an inspired nation arises in bravery
To cast off the chains of slavery
And invest sacrifice and dedication
With prayer and desperation
In a wild gamble to be free—
To make impossibility, reality.
To the world's disbelief
And their own ecstatic relief—
Amazing, odds-defying success
Exhilarating, intoxicating, joyful success.

Freedom! Freedom is to be.
Oh, to be free! To be free!
Hearts throb for love of country
Throats, aching from shouting defiantly,
Constrict and tears leak out of eyes
That had wept so many of despair's cries.

Now come, America, and give your solace
To this proud, brave populace
And rejoice in this heroic spirit
Arising from a coma, and share it.
Come, America, and help this rag-tag army grow
As France helped you so long ago
By making your revolt her own.
Come help reap what love of freedom has shown.
Come, America, with your mighty hands of friendship
To shelter freedom's fire in kinship.
Hear the Freedom Fighter's shout
Don't let freedom be snuffed out.
Come, America, and answer this plea
From a nation hungry to be free.

As days pass awaiting America's hand
An ominous quiet envelops the land.
An eerie clam forewarns of storm
As lines of desperate resistance form.
Suddenly, the bleak November sky
Is pierced by Soviet MIGs' screaming cry.
And into every Budapest street
Firing on all they meet
Russian tanks rumble
To make all opposition crumble.
Tanks take vigil on each corner and wait.
Come, America, the hour is late!

Salvo after salvo of artillery
Bear witness to Soviet villainy.
Buildings crumble or are licked by flames
As cruel retaliation takes its claims.
Wreckage chokes Hungarian streets
And enemy fire cuts off retreats.
Behind blocked windows resisters stare
As smoke and stench of death poison the air.
Freedom Fighters spend dwindling rounds and wait
In hopeless defiance of their fate
As Soviet soldiers, recapturing a nation,
Bring house-to-house annihilation.
In a last gasp to make fate pause,
Anonymous heroes die in a lost cause.
Come, America, and watch a nation die
As all who love freedom cry!

The Russian shooting decreases
As the last remnant of resistance ceases.
Wisps of tell-tale smoke rise
Where the corpse of freedom lies,
Its acrid smell should shame
The nostrils of all who share the blame.

Where were you, America, as freedom died
To redeem the promise which you lied?
You whose own quest for freedom's chance
Would have failed without the aid of France.
Where were you, America, when children died in bravery
Fighting a war that could have saved the world from slavery.
Where were you, America, when the boot of tyranny stomped out freedom's fire?
You were there, America, as pallbearer at the funeral pyre!

WHY DOESN'T ANYONE TALK ABOUT WELFARE FOR THE RICH?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. RANGEL. Mr. Speaker, at a time when it seems to be acceptable to sneer at and degrade welfare recipients, it is fitting to study Federal programs which restrict competition, lavish tax benefits, and pay cash subsidies to American industry. This is welfare for the rich.

The State of New York and the Department of Health, Education, and Welfare, are now working on programs to use disadvantaged citizens as human guinea pigs. There is little concern for the physical, psychological, or economic well-being of the poor in our society, but there is an overabundance of solicitude for the fiscal well-being of the oil industry, the airlines, agribusiness, the shipyards, and the utilities.

Some of my colleagues who argue against giving even $2,400 to a disadvantaged family of four on which to survive for an entire year are strangely silent on the $1.43 billion cost to the taxpayers for the oil depletion allowance.

Washington Report, the weekly publication of the United Automobile, Aerospace and Agricultural Implement Workers of America, recently reprinted an article from the New York Review of Books, describing how business gets richer while poor Americans go hungry. In addition, the October issue of Ramparts described exactly how agribusiness reaps its profits from our subsidy program.

I urge those of my colleagues who have a limited interpretation of the word "welfare" to read the following two articles to broaden their perspective:

[From the Washington Report, Oct. 25, 1971]

HOW CERTAIN GROUPS GET MORE THAN THEIR FAIR SHARE

REGULATION

The *ICC*, which acts essentially as a cartel manager for railroads and truckers—fixing prices ("to prevent destructive competition") and excluding new competitors. Over $2 billion for railroads alone.[1]

The *FCC*, which sets an "allowed rate of return" for the telephone company and proceeds to ignore it. The excess of AT&T's current revenues over the maximum supposedly in force is approximately $169 million.[2]

The *CAB*, which fixes prices and excludes competition for airlines. $2 billion to $4 billion[3] in excess airline revenues due to restrictions on competition.

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[1] This figure is based on the current misallocation of railroad investments, and assumes that railroads would respond rationally to competitive prices. See Friedlaender, "The Social Costs of Regulating Railroads," American Economic Review, Papers and Proceedings, May, 1971.

[2] Calculated from figures in The Wall Street Journal, August 30, 1971, p. 4.

[3] Rough estimate by Professor Michael E. Levine, University of Southern California; calculated with reference to the price experience of unregulated markets. Cf. Levine, "Is Air Regulation Necessary? California Air Transportation and National Regulatory Policy," 74 Yale Law Journal 1416 (1965).

XUM

TAXES [4]

Special treatment for capital gains. $5.5 billion to $8.5 billion, highly concentrated among the affluent.

Deductibility of medical expenses and exclusion of medical insurance premiums and medical care from taxable income. $3 billion—like all tax deductions, the program has higher benefits for high bracket taxpayers.

Deductibility of property taxes and interest on mortgages on owner-occupied homes. $4.8 billion—together with other tax aids for homeownerships, this works strongly in favor of upper-middle income groups.

Excess depletion allowance for oil and minerals. $1.43 billion to corporations.

Extra personal exemption for students. $500 million, concentrated in higher income groups whose tax brackets are higher and whose children are more likely to be full-time students.

SUBSIDIES

Merchant marine subsidy—to aid inefficient shipyards. An average of approximately $1 billion a year for the next ten years, including direct budget outlays and higher shipping rates.[5]

Private aviation facilities—making it cheaper for corporations, executives, and flying enthusiasts to own their airplanes. At least $200 million a year in federal subsidies not covered by user charges.[6]

Agriculture. $2.64 billion in government payments to farmers under major price support programs, not including cost in higher prices to consumers. Benefits chiefly high-income farmers and agricultural corporations.[7]

OIL IMPORTS

Import quotas that raise the price of oil by over 50 percent. $5 billion transfer from consumers to oil companies.[8]

(This list excludes lax anti-trust enforcement and other failures of government that are difficult to measure precisely, but which also shift billions of dollars from consumers' pockets to corporations. In addition to these redistributive issues, there is, of course, the separate question of misplaced government spending for military and space programs.)

[From Rampart's, October 1971]

THE AGRI-WELFARE ROLL

The President says he wants to help improve the lot of the small farmer but, as the accompanying chart suggests, farm-support programs, now as in the past, don't help little farmers, but are give-aways to big, wealthy operators, some of them subsidiaries of highly profitable conglomerate corporations.

The biggest payments in 1970 went to J. G. Boswell Co., Kings County, Calif., which controls nearly 150,000 acres of farm land and is the world's largest grower of cotton. In addition, Boswell grows grapes, runs feedlots, produces safflower oil, etc. Boswell still won't sign with the United Farm Workers, and last year brought in high school football coaches and their teams to pick grapes. Boswell is a director of Safeway and Robert A. McGowan, Safeway's chairman, is a Boswell director. Safeway went out of its way to buy non-union grapes. Boswell employs 15,000 people, has two private planes and a private airport.

Boswell is an old hand at the subsidy game. Two years ago he took advantage of a bounty offered by Australia to grow cotton, and received $500,000. At the same time, he received $3 million from the U.S. for not growing cotton on his farms.

Last year Boswell received $4 million in subsidy payments. To reduce enormous subsidies such as this, Congress passed a law in 1970 limiting farm subsidies to $55,000 per crop. But the big farmers and the Department of Agriculture got busy and found a way around the new law. Technically Boswell won't receive anything from the government this year. Instead payments will go to 53 investors, who paid Boswell $1.3 million for a one year's lease to his cotton allotments. In addition, they will pay Boswell to farm the land.

Giffen, Inc., of Fresno County and like Boswell an important cotton grower, has a 100,000 acre farm. A family enterprise, Giffen has the second biggest cotton subsidy in the state, and also grows fruits, sugar and cattle. Giffen is a GOP supporter and contributor. He was in prominent attendance at Nixon's Salute to Agriculture Day festivities on May 7. Like Boswell, Giffen neatly dodged around the new $55,000 subsidy rule.

The company was assigned a 1971 cotton allotment by USDA of 11,554 acres. That meant Giffen was eligible for subsidies of 15c a pound on cotton grown on those acres. But because of the $5,000 limitation the firm would have received no benefit from most of the allotment. Fresno County agricultural Stabilization and Conservation Service, however, approved Giffen's plan to lease most of the acreage in the cotton allotment to smaller growers. The leasing fee was about 6¢ for each pound of cotton yielded per acre. The average cotton yield in Fresno County is about 1100 pounds. Thus a producer would receive $66 an acre for his allotment. Giffen stands to make $762,000 a year in lease fees alone, and probably more from the lessees in the form of payments to farm the land.

South Lake Farms, third largest beneficiary of the farm subsidy program, is an important part of the Bangor Punta conglomerate. Among other things Bangor Punta designs sewage treatment facilities, manufactures the chemical Mace, and runs a railroad in Maine. South Lake Farms is held through Producers Cotton Oil Co., which owns or controls 48 cotton gins in the San Joaquin Valley of California and 20 gins in Arizona. South Lake Farms operates about 100,000 acres in the San Joaquin Valley. The corporation also owns several thousand acres of farm lands along the southern California-Arizona border, and maintains substantial interests in Thunderbird Farms, Arizona Farming Co., and Painted Ranches, all in Arizona.

South Lake grows a variety of crops, including cotton, sugar beets, what, safflower, tomatoes, etc. Its immediate parent, Producers, is of considerable importance because it finances other California cotton growers, then processes and markets cotton products.

Probably Bangor Punta is best known for its public security division, Smith & Wesson, the fire-arms maker. Smith & Wesson also makes Mace, Pepper Fog, plastic helmets, gas masks, sirens, handcuffs, radar systems, and suspect identification systems for police.

Tenneco, Inc., which received $1.1 million in farm subsidies last year, is a conglomerate which in 1970 grossed $2.5 billion and had a net income of 157.8 million. The company was founded on and is best known for its natural gas pipeline operations. It has extensive oil and gas holdings in the North Sea and Indonesia. Through a series of subsidiaries Tenneco aims to build an integrated farm-to-market agricultural system, selling products under the Sun Giant brand. The company owns or controls 1.6 million acres of land in California, Arizona and New Mexico. It farms much of the California land, runs ranches on lands in the southwest, and is developing new towns and suburban subdivisions on other holdings. In addition to these holdings, Tenneco controls Houston National Bank and its various realty ventures, owns the Newport News Shipbuilding Dry Dock Co., and has a 24 percent interest in Philadelphia Life Insurance.

Some of the other large beneficiaries of farm subsidies include U.S. Sugar Corp., in which the Mott family has a 24.76 percent interest. Stewart Mott, the New York liberal philanthropist is a company director. The Salyer Land Co., fourth biggest recipient, is a family enterprise, also based in California. The company controls some 60,000 acres, much of it in cotton and grain. John Wayne and his partners will haul in $218,000 this year in subsidies for several cotton ranches they run in Arizona, and Senator Eastland and his family will continue to receive substantial amounts, this year calculated to run around $160,000.

TEN LARGEST U.S. FARM PAYMENTS—1970

State, farmer, and amount:
California, J. G. Boswell Co., $4.4 million.
California, Giffen, Inc., $4.0 million.
California, South Lake Farms (Bangor Punta), $1.8 million.
California, Salyer Land Co., $1.5 million.
California, H. M. Tenneco, $1.3 million.
Hawaii, Hawaiian Com & Sugar Co., $1.2 million.
Hawaii, Waialua Sugar Co., Inc., $1.1 million.
California, Vista del Llano Farms (Anderson Clayton Co.), $1.1 million.
Florida, U.S. Sugar Corp., $1 million.
California, S. A. Camp Farms Co., $903,650.

[4] The figures are for fiscal year 1969, and are taken from the statement of Hon. Murray L. Weidenbaum, Assistant Secretary of the Treasury, before the Subcommittee on Economy in Government, Joint Economic Committee in the Department of the Treasury News (June 2, 1970), quoted in Stanley Surrey, "Federal Income Tax Reform: the Varied Approaches Necessary to Replace Tax Expenditures with Direct Governmental Assistance," 84 Harvard Law Review 352 (1970).

[5] Estimated in Charles Schultze, et al., Setting National Priorities: The 1972 Budget (Brookings Institution, 1971), p. 267.

[6] Calculated from figures in Schultze, p. 266.

[7] Fiscal year 1971 estimate; Schultze, p. 300.

[8] Estimate by the staff of the Cabinet Task Force on Oil Import Control in the Commission's report, The Oil Import Question (1970), paragraph 207.

ITEM VETO IS ECONOMIC WAY TO RUN OUR GOVERNMENT

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. BENNETT. Mr. Speaker, I have introduced over a period of Congresses a bill to allow for a Presidential item veto of selected appropriations. The bill in this Congress is House Joint Resolution 299, pending in the House Judiciary Committee. I believe in this period of rapidly escalating costs of government, there exists a real need to cut Federal spending wherever possible.

The National Federation of Independent Business has just conducted a poll on businessmen on my bill and 77 percent of those polled are in favor of an item veto.

I include in the CONGRESSIONAL RECORD editorials from the Nebraska City, (Nebr.) News-Press and WRTH of St. Louis, Mo., in support of the legislation:

CURING THE SPENDERS

Seventy-seven per cent of the independent businessmen in Nebraska and 72 per cent of those queried in Iowa believe it is time for a basic change in the federal government's appropriations process.

The federal government now is spending well above $1,000 a year for each man, woman and child in the United States.

Giving the president selective veto power over appropriations, proposed as a constitutional amendment by Representative Charles E. Bennett of Florida, has won endorsement from 77 per cent of the business people polled by the National Federation of Independent Business.

Instead of the president facing the decision of either accepting or rejecting an appropriations bill in its entirety, Representative Bennett's proposed amendment would give him an "item veto" and allow him to red pencil any individual appropriations he finds objectionable. These appropriations could be restored by the usual veto-over-riding process, a two-thirds vote of both Houses of Congress.

The federation's poll shows only 17 per cent of the business owners opposing this bill and 6 per cent undecided.

Federal government spending in fiscal 1971 soared to $211 billion, and it is headed toward $230 billion in the current year. Washington outspent federal revenue by $79 billion in the last 10 years.

Independent business people have been outspokenly critical of federal expenditures, and several years ago supported the proposition that federal spending should not exceed income except in time of war. But the question remains: How to restrain Congress, which passes all of the spending authorizations?

Congress for years has been disregarding presidents and the people in voting huge appropriations. For this reason, Congress will be reluctant to give the president the right of "item veto" in appropriations bills. Getting this sensible proposal before state legislatures will be no easier than it will be in Nebraska to get the partisan legislature proposal on the ballot.

ITEM VETO FOR THE PRESIDENT

Authorization for all federal spending is made in appropriation bills passed by Congress. The President has the choice of accepting and signing each or vetoing it. He cannot veto individual expenditures he may dislike. It has long been suggested that the President should be able to exercise an "item veto" so that objectionable appropriations could be removed, subject to an over-riding two-thirds vote of each House.

Representative Charles Bennett of Florida has proposed a resolution to give the President this power. WRTH believes it makes little sense not to afford this opportunity to the Chief Executive. The Federal government is now spending well above one thousand dollars a year for each person in the United States and it's about time for a basic change in the appropriations process. At least eight presidents have asked that the Constitution be amended so that they can exercise selective veto of Congressional appropriations.

WRTH believes the "all or nothing at all" approach to the problem puts the President at a great disadvantage. We feel the "item veto" would go a long way toward ending the "pork barrel" appropriations and costly riders tacked on to bills by an unrestrained Congress.

CONGLOMERATES: FARM THREAT

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. ZWACH. Mr. Speaker, the countryside is in a sorry state of affairs. I can scarcely go to a single community in our Minnesota Sixth Congressional District without seeing boarded-up storefronts.

There are some communities where more business places are abandoned than are open.

Nick Kotz, of the Washington Post, recently wrote a series of articles on the death of the countryside.

These article were summarized in an editorial which appeared in the St. Paul Sunday Pioneer Press of October 24.

Mr. Speaker, our countryside is in serious trouble, but too many people fail to recognize the problems. To help them come to an understanding of the problems, with your permission, I would like to insert this editorial in the CONGRESSIONAL RECORD and urge my colleagues to read it carefully.

It points out a challenge Congress must face:

CONGLOMERATES: FARM THREAT

Huge conglomerate corporations, some with billions of assets at their disposal, are driving the family farm out of existence in California.

Will this same story be repeated in Minnesota, Wisconsin, Iowa and the rest of the Midwest? There is growing danger that it will, according to a carefully researched series of articles by writer Nick Kotz of the Washington Post, recently appearing in the Pioneer Press. The militant National Farmers Organization (NFO), the Farmers Union and, to a lesser extent, the conservative American Farm Bureau, share these fears but are divided as to the best defensive course of action.

What is at stake is not only the fate of struggling individual farm families, but the survival of rural life in America as it has existed, including the small towns which get their lifeblood from independent land operators in their territory.

Even the big, highly efficient family farms are increasingly in trouble. They must compete with corporations which can produce crops at a loss while making profits from other sources, including land speculation, capital gains, and tax benefits connected with business ventures in oil, manufacturing, chemicals, or almost any imaginable industrial field.

"The farmhouse lights are going out all over America," says Oren Lee Staley, president of the NFO.

The decline of rural population of course is not new. In the past 50 years some 40 million Americans have moved from rural to urban life as the industrial society has developed. A million individual farms are being eliminated every 10 years. Fewer than 3 million now remain.

But until recent years there was a common public belief, encouraged by farm economists, that once the inefficient operations were squeezed out, agriculture would in the future be dominated by big but individually or independently owned farms. The common view was that these could compete successfully with corporation farming.

However, the shaking out of small farmers from the rural economy has been accompanied simultaneously by continued growth of vertically integrated corporate farming, such as giant supermarket chains producing their own eggs and poultry and canning companies raising their own fruits and vegetables. In recent years has come the supergiant conglomerate which may own not only food chains, canneries and farms but also oil wells, chemical plants making pesticides, tractor factories, feed mills, textile mills and so on. As a side line such a conglomerate also may speculate in huge land purchases, running tax-loss farms while waiting for inflation to increase the value of the property for resale.

The Federal Trade Commission has charged two big corporations with trying to monopolize the production of lettuce and other fresh vegetables in California. Corporate ownership of cotton production is widespread. Midwest dairying, cattle and hog raising and growing of corn, soybeans and wheat remain the last main holdouts for the independent farmer. There are signs of corporate expansion in cattle and hog feeding. Huge Texas feedlots run by corporations have replaced some smaller Midwest feeders. Hog growers are being invited by corporations to give up their independent operations and raise hogs on contract in ways similar to what has happened in poultry production.

Such developments account for the growth of the NFO, more militant and aggressive than the older farm organizations. It advocates federal laws barring conglomerate corporation farming, closing tax-loss loopholes, and more effective methods by which farmers can negotiate advance prices for their products the way organized labor negotiates wage contracts.

The whole agriculture problem is immensely complicated and difficult. The Midwest has become the last fortress of independent farming and even here the future is impossible to predict. The vast economic forces involved are difficult to control. But if the conglomerate movement continues to gain momentum in agriculture in the direction of present trends, America's traditions of rural and small town life face a crucial struggle for survival.

GEN. STEPHEN JONES CHAMBERLIN

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. SCHMITZ. Mr. Speaker, I was saddened to learn of the recent death of Gen. Stephen Jones Chamberlin who passed away on October 23 at the age of 82.

General Chamberlin entered the U.S. Military Academy from Kansas in 1908, graduating in 1912 as a second lieutenant of infantry. During his military career he served in campaigns on the Mexican border and in both World Wars. For his contribution in managing the transport of one and a half million American soldiers to Europe in World War I, he was awarded the Army Distinguished Service Medal and the Navy Cross.

General Chamberlin was dispatched to Australia in December of 1941 where he served as Chief of Staff of the U.S. Armed Forces in Australia. After the fall of the Philippines, General Chamberlin became General MacArthur's Chief of Plans and Operations for the conduct of the Pacific campaign from New Guinea to Tokyo. In recognition of his direction of the evolution of master strategy of the Allied campaign, he was awarded three additional Army Distinguished Service Medals, a Silver Star, and an array of foreign decorations.

After the surrender of Japan, General Chamberlin was Chief of Staff to the Supreme Commander of the American Forces in the Pacific. Returning from the war in 1946 he became Director of Military Intelligence for General Eisenhower. He retired in 1951 capping a 43-year career as commanding general of the 5th U.S. Army.

General Chamberlin served bravely and ably in the cause of freedom. We grieve his passing. An obituary from the Santa Ana Register follows:

[From the Santa Ana (Calif.) Register, Oct. 25, 1971]

MACARTHUR AIDE GENERAL CHAMBERLIN DIES IN NEWPORT BEACH HOSPITAL

NEWPORT BEACH.—Retired Lt. Gen. Stephen J. Chamberlin, a 43-year Army veteran and deputy to Gen. Douglas MacArthur during World War II, died at Hoag Memorial Hospital Saturday following a brief illness. He was 82.

Chamberlin, a native of Kansas, was graduated from West Point in 1912 as a second lieutenant in the infantry and served in campaigns along the Mexican border.

He was awarded the Army Distinguished Service Medal and the Navy Cross for his contribution in managing the transport of 1.5 million American soldiers to Europe during World War I.

After the outbreak of World War II, he was sent to Australia where he served as chief of staff for the U.S. army forces there and later became MacArthur's chief of planning and operations for the conduct of the Pacific campaign from New Guinea to Tokyo.

Chamberlin was awarded three additional distinguished service medals, the Silver Star and a number of foreign decorations, including the British Legion of Merit, for his direction of the master strategy of the Allied campaign.

Following Japan's surrender he was made chief of staff to the supreme commander of American forces in the Pacific until 1946 when he became director of military intelligence for Gen. Dwight D. Eisenhower.

At the time of his retirement in 1951, Chamberlin was commanding general of the 5th Army.

Services will be held Tuesday at St. George's Episcopal Church in nearby Leisure World with burial with full military honors Thursday at Arlington National Cemetery.

He is survived by his widow, Sarah, of Laguna Hills, a daughter, Mrs. Sally Bowman of Pacific Palisades, and a son, Stephen Jr. of Boston.

OPPOSITION TO THE WYLIE AMENDMENT—HOUSE JOINT RESOLUTION 191

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. CORMAN. Mr. Speaker, on Sunday, October 31, an editorial entitled "On School Prayer—A Threat to Religion" appeared in the Los Angeles Times. The author Philip B. Kurland, a professor of law at the University of Chicago carefully examines within the editorial the controversy surrounding the proposed school prayer amendment and concludes that at best its enactment would invite State-imposed religious dogma and religious strife; at worst, he says, it assures them.

Professor Kurland also states that the Members of the House in voting on this issue next Monday should base their choice on reason and should not merely respond emotionally to the irresponsible rhetoric which has demanded so much of their attention.

I would like to commend this article to each of my colleagues in the hope that a greater magnitude of reason will prevail:

ON SCHOOL PRAYER—A THREAT TO RELIGION

(By Philip D. Kurland)

Certainly the American people can, by constitutional processes, choose to allow compulsory prayer ceremonies in their public schools. That is what the proponents of the constitutional amendment now pending in the House of Representatives are seeking to accomplish.

But before the American people or their representatives make that choice, they ought to be informed of the issues so that the choice may be a reasoned one and not simply a matter of emotional response to irresponsible rhetoric. The question is not whether we "restore God to the classroom."

The proposed amendment, House of Representatives Joint Resolution 191, is itself short if not clear. It reads: "Nothing contained in this Constitution shall abridge the rights of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

While the language is vague, its apparent purpose is to permit schools to impose a requirement of prayer ceremonies on students, although it could be interperted to allow students who dared to do so to remove themselves from the company of their fellows while such school exercises took place. There is also a negative pregnant in the proposed language that could expand the present constitutional inhibition. Should the amendment become law, denominational prayers in legislative halls and executive mansions would become at least constitutionally suspect.

The reason for the existent constitutional rule that now prevents such school ceremonies was stated by Mr. Justice Frankfurther in his opinion in McCollum v. Board of Education.

"The secular public school did not imply indifference to the basic role of religion in the life of the people, nor the rejection of religious education as a means of fostering it. The claims of religion were not minimized by refusing to make the public schools agencies for their assertion. The non-sectarian or secular public school was the means of reconciling freedom in general with religious freedom. The sharp confinement of the public schools to secular education was a recognition of the need of a democratic society to educate its children, insofar as the State undertook to do so, in an atmosphere free from pressures in a realm in which pressures are most resisted and where conflicts are most easily and bitterly engendered. Designed to serve as perhaps the most powerful agency for promoting cohesion among a heterogeneous democratic people, the public school must be kept scrupulously free from entanglement in the strife of sects. The preservation of the community from divisive conflicts, of Government from irreconcilable pressures by religious groups, of religion from censorship and coercion however subtly exercised, requires strict confinement of the State to instruction other than religious, leaving to the individual's church and home, indoctrination in the faith of his choice."

But, say the supporters of the proposed amendment, these defects implicit in the utilization of the public academy for instilling religious faiths are not relevant to the proposed amendment. First, they say, because there is no coercion on the public school student authorized by the amendment. Second, they say, because the only prayers authorized are "nondenominational" prayers, thereby eliminating fear of sectarian conflict.

Neither answer is accurate. There is coercion and there is an invitation to sectarian strife. For we must remember that if public education is free it is also compulsory except that students may attend private schools, most of which, at the elementary and high school level, are religiously controlled.

The coercion may be more subtle than physical compulsion to be present during the engagement in these exercises. As the same justice pointed out in the same case. "That a child is offered an alternative may reduce the constraint; it does not eliminate the operation of influence by the school in matters sacred to conscience and outside the school's domain. The law of imitation operates, and non-conformity is not an outstanding characteristic of children . . ."

That there will be sectarian strife is almost as readily assured. What is a "nondenomination prayer"? Who will frame it? What religions can accommodate their teachings to it? As the American Council on Education noted some years ago: "The notion of a common core suggests a watering down of the several faiths to the point where common essentials appear. This might easily lead to a new sect—a public school sect—which would take its place alongside the existing faiths and compete with them." Do we want a state religion? No one reading today's newspaper headlines should think so.

At least some leaders of some of the churches recognize the dangers and deplore the possibilities of "nondenominational prayer." In 1962, Father Gustave Weigel, a learned Catholic student of the problem, pointed out: "The moral code held by each separate religious community can reductively be unified, but the consistent particular believer wants no such reduction."

And the official magazine of the United Presbyterian Church said at the same time: "If you have faith-in-general, you have no faith to speak of. Faith has to be something-in-particular. A nondenominational prayer is doomed to be limited and circumscribed. If prayer starts soaring, it starts to be controversial, which is the one thing a nondenominational prayer dares not to be."

The Supreme Court, in the Vitale case, which the proposed amendment seeks to overturn, said: "It is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

Are the American people, who have already turned over control of so much of their activities to government, prepared to reject this precept about the proper role of government in specifying religious activities? Thoughtful evaluation rather than visceral reaction suggests that the Vitale rule is one of the bulwarks of America's freedom from the ills that continue to plague those countries where "toleration" rather than "freedom" is the guide to government action in the field of religion.

If, as has been suggested, the churches are losing their holds on the minds and hearts of young Americans, they will not be succored by rote recitations of "nondenominational" prayers which can reflect neither the words nor the spirit nor the teachings of any religion. "Nondenominational" prayer will not "restore God" to the classroom: it will degrade religion not exalt it.

If this is what the American people want, but only then, they should support the proposed amendment. If they have any notion of the real meaning of religious belief and our history of developing religious freedom, they will recognize the proposed amendment as antireligious, not pro-religious.

At best, the proposed amendment invites state-imposed religious dogma and religious strife; at worst, it assures them.

CHILDREN'S CATASTROPHIC HEALTH CARE ACT OF 1971

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. FULTON of Tennessee. Mr. Speaker, I have today introduced an important measure, the Children's Catastrophic Health Care Act of 1971, that I would like to call to the attention of my colleagues. The bill is identical to that introduced this summer by the distinguished chairman of the Senate Appropriations Subcommittee on Labor-HEW, the gentleman from Washington (Mr. MAGNUSON), who has provided such outstanding leadership in the health and child welfare field.

Mr. Speaker, few dimensions of the national health crisis are more acute than those affecting our children. Childhood illnesses affect many millions of American families each year, and, aside from the tragedy of human suffering involved, the spiraling costs of medical care and treatment of afflicted children pose a catastrophic economic burden on all but a handful of such families.

As one example of the impact of such catastrophic childhood illnesses, a recent survey revealed that birth defects alone currently affect some 2.5 million Americans under the age of 20. Of this total, there are 1,170,000 suffering from mental retardation of prenatal origin; 300,000 suffer from congenital blindness and lesser visual impairment; and another 300,000 suffer from congenital deafness and lesser hearing impairment. Still another 300,000 suffer from genitourinary malformations, some 200,000 have muscular dystrophy, and another 200,000 have congenital heart and other circulatory disease. Other types of birth defects included in the 2.5 million total include clubfoot, cleft lip/palate, diabetes, malformations of digestive system, speech disturbances of prenatal origin, cystic fibrosis, and many others.

Mr. Speaker, the "Children's Catastrophic Health Care Act of 1971" would become a new title V of the Social Security Act, replacing the present title V—Maternal and Child Health and Crippled Children's Services. It would significantly expand present crippled children's programs and also be maternal and infant care program authorized under the present language of title V. It would also continue other title V programs that are important in the health care field. The cost of such programs authorized under this legislation would continue to be provided through the regular appropriations process, not through payroll deductions or taxes. States would continue to share the cost of their expanded crippled children's programs. The proposed new legislation would eliminate the arbitrary eligibility standards of the States and would provide for sufficient funding to insure that all eligible children receive the degree of treatment they need. Eligibility would be based on a national eligibility standard based on the income of the family.

Specifically, Mr. Speaker, under this bill a child would be eligible for free catastrophic health care and services whenever the cost of his treatment became prohibitively expensive. If the family has a taxable income of $15,000 a year or less, the program would pay all of the child's annual medical expenses which exceeded 5 percent of the family's income. A family earning more than $15,000 a year would become eligible when their child's medical expenses exceeded the sum of 5 percent of the first $15,000 of their income and 10 percent of all income above $15,000. Thus, no family in America would be financially ruined by the medical bills brought on by catastrophic childhood illnesses, defects, or injuries.

During the first year of the program, all children under the age of 7 would be covered. In succeeding years, benefits would be available to these children and all new babies, hence in the second year all children under the age of 8 would be covered, in the third year all children under the age of 9 would be covered and so on until in 1983, all children under 18 years would be covered under the program.

The bill would also expand existing title V maternal and infant care programs—now serving only 33 States—to all 50 States. It would further provide maternal care to all low-income mothers and health care to all of their infants during the first year of their lives.

Mr. Speaker, the Children's Catastrophic Health Care Act of 1971 provides a way to build upon an already proven system to provide comprehensive health care to all children suffering from major defects, diseases, or injuries. It also provides a comprehensive maternal and infant care system for all low-income mothers and their children. It offers an immediate and effective method of dealing now with the most urgently serious health care problems of our children—our most precious human and national asset.

RENEWAL OF BROADCAST LICENSE: A BACKGROUND PAPER

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. ALEXANDER. Mr. Speaker, I have just come from a meeting of the Arkansas Broadcasting Association. They are disturbed by recent decisions of the FCC which appear to be unreasonable and threatening to the survival of the industry.

A fact sheet was distributed at the meeting. I submit it for the consideration of every Member of Congress.

RENEWAL OF BROADCAST LICENSES—A BACKGROUND PAPER

The survival of the free broadcasting system is at stake. Every station is affected by the license renewal problem. A clear and reasonable license renewal policy must be developed and, in order to ensure a permanent national policy, it must be made law by the Congress. It is essential that every broadcaster do his part to help create a climate in which the license renewal issue can be successfully resolved. The time is now.

Set forth below are some viewpoints that we urge you to disseminate in every possible way, including the following:

1. In conversations with and letters to your Congressmen and other government officials who may have some influence on the resolution of this issue.

2. As background material for editorials, discussion or interview programs, etc. on your station.—The Fairness Doctrine may apply and you should be prepared to present opposing views.

3. As background for editorials or columns by newspapers in your cities.

4. As a basis for your own speeches or discussions with influential people in your city. (Business, labor, civic, media, religious, etc.)

In presenting any of these viewpoints, the focus should be kept on the public's interest in continuity and responsibility in broadcast licensees.

WHERE WE ARE AND HOW WE GOT HERE

For more than 40 years, the policy of the FCC and its predecessor, the Federal Radio Commission, was consistent.

In the landmark WBAL case in 1951, the FCC reaffirmed its policy that the past performance of a broadcaster was the most reliable indicator of his future performance.

In the WHDH case (1969) the FCC, giving no credit to the licensee for past performance, took the license away and awarded it to the competing applicant. It was a unique case with many overtones beyond how the licensee had operated the station. The vote was 3 to 1. Thus—on this precedent-setting case—3 of 7 Commissioners did not vote and each of the 3 who voted against renewal had a different rationale.

The Pastore Bill was introduced to restore the situation to what it had been before the WHDH decision. It became a political hot potato when it was wrongfully branded a racist bill.

Realizing the chaos that would occur, the FCC stepped in and issued a policy statement governing hearings on competing renewal applications. They stated that if a licensee could prove that he had performed with "substantial" service the hearing would end right there. In the absence of such a showing, the license would be subject to a full hearing. The FCC issued a proposed rule making defining "substantial" service. The vote was 6–1.

This past June the Court of Appeals threw out the policy statement, saying that any challenger was entitled to a full hearing on his application. Further, Judge Skelly Wright stated that "superior" service should give the licensee "a plus of major significance" and listed a variety of elements that, in his opinion, should be included in the definition of "superior" service.

The Court of Appeals decision, written by Judge Wright, implies that a significant percentage of licenses should be turned over to newcomers at the end of the three year license period. We believe wholesale changeovers of licenses would be catastrophic in terms of broadcast service and dangerous to our free system of broadcasting. Such a policy would (1) destroy the independence of broadcasting and gradually reduce it to an arm of government (2) result in changes in broadcast programming which would be re-

sented by the vast majority of the people in this country.

THE POWER TO ISSUE OR WITHHOLD A LICENSE IS THE POWER OF LIFE AND DEATH OVER A BROADCASTING STATION

The power to choose licensees or impose conditions on licenses contains the power to control the broadcasting system. It is in everybody's interest that such power be exercised fairly and with restraint to provide a stable, responsible broadcasting service as free as possible from government control. We believe a policy that resulted in licenses being auctioned off to the highest bidder (not necessarily the highest bidder in monetary terms but in promises) would tend to produce exactly the opposite result—instability, loss of freedom, and irresponsibility.

Thus, the importance of this issue to the public cannot be underemphasized. The public's interest in free programming and news coverage rests on an unintimidated broadcasting industry.

CONTINUITY OF LICENSES IS IN THE BEST INTERESTS OF THE COMMUNITY ITSELF

Continuity in licenses is a virtue, not a drawback. Continuity of licenses builds responsible broadcasters. They participate in community affairs and are an important contributing part of that community. Those who have been licensed for many years have become trusted voices in the community.

Lack of reasonable assurance that a license will be renewed will lead to a lack of responsibility and open the door for the entry of quick buck artists. How will an applicant who displaces a current licensee operate when he knows the very same thing could happen to him at the end of the three year period?

THE GOVERNMENT WOULD END UP WITH CONTROL OF PROGRAMMING

Broadcasters seek to present programs which will appeal to the public. The principal purpose of rating services, which the industry supports, is to find out what the public wants in its radio and television programming. The fact that the majority of all Americans voluntarily listen to some radio or watch some television every day—a daily national audience for radio and television is typically one hundred fifty million people—is conclusive proof that broadcasters reflect the peoples' wishes. (Sure, some people listen or watch simply because it is there, but those enormous figures cannot be explained by that reasoning.)

Under the philosophy expressed in Judge Wright's decision, the government should require a station to meet "quantitative and qualitative" standards if the government is to renew the license. That means imposing some government body's standards of programming. In other words, direct public influence would be replaced by the judgment of the government as to what the public should see and hear. Such government judgments would inevitably reflect the tastes, preferences and general philosophy of those sitting on the regulatory body and the political party in power. This is the very reason the framers of the Communications Act sought to preclude censorship of broadcast programming.

The real question is: who will most accurately reflect the desires of the American people—the broadcaster whose goal is to seek out those desires and serve them—or a government body under heavy pressure to "use" the broadcasting system to "educate the people," "improve their tastes," etc.?

No one denies that allowing the broadcaster control of programming may result in some abuses—but on balance the possibility of occasional and isolated instances of abuse is a small drawback compared to the threat of government control and dictation of programming.

FREEDOM OF THE PRESS—OF WHICH BROADCASTING IS AN INCREASINGLY IMPORTANT PART—WOULD BE DANGEROUSLY IMPERILED

Radio and television are the principal and most trusted news suppliers to the American people. Further, broadcast news has been steadily improving. There is more of it and the quality and range is markedly better than it was a few years ago—particularly at the local level.

Broadcast news freedom would be seriously endangered by an uncertain or potentially punitive license renewal policy. For example, if you were a newspaper editor and your newspaper required a license renewal every three years—and that license might readily be given to another applicant if the government was displeased—could you do a probing news job? Would you have to walk on eggs when dealing with political figures or important institutions? Could you engage in investigative reporting? Could you produce controversial or courageous documentaries?

THE LICENSE RENEWAL PROCEDURE SHOULD NOT BE USED AS A DEVICE TO RESTRUCTURE OUR PRESENT BROADCASTING SYSTEM

If basic changes in America's broadcasting system are needed, it is the job of Congress to undertake those changes, after careful balancing of the public interest issues and with preservation of constitutional protections. License renewal procedures should not be used as a device to engineer social changes that a majority of the FCC or a particular judge regard as desirable.

THE FCC ALREADY HAS THE POWER TO DEAL WITH ERRANT LICENSEES

It can revoke a license for violation of law or FCC regulations. It can impose fines. It can issue cease and desist orders. It can issue short term licenses. It can take a licensee's past practice into account at license renewal time. Plenty of power is already available to the FCC for *legitimate* regulation. Throwing open licenses to all comers every three years is unneeded overkill.

It is sometimes claimed that the FCC has never revoked a license. That is not true. Over the years the FCC has revoked a number of licenses. But the real reason that large numbers of licenses have not been revoked each year is that, except in cases of serious violations, the licensee was told to correct the situation or face revocation—and he did. So the number of licenses revoked is no indication that the FCC did not use its power or was derelict in its duties.

BROADCASTERS ARE NOT SEEKING LICENSES IN PERPETUITY

No broadcaster believes that an unworthy licensee should be renewed. In fact, we urge stronger policing of bad actors. They are a small minority which give broadcasting a bad name and bring undeserved discredit to the good operator.

IF A LARGE NUMBER OF LICENSES WERE SWITCHED EVERY YEAR, LICENSES WOULD ALMOST INEVITABLY BECOME POLITICAL FOOTBALLS

In the past, the record in this respect has been good. The FCC has been left alone to do its job. Ex parte pressures have been negligible. Mass license changes would create great temptations and opportunities. The pressure to favor political friends and large contributors would be tremendous. Appointments to the FCC itself would likely become more political. The situation would be tailormade for corruption.

THE WAY WOULD BE OPENED FOR BLACKMAIL AND EXTORTION

Indeed, these have already developed as a by-product of the WHDH case. Stations have been approached—typically at the last minute and with no prior contact—with threats to file petitions to deny or competing applications unless demands are met. Some of these demands have included cash payoffs, "gifts" or "donations" to specified business or charitable organizations, deposits in certain banks, the hiring of certain individuals, programming changes to favor the particular group, sometimes "control" of a certain amount of programming.

BROADCASTERS ARE SERVING MINORITY GROUPS IN THEIR COMMUNITIES

Some minority group leaders charge that broadcasters do not serve their particular group. Yet a recent poll by the Harris organization reported that Blacks rate television as the American institution most strongly committed to Black equality, the institution that "really cared most" about Blacks. Television was rated ahead of the U. S. Supreme Court and the Congress—as well as newspapers, local government and all other categories. In radio, many stations are Black oriented in programming and heavy in Black talent. A small but growing number of radio stations is Black owned. In television, Blacks are the heaviest viewers.

There is almost no evidence that the Black community as a whole shares the extreme views of broadcasting expressed by some Black leaders, who, typically, have no broadly-based mandate from the people they claim to represent.

LICENSE CHALLENGERS ARE SEEKING TO GAIN FOR THEMSELVES THE FRUITS OF OTHER MEN'S LABOR . . .

In some stations, because of market size and other factors, it is easy to make a substantial profit. But the success of nearly all radio stations and the great majority of television stations is the result of hard work, good management and risked capital against heavy competition. These owners and managers have built successful stations by their own efforts.

Often those who challenge licenses are speculators hoping to get a valuable property for nearly nothing. They have not sought the licenses of marginal stations which would have required work and investment on their part to make them successful.

It should also be noted that none of the applications filed in the wake of the WHDH decision was on behalf of applicants who were members of minority groups. They were businessmen who apparently saw an opportunity to obtain a license of tremendous value for little investment.

A STATION'S ABILITY TO FUNCTION WOULD BE DESTROYED . . .

The licensee cannot function as an on-going organization without reasonable assurance of renewal.

Programming would be severely affected. How could a licensee contract for any programming or talent beyond his license period without such assurance? The nearer the licensee was to the end of his three year period, the more difficult the situation would be.

An uncertain license would seriously limit his ability to hire, train, promote, and retain employees. It is difficult to see how employee retirement plans and other employee benefits could be begun or continued. Union relations would be harmed and the continuity of union contracts imperiled. An uncertain license period would likewise militate against improving equipment and broadcast facilities such as towers, antennas, cameras, etc.

An uncertain period would severely affect the ability to secure bank loans (or for that matter a *succeeding* licensee's ability to remake long-term real estate commitments, such as the building of a new business or studio building (or even long-term leases) nearly impossible.

BLOW THE WHISTLE ON STREET CRIME

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. KOCH. Mr. Speaker, this Thursday I will be conducting a town hall meeting for my constituents on the subject of a practical way to combat urban crime. Everyone in New York City is alarmed by the continuing increase in street crime. We are all afraid and frustrated, afraid that we or our neighbors will become victims and frustrated by the apparent inability to do anything about it. Many have left this city because of the danger and many others are forced to stay indoors as much as possible.

Despite all the rhetoric about street crime there are few practical suggestions on what the average citizen can do. I would like to make one. It is simple. It involves the cooperation of private citizens amongst themselves as well as with the police. It is a plan that has worked with considerable success in one neighborhood of the city and that has had the enthusiastic support of the police in that area. Here it is:

In any given block all the residents "arm" themselves with a whistle and with the following instructions: anytime you see something suspicious going on, blow your whistle loud and clear. Other residents of the block know that when they hear the whistle they should blow their whistles and dial 911.

Such a plan has already been put into operation by the Bank-Bethune Street Block Association in Greenwich Village. The experience of the Bank and Bethune Street residents has been noteworthy. One criminal has actually been apprehended by the residents themselves and several other potential crimes have been aborted. Most remarkable of all, the Bank-Bethune Street Block Association has not had a single false alarm since July. On one night when the whistles blew on Bethune Street about 100 residents poured out onto the street, overcoats covering their pajamas, to chase off a potential robber.

The shrill din of many whistles going off to alert neighbors to potential crime is probably by itself enough to scare off most criminals. Such reaction is also likely to deter further crimes in the area once it is known that the residents are alert and prepared to act on a prearranged system of signaling each other. The sense of community solidarity that develops in an area where citizens join together in an effort to protect others as well as themselves, and a close working relationship with the local precinct are other benefits of this plan which aids residents and merchants alike.

The Bank-Bethune Street Block Association purchased a large quantity of whistles and distributes them through a local shop at cost. I would encourage other groups of citizens to form block associations or use existing associations to purchase whistles for self-protection. Frustration and fear need not be our only reaction to crime. People must be led to believe that they themselves can improve the quality of life through action. The use of whistles as a signal against crime is a simple response that can involve everyone in his or her community, it is a communal activity that defies despair.

FBI

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. GOLDWATER. Mr. Speaker, the much ballyhooed conference by the Committee for Public Justice concerning the FBI produced about as much real substance as the typical Halloween goblins so prevalent around the Nation at the end of October each year. As predicted, a group of professional critics of law enforcement in general and the FBI in particular met with some disgruntled former FBI employees and some noted apologists for criminals and radicals and spent 2 days at Princeton University talking to each other about the great horror personified by the FBI.

I think it is extremely fitting that this conference was scheduled for Halloween weekend. Its producers and participants hoped to picture the FBI as the greatest of specters threatening all aspects of life in our Nation. But the charges raised, and particularly the support of these charges, had less substance than the mythical witches and goblins which are supposed to abound during this period. So flimsy are the accusations that they hardly veil the FBI's long record of protecting this Nation from crime and subversion and preserving the individual rights of law-abiding citizens.

If anyone needs proof that the conference failed in its aim to discredit the FBI, they need only look to the pages of certain Eastern newspapers which glory in any anti-FBI statement which they adorn with large headlines. Even these papers devoted very little space to the warmed-over charges which have been repeated with such frequency by the anti-FBI professionals that they have become more than just boring.

In reading the various news reports about this conference, I did note one interesting fact—a fact which I feel is very revealing of the character of many of the participants in the conference sponsored by the Committee for Public Justice. This fact concerns the assertion by Harvard Law School Prof. Vern Countryman that he prefers bombings to the use of informants. Professor Countryman was asked if he would rather have people killed in a bombing than to have the FBI use informants in so-called political groups. The professor responded:

> There are worse things than having some person killed—(for example) having a whole society intimidated.

The ludicrous nature of Professor Countryman's statement is illustrated by the fact that he made it. Obviously he is not intimidated nor are the Jerry Rubins, Mark Rudds, William Kunstlers, Rennie Davises, and numerous others of this ilk who have traveled this great country exhorting revolution. The inhuman character of his statement needs no comment.

There is one other point which came out of the news reports of this conference which I think deserves mentioning. This concerns the assertion by Yale Law School Prof. Thomas I. Emerson that political ideology was far in the background in the case of the Ku Klux Klan where the immediate problem was crime and terror. But Professor Emerson evidently takes an entirely different view where the Black Panther Party is concerned, apparently seeing no crime and terror involved in the many attacks on law enforcement agencies with which this group has been identified. Can there be any doubt whatever of the prejudices of such a person?

The Princeton conference concluded by issuing an appeal for Congress to convene a national commission of inquiry to check the operations of the FBI. I see no need whatever for such a commission. The President, the Attorney General, the courts, other law enforcement agencies, the news media, and the general public daily are judging the activities of the FBI, and it is my belief that each of these groups and individuals continues to give this organization very high marks. I might add that it has been my experience that so-called commissions usually are an exercise in futility—they produce long-winded reports with high-sounding recommendations of very little practicality. I see no reason for this country wasting taxpayers' money to comply with the prejudiced desires of a few very prejudiced individuals.

Mr. Speaker, it was widely reported prior to the convening of this conference at Princeton University on October 29, 1971, that FBI Director J. Edgar Hoover had declined an invitation for FBI participation. Typical of the items written in this regard is one which appeared in the San Diego Union of October 24, 1971. Mr. Speaker, I would like to include this article at the conclusion of my remarks.

Mr. Speaker, I think it would be beneficial to all of us in this body to read the letter which Mr. Hoover wrote to the chairman of the conference, Duane Lockhard, declining his invitation to participate in the conference. Excerpts from this letter have been published, but I believe we need the benefit of the entire letter. I ask that this be published immediately following the aforementioned newspaper article.

The material follows:

[From the San Diego Union, Oct. 24, 1971]

RAMSEY CLARK: HOOVER'S FORMER BOSS SPEARHEADS "INQUIRY" ON FBI

(By Ray McHugh)

WASHINGTON.—FBI Director J. Edgar Hoover says he welcomes public discussions, such as an "inquiry" at Princeton University into the activities of his organization next weekend.

Hoover is polite.

The Princeton deck is stacked against the FBI, and one of the principal reasons for this is Ramsey Clark, former attorney general and a Hoover critic.

The conference at Princeton appears to be the climax of an increasingly bitter "lib-

eral-intellectual campaign against the director and the FBI. It could be a significant meeting in light of Washington rumors that Hoover, 76, is contemplating retirement, perhaps on his next birthday Jan. 1. Reports have it that he would remain on the scene, however, as a consultant.

Although he raised no objection to the Princeton study, Hoover declined an invitation to attend or to send an FBI representative.

FBI'S REFUSAL EXPLAINED

Any FBI official, he said, would be caught "in the role of defendant before even the first fact is brought out, and condemned by the judges before the trial begins."

In a letter to Duane Lockhard, chairman of Princeton's politics department and chairman of the conference, Hoover said the ultimate verdict of a fair public scrutiny "must be that the FBI is a lawfully composed and operated public agency, staffed by honest and reasonably intelligent citizens doing a difficult job in the best way they know how, and, moreover, doing it quite as well as it could be done by anyone else."

"While it may be quite true that we deserve some criticism," he wrote, "I think we also deserve an 'acquittal.'"

The "inquiry" at Princeton, scheduled Friday and Saturday, is sponsored by the "Committee of Public Justice," an organization announced a year ago by Clark.

Its goal, he said, is to analyze the "role of the FBI in American life."

The bureau is braced for some strong criticism. The committee, a New York organization, is sprinkled with the names of liberals and Kennedy-era figures whose distaste for Hoover and his bureau is well documented.

HOOVER CRITICIZES RAMSEY

The committee came to public attention last November at a press conference held by Clark, a man Hoover has called the worst of 18 U.S. attorneys general he has served under, "a jellyfish."

Clark said the committee is concerned with "political repression" and charged the FBI with "a lack of objectivity." It gave undue investigative attention to the Communist party and the Black Panthers, he said.

Five months later the committee announced its inquiry of the FBI in concert with the Woodrow Wilson School of Princeton University.

Burke Marshall, deputy dean of Yale Law School and former assistant attorney general in the Kennedy Administration, together with Roger Wilkins, another Kennedyite and former Justice Department employe, denied to reporters that the committee is out to "get" the FBI. He acknowledged, however, that most of its members and the conference panelists are critics of the bureau.

Marshall also has acknowledged that the study will include an examination of documents stolen in the burglary of an FBI office at Media, Pa. These documents have been distributed to FBI and Nixon administration critics.

ENTERTAINERS AMONG SPONSORS

Members of the executive council and sponsors of the committee include Clark; Marshall; Blair Clark, a 1968 campaign manager in former Sen. Eugene McCarthy's presidential bid; Norman Dorsen, general counsel of the American Civil Liberties Union, another frequent FBI critic, and Lillian Hellman, a woman associated with several identified anti-government organizations.

Activists from the entertainment world also are sponsors, including conductor-composer Leonard Bernstein and actors Warren Beatty, Candice Bergen, Marlon Brando, Shirley MacLaine and Paul Newman.

The following papers and authors are listed in a program for the meeting at Princeton:

Political Uses of the FBI—I. F. Stone; Insider's View—William Turner; Civil Rights—John Doar, Dorothy Landsberg; Informers—Frank Donner; Selling of the FBI—Robert Sherrill; The British Analogy—C. H. Rolph; Organized Crime—Fred J. Cook; Bill of Rights—Tom Emerson; History—Vern Countryman; Budget—Walter Pincus; Electronic Surveillance—Victory Navasky, Nat Lewin; Data Collection—Aryeh Neier, John Elliff.

FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., October 7, 1971.

MR. DUANE LOCKARD,
Department of Politics, Princeton University, Princeton, N.J.

DEAR MR. LOCKARD: Thank you for your letter of September 28, 1971, extending to me an invitation for a representative of the FBI to "strongly defend the Bureau and its role" during the forthcoming October conference which will, in your words, focus "primarily on the Federal Bureau of Investigation." We were aware of the plans for the conference, having read the announcements in the press, and some related remarks, critical of the FBI, attributed to persons who apparently will be among the "judges" hearing this case. For example, the press reported, and attributed to persons who appeared to be both spokesmen for your group and "judges" at the inquiry, that ". . . the study could be criticized as being stacked against the FBI," that the FBI is not a "disenthralled seeker of truth," and that "the FBI for reasons I find unfortunate became ideological some time back and this put a scale over its eyes."

While I should like to believe that the correlation between your own words casting us in the role of a defendant, and the critical remarks made by some of the "judges" before the fact-finding inquiry had even begun is one of pure coincidence only, you will understand from that coincidence why I immediately recalled with some amusement the story of the frontier judge who said he would first give the defendant a fair trial and then hang him.

We acknowledge and appreciate your invitation to "defend," but we are declining in view of our serious doubt that any worthwhile purpose could be served by an FBI representative attending an inquiry casting him in the role of defendant before even the first fact is brought out, and condemned by the "judges" before trial begins. It simply is asking too much that any FBI representative appear personally under those circumstances. For that reason I shall try to explain briefly in this letter some of the facts of the FBI "defense," hoping that they will be considered material during the deliberations of your group and in any public reports which you may issue later.

Basically, our position is that the FBI need tailor no special "defense" of its own for this occasion. The basic facts on how the FBI is organized and how it discharges its duties have been so well known for so long, and to so many responsible persons, that they are obvious to all except those who are so blind that they do not wish to see.

The duties assigned to us seem as good a place as any to start. We are well aware that some complain of these claiming infringement on what they contend to be their rights and liberties. There are bank robbers who believe that we should not investigate bank robberies, and thieves and others charged with crimes after investigation who condemn us in court and out. More recently there are those who bomb, riot, and destroy both human life and property for what they claim to be more sophisticated reasons and who resent our investigations as an intrusion into what they esteem to be matters of their own conscience only. We frequently are the targets of personal abuse, of the most vile invectives at the command of both the totalitarian right and the totalitarian left. Yet, neither these nor those who appear to sympathize with them seem willing to publicly admit the basic and obvious fact that our investigative duties are not of our own choosing. They were delivered to us, with the requirement that we take all necessary action, by laws passed by the Congress and by rules and regulations laid down by the President and the Attorney General. We are forever in the unenviable position of the policeman being assaulted by the mob. He neither enacts the law nor judges the legality of it, but it usually is he, and he alone, who must dodge the brickbats hurled by those protesting against it. Any genuine fact-finding inquiry concerning the FBI will admit and underscore these facts.

In performing the duties assigned to us, we are not at all a law unto ourselves as some of our critics would have the American people believe. There are many who monitor us in some way or other; they are a system of checks and balances on the manner in which we perform our duties. Senators and Representatives are interested in how we work. They are free to express their interest and they often do so, individually or collectively. We must investigate our cases to the satisfaction of the Department of Justice, and within the context of such rules as it lays down for us. Our work must satisfy the United States Attorney, who makes an independent decision on whether the case we bring before him will or will not be prosecuted. The United States Magistrate exercises a supervisory authority to accept or reject the adequacy of our reasons shown for asking for an arrest warrant or a search warrant. Our cases which pass the inspection of our monitors up to this point then go before the Federal courts in the uncounted thousands. I am sure you will agree that our work is carefully evaluated in those forums.

In sum, we say that there are many who exercise some official vigilance over the manner in which the FBI performs its duties, that they are to be found in each of the three branches of Government, and that our performance has won the approval of the great majority of them. If your group doubts that the FBI has performed so well, we suggest a fact-finding poll of all living Presidents, Attorneys General, United States Senators, United States Representatives, United States Attorneys, United States Magistrates (and former Commissioners), and Federal judges, with all questions and all answers spread upon the public record so that the people of this nation might see for themselves. Perhaps we are mistaken, but we do believe that if this were done the "defense" of the FBI would be made by others highly qualified, and that it would be one on which we could rest our case.

If it be thought inappropriate to question some, such as the Federal judges, because they must remain impartial at all times, your group could accomplish the same fact-finding results by conducting a review of all reported Federal court decisions in cases investigated by the FBI during the past decade, or as far beyond that as you wish to go to make certain that your study has the necessary depth. You can list and cite for public view all such decisions, calling particular attention to those in which the courts have disapproved our action, and showing of the percentage of those cases against the total of all that we have brought to the courts. I assume here that you would also call public attention to those decisions in which the courts have spoken well of FBI work. Further, we suggest that you consider, and report on, the Miranda Rule, the Mallory Rule, the Jencks Rule, the rule on fair lineups, the arrest and search and seizure requirements of the Fourth Amendment, and all the many other rules laid down for control of the Special Agent or other law enforcement officers investigating a criminal case. You will find that we have set an excellent record for obedience to them. With relatively few exceptions our work has met with the approval of the Federal judges. The few exceptions concern us for we know that law enforcement, dealing constantly with those human rights held most sacred, theoretically has no tolerance for error. We know, of course, that we do err, but it is our request that the error be viewed in context and that we be granted the same tolerance extended to others for an occasional mistake.

We venture to suggest one condition which should be set on such polls. If one person in a group is to be polled, *all* should be polled and all should be reported openly and completely. Honest fact-finding admits of nothing less. If the FBI, investigating a criminal case, were to bring a witness against the accused and in any manner deliberately hide the many who would testify in his favor, you would be outraged and justifiably so. We would feel a sense of outrage at similar conduct directed against us. The technique of making one dissenter appear to be representative of a large group which, in fact, is not in agreement with him is a technique of deception and one which any court of inquiry ought to abhor.

I have been speaking of the fact that we try hard to merit the approval of the many who officially monitor our work, and apparently with a reasonable degree of success. We do more than that; we try to improve the investigatory process in those areas in which we are allowed some discretion. Examples of our innovation in this direction are in the public record and should be among the facts of official interest to your group. I shall call a few to your attention.

For centuries the common law which we brought with us from England has held that an officer lawfully may shoot a fleeing felon to prevent his escape. We found that power unnecessary for our particular purposes, and rejected it. The FBI rule now is, and long has been that a Special Agent or other FBI officer may shoot only in self-defense or the defense of others. If the observance of this rule allows a fleeing felon to escape, we hopefully will apprehend him another day. The rule innovated by the FBI, on its own initiative, raises the sanctity of a human life a notch above that required by the law. We consider this to be significant and hope that you agree.

We have innovated improvements in other areas. During the past decade, Presidents, Governors, Attorneys General, legislators, and others have emphasized the need for police training and education. The FBI saw that need a long time ago. Our FBI National Academy, a 12-week course for selected police officers from states, counties, and cities, and some from friendly foreign nations, opened in 1935 and has been in continuous operation since that time. It is now being substantially expanded. More than 5,000 officers have received this instruction and we have been led to believe that at least the great majority consider it a contribution to better law enforcement.

In a quite different area, the FBI Laboratory has innovated for more effective and humanitarian law enforcement. During recent years, the Supreme Court and the lower courts have emphasized the humanitarian approach toward proving criminal cases more by physical evidence and less by confessions taken from the accused. We like to believe that they have done so on learning that the FBI Laboratory, established in 1932, proved that in many cases it can be done. Scientific examination of evidence leads to proof of guilt or innocence quite independent of anything said by the accused. We are as proud of the cases showing innocence as of those showing guilt and have not been reluctant to say so. That fact should be of interest to your group, for it is another example of professional and humanitarian law enforcement at its best.

Possibly even more important, we have innovated our own rules to better protect the constitutional rights of the accused. I am sure that at least most of those who attend your conference hailed as a great step forward the decision of the Supreme Court in the *Miranda* case which, briefly stated, grants the accused in custody a right to say nothing and a right to a lawyer. Do they know, also, that for decades prior to the Supreme Court edict in *Miranda*, all Special Agents of the FBI were, by our own house rule, over and above the requirements of the courts, advising criminal subjects of those same rights? The Supreme Court willing took cognizance of that fact in the text of the *Miranda* decision in remarks quite laudatory of the FBI. Please note those remarks in *Miranda* v. *Arizona*, 384 U.S. 436, at 483 (1966), where the Court, speaking through Chief Justice Warren, stated, in part, that "Over the years the Federal Bureau of Investigation has compiled an exemplary record of effective law enforcement. . . ." I suggest that no fact-finding investigation of the FBI would be complete without calling public attention to those words of the Supreme Court.

We have innovated other rules which should commend themselves to you. For example, in recent years the Supreme Court has strongly emphasized the desirability of making arrests and searches by warrant, a protection for the citizen (and the officer) against overreaching by the officer whether by honest mistake or otherwise. That rule has been the FBI rule and practice for decades.

In short, we in the FBI have ourselves innovated on our own initiative, above and beyond the legal and administrative requirements laid down upon us, rules and practices designed for more lawful and humanitarian enforcement of the criminal law. This is a part of our "defense" and we hope that your group will consider it a fact worthy of being brought to public attention.

To do the work of the FBI we have assembled a staff which I believe is so capable that any deep and fair fact-finding study will find it to be one of outstanding honesty and ability. We have sought to develop and enforce work rules to guarantee the taxpayer a day's work, and even a little more, for a day's pay. We have tried to keep our employees free of the corrosive influence of bribery which sometimes has weakened an otherwise honest and effective law enforcement agency. We have admittedly demanded of FBI employees a standard of morality which could be approved by the majority of the American people. On a few occasions we have been told by those who officially monitor us that we have been too strict, but I submit to public judgment the view that in a law enforcement agency, a tax-supported institution, if there is to be error it should be on the side of being too strict rather than being too loose.

It is precisely in this area of employee relations that we have had a few of our most vocal critics. I think it inevitable in any large organization; some will disagree with the rules and some will disobey them. Yet, in our view, discipline is an absolute necessity. An undisciplined law enforcement agency is a menace to society. And discipline, I should add, must have many facets, not the least of which is to curb the enthusiasm of an overzealous Special Agent or official who, in his pursuit of the alleged criminal or subversive, tends to rationalize toward the belief that the end justifies the means, bitterly condemning the curbs on his zeal as a handcuff on what he alleges to be modern and efficient law enforcement. I trust that you will agree.

Here I may as well frankly recognize the fact that your group probably will hear criticism from former Special Agents of the FBI. I trust that you will review that criticism, and report it in proper context. Neither you nor I, nor any other person, can manage a large organization to the total satisfaction of all employees. You have the opportunity of placing this criticism in proper balance if you will take full note of the evidence favorable to the FBI. There is an organization known as The Society of Former Special Agents of the FBI, wholly private and in no way a part of the Government, whose members number in the thousands. It is unique, I believe, in the annuals of Government employment. The organization exists, or so I have been told, because its members are proud of having served in the FBI. If your scales of justice are well balanced, I am sure that you will find that the views of these many greatly outweigh those of a dissident few and I think that fairness requires that the views of the many be so well represented in your inquiry that the difference in weight is made obvious.

Somewhat related to these problems is that of decision making. I believe it my duty to encourage a full expression of employee views on FBI problems, and I do so encourage, quite contrary to statements made by some of the critics. I believe it my duty, as the appointed head of the FBI, to review all views and make the final decision, except where it should be referred to higher authority. I believe it the duty of the employee, once the final decision is made, to either faithfully carry out the directive or marshal convincing proof that it is in error. I submit for judgment the belief that there is no other way to operate an efficient law enforcement organization.

Perhaps the earlier reference to enforcement of the law within the strictures of the law brings up the subject of wiretapping. Being sure that it will come up at your conference, I would like to ask a favor of your group in the interest of fairness. I would think they would wish to show in their report, if such be issued, that Federal law permits wiretapping under controlled circumstances. Further, that in each and every wiretapping, regardless of circumstances, the FBI first obtains the written approval of the Attorney General. Also, that with respect to the wiretapping which occurred before passage of the present Federal statute, the FBI followed the opinions of a long line of Attorneys General that wiretapping was legal. Your attention is called to 63 Yale Law Journal 792, where the then Deputy Attorney General of the United States said, in part, that "It has long been the position of the Department of Justice that the mere interception of telephone communications is not prohibited by Federal law . . . every Attorney General, commencing with William D. Mitchell in 1931, has endorsed the desirability and need for the use of wire tapping as an investigative technique in certain types of cases." All these facts may be well known to your group, but for some reason they often are omitted in public charges that wiretapping by the FBI is without lawful basis. Some critics would have the public believe that the FBI has acted totally outside the law, when the fact is that we simply followed the legal advice given to us by the Attorney General. Your group can set the record straight for all to see, and I hope that you will do so.

These remarks cover the salient points of our "defense" and perhaps not so briefly as either of us might have wished. Obviously they do not cover everything. The ingenuity and then tenacity of our critics preclude a total answer. Were I to attempt to answer all charges I would be debating in this forum or that every day of the year, to the neglect of my duties. If I were to attempt to so answer, any critic could make any charge, even one totally fabricated, and force me into a forum of his own choosing. The result is that many charges must go unanswered. Some are false on their face, some are false by twisted innuendo, and some could be proved false

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only by the use of information which must be kept in confidence for legal or investigative reasons. This is not to deny that we, and I, have made mistakes. The judges and others sometimes have so advised us. We are only human.

One final thought. No remarks in our "defense" will still the voices of the critics, and these are not intended to do so. The critics have their rights of free speech under the First Amendment and I am sure they will continue to use those rights to the hilt. In at least many cases, we are denied an effective answer. As the Supreme Court has said so perceptively, ". . . it is the rare case where the denial overtakes the original charge. Denials, retractions, and corrections are not 'hot' news, and rarely receive the prominence of the original story." *Rosenbloom v. Metromedia*, 39 L Ed 2d 296, 313 (1971). I hope that in bringing charges against us, if such be the case, you will bear in mind this handicap under which we must labor and bring it to public attention. Elementary fairness seems to so require. Moreover, a public official such as myself cannot successfully sue for libel or slander, even when the charges made against him are totally false, unless he can prove that those charges were made with actual malice. This is extremely difficult to prove, as anyone familiar with the recent court decisions on libel and slander well knows. The result is that in so many cases of criticism my only recourse is that of taking some personal pleasure in knowing that the critics have abundantly proven, in the reams and volumes that they have published, that one of their principal charges—that I am beyond criticism—is totally false.

I suggest that if evidence like that which I have briefly described here is fully developed and exposed to public view, the ultimate "verdict" must be that the FBI is a lawfully composed and operated public agency, staffed by honest and reasonably intelligent citizens doing a difficult job in the best way they know how and, moreover, doing it quite as well as it could be done by anyone else. While it may be quite true that we deserve some criticism, I think we also deserve an "acquittal." I think any deep and fair inquiry will command this result, and I remain hopeful of its despite the obviously partisan statements made by some of your group in announcing that the inquiry would be held.

Very truly yours,

JOHN EDGAR HOOVER,
Director.

TWENTY-FIVE YEARS OF SERVICE BY THE NAVY ESO

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. McCLORY. Mr. Speaker, recently, on Friday, October 8, the U.S. Navy Electronics Supply Office celebrated its 25th anniversary. The occasion was marked by a public ceremony in which many prominent civilian and Navy personalities participated.

I was privileged to speak at the afternoon, open-air ceremonies and to attend the 25th anniversary ball in the evening at the Great Lakes Officers Club.

The commanding officer of the Electronics Supply Office, Capt. R. A. Jones, was assisted in the arrangements by Mr. R. M. Samuel who served as the 25th anniversary ceremony chairman.

Among those who participated actively in the celebration were: Rear Adm. Draper L. Kauffman, commandant, Ninth Naval District; Rear Adm. Kenneth R. Wheeler, commander, Naval Supply Systems Command; Rear Adm. H. H. Loeffler, president, Exeter Paper Co.; Rear Adm. D. H. Lyness, commanding officer, U.S. Naval Supply Center; Capt. W. L. Talbot, commanding officer, U.S. Naval Training Center; and two former commanding officers of the ESO, Capt. W. F. Harvey and Capt. J. H. Garrett, Jr.

The principal address given at the afternoon ceremonies was by Rear Adm. Draper L. Kauffman who presented dramatically the role of the U.S. Navy Electronics Supply Office. His remarks are presented at this point for reproduction as are the congratulatory messages from Adm. Charles K. Duncan, Adm. B. A. Clarey, and Adm. E. R. Zumwalt, Jr.:

REMARKS OF REAR ADM. DRAPER L. KAUFFMAN

I am happy to be here today to help you celebrate the 25th anniversary of the Navy Electronics Supply Office.

For a few minutes, however, I would like to invite your attention from Buckley Road in North Chicago to the oceans and the seas. Nine years ago this summer the Soviets conducted their major naval exercise of the year in the North Atlantic Ocean and the Norwegian Sea. The exercise was a limited operation designed to improve the ability of Russian naval forces to protect their homeland. Only 4 surface warships, 20 diesel submarines, and a small number of land based patrol planes were involved. In April of 1970, only 9 years later, the Soviets conducted another naval exercise, which they called, appropriately, "ocean". This exercise was global in scope. It involved the Baltic Sea, the Norwegian Sea, the Barents Sea, the Black Sea, the Philippine Sea and the Mediterranean Sea, the Sea of Japan, plus the Atlantic, Pacific and Indian Oceans. In terms of geographical scope, Operation Ocean was the largest exercise conducted by any nation in naval history. It included about 150 surface ships, 50 submarines—many of them nuclear powered—and several hundred planes.

Contrasted against this truly dramatic growth of Soviet sea power, budgetary limitations have forced a reduction in the size of the U.S. Navy. Between June of 1969 and June of 1971, the size of the fleet has been reduced by about 20%. Thanks to the quality of our technology, we have probably not yet lost the edge. To maintain that edge in the future, however, our Navy must continue to develop more effective hardware, better trained personnel, and an even more responsive supply system.

And now, we move from the oceans and the seas back to the electronics supply office. When I speak of navy hardware, one word blinks on and off like an neon sign: Electronics, one cannot over emphasize the importance of electronics in modern warfare. As Admiral Zumwalt recently said, "Electronic warfare of all types is receiving renewed attention. I am convinced that the key to naval warfare of the future lies in the utilization of electronics, both active and passive." Electronics is an abstract word, so what do we include within its meaning? We include sensing devices to detect enemy movement; navigation and search systems to get us to the right place and to find the right object at the right time; communications systems to provide us input for making decisions; command and control systems for coordinating and directing our forces; surface missile systems to extend the deterrent range of our ships. To catalog all the examples I could put under the word electronics, I would need another electronic device—a computer. ESO makes excellent use of computers in performing its primary mission of supporting the fleet with electronic repair parts. This is particularly important in maintaining critical weapons systems of our Sixth and Seventh Fleets, who operate constantly under the electronic shadows of Soviet ships, submarines, trawlers, and planes.

Today, then, against the background of growing Soviet seapower and the vital role of electronics in modern warfare, I believe it is appropriate to look at ESO from the viewpoint of the fleet—the ultimate recipient of the electronic repair parts. From the customer's viewpoint, what kind of job is ESO doing?

Rather than take an opinion survey of ships captains and supply officers, I decided to measure ESO's performance against two indicators: Initial support and operational support.

Our fleet of Polaris submarines is one of our most important assets in maintaining world peace. ESO's performance in initial support of Polaris submarines with electronic repair parts has been truly outstanding. From March of 1968 through May of 1970, 14 Polaris submarines were deployed with 100% of the electronic repair parts aboard. Since then, the Navy has begun replacing the Polaris missiles with Poseidon missiles. Despite the logistics problems inherent in changing from one missile system to another, ESO's performance in supporting the Poseidon program has also been outstanding. Submarines with Poseidon missiles installed are being deployed with 99% of the electronic repair parts aboard. Knowing Captain Jones and his desire for perfection, I expect that figure will soon reach 100%.

In the area of initial support for new ships and ships undergoing overhaul, ESO has an enviable record. These ships are being deployed with 95% of the electronic repair parts aboard. Here, too, I'm sure ESO is seeking improvements.

The second indicator of performance is operational support. How good a job is ESO doing in having the right part in the right place at the right time? Consider the following figures: when equipments break down aboard ship and electronic repair parts are needed, 80% of these parts are available within minutes from the ships storeroom; 14% of the required parts are available from the point of entry stock point within 10 days; 5% of the parts are available from another stock point within a few more days. Only one per cent of the time does the requirement have to be filled by ESO placing an order with industry for direct shipment to the end user. This is the kind of support that enables the fleet to maintain combat readiness.

When combat readiness is impaired by a failed item, however, and a casualty report is transmitted, ESO computers respond within minutes to search system assets for the needed item. If the item is available in stock—and it usually is—the shipment is on its way to the customer within hours. If the item is not available in stock, a computer program monitors progress on the needed part until all actions have been completed.

I might add that the material effectiveness of the two primary stock points that support the polaris submarines is close to 90% and the supply availability of the ESO stock points in filling demands of all ESO managed items is about 85%. While it is not cost-effective to stock all electronic repair parts that might fail, ESO is striving to achieve a finer balance between dollars invested and optimum electronics support to the fleet.

Viewed from the fleet, then, ESO is doing a superb job in initial support and operational support.

Finally, I would like to thank everyone who had a part in building ESO into this fine organization. To the former commanding officers of ESO, to the former employees of ESO, to Admiral Wheeler, to Captain Jones, and to the current employees of ESO—I thank you and I salute you.

Now, I have been given the pleasure of reading to you the inspiring letters from three truly great naval officers:

1. From Commander in Chief Atlantic, and Commander in Chief, U.S. Atlantic fleet dated 22 September 1971—Dear Captain Jones, on the occasion of the twenty-fifth anniversary of the Navy electronics supply office, it gives me great pleasure to extend my congratulations and best wishes to you and the dedicated people of ESO for the continuing contribution made to the readiness posture of the Atlantic Fleet.

As the number and complexity of electronics equipments and weapons systems within our Navy continue to increase, the task of supporting these systems becomes more and more challenging. I am confident that ESO will meet this challenge with the same dedication and vigor as admirably displayed during the past twenty-five years.

Again, congratulations.

Sincerely,

CHARLES K. DUNCAN,
Admiral, U.S. Navy.

2. From Commander in Chief, United States Pacific Fleet, dated 15 September 1971—Dear Captain Jones, as Commander in Chief, U.S. Pacific Fleet, I take great pleasure in extending my warmest congratulations to you on the silver anniversary of the Navy Electronics Supply Office (ESO).

During the past quarter century, ESO, exercising resourcefulness and perseverance, has provided essential support to our Nation's primary weapons systems, thereby making an outstanding contribution towards the national defense.

Born during an area of electronic development, ESO has evolved from a humble beginning in the early years of World War II to a mature, dynamic organization staffed by personnel of the highest degree of professional competence. Through hard and diligent work of all at ESO, the Navy's major electronics systems which are the sensing and defense systems of modern ships and aircraft have been kept in the highest degree of material readiness.

ESO has contributed much to the strength of our Navy through professional excellence and over the years, has done a great deal to promote the Navy's image through extensive involvement in community affairs in the Chicago-Great Lakes area.

As the Navy's inventory manager for electronics repair parts, the importance of your mission cannot be overemphasized. Using the most modern management techniques, you have met the challenges of the past three decades in an exemplary manner and, now, during a period of dynamic change, must stand ready to once more apply your managerial expertise to supporting our leaner and more efficient Navy.

It is my sincere desire that this celebration of ESO's silver anniversary will give impetus to even greater accomplishments during the years ahead.

Sincerely,

B. A. CLAREY,
Admiral, U.S. Navy.

3. From Chief of Naval Operations dated 23 September 1971—

DEAR CAPTAIN JONES: To the officer, enlisted, and civilian team at Navy Electronics Supply Office, I wish to extend hearty congratulations on the occasion of your silver anniversary. For plank-owner and newcomer it is a proud moment to reflect on the activity's many significant accomplishments in a quarter century of "service to the fleet."

From 1946, managing bits and pieces of early radar, to the present life cycle support of major sensing and defense systems, the electronics supply office has played a vital role in naval operational readiness in both peace and war.

This memorable occasion is a tribute to the dedication and professionalism of all those who have served at ESO over the years. My best wishes for continued success.

Sincerely,

E. R. ZUMWALT, Jr.,
Admiral, U.S. Navy.

Mr. Speaker, in paraphrasing my own words expressed on that occasion, I recalled that the impact of the ESO on Illinois can be measured in substantial economic benefits, including more than $178 million in salaries and benefits to personnel during the past 25 years, plus almost $300 million for various electronic parts supplied by Illinois electronic manufacturers and vendors—about 15 percent of the total dollars awarded in the Nation.

Mr. Speaker, contracts for the ESO have been let to various minority business enterprises, including the first Navy contract to a minority group-owned company, when on July 12, 1969, the ESO awarded a $128,000 contract to Sonicraft, Inc. Total ESO contracts to minority group companies now total about $337,000—I am told.

But the principal impact which ESO has had upon me in my experience with it in recent years has been the dedication of the people who make up ESO, from the commanding officers to the most unskilled employees. The record of savings which have been effected through improvements developed by military and civilian personnel at the ESO are estimated to total more than $54 million. These items for improved operations have included development of a new computer program to load data regarding transferred items into the master data bank, and development of a new technique to test and restore expensive traveling wave tubes and an improved procurement action which is estimated to have saved the fabulous sum of $10 million. These are savings which have been accomplished through the initiative and resourcefulness of individuals at ESO, and which are examples of the dedication of all who make up this organization.

Mr. Speaker, I took occasion also to mention my individual contacts with Dan Oliver, Don Cudahy, and Bob Hoard who represent civilian employees in the American Federation of Government Employees. Also Allan Kaplan, national vice president of the AFGE for this region, and John Crutcher, who is the highly motivated and effective coordinator of the Equal Opportunities Committee at ESO.

Beyond that, I mentioned the names of just a few who have helped accomplish savings from which the taxpayers have benefited, such as George Funk, Joe Gray, Dick Endeans, Jim Wright, Chris Popoff, Bill Bennett, Tom Evans, and Clare Alexander.

Mention also was made of the many community activities in which the ESO has participated. The relations between the ESO and the adjoining and nearby civilian communities have been excellent, from which both the civilian groups and the Navy have benefited.

Mr. Speaker, I concluded that there were many signs indicating that an enduring peace is closer to our grasp than at any previous time in our history. I know that we all hope and pray that this is true. Meanwhile, the U.S. Navy—including the essential support of the ESO—can contribute substantially to the realization of this goal.

Mr. Speaker, the military and civilians of the U.S. Navy Electronics Supply Office deserve our warm congratulations for their 25 years of service to the Nation.

I am sure that my colleagues in the House of Representatives join in communicating our best wishes for many more years of service, and for their significant role in continuing a strong and effective Navy.

PRAYER AMENDMENT REINFORCES RELIGIOUS FREEDOM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. RARICK. Mr. Speaker, the great fear sought to be generated by some religious leaders at the expression of "nondenominational prayer" simply does not seem to frighten off those American people who want their children to pray.

Most Americans in their deep religious convictions want prayer for their children in school. Even though the prayer is not of their own religious preference, the majority of people of all religious faiths would, I believe, prefer that their children pray a nondenominational prayer to a supreme being than not to pray at all.

After all, American people who want freedom to pray in school want their children to pray to God and not to some church hierarchy, or denomination.

The prayer amendment, House Joint Resolution 191, does not repeal the first amendment. It merely reinforces the first amendment.

The problem which some churchmen have allowed themselves to become exasperated over was not caused by the people, nor by the law, nor by this Congress, but rather by illegal and officious intermeddling of Federal judges in the field of religion for which they were neither qualified nor authorized by the Constitution they swore to uphold. Inasmuch as the Federal judges have read into the first amendment what was not there nor intended, then Congress has the duty of correcting the judicial infringement of religious freedom by strengthening the first amendment—

Congress shall make no law respecting an establishment of religion . . .

To tell the Federal judges that their antiprayer-in-school rulings are wrong, and that their decisions are not wanted by the people, this House Joint Resolution 191 very positively says:

Nothing contained in this Constitution shall abridge the right of persons . . . to participate in non-denominational prayer.

I think that the letter from Rabbi Schneerson, which I had extended with my remarks of October 29 on page 38398, most poignantly explains the value and need of prayer to the child in school. I include several paragraphs of

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only by the use of information which must be kept in confidence for legal or investigative reasons. This is not to deny that we, and I, have made mistakes. The judges and others sometimes have so advised us. We are only human.

One final thought. No remarks in our "defense" will still the voices of the critics, and these are not intended to do so. The critics have their rights of free speech under the First Amendment and I am sure they will continue to use those rights to the hilt. In at least many cases, we are denied an effective answer. As the Supreme Court has said so perceptively, ". . . it is the rare case where the denial overtakes the original charge. Denials, retractions, and corrections are not 'hot' news, and rarely receive the prominence of the original story." *Rosenbloom v. Metromedia*, 39 L Ed 2d 296, 313 (1971). I hope that in bringing charges against us, if such be the case, you will bear in mind this handicap under which we must labor and bring it to public attention. Elementary fairness seems to so require. Moreover, a public official such as myself cannot successfully sue for libel or slander, even when the charges made against him are totally false, unless he can prove that those charges were made with actual malice. This is extremely difficult to prove, as anyone familiar with the recent court decisions on libel and slander well knows. The result is that in so many cases of criticism my only recourse is that of taking some personal pleasure in knowing that the critics have abundantly proven, in the reams and volumes that they have published, that one of their principal charges—that I am beyond criticism—is totally false.

I suggest that if evidence like that which I have briefly described here is fully developed and exposed to public view, the ultimate "verdict" must be that the FBI is a lawfully composed and operated public agency, staffed by honest and reasonably intelligent citizens doing a difficult job in the best way they know how and, moreover, doing it quite as well as it could be done by anyone else. While it may be quite true that we deserve some criticism, I think we also deserve an "acquittal." I think any deep and fair inquiry will command this result, and I remain hopeful of its despite the obviously partisan statements made by some of your group in announcing that the inquiry would be held.

Very truly yours,

JOHN EDGAR HOOVER,
Director.

TWENTY-FIVE YEARS OF SERVICE BY THE NAVY ESO

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. McCLORY. Mr. Speaker, recently, on Friday, October 8, the U.S. Navy Electronics Supply Office celebrated its 25th anniversary. The occasion was marked by a public ceremony in which many prominent civilian and Navy personalities participated.

I was privileged to speak at the afternoon, open-air ceremonies and to attend the 25th anniversary ball in the evening at the Great Lakes Officers Club.

The commanding officer of the Electronics Supply Office, Capt. R. A. Jones, was assisted in the arrangements by Mr. R. M. Samuel who served as the 25th anniversary ceremony chairman.

Among those who participated actively in the celebration were: Rear Adm. Draper L. Kauffman, commandant, Ninth Naval District; Rear Adm. Kenneth R. Wheeler, commander, Naval Supply Systems Command; Rear Adm. H. H. Loeffler, president, Exeter Paper Co.; Rear Adm. D. H. Lyness, commanding officer, U.S. Naval Supply Center; Capt. W. L. Talbot, commanding officer, U.S. Naval Training Center; and two former commanding officers of the ESO, Capt. W. F. Harvey and Capt. J. H. Garrett, Jr.

The principal address given at the afternoon ceremonies was by Rear Adm. Draper L. Kauffman who presented dramatically the role of the U.S. Navy Electronics Supply Office. His remarks are presented at this point for reproduction as are the congratulatory messages from Adm. Charles K. Duncan, Adm. B. A. Clarey, and Adm. E. R. Zumwalt, Jr.:

REMARKS OF REAR ADM. DRAPER L. KAUFFMAN

I am happy to be here today to help you celebrate the 25th anniversary of the Navy Electronics Supply Office.

For a few minutes, however, I would like to invite your attention from Buckley Road in North Chicago to the oceans and the seas. Nine years ago this summer the Soviets conducted their major naval exercise of the year in the North Atlantic Ocean and the Norwegian Sea. The exercise was a limited operation designed to improve the ability of Russian naval forces to protect their homeland. Only 4 surface warships, 20 diesel submarines, and a small number of land based patrol planes were involved. In April of 1970, only 9 years later, the Soviets conducted another naval exercise, which they called, appropriately, "ocean". This exercise was global in scope. It involved the Baltic Sea, the Norwegian Sea, the Barents Sea, the Black Sea, the Philippine Sea and the Mediterranean Sea, the Sea of Japan, plus the Atlantic, Pacific and Indian Oceans. In terms of geographical scope, Operation Ocean was the largest exercise conducted by any nation in naval history. It included about 150 surface ships, 50 submarines—many of them nuclear powered—and several hundred planes.

Contrasted against this truly dramatic growth of Soviet sea power, budgetary limitations have forced a reduction in the size of the U.S. Navy. Between June of 1969 and June of 1971, the size of the fleet has been reduced by about 20%. Thanks to the quality of our technology, we have probably not yet lost the edge. To maintain that edge in the future, however, our Navy must continue to develop more effective hardware, better trained personnel, and an even more responsive supply system.

And now, we move from the oceans and the seas back to the electronics supply office. When I speak of navy hardware, one word blinks on and off like an neon sign: Electronics, one cannot over emphasize the importance of electronics in modern warfare. As Admiral Zumwalt recently said, "Electronic warfare of all types is receiving renewed attention. I am convinced that the key to naval warfare of the future lies in the utilization of electronics, both active and passive." Electronics is an abstract word, so what do we include within its meaning? We include sensing devices to detect enemy movement; navigation and search systems to get us to the right place and to find the right object at the right time; communications systems to provide us input for making decisions; command and control systems for coordinating and directing our forces; surface missile systems to extend the deterrent range of our ships. To catalog all the examples I could put under the word electronics, I would need another electronic device—a computer. ESO makes excellent use of computers in performing its primary mission of supporting the fleet with electronic repair parts. This is particularly important in maintaining critical weapons systems of our Sixth and Seventh Fleets, who operate constantly under the electronic shadows of Soviet ships, submarines, trawlers, and planes.

Today, then, against the background of growing Soviet seapower and the vital role of electronics in modern warfare, I believe it is appropriate to look at ESO from the viewpoint of the fleet—the ultimate recipient of the electronic repair parts. From the customer's viewpoint, what kind of job is ESO doing?

Rather than take an opinion survey of ships captains and supply officers, I decided to measure ESO's performance against two indicators: Initial support and operational support.

Our fleet of Polaris submarines is one of our most important assets in maintaining world peace. ESO's performance in initial support of Polaris submarines with electronic repair parts has been truly outstanding. From March of 1968 through May of 1970, 14 Polaris submarines were deployed with 100% of the electronic repair parts aboard. Since then, the Navy has begun replacing the Polaris missiles with Poseidon missiles. Despite the logistics problems inherent in changing from one missile system to another, ESO's performance in supporting the Poseidon program has also been outstanding. Submarines with Poseidon missiles installed are being deployed with 99% of the electronic repair parts aboard. Knowing Captain Jones and his desire for perfection, I expect that figure will soon reach 100%.

In the area of initial support for new ships and ships undergoing overhaul, ESO has an enviable record. These ships are being deployed with 95% of the electronic repair parts aboard. Here, too, I'm sure ESO is seeking improvements.

The second indicator of performance is operational support. How good a job is ESO doing in having the right part in the right place at the right time? Consider the following figures: when equipments break down aboard ship and electronic repair parts are needed, 80% of these parts are available within minutes from the ships storeroom; 14% of the required parts are available from the point of entry stock point within 10 days; 5% of the parts are available from another stock point within a few more days. Only one per cent of the time does the requirement have to be filled by ESO placing an order with industry for direct shipment to the end user. This is the kind of support that enables the fleet to maintain combat readiness.

When combat readiness is impaired by a failed item, however, and a casualty report is transmitted, ESO computers respond within minutes to search system assets for the needed item. If the item is available in stock—and it usually is—the shipment is on its way to the customer within hours. If the item is not available in stock, a computer program monitors progress on the needed part until all actions have been completed.

I might add that the material effectiveness of the two primary stock points that support the polaris submarines is close to 90% and the supply availability of the ESO stock points in filling demands of all ESO managed items is about 85%. While it is not cost-effective to stock all electronic repair parts that might fail, ESO is striving to achieve a finer balance between dollars invested and optimum electronics support to the fleet.

Viewed from the fleet, then, ESO is doing a superb job in initial support and operational support.

Finally, I would like to thank everyone who had a part in building ESO into this fine organization. To the former commanding officers of ESO, to the former employees of ESO, to Admiral Wheeler, to Captain Jones, and to the current employees of ESO—I thank you and I salute you.

Now, I have been given the pleasure of reading to you the inspiring letters from three truly great naval officers:

1. From Commander in Chief Atlantic, and Commander in Chief, U.S. Atlantic fleet dated 22 September 1971—Dear Captain Jones, on the occasion of the twenty-fifth anniversary of the Navy electronics supply office, it gives me great pleasure to extend my congratulations and best wishes to you and the dedicated people of ESO for the continuing contribution made to the readiness posture of the Atlantic Fleet.

As the number and complexity of electronics equipments and weapons systems within our Navy continue to increase, the task of supporting these systems becomes more and more challenging. I am confident that ESO will meet this challenge with the same dedication and vigor as admirably displayed during the past twenty-five years.

Again, congratulations.

Sincerely,

CHARLES K. DUNCAN,
Admiral, U.S. Navy.

2. From Commander in Chief, United States Pacific Fleet, dated 15 September 1971—Dear Captain Jones, as Commander in Chief, U.S. Pacific Fleet, I take great pleasure in extending my warmest congratulations to you on the silver anniversary of the Navy Electronics Supply Office (ESO).

During the past quarter century, ESO, exercising resourcefulness and perseverance, has provided essential support to our Nation's primary weapons systems, thereby making an outstanding contribution towards the national defense.

Born during an area of electronic development, ESO has evolved from a humble beginning in the early years of World War II to a mature, dynamic organization staffed by personnel of the highest degree of professional competence. Through hard and diligent work of all at ESO, the Navy's major electronics systems which are the sensing and defense systems of modern ships and aircraft have been kept in the highest degree of material readiness.

ESO has contributed much to the strength of our Navy through professional excellence and over the years, has done a great deal to promote the Navy's image through extensive involvement in community affairs in the Chicago-Great Lakes area.

As the Navy's inventory manager for electronics repair parts, the importance of your mission cannot be overemphasized. Using the most modern management techniques, you have met the challenges of the past three decades in an exemplary manner and, now, during a period of dynamic change, must stand ready to once more apply your managerial expertise to supporting our leaner and more efficient Navy.

It is my sincere desire that this celebration of ESO's silver anniversary will give impetus to even greater accomplishments during the years ahead.

Sincerely,

B. A. CLAREY,
Admiral, U.S. Navy.

3. From Chief of Naval Operations dated 23 September 1971—

DEAR CAPTAIN JONES: To the officer, enlisted, and civilian team at Navy Electronics Supply Office, I wish to extend hearty congratulations on the occasion of your silver anniversary. For plank-owner and newcomer it is a proud moment to reflect on the activity's many significant accomplishments in a quarter century of "service to the fleet."

From 1946, managing bits and pieces of early radar, to the present life cycle support of major sensing and defense systems, the electronics supply office has played a vital role in naval operational readiness in both peace and war.

This memorable occasion is a tribute to the dedication and professionalism of all those who have served at ESO over the years. My best wishes for continued success.

Sincerely,

E. R. ZUMWALT, JR.
Admiral, U.S. Navy.

Mr. Speaker, in paraphrasing my own words expressed on that occasion, I recalled that the impact of the ESO on Illinois can be measured in substantial economic benefits, including more than $178 million in salaries and benefits to personnel during the past 25 years, plus almost $300 million for various electronic parts supplied by Illinois electronic manufacturers and vendors—about 15 percent of the total dollars awarded in the Nation.

Mr. Speaker, contracts for the ESO have been let to various minority business enterprises, including the first Navy contract to a minority group-owned company, when on July 12, 1969, the ESO awarded a $128,000 contract to Sonicraft, Inc. Total ESO contracts to minority group companies now total about $337,000—I am told.

But the principal impact which ESO has had upon me in my experience with it in recent years has been the dedication of the people who make up ESO, from the commanding officers to the most unskilled employees. The record of savings which have been effected through improvements developed by military and civilian personnel at the ESO are estimated to total more than $54 million. These items for improved operations have included development of a new computer program to load data regarding transferred items into the master data bank, and development of a new technique to test and restore expensive traveling wave tubes and an improved procurement action which is estimated to have saved the fabulous sum of $10 million. These are savings which have been accomplished through the initiative and resourcefulness of individuals at ESO, and which are examples of the dedication of all who make up this organization.

Mr. Speaker, I took occasion also to mention my individual contacts with Dan Oliver, Don Cudahy, and Bob Hoard who represent civilian employees in the American Federation of Government Employees. Also Allan Kaplan, national vice president of the AFGE for this region, and John Crutcher, who is the highly motivated and effective coordinator of the Equal Opportunities Committee at ESO.

Beyond that, I mentioned the names of just a few who have helped accomplish savings from which the taxpayers have benefited, such as George Funk, Joe Gray, Dick Endeans, Jim Wright, Chris Popoff, Bill Bennett, Tom Evans, and Clare Alexander.

Mention also was made of the many community activities in which the ESO has participated. The relations between the ESO and the adjoining and nearby civilian communities have been excellent, from which both the civilian groups and the Navy have benefited.

Mr. Speaker, I concluded that there were many signs indicating that an enduring peace is closer to our grasp than at any previous time in our history. I know that we all hope and pray that this is true. Meanwhile, the U.S. Navy—including the essential support of the ESO—can contribute substantially to the realization of this goal.

Mr. Speaker, the military and civilians of the U.S. Navy Electronics Supply Office deserve our warm congratulations for their 25 years of service to the Nation.

I am sure that my colleagues in the House of Representatives join in communicating our best wishes for many more years of service, and for their significant role in continuing a strong and effective Navy.

PRAYER AMENDMENT REINFORCES RELIGIOUS FREEDOM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. RARICK. Mr. Speaker, the great fear sought to be generated by some religious leaders at the expression of "nondenominational prayer" simply does not seem to frighten off those American people who want their children to pray.

Most Americans in their deep religious convictions want prayer for their children in school. Even though the prayer is not of their own religious preference, the majority of people of all religious faiths would, I believe, prefer that their children pray a nondenominational prayer to a supreme being than not to pray at all.

After all, American people who want freedom to pray in school want their children to pray to God and not to some church hierarchy, or denomination.

The prayer amendment, House Joint Resolution 191, does not repeal the first amendment. It merely reinforces the first amendment.

The problem which some churchmen have allowed themselves to become exasperated over was not caused by the people, nor by the law, nor by this Congress, but rather by illegal and officious intermeddling of Federal judges in the field of religion for which they were neither qualified nor authorized by the Constitution they swore to uphold. Inasmuch as the Federal judges have read into the first amendment what was not there nor intended, then Congress has the duty of correcting the judicial infringement of religious freedom by strengthening the first amendment—

Congress shall make no law respecting an establishment of religion . . .

To tell the Federal judges that their antiprayer-in-school rulings are wrong, and that their decisions are not wanted by the people, this House Joint Resolution 191 very positively says:

Nothing contained in this Constitution shall abridge the right of persons . . . to participate in non-denominational prayer.

I think that the letter from Rabbi Schneerson, which I had extended with my remarks of October 29 on page 38398, most poignantly explains the value and need of prayer to the child in school. I include several paragraphs of

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Rabbi Schneerson's letter following my remarks:

1. It has been argued that the child attending public school is in the category of a "captive", since his refusal to participate in a prayer would "stigmatize" him. His participation would therefore be involuntary and an encroachment on his freedom.

In my opinion, the notion of "captivity" as applied in this case should lead to a conclusion which is quite the reverse, for the following reasons:

The child attending public school knows that his attendance is compulsory, because his parents and the government consider his education of the utmost importance. Together with this comes the recognition that what is really important and essential to his education is taken care of in the school. The child's instinctive feeling and inference from this is that anything that is not included in the school curriculum is of secondary importance if, indeed, of any importance at all. Hence, if religion (prayer) is excluded from the school, the child would inevitably regard it in the same category as an extra foreign language, or dancing, or music lessons, which are not required by the school but are left to the parents' free choice, and which the child, not illogically, considers a burden or even a nuisance. In other words, the present system of the public school education is such that it *impresses* upon the pupil the belief that everything connected with religion, such as knowledge of God's existence, etc., is of little consequence, or of no importance whatever.

It will neither interest nor impress the child if he were told that the exclusion of prayer from the school is due to the principle of the separation of State and Church, or to a constitutional technicality. The reasons or explanations, even if they be actually conveyed to the child from time to time will not nearly impress him as much as the plain fact itself, which reasserts itself *each and every day*, that nothing can be very important to his education if it is not included in the school program. Such a situation can only reinforce the child's attitude of indifference, or even disdain, to any religious beliefs.

The above would be true even in the case of a child who comes from a religious home and background. How much more so in the case of children whose parents and homes are not permeated with the religious spirit, or where religion is something which is practiced once a week, on the day of rest, or only on holidays and special occasions. This, after all, is the kind of home from which the vast majority of the public school children come, inasmuch as the truly religious parents make every sacrifice in order to provide their children with the religious education and environment of a parochial school.

IRAN

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. SIKES. Mr. Speaker, the sound and strong progress made by America's good friend Iran under the progressive leadership of the Shah is one of the most impressive stories of modern times. I am happy to note an interesting and well-written article which appeared in the Christian Science Monitor on Friday, October 15, about Iran. It is entitled "Prosperity, Vitality Mark Iran's 2,500th Year." I am pleased to submit it for reprinting in the RECORD:

PROSPERITY, VITALITY MARK IRAN'S 2,500TH YEAR

(By John K. Cooley)

TEHRAN, IRAN.—"A splendid work was ordered, very splendid did it turn out," Emperor Darius the Great of Persia inscribed on a tablet just a little less than 25 centuries ago.

If he could return this month for Iran's 2,500th birthday celebrations at Persepolis, Darius's pride in this strong, vital, and prosperous nation would be more than matched by his astonishment.

With about half this year's record oil revenues of over $1 billion spent before the occasion on new highways, space age telecommunications, and other intrastructure projects that go far beyond embellishment, Iran's Shah Mohammed Reza Pahlavi too has reason for satisfaction.

His country has become an Asian power, commanding respect and admiration from its neighbors and the world's big powers alike. Even more satisfying to him personally seems to be the success of his "White Revolution," a revolution from above, which his foes and many friends told him, when he began it in 1962, would never work.

"If there is to be a revolution in this country," the Shah who has ruled since 1941 once said, "I will be the one to lead it."

During the past decade the Shah has been as good as his word. Above all, he has successfully abolished the centuries-old, degrading relationship between landlord and peasant. Three and a half million farmers now own their own land. Nobody works as a serf.

NOW THEY READ

"Of course, my life is better," a peasant in a village near Shiraz tells you, astonished that even a foreigner should ask such a naive question. "Ten years ago, I could neither read nor write, nor could my wife. Our children were not in school and they worked here on the land with us—another man's land. I got one-fifth of the fruit of it each year, if I was lucky. Sometimes there wasn't much fruit.

"Now our farm belongs to us. We have machines for the work. All my children have gone to school. My eldest daughter has married an engineer in the city.

"My wife and I vote for our village council. We can write and read because a young man from the Education Corps (the national service group of young men drafted for military duty who are assigned to adult education) taught us to." Independent observers believe literacy in Iran's cities is now above 65 percent and that in rural zones above 30 percent—more than three times what they were a decade ago.

The Shah's land-reform program, which he had to pursue over the determined and sometimes violent opposition of big landowners, led into the other 11 points of the "White Revolution."

FORESTS ACQUIRED

First came public ownership of Iran's forests; then sale of inefficiently operated, state-owned industries to private corporations and industries (and ex-landowners) to raise funds for development; incentives to labor and profit sharing of up to 20 percent for workers in Iran's burgeoning industries.

In an interview here the Shah took a leaf from the Marxists' books. "The exploitation of people by people," he said, "simply cannot be in our country. . . . With the participation of the worker in the net benefits, there is no more a question of exploitation, because he will also have something at stake. At the same time, in a free society, you have to give a little credit for the man who brings you the capital and the know-how."

The Shah's other points, also all realized or still in the course of realization: equal voting rights for women; formation of the Education Corps and a public health corps; village Courts of Equity where the farmer or townsman gets a fair hearing in minor grievances or disputes; nationalization of Iran's resources, precious in a country that is about 80 percent desert; physical reconstruction in cities and countryside and complete administrative reforms.

FREEDOMS STRESSED

To his Iranian opponents, mainly among the approximately 30,000 Iranian students abroad, who tax him for absolutism and tight control through SAVAK, his secret-police organization, the Shah would reply that there is freedom of choice, from elections in village councils and farm cooperatives on up to the Parliament or Majlis—and that the spread of education means this freedom will be exercised.

"I do not support the Shah; I support his ideology," said a young former Tudeh (Communist) Party member. Thousands of other Iranian intellectuals have agreed, and Prime Minister Amir Abbas Hoveida's government has been successful in persuading them to return from jobs abroad to bring home their needed skills.

"I think the brain drain in reverse has started . . ." the Shah told me. "Our own people are coming back and some people from other Asian countries are already coming to our country to work because of the opportunities here." Iranians make one of the many comparisons with East Asia's most highly developed country, Japan.

The road up for ambitious Iranians appears to be the path of technocracy. Prime Minister Hoveida himself made his career in the National Iranian Oil Company, which, two decades after Iran's nationalization of its oil resources, now is accustomed to dealing with the problems which arise from success, not from failure.

ECONOMY MINISTER RECRUITED

Mr. Hoveida personally recruited for the government the Economy Minister Muzeghar Hussein Ansary. He persuaded Mr. Ansary, engaged in a million-dollar business in Japan, to take several ambassadorial and now governmental posts that have led him to the top.

The philosophy activating Iran's unique mix of humane socialism and state capitalism seems to be, "think big and spend big." The new price agreement with the Western oil companies reached here last winter, and big new oil and natural gas sales to Japan, the Soviet Union, and India may soon give Iran nearly half again as much revenue. But independent economists here believe expenditures will exceed public savings by as much as $1.4 billion this year.

About $800 million of this will be covered by foreign loans and the rest by domestic borrowing. Last month Prime Minister Hoveida announced a "more guns and more butter" budget (The "guns" category being mainly at least two additional squadrons of U.S.-made Phantom F-4 fighter-bombers, bring the total to around 140, and the new naval ships). Parliament, controlled by his ruling Iran Novim Party, which was successful after a rather apathetic election campaign last summer, promptly endorsed it.

TIGHT MONEY CONTINUED

This heavy spending on defense and development means continued tight-money policies. "In reality," explains a Western economist here, "Iran has two separate economies: oil and services. Agriculture, where about 85 percent of the population works, generates only about 15 percent of the gross national product." This, by conservative estimates, is now growing at about 12 percent a year.

Therefore, after a decade of intensive industrialization, reflected both in big and spectacular projects such as the steel mill the Soviet Union is helping to build at Isfahan in exchange for huge Iranian shipments of natural gas to the U.S.S.R., and the assembly plants for automobiles, trucks, and farm machinery, there will be new stress on agriculture.

Some critics of Iran's boom feel that dangers lie ahead. First, there is the heavy dependence on foreign borrowing, despite the great increases in oil revenues. Second, they say, authority for making decisions about agriculture appears badly diffused.

Education of the new peasant landowners in profitable use of their new land is not going ahead fast enough to keep them on it. Tehran, Tabris, Isfahan, Bandar Abbas, and many other Iranian cities have a growing urban subproletariat and unemployed fringes. Ex-peasants and detribalized former shepherds or nomads who come to seek the good life often find only a dismal slum existence.

CONTRAST EMERGES

In Tehran, the problem is stark and visible in the crowded southern quarters of the city south of Sepah Square, where the new telecommunications building roughly divides the Tehran of the successful "new" people from that of the poor.

Even here, the Shah's secular modernism has largely won out against the more reactionary men and doctrines of Shi'a Islam, Iran's state religion. But from the vast majority of Shi'a Muslims to the perhaps half a million of the minorities—Jews, Christians, and the Zorastrians, who in their fire temples still practice the state religion of ancient, pre-Islamic Iran—religion is still important. Especially among the poor and the lower middle class, if not among the growingly affluent middle class and the elite.

Though the main Shi'a religious shrines are across the border in Iraq, the one Arab country with which Iran, through a water boundary dispute and mutual political suspicion, is on bad terms, a kind of secondary spirtual and intellectual center lies outside the six main university cities of Tehran, Isfahan, Shiraz, Meshed, Ahwaz, and Tabriz, though none of these in their pursuit of modern disciplines neglect Iran's artistic or religious culture.

REFINEMENTS OF PAST

That center is the city of Qum, south of Tehran, on the edge of one of the two great deserts and about halfway between the two main mountain ranges of Alborz and Zagros. In Qum a religious college trains Shi'a scholars and village mulahs, religious teachers. Modern-minded Iranians sometimes joke about the dour conservatism of its alumni, who frown on things like miniskirts.

Despite impatience to enter the jet age, the past's refinements surround you in Iran, as the approximately 60 foreign heads of state and their representatives and other guests are discovering at the Persepolis festivities Oct. 11-17.

The Western word "paradise" came from the name of the ancient, walled-in hunting preserve of the Achemenid emperors. The southern kingdom of Phars, which extended outward from Persepolis and Pasargadae, Cyrus's first capital, gave us "Persia" and the name of the main language of Iran, Farsi (Turkish, Turcoman, Kurdish, and Arabic are a few of the others used by fewer than one-third of the 30 million Iranians).

Iran, in Farsi, means the land of the Aryans, the proto-people who apparently moved down from central Asia and became a civilizing force. "Shahanshah, Aryamehr," the official title of the Shah, means "King of Kings, Light of the Aryans."

TITLES BESTOWED

To a foreigner, this may sound grandiose and presumptive. Many Iranians, including sophisticated ones, think that the Shah has earned it through his career of unrelenting work for his country. With their love of titles, they called his father, who rose from a simple private soldier in a Russian Cossack regiment in an Iran practically partitioned between British and Russian spheres of influence, Reza Shah the Great.

When Britain and Russia both invaded Iran in 1941 in order to win the war against Nazi Germany, Reza Shah abdicated and turned the kingdom over to his son, Mohammed Reza, who has built it into the strong and independent nation it is.

Harvard University historian and Iranologist Richard N. Frye wrote, after the Shah's coronation with his beautiful Empress Farah at Persepolis in 1967:

"The strength, economic progress and independence of Iran may serve as a beacon to her neighbors, but unless the country can assume an intellectual and ever spiritual leadership by breaking its past isolation and sense of uniqueness, no one will listen."

The Persepolis commemoration symbolizes an effort to do just this.

The world is listening, and watching.

GROSS IMMORALITY

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. LATTA. Mr. Speaker, the November 8, 1971, issue of Newsweek magazine carries an article by Stewart Alsop concerning the most recent Cooper-Church amendment which I believe is worth reading.

It is as follows:

GROSS IMMORALITY

(By Stewart Alsop)

WASHINGTON.—What in hell has happened to this country's sense of simple fairness? More specifically, what in hell has happened to the Democratic Party's sense of national responsibility?

These anguished questions must now be asked, as a result of the Senate vote on the foreign-aid bill, and above all the Cooper-Church amendment to that bill. The amendment failed by one vote. It required an end to all logistic support for South Vietnam. If it had become law, it would, of course, have ensured the occupation of South Vietman by the North Vietnamese Army and the installation of a Communist regime in Saigon.

Those favoring the amendment included every single Northern Democrat except Henry Jackson. Yet by the standards of this country's past, a vote for the amendment can only be described as an act of gross immorality.

Here a personal word seems called for. Some months ago, The New York Times described me as a "dedicated supporter of the Indochina war," and others seem to have that impression. The fact is that I was—and in writing—highly dubious about the American commitment in Vietnam long before Sen. William Fulbright was leading the fight for the Tonkin Gulf resolution.

CHECKING BACK

Way back in February 1964, for example, I wrote in The Saturday Evening Post, "Direct intervention in South Vietnam, this time without U.N. support, could mean a war as long, as unwinnable, and as internally divisive as the Korean War—perhaps more so." Two themes, I find on checking back, are tediously repeated—that it is an "American delusion" to "suppose that air power can be substituted for . . . infantry" (June 1964); and that it is also a delusion that regular U.S. troops can deal effectively with an essentially political war in an alien culture.

In early 1966, after the commitment of U.S. combat troops, I wrote that our intervention was based on a "great miscalculation," and in 1967 I wrote from Vietnam that "The American combat troops . . . in the populated areas are like blind giants, stumbling among pygmies, stepping on some and killing them, being pinched and pricked and bitten by others." Therefore it would be a "tragic error" to commit American troops to the pacification mission.

In September 1969, in a column proposing rapid withdrawal of ground troops from Vietnam, I wrote that "the war . . . is poisoning the body politic of the United States; . . . it is better to risk military disaster in Vietnam than political disaster in the United States." This theme has also been tediously repeated in this space.

All this is not to suggest that I have always been right about Vietnam—I have often been wrong. It is to suggest that I am not a "dedicated supporter" of the war, with a deep emotional commitment to our involvement there. And this seems a necessary prelude to what is after all a most serious charge—that those who voted for the Cooper-Church amendment, who include several men I deeply respect, thereby committed a grossly immoral act.

LAVISH SUPPORT

Consider certain undisputed facts. First, the North Vietnamese have been, and are still being, lavishly supported logistically and economically by the Soviet Union and China. Their support has been estimated on the order of $2 billion to $3 billion a year, but such dollar estimates mean little. What means a lot is that the North Vietnamese Army has been equipped with very fine weapons, including tanks, anti-aircraft guns, and infantry weapons better than we have been able to supply to the South Vietnamese.

Second, there were over 100,000 North Vietnamese regular troops in Laos and Cambodia before so much as an American or South Vietnamese platoon crossed the border into either country. And this Communist invasion of Laos and Cambodia was in support of a larger invasion of South Vietnam.

Third, the U.S. Army, inevitably, remade the South Vietnamese Army in its own cumbersome image. The South Vietnamese are now as dependent on logistic and economic support from this country as a baby on its mother.

Fourth, the U.S. Army in Vietnam has already for all practical purposes ceased to be a fighting army. And yet, as our Army has withdrawn, the security situation in South Vietnam has steadily improved, as almost everyone who has had a first-hand look agrees. The reason is obvious—the South Vietnamese, as John Kennedy once remarked have to fight their own war if they are to survive, and that is just what they are at last doing.

The President proposes rapidly to reduce the American commitment to between 30,000 and 50,000 support troops—the figure should be much closer to 30,000, if the generals can be badgered into cutting back the vastly extravagant U.S. staff and personnel system. The men remaining in Vietnam will continue for a time to give the South Vietnamese a minimum of air and helicopter support, on which we have also made them dangerously dependent. These men will all be professionals and volunteers—and what, after all, are professional soldiers for, if not to take some risks in the national interest?

The Northern Democrats, and the eleven Republicans, who voted for the Cooper-Church amendment, voted quite simply, to cut the South Vietnamese off at the knees. The chief excuse for so doing is that the South Vietnamese have failed to produce a model democracy, and thus the South Vietnamese people lack a "choice."

XUM

SILLY CHARADE

The attempt to produce an American-model democracy in wartime Vietnam was a silly charade from the beginning, put on for purely U.S. domestic political purposes. In fact, the South Vietnamese do have a choice. Just about every able-bodied man in the country is now armed, and if they want to choose the Communists, all they have to do is turn their guns the other way.

For this country to remove the choice, forcing the South Vietnamese to surrender by cutting off all logistic support, would be a signal to the whole world, and especially to Moscow and Peking. The President has repeatedly told his Congressional leaders that the Communists' interest in serious negotiations "ebbs and flows." It ebbs *fast* when the new isolationists seem to be winning control of Congress.

But that is not all. To force those who have fought on our side to surrender would be a terrible betrayal, an act of gross immorality. It is hard to believe that men of the stature of Edmund Muskie and Edward Kennedy and Hubert Humphrey and Walter Mondale could vote for such an act, however politically expedient such a vote may be.

HUNGARY'S FIGHT FOR FREEDOM

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. HUNT. Mr. Speaker, on November 4, 1956, the hordes of the Soviet Red army launched a new treacherous attack against the Hungarian people and its democratic government freely established during the days of independence. During the ensuing unequal struggle, the fate of the Hungarian freedom fighters, and that of the Hungarian people, was sealed in spite of the fact they fought like heroes who earned the veneration and respect of all mankind.

And so it was that still another page in the bloody history of Communist savagery and aggression was turned while the free world looked on in sympathy, but helpless. The real heroes are, indeed, those who have given their very lives for their fellow man in the unshaken belief that freedom cannot survive by the mere paying of lipservice or the demagoguery that is spawned in a society lured into a complacency that it is invulnerable to invasion by alien powers.

Although perhaps of some inspiration to the people who have escaped the chains of Communist suppression that still bind their countrymen, I feel it is vitally important to instill in our own people that these repetitious commemorations of the demise of once free nations are painfully realistic examples of the fate that awaits those who take their freedoms for granted and abuse them with impunity.

Of the Hungarian Revolution, Archibald MacLeish, writing for Life magazine, declares:

We do not speak of a Hungarian Revolution. We speak of the Hungarian agony.

His thought-provoking observations follow, as reprinted in the Faklyalang Hungarian Torchlight:

We do not speak of a Hungarian Revolution. We speak of the Hungarian agony. From the moment when the Communist regime in Budapest fired upon an unarmed crowd and turned its quarrel with the Hungarian people from a political quarrel which it could not win into an armed revolt which, with Soviet aid, it could not lose, the suppression of the Hungarian resistance was inevitable. The world seemed to feel that it had no choice, short of atomic war, but to sit back and watch, in horror and disgust, the brutal, methodical destruction of an angry people by overwhelming force and conscienceless treachery.

It is understandable, certainly, that we in the United States should feel ashamed by our inability to act in this nightmare. Nevertheless, we should not forget, in all the suffering and pain, that we owe the people of Hungary more than our pity. We owe them also pride and praise. For their defeat has itself been a triumph. Those Hungarian students and workers and women and fighting children have done more to close the future to Communism than armies or diplomats had done before them. They have given more and done more. For what they have done has been to expose the brutal hypocrisy of Communism for all of Asia, all of Africa, all the world to see. So long as men live in any country who remember the murder of Hungary, Soviet Russia will never again be able to pose before the world as the benefactor of mankind. The Hungarian dead have torn the mask off. Their fingers hold its tatters in their graves.

Mr. Speaker, unfortunate as it is, these words are not immortal and, I feel, they should be repeated frequently lest we forget the nature of our adversaries: complacency, apathy, communism.

FARM CREDIT ACT OF 1971

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. MIZELL. Mr. Speaker, I rise at this time to express my support for H.R. 11232, the Farm Credit Act of 1971. It is an indication of the very widespread approval this bill has found that the Committee on Agriculture reported it to the floor on a vote of 28 to 0.

The provisions of this bill are far-reaching; they are fair; and they are based on needs that we on the committee have investigated during weeks of hearings on this subject.

The main provisions are these:

The statutory authority of the farm credit system are completely rewritten, modernized, and streamlined.

Federal land banks and production credit associations are authorized to make nonfarm housing loans in rural areas.

The present limitation on land bank loans is raised from 65 percent to 85 percent of the appraised value of farms or ranches.

First-lien security requirements on Federal land bank loans, provided for in the present law, are retained.

A system of joint security is authorized, making each of the three branches of the farm credit system—the land banks, the intermediate credit banks, and banks for cooperatives—obligated for the liabilities of the others, provided the directors of the farm credit banks and the central bank for cooperatives approve.

The farmer voting median percentage requirement for cooperatives to be eligible to borrow from banks for cooperatives is reduced from 90 percent to 80 percent.

New authority for financial related services available to borrowers is limited to services necessary for on-farm operations.

Authority for land bank and production credit association loans, other than for housing, to persons other than farmers is limited to the furnishing of services directly related to on-farm operating needs.

Country banks are protected by a provision assuring that obligations issued by the farm credit system will be subject to the same limitations in regard to rate, amount, and maturity as those imposed on its member banks by the Federal Reserve Board.

Improvements are made with regard to the internal administration of the system.

These major points reveal the sweeping nature of this legislation and reflect the extremely involved subject matter the committee has been investigating for the last several weeks.

I believe this bill is essentially good and fair legislation, with input being drawn from many quarters and with the committee having worked very hard to digest the information and present its legislative recommendations.

I urge my colleagues to vote with me for passage of this legislation. It is in the best interest of the farmer, of rural America, and by extension, of the Nation at large.

THE UNITED NATIONS VOTE

HON. BEN B. BLACKBURN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. BLACKBURN. Mr. Speaker, one of the most disturbing events in recent weeks was the decisive vote to expel from the United Nations' membership the Government of Nationalist China and to substitute the Government of Communist China.

The vote was disturbing to me, because the United States had requested, in an effort to protect the membership of Nationalist China, that the expulsion of a regular member should be considered a serious question which would require a two-thirds vote to be effective. The General Assembly of the United Nations rejected the request. Thus, membership in that international organization and expulsion from membership has now become a matter subject to the whim of a simple majority of the member nations.

There is another disturbing aspect of this incident which I find both frustrating and irritating. To me, the request that both Communist China and Nationalist China be recognized as members was not an unreasonable request. When we consider that this country contributes in excess of 30 percent of the costs of

operating the United Nations and its many subagencies, while other nations in the General Assembly whose financial contribution is miniscule in comparison have the same vote, the realization that many member nations have a population less than an average congressional district in the United States, a sense of injustice is unavoidable.

The fact that the Soviet Union participated in the voting and the debate, while in arrears on her contribution in excess of $87 million, only heightens my feeling that an injustice has been done.

The spectacle of delegates to the United Nations whose countries have, over the years, enjoyed considerable financial support from this country displaying undisguised glee at the defeat of the United States by dancing about the Assembly Hall after their vote only serves to rub salt into an already raw wound.

Someone has suggested that perhaps Albania, which was obviously in the driver's seat on the Red China debate, should also buy the gasoline if the United Nations is to drive roughshod over other nations.

The repercussions from the action of the United Nations General Assembly could have seriously weakening results on that world body's operations.

I do not think the United States should withdraw from the United Nations. I do think, however, a reassessment of our role and our support to that organization will undoubtedly occur.

A critical examination of the degree of good will created abroad through our foreign assistance programs is likewise in order—of the 59 United Nations members which voted to expel Nationalist China, all but eight have received U.S. foreign aid totaling $47.6 billion. The results of the vote prove conclusively that we are not buying any friends, and the imposition of wage and price controls likewise proves we can spend ourselves into economic disaster.

It appears that we have come to the point in our Nation's history when an "agonizing reappraisal" of the U.S. role in the world today, the effectiveness of our past and present international policies and the future policies which we should pursue is the need of the hour.

NEW YORK STATE CONCERNED OVER METHADONE RECLASSIFICATION

HON. JAMES F. HASTINGS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. HASTINGS. Mr. Speaker, FDA spokesmen have indicated that methadone would gain new-drug approval within the next month. This announcement has come in the wake of considerable apprehension expressed by myself, several of my distinguished colleagues in the House, and other governmental and private organizations throughout the United States.

It is evident that methadone does have definite therapeutic benefits in the treatment of hard-core narcotics addicts. However, diversion of the drug under current experimental protocols has caused several problems: black market sales, addiction of those on the street not enrolled in maintenance programs, creation of hard-core addicts resulting from faulty or incomplete screening at clinics, accidental child poisoning, and death from overdose.

Obviously, FDA hopes that NDA status will improve the control of distribution and utilization of methadone. However, approval of an inadequately regulated and enforceable NDA could be wrought with the same shortcomings that plague the existing protocols. Also, without additional statutory authority, FDA may find that their power to enforce the NDA is limited. It is essential that legislative action on the regulation of methadone precede or at least be simultaneous with the approval of the NDA.

Recently the New York State Public Health Council, a policymaking body, sent a telegram expressing their concern over the reclassification of methadone to Dr. Charles C. Edwards, FDA Commissioner, and the President. The comments of New York State on this issue are especially pertinent because New York has been a leader in the development and use of methadone maintenance.

[Telegram]

Dr. CHARLES C. EDWARDS,
Commissioner, Food & Drug Administration, Department of Health, Education, and Welfare, Rockville, Md.

New York State Public Health Council at its monthly meeting today expressed its serious concern over rumored removal of present status of methadone. This would result in lack of control that would be impossible for any one State to regulate and would jeopardize present successful programs.

NORMAN MOORE, M.D.,
Chairman, Public Health Council.

RESOLUTION ON ALASKA LAND DISTRIBUTION

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. BEGICH. Mr. Speaker, land distribution in Alaska is a very important part of Alaska's history culture. Questions have been raised concerning the distribution of land in villages that were set up by Presidential order. The Bureau of Land Management was given the responsibility of distributing the land in these villages. A serious question has risen as to the role of the governing bodies of the villages.

The southeastern Alaska community action program and the rural community action program feel that the village government should play a more active role in determining the distribution of the land in the village. What they are asking is that the BLM seek the village's advice and then get the village consent before distributing any land.

Because I believe this to be an important issue, I am inserting a resolution that was passed by southeast action community action program and rural community action program board of trustees and sent to me.

RESOLUTION No. 15

Whereas the villages of Southeastern Alaska were established by Presidential Order; and

Whereas the Bureau of Land Management is charged with the responsibility of the disposition of lands within the townsite and the proposed townsite; and

Whereas Bureau of Land Management currently appears to be pursuing a policy of arbitrary disposition of lands within those townsites without any prior consultation or consultation or consent of the villages involved; and

Whereas the establishment of the townsites and proposed townsite were made specifically for the purpose of assuring to the Native peoples land for their use;

Now therefore be it resolved, by the Board of Directors of Southeast Alaska Community Action Program (SEACAP) that it strongly protest the manner in which the Bureau of Land Management has disposed of lands within village townsites to non-Natives without the consent of the governing bodies of the villages and that it strongly urges the Bureau of Land Management to cease the distribution of any further lands to non-Natives without first obtaining the advice and consent to the villages governing bodies.

Be it further resolved, that copies of this resolution be transmitted to our Congressional Representatives in the Senate and House.

THE CANNIKIN TEST

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. HARRINGTON. Mr. Speaker, this week the Cannikin nuclear explosion will occur on Amchitka Island in the Aleutian Island chain despite the protestations of environmentalists across the country. President Nixon, in approving the blast last week, has ignored the warnings of ecology-minded citizens and individuals. The dangers to fish and wildlife on Amchitka Island and in the surrounding waters have been well defined by groups such as the Friends of the Earth and the Sierra Club, yet these imminent dangers have been dismissed by the Atomic Energy Commission.

The justification offered by the Atomic Energy Commission for the Cannikin test, is, at best, questionable. To state that the explosion of a 5-megaton warhead is necessary to convince the Soviet Union of the desirability of serious negotiations with the United States at the SALT talks seems to be contradictory to the very purpose of the SALT talks themselves. While both the Soviet Union and the United States have expressed interest in reaching an agreement banning all underground nuclear blasts, neither country seems to be committed to the actual implementation of such a ban. Certainly the Cannikin test this week and the future underground tests planned in Nevada call into question the sincerity of the United States desire to stop all nuclear testing.

XUM

I have joined with several other Members of Congress in a lawsuit against the Environmental Protection Agency to try to prevent the Amchitka test. I was certainly disheartened when this suit was not litigated by the U.S. District Court for the District of Columbia. I do not consider the senseless destruction of fish in the Aleutian waters to in any way justify the minimal informational gains which the Atomic Energy Commission purports will be made from the Cannikin explosion. The decision on the part of the Nixon administration to go ahead with the test on Amchitka Island is one further example of the mistaken priorities of this administration.

Many of my constituents have taken the time to write to me regarding their distress at the Cannikin test. I applaud these constituents for their very justified concern. Below are the names of those constituents who most recently sent me a petition deploring the Amchitka test. I join with the following residents of my district in condemning the Cannikin explosion:

LIST OF CONSTITUENTS

Mrs. Alice Moore, Mrs. Mary Muise, Mr. Stephen Smith, Mr. Ronald Bolduc, Mrs. Madge Fleet, Mr. Ted Lazardakis, Miss Sandra Saunders, Mr. Thompson, Miss Carol Rothbun, Miss Larina Trembiay, Miss Margaret Lessor, and Miss Alice Hick.

PEACE IN NORTHERN IRELAND

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. MURPHY of New York. Mr. Speaker, equal rights and equal justice for all are two of the basic precepts passed on to us through the English judicial and political system. These are precepts which our countries have strived to perfect and carry out. These are precepts which have allowed our nations to remain strong and united. But they must be applied to all of the people and not to just a chosen few. To set aside one group of people to be treated differently, to give them a separate set of laws, and to look down upon them will begin the disintegration of the system of justice and humanity we have tried to create.

We have learned these lessons through long experience and through mistakes that have changed the course of history. But we have learned and now we must again apply what we have learned.

To give equal rights and justice to a people is to give them their pride and their dignity. It is to take away their bitter hatred and desire for violence and revenge.

That is why I have sponsored a resolution calling for peace in Northern Ireland and the establishment of a united Ireland.

The six-point document asks for:

First. Termination of the current internment policy and simultaneous release of all persons detained thereunder.

Second. Full respect for the civil rights of all the people of Northern Ireland and the termination of all political, social, economic, and religious descrimination.

Third. Implementation of the reforms promised by the Government of the United Kingdom since 1968 including those reforms in the fields of law enforcement, housing, employment, and voting rights.

Fourth. Dissolution of the Parliament of Northern Ireland.

Fifth. Withdrawal of all British forces from Northern Ireland, and the institution of law enforcement and criminal justice under local control acceptable to all parties.

Sixth. Convening of all interested parties for the purpose of accomplishing the unification of Ireland.

I also urge that commonsense prevail on both sides in Northern Ireland. There are many ready and willing to make concessions to the Catholic minority, but they too must make an effort. To look at it realistically, there would be nothing to gain by the Catholic minority if the British troops left at this point and there were wholesale civil war. Undoubtedly the Protestants, with a 2 to 1 advantage, a military background, available military weaponry, and economic staying power, would win, causing a crushing economic blow to the society in general and certainly not resulting in any of the liberties and rights being demanded.

The Protestants must make concessions. They must allow proportional representation in Northern Ireland, an enlargement of the two houses of Stormont and a coalition government in order to give the minority a decent share in the present Protestant monopoly.

These concessions by both sides would ultimately lead to the release of interned IRA members and the removal of British troops from Northern Ireland.

NATIONAL CANCER ATTACK PROGRAM: LET US GET ON WITH IT

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. CORMAN. Mr. Speaker, this body soon will have before it a proposal to create a national cancer attack program with greatly expanded funds for the research needed to obliterate this most dreaded of diseases.

As one who, like Marquis Childs, has kept vigil with this killer, I echo his plea: Please, let us get on with it.

I commend Mr. Childs' article to the attention of my colleagues:

THE NEW BATTLE AGAINST CANCER

(By Marquis Childs)

A killer stalking the land defies all the barriers of law and order. It is cancer, and those who have felt the killer strike with the stealth of an assassin in the night know the sense of helplessness, pitting hope against despair, of the ordeal of watching and waiting.

There is hope, or at any rate, progress. In the remarkable articles written in Newsweek of his own confrontation with what at first appeared to be fatal leukemia Stewart Alsop described the advances that have been made in "taming the beast." Eight forms of cancer are now, if not curable, subject to treatment giving at least considerable remission. The most notable progress has been in leukemia that is becoming increasingly prevalent.

But the beast is far from tamed. The attack of the scientific community has been hampered by limited funds and by bureaucratic complexities. Now a proposal is before Congress to create a National Cancer Attack Program with greatly expanded funds both for research and for the application of research. It has passed the Senate by a vote of 79 to 1.

The appropriation for the current fiscal year would be $400 million, $500 million for 1973 and $600 million for the year ending June 30, 1973. One of the prime movers in persuading President Nixon to go for this expanded attack was his good friend, Elmer Bobst. It approaches what Bobst, Mrs. Mary Lasker, the formidable crusader for improved medical care and research, Laurance Rockefeller, and many others have long hoped for. That is, in effect, a Manhattan Project that would do for cancer what the wartime project achieved in five years in splitting the atom, opening the way for the atomic bomb.

At this point is a basic division among cancer researchers. Spending large sums of money is not the answer, say the critics. Research can proceed only within the limits of resources available. There are only just so many front-rank seekers after the cause and the cure of the killer and no amount of money can speed their efforts.

Nonsense say the advocates of the proposed attack program. If billions can split the atom and other billions can send men into space to land on the moon, the mysteries of cancer will respond to a massive search. The analogy with splitting the atom and with space will be proved out.

The measure passed by the Senate provides not only for greatly increased scientific and technical manpower but for construction of new facilities. In short, the whole framework would be expanded as rapidly as possible.

Unfortunately, the proposed program, which originated with a distinguished commission, has stirred the kind of political, bureaucratic tempest that so often clouds the issues. On one side, so far as an observer on the sidelines can judge, are those who believe that research directed by the National Cancer Institute in the National Institutes of Health is proceeding independently with all possible speed. Among this number are many deans of medical schools with research grants from the Institute.

On the other side are distinguished cancer specialists, the American Cancer Society, and other individuals and groups long advocating a bold new approach. One argument is that the emphasis on research into causes is so dominant that the cure is lost sight of. No one really knows the cause of diabetes but insulin is a cure reducing this killer close to zero.

One charge is that the White House wants to concentrate control of the program for political ends. The bill makes the President responsible for the budget, with the director of the National Cancer Institute, which would still be within the framework of NIH, responsible to the chief executive and to a national cancer advisory council.

The charge of politics sets the blood boiling of the advocates of the new program. No President could play politics with cancer. Eliminating the layers of bureacracy through which research must filter is bound to speed the whole process.

As one who has just observed a long vigil, with the killer finally triumphant, there is only one thing to say: Stop the bureaucratic quarreling and get on with it, get on with it, get on with it.

CONGRESSMAN DERWINSKI—"NATIONALITIES MAN OF THE YEAR"

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. McCLORY. Mr. Speaker, recently our colleague who represents the Fourth District of Illinois, Mr. DERWINSKI, was honored as the "Republican Nationalities Man of the Year" for Illinois. In addition to the generous remarks addressed in honor of Congressman DERWINSKI, he received a plaque from the Republican State Nationalities Council of Illinois, of which Mr. Myron B. Kuropas is president.

The important statement Mr. Kuropas addressed to the some 3,000 persons gathered to honor our colleague, Congressman DERWINSKI, was stimulating and highly significant.

I am pleased to include in the RECORD Mr. Kuropas' remarks for the edification of the Members of this body as well as the many others who will glean these pages and benefit from Mr. Kuropas' words and from our colleague's fine example:

REMARKS OF MYRON B. KUROPAS

Time does not premit us to list all of his many achievements and his great contributions to good government in America. His record is well known both in Washington and in Illinois. We know, for example, that it was Congressman Derwinski who took a strong stand on the Captive Nations issue and was one of the leaders in the Congressional effort to pass a law designating the third week in July as Captive Nations Week. We know that he was one of the co-sponsors of the Ethnic Studies Heritage Bill when it was first introduced in the House and we know that he has pledged himself to its eventual enactment.

We also know that Congressman Derwinski is an American who is proud of his own ethnic heritage and isn't ashamed to admit it. Today, of course, more and more Americans are realizing that the melting pot is a myth and that what we really have in the United States is a mosaic of nationalities, proud to be American but committed to the preservation of the cultural wealth of their forebearers. The acceptance of this fact of life is, as I have indicated, a relatively new phenomenon in American life. For far too many years there were those in America who seemed threatened by our foreign-born population and who demanded the total rejection of one's ethnic past through a process which was euphimistically called "Americanization". It was during this period that people like Congressman Derwinski stood alone, a voice in the wilderness, proclaiming that America's many and varied nationalities were not a threat but an asset that should be recognized and nurtured.

Finally, we know that Congressman Derwinski is a sensitive human being, willing to respond to individual and group needs. He has worked with us not only during elections but *between* elections as well. There is hardly a nationality group that has not been directly helped by some action, some intervention, some gesture on the part of Congressman Derwinski. No group has ever been too small nor any request too big for this magnanimous man to consider, despite the fact that most of us don't even live in his Congressional district.

No man in Illinois is more deserving of this, our first Man of the Year Award, than Congressman Derwinski. But let there be no mistake. Let no one say that we are honoring him simply because he is an ethnic. Let no one say that we are honoring him because he was willing to take a stand on ethnic issues when recognizing ethnic needs were not very fashionable. And let no one say that we are honoring him because he has has responded to *our* needs.

We are honoring Congressman Derwinski tonight because he has demonstrated, in both word and deed, his strong committment and undying faith in the American principle of equal rights and opportunities for all of us, regardless of race, creed or national origin. We are honoring Congressman Edward J. Derwinski tonight because we believe he is one of the great Americans of our time, a man who serves as our model of what being a *true* American is all about.

On behalf of the Republican State Nationalities Council of Illinois, it is my great honor and privilege to present to you, Congressman Derwinski this token of our esteem and to wish you many, many more years of productive service to our great country.

SAIPAN LEGISLATURE ASKS FOR JET SERVICE

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. HOSMER. Mr. Speaker, one of President Nixon's most important goals is the establishment of a viable, healthy economy in the Pacific Trust Territories.

With increasing jet air travel to this Pacific area, the people of the Trust Territories are anxious to help in the economic progress of their island areas.

Consequently it is with satisfaction that I bring to the attention of the House the unanimous resolution adopted by the 23d Saipan Legislature on September 22nd requesting the U.S. Government to bring Pan American World Airways services to the island of Saipan. This is a demonstration of the foresight, the determination, and the spirit of initiative characteristic of the residents of Saipan.

Copies of the resolution, signed by the Honorable Vicente T. Camacho, speaker, and Daniel T. Muna, legislative clerk, have been forwarded to President Nixon, the Secretary of the Department of the Interior, the Secretary of State, the chairman of the Civil Aeronautics Board, and Pan American World Airways. Its text is appended.

The legislature's resolution points out the need for improving the economy of Saipan by actively promoting tourism and recites that the Government of Guam in March of this year formally recognized Pan Am as the carrier who had done most in promoting travel to Guam.

Basically, what the people of Saipan want is for a U.S. carrier to provide jet air service to Saipan. This is something that should have been provided long ago. As a matter of fact, Pan Am now overflies Saipan over once a day in each direction on its Tokyo-Guam route. Pan Am has asked to be permitted to provide this badly needed service for Saipan.

As one who has long taken a deep interest in the problems and achievements of the good people of Saipan and the other islands of the Trust Territories, I believe the time has come to heed the pleas of the people of Saipan and help them in their efforts to improve their economy through the availability of U.S.-flag carrier service.

TRUST TERRITORY OF THE PACIFIC ISLANDS, 23RD SAIPAN LEGISLATURE, FIFTH REGULAR SESSION, 1971, SAIPAN, MARIANA ISLANDS

A Resolution respectfully memorializing and requesting the United States Government to act favorably on the application of Pan American World Airways to serve the Saipan-Japan route

Be it resolved by the Twenty-third Saipan Legislature, that:

Whereas, it was recently announced that the Civil Aeronautics Board had granted approval to Japan Air Lines to make flights from Tokyo to Saipan, Mariana Islands District in the Trust Territory of the Pacific Islands; and

Whereas, by granting Japan Air Lines landing rights in Saipan on its flights from Tokyo, an air route between Tokyo and Saipan was established; and

Whereas, it is recognized that the United States of America has under consideration applications by several United States air carriers to serve this route, but so far no United States air carrier has been selected; and

Whereas, after more than a quarter of a century of dormancy, the economy of Saipan has started to grow, primarily because of its most promising industry—tourism; and

Whereas, the number of tourists visiting Saipan has increased from approximately 100 in 1965 to almost 20,000 in 1970, of which more than 15,000 were citizens of Japan; and

Whereas, the tourist potential of Saipan is widely recognized as the most promising industry for a durable, stable and viable economy for the area and its inhabitants; and

Whereas, it is noted that the tourist industry in the United States Territory of Guam has gone from almost nothing to well over 125,000 visiting tourists since direct service from Japan to Guam was inaugurated by Pan American World Airways in 1967; and

Whereas, we, the elected leaders in the Saipan Legislature, believe that in selecting a U.S. air carrier to serve the route between Saipan and Japan, the wishes of the people directly involved in the responsibilities and the benefits that will result from such services should be given the greatest weight; and

Whereas, this body believes that in choosing an air carrier to serve the route between Saipan and Japan, the qualifications, experience and general know-how of that carrier should also be taken into consideration; and

Whereas, on the basis of meeting this criteria, Pan American World Airways can connect Saipan to its world-wide air service system; is unmatched as the world's most experienced airline; and stands out in the matter of performance, as is exemplified by the magnificent work it has already done in promoting tourism to the U.S. Territory of Guam, for which Pan American World Airways was recognized by the Government of Guam in March of this year as the carrier that has done the most towards promoting travel to Guam; and

Whereas, Pan American Airways has provided air service to Japan since 1947, and has over the years, maintained a veteran professional staff in Japan in sales promotion and public relations, executives and other personnel, that is unmatched by any other U.S. air carrier; and

Whereas, in order to facilitate the building of the infra-structure to accommodate the anticipated influx of tourists, we, the elected representatives of the people of Saipan, urge that Pan American World Airways be selected to serve the route between Japan and Saipan; now, therefore,

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Be it resolved by the Twenty-Third Saipan Legislature, Fifth Regular Session, 1971, that the Government of the United States be and hereby is respectfully memorialized and requested to act favorably on the application of Pan American World Airways to serve the Saipan-Japan route; and

Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States of America, the Secretary of the Department of the Interior, the Secretary of the Department of State, the Chairman of the Civil Aeronautics Board, and the President of Pan American Airways, Inc. Passed and adopted this 22nd day of September, 1971.

FLAWED PESTICIDE BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. DINGELL. Mr. Speaker, pursuant to permission granted I insert in the CONGRESSIONAL RECORD an excellent editorial appearing in the Washington, D.C., Evening Star of Tuesday, October 26, 1971, entitled "Flawed Pesticide Bill."

That editorial points out some of the real and significant defects of the pesticide bill, H.R. 10729, shortly to come before the House for consideration.

The article follows:

FLAWED PESTICIDE BILL

The recent postponement of debate on the Environmental Pesticide Control Bill was fortunate, because it gave House members more time to ponder this flawed product of their Agriculture Committee. Those representatives who have more than a token concern for environmental protection should prepare to ask some sharp questions when the measure reaches the floor—probably sometime this week.

The committee has diluted and otherwise altered the Nixon administration's admirable pesticide proposal to a point at which its worth is dubious. Vital safeguards have been removed and there is even a provision to reward the chemical industry for its bloopers.

But there is an alternative; most of the objectionable features are removed in a substitute bill offered by Representative John G. Dow of New York, and the House should give it preference over the one reported by the committee.

Some states are far ahead of the federal government in setting pesticide control standards, but the committee bill would put the kibosh on that. It provides that no state could impose stricter regulations than those approvel at the federal level, and this is viewed with alarm in states (such as New York) which have superior programs in operation.

The administration wanted to establish three categories for pesticides: General use (for safe chemicals), restricted use and use by permit only. The last would have been usable under sort of a prescription system, applying to pesticides that are either extremely toxic to people or dangerous to the environment. And that most needful third classification was lopped off altogether by the Agriculture panel. There is no permit provision in the committee's bill, and this would negate the permit systems in effect in some states. The State of New York, for example, has issued 15,000 user permits.

There are other gross deficiencies. The government, rather than the chemical manufacturer, would have the responsibility of proving a pesticide to be harmful. Under present law, it is the manufacturers' obligation to prove his product harmless, and that's the way it should remain. And there's an incredible provision under which the government would indemnify chemical firms for their stocks on hand, in case they had to cancel out a product because of proven harmful effects. As if that weren't enough the bill restricts the availability of information about pesticides and shoves the public further back from decision-making processes.

Some pesticides must be used, judiciously, until research produces less poisonous ways of dealing with destructive insects. The bugs cannot be given carte blanche. But Congress has a responsibility to pass control legislation weighted more in the public interest than in the interests of pesticide manufacturers and users. The Agriculture Committee's bill fails that test.

THE U.N.'S MISTAKE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. DUNCAN. Mr. Speaker, I have just read what I think is an excellent analysis of the action of the United Nations in expelling Taiwan. I agree with the Knoxville, Tenn., News-Sentinel of October 27—this was a grave error:

THE U.N.'S MISTAKE

In voting to expel Nationalist China, the United Nations has committed a grave error which will return to haunt it.

For the first time in its 26-year history, the world organization has taken the drastic step of ousting a member. It acted not because Taiwan perpetrated aggression or some heinous crime against humanity, but to appease a great power—Communist China.

Taiwan was sacrificed because Peking demanded it as a price for entering the United Nations. Any organization that victimizes a small member to mollify a large applicant has, we submit, compromised its honor and perhaps its future.

As bad as what the General Assembly did was the way it did it. The membership overrode the sensible United States contention that expulsion was an "important question" requiring a two-thirds majority.

If throwing a state out of the international community is not an important question, what is?

Nationalist China was the victim Monday night of a shouting, unruly simple majority. In the future it might be the turn of Israel, Portugal, South Africa or some other small country on the hate list of the Communist, Afro-Asian and have-not bloc that dominates the General Assembly.

Fortunately, Taiwan is a tough-minded, self-reliant state that will survive the UN action. (Whether the weakened United Nations will itself survive is another question.) Taiwan also has a defense treaty with the United States. This remains valid and should deter Communist China from taking encouragement from the UN vote and trying to invade the Nationalist-held island.

To no one's surprise, many disgusted members of Congress are threatening to withhold funds from the United Nations. While we share their disgust over the China vote, we hope they will not abruptly withdraw support from the organization, which is deeply in debt and near bankruptcy.

Admittedly, the United Nations has not justified the high hopes placed in it at the close of World War II, but it is the only peace-keeping body we have. It is a useful place where countries can blow off steam (which sometimes averts war), reach accommodations in the corridors, and get health and development aid. It can't be improved by killing it.

The China debate, however, has focused attention on the fact that the United States pays for more than a third of UN activities. Why? There is no good reason. This country has far less than a third of the world's wealth, income, population, or resources.

Congress should, we think, carefully reconsider America's UN contributions. Then it should whittle down our percentage—but gradually so as not to cripple the good work that is done by the organization.

And since "important questions" now can be decided by close votes—the key measure on Peking carried 59 to 55—isn't it time for fairness in the distribution of votes?

Under the incredible fiction that Byelorussia and the Ukraine are independent nations, the Soviet Union cast three votes. The General Assembly has ruled that there is only one China and Taiwan is part of it. Well, everybody knows there is only one Soviet Union, and Byelorussia and the Ukraine are part of it with infinitely less independence than Taiwan. Why not expel them?

It will be interesting to see if the howling majority that ran the United Nations Monday night has the courage to apply its logic to Russia. We doubt it.

PUGET SOUND: FISHERIES CAPITAL

HON. FLOYD V. HICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. HICKS of Washington. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: As you may remember, Congresswoman HANSEN and I joined in arranging the serving of specially raised salmon from Puget Sound to our House colleagues in the House dining room last July. These salmon were raised as part of an experimental aquaculture marketing venture by the National Marine Fisheries Service in conjunction with Ocean Systems, Inc., at Manchester, Wash., in my District.

The following article by Peter Tonge published in the October 29 Christian Science Monitor describes the use of aquaculture techniques in developing salmon that have been transplanted into rivers depleted of their natural fishing stock. Studies have shown that aquaculture of these salmon is the most efficient medium for the production of animal protein yet available. The richness of the Puget Sound estuarine environment and the fisheries science resources available at the University of Washington, make the Sound the Nation's center for saltwater aquaculture development. I am pleased to bring this article to your attention.

PLATE-SIZE SALMON

(By Peter Tonge)

SEATTLE.—Here in a canal linking Lake Union with Lake Washington, some of the largest salmon in the Pacific make a sharp left turn, as they approach the University of Washington, into a small pond—once the water hazard of a local golf course.

They've been doing it for 25 years now. And though Mother Nature would never have selected such a place, the salmon—thousands more than the small pool could ever hope to accommodate—call it home.

It all seems so strange. But unusual, even great things are happening in the salmon world.

The fish themselves are getting bigger by the year. Pacific salmon now inhabit the Atlantic; they thrive in the once almost fishless Lake Michigan. Atlantic salmon, too, are returning in impressive numbers to the fished-out St. John River in Canada's New Brunswick Province.

A serious attempt has begun to rear the pink-fleshed fish—and the white, too—in pens, in somewhat the same way as chickens are raised.

HOMING INSTINCT

Moreover, according to the Governor of Hokkaido, the fish has "averted World War III." He was jesting, of course, but he was pointing up the importance of the salmon just the same.

Those who watch the annual return of salmon to the university say it's as if a traffic light had been placed there to direct the coho, chinook, sockeye, and chum, into the fishing school.

That's where Prof. Lauren R. Donaldson awaits them. It was he who started it all. Back in '42 he released several thousand little fish or smolt as they are called, into the pool. "Ridiculous," exclaimed the doubters. But the homing instinct of these remarkable fish prevailed and back they came when they matured to spawn in the pool.

Since then they've been getting bigger by the year. They also mature faster. Selective breeding has made this possible. Where it takes the average salmon four years to reach maturity, the Donaldson strains return in two to three years.

Meanwhile, Dr. Donaldson has been passing on his techniques to others. He also sent two million eggs of his super strain of chinook to Japan (hence the jesting reference to World War III) and others to Nova Scotia and elsewhere. It was he, too, who stocked Lake Michigan.

BREAK WITH TRADITION

Now the Donaldson approach is being used to build up the declining Atlantic salmon. The St. John River had lost most of its fish even before the Mactaquac Dam—built in 1968—threatened to terminate the salmon run altogether. Now, however, a fish hatchery, just below the wall, releases half a million young smolt into the St. John every year. Soon this figure could be boosted to around one million.

Says a satisfied New Brunswick official: "We'll soon have the best salmon river on the Atlantic seaboard."

Meanwhile, in a total break with tradition, salmon are being farmed in the Seattle area. The National Marine Fisheries and a private company, Ocean Systems, have begun pilot projects using Donaldson fish. Nets are suspended from floating barges to form the pens in which the salmon are housed.

So far the results look encouraging, good enough "to try going commercial next year," according to Jon Lindberg of Ocean Systems.

Feed conversion rates have been much higher than for land-bound livestock. On average, the salmon put on a pound of weight for every 1½ pounds of feed consumed.

AVAILABLE ALL YEAR

A major advantage of raising salmon this way is that they can be harvested at any age. The result: Plate-sized salmon—something that is not available in the wild where mature salmon returning to spawn are around 10 pounds in weight.

"Today you eat a piece of salmon," says Mr. Lindberg. "Tomorrow you'll have a whole one to yourself." Moreover, these salmon will be available all year round, no longer just a seasonal dish.

Mr. Lindberg admits pen-reared salmon will be a luxury item; an expanded source of gourmet seafood, something to compete with trout.

Test marketings in the United States and Europe have proved encouraging. One batch of 200 were sent to a Congress restaurant. That number was expected to last two days but the fish-loving congressmen cleared the lot in one day.

Which suggests the scheme has government approval anyway.

COMMENTS OF FORMER SECRETARY RUSK

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. MORSE. Mr. Speaker, as one who believes firmly in the principle of universality, I was deeply disturbed by the vote in the United Nations General Assembly to expel the Republic of China from membership.

More disturbing to me, however, is the reaction to this vote which has been manifested by many in the Congress. However we as individuals may feel about the expulsion of Nationalist China, I firmly believe that nothing could be more damaging to our genuine national interest than for us to undermine the foundations of the United Nations by sharply reducing our commitment to this organization. While none would dispute the need for improvement and reform in the U.N., a strong multinational organization is a critical element in the creation and maintenance of a just, peaceful, and humane world. For only by working together will the nations of the world ever be able to resolve the conflicts which divide.

Former Secretary of State Dean Rusk, in a recent letter carried by the Washington Post, reiterates the indispensable role which the U.N. has and should continue to play in our efforts for understanding. The importance of continued American support for, rather than abandonment of, this organization and its ultimate goals is absolutely essential. I believe that the cogent and thoughtful comments of former Secretary Rusk are especially worthy of my colleagues' attention:

FORMER SECRETARY OF STATE RUSK ON THE U.N.

To say that the writer has played a certain role in assuring the United Nations membership of the Republic of China on Taiwan since 1949, would perhaps be an understatement. I yield to no one in sadness and chagrin that the U.N. General Assembly has voted, in effect, to expel a loyal U.N. member and a friend of the United States.

I am deeply disturbed, however, by many suggestions, particularly in the Congress, that the United States should now sharply curtail its support for and participation in the United Nations. Calm and sober reflections surely would indicate that a vigorous and effective U.N. is in the deepest national interest of the United States. Tens of millions of lives were lost to give us a chance to pick ourselves up out of the catastrophe of World War II and start over again. The charter of the U.N. profoundly reflects the simple and decent purposes of the American people with regard to our relations with the rest of the world. Although disagreements among the great powers have at times frustrated the Security Council in carrying out its assigned mission, there have been many occasions when the U.N. has served effectively to prevent, limit or end outbreaks of armed conflict. The United Nations, and its specialized agencies are making a tremendous contribution, day by day and week by week, to the necessary work of the world which affects in constructive ways the daily lives of our citizens.

On the immediate horizon are important tasks which the U.N. has undertaken which could make an important contribution to the possibilities of peace and, perhaps, to human survival. I have in mind the 1972 Conference in Stockholm on the Human Environment, a 1973 Conference on the Law of the Sea and the dedication of 1974 as U.N. Population Year. The record of the U.N. in deepening and strengthening international law is not perfect, but is encouraging; there remains, however, much unfinished business in that direction which can only be accomplished by the nations of the world in concert rather than by unilateral, bilateral or even regional action.

Diplomacy has striven for centuries to find ways to reduce the role played by anger, affronted dignity or desire for revenge in the relations among states. What was once a constructive object of diplomacy has now become a sheer necessity in a period when thousands of megatons are lying around in the hands of frail human beings.

It is too frivolous to say that we should pick up our marbles and go home just because others are not willing to play the game our way. The real issue is whether the human race, infinitesimal mites on a speck of dust in the universe, can find a way to live in peace. The harshest realist must now acknowledge that the family of man has come into being because we are at long last faced with certain problems which we must solve together or go down together. In this effort, the U.N. must play an indispensable role. Of course, it needs reform, improvement, more efficiency, a deeper sense of responsibility and changes in a number of directions which need not be detailed here. But all this means that we should support it and improve it—not abandon it.

We have not yet seen the end of the painful experience which he witnessed last Monday night. When the delegation from Peking arrives, its members will be lionised by our news media and may do and say a good many things which we shall not like. It behooves a great nation like ours to conduct itself with dignity, to remain true to our own purposes and to continue to work toward that consensus in the U.N. which is required if the Charter is to succeed and we are to build a world of peace.

MORE SUPPORT FOR PRAYER AMENDMENT

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. HUNT. Mr. Speaker, Dr. Samuel A. Jeanes, pastor of the First Baptist Church at Merchantville, N.J., directed to my attention a copy of the letter he had addressed to our colleague from Ohio, Congressman WYLIE, in support of his resolution, House Joint Resolution 191, proposing a constitutional amendment to permit participation in voluntary, nondenominational prayer in the public schools. As you know, that measure will be taken up in the House for a vote on November 8.

Although Dr. Jeanes' letter has already been inserted in the RECORD for the bene-

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fit of all the Members, his comments are so pertinent and on target that I am compelled to highlight them for your consideration.

On the nature of the support of the proposed amendment:

The polls that are taken clearly indicate that the American people in overwhelming numbers, want to permit voluntary prayer in their schools. . . . All the American people want is the opportunity for their children to offer voluntary prayer in their schools which was the practice for many, many years. The passage of H.J. Res. 191 could grant this permission and certainly bring to an end the misunderstandings which have led to many excesses.

On the opposition of certain church organizations which purport to speak for their members:

It is unfortunate that some religious bodies have been mounting pressure upon the Congress to thwart the will of the majority of the people. My attention has been called to statements from the American Baptist Convention of which I am a member . . . May I call your attention to the fact that such resolutions are followed by a statement of explanation which says: '. . . To be sure, resolutions passed by the American Baptist Convention cannot be said to represent the conclusions of all American Baptists, or even all the American Baptists attending the Convention . . .'"

There is no reason to believe that even half of the churches had delegates at the Convention session when this resolution against prayer in the schools was adopted. Furthermore, as a rule the delegates who do go to Convention sessions have no authority whatsoever to commit their congregations on any issues. Neither are any scientific efforts made to poll the thinking of the churches or their membership on such questions.

On the matter of what the proposed amendment does not do:

The proposal before you does not require prayer, but it certainly does not prohibit it. Neither does it grant authority to any official body to determine the form or content of the prayer.

On the very important issue of whether the American people are competent to amend the Constitution or modify an interpretation of the Supreme Court:

It should be remembered that the prayer decision of the Supreme Court was based upon their interpretation of the Constitution. However, the Constitution is an instrument ordained, not by the courts, but by the people. The courts may interpret it, but the people have a right to amend it. It should say clearly what the people want it to say.

In conclusion, Dr. Jeanes says:

The passage of H.J. Res. 191 will give the world a moral witness that declares that for Americans, God is important. And it will reaffirm what the Supreme Court itself has said that "we are a religious people whose institutions presuppose a Supreme Being."

DOUBLE STANDARD

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. DEVINE. Mr. Speaker, I would call the attention of my colleagues to a column written by Mike Royko in the Chicago Daily News which highlights the accomplishments of President Nixon during his first 3 years in office as contrasted by the nonaccomplishments of the Kennedy administration. Royko wrote:

I imagine that if a President named Kennedy had done these things, his fellowers would be singing songs from "Camelot" while the workmen began carving his handsome likeness into Mount Rushmore.

And said Royko:

And now we have Senator Edward, and he appears to be another in the line of late-blooming Kennedys. In 1968, when he hadn't really done anything except sit there and look handsome, he could have had the Democratic nomination for the asking. That might be the situation again in July of next year.

The full text of the column follows:

NAMELY, IT'S ALL IN THE NAME

(By Mike Royko)

Imagine for a moment what the public's feelings might be for a President named Kennedy—any first name will do—who managed to accomplish the following by the end of his third year in office:

Took a full-blown war left over from two previous administrations and whittled it down, with a possible end in sight.

Came to grips with an inflation left over from two previous administrations by imposing the most far-reaching government controls since the days of FDR.

Tried to improve relations with China by sending an emissary there and planning to make a visit himself.

I imagine that if a President named Kennedy had done these things, his followers would be singing songs from "Camelot," while the workmen began carving his handsome likeness into Mt. Rushmore.

On the other hand, try to imagine how people would feel about a ski-nosed President named Nixon if he did any or all of the following:

Backed an invasion of Cuba that was foolish in the first place, and fell flat on its face in the second place.

Sent troops in growing number to take part in a civil war in Southeast Asia.

Failed miserably to get a legislative program through Congress.

Appointed his own brother as U.S. attorney general.

If someone named Nixon built that kind of record, his name might not even show up in the polls.

As it is, he is not doing very well, despite a surprisingly good three years. (They must have been fairly good, because the right wing is upset with him.)

His support has fallen since the beginning of this year, and he was barely getting by even then.

At the same time, Sen. Edward Kennedy has taken the lead in the polls as the Democrats' choice to run for the Presidency next year.

Mr. Nixon's problem has never changed. He is still the man who can't be trusted, regardless of what he does. Only this week, a new book came out, written by Phillip Roth, the author of "Portnoy's Complaint."

The book, a satirical study of somebody known as "Trick E. Dixon," is called "Our Gang," and the dust jacket says:

"The hero—or villian—of 'Our Gang' is Trick E. Dixon, self-pronounced legal whiz, peace-loving 'Quaker,' and somehow President of the United States. 'Tricky,' as imagined by Roth, is a hypocritical opportunist . . ."

Which the real Trick E. Dixon may well be. It is hard to forget that he made it into Congress through scurrilous campaign tactics, built his name in the Senate by Red-baiting, and has gone in for such things as a "Southern Strategy."

Presumably, he has never changed, because a man never changes, unless his name is Kennedy, in which case he can change faster than Clark Kent.

Thus, John F. Kennedy, a lazy, girl-watching senator, whose only known position on most issues was to be absent from roll call, suddenly was trotted out as a tower of statesmanship as he used his old man's dough to blitz one state primary after another.

His brother, Robert, whose Red-baiting credentials included a stint working for Sen. Joe McCarthy, didn't have the stomach to take on President Johnson until Eugene McCarthy landed the first blow. Then Robert Kennedy became an instant symbol of courage and hope.

And now we have Sen. Edward, and he appears to be another in the line of late-blooming Kennedys.

In 1968, when he hadn't really done anything except sit there and look handsome, he could have had the Democratic nomination for the asking. That might be the situation again in July of next year.

Unlike Mr. Nixon, Edward Kennedy is considered capable of great change and growth.

Mr. Nixon has been viewed with more contempt for having been an eager, but incompetent, football player at Whittier College than Edward Kennedy has for cheating in some of his college exams.

And you still hear some people asking if you would buy a car from somebody like Mr. Nixon.

I wish that the same people, just once, would ask if you would ride in a car with Edward Kennedy.

SICKLE CELL ANEMIA: AN INTERESTING PATHOLOGY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. RANGEL. Mr. Speaker, regretfully, it is axiomatic in the United States today that a problem is not really a problem if it effects only poor people or only members of minority groups. That is why it took Congress so long to fund bilingual education programs. That is why it took Congress so long to enact lead-based paint poisoning prevention legislation. And that is why it is still taking Congress so long to fight sickle cell anemia.

When Congress debated appropriations for the Department of Health, Education, and Welfare this summer, it failed to earmark a single penny for sickle cell anemia detection, treatment or research. There has been no action in the House of Representatives on legislation to establish a Sickle Cell Anemia Institute or to set up pilot sickle cell anemia screening and treatment programs.

Sickle cell anemia is not a glamorous disease. To most of our citizens, it lacks the trauma of cerebral palsy, the heartbreak of polio, the horror of leprosy or the pathos of birth defects. Movie actors and politicians rarely succumb to sickle anemia like they do to cancer or to heart disease.

Dr. Robert B. Scott, writing in the Journal of the American Medical Association last year, stated:

In 1967 there were an estimated 1,155 new cases of SCA, 1,206 of cystic fibrosis, 813 of muscular dystrophy, and 350 of phenylketonuria. Yet volunteer organizations raised $1.9 million for cystic fibrosis, $7.9 million for muscular dystrophy, but less than $100,000 for sickle cell anemia. National Institutes of Health grants for many less common hereditary illnesses exceed those for SCA.

A hereditary disease, it strikes approximately one out of every 500 black babies born in the United States. Most of them die before reaching their 20th birthday. An estimated 10 percent of the black population carries the sickle cell trait and may pass it on to their offspring.

Amazingly, the Department of Defense does not even consider sickle cell anemia adequate grounds for a draft deferment or for a discharge from the armed services on medical grounds. A young man will be excused from military service if he wears braces on his teeth, but not if he has sickle cell anemia. Even as young recruits die from this disease shortly after entering the service, the Pentagon treats it only as a minor problem, nothing to be seriously worried about.

For most Americans—even those who have heard about sickle cell anemia—it remains an almost exotic disease, one which is occasionally mentioned in the press, but which is never three dimensionalized or humanized.

The October issue of Ramparts carried an impressive article by Michael G. Michaelson on sickle cell anemia. Although I may not agree with everything Mr. Michaelson writes, the article adds sensitive, human perspectives to this critical issue. I commend it to my colleagues:

[From Ramparts, Oct. 1971]

SICKLE CELL ANEMIA: AN "INTERESTING PATHOLOGY"

(By Michael G. Michaelson)

Invariably the patient is black, invariably young, perhaps your own age, in fact, a thought which may disturb you when they bring her out on stage for you to see, for you to question. She (or he) has been wheeled from her hospital bed for your convenience, your medical education. It is a lecture in biochemistry, most likely, and you have been reading about blood and about hemoglobin, the molecule red blood cells contain; the protein with a backbone of iron, the carrier of whatever pure oxygen can be sucked from polluted air. By now you know hemoglobin well, you have memorized it: its four polypeptide chains, two alpha, two beta (the "globin" part of the molecule); its four iron-containing "heme" groups; its fetal and adult forms; its electrophoretic patterns; its abnormal varieties: hemoglobin C and M and E and—this is the powerful one, the terrible one—hemoglobin S. One of its black victims is in front of you now, probably frightened, sitting before strange, mostly white, mostly male, faces. She is in a wheelchair, looking up for a moment, meeting your curious stares, then looking down at the floor.

"Tell these young doctors something about yourself, Miss Williams," the instructor says, smiling. "Tell them why you are in the hospital."

This is an exercise in "clinical correlation," an attempt on the part of the medical school to demonstrate that the "basic science" courses of your first year or two are not irrelevant or as sterile as they seem. This is what the catalogue calls "contact" with patients, "early exposure" to "clinical material." You have been looking forward to it, bored by years of organic chemistry and physics, lectures and diagrams. You are nervous, perhaps, like Miss Williams, but you are proud of your knowledge, and confident, like a doctor. You observe her closely: her arms and legs are long and skinny and gangling; her abdomen is short but full and protruding; her legs are heavily bandaged; her eyes are yellow; intravenous fluids run into her arm; she is dressed in a limp hospital nightgown; she is weak and difficult to hear.

"I have sickle cell disease," she says quietly. "Sickle cell anemia." Then she tells you her story, which typically goes something like this:

She is twenty-four years old and has been in the hospital eighteen times. She would get tired easily ever since she was a child; she did not develop as rapidly or as well as the other children; she would often get colds and more severe respiratory infections. At age seven her tonsils were removed. At age eight she was hospitalized for a month with severe joint pain, fever, and heart murmurs, diagnosed incorrectly as rheumatic fever. At twelve she developed ulcers on both ankles which would not heal, even now, twelve years later. She then began having periodic attacks of severe, incapacitating pain in her bones and joints, her back and her abdomen. These "crises" would last about a week, leaving her exhausted, weaker than ever, and sore all over.

When she was fourteen her appendix was removed. At sixteen her spleen was removed. In the last eight years she has had six more hospital admissions for the treatment of her recurrent leg ulcers which have eaten down to the layer of muscle and bone. Two admissions for pneumonia, two for long episodes of fever, chills, night-sweats and diarrhea. Now, she tells you, she is urinating blood, and her belly is swelling like a balloon and her heart, her doctors have told her, is too big and is getting tired. She can not sleep lying down, but only on three pillows, and she wakes up at night gasping for breath. Her eyes have been yellow for six years and her liver, she knows, is not working right. In her life she has received (if she remembers right) eighty-six transfusions of whole blood.

"Thank you, Miss Williams," the instructor says, and you awkwardly mumble thanks too, as she is wheeled back to the hospital.

In the brief discussion that follows, you learn that there is no cure for sickle cell anemia, nothing, in fact, that substantially helps a patient endure a crisis. You learn that very few patients with the disease—which strikes one Black in five hundred—manage to survive to the age of thirty. You guess, as you leave the lecture room with friends for lunch, that Miss Williams, with the soft voice and the memories of pain and the present of pain, will be dead before you practice medicine. But in fact, she is dead much sooner than that.

II

These days sickle cell anemia has a certain *chic* in academic medical circles. The disease has always been considered "interesting pathology," but never, until very recently, has it been considered very *important*. The distinction is real and its consequences disturbing.

Sickle cell anemia is one of the very few fatal diseases which is known (that is, thought) to be caused by a demonstrable inherited abnormality—an identifiable, highly specific, biochemical aberration in the molecular structure of hemoglobin. As a consequence, it has for two decades been waved by medical scientists before the noses of their occasional critics; evidence that modern medical science is figuring things out, making progress. But if the disease has provided some comfort for chemists and first-year medical students, it has been relentless with victims, the hundreds of thousands of Blacks who, as they suffer and die, give their bodies as subjects for the scientists and exhibits for the students. Although the disease is found in one of five hundred black babies, and although these children survive only an average of twenty years, and although very much more is understood of the genetics, chemistry and epidemiology of sickle cell than of other serious diseases of childhood, physicians and researchers within the white establishment have virtually ignored it. Their own children are safe.

Right now in the United States some fifty thousand Blacks are dying of SCA; nearly two million have "sickle cell trait," a milder form of the disease which usually (but not always) leaves them symptom-free but which enables them to pass the trait or the disease on to their children. "In 1967," according to an article published last year in the *Journal* of the American Medical Association, "there were an estimated 1155 new cases of SCA, 1206 of cystic fibrosis, 813 of muscular dystrophy, and 350 of phenylketonuria. Yet volunteer organizations raised $1.9 million for cystic fibrosis, $7.9 million for muscular dystrophy, but les than $100,000 for SCA." In fact, the figure for sickle cell anemia was closer to $50,000.

There was no nation-wide organization devoted to sickle cell anemia until last year; no celebrity has ever done a sickle cell telethon or chaired a committee. The Research Grants Index of the National Institutes for Health for fiscal year 1968 indicated that grants for much less common childhood illnesses greatly exceeded those for SCA. In one year research into cystic fibrosis, for example, received 65 NIH grants, although this disorder is found in only one of three thousand births (98 percent of cystic fibrosis victims, it is worth noting, are white). The same year there were 41 grants for phenylketonuria affecting one in ten thousand (again, all of them Whites), a disease which can be detected and controlled by diet, and which is not fatal. Yet there were fewer than two dozen grants for research into sickle cell anemia. A review of the facts, even the editors of the conservative AMA *Journal* were forced to conclude, "clearly focuses a spotlight on public failure to recognize the importance of combating sickle cell anemia . . ."

The *Journal* had found it "incredible . . . that very few people in the black population at large have been offered pertinent information about sickle cell anemia and the mode of its transmission." But the Black Panthers, for instance, do not find it incredible; they find it, on the contrary, to be expected and have launched a major drive through their People's Free Clinics to provide the black community with information about the disease along with free diagnostic blood tests. Black Panther leaflets distributed in Philadelphia and other cities, in an attempt to provide "pertinent information" about SCA and the times and places for blood tests, are headlined in large block letters above pictures of normal and sickled red cells: Black Genocide.

Perhaps because of the notoriety, doctors are finally beginning to take an interest; the research on SCA is picking up and money is starting to flow. In his "health message" of a few months ago Richard Nixon announced that he would request six million dollars in congressional funds to "combat sickle cell anemia. A deputy director of the National Heart and Lung Institute was named May 12, as coordinator of a new federal sickle cell disease program. Physicians are suddenly competing with one another in attempts to invent and patent new and better and cheaper screening tests and effective therapeutic procedures. School systems, the United States Army, pharmaceutical houses and medical technology companies are entering the field.

But Dr. Roland B. Scott, a black physician working on sickle cell research for twenty

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years, a generation before it became fashionable, has never received a federal penny for his efforts. Now chairman of the department of pediatrics and director of the Sickle Cell Center at Howard University, he has offered this evaluation of the current boom: "All is chaos now, with a lot of researchers running around flag-waving, headline-grabbing, trying to qualify for the therapy and screening jackpot, with the government looking for quick results for high visibility in 1972. But it'll fade away, and we blacks will be left with the problem."

Almost certainly he is correct. The current enthusiasm for sickle cell anemia may in the end reveal less about this killing disease than about contemporary American medical politics. It may be part of the larger effort to "save" not black children but an obsolete and elitist system of medical care which has oppressed patients of all races and classes (though especially women, third world people, and the poor, of course) for a century and which is now, at last, on the verge of collapse. And if past experience is an index, the current fad can be expected, as Dr. Scott suggests, to come and go, leaving the black people of this country in their usual condition of ill-health and powerlessness, while providing their (largely white) professional and corporate "benefactors" with new avenues for advancement and prestige, profits and power.

III

Any issue, however, isolated, which even for a moment appears to bring Richard Nixon and the Black Panther Party to the same side of an argument surely merits careful analysis. In the case of sickle cell anemia, the discussion seems to require at least a brief review of the disease state itself, its biochemistry, genetics, and medical "history." And this must be placed in the context of the now much-publicized "crisis" in medical care, the rise in the last ten years of a liberal medical elite and more recently, the emergence of a broadly based insurgent radical health movement.

The distinguishing characteristics of sickle cell anemia were first described in the medical literature in 1910 by James B. Herrick, a prominent midwestern cardiologist. He wrote of a twenty year old West Indian student whose symptoms involved "a secondary anemia . . . strikingly atypical in the large number of nucleated red cells of the normoblastic [immature] type and in the tendency of the erythrocytes [red blood cells] to assume a slender, sickle-like shape." Herrick was perplexed by this "most bizarre group of symptoms," and he could offer no definitive diagnosis, although he suspected syphilis.

The cases accumulated. Dr. Emmel (1917) was the first to use the term "sickle cells" repeatedly; Mason (1922) the first to refer to "sickle cell anemia"; Graham and McCarthy (1926) the first to point out that this anomaly of red cells afflicted only Blacks. In 1927 and 1930 further studies suggested that the sickling of red cells occurs when the hemoglobin they contain passes from the oxygen-saturated state to the unsaturated (reduced) state. The abnormal hemoglobin would apparently alter the shape of these red cells, distorting their normal disc-like, biconcave "doughnut" configuration and producing, somehow, the characteristic physical symptoms. The disease was labelled a "hemoglobinopathy" and passed on, in effect, to the biochemists.

In 1949 Linus Pauling reported that normal hemoglobin (A) and hemoglobin derived from sickle cell patients (S) demonstrated different patterns of "electrophoretic mobility," molecular movement in an electrical field. Ingram (1961) perfected the electrophoretic technique and was able to show that hemoglobin S differs from A only in the replacement of a single amino acid (glutamate) in the alpha chain of the normal molecule by another (valine) in the abnormal molecule. It is this single amino acid in hemoglobin's total 287 which is wrong; this one which exacts so high a price.

The original difficulty, however, is genetic: every child receives from his parents two genes which determine the kind of hemoglobin the child's body will synthesize. Only hemoglobin S will sickle when deprived of oxygen, and only the black population (less than two percent of SCA's victims are non-black, usually of Mediterranean origin) carries this particular abnormal gene in its "genetic pool." If both parental genes are for hemoglobin S (the homozygous state, SS) the child will suffer from the disease. If only one gene is abnormal (heterozygous, AS), the child will have the trait and will be able to transmit the S hemoglobin to his own children, although he will not, most likely, be fatally ill himself.

Under certain circumstances these heterozygotes were well off. It has been suggested, and is generally agreed, that sickle cell trait confers upon its bearers a protection against malignant forms of malaria. On the African continent, particularly where malaria is endemic, the AS hemoglobin type represented a protective evolutionary adaptation: When heterozygotes married, they would, according to Mendelian genetics, bear children one quarter of whom would inherit two "normal" genes for hemoglobin (AA), and most of these would die of malaria; another quarter would be hemozygous for sickle cell (SS) and would die of that disease; one half, statistically, would be heterozygous (AS), without the disease, but bearing the trait, and therefore protected against malaria. The neat evolutionary scheme, however, made no provisions for slave ships.

In the United States resistance against malaria is not a significant advantage, since malaria is not a significant threat. But evidence is beginning to mount that sickle cell trait, which affects nearly two million Blacks in this country, is less harmless than was formerly believed. Last year the AMA *Journal* and *Lancet*, a British medical journal, published reports of bleeding episodes and sudden death in patients undergoing "routine" surgery, due apparently to respiratory depression during surgical anesthesia. The *Journal* of the National Medical Association published a similar report more recently. An editorial in *The New England Journal of Medicine* on May 14, 1970 noted that although the trait has "generally been regarded as a benign condition," there have been "occasional reports of splenic, pulmonary, pituitary or cerebral infarction, as well as priapism, hematuria, hyposthenuria, avascular necrosis of bone and retinal hemorrhage," indicating "that in certain unfavorable circumstances these patients may experience the severe vaso-occlusive episodes, characteristic of homosygous sickle cell anemia." The "unfavorable circumstances" included surgical anesthesia, airplane flights, athletic and military training and severe infections—all conditions involving increased bodily demands for oxygen, decreased environmental oxygen tension, or both. Most dramatic were these four case reports of black recruits "undergoing Army basic training at a post at an altitude of 4060 feet. All were apparently healthy and had no family history of anemia. . . ."

Case 1: "W. J., a 21-year-old man collapsed and lost consciousness after a 40-yard low crawl and a 300-meter run during his 1st day of training. After admission to the hospital he regained consciousness and complained of shortness of breath and faintness. On examination he was acutely ill. . . . One hour later he became hypotensive and combative and lost consciousness. Despite vigorous treatment for hyperkalemia [an electrolyte imbalance] and hypotension, he remained comatose. Nasal hemorrhage increased. He died 24 hours after the initial collapse. At autopsy, the lungs were heavy, and serosanguineous [thick bloody] fluid flowed from the cut surfaces. The bowel was filled with dark bloody fluid. The vessels in all microscopical sections were packed with sickled red blood cells. . . . Hemoglobin electrophoresis revealed SA hemoglobin."

Case 2. "M. T., a 19-year-old soldier, collapsed while running a mile during his 21st day of training. Upon arrival at the medical clinic no pulse or spontaneous respirations were present. Resuscitation was successful. . . . Complete unresponsiveness was the only positive physical finding. . . . Bright red blood was oozing from the gastric aspirate; blood oozed from venous puncture sites, and a lower-gastrointestinal-tract hemorrhage developed. . . . There was no urine output. Bleeding continued; hypotension [low blood pressure] followed, and despite volume and fluid replacement, the patient died 25 hours after he collapsed. . . . Hemoglobin SA was found on electrophoresis."

Case 3. "V. H., a 21-year-old man, complained of faintness after a 20-yard crawl during his 1st day of training and suddenly lost consciouaness. He was dead on arrival at the medical clinic. . . . Histologic sections of all organs displayed massive congestion of the vasculature, with sickling of virtually all red blood cells. Hemoglobin electrophoresis of post-mortem blood revealed SA hemoglobin."

Case 4. "L. T., a 21-year-old recruit, complained of faintness and numbness of the legs and lost consciousness while running once around his barracks after arriving for training. On admission he had regained consciouaness and complained of pain and weakness in the lega. He was in no acute distress. . . . General physical and neurological examinations were unremarkable but he suddenly became apneic [ceased breathing]. . . . He died 8 hours after collapsing. . . . A sickle cell preparation at autopsy was positive."

The Army was unimpressed by the reports. Although a number of physicians suggested that Blacks with sickle cell trait be draft-exempt, the military still does not require even diagnostic screening tests of new recruits. A Fort Dix pathologist wrote the *New England Journal* to complain that evidence supporting a relationship between sickle cell trait and the sudden death of Army recruits was "insufficient," and a Defense Department spokesman has insisted that "personnel found to have the trait are still considered qualified for general duty." While Army spokesmen suggest that coincidence or drug abuse might have been implicated in the reported deaths, the Black Panther Party Newspaper suggests that "the racist U.S. power structure has no intention of ceasing this form of genocide." On May 22, 1971 the paper announced that "Therefore the Black Panther Party is initiating a program to help research really begin that can eventually discover the cure and prevention of Sickle Cell Anemia."

IV

The motivation and the aim of the Panther program seem unimpeachable. For years sickle cell patients have been paraded before beginning medical students as evidence that biochemistry is relevant, that genetics can be fun. Yet for all this "understanding," no treatment or effective palliation exists for the disease, and no real effort has been made to increase public awareness of its nature: if recent samples are representative, less than one-third of the black population of this country has ever heard of it. Finally, one black person in ten carries a gene for hemoglobin S, unaware of that fact and of its possible consequences.

But in the light of what is known of sickle cell anemia and, more important, of what is not known, serious questions arise. Granted the obvious truth that black people, like all people, have a right to all information which relates to their health and well-being, how is such information likely to be used? Blacks with sickle cell trait should of course know that if if they bear children with another heterozygote there is a 25 percent chance that those children will suffer from sickle cell disease and die. But what are the limits of "genetic counseling?" Where does advice and information end and compulsion begin? Perhaps Blacks with the trait should be exempted from military service. But should they be excluded from professional sports? From riding airplanes? Will their insurance rates be raised, as, for example, the premiums of people with even mild diabetes are raised? (Here it should be emphasized that sudden death in sickle cell trait remains an exceedingly rare phenomenon; heterozygotes have a normal life expectancy and are not invalids.) As a health worker at the Mark Clark People's Free Health Center in Philadelphia I have participated in the Panther screening program, and I hope to continue to do so. But there have been painful moments when I have wondered if, in telling someone in otherwise perfect health that he or she had "sickle cell trait," we were not forcing that person to pay a price in anxiety and confusion disproportionate to what she had gained: Would she get sick? Probably not. Could we help her? No. What should she do? Nothing; except avoid marrying someone else with the trait; or have no children; or adopt children; or have children at her own risk; that is, at theirs.

More troubling, I think, is the Party's statement that its program will "help research really begin that can eventually discover the cure and prevention" of SCA. Such a goal is unquestionably admirable. But the level of hope and expectation it reflects, as is the case with most claims made of and by "modern medical science" (whether for wonder drugs or organ transplantation), seems to be dangerously inflated. Although, on the one hand, a cure for sickle cell anemia might appear to be close because its specific "cause" has been identified, that same fact reasonably may, on the other hand, give rise to a sobering skepticism. Precisely because so much is known about the disease and has been known for some time, the lack of therapeutic progress thus far is especially discouraging.

According to the elegant, even seductive, theory of sickle cell pathophysiology, the various but typical symptoms of the disease are related to the unique property of hemoglobin S: under conditions of low oxygen concentration the molecule forms crystals called "tactoids" which stretch the cells to their abnormal elongated shape, predisposing to circulatory obstruction in small vessels where blood cells pass one at a time. This sickling phenomenon occurs more easily with higher percentages of S hemoglobin (i.e., SS rather than AS), in acidic solutions, and under conditions of stasis (slow or stopped blood flow). Thus tissues which normally contain relatively acidic blood which is relatively low in oxygen (e.g., kidneys, lungs) are particularly susceptible to this vicious circle: sickled blood cells become trapped in small capillaries, leading to stasis, deoxygenation, increased acidity, and increased sickling; the sequence is repeated until blood clots, disrupted (occluded) circulation, pain, swe ing, hemorrhage, and tissue death occurs.

What initiates such a crisis remains (significantly) unknown; infection, stress, high altitudes have been implicated. But since sickling is a reversible phenomenon, at least in test tubes, it has seemed reasonable to believe that a crisis could be relieved by the administration of high-concentration oxygen, anti-coagulants (to break up clots), whole blood transfusions, antacids, and so on. These have all been repeatedly tried; and they have all miserably, and significantly, failed. Recent trials with urea (a chemical which returns sickled cells to normal shape in test tubes) have seriously endangered some patients and have been implicated in the death of at least one child.

Even if sickling could be reversed in a patient's circulation, it is impossible to predict whether or not the disease would thereby be "cured." Juvenile-onset diabetes, for example, is another disease characterized by a specific chemical difficulty, an inability of the body to secrete insulin. Until this was discovered and insulin made available on a mass scale, its victims died in childhood. Now they live longer but eventually succumb to degenerative changes of the nervous and circulatory systems which fatally persist despite insulin therapy. The biochemistry has been "corrected," but the disease state progresses, apparently unimpressed. Even if sickled cells could be "unsickled," then, victims of SCA might still be in trouble.

Finally there seems to be the assumption underlying the Panther program that if more money and more data and research subjects were provided, a cure would somehow follow. Contradicting this are not only the rather depressing results in the case of SCA, outlined above, but the fact that those childhood diseases which have received money more extensively—cystic fibrosis, muscular dystrophy, and many others—are as mysterious as ever, as incurable. Then heart disease, stroke, and cancer—well-known scourges of the white middle and upper classes, which have been funded astronomically relative to SCA—might be mentioned as examples of more spectacular failures.

This is not to argue that research into sickle cell anemia should not be energetically pursued, or that education and screening programs should not be carried out. As an organizing and fund-raising tool, the People's Fight Against Sickle Cell Anemia is of unquestionable value; and the history of the white medical establishment's neglect of SCA could hardly be more educational. But the new emphasis on sickle cell screening should not be allowed to deflect energies from other screening programs for lead poisoning and anemia (both of which more commonly afflict black people than SCA and which can most often be successfully treated) and from efforts to provide free, dignified "primary" medical care, Pap tests, pre-natal care, and so on.

The liberal medical establishment's new enthusiasm for this "interesting pathology" of Blacks should not be allowed to obscure the fact that it has done so little, and is still doing little to prevent the malnutrition which causes anemia, the peeling lead paint which poisons babies, the rats and the roaches. And when money for SCA begins to appear—if in fact it ever does (reportedly Nixon has earmarked the federal research funds for white friends in the South, part of the Southern strategy for 1971)—it should be regarded with a certain caution. Because as Nixon and the doctors enter the sickle cell sweepstakes, armed with programs and patents and promises, a new set of dangers presents itself: that black people will continue to be used, as they have traditionally been, as "research and teaching material" by white doctors; that whatever research does take place will be designed by and for physicians and will have as its primary aim professional advancement in academic medical circles rather than increasing the likelihood (however slim) of direct therapeutic benefit to the masses of black people; that "genetic counseling" from outside the black community might evolve into social control or economic sanction.

V

The most far-reaching consequences of the sickle cell controversy seem to me not "medical" in the strictest sense, but social and political. It is no accident that the current explosion of interest in sickle cell anemia is taking place in the midst of the most significant turbulence in the history of American medicine.

Today the failure of this country's "health care system" is a widely acknowledged, abundantly documented, and massively publicised fact. The American Medical Association, remarkable even in this country for its history of self-interest and exploitation, is beginning at last to disintegrate. Public dissatisfaction with doctors and hospitals is rising, especially (and encouragingly) among the middle classes.

As the crisis intensifies, medical imagemakers have begun to sense that the status and economic privileges of physicians in this country can be saved only by rapid ledgerdemain. Galled by the AMA's failure to take a more "liberal" stance on matters of medical politics—group practice, health care for the poor, national health insurance—medical school based physicians have begun to take the initiative. Always somewhat alienated from community practitioners, whom they consider rather dull and unscientific, these academic medical men, armed with liberal rhetoric, corporation consultants, cost-benefit economics and computers, are maneuvering for control of medical practice.

The pattern is not without precedent. what is happening today in American medicine happened in almost every other sphere in the 1930s: promises of a "new deal" are being made in an elegant attempt to dissipate energies for genuinely radical alternatives. Medicine's lag of forty years, however, has not been detrimental for the movement, but providential. For in that time period the deficiencies of corporate liberalism—centralized bureaucracy wholly unaccountable to the public, a distorted sense of priority which places profits and power before service to people, institutionalised depersonalization bordering on mass schizophrenia—have become evident enough. And as AMA conservatives and the urban academic medical elite fight it out, the discontent swells.

It is a perfect moment for the radical health movement—a coalition of consumers, community people, health workers and "professionals" dedicated to providing free medical care to all people in their local communities, ending economic and status distinctions among health workers, taking profits, racism and sexism out of health care, calling for community control of all health institutions (including the new liberal medical empires). On June 15 the Medical Committee for Human Rights launched a National Health Crusade which has been gathering a remarkable momentum; it is based upon these principles:

1. End profit-making in health care. Health care is a service, not a business.

2. Pay for all services with a progressive tax on total wealth. One without loopholes that makes corporations and the rich pay their share.

3. Provide complete and preventive care with no charges for health services.

4. Administer medical centers locally through representatives of patients and health workers.

5. Create a federal non-profit corporation to produce and distribute drugs and medical supplies.

People's Free Medical Centers, similar to those of the Black Panther Party, the Young Lords, and Young Patriots and other community groups (there are now an estimated 200 functioning or in preparation throughout the country) are an integral part of this health movement's efforts to revolutionize "medical care" not merely in the narrow sense but as part of a larger effort at restructuring and making "healthy" a social order which is conspicuously unwell. These health centers are "counter-cultural" in the best sense, providing radical alternatives to existing medical (and social) institutions

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and ideologies. They constitute an active focus for community organizing, education, cooperative work, the formation of new kinds of relationships, communication, sharing, play, love. Someday they may include day care centers, recreational facilities, places for old people to live and work and be and feel useful. They are, I believe, precious revolutionary resources.

The liberal medical elite, for its part, will fight to subvert this program and prevent community-worker control of its own institutions; it will try to head off any counter-institutional development which threatens to disrupt the white-male-professional dominated hierarchy of medical care in this country. And it is in this context that the sudden discovery by the medical establishment and Richard Nixon of sickle cell anemia becomes rather more clear. Their recent infatuation with SCA is an attempt to prove that American doctors *are* responsive to the needs of the black community; it is an attempt to deflate pressures for radical change, and perhaps the beginning of an attempt to gain control of People's Medical Centers; it is, as Dr. Scott has suggested, although not in so many words, a rip-off.

I am not suggesting that government and/or medical empire money and equipment (if and when it becomes available for SCA) should not be accepted. It should be accepted, with a knowing smile, with both hands out for current liberal with militant demands for more. For the current liberal enthusiasm about sickle cell anemia leaves deliberately unexamined the real roots of the black community's chronic ill health. It does not get at poverty or vastly inadequate nutrition, at racism or peeling lead paint, capitalism or rats, at the absence of easy access to free, dignified medical care, at professionalism or sexism, at what a doctor "is," indeed at what a human being is, and can be, and must be. The health movement is beginning to get at those things, and shall continue to as it grows and struggles to serve the people, as the workers at the Mark Clark Center say, body and soul.

CHAIRMAN MILLS SPEAKS ON AMERICA'S FUTURE

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. BROWN of Ohio. Mr. Speaker, on October 18 I was privileged to be in attendance at the biennial session, Supreme Council of the 33d and Last Degree, grand commander's dinner of Scottish Rite Masons, held in Washington, D.C. Several of us from the Northern Masonic Jurisdiction were privileged to be on hand.

On that occasion, two of our colleagues from this body were among three distinguished citizens who received the Grand Cross of the Court of Honour awarded by the Supreme Council of the Scottish Rite of the Southern Jurisdiction of the United States. The Grand Cross of Honour is the highest Masonic award conferred by the Southern Supreme Council. The three members who received the award that evening brought to 11 the holders of the Grand Cross out of nearly 600,000 members in the Scottish Rite for the Southern Jurisdiction of the United States.

Our two colleagues who received the award were the Honorable WILBUR MILLS, chairman of the powerful Ways and Means Committee, and the Honorable JOE WAGGONNER, JR., the distinguished gentleman from Louisiana. The third recipient was Gen. Bruce C. Clarke, U.S. Army, retired, of Washington, D.C. All three are holders of the 33d degree in Masonry.

The list of other honorees for high national Masonic awards also included four U.S. Senators and one former Senator, 10 Congressmen, two Governors, four generals, two college presidents, as well as outstanding judges, bankers, businessmen—all being recognized both for their public service and Masonic activities in many capacities.

U.S. Senators named to receive the rank and decoration of Knights Commander of the Court of Honour were LLOYD M. BENTSEN, JR., of Texas; QUENTIN N. BURDICK, of North Dakota; ROBERT J. DOLE, of Kansas; HENRY M. JACKSON, of Washington, and former Senator Thomas H. Kuchel, of California.

Congressmen included were: CARL B. ALBERT, of Oklahoma, 33d; JOHN W. PATMAN, of Texas, 33d; JOE L. EVINS, of Tennessee, 33d; GEORGE H. MAHON, of Texas, 33d; HERBERT R. ROBERTS, of Texas, 33d; KEITH G. SEBELIUS, of Kansas, KCCH; DAVID T. MARTIN, of Nebraska, 33d; DAVID N. HENDERSON, of North Carolina, KCCH; EDMOND A. EDMONDSON, JR., of Oklahoma, KCCH; and JAMES R. MANN, of South Carolina, KCCH.

Honorees also included Governors John A. Long, of Colorado, 33d; and Stanley K. Hathaway, of Wyoming, KCCH.

Typical of other prominent Masons recognized were: Gen. Frederic C. Weyand, of Hawaii, KCCH; Lt. Gen. Willard Pearson, NATO, of North Carolina, KCCH; Edd H. Bailey, president, Union Pacific Railroad, of Nebraska, 33d; President Arthur L. Mallory, Missouri State College, Missouri, KCCH; President Truman G. Blocker, Jr., University of Texas Medical School, Texas, KCCH; Chief Justice Orris L. Hamilton, Washington Supreme Court, Washington, KCCH; Dr. Kenneth E. Raschke, Commission of Higher Education, of South Dakota, 33d; Stephen D. Betchel, of California, 33d, president of Betchel Corp., an international construction company; Judge Elmer E. Robinson, of California, 33d, former mayor of San Francisco; and Benjamin H. Swig, of California, 33d, a hotel owner and internationally known philanthropist.

The 33d degree is the highest degree of the Scottish Rite, awarded only for outstanding public and Masonic achievement; while the rank and decoration of KCCH—Knight Commander of the Court of Honour—is a national recognition of high ability and services, sparingly awarded.

During the dinner, Chairman MILLS was the main speaker. His theme was the necessity of individual effort in America, required to bring this great Nation to the highest fulfillment of its goals of equal opportunity and achievement for each citizen. In seeking the realization of these goals Chairman Mills stressed the partnership of people and government, each contributing what can best serve the welfare of the Nation, neither seeking a disproportionate share of the bounty without just effort and without the exercise of responsibility for its use and proper distribution.

Mr. Speaker, I believe the message of Chairman MILLS to his fellow Masons is one that offers practical and substantive advice to all of us. For that reason, I wish to place it in the RECORD for the benefit of my colleagues.

REMARKS OF CONGRESSMAN WILBUR D. MILLS

Tonight has a very special meaning for me. As a Thirty-Third Degree Mason I have been long and intimately involved in this great and ancient order. The fact that the Masonic Order is one of the oldest fraternal organizations in the world speaks well for the integrity and zeal which has always marked our efforts in the promotion of brotherhood and the fostering of high moral conduct among our members. I believe that we have been most practical in our striving toward that "religion in which all men agree, that is to be good men and true." Recognizing that God is the "Great Architect of the Universe" we revere our symbols and rites based upon the tools and practices of the building professions. Our practicality is further demonstrated by the millions which we spend annually for hospitals—homes for widows and orphans and the aged—relief for those in distress—and in the provision of scholarships for deserving students.

I am proud, as I know you are, that the Founding Fathers of our country, George Washington and Benjamin Franklin, were members of our great Order. With these ancient roots in our own national history, it is gratifying to note that in the past ten years our membership has increased by nearly one million. Those high moral tenets which have made our Order so viable are likewise the sustaining hope of our great Nation.

America is moving, and moving fast. But where are we going and how are we getting there? The pace of change in technology, life style, world events, science, and every other aspect of our existence is accelerating at an almost unbelievable rate. One unfortunate byproduct of this rapid rate of change is a loss of perspective. We can become so tangled in the onrush of the new and different that the proper role to be filled by the individual is often obscured. It is time to step back and examine the state of life in America.

We are witnessing around us the emergence of a great moral concern. A concern for everything—hunger, pollution, war, population growth, racism, poverty—nothing is left out. These issues dominate newspaper headlines, news broadcasts, campaign speeches, campus debates, and ordinary conversation. All would agree that this emerging concern for community and quality of life is much needed and perhaps long overdue.

But has this awareness and involvement become so publicized and generalized that the attitudes and expectations of the individual have suffered? Individual achievement and responsibility appear to be casualties of the new universal concern.

Many Americans seem to have been propagandized into a belief that society owes them something. I am not here referring to the poor or members of a minority group—which our government, like our organization, is constrained to help—but to average citizens, from every area and income group. Many have come to expect more from the United States than they are willing to give in return. Their individual resources are

channeled into beating the system—trying to get something for nothing.

This can take many different forms. A business executive who cheats on his income tax is an illustration. He is merely demonstrating his unwillingness to assume his fair share of the burden of supporting government and society. He will honestly lament the existence of slums in the city where he works, but he isn't willing to provide the tax dollars so necessary for urban renewal. It is all too easy for him to rationalize that his rates are too high, tax money is wasted, and everyone else is doing the same thing.

News stories are not necessary to inform us of the abundance of shoddy merchandise flooding our markets. Some products fall apart, others are actually harmful. Recently a government agency revealed that toys injure 700,000 children annually. Every day new foods are declared to be absolutely lacking in any nutritional value. Many manufacturers seem to be content to produce a product which will generate the greatest profit, regardless of its quality. Profit is the name of the game.

The producer of the non-nutritional food is genuinely concerned about malnutrition and hunger existing in an affluent society. The manufacturer of shoddy merchandise is genuinely concerned about the cynical attitude of so many toward big business which provides so much for so many. This type of attitude and behavior is not unique to our age or our society. Every society in every time period has had those who tried to beat the system—get as much as they could, giving as little as possible in return. What is so alarming is that this attitude or way of life has become so widespread. Often, it is not recognized for what it is, because it takes so many different forms. The actions of each of these individuals is both distressing and paradoxical. These individuals express genuine concern for community and the plight of those less fortunate than themselves—yet their actions exacerbate these very problems, or create others into which vital and limited resources must be diverted.

Another closely related by-product of this broadened, much publicized, almost institutionalized concern is the depersonalizing effect it has. Issues and problems become so analyzed, discussed, generalized and abstracted that they have become just that—an abstract issue to be discussed. We are overpowered with statistics, studies, reports, and ideological approaches. The plight of the individual as he is affected by these problems is lost or obscured.

Crime is perhaps the most poignant example of this phenomenon. We are bombarded with news stories of crime waves and lawlessness, statistics and theories of causes, preventions and cures. It makes a great campaign issue, a stimulating subject for the after-dinner speaker, and merits high priority of the average citizen's list of most pressing problems.

Yet the human element of crimes is sometimes forgotten, suppressed or ignored. It would not be stretching the point too much to say that crime has become completely dehumanized. There is a dehumanizing effect of the penal process itself on those punished for crimes. And on the other hand, occasional news stories remind us of the tragic and brutal effect crime has on its victims. We were shocked and outraged at the story of the woman whose screams were ignored by passersby and nearby dwellers as she was beaten to death. Sometimes reports of bizarre crimes such as the lunch-counter owner who was shot and killed because he didn't have any pie, often become identified in the public's mind with crime in general. Since there is probably no prevention possible against such irrational behavior, it is widely feared that no defense to crime is possible.

There is at least one specific area where a spotlight on the individual, human participants in crime, would be beneficial. And that is business or corporate crimes. Few people think of violations of pollution laws and building codes, tax evasions, noncompliance with health and safety requirements, or production of shoddy merchandise as crime. Yet the effects of these crimes reach millions, consumers and non-consumers alike. Violators, when caught, may suffer no embarrassment or meaningful retribution. It is just one more business expense. There is little or no peer disapproval; rather it is viewed as an acceptable method of operation—"Take what you can get from society, it owes you that much." It is similar to those ghetto dwellers who view theft as a permissible means of supplementing income. In both situations, the peer community may tacitly approve of such lawless action, but decry the other fellow's. The chairman of the board is the first to condemn the hoodlum who stole his spare tire, and the ghetto thief is the first to condemn the business which charges fifteen dollars for a five dollar shirt that comes apart at the seams the first time it is washed.

Peer group pressure and disapproval are one of the most effective deterrents to these types of crimes. It is time that individuals stopped rationalizing that such behavior is an acceptable part of the game. The individual must recognize his own behavior for what it is and for the effects it has.

This depersonalization of issues and problems has also helped to foster a depersonalization of responsibility for problems. Everything is always the other guy's fault. We are willing to direct our attention and concern toward these burning issues, but let it be clearly understood that we are cleaning up somebody else's mess. Recognition of our own contributions to the problems is a vital prerequisite to any true solution. Solutions become more meanningful and pressing when they are sought to remedy undesirable situations we have created ourselves.

One of the most desperately needed yet most gratifying means of fulfilling our duty to society and those in need is a donation of time and money to charitable causes and organizations. That is perhaps the primary reason why the public knows the Masons. Our benevolent activities and contributions have given tangible benefits to millions. The virtue of and need for this kind of activity is self evident.

But let's not let these good works eclipse a more important opportunity and responsibility we have to make a meaningful contribution to society. It is a responsibility which all men share. That duty is to reaffirm, by our conduct, our belief in God, our national values, and our national ideals. Let us demonstrate our awareness of the reaponsibilities and duties which each man owes his community. And let us expect the same from others. Let us recognize that the actions of each individual directly affect the problems for which we have demonstrated concern. This is not a substitute for community involvement but it should be a personal prerequisite to it. When we each learn to fulfill our own responsibilities to society and strive to achieve our own personal goals in a way which is compatible with these reaponsibilities, the problems of society will diminish accordingly.

In short, our present need as a Nation is a practical moral approach to the solution of our problems—not only our social—but also our economic problems. It is my belief that the highest morality available to man lies in devising social and economic systems that help the people to realize their potentials. Thus, our welfare goal must be to increase the ability of the poor to contribute to society through the means of income supplements—rather than having the means become the end, with the income supplement doing no more than providing bare subsistence and at the same time perpetuating the role of the poor as second class citizens.

Reaching toward this new morality, however, demands that we employ our resources to maximize our capacity for economic growth. Our resources are not unlimited—we cannot achieve all our aspirations at once and overnight. We must recognize this as a Nation and as individuals, and it is immoral for us to delude ourselves or those whose needs are so pressing into thinking that we can. As we look to the Federal Government more and more for effective action on those many fronts which have previously been the domain of the State and local governments, we must constantly be on guard against the creation of a "coercive society".—We must not win the battle but lose the war.

Recognizing that even the most optimistic view of our gross national product for the next five years falls far short of the cost estimated for full realization of our social goals, we must approach with great caution any program which would divert our resources from the private to the public sector of the economy and interfere with the continued natural growth of free enterprise. I am therefore pleased that the Ways and Means Committee, in its articulation of the President's tax proposals, has gone a long way, not only in encouraging business investment in the tools of production—but has gone further than the Administration proposed in leaving in the hands of the consumer the additional purchasing power needed to absorb that production.

Here, both the producer and the consumer will benefit. If all benefit went to either party, then there would, of course, be no incentive to increase trade, and the resulting imbalance would preclude the needed orderly growth of the private sector of our economy.

Let each of us, then, exhibit to the world a renewed faith and confidence in America's ability to solve the problems which so concern us. Let, us, as Masons, be zealous in propagating this faith and confidence among all our fellow citizens. Let us have done with abstraction and get on with the job of eliminating concern by solution. Let us, as a Nation, solve our social and economic problems simply by employing those tools vested in us by the Great Architect of the Universe.

POSTAL EMPLOYEES' RIGHT TO STRIKE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. WALDIE. Mr. Speaker, last year we enacted a bill into law that was hailed as the Magna Carta for postal employees. In addition to making the Postal Service an independent establishment, it also created the right of Federal employees to organize themselves into unions and bargain collectively through their organizations with the Postal Service on the same basis as employees in private industry, at least it was so alleged.

In fact, however, while the act did in fact bring postal employees within the realm of the National Labor Relations Act, it at the same time deprives them of

the most fundamental right that any trade unionist possesses—that is the right to strike. Without that right, the union is for all forms and purposes a paper dragon and has no means of bringing any economic pressure whatsoever on an employer. A concurring opinion in a recent District Court decision presented this basic principle in these words:

"It is by no means clear to me that the right to strike is not fundamental. The right to strike seems intimately related to the right to form labor organizations . . . A union that never strikes, or which can make no credible threat to strike may wither away in ineffectiveness. That fact is not irrelevant to the constitutional calculations. Indeed, in several decisions, the Supreme Court has held that the First Amendment right of association is at least concerned with essential organizational activities which give the particular association life and promote its fundamental purposes."

So in fact what we did by enacting the Postal Reorganization Act was hold out a short piece of bait to the employee in withholding the most basic fundamental right employees in a true free collective bargaining situation have anywhere—that is the right to strike. The bill that I am today introducing would remove the employees of the Postal Service from the prohibitions of the United States Code against their participation in a strike.

At the same time the bill would place the employees of the independent Postal Service under the same restrictions that the rest of the employees of the United States free enterprise system are under. When under the National Labor Relations Act a "national emergency" is involved, the Taft-Hartley Act sets forth a complete procedure. These procedures are admittedly subject to much scrutiny presently and hopefully they will be revised in the immediate future to provide better protections. The fact remains that they are the procedures under which all the employees subject to the National Labor Relations Act in the entire country are bound by. It therefore constitutes a complete act of discrimination to say to the Postal employees that:

Yes, you are entitled to all the provisions of the National Labor Relations Act except your right to strike. But we don't believe that you are responsible enough to assume that right. So, therefore, we are going to set you out in a very special category.

I am, therefore, introducing today this bill to remove the postal employees from this special catgeory and to grant them full parity with the rest of the employees in the private sector of our economy, and I ask unanimous consent that the attached section-by-section analysis be printed in the RECORD at the conclusion of my remarks.

SECTION-BY-SECTION ANALYSIS

Section 1. States that the act shall be known as "The Postal Reorganization Act Amendments of 1971".

Section 2. This section, by striking the reference to Sec. 3333 would remove the requirements that every Postal employee take an oath not to strike. By adding the proviso at the end of the subsection the applicability of Section 7311 is removed insofar as Postal employees are concerned. This is the prohibition against striking. The section contains various other prohibitions but the courts have invalidated all but the strike prohibitions.

Section 3. This section removes Postal employees from the applicability of criminal penalties (Sec. 1918, Title 18 U.S.C.) which may be imposed against employees of the Federal government for striking. The remainder of that section has also been invalidated by the courts.

Section 4. This section would repeal that portion of Chapter 12—"Employee-Management Agreements" entitled "Labor Disputes" and which sets forth the machinery for mandatory arbitration in the event of an impasse between labor and management which in an ordinary non-governmental situation might, but not necessarily, lead to a strike. Since this was inserted in the Postal Reorganization Act as an alternative to the right to strike it is logical to eliminate it when the strike restrictions are removed.

Section 5. In striking Sec. 1207 the provisions for mediation were also removed. This section would merely make the general law provisions of conciliation applicable to the Postal Service. Please note that it also contains the Taft-Hartley provisions for handling "National Emergency" strike situations.

ALASKA REINDEER HERDERS SEEK CHANGES

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. BEGICH. Mr. Speaker, recently, I received two resolutions which had just been adopted by the Reindeer Herders Association. I would like to bring to the attention of my colleagues the ideas expressed in these two resolutions.

Resolution No. 1 explains the association's support of a fencing program on the Seward Peninsula to prevent overgrazing and intermingling. According to the association, the Soviet Union, Norway, Finland, and Sweden are now using this type of method and are having great success with it. The association feels that, if used properly, this new method of herding will increase the productivity of reindeer breeding.

Resolution No. 2 asks that the United States enter into an exchange program with such reindeer countries as Russia, Norway, Finland, and Sweden. This program would, the association feels, allow these countries to exchange methods and ideas on reindeer herding in a manner that would improve the process for all.

I am inserting a copy of each of the resolutions for my colleagues' inspection:

RESOLUTION NO. I: FENCES

In order to promote better reindeer herding on the Seward Peninsula and improve the utilization of the present range lands, the Reindeer Herders Association recommends that the Bureau of Indian Affairs, Bureau of Land Management, and the State of Alaska with the assistance of the Reindeer Herders Association and the individual herders, construct barriers or fences that will prevent herds from overgrazing and intermingling.

Passed by the Reindeer Herders Assn. on September 22, 1971.

RESOLUTION NO. II: AGRICULTURAL EXCHANGE PROGRAM

Whereas, the Reindeer Herders Association is interested in the development of the reindeer industry as well as promoting friendship & unity with our arctic neighbors.

Whereas, the Soviet Union and Scandinavian countries, namely, Norway, Sweden, Finland, are recognized as the leading competitors in the reindeer industry,

Whereas, the exchange of ideas and knowledge in the industry between the Alaska reindeer herders and herders of the above mentioned nations will be to the benefit of all involved,

Now therefore, the Reindeer Herders Association recommends that the U.S. Government, the State of Alaska, and the Reindeer Herders Association enter into an exchange program with the Soviet Union and the Scandinavian countries, namely, Norway, Sweden, and Finland, whereby the reindeer herders of Alaska visit the above mentioned countries and have those herders of Russia, Norway, Sweden, and Finland visit Alaska.

Passed by the Reindeer Herders Assn. on September 22, 1971.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1971

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. DIGGS. Mr. Speaker, because official business may require my attendance at the United Nations when the Environmental Pesticide Control Act comes up for a vote, I should like to take this opportunity to indicate my position on this legislation.

Legislation is urgently needed to replace the existing Federal insecticide bill—FIFRA—which only regulates the labeling and sale—not the use—of pesticides. However, the bill as reported by the committee is deficient in a number of important respects.

I therefore want to state my support of the substitute bill to be offered by Congressman Dow, designed to improve the standards for protection of public health and the environment and to allow the States to provide stricter regulation, if necessary, for the general use of pesticides.

The committee bill closes the door on State initiatives, forbids tougher State regulation, and would wreck the programs in several States that have developed strong programs and effective implementation.

The committee bill limits information available to the Environmental Protection Agency by requiring the EPA Administrator to ignore established research data, shifting the burden of proof to EPA to determine that the pesticide is environmentally unsound. The Dow substitute would require the pesticide manufacturer to submit to EPA any data in his possession which may indicate whether or not the chemical would cause environmental damage.

Furthermore, the Dow amendment would permit EPA to deny registration on the basis that a particular pesticide is not essential. This is current practice, but the committee bill prohibits denial of registration on this basis.

Another important factor is that the committee bill restricts court challenges to chemical manufacturers, claiming that EPA represents the public interest, whereas the Dow amendment permits appeals of EPA orders by representatives of public interest, environmental and health groups, or whatever groups feel adversely affected.

These are a few of the major reasons for my support of the proposed Dow amendments to the bill at this time.

THE HUNGARIAN SYMBOL OF EVENTUAL FREEDOM

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. ASHBROOK. Mr. Speaker, on October 29 Senator ROBERT DOLE of Kansas submitted a concurrent resolution in the Senate expressing the sense of Congress that the great national treasure of Hungary, the Holy Crown of St. Stephen, continue to remain in the safekeeping of the U.S. Government until the people of Hungary are again directed by a free and representative government. Joining Senator DOLE in cosponsorship were Senators THURMOND, BUCKLEY, BENNETT, ROTH, and TOWER. On the House side Congressman LARRY HOGAN introduced a similar resolution recently and was joined by 24 Members who are concerned that the Hungarian hope for eventual freedom will suffer a demoralizing blow if the crown is turned over to the Hungarian Communist regime. Needless to say, the living symbol of Hungarian freedom, Cardinal Mindzenty opposed the transfer of the crown, but his departure from Hungary removed a major obstacle to any proposed negotiations.

Columnist Paul Scott in his nationally syndicated column of November 1 commented on this issue. I insert his column of that date in the RECORD at this point:

HOLY CROWN OF ST. STEPHENS

(By Paul Scott)

WASHINGTON.—Secret diplomatic maneuvering is now underway for the State Department to turn over the Holy Crown of St. Stephens to the Communist Government of Hungary.

The historic crown, the oldest Christian symbol of freedom and authority in Europe, was entrusted to the U.S. government in 1945 to keep it out of the hands of attacking Russian armies and until Hungary is a free nation again.

The return of the Holy Crown and its jewels is being engineered by Dr. Henry Kissinger, the President's chief foreign policy adviser, and is an integral part of President Nixon's new policy of accommodating Moscow and Peking to obtain a lowering of East-West tensions.

Under the Kissinger plan, the Holy Crown is to be returned to Hungary before the President visits Moscow. The return could come as early as this Christmas if a U.S.-Hungary claims settlement agreement can be worked out before then.

The return of the Holy Crown is to serve as a public gesture to Moscow and the other Soviet bloc nations that the U.S. government fully recognizes communist control over Hungary and the other Captive Nations of Eastern Europe.

Given to King Stephen of Hungary by Pope Sylvester II in the year 1,000 A.D., the Holy Crown is a national treasure of immense historic and symbolic significance to Hungarians and American Hungarians who believe that government power is inherent in the Holy Crown itself. To many Hungarians, the Holy Crown represents that Hungary always would be a Christian nation.

Discussions on the arrangements for the return of the Holy Crown are now going on in Budapest between Hungarian officials and U.S. Ambassador Alfred Puhan. The arrangements are expected to be completed soon unless Congress bars the move.

Twenty-five lawmakers led by Representative Lawrence Hogan (R. Md.), a leading Catholic layman and former FBI agent, has introduced a concurrent resolution in Congress designed to block the return.

Their resolution expresses the sense of Congress that the Holy Crown should remain in the U.S. until Hungary once again functions as a constitutional government established through free elections.

The House legislators, who are from politically strategic states ranging from New York to California, and Massachusetts to Pennsylvania, are now pressing for public hearings before the House Foreign Affairs Committee. The Hogan group's objective is to expose the Kissinger plan before it can be consummated and rally public and congressional support against the return.

Their argument against the return is that it would be taken by persons behind the Iron Curtain as a breaking of a sacred trust and a sign that the U.S. has given up hope that Hungary and the other Captive Nations will ever be free. As one member of the Hogan group put it:

"The return of the Holy Crown would be a symbol that the U.S. believes Communist rule will go on indefinitely in Hungary and the other Eastern European nations."

State Department officials so far have been able to delay public hearings by declining to answer the committee's request for the Nixon Administration's position on the resolution.

THE NEW POLICY

The significance of the present U.S.-Hungarian talks to return the Holy Crown is that they began shortly after President Nixon made his decision to support the legalization of Communist control over all the people and nations seized during and since World War II.

Although never announced by the President, this new doctrine of writing off the Captive Nations of Europe and Asia was secretly made known to Soviet and Chinese leaders several months ago and shortly after the decision was made.

Administration insiders say the new Nixon policy had a lot to do with those invitations from Moscow and Peking for President Nixon to visit those countries next year. Another sign of the policy is the red carpet treatment that the White House accorded President Tito when the Communist boss of Yugoslavia visited Washington last week.

It was Tito who encouraged Nixon during their meeting last year in Belgrade to give "legal recognition" to the territorial changes that took place in Europe after the Second World War.

MINDSZENTY EXILED

The pressured exile of aging Cardinal Mindszenty recently from his self-imposed asylum in the U.S. Embassy in Budapest was part of the new Nixon policy toward the communists. As a symbol of a free Hungary, the Communist government there wanted Cardinal Mindszenty removed from the country. The Nixon Administration agreed and put pressure on Rome to force Mindszenty to leave.

Significantly, one of the charges leveled against Cardinal Mindszenty, when he was jailed after the Communists took over Hungary, was that he had urged the U.S. to protect the Holy Crown or turned over to Rome for safekeeping. Cardinal Mindszenty was freed from jail by the Hungarian Freedom Fighters during the October, 1956 uprising. He was forced to seek asylum in the U.S. Embassy when Soviet troops crushed the rebellion.

Now living in exile in Austria, Cardinal Mindszenty's private plea to his supporters here is to do everything possible to keep the Holy Crown out of the hands of the communists. One of his long-time supporters here, former Speaker John McCormack, is telling members of Congress that "the return of the Crown to the present Hungarian government must be stopped."

RELIGIOUS LIBERTY

HON. WILLIAM M. McCULLOCH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. McCULLOCH. Mr. Speaker, on November 8 the House will be presented with an opportunity to vote on House Joint Resolution 191. As a person firmly committed to the American ideal of religious liberty, I must oppose House Joint Resolution 191, for it threatens what I hold dear.

I favor voluntary prayers in the public schools and in other public buildings. I oppose Government interference with and control over religion. Nothing in the 1962 and 1963 decisions of the Supreme Court contradicts my position. Everything in House Joint Resolution 191 does.

What the Supreme Court said is that under the first amendment Government cannot conduct religious exercises. I do not believe that Government should have any role in a person's religious life. Prayer is something holy, sacred, and personal. The only kind of prayer that counts is voluntary prayer, prayer that comes from the person's heart, not prayer forced from a person's lips.

That is why Supreme Court Justices of three major faiths—Catholic, Protestant, and Jewish—have opposed prayers by Government and favored prayers by people. Under the first amendment, the activity of praying is reserved to the people. I believe that the history of government and the history of religion show the wisdom of our first amendment.

I cannot subscribe to any measure that would seek to create a governmental religion, even if in a watered-down form. I am opposed to governmental religion, and I am opposed to watering down religion. That is why thoughtful representatives of three major faiths, as they analyze House Joint Resolution 191, are coming to the conclusion that a measure that at first looks proreligion is, after all, really antireligion.

In my state of Ohio, religious liberty has long been held dear. In 1869 the Cincinnati School Board banned religious exercises in the public schools. It was about this time that President Grant, a native of Ohio, made clear his position that matters of religion should be kept out of public schools. And in 1925 the Governor of Ohio vetoed a bill prescribing Bible-reading in public schools. He said:

It is my belief that religious teaching in our homes, Sunday schools, churches, by the good mothers, fathers and ministers of Ohio is far preferable to compulsory teaching of religion by the state. The spirit of our federal and state constitutions from the beginning . . . [has] been to leave religious instruction to the discretion of parents.

The Supreme Court decision of 1962 and 1963 anounced no novel doctrine to those in Ohio who had studied their State's history. In this tradition, the Catholic Times of Columbus, Ohio, pub-

lished an editorial on October 10, 1971, which reflects this Ohio heritage and the thinking of thoughtful representatives of major faiths; it is as follows:

THE PRAYER QUEST

All of the really nifty proposals for constitutional amendments seem to come from Ohio or receive more than a fair share of support from Ohioans. It is evident that there are still many people who believe in legislated morality in our lovely state.

Back in 1917 members of the Women's Christian Temperance Union, with headquarters in Westerville, rejoiced when the Eighteenth Amendment was proposed by resolution of Congress. The Amendment was fully ratified on January 16, 1919, and by reason of its own terms became effective one year later.

It turned out to be the worst constitutional mistake in the history of the nation, but United States citizens suffered the effects of prohibition for more than 13 years before the Twenty-first Amendment repealed it.

The problem of prohibition came from the attempt to impose the moral views of a vocal minority on an entire populace. It made crime out of non-crime and forced the production of alcoholic beverages to go underground. Loads of good people became "criminals" and organized crime received fantastic impetus.

The most recent move for amendment action came from a petition drive in Cuyahoga Falls. This drew a response from Representative Chalmers Wylie, who obtained 218 signatures to force a prayer amendment bill out of committee. This amendment would assert that "persons lawfully assembled in any public building supported in whole or in part through the expenditure of public funds" could not be refused the right to participate in non-denominational prayer.

The bill in question had remained in committee because no one could resolve the question, "What does a non-denominational prayer look like?" The answer is, of course, no one knows, because it is impossible to compose a prayer that is not denominational.

If this amendment is proposed congressionally and ratified so that someone or some group is authorized to compose an accepted set of "non-denominational prayers," it could provoke one of the biggest controversies this country has ever witnessed. It would bring up the question of the civil government meddling in the affairs of religion. The official recognition of certain prayer formulas would also carry the connotation of establishing a kind of religion.

We all know the reason why these petitions, legislative moves in various states and at least eighty proposed bills in both houses of Congress keep coming up—the 1963 Supreme Court decision about prayers in public schools. But the interesting thing is that the Court didn't really forbid prayers in public schools. The decision simply declared that no child could be compelled to participate in prayer against his or his parents' will.

Meanwhile, the First Amendment upholds what still seems to be an adequate defense of religious rights. The present proposal would not only confuse the issue, but actually contradict it.

On October 21, 1971, the Daily Record of Wooster, Ohio, published an editorial in opposition to House Joint Resolution 191, entitled "Let's Let Well Enough Alone." I have known the publishers of this newspaper for nearly 50 years, and I can attest to the fact that they run an excellent newspaper. The following editorial is an example of that excellence:

LET'S LET WELL ENOUGH ALONE

It comes as a sort of shock to see the Baptist Joint Committee on Public Affairs opposing the proposed prayer amendment to the constitution.

The proposed prayer amendment seems harmless when it says: "Nothing contained in this constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer."

But the Baptist Committee wants it defeated. It says the proposed amendment by authorizing participation in nondenominational prayer opens the door for government to determine what is acceptable prayer.

The Baptist's fears might be justified. Perhaps we should let well enough alone.

Article 5 of the Baptist resolution opposing the proposed prayer amendment says: "We affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. The right, we believe, is protected adequately by the First Amendment as it now stands. 'Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . .'"

The Baptists go on to say:

"It is our opinion that the proposed amendment is offered in view of a misinterpretation of the so-called 'prayer and Bible reading' decision of the Supreme Court in 1962 and 1963 which properly prohibited government intrusion into the religious activity of school children. At no time has the Supreme Court prohibited voluntary prayer but has only ruled against governmentally prescribed prayer and governmentally sponsored religious exercises."

We're inclined to go along with the Baptists. The government took itself out of the religion problem with the First amendment which also guarantees freedom of press and expression and the right peaceably to assemble and petition the government for redress of wrongs.

The first amendment as it now stands has protected us for a good many years. Let's work within this amendment and not give the government or anyone else the right officially to say what "prayer" really is.

ORLANDO DAY NURSERY AND KINDERGARTEN FOR WORKING MOTHERS ONLY

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. FREY. Mr. Speaker, the Orlando Day Nursery and Kindergarten, at 100 West Anderson Street—adjoins the parking lot of Orlando Utilities Commission—phone 422-5291, is sponsored by the United Appeal, the Downtown Kiwanis Club, and an association of ladies from many churches—president, Mrs. Edward Helvenston.

It was started 50 years ago to provide for working mothers, a Christian home during the day for their children. It has grown into the largest day-care center in Florida with the most modern facilities, teaching equipment, and methods.

The building was specifically designed for play and learning in separate facilities according to age groups. There are acres of shaded playgrounds with the finest and most modern equipment for supervised play with a purpose. It is heated and air conditioned.

All appropriate areas are taught, including music, with no extra charge. The most modern of audiovisual equipment is used to supplement and aid the trained teachers, and all the facilities of the Orange County Media Center are used. Field trips are provided so that the children can learn about people and things as they are actually done.

Visitors are always welcome to observe and to counsel with the staff about their children except between 1 and 3 p.m., when they are sleeping.

The children are fed breakfast, a full lunch, and two supplements each day. The food program is supervised by the nutritional counselors of the State food service. The school is open from 6:45 a.m. to 6 p.m., Monday through Friday.

The rates are based upon the ability of parents to pay according to their income and the size of their family. The rates are from as low as $4 weekly to a top of $12 weekly. The second child in the family is only charged for at half the rate of the first. The donations of time and money of these dedicated organizations and people make it possible for working mothers to give their children the same advantages available to other children regardless of their financial ability to pay.

PRESIDENT ASKED FOR ASSISTANCE TO BLACK-OWNED AIRLINE

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. WALDIE. Mr. Speaker, I am sure that many Members of the Congress are unaware of the existence of an airline which is black-owned and black-operated.

This airline, Enterprise Airlines of Oakland, Calif., needs assistance, and in light of the massive assistance given by the administration and the Congress to such firms as Lockheed, would appear to be fully justified in gaining support.

Just recently, Mr. Speaker, the Federation of Democratic Clubs of Contra Costa County, Calif., adopted a resolution requesting the Congress and the President to give this call for assistance some consideration.

I am pleased to include the text of that resolution in the RECORD:

OCTOBER 27, 1971.

RICHARD M. NIXON,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I ask that you consider the following resolution passed by the Federation of Democratic Clubs of Contra Costa County California:

"*Whereas*, the Congress of the United States, with the approval of the President, has seen fit to support Lockheed Corp., in the amount of $250 million, and

"*Whereas*, it is the expressed intent of the Congress and the President to assist business ventures undertaken by the minority members of our society, be it

"*Resolved*, That the Congress of the United States and the President suppy financial assistance to the only black owned and operated airline in the United States, Enterprise Airlines, Oakland International Airport, P.O. Box 2602, Oakland, California 94614."

This resolution was proposed by the Treasurer of the Federation, Richard Leland, and seconded by the following:

Benjamin Marshall, Vice President, 572 6th St., Richmond, CA.

Sybil Galazin, 14th CD co-chairman, 1470 Creekside Dr., Walnut Creek, CA.

Jim Boman, Controller, California Democratic Council, 2641 San Carlos Dr., Walnut Creek, CA.

William S. Dickinson, Assembly candidate, 4261 Brentwood Circle, Concord, CA.

Sincerely,

NIC WALKER,
President, Federation of Democratic Clubs, Contra Costa, Co.

QUAKERS OPPOSE PRAYER AMENDMENT

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 27, 1971

Mr. SCHWENGEL. Mr. Speaker, as evidenced by the following statement, our friends of the Quaker faith of this country are opposed to the proposed constitutional amendment regarding prayer in public buildings.

The statement follows:

PRAYER AND BIBLE READING IN THE PUBLIC SCHOOLS

(NOTE.—A statement of the Friends Committee on National Legislation approved by the Executive Council, September 12-13, 1964, after opportunity for study and comment by the General Committee. This Statement was reconsidered and reaffirmed by the FCNL Administrative Committee on November 14, 1970.)

The recent decisions of the Supreme Court on prayer and Bible reading in public schools have evoked widespread discussion and caused many to suggest that the original Bill of Rights be amended.

Friends and others can make a real contribution to public understanding by describing the Supreme Court's decisions accurately, by interpreting the reasons for the Constitutional doctrine of separation of church and state, and by focusing attention on the fundamental question of how moral and religious values are communicated to children and advanced in our society. We urge all concerned Friends to obtain and read the testimony given before the House Judiciary Committee, April 22 to June 3, 1964 on various proposals to amend the Constitution.

WHAT DID THE SUPREME COURT SAY?

The First Amendment to the Constitution says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." The Supreme Court in three cases decided in 1962 and 1963 held that under the First Amendment, state or local governmental units cannot *require* the reading of a nondenominational prayer, the recitation of the Lord's Prayer or the reading of scripture from the Bible as a part of a devotional exercise in a public school.

Teachers in our public school system, the Supreme Court indicated, cannot be required, as a part of the regular school program, to conduct religious devotions or indoctrinate students in a particular set of religious beliefs. The Court opinion in the Schempp case stated:

"While the free exercise clause clearly prohibits the use of state action to deny the rights of free exercise to anyone, it has never meant that a majority could use the machinery of the state to practice its beliefs."

However, the Supreme Court specifically said that its decisions do permit the study of the Bible and of religion when presented objectively as part of a secular program of education. It is here that great deal more can be done to interpret the great significance of the Bible and religion in the history of our civilization and their place in art, literature and music. Some states and localities are actively working on programs to infuse moral and spiritual values in their educational systems within the Constitutional framework.

The Court's decisions were confined to prescribed religious exercises in public schools. Nothing was said about the use of mottoes on our coins, chaplains in the military services, opening prayers in Congress, or other similar practices. The fear that these may also be prohibited soon has led to much of the drive for enactment of a Constitutional amendment. But we question the wisdom of attempting to establish the appropriate line between church and state by means of a detailed amendment to the Constitution.

WHY SEPARATE CHURCH AND STATE?

In the early days, Friends suffered much from laws favoring the established church which required compulsory tithes, compulsory church attendance, and compulsory oaths. They felt these laws violated their religious convictions. Friends were among the first to advocate a greater measure of religious toleration and religious liberty for people to worship God according to their own consciences.

The Supreme Court has noted that "The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church, and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade the citadel, whether its purpose or effect be to aid or oppose, to advance or retard."

Political decisions are generally taken by majority rule in this country. But religious observances are not properly determined in this manner. If the school authorities were to be permitted to require certain religious exercises, on this premise the devotions would be Quaker, Catholic, Mormon, Jewish, or other depending on the majority religious view in a given school district. Or religious exercises would be so watered down and generalized as to become relatively meaningless in purpose or content. A religious liturgy designed to appeal to all and offend none lacks the note of commitment which is an essential part of religion.

The Court's decisions underscore that religious instruction is the sacred responsibility of the family and the churches. The state and its agencies should not be expected to carry out this task.

HOW IS TRUE RELIGION ADVANCED?

Young minds become aware of the glory of God and the needs of their fellow men, not by recitation at routine exercises, but through the example of a committed life, the inspiration of a gathered meeting for worship, the constant nurturing of a tender spirit, and experience which stimulate growth toward spiritual maturity.

We are gravely concerned about the erosion of the moral base of our national life and the increasing secularization of our country, but we do not believe such trends can be stopped by Constitutional amendments.

We cannot be satisfied with form or symbols in the absence of substance, and no child or parent should be encouraged to believe that perfunctory exercises in the classroom are the substance of religion. Friends have always insisted that religion is a matter not only of belief but of experience.

Nor does the example of European countries with established churches, where only a small percentage of the population participates in church life, give us any encouragement that official sponsorship of religion will stimulate real religious growth. Indeed, this experience seems to confirm the wisdom of the First Amendment's provision that freedom of worship shall be maintained unhampered by state interference or favoritism.

COMPLEX ISSUE REQUIRES STUDY

We encourage Friends and others to think deeply about the complexities of the church-state issue. While the state must not establish any religion, it must also refrain from interfering with the free exercise of religion. These two objectives are difficult to attain simultaneously. The majority group, prohibited from holding its religious exercises, in the public schools because this is an "establishment of religion," is prevented at that moment from "freely exercising" its religion within the public school system. But free exercise can be expressed by the voluntary acts of the religious groups, without the compulsion or the interference of the state.

In the light of the serious issues raised, we urge that Congress not take action until there has been more time for full public discussion and consideration of this difficult question.

In reconciling differences, both majority and minority groups need to be more sensitive to the faith and cherished beliefs of the other. Only in a spirit of mutual understanding and toleration can we hope to achieve the freedom of religion for all which is the Constitutional ideal.

NO REAL SUBSTITUTES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. DERWINSKI. Mr. Speaker, as a Member who opposed the original bill giving the President authority over wage-price controls and maintaining my absolute conviction that our country cannot in the long run prosper under any lasting or ponderous restrictions, I join the Members in trusting that the real success of phase II will be a phaseout rather than permanent control.

An editorial in the Calumet, Ill., Index of October 20 commented that the real cause of the pressure on the dollar and the economy is unrestrained Government spending which continues to grow.

The editorial follows:

NO REAL SUBSTITUTES

As wage and price controls tighten their grip and pressure increases for exemptions of modifications of the rules, the ultimate corollary of controls should be kept in mind—shortages and most likely rationing. The longer the controls are imposed, the more likely is the prospect of fewer necessities and luxuries of the kind people now take for granted.

Under a system of frozen prices, goods that cannot be produced profitably will no longer be made. As rent control goes contrary to the realities of the marketplace, there will be fewer places to rent. Freezing wages, salaries and income of all kinds eventually kills incentive. And, so in the end, controls bring not stability, not progress, but a downward curve in productive activity.

There are no substitutes for curbing excessive government spending which is the breeder of inflation and is the one thing that must be controlled and not hidden in tricky government bookkeeping. Until government spending is brought under control, all other controls will prove futile. They will merely lead to less freedom and opportunity.

PRAYER AMENDMENT PROTECT FREEDOM OF RELIGION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. COLLINS of Texas. Mr. Speaker, the proposed prayer in schools amendment to the Constitution represents one of the most important pieces of legislation to come before Congress in this decade.

All Americans should have an opportunity to express themselves on this key issue of prayer and freedom of the individual.

What worries me the most is the fact that we are teaching our children in school that prayer is wrong and should be forbidden. Children spend about one-half of their time in school. I cannot imagine any harm that comes from kindergarten children saying a short prayer before they have a snack. We teach children right and wrong in school and under our present system they have the impression it is wrong to pray.

The prayer amendment reads:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

It does not concern Bible reading in school or private religious courses. The amendment concerns only the right to pray—one of our basic religious freedoms.

We have in this country today a Supreme Court that has assumed legislative functions. The Court's rulings in favor of Federal controls could make the Federal Government all powerful. The Supreme Court overstepped its historical boundaries and began making law when it ruled that children could no longer pray in public schools.

I feel the Court has misinterpreted the constitutional question. Why must any one be denied the right to speak to God at any time, anywhere and under any circumstances? Let us review the history of this country.

When the Virginia settlers came to Jamestown in 1607, their first building was a church. The first book published in America was a prayer book. The Liberty Bell has a Biblical inscription.

Proclaim liberty throughout the land upon all inhabitants thereof. (Lev. 25:10).

In America's political and civic life our leaders have constantly expressed their reliance on Almighty God for direction and protection. From the very beginning Congress has begun each session with the word of God. All oaths of office from the presidency to alderman end with the final supplication "So help me God." The sessions of the Supreme Court are declared open by the Crier in a short ceremony, the final phrase of which is "God save the United States and this Honorable Court."

America's first document, the Mayflower Compact written in 1620, begins "In the name of God, Amen." Thomas Jefferson concluded the Declaration of Independence with an expression of the new Nation's dependence upon God:

With a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our Sacred Honor.

Abraham Lincoln said in the proclamation of April 30, 1863:

And whereas it is the duty of nations as well as of men to own their dependence upon the overruling power of God, . . . and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations only are blessed whose God is the Lord . . ."

Carved in the stone blocks of the Washington Monument are Bible verses including:

Train up a child in the way he should go: and when he is old, he will not depart from it. (Proverbs 22:6).

Inscribed on the aluminum cap of the marble pyramid are these words: "Praise be to God." Behind the Speaker's rostrum in the congressional Chamber a marble panel is inscribed in gold letters with our National motto "In God We Trust." The Great Seal of the United States bears these words "Annuit Coeptis" (He has favored our undertaking.)

Today, churches and Christian institutions across our country confirm the deep-seated belief in God and in Christian teachings.

The law as expressed by the United States Constitution is clear in its protection of American religious freedom. The first amendment to the Constitution reads:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

In 1962 the Supreme Court interpreted the first amendment as not permitting the following prayer:

Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country."

The prayer has been composed by a committee of religious leaders. It was made available by the State of New York for an entirely voluntary recitation by pupils and teachers in its public schools. Eleven of the 13 State court justices who reviewed the case held that the school board could authorize the voluntary recital of the prayer. The Supreme Court's reversal of this decision was not based on any valid historic or legal precedent.

The second prayer in school case also came from New York and concerned kindergarten students repeating these two prayers on a voluntary basis.

God is Great, God is Good, and we thank him for our food. And Thank You for the world so sweet, Thank You for the food we eat, Thank You for the birds that sing—Thank You, God, for everything.

The Supreme Court refused to hear the case. That refusal had the legal effect of upholding the New York Court of Appeals decision to make the prayers illegal.

In De Kalb, Ill., kindergarten children repeated this poem before their morning snack:

We thank you for the flowers so sweet; We thank you for the food we eat; We thank you for the birds that sing; We thank you for everything.

This poem does not mention God, but there is an implication that "you" represents God. The U.S. court of appeals ruled that this poem could not be allowed even though the teacher testified that it was used in a program of good citizenship to teach social manners.

It is my feeling that the courts have pushed this issue to the extreme. Thomas Jefferson said:

On every question of construction, carry ourselves back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of prying what meaning may be squeezed out of the text, or invented against it, conform to the probable one in which it was passed.

We have proposed the constitutional amendment for this very reason. Our forefathers intended our country to be a religious nation. The Constitution and our national heritage clearly point out this determination.

In the history of our Nation there have always been the passive and meek, who would let tyrants run over them. Today we see the Supreme Court bullying and cowing the American people by telling children it is wrong to pray in school.

Fortunately in this country we still have a Republic that belongs to the people. We fought for a discharge petition in Congress, which brings the prayer amendment out on the floor of Congress.

There are those who say God should be taken completely out of school and that prayer must not be allowed. But the future of this country depends upon God's guidelines and inspiration.

EQUALITY OF WOMEN

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mrs. ABZUG. Mr. Speaker, I have worked all my life to promote the equality of women and equate their socio-political and economic standards with those of our male-dominated society. The equal rights amendment which recently passed in the House of Representatives was a major victory for the women's movement and of great satisfaction to me personally. So was the article which appeared in the Sunday New York Times of October 31 written by Jane Fonda.

Miss Fonda is famous in her own right as an actress and outspoken supporter of a variety of causes. Her political activism emanates from her deep desire to unshackle our country from a war which is chaining our limbs into immobility, and a passionate concern for underprivileged members of our society. Her article has presented us with a candid, very personal assessment of one woman's realization that a disparity does exist in our culture between the successful male-dominated world and the female opting for her rightful position in that world. Her comments are so sensible that one wonders how anyone could disagree with her consensus. And yet there are those who would find her views unreasonable and inapplicable. It is for the myopic nonbelievers, much more so than for the rising ranks of supporters, that I insert her article in the RECORD in its entirety:

[From the Sunday New York Times, Oct. 31, 1971]

JANE FONDA: "I WANT TO WORK WITH WOMEN"

(By Jane Fonda)

(NOTE.—On "The Great American Dream Machine," Wednesday night at 9 on WNET/Channel 13, Jane Fonda acts six different aspects of "Fascinating Woman," ranging from housewife to Playboy Bunny. This segment was produced and directed entirely by women. While working on it, Miss Fonda spoke of women in our society to her producer, Barbara Gordon, and NET's Dassey Hagen. This article is adapted from her observations.)

We women think that we are in control of our lives, that we are defining ourselves when, in fact, none of us are. Our lives are defined by men, directly by men—the men we live with, or the men we love, or the men we're married to, or the men we work for—and, indirectly, through television, film, radio and other media, which are controlled by men.

We put ourselves into roles and play roles that have been fitted out for us. We buy the lies and the promises of what it means to be a wife, secretary, nurse, hippie, sexy women, Air Force pilot—whatever it is, it's always what we are *told* we will be. And then the reality, and the reality, no matter what you are, no matter what color, what age, no matter what you do, is that none of us determines our lives. And most of these roles, because they are defined by men, are oppressive for women. I don't feel that this means we have to stop being wives, or being any of these things; it means that we have to gain strength to redefine these roles for ourselves.

There's nothing the matter with being a wife; on the contrary, it's marvelous. It's just that being a wife should no longer mean, for the majority of women, that they're slave labor, that they work longer and harder than the men, under the most abominable conditions so that they can rarely leave home and rarely have the time for an outside life or any kind of new and stimulating experience. They do the same thing over and over again; they keep the fireside burning while the men have all the exciting, meaningful experiences—and they get a pittance for an allowance.

It's slave labor for slave wages, that's really what it is. No human being should have to do that. And we women buy it because that's what we've been told for centuries we are. So it never occurs to any of us that there is another way to live.

I am economically independent, I have many advantages that most women don't have, and because of my films I am famous. And yet I have discovered that my *own* life has been determined by men from the time I was born. That all the insecurities I have and that I share with other women—the various hangups, the lack of confidence—all of these are not special with me. Other women have them and feel the same way about themselves. It is because of the kind of things we feel we have to be, and we're told what we have to be, by men. We have to look a certain way, we have to behave a certain way, we have to be such and such and so and so.

For example, men see me coming and they say, "Echh, bring me back the old-time movie star. We want a body and a face, we don't want this uppity woman." Now that is symptomatic of our society, that women cannot be aggressive, cannot be intelligent, cannot be outspoken, and women can certainly not be in charge. And this is what we have to begin to change.

We have certainly messed up the world about as far as it can go with men in the leadership role. I think the time has come. . . well, Daniel Ellsberg said it on the Dick Cavett show a while back, "We should start listening to women." And they *should*. Men are going to have to start listening to us.

Where are the *women* cycle killers? Where are the *women* who lurk in the dark alleys to murder? Where are the *women* who sit around the SALT-talk tables and plan the future nuclear wars? "Where are the women at the Rand Corporation who have corporate debates on whither the nation?" And that's a direct quote from a man in the Rand Corporation who wrote me, "We have corporate debates to decide whither the nation." Really.

Over the centuries we've been told that we are kind, considerate, more humane, more emotional, that we trust our instincts, that we're docile, compassionate—all of those things. And it's true. We have been told this so much that we have internalized these attributes. And that's great. We *are* more human, we *are* more compassionate, we *are* more sensitive, we *are* more emotional, we do trust our instincts more, we *are* less militaristic. And I believe that when, through struggling together, we gain our rights, the world will truly be a much better place.

And what I think is exciting about the women's movement is that it unites us all. Women who are becoming involved in the movement are beginning to discover that no matter what nationality, what race, what age we are, what job we do or what class we're from—we are all united. There is a common culture.

The important thing is that women begin to understand that what they've always considered their individual, personal hangups and problems—so awful that "I can't possibly tell anybody else because if anybody else knew about them they would hate me, and I know that *nobody* else has the kind of complexes I do"—are really the same things we all have. They only manifest themselves differently.

Why is it that few women are really fulfilled and happy with men, really feel good about themselves, really control their lives? It's not just an individual problem, it's a social problem. Okay. So then we have to begin to look at it in a whole different way, and decide what we are going to do about it. Obviously we can't do anything about it individually. But what happens a lot of times, women will look to women who are successful, who have made it in a man's world, and say, "But ah—you've made it. All you have to do is be a little more such and such and so and so and you can make it."

Well, first of all, that's not true. Most of the time to make it in this society you have to make it on a man's terms; in a way, you have to become a man. That means that we have to rob ourselves of our own attributes as women. Women do things differently. And they usually accomplish more when left alone and they're not made to feel inferior by men.

I thought, like a year and a half ago, that I understood the women's movement and I supported it although I never saw it as my movement. I saw it as a movement of other women who were oppressed. Well, my whole thought and thinking changed, I guess, about three months ago. I began to realize that this particular revolution is not only their revolution, it's my revolution, too. I mean, if I don't fight it, nobody else is going to.

Suddenly I could view my entire life in a totally social context. I was able to understand, for the first time, my mother; I was able to understand my sister, myself, my friends, the women I know. I was able to seek out women, not just because there weren't any men around to talk to, but because I really preferred to talk to women. I prefer to spend time with women. It interests me more right now. I don't mean that I'm a separatist—that I don't want to have anything to do with men—no. But in terms of learning, of growing and moving forward and gaining strength, it is from women and not from men that I get these.

At the time, I was working on a film, "Steelyard Blues," in which I was virtually the only woman. I was playing a bit part, which meant that since I wasn't the star, they didn't have to treat me the way they probably didn't want to treat me, but normally had to. I was becoming sensitized at that particular time to the way men treat women, things I had never noticed before—a lack of respect, a glossing over. Like when a woman starts telling a story, the men interrupt and finish it because they assume that no one will really understand or find amusing or interesting the way the woman tells it. And so the man has to take over and tell it his own way.

I've noticed, for example, how you're sitting at a table and a woman will be talking and you begin to find that you're bored with what she's saying, you're slightly embarrassed by her, and you begin to realize that the reason is not because of what she's saying, but because the men at the table aren't paying any attention to her. And we're so used to defining what we find interesting or intelligent through what the men find interesting or intelligent that if the men aren't listening to the woman, we don't listen to the woman. But take the men away, and you'll find that, 99 per cent of time, what she's saying is interesting, meaningful and intelligent.

As I started becoming aware of all these things, I stopped being liberal about it. I began to say, "Hey, wait a minute, guys. Look what you're doing to me." Or, "Look what you're doing to her, and I'm not going to take it any more." Of course, I'm hated. Right? Hated. "Hah, Jane Fonda's lost her sense of humor." Or, "What's happened to Jane Fonda? Oh, she's impossible." Interestingly enough, with women I'm perfectly funny. I mean, women think I'm funny. And with men who are not oppressive I think I'm quite funny, but it's like a guy has his foot on your neck and he's shoving your face in the quicksand and if you don't laugh, you have no sense of humor.

That's a warning to all women: When you begin to become righteously independent and struggle for your freedom and the right to define yourself, this is what happens. First they'll accuse you of losing your temper, then they'll say that the only reason you're doing it is that you're frustrated, because you haven't had a good time with a man lately—all you need is a good man and you'll get over it. And when it's all over, they'll say to you, oh, something like I hope you find that what you're angry about isn't what you think it is, because what it really is is Freudian hangups with your father, early childhood problems and such things. In other words, it's just an individual psychiatric or psychological problem. It has nothing to do with social problems, so don't try to generalize.

Well, bull. It is a social problem. It is something we all share together, and until we begin to realize that, we're not going to be able to gain any power, or any strength at all.

Most of what I've said would be terrifying to the kind of women it is important that we reach—women in the Midwest, women who are not at all movement-oriented. But it's important that we overcome what the media has done to the women's movement. It's made us look like hysterical, angry, aggressive, frustrated women, bra-burning and all that kind

of thing. All that has nothing to do with what the women's movement is about. The women's movement has to do with our needs, our daily needs in our lives.

At this particular moment in my life, I don't want to work with men. I have discovered that what happens when you're an actress is, you mouth dialogue written by a man, a man photographs you and a man directs you, so all the way around you're being defined by a man. You sit on the set and you look out at a sea of male faces. I don't want men to write women's parts any more. Or, I don't want it for me. So, as much as possible—it doesn't mean I'll turn down all parts directed by men—but as much as possible, I want to work with women.

FIRMS IN TWO STATES TOLD TO HALT AIR POLLUTION

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. GUDE. Mr. Speaker, the Environmental Protection Agency has been working effectively to bring firms and industries from all over the Nation into compliance with pollution standards. Together with State officials, Federal authorities are taking a firm line in protecting our environment. The administration should certainly be commended for this progress as it is undoubtedly its leadership which has encouraged and supported such efforts. The following article from the Baltimore Sun of October 21, 1971, is evidence of its commitment:

FIRMS IN TWO STATES TOLD TO HALT AIR POLLUTION

(By James MacNees)

Maryland officials are studying recommendations and time schedules set down by the federal government for abatement of air pollution along the West Virginia, Western Maryland border.

The pollution, emanating chiefly from the Mount Storm electric generating plant in West Virginia, has damaged and killed thousands of Christmas trees in Western Maryland.

William D. Ruckelshaus, director of the Environmental Protection Agency, said sulfur and dirt from the Mount Storm plant and the Westvaco Pulp Mill, at Luke, Md., "result in excessive levels of pollution which adversely affect the welfare and may adversely affect the health of persons [with heart or respiratory disease] in the area."

DAMAGE STUDIED

Among the effects observed in an agency two-year monitoring program are:

Vegetation damage (with serious loss to Maryland tree growers); serious impairment of recreational facilities (especially in the Deep Creek region), excessive dirt and deterioration of property; interference with comfortable use of property (some residents say they have not been able to open their windows for years) and a "general reduction of the quality of the otherwise scenic rural environment."

Mr. Ruckelshaus noted in his report that the Westvaco plant is now implementing a program of compliance with Maryland's air pollution regulations and that "the State of West Virginia has no air pollution control rules or regulations, presently in effect," which are capable of reducing the hundreds of tons of fly ash and sulfur spewing from Mount Storm daily.

1975 DEADLINES

The agency director ordered that fly ash and sulfur pollution from both facilities be drastically reduced no later than January 1 and February 1, 1973, respectively.

He said both should submit firm plans and time schedules to their appropriate state agencies within three months.

The electric company is ordered to reduce its sulfur emissions to a rate no greater than if it burned coal with a 1.7 per cent sulfur content. At present the boilers of the huge plant burn "anything that is black" according to local sources. Much of its coal is purchased from Western Maryland operators.

The Virginia Electric Power Company was told to provide continuous monitoring of its tall chimneys and to notify West Virginia authorities if its sulfur emissions exceed 14 tons an hour.

A third generating unit now under construction "will substantially increase" discharge of sulfur, Mr. Ruckelshaus said. He ordered that emission controls be constructed to hold these pollutants within federal air pollution standards.

PROGRESS IN CANCER RESEARCH

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. ROY. Mr. Speaker, the obvious concern of Congress this session and especially in recent weeks is stepping up the attack on cancer. The following article from the November issue of Fortune magazine provides one of the best single summaries of the progress in cancer research.

The summaries follow:

CANCER CELLS BEGIN TO YIELD THEIR SECRETS; NEW TECHNIQUES OF INVESTIGATION ARE SHOWING NOT ONLY HOW A CELL TURNS CANCEROUS BUT ALSO HOW IT CAN BE MADE NORMAL AGAIN

(By Gene Bylinsky)

Within the past year or so, the long, frustrating, and at times seemingly hopeless search for the causal mechanism of cancer has taken a new and promising turn. In three separate laboratories, scientists have succeeded in demonstrating that a protein continuously generated by a virus turns a normal cell into a cancerous cell and keeps it that way. Even more significant, they showed that it is possible to reverse the course of cancerous transformation by inactivating, or damaging, the cancer-causing substance.

These discoveries—at the University of Washington, the University of California at Berkeley, and the Salk Institute in La Jolla—are immensely important steps in our understanding of cancer. The finding that cancer cells can be made normal again shows that cancer is *not* an inexorably progressive disease that can be stopped only through eradication of every malignant cell. In the view of some scientists, the discoveries open the door to truly effective control of cancer, or at least some cancers, by means of interference with the disease at its core—in the complex process of cancerous transformation of cells.

The search for cures will be significantly reinforced as a result of the coming expansion of the attack on cancer. Some of the plans presented by President Nixon and various members of Congress call for the creation of a "conquest of cancer" agency that would incorporate the National Cancer Institute. The new agency's director would report to the President. Great infusions of money are foreseen; five years from now, the federal cancer-research program may be financed at the rate of $1 billion a year—approaching the rate of spending on space exploration in the early 1960's.

Despite the recent advances in cancer research, giant steps as dramatic as moon landings cannot be precisely scheduled, of course. The basic knowledge that made moon landings possible emerged during the preceding centuries of scientific advance; what remained was to build an engineering superstructure on that scientific base. In cancer research an ocean of ignorance about the functioning and growth of the mammalian cell remains to be crossed. But the additional money can help. For example, basic research would be advanced through creation of facilities for mass-producing materials the researchers need to work with, such as cancer cells and viruses grown in laboratory cultures. Additional funds will also go into efforts to treat cancer more effectively with means already at hand. The new program will seek, among other things, better ways of treating cancer patients with radiation, for instance with atomic-particle accelerators. Diagnostic methods will be improved by large-scale tests, including tests of large numbers of blood samples for suspected cancer agents.

UNTIL NOW, A SEARCH FOR A NEEDLE

Perhaps more important than the prospective influx of money into cancer research is the influx, already well under way, of outstanding scientists from other fields. The newcomers include several Nobel Prize winners. At Berkeley, Melvin Calvin, who won the prize for his work in photosynthesis is investigating the role of chemicals in cancer causation. Another Nobel laureate is James D. Watson, who along with Francis Crick deciphered the double-helix structure of the heredity-determining DNA molecule. Watson has done more than anyone else to advance the science of molecular biology and tell us how a normal cell functions. Now, as director of the Cold Spring Harbor Laboratory on Long Island, Watson heads a team of young scientists whose aim is to trace the biochemical steps that result in malignant transformation of the cell. One of the most eminent of the scientists who preceded Calvin and Watson into cancer research is biologist Renato Dulbecco of the Salk Institute, a former colleague of Watson's at Indiana University.

These scientists and others have brought into cancer research a highly logical and elegant method of probing the mysteries of the cancer cell. The method involves the use of viruses as investigative tools. This approach, which made possible those dramatic discoveries on the West Coast, represents a big upward jump from the imprecise methods of the recent past. Maurice Green, director of the Institute for Molecular Virology at St. Louis University's school of medicine, speaks for many scientists when he says: "Until now, the search for cancer causation has been a search for a needle in a haystack, with a lot of wild reports. Now, for the first time, we have a rational approach to chemotherapy of cancer and to an understanding of the basic processes involved."

This kind of confidence and the new method of studying cancer both stem from molecular biology's spectacularly successful recent past. Molecular biology deals with life processes at their most basic level, inside the cell. Major advances in partially deciphering what goes on at this level were achieved through studies of interactions between bacteria and viruses that attack them. Some of these viruses integrate their genetic material with the genes of bacterial cells, and then behave as if they were part of those cells. Thus a convenient mechanism is created for analyzing the results of intrusion of new genetic material into a cell. This is of vital importance in cancer research because viruses that cause cancer integrate their genetic material into mammalian cells.

THE WHEELBARROW AND THE CADILLAC

There is a great deal of difference, to be sure, between bacterial and mammalian cells. One scientist likens the difference in complexity to that between a wheelbarrow and a Cadillac. A bacterial cell has only a few thousand genes; a mammalian cell has millions. But there are important similarities between bacterial viruses and some cancer-causing viruses—they are exceedingly simple in their genetic structure. Some known cancer viruses probably have fewer than ten genes. The workings of these genes can be traced even inside the mammalian cell.

In incorporating their genes into a cell's genetic apparatus, cancer viruses act very much unlike ordinary infectious viruses such as mumps or polio. While these viruses simply kill or damage cells as they make more virus particles, the cancer viruses work much more subtly. They introduce their genes into the cell's genetic machinery and then subvert it—like a band of rebels taking over a radio station. When the cell divides again, it reproduces those cancer-virus genes as if they were its own.

Each gene can set in motion the intricate subcellular machinery that leads to assembly of a particular protein. This can be either a structural protein or a protein that acts as a chemical catalyst, known as an enzyme. Thousands of different proteins and enzymes are being manufactured inside a cell all the time. The viruses under study make only a few proteins and enzymes. These have now been definitely shown to be perpetrators of the cancerous transformation of cells. So the task of unraveling the processes of cancer causation has become much narrower and much more specific than in the past. The task now is to determine exactly how the substances manufactured by the viral genes can subvert the cell's complex regulatory apparatus. The viral genetic material is quantitatively insignificant compared to the cell's own genetic endowment. Yet those viral genes, perhaps outnumbered a million to one by the cell's genes, propel the cell on its reckless, cancerous course.

In their terrible efficacy, the intruding genes operate through the same kinds of control mechanisms that operate in a normal cell. The key material is DNA, or deoxyribonucleic acid, the master chemical of life. The DNA of the genes, through a sister substance called RNA (ribonucleic acid), controls the structure and function of the cell. DNA and RNA molecules are very complex, made up of thousands of small units, or chemical bases, strung like beads on a thread. The sequence of these bases—there are four different kinds—constitutes the genetic code. It is unique for each species of virus just as it is unique for each species of living thing.

To produce proteins, DNA "transcribes" portions of its code onto strands of messenger RNA, which move from the nucleus into the cytoplasm, the cellular liquid that surrounds the nucleus. These messenger RNA strands are met by tiny bodies called ribosomes, which let an RNA message strand flow through them, much as an audio tape goes through a player. In the process the RNA message is decoded. The sequence specifies the order in which amino acids, the building blocks of proteins, are to be assembled to make a specific protein. Another type of RNA molecule, called transfer RNA, ferries the amino acids specified by the message to the ribosome workbench for assembly into a protein, a process called "translation." When viral genetic material incorporates itself into the cell's chromosomes, it can use this control system to prescribe production of new proteins. In so doing, the alien genes can disrupt the normal machinery of both transcription and translation.

The techniques of molecular biology make it possible to find out, in great detail, what is happening even at that complex, submicroscopic level. Each gene prescribes a unique messenger RNA. Strands of it correspond to strands of the genetic DNA that spell out the sequence of chemical bases in the RNA. Scientists can fish various messenger RNA's out of the souplike interior of the cell by employing the DNA that produced them as a sort of magnet. That enables the researchers to determine whether a particular protein was produced by the cell's DNA or by the viral DNA. In this way, the association of a specific virus with a specific cancer can be established.

FROM THE EDGE OF LIFE

Certainly viruses are not the sole suspects in human cancers. Chemicals and radiation can also induce cancers. So, apparently, can disruptions in the intricate regulatory mechanism of the body. Hormonal imbalances, metabolic alterations brought about by the process of aging, defects in the body's immunological defense systems—all can create susceptibility to cancer. Cancer, in other words, is probably a disease of the organism as much as it is a disease of the regulatory mechanism of the cell. At the root of cancerous transformations may well be a combination of various interacting factors. But it may be that cancer never occurs without the presence of one crucial factor, viral genes incorporated in the chromosomes of the cell. When mice that normally have a low incidence of leukemia and show no presence of viral particles are exposed to x-ray or known cancer-causing chemicals, many of them suddenly start producing leukemia virus particles and later develop leukemia. The chemicals and x-ray thus seem to activate a hidden virus-making machanism. Injected into healthy mice, these particles will cause leukemia. On the other hand, healthy mice kept in cages with leukemic mice do not get leukemia.

But while the mechanism of the causation is far from simple and straightforward, it is well established by now that a virus is a causal agent in at least some mammalian cancers. In the laboratory more than a hundred different viruses have ben observed to transform cells in culture (including human cells) or cause cancers of different types when injected into animals. A few cancers in wild animals are known to be caused by viruses. When scientists begin to detect similar virus particles in cancerous tissues of human beings, suspicion naturally mounts that viruses are responsible for these cancers.

Viruses are among the strongest of all biological entities. They bridge the gap between the nonliving and the living worlds. Outside a cell, a virus particle is as inert as a rock. It comes to life only inside a cell. Viruses have all sorts of shapes. Some experimental animal-cancer viruses currently under intensive study are icosahedral particles, with twenty triangular faces. Other viruses, such as influenza, look like balls of cotton. Certain bacterial viruses are shaped somewhat like tennis rackets, while particles of the tobacco-mosaic virus look roughly like cigarettes. Whatever its shape, a virus particle consists of a core of genetic material, either DNA or RNA, usually enclosed in a coat of protein. A virus particle is thus a genetic message encapsulated by nature to survive outside the cell.

Virus particles have no means of locomotion, and when they enter an organism they are bumped around in the body fluids. Some particles become attached to cell surfaces and then enter the cells, shedding all or most of their protein coats as they do so.

GENETIC DYNAMITE

Scientists have made some imaginative attempts to explain why certain viruses produce cancer—and why viruses exist at all. One such hypothesis was recently proposed by Howard Temin, a young biologist at the University of Wisconsin. In Temin's vision of what goes on, there exists in the genetic system of cells a region of DNA whose job it is to transmit genetic information from cell to cell, mainly during the embryonic development of an organism. Temin calls this gene system a "protovirus." In normal development of the organism, the DNA protovirus of a cell would act as a sort of template for the synthesis of an RNA copy of itself. The RNA copy—not enclosed in a coat like a full-grown virus—would then enter another cell and there act as a template for a synthesis of a DNA copy of itself. This DNA copy would then become incorporated into a chromosome of the second cell, imparting to it properties of the first cell.

If Temin is right, the protovirus is genetic dynamite, for it possess the genes that control the multiplication of a cell. According to Temin's hypothesis, damage to protovirus genes leads to cancer, or at least certain types of cancer. When the protovirus is altered, or abnormally incorporated, its genes start altering the cell's responses to growth controls. This hypothesis may explain why such diverse factors as viruses, chemicals, and radiation all can produce cancer cells of similar types. Viral genes that penetrate a cell may have a special chemical affinity for the protovirus region, and the damage may be concentrated there. Chemicals and radiation may similarly affect the protovirus. Some cells are killed, while others survive with their protovirus genes damaged. In Temin's hypothesis, then, cancer is not a purpose of the protovirus but an accidental effect. He views disease-causing viruses as abnormal variants of the protovirus particles.

Somewhat similar to Temin's is an older hypothesis put forward by Robert J. Huebner and George Todaro of the National Cancer Institute. They suggest that the cells of all or most vertebrates may carry as part of their evolutionary inheritance a normally suppressed set of "oncogenes," or cancer genes. In this hypothesis, these genes can produce cancer when subjected to abnormal stimulation.

In either hypothesis, cancer viruses would not normally be spread from organism to organism, the way common contagious diseases caused by viruses are spread. But neither could cancer viruses, with rare exceptions, be controlled by conventional vaccines. If viral genes are part of the cell, a vaccine—a weakened or killed virus—would not be recognized as foreign, and the body would mobilize no immunological defenses against it.

In the search for new understanding of cancer, two DNA viruses have proved especially useful. They are known as polyoma and Simian Virus 40 (SV40). Polyoma was first isolated in mice and found to produce many different cancers in laboratory animals; hence its name, which means "many tumors." SV40 was first isolated from the kidney of a monkey. The two viruses are nearly identical in size and properties and are the smallest and simplest of all known cancer viruses—each has at the most only ten genes. Particles of these viruses are so small, in fact, that about 30 million viral particles would fit into a space no larger than the period at the end of this sentence.

The discovery of polyoma and SV40 about ten years ago sharply accelerated cancer research. Scientists soon showed that viral genes greatly stimulate the synthesis of DNA. Normally, the start of DNA synthesis in the cell signals the beginning of the cycle that leads to cell division. Most of the body's cells are quiescent most of the time. Their DNA synthesis is restrained by internal factors in the cell, by substances in intercellular fluid such as hormones, and by contact inhibition, or by their proximity to neighboring cells. In cancer cells these controls are decisively weakened. Other differences between normal and transformed cells soon came to light. Particularly interesting was the discovery of

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an antigen on the surface of tumor cells. An antigen is a foreign substance, often a protein, whose presence calls forth the production of defensive molecules called antibodies. Experiments in Sweden and in the U.S. revealed than an animal given a mild dose of polyoma or SV40 develops an immune response that can kill cancer cells encountered later in life. The findings supported the suspected viral involvement in cancer—the viruses produced the same antigen in different species of animals, thus indicating that the same agent was at work.

To relate the transformation of cells to particular viral genes, researchers made use of temperature-sensitive mutant viruses. A whole range of such mutants can be produced, each with one malfunctioning gene, or, more precisely, with a protein that does not work properly when the temperature of the transformed cells is raised above a certain point. In 1965, Michael Fried at Cal Tech isolated a mutant polyoma virus that was sensitive to heat in its ability to replicate. At 88 degrees Fahrenheit, the virus produced either transformation or productive infection (in which virus particles are made without turning the cell cancerous), depending on the type of cell. But when Fried tried to introduce the virus into normal cells at 102 degrees, it could neither produce copies of itself nor transform the cells.

Now that there seemed to be little doubt that a viral gene kicked off cancerous transformation, work began in a number of laboratories to find out if a viral gene has to keep producing some substance to maintain the malignant state. An alternative possibility was that viruses acted in a hit-and-run fashion, that once the viral genes initiated the carcinogenic process, they were no longer needed to maintain it. In that case, viral involvement in cancer would be difficult to prove. Worse still, the hit-and-run mode of viral operation would have impaired the chances of trying to control cancer at the molecular level.

The strenuous search for a mutant that would show the need for continuous operation of a viral gene finally paid off late last year. Walter Eckhart, a member of Dulbecco's team, studied some mutants developed earlier, and found that one of them, called ts-3, had the properties he was looking for. It transforms cells at 89 degrees but fails to do so at 102 degrees. What's more, when the transformed cells are heated to 102 degrees, and kept at that temperature for a few days, they start losing the typical roundness of cancer cells, flatten out, and become normal in their functions again. But lowering the temperature to 89 degrees turns these cells cancerous again. The higher temperature obviously inactivated a substance, produced or altered by a polyoma gene, that was directly responsible for maintaining the cancerous state.

These findings were confirmed by experiments with the other large group of viruses, and may be more directly related to some human cancers. Working with an RNA virus that causes cancer in chickens, Peter Vogt at the University of Washington and G. Steven Martin, a young British virologist who was then a visiting scientist at Berkeley, independently found a temperature-sensitive mutant that serves as an on-off switch for transformation of cells. Martin thinks that the cancer-producing substance is probably an enzyme; enzymes are particularly sensitive to heat damage. It is likely that a number of intermediate steps are involved between the production of a substance by the viral gene and cancerous transformation. One possibility is that the viral substance alters a normal cell protein or enzyme, and that the altered protein's misfunction leads to cancer.

UPSETTING THE CENTRAL DOGMA

The great mystery about RNA tumor viruses until last year was how they replicated in the cell. It had been clear that they worked differently from noncancerous RNA viruses such as polio. Upon entering a cell, the polio RNA goes directly to the ribosomes, which read the message and translate it into proteins and enzymes as if it were the cell's own messenger RNA. These viral proteins are then assembled with the viral RNA into complete viral particles, ready to leave the cell again. Cancer-causing RNA viruses, in contrast, establish a stable relationship with the cell; their genetic material is passed from one cell generation to another just as with DNA cancer viruses. In other words, RNA cancer viruses seem to act like DNA cancer viruses, in that they appear to incorporate their gentic material into a cell's chromosomes. To do that, however, the RNA viruses would have to violate what has been called molecular biology's "central dogma," which says that DNA made RNA and RNA made protein.

A number of scientists speculated that reverse transcription, or flow of information from RNA to DNA, must be at work in the RNA cancer viruses. Then last year occurred one of those episodes in science where two investigators make the same discovery almost simultaneously. Howard Temin at Wisconsin and David Baltimore at M.I.T. found evidence that reverse transcription does indeed underly the replication of RNA cancer viruses. The discovery involved finding an enzyme that helps reverse the flow of genetic information. While in normal transcription a portion of the master chemical DNA is transcribed into an RNA message by a DNA gene, the Temin-Baltimore enzyme, "reverse transcriptase," takes a message (RNA) and makes a gene (DNA) out of it.

Their finding turned conventional biological thinking upside down. It not only indicated that the flow of information from DNA to RNA was a two-way street, but also implied the existence of a reliable test by which RNA cancer viruses might be identified, since only the RNA cancer viruses relied on the reverse flow of genetic information.

Recent evidence indicates that the enzyme capable of reverse transcription in the test tube also is found in normal embryonic and regenerating cells, where it might be involved in basic life processes such as differentiation, development of memory, and other functions. Widespread occurrence of the "reverse transcriptase" enzyme would support Temin's protovirus hypothesis. Recently isolated inhibitors of the enzyme will soon be tested on patients at the National Cancer Institute in the hope that they will become a harbinger of a new molecular treatment of cancer.

THE DYNAMIC SHEATH

There are other points at which it may be possible to disrupt the mechanism of cancer. After the structure and the exact function of the cancer-causing substance are determined—a task Watson has set for his team—specific drugs could be designed to counteract it and thus enable the cell to return to its normal state.

Another point of attack might be the membrane of the cancer cell. There is a direct connection between the membrane and the cancer-causing substance whose presence has been demonstrated through the use of mutant viruses. Renato Dulbecco, Walter Eckhart, and Max Burger, a Princeton biochemist, recently showed that at the high temperature, when the product of the temperature-sensitive cancer gene is not working, the surfaces of the virus-infected cells are the same as those of normal cells. But when the cancer protein or enzyme goes into action at the lower temperature, the cell surfaces acquire the characteristic features of cancer cells. Among these features are exposed "binding sites," as they are called. Such sites exist in normal cells, too, but they are normally covered up and appear only during cell division. Burger has proposed that surface alterations in dividing cells, both normal and cancerous, serve as signals that set off synthesis of DNA in the nucleus. That, in turn, leads to cell division.

As a result of these and other studies, the cell membrane is now being viewed as a much more complex structure than it had been thought to be. Says Gerald Edelman, a young biochemist at Rockefeller University who is mapping the surface of the cancer cell: "We can now conceive of the membrane as not so much a structure but maybe a mosaic, a code—a dynamic sheath in which specific molecules are sticking out and moving about. We are just beginning to investigate the relationships between them."

The structure of the membrane is of tremendous importance to immunology because the body's defenders against disease—antibodies and lymphocytes—interact with the cancer cell at its surface. Edelman, who two years ago deciphered the structure of an immunity molecule, is now working with proteins derived from green plants. These substances bind cancer cells into clumps, apparently by locking together the millions of cellular binding sites. By using the plant proteins to study the distribution of binding sites, researchers will be able to get a clearer idea of how a cancer cell can best be attacked with specially designed drugs. These may come long before the events inside the cell are fully understood.

ON THE TRACK OF A CANCER SUSPECT

The story of how one virus was tracked down as a strong suspect in human cancers spans more than a decade and involves the efforts of scientists on four continents. This suspect belongs to a group of common herpes viruses. One of them produces cold sores, another is responsible for chicken pox. In nature, herpes-type viruses are believed to cause malignant tumors in frogs and chickens.

As long ago as 1904, a British doctor in Uganda described a case of a malignancy of the jaw in a child. It was not until 1958, however, that the widespread character of the disease was recognized. Denis Burkitt, a British surgeon in Urganda, sent doctors and hospitals in central Africa copies of a leaflet describing the tumor and showing pictures of afflicted children. Burkitt then followed up his survey with a 10,000-mile safari. With two colleagues he visited more than fifty hospitals. The tumor, he found, occurred in heavy-rainfall areas all across equatorial Africa. At first he thought a mosquito might be spreading a cancer-causing virus. But the tumor, now know as Burkitt's lymphoma, was found to occur infrequently in children in other parts of the world, including the U.S., Great Britain, and New Guinea. Even so, Burkitt still thinks that in Africa a mosquito may be involved, though indirectly. Malaria, that is, may predispose many African children to the tumor by damaging their lymphoid tissue.

ONE OF THOSE FORTUNATE ACCIDENTS

After Burkitt published his findings, the Imperial Cancer Research Fund dispatched a team to Uganda to try to isolate the suspect virus. In electron-microscope photographs, they spotted the herpes virus. But because the cold-sore herpes occurs so widely, they concluded that the virus they found probably had nothing to do with Burkitt's lymphoma.

Identification of a virus closely associated with Burkitt's lymphoma came about chiefly through the persistence of another British physician, M. Anthony Epstein. In cultivated tumor cells, Epstein found particles that were somewhat smaller than the known herpes viruses. Gertrude and Werner Henle of the Children's Hospital in Philadelphia subsequently showed that the newly found virus was different in its immunological properties from other herpes viruses. By that time, the particles had been spotted in tissues obtained from Burkitt's tumors in other parts of the world as well. The virus has come to be known as the Epstein-Barr virus. (Barr was Epstein's laboratory assistant.)

The mere presence of a viral particle does not imply a causative role for it; viruses often are found in human tissues as harmless "passengers." Since suspect viruses cannot be injected into people, there is no way of proving through controlled experiment that a virus causes a human cancer. Still, powerful new research techniques (see the accompanying story) now strongly implicate the Epstein-Barr virus not only in Burkitt's lymphoma but also in a cancer of the postnasal area and in that widespread nonmalignant disease of young people, infectious mononucleosis.

The virus was linked to mononucleosis through one of those fortunate accidents that seem to dominate the history of medicine. The Henles had routinely tested the blood of a young woman, a laboratory technician, for antibodies against the Epstein-Barr virus. The girl's system was not producing such antibodies. Shortly afterward, however, she came down with mononucleosis, and then her blood contained antibodies to the virus. The Henles went on to test a large number of college students. Those who had shown no clinical signs of mononucleosis had no antibodies against the virus. But those who later developed clinical signs of mononucleosis started producing large quantities of antibodies.

HORIZONTAL HOPES

Bits of evidence kept piling up. The Henles showed that patients with Burkitt's lymphoma and the postnasal cancer also make large amounts of antibody to the virus. Even more persuasively, George Klein, of the Karolinska Institute in Stockholm, showed that the Epstein-Barr virus induces cancer cells to make an antigen that appears on the surface of cells of Burkitt's lymphoma, and that this antigen-inducing property passes from one viral generation to another. The viral information that appears to be integrated in the cellular control mechanism—a hallmark of a cancer virus.

There is a good possibility that the Epstein-Barr virus can spread horizontally (from organism to organism like any other infectious virus), as well as vertically (from cell to progeny cell). So it may be possible to attack the virus with a vaccine. It should work against all three diseases—the two cancers and mononucleosis. Preliminary work on a vaccine has begun under government contract at Pfizer and Merck.

BPW'S SALUTE TO WOMEN

HON. FLORENCE P. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mrs. DWYER. Mr. Speaker, the National Federation of Business and Professional Women's Clubs has recently completed a weeklong observance of National Business Women's Week, an occasion designed to dramatize the outstanding achievements and countless contributions of women to the business and professional life of the Nation.

As a longtime member of a Business and Professional Women's Club and as a former State legislative chairman of the New Jersey federation, I am especially pleased to bring this significant occasion to the attention of our colleagues in the House. I am proud, too, to add that no affiliation with any organization has brought me more satisfaction and greater personal reward, both in terms of the organization's achievements and of lifelong friendships with wonderful people, than has my association with BPW.

The BPW's "Salute to Women" this year comes at a particularly opportune time—just a matter of days, in fact, after this House for the second time in 2 years passed the equal rights amendment to the U.S. Constitution. No organization in America has worked harder or more effectively on behalf of this vital effort to win for women their long denied right to equality under the law than has the National Federation of Business and Professional Women and their many State and local affiliates. The encouraging victory we won in the House belongs in no small part to the dedication and perseverance of BPW women in New Jersey and throughout the country.

Because I shared so deeply the convictions of my fellow members of BPW about this great issue, the equal rights legislation was one of the first bills I introduced after being elected to Congress.

It is reminiscent, too, of another great legislative victory won by business and professional women—the enactment, after many years of struggle, of equal pay for women legislation at both the State and Federal levels. Here, also, I was privileged to work closely with BPW women, both in Trenton as author of New Jersey's Equal Pay Act and in Washington as a sponsor and active supporter of national equal pay legislation.

Our collaboration, Mr. Speaker, has continued to be fruitful during the years of President Nixon's administration. The federation has strongly supported my efforts to persuade the President to take affirmative action on the many forms of discrimination which afflict women. A distinguished former president of the federation, Virginia R. Allan, served as chairman of the President's Task Force on Women's Rights and Opportunities, which produced an excellent report and recommendations that continue to serve as guidelines to needed action.

The strength and effectiveness of the federation, as with most national organizations, depends on leadership and participation at the State and local levels. In this respect, we in New Jersey have been especially fortunate. Our State federation presently boasts an active membership of 3,500 women. And our State president, Mrs. Mildred C. deSimone of Millington, has given the State federation the kind of imaginative and creative leadership that has come to be a tradition in New Jersey.

Mr. Speaker, the National Federation of Business and Professional Women's Clubs has prepared a fact sheet about the organization which I am sure will be of considerable interest and utility to our colleagues and I include it herewith as a part of my remarks in the RECORD.

BPW HIGHLIGHTS

Founded: The National Federation of Business and Professional Women's Clubs, Inc. was founded in 1919 as an outgrowth of the previous year's meeting of the War Work Council of the YWCA. To enable a broader peacetime program, the Federation was incorporated in 1921.

Objectives: To elevate the standards for women in business and in the professions; to promote the interests of business and professional women; to bring about a spirit of cooperation among business and professional women of the United States; to extend opportunities to business and professional women through education along the lines of industrial, scientific and vocational activities.

Membership: BPW has approximately 180,000 members. Membership is open to all women who are actively engaged in business or the professions, upon invitation from a local club. Clubs are in operation in every U.S. Congressional District, with more than 3850 local clubs under 52 state federations, including all 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands.

"Nike" Emblem: The emblem is the Nike, Winged Victory of Samothrace. It was selected in 1921 because it symbolized progress, to which the Federation is dedicated. The emblem also includes the Wand; the Winged Staff of Mercury; the Torch of Wisdom; the Scroll; and the Ship of Commerce.

Publication: National Business Woman is the official magazine of the National Federation.

Congress of Career Women Leaders: The Congress of Career Women Leaders is sponsored by the National Federation. National organizations serving career women are invited to send delegates to this meeting for discussions that center on the future of the working woman and her organizations. The first Congress was held in Washington, D.C. in October, 1962 and the eighth Congress will be held in Washington, D.C. in October, 1971.

International Federation: The National Federation is a member of the International Federation of Business and Professional Women formed at Geneva, Switzerland, in August, 1930, as an outgrowth of BPW-sponsored goodwill tours. Austria, Canada, France, Italy, Great Britain and the United States were the first member countries. By 1939 there were 24 clubs, and at the beginning of this decade, there were 28 member clubs and 14 associate clubs. The Twelfth Triennial International Congress will be held in Edmonton, Canada in 1971.

Legislative Conference: The National Federation sponsors a Legislative Conference bienially in Washington, D.C. to give BPW members the opportunity to meet their legislators and to discuss current legislation. The conferees attend seminar sessions on topics of special interest to BPW members, tour one or more government departments or agencies, and meet informally with their U.S. Senators and Representatives.

National Business Women's Week: Since 1928, a week has been set aside each year for observance of National Business Women's Week. During the third full week of October, clubs and state federations spotlight the contributions made by women in all phases of economic, social, cultural, business, and professional life. The 1971 National Business Women's Week will be observed October 17–23.

National Convention: The National Convention is held annually, each year in a different region. In addition to giving members a voice in the National Federation's future, it affords members the opportunity to meet one another. The 1970 Convention was held in Hawaii, the 1971 Convention will be in Cleveland, Ohio, and the 1972 Convention in Atlantic City, New Jersey.

Nike and Samothrace Clubs: The Nike Club for high school girls and the Samothrace Club for college women resulted from the Federation's desire to help young women prepare for their future roles in the Business and professional world. The clubs are organized and sponsored by local BPW clubs whose members share their knowledge and leadership with Nike and Samothrace members.

State Commissions on the Status of Women: In 1963, Dr. Minnie C. Miles (1963–1963 National President), Virginia R. Allan (1963–64 National President) and Esther Peterson of the President's Commission on the Status of Women, met with President Kennedy to encourage the creation of State Commissions on the Status of Women. With his endorsement, the state federations sug-

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gested to governors that the commissions be created. BPW members assisted in organizing the commissions, and they continue to work with them and their various committees. Commissions have been established in all 53 state federations.

Women in policy-making positions: Since its founding, the Federation has been vitally interested in the appointment of women to policy-making positions. In 1964, a nationwide talent search was launched to develop a "womanpower" pool of highly qualified people to fill top jobs in the federal government. A resolution was passed at the 1969 National Convention calling for the organization to petition President Nixon "to make generous use of the talents available to him and his administration by significant appointments of qualified women to high level, policy-making, advisory, judicial and executive posts." Since then the Federation has intensified efforts to propose and endorse women for policy-making positions by establishing a "Talent Bank" to seek names of women who could qualify for top federal positions.

Business and Professional Women's Foundation: Since its founding in 1919, the National Federation has worked to expand educational opportunities for women and to support research on working women's problems and possible solutions. In 1956, to meet the need for increased activity in these areas, the Federation established the Foundation as a tax-exempt educational corporation to serve all working women.

The Foundation library fills requests for up-to-date information on working women. A unique tape collection records the voices of prominent women. A bibliography is published yearly on various subjects affecting working women. Periodic surveys determine the problems and the progress of employed women. Research grants enable scholars to study the world's career women, and fellowships are awarded by the Foundation for graduate study. The newest scholarship, the Career Advancement Scholarship, permits women to continue their education or training so they will be eligible for employment or will be prepared for advancement in a business or profession. Other activities include seminars and conferences.

A portion of each BPW member's dues goes to the Foundation's support. Other financial support comes from bequests, contributions, grants, legacies, gifts of property and life insurance.

Fifty years of progress: To quote President Richard Nixon, "For fifty years this fine organization has given leadership and direction to the American woman, and enhanced her partnership in the progress of our society. Its mark on history is perhaps best defined by the accomplishments of the women doers it has encouraged and supported."

In this era and those to come, the National Federation pledges continuing service to all employed women of this great nation.

THE FOREIGN AID REVIVAL

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. RARICK. Mr. Speaker, to most Americans, defeat of the foreign aid bill went down in history as the most responsible action by the Senate in many a day. That is if that body does not recant and revise the funneling of U.S. tax dollars into the international Socialist movement through newly devised procedures and operations by the old shell game with just new titles and without the knowledge of the American people.

A week before the Senate defeat of the foreign aid bill there was talk of ending the itemization of foreign aid grants and substituting a new pretext of estimation and approximation. Apparently, public opinion has become so unfavorable to the continued squandering of the drained off wealth of the American people that the international experts have felt that new people fooling procedures were needed when the foreign aid bill as such was killed, which even they realized was merely a matter of time under public opinion dissatisfaction.

Any blueprint for the new foreign aid program can be expected to follow the 400-page report commissioned by World Bank President Robert S. McNamara as "a new approach for aid for the 1970's."

In short, U.S. foreign aid will be handled through international banking institutions rather than through a politically responsive Congress.

The recently extended Export Import Bank bill, H.R. 8181, should serve as an example of what is to come. The Bank's obligations were exempted from the debt ceiling limitation as well as removed from the combined budget of our country.

How the people's money and credit are used is none of the people's business. The people be hanged so long as the internationalists carry out their blueprint.

For background reference, I include my remarks of January 16, 1969; September 24, 1969; October 6, 1969; and October 8, 1969, as follows:

FOREIGN AID: A SHELL GAME

Mr. RARICK. Mr. Speaker, the taxpayers' resentment against the wasteful extravaganza called foreign aid has all but driven the program underground. A con artist's reflex would be that what the people do not see or keep up with, they will not worry about.

So foreign aid is now passé—the giveaway program must be dressed up; that is, revitalized for easier acceptance by the public as a responsible program for the new President.

The question is: Will it be different, or merely the same Fabian redistribution of the wealth by different people, using a new approach to be called "loans to the poorest countries," utilizing Mr. McNamara's World Bank.

Yet, this ambitious program commits the U.S. taxpayers' dollars to 40 percent of the aid loans given to "poverty nations."

Why such minimal publicity to the terms and interest rates and what countries are eligible? Who will define a "poorest country?" By what criterion? Mr. McNamara?

Will foreign aid be "revitalized," or like a shell game using sleight of hand merely be passed on to the American people under a different name?

Mr. Speaker, I include Richard Halloran's two articles from the Washington Post for January 10 and 12, 1969, as follows:

[From the Washington (D.C.) Post, Jan. 10, 1969]

NIXON URGED TO REVITALIZE FOREIGN AID

(By Richard Halloran)

A presidential advisory committee of influential bankers, businessmen, educators, and prominent private citizens yesterday urged President-elect Nixon "to reorganize and revitalize U.S. development assistance" to foreign nations.

The committee, chaired by Cornell University President James A. Perkins, warned that "in America today a mood of malaise and withdrawal is enfeebling U.S. development assistance efforts."

A committee report said that "reestablishment of the U.S. role as a pace setter in peaceful development cooperation is a historic imperative."

The essential condition for strengthening the U.S. development assistance program," the committee said, "is that the new President commit himself to it as a key instrument of his foreign policy."

NIXON NONCOMMITTAL

Mr. Nixon so far has been somewhat noncommittal on his foreign aid views. He has said: "Neither abroad nor at home can we expect our civilization to be secure in a sea of angry exiles."

But he has also indicated that he intends to be selective. "Let us help our friends who help themselves," he has said, "but let us not help any who help our enemies."

The presidential committee, appointed by President Johnson in March 1965, includes Ford Foundation Vice President David E. Bell, a former aid administrator; former World Bank President Eugene R. Black; Tuskegee President Luther H. Foster; Rockefeller Foundation President J. George Harrar; Notre Dame University President Theodore M. Hesburgh; and Hewlett-Packard President William R. Hewlett; associate of Undersecretary of Defense-designate David Packard.

Bank of America President Rudolph A. Peterson, Chase Manhattan Bank President David Rockefeller, and Columbia Broadcasting System President Frank Stanton.

LABOR NOT INCLUDED

AFL-CIO President George Meany and Communications Workers of America President Joseph A. Beirne disassociated themselves from the report. There was no public explanation why.

The committee recommended that Mr. Nixon adopt a seven-point program.

The first called for a "streamlined successor to the present Agency for International Development," possibly to be called the Development Cooperation Fund. It should be authorized, the committee said, to make long-term loans on liberal terms for capital assistance, to grant funds for technical assistance, and to make grants for reconstruction and emergencies.

The committee recommended that three present features of AID policy be carried forward—comprehensive country analyses and encouragement of self-help, integration of capital and technical assistance, and coordination of agricultural assistance with other aid.

Secondly, the committee urged that contributions to multilateral agencies be expanded as rapidly as they can handle it. "The U.S. should welcome the leadership of a strengthened World Bank" the report said.

LIMITED MILITARY AID

The separation of military from development assistance was the committee's third recommendation. Further, it urged that military assistance be limited to countries where there is an emergency and then only for a limited period.

The committee's fourth suggestion was the establishment of an Overseas Investment Corporation to take over investment guarantee and investment promotion functions from AID.

The new corporation would also "undertake new initiatives for more rapid extension of private investment in less developed countries." Mr. Nixon has strongly endorsed this principle.

The committee fifthly, recommended that U.S. support focus on assistance in agriculture, population control, strengthening scientific and professional institutions, education, and broadening popular participation in development.

The report's sixth point strongly urged that funds for economic aid be restored at least to the share of national income reached in 1965, before the foreign aid program was slashed. It said further that the U.S. should "expand assistance in the future as our income and tax revenues rise."

Lastly, the committee called for long-term innovations, including more access to funds from the International Monetary Fund, the International Development Association, and the World Bank.

[From the Washington (D.C.) Post, Jan. 12, 1969]

WORLD BANK SET TO PUSH AID FOR POOR NATIONS

With economic aid efforts among the richer nations faltering, the World Bank will be among the main, perhaps the major, sources of aid to developing nations this year.

Robert S. McNamara, former Secretary of Defense who became Bank President last March, has set an ambitious program. He has spent his first months in office feeling his way along, formulating procedures, reorganizing the bank staff, trying to open up new sources of capital and turning the bank into new functions related to development.

Now, having been on the job for almost a year, he is ready to push ahead, aides say. In contrast, American economic assistance programs are a question mark, as are those of other advanced nations.

President-elect Nixon has been cautious in comments on aid. The mood of the Congress promises to be no more enthusiastic than it has been the past couple of years when it cut the relatively modest aid proposals of the Johnson Administration.

AID NEED MOUNTS

Yet, the need for huge amounts of economic aid appear to be mounting in geometric proportion. The English novelist and scholar Lord C. P. Snow, said in a recent speech a sea of famine in less developed nations will put the richer nations in a state of siege by the end of the century.

He foresaw this unless richer nations make concerted efforts to assist poor countries, the poor countries revolutionize their agricultural production and the enormous rise in world population be checked.

Among the foremost tasks of the World Bank, officials say, is to make the rich nations, and particularly their financiers, realize the enormity of their developmental problem and how it is in their best interests to attack it vigorously.

CHANGE IN OUTLOOK

This will require some changes—a widening, perhaps—in outlook, getting away from the strictly investment-return attitude and undertaking projects that may be riskier than those in past years.

One official uses the city of Calcutta as an analogy. It has about 35 per cent of Indian real capital but is in grave danger of being choked to death because of the starvation and poverty surrounding it.

If the owners of this real wealth do nothing about over-all economic development, they stand to lose everything.

Some responsibility for persuading the richer nations of the magnitude of the problem and the urgent need for large-scale action will fall on the Pearson Commission.

Organized by McNamara in 1968, it is headed by former Canadian Prime Minister Lester Pearson. It is making a long-range study how young nations develop to mark out guidelines that will be valid to the end of the century.

During 1969, the Bank intends specifically to determine whether it can raise more funds in world capital markets, and be less dependent on the U.S. This has already started with a loan last fall from West Germany.

The Bank will be looking at capital sources in other European countries and Japan. The Bank borrowed $1.63 billion, for a net increase (after repayments) of available funds totalling $600.6 million.

The Bank will try to increase the figures, though it declines to say how much, in 1969. McNamara said he wants to double the Bank's lending by 1973. In 1967 it lent $1.224 billion.

Another major problem is replenishment of funds for the International Development Association (IDA), the Bank's arm for long-term, low or nominal interest loans to the poorest countries, as opposed to the more conventional, stricter terms of the Bank itself.

IDA is running low on funds and 18 countries have promised to put up $1.2 billion to refill the coffer. Of this, the U.S. is committed to 40 per cent. Congress, however, has not appropriated the money and whether or when it will remains IDA's major concern as it heads into 1969.

Eight other countries have put up their shares without waiting for the U.S. The agreement will remain in effect only if 12 come through and if total pledges come to $950 billion. The U.S. share is necessary for this.

Still another major concern of the Bank is to discover ways to break strangeholds that stop economical development. Financing projects, says one official, is just not enough. The Bank must find ways to help entire economies to expand.

INTERNATIONAL ASSESSMENTS OR WORLD TAXES

Mr. RARICK. Mr. Speaker, a cadre of international money manipulators, headed by former Canadian Prime Minister, Lester B. Pearson, has unveiled their interesting plan to assess all industrialized nations at least 1 percent of the gross national product to assist the World Bank in leveling the wealth of the world by subsidizing unfair economic advantage against productive nations.

Interestingly enough, the figures of the OED for last year indicate that $12.9 billion was contributed to the wealthy few in countries poorer in comparison by 16 major non-Communist nations.

The full study, which is to be released at the World Bank meeting on October 1, should prove most enlightening; especially their program to use the SDR's, "paper gold," as a source of new funds for the international bankers. The suggestion of multinational corporations to be chartered by the UNO looms as the latest portent in massing power into the hands of an international few. And all of this, of course, under the guise of relieving poverty of nations.

I include herewith a news report from a local paper setting forth the gist of this intriguing world cartel blueprint:

[From the Washington Post, Sept. 23, 1969]

INTERNATIONAL COMMISSION TO LAUNCH NEW MOVE TO AID DEVELOPING NATIONS

(By A. D. Horne)

A major effort to renew the industrialized nations' lagging commitment to aid the developing world will be launched here next week by a prestigious international commission headed by former Canadian Prime Minister Lester B. Pearson.

The end-product of a year long study, the commission report has attracted intense interest in advance of its publication Oct. 1 during the annual meeting of the World Bank.

The report, early drafts of which have been circulating among government officials who deal with international economic policy, is expected to set forth a new rationale for the developed nations' efforts to channel government funds and private investment to the poorer nations, and to make 80 specific recommendations on ways to increase the effectiveness of such aid.

Sources familiar with the report's contents say the Commission has accepted as a starting point the 1968 United Nations Conference on Trade and Development (UNCTAD) target for industrialized nations to send the poorer nations aid and private capital equal to at least 1 per cent of their own gross national product.

Last year, according to Organization for Economic Development figures, the 16 major non-Communist aid-giving countries sent $12.9 billion to the poor nations, or 0.77 per cent of their own combined GNPs. This percentage has generally declined since 1961, although the 1 per cent target has been widely accepted.

The Pearson Commission, informed sources said, has attempted to make this 1 percent measure more meaningful by suggesting specific goals within it.

One hint was provided last week by the Commission's West German member, Wilfried Guth, who told a Nobel Foundation conference in Sweden that the report will urge specific allocations for research and education to the poor countries based on each developed nation's budget in this field.

The report is also said to endorse the "Horowitz Plan," advanced by Bank of Israel governor David Horowitz, which would cope with the rising cost of development loans through international subsidies to offset high interest rates to the poorer nations.

Some experts see a significant new source of funds for international development in Special Drawing Rights (SDRs), the "paper gold" which the International Monetary Fund will begin activating next week. The 10 major nations which worked out the SDR system as a safety valve against gold price rises resisted attempts to link the new currency—$9.5 billion is to be created in three years—with development efforts. The Pearson report, it is understood, will endorse the principle of linking SDRs and development aid, while leaving open whether this should be done through the World Bank's International Development Association or otherwise.

The Commission also will make recommendations in the trade and investment areas. One idea mentioned in the report, although not a recommendation, is United Nations chartering of multinational corporations presumably less vulnerable to expropriation than direct investors.

The report will come at a critical time for the United States, now re-examining its aid and trade policies under domestic and international pressure.

The Pearson report was commissioned by World Bank President Robert S. McNamara in August, 1968. The Commission members—Chairman Pearson, Sir Edward Boyle of Britain, Roberto Campos of Brazil, former U.S. Treasury Secretary C. Douglas Dillon, W. Arthur Lewis of the West Indies, Robert Marjolin of France, Saburo Okita of Japan and Guth—served as individuals, not as representatives of their governments.

WORLD BANK MANIFESTO—INTERNATIONAL SOCIALISTS' GOALS

(Mr. RARICK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RARICK. Mr. Speaker, what Member of this body, to the knowledge of his constituents, would vote to:

First. Permit an international body to assess taxes on U.S. citizens?

Second. Place U.S. foreign aid under an international oversight committee?

Third. Deliberately further retard an already lagging U.S. economy?

Fourth. Turn over to an international body, control of all U.S. business engaged in world trade?

Fifth. Interject bankers into the field of human reproduction and fertility?

Sixth. Discard any consideration of balfance of payments, with other countries?

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Seventh. Eliminate all protective tariffs on imports?

Eighth. Render this body subservient to an international organization of world bankers?

Yet, if the same objectives and purposes are writen in palatable language, thinly disguised and labeled as "progressive," and "mature," and "humanitarian" many will so vote.

The full program of international planning for foreign aid, trade, and investment was proclaimed to the people of the world last week by Robert McNamara, the baron of that financial-industrial complex known as the World Bank.

Mr. McNamara is perhaps best remembered from his preinternational days for his successes with the Edsel automobile, TFX, the war in Vietnam, and for his parting comment—that his greatest achievement as Secretary of Defense was forcibly integrating all military installations and off-base facilities.

Mr. McNamara's vision of a new egalitarian world by increasing taxes from productive peoples, by eliminating waste, mismanagement and corruption, and full implementation of international guidelines will not be reassuring to the American people.

He now complains that despite his efforts, the United States' economy continues to advance too rapidly, therefore his international superintellects must discover new devices to siphon off U.S. capital and investments. Accumulating and retaining profit in any country is regarded—like patriotism and nationalism—as international immorality in the eyes of the World Bank.

The World Bank has sent its 400-page program to the U.S. President and we can expect to be called upon to stamp approval on the world plan to equalize wealth and potential among nations.

Taxpayers in the United States are to be expected to double foreign aid—in the name of relieving world poverty. Tariffs to protect U.S. industry and agricultural products are not to be countenanced by the World Bank.

An intensive public relations program to repeal the Hickenlooper amendment can be anticipated and must be recognized as a power move by the international banker-investment cartel to fully internationalize industrial trade.

On every point of the World Bank recommendations, U.S. interests and sound economy must give way to programs geared only for world redistribution of wealth.

With the good, decent, hard-working, U.S. taxpayers, workers and farmers already reeling from the most severe Socialist retrogression ever thrust upon the American people, the World Bank faces a real challenge to make their destructive ambitions acceptable to the politician, who is answerable to his people at home. Already the American people stagger under the heaviest taxes ever borne by them; inflation continues and worsens; high interest rates and a near unavailability of investment capital already plague the private sector. The industrialist and the farmer, finding their domestic market saturated by cheap foreign imports, already appeal for relief by demanding protection of their livelihood through imposition of duties and tariffs.

Nevertheless, the internationalists with their power to confuse, persuade and maneuver should never be underestimated, and the American people should be watchful to see that their wishes—and not those of the world bankers—are enacted into law.

Mr. Speaker, I include several news reports as follows:

[From the Washington (D.C.) Post, Oct. 5, 1969]

A Challenge To Reverse Current U.S. Trends

(By A. D. Horne)

For the United States, the Pearson Commission report published last week poses an across-the-board challenge to reverse current trends in trade, investment and foreign aid policies.

The 400-page report, commissioned by World Bank President Robert S. McNamara in August 1968, will be the starting point for President Nixon's Task Force on International Development headed by Bank of America president Rudolph A. Peterson, which is to present its recommendations for "a new U.S. approach to aid for the 1970s" to the White House next February.

The Pearson task force—nine businessmen, four academics, two lawyers and a cardinal—will have to address itself to the forces which have succeeded in trimming back the flow of American capital to the developing nations: the coalition of budget-cutters trade protectionists and balance-of-payments watchers. Because this the constituency which must be sold on any new policy, and because its own composition reflects this constituency, the task force appears unlikely to call for sweeping changes that will cost money.

Yet it is just such changes that the Pearson Commission has urged. Because most of its 68 formal recommendations flow from the mainstream of the last 10 years' international discussions, conferences and reports, the Commission has disappointed some specialist who had hoped for new ideas. Yet, while the Commission's report may seem conventional, its recommendations call for radical departures from present practices.

TRADE

"Trade is not a substitute for foreign aid," the Pearson report declares, yet "in the long run, only the evolution of their trade with other nations, together with a growing capacity to substitute production for imports, will enable the developing countries to grow without the help of concessional finance."

To expand the developing nations' export earnings—90 per cent of which are based on primary products, and more than 50 per cent of which are based on a single product in nearly half the countries—the Commission recommends:

Elimination of imports levies by the developed nations on "products of special interest" to developing countries, and elimination of quotas now restricting at least 30 per cent of the imports of "manufactures and semi-manufactures" from the developing countries. "The developing countries have every reason to be concerned about the rebirth of protectionist sentiment in some of the major industrial countries."

Creation of the developed nations of "a generalized nonreciprocal scheme of preferences for manufactured and semi-manufactured products from developing countries, including processed goods, before the end of 1970."

TOTAL NET FLOW OF RESOURCES TO DEVELOPING COUNTRIES AND MULTILATERAL AGENCIES

[In billions of dollars]

	Average 1950-55	1956	1961	1963	1967	1968
Official development Assistance—	1.9	3.3	5.2	5.9	6.6	6.4
Grants	1.2	1.9	4.5	4.4	4.4	4.1
Loans	.5	.5	.6	1.5	2.3	2.4
Private flows	1.6	2.9	3.1	2.5	4.2	5.8
Total	3.5	6.2	9.2	8.6	11.2	12.8

Source: OECD, DAC, unpublished preliminary data for 1968 and earlier annual reviews.

(This goal of trade preferences for the poorer nations has been discussed and endorsed at the United Nations Conference on Trade and Development, or UNCTAD, in 1964 and 1968.)

Use of foreign aid to create buffer stocks of commodities as protection against sharp price drops. (The Commission warns, however, that any effort to raise long-term commodity prices by restricting production would only encourage wider use of synthetic substitutes.)

International agreements among the developing nations to reduce multilaterally by the end of 1970 their own tariff barriers against each others' products.

PRIVATE INVESTMENT

The Commission rejects the view, most recently stated by the Latin American nations in the "Consensus of Vina del Mar," that foreign investment takes more out of developing nations than it puts in. "In our judgment," the Commission concludes, "available facts do suggest that direct foreign investment has added substantially to the real national income of developing countries."

While governmental aid remained static through the 1960s, private foreign investment in the developing countries doubled, from $2.9 billion in 1958 to $5.8 billion last year. The Commission, seeking ways to promote even higher capital flows to the developing countries suggests:

Foreign investment agreements "involving politically sensitive activities, such as mining and public utilities," should provide for renegotiation after a minimum term.

"Developed countries should, as far as possible, keep aid policy and disputes concerning foreign investment separate." Although not a formal recommendation, this sentence in a paragraph decrying "interventions by the large industrial powers on behalf of their investors," is a polite call for repeal of the U.S. Hickenlooper Amendment.

"Tax concessions to attract foreign companies" should be used sparingly, but developing countries should "strengthen their investment incentive schemes" and "structure their tax systems to encourage profit reinvestment by foreign companies."

Balance-of-payments restrictions hindering bond issues of the developing nations should be eliminated by the developed countries, "We recognize the very great weight of balance-of-payments considerations," the Commission declares, "but . . . we do not consider it acceptable that efforts to help developing countries should be the first casualty . . ."

Private export credits to the developing countries, which reached a level of $1.3 billion in 1966–68, have "created serious balance-of-payments problems for developing countries" and have been "a major reason" for several debt crises. The danger of export credit finance the Commission warns, is that "it provides a temporarily painless way of financing projects conceived by over-optimistic civil servants, by politicians more concerned with immediate political advantage than with political future economic problems, and by unscrupulous salesmen for the manufacturers of capital equipment in developed countries."

AID GOALS AND TECHNIQUES

The Commission endorses the UNCTAD goal of pegging total flows of public and private capital to the developing world at 1 per cent of the developed nations' gross national products by no later than 1975—an estimated target of $23 billion compared to last year's total of $12.6 billion, which represented 0.77 per cent of a combined GNP of roughly $1700 billion.

"So far this target has had little operational significance" in the main aid-giving countries, the Commission concedes. In part, it suggests, this is because the target makes no distinction between public aid and commercial transactions. It therefore proposes an additional target for official development assistance only—0.7 per cent billion (0.39 per cent of GNP) to $16.2 of GNP by 1975, to be monitored by the 16 major non-Communist aid-giving nation's Development Assistance Committee (DAC).

Tis new target would raise total development aid from last year's $6.4 billion, and the U.S. share from last year's $3.3 billion (0.38 per cent) to $8.2 billion.

(In fact, by 1971 U.S. official aid will have dropped to $2.8 billion on the basis of decisions already made.)

"The primary purpose of the additional development aid which we are recommending for the 1970s," the Commission says, "should be to help bring as many less developed countries as possible to a level of growth of at least 6 per cent per year" that "would transform the economic outlook in a developing country." (Although GNP statistics in many countries are unreliable, the World Bank credits the developing countries with an average GNP gain of 5 per cent during the 1960s.)

A further goal is to make this 6 per cent growth rate "self-sustaining"—that is to gradually end aid as each country becomes able to maintain its growth without it. "By the year 2000, aid would largely have disappeared."

While finding no support for charges of large-scale "waste, mismanagement or corruption" of aid funds, the Commission concedes that much has been given for the wrong reasons and without "any consistent economic criteria." It outlines a strategy for relating increased aid to economic performance:

Creation of "new multilateral groupings," supported by the World Bank, to "provide for annual reviews of the development performance of recipients and the discharge of aid and related commitments by donors."

Aid-giving nations should try to put appropriations on "at least a 3-year basis," should shift emphasis from individual projects to program aid and should act jointly to end the self protective "tying" aid to purchase in the donor country.

A minimum of 20 per cent of official aid, roughly double the current ratio, should be channeled through multilateral institutions such as the World Bank group and the special country consortia by 1975.

The World Bank's soft-loan affiliate, the International Development Association (IDA), should be expanded to a $1.5-billion-a-year level by 1975. (It is currently receiving $400 million a year.) The flow of contributions to IDA should be regularized, possibly by allocating to it part of the developed nations quotas of the new Special Drawing Right ("paper gold"), or by linking to it interest repayments on past aid loans.

DEVELOPMENT DEBTS

The developing nations now owe the developed nations roughly $50 billion, and paid debt service charges totaling $4.7 billion in 1967. If the scope and terms of new loans remains unchanged, the Commission warns, "by 1977 debt service would considerably exceed new lending" in most parts of the developing world.

A factor in this debt crisis is the current hardening of aid terms by donors, both in higher interest rates and in reduced ratios of grants to loans. The Commission hopes for maintenance of the present grant ratio but also backs soft loans for creating "greater awareness of efficiency and development criteria."

It proposes to limit future aid loans to 2 per cent interest (the 1963 U.S. rate, now raised to 3.5 per cent), with 25–40 year maturity and a 7–10 year grace period.

POPULATION, EDUCATION

"No other phenomenon casts a darker shadow over the prospects for international development than the staggering growth of population," the Commission declares. Its main proposal is for the World Bank and World Health Organization to "launch immediately a wide-ranging international program for the direction, coordination and financing of research in the field of human reproduction and fertility control."

In education and research, the Commission recommends:

More aid for new techniques rather than classical methods, and more scholarships for use in the developing countries to halt the "brain drain" that has been accelerated by "indiscriminate scholarship awards for study in advanced countries."

Aid-giving countries outside the United States should earmark 5 per cent of their public research budgets to the problem of developing countries; the U.S., with higher R & D spending, should match the total of the other donors.

THE FUTURE

The Commission calls for several international conferences, including a DAC meeting of "major aid donors and recipients" next year to work out improved aid procedures, and a World Bank conference also in 1970 to "discuss the creation of improved machinery for coordination" of aid, trade and other international economic policy.

Besides the U.S. Peterson task force, a U.N. study headed by Prof. Jan Tinbergen is already in progress, and an international development conference has been convened for next February at Columbia University. While the Pearson Commission has been dissolved, chairman Pearson is likely to find himself busy as the international debate which his report was intended to stimulate begins to take shape.

THE COMMISSION

The eight members of the Commission on International Development were chosen both for personal prestige and for geographical reasons.

Its chairman, former Prime Minister Lester B. Pearson of Canada, was selected by President Robert S. McNamara of the World Bank, which financed but did not otherwise control the Commission. Pearson, in turn, then chose the seven other Commission members—five from the five leading aid-giving nations and two to represent the developing world, a deliberate imbalance to forestall dismissal of the Report as just another in a series of pleas from the poor nations to the rich.

Members from the developed nations are: Sir Edward Boyle of Great Britain, a Conservative member of Parliament and former minister of education; C. Douglas Dillon of the United States, former under secretary of state and treasury secretary; Wilfried Guth of Germany, former German executive director of the International Monetary Fund; Robert Marjolin of France, former vice president of the European Economic Community; and Saburo Okita of Japan, president of the Japan Economic Center.

Members from the developing nations are: Roberto Campos of Brazil, former ambassador to the U.S. and planning minister, and Sir Arthur Lewis of the West Indies, professor of political economy at Princeton University. None of the Commission members speak for their nations.

[From the Washington Post, Oct. 5, 1969]

The Pearson Report: The End of Aid

A year ago, upon taking office as president of the World Bank, Robert McNamara looked around the world and perceived a crisis of vast dimensions. The rich countries, particularly the United States, seemed to be getting fed up with helping the poor countries, and in turn the poor were becoming increasingly resentful of their inadequate growth and were blaming the lag on the stinginess, if not the malice, of the rich. To Mr. McNamara these trends portended a calamitous combination of economic distress and political tension, and he resolved to act.

Essentially, his hope was to clear the air, that is, to provide the basis of a fresh consensus of rich and poor alike, in order to narrow the economic and political gaps between them. And so he picked up a proposal originally made by his predecessor, George Woods, for a "grand assize" of world development. To carry it out, he turned to former Canadian Prime Minister Lester Pearson, who worked up a commission and began picking the best development brains available. The Pearson Commission report came out last Wednesday.

The Pearson Report is 400 pages long, including appendices. It reads like . . . well, like a long report; no one is apt to confuse it with *Portnoy's Complaint*. Its purpose is to build confidence in international cooperation to bring about effective evolutionary change. Its basic economic premise is that, in a world of alarming discrepancies in economic capacity, no country's poverty can be eased by its own efforts alone. Its political premise is that, in a world shrunk to "village" size, no country's affluence can be safeguarded for long if its neighbors are in distress. This is the new post-imperialist internationalism; it cannot be denied.

As befits a project with a hortatory purpose, the Pearson Report is positive and upbeat (and therefore controversial) both in its assessment of past achievements in development and its forecast of future possibilities. Since it was written not to be admired or even much argued about but to be acted on, its tone is such to stimulate governments, planners and investors, not to offend or discourage them. Hence, in one conspicuous instance of misemphasis, it does not give population control the urgent priority it requires. The report is an establishment pronouncement, not a maverick critique. It pursues economic development, bypassing questions of the desirability or unavoidability of radical political and social change.

Development is not the moon; the Pearson Report brings back no hitherto unknown "lunar rocks" in its recommendations. Of these recommendations there are hundreds, not very selectively arrayed. The thrust of all of them is to bring most poor countries to a point where, by the end of the century, they will no longer need aid. Their growth will be "self-sustaining." To accomplish this, the report insists that their growth rate be raised to an average 6 per cent a year, which is a lot. This will require aid donors to give more; the United States Government, relatively a laggard now, will have to double its effort. Recipients will have to perform more efficiently, and to be judged on their performance. Poor countries will have to improve conditions for private investment. Rich countries will have to let the poor sell them more of their goods. The multilateral sources and administrators of aid, like the World Bank and the aid-India club, must be strengthened—to spare rich countries like the United States, and the poor countries they help, the harshest of the political frictions inherent in any face-to-face dealing of patron and client.

For a report like this, its excellence is incidental; implementation is crucial. Like a bee that stings once and dies, the Pearson Commission expires with its report. Implementation falls to others, to governments and to outfits like the World Bank. That means, principally, deciding which of the Pearson recommendations require priority application and organizing an appropriate onslaught. Common humanity and narrow self-interest demand that the job be done. The Pearson Report, clearly and comprehensively, shows how the job can be done. It points a passable way toward the reduction of world poverty and the end of aid.

Foreign Aid Falls to a Low Estate

The widening gap between the developed and developing countries has become a central issue of our time. The effort to reduce it has inspired the nations left behind by the technological revolution to mobilize their resources for economic growth.

It has also produced a transfer of resources on an unprecedented scale from richer to poorer countries. International cooperation for development over the last twenty years has been of a nature and on a scale new to history.

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The transfer of resources that gave substance to this international cooperative effort began after the war and increased rapidly in the late 1950s. By 1961, almost $8 billion, or nearly 1 per cent of the gross national product (GNP) of the high-income, noncommunist nations, was flowing into low-income nations. There were also additional transfers from the Soviet Union and other Communist countries.

Though after 1961, the total flow failed to grow as rapidly as the economies of the wealthy nations, the absolute level did steadily increase until by 1968 it had reached a total of $12.8 billion in public and private resources from the noncommunist countries alone.

The experience which we have gained in the last two decades bears out the premise—and the promise—of the effort that has been made. Economic growth in many of the developing countries has proceeded at faster rates than the industrialized countries ever enjoyed at a similar stage in their own history.

The fears that economically underdeveloped parts of the world were incapable of growth, or that their political problems would be so great as to preclude any economic advance, have proved to be unfounded. Many of the developing countries have shown themselves capable of a major development effort.

A SPIRIT OF DISENCHANTMENT

However, international support for development is now flagging. In some of the rich countries, its feasibility, even its very purpose, is in question. The climate surrounding foreign air programs is heavy with disillusion and distrust. This is not true everywhere. Indeed, there are countries in which the opposite is true. Nevertheless, we have reached a point of crisis.

The question which now arises is whether the rich and developed nations will continue their efforts to assist the developing countries or whether they will allow the structure built up for development cooperation to deteriorate and fall apart. The signs are not propitious.

In the last years of this decade, the volume of foreign official air has been stagnant. At no time during this period has it kept pace with the growth of national product in the wealthy nations. In fact, the commitments by the United States, which has been much the largest provider of aid fund, are declining. There, and in some other developed countries, we have encountered a spirit of disenchantment.

Some of this is due to the fact that attitudes in donor countries often have been affected by misconceptions and unrealistic expectations of "instant development" when we should have known that development was a long-term process. There has also been strong criticism of waste in the use of aid in the developing countries and complaints that aid activities lead inevitably to entanglement in political conflict and military hostilities in which recipient countries may become engaged.

COMMITMENTS AT HOME

A good deal of lateral aid has indeed been dispensed in order to achieve short-term political favors, gain strategic advantages or promote exports from the donor. Much foreign aid was granted in the 1950s to enable some countries to maintain large armed forces rather than to promote economic growth. In nons of these cases was the promotion of long-term development a dominant objective of the aid given.

It is hardly surprising, therefore, that hopes of satisfactory development progress were disappointed or that aid given as "defense support" has on occasion led to greater involvement in a deteriorating security situation affecting the recipient country. Nor is it surprising, either, that there should often have been criticism because of misconceptions of what this kind of aid was meant to achieve.

There has also been a lessening of support for genuine development aid, in part at least due to the increasing complexity and seriousness of domestic problems—the deepening commitments to abolish poverty and deal with such questions as civil rights, economic discrimination and urban and environmental problems.

It is not only among the developed countries that the climate has deteriorated. On the developing side, too, they are signs of frustration and impatience. In much of the developing world there is a sense of disillusion about the very nature of the aid relationship.

Our travels and studies have convinced us that we have come to a turning point. On all sides we sense a weariness and a search for new directions.

The period of development cooperation began with a number of presuppositions on both sides. Some—as we have seen—were unrealistic and unfortunate. Development was often seen in new nations as the economic continuation of the political struggle for independence; as an important means of creating a new national identity or of breaking old and restrictive ties. The elimination of alien rule was thought by many to open the way to early and easy prosperity.

The nature of the obstacles which stood in the way of quick results, or the decisions which had to be taken to achieve any results at all, were not always understood. The need for export growth was underestimated, agricultural development was usually neglected. Development was also too often only seen as a consequence of decision-making at the top. The vital need to bring about mass participation in development was at times sacrificed to the enrichment of special groups or individuals.

Donors and recipients alike tended to view the modernization and development of low-income countries as an attempt to repeat the Industrial Revolution in quick time. They focused inordinate attention on individual investment projects and relatively little on the causes and results of stagnation.

Recipients as well as donors also tended to expect too much too soon from aid supplementing the national development effort. A dramatic change in the lives of hundreds of millions of people was expected from a relatively modest flow of resources, much of which was offset by unfavorable trends in the terms of international trade.

WORKING FROM WITHIN

The understanding of these problems, however, has grown. Past approaches have been modified and coordinated and better results are being secured. The developing countries have more and more come to recognize that their economic policies must look outward and strive for competitive strength; that agricultural growth is indispensable in order to raise levels of living for the large majorities of their populations and to provide markets for their growing industries.

The most cumbersome controls have been relaxed, and much more attention is paid to the mobilization and allocation of resources through incentives to individual effort. Above all, it is realized that development must come from within, and that no foreign help will suffice where there is no national will to make the fundamental changes which are needed.

It has become very clear that the impact made by the contribution of resources from outside depends on the efficiency with which the recipient uses his own resources and on his overall economic and social policy. Both sides have learned that cooperation for development means more than a simple transfer of funds. It means a set of new relationships which must be founded on mutual understanding and self-respect.

Good development relations also require the acceptance of a continuing review of performance on both sides, not dominated by either the donor's or the recipient's immediate political or economic interests or pressures. Aid, to be effective, requires less uncertainty and more continuity that is often the case today. It cannot be disrupted or cut off without harmful results to the recipient's capacity to plan for the future.

Wealth does not entitle a rich and powerful country to dominate another country's national life as a consequence of the aid it may have given. On the other hand, it is impossible for any country to transfer public funds abroad without being able to satisfy its citizens that these funds are being effectively used to reach acceptable development goals and that the receiving countries are making strong efforts of their own to improve their situations. The "development relationship," which is at the heart of efficient aid policy, must be based on a clear division of responsibilities which meets the needs of both parties.

In recent years, the volume of aid has stagnated, the terms have hardened and the conditions have become more restrictive. This is happening at a time when the success of many developing countries has greatly increased their capacity to utilize additional resources effectively. To overcome the obstacles and take advantage of the opportunities for further growth will require that aid, trade and investment policies are integrated in a single strategy which rests firmly upon the performance of the developing countries themselves and the sustained commitment of the richer countries.

[From the Washington Star, Oct. 4, 1969]

SOUTH AFRICA PRESSING THE UNITED STATES FOR COMPROMISE ON GOLD ISSUE

(By Lee M. Cohn)

South Africa is stepping up pressure on the United States to compromise on the role of gold in International Monetary Reserves.

Negotiations between the two countries here this week made little apparent progress, but Nicolaas Diederichs, South Africa's finance minister, told a news conference yesterday that there is "a greater willingness, a greater desire on the part of the Americans to come to some agreement.'

U.S. officials concurred that they want to strike a bargain. They scoffed, however, at the idea that South African maneuvers have pushed the United States into a defensive position.

Gold talks took place privately during this week's joint meeting of the International Monetary Fund and the World Bank, which ended yesterday with the formal approval for creation of a new kind of monetary reserves called Special Drawing Rights (SDRs).

South Africa abstained from the nearly unanimous vote for SDRs, which have been nicknamed paper gold.

The gold issue was sharpened when the United States and other leading countries last year established a two-price system, with monetary gold pegged at $35 an ounce and the price of gold for industrial and artistic use allowed to fluctuate freely on the market.

A key part of the system is the understanding that almost all newly mined gold is to be sold on the markets not to central banks or the IMF to expand monetary reserves. By compelling sales on the market, the United States hopes to hold the market price down close to $35.

Creation of SDRs supposedly will make purchases of real gold for reserves unnecessary. The importance of gold as a reserve would diminish gradually as SDRs accumulated.

But South Africa, the world's biggest producer of gold, is resisting and demanding the right to sell some of its gold to central banks and the IMF as a means of holding the market price up.

Diederichs reiterated that South Africa has sold gold to central banks despite the U.S. position that they should not buy.

Besides direct sales, Diederichs confirmed that South Africa has used IMF transactions to channel gold to central banks of some countries.

Members borrowing South African rands from the IMF, along with other currencies have converted the rands into gold on some occasions. This process helps South Africa unload gold without the risk that additional supplies may depress the market price.

Britain and France reportedly have been among the countries acquiring gold in this manner. U.S. officials played down the size and significance of these transactions, maintaining that they do not imperil the two-price gold system, but they conceded that a clear agreement on South African gold sales would help overcome "suspicions" that the two-price system might be undermined.

Diederichs indicated he believes the ability of South Africa to sell gold to central banks strengthens his bargaining position.

"I see no reason why we cannot carry on in that way," he said.

Negotiations are expected to continue through correspondence and later perhaps in meetings between U.S. and South African officials.

Treasury Secretary David M. Kennedy told a news conference the United States wants to settle the issue but is determined to protect the two-price gold system.

On another question, Kennedy predicted that the next movement of interest rates will be downward but indicated he does not expect a sharp rate decline soon.

Pierre-Paul Schweitzer, the IMF's managing director, told a news conference the two-price system has proved to be workable, and added that South Africa has had no problem in disposing of its gold.

Gold will remain "for quite a while the basic stander of the monetary system," he said.

Schweitzer indicated he has no objection to conversion of rands borrowed from the IMF into gold.

On the forthcoming increase in IMF quotas, Schweitzer said the present $21 billion total probably will be expanded by about $7 billion or $8 billion.

He said he is confident that West Germany will resume supporting the mark within 1 percent of a fixed par value as soon as possible, after temporarily letting the rate float freely in the markets.

Germany's action letting the rate float may take some of the steam out of proposals for making the currency system more flexible, he said.

WORLD BANK CAMPAIGN

Mr. RARICK. Mr. Speaker, on Monday of this week, I commented on the manifesto which came out of the World Bank Convention here in the District of Columbia—see CONGRESSIONAL RECORD, October 6, page H9129.

Itemizing the international bankers' programs, I suggested that no Member, to the knowledge of his constituents, would vote for such proposals.

I further remarked that if the same objectives were written in palatable language, thinly disguised, and labeled as "progressive," "mature," "flexible," and "humanitarian," many would feel constrained to so vote.

Past experience proves that the international bankers use their full power to confuse, persuade, and maneuver the American people to accomplish international aims.

The internationalists erupted into operation almost immediately. Yesterday, I received a leatherbound volume entitled "Economic Foreign Cooperation" which even bears my name, stamped in gold, on the cover. The book explained that underdeveloped nations do not like the word "aid," and henceforth the word "cooperation" should be used when referring to "our economic foreign programs." The book is illustrated with cartoons and written in a vocabulary and style addressed to about 10-year-olds—apparently the intelligence level that the senders must regard Members of Congress as possessing.

The World Bank coterie, through its former president has also recommended an inducement to Hanoi to end the war earlier; the "inducement" being a cool $1 billion foreign aid package to Southeast Asia. What Congressman could vote against a billion dollar expenditure—not called "ransom" or "blackmail," but for "peace through economic cooperation?"

The former World Bank head indicates that North Vietnam might be interested in joining international organizations—the Asian Bank, the World Bank.

Mr. Speaker, it becomes more and more imperative that our colleagues become alerted to crafty promotions if they are to continue representing their constituents rather than the predetermined programs of the powerful World Bank cartel.

I insert a news clipping from the Christian Science Monitor:

SOUTHEAST ASIAN AID PACKAGE URGED AS INDUCEMENT TO HANOI

(By William C. Selover)

While President Nixon is concentrating on finding an end to the Vietnam war, Eugene R. Black, former World Bank president, has come up with what he thinks is an "inducement" to Hanoi "to end the war earlier."

This "inducement" is a cool billion-dollar aid package to Southeast Asia, designed to spearhead economic development in the area.

Ironically, Mr. Black makes his report, "Alternative in Southeast Asia," published by Praeger, at a time when he is no longer a part of the administration, when public enthusiasm for massive foreign-aid programs is at an all-time low, and when his voice remains largely unheeded.

He started his thankless task back in April, 1965, when President Johnson appointed him special adviser and asked him to come up with a plan for postwar development.

JOHNSON ROLE RECALLED

In his now-famous Johns Hopkins University speech, Mr. Johnson called on Mr. Black to devise a grand plan: "The task is nothing less than to enrich the hopes and the existence of more than a hundred million people," Mr. Johnson said.

He sent Mr. Black and a task force tramping throughout Southeast Asia with a few specific suggestions, spelled out in typical Johnsonian superlatives:

"The vast Mekong River can provide food and water and power on a scale to dwarf even our own TVA.

"The wonders of modern medicine can be spread through villages where thousands die every year from lack of care.

"Schools can be established to train people in the skills that are needed to manage the process of development."

Mr. Black believes that the American presence in Asia must be reduced dramatically following the war. He believes Mr. Nixon's suggestions for postwar Asian policy are valid.

WHAT SUGGESTION MEANS

"In the wake of a cessation of hostilities in Vietnam," he reports, "I think we will have to substitute for an overwhelming American presence a multilateral framework for a policy of regional cooperation."

In other words, he suggests that Americans concentrate on bolstering regional unity—in an area which could thrive on such unification—and at the same time renounce what he calls "our present policy of overinvolvement in the affairs of Southeast Asia."

While such pronouncements are common on Capitol Hill these days, representatives of international finance have not been heard to take such a clear line.

"Everybody's tired of the war," Mr. Black says in his soft Georgia accent. "Businessmen would like to see it over."

He added: "Financial people are worried that we are spending this much money; they would like to see it spent in this country."

In every country Mr. Black visited in East and Southeast Asia, leaders asked the American banker if the United States would lose interest in the area following the war.

REGIONAL COOPERATION

Mr. Black assured them he would be very much surprised if it did. But he hoped continued interest would be in the form of contributions to regional banks and investments in developing projects.

Already, study of the postwar task has resulted in several examples of regional cooperation, including the Asian Development Bank which was an outgrowth of this program. The Mekong committee, according to Mr. Black, is also "extremely active" in making plans for long-term development.

Mr. Black is particularly interested in involving Japan in future regional economic pacts, as well as the Soviet Union, and even North Vietnam. "It is quite possible North Vietnam could benefit from the aid," he says.

"North Vietnam might be interested in joining international organizations, the Asian Bank, the World Bank—they might come in on a multilateral basis."

Furthermore, he said, they might "get power from the Mekong power plants."

But he also warns that it would be a great "setback" to regional cooperation if the Communists won the war. He agrees with the Nixon attempts to gain peace in the area. The lack of support for Mr. Nixon in this country, he says, "is going to make it very difficult to make peace." Those advocating deadlines for unilateral withdrawal, he says, "are playing into the hands of the North Vietnamese."

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

RECYCLING "MYTHS" SHOULD BE EXPLODED

HON. JULIA BUTLER HANSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mrs. HANSEN of Washington. Mr. Speaker, as we all know, recycling has been very much in the press lately. Probably the biggest recycling project anywhere has been going on in my district for years. I refer to the use of waste from sawmills, plywood mills, and logging operations, for the manufacture of pulp and paper.

XUM

Years ago my district was studded with sawmill waste burners which burned the slabs, edgings, and other waste which developed from manufacturing rectangular lumber from round logs.

Today, this former waste is a valuable raw material and amounts to well over 70 percent of the material furnished the pulp mills in the Pacific Northwest. In fact, only 19 percent of the raw material for the pulp and paper industry in the Northwest comes from whole trees—and these trees are the low quality trees or thinnings which used to go to waste in the forest.

A great deal of misunderstanding has grown up over the last few months about recycling paper and saving trees. The following editorial by Albert W. Wilson, editor of Pulp and Paper magazine, does a good job of explaining the situation. I commend it for your reading.

RECYCLING "MYTHS" SHOULD BE EXPLODED

(By Albert W. Wilson)

Well-meaning ecologists in hundreds of cities and towns who demand the recycling of waste paper into more paper must get their heads down out of the clouds. They must realize this removes waste paper from our obnoxious, squalid and stinking waste stream for only a short time. However, reflect on the brain power and hundreds of millions of dollars devoted each year for many years to renew and reuse our resources-reforestation and salvage of wastes, even sawdust and decayed trees. You need no crystal ball to foresee scientific breakthroughs which will not only increase, but upgrade, reuse of waste paper.

RECYCLING BREAKTHROUGHS WILL COME

Consider Newark, N.J. publisher, Richard B. Scudder, who used spare time to study papermaking and find expert assistants until he developed the first successful process for deinking paper to make more quality newsprint. I recall other attempts which failed in Indiana and upper New York. Still our biggest newspapers, loudest and most vitriolic in their attacks on our industry's efforts to conserve, are chewing up trees that take 60 to 120 years to mature. If Connecticut was blanketed by forests, just one such paper could denude it in 30 years. At least one such big newspaper boasts of using deinked paper, but only token amounts. Mills will be found to make any quality of recycled paper if customers are willing to pay for it.

Fred Crysler, executive vice president, Container Corp., head of our industry's Solid Waste Council, warns that it would be wasteful and impractical for government to make all mills install deinking and recycling systems and haul wastes to remote locations. There are mills where forest resources, including waste, are cheaper to use than waste paper. We might double waste paper reuse in 20 years, but if paper production also doubles, it is expected to do just that, municipal wastes will still be 50 percent paper.

WHAT CAN BE DONE WITH WASTE

New methods of incinerating without polluting could be a better answer than making more paper. A longer range solution is to recycle paper by burning to recover energy and CO_2 or recycling paper into building materials or compost. Incinerated refuse also requires much less land fill space. Wood fibers are renewable, biodegradable and tremendously versatile in ways they can be recycled—all based on modification of Nature's own recycling system. This horrifies Sierra Clubbers who want to lock up forests. They can throw the key away, but the forests will die and rot. They grow again but not as healthy as managed forests.

A wise Alabaman told me cutting down trees is the way to grow bigger and better trees. "Touch-not-Nature" ecologists would ban packages, even refuse grocery bags, and bring back the noxious pollution of all—entrails, skin, bones, other sour wastes which filled garbage cans in the "good old days," now disposed of at process or packaging plants.

BIGGEST HOAX PERPETRATED BY INDUSTRY

Our own industry has perpetrated the greatest of all hoaxes—the fairy tale that every ton of recycled paper saves 17 trees. I was present 16 months ago at the paper industry meeting which birthed this phoney. It spread like wildfire in speeches and editorials by what Look publisher Sheppard calls the Disaster Lobby. Anyway, one or two western trees, not 17, make a ton of pulp or any number in other regions. The 17 trees is like googols of unarguable statistics which some corporations and newsmakers toes off. But for many years 20–22 percent of paper furnished in the United States has been waste paper, not trees. In the Pacific Northwest, mills use 72 percent sawmill-plywood waste; use in the South and East also is substantial. Paper executives complain to me privately that they don't get credit for this salvage of wood wastes which has been going on for 40 years, not for many years of recycling waste paper. This is a far better record than present recycling of only one percent of bottles and aluminum cans.

WHY WE ARE RECYCLING

But the public should realize we are not in the business of "saving" trees per se. What for? Trees die like any other living thing—from old age, disease, blowdown, fire, lightning, even too much shade. Nature continuously changes from an early successional to a climax forest. Weyerhaeuser, for example, is increasing fiber production over 30 percent per acre per year. It will plant 60 million seedlings this year. The Forest Service says 15 percent more land now grows trees than ten years ago, despite urban sprawl, reversion to farms, airports, highways. In large part this is a tribute to the South's Third Forest program. This kind of "savings" is in the public interest. No other industry has paid so much to increase its raw material base for future generations.

CATCH 44

HON. ROBERT O. TIERNAN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. TIERNAN. Mr. Speaker, on October 8, I spoke before the Massachusetts Broadcasters Association concerning the future of the broadcasting industry as we know it today. One of the challenges I mentioned that the broadcasters will have to deal with is that from the audience who are dissatisfied with one or another aspect of the broadcasting performance. The question as I posed it was how to be responsive to a multitude of demands and still maintain control over the program day.

One of the best solutions to this problem that I have heard of comes from WGBH Educational TV in Boston. This station airs a half-hour show each weeknight entitled "CATCH 44." The time is made available, according to David Ives, president of WGBH Educational Foundation:

To any established community group that feels it has something useful to communicate. The program is usually live, but occasionally pretaped. WGBH supplies production assistance if a group wants it, but most of those that appear prefer to take care of everything themselves.

Mr. Speaker, WGBH is to be congratulated for their farsighted approach to broadcasting. I would urge all of my colleagues to take a few moments to read the following explanation of "CATCH 44" and the list of some of the groups which have appeared on the program:

CATCH 44

Catch 44 is a revolutionary concept in television programming. It is unusual—unprecedented. WGBH-Boston is the only television station in the country doing it.

Just what is it we're doing? What's the purpose? It's this:

To find a way, while meeting our responsibilities as broadcasters, to give air time without traditional restrictions, to the people of our community. We don't want them to feel suppressed or managed. We do want to give them a sense of freedom—and the responsibility that goes with it.

Here's how—and why—Catch 44 happened.

Until a few years ago, it never really occurred to anyone, except political candidates, that they should have air-time to themselves. But then came participatory politics. As people clamored to be heard, to speak for themselves, they turned to the media. First they went to print, and underground newspapers and magazines sprouted all over the land. TV was the next logical step. And those of us who were running television—although we should have been—were not prepared.

Traditional TV was about—never you. Traditional TV was for the community, never of the community.

Blacks were the first group to demand—and get—air time of their own. The next groups demanding air time were the "radical-hip" people. Then came Kent State and Cambodia. WGBH-Boston planned "crisis-roundtables" around these events—open-ended programming to help deal with the anxieties and frustrations of our community.

After this, we began to get requests for air time from all kinds of groups. They didn't want debates. They didn't want speaking contests. They wanted to speak for themselves—to reach others like themselves, or to persuade other people to their point of view.

As the requests came in from the Right, women's groups, senior citizens, anti-war groups—we began to detect a pattern. We were hearing from groups and people who felt they were unreflected on TV—their world was neither recognized nor shown.

So we began looking for a formula for "do-it-yourself" television. But we had to ask:

How do we provide for fairness?

How do we prevent unjust personal attacks?

How do we avoid needless offense in matters of taste and language?

How do we guard against having the air-time seized by those who would incite violence?

How do we give time—and at the same time—control it?

The answer is unique in television.

It's CATCH 44. And the rules are what make it work.

Until now, because of broadcast law, whenever members of the public appeared on the air, the professionals have treated them with mistrust. Broadcasters have always had to use "filtering" devices as safe-guards—moderators, reporters, editing, tape delay, rigid formats, and so forth.

But CATCH 44 operates on a basic *trust* of the public. We outline to each group our basic responsibilities. And we ask them to share these with us. They accept the responsibilities by agreeing to abide by the rules. When they say they will, we believe they will.

And to date—they have.

Here are the rules they promise to observe before going on the air:

HOW TO PLAY CATCH 44

Catch 44 is a way you can use television to speak out on your own to anyone who wants to listen—about the things you feel are important.

It is founded on belief in the value of free expression, and on trust in those who use it to be honest and fair.

By our license from the Federal Communications Commission, we at Channel 44 are ultimately responsible for what is said on CATCH 44, as we are for everything we broadcast. This puts us under several obligations.

We must offer a variety of viewpoints in the series as a whole, and so we shall ask what in general you would like to present—before we decide whether we can schedule a program for you.

We must make sure that CATCH 44 observes the basic rules of fair play and decency. Sometimes, when dealing with a volatile public issue, we may choose to tape the program ahead of airtime. More often, we shall broadcast it live. In all cases, we shall ask everyone who takes part to sign an agreement to follow these few rules:

1. Don't attack identified private persons, unless they have become publicly associated with the issues being discussed.

(By "private person," we mean any person who is not a government official or a candidate for office. We also mean any non-governmental group, organization, or business. For example, you may attack the position of a school board member or a police chief—being a governmental official. But ordinarily you may not attack a teacher or a patrolman—being a private person.)

2. Don't use the airtime to incite violence.

3. Don't use language or gestures that people would consider obscene, indecent, or profane.

4. Don't use the airtime to appeal for money or promote commercial ventures.

The only catch to CATCH 44 is this: If you break the rules, you are cut off the air and forfeit your remaining time.

Otherwise, the time is yours to use as you choose. We will help you in any way we can to prepare for your presentation. Among other things, if you want the aid of a professional moderator, CATCH 44 will provide one.

We don't hold each group accountable for observing the FCC's Fairness Doctrine. That we accept as the station's responsibility.

Fairness is served not within each program, but by the series as a whole.

CATCH 44 is on WGBX–TV, Channel 44, on prime-time air, five times a week, every week-night from 9 to 9:30.

When a group gives one viewpoint on an issue of controversy, the CATCH 44 producers find counter-groups to offer contrasting views of that issue on other CATCH 44 programs. In this way, regular viewers have the chance to compare differences of opinion before making up their own minds.

Finally, CATCH 44 just might be the answer to a more general problem of fairness—a problem confronting everyone who controls or manages television today.

If only the professionals determine how the society will be reported and reflected, they may well go on excluding, quite unconsciously, the many views, life-styles, and community backgrounds different from their own. Even the most honorable, fairminded manager can't be and see all sides, all points of view, all of the people.

CATCH 44 can.

Because it is the people.

NAME OF SHOW, IDENTIFICATION, AND DATE OF ORIGINAL BROADCAST

Socialist Workers Party, November 2, 1970.

Young Americans for Freedom, November 2, 1970.

Navy League, U.S. Navy Steel Band, November 5, 1970.

Hippocrates Health Institute, organic foods, November 6, 1970.

Off the air because of transmitter trouble, November 9, 1970.

Cambridge Housing Convention, housing, November 10, 1970.

Webster Lewis Quintet, music, November 11, 1970.

John Birch Society, political, November 12, 1970.

Pre-empted for Boston Symphony Orchestra, November 13, 1970.

Homophile League of Boston and Daughters of Bilitis, homosexuality, November 16, 1970.

My Friend the Policeman Program in Roxbury, kids meeting Policemen, November 17, 1970.

Association Promoting the Constitutional Rights of the Spanish-speaking (APCROSS), spanish speaking variety program, November 18, 1970.

WGBH Senior Citizens Committee, problems of the elderly, November 19, 1970.

Yoga class with Mrs. Ruth Bender, exercises, November 20, 1970.

Project Concern in South End, drug rehabilitation, November 23, 1970.

Pregnancy Counseling Service, abortions, November 24, 1970.

Bike Freaks, motorcycle riding, November 25, 1970.

Columbia Point Education Committee, educational, November 26, 1970 (repeat).

Astrology with Mrs. Francis Sakoyan, November 27, 1970.

Cambridge Police, crime prevention, November 30, 1970.

Allston-Brighton Headstart Mothers, preschool program in education, December 1, 1970.

Webster Lewis Quintet, music, December 2, 1970 (repeat).

Institute of Contemporary Art and The Children's Museum, art, December 3, 1970.

"Juche", a revolutionary commune, December 4, 1970.

Value of Life Committee, anti-abortion, December 7, 1970.

Mass Transition, drugs, rehabilitation, January 8, 1971.

Small Business Administration, January 11, 1971.

ACT and FIT, problems with commercial children's TV, January 12, 1971.

Action for Boston Community Development (ABCD), information show in Spanish, January 13, 1971.

J. R. Mitchell Quintet, black music, January 14, 1971.

The Volunteers for Health Awareness, stop smoking, January 15, 1971.

School Volunteers for Boston, January 18, 1971.

South Shore Jewish Community Council, condition of Soviet Jews, January 19, 1971.

National League of Families of POW's and M.I.A.'s, January 20, 1971.

The Boston "Phoenix", underground newspapers, January 21, 1971.

Diet Workshop of Newton, January 22, 1971.

Big Brother Alliance, summer program for black students, January 25, 1971.

Female Liberation, women's liberation, January 26, 1971.

Roxbury Teen Education Center, February 15, 1971.

Project Rap in Beverly, drugs, February 26, 1971.

Diet Workshop, February 17, 1971 (repeat).

Sanctuary, runaways, street kids, drugs, February 18, 1971.

Anabasis House, street kids, drugs February 19, 1971.

Students International Meditation Society, transcendental meditation, February 22, 1971.

Boston Big Sister Association, February 23, 1971.

Wildlife Survival Project, supporting protective legislation, February 24, 1971.

Turned-On Crisis Panel, how do drugs get on the street, February 25, 1971.

Project Rap in Beverly, drugs, February 26, 1971.

Cambridge Community Schools, after school activities, March 29, 1971.

Student Mobilization Committee to End the War, March 30, 1971.

Mass. Police Legislative Action Committee, March 31, 1971.

Students for a Just Peace, anti-S.D.S. at Harvard, April 1, 1971.

Mass. Council to Repeal the Draft, April 2, 1971.

Boston Lawyers Vietnam Committee, April 5, 1971.

Chinese Community Show, in Chinese and English, April 6, 1971.

New England Woman's Coalition, Womans Lib, April 7, 1971.

Office of Economic Opportunity, April 8, 1971.

Wake Up America Committee, pro-Administration on the war, April 9, 1971.

East Boston Drug Action Council, April 12, 1971.

Belmont Dramatic Club, community theatre, April 13, 1971.

Roxbury Ecumenical Center, community health program, April 14, 1971.

Youth Voter Participation, political, April 15, 1971.

International Student's Association, April 16, 1971.

Project Concern, Inc., Needham, international medical service organization, April 19, 1971.

Committee to End Lead Poisoning, April 20, 1971.

East Boston Neighborhood Council, Against Logan Airport, April 21, 1971.

Music and Arts Development, state of the musical arts in Boston, April 22, 1971.

Armenian Clergymen, commemorating Armenian Martyrs Day, April 23, 1971.

Young American's For Freedom, pro-administration on the war, April 26, 1971.

Catholic Guild for the Blind, April 27, 1971.

Students International Mediation Society, April 28, 1971 (tape).

Dance Free, expressive movement, April 29, 1971.

Junior League of Boston, their decorator Show House, April 30, 1971.

Boston University Communications Class, skits, May 3, 1971.

East Pakistan, current situation in East Pakistan, June 17, 1971.

Boston Committee of Friends of Micronesia, political situation in Micronesia, June 18, 1971.

Polaroid Revolutionary Workers Movement, Polaroid policy in South Africa, June 21, 1971.

Elite Fashion Club, fashion training for blacks, June 22, 1971.

Cambridge Concerned Citizens, up-coming elections, June 23, 1971.

Cambridge Opera Company, June 24, 1971.

Careabout Turnabout Project, generation gap regarding drugs, June 25, 1971.

Representatives of several Homosexual Groups, homosexuals need to express themselves openly, June 28, 1971.

Children of Portugal II, music of Portugal, June 29, 1971.

Cambridge Montessori School, Perceptual education, June 30, 1971.

South End Action Program (SNAP), youth tutoring youth, July 1, 1971.

U.S. Coast Guard Auxiliary, safe boating practices, July 2, 1971.

PROGRAM ORDER

(Week of October 18–22, 1971, Monday–Friday, 9:00 p.m.)

Monday, October 18—*Cambridge Tenants' Organizing Committee:*

This committee was formed by tenants in their own apartment buildings to protest

high rents and poor services. They will be discussing their attempts to solve these problems.

Tuesday, October 19—*LIBRA* (taped):

This newly formed group of former prison inmates and community members, works from outside to encourage prison reform. They will be discussing racism in jails, and the steps people can take to help released inmates.

Wednesday, October 20—Catch 44 Special, *Pescoful Movement Committee—Concord Reformatory:*

This discussion with inmates, prison officials, and outside citizens will be taped live from the Reformatory. Their subject will be the prison situation.

Thursday, October 21—*Wellesley-Weston Hotline:*

Hotline staff members will discuss the various aspects of hotline activities, what kinds of people run hotline and what their goals are for the future.

Friday, October 22—*Young Women's Christian Association:*

This will be a discussion by Y staff members of the changing community priorities and the Y's new commitments in this direction.

Week of October 25–29, Monday–Friday 9–9:30

Monday, October 25—*Movement Lab* (Originally aired 10–14–71):

The dancers and director of Movement Lab will perform, and discuss their commitment to their group, which explores the separate elements of expressionistic modern dance.

Tuesday, October 26—*The Massachusetts Association for Mental Health:*

Members of this group will report on conditions within several mental health hospitals in Massachusetts. They have been organizing volunteer committees to visit these facilities and make constructive suggestions. Participants include Dean Stephen Trachtenberg of B.U. and Dr. Jonathan Cole, Superintendent of Boston State Hospital.

Wednesday, October 27—*People's Action in Cambridge Education:*

This organization composed of parents and students concerns itself with the quality of education in Cambridge. Three students and two parents will review the educational system, discuss some of their solutions to current problems, and urge greater student participation.

Thursday, October 28—*Cambridge Property Owners Association:*

This organization formed to represent the concerns and interests of landlords and other property owners will be using time on Catch 44 to explain rent control.

Friday, October 29—*The De Cordova Museum:*

Staff members of the museum will discuss its relevancy today, with various artists from the Boston Community.

1972 LEGISLATIVE POLICY STATEMENT OF ALASKA MUNICIPAL LEAGUE

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. BEGICH. Mr. Speaker, with the new year only 2 months away, it is time to begin thinking about what Congress can do next year. There are many areas of legislation that we have failed to act on, but should be considered in the future.

The recent passage of the Alaska Native land claims bill is a big victory for the Alaskan people. However, we must not stop here. Alaska, perhaps more than any other State, lacks some of the necessities of a progressive life. Roads, harbor development, electric power, and communications are just a few areas where more work is needed.

The Alaska Municipal League is a group of people dedicated to the improvement of Alaska's towns and cities. They have been very influential in the past, and will continue to be so in the future. They have recently issued their proposed 1972 policy statement for Alaskan development.

I would like to have this statement included in the RECORD so that all Members of Congress can see these proposals, and seriously consider each one. I believe they are, as always responsibly considered and drawn, and hope all Members will find time to consider them.

The statement follows:

ALASKA MUNICIPAL LEAGUE,
Juneau, Alaska, August 23, 1971.

Re Proposed 1972 Policy Statement.

To All League Members:

Enclosed herewith are copies of the League's proposed 1972 Policy Statement as drafted by the Legislative Committee at its meeting in Palmer.

We wish to stress that this is a proposed draft only for your review and suggestions. The final statement must be approved by the delegates at the Conference in Ketchikan, October 27–29, before it becomes the official policy statement of the League. Prior to its submission for this approval, the statement must undergo the following procedure:

1. Circulation to all League Members 60 days prior to the annual business meeting;
2. Further review by the Legislative Committee in context with suggestions received from League members;
3. Review, debate, and revision by the Conference State Policy Committee.

The next meeting of the League Legislative Committee will be held in Ketchikan, October 25–27, immediately preceding the annual Conference. The League Board of Directors has decreed that any suggestions to be considered by the Legislative Committee at that time must be submitted to the League office at least thirty days prior to the October 25 meeting. We ask that you take particular note of this fact. If you have any corrections, additions or deletions to the proposed policy statement which you want considered by the Legislative Committee, they must be submitted to the League office by September 25. Otherwise your proposals should be presented to the Conference State Policy Committee on Thursday, October 28.

We earnestly solicit your criticism of and suggestions on the enclosed proposed policy statement. We ask you to review it carefully and assist us in making it a policy statement which all League Members can support.

DON M. BERRY,
Executive Director.

PART III. ALASKA MUNICIPAL LEAGUE—FEDERAL

1. *Oceanographic Research*—To urge immediate further federal aid and effort to help develop a sound and comprehensive oceanographic research and development program in Alaska.

2. *Land Withdrawals*—To support legislation prohibiting any federal agency withdrawal by the Department of the Interior, Department of Agriculture, or Department of Defense from withdrawing from public domain any lands lying within the State for proprietary purposes; i.e., such as leases or rentals to private individuals of corporate entities without prior concurrence of the State of Alaska, but excluding from such consent the Bureau of Land Management Disposal Program under the homesite, homestead, small tract or related acts concerning tracts of 160 acres or less.

3. *Special Assessments*—To urge Congress to make necessary federal laws consenting to the assessment of all federally-owned property or property under deeds restricting the conveyance or alienation except by the consent of the Secretary of the Interior for special improvement such as water, sewers, and streets, which benefit the property, and with the consent of a majority of the residents of such an area making the area eligible for resubdivision and rehabilitation programs.

4. *In Lieu of Tax Payments*—To urge Congress to adopt and inaugurate a complete system of payment in lieu of taxes to the states and local governments for tax-exempt federally-owned property.

5. *Small Boat Harbors*—To urge the United States Corps of Engineers to liberalize their present regulations governing the cost participation constructing and expanding boat harbors in Alaska.

6. *Fisheries*—To urge (1) immediate further federal aid and effort in fisheries research and marketing and the expanded harvest of all types of sea products in Alaska, and (2) expansion of the territorial limits of U.S. jurisdiction for fisheries purposes to the 200 mile or continential shelf limit, whichever is greater.

7. *Electric Power Developments*—To urge Congress to give immediate consideration to assist the State of Alaska in fully developing its electric potential in the State either on State level or local level.

8. *Highway Construction*—To urge adoption by the United States Department of Transportation of modified federal-aid highway construction standards to suit Alaska conditions.

9. *Public Works Programs*—To urge Congress to broaden criteria for participation in federal programs providing for matching funds or grants so that the entire State of Alaska may be aided by these programs and that any grants be on a block basis.

10. *Youth Training*—To encourage Congress to broaden the Youth Opportunity Program, and to allocate additional funds to educate and train disadvantaged people and school dropouts in Alaska and request the Alaska Congressional Delegation to continue efforts to obtain and enlarge programs which would have a tendency to keep our young people in Alaska.

11. *Alaska Highway*—To urge that Congress cooperate with Canada to pave the Alaska Highway immediately and to appropriate necessary money.

12. *Surplus Property*—To urge Congress to pass legislation enabling all agencies of political subdivisions and of the State to receive surplus property for all public purposes on an equal basis with others, but with disposal at point of origin given first priority.

13. *Native Housing*—To urge an immediate solution to the native housing problem arrived at cooperatively by the people of the State of Alaska and the federal government, whether the housing problem is in the remote areas or in the cities.

14. *Increased 701 Study Fund Local Participation Grants*—To support reinstatement of the advance planning grant program.

15. *Native Claim Settlement*—To urge action by the federal government for an adequate, early settlement of native claims in Alaska.

16. *Federal Subdivisions*—To support legislation requiring any federal subdivision to conform to local subdivision standards and regulations.

17. *Common Use of Health Facilities*—To support legislation requiring use of community hospital facilities to the full extent that is medically feasible rather than continue present discriminatory practices against native peoples by forcing transfer of these residents of Alaskan communities to distant federal facilities, and also support use of government medical facilities by non-target group peoples where local facilities are not available.

18. *National Municipal Policy*—To support the national policy of the National League of Cities insofar as it is consistent with the best interests of local government in Alaska.

19. *National County Policy*—To support the national policy of the National Association of Counties insofar as it is consistent with the best interest of local government in Alaska.

20. *Communications*—To urge the establishment of an adequate satellite system of communications for Alaska.

21. *Federal Revenue Sharing*—To urge Congress to enact a comprehensive program for Federal revenue sharing directly to the state and local governments, with need, as well as population, being used as a standard of distribution.

22. *Feasibility and Planning Studies for Local Public Facilities*—To urge the practical availability of Federal funding for feasibility and planning studies for local public facilities—particularly maritime facilities, including the establishment of a revolving fund for such purposes to be reimbursed from project construction monies.

THE TRAP IS SET TO SUSPEND CONSTITUTIONAL GOVERNMENT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. RARICK. Mr. Speaker, following the President's declaration of an emergency on August 15, I made inquiry as to whether the declaration triggered the emergency plan prepared pursuant to Executive Order 11490 of October 28, 1969—see my remarks of September 27, page 33523. The finger is on the trigger, it just has not been squeezed—yet.

The reply from John W. Dean III, Counsel to the President—

Since the 1950 emergency declared by President Truman has continued in effect (see OP. AG. No. 35, P. 6–8) . . .

Is most thought provoking. I include Mr. Dean's letter:

THE WHITE HOUSE,
Washington, October 22, 1971.

Hon. JOHN R. RARICK,
House of Representatives,
Washington, D.C.

DEAR MR. RARICK: The President has asked me to acknowledge receipt to your recent letter regarding the effect of the national emergency declared on August 15, 1971 in Proclamation 4074. You inquire whether this declaration is a directive for the effectuation of any emergency plan prepared pursuant to Executive Order 11490 of October 28, 1969, which assigned to Federal agencies various tasks involved in planning for emergencies.

The recent declaration by the President is not intended as an instruction to any government agency to take any specific action. In general, it simply makes available for future action, statutes which require the existence of a national emergency for their implementation. Since the 1950 emergency declared by President Truman has continued in effect (see Op. A.G. No. 35, P. 6–8), the declaration of August 15 does not significantly change the legal picture from what existed prior to that date.

If I can be of any further assistance, please so advise.

Sincerely,

JOHN W. DEAN III,
Counsel to the President.

MINORITY BANKS: A WELCOME SIGN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. RANGEL. Mr. Speaker, I wish to commend to my colleagues in the Congress an excellent article entitled "Minority Banks" which appeared in the October 1971 issue of Black Enterprise. Written by Thomas W. McMahon, Jr., executive vice president of Chase Manhattan Bank and chairman of the Urban Affairs Committee of the American Bankers Association, the article explores the growing importance of minority banks in community development.

The establishment of Minibanc, an investment company designed to provide capital to minority banks in the United States, is a promising sign of future growth and expansion of this exciting economic movement.

The article follows:

MINORITY BANKS

(By Thomas W. McMahon, Jr.)

The American Bankers Association recently announced the establishment of an investment company to supply needed capital to the nation's minority owned banks.

This investment company, MINBANC Capital Corporation, was originated by the ABA Urban Affairs Committee, on which I am privileged to serve as chairman. Its eventual goal is to supply $10 million in capital to viable banks controlled by blacks and other minorities.

Stock in MINBANC is being offered to nearly 14,000 commercial bank members of the ABA. MINBANC's investments will in turn normally be limited to non-voting securities of minority banks.

WHY MINBANC?

MINBANC comes on the scene at a time when increasing attention is being focused on minority banks—some of the attention being positive and some negative.

On the positive side, many see minority banks as a way of quickly delivering more badly needed working capital to disadvantaged communities. Reinforcing this view is the current federal effort to generate $100 million in additional deposits for minority banks. Indeed, President Nixon, in commending the ABA for initiating MINBANC, stated that, "It is particularly appropriate that a capital corporation to strengthen minority financial institutions be established now, when he government is trying to increase deposits in these same institutions."

On the other hand, there are those who question the ability of these smaller banks to compete with larger institutions and their ability to absorb he necessary risks of lending to new community ventures. In addition to problems of sufficient markets and competitive size, questions are also raised regarding the amount capital and depth of management skills available.

MINBANC was conceived with an eye toward both the promise and the problems of minority banks, but it is by no means seen as a panacea for community economic development. Rather, it is directed toward a specific difficulty raised by the rapid growth of minority banks—lack of adequate capital.

In determining the need for, and the appropriate capitalization of MINBANC Capital Corporation, the American Bankers Association conducted a series of analytical studies which compared the financial structure of 23 minority-owned banks with the structure of commercial banks of similar size, as measured by total deposits.

The studies showed that the minority-owned banks have a pressing need for additional equity capital. A major contributing factor to this need has been the rapid growth in deposits experienced by minority-owned banks over recent years. The studies indicated that the minority-owned banks are more than twice as highly "leveraged" as the average commercial bank of similar size. The ratio of total liabilities (primarily deposits) to liquid capital base (banking assets minus liabilities) was 29.7 to 1, compared to 12.7 to 1 for other banks in the study. Moreover, the minority-owned banks had, on the average, relatively lower earnings as well as lower loss reserves than the other commercial banks.

BEYOND CAPITAL

Of course, capital by itself can't make a business a winner any more than sheer looks can crown a contestant in a beauty pageant. You additionally need talent and a good market—factors with which the ABA is also striving to help.

To assist in meeting the growing management needs of minority banks, the ABA in 1969 began the Minority Banker Training Program. So far it has provided on-the-job training at major commercial banks for 60 minority bankers, selected by the National Bankers Association. After one year of training, the participants are employed by minority-owned banks where they can implement their new banking skills. This year, 39 individuals are participating.

Another primary criterion for success is need. For this reason, eligibility for assistance by MINBANC is being limited to minority-owned banks which have been operating for at least three years. There will thus be clear evidence of ability to raise some capital in each bank's own community and of capacity to meet needs in these communities with a full range of banking services. At the same time, commercial banks investing in MINBANC will increase other means of support such as technical assistance, loan participations and various correspondent banking services that smaller banks normally cannot handle.

ECONOMIC DEVELOPMENT—MINORITY OR MAJORITY

A final, often asked, question is to what degree minority banks can really solve problems of economic development for the minority community. Are banks a viable concept? Alternatively, can the government and

corporations just support minority banks with deposits and capital, and then go home feeling satisfied?

My answer to the first question is that minority banks are indeed a viable concept when they meet a real need, just like any other banks. Moreover, in many cases the management will possess a keener community understanding that will assist marketing and overall service. Yet it is important to remember that the days of racially protected markets are over, and any bank must be able to serve both minority and majority.

Important as they are in community economic development, minority banks are certainly not the answer to all problems. Their efforts must be buttressed by other financial institutions, such as the current $1 billion program being carried out by the ABA over five years for "soft loans" to minority businesses. At the same time, companies in many fields must come up with more help in such areas as management, accounting, marketing and the purchase of goods and services. Governmental support programs must be expanded, streamlined, and made more realistic. With this type of broad support, minority banks can play a most important role as catalysts for the development of their communities.

It is only by aiding the profitable and realistic development of capital resources by minority businessmen that minority banks can themselves set a firm base for their own future prosperity. This is the idea behind MINBANC. But success will require long and hard labor by many, both minority and majority.

MORE ON PRAYER AMENDMENT

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. SCHWENGEL. Mr. Speaker, I have just received the following letter from Tilford E. Dudley, director of the Washington Office of the Council for Christian Social Action, United Church of Christ. The letter, together with the enclosed statement give further indication of the growing concern of church leaders with respect to the so-called prayer amendment:

UNITED CHURCH OF CHRIST, COUNCIL FOR CHRISTIAN SOCIAL ACTION,
Washington, D.C., October 29, 1971.

Re: The Prayer Amendment.

DEAR CONGRESSMAN: You will soon be considering the proposed constitutional amendment permitting devotional prayer in the public schools. I'm sure you are interested in the postion of church bodies.

Enclosed is the resolution of the Executive Council of the United Church of Christ, adopted October 13, opposing the amendment because it might be "interpreted as over-riding or reversing the Supreme Court decisions . . . banning prescribed prayers in public schools."

The United Church of Christ is a Protestant denomination formed by the merger of the Congregational and the Evangelical & Reformed Churches. It has 7,000 local churches with about 2,000,000 members. Its top deliberative body, the General Synod with about 700 delegates, meets biennially. The Synod elects the Executive Council, both its 21 members and the 4 church officers who are members ex officio. The Executive Council is empowered to act for the Synod between Synod sessions.

The Division of Christian Education of the United Church Board for Homeland Ministries adopted a statement opposing the amendment on October 19. It said the practical effect of the proposal would "signal the end of . . . the historic neutrality of government toward religion" and require the government to become a theological arbiter. It said the public schools "should save the learning needs of children, not their devotional needs."

On June 10, 1963 the U.C.C. Council for Christian Social Action adopted a similar statement, saying that "devotional activities . . . should not be included in the curriculum of the public schools."

Respectfully yours,

TILFORD E. DUDLEY,
Director, Washington Office.

Enclosure.

UNITED CHURCH BOARD FOR HOMELAND MINISTRIES—DIVISION OF CHRISTIAN EDUCATION, EDWARD A. POWERS, GENERAL SECRETARY

Statement Adopted by the Divisional Committee on Christian Education, October 19, 1971

The Division of Christian Education of the United Church Board for Homeland Ministries is deeply concerned about the proposed Wylie "Prayer" Amendment (H.J. Res. 191) calling for the legitimation of "nondenominational prayer" in publicly funded facilities.

The historic neutrality of government toward religion stated in the "no establishment—free exercise" clauses of the present Bill of Rights has kept national public life free from sectarian controversy and permitted the fullest latitude for the voluntary profession and practice of religious freedom. The practical effect of the proposed change would signal the end of this American tradition and could bring about a scramble for state approval by one religious denomination or another. To assume that consensus can be achieved about a non-denominational prayer is unrealistic in the light of American cultural diversity and religious pluralism. Its adoption would require the government and the courts to become theological arbiters, judging which prayers addressed to the Deity are acceptable to the state and which are not. Nothing could be more alien to the spirit of prayer than to shape it to the requirements of the state.

Though we are concerned about the integrity of religion, we are equally concerned about the integrity of the schools. It is no secret that the backers of the proposed change hope and intend to upset the present constitutional prohibition on *official* prayer in the public schools. It is worth noting that there is no such prohibition on *voluntary* prayer by believing individuals when they deem it appropriate nor can there be any such prohibition of a voluntary act in accordance with the free exercise clause of the First Amendment.

The schools have a monumental educational task in these days of rapid change and social upheaval. Diverting them from that task and adding theological concerns to their educational agenda would be tragic. The public schools, in a religiously pluralistic society, should serve the learning needs of children, not their devotional needs. If anyone imagines that the religious groups of America could agree on "non-denominational" prayer or accept the state's definition without conflict, he does not understand the dynamics of religious commitment. The public schools must not become the arena for such controversy. For the integrity of the schools as well as the integrity of religion, we urge the defeat of this proposed change in the Bill of Rights.

RELIGION IN THE PUBLIC SCHOOLS

A Resolution Adopted by the Executive Council of the United Church of Christ, October 13, 1971

The Executive Council of the United Church of Christ supports the Supreme Court decisions banning prescribed prayers and prescribed Bible reading in the public schools, calls attention to the aspect of the Supreme Court decision which affirmed the freedom of the schools to engage in the study of religion, and opposes House Joint Resolution 191 which seeks to amend the United States Constitution. The Executive Council believes this proposed amendment has the danger of being intercepted as over-riding or reversing the Supreme Court decisions and permitting prescribed prayer in public schools.

At the same time, believing that the health of our communities depends upon widely shared and deeply held moral values resting upon fundamental convictions about the meaning of human life and that our society's well being also requires scrupulous fairness to all such convictions and full religious liberty, the Executive Council

(1) strongly supports efforts of schools to increase and improve the teaching of moral values and the appreciation of the role of religion in the development of our heritage, and

(2) urges the Instrumentalities, Conferences and churches of the United Church of Christ to work to help the public understand both the scope and the limitations of the Supreme Court decisions concerning prescribed prayers and prescribed Bible reading in the public schools.

COAL STRIKE SETTLEMENT NEEDED

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. VANIK. Mr. Speaker, Cleveland is the center of the vegetable greenhouse industry of America, an industry run by small businessmen and which supplies a large proportion of the winter vegetable crop for the tables of America.

This year's crop is in immediate and serious danger, because of the coal strike in which 100,000 of America's 140,000 coal miners are idled.

Coal is needed to heat the greenhouses. But because of the strike, several greenhouses have completely exhausted their supplies of coal. One of these small businessmen contacted me today and told me that he has 6 tons of coal left. From previous experience with November weather in the Cleveland area, he needs 200 tons for this month if he is to save his crop from being destroyed.

As we approach winter, the economic damage of this strike will spread, hitting small firms and individual homeowners.

I hope, Mr. Speaker, that industry, labor, and the Federal mediator involved in settling this labor dispute will redouble their efforts to reach an equitable agreement as soon as possible, and provision will be made for protecting the health of the people and maintaining vital services—including greenhouse crops.

SENATE—*Wednesday, November 3, 1971*

The Senate met at 9:30 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

We thank Thee, O Lord, for the morning of a new day when bodies are rested, minds are fresh, and hearts are responsive to Thy Spirit. We thank Thee for the quiet moment when all else is shut out and we are in tune with nature, with life, and with Thee. Fit us for all that this day brings—long hours of study, conference, and hard decision-making. Help us to keep the mind clear, the soul clean, the will determined for righteousness. Make us to be valiant for truth and agents of hope for Thy coming kingdom. In the end give us the satisfaction of hearts at peace with Thee and our fellow man.

In the Master's name. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 3, 1971.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 2, 1971, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRANSPORTATION OF CARGO BY BARGES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 414, H.R. 155.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

H.R. 155, an act to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with amendments, on page 2, line 5, after the word "States", strike out "this section shall not apply" and insert "the Secretary of the Treasury may suspend the application of this section"; in line 8, after the word "States", strike out "including districts, territories, and possessions thereof embraced within the coastwise laws," and insert "(excluding transportation between the continental United States and noncontiguous states, districts, territories, and possessions embraced within the coastwise laws)"; and, after line 20, insert a new section, as follows:

SEC. 2. For a period of five years following the enactment of this Act, the Secretary of the Treasury shall at the beginning of each regular session make a report to the Congress regarding activities under this Act, including but not limited to the extent to which foreign governments are extending reciprocal privileges to the vessels of the United States.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with "New Reports."

There being no objection, the Senate proceeded to consider executive business.

The ACTING PRESIDENT pro tempore. The clerk will please read the first nomination on the Executive Calendar under "New Reports."

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

The second assistant legislative clerk read the nomination of William D. Eberle, of Connecticut, to be Special Representative for Trade Negotiations, with the rank of Ambassador Extraordinary and Plenipotentiary.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

AMBASSADORS

The second assistant legislative clerk proceeded to read sundry nominations for ambassadors.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that those nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc and, without objection, they are confirmed en bloc.

DIPLOMATIC AND FOREIGN SERVICE

The second assistant legislative clerk proceeded to read sundry nominations in the Diplomatic and Foreign Service.

Mr. MANSFIELD. Mr. President, I make the same request with respect to those nominations.

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered en bloc, and, without objection, they are confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished majority leader desire further recognition?

Mr. MANSFIELD. No.

The ACTING PRESIDENT pro tempore. Does the Senator from Michigan desire recognition?

Mr. GRIFFIN. No.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the distinguished Senator from Georgia (Mr. GAMBRELL) is recognized for not to exceed 15 minutes.

The Senator from Georgia.

Mr. GAMBRELL. Mr. President, I am awaiting the delivery of some material from my office. In view of that, I would like to suggest the absence of a quorum until that material is brought to me, to be charged against my 15 minutes of time.

Mr. MANSFIELD. Mr. President, does the Senator wish to request that the time not be charged against his time?

Mr. GAMBRELL. Mr. President, I ask unanimous consent that the time not be charged against my time.

The ACTING PRESIDENT pro tempore. Without objection, the time for the quorum call will not be charged against the Senator's time.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GAMBRELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MANSFIELD). Without objection, it is so ordered.

Under the previous order, the Senator from Georgia is recognized for not to exceed 15 minutes.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971

AMENDMENT NO. 851

Mr. GAMBRELL. Mr. President, on last Thursday, October 28, I submitted an amendment to the Equal Employment Opportunities Act of 1971 (S. 2515). My amendment would restrict the power of Federal courts to order forced school busing, would prohibit the Justice Department and the Department of Health, Education, and Welfare from using legal and administrative measures to support forced busing, and would require the Department of Health, Education, and Welfare to accept court-ordered school integration plans as being complete for the purpose of receiving desegregation financing, without imposing additional conditions.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD my statement of October 28, made in connection with the introduction of my amendment, as part of my remarks today.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENT NO. 851

(Ordered to be printed and to lie on the table.)

Mr. GAMBRELL. Mr. President, I am submitting today an amendment which has as its primary purpose the prohibition of forced busing of public school children. The legislation is in the form of an amendment to the Equal Employment Opportunities Act which has been reported to the Senate floor by the Senate Labor and Public Welfare Committee. In my judgment, a bill purporting to provide equal opportunities is a fitting vehicle for legislation which prohibits school attendance assignments based on race, creed or color. If we are to have stronger laws to prevent discrimination in employment based on race, creed or color, we should likewise have laws which restrict pupil placement assignments based on race, creed or color.

An additional objective of the amendment which I am offering is the restriction of an ill-conceived practice now being pursued in connection with school desegregation by the Department of Health, Education, and Welfare. This is the practice of denying Federal educational assistance to school systems which do not comply with HEW desegregation requirements, although those same school systems are complying with desegregation plans approved by the Federal courts. This practice has been used in Georgia, and in other States, to deny millions of dollars of Federal assistance to school systems which are fully desegregated, on totally insignificant grounds. Permitting such a practice is a license for bureaucratic blackmail. The Senate expressed its sentiment against this practice when it unanimously adopted the Chiles amendment to the School Aid and Quality Integration Act of 1971. Yet the Department of HEW persists in applying it.

Most of us are thoroughly familiar with the busing issue. Outraged parents and other citizens are gathering daily in communities about the country, at the Capitol here in Washington and in our private offices, demanding action on this subject.

Thousands of schoolchildren are being transported outside of their neighborhoods and communities, and are being required to attend school in other neighborhoods and communities. The process is enormously expensive, disruptive of consistent educational planning, and discriminatory as between those who are transferred and those who are not. In spite of Supreme Court decisions declaring pupil placement assignments based on race to be unconstitutional, other Federal court decisions seem to be based on the assumption that pupil placements may be made to achieve a racial balance, and that the busing of students may be required to achieve such racial balance.

The Chief Justice of the United States has suggested that Federal courts may be "misreading" the decision of the Supreme Court of the United States on the subject of busing. Justice Hugo Black, before his death, admitted that there is "confusion" concerning the busing issue.

The amendment which I have offered limits the power of Federal courts to enforce racially selective school assignment orders, including school busing, until all appeals from such orders are finally determined. In addition, the amendment would prohibit the Departments of Justice and of Health, Education, and Welfare from supporting racially selective assignments in court or through bureaucratic procedures. An exception is made for school systems which request such support, thus permitting local educational policy to operate. Finally, the Department of HEW would be required to accept a court approved plan of desegregation as being sufficient, without any other conditions to qualify for Federal educational assistance. The provisions of the amendment would be effective until June 30, 1973, at which time it is hoped that the Supreme Court will have clearly ruled that busing and other forms of racially selective pupil placement, are unconstitutional.

It should be understood that this amendment does not alter the constitutional mandate requiring desegregation of schools, nor does it prevent the Federal Government from supporting the desegregation of schools. The amendment merely restricts the use of two relatively minor tools which have been misused in the course of desegregation. Compared with the economic, financial, social, and educational consequences of continuing these practices, the effect of the amendment is very mild indeed. Particularly is this true when it is considered that the practices may not be legally necessary, and in fact may be unconstitutional, and the further fact that the effect of the amendment is temporary, for less than 2 years, in order to give the Supreme Court an opportunity to clarify the legal and constitutional status of forced school busing.

Finally, President Nixon has announced his opposition to forced school busing, and his support for neighborhood schools. His announcement has not been augmented by any concrete actions, and I have criticised him for failing to support his words with deeds. It is hoped that he will support the effort made by this amendment to lift the burden of confusion and doubt which is impairing the effectiveness of our educational system in many parts of the country.

The senior Senator from Georgia (Mr. TALMADGE), the junior Senator from Tennessee (Mr. BROCK), and the junior Senator from Florida (Mr. CHILES), have joined me in sponsoring this amendment.

I ask unanimous consent that the amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 45

At the end of the bill, add the following new section:

"SEC. 13. Because of legal and constitutional uncertainties relating to the question of public school student placement as it relates to the desegregation of public schools, and because of the disruption of normal educational operations, the expense, the disorder and divisiveness, and the possibility that certain student placement practices may be declared to be legally unnecessary or unconstitutional, it is the purpose of this section to prohibit and suspend certain student placement practices which have heretofore been implemented by courts, and by departments of the United States Government until the legality and constitutionality of such practices can be more clearly determined. It is also the purpose of this section to require the Department of Health, Education, and Welfare, in the distribution of Federal educational assistance, to accept court-ordered plans of desegregation as being complete and sufficient to qualify for such assistance without the imposition of further conditions."

(a) Neither the Department of Justice nor the Department of Health, Education and Welfare shall be authorized to support the assignment or requirement of any public school student to attend a particular school because of his or her race, creed or color, notwithstanding any other law or laws.

(b) No funds heretofore or hereafter authorized or appropriated by any law to or for the Department of Justice or the Department of Health, Education and Welfare, or otherwise, to be expended, shall be expended to support the assignment or requirement of any public school student to attend a particular school because of his race, creed or color.

(c) Notwithstanding subsections (a) and (b), and any other law or laws, any plan for desegregation, including plans calling for the transportation of students, required or permitted by any Court of the United States to be conducted by any local educational agency within the United States, shall, upon request by such agency, be accepted and approved by the Department of Justice and the Department of Health, Education, and Welfare as a complete and sufficient "plan for desegregation" for the purpose of qualifying for and receiving any assistance under any law of the United States authorizing or requiring the furnishing of Federal assistance, and neither the Department of Justice nor the Department of Health, Education, and Welfare shall deny such assistance to any public educational agency within the United States because of failure of such agency to meet any condition except willful failure to comply with such plan of desegregation.

(d) Notwithstanding any other law or laws, no Court of the United States shall have jurisdiction or authority to enforce any order or judgment to the extent that it provides for the assignment or requirement of any public school student to attend a particular school because of his or her race, creed or color, until appeals in connection with such order or judgment have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

(e) Definitions.

(1) "Local educational agency" means a public board of education or other public authority legally constituted within a State either for administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(2) "Support" shall include, but not be limited to:

(a) advocacy both in and out of court;

(b) the preparation of plans for desegregation both in and out of court;

(c) the withholding of funds appropriated for educational purposes because of or contingent upon compliance with a plan for desegregation; and

(d) any other form of action, withholding of action, or other conduct;

having as its purpose or effect the inducement of any person or persons, any educational agency, or any Court, to adopt any plan for desegregation providing for the assignment or requirement of any public school student to attend a particular school because of his race, color or creed.

(3) The terms "assignment" and "requirement" shall be deemed to include, but not be limited to, individual selection, selection as part of a group, provision for transfer or transportation, or any other form of selection or assignment for school attendance purposes.

(4) The term "public school pupil" shall be deemed to include any pupil, regardless of race, creed or color who is eligible to or required to attend any form or type of school conducted by any local educational agency within the United States, or any territory thereof.

(5) "Because of" shall mean "solely because of" as well as "partially because of."

(6) "Assistance" shall be deemed to mean any form of assistance, including, but not limited to, money and services.

(7) "Any law of the United States authorizing or requiring the furnishing of federal assistance" shall include, but not be limited to:

1. The Education Professions Development Act, Part D (20 U.S.C. 1119–1119a).

2. The Cooperative Research Act (20 U.S.C. 331–332b).

3. The Civil Rights Act of 1964, Title IV (42 U.S.C. 2000c–2000c–9).

4. The Elementary and Secondary Education Act of 1965, Section 807 (20 U.S.C. 887).

5. The Elementary and Secondary Education Amendments of 1967, Section 402 (20 U.S.C. 1222).

6. The Economic Opportunity Act of 1964, Title II (42 U.S.C. 2781–2837) (under authority delegated to the Secretary of Health, Education and Welfare).

7. Appropriations Acts heretofore and hereafter relating to such laws.

(f) If any provision of this Section or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Section and the application of such provision to other persons and circumstances shall not be affected thereby.

(g) All laws or parts of laws not in conflict herewith be and the same are hereby repealed.

(h) This Section shall take effect upon the date of its enactment, and shall expire at midnight on June 30, 1973.

(i) Subsections (a) and (b) of this Section shall not apply to support furnished to any local educational agency pursuant to the written request of such agency, but this Subsection (i) shall permit such support only for the purposes requested by such agency and only until such request shall have been withdrawn."

Mr. GAMBRELL. It is not the purpose of my amendment to try to permanently resolve the school busing controversy. Undoubtedly, that will require further consideration of the matter by the courts, and further legislative action.

The immediate purpose of the amendment is to suspend further Federal busing enforcement, and to permit normal educational processes to continue while the matter is under consideration by the Congress and by the Court.

Today, in order that the total impact of forced schoolbusing might be fully understood, I want to point out a number of circumstances surrounding this entire question which should be influential upon any fair-minded person considering whether to press forward with forced school busing as a means of desegregating public schools.

First, I ask unanimous consent to have printed at this point in the RECORD the latest two of a series of polls conducted by the Gallup organization with reference to schoolbusing. The most recent, which was published on Monday of this week in the Washington Post shows that 75 percent of the total population of this country opposes forced school busing while only 18 percent favor it.

There being no objection, the poll results were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 1, 1971]

SEVENTY-SIX PERCENT OF PUBLIC OPPOSES BUSING

(By George Gallup)

PRINCETON, N.J.—In the latest nationwide survey, three in every four persons, voice opposition to the busing of Negro and white children from one school district to another.

Although an increasing number of school districts, particularly in the South, have followed court orders to bus students to achieve a better racial balance, opposition has remained firm. Both the latest survey and the previous one in late August show only 18 per cent in favor of busing.

However, views on busing have softened somewhat since a still earlier survey in the spring of 1970, when 11 per cent of all adults interviewed expressed support of busing.

The latest survey is based on in person interviews with 1,506 adults, 18 and older, in approximately 300 scientifically selected localities across the nation. Interviewing for the latest survey was conducted Oct. 8–11.

All persons who said they had heard or read about the issue were asked this question:

In general, do you favor or oppose the busing of Negro and white school children from one school district to another?

As the following table shows, overwhelming opposition to busing is found in all four major regions of the nation, particularly the South.

Whites, both in the South and outside the South, oppose busing, while a fairly close division of opinion is found among Negroes.

The national results and results by key groups.

[In percent]

	Favor	Oppose	No opinion
National	18	76	6
Whites	15	79	6
Negroes	45	47	8
East	22	71	7
Midwest	16	77	7
South	14	82	4
Far West	21	72	7

In a test election in which President Nixon is pitted against Sen. Edmund Muskie of Maine and Gov. George Wallace of Alabama, supporters of all three express overwhelming opposition to busing, as seen in the following table:

[In percent]

	Favor	Oppose	No opinion
Wallace supporters	8	89	3
Nixon supporters	10	85	5
Muskie supporters	25	65	8

Among the reasons given by those who oppose busing (1) Children should go to school where they live—busing is not fair to them nor to their parents; (2) it's an unneeded expense—the money could be better spent improving the quality of education for both races; (3) the time spent on long bus trips is enervating and a waste of time.

The chief reasons given by those in favor of busing are that busing will upgrade the quality of education for Negroes and in the long run will improve race relations in the nation.

POLL FINDS DROP IN MAJORITY'S OPPOSITION TO BUSING

The overwhelming majority of Americans continue to oppose busing of pupils to integrate the schools, but opposition has declined since 1970, particularly among certain key groups in the population, according to the Gallup Poll.

In the latest survey, 18 per cent of those questioned said they favored the busing of black and white children from one school district to another as a means of achieving racial balance in the nation's classrooms. Three in four persons, or 76 per cent, expressed opposition.

In the previous survey, taken in March, 1970, 14 per cent said they favored busing, while 81 per cent expressed opposition.

The decline in opposition since 1970 has come about among both blacks and whites and in the South as well as the North.

One of the sharpest increases in support was found among college-trained persons, with the proportion favoring busing having almost doubled since 1970—from 13 per cent to 23 per cent.

A total of 1525 persons, 18 and older, were interviewed Aug. 20–23.

The busing controversy, which has recently erupted in many parts of the nation in connection with the opening of school has strong political implications for next year's Presidential race—particularly in view of another possible third-party attempt by Alabama's Gov. George C. Wallace, an outspoken critic of busing.

Evidence of the keen interest in the issue is the fact that 94 per cent of persons interviewed said they had heard or read about busing of Negro and white children from one school district to another, a percentage that far exceeded that recorded for many other domestic issues.

All those who said they had heard or read about the issue were then asked this question:

"In general, do you favor or oppose the busing of Negro and white school children from one school district to another?"

Following is a percentage comparison between 1970 and today in the proportion who favor busing:

	March Latest	1970
Nationwide	18	14
Whites	15	11
Blacks	45	37
Northern whites	17	13
Southern whites	10	5
College trained	23	13
High school	16	14
Grade school	17	16
Under 30 years	26	17
30–49 years	16	16
50 and older	14	10
Republicans	11	10
Democrats	23	18
Independents	16	13

When interviewed, a 60-year-old chef from Bayonne, N.J., remarked, "Busing is not the Government's business—let the kids go to school where they live."

"A 45-year-old Iowa factory worker said, I just don't see the reason for the extra expense—all the money being spent on busing could be better used to improve schools in neighborhoods."

However, the wife of a storeowner in New York City said, "Busing may cause immediate problems, but in the long run it will give blacks a better education and improve race relations."

Mr. GAMBRELL. These polls also show that forced school busing is not favored in any section of the country, North, South, East, or West. It is not favored by a majority of any group of citizens, by age, economic class, educational level, or political party. It is not even favored by black citizens as a group, they being the class who are supposedly to gain by this program.

Therefore, since forced school busing does not have the support of the public, its implementation can only bring about public dissatisfaction and divisiveness, at a time when the country needs unity.

Second, in February of this year, the Department of HEW published statistics setting forth the extent of integration in the public schools of this country. I ask unanimous consent that the statistics be included in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GAMBRELL. In substance, the statistics show that the South has not only made proportionately greater progress in school desegregation than any other section of the country, but that, in fact, southern schools are more completely desegregated than are the schools of other parts of the country.

Nationwide, the percentage of all Negro students in majority white schools was 33 percent. In the South, this factor was 39 percent, while in border States and in the Northern and Western States, the percentages were only 32 percent and 28 percent, respectively.

A comparison of desegregation between Georgia and Illinois reveals that 64 percent of blacks in Georgia and 85 percent of blacks in Illinois attend schools in which they are a majority. More significantly, only 30 percent of Georgia blacks, but 71 percent of Illinois blacks attend schools in which there is a 95- to 100-percent black majority. And even more significantly, while the percentage of blacks attending 100-percent black schools in Georgia declined from 76 percent to 16 percent between 1968 and 1970, the decline in Illinois was only from 38 percent to 36 percent. A similar comparison can be seen between North Carolina and New York, except that the percentage of blacks attending all-black schools in New York State increased between 1968 and 1970.

This record prevails throughout the entire set of statistics covering individual cities as well as States and regions. No statistics are available for the 1970–71 school year, nor for the 1971–72 school year. However, it may be fairly assumed that desegregation has proceeded rapidly in the South while only insignificantly, if at all in other sections of the country.

Thus, forced school busing cannot be justified on the grounds that it is needed to overcome a history of race segregation in Southern schools. Desegregation in the Southern States has already surpassed conditions existing in other sections of the country.

Furthermore, it is obvious that Southern school systems are the subject of discriminatory desegregation enforcement practices, and here again are being sown the seeds of discontent and divisiveness. One can hardly expect Southerners to accept the disruptions of their education systems which are now taking place, when other areas of the country are going scot-free in this regard. Those who aspire to national leadership can hardly expect political support from Southerners who have been imposed upon in this way.

Third, not only is the enforcement of desegregation discriminatory between sections of the country, but it is also discriminatory among students of systems within which forced busing plans are being implemented. It is a mystery to me how choices are being made between children who are to be transported from their home community into other communities for schooling, and those who are permitted to attend their own neighborhood schools. This discrimination falls with equal harshness upon both black and white. And even if those who are bused are considered to have gained something from the experience, how do we determine who is to benefit from this gain, and who is to be deprived of it.

Fourth, the busing controversy has impaired the efforts of the courts and the Department of HEW to assist school systems in the process of orderly desegregation. The School Aid and Quality Integration Act of 1971, which was rapidly adopted by the Senate early this year, has been bogged down in the House for months, largely in the controversy over the financing of forced school busing. On Monday of this week, a vote was taken in the House which indicates that the bill may not be adopted at all this year. The apparent reason for this development is the adverse political implications of the busing feature of the bill.

When this bill was before the Senate, the junior Senator from Florida (Mr. CHILES) and I sponsored an amendment which would require the Department of HEW to accept court-ordered integration plans as qualifying for funding under the act. This amendment was unanimously agreed to by the Senate on a voice vote, and the bill itself was passed by a vote of 74 to 8, with my support.

My support of the school aid bill was based upon the view that my own State, being almost 100 percent under court-ordered integration plans, would be a large beneficiary of funds to be granted under this act.

Many Georgia school systems have benefited during the past through grants made under the ESAP program. With the Chiles amendment, it appeared that the 1971 act would ease many of the pains and labors of desegregation for Georgia's local school systems.

However, since that vote was taken, the Supreme Court and other Federal courts have issued a confusing and controversial series of rulings concerning school busing, and the Department of HEW has taken upon itself to implement its own desegregation programs with busing requirements. Even after learning the sense of the Senate on the Chiles amendment, the Department has persisted in adding conditions to Fedral funding beyond those provided for in court-ordered desegregation plans. The Department has also supported the stripping of the Chiles amendment from the House version of the Senate bill. As a result, many school systems and most citizens, as well as many Members of Congress, seem to prefer to reject any Federal desegregation funding, rather than appear to be "supporting busing" or giving the Department of HEW a whip-hand on desegregation matters.

It may be fairly stated that, based on this history, the Department of HEW has almost regulated itself out of the desegregation business. For myself, unless the school aid bill contains provisions similar to those contained in my amendment here today, I plan to oppose it with all the strength at my command if it is returned to the Senate for further consideration.

In the final analysis, the administration of desegregation by HEW, and the confusion surrounding the constitutionality of forced school busing, has destroyed the effectiveness of HEW in the desegregation process.

The extent to which these programs have been mishandled by the Department of HEW is most clearly illustrated by the case of the Atlanta school system. Recent developments will seem incredible to anyone who is familiar with the history of the desegregation of the Atlanta schools.

Atlanta has, for many years, had the reputation of a "city too busy to hate." The school system has had a remarkably successful history of desegregation and

compliance with the law of the land. As a citizen of that city, I have personally lived through the entire experience, which began back in the early sixties. One of my children was in the Atlanta public school system from 1962 through June of 1971. I was a member of the executive committee of the Atlanta Bar Association in 1961, when it urged compliance with court orders requiring school desegregation. This was the first such announcement made by any lawyers organization in the South.

During this period of time, as a result of successive municipal elections, a number of blacks have been elected to the Atlanta Board of Aldermen, and to the Atlanta Board of Education. The vice mayor of Atlanta at the present time is a black man. The president of Atlanta's Board of Education is Dr. Benjamin Mays, a former president of Morehouse College, and, as many Members of this body will recall, one who delivered the eulogy at the funeral in Atlanta for Dr. Martin Luther King, Jr.

Late last year, the Atlanta School Board, under Dr. Mays' guidance, adopted a revised pupil placement plan which did not call for any substantial busing of children. The board felt that massive busing was too expensive, was not educationally desirable, and would simply lead to "resegregation," the phenomenon by which communities under forced integration, because of shifts in racial residential patterns, tend to become segregated again.

This plan was contested in court, and on July 28 of this year, the U.S. District Court for the Northern District of Georgia upheld the Atlanta board's desegregation plan. I inserted this decision in the RECORD for August 6, 1971, and again on September 13 of this year. In refusing to require the busing of students, the court upheld the reasons upon which the board of education relied. The court also pointed out that the school board's plan permitted voluntary transfers by students from schools in which they were among the majority, to schools where they would be in the minority, and provided for reimbursement of student transportation costs in this regard. Quite a number of black students have taken advantage of this part of the program to transfer to schools in white sections of town. But students are not being compelled to attend school outside of their home communities, and the school board is not being compelled to furnish buses for the purpose of student transportation beyond their own communities.

All of this would seem to be a very happy adjustment of a very difficult problem. But the Department of HEW was not to be denied the opportunity to stir up trouble, where many had been at great pains to reconcile conflicting interests.

At latest report, the Department is undertaking to assist a minute minority of citizens who claim to be dissatisfied with the plan adopted by the school board and approved by the Federal court. Representatives of the Department of HEW are now aiding an appeal from the district court's order and are assisting the dissenting elements in the preparation of a plan which would call for the forced busing of students in the Atlanta system.

Not only does this seem to be contrary to President Nixon's announced policy that he would seek no more school busing than is legally required, but it would seem to be contrary to sensible governmental policy, and an unwarranted harassment of a school administration which has gone an extra mile in attempting to achieve desegregation through peaceful processes.

And as if this were not sufficient, shortly following the announcement of the HEW Department's role in seeking to force busing upon the Atlanta school system, the Department rejected the Atlanta school system application for desegregation assistance funds under the ESAP program to the extent of over $3 million. This denial of funds was based upon a condition not contained in the court-approved plan of desegregation, and nowhere required as a matter of law for the desegregation of school systems. In other words, the Department of HEW, in the face of the Senate's unanimous adoption of the Chiles amendment, continues to superimpose conditions above and beyond those contained in a court-approved plan of desegregation, by denying the Atlanta system's request for desegregation assistance.

There are many other such instances among Georgia school systems and in other Southern states. HEW has even denied desegregation assistance funds to the Mecklenburg, N.C. system which, because of its forced busing plan is said to be the most desegregated school system in the world.

With activities of this kind, it is no wonder that many sections of the country are in an uproar about forced schoo! busing, and the handling of desegregation by the Department of HEW. And, it is no wonder that few Southerners believe that President Nixon intends to do anything to minimize the problems created by forced school busing.

The principal achievement of the Nixon administration in reference to the problems which I have outlined, has been to impede the progress of the emergency 1971 desegregation funds through the Congress. As I have stated previously, this is like opposing solitary confinement by denying bread and water to those being confined. It has even gotten to the point that many of those in confinement are refusing bread and water because it might seem that they were making the confinement more comfortable by doing so. Such is the extent of the irrational behavior brought on by the forced busing controversy.

In summary, Mr. President, the people of this country are against forced school busing by a large majority. The South is way ahead of the other sections of the country in desegregation. Southern communities are being discriminated against by the Federal Government in desegregation enforcement policy, because school systems in other sections of the country have not been compelled to desegregate by busing or otherwise. The Federal Government's desegregation program is being impeded by the confusion surrounding the constitutionality of forced busing, and by the maladministration of the desegregation assistance program by the Department of HEW. And finally, the credibility of President Nixon as an opponent of "desegregation overkill" is very seriously in question.

In view of these circumstances, it is highly important that prompt and realistic consideration be given to the adoption of the antibusing amendment which I have offered. Its sole purpose is to eliminate the chaos that is building up in the educational system in this country. If any Senator has a better means of achieving that purpose, I will be happy to listen to it. I will be particularly happy to receive any suggestions for improving the amendment which I have offered.

Finally, let me say that while there may be some delay in reaching consideration of my amendment as a result of the possible deferral of the EEOC bill itself, the problem of school busing will not go away. As I mentioned in my September 11th remarks on this subject, the problem promises only to get worse, not better, by being deferred.

I predict that, unless some active measures are taken to alleviate this problem, this question will be raised again and again on the Senate floor. The implementation of busing plans and the role of the Department of HEW in these activities are certain to be made the subject of extended debate in connection with the HEW appropriations next year. The problem is no longer limited to a handful of Southern States whose influence can be disregarded. The problem is spreading, and creating alarm and disunity, throughout the land. When forced busing reached Detroit and San Francisco, it became front page news all over the country. Few doubt that it will be soon introduced into many other areas.

The time has now come for the Senate to grant relief on this issue.

Mr. President, I ask unanimous consent that two articles published in the Atlanta Constitution and Atlanta Journal with reference to the participation of the Department of HEW in regard to the Atlanta system's ESAP application be printed at this point the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

HEW BLOCKS FUNDS FROM FULTON SCHOOL

The federal government has withheld some $3 million in emergency desegregation funds from the Atlanta school system and Atlanta's School Supt. John W. Letson said Friday night it was "Utterly fantastic."

The money was withheld by the Department of Health, Education and Welfare because, according to a spokesman, Atlanta's classroom teacher ratio of blacks to whites did not meet their standards.

Letson said it was a "numbers game" and

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was "utterly fantastic" because Atlanta was meeting all court decided requirements.

"They are talking about moving 250 teachers," Letson said. "I can't understand why, when we have been operating in good faith and doing our best with the desegregation problem, they can come up with such unrealistic requirements."

William Vandentoorn, of the Office of Education, told aides of Fifth District Rep. Fletcher Thompson Friday that HEW was withholding funds because Atlanta's teacher ratio was "not anywhere in the ballpark."

He said HEW could not legally free the money and that it was too late to make the money available "even if Atlanta changes."

Letson said the Atlanta system had received more than $1 million last year in emergency desegregation funds and used the money to establish a camp for black and white student leaders, teachers and community leaders in north Georgia during the summer to "get home meaningful dialogue and acceptance by the community of desegregation problems."

Letson said the camp had been a success, but that it could not be continued if HEW refused further funds.

Rep. Thompson said earlier this month he would advise the Atlanta system to go to court to obtain the $3 million as the most expedient route to obtaining the funds.

ATLANTA SCHOOLS DENIED $3.3 MILLION FROM UNITED STATES

(By David Nordan)

WASHINGTON.—The Atlanta School System has been denied a requested $3.3 million in federal desegregation aid funds because the system refuses to transfer enough teachers to achieve a satisfactory faculty racial ratio.

The Department of Health, Education and Welfare (HEW) turned down the Atlanta request for emergency desegregation money along with about 50 other systems which HEW said also have failed to integrate their faculties fully.

Over-all, more than half the 905 systems nationwide which received money last year under an emergency plan set forth by President Nixon, including the Charlotte-Mecklenburg district in North Carolina, have been denied funds for this year.

HEW was still categorizing the turned-down districts by state Thursday and was not able to offer specifics, but a large number of Georgia districts other than Atlanta also were turned down.

Most of the denials were either for civil rights violations by the districts or because their programs were considered ineffective or unimportant by HEW.

In Atlanta, School Supt. Dr. John Letson said Thursday the city school system will not transfer the 200 to 250 teachers which he says would be necessary to qualify for the school desegregation money.

"It would create more problems than it would solve," he said.

The question is now a moot one, for there are no more HEW funds available.

The stumbling block, Letson said, is the difference between the federal court and HEW requirements on faculty black-white ratios.

One of the criteria for receiving the emergency aid money, according to Letson, is that every school in the system must reflect the racial ratio of the entire system.

The federal courts last year ordered Atlanta to balance its teacher ratio but included principals and administrators in the order. HEW counts teachers only, Letson said.

Letson said the only school program which will suffer from the funds cut is Skylake Camp, an integrated camp operated by the school system to promote racial harmony. That program probably will be curtailed.

The loss of funds will not affect the current year's operation, Letson said. Atlanta's application for $3,240,044 covered the period from Oct. 1, 1971, through Oct. 1, 1973. It involved $1,854,816 for the first year and $1,485,226 for the second year of the period.

As far as Atlanta is concerned, HEW Civil Rights Director Stantly Pottinger said Thursday, the system was turned down because its plan was "so far off" court-established rules requiring a faculty racial ratio equivalent to the racial ratio in a community.

Pottinger said the rule is firmly established and backed up by President Nixon who declared when announcing his emergency aid plan in March 1970 that the faculty ratio rule was to be firmly adhered to. Nixon cited the court rulings as the reason.

The deadline for approval of applications for the HEW funds was to have been Oct. 15 but it was extended to Nov. 15. But, an HEW spokesman said Thursday, this was "immaterial."

"All the money is gone," he explained, "and for all practical purposes it is a dead issue."

The President had set up $500 million in special funds to help school districts carry out large-scale integration programs for the first time. Atlanta got $1.15 million last year.

The money, siphoned from other domestic programs, was to have been supplemented by another $1.5 billion in emergency school-aid funds to be appropriated by Congress.

However, the $1.5 billion is still languishing in Congress and shows no promise of being passed this year. The President restricted use of the proposed money this fall when he said none of it could be spent for busing purposes.

Mr. GAMBRELL. Mr. President, I ask unanimous consent to have printed at this point in the RECORD two articles, one published in the New York Times and the other in the Washington Star with reference to the denial of ESAP funds to the Mecklenburg County, N.C., school system.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 28, 1971]

FURNITURE SALE COSTS SCHOOL DISTRICT U.S. AID

(By Jack Rosenthal)

WASHINGTON, October 27.—The Charlotte-Mecklenburg, N.C., school district, object of the leading desegregation case of the year, has lost an estimated $900,000 in Federal desegregation assistance funds because of the sale of $1,500 in surplus desks and chairs.

The denial of the Federal funds was ordered by the Office of Education, with the reluctant approval of Elliot L. Richardson, Secretary of Health, Education, and Welfare.

"I know the Secretary regretted this decision more than any other in the program," a spokesman said today. "He thought it was an ironic result and had us try to find a way to avoid it."

The Charlotte-Mecklenburg district has desegregated all of its 104 schools in accordance with a racial balance formula upheld last spring by the Supreme Court. About 31 per cent of the 82,500 children in the district are black.

This fall, the district applied for $1.3-million in Federal funds from the emergency school assistance program, designed to ease the problems of desegregating schools.

But, in its application, the district acknowledged that it had sold $1,400 of used furniture to four private schools that assertedly practice racial segregation.

Such dealings are expressly prohibited by the law creating the Federal assistance program. Consequently, officials in the Office of Education said today, they were obliged to deny the Charlotte application.

The officials added that, otherwise, Charlotte would probably have been granted up to $900,000. The district received $700,000 last year.

The used furniture sales "certainly were an oversight" and were no indication of support for segregation, William S. Self, Superintendent of the Charlotte-Mecklenburg district, said in a telephone interview.

He added that the district had relied for guidance on mid-summer accounts of the Federal regulations, but that these accounts turned out to be inaccurate.

Mr. Self held little hope that the Department of Health, Education and Welfare would reconsider, quoting one official as saying that there was only a 100-to-1 chance.

Without the Federal funds, Mr. Self said, the district will have to dismiss 150 aides used in easing desegregation as of Nov. 30. That is when last year's Federal grant expires.

The H.E.W. cutoff of new funds was defended last night by knowledgeable Congressional informants. One, asking not to be identified, said, "Considering the criticism H.E.W. got for laxity in enforcement last year, they had to follow through with this cutoff." He added:

"It is important in principle. Enforcement of the prohibition against transferring property has had a tremendous deterrent effect throughout the South."

SALE TO SEGREGATED SCHOOLS BARS U.S. FUND FOR CHARLOTTE

(By John Mathews)

The U.S. Office of Education has cut off Charlotte-Mecklenburg, N.C., schools from federal funds to aid desegregation because the school system last year sold about $1,400 in school equipment to private, segregated schools.

Charlotte is generally considered the nation's most thoroughly desegregated school system under a federal court ruling upheld by the U.S. Supreme Court in its Swann case decision last April.

Last year, Charlotte schools received $900,000 under the desegregation program, called the Emergency School Assistance Program. For this school year, the combined city and county system was seeking $1.3 million to help with the added financial burden of desegregation.

SENATOR ACTS IN VAIN

The decision to cut off Charlotte for the relatively small sale was made by U.S. Commissioner of Education Sidney P. Marland, Jr., who administers the desegregation program. It was learned that Health, Education and Welfare Secretary Elliot L. Richardson was consulted on the decision after a number of political figures, including Sen. B. Everett Jordan, D-N.C., tried to intercede.

The action against Charlotte schools highlights a relatively unknown control of the federal government on discriminatory practices in Southern and Northern schools. Some observers call it the most stringent civil rights enforcement program now being implemented by HEW.

Commissioner Marland appears to be on solid ground in denying the funds to Charlotte since the 1970 appropriations bill for the Emergency School Assistance Program specifically bars grants to school systems that give, sell or lease public property to private schools that practice discrimination.

HEW officials said the five schools in Charlotte are all clearly segregated academies that have no black children and have not made a public declaration that they will accept children regardless of race, color or creed.

The officials, however, added that Charlotte probably sold the property unintentionally, following long established local procedures for disposing of surplus school equipment. The transactions included 559 items, mostly desks. Officials think the $1,400 value assigned to the property is probably understated.

The Emergency School Assistance Program, proposed by President Nixon and funded by Congress last year, is the prototype for a larger $1.5 billion, two-year program, which has been delayed in the House. Congress has appropriated about $150 million to fund the interim program last school year and this year.

In August, Nixon announced that he would seek an amendment barring any funds from the permanent program for busing. Last year, less than 10 percent of the funds under the interim program were used for busing, but this school year Office of Education officials have refused to approve any funds for busing.

Congressmen, particularly Northern liberals with suburban constitutencies, have been trying to avoid a recorded vote on the anti-busing amendment. The result has been a long delay in the House. The Senate passed its version of the permanent desegregation program several months ago without a ban on busing.

In administering the desegregation program, the federal Office of Education is also operating under guidelines it issued last year and again this year. The guidelines go beyond the specific appropriations bill provision barring funds to school systems that sold property to private schools. They prohibit other discriminatory practices that have been barred by federal court decisions.

Last year, the education office cut off funds for 15 school districts and this year has denied new funds to 83 districts, usually because they failed to desegregate their faculties.

Prince Georges County schools underwent hearings last week after the federal office charged they did not desegregate their faculties last year. The government says the county should return some $160,000 unexpended from its more than $500,000 grant under the desegregation program.

The county was denied funds for this school year under the program, since HEW also charges the county has refused to voluntarily desegregate its schools, as well as its facilities.

The faculty desegregation provision is based on the so-called "Singleton rule," established by the 5th U.S. Circuit Court of Appeals. The rule says the ratio of black and white teachers. In its April 20 decision, the Supreme Court upheld the rule. Nixon in a March 1970, statement on school desegregation had also said the administration accepted the rule as legally binding on its policy decisions.

Mr. GAMBRELL. Finally, Mr. President, I ask unanimous consent to have printed in the RECORD an article by David E. Wagoner, entitled "The North, Not the South, Is Where School Desegregation Isn't Happening."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NORTH, NOT THE SOUTH, IS WHERE SCHOOL DESEGREGATION ISN'T HAPPENING

(By David E. Wagoner)

School boards in the North are on the threshold of having to face vastly increasing pressure from the federal government—the executive *and* the courts—to desegregate their schools.

This is not because the federal government will be attacking *de facto* segregation (the kind that results from housing patterns and plagues the North). Rather, it is because the courts seem very likely to begin ruling that a school board which merely allows racial imbalance to continue in its schools over a number of years is guilty of harboring *de jure* segregation—the kind that results from deliberate governmental efforts to separate the races, the kind that has been under attack in the South, the kind that is plainly not exempt from judicial intervention. Thus, school boards in the North will no longer be allowed to plead inability to attack de facto segregation. The segregation they must deal with will be de jure.

The simple fact behind this is that the public schools of America are more racially segregated today than they were 17 years ago when the Supreme Court handed down its historic *Brown* decision. Only the South is making real improvement, and it is the progress of the South—albeit painful and slow—that accounts for the apparent brightening of the national picture.

Outside the South, that picture is grim. The statistics in Table I give an indication of what is happening in the big city schools in the North and West. Eighteen city school systems no longer have a white majority. These include some of our largest cities—New York, Chicago, Philadelphia, Baltimore, Washington, Cleveland, Detroit and Los Angeles. Blacks are in the *majority* in 13 city school systems, Spanish-speaking in two, and a combination of minority enrollment in three more. In the West, Oakland has gone, in less than five years, from 7.7 percent black to more than 50 percent black, and San Francisco from 11.6 percent black to 30 percent black.

At the same time, there is virtually no evidence of any significant integration in suburban schools. An index of the national situation is the fact that the great majority of black children in the United States attend a predominantly black school, while the great majority of white children go to a school that is largely white.

If 17 years of experience is a reasonable measure, it is apparent that court proceedings have had at best only a modest impact on the desegregation of public schools. In this context it is not at all surprising that the Supreme Court in its recent desegregation opinions strongly reaffirmed the *Brown* decision and directed that a wide latitude of plans be employed to break down segregation.

TABLE I.—*How desegration is going*

Blacks in Majority White Schools

(Border States—1968)

	Percent
South	18.4
Including District of Columbia	28.4
North	27.6
National average	23.4

(Border States—1970)

South	36.0
Including District of Columbia	29.6
North	27.7
National average	32.8

Number of Blacks in All-Black Schools

(Border States—1968)

South	68.0
Including District of Columbia	25.2
North	12.3
National average	39.7

(Border States—1970)

South	18.4
Including District of Columbia	22.0
North	11.9
National average	16.0

It is clear now that bussing is no longer this issue in southern districts with a history of state-sanctioned de jure segregation. In the *Mecklenberg*[1] case, the Supreme Court approved a lower court order that involved massive crosstown bussing, a redrawing of school boundaries, and a racial balance in the elementary schools that reflects the 71 percent to 29 percent white-to-black makeup of the schools' total enrollment. The high court ruled that "desegregation plans cannot be limited to the walk-in school."

Noting that about 39 percent of U.S. school children have routinely been riding buses, the Supreme Court indicated that only when a bussing plan requires such long rides as "to risk either the health of the children or significantly impinge on the educational process" might the court find it objectionable—presidential statements apparently notwithstanding.

The high court pointed out that it was not deciding the constitutionality of de facto segregation found in the North where racial imbalance is caused by neighborhood housing patterns. Yet it did appear to go out of its way to encourage action, even though not required by the federal constitution. For example, from the *Swann* case: "School authorities are traditionally charged with broad power to formulate and implement educational policy and might well conclude, for example, that in order to prepare students to live in a pluralistic society each school should have a prescribed ratio of Negro to white students reflecting the proportion for the district as a whole. To do this as an educational policy is within the broad discretionary powers of school authorities. . . ."

Just a few days after the recent Supreme Court decisions, a district court in California ordered the San Francisco school board to take affirmative action, the court finding historical evidence of de jure segregation from acts and omissions of the board. The acts related to construction and remodeling of schools, the drawing of attendance zones and the assignment of inexperienced teachers. The omissions, the court said, included failure to adopt a policy of consulting with the district's director of human relations, failure to take steps to bring racial balances within guidelines set by the state board, and failure to respond to recommendations made at the school board's request by Stanford University and a citizens advisory committee. If this case is a clue, it indicates that, for the next few years, *the critical issue in northern desegregation cases will be the definition and redefinition of "de jure" segregation, and that the "de facto" question will be of lesser importance.* The San Francisco decision virtually says that merely allowing racial imbalance to continue to exist over a number of years amounts to de jure segregation.

Some cases have decided whether, in the absence of a court order, a school board has the authority on its own initiative to take affirmative action to reduce racial imbalance. Generally, those cases have allowed the board wide latitude, a position solidified by the Supreme Court in its recent decisions. Just few months go, the court invalidated a North Carolina antibusing law which had prohibited the busing of children to create racial balance. The court's reason: The state law prevented implementation of local desegregation plans required by the Fourteenth Amendment.

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[1] See "Quite Plain," page 8, JOURNAL, June 1971.

XUM

In a logical extension of this case, the Supreme Court subsequently upheld a New York decision (Lee *v.* Nyquist) that had struck down a New York statute which said in effect that only elected school boards could take affirmative steps to cure de facto segregation. The lower court ruled that the state legislature could not "prohibit" or put "burdens" on the implementation of local educational policies designed to deal with racial imbalance. The Supreme Court agreed.

In sum, these cases indicate that a school board has the necessary discretionary authority to take affirmative action to eliminate de facto segregation—to bus—and that efforts by the state to interfere with such action (with antibusing laws, for example) would seem clearly to be unconstitutional.

A Denver case offers another dimension. The Denver school board adopted an integration plan, an election resulted in a change in the balance of power, and the reconstituted board rescinded the plan. The court ordered the new board to carry out the plan of the old. The teaching of this case (now on appeal) is that once board action has been taken to desegregate, there is probably no backing up—when the buses start to roll, there's no stopping.

In Seattle, where I have served on the school board for nearly seven years, we are attempting to replace a volunteer transfer program (which, while it involves 2,500 students, is no longer effective; segregation is *increasing* in Seattle, not decreasing) with a plan that complies with the school board's commitment to integration, and with a joint statement issued last year by the Washington State Board of Education and the Washington State Board Against Discrimination. The statement declares that racial segregation must be eliminated from the public schools of the state of Washington and defines a segregated school as one in which 40 percent or more of the students represent one minority race.

The Seattle board's plan combines reassignments, bussing and combined enrollments. It is under heavy attack from local groups *and* the state legislature. Board members have been sued, the superintendent's job has been threatened. The board's goal; by September 1972, complete K–12 integration of three high school areas; by September 1973, total integration of the entire school district. The Seattle public schools have 81,000 pupils, 12 high schools and a total of 115 school buildings. The school population is 13 percent black and 20 percent nonwhite. Right now, the city has 25 schools—mostly elementary—with a total minority enrollment of more than 25 percent. The urgency of our situation has been dramatized for me during the past year as I have become more familiar with big city schools around the country, having served as chairman of the NSBA Council of Big City Boards of Education.

It is a shocking fact that most big city schools are going downhill, and at a rapid pace. The common pattern is that the white middle class is leaving city schools for the suburbs, that there is a rapid growth in the disadvantaged enrollment of city schools—usually black, sometimes Puerto Rican and Chicano—and that these school systems are not making measurable progress in improving the achievement levels of the disadvantaged children who represent such a major portion of their enrollment. In fact, achievement levels appear to be declining.

Over the past five years or so, city schools have spent literally billions of federal, state and local dollars for programs of compensatory education in an attempt to deal with the educational problems of the disadvantaged child. Very little evidence of improvement has been offered. This can be attributed partly to inadeqrate educational research and partly to the fact that even the vast sums expended did not begin to approach the funding levels that are required for results. Moreover, the dramatic changes in the makeup of the student population have been a factor.

At the same time, the past few years have seen publication of several well-documented national studies, such as the Coleman Report, which have concluded that achievement levels of disadvantaged children can be significantly improved in an integrated setting without causing a falloff in the achievement levels of the other children.

Integration of this nation's schools is an educational imperative. *In most big cities the struggle is by no means lost.*

Table III shows dramatically the accelerating rate of growth, of black residential populations in the 40 largest cities during the last 10 years. A comparison of 1960 with 1970 census figures indicates that black population increased absolutely in all 40 cities and relatively in 39 (Indianapolis annexed white suburbs). Overall, there was a marked decrease in white population. All of the largest cities except Indianapolis showed a percentage decline. In absolute changes, 23 of the 40 cities had a total white population decrease. This trend to increasing percentages of blacks in the major cities is long-term and continuing.

TABLE II.—HOW MINORITIES LINE UP IN THE PUBLIC SCHOOLS OF OUR 51 LARGEST CITIES

[In percent]

City school district	Black and Spanish-speaking minorities	Black	Spanish speaking
Washington, D.C.	95	95	----
San Antonio	93	15	78
Newark	84	72	12
New Orleans	70	68	2
Atlanta	69	69	----
Baltimore	67	67	----
St. Louis	66	66	----
Oakland	65	57	8
Chicago	65	55	10
Detroit	64	63	1
Philadelphia	63	60	3
New York	61	34	26
Cleveland	60	58	2
El Paso	59	3	56
Birmingham	55	55	----
Kansas City, Mo	50	50	(1)
Houston	49	33	16
Louisville	48	48	----
Memphis	48	48	----
Norfolk	46	45	1
Miami	46	25	21
Los Angeles	46	24	22
Cincinnati	45	45	----
Dallas	42	34	8
San Francisco	42	28	14
Buffalo	41	39	2
Pittsburgh	40	40	----
Rochester, N.Y.	37	33	4
Denver	37	15	22
Forth Worth	36	27	9
Indianapolis	36	36	----
Boston	34	30	4
Toledo	29	26	3
Jacksonville	29	29	----
San Jose	29	2	27
Milwaukee	28	25	3
Columbus, Ohio	27	27	----
Nashville	25	25	----
Oklahoma City	23	22	1
San Diego	23	12	11
Phoenix (9 to 12 only)	23	8	15
Tampa	18	18	----
Omaha	18	18	----
Wichita	17	15	2
Long Beach	15	9	6
Tulsa	14	13	1
Seattle	14	13	1
Portland	10	9	1
Minneapolis	10	9	1
St. Paul	9	6	3
Honolulu	(1)	(1)	(1)

[1] Not available.

TABLE III.—PERCENTAGE OF BLACK RESIDENTS IN THE 40 LARGEST U.S. CITIES

[In percent]

City	Black, 1970	Increase, black 1960–70	Rank, black 1970
(9)[1] Washington, D.C.	71	17	1
(33) Newark	54	20	2
(26) Atlanta	51	13	3
(7) Baltimore	46	12	4
(19) New Orleans	45	8	5
(5) Detroit	44	15	6
(18) St. Louis	41	12	7
(17) Memphis	39	2	8
10) Cleveland	38	10	9
(35) Oakland	35	12	10
(4) Philadelphia	34	7	11
(2) Chicago	33	10	12
(28) Cincinnati	28	6	13
(6) Houston	26	3	14
(8) Dallas	25	6	15
(36) Louisville	24	6	16
(39) Miami	23	1	17
(25) Kansas City, Mo	22	5	18
(1) New York	21	7	19
(27) Buffalo	20	7	20
(23) Pittsburgh	20	4	21
(30) Fort Worth	20	4	22
(21) Columbus, Ohio	19	2	23
(11) Indianapolis	18	−3	24
(3) Los Angeles	18	4	25
(16) Boston	16	7	26
(12) Milwaukee	15	6	27
(34) Oklahoma City	14	2	28
(31) Toledo	14	1	29
(13) San Francisco	13	3	30
(40) Tulsa	11	2	31
(38) Omaha	10	2	32
(24) Denver	9	3	33
(15) San Antonio	8	1	34
(14) San Diego	8	2	35
(22) Seattle	7	2	36
(32) Portland	6	1	37
(37) Long Beach	5	3	38
(20) Phoenix	5	0.1	39
(29) Minneapolis	4	2	40

[1] City's population rank in United States right now.

City population figures don't tell the whole story. City and school boundaries don't always coincide. Generally the minority ratios in the schools tend to be substantially higher than those in the city as a whole, principally because the minority population tends to be younger and less frequently attends private schools.

The situation in city schools is shown in Table II which sets forth current figures developed by the National School Boards Association's Council of Big City Boards of Education.

The extent to which the problem continues to have workable dimensions in the immediate future is indicated by the fact that 21 of the 40 largest cities have a black residential population which is 20 percent or under. Moreover, 29 of 50 big city school systems have a black enrollment which is 35 percent or less (excluding New York, which is a special situation), and 24 of the 50 cities have a combined black and Spanish-speaking enrollment of 40 percent or under. There is still time.

For school board members, the leadership quotient must be high. Experience strongly suggests that if progress is to be made in this area, the board with decision-making responsibility must be prepared to make decisions. These decisions don't come easily, as our own board's experience indicates. Ultimately, it comes down to a personal judgment as to the educational needs of today's children. It is to them that we owe our allegiance, for the decisions we make today will shape their future and their world. Inescapably, that world will be multiracial.

It's time we stopped running from school integration like frightened deer from a conflagration. There are backfires to be built and tended.

State leaders have major responsibilities. They must avoid the temptation to pass legislation that attempts to interfere with a local board's efforts to work out the problem. Special state funding is also an essential. Integration is much more than bussing. It must be accompanied by major improvements in the quality of urban education.

In the final analysis, it is apparent from the sheer weight of numbers that in many areas desegregation will require cooperation between city schools and suburban districts. In the first instance, this is a problem for state legislatures. At the very least there must be state legislation to allow cooperation across school district boundary lines, with funding incentives to encourage joint efforts.

Viewed nationally, in a number of states the creation of metropolitan school districts could be essential to effective desegregation. The organization of metropolitan forms of school management has been successfully accomplished in Toronto and Nashville, and in some states, such as Maryland and Florida, countywide school districts are the pattern.

The leadership quotient must be shared at the federal level. The NSBA Council of Big City Boards has urged upon the Administration the need to take a strong, clear and consistent position. It is a fact that a presidential statement in defense of the neighborhood school has reverberations at a PTA meeting in Seattle within hours after it is made. A pebble in the Potomac can cause a tidal wave in the Pacific.

The Administration bill to provide $1.5 billion to fund desegregation over the next two years is an encouraging sign. Big city school districts in both North and South will be unable to do the job without massive federal help. Busing is too controversial and costly to be funded locally.

There are indications that this issue is fast becoming a highly partisan political matter on which there could be a choosing of sides in next year's presidential contest. That would be an ominous development. This complex and agonizing urban problem must be dealt with at all levels on a bipartisan basis if solutions are to be found. To bus or not to bus—that is not the issue. At issue is the tenor and tone of life in an urban environment.

Mr. GAMBRELL. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial published in last evening's Washington Star, entitled "Desegregation Bill Showdown," pointing out the urgency of the passage of the School Aid and Quality Education Act of 1971 in order to furnish desegregation assistance, which was defeated in a House vote on Monday.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DESEGREGATION BILL SHOWDOWN

It is difficult to imagine a more tortuous legislative course than the one-and-a-half-year history of the President's bill to assist school districts that are undergoing desegregation. Now the House, by a commanding margin, has refused to outflank its Rules Committee by permitting the bill, under a suspension of the rules, to come to the floor for a vote.

That's not the end of the affair. One last chance exists to pass the bill in time for federal funds to begin flowing this school year to communities that need it. Administration backers plan to offer the bill as an amendment to higher-education legislation that is scheduled for debate tomorrow or Thursday. This isn't the happiest alternative, if for no other reason than that the higher education bill contains its own share of controversy along with a number of other late-added amendments. But it appears to be the only alternative at this time. And it represents a risk worth taking.

The White House has argued consistently, and rightly, that where school districts are desegregating, either on their own or under court orders, there is a clear need for extra money to pay for, and smooth the effects of, this kind of transition. The bill would authorize $500 million this year and $1 billion next year to be handed to states in proportion to their numbers of school children from minority groups.

As time has gone on, the legislation has been caught up in the high fervor of the school busing issue. Perhaps that was inevitable. But it's wrong. The bill does not authorize the federal government to require desegregation or speed its pace. Neither does it mention busing, although many school districts could be expected to use some of the money to pay for added transportation costs. Nevertheless, many House members, including northern liberals, are ducking for cover for fear their support of the legislation will be construed as a pro-busing vote. Meanwhile, President Nixon has further complicated and politicized the issue by proposing to amend the bill to bar the use of any of the federal funds for busing. The version of the bill that passed the Senate in April contains no such mischievous provision.

There is good reason to believe that yesterday's vote does not accurately reflect the House's view of the bill's merits. Some members traditionally have opposed the tactic of suspending usual House rules. Others objected to yesterday's procedure in that it required a straight up-or-down, no-amendment vote.

A truer test of what the House really wants will come on the vote accompanying the debate on the higher-education bill. Given the emotionalism of the desegregation issue, many congressmen will find these decisions difficult to make. But they must be faced. Fairness and intellectual honesty would dictate a thumbs-down vote on the amendment banning use of federal funds for busing and thumbs-up for the overall federal-assistance legislation.

EXHIBIT 1

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 28, 1971.

Final results of HEW's second national survey of racial and ethnic enrollment in the public schools, comparing the 1968–69 and 1970–71 school years state by state, were announced today by Secretary Elliot L. Richardson. The report also includes comparative data for the 100 largest school districts.

Compilation of the statistics confirms a January 14, 1971 projection by HEW that the 11-State South more than doubled the percentage of Negro students in majority white schools, up from 18 percent in the Fall of 1968 to 39 percent in Fall 1970. The earlier estimate was for 38.1 percent. (HEW Press Release A20).

Tennessee and Virginia increased the number of Negro students in majority white schools one and a half times and Texas almost as much; percentages doubled in Arkansas, Florida, and North Carolina; tripled in Georgia and South Carolina; quadrupled in Louisiana and Alabama; and increased five-fold in Mississippi. (Table 1–A).

Nationwide, the total of Negro students in majority white schools rose from 23 to 33 percent. In the six Border states and District of Columbia, the regional percentage rose slightly to almost 32 percent in 1970. The 32 Northern and Western states remained unchanged at 28 percent. Hawaii was not included in the survey. (Table 2–A).

In terms of numbers, 756,000 more Negro students were in majority white schools in the Fall of 1970 than in the 1968 survey. A total of 690,000 of these students were in the 11-state South, and 66,000 were in 38 other states.

The number of Negro students in 100 percent minority schools decreased from 40 percent (2.5 million) in 1968 to 14 percent (941,000) in 1970 on a national basis. In the 11-state South, the decrease in Negro students who are totally isolated with minorities was even more marked, down from 68 percent (2 million) in 1968 to 14 percent (443,000) in 1970. Almost 79 percent of the Negro students in the 11-state South were in schools with 80 to 100 percent minority enrollment in 1968 but two years of change reduced this total to 39 percent. (Table 2–A).

Analysis of the 100 largest school systems shows that 51 percent or 3.4 million of the 6.7 million Negro students in the national survey are enrolled in these districts. (*Table 3–A*). Of the 100 largest districts, 17 have majority black enrollments. The percentage of Negroes in the 100 largest school districts who attend majority white schools increased from 13 percent in 1968 to 16 percent.

All minority students—Indian, Negro, Oriental, and Spanish-surnamed—numbered 9.3 million in 1970 or 21 percent of the total enrollment. Negro students comprise 71.4 percent of all minority students; Spanish-surnamed students, 24.2 percent; Oriental, 2.2 percent; Indian, 2.1 percent. (*Tables 1–A through 1–E*).

In the Fall of 1970, only 12.5 percent of all students in the public schools, white and minority, were isolated in all-white or all-minority schools, compared to 19 percent in 1968. (*Tables 2–C and 2–D.*)

Of the 45 million students in the 1970 survey, 2.3 million are Spanish-surnamed. This includes students of Mexican, Puerto Rican, or other Spanish-speaking origin. While 33 percent of the Spanish-surnamed students are in schools with 80 to 100 percent minority enrollment, fewer than two percent are in all-minority schools. The survey shows 44 percent of Spanish-surnamed students in majority white (Anglo) schools, down from 45 percent in 1968. (*Table 1–B*).

About one half of the 197,000 American Indians in public school districts are in Arizona, California, Oklahoma, New Mexico, and North Carolina. (*Table 1–C*). Not included in the survey are approximately 50,000 Indian students in schools operated by the U.S. Bureau of Indian Affairs.

Seventy-one percent of the Oriental students attend majority white schools. More than half of the 209,000 Oriental students are in California, 22,000 are in New York, and 10,000 in Washington State. (*Table 1–D*).

Since only two national surveys have been conducted, this is the first time comparative data by state and by largest districts has been available on a nationwide basis. The basic data is supplied by local school districts on forms prepared by HEW. The Department sent report forms to all school districts enrolling 3,000 or more students, as well as to a sampling of smaller districts.

After receiving the reporting forms in each of the two national surveys, the Department delivered them to an independent contractor to process the data reported. The processing of the data obtained in the first national survey was completed, the results delivered to HEW and the results released on January 4, 1970. The processing of the data in the most recent survey has just been completed. A partial survey, for compliance purposes only, was conducted in the 1969–70 school year but that data is not comparable to the two national surveys.

TABLE 1-A—NEGROES BY STATE

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION FALL, 1968, AND FALL, 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

State	Total pupils	Negro		Negroes attending minority schools— 0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:																	
1968	43,353,568	6,282,173	14.5	1,467,291	23.4	4,814,881	76.6	4,274,461	68.0	4,041,593	64.3	3,832,843	61.0	3,331,404	53.0	2,493,398	39.7
1970	44,877,547	6,707,411	14.9	2,223,506	33.1	4,483,905	66.9	3,311,372	49.4	2,907,084	43.3	2,563,327	38.2	1,876,767	28.0	941,111	14.0
Alabama:																	
1968	770,523	269,248	34.9	22,308	8.3	246,940	91.7	246,356	91.5	245,861	91.3	244,693	90.9	243,269	90.4	230,448	85.6
1970	786,975	269,995	34.3	98,609	36.5	171,386	63.5	130,020	48.2	119,042	44.1	104,940	38.9	80,651	29.9	53,954	20.0
Alaska:																	
1968	71,797	2,119	3.0	2,119	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	78,138	2,146	2.7	2,140	99.7	6	.3	0	0	0	0	0	0	0	0	0	0
Arizona:																	
1968	366,459	15,783	4.3	5,272	33.4	10,511	66.6	6,397	40.5	5,093	32.3	4,349	27.6	3,344	21.2	790	5.0
1970	433,595	16,892	3.9	5,439	32.2	11,454	67.8	7,156	42.4	4,921	29.1	3,753	22.2	3,033	18.0	424	2.5
Arkansas[2]:																	
1968	415,613	106,533	25.6	24,091	22.6	82,442	77.4	79,787	74.9	79,204	74.3	78,901	74.1	77,703	72.9	75,797	71.1
1970	430,100	106,099	24.7	45,583	43.0	60,516	57.0	23,127	21.8	19,618	18.5	16,450	15.5	10,762	10.1	9,132	8.6
California:																	
1968	4,477,381	387,978	8.7	87,255	22.5	300,723	77.5	240,444	62.0	215,253	55.5	185,562	47.8	115,890	29.9	27,986	7.2
1970	4,550,501	416,757	9.2	107,429	25.8	309,328	74.2	240,704	57.8	214,641	51.5	194,486	46.7	117,598	28.2	20,886	5.0
Colorado:																	
1968	519,092	17,797	3.4	5,432	30.5	12,365	69.5	9,691	54.5	8,193	46.0	8,017	45.0	2,862	16.1	0	0
1970	536,237	19,014	3.5	9,517	50.1	9,497	49.9	6,971	36.7	5,829	30.7	5,332	28.0	947	5.0	0	0
Connecticut:																	
1968	632,361	52,550	8.3	22,768	43.3	29,782	56.7	17,919	34.1	13,707	26.1	9,601	18.3	2,254	4.3	328	0.6
1970	654,024	58,617	9.0	25,477	43.5	33,140	56.5	21,272	36.3	15,328	26.1	12,469	21.3	5,838	10.0	0	0
Delaware:																	
1968	123,863	24,016	19.4	13,025	54.2	10,991	45.8	6,610	27.5	5,177	21.6	5,177	21.6	953	4.0	0	0
1970	132,560	27,319	20.6	14,981	54.8	12,338	45.2	8,179	29.9	5,825	21.3	5,110	18.7	1,222	4.5	0	0
District of Columbia:																	
1968	148,725	139,006	93.5	1,253	.9	137,753	99.1	134,166	96.5	130,958	94.2	123,939	89.2	95,608	68.8	38,701	27.8
1970	145,330	137,502	94.6	1,674	1.2	135,828	98.8	133,421	97.0	130,688	95.0	127,792	92.9	95,261	69.3	46,117	33.5
Florida:																	
1968	1,340,665	311,491	23.2	72,333	23.2	239,158	76.8	229,946	73.8	227,563	73.1	224,729	72.1	215,824	69.3	184,074	59.1
1970	1,437,554	332,238	23.1	160,883	48.4	171,355	51.6	109,530	33.0	87,404	26.3	72,716	21.9	51,025	15.4	32,716	9.8
Georgia[2]:																	
1968	1,001,245	314,918	31.5	44,201	14.0	270,717	86.0	266,058	84.5	263,613	83.7	262,689	83.4	259,891	82.5	240,532	76.4
1970	1,098,990	365,223	33.2	131,049	35.9	234,174	64.1	143,839	39.4	125,968	34.5	112,469	30.8	92,949	25.4	61,468	16.8
Idaho:																	
1968	174,472	415	.2	415	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	174,556	432	.2	432	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Illinois:																	
1968	2,252,321	406,351	18.0	55,367	13.6	350,984	86.4	312,515	76.9	298,542	73.5	294,066	72.4	252,225	62.1	156,869	38.6
1970	2,310,784	421,430	18.2	60,412	14.3	361,018	85.7	327,127	77.6	316,258	75.0	300,261	71.2	253,517	60.2	152,744	36.2
Indiana:																	
1968	1,210,539	106,178	8.8	31,833	30.0	74,345	70.0	58,899	55.5	51,155	48.2	46,208	43.5	37,664	35.5	13,597	12.8
1970	1,229,518	109,978	8.9	33,360	30.3	76,618	69.7	60,342	54.9	52,917	48.1	45,432	41.3	32,311	29.4	15,302	13.9
Iowa:																	
1968	651,705	9,567	1.5	6,994	73.1	2,573	26.9	876	9.2	340	3.6	340	3.6	340	3.6	0	0
1970	653,241	10,346	1.6	7,283	70.4	3,063	29.6	132	1.3	108	1.0	0	0	0	0	0	0
Kansas:																	
1968	518,733	30,834	5.9	16,479	53.4	14,355	46.6	11,881	38.5	10,167	33.0	9,820	31.8	6,264	20.3	2,327	7.5
1970	500,362	32,536	6.5	19,504	59.9	13,032	40.1	11,280	34.7	9,346	28.7	7,357	22.6	5,506	16.9	3,423	10.5
Kentucky:																	
1968	695,611	63,996	9.2	34,389	53.7	29,606	46.3	21,945	34.3	17,025	26.6	17,025	26.6	9,021	14.1	3,342	5.2
1970	721,078	66,204	9.2	36,380	55.0	29,824	45.0	24,036	36.3	20,266	30.6	16,232	24.5	10,848	16.4	2,211	3.3
Louisiana[3]:																	
1968	817,000	317,268	38.8	28,177	8.9	289,091	91.1	282,698	89.1	279,614	88.1	279,614	88.1	278,620	87.8	259,897	81.9
1970	842,469	340,702	40.4	106,409	31.2	234,293	68.8	161,267	47.3	139,649	41.0	126,298	37.1	111,980	32.9	81,924	24.0
Maine:																	
1968	220,336	1,429	.6	389	27.2	1,040	72.8	800	56.0	0	0	0	0	0	0	0	0
1970	235,674	777	.3	777	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Maryland:																	
1968	859,440	201,435	23.4	62,670	31.1	138,765	68.9	117,802	58.5	109,478	54.3	105,886	52.6	92,030	45.7	62,898	31.2
1970	911,618	220,166	24.2	72,643	33.0	147,523	67.0	117,466	53.4	109,932	49.9	100,651	45.7	90,981	41.3	56,676	25.7
Massachusetts:																	
1968	1,097,221	46,675	4.3	23,916	51.2	22,759	48.8	14,790	31.7	11,503	24.6	8,558	18.3	4,936	10.6	79	0.2
1970	1,164,295	52,389	4.5	25,138	48.0	27,251	52.0	20,096	38.4	15,730	30.0	11,367	21.7	6,420	12.3	3,172	6.1
Michigan:																	
1968	2,073,369	275,878	13.3	56,840	20.6	219,038	79.4	177,393	64.3	153,770	55.7	128,116	46.4	78,319	28.4	24,720	9.0
1970	2,148,736	287,974	13.4	55,253	19.2	232,721	80.8	188,101	65.3	166,468	57.8	143,501	49.8	75,893	26.4	29,165	10.1
Minnesota:																	
1968	856,506	9,010	1.1	7,116	79.0	1,894	21.0	361	4.0	361	4.0	361	4.0	0	0	0	0
1970	886,367	10,134	1.1	6,494	64.1	3,640	35.9	341	3.4	341	3.4	341	3.4	1	0	1	0
Mississippi: [3]																	
1968	456,532	223,784	49.0	15,000	6.7	208,784	93.3	207,515	92.7	207,515	92.7	207,515	92.7	206,736	92.4	197,447	88.2
1970	535,089	272,013	50.8	71,771	26.4	200,242	73.6	131,692	48.4	96,529	35.5	81,295	29.9	51,604	19.0	29,402	10.8
Missouri:																	
1968	954,596	138,412	14.5	33,996	24.6	104,416	75.4	97,173	70.2	93,282	67.4	91,355	66.0	77,676	56.1	46,285	33.4
1970	991,539	144,599	14.6	29,007	20.1	115,592	79.9	99,355	68.7	91,641	63.4	85,430	59.1	80,183	55.5	43,682	30.2
Montana:																	
1968	127,059	102	.1	102	100.0	0	0.0	0	0	0	0	0	0	0	0	0	0
1970	148,737	422	.3	403	95.5	19	4.5	0	0	0	0	0	0	0	0	0	0
Nebraska:																	
1968	266,342	12,340	4.6	3,364	27.3	8,976	72.7	6,210	50.3	4,408	35.7	4,321	35.0	674	5.5	0	0
1970	276,433	12,905	4.7	4,263	33.0	8,642	67.0	7,582	58.8	5,663	43.9	3,069	23.8	825	6.4	0	0
Nevada:																	
1968	119,180	9,189	7.7	4,883	53.1	4,306	46.9	4,272	46.5	4,272	46.5	3,626	39.5	699	7.6	0	0
1970	127,750	10,532	8.2	6,923	65.7	3,609	34.3	2,872	27.3	2,872	27.3	2,870	27.3	2,472	23.5	515	4.9
New Hampshire:																	
1968	132,212	537	.4	537	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	155,224	605	.4	605	100.0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey:																	
1968	1,401,925	208,481	14.9	70,628	33.9	137,853	66.1	100,493	48.2	88,082	42.2	68,434	32.8	37,827	18.1	15,245	7.3
1970	1,457,887	225,226	15.4	72,087	32.0	153,139	68.0	113,374	50.3	95,396	42.4	81,869	36.3	45,892	20.4	14,763	6.6
New Mexico:																	
1968	271,040	5,658	2.1	2,712	47.9	2,946	52.1	2,138	37.8	1,539	27.2	901	15.9	574	10.1	394	7.0
1970	281,233	6,077	2.2	3,171	52.2	2,906	47.8	1,884	31.0	1,379	22.7	603	9.9	343	5.6	332	5.5
New York:																	
1968	3,364,090	473,253	14.1	152,868	32.3	320,385	67.7	236,537	50.0	203,012	42.9	169,401	35.8	100,899	21.3	35,637	7.5
1970	3,498,522	542,487	15.5	156,140	28.8	386,347	71.2	298,938	55.1	261,030	48.1	211,183	38.9	140,699	25.9	48,732	9.0

[1] Minute differences between sum of numbers and totals are due to computer rounding.

[2] Differences in enrollment between 1968 and 1970 are partially due to districts surveyed in 1970 but not in 1968. There were 7 such districts in Arkansas, 29 in Georgia, 10 in Louisana, 43 in Mississippi, 11 in South Carolina, 1 in Tennessee and 8 in Virginia. With few exceptions, these districts were not surveyed in 1968 because their Federal funds were terminated at the time of the 1968 survey.

TABLE 1-B.—SPANISH SURNAMED AMERICANS BY STATE

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION FALL, 1968, AND FALL, 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

State	Total pupils	Spanish-American		Spanish surnamed Americans attending minority schools— 0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:																	
1968	43,353,568	2,002,776	4.6	906,919	45.3	1,095,857	54.7	634,891	31.7	461,567	23.0	331,781	16.6	124,736	16.2	38,077	1.9
1970	44,877,547	2,275,403	5.1	1,005,340	44.2	1,270,063	55.8	753,466	33.1	521,890	22.9	371,847	16.3	131,311	5.8	40,116	1.8
Alabama:																	
1968	770,523	24	0	24	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	786,975	142	0	137	96.5	5	3.5	5	3.5	4	2.8	3	2.1	0	0	0	0
Alaska:																	
1968	71,797	479	.7	474	99.0	5	1.0	0	0	0	0	0	0	0	0	0	0
1970	78,138	785	1.0	767	97.7	18	2.3	11	1.4	3	.3	3	.3	0	0	0	0
Arizona:																	
1968	366,459	71,748	19.6	34,402	47.9	37,346	52.1	15,012	20.9	10,792	15.0	7,376	10.3	2,426	3.4	762	1.1
1970	433,595	85,334	19.7	41,278	48.4	44,055	51.6	25,996	30.5	12,361	14.5	6,874	8.1	1,380	1.6	405	.5
Arkansas: [2]																	
1968	415,613	539	.1	527	97.8	12	2.2	9	1.7	9	1.7	9	1.7	9	1.7	9	1.7
1970	430,100	468	.1	341	72.9	127	27.1	19	4.1	15	3.2	3	.6	0	0	0	0
California:																	
1968	4,477,381	646,282	14.4	393,997	61.0	252,285	39.0	118,433	18.3	75,839	11.7	55,419	8.6	10,712	1.7	1,529	.2
1970	4,550,501	705,894	15.5	428,856	60.8	277,038	39.2	121,290	17.2	80,250	11.4	58,099	8.2	7,249	1.0	866	.1
Colorado:																	
1968	519,092	71,348	13.7	45,174	63.3	26,174	36.7	9,971	14.0	4,524	6.3	2,070	2.9	342	.5	0	0
1970	536,237	78,268	14.6	47,551	60.8	30,718	39.2	10,248	13.1	3,670	4.7	1,912	2.4	225	.3	0	0
Connecticut:																	
1968	632,361	15,670	2.5	7,627	48.7	8,043	51.3	4,134	26.4	3,416	21.8	2,582	16.5	1,355	8.7	12	.1
1970	654,024	20,009	3.1	9,200	46.0	10,809	54.0	5,384	26.9	3,655	18.3	2,914	14.6	2,269	11.3	0	0
Delaware:																	
1968	123,863	245	.2	154	62.9	91	37.1	2	.8	2	.8	2	.8	0	0	0	0
1970	132,560	618	.5	352	57.0	266	43.0	203	32.8	101	16.3	2	.3	0	0	0	0
District of Columbia:																	
1968	148,725	662	.4	256	38.7	406	61.3	289	43.7	254	38.4	227	34.3	37	5.6	10	1.5
1970	145,330	713	.5	209	29.3	504	70.7	205	28.8	175	24.5	141	19.8	90	12.6	64	9.0

Footnotes at end of table.

TABLE 1-B.—SPANISH SURNAMED AMERICANS BY STATE—Continued

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION FALL, 1968, AND FALL, 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY—Continued

State	Total pupils	Spanish-American		Spanish surnamed Americans attending minority schools—											
				0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Florida:																	
1968	1,340,665	52,628	3.9	26,287	49.9	26,341	50.1	9,479	18.0	4,861	9.2	3,275	6.2	400	.8	240	.5
1970	1,437,554	65,713	4.6	30,918	47.0	34,795	53.0	19,811	30.1	9,721	14.8	3,310	5.0	444	.7	221	.3
Georgia:[2]																	
1968	1,001,245	1,370	.1	786	57.4	584	42.6	578	42.2	578	42.2	578	42.2	578	42.2	578	42.2
1970	1,098,990	1,110	.1	1,035	93.2	75	6.8	12	1.1	12	1.1	10	.9	0	0	0	0
Idaho:																	
1968	174,472	3,338	1.9	3,322	99.5	16	.5	16	.5	16	.5	0	0	0	0	0	0
1970	174,556	4,067	2.3	4,061	99.9	6	.1	0	0	0	0	0	0	0	0	0	0
Illinois:																	
1968	2,252,321	68,917	3.1	36,361	52.8	32,556	47.2	16,282	23.6	6,230	9.0	3,314	4.8	640	.9	249	.4
1970	2,301,784	78,249	3.4	36,697	46.9	41,552	53.1	20,681	26.4	8,582	11.0	3,115	4.0	756	1.0	165	.2
Indiana:																	
1968	1,210,539	13,622	1.1	7,093	52.1	6,529	47.9	2,944	21.6	1,516	11.1	242	1.8	175	1.3	34	.2
1970	1,229,518	14,924	1.2	7,637	51.2	7,287	48.8	5,499	36.8	2,022	13.5	1,205	8.1	112	.8	48	.3
Iowa:																	
1968	651,705	2,283	.4	2,271	99.5	12	.5	1	0	0	0	0	0	0	0	0	0
1970	653,241	2,658	.4	2,640	98.0	54	2.0	0	0	0	0	0	0	0	0	0	0
Kansas:																	
1968	518,733	8,219	1.6	7,601	92.5	618	7.5	56	.7	45	.5	16	.2	3	0	0	0
1970	500,362	8,888	1.8	8,367	94.1	521	5.9	37	.4	32	.4	9	.1	7	.1	4	0
Kentucky:																	
1968	695,611	136	0	135	99.3	1	.7	0	0	0	0	0	0	0	0	0	0
1970	721,078	187	0	183	97.9	4	2.1	1	.5	1	.5	0	0	0	0	0	0
Louisiana:[3]																	
1968	817,000	2,111	.3	1,671	79.2	440	20.8	75	3.6	23	1.1	23	1.1	23	1.1	23	1.1
1970	842,469	3,909	.5	2,542	65.0	1,367	35.0	199	5.1	98	2.5	34	.9	32	.8	21	.5
Maine:																	
1968	220,336	478	.2	85	17.8	393	82.2	367	76.7	0	0	0	0	0	0	0	0
1970	235,674	157	.1	157	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Maryland:																	
1968	859,440	2,078	.2	2,073	99.8	5	.2	0	0	0	0	0	0	0	0	0	0
1970	911,618	3,404	.4	3,385	99.4	19	.6	2	.1	0	0	0	0	0	0	0	0
Massachusetts:																	
1968	1,097,221	8,733	.8	6,557	75.1	2,176	24.9	650	7.4	395	4.5	97	1.1	55	.6	0	0
1970	1,164,295	12,895	1.1	8,427	65.4	4,468	34.6	2,224	17.2	1,046	8.1	813	6.3	417	3.2	344	2.7
Michigan:																	
1968	2,073,368	24,819	1.2	21,169	85.3	3,650	14.7	1,667	6.7	1,303	5.3	766	3.1	333	1.3	113	.5
1970	2,148,736	28,269	1.3	24,638	87.2	3,630	12.8	1,497	5.3	1,111	3.9	644	2.3	225	.	55	.2
Minnesota:																	
1968	856,506	3,418	.4	3,397	99.4	21	.6	1	0	1	0	1	0	0	0	0	0
1970	886,367	3,987	.4	3,651	91.6	336	8.4	18	.5	18	0	18	.5	17	.4	17	.4
Mississippi:[3]																	
1968	456,532	327	.1	321	98.2	6	1.8	0	0	0	0	0	0	0	0	0	0
1970	535,089	279	.1	146	52.3	133	47.7	66	23.7	46	16.5	25	9.0	20	7.2	5	1.8
Missouri:																	
1968	954,586	1,393	.1	1,368	98.2	25	1.8	8	.6	8	.6	4	.3	4	.3	2	.1
1970	991,539	2,148	.2	2,088	97.2	60	2.8	4	.2	0	0	0	0	0	0	0	0
Montana:																	
1968	127,059	910	.7	906	99.6	4	.4	1	.1	1	.1	0	0	0	0	0	0
1970	148,737	1,786	1.2	1,687	94.5	99	5.5	4	.2	3	.1	0	0	0	0	0	0
Nebraska:																	
1968	286,342	3,722	1.4	3,438	92.4	283	7.6	8	.2	5	.1	5	.1	0	0	0	0
1970	276,433	4,067	1.5	3,751	92.2	316	7.8	67	1.6	55	1.4	49	1.2	40	1.0	40	1.0
Nevada:																	
1968	119,180	3,633	3.0	3,613	99.4	20	.6	9	.2	9	.2	8	.2	1	0	0	0
1970	127,750	4,153	3.3	4,144	99.8	9	.2	5	.1	4	.1	3	.1	1	0	0	0
New Hampshire:																	
1968	132,212	147	.1	147	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	155,224	213	.1	213	100.0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey:																	
1968	1,401,925	46,063	3.3	20,291	44.1	25,771	55.9	12,550	27.2	9,583	20.8	5,261	11.4	1,148	2.5	430	.9
1970	1,457,887	59,098	4.1	19,410	32.8	39,689	67.2	18,178	30.8	13,573	23.0	7,747	13.1	1,402	2.4	299	.5
New Mexico:																	
1958	271,040	102,994	38.0	27,494	26.7	75,500	73.3	34,136	33.1	17,221	16.7	10,336	10.0	4,461	4.3	2,704	2.6
1970	281,233	109,315	38.9	31,147	28.5	78,168	71.5	36,313	33.2	15,495	14.2	8,445	7.7	1,768	1.6	831	.8
New York:																	
1968	3,364,090	263,799	7.8	46,307	17.6	217,492	82.4	164,622	62.4	136,445	51.7	97,628	37.0	42,283	16.0	5,087	1.9
1970	3,498,522	316,590	9.0	52,577	16.6	264,014	83.4	204,147	64.5	168,976	53.4	125,822	39.7	66,490	21.0	19,848	8.3
North Carolina:																	
1968	1,199,481	482	0	465	96.5	17	3.5	3	.6	2	.4	2	.4	2	.4	2	.4
1970	1,196,294	521	0	483	92.7	38	7.3	5	1.0	0	0	0	0	0	0	0	0
North Dakota:																	
1968	115,995	230	.2	230	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	119,708	313	.3	313	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Ohio:																	
1968	2,400,296	16,031	.7	13,836	86.3	2,195	13.7	1,116	7.0	662	4.1	96	.6	31	.2	15	.1
1970	2,442,550	17,443	.7	14,643	83.9	2,800	16.1	997	5.7	770	4.4	288	1.7	223	1.3	178	1.0
Oklahoma:																	
1968	543,501	3,647	.7	3,540	97.1	107	2.9	22	.6	21	.6	16	.4	0	0	0	0
1970	550,963	5,735	1.0	5,605	97.7	130	2.3	13	.2	13	.2	9	.2	1	0	1	0
Oregon:																	
1968	455,141	4,507	1.0	4,474	99.4	28	.6	12	.3	8	.2	0	0	0	0	0	0
1970	458,989	5,696	1.2	5,677	99.7	19	.3	4	.1	3	.1	0	0	0	0	0	0
Pennsylvania:																	
1968	2,296,011	11,849	.5	6,008	50.7	5,842	49.3	4,297	36.3	3,066	25.9	1,767	14.9	241	2	12	.1
1970	2,332,310	15,392	.7	6,976	45.3	8,416	54.7	5,630	36.6	4,254	27.6	2,473	16.1	996	6.5	90	.6
Rhode Island:																	
1968	172,264	490	.3	313	63.9	177	36.1	0	0	0	0	0	0	0	0	0	0
1970	186,062	728	.4	728	100.0	0	0	0	0	0	0	0	0	0	0	0	0
South Carolina:																	
1968	603,542	208	0	206	99.0	2	1.0	0	0	0	0	0	0	0	0	0	0
1970	638,033	376	.1	350	93.1	26	6.9	6	1.8	2	.5	0	0	0	0	0	0
South Dakota:																	
1968	146,407	273	.2	261	95.6	12	4.4	12	4.4	12	4.4	12	4.4	4	1.5	4	1.5
1970	150,566	372	.2	372	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Tennessee:																	
1968	887,469	411	0	398	96.8	13	3.2	7	1.7	2	.5	2	.5	1	.2	1	.2
1979	895,185	539	.1	527	97.8	12	2.2	2	.4	2	.4	1	.2	1	.2	1	.2

State	Total pupils	Spanish-American		Spanish surnamed Americans attending minority schools—													
				0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Texas:																	
1968	2,510,358	505,214	20.1	139,877	27.7	365,337	72.3	237,136	46.9	184,360	36.5	140,486	27.8	59,351	11.7	26,164	5.2
1970	2,633,296	566,257	21.5	152,280	26.9	413,977	73.1	274,055	48.4	195,432	34.5	147,772	26.1	47,129	8.3	16,612	2.9
Utah:																	
1968	303,152	9,839	3.2	8,665	88.1	1,714	11.9	325	3.3	0	0	0	0	0	0	0	0
1970	304,431	10,998	3.6	10,192	92.7	806	7.3	3	0	0	0	0	0	0	0	0	0
Vermont:																	
1968	73,570	34	0	34	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	84,616	102	.1	102	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia:																	
1968	1,041,057	2,222	.2	2,189	98.5	33	1.5	3	.1	3	.1	3	.1	1	0	0	0
1970	1,076,365	3,224	.3	3,095	96.0	129	4.0	12	.4	0	0	0	0	0	0	0	0
Washington:																	
1968	791,260	12,692	1.6	11,150	87.9	1,542	12.1	35	.3	12	.1	0	0	0	0	0	0
1970	805,122	14,668	1.8	13,812	94.2	856	5.8	36	.2	5	0	5	0	0	0	0	0
West Virginia:																	
1968	404,582	251	.1	249	99.2	2	.8	2	.8	0	0	0	0	0	0	0	0
1970	402,133	218	.1	217	99.5	1	.5	0	0	0	0	0	0	0	0	0	0
Wisconsin:																	
1968	942,441	7,760	.8	6,171	79.5	1,589	20.5	620	8.0	342	4.4	157	2.0	119	1.5	97	1.3
1970	989,987	9,548	1.0	7,786	81.5	1,762	18.5	565	5.9	380	4.0	98	1.0	16	.2	0	0
Wyoming:																	
1968	79,091	4,504	5.7	3,524	78.2	980	21.8	0	0	0	0	0	0	0	0	0	0
1970	75,820	4,977	6.6	4,028	80.9	949	19.1	0	0	0	0	0	0	0	0	0	0

[1] Minute differences between sum of numbers and totals are due to computer rounding.

[2] Differences in enrollment between 1968 and 1970 are partially due to districts surveyed in 1970 but not in 1968. There were 7 such districts in Arkansas, 29 in Georgia, 10 in Louisiana, 43 in Mississippi, 11 in South Carolina, 1 in Tennessee, and 8 in Virginia. With few exceptions these districts were not surveyed in 1968 because their Federal funds were terminated at the time of the 1968 survey.

TABLE 1-C.—AMERICAN INDIANS BY STATE

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION FALL, 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

State	Total pupils	American Indians		American Indians attending minority schools—													
				0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States 1970	44,887,547	197,109	0.4	131,014	66.5	66,095	33.5	42,147	21.4	27,474	13.9	13,466	6.8	3,810	1.9	3,490	1.8
Alabama 1970	786,975	39	0	32	81.9	7	18.1	7	18.1	0	0	0	0	0	0	0	0
Alaska 1970	78,138	10,070	12.9	6,204	61.6	3,866	38.4	3,005	29.8	1,417	14.1	1,031	10.2	777	7.7	640	6.4
Arizona 1970	433,595	19,575	4.5	6,974	35.6	12,601	64.4	10,595	54.1	6,197	31.7	1,287	6.6	9	0	0	0
Arkansas 1970	430,100	487	.1	492	99.0	5	1.0	0	0	0	0	0	0	0	0	0	0
California 1970	4,550,501	16,842	.4	13,966	82.9	2,877	17.1	633	3.8	332	2.0	219	1.3	74	.4	37	0.2
Colorado 1970	536,237	1,219	.2	1,033	84.7	186	15.3	90	7.4	34	2.8	13	1.1	0	0	0	0
Connecticut 1970	654,024	410	.1	370	90.2	40	9.8	23	5.6	12	2.9	5	1.2	1	.2	0	0
Delaware 1970	123,560	76	.1	76	100.0	0	0	0	0	0	0	0	0	0	0	0	0
District of Columbia 1970	145,330	7	0	4	57.1	3	42.9	3	42.9	3	42.9	2	28.6	1	14.3	0	0
Florida 1970	1,437,554	1,394	.1	1,305	93.6	89	6.4	18	1.3	10	.7	0	0	0	0	0	0
Georgia 1970	1,098,990	406	0	401	98.8	5	1.2	1	.2	1	.2	1	.2	0	0	0	0
Idaho 1970	174,556	2,192	1.3	2,064	94.2	128	5.8	0	0	0	0	0	0	0	0	0	0
Illinois 1970	2,310,784	2,526	.1	2,148	85.0	378	15.0	151	6.0	101	4.0	45	1.8	26	1.0	6	.2
Indiana 1970	1,229,518	679	.1	641	94.4	38	5.6	31	4.6	17	2.5	6	.9	0	0	0	0
Iowa 1970	653,241	529	.1	517	97.7	12	2.3	0	0	0	0	0	0	0	0	0	0
Kansas 1970	500,362	1,468	.3	1,438	98.0	29	2.0	14	1.0	14	1.0	0	0	0	0	0	0
Kentucky 1970	721,078	48	0	44	91.7	4	8.3	4	8.3	0	0	0	0	0	0	0	0
Louisiana 1970	842,469	250	0	210	84.0	40	16.0	1	.4	1	.4	0	0	0	0	0	0
Maine 1970	235,674	564	.2	516	91.5	48	8.5	48	8.5	48	8.5	48	8.5	48	8.5	48	8.5
Maryland 1970	911,618	373	0	366	98.1	7	1.9	0	0	0	0	0	0	0	0	0	0
Massachusetts 1970	1,164,295	504	0	472	93.7	32	6.3	12	2.6	4	.8	4	.8	0	0	0	0
Michigan 1970	2,148,736	4,375	.2	4,199	96.0	177	4.0	80	1.8	33	.8	25	.6	5	.1	0	0
Minnesota 1970	886,367	7,172	.8	6,801	94.8	371	5.2	37	.5	37	.5	37	.5	37	.5	37	.5
Mississippi 1970	535,089	103	0	83	80.6	20	19.4	14	13.6	14	13.6	11	10.7	1	1.0	0	0
Missouri 1970	991,539	1,372	.1	1,347	98.2	25	1.8	17	1.2	8	.6	8	.6	8	.6	0	0
Montana 1970	148,737	8,434	5.7	4,364	51.7	4,070	48.3	2,317	27.5	1,520	18.0	372	4.4	72	.9	72	.9
Nebraska 1970	276,433	2,134	.8	986	46.2	1,148	53.8	67	3.1	58	2.7	11	.5	0	0	0	0
Nevada 1970	127,750	2,839	2.2	2,122	74.7	717	25.3	502	17.7	255	9.0	88	3.1	88	3.1	88	3.1
New Hampshire 1970	155,224	68	0	68	100.0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey 1970	1,457,887	471	0	334	71.0	136	29.0	23	4.9	10	2.1	7	1.5	0	0	0	0
New Mexico 1970	281,233	19,216	6.8	3,182	16.6	16,033	83.4	12,130	63.1	8,657	45.1	3,675	19.1	557	2.9	553	2.9
New York 1970	3,498,522	5,669	.2	4,252	75.0	1,417	25.0	1,143	20.2	527	9.3	479	8.5	399	7.0	375	6.6
North Carolina 1970	1,196,294	14,158	1.2	3,115	22.0	11,053	78.0	6,913	48.8	5,108	36.1	4,038	28.5	250	1.8	225	1.6
North Dakota 1970	119,708	1,133	.9	1,133	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Ohio 1970	2,442,550	1,118	0	1,061	94.9	57	5.1	20	1.8	18	1.6	14	1.3	4	.4	0	0
Oklahoma 1970	550,963	28,647	5.2	26,679	9.1	1,969	6.9	28	.1	26	.1	15	.1	8	0	0	0
Oregon 1970	458,989	3,721	.8	3,286	88.3	435	11.7	433	11.6	432	11.6	0	0	0	0	0	0
Pennsylvania 1970	2,332,310	511	0	508	99.4	3	.6	0	0	0	0	0	0	0	0	0	0
Rhode Island 1970	186,062	160	.1	160	100.0	0	0	0	0	0	0	0	0	0	0	0	0
South Carolina 1970	638,033	295	0	171	58.0	124	42.0	7	2.4	0	0	0	0	0	0	0	0
South Dakota 1970	150,566	7,536	5.0	5,263	69.8	2,273	30.2	1,324	17.6	677	9.0	368	4.9	0	0	0	0
Tennessee 1970	895,185	305	0	299	98.0	6	2.0	3	1.0	2	.7	0	0	0	0	0	0
Texas 1970	2,633,296	3,588	.1	2,205	61.5	1,382	38.5	1,186	33.1	1,135	31.6	1,063	29.6	988	27.5	957	26.7
Utah 1970	304,431	4,733	1.6	4,059	85.8	674	14.2	537	11.4	151	3.2	0	0	0	0	0	0
Vermont 1970	85,616	12	0	12	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia 1970	1,076,365	975	.1	717	73.5	258	26.5	124	12.7	108	11.1	108	11.1	0	0	0	0
Washington 1970	805,122	10,611	1.3	8,932	84.2	1,679	15.8	72	.7	18	0.2	18	.2	0	0	0	0
West Virginia 1970	402,133	88	0	88	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Wisconsin 1970	989,987	7,069	.7	5,404	76.4	1,665	23.6	533	7.5	489	6.9	467	6.6	546	6.5	452	6.4
Wyoming 1970	75,820	916	1.2	910	99.3	6	.7	0	0	0	0	0	0	0	0	0	0

[1] Minute differences between sum of numbers and totals are due to computer rounding.

XUM

TABLE 1-D.—ORIENTALS BY STATE

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY

State	Total pupils	Oriental total		Orientals attending minority schools—													
				0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
1970																	
Continental United States	44,877,647	209,092	0.5	147,672	70.6	61,420	29.4	27,401	13.1	16,134	7.7	8,458	4.0	1,376	0.7	168	0.1
Alabama	786,975	155	0	155	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Alaska	78,138	657	.8	649	98.8	8	1.2	8	1.2	0	0	0	0	0	0	0	0
Arizona	433,595	2,045	.5	1,756	85.9	289	14.1	108	5.3	18	.9	11	.5	0	0	0	0
Arkansas	430,010	328	.1	223	68.0	105	32.0	1	.3	0	0	0	0	0	0	0	0
California	4,550,501	104,821	2.3	63,435	60.5	41,387	39.5	16,950	16.2	8,616	8.2	6,152	5.9	562	.5	79	.1
Colorado	536,237	3,095	.6	2,828	91.4	267	8.6	139	4.5	35	1.1	35	1.1	6	.2	0	0
Connecticut	654,024	1,174	.2	1,076	91.7	98	8.3	44	3.7	31	2.6	8	.7	0	0	0	0
Delaware	132,560	242	.2	242	100.0	0	0	0	0	0	0	0	0	0	0	0	0
District of Columbia	145,330	612	.4	225	36.8	387	63.2	184	30.1	170	27.8	142	23.2	24	3.9	8	1.3
Florida	1,437,554	1,834	.1	1,583	86.3	251	13.7	92	5.0	34	1.9	8	.4	1	.1	0	0
Georgia	1,098,990	954	.1	922	96.6	32	3.4	4	.4	2	.2	2	.2	1	.1	1	.1
Idaho	174,556	908	.5	908	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Illinois	2,310,784	7,511	.3	6,352	84.6	1,159	15.4	621	8.3	531	7.1	463	6.2	38	.5	18	.2
Indiana	1,229,518	1,432	.1	1,344	93.9	88	6.1	65	4.5	16	1.1	10	.7	0	0	0	0
Iowa	653,241	665	.1	641	96.4	24	3.6	0	0	0	0	0	0	0	0	0	0
Kansas	500,362	1,220	.2	1,166	95.6	54	4.4	1	.1	0	0	0	0	0	0	0	0
Kentucky	721,078	346	0	339	98.0	7	2.0	4	1.2	3	.9	1	.3	0	0	0	0
Louisiana	842,469	370	0	285	77.0	85	23.0	19	5.1	16	4.3	1	.3	0	0	0	0
Maine	235,674	285	.1	285	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Maryland	911,618	2,655	.3	2,628	99.0	27	1.0	5	.2	1	0	1	0	0	0	0	0
Massachusetts	1,164,295	4,348	.4	3,362	77.3	986	22.7	685	15.8	254	5.8	145	3.3	0	0	0	0
Michigan	2,148,736	4,165	.2	3,762	90.3	403	9.7	180	4.3	135	3.2	98	2.4	42	1.0	13	.3
Minnesota	896,367	1,755	.2	1,739	99.1	16	.9	3	.2	3	.2	3	.2	3	.2	3	.2
Mississippi	535,089	278	.1	168	60.4	110	39.6	39	14.0	20	7.2	8	2.9	0	0	0	0
Missouri	991,539	1,529	.2	1,475	96.5	54	3.5	5	.3	4	.3	4	.3	4	.3	3	.2
Montana	148,737	460	.3	458	99.6	2	.4	0	0	0	0	0	0	0	0	0	0
Nebraska	276,433	528	.2	521	98.7	7	1.3	6	1.1	0	0	0	0	0	0	0	0
Nevada	127,750	700	.5	693	99.0	7	1.0	5	.7	3	.4	3	.4	2	.3	0	0
New Hampshire	155,224	284	.2	284	100.0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey	1,457,887	6,993	.5	5,588	79.9	1,404	20.1	478	6.8	275	3.9	105	1.5	18	.3	1	0
New Mexico	281,233	619	.2	489	79.0	130	21.0	24	3.9	10	1.6	2	.3	0	0	0	0
New York	3,498,522	21,770	.6	11,330	52.0	10,440	48.0	7,015	32.2	5,729	26.3	1,135	5.2	643	3.0	30	.1
North Carolina	1,196,294	635	.1	623	98.1	12	1.9	0	0	0	0	0	0	0	0	0	0
North Dakota	119,708	248	.2	248	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Ohio	2,442,550	3,380	.1	3,184	94.2	196	5.8	75	2.2	50	1.5	24	.7	13	.4	3	.1
Oklahoma	550,963	1,259	.2	1,249	99.2	10	.8	7	.6	7	.6	2	.2	1	.1	0	0
Oregon	456,989	3,314	.7	3,293	99.4	21	.6	2	.1	2	.1	0	0	0	0	0	0
Pennsylvania	2,332,310	2,408	.1	2,346	97.4	63	2.6	17	.7	16	.7	2	.1	2	.1	2	.1
Rhode Island	186,062	568	.3	567	99.8	1	.2	0	0	0	0	0	0	0	0	0	0
South Carolina	638,033	323	.1	298	92.3	25	7.7	9	2.8	1	.3	0	0	0	0	0	0
South Dakota	150,566	224	.1	224	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Tennessee	895,185	688	.1	669	97.2	19	2.8	8	1.2	8	1.2	3	.4	3	.4	3	.4
Texas	2,633,296	4,217	.2	3,468	82.2	749	17.8	268	6.4	120	2.8	72	1.7	13	.3	4	.1
Utah	304,431	1,553	.5	1,531	98.6	22	1.4	0	0	0	0	0	0	0	0	0	0
Vermont	84,616	113	.1	113	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia	1,076,365	2,969	.3	2,842	95.7	127	4.3	30	1.0	7	.2	4	.1	0	0	0	0
Washington	805,122	10,439	1.3	8,144	78.0	2,295	22.0	286	2.7	15	.1	15	.1	0	0	0	0
West Virginia	402,133	275	.1	270	98.2	5	1.8	0	0	0	0	0	0	0	0	0	0
Wisconsin	989,987	1,466	.1	1,426	97.3	40	2.7	14	1.0	3	.2	0	0	0	0	0	0
Wyoming	75,820	274	.4	265	96.7	9	3.3	0	0	0	0	0	0	0	0	0	0

[1] Minute differences between sum of numbers and totals are due to computer rounding.

TABLE 1-E.—MINORITIES BY STATE

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT, INCREASING LEVELS OF ISOLATION—FALL, 1968, AND FALL, 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

State	Total pupils	Minority number	Percent	Minority students attending minority schools—													
				0–49.9 percent		50–100 percent		80–100 percent		90–100 percent		95–100 percent		99–100 percent		100 percent	
				Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:																	
1968	43,353,568	8,656,434	20.0	2,623,820	30.3	6,032,615	69.7	4,987,778	57.6	4,561,768	52.7	4,202,903	48.6	3,472,072	40.1	2,542,805	29.4
1970	44,877,547	9,389,015	20.9	3,507,532	37.4	5,881,483	62.6	4,134,387	44.0	3,472,583	37.0	2,957,098	31.5	2,013,264	21.7	984,885	10.5
Alabama:																	
1968	770,523	269,357	35.0	22,384	8.3	246,973	91.7	246,389	91.5	245,861	91.3	244,693	90.8	243,269	90.3	230,448	85.6
1970	786,975	270,330	34.4	98,932	36.6	171,398	63.4	130,032	48.1	119,046	44.0	104,943	38.8	80,651	29.8	53,954	20.0
Alaska:																	
1968	71,797	9,830	13.7	7,881	80.2	1,949	19.8	1,768	18.0	1,389	14.1	1,192	12.1	607	6.2	607	6.2
1970	78,138	13,658	17.5	9,759	71.5	3,899	28.5	3,024	22.1	1,419	10.4	1,034	7.6	777	5.7	640	4.7
Arizona:																	
1968	366,459	103,933	28.4	47,152	45.4	56,781	54.6	28,272	27.2	19,403	18.7	12,151	11.7	5,862	5.6	1,559	1.5
1970	433,595	123,846	28.6	55,447	44.8	68,399	55.2	43,855	35.4	23,497	19.0	11,925	9.6	4,422	3.6	829	.7
Arkansas: [2]																	
1968	415,613	107,754	25.9	25,299	23.5	82,455	76.5	79,797	74.1	79,214	73.5	78,911	73.2	77,713	72.1	75,807	70.4
1970	430,100	107,393	25.0	46,640	43.4	60,753	56.6	23,147	21.6	19,633	18.3	16,453	15.3	10,762	10.0	9,132	8.5
California:																	
1968	4,477,381	1,153,903	25.8	562,115	48.7	591,788	51.3	374,762	32.5	300,997	26.1	247,756	21.5	127,532	11.1	29,559	2.6
1970	4,550,501	1,244,315	27.3	613,685	49.3	630,629	50.7	379,578	30.5	303,839	24.4	258,956	20.8	125,483	10.1	21,868	1.8
Colorado:																	
1968	519,092	93,344	18.0	54,384	58.3	38,960	41.7	19,863	21.3	12,841	13.8	10,208	10.9	3,216	3.4	0	0
1970	536,237	101,596	18.9	60,928	60.0	40,668	40.0	17,449	17.2	9,568	9.4	7,292	7.2	1,178	1.2	0	0
Connecticut:																	
1968	632,361	69,570	11.0	31,646	45.5	37,924	54.5	22,102	31.8	17,150	24.7	12,200	17.5	3,610	5.2	340	.5
1970	654,024	80,211	12.3	36,124	45.0	44,087	55.0	26,723	33.3	19,026	23.7	15,396	19.2	8,108	10.1	0	0
Delaware:																	
1968	123,863	24,356	19.7	13,274	54.5	11,082	45.5	6,612	27.1	5,179	21.3	5,179	21.3	953	3.9	0	0
1970	132,560	28,255	21.3	15,651	55.4	12,604	44.6	8,382	29.7	5,926	21.0	5,112	18.1	1,222	4.3	0	0

State	Total pupils	Minority number	Percent	Minority students attending minority schools—													
				0–49.9 percent		50–100 percent		80–100 percent		90–100 percent		95–100 percent		99–100 percent		100 percent	
				Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
District of Columbia:																	
1968	148,725	140,445	94.4	1,813	1.3	138,632	98.7	134,766	96.0	131,501	93.6	124,409	88.6	95,711	68.1	38,735	27.6
1970	145,330	138,834	95.5	2,112	1.5	136,722	98.5	133,813	96.4	131,036	94.4	128,077	92.3	95,376	68.7	46,189	33.3
Florida:																	
1968	1,340,865	367,013	27.4	101,288	27.6	265,725	72.4	239,488	65.3	232,454	63.3	228,025	62.1	216,233	58.9	184,321	50.2
1970	1,437,554	401,179	27.9	194,689	48.5	206,490	51.5	129,451	32.3	97,169	24.2	76,034	19.0	51,470	12.8	32,937	8.2
Georgia: [2]																	
1968	1,001,245	317,361	31.7	45,911	14.5	271,450	85.5	266,776	84.1	264,330	83.3	263,405	83.0	260,605	82.1	241,244	76.0
1970	1,098,990	367,693	33.5	133,407	36.3	234,286	63.7	143,856	39.1	125,983	34.3	112,482	30.6	92,950	25.3	61,469	16.7
Idaho:																	
1968	174,472	6,325	3.6	6,174	97.6	151	2.4	16	.3	16	.3	0	0	0	0	0	0
1970	174,556	7,599	4.4	7,465	98.2	134	1.8	0	0	0	0	0	0	0	0	0	0
Illinois:																	
1968	2,252,321	483,966	21.5	99,217	20.5	384,749	79.5	329,285	68.0	305,166	63.1	297,755	61.5	252,926	52.3	157,140	32.5
1970	2,310,784	509,716	22.1	105,609	20.7	404,107	79.3	348,590	68.4	325,472	63.9	303,884	59.6	254,338	49.9	152,931	30.0
Indiana:																	
1968	1,210,539	121,228	10.0	40,226	33.2	81,002	66.8	61,875	51.0	52,683	43.5	46,462	38.3	37,848	31.2	13,640	11.3
1970	1,229,518	127,013	10.3	42,982	33.8	84,031	66.2	65,937	51.9	54,972	43.3	46,653	36.7	32,423	25.5	15,350	12.1
Iowa:																	
1968	651,705	12,732	2.0	10,124	79.5	2,608	20.5	877	6.9	340	2.7	340	2.7	340	2.7	0	0
1970	653,241	14,198	2.2	11,045	77.8	3,153	22.2	132	.9	108	.8	0	0	0	0	0	0
Kansas:																	
1968	518,733	41,539	8.0	26,502	63.8	15,037	36.2	11,941	28.7	10,215	24.6	9,838	23.7	6,268	15.1	2,328	5.6
1970	500,362	44,111	8.8	30,475	69.1	13,636	30.9	11,332	25.7	9,392	21.3	7,366	16.7	5,513	12.5	3,427	7.8
Kentucky:																	
1968	695,611	64,474	9.3	34,864	54.1	29,610	45.9	21,946	34.0	17,026	26.4	17,026	26.4	9,021	14.0	3,342	5.2
1970	721,078	66,785	9.3	36,946	55.3	29,839	44.7	24,045	36.0	20,270	30.4	16,233	24.3	10,848	16.2	2,211	3.3
Louisiana: [2]																	
1968	817,000	319,971	39.2	30,408	9.5	289,563	90.5	282,775	88.4	279,639	87.4	279,639	87.4	278,645	87.1	259,921	81.2
1970	842,469	345,231	41.0	109,446	31.7	235,785	68.3	161,486	46.8	139,764	40.5	126,333	36.6	112,012	32.4	81,945	23.7
Maine:																	
1968	220,336	3,558	1.6	931	26.2	2,627	73.8	1,967	55.3	67	1.9	67	1.9	67	1.9	67	1.9
1970	235,674	1,783	.8	1,735	97.3	48	2.7	48	2.7	48	2.7	48	2.7	48	2.7	48	2.7
Maryland:																	
1968	859,440	205,369	23.9	66,596	32.4	138,773	67.6	117,802	57.4	109,478	53.3	105,886	51.6	92,030	44.8	62,898	30.6
1970	911,618	226,598	24.9	79,022	34.9	147,576	65.1	117,473	51.8	109,933	48.5	100,652	44.4	90,981	40.2	56,676	25.0
Massachusetts:																	
1968	1,097,221	59,875	5.5	33,938	56.7	25,937	43.3	15,777	26.4	12,090	20.2	8,804	14.7	4,995	8.3	79	.1
1970	1,164,295	70,136	6.0	37,399	53.3	32,737	46.7	23,018	32.8	17,034	24.3	12,329	17.6	6,837	9.7	3,516	5.0
Michigan:																	
1968	2,073,369	308,938	14.9	85,706	27.7	223,232	72.3	179,345	58.1	155,291	50.3	129,017	41.8	78,709	25.5	24,856	8.0
1970	2,148,736	324,783	15.1	87,853	27.0	236,931	73.0	189,858	58.5	167,747	51.6	144,268	44.4	76,165	23.5	29,233	9.0
Minnesota:																	
1968	856,506	19,655	2.3	17,691	90.0	1,964	10.0	362	1.8	362	1.8	362	1.8	0	0	0	0
1970	886,367	23,048	2.6	18,685	81.1	4,364	18.9	400	1.7	400	1.7	400	1.7	59	.3	59	.3
Mississippi: [2]																	
1968	456,532	224,607	49.2	15,809	7.0	208,798	93.0	207,518	92.4	207,518	92.4	207,518	92.4	206,739	92.0	197,450	87.9
1970	535,089	272,673	51.0	72,168	26.5	200,505	73.5	131,811	48.3	96,609	35.4	81,339	29.8	51,625	18.9	29,407	10.8
Missouri:																	
1968	954,596	141,110	14.8	36,632	26.0	104,477	74.0	97,195	68.9	93,303	66.1	91,370	64.8	77,686	55.1	46,293	32.8
1970	991,539	149,647	15.1	33,916	22.7	115,731	77.3	99,381	66.4	91,653	61.2	85,442	57.1	80,195	53.6	43,685	29.2
Montana:																	
1968	127,059	6,328	5.0	3,780	59.7	2,548	40.3	2,276	36.0	943	14.9	325	5.1	325	5.1	81	1.3
1970	148,737	11,102	7.5	6,912	62.3	4,190	37.7	2,321	20.9	1,523	13.7	372	3.4	72	.6	72	.6
Nebraska:																	
1968	266,342	17,307	6.5	7,953	46.0	9,354	54.0	6,254	36.1	4,426	25.6	4,339	25.1	681	3.9	0	0
1970	276,433	19,634	7.1	9,521	48.5	10,113	51.5	7,722	39.3	5,776	29.4	3,129	15.9	865	4.4	40	.2
Nevada:																	
1968	119,180	15,948	13.4	11,017	69.1	4,931	30.9	4,516	28.3	4,345	27.2	3,698	23.2	764	4.8	64	.4
1970	127,750	18,224	14.3	13,882	76.2	4,342	23.8	3,384	18.6	3,134	17.2	2,964	16.3	2,563	14.1	603	3.3
New Hampshire:																	
1968	132,212	870	.7	870	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	155,224	1,170	.8	1,170	100.0	0	0	0	0	0	0	0	0	0	0	0	0
New Jersey:																	
1968	1,401,925	258,109	18.4	94,092	36.5	164,016	63.5	113,176	43.8	97,781	37.9	73,744	28.6	38,984	15.1	15,677	6.1
1970	1,457,887	291,788	20.0	97,419	33.4	194,369	66.6	132,053	45.3	109,254	37.4	89,728	30.8	47,312	16.2	15,063	5.2
New Mexico:																	
1968	271,040	128,948	47.6	33,673	26.1	95,275	73.9	48,548	37.6	28,108	21.8	14,660	11.4	6,805	5.3	4,736	3.7
1970	281,233	135,227	48.1	37,989	28.1	97,238	71.9	50,351	37.2	25,540	18.9	12,725	9.4	2,668	2.0	1,716	1.3
New York:																	
1968	3,364,090	762,382	22.7	213,008	27.9	549,374	72.1	409,715	53.7	346,870	45.5	269,638	35.4	145,430	19.1	41,302	5.4
1970	3,498,522	886,516	25.3	224,299	25.3	662,217	74.7	511,243	57.7	436,263	49.2	338,619	38.2	208,213	23.5	68,985	7.8
North Carolina:																	
1968	1,199,481	367,096	30.6	103,494	28.2	263,602	71.8	247,307	67.4	242,325	66.0	239,986	65.4	232,539	63.3	212,020	57.8
1970	1,196,294	367,049	30.7	194,645	53.0	172,404	47.0	67,450	18.4	53,238	14.5	46,938	12.8	32,623	8.9	24,191	6.6
North Dakota:																	
1968	115,995	2,345	2.0	1,987	84.7	358	15.3	0	0	0	0	0	0	0	0	0	0
1970	119,708	2,348	2.0	2,348	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Ohio:																	
1968	2,400,296	306,975	12.8	96,868	31.6	210,107	68.4	165,009	53.8	143,719	46.8	123,252	40.2	93,826	30.6	37,887	12.3
1970	2,442,550	317,439	13.0	99,246	31.3	218,193	68.7	168,088	53.0	146,828	46.3	126,805	39.9	93,361	29.4	41,441	13.1
Oklahoma:																	
1968	543,501	77,543	14.3	46,665	60.2	30,876	39.8	26,913	34.7	26,049	33.6	23,644	30.5	18,721	24.1	8,443	10.9
1970	550,963	88,211	16.0	61,207	69.4	27,004	30.6	21,823	24.7	21,715	24.6	20,159	22.9	15,455	17.5	5,560	6.3
Oregon:																	
1968	455,141	18,595	4.1	15,334	82.5	3,261	17.5	2,089	11.2	1,802	9.7	0	0	0	0	0	0
1970	458,989	20,738	4.5	17,607	84.9	3,131	15.1	1,933	9.3	1,654	8.0	0	0	0	0	0	0
Pennsylvania:																	
1968	2,296,011	282,848	12.3	82,310	29.1	200,538	70.9	160,679	56.8	138,492	49.0	120,222	42.5	87,308	30.9	11,768	4.2
1970	2,332,310	293,790	12.6	82,269	28.0	211,521	72.0	165,436	56.3	143,277	48.8	124,404	42.3	90,999	31.0	13,002	4.4
Rhode Island:																	
1968	172,264	9,098	5.3	8,061	88.6	1,037	11.4	133	1.5	133	1.5	0	0	0	0	0	0
1970	186,062	9,205	4.9	9,096	98.8	109	1.2	0	0	0	0	0	0	0	0	0	0
South Carolina: [2]																	
1968	603,542	238,843	39.6	34,539	14.5	204,304	85.5	201,618	84.4	201,618	84.4	200,250	83.8	198,814	83.7	118,728	79.0
1970	638,033	261,868	41.0	117,740	45.0	144,128	55.0	76,064	29.0	57,608	22.0	44,859	17.1	30,434	11.6	18,266	7.0
South Dakota:																	
1968	146,407	17,320	11.8	4,366	25.2	12,955	74.8	11,269	65.1	10,133	58.5	8,728	50.4	1,704	9.8	1,704	9.8
1970	150,566	8,530	5.7	6,257	73.3	2,273	26.7	1,324	15.5	677	7.9	368	4.3	0	0	0	0
Tennessee: [2]																	
1968	887,469	185,924	20.9	40,442	21.8	145,482	78.2	139,436	75.0	135,516	72.9	132,213	71.1	123,472	66.4	108,429	58.3
1970	895,185	191,099	21.3	62,691	32.8	128,408	67.2	113,670	59.5	105,237	55.1	94,934	49.7	77,822	40.7	49,113	25.7

Footnotes at end of table.

TABLE 1-E.—MINORITIES BY STATE—Continued

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT, INCREASING LEVELS OF ISOLATION—FALL 1968, AND FALL 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

State	Total pupils	Minority number	Per-cent	Minority students attending minority schools— 0–49.9 percent Number	Per-cent	50–100 percent Number	Per-cent	80–100 percent Number	Per-cent	90–100 percent Number	Per-cent	95–100 percent Number	Per-cent	99–100 percent Number	Per-cent	100 percent Number	Per-cent
Texas:																	
1968	2,510,358	892,518	35.6	240,437	26.9	652,081	73.1	495,240	55.5	433,765	48.6	382,153	42.8	269,323	30.2	193,352	21.7
1970	2,633,296	976,667	37.1	298,584	30.6	678,083	69.4	487,086	49.9	384,784	39.4	317,489	32.5	165,959	17.0	74,042	7.6
Utah:																	
1968	303,152	16,755	5.5	14,657	87.5	2,098	12.5	686	4.1	96	.6	0	0	0	0	0	0
1970	304,431	18,767	6.2	16,925	90.2	1,842	9.8	540	2.9	151	.8	0	0	0	0	0	0
Vermont:																	
1968	73,570	153	.2	153	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	84,616	353	.4	353	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia:[2]																	
1968	1,041,057	250,183	24.0	70,861	28.3	179,322	71.7	172,220	68.8	169,347	67.7	167,298	66.9	161,331	64.5	142,213	56.8
1970	1,076,365	266,319	24.7	114,047	42.8	152,272	57.2	79,933	30.0	64,057	24.1	54,267	20.4	46,881	17.6	26,667	10.0
Washington:																	
1968	791,260	50,585	6.4	39,356	77.8	11,229	22.2	3,049	6.0	966	1.9	0	0	0	0	0	0
1970	805,122	56,325	7.0	44,429	78.9	11,895	21.1	3,084	5.5	368	.7	368	.7	0	0	0	0
West Virginia:																	
1968	404,582	20,992	5.2	17,320	82.5	3,672	17.5	1,659	7.9	1,157	5.5	1,157	5.5	841	4.0	841	4.0
1970	402,133	19,583	4.9	16,875	86.2	2,708	13.8	164	.8	164	.8	164	.8	164	.8	164	.8
Wisconsin:																	
1968	942,441	51,070	5.4	19,543	38.3	31,527	61.7	25,470	49.9	20,664	40.5	15,382	30.1	9,618	18.8	4,926	9.6
1970	989,987	59,427	6.0	24,026	40.4	35,401	59.6	27,896	46.9	21,789	36.7	16,155	27.2	4,411	7.4	452	.8
Wyoming:																	
1968	79,091	7,486	9.5	5,067	67.7	2,419	32.3	1,240	16.6	0	0	0	0	0	0	0	0
1970	75,820	7,005	9.2	5,875	83.9	1,130	16.1	0	0	0	0	0	0	0	0	0	0

[1] Minute differences between sum of numbers and totals are due to computer rounding.
[2] Differences in enrollment between 1968 and 1970 are partially due to districts surveyed in 1970 but not in 1968. There were 7 such districts in Arkansas, 29 in Georgia, 10 in Louisiana, 43 in Mississippi, 11 in South Carolina, 1 in Tennessee and 8 in Virginia. With few exceptions, these districts were not surveyed in 1968 because their Federal funds were terminated at the time of the 1968 survey.

TABLE 1-F.—NONMINORITIES BY STATE

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

State	Total pupils	Nonminority Number	Per-cent	Nonminority students attending nonminority schools— 0 to 49.9 percent Number	Per-cent	50 to 100 percent Number	Per-cent	80 to 100 percent Number	Per-cent	90 to 100 percent Number	Per-cent	95 to 100 percent Number	Per-cent	99 to 100 percent Number	Per-cent	100 percent Number	Per-cent
Continental United States 1970	44,877,547	35,488,532	79.1	1,196,154	3.4	34,292,378	96.6	29,679,942	83.6	25,750,360	72.1	21,321,681	60.1	11,634,575	32.8	4,631,396	13.1
Alabama 1970	786,975	516,645	65.6	28,228	5.5	488,417	94.5	335,409	64.9	221,890	42.9	164,026	31.7	101,855	19.7	69,381	13.4
Alaska 1970	78,138	64,480	82.5	678	1.1	63,802	98.9	53,136	82.4	37,587	58.3	11,185	17.3	4,564	7.1	2,741	4.3
Arizona 1970	433,595	309,749	71.4	20,245	6.5	289,504	93.5	219,218	70.8	159,994	51.7	85,405	27.6	4,794	1.5	238	.1
Arkansas 1970	430,100	322,707	75.0	21,862	6.8	300,845	93.2	225,109	69.8	195,408	60.6	167,991	52.1	120,022	37.2	81,639	25.3
California 1970	4,550,501	3,306,187	72.7	172,270	5.2	3,133,917	94.8	2,320,086	70.2	1,503,274	45.5	667,468	20.2	21,439	.6	4,441	.1
Colorado 1970	536,237	434,641	81.1	15,536	3.6	419,105	96.4	343,158	79.0	262,736	60.4	172,336	39.7	22,452	5.2	4,841	1.1
Connecticut 1970	654,024	573,814	87.7	11,311	2.0	562,503	98.0	525,249	91.2	471,529	82.2	417,354	72.7	152,298	26.5	27,260	4.8
Delaware 1970	132,560	104,305	78.7	2,560	2.5	101,745	97.5	75,200	72.1	60,630	58.1	51,168	49.1	23,034	22.1	1,816	1.7
District of Columbia 1970	145,330	6,496	4.5	2,770	42.6	3,726	57.4	1,310	20.2	663	10.2	0	0	0	0	0	0
Florida 1970	1,437,554	1,036,375	72.1	51,625	5.0	984,750	95.0	670,709	64.7	456,819	44.1	301,472	29.1	124,635	12.0	31,733	3.1
Georgia 1970	1,098,990	731,297	66.5	60,304	8.2	670,993	91.8	462,647	63.3	358,459	49.0	277,224	37.9	161,889	22.1	75,994	10.4
Idaho 1970	174,556	166,957	95.6	60	0	166,897	100.0	163,694	98.0	149,010	89.3	123,404	73.9	45,668	27.4	20,170	12.1
Illinois 1970	2,310,784	1,801,068	77.9	38,024	2.1	1,763,044	97.9	1,656,215	92.0	1,513,934	84.1	1,342,952	74.6	730,169	40.5	313,824	17.4
Indiana 1970	1,229,518	1,102,504	89.7	13,387	1.2	1,089,117	98.8	1,050,607	95.3	984,060	89.3	911,789	82.7	608,737	55.2	302,434	27.4
Iowa 1970	653,241	639,043	97.8	2,060	.3	636,983	99.7	629,544	98.5	615,804	96.4	591,221	92.5	456,745	71.5	273,522	42.8
Kansas 1970	500,362	456,251	91.2	1,930	.4	454,321	99.6	425,112	93.2	367,016	80.4	303,904	66.6	163,572	35.9	85,590	18.8
Kentucky 1970	721,078	654,292	90.7	4,303	.7	649,989	99.3	611,003	93.4	542,546	82.9	463,535	70.8	320,904	49.0	197,582	30.2
Louisiana 1970	842,469	497,238	59.0	49,050	9.9	448,188	90.1	272,547	54.8	169,382	34.1	117,493	23.6	68,075	13.7	29,018	5.8
Maine 1970	235,674	233,892	99.2	0	0	233,892	100.0	233,892	100.0	230,596	98.6	229,553	98.1	185,129	79.2	109,236	46.7
Maryland 1970	911,618	685,020	75.1	18,794	2.7	666,226	97.3	570,973	83.4	474,918	69.3	339,486	49.6	128,566	18.8	50,853	7.4
Massachusetts 1970	1,164,295	1,094,159	94.0	7,121	.7	1,087,038	99.3	1,059,626	96.8	1,006,049	91.9	927,877	84.8	528,588	48.3	150,227	13.7
Michigan 1970	2,148,736	1,823,953	84.9	33,127	1.8	1,790,826	98.2	1,702,856	93.4	1,596,780	87.5	1,455,418	79.8	791,572	43.4	156,014	8.6
Minnesota 1970	896,367	863,319	97.4	2,600	.3	860,719	99.7	850,234	98.5	829,777	96.1	787,911	91.3	536,829	62.2	160,036	18.5
Mississippi 1970	535,089	262,416	49.0	52,296	19.9	210,120	80.1	101,248	38.6	49,562	18.9	28,211	10.8	11,291	4.3	5,896	2.2
Missouri 1970	991,539	841,891	84.9	11,597	1.4	830,294	98.6	799,440	95.0	752,217	89.3	680,960	80.9	433,574	51.5	209,176	24.8
Montana 1970	148,737	137,635	92.5	1,592	1.2	136,043	98.8	133,587	97.1	118,147	85.8	101,763	73.9	24,478	17.8	8,812	6.4
Nebraska 1970	276,433	256,799	92.9	1,677	.7	255,122	99.3	245,774	95.7	235,648	91.8	208,844	81.3	129,144	50.3	57,170	22.3
Nevada 1970	127,750	109,526	85.7	592	.5	108,934	99.5	98,058	89.5	57,020	52.1	30,234	27.6	4,005	3.7	1,041	1.0
New Hampshire 1970	155,224	154,054	99.2	0	0	154,054	100.0	154,054	100.0	152,977	99.3	150,137	97.5	124,955	81.1	57,524	37.3
New Jersey 1970	1,457,887	1,166,099	80.0	39,750	3.4	1,126,349	96.6	1,013,282	86.9	881,890	75.6	762,232	65.4	393,662	33.8	101,061	8.7
New Mexico 1970	281,233	146,006	51.9	33,754	23.1	112,252	76.9	52,099	35.7	18,215	12.5	4,715	3.2	116	.1	116	.1
New York 1970	3,498,522	2,612,065	74.7	102,234	3.9	2,509,771	96.1	2,201,227	84.3	1,942,945	74.4	1,714,995	65.7	973,647	37.3	257,953	9.9
North Carolina 1970	1,196,294	829,245	69.3	68,953	8.3	760,292	91.7	438,015	52.9	290,624	35.0	190,849	23.0	99,743	12.0	56,911	6.9
North Dakota 1970	119,708	117,360	98.0	0	0	117,360	100.0	116,855	99.6	112,108	95.5	107,484	91.6	68,306	58.2	38,354	32.7
Ohio 1970	2,442,550	2,125,111	87.0	33,425	1.6	2,091,686	98.4	1,989,477	93.6	1,856,347	87.4	1,697,760	79.7	1,103,227	51.9	392,598	18.5
Oklahoma 1970	550,963	462,753	84.0	3,461	.7	459,292	99.3	381,821	82.5	290,588	62.8	179,965	38.9	42,641	9.2	13,487	2.9
Oregon 1970	458,989	438,251	95.5	1,030	.2	437,221	99.8	428,038	97.7	408,387	93.2	363,295	82.9	105,630	24.1	22,977	5.2
Pennsylvania 1970	2,332,310	2,038,520	87.4	31,885	1.6	2,006,635	98.4	1,930,117	94.7	1,827,665	89.7	1,665,153	81.7	1,154,191	56.6	512,470	25.1
Rhode Island 1970	186,062	176,857	95.1	79	0	176,778	100.0	167,002	94.4	150,597	85.2	137,861	78.0	99,159	56.1	27,904	15.8
South Carolina 1970	638,033	376,165	59.0	46,042	12.2	330,123	87.8	130,282	34.6	41,902	11.1	20,143	5.4	6,850	1.8	4,022	1.1
South Dakota 1970	150,566	142,036	94.3	508	.4	141,528	99.6	135,994	95.7	128,069	90.2	113,911	80.2	65,577	46.2	28,980	20.4
Tennessee 1970	895,185	704,086	78.7	10,587	1.5	693,499	98.5	620,108	88.1	517,626	73.5	419,443	59.6	250,492	35.6	153,741	21.8
Texas 1970	2,633,296	1,656,630	62.9	136,806	8.3	1,519,824	91.7	1,067,353	64.4	799,447	48.3	546,056	33.0	130,402	7.9	24,099	1.5
Utah 1970	304,431	285,664	93.8	936	.3	284,727	99.7	278,132	97.4	247,972	86.8	190,934	66.8	25,183	8.8	1,041	.4
Vermont 1970	84,616	84,263	99.6	0	0	84,263	100.0	84,263	100.0	84,263	100.0	84,263	100.0	71,879	85.3	40,559	48.1
Virginia 1970	1,076,365	810,047	75.3	48,033	5.9	762,014	94.1	604,684	74.6	483,332	59.7	348,859	43.1	122,614	15.1	55,919	6.9
Washington 1970	805,122	748,797	93.0	5,675	.8	743,122	99.2	717,122	95.8	653,064	87.2	525,458	70.2	96,759	12.9	8,479	1.1
West Virginia 1970	402,133	382,550	95.1	1,713	.4	380,837	99.6	365,589	95.6	331,364	86.6	294,877	77.1	226,406	59.2	163,833	42.8
Wisconsin 1970	989,987	930,561	94.0	5,039	.5	925,522	99.5	906,830	97.4	879,881	94.6	812,772	87.3	560,762	60.3	232,464	25.0
Wyoming 1970	75,820	68,814	90.8	644	.9	68,170	99.1	62,960	91.5	48,641	70.7	35,245	51.2	8,345	12.1	6,220	9.0

[1] Minute differences between sum of numbers and totals are due to computer rounding.

TABLE 2-A.—NEGROES BY GEOGRAPHIC AREA

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY

Area	Total pupils	Negro Number	Per-cent	Negroes attending minority schools 0 to 49.9 percent Number	Per-cent	50 to 100 percent Number	Per-cent	80 to 100 percent Number	Per-cent	90 to 100 percent Number	Per-cent	95 to 100 percent Number	Per-cent	99 to 100 percent Number	Per-cent	100 percent Number	Per-cent
Continental United States:																	
1968	43,353,568	6,282,173	14.5	1,467,291	23.4	4,814,881	76.6	4,274,461	68.0	4,041,593	64.3	3,832,843	61.0	3,331,404	53.0	2,493,398	39.7
1970	44,877,547	6,707,411	14.9	2,223,506	33.1	4,483,905	66.9	3,311,372	49.4	2,907,084	43.3	2,563,327	38.2	1,876,767	28.0	941,111	14.0
32 Northern and Western[2]:																	
1968	28,579,766	2,703,056	9.5	746,030	27.6	1,957,025	72.4	1,550,440	57.4	1,369,965	50.7	1,198,052	44.3	834,898	30.9	332,408	12.3
1970	29,451,976	2,889,858	9.8	793,979	27.5	2,095,879	72.5	1,665,926	57.6	1,475,689	51.1	1,288,221	44.6	878,357	30.4	343,629	11.9
6 Border and District of Columbia[3]:																	
1968	3,730,317	636,157	17.1	180,569	28.4	455,588	71.6	406,171	63.8	383,059	60.2	368,149	57.9	294,844	46.3	160,504	25.2
1970	3,855,221	667,362	17.3	198,659	29.8	468,703	70.2	404,396	60.6	380,185	57.0	355,512	53.3	294,104	44.1	154,409	23.1
11 Southern[4]:																	
1968	11,043,485	2,942,960	26.6	540,692	18.4	2,402,268	81.6	2,317,850	78.8	2,288,570	77.8	2,266,642	77.0	2,201,662	74.8	2,000,486	68.0
1970	11,570,351	3,150,192	27.2	1,230,868	39.1	1,919,323	60.9	1,241,050	39.4	1,051,210	33.4	919,594	29.2	704,306	22.4	443,073	14.1

[1] Minute differences between sum of numbers and totals are due to computer rounding.
[2] Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming.
[3] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, West Virginia.
[4] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

TABLE 2-B.—SPANISH SURNAMED AMERICANS BY AREA OF SIGNIFICANT POPULATION

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY

Area	Total pupils	Spanish American Number	Per-cent	Spanish surnamed Americans attending minority schools 0 to 49.9 percent Number	Per-cent	50 to 100 percent Number	Per-cent	80 to 100 percent Number	Per-cent	90 to 100 percent Number	Per-cent	95 to 100 percent Number	Per-cent	99 to 100 percent Number	Per-cent	100 percent Number	Per-cent
Continental United States:																	
1968	43,353,568	2,002,776	4.6	906,919	45.3	1,095,857	54.7	634,891	31.7	461,567	23.0	331,781	16.6	124,736	6.2	38,077	1.9
1970	44,877,547	2,275,403	5.1	1,005,340	44.2	1,270,063	55.8	753,466	33.1	521,890	22.9	371,847	16.3	131,311	5.8	40,116	1.8
5 Arizona, California, Colorado, New Mexico, Texas:																	
1968	8,144,330	1,397,586	17.2	640,943	45.9	756,643	54.1	414,689	29.7	292,737	20.9	215,688	15.4	77,292	5.5	31,159	2.2
1970	8,434,863	1,545,068	18.3	701,112	45.4	843,956	54.6	467,903	30.3	307,208	19.9	223,102	14.4	57,751	3.7	18,714	1.2
4 Connecticut, Illinois, New Jersey, New York:																	
1968	7,650,697	394,449	5.2	110,587	28.0	283,862	72.0	197,589	50.1	155,674	39.5	108,785	27.6	45,427	11.5	5,778	1.5
1970	7,921,217	473,947	6.0	117,883	24.9	356,064	75.1	248,401	52.4	194,786	41.1	139,598	29.5	70,917	15.0	20,312	4.3
1 Florida:																	
1968	1,340,665	52,628	3.9	26,287	49.9	26,341	50.1	9,479	18.0	4,861	9.2	3,275	6.2	400	.8	240	.5
1970	1,437,554	65,713	4.6	30,918	47.0	34,795	53.0	19,811	30.1	9,721	14.8	3,310	5.0	444	.7	221	.3
39 other States and District of Columbia:																	
1968	26,217,876	158,113	.6	129,102	81.7	29,011	18.3	13,135	8.3	8,295	5.2	4,033	2.6	1,617	1.0	900	.6
1970	27,083,914	190,675	.7	155,427	81.5	35,248	18.5	17,351	9.1	10,175	5.3	5,836	3.1	2,199	1.2	869	.5

[1] Minute differences between sum of numbers and totals are due to computer rounding.

TABLE 2-C.—MINORITIES BY GEOGRAPHIC AREA

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY

Area	Total pupils	Minority Number	Per-cent	Minority students attending minority schools 0 to 49.9 percent Number	Per-cent	50 to 100 percent Number	Per-cent	80 to 100 percent Number	Per-cent	90 to 100 percent Number	Per-cent	95 to 100 percent Number	Per-cent	99 to 100 percent Number	Per-cent	100 percent Number	Per-cent
Continental United States:																	
1968	43,353,568	8,656,434	20.0	2,623,820	30.3	6,032,615	69.7	4,987,778	57.6	4,561,768	52.7	4,202,903	48.6	3,472,072	40.1	2,542,805	29.4
1970	44,877,547	9,389,015	20.9	3,507,532	37.4	5,881,483	62.6	4,134,387	44.0	3,472,583	37.0	2,957,098	31.5	2,013,264	21.4	964,885	10.5
32 northern and western:[2]																	
1968	28,579,766	4,441,516	15.5	1,675,779	37.7	2,765,737	62.3	2,002,321	45.1	1,686,488	38.0	1,410,141	31.7	907,426	20.4	348,320	7.8
1970	29,451,976	4,843,602	16.4	1,818,815	37.6	3,024,786	62.4	2,185,319	45.1	1,828,757	37.8	1,525,188	31.5	965,834	19.9	368,276	7.6
6 border and District of Columbia:[3]																	
1968	3,730,317	674,289	18.1	217,186	32.2	457,123	67.8	406,894	60.3	383,693	56.9	368,671	54.7	294,963	43.7	160,552	23.8
1970	3,855,221	717,913	18.6	245,729	34.2	472,184	65.8	405,081	56.4	380,697	53.0	355,839	49.6	294,241	41.0	154,485	21.5
11 southern:[4]																	
1968	11,043,485	3,540,629	32.1	730,874	20.6	2,809,755	79.4	2,578,563	72.8	2,491,587	70.4	2,424,090	68.5	2,269,683	64.1	2,033,933	57.4
1970	11,570,351	3,827,500	33.1	1,442,988	37.7	2,384,512	62.3	1,543,986	40.3	1,263,128	33.0	1,076,071	28.1	753,189	19.7	461,123	12.0

[1] Minute differences between sum of numbers and totals are due to computer rounding.
[2] Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming.
[3] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, West Virginia.
[4] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

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TABLE 2-D.—NONMINORITIES BY GEOGRAPHIC AREA

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY

Area	Total pupils	Nonminority		Nonminority students attending nonminority schools													
				0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States:																	
1968	43,353,568	34,697,134	80.0	716,981	2.1	33,980,152	97.9	31,069,591	89.5	27,163,133	78.3	22,778,976	65.7	13,030,089	37.6	5,723,597	16.5
1970	44,877,547	35,488,532	79.1	1,196,154	3.4	34,292,378	96.2	29,679,942	83.6	25,570,360	72.1	21,321,681	60.1	11,634,575	32.8	4,631,396	13.1
32 northern and western[2]:																	
1968	28,579,766	24,138,250	84.5	525,693	2.2	23,612,557	97.8	21,740,913	90.1	19,431,236	80.5	16,814,584	69.7	9,881,022	40.9	4,020,213	16.7
1970	29,451,976	24,608,374	83.6	577,170	2.3	24,031,204	97.7	21,945,496	89.2	19,531,985	79.4	16,729,924	68.0	9,261,581	37.6	3,406,296	13.8
6 border and District of Columbia[3]:																	
1968	3,730,317	3,056,028	81.9	37,167	1.2	3,018,860	98.8	2,768,130	90.6	2,442,230	79.9	2,030,382	66.4	1,297,736	42.5	738,408	24.2
1970	3,855,221	3,137,308	81.4	45,198	1.4	3,092,110	98.6	2,805,336	89.4	2,452,925	78.2	2,009,991	64.1	1,175,126	37.5	636,746	20.3
11 southern[4]:																	
1968	11,043,485	7,502,856	67.9	154,121	2.1	7,348,736	97.9	6,560,549	87.4	5,289,667	70.5	3,934,010	52.4	1,851,330	24.7	964,977	12.6
1970	11,570,351	7,742,850	66.9	573,786	7.4	7,169,064	92.6	4,929,110	63.7	3,585,450	46.3	2,581,766	33.3	1,197,868	15.5	588,354	7.6

[1] Minute differences between sum of numbers and totals are due to computer rounding.
[2] Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming.
[3] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, West Virginia.
[4] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

TABLE 3-A.—NEGROES IN 100 LARGEST (1970) SCHOOL DISTRICTS, RANKED BY SIZE

NUMBER[1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY

Districts	Total pupils	Negro		Negroes attending minority schools—													
				0–49.9 percent		50–100 percent		80–100 percent		90–100 percent		95–100 percent		99–100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
New York, N.Y.:																	
1968	1,063,787	334,841	31.5	65,824	19.7	269,017	80.3	202,517	60.5	174,846	52.2	146,945	43.9	88,233	26.4	34,033	10.2
1970	1,140,359	393,516	34.5	63,981	16.3	329,535	83.7	258,655	65.7	227,673	57.9	185,766	47.2	126,879	32.2	46,947	11.9
Los Angeles, Calif.:																	
1968	653,549	147,738	22.6	7,012	4.7	140,726	95.3	130,272	88.2	122,678	83.0	116,017	78.5	77,026	52.1	18,118	12.3
1970	642,895	154,926	24.1	9,121	5.9	145,805	94.1	134,889	87.1	129,039	83.3	122,779	79.3	85,923	55.5	13,551	8.7
Chicago, Ill.:																	
1968	582,274	308,266	52.9	9,742	3.2	298,524	96.8	278,219	90.3	266,928	86.6	263,159	85.4	234,045	75.9	146,152	47.4
1970	577,679	316,711	54.8	9,502	3.0	307,209	97.0	290,694	91.8	284,013	89.7	270,587	85.4	236,143	74.6	143,900	45.5
Detroit, Mich.:																	
1968	296,097	175,316	59.2	15,781	9.0	159,535	91.0	138,623	79.1	120,993	69.0	103,590	59.1	66,069	37.7	18,510	10.6
1970	284,396	181,538	63.8	10,618	5.8	170,920	94.2	143,946	79.3	134,222	73.9	120,209	66.2	65,349	36.0	24,809	13.7
Philadelphia, Pa.:																	
1968	282,617	166,083	58.8	15,880	9.6	150,203	90.4	127,641	76.9	111,477	67.1	99,277	59.8	72,174	43.5	7,201	4.3
1970	279,829	169,334	60.5	12,541	7.4	156,793	92.6	135,866	80.2	118,596	70.0	106,782	63.1	78,508	46.4	8,668	5.1
Houston, Tex.:																	
1968	246,098	81,966	33.3	4,318	5.3	77,648	94.7	74,482	90.9	72,101	88.0	70,816	86.4	64,907	97.2	52,854	64.5
1970	241,139	85,965	35.6	7,202	8.4	78,763	91.6	73,373	85.4	63,373	73.7	55,895	65.0	29,734	34.6	7,604	8.8
Dade County, Fla. (Miami):																	
1968	232,465	56,518	24.3	7,032	12.4	49,486	87.6	46,362	82.0	45,634	80.7	43,664	77.3	41,115	72.7	27,482	48.6
1970	240,447	60,957	25.4	13,254	21.7	47,703	78.3	32,352	53.1	25,514	41.9	20,317	33.3	12,550	20.6	7,498	12.3
Baltimore City, Md.:																	
1968	192,171	125,174	65.1	9,646	7.7	115,528	92.3	104,886	83.8	98,417	78.6	94,825	75.8	82,629	66.0	54,505	43.5
1970	192,458	129,220	67.1	12,122	9.4	117,098	90.6	104,688	81.0	102,358	79.2	95,838	74.2	87,731	67.9	55,378	42.9
Dallas, Tex.:																	
1968	159,924	49,235	30.8	1,045	2.1	48,190	97.9	45,777	93.0	43,152	87.6	40,431	82.1	26,131	53.1	15,807	32.1
1970	164,736	55,648	33.8	1,528	2.7	54,120	97.3	52,380	94.1	50,884	91.4	47,246	84.9	37,505	67.4	12,899	23.2
Prince George's County, Md. (D.C. area):																	
1968	146,976	22,313	15.2	12,525	56.1	9,788	43.9	5,705	25.6	4,618	20.7	4,618	20.7	3,688	16.5	3,112	13.9
1970	160,897	31,994	19.9	13,040	40.8	18,954	59.2	11,190	35.0	6,470	20.2	3,938	12.3	2,375	7.4	724	2.3
Cleveland, Ohio:																	
1968	156,054	87,241	55.9	4,156	4.8	83,085	95.2	79,221	90.8	75,048	86.0	69,728	79.9	59,174	67.8	21,516	24.7
1970	153,619	88,558	57.6	3,725	4.2	84,833	95.8	80,505	90.9	79,015	89.2	75,162	84.9	60,050	67.8	30,852	34.8
Memphis, Tenn.:																	
1968	125,813	67,395	53.6	1,765	2.6	65,630	97.4	64,290	95.4	62,482	92.7	62,132	92.2	56,181	83.4	49,381	73.3
1970	148,304	76,303	51.5	4,979	6.5	71,324	93.5	68,751	90.1	68,268	89.5	63,749	83.5	56,327	73.8	37,979	49.8
Washington, D.C.:																	
1968	148,725	139,006	93.5	1,253	.9	137,753	99.1	134,166	96.5	130,958	94.2	123,939	89.2	95,608	68.8	38,701	27.8
1970	145,330	137,502	94.6	1,674	1.2	135,828	98.8	133,421	97.0	130,688	95.0	127,792	92.9	95,261	69.3	46,117	33.5
Baltimore Md.:																	
1968	123,717	4,299	3.5	4,299	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	133,674	5,097	3.8	5,097	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Fairfax County, Va., (D.C. aree):																	
1968	122,107	3,322	2.7	3,322	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	133,368	4,214	3.2	4,214	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Milwaukee, Wis.:																	
1968	130,445	31,130	23.9	3,849	12.4	27,281	87.6	23,620	75.9	19,666	63.2	14,783	47.5	9,288	29.8	4,819	15.5
1970	132,349	34,355	26.0	4,197	12.2	30,158	87.8	26,193	76.2	20,740	60.4	15,590	45.4	3,939	11.5	0	0
San Diego, Calif.:																	
1968	128,914	15,004	11.6	3,767	25.1	11,237	74.9	9,643	64.3	8,203	54.7	5,732	38.2	448	3.0	0	0
1970	128,783	16,008	12.4	5,146	32.1	10,862	67.9	9,017	56.3	7,428	46.4	3,522	22.0	0	0	0	0
Montgomery County, Md.:																	
1968	121,458	4,872	4.0	4,872	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	125,343	6,454	5.1	6,454	100.0	0	0	0	0	0	0	0	0	0	0	0	0

Districts	Total pupils	Negro		Negroes attending minority schools—													
				0–49.9 percent		50–100 percent		80–100 percent		90–100 percent		95–100 percent		99–100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Duval County, Fla. (Jacksonville):																	
1968	122,637	34,638	28.2	4,362	12.6	30,276	87.4	30,276	87.4	30,276	87.4	30,276	87.4	29,446	85.0	26,556	76.7
1970	122,493	36,054	29.4	9,237	25.6	26,817	74.4	20,747	57.5	19,794	54.9	19,794	54.9	19,794	54.9	13,345	37.0
Broward County, Fla. (Ft. Lauderdale):																	
1968	103,003	24,516	23.8	3,556	14.5	20,960	85.5	19,545	79.7	19,545	79.7	19,545	79.7	19,075	77.8	16,882	68.9
1970	117,324	27,230	23.2	14,189	52.1	13,041	47.9	11,201	41.1	10,664	39.2	9,212	33.8	6,069	22.3	4,303	15.8
St. Louis, Mo.:																	
1968	115,582	73,408	63.5	5,244	7.1	68,164	92.9	65,321	89.0	64,282	87.6	63,255	86.2	55,632	75.8	36,651	49.9
1970	111,233	72,965	65.6	1,827	2.5	71,138	97.5	64,166	87.9	60,371	82.7	58,794	80.6	57,435	78.7	36,316	49.8
Orleans Parish, La. (New Orleans):																	
1968	110,783	74,378	67.1	6,569	8.8	67,809	91.2	61,942	83.3	60,407	81.2	60,407	81.2	59,700	80.3	46,320	62.3
1970	109,856	76,388	69.5	5,925	7.6	70,463	92.2	62,567	81.9	60,034	78.6	56,996	74.6	54,293	71.1	37,053	48.5
Columbus, Ohio:																	
1968	110,699	28,729	26.0	8,263	28.8	20,466	71.2	16,341	56.9	11,691	40.7	7,222	25.1	2,873	10.0	890	3.1
1970	109,329	29,440	26.9	7,614	25.9	21,826	74.1	15,604	53.0	13,313	45.2	7,181	24.4	1,724	5.9	655	2.2
Indianapolis, Ind.:																	
1968	108,587	36,577	33.7	8,205	22.4	28,372	77.6	22,872	62.5	21,064	57.6	19,347	52.9	13,728	37.5	3,945	10.8
1970	106,239	38,044	35.8	7,785	20.5	30,259	79.5	22,925	60.3	21,156	55.6	18,331	48.2	11,971	31.5	3,318	8.7
Atlanta, Ga.:																	
1968	111,227	68,662	61.7	3,728	5.4	64,934	94.6	63,050	91.8	61,796	90.0	61,796	90.0	61,297	89.3	53,644	78.1
1970	105,598	72,523	68.7	4,777	6.6	67,746	93.4	63,111	87.0	56,531	77.9	53,863	74.3	47,418	65.4	24,332	33.6
Hillsborough County, Fla. (Tampa):																	
1968	100,985	19,225	19.0	3,513	18.3	15,712	81.7	14,886	77.4	14,097	73.3	13,604	70.8	13,604	70.8	12,371	64.3
1970	105,347	20,417	19.4	4,771	23.4	15,646	76.6	12,832	62.8	10,095	49.4	8,426	41.3	5,280	25.9	2,303	11.3
Denver, Colo.:																	
1968	96,577	13,639	14.1	2,732	20.0	10,907	80.0	8,993	65.9	7,647	56.1	7,539	55.3	2,862	21.0	0	0
1970	97,928	14,434	14.7	6,431	44.6	8,003	55.4	6,426	44.5	5,406	37.5	5,332	36.9	947	6.6	0	0
Boston, Mass.:																	
1968	94,174	25,482	27.1	5,943	23.3	19,539	76.7	13,878	54.5	10,983	43.1	8,558	33.6	4,936	19.4	79	.3
1970	96,696	28,822	29.8	5,174	18.0	23,648	82.0	18,757	65.1	15,205	52.8	11,967	39.4	6,420	22.3	3,172	11.0
Nashville-Davidson Counties, Tenn.:																	
1968	93,720	22,561	24.1	3,794	16.8	18,767	83.2	15,656	69.4	13,835	61.3	12,746	56.5	12,256	54.3	11,696	51.8
1970	95,313	23,473	24.6	5,877	25.0	17,596	75.0	15,727	67.0	14,643	62.4	11,674	49.7	9,276	39.5	4,942	21.1
Jefferson County, Ky. (Louisville area):																	
1968	85,846	3,213	3.7	2,365	73.6	848	26.4	848	26.4	848	26.4	848	26.4	848	26.4	0	0
1970	93,454	3,382	3.6	2,738	81.3	644	19.0	644	19.0	644	19.0	644	19.0	644	19.0	0	0
San Francisco, Calif.:																	
1968	94,154	25,923	27.5	4,024	15.5	21,899	84.5	12,079	46.6	8,904	34.3	5,275	20.3	1,317	5.1	110	.4
1970	91,150	25,988	28.5	3,681	14.2	22,307	85.8	14,417	55.5	8,239	31.7	6,776	26.1	741	2.9	281	1.1
Fort Worth, Tex.:																	
1968	86,528	21,398	24.7	2,065	9.7	19,333	90.3	18,283	85.4	18,283	85.4	18,283	85.4	16,389	76.6	12,991	60.7
1970	88,095	23,542	26.7	2,309	9.8	21,233	90.2	18,845	80.0	17,725	75.3	17,289	73.4	15,363	65.3	11,399	48.4
De Kalb County, Ga. (Decatur):																	
1968	77,967	4,124	5.3	1,841	44.6	2,283	55.4	1,939	47.0	1,939	47.0	1,939	47.0	1,939	47.0	421	10.2
1970	85,859	5,379	6.3	3,793	70.5	1,586	29.5	793	14.7	793	14.7	48	.9	48	.9	48	.9
Orange County, Fla. (Orlando):																	
1968	76,089	13,055	17.2	2,627	20.1	10,428	79.9	10,064	77.1	10,064	77.1	10,064	77.1	10,064	77.1	10,064	77.1
1970	85,270	15,398	18.1	6,265	40.7	9,133	59.3	8,005	52.0	5,125	33.3	4,090	26.6	2,553	16.6	2,553	16.6
Pinellas County, Fla. (Clearwater):																	
1968	78,466	12,715	16.2	2,762	21.7	9,953	78.3	9,303	73.2	9,169	72.1	9,169	72.1	8,147	64.1	3,298	25.9
1970	85,117	13,766	16.2	6,264	45.5	7,502	54.5	2,881	20.9	2,749	20.0	2,749	20.0	2,270	16.5	667	4.8
Cincinnati, Ohio:																	
1968	86,807	37,275	42.9	8,171	21.9	29,104	78.1	18,957	50.9	16,347	43.9	12,652	33.9	10,903	29.3	6,291	16.9
1970	84,199	37,853	45.0	6,399	16.9	31,454	83.1	20,661	54.6	14,954	39.5	12,068	31.9	10,266	27.1	5,924	15.7
Seattle, Wash.:																	
1968	94,025	10,376	11.0	4,647	44.8	5,729	55.2	2,531	24.4	843	8.1	0	0	0	0	0	0
1970	83,924	10,736	12.8	4,358	40.6	6,378	59.4	2,690	25.1	330	3.1	330	3.1	0	0	0	0
Albuquerque, N. Mex.:																	
1968	79,669	1,897	2.4	523	27.6	1,374	72.4	971	51.2	596	31.4	174	9.2	169	8.9	0	0
1970	83,781	2,048	2.4	742	36.2	1,306	63.8	779	38.0	555	27.1	191	9.3	0	0	0	0
Charlotte-Mecklenburg County, N.C.:																	
1968	83,111	24,241	29.2	6,704	27.7	17,537	72.3	16,506	68.1	14,274	58.9	14,274	58.9	13,863	57.2	9,459	39.0
1970	82,507	25,404	30.8	23,050	90.7	2,354	9.3	1,053	4.1	445	1.8	76	.3	0	0	0	0
Newark, N.J.:																	
1968	75,960	55,057	72.5	1,174	2.1	53,883	97.9	48,686	88.4	47,131	85.6	41,746	75.8	29,738	54.0	10,807	19.3
1970	78,456	56,651	72.2	1,620	2.9	55,031	97.1	51,685	91.2	48,959	86.4	46,541	82.2	35,843	63.3	11,217	19.8
Tulsa, Okla.:																	
1968	79,990	9,728	12.2	1,518	15.6	8,210	84.4	7,493	77.0	7,493	77.0	5,900	60.6	5,900	60.6	4,447	45.7
1970	77,822	10,672	13.7	2,933	27.5	7,739	72.5	7,332	68.7	7,332	68.7	6,153	57.7	3,078	28.8	1,887	17.7
San Antonio, Tex.:																	
1968	79,353	11,637	14.7	1,234	10.6	10,403	89.4	9,963	85.6	9,923	85.3	9,519	81.8	6,522	56.0	6,137	52.7
1970	77,253	11,853	15.3	1,099	9.3	10,754	90.7	7,950	67.1	7,124	60.1	6,096	51.4	3,395	28.6	1,310	11.1
Portland, Oreg.:																	
1968	78,413	6,388	8.1	3,664	57.4	2,724	42.6	1,589	24.9	1,307	20.5	0	0	0	0	0	0
1970	76,206	7,008	9.2	4,352	62.1	2,656	37.9	1,494	21.3	1,217	17.4	0	0	0	0	0	0
Anne Arundel County Md. (Annapolis):																	
1968	65,745	8,923	13.6	7,161	80.3	1,762	19.7	222	2.5	0	0	0	0	0	0	0	0
1970	74,021	9,587	13.0	7,547	78.7	2,040	21.3	335	3.5	229	2.4	0	0	0	0	0	0
Clark County, Nev. (Las Vegas):																	
1968	67,526	8,233	12.2	3,961	48.1	4,272	51.9	4,272	51.9	4,272	51.9	3,626	44.0	699	8.5	0	0
1970	73,822	9,567	13.0	5,960	62.3	3,607	37.7	2,870	30.0	2,870	30.0	2,870	30.0	2,472	25.8	515	5.4
Pittsburgh, Pa.:																	
1968	76,268	29,898	39.2	6,373	21.3	23,525	78.7	17,936	60.0	15,699	52.5	12,779	42.7	11,588	38.8	2,925	9.8
1970	73,481	29,595	40.3	6,900	23.3	22,695	76.7	17,009	57.5	16,714	56.5	13,596	45.9	9,942	33.6	3,905	13.2
Kansas City, Mo.:																	
1968	74,202	34,692	46.8	4,865	14.0	29,827	86.0	27,083	78.1	24,231	69.8	23,331	67.3	17,460	50.3	5,050	14.6
1970	70,503	35,375	50.2	3,301	9.3	32,07	90.7	29,504	83.4	26,446	74.8	23,342	66.0	20,344	57.5	5,275	14.9

Footnotes at end of table.

XUM

TABLE 3-A.—NEGROES IN 100 LARGEST (1970) SCHOOL DISTRICTS, RANKED BY SIZE—Continued

NUMBER [1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND FALL 1970, ELEMENTARY AND SECONDARY SCHOOL SURVEY—Continued

Districts	Total pupils	Negro		Negroes attending minority schools—													
				0-49.9 percent		50-100 percent		80-100 percent		90-100 percent		95-100 percent		99-100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Buffalo, NY.:																	
1968	72,115	26,381	36.6	7,113	27.0	19,268	73.0	17,161	65.1	16,503	62.6	16,122	61.1	11,562	43.8	1,474	5.6
1970	70,305	27,069	38.5	7,249	26.8	19,820	73.2	16,172	59.7	15,181	56.1	14,934	55.2	13,168	48.6	1,785	6.6
Oklahoma City, Okla.:																	
1968	74,727	16,255	21.6	2,037	12.5	14,218	87.5	13,542	83.3	13,542	83.3	12,963	79.7	9,749	60.0	924	5.7
1970	70,042	16,109	23.0	3,442	21.4	12,667	78.6	12,095	75.1	12,095	75.1	12,095	75.1	10,911	67.7	3,672	22.8
Long Beach, Calif.:																	
1968	72,065	5,489	7.6	2,011	36.6	3,478	63.4	679	12.4	0	0	0	0	0	0	0	0
1970	69,927	6,349	9.1	2,219	35.0	4,130	65.0	0	0	0	0	0	0	0	0	0	0
Mobile County, Ala.:																	
1968	75,464	31,441	41.7	3,442	10.9	27,999	89.1	27,519	87.5	27,519	87.5	26,831	85.3	26,831	85.3	18,832	59.9
1970	69,791	31,034	44.5	5,658	18.2	25,376	81.8	16,888	54.4	14,618	47.1	12,908	41.3	9,635	31.0	3,141	10.1
Oakland, Calif.:																	
1968	64,102	35,386	55.2	1,958	5.5	33,428	94.5	27,292	77.1	22,452	63.4	18,604	46.9	8,062	22.8	1,661	4.7
1970	67,830	38,567	56.9	2,498	6.5	36,069	39.5	28,988	75.2	22,601	58.6	18,465	47.9	5,102	13.2	991	2.6
Jefferson County, Colo. (Lakewood):																	
1968	60,367	60	.1	60	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	67,675	71	.1	71	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Minneapolis, Minn.:																	
1968	70,006	5,255	7.5	3,722	70.8	1,533	29.2	0	0	0	0	0	0	0	0	0	0
1970	66,938	5,935	8.9	3,416	57.6	2,519	42.4	0	0	0	0	0	0	0	0	0	0
Palm Beach, County, Fla.:																	
1968	61,715	17,158	27.8	3,191	18.6	13,967	81.4	13,636	79.5	13,074	76.2	13,074	76.2	12,409	72.3	12,409	72.3
1970	66,760	18,338	27.5	4,597	25.1	13,741	74.9	7,445	40.6	5,392	29.4	2,184	11.9	462	2.5	0	0
East Baton Rouge, Parish, La.:																	
1968	63,725	23,751	37.3	1,333	5.6	22,418	94.4	22,362	94.2	21,617	91.0	21,617	91.0	21,330	89.8	19,007	80.0
1970	64,198	24,785	38.6	5,457	22.0	19,328	78.0	17,810	71.9	17,022	68.7	15,812	63.0	13,414	54.1	7,211	29.1
Wichita, Kan.:																	
1968	68,391	8,913	13.0	4,058	45.5	4,855	54.5	4,757	53.4	4,222	47.4	4,222	47.4	1,386	15.6	0	0
1970	63,811	9,362	14.7	6,025	64.4	3,337	35.6	2,950	31.5	2,950	31.5	2,260	24.1	975	10.4	371	4.0
Jefferson Parish, La. (Gretna):																	
1968	59,485	12,812	21.5	2,632	20.5	10,180	79.5	10,180	79.5	10,180	79.5	10,180	79.5	10,180	79.5	10,180	79.5
1970	63,572	13,201	20.8	6,425	48.7	6,776	51.3	4,791	36.3	4,186	31.7	2,577	19.5	2,577	19.5	2,577	19.5
Omaha, Nebr.:																	
1968	62,431	11,284	18.1	2,309	20.5	8,975	79.5	6,201	55.0	4,408	39.1	4,321	38.3	674	6.0	0	0
1970	63,516	11,786	18.6	3,145	26.7	8,641	73.3	7,582	64.3	5,663	48.0	3,069	26.0	825	7.0	0	0
Granite, Utah (Salt Lake City):																	
1968	62,236	59	.1	59	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	62,767	83	.1	83	100.0	0	0	0	0	0	0	0	0	0	0	0	0
El Paso, Tex.:																	
1968	62,105	1,804	2.9	1,114	61.8	690	38.2	510	28.3	468	25.9	379	21.0	194	10.8	78	4.3
1970	62,545	1,887	3.0	1,090	57.3	797	42.2	383	20.3	350	18.5	284	15.1	193	10.2	60	3.2
Birmingham, Ala.:																	
1968	66,434	34,156	51.4	2,472	7.2	31,684	92.8	31,649	92.7	31,290	91.6	30,810	90.2	30,810	90.2	28,906	84.6
1970	61,994	33,869	54.6	5,338	15.8	28,531	84.2	24,887	73.5	23,601	69.7	21,831	64.5	18,630	55.0	11,360	33.5
Brevard County Fla. (Titusville):																	
1968	62,563	6,327	10.1	4,416	69.8	1,911	30.2	1,911	30.2	1,911	30.2	1,911	30.2	1,911	30.2	1,911	30.2
1970	61,908	6,618	10.7	5,876	88.9	742	11.2	742	11.2	742	11.2	742	11.2	0	0	0	0
Toledo, Ohio:																	
1968	61,684	16,473	26.7	3,725	22.6	12,748	77.4	10,553	64.1	8,626	52.4	6,752	41.0	2,164	13.1	1,817	9.8
1970	61,699	16,407	26.6	3,954	24.1	12,453	75.9	9,725	59.3	7,957	48.5	6,187	37.7	4,303	26.2	579	3.5
Jefferson County, Ala. (Birmingham area):																	
1968	65,328	18,186	27.8	538	3.0	17,648	97.0	17,579	96.7	17,579	96.7	17,579	96.7	17,579	96.7	17,579	96.7
1970	59,717	16,776	28.1	3,240	19.3	13,536	80.7	13,159	78.4	13,026	77.6	12,871	76.7	12,871	76.7	8,020	47.8
Fresno, Calif.:																	
1968	58,234	5,251	9.0	831	15.8	4,420	84.2	4,023	76.6	4,023	76.6	3,808	72.5	2,575	49.0	593	11.3
1970	57,508	5,133	8.9	1,255	24.4	3,878	75.6	3,441	67.0	2,628	51.2	2,628	51.2	2,073	40.4	16	.3
Charleston County, S.C.:																	
1968	47,178	16,730	35.5	2,140	12.8	14,590	87.2	14,091	84.2	14,091	84.2	14,091	84.2	14,091	84.2	14,091	84.2
1970	57,410	27,059	47.1	8,332	30.9	18,727	69.2	16,197	59.9	14,539	53.7	12,764	47.2	9,066	33.5	3,675	13.6
Tucson, Ariz.:																	
1968	53,667	2,767	5.2	524	18.9	2,243	81.1	955	34.5	656	23.7	380	13.7	148	5.3	0	0
1970	57,346	3,088	5.4	835	27.0	2,253	73.0	1,068	34.6	573	18.5	398	12.9	0	0	0	0
Greenville County, S.C.:																	
1968	56,306	12,453	22.1	1,839	14.8	10,614	85.2	10,378	83.3	10,378	83.3	10,378	83.3	10,378	83.3	9,258	74.3
1970	57,222	12,788	22.3	12,594	98.5	194	1.5	72	.6	0	0	0	0	0	0	0	0
Dayton, Ohio:																	
1968	59,527	22,790	38.3	2,488	10.9	20,302	89.1	18,837	82.7	18,837	82.7	17,574	77.1	14,198	62.3	5,061	22.2
1970	56,609	23,013	40.7	2,990	13.0	20,023	87.0	17,900	77.8	16,897	73.4	16,897	73.4	13,847	60.2	2,183	9.5
Akron, Ohio:																	
1968	58,589	15,137	25.8	5,705	37.7	9,432	62.3	5,958	39.4	3,584	23.7	3,133	20.7	1,264	8.4	588	3.9
1970	56,426	15,413	27.3	5,624	36.5	9,789	63.5	7,594	49.3	3,661	23.8	2,936	19.0	1,121	7.3	0	0
San Juan, Calif. (Carmichael):																	
1968	53,174	134	.3	134	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	55,621	217	.4	217	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Norfolk, Va.:																	
1968	56,029	23,499	41.9	2,701	11.5	20,798	88.5	19,341	82.3	18,706	79.6	18,322	78.0	17,236	73.3	11,648	49.6
1970	55,117	24,757	44.9	8,139	32.9	16,618	67.1	13,827	55.9	11,469	46.3	9,954	40.2	9,299	37.6	6,457	26.1
Austin, Tex.:																	
1968	51,760	7,783	15.0	1,022	13.1	6,761	86.9	6,691	86.0	6,587	84.6	5,063	65.1	4,485	57.6	1,728	22.2
1970	54,974	8,284	15.1	1,323	16.0	6,961	84.0	6,507	78.5	6,507	78.5	5,541	66.9	3,548	42.8	1,216	14.7
Polk County, Fla. (Bartow):																	
1968	52,255	11,652	22.3	3,815	32.7	7,837	67.3	7,769	66.7	7,769	66.7	7,769	66.7	7,769	66.7	7,769	66.7
1970	54,380	11,899	21.9	8,622	72.5	3,277	27.5	1,444	12.1	1,353	11.4	619	5.2	0	0	0	0

Districts	Total pupils	Negro		Negroes attending minority schools—													
				0-49.9 percent		50-100 percent		80-100 percent		90-100 percent		95-100 percent		99-100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Caddo Parish, La. (Shreveport):																	
1968	60,483	26,429	43.7	649	2.5	25,780	97.5	25,734	97.4	25,734	97.4	25,734	97.4	25,734	97.4	24,844	94.0
1970	53,866	26,401	49.0	6,777	25.7	19,624	74.3	17,959	68.0	17,200	65.1	16,419	62.2	13,864	52.5	11,740	44.5
Louisville, Ky.:																	
1968	55,212	25,470	46.1	3,432	13.5	22,038	86.5	16,525	64.9	13,418	52.7	13,418	52.7	6,827	26.8	1,996	7.8
1970	53,187	25,674	48.3	3,013	11.7	22,661	88.3	19,884	77.4	17,556	68.4	13,522	52.7	8,527	33.2	1,094	4.3
Kanawha County, W. Va. (Charleston):																	
1968	56,118	3,548	6.3	2,905	81.9	643	18.1	0	0	0	0	0	0	0	0	0	0
1970	52,888	3,404	6.4	2,934	86.2	470	13.8	0	0	0	0	0	0	0	0	0	0
Garden Grove, Calif.:																	
1968	52,908	83	.2	83	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	52,684	110	.2	110	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Sacramento, Calif.:																	
1968	52,545	7,324	13.9	5,150	70.3	2,174	29.7	387	5.3	259	3.5	0	0	0	0	0	0
1970	52,218	8,012	15.3	5,273	65.8	2,739	34.2	302	3.8	264	3.3	264	3.3	0	0	0	0
St. Paul, Minn.:																	
1968	50,338	2,917	5.8	2,556	87.6	361	12.4	361	12.4	361	12.4	361	12.4	0	0	0	0
1970	49,732	3,163	6.4	2,043	64.6	1,120	35.4	340	10.7	340	10.7	340	10.7	0	0	0	0
Winston-Salem-Forsyth County, N.C.:																	
1968	49,831	13,798	27.7	2,111	15.3	11,687	84.7	11,687	84.7	11,643	84.4	11,643	84.4	10,952	79.4	9,778	70.9
1970	49,514	13,727	27.7	5,077	37.0	8,650	63.0	7,884	57.4	7,822	57.0	7,822	57.0	7,337	53.4	6,015	43.8
Mt. Diablo, Calif.:																	
1968	48,351	369	.8	369	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	48,395	416	.9	416	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Richmond, Va.:																	
1968	43,115	29,441	68.3	1,890	6.4	27,551	93.6	26,092	88.6	24,900	84.6	24,900	84.6	24,366	82.8	22,971	78.0
1970	47,988	30,785	64.2	3,609	11.7	27,176	88.3	17,485	56.8	13,776	44.7	8,680	28.2	8,680	28.2	2,954	9.6
Escambia County,																	
1968	46,875	12,824	27.6	2,904	22.5	10,020	77.5	9,216	71.3	9,046	70.0	9,046	70.0	9,046	70.0	9,046	70.0
1970	46,987	13,443	28.6	5,548	41.3	7,895	58.7	2,225	16.6	515	3.8	0	0	0	0	0	0
Gary, Ind.:																	
1968	48,431	29,826	61.6	916	3.1	28,910	96.9	27,057	90.7	25,347	85.0	24,110	80.8	23,265	78.0	9,652	32.4
1970	46,595	30,169	64.7	1,060	3.5	29,108	96.5	27,673	91.7	25,850	85.7	24,009	79.6	19,544	64.8	11,781	39.1
Corpus Christi, Tex.:																	
1968	46,110	2,496	5.4	43	1.7	2,453	98.3	1,960	78.5	1,937	77.6	1,912	76.6	810	32.5	640	25.6
1970	46,292	2,590	5.6	71	2.7	2,519	97.3	2,176	84.0	1,398	54.0	998	38.5	317	12.2	12	.5
Flint, Mich.:																	
1968	46,495	17,212	37.0	4,165	24.2	13,047	75.8	7,297	42.4	6,425	37.3	6,425	37.3	1,193	6.9	0	0
1970	45,659	18,475	40.5	3,512	19.0	14,963	81.0	7,051	38.2	5,621	30.4	4,816	26.1	1,367	7.4	385	2.1
Rochester, N.Y.:																	
1968	47,372	13,679	28.9	6,232	45.6	7,447	54.4	4,708	34.4	3,792	27.7	1,652	12.1	0	0	0	0
1970	45,500	15,082	33.1	6,161	40.9	8,921	59.1	6,661	44.2	3,651	24.2	3,651	24.2	652	4.3	0	0
Des Moines, Iowa:																	
1968	46,532	3,611	7.8	2,057	57.0	1,554	43.0	408	11.3	0	0	0	0	0	0	0	0
1970	45,375	3,751	8.3	2,193	58.5	1,558	41.5	24	.6	0	0	0	0	0	0	0	0
Shawnee Mission, Kans. (Kansas City area): [2]																	
1970	45,289	140	.3	140	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Virginia Beach, Va.:																	
1968	41,272	4,372	10.6	2,719	62.2	1,653	37.8	1,653	37.8	1,653	37.8	1,653	37.8	1,278	29.2	1,278	29.2
1970	45,245	4,793	10.6	4,187	87.4	606	12.6	606	12.6	606	12.6	0	0	0	0	0	0
Cobb County, Ga. (Marietta):																	
1968	40,918	1,336	3.3	1,246	93.3	89	6.7	90	6.7	90	6.7	90	6.7	90	6.7	90	6.7
1970	44,504	1,397	3.1	1,397	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Fort Wayne, Ind.:																	
1968	41,595	5,760	13.8	1,552	26.9	4,208	73.1	3,291	57.1	1,856	32.2	1,328	23.1	0	0	0	0
1970	43,400	6,492	15.0	1,921	29.6	4,571	70.4	3,194	49.2	2,634	40.6	512	7.9	0	0	0	0
Rockford, Ill.:																	
1968	36,975	4,434	12.0	2,583	58.5	1,841	41.5	472	10.6	0	0	0	0	0	0	0	0
1970	43,116	5,300	12.3	2,965	55.9	2,335	44.1	412	7.8	412	7.8	0	0	0	0	0	0
Muscogee County, Ga. (Columbus):																	
1968	42,373	12,517	29.5	884	7.1	11,633	92.9	10,951	87.5	10,951	87.5	10,757	85.9	10,757	85.9	8,768	70.0
1970	42,010	13,074	31.1	1,564	12.0	11,510	88.0	11,214	85.8	10,572	80.9	10,421	79.7	9,601	73.4	8,093	61.9
Richmond, Calif.:																	
1968	43,123	10,424	24.2	4,006	38.4	6,418	61.6	4,522	43.4	3,627	34.8	2,819	27.0	1,143	11.0	534	5.1
1970	41,492	11,389	27.4	5,730	50.3	5,659	49.7	3,781	33.2	3,405	29.9	3,405	29.9	1,621	14.2	343	3.0
Chatham County, Ga. (Savannah):																	
1968	42,416	17,449	41.1	1,620	9.3	15,829	90.7	15,102	86.5	15,102	86.5	15,102	86.5	15,102	86.5	13,460	77.1
1970	40,897	17,963	43.9	3,499	19.5	14,464	80.5	12,056	67.1	11,587	64.5	8,711	48.5	4,226	23.5	2,804	15.6
Compton, Calif.: [2]																	
1970	40,364	33,486	83.0	0	0	33,486	100.0	31,056	92.7	30,299	90.5	27,864	83.2	19,575	58.5	5,303	15.8
Spring Branch, Tex. (Houston area):																	
1968	35,704	15	0	15	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	39,771	22	.1	22	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Total (98 districts):																	
1968 [2]	10,328,038	3,195,127	30.9	415,162	13.0	2,779,965	87.0	2,468,005	77.2	2,298,320	71.9	2,148,363	67.2	1,745,219	54.6	1,041,396	32.8
1970	10,482,814	3,387,423	32.3	544,109	16.1	2,843,314	83.9	2,431,525	71.8	2,224,162	65.7	2,000,227	59.0	1,513,616	44.7	710,181	21.0

[1] Minute differences between sum of numbers and totals are due to computer rounding.

[2] 1968 data for Shawnee Mission, Kans. and Compton, Calif., are not comparable with 1970 data due to major consolidations that occurred between the 2 survey years. Both 1968 and 1970 data for these 2 districts are omitted from the totals in order to allow comparisons between 1968 and 1970 for the remaining 98 districts.

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TABLE 3-B.—SPANISH SURNAMED AMERICANS IN SELECTED LARGE SCHOOL DISTRICTS, RANKED BY SIZE IN 1970

NUMBER [1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968 AND 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

Districts	Total pupils	Spanish-Americans		Spanish surnamed Americans attending minority schools— 0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
New York, N.Y.:																	
1968	1,063,787	244,302	23.0	28,783	11.8	215,519	88.2	164,020	67.1	135,928	55.6	97,373	39.9	42,110	17.2	5,072	2.1
1970	1,140,359	292,664	25.7	31,534	10.8	261,130	89.2	203,085	69.4	168,283	57.5	125,311	42.8	66,375	22.7	19,843	6.8
Los Angeles, Calif.:																	
1968	653,549	130,450	20.0	42,684	32.7	87,766	67.3	69,088	53.0	54,217	41.6	42,340	32.5	6,348	4.9	647	.5
1970	642,895	140,346	21.8	42,360	30.2	97,986	69.8	70,433	50.2	57,901	41.3	45,964	32.8	4,073	2.9	287	.2
Chicago, Ill.:																	
1968	582,274	49,896	8.6	19,148	38.4	30,738	61.6	15,792	31.7	5,745	11.5	3,022	6.1	542	1.1	183	.4
1970	577,679	56,374	9.8	17,718	31.4	38,656	68.6	19,842	35.2	8,107	14.4	2,834	5.0	631	1.1	143	.3
Houston, Tex.:																	
1968	246,098	31,780	12.9	11,301	35.6	20,479	64.4	12,840	40.4	8,404	26.4	3,803	12.0	654	2.1	178	.6
1970	241,139	34,759	14.4	10,202	29.4	24,557	70.6	17,558	50.5	7,194	20.7	5,688	16.4	961	2.8	114	.3
Dade County Fla. (Miami):																	
1968	232,465	39,487	17.0	15,364	38.9	24,123	61.1	8,566	21.7	4,545	11.5	2,993	7.6	144	.4	32	.1
1970	240,447	49,383	20.5	17,935	36.3	31,448	63.7	18,570	37.6	9,260	18.8	2,956	6.0	199	.4	8	0
Dallas, Tex.:																	
1968	159,924	12,196	7.6	5,447	44.7	6,749	55.3	4,057	33.3	2,195	18.0	1,192	9.8	203	1.7	73	.6
1970	164,736	13,945	8.5	6,495	46.6	7,450	53.4	4,284	30.7	2,899	20.8	1,726	12.4	1,068	7.7	104	.7
San Diego, Calif.:																	
1968	128,914	12,981	10.1	8,485	65.4	4,496	34.6	3,418	26.3	2,492	19.2	1,127	8.7	287	2.2	0	0
1970	128,783	13,595	10.6	8,730	64.2	4,865	35.8	3,361	24.7	2,138	15.7	1,459	10.7	0	0	0	0
Broward County, Fla. (Ft. Lauderdale):																	
1968	103,003	823	.8	762	92.6	61	7.4	61	7.4	61	7.4	61	7.4	42	5.1	42	5.1
1970	117,324	1,886	1.6	1,760	93.3	126	6.7	120	6.4	120	6.4	116	6.2	77	4.1	65	3.4
Hillsborough County, Fla. (Tampa):																	
1968	100,985	6,766	6.7	5,275	78.0	1,491	22.0	534	7.9	104	1.5	70	1.0	70	1.0	68	1.0
1970	105,347	6,756	6.4	5,329	78.9	1,427	21.1	1,046	15.5	289	4.3	208	3.1	157	2.3	148	2.2
Denver, Colo.:																	
1968	96,577	18,611	19.3	8,884	47.7	9,727	52.3	4,981	26.8	1,681	9.0	1,527	8.2	342	1.8	0	0
1970	97,928	21,898	22.4	8,703	39.7	13,195	60.3	5,373	24.5	2,212	10.1	1,538	7.0	225	1.0	0	0
San Francisco, Calif.:																	
1968	94,154	12,217	13.0	4,098	33.5	8,119	66.5	1,164	9.5	240	2.0	112	.9	44	.4	0	0
1970	91,150	12,389	13.6	3,083	24.9	9,306	75.1	2,854	23.0	206	1.7	122	1.0	18	.1	4	0
Fort Worth, Tex.:																	
1968	86,528	6,937	8.0	4,058	58.5	2,879	41.5	452	6.5	452	6.5	452	6.5	37	.5	29	.4
1970	88,095	8,105	9.2	3,846	47.5	4,259	52.5	853	10.5	445	5.5	412	5.1	29	.4	20	.2
Albuquerque, N. Mex.:																	
1968	79,669	28,151	35.3	7,913	28.1	20,238	71.9	7,846	27.9	2,381	8.5	947	3.4	96	.3	0	0
1970	83,781	30,844	36.8	9,027	29.3	21,817	70.7	8,162	26.5	5,083	16.5	1,637	5.3	0	0	0	0
Newark, N.J.:																	
1968	75,960	7,046	9.3	516	7.3	6,530	92.7	3,869	54.9	3,382	48.0	2,109	29.9	971	13.8	355	5.0
1970	78,456	10,401	13.3	1,131	10.9	9,270	89.1	5,504	52.9	4,170	40.1	2,747	26.4	1,251	12.0	294	2.8
San Antonio, Tex.:																	
1968	79,353	46,188	58.2	5,731	12.4	40,457	87.6	33,265	72.0	27,697	60.0	23,633	51.2	7,386	16.0	1,357	2.9
1970	77,253	47,487	61.5	4,617	9.7	42,870	90.3	35,180	74.1	27,394	57.7	21,402	45.1	5,102	10.7	159	.3
Buffalo, N.Y.:																	
1968	72,115	1,278	1.8	866	67.8	412	32.2	142	11.1	140	11.0	137	10.7	119	9.3	0	0
1970	70,305	1,620	2.3	937	57.5	688	42.5	202	12.5	127	7.8	120	7.4	107	6.6	5	.3
Long Beach, Calif.:																	
1968	72,065	3,840	5.3	3,100	80.7	740	19.3	37	1.0	0	0	0	0	0	0	0	0
1970	69,927	4,299	6.1	3,395	79.0	904	21.0	0	0	0	0	0	0	0	0	0	0
Oakland, Calif.:																	
1968	64,102	5,241	.82	792	15.1	4,449	84.9	2,570	49.0	1,282	24.5	586	11.2	137	2.6	26	.5
1970	67,830	5,940	8.8	1,038	17.5	4,902	82.5	2,699	45.4	1,320	22.2	900	15.2	56	.9	10	.2
Jefferson County, Colo. (Lakewood):																	
1968	60,367	1,118	1.9	1,118	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	67,675	1,346	2.0	1,346	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Palm Beach County, Fla.:																	
1968	61,715	1,553	2.5	1,252	80.6	301	19.4	189	12.2	22	1.4	22	1.4	18	1.2	18	1.2
1970	66,760	2,199	3.3	1,312	59.7	887	40.3	66	3.0	52	2.4	30	1.4	11	.5	0	0
El Paso, Tex.:																	
1968	62,105	33,639	54.2	5,800	17.2	27,839	82.8	22,439	66.7	20,075	59.7	15,929	47.4	5,820	17.3	2,139	6.4
1970	62,545	34,892	55.8	5,189	14.9	29,703	85.1	22,632	64.9	20,855	59.8	17,730	50.8	7,652	21.9	3,141	9.0
Fresno, Calif.:																	
1968	58,234	11,148	19.1	6,286	56.4	4,862	43.6	1,261	11.3	1,261	11.3	1,077	9.7	489	4.4	5	0
1970	57,508	11,274	19.6	6,606	58.6	4,668	41.4	1,045	9.3	601	5.3	601	5.3	400	3.5	5	0
Tucson, Ariz.:																	
1968	53,667	13,798	25.7	3,061	22.2	10,737	77.8	5,591	40.5	4,904	35.5	2,527	18.3	769	5.6	0	0
1970	57,346	14,902	26.0	3,938	26.4	10,964	73.6	7,486	50.2	4,568	30.7	2,928	19.6	0	0	0	0
San Juan, Calif. (Carmichael):																	
1968	53,174	1,126	2.1	1,126	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	55,621	1,433	2.6	1,433	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Austin, Tex.:																	
1968	51,760	9,956	19.2	3,020	30.3	6,936	69.7	6,432	64.6	5,822	58.5	2,180	21.9	28	.3	0	0
1970	54,974	11,194	20.4	3,390	30.3	7,804	69.7	6,638	59.3	6,638	59.3	4,215	37.7	96	.9	24	.2
Garden Grove, Calif.:																	
1968	52,908	4,862	9.2	4,862	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	52,684	5,764	10.9	5,764	100.0	0	0	0	0	0	0	0	0	0	0	0	0
Sacramento, Calif.:																	
1968	52,545	6,184	11.8	4,441	71.8	1,743	28.2	278	4.5	34	.5	0	0	0	0	0	0
1970	52,218	6,450	12.4	4,450	69.0	2,000	31.0	133	2.1	36	.6	36	.6	0	0	0	0
Mt. Olabio, Calif. (Concord):																	
1968	48,351	1,863	3.9	1,863	100.0	0	0	0	0	0	0	0	0	0	0	0	0
1970	48,395	1,746	3.6	1,746	100.0	0	0	0	0	0	0	0	0	0	0	0	0

Districts	Total pupils	Spanish-Americans		Spanish surnamed Americans attending minority schools— 0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Corpus Christi, Tex.:																	
1968	46,110	21,490	46.6	3,707	17.2	17,783	82.8	14,178	66.0	13,417	62.4	10,508	48.9	3,190	14.8	921	4.3
1970	46,292	22,729	49.1	4,539	20.0	18,190	80.0	15,396	67.7	11,343	49.9	8,674	38.2	2,513	11.1	421	1.9
Rochester, N.Y.:																	
1968	47,372	1,553	3.3	999	64.3	554	35.7	234	15.1	213	13.7	41	2.6	0	0	0	0
1970	45,500	1,853	4.1	1,239	66.9	614	33.1	378	20.4	248	13.4	248	13.4	8	.4	0	0
Richmond, Calif.:																	
1968	43,123	2,253	5.2	1,807	80.2	446	19.8	204	9.1	136	6.0	123	5.5	28	1.2	18	.8
1970	41,492	2,298	5.5	1,869	81.3	429	18.7	117	5.1	107	4.7	107	4.7	66	2.9	4	.2
Compton, Calif.: [2]																	
1970	40,364	4,605	11.4	0	0	4,605	100.0	3,668	79.7	3,458	75.1	2,727	59.2	1,191	25.9	295	6.4
Total (31 districts): [2]																	
1968	4,682,953	768,723	16.4	212,549	27.6	556,174	72.4	383,508	49.9	296,830	38.6	213,891	27.8	69,874	9.1	11,163	1.5
1970	4,792,444	870,771	18.2	220,656	25.3	650,115	74.7	453,017	52.0	341,596	39.2	249,709	28.7	91,075	10.5	24,799	2.8

[1] Minute differences between sum of numbers and totals are due to computer rounding.
[2] 1968 data for Compton, Calif., are not comparable with 1970 data due to a major consolidation with several other districts between the 2 survey years. Both 1968 and 1970 data for this district are omitted from the totals in order to allow comparisons between the 2 years for the remaining 31 districts.

TABLE 4-A.—NEGROES IN 100 LARGEST (1970) SCHOOL DISTRICTS BY GEOGRAPHIC AREA

NUMBER [1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION, FALL 1968, AND 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

Area	Total pupils	Negro		Negroes attending Minority schools— 0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States: [3]																	
1968	10,328,038	3,195,127	30.9	415,162	13.0	2,779,965	87.0	2,468,005	77.2	2,298,320	71.9	2,148,363	67.2	1,745,219	54.6	1,041,396	32.6
1970	10,482,814	3,387,423	32.3	544,109	16.1	2,843,314	83.9	2,431,526	71.8	2,224,162	65.7	2,000,227	59.0	1,513,616	44.7	710,181	21.0
32 Northern and Western: [3] [3]																	
1968	5,747,849	1,796,111	31.2	248,067	13.8	1,548,044	86.2	1,303,789	72.6	1,171,311	65.2	1,047,760	58.3	752,904	41.9	296,376	16.5
1970	5,787,264	1,909,984	33.0	250,812	13.1	1,659,172	86.9	1,399,940	73.3	1,269,931	66.5	1,129,751	59.1	801,715	42.0	316,148	16.6
6 Border and District of Columbia: [4]																	
1968	1,340,469	470,901	35.1	62,122	13.2	408,779	86.8	375,791	79.8	357,807	76.0	343,097	72.9	278,341	59.1	145,386	30.9
1970	1,360,862	487,435	35.8	66,122	13.6	421,313	86.4	383,259	78.6	364,189	74.7	342,118	70.2	286,306	58.7	150,463	30.9
11 Southern: [4]																	
1968	3,239,720	928,115	28.6	104,973	11.3	823,142	88.7	788,425	84.9	769,202	82.9	757,506	81.6	713,974	76.9	599,634	64.6
1970	3,334,688	990,004	29.7	227,175	22.9	762,829	77.1	648,327	65.5	590,042	59.6	528,358	53.4	425,595	43.0	243,570	24.6

[1] Minute differences between sum of numbers and totals are due to computer rounding.
[2] 1968 data for Shawnee Mission, Kans., and Compton, Calif., are not comparable with 1970 data due to major consolidations that occurred between the 2 survey years. Both 1968 and 1970 data for these 2 districts are omitted from the totals in order to allow comparisons between 1968 and 1970 for the remaining 98 districts.
[3] Alaska, Arizona, California, Colorado, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming.
[4] Delaware, District of Columbia, Kentucky, Maryland, Missouri, Oklahoma, West Virginia.
[5] Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

TABLE 4-B.—SPANISH SURNAMED AMERICANS IN 100 LARGEST (1970) SCHOOL DISTRICTS BY AREA OF SIGNIFICANT POPULATION

NUMBER [1] AND PERCENTAGE ATTENDING SCHOOL AT INCREASING LEVELS OF ISOLATION FALL 1968 AND 1970 ELEMENTARY AND SECONDARY SCHOOL SURVEY

Area	Total pupils	Spanish Americans		Spanish Surnamed Americans attending— 0 to 49.9 percent		50 to 100 percent		80 to 100 percent		90 to 100 percent		95 to 100 percent		99 to 100 percent		100 percent	
		Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Continental United States: [3]																	
1964	10,328,038	811,749	7.9	239,871	29.5	571,878	70.5	391,892	48.3	302,343	37.2	216,683	26.7	706,07	8.7	11,373	1.4
1970	10,482,814	924,383	8.8	254,320	27.5	670,063	72.5	464,699	50.3	349,327	37.8	254,526	27.5	92,848	10.0	25,392	2.7
Arizona, California, Colorado, New Mexico, Texas: [3]																	
1968	2,378,981	416,361	17.5	139,916	33.6	276,445	66.4	190,101	45.7	146,690	35.2	108,063	26.0	25,858	6.2	5,393	1.3
1970	2,290,038	448,175	18.9	142,306	31.8	305,869	68.2	204,204	45.6	150,940	33.7	115,139	25.7	22,259	5.0	4,293	1.0
Connecticut, Illinois, New Jersey, New York:																	
1968	1,878,483	304,871	16.2	50,552	16.6	253,819	83.4	184,062	60.5	145,408	47.8	102,682	33.7	43,742	14.4	5,610	1.8
1970	1,955,415	363,291	18.6	52,803	14.5	310,488	85.5	229,016	63.0	180,940	49.8	131,260	36.1	68,372	18.8	20,285	5.6
Florida:																	
1968	937,053	49,431	5.3	23,447	47.4	25,984	52.6	9,350	18.9	4,732	9.6	3,146	6.4	274	.6	160	.3
1970	986,033	61,205	6.2	27,264	44.5	33,941	55.5	19,808	32.4	9,721	15.9	3,310	5.4	444	.7	221	.4
39 other States District of Columbia:																	
1968	5,133,521	41,586	.8	25,956	62.4	15,630	37.6	8,379	20.1	5,513	13.3	2,792	6.7	733	1.8	210	.5
1970	5,151,328	51,712	1.0	31,947	61.8	19,765	38.2	11,671	22.6	7,726	14.9	4,817	9.3	1,773	3.4	583	1.1

[1] Minute differences between sum of numbers and totals are due to computer rounding.
[2] 1968 data for Shawnee Mission, Kan. and Compton, Cal. are not comparable with 1970 data due to major consolidations that occurred between the 2 survey years. Both 1968 and 1970 data for these 2 districts are omitted from the totals in order to allow comparisons between 1968 and 1970 for the remaining 98 districts.

XUM

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Under the previous order, there will now be a period for the transaction of routine morning business, for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Is there morning business?

EXPENDITURES FOR "THINK TANKS"

Mr. MANSFIELD. Mr. President, since the end of the Second World War, large amounts—in some instances, extraordinary amounts—have been contained in the Department of Defense budget for research and development in the Department of Defense. I believe the figure is between $7 and $8 billion for last year and approximately the same amount this year.

To a considerable degree, these funds have been distributed to universities, think tanks, and other institutions and organizations of that kind. In my judgment too much money has been spent in these areas. Think tanks, such as the Rand and other organizations—I believe it is called the Hudson Institute on the East Coast and the Rand Corp. on the West Coast—have been maintained to a considerable extent by appropriation contracts with the Defense Department. Some of their studies, to put it mildly, have been far out—way far out.

I am delighted to note that in recent years there has been a slight shift—and I emphasize the word "slight"—away from the Department of Defense research and development to universities, and that additional impetus has been given to the National Science Foundation and other governmental organizations, which should have the closest contact with the universities as a whole.

I do not think the shift has gone far enough. I think it should go a good deal further, because too much money has been spent on research and development by the Defense Department and too little, in all too many instances, has resulted from the efforts made in the area of exotic weapons and the like.

I am not against the Defense Department, in its research and development branch, maintaining contacts with universities, but I do think there is a line of demarcation which should be observed between military and nonmilitary research and development.

I am delighted that the slight shift which I have mentioned toward the National Science Foundation and other civilian governmental agencies has been able to make a minor improvement, at least, in what I consider the right direction.

There are areas in which the Defense Department should have a close connection with the universities. One of those areas is ROTC—the Reserve Officers Training Corps, of which I fully approve—which is capable of producing civilian-oriented officers, who I believe are of vital necessity in the type of democracy this Republic represents.

So, Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Progressive for November 1971, entitled "The Empire of Think Tanks," by Paul Dickson, and an article published in Book World on October 31, 1971, entitled "Making the Intolerable Tolerable," also based on think tanks, by Paul Dickson.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE EMPIRE OF THINK TANKS

(By Paul Dickson)

Research and Development (R&D) has been growing dramatically in the nation since the end of World War II. Today it is a vast, powerful, and well financed empire within the nation, replete with its own priorities, powers, and pecking order. Atop this empire is a diverse group of institutions called think tanks, which as agents of applied research and policy study have a fateful impact on the nation. The most famous of these think tanks is the RAND Corporation, which has been a prime mover in military research and has had an impact on martial realms ranging from new weapons to the way the U.S. Government chose to fight in Vietnam.

The growing number, strength, and diversity of these research institutions coupled with the gargantuan national commitment to R&D raise important questions for our society. The three most important variables in considering the current state of the empire are its priorities, the quality of its work, and its powers—and the perils of ceding them these powers.

Cancer, it is estimated, will kill a quarter of the 200-odd million Americans now living. One million have it now, and the latest statistics indicate that it presently claims 900 people a day. There is little question that the cure for this disease must ultimately come from the research laboratory; yet the amount spent for cancer research in fiscal year 1970 was only $173 million, which is about one-twentieth of the space research budget for the same year and about one-fiftieth of the amount spent for military research. In fact, one single unmanned 1969 NASA space experiment cost more than half the total research into cancer for the same year. Ironically, that experiment—putting a monkey into orbit in a satellite—ran to more than $100 million and was billed as medical research.

Many in the medical community pointed out that it was unnecessary because its aim of determining the effects of weightlessness of a monkey was repeating, on a less relevant species, the same research that had been and was being carried out on man in the Apollo program. The low priority thus put on cancer research was probably best driven home by Dr. James T. Grace, Jr., director of the Roswell Park Memorial Institute, a leading cancer research group, in a speech before the National Cancer Society in 1970. He noted that if the fiscal 1970 budget was divided up by the number of people in the population, it would work out to a share of $964 for every man, woman, and child. Of this amount $395 goes for defense and of that $125 is spent on the Vietnamese war. In contrast, each American's share for cancer research amounts to *nineteen cents*.

The comparative status of cancer research is just one illustration of the state of national research priorities. Despite the promises and claims to the contrary by politicians, extremely low priority is given not only to curing cancer but also to such projects as new ways to prevent narcotics abuse, to achieve peace through arms control, and to curb ever-increasing air pollution. In addition, research into such general areas as health services, housing, the problems of urban decay, saving the environment, and mass transportation are "also-rans," way down on the list. Where does it all go then? The National Science Foundation says that eighty-five per cent of the government's R&D from 1967 through 1969 went for "national security"—that is, the amalgam of defense, nuclear, and space efforts.

In the vital area of arms control and disarmament the research budget for 1971 amounts to a mere one two-thousandth of the weapons research budget. The nation's research into the means of achieving peace amounts to little more than dabbling. Funds for research by the Arms Control and Disarmament Agency have skidded from $3.6 million in 1969 to an estimated $2.1 million in 1971. John A. Mathews, who heads a novel group advocating a Federal Department of Peace, has studied recent Federal budgets for totals spent on researching peace by all parts of the Government and finds it averages a paltry $2.6 million a year. Making the situation even more ludicrous are some of the contractors being paid to perform peace research: the Department of the Navy, the McDonnell-Douglas Corporation (one of the largest defense contractors), and the Army Materiel Command.

To further illustrate a seeming indifference to areas of grave social concern: Amounts going for research into the prevention of drug abuse have hovered around a million a year for the last few years, while in comparison the average research allotment for that perennial boondoggle, civil defense, has averaged more than $5 million. R&D for civil defense is pumped into new designs for fallout shelters, evacuation plans and other schemes and paraphernalia that are almost totally ignored by the public, which, by contrast, is seriously concerned about the effects of narcotics on youth.

Despite all the political sound and fury being expended on pollution of the environment, the amount of money spent for air, water, and solid-waste pollution research is still less than one per cent of the total Federal research tab. In order for the R&D budget to inch over even the one per cent mark in the next few years there will have to be more public pressure on Congress and the Executive. After Congress appropriated $45 million for air-pollution research in the fiscal 1970 budget, the President asked for only $27 million for the fiscal 1971 budget—amounting to a cut of $18 million, accompanied by a lot of rhetoric on improving the environment. John R. Ehrenfeld, president of the Walden Research Corporation, summed up the frustration of a combatant in the war on pollution: "Who does Nixon think he's fooling? He's still spending more money on chemical warfare research than on air pollution, yet he tells us he's cutting the first and pushing the second."

With the effort of R&D focused mainly on military concerns and no strong priorities clearly established beyond that of national security, other stark comparisons and ironies are easy to find. Dr. Roger Egeberg, the Government's chief adviser on health, has stated recently that America has become at best a second-rate nation in health. The figures back him up: The United States ranks fourteenth in infant mortality rates in the world, twelfth in maternal mortality, eleventh in life expectancy for women, and nineteenth in life expectancy for men. Ahead of the United States in life expectancy are East Germany, Norway, Ireland, Japan, Bulgaria, Greece, Italy, Canada, and New Zealand. Things are as bleak in such areas as housing, urban planning, and environment, while our resources are heaped on efforts to develop antiballistic missiles, manned strategic aircraft, underwater long-range missile submarines, new destroyers, jet transports, and new spacecraft.

Dubious examples of technological "advance" and decline abound. Until a short time ago the Army was cultivating and stockpiling bubonic-plague bacilli as a weapon with the blessings of the same Congress that, with hilarity, had voted down a measure to eradicate rats. Deadly nerve gases were being shipped with regularity on a railroad system that gets more dangerous every year—in fact, 1969 was the twelfth year in a row that train accidents went up. Western Electric, the production arm of AT&T, begins work as prime contractor on the Safeguard missile system at the same time that telephone service is rapidly deteriorating. More people have died on American highways than in all American wars combined, as Ralph Nader continually points out, usually adding, ". . . yet we spend less on highway safety research than it costs to build half a nuclear submarine." The Comptroller General has estimated that cost overruns on military weapons systems have totaled about $21 billion in the last decade, but only recently—after public disclosure of such overruns as the $2 billion extra for the C5–A jet transport—has Congress started to give the kind of careful scrutiny to military costs that it has normally reserved for research to help the poor, the blind, and the retarded.

The kind of values that these facts reflect has been a major cause of the malaise among social reformers in the late 1960s and will undoubtedly retard such nonmilitary efforts in the 1970s. At one level, concern is expressed in student outrage and upheaval over the American value system; at another, it is responsible for the common objection that begins, "If we can put men on the moon, why can't we . . ." and winds up with any one of a thousand valid purposes from curbing venereal disease to making a shoelace that can't break. Even NASA Administrator Thomas O. Paine has mentioned the irony of ". . . mankind watching two men scramble around the moon while standing knee-deep in garbage."

R&D is a particularly critical element in the battle over national priorities because it not only reflects our current priorities but largely determines what will be technologically feasible in the future. It thus has a powerful effect on the future quality of our lives and is a far better guide to the life we will lead in the decades ahead than all the rhetoric of politicians proclaiming a rosy tomorrow.

The moon landings have shown how much is possible if a great deal of thought, resources, and dedication are channeled into any stated goal. The vast majority of Project Apollo money had been pumped into space R&D during the decade prior to the first landing. There is, however, a catch in invoking the Apollo/NASA example, because such new knowledge as is developed in such a program must be applied and directed in order to get anywhere. If not conscientiously applied, well-performed research can lead to a range of ends from a simple nonuse to a more insidious ruse—a way of dodging action under the guise of studying the problem.

The latter device was recognized in a little-noticed suggestion in the report from the National Commission on the Causes and Prevention of Violence. It came from U.S. District Judge A. Leon Higgenbothem, who called for a national moratorium on commissions and new study units to probe the causes of racism, poverty, crime, and the urban crisis. The judge felt that there had been too much study and too little application of findings. Research and study as a substitute for action or application can be detected all over the Federal landscape: millions in antipoverty money going into studies of the poor that are not being heeded, or study commissions looking into the findings of previous study commissions, and the like—a mountain of research findings being treated as an end in itself.

As in any other multibillion-dollar industry that offers the promise of a fast buck, hustlers, tycoons, and those willing to sell their objectivity for a fat contract have been attracted into R&D along with the honest, hardworking researcher. While abuses exist throughout the R&D empire, they are again most noticeable at the Federal level. Bad research is hard to control and detect. Much of it is delivered on paper in the form of a report that can be—and often is—slipped away in a filing cabinet by the bureaucrat who commissioned it. Major R&D projects that do not work out are simply canceled, though in the case of the Pentagon, for example, such a showdown can add up to quite a large sum of money wasted. During the period from 1954 to 1970, some sixty-eight major weapons projects were terminated; a total of $10.7 billion was invested in them before they failed, faltered, or were canceled.

The vast size of the Federal research program and the tendency for agencies of government to be vague in describing their desires are just two of the reasons for bad research. The difficulty of just trying to wade through—let alone evaluate—the volume of paper generated by countless researchers and agencies has meant that few people in the Federal Government have taken a critical look at the quality of research. In some cases the role of the Government goes beyond that of simply not detecting bad research to actually inspiring and rewarding it. The results in too many cases have been absurdly high expenses, producing waste, corruption, duplication, irrelevance, subjectivity, and, at the very least, lack of originality.

R&D money is being squandered in many ways, and the implications for both American science and society are serious. One of the least sinister forms of abuse is duplication, but it is no less costly than others. Bad communications, interagency rivalry, poor control, and carelessness have produced many double, triple, and quadruple efforts. The problem is so serious that the Library of Congress, the Department of Defense, and the Department of Commerce are all working on computerized information retrieval systems that would help prevent the Government from commissioning research that has already been done. (No one seems to have pointed out that the setting up of three anti-duplication systems in itself brings up the question of duplication.)

A second widespread abuse is that of contracts and grants that are inappropriate to the mission of the sponsoring agency or are of generally dubious value. Although individually amusing and good filler material for newspaper columnists on slow days, irrelevant and absurd studies abound to an extent that it is far from amusing. The Department of Health, Education and Welfare has commissioned and paid for things like "The Social History of French Medicine, 1789–1815"—a questionable effort in the first place and doubly so in view of that agency's constant reminder that not enough R&D money goes into such relevant areas as stroke prevention and cancer research. Of particularly dubious value was a project called "The Demography of Happiness," which cost a quarter of a million dollars and consisted of sending a team of researchers to Puerto Rico to find that wealthy people were, generally, happier than poor ones and healthy people are almost always happier than sick ones.

While many, Senator George McGovern prominent among them, have pointed out that not nearly enough money is going into research and education in nutrition, two recent Department of Agriculture research contracts, together costing over $100,000, studied the history of the Canadian tobacco auction and the frayed shirt collar (its official description was ". . . to determine the effects of laundry variables on edge abrasion of durable press cotton garments"). The Space Agency has shelled out huge research sums for histories of itself and most of its divisions. Besides bringing up the question of whether history writing should be commissioned by its subject, such allocations are odd for an agency that keeps saying it does not have enough money for space flights.

In recent years the Department of Defense has emerged as the undisputed king of irrelevant research. The immense list includes studies of Northern grouse, Korean women skin divers, the nervous system of the Chilean squid, the aging process in rocks, the temperament of Italian men, "Communist Vulnerability to the Use of Music" (a study classified as *Confidential*), diarrhea in horses, psychological differences between tattooed and untattooed sailors, the economy of aborigines, witchcraft in the Congo, the role of facial expressions in communications, migratory animal studies, and—one that achieved notoriety in Congress when it was revealed—a $600,000 contract with the University of Mississippi to determine the role that birds might play in wars. This last study called for scholars to investigate the use of chickens, crows, and other birds to steer missiles, detect mines, conduct search-and-destroy missions, and other assorted tasks.

The Pentagon's entry into social research and other forms of nonmilitary research has prompted Admiral Hyman G. Rickover to launch more than one verbal attack. He has labeled much of the work "a waste of taxpayers' money," has said that some of it has no conceivable military value, and has gone so far as to say that it has had an adverse effect on the nation's military posture. Testifying before the Joint Economic Committee of Congress in November, 1968, he said of his fellow military men, "They are attracted to studies like mice to a granary. . . ." The irrepressible admiral added that because of the number of military studies piling up, he found himself thinking of the commission established by the Weimar Republic to find out why Germany lost World War I. "The commission found that a major cause of this defeat was the amount of paperwork required of the armed forces," said Rickover. "Toward the end they were literally buried in paper."

Even when the matter is well within the legitimate realm of military research, the Pentagon seems to find a way to generate unnecessary research, as in the case of 1969 Army contracts with two different firms to develop a bigger—just bigger, no change in design—canteen cup. These two contracts cost a total of $58,000. In too many cases large sums are paid for research on nonurgent $100 ideas.

Another common abuse was summed up by Representative Henry Reuss, Wisconsin Democrat, who, in conducting an investigation of the use of research in Federal domestic programs, said, "Federal agencies have a tendency to withhold research findings critical of present performance or policies." Examples of this relatively recent form of public-opinion manipulation and censorship are common. During the Johnson Administration $650,000 worth of outside research critical of the controversial supersonic transport (SST) was suppressed by the Federal Aviation Administration by stamping it with an "Official Use Only" label.

In the same vein is research commissioned for little more purpose than giving support to an agency attitude or policy. This common abuse prompts interesting reactions. Says a vice president of a major California research firm, "The Government is a prime market for subjective research, and we try to guard against it. We turn down most of these jobs but occasionally feel we have to take one as a favor or else face the threat of not getting legitimate research work from that agency."

A final class of common abuses in government R&D stems from Federal apathy and laxity. Robert A. Nelson, who until recently headed the Department of Transportation's research-oriented Office of High Speed Ground Transportation and who is now a fellow at the Brookings Institution, feels that apathy may be the most subverting abuse of all. He strongly believes that the Government is either too polite or too lazy to make anyone do over a worthless study. He says, "Our office has refused to pay for a study for over two years, all the time sending it back and telling the contractor to do it over until it was done right—and it still hasn't been done

right. But this kind of action is all too rare." Nelson, who headed a large research effort, calmly estimates that as much as fifty per cent of Government paper studies may be worthless.

Rampant apathy is acknowledged by a former Food and Drug Administration official who tells how easy it is not to give a damn. Several years ago a research organization turned in to the Food and Drug Administration a $100,000 study on the agency's image. "I took one look at the study and saw that it was horrible," he says. "The researchers used loaded questions in their interviews with the public. On top of that, the results were in direct conflict with a fair labeling act that the Administration was pushing. I took the report, stashed it away in a desk drawer, and hoped nobody would ask for it. Nobody ever did. As far as I know, that report is still stashed away in my old drawer."

Unfortunately, such abuses have been relatively free of criticism—even when the waste is blatant. In August, 1967, for example, President Johnson appointed an expert-studded group to study U.S. communications policy, with particular emphasis on international communications. The major reason for the study was that the United States was to meet in early 1969 with more than ninety governments to hash out the future of satellite communications. The President set a deadline of August, 1968, for the group's report so that the United States would have plenty of time to use it in getting ready for the meeting. The group, called the Telecommunications Task Force, got moving in the winter of 1967. A research team was assembled and contracts were awarded to a variety of research institutions for studies. But the final report was still not ready by the time of President Nixon's inauguration. The task force was disbanded. The international meeting was held, and the United States fared badly because it did not have a clear-cut policy. The report has still not been officially released, although copies of it have been given out. Outside of a few members of Congress, nobody seemed upset over the whole matter even though a million dollars was spent on studies toward a report that was not ready in time to serve its intended purpose.

These two issues of priorities and quality raised by the giant phenomenon of R&D are beginning to be faced by those in the research empire. For the first time since the beginning of the postwar R&D honeymoon, science and technology are being forced to face the significance of their having gone public. Unbounded growth has slowed since 1968 as the overall research budget has stayed at the $16–17 billion level, and though few doubt that it will rise again, the marktime level indicates that increases are not automatic. Questioning of priorities in American research and its domination by military concerns is producing more and more questions from Congress, the press, and the public, especially students. Specific challenges are being launched as well. Persistence by a group of Senators led by Mike Mansfield, for example, led to legislation passed in 1969 stipulating that the military can commission research that is clearly related only to military objectives. Although there is still some question as to how military objectives will be defined, Congressional action has limited the unbridled research power of the Pentagon.

As the number of think tanks continues to grow and more and more people look to them to solve problems, analyze policy, and perform long-range thinking, power necessarily increases—a power that is seldom challenged or questioned.

Since power is greatest at the Federal level, the power of the think tanks that serve Government is the strongest. So potentially powerful is the group of think tanks that serves the U.S. Government that they have collectively been nicknamed "the shadow government." Perhaps the most trenchant comment made on this "shadow" concept came from former Presidential adviser Roger Hilsman in his book, *To Move a Nation*, when he said of the military-sponsored think tanks, "Although not accountable to the electorate, they have power and are just as much part of the governmental process as the traditional legislative, judicial, and executive branches of Government."

The unique roles played by the Pentagon think tanks have made them instrumental in shaping and creating U.S. foreign and military policy, weapons systems, plans, tactics, and technology. Moreover, much of their work has been cloaked in secrecy or obfuscated in other ways with the result that little scrutiny has been directed toward their increasing power. Remarkably, their analysts play crucial roles in conducting and planning war and determining the weapons America will build, yet they remain virtually anonymous when these decisions are authorized. On the strength of their alleged knowledgeability they have been given great freedom to operate in a wide variety of political, social, international, and military areas—a power that has served to widen considerably the province of the military. The Pentagon think tanks have been staunchly defended by their military sponsors, yet those same sponsors have admitted time and again that they have very little control over them.

Just as these semigovernmental corporations are playing an important role in deciding military issues, so are think tanks attached to other agencies of government making other important determinations—President Nixon's welfare reform package, the current set of Federal housing plans, and safety requirements for nuclear power plants are all examples of policies shaped and refined in think tanks.

In an assessment of the importance of the hundreds of think tanks in the United States, the Federally sponsored ones offer only a starting point. Independent think tanks, not officially tied to the Government, also need to be scrutinized. Many of them receive the bulk of their funds from the Government, and, though not officially "sponsored" like RAND, they bring up the same questions of power, unchecked and unanswerable, evoked by the officially sponsored outfits. They advise in such diverse areas as transportation, natural resources, defense, and domestic welfare programs. Nor do they draw the line on policy and decision-making for the U.S. Government. More and more, their analysis and planning are being performed for industry, governments of cities and states, and foreign nations.

While think tanks play many roles—all worthy of investigation—an example that brings home their importance both now and in the future is the increasing interest in long-range forecasting and thinking about the future. This futurist orientation has resulted from both the initiative of the tanks themselves and of the Government. Several independent "futurist" tanks have emerged, and massive studies are under way on American life and technology in the future; and the new occupational category of "futurist" has evolved. Most Americans are unaware of the degree to which government and industry are working on the quality of life (in particular, war and technology) for the future. The Army, for example, has created a series of think tanks to examine the future of warfare.

What we must realize is that as institutions assume the formal role of casting about in the future, they dramatically increase their influence on that future. Simply put, if a think tank tells its sponsors and others willing to listen that X, Y, and Z will occur by the year 2000, then X, Y, and Z are more likely to occur as policy and technological goals adapt to those predictions.

Think tanks offer amazing potential for change, innovation, and a better future. Although a relatively new phenomenon, they have already had a great impact. Just considering the example of their role in creating important new products we find that synthetic rubber got an important start at the Mellon Institute, electrostatic copying or Xerography was developed at the Battelle Memorial Institute, magnetic tape recording grew out of work at the Illinois Institute of Technology Research Institute, and Arthur D. Little Inc. came up with the first successful process to manufacture fiberglass, to name a few such cases.

In an era of so many phenomena that are hard to comprehend, the think tanks are no exception. In the popular mind think tanks sometimes conjure up a nightmarish world of rampant technology geared to program humanity out of existence—and sometimes a gleaming world where the miraculous is put on a daily businesslike basis. Neither extreme is true, though there is an element of truth in each. Both the complexity of the phenomenon and the fact that, generally, think tanks maintain their privacy and serve without fanfare have led to misconceptions and surrounded them in mystery. The very term "think tank" carries with it the aura of enigma—and perhaps even of conspiracy.

Their terrain extends from war to peace, from Dr. Strangelove to Dr. Salk, from harsh practicality to idealism, from hawkish retired generals to Ralph Nader, and from the most amazing Yankee ingenuity and innovation to the role of errand boy to the Establishment. Given their roles as problem-solvers, innovators, and planners in a complex, troubled, and problem-saturated era, think tanks are clearly worth thinking about.

MAKING THE INTOLERABLE TOLERABLE—THINK TANKS

(By Paul Dickson)

From the Pentagon Papers we learned about a thing called Rand, a mysterious place somewhere on the California coast where top-secret documents float around. But we didn't learn much about it. Paul Dickson's useful Baedeker of the diverse and ubiquitous institutions known as "think tanks" throws the spotlight on this new multi-billion-dollar business that is transforming America and may even be serving as a kind of secret government.

What are the *Think Tanks* of Dickson's title? They are a particular kind of research and development (R&D) outfit. They can be large or small, profit or nonprofit, government-financed or independent. The crucial thing about them is the role they play. Unlike many R&D organizations, think tanks neither conduct research nor undertake development. Instead they act, in the author's words, "as a bridge between knowledge and power and between science/technology and policy-making in areas of broad interest." In short, they are agents of knowledge—which they organize, transmit, and transpose—rather than creators of knowledge.

If you want someone to build you a better mousetrap, you go to a conventional R&D laboratory where a scientist will set to work inventing what you need. But if you want to know how many mice are in your block, what is their family structure, how they organize their time, and what function they serve in relation to man and his environment, then you had better go to a think tank.

In case this should sound like esoterio work for a handful of dreamy scientists and economists, think again. R&D is big business, and it is getting bigger all the time. This year it will hit an estimated $28 billion—more than the annual budget of an average-sized European nation. More than half that sum comes out of the federal treasury—that is, out of our pockets in the form of taxes. This year's federal R&D budget is estimated at $16 billion. As recently as 1957 it was only $3 billion.

The U.S. today spends more each year on space research alone—only a small part of the R&D budget—than it cost to run the entire government in 1927. Over the past decade more than $160 billion has been spent on R&D. Naturally there has been a proliferation of institutes, agencies, and think tanks to absorb that money and provide blueprints of real or imagined needs to get more of it.

R&D is composed of three basic activities: basic research, or exploration of the unknown; applied research, directed toward a specific need; and development, the use of research to produce tangible objects, methods, or systems. This may sound vague, but it has to be in order to cover the multitude of activities that encompass R&D: from the design of a new nuclear warhead to a project for the integration of a school district.

Without R&D there would, of course, be no lunar modules, no styrofoam eggs, no color TV, and no ABMs. Whether or not this would be a blessing is a question of a different order. In a technological society like ours, invention is essential to survival. Without a constant stream of new inventions and techniques we might quite possibly drown in the pollution and destruction caused by our previous inventions. Thus R&D, by promising to make tolerable the intolerable things it has created, has provided built-in job security for itself.

Examining the nation's leading R&D institutions and interviewing people involved in a wide variety of activities, Paul Dickson, a young journalist on a grant from the American Political Science Association, has done a skillful and highly readable job of journalistic reporting. *Think Tanks* tells us what R&D is all about, takes us behind the scenes of some major organizations, makes a few editorial judgments about the kind of work they do, and leaves us feeling better informed, if not necessarily wiser. If he had dug deeper beneath the surface and asked more of the right kind of questions, he might have come up with an even more penetrating and important study.

Among some of the organizations studied by Dickson is the Institute for Defense Analysis, a top-secret, Pentagon-financed think tank that plots scenarios for nuclear wars, works out new methods for the United States to combat insurgency in other people's countries, and thinks up ways to spend more money on atomic missiles. IDA analysts spend a great deal of time dreaming up future wars—so far they have come up with 384 possibilities—on the assumption that the U.S. will be involved in a good many of them. "The danger in this," as Dickson rightly points out, "is all too evident as the thin line between attitudes of preparing to defend ourselves and of *looking for conflict to prepare for* has long ago been crossed."

Linked to a dozen top universities, financed by the Pentagon through fat annual contracts, privy to the innermost secrets of government, freed from the strictures of the Civil Service, think tanks such as IDA "play powerful roles as advisors in the corridors of the Pentagon and the State Department, despite the fact that neither those agencies nor Congress has power to confirm, promote, or fire them. In a sense they have become a fourth branch of government."

An even more powerful influence on the Pentagon than IDA is the aforementioned Rand, with its $25 million annual budget, its one thousand employees, its prime government contracts, and its team of high-paid analysts shuttling back and forth between Washington and California. Rand has its fingers in so many pies, both secret and not-so-secret, that it is virtually impossible to list them. Among the most important has been its role in the Vietnam war, where it has engaged in operations from analyzing the effects of aerial devastation on Vietnamese morale, to anthropological studies of Montagnard tribesmen. We also have Rand to thank for the MIRV multi-headed nuclear warheads and the ABM anti-missile missile—two projects which it sold, without need for much persuasion, to grateful admirals and military contractors.

Not all think tanks concentrate so heavily on Pentagon projects. Some, such as Herman Kahn's Hudson Institute, also find time to draw up plans for damming the Amazon River (to the indignation of the Brazilian government), and advising (for a healthy fee) the Portuguese regime on how to suppress the black liberation struggle in colonial Angola. Hudson, like its founder and guiding spirit, may be glib, but no one has ever accused it of being stodgy.

Aside from these nuclear war think tanks—which enjoy a kind of permanent welfare program from the government—there are also many other think tanks which do not flourish on the Pentagon's largesse. Some are strictly profit-making organizations, such as the trail-blazing Arthur D. Little, Inc., which is engaged in industrial research, and also has projects in such fields as urban planning and community organization. Others are designed to be non-profit, such as the mammoth Stanford Research Institute, which has branch offices all over the world, and delves into a dizzying assemblage of projects, from the development of Alaska to the invention of pressureless printing. There is even an anti-Establishment think tank, the Washington-based Institute for Policy Studies—a group of scholars exploring social, economic, and political-military issues, and applying radical analysis to them.

There is no wrap-up phrase to describe think tanks or the work they do. They are as varied as the needs—real or imagined—of society. In their efforts to harness and apply knowledge they can, and already have been, a force for both good and evil. We need them because we have problems that must be solved if life on this planet is to be tolerable, or even if it is to endure.

But the military-oriented think tanks pose a special danger, for they carry on their deadly debates in secret, sealed from public scrutiny and control. "Undoubtedly," Dickson comments, "there is some work, especially in new technology, that must be kept under wraps for security reasons, but keeping almost all military thought away from the public is arrogant and dangerous." *Think Tanks* helps make us aware of these dangers, and even though it offers no answers, is a timely and significant exposure of an enterprise too long shrouded in darkness.

MONTANAN PROVES HIMSELF A GOOD SKATE

Mr. MANSFIELD. Mr. President, one of Montana's great young men is a student at Harvard University. His name is John Misha Petkevich, and he ranks among the greatest smooth gliding, high jumping skaters in the world.

I believe that Misha is studying to be a doctor, but while he is preparing himself to further his scholastic career and to make himself ready for February's winter games in Sapporo, Japan, he is also going beyond that and is showing a sense of social consciousness which I think is most important and very indicative of the kind of man Misha Petkevich is.

I invite the attention of the Senate to a story which appeared in the Thursday, October 28, 1971, issue of the Christian Science Monitor. The story indicates that Misha has been looking for a way to reach out of his own specialized world and to do something for other people. What he has done is to become interested in the Jimmy Fund, so-called, for which he raised $15,000 in Boston, to help in cancer research. What he does is to visit a hospital, discuss subjects with people, and try to answer their questions—in other words, to make himself a most useful citizen.

So, Mr. President, I ask unanimous consent that the article about this young man from Montana, who finished last in his first competition 11 years ago but who will very likely finish first next year at Sapporo, Japan, entitled "Misha Skates for His Pet Cause," written by Monty Hoyt, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MISHA SKATES FOR HIS PET CAUSE

(By Monty Hoyt)

BOSTON.—Not many people can be called a sports impresario by age 22, but America's smooth-gliding, high-jumping John Misha Petkevich ranks among the greatest.

One of the top U.S. medal hopefuls in next February's Winter Olympics in Sapporo, Japan, Misha already is the reigning king of the silver blades and acclaimed as perhaps the best free skater in the world today.

But for this affable Harvard senior it wasn't enough.

"I have always thought that skating, like any sport, was a rather egotistical pursuit," he said. "Sure, it provides wonderful entertainment for people, and you have the satisfaction of competing and putting in a good performance, and you meet people from diverse backgrounds. This is great, but—something was missing."

LOOKING FOR A WAY

For a long time, he readily admits, he had been looking for a way to reach out of his own specialised world and do something for other people.

Then, last year, shortly before winning the U.S. and North American figure skating titles for the first time, he was struck by an idea—and parlayed his world-renowned talents into raising $15,000 for the Jimmy Fund of Boston, a cancer research foundation for children.

At first the thought of visiting the hospital occasionally or striking up a personal relationship went through his mind. Then he pondered:

"Maybe there's some way I can help." That help turned out to be a skating show.

From this first somewhat incredulous idea, Misha, with the help of his fellow students at Harvard's Eliot House, masterminded and produced within a month's time a two-night benefit ice show featuring the top U.S. skating champions.

LED TO BIGGER SHOW

"An Evening with Champions" was a resounding financial success with sellout performances both nights.

"We took a lot of risks," says the budding impresario remembering his first effort. There was only one weekend before Christmas when Harvard's Watson rink wasn't scheduled with a hockey game. "We had to go ahead with printing the program and the promotion before we were sure the college would let us have the rink."

So great was the success of the program as far as the audience and the skaters were concerned that it provided the impetus for putting on a bigger show again this year and maybe next.

During the last six weeks, much of his spare time off the ice (his rigid training routine for the 1972 Olympics includes six hours of practice each day) has been spent in promoting and coordinating the second "Evening with Champions."

The expanded billing this year will include the entire U.S. world skating team—all 18 members in singles, pairs, and dance. Misha, along with champions Janet Lynn, JoJo Starbuck and Kenneth Shelley, Judy Schwomeyer and James Sladky, will headline the benefit performance for the Jimmy Fund. Three

shows are set for Oct. 29 and 30 at Harvard's Watson rink.

For a young man from Montana who finished last in his first competition 11 years ago, Misha has already made a name for himself in skating history.

His fifth place finish the last two years in world competition has been a disappointment, and he, himself, admits that he has only a dark horse chance at winning the Gold Medal at Sapporo.

Nonetheless, his astounding triple revolution jumps, his daring leaps that would vault him over the rink barrier, if he cared to, his swirling-dervish spins, and his dynamic choreography could easily bring him skating's highest honor.

"The Olympic title rests on how close I can get to Ondrej Nepala (the current world champion from Czechoslovakia) in the school figures," Misha states in assessing his chances. (The compulsory school figures count 50 percent in a skating competition.)

Working on this apparent weakness all this past year, Misha says that his school figures have never been better.

But whatever the outcome of his final year in competition, he says with all earnestness that he will look to his efforts on behalf of chair-ridden children and not to his Olympic showing as the most satisfying fulfillment of his skating career.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON MILITARY PROCUREMENT ACTIONS FOR EXPERIMENTAL, DEVELOPMENTAL, TEST, OR RESEARCH WORK

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on military procurement actions for experimental, developmental, test, or research work for the period January to June 1971 (with an accompanying report); to the Committee on Armed Services.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Opportunity To Reduce Federal Costs Under the Law Enforcement Education Program," Law Enforcement Assistance Administration, Department of Justice, dated November 3, 1971 (with an accompanying report); to the Committee on Government Operations.

REPORTS ON THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on third preference and sixth preference classification for certain aliens (with accompanying papers); to the Committee on the Judiciary.

HOUSE BILL REFERRED

The bill (H.R. 9961) to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes, was read twice by its title and referred to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF COMMITTEES

Mr. COOPER. Mr. President, from the Committee on Public Works, I report S. 1015, the Environmental Financing Act of 1971, without amendment, and request that it be referred to the Committee on Banking, Housing and Urban Affairs. I also file with it a copy of the bill and the report of the committee (S. Rept. No. 92-424).

The PRESIDING OFFICER (Mr. BROCK). Without objection, the report will be received and printed, and the bill will be referred to the Committee on Banking, Housing and Urban Affairs.

Mr. COOPER. Mr. President, as ranking minority member of the Committee on Public Works, I introduced on behalf of the administration the bill, S. 1015. I introduced a similar bill, S. 3468, in the 91st Congress. These bills were the subject of specific hearings in the Subcommittee on Air and Water Pollution in the context of hearings on general legislation to amend the Federal Water Pollution Control Act of 1965. In the 91st Congress, then Secretary of the Treasury David M. Kennedy testified on behalf of the administration and earlier this year Under Secretary of Treasury Charles E. Walker testified for the administration on the bill S. 1015.

It is gratifying to note that 38 Members of the Senate joined to introduce this legislation, and the bill was reported favorably by the Public Works Committee without amendment.

The Environmental Financing Authority, or EFA, would make a significant contribution to our program for a better environment by greatly facilitating the efforts of State and local governments to construct waste treatment facilities. This EFA would do by purchasing municipal waste treatment bonds which could not otherwise be sold on reasonable terms. To finance these purchases EFA would issue its own securities in the market.

EFA is essential to assure that no municipality in this country is denied the opportunity to sell its bonds for the construction of waste treatment plants in compliance with Federal water quality standards.

In order to help communities comply with water quality standards established pursuant to the Federal Water Pollution Control Act the Congress has provided Federal grant assistance to municipalities and other public bodies for the construction of waste treatment facilities. The non-Federal share of the project cost must be borne by the local and/or State governments involved. The local government share of the project cost is, in virtually all cases, raised through the sale of debt securities in the private market.

The purpose of EFA is to assure that no municipality will be unable to participate in the Federal grant program because of an inability to market its bonds at reasonable rates.

EFA could not purchase any obligations unless the Administrator of the Environmental Protection Agency: First, has certified that the borrower is unable to obtain on reasonable terms sufficient credit to finance its actual needs; second, has approved the project as eligible for a waste treatment construction grant under the Federal Water Pollution Control Act; and third, has agreed to guarantee timely payment of principal and interest on the obligations.

To avoid unnecessarily interfering with the market, the bill provides an important safeguard: the interest rate at which EFA would lend would be set by the Secretary of the Treasury only after considering the current market yields on comparable Treasury or EFA securities outstanding in the private market as well as the market yields on municipal bonds. EFA would also be authorized to charge fees to cover its administrative costs and provide for reasonable contingency reserves.

While it is expected to be a simple and costless operation, EFA could contribute significantly to the success of the whole waste treatment facility program. With EFA standing ready to assure a market, no essential project need be canceled or delayed because the State or local government is unable to market its bond issue on reasonable terms.

I would like now to respond to two important questions which have been raised regarding the need for EFA.

The first question has to do with current conditions in the municipal bond market. It has been argued that the need for EFA assistance to municipal borrowers has diminished because of the general improvement in bond market conditions since EFA was first proposed in February 1970. I would certainly agree that communities are having much less difficulty in selling their bonds today, as compared to the crisis situation municipal borrowers faced 2 years ago. Yet even in times of relatively favorable market conditions there are some communities that lack the size or credit standing necessary to support their bond issues at reasonable rates of interest. EFA would help these communities.

Also, as we learned in 1966 and in 1969, conditions in the municipal bond market can deteriorate rapidly. The construction of waste treatment facilities requires a great deal of planning, and the approval of interested groups at the Federal, State, and local levels is a time-consuming process that may extend for several years. This process can be facilitated greatly if we can assure in advance that when the project reaches the financing stage it will not be unduly delayed or canceled because of changing bond market conditions. EFA would provide that assurance.

The second question which has been raised as to the need for EFA has to do with the current proposals to increase the Federal grant share for each waste treatment project and thus reduce the amount of the local government's share of the project cost. It has been argued that the need for EFA would decline if the Federal grant share were to increase. This argument mistakes the purpose of EFA.

The need for EFA should be measured in terms of the number of projects assisted, rather than the dollar volume of EFA lending. For example, a $1 million waste treatment project under the present program might require a municipality to borrow $250,000 after receiving 75 percent of the required funds in the form of Federal and State grants. If an increase in the Federal grant share were to reduce the municipal borrowing to, say, $100,000, the municipality might still be unable to borrow on reasonable terms in the private market. Thus the availability of EFA financing might still be the decisive factor in going ahead with the $1 million project.

The bill must be considered, as the committee did, in the context of the general amendments which were approved by the Senate on November 2. In that bill, S. 2770, the waste treatment construction program is dramatically increased. In addition, very stringent effluent requirements will be placed on municipalities in the next 5 to 10 years.

It should be noted that the bill reported today is to be rereferred to the Banking Committee pursuant to the joint referral agreement worked out upon the bill's introduction. The Committee on Public Works expects the expertise of the Banking Committee to be applied to the financial aspects of the bill, particularly the statutory guidelines in the determination of "reasonable rate" by the Environmental Protection Agency. The report specifically requests the Committee on Banking, Housing and Urban Affairs to consider whether a more restrictive definition of the term "reasonable rates" should be included in the statute.

Mr. President, I applaud the administration for suggesting this innovative financial mechanism. It is an important bill and I hope the Committee on Banking will give the bill its close and careful attention followed by early reporting back to the Senate.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

Mr. BYRD of West Virginia, Mr. President, as in executive session, I report favorably, for Mr. FULBRIGHT, from the Committee on Foreign Relations, sundry nominations in the Diplomatic and Foreign Service which have previously appeared in the CONGRESSIONAL RECORD, and I ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they may lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Raymond L. Garthoff, of Connecticut, and sundry other persons, for personnal action in the Diplomatic and Foreign Service.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PASTORE (by request):

S. 2802. A bill to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators. Referred to the Committee on Commerce.

By Mr. McGOVERN:

S. 2803. A bill to provide that members of the Armed Forces of the United States may vote in Federal elections held in the State in which they are stationed. Referred to the Committee on Rules and Administration.

By Mr. McGOVERN:

S. 2804. A bill to provide additional support prices for dairy farmers. Referred to the Committee on Agriculture and Forestry.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2805. A bill to permit suits to adjudicate disputed titles to lands in which the United States claims an interest. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2806. A bill to authorize appropriations for additional costs of land acquisition for the National Park System. Referred to the Committee on Interior and Insular Affairs.

By Mr. THURMOND (by request):

S. 2807. A bill to amend title 38 of the United States Code to require that certain veterans receiving hospital care from the Veterans' Administration for non-service-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts with respect to such care; to prohibit the future exclusion of such coverage from insurance policies or contracts; and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. HARRIS:

S. 2808. A bill to provide for a reduction in the tax rates in the first two brackets, to reduce individual income taxes, and for other purposes. Referred to the Committee on Finance.

By Mr. TUNNEY:

S. 2809. A bill to authorize the establishment of regional centers of excellence in drug abuse research and education, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PASTORE (by request):

S. 2802. A bill to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators. Referred to the Committee on Commerce.

Mr. PASTORE. Mr. President, I send to the desk a bill which I am introducing by request. I ask unanimous consent that the letter of transmittal from the FCC, an explanation of the bill, and the bill itself be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., October 15, 1971.

The VICE PRESIDENT,
U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed are copies of the Commission's draft bill to amend sections 310(a) and 303(1) of the Communications Act of 1934, as amended, with an explanation.

The bill as drafted would permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens; representatives of aliens; foreign corporations; and domestic corporations with alien officers, directors, or stockholders; and would permit aliens holding such radio station licenses to be licensed as operators. Specifically, the draft bill would:

(i) retain the prohibition against any licensing of foreign governments or their representatives now contained in 310(a)(2);

(ii) retain the prohibitions now contained in 310(a)(1), (3)-(5) but make them applicable only to broadcast and common carrier radio services, rather than to all radio services;

(iii) otherwise allow the Commission to issue station licenses in the safety and special and experimental radio services;

(iv) delete the first two unnumbered paragraphs following 310(a)(5) because they will be unnecessary;

(v) delete the provision for securing checks for alien amateur station authorizations in the third unnumbered paragraph following numbered paragraph (5); and

(vi) make corresponding changes in section 303(1) so that the Commission will be permitted to license aliens to operate the stations for which they have been granted a license under 310(a).

The Commission is now generally prohibited from granting licenses to aliens in any of the radio services. The legislative history at the time of enactment of this prohibition in 1934 does not appear to have contemplated denying aliens licenses in the later developed Safety and Special Radio Services, but reflects concern with those radio services such as broadcasting and common carrier which are part of the nation's communication system. We believe that authority to grant licenses to aliens in the safety and special and experimental services is consistent with the legislative history of the Act and is in the public interest. The grant of a license would of course be subject to the Commission's finding that the public interest, convenience and necessity would be served.

The Commission's draft bill to accomplish the foregoing objective was submitted to the Office of Management and Budget for its views. We have now been advised by that Office that from the standpoint of the Administration's program there would be no objection to the presentation of the draft bill to the Congress for its consideration.

The Commission would like the Senate to consider the proposed amendment.

We will provide any additional information that may be requested by the Senate or by the Committee to which this proposal may be referred.

Sincerely,

DEAN BURCH,
Chairman.

EXPLANATION OF PROPOSED AMENDMENT TO SUBSECTIONS 310(a) AND 303(1) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED, TO PERMIT THE LICENSING IN THE SAFETY AND SPECIAL AND EXPERIMENTAL RADIO SERVICES OF ALIENS, OR ENTERPRISES WITH ALIEN OFFICERS, DIRECTORS OR STOCKHOLDERS

Section 310(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 310(a), is a general prohibition on the grant of radio station licenses to aliens or entities with alien interests. Specifically, 310(a) prohibits the Commission from granting licenses to

individual aliens or representatives of aliens, foreign governments or their representatives, corporations organized under the laws of a foreign government, or domestic corporations of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or its representative, or any corporation organized under the laws of a foreign country.

Nevertheless, paragraph (5) of 310(a) provides in effect for indirect licensing of a corporation with alien interests. That paragraph provides that the Commission may grant a license to any corporation which is directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens or of which more than one-fourth of the capital stock is owned of record by aliens or their representatives, or by a foreign government or its representative, or by any corporation organized under the laws of a foreign government, unless the Commission finds that the public interest would be served by refusing a license.

Thus, under paragraph (5) of 310(a) those corporations barred from holding licenses in their own names may obtain the benefits of a radio station by forming a subsidiary corporation in which all officers and directors are United States citizens. This subsidiary corporation may then be granted a license to provide the communication service needed by the parent corporation.

We are proposing that section 310(a) be amended to permit the Commission to grant radio station licenses in the safety and special and experimental services to aliens or entities with alien interests. Additionally, the proposal would amend subsection 303(1) to enable an alien holding a radio station license to be licensed as the operator of the station for which he holds a license.

We believe that this proposal is consistent with the historical reasons for prohibiting alien licenses and is consistent with the overall public interest. The legislative history of section 310(a) shows clearly that the purpose of the section and its forerunner in the Radio Act of 1927 was to prevent foreign influence in the "commercial communications system" of the United States. The reasons were that the security and other interests of the United States might be adversely affected if aliens were permitted to gain control of our communication system. The entire thrust of the proponents of section 310(a) was against alien influence in "radio companies," "communication companies," and "communication organizations." Specifically named in the hearings as "communications organizations" were American Telephone and Telegraph Company, Western Union, International Telephone and Telegraph Corporation, and Radio Corporation of America. The targets of section 310(a) were the radio, wire, or cable companies engaged in the business of communications. Hearings on S. 2910 Before the Senate Committee on Interstate Commerce, 73d Cong., 2d Sess., pp. 160, 161, 166, 167, 170 (1934); Hearings on H.R. 8301 Before the House Committee on Interstate and Foreign Commerce, 73d Cong., 2d Sess., pp. 23, 26, 32–34, 41–44, 60, 64 (1934).

Despite the general prohibition on alien licenses, Congress itself has twice recognized the need of aliens for certain radio uses outside the broadcast and common carrier fields. In 1934 when it enacted the Communications Act, Congress included an exception which permitted the Commission to license "radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by Act of Congress or any treaty to which the United States is a party."

In 1958 Congress amended the Act to add another exception to the prohibition on alien licenses. Concern with air safety prompted the Congress to permit the Commission to license aircraft stations to aliens who hold United States pilot certificates or a foreign pilot certificate which is valid in the United States by reciprocal agreement.

Meanwhile, since the 1934 enactment of the general prohibition on aliens holding licenses, many additional uses of radio have developed and have been found by the Commission to be in the public interest. In many instances, a radio license is a necessary or desirable adjunct to other endeavors. These accessory or incidental uses of radio can properly be considered an integral part of the conduct of much industry and commerce in the United States. For example, railroads, taxicabs, manufacturers, oil producers and distributors, utility companies, pipe lines, truckers, construction companies, the mining industry, the forestry industry, consumer service companies, retailers, farmers, ranchers, and the marine industry find that radio is necessary for efficient and safe operation of the primary business.

These businesses are not "communication organizations" and are not part of the "commercial communications system" of the United States which section 310 was intended to protect, and the private use of radio incidental to these businesses does not threaten control of the communications system of the United States. Nevertheless, the general prohibition on licensing alien interests prevents the Commission from licensing aliens for these aliens meet the standards for admission into the United States and are lawfully employed in non-communication businesses.

We believe that where aliens are admitted to this country and are permitted to carry on business activities in this country, it is consistent with the public interest that they also have available the same protection of life and property and increased efficiency that radio provides citizens engaged in the same kinds of enterprise.

We recognize that section 310(a)(5) mitigates the absolute ban prescribed in paragraphs (1)–(4) of 310(a) with respect to otherwise ineligible corporations that have the resources to establish a subsidiary corporation that meets the requirements of the law. In fact, use of this device is not uncommon. Competitive necessity for the use of radio in various business activities has led ineligible corporations to set up subsidiary corporations solely for the purpose of obtaining a radio station license and then providing communications services to the parent corporation.

These subsidiary corporations providing communications services to an ineligible corporation are now operating under licenses issued by the Commission because the Commission under the terms of 310(a)(5) determined that the public interest would not be served by a refusal of the license.

The Commission believes this limited permission in 310(a)(5) is inherently unfair to the small corporation without the resources or know-how to avail itself of this procedure and to the partnership or individual entrepreneur to whom this procedure is not available. The need for the license is independent of the size or the form of an organization. In addition, there is a needless expense and burden upon the corporations which are able to avail themselves of the provisions of paragraph (5) of section 310(a). The direct licensing of aliens in these safety, special and experimental services seems far preferable to the existing statutory scheme.

We think also that there are substantial reasons for permitting aliens to have licenses to use radios in all of the safety and special services established by the Commission and not just in those which are industry-oriented. In both the aviation and marine radio services, the underlying need for radio for safety purposes is present without regard to citizenship. Citizens radio may be used not only for business purposes, but also in motor vehicles and aboard pleasure boats for substantial messages. The Commission, effective July 1970, reserved citizens radio Channel 9 exclusively for emergency communications or communications necessary to assist a motorist. The availability of a citizens radio license to an alien can benefit not only the alien but also the general public because the licensed alien would then be able to summon aid in an emergency situation. In addition, radio is a safety factor as well as a convenience in such activities as hunting, fishing, camping and hiking.

Similar considerations apply to the amateur service. The amateur service is a voluntary noncommercial communication service that fosters technical contributions to the advancement of the radio art and international goodwill and has often proved invaluable during emergencies.

Since 1964 alien amateurs have been permitted under section 310(a) to operate their amateur radio stations in this country under reciprocal agreements. Under this procedure, alien amateurs licensed by countries with whom we have reciprocal licensing agreements, may obtain authority to operate in the United States, usually without the necessity of passing our amateur examination. Our proposal would retain the reciprocal authorization arrangement now provided for in the last paragraph of current section 310(a).

If our proposal to permit licensing aliens in the safety and special and experimental services is adopted, and if we deleted the reciprocal authorization arrangement from section 310, those alien amateurs would be required to take examinations prior to obtaining authority to operate here. Language difficulties and other problems might make the examination an insurmountable barrier to many aliens. Their inability to obtain authorizations here might result in reciprocal action against United States amateurs seeking authority to operate their stations in those foreign countries. Since the exception was enacted to benefit United States amateurs in foreign countries, we believe it is desirable to retain this reciprocal arrangement. In this way an alien amateur could seek authorization here either under the reciprocal authorization provision or as a regular applicant. On the other hand, alien amateurs from countries with whom we do not have a reciprocal agreement would have to apply in the regular manner and would, for the first time, be eligible and not barred by virtue of their alien status.

Our experience in issuing licenses to corporations and to pilots and in issuing authorizations to alien amateurs on a reciprocal basis under 310(a) and our knowledge of the kinds of service for which we are proposing that aliens be eligible indicate that the use of radio in the safety, special and experimental services will not raise security problems. We are unaware of any security problem which has resulted from the alien operations which the Commission has permitted under the existing exceptions to 310(a). The radio facilities authorized in the safety and special services, with the exception of ship, certain coast, amateur and certain aeronautical land stations, are generally limited to relatively short-range communications. In addition, almost all frequencies used by these stations are shared with others and are monitored by other licensees who wait for their turn to use them. There is thus little, if any, secrecy afforded transmissions. It seems doubtful that anyone would attempt to use such shared frequencies to breach the national security or indeed that anyone intent upon such a use would be inhibited by the lack of a license.

Moreover, aliens permitted to enter the United States are screened for security before they are granted visas. Accordingly, our proposal does not include any procedures for security checks on alien applicants. For the same reasons, we propose deletion of the current requirement that this Commission notify appropriate other agencies of the Government of the receipt of an application for an alien amateur authorization and afford them the opportunity of furnishing us with any information bearing on the national security. After seven years of experience operating under these procedures, we have found that they are cumbersome and time-consuming, as well as unnecessary. We believe that the general permission we are proposing will present no problems since, under the public interest mandate of the Communications Act, the Commission would retain the flexibility to deny any license application if the public interest so required.

Most of the safety and special radio services require only a station license and not a separate operator license. However, for several categories of stations, such as ship stations and aircraft stations, the station must be licensed and the operator also must have an operator license. Our purpose in proposing authority to grant station licenses would be substantially thwarted if an alien could obtain a station license but then was barred from obtaining a license to operate it solely because he was an alien. Under our proposal, aliens who are authorized to have radio station licenses would be eligible to have the operator license required to operate the station. Aliens who are not station licensees would not be eligible for operator licenses.

It should be noted that although the proposal revises section 3100(a) in toto, it effects substantive changes only in the respects discussed above and does not affect the prohibition on grants of licenses to aliens in the broadcast or common carrier services. The exceptions which permit licenses in the two unnumbered paragraphs immediately following numbered paragraph (5) in existing section 310(a) no longer need to be stated because they do not fall within the prohibitions in the proposed language and will therefore be permitted.

In sum, the Commission believes that the public interest would be served by adoption of the proposed amendment. We believe further that this can be done consistent with existing Congressional policy in this area and with the needs of national security.

Adopted: April 14, 1971.

S. 2802

A bill to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio licenses to be licensed as operators

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (1) of section 303 of the Communications Act of 1934, as amended (47 U.S.C. 303(1)), is amended by deleting paragraph (2) and inserting the following:

(2) Notwithstanding paragraph (1) of this subsection, an individual to whom a radio station is licensed under the provisions of this Act may be issued an operator's license to operate that station.

(3) In addition to amateur operator licenses which the Commission may issue to aliens pursuant to paragraph (2) of this subsection, and notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

Sec. 2. Section 310 of the Communications Act of 1934, as amended (47 U.S.C. 310), is amended by deleting subsection (a), redesignating subsection (b) as subsection (d) and inserting the following new subsections (a), (b), and (c):

(a) The station license required under this Act shall not be granted to or held by any foreign government or the representative thereof.

(b) No broadcast or common carrier radio station license shall be granted to or held by—

(1) any alien or the representative of any alien;

(2) any corporation organized under the laws of any foreign government;

(3) any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;

(4) any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(c) In addition to amateur station licenses which the Commission may issue to aliens pursuant to this Act, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

By Mr. McGOVERN:

S. 2803. A bill to provide that members of the Armed Forces of the United States may vote in Federal elections held in the State in which they are stationed. Referred to the Committee on Rules and Administration.

THE ARMED FORCES FEDERAL VOTING RIGHTS ACT

Mr. McGOVERN. Mr. President, the separation of the civilian and the military, with ultimate civilian control, remains appropriate and necessary. But this approach and the supposed requirements of the military have operated to prevent individual members of the Armed Forces from expression of political points of view which differ from those of the administration in office. In addition, requirements for registration and voting in many States effectively prevent members of the Armed Forces even from participating in elections. Thus, in effect, we are penalizing those who serve in the Armed Forces by excluding them from the political and civic life of the country.

No constraints should be placed on the expression of political views by members of the armed services, provided that they do not engage in political activities while in uniform and that they do not use facilities intended for the military purposes for their own purposes. All constitutional guarantees must extend to all members of the Armed Forces at all times. In particular, we have seen specific cases where officers have been prevented from expressing their own political views, where soldiers have been prevented from circulating or editing antiwar newspapers and where servicemen and women have been prevented from enjoying certain shows on post theater facilities. All of these practices must be opposed.

Appropriate directives should be issued by the Commander in Chief to permit all forms of political expression by members of the Armed Forces acting as private citizens.

An Armed Forces Voting Rights Act should be adopted which would permit servicemen and women to participate in all Federal elections. Members of the Armed Forces, when stationed in the United States, should be permitted to vote in Federal elections in the State and district of their place of service. Once the electoral college is replaced by direct election of the President and Vice President, service men and women stationed abroad should be permitted to participate in elections for these offices.

Mr. President, I introduce a bill and ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2803

A bill to provide that members of the Armed Forces of the United States may vote in Federal elections held in the State in which they are stationed

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Forces Federal Voting Rights Act".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "State" means each of the United States and the District of Columbia;

(2) "Federal officer" means the President, Vice President, Senator, Representative, or Delegate;

(3) "district" means a district from which a Representative may be elected;

(4) "otherwise qualified" means qualified to register to vote or to vote under State and Federal law except for military status and any determination of residency based upon military status; and

(5) "general election" does not include a primary election or a special election held to fill the unexpired term of a Senator, Representative, or Delegate unless such special election is held at the same time as the general election regularly held for the selection of such officers.

VOTING AT DUTY STATION

SEC. 3. No individual who is performing active service as a member of the Armed Forces of the United States, who is stationed within the United States, and who is otherwise qualified to vote for Federal officers in the State in which he is stationed, shall be denied the right to register to vote or to vote for Federal officers in that State or in the district in which he is stationed.

PENALTIES

SEC. 4. (a) No individual who votes in a general election for a Federal officer in the State in which he is stationed as a member of the Armed Forces of the United States shall vote in any general election for a Federal officer during the same calendar year in any other State. Violation of the provisions of this subsection is punishable by a fine not to exceed $5,000, imprisonment for not to exceed 5 years, or both.

(b) Whenever the Attorney General has reason to believe that a State or political subdivision is denying or attempting to deny to any person the right to vote in any election in violation of this Act, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2282 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

(c) Any person who deprives, or attempts to deprive, any other person of any right secured by section 3 of this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

By Mr. McGOVERN:

S. 2804. A bill to provide additional support prices for dairy farmers. Referred to the Committee on Agriculture and Forestry.

Mr. McGOVERN. Mr. President, I introduce, for appropriate reference, a bill to amend the Agricultural Act of 1949, as amended. If enacted, it would provide authority for the Secretary of Agriculture to use payments to dairy processing plants as an additional method of supporting prices to dairy farmers, while holding prices to consumers at reasonable levels.

Under existing law, the price of milk to farmers is supported between 75 and 90 percent of parity. This is accomplished by establishing prices of dairy products—such as butter, nonfat dry milk, and cheese—at which the Commodity Credit Corporation will purchase such products. The purchase prices must be at levels necessary to enable manufacturers to pay prices to farmers for milk comparable to the level of price support announced each year by the Secretary of Agriculture.

Under the existing procedure, the Secretary can only improve prices to dairy farmers by increasing the prices at which Commodity Credit Corporation is willing to purchase dairy products.

Enactment of the proposed legislation would provide authority for CCC to make payments to processors of milk or the products of milk. The payment would amount to the difference between the prices of dairy products necessary to assure the support level to dairy farmers, and lower market prices deemed necessary to encourage additional consumer purchases. Payment of the difference to plants would enable them to pay the announced support level of prices to farmers for milk even though the plants would receive lower prices for dairy products marketed.

Under a provision of Public Law 91-254 enacted in 1970, the Secretary of Agriculture is not required to support the price of butterfat as he was in former years.

This change allowed CCC to establish prices for butter and nonfat dry milk at discretionary levels, so long as the prices of the two products in combination provide enough money to plants so that they can pay the Secretary's level of price support to dairy farmers. Butter and nonfat dry milk are produced from the same milk. When the Secretary of Agriculture increased the level of price support to farmers to $4.93 per hundredweight for the marketing year beginning April 1, 1971, he exercised his discretion and reduced the wholesale price of butter 2 cents per pound and increased the price of nonfat dry milk 4.5 cents per pound. The increase in the price of nonfat dry milk served as an offset to the lower butter price and also enabled plants to pay the higher support price to farmers.

This adjustment in the price of butter improved the competitive position of butterfat in all uses, and sales of milk solids-not-fat have been maintained in a satisfactory manner. Nevertheless, nonfat milk solids compete for its market much the same as butterfat, and there is a practical limit as to how much its price can be increased without affecting the market.

Under my bill, the Secretary of Agriculture would consider the competitive position of both butterfat and milk solids-not-fat; and could make payments to dairy processing plants as a means of supporting prices to farmers at necessary commercial market purchases.

My amendment is a practical method of maintaining proper price support levels to farmers; and, in effect, is a subsidy to consumers.

The new authorization for payments could be used as an additional, or supplemental, method of supporting farm prices.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2805. A bill to permit suits to adjudicate disputed titles to lands in which the United States claims an interest. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of myself and the Senator from Colorado (Mr. ALLOTT), I send to the desk, by request, for appropriate reference a bill to permit suits to adjudicate disputed titles to lands in which the United States claims an interest.

Mr. President, this draft legislation was submitted and recommended by the Department of Justice and I ask unanimous consent that the executive communication accompanying the proposal from the Attorney General be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., October 6, 1971.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal, "To permit suits to adjudicate disputed titles to lands in which the United States claims an interest."

The bill would allow the United States to be made a party to an action in the Federal district courts to quiet title to lands in which the United States claims an interest.

Suits to quiet title or to remove a cloud on title originated in the equity court of England. They were in the nature of bills *quia timet*, which allowed the plaintiff to institute suit when an action would not lie in a court of law. For instance, a plaintiff whose title to land was continually being subjected to litigation in the law courts could bring a suit to quiet title in a court of equity in order to obtain an adjudication on title and relief against further suits. Similarly, one who feared that an outstanding deed or other interest might cause a claim to be presented in the future could maintain a suit to remove a cloud on title. The plaintiff in such suits was required to be in possession, and the usual grounds of equitable jurisdiction (an imminent threat and an inadequate remedy at law) had to be present.

The doctrine of sovereign immunity presently prevents comparable suits from being brought against the United States. Title 28, United States Code, section 2410, allows suits to be maintained when the Government's claim is in the nature of a security interest only. Provision for suits to partition property in which the United States is a joint tenant or a tenant in common is made in 28 U.S.C. sec. 1347. And the Tucker Act, 28 U.S.C. sec. 1346(a)(2), grants the consent of the United States to be sued where the plaintiff alleges that his property has been taken in violation of the Constitution; the plaintiff's remedy, however, is just compensation for the taking, not an injunction prohibiting trespass by the United States. These statutes provide for several of the cases where a suit to quiet title would be the appropriate procedure under State law, but it is clear that many situations exist where questions of title to real property cannot be determined at the present time unless the United States itself brings suit.

Perhaps the most common application of the proposed statute would be in boundary disputes between the United States and owners of adjacent property. The quieting of title where the plaintiff claims an estate less than a fee simple—an easement or the title to minerals—is likewise included in the terms of the proposed statute.

The main objection in the past to waiving sovereign immunity in this area has been that it would make possible decrees ousting the United States from possession and thus interfering with operations of the Government which have been authorized by the Congress. Our draft bill would eliminate cause for such apprehension. The proviso in subsection (b) of proposed section 2409a would apply where the United States is in possession and the court finds that it is occupying the property without title. If the United States wished to retain possession it would be required to so elect and to pay compensation as determined by the court to the true owner. If the United States were in possession under a lease, and the title of the Government's lessor were adjudicated to be invalid, the United States could elect to continue its lease with the true owner. If the United States were adjudged to be occupying without title, it is only fair to require it to choose between acquiring the right to possession and ceasing to occupy. The procedure so provided preserves the Tucker Act method for acquisition of property by the Government, as it preserves the concomitant right of the former owner to receive just compensation. A difference from the remedy provided by 28 U.S.C. 1346(a)(2), however, is that the district courts would have jurisdiction without regard to any jurisdictional amount. Where the subject matter of the litigation is real property, it appears equitable that suit be authorized in a court near the situs of the property.

One approach to a statute waiving immunity in this area would have been to adopt state law in its entirety, thereby placing the United States on the same footing as any private litigant. However, the wide differences in State statutory and decisional law on this subject make this an impractical alternative. Along with the merger of law and equity, many States have enacted legislation to abolish some of the traditional prerequisites for the institution of suits to quiet title. The requirement of possession has occasionally been dropped (see Cal. CCP sec. 738; Neb. R.R.S. 1943 § 25-21, 112; and Code Va. § 55-153), and the statutory procedure in some States appears virtually to supersede the common law (see Vernon's Ann. Civ. St. Art. 7364, *et seq.*, and 47 Tex. Jur. 2d Quieting Title § 1). Several States allow the plaintiff to obtain a judicial determination of rights acquired by adverse possession in this type of suit, and there is an immense variation with respect to the period of limitation on bringing suits. It is our belief that uniformity at least as to the plaintiff's qualifications for instituting suit is desirable, and the draft bill sets forth such qualifications. Possession in the plaintiff is not required. The State law of real property would of course apply to decide all questions not covered by Federal law.

The remedy provided in the draft bill does not apply to civil actions for partition of lands, or to foreclose a mortgage, deed of trust or other security interest, or to cancel, remove or discharge a lien of any kind, or involving or relating to water rights. These actions are provided for in other provisions of the Code. See secs. 1346(e), 1347, 1491, 2409 and 2410 of title 28; secs. 7424-6 of title 26, and sec. 666 of title 43. Nor does the remedy of the draft bill apply to property of the Postal Service for which express provisions already exist under title 39 of the Code. In addition, trust and restricted Indian lands are specifically protected from challenge under the draft bill.

Since we believe it is the better policy to litigate questions of the Government's title in the Federal courts, the draft bill provides for exclusive jurisdiction of suits under the statute in the United States District Courts. Also, since pre-existing claims can be settled as heretofore, under the Tucker Act or by special act of Congress, and because we wish to ensure that the workload of the Department and the courts under this legislation can develop a a rate which can be absorbed, we have made the draft bill prospective in operation.

The early introduction and prompt consideration of this legislation is requested.

The Office of Management and Budget has advised enactment of this proposed legislation would be in accord with the Program of the President.

Sincerely,

ATTORNEY GENERAL.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2806. A bill to authorize appropriations for additional costs of land acquisition for the National Park System. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of myself and the Senator from Colorado (Mr. ALLOTT), I send to the desk by request for appropriate reference a bill to authorize appropriations for additional costs of land acquisition for the National Park System.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follow:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., October 20, 1971.

Hon. SPIRO T. AGNEW,
President of Senate,
Washington, D.C.

DEAR MR. PRESIDENT: We enclose herewith a draft bill "To authorize appropriations for additional costs of land acquisition for the National Park System."

We recommend that the bill be referred to the appropriate committee for consideration and we recommend that it be enacted.

The mandatory provisions of titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646; 84 Stat. 1894) impose substantial additional costs and expenses on the National Park Service in connection with its land acquisition program. These additional amounts, for moving expenses and other relocation benefits, together with the increased administrative expenses incurred in connection with providing these benefits, are chargeable against the existing statutory ceilings on amounts authorized to be appropriated for land acquisition which were considered and imposed by the Congress prior to January 2, 1971, the effective date of the Act. Of course, land acquisition estimates presented to the Congress prior to that time did not include costs attributable to the benefits provided for in the later enactment.

It is anticipated that the increased costs, including administration costs, due to these benefits will be an amount approximately 12 percent to 15 percent above the present authorization ceilings. Clearly, then, unless appropriations are authorized to supply these additional amounts, the land acquisition program for the National Park System could not be completed within the ceilings imposed. In each instance, as funds would be exhausted or nearly exhausted, individual amendatory legislation would be required and serious delays in acquisition could be experienced pending congressional action. Of course, new legislation authorizing additional land acquisition which will be considered by the 92d Congress can have the authorizations reflect the increased costs.

Accordingly, the draft bill enclosed herewith authorizes additional appropriations for land acquisition for areas of the National Park System, in the amount of the actual costs and expenses payable or incurred by reason of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The bill specifically makes these increases applicable only to those authorizations approved prior to January 9, 1971, in which a congressionally imposed land acquisition ceiling does not include estimated amounts, or other provisions, for moving costs and other relocation benefits, and the directly related administrative expenses arising from payment of such benefits. We recommend an increased ceiling for projects approved prior to January 9, as opposed to the earlier effective date of P.L. 91-646 (January 2), because three new proposals, submitted prior to enactment of P.L. 91-646 without provision for relocation costs, were not finally approved until January 8. These are Gulf Islands National Seashore (P.L. 91-660), Voyageurs National Park (P.L. 91-661), and Cheasapeake and Ohio Canal National Historical Park (P.L. 91-664).

Acquisition cost estimates submitted to the Congress have in the past included our administrative expenses as a part of the total. However, the benefits now to be provided will increase these costs. For example, we may be required to render assistance to a displaced homeowner by helping him locate or construct a suitable replacement dwelling, obtain financing, and so on. It is apparent, therefore, that these added administrative expenses, if not recouped, could seriously deplete available funds. All future proposals will include an estimate of costs attributable to requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

We strongly urge the favorable consideration of this bill in order to permit the continuation of the land acquisition program for the National Park System.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL REED,
Assistant Secretary of the Interior.

By Mr. THURMOND (by request):

S. 2807. A bill to amend title 38 of the United States Code to require that certain veterans receiving hospital care from the Veterans' Administration for non-service-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts with respect to such care; to prohibit the future exclusion of such coverage from insurance policies or contracts; and for other purposes. Referred to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, I am today introducing legislation which provides that certain veterans receiving hospital care from the Veterans' Administration would be charged for such care to the extent that they have health insurance coverage. This would prohibit the future exclusion of such coverage from insurance policies or contracts.

The Veterans' Administration is in need of funds to operate its hospitals. Because health insurance companies refuse to pay on policies held by VA patients, the VA loses about $80 million a year. This money is sorely needed and we should no longer allow health insurance companies a "free ride" in this area.

These veterans are paying for this coverage by their premium expenses. Insurance companies should not be allowed to refuse payment to veterans just because the Veterans' Administration has undertaken treatment. This legislation would save this urgently required money for use within the VA hospital system.

Mr. President, I request that this bill be appropriately referred and ask unanimous consent that it be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2807

A bill to amend title 38 of the United States Code to require that certain veterans receiving hospital care from the Veterans' Administration for non-service-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts with respect to such care; to prohibit the future exclusion of such cov-

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erage from insurance policies or contracts; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 610 of title 38, United States Code is amended by adding at the end thereof a new subsection (d):

"(d) A veteran furnished hospital care pursuant to subsection (a)(1)(B) and (a)(4) of this section who is entitled to care or reimbursement for the expenses of such care under an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement for the purpose of providing, paying for, or reimbursing expenses for health services shall be charged for such care to the extent of such entitlement, and no such contract or arrangement entered into, renewed, changed, or amended, after the effective date of this subsection shall exclude from coverage the charges for hospital care furnished pursuant to subsection (a)(1)(B) and (a)(4) of this section and section 611(b) of this title if such care would be covered when furnished by other public or private facilities. Where such contract or arrangement provides for payment of less than the total charge for care and the insured veteran is entitled to care without charge under this chapter, the veteran shall be deemed to have paid that part of the charge not payable by the contract or arrangement."

By Mr. HARRIS:

S. 2808. A bill to provide for a reduction in the tax rates in the first two brackets, to reduce individual income taxes, and for other purposes. Referred to the Committee on Finance.

THE INDIVIDUAL INCOME TAX RELIEF ACT OF 1971

Mr. HARRIS. Mr. President, today I introduce for proper referral the Individual Income Tax Relief Act of 1971. This bill is a much-needed alternative to the administration's give-away tax bill for the corporations. The so-called Revenue Act of 1971 (H.R. 10947) is now being considered by the Senate Finance Committee, of which I am a member. It is clear to me that the committee will report out a bill that, while changed and possibly improved somewhat, will still be a windfall for the corporations. Instead of helping the consumer, H.R. 10947 provides approximately $75 billion in tax relief for big business over the next 10 years. In fiscal year 1972, the corporations will get $5.4 billion, while the consumer will at best get $3.2 billion. The original administration proposal created an even greater disparity. This relief to the individual was not given in new relief, but merely consists of a speeding up of the increased exemptions, standard deduction, and low-income allowance already authorized by the Congress.

The bill I introduce today gives emphasis on new tax relief by reducing the tax rates in the first two brackets. This bill will benefit all persons, but will give a significantly greater percentage tax reduction to those persons earning less than $10,000 a year. Additionally, the bill incorporates those provisions in H.R. 10947 which speed up the already authorized increases in the personal exemptions and the minimum standard deduction. This bill will give $6.3 billion directly to the consumer.

The Revenue Act of 1971 has been put forth in the name of the economy. We have been told that we need an investment tax credit to stimulate the economy. What the administration does not mention is that at this very hour 27 to 28 percent of plant capacity is now idle. Industry can find no use for over one-fourth of its industrial capacity. Thousands of plants are closing or are on short shifts because there is no consumer demand for their goods. Under those circumstances, it is only good economics to give a stimulus to the consumer—get him to increase his spending and thereby turn the wheels of industry faster.

The Revenue Act of 1971 is grossly unfair and one sided. It gives the rich more and will result in the working people getting less. Instead of using the $75 billion being given to the corporations for the necessary social programs so lacking in our country, the President postpones comprehensive welfare reform. While professing that his program will stimulate jobs, the President slashes Federal employment by 100,000 jobs. The President's concerns are clearly directed at big business. His idea of prosperity is when the big corporations are making bigger profits each year and when Government spending reaches a minimum. Mr. President, there can be no prosperity in this country when children and mothers are hungry and when fathers can find no work to support their families.

Instead of pouring money into the corporations—whose profits are increasing at a healthy rate, we need to put substantial funding into those social programs which increase the quality of life for the low- and middle-income individuals. That is a stimulus that will pay off in both economic and moral dividends. Instead of giving a huge windfall to the corporations, we should enact my proposal to stimulate the consumer by reducing the tax rates in the first two brackets. Instead of holding up a comprehensive welfare reform program, the administration should focus on implementation of an adequate program as a direct stimulus to the consumer.

Last week I introduced a welfare reform bill which would assure an adequate income for all of the people in this great land.

I hope my Senate colleagues will join in opposition to the administration's tax giveaway proposals and will work for a sound and fair tax proposal to help those low- and middle-income individuals who form the great majority of our citizens.

I ask unanimous consent that a table relating to the proposed legislation be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TAX REDUCTIONS UNDER HOUSE BILL (H.R. 10947) AND HOUSE BILL PLUS SENATOR HARRIS' PROPOSED RATE REDUCTION,[1] COMPARED TO 1973 PRESENT LAW FOR SELECTED TAXPAYERS (ASSUMES NONBUSINESS DEDUCTIONS EQUAL TO 18 PERCENT OF INCOME)

Adjusted gross income (wage income)	Present law tax	House bill			Senator Harris' proposal		
		Tax	Tax decrease from present law		Tax	Tax decrease from present law	
			Amount	Percent		Amount	Percent
Single person:							
$3,000	$185	$138	$47	25.4	$104	$81	43.8
$5,000	548	491	57	10.4	456	92	16.8
$6,000	726	681	45	6.2	646	80	11.0
$7,500	984	984	0		949	35	3.6
$8,000	1,070	1,070	0		1,035	35	3.3
$9,000	1,261	1,261	0		1,226	35	2.8
$10,000	1,458	1,458	0		1,423	35	2.4
$12,500	1,965	1,965	0		1,930	35	1.8
$15,000	2,509	2,509	0		2,474	35	1.4
$17,500	3,094	3,094	0		3,059	35	1.1
$20,000	3,722	3,722	0		3,687	35	.9
$25,000	5,140	5,140	0		5,105	35	.7
Married couple with no dependents:							
$3,000	70	28	42	60.0	18	52	74.3
$5,000	370	322	48	13.0	252	118	31.9
$6,000	521	484	37	7.1	414	107	20.5
$7,500	744	744	0		674	70	9.4
$8,000	821	821	0		751	70	8.5
$9,000	977	977	0		907	70	7.2
$10,000	1,133	1,133	0		1,063	70	6.2
$12,500	1,545	1,545	0		1,475	70	4.5
$15,000	1,996	1,996	0		1,926	70	3.5
$17,500	2,473	2,473	0		2,403	70	2.8
$20,000	2,985	2,985	0		2,915	70	2.3
$25,000	4,100	4,100	0		4,030	70	1.7

TAX REDUCTIONS UNDER HOUSE BILL (H.R. 10947) AND HOUSE BILL PLUS SENATOR HARRIS' PROPOSED RATE REDUCTION,[1] COMPARED TO 1973 PRESENT LAW FOR SELECTED TAXPAYERS (ASSUMES NONBUSINESS DEDUCTIONS EQUAL TO 18 PERCENT OF INCOME)—Continued

Adjusted gross income (wage income)	Present law tax	House bill			Senator Harris' proposal		
		Tax	Tax decrease from present law		Tax	Tax decrease from present law	
			Amount	Percent		Amount	Percent
Married couple with 2 dependents:							
$3,000	0	0			0		
$5,000	$140	$98	$42	30.0	$63	$77	55.0
$6,000	278	245	33	11.9	181	97	34.9
$7,500	476	476	0		406	70	14.7
$8,000	545	454	0		475	70	12.8
$9,000	692	692	0		622	70	10.1
$10,000	848	848	0		778	70	8.3
$12,500	1,238	1,238	0		1,168	70	5.7
$15,000	1,666	1,666	0		1,596	70	4.2
$17,500	2,117	2,117	0		2,047	70	3.3
$20,000	2,610	2,610	0		2,540	70	2.7
$25,000	3,680	3,680	0		3,610	70	1.9

[1] Reduce 14 percent rate to 9 percent and 15 percent rate to 13 percent.

By Mr. TUNNEY:

S. 2809. A bill to authorize the establishment of regional centers of excellence in drug abuse research and education, and for other purposes. Referred to the Committee on Labor and Public Welfare.

THE DRUG ABUSE RESEARCH AND EDUCATION ACT OF 1971

Mr. TUNNEY. Mr. President, we are all too familiar with the toll that drug abuse has exacted. Among our young people, among our soldiers, among our urban poor, it has reached the point of a national scandal. But the scandal derives not from the fact that heroin addiction has become a problem of epidemic proportions; the scandal is that it has taken us as a nation so long to move into action.

We are, however, finally beginning to assemble the resources to combat this problem. In the past few months, efforts here in the Congress, most notably through the efforts of our distinguished colleague from Iowa (Mr. HUGHES) as well as Senators MUSKIE, RIBICOFF, JAVITS, and DOMINICK, are beginning to show promise of fruition.

I am encouraged by the fact that we are now moving toward a consensus for action against drugs.

I am concerned, however, about what will happen once the political heat cools. I am concerned lest we enact some magnificent structure and then go away thinking the crisis has ended. I am concerned that 1 or 2 or 3 years from now drugs will remain a terrible threat to our young people despite the best efforts of the entire structure we may create.

Emergency legislation to create a special office in the White House and to force coordination of Federal efforts against drug abuse is clearly appropriate. But no matter how skillfully that legislation is drafted, and no matter how competent are those who implement it, the fact remains that they must operate with only the talent and the knowledge that we now have about drugs. And to put it bluntly, there is a tremendous shortage of talent and research to call upon.

The legislation being considered in Senate committees at this time could, with sufficient resources, make substantial headway against drug abuse by hardheaded pragmatic application of existing knowledge. But there is little provision for long-term growth and development of talent and knowledge.

Mr. President, I think it is important that we realize that the problems of drug abuse may in fact continue to grow more complicated, because of the explosive increase in drug technology. Drug companies are continuing to develop more and more ingredients and combinations of drugs which may be two-edged swords. On the one hand they may offer the promise of treatment or cure for tragic diseases. On the other hand, they may present abuse potentials of kinds as yet unknown.

I say this not from any fear of technology or the expansion of research, but from a deep concern that we plan for and anticipate the needs of the future. If, after all of the public outcry against drugs, we come forward with nothing more than a 3-year crash program to get drug abuse out of the headlines, we will have failed our own children and generations yet to come.

It is for this reason that I am introducing today legislation to provide a continuing resource against drug abuse.

It will create two basic powerful mechanisms to provide a continuing and expanding fund of knowledge and talent in drug abuse and drug dependence. The bill provides for the establishment of, first, regional centers—up to a maximum of six—for research and education in drug abuse; and second, 5-year renewable awards to individual experts for increased research and education in drug abuse and drug dependence.

I. REGIONAL CENTERS OF EXCELLENCE

This bill provides for the establishment of a maximum of six regional centers of excellence in drug abuse research and education. Each center would conduct a multidisciplinary program in drug abuse and drug dependence including research, education of drug abuse personnel at all levels, model treatment projects, experimental therapeutics, continuing education for professionals in drug abuse fields and public education. The centers would be located at universities or other public or nonprofit institutions and would be selected by the Secretary of Health, Education, and Welfare through the National Institute of Mental Health.

In order to assure that these centers would be of maximum assistance to States and local communities, the bill requires that they be distributed geographically to the broadest extent feasible. Procedures for selection of the centers would be established by an appropriate advisory committee within the National Institute of Mental Health.

Mr. President, it is my belief that these regional centers would be a major resource both now and in the future in a continuing Federal commitment against drug abuse. The importance of these centers would be derived from two primary characteristics—the fact that they would be multidisciplinary and that they would be regional in nature. Both of these characteristics, I believe, are essential to any meaningful effort against drug abuse.

MULTIDISCIPLINARY CHARACTER

One of the very real problems which must be faced by any lasting commitment to deal with drug abuse is the fact that it does not fit conveniently in any one area of study or experience. Biological, medical, psychological, social and legal factors, as well as many others, are all intimately tied together. Unless we understand the nature of these interrelationships and begin to deal with drug abuse on the basis of a coherent pattern of knowledge, we can hardly expect anything other than fragmented efforts.

Regional centers established under this bill would be designed specifically to bring together all of the knowledge and experience available in all of these fields and to build upon it. These centers would be responsible for assembling a broad range of experts from a number of individual disciplines such as medicine, psychiatry, psychology, law, and pharmacology.

The mandate to such individuals would be the development of their own fields of expertise and the communication of their knowledge and research to others through education programs generally and through availability for specific consultation. In other words, these centers would be designed to provide not only increased and coordinated research, but also the organization and communication of knowledge from that research through specific education programs. Thus, for example, such centers would provide training programs for drug abuse personnel, develop new methods of treat-

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ment and demonstrate how proven treatment methods might be adopted to local needs.

REGIONAL DISTRIBUTION

In order to maximize the practical benefits of these centers, the bill provides that they be located on a regional basis. In this way, they would serve as an important resource to State and local communities. This, I believe, is a fundamental necessity. No matter how capable a program we establish at the national level, the fact remains that the problems of drug abuse are dealt with at a local level. And if we restrict aid to local communities to grant programs alone, we will have neglected a most important part of the problem, for a large measure of the failure of many of the most ambitious Federal programs has been the gap between Washington, D.C., and the local community.

Much the same problem is involved here. If there is one thing I have learned here in the Senate, it is that San Diego, and Los Angeles, and San Francisco and all of the other cities in California are a continent away from resources available here in Washington. Proposals for national research centers or national institutes or any other national effort against drug abuse, laudable though they may be, simply cannot provide direct and continuing communication and expertise of the kind needed to combat drug abuse throughout the country.

Few communities can afford to make use of research and training facilities here in Washington on anything other than a limited basis. How many communities could expect to send more than one or two persons back to Washington for training or consultation. Unless research and training efforts are available in a much more immediate and accessible fashion, much of their value is dissipated.

It is essential to any proposal for nationwide action that we include mechanisms to make it effective in local communities. Regional centers such as those envisioned by this bill could offer substantial education and training programs for State and local officials, professional staff and treatment personnel, school personnel and any other persons who must deal with drug abuse. At the same time the methods developed at such centers could be communicated to and implemented by local agencies on a continuing basis.

FUNDING

One of the major handicaps which projects funded under Federal programs have operated under in the past is the continuing uncertainly over funding from one year to the next. Planning from one year to the next almost invariably depends upon an educated guess about availability of funding. As a result, few programs are able to reap the benefits of a long-range coordinated effort. In fact, even the availability of high-quality personnel may be limited because no assurance can be given that when the political heat is off the money will still be available.

In order to deal with this problem in a constructive way, the bill provides a new method of funding. Grants and contracts for regional centers are authorized to be made on a 5-year renewable basis, subject to annual review and negotiation. In other words, the center is assured of funds for at least 5 years, and for renewal periods thereafter, subject only to normal reviews of progress and renegotiation where necessary during the period of any grant.

Authorized expenditures include staffing and operation, program evaluation and construction. Grants and contracts for staffing and operation may include funds for professional and staff salaries, leasing and other rental expenses related to physical facilities, supplies, and equipment, stipends for trainees and fellows, travel, consultation, data processing, and institutional administrative costs, and shall not require in-kind or cash contribution by the grantee. Payments under such grants and contracts may not exceed $1 million per year to any regional center during the first 3 years of such grant or contract.

Grants and contracts for construction may include, first, construction of new buildings and the expansion, remodeling and alteration of existing buildings including architect fees, but not including the cost of acquisition of land or offsite improvements; and second, equipping new buildings and existing buildings whether or not expanded, remodeled, or altered. Construction grants may not exceed $7 million for any one regional center.

Five percent of funds appropriated for the program are reserved for program evaluation costs. Such funds would be available for periodic evaluations of the administration of the program and the operation of individual regional centers.

In order to assure that development of the regional centers is done in a manner that is both sound and efficient, the Secretary is authorized to begin by making grants and contracts for the development of realistic plans for such centers. No restrictions are placed upon such planning grants, but it is the clear intent of the bill that such grants be limited to direct planning. In other words, lengthy multiple feasibility studies dissipating funds available for staffing or construction are not intended.

Total authorizations begin at $7 million per year in fiscal 1973 for staffing and operation of six regional centers, with modest increases to $8 million by fiscal year 1977. Construction funds would be authorized at $21 million per year in fiscal 1973 and 1974.

II. CAREER AWARDS IN DRUG ABUSE RESEARCH AND EDUCATION

The second major part of the bill would establish a program of individual experts in fields related to drug abuse. Awards under this program would be designed to provide to individuals of proven ability or great promise the opportunity to make a major commitment of their time and effort in research and education related to drug abuse.

The career awards program is modeled after a very successful program of similar awards in the field of mental health. It is founded upon the idea that capable and dedicated individuals, given even a modest amount of support, can make a major contribution to research and education in a specific field if they are assured of some continuity in that support. Under this program an individual who has manifested superior caliber or great promise in education and research in one or more academic fields relevant to drug abuse could apply for a career award. These awards would consist of $50,000 per year for a minimum term of 5 years and would be renewable.

Recipients of awards under the bill must be associated with a supporting institution which is approved by the Secretary of Health, Education, and Welfare under procedures established in the bill. Those procedures must include a finding that the supporting institution has in existence, or will establish a program of research and education in drug dependence and abuse, appropriate to support the work of the award recipient. It must also make satisfactory assurances that it will make reasonable continuing efforts to encourage and assist the award recipient in the development of his individual expertise and to promote further development of his field.

Payments to the individual grantee by way of salary would be limited to the current maximum under similar programs within the National Institutes of Health—presently $35,000. The award may include payments for salaries and stipends, research support, administrative costs, travel, and data processing.

All of these provisions are designed to maximize the dividend from a very modest investment of Federal money. The annual appropriations authorized for this program would be $2.5 million per year beginning in fiscal 1973 and increasing to $3 million by 1977. I can think of no more worthwhile investment of a relatively small amount of Federal money such as proposed here. The return on this investment could truly be incalculable.

The theory of these awards is that one capable and dedicated person can serve as the nucleus around which a much larger effort can be built.

A key provision, however, is the mechanism for funding. The bill is designed to encourage persons of great caliber to devote a major part of their lives to the development of knowledge in a specific area of great benefit to the public. If it is to accomplish that purpose, then the program upon which those persons are asked to rely must give some evidence of permanence. Thus, the award would be made on a 5-year basis, with renewal available, and is designed to enable a person to make a decision to pursue a public career in efforts against drug abuse.

CONCLUSION

Mr. President, both of these proposals in the bill are the result of extensive discussions with medical and professional persons who deal with drug abuse on a daily basis in cities and towns throughout the country. I can say without hesitation that there is a widespread belief that mechanisms such as those proposed in this legislation are absolutely essential if we are to make lasting progress against drugs.

I also believe that both of them can be easily combined with the legislation currently in committee here in the Senate dealing with the proposed Special Action Office in the White House and a National Institute for Drug Abuse and Drug Dependence. Addition of the proposals contained in this bill would conflict in no way with the developing consensus on those other bills. In fact, the regional centers and the career awards contained in my bill would serve to increase the effectiveness of such legislation.

I, therefore, intend to urge the inclusion of these provisions in the omnibus legislation in committee or on the Senate floor. I believe they offer a truly important addition to our efforts against drug abuse in a way that will raise no political complications. These proposals present no prospect of large bureaucracies or interagency conflicts. They could be administered by any agency in the executive branch, including a White House office, a new national institute or, as I have proposed here, by the National Institute of Mental Health. The important thing is that they be established in a way that will assure continued and expanded excellence in research and education efforts. Such efforts are the purpose and the promise of this bill. They are also essential, I believe, for the future of our necessary war against drug abuse.

Mr. President, I ask unanimous consent that the text of S. 2809, and a section-by-section analysis which I have prepared, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2809

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Abuse Research and Education Act of 1971".

TITLE I—GENERAL PROVISIONS

FINDINGS AND DECLARATION OF PURPOSE

SEC. 101. (a) The Congress hereby finds that—

(1) that drug abuse and drug dependence are rapidly increasing in the United States and now afflicts not only inner city residents, but all urban, suburban, and rural areas of this Nation as well;

(2) That drug abuse and drug dependence contribute to crime and can seriously impair health;

(3) that the adverse impact of drug abuse and drug dependence inflicts pain and hardship on individuals, families, and communities;

(4) that efforts to combat and prevent drug abuse and drug dependence must be concentrated particularly in increased education and training in such fields;

(5) that successful efforts against drug abuse require a national commitment to a continuing program of such research, education and training in addition to efforts in law enforcement;

(6) that research, education and training must be conducted throughout the nation in order to provide all areas of the nation with the best possible assistance in combating drug abuse;

(7) that dedicated research and professional personnel must be encouraged to continue and expand their efforts in fields related to drug abuse and to promote the development of knowledge in such fields.

(b) In order to promote continuing and expanded efforts in research, education and training in all aspects of drug abuse and drug dependence, and to protect the national health and welfare against the threat of drug abuse, it is the purpose of this Act to authorize the establishment of regional centers of excellence in drug abuse research and education and to provide for the creation of career awards for scholars, researchers and scientists in fields related to drug abuse.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "drug abuse" means the use of any controlled substance (as defined in section 102 of the Controlled Substances Act) under circumstances that constitute a violation of law;

(2) "drug dependence" means the use of a controlled substance (as defined in section 102 of the Controlled Substance Act) by a person who is in a state of psychic or physical dependence, or both, arising from administration of that substance on a continuing basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort caused by its absence; and

(3) "Secretary" means the Secretary of Health, Education, and Welfare;

(4) "Eligible institution" means any institution of higher education or other nonprofit research or educational institution which the Secretary determines is qualified to serve the purposes of title III of this Act.

ADMINISTRATION

SEC. 103. In exercising the authority granted by this Act, the Secretary shall act through the National Institute of Mental Health, unless otherwise provided by law.

TITLE II—REGIONAL CENTERS OF EXCELLENCE IN DRUG ABUSE RESEARCH AND EDUCATION

ESTABLISHMENT OF CENTERS

SEC. 201. The Secretary is authorized to make grants to and enter into contracts with universities and other public or nonprofit private institutions for the establishment of, and for the development of proposals and plans for such establishment, up to a maximum of six regional centers for drug abuse research and education.

SELECTION OF REGIONAL CENTERS

SEC. 202. Selection of regional centers under this title shall be determined by an appropriate advisory committee to be established by the Secretary and located within the National Institute of Mental Health, including appropriate review procedures. Such procedures shall include provision for geographical distribution of such regional centers to the broadest extent feasible.

FUNCTIONS

SEC. 203. (a) Regional centers established pursuant to this title shall carry out a multidisciplinary program in drug abuse and drug dependence, including research, education of personnel, experimental therapeutics, model treatment projects, continuing professional education and public education.

(b) For purposes of this section:

(1) "research" shall include—

(a) basic mechanisms of drug action (including alcohol).

(b) biology of the addicting process.

(c) development of blocking agents.

(d) development of substitute chemicals.

(e) identification of biological, psychological and social factors predisposing individual to alcohol or drug dependence or influencing the course of such dependence.

(f) general research on other aspects including legal research and development of evaluation systems.

(2) "education" includes—

(a) enhancement of existing professional education regarding alcohol and drug abuse and dependence in fields such as medicine, law, psychiatry, nursing, social work, psychology, pharmacology, and anthropology;

(b) establishment of new educational programs including development of new categories of health and personnel to deal with alcohol and drug dependence and abuse;

(c) development of teaching materials for alcohol and drug abuse related education programs at all levels of education

(3) "model treatment projects" includes projects to carry out research and education and to permit testing of experimental therapeutics and new treatment methods, and the demonstration of existing treatment methods.

FUNDING

SEC. 204. (a) Grants or contracts entered into pursuant to this title shall be made upon a five year renewable basis, subject to annual review and negotiation as provided in Section 205 and shall include funds for staffing and operation of the centers, construction and program evaluation.

(b) Grants and contracts for staffing and operation may include funds for professional and staff salaries, leasing and other rental expenses related to physical facilities, supplies and equipment, stipends for trainees and fellows, travel, consultation, data processing, and institutional administrative costs and shall not require in-kind or cash contribution by the grantee. Grants and contracts pursuant to this section shall be made on a five year basis, provided that payments under such grants and contracts shall not exceed $1 million per year to any regional center during the first three years of such grant or contract.

(c) Grants and contracts for construction may include (1) construction of new buildings and the expansion, remodeling and alteration of existing buildings including architect fees, but not including the cost of acquisition of land or off site improvements, and (2) equiping new buildings and existing buildings whether or not expanded, remodeled, or altered. Construction grants under this title shall not exceed $7 million for any one regional center.

(d) Not less than 5 percent of funds appropriated pursuant to Section 205 shall be reserved for program evaluation costs. Such sum may be expended by the Secretary for the purpose of conducting periodic evaluations of administration of this title and the operation of regional centers pursuant to this title and may be expended in such amounts and under such terms and conditions as the Secretary deems appropriate.

(e) Payment pursuant to grants or contracts may be made in advance or by way of reimbursement and in such installments as the Secretary shall prescribe.

AUTHORIZATION

SEC. 205. (a) For the purposes of Section 204 (b) and (d), there are authorized to be appropriated $7,000,000 for the fiscal year ending June 30, 1973; $7,000,000 for the fiscal year ending June 30, 1974; $7,500,000 for the fiscal year ending June 30, 1975; $8,000,000 for the fiscal year ending June 30, 1976; and $8,000,000 for the fiscal year ending June 30, 1977.

(b) For the purposes of Section 204 (c) of this title, there are authorized to be appropriated $21,000,000 for the fiscal year ending June 30, 1973, and $21,000,000 for the fiscal year ending June 30, 1974.

(c) Such sums shall remain available until expended.

TITLE III—CAREER AWARDS IN DRUG ABUSE RESEARCH AND EDUCATION

NUMBER OF AWARDS

SEC. 301. (a) The Secretary is authorized to make not to exceed 50 career awards in the fields of alcohol and drug abuse research and education to be used for study and research at institutions of higher education or research.

(b) Such awards shall be made for five

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calendar years' duration and shall be renewable.

AMOUNT OF AWARD

SEC. 302. Career awards under this title shall consist of a maximum award of $50,000 per year and may include payment for salaries and stipends, research support, administrative costs, travel and data processing, provided that salary payments to the individual awardee shall be limited to a maximum amount established by Institute procedures dealing with similar career awards in other fields.

SELECTION OF RECIPIENTS

SEC. 303. (a) Recipients of career awards established pursuant to this title shall have manifested superior calibre or great promise in study and research in one or more academic fields relevant to alcohol or drug dependence and abuse and must be associated with a supporting institution approved by the Secretary.

(b) The Secretary shall by regulation prescribe uniform procedures for the selection of such recipients, including review of applications for such selection by an appropriate committee to be selected by him.

(c) No award may be made under this title except upon application made to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

APPROVAL OF SUPPORTING INSTITUTIONS

SEC. 304. For purposes of this title, the Secretary shall approve an eligible institution as defined in Section 102 as a supporting institution for purposes of this title upon a finding that—

(1) the institution has in existence, or will establish, a research and education program in drug dependence and abuse appropriate for the support of the work of the award recipient, and

(2) the institution has made satisfactory assurances that it will make reasonable continuing efforts to encourage and assist the award recipient in the development of his individual expertise and to promote further development of his field for the term of the award.

ADMINISTRATION OF AWARDS

SEC. 305. Payment of sums awarded under this title shall be made by the Secretary to the supporting institution, and shall be disbursed by such institutions, in such manner as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

AWARD CONDITIONS

SEC. 306. (a) A recipient of a Career Award under this title shall pursue a program of research and education in drug dependence appropriate to his individual qualifications in, and to promote further development of, the field in which such award was granted. Payments to any award recipient under this title shall continue only during such periods as the Secretary finds that he is devoting essentially full time to education and research in the field in which such award was granted at a supporting institution approved by the Secretary under Section 304 of this title.

(b) The Secretary shall establish appropriate procedures to revoke a Career Award upon a showing of good cause.

ANNUAL REVIEW AND TRANSFER OF CAREER AWARDS

SEC. 307. (a) Career Awards shall be subject to review by the Secretary on an annual basis for the purpose of assuring compliance with the purpose of this Act and the provisions of this title.

(b) The Secretary shall establish appropriate procedures to permit the transfer of a Career Award by an award recipient from a supporting institution to a new supporting institution, where in the judgment of the Secretary such transfer will not conflict with the purposes of this title.

AUTHORIZATION

SEC. 308. For the purposes of carrying out the provisions of this title, there are authorized to be appropriated $2,500,000 for the fiscal year ending June 30, 1973; $2,500,000 for the fiscal year ending June 30, 1974; $2,750,000 for the fiscal year ending June 30, 1975; $2,750,000 for the fiscal year ending June 30, 1976; and 3,000,000 for the fiscal year ending June 30, 1977.

DRUG ABUSE RESEARCH AND EDUCATION ACT OF 1971—SECTION-BY-SECTION ANALYSIS

TITLE I—GENERAL PROVISIONS

Findings and Declaration of Purpose

Section 101.—Findings
Section 102.—Definitions

Administration

Section 103.—This section provides that in exercising the authority granted by this act, the Secretary of Health, Education, and Welfare shall act through the National Institute of Mental Health, unless otherwise provided by law.

TITLE II—REGIONAL CENTERS OF EXCELLENCE IN DRUG ABUSE RESEARCH AND EDUCATION

Establishment of Centers

Section 201.—This section authorizes the Secretary to make grants to and enter into contracts with universities and other public or non-profit private institutions for the establishment of up to a maximum of six regional centers for drug abuse research and education, as well as for the development of proposals and plans for such establishment.

Selection of Regional Centers

Section 202.—This section provides that regional centers shall be selected by an advisory committee established by the Secretary within the National Institute of Mental Health under review procedures which include broadest feasible geographic distribution of the centers.

Functions

Section 203.—This section sets out the broad areas in which the regional centers shall carry out a multidisciplinary program. Included in these programs are research, education, and model treatment projects, all of which are given specific minimum definitions, along with experimental therapeutics, education of personnel, continuing professional education and public education.

Funding

Section 204.—This section provides that grants for the staffing and operation of the centers shall be on a five year renewable basis and authorizes construction grants.

It limits the amount of staffing and operation grants to not more than $1 million per year during the first three years of such grants and provides that there shall be no requirement of in-kind or cash contribution by the grantee. Construction grants are authorized in amounts not to exceed $7 million per center.

The section also provides that a minimum of 5 percent of funds appropriated under this title must be reserved for program evaluation costs.

Authorization

Section 205.—This section authorizes appropriations for staffing, operation, and program evaluation grants of $7,000,000 for fiscal years 1973 and 1974, $7,500,000 for fiscal year 1975, and $8,000,000 for fiscal years 1976 and 1977.

It also authorizes appropriations for construction grants of $21,000,000 for fiscal years 1973 and 1974.

TITLE III—CAREER AWARDS IN DRUG ABUSE RESEARCH AND EDUCATION

Number of Awards

Section 301.—This section authorizes career awards in the fields of alcohol and drug abuse research and education up to a maximum of fifty. Awards are to be used for study and research at institutions of higher education or research, are for five years' duration and are renewable.

Amount of Award

Section 302.—This section set the amount of individual career awards at a maximum of $50,000 per year, with salary payments to the individual awardee subject to a maximum amount established by federal procedures dealing with similar career awards in other fields.

Selection of Recipients

Section 303.—This section provides for selection of recipients through uniform selection procedures established by the Secretary. It provides that award recipients must be individuals of superior calibre or great promise in fields related to drug abuse and must be associated with a supporting institution approved by the Secretary.

Approval of Supporting Institutions

Section 304.—This section provides for approval by the Secretary of supporting institutions on the basis of certain findings.

Administration of Awards

Section 305.—This section provides general administrative provisions for payment of awards.

Award Conditions

Section 306.—This section provides that the award is conditioned upon the recipient devoting essentially full time to education and research in the field in which such award was granted.

The Secretary is also authorized to establish appropriate procedures to revoke a career award upon a showing of good cause.

Annual Review and Transfer of Career Awards

Section 307.—This section provides for annual review of career awards and for transfer of an award to a new supporting institution under specified procedures.

Authorization

Section 308.—This section authorizes appropriations for career awards of $2,500,000 for fiscal years 1973 and 1974, $2,750,000 for fiscal years 1975 and 1976, and $3,000,000 for fiscal year 1977.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 895

Mr. ERVIN. Mr. President, I ask unanimous consent that, at the next printing, the Senators listed below be added as cosponsors of S. 895, a bill I introduced on February 22, 1971, to give vitality and meaning to the speedy trial guarantee of the 6th amendment of our Constitution.

I am pleased to note that the distinguished Senator from Massachusetts (Mr. BROOKE) and the distinguished Senator from Idaho (Mr. CHURCH) joined as cosponsors today. Now, with the distinguished Senator from Rhode Island (Mr. PASTORE) joining as a cosponsor, this will make the 52d.

Now that a clear majority of the Senate cosponsor this bill, I am hopeful that we will soon see Senate passage of this important legislation. The Subcommittee on Constitutional Rights has completed hearings and I anticipate we will be in a position to report a perfected measure in a short time.

The cosponsors of S. 895 are as follows: BIRCH BAYH, WALLACE F. BENNETT, LLOYD M. BENTSEN, JR., ALAN BIBLE, EDWARD W. BROOKE, QUENTIN M. BURDICK, HOWARD W. CANNON, CLIFFORD P. CASE, LAWTON CHILES, FRANK CHURCH, ALAN CRANSTON, CARL T. CURTIS, ROBERT DOLE, THOMAS F. EAGLETON, HIRAM L. FONG, DAVID H. GAMBRELL, EDWARD J. GURNEY, PHILIP A. HART, VANCE HARTKE, MARK O. HATFIELD, ERNEST F. HOLLINGS, ROMAN L. HRUSKA, HAROLD E. HUGHES, HUBERT H. HUMPHREY, DANIEL K. INOUYE, HENRY M. JACKSON, JACOB K. JAVITS, EDWARD M. KENNEDY, WARREN G. MAGNUSON, CHARLES MCC. MATHIAS, JR., JOHN L. MCCLELLAN, GALE W. MCGEE, GEORGE MCGOVERN, THOMAS J. MCINTYRE, JACK MILLER, WALTER F. MONDALE, FRANK E. MOSS, EDMUND S. MUSKIE, GAYLORD NELSON, ROBERT W. PACKWOOD, JOHN O. PASTORE, CLAIRBORNE PELL, CHARLES H. PERCY, JENNINGS RANDOLPH, WILLIAM V. ROTH, TED STEVENS, HERMAN E. TALMADGE, STROM THURMOND, JOHN G. TOWER, JOHN V. TUNNEY, HARRISON A. WILLIAMS.

The PRESIDING OFFICER (Mr. PASTORE). Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I am pleased to announce my cosponsorship of S. 895, a bill to give greater strength to the sixth amendment right to a speedy trial. Enactment of this proposal would be one of the strongest steps which the Congress could take to reduce crime and make more effective the administration of justice in the United States.

It is shocking that thousands of individuals are being detained in prisons for as long as 2 or 3 years prior to being granted their right to a trial. More than one-half of the 160,000 inmates in our Nation's prisons have not even been convicted of a crime.

As distressing as the simple fact of delay is the problem that justice delayed is more likely to result in no justice at all. As time lapses, it becomes increasingly difficult for the Government to obtain a conviction, as witnesses to the original crime either become unavailable or forget details of the event.

In addition, professional studies indicate that those suspects who are released on bail are more likely to commit an additional crime while awaiting trial. Thus, "speedy trial" can lead to "speedy justice" and a reduction in the soaring crime rates that is afflicting our Nation.

This bill woud require that individuals indicted in a Federal court be granted a trial within 60 days of an indictment. This would be a bold step, but I am convinced that it would provide the impetus necessary to force the President and the Congress to assist the courts in establishing plans for the implementation of the sixth amendment privilege of a "speedy and public trial"—including the creation of additional judgeships to handle what is now an impossible overload in our courts.

I am pleased to note that this concept has been endorsed by Chief Justice Warren Burger of the Supreme Court who declared that criminal trials within 60 days would sharply reduce the crime rate. It is also my understanding that the Justice Department has announced its support of efforts to establish a maximum pretrial detention period.

With a majority of the Senate now backing this bill, I am hopeful of prompt consideration and passage of S. 895.

S. 2023

At the request of Mr. BAYH, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor to S. 2023, a bill to provide for a procedure to investigate and render decisions and recommendations with respect to grievances and appeals of employees of the Foreign Service.

S. 2083

At the request of Mr. BAYH, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor to S. 2083, a bill to prohibit the poisoning of animals and birds on the public lands of the United States, and for other purposes.

S. 2084

At the request of Mr. BAYH, the Senator from Rhode Island (Mr. PASTORE) was added a cosponsor to S. 2084, a bill to discourage the use of leg-hold or steel jaw traps on animals in the United States.

S. 2185

At the request of Mr. BAYH, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor to S. 2185, a bill to carry out the recommendations of the Presidential Task Force on Women's Rights and Responsibilities, and for other purposes.

S. 2748

At the request of Mr. BOGGS, the Senator from Wyoming (Mr. HANSEN) was added as a cosponsor of S. 2748, to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide benefits to survivors of police officers, prison guards and firemen killed in the line of duty.

S. 2571

At the request of Mr. MCGOVERN, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 2571, the Rural Development and Population Dispersion Act.

S. 2768

At the request of Mr. HUMPHREY, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 2768, a bill to require the Secretary of the Treasury to provide each taxpayer with analysis of the proportionate dollar amounts of his tax payment which were spent by the Federal Government during the latest fiscal year for which data is available for certain items.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 590 THROUGH 599

(Ordered to be printed and to lie on the table.)

Mr. ERVIN submitted 10 amendments, intended to be proposed by him, to the bill (S. 2515) to further promote equal employment opportunities for American workers.

EQUAL EMPLOYMENT OPPORTUNITY ACT OF 1971—AMENDMENTS

AMENDMENT NO. 600

(Ordered to be printed and to lie on the table.)

Mr. GAMBRELL submitted an amendment, intended to be proposed by him, to the bill (H.R. 1746) to further promote equal employment opportunities for American workers.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 601

(Ordered to be printed and referred to the Committee on Finance.)

MAKING THE INVESTMENT TAX CREDIT AVAILABLE FOR FIRST QUARTER FARM MACHINERY PURCHASES

Mr. HUMPHREY. Mr. President, the American farmer is taking it on the chin again this year. Although the prices farmers have to pay for production supplies, interest, taxes, and farm wage rates are 6-percent higher this year, all farm prices including prices paid for livestock and livestock products, as well as crops, are no higher than a year ago. And when you examine the price situation for feed and feed grain products today, you will find that the problem is much worse.

And, the income problem of the farmer is not helped a great deal by the Revenue Act of 1971—H.R. 10947.

Farmers make a heavy investment in machinery. And, they place almost $1 billion of their orders in the first quarter of every year.

But, the Revenue Act of 1971 does not clearly recognize the size or the importance of this first quarter investment. The Revenue Act provides that the tax credit for machinery will apply to the second, third, and fourth quarters of 1971, but not to the first quarter.

The amendment which I submit will make the investment tax credit available for farm machine orders placed from January to March 1971, as well as in the other quarters of the year.

I estimate that my amendment will provide farmers with an additional $66 million in benefits than are now available in pending legislation.

It is estimated that realized net farm income will drop again this year as it did last. The first half of this year farm income was down considerably. Despite improvements expected in this regard during the latter half of this year—mainly due to stronger prices for livestock—realized net farm income is still expected to drop by at least another $200 or $300 million this year.

Mr. President, prices received by farmers today are down to about 69 percent of parity. For the benefit of my nonfarm colleagues, parity is a level of income providing a farmer and his family with a standard of living equivalent to that afforded persons in other gainful occupations in return for like investments in time, energy, and money. Given the fact that farmers are among the few businessmen in this country who still must sell in a sellers market and buy in a buyers market, they are in urgent need of relief on both sides of the marketing fence.

Gross farm income hit an all time high last year of almost $57 billion. But as gross income has continued to increase farm production expenses have continued

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to increase even more, thus leaving the farmer with less net income. Immediately following World War II it cost the farmer about 50 cents in expenses to produce $1 in gross income. Today he has to spend 73½ cents to produce $1 in gross income. This sharp increase in farm production costs has cut deeply into his net income returns. And Mr. President, it is to this problem that I direct my amendment to move the restoration date of the 7-percent investment credit for farm machinery ordered back to January 1, 1971, instead of April 1, 1971, proposed by the administration.

Mr. President, the revenue bill of 1971 relating to job development credit as reported by the House Ways and Means Committee on September 29, 1971, provides for the restoration of the 7-percent investment credit which was terminated on April 18, 1969. The new credit would be limited to the first $25,000 of income tax liability plus 50 percent of the tax in excess of $25,000. Farm property covered would be the same as the previous credit, except that livestock would now qualify.

No credit would be available for property that has a useful life of less than 3 years. Full credit would apply for property which has a useful life greater than 6 years; one-third credit for 3 through 4 years; and two-thirds credit for 5 through 6 years.

Used property qualifies for the credit not to exceed $65,000 of the cost in any year. This amount is reduced by the amount of qualified investment in new property place in service during the same taxable year.

Unused investment credit can be carried back 3 years and forward 7 years.

Of an estimated $5,150 million expended by farmers for machinery in 1971, 18 percent or $942.6 million will have been purchased in the first quarter of this year. Thus, a 7-percent investment credit applied retroactively back to January 1, 1971, would provide a total benefit to farmers of $361 million for 1971 or $66 million more than if the retroactive date were established as April 1, 1971.

Mr. President, to further clarify the importance of moving this retroactive date from April 1 to January 1, I ask unanimous consent to have printed in the RECORD, following the completion of my remarks, three tables.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUMPHREY. Table 1 indicates shipments of farm machines in the first quarter are about 29 percent of the yearly total. These first-quarter shipments have trended downward and may be approaching 28 percent in 1971. These data, however, relate only to shipments of machines and not to actual purchases by farmers.

Table 2 indicates farmer purchases of the three most important machine items—tractors, combines, and balers. Sales data indicate that farmers purchase substantially less than one-fourth of their farm equipment in the first quarter of the year.

Table 3 indicates the estimated farm gross capital expenditures for new and used farm machinery, for the first quarter and all of this year.

Mr. President, the American farmer is in serious economic trouble. The added help that my amendment would give him in holding down his costs is urgently needed now. With prices for many of his products down, while his costs continue upward, farmers need the kind of relief that my amendment provides.

Mr. President, I invite my colleagues to join me in sponsoring this amendment. I know the farmers of this Nation will greatly appreciate receiving their support regarding this matter which affects their pocketbook so directly.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. SPARKMAN. I would like my name to be added as a cosponsor.

Is it not true that farmers regularly buy their equipment in the early part of the year?

Mr. HUMPHREY. Absolutely.

Mr. SPARKMAN. There is very little during the summer, when crops are growing, or during the fall.

Mr. HUMPHREY. The Senator is correct. Three-quarters of the machinery is purchased by our farmers in the first 3 months of the year.

Mr. SPARKMAN. Yes. I am glad the Senator has offered the amendment, and I hope it . : agreed to.

Mr. HUMPHREY. I am very pleased to have the distinguished Senator from Alabama as cosponsor. I think it assures favorable consideration of the amendment.

Mr. President, I ask unanimous consent that the names of the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. GAMBRELL) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXHIBIT 1

TABLE 1.—FARM MACHINES: 1ST QUARTER AND YEARLY SHIPMENTS, 1968–70

Year	1st quarter (million)	Total for year (million)	Percentage 1st quarter of total
All machines:			
1970	$582.0	$2,025.8	28.7
1969	586.0	2,022.8	29.0
1968	650.0	2,160.7	30.1
Wheel tractors: [1]			
1970	248.4	857.1	29.0
1969	222.5	874.1	25.5
1968	273.5	939.1	29.1
All other farm machines:			
1970	333.6	1,168.7	28.5
1969	363.5	1,148.7	31.6
1968	376.5	1,221.6	30.8

[1] Includes both farm and industrial tractors. Farm tractors are reported at about 80 percent of this total.

Source: U.S. Bureau of Census, series M35S, Current Industrial Reports.

TABLE 2.—FARM MACHINERY: SALES TO FARMERS OF TRACTORS, COMBINES, AND BALERS, 1ST QUARTER AND YEARLY TOTAL, 1969–71

Year	1st quarter	Total for year	Percentage 1st quarter of total
Tractors:			
1971 [1]	25,600	119,000	21.5
1970	31,900	135,600	23.5
1969	35,200	143,600	24.5
Combines:			
1971 [1]	2,778	25,944	10.7
1970	2,486	27,288	9.1
1969	2,923	28,052	10.4
Balers:			
1971 [1]	1,558	26,560	5.9
1970	2,003	29,334	6.8
1969	2,147	31,879	6.7

[1] Yearly estimates based on January to August sales.

Source: Farm and Industrial Equipment Institute, FIEI Tractor and Machinery Retail Sales Reports.

TABLE 3.—FARM MACHINERY: ESTIMATED FARM GROSS CAPITAL EXPENDITURES FOR NEW AND USED MACHINERY, 1ST QUARTER AND TOTAL, 1971 [1]

Item	1st quarter (million)	Total for year (million)	Percentage 1st quarter of total
Tractors	$223.2	$1,010	22
Trucks [2]	163.9	745	22
Autos [3]	148.5	675	22
Other machinery	408.0	2,720	15
All machinery	942.6	5,150	18

[1] Based on data from USDA–FIS–218, Farm Income Situation, annual summary, July 1971, and on FIEI retail sales of selected farm machines.

[2] Represents 78 percent of total purchases as that portion used in farm business.

[3] Represents 40 percent of total purchases as that portion used in farm business.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 551

At the request of Mr. GAMBRELL, the Senator from Utah (Mr. BENNETT), and the Senator from Alabama (Mr. ALLEN) were added as cosponsors of Amendment No. 551, to prohibit the forced busing of public school children, to the bill (S. 2515) to further promote equal employment opportunities for American workers.

NOTICE OF HEARING ON CERTAIN CHANGES WITHIN THE BUREAU OF INDIAN AFFAIRS

Mr. McGOVERN. Mr. President, I wish to announce that an oversight hearing has been scheduled by the Senate Interior Subcommittee on Indian Affairs for November 17, 1971, on general policy, organizational structure, and key personnel appointments and changes within the Bureau of Indian Affairs. Several well publicized events occurred during the past summer which call into question the path the Bureau of Indian Affairs is taking. I feel it is essential for administration officials to tell us their positions on general policy, Bureau of Indian Affairs organizational structure and key personnel appointments and changes within the Bureau. The hearings will begin at 10 a.m., room 457, in the Old Senate Office Building.

ADDITIONAL STATEMENTS

RUSSIAN ESPIONAGE

Mr. GOLDWATER. Mr. President, some time ago our news media informed us that England had sent a number of Russian diplomats back to Russia for espionage. I did not notice nor did I hear in any of the discussions of this move one of the prime reasons which was rendered in the British press.

It turns out that these spies had been stealing information on the Concorde, SST, and Olympus 593 engine. If this is true, it explains the reasons that the aircraft are so similar.

I was greatly impressed by the Concorde and particularly by the quality which went into its manufacture. It is surprising, however, to learn that the Russians have lost faith in their own ability when they, in effect, have created some of the world's greatest airplanes.

So that the Senators might have a better understanding of this subject, I ask unanimous consent that two articles published in the London newspaper be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the London (England) Times, Sept. 25, 1971]

KGB DEFECTOR GAVE FACTS

(By A. M. Rendel and staff reporters)

The British Government has called for a cut of about a fifth in the number of Soviet officials in Britain, as well as of Soviet espionage.

It was emphasised yesterday at the Foreign Office that the British Government sincerely desires good relations with the Soviet Union, but requests in the past for a curtailment of the known large-scale espionage activities by Soviet officials have gone unheeded. These activities are themselves a major impediment to good relations.

On the instructions of Sir Alec Douglas-Home, Foreign Secretary, Mr. Ippolitov, the Soviet Chargé d'Affaires, was asked to call yesterday, on Sir Denis Greenhill, Permanent Under-Secretary. He was handed an aide mémoire which contained the Government's request for the withdrawal of the officials.

The Foreign Office aide mémoire stated:

When Mr. Gromyko visited London in October, 1970, he spoke of the desirability of improving Anglo-Soviet relations.

It is the sincere wish of her Majesty's Government to bring about such an improvement. There is however one matter of importance which has repeatedly caused friction in Anglo-Soviet relations. This is the scale of intelligence-gathering activities by Soviet officials in this country.

This subject was raised with Mr. Gromyko by Sir Alec Douglas-Home, first in conversation in London and subsequently in a letter dated December 3, 1970, written at Mr. Gromyko's suggestion, and in a further letter dated August 4, 1971.

These letters have not been answered, nor even acknowledged. Meanwhile inadmissible activities by Soviet officials in Britain have continued. During the last 12 months a number of Soviet officials have been required to leave the country after being detected in such activities. During the same period it has been decided not to issue visas to a number of officials nominated to Soviet establishments in the United Kingdom on account of their previous activities.

The staffs of the Soviet Embassy and the Soviet trade delegation, which form the two largest elements in the Soviet official establishment in Britain, far outnumber the British officials working in the Soviet Union.

Her Majesty's Government have tolerated the growth of these establishments. They have not sought to bargain increases in the Soviet establishment in this country against increases in the British establishment in the USSR; nor have they sought to establish any fixed relationship between the Soviet commercial establishment in this country and the growth of British exports to the Soviet Union. Evidence has however been accumulating that this tolerance has been systematically abused.

This abuse is a matter of serious concern to her Majesty's Government as a direct threat to the security of this country. Moreover the recurring need to request the withdrawal of Soviet officials from this country, or to refuse visas to certain officials selected for service in this country, imposes strains on Anglo-Soviet relations So do unjustified acts of Soviet retaliation such as the recent expulsions of Mr. Miller, Mr. Nicholson and Mr. Jackson.

The Soviet Government can hardly fail to be conscious of the contradiction between their advocacy of a conference on European security and the scale of the operations against the security of this country which Soviet officials and agents controlled by them have conducted.

Her Majesty's Government would like to see this contradiction resolved before the preparation of a conference on European Security begins.

The Soviet Embassy is therefore requested to arrange for the persons named on the attached list, all of whom have been concerned in intelligence activities, to leave Britain within two weeks from the date of this aide mémoire. Henceforth:

(a) The numbers of officials in (i) the Soviet Embassy (ii) the Soviet trade delegation, and (iii) all other Soviet organisations in Great Britain will not be permitted to rise above the levels at which they will stand after the withdrawal of the persons named in the attached list:

(b) If a Soviet official is required to leave the country as a result of his having been detected in intelligence activities, the permitted level in that category will be reduced by one.

The Soviet Embassy is also asked to take note that the Soviet citizens named on the second list attached, who are believed to have left the country but still hold valid reentry visas, will not be permitted to return to Britain, on account of their participation in intelligence activities.

In practice this means that out of a total strength of about 550 officials accredited to the various Soviet organisations in London, the British Government is asking for the withdrawal of about 90. It will not permit a further 15 or so, who have visas but are not in Britain, to come back. The total strength will therefore be reduced from about 550 to about 445.

A Foreign Office statement issued after Mr. Ippolitov's call said also that the number of Soviet officials in Britain and the proportion of them engaged in intelligence work had been causing grave concern for some time. The size of the Soviet Embassy was limited in November, 1968, to its then number, about 80, after the case of Chief Technician Douglas Ronald Britten.

[He was sentenced in 1968 to 21 years imprisonment for passing highly secret information to Soviet Intelligence. At the time of his arrest he was controlled by Mr. A. I. Borisenko, Counsellor in the cultural department of the Soviet Embassy, who left for Moscow shortly after the arrest.]

The total number of Soviet officials filling posts in Britain, standing at 580, is higher than for any other Western country, including the United States.

The Foreign Office statement said there was ample evidence of espionage activities. Further evidence of the scale and nature of Soviet espionage in Britain conducted under the auspices of the Embassy, trade delegations, and other organisations has been provided by a Soviet official who recently applied for and was given permission to remain in Britain.

The man in question, an officer in the KGB (Soviet Intelligence) brought with him certain intelligence and documents, including plans for the infiltration of agents for the purpose of sabotage.

It was an open question last night whether the British Government's move would change Sir Alec Douglas-Home's plans to visit the Soviet Union. Earlier in the week he had received a message from Mr. Gromyko proposing a date early in the new year.

Sir Alec was known then to feel that any final decision must await a talk with Mr. Gromyko in New York. Sir Alec leaves today for a week at the General Assembly of the United Nations.

The Russians, when faced with facts which can no longer be avoided, frequently respond. Although relations can hardly be anything but cool for the present, this forthright handling of a situation which has become intolerable may well clear the air and help to improve Anglo-Soviet relations in the end.

The influence of the Soviet Foreign Ministry is, however, by no means certainly sufficient to override the ambitions of the intelligence agencies in the Soviet Union.

Mr. Yuri Andropov, the head of the KGB, for instance, is a member of the Soviet Council of Ministers and the candidate member of the Politburo, whereas Mr. Gromyko, the Foreign Minister, is not in the Politburo at all.

The KGB has certainly been able to obtain a high proportion of the posts in Soviet missions abroad, particularly in those giving diplomatic immunity.

The large number of intelligence officers in the scientific and technical department at the Soviet Embassy shows the keen Russian interest in scientific and technical information in particular, including specifically information on electronics, transformers, semiconductors, computer circuitry, *and technical details of the Concorde and Olympus 593 engine.*

Soviet representation in Britain has risen steadily from 188 in 1950 to 249 in 1960 and over 550 today (including working wives).

Since 1960 the British Government has requested the immediate recall of 27 Soviet officials detected in active espionage, and more than 40 visa applications by identified intelligence officers have been refused.

There are some 280 people connected with the Soviet Embassy and other official agencies who have diplomatic status, and their families, who do not have all the privileges but enjoy certain immunity.

Since, for instance, Tass news agency claims to be an official government institution it also claims immunity in court cases.

WHEN NICK OF THE KGB SAW CONCORDE

(By Tim Jones)

Smuggling a member of the KGB, the Soviet secret police, into the Concorde hangar at Filton, near Bristol, had presented no difficulty, a former British Aircraft Corporation employee claimed yesterday.

"I told the security officer on the gate that the spy was a friend from Hamburg. We were waved through and spent some 35 minutes in the hangar. The spy, whom I only knew as Nick, made notes and sketches of the cockpit."

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Making the confession was Mr. James Doyle, aged 45, of Springfield Avenue, Ashley Down, Bristol, who says that while employed by BAC as an electronics engineer, the Russians paid him about £5,000 for information he passed to them on Concorde's secrets.

It was a story he had given to *The Times* more than 18 months ago, but which was not published at the time after senior members of Scotland Yard's Special Branch were consulted. Our lengthy investigations had also shown up certain inconsistencies in Mr. Doyle's story.

Mr. Doyle has since had several interviews with the Special Branch but no charges have been preferred against him. His confession to *The Times* did, however, draw attention to possible flaws in the Filton security system and, it is understood, a sweeping review followed.

Yesterday Mr. Doyle repeated his claim to have passed on information about Concorde, including manuals, sketches and small pieces of equipment, to Russian contacts from the Soviet Trade Delegation in London.

Of the £5,000 paid to him, he said, "I was sometimes spending £50 in an evening on drinks and entertainment". The Russians gave him "dirty photographs" which he could show to people in order to make contacts.

"Security at BAC is more than a joke", he said. "I spent two-and-a-half years at the factory and during that time I could go in and out when I wanted. I had most of the keys to the secret departments."

One scheme he had refused to take part in was a plan, suggested by the Russians, to smuggle a 16ft missile out of the factory. "It would have been easy to drive it out through West Gate because no one stops you there.

"We had a house about 400 yards from the factory earmarked and would have hidden the missile in the back garden. Neighbours wouldn't have known what it was for, it would have been covered in tarpaulin and could have been a telegraph pole."

Why didn't he carry the scheme through? "I didn't mind taking out documents but I would have had to answer for a missing missile."

As well as information about the Concorde, the Russians also asked him to obtain secrets of various weapons systems being developed at the plant. He eventually confessed, he said, because the Russians were beginning to apply too much pressure on him.

When he left BAC 18 months ago, he had enough material accumulated to keep the Russians happy for another three months. After deciding to confess, he wrote to Mr. Wilson, then Prime Minister, saying he had spy information. He received an acknowledgement but no one called to see him. Eventually, he went to Scotland Yard.

Mr. Doyle, who now works as a burglar alarm specialist, was still wearing his Concorde tie as he spoke yesterday. He said he had been a member of the British Communist Party but left a year ago and now had no political affiliations.

Dr. William Strang, technical director of the BAC commercial aircraft division commented: "When we first had a glimpse of the Russian TU 144 we were all struck by the general similarity to the Concorde. I think it likely that they did have some knowledge of the work we were doing, which led to the general shape definition."

But Dr. Strang added that he had no personal reason to complain about any activities from the Russian side in relation to the Concorde.

BETTER HEALTH CARE AT LOWER COST: THE MERGER OF PUBLIC AND PRIVATE HOSPITALS

Mr. HUMPHREY. Mr. President, the State of Minnesota has long enjoyed a reputation of being a progressive and innovative State in the development and delivery of medical care.

Two of our great institutions, the Hennepin County General Hospital and Metropolitan Medical Center are proceeding to develop a very unique public-private alliance in the construction of health care facilities, an alliance that will have a dramatic effect on the health care system of the community and the State and a project that the State of Minnesota can be proud to have serve as a prototype for the Nation. These two institutions have together responded to community needs in a bold and innovative fashion and are willing to assume the responsibility of community leadership, recognizing the problems that this may entail as they seek some new directions and answers to the problems of health care systems that exist today.

In 1969, the Hennepin County community passed, by an overwhelming majority of 10 to 1, a $25 million referendum for the construction of a new Hennepin County General Hospital. Immediately thereafter, Hennepin County General began, with a significant amount of professional and consumer input from the community, to determine what the new general hospital should be; what programs the hospital should deliver; how the hospital should deliver its health services in a more responsive manner; what the county could do to assure the community it was not going to build the last of the old public hospitals. Concurrently, the Swedish and St. Barnabas Hospitals were searching to determine how they could best serve the needs of their community. Their immediate answer was in the merger of their two institutions into one facility, one organization: The Metropolitan Medical Center. This was the first real merger of medical institutions in this community.

In order to maximize the benefits of the merger of the metropolitan medical center, it was determined that the facilities of the older of the predecessor hospitals, the Swedish Hospital, had to be replaced. This hospital is located approximately three blocks from the existing Hennepin County General Hospital.

General hospital, one of the outstanding service and teaching hospitals in the Nation, is housed in inadequate, antiquated buildings and must replace its entire facility.

In response to community and national concern about the delivery and cost of health care, and concerns about the numbers of inpatient beds and facilities in the core metropolitan area, officials from the two hospitals have determined that they will not build separate facilities but that they will build contiguous, architecturally integrated facilities in which maximum sharing of space, equipment, services, and manpower can take place. Sharing will take place in approximately 30 separate programs where each hospital will phase out a particular service and only one program will exist for the two hospitals. This will occur in the clinical programs such as obstetrics, pediatrics, newborn intensive care, emergency care, primary care, as well as the ancillary programs such as laundry, dietary, central supply, and powerplants. Major coordination of manpower and services will also take place in laboratories, radiology, operating rooms, and so forth. The plan has been enthusiastically received by the community, the press, the State health department, and the metropolitan health board.

Contiguous facilities alone, however, are not what make this project a prototype for what can be the answer to many of the metropolitan health problems throughout the Nation.

The major strength of this proposed project lies in the coordination of the public and private health care systems. These hospitals have, in this project, no barriers to future program coordination development. There are no barriers to sharing of services, sharing of manpower, sharing of educational programs. They are developing a very unique capacity to accommodate change, change in the health care system itself, change in the demands for health care on one institution or the other. They will provide the opportunity to eliminate the dual system of health care. They will provide the opportunity to capitalize on the relative strengths of the public and private systems and reduce the weaknesses of each. This very unique capacity to accommodate change is going to be of major importance to these two institutions and to this metropolitan area and the State of Minnesota in the future as more and more health care programs at the national level are developed. These institutions are developing a capacity to accommodate whatever change might be brought in the forseeable future.

The Hennepin County General Hospital serves as one of the major educational institutions in the State of Minnesota. Thirty percent of all interns in the State have their internships at the general hospital. The capabilities of expanding and making the medical education programs even more inviting to medical students graduating from Minnesota and other parts of the Nation are of major significance if these two institutions coordinate their facilities and programs.

They have not yet defined all of the coordination that this project will have. The developing commitments of the governing boards, medical staffs, and administrative staffs of both institutions over the last 6 months have been greatly encouraging. Six months ago there was great doubt that they would be able to put together such coordination as now exists between two divergent health care systems. The problems of coordinating the public and the private medical philosophies in education and service seemed overwhelming. However, the two groups have recognized that the only way to proceed is through meaningful coordination. This coordination will lead to the development of programs beyond the four walls of the institution and into the community. This, too, will have a significant impact on health services for this metropolitan area.

In developing this project in this coordinated manner, the savings—both in initial construction cost and future operating costs—are not inconsequential. It is estimated that the coordinated construction of the two institutions will result in an immediate savings of $4 to $6 million over what the need would be if two institutions were to build independent facilities.

Of even greater significance are the annual savings in operating costs which will be realised. They are able to estimate very concretely right now that they will save over $500,000 per year in personnel cost in pediatrics, obstetrics, and emergency services alone. When you add up the personnel savings and the other 27 programs that they will share, the annual operating savings will be approximately $750,000 to $1 million per year. Savings of this type can only be achieved through the architecturally integrated facilities that they are developing.

Here is a project of great significance to our public hospitals facing budgetary crisis and to our voluntary hospitals seeking to define a responsible role in the provision of health care in metropolitan areas.

We should watch this project and see how it develops and see that it does develop. It can and will have a significant impact on the health care in this major metropolitan area.

FORCED BUSING

Mr. GRIFFIN. Mr. President, last week the Supreme Court, without handing down any opinion or explanation, denied certiorari and thus refused to review the Pontiac, Mich., segregation case.

It is unfortunate, I believe, that the Supreme Court did not take this opportunity to review its previous decisions concerning forced busing as a remedy for school segregation.

However, other similar cases are working their way toward the Supreme Court, and I hope that when the Court reaches full strength it will decide to reexamine both the efficacy and the constitutionality of forced busing.

The Washington Evening Star on October 29 carried a perceptive editorial which concluded that the Pontiac case "deserved a full hearing and a judgment by the Supreme Court."

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE BUSING DILEMMA

Federal court decisions on racial busing are accumulating this season like the autumn leaves. And this probably is just the beginning, because every school district has its peculiar circumstances which need to be interpreted. Local boards all over the country are awaiting clarification of their duties with regard to desegregation. Those responsibilities still are indistinct, despite the deluge of language that has been issued from the Supreme Court on the subject.

So the district and appeals courts have a long, hard road ahead, as does the Supreme Court in overseeing what the lower judiciary is doing. The high court has tended to support or at least leave undisturbed the lower courts' busing solutions. To delve into all the details and differentials that are at issue would be like trying to unravel a mountain of spaghetti. Understandably, the justices are restricting their searching examinations to appealed cases that seem ready-made for the laying down of broad, definitive rules.

Such a case was the one emanating from Pontiac, Michigan. This litigation deserved a full hearing and a judgment by the Supreme Court. By declining to review a federal court order for extensive busing at Pontiac, the high court allowed the decree to stand and left critical questions unanswered. It missed an excellent opportunity to deal with the rolling issue of busing to create racial balance in Northern schools. In sidestepping at this juncture, it assured that the technique developed in the Pontiac case will be applied elsewhere and added to the difficulty of any modifications it might decide to sanction in the future.

This was, in fact, the first chance the court has had to rule on a new genre of Northern and Western cases that are moving up the appeals route. Last April it approved of busing as an acceptable implement to achieve desegregation in three Southern cities, where it is presumed that the dismantling of the old *de jure* (officially imposed) segregation system is still in progress. But suits in Northern cities now claim that school segregation, defended as being *de facto* (a consequence of residential patterns), actually is *de jure*—the result of official manipulation. For example, in Pontiac the officials were accused of failing to adjust school district lines so as to attain desegregation, and of building schools in areas that are all-black and all-white with the effect of perpetuating segregation.

Certainly the gerrymandering or freesing of attendance zones to avoid desegregation cannot be tolerated, but this conclusion suggests that busing isn't the only available expedient. Much can be achieved through rearrangement of zones. By no stretch of reasoning, however, should school boards be required to make racial balance their overriding consideration in building new schools.

The school boycott at Pontiac and the busing protest violence that has occurred there are indefensible, but apart from those repugnant spectacles are far-reaching questions of law that must be answered soon in the interest of educational stability. If that interest is to be served, we believe, the court must outline some practical limits on busing.

RESOLUTION OF JOINT COMMITTEE ON ATOMIC ENERGY TO AMEND ATOMIC ENERGY ACT OF 1954, AS AMENDED

Mr. PASTORE. Mr. President, I ask unanimous consent to have printed in the RECORD the text of a resolution adopted by the Joint Committee on Atomic Energy on November 2, 1971. The resolution was adopted pursuant to the authority contained in section 161 v. of the Atomic Energy Act of 1954, as amended.

The resolution waives a waiting period contained in that section of the law relative to the time during which any proposed amendment to the AEC's uranium enrichment services criteria must lie before the joint committee before such amendment may be established. The proposed amendment was submitted to the joint committee on October 13, 1971, and would increase termination charges to customers for AEC's uranium enrichment services and the notice period by which enrichment services contracts may be terminated by the customer without incurring such termination charges. The committee carefully considered the proposed amendment and determined that it would be in the best interest of the United States for the proposed amendment to be established without further delay.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION: JOINT COMMITTEE ON ATOMIC ENERGY, NOVEMBER 2, 1971

To waive certain provisions of the Atomic Energy Act of 1954, as amended, so as to permit an amendment to the Atomic Energy Commission's Uranium Enrichment Services Criteria to be immediately established.

Whereas, on October 13, 1971, the Atomic Energy Commission submitted to the Joint Committee on Atomic Energy, pursuant to subsection 161 v. of the Atomic Energy Act of 1954, as amended, a proposed amendment to the Uranium Enrichment Services Criteria; and

Whereas, Section 161 v. of the Atomic Energy Act of 1954, as amended, provides in effect that such amendments may not be established until forty-five days have expired while the Congress is in session after the submission of the amendment, without adverse action thereon by the Congress, and unless such period is waived by resolution of the Joint Committee on Atomic Energy; and

Whereas, the Joint Committee on Atomic Energy is satisfied that the proposed amendment is in keeping with the provisions of the Atomic Energy Act of 1954, as amended, and the legislative history thereof; and

Whereas, the Joint Committee on Atomic Energy recognizes that the early establishment of the proposed amendment would be in the best interests of the United States: Now, therefore, be it

Resolved by the Joint Committee on Atomic Energy of the United States Congress assembled, That notwithstanding the provisions of section 161 v. of the Atomic Energy Act of 1954, as amended, which provides for a forty-five day waiting period before amendments to the Uranium Enrichment Services Criteria may be established, the proposed amendment submitted on October 13, 1971, by the Atomic Energy Commission, may be established at any time after the approval of this Resolution.

Approved by a majority of the Joint Committee on Atomic Energy, November 2, 1971.

Attest:

EDWARD J. BAUSER,
Executive Director.

THE FARMERS HOME ADMINISTRATION

Mr. BEALL. Mr. President, it is welcome news when a Federal agency doubles its service to the people without a corresponding leap in Government spending.

That is exactly the record made since 3 years ago by the Farmers Home Administration of the Department of Agriculture.

In its role as a supplementary credit agency for family-farm agriculture, rural housing, and rural community facilities, Farmers Home has lifted the volume of its services from $1.3 billion in fiscal year 1969 to $2.4 billion in fiscal 1971. A level of $2.8 billion is in sight for the current year.

For the Nation, the tangible assets created by these programs the past 2 years are 135,000 new town and country homes, 2,500 rural community water and sewer system projects, and 145,000 loans to farm families for ownership, operation, or rectifying disaster damage to their farms.

A point to note is that this great contribution to rural development is being accomplished through use of private rather than Government loan funds.

The agency actually used $28 million

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loss of direct Government loans in fiscal 1971 than in 1969. All the increase the past 2 years—more than $900 million—represents insured lending, the attraction of more private capital into rural areas.

This has been done through Farmers Home Administration insurance of the investor's risk, and much more effective efforts to place FHA loan notes both with local lenders and nonrural investors.

Rural housing is very much a growth enterprise as a result of new credit resources opened up by Farmers Home. In Maryland and many other States, building is on the boom for the first time in smaller towns and open country well away from the metropolitan suburbs.

One thousand new homes for rural families of low and moderate income were added in southern, Eastern Shore, northeastern, and western Maryland the past year through $15 million of Farmers Home-insured home buyer credit. This, again, was twice the amount of 2 years ago.

Rural people, long suppressed in their ambition for better housing due to shortage of credit, have been quick to respond to the opportunity opened up by expansion of the rural FHA program.

Urban Americans have been slower to take notice, but now they are beginning to realize that a housing surge in rural areas will have a profound and enduring good effect, even on problems of the cities.

The modernization of rural living standards is one of the first prerequisites for ending the flow of distressed rural people to the city, and reestablishing a balance between urban and rural community development.

The renewal of opportunity in rural areas is a clearly stated objective of President Nixon. He has acted on his word to strengthen programs such as those administered by the Farmers Home Administration. And the immensely effective followthrough by Farmers Home is a credit to National Administrator James V. Smith and the staff of his agency who carry their services to rural people through a nationwide system of local county offices.

We are pleased that they have signified their intention to increase their services in rural Maryland by adding offices this year in Hagerstown and North East and strengthening their forces in our rural counties around Chesapeake Bay.

A NEW POLICY FOR VETERANS AND SERVICE MEN AND WOMEN

Mr. McGOVERN. Mr. President, I ask unanimous consent that a statement that I issued today be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

A NEW POLICY FOR VETERANS AND SERVICEMEN AND WOMEN

For most of the past 30 years, the United States has been engaged in war in some part of the world. Throughout that period, we have used conscription to raise the major part of our Armed Forces. The use of the draft, which is not customary in the broad sweep of our national history, illustrates just how exceptional this period has been.

Tens of millions of young American men and women have served their Nation with distinction and honor. Most of them are now veterans. Of particular importance are those who have been called upon to make great sacrifices in Indochina in a war which has divided our Nation and which is now generally considered to have been a mistake.

The entire American people owe a special debt to their servicemen and women and veterans. To our credit, we have recognized this debt, in part, through the creation of the Veterans Administration and of a wide range of programs intended to provide special assistance to those who have made personal sacrifices for their country.

Unfortunately, we have failed to provide adequate programs for the veterans of Indochina. Nor have we kept the practices and procedures of our Armed Forces in line with the evolution of our society as a whole.

Therefore, building on all that is constructive in our current programs for veterans and servicemen and women, I propose measures that should be taken without further delay to deal fairly with those who have served their country. I advocate the principle that our government policies should be based upon the concept of "equality of sacrifice" by all Americans. In the case of the military service, this concept may not be fully applicable, and, in that case, we must provide compensation to those who have done more than their share.

VETERANS

1. *A new GI Bill of Rights.* Not even the two or more years that a Vietnam veteran serves in the Armed Forces hardens him for the kind of uphill battle he encounters when he returns home and tries to continue his education. He must contend with government assistance that is minimal and fragmented, the rising cost of education, inflated prices, a dearth of part-time jobs, the struggle to re-adjust himself psychologically, and the additional handicap of having fought in a war that many of his fellow students regard as having no justification. Vietnam veterans have to pay the physical and psychological price of this nation's war policies in Indochina. When they return, they are, too often, required to repeat that sacrifice in order to re-establish themselves in our society. Should a young Vietnam veteran, placed at a disadvantage at 18 or 20 years of age and forced to bear the brunt of the sentiment against the Vietnam war, be further handicapped with inadequate re-adjustment assistance when he returns home to re-build his life?

A new GI Bill of Rights should provide additional educational assistance to veterans who have served during the Vietnam era. It would assure them of educational assistance from the Veterans Administration adequate to fulfill their needs to at least the degree this country met the needs of veterans of World War II. It would take account of the fact that millions have been subject to the draft even if they have not served in Indochina, because the draft was extended, in large part, as a result of our involvement there.

A new GI Bill would amend the present system of providing educational and training assistance to Vietnam era veterans by establishing several new provisions, specifically for them, which would: 1) reimburse the veteran for tuition and other fees that are required of all students in an educational institution—up to $3000; and 2) substantially increase the monthly allowances paid to veterans getting additional education or training under the current "GI Bill." It is aimed at providing a realistic level of aid so that this country's promise to help its veterans re-adjust can be fulfilled.

Specifically, the new GI Bill would provide that the young Vietnam veteran would be reimbursed for all required fees up to $3000 by the VA instead of the present system which requires him to pay his tuition and fees out of a very limited monthly allowance and whatever he can make from part-time jobs. Basically, this is the practice that was followed after World War II when the VA reimbursed schools for tuition and fees.

In addition, the Vietnam veteran would receive an increased monthly allowance for his living costs. This subsistence allowance would be $214 per month for a single veteran pursuing a full-time course of education or training. It would range up to $414 per month if he has 3 dependents and an additional $61 per month would be provided for each additional dependent above 3. Smaller amounts would be provided to the veteran who took ¾ or ½ the full-time course load. Under the present system, VA educational assistance payments range from a low $141 per month for a single veteran pursuing a program of cooperative education (combining both classroom instruction and practical training) to a high of $280 per month plus $13 per month for each dependent over 2. Out of this monthly allowance, the veteran is expected to pay for tuition, required fees, and his living costs. The present proposal would make the monthly allowance a subsistence allowance and provide a separate payment for tuition and required school costs.

The actual costs would either be reimbursed on presentation of a receipted invoice or would be paid in advance against a properly authenticated invoice from the educational or training institution. The institution would not be required to monitor attendance; it would simply report on the completion of the course work.

Because payment of educational expenses would be based on actual cost, there would be no need to prescribe any distinction in the ceiling on aid between veterans attending college and those in other programs.

Finally, a new GI Bill would remove the unfair differentiation now made between veterans taking cooperative courses designed to give practical experience along with academic training and those who follow a regular academic program. Those veterans who now take cooperative courses receive a reduced amount of VA assistance. For a single veteran, it is $141 versus $175 per month for veterans taking only an academic course of study. In effect, the cooperative student is a second-class veteran in terms of VA assistance. The new GI Bill would substitute a more realistic system of dealing with the problem of money earned from working while a veteran is receiving VA educational assistance. Both the cooperative student and the academic student would be treated equally. If an eligible Vietnam veteran received compensation for productive labor, he would receive a reduced VA monthly allowance, as determined by the Administrator of Veterans Affairs. In general, the VA subsistence allowance plus the compensation a veteran receives could not exceed $600 per month for a single veteran, $720 per month for a veteran with one dependent, or $850 per month for a veteran with two or more dependents. This would guarantee all veterans in school an adequate level of assistance and provide for an equitable treatment of any outside earned income. Eligibility would allow for 48 months of education.

The increases in the VA educational and training payments provided would not remove all the extra burdens that this society and the circumstances of this war have placed on the Vietnam veteran. But, they would eliminate what is probably the single greatest handicap—inadequate financial assistance. The new GI Bill would supplement the concerted efforts now being made by Congress and private groups to assure a realistic and effective readjustment program for Vietnam veterans.

The need for the changes proposed is indicated both by a comparison with GI Bill assistance after World War II and a comparison between VA assistance and the costs of living and getting an education.

After World War II, VA-provided educational assistance included: 1) tuition and fees up to $500; and 2) a graduated scale of monthly subsistence allowances that began at $50 per month for a single veteran, and was later raised to $75 per month. This meant that an eligible veteran could expect at least $675 per school year plus up to $500 in tuition and fees—a minimum of $1175 per year. At the same time, the cost-of-living, as indicated by the Consumer Price Index, was less than ½ of what it is today. And, the tuition and required fees are estimated to have averaged about $125 per year in public institutions and $320 per year in private colleges.

Given the benefits provided by the VA and the average costs after World War II, the educational assistance set up in the original GI Bill was adequate to assure that if a veteran wanted an education he could get one. The tuition provision covered tuition costs in both public and most private schools. The subsistence allowance along with the range of other assistance provided by the government and local communities assured that the World War II veteran could live with a minimum supplemental income. And, the rapidly increasing demand for labor gave him a chance to work part-time to earn that supplemental income.

In contrast, today, with the cost of living more than twice that of 1946 and with tuition and required fees averaging almost $350 per academic year in public universities and $1650 in private schools, the tuition payment by the VA has been dropped and the monthly allowance has barely kept up with the rise in the cost of living. The veteran in 1971 can expect a minimum of $175 per month (if enrolled in an academic program) or $1575 per school year, only about ½ above his minimum expectations in 1946 (a subsistence payment of $675 plus $500 for tuition).

The present scale of educational assistance to Vietnam veterans has not kept pace with the increase in costs and need. Today, this country is coming nowhere near giving the Vietnam veteran the same generous support it gave its World War II veterans, even though the soldier returning from Vietnam has a far bleaker employment outlook—nearly an 8-½% unemployment rate overall, and double that for minority veterans and those in their early 20's—and must face a psychological readjustment problem far tougher than any other veteran in our history.

The same inadequacies exist with respect to a comparison between the costs the young veteran must pay and the VA assistance he receives. Basically, present education benefits for veterans may almost cover the costs of a veteran if he attends a statistically "average" public university, lives in a dormitory, and eats only in regular student cafeteria facilities. This means that if there is any deviation from the statistically average pattern such as a new child or a higher tuition the veteran must find the money by seeking support from his family or getting a part-time job. With the present economic situation in this country, his chance of getting extra money from other sources is extremely limited. Thus, he either sees what will happen and does not take advantage of VA educational aid, choosing instead to try and find full-time employment, or drops out as the financial pressures become worse. Added to the task of making it through the school year is the problem of finding some way to support himself through the summer when he receives no VA assistance.

An example is the Vietnam veteran who chooses to go to a small private college. Many educators have suggested that this is the best idea for a newly returned veteran since at a smaller college he can receive the attention and counseling he needs and have time to re-adjust. A veteran attending even an "average" private college will probably have to use up his entire VA allowance for tuition and work nights and weekends to pay his living costs. In effect, the work he must put in will most probably negate whatever benefit the attention and lack of pressure available at a smaller college affords him. Only by guaranteeing the Vietnam veteran full payment of his tuition without his having to pay it out of his monthly allowance can we assure that our assistance will be truly meaningful.

A recent article in the *National Observer* highlighted a typical experience of a veteran returning to school. "He tends bar a few nights a week and his wife is employed full-time for a credit union. Their apartment costs $180 a month plus electricity and his tuition is over $200 each quarter." This couple is using up the money they saved during the six months they both worked before he resumed his full-time college work. Indeed, in some ways they are lucky to have found jobs to supplement their VA assistance. Too many young veterans cannot.

Last year, after Congress voted a limited rise in the educational allowances participation moved up sluggishly. According to the most recent Veterans Administration statistics, about 35% of the 5 million veterans who have returned during the Vietnam era have participated in the educational assistance programs. This compares with a 40% participation rate after the same period of time for the World War II GI Bill. Those who defend the present system point out that ultimately the participation rate may reach the final rate of 50% achieved after World War II. But with the increased emphasis on an education in determining the kind of job available to a veteran, a far better record is necessary.

When we have finished our withdrawal from Vietnam there will probably be almost 6 million Vietnam veterans. They want to be able to return and participate fully in the society that took two or more years out of their lives. The least we can do is provide them with as much as we spend to train, feed, clothe, and equip them as soldiers so that they can gain a full education and build productive lives. On the average, the U.S. Army spends about $6300 in one year to add one soldier. This only includes his base pay, food, housing, and other costs associated with the individual soldier. It does not include the huge sums that go into construction, research, combat consumption, equipment, and training. Yet, for four years of schooling we now allow the single Vietnam veteran the same $6300 this country spends just to pay, feed and clothe him for one year in the army. We find the money to pay for his training as a soldier and we should be willing to provide equivalent amounts for his readjustment to civilian life.

2. *Drug rehabilitation and psychiatric programs.* One of the highest costs of the war has been its effect on those who served in Indochina. Not only do they return home without a hero's welcome, but many are addicted to drugs and many others are suffering from various mental problems requiring psychiatric care.

The drug problem has reached alarming proportions. In Vietnam, drug treatment facilities are limited to retention of drug users for a few days. When users have been removed from dependence on drugs they are sent home and are soon released from the military. The program seems to be directed mainly at insuring that there will be no withdrawal problems on flights returning servicemen to the United States and that, upon arrival, these returnees will not prove to be an embarrassment to the Armed Forces. In short, the Armed Forces do not cure addicts or provide any sustained help to the great majority of those who began to use drugs while in Vietnam.

The burden of the drug rehabilitation program must then fall on Veterans Administration facilities. But, despite assurances from Administration sources, the drug treatment and psychiatric programs are insufficient to meet the problems of the returning servicemen. Only by ignoring most of these men can we believe that our current efforts are adequate.

Unfortunately it is all too easy to ignore those with drug or mental problems. Many of them are disaffected and want nothing further to do with the institutions of our government. Others are disoriented and do not know how to help themselves.

A total of $65 million should be allocated immediately for drug and psychiatric rehabilitation programs, and we should make the commitment to extend such appropriations for as long as they are necessary.

These programs would allow the Veterans' Administration to expand its facilities and to hire qualified psychologists and psychiatrists where they are available.

They would allow the Veterans' Administration to establish an "outreach" program in which qualified young staff could seek out those needing help.

Funds would also be available for the infusion of young personnal into the Veterans' Administration. Younger workers are needed to serve as recreation and other types of therapists who would be best able to communicate with the returning servicemen.

Finally, these programs would create jobs for many of the Vietnam veterans who are now unable to find work.

Undoubtedly the present programs of veteran assistance must be improved in other ways. But the two areas treated in this statement—educational and training benefits and drug and psychiatric rehabilitation—are those which most urgently require attention. And they represent the two critical areas for updating veterans assistance programs in light of the developments of recent years.

SERVICEMEN AND WOMEN

Our Armed Forces face a crisis caused, in large measure, by American involvement in the Indochina war. The Armed Forces have lost in the public's esteem because of general disenchantment with the war itself. This is unfair to the millions of fighting men who have acquitted themselves with great honor and distinction. And it represents a heavy burden for the Armed Forces as we emerge into the post-war period.

A sustained effort must be launched to make a military career attractive to able men and women. A large part of this effort involves the alignment of military practices and standards on the values of today's society. This can be accomplished without undermining the degree of discipline required to enable the Armed Forces to perform their allotted functions.

1. *Participation in political and civic life.* The separation of the civilian and the military, with ultimate civilian control, remains appropriate and necessary. But this approach and the supposed requirements of the military have operated to prevent individual members of the Armed Forces from expression of political points of view which differ from those of the Administration in office. In addition, requirements for registration and voting in many States effectively prevent members of the Armed Forces even from participating in elections. Thus, in effect, we are penalizing those who serve in the Armed Forces by excluding them from the political and civic life of the country.

No constraints should be placed on the expression of political views by members of the Armed Services, provided that they do not engage in political activities while in uniform and that they do not use facilities intended for the military purposes for their own purposes. All Constitutional guarantees

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must extend to all members of the Armed Forces at all times. In particular, we have seen specific cases where officers have been prevented from expressing their own political views, where soldiers have been prevented from circulating or editing anti-war newspapers and where servicemen and women have been prevented from enjoying certain shows on post theatre facilities. All of these practices must be opposed.

Appropriate directives should be issued by the Commander-in-Chief to permit all forms of political expression by members of the Armed Forces acting as private citizens.

An Armed Forces Voting Rights Act should be adopted which would permit servicemen and women to participate in all Federal elections. Members of the Armed Forces, when stationed in the United States, should be permitted to vote in Federal elections in the State and district of their place of service. Once the Electoral College is replaced by direct election of the President and Vice President, servicemen and women stationed abroad should be permitted to participate in elections for these offices.

2. *Military justice.* Over the years, the Uniform Code of Military Justice has been somewhat adjusted to conform with civilian legal practice. But further reform is required if members of the Armed Forces are to gain confidence in their special judicial system. In particular, further efforts are required to insure that military courts are free from the possibility of command influence.

The military courts should be relieved of any jurisdiction over alleged offenses which are not peculiar to the military. All such matters should fall under the jurisdiction of the Federal court system.

Offenses relating directly to the military function should remain under the jurisdiction of military courts. Thus, such alleged offenses as absence without leave and desertion should be subject to military justice.

Cases of such importance that they involve threats to the physical security of all or part of the United States extend in scope beyond internal military considerations and the maintenance of discipline. Cases of this nature in the United States should fall under the jurisdiction of the Federal courts.

In cases where an act in the United States would be deemed criminal regardless of the fact that it was committed in the Armed Forces, it would fall under the jurisdiction of the Federal courts.

Naturally, new rules must be adopted to prevent double jeopardy between military and State institutions.

Beyond this reorientation of the system of military justice, we should model that system, to the greatest extent possible, on the Federal court system. The military judicial system should be made into a single worldwide system under a unified command. The Courts of Military Review, appellate jurisdictions below the level of the Court of Military Appeals, should be staffed with high ranking legal officers appointed by the President. They should be subject to rating only by the chief judge, not by military commanders. Judges of all higher military courts should be assisted by law clerks from the junior officer ranks. The physical characteristics of the military courtroom should be the same as those of Federal district courts. Military judges should give advance approval orders to appear as witness or to produce evidence. The Court of Military Appeals, the highest court, should review all cases where a penalty of more than one year's confinement is given. Military judges should have the power to suspend sentences. They should also be empowered to issue orders and writs necessary to protect the rights of military personnel. Members of military juries should be selected at random, not by command choice, and should include female personnel.

In addition, the summary court martial, which does not provide adequate safeguards, should be abolished. The death penalty should be eliminated. All offenses, now described in general terms, should be precisely defined.

All of these measures, taken together, would represent a fundamental realignment of the system of military justice on the system of civilian justice. They would virtually eliminate the possibility of command influence on the judicial process.

A further step is the continual review by the Commander-in-Chief and the Congress of the offenses defined by the Uniform Code of Military Justice and the penalties. Military justice must be kept in line with general practice in these areas as well as in the realm of procedure.

3. *Military pay.* The pay scales now in effect for men and women in the Armed Forces are unjust. They penalize those who serve as a result of conscription and they make national service, either on a short-term or career basis, a sacrifice. Undoubtedly those in the military service receive certain non-pay benefits not normally available to the general public. But the pay scale, especially in the lower ranks, does not meet even the minimal living needs of the individuals concerned.

If we are to have an all-volunteer army in the United States, military pay must be increased. All projections that are now made relating to our ability to raise an all-volunteer army are based on existing pay scales. Naturally, the results are disappointing. If a military pay increase is constructed in such a way as to distribute pay better in the lower ranks, we will maximize the ability of the Armed Forces to attract and retain personnel.

The Congress has moved to increase military pay. These pay increases should be put into effect without any undue delay. Such pay increases would not have an inflationary effect but serve to stimulate consumer spending.

Even more important, action finally to bring military pay into line with civilian scales would represent a tangible expression of continued support for the Armed Forces at a time when some unjustly blame them for our involvement in Indochina.

The pay scales adopted by the Congress represent a major step in the right direction. But they fail to include fully the recommendations of the Gates Commission with regard to pay scales in the lower grades. The following examples indicate the differences:

	New scales (monthly)	Gates scales (monthly)
2 years or less service:		
E–1	$268.50	$301.50
		310.80
E–2	299.10	320.70
E–3	311.10	336.90
E–4	323.40	352.80
Over 2 years service:		
W–1	507.00	517.20
W–2	573.60	576.60
2 years or less service:		
O–1	495.00	612.30
O–2	570.30	693.30

The Gates Commission recommendations on pay in the lower grades should be added to the present pay scales if the concept of an all-volunteer army is to have a fair chance. More than any other single measure, such pay increases would counter the arguments of those who say that an all-volunteer army would only attract the poor. If pay were competitive with civilian occupations open to recent high school or college graduates, recruitment from middle class backgrounds would be easier.

All of these proposals are designed to make possible the advent of an all-volunteer army and the end of conscription. Military life requires the maintenance of military discipline. But we have allowed military life to stray too far from the standards and norms of the general society as they relate to non-military matters. For that reason, we should move now to accord servicemen and women full political and civic rights, impartial justice and fair compensation.

SECRETARY STANS DISCUSSES THE ROLE OF PROFITS AND PRODUCTIVITY IN REVITALIZING THE ECONOMY

Mr. PERCY. Mr. President, on October 27 Secretary of Commerce Maurice H. Stans addressed the fall management conference of the Northwestern University Graduate School of Management on policies to revitalize the economy. Secretary Stans stresses the role of profits and the need to make a special effort to increase productivity, a subject that is of very great interest to me. Secretary Stans argues that the time has come to "breathe new life into the old belief that we are the most efficient and productive people on earth." And he appropriately calls on American labor and management to work together in a spirit of common purpose to achieve this objective:

In no area of American life is there a greater opportunity and a greater need for the leaders of labor and management to bury the old antagonisms and go forward together.

Secretary Stans reminds us in this regard of all that the American enterprise system has accomplished for us. He notes, for example, that since 1900 real income has tripled, and that at the same time the number of hours a man works over his lifetime has been cut almost in half.

I enthusiastically call the attention of the Senate to Secretary Stans' speech and ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY THE HONORABLE MAURICE H. STANS

Mr. Chairman, my good friend Dean Barr, gentlemen, there are several reasons why I am particularly pleased to be here with you today.

First is the fact that many of you are old friends, from the Chicago business community and from Northwestern, and we share a great number of mutual interests. So this is a personal pleasure, to be back in the Midwest as your guest.

Second, it is a privilege to participate in a conference that exemplifies the productive partnership that can exist between business and the academic world. Working together, your two forces have done perhaps more than any other elements in our country to make life better for people everywhere—through science and technology, medicine, business management, and many other joint efforts.

Third, I am very glad to meet with you at this particular time, which is far more propitious than anyone could have foreseen when this conference was first scheduled last spring. There is no more dominant issue in the country today than what is happening economically, and the American people are far more interested than usual in the subject of American business.

TURNING POINT

In recent years, in fact, we have gone through a long night of criticism of our private competitive system. Its critics were becoming radical and almost rabid in their efforts to make business the whipping boy for one cause after another.

But today I think circumstances may have brought us to a turning point—to the beginning of a new period in which the nation will renew its appreciation of American enterprise.

Having come face to face with the economic realities of our times, we are due for a reawakening to the fact that we can recover from the mistakes of the 1960's—we can regain our economic stability and achieve our goal of a New Prosperity—only with the help of American business and industry.

We are all in this economy together—business, labor, the public, and government. Each of these is beginning to realize that we all have to rise together to a great national purpose.

The time for pursuing the special private interests of the past is gone—and if we are going to succeed in this common enterprise, we certainly cannot do it by kicking business around any more.

For its part, business must continue to lead the way in cooperation and support for the New Economic Program. It has given this kind of leadership in the freeze period up to now, and for this it has earned the country's appreciation.

REPORT

Today I want to give you a report on the New Economic Program, and the ways in which it may improve our prosperity and our economic directions for years to come.

Then I would like to comment on two matters directly related to business management and to your conference theme, "Getting on Top of the Bottom Line"—the subjects of profits, and the growing issue of productivity.

These three—prosperity, profits and productivity—are tied together in the country's interest today more than ever before.

PROGRESS

As you know, the fundamental goal of the New Economic Program is to blunt forces of inflation, to reduce unemployment, and to reestablish our competitive strength in the world at large.

This is a huge undertaking, but on the basis of success up to now in the freeze period we believe these goals will be met. For example:

In the first full month of the freeze, wholesale prices had their sharpest drop in more than five years, and retail prices began a less inflationary course.

Interest rates are down, in some cases significantly, and even mortgage rates are dropping.

On the labor front, more than 70 percent of the pre-freeze strikes have now been settled, and so have almost 50 percent of the new strikes in the freeze period.

Retail sales have risen considerably, led by a healthy rise in automobile sales.

And in the Business Community, a remarkable 100 percent of the 1,250 firms we contacted have voluntarily agreed to restrain dividends.

INTERNATIONAL

Beyond these domestic indicators we have also seen the first encouraging steps toward resolution of some very serious international problems which constituted so much of our total economic concerns.

For instance:

Once the shock waves had passed after August 15, our major allies in the free world economy began to realize the absolute necessity of the steps we were taking, for their interests as well as ours, in closing the gold window.

They have also begun to realize that they must take steps on their own to rebalance the international monetary scales, if we are to avoid the recurring financial crises of the past.

In addition, the Japanese textile agreement—and similar ones elsewhere in the Far East—have paved the way to a new rebalancing of world trade patterns.

Achieving it has been influential in helping other countries to see at last that we are serious about the rapid deterioration of our competitive position in world commerce, and that we are determined to act in our own self-interests.

Other countries are now willing to sit down and talk with us about redressing the grievances of non-tariff barriers which have discriminated so sharply against American products and the American trading position in many parts of the world.

All of this is important to those of you who want to see some black on the bottom line.

And in our judgment, all of this is not a bad box score for less than 90 days.

PHASE TWO

Now let me say a word about the next phase of the New Economic Program, and where we go from here.

First, Phase Two has been designed very carefully to make it both fair and flexible.

We will not play favorites with any special interests, and there will not be any economic discriminations.

We are determined to have a fair program, both because it is right, and because it will attract broad public support only if it is fair.

Public support is essential for this whole effort to succeed. The program for limited wage and price restraints will work if our industries really want it to work, if labor unions really want it to work and the public really wants it to work.

It must have those commitments.

In order to assure fairness, we must also have flexibility in its controls, its limits and its ceilings. Adjustments must be possible to avoid unnecessary restrictions on production, efficiency or growth.

The President very wisely has left the job of developing ways and means to groups of non-governmental officials. He is saying, in effect, "You know best what is needed and what we ought to do. Work out sensible and effective solutions to accomplish our objectives."

This is a far more reasonable approach than for government to issue rigid regulations without public consultation or participation.

So in Phase Two, operating with this public part in the program—operating by two guidelines—fairness and flexibility—the country is going to remedy its problems.

It is going to set a strong new economic course for decades to come.

We are going to meet our goal of a New Prosperity.

PROFITS

The second subject I want to discuss here today is the matter of profits—getting on top of the bottom line.

By your conference agenda I know you are looking closely at all the factors that management must consider in the endless effort to earn a fair return on investment.

Many of these factors that were less in the equation for business profits in the past—social responsibilities, corporate citizenship, rugged international competition, national issues, and the partnership of government—to name just a few.

These new elements bear out the fact that profits are becoming more difficult to obtain.

So do the figures. A downward trend has been underway for some time in the general level of profits.

Certainly there is no excess profits level to be taxed in connection with the present economic program, except in the case of windfall profits which President Nixon has insisted must be shared with consumers.

The important point that all the nation should focus on is not whether profits should be taxed. It is the question of how they can be stimulated, recognizing that profits are the fuel of the American economy.

THE PRESIDENT

President Nixon has made this very clear on two recent occasions.

In his address of October 7 he pointed out "an unassailable fact of economic life"—that "All Americans will benefit from more profits." He said "more profits . . . generate more jobs (and) . . . mean more investment, which will make our goods more competitive in America and in the world." And he added: "More profits mean there will be more tax revenue to pay for the programs that help people in need."

Two weeks earlier in Detroit he cited the fact that 100 million Americans are the direct beneficiaries of profits in one way or another, and that "more profits means more jobs." "When you really look at what makes this economy work, when you really look at what produces jobs," he said, "it comes from profits being plowed back into industry . . ."

DISSENTERS

Unfortunately, there are leaders in major segments of our economy today who do not see this truth.

Among them, as we all know, there are partisans of political causes to whom profitable American enterprise is a convenient whipping boy.

There are partisans of economic theory who have never had to participate in the practical world, and they see profits as some kind of an exploitation device.

And there are partisans in organized labor who see everything about business in an adversary way. They seem honestly to believe that what is good for business cannot be good for labor, and vice versa, not recognizing that we are all in this economy together, and that what benefits one inevitably benefits both.

For example, they have attacked the proposed investment tax credit as a "bonanza for business". Nothing could be further from the fact.

The tax credit is a proposal to stimulate the purchase of American-made equipment and machinery. It will benefit labor at both ends of the line—on the one end making more jobs for the men who build equipment and machinery, and at the other making more jobs in plants which buy them in order to become more competitive in domestic markets and around the world.

BENEFITS

By every standard of measurement the profit system has provided more benefits for American workers than any other economic system has provided any other workers in the world.

Under the profit system we are constantly cutting down the number of Americans in need, constantly raising the median family income, constantly expanding the purchasing power of every American worker and family.

Under the profit system, with its automatic growth factor, we have been able to raise the number of American families with incomes of over $10,000 a year from about 10 percent in 1949 to 46 percent in 1969.

Under the profit system we have trimmed our work week from 12 hours a day, six days a week a century ago to less than 8 hours five days a week today with at least six holidays a year and two weeks of paid vacation.

The American profit system has expanded the need and the rewards for professional and technical workers and engineers many times over in this century alone.

WAGES

Under the profit system we have a Gross National Product equal to that of Russia, Japan, France, West Germany and the United Kingdom combined.

The average take-home pay of an industrial manufacturing worker in the United States is more than twice as high as it is in the highest other country in the world; and under the profit system American workers have greater purchasing power than the workers of any other countries.

So in a time when we are preoccupied with our economic system, all Americans must recognize that profits are essential to our standard of living and our common interest. We must recognize that corporations which make profits are not monsters with super appetites devouring the resources of the people.

Corporations are people—the people who own them, who manage them, who work there—three million owners in the case of AT&T, for example, who put up the money to make jobs possible and in the case of General Motors another million and a half who do the same.

This is the system that keeps the fuel of economic progress pumping into the engine of American enterprise.

This is the system that has given us the highest standard of living in the world, a standard which every other country wants to achieve, and one which we want to achieve for every American who has not yet shared fully in the affluence of our economy.

PRODUCTIVITY

The key to reinvigorating the American profit system, with all its benefits, is greater productivity—and this is the third subject I want to discuss here with you today.

The time has come to breathe new life into the old belief that we are the most efficient and productive people on earth.

In most respects this is still true, but our lead has been cut very drastically and quickly by the development of new economic superpowers, and there are some at our heels who think we are tired and in trouble.

The trends of recent times have encouraged them.

American productivity is rising far slower than our major competitors' in world trade—1.7 percent per year against 4.5 in Western Europe and 10.6 in Japan.

Over the past five years productivity in American industry had the smallest increase of any industrial nation in the free world.

COMPARISONS

But even as other countries close the productivity gap and even as their wage levels rise, they are still far from the earnings of American industry and business.

In 1970, Japanese labor costs—including fringe benefits—were only 26 percent of ours. They are 37 percent in Britain, 39 percent in France, 54 percent in West Germany and 83 percent in Canada.

In short, they are gaining on us in productivity but not in wages—and this is a major factor in the decline of our competitive position in the world.

American imports have risen far faster than exports, and this year we face the first deficit in our balance of trade since 1893.

Our share of the world's commerce between nations has dropped from approximately 21 percent to about 18 percent within a decade.

Germany has replaced the United States as the world's leading exporter of manufactured goods.

Our trade in minerals and fuels and in low-technology goods is falling steadily deeper into deficit conditions.

Even our traditional dominance in high-technology trade has begun to be challenged by a number of countries in such items as computers, aircraft and electronics.

And to close the gap still farther, many countries are investing relatively far more heavily than we are in plant assets, in research and development, and in technological achievements.

ANSWER

One answer to this condition is to increase American productivity by better machines, better methods and better products.

This is not just a matter of losing a race, and unexpectedly taking second or third place in the community of nations.

What is at stake here are American jobs and the American standard of living.

For if we cannot produce competitively, we will find that our markets overseas will be lost increasingly to the producers of other countries, and the goods of other nations will become increasingly dominant in our domestic market.

Government actions alone could not staunch the inevitable loss of American jobs under those circumstances. Ultimately we would be faced with a massive challenge of adjusting to a new role, changing from the great productive industrial super-power of today into a service nation of indefinite situation in the future.

Instead, the time has come for productivity to become an honored concept once more, encouraged and respected by management, and rewarding for labor.

In no area of American life is there a greater opportunity and a greater need for the leaders of labor and management to bury the old antagonisms and go forward together.

PUBLIC

In doing so, several things must be made clear to all concerned.

The public and its legislators must be convinced that encouraging new capital investments is not a "bonanza for business", but a means of creating new business and more business.

By giving American workers better tools to work with, they can beat the competition. They can reduce unit costs, increase American output, lower consumer prices, raise profits for future investments, and in the process create more jobs for more Americans.

LABOR

As for American workers, they must be convinced that accelerated productivity means more income, more jobs and a better standard of living.

We must get over the tired notion of the past that greater efficiency is contrary to the best interests of the working man. The jobs eliminated by efficiency and productivity are the hard jobs, the back-breaking ones, the dirty jobs and the menial jobs. For these it substitutes machines to do the human labors of the past.

This has been the history of our rise in productivity. Since 1900:

The number of hours a man works over his lifetime has been cut almost in half.

We have put more machines to work in this country than all of mankind combined.

And real income per person has more than tripled.

So the lesson is clear: The old ways of the past—the inefficient uses of labor—must be ended in the interest of those who labor.

MANAGEMENT

American management, for its part, must recognize that it has never been more urgent to modernize plant and equipment, and never more advantageous to do so.

Management must take stock and become aware that 44 percent of the business facilities in America today are more than ten years old, and ready to be updated.

As part of the process to regain our country's competitive equilibrium and our economic stability, management also must improve its own skills and efficiency. Bottlenecks to the full utilization of technology must be broken, and the creation of new technology must be encouraged.

This begins in the front office.

NEW WEALTH

Of this much we are certain:

Gains in productivity are the primary source of new real wealth for the country.

We cannot produce new real wealth by financial hocus-pocus . . . by increasing wages or prices beyond gains in productivity. To do so only produces new inflation.

Our surest source of greater wealth for a greater America lies in better use of our material and human resources—better management, greater efficiency of labor, improved technology, and better uses of investment capital.

FUTURE

Government is considering a number of possible steps to encourage more rapid growth of productivity.

Among others, we are studying the possibility of creating financial incentives for the development of technology.

We are also examining the need for modernization of the antitrust laws, so that industries may work together in developing technology. Foreign competitors do not face any such restraints.

CONCLUSION

Today the American economy stands at a point where there can be no exemptions from the national interest.

We did not arrive here because of any desperate condition or fundamental weakness in the system; we are here because of many international factors, some of which we could not control, and because in our own pursuit of abundance through the Sixties we grew slack in many domestic policies and production practices, including the growth of productivity.

Today we all face the question of what is best for the country and what is best for all of us.

The President said in August that in the final analysis we would succeed or not depending upon our spirit, our strength and our sense of destiny and the depth of our commitment to the country.

This applies to every element of our economy, including the business community.

If business, labor and government show wisdom and restraint in 1972 we can begin the job of disassembling controls, returning to a free economy, and restoring American enterprise and American labor to the competitive conditions in which they function best—and with more profits on the bottom line.

FIREFIGHTERS FACE DEATH AND INJURY: THE NEED FOR GROUP LIFE INSURANCE

Mr. HUMPHREY. Mr. President, on May 25, 1971, I introduced a bill (S. 1946) that would provide group life, accidental death, and disability insurance to our law enforcement and firefighters throughout America.

I noted at that time that one fundamental reason for introducing this legislation was the increasing number of police officers and firemen who are killed in the line of duty. I pointed out that these men are public servants, that they do risk life to help others, and that we as public officials ought to be cognizant of their possible sacrifice.

The most recent issue of the International Fire Fighter, published in October of this year, reminds us again of the grim facts of life faced by firefighters. This magazine has published the annual death and injury survey of the professional firefighter. The figures are shocking; and they are all the more reason for action on this bill.

Last year 115 paid firemen died in the line of duty. This figure is higher than the number of deaths in any previous year.

And, when compared on the basis of 100,000 workers, the deaths of firemen average higher than the deaths of mining or quarry workers.

Mr. President, I ask unanimous consent that the article listing the death and injury figures be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANNUAL DEATH AND INJURY SURVEY OF THE PROFESSIONAL FIREFIGHTER IN THE UNITED STATES AND CANADA

It is sad to report that "the most hazardous occupation" once again falls to the fire fighting profession. Last year 115 paid professional fire fighters died in the line of duty. In 1969, the previous year, 104 fire fighters (per 100,000 workers) were killed on duty.

Until 1969, fire fighting had followed mining and quarrying as the most hazardous occupation, according to statistics released by the National Safety Council, the FBI's Annual Crime Report and Fire Administration records.

President McClennan called the high death toll among U.S. and Canadian fire fighters a "tragedy of epic proportions. My heart goes out to the widows and children of these brave men who have given their lives to save others. They are martyrs in the truest sense of the word."

President McClennan said "everything humanly possible must and will be done to make our profession safer. This will be one of the primary goals of the National Commission On Fire Prevention and Control." He is a Vice Chairman of the 22-member Commission.

Fire fighters deaths per 100,000 workers topped mining and quarrying in 1970 by 15 deaths. In 1969 104 fire fighters died to 100 deaths in mining and quarrying.

Although a policeman's death seems to generate much more publicity than fire fighters, the statistics show that fire fighting is perennially considerably more dangerous than police work. In 1969 there were 104 fire fighter deaths per 100,000 to 64 policemen.

Over a ten year period, 1960 to 1970, there have been 790 fire fighters killed in the line of duty as compared to 707 policemen during the same span. Fire fighter injuries on-the-job in 1970 per 100 men were just double that of policemen—38 per 100 for fire fighters and 18.9 injuries for every 100 policemen.

In 1970 there were 38,563 fire fighters injured. Over 11,000 of those injured, or better than one in four, lost time from work because of their injuries.

In addition to deaths and injuries on the job, fire fighters are particularly vulnerable to heart and lung diseases strictly because of the nature of their job.

Recent statistical studies have proven beyond doubt that the risk of heart disease among fire fighters—and indeed the death rate from all causes—is much higher than is attributable to the general population.

The smoke inhalation problem is directly related to rapidly increasing number of occupational deaths among fire fighters due to lung diseases. In 1969 there were only 23 deaths from lung disease. In 1970 there were 126 fire fighter deaths due to lung diseases—a nearly six-fold increase!

The fire fighter must often cope with concentrations of carbon dioxide and carbon monoxide gases that are regularly present in smoke, along with a variety of other often more dangerous gases. These may be formed by the process of combustion or liberated from industrial storage and processing equipment. As the complexity and number of synthetic building and textile materials increase, so do the number and toxicity of the gases formed by their combustion. These gases may damage the lungs themselves or may use the lungs merely as a port of entry into the body and produce pathologic changes elsewhere. Toxic gases, incidentally, accounted for nearly 1,500 lost-time injuries last year, or 13 percent of the total lost-time injuries during 1970.

Besides smoke and fire and collapsing buildings, the fire fighter has another formidable enemy he must cope with in an increasing number of incidents—the unseen enemy who pulls the false alarm. Over 200 fire fighters were injured in responding to or returning from a false alarm last year. Traffic accidents involving fire apparatus also accounted for 1,305 injuries.

AREA OF INJURIES

In other areas, fire fighters were injured in the following categories:

Civil disorder injuries—195 (reported).

Injuries sustained by individual violence—113.

Injuries during training—1,223.

In spite of the documented fact that fire fighting is the most hazardous occupation in the world, many city officials in towns and cities in certain areas of the U.S. and Canada are trying to reduce their fire departments, thus further increasing the hazards of our profession.

"Although the fire fighting profession is considered and recognized as the most dangerous occupation, it is imperative that all safety measures be carefully observed and every possible means must be initiated to reduce the number of deaths and disabling injuries," President McClennan said.

"It is of deep concern to this union that many fire department personnel rosters are not being brought up to full strength," he said. "One man can hardly be expected to do the work of two or three men at a fire without proportionately increasing the possibility of his death or injury.

"Officials in many communities must also come to the realization that fire fighters must be supplied with proper and adequate protective clothing and equipment to meet the demands of our profession to protect life and property."

LONG HOURS CITED

President McClennan also stressed that "the long hours fire fighters are required to work in many communities must and have to be reduced if a man is to be in proper mental and physical condition to combat the dangers of smoke and fire. Safety committees and programs, organized and initiated by IAFF affiliates, can readily bring these factors to the attention of local communities," he stated.

In view of the valuable statistics compiled on these pages, the IAFF Department of Research and Education feels that it is of the utmost importance that affiliated local unions immediately report all injuries through official channels and to the responsible officer of their local union for the protection of themselves and their families.

Each local should keep injury records in a permanent file since it can never be known for sure when a "temporary" disability of a fire fighter will recur and it may be necessary to have documented proof that he was previously injured.

MORE DATA NEEDED

Local unions should also maintain data on the number of fire fighters killed, or who have died later as the result of their work, the causes of death, the economic and financial status of dependents and if proper compensation was paid. Similar data should also be kept on record for injured fire fighters.

The safety committees of local unions should develop safety thinking among rank and file members and stimulate members to proper safety measures.

Local affiliates should also keep current with municipal and state safety codes and work in close harmony with central labor bodies and the National Safety Council in developing safety procedures.

To protect the physical welfare of its rank and file members, the IAFF has taken positive steps to keep abreast of safety developments by establishing fire fighter committees on occupational diseases, and safety and radiation hazards. The International has taken a vital interest in having safety statutes written regulating the transportation of flammable materials in interstate commerce. This was a topic discussed at the recent Notre Dame Symposium and outlined in the recently published proceedings on this symposium.

SAFETY CONSCIOUS

The International Union and its local unions, as records prove, have faithfully represented rank and file members at the negotiating table in continuing efforts to better the salaries and working conditions of fire fighters. And even more important, this union stands ready to do the same to promote and activate safety programs and research into better equipment in order to reduce the death and injury toll among fire fighters everywhere.

NORTHWESTERN UNIVERSITY SETTLEMENT

Mr. PERCY. Mr. President, the Northwestern University Settlement is this year celebrating its 80th anniversary of outstanding service to the city of Chicago and its people. Under the extremely competent direction of Mr. and Mrs. Mike Rachwalski and their very able staff, the settlement is providing programs of an educational, recreational, and social nature similar to those it began 80 years ago. These programs serve a great number of individuals, ranging from senior citizens to high school dropouts.

George T. Drake, vice president of the settlement, has sent me a statement on the settlement's history which I think we will all find of great interest. Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

It was in January of 1891 that President Henry Wade Rogers of Northwestern University and two members of the school's faculty, Professor Robert D. Sheppard and Professor George A. Coe, joined with Mr. William Deering and Mr. Norman W. Harris in founding the Settlement Association.

President Rogers served as the first President of the Association, Mr. Deering was named First Vice President, Professor Sheppard Second Vice President, Professor Coe Secretary, and, appropriately, Mr. Norman W. Harris was designated as the first Treasurer.

The first Head Resident, then called Resident Secretary, was Mr. Charles Zeublin. Mr. Clark J. Tisdell served as Assistant Resident Secretary.

The object of the Settlement was:

"The elevation of neglected parts of Chicago by the maintenance in their midst of College Settlements modeled in part after those already in operation in London, New York, Boston and other cities. The aim and

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motives are distinctively Christian, but the methods are not a repetition of those of the Churches."

A flat was rented at 148 West Division Street, near Milwaukee Avenue, above a feed store. Mr. Zeublin was in charge. Mr. and Mrs. Clark Tisdell also were in residence there.

In addition, a store and basement at 235 West Division Street was leased, named 'Evanston Hall' and furnished as a reading room and club room. A social science club was implemented and also clubs for boys, girls, young men and working girls.

Expenses for the first year of operation were estimated at $1,500.00.

In 1892 the Settlement moved to larger quarters at 26 Rice Street. In that year, Mr. Zeublin resigned to accept a position in Chicago and Clark J. Tisdell was put in charge as Head Resident, which position he held until 1896 when William Haid a Journalist, replaced him in that capacity.

In 1898 the Settlement moved to still larger quarters at 252 West Chicago Avenue and a Committee was organized to raise $40,000.00 for a permanent home.

At this time, the Settlement applied for and obtained a charter as an Illinois corporation, issued November 18, 1898, which carried the following statement as the purpose of the Association:

"The object for which it is formed is to purchase, erect, establish and maintain in the County of Cook and State of Illinois one or more Social Settlements and Houses and Places of Amusement, Entertainment or Instruction."

The campaign was quickly carried to a successful conclusion and in 1901 the Settlement's permanent home at 124 Augusta Street was formally opened.

Mr. Raymond Robbins held the position of Head Resident in this period of the Settlement's growth, serving from 1899 to 1904. A Mr. Maynard succeeded Mr. Robbins for about one year, and for the next two or three years, the Settlement House was operated by a Regency Board pending the selection of a new Head Resident. Finally in 1908, a Miss Harriet Vittum, who had come to the Settlement as a Volunteer Worker in the previous year, was officially appointed Head Resident. Her outstanding period of service in this capacity extended for 38 years until her retirement in 1946.

In 1908 the emphasis was upon improved housing, improved sanitation, adult education and recreation for all ages. It was at about this time that the Association sponsored one of the first distributions of sterilized milk in the Chicago area.

In 1910 one of the earliest Infant Welfare Stations was opened at the Settlement House; the Legal Aid Society held its initial meetings there, and in the fall of that year, one of the first Boy Scout Troops in the Nation was formed. It was in 1910 that the Settlement's first Summer Camp, known as the House in the Wood, was opened upon Forest Preserve property.

The most significant development of the year 1910, however, was the formation of the Evanston Board of Northwestern University Settlement, the Settlement's first Supporting Board.

The years between 1910 and 1920 were productive years for the Settlement. Many new activities were added, such as courses in Manual Training, Home Economics, and Home Nursing. During this same period, Miss Harriet Vittum was an ardent worker and supporter of the Women's Suffrage Movement and at one time ran for Alderman of the 16th Ward.

In 1916, President Theodore Roosevelt and his daughter Alice, later Mrs. Nicholas Longworth, paid a visit to the Settlement House. Pictures of this social call are among those photographs of the Settlement's early years on display this evening in Guild Hall.

In the war years 1917 and 1918, the Settlement became the headquarters for the Selective Service Board and served as a Physical Examination Center for Inductees. It was also used as a focal point for the Liberty Bond Drives and for the Red Cross Work undertaken by the Women's Clubs and Classes.

At the end of World War I, the Settlement assisted returning Veterans in finding employment and adjusting to civilian life.

In the midst of the recession of the early '20s, when wide-spread unemployment placed additional demands upon the Settlement in the form of emergency aid to unemployed persons and evicted tenants, further and timely assistance and support come through the organization of the Winnetka Board in 1923.

The world-wide Depression which started in this country in October of 1929, deepened rapidly and by 1931 the Settlement again found itself in the depths of probably the greatest economic catastrophe of modern times. Ever increasing demands were made upon the services of the Settlement in this trying period. Assistance to the unemployed, emergency relief, evictions, food distribution, and the many problems which arose through the thousands of home mortgage foreclosures which the Depression fostered, received the urgent attention of the Settlement staff.

It was at the outset of this critical period that much-needed additional assistance came through the formation of the Highland Park Board in 1929.

The year 1930 saw the establishment of the Oak Park-River Forest Board, followed in 1931 by the creation of that refreshing and energetic group of Oak Park School girls as the Junior Service League. This same year saw the formation of the Business and Professional Women's Board.

During the mid-thirties, the Settlement also received assistance from many of the schools in the North Suburbs in the form of prepared and canned food which was sent to the Settlement and there distributed to the many needy families in the neighborhood. During these tragic months, many hundreds of people were provided with overnight lodging and food at the Settlement House. Each of the programs at the Settlement House was widened and extended and the House was open throughout this period from 8:00 in the morning until 11:00 in the evening, seven days a week.

It was in 1937, when many people were wondering if financial recession might not be a permanent way of life, that a group of young ladies living in the North Shore area conceived the idea of forming the North Shore Junior Board to assist the Settlement in its work, but primarily to support the Summer Camp known to us as the House in the Wood.

The decade of the forties again witnessed a radical change in the services afforded to the neighborhood by the Settlement. The years of World War II saw a resumption of the same type of services and uses that the Settlement had sponsored in World War I.

Over 1,000 young men from the neighborhood joined the armed services during this period and with end of the war and their return to th area, the staff of the Settlement was again charged with assisting them in finding employment and adjusting to civilian life.

One of these returning veterans was Michael Rachwalski, who, upon the retirement of Miss Vittum as Head Resident in 1946, was appointed to that position by the Board; and his lively wife, Helen, was appointed as Assistant Head Resident.

In 1949, the businessmen of the community which the Settlement serves, formed a supporting group known as the Century Club, and in 1950 the Northwestern University Settlement Associates was organized by a group of young matrons living in the North Shore Suburbs.

The 1950's found the Settlement staff directing its energies towards assisting displaced persons coming into the community, developing an expanded adult education program, fostering citizenship classes and reconstituting the afternoon and evening programs.

In 1952, through the efforts of the North Shore Junior Board, a permanent Summer Camp was acquired at Lake Delavan, Wisconsin, to replace the House in the Wood. This lake front site has made it possible to add all forms of water recreation to the Summer Camp Program.

We are now in the 1970's. While the basic services offered by the Settlement are much the same as they have been since its inception, we are constantly developing new services and facilities to deal with the problems occasioned by population shifts, urban renewal, school dropouts, and the increasing number of senior citizens living in the area the Settlement serves. Under the able direction of Mike and Helen Rachwalski and their very competent staff, the Settlement is successfully meeting these new challenges.

EXPULSION OF NATIONALIST CHINA FROM U.N.

Mr. THURMOND. Mr. President, editor Louis Harris of the Augusta, Ga., Chronicle penned an excellent editorial entitled, "Moment of Infamy," published October 27.

Editor Harris took note of the accelerating power of the Communist nations over the United States as evidenced by the admission of Red China and the expulsion of Nationalist China.

This is a strong editorial, but it reflects the attitude of the American people in the South toward the United Nations. Mr. Harris is quite correct when he predicts that the U.N. "now seems certain to succumb to Communist domination."

However, one danger we must avoid in this current situation is that of allowing an attitude of isolationism to sweep this country. Only through the sacrifice of the American people has communism been stemmed in the past 20 years. If we allow the United States to become a second rate military power or fail to support our allies this Nation may witness in the next few years the type of Communist gains seen at the close of World War II.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Augusta (Ga.) Chronicle, Oct. 27, 1971]

MOMENT OF INFAMY

Whatever faint claim to respect the United Nations might have retained from its record of failures and blunders went down the drain when its General Assembly replaced law-abiding Free China with the outlaw dictatorship in Peking.

The Republic of China, in a portion of the world where aggression seems to be the rule rather than the exception, has been distinguished into the leading country of Southeast Asia. It has, in fact, contributed to the cause of freedom and democracy even to the extent of helping defend South Korea and South Vietnam from savage invasions. It has built for its people the highest standard of living in that quarter of the globe, it has effected a land distribution system to poor farmers without expropriation, and it has shared its material goods and its technical knowledge through an extensive system of aid to developing nations.

This is the country—a founding member of the United Nations—that the UN is expelling in favor of Red China. Peking brings as its "qualifications" the condemnation by the United Nations itself for aggression in Korea (which has never been rescinded), its statement that the UN must change its Charter to suit the Communists, its continued expression of bitter and vituperative hatred against the United States, and its record of slaughter and imprisonment for its own citizens who dared espouse freedom and democracy.

The United Nations blithely ignored its own Charter which says flatly that no member shall be expelled without recommendation of the Security Council. Indeed, had any such recommendation been advisable, nominees for expulsion would far more logically have been the oppressive dictatorships behind the Iron Curtain, or the prison-nation of Cuba, or the African countries actively engaged in training terrorists for bombings and assassinations in neighboring lands.

The United Nations under its Charter is an organization of "peace-loving" nations. Yet Red China is a major supplier of the North Vietnam Communists' effort to take over South Vietnam by force. And, on the very day that Secretary of State William P. Rogers announced the United States' new "two-China" policy, a Senate Foreign Relations subcommittee reported that Red Chinese troops operating in northern Laos had increased rapidly from some 6,000 or 8,000 to a total of between 14,000 and 20,000.

FBI Director J. Edgar Hoover recently reported that the United States "today is the target of a growing Red Chinese espionage campaign" and of attempts to influence American youth, and that "we expect the subversive danger to grow as time passea."

This is the viper which the United Nations has taken to its bosom. The UN, of course, has been a walking corpse for years. In Vietnam, Biafra, the Middle East and elsewhere it has tucked its tail and run from its primary responsibility of peace-keeping. In its international political position since the death of Dag Hammarskjold, it has shown gross partiality to Communist nations.

Any tattered shred of integrity the UN may have still claimed has now disappeared. Respect for Charter commitments, for truth, for peace, for individual freedom, for honor—all these have been tossed cynically on the garbage dump. In such an organization, the incentive for membership has shrunk from a vision of a better world to a ruthless maneuvering for power.

The Congress should without delay adopt Sen. James L. Buckley's measure calling for a major reduction in the United States' financial contribution to the UN. We are now paying an incredible 35 per cent of the UN's bills while some other nations get away with refusing to meet their UN obligations. We trust that any possible further U.S. appropriations will be at the minimum amount for any individual nation.

And, further, the time would seem to have come for the Nixon Administration to reevaluate our membership in this organization. It appears to us that continued participation is worse than futile. And, we suspect, most of the people of this country will want their government to consider most seriously the matter of cutting all ties with a group that now seems certain to succumb to Communist domination.

FOREIGN AID SCUTTLED

Mr. PERCY. Mr. President, I never thought that I would be placing in the RECORD an editorial from the Chicago Tribune critical of the U.S. Senate for cutting our foreign aid. The Tribune has through the years been highly critical and skeptical of many foreign aid projects. But there is a difference between constructive criticism of a given wasteful project and the direct scuttling of an entire program without any alternative plan or policy in sight.

I commend this incisive editorial of October 31 to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Oct. 31, 1971]

THE WRONG WAY

We never expected to find ourselves objecting to a cut in foreign aid, but the Senate's behavior Friday evening in throwing out the entire foreign aid bill was hasty, vindictive, and irrational. It was just the sort of short-tempered response which we warned against the other day after the United Nations ousted Nationalist China.

Here were men who like to call themselves the greatest deliberative body on earth blithely throwing out, without the slightest debate, a 25-year-old program which, however many its faults, directly affects our relationships to just about every country in the world. And what's more, it did so for a number of conflicting reasons, some of them good and some bad.

Some senators acted out of resentment at the United Nations, some out of exasperation at the defeat of provisions aimed at the Viet Nam war, some with an eye on the critical deficit in our foreign payments, and some because of the weaknesses in foreign aid itself. So many senators were not even present that only 41 votes killed the bill—an unlikely assortment of Republicans, Democrats, liberals, conservatives, internationalists-turned-isolationists, doves, and just complainers.

President Nixon, never the greatest of foreign aid boosters himself, quite properly called the action "highly irresponsible" and urged the Senate to reconsider. The Nixon doctrine in the Pacific, designed to avoid future Viet Nams, depends on a certain amount of aid in order to help those free countries who are willing to defend themselves against aggression and help themselves economically. One might name the Philippines, South Korea, and Thailand as just a few. Are these countries to be sacrificed to the Chinese dragon just because of pique over its victory in the United Nations? This would be nonsense. Some of the very senators who voted against foreign aid Friday have told us in the past that foreign aid is better than war, and they are right.

Senator Mansfield, the majority leader, offers little hope. He says that the matter will not be revived but that foreign aid's death will be a lingering one because of the many billions of dollars still in the pipeline. He opposes a continuing resolution, a normal way of keeping programs going while Congress argues over their future.

If the Senate wants, it can recover its senses and pass a new foreign aid bill. The President knows this, Mr. Mansfield knows it, and the other senators themselves know it. The Senate has proved itself an unthinking patsy for foreign aid in the past. It has now proved that it can be equally blind in its opposition. Surely it must be possible for such a body to arrive at a sensible medium—sorting out the parts of foreign aid that may be productive, scrapping the rest, scaling down the total volume, avoiding emotionalism over peripheral issues like the U.N. and Viet Nam, and in general keeping control in our own hands rather than turning it over to international agencies. By doing this, the Senate could at least demonstrate that its aberrations are temporary.

FUNDS FOR PSYCHIATRIC RESIDENCY EDUCATION

Mr. THURMOND. Mr. President, the Senate of South Carolina has passed a resolution commending the Congress of the United States for approving the continuing support of psychiatric residency education by appropriating funds for this purpose in the Labor-HEW Appropriations Act for fiscal 1972. The resolution requests that the President of the United States take such immediate action as may be necessary to release, for expenditure, the funds appropriated for psychiatric residency education under this act.

Mr. President, the Senate of South Carolina, in passing this resolution, feels that the funds which have been appropriated for this program should be immediately released and any delay will further jeopardize the survival of this training program.

Mr. President, on behalf of my colleague from South Carolina (Mr. HOLLINGS) and myself, I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A SENATE RESOLUTION REQUESTING THE PRESIDENT OF THE UNITED STATES TO RELEASE CERTAIN FUNDS APPROPRIATED FOR PSYCHIATRIC RESIDENCY EDUCATION

Whereas, the members of this body wish to commend the Congress of the United States for its wisdom in approving the continuing support of psychiatric residency education by appropriating funds for this purpose in the Labor-HEW Appropriations Act for the fiscal year 1972; and

Whereas, since these funds have not been released, the survival of this training program and the mental health needs of this country are at stake. Now, therefore

Be it resolved by the Senate of the State of South Carolina:

That the President of the United States is urgently requested to take such immediate action as may be necessary to release, for expenditure, the funds appropriated for psychiatric residency education in the Labor-HEW Appropriations Act for the fiscal year 1972.

Be it further resolved that the President is requested to give close attention to the expansion of psychiatric education for the future.

FOREIGN AID DILEMMA

Mr. McGEE. Mr. President, the Senate finds itself in a dilemma as to finding some feasible method for resolving the question of our foreign aid program. Therefore, I should like to offer a three-phase approach toward resolving this dilemma—an approach which I feel would be compatible with all interests involved in the problem.

Phase I would entail the passage of a continuing resolution for, say, 60 days, or whatever period Congress can agree upon. In this manner we could continue foreign aid funding at the fiscal 1971 levels while allowing us to achieve enough time to prepare wisely for the next stage.

Planning for phase II would require

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the working out of what I feel would be a bare bones program to run until next June 30. Here again we would have ample time in which to negotiate and implement phase three.

Phase III would entail the restructuring of a new approach to foreign aid, bringing together all interested parties in order to hammer out a program which everyone could live with.

Indeed, there may be an urgent need for a new approach to foreign aid. However, I contend that it would ill behoove us to completely cast aside any type of program in favor of starting from scratch once again. I think it is essential that an interim foreign aid funding program be initiated and in the works while the re-evaluation and restructuring process takes place.

I also feel that the time element involved in my proposal would give us the opportunity to allow tempers to cool relative to reaction to the U.N. vote on China and the disenchantment expressed over the present foreign aid program. It would allow us to come up with a program which would be the outgrowth of the best thinking we could offer, rather than a knee-jerk response based on emotional reaction to events which have tended to cloud the real issues before us.

It would be my hope that we could adopt something close to this approach. I strongly believe it is a most realistic proposal for resolving this dilemma.

SUPREME COURT NOMINATIONS

Mr. HANSEN. Mr. President, on October 28, 1971, the Evening Star published a column, prepared by James J. Kilpatrick, on the subject of President Nixon's two nominees for appointment to the Supreme Court.

The article is a reminder to all of us of the checks-and-balances system under which our government operates. It particularly related to the appointment of judges and the manner in which Presidents have exercised the power to nominate Justices to the Supreme Court.

Mr. Kilpatrick points out:

When all the checks and balances work perfectly, we get to the point we have reached just now. Powell and Rehnquist are superlatively qualified for service on the Supreme Court.

The column concludes:

The President has acted responsibly in every sense of the word. One devoutly hopes that the Senate will respond in kind.

Mr. President, I believe that all Senators and the American public will find this column of great interest. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TWO SUPERLATIVELY QUALIFIED COURT NOMINEES

(By James J. Kilpatrick)

The President announced his two nominations for the Supreme Court a little before 8 o'clock Thursday evening, and the wire services began calling around Capitol Hill looking for reaction. The nominees were Lewis F. Powell of Virginia and William Rehnquist of Arizona. How did they strike Emanuel Celler?

The old New York liberal, dean of the House and chairman of its Judiciary Committee, allowed himself a small sigh. "On the whole, good." But Powell had been described to him as an arch-conservative, and "I would not have appointed him."

Celler has been misinformed as to Powell—the Virginian is a man of law, not of ideology—but his brief comment invites renewed appreciation of the genius of our constitutional system. "I would not have appointed him." Of course, not. But Celler is not President of the United States. More to the point, neither is Hubert Humphrey; and Humphrey would not have appointed him, either. But Richard Nixon is; and Richard Nixon did.

This is of the essence. On the domestic side, a President's power to nominate members of the Supreme Court is by far his most important power.

If he chooses wisely—wisely, that is to say, by his own lights—and if he can get his nominees confirmed, a President can leave his own lengthened shadow on the law. "We live under a Constitution," said Chief Justice Charles Evans Hughes in the famous line, "but the Constitution is what the judges say it is." Precisely. And how do we get our judges? We get them by presidential nomination.

It is curious that so many persons in public life appear to be discovering this truth so belatedly. Two factors may account for the sudden buzz of liberal alarm and conservative delight. The first is Nixon's candor—one might wish in this instance, that the President had not been quite so candid. The second is recent history.

Nixon's immediate predecessors—Truman, Eisenhower, Kennedy and Johnson—had the same power, but they seemed never to know what to do with it. None of them was a lawyer. It makes a difference.

Harry S. Truman thought of honoring his pals. Heaven alone knows what Dwight D. Eisenhower thought. John F. Kennedy and Lyndon B. Johnson had two chances each, and they used them alike: Each tapped an old friend, and each paid a political debt—Byron White and Arthur Goldberg, Abe Fortas and Thurgood Marshall. Nixon is thus the first President since Franklin D. Roosevelt to exercise his appointive power fully, knowingly and deliberately, in the acknowledged hope of achieving particular ends at law.

If such a power were absolute, our system would fail. The judicial branch gradually would fill up with rubber stamps and obedient hacks. But the power is not absolute. It is checked first by the Senate's power to withhold its consent, and second by the device of life tenure. The power is checked also by public opinion and by political pressure.

When all the checks and balances work perfectly, we get to the point we have reached just now. Powell and Rehnquist are superlatively qualified for service on the court.

I have known Powell for 30 years as a great lawyer and good citizen. He is the best Virginia has to offer, and by the repeated professional judgment of his colleagues, perhaps the best the bar has to offer. Rehnquist is possessed of a formidable intellect. He is as profound a student of the Constitution as any Sam Ervin or Abe Fortas, and he is only 47. He will grow.

Nixon's own judgment is that his two nominees share his judicial philosophy. "I would imagine that it may be charged that they are conservatives." But surely it is Nixon's right deliberately to choose conservatives, just as it was Roosevelt's right deliberately to name liberals. This is the way the system is supposed to work.

Humphrey would not have named Powell and Rehnquist—or Burger or Blackmun, either. But Humphrey didn't win. Wait till next time.

The President has acted responsibly in every sense of the word. One devoutly hopes the Senate will respond in kind.

OPPOSITION TO ATLANTIC COAST OIL DRILLING

Mr. HARRIS. Mr. President, I am opposed to the offshore drilling for oil on the Atlantic coast being planned by this administration.

Abandonment of the oil import quota system, I am now convinced, is a better alternative for providing adequate supplies of fuel at reasonable cost.

I have written a letter stating these views to the Secretary of the Interior with a copy to President Nixon. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 3, 1971.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: Your predecessor, Walter Hickel, acted with courage and firmness to halt offshore drilling in California after the terrible oil spill at Santa Barbara in 1969.

I am deeply disturbed by press reports that you are now planning to lease areas off the New Jersey coast and the Maryland shore and off Cape Cod for oil drilling. This could make Cape Cod into the Santa Barbara of the east, and that must not be allowed to happen.

Jacques Cousteau has recently stated the alarming fact that the oceans are dying. I lately talked with a student who has quit his pursuit of studies in the field of oceanography because of disillusionment. He feels that we are rapidly ruining the great source of food—indeed of oxygen—which the oceans represent. Thor Heyerdahl has reported to the United Nations the tragic news that nowhere in his recent voyage across the Atlantic was he in waters free of man's pollution, principally from oil.

The reported plans for drilling offshore along the Atlantic coast present enormous dangers of ruining our remaining beaches and shores and of further contamination and pollution of the oceans.

I urge you to go extremely slow on any plans for such offshore drilling leases and that you give the fullest possible hearing to all conservationists and other experts. They are talking about our survival on this small, increasingly poisoned globe.

There is a better present alternative to this offshore drilling. I believe it is preferable that we abandon the oil import quota system to insure greater supplies of fuel—particularly for the northeast—at lower cost for the consumer.

I am now convinced that President Nixon's Task Force report—with which he disagreed—urging that the United States switch to a tariff system, rather than oil import quotas, was correct. That is a far more preferable immediate solution to the energy crisis than rushing headlong into offshore drilling on the Atlantic coast.

Sincerely yours,

FRED R. HARRIS,
U.S. Senate.

VA MEDICAL CARE: AN ENORMOUS POTENTIAL FOR THE NATIONAL HEALTH STRATEGY

Mr. CRANSTON. Mr. President, an excellent article published in the Medical World News of August 6 raises a very important question. That is: What would be the role of the enormous hospital system of the Veterans' Administration under a national health insurance program?

This excellent article points up the role of the Veterans' Administration hospitals in the current health system, the outstanding contributions made by medical research in VA hospitals to the improvement of medical treatment universally, the sizable proportion of the Nation's health manpower which has received and is receiving training and education in the Veterans' Administration system and the potential role which the Veterans' Administration can fulfill as a full partner in the Nation's health system if it is released from statutory and budgetary limitations which retard its progress in the health manpower field and its full involvement with the local medical community.

I have fought hard against the budgetary limitations which have been proposed by the Office of Management and Budget and, with the very capable assistance and partnership of Senator PASTORE and Representative TEAGUE, chairmen, respectively, of the Senate Housing and Urban Development, Space, Science, Senate Appropriations Subcommittee and of the House Committee on Veterans' Affairs, have been successful in bringing the Veterans' Administration hospital and medical care budget to a level which, at least, prevents serious reductions in staff and services and, hopefully, provides for increased quality and quantity of care. This is a continuing battle, and I am carefully watching the administration's application of their proposed wage and personnel reduction to the VA Department of Medicine and Surgery, to insure that the gains we have made are not further eroded.

I have also, as has Chairman TEAGUE, introduced legislation which will improve the Veterans' Administration's ability to attract and retain highly qualified professionals and paraprofessionals in its medical facilities.

Insofar as the statutory limitations restricting the Veterans' Administration's full partnership with the medical community, last year I authored legislation, now enacted into law, which requires the inclusion of representatives of Veterans' Administration facilities on advisory councils of community and State health planning agencies and regional medical programs. This legislation—Public Law 91-515—provides an initial step in fostering greater coordination between Veterans' Administration medical programs and community medical programs.

This year I have introduced legislation—S. 2219 and S. 2355—in coordination with Chairman TEAGUE, which will further strengthen the relationships between Veterans' Administration medical facilities and community medical education programs and medical schools by expanding support of education and training programs conducted by institutions affiliated with VA facilities, as well as by expanding educational programs within VA facilities themselves.

To accelerate the Veterans' Administration into the mainstream of medical care, I have introduced legislation—S. 2354—which would broaden the responsibility of the Veterans' Administration in caring for its beneficiaries to include dependents and widows of totally disabled veterans whose disability is due to a service connected injury, as well as, other veterans where care can be provided without being detrimental to the provision of care to veterans with service connected disabilities.

This new legislation should remove the unrealistic restrictions, from a medical point of view, placed on the treatment of the veteran and instead provide for his care as a whole person, as a member of a family unit and beyond that as a member of his community, thus making the VA medical facility indistinguishable, in terms of the extent of medical care, provided, from community medical facilities.

In this session of Congress, I have also introduced legislation—S. 2108—to meet the problem of the treatment of the increasing number of veterans who have become addicted to narcotics and alcohol. The administration has addressed itself to this problem as well. When this legislation is enacted, and I firmly believe it will be, the Veterans' Administration Department of Medicine and Surgery will be in the forefront in the timely development of programs for treatment and rehabilitation of addiction, one of the most critical medical problems of current times.

Thus, the Veterans' Administration medical system, with its 165 hospitals, its outstanding contributions to medical care, medical research, and medical education, has a vital role to play in the Nation's health system. Under the legislative program I have outlined, the VA could live up to its full potential as a national health resource. I believe the Medical World News article, "Caring for the Veterans" presents the rich potential of the Veterans' Administration system very clearly and provides important facts that must not be overlooked in congressional consideration of means of improving the Nation's health system.

Mr. President, I ask unanimous consent that the text of the article as well as the letter from the publisher, Dale R. Bauer, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From Medical World News, Aug. 6, 1971]

A LETTER FROM THE PUBLISHER

Research in the years since the end of World War II has created a potential for effective therapy of many diseases that the physicians of an earlier day could only dream about. But in the opinion of many critics this potential all too often remains just that—a potential. It is the possibilities for improved health and prolonged life inherent in modern care—as much as the problems of rising cost and uneven quality—that have created the tremendous public pressure to provide, either by public or private means, a method to deliver the best medical care to all who need it.

In the 1970s one of the dominant themes of medicine is certain to be the continuing debate over how we are to establish an adequate health care delivery system at a price society can afford. Medical World News has followed this developing battle, just as it has chronicled through the years the advances in medical practice. Each week it is our obligation to report to our readers noteworthy events that bear upon medicine. And socio-economic events are an important part of our news spectrum.

We feel particularly proud of this week's cover story on the Veterans Administration hospital system by Washington-based Senior Writer John Blamphin. With 96,000 beds in more than 400 institutions, it is the nation's largest single health care delivery system. And what happens to the system is of importance to more than just its veteran-patients.

Blamphin's story focuses on the vital question of the future of the VA system and its mission to care for the veteran within the context of the growing prospect for some kind of national health insurance system. For his perceptive account of why the VA "is running scared" turn to page 34.

DALE R. BAUER.

CARING FOR THE VETERAN—MORE VETS SEEKING TREATMENT AS OFFICIALS DEBATE VA'S FUTURE

What will become of the Veterans Administration medical service? The question is important because the VA, through its Department of Medicine and Surgery, is the nation's largest health care system. As such, what happens in the VA affects medicine generally—in patient care, education, research, and facilities. Not unlike other institutions these days, the VA is in a squeeze. But beyond the annual haggling over budgets and personnel levels, a more basic debate is taking place concerning the very function of the VA system: Will it eventually be reduced to a dispenser of checks for care and treatment that veterans receive elsewhere? Or will it become a keystone for a national system of health care for all?

Between these extremes, meanwhile, the VA is currently grappling with fiscal problems and an increasing number of patients. Servicemen returning from Vietnam, plus an aging population of veterans from earlier wars, are making heavy demands on the VA for medical and psychiatric care. The facilities to which they are turning are chronically understaffed and many are in need of modernization or replacement. To make matters worse, the Office of Management and Budget (OMB, formerly the Bureau of the Budget) will not permit the VA to fill more than 79,000 beds per day in fiscal 1972. Last year, the VA hospitals averaged close to 86,000 inpatients per day.

New advances in medical care and treatment are pushing VA hospitals to keep service up to date. In addition, the Nixon Administration has handed the VA a massive drug abuse control assignment. To carry it out, the VA will supplement its existing drug treatment programs by opening 32 specialized units by next October.

Finally, the VA is faced with the challenge of justifying a place for itself among rapidly evolving systems of national health care delivery and financing that, philosophically at

continued on page 34.

least, would seem to leave little room for separate government medical care programs.

The latter issue—the role of the VA in a program of universal health insurance of a national health care system, whatever it might be called—is pivotal. Until that decision is made, the VA will probably continue its hand-to-mouth existence, providing reasonably good-quality care, often under spare conditions.

The VA medical service, even now, is no small segment of the U.S. health care industry. With a budget of nearly $2 billion last year, it cared for seven million of the nation's 28 million veterans through a network of 165 hospitals with a capacity of 96,000 beds, 202 independent clinics, and 65 nursing homes. The system is staffed by 150,000 physicians, dentists, nurses, and every category of allied health worker. In addition, the VA relies on 83,000 private physicians to provide care, on a fee-for-service basis, to veterans in their local hospitals.

Essentially, the VA system cares for two types of patient. The first is the veteran with an illness or disability that resulted directly from his time in military service. He is entitled to—indeed, guaranteed—comprehensive care, both in the hospital and as an outpatient, for such ailments.

The other VA patient is the veteran whose illness or disability is not service-connected. He is eligible for inpatient care if he can't afford to pay for it elsewhere and if a VA bed is available. He can be treated as an outpatient only when such treatment is related directly to a hospitalization.

Besides caring for veterans, the VA serves as a major resource of medical education, training, and research. VA hospitals and clinics are affiliated with 81 medical schools, 51 dental schools, 287 schools of nursing, and some 400 universities, colleges, and junior colleges that train both professional and technical allied health workers.

Nearly one third of all physicians now practicing have had some or all of their postgraduate training in VA hospitals. In addition, a total of 8,649 interns and residents, including 4,278 full-time VA and 4,371 part-time appointees this year, are receiving all or part of their postgraduate education in VA hospitals.

Of the 5,100 full-time VA physicians, some 2,100 hold medical school faculty appointments. An additional 16,414 physicians serve in part-time or consultant capacities, while each year some 11,700 medical students are provided a large portion of their clinical experience in VA hospitals. More than 52,000 allied health workers are being trained in some 60 professional and technical categories within the VA health care system during the present year.

The VA has also compiled an excellent record in research. It led the way in testing antituberculosis and psychotropic drugs, pioneered the clinical use of radioisotopes, and was among the first to investigate the relationship of dietary fats and atherosclerosis. Much of the basic research on the cardiac pacemaker was performed in VA hospitals.

For years, however, this massive health care system has been underfunded and understaffed. The situation reached crisis proportions after the 1968 federal employment ceiling, imposed by Congress on hiring of federal employees, reduced VA staff at all levels.

Thus, the problem for VA proponents was to stir up enough public furor to get Congress to vote more money. Sen. Alan Cranston (D–Calif.) took care of that with a sensational round of hearings that opened on Veterans Day in 1969 (MWN Jan. 5, June 12, '70). "Our investigation lasted six months," says Senator Cranston. "We found a dangerous deterioration in the quality of medical care due primarily to shortages of funds and personnel. We found that the number of full-time doctors and nurses had not increased since 1964 although casualties requiring hospital care had risen 300% and total U.S. military troop strength in Vietnam had tripled.

"At some hospitals, we found new equipment and new wings unused for lack of staff; at others, we found obsolete equipment and rundown facilities still in use because restrictions on the VA's budget had deferred repairs and replacements."

VA officials maintained that by and large the system provides a high level of care but admitted that their hospitals were undermanned by at least 10,000, and catching up on staff alone would cost $100 million.

The congressional probes were not hooked up for political purposes. "VA hospitals are in a period of crisis," Dr. John C. Rose, dean of Georgetown University School of Medicine, told the Senate Subcommittee on Housing and Urban Development, Space and Science earlier this year. He said that the "most highly visible elements of the crisis—chronic overcrowding and understaffing—were having an adverse effect on the quality of medical care rendered to our veterans," and that they "can also adversely affect the quality of medical education carried out in VA hospitals affiliated with medical schools."

The VA's chief medical director, Dr. Marc J. Musser, admits that "we have had a long-term shortage of personnel." The VA national average is 1.8 employees for every patient. But at the Durham (N.C.) VA Hospital, for example, regarded as one of the system's better hospitals with a medical school affiliation, the ratio is 1.7:1. In the general care wards, the evening and night shifts have only one registered nurse and one licensed practical nurse or nurses' assistant for every 35 to 40 patients. "That's not adequate," says Durham's director, Stanley Morse. With additional nurses, he says, the patients would get better care. "But," he adds quickly, "that is not to say they are being neglected now."

Space needs are becoming critical in many hospitals. When more than 150 veterans seek admission to the Durham VA Hospital in a single day, "we have to use doctors' offices as examining rooms, or even the hallways, on heavy days," says director Morse. "But the examination is made, the diagnosis is rendered, and the patient gets the care he needs."

While the physical plants of VA hospitals have changed little, the services offered have expanded a great deal. Typically, the Durham hospital, which opened in 1953 with 491 beds, still has 489 beds. "But we've cranked in 14 major programs, among them chronic renal dialysis, a coronary care unit, and surgical and medical intensive care units—all without adding space," reports Morse.

Like other VA hospitals affiliated with medical schools, the Durham VA leaders are proud of their relationship with Duke University Medical Center. "I am convinced that our medical school affiliation is the best thing that has happened to us," says Morse. "There is no doubt we come out on the good end of the deal in staffing and in clinical research."

"We are really utterly dependent on the Duke departments to staff our hospitals," notes Dr. Delford Stickel, chief of staff at the VA hospital, and a surgeon who does nearly all the kidney transplants for both the VA Hospital and Duke. Nearly all recruiting of physicians is handled through the university medical center, with the faculty appointments and research opportunities offered as attractions, he explains.

The relationship between the VA and the medical school has also produced tensions. Dr. Stickel admits that quality control and cost effectiveness are advantageous to delivery of health care through a system such as the VA. "But the other side of the coin is the rigidity in the system."

He points with irritation to the VA rule that requires full-time VA doctors who supplement their income by teaching or doing research at the medical center to sign a statement every two weeks saying they will devote 80 hours of their time in that period to the VA hospital, and that the care of the veteran-patients will come first at all times.

Dr. Stickel and other physicians who are on both the VA and medical center staffs also resent centrally imposed rules and regulations that inhibit them from keeping up with innovations in care being tried by the local medical schools. Physicians at other VA centers voice similar complaints.

Medical school officials generally share the enthusiasm for the relationship between schools and VA hospitals. "There is no doubt that the VA system has been one of enormous benefit, at least to our university," says Dr. Roscoe Robinson, chief of nephrology at Duke and a member of the liaison committee between the two institutions.

Dr. William G. Anlyan, vice president for health affairs at the university, finds the school-VA relationship beneficial, but he believes the VA hasn't pulled its own weight. "In 1953, when we started the affiliation with the VA hospital here, we were equal partners. Now the partnership is like a two-horse chariot drawn by one thoroughbred and a mule near death. In some aspects, the VA hospital is ten years behind the quality of care that we give on this side of the street."

"Inadequate financial support has not allowed the VA to staff up for the new kinds of care," says Dr. John A. D. Cooper, president of the Association of American Medical Colleges. Yet he and others believe the VA offers a satisfactory level of diagnosis and management. "Compared with 1942, I think the quality of care is absolutely fantastic today. Compared with general care in the country, it's good. But it is not up to the level in many academic medical centers."

Although some schools in the past have considered severing their relations with VA hospitals because of incompatibilities between the schools and the centralized VA system, "those situations are easing off today," says Dr. Cooper.

Dr. Jack M. Layton, acting dean of the new University of Arizona College of Medicine in Tucson, which HEW's new health chief, Dr. Merlin K. DuVal, helped to establish is more optimistic about the VA-medical school liaison. "We've had a fine relationship with them. It is growing and being strengthened." Dr. Layton says that as the Tucson medical center becomes involved in community care for the Tucson area and the entire state, the VA hospitals will be playing an important role in that project. "The system we have in Tucson could serve as a national prototype," he adds.

As a result of stories concerning understaffing, overcrowding, and tensions with medical schools that came out in hearings and in the press, an aroused Congress last year voted an additional $105 million to the VA's fiscal 1971 budget with the intention that it be used principally to hire more staff.

Instead, the OMB, which tells executive-branch agencies how to spend their money, ordered the VA to use the $105 million on "nonrecurring" items, including dental care for Vietnam veterans and X-ray equipment.

This year, the OMB rejected the VA's request for $2,147,559,000 in fiscal 1972 and instead called for $2,027,750,000 in the President's budget request for the VA. OMB based this lower figure on the reduction—to 79,000—in the maximum number of inpatients that the VA could house on a given day.

The OMB justified the bed cutback by ordering the VA to increase its outpatient services and achieve a more rapid turnover of inpatients. But VA supporters in Congress see it differently: "I doubt that anyone could prove it, but scraps of information and conversations here and there have led us to believe that the Office of Management and Budget is antagonistic to VA medical programs and that it believes the VA ought to get out of caring for patients with non-service-connected health problems," confides Rep. Olin Teague (D-Tex.). "Tiger" Teague, chairman of the House Veterans' Affairs Committee, is a powerful figure who wields enormous influence with the nation's millions of veterans. "This would mean getting out of the medical business because 65% of the care the VA provides is to veterans with non-service-connected disabilities and illnesses," says Representative Teague.

The Administration's failure to use the $105 million in last year's budget to hire new employees, and the reduction of the hospitals' patient capacity brought howls of outrage from some members of Congress. Both Representative Teague and Senator Cranston held hearings this past spring. Senator Cranston said the ordered cutback of 5,500 in average daily inpatient census will mean the VA will be forced to treat 46,726 fewer hospital patients during fiscal 1972, based on the current flow of patients.

To counter the failure of the Administration to spend last year's $105 million on staff, Senator Cranston pushed an $8-million supplemental appropriation through Congress. President Nixon accepted it, and the VA has already hired and is putting to work 8,600 new employees, including 802 physicians.

Then, in passing the VA appropriations bill for fiscal 1972, Congress added $120 million to the VA budget to restore the 5,500 cut in daily inpatient census called for by the Administration, and added $100 million to provide year-round funding for the 8,600 new employees. As the final precaution, both the House and Senate appropriations committees took the unusual action of writing language directly into the bill forbidding the VA to reduce its level of operations.

Adding nearly a quarter of a billion dollars to the VA medical budget may ease the financial and staff crunch for the coming year, and so improve patient care. But it by no means guarantees the future of the VA in the delivery of health care in the U.S. Carving out that niche is the major goal of VA's aggressive medical director. Dr. Musser. "The VA is a considerable national resource for delivery of health services," he says. "As a system, it offers opportunities for quality control that don't exist too widely elsewhere. Personally, I believe that in a universal health insurance plan, the nation cannot do without the VA as a resource."

"The VA is running scared," says Duke University's Dr. Anlyan. "They don't know what will happen to their system if national health insurance comes along." He believes that if financing for private health care is available for all, the VA could be relegated to running a reimbursement program for its veteran-beneficiaries. "I question the need for the VA hospital system if there is a universal health care system."

Dr. Musser's concern that the VA become an indispensable part of the total U.S. health care system is not simply the urge of the bureaucrat to preserve his empire. Rather, it is based on the recognition that the VA cannot provide high-quality care for the veteran in a vacuum or on a limited scale. If a national health care plan were to be enacted, covering the costs for most veterans except those with service-connected disabilities or those with special problems for which the VA has great expertise, the result would be to lower the quality of VA care, Dr. Musser claims. "If the system is to be restricted that much, you could not avoid a deterioration in quality of services. It would be mediocre, and we could no longer justify it. Rather than operate a small and mediocre system it would be better to have the private sector assume full responsibility for the care of veterans."

To preserve the VA system and make it compatible with methods of delivering private health care, Dr. Musser and the deputy chief medical director, Dr. Benjamin Wells, would first expand the eligibility for receiving VA care. They believe that veterans without service-connected disabilities should be eligible for outpatient care as well as inpatient care.

In addition, they see merit in the proposal of the Veterans of Foreign Wars that services should be offered to the dependents or widows of the permanently and totally disabled veteran. These changes would allow the Veterans Administration to offer a complete range of comprehensive health care services, including pediatrics and gynecology, comparable to what is available outside the system. To do this, an omnibus VA bill (House Resolution 37) is now pending in Congress.

Next, Dr. Musser would liberalize the rules for sharing VA facilities and services with the communities in which the VA hospitals are located. VA hospitals would become part of the area's total health care system. VA beneficiaries could use local services that the VA could not provide, and local private physicians could send patients to VA hospitals when appropriate.

The VA and community institutions could cooperate to build and operate centralized services, such as laboratory and x-ray. Given staff privileges at VA hospitals, private physicians could admit their veteran-patients and still retain control over the patients' management.

Dr. William W. Hofmann, chief of neurology at the Palo Alto (Calif.) Veterans Administration Hospital, says that taxpayers will get their money's worth only if the VA system is put to its fullest use, with active patient turnover and strong interaction with all of the health needs and facilities of the entire community. "Only then can the veteran-patient get the good care to which he is entitled." Dr. Hofmann adds that VA physicians "are asking for more work and involvement in the community as a whole. We challenge the health planners to provide us with a flow of patients who may now be waiting unnecessarily for care and advice."

Finally, Dr. Musser suggests that under a program of national health insurance the medical staffs of local VA hospitals be allowed to join or form partnerships, such as Health Maintenance Organizations. This arrangement could improve the salary potential of the doctors, provide incentives for more productivity, and would make the VA more akin to closed-panel prepaid group medical practices. By building in all the elements of the private health care system—from comparable patient groups to partnerships of physicians—the VA hospital system could become an integral part of the national health plan and at the same time serve its primary client—the veteran.

Blending the VA with the private medical community is by and large acceptable to organized medicine. "The VA has been a monolithic system separate from the community," notes Dr. Milo A. Youel of San Diego, Calif., chairman of the AMA's Committee on Government Medical Services. "On the teaching level it has integrated well, but in the community it is still isolated. I do feel it has to be integrated into the private health care system. It can't exist as an isolated system of medical care."

But Dr. Youel does not believe the VA should provide free care to any but the veteran with a service-connected illness or disability. "In the past, where the community had no provision for the indigent and where VA space was available, you couldn't fight the vet going to the VA hospital for treatment of non-service-related ailments. But as a right, when the nonveterans in the community are not entitled to that care, it is not fair."

"I don't believe there should ever be a federal takeover of health care," Dr. Musser says. "But properly developed, a case could be made for a federal system operating in support of the private sector. The last thing we want to do is compete with the private sector or interfere with its prerogatives. But to be available as support, to explore new modalities of care while treating a fair segment of the population, I think we can be very useful."

The VA also hopes to make its system more rational and valuable to local communities by setting up VA regions. The objective is "to develop fully each hospital's special potential so that patients will have available to them the complete range of medical and health services no matter which hospital they happen to be in," says Dr. Musser, the former coordinator of the North Carolina Regional Medical Program. Five VA regions are active now: 17 more out of a total of over 30 will get under way before the end of the year.

Another means of tying the VA indispensably to the health care system is to beef it up as a training ground for health workers. "If funds were available, the current VA educational system could provide training for an additional 3,300 medical students and an equal number of interns and residents," says Dr. Musser, "plus an additional 941 dental students and 357 dental interns and residents." Dr. Musser told the House Subcommittee on Public Health and Environment that VA hospitals could also increase the number of allied health workers by 12,500.

The VA is cognizant of newly emerging health professions. This year, about 20 VA hospitals will set up training programs for physicians' assistants, in conjunction with seven or eight major medical centers and colleges, and the VA has already worked out a civil service classification for employing physicians' assistants.

Another major aim of Dr. Musser and the VA Department of Medicine and Surgery is to strengthen the VA's 25-year-old relationship with medical schools. Although 95 VA hospitals are today affiliated with 81 medical schools, there are still 72 hospitals in 36 states that have no such affiliation.

A bill (House Joint Resolution 464) pending in Congress would give the VA authority to help states start five new medical schools using VA hospitals as the principal clinical facilities. The VA administrator could provide the necessary land and buildings, renovate the buildings to make them suitable for medical education, and pay salaries and costs for supporting the new faculties.

There would also be additional funds to strengthen the current hospital-medical school affiliations. The AAMC is opposed to the bill, although it endorses the principle of new schools. It fears that some schools might get started without adequate planning and guarantees of continued support, and it objects to splitting the support for medical education between the VA and HEW. Finally, the AAMC says the VA ought to clean up its own house before taking on additional responsibilities in medical education. Georgetown's Dr. Rose sees improving the "aging and increasing obsolescent physical facilities of some VA installations" as a "prerequisite to broadening the Veterans Administration's responsibilities in medical education."

Dr. Musser admits to the problems in VA facilities, but, he counters, with proper funding and authority the VA could substantially cut the costs and time required to open a new medical school. The VA is not without experience. In 1966, when Louisiana State University decided to establish the School of Medicine in Shreveport, the VA cooperated

by lending its hospital for the primary clinical teaching resource. "Instead of taking from two and a half to three years, it became possible to enroll the first class of students within 14 months," says Dr. Musser.

Four other medical schools are or will be partially housed in VA hospitals—the proposed University of New Jersey College of Medicine in East Orange, the University of Nevada School of Medicine in Reno, the University of Arizona College of Medicine in Tucson—and negotiations are now under way with State University of New York at Stony Brook to affiliate with the VA hospital at Northport, Long Island.

How many of Dr. Musser's plans for the VA medical care system eventually come into being remains to be seen. But he is not alone in his efforts. Says Representative Teague: "Despite the attitudes that now exist in the Administration, we intend to make the VA just as indispensable to the U.S. medical care system as we can. We are going to strengthen the association of the VA with medical schools and with junior colleges that train allied health workers. Then, any major disintegration of the VA medical system is going to have an even more disastrous effect on the total health care system of this country."

ENVIRONMENTAL HEALTH EFFECTS LABORATORY

Mr. MATHIAS. Mr. President, I invite the attention of Senators to the proposed construction of an Environmental Health Effects Laboratory to be added to the Naval Medical Research Institute at Bethesda, Md. I thoroughly support the findings of the Senate Appropriations Committee in its recommendation that $4.5 million be appropriated for this Laboratory. I find it important to underscore the findings of the committee at this time in view of the fact that the House struck this item from its appropriations bill after it had been included in the military construction authorization bill passed by both Houses of Congress.

Mr. President, I have long pointed to the misappropriation of our resources which we squander in the jungles of Southeast Asia when we should be concentrating them toward maintaining our strategic edge in competition with the Soviet Union. One of the most important factors in maintaining this edge—and I might add the most cost effective means of doing so—is the conduct of meaningful research and development. This Laboratory will provide us the keys we need to enable extensive undersea exploration. It will serve us not only in the military field but also in the entire area of undersea research.

Questions have been raised regarding the location of this Laboratory in Bethesda. Other questions have been posed regarding the respective purposes of our naval undersea research facilities at Bethesda, at New London, Conn., and at Panama City, Fla. Finally, a question has been presented as to why this research should be conducted by the Navy rather than by industrial or university facilities. Mr. President, I have explored these questions in detail and, through the aid of the Department of the Navy, have pulled together pertinent information and precise answers to the questions cited above. I ask unanimous consent that material on this subject be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL HEALTH EFFECTS LABORATORY, BETHESDA

Mission: To conduct fundamental research and development with emphasis on animal experimentation on stresses being imposed by fleet, amphibious and undersea environments. Specifically this laboratory will be concerned with research on the psysiological, behavioral and toxicological effects experienced in underwater (depths up to 3300 ft.) and closed systems (submersibles) environments; such as the effects of altered pressures and gas breathing mixtures, body heat and work management, oxygen toxicity, drug effects under pressure, decompression schedules, trace contaminant effects, and nutrition in the hyperbaric environment.

Work in Progress: Presently the following types of research are being pursued: (a) Study of the biochemical parameters of man under diving stress. (b) Study of the nutritional factors in diving. (c) Study of diver work tolerance limits. (d) Study of heat loss and thermal balance in divers. (e) Study of biomedical instrumentation in physiological monitoring of the diver. (f) Study of improved procedures for treatment of decompression sickness and air embolism in divers. (g) Bubble detection in the blood of divers. (h) Development of new decompression schedules in operational deep diving systems. (i) Virulence and treatment of bacterial illness in diving environments. (j) Study of the effects of long-term exposure to trace contaminants in a closed environment.

NAVAL SUBMARINE MEDICAL RESEARCH LABORATORY, NEW LONDON

Mission: To conduct medical research and development as it relates to submarine, shipboard, and diving environments. To provide special medical research and development in cardiopulmonary, operational psychology, oral biology, vision, audition and human engineering as they relate to *human function in submarine and underwater systems.*

Work in Progress: Presently the following types of research are being pursued: (a) Studies in underwater vision and hearing. (b) Continued studies on diving escape procedures. (c) Studies on chronic exposure to CO_2. (d) Human engineering studies at the man/equipment interface. (e) Oral biology studies in submarine personnel.

OCEAN SIMULATION LABORATORY, PANAMA CITY

Mission: To conduct research, development, test and evaluation of equipment and *systems* involving man working in the underwater environment with *emphasis on the man/machine interface and mission simulation.* To conduct research, development, test and evaluation to provide undersea warfare capability, including mine, torpedo and acoustic countermeasures, inshore submarine, sneak craft and swimmer countermeasures, and swimmer diver equipment and techniques.

Work in Progress: (a) Studies on mine countermeasures. (b) Studies on torpedo and acoustic countermeasures. (c) Studies on swimmer diver equipment such as hand held sonar. (d) Studies on underwater communication gear. (e) Studies on swimmer delivery vehicles.

The three laboratories at Bethesda, New London, and Panama City are interrelated but distinct in mission and function. Their research programs are complementary to one another. At Bethesda, the chambers are research tools which supplement the wide range of laboratories, animal facilities and other research apparatus available to its large and multidisciplined community. The chambers at New London occupy an intermediate position in which exploratory and advanced development, mostly using man as the experimental subject, are undertaken. The chambers at Panama City permit the evaluation of already developed biological and engineering data which have been incorporated into systems to be exposed in toto to a simulated deep ocean environment. As an example, the basic physiological studies done at Bethesda would result in the development of new decompression schedules; which are tested in human divers at New London; followed by development and testing in operational diving systems in the laboratories and chambers at Panama City.

JUSTIFICATION FOR GEOGRAPHIC SEPARATION OF MAN RATED UNDERWATER R.D.T. & E. FACILITIES

The Navy has authorized and has under construction a large ocean simulation facility at Panama City, Florida, and authorized but not yet under construction a hyperbaric chamber complex at the Submarine Medical Research Laboratory, New London, Connecticut. Both of these facilities will have a capability to simulate depths of 2,000 feet of sea water.

For construction year 1972, the Navy requests the first increment of a third hyperbaric chamber complex at Bethesda, Maryland. This chamber will differ in construction and capability from the first two in that it will provide for animal experiments at 1,000 meters (3,300 feet) and will include chambers which will permit the exposure of animals for 30 to 60 days without the need for concurrent human exposure. These latter chambers are primarily intended for the investigation of toxic compounds, but are also adaptable to nutritional and metabolic studies. The chambers proposed or under construction are with a single exception the only ones built for RDT&E by the government since World War II, are the only ones capable of pressure equivalence exceeding 1,000 feet, and are the only ones capable of studying the combined stresses of pressure and cold water.

In planning for these new chambers, consideration was given to the advantages of placing them in a single location as opposed to locating them as presently proposed. A detailed study of the construction costs savings which would result from a single location has not been made, but it is believed they would be small as no overall reduction in the total number of chambers to be built would result. There are potential advantages in the procurement and storage of gases and other consumables, the utilization of chamber-operating maintenance and repair technicians, and the like, to having all hyperbaric chamber facilities at one site. These are more than offset by the dissimilar requirements of a research and a test chamber facility. These are:

(1) For the research facility: proximity to large scientific and medical centers; community attractive to basic as well as applied scientists; ongoing biomedical research program; supporting laboratories in basic disciplines such as biochemistry; large and well equipped animal care facilities; and an extensive library with emphasis in the biological sciences.

(2) For the test facility: access to open ocean; community concerned with operational diving; ongoing program in ocean engineering and technology supporting machine shops, diving life support design and fabrication capability.

As the presence of an established diving research capability is fundamental to the production of early results from the completed chamber, it was determined that the best site for a biomedical research activity was at Bethesda, Maryland, the best site for a development activity at New London, Connecticut, and the best site for a test and evaluation facility at Panama City, Florida. In this manner, the dislocation of already established laboratories could be minimized and the design and construction of the chambers could be participated in by the people who were actually going to use them. The advantages of colocating the facilities planned at New London and Bethesda are considered to be outweighed by the availability of an existing building to use the hyperbaric chamber in New London, the availability at the Submarine Medical Research Laboratory, New London, of a community of scientists and engineers already engaged in underwater development tasks, and the presence there of the submarine school, operating submarines, diving and submarines rescue operations. Also located in New London is the design and construction expertise of the Electric Boat Division of General Dynamics, and the U.S. Naval Underwater Sound Laboratory. The laboratory in New London is therefore considered an excellent site in which to expand the development phase of diving physiology and diver life support, together with the physiological studies necessary to improve individual submarine escape techniques, submarine lockout procedures and mobile submersible diving station concepts. Neither New London nor Panama City is well suited for fundamental biomedical research.

QUESTIONS AND ANSWERS

Question. Provide a description of the chamber facilities at New London and Panama City.

Answer. The High Pressure Chamber Complex at New London will provide a capability for performing physiological and behavioral studies on *human beings* exposed to pressures corresponding to submergence depths of over 2000 feet underwater (1,000 psi). The complex consists of three interlocking welded high strength steel pressure vessels, one vertical and two horizontal. The first horizontal chamber (6' x 6') is an airlock. The second horizontal chamber (6' x 6') is a medical treatment chamber, entered from the airlock. Both chambers are equipped with folding seats or bunks. The vertical chamber (10' x 16') is an experiment chamber, entered from the treatment chamber. The experiment chamber has an air and water tight deck, below which is an 8 ft. diving tank. All three chambers are equipped with receiving ports, airlocks for food, supplies, instruments, etc., feed-through connections for instrumentation, gases, telephone, etc. The experiment chamber is provided with a circulating and chilling system capable of maintaining water temperatures from 28° F to 85° F. The complex will accommodate four human test subjects.

The Ocean Simulation Facility (OSF) Panama City will provide a capability to test and evaluate man and machine together in a simulated deep ocean environment to a depth of 2000 ft. This facility will include a complex of chambers consisting of a large wet chamber (15' x 45') and an upper dry chamber complex (62' x 8'). The dry chamber complex consists of two 12 ft long main chambers each containing an outer lock 5 ft long. A center lock, 10 ft long, is interposed between the main chambers. A dry center trunk (6½' x 8') connects the center lock with the wet chamber. All known wet submersibles and most two and three man dry submersibles can be placed in the large wet chamber. Each of the two dry chambers is sized to accommodate four test subjects for extended habitation. These chambers will have similar requirements as to airlocks, receiving ports, feed-through connections, water chilling, etc., as the New London chambers.

Question. When were the chamber facilities completed at New London and Panama City? What are the similarities of the proposed facility (EHEL) to the facilities at New London and Panama City?

Answer. New London presently has a capability for exposing human subjects to pressures of 150 psi or ocean depths of some 300 ft. This chamber complex was built in 1962. The new 1000 psi (2000 ft) facility was authorized and funded for construction in the FY68 MilCon program. Due to a series of unfortunate circumstances, ths chamber complex has not been built. A fund deferral of FY68 MilCon funds caused a considerable delay in contract negotiations. When a contract was finally let and to the dismay of all concerned it was found that the contractor was incompetent and could not complete the contract. (Approximately 2 years has been lost in dealings with this contractor.) This contract has been terminated at the convenience of the government. Presently a program cost review is being undertaken to determine if sufficient funds are available for completion. If this review determines that sufficient funds exist a re-estimated completion date has been set for July 1973. The building to house this complex has been built (a renovated existing building).

The Panama City chamber complex was authorized and funded in the FY70 MilCon program. Construction is underway and apparently on schedule. The complex is scheduled for completion in mid-1972 and will become operational soon after.

The three chamber complexes are similar in principal but differ in purpose. All three are to provide a capability for testing man and/or animals and man and machine to pressures equivalent to more than 2000 ft of sea water. The design of the Bethesda and New London complexes are quite similar. However, the Bethesda chambers will be much more complex due to the biomedical instrumentation required. In that Bethesda will be concerned primarily with the animal model considerably more instrumentation and automation is necessary than when human subjects are within the chambers. The Panama City chambers are quite different from the other two from the standpoint of design and size. Panama City will not be concerned with any biomedical research and will only test and evaluate the *human* subsystem as part of the total man-machine system to ensure the safety of the man. It's biomedical instrumentation requirements are fewer and less complicated. In that Panama City will test equipment (submersibles, etc.) their chambers will be much larger.

Question. Give the reasons why the work planned for EHEL, Bethesda, cannot be accomplished at New London and Panama City.

Answer. NMRI (EHEL) is the optimal site for a broad based basic central core effort in the Deep Submergence Biomedical Research Program. It has for many years been involved in fundamental R&D hyperbaric studies and the solution to problems associated with man in the underwater environment. These research efforts require the multidisciplined staff, multidisciplined approach and facilities that NMRI has and utilizes. Neither New London nor Panama City have these capabilities and to acquire them would mean the construction and acquisition of a large animal facility, ancillary laboratory spaces and most important a scientific staff. The facilities at the National Naval Medical Center, the National Institutes of Health, the National Library of Medicine, the Experimental Diving Unit, and the Naval Ships Research and Development Center, could not be duplicated elsewhere. Cooperative programs planned and in progress between the EHEL and these various institutions could be maintained only with major logistic difficulties.

The three laboratories, NMRI, New London, and Panama City are interrelated but distinct in mission. At NMRI, the chambers are research tools which supplement the wide range of laboratories, animal facilities, and other research apparatus available to its large and multidisciplined scientific community. The facility at Panama City is a test platform which permits the evaluation of already developed physiological and engineering data which have been incorporated in systems which may then be exposed in toto to a simulated deep ocean environment. The facility at New London occupies an intermediate position in which exploratory and advanced development, mostly using man as the experimental subject, are undertaken. It's location within the submarine base allows ready application to basic research ideas to operational test and evaluation.

It can thus be seen that the facility at NMRI is required in order for the other two to be employed with peak efficiency and safety. Presently NMRI has 50% more experiments to be done than there is chamber time.

Question. Describe the chamber facilities at Duke University and the University of Pa., and their similarities to the proposed facility at Bethesda.

Answer.—The Duke University Hyperbaric Complex (the F. G. Hall Laboratory for Environmental Research) is an integral part of the Duke Medical School and consists primarily of seven interconnected chambers for hyper and hypobaric environmental research. Four of the chambers are equipped for altitude or hypobaric environment, three for simulated diving experiments to depths of 1000' (446 psig) in sea water and three for hyperbaric environments to 100 psig (one of these is a large surgical suite). One of the three diving chambers can be filled with water chilled to 40°F. Unfortunately 32°F water is sometimes required in the study of cold water or under ice conditions.

The Institute for Environmental Medicine (UPA) is housed within the Medical School and includes an extensive system of supporting offices, workshops, and labs. The chamber complex consists of 6 interconnected pressure chambers, 2 rated to 200' and 4 rated to 1800'. One of the deep chambers can be flooded with water at any temperature from 34°–120°F.

The planned NMRI chamber complex of 3 large pressure vessels is designed for 2000' and will allow tests to be conducted on swimmers in 33–85°F water. The facilities, aside from the depth and temperature advantage, will be quite similar to those at Duke and Univ. of Pa. Because Italian, French and British diving physiologists are already approaching 2000', serious consideration is being given to redesign for a 3000' depth to prevent early obsolescence.

Question. Why not accomplish at Duke University or the University of Pennsylvania, under contract, the work planned for Bethesda?

Answer. The Duke University hyperbaric staff is diversified and enthusiastic. Its interests and skills lie in four areas—hyperbaric respiratory physiology (Dr. Saltzman), oxygen toxicity on the subcellular level (Dr. Saunders), decompression theory (Dr. Hills) and hyperbaric hearing loss (Dr. Farmer). Duke can be expected to do excellent research related to exercise physiology down to 1000 feet and to date has provided us with much data at this depth. Their chambers are pressure limited to 1000' and temperature limited to 40°F. The British and Italians have already pushed experimental dives to 1500', the French to 1700'. Potential areas of Naval operations make an understanding of high pressure thermal stress (28°–35°F) of coming importance. Duke will continue to be an important underwater research resource, but will not be able to stimulate the extreme diving environment of the next 10 years.

The University of Pennsylvania hyperbaric complex is probably the most active of its kind in the country. It is entirely under the guidance and control of one man, the dynamic Professor C. J. Lambertsen. Dr. Lambertsen, one of the world's top five authorities on

underwater physiology and the inventor of the first U.S. closed circuit scuba gear for military use, has been since World War II a constant advisor to the Navy's Underwater Research Programs, and has heavily influenced the scope and directions of these programs. His laboratory trains two Navy postgraduate diving physiologists a year. The University of Pennsylvania chambers can go to 1800' and provision has been made for wet swims at 34°–120° temperatures.

We have funded the University of Pennsylvania laboratories for basic human studies of oxygen toxicity and inert gas narcosis. They will eventually be utilized to their fullest depth-temperature capabilities and as a computerized repository of decompression data. Dr. Lambertsen has strong feelings about the proper priorities for underwater research and is not easily deviated from his program.

Hyperbaric research efforts within the Navy, while not provided with broad based university research resources except in the case of NMRI, all share certain advantages over industrial or university contract researchers. All are staffed with operationally experienced submarine and diving medical officers who have a personal understanding of the military applications of the proposed research. This allows a much greater degree of responsiveness to sudden shifts in fleet requirements. The military organization allows a more positive control over the staffing of key positions, a control which can assure a more unified service-wide effort. There are recurrent research requirements unique to the military which are not favored by civilian institutions because of their limited civilian applications, i.e., submarine escape work, table development for deep submarine lock out and covert excursion diving. Political unrest generated by military related work on university property has already hampered BUMED–ONR contracts at State University of New York at Buffalo. It is in the national interest to keep secret the capabilities generated by some diving techniques. This is more easily done on government property. Finally, a central institution for basic underwater research such as NMRI is able to achieve economy by integrating the research efforts of many investigators during each expensive saturation dive. Cooperation between the Experimental Diving Unit or other naval institutions conducting operational dives of opportunity allows the gathering of research data at much less cost. It is for these reasons that the maintenance of a strong hyperbaric research group is desirable.

DR. DENNIS GABOR AWARDED THE NOBEL PRIZE FOR PHYSICS

Mr. RIBICOFF. Mr. President, Dr. Dennis Gabor, a professor emeritus of applied electronic physics at the Imperial College of Science and Technology in London and a staff scientist at the Columbia Broadcasting System Laboratories in Stamford, Conn., has been awarded the 1971 Nobel Prize for Physics. Dr. Gabor was cited for his work in three-dimensional photography.

Dr. Gabor's achievements bring great honor to Connecticut and reflect the high level of scientific and engineering research being conducted at the CBS labs.

I know I speak for other Senators when I extend my congratulations to Dr. Gabor and his colleagues at CBS labs and wish them continued success in their work.

I ask unanimous consent that two articles about Dr. Gabor's having won the Nobel Prize, published in the New York Times of November 3, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

HOLOGRAPHY A LONG-TIME DREAM

(By John Noble Wilford)

STAMFORD, CONN., November 2.—Dr. Dennis Gabor, the 71-year-old scientist who was awarded the Nobel Prize for Physics today came upon the idea of three-dimensional imagery that would bring him fame as he was waiting for a tennis court at Rugby, England, in 1947.

At the time, Dr. Gabor was a research engineer at the Rugby electrical company of British-Thomson-Houston, and he was particularly concerned with ways to improve the resolution of electron microscopes. He was looking for a way to get around the limits on magnification imposed by the microscope's lens, a way perhaps to enable scientists to "see" a single atom.

As a bright, 17-year-old student in Budapest, he had wondered about the possibility of seeing through frosted glass. This gave him a long-standing curiosity about the nature of photographic images and invisible light beams.

EXCITING DEVELOPMENT

The questions at 17 and the dawning on an English tennis court 30 years later led to the discovery of the basic principles of one of the most exciting developments in modern optical science—holography.

Dr. Gabor is now professor emeritus of applied electronics physics at the Imperial College of Science and Technology in London and a staff scientist at the Columbia Broadcasting System Laboratories in Stamford. He spends about half of each year in the United States and the rest of his time in London or at his new villa near Rome.

The Hungarian-born scientist, a short, courtly man with a bristling gray mustache and thinning hair, was in Stamford, when he received the news of the prize. He held a brief news conference, spoke to his wife in London, kissed every young woman in sight and then sat down for an interview to describe his research and his immediate plans.

"I feel that I'm very, very lucky," Dr. Gabor said with a slight Hungarian accent. "Every Nobel winner is lucky, but I'm extra lucky. Most people get the prize for one thing they spent a long life in science to accomplish. I'm an outsider. I've worked in industrial laboratories most of my life, and industrial workers rarely get Nobel prizes. What I did was not pure science. I consider it an invention."

HAS 100 PATENTS

As an inventor, as well as physicist and engineer, Dr. Gabor has more than 100 patents to his credit. A number of them relate to applications of his work in holography.

Holography is three-dimensional photography without the use of a lens. Through the use of coherent beams of light, it provides a means of recording a whole image—not just the flat surface of ordinary photographs.

Dr. Gabor gave the new type of photography the name of hologram, after the Greek word, holos, meaning whole, and gramma, meaning letter or message.

But, he said, he was "20 years ahead of my time." Working with mercury light, he was unable to develop holography from an idea to a practical technique. When he tried to sell the idea to some companies, no one was interested. Then with the development of laser light, all that changed, and many researchers began working with holography.

Dr. Peter Goldmark, president of C.B.S. Laboratories said that Dr. Gabor's work "is very profound in terms of the many potential applications, which we are just beginning to see."

Holography is being perfected for use in nondestructive testing of materials, medical examinations that are superior to X-rays and the more efficient storage of information in computers. In the future, it may be possible, with the process, to have three-dimensional movies and television that would not require the viewer to wear special spectacles.

Dr. Gabor was born in Budapest, June 5, 1900. "Like most Hungarians," he said, he left the country for his higher education, going to Berlin to earn his doctorate in electrical engineering at the Technische Hochschule in 1927. His research assistant then was Peter Goldmark, who recalls Dr. Gabor rewarding good work with a generous supply of Hungarian salami.

After working for the German electrical concern of Siemens & Halske/A.G., he went to England to escape the Hitler regime. There he worked for British companies until he joined the Imperial College faculty in 1948.

He became a naturalized British subject and married the former Marjorie Butler, whom he describes as being "still very good looking." They have no children, but their adored companion, until its death earlier this year, was a poodle named Zsa Zsa. Dr. Gabor is not related to the Gabor sisters of show-business renown.

BRITON, CANADIAN WIN NOBEL PRIZES—AWARDS ARE ANNOUNCED FOR PHYSICS AND CHEMISTRY

STOCKHOLM, November 2.—Prof. Dennis Gabor, a Hungarian-born scientist, was named today the winner of the 1971 Nobel Prize for Physics for his work in three-dimensional photography. Prof. Gerhard Herzberg, a German-born Canadian, won the Nobel Prize for Chemistry for his research in the structure of the molecule.

Professor Gabor was honored for his invention and development of the holographic method of three-dimensional imagery. A naturalized Briton who spends about half his time in Europe and half in the United States, he is both professor emeritus at the Imperial College of Science and Technology in London and staff scientist at the Columbia Broadcasting System Laboratories in Stamford, Conn.

Professor Herzberg of the National Research Council of Canada in Ottawa was chosen, an announcement from the Swedish Academy of Science said, "for his contributions to the knowledge of electronic structure and geometry of molecules, particularly free radicals."

Free radicals are fragments of molecules that are highly reactive and combine easily with other molecules.

The winners will each receive the equivalent of 450,000 Swedish crowns—more than $87,000.

In holography, a beam of coherent light—that is, ordered light waves of a single color or frequency—is split, by a mirror, for example. One part is sent directly to an emulsified plate; the other part is aimed at the object that is being photographed and is then reflected onto the same plate.

When the light waves reflected from the object meet the waves arriving directly from the light source, the interaction produces submicroscopic patterns of dark and light areas on the plate. These so-called interference patterns encode in the emulsion all the characteristics of the waves reflected from the object.

After the plate has been developed, it is again illuminated by coherent light. The applied light is altered by the interference patterns on the plate so that the light reaches the eye with all the characteristics of the light reflected from the object.

Thus, a three-dimensional image is obtained.

The advent of lasers in the nineteen-sixties greatly advanced the development and extended the applications of holography. The laser produces coherent light.

Professor Herzberg is the author of about 200 publications in spectroscopy and quantum mechanics.

His monumental three-volume work, "Molecular Spectra and Molecular Structure," has made his name respected in chemical laboratories throughout the world.

The academy's statement said that under Professor Herzberg's leadership, his laboratory had become the foremost center for molecular spectroscopy in the world.

Such investigations, it added, provide extremely precise information on molecular energies; rotations, vibrations and electronic structures.

In the nineteen-fifties, Professor Herzberg began a series of investigations of free radicals that proved to be of great importance to chemistry in general.

In these studies, the method of flash photolysis (for which Ronald G. W. Norris and George Porter were awarded the Nobel Prize in 1967) was applied and further developed by Professor Herzberg.

DISASTER RELIEF FOR PRIVATE NONPROFIT HOSPITALS, S. 1237

Mr. CRANSTON. Mr. President, I support S. 1237, which I have joined in cosponsoring with my fellow Senator from California (Mr. TUNNEY). The bill as reported by the Committee on Public Works would amend the Disaster Relief Act of 1970 by authorizing Federal grants for up to 100 percent of the cost of repairing, reconstructing, or replacing any private nonprofit hospital or medical care facility which is damaged or destroyed by a major disaster. S. 1237 would also authorize Federal grants for up to 50 percent of the cost of restoring such hospitals and medical care facilities under construction when damaged by a major disaster to predisaster condition and for up to 50 percent of increased construction costs due to the disaster. The bill would be affective retroactively to January 1, 1971.

The need for this legislation became evident at the time of the San Fernando earthquake on February 9 of this year. Four hospitals were so severely damaged by this earthquake that they could no longer operate. Two of these hospitals were Government owned and were eligible for reconstruction grants under the Disaster Relief Act of 1970—the Los Angeles County Olive View Hospital and the Veterans' Administration San Fernando Hospital. However, two hospitals were privately owned, but operated on a nonprofit basis. These two privately owned, nonprofit hospitals—Holy Cross and Pacoima Memorial—were not eligible for Federal assistance under the Disaster Relief Act of 1970, which applies only to publicly owned facilities.

Experts in hospital care who testified at hearings held by the Public Works Committee last June 10th through 12th in San Fernando, Calif., emphasized the great need to extend Government aid to private nonprofit hospitals hit by disasters as well as to Government-owned hospitals.

There are many reasons to extend Government aid for reconstruction and repair to private nonprofit medical care facilities damaged by disasters. Adequate health care for communities is a matter of high national priority. Community health needs are met by a combination of private and public hospitals. If a major disaster strikes hospitals and other medical care facilities, community health care is severely disrupted. Restoring just Government hospitals and medical care facilities to predisaster condition meets only part of the problem of restoring adequate health care to the community. If private nonprofit hospitals are not restored, and if, as is likely, no other hospitals can adequately pick up the additional health care burden, a gap in health care to the community remains. Thus, an additional burden is placed on Government-owned hospitals in the area.

Moreover, communities struck by disasters—hurricanes, tornadoes, tidal waves, floods as well as earthquakes—are generally particularly in need of adequate hospital and medical care facilities. For example, in the San Fernando earthquake, 2,328 casualties of the earthquake were treated by area hospitals on the first 2 days after the earthquake.

If the Federal Government does not act to provide financial assistance, there is little likelihood of securing funding elsewhere to repair or replace private nonprofit hospitals and medical care facilities. Today private nonprofit hospitals are increasingly financed by debt, rather than by philanthropic donations. In 1969, of $2,260,000,000 spent on private hospital construction, $1 billion came from gifts and $110 million came from Hill-Burton funds. Therefore, $1,150,000,000 came from other sources, primarily debt financing.

When disaster disables a hospital, revenues drop or stop. If the hospital is able to continue operation at all, emergency expenses caused by the disaster are likely to skyrocket. Many hospitals, as did Holy Cross Hospital at the time of the San Fernando disaster, are already heavily in debt. To take on additional debt to rebuild after a disaster would be too costly for most disaster-struck hospitals at a time when revenues are cut off or reduced. Furthermore, after a disaster has hit the community, the local residents and business community are beset by many financial losses, and community funding is unlikely to be sufficient to replace the private hospitals.

Worst of all, while the private hospital administrators are trying to search out sources of funding reconstruction, their talent pool of doctors and other trained personnel, who have often been carefully gathered together over a number of years, may be forced to find jobs and hospitals elsewhere. This loss of valuable personnel, which may occur if reconstruction of the hospital is indefinite, may never be completely restored. Assurance of reconstruction funds for private nonprofit hospitals would thus enable hospital administrators to hold on to their staff during the period before repair or reconstruction.

As I mentioned earlier, S. 1237 would be retroactive to January 1 of this year. Thus, the bill would authorize Federal assistance to replace the tragic losses of Holy Cross Hospital and Pacoima Memorial Lutheran Hospital. The reconstruction needs of these two hospitals have been placed at $9 million and $6 million, respectively. Together these two hospitals had provided 369 beds for the health care needs of the community, serving an extremely large number of medicare and medicaid patients. Seventy-one percent of the patients at Pacoima Memorial Lutheran Hospital were either medicare or medicaid patients. Both hospitals were constructed with large amounts from Federal Hill-Burton funds.

These private nonprofit hospitals were, therefore, functioning akin to public hospitals, carrying out numerous Government functions and providing a needed health care service in the community to many who could not afford to pay for it. The loss of these two hospitals should serve as a warning to us of what could happen elsewhere in the private health care sector when disaster strikes an area. The Federal Government must act to insure that adequate community health care is restored as soon as possible in the San Fernando Valley and in other such areas struck by disasters.

Mr. President, I urge my colleagues to support S. 1237.

OIL WELLS OFF THE ATLANTIC COAST?

Mr. RIBICOFF. Mr. President, during the Subcommittee on Executive Reorganization's recent hearings on the environment of Long Island Sound, it was revealed that the Department of the Interior is planning to grant leases for oil and gas exploration off the southern New England and the Delmarva Peninsula coasts.

The recent disasters off Santa Barbara, Calif., and the gulf coast reveal that no drilling operation is absolutely safe. Because the ecology of the Atlantic Coast, including Long Island Sound, is already so fragile, I seriously question the wisdom of these proposals and hope that Congress will take a long, hard look before the Department of the Interior is allowed to tamper with the ocean bottom.

Because such drilling could have a serious impact on Long Island Sound, I have asked the Secretary of the Interior to keep the subcommittee informed of the Department's plans.

I ask unanimous consent that my letter to Secretary Morton be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 2, 1971.

Hon. ROGERS MORTON,
Secretary of the Interior,
Interior Building, Washington, D.C.

DEAR MR. SECRETARY: As you know, the environment of Long Island Sound is inextricably linked with the condition of the Atlantic Ocean off the southern New England coast. For this reason, there is understandable apprehension over the reported plans of your Department to lease areas on the Georges Bank for exploratory gas and oil drilling.

During my Subcommittee's recent hearings on the future of Long Island Sound, Frank Gregg, Chairman of the New England River Basins Commission which is presently

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undertaking a comprehensive study of the Sound, testified that he had asked the Department of the Interior to report to the Commission on October 19 on its plans affecting the Sound. He specified an interest in being advised of developments in the reported exploratory gas and oil drilling.

I am equally interested in any exploratory gas and oil drilling projects near the Sound. In turn, I would appreciate receiving a copy of the Department's report to the Commission and any other information your Department has relating to mineral exploration in this area.

Sincerely,

ABE RIBICOFF.

THE FOREIGN AID PROGRAM

Mr. MUSKIE. Mr. President, last Friday's vote has left the Senate with the opportunity and the duty to create a foreign aid program which truly will serve human needs and our national interest. Last Monday and again this morning the Foreign Relations Committee has discussed ways of moving us in this direction. For the moment, however, we are confronted with the immediate problem of producing an interim program that will salvage the best parts of our aid program until a more permanent structure can be devised.

My own approach is to support a 1-year authorization for economic development and humanitarian aid, on the condition that the maximum feasible amount of assistance be given through multilateral agencies. A country with 5 percent of the world's people and 40 percent of the world's wealth—a country which has always believed in its own decency—cannot now turn its back on people in need, at home or abroad.

Second, I would recommend that the Senate consider the more controversial military and security supporting assistance programs separately from economic aid and on a nation-by-nation basis. While I believe in economic aid, I do not believe in sending weapons to dictatorships like those in Greece and Pakistan, which use our arms to repress their people rather than to defend them. But a state like Israel needs and deserves our steady support—and the Senate should act without delay to prevent an interruption in our assistance to her.

In the midst of the debate on foreign aid, the administration threatened aid cutbacks to counter the domestic political consequences of its diplomatic defeat on the China question in the United Nations. Now the administration asks for a continuing resolution for foreign aid, which would silence debate about vital issues and postpone basic reforms in the program. I think the Senate should adopt a more responsible course—to continue aid where it is right, to cut aid where it is wrong, and to set the stage for fundamental reform.

The Senate vote against the foreign aid bill last Friday came as a surprise and shock. It may well be that the American foreign aid program needed such a shock. I only hope that the President and Congress can now work together to restructure the program on more rational and effective lines—in accordance with the political, economic, and strategic realities of the 1970's. Meanwhile, Congress must insure that the best parts of the aid program are preserved during the transition from old to new.

We are all aware of the great changes that have been taking place during the last decade in the structure of the world community. The old patterns of the cold war have given way to new kinds of relationships in the world. The preeminence of the United States and Soviet Union as superpowers has been lessened as other nations have asserted themselves in Europe and Asia. During this transition, the American people have become aware of the need to adjust our political, military, and economic commitments abroad to make our role in the world community fully appropriate to our position and our power.

Yet during this period of readjustment, our foreign aid program has continued as though the Marshall plan and the Truman doctrine were begun yesterday, not in 1947.

Opposition has developed to foreign aid because too much of it seemed predicated on obsolete assumptions of the cold war. Well over half of our annual expenditures have been devoted to military and security supporting assistance. Too often, we have contributed to the power of military regimes that face negligible external threats and which use our arms to repress their people rather than to defend them. Much of our development assistance has been used as an ecomonic lever in the give-and-take of international politics. And our bilateral development assistance has proven to be a singularly inappropriate—as well as ineffective—instrument of political pressure.

The time has come, therefore, for a complete restructuring of our foreign aid program. First, we must separate economic development assistance from military and security supporting assistance. Second, we must increase our development assistance and channel it as much as possible through multilateral aid-giving institutions. Third, we should reduce our military and security supporting assistance.

Economic assistance is in the best of the American humanitarian tradition. But quite apart from humanitarian motivations, economic assistance is justified as one important means of building a stable international order. We must look toward the growth of a world economy in which the developing nations play an increasingly important role. By assisting poorer countries, we cannot only help to create a better life for the majority of the world's people, but we can also help them to preserve their own independence and stability, which are critical to regional and world stability. We do not deserve, nor can we maintain, a position of leadership in the world if we turn our back on people in need either at home or abroad.

The goals of economic assistance are best achieved when aid is channeled through multilateral institutions such as the World Bank and regional development banks. The multilateral approach encourages a coordinated effort by the developed nations to ease the economic problems of the less developed nations. And it shields the developing world from the strains of the bilateral aid relationship and its inevitable political overtones.

Finally, I believe we should move now toward substantial reductions in military aid and security supporting assistance. This kind of assistance frequently does little for long-term development. And it often impedes political development by placing too much power in the hands of military elites. Doubtless, there are areas in which continued military assistance is appropriate and even vitally necessary. But a review of the present program will show a number of areas in which substantial reductions or deletions can and should take place.

Much time and work will be required for this type of fundamental change in our programs. Hopefully, Congress and the President can cooperate to accomplish a total restructuring during the coming year. Today's meeting with Secretary Rogers and AID Administrator Hannah should be a beginning of that restructuring.

During the time it takes to develop a new approach to foreign aid, interim steps must be taken to assure the funding of essential programs. I do not believe that an all-encompassing, long-term continuing resolution would be appropriate for this purpose. It would perpetuate parts of our present aid programs that deserve little support. It would ignore rather than confront vital issues. Instead of bundling all the foreign aid programs together and attempting to rush them through Congress, it would be wiser to separate them and pass those that should gather widespread, interim support.

Because the long-term economic development portion of the foreign aid program should command such support, because its interruption would cause great havoc in the development programs and ongoing projects of so many nations, and because I believe it is so clearly in our long-term interest, I think that this type of aid should be continued during the interim until a new, multilateral economic aid program can be created. For this purpose an authorization for economic development assistance for fiscal year 1972 is appropriate.

I think this authorization should include the funds for development loans and technical cooperation and development grants, including the Alliance for Progress; American contributions to international organizations; contributions to the Indus Basin project; support for population control programs; and support for international drug control assistance. This 1-year authorization should make clear that the bilateral economic aid program will be transferred to the maximum extent possible to multilateral institutions, as provided in Section 101(3) of this year's foreign aid legislation. And we must be absolutely clear that the change from bilateral to multilateral economic development aid will not be used as a pretext to lower our level of support for these programs. Hopefully, the success of multilateral aid should attract higher levels of contributions from other developed nations, in addition to the United States.

As part of our change toward increased utilization of multilateral institutions, we should continue to strengthen the United Nations. The inability of the United States to attract support for a formula to keep the representatives of Peking and Taipei both in the United Nations—whether caused by the inevitable changes of international politics or lack of imaginative thinking by the administration—should not lead to diminished American support for the United Nations.

The special commitment we made to help further economic development in Latin America should be reflected by an increased American contribution to the development aid going to our southern neighbors. Much of this aid should be channelled through the Inter-American Development Bank.

Reasonable economic development depends upon a transfer of large amounts of capital from the developed to the less developed nations. No realistic development strategy can ignore the contributions of private foreign capital investment. For this reason, we should continue the insurance program for overseas investments under the Overseas Private Investment Corporation—OPIC—to encourage private investment in the third world.

But the extension of this program must be accompanied by steps toward the development of orderly procedures and agreements under which foreign investments can, over time, be shifted to the developing countries themselves. Without these orderly methods, foreign investment that can benefit both parties will shrink and the chances of serious political differences arising from these investments will increase.

I feel there is no reason for the United States to diminish the humanitarian aid that we have continued to provide on an ad hoc basis to countries suffering from unique, immediate disasters. This kind of bilateral assistance does not involve the political complications of long-term military or development aid. It simply fulfills our best traditions of directly helping people in need. It is imperative, for example, that we provide without any delay the $250 million for Pakistani refugee relief. We must help alleviate the suffering of these helpless millions.

Also in this category is the $30 million of support we provide for American schools and hospitals abroad.

There are also a few cases where a continuation of bilateral economic development assistance may be appropriate for humanitarian reasons. Small nations may, because of particular circumstances, be unable to receive adequate assistance through multilateral or regional institutions. Those nations should receive aid to insure that their populations do not suffer the consequences of the international situation.

Both the military assistance and security supporting assistance aid programs deserve the widespread criticism they have encountered. There are frequently doubts about their effectiveness or desirability. However, bilateral military assistance to some countries—like Israel—is essential to American vital interests abroad.

So in the interim, it would be best to consider military aid as distinguished from humanitarian and economic aid on a country-by-country basis. This should limit the disputes over controversial aid programs—such as military equipment sales to Latin America, security supporting assistance to Southeast Asia, or arms funds for Greece—to the merits of those particular programs. And this will allow military assistance programs that are not controversial, such as the $300 million in military credit sales to Israel, to receive prompt approval.

I think if we proceed on this basis—a 1-year authorization for economic development programs, a continuation of humanitarian aid, and a country-by-country consideration of military assistance—we can preserve essential programs during the time necessary to reshape our foreign aid programs. Programs that have support—because they are widely regarded as furthering our national goals—will be promptly continued. Debate over controversial programs will be limited to those programs. And the present sense of urgency to devise a new foreign aid program will not be dissipated.

UNITED STATES-INDIA RELATIONS

Mr. CHURCH. Mr. President, Prime Minister Indira Gandhi, of India, comes to Washington, D.C., today at a time when United States-India relations are not going well. As columnist Carl T. Rowan describes the situation, relations have deteriorated "to what may be the lowest point ever." Hopefully, Mrs. Gandhi and President Nixon will be able to stop the downward skid, and agree that taking the high road offers the best opportunity to reestablish cooperation and understanding between the world's largest democracies.

From our side, we might assure the Prime Minister that the United States will assume a position of benevolent neutrality in the present conflict in East Bengal, suspending all military and economic aid to the Pakistan Government, as the Congress agreed to do in the ill-fated foreign aid bill, until Islamabad comes to terms with the verdict of the majority of its own citizens, as expressed in their last elections.

Secondly, America should provide as much humanitarian assistance as it can to help India avoid suffocation under the heavy weight of nearly 10 million refugees from East Bengal. In the third place, as the Washington Post editorialized yesterday, "Mr. Nixon has got to do some sympathetic listening." The core of the crisis in East Bengal and between India and Pakistan stems directly from the Pakistan military junta's rigid decision to use force, excessively, unrelentlessly, and indiscriminately, against its own citizens. The editorial concludes:

Mrs. Gandhi will be able to offer a perspective close to reality, namely, that the humanitarian and political disasters alike are chiefly of the Pakistani government's own making and that their resolution will require the kind of changes in Pakistani policy which only American urging can help bring about.

I ask unanimous consent that Mr. Rowan's article, the Washington Post editorial, and other recent commentaries on United States-India relations be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 31, 1971]

THE SAD STATE OF UNITED STATES-INDIA RELATIONS

(By Carl T. Rowan)

In December 1969 the Indian prime minister, Mrs. Indira Gandhi, told L. K. Jha that she was naming him ambassador to Washington with one idea in mind: he must make relations with the United States as good as India's relations with the Soviet Union.

Jha has been here a year and a half, helplessly watching Indo-American relations deteriorate to what may be the lowest point ever. Meanwhile, the Soviets have won even more prestige and influence with India's government and her 537 million people.

Now the U.S. is on a kick of wooing Communist China with neither the U.S. government nor the public appearing to give two hoots about what happens to the world's second most populous country, India.

Mrs. Gandhi comes to Washington on an official visit this week, and there is a grave question as to whether she and President Nixon together can halt the drift of the two countries toward lasting political hostility.

The threat of warfare between India and Pakistan will surely be uppermost in Mrs. Gandhi's mind. For two decades, conflict with Pakistan has been at the heart of India's troubles with the United States. The U.S. has steadfastly refused to accept the notion that friendship with India meant that India's enemies automatically became Uncle Sam's foes.

But there are dimensions of India's current troubles with Pakistan that deserve the understanding, interest and action of the White House and the rest of the world. Unless Mrs. Gandhi can inspire such understanding and action, a new tragic wave of warfare on the Indian subcontinent seems inevitable.

West Pakistani refugees fleeing the grim oppression of the Pakistan army have put terrible strains, financial, political and social, on India. The Bangla Desh conflict has put India in a position where war seems certain unless the U.S. and other countries pressure Pakistan President Yahya Khan to agree to a settlement. So far Mr. Nixon has not seen fit to pressure Pakistan, and there is doubt that Mrs. Gandhi will be able to prod Nixon into this kind of action.

In the fiscal year ending last March, India spent $800 million caring for what now are 9.5 million West Pakistani refugees. The cost in the current year will be more than $1.2 billion.

No less ominous is the rise in communal tensions. More than 8 million of the 9.5 million Bengalis who have fled Moslem Pakistan are Hindus. Indian extremists are now insisting that India force 8 million of her 60 million Moslem residents into Pakistan and thus create an economic crisis that some economists say would swamp Pakistan and create chaos. Indian leaders swear they would never resort to this kind of tactic.

So the refugees continue to flood into India, many of them eating better than the ordinary Calcutta resident.

Officials here assume that Mrs. Gandhi is too proud to ask President Nixon for more economic help; she will hope that the need is already obvious. But she surely will try to convince Mr. Nixon that world peace requires that he pressure the Pakistanis to resolve the Bangla Desh affair promptly.

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However, the U.S.'s chronic trouble with India seems to grow deeper than such matters as U.S. military aid to Pakistan. American leaders, whether Democratic or Republican, seem to become severely irritated by what they consider a "more moral than thou" Indian posture.

Indians point out that for years they were the targets of American anger because they advocated good relations with Communist China and the Soviet Union—a stance the U.S. now has adopted. They say they were ridiculed by Americans year after year for pressing to get Peking into the U.N.—a position the U.S. now takes. They say they bugged Americans by arguing that U.S. warfare in Vietnam was a mistake—a point on which most Americans now agree.

Indians profess an inability to understand why they arouse ire among Americans just by being right.

"Being right is bad enough, but being superciliously right is irritating as hell," explains one American official.

It is on such attitudes that great matters of state, of war and peace, often turn. We all ought to hope that these kinds of emotional hangups and petty sensitivities will not get in the way when Mrs. Gandhi and Mr. Nixon attempt to put the two countries on a friendship course that they should have been on all along.

[From the Washington Post, Nov. 2, 1971]

MRS. GANDHI'S VISIT

Mrs. Gandhi's arrival here this week gives President Nixon the chance to get Indian-American relations out of the tailspin they've been in since the United States began condoning, if not quite endorsing, Pakistan's expulsion of some nine million refugees into India—a movement of people and misery, by the way, which has made war talk in the subcontinent ring louder than it has for years. That Indian-American relations are in a tailspin is apparent. The governments are all but openly snapping at each other and, at least on the Indian side, popular support for continuing a previously deep and friendly association has diminished sharply. This can only disturb those who believe that a good relationship between the world's strongest democracy and the largest is essential to the interests of them both.

There are perhaps three things that Mr. Nixon might consider. The first is to assure Prime Minister Gandhi that the direct supply of American arms to Pakistan will halt. The amount of arms affected would be trivial; whatever supplies might still be deemed necessary could be routed through third countries. But a halt would remove the most conspicuous and, in India, the most maddening symbol of American favor for Pakistan.

Secondly, Mrs. Gandhi deserves American assurance that the aid-India consortium will treat India's refugee load not merely as a costly relief burden in itself but as a heavy drag on the country's whole economic development. Pakistan declared a moratorium on its debts; the United States acquiesced. Does fairness not argue that India should be "rewarded" for continuing to pay its debts on schedule?

Finally, Mr. Nixon has got to do some sympathetic listening. His own aides seem to have informed him that the humanitarian crisis on the subcontinent arises essentially from the general condition of poverty and from last year's cyclone, and that the political crisis is owed to India's aid and encouragement to the Bengali insurgents. Mrs. Gandhi will be able to offer a perspective closer to reality, namely, that the humanitarian and political disasters alike are chiefly of the Pakistani government's own making and that their resolution will require the kind of changes in Pakistan policy which only American urging can help bring about.

[From the New York Post, November 1, 1971]

. . . A TEST CASE

The imminent Washington visit of Indira Gandhi underlines the nature of the challenge to obsolete Washington positions.

Last March the oppressive Pakistan regime undertook a major offensive against the indigenous independence movement in East Pakistan. Massacre and terror have resulted in the flight of some 9,000,000 desperate human beings into India, where Mrs. Gandhi's government has valiantly labored to save them from starvation and plague. Their immediate survival requires help from the U.S. and other countries on a scale more massive than any program now conceived; India cannot conceivably carry the burden. Any ultimate solution will involve political concessions that Pakistan's Khan seems resolved to resist—as long as it continues to receive aid from the United States and as long as we fail to throw our moral and material weight on India's side.

Mrs. Gandhi's journey provides the setting for a clear revision of our pro-Pakistan stance that goes back to the time of John Foster Dulles. A sympathetic response to Mrs. Gandhi's visit could have vast impact in Pakistan and perhaps offer some glimpse of hope for the refugee multitudes facing a winter of agony. In terms of a new direction in American aid policy, there is no more urgent place to begin.

[From the Washington Evening Star, October 27, 1971]

MRS. GANDHI COMES BEARING GREAT PROBLEMS

(By Crosby S. Noyes)

The visit here next week of Indian Prime Minister Indira Ganhdi comes at a particularly sticky time. In the view of both Indian and American officials, relations between the two countries have never been worse.

Nor are they likely to improve very much as the result of Mrs. Gandhi's trip. It would appear that her purpose in coming is less to cultivate goodwill—at least with the Nixon administration—than to change American policy. Mrs. Gandhi apparently plans to use her very considerable powers of persuasion in a direct appeal to American public opinion in the course of her two-day stay in Washington.

The visit takes place against a background of deepening crisis between India and Pakistan in which the danger of full-scale war has grown measurably within the last week. Tensions between the traditional enemies have risen steadily since March, when West Pakistan sent its army to suppress a movement toward independence in its detached eastern province. Last week, as Mrs. Gandhi prepared to leave on her three-week foreign tour, India mobilized its military reserves for the first time since the Indian-Pakistani war in 1965.

The growing tension between India and Pakistan is the outcome of the effort to crush the rebellion in East Bengal. Military operations there have produced a flood of refugees—now numbered at more than 9 million—in India's eastern states, creating an intolerable burden on the Indian economy. In addition, Pakistan blames India for providing sanctuary and arms to rebellious East Pakistanis and for encouraging increasingly effective guerrilla activities.

The anger of the Indians toward the United States, in turn, is a direct outgrowth of this situation. The Indians, who feel they are the chief victims of the East Bengal rebellion, bitterly resent the efforts of the administration to maintain a neutral position in the dispute. In particular, they have been infuriated by reports of continuing American aid for Pakistan, including the delivery of some military equipment.

American efforts to cool the conflict have only increased Indian irritation. Suggestions that India and Pakistan should pull their military forces back from their respective borders have been angrily rejected by the government in New Delhi. Since the Indians are convinced that the government in West Pakistan is entirely to blame in the present confrontation, they consider that any pressures brought to bear on them are both immoral and unjust.

It might be noted that the irritation of the Indians is reciprocated, with interest, by American officials dealing with the problems of the subcontinent. It both the Pakistan rebellion and the India-Pakistan crisis, the central American interest is to prevent the outbreak of war, restore the stability of the area and eventually to work toward a political solution of the problems.

American officials are by no means certain that the Indian government shares these goals. Although the Indians insist that they are acting with great restraint so far as Pakistan is concerned, they also make no secret of their support for the secessionist movement in East Bengal. Indeed, Indian encouragement and arms are essential to the success of the rebellion.

American officials, furthermore, are not persuaded that the Indians are quite as anguished over the current state of affairs as they appear to be. The refugees, to be sure, are a temporary problem for India. But it is Pakistan that is in real trouble over the long run. And so far as virtually every Indian is concerned, what is bad for Pakistan cannot also be bad for India.

Pakistan, it is widely believed, will not be able to control the secessionist forces in its eastern province over the long run. The area is separated from West Pakistan by 1,000 miles of Indian territory. Its population is larger than that of West Pakistan. And the repressive action of the army has, according to all observers, thoroughly alienated a large majority of the people.

A sustained military effort in the East would be not only futile but ruinously expensive for the government in Islamabad. In West Pakistan itself, there is growing unrest aimed at the ruling military establishment and a possibility of new movements toward regional autonomy.

It would not be altogether surprising if the Indians should be content to sit back and watch the distintegration of their major enemy in Asia. Not surprising, either, if they should help the process along a bit, even at the risk of a war which most observers agree would be suicidal for Pakistan. It is the fact that American officials see the problem rather differently that accounts for the bad relations that Indian officials complain about.

[From the New York Times, Nov. 3, 1971]

A HARDER LINE FOR INDIA—NEW DELHI APPEARS TO BE TOUGHENING STAND ON PAKISTAN AND TOWARD UNITED STATES

(By Sydney H. Schanberg)

NEW DELHI, Nov. 2.—Under heavy diplomatic and military pressure, India seems to be toughening her policy toward Pakistan and toward what she considers a lack of understanding by Western nations—particularly the United States.

Prime Minister Indira Gandhi's decision to go ahead with her current three-week trip to the West—she arrives in the United States tomorrow—gives the impression of both self-confidence and a lack of interest in attacking Pakistan.

At the same time, the hardline speeches of her Defense Minister, Jagjivan Ram, seem to be aimed at warning Pakistan of the heavy price she would pay if she started a fight with the Indian armed forces, which all observers consider superior.

It appears clear that Mrs. Gandhi will spell out her hard line when she meets with President Nixon on Thursday. But it is much less clear whether she will receive a sympathetic response.

Washington's apparent short-term goal, according to analysts here, is to prevent the crisis on the subcontinent from upsetting the President's global plans for improving relations with both Peking and Moscow.

U.S. IRRITATION NOTED

Recent remarks by Administration officials indicate that the White House has grown increasingly irritated over India's latest position. This includes a refusal to accept United Nations observers, a refusal to withdraw Indian troops from the borders until the Pakistanis halt the flow of refugees into India by stopping "their atrocities" in East Pakistan, and a refusal to accept mediation either by the United Nations or a third country, on the ground that there is nothing to negotiate until Pakistan reaches a political settlement with the elected leaders of the autonomy movement in East Pakistan.

American officials now charge privately that India is eager to weaken her old enemy, Pakistan—that she is helping the Bengali insurgents in East Pakistan—not to protect Indian interests but to hasten Pakistan's disintegration.

In short, United States officials are saying that India is being unreasonable.

But most Western diplomats here, while acknowledging that there is room for more accommodation in India's policy, suggest that it is the United States that is being unreasonable. They point out that the Americans have urged restraint on India without offering her any reassurances, and without putting forth any specific proposals to solve the root problem in East Pakistan and thus ease the pressures created by the millions of refugees.

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Worse, these diplomats argue, Washington has appeared to favor Pakistan by continuing to ship arms to her and by refusing to criticize the Pakistani military operation openly.

"I'm skeptical," said one diplomat, "about the efficacy of diplomatic initiatives that counsel restraint without sympathy or positive proposals about the basic issue."

Mrs. Gandhi at a news conference before her trip, declared: "As you know, everybody admires our restraint. We get the verbal praise and the others, who are not restrained, get arms support."

As American relations with India have plunged to a new low, Soviet relations with her have soared. By signing a friendship treaty with New Delhi in August and assuring the Indians that Moscow would be on their side should the Pakistanis attack, the Russians have been able to counsel restraint on the Indians gracefully and thus strengthen their influence not only in India but also in East Pakistan.

They have done all this without completely cutting their lines to Pakistan, and many observers think that Moscow is looking ahead to the possibility of playing mediator again—as it did at Tashkent after the brief Indian-Pakistani war in 1965.

The reservoir of Indian-American goodwill, though greatly diluted, is still extant. But if another war breaks out between India and Pakistan, many Indians may begin to look on the United States as their out-and-out enemy.

The consensus among analysts here is that the likelihood of war is not great for the next month or so. But they feel that the odds could change quickly—depending on the trend of the civil war in East Pakistan and on the extent to which the world community is moved to act.

Foreign observers foresee mounting tension as the Bengali insurgents, aided by India, increase their pressure on the Pakistan Army, and the army in turn increases its attempts to wipe them out. This tension, they feel, could peak in December or January.

A WARNING LIKELY

Observer believe that Mrs. Gandhi's objective in the United States is to convince President Nixon that unless he persuades Pakistan to change her present course, it may not be possibel to avert war.

The 53-year-old Prime Minister will also try to increase pressure on the Administration by rallying American public opinion to her side—in an address to the National Press Club in Washington and on national television.

A few months ago, a European diplomat here remarked, "Pakistan is a drowning dog. India doesn't have to push its head under."

But Pakistan is barking loudly at India. If India feels threatened, many observers believe, she may decide to push.

CATEGORY C IMPACTED AID

Mr. PERCY. Mr. President, I was distressed to read in the New York Times of Sunday, October 31, that the Dayton, Ohio, public school system has joined the ranks of increasing numbers of school systems who face a shutdown of their schools because of serious financial trouble. I bring this situation to the attention of the Senate not to point a finger at the problems of another State, but rather to suggest that the Dayton dilemma is merely the latest in a series of similar situations that have affected many States, including Illinois.

The article discloses that the Ohio Legislature has defeated four tax levies since 1969. I suppose Ohio taxpayers are much like Illinois taxpayers in the respect that most of them feel that they simply cannot sustain the burden of additional taxes at this time. The action by the Ohio Legislature, therefore, may not be unusual.

But the lesson I would draw from this report is that the school systems across the country have been faced with greatly increasing demands on their funds and simply cannot handle them. Congress cannot afford to view casually the fact that, in Illinois alone, the Chicago schools will have to close for 12 days in December because of budgetary deficits, and that the school systems of Kankakee, East St. Louis, and Cairo appear unlikely to be able to continue their operations for even the minimum term. The Gary, Ind., schools also stand on the verge of closing. I would hate to guess the number of other schools facing this dilemma.

The precarious condition of schools is in large part the responsibility of the Federal Government so long as we continue to leave the category C portion of impacted aid to education unfunded. This program is directed toward compensating school boards for the loss of local tax revenues resulting from the presence of Federal public housing projects. Despite authorization levels of $250 million to $300 million, not 1 cent has been appropriated to date. In light of the conspicuous demand for funds—not to add frills to the curriculum, not to bolster extracurricular activities, not to compensate the teachers—though they deserve better than what they are getting, in many instances—not to stock the closets with equipment and supplies, not even to build more schools, but merely to keep the schools open—the failure of Congress to appropriate funds for this program is particularly irresponsible and unconscionable.

We will have another opportunity very soon to indicate our support for this program and for the schools generally across this country. I testified last week—October 21—before the Appropriations Subcommittee considering supplemental appropriations for the Office of Education to urge the inclusion of this item. While the Senate overwhelmingly adopted this appropriation earlier this year, the other body failed to permit any money for it. I would urge the House to recede from its position of disagreement when the matter is again raised in the supplemental appropriation, and I strongly recommend that the Senate repeat its acceptance of this request.

In order that I need not repeat all the arguments included in my testimony, I ask unanimous consent that the testimony be printed in the RECORD. I also ask unanimous consent that the New York Times article to which I referred earlier be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PERCY

Mr. Chairman and members of this subcommittee, I am pleased to appear here this afternoon to recommend an amendment to the Supplemental Appropriations Bill which would allocate at least $60 million to fund the Category C part of impacted aid to education. You may recall that when we first considered this issue in the course of the FY '72 Office of Education Appropriation this past spring, this subcommittee and the full Appropriations Committee approved a $60 million appropriation for Category C pupils. Having also been agreed to by the Senate as a whole, this amount regretfully was thereafter lost in the House-Senate Conference Committee due to a refusal by the House to allow any funds for this program.

The authorization level for Fiscal Year 1972 is $300 million to provide federal assistance to local boards of education that have public housing units within their districts. Last year, $268 million was authorized. To date absolutely no funds have been approved for what I consider to be a worthwhile—indeed essential—program.

The full '72 authorization would make available to local school boards approximately $200 per pupil. Even if the opponents of Category C funding believe that this federal contribution is too high, surely the principle of compensating local school boards for the loss of local tax revenues resulting from the presence of federal public housing projects cannot be seriously opposed. It would seem in any case that opposition to the basic premises of this legislation should be raised in terms of amending the authorizing legislation, not in withholding appropriations. The question now is not so much over whether to have this program, but at what level to fund it. A zero appropriation is not consistent with already established Congressional policy.

The fact of the matter is that the impact aid program is needed; it works; it puts money where children are, with the least encumbrances, with the least amount of red tape, with more efficient distribution of aid than almost any other legislation passed by Congress.

A failure to appropriate funds to reimburse local government for the expense of educating students who live in public housing would result in a decreased per-pupil expenditure for *all* children in a particular

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school district, whether or not they reside in public housing. Therefore, the quality of education available to all children would fall off. In addition, the financial strains that local school boards have been forced to assume are enormous, especially in the cities. In Chicago, for instance, the Board of Education must rely solely on local property taxes for the local share of its revenues. One-and-a-half percent of its budget comes from federal sources; 28% comes from the State. There are more than 62,000 school children living in public housing in Chicago, the cost of whose primary and secondary education now depends on the city's ability to juggle its limited revenues in such a way to support them. The fiscal crisis in education in the State of Illinois is so critical that a shut-down of Chicago schools is scheduled for 12 days in December. It would require an additional $36 million for Chicago to operate a full year's program this year. Interestingly enough, this crisis situation is not limited to Chicago alone, but confronts many other school systems in Illinois where there exist large concentrations of poor people and where there are large numbers of school children who live in public housing. In Illinois alone, it appears that the school systems of Kankakee, East St. Louis, and Cairo appear unlikely to continue their operations for even the minimum term this year. The school system of Gary, Indiana, is also on the verge of closing.

The financial bind in education is tying the hands of rural schools as well. Seventy-two percent of the public housing units in the country are located in cities and towns of less than 500,000 and 46 percent of them are in cities of less than 100,000. Only 45 percent of public housing is in our 35 largest cities. (See Exhibit A)

The financial impact of public housing on urban centers and rural areas is a fact that the federal government cannot ignore. The tax bases of our cities are being eroded by an exodus of middle and upper income families to the suburbs; low income public housing families continue to migrate to the cities; and boards of education, no matter where they are located, are facing budgetary constraints that seriously limit both the number and quality of their operations. As far as education aid to federal impacted areas is concerned, there is no other federal program in existence today that can meet the problem better than the Category C plan. Every other program provides, at best, inadequate and indirect assistance.

The federal government has already acknowledged its responsibility for providing educational support to offset the local tax drag of residents of public housing in the form of the annual in-lieu-of-taxes payment made through the Department of Housing and Urban Development to local housing authorities. The minimum annual payment from HUD, however, provides only a small fraction of the cost of educating the public housing student—about $11 per child—while the local school districts must raise an average of $400 per child annually. Today, most American public school systems remain in a state of crisis, unable to obtain the financial resources to provide each child with a quality education.

The most important consideration for this subcommittee is that there will be no significant improvement in the lives of children in public housing communities until they are given a better education. The schools which they attend, more often than not, must operate the most marginal programs and the children wind up with marginal educations. There will be no way for them to move up and move out unless they have the knowledge to see that a change is possible. When I first came to the Senate I worked hard to develop the concept of homeownership. This program opened new possibilities for many low-income families to begin to own their own homes, to lead more productive independent lives, free from the stigma and limitations of welfare.

In the search for other legislative means to alleviate conditions brought about by concentrations of the poor, the category C impacted aid program stands out as one of the best. Under this program no State will be untouched. Educational assistance will be applied wherever there are public housing students, and it will be applied in a manner designed to advance the best interests of our Nation's schools and schoolchildren.

(See exhibit B.)

I urge this committee to reaffirm its earlier support of category C funding by approving at least $60 million for fiscal year 1972 in the supplemental appropriations bill and by urging that the House Appropriations Committee recede from its earlier position of disagreement by approving the requests of many Members of the other body who urge that these funds be allocated.

EXHIBIT A

RESEARCH DIVISION

City	Projected number children in public housing units built or under development	Estimated grant based on $100,000,000 appropriation
Atlanta	19,600	$1,353,779
Baltimore	18,490	1,651,703
Boston	26,159	3,207,829
Buffalo	6,354	823,520
Chicago	54,864	5,863,853
Cleveland	16,575	1,398,598
Dallas	9,590	679,746
Denver	5,909	557,117
Detroit	13,134	1,111,128
Houston	3,970	281,408
Los Angeles	14,243	1,179,304
Memphis	9,048	625,036
Milwaukee	5,842	569,206
Minneapolis	10,187	781,633
New York City	109,690	14,215,837
Philadelphia	29,173	2,579,503
Pittsburgh	14,689	1,298,775
Portland	5,075	606,385
St. Louis	12,613	970,540
San Diego	1,300	107,640
San Francisco	10,793	893,627
Washington, D.C.	15,652	1,394,593

ESTIMATED GRANTS FOR PUBLIC HOUSING BASED ON $100,000,000 APPROPRIATION

City	Projected number children	Estimated Grant
Akron, Ohio	4,208	$355,080
Albany, N.Y.	2,528	327,694
Albequerque, N. Mex.	2,040	71,843
Allentown, Pa.	1,431	126,556
Amarillo, Tex.	0	0
Anaheim, Calif.	0	0
Atlanta, Ga.	19,600	1,353,779
Austin, Tex.	1,755	124,394
Baltimore, Md.	18,490	1,651,703
Baton Rouge, La.	1,196	82,620
Beaumont, Tex.	845	59,894
Berkeley, Calif.	1,430	126,126
Birmingham, Ala.	8,869	612,733
Boston, Mass.	26,159	3,207,829
Bridgeport, Conn.	3,783	434,099
Buffalo, N.Y.	6,354	923,520
Cambridge, Mass.	1,884	230,988
Camden, N.J.	2,825	338,141
Canton, Ohio	0	0
Charlotte, N.C.	4,781	330,299
Chattanooga, Tenn.	4,005	276,686
Chicago, Ill.	54,864	5,863,853
Cincinnati, Ohio	9,698	818,317
Cleveland, Ohio	16,575	$1,398,598
Columbus, Ga.	2,655	183,353
Columbus, Ohio	8,653	730,140
Corpus Christi, Tex.	2,309	163,648
Dallas, Tex.	9,590	679,746
Dayton, Ohio	4,869	410,940
Dearborn, Mich.	433	36,623
Denver, Colo.	5,909	557,117
Des Moines, Iowa	650	81,276
Detroit, Mich.	13,134	1,111,128
Duluth, Minn.	1,450	111,918
Elizabeth, N.J.	2,051	245,553
El Paso, Tex.	6,960	493,239
Erie, Pa.	1,997	176,557
Evansville, Ind.	1,535	118,495
Flint, Mich.	1,781	150,673
Fort Wayne, Ind.	555	42,843
Fort Worth, Tex.	1,396	98,963
Fresno, Calif.	2,386	197,519
Gary, Ind.	3,224	248,828
Glendale, Calif.	0	0
Grand Rapids, Mich.	426	36,073
Greensboro, N.C.	3,041	210,052
Hammond, Ind.	779	60,100
Hartford, Conn.	4,018	461,100
Honolulu, Hawaii	4,841	344,209
Houston, Tex.	3,970	281,408
Indianapolis, Ind.	4,688	361,804
Jackson, Miss.	390	26,941
Jacksonville, Fla.	4,560	314,987
Jersey City, N.J.	5,205	623,062
Kansas City, Kans.	1,782	111,668
Kansas City, Mo.	3,507	289,894
Knoxville, Tenn.	4,830	333,622
Lansing, Mich.	1,097	92,823
Lincoln, Nebr.	1,755	186,540
Little Rock, Ark.	1,840	127,073
Long Beach, Calif.	910	75,348
Los Angeles, Calif.	14,243	1,179,304
Louisville, Ky.	7,592	524,455
Lubbock, Tex.	476	33,725
Madison, Wis.	699	68,143
Memphis, Tenn.	9,084	625,036
Miami, Fla.	11,048	763,134
Milwaukee, Wis.	5,842	569,206
Minneapolis, Minn.	10,187	781,633
Mobile, Ala.	5,251	362,718
Montgomery, Ala.	3,593	248,218
Nashville, Tenn.	8,382	579,056
New Bedford, Mass.	3,453	425,417
New Haven, Conn.	2,467	283,134
New Orleans, La.	18,534	1,280,336
New York, N.Y.	106,690	14,215,837
Newark, N.J.	18,116	2,168,425
Newport News, Va.	2,213	181,168
Niagara Falls, N.Y.	1,013	131,246
Norfolk, Va.	4,836	395,972
Oakland, Calif.	6,080	503,432
Oklahoma City, Okla.	4,290	324,324
Omaha, Nebr.	4,645	501,650
Pasadena, Calif.	325	26,910
Paterson, N.J.	3,085	369,263
Peoria, Ill.	5,355	573,310
Philadelphia, Pa.	29,173	2,579,503
Phoenix, Ariz.	2,085	164,210
Pittsburgh, Pa.	14,689	1,298,775
Portland, Oreg.	5,075	606,385
Portsmouth, Va.	2,479	202,981
Providence, R.I.	4,516	486,758
Richmond, Va.	5,312	434,930
Rochester, N.Y.	2,570	239,085
Rockford, Ill.	2,188	233,843
Sacramento, Calif.	3,010	265,438
St. Louis, Mo.	12,613	970,540
St. Paul, Minn.	6,000	460,441
St. Petersburg, Fla.	1,232	85,122
Salt Lake City, Utah	0	0
San Antonio, Tex.	8,878	621,251
San Diego, Calif.	1,300	107,640
San Francisco, Calif.	10,793	893,627
San Jose, Calif.	1,937	170,843
Santa Ana, Calif.	0	0
Savannah, Ga.	3,666	253,211
Scranton, Pa.	1,820	160,927
Seattle, Wash.	8,588	635,755
Shreveport, La.	761	52,535
South Bend, Ind.	1,268	97,864
Spokane, Wash.	0	0
Springfield, Mass.	1,511	185,245
Syracuse, N.Y.	3,012	390,368
Tacoma, Wash.	2,152	159,276
Tampa, Fla.	6,026	416,181
Toledo, Ohio	3,868	326,940
Topeka, Kans.	697	56,754
Torrance, Calif.	0	0
Trenton, N.J.	2,638	315,733
Tucson, Ariz.	1,010	79,545
Tulsa, Okla.	2,981	225,364
Utica, N.Y.	602	78,006
Washington, D.C.	15,652	1,394,593
Waterbury, Conn.	1,086	124,561
Wichita, Kans.	1,344	109,485
Wichita Falls, Tex.	104	7,362
Winston-Salem, N.C.	4,326	296,868
Worcester, Mass.	2,394	293,650
Yonkers, N.Y.	2,674	346,583
Youngstown, Ohio	1,382	116,606

EXHIBIT B

ESTIMATED ENTITLEMENTS BY STATE FOR CHILDREN IN PUBLIC HOUSING BASED ON APPROPRIATION OF $100,000,000

State	Estimated number of children	Projected grant
Alabama	44,404	$3,067,428
Alaska	1,228	150,700
Arizona	5,539	436,220
Arkansas	11,853	818,833
California	68,485	5,670,583
Colorado	6,386	601,971
Connecticut	19,035	2,184,220
Delaware	2,735	212,935
District of Columbia	14,863	1,324,284
Florida	35,727	2,467,636
Georgia	55,397	3,824,378
Hawaii	5,814	413,375
Idaho	569	43,946
Illinois	81,535	8,714,429
Indiana	14,738	1,137,487
Iowa	2,410	227,210
Kansas	4,625	376,739
Kentucky	23,134	1,598,062
Louisiana	28,726	1,984,399
Maine	2,136	198,959
Maryland	19,374	1,703,670
Massachusetts	39,853	4,887,149
Michigan	26,156	2,212,798
Minnesota	18,680	1,433,293
Missouri	21,044	1,619,367
Montana	1,685	155,793
Nebraska	9,226	996,419
Nevada	3,029	222,127
New Hampshire	3,775	409,420
New Jersey	55,839	6,683,760
New Mexico	3,773	260,611
New York	124,933	16,191,265
North Carolina	28,540	1,971,557
North Dakota	1,503	139,328
Ohio	51,612	4,355,049
Oklahoma	9,164	692,798
Oregon	7,952	950,117
Pennsylvania	58,766	5,196,080
Rhode Island	10,907	1,175,837
South Carolina	11,058	763,887
South Dakota	1,583	142,506
Tennessee	38,856	2,684,152
Texas	56,581	4,010,475
Utah	69	4,767
Vermont	1,105	102,710
Virginia	19,964	1,634,660
Washington	16,810	1,244,467
West Virginia	4,186	289,189
Wisconsin	9,828	957,542

[From the New York Times, Sunday, Oct. 31, 1971]

DAYTON'S SCHOOLS FACE SHUTDOWN—TO CLOSE FOR WEEK IN FISCAL CRISIS—TAX VOTE DUE

DAYTON, OHIO, October 30.—The Dayton public school system, in serious financial trouble over the defeat of four tax levies since December, 1969, and caught up in the budget problems of the state Legislature, faces a shutdown next week affecting its 54,000 students. Unless the Legislature intercedes, the schools will close for one week, Nov. 5 to 12.

However, these closings, if they occur, may be but the forerunner of a problem that could keep schools closed until the end of the year and foreshadow an even more critical condition in 1972.

Dayton is the largest of 33 Ohio school districts facing shutdowns.

Dr. Wayne M. Carle, Superintendent of Public Schools in Dayton places the blame on a combination of factors, including public militancy, legislative short-sightedness and racial fears.

During his thre years in Dayton, Dr. Carle, who has urged an end to racial isolation in schools has been criticized in the conservative community for innovative educational programs.

LEGISLATIVE PROBLEM

One of the factors in the school crisis has been the Ohio Legislature's inability to agree on a budget.

Voters in Dayton will be going to the polls Tuesday to decide whether a 13.6-mill property tax, which expires Dec. 31 should be renewed.

On Nov. 12 a second school tax levy will be on the ballot, which if passed would provide an additional 10.5 mils. If it fails schools will be closed until Dec. 14. In anticipation of possible failure of the additional tax a second election has been scheduled for Dec. 14. If that fails, schools will remain closed until the end of the year.

And in the event that Tuesday's tax renewal is rejected by the Dayton electorate, schools will be closed after 13 weeks during the first half of 1972 and for eight weeks between Labor Day and the end of 1972 unless voters change their position in a special election next year.

PROVISO CRITICIZED

A year ago, Dayton schools faced bankruptcy but the Ohio Legislature mandated that financially distressed school systems must borrow against future financing with the proviso that borrowed money be repaid with carrying charges.

Dr. Carle has called this a ruse and he fears that the Ohio General Assembly will again attempt to keep troubled school districts open by enacting a similar law. His position is that such tactics force local school districts to face deeper financial problems in the future.

The Dayton crisis was compounded during the past two years by a divided Board of Education, which included four liberals and three conservatives. The conservative members gave only lukewarm endorsement to the four previous school levies but they are united behind Tuesday's 13.6-mill renewal.

The liberal faction contends that in Tuesday's election, their opponents smell victory—only one needs to be elected to produce a 4-to-3 conservative majority—and that the conservatives would not want to preside over a bankrupt school system.

Dr. Carle says Dayton's problem is part of a national trend • • •

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MILITARY CONSTRUCTION APPROPRIATIONS, 1972

The PRESIDING OFFICER. Under the previous order, the Chair now lays before the Senate H.R. 11418, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 11418) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the unanimous-consent agreement, 4 hours are allotted on the bill, the time to be equally divided and controlled by the manager of the bill and the minority leader or his designee. There will be 1 hour on each amendment and 30 minutes on any amendment to an amendment, motions, or appeals, except nondebatable motions.

The majority leader is recognized.

Mr. MANSFIELD. Mr. President, I am delighted to present this proposal to the Senate today, and especially so in view of the fact that the ranking Republican member of the subcommittee is the distinguished Senator from Massachusetts (Mr. BROOKE), who played a very important part in bringing about an agreement on this bill which covers a great deal of money, although considerable savings have been accomplished.

Mr. President, I present today for the consideration of the Senate, H.R. 11418, together with the report from the Appropriations Committee, No. 92-419, making appropriations for Military Construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The Military Construction Subcommittee of the Appropriations Committee again held joint hearings this year with the Military Construction Subcommittee of the Armed Services Committee, chaired by the able Senator from Missouri (Mr. SYMINGTON). The joint hearings were most productive in saving time, both for Senators and the witnesses from the Department of Defense. Additional hearings by the Appropriations Subcommittee were held to hear testimony on items in the bill from previous years' authorizations and on the Safeguard missile system. Money for the Safeguard missile system is not in this bill. The authorization for the antiballistic missile system was transferred from the authorization bill to the military procurement authorization bill, which is still in conference. The appropriation for the Safeguard system will appear as a line item in the Defense appropriations bill which will be before this body at some future date. However, interested Senators will find on their desks the military construction appropriations hearings and information on the Safeguard antiballistic missile system appears on pages 545 through 557.

It is not my intention in presenting the bill to give detailed figures concerning each line item. The line item breakdown and explanations are contained in the report which has been placed on each Senator's desk.

Before going into the recommendations of the Appropriations Committee, I would briefly like to summarize the pertinent figures pertaining to the bill. The fiscal year 1972 budget estimates for new obligational authority, as submitted to the Congress for military construction last January, were $2,313,375,000, broken down as follows: Army, $642,200,000; Navy, $405,500,000; Air Force, $316,600,000; Defense agencies, $25,400,000; Army National Guard, $29,000,000; Air National Guard, $10,600,000; Army Reserve, $33,500,000; Naval Reserve, $10,900,000; Air Force Reserve, $5,700,000; and, family housing (less $92,82,000 for debt reduction on housing mortgages), $833,975,000.

The total of the military construction bill as reported by the Committee on Appropriations is $2,002,312,000. This is a decrease of $10,134,000 under the $2,012,446,000 provided by the House. The total of the bill as reported to the Senate is $127,493,000 under the budget estimate of $2,313,375,000.

If we add to that the $74 million which was in Safeguard, this committee has effected a total reduction of $201,493,000.

GENERAL FINANCIAL STATEMENT

For military construction for the Active Forces of the Department of the Army,

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the committee has approved an amount totaling $432,946,000. This is a decrease of $4,328,000 from the amount of $437,274,000 approved by the House, and a decrease of $209,254,000 from the budget estimate of $642,200,000.

For military construction for the Active Forces of the Department of the Navy, the committee has approved an amount totaling $357,536,000. This is an increase of $13,770,000 from the $343,766,000 allowed by the House and a decrease of $47,964,000 from the budget estimate of $405,500,000.

For military construction for the Active Forces of the Department of the Air Force, the committee has approved an amount totaling $291,954,000. This is an increase of $18,923,000 over the $273,031,000 allowed by the House and a decrease of $24,646,000 from the budget estimate of $316,600,000.

For the Army National Guard, the committee approved $29,000,000 and approval was given for the Army Reserve in the amount of $33,500,000, the budget estimate.

For the Naval Reserve, the committee recommends an appropriation of $10,900,000, the same amount as the budget estimate.

For the Air Force Reserve, the committee recommends an appropriation of $5,700,000.

For the Air National Guard, the committee recommends an appropriation of $10,600,000.

For the Department of Defense agencies, the committee recommends an appropriation of $14,601,000. This is $10,599,000 under the budget estimate of $25,400,000, and is the same as the House allowance.

The appropriation breakdown is as follows:

Defense Nuclear Agency, $662,000; National Security Agency, $2,683,000; and, the Defense Supply Agency, $7,301,000. The committee also recommends for the Department of Defense general support programs a total of $7,000,000, including planning and design; and, for the Office of Secretary of Defense emergency fund, $5,000,000.

ARMY

The major item included in this bill for the Army is $101,670,000 for the construction of the new Walter Reed Army Hospital. The Army has requested a total of $112,300,000 for medical facilities. This constitutes 21 percent of the Army's construction program for installations in the United States.

This year, the Army has placed a premium on providing quarters, medical facilities, and community support facilities for its men. This is a part of the continuing effort by the Army to improve the living conditions of its personnel which has taken on a particular significance because of special efforts to decrease reliance on the draft.

The fiscal year 1972 program provides for the construction of 7,420 new barracks spaces and approximately 1,200 bachelor officer quarters at permanent installations in the United States. Another $13,000,000 will be utilized to completely modernize 4,927 permanent barracks spaces which were built between 1895 and 1939, and must be improved to raise them to current living standards.

The Army has included in this bill $9,800,000 for community facilities which will provide a number of diverse facilities, including a commissary at Fort Bragg and Fort Carson, a laundry at Fort Lewis, major post offices at Fort Lee and Fort Bliss, and an enlisted men's service club at Fort Sill. In addition, there is money for a junior and senior high school for dependent children in Germany.

In support of the national goal for reduction of environmental pollution, the Army has included in this construction program $35.3 million for air pollution abatement and $35.4 million for water pollution control. The money for these projects will reduce particulate and gaseous emissions, provide incinerators for waste disposal, provide treatment of industrial wastes, provide connections to regional sewer plants, and upgrading sewage treatment plants to conform with Federal standards. By way of emphasis, I can say that each of these projects has been coordinated with appropriate Federal agencies involved in pollution abatement.

To support research and development programs, the Army requested $30,000,000. Of particular interest is one project the Committee has approved for $2.9 million for the Yuma Proving Ground, which will allow for new facilities for weapons evaluation. The major portion of the funds in support of research and development is required to continue the construction of two major laboratories—the Harry Diamond Laboratories and the Western Medical Institute of Research, located on the Presidio of San Francisco. Another project will provide for facilities for the Engineer Topographic Laboratory at Fort Belvoir, Va.

Mr. President, in summary, I can say that the fiscal year 1972 military construction Army program has been carefully designed to enhance the welfare of the soldier by improving our primary medical care facilities, bachelor housing, community facilities, and general working conditions. In addition, the Army is fulfilling its mandate to control environmental pollution and improving its operational capability. Because there is the possibility of changes in the force structure of the Army, very careful consideration has been given to insuring that the projects requested are located only at "hard core" installations where the facilities will be fully utilized, even if the strength of the Army is reduced below currently planned levels.

NAVY

Mr. President, the Navy has all types of military projects and operational facilities in this fiscal year 1972 construction bill. I will not attempt to go into an explanation of each project. I will, for the sake of brevity, limit my remarks to some particularly significant portions of the Navy's construction program.

The Navy is continuing a program started last year for people-oriented facilities. The provision of bachelor quarters comparable to those found in the civilian community is essential to securing and retaining qualified personnel. The committee shares the Navy's belief that the retention of highly qualified personnel is the key to an effective Navy and has approved a program of $127 million for people-oriented facilities. This is an increase of $49 million over last year's program.

With the reduction in the Navy's end strength, improved training facilities are required to improve the professional caliber of the officer cadre and proficiency of the enlisted men. The Navy's request of $30 million for training facilities was substantially reduced by the authorization law. The committee, believing that new training facilities are needed to strengthen and modernize the training programs for both enlisted and officer personnel, made only minor reductions in this category of facilities.

The Navy continued its progressive program of pollution abatement at shore installations with the allocation of 9 percent of its budget request to air and water pollution abatement. This reflects an ambitious effort to curb air and water pollution at naval shore installations and the committee strongly endorses these actions. All pollution abatement facilities were funded.

The Marine Corps devoted the majority of its budget request to people-oriented facilities. Again the reason is to construct an environment conducive to the attraction and retention of highly qualified and skilled personnel without whom the Corps cannot continue to function as an effective, efficient force. The committee fully supports this goal and has approved in its entirety the $35,000,000 request for people-oriented facilities that represents 74 percent of the Marine Corps budget. In fact, the committee funded all of the Marine Corps projects.

On May 30, 1971, a heavy rain and windstorm caused the collapse of the theater roof at the Naval Air Test Center, Patuxent River. The Department of Defense requested $500,000 to replace this facility under the restoration of damaged facilities authority of 10 United States Code 2673. Similarly, a request for $1,272,000 was requested for a replacement cafeteria for cafeteria No. 1 destroyed by fire at the Naval Shipyard, Long Beach, Calif. The committee approved funding for both of these projects.

Six projects were added to the Navy's construction program by the Armed Services Committees for an aggregate amount of $4,626,000. These projects were: a community building at the Naval Radio Station, Sugar Grove, W. Va.; an auditorium/theater and end zone improvements at the Naval Air Station, Whiting Field, Fla.; and a mess hall, a Navy exchange with cafeteria, and a chapel at the Naval Construction Battalion Center, Gulfport, Miss. These projects were all funded by the committee.

All factors considered, the Navy's appropriation budget request was well balanced between the various facilities categories such as operational, maintenance, research and development, medical, and personnel and community support. The reductions by the committee were not made because the committee questioned the validity of the requirement for those projects. In these austere times, funding was withheld for those projects which the committee believes may be deferred without serious impact to the operational effectiveness of the Navy.

AIR FORCE

Approximately 13 percent of the appropriations in this bill for the Air Force is for such essential items as airfield pavements, aircraft fueling support facilities, flight operations buildings, air passenger terminals, communications facilities, and navigational aids. These facilities are urgently needed to upgrade the operational effectiveness of the Air Force.

Training facilities included in this construction program cover a wide range of Air Force training activities such as training for pilots, navigators, aircrews, and base maintenance personnel. A most significant project in this group is a complex for $2.5 million at Lowry Air Force Base, Colo., to provide an effective environment to accomplish essential personnel education and behavioral-oriented rehabilitation activities.

One of the foremost activities that the Air Force must accomplish is the maintenance of its equipment. Approximately 19 percent of the appropriations in this bill are for Air Force maintenance facilities. The bill contains money for facilities to support aircraft and engine maintenance activities, special purpose shops, as well as shops to support maintenance of base facilities. Included in this category of appropriations, the Air Force is carrying out a continuing program for adequate facilities for nondestructive inspection of aircraft components and to provide protection from hazardous noise generated during jet engine tests required in the maintenance and testing of engines.

For a number of years the Air Force has been carrying out a program to upgrade its research and development facilities. The single largest project for research and development is the materials laboratory building for $11.3 million at Wright-Patterson Air Force Base. Other major projects are the high velocity test track addition at Holloman Air Force Base, N. Mex., for $6.6 million.

The Air Force, over the years, has expended a large amount of money for environmental protection including, for example, an investment of over $250 million in facilities for waste water collection and disposal. Since fiscal year 1967, the Air Force has spent $11 million on air pollution abatement projects and over $42 million on water pollution abatement projects. This bill contains $15,220,000 for air pollution control and $8,805,000 for water pollution control. These projects are required to bring specific Air Force installations into compliance with applicable air and water standards by December 31, 1972, as directed by the President of the United States in Executive Order 11507.

The Air Force continues to plan for the replacement of World War II-type medical facilities. Specifically, this bill will replace outmoded and seriously deteriorated hospital facilities at Hill Air Force Base, Utah; an obsolete dispensary at Brooks Air Force Base, Tex.; and small amounts for other bases to update medical facilities. The program also provides for a new hospital at Pease Air Force Base at a cost of $7,800,000. The Air Force's medical program in this bill will cost approximately $15 million.

One of the large items in this bill for the Air Force is the providing of suitable living quarters for bachelor enlisted and officer personnel. Approximately 12.8 percent of this bill is for the construction of 4,976 new dormitory spaces at a cost of approximately $21 million, and 504 new junior grade officers' quarters at a cost of $6,900,000. In general, the Air Force is continuing with its phased program to replace old World War II barracks at bases with modern composite structures.

The last large category of appropriations is the renovation and repair of utilities at Air Force bases. This appropriation includes fire protection and pollution abatement projects—which I have mentioned earlier—as well as projects to install the necessary utility support for existing and programed construction. The installation of fire warning and protective systems will be accomplished at such locations at a cost of approximately $1.5 million. There are several major utility projects, including a comprehensive utility system at Bolling Air Force Base, a new base road at Robins Air Force Base, Ga. Also, money will be expended to upgrade electrical substations.

The Air Force has informed the committee that it is now launching on a full 5-year program to upgrade the facilities of the Air Force Logistics Command. This program is treated to some extent in the report now on the desk before each Senator. It is estimated that this program, when completed, will save a great amount of money and will enable the Air Force to accomplish its logistics mission at a greatly reduced cost to the Government.

FAMILY HOUSING

The committee has approved $900,620,000 in new appropriated funds for the fiscal year 1972 military family housing program. This amount comprises approximately 45 percent of the entire funds appropriated in this bill.

To provide maintenance and operation funds for defense housing, approval has been given in the budgeted amount of $474,295,000. The budget request was for the maintenance and operation of 371,978 housing units during fiscal year 1972.

The committee has recommended $267,408,000 for the family housing construction program. The approved program will provide for the construction of 9,342 new permanent units. New construction includes 1,578 units at eight Army installations, 4,254 units at 16 Navy and Marine Corps bases, and 3,510 units at 11 Air Force bases.

The fund allowed by the committee for debt payment is the budget estimate of $158,917,000. This includes $92,620,000 for the payment of debt principal amount owed on Capehart, Wherry, and Commodity Credit financed housing. In addition, $59,135,000 is approved for the payment of interest on mortgage indebtedness on Capehart and Wherry housing and for other expenses relating to the construction and acquisition of these houses in prior years. The committee approved $6,962,000 for payment to the Federal Housing Administration, for premiums on Capehart and Wherry housing mortgage insurance and for the payment of premiums on insurance provided by the FHA for mortgages assumed by active military personnel for houses purchased by them.

The committee also has approved $33,589,000 for leasing of 10,000 domestic and 3,482 foreign family housing units for assignment as public quarters. This provides a reduction of $788,000 from the request and is in consonance with the authorization action which reduced the number of units authorized for domestic lease from 10,359 to 10,000.

CONSTRUCTION MANAGEMENT

For each of the last 2 years the committee has gone to considerable length in its reports to express its concern over the cost of design and construction supervision of military construction. In the report for fiscal year 1970, with reference to section 704 of the Military Authorization Construction Act, the committee pointed to potential economies that would accrue from assigning design and construction responsibility for projects under $200,000 directly to the post, base, or activity on which the construction was to occur.

Further, in the same report, the committee pointed out that the design and construction assignments should be made to agencies on the basis of economies and benefits to be gained. In our report for fiscal year 1971, under the heading of "Planning and Design," the committee went to greater lengths in explaining its reservations on the true end use and economical application of planning and design funds on the part of the Department of Defense. Our admonitions for economies, innovations, competitive construction assignments, and the specific assignment of small construction projects to "customer" engineering organizations appear to have fallen on deaf ears.

Reports received by the Congress on completed construction indicate design and construction overhead costs as high as 17 percent, and an incidence of construction agencies charging greater cost for design and supervision on work for a sister service than that charged on work for its own service. As to the percentage variance in design and construction supervision from one service to another, the committee has listened to testimony of representatives of the Secretary of Defense contending that such differences are attributable to a lack of uniformity in accounting systems. These representatives further explained that if a uniform system were in effect there would be a closer relationship between the agency percentages for design and construction management, and that those percentages now at the lower level would go higher.

The committee is most disturbed that its guidance has met with such poor reception by the Office of the Secretary of Defense. Where we ask for action, we are offered a study; where we seek in-

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novation, we are confronted with a firm grip on the status quo; and, where we suggest specific construction assignments, we find a rigid resistance to change. We are, therefore, recommending maximum expenses this year for construction supervision in an effort to force economies and efficiencies that we feel are long overdue.

We are, at this time, applying limitations by title, rather than project, because we recognize that the size and degree of construction complexity can cause individual project construction supervision costs to exceed what would be acceptable as a program average. The committee expects the Department of Defense to review its reports for fiscal years 1969, 1970, and 1971, with a view to a more objective consideration of our suggestions for innovations, economies, and efficiencies that can easily enable the fiscal year 1972 and beyond construction supervision effort to be accomplished within the limitations we have recommended.

We are tired of suggesting. We expect action and if no action is forthcoming we will hold the Department of Defense accountable next year and we will keep a very close watch on them from now on.

Mr. President, at this point I would like to read from the report on the military construction appropriation bill an item on page 17 entitled "Boiler Conversions at Installations in Germany."

BOILER CONVERSIONS AT INSTALLATIONS IN GERMANY

It is the consensus of the committee that the Department of Defense and the Department of the Army, through the Department of State, should initiate negotiations with the Government of the Federal Republic of Germany to effect an agreement whereby the German Government will assume full financial responsibility for converting coal-fired furnaces to oil in the installations occupied by American forces in Germany. The committee is sympathetic to the plight of the occupants of these facilities, and hopes that an agreement may be reached expeditiously in view of the inadequacy of the labor market with respect to boiler firemen, the cost of coal, as well as handling equipment, and the age of the boilers presently in use. These facilities, the property of the German Government, contain a total of 3,106 boilers originally planned for conversion, of which 308 have already been converted. It is the view of the committee that the conversion of the remaining, 2,800 boilers should be financed by the German Government. In view of this, the request for $5,835,000 for this purpose has been denied.

Mr. President, with the approval of my distinguished colleague, the ranking Republican member of the committee, I ask unanimous consent that there be printed in the RECORD a comparative statement of new budget—obligational—authority for 1971 and budget estimates and amounts recommended in the bill for 1972.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1971 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1972

Item	New budget (obligational) authority, fiscal year 1971	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in the House bill	Amount recommended by Senate committee	Senate committee bill compared with— New budget (obligational) authority, fiscal year 1971	Senate committee bill compared with— Budget estimates of new (obligational) authority, fiscal year 1972	House allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Military construction, Army	$646,958,000	$642,200,000	$437,274,000	$432,946,000	−$214,012,000	−$209,254,000	−$4,328,000
Military construction, Navy	302,483,000	405,500,000	343,766,000	357,536,000	+55,053,000	−47,964,000	+13,770,000
Military construction, Air Force	284,147,000	316,600,000	273,031,000	291,954,000	+7,807,000	−24,646,000	+18,923,000
Military construction, Defense Agencies	46,300,000	25,400,000	14,801,000	14,801,000	−31,499,000	−10,599,000	
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)			
Military construction, Army National Guard	15,000,000	29,000,000	29,000,000	29,000,000	+14,000,000		
Military construction, Air National Guard	8,000,000	10,600,000	10,600,000	10,600,000	+2,600,000		
Military construction, Army Reserve	10,000,000	33,500,000	33,500,000	33,500,000	+23,500,000		
Military construction, Naval Reserve	5,000,000	10,900,000	10,900,000	10,900,000	+5,900,000		
Military construction, Air Force Reserve	4,000,000	5,700,000	6,581,000	5,700,000	+1,700,000		−881,000
Family housing, defense	805,464,000	919,220,000	938,238,000	900,620,000	+94,156,000	−18,600,000	−37,618,000
Portion applied to debt reduction	−90,278,000	−92,820,000	−92,820,000	−92,820,000	−2,542,000		
Homeowners assistance fund, defense		+7,575,600	+7,575,000	+7,575,000	+7,575,000		
Subtotal, family housing	716,186,000	833,975,000	852,993,000	815,375,000	99,189,000	−18,600,000	−37,618,000
Grand total, new budget (obligational) authority	2,038,074,000	[1] 2,313,375,000	[2] 2,012,446,000	2,002,312,000	−35,762,000	−311,063,000	−10,134,000

[1] Includes $334,000,000 for Safeguard regular program and Safeguard family housing.

[2] Includes $183,570,000 for Safeguard regular program and Safeguard family housing.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, providing that no point of order shall be waived by reason of agreement to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, at the beginning of line 4, strike out "$437,274,000" and insert "$432,946,000".

On page 2, line 14, after the word "appropriation", strike out "$343,766,000" and insert "$357,536,000".

On page 2, line 22, after the word "Code", strike out "$273,031,000" and insert "$291,954,000".

On page 5, line 2, after the word "Acts", strike out "$6,581,000" and insert "$5,700,000".

On page 5, line 11, after the word "law", strike out "$938,238,000" and insert "$900,620,000".

On page 5, line 16, after the word "Construction", strike out "$58,277,000" and insert "$44,941,000".

On page 5, line 18, after the word "Construction", strike out "$126,717,000" and insert "$120,717,000".

On page 5, line 20, after the word "Construction", strike out "$110,827,000" and insert "$101,545,000".

On page 8, after line 24, insert a new section, as follows:

SEC. 111. (a) In no case shall the average amount charged by any construction agency of the Department of Defense for supervision, inspection, and overhead services performed by such agency in connection with the construction of projects for which funds are appropriated in this Act exceed an amount equal to 5 per centum of the total cost of construction for all projects awarded such agency for construction (and for which funds are appropriated in this Act).

(b) As used in subsection (a) of this section the terms "supervision", "inspection", and "overhead" include legal services, procurement services, inspection and supervision of construction (both on-site and in-factory), review of shop drawings, as built drawings, engineering and design associated with change orders, other similar and related services, and other services and work incidental to the supervision of construction activities.

Mr. BROOKE. Mr. President, I have no desire to add to that which has been said by the distinguished chairman of our subcommittee. I concur in all he has said, and most particularly the remarks pertaining to the boiler conversions at installations in Germany.

Mr. President, I commend the distinguished majority leader, and chairman of the Military Construction Appropriation Subcommittee, for exercising his customary thoroughness in the preparation of this bill.

In this, my first year on the Appropriations Committee, it has been an education for me to serve as ranking member of this subcommittee and to benefit from the wisdom of the senior Senator from Montana.

The subcommittee has gone into each of the projects for which funding was sought, considering the requests and weighing them against our overall defense needs. We have kept two basic considerations in mind: first, that we are reducing the size of our armed services and withdrawing many of our troops from overseas; and second, that we are in the process of moving to an all-volunteer Armed Force. Thus, overseas construction has been carefully curtailed, while greater emphasis has been placed upon improving the housing recreational facilities, and operating capacity of our permanent U.S. bases.

The total appropriation for military construction recommended by the committee is $2.002 million. Of this, $432.9 million is for the Army; $357.5 million for the Navy; $292 million for the Air Force; and $14.8 million for the defense agencies.

More than 40 percent of the bill is for military housing—including $267 million for new construction. And nearly $130 million, I am very pleased to report, is for pollution control.

The bill does not include money for the Safeguard antiballistic missile program, which was incorporated this year in the military procurement bill. The legislation reported from the committee is $127.4 million below the budget request, and $10 million below the amount appropriated by the House.

The committee has exercised the greatest care in considering these requests, and has approved only those programs which in our judgment could not be deferred. I urge my colleagues to support this legislation.

Mr. PERCY. Mr. President, will the Senator yield for just a moment?

Mr. BROOKE. I am very pleased to yield to the distinguished Senator from Illinois, who is also a member of the committee.

Mr. PERCY. Mr. President, I am also serving for the first year on the subcommittee, and I followed the proceedings with considerable interest.

I would like first to say how impressed I was with the fact that our majority counsel Mr. Rexroad personally was as familiar with so many of the projects. We did not have to rely upon just hearsay or reports from the military, but Mr. Rexroad actually had been there to see them and was able to give us the benefit of that kind of first-hand judgment. I think these staff trips are exceptionally important to the members of the committee.

I would also like to commend the committee on the fact that we did see fit to reduce the budget in certain areas, and we did so after very considered and careful judgment, but the best judgment we could render was that certain projects were simply not necessary. They may have been desirable, but they were not essential. We felt, in view of the $30 billion deficit this year and considering the fact also that our Armed Forces are being brought down substantially, from roughly 3½ million to a level of about 2½ million by next July, those facts should be taken into account in providing for facilities and construction for our military forces.

One area of the report that I felt very strongly about dealt with the conversion of the heating structure of old, World War II German barracks now being occupied by American forces assigned to NATO from the use of coal to oil. There was an item of some $5,835,000 that was asked for, in American dollars, to be spent in Europe on property the title to which is owned by the German Government, to convert these facilities to use fuel oil as against coal. The coal comes from Pennsylvania. I offered the amendment on behalf of Senator SCOTT. At least there was a little balance-of-payment offset in the use of coal from the United States rather than oil from, say, the Mideast. But that is not the most important element. What we found most difficult was the principle that we should continue to pour American dollars into the repair and maintenance of physical facilities used by NATO forces, those physical facilities being located in European countries.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. BROOKE. And the title is vested in the German Government, not in the U.S. Government. The conversion of those barracks from coal burning to oil burning, and putting in oil burners, would result in a cost to us of more than $5 million, as my distinguished colleague has pointed out. These oil burners would then belong to the German Government, which owns the barracks that are housing American troops for the protection of our allies in Europe.

Mr. PERCY. Furthermore, we are all hopeful that, by one means or another, we are going to reduce the size of the American forces in Europe and that, through mutual negotiations, there will be a mutual reduction of forces in Eastern as well as Western Europe. Here we would be putting $5,835,000 into physical facilities, into old barracks, which hopefully we would be vacating in part at least in the foreseeable future.

This is the very kind of item that could have slipped through the committee if the Senator from Pennsylvania (Mr. SCOTT) had not objected, primarily because of the fact that coal from Pennsylvania for heating purposes would no longer be purchased.

Not only was the balance-of-payments issue involved in the offsetting transaction, but the principle is of much greater importance—that we ought to knock out of this budget every single item that uses American dollars to build structures in Europe for our common defense, such as costs for building or extending runways or roadways or equipment purchased in and to be used in Europe.

The cost of the salaries of 74,000 Europeans that we pay in dollars has contributed to the more or less $1 billion balance-of-payments deficit we have had year in and year out. That has helped precipitate the economic crisis that now has engulfed the entire free world.

Mr. BROOKE. Mr. President, if the Senator will yield further, I think he is absolutely correct in what he has said. I want to point out to the distinguished Senator from Illinois that our distinguished chairman has put in the RECORD the consensus of the committee pertaining to this matter, as is contained in the report of the committee.

I think it is well to point out not only what happened about spending this $5 million-plus in the conversion from coal to oil, but that we also want negotiations to have them assume full responsibility for this program, even the coal program, by the German Government. So it is not a matter of forestalling or denying funds for conversion, but we would like them to take over the full financial responsibility for paying for the heating and maintenance of those barracks. I do not know what that actual sum amounts to at the present time, but it is considerable.

Of course, we are encountering difficulties, in the manpower shortages, in trying to get persons who are needed to stoke the coal, and so forth. So considerably more than the $5.8 million is involved, if we are successful in our negotiations with the German Government in having it assume full financial responsibility for these barracks.

Mr. PERCY. I think this is an example of what can be done, and I think we should note for the public record that I offered the amendment on behalf of the Senator from Pennsylvania (Mr. SCOTT), which was unanimously carried by the subcommittee. We all felt very deeply and strongly about this item as a matter of principle.

Now that the majority leader is back on the floor once again, I would like to commend the committee staff for the meticulous way in which it has brought to our attention, through visitation, these items, which have enabled us to do a much more careful and prudent job than we could have if we had relied simply on testimony and reports that came to us from the military services.

Mr. BROOKE. I am very pleased that my distinguished colleague has recommended and complimented our counsel Rexroad and the staff, because these persons personally visited and saw the state of repair of the installations with which we are concerned. I am sure they were very helpful to all the members of the committee. Sometimes when we see just a new line item, and it is said, "We need a new chapel or a new hospital or a new recreation area," it is well to have someone who visited there and who can say, "Well, the chapel needs roof repair, but we do not need an entirely new chapel," or "We do not need a new runway; we can extend the old one," or to say, "This is not a priority item. It could be deferred for 4 or 6 years, particularly in these times."

This has been very helpful to the committee in its deliberations and decisions.

Of course, we are encountering difficulties, in the manpower shortages, in trying to get persons who are needed to stoke the coal, and so forth. So considerably more than the $5.8 million is involved, if we are successful in our negotiations with the German Government in having it assume full financial responsibility for these barracks.

I certainly want to join with my colleague, as I am sure all of the members of the committee would, in saying how grateful we are to have the sort of expertise we have enjoyed on this measure.

Mr. PERCY. If the Senator will yield, I am only sorry we did not take up this item a little sooner, because the United States did repair 238 of them, and stood the cost. But we are catching 2,800 more of them, and asking the German Government to repair them.

Mr. MANSFIELD, may I say I agree wholeheartedly with what the Senator from Massachusetts (Mr. BROOKE) and the Senator from Illinois (Mr. PERCY) have said. I think we might well take this as an indication of a warning which might burst into flame as to the feelings over here about what should be done by way of sharing the burden by the host government.

I join the Senators in the thanks they have extended for the outstanding work

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performed by Vorley M. Rexroad, the clerk of the committee, and Edmund L. Hartung, the minority counsel. Both Mr. Hartung and Mr. Rexroad worked very closely in cooperation and accommodation, and in seeing to it that all the views vital to the consideration of a bill of this nature were brought out.

I want also to pay tribute to Gordon Nease, who is the professional staff member of the Subcommittee on Military Construction of the Committee on Armed Services, whose help and assistance has been invaluable as well as appreciated.

Mr. President, if there are no further remarks on the pending bill, I suggest third reading.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. MANSFIELD. I yield back the remainder of my time.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill—H.R. 11418—was read the third time.

Mr. MANSFIELD. Mr. President, in view of the fact that there are some very important committee meetings just getting underway, one in the Committee on the Judiciary having to do with the two nominations for the Supreme Court, and the other in the Committee on Foreign Relations, where the Secretary of State, Mr. Rogers, and the administrator of the AID program, Mr. Hannah, are in attendance, plus the fact that there is a conference in progress at the present time, I believe, between the Armed Services Committees of the two Houses relative to the military procurement bill, I shall break a long-standing practice, and state that what I am about to do is not to be considered a precedent, but only an accommodation because of unusual circumstances.

I ask unanimous consent that at 12:30 p.m. today there be a rollcall vote on the pending measure, that the yeas and nays be in order, and that rule XII be waived.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

DISASTER RELIEF AMENDMENTS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 408, S. 1237.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1237) to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Public Works with amendments on page 2, line 1, after the word "is", to strike out "operated on a nonprofit basis" and insert "owned"; in line 4, after "1954", to insert "and is operated to carry out the exempt purposes of such organization"; and, on page 3, line 5, after the word "disease", to strike out the period and insert a comma and "including the administrative and support facilities essential to the operating of such medical care facilities although not contiguous thereto"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the Disaster Relief Act of 1970 is amended by adding at the end thereof the following new section:

"PRIVATE MEDICAL CARE FACILITIES

"SEC. 255. (a) The President is authorized to make grants for the repair, reconstruction, or replacement of any medical care facility which is operated on a nonprofit basis owned by an organization exempt from taxation under section 501 (c), (d), or (e) of the Internal Revenue Code of 1954 and is operated to carry out the exempt purposes of such organization, and which is damaged or destroyed by a major disaster. Such assistance shall be made available only on application, and subject to such rules and regulations as the President may prescribe.

"(b) A grant made under the provisions of subsection (a) shall not exceed—

"(1) 100 per centum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with applicable codes, specifications, and standards; or

"(2) in the case of any such facility which was under construction when so damaged or destroyed, 50 per centum of the net cost of restoring such facility substantially to its condition prior to such disaster, and of completing construction not performed prior to such disaster to the extent that the cost of completing such construction is increased over the the original construction cost due to changed conditions resulting from such disaster.

"(c) For purposes of this section, 'medical care facility' includes, without limitation, any hospital, diagnostic or treatment center, or rehabilitation facility as such terms are defined in section 625 of the Public Health Service Act, and any similar facility offering diagnosis or treatment of mental or physical injury or disease." , including the administrative and support facilities essential to the operating of such medical care facilities although not contiguous thereto."

SEC. 2. The amendment made by the first section of this Act shall take effect as of January 1, 1971.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged equally to both sides on the appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

RECESS

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess until 11:30 a.m. today.

The motion was agreed to; and at 10:59 a.m., the Senate took a recess until 11:30 a.m.; whereupon the Senate reassembled, when called to order by the Presiding Officer (Mr. GAMBRELL).

DISASTER RELIEF AMENDMENTS

The Senate continued with the consideration of the bill (S. 1237) to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster.

The PRESIDING OFFICER. Who yields time?

Mr. TUNNEY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1237, disaster relief amendments.

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. TUNNEY. I yield.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken equally from both sides on the appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I have not made my opening statement on this measure. However, the Senator from Kentucky (Mr. COOPER), the ranking Republican member of the Committee on Public Works, is present in the Chamber. He has to be at a meeting of the Committee on Foreign Relations, and has a statement that he would like to make on the bill at this time. So I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I thank the distinguished Senator from California for his kindness. We are in session in the Committee on Foreign Relations, and the Secretary of State, Mr. Rogers, is talking with us. We have a very full attendance there, and I should like to go back to it.

The bill which is before us was reported by the Committee on Public Works without any opposition. I wanted to make the comment that without question it is a bill of great humanitarian merit. It will help restore hospitals in California that were destroyed, partly destroyed, or prevented from being constructed because of the disaster that occurred there some months ago.

I have not received information from the administration as to its position. However, I thought I should raise this question, because the bill would provide 100-percent funding in some cases, and 50 percent in others: We must look to the future, and consider whether or not this bill might set a precedent—a precedent for Federal grants to private nonprofit organizations which might not in all cases be as meritorious as in this case.

We have our programs for the construction of hospitals. Last year we passed a very comprehensive disaster act to help in these situations. I wanted to be here when the bill was taken up in order to say and have it appear in the RECORD that, before we take action on other bills of a similar nature, we ought to have full hearings in our committee and determine whether we should have a program which affects the whole country, and provides substantial Federal relief to hospitals in these cases, including private nonprofit hospitals.

That is all I wish to say; that we need to consider the whole subject more fully for the future. But in this case, I certainly would not oppose the bill, which was authored by the Senator from California (Mr. TUNNEY). I commend him for his loyalty, not only to his own State, but beyond that to the humanitarian needs of the people, particularly those who will be served by these hospitals.

Mr. TUNNEY. I thank the Senator very much. I appreciate the remarks that he has made regarding the humanitarian purposes of the bill.

I also recognize full well the Senator's very deep concern that we do not establish a type of precedent with legislation of this kind which could lead to an extensive depletion of the Federal Treasury, without extended hearings on such legislation so that we may know exactly what we are doing.

I would like to point out, while the Senator is still in the Chamber, that this bill which I introduced, though it is generic in terms of its language, would at the moment principally apply only to the construction of two hospitals in California. If there were a major disaster in some other part of the country, the bill could apply to that part of the country, and to any hospitals destroyed in a major disaster. But I think it is most important to realize that as of now, this measure would primarily apply only to those two hospitals, and that if this bill does not pass, those two hospitals will not be reconstructed. One of them is a Catholic hospital, the other a Lutheran hospital. Both of them are nonprofit, charitable hospitals, and there is no question but that they will not be rebuilt if the legislation does not pass.

Mr. COOPER. I thank the Senator. I remember very well that in his explanation to the committee he pointed out these facts.

Just as a matter of interpretation, I believe the Senator is saying that in the future this kind of relief, unless we enact further legislation, is directed to helping in situations of tremendous disasters—such as occurred in California and of course could occur anywhere else in the United States.

Mr. TUNNEY. Yes.

Mr. COOPER. The Senator does not intend it to be stretched out to supplant Hill-Burton and similar programs?

Mr. TUNNEY. No, certainly not.

Mr. COOPER. Which have meant so much in the construction of hospitals throughout the country.

Mr. TUNNEY. Absolutely not. The Senator is absolutely correct; we are dealing only with major disasters, such as an earthquake, a tornado, a hurricane—a major disaster of that variety, and certainly it is not intended that this measure would replace Hill-Burton with 100 percent Federal funding.

Mr. COOPER. I thank the Senator.

Mr. TUNNEY. I thank the Senator for his very valuable comments on the legislation, and for more precisely defining what the bill is intended to do.

Mr. COOPER. I support the bill.

Mr. TUNNEY. I thank the Senator.

Mr. President, the measure that I have introduced, together with many other Senators, S. 1237, is designed to provide Federal assistance for the repair, reconstruction, and rebuilding of private nonprofit medical care facilities that have been destroyed by a major disaster after January 1, 1971.

The bill also provides that if a medical facility is under construction at the time of the disaster, a Federal grant will be made of 50 percent of the net cost of restoring the facility to substantially its condition prior to the disaster, and of 50 percent of any construction completion cost increases resulting from the disaster. A medical facility which has been fully constructed would benefit under this legislation by having 100 percent of the cost of replacement paid for by Federal grants.

I feel that the value of this measure can be appreciated in connection with the situation in the San Fernando Valley in California, where we suffered a disastrous earthquake last February 9. Two private nonprofit medical facilities—a Catholic hospital and a Lutheran hospital—were totally destroyed. A devastating burden was suddenly and unexpectedly placed on these hospitals, and this burden threatens to shut them down. When I went to California several days after the earthquake, and later, as a member of the Committee on Public Works, to hold 3 days of hearings on the extent of the damage that occurred from the earthquake and the amount of Federal money that was made available to the citizens of the community to help them recover under the Disaster Relief Act of 1970, I learned that these two hospitals are absolutely essential to the health and well-being of the citizens in the San Fernando Valley.

I had a chance to talk with members of the administration of the two hospitals, and they said that they could not understand why the Federal Government did not have some kind of assistance or insurance program for private nonprofit hospitals. Under the Disaster Relief Act, the Federal Government provides moneys for debris clearance of homes. The act also provides for a $2,500 Federal forgiveness of loans to private homeowners and private businesses. And the act provides funds for restoring highways, schools, and other public facilities destroyed in a natural disaster. The act even provides full grant aid for public hospitals providing the same desperately needed services, to the same public, as are provided by nonprofit private hospitals. But those nonprofit private hospitals are ignored and left only with limited loan programs which are of no effective help.

After talking with the administrators of these hospitals, I returned to Washington and discussed the matter with a number of other Senators. I asked the Senators if they knew of any reason why private nonprofit hospitals had not been included under the Disaster Relief Act. I learned that in all probability it was an oversight.

As a result of my consultation with other Senators, I then introduced this bill. I believe we now have 34 cosponsors, and cosponsorship ranges from the most liberal Democrats to the most conservative Democrats, the most liberal Republicans to the most conservative Republicans. I feel very strongly that, with this broad base of support, the bill ought to be accepted unanimously by the Senate, as it was accepted unanimously by the Committee on Public Works.

There are two very minor committee amendments which I would like to have considered en bloc. Mr. President, I ask unanimous consent that the amendments accepted by the committee be considered and adopted en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

Mr. TOWER. Mr. President, I was pleased to have the opportunity to join with so many of my fellow Senators in sponsoring S. 1237.

I feel that this piece of legislation is appropriate for consideration by the Federal Government. Over the years, we have developed a comprehensive set of acts to assist the local communities which have been devastated by a major disaster. We realized that the responsibility of assisting these communities in returning to normalcy was more than the local community or State was able to meet. The Federal Government assumed the responsibility, and acting on behalf of the American people and the other States, has responded to the needs of the people when it is most urgent. This legislation is a mere continuation of this commitment.

Furthermore, the Federal Government has come to accept the major responsibility for the provisions of adequate medical facilities throughout this country. However, when disaster strikes, these facilities are often damaged and destroyed causing tremendous setbacks in our progress in health field. We need to make provisions for these facilities to return to full operation as soon as possible. The Disaster Relief Act of 1970 already provides for public hospitals and medical care facilities which suffer damage in a major disaster.

If there had been legislation such as S.

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1237, which would provide Federal financial assistance to nonprofit, private medical care facilities for repair and reconstruction of facilities damaged and destroyed by a major disaster, enacted in 1970, the constituents of my State would have greatly benefited. When Hurricane Celia struck the Texas gulf coast on August 3, 1970, the medical care facilities in the area were severely damaged.

The Spohn Memorial Hospital, located in Corpus Christi, is a nonprofit charitable hospital. It is administered by the Catholic Order of the Sisters of Charity. This 277-bed hospital suffered over $1,300,000 of damage, which was only partially covered by insurance. Other institutions which suffered extensive damage which would have been eligible if this legislation had already been enacted were the Driscoll Childrens' Hospital, the Ada Wilson Hospital of Physical Medicine, both in Corpus Christi, and the Charles H. Ewing Community Hospital in Sinton, Tex.

Any community's efforts to provide medical care facilities is seriously handicapped when its private, nonprofit institutions are damaged and it lacks the immediate means of rebuilding.

Mr. President, this bill would provide that necessary financial assistance. It is a statement of our Nation's commitment to face and respond to its needs in a positive, constructive manner.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back the remainder of the time on the bill?

Mr. TUNNEY. I yield back the remainder of my time.

Mr. GRIFFIN. I yield back the time on this side.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1237) was passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TUNNEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 410, S. 976. I do this so that the bill will become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 976) to amend the National Traffic and Motor Safety Vehicle Act of 1966 in order to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was reported by the Committee on Commerce with an amendment on page 1, after line 4, strike out:

PURPOSE

SEC. 2. (a) It is the purpose of this Act, (1) to amend the National Traffic and Motor Vehicle Safety Act of 1966 (hereinafter referred to as "the Act") in order to establish procedures for setting minimum property loss reduction standards and to promote competition among motor vehicle manufacturers in the design, production, and sale of motor vehicles which are less susceptible to damage in traffic accidents occurring at normal operating speeds and which lessen the risk of injury and death to occupants of motor vehicles and pedestrians involved in traffic accidents, and (2) to provide for the augmentation and implementation of certain Federal motor vehicle and highway safety standards.

(b) The first section of the Act (15 U.S.C. 1381) is amended to read as follows: "That the Congress finds and declares that—

"(1) it is necessary to establish motor vehicle safety standards for motor vehicles and equipment moving in interstate commerce, to establish testing procedures for passenger motor vehicles, to establish property loss reduction standards, to undertake and support necessary safety research and development, and to expand the national driver register; and

"(2) it is the purpose of this Act to reduce the number and severity of traffic accidents, the number of deaths and injuries resulting from such accidents, and the extent of property damage and economic losses resulting from such accidents."

DEFINITIONS

SEC. 3. Section 102 of the Act (15 U.S.C. 1391) is amended by—

(1) inserting in paragraph (1) after "injury to persons" the following: "and unnecessary damage to motor vehicles";

(2) adding at the end thereof the following new paragraphs:

"(14) 'Property loss reduction' means the reduction of economic loss suffered by the public as a result of property damage to motor vehicles involved in accidents.

"(15) 'Property loss reduction standards' means a minimum standard for motor vehicle performance, or motor vehicle equipment performance, which is practicable, which meets the need for motor vehicle property loss reduction and which provides objective criteria.

"(16) 'Make', when used in describing a motor vehicle, means the manufacturer's trade name or other designation for a particular line of motor vehicles.

"(17) 'Model' means a particular size and style of body of any make of motor vehicle, including distinctive sizes of sedans, convertibles, station wagons, and trucks, and such other classifications as the Secretary may prescribe.

"(18) 'Passenger motor vehicle' means any motor vehicle manufactured primarily for the transportation of its operator and passengers upon the public streets, roads, and highways.

PROPERTY LOSS REDUCTION STANDARDS

SEC. 4. Title I of the Act (15 U.S.C. 1391 et seq.) is amended by adding at the end thereof the following new sections:

(a) the words "or property loss reduction" after the words "motor vehicle safety" wherever they occur following section 102;

(b) the words "or property loss reduction standards" after the words "motor vehicle safety standards" or "safety standard" wherever they occur following section 102 (except section 103(b)); and

(c) the words "or property loss reduction standards" after the words "motor vehicle safety standard" wherever they occur following section 102 (except section 103 (g)).

PUBLIC DISCLOSURE OF COMPARATIVE SAFETY AND SUSCEPTIBILITY TO DAMAGE OF PARTICULAR MOTOR VEHICLES AND ADDITIONAL STANDARDS

SEC. 5. Title I of the Act (15 U.S.C. 1391 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 125. (a) The Secretary shall develop and prescribe by regulations issued not later than July 1, 1972, a system of tests and testing procedures designed to allow a determination and comparison of the susceptibility to damage of passenger motor vehicles involved in traffic accidents which reasonably may be anticipated to occur at normal speeds and under normal operating conditions, including, but not limited to, collisions at speeds of five, ten, and fifteen miles per hour.

"(b) The Secretary shall as soon as possible, after July 1, 1972, promulgate property loss reduction standards which will minimise economic losses associated with motor vehicle accidents. These standards shall be compatible with safety standards issued to protect motor vehicle occupants.

"(c) The Secretary shall, as soon as practicable, after July 1, 1972, promulgate a property loss reduction standard which requires that all motor vehicles manufactured after January 1, 1975, and offered for sale in the United States, are so designed and constructed with energy absorbing bumpers capable of withstanding impacts front and rear of 5 miles per hour into a solid, fixed barrier (as prescribed by the Society of Automotive Engineers Standard J850) and the vehicle shall withstand such impacts with a minimum prescribed amount of damage as may be determined by the Secretary.

"(d)(1) The Secretary shall undertake a study of the feasibility of developing tests and testing procedures designed to allow a determination and comparison of the risk of personal injury or death to occupants of passenger motor vehicles resulting from traffic accidents which reasonably may be anticipated to occur at normal speeds and under normal operating conditions. The Secretary shall report the results of such study, and his findings and recommendations, including any recommendations for additional legislation he deems necessary, to the President and the Congress by July 1, 1972.

"(2) If the Secretary finds that such tests are feasible he shall develop and prescribe by regulations issued as soon as may be practicable such a system of tests and testing procedures.

"SEC. 126. (a) Each manufacturer of motor vehicles shall test production models of every make and model of passenger motor vehicle manufactured or imported by him in accordance with the regulations promulgated by the Secretary under the provisions of section 125 of this title, and shall furnish the results of such testing, including such data as the Secretary deems necessary, to the Secretary.

"(b) No manufacturer shall sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States—

"(1) any passenger motor vehicle manufactured on or after January 1, 1973, unless production models of the make and model of such motor vehicle have been tested in accordance with the regulations promulgated by the Secretary under section 125(a) of this Act; or

"(2) any passenger motor vehicle manufactured on or after a date one hundred and twenty days after the date on which regulations governing tests and testing procedures are promulgated by the Secretary under the provisions of section 125(b) of this Act unless a production model of the make and model of such motor vehicle has been tested in accordance with such regulations.

"SEC. 127. (a) The Secretary shall compile information submitted to him under testing programs carried out under the provisions of sections 125 and 126 of this Act, and furnish it to the public in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger motor vehicles with respect to the factors analyzed by such testing programs. The information shall include, but not be limited to a comparative analysis of the cost of repairing motor vehicles under section 125(a) and if practicable under section 125(d). The Secretary shall require that the results of such testing be made available to prospective purchasers of passenger motor vehicles by the manufacturer of such motor vehicles prior to the sale.

"(b) The Secretary shall—

"(1) make such information available to insurance companies and business organizations engaged in the business of selling or underwriting motor vehicle insurance in interstate commerce, for use in determining premium rates for insurance covering property damages and personal injury related to the factors tested under the provisions of section 126 of this Act. Information furnished shall include, but not be limited to, identification of parts, components, systems, and subsystems damaged or displaced in the motor vehicles tested; and

"(2) report to the President and the Congress on February 1, 1973, on the extent to which the motor vehicle insurance industry is utilizing such information in the determination of insurance premium rates, together with such additional findings and recommendations, including recommendations for additional legislation, as he deems appropriate. The Secretary is authorized to conduct such studies and surveys as may be necessary to carry out the purposes of this Act.

"(3) The Secretary, not later than February 1, 1974, shall establish procedures requiring the automobile dealers to provide insurance cost data to prospective purchasers that would enable the prospective purchasers to compare the difference in costs for auto insurance on the various makes and models of passenger motor vehicles having different occupant injury severity or vehicle property damage characteristics.

"SEC. 128. The Secretary shall, as soon as practicable, promulgate Federal motor vehicle safety and property loss reduction standards which require that all motor vehicles manufactured after January 1, 1975, and offered for sale in the United States, are so designed and constructed as to facilitate motor vehicle inspection, and to facilitate the repairs necessary to meet the requirements of such inspection."

JUDICIAL REVIEW

SEC. 6. Section 105(a)(1) of the Act (15 U.S.C. 1394(a)(1)) is amended by inserting after the words "any order under section 103" the following: "or 128, or any regulation issued under section 125."

SAFETY RESEARCH

SEC. 7. Section 106(a) of the Act (15 U.S.C. 1395(a)) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and inserting immediately after paragraph (1), the following new paragraph:

"(2) collecting data from any source for the purpose of determining the relationship between passenger motor vehicle performance and design characteristics and (A) property damage resulting from motor vehicle collisions, and (B) the occurrence of personal injury or death resulting from such accidents;"

COOPERATION WITH OTHER AGENCIES

SEC. 8. Section 107 of the Act (15 U.S.C. 1396) is amended by striking out the period at the end thereof, and inserting in lieu thereof a semicolon and the following:

"(3) tests and testing procedures established under section 126 and methods for inspecting and testing to determine compliance with such tests and testing procedures.".

PROHIBITION AND EXCEPTIONS

SEC. 9. Section 108(b) of the Act (15 U.S.C. 1397(b)) is amended by—

(1) inserting in paragraphs (1), (3), and (5) of such section, immediately after the words "subsection (a)" wherever they appear in such paragraphs, a comma and the words "and section 126(b),"; and

(2) amending paragraphs (2) and (3) of such section 108 to read as follows:

"(2) Paragraph (1) of subsection (a), and section 126(b) shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such vehicle or item of motor vehicle equipment is not in conformity with applicable Federal motor vehicle safety standards or property loss reduction standard or, in the case of a passenger motor vehicle, is not of a make and model which has been tested in accordance with the requirements of section 126(b), or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such motor vehicle or motor vehicle equipment, to the effect that such vehicle or equipment conforms to all applicable Federal motor vehicle safety standards, and (in the case of a passenger motor vehicle) is of a make and model which has been tested in accordance with the requirements of section 126(b), unless such person knows that such motor vehicle or motor vehicle equipment does not so conform or (in the case of a passenger motor vehicle) is not of a make or model which has been so tested.

"(3) A motor vehicle or item of motor vehicle equipment offered for importation in violation of paragraph (1) of subsection (a), or section 126(b), shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary; except that the Secretary of the Treasury and the Secretary may, by such regulations, authorize the importation of such vehicle or item of motor vehicle equipment into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such motor vehicle or item of motor vehicle equipment will be brought into conformity with any applicable Federal motor vehicle safety or property loss reduction standard prescribed under this title, brought into conformity with the requirements of section 126(b), or will be exported or abandoned to the United States.".

PENALTIES

SEC. 10. Section 109(a) of the Act (15 U.S.C. 1398(a)) is amended to read as follows:

"SEC. 109. (a) Whoever—

"(1) violates any provision of—

"(A) section 108 (relating to motor vehicle safety standards or property loss reduction standards);

"(B) subsection (c) or (d) of section 112 (relating to keeping records and reporting data);

"(C) section 114 (relating to certification); or

"(D) section 126 (relating to passenger motor vehicle testing); or

"(2) refuses to permit an inspection authorized under section 112 (a) and (b) shall be subject to a civil penalty of not to exceed $5,000 for each such violation or refusal. A violation of a provision of such sections or regulations issued thereunder, shall constitute a separate violation with respect to each motor vehicle sold, offered for sale, introduced or delivered for introduction in interstate commerce, or imported into the United States in violation of such provisions or regulations, and with respect to each failure or refusal to allow or perform an act required thereby. A refusal to allow an inspection authorized under section 112 (a) and (b), or a refusal or failure to allow or perform an act required thereby, shall constitute a separate violation with respect to each day such refusal or failure continues."

INJUNCTIVE RELIEF

SEC. 11. Section 110(a) of the Act (15 U.S.C. 1399(a)) is amended by inserting in the first sentence thereof, immediately after the words "standards prescribed pursuant to this title", a comma and the following: "or to the requirements of section 126(b)".

REPURCHASE OR REPLACEMENT

SEC. 12. Section 111(a) of the Act (15 U.S.C. 1400(a)) is amended by inserting immediately after the words "applicable Federal motor vehicle safety standards" or property loss reduction standards the following: "or the requirements of section 126(b)".

INSPECTION OF MANUFACTURING FACILITIES

SEC. 13. Section 112(b) of the Act (15 U.S.C. 1401(b)) is amended by inserting, immediately after the words "or are held for sale after such introduction", a comma and the following: "or are held after being tested in accordance with the requirements of section 126(b)".

CERTIFICATION OF CONFORMITY

SEC. 14. Section 114 of the Act (15 U.S.C. 1403) is amended by inserting before the period at the end of the first sentence a comma and the following: "and that the particular make and model of such motor vehicle has been tested in accordance with the requirements of section 126(a)".

TITLE V

DIAGNOSTIC INSPECTIONS, REGISTRATIONS AND TITLING STANDARDS

SEC. 501. (a) The Secretary of Transportation shall, not later than January 1, 1973, amend highway safety program standard number 1, relating to periodic motor vehicle inspection, issued June 27, 1967, under the provisions of section 402(a) of title 23, United States Code, to include the following additional provisions:

(1) The standard shall require inspection of a motor vehicle whenever the title to the motor vehicle is transferred for purposes other than resale, and whenever the motor vehicle sustains damage if any safety related mechanism, subsystem, or functional nonoperational part, as defined by the Secretary, is damaged.

(2) The standard shall require that a certificate of safe operating condition shall be delivered by the seller of a motor vehicle to the purchaser at the time of sale. The certificate shall be prepared and signed by an inspector trained to perform this duty. The inspector shall be certified by the State in accordance with provisions established by the Secretary. No motor vehicle inspector may be certified by any State if he owns or receives any benefit in or from a business or enterprise engaged in the repair or sale of motor vehicles, automotive repair parts or accessories: *Provided*, That upon approval of the Secretary, a State may certify a motor vehicle inspector receiving such benefit where the vehicle population to be served is insufficient to make independent motor vehicle inspectors feasible and such State makes provision for protecting the public from any conflict of interest resulting from such certification.

(3) The standard shall be expressed in

terms of motor vehicle safety performance applicable to new or used motor vehicles.

(b) The Secretary shall, not later than January 1, 1973, amend highway safety program standard numbered 2, relating to motor vehicle registration, issued on June 27, 1967, under the provisions of section 402(a) of title 23, United States Code, to include requirements for a State motor vehicle registration and uniform certificate of title program similar to the registration and title program contemplated by the Uniform Motor Vehicle Code and Model Traffic Ordinance, chapter 3, "Certificates of Title and Registration of Vehicles" revised 1968 and published by the National Committee on Uniform Traffic Laws and Ordinances, Washington, District of Columbia.

REPORTS ON IMPLEMENTATION

SEC. 502. (a) The Secretary shall report to the President and Congress by January 1, 1972, the extent to which the States have implemented programs in accordance with the provisions of highway safety program standards numbered 1 and 2, relating to periodic motor vehicle inspection and motor vehicle registration, respectively, as issued on June 27, 1967, and make legislative recommendations for Federal financial and other assistance, as he deems necessary in order to facilitate compliance by the States by January 1, 1973.

(b) The Secretary shall provide for the States financial incentive programs for establishing the inspection and titling standards of this title. Each State certified by the Secretary as being in compliance with the provisions of this title shall, after January 1, 1973, receive not less than 10 per centum nor more than 50 per centum of the annual costs of such programs, the percentage to be determined by the Secretary based on degree of compliance. The funds for these incentive programs shall be paid from the Federal Aid Highway Trust Funds apportioned on or after January 1, 1973.

(c) The Secretary shall report to the President and Congress by January 1, 1974, the extent to which the States have implemented programs in accordance with the provisions of section 501 of this Act, and make legislative recommendations, for Federal financial and other assistance, as he deems necessary to facilitate complete compliance by the States not later than January 1, 1975.

(d) Not later than July 1, 1973 the Secretary shall—

(1) certify each State program of motor vehicle inspection and motor vehicle registration which meets the requirements of the applicable standard;

(2) the Secretary shall not approve any State highway safety program under this section which does not establish motor vehicle inspection or motor vehicle registration programs meeting the requirements of section 501 of this title and the appropriate Federal highway safety program standard; and

(3) funds authorized to be appropriated to carry out the provisions of section 501 and this section shall be used to aid the States to conduct the highway safety program approved in accordance with subsection (a), (b), and (c) hereof. Federal aid highway funds apportioned on or after January 1, 1975, to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section shall be reduced for the first year of noncompliance by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of title 23, United States Code, with the reduction of an additional 10 per centum for each succeeding year of noncompliance, but not in excess of a total of 50 per centum, until such time as the State is implementing an approved highway safety program certified by the Secretary in accordance with this subparagraph (d). Any amount which is withheld from apportionment to any State hereunder shall be reapportioned to the other States.

(e) In order to carry out the provisions of this section, the Secretary may—

(A) assist, by contract, grant, or any other arrangement, any State in establishing or improving programs of periodic motor vehicle inspection and motor vehicle registration;

(B) use the personnel, facilities, and information of Federal agencies, and of State and local public agencies, with the consent of such agencies, with or without reimbursement for such use;

(C) enter into contracts or other arrangements and modifications thereof, and make advance, progress, and other necessary payments;

(D) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(E) issue, amend, and repeal such rules and regulations as may be necessary; and

(F) take such other appropriate action as may be necessary.

SEC. 503. There are authorized to be appropriated to the Department of Transportation such sums as may be necessary to carry out the provisions of this Act.

And, in lieu thereof, insert:

TITLE I—PROPERTY LOSS REDUCTION

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that it is necessary to reduce the economic loss resulting from damage to motor vehicles involved in motor vehicle accidents.

(b) It is the purpose of this title to reduce the extent of such economic losses by providing for the promulgation and enforcement of property loss reduction standards.

DEFINITIONS

SEC. 102. For the purpose of this title—

(1) "passenger motor vehicle" means any motor vehicle manufactured primarily for the transportation of its operator and passengers on the public streets, roads, and highways, and includes passenger motor vehicle equipment;

(2) "property loss reduction" means the reduction of loss suffered by the public as a result of damage to passenger motor vehicles involved in motor vehicle accidents;

(3) "property loss reduction standard" means a minimum performance standard established under this title for the purpose of increasing the resistance of passenger motor vehicles to damage resulting from motor vehicle accidents or for the purpose of reducing the cost of repairing such vehicles damaged as a result of such accidents;

(4) "make" when used in describing a passenger motor vehicle means the trade name of the manufacturer of that vehicle;

(5) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale;

(6) "model" when used in describing a passenger motor vehicle means the size, style, and type of any make of motor vehicle;

(7) "motor vehicle accident" means an accident arising out of the operation, maintenance, or use of a motor vehicle; and

(8) "Secretary" means the Secretary of Transportation.

SETTING OF STANDARDS

SEC. 103. (a) The Secretary shall promulgate property loss reduction standards for passenger motor vehicles manufactured in the United States or imported into the United States for sale, resale, or introduction into interstate commerce, except passenger motor vehicles intended solely for export and so labeled or tagged on the vehicle itself and on the outside of the container, if any, which is exported.

(b) Such standards shall—

(1) require levels of property loss reduction performance which can be attained at costs which are reasonable when compared with benefits attainable with the implementation of such standard, including but not limited to anticipated insurance cost reductions, savings realized because deductible payments on collision coverage would be reduced, and savings in terms of consumer time and inconvenience; and

(2) not conflict with motor vehicle safety standards promulgated under title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1390 et seq.).

(c) In promulgating any standard the Secretary may, for good cause shown, exempt any make, model, or class of passenger motor vehicle manufactured for a special use, including occasional off-road operation, if such standard would unreasonably interfere with the special use of such passenger motor vehicle.

(d) The Secretary shall establish the effective date of any property loss reduction standard when finally promulgating the standard, and such standard shall apply only to passenger motor vehicles manufactured on or after such effective date. Such effective date shall not be later than eighteen months after final promulgation of the standard unless the Secretary presents to Congress and publishes a detailed explanation of the reasons for such later effective date. In no event shall the Secretary establish an effective date sooner than July 1, 1973.

(e)(1) All rules establishing, amending, or revoking a property loss reduction standard under this title shall be issued pursuant to section 553 of title 5 of the United States Code.

(2) The Secretary may conduct a hearing in accordance with such conditions or limitations as he may make applicable thereto, for the purpose of resolving any issue of fact material to the establishing, amending, or revoking of a property loss reduction standard.

JUDICIAL REVIEW

SEC. 104. (a) Any person who may be adversely affected by any standard established under section 103 of this title when it is effective may at any time prior to sixty days after such order is issued file a petition with the United States Court of Appeals for the District of Columbia, or any circuit wherein such person resides or has his principal place of business, for judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or his delegate. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.

(b) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification of setting aside of his original standard, with the return of such additional evidence.

(c) Upon the filing of the petition referred to in paragraph (1) of this subsection, the court shall have jurisdiction to review the standard in accordance with chapter 7 of title 5, United States Code, and to grant

appropriate relief as provided in such chapter.

(d) The judgment of the court affirming or setting aside, in whole or in part, any such standard of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(f) The remedies provided for in this subsection shall be in addition to and not in lieu of any other remedies provided by law.

POWERS OF SECRETARY

SEC. 105. (a) The Secretary may conduct informational hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to his duties under this title. He shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant views and data. In connection therewith the Secretary is authorized—

(1) to require, by special or general orders, corporations, firms, and individuals engaged in the manufacture, insurance, aftermarket modification, or repair of passenger motor vehicles or passenger motor vehicle equipment to submit in writing such reports and answers to such questions relating to property loss reduction technology, costs, and feasibility, and relating to motor vehicle physical damage insurance premium costs and claims data as the Secretary may require and make such information publicly available in accordance with section 109 of this title;

(2) to administer oaths;

(3) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) The Secretary is authorized to request from any department, agency, or independent instrumentality of the Government any information he deems necessary to carry out his functions under this title and each such department, agency, or independent instrumentality is authorized to cooperate with the Secretary and, to the extent permitted by law, to furnish such information to him upon request.

(c) The Secretary shall conduct such research as is necessary for him to carry out his functions under this title.

COMPLIANCE CERTIFICATION

SEC. 106. (a) Every manufacturer of passenger motor vehicles shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and property loss reduction standards prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and passenger motor vehicle property loss reduction standards prescribed pursuant to this title.

(b) For purposes of enforcement of this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable time, any factory, warehouse, or establishment in which passenger motor vehicles are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment. Each such inspection shall be commenced and completed with reasonable promptness.

(c) Every manufacturer or distributor of a passenger motor vehicle shall furnish to the distributor or dealer at the time of delivery of such vehicle or equipment by such manufacturer or distributor the certification that each such vehicle conforms to all applicable property loss reduction standards.

(d)(1) The Secretary may obtain from any manufacturer at no cost a reasonable number of production passenger motor vehicles for the purpose of conducting compliance tests on vehicles in accordance with regulations pursuant to section 553 of title 5 of the United States Code.

(2) Upon completion of such compliance testing, the Secretary shall return the passenger motor vehicle to the manufacturer from whom he obtained it, and such manufacturer, in any subsequent sale or lease of such vehicle, shall disclose that it has been subjected to compliance testing and shall indicate the extent of damage, if any, prior to repair.

ENFORCEMENT AND PENALTIES

SEC. 107. (a) The district courts of the United States shall have jurisdiction to restrain violations of this title in an action by the Attorney General or by the Secretary by any of its attorneys designated by him for such purpose. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage granted it by courts of equity: *Provided, however,* That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to the end process may be served in any district.

(b) Any person who knowingly manufactures and distributes for sale a passenger motor vehicle which violates a property loss reduction standard applicable to that vehicle may be imprisoned for not more than one year or fined not more than $5,000, or both.

(c) Any person who manufactures and distributes for sale a passenger motor vehicle which violates any such standard may be assessed a civil penalty of not to exceed $1,000 for each violation. Any such penalty shall be paid to the Secretary and may be recovered in a civil action in the name of the United States by the Attorney General or the Secretary, acting through any of his attorneys designated by him for that purpose, in the United States district court for the district where that person has its principal office.

(d) Any person who violates the regulations of the Secretary relating to certification may be assessed a civil penalty of not to exceed $1,000 for each such violation. Any such penalty shall be paid to the Secretary and may be recovered in a civil action in the name of the United States by the Attorney General or the Secretary, acting through any of his attorneys designated by him for that purpose, in the United States district court for the district where that person has its principal office.

CIVIL ACTION

SEC. 108. (a) Any owner of a passenger motor vehicle who sustains any economic loss as a result of a motor vehicle accident because of such vehicle's noncompliance with any applicable property loss reduction standard may bring a civil action against the manufacturer of that vehicle in the United States District Court for the District of Columbia, or in the district court in which that owner or insurer resides, to recover the amount of that loss, and in the case of any such successful action to recover that amount, costs and attorneys' fees (based upon actual time expended) shall be awarded to that owner or insurer.

(b) Any such action shall be brought within three years of the date of the loss.

PUBLIC ACCESS TO INFORMATION

SEC. 109. (a) Copies of any communications, documents, reports, or other information sent or received by the Secretary in connection with his duties under this title shall be made available to any member of the public, upon request, at cost.

(b) In carrying out the provisions of this section, the Secretary shall not disclose any information which contains or might reveal a trade secret referred to in section 1905 of title 18 of the United States Code, and is otherwise unavailable to the public, except that such information may be disclosed:

(1) to other governmental officials if necessary to carry out the purposes of this Act;

(2) to duly authorized committees of Congress;

(3) in any judicial proceedings if ordered by a court;

(4) if relevant in any proceeding under this Act;

(5) to other officers and officials concerned with carrying out this Act; and

(6) to the public if necessary to protect their health, safety.

EFFECT ON STATE LAWS

SEC. 110. (a) No State or political subdivision thereof shall have any authority to establish or continue in effect with respect to any passenger motor vehicle offered for sale to the public any property loss reduction standard which is not identical to a Federal property loss reduction standard.

(b) The Secretary may, after notice and opportunity for public hearing, upon application of any State prescribe standards limited to such State, which are more stringent than the nationally applicable Federal standards prescribed pursuant to section 103, if he finds that such State requires such standards to meet conditions peculiar to that State. The standards prescribed hereunder shall be regarded as if prescribed pursuant to section 103, with respect to new passenger motor vehicles manufactured for sale, sold or offered for such sale in, or introduced or delivered for introduction into such State.

AUTHORIZATION

SEC. 111. There is authorized to be appropriated to carry out this title for this fiscal year $5,000,000 and for the following two fiscal years $10,000,000 each year.

REPORTS

SEC. 112. The Secretary shall report to the Congress and to the President not later than March 31 of each year on the progress in carrying out the purposes of this title. Each such report shall contain a statement of the cost savings that have resulted from the administration of this title, and include such recommendations for further legislative or other action as the Secretary determines may be appropriate.

TITLE II—AUTOMOBILE CONSUMER INFORMATION STUDY

SEC. 201. (a) The Secretary of Transportation (hereafter in this title referred to as the "Secretary") is authorized and directed to conduct a comprehensive study and investigation of the methods for determining the following characteristics of passenger motor vehicles (as defined in section 102(1) of this Act:

(1) the susceptibility of such vehicles to damage as a result of motor vehicle accidents;

(2) the degree of occupant protection pro-

vided by such vehicles in any motor vehicle accident; and

(3) the characteristics of such vehicles with respect to the ease of diagnosis and repair of mechanical and electrical systems which fail during use or which are damaged in motor vehicle accidents.

(b) After reviewing the methods for determining the characteristics enumerated in subsection (a), the Secretary shall make specific recommendations for the further development of existing methods or for the development of new methods.

(c) The Secretary shall also recommend specific ways in which existing information and information to be developed relating to the characteristics of passenger motor vehicles or information relating to vehicle operating costs dependent upon those characteristics can be communicated to consumers so as to be of benefit in their passenger motor vehicle purchasing decisions, including information obtained pursuant to section 205 of this title.

(d) The Secretary shall submit to the President and to the Congress interim reports from time to time and a final report not later than twenty-four months after enactment of this Act. Such final report shall contain a detailed statement of findings, conclusions, and recommendations of the Secretary, and may propose such legislation or other action as the Secretary considers necessary to carry out his recommendations.

ADMINISTRATIVE POWERS

SEC. 202. In order to carry out his functions under this title the Secretary is authorized to—

(1) appoint and fix the compensation of such employees as he deems necessary without regard to the provisions of title 5, United States Code, governing appointment in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United State Code, but at rates for individuals not to exceed $100 per diem;

(3) enter into contracts with corporations, business firms, institutions, and individuals for the conduct of research and surveys and the preparation of reports; and

(4) appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, such advisory committees, representative of the divergent interests involved, as he deems appropriate for the purpose of consultation with and advice to the Secretary.

Members of advisory committees appointed under paragraph (4) of this section, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be compensated at rates to be fixed by the Secretary but not exceeding $100 per day, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Members of such advisory committees shall, for the purposes of chapter 11, title 18, United States Code, be deemed to be special Government employees.

COOPERATION OF FEDERAL AGENCIES

SEC. 203.(a) The Secretary is authorized to request from any department, agency, or independent instrumentality of the Government any information he deems necessary to carry out his functions under this joint resolution; and each such department, agency, or independent instrumentality is authorized and directed to cooperate with the Secretary and to furnish such information to the Department of Transportation upon request made by the Secretary.

(b) The head of any Federal department, agency, or independent instrumentality is authorized to detail, on a reimbursable basis, any personnel of such department, agency, or independent instrumentality to assist in carrying out the duties of the Secretary under this joint resolution.

HEARINGS AND PRODUCTION OF DOCUMENTARY EVIDENCE

SEC. 204. (a) For the purpose of carrying out the provisions of this title, the Secretary, or on the authorization of the Secretary, any officer or employee of the Department of Transportation may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary or such officer or employee, deems advisable.

(b) In order to carry out the provisions of this title, the Secretary or his duly authorized agent shall at all reasonable times have access to, and for the purposes of examination the right to copy, any documentary evidence of any corporation, business firm, institution, or individual having materials or information relevant to the study authorized by this joint resolution.

(c) The Secretary is authorized to require, by general or special orders, any corporation, business firm, or individual or any class of such corporation, firms, or individuals to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to the study authorized by this joint resolution. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe.

(d) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary or such officer or employee issued under subsection (a) or subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Witnesses summoned pursuant to this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(f) Any information which is reported to or otherwise obtained by the Secretary or such officer or employee under this section and which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall not be disclosed except to other officers or employees of the Federal Government for their use in carrying out this title. Nothing in the preceding sentence shall authorize the withholding of information by the Secretary (or any officer or employee under his control) from the duly authorized committees of the Congress.

INSURANCE INFORMATION

SEC. 205. (a) Insurers of passenger cars, or their designated agents, shall, upon request by the Secretary, make such reports and furnish such information as the Secretary may reasonably require to enable him to carry out the purposes of this title.

(b) Such reports and information may include, but not be limited to—

(1) accident claim data relating to the type and extent of physical damage and the cost of remedying the damage according to make, model, and model year of passenger car.

(2) accident claim data relating to the type and extent of personal injury according to make, model, and model year of passenger car.

(c) In determining the reports and information to be furnished pursuant to this section, the Secretary shall—

(1) consider the cost of preparing and furnishing such reports and information;

(2) consider the extent to which such reports and information will contribute to carrying out the purposes of this title; and

(3) consult with such State insurance regulatory agencies and other agencies and associations, both public and private, as he deems appropriate.

(d) The Secretary shall, to the extent possible, obtain such reports and information from the insurers of passenger cars on a voluntary basis.

(e) The Secretary shall not, in disseminating any information received pursuant to this section, disclose the name of, or other identifying information about, any person who may be an insured, a claimant, a passenger, an owner, a driver, an injured person, a witness, or otherwise involved in any motor vehicle crash or collision, unless the Secretary has the consent of the persons so named or otherwise identified.

(f) Every insurer of passenger cars, or its designated agent, shall, upon request by the Secretary, furnish him with a description of the extent to which the insurance rates or premiums charged by the insured for passenger cars are affected by the damage susceptibility and crash-worthiness of the various makes and models of passenger cars.

(g) The information required by this section shall be furnished at such times and in such manner as the Secretary shall prescribe by regulation or otherwise.

TERMINATION

SEC. 206. The authority of the Secretary under this title shall terminate ninety days after the submission of his final report as provided for in section 201(d) of this title.

APPROPRIATIONS AUTHORIZED

SEC. 207. There are hereby authorized to be appropriated, without fiscal year limitation, such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this title."

TITLE III—DIAGNOSTIC INSPECTION DEMONSTRATION PROJECTS

POWERS AND DUTIES

SEC. 301. (a) The Secretary of Transportation is required to establish motor vehicle diagnostic inspection demonstration projects to be in being not later than December 31, 1973, for completion not later than December 31, 1975.

(b) To carry out the program required by this title, the Secretary shall—

(1) make grants and furnish technical assistance to States; and

(2) consult with the Administrator of the Environmental Protection Agency.

(c) It is the intent of the Congress that—

(1) not fewer than five nor more than ten projects be undertaken;

(2) that such projects may be performed by either public or private organizations but not for profit from diagnostic inspection services; and

(3) that 50 per centum of such projects ought to provide diagnostic inspection services without providing repair services.

ELIGIBILITY AND CRITERIA

SEC. 302. (a) A State may be eligible for grants or other assistance under this title if the Secretary determines on the basis of an application by such State that such State will undertake a motor vehicle diagnostic inspection demonstration project which meets the requirements of subsection (b) of this section.

(b)(1) A motor vehicle diagnostic inspection demonstration project shall be designed, established, and operated to conduct periodic safety inspections pursuant to criteria established by the Secretary by regulation and emission inspections pursuant to criteria established by the Secretary by regulation in consultation with the Administrator of the Environmental Protection Agency.

(2) Such project shall require an additional inspection of any motor vehicle subject to the demonstration as determined by the Secretary whenever—

(A) the title to such motor vehicle is transferred to another person unless the transfer is for the purpose of resale; and

(B) such motor vehicle sustains substantial damage to any safety-related or emission-related system or subsystem, as prescribed by the Secretary.

(3) Such inspections shall be conducted so as to provide specific technical diagnoses of each motor vehicle inspected in order to facilitate correction of any component failing inspection.

(4) A demonstration project shall provide for reinspection of vehicles which initially fail to meet the safety and emission standards established for the project after repair.

(5) Each project shall provide to the Secretary information and data relating to the costs and benefits of such projects, including information and data relating to vehicle-in-use standards, vehicle designs which facilitate or hinder inspection and repair, the standardization of diagnostic systems and test equipment, the capability of the motor vehicle repair industry to correct diagnosed deficiencies or malfunctions and the costs of such repairs, the relative costs and benefits of the project, the efficiency of facility designs employed, recommendations as to feasible reject levels which may be employed in any such project, and such other information and data as the Secretary may require.

APPLICATIONS AND ASSISTANCE

SEC. 303. (a) A grant or other assistance under this title may be obtained upon an application by a State at such time, in such manner, and containing such information as the Secretary prescribes.

(b) Upon the approval of any such application, the Secretary may make a grant to the State to pay an amount each year up to 90 per centum of the costs of establishing and operating its project. Any equipment purchased with Federal funds may be retained by a State for its inspection activities following the demonstration project with the approval of the Secretary. Payments under this subsection may be made in advance, in installments, or by way of reimbursement.

AUTHORIZATION

SEC. 304. There is authorized to be appropriated to carry out this title for each fiscal year such sums as the Congress deems necessary not to exceed $50,000,000 per year.

TITLE IV—ODOMETER REQUIREMENTS

SEC. 401. The Congress hereby finds that purchasers, when buying motor vehicles, rely heavily on the odometer reading as an index of the condition and value of such vehicle; that purchasers are entitled to rely on the odometer reading as an accurate reflection of the mileage actually traveled by the vehicle; that an accurate indication of the mileage traveled by a motor vehicle assists the purchaser in determining its safety and reliability; and that motor vehicles move in the current of interstate and foreign commerce or affect such commerce. It is therefore the purpose of this title to prohibit tampering with odometers on motor vehicles and to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles having altered or reset odometers.

SEC. 402. As used in this title—

(1) "motor vehicle" means any vehicle driven or drawn by mechanical power for use on the public streets, roads, and highways;

(2) "odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation;

(3) "repair and replacement" means to restore to a sound working condition by replacing the odometer or any part thereof or by correcting what is inoperative;

(4) "transfer" means to change ownership by purchase, gift, bequest, or any other means.

SEC. 403. It is unlawful for any person to advertise for sale, to sell, to use, or to install or to have installed, any device which causes the odometer to register any mileage other than the true mileage driven. For the purpose of this section the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SEC. 404. It is unlawful for any person or his agent to disconnect, reset, or alter the odometer of any motor vehicle with the intent to reduce the number of miles indicated thereon.

SEC. 405. It is unlawful for any person with the intent to defraud to operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.

SEC. 406. No person shall conspire with any other person to evade the intent and purpose of this title.

SEC. 407. Nothing in this title shall prevent the service, repair, or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair, or replacement. Where the odometer is incapable of registering the same mileage as before said service, repair, or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any removal or alteration of such notice so affixed shall be unlawful.

SEC. 408. It shall be unlawful for any person to transfer ownership of a motor vehicle unless such person—

(1) enters on a form prescribed by the Secretary of Transportation or as prescribed by State law the mileage said motor vehicle has been operated. Said form as completed shall then be attached to the instrument evidencing transfer of ownership; or

(2) enters upon such form "true mileage unknown" in the event that the odometer reading is known to such person to be less than such motor vehicle has actually traveled; or

(3) enter the total cumulative mileage on the form in the event that it is known that the mileage indicated on the o lometer is beyond its designated mechanical limits.

It shall be a violation of this title for any person knowingly to give a false statement to a transferee under the provisions of this section.

SEC. 409. Any person who, with intent to defraud, violates any requirement imposed under this title shall be liable in an amount equal to the sum of—

(1) three times the amount of actual damages sustained or $1,500, whichever is the greater; and

(2) in the case of any successful action to enforce the foregoing liability, the costs of the action together with a reasonable attorney's fee as determined by the court.

SEC. 410. An action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises.

SEC. 411. This title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the disconnecting, altering, or tampering with odometers with the intent to defraud, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

SEC. 412. This title shall take effect ninety calendar days following the date of enactment of this Act.

SEC. 413. One year after the date of enactment of this Act, the Secretary shall report to the Congress and to the President on the extent to which the reliability of odometers can be improved, on the technical feasibility of producing odometers which are tamper proof, and on the Secretary's plans and recommendations for future action.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until 12:15 p.m., at which time there will be a quorum call, preparatory to the rollcall vote on the military construction bill, which will occur at 12:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 11:56 a.m., the Senate took a recess.

The Senate reassembled at 12:15 p.m., when called to order by the Presiding Officer (Mr. GAMBRELL).

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. GAMBRELL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 113) for the relief of certain individuals and organizations, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 3227. An act for the relief of S/Sgt. J. C. Bell, Jr., U.S. Air Force; and

H.R. 6100. An act for the relief of Janis Zalemanis, Gertrude Jansons, Lorena Jansons Murphy, and Asja Jansons Liders.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to

the enrolled bill (S. 26) to revise the boundaries of the Canyonlands National Park in the State of Utah.

The enrolled bill was subsequently signed by the President pro tempore.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on the Judiciary:

H.R. 3227. An act for the relief of S/Sgt. J. C. Bell, Jr., U.S. Air Force; and

H.R. 6100. An act for the relief of Janis Zalemanis, Gertrude Jansons, Lorena Jansons Murphy, and Asja Jansons Liders.

QUORUM CALL

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. S. 976 is the pending business. It is under time control. Does the Senator wish the time to be evenly divided?

Mr. PASTORE. Mr. President, I ask unanimous consent that the time consumed in the quorum call be evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MITITARY CONSTRUCTION APPROPRIATIONS, 1972

The Senate resumed the consideration of the bill (H.R. 11418) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on final passage of the military construction bill.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I am pleased that with this military construction appropriation bill the Congress will be providing for the Defense Department every penny requested to reduce air and water pollution from our military installations.

In my own State of Rhode Island, where we have very important Navy installations, this bill will provide $5,753,000 for abatement of shore installation water pollution problems at Newport Naval Station and of air pollution problems over Quonset Naval Air Station. I know that we in Rhode Island are proud and glad to have these naval installations in our State. I also believe the Federal Government has a responsibility to provide leadership in attacking environmental problems, to make certain that defense installations do not impose an environmental burden.

Even with these appropriations, we will have some serious environmental problems remaining in my State. I urge the Defense Department to move expeditiously toward solving those remaining problems, and I pledge my full support toward obtaining any funds needed for that purpose.

The two biggest and most specific remaining problems which should be mentioned are air pollution from the firefighter training school at Newport, and the problem of waste disposal from Navy vessels in our bay. I hope the Defense Department which often expresses an interest in resolving environmental problems will give high priority to these projects, and request at the earliest time possible the funds required to correct those problems.

In addition, this bill provides $5,826,000 for military construction at Rhode Island naval bases. These funds will provide badly needed improvements in quarters and facilities for enlisted men at these bases. And I am particularly happy that the Senate has approved the funds needed for expansion of facilities at the Naval Underwater Systems Center in Newport, funds which had been cut from the bill by the House.

Mr. BYRD of West Virginia. Mr. President, I want to take this opportunity to congratulate the distinguished majority leader, Senator Mansfield, for the fine job he has performed as chairman of the Military Construction Appropriations Subcommittee, and to express my appreciation to the committee for including $260,000 in the bill for the construction of a community building at the Sugar Grove Naval Receiving Station located in Pendleton County, W. Va.

On July 6, 1971, I wrote to Senator MANSFIELD and requested the subcommittee to include $260,000 in the fiscal year 1972 appropriations bill to construct the facility at Sugar Grove and to support the inclusion of funds for four other West Virginia projects totalling $767,000. These four projects are as follows:

First. Romney, W. Va., construction of an Army Reserve Center, $415,000. This center is required in order to provide adequate training facilities for the accomplishment of the training missions of assigned units. It will provide an Army Reserve Center with a 100-man capacity and a maintenance shop. The present leased facilities are inadequate, and the continued usage of them will hinder training and preclude increasing the capability of the unit.

Second. Huntington, W. Va., conversion of storage building to armory, $67,000. The present facilities are overcrowded, and this lack of space is hampering the efficient operation of the units involved. The renovated facility will provide space for the 254th Transportation Co., which is temporarily housed with two others units.

Third. Huntington, W. Va., construction of an organizational maintenance shop, $65,000. The facility presently used for the organizational maintenance shop is needed for conversion to an armory, and it has been determined that it will be more economical and efficient to convert this facility and to construct a new organizational maintenance shop.

Fourth. Martinsburg, W. Va., construction of a one-unit armory, $220,000. The present facility is in a very deteriorated condition and is inadequate for the operation, maintenance, and training of the units assigned.

I am certain that all of these facilities, when completed and utilized, will promote increased efficiency in the operation and training functions of West Virginia's National Guard and Reserve Units. I thank the subcommittee chairman and the other members of the Appropriations Committee for including funds for these West Virginia items in the fiscal year 1972 Military Construction Appropriations bill.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, what will the yea and nay vote be on?

The PRESIDING OFFICER. The yea and nay vote will be on the passage of H.R. 11418.

Mr. MANSFIELD. The military construction bill for the Department of Defense?

The PRESIDING OFFICER. That is correct.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is necessarily absent, and if present and voting, would vote "yea."

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 95, nays 1, as follows:

[No. 290 Leg.]

YEAS—95

Aiken	Ervin	Mondale
Allen	Fannin	Montoya
Allott	Fong	Moss
Anderson	Fulbright	Muskie
Baker	Gambrell	Nelson
Bayh	Goldwater	Packwood
Beall	Griffin	Pastore
Bellmon	Gurney	Pearson
Bennett	Hansen	Pell
Bentsen	Harris	Percy
Bible	Hart	Proxmire
Boggs	Hartke	Randolph
Brock	Hatfield	Roth
Brooke	Hollings	Saxbe
Buckley	Hruska	Schweiker
Burdick	Hughes	Scott
Byrd, Va.	Humphrey	Smith
Byrd, W. Va.	Jackson	Sparkman
Cannon	Javits	Spong
Case	Jordan, N.C.	Stafford
Chiles	Jordan, Idaho	Stennis
Church	Kennedy	Stevens
Cook	Long	Stevenson
Cooper	Magnuson	Symington
Cotton	Mansfield	Talmadge
Cranston	Mathias	Thurmond
Curtis	McClellan	Tower
Dole	McGee	Tunney
Dominick	McGovern	Weicker
Eagleton	McIntyre	Williams
Eastland	Metcalf	Young
Ellender	Miller	

NAYS—1

Gravel

NOT VOTING—4

Inouye Ribicoff Taft
Mundt

So the bill (H.R. 11418) was passed.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. GAMBRELL) appointed Mr. MANSFIELD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. BROOKE, Mr. BOGGS, Mr. PERCY, Mr. SYMINGTON, Mr. CANNON, and Mr. TOWER conferees on the part of the Senate.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is S. 976, the motor vehicle safety bill.

PRIVILEGE OF THE FLOOR

Mr. COOK. Mr. President, I ask unanimous consent that a member of my staff, Miss Webb, have the privilege of the floor during the course of the debate on the motor vehicle safety bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, on behalf of the distinguished Senator from Michigan (Mr. HART), I yield 3 minutes to the distinguished Senator from Massachusetts (Mr. KENNEDY).

CONFERENCE REPORT ON PUBLIC HEALTH SERVICE HOSPITALS AND CLINICS

Mr. KENNEDY. Mr. President, I should like to note in the RECORD that I have submitted today the conference report on Senate Concurrent Resolution 6, relating to the Public Health Service hospitals and clinics.

I ask unanimous consent that the report be printed in its entirety in the CONGRESSIONAL RECORD.

There being no objection, the text of the conference report was ordered to be printed in the RECORD, as follows:

CONFERENCE REPORT (S. REPT. NO. 92-423)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the concurrent resolution (S. Con. Res. 6) to express the sense of Congress relative to certain activities of Public Health Service hospitals and outpatient clinics, having met, after full and free conference, have been unable to agree.

EDWARD M. KENNEDY,
HARRISON A. WILLIAMS, JR.,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIBORNE PELL,
WALTER F. MONDALE,
PETER H. DOMINICK,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
BOB PACKWOOD,
ROBERT TAFT, JR.,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD III,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the concurrent resolution (S. Con. Res. 6) to express the sense of Congress relative to certain activities of Public Health Service hospitals and outpatient clinics, report that the conferees have been unable to agree.

The Senate Resolution provides that the Public Health Service Hospitals and outpatient clinics should not be closed at this time, but should be funded and staffed through fiscal year 1972, during which time the Secretary of Health, Education, and Welfare and the Congress should determine the future disposition of these facilities.

The House adopted the Senate passed resolution, with an amendment to include the Clinical Research Centers at Fort Worth and Lexington among the facilities to which the resolution applies.

The Conference failed to reach agreement on the House amendments concerning the Clinical Research Center at Fort Worth, nor could any mutually agreeable compromises be reached.

EDWARD M. KENNEDY,
HARRISON A. WILLIAMS, JR.,
GAYLORD NELSON,
THOMAS F. EAGLETON,
ALAN CRANSTON,
HAROLD E. HUGHES,
CLAIBORNE PELL,
WALTER F. MONDALE,
PETER H. DOMINICK,
JACOB K. JAVITS,
RICHARD S. SCHWEIKER,
BOB PACKWOOD,
ROBERT TAFT, JR.,
J. GLENN BEALL, JR.,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD III,
WILLIAM L. SPRINGER,
ANCHER NELSEN,
Managers on the Part of the House.

Mr. KENNEDY. Mr. President, the report that I have submitted is a report of disagreement. The Senate and House were in total agreement on this resolution on the eight Public Health Service Hospitals and the 30 outpatient clinics. We were in disagreement only with respect to the clinical research center at Fort Worth.

Unfortunately, the disposition of the conferees was such that without adding the House provision for this clinical research center, we could report no compromise resolution at all. Our Conference Report specifically describes this as the one area of disagreement.

I wish to assure my colleagues and the public that I have every assurance that failure to report a resolution from Conference will in no way jeopardize the future of the eight PHS Hospitals and 30 clinics. Both Senate and House passed identical language requiring that these facilities be maintained in their current mode of operation through June 30, 1972—allowing Congress and the Secretary of DHEW to review their future disposition. The intent of both houses is clearly on record in this regard.

Moreover, the DHEW gives every indication of honoring this intent and is scheduling meetings to brief members of Congress on plans for these hospitals developed since the resolution was passed.

I am anxious that these plans be given every scrutiny, and feel confident that the resolutions passed independently by the House and Senate will assure us an opportunity for this review.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the amendment which the Senator from Michigan (Mr. GRIFFIN) will offer to strike title I from the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

The Senate resumed the consideration of the bill (S. 976) to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes.

PRIVILEGE OF THE FLOOR

Mr. HART. Mr. President, first, I ask unanimous consent that, during the discussions and action on the pending bill, an additional staff member be permitted the privilege of the floor. His name is Donald Randall.

The PRESIDING OFFICER (Mr. STE-

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VENSON). Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that the committee amendment be agreed to and that the bill as thus amended be considered as original text for purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I yield myself such time as may be required for this initial discussion.

Initial investigation of the issues prompting the consideration of S. 976 were undertaken by the Antitrust and Monopoly Subcommittee of the Judiciary Committee, in a 3-year study of automobile repair problems. During that study, the subcommittee received more than 8,000 letters of complaint from disgruntled automobile owners who complained about the fragility of cars, the difficulty in obtaining timely repair, and the soaring costs of collision insurance coverage. The initial investigation disclosed that Americans spend an estimated $25 to $30 billion a year for auto repairs. Various studies showed that the quality of work done was less than satisfactory, and that an estimated $8 to $10 billion a year was being charged for work that was never done, was unneeded, or was improperly performed.

Equally disturbing was the finding that the "egg-shell exteriors" of motor vehicles produced needlessly high repair costs in collisions at very low speeds. For example, tests by the Insurance Institute for Highway Safety showed that when four popular sedans were crashed into a solid barrier at just 5 m.p.h., the average repair bill for the cars was more than $200 each.

In addition, the subcommittee investigation disclosed that there was a high incidence of safety defects in cars operating on the Nation's highways. For example, a study by the Automobile Club of Missouri indicated that 43 percent of new vehicles driven less than 500 miles had safety related defects. For cars 5 years old, the defect rate increased to 92 percent. Finally, the investigation by the Antitrust and Monopoly Subcommittee found that existing competitive pressures within the automobile industry probably would not produce improvements in the susceptibility of automobiles to damage, their ease of repair, their crashworthiness, or their production quality. The conclusion from this investigation was that legislation is needed.

Accordingly, on September 9, 1970, I introduced the Motor Vehicle Information Act (S. 4331). This act amended the National Traffic and Motor Vehicle Safety Act of 1966 and was referred to the Senate Commerce Committee. However, no action was taken in the 91st Congress on this legislation.

Then, in the 92d Congress, the Senator from Washington (Mr. MAGNUSON) joined me in the introduction of the Motor Vehicle Information and Cost Savings Act (S. 976). Extensive hearings were held on S. 976 in May of 1971. Shortly thereafter the administration submitted its own proposal (S. 2345) which was introduced by the Senator from Washington (Mr. MAGNUSON) as a request bill. After careful study of the hearing record on S. 976, and the administration proposal, a committee staff print of S. 976 was prepared at the direction of the Senator from Washington, which was considered and ordered to be reported as amended on October 19, 1971.

There are four basic needs: First, the need to reduce the incidence of property loss resulting from motor vehicle accidents; second, the need to foster competition between auto companies so as to promote the construction of safer, less fragile, and more easily repairable motor vehicles; third, the need to facilitate inspection and repair of vehicles by encouraging their diagnostic inspection; and fourth, the need to prevent odometer tampering.

The need to reduce property loss resulting from motor vehicles is critical. In 1970, it is estimated that Americans lost more than $5.5 billion because of vehicle damage resulting from motor vehicle accidents. The insurance mechanism paid for $4.6 billion of this loss; the remainder was absorbed by car owners either because of deductibles in their collision coverage or because they did not carry collision coverage and were not compensated under the liability insurance system. To generate the $4.6 billion in insurance benefits which paid for damage to the automobiles, the insurance industry collected $7.9 billion in premiums.

Testimony before the Senate Commerce Committee, principally by the Insurance Institute for Highway Safety, disclosed that a great portion of damage to vehicles could have been eliminated if they had been designed to withstand low-speed collisions without sustaining damage. And such design was shown at the hearings to be feasible. An auto capable of sustaining a 10-mile-per-hour barrier collision—20 mile-per-hour car-to-car collision—was demonstrated. Because of this great and unnecessary economic loss, there is a need to authorize the Government to set minimum property loss reduction standards which would protect the fragile exteriors of motor vehicles.

There is also a need to encourage automobile manufacturers to voluntarily construct safer, less fragile, and easier to repair vehicles. Government regulation alone is not sufficient because much of the technology for innovation is in the control of the automobile industry, not the Government. One way of promoting competition is to insure informed purchasing decisions by consumers. By providing consumers with useful information about the crash worthiness, damageability, or repairability of vehicles prior to the time of purchase, the consumer should be able to make more informed purchasing decisions. More informed purchasing decisions would encourage the selection of motor vehicles with the best safety, damageability, and repairability features. And this selection should encourage automobile manufacturers to compete with one another to build automobiles that rated high in these areas.

In addition, the need to facilitate inspection and repair of vehicles is compelling. Too many vehicles being driven on the highways of this Nation are not in a safe operating condition. Convenient and effective inspection programs at the time of title transfer, after an automobile accident and periodically could insure the safety of vehicles in use. But such inspection must, at the same time, facilitate the ease of vehicle repair. There is a need, therefore, to promote diagnostic inspection which provides an effective means of screening vehicles which are not in a safe operating condition and gives the consumer and the mechanic an indication of what needs to be done to correct any defects or malfunctions.

Finally, there is a need to adopt a national policy against odometer tampering. Some 17 States presently have legislation prohibiting persons from tampering with odometers. A national policy against such fraudulent practices is needed.

In my view, S. 976 as unanimously reported from the Senate Commerce Committee meets very well the needs which I have just outlined. I urge my colleagues to take favorable action on this bill, a bill which I believe to be significant and important.

Mr. President, I reserve the remainder of my time.

AMENDMENT NO. 587

Mr. GRIFFIN. Mr. President, I call up my amendment No. 587 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 19, beginning with line 14, strike out through line 4 on page 32.
On page 32, line 5, strike out "TITLE II" and insert in lieu thereof "TITLE I".
On page 32, line 7, strike out "SEC. 201" and insert in lieu thereof "SEC. 101".
On page 33, line 8, strike out "205" and insert in lieu thereof "105".
On page 33, line 18, strike out "SEC. 202" and insert in lieu thereof "SEC. 102".
On page 35, line 6, strike out "SEC. 203" and insert in lieu thereof "SEC. 103".
On page 35, line 21, strike out "SEC. 204" and insert in lieu thereof "SEC. 104".
On page 37, line 19, strike out "SEC. 205" and insert in lieu thereof "SEC. 105".
On page 39, line 16, strike out "SEC. 206" and insert in lieu thereof "SEC. 106".
On page 39, line 18, strike out "201(d)" and insert in lieu thereof "101(d)".
On page 39, line 21, strike out "SEC. 207" and insert in lieu thereof "SEC. 107".
On page 40, line 1, strike out "TITLE III" and insert in lieu thereof "TITLE II".
On page 40, line 4, strike out "SEC. 301" and insert in lieu thereof "SEC. 201".
On page 40, line 24, strike out "SEC. 302" and insert in lieu thereof "SEC. 202".
On page 42, line 17, strike out "SEC. 303" and insert in lieu thereof "SEC. 203".
On page 43, line 6, strike out "SEC. 304" and insert in lieu thereof "SEC. 204."
On page 43, line 10, strike out "TITLE IV" and insert in lieu thereof "TITLE III".
On page 43, line 11, strike out "SEC. 401" and insert in lieu thereof "SEC. 301".

On page 43, line 25, strike out "SEC. 402" and insert in lieu thereof "SEC. 302".
On page 44, line 12, strike out "SEC. 403" and insert in lieu thereof "SEC. 303".
On page 44, line 19, strike out "SEC. 404" and insert in lieu thereof "SEC. 304".
On page 44, line 23, strike out "SEC. 405" and insert in lieu thereof "SEC. 305".
On page 45, line 1, strike out "SEC. 406" and insert in lieu thereof "SEC. 306".
On page 45, line 3, strike out "SEC. 407" and insert in lieu thereof "SEC. 307".
On page 45, line 14, strike out "SEC. 408" and insert in lieu thereof "SEC. 308".
On page 46, line 7, strike out "SEC. 409" and insert in lieu thereof "SEC. 309".
On page 46, line 16, strike out "SEC. 410" and insert in lieu thereof "SEC. 310".
On page 46, line 21, strike out "SEC. 411" and insert in lieu thereof "SEC. 311".
On page 47, line 3, strike out "SEC. 412" and insert in lieu thereof "SEC. 312".
On page 47, line 5, strike out "SEC. 413" and insert in lieu thereof "SEC. 313".

Mr. GRIFFIN. Mr. President, very simply this amendment would strike title I of the pending bill, S. 976. It would leave intact the other three titles of the bill.

Title I directs the Secretary of Transportation to promulgate and impose upon the automobile industry a new layer of regulations, a new set of standards, which are referred to in title I as "Property Loss Reduction Standards."

It should be clearly understood that the bill now before the Senate has nothing whatsoever to do with human safety or pollution. Those concerns were dealt with in legislation which Congress has previously enacted and with respect to which regulations already have been promulgated.

It should be understood that this bill is concerned only with property values.

Title I of this bill, in my view, represents mischievous meddling with the free market system; it carries with it very serious implications because, if the Federal Government is to go so far as to regulate the design and manufacture of automobiles purely for the purpose of trying to affect so-called property loss and property value, then I wonder to what extent, as a logical result of such precedent, the Federal Government would eventually go in regulating the design and manufacture of other major consumer products.

By expanding in this way the scope of regulation of the automobile industry, which is almost regulated to death already, it seems to me that we would be moving toward a philosophy which might be expressed by reference to a statement once made by Henry Ford, when he said that a person could choose any color of Model-T Ford he wanted, so long as it was black.

Color is about the only part of an automobile which would not be covered or regulated by this bill. Among other serious problems with title I, the inevitable effect of setting so-called property damage standards as contemplated by the bill would be to limit severely consumer choice. For example, unless the Secretary of Transportation, through his discretion, were to grant an exemption, and it is not altogether clear whether it would cover such an exemption, this bill would prohibit the building of a sports car. This bill could result in the elimination of the manufacture and sale of compacts, of economy size cars.

Obviously, the difference in weight and mass among various makes and models of cars is an important factor in the amount of property damage lost which results from an accident on the highway.

I am sure those advocating this bill will rush to say that is not intended or contemplated by setting these standards, but I suggest it is a logical result and could happen through the bureaucracy under the vague purposes which are indicated in this bill.

Too often in the past the Federal Government made promises far beyond its capability of fulfillment. I suggest this bill is another example of creating illusory expectations. I think the customer is only being deceived if he is led to believe that the era of the undamageable car is around the corner and if he expects the bill really to reduce costs.

This legislation is billed as a "cost savings act." A more apt title would be "The Costly Automobile Act." I do not think anyone would deny that the imposition of these Federal standards which are contemplated by this bill is going to increase the cost of new automobiles. Because of the standards that have been set with regard to safety, the cost of new automobiles has been increased. Because of the imposition of regulations with respect to air pollution, the cost of new automobiles has been increased. Now, we are imposing a third layer of standards which has nothing to do with safety or pollution, but compliance with them would increase the cost of new automobiles.

The argument on the other side is, "Oh, yes, but by doing this we are going to save the consumer money because there will be less damage to his car if he gets involved in an accident and, therefore, the insurance premiums will go down."

I do not know. Maybe that is right. Maybe the cost of insurance in some way or another will be affected and it will go down. But I think at this point people want to stop and think: Are they going to save more on the cost of insurance premiums than they are going to lose when the cost of new cars goes up in order to comply with these so-called property damage loss standards which will have nothing to do with safety or pollution.

When Congress passed the 1966 Safety Act we specifically cautioned against involving the Federal Government in the design and styling of automobiles. The report of the House Interstate and Foreign Commerce Committee stated:

> The emphasis of this legislation should be on the protection of persons rather than the protection of property.

This bill does not relate to the protection of persons; it only relates to the protection of property.

Another part of the report stated that "The Secretary would not become directly involved in automobile design."

As the cosponsor indicated in 1966 that was sound, and it is even more so today. At that time the automobile industry was not faced with the multitude of existing standards. Today Federal regulation extends to pollution and in the near future it is likely to extend to noise control. In the area of safety, pollution, and noise we can all generally recognize that, although it is inconvenient and costly for the industry, there are overriding public interests that need to be taken into account and given consideration. But is there such an overriding public interest in connection with this legislation? That is the question before the Senate.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. GRIFFIN. I am glad to yield to the Senator from Nebraska.

Mr. CURTIS. How much additional Government financing is going to be required under the four titles of the bill?

Mr. GRIFFIN. It is my understanding that the authorization provides for $25 million over a 3-year period. I have no idea whether that would be adequate. I would say to the Senator from Nebraska that the Secretary of Transportation and the Director of Automobile Safety, the National Safety Administration, which would have to administer the bill, do not want this bill. They are not at all convinced it is feasible to set the standards this bill would require them to set. It would involve a good deal of research and study to try to figure out how they could set such standards. It is altogether possible that the $25 million authorized here would not be nearly enough.

Mr. CURTIS. How many cars change hands every year?

Mr. GRIFFIN. I think this year there is an expectation of a 10-million car market. They expect to sell somewhere in the neighborhood of 10 million cars.

Mr. CURTIS. And they are going to enforce this with $25 million in 3 years?

Mr. GRIFFIN. That is the provision in the bill.

Mr. CURTIS. They have a provision here to protect the consumer from having the odometer reading—I thought it was speedometer, but it is odometer—changed, so it cannot be disconnected to defraud purchasers. That would be $2.50 a car because if there are 10 million cars sold, there will be that many traded in. I do not know whether they could inspect them for $2.50 or not.

Mr. GRIFFIN. I am going to have to come to the defense of my senior colleague and say that the $25 million to which I referred would deal only with title I. The provision about the speedometers is in another title. There are four titles to the bill. My pending amendment deals only with title I, which requires the promulgation of these so-called property law standards.

Mr. CURTIS. I understand that.

Mr. GRIFFIN. How much it would cost to enforce that particular provision, I cannot tell the Senator. I do not know.

Mr. CURTIS. But they have provided $25 million to enforce all four sections?

Mr. GRIFFIN. I am told by the staff that the $25 million relates only to title I; $2 million with respect to title II; $50 million with respect to title III; and about half a million dollars with respect

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to the title the Senator from Nebraska is referring to.

Mr. CURTIS. In all fairness, I want to state that this is a beginning program. It is to set a course.

Mr. GRIFFIN. That is absolutely correct.

Mr. CURTIS. Is there any relation between protecting consumers from having their speedometers changed and safety?

Mr. GRIFFIN. Not a bit.

Mr. CURTIS. I would think it would be quite remote.

It seems to me one of the issues the Congress must decide is whether or not we are going to take over and run from Washington every human endeavor. I represent a rural State. It seems that one of my biggest jobs is fighting the Federal Government to keep it from closing up all the rural communities. It does not make much difference what the business activity is, the Federal Government is harassing it and policing it and inspecting it. Take, for instance, Medicare. I think it was passed with the idea of helping individuals in retirement to carry the financial load of their illnesses. What they are doing is having Federal regulation and almost licensing of hospitals and doctors.

I want to do what is properly within the jurisdiction of the Federal Government to do in the field of safety, but I know that I do not want to turn the policing of every transaction and every act in every type of business and the design of every vehicle over to the Federal Government, because the history of the bureaus in Washington is that they are behind the times. They do not have as much information as we people have. They are behind the progress made by private enterprise. They are rigid and inflexible and very costly and oftentimes serve no useful purpose.

Mr. GRIFFIN. I appreciate the contribution made by the distinguished Senator from Nebraska.

Mr. CURTIS. Do I understand correctly that the Department of Transportation does not want this bill?

Mr. GRIFFIN. That is correct.

Mr. CURTIS. The whole bill?

Mr. GRIFFIN. Title I. It is not opposed to the rest of the bill, as I understand.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. GRIFFIN. I am glad to yield to the ranking Republican member of the committee.

Mr. COTTON. When the Senator from Michigan has concluded his remarks, I intend to take just a very few minutes. However, in answering the question of the distinguished Senator from Nebraska, let me say it so happened that the initial committee hearing at which the representative of the Department of Transportation testified was held on the 28th day of May. The Senator will recall that this was the beginning of the Memorial Day recess, so that only the distinguished Senator from Indiana (Mr. HARTKE), who had been asked to preside, and the Senator from New Hampshire were able to be present.

I shall put into the RECORD some of the dialog which took place at that hearing and some questions that I asked Mr. Douglas Toms, who now is the Administrator of the National Highway Traffic Safety Administration, concerning the mission of his Department toward automobile safety and the safety of human life and limb. I think when I get the opportunity to put that colloquy into the RECORD, the Senator from Nebraska will readily understand, or at least will readily believe, the very cogent argument: First, that they do not want it; second, that they are not equipped for it; third, that it would take a lot of money and a lot of time to get equipped for it; and fourth it would lead them so far into the field of economic regulation for the reduction of damage to the automobile that it might detract from their continuous and very necessary and very vital responsibilities of regulation for human safety and the reduction of danger to life.

Mr. CURTIS. I thank the Senator. Do the remarks the Senator has just made pertain to the bill as a whole or to one particular section?

Mr. COTTON. I am talking about title I.

The question is one of priority. Before we have conquered or even started to control, much less gained complete control of, the automobile design and automobile structure from the standpoint of human safety, to then start the DOT and everybody else on a crusade to deal with property damage, the Senator from New Hampshire feels is crowding the mortars. And, it is going to detract from the efficiency of the whole program.

In a few minutes I shall give the chapter and verse of what took place in that committee hearing, but I just want to add one final observation. It has been my observation—and I hope I am not getting so cynical that my viewpoint is distorted—that in our committee the term "consumer" has been a magic word for several years. The committee is all on a crusade, and so is the Congress.

I notice, by the way, that Mr. Nader has sort of forsaken us. He said he is starting on a thorough investigation of Congress.

But everything is for the consumer. There is one thing that I think the consumer is interested in but which we often forget to consider as the final factor. We do not want him sold hazardous substances, and we passed a fine bill on that. We do not want him defrauded, and we passed measures to protect him from that.

We have done everything to try to protect the consumer, both from being defrauded and from being injured. But the one thing that we never seem to think about is the one element the consumer is most interested in, which is price.

Mr. CURTIS. That is what I was going to ask. Has the Federal Government done anything to increase prices to the consumer?

Mr. COTTON. Yes. Some bills the Federal Government has passed will increase prices somewhat, but in general it was well worth it. If we increased prices somewhat by restrictions, careful supervision, and necessary requirements on the manufacturer and the distributor, it was worth it.

But, there comes a point where you must draw the line. There comes a point where the good that is accomplished for the consumer becomes small in comparison with what it takes out of his pocketbook every time that he makes a purchase. It is bound to increase prices to him, and decrease his tolerance of Federal regulation.

Mr. CURTIS. The point I am trying to make is, how do we know that the Government, whether it be by direct action of Congress or through a Government bureau, knows the right answer on some detail in reference to safety?

I have been told, for example, that there are those who advocate that the Government, in effect ultimately provide for compulsory installation of certain seat bags, and one thing and another, in a car, and at the same time doing away with seat belts.

That, of course, is not in this bill, but it does raise the question, are we going to trust the welfare of the country to someone in a bureau?

Regardless of the merits of an air bag, I am not too sure that we ought to abolish seat belts. It seems to me that they are of tremendous protection to children, in many instances in traveling that are far afield from a collision type of thing.

Mr. GRIFFIN. Mr. President, would the Senator from Nebraska let me put into the RECORD at this point some specific figures going to the matter of increases in cost resulting from the regulation we have already enacted?

For pollution control alone, to clean up the air insofar as automobiles are concerned, the Environmental Protection Agency itself has estimated that car prices will increase by $223 per car by 1975.

As far as the safety standards are concerned, car prices have gone up already, on the average, $84.

The Department of Transportation estimates that the new bumper standards will cost an additional $119.

One manufacturer testified before the committee that car prices would rise from $450 to $600 by 1975 because of the air pollution and safety standards promulgated under legislation already enacted by Congress.

In terms of the total cost to consumers, based on an annual sales volume of 10 million cars a year, the increase in cost to consumers would be $4.5 billion to $6 billion. That is before we enact this bill. The cost of complying with these standards, whatever that may be, will be on top of it.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. GRIFFIN. I am glad to yield to the Senator from Utah.

Mr. MOSS. The Senator from Michigan was quoting figures on the increase in the cost of automobiles, and what it is attributable to. I just wanted to call attention to a letter sent by the Secretary of Transportation to the chairman of the Committee on Commerce. It is printed in the committee report on this bill, at page 32. One sentence to which I would like to call particular attention is this:

> As the enclosed table shows, the total gross average price increase for model year passenger cars 1968 through 1971, inclusive, was $524.00. Three-fourths of that increase was due to pure price increases. Only $81.50, or less than one-sixth of the total price increase, was attributable to changes required to meet safety standards.

So I think we must be careful in saying that the prices of cars going up stems entirely from these safety measures that have been enacted to date and those which we are considering in the pending measure. Actually, cars have gone up in price considerably, but, as the Secretary points out, only one-sixth of that total increase in price came from safety requirements established for car manufacturers.

Mr. GRIFFIN. I appreciate the comments of the distinguished Senator from Utah, but let me make it clear that the figures I read did not refer to increases in car prices in general. I accept the figures that the Senator from Utah has pointed out, but in a sense we are comparing apples and oranges, because I was talking about how much increase there would be in the price of a new car attributable to pollution and safety regulations by 1975, and the figures that the Senator was reading related to the increase by 1971. He is absolutely correct; the price of cars has gone up in addition to the built-in increases that are required by our regulations. I certainly would not argue that point. But I am only talking about that part of the increase in costs which is directly related to these regulations.

Even though they are expensive, even though it does cost the consumer a considerable amount of additional money to try to have a safer car and a pollution-free car, I think it has already been pointed out that most of us, and most consumers, I think, are willing to pay that extra price. The question now before the Senate is, do they want to pay an even higher price to enforce a set of standards that have nothing to do with pollution or safety, that are supposedly going to reduce the damageability of the car, and, in general, to increase the prices of new cars still further?

Mr. President, an important factor bearing on cost is the technical feasibility of setting standards that would, in fact, reduce the damageability of cars. In his testimony before the committee, the Administrator of the National Highway and Traffic Safety Administration, Douglas Toms, said:

> Specific applications of present technology are almost non-existent in this area, as compared to the situation that existed in safety in 1966. The 1966 Act was preceded by 20 years of activity by the Society of Automotive Engineers, General Services Administration, and others.

In this regard, it is interesting to note that of all the testimony presented to the committee in support of requiring so-called property damage standards, the only specific suggestion which was offered related to the improvement of bumpers. If the only feasible property damage standards are those concerning bumpers and related systems, then there is no need for title I, because bumper standards have already been set by the National Highway and Traffic Safety Administration, under the authority of which Congress provided for the safety legislation which is already on the books.

Although the Federal bumper standards were not promulgated from the standpoint of property damage savings, Administrator Toms indicated in his testimony that:

> From a practical standpoint, it is impossible to design a car to meet our safety requirements without also protecting the car from significant property damage.

Moreover, bumper design accounts for a large part of the property damage costs to the public arising out of motor vehicle accidents. An estimated 25 percent of all costs associated with automobile accident repairs is accounted for alone by collisions of 5 miles per hour or under. This is the zone most susceptible to corrective action. Nearly 70 percent of all damage in such accidents is sustained in front or rear impacts covered by the bumper standards.

After all the extensive crash testing undertaken by the insurance industry's safety institute, it would seem logical to ask if the industry has developed a premium rating system which reflects differences in repair costs.

The answer is that no such system exists, even on a limited basis, with respect to bumpers. Only one company has offered rate reductions for cars meeting 1973 DOT bumper standards.

The PRESIDING OFFICER. The time of the Senator has expired on the amendment.

Mr. GRIFFIN. Mr. President, how much time do I have on the bill?

The PRESIDING OFFICER. The Senator has 55 minutes remaining on the bill.

Mr. GRIFFIN. I yield myself 10 additional minutes on the bill.

Even in this instance, the reductions will apply to collision coverage only and will not extend to mandatory third-party liability coverage.

It would make much more sense to wait and see what benefits flow from implementation of the Federal bumper standards before any further standards are set.

Of course, it is argued that the bill would require the Secretary of Transportation to weigh the costs involved against the benefits to consumers from insurance rate reductions and other savings before any property loss reduction standards could be promulgated. But even if the Secretary does find a favorable cost-benefit ratio, the added costs, passed along in the form of price increases, will affect the consumer and the industry immediately. The benefits, if any, will be spread over the life of the vehicle.

I also have serious problems with the types of benefits which the Secretary must take into consideration. Section 103(b) requires that the costs of any standard must be reasonable when compared to the benefits attainable, such as savings in terms of consumer time and inconvenience. How is the Secretary supposed to measure this nebulous concept of inconvenience? Such a vague criterion only provides an overzealous safety administrator with a license to impose unreasonable standards.

As I have previously indicated if the bill does no more than what the Secretary can already do under the Safety Act, in terms of bumper standards, then title I is superfluous.

Unfortunately, the scope of title I is much broader. For instance, the term "motor vehicle accident" includes accidents "arising out of the maintenance of a motor vehicle." Apparently, the Secretary of Transportation is supposed to require manufacturers to design cars which would be damage safe from the servicing of incompetent mechanics.

Furthermore, the Secretary can set standards not only for the purpose of increasing the resistance of vehicles to damage but also for the purpose of reducing the cost of cars that are damaged in accidents. This latter authority obviously is intended to go beyond the "no damage" bumper standards that have been touted.

Mr. President, when we discuss the cost and technical feasibility of setting property damage standards we cannot ignore safety considerations. The problem of compatibility between safety and damage standards cannot be solved simply by writing in the bill that damageability standards shall not conflict with safety standards.

Clearly it would not serve the public interest to mandate that the Department of Transportation start requiring cost reduction standards which actually increase safety hazards. In this regard it is worth noting the comment of Administrator Toms during the committee hearings that:

> There are many cars on the road today that have excellent sheet metal energy absorbing systems that will permit a lot of property damage but also provide excellent safety for the occupants.

Before property loss reduction standards are required, we need to know a great deal more about the interrelationship between safety and property damage.

The principal alternative to more standards is better consumer information so that the auto buyer can intelligently select the car which is least prone to damage in the event of an accident. In turn, this information should spur competition among the auto manufacturers to improve car design for economic reasons.

In fact S. 976 does provide for the development of meaningful consumer information with respect to damageability, occupant protection, and ease of repair. But it is interesting to note that although title II authorizes a 2-year study for the purpose of developing such information, title I requires the Secretary to establish damageability standards. One might reasonably come to the conclusion that standards should not be imposed, at least, until it is feasible to assess the damage susceptibility of various makes and models of cars and develop some kind of index on repair costs.

Of course, there is the oft-repeated argument that consumer information is ineffective since the auto industry is not responsive to the interests and demands of the public. If that is true, then how does one account for Ford Motor Co.'s

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urging the Department of Transportation to set a better bumper standard than had been proposed by DOT? Also, what prompted the installation of bumpers on 1972 Saab cars which meet DOT standards for 1973 model cars? Certainly the action by Saab would appear to be directly related to the proposed reduction in collision insurance rates by Allstate for cars having "no damage" bumpers in low-speed collisions.

What other reason except the marketplace can account for the death of the Corvair or the frequent recall and repair campaigns of the auto companies which, incidentally, are not mandated by Federal law?

Not surprisingly, recognition is given in the committee report to the fact that more Federal standards are not the panacea for reducing motoring costs. Let me read from a portion of the report:

There is also a need to encourage automobile manufacturers to voluntarily construct safer, less fragile, and easier to repair vehicles. Government regulation alone is not sufficient because much of the technology for innovation is in the control of the automobile industry, not the government. One way of promoting competition is to ensure informed purchasing decisions by consumers. By providing consumers with useful information about the crashworthiness, damageability, or repairability of vehicles *prior to the time of purchase*, consumers should be able to make more informed purchasing decisions. More informed purchasing decisions would encourage the selection of motor vehicles with the best safety, damageability, and repairability features. And this selection should encourage automobile manufacturers to compete with one another to build automobiles that rated high in these areas.

My amendment would not affect this consumer information program. It would leave title II untouched. There is a need for better information so the consumer can make more informed purchasing decisions. Such course holds forth a greater premise of reducing costs than does the course contemplated in title I.

It is somewhat ironic that one hears today on the one hand, severe complaints that Federal regulation is ruining industries such as the railroads, while, on the other hand, vigorous efforts are being made by some of these same critics to overregulate the automobile and other industries.

I would hope that past experience would indicate that the Federal Government cannot legislate utopia. Probably the most direct benefit from this bill will come from the fact that it will create additional jobs. It seems to me that there are much better ways to increase employment.

Mr. President, we will not be against the consumer or for the industry by eliminating title I. It is easy to pin all the blame on the manufacturers. However, the biggest problem with high repair costs due to shoddy servicing and repair by untrained mechanics. Similarly the charging of customers for unnecessary repairs is a major factor in the high cost of owning an automobile today. Extensive documentation of these problems was accumulated during the hearings before the Senate Antitrust Subcommittee a couple of years ago.

According to the committee report those hearings provide in large part the basis for this legislation. I believe the wrong approach has been taken, and I hope the Senate will concur.

Mr. President, I think that this bill, which is being presented to Congress under the title and under the concept that it is to protect or help the consumer, is subject to a great deal of question on that ground, as to what alternative open to the Senate today, specifically with reference to the pending amendment to strike title I, will help the consumer the more.

It is my sincerely held belief that we will not only help the consumer more by striking title I, but also, that we will be recognizing that the automobile industry has been regulated just about enough by Congress so far as reason and sanity are concerned. This is an industry that is in some trouble, in terms of meeting foreign competition. The future of the automobile industry is not altogether bright, and it is one of the reasons, of course, why Congress is considering at this time the repeal of the 7-percent automobile excise tax.

I would hope, in the interest of the jobs of automobile workers as well as the consumer, that the Senate would support this amendment and strike title I from the the bill.

Mr. President, I am delighted to yield now to the distinguished Senator from New Hampshire such time as he may require under the bill, reserving any other time under the bill.

Mr. COTTON. I thank the Senator from Michigan (Mr. GRIFFIN).

Mr. President, first, I want to commend my colleague, the distinguished Senator from Michigan (Mr. GRIFFIN), for the work he has put into this bill. Both Senators from Michigan have devoted a good deal of attention to it, and that is not unnatural in view of the involvement of their great State in the automotive industry.

I also want to commend the Senator from Michigan for—and invite the attention of the Senate to—his very well reasoned and cogent individual views set forth in the committee report—No. 92-413—accompanying this bill.

I heartily endorse the amendment offered by the Senator from Michigan to strike title I. To clarify a point that may not be clear to some Senators, it should be emphasized that this whole bill is not an automobile safety bill. I think that when the general public thinks of safety, they think of the safety of human beings. Certain sections of this bill are devoted to consumer information, consumer education, and consumer values. It is a property bill rather than a bill that involves the life and limb of a human being. But, title I, of course, is completely a matter of causing the construction of automobiles to be in such a manner that they will be less susceptible to property damage, without reference to the dangers attendant on human life.

Therefore, Mr. President, I share the concern expressed by the distinguished junior Senator from Michigan with respect to the provisions of title I of S. 976 requiring the Secretary of Transportation to establish property loss reduction standards for passenger motor vehicles. Quite frankly, the Secretary of Transportation opposes S. 976, especially the provisions of title I, and he is justified, in my opinion, in opposing it.

Title I proposes to set us on another course in an uncharted sea, all in the name of protecting the American consumer. I am quite in accord with protecting the consumer when it comes to the matter of a demonstrated need for regulatory authority with respect to safety, and I have supported in the subcommittee, in the committee, and in the Senate each measure that our committee has reported that deals with the safety of the public.

However, we are not here dealing with safety. On the contrary, what we are dealing with is economic loss.

Perhaps I am uniquely aware of the distinction drawn here. As I mentioned earlier today, the Administrator of the National Highway Traffic Safety Administration, the Honorable Douglas W. Toms, who for the last 2 years has been the official of the Department of Transportation who has been directing research and establishing criteria dealing with safety of design and construction of automobiles, appeared before the Committee on Commerce. When Mr. Toms appeared before the committee on May 28, it was the first day of the Memorial Day recess, so quite naturally, most Senators were out of town. The distinguished Senator from Indiana (Mr. HARTKE) remained in town, I think at the request of the chairman, and presided over the committee. I also remained in town, as the ranking minority member, because that is one of the duties that fall on one in that position. Therefore, the Senator from Indiana and the Senator from New Hampshire were the only Senators actually present at that rather interesting and illuminating hearing.

I questioned Mr. Toms at considerable length in regard to his opposition and the opposition of the Department of Transportation. Mr. Toms categorically denied that the Department of Transportation possessed the requisite design capabilities at this time to carry out the provisions of title I, and he went on to note the following:

We feel we should not set property damage standards. We should make damage susceptibility information available to the consumer and attempt to induce the marketplace to bring about these changes.

The Senator from New Hampshire then pursued this particular point with Mr. Toms, and the following colloquy took place:

Senator COTTON. And you consider your task is to find a reasonable posture which insures every practical step that can be taken to make an automobile safe, but you want to keep out of the field of trying to tell the automobile manufacturers how to design, how to plan, and how to construct their automobiles?

Mr. TOMS. That is correct.

Senator COTTON. Is that a fair statement?

Mr. TOMS. That is a fair statement.

Senator COTTON. Do you consider the bill before us goes further than that, placing you in the posture of having the Congress dictate to the automobile manufacturer the construction and to a certain extent the design of automobiles?

Mr. TOMS. That is correct.

Senator COTTON. Also, do you take into consideration the facts that in our efforts to care for the interest of the consumer, that what the consumer has to pay for automobiles also has to be considered to a reasonable extent?

Mr. TOMS. Very much so. We are very concerned about costs.

Senator COTTON. In other words, is your objective to insist on every practical and effective safeguard in automobiles, but not to go into unrelated detail which could compel the consumer to pay a substantial extra sum?

Mr. TOMS. That is correct. We feel that it is proper for us to deal in the fields of health and safety. But we are not so sure that we should deal in purely economic areas.

Mr. President, title I of S. 976 is appropriately characterized by the distinguished junior Senator from Michigan as an "overdose of regulation." Perhaps this can best be summarized by inserting at this point in my remarks a post pertinent editorial entitled "Consumer Hysteria" which appeared in the Wall Street Journal of October 26, 1971 which, quoting the distinguished Chicago University Prof. George Stigler, observed that—

It is of regulation that the consumer must beware.

Certainly the regulation proposed in title I of S. 976 is of such a character that the consumer should be very wary of it.

Mr. President, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CONSUMER HYSTERIA

The Consumer Protection Agency legislation recently approved by the House may well be toughened in the Senate. If so, businessmen can expect still more harassment than they already get—and the consumer, you may be sure, will get precious little protection that means anything.

After all, there are even now literally hundreds of consumer-related undertakings in the federal government; evidently the professional consumerists are not satisfied with them. As the distinguished Chicago University Professor George Stigler says in this connection, "utter disillusionment with past regulation leads to a demand for better regulation."

Writing in a publication of the American Enterprise Institute, Mr. Stigler has some other memorable comments that apply to the whole current consumer hysteria:

"We are now going through a new period of salvation by public reform, similar in scale and in the comparative roles assigned to emotion and to knowledge to the muckraking period preceding World War I. . . . In both periods the intellectual quality of the reform literature is, on all except its very best pages, rankly deplorable. Allegations are facts, villainy is ubiquitous, costs of reforms are not the rational prices which keep a sensible society from going overboard in one direction. . . .

"The superiority of the traditional defenses of the individual—reliance upon his own efforts and the power of competition—lies precisely in the characteristics which distinguish them from public regulation. Each of the traditional defenses is available and working at all times—self-interest and competition are never passing fads. . . . It is of regulation that the consumer must beware."

Well said, we think, and eminently sensible. But then, when zealotry rises, in and out of Congress, reason must needs flee the scene.

Mr. COTTON. Mr. President, in conclusion, in order to avoid being repetitious, it was with a great deal of devotion, dedication, and zeal that the Commerce Committee—under the leadership of its very able chairman, my friend the distinguished Senator from Washington (Mr. MAGNUSON), and under the leadership of such dedicated men as the distinguished Senator from Michigan (Mr. HART) and the distinguished Senator from Utah (Mr. Moss), and other Senators—has been fighting a battle for legitimate and reasonable protection for the American consumer.

I want to compliment the chairman of my committee and express the pride that I, as a member of the committee, take in the record the committee has established during the past two Congresses and the first session of this Congress. It is a record of trying to protect our people from injury, from buying hazardous substances without warning, to compel truth in packaging, and to protect the consumer from fraud.

These bills, in the main, have, I think, been well justified, very constructive, and seem to be working effectively. The trouble is, it is like the old lady that was given the medicine by the doctors. She thought that if she took two pills every hour instead of one pill every hour she would recover twice as quickly. We always reach the point, when we leave the field of fighting for the safety of the consumer, where in our sense of eagerness we reach out into fields that not only are costly to the Government and not only lead to undue regulation, but also are economically burdensome to the consumer.

Now, there is one thing we should remember. In my own case, Mrs. Cotton happens to be in very poor health because of a heart condition and for the past 2 years, both in New Hampshire and in Washington, D.C., I have become the shopper. It has become my duty at least once a week to go to the supermarket and buy the groceries.

Speaking as a member of the Commerce Committee—and of course I do not suggest that ill health befall any of the wives of my colleagues—I wish that every single Member of the Senate had to tramp to the supermarket and do the family shopping once a week for a period of time.

I can assure all Senators that it is an eye-opener. For the life of me, from the experience I have had in the past 2 years, I do not know how a family with seven children and the head of the family making only a modest income can possibly live in the manner we have always believed that most of the people in this great producing and prosperous country should live today.

Of course, in my case, it may be that because of what I see in the grocery store I buy more than I should. But, I find that, in taking care of a family of two, it is very easy to walk out of the supermarket after paying a check for $22, $23, $24, or $25 for a week's groceries.

It has convinced me that we had better remember one thing that is almost equally as vital to the consumer and that is the importance, in my humble judgment, of price and I fear we are now marching down the road where we are putting up prices for the consumer. That is no favor to the consumer.

This bill, S. 976, came out of committee with some objections but without a vote against it. The Senator from Michigan said he was going to offer the pending amendment and I was glad that he did offer it. If it is adopted, then I think the bill will be palatable. But, let no Senator feel that if he should vote against the bill he can be accused of voting against automobile safety. With the exception of title I, it is a bill that may be helpful. Yet, title I puts a duty on an organization downtown—namely, Mr. Toms' division of the Department of Transportation—to go into research on economic property loss reduction while they are not finished with safety. They are still trying to find out whether seat belts are best, whether straps over the shoulders or air bags will work best when a car stops suddenly. All these matters are very complex.

For example, I happen to own a car that has headrests on it and they cannot be taken off. Go to a garage and they will not take them off because it is against the law. Yet, believe me, next door to my home in Lebanon lives a family with small children who, naturally, are always playing about when I get in my car to back out of the garage.

I find there is absolutely no view out of my rearview window because of those doggone head rests. As a result, I frequently have gotten out of the car, and taken a second look simply to make sure that no child had run into my driveway before backing out of my garage to avoid running over a child.

My point is that the Department of Transportation is still struggling to iron out and determine proper safety criteria. These are the essential safeguards in the construction and the design of automobiles which are worth what we pay for the matter of safeguarding human beings.

If the amendment of the Senator from Michigan should fail, we must be aware that in title I, we are sending a directive to the Department of Transportation: "Either put on some more people or slow up on your endeavors for safety and get busy in the construction of the kind of cars that will be less susceptible to property damage."

For that reason, I can accept the bill if the very practical amendment of the Senator from Michigan is adopted and title I is stricken. However, I find it very hard to accept the bill so long as title I remains, because I think it is not only costly but will also delay and obstruct what we are doing in the field of safety and pollution which is so essential in the future manufacture of automobiles.

Mr. GRIFFIN. Mr. President, I thank the distinguished ranking minority member of the committee for his excellent analysis and contribution.

Let me add to the point he made toward the conclusion of his remarks when he mentioned that the Department of Transportation would either have to let

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up in its effort to protect human safety or would have to add a lot of additional personnel to go into this field. However, beyond that I think it should be noted that there is some conflict between the objective of reducing property damage and the objective of protecting human safety in a car. It is altogether possible—and testimony to this effect is in the RECORD—that we can design and build an automobile that will result in less property damage during an accident, but in the process a person in the automobile might be killed.

These objectives can work against each other. On the other side of the fence is the fact that a car that crumbles to an extent and absorbs some of the energy of the impact can provide some protection to the human being in the car in the event of an accident.

I know that there is vague language in the bill that dishes the job out to the Secretary of Transportation to reconcile these competing or conflicting objectives, but that will not be easy.

Mr. President, I yield now to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLOTT. Mr. President, I thank the Senator from Michigan very much.

Mr. President, my constituents have written me complaining of increasing automobile insurance rates as well as the escalating costs of automobile repair. It is to this concern that the Committee on Commerce addressed itself and, as a result, we have before us S. 976.

Testimony before the committee indicated that a great portion of damage to vehicles could be eliminated if they had been designed to withstand low-speed collisions without sustaining serious damage. In 1970, it is estimated that Americans lost more than $5.5 billion as a result of vehicle damages resulting from automobile accidents. This figure does not include the costs to the American public in terms of loss of life and limb.

Our citizenry is crying for insurance relief to ease the burden of automobile insurance premiums that have been rising so drastically in recent years. Very possibly, the $7.9 billion in automobile insurance premiums that were paid last year could, in the future, be reduced if automobiles were redesigned with maximum consideration being given to minimizing damage sustained during a collision.

My main concern and reservation is that we must be vigilant not to impose regulations that would severaly inflate the purchase price of automobiles. It is true that section 103(b)(1) of the bill requires the Secretary of Transportation to undertake an extensive cost-benefit analysis to assure that the benefits accruing to the public over the life of the vehicle outweigh the costs imposed upon the public as a result of the standards, but I am leary of granting this additional responsibility to the bureaucracy at this time. Because the testimony before the committee indicates that title I goes too far, as Senator COTTON and Senator GRIFFIN have stated, I must support the junior Senator from Michigan's amendment to strike title I.

Mr. President, I would like to address two questions to the distinguished floor manager of this bill relating to title III. Title III establishes motor vehicle "diagnostic inspection demonstration projects." My first question is:

To what extent, if any, does this title duplicate current and on-going State inspection programs?

Mr. MAGNUSON. Mr. President, if I may, I will refer the question to the Senator from Michigan who is very familiar with all of the details and can answer the questions completely to the satisfaction, I am sure, of the Senator from Colorado.

Mr. ALLOTT. He will be a genius if he does.

Mr. HART. Mr. President, I doubt if I could do that even if I had heard the question. I did not hear the question however.

Mr. ALLOTT. To what extent, if any, does title III duplicate current and on-going State inspection programs?

Mr. HART. The intention of title III—and this title, I think, has been cleared and has the unanimous consent of the committee members—is not intended to duplicate any State service. It is intended to offer—I believe to up to 10 States—the opportunity, with very substantial Federal funding, to develop very advanced diagnostic testing procedures that we believe are now available, but have not been fully utilized in any State inspection program.

If we were to add these funds to the existing State inspection systems, I would suggest it would not constitute the kind of duplication the Senator from Colorado inferred.

Mr. ALLOTT. Mr. President, as the Senator probably knows, my State has had, for perhaps 15 or more years, a requirement that each vehicle be inspected twice annually. They have to put a certain colored sticker on the windshield to show that the car has been inspected.

I will not maintain that all of those cars are perfect any more than I would maintain that every mechanic in every garage or filling station is a topflight mechanic.

Many small businessmen in my State are concerned that this legislation might, in some way, unfairly compete with their present involvement in motor vehicle inspection. I am certain that the committee has addressed itself to this concern, and I would certainly like to get a clear statement, if I could, as to how far the committee envisions that the activities under title III would displace the present State inspection system.

Mr. HART. It is the committee's intention that nothing in the pending bill would put any individual or garage or service station that is in the inspection or repair field out of business.

It would not displace any existing State inspection program or requirement. What we do hope to achieve by this from the 10 or less pilot projects that are undertaken by several States is partly to understand what is available for future use in State or federally supported inspection programs. I think everyone agrees that even those States that most effectively perform an annual or semiannual inspection now are operating far below the potential with respect to repair and safety that we believe attainable. We hope to understand how to better use the things we believe diagnostic systems now could provide. What we do when we get to the results of those 10 pilot projects may or may not affect the existing State systems.

Mr. ALLOTT. I want to make it clear that I have no objection to having inspections. We have very complicated and sometimes almost exotic systems available now. I think they are available in almost every State of the Union. I know they are available in my State for the inspection of cars. I can imagine that we would come to a point where the investment of $100,000 or $200,000 might preclude many inspectors we presently have in the State from staying in the inspection business.

I thank the Senator for his answer.

Title II of this bill, among other things, authorizes and directs the Secretary of Transportation to conduct a comprehensive study and investigate methods of determining certain characteristics of passenger motor vehicles such as, the degree of occupant protection provided by any such vehicle in any motor vehicle accident. After this investigation, the Secretary is then required to make specific recommendations for further development of existing methods or for the development of new methods.

Mr. President, the thrust of my inquiry today relates to school bus safety. I am certain the Senate is aware of the tragic accident that took place recently in my State near Gunnison, Colo., in which nine passengers of a school bus were killed. Although the Department of Transportation's National Highway Traffic Safety Administration has been in the process of formulating rules and regulations relating to school bus safety for a number of years, most of these standards have yet to be finalized. Standard 17 which relates to the operation of schoolbuses will bring much uniformity to the area of school bus operation as well as upgrade operator and maintenance personnel. Standard 17 also deals with the problems of overcrowding and other "route safety" problems. In addition, regulations are being finalized which will deal with the construction of school buses; in my layman's judgment, a highlight of these requirements will be the requirement of high-strength padded seats to protect the occupant during a crash situation.

Mr. President, the question I would like to put to the distinguished floor manager of this bill is whether the Secretary of Transportation will be required to specifically concern himself with the publishing of information on school bus safety. In my judgment, information dissemination to the parents and taxpayers of local communities is essential in that public pressure can be brought to bear on school district officials to up-grade the status of existing schoolbus fleets.

Mr. HART. The Senator from Colorado properly reminds us of the very broad concern that was evident following each of those accidents and whether we adequately safeguard children in schoolbuses. In reply to the Senator's inquiry, the definition of a passenger motor vehicle which applies to title II is found in title I, in section 102. It is clear that the Secretary's analysis called for in title II includes an analysis with respect to the schoolbuses and not merely the passenger cars. The information that will be developed as a result of the study that is called for in title II will be information that will be available publicly.

One cannot fairly anticipate what will be said with respect to schoolbus safety, what suggestions, standards and requirements will be recommended by the Secretary in his report, but clearly we can reasonably antipicate that compliance with title II will give us data with respect to schoolbus crash worthiness, information that none of us have now and all of us welcome the opportunity to get through this title.

Mr. ALLOTT. I thank the Senator very much. My concern here, of course, is to clarify and amplify the legislative history on this subject. In the 1966 acts, under which present regulations are being promulgated, I can find no reference to schoolbuses in the legislative history. I think the definition the Senator referred to in title I would include schoolbuses, but we want to make sure it does.

I want to make sure also it is understood that part of this would include dissemination of information. Publication of a regulation in the Federal Register is not read by parents of millions of children whose children have to travel on schoolbuses.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There are 23 minutes remaining.

Mr. ALLOTT. I mean of my time. I was yielded 10 minutes.

Mr. GRIFFIN. I do not believe I limited the time.

Mr. ALLOTT. I would like to have 3 to 5 minutes, if I may.

Mr. GRIFFIN. I yield to the Senator from Colorado.

Mr. ALLOTT. While we are debating the matter of public safety, I feel I must at this time express my deep concern about a subject that has been raised in the rulemaking process. I have not had time to study this in the detail I would prefer, I only know the bare outlines of the issue. However, I am very much concerned about promulgation of present regulations mandating the installation of air bags in cars. I believe I can speak from at least a minimum of knowledge, since for 25 years I drove not less than 35,000 to 45,000 miles a year. I must say that many things occur to me.

I undestand, first of all, that if the air bags are installed, out will go the regulations for belts. Mr. President, you cannot keep people from not fastening their belts, but it only takes one accident involving a family or a close friend to convince a person that a belt is a good thing to fasten.

Mr. President, if you have small children in the car and you put on the brakes suddenly, you are going to end up with a bunch of teeth spread all over the front seat of the car and there is no way to avoid that. It has happened to thousands of people. There have been bumped heads, blackened eyes, as the result of this situation. The installation of air bags would not remedy that situation. Secondly, I would be absolutely fearful of climbing into a car that had such a bag in it.

In my judgment, there is no possible means, on a mass production basis, by which the operation can be made so sure that, as one goes down the highway, this air bag will not pop. There is no way, either, of predicting what the driver's reaction is going to be if such a thing occurred. I can foresee them popping all over our streets as we go up and down and touch fenders and bump other parts of a car, and so forth. I think we will see that.

But the thing I am absolutely fearful of is that we have fallen into some kind of mass hysteria about the efficacy of the air bag. I would rather trust my life, any day, anywhere, to a seatbelt. In talking to Senators on the floor—I have this morning spoken casually to many Senators about this matter—I find their reaction to be the same—that they would rather trust a seatbelt. I have not yet come in contact with one Senator, with whom I have spoken privately, who is not extremely fearful of the air bag situation.

I do hope that before we get frozen into this monstrous program, which is going to be very expensive, that not only the Department of Transportation but also the Commerce Committee will reinvestigate this matter and go into it.

There are 55,000 people killed each year in highway accidents. A lot of this is caused by drunks. Air bags will not take care of the drunks. But there is no need to add to the present total of 55,000 people by accidents any fatalities which result from a sudden explosion of air in a bag and being locked up and blinded, as far as the road is concerned, being shocked, even though temporarily, lasting just a second.

I simply believe, and I want to express on the floor of the Senate, that this is potentially one of the most dangerous steps that we have contemplated taking in the name of safety. We must seek more knowledge on this subject.

I appreciate the Senators' yielding me this time. I wanted to put myself on record now as to how I feel about this matter, because I feel we may be making a horrible mistake.

I thank both Senators from Michigan for yielding.

Mr. GRIFFIN. I thank the Senator.

Mr. President, the colloquy between the Senator from Colorado and the Senator from Michigan has pointed to a technical matter which I would like to clarify for the RECORD at this time.

Section 102 in title I contains certain definitions, and it states that for the purpose of this title, the definitions are then provided, so that the definitions in section 102, title 1, are applicable only to that title, and not to the other titles in the bill, except the definition of "passenger motor vehicle," which is incorporated, by reference, in title 2.

I would like to make it clear just for the record that in the event my amendment to strike title 1 should prevail, I would then have a technical amendment to title 2 to incorporate that same definition with respect to passenger motor vehicle.

Mr. MAGNUSON. Mr. President, I shall be very brief.

I, first of all, want to acknowledge the very generous remarks by the Senator from New Hampshire about the committee. I modestly accept the statement, on behalf of the Commerce Committee, that we have passed a great number of consumer bills.

I always find, that when considering consumer bills—and they run the gauntlet from truth in packaging to auto safety bills—we in the committee try to be as practical as possible. There is a sensitive line between what we think should be done, and what can be done. We must consider what the effect on industry will be, what the effect on consumers will be, and the costs to each in order to arrive at a formula that will be a practical one, without going to any extremes one way or another. The result has been that we have put on the statute books scores of consumer bills. This is another important one.

There is some argument about the practicality of some of the sections of the bill. But, Mr. President, we have to make a beginning. When 50,000 persons are killed on the highways every year and one quarter of a million persons are maimed for life or cannot adjust themselves back into society and when $5.5 billion of property damage occurs each year, we know we have to make some beginning.

We made a beginning in auto safety in the original automobile safety bill. I think the results have been good even though there were some arguments about the practicalities when we debated that bill.

As I understand the junior Senator from Michigan (Mr. GRIFFIN) in arguing for his amendment, he thinks that title I of S. 976 would impose another layer of costly regulation on the automobile industry. Anything that is done to advance automobile safety or to advance consumer protection is going to be costly to somebody. It is bound to be. But we have to weigh and balance what is best for all.

It may be that there will be some cost to the automobile industry. I doubt it very much.

I want to just respond briefly to the argument that a costly layer of regulation will be imposed. Section 103(b)(1) expressly states that no property loss reduction standards will be set unless there is a reasonable relationship between the cost imposed upon the public for meeting such standards and the benefits resulting to the public when such standards are met. In other words, the legislation itself guarantees that the regulations will not be costly. The bill specifically provides that only regulations saving consumers money can be required.

The Department of Transportation and the automobile insurance industry—and these are accurate estimates—estimate that the 5-mile-per-hour/no-damage standard could, for instance, save consumers approximately $1 billion per year by preventing damage to cars in-

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volved in low-impact collisions. Yearly property damage losses amount to $5.5 billion. Property loss reduction standards could do much to reduce such needless loss.

That is the objective of the bill.

There will always be someone who objects to certain provisions. A bill cannot be drawn which is satisfactory to everybody. But I maintain that this is a good goal, a step in the right direction, which I am certain is the desire of the American automobile manufacturers, as well as the American public. All want safer automobiles to prevent needless slaughter on the highways and autos less susceptible to damage to prevent needless cost to the American public.

This is the purpose of the bill. You cannot write a bill of this length without having some sections where someone might make even a fairly plausible argument as to the practicability of doing it. But I do not think this is going to bother anyone. I think we are going to get information, and a lot of information, that we need for safer cars.

There are many other parts of the bill that are very good. No one objects to those. Inspection and certification is always a practical problem in States. In my own State, we have a law that provides that the automobiles must be inspected. Some States do, and some do not. In my State we have a sort of "in-between" situation: the legislature never provided any money to do the job, although the inspection law exists.

Although this bill may involve some difficulty, we have to make a move in the right direction. I think that is what this bill does.

I would not say that anyone who decided not to vote for this bill was voting against automobile safety. That is not true at all. He is probably voting that way because he may think there are some provisions that place an undue burden on the automobile industry. I do not think there are. I think they will accept it, as they have accepted other automobile bills.

This is, after all, similar to the auto safety debate. I remember when we first introduced the basic auto safety bill. We heard the same arguments then, but now we are all living with it, and I think we have had some good results.

Now that the Senator from New Hampshire (Mr. COTTON) has returned, I want to thank him for his comments about the fine work we are all doing for the consumer in the Committee on Commerce. I say to the Senator that this measure represents another notch toward giving the American consumer not only utility but safety in the things manufactured for his use.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COTTON. I say to the Senator from Washington, I meant every word of it. But, I think he already has enough notches in the handle of his pistol.

Mr. MAGNUSON. Well, there is always something to be done in that committee. But there comes a time to do it.

I agree with my friend from New Hampshire; we have a lot of good consumer bills on the books that we have to take a look at to see how they are being enforced and administered, and whether the intent of the law and the intent of Congress is being fulfilled.

I think this is one bill that everyone will live with, and we will be making a great step forward in the whole realm of automotive safety. I hope some day I can say there are not 50,000 people killed and a quarter of a million maimed each year on our highways or $5.5 billion in property loss each year.

I think this is an opportune moment to observe, Mr. President, that one thing that bothers every American home—and which is related to this measure—is automobile insurance; and I might say that one more notch we hope to put in the handle is no-fault insurance. We are working on that.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, I yield the Senator from Utah such time as he may require.

Mr. MOSS. Just 2 or 3 minutes.

Mr. President, I reiterate what the Chairman has said about the concern we all have with increasing costs. Certainly none of us want to appreciably increase the cost of automobiles; and, in fact, the objective of this bill is to try to bring down the costs of automobile damage and repair, as well as to increase the safety factor to be provided for the occupants.

I just wanted to cite a couple of figures that bring this into perspective. Of course, our automobile industry is so large that costs spread out over all of the portions of the industry necessarily amount to a lot of money, and therefore, we have to bring things into relationship.

I would point out, for those who fear that title I is going to be too costly, that each year the automobile makers change models, and they spend considerable sums of money simply on style changes. During the years 1965 through 1969, the big four manufacturers spent $6.907 billion amortizing special tools and equipment associated with these annual model changes. In 1969 that cost was $1.5 billion.

So the question that occurs to me is: Why, in lieu of extensive style changes, could not some of that money be spent in making our vehicles less fragile and more compatible with the environment? If that were done, if that money could be directed to making a safer, more durable automobile, and one that would not offend our environment, then indeed we could be saving money as well as lives, rather than have it expended in what is simply a competition for style change, seeking additional markets. I think one of the things we could expect to be promoted by this bill, and especially from title I, is quality competition as opposed to "style" competition.

Mr. HART. Mr. President, I appreciate the comments made by both the Senator from Utah and the Senator from Washington, the chairman of the committee.

Mr. President, I hope very much that the amendment offered by my colleague from Michigan will not be agreed to. In sum, I think that this title offers perhaps the greatest hope of dollars and cents benefits to the consumer of any feature of the bill. I disagree, of course, that it will produce only black model T's. I disagree that Government inspectors will be designing the cars. I disagree that any requirement can be imposed which does not have a cost-benefit ratio in favor of the consumer.

In short, I think that the title represents a prudent recommendation from the committee, which can achieve very substantial dollar savings for the American automobile purchaser, and, if that is true, in the long run very real benefits to the automobile manufacturer.

There are safety aspects, but I submit that the emphasis of this bill is on economics and saving money. When you realize the billions of dollars that are involved in the repair of the American car, a significant reduction in such repair could save us as much money as we sometimes spend around here on new weapons systems.

This is money that we can deliver to the American consumer, and I hope we shall, by rejecting the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, I am ready to yield back the remainder of my time.

Mr. COTTON. I yield back the remainder of the time on this side.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. Is the question before the Senate on agreeing to the amendment of the junior Senator from Michigan?

The PRESIDING OFFICER. The Senator is correct.

All remaining time has been yielded back. The question is on agreeing to the amendment of the Senator from Michigan (Mr. GRIFFIN). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. JORDAN), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 29, nays 64, as follows:

[No. 291 Leg.]

YEAS—29

Aiken	Curtis	Packwood
Allott	Dominick	Sarbe
Baker	Fannin	Scott
Beall	Goldwater	Smith
Bennett	Griffin	Stafford
Brock	Gurney	Thurmond
Buckley	Hansen	Tower
Byrd, Va.	Hruska	Welcker
Cook	Jordan, Idaho	Young
Cotton	Miller	

NAYS—64

Allen	Brooke	Cooper
Anderson	Burdick	Cranston
Bayh	Byrd, W. Va.	Dole
Bellmon	Cannon	Eagleton
Bentsen	Case	Eastland
Bible	Chiles	Ellender
Boggs	Church	Ervin
Fong	Mathias	Proxmire
Gambrell	McClellan	Ribicoff
Gravel	McGee	Roth
Harris	McGovern	Schweiker
Hart	McIntyre	Sparkman
Hatfield	Metcalf	Spong
Hollings	Mondale	Stennis
Hughes	Montoya	Stevens
Humphrey	Moss	Stevenson
Jackson	Muskie	Symington
Javits	Nelson	Talmadge
Kennedy	Pastore	Tunney
Long	Pearson	Williams
Magnuson	Pell	
Mansfield	Percy	

NOT VOTING—7

Fulbright	Jordan, N.C.	Taft
Hartke	Mundt	
Inouye	Randolph	

So Mr. GRIFFIN's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, the Senator from New Hampshire wishes to speak for a moment or two and I think that we will then be prepared to yield back the remainder of our time and have a vote on final passage.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. COTTON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 1 minute.

Mr. COTTON. Mr. President, I want first to congratulate again the chairman and the members of the Commerce Committee who worked so hard and did a good job on the bill. I did so during the debate on the amendment, but very few Senators were present at that time.

I trust that the bill will work effectively. However, with all due respect to my honored associates on the committee, in view of the failure of the Griffin amendment, which I think was vitally necessary to safeguard the bill, I will be compelled to vote against the bill.

I am not suggesting that anyone else do so. However, I want to explain my position on this bill, S. 976.

Mr. HART. Mr. President, I send to the desk several technical amendments. I ask unanimous consent that the reading of the amendments be dispensed with, and that they be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments, agreed to en bloc, are as follows:

Page 21, line 13 strike "which is" and insert in lieu thereof "in which it is".

Page 22, line 17 strike "established" and insert in lieu thereof "establish".

Page 24, lines 6 and 7 strike "paragraph (1) of this subsection," and insert in lieu thereof "subsection (a) of this section,".

Page 26, line 4 strike "Compliance Certification" and insert in lieu thereof "Inspection and Certification".

Page 27, line 13 insert "such" immediately after "on" and insert "issued" immediately after "regulations".

Page 29 line 21 strike "or insurer".

Page 29 line 25 strike "or insurer".

Page 30 line 23 strike "health," and insert in lieu thereof "health and".

Page 31 line 19 strike "this fiscal year" and insert in lieu thereof "the fiscal year in which it is enacted".

Page 36 line 19 insert "subsections (a) and (b) of" immediately after "to".

Page 38 line 21 strike "(e)" and insert in lieu thereof "(f)".

Page 39 line 5 strike "(f)" and insert in lieu thereof "(e)" and reorder the paragraphs accordingly.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 976) was ordered to be engrossed for a third reading and was read the third time.

Mr. MOSS. Mr. President, permit me to address myself to the other important provisions of this bill dealing with auto repairs.

During the Senate Antitrust and Monopoly Subcommittee investigation and the warranty hearings—which were the foundation for this bill before us today—we received more than 8,000 letters of despair from auto owners.

By one formula, that number equates to more than 8 million unhappy car owners. TV people say—response from a national exposure equals 1,000 points of view. Frankly, after having been cornered by so many consumers to listen to their tales of woe each time this subject comes up, I suspect the number is much higher. The truth is, I have never met a person who has owned a car who has not had some unhappy experience in trying to keep it running or getting it repaired when it would not.

The system of auto diagnostic centers which would grow out of the pilot projects provided in title III would help prevent auto repair problems in three ways:

One. Cars—new and used—would be inspected before the new owner took possession. Currently 32 million Americans yearly buy cars for which they have no way of gaging the condition. Kicking the tires and slamming the doors does not do much to tell a consumer if a car is safe for the road. And this is as realistic a question to ask for the 10 million new cars sold yearly as for the 22 million used ones.

A study presented to the Antitrust Subcommittee by the Automobile Club of Missouri indicated that 43 percent of new vehicles driven less than 500 miles had safety-related defects. For cars 5 years old the defect rate increased to 92 percent.

To be considered "serious" in that study, a defect must either reduce visibility, prevent warning of the driver's intentions, markedly reduce control over the vehicle or increase the risk of fire or carbon monoxide.

Pilot project diagnostic centers provided for by 1975 in this bill would relieve that concern for consumers in the five to 10 areas they operate. And, hopefully, these projects would point the best way to give the same assurance to consumers nationwide.

Second. Additional accidents would be prevented by the periodic motor vehicle inspections of autos which would be required in all pilot areas.

Third. The diagnostic centers would prevent accidents under the requirement that any repair work involving safety-related devices on a car must be checked out by the centers. This would assure that no incompetence or flimflamming on the part of the garage doing the work had put an unsafe car back on the road.

These three steps toward prevention of accidents obviously would save consumers not only dollars—in insurance premiums and deductibles—but would greatly relieve the frustration involved in having a car laid up.

Mr. President, a great deal of work, time, and thought has gone into bringing this bill before the Senate today. The problems it seeks to cure are complex and important. But I feel that the Commerce Committee—and particularly its chairman—is to be commended for producing a bill that will live up to its advanced publicity.

I urge its enactment.

Mr. President, I commend the chairman of the committee and the author of the bill, the Senator from Michigan (Mr. HART), for the great work they have done in this matter.

Mr. RIBICOFF. Mr. President, I am a cosponsor of S. 976, the Motor Vehicle Information and Cost Savings Act. I urge the Senate to pass this very important piece of legislation today.

The bill is designed to achieve four important and related objectives: First, the production of motor vehicles which are more resistant to damage and less expensive to repair; second, the encouragement of competition among manufacturers to produce motor vehicles which are safer, more resistant to damage, and easier to repair; third, the establishment of motor vehicle diagnostic inspection projects; and fourth, the creation of a national policy against fraudulent tampering with motor vehicle odometers.

I would like to focus on one of these objectives—the establishment of motor vehicle diagnostic inspection projects. Last spring I offered an amendment to S. 976 to include an emission inspection as part of the diagnostic safety inspection which the bill would have required for all motor vehicles.

However, the committee believed that additional information on how such a program would operate was needed. Accordingly, the bill directs the Secretary of Transportation to establish State diagnostic safety and emission inspection demonstration projects between 1973 and 1975.

I believe that the committee has adopted a responsible approach by approving this demonstration program. I hope that it will use the experience and data obtained from these demonstration projects to recommend appropriate new legislation in this area.

The bill will help the Congress to develop a sound national policy for effective safety and inspection for motor vehicles. The long-term goal is safer automobiles, reduced maintenance and repair costs to the owners, and cleaner air for us all.

The bill is also a significant step toward the achievement of meaningful consumer protection, information, choice, health, and safety in the marketplace.

I want to pay tribute to the energetic efforts of the Committee on Commerce, Senator MAGNUSON, its extremely able

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chairman, and Senator HART, chairman of the Subcommittee on Antitrust and Monopoly, for reporting this legislation.

I hope the Senate will give its approval to this reasonable, comprehensive, and farsighted bill.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. COTTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time, having expired, the question is, Shall the bill pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. JORDAN), and the Senator from West Virginia (Mr. RANDOLPH), are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) woud vote "yea."

Mr. GRIFFIN. I announce that the Senator from Ohio (Mr. TAFT) is necessarily absent, and, if present and voting, would vote "yea."

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 89, nays 4, as follows:

[No. 292 Leg.]

YEAS—89

Aiken	Fannin	Moss
Allen	Fong	Muskie
Allott	Gambrell	Nelson
Anderson	Goldwater	Packwood
Baker	Gravel	Pastore
Bayh	Gurney	Pearson
Beall	Hansen	Pell
Bellmon	Harris	Percy
Bennett	Hart	Proxmire
Bentsen	Hatfield	Ribicoff
Bible	Hollings	Roth
Boggs	Hruska	Saxbe
Brock	Hughes	Schweiker
Brooke	Humphrey	Scott
Burdick	Jackson	Smith
Byrd, Va.	Javits	Sparkman
Byrd, W. Va.	Jordan, Idaho	Spong
Cannon	Kennedy	Stafford
Case	Long	Stennis
Chiles	Magnuson	Stevens
Church	Mansfield	Stevenson
Cook	Mathias	Symington
Cooper	McClellan	Talmadge
Cranston	McGee	Thurmond
Curtis	McGovern	Tower
Dole	McIntyre	Tunney
Eagleton	Metcalf	Weicker
Eastland	Miller	Williams
Ellender	Mondale	Young
Ervin	Montoya	

NAYS—4

Buckley	Dominick	Griffin
Cotton		

NOT VOTING—7

Fulbright	Jordan, N.C.	Taft
Hartke	Mundt	
Inouye	Randolph	

So the bill (S. 976) was passed, as follows:

S. 976

An act to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Vehicle Information and Cost Savings Act".

TITLE I—PROPERTY LOSS REDUCTION

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds that it is necessary to reduce the economic loss resulting from damage to motor vehicles involved in motor vehicle accidents.

(b) It is the purpose of this title to reduce the extent of such economic losses by providing for the promulgation and enforcement of property loss reduction standards.

DEFINITIONS

SEC. 102. For the purpose of this title—

(1) "passenger motor vehicle" means any motor vehicle manufactured primarily for the transportation of its operator and passengers on the public streets, roads, and highways, and includes passenger motor vehicle equipment;

(2) "property loss reduction" means the reduction of loss suffered by the public as a result of damage to passenger motor vehicles involved in motor vehicle accidents;

(3) "property loss reduction standard" means a minimum performance standard established under this title for the purpose of increasing the resistance of passenger motor vehicles to damage resulting from motor vehicle accidents or for the purpose of reducing the cost of repairing such vehicles damaged as a result of such accidents;

(4) "make" when used in describing a passenger motor vehicle means the trade name of the manufacturer of that vehicle;

(5) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale;

(6) "model" when used in describing a passenger motor vehicle means the size, style, and type of any make of motor vehicle;

(7) "motor vehicle accident" means an accident arising out of the operation, maintenance, or use of a motor vehicle; and

(8) "Secretary" means the Secretary of Transportation.

SETTING OF STANDARDS

SEC. 103. (a) The Secretary shall promulgate property loss reduction standards for passenger motor vehicles manufactured in the United States or imported into the United States for sale, resale, or introduction into intertsate commerce, except passenger motor vehicles intended solely for export and so labeled or tagged on the vehicle itself and on the outside of the container, if any, in which it is exported.

(b) Such standards shall—

(1) require levels of property loss reduction performance which can be attained at costs which are reasonable when compared with benefits attainable with the implementation of such standard, including but not limited to anticipated insurance cost reductions, savings realized because deductible payments on collision coverage would be reduced, and savings in terms of consumer time and inconvenience; and

(2) not conflict with motor vehicle safety standards promulgated under title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1390 et seq.)

(c) In promulgating any standard the Secretary may, for good cause shown, exempt any make, model, or class of passenger motor vehicle manufactured for a special use, including occasional off-road operation, if such standard would unreasonably interfere with the special use of such passenger motor vehicle.

(d) The Secretary shall establish the effective date of any property loss reduction standard when finally promulgating the standard, and such standard shall apply only to passenger motor vehicles manufactured on or after such effective date. Such effective date shall not be later than eighteen months after final promulgation of the standard unless the Secretary presents to Congress and publishes a detailed explanation of the reasons for such later effective date. In no event shall the Secretary establish an effective date sooner than July 1, 1973.

(e)(1) All rules establishing, amending, or revoking a property loss reduction standard under this title shall be issued pursuant to section 553 of title 5 of the United States Code.

(2) The Secretary may conduct a hearing in accordance with such conditions or limitations as he may make applicable thereto, for the purpose of resolving any issue of fact material to the establishing, amending, or revoking of a property loss reduction standard.

JUDICIAL REVIEW

SEC. 104. (a) Any person who may be adversely affected by any standard established under section 103 of this title when it is effective may at any time prior to sixty days after such order is issued file a petition with the United States Court of Appeals for the District of Columbia, or any circuit wherein such person resides or has his principal place of business, for judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or his delegate. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based his order, as provided in section 2112 of title 28, United States Code.

(b) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Secretary, and to be adduced upon the hearing, in such manner and upon such terms and conditions as to the court may seem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings, and his recommendation, if any, for the modification or setting aside of his original standard, with the return of such additional evidence.

(c) Upon the filing of the petition referred to in subsection (a) of this section, the court shall have jurisdiction to review the standard in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter.

(d) The judgment of the court affirming or setting aside, in whole or in part, any such standard of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(e) Any action instituted under this subsection shall survive, notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

(f) The remedies provided for in this subsection shall be in addition to and not in lieu of any other remedies provided by law.

POWERS OF SECRETARY

SEC. 105. (a) The Secretary may conduct informational hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to his duties under this title. He shall publish notice of any proposed hearing in the Federal Register and shall afford a reasonable opportunity for interested persons to present relevant views and data. In connection therewith the Secretary is authorized—

(1) to require, by special or general orders, corporations, firms, and individuals engaged in the manufacture, insurance, aftermarket modification, or repair of passenger motor vehicles or passenger motor vehicle equipment to submit in writing such reports and answers to such questions relating to property loss reduction technology, costs, and feasibility, and relating to motor vehicle physical damage insurance premium costs and claims data as the Secretary may require and make such information publicly available in accordance with section 109 of this title;

(2) to administer oaths;

(3) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) The Secretary is authorized to request from any department, agency, or independent instrumentality of the Government any information he deems necessary to carry out his functions under this title and each such department, agency, or independent instrumentality is authorized to cooperate with the Secretary and, to the extent permitted by law, to furnish such information to him upon request.

(c) The Secretary shall conduct such research as is necessary for him to carry out his functions under this title.

INSPECTION AND CERTIFICATION

SEC. 106. (a) Every manufacturer of passenger motor vehicles shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this title and property loss reduction standards prescribed pursuant to this title and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer has acted or is acting in compliance with this title and passenger motor vehicle property loss reduction standards prescribed pursuant to this title.

(b) For purposes of enforcement of this title, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable time, any factory, warehouse, or establishment in which passenger motor vehicles are manufactured, or held for introduction into interstate commerce or are held for sale after such introduction; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, or establishment. Each such inspection shall be commenced and completed with reasonable promptness.

(c) Every manufacturer or distributor of a passenger motor vehicle shall furnish to the distributor or dealer at the time of delivery of such vehicle or equipment by such manufacturer or distributor the certification that each such vehicle conforms to all applicable property loss reduction standards.

(d)(1) The Secretary may obtain from any manufacturer at no cost a reasonable number of production passenger motor vehicles for the purpose of conducting compliance tests on such vehicles in accordance with regulations issued pursuant to section 553 of title 5 of the United States Code.

(2) Upon completion of such compliance testing, the Secretary shall return the passenger motor vehicle to the manufacturer from whom he obtained it, and such manufacturer, in any subsequent sale or lease of such vehicle, shall disclose that it has been subjected to compliance testing and shall indicate the extent of damage, if any, prior to repair.

ENFORCEMENT AND PENALTIES

SEC. 107.(a) The district courts of the United States shall have jurisdiction to restrain violations of this title in an action by the Attorney General or by the Secretary by any of its attorneys designated by him for such purpose. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage granted it by courts of equity: *Provided, however,* That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to the end process may be served in any district.

(b) Any person who knowingly manufactures and distributes for sale a passenger motor vehicle which violates a property loss reduction standard applicable to that vehicle may be imprisoned for not more than one year or fined not more than $5,000, or both.

(c) Any person who manufactures and distributes for sale a passenger motor vehicle which violates any such standard may be assessed a civil penalty of not to exceed $1,000 for each violation. Any such penalty shall be paid to the Secretary and may be recovered in a civil action in the name of the United States by the Attorney General or the Secretary, acting through any of his attorneys designated by him for that purpose, in the United States district court for the district where that person has its principal office.

(d) Any person who violates the regulations of the Secretary relating to certification may be assessed a civil penalty of not to exceed $1,000 for each such violation. Any such penalty shall be paid to the Secretary and may be recovered in a civil action in the name of the United States by the Attorney General or the Secretary, acting through any of his attorneys designated by him for that purpose, in the United States district court for the district where that person has its principal office.

CIVIL ACTION

SEC. 108. (a) Any owner of a passenger motor vehicle who sustains any economic loss as a result of a motor vehicle accident because of such vehicle's noncompliance with any applicable property loss reduction standard may bring a civil action against the manufacturer of that vehicle in the United States District Court for the District of Columbia, or in the district court in which that owner resides, to recover the amount of that loss, and in the case of any such successful action to recover that amount, costs and attorneys' fees (based upon actual time expended) shall be awarded to that owner.

(b) Any such action shall be brought within three years of the date of the loss.

PUBLIC ACCESS TO INFORMATION

SEC. 109. (a) Copies of any communications, documents, reports, or other information sent or received by the Secretary in connection with his duties under this title shall be made available to any member of the public, upon request, at cost.

(b) In carrying out the provisions of this section, the Secretary shall not disclose any information which contains or might reveal a trade secret referred to in section 1905 of title 18 of the United States Code, and is otherwise unavailable to the public, except that such information may be disclosed:

(1) to other governmental officials if necessary to carry out the purposes of this Act;

(2) to duly authorized committees of Congress;

(3) in any judicial proceedings if ordered by a court;

(4) if relevant in any proceedings under this Act;

(5) to other officers and officials concerned with carrying out this Act; and

(6) to the public if necessary to protect their health and safety.

EFFECT ON STATE LAWS

SEC. 110. (a) No State or political subdivision thereof shall have any authority to establish or continue in effect with respect to any passenger motor vehicle offered for sale to the public any property loss reduction standard which is not identical to a Federal property loss reduction standard.

(b) The Secretary may, after notice and opportunity for public hearing, upon application of any State prescribe standards limited to such State, which are more stringent than the nationally applicable Federal standards prescribed pursuant to section 103, if he finds that such State requires such standards to meet conditions peculiar to that State. The standards prescribed hereunder shall be regarded as if prescribed pursuant to section 103, with respect to new passenger motor vehicles manufactured for sale, sold or offered for such sale in, or introduced or delivered for introduction into such State.

AUTHORIZATION

SEC. 111. There is authorized to be appropriated to carry out this title for the fiscal years in which it is enacted $5,000,000 and for the following two fiscal years $10,000,000 each year.

REPORTS

SEC. 112. The Secretary shall report to the Congress and to the President not later than March 31 of each year on the progress in carrying out the purposes of this title. Each such report shall contain a statement of the cost savings that have resulted from the administration of this title, and include such recommendations for further legislative or other action as the Secretary determines may be appropriate.

TITLE II—AUTOMOBILE CONSUMER INFORMATION STUDY

SEC. 201. (a) The Secretary of Transportation (hereafter in this title referred to as the "Secretary") is authorized and directed to conduct a comprehensive study and investigation of the methods for determining the following characteristics of passenger motor vehicles (as defined in section 102(1) of this Act):

(1) the susceptibility of such vehicles to damage as a result of motor vehicle accidents;

(2) the degree of occupant protection provided by such vehicles in any motor vehicle accident; and

(3) the characteristics of such vehicles with respect to the ease of diagnosis and repair of mechanical and electrical systems which fail during use or which are damaged in motor vehicle accidents.

(b) After reviewing the methods for determining the characteristics enumerated in subsection (a), the Secretary shall make specific recommendations for the further development of existing methods or for the development of new methods.

(c) The Secretary shall also recommend specific ways in which existing information and information to be developed relating to the characteristics of passenger motor ve-

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hicles or information relating to vehicle operating costs dependent upon those characteristics can be communicated to consumers so as to be of benefit in their passenger motor vehicle purchasing decisions, including information obtained pursuant to section 205 of this title.

(d) The Secretary shall submit to the President and to the Congress interim reports from time to time and a final report not later than twenty-four months after enactment of this Act. Such final report shall contain a detailed statement of findings, conclusions, and recommendations of the Secretary, and may propose such legislation or other action as the Secretary considers necessary to carry out his recommendations.

ADMINISTRATIVE POWERS

SEC. 202. In order to carry out his functions under this title the Secretary is authorized to—

(1) appoint and fix the compensation of such employees as he deems necessary without regard to the provisions of title 5, United States Code, governing appointment in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed $100 per diem;

(3) enter into contracts with corporations, business firms, institutions, and individuals for the conduct of research and surveys and the preparation of reports; and

(4) appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, such advisory committees, representative of the divergent interests involved, as he deems appropriate for the purpose of consultation with and advice to the Secretary.

Members of advisory committees appointed under paragraph (4) of this section, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be compensated at rates to be fixed by the Secretary but not exceeding $100 per day, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Members of such advisory committees shall, for the purposes of chapter 11, title 18, United States Code, be deemed to be special Government employees.

COOPERATION OF FEDERAL AGENCIES

SEC. 203. (a) The Secretary is authorized to request from any department, agency, or independent instrumentality of the Government any information he deems necessary to carry out his functions under this joint resolution; and each such department, agency, or independent instrumentality is authorized and directed to cooperate with the Secretary and to furnish such information to the Department of Transportation upon request made by the Secretary.

(b) The head of any Federal department, agency, or independent instrumentality is authorized to detail, on a reimbursable basis, any personnel of such department, agency, or independent instrumentality to assist in carrying out the duties of the Secretary under this joint resolution.

HEARINGS AND PRODUCTION OF DOCUMENTARY EVIDENCE

SEC. 204. (a) For the purpose of carrying out the provisions of this title, the Secretary, or on the authorization of the Secretary, any officer or employee of the Department of Transportation may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such officer or employee, deems advisable.

(b) In order to carry out the provisions of this title, the Secretary or his duly authorized agent shall at all reasonable times have access to, and for the purposes of examination the right to copy, any documentary evidence of any corporation, business firm, institution, or individual having materials or information relevant to the study authorized by this joint resolution.

(c) The Secretary is authorized to require, by general or special orders, any corporation, business firm, or individual or any class of such corporation, firms, or individuals to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to the study authorized by this joint resolution. Such reports and answers shall be made under oath or otherwise and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe.

(d) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpena or order of the Secretary or such officer or employee issued under subsection (a) or subsection (c) of this section, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Witnesses summoned pursuant to this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(f) Any information which is reported to or otherwise obtained by the Secretary or such officer or employee under this section and which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall not be disclosed except to other officers or employees of the Federal Government for their use in carrying out this title. Nothing in the preceding sentence shall authorize the withholding of information by the Secretary (or any officer or employee under his control) from the duly authorized committees of the Congress.

INSURANCE INFORMATION

SEC. 205. (a) Insurers of passenger cars, or their designated agents, shall, upon request by the Secretary, make such reports and furnish such information as the Secretary may reasonably require to enable him to carry out the purposes of this title.

(b) Such reports and information may include, but not be limited to—

(1) accident claim data relating to the type and extent of physical damage and the cost of remedying the damage according to make, model, and model year of passenger car.

(2) accident claim data relating to the type and extent of personal injury according to make, model, and model year of passenger car.

(c) In determining the reports and information to be furnished pursuant to subsections (a) and (b) of this section, the Secretary shall—

(1) consider the cost of preparing and furnishing such reports and information;

(2) consider the extent to which such reports and information will contribute to carrying out the purposes of this title; and

(3) consult with such State insurance regulatory agencies and other agencies and associations, both public and private, as he deems appropriate.

(d) The Secretary shall, to the extent possible, obtain such reports and information from the insurers of passenger cars on a voluntary basis.

(e) Every insurer of passenger cars, or its designated agent, shall, upon request by the Secretary, furnish him with a description of the extent to which the insurance rates or premiums charged by the insured for passenger cars are affected by the damage susceptibility and crash-worthiness of the various makes and models of passenger cars.

(f) The Secretary shall not, in disseminating any information received pursuant to this section, disclose the name of, or other identifying information about, any person who may be an insured, a claimant, a passenger, or owner, a driver, an injured person, a witness, or otherwise involved in any motor vehicle crash or collision, unless the Secretary has the consent of the persons so named or otherwise identified.

(g) The information required by this section shall be furnished at such times and in such manner as the Secretary shall prescribe by regulation or otherwise.

TERMINATION

SEC. 206. The authority of the Secretary under this title shall terminate ninety days after the submission of his final report as provided for in section 201(d) of this title.

APPROPRIATIONS AUTHORIZED

SEC. 207. There are hereby authorized to be appropriated, without fiscal year limitation, such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this title.

TITLE III—DIAGNOSTIC INSPECTION DEMONSTRATION PROJECTS

POWERS AND DUTIES

SEC. 301. (a) The Secretary of Transportation is required to establish motor vehicle diagnostic inspection demonstration projects to be in being not later than December 31, 1973, for completion not later than December 31, 1975.

(b) To carry out the program required by this title, the Secretary shall—

(1) make grants and furnish technical assistance to States; and

(2) consult with the Administrator of the Environmenal Protection Agency.

(c) It is the intent of the Congress that—

(1) not fewer than five nor more than ten projects be undertaken;

(2) that such projects may be performed by either public or private organizations but not for profit from diagnostic inspection services; and

(3) that 50 per centum of such projects ought to provide diagnostic inspection services without providing repair services.

ELIGIBILITY AND CRITERIA

SEC. 302. (a) A State may be eligible for grants or other assistance under this title if the Secretary determines on the basis of an application by such State that such State will undertake a motor vehicle diagnostic inspection demonstration project which meets the requirements of subsection (b) of this section.

(b)(1) A motor vehicle diagnostic inspection demonstration project shall be designed, established, and operated to conduct periodic safety inspections pursuant to criteria established by the Secretary by regulation and emission inspections pursuant to criteria established by the Secretary by regulation in consultation with the Administrator of the Environmental Protection Agency.

(2) Such project shall require an additional inspection of any motor vehicle subject to the demonstration as determined by the Secretary whenever—

(A) the title to such motor vehicle is transferred to another person unless the transfer is for the purpose of resale; and

(B) such motor vehicle sustains substantial damage to any safety-related or emission-related system or subsystem, as prescribed by the Secretary.

(3) Such inspections shall be conducted so as to provide specific technical diagnoses of each motor vehicle inspected in order to facilitate correction of any component failing inspection.

(4) A demonstration project shall provide for reinspection of vehicles which initially fail to meet the safety and emission standards established for the project after repair.

(5) Each project shall provide to the Secretary information and data relating to the costs and benefits of such projects, including information and data relating to vehicle-in-use standards, vehicle designs which facilitate or hinder inspection and repair, the standardization of diagnostic systems and test equipment, the capability of the motor vehicle repair industry to correct diagnosed deficiencies or malfunctions and the costs of such repairs, the relative costs and benefits of the project, the efficiency of facility designs employed, recommendations as to feasible reject levels which may be employed in any such project, and such other information and data as the Secretary may require.

APPLICATIONS AND ASSISTANCE

SEC. 303. (a) A grant or other assistance under this title may be obtained upon an application by a State at such time, in such manner, and containing such information as the Secretary prescribes.

(b) Upon the approval of any such application, the Secretary may make a grant to the State to pay an amount each year up to 90 per centum of the costs of establishing and operating its project. Any equipment purchased with Federal funds may be retained by a State for its inspection activities following the demonstration project with the approval of the Secretary. Payments under this subsection may be made in advance, in installments, or by way of reimbursement.

AUTHORIZATION

SEC. 304. There is authorized to be appropriated to carry out this title for each fiscal year such sums as the Congress deems necessary not to exceed $50,000,000 per year.

TITLE IV—ODOMETER REQUIREMENTS

SEC. 401. The Congress hereby finds that purchasers, when buying motor vehicles, rely heavily on the odometer reading as an index of the condition and value of such vehicle; that purchasers are entitled to rely on the odometer reading as an accurate reflection of the mileage actually traveled by the vehicle; that an accurate indication of the mileage traveled by a motor vehicle assists the purchaser in determining its safety and reliability; and that motor vehicles move in the current of interstate and foreign commerce or affect such commerce. It is therefore the purpose of this title to prohibit tampering with odometers on motor vehicles and to establish certain safeguards for the protection of purchasers with respect to the sale of motor vehicles having altered or reset odometers.

SEC. 402. As used in this title—

(1) "motor vehicle" means any vehicle driven or drawn by mechanical power for use on the public streets, roads, and highways;

(2) "odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation;

(3) "repair and replacement" means to restore to a sound working condition by replacing the odometer or any part thereof or by correcting what is inoperative;

(4) "transfer" means to change ownership by purchase, gift, bequest, or any other means.

SEC. 403. It is unlawful for any person to advertise for sale, to sell, to use, or to install or to have installed, any device which causes the odometer to register any mileage other than the true mileage driven. For the purpose of this section the true mileage driven is that mileage driven by the vehicle as registered by the odometer within the manufacturer's designed tolerance.

SEC. 404. It is unlawful for any person or his agent to disconnect, reset, or alter the odometer of any motor vehicle with the intent to reduce the number of miles indicated thereon.

SEC. 405. It is unlawful for any person with the intent to defraud to operate a motor vehicle on any street or highway knowing that the odometer of such vehicle is disconnected or nonfunctional.

SEC. 406. No person shall conspire with any other person to evade the intent and purpose of this title.

SEC. 407. Nothing in this title shall prevent the service, repair, or replacement of an odometer, provided the mileage indicated thereon remains the same as before the service, repair, or replacement. Where the odometer is incapable of registering the same mileage as before said service, repair, or replacement, the odometer shall be adjusted to read zero and a notice in writing shall be attached to the left door frame of the vehicle by the owner or his agent specifying the mileage prior to repair or replacement of the odometer and the date on which it was repaired or replaced. Any removal or alteration of such notice so affixed shall be unlawful.

SEC. 408. It shall be unlawful for any person to transfer ownership of a motor vehicle unless such person—

(1) enters on a form prescribed by the Secretary of Transportation or as prescribed by State law the mileage said motor vehicle has been operated. Said form as completed shall then be attached to the instrument evidencing transfer of ownership; or

(2) enters upon such form "true mileage unknown" in the event that the odometer reading is known to such person to be less than such motor vehicle has actually traveled; or

(3) enter the total cumulative mileage on the form in the event that it is known that the mileage indicated on the odometer is beyond its designated mechanical limits.

It shall be a violation of this title for any person knowingly to give a false statement to a transferee under the provisions of this section.

SEC. 409. Any person who, with intent to defraud, violates any requirement imposed under this title shall be liable in an amount equal to the sum of—

(1) three times the amount of actual damages sustained or $1,500, whichever is the greater; and

(2) in the case of any successful action to enforce the foregoing liability, the costs of action together with a reasonable attorney's fee as determined by the court.

SEC. 410. An action to enforce any liability created under this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction within two years from the date on which the liability arises.

SEC. 411. This title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the disconnecting, altering, or tampering with odometers with the intent to defraud, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

SEC. 412. This title shall take effect ninety calendar days following the date of enactment of this Act.

SEC. 413. One year after the date of enactment of this Act, the Secretary shall report to the Congress and to the President on the extent to which the reliability of odometers can be improved, on the technical feasibility of producing odometers which are tamper proof, and on the Secretary's plans and recommendations for future action.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 3, 1971, he presented to the President of the United States the enrolled bill (S. 26) to revise the boundaries of the Canyonlands National Park in the State of Utah.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 29) to establish the Capitol Reef National Park in the State of Utah, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. TAYLOR, Mr. UDALL, Mr. SAYLOR, and Mr. LLOYD were appointed managers on the part of the House at the conference.

The message also announced that the House insisted upon its amendment to the bill (S. 1116) to require the protection, management, and control of wild free-roaming horses and burros on public lands, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. BARING, Mr. JOHNSON of California, Mr. MELCHER, Mr. SAYLOR, and Mr. KYL were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 10367) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. HALEY, Mr. EDMONDSON, Mr. UDALL, Mr. MEEDS, Mr. BEGICH, Mr. SAYLOR, Mr. KYL, Mr. STEIGER of Arizona, and Mr. CAMP were appointed managers on the part of the House at the conference.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be an additional period at this time for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

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The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF FEDERAL WATER POLLUTION CONTROL ACT

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on the Federal Water Pollution Control Act.

The Presiding Officer laid before the Senate a bill (H.R. 11423) to extend the Federal Water Pollution Control Act until January 31, 1972.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title.

Mr. BYRD of West Virginia. Mr. President, I send to the desk an amendment in the nature of a substitute, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Strike all after the enacting clause and insert the following:

SEC. 1. The second sentence of section 5(n) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq), is amended to read as follows: "There is authorized to be appropriated not to exceed $14,000,000 for the period ending November 30, 1971, in addition to funds made available under Public Law 92–50."

SEC. 2. The funds authorized to be appropriated in section 6(e) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq) for the fiscal year ending June 30, 1971, shall remain available until November 30, 1971.

SEC. 3. Section 7(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq) is amended by striking "and for the four-month period ending October 31, 1971, $4,000,000." and inserting in lieu thereof "and for the five-month period ending November 30, 1971, $5,500,000."

SEC. 4. The second sentence of section 8 (d) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq) is amended by striking $650,000,000 for the four-month period ending October 31, 1971." and inserting in lieu thereof "$800,000,000 for the four-month period ending November 30, 1971."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, before we act on the amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, in explanation of the action which is being taken with respect to the 1-month extension of the Federal Water Pollution Control Act, I am authorized by the distinguished chairman of the Committee on Public Works, my senior colleague from West Virginia (Mr. RANDOLPH), and the committee, to state as follows:

Authorizations contained in the Federal Water Pollution Control Act, as amended earlier this year, expired on October 31, 1971. Since the House Committee on Public Works has not concluded markup on legislation similar to S. 2770, which would extend these authorizations, final action on a major revision cannot be taken until later in November. However, it is vital that this program not be extended in unamended form longer than absolutely necessary, so that the major revisions of policy and authority contemplated for the water pollution program under S. 2770 and comparable House legislation can take effect as soon as possible. In order to allow time for the Congress to complete action and preserve the continuity of water pollution control programs, this bill would extend expiring authorizations until November 30, 1971.

Funds authorized for research, investigations, training, and information under section 5 of the Federal Water Pollution Control Act would be increased by $7 million for the period of the extension, in addition to funds made available by earlier extensions.

Funds authorized for research and development under section 6 of the Federal Water Pollution Control Act for fiscal year ending June 30, 1971, would remain available until November 30, 1971.

Grants for State water pollution control programs under section 7 would be authorized at $5.5 million for a 5-month period, an increase of $1,500,000 over the earlier extension through October.

Construction grants under section 8 would be authorized at $800 million for the 5-month period ending November 30, 1971, including an additional $150 million for the added month. An extra month should allow ample time for the Congress to complete its task of extending water pollution legislation.

Mr. President, the very distinguished ranking minority member of the committee, the senior Senator from Kentucky (Mr. COOPER) is in the Chamber, and I would ask him if he has any objection to the passage of this measure today, and also to offer any comments in regard thereto that he may wish to state.

Mr. COOPER. I thank the Senator. The Senator from West Virginia has given a very correct description of the purpose of the amendment.

The authority under the Federal Water Pollution Control Act expired on October 31. It is necessary to continue the authority in order to continue the water pollution control program of the Environmental Protection Agency. The House of Representatives proposed a 90-day extension.

After discussion by the members of our committee, and particularly the chairman, the distinguished Senator from West Virginia (Mr. RANDOLPH), the chairman of the subcommittee (Mr. MUSKIE), and the ranking member of the subcommittee (Mr. BOGGS), we all agreed that 30 days was a more appropriate length of time.

We hope that within that 30 days, the bill, S. 2770, which was passed by the Senate yesterday, may be acted upon by the House of Representatives, and that the final bill will be passed by Congress within the next 30 days. If not, then, of course, we will have to ask for additional time. But we thought that by limiting the time, there would be an incentive to proceed to final action on the bill which was passed yesterday by the Senate by a unanimous vote, 86 to 0.

This amendment is supported, as I have stated, by the chairman of the committee, by the chairman of the subcommittee, by the ranking member of the subcommittee, and by me as ranking minority member of the committee.

It was my understanding that the Senator from New York (Mr. JAVITS) had an interest in this extension. We have been informed that he agrees to the amendment. I may say that the problem which concerned him was the question of reimbursement not being affected by this amendment in any way.

The bill the Senate passed yesterday will provide, in more generous terms, prefinancing and reimbursement for those States and communities which have proceeded with the construction of waste treatment facilities.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 11423) was passed.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, how much time remains under the period for the transaction of routine morning business?

The PRESIDING OFFICER. Ten minutes.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business—with the usual 3-minute proviso—be extended throughout the remainder of the afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess subject to the call of the Chair, with the understanding that the recess not extend beyond 4:30 p.m. today.

The motion was agreed to; and (at 3:56 p.m.) the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 3:58 p.m. when called to order by the Presiding Officer (Mr. BROCK).

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair recognize the distinguished Senator from Wyoming (Mr. MCGEE).

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

VISIT TO THE SENATE BY PRIME MINISTER, THE MINISTER OF FOREIGN AFFAIRS, AND THE MINISTER OF FINANCE OF THE REPUBLIC OF GHANA

Mr. MCGEE. Mr. President, I should like to introduce to the Senate some friends of ours who have just arrived in this country; namely, the Prime Minister of Ghana, Mr. Kofi A. Busia; the Minister of Foreign Affairs, Mr. William Eugene Amaoko Ofori-Atta; the Minister of Finance, Mr. Joseph H. Mensah.

With them is the man who is accompanying them around the city, and who knows his way around expertly, the Ambassador from Ghana to the United States, Mr. Ebenezer Moses Debrah, a friend of many Senators.

Let me remind my colleagues that the Government of Ghana, under Dr. Busia, has demonstrated a deep sense of responsibility as it seeks in its own development to acquire the attributes of independence which will make it a viable part of the world. The programs the United States has participated in, in the infrastructure building of Ghana, have been responsibly lived up to by the government there, and it stands as one of the strong points, one of the constructive chapters in American efforts to assist others to help themselves.

Mr. President, it is doubly appropriate that our friends from Ghana be here today in the midst of our ruckus over economic assistance, foreign aid, and all the attendant matters which are besieging us this week. I say that because we have here one of the true success stories of the joint participation of an emerging independent nation in another part of the world and our country in its efforts to assist in that emergence.

So personally, I want to extend a welcome to our guests and to ask unanimous consent that their biographies be made a part of the RECORD of this session of the Senate.

There being no objection, the biographies were ordered to be printed in the RECORD, as follows:

GHANA

KOFI A. BUSIA, PRIME MINISTER

Born July 11, 1913, Busia attended missionary schools and taught school briefly before receiving a B.A. from London University. Returned to the Gold Coast in 1942 and became a leading African in the civil service. He acquired a doctorate in sociology at Oxford in 1947 and became head of the Department of Sociology at University College in Ghana.

He demonstrated increasing political interest and in 1951 entered the newly-formed Assembly. He founded the Ghana Congress Party and later became the leader of the United Party, a merger of opposition parties. After independence in March 1957, the Government took actions against the United Party and Busia left Ghana in 1959. Busia remained in exile, opposing Nkrumah, until the latter's overthrow in February, 1966. While in exile, he taught at Leiden University in the Netherlands, universities in England and Mexico, and Northwestern University (1954).

Upon his return to Ghana, Busia assumed informal leadership of his old United Party colleagues, and in 1967 became head of the Center for Civic Education, a government center helping educate citizens in civic rights and duties. In May 1969, he founded the Progress Party and in October 1969 became Prime Minister after the Party surprisingly swept 105 of the 140 National Assembly seats in the late summer elections.

Under his direction, Ghana has maintained an official policy of nonalignment, but has been increasingly friendly to the United States. Busia has emphasized internal development rather than foreign activities in his foreign policy. He visited the United States and met with President Nixon in October 1969. He also attended the White House State Dinner, October 24, 1970.

Dr. Busia is married and has four children, all of whom are in school in Britain. His English is excellent.

WILLIAM EUGENE AMAOKO OFORI-ATTA, MINISTER OF FOREIGN AFFAIRS

"Uncle Willie," as he is known to most Ghanaians, is one of Ghana's senior statesmen, and one of Ghana's most prominent and respected political figures.

Born October 10, 1910, he is the son of Nana Sir Ofori-Atta, one of Ghana's great Paramount Chiefs and the first Gold Coast African to be knighted. A nephew of the late J. B. Danquah, he was one of the founders of the United Gold Coast Convention in 1947. Detained by the colonial government (along with Danquah, Nkrumah, and others), he consistently opposed Nkrumah after Nkrumah broke with the UGCC in the 1950's, and spent considerable time in detention in the 1960's before being freed after the military coup of February 1966. He was one of the most important members of the constitutional commission which drafted the constitution of 1969.

William Ofori-Atta was one of the founders of Prime Minister Busia's United Party, which later became the present ruling Progress Party. He was named Minister of Education in September 1969, after a three-year term as Chairman of Ghana's Cocoa Marketing Board. In February 1971, he was named Minister of Foreign Affairs.

A graduate of Queen's College in 1938 with a degree in Economics, he was called to the bar in 1958 after reading law in England. He is married and a devout Christian who preaches locally on occasion. His English is excellent.

JOSEPH H. MENSAH, MINISTER OF FINANCE

Mr. Mensah was born October 31, 1928 in the western region of Ghana. He is of Ewe tribal origin.

After completing his schooling with a Master of Science degree at the London School of Economics, he entered government service in 1961. He was Executive Secretary of the Ghana National Planning Commission in 1963, and in 1964 was appointed head of the Planning Commission with the rank of Principal Secretary. He then served as assistant to Robert Gardiner, Executive Director of the Economic Commission for Africa. In April 1969 he was appointed Commissioner of Finance by the National Liberation Council of Ghana. In September 1969 he was appointed Minister of Finance and Economic Planning in the new Busia Cabinet. He accompanied Prime Minister Busia to Washington in 1969.

Mr. Mensah is married and has three daughters and one son. He speaks excellent English and three Ghanaian languages.

Mr. Mensah is an economic technician rather than a politician and his outlook and manner reflect this fact. He is the Prime Minister's major economic advisor and as such has been the key figure in determining the basic economic policies of the Busia government.

Mr. MCGEE. Now, Mr. President, I call upon the distinguished ranking minority member of the Committee on Foreign Relations, the Senator from Vermont (Mr. AIKEN), to say a word of welcome to our distinguished visitors.

Mr. AIKEN. Mr. President, in order to show how nonpartisan we are in this country so far as Ghana is concerned, I am delighted to join the distinguished Senator from Wyoming (Mr. MCGEE) in welcoming our friends from Ghana to the Senate Chamber.

I am sorry, in a way, that this is not a busy time with us, but in another way they probably will get a better impression by visiting us now than they would, some days, when we are a little busier.

We have with us not only the distinguished Prime Minister of Ghana but also the friendly Ambassador from Ghana to the United States, the Minister of Foreign Affairs, and the Minister of Finance, who, perhaps, if he could stay long enough, could give us some views as to how to handle our finances a little better than we do——

Mr. MCGEE. Not to mention our foreign affairs.

Mr. AIKEN. Yes; not to mention our foreign affairs.

I am very happy that Ghana is one of the countries which I believe came into the United Nations in the 1950's. Ghana has shown great progress in its development.

We are very happy to welcome our guests to this Chamber today.

Mr. MCGEE. Mr. President, if our friends from Ghana will stand, I ask unanimous consent that the Senate stand in recess for 5 minutes in order that we may greet them.

[Applause, Senators rising.]

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Thereupon, at 4:02 p.m. the Senate took a recess until 4:07 p.m.

During the recess, the distinguished

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guests from Ghana were greeted by Members of the Senate.

On expiration of the recess, the Senate reassembled and was called to order by the Presiding Officer (Mr. BROCK).

THE FISCAL STATE OF THE UNITED STATES

Mr. BYRD of Virginia. Mr. President, I want to again call to the attention of the Senate the Government's financial situation.

During the fiscal year which ended this past June, the Government ran a Federal funds deficit of $30 billion. For the current fiscal year the best estimates are that the Federal funds deficit will be $35 billion.

Mr. President, I submit our Government is in a very desperate situation financially. I do not see how we will control inflation until we are first able to control the smashing Government deficits. Deficit financing is, in my judgment, a major cause of inflation.

I applaud President Nixon's speech of August 15. I think it was necessary that he focus the attention of the Nation on the inflationary spiral. I support his imposition of a 10-percent surcharge on imports. I hope that will be only temporary, however. I have supported the imposition of the wage-price freeze. There again, I would be hopeful that would be temporary.

Mr. President, I submit that we are not going to get inflation under control merely by asking for sacrifices on the part of the private sector and on the part of the individual citizens. If we are going to get inflation under control, the Government itself must put its own financial house in order.

Mr. President, this is not being done. For that reason I have considerable doubts that the inflationary spiral will be reduced any time soon.

ORDER FOR ADJOURNMENT UNTIL TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock meridian tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW TO FRIDAY, NOVEMBER 5, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 10 o'clock Friday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders on tomorrow there be a period for the transaction of routine morning business for not to exceed 30 minutes with the statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR OREGON DUNES NATIONAL RECREATIONAL AREA BILL TO BE LAID BEFORE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of the routine morning business, the Chair lay before the Senate S. 1977, a bill to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR BYRD OF VIRGINIA AND FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON FRIDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Friday, after the two leaders have been recognized, the Chair recognize the distinguished Senator from Virginia (Mr. BYRD) for not to exceed 15 minutes, following which there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, which will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock noon. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of the routine morning business, the Senate will proceed to the consideration of S. 1977, a bill to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes, following which the Senate will proceed to the consideration of—but not necessarily in this order—S. 2781, a bill to amend section 404(g) of the National Housing Act; and H.R. 5060, a bill to amend the Fish and Wildlife Act of 1956, to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock meridian tomorrow.

The motion was agreed to; and (at 4 o'clock and 19 minutes p.m.) the Senate adjourned until tomorrow, Thursday, November 4, 1971, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate November 3, 1971:

U.S. CIRCUIT COURT

Alfred T. Goodwin, of Oregon, to be a U.S. circuit judge for the ninth circuit, vice John F. Kilkenny, retired.

ACTION

Nicholas W. Craw, of the District of Columbia, to be an Associate Director of Action; new position.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 3, 1971:

SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

William D. Eberle, of Connecticut, to be Special Representative for Trade Negotiations, with the rank of Ambassador Extraordinary and Plenipotentiary.

DIPLOMATIC AND FOREIGN SERVICE

Fred J. Russell, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Richard W. Murphy, of Virginia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Donald B. Easum, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Upper Volta.

The following-named Foreign Service officers for promotion from class 1 to the class of career minister:

L. Dean Brown, of the District of Columbia.
Nathaniel Davis, of New Jersey.
Hermann F. Eilts, of Pennsylvania.
Joseph A. Greenwald, of Illinois.
Philip C. Habib, of California.
Joseph J. Jova, of Florida.
Sheldon B. Vance, of Minnesota.

The following-named Foreign Service information officers for promotion from class 1 to the class of career minister for information:

Burnett F. Anderson, of New Jersey.
Miss Barbara M. White, of Illinois.

HOUSE OF REPRESENTATIVES—*Wednesday, November 3, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Teach me Thy way, O Lord: I will walk in Thy truth. Unite my heart to fear Thy name.—Psalms 86: 11.

Almighty and eternal God, the unfailing source of light and life, we praise Thee for Thy power, Thy goodness, and Thy love.

In the time of trouble Thou art our refuge and our strength.

In the day of trial Thou art our deliverance from temptation.

When we walk in darkness and know not where to turn as we seek answers to our questions, help us to keep our minds on Thee who hast the solutions for all our problems.

In the hour of sorrow Thou art our companion and our comfort.

Teach us to love Thee with all our hearts, to love our fellow men in Thee, and to love our enemies for Thy sake.

Grant unto us such a full measure of Thy spirit that we may once again bring fresh faith and hearty hope to all mankind.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had agreed to the amendment of the House to a bill of the Senate of the following title:

S. 26. An act to revise the boundaries of the Canyonlands National Park in the State of Utah.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10367. An act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 10367) entitled "An act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JACKSON, Mr. BIBLE, Mr. CHURCH, Mr. METCALF, Mr. GRAVEL, Mr. ALLOTT, Mr. FANNIN, and Mr. STEVENS to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON S. 1116, PROTECTION OF WILD HORSES AND BURROS

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1116) to require the protection, management, and control of wild free-roaming horses and burros on public lands, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. BARING, JOHNSON of California, MELCHER, SAYLOR, and KYL.

APPOINTMENT OF CONFEREES ON S. 29, CAPITAL REEF NATIONAL PARK

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 29) to establish the Capital Reef National Park in the State of Utah, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. ASPINALL, TAYLOR, UDALL, SAYLOR, and LLOYD.

APPOINTMENT OF CONFEREES ON H.R. 10367, LAND CLAIMS OF ALASKA NATIVES

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10367) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Colorado? The Chair hears none, and appoints the following conferees: Messrs. ASPINALL, HALEY, EDMONDSON, UDALL, MEEDS, BEGICH, SAYLOR, KYL, STEIGER of Arizona, and CAMP.

THE LATE WINFIELD K. DENTON

(Mr. MADDEN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, I am greatly grieved to announce to the House membership that a former Member of this body, Winfield K. Denton, of Indiana, passed away at his home in Evansville, Ind., yesterday.

Our former colleague served in the House eight terms, beginning with the 81st Congress. He was a member of the Appropriations Committee during his service here. Previous to coming to Congress he served three terms in the Indiana State Legislature during which time he was minority leader in the 1941 Indiana session and caucus chairman in the 1939 session. He also served on special appointments under Indiana Governors Clifford Townsend and Henry F. Schricker. He was also a veteran of World War I, having served as second lieutenant in the Air Force and saw service in France. Winfield also entered World War II when he was 46 years of age, as a major and was promoted to lieutenant colonel in the Adjutant General's office. He graduated from DePauw in 1919 with an AB degree. He also graduated from Harvard Law School in 1922.

Colleagues of the House who served with Winfield will remember him as a hard-working, industrious, and devoted legislator. He was outstanding, both in his chosen profession as a lawyer, and in his legislative service in the Indiana State Legislature and the U.S. House of Representatives.

His devoted wife, Grace, preceded him in death some years ago.

I extend to his family my deepest sympathy.

Mrs. HANSEN of Washington. Mr. Speaker, the death of our beloved colleague, the Honorable Winfield K. Denton, of Indiana, is an occasion of great sadness for me. It was my privilege to serve with him on the Interior and Related Agencies Appropriation Subcommittee.

Winfield Denton was a fine gentleman and a truly great American. He was always serious about his responsibilities as a Congressman but one seldom saw him without his friendly smile.

I especially appreciated the thoughtful consideration he gave to all members of the subcommittee during the period he was chairman. I extend my heartfelt sympathy to his family.

Mr. JACOBS. Mr. Speaker, the Honorable Winfield K. Denton was my father's colleague and friend—mine, too.

When my father's father was dying, Winfield's lovely wife, Grace, volunteered to act as his nurse one night when none other could be found.

Winfield passed away on Tuesday.

My father and I and everybody else have lost one of God's noble people.

We sorrow in that loss and extend our love and sympathy to his lovely daughters.

GENERAL LEAVE

Mr. MADDEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life, character, and service of our late colleague, the Honorable Winfield K. Denton.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

THE LATE ELMER BROWN

(Mr. HECHLER of West Virginia asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HECHLER of West Virginia. Mr. Speaker, a great heart was stilled yesterday. The coal miners of West Virginia and the Nation lost a great champion in the passing of Elmer Brown of Delbar-

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ton, W. Va., who died of a heart attack at his home Tuesday.

To me, this is a grievous personnel loss because I campaigned shoulder to shoulder along with Elmer Brown, who was the reform candidate for vice president of the United Mine Workers of America in the 1969 election which is still being fought out in the courts. When Jock Yablonski, his wife, and his daughter were brutally murdered in 1969, the coal miners lost another man who had the courage and decency to fight for true representation of the rank and file coal miner. Now Jock Yablonski's trusted running mate, Elmer Brown, is also gone.

To the very end, Elmer Brown was fighting for justice for those who go deep into the earth in this most hazardous occupation. On October 18, Elmer Brown was in the gallery with 80 coal miners and widows pleading with Congress to give those coal miners suffering from black lung a fair deal in the benefits due them under the law. We were beaten by only seven votes on October 18. Tomorrow we will have another chance to vote for the black lung benefits bill for which Elmer Brown and thousands of coal miners and widows have fought so hard. Despite the fact he had black lung himself, and knew he had a heart condition. Elmer fought to the last to bring justice for the miners and widows.

I hope this House will pass the black lung benefits bill tomorrow as a memorial to two towering figures who gave their lives for the coal miners of this Nation—Jock Yablonski and Elmer Brown.

THE MISSISSIPPI ELECTION

(Mr. ABERNETHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERNETHY. Mr. Speaker, some time back a so-called national committee was put together up New York way for the purpose of electing a certain person Governor of the State of Mississippi, the said candidate running on an independent ticket. A further purpose of the organization was to elect as many as possible of about 200 other candidates running on said ticket for State and county offices. The address of this national committee was Post Office Box 1592, FDR Station, New York City 10022.

I am advised that serving as cochairman of this national committee are HUBERT H. HUMPHREY, EDWARD KENNEDY, Members of the other body, and Bishop Stephen G. Spottswood who holds, or at least has held, some sort of high position in the NAACP.

I am also advised that 16 Members of the House of Representatives are members of this committee, as follows: HERMAN BADILLO, SHIRLEY CHISHOLM, WILLIAM L. CLAY, GEORGE W. COLLINS, JOHN CONYERS, JR., CHARLES C. DIGGS, JR., WALTER E. FAUNTROY, AUGUSTUS F. HAWKINS, EDWARD I. KOCH, RALPH H. METCALFE, PARREN J. MITCHELL, ROBERT N. NIX, CHARLES B. RANGEL, WILLIAM F. RYAN, JAMES H. SCHEUER, and LOUIS STOKES. From the Senate, in addition to Senators HUMPHREY and KENNEDY, I am advised that Senators BIRCH BAYH, GEORGE MCGOVERN, and ADLAI E. STEVENSON III serve as committee members. It is noteworthy that most, if not all, of these Senators are either candidates for President, or expect to be candidates for President, or were candidates for President. Among other members is Ramsey Clark, better known for being at one time a most incompetent Attorney General; and Burke Marshall, best known for being the person who planned the Chappaquidick defense. And there are others.

Some members of this committee have from time to time been mentioned in the press as having gone down to Mississippi for the purpose of campaigning for the independent candidate and his running mates. The press has reported that other Members of the House have gone down to assist the independent candidates, including the gentleman from New York, Mr. JONATHAN BINGHAM, and the gentleman from Massachusetts, Mr. ROBERT DRINAN. There are probably others. If I have omitted anyone then I offer my apologies because I would not want to leave anyone out.

We are advised that members of this committee have assisted in raising thousands upon thousands of dollars for the support of this independent candidate. The press credited Presidential Candidate MCGOVERN with having raised $15,000. When presidential candidate MUSKIE was mentioned, the independent candidate was quoted in the press as saying:

MUSKIE ain't done nothing.

The press came back with a statement from MUSKIE challenging this, saying he had raised and sent the candidate a sum in the neighborhood of $1,500.

The press, especially the Washington press, reported several fund raising cocktail parties, one of which was sponsored by EDWARD KENNEDY, Sargent Shriver and others of his family. About 100 people attended the party at $250 per head, so said a Washington paper. I also noted press reports of other contributions. Of course, no one will ever know how much money was poured into this candidate's campaign pockets. I have no doubt but that thousands upon thousands of dollars were turned over to the independent candidate through these fund raising functions in Washington, New York, and other upcountry areas.

A few days prior to yesterday's election I noted a story in the press that 90 students from Howard University would be off for Mississippi for the purpose of telling the people how to vote. Another press account reported that approximately 140 lawyers from the Northeast were headed down to see that the elections were held free of fraud. These lawyers very largely, so the papers stated, would be from the law schools of Harvard, Columbia, and City College of New York. And Mayor Lindsay of New York, the greatest example on how not to run a city also went down to tell Mississippians how to vote. He expressed strong support for the independent candidate.

Also in our midst for several days, as well as on election day, was a reporter from the Washington Post. No doubt he was accompanied by other up-country reporters. The Columbia Broadcasting System, as was to be expected, had several cameramen down there. But I hasten to say that this time they dispatched cameramen who were clean shaven; at least, those I saw were clean shaven.

For the last few days up through yesterday, a swarm of long-haired males—at least, we presumed they were males—and numerous dungaree-dressed females were on hand to help the independent slate. I am advised that several hundred U.S. Government civil service employees were ordered into the State by the Nixon administration to serve as poll watchers.

All of this now, to help elect a man to serve as Governor of my State, running on an independent ticket. And to help elect his long slate of candidates.

Who is this man: What kind of person is he?

Mr. Speaker, this man has admitted that he has engaged in the numbers racket, that he has been a whisky bootlegger, and that he had carried on sex affairs to the extent that he had three women pregnant at the same time. In addition, he has admitted that he has operated houses of prostitution and had as many as 10 prostitutes working for him at one time. He also admits that he has picked the pockets of men in a state of intoxication, stealing from them as much as $50 to $100 per night.

Mr. Speaker, can you imagine anyone giving support, financial or otherwise, to a man of this character? It is positively unthinkable that this man would have the support of anyone, much less from anyone who wants to be President.

The SPEAKER. The time of the gentleman from Mississippi has expired.

(Mr. ANDREWS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Alabama. Mr. Speaker, I have asked for this time so that we may continue to hear the remarks of the gentleman from Mississippi (Mr. ABERNETHY) as I am interested in these nice people who visited his home State.

Mr. ABERNETHY. Mr. Speaker, will the gentleman yield?

Mr. ANDREWS of Alabama. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. Mr. Speaker, as I was about to say, this candidate and his slate were buried under an avalanche of votes from both whites and blacks. This is the report I received from Jackson at about 10 o'clock this morning. Even a very substantial number of black voters walked out on this muck-monger who thought he could ballyhoo himself into the Governor's chair of my State with outside money and outside meddlers.

Mr. Speaker, this should remind us that when one takes it upon himself to attend to the affairs of others, or to meddle in something which is none of his business—and I have noted that under the rules of the House this is the strongest language I can use—he usually gets that which is coming to him: rejection.

But, Mr. Speaker, we do wish to convey our thanks for the thousands upon thousands upon thousands of dollars which these outsiders donated and collected, and sent down our way. It will help strengthen our economy. Next time send more. But bear in mind that we, and not outsiders, will make the decision as to who will serve as our Governor.

Mr. Speaker, I also thank my friend from Alabama for yielding.

Mr. ANDREWS of Alabama. Mr. Speaker, I yield back the balance of my time.

THE IMAGE OF CONGRESS

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CONABLE. Mr. Speaker, I do not know how widespread this feeling is among my colleagues, but I am getting pretty distressed at having the Congress judged by the performance of the other body. If we rely on the other end of the Capitol to set the image of our legislative branch, we can be certain only of capriciousness, posturing, a high absentee rate, and an insensitivity to the public mood. The burden of personal distinction the typical Senator carries makes him a public figure, and public figures find it hard to attend to the serious business of legislating, at least judging from recent performance standards. Foreign aid is only the latest example.

Now that I have attracted your attention, I would like to ask my colleagues on both sides of the aisle to think about ways in which we can build up the image of service in the House. For too many of our bright younger Members, this body becomes only an anonymous waystation en route to service elsewhere. We initiate most legislation, our conferees dominate the joint conferences, we stay closer to the people, because of our 2-year term, we have shown a greater capacity to structure ourselves for decision and to renew ourselves through organizational reform, we seem better to understand the need for teamwork within the two-party system—in short, we in the House have reason for relative pride in our accomplishments. And yet the House is taken for granted, while the Senate is deferred to and anguished over by both the executive branch and the press.

I believe service in the House is a worthy career, and so do many of those present. But unless we can establish that fact more clearly in the American national consciousness, by deliberate design if necessary, we will continue to suffer an attrition of potential leadership from our midst. Such a brain-drain not only hurts our legislative effectiveness, but even worse, it assures that the reputation of the Congress will be left in uncertain hands at the other end of the Capitol.

PERSONAL ANNOUNCEMENT

(Mr. CHAMBERLAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. CHAMBERLAIN. Mr. Speaker, in reviewing my rollcall votes for the second session, 91st Congress, I find that I was not recorded on four occasions and would like the RECORD to indicate that had I been present I would have voted as follows:

On rollcall No. 340 I would have voted "yea."

On rollcall No. 441 I would have voted "yea."

On rollcall No. 442 I would have voted "nay."

On rollcall No. 443 I would have voted "yea."

BIRMINGHAM—100 YEARS OLD—ALL-AMERICAN CITY

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, the city of Birmingham which it is my privilege to represent will shortly be celebrating its 100th anniversary.

It has rounded out its first 100 years by being selected an all-American city by a former critic, Look magazine, and the National League of Municipalities, and has demonstrated its intention to continue the progress that has marked its life in recent years by the recent election of its dynamic and progressive mayor, George Seibels, to a second term, an election which also included the reelection of Councilmen Don Hawkins and Russell Yarborough. Results of runoff election for three city council seats yesterday included the election of a second distinguished black leader, Dr. Richard Arrington, to the city council, a charming young lady representing beauty and womanhood, Mrs. Angela Grooms Proctor, to be a second city councilwoman and David Vann, who helped lead the fight for the change to a mayor-council form of government.

I think these choices indicate Birmingham's determination to continue the great progress which has characterized the close of the first century of its life in its second 100 years.

CANNIKIN TEST HANDLED AS A "FAST SHUFFLE"

(Mr. DOW asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DOW. Mr. Speaker, I notice in the October 30 issue of the Federal Register at page 20861 that the Atomic Energy Commission has suddenly issued a regulation of warning as to the Cannikin test on Amchitka Island.

Contrary to usual practice, this regulation is "effective immediately." It sets up a warning area of 50 nautical miles from geographic coordinates that evidently center at the point of the test, and warns all persons away from the area for the period ending on November 16, 1971.

Ordinary rulemaking procedures normally give 30, 45 or 60 days to comment on a rule which affects the public in a critical way.

Mr. Speaker, I view the precipitous imposition of the regulation and its prohibition "effective immediately" as an arrogant manifestation of executive power. This is especially true because the Cannikin test is one of worldwide significance. It is provoking anxiety of the deepest sort concerning both the lives of people who have no relation to the test and a possible geological destruction of enormous consequence. The test should not be taken lightly or "put over" in a fast manner on a helpless public in many nations who have so much at stake.

HEARINGS SCHEDULED ON PRISONERS' REPRESENTATION

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. KASTENMEIER. Mr. Speaker, Subcommittee No. 3 of the House Committee on the Judiciary, under my chairmanship, has scheduled 2 days of public hearings on the question of prisoners' representation. The purpose of these hearings will be to consider the issues of incarcerated offenders' access to attorneys, the courts, legal materials; incarcerated offenders' ability to adequately articulate their grievances through writs and other legal devices; and the advisability of establishing an ombudsman system, or similar approach, for incarceration facilities.

The hearings will commence on Wednesday, November 10, at 10 a.m., in room 2226, Rayburn House Office Building, and will continue on Thursday, November 11, at 10 a.m., in the same room.

UNIFORMED SERVICES HEALTH PROFESSIONS REVITALIZATION ACT OF 1971

Mr. HÉBERT. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2), to establish a Uniformed Services University of the Health Sciences.

The SPEAKER. The question is on the motion offered by the gentleman from Louisiana.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 2, with Mr. DORN in the chair.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read through the first section of the commit-

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tee substitute amendment beginning on page 7, line 1, to the end of line 2. If there are no amendments to be proposed to this section, the Clerk will read.

The Clerk read as follows:

Sec. 2. Title 10, United States Code, is amended as follows:

(1) By adding the following new chapters after chapter 103:

"Chapter 104.—UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

"Sec.
"2112. Establishment
"2113. Board of regents.
"2114. Students: selection; status; obligation.
"2115. Graduates: limitation on number electing to perform civilian Federal duty.
"2116. Reports to Congress.
"2117. Appropriations: limitation.

"§2112. Establishment

"(a) There is hereby authorized to be established within 25 miles of the District of Columbia a Uniformed Services University of the Health Sciences (hereinafter referred to as the "University"), at a site or sites to be selected by the Secretary of Defense, with authority to grant appropriate advanced degrees. It shall be so organized as to graduate not less than 100 medical students annually, with the first class graduating not later than 10 years after the date of the enactment of this chapter.

"(b) Except as provided in subsection (a), the numbers of persons to be graduated from the University shall be prescribed by the Secretary of Defense.

"(c) The development of the University may be by such phases as the Secretary of Defense may prescribe, subject to the requirements of subsection (a).

"§ 2113. Board of regents

"(a) The business of the University shall be conducted by a Board of Regents (hereinafter referred to as the "Board") with funds appropriated for and provided by the Department of Defense. The Board shall consist of—

"(1) nine persons outstanding in the fields of health and health education who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate;

"(2) the Secretary of Defense, or his designee, who shall be an ex officio member;

"(3) the surgeons general of the uniformed services, who shall be ex officio members; and

"(d) the person covered by subsection (d).

"(b) The term of office of each member of the Board (other than ex officio members) shall be six years except that—

"(1) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term;

"(2) the terms of office of the members first taking office shall expire, as designated by the President at the time of the appointment, three at the end of two years, three at the end of four years, and three at the end of six years.

"(c) One of the members of the Board (other than an ex officio member) shall be designated by the President as Chairman. He shall be the presiding officer of the Board.

"(d) The Board shall appoint a Dean of the University (hereinafter referred to as the "Dean") who shall also serve as a nonvoting ex officio member of the Board.

"(e) Members of the Board (other than ex officio members) while attending conferences or meetings or while otherwise performing their duties as members shall be entitled to receive compensation at a rate to be fixed by the Secretary of Defense, but not exceeding $100 per diem and shall also be entitled to receive an allowance for necessary travel expenses while so serving away from their place of residence.

"(f) The Board, after considering the recommendations of the Dean, shall obtain the services of such military and civilian professors, instructors, and administrative and other employees as may be necessary to operate the University. Civilian members of the faculty and staff shall be employed under salary schedules and granted retirement and other related benefits prescribed by the Secretary of Defense so as to place the employees of the University on a comparable basis with the employees of fully accredited schools of the health professions within the vicinity of the District of Columbia. The Board may confer academic titles, as appropriate, upon military and civilian members of the faculty. The military members of the faculty shall include a professor of military, naval, or air science as the Board may determine.

"(g) The Board is authorized to negotiate agreements with agencies of the Federal Government to utilize on a reimbursable basis appropriate existing Federal medical resources located in or near the District of Columbia. Under such agreements the facilities concerned will retain their identities and basic missions. The Board is also authorized to negotiate affiliation agreements with an accredited university or universities in or near the District of Columbia. Such agreements may include provisions for payments for educational services provided students participating in Department of Defense educational programs. The Board may also, subject to the approval of the Secretary of Defense, enter into an agreement under which the University would become part of a national university of health sciences should such an institution be established in the vicinity of the District of Columbia.

"(h) The Board may establish postdoctoral, postgraduate, and technological institutes.

"(i) The Board shall also establish programs in continuing medical education for military members of the health professions to the end that high standards of health care may be maintained within the military medical services.

"§ 2114. Students: selection; status; obligation

"(a) Students at the University shall be selected under procedures prescribed by the Secretary of Defense. In so prescribing, the Secretary shall consider the recommendations of the Board. However, selection procedures prescribed by the Secretary of Defense shall emphasize the basic requirement that students demonstrate sincere motivation and dedication to a career in the Uniformed Services.

"(b) Students shall be commissioned officers of a uniformed service as determined under regulations prescribed by the Secretary of Defense after consulting with the Secretary of Health, Education, and Welfare. Notwithstanding any other provision of law, they shall serve on active duty in pay grade O–1 with full pay and allowances of that grade, but shall not be counted against any prescribed military strengths. Upon graduation they shall be appointed in a regular component, if qualified, unless they are covered by section 2115 of this title. Students who graduate shall be required, except as provided in section 2115 of this title, to serve thereafter on active duty under such regulations as the Secretary of Defense or the Secretary of Health, Education, and Welfare, as appropriate, may prescribe for not less than seven years, unless sooner released. The service credit exclusions specified in section 2126 of this title shall apply to students covered by this section.

"(c) A period of time spent in military intern or residency training shall not be creditable in satisfying an active duty obligation imposed by this section.

"(d) A member of the program, who under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by this section.

"§ 2115. Graduates: limitation on number electing to perform civilian Federal duty

"Not more than 20 per centum of the graduates of any one class at the University may agree in writing to perform civilian Federal duty for not less than seven years following the completion of their professional education in lieu of active duty in a uniformed service. Such persons shall be released from active duty upon the completion of their professional education. The location and type of their duty shall be determined by the Secretary of Defense after consultation with the heads of Federal agencies concerned.

"§ 2116. Reports to Congress

"The Secretary of Defense shall report to the Committees on Armed Services of the Senate and House of Representatives on the feasibility of establishing educational institutions similar or identical to the Uniformed Services University of the Health Sciences at any other locations he deems appropriate. The last such report shall be submitted by June 30, 1976.

"§ 2117. Appropriations: limitation

"Annual and supplemental appropriations for the Department of Defense are authorized for the planning, construction, development, improvement, operation, and maintenance of the University and to otherwise accomplish the purposes of this title. However, when utilized for construction of facilities, the portion of the authorization for appropriations so utilized will not exceed $20,000,000 in any one fiscal year unless otherwise specifically authorized by the Congress.

"Chapter 105—ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

"Sec.
"2120. Definitions.
"2121. Establishment.
"2122. Eligibility for participation.
"2123. Members of the program: active duty obligation; failure to complete training; release from program.
"2124. Members of the program; numbers appointed.
"2125. Members of the program; exclusion from authorized strengths.
"2126. Members of the program; service credit.
"2127. Contracts for scholarships; payments.

"§ 2120. Definitions

"In this chapter—

"(1) 'program' means the Armed Forces Health Professions Scholarship program;

"(2) 'member of the program' means a student officer who is enrolled in the Armed Forces Health Professions Scholarship program; and

"(3) 'course of study' means education received at an accredited college, university, or institution in medicine, dentistry, or other health profession, leading, respectively, to a degree related to the health professions as determined under regulations prescribed by the Secretary of Defense.

"§ 2121. Establishment

"(a) For the purpose of obtaining adequate numbers of commissioned officers on active duty who are qualified in the various health professions, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, may establish and maintain a health professions scholarship program for his department.

"(b) The program shall consist of no more than four years of courses of study, with obligatory periods of military training.

"(c) Persons participating in the program shall be commissioned officers. Members of the program shall serve on active duty in pay grade O–1 with full pay and allowances of that grade. They shall be detailed as students at accredited civilian institutions, located in the United States or Puerto Rico, for the purpose of acquiring knowledge or training in a designated health profession. In addition, members of the program shall, under regulations prescribed by the Secretary of Defense, receive military and professional training and instruction. However, members of the program authorized under the provisions of this chapter shall not be detailed as students to any institution of higher learning if that institution has adopted a policy which bars recruiting personnel of any of the Armed Forces from the premises of that institution or if such institution of higher learning has directed the disestablishment of Reserve Officers' Training Corps units at the institution despite the desire of the Armed Forces to continue such training at the institution.

"§ 2122. Eligibility for participation

"To be eligible for participation as a member of the program, a person must be a citizen of the United States and must—

"(1) be accepted for admission to, or enrolled in, an institution in a course of study, as that term is defined in section 2120(3) of this title;

"(2) sign an agreement that unless sooner separated he will—

"(A) complete the educational phase of the program;

"(B) accept an appropriate reappointment or designation within his military service, if tendered, based upon his health profession, following satisfactory completion of the program;

"(C) participate in the intern program of his service if selected for such participation or, if not so selected, be released from active duty, under regulations prescribed by the Secretary of Defense, for a period of approximately one year to undergo intern training at a civilian hospital;

"(D) participate in the residency program of his service, if selected; and

"(E) because of his sincere motivation and dedication to a career in the uniformed services, participate in military training while he is in the program, under regulations prescribed by the Secretary of Defense; and

"(3) meet the requirements for appointment as a commissioned officer.

"§ 2123. Members of the program: active duty obligation; failure to complete training; release from program

"A member of the program incurs an active duty obligation. The amount of his obligation shall be determined under regulations prescribed by the Secretary of Defense, but those regulations may not provide for a period of obligation of less than one year for each year of participation in the program.

"(b) A period of time spent in military intern or residency training shall not be creditable in satisfying an active duty obligation imposed by this section.

"(c) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by this section.

"(d) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member of the program who is dropped from the program from any obligation imposed by this section, but such relief shall not relieve him from any military obligation imposed by any other law.

"(e) Any member of the program relieved before the completion of his period of obligation may, under regulations prescribed by the Secretary of Defense, be assigned to an area of health manpower shortage designated by the Secretary of Health, Education, and Welfare until the completion of his period of obligation.

"§ 2124. Members of the program: numbers appointed

"The number of persons who may be designated as members of the program for training in each health profession shall be as prescribed by the Secretary of Defense, except that the total number of persons so designated in all of the programs authorized by this chapter shall not, at any time exceed 5,000.

"§ 2125. Members of the program: exclusion from authorized strengths

"Notwithstanding any other provision of law, members of the program shall not be counted against any prescribed military strengths.

"§ 2126. Members of the program: service credit

"Service performed while a member of the program shall not be counted—

"(1) in determining eligibility for retirement other than by reason of a physical disability incurred while a member of the program; or

"(2) in computing years of service creditable under section 205 of title 37.

"§ 2127. Contracts for scholarships; payments

"(a) The Secretary of Defense may provide for the payment of all educational expenses incurred by a member of the program, including tuition, fees, books, laboratory expenses, and payments for educational services. Such payments, however (other than those for educational services), shall be limited to those educational expenses normally incurred by students at the institution and in the health profession concerned who are not members of the program.

"(b) The Secretary of Defense may contract with an accredited civilian educational institution for the payment of tuition and other educational expenses of members of the program authorized by this chapter. Payment to such institutions may be made without regard to section 529 of title 31.

"(c) Payments made under subsection (b) shall not cover any expenses other than those covered by subsection (a)."

(2) By inserting the following new items in the chapter analysis of subtitle A, and the chapter analysis of part III of subtitle A:

"104. Uniformed Services University of the Health Sciences.
"106. Armed Forces Health Professions Scholarship Program."

(3) By amending section 3202(e) and 8202(e) by striking out "in grades below brigadier general" and insert in place thereof "in the various grades".

(4) By amending section 5793 by striking out "in grades below rear admiral" and inserting in place thereof "in the various grades".

Mr. HÉBERT (during the reading). Mr. Chairman, I ask unanimous consent that the committee substitute amendment be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I should like to ask the gentleman from Louisiana a few questions concerning this bill. First, I want to clear the period of obligated service for the doctors who will emerge from this so-called West Point for doctors.

Mr. HÉBERT. Seven years.

Mr. GROSS. Only 7 years?

Mr. HÉBERT. That is obligated service.

Mr. GROSS. What will be the cost of the education that is given these doctors? What will be the annual cost?

Mr. HÉBERT. The average cost we cannot estimate at this time, because the school will have to be established. We have proposed a scholarship program as a forerunner for the first 10 years. I would estimate the cost per student would certainly be equal or below that of a student in a civilian school once the school is established.

Mr. GROSS. Would it cost $20,000 to $25,000 a year to educate a doctor?

Mr. HÉBERT. Not being expert in the area of costs of medical schools in the country, I cannot say, but I would estimate it might be less than $20,000.

Mr. GROSS. We are not talking about medical schools in the country. We are talking about what amounts to a new and special school.

Mr. HÉBERT. I am talking about this school, without reference to other schools.

Mr. GROSS. How many years would students be in this educational process?

Mr. HÉBERT. They would have the usual number of years for premedical preparation to go to the school, and then once they had entered the school of medicine, which would be a graduate school, it would run about 4 years.

Mr. GROSS. Do I correctly understand that they must have premedical training before they go to the proposed school?

Mr. HÉBERT. That is correct. They must have all the same qualifications that an individual must have in any other area. This would be a graduate school.

Mr. GROSS. So then it would be a 4-year course thereafter, 4 years thereafter, is that correct?

Mr. HÉBERT. That is the usual course.

Mr. GROSS. Or would it be more?

Mr. HÉBERT. No.

Mr. GROSS. Would there be a requirement for more?

Mr. HÉBERT. No, the usual course is 4 years.

Mr. GROSS. But they must get their premed at other universities, private and public, is that correct?

Mr. HÉBERT. That is correct.

Mr. GROSS. So the gentleman feels that 7 years, after a cost of $20,000 to $25,000 a year per individual for education, is a sufficient period of obligated service?

Mr. HÉBERT. I did not mention a yearly cost of $20,000 to $25,000. I said less than $20,000 a year for the education.

Mr. GROSS. Now, wait a minute. The gentleman will never convince me that it is going to cost less than $20,000 a year to educate these people when it includes every element of cost.

Mr. HÉBERT. I want to point out to the gentleman that the average cost per pupil in the military schools, the three academies, is about $45,000 total for 4 years and the obligated service is only 5 years.

Mr. GROSS. I have long contended that that is far too little service, I will say to the gentleman. If it is proposed to make career soldiers and career doctors out of them, they ought to be obligated to a minimum of 10 years. The public has a huge investment in all these military education programs.

Mr. HÉBERT. The gentleman's opinion and position is shared by many others. The committee felt that 7 years was about the best compromise we could get.

Mr. GROSS Are they still flying out of West Point, Annapolis, and other military academies almost upon graduation to play football and enter into vocations other than that for which the taxpayers of this country educated them?

Mr. HÉBERT. There is no individual who has left West Point, Annapolis, or the Air Force Academy, to my knowledge, who is playing professional football and has not fulfilled his obligated service.

Only two Academy graduates to my knowledge, and they were from the Naval Academy, Joe Bellino and Roger Staubach—and they served their obligated service before they went into professional football.

Mr. GROSS. Does the gentleman mean Staubach fulfilled his obligated service before he went into professional football?

Mr. HÉBERT. Yes, he did.

Mr. GROSS. Then I must have lost all track of time. Perhaps the gentleman would like to take a second look.

Mr. HÉBERT. For the edification of my dear friend, the gentleman from Iowa, there was an attempt to reduce Roger Staubach's obligated service, and I vigorously opposed that, and he fulfilled it. I think the obligated service should be longer.

Mr. GROSS. That is the point I made, that there ought to be an extension of obligated service, and I am surprised it is not in this bill where it is proposed to spend this kind of money to educate doctors, and where we are spending large amounts of money to educate military personnel only to see them leave the services as quickly as they can get out of it at the end of their 5 years. I do not like it at all.

Mr. HÉBERT. Many of us do not.

Mr. GROSS. Then why do we not have a bill before the House to require additional service?

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. Gross was allowed to proceed for 3 additional minutes.)

Mr. GROSS. Mr. Chairman, if this program becomes effective, when is it proposed to end the doctor draft?

Mr. HÉBERT. The doctor draft is going to end in 7 years. We will have no suasion at all to get a doctor or any authority to get a doctor under a draft law in 7 years.

Mr. GROSS. Is that provided for in this bill?

Mr. HÉBERT. It is provided in the draft bill; yes, sir.

Mr. GROSS. It is provided that in 7 years, come what may, the doctor draft will be ended?

The gentleman thinks he will get enough doctors out of this "West Point for doctors" to take care of all the services. Is that correct?

Mr. HÉBERT. Our hope is to alleviate the pressure on the civilian population and civilian area and to persuade enough doctors after 7 years of service to remain in the service and become career service doctors.

Mr. GROSS. The gentleman is saying if we are going to get doctors for the military services after 7 years, this is the bill we are relying on?

Mr. HÉBERT. That is correct. It goes beyond the education of doctors. The gentleman has very persuasive and broad ideas, and he will be pleased to know that this bill includes all facets and phases of medical and health care, including nurses and administrators and optometrists and technicians—all these areas are included within this bill.

Mr. GROSS. And the total cost of this bill is what?

Mr. HÉBERT. It is $240 million over a 10-year period.

Mr. GROSS. It is $240 million over a 10-year period?

Mr. HÉBERT. Yes, sir.

Mr. GROSS. I hope the gentleman is correct, that it will cost $240 million over 10 years. I will not be around to challenge the gentleman at the end of that period but I think that is very underpriced.

Mr. HÉBERT. I will be there with the gentleman to assure him on the right day.

Mr. MOLLOHAN. Mr. Chairman, as we consider legislation to establish a Uniformed Services University of the Health Sciences, I would like to point out some of the major problems of medical manpower in the military that makes this bill necessary. The bill would establish a military medical academy near Washington, D.C., as well as provide for not more than 5,000 Department of Defense scholarships to deserving and qualified medical students who would become obligated, depending upon the number of years they receive scholarships, to serve in the military.

The much publicized and debated national shortage of physicians has, of course, had its impact upon the problems of maintaining military medical manpower at adequate levels. This has also placed heavy burdens upon our young physicians, since these young men can virtually count on serving in the armed services. Our communities are also adversely affected by the clash of military medical needs and the shortage of physicians.

The answer is to educate more physicians and offer incentives for them to make a career of military medicine. The scholarship program will enable tens of thousands of young men to attend medical school who otherwise may lack the financial resources. In return the military and the community will both benefit.

Since 1967 the number of physicians serving in the military has declined steadily, and, with little incentive for physicians to pursue a career in the military, most return to civilian practice. Furthermore, the recent trend shows a decline in the number of career military physicians.

A military medical academy would reverse that trend and insure the high quality of health care so important to our servicemen. Furthermore, most civilian physicians have little more than academic awareness of tropical diseases, parasitology, and other medical problems caused by hostile environments. Such problems are faced daily by military physicians, so that we can indeed assert that there is a separate branch of medicine that must be mastered by the physician if he is to adequately care for the health needs of our servicemen. The proposed military medical academy would provide such training.

And finally, the extension of the draft law, passed just recently, poses serious problems to maintaining an adequate supply of military physicians. Under the previous law, a man could be eligible for the draft up to the age of 35, if he had previously received a deferment. Now, under the new law, with the elimination of college deferments, the susceptibility to the draft is lowered to the age of 26. Many young men do not finish their medical education by that age, and, in practice, many may choose to delay their education a year or so, to insure that they will be older than 26 when they complete their medical education, thus effectively eliminating their chances of being drafted.

Furthermore, although it is being interpreted that a young doctor is susceptible to the draft until the age of 26, it is conceivable that there could be a court test in the case of a young physician who has been ordered to report for induction although he had already fulfilled at an earlier age his legal requirement of submitting to the draft lottery.

The bill leaves it up to the Secretary of Defense to establish regulations for the appointment of young men to the military medical academy, and various methods have been proposed, such as the one now in use for appointments to the existing armed services academies.

I urge that this legislation be passed. We must give high priority to the recruitment and retention of physicians, trained in military medicine, and we must offer young physicians incentives to continue military careers. We are all aware of the immense and diverse medical needs of our fighting men, and it is crucial to the strength of our defense that these needs be fulfilled.

Mrs. GRASSO. Mr. Chairman, there is a critical shortage of career oriented military personnel qualified in the health professions. I, therefore, support H.R. 2, the Uniformed Health Professions Revitalization Act of 1971.

H.R. 2 is an important piece of legislation. Briefly, the bill would establish a military medical school to train doctors and other health professionals for the armed services. It would eliminate the current prohibition on promotion of medical officers to flag or general office rank, and authorize a comprehensive scholarship program for health professionals, including doctors, who are planning military careers. The scholarship program, an important aspect of the legislation, would commission applicants already attending or accepted in medical school. In return for each year of subsidy, the commissioned officer would serve on active duty for a year.

The problem of maintaining sufficient numbers of qualified health professionals in the Armed Forces is crucial. It will be greatly compounded by recent changes in the draft law and the clear trend toward an all-volunteer force.

At present, 14,075 physicians serve in the Armed Forces. Only 5,301 of these are career officers, of whom 1,734 are in training and 2,138 are engaged in clinical work under supervision. This leaves a corps of 1,429, with 125 of their number involved in research and development, and 904 serving as commanders and supervisors of our medical installations around the world. Since 1967, the military services have required between 4,000 and 5,000 physicians annually to satisfy their health care requirements, with a retention rate of less than 1 percent.

When we consider the medical manpower needs of the general population of our Nation—of which military personnel needs are one aspect—we see why H.R. 2 must be enacted into law. For example, the Department of Health, Education, and Welfare estimates that the doctor shortage in the United States has reached 50,000 and the current health manpower shortage exceedes 500,00, a startling figure, indeed. Moreover, additional medical schools and schools for the training personnel in many areas of the health sciences are sorely needed.

Mr. Chairman, the problem is clear. So is the solution.

The Armed Forces must be given the opportunity to attract and retain health professionals. H.R. 2 would help achieve this goal by establishing a uniformed services university of the health sciences, and by lifting statutory restraints on the promotion of medical and dental officers.

The Armed Forces must also be given the opportunity to attract personnel for training in the health fields for careers in the military. H.R. 2 would provide a scholarship program to achieve this goal.

For these reasons, as well as the overall shortage of qualified health manpower in our Nation today, I will vote for H.R. 2.

Mr. DERWINSKI. Mr. Chairman, since I have been appointed as a delegate to the United Nations General Assembly during this fall session, I do not get back to Washington as often as I would like to vote on the important issues coming before this body. However, I do want to go on record as supporting H.R. 2, the Uniform Services Health Professions Revitalization Act.

For too long the shortage of physicians and related medical personnel has been discussed and reviewed in a manner of complacency. With the obvious growing population, an increased need for medical doctors is recognized. While we have acted with initiative in furthering research, surgery, and treatment of all types of diseases, we must not overlook the ever-increasing need for skilled personnel. With the establishment of a uniformed services university of the health sciences, which H.R. 2 provides for, we would be guaranteed not less than 100 graduate medical students annually, commencing with the first graduating class.

This would be a progressive step in the medical field. An almost immediate benefit would be skilled medical personnel for the military. After leaving military service, many of these doctors and related medical personnel go into veterans hospitals, others into regular civilian practices. Either way, they would be serving humanity in a field where the need would be greatest.

I have consistently supported legislation which would establish new and manageable programs in the field of medicine, and certainly skilled medical personnel are a key to an effective national health service. I urge all Members to support H.R. 2 which would make a great contribution to improved health services to all our citizens.

AMENDMENTS OFFERED BY MR. SEBELIUS

Mr. SEBELIUS. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. SEBELIUS: Page 7, lines 10 and 11, strike out "within 25 miles of the District of Columbia".

Page 10, lines 4 and 5, strike out "within the vicinity of the District of Columbia" and insert "located nearest to the University".

Page 10, lines 12 and 16, strike out "in or near the District of Columbia" and insert "near the University".

Page 10, lines 23 and 24, strike out "District of Columbia" and insert "University".

Mr. SEBELIUS. Mr. Chairman, I offer these four amendments which are all on the same subject and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SEBELIUS. Mr. Chairman, my amendment is very simple. It merely removes from the bill the requirement that the university has to be located "within 25 miles of the District of Columbia," yet it will not prevent it being so located.

Everyday we hear of the crisis in our Nation's cities. Overcrowded conditions have imposed impossible demands on urban resources to meet the requirements of transportation, education, welfare, crime control, pollution control, health care, public service and housing. This has resulted from the rural migration to our cities which have drained the resources of our rural and smalltown areas. In order to save our cities and the countryside, we should enact legislation that will insure a better distribution of our population.

It is this spirit that I offer an amendment to permit the location of the fine facility proposed in H.R. 2 to be located at some suitable location in our less populated areas close to established medical training facilities. This amendment is consistent with congressional intent established in title IX, section 901 of Public Law 91–524, the Agricultural Act of 1970, which states:

Congress hereby directs the heads of all executive departments and agencies and the Government to establish and maintain, insofar as practicable, departmental policies and procedures with respect to the location of new offices and other facilities in areas or communities of lower population density in preference to areas or communities of high population densities.

In response to this legislation, the Department of Defense posture is as follows:

The Department recognizes the purpose of PL 91–524 and in its consideration of future requirements will comply, to the greatest extent possible, with its spirit and intent.

In view of the overcrowded conditions in the Washington, D.C., metropolitan area, the need for trained physicians throughout the uniformed services, and the availability of suitable alternative locations particularly at medical training facilities in our less populated areas, I am hopeful that it will be possible for you to give this amendment your support.

I have 57 counties in my district, a lot of clean air, wonderful climate and fine people. However, I am aware that the chances of locating it there are about as good as a humming bird flying it to the moon with the Washington Monument tied to its tail.

But the need to get away from the large population centers is great and now I earnestly ask your support for this amendment.

Mr. ALEXANDER. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. I should like to rise in support of the gentleman's amendment and commend him for his leadership. I wish to say that for far too long we have ignored this small detail that has contributed to overcrowding and congestion in our cities. I urge the adoption of the amendment.

Mr. SEBELIUS. I thank the gentleman.

Mr. HECHLER of West Virginia. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I commend the gentleman from Kansas for offering this amendment. It is certainly in keeping with the President's policy of decentralizing Federal installations. I hope the amendment will receive overwhelming support in the committee, because it certainly makes a lot of sense.

Mr. SEBELIUS. I thank the gentleman.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

XUM

Mr. SEBELIUS. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I congratulate my colleagues from Kansas (Mr. SEBELIUS) for his amendment which would strike the language requiring the Uniformed Services University of the Health Sciences to be located within 25 miles of the District of Columbia and I support him fully.

I recognize the argument that location of this facility in the Washington area will provide for beneficial sharing of existing facilities. But, if this is such a firm argument, why are we then including in the same act, a study of the possibilities for similar schools around the country? If this facility can function in other parts of the country and if Congress has already expressed the desire to distribute Federal payrolls where they are wanted and needed and where construction will not impair social or environmental values, then Congress ought to take that step now.

I have every confidence that a university of this nature could be more beneficially located, in a manner consistent with excellent land use, where attractive and convenient facilities can be accomodated with none of the expense and environmental cost associated with another Washington complex.

With the completion of the 1970 census, the alarming proportions of the population maldistribution in the Nation were confirmed, establishing the residence of more than 70 percent of the population in a dozen metropolitan areas encompassing less than 10 percent of the land.

In this metropolitan growth, Washington has been a leader, registering a 38-percent population increase in the past decade, the second fastest growth rate in the Nation.

The grim consequences of the overcrowding are evident in the strain on social services and the environment, threatening the historic charm and beauty of a capital which in L'Enfant's conception was to be the envy of the world.

With relentless determination, the Federal Government has contributed to the congestion and chaos with construction of office building after office building in the Capital and surrounding area.

Although the consequences of overcentralization of population in a handful of cities has been dramatically and tragically recorded in rising crime rates, soaring municipal indebtedness and breakdowns in social order which seemingly defy solution, the other end of the scale is less evident.

A lack of opportunity in rural America, coupled with the lure of economically dynamic cities has in the past 45 years brought some 25 million new residents to the cities, emptying countless small communities. In the 1970 census, some 500 counties recorded a net loss in population, a blow to the nonmetropolitan areas which cannot remain unremedied.

In the absence of an official national policy on population distribution, the Congress has to take the lead in encouraging a balancing of economic opportunity through an enlightened distribution of Federal payrolls.

Congress made such an expression in title 9 of the Agriculture Act of 1970 which states:

Congress hereby directs the heads of all executive departments and agencies of the Government to establish and maintain, insofar as practicable, departmental policies and procedures with respect to the location of new offices and other facilities in areas or communities of lower population density in preference to areas or communities of high population densities.

The House Agriculture Committee is in the process of considering H.R. 10867, the Rural Development Act of 1971 which contains even stronger language.

Under title 5 of the act, the Federal Government is directed to locate new Federal offices and other facilities in rural areas, defined as any area in a city or town which has a population not in excess of 10,000 inhbitants. Chairman POAGE, in responding to my letter of testimony supporting this title, called it one of the most important features of the bill.

Coupled with these policy directives are the legislative proposals, which I am cosponsoring, to provide tax incentives for businesses to locate in small towns and to provide grants and loans for the restoration of smalltown business districts and community facilities.

Against this background comes H.R. 2 to establish yet another Federal facility in the Washington area. I am pleased to note that the protests which I have raised throughout this session, against the Consolidated Federal Law Enforcement Training Center in Beltsville, against the Library of Congress Annex on Capitol Hill, and against the "Little Pentagon" complex at Bolling, have now found some support.

If Congress will begin now in serving notice to the executive branch that new Federal facilities can be located to advantage in nonmetropolitan areas, the revitalization of rural America in a small, but meaningful way is advanced.

In these crucial votes, I would remind my colleagues that the problems of the city and the countryside are interrelated; we literally cannot solve one without solving the other. I call on them today to see the merits of taking a stand on this issue and urging that the proposed Uniformed Services University of the Health Sciences be located outside the Greater Metropolitan Washington area.

Mr. HÉBERT. Mr. Chairman, I rise in opposition to the amendment.

I commend the gentleman from Kansas for his interest in this legislation, and I certainly do understand the spirit in which he offers his amendment. However, the facts go against the adoption of the amendment.

This provision utilizes that which is already here. It is one of the attractive parts of the legislation, that we have here Bethesda, Walter Reed, the National Institutes of Health, and other great resources. Billions of dollars have been invested, of Government funds, in an area where we plan to put the bricks and mortar.

As suggested yesterday, it could be done at Walter Reed after the new hospital is built there.

So, in reality, we are accomplishing exactly that which the gentleman from Kansas suggests. We are not expanding unnecessarily. We are contracting by concentrating where resources are available.

Relative to the future, the provisions of the legislation already are that which the gentleman indicates he would like to have in his amendment; that is, there is a provision, as the institution grows, in the legislation to look around at different areas throughout the country where further facilities could be placed.

I assure the gentleman that while I appreciate his motive and his understanding of the problem, we have looked into this matter and thoroughly discussed it.

Mr. Chairman, I ask that the amendment be rejected.

Mr. GROSS. Will the gentleman yield?

Mr. HÉBERT. Yes; of course.

Mr. GROSS. Does the language that this facility be established within 25 miles of the District mean within 25 miles of the border of the District or within the District?

Mr. HÉBERT. It means within 25 miles of the border of the District.

Mr. GROSS. Well, that would exclude it from being located within the Walter Reed Hospital grounds, would it not?

Mr. HÉBERT. It would not.

Mr. GROSS. Is that beyond the border of the District of Columbia?

Mr. HÉBERT. That is the extreme radius we are talking about.

Mr. GROSS. So it could be located within the District or 25 miles from the center of the District?

Mr. HÉBERT. That is correct. I suppose it could be located within 25 miles.

Mr. GROSS. I think it is important for the record.

Mr. HÉBERT. I thank the gentleman for making that contribution as I always welcome his observations.

Let me say the availability of outstanding research resources adds to the incentives provided by this bill. The need for doctors is so serious that incentives must be provided. In this regard I would like to include with my remarks a letter from the chairman of the Department of Surgery at Wisconsin University Hospital, Dr. A. R. Curreri, who contributes important considerations to the discussion of why this legislation is urgently required.

The letter follows:

UNIVERSITY HOSPITALS,
UNIVERSITY OF WISCONSIN,
Madison, Wis., October 29, 1971.

Congressman F. EDWARD HÉBERT,
United States House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HÉBERT: Corrective measures in recruiting and retention of medical officers in the Defense Department are essential if adequate medical care is to be provided in the near future to the soldier and his family. In establishing a Uniformed Services University of Health Sciences and in awarding scholarships to eligible students who would attend medical schools of their choosing, Bill H.R. 2 would provide long and short range approaches towards achieving the above goals. However, in addition to H.R. 2, major changes in the operation of the military medical corps are necessary for them to compete with academia and private practice of medicine.

It was my privilege to visit our military medical installations in the United States, Europe and Asia between 1956 and 1970. Up to 1962 and 1963 the esprit de corps, patient care and research achievements of the medical career officers were of the highest order. Subsequently, morale diminished markedly and discussions with officers at all levels of career development revealed that only a precious few would recommend a permanent career in military medicine. In the light of this dramatic change, both Congress and the Defense Department must inquire regarding the causes for this change in attitude and institute remedial measures at the earliest moment.

Several factors have militated against the medical military services. The first was the socio-economic-scientific explosion of the past two decades creating a tremendous demand for and upon the medical profession pool as a result of 1) increased affluence and medical insurance, 2) the availability of medicare and medicaid to the elderly and the young, 3) medical aid to foreign countries, 4) greater utilization of physicians by industry, and 5) enormous increase in research activity and teaching by medical schools, federal government and pharmaceutical companies.

Previous testimony has made evident that the number of graduates from American medical schools together with foreign graduates admitted to practice have not met our civilian needs (albeit the quality of the latter may be inferior). Even with increased enrollments in our medical schools and the establishment of seventeen new ones, the number of future graduates will not meet our civilian needs. If these predictions are true, then the needs for the military can best be met by awarding scholarships and establishing a Uniformed Services University of Health Sciences.

Second, when compared to private practice or academic medicine, military medicine falls far short in incentives in terms of income, stability of assignment, and opportunties for academic and professional growth.

The question of income is frequently brought up and compared to that of private practice. In general, medical officers feel they should be equated with their counterparts in academic medicine, providing incentives and opportunities for growth were available. After World War II, the military was able to recruit and retain medical officers because they developed the mechanism of paying physicians in training for specialties a captain's salary which was far superior to the stipends offered by universities and private hospitals. Incorporated in the training program was a pay back system in which the trainee remained in the Army an additional year for each year of training. Unfortunately, in the past five years salaries of interns and residents in universities and private hospitals has not only equated, but superseded that paid by the Defense Department.

In the past, assignments of medical officers were not necessarily tailored to a man's professional or administrative interests, abilities or goals. Thus, it was difficult for an officer to determine whether a new assignment indicated progress in his career. Moreover, the frequent changes in assignment not only precluded developing and sustaining professional or research programs, but also frequently disturbed family stability. Finally, young officers viewed attainment of a star or flag rank only to those willing to assume administrative or logistical responsibilities. Such a shift was unattractive after a life time dedicated to professional and research efforts. During the past two years, an attempt has been made to program an officer's career, but this has been difficult because of the numerous resignations, retirements and the limited recruitment.

Considerable emotion has been generated in testimony before the House Committee on Armed Services and by letters against HR2 particularly with respect to the establishment of a Uniformed Services Health Services University on the basis a Defense Department medical school would be parochial in its teaching and research and would emphasize destruction rather than conservation of life. Moreover, it was also charged that not only would the clinical exposure of students be a narrow one confined towards trauma, but also such a school would have difficulty in attracting a faculty of academic status.

To the charge of parochialism in teaching and research, the Defense Department could point with pride to its record in post-doctoral residency training. An index to the depth of teaching and the range of subject coverage would be an examination of the pass and failure rate of candidates taking Specialty Board Examinations. Here one finds the military competing on equal terms with academia and far surpassing those trained in community hospitals. With respect to the philosophy of teaching, one need only visit the hospitals in war areas to recognise that the primary aim of a military physician is to save lives and return patients to normal duty rather than advocating destruction.

In research, the allegation to destruction of life is no longer true with the discontinuance of chemical and biological warfare by the medical corps. The present range of research projects in medical military installations cover a range of investigations not unsimilar to those of universities. Indeed, whereas individual universities conduct research in depth in a few departments, the Defense Department university could engage itself in depth in many areas by transferring many of its projects to a home base. One need only consider the present efforts by the Armed Forces Institutes of Pathology, the Walter Reed Hospital and Institute for Research, The Burn Center at Brooke General Hospital, and other military installations to appreciate the depth and spectrum of research. One may add that many Defense Department investigations not only have aided the military but the general society as well. The most recent one was the vaccine against equine encephalitis which killed many horses in Mexico and Southern United States as well as endangering the lives of many people in that area. The Army made the vaccine available and the epidemic was controlled in short order.

As an example of the variety of cases a student would see in an Armed Forces University Hospital one can point to Walter Reed and the Bethesda Naval Hospital where one finds every conceivable type of medical case, many of which are rarely if ever seen in the medical school hospital. Indeed most academic hospitals are very deficient in the acute or common chronic disease and depend upon community affiliated hospitals to provide them. Often the teaching in affiliated hospitals leaves much to be desired.

What would be most exciting is the concept that the Armed Forces University could develop a global physician. This would be in marked contrast to the parochial physician presently trained in the United States whose knowledge of disease relates only to those observed in our country. In developing a global physician, the Armed Forces University could utilize two summers to expose students to the five exotic endemic diseases, producing 80% of the morbidity in South American and the Orient. With modern transportation shortening distances between all parts of the world, it might be advantageous for all physicians to have a better understanding of the exotic diseases afflicting mankind.

Recruit and train young physicians by providing a captain's salary which compared very favorably to the $600 annual stipends offered by universities and private hospitals. These young men were accepted on the promise they would pay back one year of service for each year of training. However, in the course of time, the keen competition for interns and residents by universities and private hospitals has led to salary levels ranging from $8,500 to $18,000 which surely are equal to or superior to those offered by the military. Thus, the military physician no longer enjoys the financial edge early in his career and certainly receives less in the intermediate and late periods of his career when compared to his equal in academic or private medicine.

Serious consideration should be given to giving four years credit towards retirement to the military medical student. Such credit will enable a military officer to retire at 16 years when most of them are at a Lt. Col. level. This will allow the Surgeon General to have a smaller number at the top leadership level and reward them with rank and financial returns equal to the academic market. In addition, the retirees can enter private practice at an earlier age and at a time he is still professionally oriented. If they were to complete 20 years prior to retiring, many of them would not be able to practice medicine since their last three to four years would have been devoted to a desk job and medical science would have passed them by.

Also a certain degree of disappointment has been manifest over colonels and flag ranks appointments being awarded to those willing to assume administrative and logistical responsibilities. Unfortunately, the present system relates the number of officers and their ranking to troop strength. A dichotomy has developed in which professional and research productivity and excellence is not being rewarded at the high ranks as well as in administration. Congress and the Defense Department must accept the fact that neither a medical university center or top level professional officers can be maintained and retained unless there is appropriate recognition for accomplishments. There must be either a marked increase in the number of colonels and flag officers in the medical corps or consideration be given to designating new titles for medical officers pursuing the professional track. In this way, the specialist and research officer can gain position and emoluments offered to high ranking officers. As I alluded to earlier there is precedent for this consideration with titles given during and before the Civil War. The establishment of a University for Health Sciences and appropriate titles for qualified individuals will bring academic and reasonable economic status to outstanding medical officers.

In developing medical scholarships and a Uniformed Services University of Health Sciences, one should seriously consider a four year pay back program for two reasons. First is that many states are considering similar scholarships with a pay back system based on a year to year support. Second, if a man has not been indoctrinated toward a military career after a four year period and is unhappy, he would be a detriment to the corps if allowed to continue and could well reduce the esprit de corps.

The question of political selection of candidates for scholarships as well as those admitted to the Uniformed Services University of Health Sciences has been brought up. These candidates would be selected geographically from those achieving the highest grades in the national examinations given to

premedical students who manifest an interest in a military medical career. They would be reviewed by the Dean of the University or his admission committee from the standpoint of motivation. Those failing to complete the training or resign prior to the completion of their pay back system could refund the government by an assignment to another government service such as NIH, Indian Services, OEO, etc.

Finally, there must be early action and I would suggest initiating the scholarship program immediately for time is of the essence if the medical corps is to survive. Victor Kahn once said, "My father lived his first 20 years in a manner just similar to my Grandfather. My Grandfather lived exactly as his father and their Grandfathers for generations. I will live a different life than my father, and my son will lead a totally different one. Maybe in the future a different life will be led every five to ten years."

Paraphrasing Victor Kahn one may say that while the environment or milieu changed gradually prior to a quarter century ago, times have changed so dramatically that the environment is continually changing and we must adjust to these changes or requirements. The military must be competitive with at least the academic market place.

In summary, Gentleman, in your hands rests the future of the military medical corps.

Sincerely yours,

A. R. CURRAN, M.D.,
Professor and Chairman,
Department of Surgery.

Mr. RANDALL. Mr. Chairman, I must reluctantly oppose the Sebelius amendment. It has been rumored that if this amendment should be adopted removing the specification in section 2112 of H.R. 2, that the uniformed services university of the health sciences must be established within 25 miles of the District of Columbia, then this new university could, might, or even would be established somewhere in the Midwest, perhaps as a part of the University of Kansas Medical School or the University of Missouri School of Medicine.

Of course it would be an inducement to vote for this amendment on a purely parochial or provincial basis. However if this amendment were to be adopted there would still be no assurance or guarantee as to where the Secretary of Defense would locate this new university. The Secretary and the Secretary of Defense alone, and no one else shall select the site or sites.

Now, it may be asked why would one from the Midwest, or the central part of our country, ever assume the political risk to vote that such a new university of the health sciences must be established within 25 miles of our Nation's Capital? The answer is that just about all of the arguments, and they are many and persuasive, except what is purely provincial, are heavily weighted in favor of locating this training source somewhere near the Washington, D.C., area because of the availability of existing and wholly unique medical research and training resources that are found within a radius of these 25 miles of our Nation's Capital. The situation which exists because of the location of the National Institutes of Health is only part of the story. Located in or near the Nation's Capital are military medical resources, including the famous military medical museum.

The record will clearly reveal that over the years I have favored decentralization of the Federal agencies. As far back as the 86th Congress I voted for the Coal Research Laboratory to be located in the coal fields where it properly belonged. Some years later I supported the decentralization of laboratories having to do with research into the mode of treatment for water pollution. Yes, decentralization is not only desirable but one day in the not too distant future, it may become inevitable. Before I leave this point, it may be appropriate or perhaps necessary to mention that H.R. 2 does provide for decentralization of facilities when the time should become necessary.

For the time being, it would be unfortuitous and nearsighted if we were not to make use of the present, existing, and I might add unique educational and training resources that are presently concentrated in the Washington, D.C., area. It is my judgment that all Members are indebted to the gentlemen from Missouri (Mr. HALL) for bringing these facts to our attention.

It should be clearly understood that the bill, as reported by the committee, does not prevent later decentralization of facilities when such is appropriate. Section 2116 of the bill specifically provides for reports to Congress of follow-on studies on the possibility of establishing similar institutions at other locations in the United States. The language of that section is as follows:

> The Secretary of Defense shall report to the Committee on Armed Services of the Senate and House of Representatives on the feasibility of establishing educational institutions similar or identical to the Uniformed Services University of Health Sciences at other locations he deems appropriate. The last such report shall be submitted by June 30, 1976.

This provision recognizes that if the concept of a university of health services proves as effective an operation as envisioned by our committee, similar universities may prove to be desirable in other geographical areas of the United States which would offer the same type of medical resources and research facilities available in the Washington area. Therefore, I say that the language of the bill as reported by the committee is not inconsistent with the position of those of us who have long sought a further decentralization of Government operations.

In conclusion, let me express my tremendous admiration of the patience, the skill, and the fortitude which our chairman (Mr. HÉBERT) has shown for 20 years to bring this dream of an Armed Forces medical institution to fruition. Today, this idea takes a giant step toward reality, and its eventual reality will be a monument to the gentleman from Louisiana.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Kansas (Mr. SEBELIUS).

The question was taken; and on a division (demanded by Mr. HALL) there were—ayes 22, noes, 43.

TELLER VOTE WITH CLERKS

Mr. SEBELIUS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. SEBELIUS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mr. HÉBERT, Mr. SEBELIUS, Mr. HALL, and Mr. BOLAND.

The Committee divided, and the tellers reported that there were—ayes 148, noes 215, not voting 67, as follows:

[Roll No. 342]

[Recorded Teller Vote]

AYES—148

Abernethy	Fountain	Murphy, N.Y.
Alexander	Frey	Nelsen
Anderson, Calif.	Galifianakis	Obey
Andrews, N. Dak.	Garmatz	O'Konski
Archer	Gonzalez	Patten
Ashley	Gross	Peyser
Begich	Grover	Pickle
Betts	Hanley	Poage
Bevill	Harsha	Powell
Biaggi	Harvey	Price, Tex.
Blackburn	Hastings	Quie
Blatnik	Hays	Railsback
Brasco	Hechler, W. Va.	Reuss
Brooks	Hillis	Riegle
Broomfield	Horton	Roberts
Brotzman	Hungate	Robinson, Va.
Brown, Ohio	Jones, Ala.	Roncalio
Burke, Fla.	Kastenmeier	Roush
Burleson, Tex.	Keating	Roy
Byrnes, Wis.	Kemp	Ruppe
Camp	Kuykendall	Sandman
Carey, N.Y.	Landgrebe	Saylor
Casey, Tex.	Landrum	Scherle
Cleveland	Latta	Schmitz
Collier	Link	Schneebeli
Collins, Tex.	Lloyd	Schwengel
Conable	Long, Md.	Sebelius
Crane	Lujan	Seiberling
Davis, Ga.	McClory	Shoup
Davis, Wis.	McCollister	Shriver
de la Garza	McCormack	Slack
Delaney	McDade	Smith, Calif.
Dellenback	McKevitt	Smith, Iowa
Dennis	Mann	Snyder
Devine	Martin	Steele
Dow	Mathias, Calif.	Steiger, Ariz.
Dowdy	Mathis, Ga.	Stephens
Duncan	Mayne	Taylor
du Pont	Mazzoli	Thompson, Ga.
Edwards, Ala.	Melcher	Thone
Erlenborn	Michel	Vanik
Esch	Miller, Ohio	Veysey
Eshleman	Mills, Md.	Wampler
Evans, Colo.	Minshall	White
Findley	Mizell	Williams
Fisher	Monagan	Winn
Flowers	Montgomery	Wright
Flynt	Morse	Wydler
	Mosher	Yates
		Zwach

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Abbitt	Clawson, Del	Grasso
Abourezk	Clay	Green, Oreg.
Absug	Collins, Ill.	Griffin
Addabbo	Conte	Griffiths
Albert	Conyers	Gude
Anderson, Ill.	Corman	Hagan
Anderson, Tenn.	Culver	Haley
Andrews, Ala.	Daniel, Va.	Hall
Annunzio	Daniels, N.J.	Hamilton
Arends	Dellums	Hammer-schmidt
Aspin	Denholm	Hanna
Aspinall	Dickinson	Hansen, Idaho
Belcher	Dingell	Harrington
Bell	Donohue	Hathaway
Bennett	Dorn	Hawkins
Bergland	Downing	Hébert
Bingham	Drinan	Heckler, Mass.
Boland	Eckhardt	Henderson
Bolling	Edmondson	Hicks, Mass.
Brademas	Edwards, Calif.	Hicks, Wash.
Bray	Eilberg	Hogan
Brinkley	Evins, Tenn.	Hosmer
Brown, Mich.	Fascell	Hull
Buchanan	Flood	Hunt
Burke, Mass.	Foley	Hutchinson
Burlison, Mo.	Ford, Gerald R.	Ichord
Burton	Ford, William D.	Jacobs
Byrne, Pa.	Forsythe	Johnson, Calif.
Byron	Fraser	Johnson, Pa.
Caffery	Frelinghuysen	Jonas
Carney	Fulton, Tenn.	Jones, N.C.
Carter	Gaydos	Jones, Tenn.
Cederberg	Gettys	Karth
Chamberlain	Giaimo	King
Chappell	Gibbons	Kluczynski
Clancy	Goldwater	Koch
Clausen, Don H.	Goodling	Kyl
		Kyros
		Leggett

Lennon	Poff	Steed
Lent	Preyer, N.C.	Steiger, Wis.
McCloskey	Price, Ill.	Stratton
McCulloch	Pryor, Ark.	Stubblefield
McDonald, Mich.	Pucinski	Sullivan
McFall	Quillen	Symington
McKay	Randall	Talcott
McKinney	Rangel	Teague, Tex.
McMillan	Rarick	Thompson, N.J.
Madden	Reid, N.Y.	Thomson, Wis.
Mahon	Rhodes	Tiernan
Mailliard	Rodino	Udall
Matsunaga	Rogers	Ullman
Meeds	Rooney, N.Y.	Van Deerlin
Metcalfe	Rooney, Pa.	Vander Jagt
Mikva	Rosenthal	Vigorito
Miller, Calif.	Rostenkowski	Waldie
Mills, Ark.	Rousselot	Ware
Minish	Roybal	Whalen
Mitchell	Runnels	Whalley
Myers	Ruth	Whitehurst
Natcher	Ryan	Whitten
Nedzi	St Germain	Widnall
Nichols	Sarbanes	Wilson, Bob
Nix	Satterfield	Wilson, Charles H.
O'Hara	Scheuer	Wolff
Passman	Scott	Wyatt
Patman	Shipley	Wyman
Pepper	Sikes	Yatron
Perkins	Sisk	Young, Fla.
Pettis	Spence	Young, Tex.
Pike	Springer	Zablocki
Pirnie	Staggers	Zion
Podell	Stanton, James V.	

NOT VOTING—67

Adams	Dulski	Mollohan
Ashbrook	Dwyer	Moorhead
Badillo	Edwards, La.	Morgan
Baker	Frenzel	Moss
Baring	Fuqua	Murphy, Ill.
Barrett	Gallagher	O'Neill
Biester	Gray	Pelly
Blanton	Green, Pa.	Purcell
Boggs	Gubser	Rees
Bow	Halpern	Robison, N.Y.
Broyhill, N.C.	Hansen, Wash.	Roe
Broyhill, Va.	Helstoski	Skubitz
Cabell	Holifield	Smith, N.Y.
Celler	Howard	Stanton, J. William
Chisholm	Ichord	Stokes
Clark	Jarman	Stuckey
Colmer	Kee	Teague, Calif.
Cotter	Keith	Terry
Coughlin	Long, La.	Waggonner
Danielson	McClure	Wiggins
Davis, S.C.	McEwen	
Dent	Macdonald, Mass.	
Derwinski	Mink	
Diggs		

So the amendments were rejected.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. DORN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 2) to establish a Uniformed Services University of the Health Sciences, pursuant to House Resolution 644, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. HÉBERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 352, nays 31, not voting 46, as follows:

[Roll No. 343]

YEAS—352

Abbitt	Eckhardt	Leggett
Absug	Edmondson	Lennon
Addabbo	Edwards, Calif.	Lent
Alexander	Eilberg	Link
Anderson, Ill.	Erlenborn	Lloyd
Anderson, Tenn.	Esch	Long, Md.
Andrews, Ala.	Eshleman	McClory
Andrews, N. Dak.	Evans, Colo.	McCloskey
Annunzio	Evins, Tenn.	McCollister
Archer	Fascell	McCormack
Arends	Findley	McCulloch
Ashley	Fish	McDade
Aspin	Fisher	McDonald, Mich.
Aspinall	Flood	McEwen
Begich	Foley	McFall
Belcher	Ford, Gerald R.	McKay
Bell	Ford, William D.	McKevitt
Bennett	Forsythe	McKinney
Bergland	Fraser	McMillan
Betts	Frelinghuysen	Madden
Bevill	Frey	Mahon
Biaggi	Fulton, Tenn.	Mailliard
Bingham	Galifianakis	Martin
Blackburn	Gallagher	Mathias, Calif.
Blatnik	Garmatz	Matsunaga
Boggs	Gaydos	Mayne
Boland	Gettys	Mazzoli
Bolling	Giaimo	Meeds
Bow	Goldwater	Melcher
Brademas	Gonzales	Metcalfe
Brasco	Goodling	Michel
Bray	Grasso	Mikva
Brinkley	Gray	Miller, Calif.
Brooks	Green, Oreg.	Miller, Ohio
Broomfield	Griffin	Mills, Ark.
Brotzman	Griffiths	Mills, Md.
Brown, Mich.	Grover	Minish
Brown, Ohio	Gude	Mink
Broyhill, N.C.	Hagan	Minshall
Buchanan	Haley	Mitchell
Burke, Mass.	Hall	Mizell
Burleson, Tex.	Hamilton	Mollohan
Burlison, Mo.	Hammer-schmidt	Montgomery
Burton	Hanley	Moorhead
Byrne, Pa.	Hanna	Morgan
Byron	Hansen, Idaho	Morse
Caffery	Hansen, Wash.	Mosher
Camp	Harrington	Moss
Carey, N.Y.	Harsha	Murphy, N.Y.
Carney	Harvey	Myers
Carter	Hastings	Natcher
Casey, Tex.	Hathaway	Nedzi
Cederberg	Hawkins	Nelsen
Celler	Hays	Nichols
Chamberlain	Hébert	Nix
Chappell	Hechler, W. Va.	Obey
Chisholm	Heckler, Mass.	O'Hara
Clancy	Helstoski	O'Konski
Clark	Henderson	Passman
Clausen, Don H.	Hicks, Mass.	Patten
Clawson, Del	Hicks, Wash.	Pelly
Clay	Hillis	Pepper
Cleveland	Hogan	Perkins
Collier	Holifield	Pettis
Collins, Ill.	Horton	Pike
Collins, Tex.	Hosmer	Pirnie
Conable	Howard	Poage
Conte	Hull	Podell
Conyers	Hunt	Poff
Corman	Hutchinson	Powell
Coughlin	Ichord	Preyer, N.C.
Culver	Jacobs	Price, Ill.
Daniel, Va.	Johnson, Calif.	Price, Tex.
Daniels, N.J.	Johnson, Pa.	Pryor, Ark.
Davis, Ga.	Jones, Ala.	Pucinski
Delaney	Jones, N.C.	Quie
Dellenback	Jones, Tenn.	Quillen
Denholm	Karth	Railsback
Dent	Kastenmeier	Randall
Devine	Kazen	Reid, N.Y.
Dickinson	Keating	Rhodes
Dingell	Keith	Riegle
Donohue	Kemp	Roberts
Dorn	King	Robinson, Va.
Dow	Kluczynski	Rodino
Dowdy	Koch	Roe
Downing	Kuykendall	Rogers
Drinan	Kyl	Rooney, N.Y.
Duncan	Kyros	Rooney, Pa.
du Pont	Landrum	Rosenthal
	Latta	
		Rostenkowski
		Roush
		Rousselot
		Roy
		Roybal
		Runnels
		Ruth
		Ryan
		St Germain
		Sandman
		Sarbanes
		Satterfield
		Saylor
		Scheuer
		Schneebeli
		Schwengel
		Scott
		Sebelius
		Seiberling
		Shipley
		Shriver
		Sikes
		Sisk
		Slack
		Smith, Calif.
		Smith, Iowa
		Snyder
		Spence
		Springer
		Staggers
		Stanton, James V.
		Steed
		Steele
		Stephens
		Stratton
		Stubblefield
		Stuckey
		Sullivan
		Symington
		Talcott
		Taylor
		Teague, Calif.
		Teague, Tex.
		Thompson, Ga.
		Thompson, N.J.
		Thone
		Thomson, Wis.
		Tiernan
		Udall
		Ullman
		Vander Jagt
		Vanik
		Veysey
		Vigorito
		Waldie
		Wampler
		Ware
		Whalen
		Whalley
		White
		Whitehurst
		Widnall
		Williams
		Wilson, Bob
		Wilson, Charles H.
		Winn
		Wolff
		Wright
		Wyatt
		Wydler
		Wylie
		Wyman
		Yates
		Yatron
		Young, Fla.
		Young, Tex.
		Zablocki
		Zion

NAYS—31

Anderson, Calif.	Fountain	Rangel
Burke, Fla.	Gibbons	Rarick
Byrnes, Wis.	Gross	Reuss
Crane	Hungate	Roncalio
Davis, Wis.	Landgrebe	Ruppe
de la Garza	Lujan	Scherle
Dennis	Mann	Schmitz
Edwards, Ala.	Mathis, Ga.	Shoup
Flowers	Monagan	Whitten
Flynt	Patman	Zwach
	Pickle	

NOT VOTING—46

Abernethy	Dellums	Macdonald, Mass.
Abourezk	Derwinski	Murphy, Ill.
Adams	Diggs	O'Neill
Ashbrook	Dulski	Peyser
Badillo	Dwyer	Purcell
Baker	Edwards, La.	Rees
Baring	Frenzel	Robison, N.Y.
Barrett	Fuqua	Skubitz
Biester	Gubser	Smith, N.Y.
Blanton	Halpern	Stanton, J. William
Broyhill, Va.	Jarman	Stokes
Cabell	Jonas	Terry
Colmer	Kee	Waggonner
Cotter	Long, La.	Wiggins
Danielson	McClure	
Davis, S.C.		

So the bill was passed.

The Clerk announced the following pairs:

Mr. O'Neill with Mr. Robison of New York.
Mr. Waggonner with Mr. Jonas.
Mr Abernethy with Mr. Ashbrook.
Mr. Davis of South Carolina with Mr. Baker.
Mr. Fuqua with Mr. McClure.
Mr. Green of Pennsylvania with Mr. Biester.
Mr. Purcell with Mr. Frenzel.
Mr Macdonald of Massachusetts with Mr. Peyser.
Mr. Cabell with Mr. Broyhill of Virginia.
Mr. Barrett with Mrs. Dwyer.
Mr Blanton with Mr. Derwinski.
Mr. Adams with Mr Smith of New York.
Mr. Cotter with Mr. Skubitz.
Mr. Danielson with Mr. Gubser.
Mr Dulski with Mr. Halpern.
Mr. Gray with Mr. J. William Stanton.
Mr. Rees with Mr. Diggs.
Mr. Badillo with Mr. Dellums.
Mr. Colmer with Mr. Terry.
Mr. Jarman with Mr. Wiggins.
Mr. Baring with Mr. Stokes.
Mr. Abourezk with Mr. Kee.
Mr. Murphy of Illinois with Mr. Long of Louisiana.

The result of the vote was announced as above recorded.

The title was amended so as to read: "To establish a Uniformed Services University of the Health Sciences and to provide scholarships to selected persons for education in medicine, dentistry, and

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other health professions, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HÉBERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill, H.R. 2.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

HIGHER EDUCATION ACT OF 1971

Mrs. GREEN of Oregon. Mr. Speaker, I move the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7248) to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7248, with Mr. WRIGHT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Thursday, October 28, 1971, it had agreed that title VIII, ending on page 194, line 24, of the committee substitute amendment, would be considered as read and open to amendment.

Are there amendments to title VIII?

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Beginning with line 14 on page 181 strike out everything down through line 24 on page 194.

And, renumber subsequent titles and sections appropriately.

Mr. ERLENBORN. Mr. Chairman, the amendment I have just offered would strike title VIII from the higher education bill we are now considering which authorizes what has been commonly referred to as general institutional aid to institutions of higher education. I have addressed myself on the floor to this question before. I made it clear that I think the case has not been made that there is a general crisis in the funding of higher education. I think it is clear from the hearings of our committee that to the extent a crisis exists we are not certain what the causes of crisis are.

But on the basis that we have heard and read a good deal in the last year or two about the so-called crisis in financing higher education, an attempt is being made here to change the basic relationship between the Federal Government and institutions of higher education. In my opinion—and I think you would share that opinion with me if you look at the formula contained in the bill—this is not an attempt to meet a specific crisis. This is not a temporary expedient to get us over a crisis. This is a change in the basic relationship of the financing of higher education among the Federal Government, the States, and the private sector.

Two major proposals were made in our subcommittee, one by Mrs. GREEN, which is a capitation formula and varies with the student—it is $100 for the lower division, $150 for the upper division, $200 for graduate students—this is an across-the-board allowance to every institution of higher education that meets certain minimum qualifications. There is no requirement of any specific program to be instituted on their part, no criteria for them to follow.

The other approach is called the cost-of-education allowance, which was supported by the administration. That proposal was introduced by the gentleman from Minnesota (Mr. QUIE). This would at least be tied to some Federal objectives, and that the distribution of these funds based upon a formula that is determined by the number of other Federal student-aid funds that go into the institutions. The justification, which the administration, through Mr. QUIE, pointed out, is the Federal Government has set goals. It has established formulas for these particular national goals that are embodied in student financial aid programs, and those institutions that respond to this Federal setting of goals and trying to implement them have taken on an extra burden, and that therefore we should help them through the cost-of-education allowance.

I feel that neither of these programs has been justified by the evidence before us. It is difficult to understand why there are some institutions in financial trouble. Mrs. GREEN would devise a formula which now contains two-thirds of her original capitation, and one-third the cost-of-education, which will spread the funds to the four winds to every institution of higher education, whether in financial difficulty or not.

I think this certainly fits the description that is so often used of its being a scatter gun shot when a rifle shot is needed.

There is a provision in this that the funds may not go to schools of divinity. They may not support religious education per se. But yet church-related institutions are included as recipients of this broad, institutional aid.

I think there is a grave constitutional question as to whether we can put these Federal funds into the general operating budget of a church-related institution. A recent decision of the Supreme Court has struck down a portion of the Higher Education Facilities Act.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. ERLENBORN was allowed to proceed for 5 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, I think the recent decisions have made it clear that the court is going to jealously guard the provisions that we should not admix church and state.

The bill does require "maintenance of effort" and yet it is drawn so that it would harm the very institutions that need help the most—the private institutions whose contributions are falling off because of the economy, possibly, because of problems on the campus, so they would have less funds of their own to expend. Under the maintenance of effort provision in this bill, if they did not have as much as the average expenditure, not per pupil, but total expenditure in the institution for the prior 2 years, they would then be disqualified for the receipt of these funds. So that those that are truly in trouble may find themselves not to be the recipients of this aid.

How about the State institutions? I think we all know the demands for education are expanding. Enrollments in State institutions are expanding. There should be a concomitant additional expansion of States' financing for higher education, more funds flowing into the State institutions. If this maintenance of effort provision merely requires that they spend the same amount on the average as they did the last 2 years, with their expanding enrollment and with increased costs due to inflation, they could in effect reduce the States' commitment to financing the public institutions and relying upon instead the new Federal funds that are flowing in.

If there would be any justification for the program basically, I would think that the maintenance of effort provision ought to be tied to the per student expenditure, so that in the expanding institution, the State would be maintaining truly its effort at financing higher education.

We also have the problem of these funds going to the very small institutions. There are many who question the viability of those institutions of 500 or less in student enrollment. Yet under this formula many of these institutions will receive a major portion of their operating budget from this one special program. I pointed out on the floor last week that some small institutions may receive as much as 40 percent of their total operating budget under this formula. Is it really a national goal to maintain small institutions which are not responsive to the needs of students merely because they are institutions of higher education and, therefore, qualified for these funds, without any other test as to their responsiveness and the need for their continuance?

Mr. Chairman, I feel that the case has not been made for general institutional aid. I believe there are some institutions that may have—and do have indeed—financial difficulty. I think more needs to be known as to the cause of this difficulty, whether it is receipts or expenditures, whether it is bad business practices, or whether it is bad educational practices and goals, We ought to know that, so the real cause of the problem is understood, so the remedy may be fashioned to relieve those areas that are the cause of the problem.

Let us not use the scatter gun. Let us not use the broad spectrum antibiotic when we have a specific disease that ought to have a specific remedy. I know my good friend, the gentleman from Missouri (Dr. HALL) will understand what I am talking about when I use that metaphor.

Mr. Chairman, I say there are some institutions that are in need, and Members know there are some that are in dire financial difficulty, and Members wonder how those institutions will be by until these studies are completed. I point to the provision in title 18, which is not a substitute nor a parallel program, nor an alternative, but it can be a temporary expedient. The gentleman from Wisconsin (Mr. STEIGER) has offered this real and truly emergency aid, $150 million to be given to those who are in the direst financial circumstances to tide them over.

Mr. Chairman, I ask that the amendment be adopted and the broad institutional aid be rejected.

Mrs. GREEN of Oregon. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, for those who want to look objectively at the status of institutions of higher education across the country I would invite attention to the material which I placed in the RECORD last Wednesday when this was under debate.

The various studies that have been made on higher education, it seems to me, prove absolutely that the institutions are facing the greatest financial crisis they have ever seen in the United States.

The Jellema report, which was a study done by the Association of American Colleges, said:

Most colleges in the red are staying in the red. . . . Taken collectively, they will not long be able to serve higher education and the Nation with strength unless significant aid is soon forthcoming.

Now, the followup study, after the preliminary one, is even more foreboding. It says that the crisis is 26 percent worse than they anticipated a year ago.

The Cheit study says:

This study makes clear that the money crisis in higher education is indeed real. Almost no school is immune from its effects. For most schools, it will mean serious problems of retrenchment and readjustment. As this study has shown, the extent to which colleges and universities of all types are in economic trouble is great, and they are genuinely working at reducing their financial difficulties. But the schools cannot solve the problem alone.

There was a study done of the land-grant colleges. Five years ago there was not a single public university in the country with an operating funds deficit, but last year there were 12 that ended the academic year in the red, and 11 universities are already predicting they will finish the year with more expenses than they have funds to meet.

That is just the land-grant colleges.

I believe the crisis is much greater than can be shown by looking at the ledger sheet.

Emergency measures such as the gentleman from Illinois suggests cannot be continued indefinitely without doing irreparable harm to these institutions.

Let me cite specific examples. For 2 years Penn State has been forced to go to private lending institutions for funds to meet operating expenses. They have borrowed $88.5 million, which will cost the university in excess of $3 million just in interest.

A study was done of the financial problems of Massachusetts Private Higher Education. The study shows a debt level that had risen from $63.7 million in 1962 to $191.8 million in 1969.

Another study was made of 762 accredited private 4-year institutions. Twenty-four percent currently are borrowing from endowments, and others are operating only by deficit financing.

The Commissioner of Education in October of this year, in a speech to the American Council on Education, although he opposes the formula the committee is recommending, said:

We know that the normal financial strain which is severe enough has become well nigh unbearable under the impact of the recession, inflation, and slashed research funds.

One college president said, "The handwriting is clearly on the wall unless new sources of income are found."

Reference is made to the study of the Association of American Colleges, in which it is predicted that if the present trend continues 365 institutions of higher education will go under financially within 10 years.

Hundreds of institutions have reported operating losses, in some instances running into millions. Many have been forced not only to curtail their basic programs but also to wholly cancel many creative or innovative programs which are desperately needed in these days.

So, Mr. Chairman, I would argue that the crisis is real; it is upon us; it is nationwide; it is not limited to a few isolated instances. It is my prediction that unless Federal help is given we will find many of our private colleges closing their doors.

If this Congress wants only to have in the United States multiuniversities, with 40,000 students, that is one thing; but if we really value a dual system of education, with private and public institutions, then we must give some financial aid.

We have bailed out Lockheed and the Penn Central Railroad. They have received operating funds. It seems to me it is now in the national interest not to let the doors of our private institutions be closed because of a lack of operating expenses.

Mr. Chairman, let me make a second point. Having argued that the crisis is real and nationwide, it seems to me a very important factor that we have institutional aid for all of the institutions so that they can keep their tuitions down.

The CHAIRMAN. The time of the gentlewoman has expired.

(By unanimous consent, Mrs. GREEN of Oregon was allowed to proceed for 3 additional minutes.)

Mrs. GREEN of Oregon. Listen to this study that was done in Texas in 1968. It indicated that if the present trend continued, by 1985 in constant 1968 dollars the actual cost per student in major independent universities in the State of Texas would be $36,859. The actual cost per student in the senior colleges in the State would be $17,074. If the percentage covered by the tuition remains about constant or the same as now—and we know that tuition does not pay for all of the cost, it means that a student in 1985 would have to pay in the private universities in the State of Texas $17,000 per year for tuition and in the public colleges $10,000 per year.

I think it is in the national interest to provide assistance, so that we can help institutions to keep their tuitions down. I suggest that the group who will need help the most, more than anybody else, if the tuition increases to the extent that the Texas study shows, will be the middle-income students. They do not have any special financial assistance programs at all. They are dependent on their own savings, their own earnings, and the help of their families. They would be the ones who would not be able to attend these institutions. What we would be doing is providing more funds in the way of student financial aid to send the very poor to the colleges. It is essential that we make it possible for the middle-income and the low-middle-income group to be able to continue in the colleges and universities. The only way to do it is by some kind of institutional aid that will keep tuition fees down.

Mr. Chairman, there is one final argument. If the amendment offered by the gentleman from Illinois would carry, we would go to a conference committee meeting with the Senate where they would have institutional aid tied exclusively to EOG, work study, and NDEA funds. This is the most unstable formula that we could have. We would have no chance in the House to go to that conference committee and present an alternative solution.

So I urge that the amendment offered by the gentleman from Illinois be defeated and title VIII providing Federal funds for institutional aid remain in the bill.

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise, I must admit, with some reluctance to support the Erlenborn amendment to strike institutional aid from this legislation. I say that, because I feel very deeply about the problems facing American institutions of higher education. I am persuaded that there is a serious situation facing some institutions and in the committee I supported the cost of education concept.

Let me say at the outset that I was intrigued by the argument used by the gentlewoman from Oregon that, because the Congress moved to help Lockheed and Penn Central we should now vote for aid to institutions.

I voted against both the Lockheed and Penn Central aid, but worse, I suggest to the gentlewoman from Oregon and to the Members of the House, are we not really talking about the establishment of a very serious precedent that may lead to the nationalization of railroads in this country if we follow the Penn Central logic, and do we want to move toward the nationalization of college education in the United States through beginning an institutional aid program?

I think that is one of the dangers that

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we do have to face. I do not think the Committee on Education and Labor has as yet seriously begun to think through this problem in terms of the ramifications of our actions.

Mr. Chairman, let me say three things.

No. 1, I do not think there is as yet sufficient evidence to indicate that we should go to an across-the-board program of institutional support. Of course, those studies that have been done by organizations or institutions will indicate that there are varying degrees of financial crises facing some of these institutions. But, I do not think any of us—I do not think the committee, I do not think the Congress, I do not think the gentlewoman from Oregon and I do not think any other Member has attempted to assess institution by institution what kind of crisis is facing each kind of institution. Yet the remedy proposed is an across-the-board Federal program that will apply to all institutions no matter what kind of financial crisis they are faced with. I think that, in and of itself, is a very serious mistake.

Second, I think we are also going to have to be wary of something which I think has been overlooked to a great degree but which ought to be called to the attention of the members of the committee, and that is the Carnegie Commission on Higher Education's recommendations with reference to Federal support for colleges and universities. For the purposes of this debate let me just read a portion of the preliminary draft report to the members of the committee:

State and private involvement in higher education in the United States has resulted in there not being a national system of higher education as exists in most nations. In the 19th century, when the need for public institutions rose, it was the States that established universities and colleges. It is true that Federal Government grants facilitated their establishment, but it was the States that accepted and continued to exercise responsibility for their operation. Without a single national system we have avoided these disadvantages often characteristic of such systems; national personnel systems for faculty and staff with uniform salary scales and manning formulas; single source of funding accompanied by single source of control; inevitability of political involvement at the national level for the whole system; problems of any unit of the system being easily escalated to a national political concern; rigidity and inflexibility of a large complex system; homogeneity of institutions in the system.

Once adopted, a national system is difficult or impossible to eliminate. It would be, for the United States, an irreversible decision. If undertaken, it should be only after thorough exploration of alternatives and careful thought as to the consequences.

Mr. Chairman, I would suggest to the members of the Committee that the House of Representatives today is not prepared to have to make this kind of careful analysis and exploration into the ramifications of the alternatives that exist in attempting to meet the problems that different institutions have with reference to financing higher education.

Let me also call the attention of the Committee to a point that ought to be made, but which has no yet been made very well as to what we are doing in an across-the-board program.

I suggest that varying institutions have varying needs. No one has yet defined "institutional crisis." Is it debt; is it tuition as compared to other sources of revenue; is it that State institutions are facing reductions from the State legislatures; is it that Federal research funds have not been maintained at the same level? I would argue that all of those questions, and others, are some of the reasons that some of these problems came into being.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. STEIGER of Wisconsin was allowed to proceed for 3 additional minutes.)

Mr. STEIGER of Wisconsin. As a result of that, I think Congress ought to give very careful consideration to a point which the Carnegie Foundation makes and that is this:

But higher levels of Federal funding for higher education are needed. These can be accomplished, however, without any major reallocation of funding responsibilities. Federal funds can be assigned for those programs and concerns which already constitute major national priorities.—

With which I agree—

In previous sections we have noted several of these. Here we wish to stress three: (1) Federal responsibility for meeting institutional costs arising from efforts to achieve equality of educational opportunity; (2) Federal responsibility for graduate education in general; and (3) Federal responsibility for education in the health sciences.

We believe that the first priority for any program of Federal aid to higher education should be accomplishment of a basic level of equality of educational opportunity. Increasingly it is through equal access to education that equality of opportunity in American life becomes possible, but financial barriers and deprivation by location, by ethnic groups, by age, and by inadequacy of pre-college education will still prevent many American citizens from developing their full potential.

Thus, I think the point they are making, and one which I share with them, is that we might well acknowledge that existing programs of aid to education that the Congress has previously authorized but may not have funded to the level necessary ought to be explored before we look into the question of the Federal role in higher education.

Mr. Chairman, the Erlenborn amendment to strike title VIII, difficult as that is, in my judgment is the only sound and proper policy that the House today can undertake because we do not know the extent of the crisis because there is no clear criteria or basis for judging that all institutions are having the same problem. And, further, because I do not believe the Congress has given sufficient thought to the question of whether or not we are prepared at this point to undertake this dramatic, new kind of relationship with higher education, and all of the ramifications that could flow from it.

I urge the adoption, regrettably, of the Erlenborn amendment in an effort to try to see if we cannot meet the needs of the institutions on a sounder basis than is proposed in title VIII.

In the earlier debate I have called the attention of the committee to the analysis of institutional aid done by Dr. Alice Rivlin, by Dr. Ben Lawrence of WICHE, by Clark Kerr of the Carnegie Commission, and others, all of whom have raised troubling questions on this matter.

There are, in addition, Mr. Chairman, some specific questions and comments which can be asked. For example:

Many witnesses expressed the fear that State legislatures would simply pull back on their own support of higher education if the Federal Government assumed operating costs. Everyone agreed a strong maintenance of effort provision was necessary.

The bill requires each institution—public or private—to expend during the year of the grant for "all educationally related programs" at least as much as the average expenditure the previous 2 years. This is not related to per student—so colleges with increasing enrollments are in good shape; those with declining enrollments in bad shape.

The Commissioner may waive this requirement for any institution if "he determines such waiver would promote the purposes of this part."

Here are some problems:

First. If this title is addressed to "an emergency condition" then the above provision would tend to eliminate those in the greatest financial need.

Second. Some schools expend less because of declining enrollments, drop in giving, decrease in State appropriation, and so forth. But other schools hopefully will discover ways of spending less while keeping enrollment static. All of these institutions would be penalized.

Third. The Commissioner will either have to waive requirement for all institutions; not waive it for any; or find some way of determining which institutions are in the greatest need or somehow deserve special treatment. He would not even have the congressional guidance for making such decisions as that which appears in title XVIII.

Furthermore the bonus money for the first 300 students results in some questionable policy matters. Few people think that institutions of less than 500 can be run efficiently and still provide quality programs.

According to the latest figures, there are 487 eligible institutions with less than 500 students. Although these institutions account for 21 percent of all institutions, they enroll only 2 percent of the students. Yet the bill would give them 4.5 percent of the money. Some such colleges would get a grant—under full funding—equal to 40 percent plus of their operating budget.

In addition, Mr. Chairman, H.R. 7248 requires every public and private institution to maintain a level of expenditures no less than average of the previous 2 years;

First. Does this mean that, if legislature decides to emphasize some other type of institution or other institutions, that a State college could be disqualified under this bill?

Second. If a private college suffers a decrease in enrollment of 10 to 20 students, thereby requiring a smaller budget, would that institution be denied institutional aid?

Third. If a large research university has a sharp cutback in Federal research money would that college then be disqualified under this bill?

Fourth. In order to maintain its budget expenditures, would not many institutions be tempted to raise tuition—the only factor it can really control—if its resources would not otherwise meet the bill's requirement?

Fifth. Is not the real effect of this maintenance-of-effort provision to disqualify those institutions which may need the Federal aid the most? So we cannot say that this title addresses itself in any way to the so-called emergency in higher education.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I thank the gentleman from Wisconsin for yielding.

I would like to take this time, Mr. Chairman, to express my full support for the inclusion of the provisions in this bill creating the National Student Loan Marketing Association.

This section of the bill, which is similar to legislation I introduced in both the 91st and 92d Congresses, will create a secondary market for student loans. This proposal will increase and greatly improve the liquidity of lending institutions and the student loan market, thus expanding the number of students who can be assisted by private sector finance institutions.

"Sally Mae" embodies my own personal philosophy that I feel should be the basis for educational assistance programs—that is, to provide each student with the opportunity plus an equity in his own education.

By assisting a student in earning his education, we also increase his motivation toward obtaining his degree.

The Congress should make clear in determining higher education policies that we insure the creation of educational programs which will make certain that educational opportunities, in fact, exist for all Americans, and that students assume a fair share of the responsibility for their own educational opportunities.

The critical issues appear to be the need to increase, substantially, lender participation, the need to make long-term educational financing feasible for the financing institutions, and the need to induce students to take full advantage of the benefits of any such program. The challenge is to find realistic, effective answers to these issues at the most reasonable cost to the Federal Treasury, the taxpayer, and the students themselves.

Guaranteed loans supplemented by "Sally Mae" and, hopefully, tax credits for the costs of higher education can meet this challenge.

It has been my pleasure to have worked with the gentleman from Illinois (Mr. ERLENBORN) in the beginning stages of the SLMA formulation meetings.

We met with the Chairman of the President's Task Force on Higher Education, staff member from the Department of Health, Education, and Welfare, student assistance specialists from lending institutions, and financial aid officers and counselors from colleges and universities in 1968 and 1969 to work out the details of this program.

Sally Mae would operate as a Government sponsored, privately financed corporation. It would raise its initial operating funds through the sale of stock and its continuing capital requirements through the sale of Government guaranteed bonds bearing the same rate of interest as that of other Government guaranteed securities in the secondary market sector.

Lenders of insured student loans—banks, credit unions, savings and loan associations, and colleges—would sell their student loan paper to Sally Mae, thus making available new capital to make additional loans.

The sale of Government bonds and preferred stock will permit the participation of large investors—pension and retirement funds, insurance companies, and the like—who, understandably, have been reluctant to participate at the primary lending level, because of their liquidity problems.

This is one of the most dramatic financing concepts that has come forward in the field of educational assistance. I am very excited and optimistic about its potential. Would the gentleman from Wisconsin comment on the impact of this provision as it relates to the college and university financial problems?

Mr. STEIGER of Wisconsin. In my judgment, that alone is not enough——

Mr. DON H. CLAUSEN. That is right; I agree with the gentleman.

Mr. STEIGER of Wisconsin. It is not enough to meet the problem confronting our institutions and our students. The fact is that we really have to talk about an arsenal of weapons approach, if I can borrow from collective bargaining, in terms of alternative solutions.

Mr. DON H. CLAUSEN. I agree with the gentleman.

Mr. BRADEMAS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I suppose that no title of the bill under consideration has been more difficult for the committee to resolve than institutional aid. Various points of view were expounded as committee members sought in good conscience to wrestle with the implications of alternative approaches for providing aid to our colleges and universities.

I think it is probably not inaccurate to say that the final product is not one with which any member of the committee would be in 100 percent accord, but the title that was produced is a reflection of a good deal of effort on the part of the members of the subcommittee and the full committee over a period of some time. I would hope, therefore, that the Committee of the Whole House this afternoon would not undo all of that effort—which would be the effect of Mr. ERLENBORN's amendment—and simply hold out no helping hand whatsoever to the institutions of higher learning in our country.

As my good friend, the gentleman from Wisconsin (Mr. STEIGER) knows, I am not unsympathetic with some of the types of argument that he makes with respect to institutional aid, but at the same time, Mr. Chairman, I am not prepared to say that if we cannot have perfection with respect to the shape of an institutional aid program, we should turn our backs on all forms of assistance to the colleges and universities in this country.

I think it is also fair to point out, Mr. Chairman, that we have had a tradition in the subcommittee chaired by the distinguished gentlewoman from Oregon (Mrs. GREEN)—at least, since I have been on the subcommittee—of bipartisan support for higher education legislation. I hope very much, therefore, that the vote this afternoon on the amendment offered by the gentleman from Illinois will win opposition from both the majority and the minority sides of the aisle.

I might say finally, Mr. Chairman, that I believe the gentlewoman from Oregon was correct when she said that it would not be appropriate for us on the House side to go into conference with Members of the other body without our having expressed our judgment on the substance of the institutional aid program.

Mr. Chairman, it seems to me most unfortunate that we should on this subject or indeed on any other subject go to conference and find ourselves in a situation with the Senate where we have either to take what they give us or take nothing. The institutional aid title in the bill is the product of an effort to accommodate varying points of view. It is a forward stride of great significance for higher education in our country. I would hope very much that the gentleman's amendment is rejected.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in support of the amendment offered by my good friend and colleague from Illinois (Mr. ERLENBORN). I harbor no illusions about the financial condition of many of our colleges and universities; indeed, it was in recognition of their financial plight that I introduced the Higher Education Gift Incentive Act of 1971, to provide individual and corporate income tax credits for charitable contributions to our institutions of higher learning. And I regret that the rules pertaining to jurisdiction preclude me from offering my bill as an alternative approach today. That is not to say that some form of Federal institutional aid might not be in order; indeed, I had hoped that those writing the dissenting views to the committee report would offer their cost of education approach as an alternative to the sweeping approach taken in title VIII. But in the absence of any such viable alternative, I think we are left with no alternative but to strike the institutional aid formula now contained in the committee bill.

I came to this conclusion after carefully studying the committee bill—and believe me, there is no greater indictment against the general grant approach

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than the language of the bill itself. Part A of title VIII says an emergency condition has arisen which threatens the continued existence of some schools, therefore, the Federal Government should provide assistance to all schools. Now there is a non sequitur if ever I saw one. That is like saying that, because some people are sick, we should give medicine to everyone.

But read on, if you will. Part B of title VIII says we need to study the impact of past and present support for higher education so that we may determine the appropriate level of future support. It goes on in subsection (B) to confess that we need to assess the dimensions and extent of the financial crisis confronting our institutions, and that we need to study various alternative solutions to this problem, giving special attention to their costs, advantages, and disadvantages and the extent to which they would preserve the diversity and independence of such institutions. To assess the extent and dimensions of the problem and to study various alternative solutions, part B establishes a high level "National Commission on the Financing of Postsecondary Education" to be comprised of four Members of Congress and 13 persons appointed by the President. The Commission is to report back to the President and Congress by June 30, 1973.

But let us not stop there, Mr. Chairman. Let us turn to title XVIII on page 256 of the bill—the title dealing with temporary relief for institutions of higher education in financial distress. Section 1801 says Congress finds, and I quote:

Some institutions of higher education are in serious financial distress, and there is insufficient information as to the nature and causes of such financial distress and as to the appropriate means of dealing with it. And to underscore this point, section 1806 authorizes the secretary to undertake an analysis of alternative ways of supporting higher education.

Can there be any question, Mr. Chairman, from these findings and the two studies authorized in this bill that we do not know the nature and extent of the financial crisis in higher education and that we do not know how best to cope with it?

Then how can we possibly justify jumping in with both feet at this time with comprehensive institutional assistance program authorized under title VIII? If I might return to my medical metaphor, we find ourselves in the most untenable position of peddling pills before we have even properly diagnosed the ailment, let alone considered who should be treated and how.

In prescribing a universal dosage of Federal dollars for our colleges and universities, we are risking the most dangerous form of institutional dependency—an addiction to Federal support which could seriously undermine the diversity, integrity, and independence of our academic institutions. That is not a remote possibility. The language of this bill states unequivocally that we just do not know what impact new forms of assistance might have on these institutions, or on the sources of support, for that matter. All this requires further study, and that is provided for in this bill. In the meantime, those institutions which are in dire financial straits will be benefited by the emergency fund authorized under title XVIII. I, therefore, urge passage of the Erlenborn amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I am pleased to yield to my colleague the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I thank the gentleman from Illinois for yielding to me at this time.

It is unfortunate, Mr. Chairman, that we are unable to include in this bill the proposal I have coauthored with Mr. ANDERSON and several of our colleagues to allow a tax credit for the costs of higher education.

This is part of the educational legislative package I feel should be enacted to insure an opportunity for everyone to reach his full educational potential.

My support for this type of program reflects my desire to work for programs that will avoid establishing a trend toward total nationalization of educational assistance programs and the consequent Federal control that results from Federal funding.

Because I believe the Congress has both a moral and constitutional responsibility to maintain a decentralized system of education in this country and to avoid harnessing education with a large and unmanageable administrative process, I shall support the Erlenborn amendment to remove the provisions for direct institutional assistance. This new departure deserves much more careful evaluation and study because of the very sensitive constitutional questions involved plus the fact that there are alternate methods of financing education that can be advanced and implemented.

The Erlenborn amendment deserves our support not only because it would prevent what could be a major step toward federalization of education but also because it will prevent the enactment of a program for which a need has admittedly not been fully justified and for which an unrealistic and unfair allocation formula has been proposed that bears no relationship to the critical needs of many colleges and universities of American higher education, which providing assistance to institutions that do not have a demonstrated need.

I want to see programs enacted which would give students a greater say in determining the policies which determine the quality of their education. A national system of general institutional aid would have the effect of perpetuating existing policies which many, if not most, students consider to be irrelevant and ineffective, in many instances.

The young people are trying to tell America, please treat me as an individual, help me as an individual but please do not institutionalise me.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Illinois is recognised.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the amendment, but before I speak on that subject I would like to inform the House, since so many Members have inquired, that I have sent to the desk an amendment which will be offered as title XXI at the conclusion of the bill, which will incorporate the emergency school bill with amendments. We have included in the amendments a total and complete prohibition against busing, which now makes the proposed title very similar to the bill we passed by a vote of 2 to 1 last December.

I merely point this out, because I do not intend to offer any amendments on this subject prior to completing action on the remainder of the bill. I hope that that answers the question that Members have been asking.

As far as the amendment before us is concerned, I have listened to the gentlewoman from Oregon in our subcommittee detail very thoroughly the need for this title. I believe my colleagues will agree that Mrs. GREEN is one of the Nation's outstanding authorities on the needs of higher education. No one knows the subject better than she does as chairlady of this committee. She has made a very careful study. No one can call her a "big spender." Yet she realizes the extreme need of these schools.

I have listened with great interest to her statements of deep conviction in support of this title. There have been statements made here about additional studies being needed. You do not need more studies in your congressional district. You know that every institution of higher education in your congressional district is strapped with a financial crisis unprecedented in our history, and all the studies in the world will not change that situation one way or the other.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield for a question?

Mr. PUCINSKI. Not now. It seems to me that we certainly ought to take the recommendation of the distinguished chairlady of this subcommittee on this subject. She has made a very clear and thorough study of it.

I appreciate why the gentlewoman is striving so hard for this program. When we work our way out of the present recession we are in—and I am sure we will—this Nation will be headed for a $2 trillion gross national product, probably by the end of this decade. We will have a labor force of 100 million people. We will need these institutions to train the kind of people that will be needed in America to provide the kind of skilled knowledge that will be needed to meet the changes that lie ahead.

As you look down range on the growth of this Nation in the next 100 months, the enormous changes that confront us boggle the imagination.

The gentlewoman says that we have to help these schools now. We have to preserve them. We cannot bring them back. Anyone who has talked to school administrators knows what a tremendous task it is to try to recreate an institution of higher learning by bringing back its faculty, staff, and professional people and attempting to put together again an

institution that will meet the educational needs of that community.

So it seems to me if we are going to err, I would rather err on the side of the gentlewoman from Oregon, who has made an honest and sincere study of this subject, and who has persuaded me, as a member of this committee that we ought to stand behind her in trying to get this title through. On balance, you will be preserving institutions that desperately need help, and if they do not get this kind of help, may very well go down and never come back.

The needs of the country are enormous, and I would just as soon take my chances standing with the gentlewoman from Oregon on this amendment.

Mr. Chairman, following is the amendment to be offered as title XXI to the Higher Education Act:

AMENDMENT TO H.R. 7248

On page 282 after line 3 insert a new Title XXI as follows:

"TITLE XXI—EMERGENCY SCHOOL AID

"SEC. 2101. This title may be cited as the 'Emergency School Aid Act of 1971'.

PURPOSE AND POLICY

"SEC. 2102. (a) The purpose of this title is to provide financial assistance—

"(1) to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools, and

"(2) to encourage the voluntary elimination, reduction, or prevention of racial isolation in elementary and secondary schools with substantial proportions of minority group students.

"(b) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

"APPROPRIATIONS

"SEC. 2103. (a) There are authorized to be appropriated for carrying out this title not in excess of $500,000,000 for the fiscal year ending June 30, 1972, and not in excess of $1,000,000,000 for the succeeding fiscal year.

"(b) Funds appropriated under subsection (a) shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

"(c) From the sums appropriated under subsection (a) for each fiscal year there shall be reserved to the Secretary an amount equal to not less than 4 per centum of the sums so appropriated for the purpose of carrying out bilingual education programs in accordance with section 2105 (c).

"ALLOTMENTS AMONG STATES

"SEC. 2104. (a) From the sums appropriated pursuant to section 2103 (a) for carrying out this title for any fiscal year, the Secretary shall allot an amount equal to 90 per centum among the States by allotting to each State $100,000 plus an amount which bears the same ratio to the balance of such 90 per centum of such sums as the aggregate number of children aged five to seventeen, inclusive, in the State who are Negroes, American Indians, Spanish-surnamed Americans, or members of other racial minority groups (such as Orientals, Alaskan natives, and Hawaiian natives) as determined by the Secretary, bears to the aggregate number of such children in all of the States. The remainder of such sums (other than sums reserved under section 2103(c) may be expended by the Secretary as he may find necessary or appropriate (but only for activities described in section 2105 and in accordance with the other provisions of this title) for grants or contracts to carry out the purpose of this title stated in section 2102(a). The number of such children in each State and in all of the States shall be determined by the Secretary on the basis of the most recent available data satisfactory to him.

"(b)(1) The amount by which any allotment to a State for a fiscal year under subsection (a) exceeds the amount which the Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reallotment to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a fiscal year shall be deemed part of its allotment under subsection (a) for such year.

"(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Secretary shall not fix a date for reallotment, pursuant to this subsection, of any portion of any allotment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any allotment to a State for a fiscal year shall be available for reallotment pursuant to this subsection unless the Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such allotment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 2106, 2107, and 2108, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title stated in section 2102(a) that their approval is not warranted.

"ELIGIBILITY FOR FINANCIAL ASSISTANCE

"SEC. 2105. (a) The Secretary shall provide financial assistance by grant upon application therefor approved in accordance with this title to a local educational agency—

"(1) which is implementing a plan—

"(A) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of racially segregated students or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of racial isolation in such schools; or

"(B) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of racially segregated students or faculty in such schools;

"(2) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of racial isolation in all the racially isolated schools in the school district of such agency;

"(3) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan—

"(A) to eliminate or reduce racial isolation in one or more of the racially isolated schools in the school district of such agency,

"(B) to reduce the total number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), who are in racially isolated schools in such district, or

"(C) to prevent racial isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 10 per centum, but not more than 50 per centum, of the enrollment consists of such children;

"(4) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing racial isolation in one or more of the school districts to which such plan relates; or

"(5) which, upon a determination by the Secretary—

"(A) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), and

"(B) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b),

"has established or will establish one or more stable, quality, integrated schools. For the purposes of this paragraph, an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Secretary determines that the number of children who are not in groups described in clause (A) constitutes that proportion of the enrollment which will achieve stability, in no event more than 70 per centum thereof, and (ii) a faculty which is representative of persons who are Negroes, American Indians, or Spanish-surnamed Americans, or members of other racial minority groups as determined by the Secretary under section 2104(a) and persons who are not members of such groups in the population of the larger community in which it is located, or, whenever the Secretary determines that the local educational agency concerned is attempting to increase the proportions of racial minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the racial minority group and nonminority group faculty employed by the local educational agency.

"(b) The Secretary is authorized to make grants to local educational agencies, which are eligible under subsection (a)(5), for unusually promising pilot programs or projects designed to overcome the adverse effects of racial isolation by improving the academic achievement of children in one or more racially isolated schools, if he determines that the local educational agency had a number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a) enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which is at least 18,000.

"(c) In cases in which the Secretary finds that it would effectively carry out the purpose of this title stated in section 2102(a), he may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the develop-

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ment or implementation of a plan or activity described in subsection (a).

"(d) (1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

"(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination by such agency that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice discrimination on the basis of race, color, or national origin in the operation of any school activity;

"(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from racial minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

"(C) in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of racial minority group from nonminority group children;

"(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of racial minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

"except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

"(2) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

"(3) All determinations and waivers pursuant to this subsection shall be in writing.

"(e) (1) The Secretary shall carry out a program to meet the needs of children who are from an environment in which the dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 2103(C) the Secretary is authorized to make grants to and contracts with—

"(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under this section, designed to meet the special educational needs of children who are from environments in which the dominant language is other than English for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the groups of which such children are members;

"(B) local educational agencies eligible for assistance under this section for the purpose of engaging in such activities;

"(C) local educational agencies eligible for assistance under this section for the purpose of carrying out activities authorized under section 2106 of this title to implement curricula developed under clause (A) or (B) or curricula otherwise developed which the Secretary determines meets the needs described in clause (A).

In making grants and contracts under this paragraph, the Secretary shall assure that sufficient funds from the amount reserved pursuant to section 2103(c) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Secretary determines meet the needs described in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary education personnel.

"(2) (A) In order to be eligible for a grant or contract under this subsection—

"(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

"(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

"(B) A program or project committee or board established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the group, the educational needs of which the program or project is intended to meet.

"(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under this section. The Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

"AUTHORIZED ACTIVITIES

"SEC. 2106. Financial assistance under this title shall be available for programs or projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 2102(a), including—

"(1) remedial and other services to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 2105 or a program described in section 2109(2), when such services are deemed necessary to the success of such plan, activity, or program;

"(2) the provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of racial isolation) and the training and retraining of staff for such schools;

"(3) comprehensive guidance, counseling, and other personal services for such children;

"(4) development and employment of new instructional techniques and materials designed to meet the needs of such children;

"(5) educational programs using shared facilities for career education and other specialized activities;

"(6) innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

"(7) repair of minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of equipment) and the lease or purchase of mobile classroom units or other mobile educational facilities;

"(8) community activities, including public education efforts, in support of a plan or activity described in section 2105 or a program described in section 2109(2);

"(9) special administrative activities, such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a plan or activity described in section 2105 or a program described in section 2109(2);

"(10) planning and evaluation activities; and

"(11) other specially designed programs or projects which meet the purpose of this title stated in section 2102(a).

"CRITERIA FOR APPROVAL

"SEC. 2107. (a) In approving applications submitted under this title (except for those submitted under section 2105(e) and 2109 (2)), the Secretary shall apply only the following criteria:

"(1) the need for assistance, taking into account such factors as—

"(A) the extent of racial isolation (including the number of racially isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

"(B) the financial need of such school district as compared to other school districts in the State,

"(C) the expense and difficulty of effectively carrying out a plan or activity described in section 2105 in such school district as compared to other school districts in the State, and

"(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceed those of other school districts within the State;

"(2) the degree to which the plan or activity described in section 2105, and the program or project to be assisted, are likely to effect a decrease in racial isolation in racially isolated schools, or in the case of applications submitted under section 2105 (a)(3)(C), the degree to which the plan and the program or project, are likely to prevent racial isolation from occurring or increasing (in the absence of assistance under this title);

"(3) the extent to which the plan or activity described in section 2105 constitutes a comprehensive district-wide approach to the elimination of racial isolation, to the maximum extent practicable, in the schools of such school district;

"(4) the degree to which the program or project to be assisted affords promise of achieving the purpose of this title stated in section 2102(a);

"(5) that (except in the case of an application submitted under section 2109(1)) the amount necessary to carry out effectively the program or project does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

"(6) the degree to which the plan or activity described in section 2105 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

"(b) The Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

"ASSURANCES

"SEC. 2108. (a) An application submitted for approval under this title shall contain such information as the Secretary may prescribe and shall contain assurances that—

"(1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Secretary;

"(2) the applicant has adopted effective procedures, including provisions for such objective measurements of educational and other change to be effected by this title as the Secretary may require for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs or projects and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

"(3) the applicant will provide such other information as the Secretary may require to carry out the purpose of this title stated in section 2102(a);

"(4) the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made; and

"(5) staff members of the applicant who work directly with children, and professional staff of such applicant who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed or otherwise treated without regard to their membership in a racial minority group, except that no assignment pursuant to a court order or a plan approved under title VI of the Civil Rights Act of 1964, or otherwise adopted under section 2105, will be considered as being in violation of this subsection.

"(b) An application for assistance under this title submitted by a local educational agency shall, in addition to meeting the requirements of subsection (a), contain satisfactory assurances that—

"(1) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 2102(a) or, in the case of an application under section 2105(e), would assist in meeting the needs described in paragraph (1)(A) of that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

"(2) such agency has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

"(3) the current expenditure per pupil (as defined in section 2111(a)) which such agency makes from revenues derived from its local sources for the academic year for which assistance under this title will be made available to such agency is not less than the current expenditure per pupil which such agency made from such revenues for (A) the academic year preceding the academic year during which the implementation of a plan or activity described in section 2105 or in section 2109(2) was commenced, or (B) the third academic year preceding the academic year for which such assistance will be made available, whichever, is later;

"(4) the plan with respect to which such agency is seeking assistance (as specified in section 2105(a)(1)) does not involve freedom of choice as a means of desegregation, unless the Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

"(5) for each academic year for which assistance is made available to the applicant under this title, such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner of Education;

"(6) such agency will not institute or have in effect any practice, policy, or procedure prohibited by clause (B), (C), or (D) of section 2105(d)(1);

"(7) such agency will not engage in a transaction described in clause (A) of section 2105(d)(1); and

"(8) such agency will carry out, and comply with, all provisions, terms, and conditions of any plan or activity as described in section 2105 or section 2109(2) upon which a determination of its eligibility for assistance under this title is based.

"(c) The Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency a reasonable time to modify its application.

"(d) The Secretary may, from time to time, set dates by which applications shall be filed.

"(e) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be an agency described in section 2105 (a) or (e) or section 2109 and any one or more of such agencies joining in such application may be authorized to administer such program or project.

"SPECIAL PROGRAMS

"SEC. 2109. From the funds available to him under the second sentence of section 2104(a) the Secretary is authorized to make grants—

"(1) to eligible local educational agencies to carry out model or demonstration programs related to the purpose of this title stated in section 2102(a) if in the Secretary's judgment these programs make a special contribution to the development of methods, techniques, or programs designed to eliminate racial segregation or to eliminate, reduce, or prevent racial isolation in elementary or secondary schools; and

"(2) to local educational agencies to carry out programs for children who are from environments where the dominant language is other than English and who, (A) as a result of limited English-speaking ability, are educationally deprived, (B) have needs similar to the needs of other children participating in programs or projects assisted under this title, and (C) attend a school in which they constitute more than 50 per centum of the enrollment.

"PAYMENTS

"SEC. 2110. (a) Upon his approval of an application for assistance under this Act, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor the amount fixed for such application.

"(b) The Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

"(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 2106(b), the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 2102(a) or in the case of an application under section 2105(e) would assist in meeting the needs described in paragraph (1)(A). The service to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 2105(e), from the funds reserved under section 2103 (c), or in case of an application under section 2109, from the sums available to the Secretary under the second sentence of section 2104(a).

"(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

"(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 2106(b), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

"(d) After making a grant or contract under this title, the Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

"(e) The amount of financial assistance to a local educational agency under this title may not exceed those net additional costs which are determined by the Secretary, in accordance with regulations prescribed by

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him, to be the result of the implementation of a plan or activity described in section 2106 (a), (b), or (c), or of the operation of a program under section 2109(2).

"DEFINITIONS

"SEC. 2111. As used in this title, except when otherwise specified—

"(a) The term 'current expenditure per pupil for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditures made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

"(b) The term equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

"(c) The term 'gifted and talented children' means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

"(d) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

"(e) The term 'nonprofit' as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(f) The terms 'racially isolated school' and 'racial isolation' in reference to a school mean a school and condition, respectively, in which Negro, American Indian, or Spanish-surnamed American children, or children who are members of other racial minority groups as determined by the Secretary under section 2104(a), constitute more than 50 per centum of the enrollment of a school.

"(g) The terms ('elementary and secondary school' and 'school' mean a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(h) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(i) The term 'State educational agency' means the State Board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

"(j) The term 'State' means one of the fifty States or the District of Columbia, and for purposes of section 2109, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

"EVALUATION

"SEC. 2112. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this title for any fiscal year shall be available to him under the second sentence of section 2104(a) for evaluation (directly or by grant or contract) of the programs, activities, and projects authorized by this title.

"JOINT FUNDING

"SEC. 2113. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under this title, any one Federal agency may be designated to act for all in administering the funds advanced.

"NATIONAL ADVISORY COUNCIL

"SEC. 2114. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representatives of racial minority groups, appointed by the President, which shall—

"(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the implementation of the criteria for the approval of applications;

"(2) review the operation of the program (A) with respect to its effectiveness in achieving the purpose stated in section 2102(a), and (B) with respect to the Secretary's conduct in the administration of the program;

"(3) meet not less than four times in the period during which the program is authorized and submit through the Secretary to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

"(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

"(b) The Commissioner shall submit an estimate under the authority of section 401 (c) and part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

"REPORTS

"SEC. 2115. The Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 2102(a). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than two times annually.

"GENERAL PROVISIONS

"SEC. 2116. (a) The provisions of parts B and C of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

"(b) Section 422 of such General Education Provisions Act is amended by inserting 'the Emergency School Aid Act of 1971;' after 'the International Education Act of 1966,'.

"PROHIBITION AGAINST BUSING

"SEC. 2117. No funds appropriated pursuant to this title may be used to acquire or pay for the use of equipment for the purpose of transporting children to or from any school, or otherwise to pay any part of the cost of any such transportation.

"NEIGHBORHOOD SCHOOLS

"SEC. 2118. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially non-discriminatory basis to adopt any other method of student assignment whether or not the use of such geographic attendance areas results in the complete desegregation of the schools of such agency."

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, what figures did the gentleman from Illinois place on the gross national product?

Mr. PUCINSKI. $2 trillion by 1980.

Mr. GROSS. $2 trillion?

Mr. PUCINSKI. Yes. That boggles the gentleman's imagination, does it not? But it is true.

Mr. GROSS. It might boggle my imagination——

Mr. PUCINSKI. This country will have a $2 trillion gross national product by 1980.

Mr. GROSS. A lot of things boggle my imagination, and one of them is the fact that you cannot spend money in the billions through foreign aid to educate and wet-nurse everybody around the world, which is what the gentleman has been voting for, instead of taking care of education in this country. Something else that might boggle the gentleman's imagination is that by the end of this year there will be $2 trillion of public and private debt in this country. Does the gentleman know why the people of this country do not have money to spend on their schools in their States, counties, and local school districts?

It is because funds have been for too long siphoned off and brought to Washington to be spent for too many ill-conceived programs such as some people in this House have been voting for all through the years. That is why the people over the country do not have the money to spend on their schools and run them as they see fit.

Mr. PUCINSKI. I believe the gentleman got lost on his trillions. It will not be a $2 trillion deficit.

Mr. GROSS. I said nothing about a deficit. I said there will be a public and private debt of $2 trillion. It was more than $1 trillion $800 billion at the start of this year, I will tell the gentleman.

Mr. BELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the gentleman from Illinois (Mr. PUCINSKI) has indicated, at a later point in this bill an amendment will be offered to include the President's proposal for aid to school districts which are desegregating.

The amendment, as he has said, will not be exactly in the form in which H.R. 2266—the emergency school aid bill—was reported by our committee.

It will have been revised to reflect the objections made to the bill when it was considered under suspension of the rules on Monday, and I hope and believe that it will be approved by the House.

It will be very close to the bill which this House approved under a regular open rule by a two-thirds majority late last year.

I thought that this proposal should never have been brought up under a suspension of the rules which prohibited amendments, but obviously this decision was beyond my control.

This is a measure which the House should have an opportunity to amend.

Now they will have that opportunity.

The amendment will have removed from it provisions which invaded the jurisdiction of other committees of the House.

It will have an absolute prohibition against the use of funds for busing.

It will have a provision which makes it clear that the House supports the concept of neighborhood schools, so long as school attendance zones are drawn on racially nondiscriminatory lines.

I think this amendment will be an improvement in at least some respects over the bill that was before the House on Monday and I shall support it.

This program is long overdue and urgently needed, and it will provide assistance for school districts which are making an honest attempt to end racial segregation and racial isolation in their schools.

The President has requested this legislation.

He has budgeted the funds for it.

Who are already supplying limited assistance to schools under a legal compulsion to desegregate, but this is under a continuing resolution which expires November 15 and it will not be renewed.

The only remedy available will be the amendment to be offered by Mr. PUCINSKI and I strongly urge its adoption.

Mr. WILLIAM D. FORD. A point of order, Mr. Chairman.

I am making a point of order not on the fact that the gentleman will not yield for a question, but I am making the point of order that the gentleman is not speaking on a matter now before the House.

The gentleman has indicated there is some sort of package that someone has put together that will be presented to us as an amendment. Will the gentleman indicate to us whether the group that has put this together has reduced it to writing so that other members of the committee who have not had the opportunity will have an opportunity to see it and study it?

Mr. BELL. I believe it is available now.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman give me a copy?

Mr. BELL. Yes. I will give the gentleman a copy. I have one over there.

Mr. WILLIAM D. FORD. I thank the gentleman.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think all of us could agree that the program presented in title VIII for financing schools and colleges and universities is not an ideal program. It is not a program with which we would all wish to sink or swim through the ages. But I think we have documented almost ad nauseum that colleges and universities in this country are in deep and serious trouble. We have tried over the last few months to come up with some kind of program that would target on specific needs and would give us some kind of specific and detailed criteria of need—all to no avail.

So what title VIII presents is admittedly an interim solution.

We know the colleges have the variety of needs that our distinguished colleague from Wisconsin described. We know that colleges under financial pressures react in different ways. They do not all go into the red. Some of them defer necessary maintenance. Some of them reduce faculty size. Some of them cut down on planned enrollment enlargement. Some of them cut out the enrichment courses which produce excellence in our universities—the small classes, the seminars, the support of visiting professors and other enrichment programs.

We know that the evidence of financial need comes in many ways and that colleges react in many ways which reduce education excellence in order to avoid going into the red.

But it is absolutely unquestionable that colleges are under desperate financial pressure these days. So what we have today is an interim answer to meet those needs until Congress can acquire the information and statistical analyses needed to come up with specific, finely targeted programs to meet detailed needs.

We have heard the warnings of Federal control. I have suggested before, and I suggest again, that if anybody looked at the experience of the land grant colleges, where there have been Federal contributions over a period of a century, he would agree that the Nation would never stand for Federal control following the Federal dollar. The Congress would never stand for it. I believe there would be as much distaste and unhappiness on the Democratic side of the aisle as on the Republican side at any attempt to intrude Federal control of higher education where the Federal dollar support goes.

But I believe it is important to realize that this is a Federal intervention that probably will be a permanent one. If we have any doubt that we are passing over a major divide today, as we did 5 or 6 years ago with the passage of the Elementary and Secondary Education Act, that would be a mistake. I agree with my colleague from Wisconsin that this is a new precedent. Just as we got into the subsidy and support of elementary and secondary education institutions on a general basis, so here today we are getting into the general business of supporting higher education. If any Member is against that he probably ought to vote for this amendment; in fact, he could vote to scuttle this bill in its entirety.

But I believe it is obvious that institutions of higher education need help and it is obvious we do not have detailed information to give them categorical program assistance. We do have a study commission that in another year or two will give us the specific knowledge which will enable us to shove off at that time a general program of assistance and substitute for it a highly refined specialized program of assistance. I believe we urgently need that time to produce that kind of knowledge and to keep our institutions going so that they can survive to the day we can help them more adequately.

Mr. DENNIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I suggest that the House ought to realize that it is being asked to do a very important thing here under this title of the bill, which is pointed up by this particular amendment.

I should like to suggest further that, not for the first time around here, we are going at an important thing in the wrong way. By that I mean that in title VIII, which is a complete and new departure for the Federal Government in the field of higher education, and a most important and significant departure, we are taking a new and important step which ought to be, if we had a respectable approach—if I may use that word—a separate piece of legislation.

I am tired of being asked to accept or to reject packages around here. The other day we had an amendment offered by my good friend, the gentleman from Indiana (Mr. BRADEMAS) to another bill which was an absolutely sweeping program of child care. It came in as an amendment with no hearings or consideration or anything else. This is not quite as strong a case as that because this is a title of a bill, but it is a complete new departure for the Federal Government. We ought to be able to consider it on its own merits. It should not try to carry itself on the shoulders of student aid, for instance, which most of us, in one form or another, would probably like to vote for, although maybe we do not want to vote for direct institutional assistance. I certainly do not.

If I may just make one suggestion: This is a most important philosophical departure. We have a great deal of Federal aid to education already. I am not one who is equipped to discuss the formulas or the technicalities.

However, we do not have a situation as yet where the Federal Government is supporting the operating budgets of our colleges and universities, for their general operating budgetary use, until we pass this bill with this title in it.

Mr. ESCH suggested that in

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some cases some of these colleges will have to depend for as much as 40 percent of their budgets on what they get under this title. My distinguished colleague, the gentlewoman from Oregon, says that this is the only way to save private education. I suggest to you that it will not make very much difference, because if you save it in this way and if it is the only way in which you can save it, then there will not be any private education; it will all be public education, and in a few more years it will all be national education and private college education will be a thing of the past. I fear it may in any case. At least, there is a good chance that it will be so if we start down this road. It will grow like impact aid has grown. I do not think there is anyone in this House who does not know that that is true.

Now, Mr. Chairman, if I may be permitted a personal reference briefly here, I spent many years in the house of my father during a large portion of the period when he was, for 17 years, the president of a small church-related college. This was the period of the depression. We had a tough time getting money then. By careful management, however, we managed to get through, and that college is still alive and thriving today. That is the way it ought to be done.

So, Mr. Chairman, I support the Erlenborn amendment.

Mr. DELLENBACK. Mr. Chairman, I rise in opposition to the amendment.

Mrs. GREEN of Oregon. Mr. Chairman, would the gentleman yield to me?

Mr. DELLENBACK. I am glad to yield.

Mrs. GREEN of Oregon. I wonder if we can take this time to see if we can reach an agreement en the length of the debate. I ask unanimous consent that all debate on this amendment close in 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

Mr. ERLENBORN. Mr. Chairman, reserving the right to object, I think the gentleman from Indiana just a moment ago made a very valid point. This title ought to be out on this floor as a separate bill. I do not think it is right to shut off debate on a matter that is probably the most important part of the bill at this time. So I am constrained to object.

Mr. DELLENBACK. Mr. Chairman, I am persuaded there is real need for institutional Federal aid to higher education, not only in the immediate crisis situation, but also in the long run. At the same time, I want to make it clear from the outset that I am not endorsing the formula for institutional aid now contained in H.R. 7248; what I do endorse is the concept of Federal general institutional aid.

The reports of a crisis in higher education financing are not empty rhetoric. We have been thoroughly warned. The succinct conclusion of "The Red and the Black," special preliminary report on the financial status, present and projcted, of private institutions of higher learning by William W. Jellema, executive associate and research director of the Association of American Colleges, brings home the crisis in higher education:

> Private colleges and universities are apprehensive and they have reason to be. Most colleges in the red are staying in the red and many are getting redder, while colleges in the black are generally growing grayer. Taken collectively, they will not long be able to serve higher education and the nation with strength unless significant aid is soon forthcoming.

American society has traditionally demanded a great deal of higher education. We have always expected quality and in recent years we have demanded a vast increase in quantity without any sacrifice in quality. To be specific, enrollments in our Nation's colleges and universities have tripled in the past 15 years. There are about 8½ million students enrolled in institutions of higher education throughout the country. And the Nation has demanded that colleges and universities accommodate these students during a time when the cost of education per student was steadily rising. The real pressure has been that our society—rightly so—will not tolerate any lessening of academic excellence.

By authorizing student assistance programs making it possible for a greater number of disadvantaged students to attend college, Congress has in a sense aggravated the financial problems of higher education. It follows then that it is our responsibility to help them out of the crunch we helped get them into in the first place. As the Carnegie Commission on Higher Education pointed out in their 1968 report, "Quality and Equality: New Levels of Federal Responsibility for Higher Education":

> The proposed expansion of financial aid programs to make it possible for more students to attend universities and colleges will add to the present financial problems of these institutions. The full costs of education are not met through tuition payments. Moreover, the increase in numbers of disadvantaged students will tend to raise per-student instructional costs, because many of these students will need special educational assistance such as tutoring, counseling, and perhaps remedial training in special areas.

The Carnegie Commission, in its 1968 report, recommended that the Federal Government utilize a cost-of-education allowance approach, and, as I have indicated previously, for a number of reasons, I believe this approach is the best alternative at this time.

This approach would complement existing national priorities and help target money to at least some of those institutions most in need. It would be clearly characterized as a temporary emergency program and would leave us free, as soon as the study data is in hand, to switch to a formula which would be soundly based and permanent.

The formula included in H.R. 7248 as reported by the Education and Labor Committee would allocate two-thirds of general assistance funds to institutions on the basis of their total full-time enrollment and the remaining one-third on the basis of students receiving Federal financial aid. I believe the formula now in H.R. 7248 is a serious mistake. It would virtually lock in a system of general aid which is not based on priorities or on sound and thorough background data.

Furthermore, I believe the formula now in H.R. 7248 would have a punitive effect on private institutions. Because these institutions have a shrinking proportion of total student enrollment in institutions of higher education throughout the country, they would necessarily face a decreasing share of general assistance. Finally, I fear the effect of this formula on State support for institutions of higher education. In my opinion, Federal general assistance should supplement rather than supplant State support.

I feel strongly that Federal aid to education—at any level—can be most effective when it is directed to broad purposes rather than distributed through narrow, single-purpose programs. Obviously it would be naive to debate the beneficial effects of categorical aid to higher education, and I do not intend to challenge the fact that categorical aid has been helpful and will continue to be. But I believe it should be and must be augmented and strengthened by a program of general aid.

The provisions in the Senate bill on this point are superior to those now in H.R. 7248. It is my personal hope that in conference the provisions of this title will be improved drastically over H.R. 7248.

But it would be a mistake for this House today to take the flat stand against institutional aid that is here involved in the vote on this amendment. I oppose the amendment of my good friend, the very highly esteemed gentleman from Illinois (Mr. ERLENBORN) and I hope it will be defeated.

Mr. SCHERLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, previously the gentleman from Illinois (Mr. ANDERSON) demanded to know how many private colleges were destined for oblivion because of the immediate financial crisis with which they are faced.

Let me read to the members of the committee a few paragraphs on page 45 of the report on higher education. I think the members of the committee should be very interested in these figures, because I am sure the figures listed here, Mr. Chairman, will no doubt take into consideration the problems many Members have experienced in their own States and districts:

> The cost-price squeeze has had particular effect on the small private Liberal Arts college. Information available to the Committee indicates that in 1937–38, institutions enrolling under 500 students constituted 44 percent of the colleges and universities in the country and enrolled 18 percent of the students. Thirty years later they constituted 27 percent of the institutions and accounted for 2 percent of the students.
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> Studies made by Dr. William W. Jellema for the Association of American Colleges indicate that, unless immediate aid is forthcoming, 365 of the nation's private colleges and universities may be closed in this decade. Two hundred of them will have exhausted their liquid assets within a year. Stated another way, of the private accredited institutions, 50 percent of four year institutions and 45 percent of those offering master's degrees in no more than three fields, 37 percent of those offering masters degrees in four or more fields, and 48 percent of the Ph.D. granting institutions, can be expected to fail within ten years.
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> The problem is not limited to private colleges. Of 99 state universities and land grant colleges, five years ago none had an operating deficit. Last year a survey of 78 showed 12 in the red. Of 278 state colleges and universities, 75 percent say financial difficulty is their major problem.

Mr. Chairman, if we do not want 200 of our private colleges to be eliminated completely, then I would suggest that we vote down the amendment offered by my colleague, the gentleman from Illinois (Mr. ERLENBORN).

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Illinois.

Mr. COLLIER. Mr. Chairman, I would ask the gentleman from Iowa if it is not also true that as a result of the problem we will simply compound the trend of establishing vast educational factories which are developing with the massive enrollments at State universities across the country.

Mr. SCHERLE. The gentleman is eminently correct, and I appreciate his statement.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment. The Members should understand that we are now dealing with an amendment which strikes at the very heart of the committee bill. Acceptance of this amendment would make a mockery of the committee effort. And it would indicate that the Congress has no concern for the future of American higher education.

Mr. Chairman, over 1,000 printed pages of testimony this year and over 1,000 printed pages of testimony last year provide compelling documentation and justification for the program of institutional assistance which this amendment now proposes to be deleted. The record shows that the crisis is not in certain categories of institutions nor in isolated instances. It is present in all types of institutions and at all levels.

I know there is a deep concern in this Congress particularly for the plight of the small private college. This title will provide approximately $335,000,000 in authorizations for institutional assistance to private colleges and universities.

There has traditionally been a deep concern and interest for the junior college movement here in the Congress. This title recognizes that interest. It recognizes that the junior college movement is also affected by the crisis and proposes $158 million for these types of institutions. Because the basic factor in the formula is enrollment, as the junior college movement expands, so too will the allocation of funds to these institutions.

There is a concern too for the colleges and universities serving student bodies which are predominantly black. This title will provide $52.5 million to these institutions.

Mr. Chairman, the crisis is not only in private education and in the 2-year movement. Of 278 State colleges and universities, 75 percent cite financial difficulty as their major problem. For the land grant institutions, for State colleges and universities, and for other public institutions, $627 million is authorized.

Mr. Chairman, clearly there has been considerable controversy over the formula to be used for the allocation of institutional assistance funds. As I have stated earlier, the formula contained in title VIII is the most equitable formula presented to the committee.

Nevertheless, I can understand the concerns of some but I cannot understand the position of those who support this amendment, for it does not deal with how funds are to be allotted. In clear and simple English, it denies that there is a financial crisis in higher education. It says to institution after institution that the Congress does not care whether enrollments must be curtailed, or departments dropped, or that they must close their doors.

The amendment says to parents and students, regardless of income, that the Federal Government has no interest in helping to finance the staggering costs of higher education. And it will mean to needy students—the continuing and foremost concern of this Congress—that higher education will be even further removed. Tuition increases, which will certainly result without the institutional assistance being proposed in the bill, will fall hardest on those families and those students who are least able to pay for a college education.

Members should consider what this title will mean to colleges and universities and parents and students in their States. Take one example: Public institutions in Florida will receive $17,255,000 and private colleges and universities will receive $8,970,000. Our record shows a financial crisis with institutions in Florida and in every other State. I know we have a financial crisis existing in higher education in Kentucky. The time is long overdue for giving some minimum—and I am using the word "minimum"—assistance to our colleges and universities.

What the committee has done—and what the Green proposal does—is not to ostracize or leave out any group. All institutions are included. I do not know of any college in my State that is not in dire need and that is not in a financial crisis. All of the institutions—all of the colleges and universities in the Commonwealth of Kentucky are confronted with a financial crisis. I am convinced that the same situation exists throughout America. This has been well documented.

Mr. Chairman, I urge that the gentleman's amendment be overwhelmingly defeated.

Mr. ESCH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first I would like to indicate my strong concurrence with the distinguished ranking member of the Higher Education Subcommittee, the gentleman from Oregon (Mr. DELLENBACK) and the remarks of the gentleman from Iowa (Mr. SCHERLE) who expressed very well the need to support title VIII today in this House.

Then I would like to suggest to the Members that this concept of institutional aid is a concept whose time has come. I would concur that the particular formula as outlined in title VIII is not a satisfactory formula. It is not satisfactory, because we do not as yet even know the total dimensions of the problem. I would hope that in the course of the conference this title and this concept could be greatly improved.

While supporting this title VIII on institutional aid, I think that there are some other questions that should be raised for further discussion.

First, as yet we really do not know what is the most effective channel through which to funnel aid. The higher education community in general, the Office of Education, and we on the committee have not completed the research needed to know at this particular point what the most effective channel for aid should be.

Second, the other problem that this raises, especially in relation to the private independent colleges, is how may we provide Federal aid and yet retain autonomy at the local level to maintain freedom? Hopefully, this amendment will not encroach upon the freedom of the independent colleges, but I think we would be less than honest with ourselves if we do not recognize that as dollars flow, control will also, and that this raises a serious question about the "accountability in the higher education community and in colleges and universities generally. I am hopeful that our committee in the next year might look into this question of accountability at all levels as it relates to institutional aid.

Then there is another question raised by title VIII and that is, How can we implement title VIII and fund it and still not have it interfere with other sources, both in terms of private contributions and State sources for financing? Title VIII in its present formula does not address itself to that question as effectively as it might, and this is another question that needs our direct attention and concern. It is for these reasons that I am reluctant to support title VIII, but I am convinced that given the financial situation that exists, especially within our independent colleges, that we must pass title VIII as it now exists. That is why I oppose the amendment.

I am hopeful that during the course of the legislative process in conference we can continue to improve it.

I would also indicate to the membership that, because of this I am hopeful we can put an amendment through providing that we will not have a 5-year program under title VIII but only a 2- or 3-year program under that title, so that in the interim period, as the studies that are now becoming available to us can be utilized, we might develop answers to the questions I have raised to other queries made elsewhere.

So it is on this basis, recognizing that institutional aid is a concept whose time has come, but also suggesting to Members, and not only to this House but the higher education community, that we must next move forward to develop a

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more effective delivery system in the coming years.

Mr. PEYSER. Mr. Chairman, I rise in opposition to the amendment.

I think it is unfortunate that we are faced with the name "institutional aid," because that term has a very cold and calculating sound. A lot of people figure, "Well, this is another one of those programs and maybe we should not go along with it." We are really dealing here with the training ground of the future for young Americans, and we are taking the chance today, if we were to support this kind of amendment, of seeing the opportunity for young Americans to face the world that is coming up in the 1970's and the 1980's and to have a quality education to meet that world, either at a private or public level, be eliminated.

It has been stated here today that the private institutions no longer be private—independent institutions if we give this aid. The one statement we can make for sure is that if we do not give this aid, there will not be any private or independent institutions within the next 5- to 10-year period—unless they are institutions that are serving either the very wealthy or the very poor. I think we have to take action today, and the formula that has been devised, which is known as the Green formula under this bill, is a formula that I do support.

It is a compromise formula. I think we should understand that. The gentleman from Minnesota (Mr. QUIE) is the ranking minority member on this committee. His talent and work in this area have been certainly a great help, and he has devised a cost of education program that is now part of this formula.

So two-thirds of this formula really is Mrs. GREEN's program and one-third is Mr. QUIE's. I think it is a fair type of formula that represents the best interests of everybody concerned.

I think there is a real concern for community colleges and this concern is very much answered by this bill as presented by the committee.

Finally, I think we have to realize that the whole program of higher education in this country is in the balance today as to what action we take. Colleges are using their endowments, those few colleges which have endowments, to operate. The funds are not being replaced today in the way the alumni used to replace them, because the operational costs have grown too high. So I urge Members to support the total bill and the institutional aid and I hope they will defeat this amendment which would eliminate this kind of help.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I had not really expected to speak on this subject here today, because usually we have our say as a member of the Health, Education, and Welfare Subcommittee on Appropriations, but it seems to me we are breaking some brandnew ground in title VIII and that is the reason I take the floor to make a few observations.

I wish to make it unmistakably clear that I support the gentleman from Illinois in his amendment to strike this title. I cannot personally think of any institution of higher learning in this country that would not like to have another source of money. My own privately endowed alma mater in Peoria, Bradley University, will run a deficit this year of about $300,000. This title would undoubtedly help this privately endowed institution and others in my district. From a personal and selfish point, I should probably support this proposition, but I have to take a much broader view as to whether the principle of general institutional assistance is proper. I don't think it is.

What we are doing here today is only the beginning. It is a point of departure.

We can call it a measure to meet an emergency situation, but all Members know as well as I do that this is not a temporary program. We are embarking today on something that will be a permanent part of the fabric of higher education in this country. There is no getting around it.

Take the old Bankhead-Jones Act when we established the land-grant colleges. It was just a little piddling sum of $10 million or $12 million one time many years ago. We carried that item in our appropriation bill for years and years, only because no one had the intestinal fortitude to say that we were going to cut it out—even though it had outlived its usefulness. None of the Members could face up to that. They could not take that much heat.

Some may say we can limit this to a 3- or 4- or 5-year emergency program, but let us not kid ourselves. It will be a continuing permanent program. I ask you seriously: How many of you would go back to your home institutions or your home States and say that you are going to cut this program out once it has begun? I daresay the number of you who could stand up to that kind of pressure could be counted on my 10 fingers.

I say again, Mr. Chairman, what we are doing here will become a permanent program of assistance.

Aside from the fact that we do not have the information and the facts we need here upon which to base a good, sound formula of distribution, I would point out that, so far as I know, no consideration was given to those institutions around the country which are already getting much aid through other Federal programs. Some of the most prestigious institutions in the country, such as Yale, Princeton, and Harvard, are receiving nearly one-third of their operating income from Federal sources. One can say this is a good argument for enactment of this bill. Let us give them another assist, but I say any assist on our part ought to be much more finely targeted to meet specific needs rather than under this program of general across-the-board assistance.

Mr. Chairman, I have got to express some concern over the amount of money this program will eventually cost us. The gentlelady from Oregon says something in the neighborhood of $800 or $900 million the first year. Dividing that among some 2,500 or 2,600 institutions would give each something like $300,000 or $400,000. I can just feel the pressure building for double and triple that amount in a year or two—and we will hear from some that $5 or $10 billion could easily be spent for such a laudable purpose as higher education.

A few weeks ago we passed a so-called tax bill that will actually result in a loss of billions in Federal revenue in the next few years.

For those of you who think we will have all kinds of money to play with after all the boys are home from Vietnam, let me remind you that we are already mortgaging ourselves over and beyond those reductions in war spending with highflying spending programs already on the books.

The deficit this fiscal year will be $30 billion. We cannot afford to continue along this road of deficit financing. It is treacherous and the resulting inflation is probably contributing more to the problems of our colleges than anything else.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding. I appreciate the gentleman's contribution on this new impacted aid question, because this is going to be impacted aid for higher education.

I should like the members of the committee to know I have in my hand a letter from Secretary Richardson of HEW in which he says:

> As you know, the Administration has serious reservations about Title VIII of H.R. 7248, the pending Higher Education bill, which would establish a new program of general assistance to colleges and universities based in large part on the number of students enrolled and, to a lesser extent, on the amount of Federal student financial aid administered by the institution. The Administration supports instead a formula based solely on the latter factor, which would target scarce Federal funds on institutions which undertake a Federal responsibility.
>
> The Administration has consistently opposed any formula which, even in part, would compute assistance on a flat capitation basis. We believe that a program based on capitation would result in the automatic dispersal of scarce Federal resources among institutions, many of which are not in financial distress. The adoption of this random formula approach in Title VIII could result in sharply reduced commitment by State and local governments, which have had the basic governmental responsibility in the past, for the support of higher education. If this were the result, institutions could be left in no better financial condition than they claim today.
>
> We are also concerned that enactment of Title VIII might create expectations among college and university administrators that nearly one billion dollars, the authorization level specified in that title, would become available. In fact, we anticipate that far less than that sum could be either requested by the President or approved by the Committee on Appropriations, in view of severe budgetary constraints.
>
> Perhaps of greatest concern is the lack of hard information available at this point about the severity, complexity and causes of the "crisis" facing higher education. We are of the opinion that not enough is known about the "crisis" to permit any intelligent judgment now on this subject by either the Congress or the Executive.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mrs. GREEN of Oregon. Mr. Chairman, reserving the right to object, can we reach some agreement on time here? I do not know how many others want to speak on this, but it seems to me we should not continue for another hour or so. Can we close debate on this amendment at 3 o'clock? I ask unanimous consent to do so.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon.

Mr. ERLENBORN. If the gentlewoman from Oregon would make that 3:15, that would be agreeable.

Mrs. GREEN of Oregon. I do not see that many Members standing.

Mr. QUIE. I believe three additional Members want to speak.

Mrs. GREEN of Oregon. We do not need 25 minutes for three Members.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

Mr. QUIE. Mr. Chairman, reserving the right to object, the time would have to go to 3:05 to give time to the three of us who want to speak.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that, instead of 3 o'clock, all debate on this amendment close at 3:05.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon.

Mr. COLLIER. Mr. Chairman, reserving the right to object, I am trying to figure out which three Members want to speak. I see six standing.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I am happy to yield to the gentleman from Minnesota.

Mr. QUIE. It is my understanding that the gentlewoman from New York and the gentleman from Illinois and I are the three who want time, who have not spoken before. I assume the gentleman from Illinois (Mr. MICHEL), the gentleman from Illinois (Mr. ERLENBORN), and the gentlewoman from Oregon (Mrs. GREEN) are not seeking time.

The CHAIRMAN. The Chair will state that under the general rules of the House, whenever debate is limited, those who theretofore have spoken on the amendment may speak again under the unanimous-consent agreement limiting debate.

Mrs. GREEN of Oregon. Mr. Chairman, since we have taken almost 5 minutes on this already, I ask unanimous consent that all debate on this amendment close in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN. It is the unanimous consent request of the gentleman from Illinois (Mr. ERLENBORN), that the gentleman from Illinois (Mr. MICHEL), may proceed for an additional 5 minutes. Is there objection to that request?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois, so that he may conclude reading the letter.

Mr. ERLENBORN. I thank the gentleman for yielding.

To conclude the reading of the letter from Secretary Richardson, he goes on to say:

> I understand that during general debate on the Higher Education bill, you indicated your intention of moving to delete Title VIII from H.R. 7248. I am fully prepared to support your efforts to delete that title.

Mr. MICHEL. I thank the gentleman for reading that very important communication into the RECORD at this point. I would like to make another observation, also.

The good chairman of the Committee on Education and Labor (Mr. PERKINS), said that this will be a minimum level of assistance. We know, as is the case with minimum wages, that they serve as a base or a benchmark from which everything flows above that. So it will be for this program.

The other day I ran across a few statistics of what we are doing in my home State of Illinois. I would like to continue the progress that we are making there, under the leadership of our great Governor Richard B. Ogilvie. In the last 3 years, for example, we have gone up from $36 million to $112 million in scholarships, an increase of 211 percent, in my home State of Illinois. For junior colleges we increased the appropriated funds from $65 million to $143 million, which is an increase of 120 percent. For universities we have gone from $764 million to $1,164 million, which is an increase of 52 percent. That is what we have done in my own home State of Illinois, not with somebody else's money but with money which we raised ourselves from income taxes in order to do these things to take care of our own people. In my book that represents a strong and determined commitment of the taxpayer's funds to the future of the young people in our college system.

I must confess that I am really concerned about our moving over this threshold today. I believe the principle is wrong and beyond that I have to raise again the question of where the money is coming from. Surely in a year or two we'll be asked for $2 billion or $4 billion, and then it may be multiplied by 5 before too long.

So, as a member of the committee which will eventually have to vote whatever money you authorize here or at least a fraction thereof, I do have to raise these concerns here today.

Mr. ERLENBORN. Will the gentleman yield to me?

Mr. MICHEL. I am happy to yield to the gentleman.

Mr. ERLENBORN. The gentleman made a very valid point about the level of effort in our own home State of Illinois. The gentleman is aware, of course, that the formula under this bill would require our State to continue that. I have no objection to it, but those States that are not at an adequate level of support will be free to stay at the inadequate level and still get the Federal funds.

Mr. MICHEL. That is why I think the formula is inequitable in that we do not get credit for what we have been doing, and I believe that if we take this general assistance route we should get credit for having taken this initiative on our own.

Mr. RANDALL. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Illinois which would strike out everything beginning at line 14 on page 181 all the way through line 24 on page 194 and renumber subsequent titles and sections appropriately. In other words, the gentleman seeks to strike out the entire content of title VIII which now stands out as a very helpful and most important effort to amend the Higher Education Act of 1965.

I was not privileged to listen to all the arguments of those who would knock out this type of assistance. Yet, I have advanced the argument that it is not a good investment to put large sums of general aid into as many as 600 colleges nationwide that may have an enrollment somewhere between 500 and 1,000 students. Some may be impressed that it is a valid argument that we should deny assistance to institutions of higher education simply because they do not have at least 1,000 students.

On the contrary, with a little bit of reflection the presentation of this argument against assistance to small colleges can very well be turned around from an argument against them to an argument in their favor.

How many times have we heard our sons and daughters complain that in a great university where there are between 20,000 to 30,000 students they feel they are no longer a student with a name but only a number. I distinctly recall my daughter when she attended the great university of my State of Missouri complained that No. 12286 was the principal feature of her identification, and that her name was not important.

How can we forget the advantages of the face to face relationship between a teacher and a student? How can there ever be found a substitute for a professor who is willing to take some time to explain an intricate subject matter to a student? This kind of thing is possible only in the small colleges which are now criticized for being too small. Mr. Chairman, let us hope the time may never arrive in which the manner of instruction shall be limited to conditions where our college students go to a room and sit and listen to some type of closed circuit television. Then maybe one day a week after this canned exposure they have the doubtful privilege to have the benefit of the great wisdom of some graduate student to try to answer a few of their questions in a weekly quiz session.

No, if the true purpose of title VIII is to fund some of these small colleges we should all be for it and oppose the

amendment of the gentleman from Illinois. If the amendment of the gentleman prevails, of course, there would be no money available to help sustain these small private colleges. By a private college we mean those endowed from private subscription such as donations, legacies, and gifts provided for in the last will and testament of former graduates who believed this type of higher education was worthwhile. Some of these colleges may be partially supported by church organizations. Many or perhaps most of them are not. Those which are church affiliated do not close their doors to students that happen to be affiliated with some other religious denomination. Moreover, there is no serious problem of admission because enrollments in most instances are not beyond the plant capacity or the academic capacity of these small schools to accommodate new enrollees.

Perhaps the author of the amendment to strike title VIII is worrying about the so-called federalization of our colleges. Well, at the rate we are going unless title VIII is included in this bill, there is not going to be any source of worry for very long because according to the report which accompanies H.R. 7248 at page 45 unless immediate aid is forthcoming 365 private colleges and universities will be closed in this decade. This is only 9 years away. Someone has provided the information that 200 of these smaller colleges went out of existence this past year alone.

True, these private institutions have raised tuition. They have done so reluctantly, while trying to mitigate the impact of this raised tuition upon their students who are already suffering from inadequate personal resources to get through the school year. As it is, many of these institutions of higher education in order to avoid the slide into deficit operation have had to make difficult decisions that adversely affected the quality of education. There have already been faculty and staff freezes and cutbacks all across the country. There are reports of deferment of needed maintenance in order to avoid further deficits.

I have no way of predicting the outcome of the vote on this amendment but of all the amendments that have been offered to any section of H.R. 7248, this amendment should be defeated by the kind of a vote that will express the confidence of the Members in this House in our smaller institutions of higher learning across our land. Let us tell them by the defeat of this amendment that they have not been forgotten. Let the word go forth that we think they remain an important part of our system of higher education, and that they will be federally assisted in order that they can continue their valuable contribution to higher education.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, I rise in support of the amendment offered by my colleague from Illinois (Mr. ERLENBORN).

I do so because I believe that the alternative is establishing a program that will grow and grow under political pressures which this body will not have the courage to halt. I do not think there is a Member of this House who, facing the reality of what is in title VIII, can disagree with that. I think this title is the first major step to the total federalization of higher education; and the day will come when we will regret this action unless the Erlenborn amendment is adopted.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Chairman, I rise in opposition to the amendment.

I think, first of all, we have to recognize the fact that the preservation and conservation of our human resources in this Nation is the most important item that should be given topnotch priority on our agenda. I think we ought to recognize that all over the country today, in terms of employees, staff cutbacks, and in terms of the high cost of living, that the private institutions and other independent institutions cannot compete with the New York City University which is free from the standpoint of tuition and cannot compete with the New York State University campuses whose basic tuition is $400.

Mr. Chairman, in my opinion we cannot tell these institutions that we are not going to be able to continue to have the kind of educational system of which this country has been so very proud.

It is also interesting to note the fervor with which many oppose these educational programs when you talk about dollars while on the other hand one sees a kind of fervor that is very distressing which we do not witness when we talk about the military-industrial complex in this Nation.

Mr. Chairman, in my opinion we have to recognize the fact that the alumni are not contributing as they have done heretofore. We have to recognize the fact that the colleges are using up their endowments.

Mr. Chairman, it is our responsibility to realize that the Federal Government is going to have to become a third partner in this effort.

I remember back in the late 1930's and early 1940's, although of a still tender age—so well how many people were screaming in order to get the State government to become the second partner in the educational process and State governments realized their role although reluctantly at first.

Mr. Chairman, the importance of this partnership will benefit our youth and our children. I think the time has come that we must place this matter on a very high priority listing.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, we have heard some facts and figures on the floor of the House today, mostly from those institutions or association of institutions who stand to benefit as a result of the passage of this particular provision.

I earlier called to the attention of the members of the committee the communication which I received from the Secretary of the Department of Health, Education, and Welfare which I think is not in that category.

I would like to call attention to a letter which was addressed to the Honorable JOHN R. DELLENBACK and signed by Alfred B. Fritt of Yale University in which he writes in connection with this legislation the following:

> The first has to do with Federal financial aid to institutions. The Senate bill channels that aid through students in the form of a "cost-of-instruction allowance" for each federally-aided student enrolled, while the House version for the most part bases institutional aid on the total number enrolled.
>
> While the Senate version is clearly superior, both involve an assumption which I think plainly incorrect, namely, that there is a Federal responsibility to help preserve all colleges and universities, no matter their actual financial condition or how wretched their programs, how limited their appeal to students or how wastefully they are managed.

Remember, this is from an official at Yale University, one of those that would stand to gain if this provision is enacted.

> Once such a responsibility is assumed, I do not see how it can be gotten rid of. It would be far better if the Congress enacted no institutional aid proposal at this session and took another year to think through how best the Federal Government can bring rationality and fairness and adequate resources to the financing of higher education. The delay can do no harm, since there is no reasonable prospect that general institutional aid, even if authorized, will be funded this fiscal year.

I would call the attention of the Members of the Committee to one other independent study and from one which would not benefit from this provision and that is the cost of college study recently completed by the Columbia Research Association which takes these statistics and relates them to Federal student aid and which states that it is the utilization of income and resources that is faulty in these institutions and not a lack of income.

Mr. Chairman, this information supports my amendment and I hope it will be adopted.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Does the gentlewoman from Oregon desire to be heard at this time?

Mrs. GREEN of Oregon. Mr. Chairman, I would prefer, if it is possible, to close the debate on this particular amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

(By unanimous consent, Mr. PERKINS yielded his time to Mrs. GREEN of Oregon.)

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota, Mr. QUIE.

PARLIAMENTARY INQUIRY

Mr. QUIE. Mr. Chairman, may I first make a parliamentary inquiry?

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. QUIE. Mr. Chairman, my parliamentary inquiry is this: There was a limitation of time of 20 minutes. Will the slightly more than 2 minutes for each Member who has talked, and for the two remaining speakers, use up the entire 20 minutes?

The CHAIRMAN (Mr. WRIGHT). The Chair will state to the gentleman from Minnesota that there were seven Members who were observed standing at the time the 20-minute limitation was established. This would, equally divided, provide exactly 2¼ minutes per Member. The Chair will further state to the gentleman from Minnesota that the Chair has attempted to be considerate and lenient in these matters. The Chair will recognize the gentleman from Minnesota (Mr. QUIE), for slightly more than 2 minutes.

Mr. QUIE. I would say further, Mr. Chairman, that the reservation on time was made at 11 minutes to 3, and it is now 3 o'clock, so it would seem to me that only 11 minutes have been used up.

PARLIAMENTARY INQUIRY

Mr. HALL. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HALL. Mr. Chairman, is not this time now coming out of the allotted time ageed to by the unanimous consent?

The CHAIRMAN (Mr. WRIGHT). The Chair will state that any time engaged in on parliamentary inquiries must perforce come out of that time.

Mr. HALL. I thank the Chairman.

Mr. QUIE. Mr. Chairman, I would say to my colleague, the gentleman from Missouri (Mr. HALL), that when one finds himself one-third in favor of a title, and two-thirds in opposition, he might just as well dispose of his time in parliamentary inquiries rather than discussing the title.

But before I even get into the title, I want to say that I am pleased that the gentleman from Illinois (Mr. PUCINSKI) has announced that he is going to offer the emergency school aid bill, with some changes, as title XXI of this bill. I am hopeful that the gentleman will place that amendment in the RECORD today so that the Members can examine it, because I doubt that we will be able to reach it until tomorrow.

I also want to say that this new amendment provides an absolute prohibition against money being used for busing. When the matter was before the House recently those who wanted to prohibit money being used for busing could not offer an amendment. Now it will be possible to offer amendments, so that those who wanted to have the money used for busing can support an amendment offered by someone to that effect.

I just wanted to let the Members know that, in my opinion, this is the best way to proceed in getting this legislation before us.

As far as title VIII is concerned, as I indicated, I am one-third in favor of it because of the fact we have provided for cost-of-education allowances. The Senate-passed bill adopted this approach. However, I believe that the way in which we have provided for cost-of-education allowances is more attractive and provides a better package than does the Senate language. So to that extent I would like to see it in this title as a means of going to conference to work out a compromise.

The approach of giving aid to institutions based on the number of students is an approach I oppose. I had an open mind on this when it was first talked about, but since then I think that it would be unwise to go this route. I think it would have us assume a State responsibility that should not be assumed by the Federal Government.

All institutions are not in a financial crisis, although there are some that are. This per capita approach would treat all institutions alike with respect to the amount of Federal aid. Some private institutions have more difficulty, but they would be treated the same as public institutions. Also in this bill is the assumption that there is a difference in costs between lower and upper divisions, by providing $100 per lower division student and $150 per upper division student. But we know that occupational education in the first 2 years many times is much more expensive than even upper division programs and some graduate school programs in the liberal arts area. So I think that these differing dollar amounts are extremely unwise.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Mr. Chairman, this is a new departure. This is probably one of the most important parts of the higher education bill.

Some people have stated on the floor that they prefer the cost of education approach which is the Senate alternative.

Let me read to you what Secretary Richardson had to say about this on March 2 of this year when he testified before the subcommittee. Secretary Richardson said:

> We do not believe the proposals that have been presented, for example, a cost of education grant attached to student assistance, represents anything more than very shallow common denominators of proposed support for institutions of higher education.

So the Secretary does not favor the cost of education allowance that has been advocated on the Senate side.

Mr. Chairman, let me again reiterate that the institutions of higher education in this country are facing a grave financial crisis and that crisis is nationwide.

It is interesting to note that the very few people in higher education who are opposed to title VIII are from institutions like Yale which has $485 million in endowments. If every single one of the 2,600 institutions in this country had an endowment of $485 million, then they might agree with the people at Yale that we should not propose this kind of institutional aid.

The former president of Harvard is opposed to institutional aid. We find some other prestigious institutions that are opposed to it, but they are the only ones. Every association of higher education in this country favors this program of institutional aid.

I might also add that the prestigious universities are the institutions which have been getting all of the funds up to this time. The gentleman from Illinois (Mr. MICHEL) has made reference to the fact that less than 100 prestigious universities have been getting 69 percent of all of the Federal funds for higher education in this country. The other 2,500 institutions, the ones for whom I am appealing, hardly receive anything. They have been carrying the burden for the Federal Government in the training of civilian leaders.

As I said the other day on the floor of the House, on six military institutions in this country we are spending this year over $200 million in operating grants to train military leaders. I am not opposed to that because it is a Federal responsibility. But it seems equally important and equally in the national interest that we spend funds that will allow institutions to keep their doors open and train civilian leaders.

It has also been said that we ought to devise some kind of formula that would identify the most needy institutions. First of all, the need is nationwide. It is not confined to 10 or 15 institutions, as the gentleman from Iowa (Mr. SCHERLE) pointed out. There are hundreds of institutions that remain open today only as a result of deficit financing or by dipping into their very limited endowment funds. They do not have the endowment funds that Yale has.

So I would hope that the Members of this House would look at the total need and look at the burden that these institutions have been carrying in educating civilian leaders. I urge that we vote down the amendment offered by the gentleman from Illinois.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

TELLER VOTE WITH CLERKS

Mr. ERLENBORN. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ERLENBORN. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered, and the Chairman appointed as tellers Mr. ERLENBORN, Mrs. GREEN of Oregon and Mr. STEIGER of Wisconsin and Mr. PERKINS.

The Committee divided, and the tellers reported that there were—ayes 84, noes 310, not voting 36, as follows:

[Recorded Teller Vote]
[Roll No. 344]

AYES—84

Anderson, Ill.	Cleveland	Harvey
Archer	Collier	Hosmer
Arends	Collins, Tex.	Hunt
Belcher	Conable	Hutchinson
Betts	Coughlin	Jonas
Blackburn	Crane	King
Bow	Davis, Wis.	Kuykendall
Broomfield	Dennis	Kyl
Brown, Mich.	Devine	Landgrebe
Brown, Ohio	Dowdy	McClory
Buchanan	Erlenborn	McDonald, Mich.
Burke, Fla.	Findley	McEwen
Burleson, Tex.	Fisher	Mahon
Burlison, Mo.	Flynt	Martin
Byrnes, Wis.	Forsythe	Michel
Cederberg	Frelinghuysen	Mills, Md.
Chappell	Goldwater	Mizell
Clancy	Goodling	Nelsen
Clausen, Don H.	Gross	Poage
Clawson, Del	Grover	Poff
	Hall	

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Hallbeck	Satterfield	Steiger, Wis.
Hariek	Schmitz	Teague, Tex.
Rhodes	Scott	Ware
Roberts	Sebelius	Whalley
Robinson, Va.	Smith, Calif.	Widnall
Roncalio	Smith, N.Y.	Wiggins
Ruth	Snyder	Young, Fla.
Sandman	Steiger, Ariz.	

NOES—310

Abbitt	Ford, Gerald R.	Melcher
Abernethy	Ford, William D.	Metcalfe
Abourezk	Fountain	Mikva
Absug	Fraser	Miller, Calif.
Adams	Frey	Miller, Ohio
Addabbo	Fulton, Tenn.	Mills, Ark.
Albert	Fuqua	Minish
Alexander	Gallifianakis	Mink
Anderson, Calif.	Gallagher	Minshall
Andrews, Ala.	Garmatz	Mitchell
Andrews, N. Dak.	Gaydos	Mollohan
Annunzio	Gettys	Monagan
Ashbrook	Giaimo	Montgomery
Ashley	Gibbons	Moorhead
Aspin	Gonzalez	Morgan
Badillo	Grasso	Morse
Begich	Green, Oreg.	Mosher
Bell	Green, Pa.	Moss
Bennett	Griffin	Murphy, N.Y.
Bergland	Griffiths	Myers
Bevill	Gude	Natcher
Biaggi	Hagan	Nedzi
Biester	Haley	Nichols
Bingham	Hamilton	Nix
Blatnik	Hammer-schmidt	Obey
Boggs	Hanley	O'Hara
Boland	Hansen, Idaho	O'Konski
Bolling	Hansen, Wash.	Passman
Brademas	Harrington	Patman
Brasco	Harsha	Patten
Bray	Hastings	Pelly
Brinkley	Hathaway	Pepper
Brooks	Hawkins	Perkins
Brotzman	Hays	Pettis
Broyhill, N.C.	Hechler, W. Va.	Peyser
Broyhill, Va.	Heckler, Mass.	Pickle
Burke, Mass.	Helstoski	Pike
Burton	Henderson	Pirnie
Byrne, Pa.	Hicks, Mass.	Podell
Byron	Hicks, Wash.	Powell
Cabell	Hillis	Preyer, N.C.
Caffery	Hogan	Price, Ill.
Camp	Holifield	Price, Tex.
Carey, N.Y.	Horton	Pryor, Ark.
Carney	Howard	Pucinski
Carter	Hull	Purcell
Casey, Tex.	Hungate	Quie
Celler	Ichord	Quillen
Chamberlain	Jacobs	Rangel
Chisholm	Johnson, Calif.	Reid, N.Y.
Clark	Johnson, Pa.	Reuss
Clay	Jones, Ala.	Rodino
Collins, Ill.	Jones, N.C.	Roe
Conte	Jones, Tenn.	Rogers
Conyers	Karth	Rooney, N.Y.
Corman	Kastenmeier	Rooney, Pa.
Culver	Kazen	Rosenthal
Daniel, Va.	Keith	Rostenkowski
Daniels, N.J.	Kemp	Roush
Danielson	Keating	Roy
Davis, Ga.	Kluczynski	Roybal
Davis, S.C.	Koch	Runnels
de la Garza	Kyros	Ruppe
Delaney	Landrum	Ryan
Dellenback	Latta	St Germain
Dellums	Leggett	Sarbanes
Denholm	Lennon	Saylor
Dent	Lent	Scherle
Dickinson	Link	Scheuer
Dingell	Lloyd	Schneebeli
Donohue	Long, Md.	Schwengel
Dorn	Lujan	Seiberling
Dow	McClory	Shipley
Downing	McCloskey	Shoup
Drinan	McCollister	Shriver
Duncan	McCormack	Sikes
du Pont	McCulloch	Sisk
Eckhardt	McDade	Slack
Edmondson	McFall	Smith, Iowa
Edwards, Ala.	McKay	Spence
Edwards, Calif.	McKevitt	Springer
Eilberg	McKinney	Staggers
Esch	Madden	Stanton, James V.
Eshleman	Mailliard	Steele
Evans, Colo.	Mann	Stephens
Evins, Tenn.	Mathias, Calif.	Stratton
Fascell	Mathis, Ga.	Stubblefield
Fish	Matsunaga	Stuckey
Flood	Mayne	Sullivan
Flowers	Mazzoli	Symington
Foley	Meeds	Talcott
Taylor	Veysey	Wolff
Teague, Calif.	Vigorito	Wright
Terry	Waggonner	Wyatt
Thompson, Ga.	Waldie	Wydler
Thompson, N.J.	Wampler	Wylie
Thomson, Wis.	Whalen	Wyman
Thone	White	Yates
Tiernan	Whitehurst	Yatron
Udall	Whitten	Young, Tex.
Ullman	Williams	Zablocki
Van Deerlin	Wilson, Bob	Zion
Vander Jagt	Wilson, Charles H.	Zwach
Vanik	Winn	

NOT VOTING—36

Anderson, Tenn.	Edwards, La.	Murphy, Ill.
Aspinall	Frenzel	O'Neill
Baker	Gubser	Randall
Baring	Halpern	Rees
Barrett	Hanna	Riegle
Blanton	Hébert	Robison, N.Y.
Broyhill, Va.	Jarman	Skubitz
Colmer	Kee	Stanton, J. William
Cotter	Long, La.	Steed
Derwinski	McClure	Stokes
Diggs	McMillan	
Dulski	Macdonald, Mass.	
Dwyer		

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to be proposed to title VIII?

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment. The amendment appears on page 186.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 186, line 10, after "1204." insert "(a)".

On page 186, at the end of line 22, insert "and", and strike out lines 23 through 26.

On page 187, strike out lines 1 through 4; in line 5, strike out "(C)" and insert "(B)"; and strike out lines 12, 13, and 14.

Page 187, after line 14, insert the following:

"(b)(1) The Commissioner shall not make a grant under this part for any fiscal year to any public institution of higher education in a State which receives at least 20% of its general operating budget from such state unless he has determined that the adjusted per student effort of the State for public higher education for the most recent fiscal year for which satisfactory data are available (hereinafter referred to as the 'base year') is not less than its average per student effort for public higher education for the three fiscal years preceding the base year.

"(2) A State's adjusted per student effort for higher education for a base year shall be deemed to be the State's per student effort for higher education (determined under paragraph (3)) for such year less a percentage thereof which is equal to the percentage (if any) by which the price index for the base year exceeds the average level of such index for the three fiscal years preceding the base year.

"(3) A State's per student effort for higher education for a fiscal year shall be deemed to be the quotient obtained by dividing (A) the total current expenditures of funds in the State for support of public institutions of higher education, as determined by the Commissioner for such fiscal year by (B) the number of full-time students (including the full-time equivalent of the number of part-time students) enrolled in public institutions of higher education in the State, as determined by the Commissioner for such fiscal year.

"(4) For purposes of this section, the term 'current expenditure of funds for support of public institutions of higher education' includes expenditure of funds derived from State resources for the operation of public institutions of higher education, other than—

"(A) the payment of principal and interest on debt obligations the proceeds of which were used for capital outlays by public institutions of higher education; and

"(B) capital outlays for construction programs at public institutions of higher education, with respect to which no debt obligations were issued.

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Chairman, what this would do is to put a different maintenance of effort requirement in title VIII than is presently there.

To state it simply, presently there is a maintenance of effort requirement of each institution. What my amendment would do would be to require each State to maintain its effort in higher education. I believe it is only the State that has the ability to maintain its effort. They can raise the revenue in order to maintain this effort.

Let me point out to you some of the problems that exist when you require each institution to maintain its effort. At least those of you who have served in the State legislatures before and many of you who, because of your interest in education, have observed their operation find that one type of institution in a State may not have the blessing of the legislature and another type or other types of institutions in a State do.

An example is in my own State this year community colleges and State colleges were fairly well taken care of but not the university itself because there was a feeling that evidently they had given enough to the university in the years before.

But, aid would be available to that institution, that State University, that had not fared as well by the State legislature. As long as the State appropriated totally the amount at least which they had for the last 3 year overage.

Mr. Chairman, in my opinion the main interest we should have here is to see that the State legislatures continue to appropriate as much money for higher education as they have before.

Also, if a private college suffers from an increase in enrollment of 10 to 20 students, thereby requiring a smaller budget, would not the institution then be denied institutional aid? Or, if a large research university had a sharp cutback in its Federal research money, would it not be disqualified under this title?

In order to meet its budget expenditures would not the institution be tempted to raise its tuition, that being the only factor it could control if sources were not otherwise met by the bill's requirements?

Also, is not the real effect of the maintenance of effort provision that is in the title to penalize those institutions whose need for Federal aid is the most urgent?

So, it seems to me that we cannot say that the title addresses itself directly to the so-called emergency higher education institutions because it does not address itself to the institution that has

an emergency of financing its program to be able to be assisted by this institutional grant program.

Take, for instance, some private institutions which to a great extent are dependent upon the stock market because of certain benefactors and suppose that the stock market is going down, then that private institution's contributors are not able to provide funds to the institution that are necessary to keep it going at the rate that is necessary as defined in title 8.

Mrs. GREEN of Oregon. Mr. Chairman, would the gentleman from Minnesota yield to me at that point?

Mr. QUIE. Yes, I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. In reading the amendment, let us take a State like the State of California which has three boards of education as I understand it—and I hope the California Members will speak to this point—as I understand it there is a State board for community colleges, there is a State board for the State colleges and there is a State board for the universities.

Now, suppose that one of those levels is keeping up the maintenance of effort but one of them is not. Then do I understand the gentleman's amendment correctly that if one of the three boards of higher education has not made the maintenance of effort that you require, that no single institution in California would receive any funds at all under this bill? Am I correct in that statement?

Mr. QUIE. No, that is not correct. It only requires that the State of California maintain the effort it had maintained for education at the average of the last 3 preceding years. If they want to have a different mix so that the community colleges are not receiving as much as they had in previous years, then the State of California could appropriate funds for education as against all other branches of the higher education system and then that branch that had its per student amount reduced would not be penalized.

Mrs. GREEN of Oregon. Mr. Chairman, if the gentleman will yield further, the State money comes as a result of the decision that these boards make, and if one of the boards has decreased its maintenance of effort, then they are penalized?

Mr. QUIE. The State has to meet its efforts of expenditures for higher education for all its institutions.

Mrs. GREEN of Oregon. I am talking about the State. The State boards decide the budget and present it to the legislature.

Mr. QUIE. If the State legislature did not provide as much money totally as they had previously for the 3 preceding years, they would all lose, but if the State maintained its effort as I think they should all this will do is to supplant State funds, and I do not see how that helps higher education. Under your language the California board which did not maintain its effort would be denied grants unless a waiver was obtained from the Commissioner.

AMENDMENT OFFERED BY MR. HAWKINS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. QUIE

Mr. HAWKINS. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by Mr. QUIE.

The Clerk read as follows:

Amendment offered by Mr. HAWKINS as a substitute for the amendment offered by Mr. QUIE: Beginning with line 23, on page 186, strike out everything down through line 4 on page 187, and insert the following:

"(B) current operating support from non-Federal sources for educationally-related programs of the institutions has not been reduced in anticipation of funds to be received under this part.

Mr. HAWKINS. Mr. Chairman, the amendment offered by the gentleman from Minnesota (Mr. QUIE) relates to a section which pertains only to institutions, and yet he attempts to relate this to a State's support, and what may occur provided a State reduces its support.

My amendment is not a very difficult one to understand in that it simply relates to institutions rather than to States. Although as the Quie amendment it provides for maintenance of effort. It is intended to place the responsibility on that institution to maintain its effort regardless of what a State does.

Obviously if a State does not, then there may be an instance in which the institution does continue to maintain its support. But it is possible under the amendment offered by the gentleman from Minnesota for a State to increase its assistance and for the institution not to maintain its ordinary current operating budget.

It is also possible, even if a State reduces its support, for certain institutions within that State to maintain their efforts. So that we have not placed under that approach the responsibility on that institution. I believe that by placing the responsibility on the institution and simply carrying forward the language which is already contained in the bill with this very, very simple change, that this will be more desirable.

I think the gentlewoman from Oregon did point out the inconsistency of the amendment offered by the gentleman from Minnesota (Mr. QUIE). And certainly as it relates to California it would be thoroughly unworkable. And I would assume that situation prevails in other States in which it cannot really be determined what that State effort is. In that way we do not place the responsibility on the institution which is the applicant.

Certainly the institutions themselves have thoroughly endorsed the concept which is contained in the amendment which I have presented.

The amendment is supported by the National Council of Independent Colleges and Universities, by the Association of Jesuit Colleges and Universities, by the Association of American Universities, the American Association of State Colleges and Universities, and by all of the higher education communities that I know about.

I would suggest that this places the responsibility on the institution which makes it more consistent and logical with the thrust of the higher education bill. And I believe that it certainly should receive the approval of this Committee.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, the gentleman has mentioned in his remarks that this would be unworkable in California, and having served in the legislature I wonder if the gentleman can amplify briefly how the gentleman thinks it would be unworkable in California.

Mr. HAWKINS. Actually, it makes very little difference to an institution where it maintains its support in anticipation of Federal funds. What I am saying is that all non-Federal support which is available to that institution should be considered.

If a State has reduced its support in anticipation of possible action of this Congress, then this obviously could disqualify every institution in that State. What I am saying is that in spite of that there may be some institutions, private or public, that still could maintain their effort, but which would be disqualified on a blanket basis. And this has happened and is happening to some extent in California today. So that every institution, Stanford, UCLA, and others, the effect could be that if the State reduces its support the University of Southern California might still maintain its effort. But under the amendment offered by the gentleman from Minnesota (Mr. QUIE) they would be disqualified on a blanket basis.

In other words, there is a rigidity in that amendment which is offered which is not present in my amendment. My amendment has flexibility by placing the responsibility on the institution, and not altogether upon what happens elsewhere.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mrs. GREEN of Oregon, Mr. HAWKINS was granted 2 additional minutes.)

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman from California yield?

Mr. HAWKINS. I yield to the gentlewoman.

Mrs. GREEN of Oregon. It seems to me that everybody here in the House wants our colleges and universities to maintain the effort that they have maintained in preceding years.

We have a provision in the bill which in my judgment gives sufficient assurance that Federal funds would not supplant State funds, but rather would supplement them.

The gentleman from California pointed out the difficulties in his State. In my judgment, we would have the same difficulty in the State of Oregon where we have a board of higher education, and then we have another board which has some responsibility for the community colleges.

So, Mr. Chairman, I would hope that the substitute amendment offered by the

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gentleman from California (Mr. HAWKINS) is approved.

Mr. HAWKINS. Mr. Chairman, I quite agree with the gentlewoman from Oregon.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman.

Mr. QUIE. You say in your amendment that the point at which funds would be cut off would be when they reduced expenditures "in anticipation" of receiving this money.

How are you going to prove that the legislature did that "in anticipation" of receiving money under title VIII? Can not there be any other reason for cutting back the money?

So this is not really a maintenance effort provision at all. The legislature could say, "we are hard up or we have other purposes for which we have to provide money—for health needs and welfare needs and all kinds of needs.

Mr. HAWKINS. For the purpose of establishing the intent of the amendment, may I read this statement in support of the substitute amendment:

It will be presumed that non-Federal support has been so reduced if the amount of such support to be expended per student for current operations, during the academic year for which the grant is sought, for all educationally-related programs of the institution is less than the average amount expended per student during the two years preceding the year for which the grant is sought, adjusted for changes in prices as measured by the cost of living index.

In this manner we will assure that the institutional assistance grants will in fact aid the affected institutions to improve their financial condition.

I think that is clear enough in order to establish the formula on which assistance would be determined.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. QUIE, Mr. HAWKINS was granted 2 additional minutes.)

Mr. QUIE. Then, as I understand from the language you read for the purpose of establishing legislative intent, that if a State legislature reduced its appropriation for higher education, the institution then would have to increase its tuition in order that it could qualify for aid under title VIII. Is that correct?

Mr. HAWKINS. That is one possibility. But I would point out that under the amendment you have offered that would disqualify them automatically. That institution would automatically be disqualified, whereas under the substitute amendment, as I view it, there would still be this possibility.

Mr. QUIE. I would say to the gentleman that he misinterprets my amendment.

What my amendment does is only to require that the State maintain an effort. It does not put a requirement on each institution because the institutions or the State boards are not going to appropriate the money; the State legislature appropriates the money.

What your amendment does is really to create a hardship especially for private institutions that do not have the money or find themselves short of money for one reason or another.

Indeed, in the last couple of years I know that many private institutions have found themselves in great difficulty when there is a slight recession and the stock market goes down. There is no protection for them and they are the ones who are most severely handicapped.

Under the language of the bill and the substitute amendment, therefore, the ones that are going to need the help the most are not going to get the help.

Mr. HAWKINS. I can only answer the gentleman by saying that the private institutions did participate in the conference which supported this substitute amendment.

As I indicated, the American Council on Education and the National Council of Independent Colleges and Universities and other groups participated in support of the substitute amendment. The University of California also endorsed it as well as Stanford and USC and I assume public and private institutions in other States that also support it.

Mr. DELLENBACK. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The CHAIRMAN. The gentleman from Oregon is recognized.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding. I merely wished to make one last comment about the private institutions of higher education. In this whole effort to write higher education legislation, the attitudes of the private institutions have been difficult for me to understand, because public institutions are in here demanding a formula that gives them the most money and the private institutions are coming in and saying, "Do not give us any more than you give the public institutions. Do not try to protect us."

Here again the private institutions want to have the same kind of requirements in relation to maintenance of effort. They are the one that have the need. They are the ones who have difficulty in maintaining their effort. I recognize that private institutions are trying to give themselves their 30 lashes. I guess that is up to them but I cannot understand why.

Mr. DELLENBACK. Mr. Chairman, I do not really know whether we are lost in the complexities of this subject. I do not know whether the Members are really understanding what it is that has been proposed by the gentleman from Minnesota (Mr. QUIE). Some of us are very much concerned that, as we who approve Federal institutional aid move forward by increasing the amount of Federal dollars available for this purpose, some of the States—not all of them, but some of the States—in anticipation of getting those Federal dollars are going to say, "We are going to reduce the State contribution." The amendment which is in the bill at the present time, I would submit to anyone who has read it carefully, does not protect adequately against that, and it can create a very dangerous situation for an institution which may not be able to control for itself how much non-Federal money it is going to get.

All Mr. QUIE's amendment is proposing is to state that you must be certain that the State cannot reduce its effort.

As does my colleague from Oregon, I come from a State where we have a situation where a board of higher education deals with most of our higher education institutions. The board of education in the State of Oregon deals with community colleges. I say to my colleagues that what the board of education may do or what the board of higher education may do in relation to community colleges or other higher education institutions is irrelevant. The Quie amendment makes clear that if the State, which means the State legislature, should proceed to reduce appropriations, then under those circumstances the institutions would be in difficulty, as indeed they should be. The effort of the Quie amendment is to make sure the State will not follow that road, and that when we appropriate Federal tax dollars for this purpose, it gives no State a back door out of which it can slip to reduce educational appropriations in that State. I would suggest that the language of the esteemed gentleman from California is loaded with some dangerous weasel words.

When you deal with "in anticipation of," you are getting at motive and intent, and you are not striking toward a real maintenance of effort.

I would urge this body to reject the amendment of the gentleman from California and adopt the amendment of the gentleman from Minnesota, if we really mean to have maintenance of effort by States.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentlewoman from Oregon is recognized.

Mrs. GREEN of Oregon. I would like to point out one additional difference in the two amendments that have been offered. Under the amendment offered by the gentleman from Minnesota, if I understand his amendment correctly, the Commissioner would not be able to waive the maintenance of effort requirements in exceptional cases. Last week the gentleman from Iowa (Mr. SCHWENGEL) offered an amendment which provided that under unusual circumstances the maintenance of effort might be waived by the Commissioner in regard to student aid.

It seems to me that this is an additional reason for supporting the substitute amendment offered by the gentleman from California.

Mr. QUIE. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Minnesota.

Mr. QUIE. The reason why I dropped the provision which would permit the Commissioner to waive the requirement of maintaining effort because my amendment is limited to the State maintaining its effort and not each institution. I see no reason for exempting any State legislature. I understand the reason why that provision remains in the bill, or will

if the Hawkins language is adopted since States will not be required to maintain their effort. Many institutions would not be eligible without the waiver.

However, you are going to put no requirement on the State legislatures under the Hawkins amendment. I find you have not only permitted the waiver for some institutions but in effect you would exempt the State legislatures who decide the amount of all State-appropriated money.

My amendment would exempt the institutions and put the State fundraising body under a maintenance of effort provision.

Mrs. GREEN of Oregon. Mr. Chairman, I would say to my colleague that I think we are not in disagreement on the goal we want to reach. We want the States to maintain at least their effort of previous years. It seems to me unfair however, in a State, for instance, where our education institutions may come under several boards, to penalize all institutions, because the board responsible for one group of those institutions did not maintain its effort at the required level.

At least from my standpoint, as I see it, the substitute which the gentleman has offered is too rigid in its requirements and might do great damage. I prefer that the right of waiver be given to the Commissioner.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HAWKINS) as a substitute for the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 66, noes 68.

TELLER VOTE WITH CLERKS

Mr. HAWKINS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. HAWKINS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chair appointed as tellers Mr. HAWKINS, Mr. QUIE, Mr. GREEN of Oregon, and Mr. ERLENBORN.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. GERALD R. FORD. Mr. Chairman, is the vote on the Quie amendment or on the Hawkins substitute amendment.

The CHAIRMAN. The Chair will advise the gentleman that the vote is on the substitute amendment offered by the gentleman from California (Mr. HAWKINS).

The Committee divided, and the tellers reported that there were—ayes 210, noes 182, not voting 38, as follows:

[Roll No. 345]

[Recorded Teller Vote]

AYES—210

Abourezk	Ashley	Blatnik
Abzug	Badillo	Boggs
Adams	Begich	Boland
Addabbo	Bell	Bolling
Albert	Bennett	Brademas
Anderson, Calif.	Bergland	Brasco
Annunzio	Biaggi	Brinkley
	Bingham	Brooks
Burke, Mass.	Hawkins	Preyer, N.C.
Burlison, Mo.	Hays	Price, Ill.
Burton	Hechler, W. Va.	Pryor, Ark.
Byrne, Pa.	Helstoski	Pucinski
Byron	Henderson	Purcell
Cabell	Hicks, Mass.	Randall
Carey, N.Y.	Hicks, Wash.	Rangel
Carney	Hogan	Reuss
Celler	Horton	Roberts
Chisholm	Hosmer	Rodino
Clark	Howard	Roe
Clay	Hull	Rogers
Corman	Hungate	Roncalio
Culver	Jacobs	Rooney, N.Y.
Daniels, N.J.	Johnson, Calif.	Rooney, Pa.
Danielson	Jones, N.C.	Rosenthal
Davis, Ga.	Jones, Tenn.	Rostenkowski
Davis, S.C.	Karth	Roush
de la Garza	Kastenmeier	Rousselot
Dellums	Kazen	Roybal
Denholm	Kemp	Ryan
Dent	Kluczynski	St Germain
Dingell	Koch	Sarbanes
Donohue	Kyros	Saylor
Dorn	Leggett	Scheuer
Dow	Link	Selberling
Dowdy	Long, Md.	Shipley
Drinan	McCormack	Sikes
Eckhardt	McFall	Sisk
Edmondson	McKay	Slack
Edwards, Calif.	McMillan	Smith, Iowa
Eilberg	Macdonald, Mass.	Smith, N.Y.
Evins, Tenn.	Madden	Staggers
Fascell	Mailliard	Stanton, James V.
Findley	Mathis, Ga.	Stephens
Flood	Matsunaga	Stratton
Foley	Mazzoli	Stubblefield
Ford, William D.	Meeds	Sullivan
Fountain	Melcher	Symington
Fraser	Metcalfe	Taylor
Fulton, Tenn.	Mikva	Tiernan
Gallifianakis	Miller, Calif.	Thompson, N.J.
Gallagher	Minish	Udall
Garmatz	Mink	Ullman
Gaydos	Mitchell	Van Deerlin
Gettys	Mollohan	Vanik
Giaimo	Moorhead	Veysey
Gibbons	Morgan	Vigorito
Gonzalez	Moss	Waldie
Grasso	Murphy, Ill.	Whalen
Gray	Murphy, N.Y.	Wiggins
Green, Oreg.	Nedzi	Wilson, Bob
Green, Pa.	Nix	Wilson, Charles H.
Griffin	O'Hara	Wolff
Griffiths	Patman	Wright
Hagan	Patten	Wyatt
Haley	Pepper	Wydler
Hamilton	Perkins	Yates
Hanley	Pettis	Yatron
Hanna	Pickle	Zablocki
Hansen, Wash.	Pike	
Harrington	Poage	
Hathaway	Podell	
Michel	Rarick	Steiger, Wis.
Miller, Ohio	Reid, N.Y.	Stuckey
Mills, Ark.	Rhodes	Talcott
Mills, Md.	Robinson, Va.	Teague, Calif.
Minshall	Roy	Terry
Misell	Runnels	Thompson, Ga.
Monagan	Ruppe	Thomson, Wis.
Montgomery	Ruth	Thone
Morse	Sandman	Waggonner
Myers	Satterfield	Wampler
Natcher	Scherle	Ware
Nelsen	Schmitz	Whalley
Nichols	Schneebeli	White
Obey	Schwengel	Whitehurst
O'Konski	Scott	Whitten
Passman	Sebelius	Widnall
Pelly	Shoup	Williams
Peyser	Shriver	Winn
Pirnie	Snyder	Wylie
Poff	Spence	Wyman
Price, Tex.	Springer	Young, Fla.
Quie	Steed	Young, Tex.
Quillen	Steele	Zion
Railsback	Steiger, Ariz.	Zwach

NOES—182

Abbitt	Collier	Hansen, Idaho
Abernethy	Collins, Tex.	Harsha
Anderson, Ill.	Conable	Harvey
Andrews, Ala.	Conte	Hastings
Andrews, N. Dak.	Coughlin	Heckler, Mass.
Archer	Crane	Hillis
Arends	Daniel, Va.	Hunt
Ashbrook	Davis, Wis.	Hutchinson
Aspin	Delaney	Ichord
Belcher	Dellenback	Johnson, Pa.
Betts	Dennis	Jonas
Bevill	Devine	Jones, Ala.
Biester	Dickinson	Keating
Blackburn	Downing	Keith
Bow	Duncan	King
Bray	du Pont	Kuykendall
Broomfield	Edwards, Ala.	Kyl
Brotzman	Erlenborn	Landgrebe
Brown, Mich.	Esch	Landrum
Brown, Ohio	Eshleman	Latta
Broyhill, N.C.	Evans, Colo.	Lent
Buchanan	Fish	Lloyd
Burke, Fla.	Fisher	Lujan
Burleson, Tex.	Flowers	McClory
Byrnes, Wis.	Flynt	McCloskey
Caffery	Ford, Gerald R.	McCollister
Camp	Forsythe	McCulloch
Carter	Frelinghuysen	McDade
Casey, Tex.	Frey	McDonald, Mich.
Cederberg	Fuqua	McEwen
Chamberlain	Goldwater	McKevitt
Chappell	Goodling	McKinney
Clancy	Gross	Mahon
Clausen, Don H.	Grover	Mann
Clawson, Del	Gude	Martin
Cleveland	Hall	Mathias, Calif.
	Hammer-schmidt	Mayne
	Hansen, Idaho	Mosher
	Harsha	O'Neill
	Harvey	Powell
	Hastings	Rees
	Heckler, Mass.	Riegle
	Hillis	Robison, N.Y.
	Hunt	Skubitz
	Hutchinson	Smith, Calif.
	Ichord	Stanton, J. William
	Johnson, Pa.	Stokes
	Jonas	Vander Jagt
	Jones, Ala.	
	Keating	
	Keith	
	King	
	Kuykendall	
	Kyl	
	Landgrebe	
	Landrum	
	Latta	
	Lent	
	Lloyd	
	Lujan	
	McClory	
	McCloskey	
	McCollister	
	McCulloch	
	McDade	
	McDonald, Mich.	
	McEwen	
	McKevitt	
	McKinney	
	Mahon	
	Mann	
	Martin	
	Mathias, Calif.	
	Mayne	

NOT VOTING—38

Alexander	Diggs	Mosher
Anderson, Tenn.	Dulski	O'Neill
Aspinall	Dwyer	Powell
Baker	Edwards, La.	Rees
Baring	Fraser	Riegle
Barrett	Frenzel	Robison, N.Y.
Blanton	Gubser	Skubitz
Broyhill, Va.	Halpern	Smith, Calif.
Collins, Ill.	Hébert	Stanton, J. William
Colmer	Hollifield	Stokes
Conyers	Jarman	Vander Jagt
Cotter	Kee	
Derwinski	Lennon	
	Long, La.	
	McClure	

So the substitute amendment was agreed to.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Minnesota (Mr. QUIE) as amended by the substitute amendment offered by the gentleman from California (Mr. HAWKINS).

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS: Page 183, strike out everything after "in the" in line 7, and lines 8 and 9 and insert the following:

"first two years of post-secondary education at the institution,"

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, this is an amendment which both the gentleman from Minnesota (Mr. QUIE) and I have seen. In my judgment it corrects what I think is an error in printing in putting the bill together. It makes certain that the courses that are offered at community colleges for vocational, technical and occupational education would be counted in computing the institutional aid.

From my standpoint it is a good amendment, and I believe that it ought to be accepted.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I find myself in complete agreement with the gentlewoman from Oregon, and the gen-

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tleman from Washington on this amendment.

Mr. MEEDS. Mr. Chairman, very quickly, this is an amendment which is a clarifying amendment. It clarifies and makes certain that all of the vocational, technical education people and occupational people in the first 2 years of an institution of higher education will be counted for the purpose of establishing the institutional aid.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, I commend the gentleman from Washington for offering his amendment. I had a similar amendment at the desk which I had intended to offer. I want to make sure that we are in agreement. Are we in agreement that what this really means is that these funds will remain available to community and junior colleges for students enrolled in the first 2 years in courses leading to something other than a baccalaureate degree? In other words, they do not have to be studying for a baccalaureate degree in order to qualify for this program to be recognized in the plan for the community and junior colleges; is that correct?

Mr. MEEDS. That is correct.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I believe that the questions I had have already been answered by the previous speakers. However, I do want to say that I wish to associate myself with the remarks of the gentleman in the well, and with those of the previous speakers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PUCINSKI

Mr. PUCINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PUCINSKI: on page 185, line 3 strike the comma after institution and insert: "plus the amount attributable to veterans in such institution as determined under subsection (3),"

And on page 186, after line 8 insert:

"(3) The amount attributable to veterans for purposes of paragraph (1) of this subsection shall be determined, in the case of each institution of higher education, by multiplying the number of veterans enrolled in such institution who have not completed one full academic year at an institution of higher education and who—

"(1) served on active duty in the Armed Forces for at least one hundred and eighty days after August 4, 1964, and

"(2) are receiving an educational assistance allowance under section 1682 of title 38, United States Code, or are receiving vocational rehabilitation under section 1502 of such title,

by an amount equal to (A) 40 per centum of the educational assistance allowance which would be paid them if they had no dependents, in the case of veterans receiving payments under section 1682, or (B) the amount of tuition and fees paid on their account in the case of veterans being furnished vocational rehabilitation under section 1502.

Mr. PUCINSKI. Mr. Chairman, this amendment provides an opportunity to assist a very important part of our population—the Vietnam era veterans. It is supported by the chairman of the Vietnam Affairs Committee, the gentleman from Texas (Mr. TEAGUE) and other members of the Veterans Committee on which I serve.

H.R. 7248 now provides that one-third of the institutional aid will be allotted according to a percentage formula based on the dollars received by colleges from educational opportunity grants, work study payments, and national defense student loans.

My amendment would add GI education benefits to this list. The amendment adds nothing to the cost of the bill.

Passage of this amendment will provide financial incentives to institutions of higher education to go out and recruit veterans; for every new veteran recruited, will mean additional Federal funds to the institution from the one-third allotted to schools in direct ratio to their Federal participation.

We have all heard the staggering statistics on the extent of unemployment among veterans. The rate for those veterans 20 to 29 years of age is now at 8.3 percent. That figure is up from 6 percent a year ago. The rate for veterans age 20 to 24 is even higher—11.2 percent of that group are unemployed. Currently, there are more than 320,000 Vietnam era veterans unemployed.

Congress has passed significant improvements in the GI bill under the distinguished leadership of Chairman TEAGUE. As a member of the Veterans' Affairs Committee, I have witnessed the magnificent contributions made by Mr. TEAGUE.

We have the GI bill. We must now do all we can to see that its benefits are made available to as many veterans as possible.

Eighty percent of Vietnam era veterans have not gone beyond high school. Many are not college oriented. Many do not see college as a key to their future. Many think they cannot succeed at college.

This amendment serves to bridge the gap that separates veterans from higher education.

I think that all Members agree veterans should receive special attention and assistance. This amendment does that.

Our goal is to encourage schools to actively recruit veterans. A school will receive funds for each newly recruited veteran.

Mr. Chairman, this amendment adds no new costs to the bill; yet it does provide additional opportunities to millions of Vietnam era veterans. I urge its adoption.

I am pleased to read to the House a telegram in support of this amendment which I received from the National Legislative Commission of the American Legion through its director Harold E. Stringer.

I should like now to read Mr. Stringer's telegram in support of this amendment. The telegram reads as follows:

NOVEMBER 3, 1971.

Hon. ROMAN C. PUCINSKI,
House of Representatives, 2164 Rayburn House Office Building, Washington, D.C.

As you know, The American Legion strongly supports those programs which provide incentives to colleges and universities designed to motivate veterans to enroll in and pursue courses in institutions of higher learning.

Institutional Aid Provisions of the Higher Education Act of 1971, HR 7248, would provide that one-third of the funds for direct aid to colleges shall be distributed on the basis of the dollars they receive from designated programs of federal financial assistance.

Although the Act enumerates Educational Opportunity Grants, Work Study, and National Defense Loan Programs as federally assisted, no mention is made of veterans GI educational assistance under Chapter 34, title 38, United States Code—one of the largest federal scholarship programs for veterans in college.

Since veterans in general are not from education-oriented families, and since colleges and universities fail to actively recruit or enroll veterans, we support your proposal to amend HR 7248 to include in the enumeration of federally assisted students those veterans receiving educational assistance based on service after August 4, 1964.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman.

Mr. QUIE. When the gentleman says that this will not increase the cost of the program; is this because the determination of the authorization is based on the formula for which two-thirds of the money will be allocated, the capitation formula counting the number of students in the institution of higher education; is that correct?

Mr. PUCINSKI. The gentleman is correct. It merely permits the university or the institution of higher learning to compute in those Federal moneys which flow to that institution for educational opportunity grants, work study grants, national defense student loans, and the additional category of benefits for veterans under the GI bill.

This does not effect any additional outlay of money. What it merely means is that one-third will be distributed in a different way. Those universities that do recruit veterans will obviously be entitled to more of a share of that one-third set aside for this purpose.

Mr. QUIE. Mr. Chairman, will the gentleman yield further?

Mr. PUCINSKI. I yield to the gentleman.

Mr. QUIE. What this does then is to reduce the amount of money which will go to an institution based on the number of students who receive EOG, work study, and NDSL funds.

Mr. PUCINSKI. If I understood the gentleman correctly, that is correct.

I might say that the American Legion, through Harold E. Stringer, director of the National Legislative Commission, has very strongly endorsed the inclusion of those drawing GI benefits in the allocation of funds.

Mr. QUIE. Mr. Chairman, will the gentleman yield further?

Mr. PUCINSKI. Yes.

Mr. QUIE. You have changed the amendment from the way you have proposed to offer it prior to today by striking out the language "have not previously enrolled for credit at an institution of higher education."

As the amendment was originally drafted, it was to help to provide some money to institutions so as to induce them to go out and encourage veterans to attend an institution of higher education since fewer of the Vietnam veterans are attending than the veterans of World War II and the Korean war. This will go to reduce that effort, because you count veterans already in the institution.

Mr. PUCINSKI. That is correct. You would now count them instead of as previously contemplated—which was limited to those who had not been previously enrolled for credit. You broaden the base.

Mr. QUIE. Mr. Chairman, will the gentleman further yield?

Mr. PUCINSKI. I yield to the gentleman.

Mr. QUIE. I think perhaps the Members might agree with that, so I am not going to make any objection to it.

Mr. PUCINSKI. I thank the gentleman.

Mr. SCHEUER. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, it is inconceivable to me that veterans, eligible for assistance under the GI bill, have been excluded from the formula that bases institutional aid on the number of educational opportunity grants, work study, and national defense student loan program recipients in attendance at a college or university. Indeed, it should be obvious that veterans, as a class, merit even greater Federal consideration than members of any of the three benefited categories.

I do not propose to demean the members of those groups or to deny their importance to the Nation. They are, by definition, in need of assistance. Moreover, the granting of such assistance should enhance not only their opportunities to lead productive lives, but the welfare of their country as well.

But veterans are also, by and large, in need of additional assistance. About 80 percent of the 1 million veterans discharged annually have only a high school education or less, and the massive GI bill program that followed World War II adequately demonstrated the beneficial impact that education of large groups of veterans can have on the Nation.

The obvious difference between veterans and these other groups is that no one can doubt that veterans have earned a right to assistance. While we can conclude that institutions should receive additional assistance to benefit participants of other Federal programs, I think we must conclude that veterans are owed such assistance. They have paid their dues. Their service to the Nation was thankless and often dreary or dangerous, but they did their job. The question is whether or not we will now do ours.

Unemployment is a serious problem, particularly among the young. But, unemployment is higher among veterans than nonveterans in every age bracket. Significant numbers of veterans with a high school education or less fail to use the GI bill to go to college. There are several reasons for this, but one of the most important is that colleges and universities have neither the resources nor inclination to recruit and enroll these veterans. They are often from educationally disadvantaged, nonacademically oriented families, and are perceived—in most cases wrongly—as having drug or emotional problems.

Perhaps they are even the hapless victims of sentiment against a war that they did not promote. Their obligation to serve may have even been the result of educational deferments granted to those with the economic resources and background to have higher education as a real option to military service. And, the tragic irony is that all too often veterans are now being deprived of the educational opportunities their service was supposed to provide them.

We can begin to change that by providing the resources that will enable colleges and universities to do more for those veterans who have had no previous higher education experience. This amendment deserves the support of all of us, regardless of our views on the conflict in Indochina.

Mr. BADILLO. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 182, line 6, after "1202." insert "(a)", and after line 16 insert the following:

"(b) The authorization of appropriations set forth in subsection (a) shall terminate in the event that any institution or group or class of institutions of higher education which otherwise would be eligible for assistance under this part is denied such assistance after a final determination that such assistance to such institution or group or class of institutions violates the Constitution of the United States, and no further appropriations shall be made for grants under this part after such termination of the authorization contained in subsection (a)."

The CHAIRMAN. The gentleman from Minnesota is recognized in support of his amendment.

Mr. QUIE. Mr. Chairman, in June of this year the Supreme Court ruled on a higher education case, Tilton v. Richardson. The court ruled 5 to 4 that the Higher Education Facilities Act is constitutional, but it struck down a provision that the Federal interest stop at the end of 20 years, as is provided in that legislation. In that decision they indicated that one reason for the plurality vote was that construction grants and loans were in the form of one-shot grants to the institutions.

Now, the institutional grant program is not a one-shot assistance program. This program would continue on year after year. There is a possibility that the Supreme Court would decide it unconstitutional for a church-related institution of higher education to receive institutional grants. What this amendment provides is that in the event that does happen, the authorization will not permit appropriation for any of the other institutions. The reason I want to do this is that I think it would be grossly unfair to church-related institutions of higher education if this vast program of Federal institutional grants was made available only to public and other private institutions that were not church-related. There is already too much pressure right now on church-related institutions to make their programs more homogenous and drop their church affiliation and drop their instructional programs that in any way relate to the church. There is constant pressure in that direction, and I do not think it is wise.

The institutional grant program that was drafted is an effort to provide assistance to all institutions, but not make it available for schools or colleges of divinity or for the the religious instruction in the colleges. However, the court might find that this program may result in entanglement, and it might even find to that extent that it was unconstitutional. I would then be unhappy to see, as a result of the institutional grant program in title VIII, church-related colleges drop their church affiliation.

I believe the strength of our higher education institutions today has been its diversity, and it is important to the moral and value education of our citizenry that those institutions be respected in what they are attempting to do.

I believe that as we draft this legislation, it is anticipated in the minds of all who favor title VIII that the legislation is constitutional. We have taken an oath that we will uphold the Constitution. So we believe it is constitutional. But if the court should find that we are wrong and declares that it is unconstitutional as it applies to a group or class of institutions, I feel it would be wholly inequitable if we permitted the aid to continue to be available to others. To that extent we ought to try to come back and draft legislation to aid all institutions. One which would be completely equitable.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield for a question?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. It is my understanding that there are 2,000 or more institutions of higher learning in this country. Does the gentleman know how many of that number would be classed as church related, and therefore might be excluded in the event of such an adverse Supreme Court interpretation?

Mr. QUIE. I believe about two-thirds of the institutions are private, and I do not recall the number right now, but I recall there are about 800 church-related institutions of higher education. There are 2,600 institutions in all, about

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two-thirds are private, and about 800 are church related.

Mr. BRADEMAS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the concern of my friend, the gentleman from Minnesota, to protect the integrity of the programs of Federal assistance to higher education that would include support for private, church-related institutions as well as public institutions, and I am sure he is well aware of that. Indeed, in my own congressional district there are located the University of Notre Dame, St. Mary's College, Goshen College, and Bethel College. With all these church-related institutions in my own district, I should not like to do anything that would be detrimental to them because, as the gentleman from Minnesota has suggested, we want to maintain the fabric of diversity in our system of higher education.

But, Mr. Chairman, I have looked at the Supreme Court decision to which the gentleman from Minnesota made reference, and although I am not a lawyer, I would not want to describe it as the most lucid, clear declaration with respect to Federal policy in the higher education field that has ever been penned by a judicial body in this century. It is, as I think most observers of these matters would agree, a rather murky decision.

Certainly, therefore, I do not think the gentleman would want to pin his amendment—although perhaps he intends to—solely to that statement in that Supreme Court decision which, in justifying Federal aid to a church-related institution for construction of academic facilities, declared that it was, to quote the gentleman from Minnesota, a "one-shot expenditure." That was indeed one of the points the court made, but the court made other points as well by way of ruling that legislation constitutional.

I am particularly distressed, Mr. Chairman, about the effect of the gentleman's amendment as I understand it, to wit, that if one grant from the Federal Government to one church-related institution of higher learning were held to be unconstitutional, then the entire program of assistance to all colleges and universities, public and private, would come crashing down. That would, I think, be most unfortunate.

Finally, Mr. Chairman, while I would, as they say in these matters, yield to no man or, on this occasion, to no woman in my understanding that morals and values are taught at church-related institutions, I hope my friend, the gentleman from Minnesota, would not suggest that it is impossible to learn morals and values at public institutions as well. Do we not support a public elementary and secondary school system through tax dollars?

So while I appreciate the good intention of the gentleman from Minnesota in offering this amendment, I feel that its results could be most mischievous and could work great harm to our institutions of higher learning, both public and private, including church-related ones. I hope it is rejected.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. Of course, I yield to the gentleman from Minnesota.

Mr. QUIE. The gentleman is saying that if the private institutions, including the private institutions in the gentleman's district, would not receive the aid, he would like to see the State institutions continue to receive the aid? They have a great advantage over the private institutions now, but that is understandable in that the State assumes responsibility only for public installations in most States. But the gentleman would want the Federal Government to provide great amounts of aid for the first time in history to only non-church-related institutions of higher education, if the courts rule against such grants for church-related institutions.

Mr. BRADEMAS. Of course, I would not want to see either form of institution denied aid, which is the whole point of my observation, but the way the gentleman's amendment would work, as I understand it, is that if we had such a ruling as he has suggested, he would then want to end all assistance to institutions both public and private? That would be most unfortunate. Then it would be up to us in Congress to redress the grievance the court has worked and not simply bring the whole program of Federal aid to colleges and universities crashing down.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(On request of Mr. QUIE, and by unanimous consent, Mr. BRADEMAS was allowed to proceed for 1 additional minute.)

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Minnesota.

Mr. QUIE. I believe the gentleman would recognize it would be presumed that if one church-related institution which was taken to court and found it was unconstitutional to receive institutional grants, then it would become unconstitutional for other church-related institutions. We do not know how the court would decide on the question of the extent of church relationship to various colleges and universities.

There is also the possibility the court would strike down the entire title, because we have no provision of separability on this title, as we often do.

The question really comes, then, for the Members: Do they want the aid then to go just to some institutions of higher education and not to others, or do they want it to come back to us before aid is granted?

Mr. BRADEMAS. I hope the gentleman's amendment will be rejected.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(On request of Mrs. GREEN of Oregon, and by unanimous consent, Mr. BRADEMAS was allowed to proceed for 2 additional minutes.)

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I take this time to ask my friend from Minnesota a question with regard to the statement he just made. If one institution were to be declared ineligible to receive aid it would not follow automatically that it would be unconstitutional, for all other church-related institutions to receive assistance. There might be a great control at one institution by a religious body, but that does not mean all other church-related colleges would have that same degree of control.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Minnesota.

Mr. QUIE. As I say, if one church-related institution had aid declared unconstitutional I would say other similar church-related institutions would have the prospect. As I stated, there is no indication as to how far that would go, to the extent of church relatedness. Judging from the decisions decided heretofore, I would not be too confident if they declared one with complete church relationship that they might not go quite a long way.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Let me ask the gentleman another question. I believe the gentleman answered the one. Perhaps it would be true for certain categories.

The court in the Connecticut case said the 20-year limitation was not sufficient. If the case had been brought against a particular institution, that institution would not have been eligible for aid. Under the gentleman's amendment all institutions in the United States would no longer be eligible for aid.

It seems to me the best thing to do is to come to the Congress. Indeed, we made the change in that legislation this year and removed that 20 years and made it for the duration. It seems to me that is the way, to take legislative action if the courts rule in a particular matter, rather than to bring the entire program to a halt.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BRADEMAS. I yield to the gentleman from Minnesota.

Mr. QUIE. In this case, of course, we have higher education legislation pending, so under the test of the amendment it would apply to all of them. If the 20-year requirement were only limited to private institutions or church-related institutions that would not be harmful because the Federal interest would be continued. Here it would be no denial of aid entirely, with permission of aid to go only to the public schools in the Higher Education Academic Facilities Act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

Mr. CAREY of New York. Mr. Chairman, I ask unanimous consent that the amendment may be read again.

The CHAIRMAN. Without objection, the Clerk will reread the amendment offered by the gentleman from Minnesota.

There was no objection.

The Clerk reread the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. QUIE. Mr. Chairman, on that I demand tellers.

Tellers were ordered.

Mr. QUIE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mr. STEIGER of Wisconsin, Mrs. GREEN of Oregon, Mr. BRADEMAS; and Mr. ERLENBORN.

The Committee divided, and the tellers reported that there were—ayes 119, noes 264, not voting 47, as follows:

[Roll No. 346]

[Recorded Teller Vote]

AYES—119

Abbitt	Giaimo	Rhodes
Anderson, Ill.	Goldwater	Robinson, Va.
Archer	Goodling	Ruppe
Ashbrook	Gross	Ruth
Belcher	Grover	Sandman
Bell	Hall	Satterfield
Betts	Hansen, Idaho	Saylor
Bow	Harvey	Schmitz
Bray	Hastings	Schneebeli
Broomfield	Hechler, W. Va.	Schwengel
Brotzman	Hillis	Scott
Brown, Mich.	Hogan	Sebelius
Brown, Ohio	Horton	Smith, Calif.
Burke, Fla.	Hutchinson	Smith, N.Y.
Camp	Johnson, Pa.	Spence
Cederberg	Jonas	Springer
Chamberlain	Keating	Staggers
Chappell	King	Steed
Clancy	Kyl	Steele
Clawson, Del	Landgrebe	Steiger, Ariz.
Cleveland	Lloyd	Steiger, Wis.
Collier	Lujan	Taylor
Conable	McClory	Teague, Calif.
Coughlin	McCollister	Terry
Crane	McCulloch	Thone
Daniel, Va.	McEwen	Vander Jagt
Davis, Wis.	McKevitt	Veysey
Dennis	Mathias, Calif.	Wampler
Devine	Mayne	Ware
Dickinson	Mazzoli	Whalley
Duncan	Michel	Whitehurst
Edwards, Ala.	Mills, Md.	Widnall
Erlenborn	Mizell	Wiggins
Esch	Monagan	Wilson, Bob
Evins, Tenn.	Nelsen	Winn
Findley	Pelly	Wydler
Ford, Gerald R.	Pettis	Wyman
Forsythe	Poff	Zion
Frelinghuysen	Quie	Zwach
Frey	Railsback	

NOES—264

Abernethy	Bolling	Corman
Abourezk	Brademas	Culver
Abzug	Brasco	Daniels, N.J.
Adams	Brinkley	Danielson
Addabbo	Brooks	Davis, Ga.
Albert	Broyhill, N.C.	Davis, S.C.
Anderson, Calif.	Buchanan	de la Garza
	Burke, Mass.	Delaney
Anderson, Tenn.	Burleson, Tex.	Dellenback
	Burlison, Mo.	Dellums
Andrews, Ala.	Burton	Denholm
Andrews, N. Dak.	Byrne, Pa.	Dent
	Byrnes, Wis.	Dingell
Annunzio	Byron	Donohue
Ashley	Cabell	Dorn
Aspin	Caffery	Dow
Badillo	Carey, N.Y.	Dowdy
Begich	Carter	Downing
Bennett	Casey, Tex.	Drinan
Bergland	Chisholm	du Pont
Bevill	Clark	Dwyer
Biaggi	Clay	Eckhardt
Bingham	Collins, Ill.	Edmondson
Blackburn	Collins, Tex.	Edwards, Calif.
Boggs	Conte	Ellberg
Boland	Conyers	Eshleman
Evans, Colo.	Leggett	Rangel
Fascell	Lent	Rarick
Fish	Link	Reid, N.Y.
Fisher	Long, Md.	Reuss
Flood	McCloskey	Roberts
Flowers	McCormack	Rodino
Flynt	McDade	Roe
Foley	McDonald, Mich.	Rogers
Ford, William D.	McFall	Roncalio
	McKay	Rooney, N.Y.
Fountain	McKinney	Rooney, Pa.
Fraser	McMillan	Rosenthal
Fulton, Tenn.	Macdonald, Mass.	Rostenkowski
Fuqua		Roush
Gallifianakis	Madden	Rousselot
Gallagher	Mahon	Roy
Garmatz	Mailliard	Roybal
Gaydos	Mann	Runnels
Gettys	Mathis, Ga.	Ryan
Gibbons	Matsunaga	St Germain
Gonzalez	Meeds	Sarbanes
Grasso	Melcher	Scherle
Green, Oreg.	Metcalfe	Scheuer
Green, Pa.	Mikva	Selberling
Griffin	Miller, Calif.	Shipley
Griffiths	Miller, Ohio	Shoup
Gude	Mills, Ark.	Shriver
Hagan	Minish	Sikes
Haley	Mink	Sisk
Hamilton	Minshall	Slack
Hammer-schmidt	Mitchell	Smith, Iowa
	Mollohan	Snyder
Hanley	Moorhead	Stanton, James V.
Hanna	Morgan	Stephens
Hansen, Wash.	Morse	Stratton
Harrington	Moss	Stubblefield
Harsha	Murphy, Ill.	Stuckey
Hathaway	Myers	Sullivan
Hawkins	Natcher	Symington
Hays	Nedzi	Talcott
Heckler, Mass.	Nichols	Thompson, Ga.
Helstoski	Nix	Thompson, N.J.
Henderson	Obey	Thomson, Wis.
Hicks, Mass.	O'Hara	Tiernan
Hicks, Wash.	O'Konski	Udall
Holifield	Passman	Ullman
Hosmer	Patman	Van Deerlin
Howard	Patten	Vanik
Hull	Pepper	Vigorito
Hungate	Perkins	Waggonner
Hunt	Peyser	Waldie
Jacobs	Pickle	Whalen
Johnson, Calif.	Pike	White
Jones, Ala.	Poage	Whitten
Jones, N.C.	Podell	Williams
Jones, Tenn.	Powell	Wolff
Karth	Preyer, N.C.	Wyatt
Kastenmeier	Price, Ill.	Wylie
Kazen	Price, Tex.	Yates
Keith	Pryor, Ark.	Yatron
Kemp	Pucinski	Young, Fla.
Kluczynski	Purcell	Young, Tex.
Koch	Quillen	Zablocki
Kyros	Randall	
Latta		

NOT VOTING—47

Alexander	Diggs	Montgomery
Arends	Dulski	Moorhead
Aspinall	Edwards, La.	Murphy, N.Y.
Baker	Frenzel	O'Neill
Baring	Gray	Pirnie
Barrett	Gubser	Rees
Biester	Halpern	Riegle
Blanton	Hébert	Robison, N.Y.
Blatnik	Ichord	Skubitz
Broyhill, Va.	Jarman	Stanton, J. William
Carney	Kee	
Celler	Kuykendall	Stokes
Clausen, Don H.	Landrum	Teague, Tex.
	Lennon	Wilson, Charles H.
Colmer	Long, La.	
Cotter	McClure	Wright
Derwinski	Martin	

So the amendment was rejected.

Mr. CAREY of New York. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would hope that I could have the attention of the gentlewoman from Oregon, the chairman of the subcommittee, so that we may have a colloquy which I hope will resolve some of the confusion, the unfortunate confusion, that might have been engendered by the quick consideration of the amendment which has just been defeated.

I voted against the amendment. I think it was a proper vote on a good constitutional ground, that we carry with every act of Congress a clear-cut presumption of the constitutionality of our own acts. That is a cardinal principle, a principle validated by the courts again and again that we act within the Constitution when we legislate in committee and in the House and in the Congress for the general welfare.

The gentleman's amendment as drafted, and I must say I appreciate his concern in this regard, but as drafted, in my opinion and as presented to the committee with little debate and little discussion, would have in a sense created an open season—an invitation to the court to be selective—to raise up and/or to shoot down institution after institution, by an act of Congress, according to the predilection of the court.

We all know the way our Constitution is defended and protected. When a person or an organization or an individual feels that there has been a possible violation of the first amendment, as may be contended here, he has grounds on which to go to the court specifically with regard to an act of Congress to invite the attention of the court to the wording of the act of Congress which allegedly violates his constitutional rights. The court after the process of constitutional review, which is available to every citizen now, will find as to the constitutionality of the entire act of Congress in specific degree.

If we begin today to say to the courts, "You can play bingo with an act of Congress and pick this one and drop that one," then we are legislating in an atmosphere in which we say that we are unsure of our own ground and we are unsure of our own prerogative and we are asking the court to look at our act and take what you will and leave out what you will and even come back for a second bite and a third until an act of Congress might look like a motheaten garment.

It is a bad constitutional precedent for this House to do that, and I think we should be sure of ourselves when we legislate. That is why I voted against the amendment.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. CAREY. I yield to the gentleman.

Mr. GIAIMO. Mr. Chairman, I am disturbed, because I think the gentleman and I are trying to accomplish the same thing and, yet, we both voted differently here on this amendment.

I think there may be some confusion in my mind and perhaps in the minds of others. It seems to me that we are passing a massive assistance bill for higher education and I think it is the intent of all of us to assist all educational institutions—public, private, denominational, and nondenominational.

Mr. CAREY of New York. That is why I submit to my colleague, with the affirmation of the distinguished gentlewoman from Oregon who has been through this field many, many times since I have

worked with her for over a decade—this is a key principle and I think her intent and the intent of the committee here today is to give aid to all institutions that are qualified under the language of the bill without going into irrelevant and internal questions as to what is going on in those institutions academically according to the language of the bill as we see it.

In other words, this is an aid program directed to public and private institutions as they qualify under the language of the law and the bill. To attempt, then, to say that there may be some institutions in here that may become unqualified goes further than the intent of the bill and creates, if I may, a very bad snare and entanglement that the court might regard as a cue to write law that we have not enacted.

I trust that I have correctly stated the committee position, have I not. I would like to yield to the gentlewoman from Oregon, the chairman of the subcommittee, to answer that question.

Mrs. GREEN of Oregon. I thank the gentleman for yielding. Let me make clear, first, that never in the history of the Congress have we treated private colleges differently from public colleges. That history dates back to the establishment of the land grant colleges under the Morrill Act of 100 years ago, the act that Abraham Lincoln signed.

At that time Brown University, which was a Baptist church-related college, was made a land grant institution and as such received Federal funds. There was another church-related college in the South, the name of which I have forgotten, which was also closely tied to a church, much more closely than most of our institutions today are.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mrs. GREEN, Mr. CAREY of New York was recognized for an additional 5 minutes.)

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. CAREY of New York. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. This other college which was church-related was also made a land grant college and as such, received Federal funds. Never in any legislation that has come before this Congress since that time have we treated the private colleges differently than public colleges. It is my judgment that the strength of higher education is in the dual system of private and public colleges. I think it would be disastrous if we had programs that forced the private colleges to close their doors.

If the gentleman will yield further, in terms of constitutionality, I think the gentleman has stated it very persuasively and very succinctly. We do proceed on the basis that legislation we have passed has been considered very carefully from the constitutional angle. We had a special panel of lawyers appear before the subcommittee, lawyers who had appeared before the Supreme Court in the Connecticut, Rhode Island, and Pennsylvania cases. We questioned them at some length as to the Supreme Court decisions that were rendered in those three cases. It is my judgment that we did act very carefully and, that we did act within the framework of the Constitution. I support the comments the gentleman has made that we would invite suit if we had adopted the amendment.

Mr. CAREY of New York. I thank the gentlewoman for her clear-cut explanation as to what the problem was.

Let me cite an example of why I believe the amendment was wrong and what the committee did was right. What the committee did was to look at the dicta of the recent Supreme Court decision and state, "If you feel there may be a question in the future as to the 20-year-life of the institution, then there may be, in a sense, a concern as to the constitutionality of that yardstick. We will obliterate that concern. We will make the Federal interest survive for the duration of the institution. And avoid even a prospective residual benefit to a church or religious institution.

In a sense the committee has cleaned up whatever the court suggested in terms of the constitutional debris that may have existed in the old law. The committee has gone as far as needs to be gone in terms of cleaning up the law with which the court had any concern. Now, to go further and say, "If you in that court think you would like to take a second bite at the apple, then go ahead and do so, and if you knock off the Bob Jones institution, or if you knock off Notre Dame we will come back and write something else," you know we have never done that. We have never suggested that the court second guess our judgment of constitutionality in Limine. That is why I think the amendment, although it may be well motivated in terms of the zeal of my dear friend from Minnesota, it would create a constitutional diversity in the thinking of our own body. Does the gentleman not agree?

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. CAREY of New York. I yield to the gentleman from Minnesota.

Mr. QUIE. I would disagree with you 100 percent. We have voted many times for legislation which has contained an antiseverability provision should portions of legislation be knocked down. But this is the first time that the question has arisen in respect to higher education.

Mr. CAREY of New York. By citing my record, the gentleman has led me to a proper distinction. What you say is correct. We did consider an antiseverability clause in our legislation in the Elementary and Secondary Education Act to protect the principle of the presumption of constitutionality when we legislated in that new field. Why did we do it? We said we intended to aid all children, not institutions, but all children, not some or many but all. We found when we had achieved that, in constitutionally acceptable terms we did not need severability, and hence did not adopt it.

If we are going to allow the court to knock down any part of this act, if we are going to reverse our field and proclaim our uncertainty, it would be most unfortunate. The gentleman's amendment suggests if any institution is denied, then the whole act falls. I never supported that principle in terms of severability, that is why this amendment would not be the kind which I would support and vote for and speak for now or then. When I was talking about severability in 1965 in terms of classes of citizens. I opposed any distinction. There is no difference between my attitude toward severability then and the gentleman's attempt to introduce it here in terms of institutions in higher education public, private or church related. That is where we disagree.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. CAREY of New York. I yield to the gentleman from Minnesota.

Mr. QUIE. The gentleman knows, however, in the case of the Supreme Court decisions of 1954 on the school desegregation, they did not limit it to just one institution's program.

Mr. CAREY of New York. Mr. Chairman, I do not yield further.

As the gentleman knows, the whole theory and thrust of the Brown decision did not proceed on the ground of Federal aid, but on an entirely different principle, which does not relate to this at all.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CAREY of New York. Mr. Speaker, I ask unanimous consent that I may proceed for I additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. RUTH. Mr. Chairman, reserving the right to object, are the remarks of the gentleman from New York directed to an amendment or pending amendment?

Mr. CAREY of New York. I would answer my colleague that my hope is that by the colloquy we have just engaged in with the distinguished gentlewoman from Oregon, we are constructing a legislative history which I hope will be useful in preserving the principle of presumption of the constitutionality of acts of Congress.

Mr. RUTH. Am I to assume that the gentleman said no, he is not directing his remarks to an amendment on the floor or a pending amendment?

Mr. CAREY of New York. Mr. Chairman, I had moved to strike the requisite number of words.

Mr. RUTH. I understand that. Is the gentleman directing his remarks to a pending amendment?

Mr. CAREY of New York. I am directing my remarks to a pending bill.

Mr. RUTH. Is the gentleman directing his remarks to an amendment which was just voted on?

Mr. CAREY of New York. I am directing my remarks to the requisite number of words in the appropriate title.

Mr. RUTH. I am aware of that. I am listening to that. I want to know if the gentleman is addressing his remarks to one amendment?

Mr. CAREY of New York. I hope the gentleman will agree I am not misdirecting my remarks to anyone.

I am directing my remarks to a pro forma motion to strike the requisite number of words.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I did not intend to take the floor again on this amendment after it had been voted on, but when the gentleman from New York raised the question, I felt I ought to give some comments in regard to the expressions he made.

The Elementary and Secondary Education Act was absolutely new legislation. We had never tried it before. But remember, title 8 is absolutely new legislation which has never been tried before. The institutional grants of this nature have never been enacted by Congress before. There is a difference between the Elementary and Secondary Education Act and this legislation at the present time.

The history to that date was that the only aid which was made available to public elementary and secondary school children. The gentlewoman from Oregon said we had never in the past limited our higher education aid to public institutions which is true. Now we have the possibility of a piece of legislation, title 8, being adopted with the intent of all Members of Congress that if the aid is made available, that it be available to all institutions of higher education. And if the court—and it is possible the court can, because it has in the past—decides that for church-related institutions of higher education aid is unconstitutional, I think we ought to determine now whether the aid should be made available only to public institutions. The House decided that in the event the courts strike title 8 aid down for private church-related institutions, the Congress wants the aid to continue to go to other institutions.

I believe that is what we have to operate on, unfair as it is.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Connecticut.

Mr. GIAIMO. I envision a situation where a court may knock down one religious school and after that the Office of Education or the Federal agency may forthwith strike out assistance to all religious schools. In that instance the amendment would say assistance to everyone—religious, nonreligious, public and private—stops, and we come back for remedial legislation. Is that the situation?

Mr. QUIE. That is correct, except that when the court rules it is unconstitutional that the aid be made available to one institution it would be the decision for that class of institution, and therefore more than just the one would be affected.

Take, for instance, the case of Tilton against Richardson. I believe the situation would be the same as in that case, where the 20-year provision applied.

Mr. GIAIMO. That is what I am saying. If the court rules against assistance to one institution we may well find ourselves where the Office of Education or the Federal agency administering the program may stop assistance to all religious institutions.

Mr. QUIE. They would be required to by the court.

Mr. GIAIMO. In which case we would find ourselves, in this new program of assistance to higher education, in the position where we are assisting public institutions but not assisting private denominational institutions. This I believe is something many of the Members who voted against the amendment did not want to see happen.

Mr. QUIE. I believe the same thing.

Mr. THOMPSON of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from New Jersey.

PARLIAMENTARY INQUIRY

Mr. DENT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DENT. Are we discusing an amendment that has already been debated and voting on? What is before us?

The CHAIRMAN. The gentleman from Minnesota has the floor. Permit the Chair to state that the Chair operates under the assumption that the gentleman from Minnesota is addressing his remarks to the subject of his amendment, which, as the Chair recalls, was to strike out the last word.

Mr. QUIE. Mr. Chairman, I will release the floor as soon as I can, but I promised to yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. In the colloquy with the gentleman from New York (Mr. CAREY) there was talk about a separability clause in the Elementary and Secondary Education Act. I do not have that act in front of me now, but I distinctly feel that there is no separability clause in that act, and, in fact, the genesis of that is the so-called Thompson amendment, which defines the uses to which the supplemental educational moneys could be put.

Mr. QUIE. I would say to the gentleman from New Jersey, I did not bring up the separability provision of the Elementary and Secondary Education Act. The gentleman from New York did.

Mrs. GREEN of Oregon. Mr. Chairman, I rise to see if we can agree to control the time on title VIII. Are there other amendments to title VIII?

Mr. Chairman, I ask unanimous consent that all debate on title VIII be concluded by no later than 5:25 p.m.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

Mr. BUCHANAN. Mr. Chairman, reserving the right to object, do we know how many amendments are at the desk? I know I have one.

The CHAIRMAN. The Chair will state that there are at the desk four amendments which would be directed to title VIII.

Mr. BUCHANAN. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on title VIII conclude in 25 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman frm Oregon?

PARLIAMENTARY INQUIRY

Mr. QUIE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. QUIE. What is the provision of the rules of the House now on an amendment submitted at the desk, permitting 5 minutes of debate on each side? Is that the day before?

The CHAIRMAN. The amendments have not been offered, and the Cnair does not know whether they will be offered and cannot make a presumption. The Chair merely reports there are four amendments at the Clerk's desk.

Mr. BUCHANAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I move that all debate on title VIII and all amendments thereto conclude in 30 minutes.

The question is on the motion offered by the gentlewoman from Oregon.

The question was taken; and on a division (demanded by Mr. BUCHANAN) there were—ayes 88, noes 66.

So the motion was agreed to.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 187, strike out line 25, and insert the following:

"Sec. 1205. (a) No grant shall be made under this part to any institution of higher education which is substantially controlled by an institution of religion or which receives a major part of its support (other than that provided by tuition) from an institution of religion.

"(b) No grant under this part may be made to, or

Mr. BUCHANAN. Mr. Chairman, as is apparently the case with other Members with amendments at the desk, both the author of the pending amendment and other interested Members have been denied the opportunity for debate on this serious issue.

This is true notwithstanding the fact that I showed the courtesy to both the majority and minority sides of the House Education and Labor Committee to present a copy of the pending amendment well in advance and they well knew it would be proposed when the limitation of time was sought.

Having thus been robbed of my time, my first remark in defense of my amendment is that I am not a member of the House Education and Labor Committee.

Mr. Chairman, I have seen many sorry spectacles since I have come to this Congress but during the 7 years I have been here this is the sorriest. We have all listened patiently as this committee has sought to write and rewrite legislation on the floor of the House.

This committee has brought legislation with a major new thrust in this title 8 to the Committee of the Whole House for debate. It has sought to cut off none of the voices back and forth of the Mem-

bers who serve on the committee but it has now limited debate so that no one can make a case for consideration of the serious constitutional questions raised in this title. Mr. Chairman, I deplore this action on the part of the House Education and Labor Committee.

As to this provision, which my amendment would modify, there is here a real constitutional question involved. We are through this title providing direct general support to sectarian institutions. I would say that the voices which have been raised in a great clamor concerning the proposed prayer amendment, and men of good will can disagree over the question as to whether there is going to be the wrong kind of prayer being said in the public schools should the prayer amendment prevail next Monday, might very well address themselves to this question of direct funding from the Federal Treasury of sectarian institutions.

Mr. Chairman, I well recall in 1965 a statement by Sargent Shriver, then Director of the Office of Economic Opportunity, to the national convention of the AFL–CIO in San Francisco when he said:

> Three or four years ago it was practically impossible for a Federal agency to give direct grants to a religious group. Today we have given hundreds without violating the principle of separation of Church and State.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

For what purpose does the gentleman from Illinois (Mr. ERLENBORN) rise?

Mr. ERLENBORN. Mr. Chairman, I seek recognition on my time.

The CHAIRMAN. Do other Members desire to address themselves to the amendment which is pending before the committee? Does the gentleman from Illinois desire to be heard at this time?

Mr. ERLENBORN. Mr. Chairman, I desire recognition at this time so I can yield to the gentleman from Alabama.

The CHAIRMAN. The gentleman from Illinois is recognized for approximately 2 minutes.

Mr. ERLENBORN. I thank the Chairman and I yield to the gentleman in the well.

Mr. BUCHANAN. I thank the gentleman from Illinois for yielding and, in view of that fact, I modify my earlier remarks with reference to what I said about this committee, to the extent of whatever percentage of the committee he represents.

I filled the CONGRESSIONAL RECORD with specific instances of direct grants to churches and other religious institutions under the poverty program and fought a losing battle to prohibit it while hardly a voice in the religious community was raised in defense of the first amendment on that issue. I, again, would challenge the religious leaders and others concerned about the first amendment to speak out on this amendment because here again we have a clear constitutional question or one at least calling into doubt the constitutionality of such aid to institutions of higher education. Where are those who would defend the first amendment to the Constitution?

Mr. Chairman, it is difficult for me to see how a citizen of the United States can by force of law have money taken from him by the Federal Government and given to an institution of higher learning, that is, a sectarian institution, which may be in violation of his conscience, without this constituting a violation of the first amendment of the Constitution of the United States. How can such Federal assistance fail to be a violation of the establishment clause of the first amendment?

Mr. Chairman, may I echo the earlier remarks of the gentleman from Minnesota who in effect stated that you may be building the entire institution of higher education at this time as a house of cards and on the shifting sands, and after you have these institutions relying upon Federal funding, then there well may come a court order, as has already happened in the past year in the Lemon case, which strikes it down.

The CHAIRMAN. Are there other Members on the list who desire to address themselves to the amendment which has been offered by the gentleman from Alabama (Mr. BUCHANAN)?

For what purpose does the gentleman from New York (Mr. CAREY) rise?

Mr. CAREY of New York. Mr. Chairman, I rise to use my time in opposition to the amendment.

Mr. CAREY of New York. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

Mr. Chairman, I think the Buchanan amendment of 1971 deserves the same fate that the Buchanan amendments of 1965, 1967, and 1969 received. His amendment has been offered before. His amendment has been defeated in the committee before. It never became a part of the law. The acts of this Congress have now gone before the court absent the language of the Buchanan amendment, and the court has found that these acts are constitutional with regard to selective, carefully controlled, designed aid to institutions of higher education, public and private. The gentleman would have us traverse ground on which the court has already sided with the Congress. The court only saw fit to recommend by dicta that we clean up one of our acts with regard to the term of limitation of grants. That has been done in this bill. But the Buchanan amendment would open up a sepulcher that has been closed.

It is no better amendment than it was when it was rejected by the House in previous years.

We have not only agreed on this, those of us who served in this body, but the court has held that our act on higher education is constitutional without this amendment.

I am pleased to hear the gentleman speak up so strongly for the first amendment, but I am wondering also as to whether on Monday the gentleman would seek to vote down the prayer amendment, or whether on Monday he will seek to dilute the first amendment while today the gentleman seeks to help preserve the first amendment.

Mr. BUCHANAN. If the gentleman will yield, may I say that I am going to reinforce the free exercise clause of the first amendment to the Constitution by voting for the prayer amendment.

Mr. CAREY of New York. I think the Reverend BUCHANAN from Alabama seeks on Monday to dilute the first amendment, and today to distort it.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, the gentleman from New York (Mr. CAREY) has said what is not so. What the court did in the case which the gentleman cited had to do with the Federal funding of the construction cost of buildings to be used for nonsectarian purposes in sectarian institutions of higher education. I offered no such amendment concerning this program. I might take issue with the court as to whether its position is correct in permitting Federal underwriting of column A of a sectarian institution's budget and as to how this could be done without strengthening column B as well, and the whole of the treasury of that institution hence violating the establishment clause of the first amendment, it has, however, so ruled concerning the construction of buildings in sectarian institutions for nonsectarian purposes. There has, however, been no court ruling on the poverty program, to which my earlier amendments were directed. No court has said its funding of churches is constitutional. This has not been determined.

The recent decision against teachers' salary supplementation in Pennsylvania and Rhode Island parochial schools would cast a cloud of doubt over the constitutionality of this new act, and the constitutionality of this proposed act has obviously not been decided by the Supreme Court.

I say you are building your educational system on shifting sands, and are doing a disservice to sectarian and nonsectarian institutions alike by including sectarian schools in this title. How can such a program be implemented without the "excessive involvement" of Government with a sectarian institution which the court indicated in the Lemon case was a key test determining unconstitutionality.

May I say my amendment will not knock down private schools that are nonsectarian, it will not damage public schools it will only reach those which are substantially supported or controlled by sectarian or religious institutions.

It would seem to me that if you would protect our schools that need help today that one good way to do so would be by removing this cloud, and the only area where it could apply would be to a directly supported sectarian institution.

So, Mr. Chairman, I would urge the adoption of my amendment for the avoidance of this constitutional cloud, and the possible educational crisis which this House can well avoid if it will have the wisdom today to adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The question was taken; and on a division (demanded by Mr. CAREY of New York) there were—ayes 21, noes 87.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ANDERSON of Illinois: Page 191, line 14, after the word "institutions" insert "and the feasibility of Federal and State income tax credits for charitable contributions to postsecondary institutions."

Mr. ANDERSON of Illinois. Mr. Chairman, the amendment which I am offering is quite simple and noncontroversial, and I shall, therefore, be brief in my explanation of it. Section 1214(2) of the committee bill mandates the new Commission to study alternative solutions to the financial crisis in higher education, giving special attention to Federal, State, local and private participation in such programs. This includes, in subsection (2)(D), "the level of endowment, private sector support and other incomes of postsecondary institutions."

My amendment would simply amend subsection (2)(D) by adding the words, "and the feasibility of Federal and State income tax credits for charitable contributions to postsecondary institutions."

By way of explanation, Mr. Chairman, earlier this year I was joined by 45 House cosponsors in introducing H.R. 4905, "The Higher Education Gift Incentive Act of 1971," which would provide full Federal income tax credits for charitable contributions to institutions of higher learning—up to $100 for individuals, and up to $5,000 for corporations.

I think this proposal has a great deal of merit in terms of expanding the base of private sector support for our colleges and universities and pumping urgently needed new resources into these institutions. I might point out that the State of Michigan already has this tax credit option in its State income tax code, and it has been working quite well.

It is, therefore, my hope that the Commission authorized under this title will give specific consideration to the feasibility of income tax credits for donations to postsecondary institutions, both at the State and Federal levels. My amendment is, therefore, offered to assure that the Commission does make such a feasibility study and report back on this in its final report. I urge adoption of this amendment.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, there is no reason why this amendment should not be adopted. It is part of the national study that would be made and I think it would be very helpful to the Congress to have the report.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman.

Mr. QUIE. Mr. Chairman, this is an excellent amendment and I agree with the gentleman that it should be adopted.

Mr. ANDERSON of Illinois. I thank my colleague.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. DENT) for approximately 2 minutes.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. DENT. I yield to the gentlewoman.

The CHAIRMAN. The gentlewoman from Oregon will state the parliamentary inquiry.

Mrs. GREEN of Oregon. Mr. Chairman, would it be in order to inquire if there are other amendments that are going to be offered by any Member during this half-hour period?

The CHAIRMAN. The Chair will state that an assumption cannot be made as to whether or not amendments are going to be offered. There has been placed at the Clerk's desk one additional amendment that would apply to the section. But the Chair does not know whether any of the amendments will be offered.

The gentleman from Pennsylvania (Mr. DENT) is recognized for approximately 2 minutes.

Mr. DENT. Mr. Chairman, you say that there will be an amendment offered?

The CHAIRMAN. The Chair is not able to state that with certainty.

Mr. DENT. Mr. Chairman, I would like to offer my time to the person who has an amendment. I would like to hear it. If it is not going to be offered, I will yield back my time.

The CHAIRMAN. The gentleman from Pennsylvania yields back the balance of his time.

PARLIAMENTARY INQUIRY

Mr. PUCINSKI. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PUCINSKI. Mr. Chairman, I believe one of the amendments to title VII is one that has already been disposed of through the amendment offered by the gentleman from Washington (Mr. MEEDS).

So I believe if that is my amendment to title VIII, it has already been disposed of.

The CHAIRMAN. The amendment that is at the Clerk's desk is authored by the gentleman from Illinois.

The Chair recognizes the gentleman from Michigan (Mr. ESCH).

PARLIAMENTARY INQUIRY

Mr. ERLENBORN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. ERLENBORN. Mr. Chairman, would it be in order to ask unanimous consent that we pass to the next item if there are no further amendments to this title?

The CHAIRMAN. The Chair would have to advise the gentleman that the committee has already determined that there be a limitation on debate. Those Members who were standing and seeking recognition at the time are entitled to recognition if they wish to use their time and it is their privilege to do so.

Mr. ESCH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I take this time to ask a question of the manager of the bill, the gentlewoman from Oregon. I understand that we have eight amendments at the desk. There are still 12 titles after we dispose of the pending title. There is an amendment in the nature of an additional title. I know it is late in the afternoon. I also know that on Thursday afternoon there is pressure for adjournment because of airplane schedules and various other pressures. I just wondered if the gentlewoman would indicate what the plans are and how much of this bill can we hope to dispose of today and how much would we expect to leave for tomorrow?

I presume it is our intention to try to consider the entire bill before we adjourn tomorrow.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I would hope that we would be able to proceed as rapidly as we can with the amendments to the various titles, and at 6:30 review the situation and see how far along we are. If there is any chance of finishing the amendments, except for the amendment the gentleman from Illinois desires to offer, then I think we could work another couple of hours and finish. But if there is no chance of doing that, then I would consult the leadership on the time to consider the remainder of the bill. I am sure the gentleman and others would like to work later tonight than to be kept here late Thursday night when the Members want to get away.

In response, let us move ahead and see how rapidly we can proceed.

Mr. PUCINSKI. I appreciate the gentlewoman's explanation. I would hope that we could work later tonight rather than crowd ourselves tomorrow.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON of New Jersey. I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recog-

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nizes the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Mr. Chairman, I yield back my time.

The CHAIRMAN. Are there further amendments to title VIII? If not, the Clerk will read.

The Clerk read as follows:

TITLE IX—INTERNS FOR POLITICAL LEADERSHIP

"SEC. 901. Title IX of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART D—INTERNS FOR POLITICAL LEADERSHIP

"PROGRAM AUTHORIZED

"SEC. 931. The Commissioner is authorized to plan, develop, and carry out an internship program under which students will be provided practical involvement with elected officials in the performance of their duties at all levels of government through internships in their offices. Such internship program shall be carried out through arrangements with such nonprofit agencies as are appropriate, with institutions of higher education, and with State and local governments. Under such program the interns, who are full-time students at any institution of higher education, will be assigned duties in offices of State or local elected officials upon the request of such officials, which will give them an insight into the problems and operations of the different levels of government, as well as an opportunity for research and for involvement in the policymaking process. Such arrangements shall provide for coordination between the on-campus educational programs of the persons selected and their activities as interns, with commensurate credit given for their work and achievement as interns. Such internship program shall also provide opportunities for students who have participated in the internship program at State and local levels to become interns in the offices of Members of Congress, who wish to participate, for up to one year, but under special circumstances the Commissioner may waive this requirement for prior participation at State and local levels.

"SELECTION OF STUDENTS FOR PARTICIPATION

"SEC. 932. The students who are to participate in the internship program provided for in this part shall be selected from among students whose names are proposed by participating institutions of higher education. Internships shall be distributed among the States so that insofar as practicable the number for each State bears the same ratio to the total number as the number of Members of Congress from that State bears to the total number of Members of Congress.

"CLEARINGHOUSE ON INTERN PROGRAMS

"SEC. 933. The Commissioner shall provide for a national clearinghouse on intern programs to gather and make available for distribution pertinent information on the establishment, management, and results of intern programs throughout the country, as well as to provide information to individuals seeking intern opportunities or information about the availability of or eligibility requirements for such programs.

"FEDERAL SHARE

"SEC. 934. The Federal share of the cost of carrying out the program provided for in this part may not exceed 50 per centum.

"ADMINISTRATION

"SEC. 935. The Commissioner shall prescribe the stipends to be paid to the interns participating in the program provided for in this part, and the duration and other terms and conditions of such internships. The cost of administration of a program may be paid by the Commissioner.

"APPROPRIATIONS AUTHORIZED

"SEC. 936. There is authorized to be appropriated to carry out this part the sum of $10,000,000 for the fiscal year 1972 and for each of the four succeeding fiscal years.

"DEFINITION

"SEC. 937. Notwithstanding section 1601(a) or section 921(a), the term 'State' as used in this part means the fifty States, Puerto Rico, the District of Columbia, the Virgin Islands, and Guam. For purposes of the distribution of internships among the States, in determining the number of Members of Congress for purposes of section 932, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam shall each be considered to have one Member of Congress, and interns in the offices of Members of Congress, a Delegate, or Resident Commissioner shall be attributed to the State of the Member, the Delegate, or the Resident Commissioner in whose office they are serving, and interns from the Virgin Islands or Guam shall be attributed to the Virgin Islands or Guam."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title IX be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN. Are there any amendments to title IX of the committee substitute?

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

I should like to ask the gentlewoman from Oregon what title IX is all about. Why should we spend $10 million on interns for what is described as political leadership?

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Of course.

Mrs. GREEN of Oregon. The purpose of this title is based on the fact that we now have an 18-year-old vote for the first time. There are many young people who want to participate in Government. This title was designed so that it would give students, and especially the younger students who are in college, a chance to participate in a structured program at a college or university. They would select the interns to work in elective offices. I am persuaded that a great deal of the alienation today among our young people is because they do not really know how Government works. It seems to me it would be healthy for this country if we gave these people an opportunity to work in elective offices, and it would be completely under the control of the institutions of higher education. I am aware of the difference of opinion in regard to interns, and especially congressional interns.

While I support the intern program in Congress, I must also say that I was greatly concerned and upset about 3 years ago at some of the efforts that were made by the interns. But on the whole I think this is a good program. I think it will serve the purpose and help to let young people know what Government is all about and how it is actually working, instead of reading out of political science textbooks a good many times things "that ain't so."

Mr. GROSS. How many 18-, 19-, and 20-year-olds are there, and how many of them would know all about politics through this process?

I learn something about politics every day in this body, something, new, strange, and sometimes startling. Can the gentlewoman give us any idea how many hundreds of millions it would cost to give every 18-, 19-, and 20-year-old instruction in internship, in so-called political leadership? They would all like to be leaders, would they not, but I wonder how much all this would cost.

Mrs. GREEN of Oregon. Mr. Chairman, if the gentleman will yield, this is on a 50–50 matching basis. The institution would have to put up 50 percent of the money. The amount of the Federal authorization is $10 million.

Mr. GROSS. And then we would have a bunch of educated political leaders in this country. Is that right?

Mrs. GREEN of Oregon. I would hope they would have a more accurate understanding of how the Government does work, yes. I hope that would be the case.

Mr. GROSS. I hope there are instructors in the colleges who know how we operate, because it is not always easy to discern by one who is right here.

This title ought to be stricken from the bill and the taxpayers saved $10,000,000.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: Page 195, strike out lines 8 through 24, and page 196, strike out lines 1 through 8, and insert the following:

"Sec. 931. The Commissioner is authorized to plan, develop, and carry out an internship program under which students will be provided practical political involvement with elected officials in the performance of their duties at the State and local levels of government through internships in their offices. Such internship program shall be carried out through arrangements with such nonprofit agencies as are appropriate, with institutions of higher education, and with State and local governments. Under such program the interns, who are full-time students at any institution of higher education, will be assigned duties in offices of State or local elected officials upon the request of such officials, which will give them an insight into the problems and operations of the different levels of government, as well as an opportunity for research and for involvement in the policymaking process. Such arrangements shall provide for coordination between the on-campus educational programs of the persons selected and their activities as interns, with commensurate credit given for their work and achievement as interns."

Page 197, strike out lines 16 through 26, and page 198, strike out lines 1 through 8, and insert the following:

"Sec. 937. Notwithstanding section 1601(a) or section 921(a), the term 'State' as used in this part means the fifty States, Puerto Rico, the District of Columbia, the Virgin Islands, and Guam. For purposes of the distribution of internships among the States, in determining the number of Members of Congress for purposes of section 932, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam shall each be considered to have one Member of Congress."

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I would hope to be able to explain it briefly.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Chairman, this amendment does one thing. It removes from title IX the provision whereby the HEW would administer an intern program for the Congress of the United States. I do not believe we want to have HEW administer and run a program for interns when there are considerable intern programs now operating within this country and within this Congress. It is my judgment that interns in Congress under the existing program, under the Ford Foundation program, and under various other agencies that finance intern programs are adequate.

Under our own intern program, we have a fairly workable arrangement. I have had interns for many summers myself. The congressional program is one that is useful to Members. I think if we should have interns we should provide for them ourselves and not, through this indirect route, attempt to acquire additional interns.

I have some doubts about the remainder of the legislation, but if the House wants to have interns for the agencies and for local governments under the HEW, that is, of course, their privilege. I know the House of Representatives though would be better off without an intern program run by somebody else that might bring discredit to us and maybe no help whatsoever for ourselves and our constituents.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, do I understand the gentleman's amendment would not just remove the administration from HEW for the whole intern program, but would abolish the program?

Mr. BROOKS. It would abolish that part of the program which applies to the Congress of the United States, yes, sir.

Mr. WAGGONNER. I thank the gentleman.

Mr. BROOKS. Mr. Chairman, I would ask adoption of the amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, what is left after the amendment? Would the State and local governments have their interns?

Mr. BROOKS. As I read the title, that is correct. Plus the fact—and nobody would object to it—there is a coordinating agency set up in section 933 which provides for a coordination of interns within HEW.

Mr. QUIE. A clearinghouse?

Mr. BROOKS. A clearinghouse operation.

Mr. QUIE. And who would actually administer the program?

Mr. BROOKS. The Department of Health, Education, and Welfare would operate it. The program is set up for a 5-year program. The first 2-year operation is about $10 million, with the remaining part of the $50 million envisioned to be spent in the next 3 years.

Mr. QUIE. And the State and local governments would have to make applications to HEW to get the interns under this?

Mr. BROOKS. I believe as the gentlewoman from Oregon explained the operation, that students from various institutions and colleges would apply to HEW and those institutions would pick up half the stipend which was agreed upon for those students to serve in local governments or State governments.

I assume that would be agreed to by those local and State governments.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I am pleased to yield to my friend from Wisconsin.

Mr. STEIGER of Wisconsin. Would the gentleman clarify a point I am frankly unclear on? Is the gentleman saying by virtue of the amendment that in title IX we would have a State and local intern program through HEW but not one applicable to the Federal Government, though the Federal Government would pick up the tab for that program?

Mr. BROOKS. That is absolutely correct. The existing legislation provides for an intern program in all governments; local, State and National and congressional. This amendment would eliminate the congressional application of that proposal.

Mr. STEIGER of Wisconsin. I thank the gentleman for his answer.

SUBSTITUTE AMENDMENT OFFERED BY MR. WHITE FOR THE AMENDMENT OFFERED BY MR. BROOKS

Mr. WHITE. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE as a substitute for the amendment offered by Mr. BROOKS: Strike title IX from H.R. 7248.

Mr. WHITE. Mr. Chairman, I believe the gentleman from Texas (Mr. BROOKS) has a fine amendment, but as I look at this particular section I wonder why it is in the bill at all.

Next year, 1972, is an election year. While this is a well-intended program, are we foisting on the American public an army of young politicos, activists, who will be going throughout the entire country and who may forget the initial purpose of this bill and become politically active in the campaigns of 1972?

No. 2. Why should we single out political science students, those taking political science education in college? Why not include other students as well? Why not include other fields? Are we not being discriminatory against other fields.

No. 3. At a time when we are searching for economy in Government, is this the proper place to expend $10 million?

Those are the three points I should like to present to the Members today who are considering striking title IX. We can consider such an intern program at another time and amend a pending bill, but we should not include this title in this bill.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I appreciate the gentleman's yielding. I have great respect for my colleague from Oregon, but I believe the gentleman from Texas is making very good sense. I join with him, and I suggest we do strike out this section:

Mr. WHITE. I thank the gentleman.

Mr. ESCH. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, I believe it is very clear that the issue has now settled down as to whether or not we should have an intern program. I speak strongly in favor of an intern program and an opportunity to coordinate the existing intern programs into a more meaningful and coordinated system.

There has been discussion, and questions have been raised in recent years about the problem of our young people and their opportunity to contribute within the system. There have been questions raised by distinguished gentlemen, in this House and I respect their judgment, as to how and in what way we might involve individuals within the system.

I would suggest to those gentlemen who oppose this title that if you examine it carefully, the provisions state that the purpose is to encourage our young people to work within the system; to use the best of those young minds to educate and train them in the world of practical politics and everyday work experience in order that we might improve on the daily tasks that we perform.

There has been a great deal of discussion about the cost of this program, but I would suggest to you that this is probably a minute cost in relationship to the total expenditures of this Federal Government.

If you are afraid of developing a political intern program, then, it seems to me in effect you are afraid of encouraging the young people to come in aggressively, actively, and constructively into Government activity at all levels.

I, for one, believe otherwise. I believe strongly in our young people and want to give them an opportunity to participate constructively. I think this title will do that.

Mr. GROSS. Will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Iowa.

Mr. GROSS. Yes. At a cost of $10 million. But what system is the gentleman talking about that he wants these 18-, 19-, and 20-year-olds to work in? What is this great system that he is talking about?

Mr. ESCH. I will say to the gentleman that I would welcome young people

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working at the local level with councils and mayors on a constructive basis and in the State at the gubernatorial offices. And I think this House should welcome many more interns on a constructive basis relating to them.

It is indeed unfortunate that the dissident few have so biased so many minds at the expense of those many millions of young people who want to contribute constructively to good government.

That is what this intern program is all about. I urge the membership to defeat the substitute and support the intern program.

The future of this country belongs to our young people. Let us give them a chance.

Mr. ASHBROOK. Mr. Chairman, I rise in support of the amendment.

I do not think it is necessary to take 5 minutes to discuss the amendment, but I want to make one point.

Everybody in this body in one way or another, I am sure, has encouraged young people to participate in politics. I know I have. But I do not know where we ever got the idea that we have to pay them to participate in politics. I have had hundreds of young volunteers and have encouraged them to work in many ways. Where did we ever get the idea that we had to give them paid scholarships or make them a part of paid programs in order to get them to participate in politics? Most of the good volunteers I have ever seen worked for nothing. We do not have to pay them to do it. It is a specious argument, and we can encourage people to come into political activity without handing out a stipend, grant, or paid fellowship or internship. I reject the whole idea that you have to pay people in order to have a dialog with them, bring them in to constructively get them to participate in politics or keep them from feeling alienated by the system.

I support the amendment.

Mr. HAYS. Will the gentleman yield to me?

Mr. ASHBROOK. I yield to the gentleman.

Mr. HAYS. The gentleman is exactly right. Of course, you compound the insult here, as I understand it, unless this amendment is adopted, because you will bring this under HEW to administer. That to me is the last straw. I am for young people getting in the system and working within it, but when you get it to the department of very little health, almost no education, and too much welfare, it seems to me you are putting the program down the drain before it ever gets off the ground.

I ask every Member of this body to ask yourself a question: Do you want HEW running your office staff? If you do, then, do not vote for the amendment. However, if you do not want HEW running your office staff, you ought to vote either for the substitute or the amendment offered by the gentleman from Texas.

Mr. ASHBROOK. I thank the gentleman for his statement.

Mr. QUIE. Will the gentleman yield to me?

Mr. ASHBROOK. I yield to the gentleman from Minnesota.

Mr. QUIE. It seems to me the question ought to be whether you want HEW to be running an intern program for your local community or your State government. I do not think they ought to be doing that. The clearing house will not do that much for this intern program. We have many intern programs working well now, and we do not need this.

I support the substitute.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are a number of intern programs. I have had girls from Wellesley and Vassar in my office. I have had young people from Stanford University in my office. I have had interns from other institutions. The only people at the present time, however, who can work in our offices under the individual institutional programs, are the students who can afford to participate.

Mr. Chairman, I suggest that some of the people who really need to know how the Government works are the young people who cannot afford to work as volunteers.

Mr. Chairman, I support this title because it seems to me we might have a chance to do something about the alienated youth in the country. We might be able to really tell them how government does work.

I want to give to the members of the committee an example which had more to do with my support of this program than anything else. About 2 years ago I participated in a panel at a college in Washington, D.C. There were four of us on that panel. There was no agreement among the four of us on Vietnam and national priorities and what we ought to be doing. However, there was a professor from George Washington University who said to this audience that if this country would spend on the poor in 1 year what we spend in 1 week in Vietnam, $700 million, we would have a different kind of country in which to live. All of these college students applauded and thought it was great. When it came my turn, I said, "Let us analyze what he said."

The professor said if we would spend $700 million in 1 year on the poor we would have a great world in which to live. What are the facts? The facts were that that year when I was participating in the panel, which was 2 years ago, we were spending not $700 million; we were spending $42 billion on programs exclusively designed for the poor and in which the middle income and lower-middle income could not participate. We were spending $27.5 billion in Federal funds, over $14.5 billion in State and local funds and $2.5 billion in voluntary contributions above taxes.

I said to the group, "It seems to me that there is just no excuse at all for any person who is in a position of responsibility to act in such an irresponsible fashion as to tell you people who are in college that this is the way the government works."

I think through an intern program we could bring in some of these alienated young people, the youngsters who think this government is all bad; that all of us in this Congress have a 5-hour day; that we goof as soon as it is 4 o'clock and do not want to do anything else for the rest of the week. However, if they would work in an office at the Federal level, the State level or the local level, the county level, they would be able to understand what government is all about. I think we would remove a great deal of alienation. That is really what this title is about.

Mr. Chairman, I have been unhappy about the congressional intern program and I was especially unhappy with it 3 years ago. But I do not think that doing away with internship programs will be doing anything about the alienation of the young people.

This program is not going to be administered by HEW; this is an institutional program for interns at colleges and universities and a program for elected officials at the local or State or Federal level. It will permit those who want to participate to participate. No one has to participate in it at all.

If you want to correct something, let me give you a suggestion. In our elected offices in Oregon we have the following people working: New York City volunteers under the War on Poverty, legal aid officers under the War on Poverty program, and VISTA volunteers. I suggest that the people who have been working under the legal aid program, who have been working under the VISTA program and the New York City program serve at times to represent that very small minority of our young people who are hostile to our political system. I would much prefer to have interns, participating in a structured program, working in our Government offices. Let us have such a program so that our young people may learn what is really happening. No one has to participate who does not wish to participate. It is designed for poor and alienated young people who are questioning our Government. They do not really know anything about government except what they hear from some other youngster who does not think our country is any good. Let us teach them that this is a great country.

In regard to this panel discussion the gentleman from Arkansas (Mr. MILLS) said that the $42.5 billion includes welfare, but it does not include social security. And he further told me that if we included social security for the people who live at the poverty level, or below, that we would be spending between $65 billion and $70 billion on the poor.

This is not a record of parsimony or neglect. It is the record of an extraordinarily compassionate Nation. Let us have our young people learn the truth about our Government. Let us give them the opportunity to see our Government at first hand.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute amendment.

Mr. Chairman, I rise to concur with the excellent presentation of the gentlewoman from Oregon, and to add that there are many poor people, there are many youngsters in the universities who are not alienated, who would like to come to Washington.

And you do not have to be mad at the system to want to know what is happening in our Government.

So I would second the gentlewoman's remarks, and include and emphasize that all of the young people of all economic backgrounds who want to come here should have the opportunity.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I simply want to indicate my support of what the gentleman from Michigan has said, and my opposition to the substitute.

Over the years I have had many young people in my office serving as interns. They have been hard workers, and conscientious, and I would like to think that they go away more willing to, as we like to say, work within the system, than might have been the case without that experience.

So I hope the substitute is rejected.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I appreciate the gentleman yielding. I want to associate myself with the remarks of the gentlewoman from Oregon. We have some differences on this committee, and I think this is an instance in which there can be some agreement that this type of program makes sense.

Let me go at it in a little different way. One of the things that appeals to me about the intern program proposed in title IX is the fact that it was designed to be, as the gentlewoman from Oregon put it, a structured program. We have heard some of the problems that the present substitute may present, we have heard from both sides of the aisle, having to do with people who pay too much attention to the Federal Government, and I am convinced from this fact, that too many young people have set their eyes on Washington at the expense of Madison and Oshkosh. What this amendment tends to do is to curtail the emphasis on Washington and takes in the State and local governments, because the Federal system today involves so much, and it seems to me a terrible oversight to say that we can operate a Federal program and not involve young people in a meaningful fashion at the State and local levels that are so important in serving the people across this country. So I hope the amendment to strike this title is not adopted.

Mr. CONYERS. I yield back the balance of my time.

Mr. SCHERLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the substitute.

Mr. Chairman, we are talking here this afternoon about our concern for the young people. I have two of my own, and when my sons were 3 and 5 years old, they were campaigning for my predecessor, the Honorable Ben F. Jensen.

We have in the Republican Party an organization known as TARS—Teen-Age Republicans. We also have the Young Republicans, plus the parent organization.

I cannot justify a $10 million expenditure of taxpayers' money to teach our young people about politics. If we as Members of Congress do not feel that we have a responsibility to teach our students what politics is all about, in college or outside of college, then we are derelict in our duty as legislators.

You talk about working in the organization, or within the system, ringing doorbells and stuffing envelopes for teenagers is a good beginning. Why saddle the people of this Nation with a tab of $10 million to teach them the game of politics? It is almost automatic as they progress through the elementary and secondary education, and on into college; it is normal. Their political education will develop through their own interest—why do we have to pay them to learn about party organizations how their government operates? This should not be necessary—personal desire should be sufficient.

Previous members expressed their concern about militant organizations like NYC, Legal Aid, and VISTA. I have a solution for that—abolish them all—that is what I would vote to do.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to my colleague, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding because I would like to address my comments to my colleague, the gentlewoman from Oregon (Mrs. GREEN).

The precise point she made is what concerns many of us. She was at the meeting and there was a panel. The person who made the wildest statement was not the gentlewoman from Oregon. It was a responsible person. If she were running the program, if she were making the decisions, I would be for it. It was some professor who made the statement that she had to address herself to.

This is precisely what concerns most of us. What is to prevent the same type of people being called to run these programs? That is what concerns us. What will be taught—are they going to be dealing with these same ideas? What is the safeguard? If you are going to have a program of internship where they are dealing with this same kind of ideology, I think that is defeating our purpose. That is the precise example she gave and that is one of the reasons I am concerned about this program.

Mr. WHITE. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman.

Mr. WHITE. Mr. Chairman, when the membership votes on this amendment, the first substitute, I would point out that they must consider whether or not they want HEW to fan out to every Member's district in 1972, an election year, and politically activating young people who may or may not fulfill the purposes of this bill.

When you consider what has happened in the past and what use has been made of other programs, you are going to have some of the same problems.

Mr. SCHERLE. I think we can simplify the whole thing simply by adopting the substitute of the gentleman from Texas (Mr. WHITE), and not by saddling the taxpayers of this country with another extravaganza of $10 million to teach our young people the procedure of politics.

I think as responsible Members of Congress, we should bring these young people into our own party organizations and give them the opportunity to learn by doing. Let them grow up and you can be sure they will be better politicians than if we set up an agency of the Government to teach them how to vote and how to understand or this extravaganza would be intolerable.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman.

Mr. GROSS. Mr. Chairman, contrary to what the gentlewoman from Oregon says about the selection of these interns, the bill itself says that the participating institutions of higher education would select them. This does not mean that they are going to go out on the highways and byways or in the streets and back alleys to get them. They are going to be people who are picked by professors and others in the various institutions.

Mr. SCHERLE. I thank my colleague for his comments.

Mr. Chairman, I have the greatest respect in the world and the greatest admiration for my colleague, the gentlewoman from Oregon. But I cannot support this legislation and ask that the Members of the House support the gentleman from Texas (Mr. WHITE).

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, the only thing I tried to point out was that institutions would choose the interns. This is a structured program and I think we would have a better chance of getting young people to understand what government is about in this kind of a structured program than the three which I mentioned.

If the $10 million concerns people, at the first opportunity, and I have tried it a couple of times in this House, I would make it illegal to have the Legal Aid officers, VISTA and NYC working in elective offices.

I do not think that was ever the congressional intent. It seems to me it is much better to have this kind of structured program so that these young people would learn about government.

I would remind my colleagues that we have teacher interns and doctor interns.

Mr. HAYS. Mr. Chairman, I move to strike out the last word and rise in support of the amendment offered by the gentleman from Texas.

Mr. Chairman, I want to make it per-

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fectly clear that I am not against an intern program per se. As a matter of fact, this past summer I had four interns on the Committee on House Administration—four boys from four different universities. All of them turned out to be very fine, hard working young people. One of them did the research for my presentation on the strip mining bill to the Committee on the Interior. Another one of them turned out to be very proficient in French and when the French parliamentarians visited here a few weeks ago, I talked to his professor at the university he is attending and got him a week's leave of absence to come down here and act as interpreter. He did a terrific job. So I am not against the program because I am against interns. I very much believe in that.

But the thing that bothers me is that if I have any interns working for me, I would like to know something about who they are and I do not want them to send anybody willy-nilly or anything else.

If the university is going to send down a folio of information about 20 different people and you can hire from among them, that is one thing. But I do not want HEW and I do not want some university professor or some university dean or anybody else picking who is going to come to work for my committee, because they might not be the kind of people I want, No. 1; they might not have the background, No. 2; and they might not have the educational qualifications we need, No. 3.

For example, I cannot imagine having one of these boys work on the so-called election reform bill. I cannot imagine having a fellow who is a major in chemistry working in the House Administration Committee. This is one of the things that bothers me.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. The gentleman has described very accurately what would happen. It is purely a voluntary program. Nobody in Congress would be forced to take it. I agree with the gentleman. I would not want someone who was not qualified.

Mr. HAYS. Then what is wrong with the amendment of the gentleman from Texas (Mr. BROOKS)?

Mrs. GREEN of Oregon. I am not opposing the amendment offered by Mr. BROOKS. I am opposing the amendment offered by Mr. WHITE.

Mr. HAYS. I am speaking for Mr. BROOKS' amendment. I think it will do something to cure this. Let me say to you the thing that bothers me—and I must admit I did not hear all the debate, for I came into the Chamber when somebody told me that HEW was going to administer the provisions of the title—I just think, you know, the more we can leave bureaucracy, which already has its fat hand on too much around here, out of it, the better the program will work, if we have a program. That is one of the things I object to.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. CONYERS. Would the Brooks amendment preclude interns from coming to the Congress?

Mr. HAYS. Perhaps the gentleman from Texas (Mr. BROOKS) would answer that question. He knows more about the amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Texas.

Mr. BROOKS. Will the gentleman repeat his question?

Mr. CONYERS. Does the amendment preclude Congress from receiving interns under the amendment?

Mr. BROOKS. My amendment would eliminate the intern program in the title as it applies to the Congress of the United States. We will retain our existing programs from foundations and that which we follow ourselves. If we want a program for Congress, we can vote the money for it and we will run it and not have HEW run it. That is the hard, simple fact.

Mr. CONYERS. Would not the gentleman accept the terms under which we understand the program would be run, that we would have the option of rejecting anyone who is sent?

Mr. HAYS. I was sure it did, but Mr. BROOKS makes it perfectly clear.

Mr. GERALD R. FORD. Mr. Chairman, would the gentleman yield so I might ask the gentleman from Texas a question?

Mr. HAYS. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Your amendment strikes out that part of the provision as it pertains to Members of Congress. Your amendment does not strike out the part relating to State and local governments; is that correct?

Mr. BROOKS. The gentleman is stating the case exactly.

Mr. GERALD R. FORD. As the provision remains in, as far as local and State governments are concerned, HEW still controls the State and local government parts of the program?

Mr. BROOKS. I did not think we could cure all the world's problems in one amendment.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. I would ask the gentleman if, in his inimical fashion, he would be willing to comment on the benefits those millions of young Americans would have under this intern program who did not have the privilege of attending a college or university.

Mr. HAYS. Well, obviously, they would not have any benefits. But let me say this to you. I can hardly go into the courthouse in my district that I do not find a lot of young people of high school or college age or thereabouts who are working in all the county offices, and some of the county officers say, "We are hard put to find something for them to do." So I think there is plenty of opportunity, as far as that is concerned.

Mr. PUCINSKI. Mr. Chairman, I have a substitute amendment at the desk.

The CHAIRMAN. A substitute is now pending. The gentleman from Texas (Mr. BROOKS) offered an amendment and the gentleman from Texas (Mr. WHITE) has offered a substitute to that amendment; so a further substitute at this point would not be in order.

Mr. PUCINSKI. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The gentleman from Illinois is recognized.

Mr. PUCINSKI. Mr. Chairman, if this amendment fails, it is my intention to offer an amendment on page 196, line 13, to add a provision. The language now says:

> The students who are to participate in the internship program provided for in this part shall be selected from among students whose names are proposed by participating institutions of higher education.

It is my intention to add to that language:

> Or requested by a Member of Congress or any State or local agency.

The purpose of this language would be to not limit the candidates for internship in a congressional office to the judgment and decision of someone in the university. For instance, a college student may come to a Member of Congress and say, "I would like to work as an intern in your office for a year and do the following research, and these are my capabilities." He may be a very capable youngster that one might find very valuable, as the gentleman from Ohio mentioned a moment ago. It seems to me if we are going to have an intern program, that a Member of Congress who is going to take an intern for a year, or a local or State agency which is going to have an intern for a year ought at least to have the right to request this particular individual if he or she otherwise qualifies.

The language in the bill now merely provides that the institution is going to decide who are the interns who are going to be placed on an eligibility list, and we are going to have then to draw from that list presented to us by the university. I think the gentlewoman made a very cogent argument and I agree with her whole presentation, but we ought to have this program, it seems to me, so the hiring agency ought to have some opportunity to specifically request a student or an internee, rather than have it say we have got to take only those who are going to be placed on the eligible list by the university itself, because very often the very people for whom the gentlewoman has shown the greatest concern may be the youngsters who may be specifically excluded. It may be we have some gifted student at a university who can do a specific job for us, and we may want to bring that internee into our office, and we ought to have the right if there is any validity at all to this program, an individual Congressman ought to have the right to have the young man or young woman he would like to have in his office as an internee.

Under the parliamentary situation I am unable to offer this amendment now, but I do hope I will have the opportunity to offer this amendment, because then the discretion as to whom one is going to have in his office will be left to our own judgment instead of some university or agency that is going to make up the list, and perhaps literally discriminate against many youngsters who would otherwise be eligible.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from Michigan.

Mr. CONYERS. To get to the gentleman's amendment, does that not require that we vote down the substitute amendment and the pending amendment?

Mr. PUCINSKI. I am inclined to think that would probably be correct.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words, and I just want to point out again what this amendment and title provide. It starts out:

> The Commissioner is authorized to plan, develop, and carry out an internship program—

And the whole title provides that the Office of Education will do it. But if we read further in the amendment and the bill, the internship program, even under the Brooks amendment, is not limited just to the State and local government agencies, but includes nonprofit agencies as are appropriate, and the Commissioner of Education determines what non-profit agencies are appropriate.

I think we are bringing much more into this title than you ever have expected to or wanted to, and I think the only safe way is to support the amendment offered by the gentleman from Texas (Mr. WHITE) to strike it, and then if somebody can devise an acceptable program, later on, that is the time to take it up.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not apologize for taking this 5 minutes. This is a bill which concerns education, and we should spend a little time talking about education in a bill of this nature.

First, so that my own credentials may not be misunderstood, may I note that since I have been a Member of this body I have had more than 150 high school students in Washington for a week at a time. I have paid for the housing and the food for those youngsters who were here for that week at a time. We arranged most frequently for transportation for them, so that the poor could participate. We have never had any designation of politics. We select these people the same way we select our academy appointees, without any regard for politics.

In addition to that, we have had six interns each summer. In addition, we have other programs. At the present time, I have two youngsters from Iowa colleges working in the office on college related programs. They are here for a semester each.

One of the things which has bothered me about the business of ecology, just to cite a parallel situation, is that I have so many teachers saying, "Why can we not get some Federal funds so that I can buy material to teach environment to my students?"

Any sociology, biology, botany, or chemistry teacher who is worth his salt has been teaching environment all these years. Any teacher of government, if he is worth his salt, should be able to teach something about government.

Sad to relate, as the gentlewoman from Oregon says, too many of these instructors do not know anything about the Government or even the textbook from which they teach. I have thought perhaps I may have accomplished more with this kind of program if I had had the instructors for a month or a semester at a time rather than having students, because we touch so few even though we keep the office filled with these people.

I am a teacher. I have a master's degree in education, a permanent professional certificate to teach.

We tried to arrange a study program with a pretest and a posttest, and I know these youngsters learn something about government when they are here for a week or a month or a semester. But it seems very foolish from an educational or pedagogical standpoint to say that we are going to spend $10 million to have some department of Government select youngsters who are going to work at various levels.

There is nothing in the world which precludes a teacher in a town anywhere in the United States from taking her class to the council meetings, to the public meetings on issues that exist, or from taking classes to the court room when there are court cases pending. All those things can be done easily and free. We have, as Members know, buses in almost every school district in the country today to transport students back and forth to the city offices and county offices. Most of the States have some kind of program to bring students to the State capital.

What I am trying to say is this: I believe in educating the young in government. We would merely exert a pin prick with this effort we are talking about here this afternoon in what has to be one of the poorly considered sections of the bill.

It is a big program. It is the shortest title in the bill, I believe. We ought to devise a program which will reach more people, which will seek to have these teachers utilize the facilities that are available without cost.

One of the tragedies of all this Federal aid is that teachers are getting to the point that any teacher thinks we cannot do anything educationally unless we get Federal funds to do it. I believe we stifle a lot of initiative which should be involved in these programs.

I am totally sold on an intern program, but I am also totally opposed to this hastily considered title in this bill. I will vote for the amendment of the gentleman from Texas.

So that I will not take other time later, I should like to make a little legislative history with the gentlewoman from Oregon regarding a title which is coming up later.

We have some small colleges which are worrying because they have dormitory space for both men and women. Sometimes they must go out and recruit more men because they have more rooms available in the men's dormitories than in the women's dormitories. Can we make a little legislative history here which would say to the agency that we are not going to bring up the matter of sexual discrimination if this little college tries to fill its dormitories or to otherwise operate in a sensible manner in this regard?

Mrs. GREEN of Oregon. Will the gentleman yield?

Mr. KYL. Of course I yield to the gentlewoman.

Mr. GREEN of Oregon. Maybe we should have some political interns to work on this program. It is my understanding that most of the domitories around the country are going coeducational, anyhow, so I do not think that would be a major factor in the consideration of title X.

Mr. KYL. But I have had some college presidents contact me—today, as a matter of fact—worrying about it. They say sometimes they have a block of rooms available in this dormitory, the first president who spoke to me said that he was operating a church-related school and they do not have coeducational dormitories.

Mrs. GREEN of Oregon. The only thing I can say is I hope institutions would admit students on the basis of their educational qualifications and what they can learn in the institution rather than on the number of dormitory rooms available of one kind or another.

Mr. DINGELL. Mr. Chairman, I rise in support of the White substitute.

Mr. Chairman, I rise in support of the substitute amendment offered by the gentleman from Texas (Mr. WHITE) and the amendment offered by my good friend from Texas (Mr. BROOKS).

Mr. Chairman, I have been in Congress for a long time and I have supported each and every educational measure that has ever been here. I have during my career been a strong supporter of Federal aid to education, general Federal aid to education, and have actively and vigorously supported and voted for a host of proposals such as this every time they come to the Congress. In the Commerce Committee where I sit I have been an active supporter of education legislation where it deals with health and medical facilities.

I think there may be some merit to the section we are now addressing ourselves to, title IX, but I would point out that first of all there were no reports on the title here before us. The departmental agency never communicated with the Congress on this. There were no hearings whatsoever.

I have had interns in my office, and my experience with them has been a very happy one. I have had fine young people who have come home to my district and are well satisfied that the Government is a good one and that it serves the people well. They have participated and contributed valuably to the affairs of my office.

But I think there is something that ought to be before this body at this particular time. We have a very large bill here. Literally hundreds of millions of dollars are authorized in it. We have to recognize, however, the amount of money that is available for expenditure inside the Federal Government for education is far less than that which is really needed. For the major portions of this bill we

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have to recognize that most of them are going to be funded less than the amount authorized and most will be funded less than the amount of the true need. Most of them indeed are going to have significant cuts. Some will be eliminated from the budget in their entirety before it comes to the Congress and after it leaves the Congress. Even after we have appropriated most or a large portion of the funds, many sections of the bill will be diminished significantly or eliminated altogether. We have to look at the question of priorities here.

There is a need for interns, but we ought to establish that need before we proceed. We ought to look at the content of the bill to see what the program is going to be and how it will function.

I think there is something else, and that is the real point to which I arose today. We should give very serious consideration to the intern program title in relation to the other sections of the bill—the sections dealing with the NDEA, the national defense scholarships, and the other programs of assistance to needy scholars; the program to assist our higher education facilities.

I think we ought to wonder whether or not, in fact, we are slicing a rather too small salami much thinner than it really should be sliced by the inclusion of this $10 million.

Mr. Chairman, I have the idea that the young people who are covered in other parts of this bill will derive much more benefit than we would give to those who would receive benefits under the interns for political leadership section.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Of course I yield to my colleague from Michigan.

Mr. CONYERS. I want to make sure that I understood the gentleman correctly when he stated that he has supported all bills that have come out of the Education and Labor Committee.

Mr. DINGELL. I cannot remember voting against one.

Mr. CONYERS. What about the Emergency School Aid Act which was under consideration in the House just 2 days ago?

Mr. DINGELL. I can tell the gentleman my reasons for opposing that bill, which are about the same as they are here. We do not need specific aid for specific programs that may or may not serve the entire interest and purpose of this country.

Mr. CONYERS. Mr. Chairman, if the gentleman will yield further, has not my friend had any unpleasant experience with the intern program?

Mr. DINGELL. No; I have had a delightful experience with my interns and feel that they have done a good job.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Texas (Mr. WHITE) for the amendment offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. CONYERS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. CONYERS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mr. WHITE, Mr. BROOKS, Mr. ESCH, and Mrs. GREEN of Oregon.

The Committee divided, and the tellers reported that there were—ayes 229, noes 149, not voting 52, as follows:

[Roll No. 347]

[Recorded Teller Vote]

AYES—229

Abbitt	Fuqua	Pelly
Abernethy	Galifianakis	Pettis
Andrews, Ala.	Gaydos	Peyser
Andrews, N. Dak.	Gettys	Pike
Archer	Giaimo	Poage
Arends	Goldwater	Poff
Ashbrook	Goodling	Powell
Ashley	Gray	Price, Tex.
Belcher	Griffin	Quie
Bell	Gross	Quillen
Bennett	Grover	Randall
Betts	Gude	Rarick
Bevill	Hagan	Roberts
Blackburn	Haley	Robinson, Va.
Bow	Hall	Rogers
Bray	Hammer-schmidt	Roncalio
Brinkley	Hansen, Idaho	Rousselot
Brooks	Harsha	Runnels
Broomfield	Hastings	Ruppe
Brotzman	Hays	Ruth
Brown, Mich.	Henderson	St Germain
Brown, Ohio	Hicks, Wash.	Sandman
Broyhill, N.C.	Hillis	Satterfield
Buchanan	Hogan	Saylor
Burke, Fla.	Hosmer	Scherle
Burleson, Tex.	Hull	Schmitz
Burlison, Mo.	Hungate	Schneebeli
Byrnes, Wis.	Hunt	Schwengel
Cabell	Hutchinson	Scott
Caffery	Ichord	Sebelius
Camp	Johnson, Calif.	Shoup
Carter	Johnson, Pa.	Shriver
Casey, Tex.	Jonas	Sikes
Cederberg	Jones, Ala.	Sisk
Chamberlain	Jones, N.C.	Smith, Iowa
Chappell	Jones, Tenn.	Smith, N.Y.
Clancy	Kazen	Snyder
Clark	Keating	Spence
Clausen, Don H.	Keith	Springer
Clawson, Del	Kemp	Staggers
Cleveland	King	Steed
Collier	Kuykendall	Steiger, Ariz.
Collins, Tex.	Kyl	Stephens
Colmer	Landgrebe	Stratton
Conable	Landrum	Stubblefield
Coughlin	Latta	Stuckey
Crane	Lennon	Sullivan
Daniel, Va.	Lent	Talcott
Davis, Ga.	Lujan	Taylor
Davis, S.C.	McClory	Teague, Calif.
Davis, Wis.	McCloskey	Terry
Delaney	McCollister	Thompson, Ga.
Dellenback	McCulloch	Thomson, Wis.
Dennis	McEwen	Thone
Devine	McFall	Veysey
Dickinson	McKevitt	Vigorito
Dingell	McMillan	Waggonner
Dorn	Mahon	Wampler
Dowdy	Mailliard	Ware
Downing	Mann	Whalley
Dulski	Mathias, Calif.	White
Duncan	Mathis, Ga.	Whitehurst
Dwyer	Mayne	Whitten
Edwards, Ala.	Michel	Widnall
Erlenborn	Miller, Ohio	Wiggins
Eshleman	Mills, Md.	Williams
Fascell	Minshall	Wilson, Bob
Findley	Mizell	Winn
Fisher	Monagan	Wyatt
Flowers	Morse	Wydler
Flynt	Murphy, Ill.	Wyman
Ford, Gerald R.	Myers	Yatron
Forsythe	Natcher	Young, Fla.
Frelinghuysen	Nelsen	Young, Tex.
Frey	Nichols	Zion
Fulton, Tenn.	O'Konski	Zwach
	Passman	

NOES—149

Abourezk	Aspin	Brasco
Abzug	Badillo	Burke, Mass.
Addabbo	Begich	Burton
Albert	Bergland	Byron
Alexander	Biaggi	Carey, N.Y.
Anderson, Calif.	Bingham	Chisholm
Anderson, Tenn.	Boggs	Clay
Annunzio	Boland	Collins, Ill.
	Bolling	Conte
	Brademas	Conyers
Corman	Holifield	Pickle
Culver	Horton	Podell
Daniels, N.J.	Howard	Preyer, N.C.
Danielson	Jacobs	Price, Ill.
de la Garza	Karth	Pryor, Ark.
Dellums	Kastenmeier	Pucinski
Denholm	Kluczynski	Railsback
Dent	Koch	Rangel
Donohue	Kyros	Reid, N.Y.
Dow	Leggett	Reuss
Drinan	Link	Rodino
du Pont	McCormack	Roe
Eckhardt	McDade	Rooney, N.Y.
Edmondson	McKay	Rostenkowski
Edwards, Calif.	McKinney	Roush
Eilberg	Macdonald, Mass.	Roy
Esch	Madden	Roybal
Evans, Colo.	Matsunaga	Ryan
Fish	Mazzoli	Sarbanes
Flood	Meeds	Scheuer
Foley	Melcher	Selberling
Ford, William D.	Metcalfe	Shipley
Gallagher	Mikva	Stanton, James V.
Gibbons	Miller, Calif.	Steele
Gonzalez	Minish	Steiger, Wis.
Grasso	Mink	Symington
Green, Oreg.	Mitchell	Thompson, N.J.
Green, Pa.	Mollohan	Tiernan
Griffiths	Moorhead	Udall
Hamilton	Morgan	Ullman
Hanley	Mosher	Van Deerlin
Hanna	Moss	Vanik
Hansen, Wash.	Murphy, N.Y.	Waldie
Harrington	Nedzi	Whalen
Harvey	Nix	Wilson, Charles H.
Hathaway	Obey	Wolff
Hawkins	O'Hara	Wylie
Hechler, W. Va.	O'Neill	Yates
Heckler, Mass.	Patten	Zablocki
Helstoski	Pepper	
Hicks, Mass.	Perkins	

NOT VOTING—52

Adams	Fountain	Patman
Anderson, Ill.	Fraser	Pirnie
Aspinall	Frenzel	Purcell
Baker	Garmatz	Rees
Baring	Gubser	Rhodes
Barrett	Halpern	Riegle
Biester	Hébert	Robison, N.Y.
Blanton	Jarman	Rooney, Pa.
Blatnik	Kee	Rosenthal
Broyhill, Va.	Lloyd	Skubitz
Byrne, Pa.	Long, La.	Slack
Carney	Long, Md.	Smith, Calif.
Celler	McClure	Stanton, J. William
Cotter	McDonald, Mich.	Stokes
Derwinski	Martin	Teague, Tex.
Digga	Mills, Ark.	Vander Jagt
Edwards, La.	Montgomery	Wright
Evins, Tenn.		

So the amendment offered by the gentleman from Texas (Mr. WHITE) as a substitute for the amendment offered by the gentleman from Texas (Mr. BROOKS), was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS) as amended by the substitute offered by the gentleman from Texas (Mr. WHITE).

The amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Page 198, line 4:

TITLE X—PROHIBITION OF SEX DISCRIMINATION

SEC. 1001. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance, except that this subsection shall not apply—

(1) in the case of an educational institution in which substantially all the students are of the same sex,

(2) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education, or

(3) to an educational institution which is controlled by a religious organization and where the application of this subsection would not be consistent with the religious tenets of such organization.

SEC. 1002. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1001 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 1003. Any department or agency action taken pursuant to section 1002 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1002, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

SEC. 1004. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 1005. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

SEC. 1006. (a) Clause (1) of section 701 (b) of the Civil Rights Act of 1964 is amended by inserting after "thereof" the following: "(except with respect to employees of a State, or a political subdivision thereof, employed in an educational institution)".

(b) Section 702 of title VII of the Civil Rights Act of 1964 is amended by the insertion of a period after "religious activities" and the deletion of the remainder of the sentence.

SEC. 1007. Paragraph (1) of subsection (a) of section 104 of the Civil Rights Act of 1957 (42 U.S.C. 1975c(a)) is amended by inserting immediately after "religion," the following: "sex," and paragraphs (2), (3), and (4) of subsection (a) of such section 104 are each amended by inserting immediately after "religion" the following: ", sex".

SEC. 1008. Section 13(a) of the Fair Labor Standards Act of 1938 is amended by the insertion after the words "the provisions of sections 6" of the following: "(except section 6(d) in the case of paragraph (1))."

SEC. 1009. (a) Subsection (1) of section 3 (r) of the Fair Labor Standards Act of 1938 is amended by the deletion of the words "an elementary or secondary school" and the insertion of the words "a pre-school, elementary or secondary school."

(b) Section 3(s)(4) of such Act is amended by deleting "an elementary or secondary school" and inserting "a pre-school, elementary or secondary school".

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title X be considered as read, printed in the RECORD at this point, and open for amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Mrs. GREEN of Oregon. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. WRIGHT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7248), to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, had come to no resolution thereon.

TO COMMEND THE INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION FOR SUCCESSFULLY PERFORMING VALUABLE HUMANITARIAN WORK ON THE OCCASION OF ITS 20TH ANNIVERSARY

Mr. RODINO. Mr. Speaker, I offer House Concurrent Resolution 417 and ask for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 417

Whereas upon the initiative of the Congress of the United States of America the Intergovernmental Committee for European Migration was established on December 5, 1951, for the purpose of making arrangements for the resettlement in countries overseas which offer opportunities for orderly immigration, consistent with the policies and the laws of the countries concerned, of European refugees who fled from persecution because of their religious beliefs, race, or nationality, and of other emigrants from European countries;

Whereas the foundations for the establishment and the development of the Intergovernmental Committee for European Migration were laid by the Congress in the Displaced Persons Act of June 16, 1948, in the Economic Cooperation Act of 1950, in the Mutual Security Act of 1951, and in the Refugee Relief Act of 1953, and the current membership of the United States in the Intergovernmental Committee for European Migration is authorized pursuant to section 2(a) of the Migration and Refugee Assistance Act of 1962;

Whereas thirty-one governments with a demonstrated interest in the principle of free movement of persons between countries, which is embodied in the United Nations Declaration of Human Rights, presently constitute the membership of the Intergovernmental Committee for European Migration and share in the costs of its operations;

Whereas in the course of its existence the Intergovernmental Committee for European Migration has assisted over one million eight hundred thousand men, women, and children, one-half of whom were homeless refugees, to reach new homelands and reconstruct their lives in freedom from fear and oppression while contributing by their skills and toil to the development and welfare of the countries which offered them hospitality; and

Whereas the Intergovernmental Committee for European Migration will celebrate the twentieth anniversary of its creation in December 1971: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Intergovernmental Committee for European Migration has successfully discharged the humanitarian task imposed upon it by its constitution and by the governments of the countries who exercise their membership rights in the Committee, and, in order that this gravely needed humanitarian work may go on, the United States will continue to give the Intergovernmental Committee for European Migration full support and assistance.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, may I ask the distinguished gentleman from New Jersey, has this concurrent resolution been cleared with the ranking Republican Member, the gentleman from Ohio?

Mr. RODINO. Yes, it has been.

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation of objection.

Mr. RODINO. Mr. Speaker, it is particularly fitting that the Congress of the United States commend the Intergovernmental Committee for European Migration on the occasion of its 20th anniversary. For, it was at the initiative of the Congress, that this international committee, now with 31 member nations, was established in 1951 outside of the framework of the United Nations. This organization, independent of the United Nations and its Iron Curtain country participants, was thus able to approach the task of resettling over 1 million displaced persons, refugees, and escapees left in European camps in the aftermath of World War II. Something had to be done to alleviate the suffering of these unfortunate victims of war and ICEM, as the Intergovernmental Committee for European Migration is known, quickly, after its founding, met the challenge, and I am most pleased to say successfully performed the humanitarian task of resetting hundreds of thousands of persons who could not help themselves.

As refugees, escapees, and national migrants from the overpopulated areas of Europe were resettled in new lands of opportunity, the question arose whether ICEM had outlived its usefulness and perhaps could be disbanded. However, the fluctuating times of the last decade dem-

XUM

onstrated that it was more evident than ever that ICEM has an important role to play in world harmony and was and is looked upon by its member nations as a very necessary instrument to alleviate pressures within certain areas, to lend a helping hand to refugees, and to relocate skilled persons to countries which could not reach their potential in development.

Today, the existence of ICEM is as vital and necessary as it was during the years when displaced persons from the refugee camps in Europe were being resettled. ICEM was there in 1956 to offer all types of assistance to the refugees from Hungary. More recently ICEM was there to help those refugees from Czechoslovakia who were able to escape from the crushing pressure of communism resulting from the Russian intrusion into that country.

It is a fact of life that political, social, and economic upheavals have and will continue to create new groups of people who look to a better life in different parts of the world. On completion of its 20th year, ICEM will have assisted over 1,800,000 persons in their resettlement, mainly from Europe to overseas countries. Among them were close to 900,000 refugees. ICEM is certainly to be congratulated for its great contribution to the free world and for the orderly and professional way it has carried out its purpose on this 20th anniversary of its creation.

Mr. McCULLOCH. Mr. Speaker, I am particularly pleased to join in support of House Concurrent Resolution 417—a tribute to the Intergovernmental Committee for European Migration upon the occasion of the 20th anniversary of its creation in December 1971.

Historically the United States of America has ever responded to the needs of refugees from all lands with compassion, with understanding and with sympathy. I think it is important that all Americans should know of the leadership the United States provided for ICEM in its inception and in its 20 years of service to unfortunate refugees.

The late great Tad Walter and the late great Chauncy Reed, as Members of the Congress of the United States, were instrumental in writing the constitution for ICEM in 1951. Since that date, with the continued support of this body, ICEM has compiled a tremendous record of humanitarian service to homeless refugees and victims of oppression. More than 1,800,000 men, women, and children have been assisted in finding new homes and new lives free from fear and oppression by this splendid international organization.

I congratulate ICEM upon its splendid record of achievement and wish for it continued success in the service of all mankind.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on House Concurrent Resolution 417.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL ANNOUNCEMENT

(Mr. ROUSSELOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROUSSELOT. Mr. Speaker, on Monday, November 1, I was detained in the Los Angeles area on official business. It was necessary for me, on behalf of my Post Office and Civil Service Committee, as ranking minority member of the Subcommittee on Census and Statistics, to meet with the officials of the Regional Office of the Bureau of Census. Had I been here, I would have voted as follows:

On rollcall No. 329, the Emergency School Aid Act (H.R. 2266), I was paired against and would have voted "no."

On rollcall No. 330, Federal credit union insurance (H.R. 9961), I would have voted "aye."

On rollcall No. 331, prison drug treatment (H.R. 8389), I would have voted "aye."

On rollcall No. 332, temporary assignment of U.S. magistrates (H.R. 9180), I would have voted "no."

On rollcall No. 333, amending the Narcotic Addict Rehabilitation Act (H.R. 9323), I would have voted "aye."

On rollcall No. 335, amending the Small Reclamation Projects Act (H.R. 7854), I would have voted "aye."

On rollcall No. 336, The Farm Credit Act of 1971 (H.R. 11232), I would have voted "no."

On rollcall No. 338, I would have helped to defeat the motion to adjourn as there was still other important legislation that the House should take the time to consider.

PRAYER AMENDMENT CONTROVERSY

(Mr. SCHWENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHWENGEL. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues an excellent letter to the editor in today's Washington Post. The letter was written by Charles L. Black, Jr., luce professor of jurisprudence at the Yale Law School. His letter constitutes one of the most astute analyses of the prayer amendment controversy which I have seen to date. I urge all of you to read it. I will insert it in today's Extensions of Remarks.

GALLAGHER INTRODUCES RESOLUTION URGING THE EXEMPTION OF CANADIAN IMPORTS FROM THE 10-PERCENT SURCHARGE

(Mr. GALLAGHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GALLAGHER. Mr. Speaker, I rise today to introduce a "sense of the House" resolution to preserve and strengthen the historic friendship between the United States and Canada by exempting Canadian imports from the 10-percent surcharge. I am very pleased that this measure has drawn bipartisan support and I now list my colleagues who have cosponsored the resolution:

Hon. BELLA ABZUG, Democrat of New York, Hon. JOHN DUNCAN, Republican of Tennessee, Hon. DONALD FRASER, Democrat of Minnesota, Hon. FRANK HORTON, Republican of New York, Hon. LLOYD MEEDS, Democrat of Washington, Hon. WILLIAM RANDALL, Democrat of Missouri, Hon. HENRY SMITH, Republican of New York, Hon. SAMUEL STRATTON, Democrat of New York, Hon. VERNON THOMSON, Republican of Wisconsin, and Hon. SIDNEY YATES, Democrat of Illinois.

Mr. Speaker, the President's August 15 announcement imposing a 10-percent surcharge on all imports into the United States set off shock waves of considerably greater magnitude in our neighbor to the north than any of the anticipated effects of the forthcoming Amchitka nuclear blast. A wave of resentment swept Canada, and Canadian leaders gave powerful expression to the feelings of their people.

I believe the resentment in Canada over including their exports to the United States is justified. The resolution I introduce today sights the long and close friendship with Canada, the increasingly close social and cultural ties between the citizens of our two sovereign nations, and the irritant nature of the surcharge. This feeling is widely shared, of course, in other nations of the world, but I contend that our relations with Canada are unique, and thus should lead our Government to take special and unusual actions in exempting Canada from that surcharge. My reasons are several.

First, those cultural and social ties of which the resolution speaks are made startlingly clear by the fact that almost 90 percent of the Canadian population lives within 100 miles of the American border. When one considers the free and easy passage over that border by citizens of both nations, we can see that 90 percent of the Canadian population has had close contact with Americans. We do not only share a common border, but, in a very real sense, the people of Canada and the people of the United States share a common destiny, and any unnecessary irritant can only rebound unfavorably to the United States.

Second, the trade relations with Canada are unique. A remarkable fact is that Canada's annual purchases from the United States approximate the combined annual American exports to Japan, Great Britain, France, and West Germany. There seems to be a widely held misconception that Japan is America's largest customer; the fact is that Canada alone bought twice as much in 1970 from the United States than did Japan. In 1970, Canada bought $9.1 billion, Japan $4.6 billion. Canada takes one-fourth of all American exports, and so we see that Canadian prosperity is essential to American prosperity. Again, we are forced to the conclusion of the uniqueness of the relations between our two countries and we must recognize that any action by the United States which threatens Canadian prosperity must adversely affect our own prosperity.

Third, it is a fact that Canada's prosperity is threatened by the surcharge. Canadian exports to the United States represent two-thirds of all Canadian exports to the nations of the world. Those exports account for one-fifth of the Canadian gross national product. Even before the imposition of the surcharge, Canada had the highest unemployment rate of any industrialized nation, and the surcharge struck particularly heavily at the manufacturing sector which accounted for much of that unemployment.

Fourth, Canadian security and American security are inextricably intertwined. We must ask ourselves what the impact on the American national defense would be if Canadian pro-Americanism would be replaced by anti-Americanism. Naturally, Canada has its own view of its own national security, but it is a partner in NATO and the NORAD system is a vital component of our own defense.

Canada is now a Pacific power and an Alaskan power, in addition to its traditional emphasis on Europe. The Canadian view of its own national interests can never be taken for granted by the United States and this is as it should be in relations between equals. The emerging expressions of Canadian national identity makes it imperative, in my view, that our leaders recognize the great mutuality of interests and any unnecessary irritant, such as the surcharge, demeans the unique position Canada occupies in any sophisticated and informed view of American national interests.

Fifth, the entrance of Britain into the Common Market undoubtedly will force both the United States and Canada to reassess some of their trading relations with our mutual English friends. It is not unreasonable to suggest that the possibility of losing at least some of the British market will make the mutual trade between Canada and the United States even more important than it is today. We must also not overlook an additional event which occurred with the last few weeks. The trip of Soviet Premier Kosygin to Canada, while it is too early to know the full impact, must be regarded by America's leaders as something which may jeopardize the close relations between Canada and the United States. To continue the imprudent and unwise surcharge at a time when such great flexibility is now being offered to all the leaders of the world is an example of American insensitivity to situations which possibly could run to its own national interests.

Mr. Speaker, I have had the privilege to lead the House delegation to the Canada-U.S. Interparliamentary Group for the past 11 years and during that time I have made close and lasting friends among members of the Canadian Parliament. Many outstanding addresses have been given at our yearly meetings, but last year I was privileged to hear perhaps one of the finest speeches of my life. It was given by the Honorable Michael Grattan O'Leary of the Canadian Senate, and I would like to conclude my remarks today with Mr. O'Leary's wise and eloquent words:

And now I want to say something about Canada, about our relations with our own great land. The people of Canada, like the people of the United States, are basically North Americans, inheritors of the thoughts and traditions of Europe, but also the children of geography, products of the environments, the emotions, the driving forces, the faith, the dreams and the forms of expression of the North American Continent. Yet there is a difference—a difference I plead with you to not forget. For while Canada and the United States may have the same basic cultures, they each at the same time have domestic and other tasks and problems—political, social, and economic—which differ widely. Canada's particular responsibilities, her government, her constitutional structure, her ideals and aspirations, her memories and milestones, even her discords, are facts in her existence which cannot be approached understandably or usefully by another country even though that country be as friendly as yours. Only Canadians can know and resolve such things, and we are determined to resolve them in our own way, in the indispensable way of a sovereign society. A bit of this continent, from earth to sky, we want to call our very own.

Wanting that, resolved to have it, we need not be enemies, but will pray always that as God has made us neighbors, justice must make us friends.

Measured by human history, yours is a young country. Yet standing at the cockcrow and the morning star, you are at a pinnacle of power, with an awesome accountability to history. If in discharge of that responsibility you seek peace, we as an ally and friend will walk with you always. For if peace be but a pause to identify the next enemy, if our world be unable to find a moral equivalent for the hydrogen bomb, then despair will have the last word, death's pale flag be again advanced, and this planet will cease to be the abode of men. I end, then, with the invocation Vive Canada! and God bless and save America!

Mr. Speaker, truly, God has made us neighbors with Canada and I am introducing the resolution today to exempt Canadian imports from the 10-percent surcharge in the hope that justice will continue to make us friends. At this point in the RECORD I include the text of my resolution:

RESOLUTION

Whereas Canada and the United States have shared a common border marked by peace for more than a hundred and fifty years; and

Whereas ninety percent of the Canadian population lives within one hundred miles of the United States; and

Whereas increasingly close cultural and social ties have developed between the citizens of both countries; and

Whereas the prosperity of both countries depends upon the maintenance and growth of economic relations between them; and

Whereas measures in either country that impair these relations affect adversely the prosperity of both countries and provide an irritant in their continued close association; and

Whereas the annual purchases of Canada from the United States approximate the annual combined purchases from the United States of Japan, Germany, Great Britain and France; and

Whereas the Canadian Government has expressed its deep concern about the impact on its economic well-being and continued close relations with the United States as a result of the surcharge levied on Canadian exports to the United States: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that Canadian products be exempt from the application of the import surcharge levied by the President of the United States.

LET US FREEZE GOVERNMENT TOO, 1971 AIRCADE MEETINGS OF CHAMBER OF COMMERCE

The SPEAKER. Under a previous order of the House, the gentleman from Georgia, (Mr. BLACKBURN) is recognized for 5 minutes.

Mr. BLACKBURN. Mr. Speaker, on Friday, November 5, in my home city of Atlanta, business and community leaders from throughout the southeastern area will attend one of the 1971 Aircade meetings which the Chamber of Commerce of the United States is holding in 15 cities across the country.

One of the highlights of the meeting sessions is the display of a copy of a full page advertisement which was placed by the national chamber in the Washington Post, the Washington Evening Star, and the Washington Daily News.

The heading of the advertisement reflects the content of the national chamber's message. It says: "Let's freeze government too."

The purpose of the national chamber's Aircade meetings is to inform citizens on the important legislative issues pending before the Congress, and to answer questions from these concerned citizens on these issues—including questions regarding the prospects of our Nation's economy under the coming phase II of the economic stabilization program.

The meetings, and the advertisement message, are gaining attention, not only from those attending the meetings, but from the news media as well.

Members of the Congress should anticipate communications from constituents who have participated in these worthwhile Aircade sessions. For your information, these regional meetings began October 25 in Albany, N.Y., and the rest of the schedule includes the following:

October 26, New York City; October 27, Indianapolis; October 28, St. Paul, Minn.; October 29, Omaha; November 1, Portland, Oreg.; November 2, San Francisco; November 3, St. Louis; November 4, Dallas; November 5, Atlanta; November 8, New Orleans; November 9, Tampa, Fla.; November 10, Winston-Salem, N.C.;

November 11, Lansing, Mich., and November 12, Cleveland.

Spokesmen for the national chamber are flying from city to city by chartered aircraft to put on these meetings.

Mr. Speaker, I include in the RECORD the content of the national chamber's advertisement, and also copies of an editorial from the St. Louis Globe-Democrat commenting on it, and news stories from the New Rochelle, N.Y., Standard-Star and the St. Louis Post-Dispatch concerning the message:

[From the Washington Post, Oct. 21, 1971]

LET US FREEZE GOVERNMENT, TOO

A MESSAGE ADDRESSED TO THE PRESIDENT AND MEMBERS OF THE CONGRESS

Under the current program of controls and freezes, you are:

Asking working men and women to make sacrifices in holding down wage demands.

Asking businessmen to make sacrifices in holding down prices.

What sacrifices will government make? Government surely doesn't want to ask others to make sacrifices it isn't prepared to make itself. If your program to control inflation is to succeed, government must do two things:

1. Cut federal spending.

2. Restrain the creation of money through the Federal Reserve System.

It is unfair to control the economic decisions of people—while letting federal spending run rampant. Government must do its part—it, too, must show self-discipline.

To halt inflation federal government spending must be frozen—better yet—cut, and the money supply restrained. Economic controls deal with the results of inflation. Frozen or reduced spending is one sure way to reduce inflationary pressures. As wage and price increases are deferred, so too should spending for new federal programs be deferred.

It is also time for Congress and all agencies of government to evaluate existing programs by their measurable results and get rid of the deadwood programs that have a proven record of ineffectiveness. Congress too seldom reviews the need for legislation previously enacted.

Will you, Mr. President and Members of Congress, face up to these needs?

Only you have the authority to investigate, hold hearings, ask questions and sit in judgment of these spending questions.

If you don't know where and how to stop spending, then you should set up the proper mechanism to find the answers.

If the citizens of the United States must struggle under economic controls then government should, in all equity, restrain its own actions, with emphasis on reduced spending and a restrained money supply.

It is time for government to cooperate with the American taxpayer in this fight against inflation.

Mr. President and Members of Congress, the responsibility is yours.

This advertisement is sponsored by the Chamber of Commerce of the United States as a means of informing the American people of the absolute need for reduced government spending. It is hoped that other concerned groups will sponsor similar ads in newspapers throughout the nation.

[From the St. Louis (Mo.) Globe-Democrat, Oct. 22, 1971]

NOW LET US FREEZE FEDERAL SPENDING

In all of the pronouncements about Phase 2, President Nixon and his advisors have been curiously silent on one very important part of our economy—federal spending.

The national Chamber of Commerce on Thursday gave the Administration a not-very-subtle reminder of this omission as it ran full-page ads in three Washintgon newspapers saying "Now let's freeze federal spending," or, better still, cut the national budget.

This was aimed at Congress as well because its members have consistently voted more funds than President Nixon asked for—at last count about $4 billion to $5 billion more in the current year.

It will be interesting to see if members of Congress can be restrained in their spending in the year before the general election. It probably would take tremendous pressure from the public to prevent politicians from voting huge amounts for their favorite federal projects.

The President and Congress should be put on notice by the public that it won't tolerate further deficit spending.

The big deficits are one of the principal reasons the Nixon Administration was unable to contain inflation without resorting to a freeze and controls.

Phase 2 definitely should include a stringent blueprint for balancing the federal budget. Just as the battle against inflation should have been started years ago, the fight to balance the budget has been delayed far too long.

The myth that the deficit is useful to stimulate the economy has been exploded. It simply hasn't done the job. There is no good reason why the federal budget can't be balanced if waste and excessive spending are eliminated.

The trouble is that no one, from the President on down, has had the fortitude to cut as drastically as must be done to achieve this balance.

We suspect, however, that public pressure will grow for such cuts as more and more Americans recognize how futile and damaging federal deficit-spending has been.

[From the St. Louis Post-Dispatch, Oct. 21, 1971]

URGES FREEZE ON U.S. SPENDING

WASHINGTON.—The United States Chamber of Commerce placed full-page advertisements in all three Washington newspapers today under the caption, "Let's freeze government too."

The text is a public message addressed to the President and Congress, urging that federal spending "be frozen—better yet, cut," and and that growth of the money supply be halted.

The advertisement notes that government is asking sacrifice of workers in restraining their wage demands and of business in holding down prices.

"What sacrifices will government make? . . . It is unfair to control the economic decisions of people—while letting federal spending run rampant. Government must do its part—it, too, must show self-discipline," it says.

The chamber's executive vice president, Arch N. Booth, said 12,000 copies were being reprinted for distribution across the country in the chamber's 15-day series of meetings on the economy with businessmen in 15 cities, starting Monday. Booth said local businessmen would be urged to place similar advertisements.

[From the Standard-Star, New Rochelle (N.Y.), Oct. 22, 1971]

YOU TIGHTEN BELT, C. OF C. TELLS UNITED STATES

(By Peter Behr)

WASHINGTON.—The U.S. Chamber of Commerce is telling the federal government to tighten its own belt if it expects the rest of the nation to sacrifice.

"What sacrifices will government make?" asked the chamber, in full-page advertisements Thursday in Washington's three daily newspapers. "It is unfair to control the economic decisions of people—while letting federal spending run rampant."

The chamber intends to distribute the message nationwide.

Until the mid-August freeze began, the only voluntary federal government economic sacrifice of note in recent years was Housing Secretary George Romney's refusal to accept a $22,000 pay raise last year.

Even the high minded Romney gave in and took the full $60,000 this year when none of his fellow cabinet members saw fit to emulate his gesture.

But with the freeze came several presidential decisions intended to show that the federal government was willing to push itself away from the table, too.

President Nixon said he was ordering a $5 billion cut in federal spending, to balance the tax cuts he sought to stimulate consumer spending.

This cut nicked federal white collar workers and the military most directly. A six per cent pay increase waiting for 1.2 million federal employes on Jan. 1, 1972 has been deferred until July 1, saving $1.3 billion.

And the federal payroll would be trimmed by 100,000 jobs by next July, mostly through attrition, Nixon ordered. When fully effective, this decision would save $800 million a year, the administration said. Another $600 million would be saved in various housing, foreign aid and pollution programs.

But the administration seemed to have its tongue in its cheek when it listed the rest of the savings.

The President said he was "deferring" the start of revenue-sharing and welfare reform, thus "saving" a total of $2.2 billion. Few in Congress believed that either of those programs would have passed this year.

Some congressmen—especially those with federal installations in their districts—howled in protest over the delayed federal pay raises. Why single federal employes out for a special sacrifice, they asked?

Others noted that raises since 1960 increased federal salaries 76 per cent overall compared to a 43 per cent increase for private white collar workers, and Congress upheld Nixon's decision.

These sacrifices do not satisfy the chamber, however, nor the conservatives who are appalled by the flow of federal red ink.

The federal budget should be cut and the growth of the money supply should be sharply restrained, urged the chamber.

Conservatives lost their argument for a balanced federal budget a year ago, when President Nixon junked that old Republican concept in favor of deficit spending—which he counted on to generate more consumer spending, more employment and a faster economic recovery.

The Democratic-controlled Congress saw Nixon's bid and raised him $4.2 billion over the current federal budget so far, to be precise.

The SPEAKER. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 5 minutes.

AUDIT OF HEW

Mr. HOGAN. Mr. Speaker, I have sent the following letter to the Honorable Elmer B. Staats, Comptroller General:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 3, 1971.

The Honorable ELMER B. STAATS,
Comptroller General, General Accounting Office, Washintgon, D.C.

DEAR MR. STAATS: I would like to request that the General Accounting Office undertake an audit of the administrative procedures of the Department of Health, Education and Welfare's enforcement of Title VI of the Civil Rights Act of 1964, as well as provisions of the Emergency School Act program applicable to discrimination.

My request arises from information furnished me regarding the negotiations between the staff of the Title VI section of the Department of Health, Education and Welfare and the Prince Georges County School Board.

In addition, I would like to request that the General Accounting Office review the transcript of the hearing record of October 18th, 1971, between HEW and Prince Georges County as part of the procedural methodology of HEW. There exists a strong possibility that the administrative remedy being applied by HEW in such matters involving respondent school districts may be a denial of due process of law and may constitute both intimidation and harassment through the threat to deny funds appropriated by Congress. You should be aware that Prince Georges County Board of Education has filed a complaint for Injunctive Relief in Federal District Court, Baltimore, Maryland. I have enclosed a copy for your information.

I fully understand that the General Accounting Office may not be able to proceed in a matter currently before the courts. Nevertheless, I feel that the procedures themselves as presently applied by HEW are such that failure to investigate immediately would result in injustices to other school districts not now in litigation.

Although I am interested in a general broad review of HEW procedures in implementing desegregation plans and in the withholding of funds for non-compliance, I am particularly concerned with the following questions:

1. Are exactly the same guidelines and procedures in effect throughout the entire nation and are they being enforced uniformly?

2. Do HEW procedures take into full account the real exigencies of long-range budget planning required of school boards, including existing teacher contracts?

3. Are school boards, in effect, surprised or hamstrung by last-minute changes in the granting of HEW funds they had every reason to expect?

4. Does HEW initiate non-compliance actions which depend for their validity on information not on hand at the time of the initial action?

5. Are the non-compliance procedures of HEW, as currently executed, tantamount to treating the school boards as if they are guilty until proven innocent?

6. Are there ways the execution of non-compliance procedures could be improved to provide better service to assist the school boards in complying?

I urge that the General Accounting Office undertake a general review of the Department of Health, Education and Welfare's policies and procedures at the earliest possible date and expeditiously report its findings to the Congress.

Sincerely,

LAWRENCE J. HOGAN,
Member of Congress.

I have asked that the Comptroller General take this step because I am convinced that the Department of Health, Education, and Welfare, through its administration of the law, is acting in a manner which is arbitrary, capricious and biased.

Recently, the Board of Education of Prince Georges County, Md., was singled out by HEW as being in violation of title VI of the Civil Rights Act of 1964. I might add that in 1969 the Board took the steps required of it by HEW in order to integrate the facilities which HEW specified at that time as being the only ones in violation of the act.

Upon receipt of HEW's letter alleging violation of title VI, the school board responded by asking HEW to specify how they were in violation or which schools within the system offended the law or to suggest procedures to remedy the problem.

HEW officials refused to respond to the request for specific information and initiated a noncompliance action without scheduling an administrative hearing. It would appear that HEW in its voracious appetite to implement social experiments is willing to forgo due process of law.

The issue here is not race, it is not even busing. It is whether or not the Federal Government can violate its own regulations in its attempts to administer acts of Congress—and that issue affects every schoolchild in the Nation.

Mr. Speaker, it is ridiculous for a school board to be forced to resort to the Federal Courts because an agency of the Federal Government violates its own administrative regulations. Congress must investigate this matter and, if it is found that HEW is systematically and deliberately ignoring established principles of law, those responsible must be dismissed from the Government of the United States and the Congress must act to insure proper administrative procedure.

I request permission here to insert the Complaint for Injunctive Relief filed by the Prince Georges County School Board for my colleagues to study.

[In the United States District Court, for the District of Maryland, Civil Action No. ———]

BOARD OF EDUCATION OF PRINCE GEORGES COUNTY, MARYLAND, UPPER MARLBORO, MD. 20870, PLAINTIFF VS. ELLIOT L. RICHARDSON, SECRETARY, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, 330 INDEPENDECNE AVENUE S.W., WASHINGTON, D.C., DEFENDANT

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff, Board of Education of Prince George's County, Maryland, alleges as follows:

1. This is an action for injunctive relief brought against an officer of the United States Code, Annotated, as amended, Section 1391(e).

2. Jurisdiction of this Court is founded upon Title 28, United States Code, Annotated, as amended, Section 2201. The matter in controversy, exclusive of interest and costs, exceeds the sum of value of $10,000.00 and arises under the Constitution and laws of the United States.

3. That the Plaintiff, Board of Education of Prince George's County, Maryland, is a body corporate and politic, existing under and by virtue of the laws of the State of Maryland and is charged with establishing and maintaining the educational policies affecting the public education of 163,000 school pupils in said County.

4. That the Defendent, Elliot L. Richardson, as Secretary of the United States Department of Health, Education and Welfare, is an official of the United States of America, having under his immediate jurisdiction the United States Office of Education and the Office for Civil Rights, among others, and in such capacity has control and supervision over Federal financial assistance granted annually to Plaintiff in the course and conduct of its operation of a public school system, as aforestated.

5. That the Plaintiff, Board of Education of Prince George's County, Maryland, presently operates under an approved annual budget of approximately $154,900,000.00, of which sum Federal financial assistance in the approximate amount of $14,000,000.00, in various segments under varying programs, is dispensed by those Departments, agencies and offices as are under the jurisdiction of Defendant, Elliot L. Richardson, as aforestated.

6. That absent specific directions ensuing from the Defendant, his officers and agents, Plaintiff has indicated an unwillingness to summarily and arbitrarily shift and transport thousands of its public school students at great cost and expense to the fiscal levying authorities of Prince George's County as well as to the hardship and discomfort of such public school students involved, solely for the purpose of achieving racial balances. neither designated nor defined by Defendant, in such of its predominantly minority race populated schools as may have resulted from recent population shifts within Prince George's County.

7. That as a result thereof, Defendant, pursuant to the provisions of Section 80.8(b) of Title 45 C.F.R., through J. Stanley Pottinger, Director, Office for Civil Rights, issued on August 20, 1971 a letter to Plaintiff, informing Plaintiff that the Department operated by Defendant has, on its lowest administrative level, determined that Plaintiff was not in compliance with Title VI of the Civil Rights Act of 1964, advising Plaintiff that said matter was referred to the Office of General Counsel, further informing Plaintiff that administrative enforcement proceedings would be initiated against Plaintiff.

8. That, resulting from the issuance of the letter aforesaid and pending the outcome of administrative proceedings, commitments for Federal financial assistance for all new activities would be deferred.

9. That on or about August 23, 1971 Defendant instituted administrative proceedings against Plaintiff and others, designating same as No. S–25 with the Administrative Proceeding Section under the jurisdiction of Defendant and titling same as a "Consolidated Compliance Proceedings Pursuant to Section 602 of the Civil Rights Act of 1964 and Implementing Regulations issued as Required Thereunder."

10. That the docketing of such proceedings was instituted with a Notice of Opportunity for Hearing which was mailed to Plaintiff timely and in proper form.

11. That pursuant to the rights vested in Plaintiff under Section 81.56 of Title 45 C.F.R., Plaintiff filed with Defendant on or about September 8, 1971 a Request for More Definite Statement in order that Plaintiff could properly answer the charges brought by Defendant.

12. That, contrary to the rules and regulations issued by Defendant, in proceedings of this nature, on or about September 16, 1971, Defendant filed as a Response to a Request for More Definite Statement a refusal to supply Plaintiff with the particulars demanded by Plaintiff, asserting and alleging instead that Defendant is not obligated to furnish Plaintiff with particulars required by Plaintiff before Plaintiff can file an answer in said administrative proceeding.

13. That as of the date of the filing of the instant proceedings Defendant has failed to appoint a Hearing Examiner to hear and decide the preliminary issues between Plaintiff and Defendant, to wit: whether or not Defendant is obligated to furnish Plaintiff with particulars of the allegations made in the Notice of Opportunity for Hearing.

14. That on or about September 20, 1971, Defendant, through its Office of Education, notified Plaintiff that Plaintiff was in violation of Item F of Part V of the Assurances given by Plaintiff to Defendant under the Emergency School Assistance Program, Part 181, Title 45 C.F.R., notifying Plaintiff simultaneously that an Administrative Hearing was scheduled for October 1, 1971.

15. That within four days of the Notice referred to immediately hereabove, Defendant issued an Order of Designation appointing a Hearing Examiner for the purpose of

conducting an Administrative Hearing to determine whether or not Plaintiff was in fact in violation of the Assurances allegedly given under Item F, Part V of the Emergency School Assistance Program.

16. That pursuant to Plaintiff's claim that the lack of statutorily required time between the Notice for Hearing and the Hearing itself prevented Plaintiff from properly preparing a defense of this particular proceeding, the Hearing Examiner, on October 1, 1971, continued said proceeding until October 18, 1971.

17. That an evidentiary Hearing was held on October 18, 1971 at which time Defendant filed with said Hearing Examiner 27 different exhibits for the purpose of proving Defendant's case against Plaintiff.

18. That simultaneous to the pendency of all other matters, Defendant, on or about September 28, 1971, through Lloyd R. Henderson, Director, Educational Division, Office for Civil Rights, ordered Plaintiff to furnish Defendant, on or before November 1, 1971, with at least 11 different items of voluminous and detailed information, dating back to the year 1954 in some instances, said request being made by Defendant under the aegis of Section 80.6 of Title 45 C.F.R.

19. That Plaintiff alleges that Section 80.6 of Title 45 C.F.R. is inapplicable to Plaintiff at this time as said Section clearly relates to the right of Defendant to "ascertain compliance"; and Defendant having already made an initial and preliminary determination that Plaintiff is not in compliance, Defendant may resort only to his rights of discovery under Sections 81.76 et seq. of Title 45 C.F.R.

20. That Defendant's hesitation to appoint a Hearing Examiner to permit Plaintiff a preliminary administrative determination on Plaintiff's Demand for Particulars coupled with the simultaneous issuance by Defendant of a Demand for Information pursuant to Section 80.6 aforesaid, when taken in light of Defendant's immediate and spontaneous determination of charges made under the Emergency School Assistance Program as referred to in Paragraphs 14, 15, 16 and 17 hereabove is arbitrary, capricious, illegal and an abuse of the discretionary powers vested in Defendant by virtue of Defendant's own published rules and regulations guaranteeing due process in the conduct of any hearing.

21. That the Defendant, through his officers and agents, is resorting to corollary and ancillary administrative procedures and tactics for the sole purpose of harassing and intimidating Plaintiff and seeking by improper means information required by Defendant to sustain Defendant's original allegation of non-compliance as referred to in Paragraph 9 hereabove.

22. That the burden of proving the allegations asserted by Defendant is upon the Defendant and Defendant's resorting to multiple charges of non-compliance, through the different arms and agencies of Defendant, when in fact but one issue is involved, is an illegally constituted procedure to avoid Defendant's own administrative rules and regulations pertaining to the conduct of hearings.

23. That Defendant has advised Plaintiff that unless Plaintiff furnishes Defendant with the voluminous information requested allegedly pursuant to Section 80.60, Title 45 C.F.R. as referred to in Paragraph 18 hereabove on or before November 1, 1971, Defendant would immediately cause a cessation of all existing funding to Plaintiff, instituting against Plaintiff yet another administrative proceeding.

24. That Plaintiff stands itself ready, willing and able to defend Defendant's allegations of non-compliance brought pursuant to Title VI of the Civil Rights Act of 1964, provided that Defendant, his officers and agents, conduct themselves in the prosecution of these charges in a manner entitling Plaintiff to full due process under law and strictly in accord with rules and regulations related to same as promulgated by Defendant.

25. That Defendant instead is denying Plaintiff his right to an Administrative Hearing in full accord with established rules and regulations related to due process, and by continually threatening Plaintiff with corollary unrelated issues for the sole purpose of seeking evidence from Plaintiff is illegal, constitutes continuing harassment and denial of due process and an abuse of the discretionary powers vested in Defendant.

Wherefore, Plaintiff demands:

1. That this Court permanently enjoin and restrain Defendant, Elliot L. Richardson, his officers and agents, from conducting any further corollary or ancillary proceedings, or threats and intimidations thereof, until Defendant has conducted a full Hearing in accordance with established administrative procedures set forth in Defendant's own published rules and regulations pertaining to Administrative Hearings on allegations of non-compliance under Title VI of the Civil Rights Act of 1964.

2. That, pending the final determination of the issues ensuing in the Consolidated Compliance Proceeding against Plaintiff, as filed by Defendant as Docket No. S-25 on August 23, 1971, as aforesaid, this Court permanently enjoin and restrain Defendant, Elliot L. Richardson, his officers and agents, from proceeding against Plaintiff, Board of Education of Prince George's County, Maryland, in any manner other than that prescribed for under Sections 81.51 through 81.107, both inclusive, of Title 45 C.F.R.

3. That this Court permanently enjoin and restrain Defendant, Elliot L. Richardson, his officers and agents, from proceeding against Plaintiff, Board of Education of Prince George's County, Maryland, in any manner whatsoever related to an alleged violation of any of the assurances given under Federal financial assistance programs supervised by Defendant, until first a Hearing Examiner has been appointed in the Consolidated Compliance Proceedings against Plaintiff, as Docket No. S-25 on August 23, 1971, and Plaintiff, Board of Education of Prince George's County, Maryland's preliminary motions have been disposed of.

4. For such other and further relief as this Honorable Court might deem just and proper to enable Plaintiff, Board of Education of Prince George's County, Maryland, full administrative relief.

Respectfully submitted,

PAUL M. NUSSBAUM,
Attorney for Plaintiff.

VIETNAM—WAS IT WORTH IT?

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, the families of American prisoners of war and American soldiers missing in North Vietnam formed, some time ago, an organization dedicated to securing the release of their relatives and to getting better treatment for them by the Communists.

The name of the organization is the National League of Families of American Prisoners and Missing in Southeast Asia. Not long ago this group elected the 15 persons who will serve as its board of directors for 1971–72.

The new board is as follows:

Col. Edwin L. Brinckmann, 620 Hamilton Drive, Newport News, Va. 23601.

Mr. George Brooks, 16 Cresthaven Drive, Newburgh, New York 12550.

Mr. Robert Brudno, Apt. A1428, 3600 Chestnut St., Philadelphia, Pa. 19104.

Lt. Col. (Ret.) Paul J. Burns, 5021 Joe Herrera, El Paso, Texas 79924.

Mr. John B. Coker, 618 Erudo St., Linden, New Jersey 07036.

Mr. Harry Dunn, 308 W. 19th, Hutchison, Kansas 67501.

Mrs. Evelyn Grubb, 307 Norwood Drive, Colonial Heights, Virginia 23834.

Captain Robert D. Hagerman, 4951 Westmoreland, Dayton, Ohio 45431.

Mrs. Carole Hanson, 24112 Birdrock Ave., El Toro, California 92630.

Mrs. Patricia Hardy, 649 Matchwood Place, Azusa, California 91702.

Mrs. Iris Powers, 905 6th St., SW., Apt. 104, Washington, D.C. 20024.

Mrs. Barbara Rausch, 34 Idlewood Ave., Hamburg, New York 14075.

Mrs. Sybil Stockdale, 547 A Avenue, Coronado, California 92118.

Mrs. Sallie Stratton, 8801 Woodcastle Drive, Dallas, Texas 75217.

Mrs. Joan Vinson, 2607 Childs Lane, Alexandria, Virginia 22308.

Mrs. Carole Hanson was elected chairman of the board and Mr. George Brooks was elected vice chairman.

One of the issues was whether the league would go into politics in its effort to get the prisoners turned loose or whether it would remain "humanitarian" in its activities. This, generally speaking, meant trying to bring pressure on the Communists through a campaign of public education, and not getting involved in how the war would be ended. Hanoi has deliberately refused to abide by the Geneva Convention for the humane treatment of prisoners of war. Furthermore, there is evidence that American prisoners have been physically and mentally tortured. The Communists have kept gifts and letters from them and have refused to give out information about missing Americans, who are known to be in captivity.

The proposal to become active politically included some members of the league who simply feel that the present program will not get results. I think also that it included others who are fervent doves and want to make any concession which will end the war and get the prisoners released, even if this means surrender to the Communists by both the United States and South Vietnam.

Overwhelmingly, however, the league members voted to remain "humanitarian." I think this is the right course for a variety of reasons, some of which I will outline.

In the first place, Hanoi spokesmen have been insisting that all that was necessary to get the prisoners turned loose was for the American Government to fix a date for the removal from Indochina of all American soldiers.

The propaganda line began to be peddled after President Nixon said several months ago that he would not remove American troops from Indochina while the Communists continued to hold and abuse American POW's.

Mr. Speaker, an outcry arose immediately from dovish elements that the prisoners would be freed if only a date for getting American troops out of Indochina was fixed in 1971.

For example, on July 11, Clark M. Clifford, Secretary for Defense for several months under President Johnson, said he had reliable information that such a swapout could be arranged. He did not give the names of his informants, but Mr. Clifford evidently believed that they spoke for the government in Hanoi. He was backed up by Averell Harriman, who has a long and distinguished public service career and who headed the American delegation in Paris when the thus far barren peace negotiations began with Hanoi representatives. Either Mr. Harriman had assurances similar to those given Mr. Clifford by Communist spokesmen, or he was convinced by what the former Secretary of Defense had told him.

Only a short time before Mr. Clifford said he believed that the prisoners would be released in return for an official promise to get American troops out of Vietnam in 1971, Anthony Lewis, of the New York Times, had written a story which made the former Defense Secretary's statement sound very convincing.

Under a Paris dateline, Mr. Lewis said that a "high ranking North Vietnamese leader—Le Duc Tho, Hanoi member of the Politburo—says that the new Communist offer to return American prisoners of war if American forces are withdrawn by end of 1971 is not dependent on a political settlement in South Vietnam."

Then on September 11, 1971, Senator GEORGE MCGOVERN, of South Dakota, stated that he had been told, by official Hanoi spokesmen, that the question of the release of the prisoners in return for fixing a date for American troops to leave Vietnam would be separated from other points in a 7-point, very hard line peace proposal made by the Hanoi delegation in Paris on July 1, 1971. Senator MCGOVERN, who has announced his candidacy for the Democratic nomination for the Presidency, and who is one of the country's leading doves, made it very plain that he believed the prisoner release and troop withdrawal would be a deal which would stand on its own bottom. The South Dakota Senator said he had talked for 6 hours with Xuan Thuy, the top Hanoi negotiator, and Dinh Ba Tri, deputy Vietcong delegation chief.

The evidence that the return of the prisoners could be affected by announcing a date to bring the troops back this year had piled up at this point. To many, including some of the families of the POW's, the swapout began to sound simple and desirable.

In reality, the Communists would have gained a great advantage, since undoubtedly they would have insisted that their deal must include the return of all our military personnel, among them airmen, and technical and advisory personnel.

Such a transacton at this point probably would result in a South Vietnamese defeat. All the sacrifices made by this country to preserve the freedom of the South Vietnamese and independence of Southeast Asia, would have been completely in vain. There are those who scoff at the domino theory, the argument that, for example, the fall of South Vietnam would be followed by the Communist conquest of the other countries of Indochina. To me, this conquest seems quite logical. If we desert the South Vietnamese before they can defend themselves, I see no reason to doubt that the Communists will have little difficulty in taking over the rest of Indochina. The whole balance of power in the Mideast would be altered. By way of illustration, let me say that I have always felt that the fact that we fought communism in South Vietnam led to the downfall of pro-Communist Sukarno in Indonesia and the consequent elimination of almost all Communist influence in that nation. We have fought to preserve the freedom of the South Vietnamese, but, as I see it, we have primarily fought in our own interest. I wish that I could believe that Communist designs for further conquests had been abandoned but I see no proof that they have been.

But, suddenly and for reasons which are unfathomable to me, Hanoi made it plain that it had no intention of turning the prisoners loose in return for our fixing a date for troop withdrawal.

Mr. Speaker, the Communists handled the matter crudely indeed, so crudely that it seemed that they not only wanted to refute Senator MCGOVERN, Mr. Clifford, Mr. Harriman, and others who had been taken in by the swapout proposal, but wanted to humiliate them as well.

As I have already stated, Senator MCGOVERN made his announcement on September 11. Only 5 days later, on September 16, 1971, the Hanoi delegation in Paris officially announced that it stood by all the terms of the tough seven point peace proposal made on July 1. The Hanoi spokesmen emphasized that among the two most important points were the dismantling of all our Vietnamese military bases and that President Thieu, of South Vietnam, must be thrown out of office. This meant, of course, that the North Vietnamese were demanding a Communist-dominated regime in South Vietnam. This would be the prelude to a mass murder of South Vietnamese supporters which would appall the world, including some of those in this country who now argue that we should surrender no matter what the consequences.

As I recall, Senator MCGOVERN did not try to explain why Hanoi had let him down, nor have I read any comment from Mr. Clifford and Mr. Harriman, although those mentioned were by no means all those who were taken in.

There was some press comment on the Communist propaganda switch, but I have seen no satisfactory explanation for the turnabout. Hanoi had a good thing going. Why it was thrown away continues to puzzle me for, whatever may be said about them, the Communists, all things considered, are among the most skillful propagandists in the world.

I do not think my interpretation of the rebuff given Senator MCGOVERN and other doves is farfetched. In this connection, a Washington Post story by Jonathan C. Randal under a Paris dateline of September 16 said in commenting on the sudden toughening of the Communist stance on peace terms:

> Nguyen Thanh Le, Hanoi's press spokesman at the stalemated peace talks, drove home the change by insisting the Vietcong's seven point peace proposal "forms a whole" and that it was "indispensable to reach agreement on the whole" package program.
>
> More optimistic impressions voiced by antiwar Senator George McGovern (D.-S.D.) and a hitherto unquestioned statement by Le Duc Tho, a Hanoi Politburo member, were left in shreds. (Emphasis supplied.)

In all likelihood, Hanoi's inexplicable abandonment of the pretense that it would let the prisoners go in return for fixing a date for the return of American troops figured in the vote by the families of the POW's not to go political.

In all probability also, league members during their struggle to get their kinsmen home, have learned a lot about the Communists.

They have learned that the Communists have a long and consistent history of breaking agreements. Just by way of reminder, do you recall the vigorous and successful campaign to persuade the United States to halt the bombing of North Vietnam. In so many words, the doves told us that, if the bombing were only halted, it would be a long, long step toward peace. A solemn agreement to halt was made. We kept our part of the bargain. The Communists broke theirs and quickly. I think peace is nearer than it was, not because we halted the bombing, but because the war in Indochina has been going against Hanoi.

I think we can get our prisoners back but only if we are realistic and only if we make the Communists realize that they cannot have peace—and they must be war weary indeed—unless they stop flouting the Geneva Convention and unless they return the prisoners we know they are holding. They must also return those who are listed as missing, but are held as captives and they must account satisfactorily for other Americans who are missing in Indochina, or as satisfactorily as they can.

Mr. Speaker, I think it is appropriate at this point, to include the article by Walt Rostow appearing in the September 21, 1971, issue of Look mazagine:

VIETNAM: WAS IT WORTH IT?

(By Walt W. Rostow)

"If we mindlessly walk away . . . we shall make sure it was not worth it."

The costs to us of the struggle in Southeast Asia make sense only if you agree with the last six American Presidents that the United States will be endangered if a potentially hostile power gains control of Asia, and that control over Southeast Asia is critical to the fate of all Asia.

Southeast Asia contains nearly 300 million people—as many as Africa or Latin America. It commands the sea routes of the South Pacific and the eastern Indian Ocean. It is a buffer area separating the two giants, China and India. If any single power attempts to seize control of Southeast Asia, the other major powers must instinctively react.

America, for example, passively stood by while the Japanese took over Manchuria in 1931 and then seized the major cities of China. But in 1940–41, the Japanese moved into Indochina and toward Indonesia. President Roosevelt had every interest at that time in concentrating American attention and resources on rearming at home, and on aid to Britain and, then, to Russia. But he refused to accept passively the Japanese take-over of Southeast Asia and the balance of power in Asia, including control of the sea routes to Australia, New Zealand and India. He cut off shipments to Japan of oil and scrap metal, and he froze Japanese assets in the U.S.

Indochina was at the center of our diplo-

matic dialogue with Japan right down to the eve of Pearl Harbor.

For similar reasons, President Truman threw our resources behind the French in Indochina at the time of the Korean War, despite reservations about the viability of French colonialism.

The same rationale lay behind President Eisenhower's (and the Senate's) support for SEATO in 1954–55; President Kennedy's policies in Laos and South Vietnam and his fiat affirmation of the domino theory on September 9, 1963; President Johnson's basic Vietnam decisions of 1965; and President Nixon's insistence that America withdraw from Vietnam in ways compatible with stable peace.

Throughout this period of at least 30 years, it has been U.S. policy to sustain the independence of Southeast Asia from potentially hostile control. But sacrifice for a policy that cannot succeed is meaningless or worse. What have the sacrifices since 1965 achieved?

Look back and consider the panorama of Asia in 1965.

South Vietnam was on the verge of defeat and take-over, as the weight of North Vietnamese regular-army units, introduced in 1964, was fully felt.

Indonesia was out of the United Nations, in confrontation with Malaysia, making common cause with Peking, and eager to complete what both Jakarta and Peking described as a pincer movement to envelop the whole of Southeast Asia, through a "Jakarta-Phnom-Penh-Hanoi-Peking-Pyongyang Axis"—a concept enunciated on August 17, 1965, by President Sukarno himself.

Peking was proclaiming that "Thailand is next."

All of Asia knew that its future hung in the balance. Robert Menzies, then Prime Minister of Australia, said if Vietnam fell, it would be "not so very long" before Australia would be menaced. And the danger was still closer and more obvious in the other capitals—as, for example, Macapagal, in Manila, and Abdul Rahman, in Kuala Lumpur, made clear.

The domino theory was not just a theory in the first seven months of 1965: every observer of the scene knew the dominoes were about to fall unless American power was rushed into the balance.

Then, at the end of July, 1965, President Johnson moved to commit American forces.

Now, six years later, there is a different Asia.

South Vietnam has harvested the greatest rice crop in its history and is about to conduct its second presidential election under a democratic constitution. Well over 90 percent of its population live under reasonably reliable government administration.

Indonesia is independent and advancing hopefully in economic and social progress, after the successful defense of its independence in October, 1965, which, incidentally, triggered the Cultural Revolution in China.

Asian regional organizations have come into being; for example, the Asian and Pacific Council (ASPAC), the Association of South East-Asian Nations (ASEAN), the Asian Development Bank. These offer great promise that in the future, Asians, working together, can increasingly shape their own destiny.

Japan, now the third industrial power in the world, is evidently prepared to use its expanding economic resources to help others in the region whose modernization began much later, but who are now moving forward with astonishing momentum: South Korea, Taiwan, Thailand, Malaysia, Singapore.

China is beginning to enjoy economic progress after a decade of external frustration and internal violence and is experimenting, at least, with the idea of normalizing its relations with Asia and the rest of the world.

Without the U.S. effort in Southeast Asia, there would now be no Ping-Pong diplomacy and no presidential visit to Peking planned.

But all this is still precarious and fragile.

As the South Vietnamese assume increasing responsibility for their own defense and try to make a constitutional system work (which very few post-colonial nations have been able to manage), they feel every day the threat of hasty, total American withdrawal and the pressure of those who would cut off all military aid to them in order to guarantee a Communist victory.

North Vietnamese troops are embedded, without a shred of legality, deep in Cambodia and Laos, threatening the Mekong towns and the Thai border. Not one weapon they carry or shell they fire was manufactured in North Vietnam. Putting aside their long-neglected tasks of economic and social development, the leaders in Hanoi continue to pour young men into the infiltration pipelines to South Vietnam in an effort to destroy the process of Vietnamization.

There is a decent hope that in the years ahead an Asia could emerge in which the North Vietnamese will go back within their own borders; the independent states will survive and increasingly work together; relations with China—and, indeed, North Vietnam—will be normalized; and the American role will continue to diminish, while remaining a relevant force in Asian and Pacific affairs.

There is also a real danger that all that has been achieved since 1965 by Asians and ourselves will be lost; that a vacuum will develop in Southeast Asia which Peking, as well as Hanoi, will feel impelled to try to fill; and that Asia will move from the promise of stability and progress to chaos or a war far worse than what we now see in Indochina.

Was it worth it? Clearly, the outcome of the common effort is still uncertain. If we mindlessly walk away from Asia, we shall make sure it was not worth it. If we patiently stay the course, the suffering of these years could be repaid with stable peace and security for ourselves and the two thirds of humanity who live in Asia.

What still remains to be done in Asia may not, if we are wise, involve the use of much American military force. Asians are now able to do vastly more to defend themselves than they were in 1965. And China, with some 50 Soviet divisions on its frontiers, may now be influenced to move in more peaceful directions than in the past.

But our resources and our treaty guarantees remain a decisive margin in the Asian balance of power. We ought to ask ourselves bluntly: What is likely to happen if we bury the past and leave Asia to its own devices?

First, the end of America's commitment in Southeast Asia would change the debate now under way in mainland China. Powerful forces there are working to move China toward the long-delayed concentration of its energies and talents on the modernization of life. American withdrawal would inevitably lead Peking to exploit its new opportunities to the South. No one can predict the precise form in which a nuclear China, with its huge ground forces, would exercise its power in the vacuum we would create. But I cannot believe that Peking would remain passive.

Second, the nations of Southeast Asia, certainly as far as Singapore—quite possibly as far as Indonesia—would lose their independence, as for example, Lee Kuan Yew, Prime Minister of Singapore, believes; or they would be forced into a protracted military or quasi-military struggle that would force them to abandon their exceedingly promising economic, social and political development.

Third, Burma, in particular, would either fall under Communist domination or become the scene of an Indian-Chinese struggle. For Burma, not Tibet, is the point of strategic danger for the Indian subcontinent—a warning consistently made to me in private by high and responsible officials of both India and Pakistan.

Fourth, Japan and India would quickly acquire nuclear weapons, and the Nonproliferation Treaty would quite possibly die elsewhere in the world as well. The willingness of many nations to forego the production of nuclear weapons depends on a carefully balanced calculation—a calculation that says the United States can provide greater security at less risk than going it alone with a national nuclear capability. An America that walks away from a treaty commitment, after bringing into the field a half-million of its armed forces and encouraging a small ally to fight desperately for its independence, would not be regarded as a reliable ally on such a mortal issue as nuclear deterrence in Asia or anywhere else.

There are many, I know, who believe that, somehow, the United States can live safely divorced from the fate of Asia.

I do not.

Thirty years ago, an Asian power, reaching for Asian hegemony, was able to mount Pearl Harbor.

There is already one nuclear power in Asia, now moving to produce ICBM's. If we walk away from our commitments in Asia, there are liable soon to be at least three. Having come in these hard years as close as we now are to the possibility of stable peace in Asia, I think it would be disastrous to throw in our hand and leave future Americans to bear the inevitable costs of a nuclear-armed Asia.

The more than 50,000 Americans—and the more than one million Asians—who died in this struggle for a stable, peaceful Asia deserve better of us.

U.S. CATHOLIC CONFERENCE OPPOSES "PRAYER AMENDMENT"

The SPEAKER. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, next week the House will vote on House Joint Resolution 191, a proposed constitutional amendment relating to the question of prayer in public buildings. Considerable controversy has developed on this issue, so I was pleased today to receive a copy of a news release which clearly sets forth the position of the U.S. Catholic Conference and outlines the conference's reasons for opposing the measure. The conference's position was announced by Bishop Joseph L. Bernardin, USCC general secretary, and I insert the news release in the RECORD at this point so my colleagues may have it available during their consideration of the proposal:

CATHOLIC CONFERENCE OPPOSES "PRAYER AMENDMENT"

WASHINGTON.—The U.S. Catholic Conference has gone on record in opposition to the so-called school prayer amendment, which is currently before the House of Representatives.

The conference's position was announced by Bishop Joseph L. Bernardin, USCC General Secretary, who said:

"I wish to emphasize that the conference is not opposed to the concept of prayer in public buildings nor unconcerned about the vitally important matter of meeting the religious needs of children who attend public schools."

"Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer."

The text of the proposed constitutional amendment, on which the House is expected to vote November 8, states:

"Nothing contained in this constitution shall abridge the right of persons lawfully assembled in any public building supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer."

Bishop Bernardin said:

"The subtle implication of the amendment, therefore, is that 'denominational' prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation."

"Moreover," Bishop Bernardin continued, "the amendment cannot be justified as a 'school prayer' amendment. The amendment does not say anything about state sponsorship of prayer in public schools as part of the regular school day. Yet this was the very thing the Supreme Court found unconstitutional in the School Prayer cases."

"Passage of the amendment," he added, "might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved."

EMERGENCY SCHOOL AID ACT OF 1971—CONGRESS REFUSES AID TO SCHOOL DISTRICTS ATTEMPTING TO DESEGREGATE

The SPEAKER. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, the defeat of the Emergency School Aid Act of 1971 is one of the worst votes of the year in the House of Representatives. The House is now on record as opposed to Federal efforts to assist those school districts which are being ordered to overcome racial imbalances. By this vote, the Congress has established that it has no more intention of integrating the schools than it has of integrating housing.

In spite of the fact that many school systems are on the brink of collapse due to lack of funds and of court orders requiring costly changes, we have witnessed the spectacle of Members of Congress refusing to make Federal moneys available to facilitate an orderly compliance with the Constitution. The Supreme Court has declined to review a Federal lower court's ruling in the Pontiac, Mich., school desegregation case; so Pontiac will be forced to continue its costly busing program to comply with the Court's decision. In my own city of Detroit, a Federal court has found school officials guilty of de facto and de jure segregation and has ordered school authorities to come up with a desegregation plan which would involve both Detroit and its suburbs. And, as the Washington Post has recently commented:

Judging from the number of school desegregation cases now pending in lower courts, it seems safe to predict that a large number of communities as yet unaffected by court order or statutory obligation will soon find themselves in the turmoil that afflicts other communities—North and South—already working their way through the conflict, confusion and expense of rearranging their public school systems.

Against this backdrop, it is incredible that so many in this body seem intimidated and compromised by the shrill voices of bigotry and have themselves added to the confusion by failing to come forward with the leadership necessary to pacify many of the confused around us. Even among the members of the Michigan Democratic delegation, known for its liberalism, there is not a single white members who supported the Emergency School Aid bill.

Incredibly, some would prefer an increased local tax burden on the parents of children whom they profess to protect, rather than be identified—even mistakenly—with a pro-busing position by voting for this emergency assistance. In my judgment, this is not only unbecoming conduct, but it is the height of hypocrisy and cowardice working hand in hand.

You can run, but you cannot hide, Joe Louis once said. Now the courts in case after case are saying to this Nation—you can run but you cannot hide—you might delay and you might fulminate but equality will come. No matter what the women with antibusing slogans emblazoned on their T-shirts may tell us, equality is inevitable and undeniable, and if a racial balance in our schools is necessary to achieve that equality, it must come

It is 103 years since the 14th amendment was proclaimed a part of the U.S. Constitution. It is 75 years since the Supreme Court established in Plessy against Ferguson the doctrine of "separate but equal" for black and white races in interstate barriers. Yet, even in this landmark decision, a presage of what was to come was sounded by the lone dissenter, Justice Harlan, when he wrote:

The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law.

It is 17 years since Brown against Board of Education of Topeka reversed the separate but equal doctrine and established that separate education is inherently unequal. It is instructive even now to reread this watershed decision for it laid the foundation for many subsequent decisions of the Court, a foundation which many of us seem to have forgotten or have chosen to ignore. Consider, for example, these words delivered by Chief Justice Warren:

In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. . . . We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal.

Yet, we have again allowed ourselves to be swept away by local passion. We are told to forget busing as a way to eliminate racial barriers and, instead, to raise the quality in the black schools. In short, we are told to follow a policy which guarantees apartheid in our society. This policy is clearly unacceptable either as a means of achieving equality of education or of achieving racial harmony in our society. The Kerner Commission warned against the creation of "two separate, warring societies" and we were apparently not listening nor are we listening now. Black children and white children must learn to live and grow together and that will never be achieved by a permanent policy of separation.

The opponents of busing are hiding behind their children to protect themselves from the truth. Busing is not the issue and children are not the issue. The real issue is whether or not this country will become what it says it wants to be—that place in the world where freedom and equality exist for all.

Mr. MITCHELL. Mr. Speaker, will the gentleman yield to me?

Mr. CONYERS. I yield to my friend and colleague from Maryland.

Mr. MITCHELL. Mr. Speaker, I want to take this opportunity to thank my distinguished colleague from Michigan for taking the time to have this special order in order to bring to the attention of this body the fact that there is a continuing failure to right the wrongs of the past.

I have discussed with my colleagues on the floor the findings of the Louis Harris poll, the recent poll which disclosed that more and more black Americans in increasingly large percentages are demonstrating an absolute lack of credibility in the white dominated institutions of this country.

That same poll disclosed that more and more black Americans are willing to turn to more militant approaches in order to achieve equality.

When I discuss this with my constituents they tell me it is your job, Mr. Congressman, to try to restore credibility. But how in the name of God can you or I or others restore credibility when we see this body act as it did on the matter under discussion and when we see our liberal friends turn away from us in terms of this important piece of legislation.

I am deeply grateful that the gentleman is taking the time to open this matter up before this entire body. I think it must be done. I think we in so doing provide an answer to those who question the growing lack of credibility on the part of the white community in America.

Mr. CONYERS. May I say to the gentleman that the pressures that he suggests they make on us and that many of us are under from our communities, we see no real evidence of relief from the ages of discrimination that have been visited upon the black people of this country. We are caught between an intractable administration and a Congress which is unwilling to appropriate Federal funds to assist in the solution of this problem. The gentleman knows and I know that most of the school districts in America are susceptible to a court suit on the same grounds that have been brought in Detroit and Pontiac, Mich., and even in Maryland. Yet, Members of this body, rather than going on record as voting for Federal funds, if and when they are needed in their own districts,

would rather run the risk of burdening their own taxpayers by refusing to accept the Federal relief which was offered in the Emergency School Aid bill which was under consideration this week.

I contend most vigorously that that is not the role of the Michigan Legislature. This House has to tackle issues as important and bitterly debated as the slave question was in this body 110 years ago.

Implicit in the arguments that led to the Civil War was the question of what to do with the black people in America. That question, even with the Civil War, has not been fully resolved. We are now here today to ask for a resolution of a small part of that question. What do we do in the area of education where we have to resolve the question of separate schools that have existed for so long? We must begin to demonstrate the moral courage that has been sadly lacking in so many instances, but most particularly in the area upon which action was taken on Monday. The gentleman is totally correct in the fact that we need to continue our efforts along this line and that we must take more special orders and begin to articulate the argument that is hidden in the language of hypocritical rhetoric surrounding this problem.

Mr. MITCHELL. Mr. Speaker, if the gentleman will yield further, in the entire long history of the story of the black Americans to achieve freedom and liberation in this country, from time to time we have looked at one area of government as a source of relief. At one time we looked at the administration in the White House. Obviously, at the present time that source of relief is not apparent in the White House. On another occasion we looked at the Supreme Court seeing that as the vehicle and the bulwark to protect our civil liberties and our civil rights. Yet, that Court can no longer be regarded as a bulwark. Therefore, we can turn to no other place but this legislative body. The action taken just a few short days ago was demonstrable evidence of the fact that this body will not meet its responsibilities insofar as black Americans are concerned.

I thank the gentleman for yielding.

Mr. BADILLO. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. BADILLO. I thank the gentleman for yielding and I want to commend the gentleman for having brought about this special order. I certainly believe that the defeat of the Emergency School Act of 1971 was one of the worst votes of the year in this House.

But I want to call to the gentleman's attention, and to the attention of every Member, that there is another even worse vote that is in the offing that we will have to take tomorrow or Friday, because it is the intention of the chairman of the subcommittee, the gentleman from Illinois (Mr. PUCINSKI), not to bring back the bill as it was approved by the committee, but to bring back a bill which includes everything that the committee approved plus a busing amendment, plus an amendment to preserve the neighborhood schools. And that those of us who defeated those two amendments in the committee—and I want to make it clear that those two amendments were brought up in the committee, and and they were rejected by the members of the committee—and now we are facing and will be faced with a situation where we will be presented with an amendment that was already defeated, and we will have no choice because we are going to have to vote, if we want to have emergency school aid—we are going to have to vote for the neighborhood school amendment and for the busing amendment.

I am glad to have this opportunity to bring this out to every Member of the House. I am glad the chairman of the subcommittee is here, because I want to ask the gentleman to reconsider his action in presenting this amendment tomorrow, and instead of bringing up what the gentleman proposes to present to the House, to present exactly the bill as it was approved by the committee. If the gentleman wants to make a separate amendment on busing, that is his right. If the gentleman wants to offer a separate amendment on the neighborhood schools, that is his right too. But at least let us have a vote on those two things, and let us have the will of the subcommittee respected. Let the chairman of the subcommittee present the bill as it was passed by the subcommittee. Then if he wants to make amendments, to make them as his own, so that the rest of the body may have a vote on this, and so that we do not have a repetition of what the gentleman from Michigan very properly calls the worst vote yet taken this year.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Speaker, I believe the gentleman misstates the case, and I am sure it is not his intention.

Mr. BADILLO. I hope I do.

Mr. PUCINSKI. The bill reported out by the subcommittee after a very torturous mission, through both the subcommittee and the full committee, has already been disposed of by a very overwhelming majority of 222 against, to 135 for; albeit all of this happened under suspension of the rules, the fact of the matter is that that bill reported by the full committee has been disposed of.

Now, the chairman of the subcommittee, the gentleman now addressing the House, in order to bring this very important legislation to the floor—because I believe that we are trying to help children, above all—the chairman is now exercising his own rights, the rights of any other Member of this Chamber, to offer an amendment.

And after seeing the result of the voting last Monday the House was very specific and decisive on its evaluation of the bill reported by the full committee.

So I am bringing before the House, either tomorrow or Friday, as a new title to the higher education bill, the Emergency School Aid Act, with such amendments as in my judgment can assure passage of this very important bill.

The gentleman has stated his case on many occasions. I appreciate and respect the gentleman's views. I respect his complete candor on the subject. The gentleman will have ample opportunity, when we get into the debate under the procedures which will prevail, to offer amendments to strike from this bill any section or any provision that he does not like.

As a matter of fact, the gentleman has already advised me that he is going to add, or at least attempt to add another section to the bill, a section that has been twice rejected both by the subcommittee and the full committee. And again that is the gentleman's privilege.

So it would be incorrect for the gentleman to try to say that somehow or other the chairman is under some obligation to bring to the House, under the procedures which we are now following, the bill that was reported out by the subcommittee and the full committee.

That vote has already gone. Now the chairman is trying to save the pieces on this very important legislation by offering it in the manner we are. I believe upon careful examination of this legislation, the gentleman will find it is worthy of his support. Because while we may differ here on certain provisions—and there are some strong feelings in the House on those provisions—the main thrust of this bill is to have children, children who are now caught in the switches between the courts and the local communities and children who find themselves the innocent victims of the ideological struggle sweeping the country, in my judgment it does not seem proper to deny these children an opportunity of a good education.

For this reason I hope my colleagues will support the bill when it comes up on Thursday or Friday.

Mr. CONYERS. May I point out to the subcommittee chairman, the gentleman from Illinois, that the question that is under discussion goes much further than trying to help children. There is no Member in the Congress and maybe there is no one in the country who does not want to help children.

The question we are grappling with is—will there be Federal assistance to schools under court orders to desegregate school systems which have been found to be inherently discriminatory and unable to provide equal education to all of its citizens?

Unless we address ourselves to this point, we are getting into the kind of general discussion of being good for children, which is something that everybody in this body is committed to.

We need Federal assistance to help desegregate the schools that are under court order. That will help the children and that is what we are working toward.

Mr. BADILLO. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman.

Mr. BADILLO. Mr. Speaker, I disagree with the gentleman from Illinois. We did not vote on the bill. We voted on the suspension of the rules and if you will go back and review the debate on Monday, you will find that speaker after speaker got up and objected to the fact that this bill was brought up under that kind of procedure. I can understand why that was done. Because if this procedure was followed by every subcommittee chairman, it means that you can take a bill that was passed in the committee where it did not have certain amendments that you wanted and bring it up under suspension of the rules and then you can bring it up again by adding those amendments to it.

The point is, I think the chairman does have the responsibility as chairman of the subcommittee to bring up the bill for debate as it was approved by the subcommittee because there never has yet been on the floor of this House an opportunity to debate the bill as such.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman.

Mr. PUCINSKI. Mr. Speaker, our colleague, the gentleman from New York is somewhat apparently misled as to the procedures in this House.

The bill that was reported by the full committee went to the Committee on Rules. Had the Committee on Rules given us a rule, that bill in its present form would have been brought to the House for action by the House. The chairman of the subcommittee would have been bound, as would the chairman of the full committee, to bring to this Chamber the bill that was reported by the full committee, had the Rules Committee given us a rule.

But the Committee on Rules in its wisdom and in its judgment declined to give us a rule, and we have been told that there is no chance of getting a rule. So we went the next route—we went on the suspension route, hoping that maybe we could attract two-thirds of those present and voting.

Again we submitted under suspension, the bill that was reported by the full committee, because that was my responsibility as subcommittee chairman—and that failed by an overwhelming vote.

Now in offering an amendment to the higher education bill, I am acting as a free agent. I am no longer bound by whatever the full committee or the subcommittee had reported because whatever the full committee or the subcommittee had reported is either bogged down in the Committee on Rules, which refuses to give us a vote, or has been defeated under suspension.

Mr. CONYERS. Mr. Speaker, I must decline to yield further to my colleague, the gentleman from Illinois. Let me say to the gentleman that I appreciate his remarks.

Mr. QUIE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman.

Mr. QUIE. Mr. Speaker, this has been recapped pretty well here so I will not go into that at any length.

First, let me say that on Monday I was very disappointed that this came up under suspension of the rules because it denies Members an opportunity to offer amendments.

I was tempted at that time to vote against it on that same question of suspension of rules, but I felt at that time it would be misunderstood. I did not think the bill would get a two-thirds vote, but I thought it would receive a majority vote. I thought it would be a bad slap at the efforts of the Federal Government now to assist in desegregation.

The Federal Government has never provided any adequate aid for desegregation. This is the first time an attempt has been made. Our Committee on Education and Labor has never brought out any legislation to help with the desegregation of schools. This is the first time. I was hopeful we would have that good piece of legislation out. In some details I would have differed with it, but the substantial efforts are to provide aid for the court-ordered schools under the HEW plans and those who wanted voluntarily to desegregate. There was substantial and adequate aid to get started on that. It would provide $1.5 billion.

The gentleman from Illinois is a free agent. I agree with him. I do not think there is any chance of getting the Rules Committee to act now. If they did, it would be next year, and that would mean, I think, if the Congress acted next year we probably would not appropriate the money until sometime after the school year begins next fall. We are already late. I would like to see that the money that is available in the $1.5 billion also be available for the busing of children. I have said that publicly and I will stick by that.

The proposed amendment would prohibit money to be used for busing. Those who want to prohibit the use of that money for busing will attempt to get it in the legislation. There is nothing to prevent the amendment from being offered.

I stand here, as I have stood before, indicating my support for amendments that would return this to the legislation that came out of the committee. But I want to make certain the House could work its will. It could not work its will on Monday. I want to be sure that when we go into the committee tomorrow or the next day there will be ample opportunity to debate and discuss that.

The gentleman is raising an excellent point. Too often in the past the House has found means to prevent debate and discussion. I think it is regrettable that you are required to present this today during special orders, for there is just a handful of Members present. The gentleman from Illinois and I happened to be here. But all Members will be present when we come again to consider the higher education title. That is the time the House ought to engage in an in-depth debate which it has not done before.

I look to the gentleman from Michigan and his colleagues here to keep this open for that kind of debate. I do not think it matters if we go into Friday to debate this question. I think Members ought to express themselves on the question of busing and the other matters that are involved here. I am certainly willing to do that.

Mr. CONYERS. I appreciate the gentleman's contribution.

I yield to my colleague from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Speaker, I wish to commend the gentleman from Michigan (Mr. CONYERS) for raising this important question. Before I make any comments on it, I would like to ask a question of the gentleman from Illinois (Mr. PUCINSKI). I listened as you said you thought it was necessary to introduce the Emergency School Aid Act—as you intended to amend it—in order to get passage of the higher education bill. I would like to know what that means.

The fact is that the emergency school aid bill which you are going to present as an amendment to the Higher Education Act has in it provisions which would maintain the segregation that is inchoate and, in fact, existing in the educational institutions of this country.

I gather that you are suggesting that the only way in which we can get aid to higher education is by also voting for funds for desegregation to carry out the orders of the courts of this land and the law of the land. I have no great difficulty with that. But at the same time, we are told that we must also accept your concept that we have to maintain segregation as it is, that we have to oppose busing, and we have to agree that there should be a neighborhood school plan. No matter how you want to slice it, my dear colleague from Illinois, this means you want to maintain segregation.

I know that there are many problems in the busing of young children. I come from a community that was involved for many years in the struggle of busing and integration of schools, in the schools of New York City as well as the schools of Westchester. I know exactly what the problems are. I know full well from my experiences there that those who fight the busing are those who are fighting the integration of our schools, the integration of our neighborhoods, and the integration of our society.

I do not understand how you could stand before this House and say that the reason you are introducing the Emergency School Act as an amendment with an antibusing provision and a neighborhood schools provision is to make it possible for us to pass the Aid to Higher Education Act. That argument seems to me to be a most questionable one. It seems to me that what you are saying—and please correct me if I am wrong—that, unless we agree that we must maintain an attitude against busing and against neighborhood schools, we may not be able to have aid to higher education.

The idea that unless we maintain an attitude toward neighborhood schools, we may not be able to have aid to higher education in this country is the calumny and shame of this House. In 1971, all of us who are engaged in the business of upholding the laws of our country, all of us who are sworn to uphold the laws and the Constitution of the United States are bound to take action to eliminate segregation in the schools and in the Nation as a whole.

The gentleman is now suggesting that we have to make a commitment against desegregation in order to get aid to higher education. I would like the gentleman to clarify how we would help this aid to higher education bill to pass by

attaching an amendment which would prohibit busing and freeze neighborhood schools.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Speaker, the gentlewoman from New York is, as usual, very well organized in her thinking and, as usual, has done a great deal of research and homework, so in this instance, I regret she could not be more incorrect in her conclusions.

The bill I will introduce tomorrow in the form of an amendment follows almost precisely the committee bill except for four basic changes which I would be very happy to discuss if time permitted.

Mr. CONYERS. Will the gentleman enumerate what those changes are?

Mr. PUCINSKI. I would be very happy to do that, and I believe the gentlewoman ought to know one thing, that no one is suggesting that the addition of this title is designed to save the higher education bill.

Mrs. ABZUG. I thought that was what the gentleman said.

Mr. PUCINSKI. The gentlewoman from Oregon is very unhappy that we are following this route, because she feels that somehow or other it jeopardizes her bill, but this is the only option left to us if we are going to bring some measure of assistance to the children in schools undergoing integration for whatever the reason may be.

So we have offered this amendment, and this is our last opportunity, as the gentleman from Minnesota stated. If we do not offer it here, then this thing is dead for the remainder of this year.

Mrs. ABZUG. If the gentleman will yield, did the gentleman not say that this is the only way that we can pass the higher education bill tomorrow?

Mr. PUCINSKI. I said this was the only route left for me and those of us who want to help the children of this country to have this aid, which is to add this as an amendment to the higher education bill, which is already the biggest education bill ever passed in the history of this country. There are many Members who are very unhappy that we are taking this route, but we are doing it because we want to help the children, as the gentleman from Michigan has so eloquently stated, so I believe the gentlewoman is incorrect.

Mrs. ABZUG. Mr. Speaker, I have another question. We have an emergency school aid bill which was reported out by the Committee on Education and Labor. No one is attacking that. What I want to know is why the gentleman thinks it is so essential to add to the emergency school aid bill provisions against busing and protecting neighborhood schools? Why is the gentleman so anxious to add this antibusing provision and the neighborhood school provision?

Mr. PUCINSKI. It has been my practice in all my years never to question another Member's honesty, sincerity, and integrity. I would hope the gentlewoman is not questioning mine.

The fact of the matter is that we brought this bill to the floor last December, and we passed it by a 2-to-1 majority simply because we had a prohibition against the use of any Federal funds for busing. We brought more or less the same bill to the floor last Monday without that prohibition, and we got our brains beat out by a staggering vote of 222 to 135.

So the gentlewoman, being a reasonable Member of this House, must then be able to draw the conclusion that the only way you are going to get a program of assistance to the children who are caught in this legal vise is to accept the proposition that Federal funds cannot be used for busing and then hope that the amendment will be adopted tomorrow and we can send it to conference and ourselves work our will there and bring back a bill and see whether or not we can give these children some help.

If you will look at the history of this complex legislation, you will find the course that I have prescribed is one which reflects an honest and sincere desire to help young people in this country who need help desperately.

That is what we are trying to do. I am not interested in polemics. The gentleman from Michigan put his finger on it. I am sick and tired of the fair weather liberals who serve two constituencies, one back home and one on the shores of the Potomac. Then when the issue gets hot they run for some sort of cover.

This bill has had a tough go for 18 months, because we have been caught in a vise of all kinds of intrigues. It is my hope that we finally have worked our way out of it.

I think the gentleman from Michigan makes a very good point. As I said repeatedly, I am unalterably opposed to busing to overcome racial imbalance. That is the position that I have taken for years. I have been out in the open where everybody can see me and shoot me down if they wish. I have not altered my position at all. But I am amazed at the crawling I have seen here and the jockeying for position to avoid a confrontation on this issue.

I compliment my colleague in the well.

Mrs. ABZUG. Will the gentleman yield to me?

Mr. CONYERS. I yield to the gentlewoman.

Mrs. ABZUG. I want to thank the gentleman from Illinois for his explanation. I disagree with you, particularly on the last things you said. I hope I can convince you to change your mind, and I hope tomorrow we can adopt an emergency school aid amendment in the form reported out by the committee. I hope that we can pass our Higher Education Act at the same time.

Mr. PUCINSKI. If the gentleman will yield further, the gentlewoman will have an opportunity under the procedures we are following tomorrow in offering this bill as an amendment to the Higher Education Act. The gentlewoman and all other Members of this Chamber on both sides of the aisle will have ample opportunity to vote on the respective amendments and to register their will. The House will work its will. There is only one thing I hope for, and that is that on tomorrow they do not try to stampede us with a limitation of time on this very important issue before the House.

Mr. QUIE. Will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Minnesota.

Mr. QUIE. I want to say once again to the gentleman from Illinois, while we do differ on the question of busing, I have been with him in almost all of his efforts to get the amendment ready to be offered tomorrow. While, as I said before, he is a free agent, he is doing everything he can to get the bill passed. While we do differ on busing, I know he believes strongly in this and he is ready to commit himself. Therefore, I know he differs with you. I do not think he is trying to pull any fast ones at all. He is trying to do the best he can in his judgment.

I want to commend the gentleman from Illinois.

Mr. CONYERS. I now yield to my friend and distinguished colleague from California (Mr. DELLUMS).

Mr. DELLUMS. I thank my friend for taking this special order. It is very important.

I listened very carefully to the articulate nature of the presentation. I will at this point only associate myself with the remarks made by the gentleman.

I might add further the vote on Monday in fact does reflect the hysteria, fear, and anxiety on the part of many of our colleagues in the Congress with regard to the entire question of busing.

I am sure that the gentleman in the well is aware of the fact that some of our colleagues tomorrow morning when they read this colloquy will be angry. The fact of the matter is that they should be angry at themselves for the lack of the personal courage and political integrity which they have to face not only the controversial issue of busing but many other controversial questions that arise that should be dealt with and which have gone by the boards for years. I think both of us will agree there will be no real justice on the floor of this House until we fill these Chambers with people who are more preoccupied with saving the children, babies, and human beings in this country and in the world than they are about saving their own jobs in the U.S. Congress.

I might add further that one of the major arguments of our expedient liberal friends is, "Do not embarrass me on the floor of the Congress. You know I cannot vote on this bill because I must be reelected. You can understand why I have to vote against this, because I want to come back and be reelected and help you."

The fact of the matter is we do not need that kind of help because it is precisely the expedient liberal far more than the reactionary and racist people under the guise of liberality playing games with the lives of the people of this country.

Mr. Speaker, I congratulate the gentleman in the well for taking this special order and it is my hope that we will be able to force the expedient liberals off the floor of the House because they are perhaps even more dangerous than the conservatives in view of the fact that they give the illusion of being friends.

Finally, the question of hysteria around the issue of busing is a very interesting question to me because the children do not argue about that question. I come from a district in California where we have had busing in Berkeley, and once the adults got over the emotional issue, they found that the children had no problem and suddenly everyone came together around the real issue of quality education in this country for black and white, red and yellow. The emotionalism surrounding busing, until we get past that issue, the quality of education in this country irrespective of color, it is going to continue to be inferior because there are millions of black children who are having their brains scrambled in schools all over the country because of this issue.

Therefore, Mr. Speaker, I applaud the gentleman for bringing this issue before us where we force our liberal friends to either put up or shut up.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield further?

Mr. CONYERS. I yield further to the gentleman from Illinois.

Mr. PUCINSKI. I think the gentleman from California has made an excellent point as well as the gentleman from Michigan, because this very important historic legislation has got bogged down in issues and a debate that really do not belong in this bill.

As I said on Monday, those who honestly feel very strongly about this whole question of busing ought to sign the discharge petition and work on a constitutional amendment, because the cases that are coming down the pike are constitutional cases being decided by judges but looking at it we are missing or we will be missing an opportunity to take a great step forward in dealing with this problem if we fail to pass this legislation tomorrow or Friday.

We know that there are enormous problems connected with the incidents of suddenly integrating a school. We know that very often there is a massive flight of white students from those schools, because there is a fear that the quality of education will diminish.

However, for the first time this bill provides funds for remedial purposes, additional staffing, the retraining of staffing, guidance and counseling, new instructional techniques, repair and modernization, construction activities, special administrative services, planning and evaluation and other properly defined programs.

My subcommittee has held very extensive hearings and we want to find out what can be done to help during this transition in the wake of these court orders. To do nothing is to see the tragic plight of resegregating our schools. So, we came in with this bill because it provides the necessary assistance to local communities to meet the problems and fears that very often follow the court order. What a great tragedy it would be for this country if we failed to pass this legislation and give these schools an opportunity to cope with this problem and not get hung up on issues that really are extraneous to this bill. The further answer lies in this constitutional amendment, the discharge petition which I have signed. The answer has to be found there.

Mr. CONYERS. I thank the gentleman from Illinois for his contribution and while I regret his constant references to a constitutional amendment that I find objectionable, I recognize the fact that the gentleman is bringing to this discussion a half loaf rather than no loaf at all. To that extent we thank him for what he is doing to try to resolve this problem.

Mr. RYAN. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to my friend, the distinguished gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Speaker, I should like to commend my distinguished colleague from Michigan (Mr. CONYERS) for having taken this special order, and for having highlighted so articulately the issues which this House must confront. One issue in a sense is the question of self examination. I think that is what the gentleman is urging the House to do.

On Monday the House had an opportunity to pass a bill which would have assisted in carrying out the law of the land, as enunciated by the Supreme Court in 1954, and in subsequent decisions, and yet by catering to hysteria and by caving in to the backlash, this House not only failed to pass that bill—but only 135 Members voted for it—that was a travesty.

The Emergency School Aid Act of 1971 (H.R. 2266) would have authorized appropriations of $500 million for fiscal year 1972 and $1 billion for fiscal year 1973 to aid schools to desegregate, prevent racial isolation, and maintain quality integrated education.

School districts which would have qualified for funds include school districts ordered to desegregate under Federal or State court order or by the Department of Health, Education, and Welfare under title VI of the 1964 Civil Rights Act; school districts voluntarily integrating; school districts voluntarily adopting plans to eliminate, reduce, or prevent racial isolation, and school districts which voluntarily carry out plans to enroll and educate children who would not otherwise be eligible for enrollment because they do not reside in the school district. Also eligible are those school districts which have an attendance of more than 50 percent minority children and which have applied for and will receive at least an equal amount of money for compensatory education under this bill.

Further, this legislation would have prohibited from receiving funds school districts which transfer property to a private segregated school or discriminate against either minority teachers or pupils after the date of enactment.

The funds that would have been available under this bill would be of tremendous advantage to any school district entitled to use them.

The House should have had an opportunity to vote on that bill, not under a suspension of the rules procedure, but on a straight up and down vote. If it is to be brought up in connection with the higher education bill, then I hope that the gentleman from Illinois will not encumber it with something that he himself has described as extraneous. If an anti-civil-rights amendment is to be offered, then let that come from the floor, but not from the chairman of the subcommittee.

In that regard I agree with my colleague, the gentleman from New York (Mr. BADILLO) who pointed out that it would be consistent from the point of view of maintaining the position of the subcommittee to bring the subcommittee bill before the House, and have it stand on its own. I hope the gentleman from Illinois (Mr. PUCINSKI) will reconsider and not bring to the floor an antibusing provision or any other anti-civil-rights provisions which he feels are necessary in order to have it passed. Let the Members of the House make that decision.

That a wave of blacklash hysteria over busing could so blind the Congress to the advantages of this legislation is deplorable. But it is in large measure a consequence of a national leadership which during the 3 years it has been in office has been oblivious to the needs of black Americans and to the cause of civil rights.

As an editorial in this morning's New York Times states:

> Although Congressional blindness to the bill's self-evident benefits is hard to understand, much of the blame rests on the White House. Mr. Nixon's political exploitation of antibusing sentiments has markedly helped give this bill the unwarranted odium of being a device to increase busing . . .
>
> The President's failure to provide leadership has exposed the bill to suspicion and attack from all directs . . . its (H.R. 2266) defeat will hurt education and make the process of desegregation more difficult.

I submit that the failure is more than just a failure of the Nixon administration to speak out strongly for this legislation. It is the insensitivity of this administration to the imperative quest for equality for all Americans.

This insensitivity was evidenced by the nomination to the Supreme Court of men whose records demonstrated such a disregard for the cause of equality that the Senate which generally exercises great tolerance of presidential nominees—rejected them. And it has been evidenced further by the well publicized attempts of the administration to find other candidates whose judicial philosophy would affect adversely the achievement of equal opportunity.

It was evidenced by the President's disavowal of what he terms "forced integration"—a catchphrase which obscures the real issue: the continued bars which are raised to prevent blacks and other minority group members from obtaining their full share of our Nation's opportunities.

The insensitivity of this administration to the needs and aspirations of black people in this country, and to the needs and aspirations of all minority groups, is reflected in the administration's failure to use the full force of Government and the moral leadership of the White House to insure the civil rights of all Americans. In fact, it has done quite the contrary. Until the administration provides leadership and until this Congress assumes its responsibility and matches rhetoric with reality, we will

have to continue with pointing up these issues just as we are doing today.

A century ago, President Lincoln issued the Emancipation Proclamation, which was in some degree an act of faith. We are still redeeming Lincoln's act of faith. As a people—North as well as South—we are still learning by experience and suffering to live the truth of racial equality.

We must gather our strength and our determination to act boldly to lift from all our citizens the hypocritical burdens of intolerance, bigotry, and discrimination.

Mr. CONYERS. Mr. Speaker, I want to express my gratitude to the gentleman from New York, and to our many colleagues who have joined me in this colloquy. It is extremely important. Perhaps out of these exchanges we will be able to carry on a more full, a more honest and a more forthright examination of this crucial issue of race relations and education to a body that will receive it with more sensitivity than it has in the past.

Mr. RYAN. I thank the gentleman.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I am happy to yield to my friend and colleague, the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank my colleague, the gentleman from Michigan (Mr. CONYERS) for yielding me this time. I want to add my voice to those who have preceded me in complimenting the gentleman and to thank him for his thoughtfulness and his exercise of leadership in pinpointing this issue in this special order this afternoon.

I share with the gentleman his concern about the magnitude of the issue. I deplore the fact that the issue has been presented to the House in an untoward manner. I think we do not have to be legislative procedural experts to know that it came up under constrained circumstance or situation that avoided a four-square confrontation in the issue.

There is no question that surrounding this issue there is all manner of inflammatory thinking. There were those who because of the pressure and emotionalism on the subject of busing reacted in a certain way. There are those who even today, even if it was presented under different circumstances, who would say that these moneys are going to school districts in the throes of desegregation will really still mean compulsory busing—because it merely means that a school district will utilize other funds for those purposes rather than using this particular type of money for the purposes that the Congress intends.

I share with the distinguished gentleman from Michigan the feeling that this type of legislation is indeed an emergency need and is indeed crucial. But I deplore the fact, I repeat, that it has not been presented in that way to the House. I fail to understand why there is such a ready acceptance of surrender to the Committee on Rules on its refusal to entertain this legislation.

As I understand it, the Committee on Rules chairman, has stated explicitly that the Rules Committee will consider only emergency legislation. The very title of this bill defines it as such. I fail to understand why we should fold our hands and just accept this dictum from the Rules Committee without a direct confrontation with the Rules Committee to undertake serious consideration of this bill with the view in mind of issuing a rule for full and complete debate on the bill as presented by the committee to the full House. I just fail to understand that.

I am wondering what answer I can get from the distinguished gentleman from Michigan—why should we be forced to also take this up in an indirect fashion that militates against its successful consideration even tomorrow or the day after tomorrow?

Mr. CONYERS. May I say to the gentleman that all the information that has come to me on this subject indicates that some of our liberal northern friends from our side of the aisle filibustered the bill past the deadline. They demanded that the bill be read line by line so that the September date, up to which the Committee on Rules would hear bills to grant a rule on, would have passed. Then after that we had a collapse again by our liberal friends on the question of considering the bill.

Now the chairman of the Committee on Rules has never identified himself as an exponent of civil rights. The chairman of that committee has long made his position clear on all questions even tangentially involving integration in our society, even when it is required under the laws of the land.

So it was very easy to predict the kind of hassle that we would get into. We went into this same hassle on the Equal Opportunity Employment bill about 6 or 8 weeks ago. We are constantly faced with this kind of confrontation. We here, a small number of Members on this floor today, are charged with the responsibility of trying to move 277 Democratic Members in this House—a majority. We have it in our power, because we appoint the chairman of every standing and select committee in this body and we have the absolute power to determine whether we would end the war or end segregation in this land or create full opportunity and take care of all the problems that exist.

This is the bind that the gentleman from Maryland expressed earlier on this special order. But more of us are beginning to feel the pressure of an unresponsive system and, yet, are unable to transmit the frustration that is building up in our communities and in our cities because of our inability to have a full and honest discussion under the rules of the House on one of the most urgent questions of our times.

Mr. GONZALEZ. I would like to remind the gentleman, however, in that respect that I would not despair as, indeed, I have not. There have been reasons to cause one to tend to despair, but one must remember that the majority the distinguished Member refers to on this kind of issue has not indeed been a majority. I have been in the House since 1952. Some of us have seen a so-called coalition between the southerners and the conservatives. This is still in effect a challenge.

But I must remind my distinguished and respected colleague that even despite that, it has been overcome, because I happen to remember the time when we had the discussions on the Civil Rights Act of 1964. It took 10 days, but at least it was done. It was not passed in the form or shape some of us wanted, but we did get a chance.

I believe at that time the approach followed was one which was calculated to bring about a decision resulting in a full bloomed debate. It is true that leadership responded and allowed the presentation of the bill. It is true that this time it did not. It is true that it came up in this indirect fashion where it would have been a miracle if the necessary vote had been favorable.

Mr. CONYERS. Let me ask my dear friend from Texas, did he hear any leadership support for the Emergency School Aid Act of 1971?

Mr. GONZALEZ. That is what I am saying. I think, therefore, from this discussion today we can arrive at some approach that will give us a sense of direction to keep this alive and kicking, despite these despondent cries about the Rules Committee closing the door.

Who says the Rules Committee is bound in duty to close the door? Who has offered that particular dictum? I do not think we should have to accept it. I think we ought to be realistic and expect a defeat tomorrow or the day after, and therefore we ought to be taking what steps we can take even now to make sure that we do get a rule before a sine die adjournment or the end of this session.

Mr. CONYERS. I will make a simple recommendation that we go to the Speaker and the majority leader of the House and urge them to attempt once more—and we have made that march to the Speaker's office and the chairman of the Rules Committee ever since I have been here—and urge them to get the official leadership of the House to say once and for all for the record on the floor of this body that it is time the Congress implement the law of the land that has been repeatedly demanded in decision after court decision. The Supreme Court has said they will hear no more cases on the subject. They ruled that they would give certiorari no longer.

We here now are responding to your question—and I think it is an excellent question. We must begin to move our distinguished leadership and ask them to join us in urging that we resolve this problem in an honorable and proper way as national legislators ought.

I cannot go back to the First District of Michigan and explain to my constituents that this bill came up under a suspension of rules that allowed only 40 minutes of debate and we could not even get a minute apiece among the Members to debate it.

Mr. MITCHELL. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to my friend from Maryland.

Mr. MITCHELL. I appreciate the gentleman's yielding to me, because our distinguished colleague (Mr. GONZALEZ) brought up a very important point, pointing out the progress that has been made in terms of an increased number of votes on the floor, new people voting for legislation. I think this is a serious error that we have made, and that is looking around at ourselves in terms of measuring progress, in terms of the numbers of new people added on to favorable legislation.

While we are doing that, we do not look at what is happening in the black community in terms of a curious rage, anger, and frustration. What we have done is to create the kind of thing about which William Blake wrote:

> Tiger, tiger, burning bright
> In the forests of the night,
> What immortal hand or eye
> Could frame thy fearful symmetry?

Mr. GONZALEZ. Let me say in comment that we have a responsibility of not succumbing to either one, because both of these extreme things are the very things the history of the 20th century particularly reveals have precisely caused societies, such advanced nations as Germany, to succumb.

True, we may go back to our district and sense a feeling of frustration and violence and all, but that does not remove the responsibility from us to discern the error and the wrong approach that would bring about the very thing we do not want. What I am saying is that if nothing else comes from this discussion today, we should not give up in despair and we should thing of an approach. I will follow the gentleman from Detroit in going to the Speaker and soliciting the votes of our colleagues, and say by whose dictum does the Rules Committee say it is not going to entertain the possibility of a rule for this legislation.

Mr. CONYERS. I appreciate the gentleman's remarks, and I am sure everyone who is participating in this colloquy is not speaking out of despair but out of frustration because of the rules we have so frequently been forced to operate under and more precisely about the inability of this National Legislature to honestly speak to and resolve the age-old problem of race in America.

Mr. Speaker, I thank all of my colleagues from the bottom of my heart for participating in this special order.

IN DEFENSE OF SUBJECTIVITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 30 minutes.

Mr. FULTON of Tennessee. Mr. Speaker, man's thoughts since the beginning have tended to fall into two categories—those which can be proved and those which can only be felt. Demonstrated fact and created opinion. Objective statement and subjective idea. And the question arises—"Which should we consider the more useful, which should we deem the more important?"

In recent years, perhaps due to the growing impact and interest in science, high finance, law, and other pursuits requiring attention to empirical facts, those advocates of strict objectivity have proved most vocal expressing their position.

Still, a few maintain that life consists of more than just cold, often sterile, though perhaps irrefutable, statements. They contend that the true essence of living is what can and should be, not just what currently is. With this, I agree.

I ask unanimous consent to include in the RECORD this thought-provoking speech, delivered recently by Harvard professor and TV-film producer Robert Saudek before the Third State Conference on the Arts at the University of Tennessee. It can serve to remind each of us that the innovator and composer, along with the researcher and recorder, provides an important service to our balanced, vibrant American way of life.

IN DEFENSE OF SUBJECTIVITY

(By Robert Saudek)

I have come to speak in defense of subjectivity.

Like you, I have devoted my life to the arts and humanities. And like you, I have suffered the embarrassment, not to say downright humility, of admitting it to objective people—math teachers, electricians, astronauts, public opinion pollsters, even my dentist. They can all be so sure of themselves.

Picture yourselves—a group of fuzzy-minded subjectivists—having lunch in the school cafeteria, enjoying a lively debate about whether Huck Finn was the unconscious prototype for Holden Caulfield, when all of a sudden one of those overconfident math teachers—with all of the self-assurance of a true objectivist—comes over and sits down with you. Zonk! The debate is over. You are silent; you feel resentful, inferior. He would naturally demand proof of everything, and you realize there *isn't* any proof.

There is the problem in a nutshell. What subjectivists need, then, is a public defender.

Let me define the terms "objective" and "subjective."

"Objective" refers to an object or being that is thought of, or perceived, as opposed to that which thinks or perceives.

"Objective" is said to be realistic, as opposed to idealistic.

"Subjective," on the other hand, refers to the direct experiences of the soul, as joy, grief, hope, fear. These are purely subjective.

"Subjective" relates to something purely within the mind: a mountain as a mass of a certain size, contour, color and materials is an *objective* fact. The impression our mind receives, the mental picture it forms of the mountain, is subjective. And when we make comparisons—when we compare our mental picture of the mountain with our idea of a plain, or a river, or the ocean waves, we exercise *subjectivity*.

Someone has even been bold enough to suggest that subjectiviam is the doctrine that there is no objective measure of truth: that there is only "relativism."

Someone else says that objectivism is characterized by neatness; and subjectiviam by disorderliness.

That is name-calling, and not very helpful to us.

What *is* useful about this distinction is to examine the postulates, the foundations, on which we plan to build our educational structures, as we approach the beginning of the third century of our nation's independence. During its first two centuries there has been a relentless dynamic tension between those who believe in knowledge for its own sake, and those others who believe in "success" as a national goal.

During the early years of the Republic, J. Hector St. John Crevecouer, the French emigrant who wrote "Letters from an American Farmer," declared—"Shining talent and university knowledge would be entirely useless here, nay, would be dangerous. It would make (Americans) more adventurous . . . much less cautious, and therefore less successful."

How different is that view of the 1780's from the attitude recently expressed by the present U.S. Commissioner of Education, in saying, a vast majority of American high school graduates go to college "simply because they don't know what career to pursue and because it's the fashionable thing to do."

The Commissioner then proposed as an alternative for these growing numbers of college-educated young people a huge "career education" system aimed at affecting 80% of all our high school students, and in his words, "designed to prepare students for the attache case professions as well as lunch-box occupations."

Now, Crevecoeur did not have access to that descriptive expression "attache case professions," but in all other respects the two men are transmitting the same objective "vibes," if I may borrow that word from our children.

At the same time, a contrasting theme runs through our history as far back as the 17th century. The Puritans, holding onto the rocky coastal wilderness of New England, so respected knowledge for its own sake that, "dreading to leave an illiterate Ministry when our present Ministers shall lie in the Dust"—they opened the Boston Latin School in 1635, Harvard College in 1636, and within twelve years the Massachusetts legislature decreed the establishment of a public elementary school for each 50 householders in the colony, and a secondary school for each 100 householders. By the year 1701, English America already supported three colleges: Harvard and Yale in the north; William and Mary in the south.

Indeed, the Puritans so loved learning for its own sake that Colonial New England had a higher rate of literacy, and a population more widely versed in the classics than any other country in the western world.

So we confront the question—is study for its own sake, is subjective creativity as such, incompatible with "success"? By some objective tests of "success' they are certainly incompatible. Bach had been dead and virtually forgotten for 70 years, and his monumental *St. Matthew Passion* had lain forgotten for nearly a century, before the childgenius Felix Mendelssohn, as a 12-year-old studying in the Royal Library in Berlin, discovered it in autograph, and he was so overpowered by it that he would not rest until he had given a private performance of that massive choral and orchestral work—the first since Bach's death.

What, then, constitutes "success"? There must be two kinds—for although he died poor, although he was an unpopular man in his community almost to his dying day, and he supported his sixteen living children by sheer hard work without recognition beyond his hometown of Leipzig, there is no doubt that, in terms of history Bach is a success by any standard. At his death in 1750 no banker would have considered him a success, and he might have failed the objective tests of the pollsters. But they would have been wrong.

We speak of "objective truths". We feel comfortable and secure with them. It is reassuring to know that the sun will rise and set every day; that pluck is more dependable than luck. "Strive and Succeed" was Horatio Alger's formula for success. Just stick to what is known, don't make waves, and you will attain fame and fortune.

This, if I may say so, is a road-map leading to "attache case professions". This range of objectives, while respectable, presents rather limited visibility as the national goal for 80% of our high school students.

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One of the first truths declared by our Founding Fathers was that all men are created equal. Try to measure *that* truth on your computer.

For that which is known—and provable by objective evidence—is not enough. The computer is not enough, the fact-finding expedition, or in television, the unblinking eye that looks ever backward at last week's ratings as the basis for projecting next week's schedule. These are not enough. Man is too restless for that kind of straight-jacket. Man is too filled with curiosity. Man is not so easily satisfied that he will accept the past as a substitute for the future.

The future—the unknown—is a risky business, an adventure. The future is not an objective fact, but exists only in man's minds. It can be imagined, it can be believed in, it can be predicted. But it cannot be known in advance.

The subjective universe holds something better than the eternal verities. It is filled with uncertainty, the elation of discovery, the exhaustion of the creative act. If it were not for our subjective discoverers dreaming of what might be true, we would still depend on witch doctors. If it were not for that great subjectivist, Christopher Columbus, we might all still be living in Europe. But for those early philosopher-scientists who speculated and questioned and were skeptical, we would still be secure in the certainty that the earth is flat, that it is the center of the universe, and that thunderstorms are the punishment meted out by vengeful spirits.

Thus, subjectivity is the mark of the original and independent mind reasoning inductively, creating instinctively. Objectivity is the mark of the dependent mind—ever-dependent on the ideas and creations of others.

How smug that must sound! In thus separating the sheep from the goats it seems to be the ultimate put-down. And then we remind ourselves that the subjective life is not a nostrum for all ills. The arts cannot guarantee a cheerful disposition, and in fact artists sometimes seem inaccountably intolerable to live with! They cannot ward off discomfort or tragedy; in fact, he who is sensitive to beauty—who has, as it were, the touch of the poet—is at least as deeply wounded by mediocrity and ugliness as he is transported by excellence and beauty. But I am using the passive mode, the mode of the spectator. Let me slip into the active—as in the act of creating, and in so doing, change to the declarative statements, "I am . . . therefore, I can . . . I must . . . I shall."

Sooner or later, we confront the age-old metaphorical dwellingplaces for objectivity—i.e., the market-place—and subjectivity—i.e., the ivory tower. We compare the applied arts and sciences of the grotesque world of advertising with the subjective worlds of Mozart, of Praxiteles, of Picasso. And now, at last, we come face-to-face with the question: but how can you measure what you have done?

The implication is that what is measurable, and only what is measurable, is capable of objective and therefore truthful judgment. So measurement itself becomes a kind of standard; or more precisely, the tools for measuring—the slide rule, scales, adding machine, abacus—are, in a way, holy vessels, artifacts in the sacred ceremony of determining the truth.

It works for advertising, because a given series of paintings or photographs, with the accompanying literary effort, either sells the product or service or it doesn't. The same with TV commercials: they may contain acting, dancing, music, design. But they either make it or they don't in terms of the market. What better way of judging the truth of this art-form?

Then apply the same computer, slide rule and adding machine to Stravinsky. Make a test-run on Shakespeare. Better still, order a print-out of a dozen living painters, composers, choreographers and sculptors, to determine which ones will be rediscovered a century hence, as Mendelssohn discovered Bach and started him on the road to post-humous success.

So long as the science of randomness is a measuring rod of the future, it is possible to predict that certain combinations of numbers are bound to come up sooner or later—not only at the racetrack, and not only numbers, but also words, color-combinations and notes. Thus, if Beethoven had not thought of his Fifth Symphony, someone, somewhere, based on randomness alone, would have come up with it, or something very like it. Of course, in that case we might have had to settle for a 3-note introduction.

We think of objectivity as the search for facts—the truth, the whole truth and nothing but the truth. Yet the truth is as elusive as a tear-drop of mercury. Consider the truth of death as the termination of life.

It is certain, final, the end. Apply the five senses to it: Can it see? No. Hear? Feel? Smell? Taste? Definitely not. It cannot move, and it will inevitably return to dust. So death is the end of life. In Edward Albee's words, it is "All Over."

Or is it? The living do not die so quickly—they change into deeds of valor, of kindness of wisdom, of beauty. Henry V is not dead. Nor is Brahms, Nor Rembrandt.

Death is nothing but an objective fact. But subjectively, life exists in the mind of the beholder. Just as mortality is an objective truth, so immortality is a subjective truth.

You who are involved in the arts and humanities deal in life itself. You who conserve creations of the past and explain them as part of present greatness, deal in the continuum of life. You have climbed that long spiral staircase—high above the market-place—up into your ivory tower of subjective thought, where the mind is trained not just to accept the present, but to challenge it, and to create the future.

It is high, it is lonely, and a little dangerous. But the view is breathtakingly limitless. You who are attracted by the stars, go to your own particular ivory tower, where the world and the future are in your own mind; where the direct experiences of the soul—of joy and grief, of hope and fear—await you; where hover the spirits of Aristotle, of Leonardo, of Bach, of Thomas Jefferson, of Frederick Douglass and Einstein.

With these subjectivists for companions, how could you ever be lonely?

PERSONAL ANNOUNCEMENT

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, on Monday, November 1, I was necessarily absent from the House Chamber because I was in my district on previously scheduled important business for constituents.

A number of rollcall votes were taken on bills which were brought up under suspension of the rules—a procedure ordinarily reserved for noncontroversial measures.

I would like to announce that if I had been present, I would have voted in the following manner:

Roll No. 329, H.R. 2266, Emergency School Aid Act, I would have voted "yea."

Roll No. 330, H.R. 9961, credit union share insurance amendments, I would have voted "yea."

Roll No. 331, H.R. 8389, narcotic treatment in correctional institutions, I would have voted "yea."

Roll No. 332, H.R. 9180, temporary assignment of magistrates, I would have voted "yea."

Roll No. 333, H.R. 9323, amendments to the Narcotic Rehabilitation Act, I would have voted "yea."

Roll No. 333, H.R. 7854, amending the Small Reclamation Projects Act, would have voted "yea."

Roll No. 336, H.R. 11232, Farm Credit Act of 1971, I would have voted "yea."

Roll No. 338, Motion to adjourn, I would have voted "nay."

NEVER TOO OLD TO BE SUCCESSFUL

The SPEAKER. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 60 minutes.

Mr. RANDALL. Mr. Speaker, just before the beginning of the August recess the Special Studies Subcommittee of the House Committee on Government Operations, of which it is my honor to serve as chairman, was assigned the task of conducting comprehensive hearings on the problems of the aging. During the entire months of September and October we have been pursuing that effort, hearing witnesses both from within and outside of Government.

Perhaps one of the most useful witnesses, but certainly the most colorful and without a doubt the most inspiring of all of the long parade of witnesses summoned before our Subcommittee on the Aging is Col. Harland Sanders of Shelbyville, Ky. Who is Colonel Sanders? Well, as you might guess, he is the Kentucky fried chicken king.

Now 81 years old, he was a small businessman in Corbin, Ky., about 20 years ago when he began to suffer a series of personal reversals, all of which seriously reduced his circumstances about the time of his 65th birthday. The record will show that Colonel Sanders used his first social security benefit check to serve as a means to finance a road trip to try to sell his now famous fried chicken recipe. From that first trip has grown a business empire no longer confined to the United States alone but international in scope.

I suppose the appearance of Colonel Sanders best tells the story of how one man refused to let himself be put on the shelf during the later years of his life. In my judgment, this story should become the source of tremendous encouragement to thousands of other men and women who, upon reaching the age of 60 or 65, are convinced they have the energy, ambition, and drive to refuse to accept the thinking of modern society which now dictates retirement in terms of age alone.

For my part, as chairman of the subcommittee, I realized from the very moment Colonel Sanders began his visit with us that he would not only be our most distinguished witness to date, but I quickly realized what a privilege and honor it was to have a man like the colonel as a witness. It was immediately apparent that a man like Colonel Sanders had little need for the work of our subcommittee, which has as its objective to improve the condition of the aging in our population. Instead, I saw we had need for his advice and counsel.

I became thoroughly convinced in a very short time that our committee could do all of our people a service by spreading the story of the colonel's record of success. His life story should serve as a most unusual measure of inspiration for all other senior citizens who remain reluctant to surrender their usefulness and productivity simply because of the passing of time.

I am sure the other members of my subcommittee share the view of their chairman that, up to now, far too little encouragement has been given to our senior citizens who retain their physical capability to embark upon a second career at the time they reach the accepted age of retirement.

Mr. Speaker, the prepared statement of Colonel Sanders which he read before our subcommittee on the aging was embellished by many extemporaneous personal references throughout all of the time he sat in the witness chair. He told of the time when, as a young boy, he held a job that paid only $2 a month. I must have misunderstood him, surely he must have said $2 a week. But anyhow, he said he received his board as part compensation. To make matters worse he was fired from that job and when he went home he was given a tongue lashing by his mother who said she was sad that her oldest child could not even hold such a low-paying job. The colonel was quick to point out that he learned from this reprimand by his mother that if he were ever to land another job again he intended to keep it. Well, he did get another job. It was milking cows. But he had a difficult time keeping even this job because it seemed that he was assigned only the cows, which were sore titted or those which were called kickers.

The next time he found himself out of work, through no fault of his own, he decided to take stock to try to see what he had been doing wrong. It was then he became an avid reader of the late Will Rogers. At an early age he adopted the philosophy that life must really begin at 40. One thing we all learned from our distinguished witness in that each time he suffered an adversity, he took stock of what he had not been doing right and not only where he had failed but why he had failed.

Finally he said he decided to start out operating a service station, selling gasoline, with a small six-chair restaurant in conjunction. Because of his low income and financial limitations he recalls that one time he traded some live chickens in order to buy gasoline to sell at his service station. Because of his specialty, his famous fried chicken, he was able to expand his dining room to a capacity of 140 and obtained the blessings of Duncan Hines who endorsed his restaurant as one of the finest in the State of Kentucky. Because of another stroke of good fortune the interstate route in that area was located just west of his business. But even with this good luck Colonel Sanders did not lower his standards so to speak, because he determined to keep his fried chicken the best available anywhere. He continued in the belief that one should never worry about competition as long as he possessed a good product to sell. In other words, he made up his mind to beat his competition not by any gimmicks or underhand methods, but to beat them on merit by having the best product available anywhere to sell to the public.

Colonel Sanders told us he firmly believes in taking care of his own health. He related that he enjoys perfect health today with the exception of some infrequent arthritis. I may be wrong but I cannot help but believe that it is his mental outlook, or I should say, his personal philosophy that has a great deal to do with his good physical health and also his good mental health. He recited for the committee that in his 80 years of life he had suffered many disappointments. But he pointed out that every time he had been knocked down he believed he got up stronger than before he went down. Those of us on the committee, and particularly the chairman, immediately recognized that it is this kind of attitude that provides one of the best definitions of true intelligence in a human being and that is the ability to benefit from experience.

In introducing Colonel Sanders to the committee, as chairman of the subcommittee, I asked forgiveness of the members of the committee to make reference to a personal experience, by alluding to a conversation long ago with my dear, old, grandmother, who lived to be over 90 years of age. I pointed out that when she was cautioned about working too hard or moving too fast in her later years, her stock rejoinder was:

William, I would rather wear out than rust out.

By pure coincidence, and without seeing beforehand the prepared statement of Colonel Sanders, it was interesting to note that he used almost the same words as my grandmother.

One of the members of our subcommittee pointed out that today the elderly constitute one out of five in our total population. Unfortunately, most of our elderly do not have the same determination possessed by the colonel. In the question period afforded to interrogate Colonel Sanders it was suggested that some people are not as resourceful as he was. It was pointed out there is a serious problem for the aging because social security cannot keep up with inflation. The reply of Colonel Sanders was that he did not regard himself as especially resourceful or exceptional but, rather, that the good Lord gave us all some native abilities to use or to neglect to use as the case might be and in this regard he recalled the time he was laid off from the Southern Railroad. He admitted he had a rough time after the loss of this job but he did not cry for help. He figured it was his own job to take care of himself. So he went to the library to do a little personal research to find out what job or jobs he might train himself for. Although he had worked for the railroad he asked no quarter from his former employer. Rather, he travelled about for some time in hobo fashion on the rods and sometimes riding the gondolas. From his travels he finally found a financial backer who would lend him some money to go into business. According to his testimony he borrowed $5,500 with no security except a promise to give the lender one-third of the profits from his fried chicken business.

Even to this day Colonel Sanders disclaims the prevailing belief he has some special recipe or some extraordinary formula to cook fried chicken. This demonstrates the modesty of the man because he has in fact, made his famous recipe the foundation of one of the largest and perhaps the most attractive franchise operations in the world.

There are so many exceptional personal attributes to Colonel Sanders that it takes quite a while to survey the list, let alone comment upon each of them. He believes in scouting. He was one of the first and foremost advocates of the Boy Scout movement and even today he proudly wears on his lapel the scout emblem. While he may be best known as one whose famous fried chicken is finger-licking good, he could also, with complete justification, be honored as the father of the concept of our modern present-day motels. The colonel testified that he learned very early that the expenditure of just a little bit more money for wall-to-wall carpets would increase the occupancy rate of his rooms and by adding a few more conveniences such as sound insulation he was able to attain from the very beginning a better than 60 percent occupancy and later on in his career as a motel operator he went through an entire 4-year period without the vacancy of a single room for a single night in the motel he operated.

It was most interesting to listen to the story of how he chose the managers for his chain of motels. He told us that he always showed a preference for older, more mature persons as managers for his places of business. When asked by one member of the committee if he could find enough older persons who were responsible and able to do the job he answered in the affirmative. In many instances he said he followed the pattern of employing a widow woman who was left to support four or five children. He concluded that no one would marry her, and as long as he paid her a living wage he could be assured of a good manager. Carrying his belief in the employment of older persons a step further, he said he always tried to employ a man who had either a big family or a lot of poor in-laws because he knew such a man would have no alternative but to work in order to look after his family and in many instances, support his children and even his grandchildren.

We have all heard that a man's word should be as good as his bond. This the colonel said he firmly believes in. Many of his franchise contracts have been sealed with no more than a handshake. He said he has found that older persons are more nearly honest than the youth or young persons of today and if they seal a deal with a handshake, you can

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depend on it, that our senior citizens will fulfill their promises.

In an effort to greatly summarize the colonel's testimony before our committee it should be added that the colonel does not use one of Kentucky's most famous products known as Kentucky bourbon. Nor does he use what may be its next most famous product, tobacco. He apologizes for his failure to use what he calls booze and also for his failure to use tobacco and confesses that he has not been a good salesman for the State of Kentucky. He even admits to having some vices. He agrees that he once cussed a lot, but has stopped. Not long ago he made a slip and used some little bit of profanity. One of his associates who heard this commented that the language sounded a little like cuss words. Standing close by was a third party who remarked, "You ought to have heard the colonel before he quit cussing."

Once he studied law because he was a great admirer of Clarence Darrow who, we all know, came into Kentucky to try some famous law suits. In this regard it should be recalled that Clarence Darrow, way back in the summer of 1925, participated in the famous Scopes monkey trial in Kentucky. It should be recalled that Clarence Darrow represented Mr. Scopes with William Jennings Bryan across the counsel table as a kind of special prosecutor aiding the State prosecuting attorney to try to convict Mr. Scopes of the crime of teaching the scientific theory of evolution, that man is closely related to the monkey. Colonel Sanders never passed the bar although he did earn a law degree.

The colonel was quite adamant in his judgment that simply because one becomes 65 years of age there has to be compulsory retirement. He argues there should be no such thing as mandatory retirement at any age. In this day and age when there may be some doubts among even the middle aged certainly among our senior citizens concerning the activities of the militant youth of this country and whether or not they can ever be rehabilitated or adjusted in time to become the responsible citizens of tomorrow, the colonel was of the strong belief that in the meantime we should continue to use the mature judgment, experience and wisdom of our older citizens. He believes there may not be enough young persons around or available to with the equal measure of maturity and experience, as our older citizens.

Today was a most interesting session of our committee on the aging; Colonel Sanders said that only yesterday he was an active participant in the gubernatoral election in Kentucky. We all cautioned him in a friendly way he should not extend himself too far. As chairman of the committee I recalled for the benefit of those in the hearing room the case of the late Senator Theodore Green of Rhode Island, who would not leave the other body of Congress until he was 93. Even until his last years he walked 3 miles each day to and from the Capitol. At the age of 91 he was heard to complain to his doctor when he was asked to give up high-diving, but nonetheless even at 91 continued his wrestling twice a week.

As a reaction to the testimony of our distinguished witness that at 81 he had no intention of slowing down the Chair commented that perhaps he was following the path of Amos Alonzo Stagg, the most famous of all football coaches who, when he observed his 100th birthday, thought he might live forever. When he was interrogated about the meaning of such a statement, his reply was in the form of a question as he asked:

How many men have you ever heard of who die after they are 100 years old?

The formal statement of Colonel Sanders carried the heading, "Some Thoughts on Aging and Retirement." It is my personal privilege and high honor at this time to read, for the benefit of all of my colleagues in the House and all of those who may have access to the CONGRESSIONAL RECORD, his testimony as we received it verbatim before the Special Studies Subcommittee which it is my special pleasure to chair. We may not ever become known as the House Committee on the Aging, because we do have other assignments. However we will devote our time this winter, next spring, and even next summer to the problems of the aging. I now proudly include Colonel Sanders most excellent testimony entitled, "Some Thoughts on Aging and Retirement":

SOME THOUGHTS ON AGING AND RETIREMENT

Many of us are surviving to older ages. We must make this survival worth while. To do so dictates that we do some deep thinking and planning. As for myself, I never plan to retire even though I am in my 82nd year and I personally believe one will "rust out quicker than he will wear out," but for those that are forced into retirement, it should mean only that to retire is merely stop doing one thing and start doing something else.

We now have some ground to stand on and we need only—as Archimedes demanded when he threatened to move the earth—a fulcrum and a lever. The fulcrum can be our accumulated wisdom, and the lever is our will to apply it.

Reaching retirement age does not mean that men and women can be turned out to pasture—provided with food and clothing and a roof over their heads. Advancing age has been written about in textbooks, analyzed in test tubes and debated by educationalists. It would almost seem that retirement could be taken like a doctor's prescription; a simple following of the instructions. But it is not so. Every person is an individual with his own sense of values and of the fitness of things. Every person has to assess his own possibilities, set his own goal and prepare himself to reach it.

STARTING WITH ADVANTAGES

One should not plan their retirement in the spirit of being deprived of something, but in the spirit of having something added to your life. You are not starting out from nothing, but from the point at which you have assimilated the lessons of half a century. Those years are a crown to wear.

By retirement time we have lost some of the fears and insecurities that plagued our youth, and now we have achieved perspective.

This maturity has a special significance. It is time for us to put in effect a wisdom about life that is unattainable at any previous age. Some doors have been closed by the decline of our physical strength, or by the loss of momentum; but new doors have been opened by our maturity. We have had our quota of disappointments and burned fingers and they have added up to the prudence by which we know how to distinguish the character of troubles and for choice to take the lesser evils. Our judgment is keen and we take a coherent view of life.

CHOOSING A PATH

Quoting Lord Chesterfield, who said: "There is no greater cause of Melancholy than Idleness." He further described it as, "the refuge of weak minds and the holiday of fools."

Whatever other privileges we surrender, we retain the right to be useful and the right to dignity.

Use discrimination. It might show poor judgement if we were to seize upon the first post-retirement enterprise that offers itself.

It is said, "second thoughts are best." Perhaps third or fourth might be better.

Recall that when Socrates saw various articles spread out for sale, he exclaimed, "How much there is in the world that I do not want."

We must be positive in our choice and don't be against things so much as we are for things. We write our own passports and put visas on them for the special things we wish to experience. They should be pleasant things.

Even if we can afford it, we should not rely on loafing. Life does not have to be easy to be wonderful.

Our choice of what to do should include something involving work. The life role given Adam in the Garden of Eden was not that he should work until retirement age, but "till thou return unto the ground."

Dynamic retirement should be our aim. We should wish to get up every morning with the feeling that we have something to do, not as a means of livelihood, but for our physical health and mental welfare and our happiness.

There are so many variations of what can be done it's impossible to continue writing and explore them all. One should make a plan, leaving ourselves alternatives, seeking variety. It is a chance to develop original ideas. "This wise man, said Andre Gide, the Nobel Prize winning French novelist, is he who constantly wonders afresh—for him the world is always being born again."

Make the most of what we have; wherever we go, go with our whole heart; keep our eye on what's coming up, not what's slipping by; do not let the minutes rust away.

Let us remember the words of Robert Browning who said—"Grow old along with me; the best is yet to be—The last of life for which the first was made."

ADEQUATE INCOME FOR THE ELDERLY

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 15 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, to continue the discussion begun Tuesday of this week on the whole range of problems facing the elderly in this Nation of ours, I have chosen to devote my discussion today entirely to what I feel is their major concern, that is, an adequate income to enable them to face old age with dignity and peace of mind. Private pension plans have been the subject of extensive hearings on the Senate side and I am hopeful that before this Congress finishes its business, it will get around to considering significant reform legislation—something which has been long overdue in this area. Anything as vital as pension plans are to the lives of our citizens is a proper area of concern to Congress. National standards and regulations have been needed for some time to curb the glaring abuses and short changing which many of our citizens have received under pension plans on which they had based their full trust and confidence for security in their final years. The real tragedy of the present situation is that far too often individuals only discover the hidden clauses and the inadequate income they are dependent on when it is too late and they are, in fact, living off their pensions. The cases of those who have lost pension benefits under plans to which they had contributed over their working years significant amounts, simply because they transferred jobs a few years before retirement or lost their job, are shockingly frequent and I, for one, am going to insist on tough Federal laws in this area.

There is also much to be done in the area of tax relief for income derived from pensions. At present, there are countless bills filed which address themselves separately to pensions of Federal employees, pensions of public employees, pensions of teachers, pensions of military—the very fact of such a wide range of professions and occupations behind all these bills indicates to me the need is great for an across-the-board, complete revision of taxation of pension income for every American—Treasury Department footdragging, notwithstanding. It is time that the Government stopped concentrating on potential loss of revenue resulting from needed reform in one area and ignoring the cost to the taxpayer that results from welfare payments and public assistance in order to support those with inadequate income. Again and again in these speeches, I find it necessary to conclude that one of the serious shortcomings of our present patchwork approach to the problems of the elderly is that at no time does the Federal Government seem to have sat down, either at Cabinet level or in Congress, and conducted an across-the-board review of existing programs as well as tax policies. If the total picture were before our Congressmen and department officials, I feel certain that much of the opposition to individual reforms in programs affecting the elderly would evaporate, The fact is that compartmentalization of interests between Government departments and in Congress between committees have resulted, I feel, in a fragmentation of outlook and approach to the problems of the elderly. Conferences on aging at the State and now at the national level are focusing on the broad outlook, but none of these conferences have led to a genuine departure from the traditional approach to the problems of the elderly. Somewhere between the conference halls and the corridors of power, the vision is narrowed and the outlook is fogged.

As far as I am concerned, at the very root of the problem of inadequate income for our elderly is the continued reliance on the social security system as it has operated since that historic day in 1935 when President Franklin D. Roosevelt signed the Social Security Act into law. The world the elderly face today is a far different world from that which they faced in 1935, and yet, it is the approach embodied in the act of 1935 which still governs our national attitude to the problem of adequate income for the elderly. The fact is that even historic landmark legislation, and no one can challenge the Social Security Act of 1935 as being just this—the fact is that even landmark legislation needs to be reviewed and reexamined and, I maintain, reformed after years of service to the needs of this Nation. The first fact which we, in Congress, must recognize and accept, like it or not, is that for the overwhelming majority of Americans past 65, social security checks have become essential to their financial security and wellbeing. For millions, social security checks constitute the only constant reliable source of income to meet all their needs in old age. It is time that Congress, therefore, stopped kidding itself into thinking that social security checks provide that "little extra" or are "supplements" to the income of the aged. Statistics, while incomplete, give every indication that more than 50 percent of our population over 65 is totally dependent on income received from social security checks. This fact of life, more than any other, convinces me that as presently structured, our social security benefits are totally inadequate to meet the needs of the day.

When the President signed into law the most recent social security bill back in March, it was received with less than unbounded joy in professional circles devoted to the needs of the elderly. Similarly, the 5-percent increase contained in H.R. 1, now before the Senate Finance Committee, produced little excitement and few sighs of relief were heard around the Nation when it passed the House. In other words, depending on the fate of H.R. 1, Congress will have passed a total of 15 percent in increased benefits this year and yet, the amount is dismissed as inadequate by those most affected. Are our elderly being ungrateful or greedy in doing so? The answer is a definite, "No." A moment's examination of the effect of even a 15-percent increase in social security benefits for those living on the minimum or near-minimum benefit payment level would reveal how woefully inadequate or how very little difference a 15-percent increase will make in their struggle to make ends meet. What does a 15-percent increase of $64 a month amount to? A paltry $9.60. How can any individual facing the prospect of getting along on the grand sum of $73.60 be exactly overjoyed and elated at the prospect. Sure, $73 is better than $64, but how much better? How much better off can we really believe someone trying to live off $73 really is? Or take a couple trying to live on $96 a month, the minimum benefit level at the start of 1971. Sure, $110.40 is better than $96. But how much better? Whatever the average in the statistical tables turns out to be, the fact is the average contains countless individuals and couples who are dependent upon the lowest benefit level of payments. Surveys show that of those beneficiaries receiving the minimum benefit, 50 percent of the couples, 70 percent of the unmarried men, 76 percent of the unmarried women workers, and 84 percent of the widow beneficiaries were living in poverty.

Consequently, I have concluded after years of watching the 5 and 10 percent increases work their way through Congress with little real improvement in benefit levels, when all has been said and done, without any real improvement in the standard of living of those totally dependent upon social security payments. I have concluded that what is needed is at least a 50-percent across-the-board increase in social security benefits. For the past several years, I have filed legislation that would do just this. As of the moment, 63 of my colleagues have joined me in cosponsoring this legislation. Yet every time I reintroduce this bill or draw the attention of my colleagues to its existence, I hear the reaction it produces. This man is whistling in the dark, they say; 50 percent—impossible. Since I introduced the legislation, we have had three different increases in social security benefits, which will total 30 percent if H.R. 1 is passed in its present form by the Senate. As far as I am concerned, these three separate increases, however, have just barely kept up with the rate of inflation and have really not materially improved the real standard of living of those dependent on social security benefits.

Consequently, I can stand in this well today and advocate once again a 50-percent increase, because it will take an increase of at least this magnitude to bring many of the recipients of social security to the point where they at least have their heads above water. Even then, few of them will be able to hold their heads high in any real sense or attain the financial security so necessary to human dignity. People talk about a cost-of-living escalator. Like so much else that has been suggested to reform social security, it is a reform which is long overdue. However, let the buyer beware, for it would be one of the most serious mistakes the elderly in this country could make to accept the automatic cost-of-living escalator as the complete answer to their problems. In effect, if the cost-of-living escalator is all that those living on social security benefits have to look forward to in the future, then in effect they will have been locked in at their present poverty level. It will be difficult to convince Congress to intervene dramatically once the idea takes hold that automatic adjustments to increases in cost of living will take care of future needs of the elderly. It is for this reason that I have been so vocal in recent months on the need for a dramatic increase in benefit level before the automatic cost-of-living increase escalator clause goes into effect. All the cost-of-living increase mechanism will do is to guarantee the future maintenance of the present woefully inadequate levels of income to the elderly.

Of course, I realize that what frightens most people about my proposal to increase social security benefits by 50 percent, including some of those on social security, is the price tag. Already the

social security taxes are slated to increase dramatically in the months ahead. My answer to these men of more fear than vision is that they have not studied my proposal in its entirety. I am fully cognizant of the cost that a 50-percent increase will mean for the social security system. It is for this reason that I have proposed a new formula for tax assessment which would change the present method of assessing the employer 50 percent and the employee 50 percent of the cost of administering social security. Under my proposal one-third of the cost would be borne by the employer, one-third by the employee, and one-third by General Revenues of the Federal Government. This would give the social security system access to a much broader tax base than it enjoys at present, with today's employers and employees bearing the whole burden on their own shoulders. Meanwhile, it is clear that our social security system has changed radically from the days when this formula was first adopted, back in 1935. Social security, as I have indicated, has become the only source of revenue to millions around the country and, in effect, is performing the task formerly borne by local and State welfare systems and, indeed, has in many ways supplanted private family support for the elderly.

This is, in fact, the method used in most industrialized countries of Europe. The approach makes sense because the general revenues would realize substantial savings in reduced public assistance and welfare contributions, as those receiving social security checks would be receiving substantially greater income. The psychological desirability of this approach to supporting the elderly is hard to challenge. What older persons today would not prefer to look to social security checks exclusively for income instead of having to file for public assistance and welfare. Think of how much more this will add to the dignity of old age, while at the same time taking some of the burden off the already overworked social service workers and local and Federal welfare systems.

As far as the fears of those who worry about increasing social security benefits substantially because some receive income from private pension plans in addition to social security payments, all I can say is that this problem should not be beyond the imagination of Congress and the IRS to solve. For too long now this small fear has kept Congress from addressing itself to the millions who in fact are totally dependent upon social security for their very livelihood.

As I stand here today, I feel more certain than ever before that time is on my side. Ultimately, Congress will have to significantly increase the benefit level under social security. My argument is why continue to sacrifice the present generation of elderly any longer? Why not move now and with grace and nobility accept the inevitable? Indications are that experts within and without the administration have pretty much decided that it is time for another barrier to real progress under the social security system to go. For years, administrations and Congress have lived under the illusion that the social security system had to make a profit each year if it was to remain fiscally sound. Not that it ever did, mind you; just that it ought to. In fact, for years now the most that the reserve of trust funds has been able to accumulate is about 13 months worth of payments with which to face the unlikely event that no more contributions would be coming into the system. If I can contribute in any small way today to encouraging long overdue departure from this depression-era thinking about the funding of our social security system, I would feel I had accomplished quite a bit indeed. I can honestly think of no more serious roadblock to progress over the years than this outdated thinking. It is this thinking which has fostered the belief that for every increase in benefit payments, there had to be an equal, if not greater, increase in social security taxes.

Those working today felt that they were being asked to bear an undue proportion of the increasing burden of social security payments. Worse still, it encouraged the depressing thought that social security taxes had nowhere else to go but up and up, and that by the time today's wage earners were ready to receive benefits, the whole system might collapse because of the unbearable tax burden which would face future generations, not yet working.

At present social security taxes are scheduled, because of this thinking, to rise from 5.2 percent to 7.4 percent by 1977. In my opinion, if the present accounting system is abandoned, the tax rate need rise no higher than the present level. Part of the problem since 1935 has been that the social security system has been administered on the assumption that wages do not rise, but remain level.

Obviously, under this kind of thinking every increase in benefits had to be accompanied by an increase in the social security taxes. The abandonment of this approach has been recommended by the social security system's own advisory council. From all that one can fathom about the inner workings of the administration, the idea is gaining support. I am including in the RECORD a copy of an excellent analysis of the significance of this revolution in thinking by the respected columnist, Vincent Burke of the Los Angeles Times. My only quarrel with his conclusions is that I do not feel that even by the year 2010 would there be the prospect of a marked increase in social security taxes if my recommendation to include general revenues in the tax formula were accepted. Otherwise, the article only confirms what many of us have been advocating for some time now.

As far as the income limitation is concerned, I can think of no more absurd example of outdated thinking than the present $1,680 ceiling on additional income, to be replaced by a $2,000 ceiling if the Senate passes H.R. 1. In the legislation which I have filed, I have recommended raising the ceiling to $3,000. I am not wedded, however, to this figure; as far as I am concerned it could be raised even further. The fact is that millions of people over 65 still have much to contribute to society. I see no reason why they should be forced to sit idly by, rather than lose their social security benefits which they justifiably feel they have earned over the years. Under the present system, the only people discouraged from being productive are those who could use the money the most. Anyone who can draw down in excess of $10,000 or $12,000 a year is certainly not going to worry about losing a couple of thousand dollars in social security benefits. The one who does worry about losing social security benefits is the one who would be earning a very small income—certainly $3,000 a year is a small income. The present system works as a complete discouragement to anyone over 65 being in any way productive and trying to stay off welfare. Again, fears of serious abuse were the income ceiling to be raised, I feel are grossly exaggerated and even if a real threat, it should not be beyond the ingenuity of Congress to come up with a better safeguard against abuse than the present flat prohibition and discouragement to be productive.

In conclusion, the present system, because of its very survival, has probably been proved more successful than any of its creators had reason to imagine. But, even the good things in life have a way of growing old and outdated, of requiring repair and revision every so often. The social security system is no exception. For good or for bad, the country today is not the same Nation we knew in 1935. Families are not as closely knit, do not take care of their own to the extent they did in other generations. More and more have come to rely on the social security system for their only source of income. These are the facts, not something which I am advocating or encouraging. The time has come for the conservatives among us to face reality, not to continue to tell those so unfortunate as to be in this predicament, that they should not be there. It is certainly within the realm of this country's capabilities that it can provide at least the degree of security and comfort that other industrialized nations of the west are able to. Since 1935, all of us have accepted the fact that the Government has a major role to play in the security of all our citizens. What was once anathema has become a way of life. It is now time to put away the fears of the 1930's, to stop holding back where our elderly are concerned, to put away small town accounting methods where a major national program is concerned; in short, to abandon the methods of the past and face the realities of the present. If this is done, then social security not only will do the job, but I am convinced will do the job better than any other known approach to the problems of providing our elderly with a decent income.

The above-mentioned article follows:

THE 1972 SOCIAL SECURITY DIVIDEND EVE

(By Vincent J. Burke)

Confronted with evidence that cash benefits of the Social Security System are overfinanced for the next 40 years, the Nixon administration is considering asking Congress to declare an election-year dividend.

The dividend could be used up entirely canceling a major portion—$20 billion a year—of the staggering load of new payroll taxes scheduled to be imposed in the coming decade.

But it seems more likely that political pressures would dictate that a share of the dividend be passed out to beneficiaries in the form of an election-year increase in benefit payments.

The extraordinary plan—which President Nixon probably will find politically irresistible—would produce an acturial surplus in the Social Security trust fund by shifting the system to a less conservative method of accounting in determining whether the fund is in balance.

STARTING IN 2010

The new method of accounting would, however, require sharp increases in tax rates, starting in the year 2010, when the present generation of American youth starts going on the benefit rolls.

If the new method should be enacted, and all of the "dividend" applied to erasing future tax increases, it would have this effect on Social Security taxes:

Tax rates—At present employees and their employers each pay 5.2 per cent of covered earnings—and the rate would rise to 7.4 per cent by 1977 under terms of a House-passed Social Security liberalization. If the new accounting method should be enacted, there still would have to be one more quick increase in the tax rate to help cover a deficit in Medicare's hospitalization fund. But then the rate could be frozen for decades at 5.4 per cent.

Taxable earnings—The plan would not prevent a steady rise in the maximum Social Security tax. The amount of earnings subject to tax (now $7,800 and scheduled to rise next year to $9,000) would continue rising in future years. This would be necessary to provide cost-of-living increases for beneficiaries and cover rising hospitalization costs.

WAYS OF SPENDING

In theory, the "dividend" generated by the shift in accounting methods could be "spent" in three different ways:

1. All of it could be used to provide relief to this generation of workers and businessmen from a portion—$20 billion a year—of the additional Social Security taxes which now confront them in the coming decade. Even if this were done, the payroll tax of every worker and employer would still rise above today's level. But the increase would be much smaller than is now in prospect.

2. All of it could be used to provide an across the board increase of close to 50 per cent in cash benefits for the 26 million persons on the rolls (who include 20 million voters over 60). But there seems no chance that the administration or Congress would choose this option, since it would require the quick imposition of a staggering new load of Social Security taxes on every worker and employer and self-employed person covered by the program.

TWO-WAY ADJUSTMENT

3. A combination prospective tax and immediate benefit adjustment—the option with the greatest political appeal—would permit some increase in the election-year benefit boost of five per cent which the House already has voted to put into effect next July.

Under the present accounting method, the projections indicate that by the end of the decade a worker earning $15,000 might be paying 7.4 per cent of $15,000, or $1,110 in Social Security taxes. Under the new accounting method, this projected tax payment would drop to 5.4 per cent on $15,000, or $810.

The shift to the less conservative accounting method would require these two steps:

1. The pretense would be abandoned that the Social Security System will someday accumulate a gigantic retirement fund to help pay future benefits. As a matter of explicit policy, the retirement fund would operate in the future as it generally has in the past with only enough reserve to pay one year's benefit.

2. Future tax needs for the retirement fund would be projected on the assumption that wages (and prices) will rise, instead of remaining level for the next 75 years, the present conservative assumption.

BACKED BY COUNCIL

Both steps were unanimously recommended last spring by the Social Security System's advisory council whose members, broadly representative of the public, included spokesmen for business, labor and private insurance companies. Since then, the two-part plan has won the backing of the Social Security Administration and Elliot L. Richardson, Secretary of Health, Education and Welfare, and is being considered now at the Office of Management and Budget.

The first step is not controversial, but the second is opposed as imprudent by Robert J. Myers, former chief actuary of the Social Security System.

It is the second step that unlocks the door to the actuarial windfall. Because retirement benefits are weighted in favor of low-income workers, rising wages tend to produce a "profit" for the Social Security System over and above the amount needed to pay cost-of-living benefit increases.

Congress has used the profit from past wage rises to periodically liberalize benefits or postpone scheduled rises in tax rates. However, if the new accounting method were adopted, the actuarial profit achieved by projecting future rises in wages would be extracted from the retirement system in one fell swoop.

If this were done, Congress would have to boost current Social Security Tax rates whenever it chose to hike benefits above levels required to keep up with the cost of living. Rising wages could no longer be counted upon to generate profits in the Social Security System for Congress to use in periodically tinkering with liberalizing changes.

SORT OF PERPETUAL MOTION

Thereafter, if wages continued to rise almost twice as fast as prices (as they generally have in the past), the retirement system could operate for 40 years as a sort of perpetual motion machine. A benefit escalator would automatically boost benefits periodically to offset rises in the cost of living and a wage escalator would increase periodically the amount of wages subject to the payroll taxes. But there would be no need to hike the retirement fund's tax rates until 2,010.

This is conceivable only because there will be for 40 years a fairly constant ratio between the number of benefit-collectors (persons over 65) and the number of benefit-payers (persons 20 to 64).

However, starting in or about 2,010, this ratio will begin changing radically as the bumper crop of post World War II babies (today's youth under 26) begins going onto the benefit rolls. Then, the ratio of beneficiaries to taxpayers will rise sharply, requiring tax rates to be set higher, perhaps 25 to 30 per cent.

Presumably, the resistance of the taxpayers would escalate, accordingly. By then, however, persons over 65 would constitute a much greater portion of the voting populace—and would wield proportionately greater political power—than they do today.

THIRTEEN-MONTH RESERVE

Because it would destroy a fiction that is part of the mythology of Social Security, an announced decision to limit the future size of the retirement fund might trouble some Americans. But "pay-as-you-go" is the practice that has been followed for years. Money currently paid out to beneficiaries comes from taxes currently paid in by workers and employers. The fund now has a reserve big enough to pay only 13 months of benefits.

Myers, a nationally known actuary who developed cost projections for the Social Security System for several decades, objects switching to the rising wage method of projecting the system's tax needs because it assumes that wages in the future will continue to rise almost twice as fast as prices. (The difference being what economists call "productivity"). Myers says it's imprudent to assume future productivity gains will be anywhere as great as in the past and notes that in the last few years productivity gains have been almost non-existent.

But the proposal has gained support among business and labor representatives in Washington, a development that Rep. John W. Byrnes, of Wisconsin, senior Republican on the House Ways and Means Committee, finds deplorable, but understandable.

The "business guy thinks if he can postpone his taxes, that's great," Brynes said. "And labor unions want to avoid payroll tax increases and raise benefits by taxing money out of general revenues, making the system a welfare hybrid.

"The attitude seems to be that if we can postpone the day of reckoning, let's do it. Let somebody else worry about it. We have become a soft society. We want our cake and let's not pay for it."

COMMISSION ON PENAL REFORM

Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, today my distinguished colleague from Missouri (Mr. HUNGATE) and I are introducing a bill to establish a Commission on Penal Reform. We fully realize that one of the easiest things for a legislative body to do is to establish commissions for every conceivable purpose. We are entirely aware of the fact that countless commissions have filed countless reports with the Congress in the past only to have them collect dust—and to have their findings fade into oblivion.

However, in proposing a Commission on Penal Reform, Mr. Speaker, we are determined that such a commission—and the study it would undertake is absolutely essential. Its findings and recommendations could very well provide the impetus for the most sweeping reforms in the area of penology in the history of this country—perhaps in the history of the world.

In the 19th century, Fyodor Dostoyevsky wrote:

It is acknowledged that neither convict prisons, nor the hulks, nor any system of hard labour ever cured a criminal.

Mr. Speaker, the sad irony is that our prisons are not curing criminals today any more than they were in 19th century Russia. They are without a doubt creating criminals out of first offenders and individuals whose foolish errors brought them into conflict with the law.

In a recent decision in the U.S. district court in Richmond, Va., Judge Robert R. Merhige ordered an end to the frequently arbitrary and cruel disciplinary practices which, in his words, were "representative of conditions existing gen-

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erally throughout" the penal system. Judge Merhige cited a case where an inmate on a prison farm had screamed day and night for almost a full week during his stay in solitary confinement in August 1970. He screamed for help until he died on August 31, 1971—of sickle cell anemia, a slow and painful death.

Examples of such treatment can be found in any State in the Union—and simple decency demands that it be stopped. We have somehow lost the meaning of the word "rehabilitation"—which Webster defines "to restore to good repute."

Mr. Speaker, Attica was not the first reminder we have had that there is something sorely wrong with our penal system. And, I fear, it will not be the last. Let us not permit these painful reminders to pass without acting in the manner in which a civilized and compassionate people are expected to act.

Mr. Speaker, I fervently hope that Congress will act upon this proposal to establish a Commission on Penal Reform so that all who are incarcerated in our penal institutions will know that we are setting about to review and revise the forms of punishment which are daily visited upon them. In addition, we can make patently clear through such a commission—and its recommendations—that we are dedicated to devote our primary efforts toward crime prevention—and criminal rehabilitation.

Mr. Speaker, I am proud to have my distinguished colleague Mr. HUNGATE, who is one of our ablest lawyer Members of this body—as a cosponsor of this measure.

NATIONAL WEEK OF CONCERN

(Mr. THOMSON of Wisconsin asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMSON of Wisconsin. Mr. Speaker, it has now been 7 years, 222 days since the capture on March 26, 1964, of Capt. Floyd Thompson, the first American taken prisoner in South Vietnam. Today more than 1,500 Americans are being held prisoner by the North Vietnamese and Vietcong.

Their welfare is no partisan concern. Humanitarians of every political persuasion are united in their efforts to secure the release of our prisoners and their speedy reunion with their families at home.

Very soon the Communists' excuse for refusing to discuss the return of American prisoners at the Paris peace talks will be eliminated through the steady withdrawal of American fighting men from South Vietnam. Hopefully, this situation will soften the enemy's inhumane policy toward the prisoners which violates the Geneva Convention.

Americans should not be allowed to forget the plight of these prisoners even as the war rapidly fades from public consciousness. A strong and steady expression of American public opinion and concern for the humane treatment of the prisoners can be an important persuasive argument with the North Vietnamese and Vietcong. Many House Members joined in sponsoring a resolution earlier this year calling for a National Week of Concern. Let us resolve to make the situation of our prisoners in Southeast Asia a daily concern for each of us.

THE AMCHITKA DELUSION

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, no convincing justification has yet been offered the American public or the Congress for going ahead with the Cannikin nuclear test scheduled to take place under Amchitka Island in the Aleutians this week. The President and the courts have an opportunity to stop the test, but they have not seen fit to do so. They have ignored the pleas of friendly allied nations like Japan and Canada who have urged us not to undertake this threatening test. They have also ignored the concerns of millions of Americans, particularly in Hawaii and along the western coast, who oppose the test and who stand to suffer if anything goes wrong.

It is long past time we recognize that such nuclear tests as this contribute nothing to our national security. As the New York Times pointed out today in its lead editorial:

Few things would strengthen the security of this planet more than abandonment of the delusion that American—or Russian—security is enhanced by such menacing underground weapons tests.

I strongly urge the President to reverse his past decisions and to stop the Cannikin test. The full text of the editorial follows:

THE AMCHITKA DELUSION

Sometime between Friday morning and early next week at the bottom of a huge hole more than a mile below the surface of the barren Aleutian island of Amchitka, the United States will be setting off an explosion of unimaginable power.

If all goes as planned by the weapons technicians, the earth itself will absorb the force of this test. The fantastic heat, the terrifying roar, the tearing, blasting, incomprehensible force—250 times more powerful than the explosion that destroyed Hiroshima—will be muffled and contained within the man-made shell 6,000 feet deep and the yielding encompassing earth outside.

The earth, as weapons technicians view it, is tough and durable. The earth, as many seismologists view it, is flawed and sensitive and unstable. Amchitka lies in an earthquake zone. If pessimists are right, "Cannikin," as this test is called, may set off a quake under the ocean floor. Then a fearsome wave of water would sweep across the North Pacific bringing death to coastal peoples wherever it touched land—Alaska or Japan or Canada or perhaps Hawaii.

Then again the man-made shaft may not hold. Some of the radioactivity may escape into the surrounding water and air. Seal and fish and birds would die. The waters would be deeply poisoned. Of course, the worst may not happen. It only happens now and then.

The probabilities are good that the test will be safe and successful. But the probabilities are also good that this device will never be needed in any defense strategy. Smaller multiple nuclear warheads now exist to do the job. The reasons for the test lie within that murky realm of diplomatic bluff and military intimidation and counter-intimidation which goes by the name of "security."

Unless the Court of Appeals for the District of Columbia orders a temporary halt, Cannikin will occur. President Nixon may be able to justify his judgment to himself although he has not yet justified it to the American people or to friendly, worried allies like Canada and Japan. But no President and no people can any longer justify these reckless gambles with the earth and sea and air. Amchitka seems far away but this planet is small and it fate in doubt.

Few things would strengthen the security of this planet more than abandonment of the delusion that American—or Russian—security is enhanced by such menacing underground weapons tests. The folly of Amchitka is the folly of a species that burns and poisons and blows up its only home.

BUSING AMENDMENT TEXT

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, the gentleman from Illinois (Mr. PUCINSKI) has announced that he will offer an amendment tomorrow which will substantially incorporate the provisions of the emergency desegregation bill which was defeated Monday. A number of improvements will be made and the objections we raised on Monday have, for the most part, been met. One glaring omission should be noted.

The proponents of this amendment would have us believe that the busing amendment contained therein would satisfy objections of those who are concerned about Federal busing schemes. I submit for the record that this is not correct. Their amendment clearly pertains only to the desegregation bill title. It would be entirely possible for HEW to utilize the $1.5 billion contained in that authorization for nonbusing uses and then spend money under other titles to launch any variety of busing schemes. We all know about the left and right pocket routine. A prohibition in the left pocket would not counter schemes financed from the right pocket.

The President says he does not approve of Federal expenditure for busing in racial schemes. Secretary Richardson says he does not approve of HEW funds for busing of this type. This amendment will accomplish that purpose once and for all and should be adopted.

I am offering an amendment not to the Pucinski amendment but to the General Education Provisions Act which appears in section 2002 on page 278. It would insert a new section 408 and read as follows:

Page 278, line 4, after "Sec. 2002." insert "(a)" and following line 19 insert:

"(b) Part A of the General Education Provisions Act is further amended by adding at the end thereof the following:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 408. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers in order to carry out a plan of racial desegregation of any school or school system."

Mr. Speaker, the amendment I am offering is designed to correct an omission in the General Education Provisions Act—which covers all programs administered by the Commissioner of Education—and to carry out the real intent of Congress that Federal funds should not be used for busing programs.

Section 422 of the act is entitled "Prohibition Against Federal Control of Education" and it has the standard language prohibiting controls over instruction, personnel, or the administration of school systems. At the end of that language there was added this further prohibition, that the various education acts could not be used "to require the assignment or transportation of students or teachers in order to overcome racial imbalance."

That language is virtually meaningless, because none of the acts listed could be interpreted as making any such requirement in any event. Those requirements are made by the courts, or by the Secretary of Health, Education, and Welfare under title VI of the Civil Rights Act, or even by some State agency other than a court.

The loophole is that Federal funds in any number of programs might then be used for busing to carry out such requirements. My amendment would plug that loophole. It would come earlier in the act under provisions dealing with appropriated funds and their uses, and it would simply prohibit the use of Federal funds appropriated for any program administered by the Commissioner of Education—whether directly or by delegation—for the use of busing to overcome racial imbalance or to carry out desegregation plans. Transportation for any other purpose—such as for handicapped children—could be carried out with Federal funds if the particular act authorized such use.

Accordingly, this amendment very specifically and very carefully restricts the use of Federal education funds to educational programs, rather than busing students to achieve other purposes.

This would not duplicate any anti-busing amendment adopted under the emergency school aid program because the House version of that bill places the authority in the Secretary and it might or might not be delegated to the Commissioner of Education. This amendment is also far broader in scope.

This busing amendment can be easily understood. If Members want to brush the matter under the rug and seek the supposedly safe sanctuary of the Pucinski busing amendment, let them do so. They are not really on record against busing for racial purposes. They are merely indicating that money from this one program, a relatively small proportion of the total Federal educational expenditure, shall not be used for busing.

In view of the need to improve the education of children in all of our schools, whatever their racial composition, I think that Federal funds should be restricted to educational purposes. So long as we permit the use of these funds for busing it is a major temptation to every Federal and State court, and even to State agencies, to order extensive and unpopular busing programs on the theory that the costs will be picked up by the Federal Government. My amendment would remove that temptation once and for all, and I urge its adoption.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

The greater demand of the American people to stay informed has prompted dramatic increases over the years in the number of persons employed by newspapers. Employment in newspapers in 1966 averaged 353,800, an increase of more than 42 percent since 1947.

INCREASE IN TERMINATION CHARGES ON URANIUM ENRICHMENT SERVICES

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, for the information of my colleagues I should like to insert in the RECORD a copy of a committee resolution adopted by the Joint Committee on Atomic Energy on November 2, 1971. This resolution was adopted pursuant to the authority contained in section 161 v. of the Atomic Energy Act of 1954, as amended.

The resolution waives a waiting period contained in that section of the law relative to the time during which any proposed amendment to the AEC's uranium enrichment services criteria must lie before the Joint Committee before such amendment may be established. The proposed amendment was submitted to the Joint Committee on October 13, 1971, and would increase termination charges to customers for AEC's uranium enrichment services and the notice period by which enrichment services contracts may be terminated by the customer without incurring such termination charges. The committee carefully considered the proposed amendment and determined that it would be in the best interest of the United States for the proposed amendment to be established without further delay.

The resolution follows:

RESOLUTION—JOINT COMMITTEE ON ATOMIC ENERGY, NOVEMBER 2, 1971

To waive certain provisions of the Atomic Energy Act of 1954, as amended, so as to permit an amendment to the Atomic Energy Commission's Uranium Enrichment Services Criteria to be immediately established

Whereas, on October 13, 1971, the Atomic Energy Commission submitted to the Joint Committee on Atomic Energy, pursuant to subsection 161 v. of the Atomic Energy Act of 1954, as amended, a proposed amendment to the Uranium Enrichment Services Criteria; and

Whereas, Section 161 v. of the Atomic Energy Act of 1954, as amended, provides in effect that such amendments may not be established until forty-five days have expired while the Congress is in session after the submission of the amendment, without adverse action thereon by the Congress, and unless such period is waived by resolution of the Joint Committee on Atomic Energy; and

Whereas, the Joint Committee on Atomic Energy is satisfied that the proposed amendment is in keeping with the provisions of the Atomic Energy Act of 1954, as amended, and the legislative history thereof; and

Whereas, the Joint Committee on Atomic Energy recognizes that the early establishment of the proposed amendment would be in the best interests of the United States: Now, therefore, be it

Resolved by the Joint Committee on Atomic Energy of the United States Congress assembled,

That notwithstanding the provisions of section 161 v. of the Atomic Energy Act of 1954, as amended, which provides for a forty-five day waiting period before amendments to the Uranium Enrichment Services Criteria may be established, the proposed amendment submitted on October 13, 1971, by the Atomic Energy Commission, may be established at any time after the approval of this Resolution.

Approved by a majority of the Joint Committee on Atomic Energy, November 2, 1971.

CONGRESSMAN JAMES T. BROYHILL ANNOUNCES RESULTS OF HIS PUBLIC OPINION SURVEY ON NATIONAL ISSUES

(Mr. BROYHILL of North Carolina asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROYHILL of North Carolina. Mr. Speaker, for the past 9 years, I have conducted an annual opinion poll in my district in North Carolina. I have found the residents of the 10th District to be very receptive to the idea of an opinion poll since it affords them the opportunity to make their views known to me on many issues and events of national importance. I have found it helpful to know the feelings of my constituents in order to provide them the type of representation they deserve and one that best reflects their thinking. In June of this year, such a poll was taken of the 10th Congressional District of North Carolina and I would like to present the results of this survey to the Congress.

The poll consisted of 18 questions and presented a broad spectrum of issues that I believe to be of interest to the people of my district. As in the past, it was distributed through the mails to nearly every mailbox and home in the eight counties I represent. No attempt was made to restrict the poll to any one particular group and because of this, I feel that the results of the poll correctly reflect the prevailing opinion in the 10th District.

I was pleased at the number of people who responded, a total of 11,110. This year, for the first time I asked both husbands and wives to indicate their views. I am aware that there is often a differ-

ence of opinion on issues in the same family and I wanted to provide the opportunity for both views to be expressed.

Based on past experience, I knew that many who responded would not be satisfied with giving just a categorical "yes" or "no" answer to the questions. Thousands of comments and, in some cases, letters accompanied the survey. There is no way I can express these comments in statistical terms but they aided immeasurably in my understanding of the opinions of my constituents. I wish there were some way for me to give my colleagues here in the Congress a summary of the comments I received but this being impossible, I will discuss some of the major trends which these remarks have demonstrated.

Perhaps the most hotly debated subject in the United States this year has been the wage-price freeze that the President instituted in August. In a series of far-reaching ecoomic moves intended to curb inflation, excessive unemployment, Federal budget deficits, balance-of-trade deficits, and the lagging business investments, the President has begun a process that I believe will restore the confidence of every American in our economy The result of my poll, taken 2 months before the implementation of the wage-price program, show that there was strong support for such a policy. This response indicated to me that the American people are willing to accept economic controls in order that the Nation's economy can be brought back to a state that will benefit everyone in the country, and are willing to put the national good ahead of personal gain.

The war in Vietnam continues to occupy the thinking of Americans, despite the winding down of our military commitment. I asked my constituents if they would support a gradual withdrawal of U.S. troops from Vietnam and turning responsibility for defense over to the South Vietnamese. More than 80 percent supported such a policy. The people of the 10th District believe that after 10 years of U.S. support, our commitment has been filled and it is time to give the lead role back to South Vietnam.

The poll results also demonstrated that the present draft system is no longer an acceptable method of maintaining our military troop strength. One of the proposals put forth has been to substitute the draft lottery with an all-volunteer military. The armed services have been emphasizing the volunteer concept in order to obtain more enlistments and to cut down on the number of young men needed through the draft. I asked if a volunteer military force would be acceptable as an alternative to the draft, and nearly 60 percent responded that it would be. I, too, favor the volunteer system and have cosponsored legislation that would make it a reality.

The administration has put an emphasis on foreign policy in the past 2 years and I believe that the American people are responding to this emphasis by becoming more aware of foreign issues and the effect on our lives. Before the President's announcement that he would go to mainland China, I asked my constituents if they would favor a policy that would improve diplomatic and trade relations between the two countries. They responded with a definite yes. Our past policy toward mainland China has been examined by the American people and I am certain that they feel it is no longer feasible to ignore a country that contains one-fourth of the world's population. In an age when a small misunderstanding could touch off a nuclear holocaust, it is good that we seek to improve the relations between two of the world's superpowers.

Revenue sharing with the States by the Federal Government drew strong support, as did a program of Federal tax incentives to encourage new, job-creating industries in rural areas. Less support was indicated for a system that would guarantee a minimum income to every family provided that all able-bodied adults accepted jobs or job-training as a condition of receiving aid.

I would like to be able to discuss these results in detail with my colleagues in the House of Representatives, but I know that this would be difficult to do. The detailed results of the poll are as follows:

[In percent]

	His		Hers	
	Yes	No	Yes	No
1. Do you favor an all-volunteer military as an alternative to present draft lottery system?	61.3	38.7	56.1	43.9
2. Do you believe the Federal Government should share tax revenues with State and local governments to be used for public programs of their choice?	61.3	37.7	62.4	37.6
3. Do you think the United States should continue attempts to improve diplomatic and trade relations with mainland China?	77.0	23.0	65.3	34.7
4. Should the Federal Goverament guarantee that all persons are provided health insurance coverage, including the cost of an extended illness?	43.3	56.7	47.7	52.3
5. Would you be willing to pay more for products and services (autos, gasoline, electricity, etc.) if they could be made pollution free?	67.7	32.3	73.9	26.1
6. Do you support the present policy of g radual withdrawal of U.S. troops from Vietnam and turning over to the South Vietnamese responsibility for their own defense?	83.5	16.5	81.2	18.8
7. Would you approve Federal wage and price controls to curb inflation?	71.9	28.1	57.8	42.2
8. Should the Veterans' Administration provide drug treatment to rehabilitate veterans regardless of the type of discharge from military service they received?	68.1	31.9	71.1	28.9
9. Should Federal employees have the right to strike?	24.1	75.9	25.6	74.4
10. Do you favor the legalization of abortion by Federal law?	48.8	51.2	43.6	56.4
11. Should the United States increase the sale of planes and weapons to Israel?	52.9	47.1	44.1	55.9
12. Would you favor a program of Federal guarantees of loan repayment to major corporations (such as Lockheed) encountering serious financial difficulties?	27.7	72.3	27.9	72.1
13. Do you favor the establishment of a legal Services Corporation to provide legal services in noncriminal matters to persons unable to pay attorneys?	54.8	45.2	59 7	40.3
14. Should the United States continue development of an antiballistic missile (ABM) system?	75.8	24.2	72.0	28.0
15. Would you approve Federal legislation allowing only limited strikes in the railroad industry and providing for compulsory arbitration?	76.8	23.2	78.7	21.3
16. Do you favor increasing the Federal minimum wage to $2 per hour?	53.3	46.7	59.1	40.9
17. Would you support a program of Federal tax incentives to encourage new, job-creating industries in rural areas?	63.0	37.0	63.6	35.4
18. Do you support a system guaranteeing a minimum income to every family provided that able-bodied adults accept jobs or training as a condition of receiving aid?	52.3	47.7	54.7	45.3

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOSMER for November 4 to November 7, 1971, on account of official business of the Joint Committee on Atomic Energy.

Mr. BAKER (at the request of Mr. GERALD R. FORD) for November 3, 4, and 5, 1971, on account of official business, representing Tennessee at National Conference on Highway Safety.

Mr. PIRNIE (at the request of Mr. GERALD R. FORD) from 3:30 p.m. today and balance of week on account of official business.

Mr. HANSEN of Idaho for November 4 to November 7 on account of official business of the Joint Committee on Atomic Energy.

Mr. MARTIN (at the request of Mr. GERALD R. FORD) from 3:30 p.m. today and balance of week on account of official business.

Mr. FOUNTAIN (at the request of Mr. BOGGS) from 6:15 p.m. until 12 noon November 4 on account of illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LUJAN) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. BLACKBURN for 5 minutes today.

Mr. HOGAN for 5 minutes today.

Mr. KEMP for 5 minutes today.

(The following Members (at the request of Mr. DAVIS of South Carolina) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. RODINO for 10 minutes today.

Mr. CONYERS for 60 minutes today.

Mr. GONZALEZ for 10 minutes today.

Mr. FULTON of Tennessee for 30 minutes today.

Mr. DANIELSON for 5 minutes today.

Mr. RANDALL for 60 minutes today.

Mr. BURKE of Massachusetts for 15 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EDMONDSON in three instances, and to include extraneous material.

Mr. RANDALL, to revise and extend his remarks on H.R. 2 today prior to the vote on the Sebelius amendment.

Mr. RANDALL, to revise and extend his remarks today on the Erlenborn amendment to H.R. 7248, the Higher Education Act.

Mr. MITCHELL, and to include extraneous material.

Mr. RODINO, to extend his remarks on the House Concurrent Resolution 417.

(The following Members (at the request of Mr. LUJAN) and to include extraneous matter:)

Mr. MCKINNEY in two instances.
Mr. MILLS of Maryland.
Mr. SCHERLE.
Mr. SCHMITZ in four instances.
Mr. LLOYD in four instances.
Mr. HUTCHINSON.
Mr. HOSMER in three instances.
Mr. REID of New York.
Mr. VEYSEY in two instances.
Mr. STEIGER of Wisconsin in two instances.
Mr. WYMAN in two instances.
Mr. HUNT.
Mr. GOLDWATER.
Mr. DERWINSKI.
Mr. KEMP in two instances.
Mr. MORSE.
Mr. BOB WILSON in three instances.
Mr. MICHEL in two instances.
Mr. DUNCAN.
Mr. COLLINS of Texas in five instances.
Mrs. HECKLER of Massachusetts in four instances.
Mr. PRICE of Texas in two instances.
Mr. HANSEN of Idaho.
Mr. BROOMFIELD.
Mr. SCHWENGEL in two instances.
Mr. KING in five instances.

(The following Members (at the request of Mr. DAVIS of South Carolina) and to include extraneous matter:)

Mr. DINGELL in three instances.
Mr. DRINAN in three instances.
Mr. FISHER in three instances.
Mr. RODINO in three instances.
Mrs. HANSEN of Washington.
Mr. HARRINGTON.
Mr. RARICK in three instances.
Mr. BEGICH in five instances.
Mr. GONZALEZ in three instances.
Mr. HAGAN in three instances.
Mr. ROGERS in five instances.
Mr. KLUCZYNSKI in three instances.
Mr. FOUNTAIN in three instances.
Mr. PUCINSKI in six instances.
Mr. ADAMS in five instances.
Mr. MONTGOMERY in two instances.
Mr. MITCHELL in five instances.
Mr. WOLFF.
Mr. BRINKLEY in two instances.
Mr. DE LA GARZA in 10 instances.
Mr. ROY.
Mr. CELLER in two instances.
Mr. ROONEY of New York.
Mr. DOW.
Mr. DANIEL of Virginia in two instances.
Mr. WALDIE in six instances.
Mr. BINGHAM in three instances.
Mr. JAMES V. STANTON in two instances.
Mr. MURPHY of Illinois in two instances.
Mr. GALLAGHER.
Mr. BLATNIK in two instances.
Mr. YOUNG of Texas in three instances.
Mrs. SULLIVAN in five instances.
Mr. ANDERSON of Tennessee.
Mr. CHARLES H. WILSON in 10 instances.
Mrs. GREEN of Oregon.
Mr. O'HARA in two instances.
Mr. ANDERSON of California in two instances.
Mr. GREEN of Pennsylvania in four instances.
Mr. JONES of North Carolina in two instances.
Mr. MAHON.

SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to an enrolled bill of the Senate of the following title:

S. 26. An act to revise the boundaries of the Canyonlands National Park in the State of Utah.

BILL PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on November 2, 1971, present to the President, for his approval, a bill of the House of the following title:

H.R. 4590. An act to amend the Tariff Schedules of the United States with respect to the dutiable status of certain articles.

ADJOURNMENT

Mr. DAVIS of South Carolina. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 52 minutes p.m.) the House adjourned until tomorrow, Thursday, November 4, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1250. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report covering January through June 1971, of Department of Defense military procurement actions for experimental, developmental, test, or research work negotiated under the provisions of 10 U.S.C. 2304(a)(11), and in the interest of national defense or industrial mobilization under the provisions of 10 U.S.C. 2304(a)(16) pursuant to 10 U.S.C. 2304(e); to the Committee on Armed Services.

1251. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders suspending deportation, together with a list of the persons involved, pursuant to section 244(a)(1) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1252. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting a copy of the order suspending deportation in a certain case, pursuant to section 244(a)(2) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

RECEIVED FROM THE COMPTROLLER GENERAL

1253. A letter from the Comptroller General of the United States, transmitting a report on the opportunity to reduce Federal costs under the law enforcement education program, Law Enforcement Assistance Administration, Department of Justice; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CELLER: Committee on the Judiciary. Senate Joint Resolution 132. Joint resolution extending the duration of copyright protection in certain cases (Rept. No. 92-605). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASTENMEIER: Committee on the Judiciary. S. 1866. An act for the relief of Clayton Bion Craig, Arthur P. Wuth, Mrs. Lenore D. Hanks, David E. Sleeper, and DeWitt John; with an amendment (Rept. No. 92-604). Referred to the Committee of the Whole House.

Mr. MCMILLAN: Committee on the District of Columbia. H.R. 10677. A bill to incorporate in the District of Columbia the Gold Star Wives of America (Rept. No. 92-606). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI (for himself, Mr. JONES of North Carolina, Mr. CEDERBERG, Mr. BURKE of Florida, Mr. SARBANES, Mr. PIRNIE, Mr. TIERNAN, Mr. MCDONALD of Michigan, Mr. SKUBITZ, Mr. VEYSEY, Mr. WILLIAM D. FORD, Mr. ROY, and Mr. KYROS):

H.R. 11538. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

By Mr. DOW:

H.R. 11539. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 each year of any Federal annuity shall be exempt from income tax; to the Committee on Ways and Means.

By Mr. ESHLEMAN (for himself, Mr. ANDERSON of Illinois, Mr. COLLINS of Texas, Mr. WINN, Mr. ARCHER, Mr. WARE, and Mr. BLACKBURN):

H.R. 11540. A bill to amend section 8(e) of the National Labor Relations Act with respect to its application to labor agreements relating to construction; to the Committee on Education and Labor.

By Mr. HANLEY:

H.R. 11541. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. HOWARD:

H.R. 11542. A bill to protect collectors of antique glassware against the manufacture in the United States or the importation of imitations of such glassware; to the Committee on Interstate and Foreign Commerce.

By Mr. ICHORD:

H.R. 11543. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. McCLORY (for himself and Mr. HUNGATE):

H.R. 11544. A bill to establish a Commission on Penal Reform; to the Committee on the Judiciary.

By Mr. MATHIS of Georgia:

H.R. 11545. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. PRICE of Texas:

H.R. 11546. A bill to protect the right of privacy of persons by authorizing private suits when unsolicited obscene material is sent through the mails; to the Committee on the Judiciary.

By Mr. SHIPLEY:

H.R. 11547. A bill to provide that disabled individuals entitled to monthly cash benefits under section 223 of the Social Security Act, and individuals retired for disability under the Railroad Retirement Act of 1937, shall be eligible for health insurance benefits under title XVIII of the Social Security Act without regard to their age, and to reduce from $50 to $25 the annual deductible imposed under the supplementary medical insurance program; to the Committee on Ways and Means.

By Mr. SIKES:

H.R. 11548. A bill to authorize the Attorney General to exchange criminal record information with certain State and local agencies; to the Committee on the Judiciary.

By Mr. ASPIN:

H.R. 11549. A bill to repeal the Connally Hot Oil Act; to the Committee on Interstate and Foreign Commerce.

H.R. 11550. A bill to terminate the oil import control program; to the Committee on Ways and Means.

By Mr. DOW:

H.R. 11551. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 11552. A bill to amend title 38 of the United States Code to authorize the enrollment of eligible veterans in a course offered by an institution which has changed its location; to the Committee on Veterans' Affairs.

By Mr. FRELINGHUYSEN:

H.R. 11553. A bill to amend the act of September 18, 1964, authorizing the addition of lands to Morristown National Historical Park in the State of New Jersey, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HUNGATE:

H.R. 11554. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

H.R. 11555. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. MINK (for herself, Mrs. ABZUG, Mr. BADILLO, Mr. BEGICH, Mr. BERGLAND, Mr. BINGHAM, Mr. BRADEMAS, Mr. BURTON, Mr. CORMAN, Mr. DELLENBACK, Mr. DOW, Mr. DRINAN, Mr. EDWARDS of California, Mr. WILLIAM D. FORD, Mr. FRASER, Mr. FRENZEL, Mr. HAWKINS, Mr. HELSTOSKI, Mr. HICKS of Washington, Mr. McCORMACK, Mr. MILLER of California, Mr. MITCHELL, Mr. MORSE, Mr. MOSHER, and Mr. MOSS):

H.R. 11556. A bill for the relief of certain orphans in Vietnam; to the Committee on the Judiciary.

By Mrs. MINK (for herself, Mr. HARRINGTON, Mr. HOWARD, Mr. LEGGETT, Mr. KOCH, Mr. MATSUNAGA, Mr. MEEDS, Mr. MIKVA, Mr. PEPPER, Mr. NIX, Mr. REES, Mr. SCHEUER, Mr. STOKES, and Mr. THOMPSON of New Jersey):

H.R. 11557. A bill for the relief of certain orphans in Vietnam; to the Committee on the Judiciary.

By Mr. RYAN:

H.R. 11558. A bill to amend the Economic Stabilization Act of 1970 to stabilize mass transit and commuter service fares through the period ending midnight April 30, 1973; to the Committee on Banking and Currency.

By Mr. STEELE:

H.R. 11559. A bill to amend the Public Works and Economic Development Act to extend the benefits thereof to all townships and other political subdivisions of 10,000 population or more; to the Committee on Public Works.

By Mr. VAN DEERLIN (for himself, Mr. BROWN of Ohio, Mr. LEGGETT, Mr. McFALL, Mrs. MINK, and Mr. MURPHY of New York):

H.R. 11560. A bill to amend the Federal Aviation Act of 1958 to provide that an indirect air passenger carrier may promote, assemble, and consolidate charter passengers and arrange their transportation between points within the United States and points in foreign countries in accordance with regulations established by the Civil Aeronautics Board pertaining to charter air transportation; to the Committee on Interstate and Foreign Commerce.

By Mr. VIGORITO:

H.R. 11561. A bill to deauthorize the Lake Erie-Ohio River Canal; to the Committee on Public Works.

H.R. 11562. A bill to reduce solid waste pollution and litter which is caused by glass containers by making safer and more efficient the process of recycling glass containers by requiring that glass containers be made of clear glass; to the Committee on Interstate and Foreign Commerce.

By Mr. WALDIE:

H.R. 11563. A bill to amend chapter 87 of title 5, United States Code to waive employee deductions for Federal employees' group life insurance purposes during a period of erroneous removal or suspension; to the Committee on Post Office and Civil Service.

By Mr. WILLIAMS:

H.R. 11564. A bill to amend section 312 of the Immigration and Nationality Act to exempt certain additional persons from the requirements as to understanding the English language before their naturalization as citizens of the United States; to the Committee on the Judiciary.

By Mr. MAHON:

H.J. Res. 946. Joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes; to the Committee on Appropriations.

By Mr. GERALD R. FORD:

H.J. Res. 947. Joint resolution authorizing the President to proclaim the fourth Wednesday in January as "National School Nurse Day"; to the Committee on the Judiciary.

By Mr. LENT (for himself, Mr. GROVER, Mr. WYDLER, Mr. CRANE, Mr. SCHERLE, Mr. JONAS, Mr. RHODES, Mr. HALPERN, Mr. STUCKEY, Mr. BRINKLEY, Mr. DUNCAN, Mr. DANIEL of Virginia, Mr. ESHLEMAN, Mr. FISHER, Mr. WINN, Mr. BARING, Mr. BIAGGI, Mr. HARVEY, Mr. TERRY, Mr. BAKER, Mr. MANN, Mr. WAGGONNER, Mr. SIKES, Mr. BLACKBURN, and Mr. SPENCE):

H.J. Res. 948. Joint resolution authorizing the President to proclaim the first day of January of each year as "Appreciate America Day"; to the Committee on the Judiciary.

By Mr. LENT (for himself, Mr. CLARK, Mr. COLLIER, Mr. ROBINSON of Virginia, Mr. RUNNELS, Mr. CARTER, Mr. SCOTT, Mr. BROWN of Michigan, Mr. MILLER of Ohio, Mr. MAZZOLI, Mr. HORTON, Mr. ALEXANDER, Mr. ADDABBO, Mr. YOUNG of Florida, Mr. WYLIE, Mrs. HICKS of Massachusetts, Mr. POWELL, Mr. SEBELIUS, Mr. DELANEY, Mr. FLOWERS, Mr. HUNT, Mr. DERWINSKI, Mr. CLEVELAND, Mr. CHAPPELL, and Mr. STRATTON):

H.J. Res. 949. Joint resolution authorizing the President to proclaim the first day of January of each year as "Appreciate America Day"; to the Committee on the Judiciary.

By Mr. LENT (for himself, Mr. HELSTOSKI, Mr. HAMMERSCHMIDT, Mr. KEMP, Mr. MIZELL, Mr. NELSEN, Mr. CÓRDOVA, and Mr. STEIGER of Arizona):

H.J. Res. 950. Joint resolution authorizing the President to proclaim the first day of January of each year as "Appreciate America Day"; to the Committee on the Judiciary.

By Mr. MARTIN:

H.J. Res. 951. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as "Veterans Day"; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.J. Res. 952. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

By Mr. GALLAGHER (for himself, Mrs. ABZUG, Mr. DUNCAN, Mr. FRASER, Mr. HORTON, Mr. MEEDS, Mr. RANDALL, Mr. SMITH of New York, Mr. STRATTON, Mr. THOMSON of Wisconsin, and Mr. YATES):

H. Res. 683. Resolution to express the sense of the House of Representatives with respect to measures to improve relations with Canada; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FISH:

H.R. 11565. A bill for the relief of Leopoldo Chavarria and Solita Chavarria; to the Committee on the Judiciary.

By Mr. RUPPE:

H.R. 11566. A bill to direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Electric Power Co.; to the Committee on Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII,

151. The SPEAKER presented a petition of Daniel E. Leveque, Sheboygan, Wis., relative to redress of grievances, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

ALASKAN OIL AND TANKER TRAFFIC—A CANADIAN VIEW

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. WALDIE. Mr. Speaker, the heated debate regarding the proposed Trans-Alaskan pipeline has mainly centered on the environmental impact of the pipeline on Alaska.

While some consideration has been given to the potential impact of increased tanker traffic from Alaska to west coast refineries, little attention has been given the Canadian viewpoint of this matter.

I recently received a communication from the Honorable David Anderson, M.P., chairman of the Special Committee on Environmental Pollution of the Canadian House of Commons, on this most important facet of the North Shelf oil situation.

Mr. Anderson enclosed a copy of his committee's report on the problems of tanker traffic in the Strait of Georgia and the Strait of Juan de Fuca. I believe it is vital that we in Congress familiarize ourselves with the Canadian viewpoint.

The letter and report follow:

OCTOBER 18, 1971.

Hon. JEROME WALDIE,
Cannon House Office Building,
Washington, D.C.

DEAR MR. WALDIE: Recently the Special Committee on Environmental Pollution of the House of Commons, which I have the honour to chair, presented a report to the House on the problems of tanker traffic in the Strait of Georgia and the Strait of Juan de Fuca. On Wednesday, 23 June, 1971, after a short debate, the report was concurred in without a dissenting vote.

Knowing of your interest in environmental matters, I enclose a copy of the report. I trust that you will find it to be of interest.

Yours sincerely,

DAVID ANDERSON, M.P.,
Esquimalt-Saanich.

[From House of Commons Issue No. 21, June 17, 1971]

PROCEEDINGS OF THE SPECIAL COMMITTEE ON ENVIRONMENTAL POLLUTION

REPORT TO THE HOUSE

Monday, June 21, 1971

The Special Committee on Environmental Pollution has the honour to present its

Third Report

In accordance with its Order of Reference of Tuesday, October 13, 1970, to investigate generally the problem of pollution in the waters, soil and air of Canada and the plans of the federal government in relation thereto, your Committee has examined the impact on the Canadian Southwest Coast of the proposed tanker route between Alaska and Washington State.

Accordingly, your Committee called before it a number of expert witnesses including ship and towboat captains, members of the public service, oceanographers, professors and a lawyer, from both the United States and Canada. A full list of witnesses will be found in Appendix A. In addition, the Committee reviewed evidence given previously this session when it was examining Bill C-2, an amendment to the Shipping Act concerning oil pollution at sea, in particular testimony on the "Arrow" spill in Chedabucto Bay.

The Committee regrets that as yet it has been unable to hear testimony from officers of the Alyeska Corporation. Twice tentative dates for such testimony were arranged (May 22 and June 8, 1971), but because of negotiations between the Corporation and the U.S. Coast Guard, Alyeska officials requested that the meeting be postponed. It is hoped that a meeting can be arranged in the near future. However, because the House will soon recess for the summer, the Committee submits this report on its findings to date. The Committee plans to submit further reports after hearing additional witnesses including witnesses on the ecological impact of alternative systems of transportation.

At the outset of the hearings it had been hoped that the Committee would be able to make a quantitative analysis of probable risk and damage due to tanker traffic in this area, but this has not proved possible for a number of reasons, the most important being that the Committee has as yet no reliable statistics on the amount of Alaskan oil which is likely to be carried to the ports along the Strait of Georgia and Puget Sound. Estimates vary widely.

The Committee notes that Canadian government officials who travelled to Washington on May 3, 1971, to discuss problems related to establishing the tanker route with U.S. officials stated on their return that they were unable to obtain an accurate estimate of the expected increase of oil to be shipped in these waters. The Committee finds it hard to understand why more precise information is not available.

That the proposed tanker route will increase oil shipments manifold, however, is established. According to Robert Clark and John S. Pinley of the Seattle Biological Laboratory of the U.S. National Marine Fisheries Service, "the volume of petroleum and its products moved over Puget Sound waters could also increase as much as ten times if the trans-Alaska and trans-U.S. pipelines are built." (Proceedings of Joint Conference on Prevention of Oil Spills, June 1971—American Petroleum Institute, p. 139).

It must be borne in mind that the waters in this region are more confined and hazardous than those where the "Torrey Canyon" or the "Arrow" met disaster. (Appendix B). For this reason, the threat of damage to the environment and also to the tourist and fishing industries is grave.

Your Committee wishes to emphasize the fact that the area most likely to be the scene of an oil spill is an important feeding area for many of the commercial and sport fish of the West Coast. Developing fish and the plankton fauna which is their main food source, are particularly vulnerable to the effects of oil pollution.

Once such a spill occurs, your Committee is of the opinion that the very best of clean up procedures are likely to be only partially effective, due to the pronounced current and tidal effects in the area. On this point, Dr. Paul LeBlond of the University of British Columbia Department of Oceanography, testified that: "Because of the strong dependence of currents on wind, tidal phase and river discharge, which all vary with time, no area of the shore of the Strait of Georgia is safe from a major uncontained oil spill." (Committee Minutes of Proceedings and Evidence No. 18, pages 46, May 13, 1971.) In this regard it appears likely that proportionate to the tonnage of oil spilled, damage will be far greater than that which resulted from accidents in the Santa Barbara Channel, in Chedabucto Bay or in the English and Bristol Channels.

On the basis of evidence and testimony heard, the Committee is unanimous in its conclusions that if the proposed tanker route is established: (1) serious oil spills in Canadian waters and on Canadian shores are inevitable; and (2) these spills will result in substantial damage to Canadians. Further, your Committee notes that such oil shipments will offer no compensating benefit to Canadians in this area or elsewhere. Consequently, your Committee concludes that the proposed tanker route is detrimental to the Canadian national interest, and unanimously recommends that it be vigorously opposed by the Canadian government.

Your Committee found that the two areas most likely to be the scene of accidents are the entrance to the Strait of Juan de Fuca, and the passages through the San Juan and Gulf Islands between the Strait of Juan de Fuca and the Strait of Georgia. (See Appendix B) Some of the suggestions made to the Committee to reduce the risk of accidents in this area are:

(a) that a shore-based navigation control system be established;

(b) that a system of compulsory one-way shipping lanes with adequate separation in the Strait of Juan de Fuca and a one-way lane system in Rosario Strait, Haro Strait and Boundary Pass be established;

(c) that a system of certification similar to that in use for civil aircraft be instituted to ensure the correct functioning of radar, radio telephones and similar equipment prior to entry into the Strait; and

(d) that ships carrying hazardous cargoes such as oil be provided with an escort vessel whenever east of Cape Flattery.

It was pointed out to the Committee that the general flow of currents and tides in the Southern Strait of Georgia and between the San Juan Islands is northwards; it appears likely therefore that an oil spill, even in U.S. territorial waters, would have a greater effect and do greater damage on the Canadian side of the line than on the American. (See Appendix C)

Your Committee heard testimony on modern design and construction features which would reduce—but not eliminate—oil spills after collisions or groundings occur.

In this area, some of the suggestions made to the Committee are:

(a) that such ships make maximum effective use of double skins and compartmentalisation,

(b) that the newly developed high strength steels be used in hull construction, and

(c) that such features as split rudders, bell flaps or even sea anchors be investigated to determine their effectiveness in reducing the stopping distance and increasing the maneuverability of such vessels.

Your Committee was told that the above proposals could increase the cost of shipping oil by such vessels by up to twenty-five per cent, which the Committee considers to be cheap in relation to the added security such features provide.

Time after time in its investigation, your Committee discovered that Members' questions could not be answered due to inadequate research. Your Committee, therefore, further recommends that the government consider the advisability of increasing resources devoted to:

(a) research on the effects of oil at sea and its effect on marine organisms;

(b) oceanographic research in the area in question;

(c) research into bacterial degradation of petroleum products; and

(d) environmental research in the Mackenzie Valley, a possible route for a pipeline,

Your Committee is fully aware that such research is expensive and realises that it is all too easy to recommend such studies. Nevertheless, in view of the enormous sums which would be involved in establishing a system of transportation of northern oil, and in view of the enormous sums which are being spent on research on the engineering and economic side of moving northern oil (the cost of the S.S. Manhattan experiment, for example, was reportedly $39 million) the Committee believes that these recommendations should be carefully considered by the government.

In summary, your Committee concludes that the establishment of the proposed oil tanker route would result in severe environmental damage and substantial economic loss to Canadians. The Committee notes with approval the current discussions between the United States and Canadian governments on on this subject and urges the Canadian government to oppose vigorously the establishment of the proposed tanker route between Alaska and Washington State.

A copy of the relevant Minutes of Proceedings and Evidence (Issues Nos 16 to 21) Respectfully submitted.

DAVID ANDERSON,
Chairman.

APPENDIX A

Witnesses appearing before the Committee during Hearings on the Problems of Pollution in the Waters of the West Coast of Canada:

Captain Fred Collins, Vancouver Tug. Co., Vancouver.

Mr. Derek Cove, Naval Architect, Vancouver.

Captain W. Davenport, Pilot, Victoria.

Mr. M. E. A. Dighton, Master Mariner, Victoria.

Dr. Alyn Duxbury, Division Marine Resources, University of Washington.

Dr. John Edwards, Professor of Zoology, University of Washington.

Dr. William Fuller, Professor of Zoology, University of Alberta.

Mr. R. D. Harris, Canadifan Wildlife Service, Vancouver.

Dr. James Harrison, Assistant Deputy Minister, Energy, Mines & Resources.

Dr. J. D. H. Lambert, Professor of Botany, Carleton University.

Dr. Paul LeBlond, Institute of Oceanography, University of British Columbia.

Mr. Richard C. Pasamore, Executive Director, Canadian Wildlife Federation.

Dr. Philip Townsley, Department of Agriculture, University of British Columbia.

Mr. Herbert Winokur, Lawyer, Washington, D.C.

APPENDIX B

Juan de Fuca Strait—B.C. Pilot, page 55: "Navigation is simple in clear weather; the aids to navigation are numerous and the chart is a good guide. In thick weather, however, owing to the irregularity of the currents and tidal streams, every precaution must be taken. The Strait is liable to all those vicissitudes of weather common in these latitudes, and in few parts of the world is the caution and vigilance of the navigator more called into action than when entering it from the Pacific Ocean.

"The southeasterly gales of winter, blowing out of the straits, cause a heavy cross sea at the entrance on meeting the southwesterly swell of the open ocean. The weather off the entrance as a rule is exceptionally severe and the heavy broken seas are probably due to the shoaling off the entrance, the irregularity and velocity of the currents, and the meeting of the wind drawing out of the strait and that along the outer coast."

Rosario Strait—B.C. Pilot, page 123: "At its narrowest, it is about 1½ miles wide, and the depths in the fairway are considerable. Rosario Strait is in constant use by vessels bound to and from Bellingham and Anacortes, or the various ports in the San Juan Archipelago, and to some extent also by vessels bound to or through the Strait of Georgia, when by doing so greater advantage can be taken of the tidal streams.

"The tidal streams attain maximum rates of from 3 to 7 knots in the narrower parts of this strait, and from 2 to 5 knots in the wider parts; they should, therefore, be specially guarded against at night or in thick weather. Special caution should be observed when passing the entrances of the various channels leading out of the strait. Heavy tide rips and eddies are formed in the vicinity of Black Rock, Obstruction and Peavine Passes, Peapod Rocks, and Lawrence Point."

Haro Strait and Boundary Pass—B.C. Pilot, page 152: "Haro Strait and Boundary Pass are deep and for the most part broad; but on account of the reefs which exist in certain parts, the scarcity of anchorages, and, above all, the rate and varying directions of the tidal streams, see below, great caution and vigilance are necessary for their navigation.

"Tidal streams: Heavy tide rips are formed round Discovery Island, between Henry Island and Turn Point, and on the southgoing stream round Turn Point. In bad weather, there are heavy tide rips on the small banks lying in mid-channel eastward and northeastward of Fulford Reef."

APPENDIX C

Testimony of Dr. Paul LeBlond, Department of Oceanography, University of British Columbia. (Committee Minutes of Proceedings and Evidence No. 18, Page 48):

(a) In the absence of wind effects, one would expect the surface currents to carry waters (and surface contaminants) Northwards from the Cherry Point area at a rate of about 1 kn, when averaged over a tidal cycle. Which way the water would first go would of course depend on the phases of the tide: flooding, northwards, ebbing, southwards.

(b) Winds from the southeast, as occur typically from mid-September to mid-April, would accelerate this northwards flow; winds from the northwest would slow it down or even reverse its direction, depending on their strength.

(c) Once near the mouth of the Fraser River, any surface contaminant would be advected away from shore by the jet of water issuing from the South Arm of the river. Depending on wind, tidal phase and discharge rate of the Fraser, subsequent water transport may be in almost any direction in the Strait, although it is on the average northwards towards Point Grey and Howe Sound.

(d) It seems that the Boundary Bay, Semiahmoo Bay area would be contaminated most likely within a day of an oil spill near Cherry Point.

(e) It is unlikely that the Vancouver area would be reached before at least two days.

(f) Because of the strong dependence of currents on wind, tidal phase, and river discharge, which all vary with time, NO area of the shore of the Strait of Georgia is safe from the major uncontained oil spill.

There has been a large refinery at Anacortes for years; what differences in effluent diffusion are to be expected between this refinery and the one at Cherry Point? The Anacortes refinery is in more protected waters, to the east of Rosario St., where tidal currents are weaker. The average trend there will also be northwards, but slower. In a recent oil spill, it was reported that oil was advected to the shores of Lummi Is., a few miles to the north. The town of Bellingham would be exposed to damages from spills at Anacortes.

As emphasized earlier, the direction of surface drift is strongly dependent on the wind speed and direction and on the phase of the tide . . . Even Victoria is not immune from oil spills in the vicinity of the Cherry Point area.

APPENDIX D

Estimated revenues from tourism in British Columbia in 1970: $473,465,000—from Annual Report B.C. Department of Tourism.

Estimated value of commercial fishing in B.C. in 1970: $123,000,000—from Department of Fisheries and Forestry.

Estimated value of revenues of salt-water sport fishing activities in 1970: $30,000,000—from Department of Fisheries and Forestry.

Wholesale value of commercial fish landings in the State of Washington was U.S. $40,709,568. The value of the landings in Puget Sound was U.S. $17,000,000, from *Plan for Washington State Food Fisheries*. Washington Department of Fisheries.

Estimated earnings from tourism in Washington State in 1969 was U.S. $355,000,000, and it is estimated that half of this was in the immediate area of Puget Sound from *Impact of non-resident Travel on the Washington State Economy, by Batelle-Northwest Institute.*

MINUTES OF PROCEEDINGS

Thursday, June 17, 1971

(Text)

The Special Committee on Environmental Pollution met *in camera* at 9:47 a.m. this day, the Chairman, Mr. Anderson, presiding.

Members present: Messrs. Anderson, Barnett, Beaudoin, Goode, Murta, Otto, Rock and Whiting—(8).

Other member present: Mr. Knowles (*Norfolk-Haldimand*).

The Committee proceeded to the consideration of a draft report to the House.

On motion of Mr. Murta, seconded by Mr. Otto.

Resolved—That reasonable travelling and living expenses be paid to Mr. Robert D. Harris, of the Canadian Wildlife Service, Vancouver, who appeared before the Committee on May 18, 1971.

After further discussion of the draft report, at 10:47 a.m. the Committee adjourned at 3:00 p.m. this day.

Afternoon meeting

The Committee reconvened *in camera* at 3:42 p.m. The Chairman, Mr. David Anderson, presided.

Members present: Messrs. Anderson, Barnett, Corbin, Goode, Givens, Otto, Rock and Whiting—(8).

On motion of Mr. Givens,

Agreed,—That an extract from a paper entitled "Puget Sound Fisheries and Oil Pollution" by Robert C. Clark, Jr. and John S. Finley and Figure 1 accompanying such paper be printed as an Appendix to this day's proceedings. (*See Appendix P*)

The Committee considered a second draft of a report to the House which was adopted unanimously.

Ordered,—That the Chairman present the said report to the House.

At 4:22 p.m., the Commitee adjourned to the call of the Chair.

GABRIELLE SAVARD,
Clerk of the Committee.

APPENDIX P

(Taken from *Proceedings of Joint Conference on Prevention and Control of Oil Spills*, June 15–17, 1971—American Petroleum Institute, Washington, D.C.)

Extract From Puget Sound Fisheries and Oil Pollution.—A Status Report, Robert C. Clark, Jr. and John S. Finley, Biological Laboratory, National Marine Fisheries Service, Seattle, Washington 98102

The Greater Puget Sound Basin has all the natural resources necessary to make it one of the most productive estuaries in all of North America. This basin is that portion of the Pacific Northwest containing all the inside waters from Cape Flattery to north of Vancouver, British Columbia. See Figure 1. With a shoreline equal in length to the entire coastline of Washington, Oregon and California and a surface area of 2,500 square miles, the Washington State portion of the basin has the advantage of providing protected deep water ports as well as a natural setting for marine acquaculture. Today this area is becoming one of the major oil handling centers on the West Coast of the United States. Can the area meet the challenge of protecting its natural environment while permitting an orderly development of the petroleum industry?

Existing Fisheries and the Potential for Aquaculture—The Renewable Resource:

Deforestation, flood control, hydroelectric dams, industrial and municipal pollution have severely depleted many of the nursery areas for Puget Sound fisheries. Further urbanization and industrialization threaten their complete destruction. Since it is unlikely that this process will be reversed, it is becoming apparent that conventional fishing methods will have to be supplemented by aquacultural technology to maintain fishery yields at satisfactory levels.

Today the rich and productive waters of Puget Sound directly support a commercial and sport fisheries valued at 75 to 85 million dollars annually. Two-thirds of this value is derived from sport fishing. Intensive aquacultural activities, developed over the next decade or two, could add an additional 100 million dollars annually. During the same period of time, the volume of petroleum and its products moved over Puget Sound waters could also increase as much as ten times if the trans-Alaska and trans-U.S. pipelines are built. Properly developed and managed, aquaculture and the petroleum industry should be able to exist side by side in the estuaries. While it would be difficult for properly planned acquaculture to exclude the petroleum industry, and oil pollution caused by a single large accident inside Puget Sound could destroy the area's entire aquaculture industry.

Aquaculture is just beginning to emerge as an industry in Puget Sound. One of the most ambitious projects is being developed by the Lummi Indians on land situated between two major oil refinery complexes in north Puget Sound: Cherry Point-Ferndale a few miles to the north and Anacortes to the south. The Lummi Indians have an investment worth four million dollars in four aquacultural activities: (1) an oyster-spawning hatchery, which is being used to establish and perpetuate their stocks of seed oysters—an excess of which they plan to sell to other Puget Sound oyster growers who are now dependent upon imported Japanese seed oysters; (2) a series of diked ponds on the tide-flats for rearing salmon, trout and rafted oysters; (3) a commercial algae-harvesting operation which provides raw materials for East Coast reduction plants; and (4) a bait worm industry in the intertidal zone.

At Manchester, Washington, Ocean Systems Inc. has undertaken a pilot salmon rearing project based on salt-water rearing methods developed by the National Marine Fisheries Service. Salmon are grown from eggs to marketable fishes of 34 pounds in one year. In Europe and Japan mussels, clams and shrimp have proved amenable to rearing under controlled conditions.

The Petroleum Industry—The Unintentional Competitor:

While aquaculture may represent the future for Puget Sound, the present demands more than 400,000 barrels each day (bd—42 U.S. gallons per barrel) of refined petroleum products to keep the factories, furnaces and motor vehicles fueled in the coastal portions of Washington, Oregon and British Columbia. The refining capacity of the area is considerably less than the demand; so additional oil is supplied by tanker from California. The demand for petroleum products is expected to increase by approximately 4.5 per cent annually for the western United States, and the petroleum industry has started to build additional refining facilities locally. There are already four refineries near Vancouver, one at Ferndale, two at Anacortes, and two small refineries in Tacoma.

A new Atlantic-Richfield Company (ARCO) refinery is nearing completion at Cherry Point, and though it will increase the area's production by 26 per cent, it will still not meet local demands. Standard Oil Company of California has a large block of land adjacent to the ARCO refinery site and Union Oil Company of California has actively sought a Puget Sound refinery site in the past.

Additional local refineries will have to be built if the present inflow of refined products from California is to be reduced. The Trans-Mountain Pipeline supplies low-sulfur crude from Alberta and British Columbia oil fields to the existing refineries in Vancouver, Ferndale and Anacortes. This supply of pipeline-delivered crude oil is essentially limited to these refineries which are producing near their design capacity now. Therefore, any new refinery will probably be dependent on crude oil supplied by tanker. ARCO will require up to 100,000 bd, and each additional facility will only add to this amount resulting in an abrupt jump from 17,000 to several hundred thousand barrels of crude oil shipped into Puget Sound daily.

When the Trans-Alaska Pipeline boosts its pumping rate to the projected 2,000,000 bd, the amount of crude oil available at the Valdez terminal will exceed the western United States petroleum requirements. The demands for petroleum products are becoming critical in the Midwest and East Coast, especially for low-sulfur crude oil such as that from Alaska's North Slope. One plan under active consideration is to transport from California is to be reduced. The Trans-Alaska Pipeline, load it aboard super-tankers at Valdez, ship it to a Puget Sound terminal of a trans-U.S. pipeline and then pump it to eastern markets. A feasibility study has been undertaken by ARCO, British Petroleum, Humble, Marathon and Mobil for this 2,600-mile, big-inch pipeline. Depending on the size of such a trans-U.S. pipeline, up to 1,000,000 bd of North Slope crude oil have been predicted to enter Puget Sound.

The transportation of refined products in western Washington and Oregon is by products pipeline (26 per cent), tanker and barge (69 per cent) and tank and railcar (5 per cent). On the average, one finds approximately 28,000 barrels of crude oil and nearly 220,000 barrels of refined products being transported daily on water of the Greater Puget Sound Basin. early 45 tankers (usually 15,000-30,000 dwt vessels) call each month in Puget Sound ports to bring in crude oil or products and to ship out locally-produced products, and a small amount of crude oil.

The mammoth tanker has become the most economical and feasible method for the transportation of bulk petroleum on a worldwide basis. Unless exception is made to the Jones Act requiring U.S. built and manned vessels on domestic runs, the crude oil shipments from Valdes to local refineries will be in U.S. tankers. Figures on United States and world tanker construction are presented in Table 1. The conclusion that can be drawn from these facts and figures is that more and more petroleum will be moving in Puget Sound—and in larger and larger vessels.

EXCELLENT INSIGHTS INTO THE NATIVE GERMAN PERSPECTIVE ON CURRENT GERMAN FOREIGN POLICY

HON. WILLIAM J. SCHERLE
OF IOWA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. SCHERLE. Mr. Speaker, on October 16, Dietrich Bahner, a respected German industrialist, addressed the Second National All-German-American Heritage Group Conference in Washington, D.C. Mr. Bahner focused on the need for close cooperation between our countries, and his speech offers excellent insights into the native German perspective on current German foreign policy. Mr. Bahner's remarks are well worth reading and are therefore included in the RECORD in full, with your permission:

MR. BAHNER'S REMARKS

Mr. President, Distinguished Guests, Ladies and Gentlemen: Before I turn my attention to political matters, let me express my appreciation and thanks for the invitation to address this distinguished audience. It certainly is a great honor and privilege for any German. (My youngest son suggested to me that I learn this speech by heart. But I hope you will forgive me for not following his advice—a foreign language is apt to cause embarrassing moments for the audience as well as the orator.)

Let me point out some of the problems and developments, that are of great importance for the Federal Republic and its role in the Western Alliance—developments that may influence the balance of power between East and West and the relationship between the United States of America and the Federal Republic.

Let me pronounce a maybe shocking thesis:

A foreign policy of the Federal Republic that is based on pragmatism alone must lead to an reprochement to the USSR. The Soviet Union is geographically close and very active—the United States is far away and limited in its actions.

It is a regrettable fact, that only the conservative and conservative liberal forces in the Federal Republic recognize the dangerous ideological element and the power motives in Soviet foreign policies.

The second no less disturbing thesis is:

Only a foreign policy based on a common ideology can keep the alliance of the free world alive.

On the recent Ostpolitik of the Federal Republic has left the hitherto common line of German foreign policy. With the attempt of legalizing the status quo, that means legalizing the separation of Germany, it traded the hitherto existing confrontation with the Soviet Union for a confrontation of Germans among each other. To the political and geographical split between East and West Germany, a split within the Federal Republic population has been added. The new Ostpolitik succeeded in turning the so far stable Federal Republic into an emotionally and ideologically torn state.

It is possible, that the Federal Republic will continue to play a certain economical role in the foreseeable future. Yet, if the treaties of Moscow, Warsaw and Berlin are ratified, its moral and its defensive powers will only be of hypothetical value.

Will the United States of America be able to fill the coming vacuum, or will not it be

more likely, that the Soviet Union would feel called upon?

1. The Federal Republic may and can only pursue an Ostpolitik that is based on justice and freedom. The submission to force or power means the legalization of the enslavement of 17 million Germans under communist dictatorship, and means the legalization of enslavement of the East European Nations.

2. The democratic free world must understand itself as a unit. It must pursue a *Common* Ostopolitik with the goal of self-determination for all nations. This fundamental principle of the United Nations Charter must not be given up. If we don't preserve and pursue this principle, we betray the basic idea of Democracy. For Democracy cannot be without self-determination and self-determination is the essence of Democracy.

3. Parallel to the expansion and function of the Common Market, the idea of NATO has to be strengthened and given new spirit and life. Under the leadership of the United States of America we must establish common directives for economic, current and defense policies. The free Europe needs the free America and vice versa.

All nations of the free world are sitting in the same boat. No one can get out without endangering freedom and justice of its citizens.

Advantages for one part, that are disadvantageous for the other is an expression of poor policy.

A policy, that will work on the long run and will ensure gains for the individual states as well as for the Alliance, has to be based on true partnership. The condition for such a partnership requires the highest degree of confidence and trust. This confidence in turn can only exist on the basis of complete honesty, of renunciation of eccentricity and isolationism, of permanent mutual information. The policy of "fait accompli" has to be displaced by a policy of mutual agreement.

As a German I would like to use this opportunity to confirm the partnership between the Federal Republic and the United States of America.

There must be no rappalo again!

Germany and Europe need a strong America. We need and wish an America, that consciously take over the leadership of the free world.

The statue of freedom was a symbol and promise to all oppressed people. Only a policy, that sees all democratic nations with linked arms, will lend this Statue new shine and efficacy.

Thank you.

MRS. SPAIN IS SPEAKER AT PULASKI DAY BANQUET

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. DULSKI. Mr. Speaker, Mrs. Jayne B. Spain, Vice Chairman of the U.S. Civil Service Commission, was the principal speaker at the annual Pulaski Memorial Committee banquet held recently in New York City.

By tradition, the banquet was held several days following the colorful Pulaski Day parade. The grand marshal was Mrs. Catherine Green.

The host at the banquet was the president of the Pulaski Day Committee, Joseph E. Swierzbinski. Participating from the Nation's Capital were Walter Zachariasiewicz, president, and Carl Sharek, vice president, of the Polish-American Arts Association of Washington, D.C.

More than 400 persons attended the banquet and heard the eloquent address by Mrs. Spain in her role as official representative of the President of the United States.

Mr. Speaker, as part of my remarks, I include the text of Mrs. Spain's address:

ADDRESS BY MRS. JAYNE B. SPAIN, VICE CHAIRMAN, U.S. CIVIL SERVICE COMMISSION, AT PULASKI MEMORIAL BANQUET, NEW YORK CITY, OCT. 9, 1971

I am most happy and deeply honored to participate in this General Pulaski Memorial celebration. I am doubly proud to appear here on behalf of the President of the United States. I have here a letter from President Richard Nixon which I would like to read to you:

DEAR JAYNE: It is good to know that you will be representing me at this year's traditional Pulaski Memorial Day festivities. You will be bringing to all who participate my warmest greetings and my continuing admiration for their unceasing dedication to the legacy of this great son of Poland who by adoption became a foremost patriot of America.

Casimir Pulaski symbolizes a contribution to the cause of human freedom which has been a source of inspiration and strength for our citizens long after his celebrated sacrifice on freedom's battlegrounds. To perpetuate his memory is to honor the heritage all of us cherish as Americans.

Sincerely,

(s) RICHARD NIXON.

My only regret is that I did not have the opportunity to observe your famous annual Pulaski Day Parade on Fifth Avenue last Sunday. From the accounts I have heard and the reports in the press it was a truly patriotic manifestation.

All too often these days we are witness to manifestations of another sort. Our military men and our leaders are maligned, our national anthem ridiculed and the American flag trampled upon. I am therefore very happy that all of those who participated in last Sunday's parade and those of you who are here this evening are proud to be patriots. You know, as I do, that American patriotism, America's devotion and dedication to freedom are not dead but very much alive.

FAITHFUL TO HERITAGE

You are also to be commended for remaining faithful to the heritage of which every Pole and every Polish-American should be proud. I admire groups such as yours that cultivate their beautiful languages, their century-old traditions, and the cultural ties with the countries of their ancestors.

America is a colorful fabric of different ethnic, religious, and cultural components. The right to be different is firmly established in our laws. But it is that love of America which all of these groups have shared which has made America great. And Polish-Americans have been second to none in their loyalty to this land.

The Polish American Arts Association of Washington, D.C., has recently put out a pamphlet announcing its program for the coming season. The pamphlet is most appropriately titled "The Excitement of Being Polish."

While I am neither Polish born nor of Polish ethnic heritage, I wholeheartedly agree that it is exciting to be Polish.

And, because I believe this, I too am a member of the Polish American Arts Association.

I am happy to note that our president, Mr. Walter Zachariasiewicz, is here this evening. Mr. Zachariasiewicz, I assure you that I am always ready to advance the causes for which our organization stands.

My connections with the Polish people . . . my respect and admiration for the Polish spirit . . . go back a number of years. The Americans of Polish ethnic origin who I had met in my work in a variety of humanitarian causes were among the most concerned for the welfare of others.

ASSOCIATIONS WITH POLES

The Americans of Polish ancestry whom I employed were among the most hardworking, loyal, and dependable.

The Polish-Americans whom I met socially were among the most friendly and fun loving . . yet sensitive and cultured.

I first visited Poland some 10 years ago at the request of the United States Secretary of Commerce. Automated conveyor equipment produced by my company was to be exhibited at the Poznan International Trade Fair. I was asked to demonstrate how we utilized the skills of the blind on the production lines in my plants.

I was asked, and wanted to prove, that the blind—as well as other handicapped—were as competent as the nonhandicapped as long as the job matched their capabilities.

I personally trained 20 Polish blind men and women in assembling our conveyor machinery. The exhibit in which they participated was the most impressive of all those at the Poznan Trade Fair.

More important, from my personal viewpoint, was the contact which this visit made possible with some truly exceptional people. Among these were the saintly nuns who operate the amazing home for the blind at Laski.

CLOTH TO REPLACE HABITS

When I revisited Poland in 1966 to participate once again in the Poznan International Trade Fair I brought with me enough material to replace all of the threadbare habits of these remarkable and selfless nuns. I was told by our Embassy that I might be violating the laws—both Polish and American—by not declaring this material. I replied that if need be I would personally smuggle the cloth to Laski. The materials got to Laski.

I am very pleased to note that Mrs. Halina Rodzinsky, the widow of the renowned Maestro Artur Rodzinsky, is here this evening. Her work on behalf of Laski is well known to all of you, as it is to me. I commend your support for her worthy efforts.

One of the most satisfying accomplishments of my life has been that of being named Vice Chairman of the President's Committee on Employment of the Handicapped and Chairman of the President's Women's Committee. I was first appointed to these positions by President Lyndon B. Johnson in 1966 and reappointed by President Richard Nixon in 1970.

It has always been my conviction that all of us who are not handicapped ourselves should do everything in our power to alleviate the problems faced by our handicapped brethren.

Out of this conviction has come Project Volunteer Power, a special project approved personally by the Secretary of Labor, James Hodgson.

I am very pleased that the newly designated Executive Director of this project, Mr. Carl Sharek, is here on the podium with me this evening.

PROJECT VOLUNTEER POWER

I sincerely hope that the Polish-American community will lend its full support to Project Volunteer Power and its efforts on behalf of the handicapped. Polonia is well organized and the contribution of the many Polish-American organizations would be a real asset in erasing the problems which the handicapped still face.

Polish women and Polish-American Women's organizations are especially qualified to play a major role in such an effort. Witness what you have seen here these past few days.

For the first time in the long history of your Pulaski observances you have selected as your Grand Marshal a woman. You have thus paid tribute to the thousands of devoted, hard-working women, who in addition to taking care of their homes and families also find time to serve their communities. Mrs. Green, on whom you bestowed this great honor, typifies all those precious virtues of a family woman and a dedicated and respected worker in her community.

I too am proud to be the first woman ever designated by the President of the United States to be his personal representative at this auspicious event.

MANY CAPABLE POLISH WOMEN

Polish women have never been known to take a back seat. The history of Poland is filled with capable women. Queen Jadwiga not only firmly tied Poland's lot with Western Christianity but brought Poland to the heights of its power. Maria Sklodowska Curie remains known today as a front rank genius in the sciences. And who can forget Wanda Landowska whose very name is synonymous with the piano and the clavicord?

Polish women need not be told of the suffering they have endured throughout Poland's anguished history. They preserved the Polish spirit during the long tormented years of partition. They were on the barricades in the heroic Warsaw uprising. They accompanied and fought with Polish soldiers on all allied fronts during World War II. The women of America can well adopt the example set by Poland's women. The really important causes are not won by demonstrations and bra-burning parties.

The Polish-American mother has learned well the lessons of her proud ancestors. They teach not only love and compassion but loyalty and pursuit of excellence.

A new term has been added to our American-English Glossary: high W.A.S.P. ethnic. While I can appreciate that this appellation was meant by its inventor to be complimentary, I consider it superfluous.

According to such definitions, I am a W.A.S.P—White, Anglo-Saxon Protestant. As far as I am concerned however, this is no compliment. I consider myself no better an individual—and no better an American—simply because of the fact that I happened to have been born white, to Scotch-Irish-English parentage and raised a Protestant.

PULASKI'S TRIP TO AMERICA

Two hundred years ago a Polish nobleman came to these shores to fight for the same freedom which he and his fellow Poles were denied in their own country. Kazimierz Pulaski could well have isolated himself in a life of luxury and convenience in his native land. He could have accommodated himself comfortably to foreign oppressors. But the Polish people were not, are not, and never will be slaves to any foreign masters.

Pulaski made the long pilgrimage to the New World to continue the battles against despotism which were denied him at home. He came to help free Americans from the shackles they too were fighting to overthrow. In the process he hoped to hone further his sword of Polish defiance and develop a new ally for Poland's freedom.

Pulaski was not a W.A.S.P. He was, however, no less a champion of freedom—as brave a man—and as dedicated to America's future as any man then living, fighting, and dying in this New World. His untimely death on the battlefield near Savannah, Georgia, sealed Poland's lasting pact with the United States. I say this with personal conviction because three of my own ancestors fought and died with him at Savannah.

POLISH PEOPLE ARE SENTINELS

The 35 million brave people of Poland remain today, as they have for over 1000 years, the sentinels of Western civilization. The blunders made after World War II deprived them, however, of formal membership in the alliance of democratic Western states for whose preservation they were the first to fight.

The slogans which you carried in your parade last Sunday reflected your own frustrations with this situation. They reflected also your hope, your faith, and determination. The people of Poland also have faith—a faith that all of us Americans will not forget them. The people of Poland need not only our material support, but our moral support.

I have long been an advocate and supporter of ever greater trade and cultural contact with the people of Poland. This trade—these exchanges—can, must, and will be increased.

We are witness today to a new phenomenon. We are told that in order to be fully accepted, in order to be members of the American fraternity, we must first be able to laugh at ourselves. And to endure with a smile having others laugh at us.

I maintain, however, that "Polish jokes" are no joke.

Why, I ask, is it necessary to demean oneself to be accepted? It is not necessary.

Why should it be necessary to listen patiently and smilingly while fools satisfy their own inadequacies by laughing at proven virtues of valor, pride, honesty and patriotism?

It is not necessary—and it should not be condoned by silence on the part of those who value these virtues.

CONTRIBUTIONS OF THE POLES

I am grateful for what Poland has given the world. I am grateful for what those of Polish blood have done for the United States. I am proud to be associated with Polonia.

The United States Congress has recently legislated a program aimed at facilitating and encouraging ethnic studies in this country. I am happy to note that this program has the full support of President Nixon and all of the Congressmen of Polish ancestry.

America is strong because of the culture and the values which migrants of various ethnic backgrounds brought here with them. America needs these values. They must not only be preserved but encouraged to flourish.

As Vice Chairman of the Civil Service Commission I am particularly aware of the needs for specialists skilled in languages, history, and culture of the world at large—the United States is today the leader of the world—America needs leaders who are conversant with the world.

I must admit to you that I am also disappointed that the number of Polish-Americans among the 2-plus million employees in the Federal service for which I am now responsible is relatively small. Americans of Polish ancestry should be better represented at all levels of our government. They should be encouraged to seek Federal career employment.

I suggest—I appeal to you—do not allow Polish idealism, the Polish virtues of integrity, honesty, loyalty, and valor to be lost. Educate your youth in these noble traditions. Train them in the Polish language. Do not let them forget the proud history of Poland.

If you do, the sacrifice of Pulaski and the millions of other Polish heroes will not have been in vain.

Jeszcze Polska nie zginela,
Poki my zyjemy! . . .

TOWN HALL AND ROLLAND D. HEADLEE HONORED

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1971

Mr. WALDIE. Mr. Speaker, recently the California Legislature honored Mr. Rolland D. Headlee for his distinguished service as executive director of Town Hall of Los Angeles.

The legislature called attention to the outstanding service Town Hall has provided the entire State during the past 35 years of its existence.

Town Hall has served to bring in varying viewpoints on important issues of the day for discussion and study. As a guest of Town Hall, I can attest to the open and frank discussion of the issues. I found my participation in Town Hall to be one of the high points of my public life.

I join the State Legislature of California in commending Town Hall and Mr. Headlee.

Mr. Speaker, I include the text of the resolution in the RECORD:

ASSEMBLY RULES COMMITTEE—CALIFORNIA LEGISLATURE RESOLUTION

(By the Honorable Walter Karabian, Assembly Majority Leader, relative to commending Town Hall of California and Rolland D. Headlee for outstanding public service)

Whereas, The Members of the Assembly have learned that in 1972 Town Hall will celebrate its 35th anniversary and Executive Director Rolland D. Headlee will complete five years of dedicated service to Town Hall and to the southern California community; and

Whereas, Town Hall was founded in 1937 by a group of civic-minded men for the purpose of realizing through study and education the ideals of democracy and aiding through civic education in the accomplishment of an enlightened and harmonious community; and

Whereas, Town Hall has maintained an impartial position as an open forum for examining questions of public interest by developing the relevant facts and diligently reporting them in a nonpartisan and unbiased manner; and

Whereas, Town Hall has grown from its initial organizing group of 150 persons to its unique position in southern California as a diversified body of almost 6000 community leaders and concerned citizens of diversified backgrounds and persuasions providing a regular forum for more than 250 meetings per year; and

Whereas, Rolland D. Headlee, financial and management consultant, lecturer, and writer, has zealously served since January 1, 1967, as executive director of Town Hall, providing the organization with untiring and distinguished leadership; now, therefore, be it

Resolved by the Assembly Rules Committee, That the Members commend Town Hall and Rolland D. Headlee for outstanding public service in promoting civic education in Los Angeles and Orange County; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Town Hall and Rolland D. Headlee.

Resolution No. 510, approved by the Assembly Rules Committee.

JOHN L. BURTON, *Chairman*.

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MACOMB COLLEGE—EDUCATION FOR THE TOTAL COMMUNITY

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Wednesday, November 3, 1971

Mr. GRIFFIN. Mr. President, at a time when so many of our colleges and universities are coming under attack by student activisits as well as taxpayers, it is particularly encouraging to take note of the Macomb County Community College in my home State.

During the past 10 years there has been a phenomenal growth in the number and enrollment of 2-year colleges. In the early 1960's about 15 percent of the students attending Michigan colleges were enrolled in community colleges. This year that figure is 40 percent.

The Macomb Community College has more than 20,000 students, which makes it the largest 2-year college in Michigan and one of the largest in the country. Two decades ago the real estate where it is situated was farmland.

This dramatic growth and the overall success of the institution have been possible because Macomb College and its administrators have been strongly supported by the citizens of Macomb County.

Dr. John R. Dimitry, president of the college since 1967, has spearheaded development of many new and innovative educational programs. His leadership is providing a splendid example for other community college administrators throughout the country.

Dr. Dimitry looks upon a community college as an institution to help individuals in every sector of life. According to Dr. Dimitry:

We should provide a janitor as well as an engineer with the same quality of instruction, so they both perform accurately.

Providing education for the total community—young and old—is the objective of the Macomb College effort. While the college offers a full range of the usual academic subjects, courses are also available in bricklaying, firefighting tactics and industrial security, to name a few. Workshop courses are available which take students to Europe or to other parts of the world. In fact, this community college stands ready to offer and make available any reasonable course for people in its community who have a special need.

I am particularly pleased to note that Macomb College is paying special attention to the education needs of returning Vietnam veterans. The school's effort on behalf of the veteran is a total program, beginning with predischarge education and continuing through a range of assistance at every step from admission to graduation from college.

On September 23, the Detroit News published an excellent article entitled "MCCC—Big Hit With Students and Community," written by John E. Peterson. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Detroit News, Sept. 24, 1971]

MCCC—BIG HIT WITH STUDENTS AND COMMUNITY

(By John E. Peterson)

Going to Macomb County Community College (also known as MCS and 12 Mile High) is like going to a regular job.

Between 8 and 9 a.m. each weekday hundreds of cars form holding patterns on 12 Mile Road, impatiently waiting a chance to dart into the acres of black-topped parking that surround the school's South Campus.

The scene is repeated again at 6 p.m., when the school's night shift starts to arrive.

More than 20,000 students are taking courses ranging from arc-welding to Elizabethan literature at Macomb this fall, making it the largest two-year college in Michigan and one of the largest in the world. Two decades ago it was farmland.

About three-quarters of the students are enrolled at the burgeoning South Campus, a 140-acre tract on the south side of 12 Mile between Schoenherr and Groesbeck in Warren.

The rest are enrolled at the school's budding Center Campus in Mt. Clemens and at 10 other sites including a Baptist church and partially phased out Selfridge Air Force Base (now Selfridge Air National Guard Base).

North campus is planned for 280 wooded acres at Romeo. When all three campuses reach full development they will serve a projected 45,000 students.

The South Campus, where most of the action is now, consists of a cluster of modern buildings set down in a bland jam of tract housing, light industry, apartment complexes and fast food franchises.

Its architecture is pleasing to the layman's eye, but has drawn some criticism from professionals.

"It looks," said a University of Michigan professor, "like the latest thing in industrial parks or a high-toned shopping center of the Somerset Mall type."

That may be a biased view. There is no doubt that many at Michigan's four-year schools still consider community colleges a bit gauche.

This in part may be a leftover from the days when community colleges were referred to by some as "kiddie colleges," "high school extensions," and "schleck techs."

But there are strong indications that the remaining disdain may derive more from snobbery than sober evaluation—"professional jealousy" was the way one Wayne State University professor of education put it.

Community colleges, indeed, must be doing something right—perhaps many things.

At the start of the '60's, about 15 percent of the state's college students were in community colleges. This year the total is nearly 40 percent—about 145,000 out of 423,000.

Of all forms of higher education, community colleges have come under the least amount of public attack.

"We have very few problems here," said Macomb's president, Dr. John Dimitry. "Oh, our campuses are a bit overcrowded and we could always use more money . . . but the main thing I'm concerned about is the public's apparent distrust of higher education rubbing off on us."

There are problems in the life of John Dimitry, but few crises.

Seriously concerned about his school's future and its relation to society at large, Dimitry is rare among college presidents in today's troubled world.

"I'm not so worried about us," he tells you, "because we relate well to our community.

"But some four-year schools like Michigan and others have been misconstrued by the public . . . given the reputation of being elitist. Some others have simply lost faith in themselves, in their relevance."

Dimitry is another college administrator who feels that the well-publicized campus unrest of the late '60's hurt the faith of a large segment of Middle America toward education in general.

"The reaction didn't just hit the schools that had the riots, it hit community colleges and even high school and the lower grades," he said. "There were some public school districts that hadn't turned down school millage proposals in 20 or 30 years that did so for no apparent reason . . . except general distrust."

Dimitry believes community colleges were generally spared disorder because they are primarily commuter colleges.

"The fact that we're not a dormitory college means social dissent is channeled back into community action . . . many times in the form of constructive action.

"What can students at a dormitory college do to express their dissent . . . get together and beat up the dean of students? . . . Dormitory colleges have really become youth ghettos where kids are isolated from the rest of society for four years or more."

Having a good mix of society represented on campus is a vital adjunct to the learning processes, Dimitry believes.

"The average age of our student body is about 24, so we really have no generation gap," he said. About 55 percent of our students are in one or more of our 80 vocational-tech programs, but they are required to take humanities courses, too.

Half of what is learned at Macomb, Dimitry feels, is not so much taught as caught.

"More than half the policemen in the county—about 550—took courses here last year," he said. "The percentage of firemen is about the same.

"It's really an ideal learning situation when you have police mingling with self-styled young radicals, registered nurses with women's lib types . . . It produces an atmosphere where ideas are challenged and can be explored openly."

Dimitry believes the community colleges have taken over the roles originally intended for the four-year schools under the Morrill land grant act of the 1860's.

"Those colleges, you'll remember, were designated A&M's . . . agricultural and mechanical . . . they were meant to help people at the grass roots level . . . they had no social pretenses, they went out and grabbed people," he said.

"Well, that's what we're trying to do here and I think we're doing it.

"We know we're helping people because more and more are coming to us. They have to pay us, they have to expend more than a little mental elbow grease and in many cases they have to fit us into already cramped schedules that often include a full-time job as a wage earner or housewife."

Nearly 75 percent of the students at Macomb hold outside jobs, in part because of the school's cooperative training program.

Under it, students in vocational-tech courses learn both in the classroom and by working part-time at a related job. The program is almost too successful, Dimitry says jokingly.

"More than half of our students are hired full-time by their training employer before they have completed the first year," he said. "That's because they're so intensely motivated that they make better workers . . . many are of lower middle class origin and really want to improve their status."

Because of its extensive cooperative program, Macomb has more part-time than full-time instructors.

But administrative-faculty relations have usually been good, Dimitry claims. The claim is backed up by Glenn Lahti, an assistant professor of humanities, who heads up the faculty association.

"Our teachers are young, assertive, well-educated, reasonable and above all optimistic," Dimitry said. "There's a general feeling of accomplishment here that carries over into all aspects of school life."

Dimitry foresees a time when an overwhelming majority of the states college students will spend their first two years at a community college near their home before going on to specialize in their last two years at a school like Michigan or MSU.

"That trend is under way across the country already, although Michigan seems to be lagging," he said. "The University of Michigan at Dearborn, which is right next door to Henry Ford CC, for instance, is adding freshmen and sophomore classes to its junior and senior classes this year."

But a poll of educators and administrators at Michigan's four-year schools shows that the community college concept has the support of most.

"A good 50 percent of the kids on your campus would probably have been better off attending a community college for the first two years," said a MSU official.

"It would be better for everyone involved. The student would have a chance to find himself, the faculty wouldn't have to waste time on deadwood, the university could specialize and concentrate its expertise in certain fields to a far greater extent and the taxpayer wouldn't have to pay increasing school taxes.

"Right now, I think some of the community colleges in our state are doing a better job of educating a well-rounded citizen who is job marketable than a good many of our universities."

FORESTRY PROGRAM IN GEORGIA

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. BRINKLEY. Mr. Speaker, the Seaboard Coast Line Railroad Co. 27-year sponsorship of forestry competition among high school students is indeed commendable. A winner is selected from each State in the area served by Seaboard and this year's winner from Georgia was Mike H. Buckner of Junction City, Ga. His remarks prepared for delivery at the SCL-FFA Forestry Luncheon at the Sheraton-Cleveland Hotel, Cleveland, Ohio, Monday, October 11, 1971, is a good lesson for parent and youth alike. The key theme is industriousness and I know the House will applaud this young man's success story.

The article follows:

MY FORESTRY PROGRAM IN GEORGIA

(By Mike Buckner)

Mr. Rice, Distinguished Guests and Fellow Future Farmer Forestry Winners:

Forestry has affected me as well as many of my neighbors and friends. Talbot County, where I come from, is one of the leading pulpwood producing counties in Georgia—a state where nearly 7 million cords are cut every year to lead the nation in pulpwood production. This industry employs many citizens of our county.

I became interested in forestry at a very early age with considerable help from my father. Since he was the County Forest Ranger, he seemed to come home every day with a new adventure story to tell—about catching small animals, seeing deer, and most often about snakes he had encountered. Each time I would beg him to bring a snake home, but he always knew better!!! A lot of times he would bring home some of the left-over pine seedlings and tell me to go plant them somewhere. They usually didn't live because they were dead to start with—my father was just giving me something to do! But this something to do caught on and soon I had some of the seedlings living and growing. As a side occupation my father planted seedlings for other farmers in the county, so you can see he had ready-made arrangements for me. As soon as I could see over the steering wheel of the tractor, I was driving it while a man sat behind on a planter and planted trees. And many times I was that someone planting and someone else was driving.

In the years before I enrolled in vocational agriculture I planted in the neighborhood of 10,000 slash pine and about 2,000 Christmas trees. I planted the pines with a tractor and the Christmas trees with a hand tool called a dibble.

After enrolling in agriculture and studying some of the jobs and phases of forestry, I became more interested and that year I cut 50 sassafras posts and plowed 3,000 feet of fire break which protected 8 acres of forest land.

In the second year I salvaged 2.84 cords of pulpwood after a wind storm, cut 60 posts, and plowed 5,000 feet of fire break. That year I was also president of my class, president of my 4-H Club, and vice president of my Sunday School Class.

With the coming of each new school year I learned many new things about forestry and many new aspects of leadership under the guidance of Mr. Dewey Turner, my VoAg teacher and FFA Adviser. During the years 1968-69, I salvaged 3.3 cords of slash pine damaged by insects and disease, cut 75 fence posts, and planted 500 Arizona cypress for Christmas trees. I also planted about 50,000 slash pine seedlings—and maintained my interest in several different organizations! I was the FFA treaturer, chairman of the earnings and savings committee, 4-H president class favorite, class vice president, Sunday School treasurer, and vice president of Training Union at church.

The next school term brought on even more jobs and opportunities. I did hardwood control to release pines on 35 acres using dybar and 2,4-D. This was a hand operation mainly using a device called a tree-ject which resembles a long-handled chisel with chemical inside the handle—the point is jabbed into the base of the tree and the poison in the handle is exerted forth. I also cut 50 more posts plowed 6,000 feet of fire break, planted 1200 red cedar Christmas trees and another 50,000 slash pines. By the way, I have sold 512 Christmas trees yielding me $1,024. Again that year I was involved in many club and social activities. I was FFA vice president, chairman of the program committee, Star Georgia Planter from the North West District, 4-H vice president, class vice president, Sunday School treasurer and a member of the Taylor County Swine Club.

This past year I was a senior. I was president of my FFA and 4-H Clubs, a member of the annual staff where I was Editor-in-Chief, and among the top 12 outstanding seniors. In the field of forestry I planted 1,000 red cedar and cruised and marked 80 acres of pulpwood for a thinning operation.

In addition to my forestry work, I have carried out many supervised FFA agricultural projects. Each year for the last five years I have had a home garden, plus at least 5 acres of corn, 5 acres of cotton, and 20 acres of peas, which were for the farmer's market. I have also raised a litter or more pigs each year and cut 10,000 bales of hay These activities are all my own responsibility. I have won medals and awards in the FFA in the fields of Forestry, Soil and Water Management, Crop Farming, Swine and Beef Cattle. I was named Star Chapter Farmer and a member of the Forestry Field Day team.

So you can see forestry and agriculture have really shaped my spare time and thoughts. This year I am attending Abraham Baldwin College at Tifton, Ga. I am planning to pursue an occupation in forestry or agriculture.

Thank you!

ADDRESS BY HAMILTON FISH, JR., BEFORE NEW YORK COLONY, NATIONAL SOCIETY OF NEW ENGLAND WOMEN

HON. BARRY GOLDWATER

OF ARIZONA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 3, 1971

Mr. GOLDWATER. Mr. President, the eminent Hamilton Fish, Jr., has prepared a very interesting speech to be delivered to the New York City Colony, National Society of New England Women, on October 28.

I ask unanimous consent that it be printed in the extensions of remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF HON. HAMILTON FISH BEFORE THE MEETING OF THE NEW YORK CITY COLONY, NATIONAL SOCIETY OF NEW ENGLAND WOMEN

The United Nations has been tried in the balance for a quarter of a century and has been found tragically wanting. Its main purpose in its charter was to promote peace and goodwill in the world and unfortunately its record in that direction is sadly lacking. Instead, it has become a Communist, Socialist complex in the heart of America, spreading hateful propaganda against our free institutions, our free enterprise system and indirectly, and almost openly, advocating Communism, Socialism, and Radicalism in most of its extensive operations.

Our Ambassador to the United Nations, George Bush, was right when he said the vote to admit Red China in the United Nations and ousting Free Nationalist China was a base, shameful act of betrayal and appeasement and a moment of infamy. The American people are asking, why a number of the free nations; virtually all of the NATO nations except Greece and Portugal (Belgium, Italy, Netherlands and Turkey abstained), voted with the Communist Socialist bloc to oust Free China, a charter member which has fulfilled all of its obligations and controlled a population greater than over half the members of the U.N. The Scandinavian countries generally Socialistic, and appeasers of Communism and this includes Iceland. England appeased Communism at Yalta reluctantly but tragically and continues to appease Communism because of its fear that Red China will take over Hong Kong a source of revenue to Britain. France with 25 percent of its population Communist, has been a consistent appeaser of Communism. The time has come to find out whether the NATO nations and even including France, are with us or with the Communists. Why should we spend a billion dollars or more, defending the NATO nations against Communist aggression and find that most of them behind our backs are playing the Internationale? Of course the support by Canada our long time friend and neighbor, of the ousting of Free China, is just another example of the actions of Socialist government in that country.

The ousting of Free China by a four vote majority was not only a serious blow to the prestige of the United States, but far more important, to the preservation of freedom throughout the world. Freedom and peace are the main objectives of the United Nations. Peace without freedom is tyranny and tyranny is Communism. The ousting of Free China was the greatest victory of world Communism since the Yalta Conference. How long will the patience of the American people endure having in its midst a so-called United Nations which from now on should be called the dis-united nations, spreading un-American propaganda of hate against our free in-

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stitutions, form of government and inciting violence and revolutionary activities.

J. Edgar Hoover, Director of the F.B.I., has already made it clear that 75 percent of the Communist members of the U.N. are spies and revolutionists and now there will be double the number by the advent of Red China. I am not asking for the liquidation of the United Nations, although its record for peace has been very disappointing, I favor its existence because it has some constructive humanitarian activities, but I believe that the American people and the Congress favor Senator James Buckley's suggestion that from now on we will pay our share of our quota in the U.N. and nothing more. Second, that we request the F.B.I. to make a survey of the un-American and revolutionary propaganda emanating from members of the U.N. and if that proves that the U.N. is a sanctuary of immunity for revolutionary propaganda in the United States, the Congress shall request the removal of the United Nations to Switzerland or to some other small nation. It never should have been in the United States or in any of the larger nations. The main reason for the existence of any government is to protect its own people and the security of the nation.

FREE FUNDS IN POSSESSION OF STOCK EXCHANGE BROKERS SHOULD BE SEGREGATED

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. CELLER. Mr. Speaker, under leave to extend my remarks in the RECORD, I include a letter I addressed to the Honorable William J. Casey, Chairman of the Securities and Exchange Commission, on October 29, 1971.

The text of the letter follows:

OCTOBER 29, 1971.

Hon. WILLIAM J. CASEY,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: During the debates on the Securities Investor Protection Act, as a result of prodding by Members of Congress, the Honorable Hugh F. Owens, then senior member of the Securities and Exchange Commission, pledged the promulgation of rules and regulations by the Commission governing the segregation of securities of customers of New York Stock Exchange members, and the treatment of customers' free credit balances.

This solemn pledge was made almost a year ago on December 22, 1970, in a letter written by Commissioner Owens, then the Acting Chairman of the SEC, to Senator John Sparkman, Chairman of the Senate Banking and Currency Committee. The letter promised that the regulations would be implemented "at the earliest possible date" under the authority of the Securities Investor Protection Act (SIPC).

Acting upon this assurance, Congress deliberately omitted restriction provisions from the Act.

To date, no action by the SEC has been taken. By further delay, the SEC raises the serious question whether it is carrying out its responsibilities to the public as mandated by the Congress.

The issues of segregation of customer funds, and treatment of free credit balances are of great concern to the public. As of January 1970, New York Stock Exchange members held approximately three billion dollars of customers' free balances, funds for withdrawal on demand.

According to the September 21, 1970, Report of the Senate Committee on Banking and Currency, these balances are used by member firms "to maintain positions in securities, to finance margin purchases of other customers, and for other general purposes". It has also been estimated that the total of cash and securities held in the custody of brokers for customer accounts was approximately 50 billion dollars. These assets and cash are "trust" property, and should be segregated and protected. In many cases, however, they can be reached by creditors of the brokerage firms, particularly when segregation practices have not been followed.

If any lawyer, trustee, or anyone in a fiduciary capacity mixed his own funds and those of the trust beneficiary, he would be brought to book. An indefensible opportunity for immoral or unlawful practices arises when brokerage firms are exempt from equitable rules of conduct, and are not required to segregate customers fully paid and excess margin securities.

I am requesting the Honorable Lewis J. Lefkowitz, Attorney General of the State of New York, to make inquiry into this matter to determine whether laws of fiduciary responsibility are being violated.

Finally the time for palliation on the part of the SEC has long since passed. The Commission's duty is forthwith to issue regulations forbidding these practices.

Sincerely yours,

EMANUEL CELLER, *Chairman.*

MOBIL OIL WINS ENVIRONMENTAL CONTROL AWARD

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. COLLINS of Texas. Mr. Speaker, our country is very much concerned with progress in environmental control. The petroleum industry is leading the way in improved methods and efficiency for better ecology. The Petroleum Engineering Publishing Co. reviewed the outstanding programs of environmental control and is presenting its first Meritorious Awards program for engineering innovation. Mobil Oil placed first in the vital drilling-production category of this international competition. I wanted to congratulate the petroleum industry for all of their innovations. The research and development on environmental control will benefit our country from coast to coast.

Texas is especially proud that the first place award was for pollution control in Mobil's West Ranch field north of Corpus Christi, Tex.

Mobil will be recognized along with other winners during a meeting of the National Association of Manufacturers on November 11 in Washington, D.C. Environmental Protection Agency Deputy Administrator Robert Fri will preside with Abbott Sparks, president of Petroleum Engineer Publishing Co.

The statement of award to Mobil Oil is as follows:

AWARD TO MOBIL OIL

Mobil Oil Corp.'s West Ranch field 100 miles north of Corpus Christi, Tex., was modernized and computerized to achieve two goals: 1) realize substantial economies and increased production and 2) minimize possible pollution from oil spills during operations. Producing facilities were completely revamped for a 700-well, 40,000 b/d field; liquid handling systems were centralized, and the entire operation was placed under computer control.

Possibility of a spill has been dramatically lessened by reducing the number of oil conditioning sites from 21 to 1, by replacing outdated equipment, by installing monitoring and alarm devices to spot equipment failures immediately, by automating selected control functions and by controlling surface drainage at the treating site.

The master computer located in Corpus Christi gives orders. The West Ranch-based slave computer continuously gathers information from remote field units and relays necessary data back to the master computer. The computers gather data at 9600 points in the field and perform at least 100 functions, including operations, monitoring, status and alarm, and report-making. Computer control provides continuous testing of wells and regulation of critical flow rates and artificial lift.

Modernization and automation of the field cost approximately $5.8 million. It has enabled West Ranch to become a model producing field and significantly reduced possibility of environmental pollution.

MORE ON PRAYER AMENDMENT

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. SCHWENGEL. Mr. Speaker, the following letter to the editor of the Washington Post, written by Charles L. Black, Jr., of the Yale Law School, is the one to which I referred in my 1-minute speech today:

THE PRAYER AMENDMENT

A number of teachers of constitutional law have attacked the proposed Amendment on "Prayer in Public Buildings" on the ground that it constitutes the first encroachment in our history on the Bill of Rights as interpreted by the Supreme Court, and hence sets a most dangerous general precedent. I fully concur in this objection. There is, however, another crucial objection to the amendment which goes specifically to its own substance.

This special objection cannot be made clear unless one quotes the substantive text of the amendment: "Section I. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

The astounding thing about this text is that it addresses itself only by indirection, if at all, to the problem which actually interests its sponsors, and which actually concerned the Supreme Court in the cases it is designed to overrule or weaken—the problem of official prayer in the public schools. The question in the school prayer cases was not whether people might sometimes lawfully pray in buildings supported in whole or in part by public funds. The question was whether children not so much "lawfully assembled" in public buildings as *coerced* into assembling in public buildings by the truancy laws, could lawfully be forced either to pray, or to stand silent during a prayer conducted in their coerced presence, or to be sent into the hall or in some other way marked as deviants, with all that means to a child. Of this proposed amendment as it stands, therefore, one of two things must be true. Either it does not touch the practice of school prayer at all (in which case it is a triviality, addressing itself to peripheral problems which interest no one) or it will be held to overrule the school prayer cases, without doing so in candid language that addresses itself fairly to the problem of official coercion, or shaming, operating upon children in connection with religious matters. If the first of these things is true, then it is preposterous to go through the constitutional amendment process to achieve so trivial a result. If the second should turn out to be true, then a real outrage will have been committed, because a coercion of children in religious concerns, or a pressure upon them in regard to such concerns, will turn out to have been made permissible, by language which does not in any way make clear this drastic purpose.

IT IS TIME TO BUILD THE ALASKA OIL PIPELINE

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. SCHMITZ. Mr. Speaker, nearly 4 years ago, one of the greatest oil strikes in history was made on the north coast of Alaska, which borders on the Arctic Ocean. The amount of oil in this field is estimated to be at least 10 billion barrels and possibly 15 billion—as much as all the oil in Louisiana, Oklahoma, Kansas, and half of Texas combined. It is high-grade oil, low in sulfur, and therefore will cause less air pollution when burned as gasoline.

This discovery of so vast a new source of high-grade oil on American soil came at a time when our dependence on foreign oil was steadily growing, to the point that now about one quarter of all our oil comes from abroad.

Because the Arctic Ocean north of Alaska is thickly frozen for most of the year, transportation of the oil from the new field to the rest of the United States requires a 600-mile-long pipeline from the closed north to the open south coast of Alaska. Two years ago the oil companies which had found the new field and were ready for drilling applied to the Federal Government for permission to build this pipeline.

Incredibly, that permission has not yet been granted.

The growing abuses of the "ecology" crusade—of which I have warned in the past, while at the same time making clear my commitment to cleaning up our air and water—have reached a veritable summit of irresponsibility in the attack on the Alaska oil pipeline. Commonsense should tell us that of all the construction works of man, a pipeline is one of the least harmful to the environment, since its contents are entirely enclosed and are not allowed to escape at any point, and since so little land is affected. The Alaska oil pipeline will require only a 50-foot right-of-way for its 600 miles of length, using therefore just 3.2 square miles of land in all—which is approximately 1/73,000 of the total area of Alaska.

Nevertheless, in view of the shrill and persistent outcries against the pipeline, careful studies have been made of every possibility—even the most remote—of environmental damage. By every available test, there would be no significant damage and scarcely any effect at all, outside the 50-foot strip. The oil companies have even agreed to build overpasses for caribou, whose possible plight seems to have particularly caught the public fancy, even though substantial parts of the pipeline will be underground, offering no barrier whatsoever to the caribou in those areas.

Yet the opposition continues. Several court suits are expected as soon as the Secretary of the Interior finally gives permission for construction of the pipeline to begin. They could tie up that construction indefinitely.

After prolonged debate October 19 and 20, the House of Representatives passed a bill to settle Alaskan Native land claims, and to specify the status of hundreds of millions of acres of Alaskan public lands, after defeating an attempt to set aside up to 50 million acres primarily—according to some of its advocates—for the sake of about a thousand grizzly bears, which amounts to 50,000 acres per bear. Even the 40 million acres set aside for the Alaskan Natives was a much larger amount of land than it appears they ever actually used.

This Alaskan land bill, however, overgenerous, removed the last legal obstacles to the construction of the pipeline except the objections of those who, in the words of one of Alaska's U.S. Senators, "urge that all Alaska be reserved for future animal herds, who have determined that the only acceptable development is no development at all."

It is time to build the Alaska oil pipeline. Nothing will be hurt by it but the dreams of a few romantics who in all probability could not survive more than a few days in the Arctic. The Nation and the economy will be helped, since we are going to continue using oil regardless of where it comes from, and it is obviously better to have it coming from our own territory, without the necessity of more offshore oil drilling in areas like southern California, and in the process making substantial areas of our "last frontier" more fit for human habitation—which, after all, has at least as much claim on our concern as habitation by caribou and grizzly bears.

In the words of the Wrangell, Alaska, Sentinel:

We think it is time for the preservationists to wake up and consider the future—all of it. People, too, are a natural resource.

STATEMENT ON RALPH NADER

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. SCHERLE. Mr. Speaker, Ralph Nader's testimony before the Senate Subcommittee on Government Operations regarding phase II of President Nixon's economic program ought to wake the American people up to his thoughtless irresponsibility. In that testimony, Mr. Nader characterized the President's program as unconstitutional, and called the President, the Nation's most radical in history. While this type of public mudslinging might appeal to the liberal leftists around Harvard Square, it ought to cause the vast majority of right-thinking Americans to ponder the credibility of this crusader turned demagog.

Each and every action announced by the President in revealing the specifics of phase II, is fully within the scope of the authority given to him by the Congress in the Economic Stabilization Act of 1970. The Pay Board, which is made up of representatives of labor, management, and the public; and the Price Commission which is made up entirely of public representatives clearly were within the contemplation of the Congress in passing the act and were carefully designed to afford maximum representation to all Americans. Mr. Nader's charge that the President has developed an unconstitutional assumption of power to the detriment of the public is pure hogwash.

His further assertions that the Board and Commission will operate "without congressional guidelines, without due process, without safeguards, and without appeal," is wholly without foundation. There will be guidelines, there will be due process, there will be safeguards, and there will be appeals. It is bad enough that Mr. Nader delivered his broadside before the details of the President's program were forthcoming, but it is even more onerous that he did it for the express purpose of frustrating its implementation. Public support is the cornerstone of the President's program and that is exactly what Ralph Nader seeks to destroy. The impatience of this self-appointed guardian of the public interest, is only exceeded by his insolence.

Nader appears to be in competition with another outspoken American radical—Attorney William Kunstler. Between the two lawyers, more smoke has been generated in the last 5 years than by any two previous Americans in the Nation's history. It is hard to believe that very many Americans take comfort in the knowledge that these two men are in the forefront of civil libertarianism.

The overwhelming majority of Americans are willing to give the President's economic program a chance. The goal of revitalizing the Nation's economy is too important to allow the doubts of a few to interfere. The Congress passed the Economic Stabilization Act with its eyes open and the President has implemented it in the same manner. Let us give it a chance to work, and leave it to the appropriate tribunal to determine its legality.

The knee-jerk response of Ralph Nader is lamentable yet fully expected. He is demonstrating his well-known penchant for sour grapes and in my view is beginning to fall into disrepute with more and more Americans. One can only cry wolf so many times before his true motives are discovered. The American people can use a break from Nader and his Ivy League ideologues. He and his consumer storm troopers should retire to the academic life of Cambridge and New Haven and leave the rest of us alone.

IMPORTS AND ADJUSTMENT ASSISTANCE—PROMISE AND PERFORMANCE

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. FRASER. Mr. Speaker, there appeared in the October 9 edition of the National Journal an illuminating article, "Promise and Performance—The Story of a Federal Program That Missed Its Mark." The article focuses on adjustment assistance for American industries and workers adversely affected by U.S. tariff agreements. This program was authorized in the 1962 Trade Expansion Act.

Frank V. Fowlkes' assessment that the adjustment assistance program "has been little more than a broken promise to the firms and workers it was intended to benefit" does not mean that this sort of program cannot be made to work. I am pleased that the Nixon administration is addressing this issue. An effective adjustment assistance program will help alleviate pressures for restrictive trade measures.

The article follows:

PROMISE AND PERFORMANCE—THE STORY OF A FEDERAL PROGRAM THAT MISSED ITS MARK

Adjustment assistance, approved by Congress in 1962 as the answer to import competition, has been little more than a broken promise to the firms and workers it was intended to benefit.

Authorized by the Trade Expansion Act (76 Stat 872), adjustment assistance was designed to provide aid in a variety of forms to domestic industry injured by U.S. tariff concessions.

It has not worked well. For seven years, until 1969, it did not work at all.

Workers and firms, who were reluctant to accept the assistance program as a substitute for protection to start with, have been frustrated by delay, red tape and rejection.

Even where they have received assistance, most benefits have been in cash rather than the forms of adjustment aid which distinguish the program in concept from simple income maintenance.

The relocation and retraining provisions of the act, designed to effect long-term solutions by taking workers out of dead or moribund sectors of the economy, have been largely unused.

Federal officials agree that this failure has made adjustment assistance a backdoor form of supplemental unemployment insurance.

During its first seven years, the problem with adjustment assistance with simple: The Tariff Commission rejected every petition it received.

Today, however, the problem is conceptual rather than administrative. Simply stated, it is that, except for the cash benefits, few potential beneficiaries want what the program has to offer.

Aware of this problem, the Nixon Administration currently is planning revisions in the program. The new proposals will be drafted by the Council on International Economic Policy, under Executive Director Peter G. Peterson. A council spokesman acknowledged, however, that little progress has been made, despite the fact that the matter has been under advisement since early this year.

Peterson has assigned Brandon W. Sweitser, a special assistant, as his delegate to an interagency task force which, when fully staffed, will do the preliminary research on the program revisions.

COMPLEX PROCEDURES

The adjustment assistance program offers different forms of relief to different types of applicants. Every applicant, however, must pass the same test to establish his eligibility: he must demonstrate to the satisfaction of the Tariff Commission that he has suffered injury due in major part to imports caused by tariff concessions.

Firms which meet this test are eligible to ask the Commerce Department for technical assistance, loans or loan guarantees. They may also seek extended tax loss carry-back privileges from the Internal Revenue Service.

Worker groups and unions which meet the test may ask the Labor Department for cash benefits of up to 52 weeks (longer periods are prescribed for persons over 60 years of age or persons enrolled in training programs) for retraining or for relocation.

The law provides two additional avenues by which firms and workers not meeting the above tests may establish eligibility. In cases where the Tariff Commission divides evenly on an adjustment assistance petition, the President is authorized to declare the applicant eligible. And, on industry (escape clause) petitions where the commission either divides evenly or finds in the affirmative, the President may authorize firms and workers within the industry to apply directly to Commerce or Labor for adjustment assistance.

Routinely, however, the departments impose bounds on eligibility. At the Labor Department, the Bureau of International Labor Affairs studies each approved petition to determine precisely which workers in the petitioning body should be eligible and precisely the date to which their eligibility is retroactive.

At the Commerce Department, the Office of Trade Adjustment Assistance closely examines requests for loans, loan guarantees and technical help, granting them only where satisfied that the purpose is worthy.

THE RECORD

Program administrators say that the ideal adjustment assistance case would be one in which the roles of the two departments mesh—Commerce providing money and technical help for a firm to modernize or redirect its effort; Labor retraining the old employees to do the new jobs.

It has not happened. Since the seven lean years ending in 1969, there has been no overlap of aid to firms and aid to workers.

FIRMS

By the end of fiscal 1971, the Commerce Department had received a total of 16 cases: two directly from the Tariff Commission, five from the White House on tie Tariff Commission votes and nine as outgrowths of escape clause findings.

Of those 16, 14 have been certified as eligible by the department but only two have as yet received any help. The sum total of the adjustment assistance that has been provided firms in almost nine years can be summed up as follows:

Emil J. Paidar Co.—A Chicago barber chair manufacturer was pledged $3.6 million in loans and loan guarantees to aid it in converting to production of dental cabinets.

Benson Shoe Co.—A Lynn, Mass., firm was pledged $1.7 million in direct loans and has received technical assistance to help with modernization and redirection of its distribution program.

Workers—By the end of fiscr 1971, the Labor Department had certified a total of 48 worker petitions referred by the Tariff Commission, received from the President on tie votes or received directly from worker groups as the result of favorable escape clause findings.

Workers eligible for assistance under these 48 certifications totaled 19,550. Of this number, however, only 6,557, or about one-third, actually received cash benefits; practically no one was relocated, and only 156 received retraining payments. All but two worked for a single plant of Uniroyal, Inc., located in Woonsocket, R.I.

Funds dispersed by the Labor Department by the end of fiscal 1971 totaled $16.5 million of which $4.8 million went to reimburse state unemployment services for payments made to adjustment assistance beneficiaries prior to certification. Total disbursements represented only about half of the $32 million which the department had allocated for the program during the period.

Problem—Program administrators make no secret of adjustment assistance's deficiencies.

Vague terms—Commerce officials note that the administration of assistance for firms is made difficult because the law sets no limits on the amount of money that may be loaned to a firm and prescribes only in general terms the purposes for which money may be loaned.

Lewis J. Kaufman, who has recently assumed the post of director of the Office of Trade Adjustment Assistance in the department after 18 years with the investment banking firm of Goldman Sachs, explained the problem. "What do we do when a textile firm, which has never had more than $3 million in sales, comes in here and asks for $10 million to computerize their operations? The law sets no limit. We have got to get some discipline into the program."

Just cash, please—For workers, the most serious shortcoming of the program is that the pure adjustment provisions—which are voluntary—hold little appeal.

Workers are happy to take the cash benefits where available, but few have any interest in retraining or relocation. Labor Department and union officials cite several reasons, some conceptual, some administrative.

Eligible workers tend to be from static or shrinking industries; industries not likely to have done much hiring in recent years. Those laid off tend, therefore, to be old. Experience indicates that many are in their late fifties and many are women.

These people have deep roots in the community and don't want to move. Moreover, the very fact of their eligibility indicates that the industry as a whole is apt to be in difficulty. The likelihood of their finding similar work elsewhere is, therefore, slight.

At the same time, the prospect of retraining is not particularly appealing. Some who lose their employment are too old to learn new skills and compete for new jobs. Others live in small communities where retraining opportunities simply do not exist. Many live in depressed areas where there are no jobs for which to train.

Impediments and disincentives—In addition, there are other reasons why an eligible worker might not want to or be able to qualify for anything but cash benefits.

A worker who volunteers to accept retraining aid while receiving cash benefits must accept and make satisfactory progress in the training program to which he is assigned or lose his eligibility for the cash allowances. Should he reject or drop out of the program, his only recourse against disqualification is to appeal on the grounds that the work for which he was being trained was not "suitable."

The retraining option, therefore, involves assumption of a risk which many workers are not willing to take. Fewer than 1 per cent of those eligible have received retraining.

The qualifications for relocation assistance do not offer disincentives but are prohibitive in other ways. In order to qualify, a worker must (1) be the head of a family, (2) demonstrate that there is no reasonable expectation of suitable employment in the area where he lives or could commute to, (3) have at least a bona fide offer of suitable employment of long-term duration in the new location.

Limiting relocation eligibility to heads of families automatically eliminates a large number of those just entering the work force, those with the weakest ties to the community and those with the greatest willingness to move. Moreover, it misses an opportunity to lure youthful workers away from the same dead-end local employment situation that enables their fathers to qualify.

The requirement that the applicant have in hand a bona fide job offer amounts to a prohibition for many. "How is a fellow who lives in some small isolated town going to get a job somewhere else or even find out about one?" says one union official. "What's he going to do? Mail his resume around?"

Retroactivity—Even in the provision of cash benefits, the adjustment assistance program has not done what it was intended to do—tide workers over until they could find new work. Instead it has provided retroactive, lump-sum payments, many of which have not reached workers until long after their 52 weeks of eligibility expired.

This delay has meant that, in many cases, workers have made whatever adjustment they were capable of making before receiving help from adjustment assistance.

Another effect of the delay has been that many workers, who have been declared eligible and might have collected had the assistance been quickly available, have collected nothing.

Of the 19,550 who had been certified eligible by the end of fiscal 1971, more than two-thirds had not received a single payment.

The Labor Department official chiefly responsible for contracting with the state employment agencies says that one solution would be to abbreviate the period in which injured parties were eligible to petition.

This would cut down on the single largest component in the delay—the preparation of petitions—and ensure that relief where provided would occur when adjustment was still a live option, he said.

In most instances, the actual time consumed by the federal government in processing petitions is considerably less than the 26 weeks during which most workers are eligible to receive unemployment compensation from the states.

NEW YORK TRANSIT USERS REBEL

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. ROSENTHAL. Mr. Speaker, the overwhelming defeat of the $2.5 billion transportation bond issue by the voters of New York State yesterday is another sign of a growing citizen revolt against rising taxes, broken promises, and worsening services.

There is a swelling wave of voter mistrust in the priorities determined by public officials. Tuesday's vote should be viewed as an expression of the transportation consumer's rebellion and a warning to recognize his needs.

The transit user is fed up with the favoritism long shown toward the powerful highway lobby, and he emphatically said so at the polls.

I reluctantly supported the bond issue as the only viable means of preserving the 30-cent subway fare. The voters have decided that another method must be found to stop the fare increase without raising their taxes.

Many public transit users—especially the poor, the jobless, the elderly, and the young—are captive riders and cannot express their displeasure at rising fares, diminishing service, and empty promises except by voting against this bond issue.

They remember the 1967 $2.5 billion transportation bond issue. While the full $1.25 billion allocated then for highways already has been spent—plus another $300 million not yet approved by voters—only 16 percent of the $1.25 billion earmarked for mass transit has actually been spent.

The rider/taxpayer has made it clear he does not want to spend any more money until he sees what he gets for the $1.25 billion he put out in 1967.

The anger and frustration of the people of the cities of New York State cannot be ignored any longer. Priorities must be reordered and made more responsive to the needs and wishes of the people.

It must be recognized that mass transit is as vital to a city as an elevator to a high-rise building. Without mass transit, our streets and highways would be congested beyond imagination. It is in the interest of efficient highway transportation as well as for the proper functioning of our cities that we must have a viable and effective mass transit system. This means public subsidization through State bond issues and taxes and from the Federal Government as well. But it also means some of the billions we have been spending to put down ribbons of concrete for our cars must be reconsidered and directed toward mass transit.

This requires leadership on the part of our public officials, and courage to fight on the side of the people against the vested highway interests.

SHOULD THE U.N. HEADQUARTERS BE MOVED?

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. FISHER. Mr. Speaker, an article written by the noted columnist, Richard Wilson, is entitled: "A United Nations Home Outside the United States Seems Justified." There the writer assesses some of the damage wrought by the unwarranted expulsion of the Republic of China from the United Nations, and makes a strong case for removal of the U.N. headquarters to some other country.

Referring to the effect of the expulsion on the future of the United Nations, Mr. Wilson wrote:

Maybe it is the beginning of the end.

The columnist then noted:

From now on the affairs of the U.N. will be dominated by anti-Americanism, whatever the effectiveness of judicious retaliation. There is no Communist bloc anymore but there might as well be so far as making the U.N. a forum for hatred of the United States is concerned. The U.N. also serves as a rallying point for those elements in this country who have carried their own opposition to American policy to the point of hatred.

Furthermore, the U.N. is a haven and staging area for international espionage and an accepted "cover" for secret police agents. It will become more so when the Chinese send their delegation to New York.

The article proceeds to explain why the permanent headquarters should be neutral ground:

All this suggests that there are serious questions on whether or not the U.N. headquarters belongs in any country whose interests are so deeply involved as the United States, Russia and Communist China. Part of the hatred expressed at the U.N. undoubtedly arises from the bad treatment some of the delegations think they have gotten and the absence of much respect for them either in New York or Washington.

Such disrespect may now increase on the wave of reaction against an unfair and unprincipled act in expelling the government on Taiwan. It is especially ominous that the view is widely held that the next move may be against Israel by Arab nations supported by the Soviet Union. This could cause quite a stir in New York.

In reality, of course, the U.N. is a hollow but noisy shell. When important issues are to be resolved the major powers will not and cannot permit decisions to be made against their interests.

Ambassador Bush's suggestion on holding General Assembly meetings in various world capitals is worth considering as a preliminary to moving the U.N. permanently to neutral ground, such as Switzerland. The buildings in New York could easily be put to more constructive use.

Mr. Speaker, this reasoning is sound. Most Americans now insist it is time for this country to stop being a patsy, and face up to reality and our own best interests. If for no other reason, we should move the U.N. Headquarters from our shores, because it provides a sanctuary for Communist espionage in this country.

We are reminded of what happened in Great Britain recently when a large number of Soviet spies were found to be operating there, attached to the Russian Embassy, their trade and culture missions. And look what happened in Mexico where the government found it necessary to expel an assortment of Soviet spies.

Membership in the United Nations accords to member nations and their delegations certain diplomatic privileges and immunities. That fact makes it more difficult to detect and expose subversive functionaries. The U.N. thereby provides a built-in sanctuary, and makes for a heavy burden on our enforcement officers.

At this time the Russians have 66 people attached to their United Nations delegation. Cuba has 20—to mention but two. And how many will the Peking regime assign?

Mr. Speaker, our voting power in the U.N. should be upgraded—or we should get out.

Our financial contribution to the U.N. budget should be based on population or we should get out.

As the summary expulsion of Taiwan reveals, the Communists now dominate at the U.N. level—at least on some major issues.

There are many reasons why our continued membership is not in our best interest. If we are to remain, as the host country we have a right to demand these reforms. In any event, it is imperative that the United Nations Headquarters be moved to some other country.

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Mr. Speaker, I have said this concern is shared by most Americans. From my own district I have received stacks of letters and telegrams to this effect—and not a single message to the contrary. Let the United Nations, in its operations, either put up or get out.

STATEMENT BY THE HONORABLE JOHN A. HANNAH

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. BROOMFIELD. Mr. Speaker, the Honorable John A. Hannah, Administrator of the Agency for International Development recently made a statement concerning the Senate defeat of the Foreign Aid bill which I found to be extremely important.

He has correctly pointed out that as a result of this vote the AID program is in danger of being dismantled. Contrary to popular belief, there just are not enough funds in the pipeline at present to keep this vital agency afloat after November 15.

There are many aspects of the program which need improvement. But until those changes can be made, our present aid program remains a vital part of the Nixon doctrine. We cannot afford its wholesale destruction at the very time our foreign policy is undergoing such a fundamental and important transition. Mr. Speaker, that is one of the main reasons why I am in favor of a continuing foreign aid resolution while we reassess the entire program.

The statement follows:

STATEMENT BY THE HONORABLE JOHN A. HANNAH, ADMINISTRATOR, AGENCY FOR INTERNATIONAL DEVELOPMENT, OCTOBER 30, 1971

For twenty-five years the United States has been a leader in the effort to bring a measure of peace and economic justice to the world. Under U.S. leadership, foreign assistance has become a truly international effort in which virtually all developed countries participate. As a result of foreign assistance beginning with the Marshall Plan in Europe and Japan, Point IV, the intervening agencies, and for the past ten years U.S. AID—under the leadership of five U.S. Presidents: Truman, Eisenhower, Kennedy, Johnson and Nixon—the world is a vastly better place to live in than it otherwise would have been.

The United States has been the leader in providing assistance to the less developed countries of the world where two-thirds of the world's people live. Foreign assistance has helped to bring about great increases in food production, to provide education for millions of people, better health for more millions, substantial success in economic development and in encouraging family planning—all directed toward improving the quality of life for all people everywhere.

Through U.S. AID our country has provided its share of the cost of multinational programs through the U.N. agencies and through consortia of the other aid-giving countries of the Free World. There are coordinated foreign assistance programs in most of the poor countries of Latin America, Asia and Africa.

In its own interest, the United States cannot become a world dropout, repudiate its commitments and the institutions and programs which we and other nations have built in the past 25 years.

The U.S. AID program assists Africa, where the average income is less than $100 per person per year. The AID program helps in education, in agriculture, in nutrition, in health—in programs which help people help themselves. In Latin America and Asia, our programs, together with those of other nations, have helped, and must continue to help, governments provide a better life for their people.

The Senate's action of yesterday will have the effect of bringing the AID program to a halt on November 15.

It would end U.S. assistance which has provided much of the leadership in the world in the direction of helping to solve the population problem, which places awesome strains on the world's resources.

It will cut off funds for assisting other countries to control the growth and distribution of narcotics, a problem which is corroding the vitality of our country.

It will stop the flow of funds to UNICEF in its worldwide effort to feed children and for the international development assistance programs of the UN through the UNDP and other specialized agencies.

It will eliminate the Disaster Relief programs that have cared for victims of earthquakes, floods and famines like the great tragedy of today in India and East Pakistan.

It has been said that funds in our pipeline will see us through. This is not true. There are no funds in AID's pipelines except those that are required to pay for contracts made with other governments or with U.S. suppliers, U.S. engineering firms, U.S. universities and a wide variety of U.S. contractors.

Discontinuance of U.S.A.I.D. will cost U.S. suppliers some $3 billion worth of orders for supplies and services and cost many Americans their jobs.

Foreign assistance is crucial to the Nixon Doctrine. We cannot reduce our military presence abroad without helping others to build their economies and peacekeeping forces.

After the massive expenditure of men and material in Vietnam, the Senate's action could cause the collapse of that country's economy. It will undermine all of our efforts to bring stability to Southeast Asia.

The Senate action threatens the livelihood of 12,000 AID employees. Six thousand of them Americans, at work in Washington and around the world. This staff has more experience and competence in the difficult art of assisting underdeveloped countries than any agency in the world. There will be no funds to pay them beyond November 15.

Some 15,000 students from less developed countries are now enrolled in educational institutions and programs in the U.S. and in third countries. What happens to them?

There may be those in the Senate and elsewhere who disagree strongly with one phase or another of the foreign assistance program. The Administration itself has proposed far-reaching changes. But the implementation of new concepts will not be helped by overnight dismantling of an organization which houses a substantial portion of the world's talent in the difficult problems of international economic and social development.

More important, what happens in the developing world where two-thirds of all the peoples of the world live will determine in large part of the fate of mankind in the years ahead. Our future cannot be separated from the future of the rest of the world. Our children and grandchildren must live in the same world with their children and grandchildren.

It is hoped that thoughtful Americans will take a hard look at today's world—and recognize that before we put 100% of our attention on our domestic problems, we remember that polluted air and polluted water flow freely across national boundaries. Social unrest results from hunger, or from seeing one's family die because there is no health care, or no hope that through education one's children may have better lives than their parents because there are no schools, no teachers, no books for them.

Social unrest flows across national borders too.

AMERICAN LEGION SUPPORTS PRAYER AMENDMENT

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. MONTGOMERY. Mr. Speaker, the Members of the House of Representatives will have an opportunity to work their will on a proposed amendment to the Constitution of the United States on November 8 that would permit the recitation of prayer in public schools. After 9 years of unsuccessful efforts in the Congress to bring this matter to the floor, Congressman CHALMERS P. WYLIE's Joint Resolution 191 is scheduled for a vote. Congressman WYLIE's resolution has widespread support by private individuals and a large number of organizations throughout the length and breadth of the country. Among the organizations in the forefront in seeking restoration of the right for schoolchildren to acknowledge the existence of a Supreme Being through the recitation of public prayer on a voluntary basis is the American Legion.

The Legion has consistently supported a school prayer amendment to the Constitution since this privilege was denied our children by the Supreme Court decision in 1962. The Legion's Americanism chairman, Daniel J. O'Connor, succinctly presented his organization's views to a Senate Judiciary Subcommittee in 1966. Chairman O'Connor's remarks are as relevant now as they were at that time. I commend Chairman O'Connor's statement to the attention of my colleagues.

Also, Mr. Speaker, I place in the RECORD a copy of the Legion's current mandate on this subject adopted by its 1970 national convention:

FIFTY-SECOND ANNUAL NATIONAL CONVENTION, THE AMERICAN LEGION, SEPTEMBER 1, 2, 3, 1970

[Resolution: No. 16]

Whereas, The American Legion has long been an advocate of aid of God in the affairs of man and for those who serve the people and the Nation; Now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Portland, Oregon, September 1, 2, 3, 1970, that The American Legion support an amendment to the Constitution of the United States that would permit voluntary prayer in schools and other public buildings.

STATEMENT OF DANIEL J. O'CONNOR, THE SUBCOMMITTEE ON CONSTITUTIONAL AMENDMENTS, SENATE COMMITTEE ON JUDICIARY, ON S.J. RES. 148, AUGUST 8, 1966

Mr. Chairman and Members of the Subcommittee, I wish to express our sincere appreciation for the opportunity you have afforded The American Legion and the American Legion Auxiliary in presenting our position in support of S.J. Res. 148 with respect to a proposed constitutional amendment, which provides that nothing contained in

the Constitution of the United States shall prohibit the authority administering any school, school system, educational institution or other public building supported in whole or in part through the expenditure of public funds from providing for or permitting the voluntary participation by students or others in prayer. We fully support the prohibition against any public authority prescribing the form or content of any prayer but heartily endorse the right of any person under the First Amendment to participate in prayer.

Mr. Chairman, our statement is that of The American Legion and its Auxiliary and we are not allied with any other organization. We stand completely on our own as a Congressionally chartered organization dedicated to service for God and Country.

We will endeavor to avoid repetitious arguments and give you our reasons in favor of such constitutional amendment, but there are a few poignant remarks which we believe are necessary in the light of statements which have appeared through the communication media concerning the motives of those who favor the United States Supreme Court decisions, and of the Court itself. We assure you, Mr. Chairman and Members of the Committee, that we strongly support all three branches of the Government—the Executive, the Legislative and the Judiciary. We believe in the system of checks and balances. However, we may differ, at times, on how those functions are carried out, and more particularly whether on occasion the Judiciary has preempted the authority of Congress.

While we strongly urge a constitutional amendment, we do not share that criticism of the United States Supreme Court which would make the Judiciary a whipping post for extremists. We believe in the integrity of the Court and we respect the dignity of the Judiciary as a separate institution dedicated to safeguarding our freedom through its rulings and interpretations. We will not indulge in personal attacks or recriminations. We respect the views of those who differ with us as we expect them to respect our views. We do not accuse any witness of hypocrisy or a lack of sincerity in presenting his viewpoint, however strongly we may differ on this proposed amendment or in the aims and purposes of our respective organizations. However, in the instant matter, we believe that if the decisions of the United States Supreme Court validly interpret the meaning of the First Amendment, then, as Americans and as war veterans, who have contributed generously to the preservation of our freedoms, we firmly believe that American school children should not be denied the right to ask divine blessing on this country, on their parents and their teachers, and a constitutional amendment appears desirable. Our study of the First Amendment convinces us that the Court erred in their prayer decisions because the history, tradition, statutes and common law of this nation are replete with references to the Deity and the invocation of providential aid.

We realize that much has been written and spoken concerning these decisions and we have noted the argument that those who differ with us believe their children should not have imposed on them a compulsory period of silence or separation during the recitation of a school prayer. By the same token, it can also be reasoned that the great majority of school children, who have participated in school prayers which have not been proscribed, have been forced to accept the position of the non-believer. We do not charge all those who differ with us of being atheists or agnostics, but we do believe the Supreme Court of the United States has imposed a "neutralism" towards all religion which in essence is the promotion or adoption of the agnostic doctrine of nonbelief that is the direct antithesis of the belief of the Founding Fathers and succeeding generations of Americans.

We believe this decision is not in the best interest of promoting moral and spiritual values in American youth. We believe the imposition of nonbelief does not contribute to the character building of American school children. Our history and tradition has shown that, not only in the public schools but in public places, Americans have not hesitated to acknowledge their Creator and ask His blessing.

The American Legion, as America herself, "a Nation founded under God" determined forty-seven years ago that to accomplish the worthy goals demanded of this veterans' organization, God is the Supreme Being to guide and perpetuate our heritage through Constitutional government. This is so stated in the Preamble to the Constitution of The American Legion. The basic concepts upon which the United States was founded are contained in the Bible; the laws of the Nation are based on the world's greatest short moral code, the Ten Commandments, and since our form of government and the American way of life contain so many religious references, it would seem that our children may well be taught the reason and source of this origin. American youngsters between the ages of seven and twenty-one spend more waking hours at school and school activities than they do at home and church combined. America's economic, social and political life historically has been based upon the proposition that God is the Creator of all things and all life. This philosophical position sets man apart from the rest of the animal world and bestows on him certain irrevocable God-given rights as stated in the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, and among these are Life, Liberty and the pursuit of Happiness." The conviction of our Founding Fathers rested upon natural and divine law; that these rights were the gift of the Creator and not the object of concession by a monarch or oligarchy; and that governments existed only to protect and secure, not to abolish nor to alter these unalienable rights.

The principle of divine law is older than the universe. It is universal, unchanging truth pinpointed in a discussion on the nature and purpose of man which began in Greece nearly 2,000 years ago. Around 1776, the Founding Fathers looked with favor on the philosophy of John Locke, and others, who professed an acknowledgment of the Supreme dominion of the Author of life in the affairs of men. American History shows forcefully and brilliantly that our forebears of different religious persuasion repeatedly invoked the blessing of God on our Country. Never before had a whole people dared to stake their lives and their futures on the truth of this assertion. "Religion and morality are our indispensable support," the Founding Fathers declared, and they added, "Whoever shall subvert these great pillars of human happiness shall not be entitled to claim the tribute of patriotism."

George Washington, John Adams and Thomas Jefferson all acknowledged that religion can establish the principles upon which freedom and popular government must stand. "The liberties of a Nation cannot be thought secure if we remove the only firm basis, a conviction in the minds of the people, that these liberties are the gift of God." Benjamin Franklin, the oldest, and in many ways the wisest of the men who formulated our Declaration of Independence and our National Constitution, put it this way when he rose in the Philadelphia Convention to counsel his younger colleagues: "I have lived, sirs, a long time and the longer I live the more convincing proofs I see of this truth, that God governs the affairs of men."

A teacher at Fairview High School, Dayton, Ohio, remarked after the sorrowful incident of the assassination of our President in 1963 as follows:

"For years here at Fairview High School we have included prayers, readings, music, as a part of our brief morning opening exercises. These prayers have included petitions for Pope John during his illness, for President Eisenhower when he had his heart attack, for the United Nations when Dag Hammarskjold was killed, for our Presidents when they took their oath of office, for our country during times of peace and during times of conflict and unrest for members of the student body who had lost a loved one; for our school—and yet, when the United States faced its most tragic and upsetting event in recent years, we were forced to ignore the natural outpouring of our dismay and petitions simply because we happened to be in a building called a school when the tragedy struck on November 22." This last reference was made concerning the tragic death of our late beloved President John F. Kennedy.

One of the reasons why America's Founding Fathers insisted upon the separation of church and state was because of the plurality of religion in the United States. By separating the church and state, our Forefathers never excised religion. There is a tendency today, however, to argue that on account of the pluralism of religion in the United States, there should be no recognition of religion whatsoever, because it might be unfair to those who are non-believers or anti-religious. It is well to recognize pluralism of religious sects but it is wrong to conclude that, therefore, there should be no religion.

There is a sharp distinction between freedom of religion and freedom from or the complete exclusion of religion. There are basic principles which are absolutely necessary for the moral and spiritual well-being of a Nation and which should never be in dispute. Why does every President of the United States call upon God to witness the truth of the Chief Executive's pledge to uphold and defend the Constitution? Obviously because the United States recognizes God as the Supreme Judge and Ruler over nations. President Lyndon Johnson on assuming office asked all of us to help him but also invoked the help of God in a broadcast heard all over the Nation by Americans of all ages.

No study of the First Amendment would be complete without examining the events and circumstances of the time prior to and at the time of its adoption.

About two years ago we observed the 175th anniversary of the inauguration of George Washington as first President of the United States. About one week before the inaugural, the upper house of Congress passed the following resolution:

"Resolved, that after the oath shall have been administered to the President, he, attended by the Vice President, and members of the Senate and House of Representatives, proceed to St. Paul's Chapel, to hear divine service to be performed by the Chaplain of Congress already appointed."

This measure passed both houses of Congress literally unchanged and the inaugural service was held in St. Paul's Chapel, performed by Rt. Rev. Samuel Provoost, Episcopal Bishop of New York and Chaplain of the Senate.

In view of this obvious religious ceremony, an Anglican service, what becomes of the argument advanced today by those who say the First Amendment proposed by the same men in the same Congress prohibits prayers offered or sanctioned by government officials?

According to the annals of Congress, less than five months after Washington's inauguration on September 24, 1789, Congress approved the First Amendment and on the very same day overrode an objection to a request by Congress calling upon the Presi-

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dent of the United States to proclaim a national day of thanksgiving and prayer. Congress passed a joint resolution as follows:

"That a joint committee of both Houses be directed to wait upon the President of the United States to request that he would recommend to the people of the United States a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a Constitution of government for their safety and happiness."

How can anyone allege that Congress in sanctioning this prayer on the very same day it approved the First Amendment intended the First Amendment to prohibit public prayer?

About eight years before the Civil War, the United States Senate Committee on the Judiciary expressed the view that the framers of the First Amendment did not intend to prohibit a just expression of religious devotion by the legislators of the nation even in their public character as legislators. In 1858, Abraham Lincoln in his last debate with Senator Stephen Douglas, passed comment on the famous Dred Scott decision, which held that a negro could not be a citizen of the United States. Lincoln said "I believe the decision was improperly made and I go for reversing it." The President while maintaining deep respect for the Judiciary nevertheless expressed his sharp dissent from the Court's decision which in essence made the American negro a chattel, not a human personality enobled by his Creator in the image and likeness of God.

When we dissent, we, too, can exercise our right to seek redress in the Congress and invoke through Constitutional means, a remedy. This remedy, a Constitutional amendment, was the subject of remarks by our United Nations Ambassador Arthur Goldberg in January, 1964, at the National Press Club in Washington, D.C., when he referred to the right of the people to reverse the Supreme Court's ruling on school prayers by Constitutional amendment even though he did not agree with the objective.

The American Legion significantly we believe, has not asked the Congress to pre-empt or limit the powers of the United States Supreme Court. Past history has shown that our supreme tribunal has responded to the plea of the national will and we hope that in the instant matter the Court will respond. The Supreme Court's interdiction, however, appears so strong that only an optimist would keep a spark of hope alive that would look to complete reversal. It is possible that because of so many varying and conflicting interpretations that have resulted, for example, in encouraging the abolition of baccalaureate services and other time honored traditions, the Supreme Court may someday modify its position and restore the concept which existed prior to 1962 that there is a God to whom we all are subject and owe homage.

World War II veterans will never forget the repeated pleas for divine aid by the late President Franklin D. Roosevelt, and the sturdy reliance of President Harry Truman on providential aid in the Korean War. Our only other living former President, Dwight D. Eisenhower, has not only duplicated these invocations but also lent his voice to this noble cause.

In closing I would like to offer acknowledgement for assistance in my historical references, to Charles E. Rice, Associate Professor of Law, Fordham University, author of the book *The Supreme Court and Public Prayer, The Need for Restraint*, which contains a chapter entitled Solution by Legislation which specifically deals with the question of a constitutional amendment providing that nothing in the Constitution shall prohibit voluntary prayer in public places. In treating such constitutional amendment we recognize, too, the importance of protecting the non-believer's right to dissent but we do not believe the non-believer has the right to impose his non-belief on the great majority of Americans.

It is our sincere conviction that the First Amendment was intended to protect the American people from the establishment of a state or national religion and was never intended to rule God out of any phase of American life. If the Court decisions stand without modification, or without remedy and the plea of the majority is ignored, I assure you, Mr. Chairman, there will rise from the grass roots of America a cry of indignation from millions of Americans which war veterans and their families will not only support, but lead, and which will exceed the protests already registered in the halls of Congress.

On behalf of over three and one-half million members of The American Legion and American Legion Auxiliary, I express our deep appreciation to you, Mr. Chairman, and to the members of the Subcommittee, for consideration of this statement in support of S.J. Res. 148.

WOOD HAULERS STRIKE IN MISSISSIPPI

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. MITCHELL. Mr. Speaker, I am presenting three articles for the information of the House, an article from Newsweek, one from the Wall Street Journal, on October 19, and a pamphlet entitled, "Anger in the Southern Pines." These articles concern the wood haulers strike in Mississippi, and the important formation of a black-white alliance there.

The black and white strikers have bonded together and have accepted financial aid from the NAACP, an important event in the Deep South, which, until several years ago was a stronghold of the KKK; these men have cast aside their prejudices, and have formed an interracial coalition of poor workers.

This new development is of the utmost importance, for it signifies a first step towards black-white harmony in the Deep South. I sincerely feel this coalition to be a major breakthrough in race relations, and that it can be used as a building block for the evolution of vital racial accord.

[From the Newsweek magazine, Nov. 8, 1971]

MISSISSIPPI: STRANGE ALLIANCE

Jones County, Miss., is an unlikely cradle for a coalition of Negroes and whites—an antediluvian bastion of the Deep South, where the memories of the Klan's hooded nightriders, countless cross burnings and the murder of a black voting registration worker six years ago are still all too vivid. But after some 200 impoverished timber truckers struck the Masonite wallboard company in Laurel in September, Jones County became the birthplace of the Deep South's first tenuous interracial alliance of the poor.

It was a coalition forged of harsh economic hardship—born, ironically, from the policies of an essentially liberal corporation. The company grants the haulers—independent entrepreneurs, half of them black—interest-free loans for their trucks and power saws. But Masonite has long contended that the haulers were using hollow logs and other deceptions to shortchange the company. To put an end to the practice, Masonite last September instituted a system of measuring timber by weight instead of volume. The haulers charged that the new system meant a pay cut from $40 to $28 per load—a drastic loss, considering that each load requires a man to fell, saw and stack at least a dozen 30-foot pines. The haulers promptly joined the Gulf Coast Pulpwood Association—a three-year-old union founded and headed by former trucker James Simmons, 44, and all but ten or fifteen of them stopped deliveries.

Two weeks later, unable to buy food stamps, Simmons's hungry haulers swallowed whatever prejudices they bore and turned to the one man in the region with enough political clout to do them some good: Charles Evers, the black mayor of Fayette, Miss. Evers, who was in the midst of his campaign for the governorship, went off to Washington with Simmons and two other haulers, and told their story to Sen. George McGovern's nutrition committee. When one Department of Agriculture official suggested that all the men had to do to get food was go back to work, Evers reportedly exploded: "You're treating these men like niggers." The haulers got the stamps.

But Masonite only upped its log deliveries by rail—and refused to budge. "They're the most independent s.o.b.'s in the world," Masonite's woodlands manager Mickey De Grummond told NEWSWEEK's Stephan Leaher. "They'll work two, three days and then go fishing." And that may be true. But in the best of years past, haulers have been hard pressed to clear $5,000—and as the work stoppage went into its seventh week, their financial plight was growing desperate. Some families with five and six children received eviction notices. Others, who own decrepit homes of their own, lost electricity and water—and had to take to using wooden boxes for toilets And still others simply could no longer afford even food stamps. Again, Simmons's haulers turned to Evers. This time, Evers proposed that the haulers, whites included, seek the help of the NAACP.

'I'll He'p Him': The haulers did. One morning, Alex Waites, field director of the Mississippi NAACP, and two other officers, met on the porch of a peeling, white frame house in Laurel, and began parceling out $4,160 from the NAACP's emergency relief fund to a gaggle of haulers milling in the yard. The checks only ranged from $15 to $40, depending on the size of the families. But the 192 recipients, many of whom once were Klansmen or Klan sympathizers, were grateful enough so that 84 whites among them promptly put down $4 for membership in the NAACP. "My daddy was a holiness preacher," said Fred Walters, 56, a hauler for more than three decades. "He always taught us the colored was human, too. And this jus' shows he was right." Grover Sanders, 49, a veteran of twenty years' hauling, articulated their newfound pragmatism. "If a feller'll he'p me," said Sanders, "I'll he'p him whatever he is—white or colored." And the NAACP's Waites said his organization's intervention was no one-shot affair. "We're standing behind them," said Waites, "for as long as it takes."

It may take a long time. By last week, Simmons's legions had grown to 3,000, the boycott had spread to 30 other yards and lumber mill officials were still refusing to budge. More significant, however, is the hint of change the fragile alliance calls up. As one of Simmons's union aides put it last week: "Now that the men here in Laurel are getting help from the blacks, many of them are saying that the only way to win this strike is to bury the old racial hatreds and get together."

[From the Wall Street Journal, Oct. 19, 1971]

WHITE WOODCUTTERS IN SOUTH MISSISSIPPI TURN TO . . . NAACP?

(By Tom Herman)

LAUREL, MISS.—About half of the 200 woodcutters on strike here against Masonite Corp. are white. They have been off the job since Sept. 1, they're about broke and so is their union. So where can they turn for help?

Would you believe the National Association for the Advancement of Colored People?

As outlandish as that may seem for a bunch of Mississippi whites, especially here in a recent stronghold of the Ku Klux Klan, that's precisely what's happening.

This morning at 9, in a little ceremony at the Masonite production workers hall, the white and black strikers will receive about $5,000 from the once-despised NAACP. Many of the whites, some of whom are reputed to be former Klansmen, are saying that this is changing their entire outlook about blacks.

Later in the week, the NAACP will travel to other towns where an additional 1,000 or so whites and blacks are on strike against other wood dealers, and it will distribute more emergency funds.

HELP FROM MR. EVERS

The event today marks a radical departure from the norm of south Mississippi race relations. Just a few years ago, when the Woodworkers Union at the Masonite plant decided to end discrimination against Negroes, a union official was kidnapped and beaten.

But now some of the white strikers not only are accepting help from the black organization but also are backing Charles Evers, the black candidate for governor, the mayor of Fayette, Miss., and the state field director of the NAACP.

It was Mr. Evers to whom a group of white strikers turned for help after they said the county welfare department turned down their requests for food stamps. (The welfare department vigorously denies that it turned down anybody's application.)

"A bunch of these tough whites showed up at Charles' office and said they wanted to see him," a spokesman for the black candidate says. "He didn't know what they wanted but since the blacks in the office outnumbered them, he said to send them on in. When they sat down and one of them reached for his chewing tobacco, Charles jumped about three feet."

Mr. Evers joined some white strikers in a protest trip to Washington. They credit him with helping them get the stamps.

Mr. Evers and some white strikers went to Washington and obtained a directive from the government to get the stamps.

"None of the men I've talked to have been reluctant to accept help from the organization that many used to hate," says Steve Martin, a civil-rights worker who's helping out the union," the Gulfcoast Pulpwood Association.

"From the very first week of the strike, the men here in Laurel vowed they would take help from anywhere they would get it," he says. "Now that they're getting help from the blacks, I've heard many of them say that the only way to win this strike is to bury the old racial hatreds and get together."

AN UNDERSTATEMENT

"Yes, I would say that this is somewhat unusual," says Henry Lee Moon, an NAACP spokesman. "Usually, when we give out funds from our emergency relief fund, it's the blacks that get it because, in the South, it's usually the blacks that need the help the most. But in this case, we felt that blacks and whites together needed the help, and we're pleased with how it seems to be working out."

Nobody is sure yet how long the NAACP's help will be available. "We don't think this $5,000 is the ceiling on our assistance, but we also don't think this will be an indefinite program of help," says an NAACP spokesman in New York. "We really haven't yet decided."

Talks with officials of the Chicago-based Masonite Corp. indicate that the workers might need help for a long time Mr. John, director of employe relations, says that the strike "hasn't affected our raw material intake at all." He says the company "has rearranged its sources, that's all." That situation isn't likely to change even if the strike continued for a long time, he says.

The workers contend that the company, in effect, cut their pay when it changed its way of measuring pulpwood. "The haulers find that under the (new) . . . system they have to deliver 20% to 25% more wood in order to have a unit," says a strike bulletin.

Nonsense, replies Mr. John of Masonite. "It is our contention that we haven't changed a darn thing in our payments for the wood."

One big problem for the workers is that they aren't company employes. "They're independent businessmen who cut the pulpwood and sell it to us and to other wood users," says Mr. John. "We believe very strongly that if we sat down and negotiated pulpwood prices with a representative group of pulpwood producers, this would be in violation of the price-fixing restriction of the antitrust law."

He also says that the Gulfcoast Pulpwood Association "hasn't officially been certified as a bargaining group."

In any case, the remarkable racial harmony being shown at Laurel isn't being cheered by many Mississippians. The Jackson Daily News ("Mississippi's Greatest Newspaper") recently ran an editorial cartoon exposing what it considers the hidden truth about the strike at Masonite.

Captioned "At the Bottom of It", the cartoon shows a pile of logs labeled "Laurel Pulpwood Agitation" stacked on top of a Communist banner.

An accompanying editorial intimated that the Kremlin is keeping a close watch on the progress of events at the south Mississippi plant. The reasoning was that one strike strategist is a Tennessean long identified with socialistic causes.

"We wonder," the editorial concludes, "if Moscow is pleased with such a turn of events down at Laurel."

ANGER IN THE SOUTHERN PINES—THE STORY OF THE GULFCOAST PULPWOOD ASSOCIATION

MOBILE, ALA.—Lights are burning extra late at meeting halls and state parks in out-of-the-way towns and rural outreaches in Mississippi and Alabama. Black and white victims of sharecropper-style corporate feudalism are joining in a new grass-roots movement.

In early 1968, pulpwood cutters and landowners in South Alabama organized the Gulfcoast Pulpwood Association to fight for economic survival in the South's mammoth paper industry. Since that time, the organization has built working relationships between black and white workers. They have remained strong through a general strike and three subsequent years of struggle.

Members of the association, mostly rural blacks and whites, have been lied to, threatened, and intimidated. The harassment is reminiscent of the early Sixties. It continues, but the movement has not been thwarted.

Instead the Association is growing—new chapters are springing up across Mississippi from the Delta, through Southeast Alabama's wiregrass country.

People are serious; they're angry, and their continuing struggle may rank among the most significant in the history of labor in the South.

It was a cold and misty Alabama morning when Leroy Wilson climbed into his old Ford pickup. The sun, as usual, would not be up for another hour or so. He drove the six miles to his brother's small grocery store, where he was to meet two other woodcutters. He had come down with the flu two days before, but he couldn't afford to miss any time in the woods. Besides, today wouldn't be so bad—there was just some scrapping and hauling to do on a large tract of land leased by a paper company.

His son, who had been cutting wood since he was 15, and a man named Turner were waiting in the wood truck when Wilson got to the store. They each bought a ten- or 15-cent cake—staples in their diet—and headed for the woods.

The company's land was separated from the road by a three-foot ditch. Wilson, his son, and Turner had spent five hours earlier that month cutting, then lashing pine logs together to build a bridge across the ditch. They were not paid for constructing the bridge or for digging out a foundation to place it in.

The three men are defined by the government and by the paper companies as independent businessmen; the 15 man-hours they spent putting the bridge together are defined as overhead absorbed in their exercise of free enterprise.

The bridge sagged and creaked as Wilson's son backed the huge wood truck across it. Most of the cutting had already been done, so Wilson chopped the branches off logs, while his son and Turner began loading the truck. Leroy said something about how little they would make that week. Turner replied with, "Yessir, I don't make much money, but I sure do have a lot of fun." Everyone laughed long and hard at the irony.

By 1 o'clock, the crew had finished loading and hauling the scrap wood. Although they had been in the woods seven hours, they were eager to cut more wood. But the company had refused to let them cut more until the mill agent inspected their scrapping work. So the job ended early that day and Leroy went home. He had worked seven hours in swampy South Alabama woods with the flu. He had made $7.

Sitting on the front porch of his home, Leroy talked about the paper-wood business. There was a time, several years ago, when he had his own truck. He had a crew of three or four men, but he "didn't do much better" than he's doing now.

Having no established credit, he had accepted a dealer's offer to co-sign loans and finance equipment for him. He was to pay the dealer, who in turn paid the bank or finance company. When he cashed in his tickets at a dealer's office, there were deductions for equipment, gas, severance tax, and assorted other necessities which he had financed through the dealer.

By the time he received his check, he had enough to give every man on his crew between $30 and $50 for a week's work. (A week generally means 48–60 hours.) He seldom got that much himself.

He has never seen statements from banks or finance companies at which dealers cosigned loans for him. The dealers seemed to keep deducting. As he put it, "You'd have to be an expert bookkeeper to figure out how they charge you."

When Leroy realised that he'd never make a living by paying most of his earnings on an account every week, he decided to join his brother's crew. The one dealer to whom Leroy owed the greatest amount sued him. He had tried to persuade Leroy to sign his truck over to the company and keep cutting. But Wilson refused.

Other cutters around South Alabama told Leroy that this same dealer had told other dealers "not to accept any wood from Leroy Wilson." Finally, in an apparent last-ditch effort to keep Wilson on the company's debt book, in a final stab at his freedom, the dealer's attorney told him that he could probably "work off this account gradually provided you put on wood for him [the dealer]."

According to the corporations, Leroy Wilson is an independent businessman. His office is a pulpwood truck; his filing cabinet is his billfold stuffed with settlement sheets; his coffee breaks are irregular—they come when his truck breaks down or his chain saw jumps off its sprocket; his capital is his back; and his profits do not exist.

As he says: "You get what they want to give you, and it ain't a living. This association is the only chance we got, and it's got to work."

It is no accident that Leroy Wilson and thousands like him are trapped in a cycle of subexistence. When paper corporations began locating mills in the South decades ago, they set out to exploit the people and the resources to the fullest extent possible.

They have been granted tax exemptions, moratoriums on pollution legislation, and strong anti-union laws. They are still being dragged, kicking and screaming, into desegregation of jobs in their mills.

The dealership system for procuring wood ranks among the greatest of a long series of outrages. Paper mills designate certain independent businessmen, dealers, in "districts" across the South to buy their wood from. The dealer buys his wood (for resale to the mills) from woodcutters—who in turn buy it from landowners. The dealers also finance equipment and make loans to woodcutters. In actuality, the cutters are employees of the dealers, but they are defined as independent businessmen. This means they have no guaranteed wages, and no protection under labor law.

One particular cutter in Washington County, Ala., bought a truck from his dealer. Week after week, the dealer deducts enough from the cutter's earnings to make it necessary for the cutter to borrow money from him. He may spend the rest of his life on borrowed money.

Another cutter needed money to pay his wife's hospital bills. Having no credit, he asked a dealer to borrow the money from a local bank for him. He has been paying back the loan for years, and has not once seen a statement from the bank.

Time after time, woodcutters have worked all week and received nothing for their wood because the dealer deducted every cent for debts.

This constant reliance on the dealer is reminiscent of the sharecropper's dependence on "Mr. Charley." But as a cutter in Mississippi put it, "It's worse than sharecropping. A sharecropper could at least get a mess of greens or a piece of meat from his Man, but a woodcutter can't get nothing in a woodyard—not even a drink of water."

As long as there are people across the South who must depend on wood dealers for economic existence, there will be a pool of labor to harvest the pine forests of the South for the pulpwood companies. So the exploitation is not without purpose. It is designed to make huge profits for the people who control the pulpwood industry . . . at the expense of the lives of Southern working people across the Pine Belt.

A HISTORY OF CONTROL

When the woodcutters began organizing, the paper magnates extended their economic control to include political and social control over them. In 1968, when the first work-stoppage meeting was held in an open field in Washington County, police, deputy sheriffs and game wardens ringed the field with their cars.

It was an old tactic, designed to scare the striking cutters into backing down—but it backfired completely. A worker from Mississippi described the results of the open intimidation that night:

"A lot of folks found themselves faced with a thing they thought only happened to somebody else. We came out there to fight for a decent living, and all those law-enforcement people just made us madder."

It became obvious that intimidation would not stop the movement, so the dealers offered a $1-per-cord pay raise. This effort to pacify the cutters was successful. Many of them went back to work under the same conditions and the work stoppage was ended.

Pacification had hurt the organising and 1969 a slow year for the association. But black and white leaders in the movement were persistent and by the fall of 1970 new chapters began springing up. In the last nine months, association membership has climbed upwards of 6,000 in Mississippi, Alabama, and Northwest Florida. Black and white members of the GROW staff of the Southern Conference Educational Fund (SCEF) have been traveling widely in these states, helping to build the membership.

It has been an uphill fight because of continuous repression and harassment.

James Simmons (president of the association) has been offered a job by an organization of wood dealers—they told him he could name his price. Paper companies have reportedly circulated pictures of Simmons among woodcutters, describing him as a communist, a troublemaker, and an out-and-out "bald-headed * * *."

Organizers have been followed and tires have been punctured.

All these specific kinds of harassment are just supplementary to the very basic and entrenched control that corporations have exercised and promoted among working people in the South. Since Reconstruction, the concept of organising has been rejected, often violently, in the Deep South. The corporate bosses have consistently praised working people for being independent. The concept of self-interest still gives way to this entrenched independent attitude.

Recently, black and white woodcutters met together for the first time in the courthouse in Philadelphia, Miss.—Neshoba County. The fact that there could even be a meeting there seemed a miracle to many, considering the history of fierce opposition to organizing in that county.

The meeting did not go well at all; the bosses were ready. Organizers were told that there were officials from three paper companies in the meeting.

When it came time to collect dues for membership ($10 a year), two or three of the 43 people there started an uproar. They claimed organizers just wanted "to have a good time" with their money. They didn't want anything to do with a union. They were unalterably opposed to strikes.

The oppression of decades had left its mark; the organizers left Neshoba County in a hurry that night.

Despite the petty harassments, the attempts at pacification, and the tremendous historical burden of the oppression of Southern workers, the struggle continues. Three young Southern attorneys are preparing for legal action against paper companies, while association members are discussing the possibility of a work stoppage some time in the near future.

With upwards of 6,000 members and 30 chapters, a board of representatives with delegates elected from every chapter has been set up. Meetings are scheduled regularly. The board is about half white and half black.

The president of the board of representatives is Simmons, a chicken-farmer-turned-pulpwood-cutter who has been working for four years to build the organization. According to him, the group's major objective is to become a single body representing woodcutters in the South strong enough to deal in a forceful manner with the rank injustices in the paper industry.

In his own words, "We don't want yes men in our association. We want people who'll stand up and fight for a decent living in this paperwood business."

The fight has just begun. The repression will come harder, but so will the resistance to it. There has not been this kind of independent movement among grass-roots black and white people in the South for four decades. The earlier movements either died or were killed.

Those organising the woodcutter movement are determined that it will be different this time. They will learn from the mistakes of the past—and they will continue to build a movement that cannot be destroyed.

But they will need help—from all over the Deep South, and from all across the country.

COMMUNIST DOUBLE TALK

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. RARICK. Mr. Speaker, with the advent of the Red Chinese Communist Party moving its propaganda base into our country, I feel our colleagues should be refreshed on the Red exploitation of words—the "double talk."

I ask that a list of a few common terms in the Red Aesopean lexicon be inserted at this point in the RECORD:

THE KEY TO COMMUNIST SEMANTICS

Peace—non-opposition to Communism.

Peace-Loving—supporting Communism.

Peaceful Co-existence—non-resistance to Communist policy and moves towards world conquest.

People—Communists (People's China, etc.)

People's Democracy—Communist slave state.

Democratic or Progressive—terms used by the Reds to describe persons, organizations or policies which further Communist aims.

Aggression—any firm action to prevent or defeat Communist expansion.

Colonialism—possessing territory that the Reds want.

Colony—a non-Communist territory associated with the Western Powers.

Anti-Colonialism—the Communists' program for gaining control of territories presently associated with the Free World.

Oppressed Peoples—those living in countries the Reds wish to seize.

Liberation—the Communist takeover of a free country.

Fascist State—any country which takes firm action against Communist infiltration, espionage and subversion.

Militarism—creation of non-Communist armed strength or alliance.

Discrimination—a smear term used against people or actions which interfere with Communist plans and objectives.

Disrupter or Stool Pigeon—an anti-Communist worker or union man.

Traitor—a general term for anti-Communists.

Reactionary—a non-Communist.

Fascist—an anti-Communist.

Nazi or Hitlerite—an active anti-Communist.

Warmonger—anyone strongly opposed to giving in to Red demands.

Racist—anyone who opposes Communism on racial grounds.

Sexist—anyone who opposes Communism on the grounds of sex.

Anti-Fascist—A Red or one who fights against anti-Communists.

McCarthyism—any action to expose Communist espionage and subversion within our borders.

Inquisition—any governmental or judicial inquiry into, or investigation of, Red infiltration or subversion in non-Communist states.

Religious Bigot—anyone who opposes Communism on religious grounds.

Anti-Semitism—a smear term used by Communists against those who effectively oppose and expose them. This technique of smearing their opposition as "anti-Semites" is an old and proven method of discrediting, isolating and destroying their opponents.

Hate Literature—any book, booklet or publication which identifies and exposes Communist and Red strategy and tactics. A current smear term used widely by Reds to discredit anti-Communist publication.

The importance of understanding this game of Red *semantics* becomes apparent, for instance, when examining current demands to "ban hate literature" and "introduce anti-hate legislation". Checking Red *semantics*, we find that this is *really* a crafty manoeuvre to censor or outlaw *anti*-Communist literature and activity!

That's how important it is for the informed people to understand Red *semantics* today.

M. RUEFF CALLS FOR AID TO UNITED STATES BY FOREIGN CREDITORS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. CRANE. Mr. Speaker, in recent days there have been many statements made about the state of the American economy as well as that of the international monetary system. One of the most important has come from Jacques Rueff, famed French economist. Rueff's financial career began 50 years ago when he started doubling as professor of economics and Inspector-General of State Finances. He has held many important positions and is now president of North Atlantic Reinsurance Co. and of a French mutual fund called Elysées Valeurs. In 1964 he took the late Jean Cocteau's chair in the Académie Français.

In an interview appearing in the September 30, 1971, issue of Barron's, financial news weekly, M. Rueff states that the real answer to the world's monetary crisis will not come from any unilateral American action. He calls instead for an international monetary conference and states that—

We want the convertibility of the dollar into gold restored, and we want a return to fixed parities. But it's no use asking the Americans for that now because they cannot give it as long as they have only $10 billion in gold and $60 billion in debts. Other nations must agree to consolidate those debts before the convertibility of the dollar can be restored.

What M. Rueff is saying is that in order to solve the world's monetary problem, other nations must, in effect, lend money to the United States. He puts it this way:

The dollar balances must be converted into long-term loans at low rates of interest, loans made by the holders of those balances in favor of the U.S. The monetary system fell apart last month because for years dollars has poured out of the U.S. Now the movement must take place in reverse.

Dollar balances have become what they are today in large measure because of U.S. investment abroad together with military and economic aid to many nations. Europeans and others, M. Rueff points out, have been left with "numerous charitable works—a great debt of gratitude to the United States and this is no time to forget it."

To solve the economic problem in the long run requires some fundamental and structural changes, and this will not come about simply by improving the American trade balance, argues M. Rueff. His plan involves:

Firstly, there must be fixed parities, which are absolutely essential for foreign trade . . . Secondly, currencies must be convertible and that means that at least one or two of them must be convertible into gold, as the dollar was after Bretton Woods.

To those who argue against a return to the gold standard, M. Rueff points out that—

I have never seen an international trade system get by without gold except those managed by totalitarian regimes, from Hitler to the Russians.

Those who are concerned about achieving a real and lasting solution to America's balance of trade and monetary problems should carefully consider the words of advice given by Jacques Rueff, and this is as true for our trading partners in Europe and Asia as it is for American economic experts.

I share M. Rueff's thoughts with my colleagues, and insert this interview from Barron's in the RECORD at this time:

BUNDLES FOR UNCLE?—FOREIGN CREDITORS, SAYS M. RUEFF, SHOULD COME TO THIS COUNTRY'S AID

Neil McInnes: "Jacques Rueff, famed French economist, was nicknamed Mister Gold when a decade ago he urged cutting the gold content of the dollar by half. Thereafter he had the reputation of being Charles de Gaulle's evil genius, inspiring the General's anti-American tirades. As the accompanying surprising interview shows, Europe's most distinguished monetary expert deserves neither that nickname nor that reputation. Not that he has wavered in the belief that only a return to the gold standard can save politicians from their addiction to inflation. Concerning his respect for the 'barbarous relic,' Rueff sighs, 'Folks say I cling to gold because I'm skeptical about men's rationality. Not at all, but when it comes to rationality I can't help comparing NASA's predictions about a moon landing and the Treasury's predictions about when the payments deficit will end.'

"Reuff's financial career began 50 years ago when he started doubling as professor of economics and Inspector-General of State Finances. Architect of the stabilization of the franc under Poincaré in 1926, he then served as roving economic savior for the League of Nations, showing countries how to stabilize their finances. From 1930 to 1936, under the humble title of Financial Counsellor to the French Embassy, Rueff single-handed did 10% of all the exchange business of the City of London. He was administering the huge sums that had come back to France after the 1926 Reforms—and which were to leave again when the popular front came.

"Promoted Vice Governor of the Bank of France, Rueff resigned rather than serve Vichy. After the war, he was counsellor to the C-in-C during the occupation of Germany and president of the Reparations Conference and of the Inter-Allied Reparations Agency. He has been judge in the courts of justice of the coal and steel pool and of the Common Market. Besides authoring various tomes on finance and philosophy, Rueff is president of North Atlantic Reinsurance Co. and of a French mutual fund called Elysees Valeurs. In 1964 he took the late Jean Cocteau's chair in the Academie Francaise.

"He talked to Barron's in the study of his chateau in Normandy, looking out over the bay of the Seine. Speaking quietly and with no apparent urge to convince, he smiles apologetically for the occasional colorful phrase. "I'm no prophet," he says. "I have been right about everything that has happened to the dollar for the last 10 years simply because I started out from correct premises.' "

You've been predicting the collapse of the international monetary system that died August 15 longer than anyone else. Does the course of the crisis so far fulfill all your dire predictions, or is the worst yet to come?

A. We are still in the phase of expedients, so the danger of a catastrophe remains. On the other hand, we have a breather, time to agree on a solution. The measures announced by Mr. Nixon on August 15 do not constitute a policy freely chosen by the U.S. government but just the admission of necessity, forced upon Washington by events. It will need an international conference, or at least calm, rational and secret discussions, to work out a reasonable solution.

Q. Would you allow that some actions taken by General de Gaulle, reputedly on your advice, helped bring nearer the present crisis?

A. I don't think so. De Gaulle made the problem notorious but he did not worsen it. By the way, don't imagine I wrote his speeches for him on this subject. He was very intelligent and he understood how the gold exchange standard worked. But what he did not try for is what we now need: calm, friendly discussions with the Americans.

You know, people often talk as though the gold exchange standard were the fault of the Americans and as though what has happened this summer is their punishment. This is absolutely false. The Americans had nothing to do with the genesis of the gold exchange standard. They never asked, let alone obliged, other nations to hold dollars in their reserves instead of gold. Other central banks started to do that because they wanted to earn interest on their reserves, instead of holding bullion, so it was their own fault, not the Americans.

What you can say is that from about 1965 or 1966, the U.S. saw the benefits it was deriving from the system of "deficits without tears," that is, from the willingness of other nations to let the U.S. settle its deficits in its own money. Then the U.S. government quite consciously began to oppose all efforts aimed at reform of the system, to maintain it and even to dream up expedients to prolong it. So we got Roosa bonds and swap arrangements and Special Drawing Rights. We even got the monstrous theory of the shortage of international liquidities, when in fact we were drowning in liquidities. These were plans for irrigation during the deluge.

The results were a big increase in U.S. investment abroad, an expansion of American military and aid which we all benefited. We are left disbursements abroad, as well as numerous charitable works from with a great debt of gratitude to the U.S. and this is no time to forget it. That chapter ended, as it had to, on August 15, but we have not come to the end of the line yet.

Q. Presumably you think that one of the objectives of an international conference today would be to raise the price of gold?

A. An increase in the price of gold would no longer be an adequate solution. It would not even be indispensable. When I first suggested it, a decade ago, the U.S. had about

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$15 billion in gold. The dollar balances, claims on the U.S. held by foreigners, amounted at that time to about $13 billion. If the price of gold had been doubled, as I suggested, so that there would be $30 billion of gold in Fort Knox, the U.S. could have paid off those claims in gold. It could have wiped the slate clean and ended up with a greater value of gold, expressed in dollars, than before.

In contrast, today the U.S. has only $10 billion in gold—at the most, for we don't know how much of the gold stock is mortgaged. Dollar balances have swollen to $50 or $60 billion, so even if the price of gold were quadrupled, which would be absurd, that would not permit the U.S. to wipe the slate clean. Of course, it remains silly and unjust to peg gold at its 1934 price when other prices have more than doubled. The gold price should be put back in its proper place among other prices. But to quadruple it would create intolerable distortions. The gold price issue henceforth is subsidiary.

Q. Then what would be the purpose of the international conference? What would you be asking of the Americans?

A. We're not asking anything of the Americans. We want the convertibility of the dollar into gold restored, and we want a return to fixed parities. But it's no use asking the Americans for that now because they cannot give it as long as they have only $10 billion in gold and $60 billion in debts. Other nations must agree to consolidate those debts before the convertibility of the dollar can be restored. Incidentally, until it is restored, the dollar will continue to depreciate in the exchange markets.

The dollar balances, which are not only central bank reserves but also some unknown part of funds in the Eurodollar market, are short-term claims on the U.S. If they were presented, there would be a cataclysm. They must be consolidated, and it is especially urgent to consolidate the more volatile of them, those most likely to be presented. Then there should be voluntary consolidation of the dollar balances in the hands of central banks. The whole $60 billion need not be consolidated but enough to take the heat off.

Q. Consolidation means turning short-term claims into long-term debts. You mean other nations must lend money to the U.S.?

A. Precisely. The dollar balances must be converted into long-term loans at low rates of interest, loans made by the holders of those balances, in favor of the U.S. The monetary system fell apart last month because for years dollars had poured out of the U.S. Now the movement must take place in reverse. Those dollars must go back, in the first place in the form of cheap, long loans.

Q. Marshall aid in reverse? So far the Nixon Administration is talking trade, not aid. It wants to pay off the dollar balances by scoring big trade surpluses. That's why it wants other currencies to upvalue, so as to boost U.S. exports.

A. That would be like taking an aspirin. It would take years to pay off the dollar balances, whereas the threat is immediate.

Q. But the U.S. government is talking about pretty hefty surpluses, of the order of $11 or $12 billion a year.

A. That's still an aspirin. If the U.S. could earn surpluses like that, I would have no objection. But in practice I fear it would provoke reprisals and a trade war. But the problem is not in the foreign trade accounts, which are not all that much out of balance. They are not the cause of the trouble and they cannot cure it. The problem is deeper and more durable. It lies in the mechanisms of a monetary system that generates the dollar balances. It is the mass of short-term claims, which the U.S. is unable to honor, that threatens the Western world and menaces the capitalist system with destruction. That is why it is so sad to see the U.S., that has spent so much blood and treasure for the defense of the West and the safeguard of the capitalist system, now contribute to their destruction.

I would be happy to see an improvement in the U.S. trade balance but I think it is too small and too slow a corrective to be useful. Even on your optimistic hypothesis of an improvement of $12 billion a year in U.S. external trade, that would mean only $1 billion in a month. But the claims that were presented last month, and not honored, amounted to well over $1 billion.

Q. So you don't attach much importance to current haggling about new parities and about how much other currencies should upvalue against the dollar?

A. One of the lies about the present situation is to blame it on an overvaluation of the dollar, caused by U.S. inflation. I am not at all certain the dollar is overvalued. True, there is inflation in the U.S. but there is more here in France. And just look at the price rises in West Germany and Britain. Upvaluation of other currencies or depreciation of the dollar will resolve nothing. It would not procure the resources the U.S. would need to reimburse $50 or $60 billion in the next few months.

Naturally, when you are faced with catastrophe you must use all your weapons, all at once. A depreciation of the dollar that tended to restore balance in the U.S. external accounts would help. This is where an increase in the price of gold fits in, too, as a minor help. Nations that have their reserves in gold would see the value of their kitty increase and so they could more easily afford to make cheap long-term loans to the U.S. But trade and gold are marginal. The real problem is to consolidate the dollar balances before the worst happens.

Q. So your formula is an international conference to bail the U.S. out?

A. The voluntary consolidation of the sterling balances was achieved by such a conference. U.S. credit is still good. Nations would be ready to make cheap long-term loans to America as a price for regaining dollar convertibility and fixed parities. Mark you, my solution is not a sure panacea. When you arrange a consolidation of debts, you can never be sure that you are going to succeed. But at least we have a few months in which to try. It will call for everybody's good will. Notice that this is a solution based on the desire to maintain a world system based on U.S. power, to save the dollar and to express European gratitude to America.

Q. Or else?

A. Or else we will have an "unexpected event." Paul Valery said that nothing is so constant in life as the unforeseen. It could be a new Kreditanstalt affair—that is, a bank failure such as sparked the money panic in 1931. The Eurodollar market looks a likely place for such a break. Wherever it happens, there will be panic, every man for himself, in order to pay their debts. People over here will have to draw on those of their resources that at present are immobilized in the U.S. They will demand reimbursement of their dollar claims via the exchange markets. That will cause a deep fall in the value of the dollar. In turn, that will provoke intolerable distortions in foreign trade, a trade war and a return to protectionism and isolation in the U.S.—that is, it will be a political tragedy as well as a financial one. Already Britain has withdrawn from East of Suez because of foreign exchange troubles. We cannot afford to see the U.S. withdraw troops from West Europe for similar reasons. We need that protection.

Q. Hoping the worst is averted, what is your plan for a new and better monetary system?

A. A return to Bretton Woods. I don't think there would be much to change in the system set up after the last war, once further dollar balances could not accumulate. Firstly, there must be fixed parities, which are absolutely essential for foreign trade. I know, from having run France's stabilization fund back in 1937 when the franc was floating, that floating rates are a terrible obstable to trade. Secondly, currencies must be convertible and that means that at least one or two of them must be convertible into gold, as the dollar was after Bretton Woods.

My friend Professor Triffin thinks that the ultimate convertibility could be into a man-made instrument like Special Drawing Rights. Some folks who agree with him accuse me of having a mystical veneration for gold. Nonsense. I don't venerate gold, but I have never seen an international trade system get by without gold except those managed by totalitarian regimes, from Hitler to the Russians. In our world, unlimited recourse to Special Drawing Rights would unleash a fearful inflation on the world.

Besides, the impossibility of rationally administering SDRs has already been proven. It is proven by the fact that SDRs were being created during the flood of dollars, when none should have been. In the end, it is only gold that prevents, or rather punishes, excesses.

Q. But if we went back to Bretton Woods, we would have to ensure this time that nations did not hold more than a certain percentage of dollars in their services. Otherwise these dollar balances would start accumulating all over again.

A. Central banks will always have to hold some dollars because they need them for daily business. We must see that they hold no more than that. If you wanted to fix, by convention, that no more than, say, 10% of a nation's reserves should be in foreign currencies, you could do so. The main point is that it should never be normal practice for a central bank to create local money on the security of dollars. If it does it is stoking global inflation and, by putting its reserve dollars back into U.S. securities, it is making the U.S. deficit painless, and therefore ineradicable.

Q. An international conference on these matters is unlikely to adopt your solution—or anybody else's, for that matter. Such gatherings usually end up in a mixed compromise.

A. An international conference would give whatever the U.S. wanted. I have spent all my life among international monetary authorities, and I know they have a deep and legitimate complaisance toward U.S. power. The problem is not to convince them but to convince the U.S. As long as the U.S. does not want a solution we Europeans want, it is no use talking about it. The question is whether reason will convince the U.S. before overwhelming events do.

Our role is to offer to restitute all those resources that have been lost by the U.S., by making to the Americans a long loan of the dollar balances, and then to see that the accumulation of such balances cannot happen again. Meantime, all threats and pressures, menaces of trade war, demands for revaluation, and so on, will lead nowhere.

Q. The dollar looks like ending up devalued, whether formally or de facto, which means that U.S. stocks will be so much cheaper for foreigners. We've seen in recent years what a boost foreign buying can give to the U.S. balance of payments, not to mention to Wall Street. Do you think a vast movement of funds back across the Atlantic is going to affect stock prices?

A. That's the toughest of all the questions you've asked me. You know, I'm the president of a French mutual fund, and we've been thinking a lot lately about the impact on the stock markets of various solutions to the money crisis. It's almost impossible to say, because any solution you imagine has many bullish points and just as many bearish ones. But for the time being we're on the sidelines. The measures announced by Mr. Nixon last month spell recession in my book.

ENVIRONMENTAL ANALYSIS REPORTS

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. HOSMER. Mr. Speaker, sometimes a bit of satire can get over a point more effectively than straightforward exposition. Since we all are going through all kinds of agonies these days trying to come up with the environmental analyses required under the Environmental Protection Act I believe we might benefit from a writing shared with me by Dr. James Wright, chief of environmental concerns for the Westinghouse Corp. The document is in the form of an interoffice memo which chronicles the status of certain fictitious company negotiations. It follows:

OCTOBER 12, 1971.

STATUS OF NEGOTIATIONS BETWEEN GOD AND COMPANY

EARTH PROJECT

As you know, we have been in negotiations with GOD concerning the Creation of Heaven and Earth with options on HIS services for the creation of MAN and a subsequent option to create WOMAN (tentative title).

Though we have been able to make progress in a number of areas, we haven't been able to close the deal. The problems are these: GOD wants to create the Heavens and the Earth in Six (6) consecutive days, beginning on either a Sunday or a Monday, and rest on the Seventh (7) day, either a Saturday or a Sunday, depending on the start date. It is our feeling that though we respect GOD's talent, we are concerned about HIS ability to finish on time. We, therefore, want to have the right to have HIM work the Seventh (7) day at no additional cost. Additionally, we are insisting on One (1) set of changes and the right to replace HIM as a consultant. Patents will, of course, be our property.

We are on the verge of working out an agreement on the size and shape of MAN and WOMAN; however, the material they should be made of is where this deal may fall apart. GOD wants to create MAN out of a handful of Dust. Though we see the promotional value and the possible ability of recycling the product (Dust to Dust), we don't feel the basic material has aesthetic appeal.

The concern on the Woman project is deeper than even on Man. I know you are going to find this difficult to accept, but He wants to use Adam's Rib (the name Adam was tentatively approved, subject to a final staff review). He claims that the use of the Rib is practical because Adam has an extra Rib as the result of a previous negotiation on the Engineering Standards for Man. Engineering is very disturbed. They will not approve the project if the Rib is removed, as they feel that the previous agreement to eliminate the tail coupled with the removal of this Rib will make it impossible for Man to function. I understand that God is one of the top men in His area, but I also have a great deal of respect for the boys in Engineering. If you concur, I would recommend we refuse to use Adam's Rib for the creation of Woman and blow the deal if necessary.

I'd guess that Man has the potential of interacting adversely with other things on Earth such as air, water, land, bugs, birds and fish.

The question is, can we cut a bunch of these critters loose on Earth without irretrievably and irreversibly messing up the environment. I'm predicting that they'll have the nasty habit of tossing beer cans on the roads, bulldozing the trees, spilling oil on the waters and making the air smell bad.

In any event, we're stuck with an environmental analysis by November 1.

TWO ACHIEVE HIGHEST SCOUTING RANK

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. DUNCAN. Mr. Speaker, two young friends of mine have just been awarded their Eagle Scout rank. They are Peter von Buelow and John Neuenschwander of Bearden High School, Knoxville, Tenn.

Both these young men have impressive Scout records, and are fine junior citizens. I know they have worked hard to attain this rank, and will continue their efforts to better their knowledge and skills and to improve their community.

Today I am singling out Peter and John because they are fine examples of scouting. Every year many boys in my district become Eagle Scouts, and it is a great deal of pleasure to congratulate each of them on this high achievement. Many times I have participated in the programs in which the boys became Eagle Scouts, and it is has been my responsibility to give them the charge of this station.

Both Peter and John are members of Troop 22, sponsored by the Sacred Heart Catholic Church, Knights of Columbus.

Peter is the son of Mr. and Mrs. Carl von Buelow, 6500 Orchard Road, Knoxville, and John's parents are Dr. and Mrs. Harold L. Neuenschwander, 7109 Sheffield Drive, Knoxville.

Peter is a patrol leader in the troop, and has served as both senior and assistant senior patrol leader. He is a brotherhood member of the Order of the Arrow, has won the Ad Altare Dei religious medal, the Paul Bunyan Axemanship Award, the Mile Swim Award and has earned the Warrior's Passage hiking patch.

John is the troop's assistant senior patrol leader. He has served also as patrol leader and assistant patrol leader. He has won the Good Citizenship Medal, the Paul Bunyan Axemanship Award, and the Warrior's Passage hiking patch.

The purpose of Boy Scouts of America is to "provide for boys an effective program designed to build desirable qualities of character, to train in the responsibilities of participating citizenship, and to develop in them personal fitness, thus to help in the development of American citizens." Emphasis is on physical, mental, and emotional fitness; religious values; skills; respect for others and country; and understanding of government.

There are 6,247,160 Scout members, and I am pleased to be among this number. Actually, the boys themselves number 4,606,019. Adult members and leaders compose the remaining membership.

I know that Boy Scout work is rewarding to each member and to the leaders. Perhaps as much as teaching skills Scout work helps young people learn to work together and to understand others. I would encourage any young boy to begin with the Scouts as soon as he can. What he learns will guide him through many years ahead.

FOREIGN AID: THE FRIGHTENING FACTS

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. PRICE of Texas. Mr. Speaker, in view of the most dramatic recent action of the Senate in rejecting outright our foreign aid program of the past 25 years, I believe it most imperative and appropriate that each Member of the House give serious attention to the magnitude and ubiquity of this policy which at long last will require an extensive reexamination by the Congress. I include at this time certain recent remarks by the distinguished chairman of the Foreign Operations Subcommittee of the Committee on Appropriations, which provide a most sobering assessment of the extent to which we have become overcommitted.

REMARKS BY CONGRESSMAN PASSMAN

The attached fact sheets should have your close scrutiny. Our government is continuing to dissipate your resources and wealth in foreign nations all over the world. This unconscionable practice is destroying our world markets, destroying the value of the American dollar and placing an unbearable public debt upon the shoulders of unborn generations. This practice of giving away your wealth is creating inflation and reducing the purchasing power of your dollar which is the equivalent of confiscating your savings. I must speak out again and say forthrightly that the good claimed for this program is not supported by facts.

Our fiscal irresponsibility is so obvious that many foreign nations are again demanding our diminishing gold for the surplus dollars they hold, thus further depleting our limited gold stocks. In some countries, businesses will accept dollars only at a discount. This uncontrolled dissipation of our wealth is pricing us out of world markets. We may well finish this year with a true trade deficit of a billion dollars.

There are approximately fifty billion U.S. dollars floating around in foreign countries. We do not have the gold to redeem these dollars, so they are surplus to the needs of foreign nations for commerce. Do not blame the present Administration for this unbelievable situation because it has been building up for 25 years. The habit of giving away our wealth is so ingrained in the minds of the bureaucrats who give away this money that they cannot overcome the addiction. So, those of us who know the facts must now spread this news throughout the nation and plead for support so as to bring this outlandish, wasteful, ever-growing addiction under control, or else someday surely regret our neglect.

The attached sheets establish beyond any doubt that this program could be termed frustrating, fanatical, frightening and foolish. I am going to expose the wastefulness of this program to the Nation even if it requires substantial use of my personal resources. This is an obligation I owe to the American people.

May I explain the attached fact sheets briefly before you read them:

(1) New budget requests for additional authorizations and/or appropriations for foreign assistance, fiscal year 1972, covering loans, grants and credits—thirteen billion, five hundred twenty-eight million, six hundred twenty-eight thousand dollars.

(2) Unexpended balance in pipeline from prior years—twenty-four billion, five hundred sixty-seven million, fifty-five thousand dollars, including appropriated funds and borrowing authority.

(3) If all new requests are approved by the Congress, the grand total funds available, new and from prior years, will amount to thirty-eight billion, nine hundred fifty-six million, eight hundred and thirty thousand dollars.

(4) Net cost of the foreign assistance program (1946–71) including interest on what we have borrowed to give away, amounts to two hundred twelve billion, eight hundred eighty million dollars. Many billions of the dollars we pay out in interest on what we have borrowed to give away go to foreign nations and foreign nationals.

(5) During this world-wide spending spree, our gold holdings have been reduced from twenty-two billion, eight hundred seventy-nine million dollars to ten billion, seven hundred thirty-two million dollars.

(6) Since the inception of the world-wide spending spree, short-term dollar claims against the United States (due now) have increased from eight billion, six hundred forty-five million dollars to forty-one billion, six hundred sixty-six million dollars, plus other United States indebtedness abroad which amounts to twelve billion dollars. If we should be called upon to pay off these short-term IOU's we could not meet the demand.

(7) Our balance-of-payments situation, since this world-wide spending spree started, has placed our fiscal affairs in a grave position. We have paid to foreign nations forty-eight billion, eight hundred nineteen million dollars more than they have paid to us. This situation will continue to worsen until we bring the Aid program under control. As you know, this is what has created such a tremendous dollar surplus in the hands of foreign nations and nationals.

(8) The freewheeling spending program covering the face of the earth has helped push the U.S. Public debt to a figure eighty-seven billion dollars above the combined public debt of all the other nations of the world.

(9) Can it be denied that our country has substituted dollars for a sound foreign policy, aid for trade, appeasement for firmness? We have become so addicted to this formula that it is no longer even suggested that it be stopped. Only the American taxpayers have the power to stop it.

(10) Until this Administration came into power, we had been borrowing money from the American people to pay for commodities and services which were given free to foreign nations, and then borrowing dollars from foreign nations in order to make our balance-of-payments situation look better than it was.

(11) In the main, the foreign aid program is administered by patriotic Americans, but they are almost completely without banking and business experience. It has been established that it is the fourth and fifth echelon bureaucrats who are involving us in these foreign entanglements. During 1972 alone, some portion of the aid program will be operating in 96 nations of the world, with 54,599 individuals on the payroll. This includes U.S. personnel, foreign personnel and participants. There are now 4,416 projects and subprojects scattered all over the world. While many similar projects in America cannot go forward because of lack of funds, not a single foreign aid project has ever been stopped or slowed down for lack of funds.

Please analyze the attached sheets. They convey a significant message. A careful scrutiny may prompt the overburdened American taxpayer to take the necessary steps to bring this world-wide free spending program under control. Bureaucratic estimates are so unrealistic and unconvincing that the Congress has been able to reduce the budget requests by twelve billion, three hundred forty-three million dollars in sixteen years. The total reduction was limited to this amount because of the selfish interests of thousands of lobbyists and the scares peddled by bureaucratic personnel. Yet even after the reductions, the foreign aid program was still greatly overfunded.

Aid should be limited to agencies such as the Export-Import Bank with the disguised credit and grant portion being curtailed and eliminated at the quickest possible date. We should make sure that any aid extended is on a loan basis with reasonable maturity dates and at the same rate of interest we have to pay on the money we borrow to lend.

NEW REQUESTS FOR AUTHORIZATION AND/OR APPROPRIATION FOR FOREIGN AID AND ASSISTANCE—FISCAL YEAR 1972

[*In thousands*]

Foreign Assistance Act (including Military Assistance)	$3,313,000
Overseas Private Investment Corporation (OPIC)	25,000
Inter-American Development Bank	500,000
Inter-American Development Bank (Supplemental)	486,760
International Bank for Recon. and Devel. (Supplemental)	246,100
International Development Association	320,000
Asian Development Bank	40,000
Asian Development Bank (Supplemental)	80,000
Expanded Multilateral Assistance	35,000
Receipts and Recoveries from Previous Programs	370,310
Military Assistance (in Defense Budget)	2,250,800
International Military Headquarters	74,400
Economic Assistance (in Defense Budget)	90,900
MAAG's, Missions and Milgroups	262,000
Permanent Military Construction—Foreign Nations	106,000
Export-Import Bank, Long-term Credits	2,445,000
Export-Import Bank, Regular Operations	1,195,839
Peace Corps	82,200
Ryukyu Islands	4,450
Migrants and Refugees	8,850
Public Law 480 (Agricultural Commodities	1,320,400
Contributions to International Organizations	160,680
Education (Foreign and Other Students)	51,000
Trust Territories of the Pacific	59,739
Latin America Highway (Darien Gap)	20,000
Total, new requests—foreign aid and assistance—fiscal year 1972	13,528,628

UNEXPENDED BALANCE FOR FOREIGN AID AND ASSISTANCE IN PIPELINE FROM PRIOR YEARS FOR APPROPRIATION AND AUTHORIZATION

[In thousands]

Foreign Assistance Act (including Military Assistance)	$4,403,985
Export-Import Bank, Uncommitted Borrowing Authority	5,230,600
Export-Import Bank, Long-Term Credits	2,937,800
Export-Import Bank, Regular Operations	$624,600
Export-Import Bank, Export Expansion Program	295,000
Inter-American Development Bank	2,304,051
International Bank for Reconstruction and Development	5,715,000
International Development Association	460,000
Asian Development Bank	150,000
Foreign Military Credit Sales Program	290,000
MAAG's Missions and Milgroups	10,000
Military Assistance (in Defense Budget)	945,000
International Military Headquarters	18,000
Economic Assistance (in Defense Budget)	15,000
Permanent Military Construction Overseas	210,000
Overseas Private Investment Corporation (OPIC)	203,538
Public Law 480 (Agricultural Commodities)	664,439
Peace Corps	24,077
Contributions to International Organizations	5,808
Education Exchange	28,397
Ryukyu Islands	1,740
Migrants and Refugees	2,264
Inter-American Highway	6,100
Trust Territories of the Pacific Islands	21,656
Total	24,567,055

TOTAL NET FOREIGN ASSISTANCE TO 127 NATIONS OF THE WORLD — FISCAL YEARS 1946 THROUGH 1971

The five F formula: Frustrating, Fanatical, Frightening, Foolish, Factual.

[In thousands]

Afghanistan	$373,800
Albania	20,400
Algeria	176,100
Argentina	341,100
Australia	594,400
Austria	1,218,400
Barbados	700
Belgium-Luxembourg	1,742,200
Bolivia	532,000
Botswana	19,100
Brazil	2,738,200
Burundi	7,800
Burma	158,600
Cambodia	613,700
Cameroon	33,500
Canada	46,500
Central African Republic	5,600
Ceylon	176,600
Chad	9,800
Chile	1,281,800
China, Republic of	5,096,500
Colombia	1,119,400
Congo (B)	4,000
Congo (K)	456,000
Costa Rica	188,200
Cuba	43,700
Cyprus	22,400
Czechoslovakia	189,500
Dahomey	12,900
Denmark	873,300
Dominican Republic	483,400
East Germany	800
Ecuador	296,700
El Salvador	145,400
Equatorial Guinea	900
Ethiopia	394,100
Finland	10,900
France	7,059,700
Gabon	7,600
Gambia	3,900
Ghana	264,800
Germany and Berlin	3,652,400
Greece	3,681,900
Guatemala	385,300
Guinea	113,000
Guyana	69,900

Haiti	$117,200
Honduras	122,800
Hungary	18,300
Iceland	59,800
India	8,003,600
Indochina	1,535,200
Indonesia	1,343,800
Iran	1,945,700
Iraq	90,500
Ireland	105,700
Israel	992,000
Italy	5,528,500
Ivory Coast	80,000
Jamaica	92,400
Japan	3,419,900
Jordan	710,000
Kenya	77,100
Korea	10,059,500
Kuwait	29,500
Laos	1,449,500
Lebanon	98,000
Lesotho	12,100
Liberia	217,100
Libya	221,600
Malagasy Rep	14,100
Malawi	26,400
Malaysia	72,600
Mali	30,000
Malta	8,300
Mauritania	5,000
Mauritius	6,100
Mexico	451,600
Morocco	731,800
Nepal	157,600
Netherlands	2,033,300
New Zealand	58,800
Nicaragua	165,600
Niger	18,900
Nigeria	383,600
Norway	1,127,100
Pakistan	4,484,100
Panama	242,300
Paraguay	131,100
Peru	465,200
Philippines	1,938,600
Poland	437,300
Portugal	432,900
Romania	10,000
Rwanda	8,000
Saudi Arabia	178,800
Senegal	40,100
Sierre Leone	44,100
Singapore	31,300
Somalia	79,300
South Africa, Rep	33,300
Southern Yemen	200
Spain	2,028,400
Sudan	$91,000
Swaziland	4,900
Sweden	135,300
Switzerland	45,300
Syrian Arab Rep	58,700
Tanzania	73,400
Thailand	1,592,400
Togo	17,800
Trinidad & Tobago	49,700
Tunisia	699,400
Turkey	5,640,500
Uganda	42,500
United Arab Rep	750,900
United Kingdom	7,209,100
USSR	186,400
Upper Volta	18,500
Uruguay	184,900
Venezuela	317,600
Vietnam	15,213,700
Western Somoa	2,500
Yemen	45,300
Yugoslavia	2,515,600
Zambia	6,100
Bahamas	31,800
Brit. Honduras	5,900
Brunei	14,000
Sou. Rhodesia	1,500
Surinam	9,200
West Indies	8,900
Hong Kong	44,700
Papua & New Guinea	23,700
Ryukyu Islands	403,300
Trust Ter. Pac	284,200
CENTO	54,700
W/W, Regional	15,907,600
Total Net Disbursements to Foreign Nations, 1946–1971	138,446,200
Total Net Interest Paid on What We have Borrowed to Give Away, 1946–1971	74,434,597
Grand total, cost of Foreign assistance, 1946 through 1971	212,880,797

Of the 3½ billion people of the world, all but 36 million have received aid from the United States.

GOLD HOLDINGS

Gold holdings, United States, December 31, 1950, $22,879,000,000.

Gold holdings, United States, December 31, 1970, $10,732,000,000.

Gold holdings, other countries of the world, December 31, 1950, $10,935,000,000.

Gold holdings, other countries of the world, December 31, 1970, $26,108,000,000.

FOREIGN SHORT-TERM DOLLAR CLAIMS AGAINST UNITED STATES

Short-term dollar claims against United States, December 31, 1950, $8,645,000,000.

Short-term dollar claims against United States, December 31, 1970, $41,666,000,000.

U.S. balance of payments

[In millions]

1950 net deficit	−$1,912
1951 net deficit	−578
1952 net deficit	−1,100
1953 net deficit	−2,100
1954 net deficit	−1,500
1955 net deficit	−1,100
1956 net deficit	−1,000
1957 net surplus	+800
1958 net deficit	−3,400
1959 net deficit	−3,700
1960 net deficit	−3,800
1961 net deficit	−2,400
1962 net deficit	−2,200
1963 net deficit	−2,660
1964 net deficit	−3,006
1965 net deficit	−1,306
1966 net deficit	−2,077
1967 net deficit	−3,650
1968 net surplus	+93
1969 net deficit	−7,208
1970 net deficit	−4,715
Net U.S. balance-of-payments deficit (21 years) 1950 through 1970	−48,819

GROSS PUBLIC DEBTS

Public debt, United States, December 31, 1970, $391,626,290,000.

Public debt, all other nations of the world (estimate), December 31, 1970, $304,160,241,000.

Public debt, United States exceeds combined public debt of all other nations of the world by $87,466,049,000.

The above statistics cover (1) gold holdings, (2) short-term dollar claims against United States, (3) United States balance-of-payments position, 21 years, (4) public debt of the United States, (5) public debt of all other nations of the world, and (6) amount by which our public debt exceeds combined public debt of all other nations of the world. These statistics should be of interest to every American, conservative or liberal.

MUTUAL SECURITY PROGRAM (FOREIGN AID) ANALYSIS ON CONGRESSIONAL ACTION, 16-YEAR PERIOD, 1956–71 INCLUSIVE

Fiscal year	Budget estimate	Appropriation	Reduction below estimate	Percentage below budget estimate
1956	$3,266,641,750	$2,703,341,750	−$563,300,000	17.24
1957	4,859,975,000	3,766,570,000	−1,093,405,000	22.50
1958	3,386,860,000	2,768,760,000	−618,100,000	18.25
1959	3,950,092,500	3,298,092,500	−652,000,000	16.51
1960	4,429,995,000	3,225,813,000	−1,204,182,000	27.18
1961	4,275,000,000	3,716,350,000	−558,650,000	13.07
1962	4,775,500,000	3,914,600,000	−860,900,000	18.03
1963	4,961,300,000	3,928,900,000	−1,032,400,000	20.81
1964	4,525,325,000	3,000,000,000	−1,525,325,000	33.70
1965	$3,516,700,000	$3,250,000,000	−$266,700,000	7.58
1966	3,459,470,000	3,218,000,000	−241,470,000	6.98
1967	3,385,962,000	2,936,490,500	−449,471,500	13.27
1968	3,250,520,000	2,295,635,000	−954,885,000	29.38
1969	2,920,000,000	1,755,600,000	−1,164,400,000	39.88
1970	2,710,020,000	1,812,380,000	−897,640,000	33.12
1971	2,200,500,000	1,940,185,000	−260,315,000	11.8
Total	59,873,861,250	47,530,717,750	−12,343,143,500	20.63

Mr. Speaker, this dazzling array of statistics and figures is almost incomprehensible to the human mind, until we realize that there are more than 13,000 Agency for International Development employees in the Department of State whose sole responsibility and function is to dissipate and distribute the tax money of the American people to the rest of the world. Think about it—13,000 full time workers who are giving our money away—persons whose energies are dedicated to perpetuating a drain on our resources—persons who somehow have even succeeded in justifying countless millions of dollars in assistance to various Communist countries which are the sworn enemy of the United States!

While I fully acknowledge the necessity and desirability of certain types of foreign aid, such as military assistance vital to the security of the United States, and some disaster relief to friendly countries, it is all too obvious that by and large our unprecedented generosity has bought this Nation little security and few friends during the past two and one half decades. So that we might better comprehend the scope of the foreign aid program, I would like at this time merely for the sake of comparison to suggest some examples of what this same amount of money would have purchased if spent by our people here at home.

In taking the very latest figure available, the total amount of $143,000,000,000 in U.S. foreign aid since the end of World War II would purchase any one of the following for the American people:

2,869,000 classrooms at $50,000 each;

35,750,000 cars at $4,000 each;

47,666,666 smaller cars at $3,000 each;

7,150,000,000 pairs of shoes at $20 each;

476,666,666 color televisions at $300 each;

XUM

1,430,000,000 mens' suits at $100 each;
2,860,000,000 pairs of Tony Lama western boots at $50 each;
715,000,000 washing machines at $200 each;
143,000,000 mink coats at $1,000 each—or
2,860,000,000 electric toy train sets at $50 each.

Or put another way, this same amount of money simply divided up would amount to $715 for every man, woman, and child in the United States.

While our foreign aid funds have been distributed among 98 other nations throughout the world, for the sake of further comparison I suggest that the money we have given to India alone—over $8,000,000,000—if distributed among the people of my congressional district—assuming a population of 450,000—would provide $17,770 for every man, woman, and child residing in the district. Or put another way, this money would buy each individual in the district his or her choice of:

4 automobiles at $4,000 each;
5 smaller automobiles at $3,000 each;
59 color TV sets at $300 each;
888 pairs of shoes at $20 per pair;
17 mink stoles at $1,000 each;
177 black and white TV sets at $100 each;
90 washing machines at $200 each;
354 pairs of Tony Lama western boots at $50 per pair—or
177 men's suits at $100 each.

Mr. Speaker, we could go on and on with analogies, comparisons, charges, and criticisms of this program. But I believe one point is paramount in importance—namely, the time has come for America to stop playing Uncle Sap—let our foreign policy and in particular whatever foreign aid program we may henceforth fashion truly reflect an "America first" policy. No nation in the history of the world has ever matched the generosity we have shown to others—but the time has come for our Government to recognize that its first obligation is to our own people, and that our role as Santa Claus to the rest of the world can no longer be justified or tolerated.

VICE ADM. MEANS JOHNSTON AWARDED THE DISTINGUISHED SERVICE MEDAL

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. WYMAN. Mr. Speaker, a friend of many Members of the House and Senate, Vice Adm. Means Johnston was recently relieved of his duties as Chief of the Office of Navy Legislative Affairs and promoted to Inspector General of the Navy. In his new position, he has the best wishes of a growing number of friends on Capitol Hill—from both sides of the aisle in the Senate and House of Representatives.

Admiral Johnston was recently recognized by the President and awarded the Distinguished Service Medal for outstanding service to the Government of the United States. I include in the RECORD at this point the text of Admiral Johnston's citation for dedicated service to his Nation.

The article follows:

THE SECRETARY OF THE NAVY,
Washington, D.C.

The President of the United States takes pleasure in presenting the Distinguished Service Medal to Vice Admiral Means Johnston, Jr., United States Navy, for service as set forth in the following citation:

For exceptionally meritorious service to the Government of the United States in a position of great responsibility as Chief of Legislative Affairs from January 1969 to September 1971.

An extremely knowledgeable and resourceful advisor to the Secretary of the Navy, Vice Admiral (then Rear Admiral) Johnston has conducted liaison with the Congress of the United States for the Department of the Navy during one of the most difficult and challenging periods in this nation's history.

Faced with the most formidable opposition, and confronting an atmosphere of disaffection with military matters, Vice Admiral Johnston was able to maintain such outstanding rapport with the leadership of the Congress that programs for the modernization of the Navy have been supported by the Congress with notable generosity and genuine understanding of the Navy's role in contributing to the national defense.

By his outstanding leadership, judgment, and inspiring devotion to duty throughout, Vice Admiral Johnston upheld the highest traditions of the United States Naval Service.

For the President,
JOHN H. CHAFEE,
Secretary of the Navy.

RETURN VETERANS DAY COMMEMORATION TO NOVEMBER 11

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. YOUNG of Florida. Mr. Speaker, for the past 52 years, our Nation has commemorated Veterans Day on November 11, a day of great historical significance to the free world. On this day in 1918, an armistice was signed which ended the hostilities on the Western Front during the First World War. It was chosen by Congress as the most appropriate day to honor all veterans whose great sacrifices over the years, have made it possible for us to enjoy the freedoms of America today.

This year, however, for the first time in our history, Veterans Day was celebrated on October 25 because, due to the provision of the Monday Holiday Act, this day of honor has been arbitrarily changed to the fourth Monday in October—all this for the expediency of providing another 3-day weekend. To me, this redesignation diminishes, defeats, and aborts the purpose for which this national holiday was originally designed. While I enjoy 3-day weekends as much as the next person, I do not feel we should sacrifice the calendar day, November 11, which has in the past been set aside as a day of national recognition to those who faced the great challenges and offered the great sacrifices for the preservation of our freedom, just to have another free Monday and a long weekend. That a day of such national importance could be treated so lightly is disturbing to me.

Therefore, on November 11, I will introduce a joint resolution which would redesignate November 11 of every year as "Veterans Day." This is an important national holiday, a time to pause and honor those who have sacrificed so much to preserve our precious freedom and heritage. Veterans Day must stand out in our minds, and not be made simply the tail end of a 3-day holiday weekend.

THE VETERANS' ADMINISTRATION'S HEALTH-CARE SYSTEM

HON. WILLIAM R. ROY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. ROY. Mr. Speaker, the Hospital Tribune, a weekly newspaper sent to policymaking personnel and administrators in the hospital field, recently has published a series of three articles on the Department of Medicine and Surgery of the Veterans' Administration. These articles were excerpted from the writing of Marc J. Musser, M.D., chief medical director, and Benjamin B. Wells, M.D., deputy chief medical director.

While there articles reflect the anticipated viewpoint of their authors, the substance, analysis, and recommendation are well worth our careful reading and consideration. The exceptional abilities of Drs. Musser and Wells make the achievement of these goals more likely.

The articles follow:

THE VETERANS' ADMINISTRATION'S HEALTH-CARE SYSTEM

(By Marc J. Musser, M.D., and Benjamin B. Wells, M.D.)

Of the many systems of health care-delivery in America—state, municipal, voluntary, and private and group practice—none approach in magnitude the services and scope provided by the Department of Medicine and Surgery of the Veterans Administration. In this issue, Hospital Tribune begins a three-part report by two distinguished physicians on the manifold activities of this Federal health agency.

The Veterans Administration's Department of Medicine and Surgery is the country's largest health-care system. As such, it operates 166 hospitals, 202 clinics, and 63 nursing homes staffed by 150,000 physicians, nurses, and other health workers to make high-quality medical care readily available to some 6,000,000 veterans on an annual budget of some $2 billion.

In fulfilling that major mission, the VA educates and trains medical students, physicians, and all other categories and levels of health manpower, promulgates extensive cooperative biomedical and medical care research programs, and maintains quality control, regionally and within its own system and the private sector.

Much has been written and said during the past several years about the need for a national health-care delivery system and the extent to which the health-care needs of the American people are being met by a "nonsystem." Very few attempts have been made to conceptualize the structure and operational nature of an appropriate delivery system. Indeed, the current preoccupation

seems to be with mechanisms for payment for services, rather than with the mechanisms for expanding the capacity and improvement of the system.

Any form of universal health insurance will only accentuate the needs for more effective and dependable mechanisms for the provision of services. If a health care delivery *system* is the best way to accomplish this, it becomes imperative that such a concept should provide meaningful assistance.

Providing the highest-quality health care to eligible veterans is the prime mission of the Veterans Administration's Department of Medicine and Surgery. Immediately after World War II, under the leadership of General Omar Bradley, Dr. Paul Hawley, Dr. Paul Magnuson, and others, the department developed essential characteristics considerably different from the prewar facilities often referred to as "old soldier's homes."

In this process, the VA has come to gripe with many of the same kinds of problems our country is now confronting in its health-care crisis. Therefore, the Veterans Administration's health-care system can be considered a demonstration project that can be useful as a model.

The several references to the Veterans Administration's Department of Medicine and Surgery in the Presidential Health Message of February 18, 1971, was a long step forward toward improving the understanding and visibility of that system. In that message the President explicitly called for the cooperation between the Administrator of the Veterans Administration and the Secretary of the Department of Health, Education, and Welfare of "ways in which the Veterans Administration medical care system can be used to supplement medical resources in scarcity areas." A whole series of other requests for actions and plans, ranging all the way from the development of new resources of health manpower to biomedical research in general and sickle cell anemia in particular, also implicitly involve the Veterans Administration system.

UNDERSTANDING NEEDED

What needs doing is the achievement of a new range and depth of understanding of our health-care system vis-à-vis those of the voluntary sector. Only thus can the Veterans Administration health-care system begin to be of help for the delivery of health care generally.

The fact is that many of the essential characteristics for a successful voluntary system for the delivery of quality care are demonstrated ideally by the Veterans Administration's system. Some of these characteristics are:

1. Easy and convenient access to the system. There is no more exasperating feature of our present national health-care system than the many obscure and uncertain ways patients enter it. For example, the tacit assumption that everyone has a family physician is unrealistic in a mobile and economically disparate population. By contrast to the general population, approximately 90 per cent of the 28,000,000 veterans live no further than 100 miles or two hours from a Veterans Administration health facility.

2. A full spectrum of health resources must be available so that care will be comprehensive. An imperative of good medical practice is that the patient can be referred easily and quickly from one service to another according to his needs. This assumes a wide variety of specialties and modalities for diagnosis, treatment, and rehabilitation. Virtually all Veterans Administration hospitals are at least comparable to any good community hospital, and many of these hospitals serve as medical school teaching hospitals. They are comparable to university hospitals.

3. Emphasis on treatment at the earliest stage of a patient's disease. This means that the system must be oriented toward ambulatory care with more intensive and sophisticated services available on call. An overwhelming majority of patients seek medical care for minor problems. The system must recognize this fact and place these common, everyday problems in proper relationship to life-threatening, rare, and catastrophic illness in the total array of health services and their cost.

4. A system operated at maximum efficiency to assure economic advantages to its consumers. One of the best ways of getting a good cost-effectiveness ratio is to delegate some of the duties previously performed more expensively by physicians to a variety of allied health personnel. These include physician assistants, dental assistants, and others. The Veterans Administration hospital system, as a centrally directed system, can and does do most of these things.

5. Prepaid cost of care. This is recognized by most all of our political, social, and health-care planners and is, in fact, the basis for making the current health-care proposals now being aired. The Veterans Administration's health-care system is a prepaid system for veterans. Basically the prepayment is their service in the armed forces.

VA DESCRIBED AS A CASE OF E PLURIBUS UNUM

The Veterans Administration's health-care system is more than a catalogue of institutions, facilities, and programs. It is a dynamic, cooperative, cohesive, and unified set of transactions that permits the system—despite its geographic dispersion, its size, and its complexity—to act as a single entity.

In fact, the system functions so effectively in the market place that its services have always remained substantially below the cost of similar services in the private sector. The system has a leverage enabling it to obtain expensive equipment or scarce manpower and to use them economically and efficiently. It also can develop and test, not just new mechanisms for the delivery of health services but can and does conduct cooperative clinical and basic biomedical research in collaboration with other organizations.

In terms of providing access to quality medical care, the Veterans Administration's system has demonstrated that it is possible to do things that are exceedingly difficult for individual private hospitals and their related systems to accomplish separately or together.

An example is regionalization, one of the most useful "working concepts" of our time.

Our system has the mechanisms to achieve the necessary high level of cooperation among its hospitals to eliminate costly duplication and make maximum use of skills and resources. This has been done in personnel, supply, fiscal procedures, and in patient records. Similar efforts are under way in patient care.

Requests already have been received to establish outreach clinics in some of the more remote areas of the country. We are experimenting also with mobile multidisciplinary treatment teams. These teams visit outlying communities on schedule and, in cooperation with local health workers, assure the availability of needed services. Such teams have already been especially effective in mental health (as in Alabama) and in chronic pulmonary disease (as on Long Island). We are looking forward to extending other ambulatory services as the regionalization program expands.

The Veterans Administration system is almost ideally designed to deal with the many health manpower problems that arise. This includes physician manpower, where VA now is directly involved in the education of some 11,000 medical students and 5,000 interns and residents each year, as well as the allied health professions and supporting personnel categories.

In these two latter areas we believe that duties must become more clearly specified and be delegated to a number of new categories of manpower. For example, in conjunction with the Civil Service Commission, the Veterans Administration has obtained a new employment category for physician assistants. A number of these are already working in the systems in the Veterans Administration's hospitals in Muskogee, Okla., Houston, Tex., and Durham, N.C. In nurse education and utilization, the Veterans Administration has designed a program to obtain maximum development and use of subprofessional personnel in the nursing service.

WIDE ACCESS TO BENEFITS

At present, Veterans' Administration's hospitals and clinics are affiliated with 80 medical schools, 51 dental schools, 287 nursing schools, 274 universities and colleges, and 84 community and junior colleges. Veterans Administration facilities also are used to provide health service training and work experience at novice levels to enrollees in Federal economic opportunity and educational assistance programs. Obviously, no other organization, agency, or group in the United States has access to the benefits of this array of academic associations.

During the current fiscal year about 50,000 students will participate in more than 60 categories of training in our institutions. The potential exists for expansion well beyond the size of the present program. These workers will be not only for our use, but for the health labor market of the voluntary system as well.

It is obvious that manpower requirements are implicit in any system for delivering health care. But they can be made explicit only by a complete formulation of the system. One of the major inputs to a system is manpower; the output is health service. The "numbers game" with personnel—ratios to population, distribution by categories, specific training requirements, and so on—are secondary considerations. They become meaningful only after the system has been defined.

It is important to make clear certain other characteristics of the Veterans Administration's health-care system, which lends itself remarkably well to large-scale clinical research activities, identified as Cooperative Research Studies. In the past, staff members of our hospitals, working together and using a unified protocol, have solved several problems that could scarcely be handled by a lesser system. Some examples of the accomplishments of this important form of collaboration include the demonstration that tuberculosis would respond to chemotherapy, leadership in the study of psychotherapeutic drugs, of anticoagulants, and other treatment modalities.

For the past 15 years our system has collaborated with the National Cancer Institute and certain medical schools in the evaluation of cancer chemotherapeutic agents. All were made possible by using the Veterans Administration's systems in a unified and coordinated way. Because of the tremendous potential for this kind of research, we are continuing to expand and refine the techniques of cooperative research.

VA SYSTEM AND QUALITY CONTROL RESEARCHES EVALUATION

Along with its many other research activities, the Veterans Administration's system seeks the advancement of medicine and health care in the realm of evaluation and quality control of health services. This potential has been incompletely understood and imperfectly used in the past. As the largest and most experienced health system in the nation, ours has a responsibility for leadership in enlightened quality control, and we are accepting that responsibility.

Finally, as the advances and the increas-

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ing complexity of medicine have inevitably brought on the current crisis in health-care costs, the Veterans Administration's health-care system has suffered, along with its colleagues in the voluntary systems, in terms of public pressure to alleviate these costs.

Currently, one of the most popular proposals for controlling rising costs in medicine is for doctors to practice in groups. The Department of Medicine and Surgery for the past 25 years has used what is essentially a pattern of group practice for the delivery of its services. Also, there is the criticism that much of the rising costs stem from the fact that the new developments in medicine often require capital outlays—for buildings and for expensive equipment, including such hardware as computers. Our system is ideally designed to meet these problems.

Much has been written about consumer participation in health-care affairs. It might be said that the Veterans Administration has dealt longer with so-called consumer involvement than any other major health-care organization. Daily, for 25 years, we have related to service organizations, civic groups, and their representatives in the Congress. Whatever one's emotional bias might be, these groups are consumers and are well enough informed so as to have asserted a considerable controlling influence. Their interests extend all the way from administration through quality of care, cost control, and the ultimate socioeconomic predicament of the patient. With 28,000,000 veterans in this country—who with their families constitute 48 per cent of our population—we do not want for consumer reaction or involvement.

Still other health-care systems are beginning to arise and grow in the private sector and under other Federal auspices.

The Kaiser-Permanente Plan already has more than 2,000,000 subscribers; the Blue Cross and Blue Shield Plans are big business. In the Federal sector, Medicare and Medicaid are coming of age. The Veteran's Administration's system must interact with these and similar enterprises.

Discussions concerning National Health Insurance are increasing, and there already have been speculations on its impact upon the Veterans Administration system. However, it now should be clear that any program concerned solely with the payment for services will not significantly influence the capacity of the health-care industry to deliver services.

1. A system or, more likely, a number of related systems will be adapted to health care delivery needs. While recognizing the universal right to health care, we must recognize the practical necessity to compromise with reality. Not every American family can have a Mayo Clinic within walking distance of home. Emphasis must be on transportation of both patients and health care teams, as well as on location of facilities.

2. The system of medical care must permit a free movement of patients between institutions and ambulatory facilities so that effective care is provided at the lowest possible cost.

3. We must learn to develop and use health manpower according to basic principles long established in other industries. Each identifiable task or category of tasks, for example, should be performed by individuals who have adequate but not excessive qualifications for the assignment. When the systems are more widely established and stabilized, it may well be that manpower needs will be far less complicated and expensive than they now appear. In any event, a careful re-examination of licensure and certification is needed to assure the economical training and use of health personnel.

4. Productivity measurements must someday be validated. Without a system or a consistent pattern of manpower utilization and quality produced, such measurements are meaningless.

5. We must have a continuing and assured level of support for biomedical research. It is nonsense to think that one of the largest industries in the nation's economy can sustain itself without adequate research and development.

6. Certain obvious cost-saving measures must be pursued. Area planning, the sharing of expensive resources between both Federal and private systems, and elimination of unnecessary duplications, are imperative for the immediate future. We can no longer permit the unregulated burdens of malpractice litigation to increase the cost of medical care and limit the quality of its performance. We cannot allow vested interests and traditional pressures to maintain the various barriers between institutions or population groups.

In conclusion, the concept that each individual is entitled to the best available care, irrespective of his social status, inability to pay, or any other nonmedical factor, has become deeply imbedded in social policy.

Our enormous systems of health insurance, Medicare, Medicaid, and other welfare programs are rapidly moving the nation toward, if not a single system of health care, at least a single quality of service. Under such circumstances, no single entity within our society—private or public—can remain in isolation while the health needs of the nation are unfulfilled.

THE IMF MEETING

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. HARRINGTON. Mr. Speaker, when the President made his announcement last August 15 of his new economic policy, most of us in Congress agreed that strong leadership was vital to rescue the economy, although many of us argued that the situation should never have been allowed to deteriorate as far as it had. The President's late realization that something had to be done still strains the economy. Unemployment has yet to show any improvement and inflation still creeps upward.

If the situation domestically has failed to change, the economic policy has added a new dimension of problems for the nations we trade with. As French President Georges Pompidou put it, the Nixon administration was demanding "enormous concessions."

The simple fact of international economic life is that we are all bound together. An article by John Brooks in the October 23 New Yorker, called "Starting Over," details what occurred at the recent International Monetary Fund meeting, where our international role as the man with all the poker chips was accurately portrayed. Simply said, if the other countries go down, there will be no one left to save the poker game for any of us. At this point, I would like to place this article in the RECORD for my colleagues.

The article follows:

STARTING OVER

(By John Brooks)

If it is opposite to follow the common practice of comparing a session of international trade and currency negotiations to a poker game, then the annual meeting of the governors of the International Monetary Fund, which was held in Washington the last week of September, was a game that took place under notably awkward circumstances. The richest and most relied-upon player, the United States, had just committed two uncharacteristic and almost unforgivable gaucheries. One of them, the imposition of a flat ten-per-cent import surcharge on all dutiable foreign goods, was a clear violation of the rules of the General Agreement on Tariffs and Trade, which had been signed in 1947 by the leading non-Communist trading nations to promote freer international trade and which, over the subsequent twenty-three years, had generally been effective in achieving that objective. The United States' second action, the sudden move to temporarily stop redeeming dollars with gold, was an equally clear violation of the Articles of Agreement of the International Monetary Fund itself; beyond that, it created conditions that made it all but impossible for the I.M.F. to operate or for world trade to continue on its current scale. Both actions were violations of formal international treaties, duly ratified by the parliaments of the participating countries. In terms of the poker analogy, the United States was in the position of a player who, when he sees he is losing, first cheats and then tips over the table; to make matters worse, the offending player had then insolently described his actions as merely strategic moves designed to improve his position. To be sure, such egregious conduct was not unheard of at this particular table; for example, at the moment, Japan, even after a new liberalization of its trade practices, was adjudged by its fellow-players to be guilty of some forty violations of GATT, and Germany and the Netherlands had broken the I.M.F. rules only last May by ceasing to control the prices of their currencies in terms of the dollar. But the nature of the breaches by the United States and the extent of its influence made those breaches unique. Clearly, if the game was to continue at all—and the alternative might be a paralysis of international trade and a world depression that could result in starvation in many countries—new rules would have to be devised quickly, and under the most trying conditions.

The meeting, which the *Times* described optimistically as "likely to go down in history as the turning point toward the creation of a new world monetary system," took place at the huge Sheraton-Park Hotel, the corridors of which were crowded with the mighty of world finance, more than fifteen hundred strong. Among the official delegates for their countries were the United States Secretary of the Treasury, John B. Connally; France's Minister of Economy and Finance, Valéry Giscard d'Estaing; Britain's Chancellor of the Exchequer, Anthony Barber; Germany's Minister for Economic Affairs and Finance, Karl Schiller; and Japan's Minister of Finance, Mikio Mizuta. Present as advisers, assistants, or guests were the heads of the central banks of all leading member nations—Arthur F. Burns for the United States, Sir Leslie O'Brien for Britain, Karl Klasen for West Germany, Tadashi Sasaki for Japan—and such eminent private bankers as Baron Lambert, of the Banque Lambert of Brussels; Jerome Istel, of the Banque Rothschild of Paris; and David Rockefeller, of the Chase Manhattan Bank of New York City. In their eagerness to help get the game going again, most delegates were already on hand by Saturday, September 25th, two days before the formal opening of the meeting, and that morning the I.M.F.'s managing director, Pierre-Paul Schweitzer, made some remarks to the press in which he set the key for the week ahead as one of tension and urgency. Pointing out that it had been a tradition of the Fund to remain silent when there was a crisis affecting a leading member nation, he proceeded to break that tradition. He reiterated a view he had expressed previously, to the effect that the United States ought to make a "contribution" to a solution of the

current crisis in the form of a small devaluation of the dollar against gold (a move that the United States had firmly announced itself disinclined to make), and he implied that a continuance of the import surcharge and currency instability for any extended period might well result in a disastrous world trade war, in which the worst sufferers would be what he called "innocent victims and helpless bystanders"—the underdeveloped countries.

The old rules of the game and the steps leading to their collapse can be quickly summarized. When the monetary millennium comes, perhaps there will be one world currency universally honored and freely exchanged across national borders, but meanwhile there is gold, the only world currency that has enjoyed general confidence over a long period, even in times of crisis. To the question "Why should gold, rather than something else, be the basis of money?" perhaps the best answer is "Why shouldn't it be?" But the natural scarcity of gold and the capriciousness of its geographical distribution are weaknesses as well as strengths for a world-currency base, and the rigid gold standard that was the rule among most of the leading trading nations until the Depression of the nineteen-thirties eventually came to be an insupportable burden. After a protracted period of chaos, caused by the Depression and war—and perhaps in part by the gold standard itself—it was replaced, at the United Nations Monetary and Financial Conference at Bretton Woods, New Hampshire, in July, 1944, by a more flexible system, under which gold shared the task of being the world's money base with what was then by far the strongest national currency, the United States dollar. The Bretton Woods agreement, hammered out by an international panel of experts, headed by Harry Dexter White, of the United States, and John Maynard Keynes, of Britain, established the dollar as the *numéraire*, or measuring rod, against which the value of other currencies was set, and also as the principal currency in which the reserves, or national savings accounts, of other nations would be held. Long before 1944, Keynes had pronounced monetary gold to be a "barbarous relic," and now he had taken part in what was at least a lessening of its role. To keep exchange rates relatively stable under the new system, each nation undertook to intervene in the market buying or selling its own currency—whenever this was necessary in order to hold that currency's dollar price within one per cent of its fixed relation to the dollar. In addition, the International Monetary Fund was established—originally with twenty-nine members, a number that has now swelled to a hundred and eighteen—to accept deposits from the member nations in amounts relative to their economic size and, as a means of further stabilizing the system, to lend funds from these resources to any member undergoing a crisis that might put it in temporary financial difficulties. The United States was offered the choice of intervening either with foreign currencies or with gold to maintain the value of the dollar; we chose gold, and thus the convertibility of the dollar, and of the dollar alone, at the established price of thirty-five dollars per ounce became the foundation of the system—the basic rule of the game.

It all worked beautifully for a time. Then, beginning in 1950, the United States took to running an annual deficit in its international accounts, as a result of foreign aid, the flocking of American tourists abroad, defense spending abroad and the maintenance of our troops there, overseas investments of American companies, the declining competitive position of American products in world markets, and, finally, the war in Vietnam. Year by year, the deficits grew, and in 1960, for the first time, dollars held abroad—in effect, I.O.U.s issued by the United States against our national reserves of gold, foreign currency, and borrowing power at the I.M.F.—exceeded those reserves. Each year thereafter, the disparity between what we owed and what we could pay increased, until by the beginning of 1971 the cumulative dollar gap amounted to about twenty-five billion dollars, or almost twice our total reserves. The reason this improvidence on the part of the United States was allowed to continue for so long was that it held temporary benefits for our creditors. International trade was expanding during the nineteen-sixties far faster than new gold was coming out of the ground, and the flood of dollars abroad was filling the lack. As long as the dollar continued to be trusted, the United States deficit was serving the useful purpose of supplying the world with the money it needed to conduct its expanding business. The fact that the United States was getting something for nothing was temporarily ignored. A bizarre situation—unprecedented in international finance, if not in poker—had developed in which the game's ever-increasing bets were being financed by the unredeemable chits of one well-dressed, self-assured player, who inspired confidence by his air of affluence but in actuality was known by all, if they stopped to think about it, to be bankrupt.

Of course, this could not go on indefinitely. By early 1971, the United States' stock of gold, which had once amounted to twenty-five billion dollars, was down to just over eleven billion. Our international-payments deficit had taken a further large jump and was by now running at the appalling rate of twenty billion dollars a year. In spite of cries of anguish from all over Europe, the United States government adopted an attitude that was described, unofficially but quite accurately, as "benign neglect." In May, a high rate of interest in West Germany brought about such a flood of dollars to Germany in exchange for Deutsche marks that the government there had little choice but to break I.M.F. rules by cutting the price of its currency free from the dollar and letting it float upward under market pressure. Benignity and neglect were abandoned together, belatedly and apocalyptically, on August 15th, when President Nixon announced his new economic program, for this included, along with various measures to spur the national economy and contain domestic inflation, the import surcharge, which suddenly reversed the United States' long-standing commitment to freer world trade, and the gold embargo, which suddenly destroyed the Bretton Woods system.

For the first few days after the Nixon announcement, the world's monetary authorities seemed to be in an almost catatonic state of shock and dismay, but then they recovered some of their customary aplomb and were able to devote the weeks before the I.M.F. meeting to setting up the terms of the negotiating that lay ahead. The United States made no bones about describing the import surcharge as a bargaining counter, and made clear that as its price for removal of the surcharge it was demanding a substantial upward revaluation of most other currencies in relation to the dollar. (Such revaluation would tend to give the United States its desired trading advantage by making its goods cheaper abroad.) The other countries replied that the United States ought to devalue the dollar on its own, by raising the dollar price of gold, instead of trying to force *them* to bell the cat. Both upward revaluation and devaluation are politically unpopular in any country, the former because it brings disadvantage in foreign trade and the latter because it is thought to involve loss of national prestige; the Nixon Administration, in particular, seems to have a terror of the domestic political effects of devaluation. The terms of the contest, then, were: Since everyone agrees that the dollar has to be made worth less in terms of other currencies, who will take the unpopular action required? The I.M.F., nominally neutral in disputes among its members, lost little time in announcing where it stood in this one. Late in August and early in September, Mr. Schweitzer several times stated publicly that the United States ought to devalue the dollar in terms of gold by a modest amount (say, between five and ten per cent), whereupon the rest of the necessary realignment could be made by the other countries. But in mid-September, after a testy and unfruitful private meeting in London of what is called the Group of Ten—a sort of inner club of the I.M.F., consisting of the finance ministers of the United States, Britain, Japan, Canada, Sweden, West Germany, France, Italy, Belgium, and the Netherlands—Secretary Connally was quoted by a high French source as having declared flatly, "I am authorized to say only I will not change our position one iota." A week later, President Georges Pompidou of France pointedly warned the European Economic Community against making "exorbitant concessions" to the United States at the approaching I.M.F. meeting.

While these harsh verbal thrusts were being traded, the foreign-exchange markets were in confusion. With the dollar cut loose from gold, other currencies were cut loose from the dollar, and in trading during late August and early September they moved, or "floated," upward against it, which was exactly what the United States wanted. But the governments of the countries with the upward-floating currencies did not want the floating to go so far as to impair their competitiveness in international dealings, so they restricted artifically the amount of their currencies' rise by intervening in the market to sell them in exchange for dollars and thus create what the United States anathematized as "a dirty float." Indeed, France, perhaps the most intransigent of the nations involved, prevented the franc from floating at all. By the time of the I.M.F. meeting, world currency rates had increased against the dollar on an average of a mere 4.3 per cent—far less than the ten or fifteen per cent that the United States hoped for. Thus, the impasse remained. Meanwhile, because of wildly fluctuating exchange rates, the central banking system and the I.M.F. were all but out of business; the I.M.F.'s resources of more than twenty-five billion dollars were frozen almost as effectively as if the combination to the vault had been lost, and so were almost forty billion dollars' worth of gold held as reserves by various nations, and some twenty billion more in currency ordinarily available in short-term reciprocal-loan agreements between central banks.

So just about everyone came to the Sheraton-Park angry or worried or seized by a sense of urgency, or all three. Here were the top economic authorities of the non-Communist world coming together to engage in discussions that were all but totally incomprehensible not just to the man in the street but to everyone but a tiny fraction of humanity, yet the matters being decided were of vital day-to-day concern to people of almost every station in many countries. No wonder the participants tended to give off whiffs of mystery and self-importance. Such meetings—where big things happening behind closed doors are reflected only dimly in public statements, which have the attenuated quality of the shadows in Plato's cave—are strongly subject to sudden changes in mood. On Saturday, the mood was all hostility and gloom. Early on Sunday morning, the French finance minister, M. Giscard d'Estaing, suggested to a reporter that something had happened overnight to soften the United States' attitude. Whether or not this was true is unknown; the United States swiftly denied it, yet the day's events seemed to confirm it. That morning, the Group of Ten met again, and this meeting, instead of ending in a shouting match, as the one in London had, produced agreement on an agenda for future work: over the subsequent weeks, the dele-

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gates would devote themselves to discussions of a realignment of currencies and removal of the United States import surcharge. It was not agreement on much of substance, but at least it was *agreement*. Then, on Sunday afternoon, it was Secretary Connally's turn to face the press. Generally seeming like a brash freshman among the mandarins of finance, the large Texan nevertheless spoke more moderately than before. He described the atmosphere of the Group of Ten meeting as "very friendly" and "very amiable," and "somewhat more relaxed" than the one in London had been, and he said that "we are talking in a low, quiet voice," though "the position of the United States has not changed at all." On one subject, however, he implied that he meant either more or less than he said. A reporter asked why, in closing its gold window to the world, and thus overthrowing the Bretton Woods system, the United States had kept ten billion dollars' worth of gold in its coffers, especially since Mr. Connally had insisted several times that gold was of only political and symbolic importance in the world monetary scheme and that the United States was determined to lessen the metal's role there. The Secretary replied, "Well, we still have some liabilities that have a call on it. We don't know quite who to give it to. . . . We would like to keep it, under the circumstances." While we had tipped over the table because we said that a whole new game was needed, it seemed that we had been mysteriously careful to salt away a large private supply—a quarter of the world's monetary gold—of the ostensibly discredited blue chips from the old game.

During the five days of formal speeches that followed, the representatives of the great monetary powers kept returning to the noble sentiment that the time for recriminations against the United States was past, that what was done was done, and that the thing now was to get on with the job of rebuilding—and to get on with it quickly, since every week that passed with the import surcharge in effect and the system in chaos made the rebuilding more difficult and the chance for a world trade war greater. Mr. Schweitzer, a suave and studious-looking Frenchman of fifty-nine, with a background in the French Treasury and the wartime Resistance, made these points in his opening address, emphasizing above all the need for a collaborative approach to the common problem, rather than a competitive one, and his views were echoed in one degree or another by the delegates—or, in central-bank language, governors—for West Germany, Britain, and France, and even Japan and Canada, the two countries hardest hit by the import surcharge in terms of volume of exports. It was the governors for the small and underdeveloped countries who seemed to have the hardest time working themselves into a collaborative frame of mind. The governor for New Zealand, for one, pointed out that, much as the large trading countries might worry about unstable currencies, small ones like his had far more reason to be alarmed by the consequent disruption of world trade, since they had, relatively, so much more at stake; for example, exports account for ten per cent of Japan's gross national product and twenty-three per cent of New Zealand's. The governor for Israel, leaving the immediate subject far behind but drawing loud applause nevertheless, took a roundhouse swing at the great powers not as manipulators of money and trade but as physical and spiritual polluters. He said, "One-third of humanity—the developed world—has fallen prey to hedonistic tendencies, worshipping the idol of consumption and status symbols and enslaved to a multiplicity of modern gadgets, turning its back on human and spiritual values.

Overconsumption, with its attendant discharge of noxious wastes and its endless accumulation of disused materials, has become a primary source of pollution of water and air, soil and sea, ruining the beauty of the natural environment and perniciously affecting human life in the noisy, grimy megalopolis . . ." This portmanteau complaint, relevant in spirit if not in letter, seemed to reflect the underdeveloped countries' frustration over their impotence in world monetary affairs. Important decisions in the I.M.F. are taken by weighted vote; it is economic muscle that counts, and in the end, despite the organization's democratic apparatus, the Group of Ten decides while the small countries watch. The governor of Algeria spoke of "the unjust situation of which our countries are victims," and the governor of Trinidad and Tobago spoke of "those of us who now sit on the sidelines and watch with concern the power play in force between the developed countries," while the governor of Tanzania—Amir Jamal, a jovial, witty fellow in corridor conversations—asked his fellow-governors, "Well, what is one supposed to be able to do here at all?" The big powers' answer to his question was implied in the conduct of Secretary Connally, who sat in his place at the head of the United States delegation during the speeches by representatives of the major nations but was absent during those coming from such nations as New Zealand, Israel, Algeria, Trinidad and Tobago, and Tanzania. A curious sidelight is that in spite of the presence at the meeting of a delegation representing South Vietnam, and in spite of the fact that the Vietnam war is a major cause of the dollar crisis that the meeting was about, the Vietnam war was not mentioned in a single speech.

All the while, however, the governors were biting the bullet and resolutely following Schweitzer's advise to get on with the building of a new international system before the monetary world should come apart entirely. Aside from temporary considerations, like the import surcharge and the matter of United States devaluation, the problem was clear: It was agreed that gold as a basis for money was obsolete and regressive, and that the dollar was a fallen sun, but no other national currency was reliable enough to be considered as a successor. What then? Diamonds? Some other durable metal (like tin, as Tan Siew Sin, the governor for tin-producing Malaysia, shyly suggested)? Rejecting such ideas as impractical, the governors for the great powers turned more and more, as the meeting progressed, to an existing facility of the I.M.F. called Special Drawing Rights, or S.D.R.s

S.D.R.s had existed for less than two years, and, by an odd irony, had come into being in response to a problem that was essentially the opposite of the present one. In April, 1968, two weeks after the end of a dollar-gold crisis at whose height the United States had been losing gold at a rate of more than a million dollars every four minutes, the Group of Ten, realizing that one source of the trouble was a shortage of money to finance trade, had decided to create a supplement to exist reserve assets which would be periodically allocated to members of the I.M.F. in amounts proportionate to their subscriptions to the Fund, and would, it was hoped, be used freely and trusted just as if it were gold. The notion was to create a trading unit worth one dollar—not even a piece of paper, like a banknote, but merely an entry in the I.M.F.'s books—that, through the alchemy of mutual confidence, would for all practical purposes *become* gold because the members agreed to consider it so. In the early discussions, it had been suggested that the new unit be called a "drawing unit reserve asset," so that it could be reduced to the comforting acronym DURA, but that proposal had been rejected, and the less imaginative term S.D.R. agreed upon, while the far from reassuring phrase "paper gold" became the common nick-name for S.D.R.s. Whatever its nomenclatural handicap, the S.D.R. system was ratified by the I.M.F. member nations, and the first allocation of S.D.R.s was made on January 1, 1970. Over the following twenty months, about six billion three hundred million dollars in S.D.R.s was allocated to a hundred and nine I.M.F. members, and in no case were the units dishonored by being treated as anything less than pure gold.

In 1968, the problem had been lack of liquidity. Now it was just the reverse—the world was not merely liquid but awash with unwanted dollars. The governors nevertheless seized on this phantom currency that had been helpful in the old situation to deal with the new one. S.D.R.s were already "in place" and functioning. Why not make *them* the basis of the world's money? On Tuesday, September 28th, the second day of the formal meeting, Britain's governor, Mr. Barber, presented a detailed plan whereby the S.D.R.s, or somewhat modified S.D.R.s, would become not a mere supplement to other reserves but the key reserve, the main asset in which countries would hold their money, and, in addition, would replace the dollar as the *numéraire* for all national currencies; thus an adequate supply of world money could be created at will by the I.M.F.; thus liquidity would be assured without the danger of relying on one country's international deficit. A dollar would be just another white chip. Like most good ideas, it was both a daring and an obvious one. Later that day, it was seconded in general terms, though not in all particulars, by Italy, Japan, and Canada, and even by traditionally gold-loving France.

That evening, there was an air in the Sheraton-Park corridors of shared experience, of excitement at history-making creativity; at the heart of all the talk was the uninspiring expression "S.D.R.s." There was even talk, more or less serious, of valuing gold itself in terms of paper gold, instead of vice versa. But on Wednesday came a letdown. The governor for Australia pointed out in his speech that S.D.R.s, like any other reserve asset, could be discredited by overuse—a point that many of the participants had appeared to overlook in their euphoria of the previous evening. And several underdeveloped countries pointed out that in proposing S.D.R.s as the new main reserve asset the great powers were seeking, in effect, to introduce into the game new blue chips of which they, because of their larger I.M.F. subscriptions, would issue themselves far more than they would anyone else. The solution some of the underdeveloped countries proposed was that allocation of S.D.R.s be determined in the future in part by the amount of a nation's aid to poorer nations—a suggestion that was not picked up by any of the great powers.

Everyone waited to hear the proprietor of the old *numéraire*, the United States, and on Thursday morning Mr. Connally made his reappearance. His address, the emphasis of which seemed to be largely on economic advantage-seeking rather than on system-building, put a damper on the meeting's spirit of hope and enthusiasm. The United States, he said, would remove the import surcharge when other countries dismantled their own trade barriers and let their currencies float freely upward against the dollar without intervention. On United States devaluation he was coy, saying that "a change in the gold price is of no economic significance and would be patently a retrogressive step in terms of our objective to reduce, if not eliminate, the role of gold in any new monetary system," but he did not entirely rule out such a move. He accepted, by implication, a smaller role for the dollar, but, unlike all other governors for large trading nations, he didn't mention S.D.R.'s at all.

The meeting nonetheless ended on Friday with an apparent consensus that a good start had been made, and that S.D.R.'s represented a sort of last, best hope for the restoration of monetary order. A vaguely worded resolution, adopted unanimously on Friday morning, called on the I.M.F.'s executive directors "to make reports to the board of governors without delay on the measures that are necessary or desirable for the improvement or reform of the international monetary system . . . including the role of reserve currencies, gold, and Special Drawing Rights." The executives would go home and make their reports, and, barring some unforeseeable shift of opinion, when the Group of Ten meets for its next formal negotiating session, in November, S.D.R.'s will occupy the center of the stage.

The problems of the I.M.F.'s fallen idol, the dollar, and its scapegoat member, the United States, were not solved, and neither were the questions of the import surcharge and United States devaluation. But it did appear more likely than it had that, for the first time ever, the nations of the world would eventually find themselves trading under a system based essentially on mutual trust rather than on a scarce metal. That likelihood has ironies of its own. At Bretton Woods in 1944, Keynes had backed—and the United States had vetoed—the creation of an arbitrary reserve unit very much like the S.D.R., to be called the "bancor" (literally, "bank gold"). As for the S.D.R.s themselves, although they cannot normally be exchanged by their holders for gold, they are officially valued in gold: .888671 gram per S.D.R. Moreover, a little-noted section of the I.M.F.'s Articles of Agreement states that in case a member nation withdraws from the organization while holding S.D.R.s, redemption of the S.D.R.s "shall be made with currency or gold." Even in the new poker game, then, the old, presumably obsolete blue chip will have its possibly sinister place in each player's pile.

NEW YORK SCHOOL SECURITY RECOMMENDATIONS

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. BINGHAM. Mr. Speaker, the problem of crime against students, faculty, and property in our public schools is a common one, particularly in urban areas. It has become so serious in some school districts that it threatens the very viability of the educational process. With that in mind, I introduced the Safe Schools Act—H.R. 10641—which, for the first time, would provide Federal funds to help school districts to better protect the schools from crime. That legislation has gained the support of a number of our colleagues in the House, and hearings on it have been started by the General Subcommitee on Education chaired by the gentleman from Illinois (Mr. PUCINSKI).

In recent months a special school security task force under the auspices of the Hollow Organization of New York City, has been conducting a study of the crime problem in the New York City schools and has now submitted its recommendations to the assistant superintendent of schools for security, Dr. George Patterson, and made them available to the public.

The Hollow Organization is a nonprofit, service organization composed and largely financed by officials of major private corporations. It is the brainchild of Mr. Harvey Oostdyk, who now serves as executive director. Its goal is to apply the knowledge and skills of the private sector to the solution of public social problems. The report of the school security task force is Hollow's first effort in the area of urban educational problems.

Mr. Speaker, this effort on the part of the Hollow Organization, and the corporations that contribute to it, is most commendable. While I do not necessarily agree in detail with every recommendation in the report of the school security task force, I certainly share a great many of its conclusions. I particularly support the emphasis in the report on the need to improve the quality and professionalism of school security personnel, and to increase the use of paid parent patrols in the schools. It is precisely this type of program of improvements in school security for which the Safe Schools Act would provide needed financial support, and which was envisioned in the drafting of the Safe Schools Act.

With the thought, Mr. Speaker, that many of the recommendations of the school security task force may be applicable to other school systems around the country and helpful, therefore, to many Members of the House, I am pleased to submit the report for the RECORD, along with a listing of the task force participants and their corporate affiliations.

RECOMMENDATIONS FOR OPERATION OF BOARD OF EDUCATION SECURITY GUARD PROGRAM

I. PREFACE

This document is the product of the School Security Task Force which was created under the auspices of the Hollow Organization. This task force represents the first step in Hollow's attempt to apply corporate skills in solving urban educational problems. The members of this committee, with the exception of the chairman, are highly skilled practitioners with numerous years of experience in the field of security.

The recommendations contained herein are the product of a series of intense discussions, visits to a selected number of public high schools in Manhattan and interviews with a number of people who have had experience with security problems in the City's educational system. While it is expected that members of this task force will visit additional schools during the present school year, it is hoped that, in view of the qualifications of these men, their suggestions will receive careful attention.

In today's economy of inflation and high unemployment, it is recognized that there will be problems involved in implementing those proposals which involve increased financial resources. Nonetheless, this does not lessen the desirability of these suggestions, if the funds were to be made available.

The members of this committee believe that even a highly efficient and effective security force *is not* the sole answer to safe and secure schools. Such conditions are more apt to prevail when the educational experience meets the needs of the student population.

The recommendations of this committee have been divided into the following four general areas:

A. Administration
B. Training
C. In-school operational philosophy and techniques
D. Security Aids

As will be apparent from a review of these recommendations, the distinction among these areas is vague and as a result there is considerable overlapping.

A final word should be added. Some of these recommendations can be implemented during the semester starting in September, 1971 while others will have to undergo trial periods to measure their effectiveness. Still others will require financial support and/or enabling legislation.

II. RECOMMENDATIONS

A. Administration:

1. Develop a workable profile for an ideal security guard. Criteria should include:
(a) Attitude
(b) Personality
(c) Ability to relate to youth
(d) Emotional stability
(e) Community background
(f) Ability to benefit from training

Comments:

A. The lack of a high school diploma should not disqualify a prospective security guard, but guards should be encouraged (and perhaps required) to obtain a high school equivalency diploma.

B. Persons who possess parental qualities would appear to be more desirable candidates for Security Guard positions.

2. Carfare and other expenses incurred for court visits and performance of other field duties during working hours should be provided.

Comments: Most employers assume the responsibility of paying for expenses incurred while performing employment-related duties. Failure to acknowledge this responsibility contributes to morale problems and is detrimental to an effective, efficient operation.

3. Psychological testing should be used in the recruitment process to measure attitudes and personalities.

Comments: Testing should be done prior to employment and should be one of the main determining factors used in the screening of security guards.

Note: Test should be validated by Equal Employment Opportunities Commission to avoid any problems of discrimination in hiring based on test.

4. Employment of more female security guards should be encouraged.

Comments: In many instances female security guards seem to demand a certain kind of respect from students and are able to handle potentially explosive situations diplomatically.

It is felt that while some aspects of security might be primarily the task for a male, in a school setting, the use of female guards can be an invaluable asset to the program's success.

5. Recruitment qualification should be established. These might include:
A. Age
B. Height
C. Weight
D. Attitude and Sensitivity
E. Psychological Readiness
6. Salaries and fringe benefits.

Comments: We are well aware that the Teamster's Union is not the bargaining agent for security guards in matters pertaining to salaries and fringe benefits. It should be mentioned that under the new contract wages and fringe benefits are reasonable comparable to the corporate sector, except that wages only paid for a ten month period.

Note: Future wage and benefits negotiations with unions should be preceded by:

1. Written description of job
2. Evaluation of wages prevailing in industry
7. Annual salary or twelve month employment should be provided for security guards.

Comments: Security Guard administration should begin in September to locate summer employment for guards. Possibilities include:
(A) City and State (vacation replacements)
(B) Protection agencies (Burns, Pinkerton, etc.)
(C) Corporate Security
(D) Resort Areas

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Questionnaires could be developed for those security personnel interested in summer employment. This effort to find summer jobs for those who want them would have to be coordinated by someone at the Board of Education. It will not be an easy task and will require a resourceful and dedicated administrator, but he would be providing a real service to the Security Force. If such a program is successful, it should contribute to more stability in the guard component. Because of the lead time and research necessary for this effort, it should be implemented very early in the school year.

8. Orientation on the roles, function and operation of security guards should be provided for:

(A) School staff, including paraprofessionals
(B) Students
(C) Council of Supervisory Authorities
(D) United Federation of Teachers
(E) Board of Education
(F) Parents
(G) Police

Comments: Our observations, confirmed in many conversations, indicates that educational personnel and the community at large do not understand the functions or responsibilities of school guards. The Security Guards role should be understood clearly by the school community. However, it is strongly suggested that the students be given only a general description (which emphasizes the positive aspects of the security officer's position) and that other concerned groups get a more definite description because of their obligation to assist Security Guards and vice versa. It should be pointed out that a divided house cannot stand and only through the combined efforts of teachers, administrators, students, parents and security guards can the seams of our schools begin to mend.

It is also suggested that liaison with local precincts and youth squads of the Police Department be established and effectively maintained.

9. Incentives that make the job attractive and provide for upward mobility should be be built into the program. In this way the job can lead to a career in security or could be seen as a stepping ladder to a similar job in industry (with higher pay, more fringe benefits, etc.). Evolving a system of providing college credit for employment (under field experience programs which are now gaining acceptance) would be beneficial.

Comments: Promotion and financial security play a very important role in reducing employee turnover; accordingly, certain incentives can be built into the security program.

A. Security Guard administration could extend its relationship with John Jay College and possibly establish part of its training as acceptable credit towards a job with New York's Finest.

B. A guard promotion schedule could be established. For example: Security Guard, Section Head, Group Head (This may present budget problems.)

C. Guards should be informed of the need for guards in industry and informed about the various universities that offer degrees in Industrial Security (e.g. Michigan State).

10. Consideration should be given to changing the name of security guards.

Suggestions are:

A. Security Officer
B. Protection Officer

Comments: Of the above names, Security Officer is considered more advisable. The word protection seemed to have too many negative connotations and does not suggest the type of image needed in the schools. The use of the new name by Security Guard Program and the merits of the program should be properly propagandised throughout the school system. Projection of a different type of guard could serve as a definite stabilizing force.

11. A questionnaire together with a narrative evaluation should be administered periodically.

Comments: Evaluation of Security Guards should be considered essential to measure their effectiveness. Security Guards are employed primarily for preventive purposes. Their effectiveness is usually based on attitude and personality and *not* on how many arrests they are able to make. This might be considered as a starting point for evaluation. The actual evaluation of guards might be done by roving supervisors and the immediate supervisor in charge at each school. In addition, a grievance procedure should be set up for the guards.

12. A questionnaire should be formulated for evaluation of the security guard program but not of individual guards by:

A. Teachers
B. Paraprofessionals
C. Administrative Staff

Comments: Constructive criticism and objective suggestions for improving security should be the goals of these questionnaires. Student participation in evaluation of security guards under the present circumstances might foster further deterioration of the guard's morale. In view of these circumstances, teachers will have to be relied upon heavily to project the students' feelings in their evaluation.

13. Security guard absentee component—a complement of personnel should be on call to fill daily absentee security positions in the various boroughs. Such personnel preferably would be assigned to the borough where they live. If a guard finds that he will not be able to come to work the following day, he would call an answering service for board of education security guard absentees.

Comments: It should be pointed out that this suggestion was made in view of the fact that for various reasons the Security Guard Program has experienced a high rate of absenteeism in its initial years; employee responsibility should be regarded as a prerequisite for continued employment.

14. Answering service for absentees and/or lateness—a sixteen or twenty hour a day answering service should be used by security guard administration. Chief clerk (hypothetical) should have responsibility for following up on absentee calls.

Comments: The New York Telephone Company should be consulted as to which systems are best adaptable to Security Guard operation. It is recommended that an answering service be implemented on a trial basis sometime during the 1971–1972 school year to see if it would increase the efficiency of the operation. Notes for operation:

A. Substitute guards should be better paid and highly trained.

B. Substitute guards should report to school supervisor for briefing on school's operations and physical plant.

C. Substitute guards could be a part of a roving supervisory force when not on duty in a particular school.

15. Recruitment sources include:

a. Postal Service
b. Correction Officers
c. Firemen
d. Carefully selected college students (always assigned with older security officer to provide maturity and balance).

Comments: These suggested avenues of recruitment for security guards are recommended for various reasons. However, it should be mentioned that all other sources should be tapped. Neighborhood recruiting, particularly of parents, is highly recommended.

Some committee members feel that an ideal candidate may well be one who tends to be over qualified but takes this position as a second job. The schedule of hours, especially for those schools on double session may uniquely lend itself to this arrangement. An additional source of manpower might be the use of in-house students who are interested in security as a career and who have leadership potential. These students could be paid the minimum wage and would work in conjunction with full time guards.*

B. Training.

1. The present complement of security guards should be retrained, re-orientated and redirected. Of paramount concern in the training program should be: (1) new profile of an ideal security guard; (2)** orientation on roles, functions and operations of a security guard in the schools; and, (3) Psychological testing to determine capabilities and compatibilities of present guards.

Comments: Previous training and philosophy with respect to performance of duties, the high personable nature of the job and the necessity for responsible judgment in performing the duties of a security guard seem to have been grossly overlooked. Proper orientation and an in-depth view of the purpose and goals of the security force, need to receive serious attention.

Cost for this type of project is surely a factor to consider, but all costs must be measured against the overwhelming damage which will fall on an already troubled educational system.

2. Guards should be periodically given some type of refresher training and brought abreast of current security techniques and new security procedures.

Comments: A newsletter could be sent to security guards describing new security policies and techniques as the information becomes avilable. Such information would be obtained from the *Security Trade Press*. This function should be performed by administrative personnel. Refresher training could be administered during the holiday periods or any other suitable time before or after the working day.

3. The objectives of the security guard program should be very clearly spelled out to all school personnel. The job expectations of each security guard should be discussed as well as the guards relationship to students, teachers, administrators, teacher aids and custodial staff.

Comments: Role orientation with respect to each component in a school is very essential for a successful operation. It is important that the guard feels he is a part of the school as opposed to a gladiator fighting for his life.

NOTE.—1. In many instances improper training has led guards to resort to force. Therefore, it is very important that this feeling of isolation be eliminated.

2. The role of the security guard might be publicized in school papers; communication with persons most affected by security is very desirable.

3. A modified training program at the beginning of each year is highly recommended (refresher training).

4. Instructors with experience in crowd control and civil disturbance should be retained for training.

4. Security guards should get more training specifically in the area of human relations (public relations). Development of a curriculum with a strong concentration in human relations is very desirable, as this is viewed as the most important aspect of the job.

5. Guards should be trained in the areas of:

A. First Aid (Medical training)
B. Fire protection

Comments: Students should be encouraged to work in first aid and drug over-dosage aid. Symptoms related to drug over-dosage could

*NOTE.—The total structure of the Board of Education should be included in the training.

**NOTE.—The total structure of the Board able to supply slots for the program to the Board of Education.

be related to interested students by security guards. The formulation of a positive relationship, one of concern and interest in the students' dilemma can go a long way toward promoting improved relationships between security guards and students.

6. Experienced security guards with the desired approach (a security guard should be helpful and courteous to students but firm in their approach to the job) should be used to be a part of instructional staff or in an advisory capacity in the training classes. Successful practitioners can often make good instructors.

7. Principals with the desired outlook on security should be utilized in the training classes. Principals should project "low key, non-police" approach in dealing with students.

8. Police type training should *not* be emphasized.

Comments: This is essential because schools are educational institutions, *not* six hour a day concentration camps designed to keep students confined to a building. Any attempt to deprive students of their rights to a wholesome educational atmosphere is not acceptable to our society.

9. Training should include, even if on an abbreviated basis, applicable portions of training that "Hollow Organization" gives its streetworkers.

Comments: This training is more in the line of human relations and deals with supportive resources needed by many students, in order for the educational process to take place. Briefly the streetworker is the link between numerous resources and is the father of hope for the disaffected youth.

10. At least one day of training, and preferably more should be required for school administrators who are responsible for security and for those teachers who work on a part-time basis with security guards.

Comments: Adequate training and exposure of school personnel to security procedures and the roles and functions of security guards are very important. Therefore, it is felt that the incorporation of this suggestion as standard procedure be immediately implemented.

11. The jurisdiction for arrest should be clearly defined with appropriate examples given during training sessions.

Comments: The arrest powers of the security guards is highly questioned; corporate security *do not* have arrest powers.

12. Literature indicating the location of appropriate courts should be supplied to security guards in training sessions and made available to school principals for use by guards.

Comments: Operational handbook prepared by the Board of Education is needed.

13. Actual performance of "booking procedures" should be included in training sessions along with performance of trial procedures and security guard testimony encounter sessions.

Comments: Guards should be given duplicate completed forms used in making arrests. They should also be given witness training such as the F.B.I. officers. These suggestions are not only good for increased efficiency but would also serve to increase attention and interest in the training sessions and make them more lively.

Individual security guards interviewed felt that current training in this area was definitely inadequate.

C. In-school: Operational philosophy and techniques.

1. Security guards should have a small unassigned room in each school for their headquarters which should be manned at all times.

2. Alternating posts should be employed to relieve boredom of the job.

Comments: This type of standard procedural function did not appear evident in the schools visited.

3. Security guards should not be assigned to patrol hallways in groups. (In emergency cases, exceptions will be made.)

4. A schedule of varied assigned patrols should be provided by the designated security supervisor at the institution or head security guard.

Comments: A normal responsibility of supervisory personnel is to know where his men are at all times.

5. Schools should make available to each security guard the schedule of the staff who have been assigned to coordinate the security program within a particular school, in order to increase communication and effectiveness in the operation.

Comments: Schedules should be available in security room for use by guards and other components of the school, especially in emergency situations.

6. Schools should make available to security guards a map of the physical plant, which would include the exits, stairwells, classroom numbers and room numbers for key administrative staff.

7. All passes issued to visitors should include:

A. Date stamps
B. Name of visitor
C. Person to be visited
D. The time of entrance into the building

Comments: Each school should order a supply of visitors' passes of assorted colors. Colors should be changed from day to day. A rotating sequence might be employed from week to week.

There is a state law that requires all visitors' badges to be returned before leaving premises. The law also provides for violators to be prosecuted. Visitors would be informed to read writing on badge. That would specify applicable law.

8. Traffic patterns should be developed on staircases.

9. Security guards should be kept abreast of policy changes effected by the school's consultative council or other policy making groups within a particular school.

Comments: Head guard should attend meetings of these councils and communicate results of meetings to his staff.

10. Guards should be required to keep individual logs of incidents. Logs would be summarized by security supervisor and forwarded to headquarters at the board of education at the end of the week.

Comments: Since drugs are such a crucial problem today, drastic measures such as this have to be used in an attempt to combat the problem.

D. Security aid and equipment

There is a lot of very fancy and expensive equipment on the market. It is not suggested that the Board of Education invest in any or all of the following, except perhaps on an experimental basis.

1. Student identification—laminated badges similar to those used in industry are a suggested means for school identification. Color backing for other components of the school (teachers, guards, administrators) may be provided. A pouch to hold a student's program card could be built into the back of each badge. The cost of a badge is roughly estimated to be $.15–$.20 (when made in large quantities). Badges would be the most important, useful and least expensive security aid.

2. Locked doors from the inside of the building 2/3 locked door plan:

A. Teachers who are assigned to classrooms nearest exits should be given keys.

B. Periodic fire drills should be administered in pilot schools to determine the feasibility of the idea.

Acceptance of this plan by the powers that be (fire dept., etc.) would greatly reduce the need for security on the doors. (This plan should only be used in emergency situations to be determined by a person from the board of education and a person from the fire department.)

3. Intercom system from classrooms to principal's office or to guard room (necessary to protect teachers and give them a sense of security). This would be very costly in existing schools but could be built into new schools at a small incremental cost.

4. Use of cameras and speakers in isolated areas of certain school buildings. Television cameras and/or monitors to be placed in sensitive areas, namely: tops and bottoms of staircases, cafeteria, student lounges, etc. (The impact of this on students should be discussed thoroughly.)

5. Use of "walkie-talkies" by security guards. Two-way walkie-talkies for security guards, principals and assistant principals would probably reduce the number of guards required if used properly and could possibly increase the effectiveness of guard program.

PROFILE OF HIGH SCHOOLS VISITED

	Julia Richmond	Brandeis	Haaren	Hughes	Franklin
A. Number of buildings and shape of structure	2 rectangular	2 rectangular	1 rectangular	2 L shaped	1 H with I through middle.
B. Location of main building	Manhattan, between 67th and 68th St., between 1st and 2d Aves.	Manhattan, 84th St., between Amst. and Columbus.	Manhattan, between 58th and 59th St., on 10th Ave.	Manhattan, 18th St., between 8th and 9th Aves.	Manhattan, between 110th St. and 115th St. on Pleasant Ave.
C. Location of annex	88th St., between 1st and York Ave.	66th St., between Broadway and 10th Ave.	None	18th St., between 8th and 7th Ave.	None.
D. How many sessions is the school on?	2	2	1	1	3.
E. Does the school have a staggered entrance schedule?	No	No	No	No	Yes.
F. What kind of school is it? (academic, vocational, general, special, other).	Comprehensive, academic general.	Academic, general	Academic, general, vocational.	Academic, general	Academic, general.
G. How many floors in the main building?	7	4 plus 1 gym in basement.	6 plus 1 main floor of audit, in basement.	7	4.
H. How many floors in the annex?	5	6	None	5	None.
I. Where is cafeteria located?	7th floor	1st floor	6th floor	7th floor	Basement.
J. What is utilization rate? (main building)	140 percent	174 percent	90 percent	80 percent	150 percent.
Annex	115 percent	130 percent	None	100 percent	None.
K. How many rooms are in the main building?	105	75	85	80	108.
L. What is the average dropout rate?	4.2 percent	5 percent	9.0 percent	4.5½ percent	5.3 percent.
M. What is the average daily attendance?	61.79 percent	82.6 percent	67 percent	61 percent	53 percent.

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PROFILE OF HIGH SCHOOLS VISITED—Continued

	Julia Richmond	Brandeis	Hasren	Hughes	Franklin
N. How many security guards does the school have?					
1. Main building	12, 1 female	7	8	6, 1 female	7.
2. Annex	2	2	None	1	None.
O. What is the name of the faculty member who has been assigned to supervise or coordinate security guards within your school?	Mr. Falcoff	Mr. Barberian	Mr. Dearson	Mr. Scopp	Mr. Hunter.
P. What is his title? (If any)	Assistant principal	Assistant principal	Teacher	Teacher, administrative payroll.	Dean of boys.
Q. How many school sides does the school have?	15	12	12	12	22.
R. What is your total staff complement?					
1. Number of teachers	290	330	175	179	250.
2. Number of administrative staff including secretaries, part-time guidance counselors and deans?	36	55	25	28	30.
S. What is the ethnic composition of your staff?					
1. Black	16	35	10	36	40.
2. Puerto Rican or other	5	20	1	9	40.
3. White	269	274	164	134	210.
4. Other (specify)	1 oriental				
T. How many students do you have presently enrolled?	4,348	5,300	1,800	2,140	4,400.
1. Black	2,063	2,809	720	1,284	1,716.
2. Puerto Rican	1,534	1,431	990	642	2,640.
3. White	560	1,060	18	214	44.
4. Other	86 oriental		72 oriental		
U. What percentage of your school is:					
1. Male	50 percent	50 percent	100 percent	53 percent	50 percent.
2. Female	do	do		47 percent	Do.
V. Are there any community groups involved in the life of the school?	None	Active PTA	Slight	None	FIPC.
W. Are there any outside groups involved in the school?	Phoenix house, State unemployment.	EDC	Ladies School volunteers	Urban Coalition, PTA	Urban Coalition, League St. Acad.

MEMBERS OF SCHOOL SECURITY TASK FORCE

Mr. Norman J. Rubin, Chairman, Community Relations Manager, Western Electric Co., 195 Broadway, New York, New York. 10007

Mr. William F. Burke, Head of Protection, Morgan Guaranty Trust Co., 23 Wall Street, New York, N.Y. 10005

Mr. Ernest E. Felago, Director of Security, The Singer Company, 30 Rockefeller Plaza, New York, N.Y. 10020.

Mr. Eugene Golden, Assistant Secretary, Morgan Guaranty Trust Co., 23 Wall Street, New York, New York. 10005.

Mr. Daniel Grimes, Security Vice President, Bankers Trust Company, 280 Park Avenue, New York, New York.

Mr. Thomas McGuire, Personnel Manager, Pfizer & Co., Inc., 235 E. 42nd Street, New York, N.Y. 10017

Mr. John Harden, Manager of Non-Selling Services, Bloomingdale's, 59th Street & Lexington Avenue, New York, New York.

Mr. Harry L. McFarlane, Manager of Security, J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, New York. 10019

Mr. Michael M. O'Rourke, Director of Security, American Broadcasting Companies, Inc., 1330 Avenue of the Americas, New York, N.Y. 10019

Mr. James Sullivan, Alexander's, 58th Street & Lexington Avenue, New York, N.Y. 10022

Mr. Gerald Van Dorn, Vice President, Chase Manhattan Bank, One Chase Manhattan Plaza, New York, N.Y. 10005

Mr. Robert Rogers, Hollow Organization, 215 W. 92nd Street, New York, N.Y. 10025 (was primarily responsible for compiling and writing this report).

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

A TRIBUTE TO OLEN LEE AYRES—FROM CHAMBER OF COMMERCE MANAGER TO PASTOR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. ANDERSON of California. Mr. Speaker, two classes of people in America, who are often noted for their evangelical fervor, are managers of chambers of commerce, and Baptist ministers. There is one man in Lawndale, Calif., who has known both of these roles. That dedicated individual is Olen Lee Ayres.

For the past 2½ years, Olen Ayres has served as the first full-time manager of the Lawndale Chamber of Commerce, but he has recently submitted his resignation from that position. He has decided that instead of serving the businesses of the community, he must devote himself full time to the business of God. This is not a hasty decision. For a year now, he has served as the part-time minister of the Doty Avenue Baptist Church of Hawthorne, Calif. During that period, 50 new members have been added to the church, and the congregation has now persuaded Mr. Ayres to devote himself to the pastorate full time.

I am certain the church will continue to grow because Reverend Ayres will bring the same dedication that he so generously gave to the Lawndale Chamber of Commerce. Mr. Ayres' work at the chamber was characterized by diligence and perseverance he never counted the days or the hours required to complete a project, so long as it was carried to a successful conclusion. It was this approach which has led 19 new businesses to commit themselves to locating within the 1.9-square-mile borders of Lawndale—an average of 10 businesses per mile during Mr. Ayres' tenure as chamber manager. Such a record is even more meaningful when you consider the effect it has on increasing the sales tax revenue in the city, which is the major source of funds for the city government.

A number of innovations in the activities of the Lawndale Chamber of Commerce have also been initiated during this period. These include the formation of a women's committee to bring the feminine viewpoint to the chamber, a traffic committee to which the city council refers traffic problems affecting business, adoption of courtesy week to honor employees in all walks of life, and the development of both Miss Lawndale and Mini-Miss Lawndale contests.

The Contact Club, which doubles as the membership committee of the chamber, is another Ayres' project. It consists of members of the chamber—such as chairman Ray Shawen, vice chairman Ethel Senst, Billy Bird, Russ Chace, Dennis Chojnacki, John Haddon, Pete Hoogland, Mrs. Fritz Kappen, James Ramsey, and Rev. C. B. Redmon—who are carefully selected for their pleasing personalities and thorough familiarity with chamber activities. As new businessmen come to Lawndale, the members of the Contact Club go out of their way to acquaint them with, first, civic and chamber's activities, and, secondly, other businessmen.

Other specialized committees formed by the chamber during Ayres' term as manager include the civic affairs committee, which participated in the dedication of the new Lawndale Civic Center; the planning committee, which works closely with the city's planning commission; the industrial relations committee; the voter registration committee, and others.

In addition to his work as full-time chamber manager and part-time minister, Olen Lee Ayres has taken a few outside activities—just so his time will not drag. He has served as a member of the business license review committee for the city of Lawndale, the Lawndale Kiwanis, and as an honorary member of the Lawndale Jaycees. He has received commendations from the Boy Scouts, the Y.M.C.A., the California State Jaycees, the March of Dimes, and the Anchor's Guild of Children's Hospital for volunteer efforts on their behalf in various projects.

With this kind of record of activity and dedication, the Lawndale Chamber of Commerce undoubtedly regrets losing Ayres. However, I am sure president Pete Hoogland is pleased to see Mr. Ayres devote his services full time to the work of the church, thus, bringing his enthusiasm and talents to an even broader spectrum of the population and bringing a more meaningful existence to those in the Lawndale-Hawthorne area.

RETURN HONOR AND DIGNITY TO MILITARY SERVICE

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. COLLIER. Mr. Speaker, until the past decade in our history, virtually all Americans in every age bracket respected and honored those who served their country as members of our military forces. The uniform of those in the service, whether soldiers, sailors, marines, or aviators, was held in esteem. It was worn by American men throughout our history who were called upon to defend this Nation from foreign enemies and preserve a free way of life for millions of people both at home and abroad.

We entered World War I to "preserve democracy" and we joined our allies in fighting fascism and totalitarianism in World War II. But in the past decade we have seen a comparatively small and vicious minority within the country which has degraded the uniform and its symbol of our determination to defend this Nation. With an unpopular war in Southeast Asia as a vehicle of their actions, they have extended every effort to discredit the military service, discourage volunteering and reenlistment, and obstruct the draft.

To disagree with the conduct of a war is one thing, but to tear apart the tradition of the military is something entirely different. And whether one wears the uniform of his country by choice or otherwise, he should be honored for his service.

To suggest that a nation as strong and as affluent as the United States should permit the destruction of its means of defense would be sheer folly.

One often wonders what the attitude of many of these same people would be if this country were subjected to attack by a foreign power and we were unprepared to defend ourselves from destruction by an enemy. To suggest that this would never happen is to be rankly oblivious of history.

Fortunately there are still voices being raised in behalf of those who serve in the Armed Forces. One such voice is that of John H. Geiger, the new national commander of the American Legion, who addressed an assemblage at Eisenhower Park, Nassau County, N.Y., on Veterans Day. I am proud to say that I have known Commander Geiger for many years, as he lives in Des Plaines, Ill., a city located in the district that I am privileged to represent in this great body.

Having served our Nation with great distinction during wartime, John H. Geiger continued to serve it after having resumed his place in civilian life. I can think of no better way for him to serve America than as head of the Legion, a position which furnishes him a platform from which to reply to those who smear our country's heroic fighting men.

Mr. Speaker, I want my colleagues in the Congress of the United States to have the opportunity and the privilege to read the inspiring, logical, and necessary words that Commander Geiger has uttered in behalf of those who wear the uniform of our great country. Let us all join him in his plea for the return of honor and dignity to military service.

The address follows:

RETURN HONOR AND DIGNITY TO MILITARY SERVICE

Distinguished guests, Ladies and Gentlemen. It is indeed an honor for me to have the opportunity to speak to you today on this first observance of the new Veterans Day. I know that I speak for both the national organization, as well as for the Department of New York of The American Legion in saying that we are deeply honored to have been selected by the President's Veterans Day National Committee to host this regional Veterans Day ceremony for the Northeastern area. As you know, this honor is rotated among the several veterans organizations in each region of the United States, and at the National Ceremony in Arlington Cemetery. We are deeply grateful to the United Veterans Organization of Nassau County—representing our comrades in all the veterans organizations in this area—for outstanding cooperation in making this Veterans Day observance the splendid success it so obviously is.

I made the point that this Veterans Day marks the first observance of a new holiday, specifically set aside by Congress for honoring all of those who, through military service, have fulfilled the highest obligation of citizenship. It is fitting and proper that we pause on this day to pay special tribute to our honored dead of all wars—as we do on Memorial Day and should do on every patriotic holiday. I ask today, however, that our attention be focused on the living veteran—the young Vietnam veteran struggling to establish himself in this difficult period and the disabled or older veteran who may need our help. I ask, Ladies and Gentlemen, that we let this day mark the beginning of respect and gratitude for the veteran—a return, if you will, to a period when all Americans honored those who wore the uniform in the defense of the nation. We of The American Legion believe, as I am sure all of you here believe, that nothing short of a national disaster is imminent unless prompt measures are taken to restore to military service the position it should and must have in the order of things—not just a moral obligation of citizenship for those called upon to serve, but a matter of unquestioned honor to be so recognized by all Americans.

It is certainly no news to anyone here present that in the space of a few short years—the years of an unpopular conflict—we have witnessed the increasing degradation of honorable military service by those who apparently have the destruction of the American way of life as a primary goal. The truly tragic aspect of this unfortunate matter is the degree of success these individuals have had in selling this alien philosophy—turning our own guns against us so to speak by using the same constitutional guarantees so many Americans have fought and died for in a cause that can only mean the ultimate destruction of those freedoms.

How often, in recent years, have we heard the story of the young veteran of the Vietnam conflict returning home—not to the heroes' welcome accorded those of prior conflicts—but to ridicule. He is considered by some to have been a sucker, not smart enough to join his "intellectual superiors" who are sojourning in Canada and Sweden while others carry their responsibilities. It is not unheard of for these young veterans to stop in the first available airport or bus station rest room to remove the uniform, the once proud symbol of service to country, so that they might be spared this venomous ridicule.

I say to you today that the time has come for those of us who care about America—and despite the strident voices of those who would have us believe the contrary, I believe we are still a majority—to speak out in the strongest possible terms against those who would have us believe that military service to the United States of America is a dishonorable thing.

We may agree with the apologists, and even the anarchists in our midst, that this nation has its shortcomings. Few countries in the history of the world have been faced with so many problems demanding immediate solutions. Despite this fact, I submit that this country, this system of Government has in the past, and will continue in the future to offer the average man the greatest opportunity for self realization this world has seen, and military service in the defense of this system must command the highest respect.

We can all agree that a goal of peace and harmony with all the nations of the world is a desirable objective. I have never known anyone who has endured the agony of deadly combat who has enjoyed that experience. Hopefully, we are now on the road to achieving the peace we all desire—but I can assure you that no lasting peace will ever be gained if the transition from war to peace mean: a transition from strength to weakness. How many times must we relearn that costly lesson? Given the established fact that our enemies in the world continue to grow stronger militarily—and continue to flaunt that strength even here in American waters, we have no choice but to continue to demand a strong defensive posture for the United States. Our survival is at stake—and our national will to survive is being put to the severest test. Even assuming an adequately equipped force-in-being for the defense of America in this decade—one which does not presently exist—we cannot assure the defense of this country unless and until the will and character of the American people restore to those who must man this force a basis for the strongest possible sense of honor, dignity and service to the nation. And when these men have completed their service, they must be returned with equal honor, and with all due speed to fully contributing and participating membership in their communities. Nothing less will insure that we have the motivated manpower to succeed in the defense of the United States against aggression by our enemies.

The problems of the young veteran today, those I've discussed, and the other difficulties he faces, simply mirror the problems of contemporary America. Drug abuse—an epidemic of national emergency proportions—is his problem and also America's. Joblessness—a particular affliction of the young Vietnam veteran as contrasted with his predecessors—is an indication of a weakness in our

national economy which must be corrected in the near future. The malaise affecting the young veteran is symptomatic of the onset of a national illness—an illness being aggravated by deliberate efforts to destroy our national institutions, and one threatening to engulf us if we fail to seek an early cure. We can start by considering the plight of the Vietnam veteran, and by individually resolving to do something about it. His problems are our problems, and our collective fate depends on our resolve to find solutions to those problems.

In closing, I should like to quote a passage from a speech delivered by Secretary of State William Rogers before the recent National Convention of The America Legion in Houston, Texas. "We here can only hope that future generations will become the veterans of peace—citizens who will meet the challenges of peace as men before them met the challenges of war. To make this hope a reality, we must summon up the strength of this great nation—its moral and economic strength, its strength of spirit that underlies all its power—and thus lead the way to the peaceful world that generations of Americans have fought for."

May God grant us the wisdom, courage and foresight to work toward that ideal.

ERIE COUNTY MOVES AHEAD ON AIR POLLUTION CONTROL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. KEMP. Mr. Speaker, among our many environmental concerns, air pollution certainly ranks as one of the most serious. Pollution of the air we breathe not only offends our senses and degrades our environment, it has also been proven to have a serious impact on man's health. Respiratory diseases and eye irritations multiply wherever there is air pollution.

Today, I received the Clean Air Week progress report for 1971 from I. Arthur Hoekstra, director of the air pollution control division of the Erie County, N.Y., Department of Health. I am proud to say that more than 90 percent of the industries in Erie County have now met the very strict requirements of the Erie County Air Pollution Code.

President Nixon has said:

The 1970's absolutely must be the years when America pays its debt to the past by reclaiming the purity of its air, its waters and our living environment. It is literally now or never.

The air pollution control division of Erie County has shown that substantial progress can be made in reclaiming our environment through a working partnership between business and government. All those who have been involved in this effort to provide cleaner air for Erie County are to be commended for their efforts.

Mr. Speaker, I would like to share with my colleagues the clean air progress report for 1971 and I include it at this time for the RECORD:

CLEAN AIR WEEK PROGRESS REPORT 1971

Today more than 90% of the industries in Erie County have met the requirements of the Erie County Air Pollution Code. With the exception of Los Angeles I don't know of any code in the nation that is stricter. My Division has surveyed 1,040 industries and found that 306 had emissions that required an environmental analysis report. Of these 283 are in compliance and the remaining 23 have abatement programs underway.

More than 95% of all potential particulate process emissions are being controlled. This happened because the Division set up priorities in 1967 when the code was first passed.

Particulate emissions from coal burning have been reduced by 80% and by next year this reduction will be better than 95%. Yet in 1970 the industries of Erie County utilized and consumed 8.1 million tons of coal. Of this, 5.7 million tons was used by steel industries and 1.7 million were used for power generation. The industries in our area contribute much to the well being of our nation.

It is true that coke ovens still present a remaining problem but it should also be said that the Donner Hanna Coke Company is rated the cleanest in the nation by Federal inspection. I predict that many companies will follow their lead. I have also observed the Allied Chemical (Semet Solvay) developments and their charging method is emission free. Bethlehem has spent thousands on their latest coke oven started in 1970. The problem is difficult but progress is being made.

All these accomplishments were achieved with a minimum of fines and a tremendous amount of cooperative work. A well deserved compliment is due to my staff, the thousands of people in industry who cooperated and the patience of the million citizens who have watched the progress.

Much more still has to be done as we strive to achieve the ambient air standards set by the Federal government. Tighter emission laws will be required for industry, commerce and the average citizen.

COMMUNITY DEVELOPMENT

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. ALEXANDER. Mr. Speaker, for the past 6 weeks I have been inserting into the CONGRESSIONAL RECORD material which was gathered at the first of a series of hearings on community development needs which I am conducting in the First Congressional District of Arkansas. With the publications today of the testimony for Monroe County and Clarendon, Ark., we come to the end of the material available from that August 30 hearing in Brinkley, Ark.

I have taken the step of having the testimony made a part of the CONGRESSIONAL RECORD because I believe that the things the mayors, county judges and other local leaders have to say on the subject of community development are most relevant to the current discussions we are having in the Congress. And, for this same reason, I will insert in the CONGRESSIONAL RECORD next week, information collected at my October 28, 1971, hearing on community development. This hearing was in Walnut Ridge, Ark.

The testimony follows:

CITY OF CLARENDON,
Clarendon, Ark., August 17, 1971.

HON. BILL ALEXANDER,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN: In conjunction with The Clarendon Chamber of Commerce, The Clarendon Industrial Development Corporation, The Clarendon Schools, the local bank, health officials and all department heads of the City of Clarendon, we present to you and your panel some of the most urgent needs of our immediate area, to stimulate employment, upgrade our depressed economy and enable us to survive and compete in a favorable or at least equal situation with metropolitan areas.

Funding Needs.—The primary need in all Arkansas cities is additional general funds. These funds which are not earmarked for specific purposes are the most scarce type in Arkansas cities and towns. While at the same time, these funds are the most beneficial.

Capabilities and Problems.—The capability of our cities to meet their needs is severely restricted by the 1874 Constitution of our state and also by the dependance upon the legislature by all incorporated towns and second class cities for all their authority. The 1971 legislature has provided first class cities with a limited amount of "Home Rule" authority. Specifically, the "Home Rule" Law (Act 266 of 1971) authorizes a local income tax and payroll tax which must be approved by the voters of a city and be stated as a percentage of the State Income Tax. I will let you draw your own conclusion as to how receptive the voters would be to an additional local income tax of say 50% of the State Income Tax. Needless to say, it would take quite a selling job to convince the people of Clarendon to vote such a tax on themselves in view of the present Federal and State income taxes imposed on their earnings. I would imagine that if Federal and State governments were required to submit all tax increases to a vote of the people, there would be considerable "belt tightening". This mandatory vote requirement is the reason I say that the first class cities were given only "limited" Home Rule authority; and frankly I cannot see where that type Home Rule is going to lessen the dependence of our cities on turnback from the State and Federal governments.

Out-migration.—As you know Arkansas population grew some 7.78% during the period 1960–70. This was slightly more than one-half the 13% National average which reversed the decline of the "Fifties." Practically all the increase in Arkansas took place in the municipalities; and Arkansas has—in 1971—60% of its people now living in the same 450 incorporated cities and towns.

Salability of Bonds.—Most municipal bonds are limited to a 6% maximum interest rate which considering our sources of revenue is about all we can service anyway. If interest rates on bonds in other states reach higher amounts as they almost did during the past few years, ours would naturally be hard to sell, if not impossible.

The accomplishments of Arkansas cities—made under Federal Programs—have been numerous, ranging from basic water and sewer grants to model cities. The primary problem encountered has naturally been that National priorities rather than local priorities have determined what progress would be available.

This problem would be eliminated if the Federal Government would enact a program similar to our State Turnback program; whereby the cities receive a portion of their taxes back on a per capita basis. Nixon's plan of revenue sharing has followed this basic approach; however, his ideas appear to give a little to every level of government. More preferable to the Nixon plan is that of Congressman Mills who apparently believes that the funds should be turned back to where they are primarily raised and where the problems are; that is directly to the cities.

On the following pages we have outlined and listed the needs of the City of Clarendon in the order of preference or importance in accordance with our determinations.

With kind regards, I am

Very truly yours.

FLYNN CHIVERS.

ITEM NO. 1. EMPLOYMENT OPPORTUNITIES

Employment opportunities in the areas surrounding Clarendon are in critical needs. In a recent survey which was taken in a limited period on a short notice, a total of 1,300 people registered as applicants for employment. Of these 1,300 people, 300 were in immediate and dire need of employment.

Welfare rolls for this area again indicate this same fact that employment is badly needed, as most of these people are unable to find employment. The reason for these large numbers of unemployed is that the farms which originally employed these people have become larger and mechanized. This has led to the migration to the larger cities and towns to find employment.

The labor survey along with the large number of welfare recipients indicate that a large labor market is available if adequate employment could be secured. Also many of the people who are employed, are having to drive from fifty to sixty miles daily in order to reach their present employment.

The attached page presents a proposal for an industrial park and harbor facility for the City of Clarendon.

PROPOSAL: INDUSTRIAL PARK AND HARBOR FACILITY

Area—407 Acres (Approximately).
Estimated Cost of Land—$100,000.00.
Estimated Cost of Improvements—$150,000.00 (Road, Railroad, excluding Harbor).
Estimated Cost of Harbor—?

Since Clarendon does not have an Industrial Park, and land with river frontage is not available or is in use, the Clarendon Industrial Development Corporation proposes that thought be given to acquiring at least the 407 acres shown on the accompanying map for the purpose of:

1. Protecting the future needs of the Municipal Water Works for Sewage Disposal Area.
2. Providing the existing Potlatch Operation with room for expansion.
3. To build a Harbor facility to better serve the river traffic, and provide a site for additional industry.
4. That a study be made of the possibility of relocating the road and railroad to better serve the area.

The CIDC also proposes that legislation be made to provide that water from existing dams to provide water transportation year around.

This proposal prepared by the Clarendon Industrial Development Corporation.

Paul McKay—Chairman, Floyd Blankenship—Secretary, Ralph Abramson, W. E. Beard, Flynn Chivers, W. M. Lee, Jno. B. Moore, and R. H. Wooley.

ITEM NO. 2. ADEQUATE HOUSING

The City of Clarendon has a minimum need of 100 to 150 new homes or family units for sale or rent at a cost of from $1,750,000 to $2,250,000. There has not been a house vacancy in Clarendon for years. The attached letter from a local housing review explains the need for housing in Clarendon.

FARMERS HOME ADMINISTRATION,
Clarendon, Ark., August 5, 1971.

CHAMBER OF COMMERCE,
Clarendon, Ark.

GENTLEMEN: I recently made a review of the housing situation in Monroe County.

It would appear the county would need at least 300 single family units, modest cost and design dwellings. The county would need a minimum of four multi-unit apartments (six or eight unit size). The single and multi-units will be needed in the next two to three years to alleviate the housing shortage.

The break down as to areas in the county is as follows: Brinkley area, 150; Clarendon area, 100; Holly Grove area, 50.

The cost to construct the above number of units would be approximately $4,100,000.00.

The number and cost mentioned above does not include public housing programs, Federal Housing, or above modest income construction.

Sincerely,

LEWIS A. BOWSER,
County Supervisor.

ITEM NO. 3. COMMUNITY HEALTH CENTER PHASE PROJECT

Urgently needed in economic disaster area for Community Health Center composed of the following elements in the complex of buildings and projected costs.

1. 30 bed hospital with surgical, delivery facilities, laboratory and X-Ray unit. Projected costs: building—$750,000, equipment—$350,000.
2. As part of hospital complex: two doctor offices and 6 examining rooms. Projected costs: building and equipment—$200,000.
3. As part of hospital complex: one dental office with three examining rooms. Projected costs: building and equipment—$75,000.
4. As part of hospital complex: one optometrist office and two examining and treatment rooms. Projected cost: building and equipment—$60,000.
5. As part of hospital complex: 15 bed convalescent recovery room and treatment unit. Projected costs: building and equipment—$250,000.
6. As part of hospital complex: 30 bed nursing home. Projected costs for building and equipment—$650,000.
7. As part of hospital complex: 24 hour ambulance service, fully equipped with two ambulances. Projected costs initial—$75,000.
8. Adequated public housing on a rental basis for middle income group for personnel involved in maintaining above complex, estimated 150 units. Projected costs—$3,750,000.
9. Total projected costs for initial construction and supplying and equipping hospital complex, $2,410,000.

ITEM NO. 4. SOLID WASTE DISPOSAL

Utmost urgency, law passed for new facilities. No funds available. Needs: Land—$10,000., Equipment—$50,000, and manpower costs for service and maintenance.

ITEM NO. 5. WATER AND SEWER NEEDS

Our present system was built in 1914 and is now inadequate and obsolete. Minimum storage facilities recommended at 72 hours supply. We have an 8 hour supply. Needs: New deep well, 250,000 gallon storage facility, treatment plant, water and sewer lines; Cost $350,000.

ITEM NO. 6. NEEDS FOR PUBLIC SCHOOLS, CLARENDON SCHOOL DISTRICT

1. Our most urgent need is housing for new teachers. We have found that it is impossible to find adequate housing for teachers who have a family.
2. We need new buildings for Home economics and Industrial Arts. The Local Board of Education feels that a millage increase would force a hardship on the taxpayers at this time.
3. We need a vocational training center to train terminal pupils.
4. This area needs a college or junior college within commuting distance for our pupils.

ITEM NO. 7. LAW ENFORCEMENT AND CRIME PREVENTION

•• 2 patrolmen, at $480 per month, $10,000.
•• 2 radio operators, at $400 per month, $9,600.
• 2 mobile radio units, at $1,050 each, $2,100.
•• 2 walkie talkie units, at $600 each, $1,200.
• 1 base radio unit, at $1,400 each, $1,400.
• 2 monitors, for State and local radio systems, at $180 each, $360.
•2 automobiles (Police cars), at $3,500, $7,000.
•• 5 shotguns, at $100 each, $500.
•• 5 pistols, at $100 each, $500.
•• 5 high power rifles, at $150 each, $750.
•• 6 gas masks, at $40 each, $240.
•• 1 tear gas gun and equipment, at $333, $333.
•• 24 tear gas grenades, at $13.75 each, $330.
•• 1 radar unit (Auto unit), at $1,295 each, $1,295.
•• 6 riot helmets, at $25 each, $150.
•• 1 identification camera and equipment, at $635, $635.
•• Accidental investigation equipment "Camera and roletape for measuring distances," at $150, $150.
• 2 beacon lights (Car top), at $231 each, $462.
•• 2 mobile units containing electronic siren, P.A. system, and radio amplifier, at $285, $570.
•• 1 resuscitator set. (Shock, drownings, suffocation), at $441 each, $441.
•• 2 safety screens for police cars, at $175 each, $350.
•• 1 breathalyzer & equipment, at $1,055, $1,095.
•• 2 emergency lighting units, at $120 each, $240.
•• 12 riot control batons, at $5.50 each, $66.

Ammunition:

•• Pistol, at $52.50 per 1000 rounds, $52.50.
•• Shotgun, at $160.90 per 1000 rounds, $160.90.
•• Rifle, at $167 per 1000 rounds, $167.
•• 45 caliber machine gun, at $117.36 per 1000 rounds, $117.36.
•• 30 caliber carbine, at $134.58 per 1000 rounds, $134.58.

FOOTNOTES

• Denotes need to be replaced in 2 to 5 years.
•• Denotes immediate need.

Automobiles are in need of replacement every 18 to 24 months.

ITEM NO. 8. FIREFIGHTING EQUIPMENT AND PERSONNEL

CLARENDON FIRE DEPARTMENT FUTURE 10 YEAR EXPANSION PROGRAM

No. 2 fire station, east of rail-road tracks	$35,000
750 GPM triple combination fire-truck, equipped	27,000
One base station with six mobile units, radio equipment	6,000
Bunker clothes and boots	2,000
Aluminized asbestos fire fighters suits, 4 sets	1,200
Foam generator	500
Smoke ejector	800
Generator, 3000 watts	1,000
Hose 2½-inch, 2,000 feet	2,500
Hose 1½-inch, 1,000 feet	1,000
Hose 1-inch, 1,000 feet	1,500
Rescue unit, equipped	30,000
Automatic hose washer and dryer	850
County fire truck, with front mount pump, equipped	18,000
Siren, 10 H.P.	1,000
Maintenance shop, equipped	26,000
Total	155,850

ITEM NO. 9. STREETS AND DRAINAGE

The City of Clarendon now has no storm sewers, curbs, gutters nor permanent type paving. The cost of supplying the needs for these items alone would exceed $2,000,000.

ITEM NO. 10. RIVER NAVIGATION AND RECREATION

PARKS AND RECREATION

1. There is a need for a city park in Clarendon with swimming pool, tennis court, and playground equipment.

2. There is a need also for a plot of land to be used for a baseball field for Little League which is being organized this year. This could possibly be included with the City Park depending on availability of land. An estimated cost of these two needs would be $80,000.

3. The Clarendon Beach which is a natural recreation spot on White River with a sand beach area one mile south of Clarendon needs further development. This natural sand bar with swimming and boating attracts many people in this area. An estimated cost for developing this area would be $10,000.

RIVER NAVIGATION

Tonnage figures for Clarendon Port on White River from January–June 1971 for Potlatch Forests, Inc.:

Logs, 26,000 Tons (PFI barged from Augusta to Mississippi River).

All Bunge, Inc. locations and Lockhart estimated at 300,000 Tons per year.

Arkansas Stone from Batesville used in construction of Lock and Dam No. 1 was transported by water from quarry to construction site. Exact tonnage figures probably available from U.S. Engineers.

The principal reason for location of Potlatch Forests, Inc. and Bunge, Inc., with their year round employment, an important factor in our economy, is the availability of water transportation.

We recommend that Legislation be enacted to permit release of water from existing dams to provide proper level of water for safe navigation.

CLARENDON, ARK., *August 16, 1971.*

CHAMBER OF COMMERCE,
Clarendon, Ark.

GENTLEMEN: In response to your request as to some of the major financial problems faced by Monroe County, I have made a list which I feel will be of some help to you.

The first and foremost item on my list is that of new and better roads in the county, as only limited funds are available for this. An unlimited amount could be used for better maintenance of the county roads. Also, another problem included under this item is that of new equipment and new facilities for maintenance for this equipment. Approximately $200,000.00 of new equipment is now needed, along with $25,000.00 for new maintenance facilities. The second item on my list is that of a County Hospital or Medical Center. Plans and costs for these facilities are being prepared by people more familiar with needs in the medical field.

Another item of major concern to me is that of a new county office building to house the Welfare office, extension office, Revenue office, and other offices of which there is not enough room to house in the County Court House. The estimated cost of a building for these offices is around $150,000.00.

I also feel that Clarendon, Brinkley, and Holly Grove could combine efforts and build a county airport in lieu of several small municipal airports. This could be built in a central location which would not be over ten miles from any one town.

The proposed site for this airport is in Section 22, 23, or 27 of Township 2 North, Range 2 West. The cost of this airport would be around $750,000.00.

The last item of major concern to me is that of the restoration of the old County Jail. The jail is a rather old land mark and many people feel that it should be restored to its original looks. The cost of this project would be around $30,000.00.

As to the feelings of the people of Monroe County concerning the role of the Federal government in federal supported projects, most are of the opinion that better results could be obtained with less federal control and more local control of the funds.

I hope that this information will be of help to you. With kindest regards, I am

Very truly yours,

TOM CATLETT,
Monroe County Judge.

CLARENDON, ARK., *August 16, 1971.*

HON. WILLIAM V. ALEXANDER,
U.S. Congress,
Washington, D.C.

DEAR CONGRESSMAN ALEXANDER:

CACHE RIVER-BAYOU DE VIEW CHANNELIZATION PROJECT

The construction of the Cache River-Bayou DeView channelization project should not be started until adequate measures for the mitigation of loss and damages to fish and wildlife habitat are included in the project. If the project is started before same are included it is doubtful they would be included later, and it could possibly be too late to include same.

LOWER WHITE RIVER BOTTOM TIMBERED AREA

The lower White River bottom is the last remaining sizable area of hardwood timber left in the State of Arkansas due to the rapid clearing of hardwood timber lands for the production of soybeans. Such an area is irreplaceable as a fish and wildlife area. This area should be zoned by the Federal Government limiting its use to the growing of timber, fish and wildlife habitat, and outdoor recreation. It is my understanding that a study on these lines is being made on the lands between the levees of the Mississippi River.

Yours very truly,

JNO. B. MOORE, Jr.

This is the seventh insertion in the CONGRESSIONAL RECORD of testimony and other materials which I have gathered during my search for ways to assist community development in areas of low population. Other materials on this subject appear in the CONGRESSIONAL RECORDS of September 22, pages 32740–32741; October 1, pages 34505–34506; October 6, pages 35409–35410; October 13, pages 36133–36135; October 21, pages 37358–37361, and October 28, pages 38121–38123.

THE RELATION OF INSECT CONTROL TO INCREASED FOOD PRODUCTION

HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. DOW. Mr. Speaker, I have come across a highly informative article on the relation of insect control to increased food production prepared by F. R. Lawson.

Because the subject matter is closely related to the Pesticide Control Act which is coming to the floor of the House momentarily, I wanted to share Mr. Lawson's research with our colleagues.

Efforts to balance the world's requirements for the increased production of food and fiber are often cited as strong rationale for continuing to use pesticides. Whereas the ideal solution may be some form of biological control, it is pretty clear that this solution is years away from us now. The article takes the middle position that "since most of the world's food supply is produced by relatively few crops" and damage is by certain key pests, we can concentrate less against minor or occasional pests and develop integrated control for key pests of major crops.

The article follows:

THE RELATION OF INSECT CONTROL TO INCREASED FOOD PRODUCTION

(By F. R. Lawson)

Most of the authorities on human populations are agreed that if the present rate of increase of mankind is continued it will be necessary to double or triple the world's food supply within the next two or three decades (Aldrich 1968). But according to the last FAO report (1968) on *The State of Food and Agriculture*, "Without suitable crop protection measures the increased yields obtained through the use of improved varieties, fertilizers and irrigation are in danger of being wiped out by pests and diseases. The risk is increased since the newly introduced high-yielding varieties do not always have the disease resistance of those hitherto used, and since their denser and genetically more uniform stands will provide a more favorable environment for pests and diseases. Multiple cropping also increases this hazard. In fact, as the constraints imposed by supplies of improved seed, fertilizer, and water are gradually reduced, pests and diseases may well emerge as the main factor limiting the further expansion of production."

The vast majority of insect pests are now controlled by the application of organic insecticides, and most entomologists are agreed that without these highly effective chemicals the insects would take a much larger proportion of the world's food supply than they do now.

However, widespread and, except for certain legal requirements for labelling and residues allowed on food, largely unrestricted use of organic insecticides has created problems that have reduced the number of insects that can be controlled by most materials. In some cases these effects have been the result of legal restrictions applied because of presumed hazards from residues. For example, in the United States certain chlorinated hydrocarbons cannot be used on forage fed to dairy cattle because they appear in the milk, which has no tolerance for most of these materials. In other instances the physiological effects of the insecticide on the plant have increased the reproductive rates of insects or mites (Chaboussou, 1965).

There have been many cases where the destruction of natural enemies has brought about an increase in the numbers of the target pest or the rise of secondary species to the status of major pests. Most such problems have been solved for a time by increasing dosage or adding new materials. Occasionally this procedure fails because of the rise of some insect that is protected from any insecticide, as in the examples cited below, with the bagworms on coca and oil palms in Malaysia (Conway 1968, 1969). More often the appearance of insecticide resistance in one or more phytophagous species causes increased losses until a new material can be adopted. This occurred in the United States when the cotton boll weevil (*Anthonomus grandis* Boheman) became resistant to the chlorinated hydrocarbons (U.S. Government Printing Office, 1965). In a few cases resistance to all of the available organic materials in one or more insects has reached the point where control of the pest problem has been lost, forcing abandonment of crop production or adoption of different systems of control (Bosa Barducci, 1965a, 1965b).

The unrestricted use of insecticides can lead to loss of control rather quickly even

before the insects become resistant, as shown by Conway (1968 and 1969). In the state of Sabah, Malaysia, the first commercial plantings of cocoa were made in 1956. The ring bark borer, *Endoclita hosei* Tindale, was the major pest and two branch borers, *Zeuzera* spp., were minor ones. In 1959 spraying with high concentrations of chlorinated hydrocarbons was begun. Several other pests appeared in the same year and to counter this threat general spraying as a prophylactic measure was begun with a variety of insecticides, including dieldrin, endrin, DDT, BHC, lead arsenate and a white oil. This was continued for two years. In 1961 the branch borers became more numerous, and two leaf eating caterpillars, *Hyposidra talaca* (Walker) and *Athetis nitens* (Ballmüller), a planthopper, *Colobesthes jacata* (Guérin-Méneville), and several species of bagworms, the most important of which were species of *Clania* and *Mahasena*, became abundant and caused serious damage. The bagworms were protected from insecticides by their bags and could not be controlled. Toward the end of 1961 the situation was so serious that spraying was stopped.

The abundance of some of the pests dropped rapidly within a short time, apparently as a result of a resurgence of natural enemies, but losses to the branch borers and bagworms remained serious and were treated by selective insecticidal measures in 1962. By 1963 artificial control was no longer necessary against the bagworms, and there was a high incidence of parasitism by tachinid flies. Since that time other pests have appeared and have been kept under control by cultural methods and with a limited number of applications of carefully selected chemicals applied to restricted areas. Conway (1968) reporting work by B. J Wood, says that bagworms, particularly *Metisa plana* Walker also became serious pests of oil palms following insecticide applications against other minor pests. The outbreaks occurred not only in the area treated but spread to adjacent palms. To obtain further evidence, Wood treated about 2 acres, which resulted in an explosive increase of bagworms in the plot and surrounding areas with a gradual decline in population away from the center in all directions. Bagworm outbreaks were later controlled by a selective insecticide, trichlorphon, and the importance of these pests is now declining.

The best known examples of the combined effects of the destruction of natural enemies and the appearance of insecticide resistance have occurred in cotton.

The status of insect control of this crop in the United States was summarized by a panel of President's Science Advisory Committee (U.S. Government Printing Office, 1965) as follows: "Since the boll weevil [*Anthonomus grandis* Boheman] entered the United States some 70 years ago, cotton farmers have sought to control it. The fight against the boll weevil, especially in the past 20 years has been successful largely because of the use of chemical pesticides. . . . In 1955 the commonly used chlorinated hydrocarbon pesticides lost their effectiveness against boll weevils in the Mississippi Valley and the result was disastrous to many growers. The chlorinated hydrocarbons were then largely abandoned in favor of organic phosphorous compounds. Although there is no sign of resistance to this class of compounds in the field populations of boll weevils, there are resistant laboratory populations. There is thus a portent of resistance in the field. Pesticides used to control the boll weevil frequently upset the ecological balance by destroying important insect predators and parasites and, as a consequence, species that would not otherwise be injurious to cotton often become pests. Damage from bollworm, spider mites and aphids would be relatively insignificant in boll-weevil-infested areas except for the current procedures used to control the boll weevil. During many years, damage from these secondary pests has exceeded that of the boll weevil. Clearly the boll weevil problem cannot be considered alone, but only in conjunction with all the other insects that feed on cotton. Environmental contamination with residues of insecticides, especially the chlorinated hydrocarbons, has created such serious problems that their unrestricted future use is questionable."

The committee's fear that resistance to organic phosphorous compounds will appear in field populations of the boll weevil has not yet come to pass, but resistance has been reported in the tobacco budworm, *Heliothis virescens* (F.), a species that has become a pest in cotton in recent years. This has been one of the principal reasons why several thousand acres of cotton in Mexico has been abandoned. In 1960, there were about 711,100 acres of cotton in the Matamoros-Rio Bravo-Reynosa area of Mexico. In the sixties, the levels of resistance in *Heliothis* increased and the acreage of cotton declined until by 1967 it was about 24,000 acres. Cotton from this section moved to the Tampico area where it increased from about 4,000 acres in 1960 to 500,000 in 1967, then declined to 405,000 acres in 1968. Estimates of the amount that will be planted in 1969 are below 50,000 (personal communication, M. J. Lukefahr).

A somewhat similar series of events occurred about 12 years ago in the Cañete Valley of Peru, but here a solution to the problem was found. Figure 1 shows cotton yields in this valley from 1943 to 1963, as given by Boza Barducci (1965a).

Originally 6 pests caused most of the damage by insects. They were the leafworm (*Anomis texana* Riley), the Peruvian boll weevil (*Anthonomus vestitus* Boheman), the cotton aphid (*Aphis gossypii* Glover), the minor bollworm (*Mescinia peruella* Schaus), the lesser snowscale (*Pinnaspis strachani* Cooley) [referred to by Boza Barducci as *Hemichionaspis minor* Maskell] and the cotton stainer (*Dysdercus peruvianus* Guérin-Méneville). The lepidopterons and bud weevils were controlled with arsenicals and the aphids with nicotine sulphate. In 1939 the "bollworm," *Heliothis virescens*, appeared in one section of the Valley and caused damage. The use of mineral and some organic insecticides complicated the problem and there was a rapid buildup of aphids which damaged the cotton crop. Bollworm problems increased every year until 1949 when the yield was reduced 27 percent under the average of the previous 6 years. At that time the heavy use of organic materials was begun, including DDT, BHC, and toxophene. Sulphur was also used. The insects were brought under control and yields of cotton increased rapidly for 5 years until 1954. However, beginning in the 3rd year it was observed that insecticides were less effective due to resistance, and the dosage and number of applications were then increased and new chemicals were used, including aldrin, dieldrin, endrin, parathion, and Folidol. Following the use of these insecticides, 6 additional pests, including leaf rollers (*Argyrotaenia sphalerops* (Meyrick), and *Platynota* sp), the major leafworm (*Pseudopiusia includens* (Walker)) [referred to by Bosa Barducci as *P. rogationis* Guenée], apex bollworm (*Pococera atramentalis* (Lederer)), the citrus mealybug (*Planococcus citri* (Risso)), and the cotton leaf perforator (*Bucculatrix thurberiella* Busck), began to cause serious damage. The most damaging were the leaf rollers and the major leafworm.

In 1955 there was a sharp drop in cotton yield, and in 1956 the poorest crop in the history of the Valley was obtained. The reduction in yield was 49 percent of the mean from 1951 to 1954. According to Bosa Barducci the destruction of useful animals was so complete at the end of the 1950–55 period that reptiles and birds of all kinds and even many Arachnida disappeared.

Following the disaster of 1956, the farmers adopted a set of "Regulations for the cotton crop in Cañete Valley" proposed by the experiment station and approved by the Ministry of Agriculture. These "regulations" included a series of improved agronomic practices and cultural controls of insects. The use of organic insecticides was prohibited except in very special situations and with the approval of a government entomologist. Otherwise only inorganics or botanicals could be used. Repopulation of useful insects by introduction from other valleys of Peru and from foreign countries, and mass rearing of the egg parasite, *Trichogramma*, were undertaken. Yields increased dramatically and have remained at a high level since 1956.

These regulations or similar ones have been adopted in several South and Central American countries, but according to Smith and Reynolds (1968), they do not always solve the problem. These authors report that although cotton pests in Colombia are under a rigidly enforced program of supervised control the *Heliothis* problem has been aggravated by increasing production of maize and other crops. This pest is controlled by methyl parathion which "augments the problems with *Tetranychus telarius*, *Eotetranychus planki*, *Liriomyza* sp., *Bemisia tabaci*, and probably *Spodoptera* and *Prorachia daris*. These unleashed pests and the impending resistance to parathion in *Heliothis* present a grim outlook for the future of cotton pest control in Colombia."

The same authors state that in Central America insect problems are the major cause of declining yields in spite of an average of 30 or more applications of insecticides in most countries. They report that about 10 years ago the Colombian or false pink bollworm *Sacadodes pyralis* Dyar, and the cotton boll weevil, *Anthonomus grandis* were the most important pests. The cotton bollworm, *Heliothis zea* (Boddie), the cotton aphid, *Aphis gossypii*, and the cotton leafworm, *Alabama argillacea* (Hübner), were occasional pests. Now *H. zea* and two other species of *Heliothis*, *H. virescens* and *H. subflexa* (Guenée), are the most important. The Colombian pink bollworm and the cotton boll weevil are secondary but several formerly secondary pests have become major ones. These are five species of *Spodoptera* (not all of which are important), two loopers, *Trichoplusia ni* (Hübner) and a species of *Pseudoplusia*, and the cotton whitefly, *Bemisia tabaci* (Gennadius).

Smith and Reynolds also report that in Egypt resistance to toxaphene in the Egyptian cotton leafworm, *Spodoptera littoralis* (Boisduval), and less hand collection of egg masses caused a drop in the average yield from 542 lbs of lint per acre in 1960–61 to 350 lbs the following year. A similar loss occurred in 1966 and *Spodoptera* is now resistant to endrin and parathion. Azodrin ® and Cyolane ® have been introduced but their cost is considerably higher.

Resistance of mosquitoes to insecticides has become a major problem in many parts of the world. According to a report of the "Conference on the Ecological Aspects of International Development" (CENS Notes, 1969), Hughes and Hunter reported that in Senegal insecticides reduced malaria in children under 14 from 22 percent to 1 percent in 4 years, but because of transmission by resistant mosquitoes it rose to 16 percent in 1 year. In Tanzania the incidence of malaria in children two to nine was 5 percent 6 months after spraying began but 30 percent 7 months later.

The above examples of the problems resulting from the unrestricted use of insecticides are mostly extreme cases, chosen to show how severe these problems may become. However, the destruction of natural enemies and the development of resistance are widespread phenomena. According to a report by Newsom (CENS Notes, 1969) "In-

secticide control has been an important factor in increased yields of cotton, rice, and sugarcane in Louisiana during the past 2 decades. On the other hand 15 major pest species now have insecticide resistance. Certain cabbage loopers and the 2 spotted spider mite cannot be controlled by even the most advanced, experimental insecticides . . . Damage to nontarget organisms has been severe. Most seriously affected have been insect predators and parasites, fish, crustacea, and pollinating species such as honeybees."

Some entomologists are quite pessimistic about the future of insect control. Fairchild (1969) suggests that we cannot go back 20 years and produce corn without pesticides, but some of the insects have already developed resistance and others are expected to do so soon. Of the insecticides now available only the persistent chlorinated hydrocarbons will control cutworms, wireworms and white grubs. He says "The future appears anything but bright to me. I do not intend to argue the pro's or con's of insecticide residues. Let me simply say that soil insecticides as we know them today will not exist as such by 1989 or 20 years from now. During this time when corn production must be increased to feed the ever-growing population and land will be taken out of production, I believe it is inevitable that we will lose the presently known insecticides through one of two reasons. Either the labels will be lost or the insects will have developed resistance to those materials currently available."

Considering the large number of insects that have developed resistance to one insecticide or another in the last 10 years and the fact that a few cannot be controlled by any of the organic materials now available, we must consider the possibility that Fairchild's predictions for corn in the United States may also be true of other major food crops within 20 years or less in some countries. In that case we must examine the question of whether or not other methods of control are available to take the place of insecticides.

Fairchild comments on this question as follows: "In the last few years the public has been placated by information on alternate methods of insect control. Popular articles have left the impression that in place of insecticides, such things as host resistance, biological control, sex sterilization, pheromones and numerous other 'safe' methods of insect control are readily available and that they give desired results. These methods offer great promise, but our present knowledge indicates that most of these methods are 10 to 20 years away even with great effort and expenditures to get there." If this is also true of other crops as well as corn, the situation is indeed serious. Beirne (1967) and others have suggested the development of highly selective pesticides that would kill a pest or its close relatives, but not its enemies, thus preserving the natural control system. Since selective materials are likely to be difficult and expensive to develop, but will have a limited market, commercial concerns are reluctant to undertake this task. Furthermore, there seems to be no reason why pests will not eventually develop resistance to such materials. Beirne suggests that they be "applied in a manner designed to exterminate the pests." However, he believes that "The costs of implementing this final solution on a large scale, that is, of exterminating many or most of the important pests, would be astronomical."

Other than insecticides, the methods most commonly used are cultural and biological control. Prior to the advent of the organics, cultural control was fairly common and in some cases, effective. For example, Metcalf and Flint (1939) said that it had been reported that 1 to 4 years of clean cultivation in fields infested with wireworms would reduce populations to harmless numbers. They recommended a rotation of any crop other than corn for 1 year, between corn crops, to effectively prevent damage to corn by the northern corn rootworm (*Diabrotica longicornis* (Say)). In recent years cultural methods have been largely supplanted by insecticides.

Most of the work done in biological control has consisted of the introduction of the parasites and predators of introduced pests. DeBach (1964) listed 111 pests which had been brought under some degree of control by introduced natural enemies since 1888. Of these, 21 species were completely controlled in at least one country, 46 were substantially controlled, and 44 partially. Out of this list no more than one or two pests, if any, have been controlled everywhere by introduced enemies. This means that most of the 21 species completely controlled in one country and all of those substantially and partially controlled still require supplementary treatments, generally insecticides, at least part of the time.

Nevertheless, the money spent on the introduction of counterpests has been repaid many times by the benefits received, particularly in those states where biological control has been pursued most diligently. Thus DeBach estimates that in California the expenditure of $4,296,357 for exploration and introduction has saved the growers of the state $115,287,330. Although the much larger area involved has meant less intensive work in other parts of the United States, there have been several notably successful introductions by workers in the U.S. Department of Agriculture. Thus Clausen (1956) cites control of the woolly apple aphid, *Eriosoma lanigerum* (Hausmann), the satin moth, *Stilpnotia salicis* (L.) and the Comstock mealybug, *Pseudococcus comstocki* (Kuwana). Another introduction controlled the Rhodes-grass scale, *Antonina graminis* (Maskell) (Sailer and App., 1968).

Furthermore, there is no question that further introductions would be desirable. Although most of the major pests in the United States are introduced species, there has been no organized and thorough program to also introduce the enemies of most of them. Sailer (1968) presents evidence that such a program is likely to control the alfalfa weevil, *Hypera postica* (Gyllenhal), in the eastern United States. Nevertheless, it would be unreasonable to expect that introductions will provide complete control in more than a very few cases, and for the vast majority of pests we must find ways of using natural enemies more effectively or find other control measures.

Insect resistance in crop plants, like the introduction of natural enemies, is a method of control that is very effective at low cost, but in relatively few cases. Painter, who was the world authority on the subject, lists only three pests for which this method might be considered the principle method of control in at least one country. These are the Hessian fly, *Phytophaga destructor* (Say) on wheat in the United States, the grape phylloxera, *Phylloxera vitifoliae* (Fitch) on grapes in Europe, and leafhoppers of the genus *Empoasca* on cotton in Africa. However, this probably underestimates the real importance of host plant resistance. Although the Hessian fly is the major pest of a very important crop in the United States, the development of incomplete resistance to European corn borer (*Ostrinia nubilalis* (Hübner)) and the corn earworm (*Heliothis zea* (Boddie)) in corn, and to the chinch bug (*Blissus leucopterus* (Say)) in corn and sorghums, may contribute more to crop production in this country than does the resistance to Hessian fly in wheat. There are also several other promising cases such as resistance in alfalfa to the spotted alfalfa aphid, *Theriaphis maculata* (Buckton). There are many cases of naturally occurring resistance, such as the almost total avoidance of sorghums by grasshoppers. Indeed the many cases of resistance cited by Painter indicate that it is not difficult to discover some degree of resistance to one insect or another in many crops. It is, of course, much more difficult to incorporate this resistance into commercially useful varieties.

Within the last 20 years and particularly since the difficulties with organic insecticides began to multiply, entomologists, chemists and engineers have been investigating a whole series of new techniques that might be used for insect control. These include the effects of light, sound, pheromones and other attractants and repellents, sterilization by gamma rays and chemicals, and methods of rearing and releasing sterile populations in large numbers. In a few cases these new methods have been applied in the field with remarkable success. Thus the screw-worm, *Cochliomyia hominivorax* (Coquerel), was eradicated from the southeastern states by the release of sterile males (Anonymous, 1962; Baumhover *et al.*, 1955). The same means were used to eradicate the melon fly, *Dacus cucurbitae* Coquillett, from the island of Rota (Steiner *et al.*, 1965a) and the oriental fruit fly, *Dacus dorsalis* Hendel, from Guam in the Pacific (Steiner *et al.*, in press). A male attractant with very small quantities of an insecticide also eliminated the oriental fruit fly from Rota (Steiner *et al.*, 1965b), and later from Saipan, Tinian, and Agiguan (Steiner *et al.*, in press). However, in spite of the number of both old and new non-insecticidal methods available, if they are judged by the number of pest problems successfully solved, these alternatives to the organic insecticides do not appear to be very promising. However, research is continuing on genetic methods of insect control and on pheromones and there is reason to believe that the number of insects that can be controlled by such methods will grow in the future. In the meantime we must depend largely on insecticides to maintain a satisfactory level of control of most species even though in some cases resistance has already reached the point where the pests cannot be controlled by this method alone.

We are not, of course, compelled to limit insect control to either chemical or biological methods to the exclusion of the other. For many pests the best solution to the problem may be integrated control, that is the use of biological and cultural control when possible and insecticides only when necessary to prevent economic loss. This was the solution that was applied successfully when insecticides failed in Peru (Wille 1951, Boza Barducci 1965a, 1965b) and in Malaysia (Conway 1968, 1969).

Many such systems have been devised for diverse crops in many countries. A very abbreviated list includes alfalfa in California (Stern *et al.*, 1959), apples in Nova Scotia (Pickett, 1956, 1960), and France (Benassy *et al.*, 1962), tobacco, in North Carolina (Lawson *et al.*, 1961), citrus in California (DeBach and Landi, 1961), orchards in Russia (Bondenko, 1962), flour mills in Northwestern U.S. (Cotton, 1964), plums in France (Thill, 1964), and fruit orchards in Switzerland (Mathys and Baggiolini, 1965).

However, in spite of the availability of integrated control systems, they have really not been used very much by growers, at least not in the United States. Integrated control has been available for cotton in California for a good many years. It has been widely publicized and the University of California has trained a number of experts in "supervised control" some of whom have gone into business for themselves and sell what amounts to an integrated control system to growers. In spite of these efforts, it appears that the system is actually practiced on no more than 10 percent of the acreage of cotton in the San Joaquin Valley. The integrated control system developed by

Lawson *et al.*, (1961) for flue cured tobacco has never been used, although it was a rather simple one.

It should be pointed out that the successful application of integrated control methods may depend on the nature of the pests involved and the crop to be protected. The presence of a key and highly destructive pest such as the boll weevil in cotton, which at present is not effectively suppressed by natural enemies and which requires broad spectrum insecticides for satisfactory control, can seriously interfere with the implementation of effective integrated control. The Entomology Research Division is devoting much effort to the development of selective means of control for key pests, especially alien pests that are not now readily controlled by natural enemies. More selective ways of controlling such key pests will increase the opportunities for perfecting satisfactory integrated methods for other important species that are more amenable to control by biological means.

Where integrated control has been adopted and has worked well, as in Peru, the necessary restrictions on the use of insecticides have been adopted by a strong organization of growers and enforced by some quasi-governmental authority. If the pests or their natural enemies are highly mobile, or if the crop involved occupies a high proportion of the land, some method of enforcing control regulations is probably necessary. However, in many cases integrated control can be used successfully by individual growers. Examples are control of the pest complex on alfalfa in California (Stern *et al.*, 1959) and tobacco (Lawson *et al.*, 1961).

The development of better techniques of insect control depends on the progress of research, both basic and applied. Improvements might come from many different lines of investigations now in progress or from completely new principles. Although it is not possible to predict what might happen in any field of investigation, one can list the problems and some of the possibilities, and I will attempt that for the field with which I am most familiar, biological control with natural enemies.

This field occupies a somewhat paradoxical position. On the one hand the number of pests that have been controlled by the introduction and manipulation of natural enemies has been quite small, as we have already noted. On the other hand many ecologists consider parasites, predators and pathogens to be very important factors determining the mean level of abundance of insects and the chief agent of natural balance (Huffaker and Messenger, *In* DeBach, 1964). It is known that they cause heavy mortality in many pest populations. Lawson (1959) estimated losses in the egg and larval instars of the 1st and 2nd broods of the tobacco hornworm (*Manduca sexta* (Johan.)) for the years 1952 to 1956 to be 90.6 97.8, 100.0., 94.3, and 97.8 percent. Nearly all of this was due to natural enemies and on the average 78.2 percent occurred before the 5th instar. In other pests mortality due to natural enemies frequently increases with the season. Thus Parker (in press) has shown that at Columbia, Missouri, the mortality of the imported cabbageworm (*Pieris rapae* (L.)) on rape in six successive generations was 48.3, 69.7, 94.6, 98.2, 97.1 and 97.1, mostly due to natural enemies. In many species, other factors such as weather also cause considerable mortality. Hence in order to evaluate more accurately the effects of enemies on the population I have ignored all other mortality factors and calculated an adjusted value by the equation m=100 M/+S where m is percent mortality, M is number of hosts killed by natural enemies and S is the number of survivors. The adjustment is based on the assumption that enemies would have killed the same proportion of the population in the absence of other factors.

In the data below, total percent mortality from all causes is followed by the adjusted value in parenthesis. Harcourt (1963) estimated losses of the diamondback moth, *Plutella xylostella* (L.) in cabbage to be 98 (98) percent. LeRoux, Paradis and Huben (1963) found that mortality of the eye-spotted bud moth, *Spilonota ocelana* (Denis & Schiffermuller) was 97.9 (97.4), of the fruit tree leaf roller, *Archips argyrospilus* (Walker), 98.0 (92.5), of the European corn borer, *Ostrinia nubilalis* (Hubner) 98.4 (92.1). Harcourt (1966) estimated mortality in the imported cabbageworm, *Pieris rapae* (L.), on cabbage 89.9 (78.8). The last value is known to be too low because part of the losses to predators were not separated from losses to weather.

Since the construction of life tables is a laborious, technically difficult and fairly recent innovation, the information necessary to estimate total mortality from natural enemies is not available for many species, although the above list is by no means complete. There are, however, dozens of pests which are known to be heavily attacked. For example, Lawson (1958) estimated that fungus diseases destroyed 90 percent of the green peach aphids, *Myzus persicae* (Sulzer) on cole crops in North Carolina in the winter. Benjamin (1955) found that egg parasites destroyed 80 to 100 percent of the red-headed pine sawfly, *Neodiprion lecontei* (Fitch) over a period of 3 years, and during the 1 year for which data are given, a parasite of larvae caused additional losses of 76 to 79 percent. The many cases, some of which were mentioned earlier in this paper, where the applications of insecticides have been followed by flarebacks of the target pests or have unleashed formerly innocuous species, are eloquent testimony to the importance of natural enemies in the control of crop pests.

In brief, it is quite clear that because an insect is a pest does not mean that losses to natural enemies are insignificant, nor can these enemies be safely disregarded in control programs. It follows that the most efficient control measures would be those which supplement, rather than replace, natural mortality. This is the basic philosophy of integrated control, but when other methods are lacking integrated control, of necessity, uses insecticides as the supplementary measure. Since most insecticides, and some other methods, for instance some cultural controls such as plowing, also destroy natural enemies along with the host they are in this respect inherently inefficient. In contrast, the techniques that increase the number of hosts killed by an entomophagous species will usually in some measure increase the population of that species and thus decrease the populations of the host in the future, although there may be exceptions to this rule.

The importance of biological agents of mortality in natural control as compared with their rather minor role in applied entomology, suggests that perhaps we have not yet learned to use them correctly.

Most of the work done with natural enemies has been and probably still is concerned with the introduction of counterpests against introduced species. We noted above that this is a very useful endeavor, but it certainly cannot be relied on to control all of the world's major pests. There are, however, other techniques for using natural enemies that may prove to be of more general application.

There are two general methods available. These are (1) alterations of the environment to increase the populations of enemies or attract them to crops attacked by pests and, (2) mass rearing and release of parasites, predators, and pathogens. The use of environmental modification has been reviewed by van den Bosch and Telford (see DeBach 1964) and is the principle subject of this conference. Hence I will not discuss it here.

The idea of rearing and releasing large numbers of natural enemies is an old one with many successes claimed, but few proved, probably because of the formidable technical problem of separating natural from induced mortality. DeBach and Hagan have reviewed the literature. (See Chapter 15, DeBach, 1964). Until recently one of the chief problems has been that rearing of large numbers of the enemies of plant feeding species was possible only on hosts produced on stored products. This has seriously limited the choice parasites and sometimes of predators or pathogens. Nevertheless large numbers of some species have been produced in this way. Smith and Armitage (1931) reported on large scale rearing of the mealybug destroyer, *Cryptolaemus montrouzieri* Muls, on mealybugs grown on potato sprouts. More than 40 million were released over about 50,000 acres of citrus in California (Essig 1931).

Brunson (1940) and Brunson and Allen (1944) tested releases of the parasite *Macrocentrus ancylivorus* Rohwer against the oriental fruit moth, *Grapholitha molesta* (Busck). The parasites were reared on the potato tuberworm *Phthorimaea operculella* (Zeller) on potatoes. Probably the most extensively reared parasites are those in the genus *Trichogramma*. Flanders (1929) worked out a method of mass rearing these tiny wasps on the eggs of the Angoumois grain moth, *Sitotroga cerealella* (Olivier) which was mass produced in grain. In Mexico (Castilla Chacon, 1968 and Balderas, personal communication) *Trichogramma* is reared on the eggs of *Ephestia*, and in India (V. P. Rao, personal communication) on the rice moth *Corcyra cephalonica* (Stainton). Some commercial concerns have greatly improved rearing methods and are producing *Trichogramma* for sale. Our laboratory has made some further improvements. Although the highest rate of production we have yet attained was in the neighborhood of 10 million *Sitotroga* eggs and/or *Trichogramma* per day (1 egg produces about 1 *Trichogramma*) we believe that the technique can be expanded indefinitely and our present goal is 50 millions per day.

Field releases of *Trichogramma* have been tested against many lepidopterous pests in many parts of the world and are apparently standard procedure in Mexico (Castilla Chacon, 1968), Peru (Boza Barducci, 1965a), and Russia (unpublished reports). In most cases it is difficult to prove that the released parasites rather than wild populations were in fact responsible for the observed rates of parasitism. Wlackowski (1965) gives clear cut evidence for effective control by *Trichogramma* of the plum moth *Grapholitha funebrana*. Treitschke in Poland and some of the early experiments in sugarcane (Hinds *et al.*, 1933, 1934) indicate substantial results. Knipling and McGuire (1968) recently made a theoretical study of the potential value of *Trichogramma* releases and concluded that one of the reasons for past failures was the use of too small numbers of the parasite. They also concluded that parasites released early in the season were unlikely to increase because of the low host density at this time of year.

At the Biological Control of Insects Research Laboratory we have investigated various aspects of the *Trichogramma* problem and additional reasons for previous failures have begun to appear. First it is essential to use the correct species or strain of parasite. Figure 2 gives some data from Marston and Ertle (in press) showing that although *Trichogramma minutum* will find, examine and sting eggs of *Trichoplusia ni*, which are not their normal hosts, they may not actually parasitize and kill them. F. D. Parker has data showing that the *Trichogramma* species normally attacking the southern cabbageworm *Pieris protodice* Boisduval & LeConte has little effect on *P. rapae*, which was introduced from Europe. On the other hand when *Trichogramma evanescens* Westwood

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was introduced from Europe, *P. rapae* was heavily attacked.

Another possible reason for previous failures is too great a distance between release sites. Mr. J. David Hoffman of our laboratory has found that when two different species of *Trichogramma* and a related egg parasite, *Trichogrammatoidea nana* (Zehnter), were released at a central point in sugarcane, the distance at which parasitism of host eggs was half that at the point of release was only about 9 ft for one species and 5 ft for the other two. The first species gave about 50 percent parasitism at the point of release but was not recovered beyond 18 ft. The other two gave only 19 and 5 percent parasitism at ground zero but parasitism was detected at 90 ft and 96 ft, the maximum radius of the experiment. There are oral reports that the Russians use *Trichogramma* routinely against pests of sugar beets but make releases by hand about a meter apart. *Trichogramma* are released from aircraft in Mexico (Castilla Chacon, 1968). Schutte and Franz (1961) developed a method of spraying parasitized *Sitotroga* eggs on the leaves of apple trees.

The possibility that numerous other natural enemies may also be reared in large numbers has been greatly enhanced by the development of synthetic diets for their hosts. When it was necessary to rear hosts on living plants, it was nearly impossible to control disease under the crowded conditions required for economical production because the plants could not be sterilized, but when Beck and Stauffer (1950) and Vanderzant and Reiser (1956) developed a media on which insects could be reared in sterile conditions, disease control became a practical possibility. Vanderzant's medium has been adapted to many species and this is now the standard method of laboratory rearing for most phytophagous insects. Figure 3 shows the mixing room of our insectary and the cups in which several species of Lepidoptera are reared. Figure 4 shows the butterfly cage and the method of persuading the imported cabbageworm to lay eggs. These operations are fairly typical of the rearing procedures in many laboratories. One of the major problems of most laboratories is contamination of the rearing medium by non-pathogenic bacteria and fungi in spite of the general use of inhibitors. True pathogens, attacking the insect itself, have also appeared all too often in most insectaries, and the only insects which have actually been reared at the rate of millions per day are the screw worm and certain fruit flies, both of which live naturally in filthy environments, and *Sitotroga* and *Trichogramma*, neither of which have any known diseases. Some laboratories have attained quite large production of other species for short periods, but in all of the cases that I know about such production is invariably cut short by disease or contamination of the medium. This has happened so often that there are grounds for thinking that really large scale production of plant feeding insects is not possible with present methods. In small scale production of up to a few thousand per day under the supervision of an expert and with well trained technicians, the probability of an error resulting in contamination can be kept fairly low but increases rapidly as the numbers reared increases until it reaches the point where contamination overwhelms the operation.

One possible solution to this problem is to rear on sterile medium in large containers in which only the insects are living. Antibiotics and yeasts are produced this way on a commercial scale and there is even a book on the engineering problems involved. Figure 5 shows an experimental unit in which the method is now being tested in our laboratory. Theoretically the production of host insects and their parasites could be multiplied indefinitely in such units. No doubt an occasional one would be contaminating organisms could not escape from this unit or enter others if they did escape, it should be possible to keep the problem within reasonable bounds.

Another question involved in the mass production of natural enemies is the cost. The pathogen *Bacillus thuringiensis* Berliner is now being produced and sold commercially. The cost is high, but not entirely unreasonable. Castilla Chacon (1968) reports rearing 462 millions of *Trichogramma* in 1967 but with this exception no one has yet reported producing parasites or predators on a really large scale. The ultimate cost is not easy to estimate, but based on data from our laboratory and considering the cost of producing the screw worm and the tropical fruit flies, the cost of control by natural enemies may be competitive with insecticides. As a matter of fact, where inoculative releases can be made of organisms that will then multiply in the field for the remainder of the season, the cost of this method of control may be much less than the cost of repeated applications of chemicals.

To those who might think that one man and a part time technician can rear a few thousand parasites and conduct valid tests in small plots in the same way that insecticides are tested, I should point out that it is quite possible to obtain negative results that are highly misleading. To conduct a valid test the experimenter must have at least some information on seasonal variations in host density, the food and habitat required by the enemy adults, their host preference, rate and distance of dispersal, and the effect of compensatory mortality and competition with other enemies, losses to hyperparasites and predators, and methods of separating induced and natural mortality.

I might also mention that probably none of the experimental designs available are valid for such tests and the best technique may be simply to release enemies in one field and use another field a mile or more away for a check. It goes without saying that the results obtained in the two fields must be widely different to mean anything at all.

I do not believe that parasites and predators will ever be something that can be purchased from the farm store and applied that afternoon to destroy an outbreak of pests, although this may one day be possible with pathogens. The selection and application of the more active enemies is much too complex an undertaking for amateurs and effective use of these agents is likely to remain the province of a few well-trained experts who will apply highly sophisticated techniques) in carefully planned and continuously monitored systems of pest management based on accurate knowledge of each agroecosystem. To train these experts we will require special schools such as that envisioned by Beirne (1967) and now established by him and his colleagues of the Department of Pestology at Simon Fraser University, in British Columbia.

Because of the major role played by enemies in the natural control of insects and the progress made in solving some of the more difficult problems of selecting, rearing and dispersing them there are certainly some grounds for hoping that by altering the environment in favor of the enemies and the discovery of more effective ones by exploration or genetic improvement, supplemented by mass release when necessary, we can eventually use natural enemies as a major method of applied control. However, the data in hand are much too scanty to make this possibility more than a hope and even if it were a certainty it would be very naive to expect that these techniques can be developed fast enough to be a serious alternative to insecticides for more than a small fraction of the world's pests within the 2 or 3 decades allotted to us by the demographers. Since much the same thing is true of all of the other alternatives to insecticides, and considering the rate at which the presently known insecticides are losing their effectiveness, it seems fairly clear that we cannot solve the world's pest problems in the time available either with or without chemical controls. At the very least it is dangerously optimistic to expect that we can do so. It follows then that we must continue to use both chemical and non-chemical methods. Whether or not we ought to abandon chemical insecticides in favor of other methods is not a real choice. If we did that the public outcry over outbreaks of cockroaches, fleas, and bedbugs in dwellings, wireworms in potatoes, codling moth in apples, and weevily flour in the grocery stores would quite probably force governments to recind any ban on these materials. There are, however, many things that can be done to extend the useful life of the materials now available, and to find new ones or to replace them with other methods at a faster rate.

Perhaps the most important single action that could be taken to protect the world's production of food and fiber would be the establishment of research priorities strictly on the basis of total damage by the pest. Thus insects carrying major diseases or key pests of the most important crops would receive the most attention.

Table 1 shows an estimate of the proportion of the world's food energy supplied by various crops. These figures were derived from a table given by the Food and Agriculture Organization (FAO 1968) showing production of major agricultural commodities. All foods listed in the FAO table (except wine) were multiplied by an estimated caloric and protein content as given by Watt and Merril (1950). Nearly 60 percent of the world's food in both categories was contributed by three cereals, more than 70 percent by five. There are probably no more than a dozen key pests of these grasses. To this list of major pests we should probably add two or three more on cotton, which crop provides much of the world's population with clothing, and perhaps 10 pests of livestock or carriers of human diseases, making a total of about 25 insect pests whose control is essential to the health and food supply of the world's peoples.

If research was concentrated on this small number of major pests it should be possible to develop new and effective methods for their control. These could conceivably be specific insecticides or new chemicals to which insects could not become resistant. It is almost certainly possible to develop effective biological methods for many key pests within less than 20 years.

TABLE 1.—PERCENTAGE OF TOTAL WORLD PRODUCTION OF FOOD ENERGY CONTRIBUTED BY VARIOUS CROPS. MEAN 1962-66 [1]

Crop	Total calories	Protein
Wheat	24.9	32.1
Maize	21.6	16.0
Rice	12.1	9.1
Barley	9.6	8.3
Milk	7.5	14.0
Sugar	6.8	0
Vegetable oils	5.7	0
Oats	5.5	7.2
Meat	4.7	11.0
Eggs	.6	1.8
Fruit and cocoa	1.0	.5

[1] Excluding Mainland China.

SUMMARY AND CONCLUSIONS

According to demographers it will be necessary to double or triple the world's food supply within 20–30 years. To accomplish this the present level of damage by insect pests must be reduced. None of the means available for doing this are adequate by themselves. The present heavy use of the insecticides now available probably cannot be continued very much longer on major crops because of environmental contamination, the development of resistance to the toxins, and the destruction of natural control systems with the consequent flareback of pests and the increase in the number of species causing major damage. In a few places this process has ended in crop failures, although fortunately not on a major food crop, but there is apparently no reason why this may not continue in the future, with more serious consequences. Selective insecticides may be highly useful, but pests may also become resistant to them. The quickest solution to current problems would probably be integrated control making maximum use of cultural and biological methods supplemented with insecticides where necessary, but integrated control may be difficult to establish due to the reluctance of growers to withhold chemical treatments when immediate damage to their own crops is threatened. The ideal solution is some form of biological control, but the past record of these techniques offers little hope that they can be developed and applied to very many pests in the time available.

Although biological control by the introduction of natural enemies is not likely to be completely successful, except in rare cases, the major role played by such enemies in natural control indicates that we have probably not yet learned to use them effectively. The available evidence suggests that the environment can be manipulated in various ways in order to increase the abundance and effectiveness of general predators and in some cases rather specific parasites.

Another possible method of utilizing natural enemies is mass rearing and release. This is theoretically a very promising method, but it has been successful in only a few instances in the past and its use has been and still is severely limited by our inability to rear really large numbers of host insects. Since the development of synthetic diets on which insects can be reared under sterile conditions, there is every reason to believe that these problems can be solved. The development of control by natural enemies is not a simple procedure and requires a fairly extensive knowledge of the biology of both pests and enemies. Since most of the world's food supply is produced by relatively few crops and most of the damage to these are caused by certain key pests, it may be possible to continue to use the present insecticides against minor or occasional pests, or those on crops occupying only small areas, and develop integrated control or purely biological methods for key pests of major crops.

REVOLUTIONARY ANTIMILITARISM IN COMMUNIST THEORY AND PRACTICE—VIII

HON. JOHN G. SCHMITZ
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. SCHMITZ. Mr. Speaker, in conjunction with the House Committee on Internal Security's investigation into subversion of our Armed Forces I insert in the RECORD at this point part VIII of Dr. Robert E. Beerstecher's eye-opening thesis, "Revolutionary Antimilitarism in Communist Theory and Practice."

This portion of Dr. Beerstecher's study begins with the 7th Congress of the Communist International and goes on to detail the effects of the operational changes adopted at this 1935 meeting on Communist antimilitary activity.

The 7th Congress marked the beginning of the extremely effective Communist united front strategy. Georgi Dimitrov, general secretary of the Communist International, got the general idea of this new approach across to the assembled members of the World Communist Movement by alluding to the fall of Troy:

Comrades, you remember the ancient tale of the capture of Troy. Troy was inaccessible to the armies attacking her thanks to her impregnable walls. And the attacking army, after suffering many sacrifices, was unable to achieve victory until with the aid of the famous Trojan horse it managed to penetrate to the very heart of the enemy's camps.

We revolutionary workers, it appears to me, should not be shy about using the same tactics.

The united front continues to serve the Communists well in the present day. From Chile, where a Communist coalition government is busy attempting to turn a temporary electoral mandate into permanent rule by suppression of the free press, nationalization of industry, land seizures, et cetera, to Iceland, where a Communist coalition government has resulted in the loss of Keflavik Airbase; NATO's watchdog over the North Atlantic sea and air lanes, the strategy of temporary alliance is still paying off for the Soviet Union.

The peace slogan continued to be a major weapon in the hands of the Communists. Understanding the human desire for peace this slogan is used to win supporters and surround the party with "innocents." For the party cadre, however, the meaning of peace was clearly spelled out—

We defend peace not because we are flabby Toistoyans, but because we are striving to ensure the conditions for victory of the revolution . . . Our struggle for peace is at the same time the best defense of the Soviet Union.

The Communist use of peace propaganda, and their own operational definition of peace, are still with us today. It has been extended to include all Communist nations, such as North Vietnam, and, of course, includes supporting the aggressive endeavors of the various Communist States as well as socalled defense.

The successes achieved through application of the principles laid down at the Seventh Comintern Congress were considerable. Particularly noteworthy examples of united front tactics in action against the armed forces of non-communist nations took place in Spain and France.

In 1936 municipal elections in Spain brought to power a coalition popular-front government which included the Communists. The Reds immediately utilized their positions in the government to create secret cells in the armed forces and began carrying out sophisticated operations designed to destroy the morale and discipline of the armed forces, isolate officers from the men, assure that forces loyal to the Communists had readily available arms, and destroy anti-Communist officers.

The tremendous efficacy of antimilitary work can be seen in the mutiny of the Spanish fleet which occurred soon after the beginning of the civil war. In 1936 a revolt against the popular front government led by General Franco broke out. The Spanish fleet, controlled by anti-Communist naval officers, sailed off to join Franco in Morocco. The Communists had managed to infiltrate their agents into the important position of radio operator on many of the ships and had agitators planted among the crews. Dr. Beerstecher describes what happened.

Scuttlebutt spreads rapidly aboard ship, and the communist agitators took advantage of this quirk of human nature to develop a sense of insecurity among their shipmates which was useful later when they incited them to mutiny against the officers. Scuttlebutt leads men to congregate together in small groups and helps form the nucleus around which a clandestine meeting can develop for plotting mutiny. So it was aboard the ships of the Spanish fleet in July, 1936. Insulated from other ships and the outside world by the communist wireless operator, each ship's crew was led to believe that it stood isolated and alone, and that it would soon face the combined wrath of the rest of the fleet for permitting their officers to lead them in revolt against the government. There was only one way out—to prove their loyalty by regaining control from their officers and delivering the ships safely to republican controlled ports. The men believed—and mutiny born of communist ingenuity and tactical discipline spread through the fleet from ship to ship.

The fleet never reached Franco. It is ironic to note that Communist propaganda and agitation, as well as the loss of competent officers, so effectively destroyed the respect for authority and discipline of the Spanish sailors that later, even with the help of imported Soviet cadres, the Loyalists were not able to restore the operational capability of the fleet and use it against Franco.

In France Communist participation in the popular-front government of Leon Blum opened the way for extended disintegration work among the French armed forces. Dr. Beerstecher points out that it was not only the access provided the Communists through participation in the popular front government which led to the so effective undermining of the French military, but also the total failure of French military officers to understand this Communist pattern of conquest. He said:

The united front was not the only reason behind the successful communist penetration of the French armed forces; another was the failure of the French military leaders to understand the communist pattern of conquest. The statements of Thorez, Marty and Cachin all testify to the active work carried on by the communists during the 1930's in the armed forces of France, but there appears to have been little comprehension on the part of the military authorities during the period as to the inherent dangers which the communist program involved. André Geraud, the French journalist reported a conversation he allegedly had on November 22, 1935, with a staff officer "close to headquarters" who stated that there had been no soviet propaganda in the French army since 1932 or 1933. Geraud further states that the same officer dismissed reports to the contrary as "talk."[1] Even General Maurice Gamelin, who became commander in-chief of the French Armies in 1935, is alleged by Geraud to have held the same opinion at heart. Geraud stated that in February, 1934, Gamelin urged him to explain to the reading public the necessity for a new policy towards Moscow. In July, 1935, after

Footnotes at end of article.

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the Franco-Soviet mutual aid pact had been signed, but before it had been ratified, Geraud indicates that Gamelin still had not changed his opinion of a requirement for a *rapprochement* with the Soviet Union, even though the press reaction was quite aroused and had accused the Soviet Union of subversive propaganda and treachery. Geraud further alleges that General Gamelin, in answer to his question as to whether the communists were at work again in the army, and if so, whether their propaganda was inspired by the Third International, stated "No, and if this kind of game had been resumed we could be quick to detect it because it is a very old one and we had to suppress it in the past." [1] However, Geraud notes that Gamelin changed his tune by August 19, 1935, and believed that the communist propaganda was again being circulated among the non-commissioned officers. Gamelin's unique but rather innocuous "solution" to the problem of communists in the army, Geraud asserted, was to pay special attention to the living conditions of the non-commissioned officers by providing them with suitable quarters in the barracks or nearby.

The Hitler-Stalin Pact, and the subsequent dismemberment of Poland between the red and black fascists, resulted in the French Communist Party having to conduct most of its work through a previously set up illegal apparatus. Propaganda and agitation was carried on within and against the French Armed Forces following the new Comintern line that it was now France itself, rather than Hitler, which was the enemy. French Communist Party chief Maurice Thorez deserted from the French Army and fled to Moscow. From Moscow he urged the French Communists to fight against the "imperialist war" of Britain and France. Dr. Beerstecher concludes this portion of his study with the Nazi invasion of France:

The communists continued their propaganda of defeatism. Many of the leaflets and pamphlets published by the communists so closely paralleled the defeatist propaganda issued by the Germans that their true source was often indistinguishable. The French defenses crumbled rapidly before the German advance. In June, 1940, the French army collapsed. Undoubtedly many factors contributed to its collapse, but a primary cause was the disintegration of military morale accomplished by the communist defeatist campaign carried on among the French soldiers in the months following the signing of the German-Soviet nonaggression pact. The fall of France was celebrated in both Moscow and Berlin, for France was as much a victim of communist antimilitarism as of German militarism.

Perhaps the last sentence should be repeated. "France was as much a victim of Communist antimilitarism as of German militarism." This is a lesson we ignore at our peril.

Part VIII of Dr. Beerstecher's study follows:

REVOLUTIONARY ANTIMILITARISM IN COMMUNIST THEORY AND PRACTICE—VIII
(By Robert E. Beerstecher, Ph. D.)

A Dissertation submitted to the Faculty of the Graduate School of Georgetown University.

XV. THE SEVENTH WORLD CONGRESS

The growing spectre of a victorious Japan rampant in Asia and the lengthening shadow of a militant Germany spreading its influence across Europe provided the impetus for a reorientation of Comintern tactics and soviet foreign policy towards the West in the mid-1930's. Just as the military occupation of Manchuria and North China by Japanese forces had been interpreted as the start towards a "partition" of the world by imperialist forces planning a "counterrevolutionary" war against the Soviet Union, so events in Europe, e.g., the re-establishment of universal conscription by Hitler and the conclusion of the naval agreement between Great Britain and Germany were interpreted by the soviets as marking the liquidation of the war clauses of the Versailles Treaty and the beginning of the Drang nach Osten against the Soviet Union.[1] The new soviet foreign policy was based upon the strategic concept of the "contradiction of interests." Soviet leaders believed that the aggressive policy of German fascism and Japanese militarism would inevitably lead to an accentuation of all international antagonisms. While some of the major powers would strive to defend the *status quo*, others would not. Under such circumstances, the differences in the interests of the major powers provided an opportunity for leverage which could be directed towards the interests of the Soviet Union.

One of the first indications that the mutual relations of the Soviet Union and the capitalist world were embarking on a new phase came in 1934 with the soviet entry into the League of Nations. Soviet membership in the league was based upon the conviction that the League of Nations could be "used" to obstruct Germany and Japan:

The entry of the Soviet Union into the League of Nations shows the masses that the leaders of the Soviet Union are not doctrinaires, but Marxists, who correctly appraise the relation of forces existing in the capitalist world and who know how to make use of even the slightest possibility to extend their efforts in defense of peace and in the interests of the revolution.[2]

Soviet membership in the League of Nations was followed in May, 1935 by the conclusion of a mutual aid past between the Soviet Union and France. A similar pact was also concluded with Czechoslovakia. The France-Soviet aid pact was accompanied by Stalin's declaration expressing "complete understanding and approval of the policy of national defense pursued by France for maintaining her armed forces at the level corresponding to the needs of her security." [3] Stalin's statement was not received by the communists as a directive to stop their agitation against or penetration into the French armed forces, although Stalin's reported promise to Pierre Laval that he would "call off" the French communist party from its anti-militaristic demoralization work has led some authorities to conclude that the communist antimilitaristic program stopped at least temporarily after the signing of the France-Soviet accord in 1935.[4] Later statements by Maurice Thores and Ercoli supported the conclusion that the antimilitaristic program continued unabated. Thores, reporting to the Comintern in 1935 on the activities of the French communist movement which he directed, admitted that "Since last year we have addressed ourselves to the soldiers—the sons of the people—and the republican officers." [5] He also boasted that the communists were continuing to fight in France against the return to the two year term of military service.[6] Ercoli reported to the Comintern that the bourgeoisie of France had been told by the communist "we can neither vote for your military budgets nor give up the struggle against your government." [7] Those who did not understand the "profound inner consistency" of this position, Ercoli concluded, would never understand anything of the "real dialectics of events" or of "revolutionary dialectics," even though they fancied themselves to be highly intelligent and logical persons.[8] In addition, French communists were directed to "expose" any attempt to pursue a policy different from or in contradiction to the obligations ensuing from the pact. The pact had to be "defended" they were told, because it was "an instrument in the struggle for peace and for the defense of the Soviet Union." [9] Ercoli attributed the theoretical foundations for the soviet mutual aid pacts to Lenin who wrote that bolsheviks were not to renounce "in general" the idea of military agreements in such cases where they could be used to reinforce their position "without violating the principles of Soviet power." [10]

The mutual aid pacts with France and Czechoslovakia provided the Soviet Union with European allies which could be played off against Germany. But what of Japan in the Far East? Only two other major naval powers other than France had interests in the Pacific: Great Britain and the United States. A recurrent theme in communist propaganda had been that the antagonism between those two countries were the most profound "of all that rend the imperialist world," because the goal towards which American imperialism inevitably strived was the undermining of British colonial and maritime supremacy. Of the two countries, the Soviet Union favored the United States which it considered "an imperialist stats which did not set for itself *immediate aims of conquest*," and therefore did not represent an immediate threat to the Soviet Union.[11] Although the soviets considered that the actual military power of the United States did not correspond to its economic strength or its industrial development, they evaluated the United States as a worthwhile ally.[12] It has even been reported that Stalin allegedly believed that ultimate victory would be won by the side which was allied to the United States.[13] On the other hand, the soviets distrusted Great Britain. The soviets accused the British of "legitimizing" the arming of Germany by the conclusion of a naval agreement which had not only created a new instrument of aggression in the Baltic at the gates of the Soviet Union but had set off a new naval armament race in Europe.[14] Britain's action, they claimed, could only be explained by the fact that she was attempting to direct the drive of German and Japanese imperialism which menaced her own position into anti-soviet channels. As the prospect of a mutual aid pact with the United States appeared improbable, and with Great Britain impossible, the Soviet Union attempted to strengthen its position with the western world through a tactical reorientation of the international communist movement. The soviet hierarchy considered that the danger of war was an imminent one: the world was a powder magazine in which the fascists were walking about with lighted torches.[15] In 1928, the sixth world congress of the Comintern had reached a similar conclusion—that all of the "objective" conditions for a major war had matured, and that the outbreak of war was imminent. To govern the activities of the communist movement in its struggle against that war, the sixth world congress formulated a general antimilitarist policy.[16] That policy had passed its "baptism of fire" and remained the basic policy of the Communist International.[17] But the profound changes which had occurred in the international situation since 1928 required the communists to "reconstruct" that policy.[18] The new threat was fascism, and fascism meant war.[19] The task of formulating tactics which would "rally the laboring masses to the struggle against fascism and against the preparation for a new war" was one deemed worthy of the attention of a new world congress. The decision to call the seventh world congress of the Comintern had been made at the thirteenth plenum. The congress was initially scheduled for mid-1934, but delays developed and the soviets postponed it for a year.

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The Seventh World Congress

The Comintern convened its seventh world congress on July 25, 1935, in the Hall of Columns of the Moscow House of Trade Unions. Keynote speaker at the congress was Wilhelm Pieck, the German representative on the executive committee of the Comintern. Pieck shared the spotlight at the opening session with Georgi Dimitrov, "helmsman" and general secretary of the Communist International. "Ours is a congress of *bolshevik self-criticis*," Dimitrov told the assembled delegates, "we are not afraid of pointing out openly mistakes, weaknesses and shortcomings in our ranks, for we are a revolutionary party which knows that it can develop, grow and accomplish its tasks only if it discards everything hindering its development as a revolutionary party." [20]

The actual task of criticism, however, fell to Pieck. Circumstances changed rapidly in a revolutionary crisis. Pieck said, and required a constant review of the situation and a correct estimate of the relation of class forces so that suitable tactics could be employed. However, Pieck continued, some of the communist parties failed to recognise this and persisted in using slogans and fighting methods which somewhat earlier had been correct but which had become "antiquated" with the change in the situation.[21] In a number of cases, Pieck said, the communist parties had overestimated the political maturity of the people, and had failed to carry on the work necessary to train them for the revolutionary struggle or to convince them of its necessity. Instead, they had carried on propaganda in favor of the soviet government or which explained the program the communists would carry out *after* they had seized power.[22] The communist parties had become mere propaganda organs for the programs they had remained "on the shore as observers and registrars of the surging waves in the expectation of fine weather" instead of learning "how to sail on the turbulent waters of the class struggle." [23]

Pieck pointed to the failure of the communists to mobilize their forces in the "strike" movements during the early 1930's, referring specifically to the "strike" in the British navy at Invergordon, the mutiny in the Chilean navy and the mutiny on the *De Zeven Provincien*.[24] Why did these stormy political movements of the working people remain but a flash in the pan," he asked, "producing no important results in the struggle for liberation?" [25] One of the main reasons why they had not been transformed into a mass struggle against the bourgeois state, Pieck said, was "spontaneity." These movements had been spontaneous demonstrations undertaken "without serious preparation, without a joint organization of all forces, without concrete fighting aims," [26] Spontaneity in revolutionary movements was frequently decried by bolshevik leaders.[27] Lenin himself held the belief that revolution would come only as the result of careful preparation and organization by a specially organized party of professional revolutionaries, not from spontaneity of the masses, and he placed emphasis on the necessity for technical preparation for revolution.[28] Stalin also vigorously opposed what Kuusinen called "*opportunist*" reliance on spontaneity, or reliance on "automatism." [29]

The fact that the events cited failed to develop into broad revolutionary movements may account for Pieck's assertion that they were only to a minor extent movements in response to the call of the party.[30] The spontaneity of the movements might have been exploited successfully, Pieck asserted, had the local communist parties been strong enough to organise the men and provide them with "firm guidance," However, Pieck observed, while the local parties "endeavored" to provide these movements with "concrete slogans, to widen their scope and to raise them to a higher level of mass political consciousness," they lacked the strength to overcome the opposition encountered from other mass organizations and groups. The spontaneous uprisings might have "held together longer and could have been led further in the struggle," Pieck concluded, if the communists had provided broad popular support for the movements by creating a "united front" with the social-democrats and the other mass organizations.[31]

According to Dimitrov, the most important task which faced the seventh world congress was the development of tactics to prevent the victory of fascism. Dimitrov stated that this could be accomplished by the formation of a "united front" of all anti-fascists which would establish unity of action by the proletariat on both a national and an international scale.[32] The decision to use the "united front" concept as the spearhead of an anti-fascist movement represented one of the most important tactical innovations of the seventh world congress. The concept of the "united front" itself was not new, having been formulated at the third congress in 1921.[33] However, it had never achieved any magnificent success. Dressed in the shining armor of the defender of the faith against the black dragon of fascism, the "united front" was destined to appeal to wide sections of the proletariat which previously had been impervious to communist machinations.

The communists were directed to seek "unity of action" with all proletarian groups through the "united front" movement, even joining in the formation of coalition government, with the single condition being that the joint action be directed against fascism, not communism.[34] Participation in a "united front" government was not to be considered an end in itself, but rather only a means to an end:

If our parties are able to utilise in a bolshevik fashion the opportunity of forming a united front government and of waging the struggle for formation and maintenance in power of such a government, for the revolutionary training of the masses, this will be the best political justification of our policy in favor of the formation of united front governments.[35]

Dimitrov reminded the communists that final salvation could not come in any country from a "united front" government. That could be achieved by soviet power, said Dimitrov, and only soviet power.[36]

The starting point and main content of the "united front" movement was the defense of the economic and political interests of the working class against fascism. This entailed a three part program: first, a joint struggle "to shirt the burden of the consequences of the crisis onto the shoulders of the ruling class;" second, a joint struggle to preserve the bourgeois-democratic liberties of the workers; and finally, a joint struggle against the impending imperial war.[37] Dimitrov told the delegates that the communists had to prepare the working class for a rapid change in the forms and methods of struggle. As the movement grew and spread, the communists had to go even further and prepare for an offensive against capitalism leading towards the organization of a mass political strike. "Communists," Dimitrov reminded his audience, of course, cannot and must not for a moment abandon their own independent work of communist education, organization and mobilization of the masses." [38]

The chief stress in the "united front" movement was placed on "local" development, i.e., local mass action carried out by local organizations through local agreements. The practical realisation of the "united front" movement required different methods in different countries, depending on the character of the local worker organizations and on the particular local situations.[39] In each country, Dimitrov continued, there were certain key questions around which a "united front" movement could be mobilised. Dimitrov cited the tasks facing the working class of France as examples of key questions. Of those listed, two were directly related to the communist antimilitaristic program in France:

". . . to secure that the state apparatus, army and police shall be purged of the conspirators who are preparing a fascist coup . . . to link up the army with the anti-fascist movement by creating in its ranks committees for the defense of the republic and the constitution, directed against those who want to utilise the army for an anti-constitutional coup d'tat.[40]

Day-to-day leadership of the "united front" movement was to be concentrated in the party sections themselves. This necessitated an intensification in the formation and training of cadres and the "reinforcement" of the local parties with "genuine" bolshevik leaders who would insure the correct tactical application of the decisions of the Communist International.[41] Therefore, the question of the preparation of cadres occupied an important place in the agenda of the seventh world congress. "There is no need to mention the fact," it was declared even before the congress began:

That political work in the factories, the army or the navy, is severely persecuted even in the most "democratic" countries where the party is legal . . . such enormous losses in the party membership and in the leading cadres [have been sustained] that the question of extensively promoting, training and preparing new cadres becomes decisive not only for the succesful work of the party but even for its very existence.[42]

Dimitrov stressed that a correct "line" alone was not enough for concrete leadership of the masses.[43] The resolutions of the Comintern were but scraps of paper if people were lacking to put them into effect. People—cadres—decided everything, he added, quoting Stalin's dictum that cadres were to be cultivated "as a gardener cultivates his favorite fruit tree." But because the communist movement was not a "learned society" but a militant movement which was constantly in the "firing line," there was an urgent necessity of constantly replenishing the ranks by training new cadres and carefully preserving existing cadres.[44] Dimitrov cautioned that the revolutionary mettle of some of the existing cadres had not been tried and tested in the class battle. These cadres, he added, needed help to adapt themselves to the new "spirit" of the Comintern. But, he warned ominously, where the old wine-skins proved unsuited for the new wine, the necessary conclusion must be drawn—not to spill the new wine or spoil it by pouring it into the old wine-skins, but to replace the old wine-skins by new ones.[45]

The "Trojan" Horse

Dimitrov asserted that the most difficult and complex task facing the communists was the fight for the establishment of the "united front" in countries controlled by fascism, but he stated his conviction that all the application of "united front" tactics and the conditions existed in fascist countries for the development of a real anti-fascist people's front. He said that the view that it is generally impossible in countries with a fascist dictatorship to come out legally or semi-legally was incorrect. To find forms and methods of legal or semi-legal action was a difficult problem, he admitted, but one capable of resolution. Dimitrov suggested that the communists make the fascist mass organisations their legal or semi-legal field of action, for communists in fascist countries

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had to work wherever the masses were to be found. Dimitrov cited the "Labor Front," the Hitler youth leagues, the *Draft durch Freude*, the sports clubs, etc., as suitable targets for communist activity, suggesting that the communists should try to gain posts in such organizations.[47] The "united front" movement, Dimitrov predicted, could be forged into a battering ram capable of shattering what appeared to many to be the "impregnable" fortress of fascism. To do so, he said, required that it be built both "outside" and "inside" the fascist organizations. Suitable tactics to accomplish these ends, Dimitrov said, had been described in the ancient tale of the capture of Troy. Troy was inaccessible to the armies attacking her, thanks to her impregnable walls. And the attacking army, after suffering many sacrifices, was unable to achieve victory until with the aid of the famous Trojan horse it managed to penetrate to the very heart of the enemy's camp.[48]

Revolutionary workers, Dimitrov added, should not be shy about using the same tactics as the fascists.[49]

Dimitrov was an outspoken critic of communist failure to realise the acute need of youth for military activity and to fulfill that need by integrating youth into the communist program. He pointed out that in Germany and Italy, all forms of youth organizations were connected in one way or another to military training. Communists had to counter the militarization of youth, he said, by widespread activity aimed at gaining control of the younger generation. The failure to "capture" the youth had been one of the chronic weaknesses of the communist anti-war work. Citing several examples of success achieved by youth groups in the United States and France under the "united front" program, Dimitrov stated that the young communist leagues had to strive to unite the forces of youth, wherever they might be, in "the army barracks and the fleet, the schools, or in the various sports, cultural or other organizations." [50] During the discussions at the seventh world congress on the work which had been carried out in the bourgeois youth organizations, the adoption of "Trojan" horse tactics was recommended. Such tactics, the communist youth were told, must be applied not only in the fascist countries, but also in many colonial countries, for instance, in China. You know that our Chinese young comrades in the soviet regions have performed truly legendary deeds of heroism. In the regions where fighting is going on they have learnt also to apply the tactics characterized by the comparison with the Trojan horse in a masterly fashion. But in the white regions, where the terror is raging, it is precisely in these tactics that they are weak.[50]

The Chinese communists, outside of the soviet-controlled areas, it was asserted, had not been able to rid themselves of the "relics of sectarianism." They still had to learn the tactics of the "Trojan" horse, and through them, to penetrate into the larger mass organizations.[51] In other colonies, particularly in India, it was asserted, it was necessary to work inside the bourgeois youth organizations. Okano reported that the Japanese communists had achieved a number of successes in working in "reactionary" organizations. "The members of our party," he said, "are performing heroic bolshevik work for the revolutionary enlightenment of the masses in the army, in the navy, in the armament factories." Centers of antiwar resistance, he claimed, had been created even among the peasants. But the successes which he described were more imaginary than real, and had been carried out on a relatively limited scale.[52]

Manuilsky was another of the communist speakers at the seventh world congress who emphasized the necessity for communist penetration of the mass organizations. Tactics, he stated, were not "the spectacles of a musty keeper of archives which he never takes off, even when he goes to bed." [53] Whenever changed circumstances required, new tactics were to be introduced. Communists in fascist countries, particularly in Italy and Germany would have to "rack their brains" to figure out the appropriate forms of bolshevik work to be used in penetrating such organizations.[54] It was left to them, Manuilsky asserted, to "decipher" the "Trojan" horse tactics referred to by Dimitrov.[55] The communists had twenty-five years of experience in combining legal with illegal forms of work, he pointed out, adding that the organisational decisions adopted at the second congress of the Comintern had been based on the recognition that both legal and illegal forms of work were essential. Many sections of the Comintern, he noted, had become convinced in the face of fascism that there existed no room for legal "footholds." The mass base on which fascism itself was built, however, made possible legal work, just as it facilitated the task of the illegal organisations. "It will be impossible to force our way to the masses, under these conditions," Manuilsky stated, "unless we carry on daily and systematic work in the fascist mass organisations" and "unless we combine legal and illegal methods of work." [56] It was also essential, Manuilsky continued, to develop illegal organisations in those countries where the labor movement was still legal. Such development was required as preparation for a possible transition to an illegal position at a later date. The Italian and German communist parties, he noted, had committed the mistake of not having prepared for illegality in time.[57] "We must remember," Manuilsky added, "that the united front movement spontaneously legalizes the most hunted and persecuted communist parties, that the mass struggle brings the most deeply underground organizations to the surface." [58]

Although Dimitrov made no specific reference to work in the German armed forces in connection with his "Trojan" horse tactics, Ercoli elaborated on the tasks of the communists in the military services of fascist countries at a later session of the seventh world congress. He emphasized the necessity for communists joining the armed forces and made them the center of their work.[59] Ercoli also said that the principal task of the communists in the fascist countries was to link the army with the people. Every effort, he explained, had to be made to utilize even the slightest opportunities for both legal and semi-legal work linking the people with the masses of the soldiers. It was necessary for the communists to penetrate and work within all mass organizations which served for the militarization of the youth. In this connection, Ercoli pointed out that circumstances made necessary a broader interpretation of the point in the theses of the sixth world congress which stated that the communists were not to call upon young workers to join voluntary organizations for military training. It would be a mistake not to join such organizations, he asserted: "We must enter these organizations, we must work in them." [60]

Ercoli's analysis also considered the tasks of the communists in their work in the armed forces of the "bourgeois" democracies. In the bourgeois democracies, he said, the "fascization" of the armed forces had to be exposed as one of the most dangerous forms of concrete preparation for war. Communists had to counter it with their own anti-fascist work among the military: "We shall not surrender the mass of the soldiers to the fascists. All penetration of fascism into the army is a menace to peace." [61] Ercoli stressed the mass character of modern military forces and the importance which this factor played in determining the nature of communist work in the armed forces. The growth of fascism, he said, accentuated the contradiction between the mass character of bourgeois armies and the reactionary aims for which these armies were employed. This led the bourgeoisie, which could not reduce the mass character of the armed forces, to resort to their "fascization" of the military in order to avoid the danger of mutiny. The "fascization" of the military, he added, found expression in a number of measures of an organisational character, and more particularly, in the organisation of special propaganda in the armed forces. Never had "chauvinist" propaganda, he noted, been conducted among the soldiers with such intensity or by such a variety of means. By carrying its propaganda into the armed forces, fascism attempted to convert the military into the bulwark of its policy.[62] Ercoli claimed that the bourgeoisie increased the size of those elements of the armed forces which it regarded as particularly "reliable" either on account of the privileges granted to them or in consequence of their connection with the military as a profession. Communists, he said, should demand that the "fascist" officers be dismissed from service, and that the "reactionary general staffs" be subjected to democratic control in which the workers' organisations participated. The communists had to lead the workers in the bourgeois democracies in the demand that the armed forces be put on a democratic footing by granting every soldier complete political rights, because "an unfettered expression of the will of the soldiers can hinder the war plans of the bourgeoisie and fascism." [63] Communists, Ercoli continued, should also demand that every soldier be permitted to express his opinion freely on the "war propaganda" being conducted in the army by the fascists; that both inside and outside of the army, the soldier should have the right to express his desire for peace.

Ercoli stated that it was impossible to speak seriously of the formation of a government of the "united front" or a people's front without at the same time raising the question of transforming the bourgeois army into a people's army, for according to Lenin, a revolutionary army and a revolutionary government were two sides of the same medal: "They are two institutions equally necessary for the success of the uprising and for the consolidation of its results. They are two slogans which must be advanced and explained as the only consistent revolutionary slogans." [64] Other questions which were to be raised by the communists were how to secure reduction in the term of military service, how to place all arms at the disposal of the people, and how to permanently oust the "reactionary" cadres from the army, especially from the higher command positions. Ercoli admonished the communists not to boycott mobilization, not to boycott the armed forces, not to undertake sabotage in the factories, nor to refuse military service, because such acts "detached" them from the masses, especially the "soldier masses." [65] Ercoli concluded his analysis by stating that this new communist approach to treating work in the armed forces as mass work was the best prerequisite for the practical application of the bolshevik line at the moment when the war broke out. [66]

The basic theses which the sixth world congress had previously formulated on the struggle against war required little modification for tactical application in the "united front" campaign. Conscious of the deep aspirations of people everywhere to live tranquilly in a peaceful world, and playing upon their natural abhorence of violence and war, the communists continued to use the slogan of "peace" as their central slogan in their anti-war program. It was a slogan well calculated to win friends and adherents for the "united front" movement. In the dialectics of communism, "peace" was synonymous with the period of preparation for revolution. Ercoli made this clear when he stated that the deeper the communists penetrated the masses under the guise of peace prior to the outbreak of war, the more possible it would be for them to transform the inevitable imperialist war into civil war.[67] "We defend peace," he said, "not because we are flabby Tolstoyans, but because we are striving to ensure the conditions for the victory of the revolution. . . . Our struggle for peace is at the same time the best defense of the Soviet Union." [68]

Based upon Ercoli's analysis, the seventh world congress passed a special resolution on the tasks of the Comintern. "The communist parties of all capitalist countries," it directed, must fight against military expenditures (war budgets), for the recall of military forces from the colonies, and mandated territories, against militarisation of the youth, women and the unemployed, against emergency decrees restricting bourgeois-democratic liberties with the aim of preparing for war; against restricting the rights of workers employed in war industry plants; against subsidizing the war industry and against trading in or transporting arms.[69]

XVI. THE "TROJAN" HORSE IN ACTION

The seventh world congress of the Comintern attached special importance to the establishment of an anti-imperialist united front in all colonial and semi-colonial countries. Particular emphasis was placed on the work which had been accomplished in Brazil where, Dimitrov pointed out, the communist party had "laid a correct foundation" for the development of a united anti-imperialist front through its support of the National Liberation Alliance. The Communist Party of Brazil, Dimitrov stated, had to make every effort to extend further this front by drawing into it first and foremost the many millions of the peasantry, leading up to the formation of units of a people's revolutionary army, completely devoted to the revolution, and to the establishment of the rule of the National Liberation Alliance.[70]

The National Liberation Alliance had been formed early in 1935, supported by the communist party as well as numerous communist-dominated trade unions, youth organizations and peasant groups. Many officers and enlisted army and navy men affiliated themselves with it after Louis Carlos Prestes, a former captain in the Brazilian army and a leading participant in the Sao Paulo revolution of 1924, was elected its honorary chairman.[71]

Communist propaganda, agitation and organizational activities in the Brazilian armed forces contributed to the development of a revolutionary spirit in certain military units.[72] Two manuals played an important role in guiding communist work in the Brazilian army and navy. The first was *O trabalho dos bolchevistos no exercito antes de revolucae de octubro*, a Portuguese translation of Yaroslavsky's classic pamphlet.[73] The second handbook was *O antimilitarieno revolucionario*, the Portuguese edition of Alfred, Dupont and Fischer's basic work on antimilitarist tactics.[74] The communists successfully infiltrated both the navy and the Brazilian merchant marine.[75] They also penetrated the army.[76] By November, 1935, they considered themselves sufficiently strong to attempt an armed uprising.

On November 24, 1935, a communist-inspired revolt backed by the National Liberation Alliance broke out in the four nothern states of Rio Grande de Norte, Parahyla, Pernambuco and Alagoas, and the state of Parana in the south. In Natal, the 21st Light Infantry Battalion revolted, imprisoned its officers and took possession of the city. Part of the 29th Light Infantry Battalion at Remembrance (Recife) attempted a similar revolt, aided by communist elements. The revolt spread.[77] Martial law was declared, and the Brazilian Government rushed military reinforcements into the northern states to put down the rebellious troops. On the morning of November 27, 1935, Rio de Janeiro awoke to the sound of machine gun and cannon fire. At Praia Vermehla (Red Beach) on the outskirts of the city, a battalion of the Third Infantry Regiment had revolved, and was barricaded in the barracks. A second group of soldiers at the nearby military aviation school had also joined the revolt. They seized their officers and set fire to a hangar and the gasoline dump at the airfield Troops loyal to the government quickly surrounded both the barracks and the school. After a fierce bombardment by navy planes forced them to leave the school building in which they had set up their headquarters, the rebel soldiers surrendered. Heavy artillery fire also set fire to the Praia Vermehla barracks, finally forcing the rebels of the Third Infantry Regiment to capitulate to the government troops.[78] The collapse of the revolt in Rio was followed by failure of the revolt in the north. Government forces quickly recaptured Natal and drove the communists from the other strongholds which had been established during the first days of the revolt. Further arrests of military personnel, both army and naval, followed, until the figures exceeded thirteen hundred men.[79]

The failure of the November revolution resulted in the complete disruption of communist activities in Brazil. Elsewhere in Latin America, government attention was focused on the communist united front, resulting in the initiation of legislative action in several countries to outlaw or severely limit the scope of the communist movement. The revolution also resulted in the breakoff of diplomatic relations between the Soviet Union and Uruguay, the only country in South America which had formally recognized the soviet regime. Uruguay charged that soviet agents in Montevideo had financed the Brazilian revolution. The break with the soviets followed.[80]

United front tactics also enjoyed immediate but sometimes short-lived success in Europe. This was true in Greece where the communist party, which had existed since 1924 but not as a real factor in Greek politics, began to win mass support with united front tactics. Labor unrest fostered by the communists racked Greece during the spring of 1936. Strikes and demonstrations were organized by the Communist Party and the Young Communist League of Greece and appeals were directed to the soldiers and sailors calling on them to support the workers. In the port area of Salonika, the young communist league organized special workers' delegations to contact the Greek sailors on the warships in the harbor.[81] The general elections of 1936 gave the Greek communist party 15 seats which meant that it held the balance of power between the two traditional major parties. This situation was unacceptable to the right-wing opposition. When the series of labor disputes culminated in a communist-inspired general strike, a right-wing carried out a coup d'etat which brought General Metaxas to power as the "savior" of Greece from communist insurrection. With Metaxas ended the period of legality under which the Greek communist party had previously flourished.[82]

Communist attempts to apply united front tactics in the environment of fascism were singularly unsuccessful. Efforts to penetrate the armed forces in Germany and Italy through infiltration of the mass organizations proved ineffective due to the stringent internal security measures which both countries employed to protect their military forces from the machinations of the communists. The communists learned that propaganda and agitation could not be accomplished overtly in countries possessing strong internal security forces like the German Gestapo. Moreover, they learned that such forces also limited successful covert infiltration by subversive elements. German and Italian counterintelligence groups were highly efficient in penetrating the communist cadres and minimising their effectiveness by keeping the government informed of communist plans and operations. The system of recruitment of military personnel from state-controlled para-military youth organizations also protected the German and Italian armed forces against communist penetration.

Communist united front tactics were also ineffective in the Far East, although numerous attempts were made to implement the directives of the Comintern. In Japan, a new association called the *Rono Musan Kyogikai* was formed to "struggle against fascism." At its first conference, a new political party called *Nihon Musanto* (Japan's Proletarian Party) was formed by the association. It consisted of communists, socialists, and "anti-fascist" liberals dedicated to the fight against fascism. The basic themes in the propaganda issued by the *Nihon Musanto* closely paralleled those used by the communists against the Japanese armed forces. Leaflets addressed by *Nihon Musanto* to the soldiers emphasized that they were being used in the interests of militant capitalism. "Stop the war immediately," the propaganda line demanded, adding, "War! . . . War! . . . Who profits by it? Death to the capitalists and landlords!" The new party failed to gain popular support for its program and never achieved any real influence within the ranks of the army or navy. Okane frankly admitted later that the policy of the united front had failed in Japan.[83]

Similar attempts elsewhere in the Far East to strengthen communist influence through the united front met with only limited success. In Australia, for example, the membership of the communist party rose from 550 at the time of the sixth world congress to almost thirty thousand within ten years. However, the increase in party membership was not matched by any proportionate increase in the number of communist cells developed in the permanent military forces or in the Australian navy. Although the comrades attempted to fulfill their avowed goal of "every platoon, every ship, every air unit a cell for communism," they lacked sufficient adherents in the national security.[84]

Considerable gains for communism were recorded in many other western countries, including the United States and Great Britain.

However, the most notable successes came on the continent in Spain and France.

The Spanish Civil War

During the seventh world congress of the Comintern, Ventura, the Spanish delegate, asserted that all of the prerequisites existed in Spain for bringing up the question of a government of the united front or of the anti-fascist people's front of which Dimitrov had spoken.[85] Events in Spain moved rapidly after 1935. The Communist Party of Spain carried out the directives of the seventh world congress by creating a united front with the socialists. The communists also set in motion a campaign designed to develop a revolutionary crisis in Spain.[86] In February, 1936, the municipal elections brought to power a coalition popular front government supported by the syndicalist, socialist, communist, and republican parties. Although the communists were only a minority party, they used the united front to dominate Spain for the next three years. The communists used their position in the government to infiltrate the armed forces. In addition, they continued their antimilitary program which had been intensified after the October revolution of 1934. They encountered strong opposition to

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their machinations from the commissioned officers of the Spanish armed forces and from the officials in the *Ministerio de Defensa Nacional*. To counter this opposition, the communists devised new methods of agitation for use in the army, the navy and the air force. Their program of disruption in the navy called for the creation of secret communist "cells" at every level in each of the organs of command. Then began a systematic campaign of defamation against those responsible officials who were anti-communist. Any official who stood in opposition to the communist cause was accused of having plotted against the Spanish Republic.[87] Competent officers were denounced for the purpose of either securing their removal from authority or causing their transfer to less responsible positions where they could no longer interfere with the communist program.[88] Communist harassment even resulted in their denial of the right of officers to associate together in closed meetings. Communist charges that cheers for fascism had been given at a meeting held exclusively for naval officers were used as justification for a government decree in early 1936 prohibiting naval officers from holding any kind of closed meeting.[89] The majority of the naval officers remained faithful to their professional training and traditions, but they were "un islote en cada barco rodeado de enemigos"—a tiny barren island on each ship surrounded by enemies.[90] Supplementing the program of undermining authority was a program designed to win the support of the enlisted personnel of the navy. Additional pay increases maneuvered by the communists resulted in machinists and nurses earning salaries and holding grades equivalent to those of the rank of admiral and captain.[91] The communists, who had concentrated their propaganda on winning the sailors to their cause, were successful in undermining authority to the point that all concept of discipline in the ranks had disappeared by mid-year.[92] The communist press played an important role in disintegrating military morale. A special newspaper, *El soldado rojo* (*The Red Soldier*) was published for distribution in the army.

In April 1936, a detailed pamphlet of instructions describing how the Spanish armed forces were to be "neutralized" was sent to the communists in Madrid. The pamphlet was allegedly prepared and printed by the technical specialists of the French communist party assisted by Russian experts sent from Moscow especially for the job. The pamphlet explained each step which was to be carried out during the coming crisis, from the gathering of arms in the barracks for those who did not already possess them to the work of the agitators during the actual fighting. It also provided detailed orders for the screening of personnel captured in order to minimize any possibility of counterrevolution against the communists later on.[93]

The Communists made few efforts to cover their attempts to destroy all opposition. In an article written before, but published immediately after the outbreak of the Spanish civil war, a leading communist spokesman admitted: "We are striving to prevail on the government completely to purge the army of all reactionary and fascist elements, and of the considerable number of monarchists who hold commanding posts in the army."[94] Work in the army by the communists was, he stated, "still weak," and he characterized it as the "most serious problem" facing the Communist Party of Spain. He noted, however, that a "clean-up has begun in the police force, the gendarmerie and the army to rid them of reactionary monarchist elements."[95]

Political assassinations, mob violence, local disorder and social unrest were all signs that a revolutionary crisis was rapidly maturing in Spain. The premeditated murder by the [illegible] of the right-wing opposition, and the unsuccessful attempt the same day on the life of Gil-Robles, brought the crisis to a head. On July 18, 1936, it culminated in an open revolt against the popular front regime by officers of the Spanish armed forces. Leader of the revolt was General Francisco Franco who flew to Morocco from his post in the Canary Islands to take command of the Foreign Legion. The revolt immediately spread to mainland Spain where it involved all elements of the armed forces. The army officers who had started the revolt had the complete confidence of their troops. They also had the full support of the Moorish Legions, the Foreign Legion and the Civil Guards. At the very offset, the military situation seemed to definitely favor their cause. Even their brother officers in the navy were solidly behind them, but the first few days of the revolt ended with the navy still almost completely under the control of the communist-dominated republican, i.e., Loyalist, government.

The Spanish civil war provided the communists with an unheralded opportunity to finalize control over those positions in the *Ministerio de Defensa Nacional* which they considered most decisive in exercising command over the armed forces which remained loyal to the republican government. In addition, they placed special emphasis in their work on securing the support of the common soldier. This was accomplished through the institution of the political commissar. Shortly after the outbreak of the war, the communists convinced the republic government of the need for establishing a special commissariat of the army, navy and air force charged with directing the political activities of the fighting men. Most of the political commissars selected were communists.[96] To assist the commissars in their work, the Spanish communist party published a special newspaper, *El commissar*.

"The commissar," the communists proclaimed, "is the nerve and the soul of our People's Army."[97] The commissars functioned as the link between the government, i.e., the military commanders, and the men in the ranks. They frequently participated in the planning of military operations, and exercised command in their subsequent execution. Communist propaganda directed at Franco's forces emphasized the familiar theme of revolution, but this subject was carefully avoided by the commissars in the Loyalist forces who emphasized the need for a disciplined army with the slogan "united army and united command."[98] In contrast to their efforts to bring about the disintegration of Franco's forces, the communists worked to strengthen the discipline and unity of the republican forces over which they exercised control.[99] In this they were only partly successful.

Many sanguine episodes have been recorded in the history of naval warfare, but few have been as bloody as the mutiny of the Spanish sailors against their officers at the outbreak of the civil war. When the first news of the Franco rebellion reached the republican government, fleet units were despatched to Spanish Morocco and the Canary Islands to crush the revolt. The government announced that the navy was encountering no opposition in its efforts to restore peace,[100] while the international communist press proclaimed that the navy was completely loyal to the popular front in Spain.[101] Aboard ship, however, an altogether different story was unfolding. The naval officers commanding the fleet units had been staunchly behind Franco's forces, but they were unable to maintain discipline over their men because of the skillful machinations of the secret communist cells which had gone into action against them. When the officers had ordered their ships to sea in order to join forces with Franco, their decision had been accepted by the men with little question.[102] Later, however, the communist cells in each ship began to circulate the rumor that their particular ship was the only one of the fleet which had revolted. All other units of the fleet, the communist-inspired rumor asserted, remained loyal to the republican government.

Ships at sea are cut off from events of the world beyond their own rolling decks except for the news which the ship's radio operator provides. The importance of this communications link had long been recognized by the communists as the most critical element aboard ship. Communists efforts had therefore been concentrated on placing their followers aboard ship as wireless operators so that they would be in the unique position of being able to fabricate false "news" or to alter or withhold information which might have been damaging to the communist cause.[103] Although most of the modern military supplies and equipment were controlled by France's forces, the republican government possessed a formidable weapon in the form of its control over the major radio communication facilities in Spain. Powerful broadcasting equipment was beamed at the fleet units by the government, and the air waves were flooded with false and conflicting reports. "La escuadra regress a sus bases." "El ejército, la marina y la avación confiados en el gobierno que acaba de formarse, tornan a la normalidad absoluta." "The squadron is returning to its bases. The army, the navy and the air force, possessing full confidence in the government which has just been formed, are returning to their normal routine.[104]

Scuttlebutt spreads rapidly aboard ship, and the communist agitators took advantage of this quirk of human nature to develop a sense of insecurity among their shipmates which was useful later when they incited them to mutiny against the officers. Scuttlebutt leads men to congregate together in small groups and helps form the nucleus around which a clandestine meeting can develop for plotting mutiny. So it was aboard the ships of the Spanish fleet in July, 1936. Insulated from other ships and the outside world by the communist wireless operator, each ship's crew was led to believe that it stood isolated and alone, and that it would soon face the combined wrath of the rest of the fleet for permitting their officers to lead them in revolt against the government. There was only one way out—to prove their loyalty by regaining control from their officers and delivering the ships safely to republican controlled ports. The men believed—and mutiny born of communist ingenuity and tactical discipline spread through the fleet from ship to ship. While the mutiny was carried out swiftly on some ships with the officers being overpowered and locked in their cabins, on other vessels the mob spirit which had been kindled to a red hot flame by the communist elements in the crews led to excesses of violence against the officers. Many of the officers were subjected to cruel torture and base indignities before they were killed.[105] The international communist press made no attempt to conceal the murder of the naval officers, and openly boasted of the act. The communist *Daily Worker* in the United States splashed a photograph of the Spanish Warship *Jaime I* on its front page on July 24, 1936, with the sub-caption:

One of the most thrilling episodes of the present struggle in Spain against the fascist-monarchist uprisings occurred when the anti-fascist crew of the *Jaime I* slew the captain and five officers who were attempting to deliver the ship to the rebel forces at Ceuta, Morocco.

That the bloodshed was needless is indicated by the fact that several other Spanish warships made their way to the port of Tangier after their crews had overthrown their officers who were locked in the mess rooms until they could be transferred to the surveying ship *Tofino*.[106]

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The bloodshed was not confined to the early days of the fighting, and the crew of the *Jaime I* also figured in a later episode. The following account was documented by the Spanish Ministry of Justice as representative of the barbarism of the communist elements in the naval forces at the base of Cartagena.

On August 14, 1936, the *Jaime I* arrived in Cartagena with casualties aboard after having been heavily damaged by an aerial attack. There was both a revolutionary "committee" and a "Red Guard" organization aboard the *Jaime I*. These two groups, together with elements of the ship's crew, decided that the attack on their ship should be avenged. In the harbor at Cartagena at that time were two ships which the Loyalists had outfitted as prison ships during the early days of the insurrection. These were the *España 3* and the *Río Sil*. Incarcerated aboard the *España 3* were the naval officers and officials from the ship at the naval base who had been overpowered by their crews and subordinates. The *Río Sil*, on the other hand, held officers and men of the Civil Guard who had been captured at Albacete. According to orders of the communist-controlled Navy Department, dated August 14, 1936, a group of ten prisoners were brought ashore from the *Río Sil* shortly before midnight and turned over to the crew of the *Jaime I*. After being beaten and mistreated, the prisoners were led into an alley near the arsenal at the naval prison where they were cut down with machine guns. The wounded were finished off by pistol shots; their bodies stripped. As the sound of the machine gun fire attracted too much attention, the group decided that the two prison ships should be towed to sea. When the *Río Sil* was about 30 miles out of the harbor, the prisoners in the hold were ordered on deck in pairs. They were told that their quarters were to be cleaned. Once on deck, they were bound hand and foot. Weights were tied to their ankles. Then they were thrown alive into the sea to drown, their pleas for mercy unheeded.

After 52 prisoners had been killed in this manner, the rest of the prisoners refused to leave the hold. They threatened to ignite the gasoline which was stored in drums in the hold if the ship wasn't returned to port or if they were molested further. Aboard the *España 3*, a similar orgy was being carried out. The technique of murder was somewhat different. The imprisoned naval officers were made to walk the plank, with the slight innovation that they were tied up, then shot in the back of the neck and once again in the forehead, before their bodies were "walked" off the plank into the sea.[107]

The excesses which were carried out by the ship's crew of the *Jaime I* both when they mutinied against their own officers and later when they slew prisoners from the *España 3* illustrated the "success" of the intense communist propaganda effort carried out against the military service in Spain. Karl alleges that when the sailors mutinied against their officers, they were enacting scenes from a soviet propaganda film which had been shown to them several weeks previously at a local theater. The film was "Potemkin," which glorified the mutiny of the sailors in the czarist navy during the Russian revolution of 1905.[108]

It was this same type of intense propaganda which General Franco referred to in an announcement from Ceuta, Morocco, on July 21, 1936, when he explained the necessity for the action which he had initiated against the communist-dominated people's front government: "Our movement aboard certain warships have shown how intense is the communist propaganda in the navy forces and how necessary it was to act swiftly and energetically, as we have done."[109] Several days later, General Franco admitted that he was disappointed by collapse of the uprising in the navy, but he stated his belief that "without officers, the men can do little. They are unschooled and have no idea of navigation."[110] His prediction was to prove valid, even though four Spanish warships and a destroyer manned only by officerless crews shelled the Franco-held port of Ceuta on July 20, 1936, the day after they had mutinied against their officers.[111]

Documents which came to light in August, 1936, supported Franco's position. The communist archives captured at Lora del Río, Spain, contained instructions for initiating a communist coup d'etat and the establishment of a soviet government in Spain.[112] The coup was to have been carried out after a wave of subversive activity scheduled between May 1 and June 20, 1936. However, it was postponed because the Paris bureau of the Communist International which controlled the Spanish communist movement was not prepared,[113] even though two soviet ships had previously landed arms and ammunition for the communist cells at Sevilla and Algeciras.[114]

Although the republican government maintained control of the majority of vessels of the Spanish navy, the Loyalist fleet failed to function effectively because it lacked trained personnel to replace the officer pilots, navigators and skill-technicians who had been murdered or who had successfully made their way to Franco's lines. A navy without officers is like a ship without its captain, or a ship without a rudder. Had the government been able to utilize effectively its loyal, but officerless navy, it might have crushed the Franco rebellion by closing the Straits and preventing his support forces from crossing to the mainland from Morocco.[115] As it was, however, the Straits were left open and unprotected; General Franco's forces were convoyed to the mainland almost without opposition, guarded by only a few aircraft and one old warship.[116] In an effort to restaff its naval forces, the republican government announced that it was taking over the entire Spanish merchant marine for the duration of the civil war. In addition, on July 30, 1936, recruiting abroad began for volunteers to come to the aid of republican Spain.

The Communist Party of France undertook the job of recruiting and organising the international forces. Thores, who enjoyed parliamentary immunity in France, was placed in charge of the recruiting of the international brigades. To Spain as his collaborator, Thores sent the notorious André Marty.[117] In France, the Syndicate for Sea Workers took charge of contracting for personnel for the Spanish navy. Recruiting of trained personnel was specially heavy in the ports of Bordeaux, Marseilles and Algiers. The French communists also recruited specialised workmen for the naval repair yards at Cartagena and Valencia. A monthly salary of 2,000 Spanish pesatas and 5,000 French francs cash on signing the contract were offered to attract the more skilled naval specialists.[118] The influx of foreign naval personnel also included naval personnel supplied by the Soviet Union. The Russians were placed in key positions in the navy, the army and the air force, and in the Cartagena shipyards.[119] However, the Loyalist navy failed to play any important part in the conduct of the civil war even in spite of soviet attempts to reorganise it. In addition to its lack of officers, the navy had lost all sense of responsibility and all respect for authority and discipline. The years of communist propaganda and agitation in Spain against the navy had proven too effective. As in the story book classic, the communists had killed the goose which laid the golden eggs.

The United Front in France

The proving ground for the united front tactics which Dimitrov unveiled at the seventh world congress was France. Lenin once wrote that the bolsheviks were the Jacobins of the proletarian revolution.[120] What was more natural than that it was to the French communist party which claimed for itself the heritage of Jacobinism that the Communist International imparted its inspired "golden rule" which led to the initiation of the united front movement in France in August, 1933.[121] Thus, three years of practical tactical application actually preceded Dimitrov's pronouncement of the "new" strategy of coupling the united front with the anti-fascist people's front.

The activities of the French communist party during this period were held up to the seventh world congress by Dimitrov as an example for all sections of the Comintern of how the tactics of the united front should be applied.[122] Dimitrov had stated that the starting point of the united front movement was to be the defense of the economic and political interests of the working class.[123] This was the point around which the French communist movement concentrated its propaganda efforts. A number of special slogans carefully calculated to appeal to various segments of the working class were formulated. These slogans publicised the "fight" which the French communists were carrying on for work for the unemployed, for increased unemployment benefits, for free distribution of coal, clothing and milk for children, for reduction of rents and taxes, and against reductions of wages and salaries, against layoffs and dismissals, and against the high cost of living.[124] Slogans in defense of the rights of ex-servicemen and against the reduction of military pensions were calculated to find approval among the ranks of the armed forces.[125] Propaganda directed to the lower middle class was couched in what Thores described as a "deliberately moderate tone."[126] In addition to their own, the communists also adopted the slogans of other organisations. They even used the slogans of organisations hostile to the communist movement provided they possessed a broad popular appeal among the working class.[127]

Just as the American communists appropriated the traditions of 1776 and 1864 and presented themselves to the American public as the standard bearers of the revolutionary traditions out of which the United States was born,[128] so the French communists made use of the revolutionary traditions of 1793 and 1871 in their appeals to the French peasant who Thores characterised as being "the decisive factor" in any situation.[129] Thores openly admitted that when the communists presented themselves to the people as the champions of liberty and of the independence of France,[130] it was but a facade. The official position of the French communist party, as stated by its central committee and reiterated by Marty at the seventh world congress, was that in case of war against the Soviet Union, the communists would support "the Red Army of the Soviet Union." Their statement "We shall fight for the defeat of every power that wages war against the Soviet Union" removed all doubt that the French communists intended to strike against France if she found herself at war against the "fatherland of socialism."[131]

This propaganda policy, coupled with the successful culmination of a united front agreement with the French socialist party in July, 1934, was credited by Thores for having aroused to political life broad elements of the working class which previously had been passive. It made the Communist Party of France an important political factor. The French decision to join with the Soviet Union in a mutual aid pact in May, 1935, can be traced in part to the favorite climate of public opinion which the communists had created with their united front tactics and propaganda. The successes which the communists sustained in the municipal elections in 1935 were also reflections of the increased and still-growing prestige which

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the communist party enjoyed among the leftist elements throughout France, but specially in the metropolitan Paris area.

Marcel Cachin boasted to the delegates at the seventh world congress that by applying the Comintern's "golden rule" of "going to the masses," the membership of the Communist Party in France had been tripled, and that of the Young Communist League of France increased fivefold within the previous year.[122] Cachin also described how under the aegis of the united front an increased propaganda effort had been carried out in the spirit of Lenin to enrich the minds of the communist proletariat "with all the treasures of knowledge created by humanity."[123] Within the previous twelve months, he claimed, *L'Humanité*, the central propaganda organ of the communist movement in France, had increased its circulation by 50,000 copies, while during the same period, the "provincial" communist press had achieved a weekly circulation of more than 200,000 copies.[124] The growth in actual membership continued. In early 1936, the communists achieved a real coup by assisting through their united front movement socialist Leon Blum to establish a popular front government of the left.

The communists made fascism the most important political factor in France. Thorez quoted Marx's statement in *The Class Struggles in France* that revolution organizes counterrevolution, and that in accordance with the law of dialectics, counterrevolution in turn armed the revolution by producing a revolutionary party.[125] He suggested that the thesis might well describe the development of fascism in France and the growing resistance to it. The communists portrayed fascism as existing in many forms and in many places in France, but placed primary emphasis in their propaganda and agitation on fascism in the armed forces. Cachin claimed that the whole fascist offensive in France was led by high military officers on the retired list who worked closely with their brother officers who were still on active duty.[126] Dimitrov stated that French fascism held strong positions in the army among the officers.[127] Thorez called upon the French communists to "purify" the armed forces of fascists.[128] According to André Marty, the winning over of the armed forces to the side of the people was one of the most "urgent" tasks of the communist party.[129] Marty revealed that in July, 1935, the central committee of the French communist party had proposed the establishment of soldiers' committees *"for the defence of the Constitution and the Republic"* in order to check the subversive activities of the "fascist" officers and organizations within the armed forces.[130] Marty's remarks on the "well known" attitude of the communists toward the capitalist armed forces were quite revealing. Communists, he said, in accordance with the teachings of Lenin and as specifically restated in the theses of the sixth world congress, were against desertion or the refusal to enter military service.[131] Communists were to answer the summons to military service, Marty explained, *"even in a reactionary war,"* for it provided them with the opportunity to acquire a thorough knowledge of how to handle weapons.[132] Here again was the resounding echo of Lenin's teachings that technical preparation was a prime requisite for revolution.[133]

What better place to receive the necessary technical training than in the ranks of the enemy? The struggle to win the armed forces for the people, Marty said, was directly linked to the task of winning the youth. Marty stressed that the classroom offered a wonderful opportunity for conducting work in winning the youth, "and hence the army," to the people's cause.[134] The fascists, too, the communists claimed, had realized the importance of winning the youth in the classrooms, and had all but taken over the great military schools at Versailles and Saint-Cyr from which the future officers of France came. That was why, the communist press proclaimed in 1936, the people's front government of Leon Blum had to clean out the fascist "rats" in high places and in the armed services.[135]

Participation in the Blum popular front government provided the communists with a unique opportunity to work from within the armed forces themselves, while at the same time it provided them with a shield of respectability from behind which they could continue their work towards the demoralization of the armed forces from without. The charge that fascists controlled the French armed forces served to legitimize for the communists their use of "Trojan horse" tactics of infiltration which Dimitrov had suggested as being suitable for use in those countries which were already controlled by fascist governments. The achievement of a proletarian revolution in France had always been a primary goal of the French communist movement, but not until the possibilities offered by their participation in the Blum popular front government did the French communists seriously consider that they had any immediate prospects for its realization. The opportunity for insinuating themselves into vital posts which would make it possible to paralyse the apparatus of state control in France in case of a crisis, and of transforming the war if it came into a civil war, revived dreams which had long been dormant in the breasts of the French communists.

While the French navy represented a rather considerable force, its role in the enforcement of state control was primarily limited to its influence in the areas in the south of france near the large naval bases of Marseilles, Brest and Toulon. It also served as the key protector of the rich French colonial empire which figured significantly in the plans of the Communist International. It was therefore in these areas that the primary propaganda effort had been concentrated. However, the wide popular appeal of the united front encompassed large segments of the French populace from which the army recruited the bulk of its personnel. Thus many recruits were unusually receptive to communist propaganda, and in some cases, were already subordinate to communist discipline when they entered military service.

The united front was not the only reason behind the successful communist penetration of the French armed forces; another was the failure of the French military leaders to understand the communist pattern of conquest. The statements of Thorez, Marty and Cachin all testify to the active work carried on by the communists during the 1930's in the armed forces of France, but there appears to have been little comprehension on the part of the military authorities during the period as to the inherent dangers which the communist program involved. André Geraud, the French journalist reported a conversation he allegedly had on November 22, 1935, with a staff officer "close to headquarters" who stated that there had been no soviet propaganda in the French army since 1932 or 1933. Geraud further states that the same officer dismissed reports to the contrary as "talk."[136] Even General Maurice Gamelin, who became commander-in-chief of the French Armies in 1935, is alleged by Geraud to have held the same opinion at heart. Geraud stated that in February, 1934, Gamelin urged him to explain to the reading public the necessity for a new policy toward Moscow. In July, 1935, after the France-soviet mutual aid pact had been signed, but before it had been ratified, Geraud indicates that Gamelin still had not changed his opinion of a requirement for a rapprochement with the Soviet Union, even though the press reaction was quite aroused and had accused the Soviet Union of subversive propaganda and treachery. Geraud further alleges that General Gamelin, in answer to his question as to whether the communists were at work again in the army, and if so, whether their propaganda was inspired by the Third International, stated "No, and if this kind of game had been resumed we could be quick to detect it because it is a very old one and we had to suppress it in the past."[137] However, Geraud notes that Gamelin changed his tune by August 19, 1935, and believed that the communist propaganda was again being circulated among the non-commissioned officers. Gamelin's unique but rather in innocuous "solution" to the problem of communists in the army, Geraud asserted, was to pay special attention to the living conditions of the non-commissioned officers by providing them with suitable quarters in the barracks or nearby.[138]

In 1937, the Communist Party of France issued a secret document in which it reaffirmed that the central task of all communists was "to organize the struggle of the masses for the disintegration of the bourgeois army."[139] The struggle among soldiers, it declared, and the creation of cells in the army had to be carried out with the same "rhythm" as the struggle among workers and the creation of factory cells. The document provided detailed instructions as to what communists were to do when called into service. Before departure, it stated, each communist was to form an *'amicale"* or group of friends. After arriving in the military camp, each communist was to seek out those sympathetic to communism or already members in the party. Cells of two or three members were to be formed charged with giving "political direction" to the struggle for the soldiers. The directive described how a cell was to be organized. It also discussed its composition, number of members, the slogans and immediate demands the cell was to support, and its principal objectives. How to circumvent the police and military authorities, how to introduce propaganda into the barracks, and how to insure its thorough dissemination was also discussed in the document. Emphasis was placed on spreading oral propaganda through discussions, denunciation, slogans, rumors, and whispering campaigns. In addition, it directed the formation of discussion groups which were to act as committees through which the struggle was to be continued.[140] Military service was the preliminary test of the struggle for the transformation of the imperialist struggle into civil war, the document asserted. The greatest fault for a communist, it continued, was to remain passive. The document stressed the clandestine nature of the cell, and the necessity for communists to hide their affiliation with the communist party. "Don't shout from the rooftops that you are a communist," it cautioned its readers. It also emphasized the importance of denouncing the "hypocrisy" of officers who were liked by the men. Whenever the workers engaged in strike movements, the document concluded, it was the duty of every communist in the army to explain to his comrades in uniform why the strike was necessary and justified.[141]

By the beginning of 1938, communist cells had been organized in units throughout the French armed forces. The secretary of the central committee of the Communist Party of France even sat as the vice president of the army committee in the *Chambre des députés*, while a special communist bureau composed of eighteen cells existed within the staff offices of the War Ministry.[142]

Propaganda among the soldiers, sailors and airmen played an important role in the communist program of penetration and disintegration. The Young Communist League of France published its newspaper, *Le consorit*, for soldiers to supplement the antimilitarist propaganda it published in its central organ, *L'avantgarde*. The French communists also enlisted women in their antimilitarist activities through the publication of *La jeune fille de France*, a newspaper which appealed to French women whose husbands and sweethearts were in service.[143]

Special emphasis was placed by the communists in developing cells in the navy. In addition to activities carried on by party members in service, the communists engaged in intensified activities whenever naval vessels were in port. Workers' delegations went aboard on visiting days, leaving behind them revolutionary tracts and propaganda leaflets supplied by the party. The communists also emphasized the development of cells in the naval aviation branch. The purpose of such cells was to insure that in case of the outbreak of civil war, the communists would have a ready made air arm of their own.[144]

On August 23, 1939, a treaty of nonaggression was concluded between Germany and the Soviet Union. The announcement of this pact came without warning, catching the Comintern and its sections unprepared for the complete "about-face" which it represented. Considerable confusion in communist ranks throughout the world resulted from the announcement, for German fascism had been clearly identified in all communist propaganda as "the spearhead of international counterrevolution," "the chief incendiary of imperialist war," and as "the initiator of a crusade against the Soviet Union."[145] How, then, was to be explained the sudden reversal of soviet foreign policy represented by the pact? Several days passed before the new party line formulated by the soviets reached all sections of the Comintern. During this period, confusion mounted, and the communist movement in many countries was split by conflicting interpretations rendered by the local party hierarchy.

After its receipt, the new party line was unquestionably promulgated by the hard-core of the movement who were under Comintern discipline, but it failed to heal the breach which had developed. According to the new party line promulgated by the Comintern, there had been two stages in the development of the second imperialist war. In the first stage, Germany, Italy and Japan had emerged as aggressor states. In the face of their offensive, the other capitalist states, England, France and the United States, had retreated in an effort to avoid a decisive clash. The capitalists had attempted to turn the aggressors against the Soviet Union. This situation, the Comintern asserted, had changed; a second stage had evolved: the imperialists of England and France had taken up the offensive, and had emerged as "the most zealous supporters of the continuation and further incitement of war" against Germany. The Comintern stated that Germany had been faced with a dilemma: either to capitulate to British and French imperialism and go to war against the Soviet Union, or to make a decisive turn in its foreign policy and take the path of peaceful relations with the Soviet Union. Germany had elected the second path. The Soviet Union, "in the interest of socialism," had agreed to conclude a pact of "amity" with Germany to eliminate the immediate danger of war and create a barrier against the extension of the imperialist war. By its policy, the Comintern stated, the Soviet Union was "rendering an inestimable service to the cause of world peace."[146] The British and French imperialists, the Comintern continued, having taken the path of war, did not want to leave it. They had therefore put forward the slogan of "anti-fascist" war, proclaiming that their war against Germany was a war of democracy against fascism, against Hitlerism, for the freedom of all nations. The imperialists, the Comintern proclaimed, were practising "ideological deception." They, not Germany, were responsible for the war clouds over Europe.

In addition to obligating themselves "to desist from any act of violence, any aggressive action, and any attack on each other, either individually or jointly with other powers," the German-Soviet non-aggression pact contained a secret additional protocol which clarified the respective spheres of influence of the two countries in Eastern Europe, and defined areas of interest in the event of a territorial and political rearrangement of Poland.[147] The maintenance of an independent Polish state had been considered by both powers as no longer in their best interests. On September 1, 1939, Germany invaded Poland. Three days later, England and France declared war on Germany in defense of Poland. On the morning of September 27, soviet military forces crossed the Polish border, allegedly for the purpose of protecting the life and property of the population of western white Russia, and "to extricate the Polish people from the unfortunate war into which they have been dragged by their unwise leaders."[148]

The rape of Poland following so closely on the nonaggression pact stirred public opinion throughout the world. The greatest impact of the nonaggression pact on the communist movement was felt in France where the communist party had been riding the crest of the popular front movement. Public indignation in France led the Daladier Government to dissolve the communist party by decree on September 26, 1939. Communist members and sympathisers in the *Chambre des députés* were deprived of their parliamentary mandates until they publicly disavowed their allegiance to the communist cause. The main propaganda organs of the party, including *L'Humanité* and *Ce Soir*, were forced to suspend publication. Numerous party spokesmen and leaders were jailed. Thus had Moscow, by its accession to a non-aggression pact with Germany, wiped away the important legal position which the Communist Party of France had won in the public press, in politics and in the laboring movement through its participation in the popular front. The outlawing of their party forced the French communists to activate the parallel illegal organization which had been developed in France over a period of years.

In the months that followed, literally hundreds of handbills and leaflets were circulated clandestinely by the French communists among the soldiers, sailors and workers. Again and again communist propaganda repeated the accusation that the real enemy was within France itself, that French imperialists together with English capitalists were alone responsible for the imperialist war, and that the war was not a war for liberty against fascism but actually a war conducted in the interest of international capitalism.[149] The poilu was the focal point for an intense propaganda campaign. "Soldiers, while you receive 15 sous pay, while your families starve, while you risk your life," ran the party line propaganda aimed at convincing the French soldier that Great Britain actually wanted the war, "the capitalists are getting rich! Down with the capitalist war!"[150] The communists emphasized the differences in living standards which existed between the French and British soldiers, exploiting the all too obvious inequalities to support the basic propaganda theme that the war for the British was "uno pluie d'or," that is, a golden rain.[151] The communists raised the immediate demand among the French soldiers for equal pay with the British soldiers. They also raised the demand that the family allowances paid to men in service be raised to the same level as those paid to the families of British servicemen. The wife of British soldiers, communist propaganda pointed out, received 30 francs while the wife of the French soldiers received only 18. Frenchwomen, the party line asserted, had sacrificed enough for British finance.[152] The communists also emphasized the fact that whereas France mobilized soldiers between the ages of 20 to 46 years, the British drew their soldiers from the 20 to 26 age group. The differences between the conditions of service in the French and British armies was featured in the barracks journals sponsored by the French communists for the men in service. For example, *La Haison*, the newspaper of the 223rd Infantry Regiment, complained that British soldiers had running baths, while their French counterparts even lacked sufficient water to cook with. English soldiers received 27 francs a day, good food and free tobacco, it stated, while the French soldiers received 68 centimes a day, no tobacco, while "as for food . . .!"[153]

In October, 1939, the communist underground began publication of a clandestine version of *L'Humanité*. The first issue appeared on October 26th. Thereafter, it appeared at the rate of about seven issues a month.[154] The first issue of *L'Humanité* requested each reader to pass on their copy to some man in service.[155] Distribution of *L'Humanité* was carried out using every means available to the communists. Copies of it were left in mail boxes, halls and vestibules of public buildings and apartment houses, on trains and buses, and on park benches. Copies were smuggled into the factories making military equipment; they found their way into the packing crates in which military goods were shipped. Woolens destined for the soldiers were wrapped in copies of the paper. Communists in one aircraft plant even slipped copies inside the fuselage of the aircraft scheduled for delivery to the military during this period. However, the favorite method of getting communist propaganda to the soldiers was through the French postal services. Although the French military censorship system intercepted many items of communist propaganda, many other items got through to the soldiers. In addition, the communists employed clandestine radio broadcasts to carry their defeatist messages to both the French people and the armed forces.[156] Maurice Thores made several clandestine broadcasts of this type.

Thores had been mobilized into the army, and was assigned to an engineering batallion stationed at Chauny. On October 6, 1939, he deserted from the army. Thores made his way to the Soviet Union, where he continued his activities in support of French communism. On November 17, 1939, an interview with Thores appeared in *L'Humanité*. Speaking from Moscow, Thores directed all communists to fight with every means at their command against the "imperialist" war. He asserted that the communists did not wish to see the youth of the country killed fighting in the war of interests between the English and German capitalists.

Thorez denied that he had deserted: "I would have been a deserter if I had not done what was necessary to remain at my post in the class battle that the people of France must carry on against the warmongers and the fascists."[157] Thorez further stated that "communists have a very clear duty to perform among the soldiers in the armies, among the workers in the factories."[158] munist party to continue to fight against the Thores directed the members of the communist party to continue to fight against the war wherever they could influence and organize the popular masses. This meant, he stated, that the communists had a well defined "task" to perform among the soldiers in the army.[159] In January, 1940, Thorez traveled to Switzerland from Moscow on a Spanish passport issued in the name of Juan Sambett. The soviets maintained a clandestine

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radio station near Lausanne which broadcast communist propaganda to the man in the French armed forces. Thorez broadcast from there until he returned to Moscow in April, 1940, after the Swiss forced him to leave their country.[170]

In November, 1939, the soviets invaded Finland. The excuse was a minor border incident which resulted in the death of several Russian soldiers. However, according to the party line of the communists, the Russo-Finnish war resulted from the attack of Finnish fascists against Russia.[171] The Finns, they said, were the tools of internationalist capitalism. To help the Finnish people "liberate" themselves from capitalism, the communists stated, Russia had sent its troops to fight the Finnish "white guards." In January, 1940, French communists began publication of a special newspaper for distribution among the soldiers. The newspaper, *Trait d'union*, stated in its first issue that the Russian army wasn't making war or fighting the Finnish people, but was merely aiding them to free themselves from foreign interference and rule.[172] When the French government sent arms to Finland, the Finland communists raised the action slogan "Not a weapon, not a *sou* for the Finnish domestics of London and Paris!" When the suggestion was made that French troops were to be sent to aid the Finns, the communists raised the battle cry, "Not a *sou*, not a cartridge, not a man for Finland." [173] The communists also appealed directly to the men in the French armed forces not to allow themselves to be used in Finland: "Soldiers, sailors and aviators, do not forget that in 1919 the French soldiers and sailors with André Marty at their head, refused to fight against the Russian revolution. That example should never be forgotten." [174] The communist antimilitarist monthly, *Trait d'union*, was published through March, 1940. In March, *L'Humanité* issued a special publication, *Les soldats contre la guerre*, which also emphasized the theme of defeatism. On May 1, 1940, this publication became the *L'Humanité du Soldat*.[175]

L'Humanité du Soldat declared that just as the French soldiers were struggling against their own government, so the German soldiers were fighting Hitler, and the English workers were combatting Chamberlain and Churchill. The international fight against war had started, the communists assured the French servicemen, directing them to continue it until peace had been won.[176] The communists concentrated their attacks against the Daladier Government. Daladier betrayed France, the communists told the soldiers in the trenches, by making war in behalf of British interests at the expense of the "skin" of the French soldiers.[177] France, the communist press reiterated, was becoming a British dominion.[178]

In February, 1940, the communists issued a direct appeal for revolution by the army. In a *"Letter aux soldats franoais"* (*Letter to the French Soldiers*), the communists again reminded the soldiers of the example set for them by the Black Sea revolt.[179] *L'avant-garde*, the central organ of the young communist league, was re-established, and began clandestine publication. Defeatism was its fundamental theme; the call for immediate peace its primary slogan.[180] "Turn your arms against the class enemies in your own country," *L'avant-garde* told the soldiers in its issue of February 1, 1940, recalling the words of Leibknecht. The enemy of the soldiers was to be found, the communists asserted, not in the Siegfried line but in their own country.[181]

The communists also launched a major campaign in early 1940 to recall the French army of the Levant from Syria. French forces in the Near East, the communists asserted, were there in preparation for an aggressive attack against the Soviet Union. "Soldiers," the communists wrote as part of the propaganda sent to the armed forces during this campaign, "if they send you against the soviet workers, re use to fight the Red Army, which is the international army of workers and peasants. Remember the example of André Marty and the sailors of the Black Sea.[182] Defeatism was also propagated by the communists through various other media, including the use of "chain" letters. Model letters were produced by the party which directed its members to copy and send them to the soldiers of their acquaintance with the request that they, in turn, pass them on.[183]

Defeatism was also the fundamental theme of all propaganda distributed among the workers in the industries supporting the military potential of France. In February, 1940, the communists directed the French workers to 'hinder, prevent, destroy" the production of war materials.[184] Actual sabotage of the war effort was directed.[185] Slowdowns and strikes were encouraged in industry by the communists. "One hour less for production," ran a popular communist slogan, "is one hour for the resolution." [186]

On May 1, 1940, the communists launched a series of antiwar slogans. French women were told to demand the return of their men from military service "before it was too late." [187] Workers and peasants were called upon to fraternise with the soldier-citizen, and through their fraternisation together, to "impose" the peace.[188] Peace, immediate peace, was the slogan of the day.[189] The communist agitation in industry was tied to the work carried on among the soldiers. Under their uniform, the French soldiers were frequently reminded by communist propaganda leaflets, they were still workers, peasants, citizens.[190] A few days later in May, 1940, the Wehrmacht launched its offensive against the low countries; the battle for France began. The communists continued their propaganda of defeatism. Many of the leaflets and pamphlets published by the communists so closely paralleled the defeatist propaganda issued by the Germans that their true source was often indistinguishable.[191] The French defenses crumbled rapidly before the German advance. In June, 1940, the French army collapsed. Undoubtedly many factors contributed to its collapse, but a primary cause was the disintegration of military morale accomplished by the communist defeatist campaign carried on among the French soldiers in the months following the signing of the German-Soviet nonaggression pact. The fall of France was celebrated in both Moscow and Berlin, for France was as much a victim of communist antimilitarism as of German militarism.[192]

FOOTNOTES

[1] *Seventh Congress of the Communist International*, p. 587.
[2] *Ibid.*, pp. 423–24.
[3] *Ibid.*, p. 425.
[4] Toesony, *op. cit.*, p. 206.
[5] *Seventh Congress of the Communist International*, p. 212.
[6] *Ibid.*, p. 224.
[7] *Ibid.*, pp. 430–31.
[8] *Ibid.*
[9] *Ibid.*
[10] *Ibid.*, pp. 425–26.
[11] *Ibid.*, p. 406. Italic in original.
[12] *Ibid.*, pp. 406–406.
[13] Possony, *op. cit.*, p. 207.
[14] *Seventh Congress of the Communist International*, p. 407.
[15] This metaphor was credited to Jaurès by André Marty who recalled that on the eve of World War I, the French spoke of Europe as the powder magazine in which maniacs were walking about with torches. (*Ibid.*, p. 452).
[16] *Supra*, chapter ix.
[17] *Seventh Congress of the Communist International*, p. 387.
[18] *Ibid.*, pp. 191–92.
[19] *Ibid.*, p. 68.
[20] *Ibid.*, p. 558. Italics in original. Self-criticism was a basis organisational principle of bolshevism. It was developed by Lenin as a method of maintaining existing leadership by eliminating group discussions within the party which might weaken discipline and order. For a discussion of "bolshevik self-criticism" as an organizational weapon, see Philip Selznick, *The Organizational Weapon, A Study of Bolshevik Strategy and Tactics* (New York: The Rand Corporation, McGraw Hill, 1952), pp. 33–38.
[21] *Seventh Congress of the Communist International*, p. 33.
[22] *Ibid.*, pp. 33–34.
[23] *Ibid.*, p. 193.
[24] *Ibid.*, pp. 31–32.
[25] *Ibid.*
[26] *Ibid.*
[27] Possony, *op. cit.*, p. 87. Cf., Dimitrov's assertion: "Waging a decisive struggle against any reliance on spontansity, we take account of the process of development of the revolution not as passive observers, but as active participants in this process." (*Seventh Congress of the Communist International*, p. 559).
[28] Possony, *op. cit.*, pp. 12–13, states: "The significance of this idea lay not only in its importance to revolutionary tactical planning but also in its strategic denial of the democratic concept of revolution: the revolution was not to spring directly from the people but was to be the work of an elite. It was not to be a missionary effort at persuasion, but conquest."
[29] *Seventh Congress of the Communist International*, p. 470. Italics in original.
[30] *Ibid.*, p. 32.
[31] *Ibid.*
[32] *Ibid.*, p. 142. Dimitrov's speeches to the congress, together with other pertinent documents representing the development of the political line of the Communist International on the "united front" were published under the title *The United Front: The Struggle Against War and Fascism* (New York: International Publishers, 1936).
[33] *Fourth Congress of the Communist International*, p. 15.
[34] *Seventh Congress of the Communist International*, p. 143.
[35] *Ibid.*, p. 179. Italics in original.
[36] *Ibid.*
[37] *Ibid.*, pp. 146–47.
[38] *Ibid.*, p. 147. Italics in original.
[39] *Ibid.*
[40] *Ibid.*, p. 155.
[41] *Ibid.*, p. 559.
[42] Chernomordik, "The Question of Communist Cadres," *The Communist International*, XI, No. 23 (December 5, 1934), 815.
[43] *Seventh Congress of the Communist International*, p. 371.
[44] *Ibid.*, p. 375A
[45] *Ibid.*, p. 559.
[46] *Ibid.*, pp. 158–59.
[47] *Ibid.*, p. 160.
[48] *Ibid.*
[49] *Ibid.*, p. 171.
[50] *Seventh Congress of the Communist International*, p. 481.
[51] *Ibid.*
[52] *Ibid.*, p. 105.
[53] Manuilsky, *op. cit.*, p. 62.
[54] *Ibid.*, p. 79.
[55] *Ibid.*, p. 80.
[56] *Seventh Congress of the Communist International*, p. 270.
[57] *Ibid.*
[58] *Ibid.*
[59] *Ibid.*, p. 443.
[60] *Ibid.*, pp. 442–43.
[61] *Ibid.*, p. 441.
[62] *Ibid.*, p. 439.
[63] *Ibid.*, p. 441.
[64] *Ibid.*, p. 442.

[65] U.S., Congress, House, Special Committee on Un-American Activities, *Investigation of Un-American Propaganda Activities in the United States*, Appendix—Part I, 76th Cong., 1st Sess., 1940, p. 647.
[66] *Seventh Congress of the Communist International*, p. 443.
[67] *Ibid.*, pp. 415–16.
[68] *Ibid.*, pp. 416–17.
[69] U.S., Congress, House, Special Committee on Un-American Activities, *Investigation of Un-American Propaganda Activities in the United States*, Appendix—Part I, 76th Cong., 1st Sess., 1940, p. 937.
[70] U.S., Congress, House, Special Committee on Un-American Activities, *Investigation of Un-American Propaganda Activities in the United States*, Appendix—Part I, 76th Cong., 1st Sess., 1940. p. 678.
[71] *Seventh Congress of the Communist International*, pp. 294–95.
[72] "The Eve of Revolution in Brazil," *The Communist International*, XII, No. 10 (May 20, 1935), 583–84.
[73] Brasil, Ministerio da Guerra, *En Guarda!* (*Contro o communismo*) (Rio de Janeiro, Bibliotheca Militar, Imprenea do Estado-Maior do Exercito, 1937), p. 145.
[74] *Ibid.*, p. 146.
[75] *Ibid.*, pp. 123–33.
[76] Brasil, Ministerio da Guerra, Secretaria Geral, *As vitims dos stentados communistas de 1935* (Rio de Janeiro, Impranea Nacional, 1941), p. 22.
[77] *The New York Times*, November 26, 1935, p. 1.
[78] Over 400 soldiers from the school and 600 from the barracks were placed under arrest for their part in the revolt. (*Ibid.*, November 28, 1935, p. 1).
[79] *Ibid.*, November 29, 1935, p. 13.
[80] *Ibid.*, January 5, 1936, p. 11.
[81] M. Nikis, "Class Battles in Greece," *The Communist International*, XIII, No. 8 (August 1936), 1006–1007.
[82] Noal-Baker, *op. cit.*, pp. 138–39.
[83] Dallin, *Soviet Russia and the Far East*, p. 51.
[84] *The Communists Vs the People* (Queensland: Institute of Public Affairs, 1946), p. 8.
[85] *Seventh Congress of the Communist International*, p. 228.
[86] One indication of the importance placed upon the Spanish crisis by the Comintern can be inferred by the fact that the detailed discourses presented at the seventh world congress were published as guidance in Spanish translation under the title *VII Congreso do la Internacional Comunista* (Madrid: Ediciones Bergua) in November, 1935. This work included the full text of Ercoli's discussion of the tasks of the communist in the armed forces.
[87] These attacks continued even after the outbreak of the Spanish civil war. (Indalecio Prieto, *Cómo y por qué salí del Ministerio de Defensa Nacional* (Paris: Imprimarie Nouvelle, 1939), p. 22).
[88] Mauricio Karl [Mauricio Carlavilla], *Técnica del Komintern en España* (Badajoz: Tip, "Gráfica Corporative," 1937), p. 87.
[89] *The New York Times*, July 19, 1936, p. 24.
[90] Karl, *op. cit.*, p. 115.
[91] *Ibid.*
[92] Spain, Ministry of Justice, *Causa general: la dominación roja en España* (Madrid: 1943), p. 226.
[93] Jacques Bardoux, *Staline contre l'Europe* (Paris: Ernest Flammarion, 1937), pp. 18–27.
[94] J. Hernandez, "The Development of the Democratic Revolution in Spain," *The Communist International*, XIII, No. 8 (August, 1936), 966.
[95] *Ibid.*, p. 957.
[96] David T. Cattell, *Communism and the Spanish Civil War* (Berkeley: University of California Press, 1955), pp. 111–13.
[97] *Ibid.*, p. 114.
[98] *Ibid.*
[99] *Ibid.*
[100] *The New York Times*, July 19, 1936, p. 24.
[101] *The Daily Worker* (New York). July 20, 1936, p. 1.
[102] Karl, *op. cit.*, p. 125.
[103] *Ibid.*, p. 128.
[104] *Ibid.*
[105] *Causa general*, p. 227.
[106] *The Daily Worker* (New York) July 21, 1936, p. 1; *The New York Times*, July 21, 1936, p. 3.
[107] *Causa general*, pp. 226–28.
[108] Karl, *op. cit.*, p. 129. Bardoux also comments on the psychological effect of motion picture propaganda, and reports the testimony of a spectator who witnessed the showing of the film "Marine de Cronstadt" at the Cinema de l'Union, Limoges, France in November, 1936 under the auspices of the local communist cell: "At the most poignant scene when the sailors mutiny, the audience rose to its feet, showed the clenched fist and sang the 'Internationale' with great vigour. The women, especially, became frantic, shouting themselves hoarse jumping up and down, animated by a collective hysteria." (Jacques Bardoux, *Chaos in Spain* (London: Burnes, Oates & Washbourne, Ltd., n.d.), p. 17). The same film was shown under the title "We Are From Kronstadt" in New York in November, 1936 at the same time it was being shown in France, illustrating the extent of coverage which Soviet film propaganda received. (*The Daily Worker* (New York), November 14, 1936, p. 2).
[109] *The New York Times*, July 22, 1936, p. 2.
[110] *Ibid.*, July 30, 1936, p. 2.
[111] *Ibid.*, July 22, 1936 p. 2.
[112] Bardoux, *Chaos in Spain*, pp. 10–14.
[113] *Ibid.*, pp. 42–43.
[114] *Ibid.*, p. 41.
[115] Spain, Ministry of Information, *The International Brigades* (Madrid: 1948), p. 16.
[116] *The New York Times*, July 28, 1936, p. 2.
[117] *The International Brigades*, p. 59.
[118] *Ibid.*, p. 18.
[119] *Ibid.*, p. 44.
[120] *Seventh Congress of the Communist International*, p. 211.
[121] *Ibid.*, p. 92.
[122] *Ibid.*, p. 154.
[123] *Ibid.*, p. 146.
[124] *Ibid.*, pp. 206–207.
[125] *Ibid.*
[126] *Ibid.*
[127] *Ibid.*
[128] *Ibid.*, p. 86. This same concept was expressed in the lead editorial of *The Daily Worker* (New York), on July 4, 1936, p. 1.
[129] *Seventh Congress of the Communist International*, pp. 210–11.
[130] *Ibid.*, p. 213.
[131] As later events were to prove, this position of the French communists even extended to actively supporting allies of the Soviet Union who might be enemies of France, e.g., Germany in 1939 and 1940. (*Ibid.*, p. 466).
[132] *Ibid.*, p. 88. *The Daily Worker* (New York), July 21, 1936, p. 1, indicates that the membership of the Communist Party of France was about 200,000 in mid-1936.
[133] *Seventh Congress of the Communist International*, p. 211.
[134] *Ibid.*, p. 88.
[135] *Ibid.*, p. 200.
[136] *Ibid.*, p. 93.
[137] *Ibid.*, p. 360.
[138] *Ibid.*, p. 228.
[139] *Ibid.*, p. 457.
[140] *Ibid.*, p. 468.
[141] The problem was also considered by the communist press in the United States after the seventh world congress. The answer, as printed in the *Daily Worker* was definitive: "The communist's place is in the army and navy. In every struggle of the working class, the place of the communist is in the very thick of struggle, right among the other workers and toilers, winning them for the fight against capitalism. This is true above all among the armed forces, which are the capitalists' final weapons against the working class. What good can a militant worker do for his class locked up or shot as an objector?" (*The Daily Worker* (New York), December 3, 1935, p. 5).
[142] *Seventh Congress of the Communist International*, p. 468. Italics in original.
[143] Compare Stalin's statement that "The victory of revolution never comes by itself. It has to be prepared for and won," quoted by Thorez as the source of the inspiration for the realisation of the tasks ahead of the Communist Party of France. (*Ibid.*, p. 228).
[144] *Ibid.*, p. 468.
[145] *The Daily Worker* (New York), July 13, 1936, p. 5.
[146] *The Gravediggers of France* (New York: Doubleday, Doran & Co., Inc., 1944), p. 7. Geraud wrote under the pseudonym of Pertinax.
[147] *Ibid.*, p. 7.
[148] *Ibid.*
[149] *Barrage*, No. 1 (November, 1937), p. 23.
[150] *Ibid.*, p. 24.
[151] *Ibid.*, p. 25.
[152] *Ibid.*, No. 5 (March 25, 1938), pp. 10–11.
[153] *Ibid.*, p. 9.
[154] Communist penetration of French naval aviation began in November, 1936. (*Ibid.* pp. 18–19).
[155] As quoted from Dimitrov's *"Working Class Unity—Bulwark Against Fascism"* (New York: Workers Library Publishers, 1935), in U.S., Congress, House, Special Committee on Un-American Activities, *Investigation of Un-American Propaganda Activities in the United States*, Appendix—Part V, 76th Cong., 1st Sess., 1940, p. 852.
[156] *Ibid.*, p. 839. As quoted from Dimitrov's *The War and the Working Class* (New York: Workers' Library Publishers, 1939).
[157] U.S., Department of State, Nazi-Soviet Relations, 1939–1941 (Washington: 1948), pp. 76–78.
[158] David J. Dallin, *Soviet Russia's Foreign Policy 1939–1942* (New Haven: Yale University Press, 1942), p. 71.
[159] Maurice Ceyrat, *La trahison permanente* (Paris: Spartacus, n.d.), pp. 78–81.
[160] *Ibid.*
[161] *Ibid.*, p. 88.
[162] Rossi, *op. cit.*, pp. 197–98.
[163] *Ibid.*, p. 203.
[164] Publication finally ceased on June 24, 1940. (*Ibid.*, p. 101).
[165] *Ibid.*, p. 206.
[166] *Ibid.*, p. 103.
[167] Ceyrat, *op. cit.*, p. 72.
[168] *Ibid.*
[169] *Ibid.*
[170] *Ibid.*, p. 84.
[171] *Ibid.*, p. 85.
[172] Rossi, *op. cit.*, p. 139.
[173] *Ibid.*, p. 141.
[174] Ceyrat, *op cit.*, p. 85.
[175] Rossi, *op. cit.*, pp. 210–11.
[176] *Ibid.*, p. 195.
[177] *Ibid.*, p. 196.
[178] *Ibid.*, p. 197.
[179] *Ibid.*, p. 141.
[180] *Ibid.*, p. 142.
[181] *Ibid.*, p. 181.
[182] *Ibid.*, p. 198.
[183] *Ibid.*, p. 212.
[184] Ceyrat, *op. cit.*, p. 85.
[185] *Ibid.*, p. 86; Rossi, *op. cit.*, pp. 207–208.
[186] *Ibid.*, p. 210.
[187] *Ibid.*, p. 172.
[188] *Ibid.*, p. 207.
[189] Ceyrat, *op. cit.*, p. 89.
[190] Rossi, *op. cit.*, p. 206.
[191] *Ibid.*, pp. 198–99.
[192] *Ibid.*, pp. 293–95.

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POLLUTION IN LONG ISLAND SOUND

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. DINGELL. Mr. Speaker, the New York Times of October 29, 1971, carried a report of a 3-year study of a colony of terns on Long Island Sound which disclosed a rising incidence of birth deformities which may be caused by pollutants in the waters of the Sound.

So that my colleagues may be advised of this study, I insert the text of the New York Times article at this point in the CONGRESSIONAL RECORD:

POLLUTION IN LONG ISLAND SOUND TIED TO DEFECTS IN TERNS

(By Bayard Webster)

A three-year scientific study of a colony of terns on Long Island Sound has disclosed a rising incidence of birth deformities that researchers suspect may be caused by pollutants in the Sound's waters.

The birth defects were first noticed in 1969 among young roseate and common terns on Great Gull Island at the eastern end of the Sound. They included such abnormalities as a bird born without down feathers or that later fails to develop adult feathers; a four-legged chick, birds that lost their primary and secondary feathers—which are needed for flight—one born with stumps for legs, and others that had crossed mandibles and too-small eyes.

The researchers who conducted the study likened the birth deformities to those caused by the use of the sedative, thalidomide, by pregnant mothers in the late nineteen-fifties.

The study was conducted at Great Gull Island, a tern sanctuary, on some 2,000 young birds that live in the colony that has a total population of about 7,000 terns.

The researchers were Dr. Robert W. Risebrough, an ecologist at the University of California at Berkeley, and Helen Hays, an ornithologist at the American Museum of Natural History. Their study, which is continuing, is sponsored by the museum, its department of ornithology and the Linnaean Society, an ornithological group.

The report of the study was published in part in the November issue of Natural History magazine. A more extensive report will be published in a forthcoming issue of the ornithological journal, The Auk.

As the reports of deformities grew, starting with three in 1969 and reaching more than 20 in 1970 and 1971, Dr. Risebrough and Miss Hays began to seek the causes. They knew that such totals were above normal. One tern study made recently in Florida turned up only one abnormality—an extra claw on a tern's foot—among a sample of 10,000 birds.

Working with Dr. Risebrough, Miss Hays began shuttling frozen bodies of the abnormal terns, along with specimens of the eight species of sardine-sized fish that the tern eat, across the country to Dr. Risebrough in the Bodega Bay Marine Laboratory of the University of California.

At first tests were made for DDT and its compounds—DDE and DDD—but the levels of these hydrocarbons were found to be normal or less than normal. The same proved true in later tests that were made in Long Island Sound for lead, mercury and cadmium levels.

Dr. Risebrough has conducted much research on PCB, a highly toxic relative of DDT that has been used industrially in the production of plastics, paints, printing ink and paper and has found its way into many parts of the environment. He also tested for PCB.

He found that PCB levels in the birds and fish ranged from slightly below five parts a million, the Federal limit for poultry, to as much as 35 times the Federal limit. Most of the samples contained PCB levels considerably above this limit.

In recent laboratory tests in the Netherlands, PCB was injected into chicken embryos that later developed deformities similar to the ones noticed in the Long Island Sound terns, according to the authors of the study.

"We don't say that this is the cause, because we really don't know," said Dr. Risebrough by telephone from his laboratory.

In their study, he and Miss Hays note that much further research is necessary "before we can definitely pinpoint just what pollutants are responsible for what deformities, and what the cause-and-effect relationships are."

The difficulty of establishing such connections was noted by Dr. George M. Woodwell, senior ecologist at the Brookhaven National Laboratory, L. I. In a telephone interview, he said:

"It is difficult to prove the cause of birth defects in wild populations, but this is something that would not appear commonly in nature. It is very unusual to turn up this sort of anomaly."

Dr. Charles F. Wurster, associate professor of environmental sciences at the State University of New York at Stony Brook, L. I., said he felt the study was "highly relevant, pointing up a very dangerous situation.

"The problem here," he added, "is time. In shortlived animals such teratogenic [birth deforming] abnormalities show up quickly. But with humans, the time element is so long and we tend not to worry so much about something that may not happen for 20 years."

The authors of the study noted that the loss of flight feathers, observed in many chicks, "are the kinds of effects that might be expected from a chemical capable of affecting gene reproduction during embryonic cell division."

DURYEA CALLS FOR STUDY

"Many thousands of young must be examined to detect the first effects of pollutants building up in a population of any species," the authors said.

Calling Long Island Sound one of the more polluted areas of the world's oceans, "a distinction it shares with the Baltic, the Mediterranean, and the Southern California coastal waters," Dr. Risebrough and Miss Hays urged that a study be made to determine what pollutants are in the Sound.

In Albany, Assembly Speaker Perry B. Duryea, in response to the details of the study of the terns' birth defects, called for the creation of a bistate commission to study the problems of the Sound.

He said he planned to call for a preliminary meeting with leaders of the Connecticut Legislature to address "the many faceted problems of Long Island Sound as they are shared by both governments.

"There is a possibility that the pollution may be related to some problem in Long Island Sound, not as yet identified."

WPIX EDITORIAL ON THE SCHOOL PRAYER AMENDMENT

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. KOCH. Mr. Speaker, next week the Congress will be considering the constitutional amendment to allow nondenominational prayers in public schools. Today, WPIX–TV in New York is broadcasting an excellent editorial opposing this amendment. WPIX makes the cogent observation that what the amendment in fact will do is force Government intervention in prayer by "at the very least making the Government a judge of what prayers are or are not denominational." The station concludes that "more harm will be done even by the slightest loss of religious freedom than by the denial of school prayers."

I agree with WPIX and the many church groups opposing the school prayer amendment that passage of this amendment would be a mistake. I commend the WPIX editorial to our colleagues and insert it in the CONGRESSIONAL RECORD:

SCHOOL PRAYER AMENDMENT

Sometime after November 8, the House of Representatives is expected to vote on an amendment to the Constitution which would reverse the Supreme Court and allow prayers in schools.

Since 1962, when the Court outlawed school prayers, literally hundreds of amendments have been offered, but unlike this one, none has ever reached the floor of the House or Senate.

Support for the amendment does not come from church groups and religious organizations, but from the general public. There is a broad based feeling—no one knows how large—which suggests that children will be better for having a brief morning prayer. It is this conventional wisdom which provides the thrust for the repeated attempts to overturn the Supreme Court decision.

It seems simple enough to say, as the proposed amendment does, that "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

The unfortunate fact is that it is anything but simple as almost all major church groups and religious organizations have pointed out in opposing any change such as this. It would authorize, by constitutional amendment, government intervention in prayer by, at the very least, making the government a judge of what prayers are or are not nondenominational.

It is important to understand that the government would not have a choice in the matter. It would be required to take some role in the religious life of the nation as administrator of a religious practice.

The Management of WPIX believes that people benefit from prayer, and wishes that the school prayer issue could be resolved in such a way that religious liberty would not be compromised. We conclude that it cannot, and believe that more harm will be done by even the slightest loss of religious freedom than by the denial of school prayers. For this reason, we join the churchmen in opposition to the amendment. What's your opinion? We'd like to know.

CORRECTION OF FEDERAL EMPLOYEE'S LIFE INSURANCE INEQUITY

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. WALDIE. Mr. Speaker, today I am introducing a bill concerning a matter that was brought to my attention by Washington Daily News Columnist John Cramer. Mr. Cramer, in a recent article, pointed to an inequity in present law governing Federal Employee Life Insurance.

Mr. Cramer discovered that Federal employees who are wrongfully fired or suspended from their jobs—and later restored to duty—must pay back life insurance premiums, even though their insurance automatically terminates after the first 31 days of their separation from service. This means that a Federal employee is forced to pay for a life insurance policy during his separation even though that life insurance policy is void after the first 31 days.

The bill that I am introducing would correct this inequity by waiving an employee's deductions for Federal Employees' Group Life Insurance coverage during a period of erroneous separation, but allowing life insurance proceeds to be paid should the employee die during the period of erroneous separation.

I have every indication that the administration would support this legislation, and I urge my fellow colleagues to act quickly to pass this bill.

FORMING NEW NASSAU-SUFFOLK USO COMMITTEE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. WOLFF. Mr. Speaker, today we have a great number of our young people serving in the Armed Forces, and when they return from overseas many often have no clear idea of how they will reenter civilian life. The USO, in addition to its tremendous contributions to the well-being of our servicemen overseas, has also made great strides in helping those recently discharged from the military to find the right path in their civilian lives.

I am, therefore, pleased to call to the attention of my colleagues the formation of a New Nassau-Suffolk USO Committee which will serve the needs of servicemen and veterans in Long Island. And as a recently appointed honorary member of the USO board of directors, I am especially gratified to note that with the formation of this new committee, it will no longer be necessary for Long Islanders to go all the way to Manhattan for counseling, general assistance, and the friendly hospitality that has always been the hallmark of USO. I am certain, too, that the new Nassau-Suffolk center will be an active center for the job placement and job training programs for returning veterans that I and many other Long Islanders have worked to establish.

Following immediately is a description of the new facility and what its goals will be:

PROMINENT LONG ISLAND LEADERS FORM NEW NASSAU-SUFFOLK USO COMMITTEE TO SERVE ARMED FORCES AND VETERANS RETURNING TO LONG ISLAND

"Peace will not be Hell" for the thousands of Long Islanders who are now serving in the armed forces or are returning home after discharge, if the new USO Committee of Nassau and Suffolk counties can help it.

Seventy prominent business, civic, governmental and organizational leaders met last Wednesday, October 13th in Roslyn, Long Island to form a new USO Committee of Nassau and Suffolk and to reaffirm its faith in the almost 3 million young Americans still stationed around the world in the service of their country. The Committee is determined that these young service men and women will continue to receive the traditional USO welcome and services so essential to their morale and welfare and that those returning after discharge will be given every opportunity to further their education or find suitable, meaningful and productive employment.

In his report to the Committee, Mr. James J. Corrigan, Jr., Chairman, said that USO is considerably more than coffee and cake or a dance. Over 100,000 community volunteers and small groups of professional staff are deeply concerned with the problems of drug abuse, increased AWOL's and desertions, racial conflicts and low morale. The variety of interesting and wholesome programs and services offered in the more than 170 USO clubs and facilities around the world are themselves significant deterrents to these demoralizing forces. The over 25 million visits by military to USO programs and shows annually attest to USO's value to our nation and its armed forces.

Paul R. Screvane, President of USO of New York, also stressed that USO, with its traditional hospitality and friendly atmosphere, so familiar to millions of Americans for over 30 years, is uniquely equipped to help the returning veterans through the sometimes difficult transition period from military service to worthwhile civilian pursuits. Mr. Scevane said that (until now) the only USO Center to which service men and women and returning veterans could go in the New York metropolitan area is in Manhattan. Now, with the formation of this new county-wide committee, and through the generosity of Mr. Burton R. Sims, a member of the committee and a Long Island business leader, a USO lounge and referral center will be made available for armed forces personnel and recently discharged veterans in Long Island. Plans are being made to staff the USO center with skilled counsellors and volunteers, drawn from such organizations as The Commerce and Industry Association of Long Island, The National Alliance of Businessmen, The Long Island Association, organized labor, construction industries, educators, veterans groups, religious bodies, and other community groups.

Mr. William E. Walsh, Chairman of the USO of New York Board of Directors, said that Long Islanders for over 30 years have demonstrated their concern for the well being of its youth in the service through their support of USO. The new committee is timely assurance to all young Long Islanders now serving and those who will return as civilians, that their neighbors do care.

FARMERS HOME ADMINISTRATION—FIRST DISTRICT, NORTH CAROLINA

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. JONES of North Carolina. Mr. Speaker, the First Congressional District of North Carolina is largely rural. Many of the towns have populations of less than 2,000.

The open countryside consists of farmland, second to none. While we are moving ahead in industrial development, farming still constitutes a very important segment of our economy and will continue to do so.

Mr. Speaker, when one represents the people of such a district in Congress, he soon learns to appreciate the Farmers Home Administration of the U.S. Department of Agriculture. This agency, under the leadership of the very able James V. Smith, is placing invaluable resources at the disposal of many rural people in my district, so they are able to improve their quality of life to a degree that exceeds their most ambitious dreams.

During fiscal year 1971, 1,167 low to moderate income rural families received FHA housing loans averaging $11,715 each, enabling them to become owners of nice, though not elaborate, homes equipped with modern facilities. For a number of these families, this was their first experience with running water, indoor toilets and modern kitchen facilities.

Mr. Speaker, I suppose if there is one natural resource that causes some problem within my district, it is the water supply. Much of it is certain areas contains sulfur, and it is extremely hard and quite rusty, due to the high mineral content. However, this is rapidly being corrected by the FHA loan and grant assistance to small towns and rural groups for long needed central water systems and related water treatment facilities.

Thirty-six communities in my district have received such assistance from the FHA, of which 12 projects were approved the past year. On a number of occasions I have been invited to participate in local ceremonies dedicating the opening of these water systems. On one such occasion in a small town which was previously noted for its rusty water, the mayor was quite concerned that only 60 percent of the residents had agreed to hook on. Later I asked about progress, and was informed that there was now almost 100 percent participation. He told me that the local people had always been used to rusty water and were not aware that such would be eliminated with the central system. After they learned this, they did not hesitate to become participants

This community is one of many where people are enjoying the benefits of improved water through a central water system made possible by assistance they received from the Farmers Home Administration.

Another major area in which this agency is making a vital contribution is farming. In fiscal year 1971, 672 farm families in my district received financial assistance to operate their farms. Sixty-five families turned deaf ears to the often expounded philosophy that there is no future in farming and received FHA loans to purchase farms of their own. These were families who were unable to obtain credit from conventional sources. And I might add, Mr. Speaker, that many families who got their start in this manner have turned out to be some of our best farmers.

One such family is the Gerrit Boeremas. Natives of Holland, Mr. and Mrs. Boerema immigrated to the United States in 1949, and ultimately settled in Hyde County, N.C. This family started

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with rented land and seven cows, 15 years ago. Later they approached the Farmers Home Administration for assistance which they received in the form of a loan totaling $44,810 to purchase a farm.

In addition, they have received short-term operating credit totaling $40,680 and a rural housing loan in the amount of $17,000. With this help the Boeremas have turned unproductive marshland into an outstanding dairy farm consisting of 176 acres. Today, they have 110 cows and all the modern equipment necessary for a highly successful dairy operation.

Last year, Administrator Smith decided the FHA would sponsor an annual National Farm Family of the Year award. Mr. Speaker, as I have often said, when one looks for the best in the Nation, he finds it in North Carolina and when he looks for the best in North Carolina, he finds it in the First Congressional District.

I am proud to say that the judges of this first annual FHA National Farm Family of the Year contest declared the Gerrit Boerema family to be the national winner.

However, the important factor is that this family serves as an example of the fine services being rendered by the Farmers Home Administration in helping rural people of this Nation meet their needs. That is the reason I can rise above partisan politics and commend Mr. James V. Smith for the excellent leadership he is providing and assure him and those on the State level of my continued strong support as both a member of the House Agriculture Committee and the Congress.

THE PROSPECTS FOR WORLD GOVERNMENT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. DRINAN. Mr. Speaker, I attach herewith an extraordinarily fine article entitled "The Prospects for World Government" written by the distinguished Joseph S. Clark who, having served with great distinction in the Senate of the United States from 1956 to 1968, was chosen President of the World Federalists, U.S.A. in 1969.

Senator Clark's article was published in the year book of The Great Ideas Today, a subsidiary of the Encyclopaedia Britannica.

In these days when all of us are searching for ways in which a new harmony among nations could be created this article by Senator Clark offers many excellent and useful suggestions.

Senator Clark's article follows:

THE PROSPECTS FOR WORLD GOVERNMENT

(By Joseph S. Clark)

I. THE CONCEPT OF WORLD GOVERNMENT

World government may be defined as an international institution authorized to enforce its decisions with respect to war prevention and other critical problems that are soluble only on a global basis. The goal of world government is a world without war, in which such world-wide concerns as pollution, poverty, and the population explosion can be dealt with effectively. World government is a means to this end, not the end itself.

World government should have only those powers that are necessary to perform its mission. This, in turn, would require a limited yielding of sovereignty to a world authority by the nation-states. Most of the models for world government contemplate a bicameral legislature, perhaps a reformed Security Council and General Assembly, of the sort that the United Nations now has. They also call for an executive with substantially greater powers than those now exercised by the secretary-general of the United Nations.[1]

There would be a judiciary system modeled on the present World Court but with broader jurisdiction, to deal with mediation, arbitration, and conciliation, as well as justiciable controversies. For the judiciary system to work effectively, the Connally Amendment and all other reservations on the court's authority would have to be replaced.

The judgments, decrees, and awards of the World Court, and the laws passed by the international legislature, would be enforced by a world police force modeled on some of the proposals that have recently been made for the creation of a United Nations police force. This force would be under the command of the world executive.

There would be general and complete disarmament of the nation-states under a system of strict international control. Authority would be given to the world government and its agencies to monitor the disarmament process and to assure that none of the nation-states rearmed themselves thereafter.

None of this would require the elimination of the nation-states. On the contrary, the world government that is envisaged would be a federation of such states. Within the federation, the states would retain their domestic authority Even their foreign policy would be affected only to the extent that such policy would be required to stop at the verge of war. So long as the guns were not shooting and the bombs not falling, there would be no need for the world government to interfere in any except a diplomatic sense. Of course there should be powers to enforce financial contributions from the nation-states, both to prevent war and to finance the solution of other critical problems. But each nation-state would retain the right to have a lightly armed police force to maintain law and order and social justice within its boundaries—but one incapable of opposing the international police force equipped with sophisticated weapons.

In these terms—the terms, that is, of a federation of limited powers—the idea of world government is no more radical than the Constitution of the United States. Of course, the complexities of the twentieth-century world are far greater than the problems that confronted the framers of the Constitution. Nevertheless, the basic principle of a federation of independent states can be adapted to our needs and must be.

II. THE NEED FOR WORLD GOVERNMENT

There is very little possibility of attaining world peace, or of enforcing world law in a nuclear age, unless some such form of limited world government is created through the relinquishment of partial sovereignty by the present nation-states. Throughout history, sovereign countries have proved themselves incapable of keeping the peace. Sooner or later diplomacy has always failed to solve quarrels between the nations, the military has taken over, and the shooting has begun. Our present precarious balance of terror results from the possession of nuclear weapons by the two superpowers, the United States and the Soviet Union, as well as by France, Britain, and China. This peril appears to have accelerated in almost geometric proportion since 1945. The prospect of present-day nuclear or, for that matter, chemical, biological, and radiological warfare threatens the very existence of civilization.

A world government that would monitor general and complete disarmament, and would amicably police it through an international authority, could prevent such a catastrophe. Although the practical difficulties of achieving such a government are enormous, there seems no feasible alternative to its creation. The pertinent question is not whether world government is needed—it obviously is—but whether fallible mankind and particularly present-day political leaders are ready to turn to the solution before it is too late. World government is not an idea that has arrived before its time. It is the most timely of all solutions to our present frightening difficulties. Unless enforceable law can be created through international institutions, there is little hope for this, the twenty-first identifiable civilization since man came down from the trees.

Secretary-General U Thant of the United Nations put the question succinctly in a speech he delivered at the Fourteenth World Congress of the World Association of World Federalists in Ottawa, Canada, on August 23, 1970. He said in part:

"A world under law is realistic and attainable. I think I have some sense of the obstacles—in fact, they are my constant companions—but I have an even stronger sense of the prospects opening out before us.

"The ultimate crisis before the United Nations, therefore, is the crisis of authority. Management of problems which are global in scope requires extension of authority to world agenices.

"First and foremost, the decisions of the United Nations, particularly of the Security Council, must be enforceable.

"Are there any short-cuts to constructing the needed world order and the code of enforceable world law together with the necessary executive, legislative and judicial functions? I do not think so."

The consensus of informed global opinion is in accord with the foregoing comments by U Thant. As Arnold Toynbee put it in his latest book, Experiences:

"Living when and where I have lived, and having had the education that I have had, I have been concerned above all, since August 1914, to do what I can in my lifetime towards bringing about the abolition of war. This is the wickedest of all living human institutions, and it is also an institution to which human beings cling with obstinate tenacity. In 1914, war could take lives only by the million. Since 6 August, 1945, it has been on the way towards becoming deadly enough to wipe out the human race and perhaps even to make the surface of our planet no longer habitable for any form of life.

"We do have the freedom to abolish war by a pacific political act. The institution of war between states is a parasite on the institution of local sovereignty; a parasite cannot survive without its host; and we can abolish local sovereignty pacifically by voluntarily entering into a world-wide federal union in which the local states would surrender their sovereignty while continuing to exist as subordinate parts of the whole. This is the positive solution of the problem of war. One need not, and should not, be dogmatic about the details of a federal constitution for the World. But one should work for the achievement of this in some form or another. In the Atomic Age, this looks as if it were mankind's only alternative to mass-suicide."

III. BRIEF HISTORY OF THOUGHT ON WORLD GOVERNMENT

From the prophet Isaiah, who spoke of beating swords into ploughshares, down through history the ancients talked much about the desirability of peace; but a supranational worldwide government with power to keep the peace between antagonistic tribes or nation-states does not seem to have occurred to them. Probably this is because it was not until quite recently—not perhaps till 1948, when Wendell Willkie wrote a popular book called *One World*—that the unity of the world came to be recognized by most intelligent people.

Prior to the enormous technological and scientific advances of the nineteenth and twentieth centuries, the mobility of man was so limited that the concept of a government of the entire world seemed quite impractical. Nonetheless, the thought was advanced more than 650 years ago by Dante in his chapter on world government in *De Monarchia*.[2] However, Dante's concept was of a world ruled by the pope with the Holy Roman Emperor enforcing the church's decrees and being the secular leader of the world.

Immanuel Kant in the eighteenth century wrote of world government in the modern sense but acknowledged that it was a transcendent ideal.[3] Nevertheless, Kant believed that men of good will should work for it as they work for any form of right.

Up to a point, such visions suggest what Toynbee, in his *Study of History*, calls the universal state. He writes of a rhythm in history that carries identifiable civilizations through periods of genesis, growth, decay, and dissolution. Preceding dissolution, but part of decay, is often the universal state. This occurs when one civilization, having come to be ruled by a dominant minority that is no longer capable of creative activity, has conquered all its enemies and reigns supreme in the world. Such civilizations include, among others, the Egyptiac and the Sinic, and the Roman Empire. In each instance there were no more wars to fight. The trouble was that the effort of achieving the universal state had so exhausted the creative ability of the conquering nation that it was left without any remaining desire to improve the state of its civilization. In the end, the universal state was brought down by a discontented internal proletariat or was overrun by barbarians from beyond the frontier.

These universal states could be termed world governments, but as invariably their authority was based upon their conquest of the world rather than upon its consent, they could not long maintain themselves and are not true precedents for the kind of world government that is required today.

The League of Nations, formed at the Treaty of Versailles at the end of World War I, was the first serious effort to keep world peace through the creation of an international institution. But the League was a group of sovereign states with no power to enforce its judgments other than to call on its members for appropriate action. The controversial Article XIV of the covenant of the League, which called for action against an aggressor, was never capable of being enforced. The unwillingness of the United States to become a member was a crippling blow. The League withered and disappeared at the end of the precarious peace between the two world wars which it was in existence it proved incapable of acting on the aggressive invasion of Manchuria by Japan in 1931 and on the equally deplorable invasion of Ethiopia by Italy just before World War II broke out.

While great hopes were held for the League, its inherent weakness was that it had no capability for enforcing common action against an obvious aggressor. It could merely call on the individual nation-states to supply troops that would carry its decisions into effect. There was never any question of yielding national sovereignty to a supranational institution.

After World War II, in 1945, came the United Nations organization, which has just passed its twenty-fifth anniversary. It is an improved version of the League of Nations, but it can hardly as yet be called a world government.

Its charter is brave. The preamble refers to "the peoples of the United Nations," whereas the League of Nations referred to the nation-states. The preamble continues with an eloquent determination to save succeeding generations from the scourge of war, to reaffirm faith in fundamental human rights, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in greater freedom. In later articles, the signers commit themselves to unite their strength to maintain international peace and security and to ensure that armed force shall not be used, save in the common interest, and further, to employ international machinery for the promotion of the economic and social advancement of all peoples. But the end result is not a world government; it is merely a stronger union of states than was the case with the League of Nations for dealing with problems of war and peace.

The United Nations has some very significant achievements to its credit during the last twenty-five years, largely achievements in the economic and social field but also in matters dealing with war and peace such as the Antarctica treaty, the Nuclear Test Ban Treaty, the Space Treaty, and the Nuclear Nonproliferation Treaty. Nevertheless, these accomplishments are all in the form of international treaties, which no international institution is given effective authority to enforce.

Such successes as the UN has had have been the result of persuasion, by which interested powers have agreed that they would join together in a certain course of action. While this is, of course, valuable, it is not a world government, which assumes a supranational federation over the sovereign states in the limited sense discussed above.

It seems highly unlikely that such an organization, under its present charter and with the body of procedures that has been developed over the last twenty-five years, can really be an effective instrument to keep the peace, or even deal adequately with international aspects of problems such as pollution, poverty, and population control.

Since 1945, most efforts looking toward the eventual creation of a limited form of federated world government have come through the disarmament approach. Thus we had the abortive Baruch Plan, where the United States endeavored to internationalize nuclear weapons. We had the efforts that President Eisenhower made with Premier Khrushchev at Paris to achieve an agreement leading to disarmament. In this connection, the action of Christian Herter, Eisenhower's last secretary of state, in committing the United States in 1960 for the first time to general and complete disarmament under enforceable world law, has been almost overlooked.

The strongest official American effort to achieve world government was made by President John F. Kennedy, in the context of disarmament negotiations with the Soviet Union. In a speech at the United Nations in 1961, he called for an end to the arms race, and for an "advance together step by step, stage by stage until general and complete disarmament has been achieved." And he added: "To destroy arms, however, is not enough. We must create even as we destroy, creating worldwide law and law enforcement as we outlaw worldwide war and weapons."

Later, in 1963, President Kennedy said:

"The UN cannot survive as a static organization. Its obligations are increasing as well as its size. Its charter must be changed as well as its customs. The authors of the charter did not intend it to be forever frozen. The science of weapons and war has made us all . . . one world and one human race with one common destiny. In such a world absolute sovereignty no longer assures us of absolute security. The conventions of peace must pull abreast and then ahead of the conventions of war. The United Nations must be developed into a genuine world security system.

Two rarities of general and complete disarmament under strict international control were filed in Geneva in 1962, one by the United States and one by the U.S.S.R. The United States Arms Control and Disarmament Agency was created by the Congress at the president's request. Serious negotiations then took place at the 17-nation Disarmament Conference in Geneva. They broke down largely over the issue of on-site inspection, an issue that is no longer critical. Progress in the art of detection by satellite, photographic, electronic, and seismographic intelligence has made on-site inspection unnecessary to prevent cheating on a scale massive enough to endanger an agreement.

The assassin's bullet killed this last significant American effort in November 1963. Neither President Johnson nor President Nixon has shown an interest in resuming negotiations, although the Soviet Union has occasionally suggested resuming talks. The two treaties lie on the table at Geneva gathering dust despite the resolutions passed annually by the General Assembly of the United Nations urging the major military powers to proceed with negotiations for disarmament.

The United States and the U.S.S.R. are currently engaged in the Strategic Arms Limitation Talks, but this is merely a bilateral effort to stabilize the nuclear arms race. Arms control is a very different thing from disarmament. It has no implications for world government.

China has recently expressed an interest in comprehensive disarmament. The Chinese asked on November 1, 1970, for the elimination of all nuclear weapons. Whether they could be persuaded to join the United Nations and even discuss world government presently is dubious. More recently, in June 1971, the Soviet Union called for a conference of all the nuclear powers to eliminate strategic nuclear weapons.

The proponents of world government today are largely citizen groups within the United States, Canada, Japan, and, to a limited extent, some of the other countries of the world. The World Association of World Federalists, of which World Federalists, USA, is the United States branch, has considerable strength in the Scandinavian countries, particularly Denmark and Norway; it has also a scattering of members in 30 of the 126 countries that belong to the United Nations, among them England, France, Ethiopia, India, Pakistan, and Nigeria. There are no official groups in any of the Communist countries except Yugoslavia, where Marshal Tito has expressed interest in the movement.

Many members of these World Federalists groups sit in their respective parliaments. This is especially true in Japan, the Scandinavian countries, Great Britain, and

[1] The most explicit and probably the best-known plan for world government was written by the Americans Grenville Clark and Louis Sohn in 1958 under the title *World Peace Through World Law* (Cambridge: Harvard University Press). This work includes a comprehensive revision of the charter of the United Nations to bring it into line with the concepts outlined here. Clark and Sohn dealt largely with war prevention, although they also provided for a world development authority to attempt to ameliorate the gross inequities in economic conditions between the nation-states of the Northern and Southern hemispheres.

[2] *GGB*, Vol. 7, pp. 379–99.

[3] *Perpetual Peace; GGB*, Vol. 7, pp. 437–75.

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France. There are at present three members of the United States Senate who are World Federalists. Members of Congress for Peace Through Law, a bicameral bipartisan group, number 110, but their devotion to world government is slight.

These citizen groups continue to agitate for world government. Thus the Center for the Study of Democratic Institutions has sponsored two widely attended *Pacem in Terris* conferences, in 1965 in New York and 1967 in Geneva, to advocate peace through the medium of disarmament and world government. The name comes from a papal encyclical issued by Pope John XXIII in 1963. The United States government played no significant role in these meetings.

The World Peace Through Law Center has held several worldwide conferences in New Delhi, Washington, and Bangkok. Another is planned for Yugoslavia in the summer of 1971. But this distinguished organization of lawyers and judges has never actively advocated world government. It is more of an international bar association than a group interested in international political action for peace.

In the United States today there are several hundred citizen organizations, each with a "piece of peace." They exercise little influence on the present government of their country.

Semantics plays an important part in advocacy of or opposition to world government. Everybody is, in theory, in favor of "peace." Most people are in favor of "world law"—as long as it is not enforceable. But if the concept is expressed in terms of "world government" or "yielding national sovereignty," most of these groups who think of themselves as having "a piece of peace" tend to shy away. The term "world order" tends to attract more supporters, until its necessary connection with world government is explained.

An important research and educational program sponsored by the World Law Fund, a tax-exempt group with headquarters in New York, is the World Order Models Project designed by international law professor Saul H. Mendlovitz, who, with Professor Richard A. Falk, was coauthor in 1966 of a four-volume textbook entitled *The Strategy of World Order*—in effect a treatise on world government founded on the Clark-Sohn study, *World Peace Through World Law*.

The World Order Models Project has organized eight regional research teams whose task is to formulate fully developed models of the world in 1990. The teams are located in Europe, Latin America, North America, India, Russia, Africa, and Japan, and a transnational group is centered in Oslo, Norway. Efforts are being made to organize a team in mainland China.

Since the three basic assumptions guiding the deliberations of all eight teams are that there must be (1) arms control and disarmament, (2) pacific settlement of disputes, and (3) cognizance of the "scientific-technological revolution"—a comprehensive phrase encompassing population, pollution, resource depletion, food production, economic development, and human rights—it is inconceivable that the end product will not include some form of world government.

Useful studies looking toward achievement of world government by small steps have been prepared under the auspices of the United Nations Association. Thus "Controlling Conflicts in the 1970s" is the proposal of a panel chaired by Kingman Brewster, Jr., president of Yale, to create an adequately financed UN Peace-Keeping Force. And the Commission for the Organization of Peace chaired by Professor Louis Sohn has proposed 106 changes in the procedures and charter of the UN to make it an effective instrument of world government.

IV. OBSTACLES TO WORLD GOVERNMENT

The principal human obstacle to world government is the dual nature of man. It is perhaps best defined by the Chinese as Yin and Yang—Yin roughly translated as the spirit of love, Yang the spirit of hate. Stated differently, man has two built-in moods—the desire for cooperation and the desire for conflict. Sometimes one predominates, sometimes the other.

There have always been those who glorify war. There have always been those who strive for peace. The leaders of powerful nations are sometimes for one, sometimes for the other. It has never yet happened that they were all for peace, and for the steps necessary to achieve peace, at the same time. Moreover, leaders respond to what their peoples feel, and there is as yet no overwhelming popular support for world government.

But given the threat of imminent destruction of the human race by nuclear war, or by its chemical, biological, and radiological equivalent, this would not seem to condemn world government for the future. Surely the people would follow if their leaders told them that for civilization to be preserved there is no alternative to disarmament and world government. Perhaps, as the late Grenville Clark thought shortly before he died, things will have to get worse before they get better—even to the extent of a few nuclear bombs being dropped and the deaths of several million people.

Apathy, a feeling of individual helplessness, and a lack of understanding of the personal nature of the threat hanging over us are great obstacles to the coming of world government. Men return to their vineyards on the slopes of Etna and Vesuvius as soon as the lava from the latest eruption has cooled. It is now twenty-five years since Hiroshima and Nagasaki. More than half the present population of the world was not alive at the time of those disasters. Very few people still living were there in person to experience them. Hardly a few hundred thousand have seen the films of the horror, only recently released.

That inadequate understanding of the threat to existence is a big obstacle to world government, seems clear. The peace movement itself has never acquired staunch adherents in minority groups or in the third world. World government as the necessary condition of peace is an idea little appreciated outside the intelligentsia. And even among social scientists in the universities there are still plenty of skeptics. For world government has never become stylish. It has few supporters among the "establishments" here or abroad, save in a few small powers such as Denmark, Norway, and Canada.

Old-fashioned patriotism is surely an obstacle to world government. Dr. Johnson's view that "patriotism is the last refuge of a scoundrel" has fewer adherents than those who proclaim with Stephen Decatur, "Our country . . . may she always be in the right; but our country, right or wrong."

When the flag flies and the band plays and the drums beat and the troops march and the Veterans of Foreign Wars and the American Legion parade, the "silent majority," at least in the United States, still tends to respond. This would be particularly true with blue-collar workers, hardhats, white-collar engineers, and scientists in the military-industrial field if world government became a practical threat to their jobs. It is true today with many of them in this country and abroad when it comes to winding up the arms race and the war in Vietnam, or bringing a peace to the Middle East that might inhibit the manufacture and sale of arms. And of course one could count on the opposition of the military forces of all of the nation-states.

The former colonial nations in Africa and Asia tend to oppose world government on the ground that it would return them to a colonial status that would threaten their hard-earned freedom. Another obstacle is the attitude of the media all over the world. The present Soviet government, although favoring general and complete disarmament, is opposed to the concept of world government, fearing, with typical Russian suspicion, that the U.S.S.R. would be outnumbered in the voting. So *Pravda*, *Isvestia*, and the rest of the Soviet press and radio make no effort to explain world government objectively to the citizens. The same is true of mainland China and its media. In the "free" world, the media consistently play to the prejudices of the masses rather than to their latent idealism. Reports of conflict rather than cooperation set the standard for news. Education of the media should be an early step in bringing popular support for world government.

A final obstacle affecting the totalitarian states is that all models for a world government assume a democratic form of decision, as, for instance, in requiring within the international institution a majority or perhaps a two-thirds vote to authorize action. This concept is anathema to the Soviet Union. Hence the veto in the Security Council. It will take a great deal of persuasion to bring the totalitarian states around to agree to a democratic form of decision. The reverse side of the coin is that many in the democratic countries fear that world government would threaten civil liberties.

V. PROSPECTS FOR WORLD GOVERNMENT

Faced with these formidable obstacles, it would take an incorrigible optimist to contend that world government is just around the corner. Indeed it is not. Yet perhaps the tide is beginning to turn away from a preoccupation with nationalism toward the formation of international institutions with power to keep the peace, toward a form of world order to deal with worldwide problems—in short, toward a limited form of world government. A straw in the wind appeared in the *New York Times* on June 19, 1971, in the form of a short article by Richard J. Barnet entitled "Farewell to the Nation-State."

There would appear to be three major approaches to the desired end. One is through developing within the United Nations the support of small and middle-sized nations for a drastic revision of the UN charter. Several countries have asked that charter revision be placed on the agenda at the General Assembly. The charter itself requires in Article 109 a charter-review conference to be called on a vote of the majority of the General Assembly and seven members of the Security Council at any time after the tenth annual session of the General Assembly.

Among the major changes in the charter that would be required to create a limited world government with power to keep the peace are (1) elimination of the veto in the Security Council; (2) substitution for the "one nation, one vote" rule in the General Assembly of a more realistic system that recognizes the vast disparity of both population and economic power of the nation-states; (3) a self-operating system of financing the UN, such as a license fee on concessions in the seabed, or a small tax, payable directly to the UN treasury, on transactions in international trade; (4) a strong United Nations Peace-Keeping and Peace-Making Force, subject to the control of the secretary-general acting under instructions of the Security Council; (5) general and complete disarmament; and (6) compulsory jurisdiction over disputes between nations, whether justiciable or not, by the World Court, (i.e. repeal of the Connally Amendment).

A seventh reform, closely allied to charter revision, is the admission of all nation-states to the UN. Thus we would have the possibility of creating a universal federation of all the nation-states in a limited world government with power to keep the peace.

At the same time, and by the same steps, the specialized agencies of the UN—UNESCO, ILO, WHO, FAO, and others—would acquire the power to deal with the problems of pollution, poverty, and population.

A second method would be to bring about a limited world government with power to keep the peace out of the 26-nation Conference of the Committee on Disarmament that sits periodically in Geneva. This procedure would at least avoid the many crippling disabilities in the UN charter—for example, there is no legal veto at CCD, nor do the "mini nations" have a vote. Most of the major military and economically strong nations are members of the CCD. There is adequate representation from the underdeveloped world. Agreement between them might well be easier to achieve than in a 126-member UN. Of course, mainland China would have to come in as an active participant, and France would have to take up its currently vacant seat in the committee.

The third approach, however, presents perhaps the most pragmatic solution.

Prime Minister Trudeau of Canada remarked early in 1970 that whenever he thought of his country's relations with the United States he was reminded of a small boy in bed with an elephant. Every time the elephant kicked or squirmed the boy was in danger of falling out of bed.

In truth there are three rogue elephants in the world today, determined not to be trained to acknowledge the necessity for world government. They are the United States, the U.S.S.R., and the People's Republic of China.

We citizens in the United States can do little to train the Chinese elephant. But we can take it into the United Nations and start training it by example.

We citizens in the United States can do little to train the Russian elephant. But at least our government can talk to the Russians, and the contacts between knowledgeable private citizens, such as the Pugwash conferences, are increasing year by year. And the Russians have been committed to general and complete disarmament ever since Czar Nicholas's day, a commitment that Lenin adopted.

But we citizens in the United States *can* do something about our own government, for we are still a free country where *demos* at least still makes a stab at *kratioing*. By persistent educational effort, accompanied by continuing political action, it is quite possible that, before the present decade ends, we can establish in Washington a Congress and a president committed to yielding enough sovereignty to an international organization to make peace through enforceable world law a priority national objective, as it was in President Kennedy's day.

Once this is done, we will be well on the road to civilizing the other two rogue elephants and making human survival a probability instead of a pretty bad bet.

For, to reiterate, world government is not an idea that has arrived before its time. There is in truth no logical alternative. Its time is now, before it is too late.

THE UNITED GIVERS FUND

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. FAUNTROY. Mr. Speaker, one of the unique aspects of the American social system is the existence of a wide variety of voluntary agencies designed to help provide basic social services to our citizens. Such agencies are characteristic of American life and represent a valuable means of supplementing the efforts of private individuals and Government to provide adequate services for all.

The United Givers Fund represents an effective and practical means for meeting the need of these voluntary agencies for adequate funds to carry out their programs. The Washington Urban League, the Alexandria Boys Club, the Jewish Social Service Agency, and the Prince George's Occupational Training Center are but four of the total of 86 agencies which share the fundraising services of the United Givers Fund.

There are many advantages to this method. First, the annual combined fundraising effort allows agencies to use 92½ cents of every dollar raised for their programs. This is considerably larger than the 65 to 70 cents per dollar traditionally netted through independent fundraising. Second, relieved of fundraising responsibilities, agencies are able to devote themselves entirely to the purposes for which they were created—helping people.

The United Givers Fund needs our help. The goal for this year is $17.2 million. Mr. Speaker, you have already urged us to "set an example of responsible and compassionate citizenship" by supporting this fund drive. I heartily endorse this call and urge each Member and his staff to join in this effort.

FORMER SECRETARY OF STATE RUSK ON THE U.N.

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. CULVER. Mr. Speaker, last Friday, the Washington Post published a communication from former Secretary of State Dean Rusk. This lucid letter from Mr. Rusk provides an excellent statement of the continuing role of the United Nations in world policy as well as its proper place in the conduct of our own foreign relations. Mr. Rusk brings to this issue both a reflective mind and much practical experience. He observed the United Nations at close hand and knows well that it is not just a peripheral influence on our lives or on our foreign policy. His comments made against the background of the U.N. vote on China and Taiwan deserve wide reading and consideration and warn us of the perils in taking vindictive or retaliatory actions against the United Nations.

The article follows:

[From the Washington Post, Oct. 29, 1971]

FORMER SECRETARY OF STATE RUSK ON THE U.N.

To say that the writer has played a certain role in assuring the United Nations membership of the Republic of China on Taiwan since 1949, would perhaps be an understatement. I yield to no one in sadness and chagrin that the U.N. General Assembly has voted in effect, to expel a loyal U.N. member and a friend of the United States.

I am deeply disturbed, however, by many suggestions, particularly in the Congress, that the United States should now sharply curtail its support for and participation in the United Nations. Calm and sober reflections surely would indicate that a vigorous and effective U.N. is in the deepest national interest of the United States. Tens of millions of lives were lost to give us a chance to pick ourselves up out of the catastrophe of World War II and start over again. The charter of the U.N. profoundly reflects the simple and decent purposes of the American people with regard to our relations with the rest of the world. Although disagreements among the great powers have at times frustrated the Security Council in carrying out its assigned mission, there have been many occasions when the U.N. has served effectively to prevent, limit or end outbreaks of armed conflict. The United Nations, and its specialized agencies are making a tremendous contribution, day by day and week by week, to the necessary work of the world which affects in constructive ways the daily lives of our citizens.

On the immediate horison are important tasks which the U.N. has undertaken which could make an important contribution to the possibilities of peace and, perhaps, to human survival. I have in mind the 1972 Conference in Stockholm on the Human Environment, a 1973 Conference on the Law of the Sea and the dedication of 1974 as U.N. Population Year. The record of the U.N. in deepening and strengthening international law is not perfect, but is encouraging; there remains, however, much unfinished business in that direction which can only be accomplished by the nations of the world in concert rather than by unilateral, bilateral or even regional action.

Diplomacy has striven for centuries to find ways to reduce the role played by anger, affronted dignity or desire for revenge in the relations among states. What was once a constructive object of diplomacy has now become a sheer necessity in a period when thousands of megatons are lying around in the hands of frail human beings.

It is too frivolous to say that we should pick up our marbles and go home just because others are not willing to play the game our way. The real issue is whether the human race, infinitesimal mites on a speck of dust in the universe, can find a way to live in peace. The harshest realist must now acknowledge that the family of man has come into being because we are at long last faced with certain problems which we must solve together or go down together. In this effort, the U.N. must play an indispensable role. Of course, it needs reform, improvement, more efficiency, a deeper sense of responsibility and changes in a number of directions which need not be detailed here. But all this means that we should support it and improve it—not abandon it.

We have not yet seen the end of the painful experience which we witnessed last Monday night. When the delegation from Peking arrives, its members will be lionized by our news media and may do and say a good many things which we shall not like. It behooves a great nation like ours to conduct itself with dignity, to remain true to our own purposes and to continue to work toward that consensus in the U.N. which is required if the Charter is to succeed and we are to build a world of peace.

COLLECTIVE BARGAINING IN AMERICAN GOVERNMENT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. STEIGER of Wisconsin. Mr. Speaker, this past weekend 75 persons

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from 21 States met at Arden House for the 40th American Assembly meeting.

Congressman ERLENBORN of Illinois and I were privileged to attend this session on a topic of growing importance—collective bargaining and public employment.

The report of this intensive 3-day session is well worth the close attention of all legislations:

COLLECTIVE BARGAINING IN AMERICAN GOVERNMENT

FINAL REPORT OF THE 40TH AMERICAN ASSEMBLY

At the close of their discussions the participants in the Fortieth American Assembly, on *Collective Bargaining in American Government*, at Arden House, Harriman, New York, October 28–31, 1971, reviewed as a group the following statement. The statement represents general agreement; however no one was asked to sign it. Furthermore it should not be assumed that every participant subscribes to every recommendation.

Collective bargaining in government is a growing reality for more and more communities, counties, states and the federal government. The pace of growth, measured against unionization of industry and business, has been spectacular. Twenty-five percent of the nation's public workers are presently represented by unions. Most of this expansion has occurred in the last ten years.

The effect of broad, rapid growth has been unsettling. Many public employers and public managers have been inadequately prepared to understand or to deal with the new relationships. Many state and local governments are beginning to develop ground rules to help bring order out of the varied approaches to representation of employees; too many others have done nothing. Legislators found some guidance from the private sector, but also discovered basic differences between public and private employment and reflected this in their law-making.

A variety of approaches is emerging, some modified by the tests of time, others frankly enacted as hopeful experiments. Labor-management doctrine in private enterprise is being examined and challenged. So are prohibitions and practices in the public sector which existed before unions surfaced. Recognising the mounting complexities of present and potential problems, this Assembly has explored ways to strengthen the bargaining process and assure its responsiveness to the public interest rather than wringing hands over strikes, slowdowns and sickouts and yearning for yesteryear.

There is a restlessness abroad in the working world, a restlessness compounded by job dissatisfaction, by lengthening distances between the large employer and the individual employee, and by the rising aspirations of minority groups. All of these have to be dealt with within a fiscal framework of legislative limitations, resistant taxpayers and a continuing tide of inflation.

With the acceptance by the community of its responsibility for establishing comprehensive channels for participatory democracy in public employee relations goes a reciprocal obligation on unions in the public sector to recognize their responsibility for fostering attitudes conducive to increased harmony and efficiency in the execution of public services.

With these general observations, the Assembly recommends:

1. Rights of employees and employers

Public employees—municipal, county, state and federal—should have the right to join unions, if they so choose, without reprisals. The only exceptions should be those engaged in managerial duties; those confidential employees whose work is involved in the labor relations process; or bona fide supervisors, who may be given the right to join their own unions—not those of rank and file employees.

Public employers at all levels of government should have the right to be active or passive in the face of a union organizing campaign. This right to free speech should not permit coercive conduct nor dismissals of union adherents.

If a majority of public employees, in an appropriate unit, selects a union or employee organization as their exclusive bargaining representative, the public employer and the public union have a duty to bargain in good faith with the objective of reaching an agreement. This does not mean that either a public employer or a public union has to agree to a proposal or make a concession.

2. The need for Federal legislation

Federal employees should be accorded the right to collective bargaining by enactment of a federal law. A succession of Executive Orders has opened the way for giving federal employees access to the full measure of bargaining advocated in this Assembly report in other levels of government. A federal law would protect and broaden these employee rights and not leave them to the discretion of a chief executive and would spell out employer rights as well.

3. The need for State legislation

To insure and administer these rights for employees and employers of city, county and state governments, those states which have not already done so should enact comprehensive legislation without delay. The legislation will vary, but the Assembly recommends that these rights be extended to all levels of government, and to all eligible employees. Failure to do so in a reasonable period would invite the federal government to assure these rights to public employees. If such legislation were enacted, it should set standards and exempt those states which have conscientiously attempted to carry out their responsibilities in this area.

The state legislation should provide for an independent, impartial agency. It would make clear that public management retains the right to manage, and elected officials retain the right to adopt and administer, public policy. This will mean delineation of the scope of bargaining by statute as interpreted by an impartial administrative agency. Even for subjects deemed not appropriate for bargaining, public officials should confer with union representatives on possible solutions.

The bargaining process will be strengthened by legislation which permits the parties to agree to exclusive recognition, checkoff of union dues where employees so designate, and the agency shop. However, public unions should be prohibited from using agency shop fees for contributions to political candidates or parties at state and local levels.

Most federal, state and local public employers, and particularly their supervisory staffs, are inexperienced in the collective bargaining process. A similar problem exists among public unions. This suggests the need for greater efforts to provide education, training and bargaining information. Some aid can be provided by government agencies, some by private sources.

Further efforts to provide third-party assistance to the bargaining process in the form of mediation and fact-finding are necessary. There is need for specialised training and for understanding of the problems and limitations of public finance.

Some model legislation has been developed, but the Assembly urges consideration of its own recommendations as possibly fresh alternatives.

The Assembly deplores "end runs" to any legislative body by either party to obtain terms more favorable than those already accepted at the bargaining table. Legislative clearance of matters previously agreed upon should be limited to contract provisions requiring legislation to implement the agreement. The legislature should inform itself on the dynamics of the bargaining which led to those provisions.

The principles stated here for state legislation apply equally to federal legislation for federal employees.

4. Impasses and their resolution

While the reaching of agreements as the end product of the bargaining process is devoutly to be sought, experience has shown that in a small percentage of negotiations impasses have developed. In many, the peacemaking machinery of mediation, fact-finding and various forms of arbitration have resolved issues, but in others strikes have occurred.

The right to strike, while an integral part of labor-management relations in the private sector, has been generally prohibited in the public sector by statutes and court decisions. Strikes, where they have occurred, have been met by various responses ranging from "taking the strike" to seeking injunctive relief and penalties against strikers, strike-leaders and their unions.

The Assembly evoked varied views about strikes and their lesser companions—slowdowns and sickouts—but concern was general that government should not set either unrealistic or unfair prohibitions against its employees; nor countenance situations in which employees of government violate laws they were sworn to uphold.

Following lengthy discussions the Assembly recommended a limited right to strike after public unions have exhausted obligatory procedures. This was considered preferable to compulsory arbitration. The Assembly concluded that strikes which imperil the public health or safety should be restrained or limited by court injunction.

The Assembly does not support a total prohibition on strikes for several reasons: Such a ban gives rise to unequal treatment of public and private workers doing similar tasks. It relies on the mistaken view that every strike by governmental workers affects public health and safety. It does not recognize the realities of public employment labor relations in that a strike may often result in lost wages and no real discomfort for public employers whose revenues continue unimpaired. Therefore if all public workers are prohibited from striking, disrespect for law is encouraged and a feeling of lesser status is unnecessarily fostered. Finally, a ban on strikes does not guarantee there will be no strikes.

While the foregoing position on the limited right to strike is the view of the majority, there were a number of persons who support the view that all public employee strikes should be prohibited, and a number of persons who support the unlimited right to strike.

The resolution of strikes and other disputes would be assisted by the establishment by statute of a special board—impartial, independent. The board would be widely representative and have the power to reach into an arsenal of alternatives at times of its own choosing. These alternatives would include but not be limited to: further mediation, fact-finding with or without recommendations, a public hearing on the impasse or on a fact-finder's recommendations, advisory arbitration, cooling-off periods, or requests for injunctions or penalties. The board would act after an impasse became apparent or after a strike or other stoppage actually occurred to activate the procedure or combination of procedures best fitted to the particular deadlock.

In the event a group of public employees who provide an essential service is denied the right to strike by court order or statute, provision should be made for impartial final determination of all issues in dispute.

5. Labor relations and minority relations

As an increasing number of Americans obtain access to the rights inherent in a free society, there is a particular responsibility placed on public employers and public unions. Both unions and public employers have an affirmative obligation to effectuate a change in the racial composition of government's work forces so that the number of minority employees on all levels more adequately reflects the racial balance of residents in the governmental unit. Unions have an affirmative obligation to the full extent of their bargaining capabilities to press employers to hire or promote minorities and to eliminate artificial, non-job related barriers which impede minority employment. Employers have the same obligation to remove such barriers and to withdraw or deny recognition from a union which impedes affirmative action. The union has the further obligation to achieve a better representation for minority groups in the higher councils of union leadership. The obligations listed here in relation to race apply equally to sex.

None of this will be easy, but public employers and public unions as the beneficiaries of tax revenues derived from all the population have a particular responsibility to act on these matters. They may have to revise or overcome collective bargaining agreements if exclusive rights for unions block necessary changes in the work force. One effective technique may be to formulate joint study groups with membership going beyond the public employer and the public union representatives and bringing into deliberations concerned community groups. This procedure will help remove the suspicion that issues of important public policy are traded off at the bargaining table by labor and management without any opportunity for the public to be heard and its views considered.

The whole issue goes to the heart of democratic government. Failure to deal with it with courage and dispatch can invite the direst of consequences.

6. Funding of labor agreements

Local governments require a broader tax base in order to provide adequate support for local personnel services. The local property tax has been used and abused to meet all kinds of fiscal demands, and unless state governments recognize that other forms of municipal taxation must be authorized and adequate state support supplied for expensive municipal functions such as public schools, local governments will not be able to maintain a decent level of public services. In addition, increased federal aid to local governments may be necessary.

7. Labor relations and civil service

The extension of collective bargaining in the public sector is clearly modifying the civil service system. The Assembly believes that while the trend is both inevitable and desirable, the principle of merit as it relates to the recruitment and hiring of public employees should not be eliminated.

The Assembly further believes that comparability between public and private sector wages and fringe benefits is a desirable principle and more likely to be achieved through collective bargaining than through traditional civil service procedures.

8. Multi-employer and multi-union bargaining

The beginnings of such bargaining, by mutual consent of the parties, has much to commend it and we encourage further experimentation. The broadening of bargaining can help avoid the confusion of dealing with a multiplicity of bargaining units, can raise the level of expertise, and lower the costs of negotiation. It might also help discourage the practice of whipsawing. As the variations between neighboring jurisdictions are narrowed and as formula aid from the states becomes the bulwark of public educational systems, school districts stand out as a good place to launch further projects in multi-bargaining.

The history of labor-management relations in the private sector in America is loaded with pain and controversy as the price of progress and the recognition of union rights.

Public unions and collective bargaining are here to stay.

The price of progress need not be so dear in the public sector if all concerned recognise and respond to the urgent need for new attitudes, new legislation and new ways of working creatively together.

PARTICIPANTS: THE 40TH AMERICAN ASSEMBLY

Willoughby Abner, Director, National Center for Dispute Settlement, Washington.

Albert E. Abrahams, Assistant Director for Congressional and Public Affairs, Office of Economic Opportunity, Washington.

Arvid Anderson, Chairman, Office of Collective Bargaining, New York.

James R. Beaird, Professor of Law, University of Georgia.

David L. Benetar, Aranow, Brodsky, Bohlinger, Benetar, Einhorn & Dann, New York.

David Bernstein, Citizens Budget Commission, Inc., New York.

Tyree S. Broomfield, Conflict Management Specialist, Department of Police, Dayton.

Courtney C. Brown, Chairman, Editorial Board, *Journal of World Business*, New York.

R. Theodore Clark, Jr., Seyforth, Shaw, Fairweather & Geraldson, Chicago.

Charles E. Connelly, Harriman Scholar, Columbia University.

William J. Conner, County Executive, New Castle County, Wilmington, Delaware.

Jean J. Couturier, Executive Director, National Civil Service League, Washington.

Thomas B. Curtis, Vice President and General Counsel, Encyclopedia Britannica, Chicago.

Bernard Cushman, Attorney; spokesman for seven postal unions, Washington.

Carl F. Dodge, Senator, Churchill-Lyon, Legislature of Nevada.

Thomas R. Donahue, Vice President, Service Employees International Union, Washington.

Roscoe Drummond, *Los Angeles Times* Syndicate, Washington.

William J. Eaton, *Chicago Daily News*, Washington.

Richard L. Epstein, Harris, Beach and Wilcox, Rochester.

John N. Erlenborn, Representative from Illinois, Congress of the United States.

Clifford Evans, Director, Washington News Bureau, RKO General Broadcasting.

Millicent Fenwick, Assemblyman from Somerset, General Assembly of New Jersey.

William H. Fleece, Representative from St. Petersburg, Florida House of Representatives.

Gerald G. Fox, City Manager, Wichita Falls, Texas.

Eliot Frankel, Executive Producer, NBC News, New York.

Howard Gamser, Attorney at Law, Washington.

Victor Gotbaum, Executive Director, American Federation of State, County and Municipal Employees, Dist. No. 37, New York.

Steven Gottlieb, Harriman Scholar, Columbia University.

William B. Gould, Visiting Professor of Law, Harvard University.

William J. Grinker, Program Officer, Division of National Affairs, The Ford Foundation.

John J. Gunther, Executive Director, United States Conference of Mayors, Washington.

James A. Hayes, Assemblyman from Long Beach, California Legislature.

Robert D. Helsby, Chairman, New York State Public Employment Relations Board, Albany.

John Herling, *Herling's Labor Letter*, National Newspaper Syndicate, Washington.

Raymond D. Horton, Professor of Business, Columbia University.

Wayne Horvitz, Jefferson Associates, Washington.

James S. Jackson, *Beacon Journal*, Akron.

Ralph T. Jones, Instructor, Dept. of City and Regional Planning, Harvard University.

Charles C. Killingsworth, University Professor, Michigan State University.

Ida Klaus, Executive Director, Office of Staff Relations, New York City Board of Education.

Thomas H. Lane, Reed, Smith, Shaw & McClay, Harrisburg.

Jerome Lefkowitz, Director of Labor Seminar, School of Law, Columbia University.

Robert Levande, Harriman Scholar, Columbia University.

Frederick R. Livingston, Kaye, Scholer, Fierman, Hays, and Handler, New York.

Henry W. Maier, Mayor of Milwaukee.

Frank W. McCulloch, School of Law, University of Virginia.

Jean T. McKelvey, Professor of Industrial and Labor Relations, Cornell University.

Pauline H. Menes, Delegate from Prince Georges County, Maryland State Legislature.

Thomas J. Meskill, Governor of Connecticut.

Edward P. Morgan, American Broadcasting Company, Washington.

Stanley Mosk, Justice, Supreme Court of California, San Francisco.

William P. Murphy, Professor of Law, University of North Carolina.

Hugh M. Patterson, Baker & Botts, Houston.

Frank C. Porter, *The Washington Post*.

John Post, Vice President, Golightly & Co. International, Inc., Houston.

A. H. Raskin, Assistant Editor, Editorial Page, *The New York Times*.

William E. Rentfro, Professor of Law, University of Colorado.

Frederick P. Rose, President, Rose Associates, Inc., New York.

Frank W. Schiff, Vice President and Chief Economist, Committee for Economic Development, Washington.

Herbert Schmertz, Vice President, Mobil Oil Corporation, New York.

Thomas V. Seessel, Program Officer, Division of National Affairs, The Ford Foundation.

Thomas V. Seessel, Chairman, Wisconsin Employment Relations Commission, Madison.

Frank E. Smith, Director, Tennessee Valley Authority, Knoxville.

Gladys Noon Spellman, Councilman-at-Large, Prince George's County, Maryland.

David T. Stanley, Governmental Studies Program, The Brookings Institution, Washington.

Harry F. Stark, Director, Institute of Management and Labor Relations, Rutgers University.

William A. Steiger, Representative from Wisconsin, Congress of the United States.

Joel H. Sterns, Sterns & Greenberg, Trenton.

Robert L. Stutz, Chairman, Connecticut Board of Mediation and Arbitration.

Clyde W. Summers, Professor of Law, Yale University.

Mitchell Sviridoff, Vice President, The Ford Foundation.

Bennett H. Wall, Professor of History, Tulane University.

Caspar W. Weinberger, Deputy Director, Office of Management and Budget, Washington.

Arnold M. Zack, Arbitrator, Boston.

Sam Zagoria, Director, Labor-Management Relations Service, Washington.

COMMENDATION OF POSTMASTER GENERAL WINTON M. BLOUNT

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. HUNT. Mr. Speaker, within less than 3 years of his appointment as Post-

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master General, Winton M. Blount guided to completion the first major and now historic reorganization of the Post Office Department. As the chief architect of reform, Mr. Blount was selected to become the first Postmaster General of the new U.S. Postal Service, an independent agency of the executive branch of Government and mandated by the Congress to operate on a business-like, self-sustaining basis.

Despite Mr. Blount's persistent critics, who have also been critics of the Postal Service itself, I believe it is only fair to stress that the deficiencies that permeated the former Post Office Department organization for many, many years could not reasonably have been expected to be overcome in a matter of months. Nonetheless, significant progress has been made in laying the foundation for a modern and efficient postal system and, to those of us in Congress, I believe this progress is manifested in the very dramatic decline in the number and types of complaints received from our constituents.

Postmaster General Blount has announced his resignation from the U.S. Postal Service and I want to commend him for a job well done under very difficult and trying circumstances.

COL. HUBERT V. EVA: A MAN IN AND OF HISTORY

HON. JOHN A. BLATNIK

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. BLATNIK. Mr. Speaker, on October 28 of this year, a tragic auto accident in Duluth, Minn., took the life of 102-year-old Hubert V. Eva. He is believed to be the last white survivor of the Nation's last Indian battle, the Battle of International Falls.

Col. Eva has been a resident of Duluth for 86 years. He was an esteemed friend of mine for many years, and beloved leader and inspiration to his community.

The colonel's life, so richly intertwined with the history of our growing Nation from the Spanish-American War through our emergence as a mature power on the world scene, must not pass unmarked by this distinguished body.

Hubert was born in Penzance, Cornwall, England, in 1869. He and his family came to Duluth when he was a boy of 16, where he made his permanent residence.

He early prospered in the mercantile business, then joined his older brother as partner in his medicinal enterprise.

He enlisted in the Minnesota National Guard soon after it was formed, and had attained the rank of captain by the time of the Spanish-American War, in which he immediately enlisted.

From the end of that war until 1917, Col. Eva remained in uniform, leading his troops against Indians in Minnesota and along the Canadian border.

From 1916 to 1917 he was assigned to the Rio Grande River, protecting American settlers from the incursions of Pancho Villa and his Mexican troops.

During World War I he made a new record for himself training troops for overseas duty.

With the coming of peace, the colonel returned to Duluth, and opened Eva Motor Co., where Duluthians could purchase the prestigious Pierce Arrow Car.

The same year the Governor of Minnesota appointed him deputy State motor vehicle registrar for Duluth, a position he held until 1954, when he retired at the age of 85.

The colonel also joined with several other Duluth business executives in convincing President Taft of the necessity of a National Chamber of Commerce. He was summoned to Washington to lay the groundwork for this organization, of which he is a charter member.

Col. Hubert V. Eva's life spans more than a century. He has seen our part of the world grow from wilderness to a vital part of our Nation's economic strength.

He has participated in America's growth to leader on the world stage.

In peace, and in war, he was actively engaged in the progress of our area, and our Nation.

Mr. Speaker, our grandchildren watch the re-enactment of the Indian wars and the battles of the Rio Grande by the dim light of the television tube. Col. Eva knew these scenes first hand. He heard the war-whoops, smelled the powder, and never flinched from personal danger.

In peace he served his country as ably, and, as a member of many local and national service organizations, left his mark upon the lives of generations of Duluthians, whom he has inspired, and upon the entire community he served so well.

I am proud to have known Col. Eva, and to have shared his stirring life with you.

He is a man to be remembered, and thanked, by all Americans.

AMERICAN LEGION RESOLUTIONS

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. MAHON. Mr. Speaker, at the October 3, 1971, Convention of the American Legion for the 19th Texas District, the district which I have the honor to represent in Congress, certain resolutions with respect to the U.S. Government were adopted.

A delegate to the convention, Bill R. Neel of Lubbock, Tex., has requested I make known to the President and Congress the contents of the resolutions, such resolutions having been certified to by District Commander H. D. Boston. I present a brief summary of the views expressed by the delegates to the convention.

The resolutions take note of recent congressional action designed to free the United States of dependence on Russia for a large part of our chrome supply by endorsing the importation of chrome from Rhodesia, which is now banned as a result of our adherence to United Nations actions. I feel the Legion is on sound ground and I have advised the Legion as a matter of national security I support abandonment of U.S. dependence on Russia for chrome and importation by the United States of chrome from Rhodesia. The House is scheduled to consider this issue in connection with final action on the defense procurement authorization bill.

Another resolution approved by the convention condemns the President's proposed trip to Red China and opposes the acceptance of Red China for membership in the United Nations. The resolution strongly advocates the retention of Nationalist China in the United Nations, a position which is widely supported in Congress, and which I support. It also points out the dangers inherent in U.S. support of a heavy-duty truck factory in the U.S.S.R. and U.S. aid to Chile.

NADER REPORT ON CALIFORNIA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. BOB WILSON. Mr. Speaker, recently I inserted in the RECORD an editorial from the San Diego Union regarding Ralph Nader's report on California. I ask unanimous consent to include the following article from the San Diego Evening Tribune and know my House colleagues will find it of interest:

FACT TARNISHED BY SPECULATION IN NADER REPORT ON CALIFORNIA

The scatter-gun charges contained in a Ralph Nader report on land use in California inevitably drew blood in some sensitive government areas.

And many of the conclusions stressed in the 1200-page study confirm deficiencies already recognized by critics of land development practices.

Legitimate questions have been raised, too, as to the influence of land speculators in manipulating government decisions through granting or withholding campaign contributions.

The report—as does any serious study dealing with the myriad problems of California's burgeoning population growth—demands the attention of responsible government officials and a concerned public.

But it is unfortunate that the 500,000 words of testimony must be sifted painstakingly to separate fact from rumor—to search out the truths in the pages of speculation.

Observers close to the inner workings of the California political machinery and from both sides of the ideological gap agree that the Nader offering is tarnished by inaccuracy, exaggeration, unfair charges and lack of documentation.

Former Assembly Speaker Jess Unruh, Gov. Reagan's Democratic foe in the 1970 election, says the report may be "about 80 percent accurate . . . a better batting average than most reports get."

And former Gov. Edmund G. (Pat) Brown, also a Democrat, was critical of the investigative tactics. He wondered reasonably why he was never contacted by the Nader group which condemned the State Water Project, one of Brown's pet projects.

The administrator of the Metropolitan Water District of Southern California, another target of Nader criticism, was even less charitable.

"The . . . report," said Henry J. Mills, "can only be termed a highly irresponsible and slap-dash compilation of inaccuracies, untruths, malicious rumors, unsupported charges, distortions and . . . generalities."

And even supporters of Nader in his role of "consumer advocate," in which he has attacked automakers, other industrial giants and the Federal Trade Commission, fear that the California report may give credence to charges that the zeal of his investigators is directed to support of preconceived conclusions.

Even so, the grim picture of California's land tangle as painted by Nader must be examined thoroughly and publicly. An investigation of possible conflict of interest in the office of the San Diego County assessor has been undertaken as a direct response to Nader charges. Other probes are the only responsible answer to the allegations that stud the report.

But before the State Water Project is scuttled as a "special interest boondoggle" and before Gov. Reagan rushes pell mell into implementation of other wide-ranging Nader recommendations, the people of California would be interested in some other undisclosed information.

Who commissioned the report on California's government and business frailties? Who paid for it? And what qualifications did the 25 researchers bring to their task other than a shared disenchantment with government and industry?

VANTAGE POINT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. PICKLE. Mr. Speaker, this Sunday marks what might be called the inaugural of President Johnson's book on his experience in the Presidency.

Sunday, November 7, at the Presidential Library in Austin, Tex., our former President will come to greet all who wish to meet him and to autograph copies of the new book.

As far as I know this is to be the only time and place across the Nation that autographed copies will be available. Many will go there in person to greet our former President, but copies can be ordered by mail as well as by writing to the library.

Meanwhile, James MacGregor Burns, gives us a valuable insight into the temper of this historically important work. Wisely, President Johnson did not try to give us a definitive work of all the events of his 5 years of his Presidency. Instead he gave to us and to future generations the invaluable insight of what things look like from the unique and burden-ridden chair of the Presidency.

Mr. Burns gives us a good insight into some of the results of that vantage point:

THE PRESIDENCY AS L.B.J. SAW IT

(Reviewed by James MacGregor Burns)

This is Lyndon Johnson's book. He makes no pretense to objectivity—this is the presidency as *he* saw it during the turbulent Sixties. It is the memoir one hoped he would write—candid, intensely personal, sometimes passionate. While he seems to hold himself on a short tether, with praise for many and blame for few, both the exultation and the bitterness break to the surface as he portrays the triumphs and frustrations of his five years in the White House.

As a personal document it is also a tribute to Lady Bird, who on this showing (and others) emerges as the most effective and important First Lady in this century, save for Eleanor Roosevelt. Anyone who doubts her influence on her husband need only consult, on page 93, the remarkable memorandum she gave him in May, 1964, on the question of whether he should run for a full term. Her conclusion: "Stay in." She warned him that the going would be rough, that he must pace himself, that after another term he would still be only a "mellow 60," and if he lost in November "it's all settled anyway"—and pretty soon they would have grandchildren.

Doubtless Johnson would have run in any event since he was absolutely committed to a big domestic program. Perhaps the most eloquent two pages in the book are not in the words of Lyndon Johnson but a list, in the front end pages, of the "landmark" legislative achievements of his presidency. "I remember all 207 of those laws," the former President now writes, "and the work and the worry that went into them . . . They were the tools with which we cleared up the old agenda and began work on the agenda of the future . . ."

If these constituted the triumph of his administration, Vietnam certainly was the tragedy. Johnson does not slight this part of the story; it runs like a dark skein all through the book. He describes day by day, sometimes hour by hour, the stupendous pressures that mounted on him as the nation became more and more fixed in the quagmire. Much of this he reports with an air of incredulity and of indignation—incredulity that Hanoi could continue to reject his peace offers with such implacable hostility (in an appendix he lists 72 peace initiatives that he accuses Hanoi of rejecting), and indignation that American doves could follow a "double standard" in assessing American and Communist behavior. That double standard, the former President argues, decisively impaired the possibility of real negotiation and thus lengthened the war.

Like other controversial Presidents, Lyndon Johnson says that he is willing to await the verdict of history. How will historians of the future rate this leader? They will, I think, puzzle over the difference in the strategy of Johnson the domestic reformer and Johnson the foreign and defense policy maker.

The first Johnson was the brilliant legislative leader fighting at the head of his troops. "A President cannot ask the Congress to take a risk he will not take himself," Johnson says in his book. "He must be the combat general in the front lines, constantly exposing his flanks." He gave the fight for his domestic program everything he had, he says, in prestige and power. On the civil rights bill especially he decided to "shove in all my stack," despite the advice of some of his advisers and staff members. During the middle years of his presidency he found that to exert leadership did not mean using up the resources of leadership; on the contrary, he went on from victory to victory, shoving in all his stack each time.

The basis of this success lay in the majority that Johnson planned to mobilise in 1964 and in the power that was his after the majority had been mobilised and a decisive victory scored over Barry Goldwater.

While the President courted and played with politicians all across the political spectrum, and while he paid obeisance to "bipartisan politics," in fact he depended on a broad coalition of liberals and laborites bunched toward the left end of the continuum. Like Jefferson and other strong Presidents, he was essentially a partisan, appealing to a huge constituency of the poor, labor, Negroes, and others who needed his leadership and his help.

The second Johnson was the bipartisan mobiliser of consensus. One of the troubles with the politics of consensus is that the idea is not very clear. Does it mean trying to represent all the people, or both parties, or all the major groups, or the combined congressional and executive leadership in Washington? Does it mean one cannot act without clearing policy with all the major leaders, in both parties? Or is it essentially symbolic, a kind of rallying cry for patriots or a comfortable banner for those who hate the divisiveness of democratic politics? Johnson feels that his approach to consensus was misunderstood. It was not, he said, a search for the lowest common denominator, for that almost invariably would lead to inaction. Rather consensus meant deciding what needed to be done, "regardless of political implications," and then convincing a majority of Congress and the American people of the necessity for doing what needed to be done.

Now that is a definition of leadership, not consensus. In fact the President followed that policy in domestic policy-making, but not in foreign, especially in Vietnam. As foreign policy maker he made a fetish of clearing decisions with Everett Dirksen and a wide range of congressional leadership. In his Vietnam policy particularly he followed a kind of lowest common denominator. He pursued a middle way between doves and hawks, between those demanding escalation and those endlessly calling for bombing halts and negotiations. The middle way failed to work against the set strategy of Hanoi. And most ironic of all, the consensus strategy of this President who wanted to represent all the people left the nation more divided than it had been since the days of Bryan or perhaps even Lincoln.

One trouble with the strategy of bipartisan consensus is that it can inhibit policy rather than widen options. The most poignant aspect of this book is its portrait of a desperate, well-meaning man trying every tactical method, every channel of communication, every kind of minor concession, to win Hanoi's agreement to some kind of negotiations. The President never seemed to recognise that it was just as impossible for the North Vietnamese to give up the struggle in South Vietnam as it was for the Americans to quit the struggle and go home. Hanoi had a public opinion problem too; after countless years of battle and bloodshed the Communists could not give up their effort to take over South Vietnam through invasion or subversion.

Johnson perceived quite rightly that any kind of coalition government that Hanoi would accept was bound to deliver the South Vietnamese into its hands sooner or later. But the President did not seem to feel that he had the latitude to try in his Indo-China policy the kinds of imaginative and daring alternatives that he had employed so successfully on the domestic front. Some observers, for example, had been urging for years that the United States foster a repartition of South Vietnam, yielding the Communists northern, upland and inland sectors, so that Hanoi might conclude that it could give up the struggle and still claim victory. There is no indication in this volume that the President tried this or other possible alternatives. Rather he was stuck with the policies of repeated bombing pauses, efforts to get negotiations started, and other tactical ploys that—we know now, and many knew at the time—never had a chance of succeeding.

It is largely because of Vietnam, I think, that the President concludes his book with the query as to whether he got too far out ahead of his troops, tried to move too far and too fast, gave the American people insufficient breathing spells. He even comes out for a six-year, nonrepeatable term for Presidents, as though he had concluded that a President of all the people could do best if he did not have to win the endorsement of a majority of the people. He believes that he would have won re-election if he had stood again in 1968—but concedes that he would have lacked the kind of broad support necessary to an effective presidency.

One thinks of Harry Truman, who did not let his minority status and powerful enemies stop him from undertaking audacious aid programs abroad and civil rights efforts at home. Perhaps the chief lesson of Lyndon

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Johnson's book for Democrats in the 1970s is that the next Democratic President should take a partisan stance in both his domestic and foreign policies. Bipartisanship is essentially another form of gradualism and easily leads to paralysis of politics and policy. The tactics of consensus may sometimes help gain support for policies, but it should not be followed as an end in itself.

Still, there is much more in this book than the agony of Vietnam and the dilemmas of democratic politics. A picture emerges of a dedicated, compassionate and committed President—a portrait that I think will long survive the distortions of the last decade. Two of the author's observations will stick in my mind for a long time. One is his conclusion that "Politics goes beyond the art of the possible. It is the art of making possible what seems impossible." In domestic affairs and in many foreign accomplishments the President embodied that notion. The second is his reflection, on returning home for good to his beloved hill country, that he could hardly believe that he had shared the power and splendor of the presidency. "But on this night I knew I had been there. And I knew also that I had given it everything that was in me." And he had.

KENTUCKY REVENUE CHIEF SPEAKS ON TAXES

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. PERKINS. Mr. Speaker, under leave granted, I insert in the RECORD a letter and attachment I have received from the Honorable James E. Luckett.

Mr. Luckett is one of the ablest and most distinguished public officials in the history of our Commonwealth of Kentucky. He currently serves as our State Commissioner of Revenue, a post he has occupied throughout several administrations, Democratic as well as Republican. He is a highly respected, dedicated man, and we are proud of him.

The material follows:

COMMONWEALTH OF KENTUCKY,
Frankfort, Ky., October 12, 1971.

Hon. CARL D. PERKINS,
U.S. Representative,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN PERKINS: Mr. Ralph Nader, in testimony recently before the Senate Select Committee on Equal Educational Opportunity, reportedly cited Kentucky as an example of bad property tax administration.

The Courier-Journal reported the Nader story October 1, 1971 and my reply on October 7, 1971, xerox copies of which are enclosed.

The Department of Revenue, which supervises the county valuation of property, is totally committed to sound tax administration and welcomes an opportunity to set the record straight. In fact, insofar as valuation practice is concerned, the U.S. Census reported Kentucky having the highest average assessment level of any state for 1966, and we think their current survey (for 1971) when completed will show a similar ranking. Moreover, the U.S. Advisory Commission on Intergovernmental Relations has reported that Kentucky is one of the few states that has made notable improvement toward uniformity and equity in the valuation of property for taxation.

I know of no more objective sources on the subject than the U.S. Census of Governments and the U.S. Advisory Commission on Intergovernmental Relations. If you desire more information, or if you have any questions about Kentucky property tax valuation policies and practice, I shall be glad to answer them.

Sincerely,

J. E. LUCKETT,
Commissioner of Revenue.

[From the Courier-Journal, Louisville (Ky.) Oct. 7, 1971]

KENTUCKY REVENUE CHIEF REBUTS NADER ON TAXES

(By Don Walker)

FRANKFORT, KY.—State Revenue Commissioner James Luckett yesterday issued a point-by-point rebuttal of consumer crusader Ralph Nader's charges before Congress that some coal and commercial properties in four Eastern Kentucky counties get off easy when property taxes are assessed.

Also using a version of "Candid Camera," Luckett relied on aerial-photo maps which, he said, back up the integrity of acreage listings on the tax rolls.

The four counties named by Nader are Pike, Knott, Bell and Harlan. Luckett said the aerial photos have proved "amasingly accurate" in 65 Kentucky counties in which the mapping program has been completed.

In an interview this week, the commissioner zoomed in on Pike County and said a photo map indicates that the county apparently was "overlisted" rather than severely aborted in property listings as Nader had charged.

Nader told a Senate committee in Washington last week that local property tax assessors throughout the nation often underassess property of commercial and coal interests and sometimes fail to put it on the tax rolls at all.

An aide to Nader later acknowledged that specific charges about Kentucky counties were based not on personal investigation but on published reports, particularly a National Education Association (NEA) commission's report in May.

The NEA commission held education hearings in Kentucky earlier this year.

Luckett asserted that Nader's criticism is "just plain without foundation . . . It's unfair to make (such) statements without some personal verification of what the facts are."

Claiming that property assessment in Kentucky is "of exceptionally high quality compared with (assessments in) any state," Luckett fired his verbal barrage against Nader in an attempt to refute, point by point, examples Nader used to bolster his criticism.

Nader said that in 1967, 40 to 60 per cent of Pike County's land was either underassessed or not listed on tax rolls.

In fact, declared Luckett, "there may have been an overlisting." Aerial photos of Pike County in 1969 revealed there was slightly less nonurban acreage in the county than was on the 1966 rolls. The photo map found 413,344 acres compared with 494,368 acres that had been estimated to exist by the county property valuation administrator, Luckett noted.

Nader said Elkhorn Coal Corp. had been paying county property taxes of less than 22 cents an acre on Knott County coal rights under development by National Steel Co. Nader claimed it was expected that 1,250,000 tons of coal a year would be mined from the holdings.

RIGHTS SHARED BY TWO FIRMS

Luckett and two of his staff members said the mineral rights actually are shared by Elkhorn and Consolidated Coal Co., and they estimated that the firms have been paying "closer to 40 cents an acre in property taxes."

The officials noted that Elkhorn owns approximately 15,000 acres of mineral rights in Knott County assessed at $582,534, and Consolidated owns 8,500 acres of mineral rights in Knott. Portions of these tracts make up a proposed mine which Consolidated is developing jointly with National.

Consolidated's property, including mineral rights and equipment at the uncompleted mine, was assessed at $2.5 million as of Jan. 1, continued Luckett.

Nader charged that the Tennessee Valley Authority (TVA) owns 8,800 acres of "extremely rich coal land" in Bell County and, since no taxes were paid by the former owner, TVA is paying none.

Luckett says TVA acquired the 8,800 acres after a former owner, who paid $5,000 for the mineral rights in the 1940s, defaulted on a contract to produce coal for TVA.

"The mine proved to be worthless under present day mining conditions because of a drainage problem," said Luckett.

TVA values what Nader called this "extremely rich coal land" at $8,153, he added. Under federal law, TVA makes in-lieu-of-tax payments equal to taxes previously paid by owners of land. Apparently, TVA could not make such payments legally if no taxes were paid previously, noted Luckett.

Nader charged that U.S. Coal and Coke, a subsidiary of U.S. Steel, in 1966 paid only $34,500 in property tax in Harlan County on two producing mines valued at $9.3 million.

Luckett said the $34,000 represented state and county taxes only, and that when school property taxes were added, the company paid $148,520 in property taxes in 1966. Since 1966, the company's assessment has been adjusted upward from $9.3 million to $10.4 million and it paid $175,659 in taxes this year, it was noted.

Mineral rights assessments, like other property valuations, are revised about every five years to reflect current market values, the officials said.

Pike County undeveloped coal rights, for example, were assessed on a range of $25 to $200 an acre. But it is proposed that the 1972 assessments be revised to reflect a current market value of $50 to $200 per acre, said Luckett.

DIFFICULTY IS ACKNOWLEDGED

The commissioner acknowledged that judging the value of unmined coal is "a more difficult assignment" than normal property valuation. Critics often fall into difficulty because they do not understand the variables that affect the value of untapped minerals, he maintained. These variables include the type of coal seams, location and accessibility, and whether—or to what degree—the seams can be mined, the commissioner noted.

Zone maps have been drawn of 12 Eastern Kentucky counties showing the value ranges of undeveloped coal rights according to the variables involved, said Luckett.

These zone maps—not aerial photos—are prepared by state Revenue Department geologists with advice from local property value administrators and, sometimes, with help from other knowledgeable persons, Luckett said. These maps, which are revised periodically, serve as the official assessment guides for coal rights, he said.

Also, said the commissioner, owners of coal rights are required to pay a property tax premium when the coal is mined.

"Each year the number of acres mined in the preceding year is valued for current assessment and a comparable acreage is (newly) listed as 'developed coal' and valued at 10 times the undeveloped value," said Luckett.

MISLEADING COMPARISON

Under questioning, the commissioner conceded that raw figures might be interpreted as giving coal rights a relatively lighter assessment in comparison with farmland.

For example, the $25-to-$200-an-acre range on potentially rich coalfields in Pike County compares roughly with the tax values set on just poor-to-fair farmland in the state, and

the best farmland might be assessed at from $400 to $1,000 an acre, the commissioner acknowledged.

"But this is a totally misleading comparison without calling attention to the fact that literally millions of dollars must be spent to recover the coal—otherwise it has no value whatsoever," he said. "These expenditures must include not only mining but other facilities such as rail to open up the market," said Luckett.

Also coal valued at $25 or more an acre may lie for 50 years and never be touched, but the taxes at the assessed value continue, he said.

AERIAL-PHOTO MAPPING CONTINUES

Luckett said the aerial-photo mapping of the state continues at a slow but steady pace. In addition to the 65 counties already mapped, six projects are in progress, another is under contract and 13 counties have requested aerial maps.

The state bears the full cost of the mapping—$250,000 was appropriated for the purpose this biennium—but county fiscal courts must request a map. And the county government must promise to use the map in its assessments.

Luckett said that the photographing, which includes pictures of principal buildings on all property, has uncovered major assessment shortages in only one county so far. This was in Marshall County in 1967, and a large number of new homes on Kentucky Lake were found to have escaped assessment, the commissioner said.

[From the Courier-Journal, Louisville (Ky.), Oct. 1, 1971]

KENTUCKY TAX ASSESSORS TOO LAX, NADER CHARGES

(By Leonard Pardue)

WASHINGTON.—Crusader Ralph Nader attacked the way state and local governments administer property taxes yesterday, and he cited Kentucky as a bad example.

Nader charged that at least $7 billion a year in property tax revenues nationwide aren't being collected by state and local governments because of tax administrative practices.

His chief criticism was that local property tax assessors frequently under assess the value of property owned by major industrial and commercial interests, and in some cases fail to put it on the tax rolls at all.

Under assessment "has literally starved the schools in Appalachia," Nader said in testimony before the Senate Select Committee on Equal Educational Opportunity. The committee's inquiry into the subject had led to an appraisal of finances as one cause of lack of equal opportunity. School systems are heavily dependent on property taxes for revenue.

Nader gave these Kentucky examples to bolster his argument:

In Pike County in 1967, 40 to 60 per cent of the county's land was either under assessed or not listed on assessment rolls, according to a fact-finding team appointed by the County School Board, Nader said. Yet that year the school system had a $113,000 deficit.

In Knott County, National Steel Co. is developing a mining complex including a tipple and preparation plant on 14,200 acres of coal land, and the operation is expected to produce 1,250,000 tons of coal a year. A railroad line is being built to serve the operation. Yet the owner of the land, Elkhorn Coal Corp., has been paying county property taxes of less than 22 cents an acre, Nader said. He did not cite the source of these figures.

In Bell County, the Tennessee Valley Authority acquired title to 8,800 acres of "extremely rich coal land" for which it was required to pay normal property taxes for the first three years of ownership. TVA got the land when a supplier defaulted a coal contract. But since the land hadn't ever been listed as appraised by the tax assessor, no taxes had been paid by the former owner and TVA is paying none, Nader said. He cited Whitesburg attorney Harry Caudill as his source.

In Harlan County, U.S. Coal and Coke, a subsidiary of U.S. Steel, in 1966 paid only $34,500 in property tax on two producing mines valued at $9.3 million, or about one-tenth what it would have paid in some other states, Nader said.

"Throughout Appalachia, the story is the same," he said. "The people are poor, the schools are poor, but the owners of coal land enjoy a property tax field day."

It was learned after the hearing from a Nader aide, James Rowe, that Nader had not conducted his own investigations of the specific Kentucky counties mentioned. Rowe said the sources of information for the Nader testimony were previous published reports and earlier testimony by others at hearings conducted in Kentucky by the National Education Association.

Nader also cited instances in Texas and Maine—where Rowe said Nader has conducted investigations—and in Indiana and Minnesota to support his view that there exists a national pattern of property-tax favoritism toward commercial and industrial interests.

Listing an Indiana example, Nader said that in Gary, Ind., where the schools face a $9 million deficit, U.S. Steel "has been stronger than Gary's property tax." State law allows industry to present their own assessments to the local tax assessor who is then supposed to check the figures. But U.S. Steel, Nader said, refuses to open its books to the assessor for such checks.

Nader said that local taxpayer groups in various parts of the country are more and more frequently organizing to seek property tax reforms, which he called "The No. 1 political issue at the local level for middle-class Americans."

Sen. Walter Mondale, D-Minn., the committee's chairman, agreed with Nader's charges of property-tax abuse. "I think that picture is almost beyond dispute," Mondale said.

In response to questions, Nader said he had no reform proposals beyond urging uniform application of the property tax by state and local governments. He also said the federal government might encourage this by insisting on fair property-tax practices as a condition of federal aid.

THE BEST GUN CONTROL LEGISLATION—GET THE CRIMINALS OFF THE STREET

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. RARICK. Mr. Speaker, conditions in Washington, D.C.—the showplace of Western democracy—have deteriorated to an alarming degree. Crime is running rampant. Police spokesmen admit that "thousands of people are robbed every year in Washington." Murder has reached an all-time high among the District residents. Two hundred and thirty-five people have met violent death in the District so far this year. At this rate, the Nation's capital may average a murder a day—especially considering the normally high rate of homicide associated with the holiday seasons.

Conditions have worsened to the point where many people for self-preservation are inclined to seek a return to summary justice—the law of the gun. Even the Chief Justice of the Supreme Court of the United States has taken to answering his door at night with gun in hand, not knowing what danger lurks in the shadows of the night.

We have even reached the point where a citizen is actually suing the Government to allow him to carry a gun in the District. This citizen charges in his suit that he "has good reason to fear injury to his person." The facts bear him out. This is a dangerous city to live in, work in, or visit.

Many of our colleagues have claimed that additional gun control legislation is the answer to this problem. A local radio station has carried editorials entitled "Get the Guns Off the Streets." This is certainly not the answer.

The District has a gun registration law. In fact, the suit by a Virginia resident brought against the city to allow him to carry a gun in the city was caused by the refusal of the Chief of Police to grant the request for a citizen to have the right to protect himself.

Regardless of any laws in existence or proposed, the criminals for the commission of their crimes continue to obtain whatever instruments they require—whether they be handguns, knives, ice picks, or some other item. Any additional restrictive gun laws can only be expected to force the law-abiding citizen to violate the law as he faces the choice of either obeying the law or defending himself and those entrusted to his care.

The answer to the crime wave currently sweeping this city and Nation is not additional gun control legislation. Rather, it is to move immediately to insure that our policemen are adequately trained, highly capable men who are allowed to do their job without unnecessary judicial restraint. We must set out to repeal those laws which protect the criminal at the expense of the law-abiding to the point where the very existence of society is threatened.

We should then move to see that the criminal, once apprehended, meets with swift and sure justice. Again, we must reexamine our laws and remove those impediments to justice that go to such lengths to protect the accused that justice is not served and the legal system of America is made the target of mockery and insult. Then, and only then, will the crime wave that threatens to destroy the fabric of our country be dealt with and stopped.

The answer to crime is to "Get the Criminal Off the Streets."

I insert related news articles in the RECORD at this point:

[From the Washington Daily News, Oct. 26, 1971]

JUSTICE AIDE RAPED ON HILL—SECOND INTENDED VICTIM FLEES NAKED INTO STREET

A 25-year-old Justice Department research analyst was raped in a Capitol Hill home early today but another woman about to be assaulted ran naked into the street forcing the attacker to run away, police said.

Police said the rape victim and her husband a lawyer, were visiting three other girl friends in their basement apartment.

TRASH

Police said that at 9:20 the hostess went outside to empty trash, but was met by a

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gunman who forced her back into the apartment.

Waving the gun around, the man robbed the five people of about $75 and then forced the husband and two of the girls into one bedroom where he tied them up with twine he found in the kitchen.

The gunman then forced the research analyst and another, a Prince Georges school teacher, into a second bedroom where he made them strip, police said.

ATTACK

The man raped the Justice Department worker, while threatening the second, police said.

He next grabbed the second girl but she yanked herself free and dashed out the front door, naked screaming for help.

Police said the gunman then ran out the back door and was gone by the time police arrived.

LOOKOUT

Police said they are looking for a Negro man in his 20s, 6-feet tall, 200 pounds, sporting a medium bush haircut and a black mustache and wearing a white and green striped shirt, blue jacket, tan Levi's and blue suede shoes.

GIRL RAPED ON GU HOSPITAL GROUNDS HERE

A 22-year-old information analyst who lives in upper Georgetown, was raped last night as she walked to her car at Georgetown University Hospital, police said.

It was the third rape on the Georgetown campus within the past month, police said.

They said the girl raped last night had been to the hospital clinic, and, as she walked to her car on the parking lot, a teenage boy grabbed her, threatened her with a knife and forced her to her car, where he raped her and took $22.

[From the Evening Star, Oct. 29, 1971]

DISTRICT OF COLUMBIA POLICE SEIZE SUSPECTS IN THREE RAPES

Police today arrested an 18-year-old and charged him with the Monday night rape of a Justice Department employee who was assaulted while visiting a Capitol Hill home.

The youth already was on probation after being charged with juvenile delinquency in two 1969 rape cases, police said.

Purcell Steven Cozzens of the 1200 block of Half Street SW was the third person charged with rape in 16 hours by police hunting suspects in recent cases here.

Earlier, a former D.C. policeman was arrested near Kennedy Stadium and charged with the rape of a 13-year-old girl moments before. An 18-year-old was arrested in connection with the rape of a 67-year-old woman in her Southeast home Monday.

Meanwhile, another woman was raped last night in Northwest Washington as she went shopping.

A squad of five detectives led by Sgt. James Waybright of the police sex squad, armed with shotguns and carrying a U.S. magistrate's arrest warrant, seized Cozzens at his home at 3:10 a.m., Deputy Police Chief Mahlon E. Pitts said.

The youth also is being questioned in connection with the death of a woman involving a sexual assault, police said. They would not identify the case.

Cozzens is on probation until February in connection with two rape cases in September, 1969, involving FBI employes, the police said. He has been charged with assault on a police officer in the past and spent at least nine months at Cedar Knoll, they said.

Pitts said the home of the tall, muscular 18-year-old had been under surveillance since issuance of the warrant about 3 p.m. yesterday. He said Cozzens slipped unseen into the house, however, and was in bed when police went to the door.

Police carried shotguns, Pitts said, because in one of Cozzens' prior arrests he was armed.

In the Capitol Hill case, the Justice Department employe was attacked at gunpoint while she and her husband, also a Justice employe, were visiting friends.

A woman who the couple was visiting was accosted by a gunman when she took some trash out the back door. The attacker forced her back inside, bound the husband and two other women, and forced the Justice employe and another woman to disrobe.

After the first woman was raped, the second fled nude out the front door and called for help. The gunman left by the back door, police said.

Earlier yesterday, police said, Reginald Edward David, 26, of the 400 block of 12th Street SE, was arrested as he hid in bushes near where a 13-year-old girl was raped in a parking lot north of Kennedy Stadium.

David was a foot patrolman in the 5th District from December 1966 to October 1970, who "involuntarily separated" from the force because of a disability "not incurred in the line of duty," police said.

The young victim told police she and two 14-year-old girls were walking across the foggy parking lot about 9:10 a.m. yesterday when a man got out of a car and began to chase them.

The youngest girl stopped to pick up some articles that fell out of her purse and was caught, she said. The man ripped off her skirt and underwear with a knife and then raped her, police said.

Afterward, police said, the girl flagged down one passing police car and her companions hailed another. The officers went to the parking lot, they said, and found a man, whom they identify as David, hiding in bushes nearby.

David, police said, is single and lists his occupation as unemployed laborer. He is being held in lieu of $10,000 bond in D.C. Jail pending a hearing Thursday.

Police also reported the arrest yesterday of an 18-year-old in connection with the rape of a 67-year-old woman in her Southeast home Monday.

George Gray Jr. of the 1600 block of W Street SE is being held on the charge on $5,000 bond in D.C. Jail, also pending a hearing Thursday.

Meanwhile, police report that last night, a 39-year-old Northwest Washington housewife was raped when she left her house to go to a market. Police said she was grabbed from behind, and forced into a vacant house, where she was raped and forced to commit sodomy.

[From the Evening Star, Nov. 3, 1971]

POLICE HUNT GIRLS' KILLER

(By Ronald Sarro and Lance Gay)

D.C. police today were seeking clues in the slaying of two young women whose badly decomposed bodies were found yesterday in an apartment in the Mount Pleasant section of Washington. They apparently had been strangled.

Residents in the building identified the women as Sherry Frahm and Sharon Tapp, both of Sydney, Australia. They said the women, each believed to be in her early 20s, were working their way around the world.

Lt. Joseph O'Brien of the homicide squad said last night, however, that neither has been positively identified.

Police said they still have found no motive for the slayings, which brought homicides in the District so far this year to 235, compared to 229 for all of 1970.

Deputy Police Chief Mahlon Pitts, chief of detectives, held over the day section of the homicide squad for several hours yesterday. Police today continued to comb the area for clues.

EMBASSY CHECKING

Officials at the Australian Embassy 10 blocks away from the slaying scene—busy with a six-day official visit by Australian Prime Minister William McMahon—were attempting today to confirm that the women were Australians.

Police said the bodies were found in the bedroom of a second-floor apartment at 2714 Quarry Road NW shortly after 1:30 p.m. Detectives said a special police officer who lives in the building noticed an odor coming from the apartment and asked the building's resident manager to open it with her passkey.

Both bodies were found on a bed. One of the women, dressed in a nightgown, had been gagged with a stocking. The other, wearing a housecoat, had her hands and legs bound with stockings and a stocking stuffed in her mouth.

Sources indicated both women had been strangled. O'Brien said, however, that a preliminary autopsy performed last night was inconclusive. He declined to say if there was any evidence that either woman had been sexually molested.

LAST SEEN THURSDAY

Neighbors said the women had been living in the sparsely furnished apartment for about three months and were last seen Thursday night.

Both were employed as counter girls at the McDonald's hamburger stand at 18th Street and Columbia Road NW. Other employes at the restaurant said last night the two had worked there for about a month and used the names Sherry Stephons and Sharon Forrest.

They speculated that the two women used pseudonyms because they did not have permits to work in this country.

When they did not show up for work last week, their employer thought they were no longer interested in working and considered them fired. McDonald's did not report their absence to police.

An Australian Embassy official said neighbors told police the women used "words that were quaint to Australia, New Zealand and, in some cases, Canada."

He confirmed that the two were not employed by the embassy and said "they are believed to be tourists who have lived here briefly."

"Identification is still very hazy," he said, adding police have said they found no visas or passports in the apartment.

Neighbors in the three-story brick apartment building described the women as "inseparable," and said they frequently were seen walking in the Mount Pleasant area.

The building is located on a narrow street in a racially mixed neighborhood on the fringes of the District's Spanish-speaking area. The apartment where the bodies were found had a Ronald McDonald clown pasted on the front door.

It is located at the rear of the building near a fire exit leading to a back alley and neighbors noted that persons could enter and leave the building by this exit without being seen.

The mailbox in the entrance-way to the apartment bore a freshly handwritten tag with the names Sherry Frahn and Sharon Tapp on it. There were some unclaimed letters inside the box.

Police were seen leaving the building with four plastic bags containing letters.

[From the Manchester Union Leader. July 24, 1971]

CHIEF JUSTICE AT BAY

When the Chief Justice of the United States feels so insecure in Washington, D.C., that he greets reporters who call at his door in the evening with a loaded gun in his hand, this tells us more about conditions in our nation's capital than 10,000 words on the subject. It is certainly ironical that it is previous decisions of the same Supreme Court over which Chief Justice Burger now presides that are in large part responsible for the increase of crime in this nation.

At the top of our back page today we reprint a column from the Hampton Union

entitled "The Big Wheels." This column gives not only an account of Chief Burger's gun toting but describes also two terrible events which recently happened, one of them, incidentally, while this writer was in Washington.

The rape and murder of the young woman took place NOT in some slum area of Washington, but instead in the parking lot of one of the best eating places in Washington. The murder of the naval officer and his son took place on a much traveled and well known public highway.

Sentimental judges and juries who have more sympathy for the wrong-doer than the victim, and the philosophy that it is not the criminal but society which is in the wrong, all have contributed to the freedom from fear which criminals in the United States now feel and this, of course, has led to increased crime.

This newspaper repeats, when the Chief Justice of the United States feels so unsafe in his own home that he has to come to the door with a gun in his hands, it is time for a change—and a mighty big change.

WILLIAM LOEB,
Publisher.

[From the Manchester Union Leader, July 24, 1971]

COLUMNIST WRITES ABOUT LIFE IN THE NATION'S CAPITAL: RAPE, MURDER, AND THE ARMED CHIEF JUSTICE

(By A. Spokesman)

Hogate's is one of the famous restaurants in Washington. It is on Maine Avenue which runs along the Potomac River just a few blocks from the White House and the Capitol.

On a recent evening a couple married only two years and in their 20s finished dinner and left the restaurant for its parking lot to ride home in their car.

Only a few paces from the door they were accosted by two men, one of whom put a gun to the couple. The young man and his wife were forced into their auto and forced to drive a short distance to an alley. There the young wife was brutally raped repeatedly, and murdered. The young husband had been bound and forced to witness this heinous crime.

A few evenings later a Naval Commander took his wife and children to see the fireworks on the Washington Monument grounds. Enroute home in their station wagon, the Commander was needlessly harassed by a tail-gating vehicle carrying several persons, including one female. As the Commander's wagon approached a traffic light the other vehicle sped around it and drew up sharply in front of it. The Commander got out of his car to protest the actions of these devils and was immediately pounced upon. His 16-year-old son ran to the rescue whereupon one of the hoodlums drew a pistol and killed the Commander and his boy in cold blood.

On another recent evening two newspaper reporters knocked at the door of one Warren Burger, Chief Justice of the Supreme Court of the United States of America. The Chief Justice opened the door cautiously with pistol in hand not knowing what might be lurking on his steps. As awful as are the foregoing facts, they related the times as they are in the city which is the home of our federal government.

You can't tell us such a condition is necessary if the people who run that government—all of them—were all doing their job. And if the leaders of government were truly marshalling the decent citizens of the land to do away with permissiveness and tolerance of wrong and lenience of punishment.

Samuel Leibowitz was a tough New York judge for some 30 years. He protected the innocent but meted out severe punishment to the scum guilty of crimes against public safety and public order.

The other night retired Judge Leibowitz was on the Dave Susskind show. He called for a return to respect for parents, and to fear of God, and to effective punishment of the guilty.

It's to bad New York can't return the Judge to the bench. It's to bad the City of Washington and the 50 states don't have many judges like Leibowitz.

[From Washington Post, Oct. 31, 1971]

VIRGINIA MAN SAYS LIFE IN DANGER SUES TO CARRY GUN IN DISTRICT OF COLUMBIA

A government employee from Arlington has filed suit in Superior Court to force Metropolitan Police Chief Jerry V. Wilson to let him carry a gun in Washington.

Thomas G. Moore, a GS-14 transportation analyst for the Civil Aeronautics Board, charges in the suit that he "has good reason to fear injury to his person."

He states that he was robbed and shot last February in a parking lot near the Universal Building, Connecticut and Florida Avenues NW, where his office is located, and that he is afraid assailants may harm him again.

According to court and police sources, the suit is believed to be the first in the city in which a citizen has gone to court seeking permission to carry a gun under similar circumstances.

INJUNCTION SOUGHT

Moore, who lives at 1509 S. Columbus St., Arlington, asks for an injunction to force Wilson to grant him a license to carry a pistol in Washington. He says he has been authorized to carry a pistol in Virginia.

Police said yesterday that only about "half-a-dozen" citizens have been granted permission to carry pistols in the District.

They said these individuals had demonstrated beyond doubt that "their lives were in jeopardy."

Although police did not comment specifically on why Moore's application was rejected, one spokesman said, "Thousands of people are robbed every year in Washington. We can't have them all carrying guns."

Under long-standing police custom, the police chief personally reviews all applications for gun permits. No permits are needed to keep guns in homes or businesses, police said.

In his suit Moore says he was shot in the hand during the robbery last Feb. 24 and hospitalized.

IDENTIFIED ASSAILANT

"Following his return to work he saw and identified one of the assailants and caused said person to be arrested and charged," the suit alleges.

"Following said arrest, threats have been made against the life of the petitioner (Moore). Presently, two of the assailants are free on bond pending trial.

"The threats, the fact that the assailants were apprehended by (Moore) and the vicious nature of the attack gave him good reason to fear injury to his person."

Moore, the father of four children and a Marine Corps veteran, maintains he is "of good moral character and a suitable person to be licensed to carry a pistol." He claims Wilson "erred" in denying the application made last March 26.

[From the Manchester Union Leader, Nov. 2, 1971]

FACTS REFUTE PROPOSAL FOR ADDITIONAL FEDERAL RESTRICTIONS ON ACQUISITION: LAW-ARMING U.S. CITIZENS NEED HANDGUNS

(By Woodson D. Scott)

In a recent editorial on this station a federal bill was proposed which would place additional restrictions on the acquisition of handguns. This concept of gun controls has no foundation in fact.

There is no credible evidence that restrictions on handguns assist in the prevention or detection of crime. The law-abiding citizens of this country need handguns for security, protection of person and property, hunting, target shooting, and recreation.

The law-abiding citizen does not need to be told what amount of money he can spend for handguns, or that he cannot buy them at any price. Legislation of this kind would be a first step in the prohibition of all firearms.

Regardless of any laws in existence or proposed, the criminals continue to obtain whatever instruments they require for the commission of crimes, whether they be handguns, knives, ice picks, or some other items. The restrictions proposed would affect only the citizens who comply with them.

The criminals do not comply with the laws and consequently are unaffected by restrictive gun laws. The manifest purpose of this proposal is to disarm law-abiding citizens which would make all crime easier for the criminals.

Additional handgun curbs are unnecessary and undesirable. The lawmakers of this nation should give their attention to causes of crime and rehabilitation of criminals rather than waste energy on additional proposals of no assistance in the prevention or detection of crime.

BEWARE OF LADIES BEARING GIFTS

HON. CORNELIUS E. GALLAGHER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. GALLAGHER. Mr. Speaker, when the Special Subcommittee on Invasion of Privacy, which I had the privilege to chair for 7 years, initiated congressional consideration of the credit reporting industry, we discovered a truly incredible situation. One-hundred and fifty Americans had their dossiers in the system, opportunities for credit, insurance, and employment were denied by error, negligence or inadequate information, and no Federal agency or law controlled the operations of the industry. Now, fortunately, the situation has improved by the passage of the Fair Credit Reporting Act and while there are still improvements that can be made in that law, at least a strong beginning has been made.

Subsequent to our formal hearings in March and May of 1968, many additional facets of the credit reporting industry came to my attention. Perhaps one of the most dangerous was the habit of credit bureaus conducting a franchised organization known as Welcome Newcomer. Under the guise of distributing free gifts to new residents and familiarising them with local services, the hostesses were, in reality, gaining personal information for use in building credit ratings and determining recipients for junk mail. I first called attention to this problem in the late winter of 1969 and I urged action be taken.

Now, Mr. Speaker, the Federal Trade Commission has published a consent order against the District of Columbia Credit Bureau which prohibits any of the subterfuge we commented on in 1968. This formal action represents another area where the former Privacy Subcom-

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mittee took effective and pioneering action, and in my view, is another reason why the House of Representatives should establish my proposed Select Committee on Privacy, Human Values, and Democratic Institutions. Hopefully, this measure, which has passed the Committee on Rules, will be brought to the floor during November and I insert the Federal Trade Commission's press release, and consent order, and complaint at this point in the RECORD in the hope my colleagues will find additional reason to vote for the select committee:

FTC CONSENT ORDER AGAINST DISTRICT OF COLUMBIA CREDIT BUREAU BANS DECEPTION IN GATHERING DATA

The Federal Trade Commission today provisionally accepted a consent order prohibiting The Credit Bureau, Inc. of Washington, D.C., 222 Sixth St., N.W., Washington, D.C. from obtaining personal and financial information from new area residents through subterfuge and selling it without their knowledge.

Also named in the agreed-to order is Edward F. Garretson, manager of the firm's credit bureau business which includes the operation of a new resident information-reporting service under the franchised name Welcome Newcomer.

The complaint says Welcome Newcomer hostesses make visits to new residents purportedly to dispense free gifts, familiarize them with area businesses, and make application for charge accounts with local business firms.

Through these hostesses, the complaint charges, the firm has made false claims which have induced newcomers to disclose personal and financial information which they would not have revealed had they known it would be offered for sale.

For example, the complaint says, the hostesses misrepresent that the information will be available only to a limited number of persons. In reality, it is generally available to an unlimited number of persons. The firm places the information in its files for use in making credit reports throughout the United States. Furthermore, the personal information is compiled on lists which are available to anyone desiring to purchase this information.

A further allegation is that new residents are misled into believing that the personal data obtained will be used only as proof that the hostess has called or to make application for charge accounts.

Under terms of the consent order, the firm is required to clearly disclose the purpose for obtaining the information, how it will be used, and to whom it will be available.

The agreed-to order is for settlement purposes only and does not constitute an admission by respondents that they have violated the law.

The complaint and consent order will remain on the public record from November 1, 1971 through November 30, 1971. Comments from the public received during this period will become part of the public record. The FTC may withdraw its acceptance of the agreement after further consideration.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

(In the matter of the Credit Bureau, Inc., of Washington, D.C., a corporation, and Edward F. Garretson, individually and as manager of the Credit Bureau, Inc., of Washington, D.C.)

The agreement herein, by and between The Credit Bureau, Inc. of Washington, D.C., a corporation, by its duly authorized officer, and Edward F. Garretson, individually, and as manager of said corporation, proposed respondents in a proceeding the Federal Trade Commission intends to initiate, and their attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedure. In accordance therewith the parties hereby agree that:

1. Proposed respondent The Credit Bureau, Inc. of Washington, D.C. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia with its office located at 1600 Peachtree Street, Northwest, in the City of Atlanta, State of Georgia and principal place of business located at 222 Sixth Street, N.W., Washington, D.C.

Proposed respondent Edward F. Garretson is manager of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is 222 Sixth Street, N.W., Washington, D.C.

2. Proposed respondents have been served with a copy of the complaint the Commission intended to issue, together with a form of order the Commission believed warranted in the circumstances.

3. Proposed respondents admit all the jurisdictional facts set forth in the copy of the draft of complaint here attached.

4. Proposed respondents waive:

(a) any further procedural steps;

(b) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of thirty (30) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if, within thirty (30) days after the acceptance, comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the said copy of the draft of complaint here attached.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34(b) of the Commission's Rules, the Commission may, without further notice to proposed respondents (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and shall become final and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The complaint may be used in construing the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty of up to $5,000 for each violation of the order after it becomes final.

ORDER

It is ordered that respondents The Credit Bureau, Inc. of Washington, D.C. a corporation, and its officers, and Edward F. Garretson, individually, and as manager of The Credit Bureau, Inc. of Washington, D.C., and each of said respondents trading as Welcome Newcomer or under any other trade name or names, and respondents' agents, employees and representatives, directly or through any corporate, subsidiary, division or other device, in connection with the solicitation, compilation, use, sale or distribution of personal, financial or other information or debt collections or other service in "commerce" as defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that the personal and financial information obtained by the hostess making the visit for Welcome Newcomer will be used only as proof that the hostess has called upon the newcomer or to make application for charge accounts with firms which do business in the community; or misrepresenting in any manner, the purposes for obtaining any information from whatever source, or how or the manner in which the information is to be used or revealed to third parties.

2. Obtaining personal and financial information without clearly and conspicuously disclosing at the outset, in each introduction or presentation by hostesses or other representatives of respondents to newcomers that such information, in addition to being submitted in connection with any credit applications signed by the newcomer, will be available to specifically identified organizations which subscribe to the Welcome Newcomer service and may solicit the newcomer's patronage.

3. Disclosing any personal or financial information furnished by a newcomer for any purposes other than those described in paragraph 2 without clearly and conspicuously disclosing to the newcomer, prior to obtaining such information, the exact information which will be used, the particular use which will be made of such information, and the parties or entities to whom the information will be made available.

4. Using the trade name "Welcome Newcomer" or any other trade name of substantially similar import or meaning, either orally or in writing, in connection with the collection of personal or financial information for credit rating, debt collection or other purposes without clearly and conspicuously revealing in immediate connection therewith that the name identifies a credit bureau or a service or activity of a credit bureau.

It is further ordered that respondents shall deliver a copy of this Order to Cease and Desist to all present and future hostesses or other representatives engaged in securing personal and financial information from newcomers, and shall obtain a signed statement acknowledging receipt of said Order from each said agent, representative or person receiving a copy of said Order.

It is further ordered that respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any change in the corporation which may affect compliance obligations arising out of this Order.

It is further ordered that the respondents herein shall within sixty (60) days after service upon them of this Order file with the Commission a report in writing setting forth in detail the manner and form of their compliance with this Order.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the

authority vested in it by said Act, the Federal Trade Commission, having reason to believe that The Credit Bureau, Inc. of Washington, D.C., a corporation, and Edward F. Garretson, individually, and as manager of The Credit Bureau, Inc. of Washington, D.C., hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

Paragraph one: Respondent The Credit Bureau, Inc. of Washington, D.C. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office located at 1600 Peachtree Street, Northwest, Atlanta, Georgia, and its principal place of business located at 222 Sixth Street, N.W., Washington, D.C.

On or about October 28, 1970, said respondent, The Credit Bureau, Inc. of Washington, D.C., acquired The Credit Bureau, Inc., which was a corporation organized, existing and doing business under and by virtue of the laws of the District of Columbia, with its principal office and place of business located at 222 Sixth Street, N.W., Washington, D.C., and controlled and dominated its acts and practices until it was dissolved on or about November 18, 1970. The business operations of The Credit Bureau, Inc. were thereafter continued at 222 Sixth Street, N.W., Washington, D.C., by The Credit Bureau, Inc. of Washington, D.C.

Respondent Edward F Garretson is an individual and was an officer of The Credit Bureau, Inc, and is manager of its corporate successor, respondent The Credit Bureau, Inc of Washington, D.C. The said individual respondent formulated, directed and controlled the acts and practices of The Credit Bureau, Inc., including the acts and practices hereinafter set forth. He now is primarily responsible for formulating, directing and controlling the acts and practices of the corporate respondent, including those hereinafter set forth.

The aforementioned respondents cooperated and acted together in the carrying out of the acts and practices hereinafter set forth.

Paragraph two: Respondents are now, and for some time long past have been, among other things, engaged in the business operation of a credit reporting service, which business operation includes the gathering, dissemination and sale of personal and financial information from residents newly located in the Washington, D.C. Metropolitan Area. In the course and conduct of their business aforesaid, respondents use the trade name Welcome Newcomer. Individuals designated by respondents as Welcome Newcomer Hostesses make visits to new residents to the area, purportedly to dispense free gifts, familiarize them with area business, and make application for charge accounts with firms which do business in the community.

Paragraph three: In the course and conduct of their business, as aforesaid, respondents now cause, and for some time last past have caused, materials relating to newcomers to be delivered to newcomers who are located in Washington, D.C. and in various States of the United States, and information received from said newcomers to be transmitted from their place of business in Washington, D.C. to persons and businesses located in various other States of the United States and Washington, D.C.

Respondents, therefore, maintain, and at all times mentioned herein have maintained, a substantial course of trade in the aforesaid products and services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Paragraph four: In the course and conduct of their business, as aforesaid, and for the purpose of inducing newcomers to supply personal and financial information, respondents employ and engage persons (called hostesses) who call on the newcomers in their homes, and through their hostesses respondents have made, and are now making, to newcomers various statements and representations, directly or by implication, of which the following are typical and illustrative, but not all inclusive thereof:

1. The personal data obtained by the hostess will be used only as proof that the hostess has called upon the newcomer or to make application for charge accounts with firms which do business in the community.

2. The information will be available only to a limited number of persons.

Paragraph five: In truth and in fact:

1. The personal data obtained by the hostess is used for purposes in addition to proof that the hostess has called upon the newcomer or to make application for charge accounts with firms which do business in the community, which purpose is not disclosed to the newcomer.

2. The information is not available only to a limited number of persons, but is generally available to an unlimited number of persons. The information is relayed by the hostesses to respondents, who place the information in their files for use in making credit reports throughout the United States. Furthermore, the personal information is compiled on lists which are available to anyone desiring to purchase this information, which fact is not disclosed to the newcomer.

Therefore, the statements and representations as set forth in Paragraph Four hereof were, and are, false, misleading and deceptive.

Paragraph six: Furthermore, it was and is an unfair practice and a false, misleading and deceptive act and practice for respondents to induce persons new to the Washington, D.C. Metropolitan Area to provide them with personal and financial information which would not have been otherwise revealed by such persons had they been informed of the purpose for which the information was being sought. Respondents' subterfuge and failure to disclose the actual purpose for obtaining such information and failure to adequately disclose that the trade name Welcome Newcomer identifies a credit bureau or a service or activity of a credit bureau, constitute a scheme to obtain personal and financial information through deception and misrepresentation.

Therefore, the respondents' methods, as set forth herein, of obtaining personal and financial information were and are unfair acts and practices and were and are false, misleading and deceptive.

Paragraph seven: In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals gathering personal information of the same general kind and nature as that obtained and used by respondents.

Paragraph eight: The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices and the failure to disclose the true nature, purpose and use of the information obtained through said visits, has had, and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that said statements and representations were and are true, and into making contributions of personal and financial information to the respondents by reason of said erroneous and mistaken belief.

Paragraph nine: The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

Wherefore, the premises considered, the Federal Trade Commission on this ——— day of ———, AD 1971, issues its complaint against said respondents.

By the Commission.

CHARLES A. TOBIN,
Secretary.

AN OLD PRO WRITES OF AN OLD PRO

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. ROONEY of New York. Mr. Speaker, James L. Kilgallen, one of the true "pros" of the newspaper business, recently wrote in his syndicated column on some of the interesting people he has met in his many years as a topnotch reporter. One of the people he refers to is another "old pro," our good friend, the Honorable James A. Farley. Jim Farley I am sure needs no introduction here, but I would like to share the article with my colleagues. Under the permission heretofore unanimously granted me, I include the article by James A. Kilgallen at this point in the RECORD:

[From the San Antonio Light, Sept. 21, 1971]

THE PEOPLE WHO LEFT THE DEEPEST IMPRESSION

(By James L. Kilgallen)

From time to time, young people just starting in the newspaper business ask me whom I admired the most among the many top personalities I have met in the course of my work.

Now I have always striven for objectivity in covering the news. I have attempted, in fairness to the readers, to keep my personal likes, dislikes and opinions out of any story I have written.

However, from all the contacts I have had, certain individuals are bound to take on a special stature that exalts them above all the others.

So, on a purely personal basis not just for their accomplishments but on how they directly impressed me, I would nominate as my five "must admired" figures the following: Capt. Edward V. Rickenbacker, James A. Farley, Gen. Dwight D. Eisenhower, Bernard M. Baruch and Winston Churchill.

To the "honorable mention" rolls in this department I would assign Franklin D. Roosevelt, Alfred E. Smith, Gen. Douglas MacArthur, Herbert Hoover, Thomas E. Dewey, John L. Lewis, Francis Cardinal Spellman, Jack Dempsey and Konrad Adenauer.

And if I were permitted to select one newspaperman for my personal "Hall of Fame," I would unhesitatingly nominate William Randolph Hearst Sr. (1863–1951) for whom I worked for many years but, sadly, never met.

NOT ALONE

Hearst was a man of extraordinary ability who exerted a profound influence on American journalism. Under his direction, many men and women rose to individual fame in literature and art. Nor am I alone in this appraisal. Herbert Bayard Swope, for many years one of Joseph Pulitzer's top editors and, hence, a competitor, ranked Hearst above his own famed publisher as a journalistic giant.

Returning to my gallery of "most admired," I first met Capt. Rickenbacker when he was a racing driver at Indianapolis Speedway. During World War I, he went overseas as a sergeant-driver on Gen. Pershing's staff.

Then he transferred to our fledgling air

force became commander of the famous 94th "Hat in the Ring" fighter squadron and personally scored 26 victories over German flyers. He returned home with just about every valor decoration there was.

For a while, Capt. Eddie ran his own Rickenbacker Motor Co. and then became an executive with Eastern Air Lines. I recall an assignment I had with him when he was demonstrating successfully that it had become possible, on his airline, to "have breakfast in Los Angeles and dinner in New York."

During World War II, while on an inspection tour for the War Department, Rickenbacker's plane crashed in the Pacific. The war hero and his companions floated on a raft for days before rescue. They were saved from starvation when a seagull swooped down and perched on Rickenbacker's hat. The men ate the gull.

Now retired, Capt. Eddie lives in New York City, respected and honored by all who know him.

Jim Farley, who twice master-minded Franklin D. Roosevelt into the presidency, remains today the best liked and respected politican I have ever met. He reached his political pinnacle in the 1930s as Democratic national chairman and postmaster general. One of his charactistics is his loyalty to friends.

VISITS HIM

Farley stood by the late James J. Walker when the latter resigned under fire as mayor of New York in 1932 and went abroad. While most of Walker's friends deserted him, Farley went out of his way to visit Jimmy in Paris and when the ex-mayor returned to New York, Farley was the one prominent politician who went out to the ship to greet him.

Now 83, the six-foot, 2½-inch Farley is chairman of the board of Coca-Cola Export Corp. and has no intention of retiring. He walks to his office daily from his apartment in the Waldorf Towers.

Most of my contacts with Dwight D. Eisenhower were in the World War II days when he was supreme commander of the Allied forces and I was a correspondent for International News Service. There was no thought then that he would become the 34th president of the United States.

For a man in his high position in the war effort and his tremendous responsibilities, "Ike" certainly was one of the most genial and warm-hearted men I have ever known.

It appeared to me that he was just as popular with our British allies as he was among our own men and I believe his sincerity and persuasive leadership contributed greatly to the Allied unity which was instrumental in our winning the war.

Bernard Baruch, author of the "Baruch Plan" for control of atomic energy, was a millionaire financier by the age of 35 and was an unofficial adviser of U.S. presidents from Woodrow Wilson to Dwight Eisenhower.

But Baruch had a common touch as shown by his habit of sitting on park benches and chatting with anyone who came along and as illustrated by this little story he told me once in an interview:

One day as Baruch was alighting from a taxi near his office, another car drew up and the driver begin berating the cabbie in profane language.

The stranger leaped from his car and swung at Baruch. The financer stepped inside the swing and dropped the man with one punch. What the other fellow did not know was that Baruch was so good a boxer in his college days that heavyweight great Bob Fitzsimmons once advised Baruch to become a professional fighter.

I met Winston Churchill four times—first in Italy at a press conference the day after Rome was liberated in World War II, again in May, 1945 when he inspected Hitler's bunker in Berlin and twice on his post-war visits to this country.

What impressed me most about Churchill was the clarity of his mind and his artistry with the English language. He could explain a complicated problem concisely, with a minimum of words. And, of course, he was a man of strong character. As his friend, Bernard Baruch, once said of him:

"Adversity brought out the best in him. I never knew him to make an ignoble proposal. He was, indeed, a civilized man. And he belongs to all the world."

The joys and excitement of being a reporter do not spring entirely from associations with great men and great events, however. Sometimes a routine little assignment at the other end of the scale can open your eyes to the world and make you see what a wonderful and variegated place it is.

CUPRO-NICKEL EISENHOWER DOLLAR COINS NOW BEING DISTRIBUTED TO BANKS

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mrs. SULLIVAN. Mr. Speaker, the Federal Reserve System, which controls the distribution of all U.S. coins for general circulation, has begun distributing to banks throughout the country the new issue of cupro-nickel $1 coins authorized by Congress last year. They should be available to the general public without difficulty, and also, of course, without any fees or side payments, for $1 each.

These coins are made without any silver. A limited number of $1 coins containing 40-percent silver has been issued by the Bureau of the Mint on special orders as commemoratives, and cost $3 each in the uncirculated form and $10 each as proof coins. It is therefore hardly likely that any of the silver dollars will turn up in general circulation as $1 coins, unless they have been stolen.

But for those who wish to have and use the large silverless "cartwheels," the legislation we enacted provided for unlimited coinage of nonsilver $1 coins in the same size as the old silver dollars minted up to 1935.

COINS HONOR EISENHOWER AND THE APOLLO 11 MISSION

The new coins—both the silver ones and the nonsilver ones—bear the likeness of the late President Dwight D. Eisenhower on the obverse and, on the reverse, a design emblematic of the landing of the Apollo 11 mission on the moon.

The Eisenhower portrait on the $1 coins was specifically provided for by an amendment to the 1969 coinage bill offered in the Committee on Banking and Currency by the gentlewoman from New Jersey (Mrs. DWYER), after the Treasury Department, in answer to a question of mine, said the administration would like to so honor the late President and General of the Armies but, rather than make the decision administratively—as it legally could have done—preferred to have Congress make the designation. So this was a bipartisan effort to honor a great American, and was unanimously agreed to in the Banking and Currency Committee, and later by the House.

The design on the reverse side of the $1 coin commemorating man's first landing on the moon stemmed from a floor amendment offered by the gentleman from Texas (Mr. CASEY), which was further amended by an amendment of mine. The Casey-Sullivan amendment was then unanimously approved by the House, and was recommended by the House conferees in the final version of the coinage legislation in 1970.

The new coin will undoubtedly become a favorite pocketpiece, just as many of us used to carry one of the old silver dollars, and perhaps still do. Also, it should enjoy widespread use in the West, where the absence of silver dollars after 1964 became something of a political issue. I suspect we will also soon be seeing many vending machines taking the $1 coins and also the 50-cent coins honoring the late President John F. Kennedy which are also being produced now without silver content for general circulation. My only concern as a consumerist is that the higher value coins now available for general circulation do not contribute to making the old 5-cent candy bar into a 50-cent or $1 item in the vending machines.

FEDERAL RESERVE SYSTEM ANNOUNCEMENT ON DISTRIBUTION OF $1 COINS

Mr. Speaker, under unanimous consent I include as part of my remarks a release from the Federal Reserve System yesterday announcing the start of distribution of $1 coins for general circulation through the banking system, as follows:

Federal Reserve Banks and Branch Banks have begun supplying to banks across the nation some 62 million copper-nickel dollar coins commemorating the late President Dwight D. Eisenhower, and the first landing on the moon.

One side of the coin bears the image of the late President. On the other side is a reproduction of the emblem worn by the astronauts of Apollo 11: an eagle, against the moon's surface.

The dollar being distributed today for banks to put into the hands of the public was the first dollar coin for general circulation since 1935. A 40 per cent silver Eisenhower-moon landing dollar was made available in specially produced "proof" condition to the public—by mail order from the Mint—last July 1 at $10 per coin. At the same time, an "uncirculated", mass-produced, 40 per cent silver Eisenhower dollar of the same design was made available, also by mail order from the Mint, at $3 each. These coins are not expected to circulate. The coins now being sent to commercial and savings banks for use by the public are expected to circulate at face value.

Coins are manufactured by the Mint, and distributed to the nation's banks by the Federal Reserve System. The Federal Reserve estimates the cupronickel Eisenhower dollar will reach all banking institutions, via regular armoured car delivery routes and registered mail, not later than the end of this week. The Federal Reserve told Reserve Banks and Branches by wire on October 21 the Mint had advised that all Reserve Offices would have supplies of the new dollar coin by November 1 adequate for an equitable initial distribution. The wire suggested that all banking institutions be advised sufficiently in advance to place initial orders. It is these orders that are now being filled.

The new, silverless, Eisenhower dollar is the same makeup—a copper core, with cupronickel cladding—as current dimes, quarters and half dollars. The traditional 90 per cent silver U.S. dimes, quarters and half dollars were discontinued in 1965 due to a growing shortage of silver, in the face of rapidly mounting demand for coins.

In 1964 a 90 per cent silver half dollar, memorializing the late President John F. Kennedy, was issued. This was followed in 1965 by a 40 per cent silver clad Kennedy half dollar, replaced in 1971 by a cupronickel Kennedy half dollar.

THE EMPRESARIO, DON MARTIN DE LEON

HON. JOHN YOUNG

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. YOUNG of Texas. Mr. Speaker, located in the 14th Congressional District of Texas, which I am privileged to represent, is Victoria County and the city of Victoria which holds a proud place in the history of our State. Mr. A. B. J. Hammett makes a significant contribution to our knowledge of that history in his book entitled, "The Empresario, Don Martin De Leon." A review of the book has just been completed by Mr. Joe Petty, member, Victoria County Historical Survey Committee, and I am pleased, herewith, to share the text of the review with my colleagues:

THE EMPRESARIO, DON MARTIN DE LEON

(By Joe Petty)

One of the great and glaring gaps in published Texas History is the sad lack of books about its Empresarios.

To be sure, there is the great one by the late Dr. Eugene C. Barker, of the University of Texas, on Stephen F. Austin, who is so often referred to as "The Father of Texas". This is because he was the first one, the most successful one and cut the trail for many that were to follow.

But for the most part that courageous group of leaders, who had the foresight to see what the wilderness of this Mexican Province could become, and risked their fortunes (and often their lives) to make it happen, is still untold.

A. B. J. Hammett, a Business Leader, Banker and Investor of Victoria, has corrected that lack for the Mexican Empresario, who established and laid out Victoria, that thriving and beautiful South Texas city on the lower reaches of the Guadalupe River, the Capitol of Martin De Leon's, "De Leon Colony," and was to be the site of so much significant Texas History.

No one person and his family has suffered more embittering injustice and maltreatment by other Texans than Don Martin De Leon and his children and relatives. Many of his direct descendants still live today in the town he founded, Guadalupe Victoria. They should welcome this book. For at long last, A. B. J. Hammett has written well the sad and tragic story of the mistreatment, robbery and exile of Don Martin De Leon and his family. The sad story of his son Don Fernando and his widow and other members of the family fleeing to Louisiana, for their personal safety. He has written the shameful story of their being robbed of their lands and their cattle, their herds of horses and fine imported European furniture in that ugly and chaotic time of blind bias and prejudice against anyone and anything Mexican by Americans in that period immediately after San Jacinto.

It is a well established historical fact, that the flag that flew over the Alamo when Travis and his men were beseiged there, had on it the figures 1824. The meaning being that these Texans (citizens of Mexico) were fighting for the constitution of 1824, and against the tyranny of Santa Anna. How ironic it is that Don Martin De Leon was a close and intimate friend of Guadalupo Victoria, the first President of Mexico under the constitution of 1824. Martin De Leon and his family were on the same side as the Texas heroes that paid the supreme and ultimate sacrifice at the Alamo, yet he and his family, who had contributed so much in that cause were vilified and robbed as if they had been the defeated enemy.

A. B. J. Hammett has not been alone in trying to bring a belated justice and attention to the Mexican Nationals that aided the Texas Revolution. General Hobart Huson, the internationally famed lay historian of Refugio, brings a late light to the contributions of those Texans he calls, "Tejanos" to the Texas Revolution. It is high time it be known.

Mr. Hammett has worked closely from accepted and established local and regional histories of this area. To cite two, Victor Rose's, History of Victoria, which is basic and Mrs. Kate O'Connor's much later and most outstanding work, Presidio La Bahia, that tells us so very much about the Franciscan and Spanish Missions and Presidio system in this buffer province of Mexico.

But most happily, and the thing that makes the book truly unique, Mr. Hammett has been granted the full confidence of the De Leon family and complete access to all the De Leon papers, photographs, day books, diaries, journals, personal correspondence, etc. This treasure trove of prime material has never been used before in this way. It has enabled him to throw bright lights into areas that have so very long been shadowed. From this wealth of previously untouched material, he is able to reconstruct the daily life and the personalities of these early day pioneers of a frontier Colony. With the co-operation of Patricia De Leon, he has been given the color of verbal tradition within this proud and closely knit family.

This reviewer, a long-time collector and dealer in Texana and Southwestern Americana can state without fear of contradiction, that nothing seems to disappear more rapidly than local and regional history. Nor escalate faster in value once they are gone. The purchase of multiple copies of either the regular or special edition of this book could prove a prime and lucrative investment.

The Publisher has chosen twenty-four well-done illustrations to enrich the book and add visual interest. It is printed on the best of heavy book paper and has a top quality binding. A detailed index has been added that provides the reader with a quick, ready reference to all proper names, places, subjects, etc.

HISTORIC ELECTION IN SALT LAKE CITY

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. LLOYD. Mr. Speaker, a significant and historic election was held yesterday in Salt Lake City.

J. Bracken Lee, who served for 8 years as Governor of Utah and for the past 12 years has served as mayor of Salt Lake City, voluntarily retired. Before he was elected Governor, he served as the mayor of Price for 12 years. It can be said of Mayor Lee that when he was made, they threw the pattern away. He has served the people of his State as an honest fiscal conservative with distinction and with a unique and forthright outspokenness which has drawn to him perhaps as large a number of loyal and unswerving hard-core supporters through thick and thin of any public servant in Utah's history.

E. J. "Jake" Garn, 39 years of age, who for the past 4 years has served as a Salt Lake City commissioner, has been elected mayor to succeed Mayor Lee. Jake Garn is a dynamic young leader, believing in an activist approach to the problems of urban growth. So far as his decisive and forthright statements on issues is concerned, he is much like the man he will succeed. The problems of urban growth and the correlation of city and county services will be met with great forcefulness by Mr. Garn.

Conrad Harrison, also a member of the Salt Lake City Commission, who was Mr. Garn's opponent in the final election, is a consistently able public servant, and Salt Lake City is fortunate to have the continued services of Commissioner Harrison, whose term as commissioner does not expire.

Two new city commissioners were elected to Salt Lake City's commission form of government. Jennings Phillips, who has served capably as city treasurer, will bring to his new responsibilities a vast knowledge of public affairs and of the human elements of our city. Also elected was an intelligent and promising young city prosecutor, Stephen Harmsen, who has great potential for effective public service. George Catmull, who in my opinion was an exceptionally good commissioner and director of the difficult streets department, voluntarily retired with the thanks of the majority of responsible people.

Yesterday's election was a most important milestone in the history of Salt Lake City, a city which was "a new community" planned by Brigham Young in 1847 and which has grown to be one of the most beautiful cities of the world at America's crossroads of the West.

BLACKWATER WILDLIFE REFUGE

HON. WILLIAM O. MILLS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. MILLS of Maryland. Mr. Speaker, the First Congressional District of Maryland holds many attractions for tourists. One of the finest attractions is the Blackwater National Wildlife Refuge in Dorchester County. The Sunday, October 31, 1971, issue of the Washington Post contained an article by staff writer Barbara Guinn which details the appeal this center has for thousands of annual visitors. I am inserting in the RECORD at this point a copy of the article for the information of the Members:

A WILDLIFE REFUGE

(By Barbara Guinn)

Hunting Canadian geese, a pastime usually associated with the affluent male, can be enjoyed by the entire family—providing you do your hunting at Blackwater National

XUM

Wildlife Refuge and do your shooting with a camera.

The refuge, a resting and feeding area on the Atlantic Flyway, the natural path of millions of migratory birds that extends from Canada to Florida, is located in Maryland's Dorchester County on the Eastern Shore of Chesapeake Bay. It's about a two-hour drive from the Washington Beltway. The children can start scanning the sky for the graceful gray birds with black necks and black and white heads as you near Easton, often referred to as "the Goose Capital of the World."

Actually, you'll probably hear the unmistakable honking of the birds well before you see them. Almost invariably, the flocks—which can number in the thousands—will sweep in with a V-shaped formation at high altitude while three or more "scouts" fly low to reconnoiter the cornfields or marshy areas. Only when these lead birds have mysteriously communicated an "all clear" signal will their flock come in for a landing.

One of the best ways to see not only the geese, but ducks and all manner of wildlife in their natural habitat is to drive through Blackwater Refuge—an area of 11,000 acres under the watchful administration of the Interior Department. Over the past 38 years there has been a great increase in the bird population and nowadays there are more than 100,000 geese and at least 150,000 ducks during peak fall periods.

More than 250 species of birds have been identified at the refuge. When I was there last fall, the reported census for the week (posted at the Visitors' Center), showed that, in addition to tens of thousands of Canadian geese, there were 200 snow geese, 100 blue geese, 40,000 mallards, 50 shovelers, 25 buffleshead and 10 whistling swan living in the wetlands and fields.

A Wildlife Drive winds along a creek and through the marshland, and here you can come almost close enough to touch the 15- to 18-pound geese. We drove to within 20 feet of a magnificent snow goose. At a greater distance, perhaps a few hundred feet, one can view swarms of birds flying or resting in the fields or water. In addition to the auto road, a hiking trail has recently been opened along the edge of a marsh and through a wooded area.

Start your visit at the Visitors' Center, which boasts a handsome and informative display explaining the area. Time permitting, you can enjoy a short picture show and talk.

The refuge has a beautiful picnic area with wall-to-wall pine needles, grilles and well-kept rest rooms. There is no charge.

The geese, which usually begin arriving in mid-September, use the refuge as a motel, according to manager W. H. Julian. "Some stay for a while and then move on to the Carolinas and Florida. Others use the refuge as their base until they head back to Hudson Bay in April," says Julian.

For in-flight photographs, Julian recommends that you either arrive early (many of the geese fly out by 9:30 a.m. to feed in nearby cornfields) or plan to be there from 3 p.m. to dusk when the birds return for the night. The following rules are designed for everyone's benefit:

1. Never disturb birds at rest in the fields or in the water. Don't honk horns or approach them on foot—all this will do is cause them to fly away to a distant location for the balance of the day.

2. Birds have become adjusted to cars. Your auto is a good "blind" from which to take photos.

3. Never use flash bulbs or auto headlights in the refuge.

4. Keep pets in the car or on a leash.

5. Take your time, you'll be rewarded by great sights if you drive through the refuge at 10 or 15 m.p.h.

6. Be sure to take along film and picnic supplies including charcoal. Nothing is available for sale in the refuge.

During Waterfowl Week, Nov. 20 to 28, there will be bird banding demonstrations and retriever demonstrations on the 20th and 21st, and bird banding demonstrations again on the 26th, 27th and 28th. An art exhibit will feature paintings and decoys.

The refuge is open seven days a week, 8 a.m. to 4:30 p.m. No charge.

If you plan your wild goose trip the weekend of Nov 12, 13, and 14, you might want to visit the waterfowl festival scheduled for the Tidewater Inn in Easton. Sponsored by the Talbot County Chapter of Ducks Unlimited, proceeds will go to projects aimed at saving the natural habitat needed for breeding grounds of wild ducks and geese in Canada.

The festival will include a show of the country's outstanding waterfowl carvers and collectors including the work of the Ward brothers of Crisfield, Md.; an art exhibit; an antique gun collection, and demonstrations on how to carve a duck decoy and paint the basic feather detail. There will be a buy-sell-and-swap center. Hours are 10 a.m. to 10 p.m. on Friday and Saturday; 1 to 5 p.m. on Sunday. Admission charge.

A trip to this part of Maryland would not be complete without a stop at the Wye Mills area. Here you can see the 450-year-old white oak with its 165-foot spread, thought to be the oldest oak in the U.S. This is a one-tree state forest! Close by you'll see a one-room school house.

The Old Wye Church, which held its first service Oct. 18, 1721, has services at 11 a.m. on Sunday and is open for conducted tours on Sunday afternoons and other days when volunteers are available. Restored in 1947 by Colonial Williamsburg's architect and through the financial assistance of Arthur A. Houghton Jr., the church has a cantilevered pulpit and sounding board inlaid with walnut in a field of butternut and holly woods. Be sure to see the original 1737 silver communion service.

If you visit the church between 10 a.m. and 3 p.m. on Saturday, Nov. 6, you will find the best of the members' needlework and homemade foods for sale during their annual bazaar. A hot lunch will also be sold.

The old Wye Mill which once ground flour for George Washington's troops, is open during the summer.

For a detailed schedule of Blackwater Refuge events during Wildfowl Week, write to the Refuge Manager, W. H. Julian, Rt. 1, Box 121, Cambridge, Md. 21613. Telephone: 301—228-2677.

Directions: Take Exit 21 from the Beltway and follow Route 50 (John Hanson Highway) east past Annapolis and over the Chesapeake Bay Bridge (Toll: 61 for car and all passengers, each way). Continue on Rt. 50. (At a point about 5 miles past where Rt. 50 and Rt. 301 divide, you'll see signs for the Wye Oak and Wye Mills area—a two-mile side trip). Follow Rt. 50 through Cambridge, then take Rt. 16 for 7 miles to Church Creek; then go left for 4 miles on State Route 335. Here you'll see a refuge entrance sign. The Visitors' Center is about 2 miles further east.

UNITED NATIONS' CHINA VOTE

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. McKINNEY. Mr. Speaker, opinions on the United Nations' China decision have been many and varied, but none will have the global impact as that which eventually crystallizes as the majority view of the Members of the Congress of the United States. At present the loudest voices being heard in the House of Representatives and the Senate are those crying "get out" and/or "cut the funds."

These pleas, I believe, must be viewed in the proper perspective and that includes a thorough review of what is fact. First, I think it essential to examine the founding premise of the U.N. and in essence, that is to promote world peace through common understanding. An admirable concept, no doubt, but certainly an awesome task.

There are those who would credit the U.N. with the fact that since its inception, there has been no world war; a debatable assertion, I agree, but a truism nonetheless. To be sure, there has not been total peace since 1945, but the ruptures have been at best confined.

Second, what should be dismissed is that the U.N. was created solely for what we like to think of as the "good guys." Nothing could be farther from the truth for if the belligerent is not there to talk, how does one begin a two-sided discussion of peace. The U.N. was designed to be a community of nations—"good guys" and "bad guys" alike. True, it has not totally accomplished this end either. It's interesting to note that the nation of the winner of this year's Nobel Peace Prize, Willy Brandt, is not on the membership list of the U.N. Strange that the country which provoked the last world war and, in effect, solidified the need for a "League of Nations" would today—when the future of the U.N. is in doubt—bring forth this year's apostle of peace.

Third, and to the present question, it should be remembered that Taiwan withdrew from the U.N. Both Peking and Taiwan agreed that there could be no "two-China" policy. The "expulsion" vote, which has been scorned and praised, was anticlimactic and, in large measure, a childish rubbing of salt in an open wound.

Should we now compound the childishness by advocating a "cut and run" policy? Should the big boy on the block, who owns the bats and balls, take his equipment home because he lost last week's game? There are those who ascribe the loss of Taiwan to a loss of U.S. world prestige. If this were so, would not this tatter become a tear if we were to get out?

And what would an indiscriminate and intemperate cut in funds accomplish? Probably a collapse of the U.N., and this may be a desired end for some, but it will also open the floodgates of accusation as to who was responsible for killing the world's only peacekeeping mechanism, good or bad as it may be.

In retrospect, I think it would also be agreed that the vote admitting Peking was inevitable as evidenced by the yearly attrition of those nations supporting the United States in this matter.

What is interesting is that those who advocate a cut in funding have couched their request in the call for a "review" of the U.S. financial picture vis-a-vis the U.N. With this I agree, but it should not be a one-shot effort—engendered by one vote—it should be an ongoing, permanent process; an approach I favor whenever taxpayers' money is used.

Therefore, I do not favor abandoning the U.N. nor do I favor a rash cut in funding. I will support any move, at any time, to "review" our funding since this is totally consistent with my overall legislative philosophy.

I would say that if there is a lesson to be learned from the China vote, it is this: We must now double our efforts in the pursuit of peace and build on our position at the U.N. with a strengthened policy of positive action, not reaction, for we must work toward the day when the U.N. will accomplish its goal and that is world peace.

LET'S CUT THE SMUT

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. PRICE of Texas. Mr. Speaker, today I am introducing a bill which will, I believe, be a significant contribution to the efforts of decent citizens throughout the Nation who wish to halt the current epidemic flow of obscene materials.

Every day mail containing offensive sexually oriented material passes through our postal system, a traffic which soils everything it touches. In situations which occur daily, citizens are being assaulted in their own homes by an increasing barrage of unsolicited smut, a situation over which neither State governments nor individual persons have any appreciable control. However, it is evident that the Federal Government does possess the authority and the resources to deal effectively with this curse, and it is my belief that the bill I am introducing today will be a contribution toward using that power.

Mr. Speaker, my bill, which is similar to legislation recently introduced into the Senate by Mr. GURNEY, represents a new approach to combating obscenity by giving our individual citizen access to a direct course of action as opposed to the present situation in which the citizen is dependent on governmental action. The bill would give the citizen who receives mail or whose household receives mail of an obscene nature a civil action against the mailer for interference with his right of privacy. The bill provides for compensatory and punitive damages, and includes a definition of obscenity by which to measure the material.

Since the first major obscenity decision came down from the Supreme Court in *Roth* v. *United States* (354 U.S. 476 (1957)) those manufacturing and trafficking in pornography and obscenity have regarded the law as being on their side. Unfortunately, things have degenerated to the point where people who would never go into a dirty bookstore or X-rated movie theater increasingly find themselves the unwitting and unwilling recipients of similar material being sent through the mails.

The Supreme Court has made plain our right to protect ourselves from such unwanted intrusions in the case of *Rowan* v. *Post Office* (397 U.S. 728 (1970)). The Court upheld Federal legislation allowing a person to notify the post office of receipt of sexually provocative mail and of his unwillingness to receive further material from the sender.

Last year we extended the above protection to allow a person or head of a household to notify the postal system that he does not wish to receive, and his children under nineteen do not wish to receive, any sexually oriented advertisements in the mail. This new provision eliminates certain weaknesses of the first law; namely, the householder need no longer wait until he receives the first mailing before complaining and a separate action against each sender is no longer necessary. This 1970 provision has been challenged and upheld by a three-judge Federal district court in a recent case. *Pent-R-Books, Inc.* v. *U.S. Postal Service*, 39 L.W. 2733 (D.C. Cal. June 10, 1971).

As another hopeful sign last term the Supreme Court held that the mails may not be used to transport obscene material even if the material has been ordered by the recipient. *Reidel* v. *United States* (402 U.S. 351 (1971)).

Mr. Speaker, while recent legislation has aided in protecting citizens from the flow of filth pouring through the postal system, these statutes by and large have been dependent on administrative action and governmental suit for their effectiveness. The bill which I am introducing will provide a more immediate and accessible weapon against the pornographers, and for this important reason I urge its prompt consideration and approval by the Congress.

OPPOSITION TO TAX ON ADVERTISING

HON. JULIA BUTLER HANSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mrs. HANSEN of Washington. Mr. Speaker, the District of Columbia's proposed sales tax on advertising has aroused serious controversy from my own State, for they feel it will be a precedent-setting tax. I am, therefore, placing in today's RECORD, a copy of a telegram and a letter dated October 29, from the Allied Daily Newspapers; a copy of a letter of April 2, 1971, to State Senator Martin J. Durkan, of the Washington State Senate, and asking that Members of this House read these carefully prior to voting on the proposed advertising tax.

ALLIED DAILY NEWSPAPERS
OF WASHINGTON,
Seattle, Wash., October 29, 1971.

HON. JULIA BUTLER HANSEN,
U.S. House of Representatives, Cannon House Office Building, Washington, D.C.

DEAR MRS. HANSEN: Following up on a telegram sent to you this morning, I am writing with regard to H.R. 11841. This bill, which we understand cleared the House District of Columbia Committee, had tacked onto it at the last minute a section extending the D.C. sales tax to the sale of advertising. We would be very distressed if this provision were not removed from the bill on the House floor.

During the session of the Washington Legislature early this year, the Allied organization, Washington Newspaper Publishers Association and the Washington State Association of Broadcasters had occasion to address letters to the leadership of both the Washington House and Washington Senate regarding extension of the state sales tax to advertising.

In that letter we set forth the reasons such a tax has not been adopted in any state, and why it should not be adopted. The same reasons, of course, apply to the District of Columbia. Therefore, I am taking the liberty of sending to you a copy of the letter we sent to one of the leaders in the State Legislature.

Respectfully,

PAUL R. CONRAD,
Executive Director.

APRIL 2, 1971.

Hon. MARTIN J. DURKAN,
Washington State Senate,
Legislative Building,
Olympia, Wash.

DEAR SENATOR DURKAN: There has been a lot of talk around the Legislative Building lately about extension of the sales tax to "services". We take no position one way or the other on the general principle involved. Sales tax obviously fits the sale of tangible personal property much more comfortably than taxation of "services", but states have been successful in extending the tax to many services and, if Washington must have additional state revenues, this is certainly one of the options available.

However, there are "services" and there are "services", and some don't lend themselves to sales tax at all. Labor, as a "service", is a good example. Advertising is another.

No state applies its retail sales to advertising. This is not because the advertising media are skillful lobbyists. It is because advertising does not lend itself to the retail sales tax. The few states that rely on a "gross receipts tax", rather than a pass-on sales tax, do apply that levy to advertising (Washington's business and occupation tax being an example). But even here, the peculiarities of advertising become evident. The interstate character of broadcast advertising requires an apportionment of the advertising revenue between local and regional-national. It also requires apportioning of listening audiences between those living in-state and those out-of-state.

The ephemeral character of advertising is even more evident when one contemplates applying the sales tax to advertising transactions. Again, in the broadcasting field, ad sales are concluded in New York, involving stations all across the nation. The Washington station is only a small part of the package. An agency makes the purchase in behalf of a manufacturer. How is the State of Washington supposed to add a sales tax to that portion of the transaction involving Washington advertising?

What, indeed, is advertising? The established media are obvious enough. Transit, billboard, the "yellow pages" and the signs on the backs of taxis are still fairly easy to identify. But what about church programs, school yearbooks, direct mail campaigns, telephone solicitations, signs on bus-stop benches and truck-stop place mats? Advertising takes a myriad of forms, from candidates' sound trucks to sky-writing. Point-of-sale displays, door-to-door calls of the "Avon Lady," and truck-side messages are all advertising.

In short, advertising is not like most "services", which are performed in a given place on a given thing, whether it be an ailing automobile, a soiled suit, or an over-grown head of hair. This lack of situs, this indefiniteness of audience, this complexity of advertising sales

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transactions, make for monumental discriminations. One has to start with the reality that no other state does apply its sales tax to advertising. So right off the bat Washington media would have to function at a 4.5% or 5.5% disadvantage compared with all other (out-of-state) media. And in-state advertisers—merchants and other businessmen—would likewise operate under this disadvantage.

And because of the nature of advertising, this discrimination isn't just limited to the border areas. Certainly there it takes on its most exaggerated form, as newspapers, radio and television signals come over the border effortlessly from out-of-state, immune from the Washington sales tax.

But advertising comes into the state—right to its center—just as easily. National magazines enter every week, their slick pages selling products in direct competition with Washington media. The entire state can be blanketed by direct mail advertising, slipping in from outside the state borders and quite impossible to tax.

The local manufacturer or merchant, seeking to market his products, uses local media, while national advertising and national media escape the levy, the local business as well as the local media are discriminated against. One shouldn't lose sight of the fact that it is merchants (some 60,000 of them), not the media, who actually pay the tax.

Finally, there is a dollars-and-cents consideration which cannot be overlooked. The state relies heavily on sales tax for its income—as heavily as any state. Sales tax revenue relies on sales. Sales rely on advertising, to stimulate wants and bring buyer and seller together. The state is a silent partner in every sales transaction, taking its 4.5% profit off the top, and in the process benefiting from the merchant's advertising without paying a bit of the cost. Indeed, it has been observed that by rights the state should bear its fair share of the advertising expenses of its "partners". We aren't expecting the state to start subsidizing advertising, but it makes more sense than taxing it.

Because advertising is the goose that lays the golden eggs, as far as the state is concerned. The last thing the state wants to do is to discourage the most vigorous sales promotion.

The legislature of the state of Iowa extended its sales tax to advertising in 1967, and soon acquired an education in the field. A district trial court held the tax unconstitutional (as violating the interstate commerce clause of the Federal Constitution, and as delegating too much tax-writing authority to the executive branch of the state government). While the State Supreme Court subsequently reversed this ruling, it was headed for an appeal to the U.S. Supreme Court when the next legislature convened.

National advertisers had refused to pay the tax. The state's newspapers, radio and television stations were caught between advertisers and the state. There developed a concern that advertising expenditures would be trimmed by businesses, with consequent loss of sales—and sales tax. So the legislature repealed the tax on advertising.

Earlier North Dakota's legislature included advertising in a package of sales tax extensions. But before the new taxes could even be imposed, a state referendum rejected the package, and no taxes were imposed on advertising there.

These are the only instances of modern times when sales taxes have been extended to advertising. They serve to confirm the uniqueness of advertising and its inherent incompatibility with the sales tax.

Our message is self-serving, of course. But we feel that it is in the best interests of the state, and of the Legislature, to bring it to you now, before you make decisions as to extension of the sales tax to newsservices.

Your patient attention to this rather lengthy letter is much appreciated.

Sincerely,

JAMES E. TONKIN,
President, Allied Daily Newspapers of Washington.

JERRY ZUSMOD,
Manager, Washington Newspaper Publishers Association.

(Fort Gail Flint, President).

JAMES A. MURPHY,
President, Washington State Association of Broadcasters.

[Telegram]

SEATTLE, WASH.,
October 29, 1971.

Representative JULIA BUTLER HANSEN,
Cannon House Office Building,
Washington, D.C.:

House District of Columbia Committee has passed out H.R. 11341 with last minute addition of section to apply D.C. sales tax to advertising. We are today mailing you information explaining why such a tax would be very ill advised. We urge you to speak against and vote against such a tax.

PAUL CONRAD,
Allied Daily Newspapers of Washington.

DEATH OF RICHARD L. EVANS, THE "SPOKEN WORD" FROM TEMPLE SQUARE

HON. SHERMAN P. LLOYD

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. LLOYD. Mr. Speaker, early last Monday morning one of the great leaders of the Church of Jesus Christ of Latter-day Saints and a noted American, Richard L. Evans, died. He was known to virtually all the Members of this House.

Elder Evans was credited with having one of the largest pulpits in the world with his "Spoken Word" radio broadcasts with the Mormon Tabernacle Choir. For more than 40 years Elder Evans brought comfort and wisdom to millions of listeners throughout the world.

His ability to express uplifting and hopeful thoughts, simply and concisely made his sermonettes classics in their own time. These small sermons have been compiled and published in seven volumes. He was given the Freedom Foundation Award in 1961 for one of his "Spoken Word" Sunday morning talks.

Elder Evans was appointed a member of the First Council of the Seventies of the LDS Church in 1938 and 15 years later was selected as one of the Twelve Apostles of the Church in which capacity he served until his death.

He was a civic and educational leader as well as a church leader. He was president of Rotary International from 1966–67, a member of the Utah State Board of Higher Education and the Brigham Young University board of trustees. He was a former member of the University of Utah board of regents and former editor of the Improvement Era, the monthly LDS Church magazine.

A son of John Alldrige and Florence Nelsen Evans, he was born March 23, 1906 in Salt Lake City. His father was killed in an accident when Elder Evans was only 10 weeks old.

He married Alice Ruth Thornley of Kaysville in the Salt Lake Temple August 9, 1933 and had four sons; Richard Jr., John, Stephen, and William.

After attending Salt Lake City public schools he entered the University of Utah where he earned two degrees, a bachelor of arts in English and a master of arts in economics. In 1956 the university conferred the honorary degree of doctor of letters on Elder Evans.

He interrupted his college studies from 1926 to 1929 to serve a mission for the LDS Church in England. There he served as secretary of the LDS European Mission and was associate editor of the Millenial Star, British Mission magazine.

One of the most widely known and beloved leaders of the church, Elder Evans will be remembered best for his profound ability to inspire and edify his listeners. During the 41 years of the "Spoken Word" Elder Evans touched on virtually every topic affecting the spiritual welfare of mankind.

I am sure that all members of the LDS Church and all citizens of Utah feel a deep loss with the death of Elder Evans.

SOVIET CIVIL DEFENSE

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. BOB WILSON. Mr. Speaker, in August of this year I inserted in the CONGRESSIONAL RECORD excerpts from the "Soviet Civil Defense Handbook," translated by the Oak Ridge National Laboratory. I have recently read with interest a publication of the Center for Advanced International Studies, University of Miami, Coral Gables, Fla., entitled "Soviet Civil Defense, 1969–1970," by Prof. Leon Goure. I am pleased to include at the conclusion of my remarks the summary preface to this report so that my House colleagues can review the major points of this informative analysis:

SUMMARY

Civil defense activities in the Soviet Union date back to 1924. In 1932 the USSR Council of People's Commissars established the first centralized national defense organization called Local Anti-Air Defense (MPVO). However, Soviet civil defense for the nuclear age came into being in 1961 with the organization of Civil Defense (Grashdanskaia Oborona) under the control of the Ministry of Defense of the USSR. The new program was charged with developing and implementing measures designed to protect the population, industry and agriculture against the effects of nuclear, chemical and bacteriological weapons, to develop a large civil defense organization and a widespread corps of civil defense units and to train the entire population on a compulsory basis in civil defense. Financial support was provided from the national budget as well as by various levels of territorial administrations and economic organizations.

The scope of the program and its activities has fluctuated with the degree of priority assigned to it by the Soviet Government and the attention given it by the Communist Party. In 1966, the importance of the program was upgraded as a result of an unusual endorsement by L. I. Brezhnev, General Secretary of the Central Committee of the CPSU at the 23rd Congress of the CPSU which was incorporated also into the Congress' Resolution. The net effect of this was the increased support of the program by Communist Party organizations at all levels which, in turn, allowed the civil defense organizations to demand greater cooperation from the local administrative and economic organizations and a larger share of resources. An examination of open Soviet sources indicates that since that time the Soviet civil defense program has increased in scope and intensity and that this high level of activity also continues to be sustained at present.

Soviet spokesmen continue to argue for a high state of preparedness for war and assert that far from diminishing, the threat of war not only persists but may even be increasing as a result of the greater willingness of the "imperialists" to resort to violence in the face of the growing socialist gains in the world. Although Communist China is also cited as a possible threat to the Soviet Union, the West, especially the United States, continues to be identified as the main enemy. This has led some military writers to imply that the Soviet Union should seek military superiority over the West. The ability to protect the population against attack and to assure essential industrial production in wartime continues to be perceived as a critical factor in national survival and victory in a nuclear war. For this reason, Soviet civil defense is said to be an essential element of Soviet defense capability.

Soviet military doctrine ascribes a decisive character to the first strike, which it believes can determine the course and outcome of a war. The targets for such an attack include not only the enemy's strategic forces but also his administrative, industrial, transportation and communications centers. Because of the decisiveness of the first strike, Soviet spokesmen argue for a "preemptive" strike which will blunt the enemy's attack and facilitate the active and passive defense of the Soviet Union. Soviet spokesmen indicate that they expect civil defense to have to deal primarily with the damage inflicted by the residual enemy forces which survive the Soviet first strike and Soviet anti-air and anti-missile defenses.

The general character of the Soviet civil defense program continues to emphasize the need to protect the population and the economy, not only from nuclear but also from attacks with chemical and bacteriological weapons. It emphasizes pre-attack evacuation of the population from target areas, the building of shelters, the preparation of industry for wartime operation, the organization and training of civil defense formations, large-scale post-attack rescue and emergency repair activities, and the training of the entire population. The momentum of the program and its further improvement appear to be partly the result of increased involvement in it of local Communist Party organizations and state-administrative organs. Close party supervision helps to insure that civil defense is given the proper attention by all concerned.

The recent literature reflects increased concern with the problem of effective command and control of civil defense by staffs and commands. It calls for wider use of automated systems, computers and rapid communication systems, and for acceleration in the development and application of new scientific and technological discoveries in civil defense. There is also evidence of a growing role being assigned to military civil defense forces which operate in conjunction with civilian units. Because they are provided with heavy equipment they have an important mission in the post-attack rescue and repair operations.

Pre-attack evacuation of the unessential urban population to rural areas and the dispersal of essential workers to suburban zones is viewed as the best means of protecting people living in potential target areas. Planning and organization of these measures, especially of dispersal of workers, appear to be proceeding and being perfected. They are reported to be tested in exercises held by factories in various parts of the country. At the same time some writers suggest that there may be insufficient time to complete the evacuation before an attack and recommend the construction of shelters or the pre-war decongesting of large cities.

The main emphasis in shelter construction remains on blast shelters for work shifts remaining in the target areas and on fallout shelters for the rest of the population. Industrial shelters are reported to have been built in many localities, but others are said to be still under construction. The building of dual-purpose shelters in the cities and wide use of subways, caves and tunnels is coming increasingly into practice as a means of reducing shelter costs. Although some writers doubt that there will be sufficient time to complete the fallout shelter construction program prior to an attack, it appears at this time, that in the main such shelters will be only built in the event of a threat of war. Improved designs and techniques, as well as the training of the population in shelter construction, is said to allow for a rapid acquisition of the needed capacity. The data suggest, however, that several days will be required for the evacuation of people and shelter construction.

Various measures are also recommended for reducing the vulnerabilities of industry to attack, including planned industrial dispersal in the construction of new plants. However, the emphasis is on low-cost measures, designed to avoid unnecessary damage and to expedite repairs to plants and services on the periphery of the area of devastation.

The compulsory 21-hour civil defense training program of the general population, the most recent of six such courses given since 1954 has been continued with refresher lessons and greater stress on exercises for those who have completed it. Special emphasis is placed on the training of children and youth, starting with civil defense competitions and tactical exercises in summer camps by 4th graders and older children. It appears that school children in the 5th to 11th grades now receive a total of 115 hours of training not counting extra-curricular exercises and competitions. It is reported that in 1969, some 16 million school children participated in militarized games called "Zarnitsa" which included civil defense exercises. New training programs were added in 1970 for students in technical and vocational schools. Civil defense propaganda also remains at an all-time high with extensive use being made of all media of mass communication.

Along with indications of improvements in civil defense, Soviet sources also report the persistence of many deficiencies, ranging from slow construction of industrial shelters to apathy among some administrators and elements of the population, to unevenness in the quality of planning, organization and training. For the present, the priorities clearly favor measures to protect those sections of the population which are believed to be most essential to the war effort and the viability of the country and its political-administrative system.

The outstanding features of the current Soviet civil defense program may be characterised as follows:

Soviet sources give strong evidence that far from being a mere paper program, civil defense in the Soviet Union has markedly expanded its scope and activities and has been able to call on increased investments of manpower and resources. It appears to be at the present time the largest program of this kind in the world.

Although the Soviet Union has kept the costs of its civil defense program secret, the evidence indicates that the annual investments in it greatly exceed those of the United States or of any other Western country.

The effectiveness of Soviet civil defense appears to depend greatly on receipt of several days of strategic warning of an attack and on a Soviet first strike against enemy strategic forces, as well as administrative and industrial centers.

The protection of the population is to be accomplished by a combination of evacuation and dispersal of residents in potential target areas and of construction of various types of shelters, while industrial survival is based on a system of dispersal and of low-cost hardening measures.

Civil defense training and education of the population is expanding and there is strong evidence of the existence of a large civil defense organization which is still growing as more specialised civilian and military units and formations of all kinds are coming into being.

Although the implementation of the program continues to suffer from various shortcomings and Soviet reports cite many instances of public and administrative apathy, the cumulative effort over the past decade and a half in shelter construction, training, equipment acquisition, planning and other measures, appears to have provided the Soviet Union with a very significant and still growing civil defense capability.

The Soviet civil defense system gives priority to assuring the survival of the more essential elements of the Soviet state, i.e., the Party and administrative apparatus and the industrial workers. In wartime these elements are expected to organise and sustain the war and recovery efforts and maintain continuous essential industrial production; in peacetime the civil defense system assists in dealing with damage caused by national disasters.

HEARING FROM THE POW/MIA RELATIVES

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. GOLDWATER. Mr. Speaker, there is not one of us here today who has not almost daily felt the deep concern and anguish of this country over its men missing and prisoners in Southeast Asia. Unfortunately, both Hanoi and certain doves in the Congress have chosen to make political hay out of the grief of these families. I would like, therefore, to insert the following letter in the RECORD, since it clearly expresses the overriding concerns of the POW families.

The letter follows:

POW-MIA INTERNATIONAL, INC.,
Tustin, Calif., October 26, 1971.

DEAR CONGRESSMAN GOLDWATER: As American citizens, we realize that there are many important matters that must be dealt with every day by the Congress, i.e., education, foreign aid, voting rights, etc., but as families of POW/MIA's and California residents, we also feel that our Congressmen, more than any others, carry the heavy burden of keeping the plight of the prisoners and missing continually before the American people by reason of the fact that the highest number of POW/MIA's come from California!

Out of 38 Congressmen from California, a few, a very few, are putting forth every ef-

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fort to resolve the POW/MIA issue in an honorable way without thought to politics. Other California Congressmen have seen fit to completely ignore the incredible inhumanity of Hanoi and the Viet Cong regarding our men. Some have even stooped to the level of making our men political pawns to further their own political ideology and ambitions, to such an extent that they have duped some families into aiding and abetting their personal goals It is our belief that the POW/MIA issue *cannot and should not* be mixed up with anyone's personal views on the morality or the politics of the Vietnam conflict

We thank you for your efforts on our behalf, but we do urge you, Congressman Goldwater, to make the POW/MIA issue your personal crusade—to ask not for a withdrawal date, not for immediate release of POW's but to ask and demand that Hanoi be made to abide by the Geneva Accords, to which they are signatories; to allow inspection of POW camps, to release names of all POW's, to allow the exchange of mail, and to account for the MIA's. We ask that you support this effort for what it is, strictly humanitarian, to relieve the mental and physical anguish of over 1600 men and their families. Everyone regardless of his own personal ideologies, joined together in a solid unity of support and prayer when our Apollo 13 Astronauts were in danger; are our POW/MIA's not worth the same unselfish support?

We do not ask much—just that the inhumanity to our men and their families be halted. Is this too much to ask of our own elected Congressmen and fellow Americans? We would appreciate an answer from you telling us what you are doing to bring pressure on Hanoi to abide by the international laws in the treatment of those of your constituents who are POW/MIA's and their families.

What did you do in behalf of the POW/MIA's today? This week? This month?

Sincerely,

LAVONNE LAUDERBAUGH,
POW/MIA International, Inc.

VICE PRESIDENT AGNEW'S VISIT TO GREECE

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 27, 1971

Mr. SIKES. Mr. Speaker, I applaud Vice President AGNEW's action in visiting Greece. Certainly his week-long sojourn, although considered controversial by the liberal press in the United States, went a long way toward improving United States-Greek Government relations. Much harm has been done to this long, historic, and close relationship by those who have been more concerned with the format of the Greek Government than they have with the internal security of that nation and the suppression of communism there. Greece is a very important part of the world and it is becoming increasingly so in view of the growth of Russian strength throughout the Mediterranean. Greece plays a key role in NATO and in the defense and security of the free world in the Mediterranean area.

The actions taken and the words spoken by the Vice President during his visit to Greece should go a long way toward reestablishing the confidence of that nation's people in America's policies. There had been serious concern because of published reports of the statements and actions of public figures and of the Congress.

I hope that the Vice President's example will serve to still some of the criticism expressed in and out of Congress about the Government of Greece. It would seem much more appropriate that these critics turn their attention to the enemies of freedom rather than to the governments of our friends. By no stretch of the imagination can the governments of friendly nations be considered as harsh or as indifferent to the future of their nationals as the communist dictatorships which are entrenched in so many parts of the world. Yet we do not criticize these. We criticize our friends. This is a very short-sighted policy. The Government of Greece has provided stability and progress for its people. It continues to support the policies of the Western Powers. Greece is one of our most important and most needed allies. Let us be sensible in our comments about these good friends. We owe Mr. AGNEW our thanks for providing long overdue recognition and support to Greece and the Greek people.

THE DISARMING CANDOR OF AGNEW

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. MICHEL. Mr. Speaker, today's issue of the Washington Evening Star includes a column by Mr. James Reston concerning Vice President AGNEW and confirms what a good many of us who have been privileged to know and work with the Vice President already knew—that he is a man of complete candor who speaks straight from the shoulder in both private and public.

While members of the liberal press establishment do not agree with the Vice President on most public questions, it is obvious that they at least have a great deal of respect for him and his style and certainly that respect is merited.

I insert the text of the Reston column in the RECORD at this point:

THE DISARMING CANDOR OF AGNEW

(By James Reston)

Vice President Agnew has been accused of almost everything except a lack of saying right out what he thinks, and one of the attractive aspects of this compulsive candor is that he applies it to himself.

He doesn't ignore the fact that this city is wondering about whether he will be the Republican vice presidential candidate next year, or pretend that speculation on the point is manufactured by his old antagonists in the Eastern liberal press.

In fact, while he is more critical of the "effete snobs" of press and television than anybody else in this administration, he is also more available to them and more willing to discuss their problems and his than anybody else in the capital.

Are people wondering about his future? Well, he says he wonders about it himself, but he doesn't worry about it. To him, this is a question for the President to decide. There is an illusion in this town, he says, that everybody fights for the ground he holds and struggles for power and position, regardless of private life, or the interests of the party, but he doesn't feel this way.

He will do what he is asked to do, he says: Get out, because home holds no terrors for him, or go on, if that is what the President wants him to do. It is interesting that he doesn't appeal primarily to the Republican party, where he has a stronger and more loyal conservative constituency than anybody else, including the President himself.

Whatever the President decides about a running mate next year, the vice president is not going to appeal to this conservative element in the party, which is startled by the President's new welfare, new economic, and new China and Soviet policies.

It would be very easy to do so. He obviously has his doubts about the wisdom of the President's pragmatic move to the left. He is much more ideological than his chief, but he is clearly not going to lead any charge against the President's policies, no matter what he thinks privately about it all, and he will undoubtedly leave the whole question about the Republican nomination of a vice president to Nixon.

On the question of a different Republican vice presidential candidate, if there is to be one, he is equally candid. Again, he defers to the President, but here he thinks the party in the nominating convention at San Diego, will find that there are many Republicans who will want the job and feel that they have more claim on it than the Democratic Secretary of the Treasury, John Connally.

If it comes to a change, then there will, he thinks, be many Republican senators and governors who will make the argument for themselves, in opposition to Connally. Party loyalty, he says, is a powerful influence in nominating conventions, and in a way, Connally is in a comparable position to Mayor John Lindsay of New York: Able and attractive, but a new convert in a different party, who will not be easily accepted by the party faithful.

From the vice president's own point of view, it is a sensible and honorable position. He did not choose the role he has played as vice president. He has been the battering ram of the Republican party, assigned by the President, and as such, he has been a divisive figure in American politics, always out front, scalding the opposition, and in the process, making enemies and loyal supporters.

But the amiable thing about him is that he understands all this and is prepared to accept the consequences. If his usefulness has been destroyed in the struggle, he is willing to accept it, and go back to Baltimore to his private life, or run again, or campaign for Nixon's re-election, even if he is dumped.

Not many men in the battle for personal, party, and national power would be quite as relaxed in the struggle as he is. It is easy to argue against his philosophy and his pugnacious tactics, but at least he says in private what he says in public, and since very few politicians in Washington risk such candor, he is not a man to be lightly dismissed in the coming struggle of the presidential campaign.

ON SCHOOL PRAYER—A THREAT TO RELIGION

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. CHARLES H. WILSON. Mr. Speaker, on Monday, November 8, we will vote on the proposed School Prayer Amendment. I am sure that a majority of my colleagues will examine this issue rationally and join me in opposing House Joint Resolution 191. This amendment would seriously infringe on the rights that are guaranteed by the first amendment of the Bill of Rights and reaffirmed by the Supreme Court decision of 1963. The separation of Church and State is one of the most important fundamental principles of our great Nation. We must not allow a small group of religious fanatics to misrepresent the issues by playing on our emotions.

I am certainly not against prayer or organized religion. In fact, the strong opposition to the amendment by all of the major religious organizations that I have talked with has only reaffirmed my convictions on this issue. They recognize, as I do, that every person's freedom to worship must be respected. Under no circumstances should the State enter into the business of prescribing prayer.

I would like to recommend the following article to my colleagues, written by Philip B. Kurland of the University of Chicago Law School. This article appeared as an editorial in the Los Angeles Times on Sunday, October 31. It is an excellent and timely examination of the issues involved in the vote on the School Prayer Amendment.

The editorial follows:

ON SCHOOL PRAYER—A THREAT TO RELIGION

(By Philip B. Kurland)

Certainly the American people can, by constitutional processes, choose to allow compulsory prayer ceremonies in their public schools. That is what the proponents of the constitutional amendment now pending in the House of Representatives are seeking to accomplish.

But before the American people or their representatives make that choice, they ought to be informed of the issues so that the choice may be a reasoned one and not simply a matter of emotional response to irresponsible rhetoric. The question is not whether we "restore God to the classroom."

The proposed amendment, House of Representatives Joint Resolution 191, is itself short if not clear. It reads: "Nothing contained in this Constitution shall abridge the rights of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

While the language is vague, its apparent purpose is to permit schools to impose a requirement of prayer ceremonies on students, although it could be interpreted to allow students who dared to do so to remove themselves from the company of their fellows while such school exercises took place. There is also a negative pregnant in the proposed language that could expand the present constitutional inhibition. Should the amendment become law, *denominational* prayers in legislative halls and executive mansions would become at least constitutionally suspect.

The reason for the existent constitutional rule that now prevents such school ceremonies was stated by Mr. Justice Frankfurter in his opinion in McCollum v. Board of Education.

"The secular public school did not imply indifference to the basic role of religion in the life of the people, nor the rejection of religious education as a means of fostering it. The claims of religion were not minimized by refusing to make the public schools agencies for their assertion. The non-sectarian or secular public school was the means of reconciling freedom in general with religious freedom. The sharp confinement of the public schools to secular education was a recognition of the need of a democratic society to educate its children, insofar as the State undertook to do so, in an atmosphere free from pressures in a realm in which pressures are most resisted and where conflicts are most easily and bitterly engendered. Designed to serve as perhaps the most powerful agency for promoting cohesion among a heterogeneous democratic people, the public school must be kept scrupulously free from entanglement in the strife of sects. The preservation of the community from divisive conflicts, of Government from irreconcilable pressures by religious groups, of religion from censorship and coercion however subtly exercised, requires strict confinement of the State to instruction other than religious, leaving to the individual's church and home indoctrination in the faith of his choice."

But, say the supporters of the proposed amendment, these defects implicit in the utilization of the public academy for instilling religious faith are not relevant to the proposed amendment. First, they say, because there is no coercion on the public school student authorized by the amendment. Second, they say, because the only prayers authorised are "nondenominational" prayers, thereby eliminating fear of sectarian conflict.

Neither answer is accurate. There is coercion and there is an invitation to sectarian strife. For we must remember that if public education is free it is also compulsory except that students may attend private schools, most of which, at the elementary and high school level, are religiously controlled.

The coercion may be more subtle than physical compulsion to be present during the engagement in these exercises. As the same justice pointed out in the same case:

"That a child is offered an alternative may reduce the constraint; it does not eliminate the operation of influence by the school in matters sacred to conscience and outside the school's domain. The law of imitation operates, and non-conformity is not an outstanding characteristic of children. . ."

That there will be sectarian strife is almost as readily assured. What is a "nondenominational prayer"? Who will frame it? What religions can accommodate their teachings to it? As the American Council on Education noted some years ago: "The notion of a common core suggests a watering down of the several faiths to the point where common essentials appear. This might easily lead to a new sect—a public school sect—which would take its place alongside the existing faiths and compete with them." Do we want a state religion? No one reading today's newspaper headlines should think so.

At least some leaders of some of the churches recognize the dangers and deplore the possibilities of "nondenominational prayer." In 1962, Father Gustave Weigel, a learned Catholic student of the problem, pointed out: "The moral code held by each separate religious community can reductively be unified, but the consistent particular believer wants no such reduction."

And the official magazine of the United Presbyterian Church said at the same time: "If you have faith-in-general, you have no faith to speak of. Faith has to be something-in-particular. A nondenominational prayer is doomed to be limited and circumscribed. If prayer starts soaring, it starts to be controversial, which is the one thing a nondenominational prayer dares not to be."

The Supreme Court, in the Vitale case, which the proposed amendment seeks to overturn, said: "It is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

Are the American people, who have already turned over control of so much of their activities to government, prepared to reject this precept about the proper role of government in specifying religious activities? Thoughtful evaluation rather than visceral reaction suggests that the Vitale rule is one of the bulwarks of America's freedom from the ills that continue to plague those countries where "toleration" rather than "freedom" is the guide to government action in the field of religion.

If, as has been suggested, the churches are losing their holds on the minds and hearts of young Americans, they will not be succored by rote recitations of "nondenominational" prayers which can reflect neither the words nor the spirit nor the teachings of any religion. "Non-denominational" prayer will not "restore God" to the classroom; it will degrade religion not exalt it.

If this is what the American people want, but only then, they should support the proposed amendment. If they have any notion of the real meaning of religious belief and our history of developing religious freedom, they will recognize the proposed amendment as antireligious, not pro-religious.

At best, the proposed amendment invites state-imposed religious dogma and religious strife; at worst, it assures them.

FOREIGN AID RECIPIENT SWEDEN OCCUPIES WATERGATE PENTHOUSE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. RARICK. Mr. Speaker, the usually austere Government of Sweden has recently announced that it is going first class with its diplomatic corps—a $190,000-a-year chancery to occupy the entire penthouse of the Watergate South, which also is the home of a large number of the Washington wealthy.

These are the representatives of the same Swedish Government that last month twice voted against the Nationalist Chinese in the U.N. and which for the years 1946–71 has qualified as a poor emerging nation to milk the U.S. taxpayers out of $135,300,000 in foreign aid.

Perhaps Mr. Palme's anti-American delegation feel that, by doing business on top of the bankers and decisionmakers at the Watergate, they can more effectively lobby against the United States and gain more American taxpayers' funds.

As Prime Minister Palme has said, it is not that he dislike Americans; it is just that he prefers his friends in North Vietnam over those Americans trying to save the world from the Communist scourge. It is known that his country has a long record of trading with the enemies of free countries.

We wonder if the Swedish delegation in Hanoi enjoys such luxurious penthouse accommodations. Or then it could be that their working quarters in Hanoi are not so luxurious because Hanoi does not give them foreign aid or an open, free market on which to peddle Swedish merchandise; or it could be that they chose to get off Embassy Row by moving up rather than out of the District because of their fear of our black residents who dominate Washington.

XUM

A newsclipping follows:

[From the Washington Post, Oct. 31, 1971]

PENTHOUSE DIPLOMACY: SWEDES SET UP SHOP AT WATERGATE

(By Michael Kernan)

The Swedish Embassy has moved into its new chancery, the entire penthouse of Watergate South (making it one of the first major embassies to have its chancery in an office building here), and the whole delegation is delighted.

Reason: the old chancery at 2249 R St. NW, bought in 1920, had become so packed with people that bathrooms were being remodeled for more offices. The embassy already had built an annex to the elegant old townhouse, had bought a second building, rented a third as well as space in a fourth.

In recent years several chancery buildings have been erected both on and off the old Massachusetts Avenue "embassy row," and many embassies maintain extra office space downtown. But the Swedish move establishes its entire operation on a private site not owned by Sweden. Choice of the top floor was dictated partly by security reasons. The national emblem adorns the front portico of the Watergate.

With 24,000 square feet, probably double the old four-story mansion, the staff of 58 at least has elbow room—and a view. Every office has a view: the military section chief can literally wave at his counterpart in the Pentagon, the political section overlooks the State Department, and the others get a panorama of the JFK Center, the Potomac and the rest of the Watergate itself.

Rent is $190,000 a year, and the chancery probably will remain there for 5 to 10 years—"which means 10 years," commented Ambassador Hubert de Besche. Eventually the embassy plans to build a chancery on Nebraska Avenue next to the residence.

The unusual plan, adapting to the Watergate's curious kidney shape, was designed by Goteborg architect Bjorn Hulten and cost $115,000 to complete. Centered on a circular reception room-library with sliding doors, it has 46 rooms for officials, three conference rooms, lunch, archive and storage rooms, plus access to the terrace and the garage.

The garage is good news to employees who had to park on Sheridan Circle at the old place. A small bus augments the city bus lines, which are not particularly convenient to the Watergate.

Swedish furniture and contemporary art, not to mention the blue-and-yellow color scheme, give the place an unmistakable air of Sweden.

TIME TO TURN FROM U.N.

HON. EDWARD HUTCHINSON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. HUTCHINSON. Mr. Speaker, the fact that the United States has continually provided a large percentage of the moneys for the operation of the United Nations has been a subject of displeasure among many of my constituents for several years.

The recent anti-American display by some delegates to the U.N. during the vote to expel the Republic of China has not served to improve the U.N. image with my constituents.

The Coldwater Daily Reporter, a leading newspaper in my district, accurately reflects the attitude of many, when it suggests that perhaps it is time for the United States to reassess its position in world politics and reconsider its membership in the United Nations.

The Government of the United States certainly has been generous with their money to the U.N. This Government currently pays over one-third of the cost.

The U.S. Government has also been generous in its foreign aid program to many of the U.N. members. In fact, of the 59 U.N. members who voted to expel the Republic of China, all but eight have been recipients of aid totaling $47 billion.

It is the feeling of many in this country that the United States can turn its cheek to some of our so-called friends only so often. Others think it has been slapped once too often.

Mr. Speaker, I include an excellent editorial from the October 26, 1971, Coldwater Daily Reporter at this point in the RECORD.

TIME TO TURN FROM UN

The foreign minister of Nationalist China aptly described it. The UN is "a circus." It's time the United States sat down and reassessed its position in world politics. When a nation of 14 million people is dismissed from a "world body" by votes of nations half that size simply to kick the United States in the teeth, it is time to reconsider our membership.

It was a foregone conclusion that Communist China would gain entrance to the UN and in fact this position was supported by the United States. That a nation of 700 million people should be represented in a world organization is rather hard to argue against. That a nation of 14 million people should be represented in a world organization is just as difficult an argument to reject.

The United States now pays about 35 per cent of the cost of the United Nations. Far out of proportion to its population. Without the financial support of the United States the United Nations would have been bankrupt many years ago. If nothing else the United States should reassess that budget so that those nations making the most noise and dancing and rejoicing over United States defeats should help pay the bills.

With the United States suffering its worst defeat in the United Nations in its 26 year history, we wonder what those who have espoused the establishment of a world government and a UN army are thinking today? How long would it take the communist nations and their allies to bring the strongest nation in the world to its knees through the UN?

It is even sadder to contemplate on the fact that while the United States was suffering defeat many of our so called allies and friends sat on their votes and watched. Such nations as Italy, the Netherlands, Turkey and even Laos where American boys so recently shed their blood.

We know it is folly to expect that Congress and the administration will consider completely rejecting the UN. But is it not time for Congress to demand that the United States only pay its fair share? And is it not time for the administration to reassess our world position and deal with individual nations on the basis of mutual benefit while placing less and less emphasis on a so called "world" organization?

It's time to stop trying to run the world. It's time to put the United States and our interests first. This is the only language our enemies and friends understand.

"SUBVERSION" IN SOUTH AFRICA

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. REID of New York. Mr. Speaker, in February, 52 Members of the House and Senate issued a statement in which we protested the arrest and detention under the Terrorism Act of the dean of Johannesburg, South Africa, the Very Reverend Gonville A. ffrench-Beytagh, an outspoken foe of apartheid.

On Monday, the dean was sentenced to 5 years' imprisonment after being convicted of four of the 10 charges against him under the Terrorism Act. Distressing as this verdict is, it can no longer shock those of us who have seen the South African Government arrest, imprison, and condemn countless men and women who sought only to speak out against the horror of apartheid and aid its victims. Rather, this most recent outrage in Pretoria only makes a further mockery of a government which is too frightened to allow justice and the rule of law to be sovereign in its land.

I would like to insert in the RECORD at this point the newsstory on this event from the New York Times, along with an excellent editorial:

[From the New York Times, Nov. 2, 1971]

JOHANNESBURG DEAN GETS 5-YEAR TERM ON PLOT CHARGE

PRETORIA, SOUTH AFRICA, November 1.—The Anglican Dean of Johannesburg, an outspoken opponent of South Africa's racial separation policies, was sentenced today to five years' imprisonment under the sweeping provisions of the Terrorism Act. He was released on $14,000 bail pending appeal, which is not expected to be heard before next March.

As the Chief Justice of the Transvaal, Judge Petrus Cillie, ended his five-hour reading of the judgment of the Very Rev. Gonville ffrench-Beytagh, after a three-month trial, another clergyman, the Rev. Ian Thompson, stood up in the crowded courtroom and declared: "I want to be found guilty with the Dean! God has asked us to feed the needy!"

The white-haired, 59-year-old Dean was convicted of four of the 10 charges against him, which carried a minimum sentence of five years.

In pleading for the minimum sentence, the defense attorney, Sidney Kentridge, had told the court that the Dean's channeling of money to persons and organizations under legal proscription had been "acts of charity," whatever the source of the money and whoever received it.

One of the specific acts for which Mr. ffrench-Beytagh was convicted was the distribution of money in South Africa on behalf of the Defense and Aid Fund, a British organization that is banned here under the Suppression of Communism Act.

The Terrorism Act was introduced by the Government in 1967 to provide legislation covering activities inimical to established authority not included in the Suppression of Communism Act of 1951 and other laws.

It created the new offense of "participation in terrorist activities"—any action committed or attempted that endangers law and order, or conspiracy to incitement or to commit such acts. The Terrorism Act allows the indefinite detention of suspects or of anyone believed to be withholding information about "terrorist activities."

The dean was convicted of the following charges:

Possession of pamphlets belonging to the manned African National Congress, the South African Communist party and other banned organizations.

"Encouragement" to violence in an address at a meeting of the South African Black Sash, a liberal women's anti-apartheid group.

Incitement of a police undercover security agent, Kenneth Jordaan, a member of the dean's church, to take part in a violent uprising against the state.

Distributing money on behalf of the Defense and Aid Fund.

A guilty verdict on any one of the 10 counts would have been enough to have caused the dean to be found guilty of the main charge—that of participating in terrorist activities and a conspiracy aimed at violent overthrow of the South African Government.

The Dean stood impassively as the sentence was passed. Women in the courtroom gasped and sobbed.

WIDE REACTION SEEN

Mr. Kentridge asserted that the proceedings would cause a "sense of shock and stupefaction far beyond the confines of this courtroom." He added that the Dean took full responsibility for all that had been done in his name.

"What he has done," the attorney said, "he has done of a sense of duty to God and man."

In passing sentence, Justice Cillie said that the Dean had not been on trial for his political views. He ruled that several of the acts of incitement charged against the defendant had not been proved, and that there was no evidence that the Dean had assisted any plans to commit specific acts of sabotage.

But, he said, the Dean's address to the Black Sash constituted "violence and all that" and contained statements that had encouraged people to "contravene the laws of the country, thereby supporting violent revolution."

BORN IN SHANGHAI

Dean ffrench-Beytagh, a bachelor, was ordained an Anglican priest in South Africa in 1939. He was born in Shanghai of British parents—his passport is now held by the South African police—and as a youth he traveled as an odd-job man and hobo in Australia and New Zealand.

Before being appointed to his present post in Johannesburg, Mr. ffrench-Beytagh was Dean of Salisbury, Rhodesia, for about 10 years. In the Anglican Church, the deal is the clergyman in charge of a cathedral church.

Mr. ffrench-Beytagh strongly opposed the policies of Prime Minister Ian D. Smith, whose Government declared Rhodesia's independence from Britain in 1965, and he returned to South Africa in that same year.

[From the New York Times, Nov. 2, 1971]

"SUBVERSION" IN SOUTH AFRICA

The Very Rev. Gonville ffrench-Beytagh, Anglican Dean of Johannesburg, is a subversive in the eyes of South Africa's racist Government because he says: "I believe the doctrine of apartheid is abhorrent to Christianity." He is a revolutionary in the sense that, although he rejects violence, he has come to believe violence is "almost inevitable" under South Africa's draconic system of repression for the country's non-white majority.

A court in Pretoria has now convicted Dean ffrench-Beytagh of subversion and sentenced him to five years. He was charged with distributing funds from abroad to black South Africans connected with the outlawed African National Congress. Although the prosecutor claimed the 59-year-old clergyman was "part and parcel" of a plot to overthrow the Government, he took care to remind the court that under the Terrorism Act no proof of participation in terrorist activities is required for conviction.

The prosecutor was right about that if about nothing else in this travesty. Anyone arrested under the Terrorism Act is guilty unless he can prove his innocence "beyond a reasonable doubt." The range of "terrorist" activities is so sweeping that a person can be convicted if his alleged offense is adjudged "to embarrass the administration of the affairs of state."

What Dean ffrench-Beytagh really did was to use the funds he received to provide food parcels, medicines and schoolbooks to needy families, including those of men imprisoned for political activities. He was brought to trial for the reason that South Africa's security police have been hounding other church officials and expelling foreign missionaries: Many churches have become increasingly effective witnesses against the inhumanity of apartheid; and a Government based on that hideous doctrine cannot tolerate such opponents.

REMARKS AT DEDICATION CEREMONIES AT CLEVELAND STATE UNIVERSITY

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. JAMES V. STANTON. Mr. Speaker, on October 20, the Cleveland State University formally dedicated its new university tower and classroom and lecture center, which is a landmark not only in an architectural sense, but also in terms of the effort to give all Clevelanders an opportunity to receive the benefits of a higher education. At that time President Harold Enarson of Cleveland State gave a thought-provoking statement on the role of the university in today's society.

I would like to commend to the attention of my colleagues the text of his remarks:

REMARKS AT DEDICATION CEREMONIES BY DR. HAROLD L. ENARSON

Mr. Chairman, Trustees, Distinguished Public Officials, Faculty, Students, Staff, Friends of the University.

All speakers have been repeatedly reminded of the sweet uses of brevity. I expect to honor this trust, though it requires saying too much too quickly.

We pause here briefly today in search of the saving grace of perspective, to reflect not simply upon the meaning of the two new buildings which we at long last occupy, but upon the meaning of the University which these serve.

A lyric of the 60's—or was it the 50's—had the captivating title "On A Clear Day You Can See Forever." Not true of course—not even in the eternal blue of Cleveland skies and our fresh, smoke free air. But there are occasions when we must lift our eyes from immediate concerns, from the compelling present and look to the future. This must be made such a moment.

Recently I flew in to Cleveland from the north along the lakefront. University Tower stood stark and clear on the Cleveland skyline, the vital center of our growing university. No doubt about it—CSU is a new, small city within the city, with boundaries steadily reaching westward toward downtown Cleveland. I found symbolic meanings both in our closeness to downtown and in the distance that makes us stand apart.

The University is the creature of the people, organized and funded to meet their needs. The program in your hands reads—and I quote "A state university is a gift—a people to people gift—a monument to the generation which foresaw great needs and burdened themselves to provide ways and means to meet these needs." There should be no confusion on this score—whether on the part of students or faculty or administrators. We shall not thrive nor prosper nor even survive unless we work diligently to attune ourselves to the changing requirements of a social order now seemingly in permanent flux. All this is well understood in the legislative halls! it is not as well understood in the halls of academe.

But if CSU is the creature of the people of Ohio, it also must be said quickly that it is a very special kind of creature. All this is well understood—for the most part—in the halls of academe. It is not as well understood in the legislative halls or in the councils of men who pride themselves on being practical.

It is easy to say what the university is not.

It is not just another state agency, to be ordered, policed, regulated by external authority.

It is not a factory with a production line easily measured in costs per student credit hour and numbers of graduates.

It is not an institution whose programs and dreams lend themselves to cost-benefit analysis and the calculus of conventional economics.

It is not a service station to supply the trained manpower for the local economy.

It is not a social system of policed and directed tranquility.

Nor is the university a community service agency.

It is harder to say what the university truly is. But yield me a moment more and let me try.

The university is a place for the exchange of ideas or it is nothing. Ideas of all kinds—ideas sound, unsound; conventional, unconventional; provocative, reassuring; plausible, implausible; pedestrian, extreme.

The university is a friendly and hospitable arena for personal growth, a place of exploration where all are committed in some degree to self-renewal and self-identity.

The university is a home of learning, with more resources in knowledge than we could absorb in a lifetime.

The university is all this *and more*. And the "more" in this complex reality lies in the domain of faith—almost an animal faith. It is a faith in an orderly universe whose secrets can be uncovered, in reason and dialogue as the path to better approximations of truth, in persuasion as a way of life, in mutual respect as the touchstone in all our affairs, in competence as the necessary preface to performance, in civility as the true measure of our humanity, and in the possibility of liberating our minds from passion and prejudice. I call this faith because in the turbulence of the 1960's these once self-evident truths have been challenged as seldom before in our national history.

We are told that there is a crisis in public confidence in higher education. And so there is. But there is another kind of crisis, one too easily obscured. Very simply, it is that we risk a failure of nerve in our own ranks. Our vision for a better future dims. We begin to doubt our capacity for self-government. We harbor secret doubts that we will not be given the resources to do the job, that we will enjoy the consent of the governed in the internal affairs of the university. In the

words of Pogo, we seem at times to face "insurmountable opportunities."

I say that nerve—by which I mean courage and commitment—can and will prevail. CSU, with the help and support of Trustees, faculty, students, legislators, Clevelanders, has come a long, long way in its first six years. The saving grace of perspective reassures us. Pogo to the contrary, the opportunities are "surmountable." John Gibel said it beautifully, at CSU "we are now putting it all together."

Thanks to all of you for letting me share in this ceremony and in the continuing adventure that is Cleveland State University.

NIXON RESPONSIBLE FOR TAIWAN OUSTER

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. SCHMITZ. Mr. Speaker, the November 6 edition of Human Events newsmagazine contains an analysis of the factors underlying the explusion of Nationalist China from the United Nations. Human events determines, correctly I think, that the major reason for Free China's ouster from that body is the current administration's rush to embrace Mao Tse-tung and company.

Excerpts from the article follow:

NIXON RESPONSIBLE FOR TAIWAN OUSTER

With tireless and consummate skill, President Nixon has finally achieved another wondrous goal for this Republican Administration: admission of Communist China into the General Assembly of the United Nations, a seat on the Security Council for Mao's government and the complete and public humiliation of our long-time ally, Taiwan.

There is something breathtaking about this revolutionary accomplishment, and it will be interesting to see how many Republicans in 1972 choose to run on this platform, a platform tailored to the tastes of Teddy Kennedy and Chou En-lai but formally forged in the Oval Office at the White House.

Diplomatic circles believe that the repercussions, if not favorable to the United States, will at least be widespread. The action taken by the United Nations last week has clearly jeopardized Taiwan's existence as a country free from Communist control, it has seriously undermined the pro-Western government of Japan, and it has even helped to subvert the North Atlantic Treaty Organization. The move is also quite likely to transform the United Nations into a primary battlefront for international Maoist subversion.

Face-conscious Asians are undoubtedly reassessing their allegiances in the wake of Taiwan's ouster. From Malagasy to Indonesia, millions of overseas Chinese, dominant in trade and many of the professions of Southeast Asia, will be encouraged to shift their loyalties from the Republic of China to the rising Red Star on the mainland.

The U.N. maneuver has not only tossed a king-sized scare into our Asian allies who obviously fear American abandonment, but it has sown an enormous amount of distrust with our friends in other parts of the world as well. For if the U.S. is so blithely willing to permit the jettisoning of an ally, a charter member of the U.N., a regime for which hundreds of thousands of Americans lost their lives or were seriously wounded in World War II, how, America's friends are asking, can the free world continue to rely on the U.S. in the face of aggression?

How, they would like to know, can they trust the word of a President who participates in the betraying of old friends and simultaneously signals he may abandon others by reducing America's presence throughout the world and permitting the Soviet Union to develop decisive military superiority?

The truth is that President Nixon has suffered a diplomatic Bay of Pigs in his obsession to court Peking. And Taiwan's expulsion—the major betrayal, the core of last week's disaster—is largely due to the actions of the President, not the United Nations, ignominious as the role of the U.N. has been.

The U.N., admittedly, deserves its fair share of the blame for slavishly following the line laid down by the Communist government of Albania, Peking's friend in court.

Albanian Foreign Minister Nesti Nase introduced the winning resolution to seat Mainland China and eject Taiwan by calling for the U.N. to "expel the puppet Chiang Kai-shek" and get rid of the "Chiang Kai-shek clique." He urged the world body to give the United States the "soap so that, like Pontius Pilate, they may wash their hands" of Taiwan.

"The world at large," Nase continued, "knows that American imperialists have committed and continue to commit the most serious of crimes against the Chinese people. . . . Ceaselessly they have led against the People's Regime of China a policy of war and aggression. . . ."

Belittling our support for Red China's admission, Nase claimed that the United States "has continued its hostile anti-Chinese policy, which is born of the hate that it nourishes toward revolution and socialism and of its aggressive designs for world domination."

Whether the U.N. majority actually swallowed whole all that Red rhetoric is doubtful, but the majority willingly lined up against the United States and behind Nase's resolution. The final vote which brought many of the delegates to their feet in wild applause was 76 in favor, 35 opposed and 17 abstentions (see page 23).

But the key decision that signalled the end for Taiwan came a few hours earlier when the Assembly voted 59 to 55 to reject the American draft resolution that would have declared the expulsion of the Nationalists an "important question" requiring a two-thirds majority for approval.

As the electrical tally boards flashed the news that the "important question" proposal had failed, pandemonium broke out on the Assembly floor. Delegates jumped up and applauded, while Salim Ahmed Salim, the youthful chief delegate from Maoist Tanzania, hopped to his feet and led his colleagues in a frenzied victory jig in the front row of the General Assembly Hall. Decked out in a black tunic buttoned up at the neck, Salim had performed a first in the U.N. with his victory dance.

Albanian delegates, who were floor managers for the dump Taiwan effort, were less frenetic than their Tanzanian co-sponsors, but they also smiled, applauded and exchanged embraces. So did the Algerians, who served as co-managers in the Albanian effort.

"For long minutes," noted the New York *Times*, "the packed hall rang with applause and cheers for the winners. There was rhythmic clapping. The Soviet Union's delegate, Yakov A. Malik, who voted against the United States—though Moscow is less than enthusiastic about Peking these days—applauded discreetly and smiled benignly."

The U.N. must be clearly called to account for exchanging a peaceful, prosperous and generous member of the family of nations for the rampaging revolutionaries on the mainland dedicated to wrecking the human spirit. But it was the President—and nobody else—who was primarily responsible for jerking the rug out from under Taiwan.

The official Administration line is that we fought hard to retain the Republic of China's membership, and U.N. Ambassador George Bush made a valiant effort to do so. But insiders at the U.N. stress that the various actions taken by the President and the State Department systematically undermined Bush's position.

The President's sudden announcement (not cleared with Taiwan) that he would voyage to Peking, the President's support of Taiwan's eviction from the Security Council in order to ease Peking's U.N. entry and his sending of White House aide Henry Kissinger not once but twice, to the Communist capital on the mainland, the last time on the eve of the U.N. vote, were all part of the pattern that paved the way for Taiwan's ejection.

Potential supporters of the U.S. just did not believe we had our hearts set on rescuing Taiwan. And many believed that if the U.S., as evidenced by Kissinger's trips, were coming to a broad understanding with Peking, they would be advised to hop aboard the pro-Peking bandwagon as well. Why should they risk antagonizing the Communist colossus by supporting Taiwan when the U.S. looked as if it were about to strike a cosy deal of some sort?

The second Kissinger trip was particularly crucial in persuading the delegates the United States was not serious about salvaging Taiwan.

Rep. Edward Derwinski (R.-Ill.), an American delegate to the U.N., told HUMAN EVENTS: "In my judgment, the timing of Kissinger's trip to Peking had an adverse effect" on the vote. "Kissinger's presence in Peking as the vote was about to come up was impossible to explain."

While the President's White House aide was visiting the Great Wall, the Ming tombs and the Summer Palace, the delegates received the distinct impression that the United States was more concerned with its new ties to Peking than its old links with Taiwan.

Nor is this all that damaged our position at the U.N. A sizable number of delegates, particularly the Japanese, deplored the fact that the President himself furnished only token support for Taiwan. Not once, it was noted, had the President made a major statement on Taiwan's behalf. Not once had he intervened in a major way to persuade our allies to side with us on this issue.

"If the United States had been as interested in retaining Taiwan's membership as it was in embracing Peking," said one observer, "then the President would have pulled out all the stops—economic enticements, threats of retaliation and a promise to use all the parliamentary weapons at our disposal, including the veto." But the President did none of this. Indeed, he went out of his way to discard any of the parliamentary devices he could have used to retain Taiwan's seat.

Just five days prior to the opening of the General Assembly, the President handed Red China yet another handsome peace offering. He agreed that Red China should be entitled to enter the General Assembly and the Security Council on a simple majority vote.

In the past, the U.S. had interpreted the U.N. provisions to mean that Red China should not be seated at all because of its flagrant violation of the U.N. Charter and because it had been labelled an "aggressor" nation by the U.N. Moreover, we have previously held that the admission of Red China is an important question requiring a two-thirds majority, not a simple one.

The President also spurned possible use of the veto power to salvage Taiwan. When a reporter asked the President if Dr. Walter Judd were not correct in stating that the expulsion of Nationalist China was subject to a veto, the President admitted that "there are differing legal opinions you can get. . . . We, however, have reached the conclusion that the position we presently take . . . is the legally sustainable one."

The President thus acknowledged that he was not going to employ the veto and that he was deliberately taking a position detrimental to Taiwan, even though other legal opinions were available.

As former Rep. Judd put it: "Everybody could see—almost everybody drew the conclusion that the United States didn't really believe in its own resolution." As a consequence of our half-hearted efforts, the U.S. fell five votes short on the key vote. In fact, some 18 countries that had voted with us in 1970 either opposed us or abstained in the vote this year. And it defies the imagination to believe that such a massive defection could have occurred unless the United States had greased the skids.

We are constrained to agree with Sen. Henry Jackson (D.-Wash.), who just might be President Nixon's opponent next year:

"The expulsion of Taiwan from the United Nations is being viewed around the world as an unprecedented diplomatic defeat for the United States. The American people now have a right to ask what further price we are going to have to pay in order that the President have a cheerful reception when he arrives in Peking.

"We all desire improved relations between Peking and Washington. And President Nixon, on July 15, personally assured the American people that 'normalized relations' with China would not be 'at the expense of our friends.' But the expulsion of Taiwan is eloquent evidence that the Administration does not deliver on its pledges.

"I agree with those who say that our recent defeat was 'symbolic,' but I cannot accept the view that it was 'merely symbolic.' For what the U.N. vote symbolized, in fact, is that America's position of world leadership has been eroded.

"Throughout this fiasco the Administration failed to convey a convincing impression of what its real policy was. Capitals around the world were alive with speculation that the U.S. commitment to the maintenance of Taiwanese representation was nothing but a *pro forma* effort. On the eve of the crucial vote, the President's most trusted adviser was deep in conversation in Peking. When the Administration sought to rally support, the damage had already been done."

How harmful will Taiwan's expulsion be? The most immediate and devastating impact, reports the Washington *Post*, "is already occurring in Taiwan. . . In the view of several Asian specialists, Chiang's loss of status will inspire elements within his regime to seek to work out some kind of deal with the Communists." Moreover, the Republic of China's influence throughout Asia and Africa is bound to diminish while Red China's influence is bound to wax.

In addition, business investment in Taiwan, already having fallen off because of the government's increasingly unsure status, is expected to plummet even further, as a number of businesses are convinced that Taiwan's ejection is the first major step toward the crumbling of the Chiang Kai-shek regime and a possible take-over by the Communists.

The Red Chinese victory at the U.N. is also expected to scuttle the pro-Western government of Japan. As a result of Nixon's lurch toward Peking, Prime Minister Eisaku Sato has come under increasing pressure from leftward forces in his country to ditch Taiwan. Many members of Sato's ruling Liberal-Democratic party, supported by Japanese interests eager to tap the Red Chinese market, have urged that Japan now break its links with Taiwan and establish diplomatic relations with Peking. More than a few specialists in the area also believe Sato will shortly be forced to resign from office and that he will be replaced by a pro-Peking man.

Taiwan's ouster, ironically enough, may also speed up what the President claims to be against: the neo-isolationist sentiment spreading over the country.

In the crucial vote at the U.N., for instance, only three NATO countries—Greece, Portugal and Luxembourg—supported our position, and in the final tally not a single NATO nation cast its ballot for Taiwan. Thus there are predictions that some conservatives, reacting to the U.N. vote on expulsion, will join with the liberals in gutting NATO the next time the Mansfield resolution on European troop withdrawals comes before the Senate.

In the wake of Taiwan's expulsion, the President, it seems to us, should try to redeem the situation to some extent. He could, for instance, recall our ambassador to the U.N. as a sign of his active displeasure with that organization's actions on the Taiwan issue. Instead of commenting on Taiwan's ouster through his press secretary, as he did last week, he should personally announce a renewed commitment to Taiwan for the purpose of shoring up that government's spirit and indicating to investors that the Republic of China will not be abandoned. Meanwhile, the President should take action to pacify the government of Japan and to restore confidence in our allies who have been shaken by our recent policy toward an old ally. To do nothing is the sure path to further disaster.

OUR OWN GESTAPO

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. SIKES. Mr. Speaker, the widespread concern which has been felt throughout the Nation about the bungling tactics of Federal agents who administer the 1968 gun control law is well expressed in an editorial from the Panama City News Herald of Wednesday, October 20, 1971. I submit it for the RECORD:

OUR OWN GESTAPO

Federal Alcohol, Tobacco and Firearms agents in Washington, D.C., probably are lying low for the moment after a raid in which a Washington resident was shot in the head a couple of months ago.

The victim was Ken Bellew, a collector of antique firearms. At last report he was in a Washington hospital with a bullet in his brain. A federal bullet.

Accounts of the raid in newspapers and in a national magazine are almost unbelievable.

Briefly, the Gestapo-like raid occurred one evening when Bellew was taking a bath in his Washington apartment and his wife—who was not fully dressed—was in the bedroom.

Suddenly there was a fearful hammering on the front door and loud demands that he open up. Before Bellew could get out of the tub, the door flew off its hinges, battered by an 80-pound steel battering ram.

A group of bearded, long-haired men dressed in old clothing charged in. Bellew—on his way to the door—snatched up an old single-shot antique pistol to defend himself. Several shots were fired. Bellew fell to the floor with a bullet in his brain. Most reports seem to agree that he fired the antique pistol, but only after being shot at, and that the ball hit no one.

When the dust settled it turned out that the bearded men were undercover agents the ATF and that they were there to search Bellew's apartment because of a report that he had live hand grenades in his possession.

The raiders found a single deactivated grenade, according to reports. It was a souvenir of World War I. A paperweight. Harmless.

Subsequent investigation indicated that they had drawn their search warrant on the basis of information given an officer in another city by an unidentified person—third-hand, unconfirmed information, given without the necessity of an oath by the original complainant.

One congressman remarked later that he could not understand the need for haste on the part of the raiders, the battering down of the door, the sudden charge into Bellew's living room.

"After all, if he had hand grenades, he couldn't flush them down the toilet could he?" the congressman asked.

Hardly, it was an ill-conceived, stupid, bungling, Keystone-cops sort of raid untypical of the professional law enforcement agent and loaded with deadly hints of what the future might be like if some people get the national gun control laws they seek so eagerly.

Uninformed police were present and they could have entered the room first, at least letting Bellew know that the raid was a police raid and not an invasion of his home by hippies bound on rape, robbery and worse.

But they stood outside in the hallway and let the bearded ones do their thing, with deadly results for Bellew, who thought he was defending his property and perhaps his life and that of his wife.

Perhaps the raiders were chided later by their superiors. Perhaps not. No report of disciplinary action has been brought to our attention.

At very least, the boys ought to be a little embarrassed.

After all, you still don't know who triggered the false air raid alert that upset the whole nation a few months ago, do you?

DR. GABOR—NOBEL PRIZE WINNER

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. McKINNEY. Mr. Speaker, I know that my colleagues will want to join me in an expression of congratulations to Dr. Dennis Gabor who is the recipient of the Nobel Prize for Physics.

Although a British citizen, I am sure you know that for more than half of each year, Dr. Gabor makes his home in Stamford, Conn. His choice of Stamford, I should point out, is no accident since that is where he continues his work with his lifelong colleague and friend, Dr. Peter Goldmark, a man who, like Dr. Gabor, has realized the valuable correlation between human renewal and urban renewal.

Dr. Gabor, as he pointed out in an interview following the announcement of his award, is not a "pure research for the sake of research man." His principal interest in life is to apply science to the solution of social problems, an attitude which is not only admirable, but deserves our unqualified gratitude.

He feels, Mr. Speaker, that Western civilization is in need of redirection and that "everything rests on the basis of science but that spiritually, we have nothing." I would hope that this award, and the recognition of his contributions, will mark the beginning of that redirection so that we may move forward as Dr. Gabor would want us to. I firmly believe that this can be accomplished if others follow his lead and apply their particular aspect of science to the solution of social ills. Nothing could make this country greater.

SENATE—*Thursday, November 4, 1971*

The Senate met at 12 meridian and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of grace and God of glory, to whom a thousand years are but as 1 day, we pray that we may live in the light of past wisdom with faith in Thee to labor for the new world yet to come. Looking backward, may the past warn us by its failures, instruct us by its successes, inspire us by its sacrifices. Looking forward, may we behold the ultimate world of justice, peace, and righteousness. Looking upward, may we find in Thee the source of our strength and the power for achievement. Make this body one in purpose and in dedication to the people's welfare, that it may speak where they would speak, act where they would act, and in all things great and small do that which is pleasing in Thy sight.

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 3, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE DIPLOMATIC AND FOREIGN SERVICE

The assistant legislative clerk proceeded to read sundry nominations in the diplomatic and Foreign Service, which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc; and, without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

AMENDMENT TO THE NATIONAL HOUSING ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 416, S. 2781.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

S. 2781, to amend section 404(g) of the National Housing Act.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 404(g) of the National Housing Act is amended by striking out "1¾" and substituting in lieu thereof "1⅞".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-420), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF LEGISLATION

The purpose of this amendment is to prevent an unintended call for prepaid premiums to the Federal Savings and Loan Insurance Corporation by member savings and loan associations. Unless amended, the present law, that is section 404(g) of the National Housing Act, would require savings and loan associations to divert up to $400 million of housing funds into payment of prepaid insurance premiums.

BACKGROUND

Present law requires that if the ratio of the Federal Savings and Loan Insurance Corporation reserves to insured savings falls below 1.75 by December 31, of a given year, member savings and loan associations are required to commence prepaid insurance premiums equal to 2 percent of their savings growth during the year. It was not anticipated that FSLIC reserves would fall to 1.75 until 1973 or 1974—by which time the Congress would have worked out a more permanent and stable method of maintaining an adequate FSLIC financial structure. There has been, however, an extraordinary increase in insured savings in 1971 (which has been extremely helpful in stimulating home building) and the reserve ratio may drop to 1.75 or slightly below by December 31, 1971. The reserve ratio decline is solely the function of the increase in savings and does not reflect a reduction of dollar reserves.

By changing the 1.75 in existing law to 1.60, the triggering of the prepaid premiums can be postponed for a year, giving Congress enough time to review this matter and time to devise a permanent system for generating FSLIC reserves. This amendment would leave the FSLIC reserves at a very adequate level—substantially above the 1.25 reserves existing for the Federal Deposit Insurance Corporation.

No objection has been expressed to this amendment, the effect of which is simply to prevent an unanticipated diversion of several hundred million dollars of housing funds from prepaid premiums which are not necessary.

The committee recommends favorable consideration of this bill by the Senate.

PROGRAM FOR THE REMAINDER OF THIS SESSION

Mr. MANSFIELD. Mr. President, for the information of the Senate, it is anticipated that the next order of business at the conclusion of the morning hour today will be S. 1977, a bill to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes. This will be followed by H.R. 5060, an act to amend the Fish and Wildlife Act of 1956, and so forth.

That will conclude the business for today.

It is the intention of the joint leadership at that time to lay before the Senate S. 986, the so-called warranties bill, which will be taken up tomorrow. Whether that bill can be completed tomorrow remains to be seen. If not, my guess is that Monday will be the time when it is finally disposed of, if then.

Following that, the Senate will take up the agreement with Japan concerning the Ryukyu Islands and the Daito Islands.

Mr. President, I ask unanimous consent that on Tuesday next, November 9, 1971, when the Senate convenes, the treaty be made the pending business.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, following the disposal of the Japanese treaty, it is anticipated that the tax package requested by the administration will be available and, at about the same time, the phase II package will be ready for consideration by the Senate.

After that, of course, we have other

legislation, but we cannot lose sight of the two Supreme Court nominations which should be reported to the Senate, I would hope, by the end of next week.

There are also four appropriation bills, sundry conference reports, a foreign aid bill, and perhaps the equal opportunities bill, so-called, an act to further promote equal opportunities for American workers.

Then, of course, there is the Voter Registration Act, which was ordered reported by the Committee on Post Office and Civil Service yesterday or the day before.

All of these matters, Mr. President, may or may not be brought up at this session, but I believe the Senate should be placed on notice and should understand that the joint leadership—and I emphasize the word "joint"—is trying to do its very best to complete legislation which is before the Senate and hopes there will be no further requests for slowdowns or postponements, because if we are going to meet the goal of sine die adjournment by December 1, 1971, it will be quite difficult anyway, and will take a collective effort on the part of the entire Senate to do so.

I would hope, therefore, that Senators who, for personal reasons, do not want to consider a certain piece of legislation on a certain day, or cannot be in Washington on a certain day, will just take their chances, as the joint leadership has itself done down through the years.

The joint leadership has never asked for anything to be held up when either the distinguished Senator from Pennsylvania (Mr. SCOTT) or the Senator from Montana now speaking were absent. We do not intend to do so. We will take our chances and I would ask that all other Senators take the same kind of chance the joint leadership does in the interest of expediting the legislation, in the interest of the Senate as a whole, collectively, and in the interest of, maybe, making it possible finally to achieve a sine die adjournment by December 1, 1971.

Mr. BYRD of West Virginia. Mr. President, will the distinguished majority leader yield?

The PRESIDENT pro tempore. Does the minority side wish to be heard?

Mr. PACKWOOD. Mr. President, I yield time to the distinguished majority whip.

Mr. BYRD of West Virginia. I thank the distinguished Senator.

Mr. President, including Saturdays, 16 days remain, with the exception of Sundays and this coming Saturday, prior to Thanksgiving Day.

I would ask the distinguished majority leader this question: Will there not be such an amount of work, once the President's economic package comes to the floor—phases I and II—and considering the two nominations to the Supreme Court, the Defense appropriation bill, the District of Columbia appropriation bill, and the supplemental appropriation bill—will there not be such a workload as to make it absolutely necessary, excepting this coming Saturday, to be in session the remaining two Saturdays prior to Thanksgiving Day, if we hope to get out sine die by Thanksgiving Day or no later than December 1, 1971?

Mr. MANSFIELD. Yes, indeed. I am glad the distinguished majority whip, the Senator from West Virginia (Mr. BYRD), has brought that out, because he has reminded me of an agreement which we have had among the joint leadership that while we will not meet this Saturday, because the calendar will be pretty well cleared up, beginning next Saturday and every Saturday from there on out, as long as we are in session, if it is not too long, we will meet, because we do have the two Supreme Court nominations and we do have the four appropriation bills which have yet to be initially considered by the Senate and we are waiting for the House to act on them.

We also have the President's tax program and the President's phase II program, all vitally important, as well as the other pieces of legislation which have been discussed this morning.

I repeat that I would hope that all Senators would work together to the end that we can, if possible, adjourn sine die around the first of December. To do that is going to take some accommodation on the part of all Senators. I anticipate that that accommodation will be forthcoming.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

The Senator from Idaho is recognized.

BACK TO THE DRAWING BOARD ON FOREIGN AID

Mr. CHURCH. Mr. President, there can be no doubt that the 41-to-27 vote against foreign aid last Friday is one of the boldest actions the Senate has taken in years.

Yet, as one who strongly supported the vote against foreign aid as it is presently administered, I must say that the response I have so far received has been most gratifying. The people of this country, in their good commonsense, know that it is time for a new look at foreign aid, and they support the action we took.

An excellent example of the press reaction to the vote is contained in an editorial which appeared Tuesday in Newsday, published on Long Island.

The editorial noted:

It was about time the Senate took a hard look at the U.S. foreign aid program, which is based on policies and practices conceived during the chillier moments of the Cold War and frozen rigid ever since. The bills have come down every year reflecting the bureaucratic schizophrenia of a policy that seeks simultaneously the preservation of the status quo and economic and social change.

Mr. President, I commend the editorial to the Senate and ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BACK TO THE DRAWING BOARD

The U.S. Senate shocked the President, much of the world and itself Friday when it voted to kill the $3.5 billion foreign aid authorization bill. The shock may well prove to sting less than it invigorates.

It was about time the Senate took a hard look at the U.S. foreign aid program, which is based on policies and practices conceived during the chillier moments of the Cold War and frozen rigid ever since. The bills have come down every year reflecting the bureaucratic schizophrenia of a policy that seeks simultaneously the preservation of the status quo and economic and social change. The authorization bill defeated Friday, for example, was 55 per cent devoted to the cause of the status quo. For that's the percentage of the money involved that would have gone to military aid. Sen. Frank Church (D-Idaho), who was in the forefront of the opposition, called the program "a grotesque money tree" that would have furnished "aid and comfort to repressive governments all over the world."

We agree with Church and we hope he was right when he said: "Last night's vote finally got the message across. Now that we have the administration's attention, perhaps we can go back to the drawing board." A major rethinking of the entire program is overdue.

For too long, the program has been viewed in narrow terms that saw virtue and opportunity in any nation promised to resist communism, regardless of the use to which funds were put. In many cases, America gained promises of support from militaristic leaders at the expense of deep hostility from the people themselves. This kind of short-sighted bilateral "diplomacy" could well be replaced through international development agencies designed to provide assistance to the needy, period.

NEW APPROACH NEEDED

Now that the Senate has demonstrated its unwillingness to approve discredited old policies, the administration and Congress have a rare chance to use some of the insights available in a bookcase-full of recent studies aimed at improving efforts to help the developing countries of the world. There is, for example, an assessment of 20 years of development aid produced by the World Bank-sponsored Commission on International Development in consultation with 70 governments. And President Nixon has the results of "a new U.S. approach to aid for the 1970s" worked out by his Presidential Task Force on International Development.

These reports, and there are many more, suggest ways of reorganizing and revitalizing foreign aid. There is a chance to make a new beginning, to address the world once again in the spirit of enlightened self-interest so well expressed by John F. Kennedy in his inaugural address.

Said Kennedy: "To those peoples in the huts and villages of half the globe struggling to break the bonds of mass misery, we pledge our best efforts to help themselves, for what ever period is required—not because the Communists may be doing it, not because we seek their votes, but because it is right. If a free society cannot help the many who are poor, it cannot save the few who are rich."

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GAMBRELL). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further morning business?

MILITARY CONSTRUCTION APPROPRIATIONS, 1972—APPOINTMENT OF ADDITIONAL CONFEREES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the senior Senator from Louisiana (Mr. ELLENDER), the chairman of the Appropriations Committee, and the senior Senator from North Dakota (Mr. YOUNG), the ranking minority member of the Appropriations Committee, be appointed as conferees on H.R. 11416, the military construction appropriation bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—AUTHORITY FOR SECRETARY OF SENATE TO MAKE CHANGES IN ENGROSSMENT OF H.R. 11423

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, in the engrossment of the Senate amendment to H.R. 11423, the Secretary of the Senate, in section 4, line 5, be authorized to strike the word "four" and insert "five", and that the title be changed from January 31, 1972, to November 30, 1971.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MANSFIELD (for Mr. LONG), from the Committee on Finance, without amendment:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk (Rept. No. 92-425).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HANSEN:

S. 2810. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation; and

S. 2811. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes. Referred to the Committee on Veterans' Affairs.

By Mr. NELSON (for himself, Mr. MCINTYRE, and Mr. METCALF):

S. 2812. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to provide for the establishment of a national drug testing and evaluation center; to provide for a Federal Drug Compendium which lists all prescription drugs by their generic names and which provides reliable, complete, and readily accessible prescribing information; to provide for a formulary of the United States; to provide for quality control for drugs paid for with Federal funds; to provide for the registration of drugs; to provide for the certification of certain drugs other than insulin and antibiotics; to provide for the regulation of sample drugs; and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HANSEN:

S. 2810. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation; and

S. 2811. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes. Referred to the Committee on Veterans' Affairs.

Mr. HANSEN. Mr. President, on November 8, the Senate Committee on Veterans' Affairs will consider legislation to update veterans' pensions for veterans and their survivors.

Today, I introduce two bills, dealing with veterans' pensions in order that they might be printed and available for consideration by the committee.

This action is intended to provide the committee with alternatives which it may consider in meeting the need of this Nation's veterans and their survivors.

By Mr. NELSON (for himself, Mr. MCINTYRE, and Mr. METCALF):

S. 2812. A bill to amend the Federal Food, Drug, and Cosmetic Act, as amended, to provide for the establishment of a national drug testing and evaluation center; to provide for a Federal Drug Compendium which lists all prescription drugs by their generic names and which provides reliable, complete, and readily accessible prescribing information; to provide for a formulary of the United States; to provide for quality control for drugs paid for with Federal funds; to provide for the registration of drugs; to provide for the certification of certain drugs other than insulin and antibiotics; to provide for the regulation of sample drugs; and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. NELSON. Mr. President, the Senate Small Business Committee's Monopoly Subcommittee initiated its study of the drug industry on May 15, 1967. During the 4½ years of hearings a number of serious problems have been delineated which urgently require legislative action to protect the health and pocketbooks of the American people.

To this end I am today introducing for appropriate reference an omnibus bill to amend the Federal Food, Drug, and Cosmetic Act. Although several of the components of this bill have been introduced separately in previous years, new and important provisions are included to insure, first, that the prescriber has ready access to complete and objective information about drugs to enable him to prescribe in a rational manner; second, that the consumer will be assured of the best drugs available, properly tested for safety and efficacy at the lowest cost possible—the result of rational prescribing; and third, that the manufacturers will advertise their products only for the conditions of use for which the drug was approved.

Significant provisions of the bill are as follows:

TITLE I: NATIONAL DRUG TESTING AND EVALUATION CENTER

Title I provides for the establishment of a National Drug Testing and Evaluation Center which shall be operated as a part of the Food and Drug Administration subject to the supervision and control of the Secretary of Health, Education, and Welfare.

The Secretary shall be responsible for conducting all tests or investigations on new drugs submitted to him for approval in order to determine whether such new drugs should be approved for commercial distribution and shall be responsible for conducting tests or investigations on drugs which have been approved to determine whether approval of such drugs should be withdrawn or conditioned.

Although the center will do some testing itself, the Secretary will be authorized to contract out such studies to qualified individuals, organizations or institutions and it shall be his responsibility to insure that the testing or investigations of any drug is conducted by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs.

Although the FDA is charged with the grave responsibility of assuring that the drugs permitted to be marketed are both safe and efficacious, the decisions they make are based upon the evidence submitted to them by the very companies which seek to market the drug. As the law reads at present, the FDA determines the safety and efficacy of a drug solely on the basis of information supplied by the drug company making the application.

The dangers involved in the dependence on drug firms to perform, direct, or arrange for the testing of drugs in which they have a financial interest is obvious. Since drug firms are anxious to get new drugs on the market and to increase their sales volume, there is an inevitable tendency—no matter how conscientious the firm—to emphasize the positive features and deemphasize the negative. Many of the people they engage to do their testing are equally anxious to secure additional contracts for drug testing. FDA has found that the accuracy and objectivity of some of these drug testers leaves much to be desired.

A physician who turns in unfavorable reports on the drugs he is testing may not have his contract renewed. In case after case, some firms have been guilty of misrepresenting, distorting, and even withholding information developed in their testing of drugs which might in any way retard or prevent an approval to market. Injury and death have resulted from such actions.

The subcommittee's hearing record shows that in the testing of the drug, Dornwal, manufactured by Wallace and Tiernan, the company "knowingly and willfully concealed material information and submitted false and fictitious statements in writing and orally to the FDA."

Unfortunately, some people died as a result of taking this drug, as noted in a letter dated June 5, 1961, to the Attorney General of the United States from Dr. Herbert Ley, then Director of the FDA's Bureau of Medicine. The letter charged that the company "knowingly and willfully concealed material facts from the FDA, to wit, medical evidence that Dornwal was the causative agent of a severe and often fatal blood dyscrasia—disorder—in man." The firm was prosecuted for a criminal violation of the law, did not contest the charge, and was found guilty.

Flexin, a product of McNeill Laboratories, a subsidiary of Johnson and Johnson, is another example of willfully concealing information in the application to FDA and according to FDA resulted in 50 cases of liver damage including 11 deaths.

The Upjohn Co. had in its files studies done in 1959 and 1960 which showed that the fixed combination Panalba was not as effective as its ingredients given separately. Neither the tetracycline nor the novobiocin absorb or produce as high blood levels when given in combination as when given individually. Besides, the novobiocin which has very serious potential adverse reactions was an unnecessary ingredient. This information was never called to the attention of the FDA or the medical profession, and was only discovered by an FDA inspector in Upjohn's files on March 7, 1969. Panalba, which has been removed from the market, was heavily advertised and became one of the most frequently prescribed drugs in this country. Material supplied by the FDA indicates that thousands of persons who took this drug suffered from adverse reactions, including deaths.

FDA records indicate that the approval of Serc relied upon studies conducted by six individuals, four of whom held options to purchase shares of the drug firm's stock.[1]

Former FDA Commissioners Goddard and Ley have expressed their dissatisfaction with the way in which drugs are being tested.

In a speech before the Pharmaceutical Manufacturers Association in 1966, Dr. James L. Goddard, then Commissioner of the Food and Drug Administration said:

[1] Examiners Report of March 18, 1970, Docket FDA-D-111 NDA #14-841.

I have been shocked at the materials that come in. . . . In addition to the problem of quality, there is the problem of dishonesty in the Investigational New Drug stage. . . . I will admit there are gray areas in the IND situation.

But the conscious withholding of unfavorable animal or clinical data is not a gray-area matter.

The deliberate choice of clinical investigators known to be more concerned about industry friendships than in developing good data is not a gray-area matter.

The planting in journals of articles that begin to commercialise what is still an Investigational New Drug is not a gray-area matter.

These actions run counter to the law and the ethics governing the drug industry.

Dr. Herbert Ley, who succeeded Dr. Goddard as FDA Commissioner, stated 2 years later that—

We have not yet seen the degree of improvement in the quality of clinical data from drug testing which we must have.

In a speech before the Educational Conference of the Food and Drug Law Institute in December 1968 Dr. Ley claimed that out of 406 drug marketing applications received by the FDA in 1967, only 59 were approved.

He said:

More than half suffered from deficiencies in clinical studies and inadequacies in efficacy data and many were so low in quality as to be not approvable.

Dr. Ley amplified his views before the Senate Small Business Committee's Monopoly Subcommittee on May 27, 1969:

The major problem in industry submissions to FDA is still the poor quality of both the basic data and the summaries. The most important single step that industry can take to speed up the processing of new drug applications by FDA—and to improve the chance for new drug approval—would be to ensure that the data presented in support of efficacy is true to the statutory requirement of well-controlled studies.

Dr. John Jennings, Assistant to the FDA Commissioner for Medical Affairs, on September 16, 1970, stated:

The primary cause of the much touted delay in FDA decision-making is beyond all question the poor quality of the data, particularly that of the clinical investigations, submitted to us. Although this has improved over recent years, some sponsors still do not accept that a few well-conducted studies are much more persuasive than a mass of poorly documented case studies or even carefully documented random clinical reports.

The frequent use of potent drugs to treat disease requires better methods and more safeguards. It is clear that the prevention of dangerous drug reactions begins with the evaluation of the drug. Yet the FDA's Dr. Francis Kelsey admitted "that the job of scrutinizing the work of 16,000 researchers is overwhelming if not impossible."[2]

It is equally clear that there is imperative and urgent need for a better system for the testing of drugs prior to their approval for marketing. Steps must be taken to reduce the possibility of bias to a minimum. Testing of drugs should be done by specialists who have no direct relationship with the manufacturer, who cannot benefit financially from the results, who are not motivated even subconsciously by the desire to get anything but the truth. We must remove the responsibility for testing drugs from the applicant who has a financial interest in the drug. This responsibility must be placed with an evaluating group which has no interest at all in whether or not the drug gets into the market other than the interest of the public.

This title of the bill includes two new features worthy of comment.

One is a provision that affirmative action on the part of the FDA is required before manufacturers may proceed to test new drugs in human beings.

In the United States, affirmative action by the FDA is not required before manufacturers are authorized to begin clinical tests. An investigator could begin clinical trials in humans as soon as he had mailed his notice. Dr. Jennings notes that—

Frequently enough to cause real concern, we have found that animal data were not adequate to support the type of studies that had been undertaken in human beings.

The FDA now requires a 30-day delay before beginning clinical trials after the receipt of notice of claimed exemption—IND. This is to give the FDA a chance to review the proposed use of the drug in humans and to determine whether there are adequate animal safety data to warrant extension into human studies.

Although this is a step in the right direction—because the FDA will have an opportunity to examine the preclinical data—it is not enough. As long as the FDA lacks the resources to handle its investigational drug workload, one cannot be certain that complete and thorough drug safety reviews will be made of investigational new drug applications in the 30-day period. To protect the public affirmative approval is required.

The provision that requires the FDA to make public the methodology, results and conclusions of all tests and investigations of any new drug will subject the work of investigators to the scrutiny of their peers in many disciplines. The inevitable result will be more careful work on the part of investigators and better drugs for all of us. The most significant provision from the standpoint of rational drug prescribing and usage is that the Secretary shall refuse to approve a new drug application unless the tests or investigations conducted pursuant to this act show "that the safety or effectiveness of such drug is significantly greater than the safety or effectiveness of any other drug or drugs, or combination of drugs, which have received application approval under this section and which are used for the same purpose or purposes as the new drug."

According to an editorial written by Dr. James Goddard and Dr. Paul Stolley in the Annals of Internal Medicine,[3] there are about 5,000 prescription drugs and

[2] Biomedical News, January 1971.

[3] Vol. 73, #3 September 1970.

21,000 drug products on the market in this country as a result of a system that allows multiple trade-names for the same generic product. Many of the drugs are essentially the same in that they produce the same desirable and undesirable effects with no difference in the benefit to risk ratio. I ask unanimous consent that this editorial be inserted in the RECORD at the end of my statement.

It is my judgment that the enactment of this provision would go a long way in helping to achieve the objectives of rational drug prescribing and usage. Dr. Walter Modell, one of the great pharmacologists in this country stated:

> Certainly all possible improvements should be introduced into medicine and this can only take place if experimentation with drugs at all levels continues unimpeded. All manner of research for better drugs should be pursued and the pace even accelerated. Occasionally, molecular manipulation does bring about a significant advance, usually a far more substantial change is needed for a real improvement. But simply because a drug is new, it is not necessarily better than those already available, safer or even just as good. Often, it is even less effective and sometimes more hazardous than the parent drug. But they also do harm by their very existence in the drug market. I take the stand that as a general principle everything that adds to the difficulty in dealing with and understanding drugs also makes drugs more dangerous. Thus, the excessive number of needless drugs constitutes a present danger. We can make the useful drugs both less dangerous and more efficient by weeding out the useless, the ineffective and the duplicates, and by so doing, make it possible for the physician to learn in depth about the potent drugs he will prescribe for his patients. We must add only those new drugs that really add something more than their mere presence.[4]

The Department of Health, Education, and Welfare's Task Force on Prescription Drugs found that:

> Since important new chemical entities represent only a fraction—perhaps 10 to 25 percent—of all new products introduced each year, and the remainder consist merely of minor modifications or combination products, then the Task Force finds that much of the drug industry's research and development activities would appear to provide only minor contributions to medical progress.
>
> We likewise find that to the extent the industry directs a share of its research program to duplicative, noncontributory products, there is a waste of skilled research manpower and research facilities, a waste of clinical facilities needed to test the products, a further confusing proliferation of drug products which are promoted to physicians, and a further burden on the patient or taxpayer who, in the long run, must pay the costs.[5]

It is very likely, therefore, that this provision would encourage the channeling of the drug industry's research into more productive and useful areas.

[4] *Drug Industry Antitrust Act;* Hearings, Subcommittee on Antitrust and Monopoly; Committee on the Judiciary, 87th Cong., 1st Sess.; Part I, AMA and Medical Authorities, p. 320.

[5] Task Force on Prescription Drugs: Subcommittee on Monopoly, Senate Small Business Committee; Committee Print, Aug. 30, 1968, p. 12.

TITLE II: PUBLICATION OF A DRUG COMPENDIUM

This title provides for the publication of a single source of authoritative information on drugs which the doctor prescribes for his patients.

If there is a single glaring issue which has emerged from the many months of study of the competitive problems in the drug industry by the Small Business Committee's Monopoly Subcommittee, it is the fact that there is a vast proliferation of publications which contain prescribing information. Yet there is no single authoritative source now published to which a doctor can turn containing the essential information on all drugs manufactured and used for America's health care.

There are many good sources of information on drugs. The Council on Drugs of the American Medical Association has recently published a fine volume of drug evaluations.

Another excellent source—the "Medical Letter"—has a distinguished board of reviewers which reviews drugs. Even prices are reviewed. Yet the publication is limited, and only about 35,000 of the Nation's 250,000 doctors subscribe to it. It does excellent work.

The "Physician's Desk Reference" seems to be the most widely used volume, but its shortcomings are apparent when one examines it closely. It is a superficial publication of advertisements, paid for by the bigger brand name companies whose drugs are listed under several categories.

The cost of the advertisements was around $115 per column inch a couple of years ago, and this tends to preclude many good but small companies from entering into nationwide competition.

There is a definite need to publish a true compendium—a blue book of drug information—by an independent group in conjunction with governmental, industrial, and scientific organizations.

This bill provides for an all-inclusive volume which would list all prescription drugs under their generic names together with reliable, complete and readily accessible prescribing information. It would include brand names, suppliers, and a price information supplement, all of which would be periodically updated to provide for continuity and information on new drugs, new information, new evidence of side effects or misprescribing. It could show who provided the research and who developed the drug.

Free distribution would be provided to physicians, hospitals, pharmacists, and others who need this kind of important information.

It has been suggested that an official compendium is unnecessary; that a comprehensive prescribing guide has already been published by the AMA, entitled "AMA Drug Evaluations." Such a suggestion ignores some fundamental differences between a compendium and a prescribing guide. Both are useful but they serve different purposes.

A drug compendium is simply a compilation in outline form of all the essential facts about each available drug, including a list of suppliers and the prices at which comparable products are sold. It makes no prescribing judgments itself but provides the information needed by prescribers to make these judgments.

The AMA's Drug Evaluation—and others like it—serves a different purpose. It offers advice to the prescriber; it represents the collective judgments of experts about the relative merits of different products. Not all products are described and many are not described completely. In addition, the lists of suppliers are incomplete and no relative price information is given.

I have no doubt that many prescribers are finding the advice offered in the AMA Drug Evaluations to be of value. But this book by no means fits the description of a drug compendium and is not a substitute for it.

The Task Force on Prescription Drugs which was established by then Secretary of Health, Education, and Welfare, John Gardner, recognized the need for both a prescribing guide and a compendium:

> Several foreign drug programs—notably those in Great Britain, Australia, and New Zealand—provide all physicians with prescribing guidelines prepared by panels of independent medical experts. Such publications—frequently updated to meet changing conditions—have been widely accepted by the medical profession in those countries.
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> In consideration of these factors, in view of the unfilled informational needs evident in this country, and as a major contribution to improving the quality of health care, the Task Force recommends that the Department of Health, Education, and Welfare should establish or support a publication providing objective, up-to-date information and guidelines on drug therapy, based on the expert advice of the medical community.
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> Finally, we affirm our interim recommendation that the Secretary of Health, Education and Welfare should be authorized to publish and distribute a drug compendium listing all lawfully available prescription drugs, including such information as available dosage forms, clinical effects, indications, and contraindications for use, and methods of administration, together with price information on each listed product.

Each company which manufactures a prescription drug is now required by law to include a sheet of information about the drugs in each container it ships. This package insert rarely finds its way to the doctor. Usually it is discarded by the pharmacist.

Even if the package insert did get to the doctor, few of the Nation's practicing physicians would have time to digest all of its contents, and of course no price information is included in it.

This title authorizes the Secretary of Health, Education, and Welfare, upon the publication of a compendium, to waive the requirement of the package insert thus saving the industry about $6 million per year. Former FDA Commissioner James Goddard estimated that the replacement of the insert by a compendium would cost the industry about the same amount of money.

TITLE III: ESTABLISHMENT OF THE FORMULARY OF THE UNITED STATES

This title provides for the establishment of the Formulary of the United States which would be sent to every physician in the country, and which shall contain "an alphabetically arranged listing, by established name, of those drugs which the Formulary Committee finds are necessary for good medical practice. The Formulary Committee shall exclude from the formulary any drugs which the Formulary Committee determines are not necessary for proper patient care, taking into account other drugs that are available from the Formulary."

The formulary will also list drugs by class and discuss the relative merits and dangers of each drug in each class as an aid to rational drug therapy.

The purpose of the formulary is to assist in rational use of drugs and for rational purchase of drugs directly by the agencies of the Federal Government and for purposes of reimbursement under all programs of the U.S. Government or where Federal funds are used—whether domestically or overseas.

HEW's Task Force on Prescription Drugs defines rational prescribing as "the right drug for the right patient, in right amounts at the right time."

According to the Task Force:

> Rational prescribing is obviously the result of judgments on many points—the safety and efficacy of the drug for the clinical problem at hand, the advantages or disadvantages of alternative forms of therapy, the most appropriate dosage form, the length and intensity of treatment, the possible side effects or adverse reactions, and the possibility of drug interaction.
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> To these may be added judgments concerning relative costs.
>
> Rational prescribing is clearly a major goal for the welfare of patients . . .

It has been estimated that there are about 21,000 drug products on the market, and the plight of the physician in prescribing is described by the Task Force as follows:

> Upon entering private practice, the average physician, knowingly or unknowingly, becomes the key figure in drug marketing strategy.
>
> He must choose from a very large number of competitive and often duplicative products.
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> He must deal with a very large amount of advice, biased or unbiased, from detail men, advertisements, and other forms or promotion.
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> Substantial efforts are made on his behalf by the drug industry and others to prevent any interference with his right to prescribe as he sees fit.
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> Finally, it is assumed that he has the training, experience, and time to weigh the claims and available evidence, and thus to make the proper selections.
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> Everything, of course, hinges on the validity of this final assumption.
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> We find that few practicing physicians seem inclined to voice any questions of their competency in this field. We have noted, however, that the ability of an individual physician to make sound judgments under these quite confusing conditions is now a matter of serious concern to leading clinicians, scientists, and medical educators. A distinguished pharmacologist, for example, has stated that lack of knowledge and sophistication in the proper use of drugs is perhaps the greatest deficiency of the average physician today. Other medical leaders have pointed to the wide discrepancy in the prescribing habits of the average physician as compared to the prescribing methods recommended by panels of medical experts. Still others have commented on the continued use by the average physician of products which have been found unnecessary or unacceptable by specially qualified therapeutics committees in hospitals and clinics.
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> We note that the most widely used source of prescribing information is essentially a compilation of the most widely advertised drugs.
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> The responsibility for these and other deficiencies has been placed on various factors:
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> Inadequate training in the clinical application of drug knowledge during the undergraduate medical curriculum.
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> Inadequate source of objective information on both drug properties and drug costs.
>
> Widespread reliance by prescribers for their continuing education upon the promotional materials distributed by drug manufacturers.
>
> The exceedingly rapid rate of introduction and obsolescence of prescription drug specialties.
>
> The limited time available to practicing physicians to examine, evaluate, and maintain currency with the claims for both old drugs and newly marketed products.
>
> The constant insistence on the idea that the average physician, without guidance from expert colleagues, does in fact possess the necessary ability to make scientifically sound judgments in this complicated field.[6]

The formulary of the United States can play a very important educational function by listing in each therapeutic category those drugs which are considered the most useful by experts in various fields.

In addition, millions of dollars will be saved by the U.S. Government by purchasing drugs on a more rational basis. Hearings by the Monopoly Subcommittee of our Small Business Committee have indicated that millions of dollars were being spent on drugs which have been found by panels of specially qualified medical experts to be ineffective, unnecessary or unacceptable.

For example, the National Academy of Sciences/National Research Council found that Darvon in its "32 milligrams dose has often been found indistinguishable from placebo." Yet the Defense Department and the Veterans' Administration in 1968 and 1969 paid $678,000 for this ineffective dosage form.

The NAS/NRC has also found that Darvon "in doses of 65 milligrams to 100 milligram has usually, but not always, proved superior to placebo in reasonably sensitive human analgesic assays." Expert testimony before the subcommittee on November 24, 1970, held that there is no "particular reason to use it—Darvon—routinely in preference to aspirin, acetaminophen, or codeine or some combination of codeine with one of the others."

Yet, the Defense Department alone spent $4.4 million for Darvon in 1968 and 1969.

The Veterans' Administration purchased the tranquilizer meprobamate from Denmark for $1.55 for 500 tablets. VA at the same time was purchasing Meprospan, the sustained release form of meprobamate, from Carter-Wallace for $34.25 for 500 tablets, or 2,300 percent as much as plain meprobamate. Neither the USP nor the National Formulary recognize the use of long-acting preparations as good medical practice, and the NAS/NRC panel of experts told the subcommittee that "most of these oral preparations of this type are not doing what they purport to do," and that their use can be dangerous.

The Defense Department spent about $3 million in 1968 and 1969 on demethylchlor-tetracycline—Declomycin—oxytetracycline—Terramycin—and chlortetracycline—Aureomycin. If the Department heeded the advice of the medical experts and used the drug of choice of this family of antibiotics, that is, plain tetracycline, $2.3 million would have been saved.

The Department of Defense bought $133,584 of Equagestic, a combination of aspirin and meprobamate. The NAS/NRS report says that—

> This combination may be no more effective as an analgesic than the amount of aspirin present.

The comparable total for aspirin would have been $2,721, or a saving of $130,863.

Both the VA and the DOD spent $683,632 for Peritrate, a drug used for angina pectoris, which, according to expert testimony, is "not effective compared to a placebo." It may be mentioned also that the American public spent $22 million in 1968 and $19.5 million in 1969 for this drug.

These are only a few examples of the large number of ineffective and unnecessary drugs being bought and used by the Federal Government in many of its programs. A selective, medically determined formulary would save the Government, and the public, considerable funds and would promote rationality in drug use.

TITLE IV: DRUG REGISTRATION AND INSPECTION OF DRUG PLANTS PRIOR TO PRODUCTION

This title provides for, first, the registration of drugs, and, second, inspection of drug plants prior to production.

It has been estimated that there are on the market about 21,000 prescription drug products and 100,000 to 200,000 proprietary medicines. The Food and Drug Administration does not have an accurate count of these drugs, and does not know who produces what. Yet the FDA has been given the responsibility for regulating drugs, particularly the safety and efficacy of new drugs.

Knowledge of which particular drugs are being produced or marketed by a manufacturer would substantially assist in the enforcement of Federal laws requiring that such drugs be pure, safe, effective, and properly labeled. Information on the discontinuance of a particular drug could serve to alleviate the burden of reviewing drugs which are no longer on the market.

Information on the type and number of different drug products being processed by drug establishments would per-

[6] Task Force on Prescription Drugs: Final Report; U.S. Department of Health, Education and Welfare; Feb. 7, 1969, p. 26.

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mit more effective regulation by permitting agencies to identify establishments needing greater or lesser surveillance depending on the nature of their production activities.

The FDC law now provides that every drug establishment be inspected at least every 2 years. It is possible for a drug firm to be producing drugs for quite some time before its plant is inspected. This title is designed to protect the public against poorly manufactured drugs by requiring an inspection before an establishment starts manufacturing drugs and at least once every year thereafter.

TITLE V: DRUG CERTIFICATION

This title gives the Secretary of Health, Education, and Welfare the authority to require batch-by-batch certification of certain drugs whenever he finds it is necessary to do so to protect the public. Present law requires batch-by-batch certification only of antibiotics and insulin.

TITLE VI: LABELING AND CONTROL OF SAMPLE DRUGS

This title provides for the labeling and control of sample drugs as well as a prohibition of the distribution of sample drugs except in response to a prior written request of a licensed practitioner specifically requesting such sample drugs.

Drug firms invest millions of dollars in flooding doctors with samples of their products, hoping to get the physician in the habit of prescribing their product.

TITLE VII: LABELING DRUG CONTAINERS

This title provides that all labels on drug containers carry the established—official, generic—name of the drug, in the case of a drug containing only one active ingredient, and in the case of a drug containing more than one active ingredient, a list of the active ingredients of the mixture. Labeling would be omitted, however, if the prescriber so indicated.

Drugs now are sold on the market under a multiplicity of trade names. In most cases, there is a proliferation of copyrighted trade names imposed on the same drug, leading to confusion, chaos, and in some cases to discomfort and severe illness. In fact, many drugs have so many different trade names as to make it virtually impossible for the physician to know them all—or even a fraction of them.

During the hearings of the Senate Small Business Committee's Monopoly Subcommittee, expert witnesses testified that the established—generic—name provides the most precise and universal information about a drug.

A dramatic example of the kind of tragedy that results was illustrated by the testimony of Dr. Helen Taussig, the world famous physician and developer of the famous "blue baby" operation, who deplored the confusing drug-naming system.

Dr. Taussig had first identified the tranquilizer thalidomide as the culprit drug causing phocomelia—children born with incompletely formed limbs. Her action prevented the sale of the drug in this country, but not before the testing stage of the drug had caused some birth defects.

Dr. Taussig stated that even after the drug had been identified and removed from the world market, it was still sold under 50 to 100 different trade names making it impossible for doctors to know what they were prescribing.

Since the use of trade names may thus result in the continued availability of a drug that has been withdrawn from the market, Dr. Taussig said she was strongly in support of any measure requiring the generic name on the drug labels.

Dr. John Adriani, former chairman of the Council on Drugs of the AMA and Dr. Edward R. Annis, past AMA president, both were in support of generic labeling.

Other provisions included in this title are as follows:

First. The Secretary shall designate a useful official name at the time a drug is approved for marketing.

Second. No drug salesman shall make any oral representation about a drug until he has placed before the physician or pharmacist an FDA approved document containing such information about such drug as the Secretary may by regulations require.

These two items are essential to insure that the prescribers get complete and accurate information.

Third. Drug advertisements must be approved by the Secretary prior to publication in any newspaper, magazine, or used on radio, TV or any other advertising media.

Fourth. No drug may be exported from this country unless it has met the requirements for use in this country.

I ask unanimous consent that a summary of the bill, together with an article entitled "A Relative Efficacy System for New Drugs," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF BILL

Title I—sets up a National Drug Testing and Evaluation Center which will be responsible for the testing of all drugs, both prescription and over-the-counter, that are now or will be marketed in the United States. The FDA must give approval prior to testing drugs on human beings, and the results and conclusions of all tests will be made public. In order for a new drug to be approved, it must be demonstrated that the new drug is safer or more effective than a drug already on the market. As it has been the manufacturer's responsibility in the past to bear the expense of a drug's testing, he will continue to bear the expense. However, there will be channels open for appeal if the manufacturer is dissatisfied with the testing procedure.

Title II—provides for the publication of a compendium which will list all drugs available in the United States by both generic and brand names. Such a compendium would include, for each drug, the drug's purpose, side effects, dosages available, cost, as well as other relevant information. As such a compendium could eliminate the need for inserts with full prescribing information now required, the cost of the compendium would be borne by the drug industry. Supplements will be issued from time to time to keep the compendium as up to date as possible, and it is also provided that all drug labeling and advertising must conform with the information found in the compendium.

Title III—establishes a committee which will compile a formulary of drugs necessary for good medical practice, for purposes of direct procurement by the Federal Government and reimbursement for all Government financed programs, indicating the best drug available for each generic type, in order to assist the physician in his prescribing of medication.

Title IV—would assure that all drugs produced and packaged in the United States would be inspected and approved so as to protect the public health. Furthermore, every drug would be labeled in such a way as to identify its source and generic type, to facilitate the tracking down of defective drug batches. In addition, all drugs will have instructions for safe use printed on their package.

Title V—gives the Secretary of Health, Education and Welfare the authority to require batch-by-batch certification of all drugs—when needed—which will include provisions prescribing standards and identity of strength, quality and purity, tests and methods to determine compliance with such standards, and other measures necessary for the public good.

Title VI—prohibits the distribution of sample drugs without the written request of the physician. Furthermore, the sale of sample drugs, either directly or indirectly, is prohibited.

Title VII—is a general section providing that (1) potentially dangerous drugs will be labeled with the appropriate warning; (2) labeling of drugs will be required so that all active ingredients will be clearly labeled; (3) no drug salesman shall make any oral presentation regarding any drug until he has placed before the physician or pharmacist an FDA approved document about the drug; and (4) the Secretary of HEW shall approve all advertising in advance that appears in either the electronic media, or in any publication or advertising circular, for any drug. The Secretary will approve only advertising which does not mislead or misrepresent the product, either in text or layout.

A "RELATIVE EFFICACY" SYSTEM FOR NEW DRUGS

(By Paul D. Stolley, M.D., M.P.H., and James L. Goddard, M.D., M.P.H.)

A new system for approving the placement of new drugs on the market, a "relative efficacy" system, is proposed. The system would insure that new drugs be not only as safe as drugs already marketed for similar indications, but would also require that they be more efficacious. Such a requirement should encourage pharmaceutical manufacturers to direct their research towards the development of safe and more efficacious drugs.

There are approximately 5,000 prescription drugs and 21,000 "drug products" marketed in the United States as a result of a system that allows multiple trade-names for the same generic product. The 1962 Amendment to the Food and Drug Act requires that the drug manufacturer prove his drug to be "safe and effective" before placing it on the market. However, "effective" is not clearly defined. A result of this liberal system of drug approval is the myriad of congeners introduced enabling several manufacturers to capture a portion of the market once a prototype drug is proved successful. The thiazide diuretics are an example of a group of drugs that have a large and confusing number of similar entries on the market. The drugs within this group are all essentially the same—that is, they produce the samb desirable and undesirable effects with no difference in the therapeutic ratio or mode of action. Eventually one is forced to ask how many thiazide diuretics are necessary for the good practice of medicine.

In Norway, where approximately 1,200 prescription drug entities are marketed, the number of new drugs allowed on the market is limited by means of a "relative efficacy" system (1). According to this system a new drug must be shown, before it is released, to be *as safe as and more efficacious* than any drug presently on the market for the same indication. A panel of experts broadly representative of the medical profession judges the proposed entries. The panel evaluates the pharmacologic data, the clinical trials conducted, and all other pertinent research. If the panel is convinced the drug is a valuable new addition to the physicians' armamentarium, the drug is approved for introduction to the Norwegian market.

The multitude of prescription drugs on the American market, with their exotic nomenclature, was recently reviewed by the National Research Council of the National Academy of Sciences in the *Drug Efficacy Study* (2). Under contract to the Food and Drug Administration distinguished panels of experts reviewed the drugs marketed from 1938 through 1962. Using uniform criteria the panels placed the drugs into categories labeled "effective," "probably effective," "possibly effective," "ineffective," and "ineffective as a fixed combination." A significant number were found to be "ineffective" for certain therapeutic claims of the manufacturer. Many of the panelists commented on the poor quality of research and documentation submitted by the manufacturers in support of the therapeutic claims.

At present the FDA does not have the authority to restrict the marketing of new drugs to only those drugs proved to be as safe as and more efficacious than other drugs on the market for similar indications. We propose that Congress enact legislation to give the FDA authority to institute a policy of "relative efficacy" for approving drugs. Panels of experts, including practicing physicians, similar in make-up to the panels that convened for the *Drug Efficacy Study* should be established to review the research and clinical trials of drugs and to recommend whether or not the drugs should be marketed.

Experience with antibiotics, steroids, and tranquilizers has demonstrated that adverse reactions may not become apparent until after a few years of use, and initial therapeutic claims must often be modified on the basis of accumulated clinical and epidemiologic experience. We therefore propose that new drugs be approved only on a conditional basis, with provisions made for periodic reassessment.

The "relative efficacy" system of drug approval would limit the number of drugs marketed, ensure their high quality, and encourage pharmaceutical houses to concentrate their research efforts on the development of safer and more efficacious drugs.

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Requests for reprints should be addressed to Paul D. Stolley, M.D., Department of Medical Care and Hospitals, School of Hygiene and Public Health, The Johns Hopkins University, 615 N. Wolfe St., Baltimore, Md. 21205.

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ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2509

At the request of Mr. GAMBRELL, his name was added as a cosponsor of S. 2509, to incorporate Pop Warner Little Scholars, Inc.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 602

(Ordered to be printed and referred to the Committee on Finance.)

Mr. PACKWOOD. Mr. President, the amendment that I am submitting today would eliminate the "Buy American" provision of the Revenue Act of 1971.

I have long felt that given a choice between protectionism and expansion of free trade, it is always in the best long-range interests of not only the United States, but the world as a whole, to chose free trade. Accordingly, I was extremely distressed to learn that the Finance Committee was retaining this discriminatory provision in the Revenue Act of 1971.

On the advice of the Joint Committee for Internal Revenue Taxation, I have learned that the fiscal effect of my amendment would be to further reduce revenues in the amount of $130 million. This is certainly a small price to pay to avert what gives every indication of becoming a full-scale trade war among the nations of the world.

I would be remiss, Mr. President, if I did not point out to this body that past history gives us every reason to believe that even this $130 million loss will be made up many times over as the world begins to rid itself of this growing protectionist psychology and freedom of commerce is allowed to blossom and grow.

We have a choice as to the future we will mold. We can follow the path indicated by the House of Representatives and, apparently, the Finance Committee; a path that will lead to continuing escalation of the protectionist war—a war which none can win, and in which all will lose.

Or, we can choose to adopt my amendment. By so doing, we will have proclaimed to the world that the Congress of the United States recognizes the inherent danger in protectionist moves and that we are willing to suffer a possible momentary hardship in favor of long-range benefits to be derived from additional freedom of worldwide commerce.

ADDITIONAL STATEMENTS

OUR FORGOTTEN AMERICANS

Mr. SAXBE. Mr. President, if we were to list the things of major concern to most Americans, that list would understandably and inevitably include the topics dominating our front pages daily: inflation, Vietnam, crime, unemployment, drug control, pollution, and all of the other cancers in our society.

But there remains a very real, very major problem which to me is as pressing as any of the above, perhaps more so. It is a problem we shall all have to face.

That is the problem of the forgotten American, the old American. He is that individual who helps make up the faceless army numbering nearly 20 million today. He marches to a distant, fading drum, and too often he marches alone. He is too old to work, too young to die, too proud to beg.

And we do him such an injustice. Although 84 percent of those over 65 are registered voters and three out of every four of them cast ballots in the 1970 off-year elections, they remain alone and poorly cared for. I sometime wonder if the majority of society really gives a damn. We can legislate standards for medicare, nursing homes, transportation facilities, social security, and the rest. We can even pass postal laws to hopefully help them get their checks a little faster each month.

Yet these problems, while grave, are secondary to one overriding concern which too often escapes Congress, the President, or any governing board from national to local government.

This is simply that our older citizens must be given the dignity, the respect, and the care and compassion they so truly deserve, and we cannot pass laws guaranteeing any of this.

I am pleased that President Nixon has demonstrated concern for the elderly. The President has set the week of November 28 to December 2 for the White House Conference on the Aging, the first such since the Eisenhower administration. From this conference will emanate many recommendations and many ideas, and this is good. But it is my hope that these recommendations and ideas, noble as they may be, will not get lost in the shuffle or simply turn into another volume gathering dust on somebody's bookshelf.

Dr. Arthur Flemming, Chairman of the White House Conference on Aging, seemed to set this in perspective when he recently declared:

> Without action, all you do is add to the frustration and if you do that, you do not accomplish anything at all. . .

As I listen to the numerous hearings before the Senate Special Committee on Aging, it becomes so very obvious that every problem our elderly face is but a reflection of the problems confronting our whole society—only magnified and intensified. Those over 65 are ill-equipped to handle the problems of medical costs, poor housing, and crime in the streets—to name only a few.

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It is certainly no privilege to receive a monthly social security check, only to walk back to one's public housing apartment and be robbed and beaten up on the way. Yet, this type of occurrence is a way of life in much of our federally supplemented housing. The result is that those who live there in daily fear become what we have forced them to become—as colorless, nameless, faceless, and even lifeless as the structures they live in.

The solution is elusive. If I had a solution for the problems of the forgotten American, I would also have the solution for the basic ills of our Nation. But I do not. However, the answer is not just money. Money being poured into medicare and medicaid, into public housing, or long-term health facilities, is not the answer. Actually, it is much the opposite.

Ironically, our Federal and State governments will pay millions to subsidize institutions for the elderly, yet they pay little or nothing to keep the elderly in their own homes, living the type of life they are used to.

And this brings me back to my original point: Concern and interest on the part of all of us for the way of life we are forcing our elderly to live. Obviously, our planning in the past for those over 65 has been inadequate and it takes no genius to realize it.

But maybe with a little care, a little feeling, on the part of the Federal Government, State governments, architects, nursing home administrators, medical people—all of us—maybe we can start to polish just a little of the tarnish off the lives of those in their golden years.

PAKISTAN

Mr. MUSKIE. Mr. President, our country is greatly honored by the visit, beginning today, of Mrs. Indira Gandhi, Prime Minister of India. Mrs. Gandhi comes to the United States at a time when relations between our two countries have reached a low point. We all pray that her visit will lead to improved relations in the future.

At the heart of our frayed relations with India is the human tragedy taking place in East Pakistan—and the policy of continued support for Pakistan that our Government has insisted upon. This continued support for Pakistan comes at a time when the two great nations of the subcontinent have come dangerously close to armed conflict.

The plight of the East Pakistan refugees has also become an enormous burden, economically and politically, for India. To alleviate this burden, the Senate Foreign Relations Committee had recommended $250 million for assistance to the refugees as part of the foreign aid bill. That $250 million was not an adequate contribution to relief for the refugees or for needed emergency assistance to the Indian economy. But it represented a welcome beginning. With the vote last Friday, however, our effort to aid the refugees was set back.

I have said that the Senate defeat of the foreign aid bill has given us an opportunity for fundamental reform of our entire foreign assistance program. But there are a number of items in that defeated bill that should be revived immediately, if only on an interim basis, until Congress and the President can agree on a permanent foreign aid structure. Some of these essential items have to do with India and Pakistan—and the millions of East Pakistan refugees.

Mr. President, for 200 years, the Senate Chamber has witnessed pleas for the use of America's treasure and power to stop war and destruction and senseless slaughter, and to ease pain and hunger and sickness. But few causes have had as great a claim to our attention as the current situation in East Bengal.

By now, all of us know the historic source of the conflict between east and west in Pakistan. All of us know how cultural and linguistic differences, coupled with the west's political domination of the east, produced the animosity which exploded into civil war last March. And all of us know at least something about the election which was the immediate cause for conflict: how the east's Awami League won a clear majority of seats in the National Assembly; how the government of Yahya Khan refused to accept that outcome; how the east stood firm; and how, on March 26, the Pakistani Army began the brutal purge which still goes on today in East Bengal.

What is happening there in countless streets and towns—in Tripura and Assam, in Kushtia and Dacca—is a suspension of the moral laws which have set a standard for the conduct of human beings since the beginning of civilization.

I could describe the atrocities in detail—how American tanks, planes and guns have been used to help level unprotected cities and to kill an estimated 200,000 unarmed civilians, and how 9½ million people fled their burning homes to find a better chance for life across the Indian border. I could retell the stories of murder and rape and torture and looting. But we have all read the accounts ourselves, and we have all been moved in our own way. I think all of us recognize how many millions of personal tragedies have taken place in East Bengal. The question now is what can we do to prevent a million more.

Three steps are vital: First, we must provide without delay the $250 million of refugee relief contained in the foreign assistance bill. We should also consider additional steps to increase our relief effort as soon as possible. Second, we should terminate our own development assistance to Pakistan and support multilateral efforts to stop all such assistance until the situation in East Pakistan is normalized. At the same time, we should encourage multilateral efforts to bring humanitarian relief to the people of East Pakistan who are suffering because of the economic dislocations caused by the actions of the West Pakistan Army. But we should not condone any continued economic assistance which is being used by the West Pakistan Government to support its stranglehold over the East. Third, we should revoke all remaining licenses for the export of military equipment to Pakistan and insure that no new licenses are granted until a satisfactory political settlement has been reached.

I call upon President Nixon to give assurances to Prime Minister Gandhi during her visit to the United States that all these steps will be fully supported by the administration.

There are 9 million refugees—13 percent of Pakistan's population—in 1,000 camps in India. As many as 30,000 more cross the border every day. Sixty-eight thousand refugees have died of cholera. Thirty-five thousand more lie stricken. Two million children face blindness, retardation, and death from malnutrition and vitamin A deficiencies., And the list of human horror goes on and on.

The Indian Government has responded heroically—with an efficiency and concern that is truly remarkable, given the impossible burden of caring for nine million hungry, sick, and homeless people. India pays two-thirds of the $1 million a day it costs to provide each refugee with 15c worth of food and medical care. But how long can that nation maintain its effort with about 200,000 people pouring into the camps each week? How long can its economy continue to divert the funds which should have been used to create growth and jobs for its own people? How many Indians will die next year to save the lives of their Bengali neighbors this year?

That is why we must move as quickly as possible to restore the $250 million of relief assistance contained in the foreign aid bill. And we must consider additional steps to aid India—to bring relief to the refugees and to the burdened Indian economy; to bring strength to the Indian democracy; and to help bring a greater chance for peace to Asia. If for any reason it is not possible to make such assistance part of an interim foreign aid bill, or if there is difficulty in deciding on an interim measure, I would support a separate authorization for this emergency relief assistance. I hope President Nixon would also support a separate measure if necessary—and will say so to Mrs. Gandhi during the next 2 days.

We should also terminate our own economic assistance to Pakistan and support multilateral efforts to stop all such assistance until the situation in East Pakistan is returned to normal. At the same time, we should encourage multilateral efforts to bring humanitarian relief to the people of East Pakistan who are suffering because of the economic dislocations caused by the actions of the West Pakistan Army. The economic prospects in East Bengal are bleak under the best of circumstances. Seventy-eight million people are living in an area no bigger than Florida—1,600 to the square mile. And while the East is by far the largest producer in Pakistan, and has a majority of the population, the latest Federal budget allocates $6 out of every $10 to the West. The difference in per capita income between East and West has risen from 32 percent in 1959 to 61 percent in 1969 and 1970. And only one-third of all external assistance goes to the Bengali people. In short, each year Pakistan undergoes a transfer of $2.6 billion in resources from East to West.

Today, as the civil war goes on, imports to the East have been cut off. Millions of acres of fertile land have been abandoned. Much of the vital jute crop lies rotting in fields. And more than 300,000 tons of imported grain sit confiscated in the clogged ports of Chittagong and Chalna, waiting for the transport facilities which instead carry soldiers to the battlegrounds of East Bengal.

Our economic aid to Pakistan has prolonged the oppression of the people of East Pakistan. It has sustained the West while millions in the East struggle for survival. And the longer this conflict continues, the larger the exodus to India will be.

There are those who say that we should not withhold our aid to impose a political solution on a civil conflict. It is true that American assistance should never be used as a lever for political control. But neither should it be used as an instrument of death. Our aid is given to build life—and when it is employed to fuel the forces of destruction and genocide, then it is our duty to withhold it. At the same time, it is our duty to resume our support whenever we can be certain that it will be used for humanitarian purposes—when, for example, it is provided through multilateral organizations.

And there are those who say that we must continue aid to maintain influence with the Pakistani Government. There is only one way to do that—by joining with a world of nations, by creating a solid alliance of countries, to tell the government of Yahya Kahn to stop the killing now. And that is why we must withhold economic development aid from Pakistan.

Finally, we must cut off all military assistance to Pakistan—by revoking all remaining licenses for the export of military equipment and insuring that no new licenses are granted until a satisfactory political settlement has been reached. It is our weapons and our planes and tanks that have enforced repression in the East. The administration admits that. We cannot take those weapons back, or retrieve the lives which they took. But we must not let another weapon reach the hands of a Pakistani soldier.

On April 12, a State Department spokesman assured us that we would not. He issued the following statement: "There is no—repeat—no military equipment in the pipeline and none has been delivered." But that was not true. On June 22, the State Department verified reports that two ships had left New York with more military hardware for Pakistan.

And in September, Senator CHURCH revealed that $35 million in U.S. military supplies are still scheduled for the government of Yahya Khan.

We could talk about the politics of truth in government. But an admission of untruth would give no consolation to the Bengali citizens who may become the next victims of our weapons. The administration has explained that the deliveries were already "licensed" and so they did not constitute "new" military aid—as if old weapons make death less final than the new. And then the administration explained that bullets were not considered "lethal items," a distinction which so slanders the victims of our power as to provide its own rebuttal.

We are talking here about human life, about people who live in fear and who daily see their loved ones killed. It simply does not matter that the vehicle of death is already licensed or classified nonlethal. What matters is the chance of millions of people for a decent life—or for any life at all. That is why we must help India care for the refugees and cut off economic and military aid to West Pakistan. And that is why we must act at once.

And we must also act because of what that says about ourselves as a nation. For too long, the goals of our foreign policy have submerged concern for human life under tactical, economic, and diplomatic considerations. And whether we like the realization or not, both the policymakers in Washington and the American people have reinforced this formalistic approach to international affairs, as if the nations of the world were colored spaces on a board game, as if their people were only wooden blocks to be moved and sacrificed with each additional roll of the dice.

But we have also thought of ourselves as a decent people. And we have talked about a commitment to compassion and humanity in our relations with the rest of the world. We know, when we speak rationally in Chambers like this, that it is right to make that commitment a reality.

So I believe that our leaders have a responsibility, not only to the people of Pakistan, but to the American people as well—a responsibility to put concern of human life back into our equation for foreign policy. We must never again make a foreign policy decision that does not emphasize the preservation of human life. Our country was built on a belief in the worth of every woman and man. And those who built it would have wanted us to make our decisions with that in mind.

And I think it is important that we do so for another reason—to bring a badly needed respectability back to our Government and to its actions in international affairs. To often in the past two decades, Government officials have treated foreign policy the way President Nixon treats the Pakistani crisis today—in secrecy, with deception and half-truths, with clarifications and restatements and ambiguity and sometimes even silence. Too often, our Government has been thought of by millions of our citizens as the jailer of the truth. Each time a high official plays politics with truth, each time some distorted sense of purpose leads the Government to deceive, we reinforce the view that every foreign policy is stained by such deception, even those policies which truly are open and worthwhile. And we all know, that especially in foreign affairs, this Nation can make no progress without the faith and trust of its people.

So what we do in Pakistan is important for a number of reasons. It is important because it can give a new respectability to our actions in matters of foreign affairs. It is important because it can renew our concern for human beings and human life abroad. And it is vitally important—immediately important—because there are people half a world away who suffer as we speak. They are the reason we must act today.

Mr. President, at times like these, when the world receives another wound, when all of us are stunned and saddened by the things human beings are capable of doing to each other—at times like these, I wish that we could find a magic way to win a permanent peace. But we have no such magic, only our strengths and frailties, only the eyes to see what is wrong, and the hands to make some wrong things right. And now we must do the right thing for the people of East Bengal and for ourselves.

NOMINATIONS TO THE SUPREME COURT

Mr. MATHIAS. Mr. President, the Senate is now engaged in one of its most solemn responsibilities as it joins with the President in the act of making appointments to the Supreme Court of the United States. The act of appointment consists of two distinguishable phases: nomination and confirmation. There is no requirement, however, that these acts need be performed in isolation, or without reference to their obvious and necessary interaction.

An interesting and timely study of the role of the President and the Senate respectively has been written by Stanley Mazaroff, Esq., of Baltimore, Md. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

ROLE OF THE PRESIDENT AND SENATE

James Madison's notes of the Constitutional Convention are beyond question the best evidence we have of what the framers of our Constitution intended its provisions to mean.[1] A perusal of the proposals, debates, committee recommendations and votes recorded in Madison's notes which pertain to the selection of Supreme Court judges reveals that there is no constitutional basis for many of the common assumptions on what the correlative responsibilities of the Senate and the President were intended to be.

Clearly refuted is the theory that the Senate's role is merely a perfunctory one and that the appointment of Justices is essentially an executive prerogative. Madison's notes show this interpretation to be wrong in the extreme. The debates also show that there is no constitutional foundation to support the Motion that Senators are not to exercise their own subjective judgment in passing upon a nominee, that Senators are to repress their philosophical preferences in favor of the President's, or that the President's nominee should be considered presumptively qualified.

The delegates at the Constitutional Convention consistently adhered to the view that the paramount responsibility in the appointment of Supreme Court judges would be borne by the Senate. Senate participation was at all times considered by the farmers to be the essential element in the selection process. That the President was accorded any role at all in the process was the product of an eleventh hour concession, a concession that Professor Max Farrand attributes to the delegates growing tired.[2]

The President clearly was given the ex-

Footnotes at end of article.

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clusive right to nominate. However, Madison's record suggests that it was the Senate, in exercising its authority to "advise and consent", that was intended by the farmers to do the actual appointing.

When the main work of the Constitutional Convention began on May 29, 1789, Governor Randolph introduced the Virginia Plan in which there was a resolution calling for a supreme tribunal "to be chosen by the National Legislature." [6] On June 13, at the conclusion of the first round of debates on the resolution, the delegates, led by Charles Pinkney of South Carolina, Roger Sherman of Connecticut and James Madison, agreed unanimously to amend the provision and to vest this appointment authority in "the second branch of the National Legislature." [7] From this point until practically the very end of the Convention, the prevailing view remained that the selection of Supreme Court Judges was to be exclusively a function of the Senate.

In contrast, at no time did the Convention favor vesting the power exclusively in the Executive. Not that this wasn't suggested. Indeed it was, by James Wilson of Pennsylvania at the beginning of the debates on June 5 [8]; as part of the New Jersey Plan introduced by William Patterson on June 15 [9]; and again by Wilson in the form of a motion on July 18.[10] But the idea never carried very much currency, most probably because, as John Rutledge of South Carolina put it, "[T]he people will think we are leaning too much toward Monarchy." [11]

Wilson's motion of July 18 carries for the purpose of this discussion special significance. Wilson moved to strike from the provision dealing with who should appoint Supreme Court members the words "second branch of the National Legislature" and to insert the words "National executive." [12] Governor Morris, one of Wilson's fellow delegates from Pennsylvania, seconded the motion. Luther Martin of Maryland, Roger Sherman of Connecticut, George Mason and Edmund Randolph of Virginia and Gunning Bedford of Delaware all spoke in opposition to Wilson's motion. Other than the two who sponsored the motion, only Nathaniel Ghorum of Massachusetts expressed a preference for it.[13] And when the vote was taken, the motion was defeated six delegations to two.[14]

Thus, when the Convention was presented with a clear choice between depositing the authority to appoint Supreme Court judges in the Senate or in the President, the delegates opted heavily in favor of the Senate.

There was in the Constitutional Convention a spirit of compromise. We remember it best through the scheme of congressional representation it produced. This determination to assuage both sides of a controversy was not without its impact on the manner in which Supreme Court judges were to be appointed. While the delegates were in the process of rejecting executive control in favor of legislative control of this appointment power, a third position employing the advice and consent concept found in some State Constitutions began to gain foothold.

This method of selection first was introduced on June 5 by Alexander Hamilton.[15] At the time it captured no more serious attention, and probably less chuckles, than Benjamin Franklin's sardonic proposal to allow the organized bar to appoint the judges on the ground that they would surely appoint the best among them in order to get rid of him and divide his practice.[16]

When Ghorum and Morris moved on July 18 "That the Judges be nominated and appointed by the Executive, by and with the advice and consent of the Senate." [17] it was apparent that this position had gained additional support. It came primarily from those such as Ghorum and Morris who initially favored vesting the authority solely in the President. After that proposition was soundly defeated, they naturally switched to the position that would give the President some share of authority. Other supporters, such as Madison, moved toward the center from the side favoring Senate control. However, enough supporters of exclusive Senate control held their ground to prevent the proposal from obtaining a majority (the vote was four delegations to four), and consequently the provision granting the power soley to the Senate was left standing.[17]

By the end of the debate on July 18, it was clear that those who favored Senate control had prevailed. The proposal for exclusive executive control had been defeated and abandoned by its supporters in favor of joint responsibility. Some measure of Senate participation in the appointment process thus had been assured. And complete Senate control appeared probable.

The activities of the Convention three days later reconfirmed the will of the Convention to provide the Senate with a firm hand in the appointment process. On July 21, there began a consideration of a motion made earlier by Madison that "the judges should be nominated by the Executive, and such nomination should become appointment if not disagreed to within (certain unnumbered days) by two-thirds of the second branch." [18] When Elbridge Gerry of Massachusetts objected to the concept of requiring two-thirds of the Senate to reject a nominee, Madison amended his motion to let a majority reject a nominee.[19] Madison's motion, as George Mason objectionably noted, obviously would have made the Senate's share of authority strictly second rate.[20]

The Senate, in effect, would have been empowered only to negate a nomination; Senate approval would not have been required. The great, gray unknowns would have been carried to the bench on the crest of Senate lassitude, not support. Moreover, under Madison's motion, even if fifty percent of the Senate strenously opposed a nomination, the nominee would nevertheless take his seat. It is no surprise that the Convention would have no part of this. And Madison's proposal was defeated six degelations to three,[21] the motion obtaining less support than the advice and consent motion that narrowly failed three days earlier.

Support for exclusive Senate control of the appointment of Supreme Court members was approved twice more after the defeat of Madison's motion. First, by six delegations to three at the close of the Convention on July 21,[22] this date marking the end of the Convention's general debate on the matter. And again, on August 6, by the Committee of Detail, to which all the Resolutions that had been passed by the Convention had been referred for the purpose of arranging them in the form of a constitution.[23] In that two of the five committee members, Wilson and Ghorum, were originally the most assertive critics of vesting this authority in the Senate, and in that this Committee took the liberty of changing the substance of many other resolutions, it was of no small moment that this Committee decided to keep in tact the resolution vesting the authority solely in the Senate.

After the Committee of Detail submitted its report, the Convention proceeded to pass on each of its recommendations. However, it did not reach the one dealing with the selection of Supreme Court judges. On the last day of August, the Convention, becoming restless to bring the entire Convention to a close, referred the matter, along with all other resolutions not yet finally adopted, to a Committee of Eleven, composed of one representative from each delegation.[24]

On September 4, the Committee of Eleven reported to the Convention. Its report represented the first time that the Convention or any committee thereof did not endorse vesting the selection of high court judges solely in the Senate. The Committee recommended that "the President . . . shall nominate and by and with the advice and consent of the Senate shall appoint . . . judges of the Supreme Court." [25]

If we had no hard evidence of what the Committee intended in fashioning this scheme, it would nevertheless seem certain that its members would not have turned their backs on the previously expressed will of their delegations. They could hardly have ignored the fact that the last manifestation of Convention intent was a vote of six delegations to three favoring exclusive Senate selection. Or that the only time that the Convention considered a proposal involving advice and consent, the matter divided the Convention, four delegations favoring exclusive Senate control and four favoring "advice and consent." Given the fact that most differences were being resolved through compromise, it is reasonable to assume that the Committee of Eleven intended their proposal to represent a compromise between these two positions.

Such a compromise well might be reflected in the fact that the Committee did not reiterate the earlier proposal "that the judges be nominated and appointed by the Executive, by and with the advice and consent of the Senate," which had been favored by only half the Convention. Instead, the Committee rearranged the phraseology and placed the "Senate" immediately before the verbs "shall appoint."

Fortunately, what was intended by the recommendation of the Committee of Eleven need not be left to conjecture. On September 5, two days after the Committee's proposal, Wilson who from the start had strongly opposed giving this authority to the Senate, rose and denounced that part of the Report that gave the Senate, according to Wilson, "the virtual appointment to offices; among others the offices of the judiciary department." The President "cannot even appoint a tide-waiter without the Senate," Wilson objected.[26]

After Wilson concluded, Governor Morris took the floor to defend the Committee's Report. Morris' views deserve special respect. From the start he had demonstrated a keen interest in the subject. He along with Ghorum were the sponsors of the advice and consent proposal from which the recommendation of the Committee of Eleven derived. Most significantly, he was a member of this Committee, and thus he knew what the Committee intended. His words represent the best evidence of what the Committee contemplated, indeed what the scheme found in our Constitution means.

Morris sought to convince Wilson that the Committee's report took some of the Senate's power away. He noted that prior to the Committee's Report, the Senate "had the *appointment* without any agency whatever of the President." [27] And succinctly he stated the way the Committee's recommendation changed this, and what in fact, the proposal before the Convention was intended to mean:

"They [the Senate] are now *to appoint* Judges nominated to them by the President." [28]

Morris' interpretation was the only one offered in explanation of the Committee's proposal. It also constituted the last observation on this subject in the Convention. On the following day, September 7, the Convention unanimously agreed to adopt the proposal of the Committee of Eleven.[29] One week later the work of the Convention was brought to an end.

FOOTNOTES

[5] Madison's notes are found in Farrand, *The Records of the Federal Convention of 1787* (1937 Revised Edition in Four Volumes), hereinafter referred to as Farrand.

[6] Farrand, *The Framing of the Constitution of the United States* p. 171 (1913).

[6] Farrand, Volume I, p. 21.
[7] Id at 223–237.
[8] Id at 119.
[9] Id at 244.
[10] Farrand, Volume II p. 41.
[11] Farrand, Volume I p. 119.
[12] Farrand, Volume II pp. 41–44
[13] Id at 44.
[14] Farrand, Volume I p. 128 (Pierce's Notes).
[15] Id at 120.
[16] Farrand, Volume II p. 44.
[17] Ibid.
[18] Id at 80
[19] Id at 82
[20] Id at 82, 88
[21] Id at 88.
[22] Ibid.
[23] Id at 183.
[24] Id at 481.
[25] Id at 498.
[26] Id at 522, 523.
[27] Id at 523.
[28] Ibid.
[29] Id at 539.

BRIGHAM YOUNG UNIVERSITY—A FINE EXAMPLE OF WORK FOR COMMUNITY SCHOOLS

Mr. CHURCH. Mr. President, Brigham Young University is one of the most outstanding higher education institutions in our Nation. Its dedication to the concept of educational opportunity is unquestioned. Its fine record in education speaks for itself.

It is for these reasons that I was pleased to learn recently of the commitment of BYU to the community school concept. BYU is working, through the Brigham Young University Regional Center for Community School Development, to disseminate information and aid in the implementation of the community schools in the States of Utah, Wyoming, Nevada, and my own State of Idaho.

BYU is to be commended for its excellent work in this exciting and rapidly developing area.

The community school concept is an exciting one, Mr. President. Its promise is great. That is why I have introduced S. 2689, the Community School Center Development Act, which would provide aid for the expansion of such programs.

Mr. President, I ask unanimous consent that a letter I received recently from Israel C. Heaton, director of the BYU Center for Community School Development, and the text of the publication he provided me, entitled "Let Us Open the Schools for All People of All Ages at All Times," be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

BRIGHAM YOUNG UNIVERSITY,
October 20, 1971.

Senator FRANK CHURCH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CHURCH: We are very excited about the bill relative to community education which you have introduced in the Senate. The introduction of this bill is most timely and appropriate. No doubt the fourteen community education centers already established by the Mott Foundation will all be anxious to assist in any way they can upon your request.

The Brigham Young University Regional Center for Community School Development was established by the Mott Foundation in 1968. This Center is responsible for the dissemination and implementation of the Community School concept and the training of community education leaders throughout Utah, Idaho, Wyoming and Nevada.

My associate, Dr. Keith Rogers, and I just presented a two-day workshop at Idaho State University where we had the opportunity to work with twenty public school superintendents and principals in Eastern Idaho. We have also held community education workshops in Idaho Falls and Boise. At the present time there are pilot Community School programs in Boise (Dist. No. 1), Blaine County (Dist. No. 61), Bonneville County (Dist. No. 93), Idaho Falls (Dist. No. 91), Pocatello (Dist. No. 25), and Rexburg (Dist. No. 321). It appears that the implementation of new programs in Idaho will be very slow because of the financial situation there. We are hopeful that we can establish a Community Education Center at Idaho State University which will be working cooperatively with this Center at BYU. We have limited matching funds provided through the Mott Foundation for this purpose. Preliminary negotiations are underway.

As you probably know, Utah is completely dedicated to the Community School concept and is moving ahead as rapidly as limited funds will permit. Your bill will hopefully provide new impetus to the Community School movement throughout the country.

Twenty-five thousand copies of the enclosed booklet have been distributed throughout the country. We would be happy to make additional copies available upon request.

Sincerely,
ISRAEL C. HEATON,
Director, Regional Center for Community School Development.

Enclosure.

LET'S OPEN THE SCHOOLS . . .

Family Togetherness for ALL PEOPLE of ALL AGES at ALL TIMES.—Families come to the lighted Community School together for fun, recreation, learning and growth.

Strengthen Families.—There can be something exciting for every person, no matter what his age.

Raise Living Standards.—New skills can mean more money in the pay envelope. Vocational classes offer many kinds of training.

Improve Home Management.—Know-how in cooking, sewing, shopping, as well as making and sticking to a family budget, can be learned at the Community School.

Resolve Social Issues.—Community problems can be met at a local level involving citizens in improving their own neighborhoods. Drugs, alcohol, disease, prejudice and other social ills can be analyzed and dealt with.

A Great Place for Teenagers.—A teen club in a Community School, along with other social, recreational and learning activities, can give a teen-ager a place in society so he will not feel alone, friendless, and even homeless.

Reduce Juvenile Delinquency.—Give the kids something interesting and exciting to do with their spare time, then juvenile crime and vandalism can go down.

Reading Becomes Enjoyable.—Reading problems can be diagnosed and corrective steps taken. Reading for enjoyment and information in school libraries can also be made available.

Enriching Experiences.—Both parent and child can be involved in activities before, during and after school, which gives them both a running start in the regular school day.

Neutral Ground for Community Team Work.—A good Community School provides the neutral ground for community serving groups to work together.

The Community Classroom.—The community becomes the classroom when the student gets actual on-the-job experience. A community school involves business groups, chambers of commerce, etc., in making these programs possible.

Increase Tolerance and Understanding.—A Community School provides opportunities for people of all ages, races and ethnic origins to meet and gain respect for one another.

Sub-Cultures are Valued.—The many subcultures in American society can be accepted and valued in a good Community School. The foreign born can prepare themselves for citizenship.

Involve Senior Citizens.—Senior citizens can learn, have a feeling of belonging and express their creativity and talent in a Community School.

The Lighted School Becomes a Symbol.—A Community School unlocks the doors before, during and after the regular school day so that the entire Community can benefit. The schools belong to all the people, not merely the youth. A Community School is better utilized at all times so that where there was darkness, there is now light.

SCHOOLS INVOLVE THE PEOPLE WHO OWN THEM

A Summary of Community Education

A Community School:

Extends its services around the clock and throughout the year.

Includes all people of all ages within the community as members of its Student body.

Is for the whole family. It builds individual and family strength.

Uses all the resources of the school and community.

Sets the environment for the community to get to know itself and its difficulties.

Provides programs and counseling which can make a big impact on unemployment.

Furnishes supervised recreational, educational, social, vocational, and avocational opportunities.

Provides a forum for the discussion of social problems.

Furnishes facilities for health services.

Serves as a catalyst for family, neighborhood and community economic planning.

Provides initial leadership in planning and carrying out constructive community projects.

Promotes democratic thinking and action.

Constructs its curriculum and activities creatively and is less reliant upon traditional education patterns.

Is genuinely life-centered as a social institution.

Develops a sense of unity and solidarity in its neighborhood. Oneness of purpose overcomes community problems.

Initiates programs of usefulness for persons of all backgrounds, classes, and creeds.

The community is the classroom.

The facilities of community education are community school coordinators and directors.

REAL LEADERSHIP AND PROGRESS IN FIGHT AGAINST CRIME

Mr. HRUSKA. Mr. President, Richard M. Nixon has done more than any recent President of the United States to reduce the amount and effectiveness of criminal activity in this country.

While crime incidents grew at an alarming pace during the late 1960's, the latest figures for 1970 indicate that the rate of crime increase slowed for the first time in many years. This rate has dropped another 4 percent during the first half of 1971. This indicates that the changed emphasis on strong law en-

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forcement instituted by this administration is beginning to have the desired effect. While the task of bringing order and justice to America is not complete, and the total absence of crime is an unattainable dream, heartening progress to redeem the Republican pledges of 1968 has been made.

Critics who would have us believe that the President has not made tremendous strides to alleviate this most important domestic problem are wrong. Those who contend that the situation is no better in 1971 than it was in 4968 are wrong. Prognosticators of doom who would overlook the fact that in 22 major cities crime actually dropped in 1970 are wrong.

A quick glance at the record will show the extent of action in this field by President Nixon and this administration:

Federal funding for State and local law enforcement programs has increased from $63 million in fiscal year 1969 to $698.9 million in fiscal year 1972;

The strength of the Department of Justice, the chief Federal law enforcement branch, has been greatly expanded;

Emphasis on ending organized crime is paying off with the more than doubling of the number of strike forces, and the indictment of more than 2,000 and the conviction of more than 650 organized crime figures in fiscal year 1971;

Under administration leadership, Congress passed in 1970 the largest package of anticrime legislation in recent memory, including the Organized Crime Control Act, the Omnibus Crime Control Act, the Comprehensive Drug Abuse Prevention and Control Act, and the District of Columbia Omnibus Crime Act;

The FBI manpower and jurisdiction have been strengthened and expanded so that it is better equipped to assist the Department of Justice in apprehending those suspected of criminal activity;

A 66-percent increase in the arrests for drug abuse infractions has been accomplished in the past 2 years by the newly beefed-up Bureau of Narcotics and Dangerous Drugs;

Negotiations have been initiated with foreign nations to end the international traffic in narcotics; and

Civil disorders have been brought to a minimum and long cool summers have taken the place of long hot summers, which had become the rule during the 1960's.

Crime is a national problem, but the authority of the Federal Government is not national in scope. The President can set the tone for the country, but he cannot enforce it; Governors, sheriffs, mayors, and other local law enforcement officials who have direct control over the better than 90 percent of crime that is not Federal in character must complete the crime reduction task. President Nixon has spoken out on this problem with great frequency since he has entered the White House. He has directed the Attorney General and other officials to do all that can be done in Washington to end crime rate spirals. The response from the rest of the Nation has been heartening and statistics are beginning to reflect this determination and this effort.

In the one city where the Federal Government has direct responsibility for safety and law enforcement, Washington, D.C., the results are most encouraging. Crime rates fell month by month throughout 1970 from corresponding periods in previous years and in the first quarter of 1971 there were actually 17 percent fewer crimes in the District of Columbia than in the same quarter of 1970. That is tremendous progress and demonstrates what can be done when every effort is turned against crime. What has been accomplished in the Nation's Capital can be duplicated across the country if citizens and officials alike follow the example of the President and the Federal community.

The critics, the naysayers, are wrong. This President, this administration, is doing something to reduce crime; and as a result, crime rates are dropping for the first time in years.

CONGRESSIONAL INITIATIVE

In 1968 I had the privilege of serving as the vice chairman of the Platform Committee at the Republican National Convention. Our group spent many hours considering the problem of crime in America and finally came up with this statement concerning our views on this issue:

Lawlessness is crumbling the foundations of American society.

Republicans believe that respect for the law is the cornerstone of a free and well-ordered society. We pledge vigorous and even-handed administration of justice and enforcement of the law. We must re-establish the principle that men are accountable for what they do, that criminals are responsible for their crimes, that while the youth's environment may help to explain the man's crime, it does not excuse that crime.

More than a dozen very specific pledges were listed following this general statement. These pledges are being fulfilled. In the future the results of this commitment to order and justice under law will be impressive testimony to the President's dedication and leadership in this field.

The Senate and House during the 91st Congress did their part to provide the President and the Attorney General with the tools necessary to wage this fight. During 1970 alone five vital bills were approved which add up to the most significant anticrime legislation in this Nation in over a decade.

The Organized Crime Control Act of 1970—Public Law 91-452.—Among other things this law creates special grand juries to prove organized crime activities; authorizes immunity for witnesses who assist in investigations, and provides civil contempt for those who refuse to cooperate; makes it a crime to use money from organized crime to establish a legitimate business in interstate commerce; extends FBI jurisdiction to cover bombings and arson on college campuses and at every institution receiving Federal assistance; provides the death penalty for anyone convicted of a fatal bombing; establishes Federal control over interstate and foreign commerce in explosives; makes it a Federal crime to participate in a conspiracy to obstruct the enforcement of State or local gambling laws; and permits Federal courts to impose additional sentences of up to 25 years on certain dangerous special offenders—those involved in organized crimes.

The Comprehensive Drug Abuse Prevention and Control Act of 1970.—Public Law 91-513.—This act contains a consolidation and modernization of all previously existing drug-control laws. It creates a flexible system of scheduling dangerous substances according to potential for abuse, with provision for administrative rescheduling which has already been exercised by the Attorney General in the case of amphetamines. It completely modernizes penalties for drug offenses, making punishments tailored to the offense and the offender. There are no minimum mandatories except for the professional trafficker. There are increased powers for law enforcement such as "no-knock" warrants and greater arrest powers. And there are more extensive and efficient registration and recordkeeping requirements for those who legally handle drugs.

The Omnibus Crime Control Act of 1970—Public Law 91-644.—Numerous changes in the Federal law-enforcement assistance administration were made by this law, including the addition of part E to insure that massive Federal funds were made available to the States to modernize and upgrade correctional institutions and techniques. In addition, minimum sentences were provided for anyone who commits a crime with a firearm; authorized the United States to appeal certain types of criminal cases; provided additional protections for the President and Members of Congress; and altered the Wiretap Commission to permit a study of the effects of this law-enforcement technique.

The District of Columbia Omnibus Crime Act—Public Law 91-358.—This law totally reorganized the court system for the District of Columbia, created a District of Columbia public defender, altered the structure of the District of Columbia bail agency, and made numerous substantive changes in the local criminal law, including the authorization of "no knock" searches and "preventive detention."

The Omnibus Judgeships Act—Public Law 91-272.—More than 60 additional U.S. district judges across the Nation were created by this law. These new judges will greatly assist Federal courts in rendering prompt and effective justice to those people brought within its jurisdiction.

Mr. President, the Nixon administration, stepping into a near vacuum of inactivity prior to 1969, has fashioned meaningful programs to deal with crime. Notable strides have been made in such essential areas as the fight against organized crime and the traffic in narcotics and dangerous drugs.

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

But as important as they are, Federal enforcement efforts comprise only a small percentage of the Nation's total law enforcement machinery.

To expand assistance to State and local governments, which have the main responsibility for law enforcement and criminal justice programs, is another Nixon goal.

The major responsibility for anticrime efforts has always rested at the State and local level. But there is a legitimate Federal role: First, leadership to attain unified programs; second, financial resources that will help State and local governments improve every aspect of their law enforcement systems.

In the past 3 years, the program of the Law Enforcement Assistance Administration—LEAA—has grown enormously, from $63 million in fiscal 1969 to $698.4 million in fiscal 1972. Virtually all of the funds go directly to criminal justice agencies in the States and localities.

DEPARTMENT OF JUSTICE

At the Federal level, the Government's main enforcement arm is the Department of Justice. Its overall strength has been enhanced significantly.

In 1968, the Department's appropriation was $437.5 million, and it had 34,800 employees. By fiscal 1972, the budget had grown to nearly $1.6 billion, with an authorized staffing level of more than 46,000 positions.

President Nixon created a National Council on Organized Crime, which developed and put into operation strategies to smash one of the Nation's gravest crime problems.

The Department of Justice placed substantial new emphasis on organized crime strike forces, and by mid-1971, 18 strike forces were in operation compared to seven in 1968.

The results of the Department's emphasis on organized crime activities have been quickly apparent.

In fiscal 1971, there were 2,122 persons indicted in organized crime cases and 679 convicted, compared to 1,166 indictments and 520 convictions in fiscal 1968.

Of additional significance are the statistics on high-echelon members of organized crime. In fiscal 1971, 106 high-echelon members were indicted and 61 were convicted, compared to 38 indicted and 23 convicted in fiscal 1968.

In the 18-month period ending July 1, 1971, the Department indicted or obtained convictions against nearly half of the 25 heads of the Nation's organized crime groups.

FEDERAL BUREAU OF INVESTIGATION

The staff and activities of the Federal Bureau of Investigation also have increased significantly in the past 3 years.

Adequate manpower is a key to effective law-enforcement activities, and at the end of fiscal 1971 there were 8,548 FBI agents—compared to 6,699 in fiscal 1968.

In the same period, the overall FBI staff increased from 15,961 to 19,629 employees.

In fiscal 1971, convictions were obtained of 95 percent of the persons brought to trial in FBI cases. Of those 13,357 convicted, 83 percent were on guilty pleas.

The FBI located a record number of fugitives—33,863—and the fines, savings, and recoveries resulting from FBI investigations totaled a record $475 million.

BUREAU OF NARCOTICS AND DANGEROUS DRUGS

Enforcement activities were strengthened by the Bureau of Narcotics and Dangerous Drugs.

At the end of 1968, an average of 486 persons were being charged monthly with drug traffic offenses. By the end of 1970, the charges against drug traffickers had climbed to 808 a month—an increase of 66 percent.

In addition, important agreements were reached with several foreign nations to curb international traffic in drugs, and the Bureau stepped up its activities against illegal laboratories producing synthetic drugs. Nineteen such laboratories were closed down in a recent 10-month period.

OTHER ACTIVITIES

Through LEAA, the community relations service, and other Federal agencies, the Government has moved quietly but effectively to work for the prevention of civil disorders.

After a decade marred by riot after riot in major urban areas, there have been no major civil disorders in the past three summers in the cities.

When trouble began flaring at a number of colleges and universities, the Government again took quick action, and the President's Commission on Campus Unrest compiled its landmark study. In the past year, a new level of campus stability was evident.

When the problem of bombings—especially on college campuses—began to assume serious proportions, the Government moved in a decisive fashion, and the jurisdiction of the FBI to investigate bombing cases was substantially expanded.

The Federal role in improvement of State and local law enforcement systems has been a combination of providing leadership and financial resources.

The Government has placed great emphasis on being a catalyst for improvement and reform of every important aspect of the Nation's law enforcement and criminal justice system.

PRESIDENTIAL INITIATIVE

The President has taken a leading role in triggering this improvement process through calls for new action and new initiatives.

Under his leadership, the first national conference on the judiciary was held earlier this year. It brought together judges from throughout the Nation to give fresh impetus to programs to overhaul court systems—to speed trials and to eliminate backlogs of cases that exist in many parts of the Nation.

A national conference on corrections has been called by the President, and will be held later this year. It will be another step in the Government's efforts to improve the Nation's prisons and jails, and to improve rehabilitation of offenders. This is a key to reducing crime, for there are estimates that well over half of all crimes are committed by former inmates.

Under White House leadership, a number of conferences have been held for police chiefs and sheriffs, and topics have ranged from more effective ways to prevent and reduce street crime to new techniques to stop ambush slayings of policemen.

Since crimes by young people are rising faster than for any other age group, the important area of prevention and control of juvenile crime and delinquency has not been overlooked. Substantially larger sums of Federal funds are going into programs in this area, and for the first time in the Government's history all Federal juvenile crime and delinquency projects are now being conducted by a top-level interagency council.

Federal funds also have been a catalyst for improvement and reform.

Under the leadership of the Nixon administration, law enforcement assistance funds total some $1.5 billion in a 3-year period.

The LEAA program has created a unified anticrime program throughout the Nation, and thousands of projects are underway. No effort of such scope to fight crime and improve criminal justice has existed before in the Nation's history.

Most of LEAA's funds go to the States in block grants, and States and localities have substantial discretion in setting their own priorities for use of the funds. This added measure of responsibility—different from most Federal grant programs—is in keeping with the concept that law enforcement is basically a State and local responsibility.

LEAA BLOCK GRANTS

In fiscal 1971, block grant funds totaled $340 million. Their use shows that every important aspect of crime is being attacked across the Nation:

Police programs received $137 million, or 40 percent.

Corrections programs received $110 million, or 32 percent.

Courts programs received $36 million, or some 10 percent.

And in addition:

Crime prevention programs received $26 million.

Civil disorders and police-community relations received $18 million.

Organized crime programs received $12 million.

LEAA also awards large sums in direct discretionary grants for priority projects at the State and local level, finances a variety of research and development programs, finances college studies by policemen, and has been a leader in developing computerized information and identification systems for police and other criminal justice agencies.

The LEAA efforts are broad. The agency is not interested in only improving each component of the system separately. For the first time in history, all components—police, courts, and corrections—are working together to make the fragmented criminal justice system a true system that deals with crime and the offender at every level.

Large amounts of funds are flowing into urban areas with severe crime problems, and States are now required to make certain that cities with high crime rates receive adequate aid.

Under a recent reorganization of LEAA, new emphasis is being placed on programs to produce a quick, high impact against street crime, while at the

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same time long-range improvement programs continue to be carried out.

SLOWING OF CRIME RATE

FBI reports show that the Nation's serious crime grew at an average of less than 12 percent a year for the past 2 years. In the previous 2-year period, crime grew at an average of more than 16 percent.

This is not a decrease in crime. But it is a slowing in the rate of increase. And that is significant.

Even more significant is the fact that 22 major cities actually reduced crime last year.

Further, for the first 3 months of this year, 60 major cities reported actual decreases in serious crimes.

One of those cities was Washington, D.C., which in the first quarter of this year had 17 percent fewer crimes than in a corresponding period a year earlier. The Nixon administration has placed a special emphasis on crime reduction in Washington, D.C., because it is the Federal City and because it should be a model for the Nation on how crime can be reduced.

The crime problem in the United States is decades old. It is a tough problem. Any tough problem calls for tough-minded approaches. But the Government's approach to fighting crime is not only tough but is realistic and enlightened. It is designed to protect people and prevent crime. It is designed to promptly apprehend offenders. It is designed to provide fair, speedy trials. It is designed to rehabilitate offenders who otherwise might claim uncounted victims.

Reducing crime nationally is not an easy job, and it is not inexpensive. It will require large-scale expenditures of funds by the Federal, State, and local governments. It will require an unmatched dedication by public officials at every level. And it will require the support and cooperation of the general public.

Crime may not begin to decline nationally tomorrow. But the rates will begin to decline—and perhaps much sooner than most would suspect. Crime already has dropped in 60 major cities. Others will follow.

A substantial begining has been made on an enormous problem. President Nixon and the Republican Party have done much to redeem their pledges on this issue during the 1968 campaign.

Effective law enforcement is a fact in 1971 while it was just a dream 3 years ago. More must be and will be done but the first important steps have been taken and their effect is already being felt.

Mr. President, I ask unanimous consent that an October 29, 1971, Wall Street Journal account entitled "The Federal Crackdown on Organized Gambling Produces Some Results" be printed at the conclusion of my remarks. In it, Liz Roman Gallese describes a comprehensive activity, and ways used to defeat it. Especial note should be taken of the important, vital role of wiretapping authorised by court order as a law enforcement tool.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 29, 1971]

THE FEDERAL CRACKDOWN ON ORGANIZED GAMBLING PRODUCES SOME RESULTS—NEW LAWS, "STRIKE FORCES" BRING MANY INDICTMENTS; BUT CRIME STILL FLOURISHES

(By Liz Roman Gallese)

DETROIT.—It started in the Anchor, a dingy basement bar here, one morning last May when a score of FBI agents and local policemen clattered down the cement steps, shouldered past gaping early-morning patrons and arrested six key figures in an alleged gambling ring.

Before the day was over, 100 other locations, mostly in Michigan, had been raided, and 151 persons had been arrested and indicted for gambling violations. It was the biggest federal gambling raid ever.

The raids haven't been as spectacular since then, but the new and massive federal crackdown on organized gambling is plainly making headway. Armed with increasing manpower and a pair of new laws, federal "strike forces" by midyear had netted 324 indictments against hundreds of individuals in cities including New York, Newark, Miami, Detroit, Omaha and Los Angeles. Among those apprehended are some alleged Mafia chieftains, including Sam "The Plumber" Cavalcante (convicted and imprisoned in New Jersey) and "Fat Louis" Ruggirello (indicted in Michigan).

Breaking up illegal gambling rings is a cornerstone of the Nixon administration's announced war on organized crime. Law-enforcement officials say gambling is the underworld's largest revenue producer, grossing over $20 billion annually. Attorney General John Mitchell says reducing this flow is especially important because the funds are used to bankroll such activitites as narcotics peddling, loan sharking and prostitution. In addition, gambling seems to flourish in exactly those areas that can least afford it—urban ghettoes.

TWO NEW LAWS

To make a federal crackdown possible, Congress in 1968 passed a law permitting courts to authorize wiretapping when other evidence indicates certain crimes, including gambling, are being committed. The law also makes wiretap recordings admissible evidence in certain trials. Then, in 1970, the Organized Crime Control Act gave federal agencies jurisdiction over any gambling operation employing five or more men and in operation for 30 days or grossing at least $2,000 on a single day.

Previously, the Federal Bureau of Investigation and Justice Department could step in only if a gambling ring operated across state lines, so gamblers often concentrated their efforts in a single state. "We had to knock out a lot of gambling cases because they involved only operations within one state," says Robert Morgenthau, U.S. Attorney in New York from 1961 to 1970.

Also, local enforcement of gambling laws has sometimes been spotty, in part, because shrinking city budgets and rising crime rates have spread police resources very thin and in part because of police corruption. In New York City a commission investigating such corruption has recently heard testimony that vast numbers of policemen received payoffs of up to $1,500 a month from gamblers.

Law enforcement officials say the need for wiretapping was great. One reason: Their other major source of information is informants, who are often willing to talk privately but unwilling to risk retribution by publicly testifying in court. Daniel P. Holman, chief of the New York strike force, says "95% of the (gambling) cases (now being) prosecuted throughout the country couldn't have been prosecuted without court-authorized wiretaps."

A TAP IN MIAMI

The effectiveness of wiretap evidence is illustrated in the case of Martin Sklaroff, 39, and his father, Jesse, 61. The two men, using phone booths at Miami International Airport, were observed making calls all over the country—Atlanta, Baltimore, Cleveland, Detroit, Louisville, Newark and Philadelphia. They were apparently functioning as brokers, helping even out risks by taking bets on sporting events from some gambling rings and placing them with others.

FBI agents tapped the telephones in the airport booths and hid an agent with a movie camera in a huge packing crate nearby. When the case came to trial this summer in Miami federal district court, the jury watched the FBI's movies and listened to three hours of tape-recorded wiretaps. The evidence left the Sklaroffs defenseless—their lawyers called no witnesses and made only a brief argument to the jury claiming the two men didn't know they were breaking the law. They were convicted but say they plan to appeal.

Results like that explain why the chiefs of several strike forces (there are 18 now, up from seven, three years ago) say they're under pressure from Washington to step up their use of wiretapping. But they contend wiretapping is no shortcut. (Nor is it legal, contend many civil libertarians.) Before they can obtain court permission to wiretap, the FBI and Justice Department men often must spend months of old-fashioned police work digging up the evidence to justify the wiretap application. And if the suspects don't use a telephone, there's not much point to wiretapping anyway.

That was the case at Detroit's Anchor bar. The FBI had been tipped off that a major Michigan gambling ring was headquartered there, and early this year several agents moved into the basement next door. According to the Detroit News, which owns the building next to the bar, the wall between basement and bar contains an air vent, through which the FBI focused a camera, designed to pick up images in the dimly lit bar. For three months, the unblinking camera stared at everyone who wandered into its view while the agents listened to snatches of conversation.

One conversation they reported in pretrial proceedings in federal district court in Detroit occurred Jan. 18, the day after the favored Baltimore Colts defeated the Dallas Cowboys in football's Super Bowl. The speakers were concerned about having taken too many bets on Baltimore:

"Heavy on Baltimore for days—they gotta bet a favorite."

"I talked to Dixon yesterday. He's got both sides (bets on both teams). I'm asking him for Dallas money. You think I didn't go to four different spots looking for Dallas money?"

Then, a few days later, the FBI said it spotted Charles "Chickie" Sherman, an alleged leader of the gambling ring, and Detroit police lieutenant Gerald Willow in the Anchor. Sherman and Lt. Willow walked into a back room, allegedly so the policeman could be paid off. "While out of sight in the back room," the affidavit says, "Sherman was heard to count 'five, six, seven, eight . . .'" Then Sherman was reported to have told Lt. Willow about payoffs to another policeman who was supposed to distribute the money among his men. "Years ago, (he) used to pick up for four guys—then the (blank) didn't pay them for a year," Sherman allegedly said.

Sherman and Lt. Willow were among the 151 persons indicted in Detroit as a result of the May raids. The first of the indictments may come to trial later this year. Federal officials say the Michigan gambling ring had been taking in revenues of $40,000 a day. Sherman and Lt. Willow have pleaded not guilty.

A NEW ORLEANS CASE

Corruption sometimes extends beyond bribery of policy, authorities charge. In New Orleans, state district attorney Jim Garrison (the man who unsuccessfully prosecuted businessman Clay Shaw a few years ago for alleged involvement in President Kennedy's assassination) was charged by federal officials this summer with taking bribes from operators of pinball gambling machines. He has denied the charges.

According to a federal affidavit in U.S. district court in New Orleans, Pershing Gervais, once Mr. Garrison's chief investigator, admitted he had once been a conduit for bribes, from the pinball operators to Mr. Garrison. Federal officials then had a microphone on Mr. Gervais, and they said the following conversation ensued:

Mr. Garrison: "Well, then what, what, how much is in there (an envelope Gervais presented)?"

Mr. Gervais: "A thousand dollars."

Mr. Garrison: "Gee, that's great."

Another recording alleges that Mr. Garrison instructed Mr. Gervais how to treat those paying the money: "Treat these guys as friends, as business friends . . . And, uh, have them respect our world like we respect theirs . . . And it goes on forever like to you and me . . . And always face to face, never any other way."

Ralph Salerno, a former New York police officer who has studied organized crime, is one man who thinks the federal crackdown, for all its arrests and indictments, can't make much of a dent in illegal gambling. "What's being done," he says, "is a hard punch at a big canvas bag half full of water. The laws cause it to squish to the other side of the bag. You can't correct a social problem by prosecution." Mr. Salerno sees legalised gambling as "probably the only solution."

Mr. Salerno feels the federal drive's main result has been to increase the gamblers' operating costs. Strike-force officials say there's some indication that's true. Whether it's running a numbers game (a form of lottery popular in poorer neighborhoods) or sports gambling (prevalent in more well-to-do areas), gambling operations have several common attributes, including a "bank" and a system of "runners" and "drops." Runners carry betting record slips and payments; drops are the locations where runners leave their slips, to be picked up by another messenger for transportation to the bank, a central collection and payment point.

To foil federal investigators, gambling-ring leaders are relocating their drops far more often than they once did. In New York, FBI agents spent months watching a drop, which moved from an abandoned auto in a Brooklyn boatyard to a leather goods store to a car parked outside a Brooklyn gas station, before they could trace a runner to a gambling ring's suspected headquarters.

Once they located the suspected headquarters in a Brooklyn apartment, FBI men were able to tap a phone. Evidence from the tap led to the indictment of 31 men earlier this year, including Joseph Colombo, the alleged Mafia chieftain who was shot and wounded while leading an Italian-American rally in New York this summer.

A SCHEME THAT ALMOST WORKED

Another typical defense system existed in Boston, where, according to an FBI affidavit, a runner each afternoon picked up betting slips at the rear of an apartment building and drove into Boston's North End, a tightly knit Italian community where outsiders rarely pass unnoticed. "Even our Italian FBI men are almost immediately picked out in that neighborhood," says a federal crime-fighter in Boston.

Furthermore, the runner never went to his bank. He never even left his car. Instead, he passed a brown paper sack containing betting slips to a pedestrian waiting on a corner; other gambling-ring members acted as lookouts on streets in the area. The FBI recently staged a raid just as the brown bag was being passed from car to pedestrian, but federal officials say they still aren't sure where the bank is located. There have been no indictments so far.

Since runners can be followed and phones can be tapped, an Omaha gambling ring found an almost foolproof alternative for transmitting needed information—a leased Western Union teletype. Unfortunately for them, the teletype was discovered when federal agents came across the machine while investigating a different case.

POP WARNER FOOTBALL FEDERAL CHARTER

Mr. GAMBRELL. Mr. President, it has recently been said that football has replaced baseball as America's favorite pastime. I, for one, cannot argue with that.

I have taken part in this game in all of its facets from the sandlot variety of the thirties to the Sunday TV quarterback style of the seventies. One of the football programs which has added a lot of new interest to the game is the Saturday morning variety provided for boys not old enough to participate in organized scholastic athletics. My son, Henry, started with the "Gray-Y" when he was in the fourth grade. Today, although only a freshman, he is playing with the varsity team at his high school. He loves the game and it has meant a great deal to him in fellowship, sportsmanship, self-confidence, and leadership.

Henry got his serious introduction to football in the Pop Warner League, sponsored by the Northside Youth Organization in Atlanta. He continues his respect and admiration for his coach, Dr. Earl Gunn, who taught him that success in football, and in other activities of life is dependent upon an individual's willingness "to pay the price." Our whole family benefited from his experience.

All of our States are not so fortunate as Georgia in having a Pop Warner football program. Even within those States which have Pop Warner teams, not every major city has the facilities, primarily financial, to promote a Pop Warner program.

Today, I am requesting permission to join with the distinguished senior Senator from Pennsylvania (Mr. SCOTT) in cosponsoring legislation which would grant a Federal charter to incorporate the nationwide Pop Warner Junior Football League under the title, "Pop Warner Little Scholars, Inc." The granting of such a charter by Congress would provide some of the financial assistance needed to expand and improve existing Pop Warner programs and to help create new ones.

Saturday morning football for prescholastic boys is a significant opportunity for the development of citizenship. As one who has gained from the experience, along with my own son, I am happy to support the proposed legislation.

DEATH OF WILLARD G. ROUSE

Mr. MATHIAS. Mr. President, the quality of a man must be primarily responsible for the mark he leaves on life. At the same time, human quality is more ephemeral than the mundane and material evidence of his work. Willard G. Rouse was a man of rare quality, and I cannot resist an attempt to capture here some of the essence of his spirit that made him the unusual person that he was.

The sunny outlook, the quick smile, and the ardent advocacy brought and kept people together as associates in an infinite variety of common causes. The love of people, paralleled by the love of nature, breathed humanity into the harsh world of finance and engineering where he was a master. His sense of humor and his rare enjoyment of fun made everyone work better for him and with him.

Deep beneath it all was a sense, probably the legacy of an Eastern Shore boyhood, of the basic things that made life good. To that was added a sense of decency which recognised that the good things of life could and should be shared fairly by all. Not the least of these things was the interest, warmth, enthusiasm, and love that he shared so freely with his family and his friends for whom he succeeded in making life better than it would ever have been without him.

Of only a few Americans can it be said that they changed the face of the Nation and made it better. Of perhaps even fewer can it be said that they had the ability to change the faces of their friends and made them smile. Few indeed can do both, but such a man was Willard G. Rouse.

I ask unanimous consent that an article published in the Baltimore Sun of October 2, 1971, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ROUSE FIRM EXECUTIVE DIES ON BUSINESS TRIP

Willard G. Rouse, vice chairman of the board of directors of the Rouse Company and a leader in Baltimore civic affairs, died unexpectedly yesterday after a heart attack while on a business trip to Toledo, Ohio.

Mr. Rouse, who was 61, retired as executive vice president of the Rouse Company in September, 1970, and then was elected vice chairman of the board. The company is a real estate development and mortgage banking firm.

He had continued to be active in the company, working on special projects and representing the firm at numerous meetings and seminars around the nation and in Europe.

FUNERAL TOMORROW

Funeral services will be held at 11 a.m. tomorrow at the Brown Memorial Presbyterian Church, 1316 Park avenue, followed by interment at a private ceremony at Easton, his home town.

Mr. Rouse joined the Rouse Company in 1964, leaving the Olin Mathieson Chemical Corporation, where he had been treasurer for three years. Prior to that he worked for the Equitable Life Assurance Society for 20 years.

He was elected executive vice president of the Rouse Company in 1968. Earlier this year, Mr. Rouse was appointed to the Urban Transportation Advisory Council by John A. Volpe, United States Secretary of Transportation.

John B. Connally, Secretary of the Treasury, also appointed Mr. Rouse to a three-year term as Maryland chairman of the U.S. Savings Bond Committee.

ON BOARD OF DIRECTORS

Mr. Rouse was a member of the board of directors of Handy and Harman Specialty Metals Group, Arlington Federal Savings & Loan Association in Baltimore, the Columbia Bank and Trust Company, of Columbia, Md.,

Howard Research & Development Corporation, and Rouse-Waters, Inc.

He was a trustee of Middlebury College of Middlebury, Vt., as well as a trustee of the Urban Land Institute, of Washington.

He was also serving as chairman of the Community Builders' Council at the time of his death.

Throughout his career Mr. Rouse was active in civic affairs. He was named "Man of the Year" in 1955 by the Advertising Club of Baltimore. He had headed the Red Cross-Community Chest joint fund drive. At the time of his death he was serving as president and chairman of a 39-member board of governors of the Chesapeake Bay Maritime Museum in St. Michaels, Md.

HELD BOY SCOUT POSTS

He had devoted long hours to the Boy Scouts, and was a member of the executive committee and one-time president of the Baltimore area Boy Scout Council. In addition he was a member of the board of directors of Sinai Hospital. He was also a former trustee of Brown Memorial Presbyterian Church.

At various other times he had been chairman of the Baltimore Eastern area of the American Red Cross, chairman of the Baltimore Youth Commission, and chairman of Governor Mandel's Job Corps Task Force.

In 1968 he was treasurer for the election campaign of Senator Charles McC. Mathias. At one point in 1970 he was mentioned as a possible Republican candidate for the Maryland gubernatorial nomination, but he denied having any intention of running.

Other former activities included the presidency of the Maryland chapter of the Arthritis and Rheumatism Foundation, and work as a trustee of the Baltimore Chamber of Commerce.

Mr. Rouse started working at the age of 18 as manager of a Baltimore investment banking firm's office in Easton. The firm was a casualty of the 1931 stock market crash, and in the same year he entered the insurance business, forming his own company.

On his retirement he recalled: "I am one of the few men still in business who have a history of working through the Depression. Most men my age got jobs after the crash."

SURVIVORS LISTED

Because of the times and pressure of work, Mr. Rouse, who was a graduate of Easton High School, was unable to complete college studies. But he was proud to earn his bachelor's degree from the Johns Hopkins University in 1965.

He is survived by his wife, the former Katherine Parker, of Baltimore; five children, Mrs. William Bone, of Columbia, Willard G. Rouse 3d, of Philadelphia, a stepson, Roth W. Tall, of Middlebury, Vt., Mrs. Claiborn Carr, of Seattle, and Ellen B. Rouse, of Baltimore; two brothers, John G. Rouse and James W. Rouse, president of the Rouse company, both of Baltimore; two sisters, Mrs. Herbert Balch, and Mrs. C. O'Donnell Pascault, both of Easton.

STRATEGIC ARMS RACE

Mr. CRANSTON. Mr. President, many of us have been concerned by the steady flow of articles, editorials, and commentary over the past few months which purport to show that the strategic arms balance between the United States and the Soviet Union is rapidly shifting to the detriment of U.S. security; that strategic deterrence is a dangerous and unreliable doctrine, that "sufficiency" in nuclear weapons may not be sufficient for national safety after all; that the Soviet Union, far from seeing safety in near equality in strategic weapons, may be moving instead for superiority, and seeking a position from which it could, in future years, launch a devastating first-strike nuclear attack on the United States from which we could not recover.

These assertions are another manifestation of the invocation of the "greater than expected threat" that has served the arms superiority enthusiasts so well when they have pressed the Congress for funds for costly and questionable new weapons programs like the ABM. Warnings of dire consequences if the United States allows its guard to fall are old stuff; but the potential damage these efforts may do to the prospects for meaningful results from the current round of SALT negotiations is great.

One of the basic documents used in the campaign of exaggeration and scare is the so-called supplemental statement of the Blue Ribbon Defense Panel. The parent panel, appointed by President Nixon to reevaluate U.S. defense programs and policies, produced a commendable study that was, in the main, innovative, and constructive.

A supplementary and unofficial study was also produced, however, and it is this supplementary study which the prophets of gloom and doom are now circulating and quoting widely. Because that supplementary panel report presents a number of conclusions which I find questionable or at least poorly supported, I was pleased to receive today some comments on the study submitted to me by the chairman of the Federation of American Scientists, Dr. Marvin L. Goldberger, himself an original member of the Blue Ribbon Defense Panel. I believe Senators will find the FAS comments most helpful in evaluating the supplemental statement of the Blue Ribbon Defense Panel.

I ask unanimous consent that the FAS comments and a letter to the federation from John M. Fisher, president of the American Security Council, be printed in the RECORD.

There being no objection, the comments and letter were ordered to be printed in the RECORD, as follows:

COMMENTS OF THE FEDERATION OF AMERICAN SCIENTISTS ON SUPPLEMENTAL STATEMENT TO REPORT OF BLUE RIBBON DEFENSE PANEL

In July 1969, the President appointed a "Blue Ribbon Defense Panel" which submitted a report on Defense Department reorganization a year later on July 1, 1970. The present Chairman of the Federation of American Scientists was a member of this Panel at the outset. During its deliberations, 7 of the 16 members of the Panel reserved the right to file a supplemental statement on areas not addressed by the full Committee. Their report on the "Shifting Balance of Strategic Power" has been widely circulated. Basically, it represents the view of those members of the Blue Ribbon Panel who became most concerned about the strategic balance during their survey of other matters.

Consistent with this measure of self-selection, the report admittedly accepts conservative assessments of the trends it discusses; indeed, it considers it "imprudent" if not "reckless" to do otherwise in a matter of such moment.

But at the heart of any discussion of the strategic balance is an assessment of the credibility of the U.S. deterrent and the feasibility of maintaining U.S. strategic superiority. The inexperienced appraisal of this matter by the concerned Panel members biases and overshadows all of its conclusions.

For example, concerning strategic superiority the Panel summary asserts:

"Unless the American people wish to accept irrevocably the status of a second-rate power—with all of the probable consequences—the only viable national strategy is to regain and retain a clearly superior strategic capability."

Unfortunately, experienced observers of this matter—both civilian and military—have concluded that there is no meaningful way to "retain a clearly superior strategic capability" in an age of mutual deterrence. These persons include the President and the Chairman of the Joint Chiefs of Staff.

Admiral Moorer, Chairman of the Joint Chiefs of Staff, asserted on June 16, 1971:

"When you look at the realities of today, it is not practical to set a goal to achieve superiority of the type that we depicted in the many years gone by. So, what we are trying to do is to look at these realities and maintain a goal of sufficiency so that we have a viable deterrent."

Indeed, the Joint Chiefs as a whole are supporting the President's policy of strategic sufficiency rather than superiority. And they are arguing, as he had, that an effort to obtain "large advantage" would simply spark an arms race. A recent statement from the Joint Chiefs said:

"The distinction between strategic sufficiency and strategic superiority lies in the explicit recognition of the changed circumstances the U.S. faces with regard to strategic forces. The President made this point in his Report to the Congress, February 5, 1971, 'United States Foreign Policy For the 1970's.' He pointed out that the United States and the Soviet Union have now reached a point where small numerical advantages in strategic forces have little military relevance. Further, the attempt to obtain large advantages would spark an arms race which would, in the end, prove pointless.

"The term strategic superiority, in effect, was a reflection of the reality that, until the late 1960's, the U.S. possessed strategic forces that provided a clear margin of superiority. But, as the Soviet Union developed and deployed powerful strategic forces of its own, the balance changed. The reality of this changing balance led to the policy of strategic sufficiency."

The Supplemental Panel also was in error in judging it "reasonably conclusive" that the Soviets were seeking a first-strike capability.

"Our planners in the '60's assumed that if both superpowers had an adequate retaliatory capability neither would prepare for or risk a first strike. The evidence is now reasonably conclusive that the Soviet Union, rejecting this assumption, is deploying strategic weapons systems designed for a first-strike capability."

This error arises in part from the earlier misjudgment that clear superiority is feasible and meaningful, but also from a failure to appreciate the difficulties facing any surprise attack and from a double standard that more experienced observers have come to appreciate.

Given serious efforts to maintain the credibility of its deterrent, there is no problem in our maintaining the ability to destroy the Soviet Union—and even less problem in denying the Soviet leaders any confidence that the Soviet Union could survive a preemptive attack. Today, each Polaris submarine is being fitted with the ability to destroy 160 targets each with a bomb larger than that used in Hiroshima. A Soviet attack would have to destroy virtually every Polaris submarine on station (perhaps 30) highly simultaneously; upward of 95% of our 1,000 Minuteman missiles and the vast majority of several hundred bombers; and deal with the nuclear weapons based in Europe and those on nuclear carriers. And even this would leave scores of Soviet cities destroyed.

We know of no way in which the Polaris submarines could be destroyed in significant numbers, much less all at once. And the problems of simultaneous attack on bombers and land-based missiles are extraordinarily difficult, if not—as many strategists believe—quite impossible on any basis which any enemy military or civilian leader would try.

The confidence that these forces could be destroyed to high percentages is another critical hurdle.

Finally, the Soviets do not now have an ABM system to destroy the missiles that are missed. And they are now negotiating with us to preclude such ABM's. More generally, it is not believed that such a high confidence system could be built by them or—as indicated on March 14, 1969 by President Nixon—by us.

It is implausible to assume that the Soviets are seeking a first-strike capability simply because such a capability is so hard to achieve. But, in addition, there is another explanation for their actions. This explanation is simply that they are doing what many of our strategists want to do and what they call "damage limiting".

Our ABM program has gotten much stimulus from the support of those who wanted an anti-Soviet ABM of massive dimensions. Our MIRV program has similarly been stimulated by interest in attacking Soviet military targets to limit damage—if possible—after war has begun. We oppose these tendencies. But even President Nixon expressed an interest in having the option of attacking Soviet military targets rather than only the option of attacking cities in both of his State of the World messages.

The possible Soviet interest in putting our land-based missiles out of action if war begins would not necessarily be different from ours. They may want to strike what they can if war occurs. But neither side is likely to have high hopes. And the efforts to improve the land-based forces on each side so that each can attack the other are going forward comparably fast. The Soviet buildup in land-based missiles is being matched by U.S. advances in MIRV.

On each side there have been efforts to try to limit damage if war occurs. But on each side there is recognition that such efforts can spur the arms race. This is the meaning of the ABM discussions at the SALT talks. How much each side will try to get in terms of damage limiting and how much each will try to avoid stimulating the arms responses of the other is an open question. But it is far more plausible to consider Soviet activities in this context than in the context of a first-strike capability.

In short, it is not "reasonably conclusive" that the Soviets are trying to achieve a "first-strike" capability; instead, it is implausible. The United States ought not to make its strategy depend upon the judgment of Soviet intentions; it ought to have a secure deterrent in any case. But it is simply amateurish to conclude, as the Panel did, that the unlikely is likely. Prudence does not require misstatements.

AMERICAN SECURITY COUNCIL,
Washington, D.C., July 29, 1971.
FEDERATION OF AMERICAN SCIENTISTS,
Washington, D.C.

DEAR FELLOW AMERICAN: As you know, an intensive campaign is being waged to "reorder priorities" by reducing the national defense budget.

A formidable "Anti-Defense Disarmament Lobby" has been formed—led by Senators like Proxmire, McGovern, Fulbright, and Kennedy who are supported by a host of well-organized and well-financed advocates of unilateral disarmament.

Their one-sided anti-defense campaign has been remarkably effective.

The seriousness of this threat to our survival was made clear by the frank and startling report prepared by the distinguished civilian Blue Ribbon Defense Panel appointed by President Nixon.

In this report, released on March 12, 1971, the official Blue Ribbon Defense Panel pointed out that we face an "unprecedented national peril" because:

"The Soviet Union has been making a massive effort, out of all proportion to its own resources or any external threat, to acquire and extend strategic nuclear superiority over the U.S. Its record of feverish military preparation is unequaled since Hitler—determined upon conquest—structured his Wehrmacht for World War II."

With full access to the Pentagon's secrets, the Blue Ribbon Defense Panel found that the Soviet effort—together with U.S. cutbacks—had resulted in "a significant shifting of the strategic military balance against the United States in favor of the Soviet Union."

For example, the Panel pointed out that:

1. "The Soviet SS-9 ICBM force alone is capable of delivering a megatonnage of nuclear warheads greater than that of the entire U. S. force of ICBM's and SLBM's (7500 megatons in the SS-9's alone against only 1730 megatons in *all* U.S. ICBM's and submarine-launched ballistic missiles).

2. There is "convincing evidence that the Soviet Union seeks a pre-emptive first-strike capability."

The Blue Ribbon Defense Panel concluded that "it is not too much to say that for the 70's neither the vital interests of the U.S. nor the lives and freedom of its citizens will be secure."

The Blue Ribbon report is the strongest warning which has been published in a public document of the Executive Branch since warnings about Hitler's Wehrmacht!

"Yet," the Panel warned, "many of our most influential citizens respond to this unprecented national peril, not by a renewed determination to assure an adequate national defense, but rather by demands for further curtailment of defense measures which can only increase the peril."

Two of these high powered forces organized to *further* reduce our defenses in this time of crisis are:

1. *Members of Congress for Peace through Law*

A group supported by 28 Senators and 70 Congressmen who have organized to lobby for "reordering our priorities" and "general and complete disarmament" by taking funds from our defense budget for domestic programs. Its supporters include Senators Cranston, Hartke, Muskie, Hart, Javits, McGovern, and Proxmire.

2. *Coalition on National Priorities and Military Policy*

A combination of 36 organizations working together on a "Campaign to Cut Military Spending". The Coalition includes Americans for Democratic Action, National Council of Churches, New Democratic Coalition, SANE, and Women Strike for Peace.

Many groups such as these are spending millions of dollars to flood the country with the largest anti-defense propaganda campaign ever seen in the history of our country.

This unopposed anti-defense campaign has been so intense that the disarmers appear to represent the majority. Thus, many responsible leaders, according to the Panel, believe that it "is futile to seek adequate defense funding."

So, the Nixon Administration has felt it necessary to sharply cut back on defense and even to abandon the policy of military superiority followed (or at least claimed) by previous administrations.

Yet, a poll conducted by 207 newspapers last year showed that 86 percent of the participating readers were for military superiority! The Administration and the Congress have not heard from this majority because most Americans simply do not yet realize that the U.S. has fallen behind the U.S.S.R. in military strength.

Unless the facts in the Blue Ribbon report are widely known, the Anti-Defense Lobby, unrepresentative as it is, will continue to win the disarmament fight.

Thus, it is vital to our survival that every American learn about the facts in the Blue Ribbon Defense Panel Supplemental Statement.

The American Security Council does not have sufficient funds for this major public education program. We, therefore, ask your help to pay for a crash "Operation Alert" education campaign to make the information in the Blue Ribbon report available to the American people.

The Co-chairmen for Operation Alert are General Earle G. Wheeler, General Lyman C. Lemnitzer, Ambassador Durbrow and Ambassador Loy W. Henderson—two former Chairmen of our Joint Chiefs of staff and two of our former top ambassadors.

We ask only three things:

1. That you immediately write to President Nixon urging that he adopt the recommendations of his own Blue Ribbon Defense Panel. (See the enclosed official summary.)

2. That you signify your support of the Blue Ribbon Panel report today by signing the enclosed "Declaration for Peace through Strength."

3. That you send as much as you can afford to help "Operation Alert" mount a full scale educational campaign including (a) hundreds of full page newspaper advertisements, (b) radio and TV programs, (c) a public opinion poll, (d) millions of letters like this to alert other Americans, (e) inviting hundreds of organizations to alert their own members, (f) distribution of the statement to opinion leaders across the country, and (g) briefings for press and other opinion leaders.

Here are some sample costs and target media:

A full page ad in the *New York Times*—$9,240.

A full page ad in the *Washington Evening Star*—$3,070.

A full page ad in the *Chicago Tribune*—$6,324.

A full page ad in the *Los Angeles Herald-Examiner*—$4,010.

A full page ad in the *National Observer*—$6,873.

A half hour over a Washington TV station—$1,250.

The full campaign to reach most Americans will cost a minimum of $450,000.

The first campaign target is to get *over 1,000,000* signers of the enclosed "Declaration for Peace through Strength".

The complete list of over one million signers and the 1971 poll results will be presented to President Nixon. We believe that he will act to carry out the recommendations of his own Blue Ribbon Defense Panel when he and the Congress are shown that most Americans are for Peace through *Strength*.

Military superiority is the best insurance *against* war and *for* peace. It is worth whatever it costs to remain both alive and free.

We must work together to win this one or nothing else will count for much. So, please sign and return to me the "Declaration for Peace through Strength" with your maximum contribution today.

Sincerely,

JOHN M. FISHER,
President.

NEED FOR PERMANENT TRANSPORTATION LABOR DISPUTE LEGISLATION

Mr. PACKWOOD. Mr. President, after 3 long months of paralysis along west coast docks, President Nixon agreed to

invoke the Taft-Hartley 80-day cooling-off period to bring the striking longshoremen back to their jobs. As a firm believer in the free collective bargaining process, I hesitated to urge this intervention, but the disastrous impact of this prolonged strike on Oregon's economy precluded all other alternatives.

We are now a third into the 80 days, a period which was designed to encourage employer and employees to intensify their negotiations and, it was hoped, reach an agreement satisfactory to both parties. If serious bargaining does not resume during the cooling-off period, the injunction will not have served its purpose, and will merely have postponed the effective period of the strike.

Regrettably, there are indications that this is exactly what is happening on the west coast, much to the disappointment and dismay of everyone concerned, not to mention the mounting damage which is being and will be inflicted on our economy by this blatant irresponsibility. An editorial published October 26 of Oregon Journal carries this message well. I ask unanimous consent that it and a pointed letter be printed at this point in the RECORD, to the editor on the same subject.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

START THE DOCK NEGOTIATIONS

The 80-day cooling off period in a labor dispute which is provided for in the Taft-Hartley Act serves its purpose only if the contending parties use the time to settle their differences.

The fact that this is not being done in the West Coast dock strike raises the nagging worry that the waterfront may be shut down again when the present 80 days of renewed activity are up.

The docks had been shut tight for more than three months before President Nixon decided to use the T-H injunction in this dispute.

He had delayed acting for several days on the basis of information that the Pacific Maritime Association (PMA) and International Longshoremen and Warehousemen's Union (ILWU) were fairly close to agreement.

When he did act, work started but the talking in San Francisco, seat of negotiations for the coast-wide contract, stopped.

The PMA holds out an open invitation for bargaining to resume. Harry Bridges, ILWU president, has refused to meet with the employers. He talks of a renewed shutdown after the Christmas and New Year holidays. He hints of an alliance with the International Longshoremen's Association (ILA), which is now on strike on the East and Gulf coasts. He speaks of possible union action to defy some of the provisions of the Nixon administration wage-price control program.

Evidence continues to mount that the damage inflicted by labor disputes of this kind is not merely the immediate cost, which is brutally high to both sides and to innocent bystanders, but includes the loss of confidence over the future reliability of ocean shipping from these ports.

Japanese officials have recently confirmed the fears earlier expressed by spokesmen for the Pacific Northwest wheat industry that the market for wheat from this region in Japan so carefully and painstakingly built up over many years is in jeopardy. Wheat is moving now, but Japanese buyers have had to look elsewhere for some of their supplies. Uncertainty about the future here forces them to continue to look elsewhere.

The main hangup in the West Coast dock strike continues to be over the question of whether longshoremen or teamsters are to stuff and unstuff containers at certain locations. The employers cannot give in to longshore demands without facing a certain teamster strike.

This is clearly an issue that ought to be settled by outside arbitration. The price we pay for not having the means to settle matters of this kind fairly and intelligently is criminally high.

WHY NOT?

To THE EDITOR: We have had threatened railroad strikes that were stopped by congressional laws to prevent national disaster. Why can't Congress pass laws to protect the nation from longshoremen's strikes to prevent our river and sea lanes from being tied up by an argument between two powerful labor unions that has nothing to do with the general public's right to have its labor services performed by man and machines applicable to the docks?

There is a need for labor laws that can be applied in a few days instead of a mere cooling-off period that was applied too late. The workmen are now dragging their feet.

FRED E. BURGESS.

Mr. PACKWOOD. Mr. President, it is today appropriate not only to publicize this irresponsibility, but also to point once more to the vital importance of enacting legislation to provide permanent procedures for the settlement of labor disputes in the transportation industry. This is a problem which is unrealistically relegated to the "back burner" until another transportation labor stoppage is threatened. A crisis upon us, we then surge into action, impose a settlement, and quickly put permanent legislation away again on the "back burner." The proverbial "Out of sight, out of mind," seems to hold remarkably true here.

We all know this is an unpopular subject, and that whatever our decision, many will be unhappy. But that is not, and never will be, an excuse for inaction, for burying our heads in the sand. I have been pleased that the Subcommittee on Labor has begun hearings on this urgent legislation, but I fear that we have still not brought it to the front burner, where it should stay until we face the issues, make some hard decisions, and provide the permanent procedures which are so desperately needed in this industry.

NATIONAL MIGRANT AND SEASONAL FARMWORKER HEARINGS CONDUCTED IN RIO GRANDE VALLEY OF TEXAS

Mr. STEVENSON. Mr. President, migrant and seasonal farmworkers gathered in South Texas last week to discuss their problems and present before a panel the details of their plight and their recommendations to alleviate the conditions they face.

The hearings were significant not only because it was the first attempt that I know of to call farmworkers from different areas of the Nation together, but also because it was the first time that an effort was made by farmworkers themselves to establish their own agenda, for airing their own problems, on their own terms.

An interim report was prepared by the panel that heard the farmworker testimony. As the report discusses the highlights of the farmworkers' meetings, I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

INTERIM REPORT

The two days of oral testimony presented to a panel composed of Texas State Senator Joe Bernal of San Antonio, Father Roberto Pena of the Catholic Diocese of Brownsville, Mercedes Mayor Adan Cantu, Damacio Cano of Mercedes, a member of President Nixon's National Advisory Council on O.E.O., Boren Chertkov, Counsel of the U.S. Senate Subcommittee on Migratory Labor and Joe Alanis of Salt Lake City, Utah, confirmed the Panel's worst fears.

Witnesses from migrant and seasonal farmworker communities across the Nation discussed in vivid detail the extent to which the economic and political systems of our country have frustrated their aims and aspirations and have denied them justice and dignity.

So significant, immediate, and vital were the concerns of the workers, that although the Panel has not had an opportunity to carefully study all the position papers and written statements prepared by the witnesses, it is imperative that certain conclusions regarding priorities of the witnesses be immediately discussed and explored. Upon completion of a more careful study of all documents, a more complete Report will be filed.

Four major areas of concern surfaced as having a most high priority for action at the administrative, legislative, and judicial levels of local, State, and Federal government and in the private sector. Specifically:

I. Liberation through self-determination:

All through the hearings a persistent demand that farmworkers should have the power of self-determination was stated and restated. This self-determination should begin immediately by having migrants administering and staffing, and developing and implementing, the programs that affect them. Federal monies for programs such as the War on Poverty, housing, etc., are not reaching farmworkers; the program benefits are apparently going to other than those it is intended to most benefit.

II. Almost every witness emphasized the overwhelming impact of unemployment caused by mechanization in the fresh fruit and vegetable industry. From every part of the country came confirmations that farmworkers in large numbers are being displaced. Yet, except in the broadest of terms, concrete suggestions for overcoming the crisis were not forthcoming. The problems of great importance to farmworkers today (food, shelter, education, day care, wages, etc.), were matched by the possibility, increasingly real, that soon there will be no need for the migrant, and absolutely no significant effort is being made to meet this reality of people without jobs and livelihood.

Short term solutions to everyday problems of farmworkers seemed to be overshadowed by the reality that the desperate search for work conducted yearly by the farmworkers will become increasingly desperate and frustrating, and that fewer, rather than more, opportunities for jobs, justice and dignity exist for the farmworker.

III. Legislative proposals were made by most witnesses that varied from removing existing barriers to full coverage under various social and worker benefit legislation (wages, workmen's compensations and unemployment compensation), to enforcing present laws and enacting new laws and programs to provide economic opportunities to farmworkers.

IV. The very serious problems of the worker, illegally in the U.S. from Mexico, and commuting green card holders must be met and solved, according to every witness who testified. Depressed wages for farmworkers and other workers prevail; union and community organizing efforts toward self-determination are made difficult if not impossible; and an attitude of dislike and an unfortunate setting of brother against brother to the detriment of those on both sides of the border and to the benefit of the farmer and other employers who exploit that labor, are all created by the prevailing situation. Legislation recommended by witnesses included shifting responsibility for hiring illegals to employers, with provision for criminal prosecution of employer's; and that the border patrol should be sensitized to the bi-lingual, bi-cultural attributes of the border population.

CONCLUSION

The panel is aware that the rhetoric of a hearing and this Interim Report may again fail to arouse the conscience and attention of the Nation. Hearings, books, television documentaries and studies have occurred with little or no benefit accruing to farmworker.

Perhaps the most hopeful sign is that these historic hearings, in which farmworkers themselves set their own agenda and priorities, will bring us closer to the day when, through union and community organization with the goal of a fair share of political and economic power, farmworkers themselves will be able to control their own destinies so as to begin the process of liberation. It is to this end that the Panel sees the hope for meaningful implementation of solutions to the crisis which farmworkers face, and it is to this end that the Nation, both public and private sectors, must respond and lend support, if there is to be a greater tomorrow for the farmworker and the country.

BOOTH NEWSPAPERS SURVEY OF MICHIGAN ISSUES

Mr. GRIFFIN. Mr. President, a team of three reporters from Booth newspaper chain in Michigan recently surveyed people throughout the State to learn what is on their minds.

The report of Bud Vestal, Robert H. Longstaff, and John J. O'Conner who published in the Flint, Mich., Journal of Sunday, October 24, 1971.

Mr. President, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE PEOPLE SPEAK—WHAT BOTHERS MICHIGAN RESIDENTS? WELL, QUITE A LOT, IT SEEMS

What's bothering the people of Michigan and what do they think should be done about it? To get the answers to those questions, the Lansing bureau of The Journal sent three reporters into the field to talk with just plain citizens. After more than a week of interviewing and 1,200 miles of travel, the reporters—Bud Vestal, Robert H. Longstaff and John J. O'Conner—came up with the following report.

The times are troubled, and government is creating as many problems as it tries to solve.

Right or wrong, that's the opinion of a majority of Michigan citizens, according to interviews with scores of residents over the State in the last week. But most say their government is still the best in the world and appear willing to accept the existing process and make their views known at the polls.

The reporters asked just one question: "Tell us what's going right with the state and the country, and what's going wrong, in your opinion." No prompting by use of the words "taxes, schools, integration, crime" or any other: Just what's on your mind?"

The report is not a happy one, but it's believed to be true; each reporter traveled a different part of the state and each heard the same things. Here's how the citizens in Michigan look at the times they live in:

School busing to achieve racial integration is the hottest public issue and the biggest one in the larger cities. A big majority of whites is against busing; many blacks are not excited about it.

Next jobs, jobs, jobs. Even those who have good jobs worry about the economy. And in talking about the economy; most people interviewed approved of President Nixon's wage-price freeze, and some thought it should have come earlier and should last longer.

After these issues, school problems, generally, and crime seem about equally important in the public mind. Many worry about the quality of public education, and want less dependence on property taxes to finance it. Many are willing to give more money for policing against crime, particularly violence in the streets.

Michigan voters are critical of government, but more critical of the Legislature than the governor. A minority volunteers interest in a unicameral legislature. Few call themselves "Democrat" or "Republican." Many deplore "the politics, the deadlock, the bureaucracy" of government.

The war in Vietnam is fading as a political issue. Citizens are more aware of local and national events than of affairs at state government level.

And where did happiness go? You can walk the city streets for hours without seeing anyone smile. Even those with no money or school worries don't look or sound happy. Many, many Michigan residents are just plain worried about the times.

Busing isn't regarded as a racial issue. It's more a question of parents' worry over safety of their children, and the words most often used are to the effect that you pick your neighborhood, you have a right to send your children to school there. Here are some representative comments:

Mrs. Betty Florshinger, a Kalamazoo housewife: "I'm not happy with busing. The money could be put to a better use. The money could be spent on more teachers and more equipment—to benefit all the children. Because of busing, people are moving to the suburbs to get away from it."

Miss Becky Strumpfer of Richland: "Government gets a bad deal, and people aren't helping a bit . . . blacks are not getting as good an education. White schools have better facilities, and sometimes better teachers, too. If everyone gets an equal education—the same chance at it—then perhaps we wouldn't need busing."

"I don't like busing programs," said Mrs. Donald McCabe of Albion, a housewife and mother. "We don't have the problem of busing to integrate in Albion, but I would not favor it. You pick your neighborhood when you move, as we did from New York State a year ago. You do it with the school in mind, and you have a right to do that."

"I just came back from Vietnam where I was an Army intelligence officer, and my biggest problem was getting a job," said Charles T. Munson, 26, of Ann Arbor. "It took me more than three months to find one. From all I have heard since coming back, school busing is the biggest issue. I'm married and we have a 2-year-old daughter, so it's not a problem for us yet, but I would be against busing our children. I'm for the wage-price freeze, and for getting out of Vietnam—we're making a lot of millionaires over there."

The economic recession has many worried, but especially black citizens who are hit hardest: Here are some typical comments:

John Barnes of Grand Rapids, unemployed: "I'm dissatisfied with being laid off a whole year because of the slowdown. The wage-price freeze hasn't helped me any. It doesn't make sense to take people off work, run out of unemployment compensation and go on direct relief. I'd rather work than be on welfare."

William McLean of Nunica, a factory worker: "The economic slowdown because of President Nixon has hurt, and I got laid off. It's the same as when Eisenhower was president."

Harris Lattimore of Muskegon, factory worker: "Government should stay out (of the economy) and let labor and management settle it."

John Kadisek Jr., a Flint construction worker: "Lack of work is the biggest problem we've got: Solve it and you solve a lot of other problems. They should take some of the tax money and see to it a kid can get a job, even if it's part-time. If he has a job he has a feeling that he accomplishes something. It's good for a kid to know where he's going tomorrow morning at 8 or 9 o'clock, instead of just wandering the streets. Providing jobs would do a lot more than food stamps."

And one farmer is so discouraged by the economic situation he's giving up:

"I'm selling my farm to pay off my debts, and then I'm going on welfare," declared William Stagray who has 80 acres near Standish. "Agricultural prices are so low I can't make a go of it. The chain stores hold the prices down."

His wife, Joann, has a roadside produce stand, and said, "People with big cars, trailers and boats stop to buy vegetables and you'd be surprised how many pay with food stamps. Our neighbor across the road lives on $40 a month old age assistance; he's past 80, has no electricity or running water in his home, and he can't get food stamps. What kind of a system is that?"

A few persons interviewed criticized Nixon's wage-price freeze, but most believed it was necessary.

Said K. Schipper, a tobacco-candy jobber in Kalamazoo: "Nixon is going to have to carry through on the wage-price freeze. It's got to go longer than two or three months. There should be no exceptions if it's frozen. We need the freeze for a year or two to bring inflation under control. If taxes are going up all the time and wages are frozen, where is the average man going to get the money to meet the increase?"

"The wage-price freeze is a good thing, even though it held up my husband's pay raise," said Mrs. Ann Jacobs of Ypsilanti.

James Dalson, Grand Rapids service station owner: "Government should have a role in stabilizing prices. Fair trade prices should be re-established. The discount craze is resulting in poor products because manufacturers have no choice but to take something out or use inferior materials . . . price controls must be continued. Prices can't keep going up; they've got to stop. What good does it do to carry a bushel basket full of money with you?"

The public school is no longer sacred; the teacher no longer infallible.

Dallas Stadel of New Ionia said: "We need a merit evaluation to rate teachers—to make sure they produce or they don't get a raise. There are too many deadbeats teaching now. We must have standards for measuring teachers to weed out the bad teachers. I don't care how much pay a teacher gets as long as we get something in the end—a good education for the children."

Mrs. Edna Van Hyfte of Linwood, a receptionist, said: "I'd like better teachers; we should get rid of some who aren't doing a good job of teaching and haven't for too long."

And "Law and order" is still an issue too.

Hubert Townsend of Flint, a retired General Motors worker and UAW member, thumped the sidewalk with his cane for

emphasis when he said: "The Supreme Court has messed up the country—coddling crime and forcing integration. You can't walk the streets of the city at night. We should spend more tax money on the police force and to compensate the victims of crime. This country needs some real justice more than anything else. Crime is our biggest problem."

Herman Schoo of Falmouth, retired: "People seem to have more of a permissive attitude, and the courts follow the attitudes of the people. I feel laws should be enforced, so the wrongdoer knows he will be punished. Like a pendulum, the permissive society may rebound to a repressive society."

Louis Gardner, Greenville factory worker: "There should be equal justice. The punishment should be the same for each crime, regardless of who the offender is."

Warren Brink of Muskegon, a maintenance man: "If a guy like me did anything wrong, I'd be in jail right away . . . the Supreme Court is what's wrong in this country.

And some think government itself is one of the bigger problems:

"This state is in a mess," said a salesman who refused to give his name because "I live on the same street as the governor in Traverse City."

He declared state government has too many employes, has "padded payrolls," and its departments "spend money like crazy toward the end of a fiscal year if they see a surplus coming. I know this because I used to sell supplies to the state." But he said he would support an increase in the state income tax "to finance schools" if property taxes were cut.

GOVERNMENT? EVERYBODY HAS DIFFERENT VIEW

There are almost as many views on government as there are voters in Michigan, and while many have the same attitude on public questions, the way they express it is seldom exactly the same.

Here, in the words of the citizens interviewed last week by members of the Journal's Lansing Bureau, is how the state of the state and of the country looks to the people: Here's what they have to say about the times they live in:

Mrs. Carol Ritchie, Reed City housewife: "We ought to start at the bottom of government and work up to get rid of the graft. There are too many people overpaid who we don't need. If we really knew what was going on, we'd be sick. And it's the middle-class person who pays for it.

"The economy scares me. Something has got to give somewhere, but I don't know where.

"There are too many loopholes in the wage-price freeze. They can't look at every little store in every little town. I've been paying more for some grocery items since the freeze went on.

"I guess an honest man can't be elected any more."

Miss Regina Davis, 21, of Detroit, said: "The hardest thing in Michigan today is the question of getting a job." She said that after high school she studied at college level to get a certificate as a nurse's aide, "and you would think that would be in demand, but all year I haven't been able to get a job."

"Schools are the big problem," declared A. W. Hitchcock of Fenton, a retired banker. "Property taxes have become almost confiscatory. I would almost like to see a unicameral legislature to end the stalling and deadlock, the politics in state government, and get some of things done with need to be done."

Miss Mable Bird of Flint, a retired secretary, said: "As to our government, I'm not a critical person. But one thing I don't approve of is providing everything for school children—pencils, books, everything. They would treat equipment better if they had to pay for some of it."

Arthur Romig, manager of the St. Johns Co-op Co., in St. Johns: "They got to do something about welfare. If people want to draw a check they've got to go to work for it. Money is pretty doggone tight. They're tearing the laws apart. We've had some Supreme Court members who should never have been in there." On grocery prices, despite the freeze: "I think it is creeping up a little bit, really."

Floyd (Matt) Matteson, Alma Chamber of Commerce executive: "I'm not objecting to paying, but I'm not in favor of a graduated income tax. Our welfare system trains people to stay on and not get off." Unicameral legislature? "I've been in Nebraska. I can't say they do any better, but there would perhaps be a few less people to pay." On the wage-price freeze: "Necessary but I hate to see it, once it starts will it ever go off?"

Martin Rausenberger, Alma realtor: "I've seen more fellows looking to get rid of their second home, and they'll get rid of the one in the city. The taxes are so high, they can't afford taxes on two homes." On rising health care costs: "You can't afford to go to a hospital today. It's just that simple."

Fred Oamer, Owosso grocer: "If they'd stick with it (the price freeze), I'd be happy. It was getting so that every shipment of groceries would be priced differently . . . the biggest problem for a small business is we don't have the contacts on the price freeze. We don't have the information, so we try to do the right thing."

John A. Rumbaugh, banker in St. Johns, "I think we have to have tax reform."

Charles J. McGee, retired Jackson fireman: "I think the price freeze is a good thing. I think it should have taken place two years sooner. No matter how much taxes they collect they'll spend it all, right from the Township on up. I know the fire department did the same thing—if they had the money left over they'd manage to spend it."

"I get disgusted with state government," asserted Russ Duerloo of Fremont, a radio announcer. "There are 19 Republicans and 19 Democrats sitting on each side of the fence (in the state Senate), and nothing happens. It's a bad example for the young people when legislators say, in effect, 'I'm going to do what I want and nothing else.'

"Labor is stepping out of line in trying to control the wage-price freeze. President Nixon should have a chance to accomplish all he can. Inflation was running away with us, and something had to be done. The freeze is a chance for cooling off things."

William McLean, Nunica factory worker: "Government should insure pension funds. Companies are folding around here, and the pension funds are gone. The workers don't have any retirement benefits."

Ivan Tessin, a Kalamazoo jewelry store owner, had only one complaint—busing of school children. "I have friends who have two children and live two blocks from a school. One of their children is bused clear to the south end of town, and the other to the north end. Those children spend two hours a day on buses. The family is getting ready to move out of town."

Eugene Miller of Lowell, an employe of a metal products firm in Grand Rapids: "I can't see throwing millions of dollars away on the moon. Let's put the money where it will do some good; do away with the space age. Put some money in housing for people who need it—but not a give away. I'm for the needy—the honest needy. Put some money in the ghettos to help people get on their feet. That's for help—not full support forever."

Franklin G. Fisk of Portage, a professor at Western Michigan University. "Government ought to be interested in a mass transit system. And to achieve a mass transit system, we may have to make it inconvenient to drive automobiles. Kalamazoo wants to encourage people to ride the buses. So what do they do? Build a parking ramp, so it's easier to park. In the Kalamazoo area, there is overlapping and duplication of the local layers of government. Right now, the taxes in Portage are lower, but I'm sure they are going to go up."

Payton Geasler of Big Rapids, an employee of Ferris State College: "The Legislature dragged its feet on getting the budget passed. If it had got with it, burned a little midnight oil, it would have beat the wage-price freeze, and we could have gotten our raise. Legislators should be worrying more about the people and less about themselves—such as voting extra stamps for their junk mail. They need to work at their job and quit working so hard at getting re-elected. I've got a job to do, so I'm at it eight hours a day, five days a week. Legislators make you a lot of promises at election time, so let them carry them out."

Neal Barber of North Muskegon, unemployed, recently returned from Vietnam and is unable to find a job in his chosen field of forestry: "The problem is communications; there's a communication gap. Sometimes, government doesn't tell the complete truth, or enlarges on it."

Pat Kelly of Muskegon Heights, a bartender: "The workingman doesn't have much to say about the running of government, yet we're the backbone of the nation. We need to get more involved in politics. It's something we should do, but we never seem to get around to it. Those who are active are the business types."

Mrs. Dorothy Cooper, a clerk in a Kalamazoo store: "I'm concerned about drug addicts and crime. Police are doing what they can, but it's not enough. Maybe there should be a bigger police force. Its not safe to walk down the street at night in Kalamazoo."

Miss Becky Strumpfer of Richland, near Kalamazoo, admitted to being a "bit of an idealist." She said:

"I think President Nixon is doing everything he promised. If people would stop critising and look at what he's done, they'd see he's done a heck of a lot. . . . I'm not happy about government keeping big corporations in business, such as Lockheed."

Miss Darlean Eason of Kalamazoo a student: "We're spending money on the wrong things. We send people to the moon, but there are lots of people here with no homes, no jobs. We should spend the money differently. We should rip out the slums in the big cities and rebuild them."

"I don't want to commit myself at all in any way or respect," said Walter Saultz, Ypsilanti retiree, "but a lot of things could be improved and Social Security is one. Elderly people are not treated right—the payments are not high enough for the prices we have to pay to live."

Eleanor Goertz, 23-year-old literature student at the University of Michigan and a resident of Ann Arbor: "I honestly can't think of anything good in the nation. But in Michigan there's something—the movement to repeal the law against abortions, and the movement for no-fault insurance." She feels "we should do more to protect the environment."

Mrs. Rose Gomez, 23, Saginaw housewife, said: "Housing is the biggest problem I know of. It is scarce in this area. For the price you want to pay, you can't find a decent house. My husband and I just bought one and we had a hard time with it. And the prices you pay for food are terrible—three bags of groceries cost $20 and you still haven't got much."

"I don't think a person should criticize government unless he knows what it's about," said Clifton J. McQuade, a Saginaw office worker. "I think the governor and legislators are trying to do their best; I wouldn't lean on any of them. The public doesn't understand how complicated government is, and once you get in there (public office) it is not as easy as it looks. I don't know about a unicameral legislature—it's good to have check and balance, to have opposition to anything, although that can bring a stalemate sometimes.

THE FOREIGN AID BILL—ANNOUNCEMENT OF POSITION ON VOTES

Mr. MILLER. Mr. President, I would like the permanent RECORD to reflect my position, as set forth below, on the record votes in connection with consideration of H.R. 9910, the foreign assistance bill, while I was necessarily absent on October 28 and 29, 1971:

First. No. 270 Leg. Amendment No. 538 to delete section 410 of the bill calling for repeal of the so-called Formosa resolution—"yea";

Second. No. 274 Leg. Amendment increasing by $62 million assistance to Cambodia and deleting the section of the bill imposing a limitation upon assistance to or for that country—"yea";

Third. No. 275 Leg. Amendment No. 537, to eliminate, pending further study by the Congress, payment of $101.5 million in voluntary U.S. contributions to the U.N. Development Fund and to the world food program of the U.N. Food and Agriculture Organization—"nay";

Fourth. No. 276 Leg. Amendment No. 540 barring any assistance to countries which expropriate U.S. property and do not provide adequate compensation therefor—"yea";

Fifth. No. 278 Leg. Amendment to strike from the bill the requirement suspending foreign assistance and military sales to Greece—"yea";

Sixth. No. 279 Leg. Substitute amendment—to amendment No. 558—reducing from $250 million to $150 million the ceiling on funds to assist Cambodia—"nay";

Seventh. No. 280 Leg. Amendment No. 558 increasing from $250 to $341 million the ceiling on funds for assistance to Cambodia—"yea";

Eighth. No. 281 Leg. Amendment reducing from $445 to $285 million the authorizations for Economic Assistance Development Loan Fund—"yea";

Ninth. No. 282 Leg. Amendment No. 549 establishing a formula to regulate proportionate U.S. share in U.N. programs—"yea";

Tenth. No. 283 Leg. Amendment to reduce from $565 to $452 million funds for military grant aid—"nay"; and

Eleventh. No. 284 Leg. Final passage of H.R. 9910—"yea."

MRS. OLGA SHELDON, RECIPIENT OF DISTINGUISHED NEBRASKAN AWARD

Mr. HRUSKA. Mr. President, a number of years ago the Nebraska State Society, of Washington, adopted the gratifying practice of conferring an annual Distinguished Nebraskan Award upon one who has made an exemplary contribution to the State's progress or welfare.

In 8 years those awards went to these Nebraskans who have distinguished themselves in such diverse fields as sports business, and the military. The recipients included:

DISTINGUISHED NEBRASKAN AWARD RECIPIENTS

1963—Clair M. Roddewig, President, The Association of Western Railways.

1964—His Excellency, The Most Reverend Gerald T. Bergan, D.D., Archbishop of Omaha.

1965—Robert S. Devaney, Head Football Coach, University of Nebraska.

Bob Gibson, Pitcher, St. Louis Cardinals.

1966—Gen. Alfred M. Gruenther, USA (Ret.).

1967—V. J. Skutt, Chairman of the Board and Chief Executive Officer, Mutual of Omaha Insurance Company.

1968—Arjay Miller, Vice Chairman of the Board of Directors, Ford Motor Company.

1969—Edd H. Bailey, President, Union Pacific Railroad.

1970—Gen. Albert C. Wedemeyer, USA (Ret.).

It was the society's pleasure this year to add to its illustrious list of recipients a lady whose name is well known not only in Nebraska art circles but across the Nation.

Mrs. Olga Nielsen Sheldon is much more than a donor of the Sheldon Memorial Art Gallery at the University of Nebraska. She plays an active and vital role in the entire field of American art. Her contributions to the arts in this country through the years would, if they could be compiled concisely, make a most impressive record.

So that the commitment of this wonderful lady can be known to others as it is well known to Nebraskans, I ask unanimous consent to have printed in the RECORD the transcripts of the presentation of the Ninth Distinguished Nebraskan Award to Mrs. Sheldon.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DISTINGUISHED NEBRASKAN AWARD

WELCOME

(By Daniel E. Wherry, president of the Nebraska Society of Washington, D.C.)

Ladies and Gentlemen and distinguished guests, on behalf of the Board of Governors of the Nebraska Society of Washington, D.C., it is my pleasure to welcome you to the Ninth Annual Distinguished Nebraskan Award Dinner.

INVOCATION

(By the Reverend Robert F. Sims, pastor, Lutheran Church of the Redeemer, McLean, Va.)

"Dear God, Our Father, Accept we pray the deep and sincere feelings of thanksgiving and gratitude which move us to speak your name in this hour.

"You have provided us with an abundance of life far beyond that for which we could have asked or hoped. You have shared with us those good gifts which assure that today is worth living and tomorrow worthy of our anticipation.

"By your grace we are able to touch the canvas of life with the rich colors of joy and peace, and paint a portrait of purpose and meaning.

"We would ask in this moment, Oh God, a blessing upon this gathering. Many have travelled long distances to share in the warm glow of these few hours. Grant them safe journey as they return to their home state to continue the good work they have begun.

"Grant us your grace, that we might truly be your people in this day. Amen."

INTRODUCTION OF SECRETARY OF AGRICULTURE CLIFFORD M. HARDIN

(By Mr. Wherry)

It would not be appropriate to convene such a large and distinguished group of Nebraskans as this without some reference to one of our state's most successful products—The Big Red.

I am sure most of you have read about the game and our friends who came from Nebraska for this occasion probably saw the game.

But I might add one little sidelight which indicates the importance which football has assumed in our state.

As you know, the Cornhuskers are used to playing before a full stadium. President Varner just told me however that at the Utah State game Saturday, Coach Bob Devaney was disturbed to learn there was an empty seat up under the press box.

Devaney went up to find out why. He found a lady there who explained the seat had belonged to her husband who had passed away.

Devaney said he was sorry to hear about her loss, but he hated to see such a good seat go to waste. Didn't she have any friends or relatives who could have used his ticket?

No, she said, they are all at the funeral.

It is my pleasure now to introduce a gentleman who has been credited with many distinguished achievements for his adopted state of Nebraska and for his nation as well.

Not the least of these is the fact that he helped make Nebraska Number One by hiring Bob Devaney.

Our Honorable Secretary of Agriculture was born, appropriately enough, on a farm in Indiana. After graduating from Purdue University, he taught agricultural economics at two Big Ten schools—Wisconsin and Michigan State.

Then came the opportunity of a lifetime—the opportunity to move up to the Big Right.

He served as Chancellor of the University of Nebraska from 1954 until he was sworn in as Secretary of Agriculture in January of 1969. During his 15 year tenure, he not only presided at the revitalization of our football program but he led the University during a period of growth and progress which has made it one of the outstanding institutions in the nation.

In nearly three years as Secretary of Agriculture, he has displayed the same excellent leadership in administering our national farm program during a very difficult period in our agricultural history.

It is a great pleasure to have him with us this evening to make our presentation of the Distinguished Nebraskan Award—the Honorable Clifford M. Hardin, Secretary of Agriculture.

RESPONSE

(By Dr. Durward B. Varner, president of the University of Nebraska)

Dan Wherry, Mr. Secretary, Mrs. Secretary, Mrs. Sheldon, Cliff and Martha, that would work as well, Senator and Mrs. Hruska, Senator Curtis, members of our Congressional Delegation and especially the late Charles Thone. I simply want to record as a constituent of his from the First District, he was late because he was over there voting like Congressmen are supposed to be doing. Charlie, congratulations to you. We're very proud of you.

This is a magnificent occasion and Dan I'm grateful to you for having included me and I must say that this is absolutely A-plus in every respect except one slight little miscue as I appraise the evening. I detected much to my chagrin and some horror that the invocation was given not by a Nebraskan and I just hope that the man up there can understand a North Carolina prayer. It seems to me we are a little careless on the eve of opening the Big 8 season and I wish you'd be a little more thoughtful about that.

Both as President of the University of Nebraska and as a friend and admirer of Mrs. Olga Sheldon, I was extremely pleased whan asked to make a brief statement on this delightful and long overdue occasion.

As you all know, my primary responsibility is to sustain the good, eliminate the bad, and add to the virtues of the University of Nebraska as an institution of higher learning. Somewhere in my non-musical past I recall a song with the interesting title "Love Is a Many Splendored Thing." While I was never too familiar with that song, I was impressed with the creativity of the person who titled it. Love *is* a many splendored thing.

With but slight paraphrasing I can say that education, too, is a many splendored thing. Education is a product—a process—exceedingly difficult to define with precision, but all of us who spend our productive days and years in this never tranquil area recognize that education indeed has many dimensions.

It is a fine blending of those human relationships which develop and mature during the collegiate experience—the learning to live with a roommate, with fraternal associates, with fellow students, with professors, and with administrators.

It is a stage in the life process for acquiring maturity, for growing up, for learning to stand on one's own feet and making judgments in a sometimes confusing world.

It is the business of confronting and being confronted by ideas—many new, some strange, some good, some bad.

It is the process of acquiring personal discipline—liberated from parental supervision.

It is learning—learning from teachers and fellow students and books—learning lessons taught by those who preceded us, and learning from the interrelationships of many subjects and events. It is the development of a sense of loyalty, the identification with something to be for. Even the identification with a winning football team has been known to become a part of the learning process.

Education is all these things. But it is more.

It should involve an acquaintanceship with beauty, with quality, with value and with values. It is not inappropriate to add that the educational experience, if it is effective, should contribute to the spiritual growth in a very broad and a very real way.

To be educated one must have had many encounters with life and living and all that is involved with the human condition.

To be truly educated there must be an encounter with and a sensitivity to the unhurried beauty and the spiritual enrichment which so often can be identified only with the arts.

The Sheldon Memorial Art Gallery stands as testimony to this crucial dimension—this vital ingredient for effective education at the University of Nebraska. It is truly the crown jewel—artistically, architecturally and symbolically—on the campuses of the University of Nebraska. It speaks with a forceful eloquence to some of the unheralded commitments and values of the State of Nebraska and the University of Nebraska. It says that education is important. It underscores the fact that the arts are central to this educational process.

Situated in a state blessed with vast open space, with superb soil and water resources, in a state which can speak authoritatively about its sometimes masculine weather, in a land where the sunsets are truly majestic, where people are warm and friendly and genuine, there stands this architectural masterpiece as a new and vital resource for all Nebraska to experience and to enjoy.

In providing the funds which made the Sheldon Memorial Art Gallery possible, the Sheldon family has made a statement for all to hear. They have said in this action that as a family—pioneers in the agricultural heartland of the State and the nation—they are grateful to the State which made their success possible and to the University which has served as the cultural focal point for the larger community. But more than this, the Sheldon family has spoken to the central feature which we can never abandon, that *quality of life* is an essential dimension to satisfactory existence on this earth. It is precisely toward that quality to the life of the community and to the life of the University that the Sheldon Gallery contributes so much.

Tonight we honor you, Mrs. Sheldon, and properly. We honor you as a distinguished Nebraskan, as a patron of the arts, and as a delightful human being. We are saying to you that we thank you and that we are grateful to you and to your family for what you have made possible. In doing so we pay honor also to the concept, to the conviction that the arts in America represent an essential ingredient to life, to the quality of life, and to a true educational experience.

To you and to your family we are deeply and genuinely indebted, and tonight I speak with confidence when I say to you very simply and very openly that many generations of students whom you will never know will know you through what you have done to make their stay at the University of Nebraska more enriching than it otherwise could have been. They, like us, will always be grateful.

RESPONSE

(By Richard Smith, counsel and member of board of Nebraska Art Association)

As I understand it, my pleasant task here in Washington following President Varner and President Green (and no President I), is to express a simple note about the ordinary Nebraskan's appreciation for the great gifts which a thoughtful Sheldon family and Olga Sheldon have laid before us in Lincoln for all to see and come to appreciate.

I think I am qualified to speak for the ordinary Nebraskan and his or her reaction to the Sheldon Gallery now standing in our midst since May 1963. My first qualification is I am an ordinary person because I have never painted a picture, I am not an art critic, or art teacher—merely an art spectator. I only recently discovered a second reason why I am qualified to speak for the ordinary Nebraskan. I read in the paper the other day that another man named Richard Smith considered his name so ordinary and confusing that he decided to change it legally to Richard Kriegler. He said he spent $260 to get rid of the name and to get a distinguished name. He was quoted as saying: "It was definitely worth every penny."

In the beginning there was no Sheldon Art Gallery. But there was a gallery in an older building, with an astonishing start, a quite impressive collection, and enjoying a strong following. But to attract the public and show its collection desirably it needed a proper place, which it did not have.

And then it happened. These great gifts came from Frances and Bromley and Olga Sheldon. And beginning in 1963 with the opening of the Sheldon Art Gallery, Nebraskans acquired a new zest and altogether different awarenesses. Through the Sheldon Art Gallery we came immediately to appreciate an outstanding architect like Philip Johnson, who designed the structure. Incidentaly, the architect who designed this imposing building we are in tonight, Edward Durell Stone, is another architectural giant we had known for at least 5 years as the designer of the gracious, moated Stuhr Musuem at Grand Island. Also proving that great ideas can become reality in a young State like Nebraska.

Because of the Sheldon Art Gallery's impact we have now come to know, where before we didn't, the difference between Tony Smith and David Smith, and can distinguish them from a mere Smith. We can pick out a Nadelman from many rods away. Because of Olga Sheldon we have come to know Brancusi.

Often we left the steering wheel of a tractor, or loosened a grip on a hoe, or quit the kitchen detail, or latched the office door to get to the gallery because our youngsters at the University took us there, or, perhaps, we stumbled onto it while going to a football game, or went directly there to be refreshed.

Once inside this breathtaking, quiet, and incredibly beautiful marble hall, with soft curves and high reaches of pale beige travertine, we saw the new American art in its proper setting, and we came to know more intimately the strange, ringing-names like: Oover, Marca-Relli, Stumpfig, Kienbusch, Pousette-Dart, Tam, Wyeth, Gwathmey, Meigs, Ernest, Stamos, Hartley, Diebenkorn, Hultberg, Rauschenberg, Hans Hoffman, Edward Hopper, O'Keefe, Albers, Mark Tobey, Ferren, Knaths, Buchfield, Avery, Rattner, Shahn, Rothko, Gatch, Zerbe, De Kooning, Thon, Prestopino, Feininger, Kuhn, Marin, Possatti, Tomlin and a host of other names just as important, all these hanging in Lincoln in a gem of a building.

We saw what these artists painted, and how different they were, and how stylized, and fresh. And, there were dozens more of names we came to know and admire including older painters we saw, and were told about, like Blakelock, Duvenek, Eakins, Elishemius, Glackens, Homer, Lawson, Maurer, Prendergast, Ryder, Sloan, Joseph Stella.

They say the people in Nebraska are overwrought about football, and the *National Observer* sitting out there at Silver Spring, Maryland recently joined in joshing Nebraskans. But the Saturday crowd of people descending on the stadium in Lincoln (looking the same as if they were a smash of people going to Soldiers Field in Cambridge, Massachusetts), go by, and into, and through the Sheldon Art Gallery, of all ages, in all sorts of attire, up to as many as 4,000 a day. While in Cambridge the football fans looked the same, more often than not they missed seeing whatever was hanging in the illustrious Fogg Museum at Harvard.

To Olga Sheldon and her family, the ordinary Nebraskans, who dreamed for a gallery to house a growing collection of American modern art, owe more to her and her family than they can ever express without a quickening pride.

Who is it that tries to set up a gallery to show the product of man's and woman's bursting imagination, that ever had enough funds to do it right? Many families have given and still give to this collection, but, it was Olga Sheldon who, after her family made the initial gift, has become, on her own part, a particularly dependable steward guiding and adding to the whole Sheldon gift, and bringing into being this unmatched structure, doing it right. Philip Johnson himself called it his hardest assignment, for, he said, "I can never charge the owner for faults blamed on lack of funds."

Whatever the gaps might have been in the program for the gallery that she foresaw, she was there to see that all helpful embellishments came to be: whether, for example, it was the addition of the sculpture garden, one of only three auch developments in the United States today, or whether it was some other work of art that simply must be added to make the gallery one of the finest in the country.

When Smithsonian selected the Sheldon Art Gallery's director, Norman Geske, to choose and stage the United States portion of the Venice Biennale in 1969, we in Nebraska of course were honored. But, again, while we all helped in our own individual ways with money and expenditure of personal time, there was Olga Sheldon gently pushing, ably aiding, and fulfilling whatever

there was that needed the measure of success for that program.

Indeed, to the very latest significant touch just last year, specifically the addition of the largest one-gallery collection of Robert Henri, it was Olga who, with other stalwart art patrons, made it possible, thereby placing Henri in proper perspective in his native State, surrounded by a grand array of works by his own pupils and associates from the Pennsylvania Academy of Fine Arts, all exemplifying the medium-olden days of America's burgeoning younger artists.

Little wonder that other strong patrons like the Hall Trust, the Woods family, Mrs. Howard Wilson, Mary Ross, Bertha Schaeffer, the Abel family, and many others have continued their splendid conjunctive effort. With this enviable gallery setting, we Nebraskans look forward to a future which will encourage even more patrons and new support from all quarters, both public and private, not only for itself but for all galleries in the State.

From all of my fellow Nebraskans, we thank you, Olga, for your being here tonight on this memorable occasion of your selection as a distinguished citizen and your patience in listening to us as we try, never more sincerely and in our own humility, to tell you how much we appreciate your constancy, and your creative assistance at every turn, year by year, and your leadership and example to us all.

RESPONSE

(By Mrs. J. Taylor Greer, president of the Nebraska Art Association)

I know that Norman Geske, the Director of the Sheldon Gallery would be wishing to be here with us tonight to testify to all the Sheldons' fine example and long-range vision for our Nebraska Art Association. Norman is traveling the continent of Europe at this moment. We are an organization which gathers its members not only from Nebraska but states as far west and east as both our coasts.

We have been inspired by this beautiful marble building Olga has given us for the keeping and displaying of our treasure. With Mrs. Sheldon's unique understanding of everything that goes on behind the scenes in an art gallery, her continuing support of our daily operation coupled with her larger vision of directions and trends which the Nebraska Art Association attempts in trying to reach more people and acquainting them with contemporary American art, make her presence a vital experience for all of us. Her membership on our board is a strength for us as well. She is always urging us to try the new, to try the unproved and to try the exciting adventure. It is this vision that has helped us to strengthen the quality of art experience in our part of the country as well as to gain prestige and recognition for Nebraska. Thank you Olga Sheldon.

PRESENTATION BY SECRETARY HARDIN

Dan, Mrs. Sheldon, Senator and Mrs. Hruska, Senator Curtis, Members of the Nebraska Congressional Delegation and fellow Nebraskans. In the course of duties, past and present, I have had many opportunities to participate in awards ceremonies and they are always pleasant. But once in a while one comes along that's just so special that you kind of feel like you are being honored yourself just to participate in the ceremony. And tonight is one of those occasions.

But there have been many things that happened over the years since 1954 to the University that have been satisfying. Football has been mentioned. That was satisfying of course. I remember when we first went to Lincoln in '54. We made a trip across the State. I met many of you on that occasion and every place we went somebody would ask that awful question, "What does this new Chancellor think should be the role of football in the University environment?" Well, you know that's a hard question to answer. It takes about a half-hour. You've faced one, Woody.

But Dr. Lew Morrill, the then President at the University of Minneaota, and oldtimer, told me that in that kind of situation you could do one of two things—punt or quote scripture. And he says there's a line in scripture that answers that situation quite aptly—the 12th Chapter of Daniel, the fourth verse, where you'll find the words, "But thou, O Daniel, shut up the words, and seal the book, even to the time of the end: many shall run to and fro, and knowledge shall be increased."

The football fame has been great but as President Varner and I both know so well, it can also be fleeting. But we hope it will last a while longer. There are two events that stand out above all others in the promotion of Nebraska and certainly the University. One of those was the Nebraska Center for Continuing Education. After a grant from the Kellogg Foundation, Nebraskans, 5,000 of them counting organizations as one, contributed in a period of 90 days a million and a quarter dollars to supply the matching money to build that structure. People from 89 of the 93 counties made contributions. I'll never forget the figures, and that building was built. This demonstrated to the faculty that Nebraskans cared about their institution and higher education. It also carried a message to the legislature which had been rather prudent in the use of their funds. Then came the Sheldon Gallery and the reason we're here tonight. Also lasting in its implications, the establishment of a faciilty and a program that generations yet unborn would benedt from.

I remember when we arrived on the campus, the very first week, John Selleck, who was our mentor, and who had been Chancellor for the year and stayed on as the Business Manager of the University, coaching us on what we had to know. He said you've got to know about the Nebraska Art Association. This is special. He told us that it had the second longest continuous annual art show in the United States beginning in the 1890's. He pointed out there had been money to buy art treasures during the Depression years when there wasn't money to pay professors and I learned more about that later.

Then he told us about Mr. and Mrs. Bromley Sheldon and Miss Frances Sheldon who had left her estate to build an art gallery on the campus. He told us about how Miss Sheldon had left the estate with her brother, Bromley Sheldon, to be made available whenever he chose or upon his death to build a gallery on the campus of the University. He said he knew it was to be on the campus and he didn't believe there was any further instructions except it was to be a beautiful building and that it was to have headquarters for the Nebraska Art Association.

Mr. Selleck said he thought there was about three-quarters of a million dollars and that this would build a nice building and move the art collection out of the attic of Morrill Hall. Then we became concerned about what Bromley Sheldon was doing with the estate and we did a little checking, Olga, which I'm sure you didn't know about. Our conclusion was he was adding to the value of the estate much faster than building costs were going up. So we relaxed.

Then as he began to put the estate in shape to transfer to the University, I remember Joe Shosnick's comment, "Never had he seen a group of investments and an estate in as orderly a shape as those that were turned over to the University from Bromley Sheldon." It was only after his death that we learned that he and Mrs. Sheldon had decided to make a part of his own estate available to supplement his sister's. And then we began to think in terms of two million dollars. From then on it was an experience of ascending delight.

By the time we had selected an architect and Mrs. Sheldon helped in this, and we were fortunately able to get Philip Johnson, we realized that there might be three million dollars. And then as we began to further liquidate the estate, always there was more money than we had anticipated. I don't remember the final figure, but we were able to build the beautiful structure that you all know and love, and to provide lavish headquarters for the Nebraska Art Association.

Carl and Mrs. Olson are here tonight. Carl Olson's firm built the building and I remember Carl near the end of construction saying, "I want to tell you about my men who have been working on the project, I've never seen anything like it. They know they are working on a historic building and they've actually put love into the construction of that art gallery." That was the kind of cooperation that we had from the beginning to the end. If I may paraphrase, the Sheldons have taken a giant step for Nebraskans, for the Midwest, and for the country. And not only as the program tells you so well have the Sheldons been generous in making their funds available, but Mrs. Sheldon has entered into the whole spirit of the enterprise. She's helped with the acquisitions. She's made her own acquisitions available to the collection. She's represented Nebraska across the country and abroad, at the Venice Biennale and many other places. These are some of the things that I remember that aren't in the printed statement in the program but certainly are part of the reason that Mrs. Sheldon is being honored here tonight by the Nebraska Society of Washington, D.C.

In the last two lines in the citation which I hope all of you will read in its entirety, it simply says, "The Nebraska Society of Washington, D.C., is proud to make Olga Nielson Sheldon a recipient of this Distinguished Nebraskan Award." But I think, Mrs. Sheldon, from the faces, the applause and the comments that have been made during the day and here this evening, you know that there is a lot more feeling than is expressed in those rather formal words. I think that I can say on behalf of all of us, we're happy to make this award also because you are so lovely and gracious and because you have given so much of yourself. So it is a great pleasure for me, if you'll rise, to present on behalf of the Society this plaque which reads: the Nebraska Society of Washington, D.C., Distinguished Nebraskan Award, Mrs. A. B. Sheldon, October 4, 1971.

BIOGRAPHY: OLGA NIELSEN SHELDON (MRS. A. BROMLEY SHELDON)

Olga Nielsen Sheldon well merits being named a Distinguished Citizen of Nebraska for her many contributions to the world of art, especially her role in the building of the Sheldon Memorial Art Gallery and its adjacent Sculpture Garden in Lincoln, and her personal involvement in all facets of art activity in the State. Indeed her recognition goes beyond the borders of Nebraska; she has achieved respect and honor throughout the United States.

Mrs. Sheldon's roots are deep in her native state. She was born in Lexington, one of nine children of the Peter Nielsens. She taught in a country school and worked in her father's business prior to her marriage to A. Bromley Sheldon. Mrs. Sheldon's family were natives of Vermont but came early to Nebraska, living in Weeping Water before moving west and establishing lumber yards in Lexington, Darr and Cozad. Mrs. Sheldon still lives in Lexington.

The Sheldon family's interest in art was probably sparked by Miss Frances Sheldon, Bromley's sister, a resident of Lincoln and

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long time member of the Nebraska Art Association. At her death she left a major portion of her estate in trust for the creation of a gallery in which the collections of the University of Nebraska and the Nebraska Art Association could be housed. Bromley Sheldon made an additional gift for this purpose and, after his death in 1967, plans for the construction began. If Frances Sheldon was the inspiration for the Gallery, however, Olga Sheldon was the moving force which shaped the Sheldon dream into reality. Olga Sheldon served with the citizens' committee which selected Philip Johnson, the distinguished American architect, to design the structure. Her concern for the Gallery continued throughout the construction period, the planning and development of the Sculpture Garden which was completed in 1970, and continues unabated today.

She has made major contributions to the gallery's collections. Among the most notable of these are the Brancusi "Princess X" given in memory of her husband, and a recently acquired group of paintings by Robert Henri, an early Comad resident and perhaps Nebraska's most famous son in the art world.

Mrs. Sheldon is a Life Trustee of the Nebraska Art Association and a Director of the Nebraska Arts Council. She is a member of the Trustee's Committee of the American Association of Museums and a Trustee of the American Federation of the Arts, and is included in Who's Who in American Art. She is a Trustee of the Nebraska Historical Society Foundation and a former Treasurer of the Dawson County Historical Society. She was cited last year by the American Institute of Architects for her distinguished role in the Sheldon Memorial Art Gallery and was awarded an Honorary Doctor of Humane Letters by the University of Nebraska.

Through observation, study experience and travel, Mrs. Sheldon has gained a full understanding of the objectives of a University Art Gallery, and with quiet enthusiasm she works effectively for the fulfillment of them. As the University wrote on the occasion of conferring the Honorary Degree, "The horizon of her interest in the affairs of art is as open and unrestricted as that of the Platte Valley where she was born and reared."

The Nebraska Society of Washington, D.C. is proud to make Olga Nielsen Sheldon a recipient of its Distinguished Nebraskan Award.

THE CANNIKIN TEST

Mr. STEVENSON. Mr. President, on yesterday morning's news I heard a story on the Cannikin underground H-bomb test which featured one Alaskan saying that he did not oppose the test because, in his words, "The Atomic Energy Commission knows what it is doing."

I would like to be able to believe, with that Alaskan citizen, that the AEC really does know what it is doing. But the evidence is mounting that such is just not the case. For some time the AEC insisted that there were no serious environmental issues raised by Cannikin, but now we know that a body of respected scientific opinion is deeply concerned over the test.

As long ago as December 2, 1970, nearly a year ago, Dr. Russell Train, Chairman of the President's Council on Environmental Quality, is known to have had grave reservations on the environmental impact of such a 5-megaton nuclear blast on Amchitka Island. Dr. Train made these reservations known in a memorandum to Under Secretary of State John Irwin II, and the Atomic Energy Commission surely should have been aware of his profound misgivings. Dr. Train's statement was made public on Tuesday, November 2, 1971, by a U.S. district court hearing an appeal from the Committee on Nuclear Responsibility to enjoin the Cannikin test.

Now, on the eve of Cannikin, two other incidents have come to light to cast doubt on the infallibility of the AEC. In one, the AEC minimized, then ignored, then washed its hands of the huge piles of uranium mill tailings which dot the Western United States, and which have been used as building material for schools and homes.

In the other, information readily available, but downgraded by the Commission, has indicated that the salt caves in Kansas, where the AEC was planning to bury highly radioactive waste, may be subject to water seepage which would make those wastes dangerous to animal and human life.

All three of these issues—Cannikin, the uranium mill tailings, and the disposition of the radioactive wastes in the salt caves—concern the environment. On all three the Commission has demonstrated a lack of knowledge of the facts and a lack of regard for the dangers its activities posed.

I ask unanimous consent to have printed in the RECORD, at the conclusion of these remarks, the text of Dr. Train's memorandum to the Under Secretary of State and an article published in the New York Times of Sunday, October 31, providing more information about the other two incidents. The promising note at the end of the article, concerning the new AEC Chairman, Dr. Schlesinger, is soured by Cannikin. I have my doubts that the Commission "knows what it is doing" in Alaska.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DEAR SIR: YOUR HOUSE IS BUILT ON RADIOACTIVE URANIUM WASTE

(By H. Peter Metzger)

(Suggested letter to owners of properties where radiation levels exceed the Surgeon General's guidelines.)

DEAR ———: An official report on our survey of your property for the presence of uranium mill tailings is enclosed.

You will note that our study has confirmed the presence of uranium tailings on your property and that the radiation exposure rate is higher than the level at which the U.S. Surgeon General feels corrective action is suggested.

We wish to point out to you, in all honesty, that there is little precise scientific information about the long-term health effect of low-level radiation, such as exists in your home. We strongly recommend, however, that you make every effort to lower the radiation exposure level in your home by removing the uranium tailings from your property.

GRAND JUNCTION, COLO.—The letter above is a draft of a warning that the Colorado State Department of Health will send sometime within the next few weeks to 5,000 homeowners in the city of Grand Junction. The danger comes from a gray-sand-like material, a waste product from a downtown uranium mill that is no longer operating, which was carted away in large quantities as a construction fill for foundations. Only recently have the people living over those foundations begun to learn the dimensions of the threat that rises from the earth beneath their feet.

In order to make comprehensible the doses of radiation that are involved, the health department has calculated that the lungs of the occupants in 10 per cent of those 5,000 houses are known to have been exposed to the equivalent of more than 553 chest X-rays per year.

In May, Health Department letters went out to the Grand Junction city manager and the Chamber of Commerce recommending that real estate sales be restricted until it can be determined that the property is free of tailings, and in July, the Board of County Commissioners decreed that building permits would be granted only "with the provision that if tailings are present, they be removed prior to erection of buildings."

Another part of the state's letter to the homeowners says: "No public funds are presently available to pay the cost of tailings removed [from existing buildings]. We are exerting every effort to try to get Federal funds set aside for this purpose to relieve the burden this unfortunate situation has placed on Grand Junction residents." An engineering study, prepared for the Atomic Energy Commission (A.E.C.), concluded that the cost of removing the tailings from beneath the homes in Grand Junction would be very high. The A.E.C. determined in the case of one home valued at $32,000 that more than $15,000 worth of work would be required. And the 5,000 homes in Grand Junction are not the whole of the affair. Many homes in Durango, another uranium-mill town in Colorado, have already been shown to have been built on tailings. Preliminary measurements indicate that 14 more towns in the state could have the same problem and estimates for repairing all of the affected homes in Colorado run as high as $20-million.

Like Grand Junction and Durango, Salt Lake City, Utah, also has a large tailings pile inside its boundaries. Despite assurances from state officials there that no tailings were used for construction purposes anywhere in Utah, two years ago a newsman found many homes and other buildings built on the radioactive material. Thousands of other homes in the West may be similarly threatened. Wherever there is a big pile of fine, sandy uranium tailings that are free for the taking, it seems, people will find it and use it, before going out to buy ordinary sand. But those who do, get more than they bargained for.

The tailings are one of several kinds of radioactive waste left over from our country's quest for more raw material for atomic bombs. The gray sand is what remains after the rock-like ore is crushed at the mill and the uranium removed. Since plutonium, a man-made element produced in a nuclear reactor, is now the preferred fuel for nuclear weapons, the Government is no longer purchasing uranium from the mills. In fact, the A.E.C. has just announced that in 1974 it will begin selling uranium from its stockpile for industrial purposes. But private companies continue to mine and mill uranium for use, after enrichment, in nuclear-power reactors. This means that the piles of tailings are still growing, although much less uranium is correctly being produced than during the mining boom of the nineteen-fifties.

The mounds of radioactive sand—more than 90 million tons of it in all—are found at some 30 mills scattered over nine Western states: New Mexico, Wyoming, Colorado, Utah, Arizona, Oregon, Washington, South Dakota and Texas.

Piled outside the mills, the tailings were freely available for years and the Atomic Energy Commission declined to prevent people from carting them away. Even today there are ineffective controls. Only Colorado licenses tailings piles and restricts public access to them, although New York Times correspondent Anthony Ripley has written about Grand Junction: ". . . anyone with a truck or car can drive past the single keep-out sign on the road to the city sewage treatment plant and drive onto the pile of tailings. There are no fences. There are no radiation signs." Similarly, I have driven onto Union Carbide's pile at Rifle, Colo.

In the first years of uranium production, only the dangers from the ore in the mines were recognized. The ore veins contain radium as well as uranium. Radium slowly decays into a radioactive gas called radon, which itself rapidly changes into a series of highly radioactive solid particles that remain suspended in the air called "radon daughters." When inhaled, the particles adhere to the inside of the lungs and are responsible for "mountain sickness," as the Germans called the disease a hundred years ago—just before it was recognized as lung cancer. A thousand European miners had already died of it before the A.E.C. began its massive uranium procurement program in 1948.

Predictably then, our miners suffered the same fate. As Dr. Brian MacMahon,* chairman of the advisory committee on this subject to the National Academy of Sciences, recently observed: "The epidemic of lung cancer now in progress among American uranium miners could readily have been—and indeed was—predicted on the basis of past experience in other parts of the world." So far, several hundred have died of the disease and more deaths are expected. In 1969, Charles C. Johnson Jr. of the Department of Health, Education and Welfare reported that "of the 6,000 men who have been uranium miners, an estimated 600 to 1,100 will be dead of lung cancer within the next 20 years because of radiation exposure on the job."

When the uranium is extracted from its ore, all the radium remains behind in the tailings. So with regard to the deadly radon daughters, the tailings are every bit as dangerous as the ore itself.

The tailings are safe as fill under roads and airport runways, which are in the open and have plenty of ventilation, but to build a home (or any other enclosure) over the radioactive material is another story, it is almost to duplicate the situation down in a uranium mine. The radium in the fill produces radon gas which seeps up through the cellar cement slab and collects inside the house. The radon is continuously changing into radon-daughter particles, which in the room remain suspended in the air, just as they do in the mines. As the occupants of the homes breathe, radon daughters accumulate in their lungs, greatly increasing the risk of lung cancer.

But this is not the only hazard. Radon daughters failing to get through the cellar slab still emit gamma rays, which also can penetrate concrete and are particularly strong near the floors, where young children spend much of their time. As with the miners, radiation damage takes decades to show itself in adults, but children, being far more susceptible to atomic radiation, are already beginning to exhibit disturbing symptoms.

The University of Colorado Medical Center in Denver was alerted this year by Dr. Robert M. Ross Jr., a pediatrician and past president of the Mesa County Medical Association, who reported that there seemed to be too many cancers and birth defects among his young patients in Grand Junction. The university applied to the A.E.C. for funds to study chromosomal breakage, an early barometer of radiation damage, among children in the radon homes. Last March, at a meeting with

* Not to be confused with the first chairman of the Congressional Joint Committee on Atomic Energy, Senator Brien McMahon, Democrat of Connecticut, who died on July 28, 1952.

Gov. John Love and state medical and health people, A.E.C. technicians, minimizing the hazard of indoor radon, indicated that a chromosomal study in Grand Junction would have "no validity." A.E.C. Chairman Glenn Seaborg turned down the grant himself in a letter to Love, but the Governor obtained other funds and the study begins in July.

Dr. Herbert Lube, one of the researchers, comments on his preliminary results: "There already appear to be too many chromosome breaks in cells from the [umbilical] cord-blood of the babies." He also pointed out that recent health records in Grand Junction suggest a higher incidence of mongolism in the newborn there. "It's almost three times what you'd expect," he said.

In drawing up the rules for the nuclear era, the A.E.C. has pretty much been able to define its own regulatory powers. From the beginning, it has concentrated on what it considers major radiation hazards, including the source of the fuel (uranium or thorium), the most intense byproducts of fission (like strontium 90) and "special nuclear material" (like plutonium). Under its regulations, radium—such as is contained in the tailings—has never been on the list of radioactive wastes that the agency controls, although its broad legal mandate to protect the public from unsafe radiation could be interpreted as covering this material. Moreover, the small amounts of uranium and thorium left in the tailings are below the level that the A.E.C. defines as "important" (0.05 per cent).

The tailings problem had two possible solutions at the start: A Bureau of Mines study showed that the radium could be removed with versenate, in a common leaching process. But the leaching would have to be done at the mill, during the refining process, to be economical. At this late date it would be too costly to haul the piles back to the mill for processing. The same goes for the alternative of transporting the tailings back to the uranium mines: The method would be economically feasible only during the milling of the ore, when trucks taking the ore to the mills could bring back the tailings to the mine on the return trip.

What the mills did in the first 10 years of the atomic energy program, it was discovered, was to discharge tailings and radioactive waste liquids into the nearest waterways. The A.E.C. belatedly asked the mills to keep the amount of radioactive material dumped into rivers and streams within permissible limits, but, rather than having to pay for the necessary safety measures, the commission did nothing to enforce its strictures.

The A.E.C. knew what a burden the tailings piles were to become because it had one of its own, in Monticello, Idaho. As a demonstration project, the agency flattened the pile, covered it with topsoil and grassed it over at a cost of more than $300,000; but even this ambitious project was temporary, described by the Federal Water Pollution Control Agency as only adequate for a period of 20 years or so.

Considering the cost, the states did not expect that the other piles would be so covered by the owners voluntarily—a job the A.E.C. once estimated would cost more than $10-million but which would probably cost five times that today. Moreover, since the best available treatment was good only for a short time, it became clear that perpetual maintenance would be required, because the piles would continue to be dangerously radioactive for an incredible 10,000 years. State officials were aware that unless responsibility for the tailings was assigned quickly, the contractors might try legal maneuvers to avoid the task themselves and the states would inherit the entire lot by default.

Through its mill-licensing program, the A.E.C. still had control over all the piles and could under law require the mills to cover them in the same manner as the Monticello pile. The agency promised the states in 1964 that no mill license would be permitted to terminate without a complete review of the tailings problem.

Then, in what was widely regarded as a complete about face two years later, the A.E.C. decided that when a mill owner's license terminated, further control of tailings was not required. Joseph F. Hennessey, the A.E.C.'s chief legal counsel at the time, told a Senate subcommittee: "There is a limitation . . . [in the Atomic Energy Act] that exempts . . . any quantities of uranium . . . *considered unimportant by the commission* . . . so our *present posture* is that the concentration of uranium in these waste piles is [too low] to impose any restrictions." (Emphasis added.)

The effect of this action was to remove the uranium mill tailings from any control at all. With the support of the U.S. Public Health Service, the State of Colorado formally protested, but it did no good. The A.E.C., without outside consultation and without publishing any supportive data, concluded that the uranium tailings piles "present no hazard to the environment, either short term or long term."

And so, in 1966, some 90-million tons of radioactive sand were suddenly no longer the responsibility of the A.E.C. With the exception of Colorado, where state control took over immediately, the piles would just have to wait until they caused some real trouble before anyone else would step in with control measures. And by that time of course, it would be too late.

The A.E.C.'s summary of what was expected to be its final statement on the tailings problem said: "We find it difficult to conceive of any mechanism whereby the radioactive material which is now so widely dispersed could become so concentrated as to exceed current applicable standards for protection against radiation." The statement is remarkable because at the very moment just such concentrations were being created.

Here is how the problem came to general public attention: On a routine inspection early in 1966, Robert D. Sisk of the Colorado Department of Health and Robert N. Snelling of the U.S. Public Health Service were in Grand Junction when they noticed trucks unloading fill into an excavation. What caught their eye was that the material was not ordinary sand: it was uranium tailings, which can be distinguished from sand by their finer grain and gray shade. After questioning the truck drivers, they determined that for a dozen years much of the sandy fill used in the area was uranium tailings, taken from the Climax Uranium Company mill in downtown Grand Junction.

The inspecting officials realized not only that uranium tailings beneath a home can duplicate conditions in a uranium mine, but that the problem could even be worse than it was for the miners: more people would be exposed for longer periods and the victims would be of all age groups, including those most sensitive to atomic radiation—young children and the unborn.

Looking back, it seems hard to understand how the A.E.C. could have permitted the whole thing to happen in the first place. The uranium miners' tragedy was unfolding and the danger of radiation-induced lung cancer was a much discussed subject in the mill towns of the West. It was common knowledge in the mill communities that tailings were routinely used for fill under homes, and local health officials were concerned.

In 1963, eight years before it was discovered that hundreds of homes in Durango, were built on the tailings, Dr. Arthur Warner, the county medical director, wrote to Dr. Donald I. Walker, then the A.E.C.'s regional director of the division of compliance. Dr. Warner reported that the Vanadium Corporation of America's tailings pile, towering 200 feet over the center of town, caused

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"serious concern within this community." Dr. Warner asked the A.E.C. for information concerning the use of the tailings in the construction of small buildings. Today, Dr. Walker admits he did not reply in writing but instead mailed to Warner a copy of an A.E.C. letter on the subject that was supposedly sent in 1961 to the nine state health departments (which, as we shall see, have no record of it).

The next year, Page Edwards, manager of that Durango mill, also asked the A.E.C. for advice about the use of tailings for construction purposes. The A.E.C.'s reply was simply: "Tailings . . . are not subject to the A.E.C. licensing requirements."

By then there had been public discussions of "widespread use of tailings in construction materials, for sand traps on golf courses and for children's sandboxes," to quote one official's report of a Public Health Service meeting held in Cincinnati in 1964 which was attended by Dr. Walker and other A.E.C. representatives.

By the time health officials had identified the indoor radon problem, it became very difficult to get cooperation: in many ways the A.E.C. attempted to prevent the subject from becoming a public issue.

Since children are the most sensitive to radiation, it was important to measure radioactivity in the schools, most of which had been built in recent years. Siek and Snelling, along with Dr. Cecil Reinstein, the county health officer, met with the Superintendent of Schools in Grand Junction in 1966 to explain the problem and get permission to make measurements in the schools.

Siek remembers that the superintendent said he would have to consult with his "scientific adviser" in such matters, James Westbrook, who was a member of the school board and also an assistant manager of the A.E.C.'s Grand Junction operations office. Westbrook and another official arrived later and the health officers repeated their request to set out monitoring equipment: it was turned down.

Westbrook says now that he felt the technique proposed for measuring the radioactivity in the schools was inadequate. But even so, it could hardly have failed to give some idea of the extent of the problem. Today the Mesa County school board knows that 15 of its schools have been built on tailings and that in at least one classroom the airborne radioactivity exceeds the Federal limit permitted in uranium mines.

On an official level as well the A.E.C. hindered efforts to achieve a solution. In 1967, the Colorado State Department of Public Health and the Southwestern Radiological Health Laboratories requested funds from the U.S. Public Health Service for support to carry out surveys to define the extent and seriousness of the indoor radon problem. The A.E.C., officially this time, managed to review the grant request and, on its recommendation, the U.S. Public Health Service turned down the state's request. In its review letter, the A.E.C.'s advice was based on the assertion that the high levels of radon then found in the homes by the health department "can be expected from natural radioactivity. Therefore," its letter concluded, "a further sampling program . . . does not seem warranted."

In order to make that claim believable, the A.E.C. began a research project entitled, "Indoor Radon Daughters and Radiation Measurements in East Tennessee and Central Florida." It was known that naturally high levels of radium exist in the surface soils in central Florida and the agency expected to find there a duplication of the measurements made by the Colorado State Department of Health in Grand Junction. In this way the A.E.C. sought to put Colorado's problem in "proper perspective."

As it turned out, the highest level in Florida, as reported by the A.E.C., was only 1 per cent of the highest measurements made by Colorado authorities in Grand Junction. So the A.E.C. report was put quietly to sleep with the stamp on it: "Notice, this report is for internal use only. It may not be published."

At the end of 1969, the Colorado Health Department discovered 10 old homes in the town of Uravan that were built on radium diggings in the nineteen-twenties. Radon levels in seven of those homes actually exceeded the level allowed in uranium mines. Robert Catlin, an A.E.C. representative sent to Colorado to explain the indoor radon problem in February, 1970, said on Denver television that "the use of mine tailings for construction purposes . . . predates the atomic energy program." While his statement is true, the impression it creates is not; the 10 homes built before there was an A.E.C. can hardly be compared with the many thousands of homes built elsewhere on tailings freely removed from A.E.C.-licensed mills—a problem which by this time was known to the commission.

In a 1970 report entitled "A.E.C. Responsibilities Regarding the Mining and Milling of Uranium," major emphasis was placed on a commission claim that it had notified all the state health departments about the problem in time. The commission said that in early 1961 it had sent each department a letter discussing "the A.E.C.'s licensing authority over uranium mills and the health and safety considerations relative to the [selling or giving away] of sand tailings." A copy of the "1961 letter" was made a part of this document and given wide circulation. It said in part: ". . . the radium content of these tailings may be such as to warrant control by appropriate state authorities."

If the letter had in fact been sent, it might vindicate to some extent the A.E.C.'s complete silence on the dangers it had created in its quest for raw materials. But nobody could remember the letter. Not one of the radiation health officers of the nine states has a record of this correspondence.

In January, 1970, Colorado requested Federal help to determine the dangers of the radioactivity that had been measured in the Grand Junction homes. Six months later, the U.S. Surgeon General issued health guidelines for airborne radioactivity inside homes, establishing three categories based on radiation levels: (1) No action required, (2) remedial action suggested, and (3) remedial action indicated. The A.E.C. in a "staff analysis" pointed out that the Surgeon General's recommendations "are difficult to implement [because] they do not identify the remedial action contemplated."

Later in the year, an interagency steering committee, composed of representatives of the Colorado Department of Public Health, the U.S. Public Health Service, the A.E.C. and the newly created Environmental Protection Agency (E.P.A.), was formed to decide what the remedy was to be. On the recommendation of their own medical advisory group, they voted last month "to recommend complete removal of all tailings within 10 feet of a habitable structure." This was a typical position for public health people: If a danger is present, remove it; never choose a temporary solution if a permanent one exists.

Predictably, the A.E.C. voted against the motion, but Colorado was encouraged to see that the E.P.A. representatives supported the motion, for it was widely suspected that the agency would back the A.E.C. This was because most members of the E.P.A.'s office of radiation programs were former A.E.C. people whose functions had been transferred to the new agency as part of President Nixon's abortive effort to dilute the A.E.C.'s regulatory powers. But the suspicions of A.E.C. influence revived when Dr Paul Tompkins, director of the division, told The Rocky Mountain News that the vote did not represent E.P.A.'s real position. "We're not advocating that the tailings come out no matter how small the level or how expensive the cost," said Tompkins.

The battle lines are already drawn on the issue of who will pay the $20-million bill for the removal job. The A.E.C. still stands by the 1966 opinion of its legal counsel, Joseph F. Hennessey, that tailings are not under the agency's jurisdiction. Perhaps the most curious attitude is that of U.S. Representative Wayne N. Aspinall, Congressman from the Grand Junction area for more than 20 years and chairman of the subcommittee on raw materials of the Joint Committee on Atomic Energy. When it raised the question of financial responsibility last month. The Daily Sentinel of Grand Junction quoted the Congressman as saying: "The costs of removal are too great and government treasuries are too limited. The sooner we get this into our heads, the better off we'll be."

An opposing view was expressed by Glenn E. Keller Jr., the president of the State Board of Health: "I should think Mr. Aspinall's first responsibility shouldn't be to the A.E.C. but to the homeowners in Grand Junction. I submit that the Federal Government has exercised extreme irresponsibility in the situation and Mr. Aspinall is sticking his head in the sand when he disclaims that." Governor Love told a press conference later that month, "I feel the responsibility does rest with the Federal Government, more specifically the A.E.C."

The problems of Grand Junction bear importantly on a vital issue for our nation today: radioactive-waste disposal. We have been engaged in two nuclear efforts: the production of a vast atomic arsenal and the development of nuclear-reactor electric generating stations. Both produce prodigious quantities of nuclear waste, but the projected amount from the nuclear-reactor industry will dwarf that already produced from the weapons program.

Accordingly, a plan has been approved for permanent disposal of so-called "high-level" nuclear wastes from power plants—which are much more dangerous than the tailings—in salt beds 1,000 feet below the ground in Lyons, Kans., a momentous decision about which Dr. Alvin M. Weinberg, director of the A.E.C.'s Oak Ridge National Laboratory, said this year:

"Our decision to go to salt for permanent high-level disposal is one of the most far-reaching decisions we—or, for that matter, any technologists—have ever made. These wastes can be hazardous for up to a million years. We must therefore be as certain as one can possibly be of anything that the wastes, once sequestered in the salt, can, under no conceivable circumstances, come in contact with the biosphere."

Salt deposits are one of the earth's tightest geological formations. The mineral's compressed strength makes it, like concrete, an excellent container for radiation. Present plans call for lowering solidified, hot radioactive wastes, packed in 10-foot-long stainless-steel cylinders through a shaft to the floor of the mine. The cylinders will be covered with salt, which will eat through the steel and at the same time melt into a plastic-like substance that will eventually seal the wastes into their "graves."

In a hurry to get moving, the A.E.C. asked the Joint Committee on Atomic Energy in March to approve a $25-million appropriation to begin only three months later. So sure was the commission that Lyons was the right place that the director of the division of reactor development told the committee that further research "will no be particularly productive." But the agency did not have the free hand it had in Colorado 20 years ago. Democratic Gov. Robert B. Docking and Republican Congressman Joe Skubitz were openly opposed, but, more important, so was the Kansas Geological Survey.

The Kansas Geological Survey had been very critical of the A.E.C.'s haste, pointing out that not enough is known about the underground water at the Lyons site. Water must be kept away from the salt beds during the million or so years of concern, for if any enters the cavern, it would prevent tight sealing of the radioactive wastes. Contaminated and heated by the radioactive material, the water might percolate into nearby mine shafts and underground water supplies, or rise as vapor through the main shaft and out the entrance of the salt cavern. While salt deposits are the least likely place to find a reserve of natural water, a problem may arise from hydraulic mining operations at an American Salt Company mine near the proposed dump. The company wrote to the A.E.C. about the problem last summer. A spokesman told The Denver Post that the latter "expressed concern about the presence of water" and that his company "had been injecting water into the formation for 50 years; as we remove the salt, the water replaces the salt."

An A.E.C. report on the problem revealed that tunnels of the American Salt Company's mine come as close as 500 yards to the A.E.C. proposed dump. Also, the report said: "In the course of drilling small holes . . . water started leaking into the mine [because] one of the many gas or oil bore holes in the area had been intercepted." Dr. William W. Hambleton, the director of the Kansas Geological Survey, remarked: "We felt the Lyons site increasingly looked like a leaky sieve. I think they [the A.E.C.] are realizing that too."

Although the A.E.C. has yet to concede the point, Representative Skubitz said this month that "the Lyons site is dead as a dodo for waste burial."

And so after 15 years and $100-million worth of studies and experiments, the A.E.C., within the short span of about seven months, has been persuaded to begin looking for another place. What had happened was simple enough; the A.E.C. plan was made public and was therefore subjected to outside criticism and open discussion. Flaws in the scheme were discovered and they could not be made to go away; something had to give.

So the problem has not been solved. David Lilienthal, the first chairman of the A.E.C. and a man who believes that somewhere along the way the agency strayed from its original aim of developing nuclear power, feels that waste has been badly neglected by the A.E.C. The reason, he says, is that it is just not as glamorous as other projects that the A.E.C. has gotten involved in, like the abortive scheme for a billion-and-a-half-dollar nuclear airplane. In a recent interview, Lilienthal said: "Can't we find some young people with new ideas to take care of the waste problem? A dozen first-rate people could solve the problem once and for all and get us down to the real business of supplying power for America's future."

A plausible alternative to salt-bed disposal has been put forth by scientists at the A.E.C.'s Lawrence Livermore Laboratory in California, who have proposed to store the waste in a cavern created by a nuclear explosion detonated 6,000 feet underground. Unlike the Kansas mine, which sits atop a water-bearing layer in the earth, this "Plowshare Method" would provide a far deeper cavern that would be well below available water-bearing rocks. Perhaps more important, the new method would avoid the hazards of the single-dump concept—the Kansas plan calls for transportation of hot wastes from all over the country to Lyons. Under the Plowshare plan, one cavern near each of three nuclear fuel-reprocessing plants could contain all the electric industry's nuclear waste until the turn of the century.

But the A.E.C. seems to remain committed to a salt-mine dump. Floyd Culler of the Oak Ridge National Laboratory, recently told the Joint Committee on Atomic Energy: "If we stop on the salt, then, by golly, we have got to start over on a 20-year program with gypsum beds, or basalt, or something else." Thus, the commission is searching for alternative sites to Lyons. Just as in the case of the mill tailings, economic considerations seem to be overriding sound technical judgment.

But new winds are beginning to blow through the A.E.C. The chairman who took over in August, Dr. James R. Schlesinger, has warned the atomic-energy industry that the commission's function will change. "From its inception," Schlesinger admitted in his first policy address this month, "the A.E.C. has fostered and protected the nuclear industry." In the future, he said, the commission's role would be a more limited one—"primarily to perform as a referee serving the public interest."

Even if Schlesinger succeeds in transforming the agency, though, the A.E.C. cannot avoid responsibility for past errors, like the tailing mess. At the very least, the commission should press for funds to remove the radioactive material from building foundations. While there does not seem to be any feasible method of disposing of the piles, the commission could seek legislation to guarantee that they will be flattened, covered and pushed away from streams—and the public kept out.

Schlesinger's concept of the commission does promise to reverse its course, for the better. Nothing less can assure the nation that its atomic managers will responsibly handle the deadly nuclear trash of the future.

If the Great Pyramid at Giza in Egypt had been a radioactive waste depository, if uranium tailings had been interred in the structure when it was built, about 15 per cent of the radium contained in those tailings would still be dangerous today. If that material were plutonium (the nastiest waste of them all), natural decay in almost 5,000 years would hardly have made a dent: 90 per cent of the radioactivity originally present would be with us now.

Our civilization in this nuclear age has a staggering responsibility to the future. The costs of coming generations of our mistakes are almost beyond the power to imagine. Our technologists must be nothing less than infallible. Accordingly, everything must be done to increase our chances of being right when we finally decide what to do. As a start, we can derive some humility from the fact that only five years ago our technologists could not conceive of how safety could turn into danger in Grand Junction, Colo.

POTENTIAL ENVIRONMENTAL HAZARDS ASSOCIATED WITH CANNIKIN

Earthquake Generation. The mechanism of an earthquake is still a matter of some speculation. In brief, the earth's crust is thought to be made up of numbers of rigid blocks generally of continental dimensions bounded by regions in which seismic activity is high. The blocks move relative to each other, but the cause of the motion is unknown. The scraping of one block against another leads to a concentration of energy in the form of elastic strain energy. The regions between blocks are characterised by fault or tears in the crust. An earthquake occurs when the strains in the crust build up to such an extent that the frictional forces along the faults are overcome. A large amount of strain energy is released and this produces the damage, though probably only a small fraction of the stored energy is tapped even in the great earthquakes.

Recent studies of both the Chilean earthquake of 1960 and the Alaskan earthquake of 1964 suggest that great earthquakes consist of a superposition of smaller quakes. The smaller quakes trigger each other like a line of falling dominoes, the combined effect being that of a great earthquake. The individual earthquakes making up a large earthquake have a magnitude of six to seven on a logarithmic scale. In the great earthquakes, having a magnitude intensity of eight, motion along the fault extends as far as a thousand kilometers. The energy released in the largest earthquakes is equivalent to several hundred megatons while the energy released in the postulated smaller component earthquakes is on the order of one to ten megatons.

Because of the vast energies involved in earthquakes, it had been thought until recently that man could not artificially produce an earthquake. Now there are three well-documented ways in which man is known to have triggered earthquakes.

A series of earthquakes were observed near Denver in a region that had previously been aseismic. The best interpretation of this phenomena is that waste fluids from the Rocky Mountain arsenal were pumped deep into the earth and lubricated a previously existing fault. Slippage along the fault was thus possible and strain that had previously accumulated in the adjacent rock over geologic time was liberated in the form of earthquakes.

A second example is found in the case of earthquakes associated with large lakes or reservoirs. As a result of loading of the earth's crust by these large bodies of water or by the modification of the groundwater flow or for some other reason not yet understood, substantial earthquakes have been associated with construction of large artificial lakes. A recent earthquake near Koyna Dam in India located in an area that is not normally seismic killed about 200 people. Similarly, many small earthquakes occurred when Lake Mead was filled.

A third example and one most relevant to Cannikin is the triggering of earthquakes by motion along known faults in Nevada by large underground nuclear explosions. Fault scarps over six feet in maximum height and several miles in length have resulted from fault movements initiated by underground explosions. The evidence is strong that natural strain energy stored in the earth has been released in the Nevada test site by the underground explosions.

An underground explosion can affect the strain field within the crust in a number of ways. The large amplitude surface waves generated by the underground explosion can dynamically overload near surface breaks or fractures within the crust and bring about a strain adjustment. The creation of a large cavity together with a latter collapse of the chimney produces permanent changes in the strain field. Observations in Nevada of the Benham event of about a megaton produced strain changes of sufficient magnitudes to trigger an earthquake along previously existing faults of a distance of about 15 kilometers. However, the strain field resulting from an underground explosion cannot be calculated with any precision because of the dependence of the field on the detailed geology which is largely unknown at any given location.

In addition to the direct effects of the blast on the strain field, the explosion will alter the pressure regime in the groundwater. The water pressure in the rocks interstices will increase due to the compaction of the ground around the cavity. This overpressure might be as large as 10 bars at a radius of 18 km. This increase in the fluid pressure will reduce the friction between fracture separated blocks. The effect would

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be greatest on faults oriented parallel to the residual compressive stresses resulting from the test explosion. Thus, it is possible that the mechanism involved in the Denver earthquake would raise the probability of triggering a large earthquake.

All the earthquakes triggered by underground explosions in the various Nevada tests released substantially less energy than the explosion itself. If one could establish that this is a necessary condition then there would be no apprehension with regard to the Cannikin event. Unfortunately, this is not the case. The magnitude of the triggered earthquakes will depend on the state of strain in the crust in the general region at which the underground explosion is set off. Extrapolation from the Nevada experience is uncertain because of the fundamentally different geologic setting between Nevada and the Aleutians. Further, experience with Milrow does not provide a sure basis for extrapolation in the highly nonlinear phenomena involved in earthquake generation, there may be a threshold value of the strain that must be exceeded prior to initiation of a large earthquake. The suggested explanation of the Chilean and Alaskan earthquakes in terms of a succession of smaller earthquakes would support this interpretation. In this model a number of lock points stabilize a fault. Once one lock point is broken, sufficient energy may be released to break other lock points. If the stored strain energy is large, then the triggered earthquake could be of much greater magnitude than the triggering event. The underground explosion could serve as the first domino of the row of dominoes leading to a major earthquake. The major fault in the general region of Amchitka is thought to be some 40 km. beneath the test shot. The strain field will certainly be altered at this depth by the underground explosion. Observations on the Benham event showed strains exceeding tidal strains at 29 km.

Potential Effects of a Triggered Earthquake. The population density in the Aleutian area is very low so even a major earthquake would cause little damage and little loss of life as a result of the direct impact of the earthquake itself. This would not be true if the generated earthquake were so large as to extend towards mainland Alaska. While this is improbable since the largest known earthquakes have extended along the faults on the order of a thousand kilometers but not two thousand kilometers, there are uncertainties with regard to fault lengths associated with earthquakes.

The real danger from the triggering of a large earthquake by the nuclear explosion is in a tidal wave or tsunami. Tsunamis generated in the Eastern Aleutians by earthquakes have had damaging effects at great distance. For example, a tsunami in 1946 killed 159 people in Hawaii and was obeserved in Peru. The potential long-range effect emphasized by the fact that the Chilean earthquake of 1960 caused loss of life in Japan. The mechanism by which a tsunami is generated is still uncertain; tsunamis are probably due to movements of the sea floor associated with fault motion. Large earthquakes in the near vicinity of Amchitka have not caused destructive tsunamis in the past. However, as in the case of earthquakes it is not possible at this time to assess quantitatively the probability of a tsunami following the explosion.

Effects of Explosion on Groundwater Movement. The explosion resulting in a cavity followed by a collapse of the overlying rock forming a rubble chimney will affect the groundwater flow in several ways. The initial shock wave and accompanying water overpressure may open up new fractures which could alter rates of flow.

The formation of the chimney will probably lead to a saucer-like depression even though the true rubble chimney does not extend to the surface. Since the groundwater level almost reaches the surface the depression will fill with water.

The chimney itself will be relatively permeable to water movement and there will be a tendency for the warm water near the cavity to move upward through the rubble. In this way radioacting nuclides, principally tritium, can be mixed throughout the chimney. The time scale for such mixing is not known but could be as short as a few years or less.

Water in the chimney would move to the sea at a rate dependent on the hydraulic head, the permeability of existing aquifers and permeability of any new fractures opened up by the explosion. USGS calculations indicate a time for such movement might be as short as one to two years. These are short times and are inconsistent with estimates made by AEC that tritium will be discharged into the ocean only 145 years after the explosion. At that time the concentration of tritium in the groundwater is expected to be at a level close to the maximum permissible concentration for water. If the shorter times (5 to 10 years) postulated above are correct then the level of radioactivity in the groundwater entering the ocean would be in excess of ten thousand to one hundred thousand maximum permissible concentration for water.

Effects of Groundwater Release of Radioactivity into the Ocean. The waters adjacent to Amchitka hold rich fisheries. Pacific salmon that migrate through the area are important commercially. Japanese, Soviet and American fishermen take salmon, ocean perch and limited amounts of king crab.

The tritium released through groundwater motion will be diluted by the ocean currents. Even if the dilution is as great as a hundred thousand, there is the possibility of concentration of tritium well above background levels in various steps of the food chain. The detailed behavior of tritium in the food chain is uncertain though it is not generally thought to be concentrated. However, the possibility remains of fish being caught having higher than the background levels of radioactivity.

RUSSELL E. TRAIN, *Chairman.*

WILL UTILITIES LOBBY OFF THE LID?

Mr. METCALF. Mr. President, utilities are assiduously lobbying the Cost of Living Council in their efforts to be freed from the freeze on rate increase requests. As is usual in matters affecting utility corporations, the Government does not have the basic information upon which wise policy decisions can be reached.

Neither the Cost of Living Council, the Price Commission nor anyone else in Government even knows the amount and number of rate increase requests pending among the various commissions throughout the country. My own very rough estimate, based upon scattered trade magazine reports, is that about $4 billion in annual rate increases, by electric, telephone, gas, and pipeline companies, are now pending. Utilities usually ask commissions for a third or fourth more than they actually want and plan to get, in order to preserve the appearance of regulation. So if the freeze on utility rate increases goes off, we can expect rate increases totaling between $2.5 and $3 billion a year.

Such action would have a particularly undeserved inflationary effect in States with weak regulatory commissions. There the utilities already make excess profits. Yet many of them have filed for rate increases because the commissions usually go along with the requests.

The Government proceeds from a position of ignorance in evaluating rate increase requests because of its delay in collecting and publishing utility financial data. Data from 1970 utility reports will not be published until 1972 by the Federal Power Commission and the Federal Communications Commission.

I have obtained some 1970 data from the FPC, and because of its relevance to decisions to be made within the next few days shall include it in the RECORD at the conclusion of these remarks.

The table furnished me by the FPC, compiled from reports filed by electric utilities with the Commission, shows the return on common equity of the major companies.

The table suggests that residents of Florida, Indiana, Montana, Ohio, and Texas, to cite the most obvious examples, are long overdue for substantial rate decreases, they certainly should not be saddled with further increases. In addition, the freeze itself and lower cost of money will decrease utility revenue requirements. Many of the rate increase requests are based upon projections made during the exceedingly inflationary period before the freeze. Revenue requirements will be lower, to the extent that the freeze is successful, rate requests should be accordingly reduced.

There are 207 electric utilities which gross $1 million or more annually. Twenty-three of those companies are industrial utilities or generating companies which sell at wholesale, leaving 184 companies which serve residential consumers.

The average return on common stock equity for those 184 companies last year was 11.33 percent, according to my office mathematician.

Twenty-six of the 184 earned more than 15 percent on their common stock last year.

Yet even many of them have rate increases pending.

Obviously, freedom from freeze for electric utilities is not a national priority. More important, in my opinion, is action on S. 607 and H.R. 5488, the Utility Consumers' Information and Counsel Act. All the way from the ratepayer up to the Price Commission we need the disclosure and adversary proceedings which would be provided by that legislation, on which the Senate Subcommittee on Government Intergovernmental Relations conducted 2 days of hearings last month.

Mr. President, I ask unanimous consent to have printed in the RECORD the table entitled "Percent Return on Common Equity—Classes A and B Electric Utility Companies, 1969 and 1970," as provided to me by the FPC. The asterisks opposite some companies' names denote utilities which do not serve residential customers.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PERCENT RETURN ON COMMON EQUITY—CLASSES A AND B ELECTRIC UTILITY COMPANIES

State and company	1969 Return on common equity-percent	1969 Common equity-percent of total capitalization	1970 Return on common equity-percent	1970 Common equity-percent of total capitalization
Alabama:				
Alabama Power Co	13.6	34.6	12.1	34.4
Southern Electric Generating Co.[1]	12.2	33.6	13.5	33.8
Alaska: Alaska Electric Light & Power Co	8.1	55.2	9.0	50.1
Arizona:				
Arizona Public Service Co	10.0	31.5	10.1	32.3
Citizens Utilities Co.[1]	11.8	48.0	15.4	42.7
Tucson Gas & Electric Co	12.6	37.5	14.4	36.6
Arkansas:				
Arkansas-Missouri Power Co.[1]	12.3	29.2	10.7	27.5
Arkansas Power & Light Co.[1]	13.5	32.1	14.1	32.2
Arklahoma Corp.[1]	6.7	24.5	6.2	28.1
California:				
Pacific Gas & Electric Co	11.6	36.7	10.6	36.8
San Diego Gas & Electric Co	13.0	37.8	12.1	37.2
Southern California Edison Co.[1]	10.3	35.8	11.2	35.1
Colorado:				
Home Light & Power Co	8.9	59.5	10.3	61.4
Public Service Co. of Colorado	12.7	32.8	12.6	34.0
Western Colorado Power Co	5.5	65.9	5.5	67.1
Connecticut:				
Connecticut Light & Power Co	12.4	35.2	11.0	34.2
Connecticut Yankee Atomic Power Co.[1]	8.6	45.0	9.2	49.1
Hartford Electric Light Co	13.1	33.3	12.2	33.6
United Illuminating Co	13.0	34.3	12.0	33.8
Delaware: Delaware Power & Light Co	15.0	31.9	12.1	30.7
District of Columbia: Potomac Electric Power Co.[1]	8.1	32.6	9.0	30.6
Florida:				
Florida Power Corp	15.2	37.0	15.0	35.7
Florida Power & Light Co	11.9	41.6	11.9	41.9
Florida Public Utilities Co	13.2	31.8	16.7	32.9
Gulf Power Co	14.8	35.0	15.1	33.7
Tampe Electric Co	14.7	35.7	15.6	34.8
Georgia:				
Georgia Power Co	12.4	34.0	12.6	33.7
Savannah Electric & Power Co	12.6	35.8	12.3	33.0
Hawaii:				
Hawaiian Electric Co., Inc	10.7	32.5	10.2	32.4
Hilo Electric Light Co., Ltd	7.6	49.0	10.1	45.7
Maui Electric Co., Ltd	9.5	50.9	10.3	54.7
Idaho: Idaho Power Co.[1]	10.4	35.9	11.5	36.6
Illinois:				
Central Illinois Light Co	12.0	39.5	13.7	37.1
Central Illinois Public Service Co	14.8	36.2	14.4	37.5
Commonwealth Edison Co	13.8	39.1	13.6	36.1
Electric Energy, Inc.[1]	3.7	7.0	5.5	7.4
Illinois Power Co	17.4	34.8	17.2	35.7
Mt. Carmel Public Utility Co	8.5	61.0	8.5	61.8
Sherrard Power System	7.3	87.7	6.2	88.3
South Beloit Water, Gas & Electric Co	4.6	100.0	6.0	100.0
Indiana:				
Alcoa Generating Co.[1]	1.9	100.0	1.5	100.0
Commonwealth Edison Co. of Indiana, Inc.[1]	7.7	39.0	7.7	39.7
Indiana & Michigan Electric Co.[1]	17.9	31.6	17.5	32.7
Indianapolis Power & Light Co	15.6	32.3	13.9	31.9
Northern Indiana Public Service Co	15.3	39.1	16.3	39.2
Public Service Co. of Indiana, Inc	14.0	40.4	14.4	39.6
Southern Indiana Gas & Electric Co	14.9	38.1	15.4	38.3
Iowa:				
Interstate Power Co.[1]	11.2	30.7	11.2	30.0
Iowa Electric Light & Power Co	10.5	33.8	11.3	31.0
Iowa-Illinois Gas & Electric Co.[1]	13.5	36.9	12.3	33.4
Iowa Power & Light Co	13.5	34.0	11.2	33.6
Iowa Public Service Co.[1]	12.0	43.4	11.5	41.1
Iowa Southern Utilities Co	14.6	50.4	14.4	52.3
Kansas:				
Central Kansas Power Co., Inc	10.9	48.0	11.8	48.4
Central Telephone & Utilities Corp.[1]	16.4	43.9	13.1	44.2
Kansas Gas & Electric Co	12.4	43.7	12.8	42.7
Kansas Power & Light Co	13.1	45.8	14.9	43.4
Kentucky:				
Kentucky Power Co	10.6	39.7	5.6	39.5
Kentucky Utilities Co.[1]	12.7	48.8	12.9	44.3
Louisville Gas & Electric Co	13.9	46.5	13.8	46.3
Union Light, Heat & Power Co	9.2	54.9	9.2	50.9
Louisiana:				
Central Louisiana Electric Co., Inc	15.5	30.5	15.4	30.6
Gulf States Utilities Co.[1]	14.0	33.0	14.4	32.8
Louisiana Power & Light Co	14.1	32.0	13.7	33.0
New Orleans Public Service Inc	8.9	34.5	10.1	35.1
Maine:				
Bangor Hydro-Electric Co	10.4	35.5	9.6	34.5
Central Maine Co	10.0	38.2	11.1	35.7
Maine Public Service Co	11.7	36.1	5.9	35.4
Rumford Falls Power Co.[1]	5.5	100.0	6.3	100.0
Maryland:				
Baltimore Gas & Electric Co	13.2	38.8	12.2	39.9
Conowingo Power Co	6.4	76.1	6.6	77.3
Delmarva Power & Light Co., of Md	8.0	50.4	7.2	49.1
Potomac Edison Co	14.3	29.1	13.0	30.9
Susquehanna Power Co.[1]	7.5	60.8	6.4	80.8
Massachusetts:				
Boston Edison Co	11.4	38.4	11.6	35.6
Boston Gas Co	5.6	51.0	5.6	45.6
Brockton Edison Co	9.2	37.5	10.3	35.3
Cambridge Electric Light Co	7.8	50.7	8.0	51.1
Canal Electric Co[1]	8.1	50.5	10.7	50.6
Cape & Vineyard Electric Co	9.4	50.0	7.9	51.0
Fall River Electric Light Co	7.7	54.5	8.3	54.6
Fitchburg Gas & Electric Light Co	8.9	56.3	8.7	44.6
Holyoke Power & Electric Co.[1]	4.7	56.9	11.3	57.8
Holyoke Water Power Co.[1]	6.7	46.1	7.7	47.7
Massachusetts Electric Co	8.1	41.3	9.9	38.4
Montaup Electric Co.[1]	6.9	54.0	6.7	49.5
New Bedford Gas & Edison Light Co	7.4	50.1	7.0	50.4
New England Power Co.[1]	11.9	32.3	9.3	30.4
Western Massachusetts Electric Co	9.8	43.3	9.1	41.4
Yankee Atomic Electric Co.[1]	5.5	77.1	5.4	80.6
Michigan:				
Alpena Power Co	7.9	84.2	8.8	85.5
Consumers Power Co	11.5	39.7	11.6	38.4
Detroit Edison	10.5	39.5	10.1	37.0
Edison Sault Electric Co	12.0	37.5	12.0	38.5
Michigan Power Co	6.1	47.2	8.0	47.3
Upper Peninsula Power Co.[1]	10.1	38.7	9.6	39.2
Minnesota:				
Minnesota Power & Light Co	13.3	36.6	13.5	37.7
Northern States Power Co.[1]	13.3	31.7	12.6	32.4
Mississippi:				
Mississippi Power Co	11.8	34.9	13.2	34.2
Mississippi Power & Light Co	15.2	34.4	14.9	32.8
Missouri:				
Empire District Electric Co	14.3	32.5	14.5	32.4
Kansas City Power & Light Co.[1]	11.7	38.4	11.3	36.5
Missouri Edison Co	6.4	63.3	5.9	67.7
Missouri Power & Light Co	10.6	34.9	10.5	34.6
Missouri Public Service Co	13.6	25.4	13.0	26.9
Missouri Utilities Co	8.1	35.4	7.4	37.4
St. Joseph Light & Power Co	11.2	37.6	10.7	35.3
Union Electric Co.[1]	11.9	34.2	13.4	33.7
Montana: Montana Power Co.[1]	16.1	46.6	17.5	47.3
Nevada:				
Nevada Power Co	12.8	36.8	12.2	37.1
Sierra Pacific Power Co.[1]	12.1	34.9	11.7	36.3
New Hampshire:				
Concord Electric Co	9.3	39.9	9.2	40.8
Connecticut Valley Electric Co., Inc	6.4	74.8	7.1	76.2
Exeter & Hampton Electric Co	12.3	32.7	12.9	33.9
Granite State Electric Co	9.9	100.0	11.2	100.0
Public Service Co. of New Hampshire[1]	13.0	29.8	15.3	30.7
New Jersey:				
Atlantic City Electric Co	14.8	32.6	13.1	32.9
Jersey Central Power & Light Co	10.9	39.4	12.8	39.9
New Jersey Power & Light Co	4.4	37.9	2.4	42.0
Public Service Electric & Gas Co	11.8	34.8	10.7	34.8
Rockland Electric Co	10.6	63.5	10.7	57.4
New Mexico:				
New Mexico Electric Service Co	12.4	35.1	13.3	39.2
Public Service Co. of New Mexico	12.4	37.3	12.7	37.0
New York				
Central Hudson Gas & Electric Corp	11.6	37.6	8.2	33.5
Consolidated Edison Co. of N.Y., Inc	7.9	31.3	7.4	31.3
Long Island Lighting Co	12.9	33.5	12.5	33.9
Long Sault, Inc.[1]	9.7	100.0	11.7	100.0
New York State Electric & Gas Corp	11.9	33.6	10.4	33.4
Niagara Mohawk Power Corp	9.9	31.4	9.4	32.0
Orange & Rockland Utilities, Inc	14.3	25.4	13.8	26.5
Rochester Gas & Electric Corp	12.3	32.8	11.1	31.6
North Carolina:				
Carolina Power & Light Co.[1]	11.7	36.1	10.1	36.0
Duke Power Co.[1]	12.6	34.4	11.2	31.0
Nantahala Power & Light Co	7.0	100.0	7.3	100.0
Yadkin, Inc	4.9	100.0	5.0	100.0
North Dakota:				
Montana-Dakota Utilities Co.[1]	31.0	37.5	13.3	38.2
Otter Tail Power Co.[1]	10.4	40.0	11.7	40.9
Ohio:				
Cincinnati Gas & Electric Co	16.4	40.8	15.8	36.5
Cleveland Electric Illuminating Co	14.7	51.5	14.5	45.0
Columbus & Southern Ohio Electric Co	12.1	36.1	12.1	31.9
Dayton Power & Light Co	14.7	37.4	12.5	36.6
Ohio Edison Co	15.2	45.6	14.9	42.4
Ohio Power Co	16.1	32.3	16.1	31.3
Ohio Valley Electric Corp.[1]	8.0	4.7	8.0	5.0
Toledo Edison Co	15.6	35.7	15.2	34.5
Oklahoma:				
Oklahoma Gas & Electric Co.[1]	16.5	33.2	17.4	33.7
Public Service Co. of Oklahoma	13.9	38.2	14.7	40.2
Oregon:				
California-Pacific Utilities Co.[1]	8.9	42.7	8.3	40.5
Pacific Power & Light Co.[1]	10.9	31.6	11.2	31.4
Portland General Electric Co	12.2	35.6	1.08	35.0

Footnotes at end of table.

XUM

State and company	1969 Return on common equity-percent	1969 Common equity-percent of total capitalization	1970 Return on common equity-percent	1970 Common equity-percent of total capitalization
Pennsylvania:				
Duquesne Light Co	15.1	31.7	13.7	31.7
Hershey Electric Co	8.8	50.2	6.5	39.2
Metropolitan Edison Co	9.0	36.0	7.5	43.1
Pennsylvania Electric Co.[2]	12.3	35.5	10.8	36.3
Pennsylvania Power Co	13.5	36.4	13.4	33.5
Pennsylvania Power & Light Co	12.2	32.7	10.0	31.8
Philadelphia Electric Co	10.5	37.9	9.5	36.4
Philadelphia Electric Power Co.[1]	12.2	28.4	11.1	35.0
Potomac Edison Co. of Pennsylvania	5.4	100.0	5.6	100.0
Safe Harbor Water Power Corp.[1]	6.6	54.5	7.8	57.1
UGI Corp	9.0	58.8	9.7	54.3
West Penn Power Co	15.4	30.8	15.2	32.5
Rhode Island:				
Blackstone Valley Electric Co	8.5	43.7	9.2	40.1
Narragansett Electric Co	9.8	37.5	10.9	37.0
Newport Electric Corp	11.2	39.2	10.9	35.1
South Carolina:				
Lockhart Power Co	5.9	100.0	5.6	100.0
South Carolina Electric Gas Co	14.8	31.7	14.1	31.8
South Dakota:				
Black Hills Power & Light Co.[1]	8.4	39.4	9.0	37.2
Northwestern Public Service Co	12.2	36.3	14.3	34.6
Tennessee:				
Kingsport Power Co	10.0	47.5	8.2	48.2
Tepoco, Inc.[1,3]	4.3	100.0	4.7	100.0
Texas:				
Central Power & Light Co	18.0	43.9	16.3	44.2
Community Public Service Co.[2]	13.9	33.1	14.1	33.6
Dallas Power & Light Co	13.2	37.0	15.1	37.4
El Paso Electric Co.[2]	17.2	39.3	17.0	40.8
Houston Lighting & Power Co	14.5	42.4	15.1	42.4
Southwestern Electric Power Co.[2]	15.8	37.9	16.1	39.1
Southwestern Electric Service Co	12.9	30.1	13.7	31.7
Southwestern Public Service Co.[2]	15.8	31.4	17.9	31.7
Texas Electric Service Co	16.8	39.8	17.3	38.6
Texas Power & Light Co	16.6	37.4	16.8	36.9
West Texas Utilities Co	15.5	45.3	16.4	44.5
Utah: Utah Power & Light Co.[2]	11.7	35.0	12.5	35.7
Vermont:				
Central Vermont Public Service Corp.[2]	10.4	29.6	7.3	32.8
Green Mountain Power Corp	12.0	31.0	10.6	32.0
Vermont Electric Power Co., Inc.[1]	4.1	15.1	6.5	12.5
Virginia:				
Delmarva Power & Light Co. of Va	8.4	55.1	7.1	55.5
Old Dominion Power Co	4.3	63.2	3.7	59.7
Potomac Edison Co. of Virginia	6.0	100.0	6.2	100.0
Virginia Electric & Power Co.[2]	12.4	37.0	13.5	34.7
Washington:				
Puget Sound Power & Light Co	9.4	31.7	9.4	31.1
Washington Water Power Co.[2]	11.1	32.1	10.4	33.0
West Virginia:				
Appalachian Power Co.[2]	17.3	31.8	19.4	31.4
Monongahela Power Co.[2]	15.6	30.2	13.6	32.2
Potomac Edison Co. of West Virginia	5.3	100.0	6.1	100.0
Wheeling Electric Co	8.3	39.7	9.9	40.1
Wisconsin:				
Consolidated Water Power Co	4.2	99.9	3.5	99.9
Lake Superior District Power Co.[2]	9.6	41.0	9.1	42.0
Madison Gas & Electric Co	9.2	48.2	8.6	44.0
Northern States Power Co	8.8	52.2	9.2	51.4
Superior Water, Light & Power Co	7.9	46.4	5.5	47.0
Wisconsin Electric Power Co	9.6	42.7	8.3	40.0
Wisconsin Michigan Power Co.[2]	7.9	50.2	7.2	51.4
Wisconsin Power & Light Co	12.9	38.4	12.2	36.0
Wisconsin Public Service Corp.[2]	10.9	32.8	11.3	30.5
Wisconsin River Power Co.[1]	5.5	60.9	5.5	61.7
Wyoming: Cheyenne Light, Fuel & Power Co	8.8	55.8	10.0	57.0

[1] Does not serve residential customers.
[2] Also operates in other States.
[3] Also operates in adjoining States.

Note: In sec. VIII an overall rate of return was developed for electric operations only and the income statements of the companies were adjusted to achieve uniform accounting treatment of deferred taxes and investment tax credits, related to electric operations. Because of the complexities involved in determining return on equity applicable to electric operations only, the rates of return on equity shown in this section have been computed using the companies' overall equity and overall reported earnings based on the reported accounting treatment of deferred taxes and investment tax credits.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

OREGON DUNES NATIONAL RECREATION AREA

Mr. MANSFIELD. Mr. President, I ask that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The Chair lays before the Senate under the previous order, the unfinished business S. 1977, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1977) to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 10, after line 9, insert a new section, as follows:

SEC. 14. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $12,700,000 for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indexes and not to exceed $2,500,000 for acquisition of lands, waters, and interests therein.

So as to make the bill read:

S. 1977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide for the public outdoor recreation use and enjoyment of certain ocean shorelines and dunes, forested areas, fresh water lakes, and recreational facilities in the State of Oregon by present and future generations, and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Oregon Dunes National Recreation Area (hereinafter referred to as the "recreation area"). The boundaries of the recreation area shall be those shown on the map referred to in section 4 of this Act.

SEC. 2. The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture (hereinafter called the "Secretary") in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute to attainment of the purposes set forth in section 1 of this Act.

SEC. 3. The area delineated as the "Inland Sector" on the map referenced in section 4 of this Act is hereby established as an inland buffer sector in order to promote such management and use of the lands, waters, and other properties within such sector as will best protect the values which contribute to the purposes set forth in section 1 of this Act.

SEC. 4. The boundaries of the recreation area and the inland sector shall be as shown on a map entitled "Proposed Oregon Dunes National Recreation Area" dated May 1971, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, and to which is attached and hereby made a part thereof a detailed description of metes and bounds of the exterior boundaries of the recreation area and of the inland sector. The Secretary may by publication of a revised map or description in the Federal Register correct clerical or typographical errors in said map or descriptions.

SEC. 5. All lands of the United States within the exterior boundary of the recreation area are hereby made a part of the recreation area for the purposes of this Act: *Provided*, That lands required for the purposes of the United States Coast Guard or the United States Corps of Engineers shall continue to be used by such agencies to the extent required for such purposes.

SEC. 6. The boundaries of the Siuslaw National Forest are hereby extended to include all of the lands not at present within such boundaries living within the recreation area as described in accordance with section 4 of this Act.

SEC. 7. Within the inland sector established by section 3 of this Act the Secretary may acquire the following classes of property only with the consent of the owner:

(a) improved property as hereinafter defined;

(b) property used for commercial or industrial purposes if such commercial or industrial purposes are the same such purposes for which the property was being used on December 31, 1970, or such commercial or industrial purposes have been certified by the Secretary or his designee as compatible with or furthering the purposes of this Act;

(c) timberlands under sustained yield management so long as the Secretary determines that such management is being conducted in accordance with standards for timber production, including but not limited to harvesting, reforestation, and debris cleanup, not less stringent than management standards imposed by the Secretary on comparable national forest lands: *Provided*, That the Secretary may acquire such lands or interests therein without the consent of the owner if he determines that such lands or interests are essential for recreation use or for access to or protection of recreation developments within the purposes of this Act. In any acquisition of such lands or interests the Secretary shall, to the extent practicable, minimize the impact of such acquisition on access to or the reasonable economic use for sustained yield forestry of adjoining lands not acquired; and

(d) property used on December 31, 1970, primarily for private, noncommercial recreational purposes if any improvements made to such property after said date are certified by the Secretary of Agriculture or his designee as compatible with the purposes of this Act.

SEC. 8. Within the boundaries of the recreation area lands, waters, and interests therein owned by or under the control of the State of Oregon or any political subdivision thereof may be acquired only with the consent of such State or political subdivision. No part of the Southern Pacific Railway right-of-way within the boundaries of the recreation area may be acquired without the consent of the railway. In any acquisition of improved property within the recreation area, the owner or owners (hereinafter in this section referred to as "owner") may, as a condition of such acquisition, retain the right of use and occupancy of such property for noncommercial residential purposes for a term of (1) not to exceed twenty-five years, or (2) for a term ending at the death of the owner, the death of the owner's spouse, or at the time all of the children of the owner or of the owner's spouse die before reaching twenty-one years of age or at the time the youngest such child reaches the age of twenty-one, whichever of all such events occur the latest. The owner shall elect at the time of conveyance the terms to be reserved. Where any such owner retains a right of use and occupancy as herein provided, such right may during its existence be conveyed or leased in whole, but not in part, for noncommercial residential purposes. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner. At any time subsequent to the acquisition of such property the Secretary may, with the consent of the owner of the retained right of use and occupancy, acquire such right, in which event he shall pay to such owner the fair market value of the remaining portion of such right. The term "improved property" wherever used in this Act shall mean a detached one-family dwelling the construction of which was begun before December 31, 1970, together with so much land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary finds necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling situated on such land. The amount of such land shall be at least three acres in area, or all of such lesser amount that may be held in the same ownership as the dwelling. Funds hereafter appropriated and available for the acquisition of lands and waters and interests therein in the national forest system pursuant to the Act of September 3, 1964 (78 Stat. 897, 903), shall be available for the acquisition of any lands, water, and interests therein within the boundaries of the recreation area.

SEC. 9. The Secretary shall permit hunting, fishing, and trapping on the land and waters under his jurisdiction within the recreation area in accordance with applicable laws of the United States and of the State of Oregon: *Provided*, That the Secretary, after consultation with the Oregon State Game Commission, may issue regulations designating zones where and establishing periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

SEC. 10. The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

SEC. 11. (a) The Secretary is authorized and directed, subject to applicable water quality standards now or hereafter established, to permit the investigation for, appropriation, storage, and withdrawal of ground water, surface water, and lake, stream, and river water from the recreation area and the conveyance thereof outside the boundaries of the recreation area for beneficial use in accordance with applicable laws of the United States and of the State of Oregon if permission therefor has been obtained from the State of Oregon before the effective date of this Act: *Provided*, That nothing herein shall prohibit or authorize the prohibition of the use of water from Tahkenitch or Siltcoo Lakes in accordance with permission granted by the State of Oregon prior to the effective date hereof in connection with certain industrial plants developed or being developed at or near Gardner, Oregon.

(b) The Secretary is authorized and directed, subject to applicable water quality standards now or hereafter established, to permit transportation and storage in pipelines within and through the recreation area of domestic and industrial wastes in accordance with applicable laws of the United States and of the State of Oregon if permission therefor has been obtained from the State of Oregon before the effective date of this Act.

(c) The Secretary is further authorized to grant such additional easements and rights, in terms up to perpetuity, as in his judgment would be appropriate and desirable for the effective use of the rights to water and the disposal of waste provided for herein and for other utility and private purposes if permission therefor has been obtained from the State of Oregon, subject to such reasonable conditions as are necessary for the protection of the scenic, scientific, historic, and recreational features of the recreation area.

SEC. 12. (a) The Secretary shall establish an advisory council for the Oregon Dunes National Recreation Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management and development of the recreation area. The members of the advisory council, who shall not exceed fifteen in number, shall serve for individual staggered terms of three years each and shall be appointed by the Secretary as follows:

(i) a member to represent each county in which a portion of the recreation area is located, each such appointee to be designated by the respective governing body of the county involved;

(ii) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon;

(iii) not to exceed eleven members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the recreation area; and

(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(b) The Secretary shall, in addition to his consultation with the advisory council, seek the views of other private groups and individuals with respect to administration of the recreation area.

(c) The members shall not receive any compensation for their services as members of the council, but they shall be reimbursed for travel expenses and shall be allowed, as appropriate, per diem or actual subsistence expenses.

SEC. 13. The Secretary shall cooperate with the State of Oregon or any political subdivision thereof in the administration of the recreation area and in the administration and protection of lands within or adjacent to the recreation area owned or controlled by the State or political subdivision thereof. Nothing in this Act shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the recreation area consistent with the provisions of this Act, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the recreation area.

SEC. 14. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $12,700,000 for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indexes and not to exceed $2,500,000 for acquisition of lands, waters, and interests therein.

Mr. HATFIELD. Mr. President, proposals to save the beautiful dunes area along central Oregon's coast have been before the Congress for over 12 years. They have appeared in different forms as they have been debated over the years. In the legislation before this body today, I believe we have a bill, sponsored by my colleague, the junior Senator from Oregon and me, which resolves many of the conflicts of the past.

Briefly, this bill would establish the Oregon Dunes National Recreation Area, comprising 32,250 acres of magnificent shifting sand dunes, fresh water lakes, and forests. The area, about 40 miles long, would be administered by the U.S. Forest Service in cooperation with State and local governments. The Forest Service has given its assurance that it stands ready to assume the responsibility of administering the Oregon Dunes National Recreation Area in accordance with the provisions of the bill and with the national recreation area concept. Presently, 18,290 acres of the proposed recreation area are being administered by the Forest Service. It has had considerable experience in the administration of recreation areas and will move to accommodate the potential of the dunes area through the development of needed roads, recreation trails, parking facilities, beach developments, camping and picnic grounds, interpretive services, and sanitary facilities. Some portions within the area will remain undeveloped and roadless. Mining would be prohibited and an advisory council, including both local and national representation, would be created.

This bill is strongly and widely supported in Oregon. I chaired the hearings in the Senate Interior Committee last September on the legislation. All witnesses testified in support of it. Representative JOHN DELLENBACK, representing Oregon's Fourth Congressional District, has introduced identical legislation in the House, and hearings were held by the House Interior Committee last month.

Mr. President, it is becoming increas-

ingly important to preserve unique areas for the generations to come. The coastal area encompassed in this proposal is certainly deserving of preservation. I believe that the legislation being considered by the Senate today is a good first step in what must be a continuing effort to protect this unique area. My interest in the Oregon Dunes National Recreation Area will not wane after this bill is passed by the Senate or after it is signed into law.

Our Interior Committee has included language in our report on the bill to encourage land exchanges within the inland sector of the area to minimize the incidence of timber harvesting. I add my personal encouragement to the Forest Service to carry out this mandate and I will do whatever I can to assist in its implementation. Furthermore, as we have the opportunity to observe the administration of the legislation, I will watch particularly for evidence of disparities between our intent of providing the needed protection of the area and the actual day-to-day administration. Our legislative responsibilities do not end with passage of a bill.

Mr. President, before final passage of this bill, I want to call attention to the strong support given to this bill by the chairman of the Parks and Recreation Subcommitee, Senator BIBLE. Throughout the consideration of this bill, Senator BIBLE's support and assistance has been most helpful. In addition, the backup by Mr. Bernie Hartung, of the committee staff, has been appreciated by all of us who have worked for the bill.

I also want to thank the Senate leadership for calling the bill up at this time. I know of the desire by both sides of the aisle to move with dispatch, and I appreciate the courtesies shown to me in arranging for such expeditious consideration of this legislation.

Mr. President, I urge that the bill be passed.

Mr. PACKWOOD. Mr. President, I am pleased to join with my colleague, Senator HATFIELD, to speak today in behalf of the Oregon dunes bill, S. 1977.

Recently one of my friends from Corvallis, Oreg., Dave Smith, of the Oregon Division of the Izaak Walton League of America, Inc., said to me:

My records disclose that we have favored this policy since introduction of a bill by Senator Richard Neuberger in 1959.

And so it has been. All of us in Oregon who share the common goal of protecting and preserving the wondrous Oregon dunes have literally volumes of literature on the subject dating back at least to 1959. And there have been many, many Oregonians down through these years who have shared this common goal, as is evidenced by this bill before the Senate today, and the companion bill in the House introduced by Congressman JOHN DELLENBACK.

Today, we are all agreed that the Oregon dunes must be saved or there will be nothing worth saving. The time has come to reach a consensus. With the support of Senator HATFIELD, and with the efforts of Congressman DELLENBACK, plus the support of a majority of those in the dunes area along the Oregon coast, I think we have a consensus. I am pleased to be a part of it because so many have worked so long and so hard in the interest of preserving an area which is truly unique.

What we must do is to take a first step toward preserving this unique area. This legislation provides such a step. Some other steps may become necessary in order to keep in step with the times. But that is another subject for another time. My first concern is to get this legislation enacted into law while we still have the opportunity to save this precious area before it is permanently scarred.

Mr. President, it is the same story that is true of any natural and scenic landscape in this Nation that deserves preserving for the sake of posterity. Action must be taken while there is something left worth saving, for the sands of our land wash away quickly with the tide of modern civilization.

In that magnificent book, "Design with Nature," by Ian L. McHarg, we are given a chapter that discusses dunes. In vivid descriptions and gentle persuasion we begin to see the delicate nature of this natural phenomenon. In the chapter, "Sea and Survival," Mr. McHarg states:

Let us accept the proposition that nature is process, that it is interacting, that it responds to laws, representing values and opportunities for human use with certain limitations and even prohibitions to certain of these.

Mr. President, it is time for us to accept that proposition. The Oregon dunes are a splendid example of nature in process. The dunes represent values and opportunities for human use, but with certain limitations and even prohibitions to certain of these.

Mr. President, at this point I would ask that the statement I have received from Mr. James A. Potter, president of the Oregon Division, Izaak Walton League of America, Inc., be included in the RECORD.

I also ask unanimous consent that a copy of a statement I received from Mr. Berl R. Oar, president, Oregon Wildlife Federation, Portland, Oreg., in support of the dunes bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OREGON DIVISION,
IZAAK WALTON LEAGUE OF AMERICA, INC.,
September 8, 1971.

Senator MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HATFIELD: The Oregon Division, Izaak Walton League of America, Inc., desires to have our enclosed Oregon Dunes National Recreation Area resolution and this letter introduced and made part of the official record of the hearings on S. 1977, scheduled for September 14, 1971, before the Senate Interior and Insular Affairs Committee.

The above named resolution was overwhelmingly passed by the Oregon Division at their 1970 annual convention held in Portland, Oregon on April 26, 1970.

We are indeed pleased to see that the splendidly unique Oregon Dunes Area is being considered for a National Recreational Area for the benefit, health, and enjoyment of all present and future generations of Americans.

You have our complete support in this worthy and needed conservation effort.

Most Sincerely Yours,
JAMES A. POTTER,
President.

RESOLUTION: OREGON DUNES NATIONAL RECREATION AREA

Whereas, the Oregon Dunes are considered to be of national importance and are perhaps the finest example of seashore dunes on this continent; and

Whereas, the close proximity of the forest-sheltered fresh water lakes gives the area unique qualities for recreational enjoyment; and

Whereas, the creation of an Oregon Dunes National Recreation Area, as proposed in current legislation H.R. 778, is a significant and gratifying recognition of the high quality of Oregon's coastal scenic and recreational resources; and

Whereas, the proposed recreation area would have overall responsibility for management by one agency; and

Whereas, the proposed legislation provides for the acquisition of land adjacent to the lakes and dunes so as to protect the primary values from future degradation by undesirable types of commercial development; and

Whereas, the proposed legislation has gone far in meeting objections expressed with respect to the creation of a recreation area in that it provides for:

1. Local zoning to permit retention of many homes and business properties within the area.

2. Development and transportation of underground water and for the disposal of wastes.

3. Hunting and fishing may be carried on in such areas and under such regulations as the State Game Commission may prescribe after consultation with the Forest Service.

4. The protection of man-made developments and the natural resources of the area.

Now, therefore, be it resolved that the Oregon Division, Izaak Walton League of America, in convention assembled in Portland, Oregon, this 26th day of April, 1970, go on record as approving the creation of the recreation area is proposed in H.R. 778.

STATEMENT ON S. 1977, THE OREGON DUNES TO THE SENATE SUBCOMMITTEE ON PARKS AND RECREATION

Senators, the Oregon Wildlife Federation does hereby state our unqualified support of this legislation.

For more than ten years conservationists of Oregon have been asking for the designation of these unique sand dunes as a dedicated Recreation Area and to be managed in the public interest. We believe S–1977 will do this.

We agree to the boundaries as set forth in the "map" in the bill, deleting the residential property and protecting the rights of those property owners in the "Inland Sector." The continued management of the water resources of the dunes is authorized and the recreational uses are established for the entire 32,292 acres.

We sincerely believe the Department of Agriculture and the U.S. Forest Service can manage the Oregon Dunes as a multiple use Recreation Area under the conditions as set forth in S–1977. This legislation is long overdue.

Attached is a copy of our 1969 resolution stating our complete support of legislation to establish the Oregon Dunes Recreational Area.

Respectfully,
BERL R. OAR,
President,
Oregon Wildlife Federation.

RESOLUTION ON OREGON DUNES BY THE OREGON WILDLIFE FEDERATION

Whereas the conservation and multiple-use of our public lands and natural resources are of great concern to everyone, and,

Whereas the rare dune areas of Oregon's Coast have been used by the public for many recreational purposes for years, and,

Whereas Oregon's Congressman Dellenback has introduced national legislation (HR 778) to establish the Oregon Dunes National Recreational Area, to include all the major and scenic dunes for the public outdoor use and enjoyment by present and future generations, and,

Whereas the administration, development and protection of this thirty-three mile long, 30,530 acre area, will be under U.S. Forest Service and Secretary of Agriculture, and public recreation shall be promoted with proper multiple-use concepts;

Now therefore, be it resolved by the Oregon Wildlife Federation, in convention assembled this 22nd day of June, 1969, in Bend, Oregon, we urge full support of this legislation for continued Multiple-use of this area, and that all Senators and Congressmen of Oregon be notified of this resolution.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1977) was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROHIBITION OF SHOOTING AT BIRDS AND ANIMALS FROM AIRCRAFT

Mr. MANSFIELD. Mr. President, I move that the Senate turn to the consideration of Calendar No. 417, H.R. 5060.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The bill was read by title as follows:

A bill (H.R. 5060) to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to and the Senate proceeded to consider the bill which had been reported from the Committee on Commerce with amendments on page 2, line 10, after the word "crops", insert "and each such person so operating under a license or permit shall report to the applicable issuing authority each calendar quarter the number and type of animals so taken"; in line 24, after the word "taken", strike out "and"; at the top of page 3, insert:

"(C) the number and type of animals taken by such person to whom a permit was issued; and

And, on page 3, at the beginning of line 3, strike out "(C)" and insert "(D)".

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business, under the order, is H.R. 5060.

Mr. MANSFIELD. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. STEVENS. Mr. President, I have filed supplemental views on this bill. I had intended to call up an amendment. Because of the considerations brought to my attention, because of the deliberations of the Fish and Game Commission in the State of Alaska, I am not going to do so, because we are going to continue discussing the matter in our Commerce Committee. But I would like the record to show and very clearly state that I have serious reservations about a bill which prohibits shooting animals solely from aircraft. We in our State prohibit shooting animals from aircraft, and the intent of the bill both in this body and in the House apparently seems to be that it would affect situations such as the so-called wolf men television program, and I think this is misleading.

We feel that the shooting of animals from any moving vehicle, whether it is a snow machine or snow buggy or dune buggy or truck or motor boat, or whatever it may be, ought to be prohibited, and that we should move in that direction. As a matter of fact, we do use aircraft and other vehicles for the control of predators. This bill would allow that.

This bill is being pushed at this time to convince the public, apparently, that situations such as occurred in the wolf man type of documentary, where aircraft are used to control predators, would be prohibited; and that is not so. A close reading of the bill discloses that would not be prohibited.

On the other hand, I would like to prohibit the taking of all animals by any person from any motor vehicle except under special circumstances where we would have the controls of not only State but Federal officials. Unfortunately, that is not possible at this time.

Therefore, I am not going to offer the amendment at this time. We intend to take it up in the committee.

I thank the majority leader for giving me notice so I could indicate why I did not offer the amendment which was submitted by me and explained in the supplementary views in the report of the Commerce Committee.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. MANSFIELD. May I say the Senator from Alaska has made a very strong case for his point of view, and I am delighted that he took time out of a very important committee meeting to come here at this time and give us the benefit of his important views on this matter, because of his expertise and first-hand knowledge.

Mr. STEVENS. I thank the Senator very much.

Mr. ALLOTT. Mr. President, I rise in support of the pending bill, H.R. 5060. This bill, subject to certain limited exceptions, would make it unlawful for anyone while airborne to shoot or attempt to shoot for the purpose of capturing or killing any bird, fish, or other animal; or to harass any bird, fish, or animal, or to knowingly participate in using an aircraft for such purposes.

The management of game and the formulation of hunting regulations is traditionally a State prerogative. I am normally very hesitant to see the Federal Government's jurisdiction extended into this area. However, Mr. President, blatant and outrageous improprieties call for strong action.

As the Senate committee report states on page 3:

This year the killing of over 500 eagles from helicopters in Wyoming and Colorado indicated the need to curb this practice.

I am a sportsman myself, but there is nothing sportsmanlike in any way in shooting animals or birds from an aircraft. I only regret that these reported incidents took place, in part, in my State.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

There being no objection, the committee amendments were agreed to en bloc.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5060) was read the third time and passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of West Virginia. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 396, S. 986. I do this so that it will be the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities and for other purposes.

XUM

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Consumer Product Warranties and Federal Trade Commission Improvements Act of 1971".

TITLE I—CONSUMER PRODUCT WARRANTIES

DEFINITIONS

SEC. 101.—

(1) "Commission" means the Federal Trade Commission.

(2) The term "consumer product" means any tangible personal property, normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed. However, the provisions affecting consumer products in sections 102 and 103 of this title shall apply only to consumer products actually costing the purchaser more than $5 each.

(3) "Purchaser" or "consumer" means any person who is entitled by any warranty in writing or service contract in writing which is offered or given to enforce against the supplier the obligations of the warranty or service contract.

(4) "Reasonable and necessary maintenance" consists of those operations which the purchaser reasonably can be expected to perform or have performed to keep a consumer product operating in a predetermined manner and performing its intended function.

(5) The term "repair" may at the option of the warrantor include replacement with a new, identical or equivalent consumer product or component(s) thereof.

(6) The term "replacement" as used in section 104 of this title, in addition to furnishing a new, identical or equivalent consumer product (or component(s) thereof), shall include the refunding of the actual purchase price of the consumer product (1) if repair is not commercially practicable or (2) if the purchaser is willing to accept such refund in lieu of repair or replacement. In the event there is replacement of a consumer product, the replaced consumer product (free and clear of liens and encumbrances) shall be made available to the supplier.

(7) "Supplier" means any person (including any partnership, corporation, or association) engaged in the business of making a consumer product or service contract available to consumers, either directly or indirectly. Occasional sales of consumer products by persons not regularly engaged in the business of making such products available shall not make such persons "suppliers" within the meaning of this title.

(8) "Warrantor" means any supplier or other party who gives a warranty in writing.

(9) The term "warranty" includes guaranty, and to warrant is to guarantee.

(10) "Warranty in writing" or "written warranty" means a warranty in writing against defect or malfunction of a consumer product.

(a) "Full warranty" means a warranty in writing against defect or malfunction of a consumer product which incorporates the Federal standards for warranty set forth in section 104 of this title.

(b) "Limited warranty" means any warranty in writing against defect or malfunction of a consumer product subject to the provisions of this title which does not incorporate the Federal standards for warranty set forth in section 104 of this title.

(11) A "warranty in writing against defect or malfunction of a consumer product" means:

(i) any written affirmation of fact or written promise made at the time of sale by a supplier to a purchaser which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect-free or will meet a specified level of performance over a specified period of time, or

(ii) any undertaking in writing to refund, repair, replace, or take other remedial action with respect to the sale of a consumer product in the event that the product fails to meet the specifications set forth in the undertaking,

which written affirmation, promise, or undertaking becomes part of the basis of the bargain between the supplier and the purchaser.

(12) The term "without charge" means that the warrantor(s) cannot assess the purchaser for any costs the warrantor or his representatives incur in connection with the required repair or replacement of a consumer product warranted in writing. The term does not mean that the warrantor must necessarily compensate the purchaser for incidental expenses. However, if any incidental expenses are incurred because the repair or replacement is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the purchaser as a condition of security repair or replacement, then the purchaser shall be entitled to recover such reasonable incidental expenses in any action against the warrantor for breach of warranty under section 110(b) of this title.

DISCLOSURE REQUIREMENTS

SEC. 102. (a) In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products, any supplier warranting in writing a consumer product shall fully and conspicuously disclose in simple and readily understood language the terms and conditions of said warranty pursuant to any regulations issued by the Commission under procedures specified in section 109 of this title. Such regulations may require inclusion in the written warranty of information with respect to any of the following items among others:

(1) The clear identification of the name and address of the warrantor.

(2) Identity of the class or classes of persons to whom the warranty is extended.

(3) The products or parts covered.

(4) A statement of what the warrantor will do in the event of a defect or malfunction—at whose expense—and for what period of time.

(5) A statement of what the purchaser must do and expenses he must bear.

(6) Exceptions and exclusions from the terms of the warranty.

(7) The step-by-step procedure which the purchaser should take in order to obtain performance of any obligation under the warranty, including the identification of any class of persons authorized to perform the obligations set forth in the warranty.

(8) On what days and during what hours the warrantor will perform his obligations.

(9) The period of time within which, after notice of malfunction or defect, the warrantor will under normal circumstances repair, replace, or otherwise perform any obligations under the warranty.

(10) The availability of any informal dispute settlement procedure offered by the warrantor and a recital that the purchaser must resort to such procedure before pursuing any legal remedies in the courts.

(11) A recital that any purchaser who successfully pursues his legal remedies in court may recover the reasonable costs incurred, including reasonable attorneys' fees.

(b) The Commission is authorized to determine in accordance with section 109 of this title the manner and form in which information with respect to any written warranty shall be clearly and conspicuously presented or displayed when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing. Nothing in this title shall be deemed to authorize the Commission to prescribe the duration of warranties given or to require that a product or any of its components be warranted. Further, except as provided in section 104, nothing in this title shall be deemed to authorize the Commission to prescribe the scope or substance of written warranties.

DESIGNATION OF WARRANTIES

SEC. 103. (a) Any supplier warranting in writing a consumer product shall clearly and conspicuously designate such warranty as provided herein unless exempted from doing so by the Commission pursuant to section 109 of this title:

(1) If the written warranty incorporates the Federal standards for warranty set forth in section 104 of this title, then it shall be conspicuously designated as "full (statement of duration)" warranty, guaranty, or word of similar meaning. A warrantor issuing a written warranty in compliance with Federal standards shall also attempt in good faith to cause the disclosure of the duration of the warranty period measured either by time or by some relevant measure of usage such as mileage to the purchaser prior to the time of purchase through advertising, by providing point-of-sale materials, or by other reasonable means.

(2) If the written warranty does not incorporate the Federal standards for warranty set forth in section 104 of this title, then it shall be designated in such manner so as to indicate clearly and conspicuously the limited scope of the coverage afforded.

(b) Written statements or representations such as expressions of general policy concerning customer satisfaction which are not subject to any specific limitations shall not be deemed to be warranties in writing for purposes of sections 102, 103, and 104 of this title but shall remain subject to the provisions of the Federal Trade Commission Act and section 110 of this title.

FEDERAL STANDARDS FOR WARRANTY

SEC. 104. (a) Any supplier warranting in writing a consumer product must undertake at a minimum the following duties in order to be deemed to have incorporated the Federal standards for warranty:

(1) to repair or replace any malfunctioning or defective warranted consumer product;

(2) within a reasonable time; and

(3) without charge.

In fulfilling the above duties the warrantor shall not impose any duty other than notification upon any purchaser as a condition of securing repair or replacement of any malfunctioning or defective consumer product unless the warrantor can demonstrate that such a duty is reasonable. In a determination by a court or the Commission of whether or not any such additional duty or duties are reasonable, the magnitude of the economic burden necessarily imposed upon the warrantor (including costs passed on to the purchaser) shall be weighed against the magnitude of the burdens of inconvenience and expense necessarily imposed upon the purchaser.

(b) The above duties extend from the warrantor to the purchaser.

(c) The performance of the duties enumerated in subsection (a) of this section shall not be required of the warrantor if he can show that damage while in the possession of the purchaser or unreasonable use (including failure to provide reasonable and necessary maintenance) caused any warranted consumer product to malfunction or become defective.

FULL AND LIMITED WARRANTING OF A CONSUMER PRODUCT

SEC. 105. Nothing in this title shall prohibit the selling of a consumer product which has both full and limited warranties if such warranties are clearly and conspicuously differentiated.

SERVICE CONTRACTS

SEC. 106. Nothing in this title shall be construed to prevent a supplier from selling a service contract to the purchaser in addition to or in lieu of a warranty in writing if such contract fully and conspicuously discloses in simple and readily understood language the terms and conditions. The Commission is authorized to determine in accordance with section 109 of this title the manner and form in which the terms and conditions of service contracts shall be clearly and conspicuously disclosed.

DESIGNATION OF REPRESENTATIVES

SEC. 107. Nothing in this title shall be construed to prevent any warrantor from making any reasonable and equitable arrangements for representatives to perform duties under a written warranty: *Provided*, That no such arrangements shall relieve the warrantor of his direct responsibilities to the purchaser or necessarily make the representative a cowarrantor.

LIMITATION ON DISCLAIMER OF IMPLIED WARRANTIES

SEC. 108. (a) There shall be no express disclaimer of implied warranties to a purchaser if any warranty in writing or service contract in writing of a consumer product is made by a supplier to a purchaser.

(b) For purposes of this title, implied warranties may be limited only as to duration and only to the duration of a warranty in writing of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

FEDERAL TRADE COMMISSION

SEC. 109. In addition to the authority given in sections 102 and 106 of this title pertaining to disclosure, the Commission is authorized to establish rules pursuant to section 553, title 5, United States Code, upon a public record after an opportunity for an agency hearing structured so as to proceed as expeditiously as practicable, to determine when a warranty in writing does not have to be designated in accordance with section 103 of this title; to define in detail the disclosure requirements in paragraph (2) of subsection (a) of section 103; and to define in detail the duties set forth in subsection (a) of section 104 of this title and their applicability to warrantors of different categories of consumer products with "full" warranties.

PRIVATE REMEDIES

SEC. 110. (a) Congress hereby declares it to be its policy to encourage suppliers to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms. Such informal dispute settlement procedures should be created by suppliers in cooperation with independent and governmental entities pursuant to guidelines established by the Commission. If a supplier incorporates any such informal dispute settlement procedure in any written warranty or service contract, such dispute procedure shall initially be used by any consumer to resolve any complaint arising under such warranty or service contract. The bona fide operation of any such dispute procedure shall be subject to review by the Commission on its own initiative or upon written complaint filed by any injured party.

(b) Any purchaser damaged by the failure of a supplier to comply with any obligations assumed under a written warranty or service contract in writing subject to this title may bring suit for breach of such warranty or service contract in an appropriate district court of the United States subject to the jurisdictional requirements of section 1331, title 28, United States Code, and any purchaser damaged by the failure of a supplier to comply with any obligations assumed under an express or implied warranty or service contract subject to this title may bring suit in any State or District of Columbia court of competent jurisdiction: *Provided*, That prior to commencing any legal proceeding for breach of warranty or service contract, any purchaser must have afforded the supplier a reasonable opportunity to cure the breach including the utilization of any informal dispute settlement mechanisms established pursuant to subsection (a) of this section. Nothing in this subsection shall be construed to change in any way the jurisdictional prerequisites or venue requirements of any State.

(c) Any purchaser who shall finally prevail in any suit or proceeding for breach of an express or implied warranty or service contract obligation brought under section (b) of this section shall be allowed by the court of competent jurisdiction to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by such purchaser for or in connection with the institution and prosecution of such suit or proceeding unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

GOVERNMENT ENFORCEMENT

SEC. 111. (a) It shall be unlawful and a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) for any person (including any partnership, corporation, or association) subject to the provisions of this title to fail to comply with any requirement imposed on such person by or pursuant to this title or to violate any prohibition contained in this title.

(b)(1) The district courts of the United States shall have jurisdiction to restrain violations of this title in an action by the Attorney General or by the Commission by any of its attorneys designated by it for such purpose. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity: *Provided, however*, That if a complaint is not filed merely the supplier's opinion or commendation of the consumer product or service does not create a warranty.

(2) Only the supplier actually making an affirmation of fact or promise, a description, or providing a sample or model shall be deemed to have created an express warranty under this section and any rights arising thereunder may only be enforced against such supplier and no other supplier.

(d)(1) For the purposes of this section, an "express warranty" is created as follows:

(A) Any affirmation of fact or promise made by a supplier to the purchaser which relates to a consumer product or service and becomes part of the basis of the bargain creates an express warranty that the consumer product or service shall conform to the affirmation or promise.

(B) Any description of a consumer product which is made part of the bargain creates an express warranty that the consumer product shall conform to the description.

(C) Any sample or model which is made part of the basis of the bargain creates an express warranty that the consumer product shall conform to the sample or model.

It is not necessary to the creation of an express warranty that the supplier use formal words such as "warranty" or "guaranty" or that he have a specific intention to make a warranty, but an affirmation merely of the value of the consumer product or service or a statement purporting to be within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2) Civil Investigative Demands.

(i) Whenever the Attorney General has reason to believe that any person under investigation may be in possession, custody, or control of any documentary material, relevant to any violation of this title, he may, prior to the institution of a proceeding under this section cause to be served upon such person, a civil investigative demand requiring such person to produce the documentary material for examination.

(ii) Each such demand shall—

(1) state the nature of the conduct alleged to constitute the violation of this title which is under investigation;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(4) identify the custodian to whom such material shall be furnished.

(iii) No demand shall—

(1) contain any requirement which would be held unreasonable if contained in a subpena duces tecum issued by a court of the United States in a proceeding brought under this section; or

(2) require the production of any documentary evidence, which would be privileged from disclosure if demanded by a subpena duces tecum issued by a court of the United States in any proceeding under this section.

(iv) Any such demand may be served at any place within the territorial jurisdiction of any court of the United States.

(v) Service of any such demand or of any petition filed under subparagraph (vii) of this section may be made upon a person, partnership, corporation, association, or other legal entity by—

(1) delivering a duly executed copy thereof to such person or to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, partnership, corporation, association, or entity;

(2) delivering a duly executed copy thereof to the principal office or place of business of the person, partnership, corporation, association or entity to be served; or

(3) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person, partnership, corporation, association, or entity at its principal office or place of business.

(vi) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail such return shall be accompanied by the return post office receipt of delivery of such demand.

(vii) The provisions of sections 4 and 5 of the Antitrust Civil Process Act (15 U.S.C. 1313, 1314) shall apply to custodians of material produced pursuant to any demand and to judicial proceedings for the enforcement of any such demand made pursuant to this section: *Provided, however*, That documents

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and other information obtained pursuant to any civil investigative demand issued hereunder and in the possession of the Department of Justice may be made available to duly authorized representatives of the Commission for the purpose of investigations and proceedings under this title and under the Federal Trade Commission Act subject to the limitations upon use and disclosure contained in section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313).

SAVING PROVISION

SEC. 112. Nothing contained in this title shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any statute defined therein as an Antitrust Act.

SCOPE

SEC. 113. (a) The provisions of this title and the powers granted hereunder to the Commission and Attorney General shall extend to all sales of consumer products and service contracts affecting interstate commerce.

(b) Labeling, disclosure, or other requirements of a State with respect to written warranties and performance thereunder, inconsistent with those set forth in section 102, 103, or 104 of this title or with rules and regulations of the Commission issued in accordance with the procedures set forth in section 109 of this title shall not be applicable to warranties complying therewith.

(c) Nothing in this title shall be construed to supersede any provision of State law limiting consequential damages for injury to the person.

EFFECTIVE DATE

SEC. 114. (a) Except for the limitations in subsection (b) of this section, this title shall take effect six months after the date of its enactment but shall not apply to consumer products manufactured prior to such effective date.

(b) Those requirements in this title which cannot be reasonably met without the promulgation of rules by the Commission shall take effect six months after the final publication of such rules: *Provided*, That the Commission, for good cause shown, may provide designated classes of suppliers up to an additional six months to bring their written warranties into compliance with rules promulgated pursuant to this title.

(c) The Commission shall promulgate initial rules for initial implementation of this title including guidelines for establishment of informal dispute settlement procedures pursuant to section 110(a) as soon as possible after enactment but in no event later than one year after the date of enactment.

TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS

SEC. 201. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "affecting commerce".

SEC. 202. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (6) thereof the following new paragraph:

"(7) The Commission may initiate civil actions in the district courts of the United States against persons, partnerships, or corporations engaged in any act or practice which is unfair or deceptive to a consumer and is prohibited by subsection (a)(1) of this section with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair and deceptive and is prohibited by subsection (a)(1) of this section, to obtain a civil penalty of not more than $10,000 for each such violation. The Commission may compromise, mitigate, or settle any action for a civil penalty if such settlement is accompanied by a public statement of its reasons and approved by the court.

SEC. 203. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (7) as added by section 202 of this Act the following new paragraph:

"(8) After an order of the Commission to cease and desist from engaging in acts or practices which are unfair or deceptive to consumers and proscribed by section 5(a)(1) of this Act has become final as provided in subsection (g) of this section, the Commission, by any of its attorneys designated by it for such purpose, may institute civil actions in the district courts of the United States to obtain such relief as the court shall find necessary to redress injury to consumers caused by the acts or practices which were the subject of the cease and desist order, including but not limited to, recision or reformation of contracts, the refund of money or return of property, public notification of the violation, and the payment of damages."

SEC. 204. Section 5(l) of the Federal Trade Commission Act (15 U.S.C. 4(l), is amended by striking subsection (l) and inserting in lieu thereof the following new paragraph:

"(l) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States or by the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."

SEC. 205. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or whose business affects commerce".

SEC. 206. Section 6(g) of the Federal Trade Commission Act (15 U.S.C. 46(g)) is amended by striking subsection (g) and inserting in lieu thereof the following:

"(g) From time to time to classify corporations and to make rules and regulations for the purposes of carrying out the provisions of this Act. Such rules and regulations as are specifically provided for hereinafter shall be promulgated in the following manner and shall have the stated substantive force and effect:

"(1) The Commission is authorized to issue procedural rules to carry out the provisions of this Act. Any such rule shall be promulgated in accordance with section 553 of title 5 of the United States Code and without regard to the exemption in subsection (b) thereof for rules of agency procedure or practice.

"(2) The Commission is hereby authorized to issue legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this Act proscribes.

"(i) When issuing legislative rules the Commission shall (a) issue an order of proposed rulemaking stating with particularity the reason for the rule; (b) allow interested persons at least thirty days to comment on the proposed rule in writing or at an agency hearing and make all such comments publicly available; (c) provide the Commission staff and other persons an opportunity to respond within a designated period of time to comments initially received and make such responses publicly available; (d) if on the basis of the record compiled in accordance with subparagraphs (a), (b), and (c) there is a disparity of views concerning material facts upon which the proposed rule is based, provide for an agency hearing in accordance with sections 556 and 557 of title 5 of the United States Code at which the Commission may permit cross-examination (limited as to scope or subject matter) by one or more parties as representatives of all parties having similar interests; (e) promulgate a final rule based on the record compiled in accordance with subparagraphs (b), (c), and, if applicable, subparagraph (d) of this paragraph.

"(ii) Following the final promulgation by the Commission of any legislative rule that rule and a brief in its support based upon the Commission proceedings shall be referred to the House of Representatives and the Senate. If within sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than thirty calendar days to a day certain) from the date of referral the Senate or the House of Representatives by resolution do not disapprove the rule, it shall become effective.

"(iii) Following the final promulgation by the Commission of any legislative rule, any interested person may, at any time prior to the tenth day after the expiration of the period for review as provided in subparagraph (ii) of this paragraph, file a petition for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Chairman of the Commission or the officer designated by him for that purpose. The Commission shall file in the court the record of the proceedings on which the Commission based its rule, as provided in section 2112 of title 28 of the United States Code.

"(iv) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Commission in a hearing or in such other manner, and upon such terms and conditions, as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file any such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original determination, with the return of such additional evidence. Upon the filing of the petition, the court shall have jurisdiction to review the determination of the Commission in accordance with chapter 7 of title 5 of the United States Code, including that provision requiring the rule to be supported by substantial evidence on the basis of the entire record before the court (including any additional evidence adduced).

"(v) Any legislative rule which has become final shall have prospective application only.

"(vi) Nothing in this Act shall be deemed to foreclose judicial review of a legislative rule when the Commission issues a final order based upon such rule.

"(3) Any person seeking judicial review of a rule may obtain such review in the United States Court of Appeals for the District of Columbia Circuit, or any circuit where such person resides or has his principal place of business."

SEC. 207. Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by—

(a) deleting the word "corporation" in the first sentence of the first unnumbered paragraph and inserting in lieu thereof the word "party".

(b) inserting after the word "Commission" in the second sentence of the second unnumbered paragraph the phrase "acting through any of its attorneys designated by it for such purpose":

(c) deleting the fourth unnumbered paragraph and inserting in lieu thereof the following:

"Upon application of the Attorney General of the United States or the Commission, acting through any of its attorneys designated by it for such purpose, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the Commission made in pursuance thereof."

SEC. 208. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by deleting the third unnumbered paragraph and inserting in lieu thereof the following:

"If any corporation required by this Act to file any annual or special report shall fail to do so within the time fixed by the Commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit brought by the United States or by the Commission, acting through any of its attorneys designated by it for such purpose, in the district where the corporation has its principal office or in any district in which it shall do business."

SEC. 209. Section 12 of the Federal Trade Commission Act (15 U.S.C. 52) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or having an effect upon commerce."

SEC. 210. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is engaged in, or is about to engage in, any act or practice which is unfair or deceptive to a consumer, and is prohibited by section 5, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission made thereon has become final within the meaning of section 5, would be to the interest of the public—

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity: *Provided, however*, That if a complaint under section 5 is not filed within such period as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

SEPARABILITY

SEC. 211. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

Amend the title so as to read: "A bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes."

PROGRAM

Mr. MANSFIELD. Mr. President, there will be no debate on this bill today, but is the Senator from Montana correct in asking the Chair if the time has been set for the Senate to convene tomorrow?

The PRESIDING OFFICER. The Senator is correct. The time has been set for 10 a.m.

Mr. MANSFIELD. Fine. After the conclusion of the morning business, debate will start on this measure, to be led off by the distinguished Senator from Washington (Mr. MAGNUSON). I do not know just how far we will get along with this bill tomorrow, but at least we will get started, and if we do not finish the bill tomorrow—we will not meet Saturday—hopefully we will finish it on Monday.

Again, to call this fact to the attention of the Senate, on Tuesday the leadership has requested, and the Senate has granted, its proposal that the Okinawa treaty be laid before the Senate and made the pending business at the conclusion of the morning business. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. We hope to make some other requests as time goes on, but emphasize the fact that, as far as the joint leadership is concerned, we are making a very serious effort to try to finish the work of the Senate and to adjourn sine die around December 1 at the latest. Whether or not we will succeed will not depend upon the joint leadership, but will depend on the Senate collectively and Senators individually.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES AND NATO: TROOP REDUCTION—XII

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD set No. XII of the commentaries, columns, articles, and editorials relative to the U.S. troop position in Europe in relation to NATO.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMENTARY OF JOSEPH MCCAFFREY

Writing from Bonn in the Baltimore Sun, Joseph Sterne says that the one name that causes tempers to rise in West Germany is "Mansfield." The tempers go up twice as high if the full name is used, Mike Mansfield.

Because the Germans feel that in wanting to cut back United States troop strength in Europe, the Senate Majority Leader is aiming at them.

Here is a nation, defeated in war twenty-six years ago which still thinks it should be spoon fed by its conquerors. The money that the United States poured into Europe to aid in its post-World War II recovery is at the root of the present imbalance of payments, and the retention of our troops in Europe, 26 years after the war is over, also contributes to that imbalance.

But the Germans are irked.

Then, they have a right to be, because they are looking at the troops issue from a purely selfish viewpoint.

If we would only look at it from our own selfish viewpoint we'd have done long ago what Senator Mansfield seeks to do. We would have ended this hangover of the cold war, and saved ourselves a great deal of money.

Not only that, but although the Germans resent that fact that Mansfield and others in this country want to bring the troops home, the troops themselves aren't treated with any great courtesy by the West Germans—in many cases they are viewed with disdain. The troops themselves are being victimized by dope, by racial friction and other headaches which can only be resolved by getting them out of Europe. It is too bad Bonn resents the Mansfield move, but it is inevitable, and it is in our best interests. Americans should, after all, determine their own foreign policy.

[From the Philadelphia Inquirer, Oct. 14, 1971]

NATO ALLIES DIFFER—EXCEPT ON U.S. FORCE

(By Charles Bartlett)

WASHINGTON.—Despite the smell of detente in the air, faint optimism attends the coming explorations to learn if there is a practical way to cut back, on a mutual basis, the level of military forces in Europe.

The massive deployments of NATO and the Warsaw Pact have been balanced against each other, like huge boulders, for so long that all the inertia of habit and the status quo works against efforts to pry them apart and chisel them down to a more comfortable size.

NATO has learned its own divergences from its attempts to instruct Manlio Brosio, the Italian diplomat commissioned to explore Communist attitudes on mutual troop reduction. The consensus is so splintered and Brosio's instructions are so generalised that there is little substance in the negotiating package which he will carry to the Communist capitals.

Each ally looks at the problem in a different light. The Nixon Administration needs the MBFR (Mutual Balanced Force Reductions) negotiations to meet the pressures at home to decrease the 310,000 American troops committed to Europe.

It seems important in Washington to hold these negotiations ahead of a European security conference which might be a Pandora's box, deepening the detente in illusive ways and softening the Allies' will to hold together.

But the Europeans want the reassurance of a deeper detente before they sanction mass departures by the troops which are their hostage against Washington's pledge to react to Soviet aggression. The Italians, for example, are ready to negotiate but not for reductions in their sector of the defense line.

The reluctance of the British and Germans

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is exceeded by the French who appear, in an ironic twist of policy, most adamant of all against steps which may take American soldiers out of Europe. Their attitude belies their uncooperative past. Even now they refuse to discuss claims from some $800 millions to cover the costs of evacuating NATO from French soil.

But French adamance flows logically from French aims. They want maximum defense at minimum cost. They like American soldiers in Germany as a bumper against the West Germany Army.

Brosio may find the Communists more unified. Certainly the Soviets are pressed to bring home manpower to perform city-building chores that are urgent. They require stability on their Western Front to deal with an uncertain future on the Chinese border. They desperately need to enlarge their access to trade, credits, and licenses from the West Their satellites will not obstruct the withdrawal of Russian divisions.

There is a rough balance in the opposing military deployments in Europe. But time is working for the Communists. They can wait for Western unity to erode under balance of payments antagonisms, the reluctance by Europeans to sacrifice more heavily for defense, and the impatience of Americans with their share of the burden.

But even if Brosio finds that the Soviets would rather talk than wait, the road to mutual reductions will be lengthy.

Sen. Mike Mansfield may be accurate in his gloomy prediction that it can take a lifetime to negotiate any sizable withdrawal of American troops. He at least does not intend to be diverted from leading the Congressional push for a unilateral American cutback.

The negotiations will temporarily help the President to resist these pressures. But he may soon need a tangible answer to the dilemma posed by Allies not frightened enough to take up the slack or secure enough to ignore the defense of Europe.

[From the Los Angeles Times, Oct. 11, 1971]

TIPTOEING TOWARD A CONFERENCE

The Atlantic allies, still more or less in step, have now cleared the way for negotiations with the Soviet Union on the mutual and balanced reduction of forces in Europe. Nothing could be more important in sustaining the momentum toward a more secure Europe. But few things are more vulnerable to political pressures, notably the dove-hawk conflicts of both Moscow and Washington.

Manlio Brosio, who learned his way around the Soviet capital while Italian ambassador there in the Stalin era, is going to Moscow to see if the Russians are serious. He is well qualified for the job. For seven years he was secretary-general of NATO. Before that, he was Italy's ambassador to Washington and knows something of the curious currents that operate there.

His mission is part of a carefully articulated strategy that the Atlantic allies have been following. The unanimity of NATO in sending Brosio on his mission, however, conceals some differences of view not only about the timetable for troop reduction talks, but also the whole question of the desirability of more detente action now, while the Europeans are awaiting Britain's final step into the Common Market and trying to catch a deep breath after the shock of President Nixon's monetary and trade actions of August.

The Soviet Union might have been having some second thoughts which could upset the timetable anyway. Soviet Foreign Minister Andrei Gromyko caused a stir in New York by telling Western foreign ministers that he sees a link between final agreement on the Big Four Berlin accord and West German ratification of new friendship treaties with Poland and the Soviet Union. Gromyko must know that the West German government would be hard pressed to win Bundestag approval of the friendship pacts without prior agreement on Berlin. Any delay on consummating the Berlin agreement also would delay something Moscow wants very much, a European Security Conference. NATO has made the Berlin agreement a prerequisite for a conference. The delay also could affect troop-cut talks.

Uncertainty about Soviet intentions makes all the more important Brosio's Moscow trip.

[From the Baltimore Sun, Oct. 10, 1971]

NATO EXPLORER

The North Atlantic Treaty Organization is sending its former secretary general, Manlio Brosio, to Moscow to explore the possibilities of troop reductions in Central Europe by the NATO and Warsaw Pact countries. Even in its exploratory state, this is a step toward the mutual force reductions which both sides have been talking about for some time. Mr. Brosio's assignment is to try to find out whether there is a real basis for East-West negotiations—in short, to discuss the position of the Soviet Union and its Warsaw Pact affiliates in relation to that of the NATO members—and to report back in time for the annual meeting of NATO foreign and defense ministers in December.

Fourteen of the NATO members approved the mission. The 15th, France, takes exception to bloc to bloc negotiations of this kind as an infringement on its sovereignty. As Scott Sullivan reports in a dispatch from Brussels, the Scandinavian NATO powers are uneasy about possible reductions in the northern wing of NATO and Italy, Greece and Turkey want no reductions in the Mediterranean wing, but there was an agreement that Central Europe could be dealt with first. A difference of opinion exists as to a conference on European security as especially urged by the Warsaw Pact countries and a conference on mutual force reductions as between the NATO and Warsaw Pact members, or whether the two should be merged. The United States would like to keep them separate, but Britain and France prefer that the two sets of negotiations be conducted at the same time.

In any case, the exploration in Moscow of mutual troop reductions is a piece in the changing pattern of East-West relations, a pattern of East-West relations, a pattern which includes the SALT talks between the United States and the Soviet Union, the Berlin agreement of the four powers and the continuing talks on Berlin between East and West Germany and the developing relations between East and West Germany and also between West Germany and the Soviet Union.

The importance of these stirrings as to world peace and defense costs is evident. The possible benefits are so great that serious, persistent efforts to bring them about are indicated. This is not a soft-headed enterprise, and it cannot be based on wishful thinking. There is a solid ground of mutual interest in all this. The task is to locate it and define it precisely.

[From the Baltimore Sun, Oct. 10, 1971]

NATO BITES AT THE SOVIET BITE AT THE NATO SUGGESTION

(By Scott Sullivan)

BRUSSELS.—"I have read in the press that we are going to Moscow like a virgin going to be violated," Joseph Luns, the jocular, new secretary of the North Atlantic Treaty Organization told newsmen here Wednesday night. Then he beamed his well-known beam and added: "I assure you, gentlemen, we do not see it that way."

Mr. Luns was talking about the NATO decision to send Manlio Brosio, his recently retired predecessor, on an exploratory mission to determine the Soviet Union's real interest in talking about "mutual and balanced" force reductions in central Europe.

Indeed, the new secretary general went farther. He said every one of the 14 nations participating in the endeavor (all NATO members except France were "positive," even "enthusiastic" about it.

The secretary general, who was meeting the press for the first time in his present job, is widely liked by newsmen and no one pressed the point. But few of those who have watched the force-reduction process develop had much faith in the "enthusiasm" Mr. Luns described.

In a sense, it hardly matters, for force reductions are a NATO-originated proposal and the alliance now finds itself stuck with its good intentions of three years ago. It would hardly be "becoming," as a British source here said recently, to step back from the initiative which first appeared in the final communique issued by NATO foreign ministers at Reykjavik, Iceland, in June, 1968, and repeated in every communique since—simply because the "other side" shows signs of taking it seriously.

For a long time, it looked as if the Russians and their Warsaw Pact allies would let the suggestion lie limply on the tables destined for oblivion. Then, however, as the detente tide swelled, as progress was made toward a Berlin settlement, as German Chancellor Willy Brandt vigorously pushed his Eastern policy and the strategic-arms limitation talks showed promise, the force-reduction proposal took on new plausibility.

TAKEN BY SURPRISE

Still, Leonid Brezhnev, the Soviet Communist party secretary, took most of the West by surprise when, at a speech in Tiflis, Russia, May 14, he invited the West to "taste the wine" of Russian intentions on force reductions. Significantly, Mr. Brezhnev did not use the key word "balance." Even so, the invitation was clear, and the West could not "becomingly" ignore it.

At their Lisbon meeting in June, the NATO foreign ministers pledged to seek out Soviet and Warsaw Pact contacts over the summer in an attempt to determine whether Mr. Brezhnev meant business. In Lisbon, a high United States source pointed out to newsmen that the job of probing Soviet intentions was always a hard one, but that "when the Russians want to go ahead, they do stop the monkey business and the propaganda and get down to cases."

The deputy foreign ministers who met here last week had before them results of the many bilateral conversations held with the Soviets and their allies this summer. Based on those conversations, they decided Mr. Brosio would be received in Moscow and would have something to talk about.

NATO, always excepting France, has approved the project, but that does not imply that it suits all members to the same degree or any member entirely.

Objections to the whole force-reduction idea come from the Portuguese, Turks and Greeks, always the most vocal conservatives in NATO councils. Each of those countries has an unusually large standing army and an unusually heavy interest in keeping it large. Each has objected to any force-reduction plan which would involve a significant decrease in its individual forces. Italy has a similar position and so, oddly enough, does Norway—usually among the most liberal NATO states. The Italians say they will oppose any force-reduction plan which imperils NATO security in the Mediterranean, while the Norwegians emphasize the need to maintain the alliance's "northern wing."

Bowing to such objections, the 14-nation group has decided that initial conversations, if they occur, should concentrate on central Europe. That geographical concept remains, however, undefined. Clearly, it includes Germany, East and West, but does it also include Belgium and the Netherlands? Time, presumably, will tell.

No nation, of course, is wild about the idea of having its force levels reduced in the interest of someone else's detente. A French official, explaining why his country would remain aloof, said: "We don't want to have an Italian in Moscow bargaining for reduction of French troops in Germany." While no other nation's objections are quite that strong, the feeling is general.

Thus Mr. Brosio's "mandate" includes the suggestion that talks begin with "stationed" or foreign troops, while the problem of "indigenous" or local troops be left till later.

Thus, too, foreseeable discussions will center on the 300,000 American troops committed to NATO and the estimated 1,500,000 Russian troops deployed in Eastern Europe.

FIGURES TELL A TALE

Those figures, in themselves, tell a tale. They explain a number of the problems which the alliance generally, and the United States in particular, foresee if force reductions ever develop. For it is the overwhelming number of Soviet troops on the Continent which NATO regards as the greatest threat to its security, while the Russians, for equally good and obvious reasons, wish to see significant reductions in the sizable NATO forces.

From the beginning, NATO has insisted that force reductions, if they ever come, should be "balanced" as well as mutual.

While the balance concept has never been precisely defined, it centers on the idea that withdrawing one American soldier across the Atlantic is of more consequence than withdrawing one Russian soldier a few hundred miles across an artificial border. NATO theorists, as well as Pentagon experts, have worked out hundreds of formulas for achieving balance (two Russians for one American would be a crude, but conceivable, formula) and they are all under consideration at NATO. There is no indication, however, that the Russians or their allies would accept anything other than a "symmetrical" (one-for-one) stand-down.

A similar problem would arise if the Communist nations insisted on including tactical nuclear weapons under the heading "forces," as they hinted they would do last spring. It is NATO policy that all nuclear weapons should be considered in the SALT talk framework, but Russian pressure could conceivably bring a shift even in that view.

American thinking on the force-reduction proposals is heavily affected by concern with how it might fit into the whole range of discussions between the power blocs—not only SALT, but more urgently the projected European security conference.

The Warsaw Pact has been pushing the conference just about as hard and just about as long as NATO has been proposing force reductions. Now, under the detente impulse it is beginning to look as if both ideas may become a reality and pressure is building both inside and outside the alliance to handle the issues together.

The U.S. opposes such a link—though, again, its position is showing more flexibility. For American officials have always regarded the Communist-backed security conference as a device for the Communists to consolidate gains which they made in Eastern Europe at the close of World War II. American strategy has been not to oppose the conference openly, but to treat it with polite condescension in hopes that it would simply wither from neglect.

That strategy worked well for two years. Now it seems inadequate. NATO itself is on record as willing to proceed to such a conference as soon as a Berlin settlement is reached, an eventuality that is probably only a few months away.

Now the U.S. argument is that force reductions is much farther along than the security conference and should be dealt with on its own.

Both France and Britain feel otherwise. The French are especially interested in promoting the security conference and they might even be persuaded to get into eventual force-reduction discussions if they were conducted by a "permanent subcommittee of the security conference." Once again, American officials are playing it low key in Brussels, suggesting that the allies wait to see what Mr. Brosio brings back, in hopes that preparations for force-reduction talks will simply outstrip those for the security conference.

MANSFIELD IS THE REASON

For the American administration has one compelling reason for wanting force-reduction talks, if they come at all, to come quickly. The name of that reason is Senator Mike Manafield (D., Mont.), the Senate majority leader.

It is the obvious administration hope that steps toward force reductions may take the steam out of Mr. Manafield's campaign to reduce U.S. forces in Europe without compensation. (Indeed, some officials confess to amazement at the Brezhnev initiative last spring: "Why should they trade away their own troops when we will be getting out anyway?") The Manafield pressure is also one reason why the U.S. and its allies may quietly drop or de-emphasize the "balance" idea in force reductions in an attempt to get some sort of quid pro quo out of the Russians.

Meanwhile, NATO has about seven weeks to wait to hear what the prospects are for force reductions—the proposal which, to its astonishment and mild dismay, was finally taken seriously.

[From the Washington News, Oct. 11, 1971]

SIGNOR BROSIO GOES EAST

The world "explorer" used to bring visions of a fearless chap in some jungle wearing a pith helmet and Bermuda shorts. Times change. The most important explorer at large today is an elderly Italian diplomat with a homburg and a briefcase.

He is Manlio Brosio, who has just retired after seven years as secretary general of NATO. Instead of letting him relax in a sunny cafe in Rome, his heartless colleagues in the alliance have named him their explorer in Communist Eastern Europe.

Mr. Brosio's task is to probe the Soviet Union and the other Warsaw Pact powers to learn if they are serious about a conference with the West on mutual reduction of troops in Europe. NATO proposed such talks three years ago and the Kremlin has shown on-and-off interest, mostly off.

The Nixon administration is NATO's prime mover for a troop-cut conference. It is in an undeclared race—to reach an agreement with the Russians before Senate Democratic leader Mike Mansfield forces a one-sided reduction of the 310,000 U.S. troops assigned to NATO with one of his perennial resolutions.

The administration again has promised the allies not to trim American units in Europe "unless there is reciprocal action by the other side." Nevertheless, NATO members detect antimilitary and isolationist moods in the United States and are frankly worried. With good reason, we think.

Britain, West Germany and some other NATO countries fear that allied troop cuts would upset the balance of power in Europe. They point out that NATO has reduced its forces in recent years while the Warsaw Pact has built up strength. Even mutual reductions, these countries say, would leave the West inferior in troops, tanks and aircraft.

Mr. Brosio may find the most desire for a conference in Poland, Czechoslovakia and Hungary. Altho Communist ruled, these countries do not really fear an attack by NATO and would welcome an agreement requiring some Soviet army units to quit their territories and go home.

On the other hand, Russia could be the cockier for the Communist powers toward troop talks. Why should the Soviet Union, NATO diplomats ask, pay a price to get American forces out of Europe when by waiting it may get that benefit free?

Despite such nagging questions and doubts about Moscow's ultimate intentions, we think one thing is clear: Central Europe will be a safer place if troops are thinned out than if large Soviet and American armies continue to confront each other there. And so, what we wish Mr. Brosio on his detour from well-deserved retirement is success and good exploring.

[From the Washington Star, Oct. 11, 1971]

THE BROSIO MISSION

Back in May, Leonid Brezhnev issued an invitation—challenge might be a more accurate word—to NATO. Let's get together, he said, and talk over the possibility of cutting back on the size of the forces that now face each other in Eastern Europe. Now, after nearly five months of frenetic intramural discussion, NATO has come back with a tentative acceptance.

The West's caution and concern are fully justified. In any discussion between NATO and the Warsaw pact countries on mutual troop reductions, the cards are heavily stacked in favor of the East.

The Communist advantage lies in the fact that the Warsaw nations speak with one voice—Moscow's—while NATO's bargaining position must be determined by the consensus of 15 partners, each of whom views the world in a unique and independent perspective.

There should be no illusions at all as Manlio Brosio, the former NATO secretary general, starts his mission to Moscow. His is an exploratory mission, aimed at finding out what substantive areas the Soviets are willing to discuss in time to report back to the NATO foreign ministers before their scheduled December meeting.

It must be clearly understood by every NATO member that Moscow can, if it so chooses, use troop reduction negotiations as a divisive weapon. The Soviets can, quite easily, exploit the ill-concealed differences of opinion that exist between the NATO partners as to the proper location, timing and extent of the initial troop reductions.

But the fact that the negotiations will be difficult and that the odds are somewhat weighted in Moscow's favor cannot be taken as cause for turning down the Soviet invitation. Brosio should go on his exploratory mission. Given any encouragement, NATO should agree to substantive negotiations.

The built-in advantage that Moscow holds will not disappear with time. It is a challenge that will have to be met and overcome if the armed confrontation in Europe is ever to be ended. Negotiations can be dangerous. But there is no doubt at all about the dangers of opposing armies facing one another across the ideological curtain that divides East from West.

[From the Missoulian, Oct. 7, 1971]

FOREIGN SERVICE OFFICER VIEWS U.S. ROLE IN EUROPE

(By Sharon Barrett)

Reducing the number of U.S. troops stationed in Europe "would pull the rug out from under our efforts to negotiate with the Russians," said Halvor O. Ekern, senior Foreign Service officer of the American Embassy in Bonn, Germany.

Ekern, political adviser to the commander-in-chief of United States Army Europe, told the Missoulian he strongly disagrees with Sen. Mike Mansfield's call for troop reductions in Europe.

"I have deep regard for Sen. Mansfield," said Ekern, "but our clout at the negotiating

table is directly related to the number of soldiers we have in Europe."

Recalling President Nixon's desire to go from "an era of confrontation to an era of negotiation," Ekern cited the recent Berlin agreement as a first step toward achieving that goal in Europe.

"I can tell you that was a tough one to negotiate," he said. "But it should defuse the whole Berlin business."

"Of course, it's just a piece of paper," he cautioned.

A second step will be mutual and balanced force reductions. "We'll get together with the Russians and thin forces on each side of the Iron Curtain," Ekern said.

A third step, favored by Warsaw Pact countries, will be a conference on European security. "NATO nations have agreed to this, provided Berlin is settled," Ekern said.

Subscribing to a "speak-softly-but-carry-a-big-stick" policy, Ekern is convinced that any troop reductions would damage these steps. "If we take our troops away prematurely, then there will be nothing to negotiate," he said.

"European governments, including the French, want us to stay there," said Ekern. "You see, we have the nuclear weapons, and if we went home, we'd take the nuclear weapons with us."

Ekern said the U.S. was against France's development of its own nuclear defense system "because we did not want a proliferation of nuclear weapons."

"We also didn't want to get dragged into a nuclear war by someone else," he said. "In the past, the president of the United States was the only person in the West who had control over 'the button.' Now we have someone not under the president's control."

However, since the French are near nuclear capability, Ekern believes their possession of nuclear weapons may be a good thing. "Since it's a fact, we can rationalize it for the best. It might have the effect of increasing the deterrent."

It will make Russian uncertain not only of how the U.S. might react to provocation, but how another country with independent policies might behave, said Ekern. "It will give the Russians two countries to second guess."

Although the French several years ago withdraw from the military structure of NATO, "they still plan quietly with us in the military sphere and maintain two divisions in Germany and three across the border", Ekern said.

The only real difference, said Ekern, is the French now have the proviso that the decision to go to war rests with their government and not NATO.

Questioned about Germany's participation in armament development, Ekern countered with, "Would you want Germany to have nuclear weapons?"

"Neither the Allies nor the Warsaw Pact countries want the German army to get bigger," said Ekern. "They all remember too well the Germany of the past."

"I'm convinced," he continued, "the Russians would be scared to death of German nuclear power, and their fright could have serious repercussions."

All this, said Ekern, leads to the conclusion that "there's no one to take our place if we pull our troops out of Europe."

The U.S. maintains four and one-third divisions in Germany and is prepared to equip two and two-thirds more within 60 days for a total of seven divisions in Europe. "Considering the cost of supplies, small ammunition and housing it runs about $2 billion a year to keep the Army in Germany," said Ekern, "and another billion to maintain the Navy and Air Force."

These figures do not, however, include the cost of heavy equipment such as tanks. In addition, Ekern noted the current money crisis and German inflation have increased the financial burden. All these things add to the drain on U.S. balance of payments.

Nevertheless, Ekern believes it is a necessary expense. "It's simply our burden. We're there to defend the United States, not just Germany, and it's easier to do that there than alone on the Atlantic seaboard."

Because Germany furnishes barracks and training fields free of charge, bringing American troops home would increase the cost, not lower it, said Ekern.

If the troops were brought home and disbanded "the cost would lessen, of course, but then we'd be a second rate power," Ekern said.

Some people think we carry this burden alone, said Ekern. "Our allies in NATO spend $24 billion a year, so they aren't freeloading.

"In 25 years it's conceivable to have a European force with adequate nuclear power which could stand alone. Then we could go home."

As for the possibility of an all volunteer army, Ekern doubts the success of such a venture. "It would also affect our troop size in Europe," he added.

Commenting on the Vietnam war, Ekern noted that it is not popular in Europe, "but we've had a gentleman's agreement with the last three German governments that they be polite and not mention the subject."

Ekern sees the Asian war as a "good training ground for professional soldiers."

"The Russian don't have this going for them; they have only old World War II combat men who are rapidly dying off. Vietnam has made ours a better Army," he said.

He noted also that the recent thaw between Washington and Peking has had no noticeable effect in Europe on the military posture of the Russians. "It (US-China relations) could make them tougher; it could make them more conciliatory. Nobody knows."

Concerning German reunification, Ekern said, "It seems to be more distant than ever. The fact of two Germanys is pretty well accepted by most of the world."

As for the divided city of Berlin, Ekern believes it will survive. "The Berliners are a tough bunch. They're trying to make the city a convention site. I don't think it will go down the drain."

Ekern described his own job as that of a generalist. Junior and middle grade officers are concerned with special areas, such as politics, economics, administration, consulates. Senior officers, such as Ekern, are expected to be versed in many areas. From their ranks come ambassadors.

On the possibility of becoming an ambassador, Ekern noted that "few are chosen, but one can always hope."

A native of Thompson Falls and a UM graduate, Ekern left Montana in 1941. "We all marched off in the Army, and I really never came back," he said. He left the Army in 1947, bearing the rank of colonel, and in 1950, joined the Foreign Service.

Ekern considers his military experience valuable to his present work. "One of the number one tasks is to eliminate the friction between diplomatic missions and military establishments," he said.

"It's easy for generals to speak of the striped pants nincompoops in embassies, and for ambassadors to accuse the Army of knowing nothing."

Ekern, who has lived abroad for nearly 20 years, believes the U.S. has thrown off the Ugly American image. "We've sort of realized that we're not going to police the world and create other countries in our image."

LAIRD SCOLDS NATO NATIONS FOR NOT BUILDING DEFENSES

(By Michael Getler)

Secretary of Defense Melvin R. Laird yesterday chided some NATO countries for using the prospect of mutual East-West troop reduction talks in Europe "as an excuse" for not carrying out improvements they pledged to make in their own armed forces.

Laird, who leaves Sunday for a two-day NATO meeting in Brussels, declined to identify the countries of which he was speaking, but other Pentagon officials said the situation prevails in virtually all the member nations.

The defense chief, appearing at an impromptu Pentagon press conference, claimed that the failure of individual NATO allies to live up to their promises to improve their own defenses could weaken—perhaps more than any other factor—the allied negotiating position at the Mutual Balanced Force Reduction talks, which are expected to start sometime next year.

Laird seemed particularly concerned about bolstering defenses in those countries on NATO's northern and southern flanks, where Soviet air and naval strength is increasing. These areas could also become more important under any mutual troop withdrawals, since most of the pullback, would take place in central Europe.

Laird said the U.S. defense posture in Europe, which had deteriorated, in recent years as men and equipment were siphoned off for Vietnam, has now been built up to the point where U.S. ground forces have 99.2 per cent of their authorized manpower, the highest level in five years.

Laird said the United States is also improving its air and naval strength in the area. The Navy has added a helicopter carrier to the Sixth Fleet and the Air Force and Navy are known to be adding new types of electronic warfare equipment to their planes.

The defense chief also disclosed that he will be leaving for Europe a day early to meet in Brussels with William J. Porter, the new U.S. ambassador to the Paris peace talks on Vietnam.

Laird's volunteering of this information, plus his explanation that he wanted to discuss with Porter the issue of American prisoners of war and men missing in action, prompted reporters to press Laird several times on whether some new progress was being made on prisoner release.

Laird ducked any direct answer, stressing that the U.S. was "pursuing all private and public avenues" to try and win release of the men, but that he did "not want to raise any false hopes" among the families of the men missing or captured. He said that some of the means for pursuing this issue are "just better not to discuss" publicly.

Laird is scheduled to return from Brussels after the NATO Nuclear Planning Group meeting next Friday, and he leaves for a trip to Vietnam Nov. 3.

At the NATO meeting, Laird says that he and West German Defense Minister Helmut Schmidt will present a joint paper dealing with the question of tactical nuclear weapons in Europe.

Laird stressed, however, that it would be "misleading" to infer from this that there will be any reduction in the U.S. nuclear stockpile in Europe "at this time."

Informed government officials say that there is, in fact, no plan to reduce the stockpile of about 7,000 tactical nuclear warheads stored in Europe.

[From the New York Times, Oct. 28, 1971]

CUT IN U.S. TROOPS EXPECTED IN NATO—DELEGATES TO BRUSSELS TALKS DISCUSS OTHER DEFENSE

(By Lawrence Fellows)

BRUSSELS.—The United States allies in Europe seem reconciled to an eventual substantial reduction in the size of the American military force in Europe, judging from private discussions here among defense ministers and nuclear planning experts of seven NATO countries.

The United States now has 310,000 men in Europe and the Mediterranean, a near-complete fulfillment of its commitment to the North Atlantic Treaty Organization.

At a closed meeting of the NATO nuclear planning group yesterday and today, Defense Secretary Melvin R. Laird spoke of a need for the allies all to meet their troop commitments fully, especially in the light of negotiations toward controlling strategic weapons, reducing troop levels and the like.

The Secretary repeated President Nixon's pledge not to reduce the size of the American force in Europe in his present term of office.

MANSFIELD MOVE RECALLED

Mr. Laird recalled for his NATO colleagues Senator Mike Mansfield's unsuccessful Senate attempt to reduce the number of American troops in Europe. Congress appears now to be fairly solidly behind the programs of the American military establishment, the Secretary said.

Yet he and the defense chiefs of Britain, West Germany, Belgium, Italy, Denmark and Greece discussed an alternative to a heavy concentration of troops and conventional weapons on the ground; several new plans for the use of tactical nuclear weapons.

Mr. Laird and Defense Minister Helmut Schmidt of West Germany presented a joint report today discussing circumstances in which nuclear weapons might be used tactically to defend a NATO country.

One delegate, who did not want to be identified, said that the general expectation of a diminished American presence had made some of the delegates feel like men trying to stay astride two horses: one galloping toward detente with the Soviet bloc, and the other holding to the familiar position of bolstering defenses.

EVOLUTION SINCE 1949

The same delegate noted how different things were in 1949 when NATO was founded: non-Communist regimes were being toppled with the Russians making almost no effort to conceal involvement or frequent interference by their troops.

A generation has grown up that does not remember those circumstances, he said. Some NATO governments are consequently feeling pressure from their young people, he said, and are worried about lack of support by the young.

Defense Minister Schmidt, known to worry about potential pressures for neutralism in West Germany, proposed to Mr. Laird today that Bonn contribute a large amount to the upkeep of American barracks in Germany. The run-down condition of barracks of some American units has contributed to sagging morale in the Seventh Army.

Mr. Laird welcomed the idea, although the two men did not go into detail about how big the contribution would be, nor how it would fit into the program of payments the West Germans normally make toward the cost of keeping American troops there.

[From the Sun, Nov. 3, 1971]

MONETARY, FOREIGN POLICY DOUBTS DELAY BONN-U.S. TALKS

(By Joseph R. L. Sterne)

BONN.—Negotiations for a new West German-American agreement to offset costs in keeping 200,000 U.S. servicemen in Germany, already four months overdue, are threatened by new delays.

The primary cause for the lengthening negotiation timetable is a Bonn offer to spend about $120 million a year to rehabilitate the dilapidated Hitler-era barracks now occupied by American soldiers.

Although Melvin R. Laird, Secretary of Defense, and Robert G. Froehlke, Secretary of the Army, have welcomed the German proposal, it has had a skeptical reception in some other U.S. circles.

"Far too low," was the response of one American informant.

"To say the Americans thought it was a 'tough' offer is to put it midly," a West German source remarked.

West Germany's latest offset package—unanimously approved last Friday by the Cabinet—goes beyond the novel approach of having Bonn spend cash to improve the old barracks that lower 7th Army morale.

It also includes a modification (and probably a lowering) of previous German offers to buy American-made military equipment and provide loans at low, concessionary rates of interest.

Because of the across-the-board changes involved, some officials tend to believe there still is a long way to go before agreement is reached with Washington. Others are more hopeful.

For more than a decade, West Germany has been purchasing U.S. equipment—especially jet aircraft—and granting loans to ease the balance-of-payments costs to the U.S. Treasury caused by the maintenance of 200,000 troops and tens of thousands of dependents in Germany.

The last two-year offset agreement, totaling $1,520,000,000, expired June 30. Negotiating teams from both governments met in Bonn just before this deadline and agreed to reconvene "shortly" in Washington for what was then described as a final bargaining session.

But against a background of world monetary crisis and high-level reviews, there were repeated postponements—the latest overtaking an official Bonn anouncement of an October session that never took place.

According to reliable informants, the west German defense minister, Helmut Schmidt, has played a role in this process that has policy implications far beyond the money haggling characteristic of cost-offset negotiations.

At a Cabinet session in early October, he reportedly expressed growing doubts about the durability of the American commitment to Europe and urged his government to take a hard line in bargaining with the Americans.

A short time later, Mr. Schmidt suggested in Berlin that perhaps the whole offset problem should be delayed until the monetary situation is resolved—an idea that was later disputed by Bonn government spokesmen.

With Walter Scheel, the foreign minister, reportedly cautioning against an approach that would damage the Bonn-Washington relationship, the Cabinet finally reached a compromise decision that is drawing mixed reactions.

GENEROUS OFFER

In the Bonn view, the offer to spend $120 million per year on barracks rehabilitation is a generous one that will make living conditions better for American soldiers and relieve the U.S. Treasury of dollar cash outlays that would worsen the U.S. payments deficit.

The new approach not only would avoid the "mercenary" taint that might have been attached to a direct government-to-government transfer of funds, according to German sources, but would sidestep problems stemming from currently floating exchange rates.

In addition, it would enable the Bonn government to invest sizable funds in construction work in areas of Germany—Bavaria and Baden-Wuerttemberg especially—where labor demand is slackening.

From the Pentagon's viewpoint, as the Laird-Froehlke statements indicated, any contribution would be welcome to improve the ancient plumbing, cracked plaster, poor lighting and makeshift sleeping arrangements of U.S. barracks.

But Treasury and State Department officials are expected to cast wary eyes on a German package that has the aspects of a preliminary offer despite the fact that negotiations have been going on since early in the year.

During the weekend after last Friday's Cabinet decision, both Mr. Schmidt and Mr. Scheel made statements that apparently reflected contrasting approaches toward the U.S.

Mr. Schmidt told a meeting in Kiel that it was difficult for a Cabinet minister to indicate the dangers to Germany of Washington's change of role in world politics.

WARNS OF ELECTION

According to a Frankfurter *Allgemeine Zietung* report Mr. Schmidt said the readiness for disengagement from world politics is growing in the United States. While he had doubts about the Nixon administration's assurances that it wants to continue its role in Europe, Mr. Schmidt noted there will be American elections next year at a time when not just single senators but many senators favor a reduction of the American presence in Europe.

Mr. Scheel told the London *Times* in a weekend interview that Western Europeans must be sensitive to the concerns of the United States over the expansion of the Common Market.

"There might otherwise be a real danger," he warned, "that the United States might deny this emergent Europe the measure of support and commitment which it needs to continue its efforts for unification and to mainain security."

Mr. Scheel specifically mentioned U.S. concerns over "the division of the burdens of defense" among NATO countries.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there now be a resumption of the period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1971—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, the distinguished majority leader has asked me to propound a unanimous-consent request—it having been cleared with the distinguished Senator from Louisiana (Mr. LONG), the chairman of

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the Committee on Finance, and the distinguished assistant Republican leader—that the Senate, on next Wednesday at the conclusion of routine morning business, proceed to the consideration of H.R. 10947, the Revenue Act of 1971.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, and I shall not object, I have discussed this matter with the majority leader and the majority whip, and I am pleased that the acting minority leader is present at this time, as I believe it should be made clear that we are hopeful and we believe that we can report that measure on Tuesday. It may be that the burden of this work may make it impossible for us to do that responsibly, as we would like to do, and we may have to ask for modification of the unanimous-consent agreement at a later time. But if we can, we will meet that deadline.

The PRESIDING OFFICER. There being no objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I thank the distinguished Senator from Louisiana. I know that when he says he is going to do everything he possibly can, he will do just that. Of course, if it becomes impossible, we will face up to that fact when the time comes, but we hope that the bill will be ready for Senate floor action the first thing next Wednesday.

Mr. LONG. We think we can, as of now.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. BYRD of West Virginia. I yield.

Mr. LONG. Do I understand the Senator's request to contemplate the fact that we would have until midnight Tuesday to file that report? We might need that much time.

Mr. BYRD of West Virginia. Mr. President, I will put that in the form of a unanimous-consent request: That the Committee on Finance have until midnight next Tuesday to file a report on H.R. 10947.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of routine morning business, the Chair lay before the Senate the unfinished business, S. 986.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I assume and hope this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL MONDAY NOVEMBER 8, 1971, AT 11 A.M.

Mr. BYRD of West Virginia. Mr. President, with the understanding that the order can be changed later, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 11 o'clock on Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 10 a.m.

After the two leaders have been recognized, the distinguished senior Senator from Virginia (Mr. BYRD) will be recognized for not to exceed 15 minutes, following which there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will resume its consideration of the unfinished business, S. 986, a bill to provide minimum disclosure standards for written consumer product warranties against defect or malfunction, et cetera.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 12 o'clock and 55 minutes p.m.) the Senate adjourned until tomorrow, Friday, November 5, 1971, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 4, 1971.

DIPLOMATIC AND FOREIGN SERVICE

The nominations beginning Raymond L. Garthoff, to be a Foreign Service officer of class 1, a consular officer, and a secretary in the diplomatic service of the United States of America, and ending Mrs. Patricia D. Thurston, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on July 28, 1971.

HOUSE OF REPRESENTATIVES—*Thursday, November 4, 1971*

The House met at 12 o'clock noon.

Rev. Charles E. Fair, pastor, Alsace Lutheran Church, Reading, Pa., offered the following prayer:

This is the day which the Lord hath made; we will rejoice and be glad in it.—Psalms 118:24.

We rejoice, Almighty God, that You are here today: You see all, hear all, and know all. We are glad Your presence makes this shrine holy ground.

We rejoice in the history and greatness of America. We are glad for the fortitude of forefathers dedicated to freedom for all people.

We rejoice in the loyalty of today's lawmakers dedicated to justice for everyone. We are glad for the miraculous collection of talent in both Congress and the White House pledged to defend citizens at home and abroad.

Strengthen the Congress for today's challenges with Your word, "If God be for us, who can be against us?" Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 155. An act to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel; and

H.R. 11418. An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11418) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MANSFIELD, Mr. PROXMIRE, Mr. MONTOYA, Mr. HOLLINGS, Mr. BROOKE, Mr. BOGGS, Mr. PERCY, Mr. SYMINGTON, Mr. CANNON, and Mr. TOWER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 976. An act to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes;

S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster; and

S. 2770. An act to amend the Federal Water Pollution Control Act.

THE HONORABLE H. JOHN HEINZ III

Mr. SAYLOR. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania, Mr. H. JOHN HEINZ III, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with respect to his election.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The gentleman from Pennsylvania (Mr. HEINZ) appeared at the bar of the House and took the oath of office.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 8687, ARMED FORCES PROCUREMENT AUTHORIZATION, 1972, UNTIL MIDNIGHT FRIDAY

Mr. HÉBERT. Mr. Speaker, I ask unanimous consent that the managers may be given until Friday midnight to file a conference report on the bill H.R. 8687.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. GROSS. Mr. Speaker, reserving the right to object, what is the nature of the legislation?

Mr. HÉBERT. It is the military procurement bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11418, MILITARY CONSTRUCTION APPROPRIATIONS, 1972

Mr. SIKES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11418) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees: Messrs. SIKES, PATTEN, and LONG of Maryland, Mrs. HANSEN of Washington, and Messrs. MCKAY, MAHON, CEDERBERG, JONAS, TALCOTT, and BOW.

THE LATE HON. A. WILLIS ROBERTSON

(Mr. ABBITT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABBITT. Mr. Speaker, it is my sad duty to inform the House of the passing of a former distinguished Member of this body and a former Member of the other body, the Honorable A. Willis Robertson of Lexington, who passed away this past Monday.

Virginia has lost a distinguished citizen, the Nation has lost a dedicated servant, and I have lost a close friend and political associate.

Born on May 27, 1887, the son of a Baptist home missionary, he attended public schools in Lynchburg, Va. He was a 1907 graduate of Richmond College. In 1908 he received his law degree. He was a member of the Jamestown Society, Omicron Delta Kappa and Phi Beta Kappa.

He served his country well in World War I as an Army infantry officer.

Willis Robertson entered public life in 1916 when he was first elected to the Virginia State Senate where he served until 1922. He then stepped down to become Commonwealth attorney for Rockbridge County from 1922 to 1928. He served as chairman of the commission of game and inland fisheries between 1926 and 1932.

A. Willis Robertson first went to Congress in 1933 as the representative of Virginia's Seventh Congressional District. We served his State and country well. In the House he was floor leader for Cordell Hull's reciprocal trade program.

In 1946 he was first elected to the U.S. Senate after being nominated by a State convention to fill the unexpired term of the Honorable Carter Glass.

In the Senate he was to become the chairman of the Senate Banking and Currency Committee, a position he held until his political career ended in 1966.

He has been described as a polished statesman, a man of impeccable integrity, and as a man whose word was truly his bond.

I ask that all of Congress and Americans everywhere join with me today to pay tribute to a great American whose career spanned more than a half of a century, one who has made his mark in the Halls of Congress. A great American who Virginia will surely miss.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I am pleased to yield to the distinguished majority leader.

Mr. BOGGS. I should like to join with the gentleman from Virginia in paying tribute to the late Senator Robertson.

He served in this body, as the gentleman from Virginia has said, for many years and served on the House Committee on Ways and Means. I served with him on that committee.

He was indeed, as the gentleman from Virginia has pointed out, an able and dedicated man, devoted to his State and his country and to his family.

I join with the gentleman from Virginia in extending to his family the sympathy of myself and Mrs. Boggs.

Mr. POFF. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I am happy to yield to the distinguished gentleman from Virginia.

Mr. POFF. Mr. Speaker, the late Senator A. Willis Robertson was held in high esteem by all Virginians. He had a personal and family identification with the Sixth Congressional District which I have been privileged to represent. Indeed, a brother who has made his own mark in his own field of endeavor, is one of our most distinguished citizens.

I first came to know Senator Robertson personally when I came to the Congress in January 1953. I will always hold in grateful memory the special acts of kindness he showed me. As a frightened, freshman Republican, I was more than a little lonesome in the new environment. Senator Robertson made me feel welcome.

Those who know him best will always remember Senator Robertson as a man of unusual talent and skill. He had a versatile intellect, sharpened and honed by the disciplines of great learning, his mind was resourceful, retentive and analytical, and when Senator Robertson made a judgment, all could be confident that he had assembled all of the arguments, tested every facet of the problem and applied the rules of equity and justice.

Senator A. Willis Robertson was a great son of Virginia, cast in the mold of Virginia's first great sons. I am proud that I was privileged to serve with him. To his family and his numberless friends, I extend my most heartfelt sympathy in their time of great sorrow.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield to me?

Mr. ABBITT. I am happy to yield to the distinguished minority leader.

Mr. GERALD R. FORD. Mr. Speaker, I join with the gentleman in expressing to the family of Willis Robertson our deepest condolences and sympathy on his passing.

It was my privilege as a Member of the House of Representatives to have a great deal of exposure to him in conferences on important legislative matters. I did not serve with him in the House, but he was a member of the Senate Committee on Appropriations, and during the course of my service on the House Committee on Appropriations we did have many opportunities to sit down and make decisions or to help to make decisions involving important matters concerning the national security and domestic progress of this country.

I can say with emphasis that Willis Robertson was a statesman of the highest quality and a superb gentleman with all of the best qualities.

The country has lost a great citizen and many, including myself, have lost a dear and wonderful friend.

Mr. ABBITT. I thank the gentleman.

I now yield to the gentleman who rep-

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resents the district from which Senator Robertson came.

Mr. ROBINSON of Virginia. I thank the gentleman for yielding.

Mr. Speaker, A. Willis Robertson was one of my predecessors as Representative in Congress for the Seventh Congressional District of Virginia.

Senior Members of the House remember him, I am sure, with high regard.

Later, he served with distinction in the other body.

While Senator Robertson was of a different political persuasion, I doubt that there would be an occasion on which I would differ with him on a major fiscal matter if he were serving here today. His sound money, balanced budget philosophy was, and is, subscribed to by most citizens of the Seventh District, and, I believe, most Virginians.

Senator Robertson developed early a reputation as a skilled interrogator at committee hearings, and this talent stood him in good stead in dealing with complex monetary matters. In recent years, the knowledge of fiscal affairs accumulated during his long congressional career was at the disposal of the International Bank for Reconstruction and Development, which he served as a consultant until his retirement to his Lexington, Va., home.

There was, however, another group of friends and admirers which knew Willis Robertson primarily as the dedicated outdoorsman and conservationist. First as a fish and game commissioner in Virginia and later in the Congress, he was a vigorous fighter for the preservation of mountain streams and forests, and for sound fish and game management policies.

Many hunting and fishing areas enjoyed by sportsmen throughout the United States today are available by virtue of cooperative Federal-State programs which he joined in sponsoring.

His passing, therefore, is a great loss to two important causes—sound economic policy and conservation.

My sympathy goes out to the sons of this true Virginia gentleman, and to the other members of his family.

Mr. ABBITT. I thank the gentleman for his kind remarks.

Mr. DANIEL of Virginia. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I am glad to yield to my colleague, the gentleman from Virginia (Mr. DANIEL).

Mr. DANIEL of Virginia. Mr. Speaker, I rise to pay tribute to the memory of a great patriotic American, the late Honorable A. Willis Robertson.

Mr. Speaker, in the brief time I have been in the Congress, it has been my sad privilege to rise and comment on the passing of colleagues and former colleagues. It is not a pleasant undertaking, save for one fact. In each instance, I have been confronted, in recollection, with the uniqueness of each man whose virtues we relate and whose memory we revere.

Such a unique man was A. Willis Robertson, late a Senator from the Commonwealth of Virginia.

Willis Robertson cared about the natural resources of this country before he knew the word "ecology." He cared about the good earth, its fruits, the creatures it nourished. It has been said one of the accomplishments of his life of which he was most proud was having served as Virginia's first Commissioner of Game and Inland Fisheries. It is a mark of the man that the honors garnered over nearly half a century of public service failed to outshine, in his own esteem, this contribution to the people of his State and the fine heritage of its natural resources.

As is so often the case with the offspring of ministers, Willis Robertson inherited and nutured a spiritual quality, a steadiness of character, a firm and proper sense of the balance between man, his God, and his world, for which the people of our Nation may be grateful.

A man who never abandoned his views of a better world in nature and his hopes for a better world for his fellow man, Willis Robertson bestowed a legacy on all of us.

Mr. ABBITT. I thank the distinguished gentleman for his comments.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I yield to my colleague from Virginia.

Mr. WAMPLER. Mr. Speaker, Senator A. Willis Robertson was a true Virginia gentleman and a great statesman in every sense of the word. Most of his life was devoted to working for the people of his State.

His deep moral convictions were an inspiration, the integrity of his political life was faultless, and his dedication to responsible government was an example to all who followed him.

The people of Virginia are grateful for his unselfish leadership and service, to which he devoted the best years of his life.

I would like to extend my deepest sympathy to his family, his friends, and his colleagues.

Mr. SCOTT. Mr. Speaker, the Nation was saddened on November 1 by the loss of one of the ablest citizens of our times, the Honorable A. Willis Robertson.

Willis Robertson, a widely respected public servant of considerably more than a third of a century, was eulogized as "a man of tireless energy with a deep sense of patriotic devotion."

In the days before "conservation" and "ecology" were either widely understood or supported. Willis Robertson set his strong mark in this field both in Virginia and the Nation. In the 1920's he was selected as the first chairman of the Virginia State Commission on Game and Inland Fisheries. In related work after he came to the Congress, Willis Robertson cosponsored legislation to assist States in providing refuge and breeding places for migratory birds and to increase the supply of upland game. He also sponsored an act to direct the U.S. Forest Service to help conserve wildlife on the millions of acres under its jurisdiction.

As a member of the Ways and Means Committee of the House—the first Virginian to serve on that body in a third of a century—he became a ranking power known for his integrity, legislative craftsmanship, hard work, and persuasive diplomacy. Later, in the Senate, he continued to be exemplified by these same outstanding traits and became an expert in the fields of banking, currency, tariffs, and trade. He served with great distinction as chairman of the Senate Committee on Banking and Currency.

Senator Robertson, always a stanch supporter of the Constitution and a believer in States' rights, had the power of eloquent rhetoric—but it was never misused. In an editorial, his close friend, Gen. E. Walton Opie said;

> Absalom Willis Robertson won himself a place in Virginia and U.S. history as a statesman who put state and country above personal and political considerations. . . . He enjoyed tremendous personal popularity with his colleagues in both parties, an influence which was effective in creating decisive support for good legislation.

The tribute to Willis Robertson on his 79th birthday by his Massachusetts colleague, Senator Leverett Saltonstall, is a fitting summation of the man and his work:

> I have served with Willis Robertson on the Appropriations Committee of the Senate for eighteen years and I know he has his feet on the ground with relation to the expenditures of our Government on the programs that are submitted to the Congress. He is always thoughtful concerning his Virginia constituency, but places his country above his State on matters that affect the Nation as a whole.

I join his numerous friends in mourning the loss of this outstanding leader, and extend my sincere condolences to his family.

Mr. DOWNING. Mr. Speaker, I am tremendously saddened by the passing of Senator A. Willis Robertson. He was a great Virginian who served his beloved Commonwealth and Nation with great distinction.

I shall never forget the many kindnesses he bestowed upon me when I first came to the Congress. Nor shall I forget the sound advice and counsel he gave me on innumerable occasions. I have many wonderful memories of him which will not soon fade from my mind.

I was with him at, what I term, his finest moment of service to his country. Senator Robertson chaired the United States delegation to the Inter-Parliamentary Conference being held in Brazilia, the capital city of Brazil, in the fall of 1962. Our delegation arrived in Brazilia on the same day the late President John F. Kennedy announced the naval blockade of Cuba. As fate would have it, all communications between Brazilia and the outside world suddenly and mysteriously ceased. The representatives of the 80-odd nations of the world assembled at the conference, were without any information whatsoever as to what action followed the President's announcement. Rumors were abounding. One such rumor had it that one of Russia's missile-bearing ships had been sunk and that a state of war existed.

The Red bloc sometimes preempted the first day of the conference. For 4 hours, the representatives from the Communist-controlled countries castigated the United States, stating time after time that there were no missiles in Cuba and that this was a ruse by the United States to mask the beginning of world war III.

After the Communists had exhausted their opportunity to speak, the House became silent and all eyes turned to the chairman of the U.S. delegation, the Senator from Virginia, A. Willis Robertson, to respond.

Without any information as to the current status of events, Senator Robertson rose to the defense of the United States of America—and he did so magnificently. Combining a superior intellect and years of experience, he extolled the virtues of our country, our desire for peace, and our integrity as a nation.

He spoke for nearly an hour and a half. There are few Americans who could have risen to the task under those circumstances. When he had completed his remarks, a thunderous ovation spread throughout the house and one by one, all of representatives of the free countries of the world rose to their feet in applause.

Senator Robertson was a great Virginian and a great American. He shall be missed.

Mr. ABBITT. I thank the distinguished gentleman for his kind remarks.

Mr. WHITEHURST. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I yield to my colleague from Virginia.

Mr. WHITEHURST. Mr. Speaker, I wish to join in the tributes that have been made by my colleagues from Virginia regarding the late Senator A. Willis Robertson.

My memory of Senator Robertson goes back to 25 years when he was in Lexington, Va., at which time I was a student at Washington and Lee University. I recall so well seeing Senator Robertson there on the streets talking to the students. He was so friendly and open.

As I recall his record as a servant of the Old Dominion, I am reminded of the principles for which he stood foremost; honesty, integrity, and a very fine spirit of service.

Mr. Speaker, I think it is significant that his son has pursued an entirely different career and yet a career with which his father found time to identify. His son has had a remarkable success with the Christian Broadcasting Network in Norfolk, Va., which has reached out in a most significant way to touch the lives of tens of thousands of people spiritually just as his father touched the lives of all Americans and those who served with him here in the Congress.

I thank the gentleman for yielding.

Mr. ABBITT. I thank the gentleman for his remarks.

Mr. SIKES. Mr. Speaker, will the gentleman yield?

Mr. ABBITT. I am pleased to yield to the distinguished gentleman from Florida.

Mr. SIKES. Mr. Speaker, I am privileged to join my distinguished friend and able colleague, the gentleman from Virginia (Mr. ABBITT), and those of the other distinguished Members who have preceded me in their comments about the late A. Willis Robertson, a former colleague and an outstanding American.

I knew Willis Robertson very well. It was my privilege to serve with him for a number of years in the House prior to his service in the Senate. I continued to enjoy the privilege of working with him after he became a member of that body. I knew and appreciated the caliber of this distinguished gentleman, and I can attest to the very many contributions which he made. He was indeed a dedicated public servant.

Mr. Speaker, I valued his friendship and I know that his death is a great loss to America.

I extend my deepest sympathy to the survivors and friends of the family in this hour of sorrow.

GENERAL LEAVE

Mr. ABBITT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the life and service of the late Honorable A. Willis Robertson.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I have asked for this time for the purpose of asking the distinguished majority leader the program as he foresees it between now and the end of the month of November.

Mr. Speaker, I yield to the gentleman from Louisiana (Mr. BOGGS).

Mr. BOGGS. Mr. Speaker, in response to the gentleman's question, I might say we will be in session tomorrow. It is our hope next week not to meet on Friday. We would plan to meet on Thursday, Friday, and possibly Saturday before Thanksgiving.

Mr. GERALD R. FORD. That is the 18th, 19th, and 20th of November—Thursday, Friday, and Saturday.

Mr. BOGGS. That is right. We will plan to meet Thursday, Friday, and possibly Saturday which would be the 18th, 19th, and 20th of November.

If we are able to complete the legislative calendar; that is, the bills that have been reported out by committees and upon which rules have been granted, plus the appropriation bills that are available between now and then, we would hope to take Thanksgiving week off and then to come back thereafter until such time as we are able to adjourn the Congress.

Mr. GERALD R. FORD. That would be to adjourn on Friday, the 19th, or Saturday, the 20th, over until Monday, November 29?

Mr. BOGGS. As I said to the gentleman, that is correct—but it is conditioned on, and this is most important—it is conditioned upon completion of the legislative calendar between now and that time. There are some very controversial bills that have to be disposed of.

Mr. GERALD R. FORD. I thank the distinguished majority leader.

ROBERT N. C. NIX, JR., SON OF CONGRESSMAN ROBERT N. C. NIX, ELECTED TO SUPREME COURT OF PENNSYLVANIA

(Mr. EILBERG asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EILBERG. Mr. Speaker, on Tuesday, November 2, the distinguished son of a distinguished father was elected to the Supreme Court of Pennsylvania, the highest court in our Commonwealth. I refer to Robert Nix, Jr., who is the son of our colleague.

Young Bob Nix is a distinguished lawyer, having learned the art at the knee of his father. Later he became deeply involved in the affairs of the Democratic Party. All of his skills as a great lawyer and campaigner were brought to bear in the statewide campaign just concluded. This young effective speaker and organizer crossed the State in one of the best campaigns ever conducted.

I think it entirely appropriate that the House in which BOB NIX, Sr. has served so well should know of this great event in the Nix family. And I am sure that all of my colleagues join me in wishing BOB NIX, Sr., and Bob Nix, Jr., many fruitful years ahead.

DIVERSION OF ALCOHOL EXCISE TAX TO HIGHWAY TRUST FUND

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to bring to our colleagues' attention the action taken by the Senate Finance Committee yesterday in moving to divert permanently 7 percent of the Federal taxes collected on alcoholic beverages to the highway trust fund. It is ironic that the highway lobby, that has often stressed that financial support for the highway trust fund comes from user taxes, should pick the tax on alcohol, the most dangerous substance to highway users to supplement the highway trust fund's revenues. It is estimated that alcohol is the cause of at least half the fatal highway accidents.

More ludicrous, however, is that the Treasury, during these times of large deficits and critical budget cuts, would bear an estimated $350 million loss annually—and probably more in the future—to feed a trust fund that now has a surplus of $3.648 billion. In fiscal year 1972 alone, the highway trust fund's estimated surplus will be $1,136 billion. The receipts are expected to total $5.904 billion and the authorized expenditure will total $4.768 billion.

The Senate Finance Committee reportedly acted to make this transferral of funds to make up for the revenues that the highway trust fund will lose with the termination of the 10 percent tax on lightweight trucks, one of the tax reductions provided for in the President's economic package. Surely, the highway trust fund, with one of the few surplus budgets in our Federal Government, can afford a loss of $350 million.

Even with this reduction in revenues, its surplus in fiscal year 1972 will total $786 million, to be added to the $3.648 billion surplus already accrued from past years.

May I suggest that if we are to divert Federal taxes on alcohol, we should put this money into mass transit where the needs are so great. Certainly, it is a lot safer for the alcohol user to be on a subway or bus than on a highway.

THE BEN C. MOOMAW DAM AND LAKE

(Mr. POFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. POFF. Mr. Speaker, I have today introduced in the House of Representatives a bill to name the Gathright dam project in honor of Ben C. Moomaw, Jr., of Covington.

It is entirely fitting that this important flood control and recreational facility now under construction on the headwaters of the James River should bear a name which has become synonymous with efforts to promote the development of water resources and recreational facilities in the James River Basin. If there is any single "Father of the Gathright Dam", it is Ben Moomaw.

For more than a quarter-century, as executive director of the Covington-Alleghany County Chamber of Commerce, and as chairman of the James River Basin Association's Gathright Dam Ways and Means Committee, Ben Moomaw has championed projects in all phases of water resources development and recreation generally, and the Gathright dam project in particular.

In recognition of his long record of outstanding service to the public, the bill which I have introduced today would officially designate the Gathright dam and reservoir as "Ben C. Moomaw Dam and Lake." The James River Basin Association recently endorsed this proposal.

CALL OF THE HOUSE

Mr. ARENDS. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 348]

Ashley	Diggs	Martin
Aspinall	Edwards, La.	Montgomery
Baker	Gallagher	Myers
Baring	Gubser	Pelly
Barrett	Halpern	Pirnie
Belcher	Hansen, Idaho	Pryor, Ark.
Blanton	Hébert	Rees
Broyhill, Va.	Horton	Scheuer
Cabell	Hosmer	Sisk
Carney	Jarman	Skubitz
Cederberg	Johnson, Calif.	Stanton,
Chisholm	Jones, Tenn.	J. William
Clark	Kee	Stanton,
Clay	Lloyd	James V.
Dellums	Long, La.	Teague, Calif.
Dennis	Lujan	Wright
Derwinski	McClure	

The SPEAKER. On this rollcall 382 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REPORT ON RESOLUTION PROVIDING FUNDS FOR EXPENSES OF THE COMMITTEE ON HOUSE ADMINISTRATION

Mr. THOMPSON of New Jersey, from the Committee on House Administration submitted a privileged report (Rept. No. 92-607) on the resolution (H.R. 601) providing funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the House of Representatives and for the investigation of additional computer services for the House of Representatives, which was referred to the House Calendar and ordered to be printed.

HIGHER EDUCATION ACT OF 1971

Mrs. GREEN of Oregon. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7248) to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education.

The SPEAKER. The question is on the motion offered by the gentlewoman from Oregon.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7248, with Mr. EDMONDSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on yesterday, it was agreed that title X, ending on page 202, line 8, of the committee substitute amendment would be considered as read and open to amendment at any point.

For what purpose does the gentleman from New York rise?

POINT OF ORDER

Mr. CELLER. Mr. Chairman, I make a point of order with reference to section 1007 of the committee substitute, the contents of which are exclusively within the purview of the House Judiciary Committee. It concerns the Civil Rights Act of 1957, and there are a number of bills pending in our committee concerning that act. For that reason a point of order is being made to the provisions and a motion is made to strike.

The CHAIRMAN pro tempore. Does the gentlewoman from Oregon wish to be heard on the point of order?

Mrs. GREEN of Oregon. Mr. Chairman, I concede the point of order.

The CHAIRMAN pro tempore (Mr. EDMONDSON). The point of order is conceded. The Chair sustains the point of order and the language in section 1007 is stricken.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Beginning with line 11, on page 198, strike out everything down through line 12 and insert in lieu thereof the following new subsection "(1)":

"(1) to the undergraduate admissions policy of any institution of higher education,"

Mr. ERLENBORN. Mr. Chairman, the amendment I have just offered has been read, but so that Members may understand what it does, on page 198 of the bill, title X, section 1001, subsection (1) would be stricken, and new language would be inserted in lieu thereof. The new langauge will read:

To the undergraduate admissions policy of any institution of higher education.

This in effect would remove the exception for the substantially single sex institution in the bill. When it says "substantially," it means 90 percent or more. It applies equally to the undergraduate and the graduate, so that in the bill we can have a single sex graduate school, medical, or dental, or law or whatever it might be.

My amendment would strike that exception and apply the exception only to the undergraduate admissions, so there would be no question of quota or governmental determination of any degree as to the undergraduate admissions, but we would still require equal and complete access to the graduate school, the entry to the professions.

So Members do not feel a vote for this amendment means a vote against civil rights or human rights, I would like to point out I have received a telephone call from Father Hesburgh, president of Notre Dame University, currently Chairman of the Civil Rights Commission, in support of this amendment. He understands the impact of the language on the individual undergraduate schools, particularly those such as his, that would be thinking in terms of moving away from the single sex concept and moving toward having both sexes in their institution. Also Harris Wolford, president of Bryn Mawr, formerly U.S. Staff Director of the U.S. Commission on Civil Rights, has indicated by telegram his support for this amendment. So I do not think anyone need apologize for his support of this amendment in terms of his support of civil or human rights.

Mr. Chairman, I offer this amendment to preserve the swiftly eroding rights of the colleges and universities of America. We must view title X for what it plainly is, just one more giant step toward involvement by the Federal Government in the internal affairs of institutions of higher education. The constant danger is that all too often Federal involvement in the internal affairs of institutions is but the first step toward ultimate Federal control.

I wish to make it clear, however, that I am not against equality between the sexes and that I do not oppose the right of women to attend college. What I do oppose is the superior judgment omniscience which Congress supposes in legislating what the ratio of sexes can or cannot be in our institutions of higher education. I doubt that Congress knows more than anybody else on the subject of the proper mix of sexes in undergraduate programs. Indeed, there is just no evidence at all to support the argument that any fortuitous division of the sexes in an undergraduate student body is good and that any controlled division—even 50–50—is bad or should be declared unlawful. Yet, that is the necessary conclusion from title X.

Passage of title X would establish a dangerous precedent. It is an extremely grave decision that faces us, whether we will enact legislation adopting the policy that the Federal Government can reach into the very heart of local, private institutions and remove from those vested with authority the right to control the character of their own institution. I feel that if Congress permits the Federal Government to take away from colleges their right to determine the composition of their own student bodies, it will plant the seed of destruction for our system of higher education as we know it.

Responsibility for higher education has traditionally belonged to State and local governments. In the Higher Education Act of 1965, the basic law which H.R. 7248 seeks to amend, there was a substantial increase in the amount of Federal aid to institutions of higher education. There was not, however, any corresponding increase in Federal controls. Consistent with its traditional policy, Congress refrained from imposing Federal controls over the use of the funds. Section 804(a) of that act states:

Nothing contained in this chapter shall be construed to authorize any department, agency, officer or employee of the United States to exercise any direction, supervision or control over the curriculum, program of instruction, administration, or personnel of any educational institution, or over the selection of library resources by any educational institution.

The rationale used to support this absence of Federal controls over the use of Federal funds was that administration of higher education is a State and local prerogative, and that Federal educational programs should be administered by the institutions of higher education themselves.

I also vividly recall the debates in 1969 over the proposals to cut off Federal financial aid to students who participated in violence and unlawful acts. In all candor, I must admit that the cogent arguments presented then against the introduction of Federal control over strictly internal matters, such as student discipline, have convinced me of the merit of that position and its relevance to the provisions of title X. Then, as now, the enactment of Federal controls poses a real threat to the freedom and dynamic existence of higher education.

Enactment of the provisions of title X would also significantly weaken one of the great strengths of the American system of higher education—diversity. Diversity in the types of educational institutions affords more freedom to students, allowing each the opportunity to select the type of educational environment best suited to their individual needs, and encourages colleges to exeriment and develop innovative programs. The imposition of a monolithic unity by Federal statute would serve only to homogenize campuses, a condition repugnant to the very nature of higher education in this country and contrary to the best interests of the future generations of college students.

It is significant to note that while the percentage of high school graduates which are female has been declining since 1945, the percentage of first-time undergraduate admissions represented by females has been increasing. The following figures demonstrate this relationship:

[In percent]

	Percentage of high school graduates (female)	1st time undergraduate female enrollment
1945	56.8	28.3
1970	50.5	44.7

Similarly, females have continued to represent a larger percentage of the total undergraduate enrollment, increasing from 31.7 percent in 1946 to 41.1 percent in 1970.

I would also like to bring to the attention of my colleagues an apparent incongruity title X presents with the basic concept of H.R. 7248. The higher education bill is specifically designed to provide assistance to our institutions of higher education at a time of severe financial strain. Title X, however, runs contrary to the intended purpose of H.R. 7248 and the financial relief it attempts to provide. Application of title X to undergraduate admissions in institutions of higher education will impose an unwarranted financial burden upon many of the same institutions which the higher education bill seeks to aid. It seems unreasonable to me that Congress could recognize the financial needs of our colleges, and seek to assist them, on the one hand, and, on the other hand, attempt to impose what amounts to financial penalties upon many of the institutions because of the composition of their student bodies. Such a result is incongruous.

I would like to note that there is broad-based opposition within the higher education community to title X insofar as it applies to undergraduate admissions. The following points indicate the support I have found for my amendment:

First. The provisions of title X have been opposed by editorials in the New York Times—August 15 and October 1, 1971—and the Washington Post—September 16, 1971.

Second. The Association of American Universities, composed of 46 major universities in 27 States from coast to coast, expressed opposition to title X insofar as it applied to undergraduate admissions—CONGRESSIONAL RECORD, page 38641, November 1, 1971.

Third. Numerous individual colleges and universities across the country have expressed their opposition to the provisions of title X. Statements from several of these have been printed in my remarks in the CONGRESSIONAL RECORD, pages 38639–38641, November 1, 1971. Those institutions include:

Bowdoin College, Brunswick, Maine; Bryn Mawr College, Bryn Mawr, Pa.; Columbia University, New York, N.Y.; Dartmouth College, Hanover, N.H.; Harvard University, Cambridge, Mass.; Mercer University, Macon, Ga.; Princeton University, Princeton, N.J.; Smith College, Northampton, Mass.; Rockhurst College, Kansas City, Mo.; and Yale University, New Haven, Conn.

The issue before us on this amendment is crucial. I urge my colleagues to reject the policy that would thrust the Federal Government into the internal administration of undergraduate admissions, and instead to vote to preserve the right of our colleges and universities to determine for themselves what the composition of their student body will be.

The CHAIRMAN pro tempore (Mr. BOLAND). The time of the gentleman from Illinois has expired.

Mr. ERLENBORN. Mr. Chairman, I ask unanimous consent to proceed for an additional 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object—and I do not intend to object—I certainly do not want the membership to be put in the position of taking ample time on these early sections and then being faced with the possibility of having little time on later sections. Is there any indication that there will be an attempt to limit time? If there is, I intend to object to all requests for additional time.

Mrs. GREEN of Oregon. I certainly at this time am not going to try to reach any agreement on a limitation of time. I do hope we can finish the entire bill before too late in the evening. So I appeal to all to exercise self-restraint.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. BURTON. Mr. Chairman, I object to the unanimous consent request. I had an amendment pending, and the gentleman took my place in line.

Mrs. GREEN of Oregon. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we had a vote on the equal rights amendment the other day and the vote in the House was 354 for the equal rights amendment, 23 against and 52 not voting. And when the Wiggins amendment was offered there were only 87 who supported it and there were 265 against it.

The equal rights amendment goes much further than title X of the bill that is before us.

Mr. Chairman, the gentleman from Illinois who just offered this amendment voted for the equal rights amendment when it was before the House last year. He signed the petition to discharge the Judiciary Committee, and he voted for that amendment.

I say to the Members that any amendment to title X, that says we are going to end discrimination and then excepts 95 percent of the institutions in this country, is pure fraud.

The gentleman has used the argument

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that Father Hesburgh is in favor of his amendment and therefore none of the Members need to be embarrassed if they vote for it. I want to say that I have admired and had great respect for Father Hesburgh over a period of years, but I apologize for him for his stand on this. How a person as Chairman of the Civil Rights Commission of the United States can make eloquent statements about having to end discrimination in this country and then say it is perfectly all right to continue the discrimination against over 50 percent of the people of this country I do not know.

There is ample documentation that this discrimination occurs. Last year our subcommittee held hearings on discrimination. Our two volume hearing record contains page upon page citing the pervasiveness of this discrimination in our society and in our institutions. The gentlemen across the aisle are fond of quoting the Newman report on higher education. That report also contains an excellent chapter documenting discrimination against women and I would like to place in the RECORD some excerpts from that chapter so all the Members may be apprised of the findings in the report:

EXCERPTS FROM NEWMAN REPORT ON DISCRIMINATION AGAINST WOMEN

The higher education community prides itself on its leading role in the fight to end intolerance in American society. Yet with regard to women, colleges and universities practice a wide range of discrimination. These institutions view women primarily as wives and mothers and their education as preparation for these functions.

The Task Force has identified three major types of barriers which block full participation by women in higher education: first, overt discrimination by faculties, deans etc. . . .; second, practical *institutional barriers, such as rigid admission*, and residence requirements, and a lack of campus facilities and services . . .; third, the ingrained assumptions on the part of both men and women which deny the talents and aspirations of the latter.

If there were any assurance that the denial of equality is rapidly becoming a thing of the past, there could perhaps be some complacency. But it is not merely residual; in some ways, it is increasing. The proportion of 18 and 19 year old males enrolled in higher education increased 20% between 1950 and 1966, but the participation of females increased only 11%. The percentage of master's degrees obtained by women reached its peak in 1930 at 40.4% and declined to 38% in 1968, while the percentage of doctor's degrees obtained by women reached its peak in 1930 at 15.4%, and was down to only 12.6% in 1968.

"The first such barrier is outright discrimination against women as students, especially at the graduate level. Although few admissions officers or members of graduate fellowship committees would confess to discrimination on the basis of "race," many openly argue that "women" should be denied opportunities because they are women . . .

"The facts tend to contradict the view that women are poorer risks than men in their disposition to complete training. The percentage of entering undergraduate students who graduate in four years is about 15% higher for women than men.

The other day the gentleman from Illinois placed in the RECORD information stating that the American Association of Colleges had unanimously voted in favor of the amendment which he has offered to title X. The letter in question, dated November 2, reads in part, as follows:

The Association of American Universities, composed of 46 major universities in 27 States from coast to coast, expressed unanimous opposition to title X insofar as it applied to undergraduate admissions.

That statement is inaccurate, highly misleading and, I think, it is a great disservice to this body. I have telegrams and letters from several of the people listed in the CONGRESSIONAL RECORD as having supported that position who tell me that they never knew about it and they did not vote for it. In fact, many opposed that position. So that other Members may be able to correct the impression conveyed by the insert in the RECORD of November 2, I will place in the RECORD at this point those communications I have received relative to the insert:

WASHINGTON, D.C.,
November 3, 1971.

Congresswoman EDITH GREEN,
Rayburn House Office Building,
Washington, D.C.:

The discussion in the Association of American Universities reported in a letter of Charles Kidd of October 29 to Mr. Erlenborn with regard to title X of HR 7248 was held when a number of members including myself were not present. It is inaccurate to associate the entire membership of the AAU with the communication.

JAMES M. HESTER.

WASHINGTON, D.C.,
November 3, 1971.

Hon. EDITH GREEN,
House of Representatives,
Washington, D.C.:

I was among those not present at AAU meeting during latter part of discussion on title ten and personally regret mistaken report of official AAU action.

MALCOLM MOOS,
President, University of Minnesota.

ITHACA, N.Y.,
November 3, 1971.

Hon. EDITH GREEN,
Rayburn House Office Building,
Washington, D.C.:

Kidd letter of October 29 to Erlenborn does not represent position of all members of AAU.

DALE R. CORSON,
President, Cornell University.

EUGENE, OREG.,
November 4, 1971.

Congresswoman EDITH GREEN,
House Office Building,
Washington, D.C.:

The Charles Kidd letter and the CONGRESSIONAL RECORD of October 29, does not represent the position of all AAU members.

I voted against the motion as did several others.

R. D. CLARK,
President, University of Oregon.

CHARLOTTESVILLE, VA.,
November 4, 1971.

Hon. EDITH GREEN,
Rayburn Building,
Washington, D.C.:

In connection with Kidd's letter of October 29 wish you to know that NOT all members of Association of American Universities were in accord with the position taken by the membership.

EDGAR F. SHANNON, Jr.,
President, University of Virginia.

THE UNIVERSITY OF WISCONSIN,
Madison, Wis., November 3, 1971.

Hon. EDITH GREEN,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE GREEN: The University of Wisconsin is very much in favor of your Higher Education bill, and we hope that the House of Representatives sees fit to pass it.

However, two proposed amendments which may come up this afternoon have raised questions in my mind. The first is an attempt to exclude Title 10 (the provision against discrimination against women). The University of Wisconsin could *not* support the removal of Title 10. I have just heard that my name has been attached to a list of proponents of those interested in the removal of Title 10 as it pertains to undergraduate students, and I want to assure you that I have not and would not put my name to such a proposition. Indeed, I find it difficult to imagine that the President of any public institution of higher education would support it.

The second possible amendment to raise a question at this time is the Emergency Aid proposal. While the University of Wisconsin is certainly not against Emergency Aid, we do feel it should be considered separately from the original Green Bill.

Sincerely,

JOHN C. WEAVER,
President.

THE ASSOCIATION OF AMERICAN UNIVERSITIES,
Washington, D.C., November 2, 1971.

Representative JOHN N. ERLENBORN,
Cannon House Office Building,
Washington, D.C.

DEAR MR. ERLENBORN: I am writing to you with reference to my letter of October 29 reporting the attitude of the Association of American Universities towards Title X of H.R. 7248.

I have been instructed by the President of the Association, President William C. Friday of the University of North Carolina, to convey to you the circumstances and weight of the discussion of Title X at the AAU meeting. The discussion of Title X came at the end of a long meeting. Many members of the AAU were not present at that time and some of those present were not opposed to the legislation. The opposition to Title X as currently worded is not the position of many members of the AAU.

I regret that my letter reflected a solid position of the AAU, which does not in fact exist.

Sincerely yours,

CHARLES V. KIDD.

UNIVERSITY OF CALIFORNIA,
Berkeley, Calif., November 3, 1971.

Hon. EDITH GREEN,
Rayburn House Office Building,
Washington, D.C.

DEAR MRS. GREEN: I have just learned of the two letters sent by Charles Kidd, Executive Secretary of the Association of American Universities, to Congressman John N. Erlenborn in connection with Title X of H.R. 7248. Let me hasten to say that Mr. Kidd's second letter more nearly represents my position. While I attended the meeting of the AAU at which Title X was discussed, I considered it to be in no way applicable to the University of California and so abstained from voting. My name, along with several other members of the Association, was listed in Mr. Kidd's first letter in error.

The California Constitution prohibits this University from discriminating on the basis of sex, race, or religious beliefs, and I believe our record has been admirable. In particular, women have been admitted in substantial numbers ever since our chartering over one hundred years ago. During my administration, we have made a strong effort to increase participation of all groups in every area of the University, to expand educational opportunities to include those who have been underrepresented. I assure you we have no institutional reason to oppose Title X, and that I have not in fact done so either individually or through the AAU.

Yours sincerely,

CHARLES J. HITCH.

Copy of Mailgram to Congresswoman BELLA ABZUG:

In response to your request I strongly affirm my support of H.R. 7248. I oppose discrimination against women and support the intent of Title X.

JAMES M. HESTER,
President, New York University.

Mr. ERLENBORN. Will the gentlewoman yield?

Mrs. GREEN of Oregon. No. I only have 5 minutes, as the gentleman had.

Mr. Chairman, let me just discuss this very briefly.

As I said before, it does not go as far as the equal rights amendment. I see no reason why anybody who supported the equal rights amendment should hesitate in the least to support title X as it is now written. There were 87 people on the floor of the House that day who expressed reservations about the equal rights amendment. I do not doubt their sincerity at all, but they said that they would rather have specific legislation targeted at a particular kind of discrimination. They wanted the protective legislation for women and that they were concerned about the draft status. I would suggest that there is nothing in title X that needs protective legislation. As Nathan Pusey, the former president of Harvard University, said before my committee one time when we were discussing the draft and a possible draft exemption for everybody in graduate schools, Nathan Pusey said that unless we gave such an exemption he would be left with the blind, the lame, and women.

I would just suggest that we need no protective legislation for the blind, the lame, or women who are in our colleges and universities. So it seems to me what we are really talking about is whether or not we shall continue to allow the colleges and universities in this country to set up quotas in terms of admission and to do the other things prohibited by the bill.

I want to make it perfectly clear that in title X there is no quota. I am opposed to quotas. I differed with the gentleman from Illinois when we were considering the Equal Employment Opportunity Commission legislation. I am absolutely opposed to the Philadelphia plan. If a college has 5,000 men and 3,000 or 4,000 women in it and if we adopt title X, it does not mean that the college has to bring the number of women up to 5,000. If we do that, then we are engaging in discrimination, also. In that case we would be discriminating against men. All I want and all I ask is that if two individuals, a man and a woman, come to a college or a university and they have equal credentials and apply for admission, that they shall be treated as equals—two individuals without any quota.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think I find myself as a member of the committee in the same position that many of my colleagues do, with grave doubts.

We have heard two presentations, both of them from articulate and respected Members who expressed opposing views which, quite frankly, leave the question up in the air.

I believe the record has been left in a position where many Members cannot make a decision at this point.

I will yield to the gentleman from Illinois. I know he has some questions to ask.

Mr. ERLENBORN. I thank the gentleman for yielding.

First of all, let me say that if I had been granted the ordinary courtesy of continuing with my original statement, I would have had 5 additional minutes in which to explain.

I wanted to point out that the letter I sent out the other day was in error in saying that it was a unanimous decision of the American Association of Universities. It was, however, adopted as a policy when they had a quorum present. I had been ill advised. It was not unanimous. The gentlewoman is correct on that point.

However, when she says that Father Hesburgh is wrong about treating undergraduate and graduate students differently, as my amendment would do, I point out the gentlewoman herself on June 7 of this year wrote a letter to Albert Fitt of Yale University in which she said—

Your suggestion that there is a distinction between graduate and undergraduate programs fits my own thinking. I now propose to modify title X to prohibit in participating institutions any discrimination in graduate or professional training or indeed vocational or occupational training on any level.

So the undergraduate admission of students under the gentlewoman's thinking at that time indeed would have been in line with the very amendment I am offering today.

So, if she feels like apologizing for Father Hesburgh, she may do so. But to indicate that this is a fraud for me to offer this amendment is entirely unfair. I think it covers the very thing that she expressed in this letter of June 7. I do not think that she is at all fair. I think she should have yielded to me since she mentioned my name but having refused to yield to me and having used my name in debate, I intend to take a special order and point out where she introduced in the RECORD under general leave to extend questions about the EEOC substitute bill I offered and later said that I did not answer them. She did not put the comments in the RECORD until after the debate was over and she introduced them under general leave to extend.

Mr. Chairman, I do not think the membership of the Committee of the Whole is going to let tactics like that affect their thinking. This is a valid amendment. It does not allow interference with the internal administration of the undergraduate schools.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield to me in order that I may respond to the gentleman from Illinois?

Mr. ASHBROOK. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. With respect to the correspondence with Mr. Fitt, my early intention was to have an absolute prohibition against any discrimination at the graduate level or undergraduate level. In that letter to Mr. Fitt I said I would modify my position with reference to the undergraduate level.

Mr. Chairman, title X does modify my original position. We now have three exemptions. The title provides that there shall be no discrimination against women in our institutions.

However, I am not interested in creating any undue burden for our colleges and universities. So, if an institution is substantially of one sex, and we define that as 90 percent, it would not come under title X. This would include the various military academies and many small colleges run by religious orders.

The second exemption says that we will exempt, in the nature of a grandfather clause, those institutions which are moving from one sex to coeducational status and provides that they shall have 7 years for that transition.

The third exemption provides that schools of divinity or seminaries are exempt. Except for these specific exemptions, however, the provisions of the title would apply to our higher education institutions.

Mr. ASHBROOK. I thank the gentlewoman for her clarification.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. I yield further to the gentleman from Illinois.

Mr. ERLENBORN. I point out the fact that the gentlewoman from Oregon has not denied the fact that she inserted those comments concerning EEOC in the RECORD. However, I would point out also as to this amendment the language of the bill. They have 7 years from the time the institution began to switch to coeducational. In the event it has been 6½ years since they undertook this change, when this transition was undertaken, they will have only 6 months to complete that process, or if it began 8 years ago, they would have no time left.

The fact is that undergraduate admissions should not be the subject of determination in this House. This Congress should leave these decisions to be made by the administration of the various institutions.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Erlenborn amendment to title X of the Higher Education bill. It is utter nonsense to argue that the Federal Government has the responsibility to protect the civil rights of its citizens, and to exclude women from this protection! That is the essence of the Erlenborn amendment.

He states that it would be a dangerous precedent to empower the Federal Government to cut off funds from colleges and universities if they adopted discrim-

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inatory admission policies. This precedent was established with the passage of the Civil Rights Act of 1964. And the gentleman from Illinois agrees that this power is appropriate for graduate schools. If so, there is no justification for limiting opportunities for women in undergraduate education. I doubt whether we have to tell this House that funds have been stopped in accordance with powers already granted the Federal Government under that act. This is no new precedent. It is simply an extension of an existing policy not to fund programs with taxpayers' funds which deny any individual equal protection of the laws. Any college or university which has an undergraduate admission policy which discriminates against women applicants, which requires by policy that they be higher qualified, which admits men students of lower qualification than women applicants because of any arbitrary preferential quota system is free to do so under our bill but such institutions should not be asking the taxpayers of this country to pay for this kind of discrimination. Millions of women pay taxes into the Federal treasury and we collectively resent that these funds should be used for the support of institutions to which we are denied equal access.

We do not advocate quotas and certainly we do not insist upon an even split of all college undergraduate enrollments. But just as we insist that schools be color-blind, we must insist also that they be sex-blind as well. Why ask whether Leslie Jones is a boy or girl? Why not consider only the overall qualifications and potential for success as a student, and admit or not admit solely on that basis. This is all that the provision of the bill requires—fairness and impartiality. It is ludicrous to even ask whether the applicant is male or female. If we really believe in equality, we must begin to insist that our institutions of higher learning practice it or not come to the Federal Government for financial support.

Institutions which are either substantially all male, or all female are not affected by the bill. Since they do not hold themselves out as coeducational, and the applicants select them because they are exclusively of one sex these institutions are exempted.

What we are opposed to are those institutions which hold themselves out to be coeducational, and yet by policy determinations, carefully and usually secretly limit the numbers of women who may enroll. This nullifies the concept of equality of opportunity, and deprecates the worth of a person solely on the basis of sex.

I was astounded to read the letter inserted in the November 1, 1971, CONGRESSIONAL RECORD from Charles U. Daly of Harvard University by which he would have you believe that sex discrimination is the right of the institution because it is a matter concerning educational policy. He also suggests that having a nondiscriminatory policy would impair their financial condition because men alumni contribute more generously than women alumnae. It is appalling to be asked to make national civil rights decisions upon such extraneous matters. To do so would be to say that money is more important to Harvard University than its social responsibility to support equality of opportunity.

Further, Mr. Daly raises the specter of women flooding "traditional" female fields such as the humanities and social sciences and causing under-utilization of Harvard's science faculties. This is a false issue since admissions could obviously be based on the department sought. Even if 90 percent of those admitted to science departments were men, there could be no complaint as long as those women who did apply were considered on an equal basis with men. We are not trying to tell the schools who must be in what department, or how many, but only that those who apply must have equal opportunity for admission to the department they seek.

So, let us not be distracted by the archaic "role-playing" of our classical universities. Let us not be fooled by ailly arguments like gift-giving or reduction in academic standards, or other ambiguities. All this relates to, is whether we shall have real equality in this Nation. I would remind my colleagues that this vote will be seen by women all across the United States as a true test of our commitment to this cause.

Your vote on the equal rights amendment, which passed with little opposition, will not distract the women, and I for one shall do my very best to bring the vote on this matter to the attention of the women who are so extremely concerned over this issue of education. When my own daughter applied 2 years ago to Stanford University, she was turned down even though the University acknowledged she was abundantly qualified. The University told her in her rejection letter that its quota system permitted only 40 percent of the admissions for women, no matter what their qualifications. I say this is wrong and the women of this country also declare it is wrong. I ask your support for Congresswoman GREEN's sex discrimination provisions as approved by our committee.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I have served on this committee, and have worked on this particular bill, and have been very much in support of the leadership of the gentlewoman from Oregon (Mrs. GREEN). I have supported her in the areas of institutional aid and other parts of this bill. However, on this particular section I would like to ask all of you to give very serious consideration to what is involved in this sex amendment, and I would like to take the opportunity of reading from a letter from the president of Dartmouth College—I am not a graduate of Dartmouth, it happens that I was graduated from Colgate University. Nevertheless, I quote from the president of Dartmouth, as he sets out very clearly some of the real problems, and I would like to read them to you:

Dartmouth would welcome a ban on sex discrimination in graduate school admissions, and in the employment, pay, and promotion of faculty and administrative employees. In both areas, the denial of equal treatment for women has an immediate detrimental effect on their professional careers. It is personally frustrating to women, and it deprives the country of their skills and productivity.

However, the House provision, by encompassing undergraduate admissions, is in my opinion an unwise extension of Federal control. I offer the following reasons for this view:

Unlike the situation which prevailed until the mid-1960's with regard to black students, there are excellent opportunities available to women in undergraduate education. In 1970, more than 41% of total college enrollment in America was female. In the Eastern United States, there are superb all-female colleges, as well as outstanding coeducational institutions.

One of the strengths of higher education in this country is its diversity. This is particularly important to students and their families. Some students do best in an environment of their own sex; somewhere students of their own sex are a distinct majority of the college population, others in an equally balanced student body. Many university presidents can give you vivid examples of the way in which students perform differently in different social environments.

Many formerly single-sex schools are now changing to coeducation. For a number of these schools, it is extremely important that they be free to experiment with varying ratios of men and women on the campus. Although the House bill gives them seven years in which to establish a practice of open admissions, financial considerations may make that timetable impossible. And, as I have pointed out above, it may well be that a particular ratio of men to women is more suitable to the students in a given institution than an equal mix. Some schools, seeing that they are destined to lose control of their admissions policies at the end of the seven-year period, will doubtless elect to remain single-sex (or will accept a percentage of the other sex not exceeding 10%).

I think what we are looking at here is the problem of mandating schools either to get fully into the so-called equal rights coeducational opportunities or to prevent schools from moving into it at all. There is no opportunity in this bill for compromise.

I would urge that we give the undergraduate college admission officers an opportunity to control their own college operations as to admission. The graduate level is completely different.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. ERLENBORN. Let me make this one additional point, and that is if there were a big problem as to admissions for women to these institutions, we might have a different situation. But listen to these figures.

In 1945 almost 57 percent of high school graduates were female; with 28 percent being admitted to colleges.

In 1970 the number of women had dropped, or rather the percentage had dropped to just over 50 percent who were graduating from high school whereas the number being admitted to colleges had increased to 44.7 percent.

So that while the percentage of women graduating from high school has dropped, the percentage of women admitted to colleges has increased. Now some of them go to institutions that are not 50–50 and I do not think there is anything wrong with that.

Mr. PEYSER. I thank the gentleman.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. KYL. Mr. Chairman, I sought an answer to this yesterday and I will try to be extremely brief.

Under the bill, as written, assume that you are the college president in a small town and there is little housing off campus. You have dormitories for men and women. You are receiving your admissions or approving admissions and you have five places in a dormitory which is a men's dormitory. You do not want to mix men and women in the dormitory. Do you reduce admissions under the circumstances leaving this room space open? Or if you admit men to fill the available rooms, are you then in violation of section X of the pending bill?

Mr. PEYSER. I am afraid the answer to that question would be—we can begin using them.

In most colleges today that problem is not really valid and would not be a really valid reason because this is what is happening—the housing is being divided.

Mrs. SULLIVAN. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment. I believe people—men and women—should be recognized on their ability, not their sex. Title X prohibits discrimination against women in institutions of higher education. In consideration of that prohibition, two things must be kept in mind. First, discrimination now exists in such institutions and demonstrably denies equal opportunity to women to their personal loss and the loss of the Nation. Second, a prohibition of discrimination will not constitute an invasion of the autonomy of any institution.

Every study ever made of the subject confirms what all of us know from our own observation. Men get college teaching appointments more readily than do women. Men get higher pay, get promotions faster, obtain tenure more easily and, if people have to be let go, the men are kept on and women are dismissed.

Women now earn 40 percent of the bachelor degrees awarded but their degrees do not provide them with the same access to careers that is available to men. The discrimination against women exists inside and outside the academic world. In the business world, men right out of college are recruited for executive training while women of the same qualifications and capabilities are offered secretarial jobs. In the academic world, women's experiences are comparable. In recent years 30 percent of master's degrees and 12 percent of the doctorates were awarded to women. A survey in 1966 indicated that there were but 3,149 women holding full professorships at a median salary of $11,649. At the same time, 32,873 full professorships were held by men at a median salary of $12,768.

Only 9 percent of the women who embark on college teaching careers attain the rank of full professors. Women reach the rank of department chairman at the incredibly low level of less than 1 percent.

If the picture for women in the institutions of higher education across the country is bad, the situation in our most prestigious schools is frequently even worse. Testimony given in hearings before the Special Subcommittee on Education last year indicated that women comprise 22 percent of the graduate students in the graduate school of arts and sciences at Harvard University but of the 411 tenured professors at that same graduate school, not one is a woman. State supported universities frequently do not do much better. At the University of Connecticut 33 percent of the instructors are women, but only 4.8 percent are full professors. At the University of Massachusetts there are 65 women on the faculty but only two have tenure.

Even in academic subject areas where women would be expected to be found in substantial numbers, they are not well represented. Out of 105 professors in the school of education at the University of Michigan, only six are women. At the same university out of 58 professors in social work, only 12 are women. In library science out of 14 professors, only three are women.

Even when women are hired, they frequently remain at the bottom of the academic hierarchy. The higher the rank the lower the percentage of women. In a typical study of 188 departments of sociology, Dr. Alice Rossi of Goucher College found that women accounted for 30 percent of the doctoral candidates; 27 percent of the full-time instructors; 14 percent of the assistant professors; 9 percent of the associate professors; 4 percent of the full professors; and 1 percent of the departmental chairmen.

The situation in both law schools and medical schools is comparable. In 1969 women comprised only 6.9 percent of law school students. In 1966 a study revealed that of 2,335 law school teachers, only 51 are women. In the medical profession only 9 percent of the doctors are women. A proportion which compares unfavorably with the 24 percent in England and the 65 percent in Russia.

Career discrimination begins in undergraduate schools. Quotas should not be imposed. Admissions should be on the basis of ability. Women should have equal opportunity to start their careers on a sound basis.

Granting that discrimination against women in the academic world is real and that it forces a loss of talent that the nation cannot afford, I believe that it is appropriate that the Federal Government undertake to prohibit this discrimination. I believe it is right and proper that our government intervene in a situation in which discrimination is demonstrable.

The prohibition will not constitute an invasion of the autonomy of individual institutions. There is no interference with the university in any management decision regarding selection of courses or course content. There is no interference with the university in regard to the setting of competence standards for selection and retention of faculty. There is no interference with the university in regard to its ability to set standards of admission. There is instead a simple prohibition of discrimination against women. That prohibition is both necessary and consistent with the preservation of the highly important right of institutions to make decisions controlling their educational mission.

In closing I would like to call Mr. ERLENBORN's attention to a statement on this issue of discrimination which our President made recently.

Neither the President nor the Congress nor the conscience of the nation can permit money which comes from all the people to be used in a way which discriminates against some of the people.

Mr. CONTE. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman from Illinois. With 12 colleges and universities in my district, I am acutely aware of the devastating effect that title X, as presently constituted, would have on their character and operation.

This provision has been opposed by numerous educational institutions throughout the country. Their administrations have rightly pointed out that one of the strengths of American higher education is its diversity. Some students do best in an environment of their own sex. Others do best in a setting where their own sex constitutes a distinct majority of the college population. Still others fulfill their highest capabilities in an equally balanced student body.

The passage of this provision could seriously hamper the efforts of single-sex schools which are now in the process of changing to coeducation. for a number of these schools, it is more important that they be allowed to experiment with varying ratios of men and women on their campuses.

Although title 10 gives these institutions 7 years to establish a practice of open admissions, financial considerations may make this timetable impossible. Moreover, realizing that they are destined to lose control of their admissions policies at the end of the 7-year period, some schools may elect to remain single-sex and thus defeat a main intent of title X.

Consider, too, the plight facing our Nation's small colleges under this provision. As an example, Williams College in my own district has, until recently, been an all-male institution. It has now begun to accept women, but in a limited number so as to keep the total population of the school low enough to retain the advantages of a small school.

With passage of this provision, the school would be confronted with three options: First, it could keep the number of men at the present level and admit about the same number of women. This would double the size of the college, resulting in the loss of the advantages of a small school. Second, it could keep the total population of the school down by making a 50 percent cut in the number of male students admitted. Third, it could give up all Federal Aid which would lead to tuition increases that could hurt many students.

Any of these alternatives would seriously harm the character and tradition of Williams College and other institutions in similar situations.

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To summarize, I contend that, far from prohibiting discrimination on the basis of sex, title X reduces the number of options available to men and women. Attempts to end discrimination should result in the opening of new opportunities for individuals, not the closing of existing paths of diversity.

Undergraduate admissions policies of institutions of higher education should be exempt from title X. I therefore urge the passage of this amendment.

I should like to read a message from the president of Amherst College which is in my district. I might say, Mr. Chairman and Members of the House, that once I was talking with former Senator Douglas, who had taught at Amherst College, and he said:

You must represent one of the most highly intellectual districts in the United States.

And I believe that. We have 12 of the finest colleges and universities in the world in my district. Let me read from two telegrams.

John William Ward, president of Amherst College, said:

Private colleges feel strongly that those provisions of Title X of H.R. 7248 which pertain to undergraduate admission are unworkable and unwise. I join with other spokesmen for such institutions in strongly urging support of Representative Erlenborn's opposition to the present provisions of Title X with respect to undergraduate admission.

I have also a message from Joseph A. Kershaw, provost of Williams College. He says:

I understood Congressman Erlenborn will try to amend the Higher Education Bill to confine the non-sex-discrimination admissions provision to graduate student admissions. Hope you will support this amendment. Present proposed provisions in the bill would be extremely difficult for us to implement.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(By unanimous consent, Mr. CONTE was permitted to proceed for 1 additional minute.)

Mr. GROSS. Mr. Chairman, if the gentleman will yield, is that the same Douglas who has been writing articles for Playboy or a similar publication?

Mr. CONTE. I do not know, but I know he was a very fine U.S. Senator, and I know we have some of the finest institutions in the country in my First Congressional District.

Mrs. GRIFFITHS. Mr. Chairman, I rise in opposition to the amendment and move to strike the requisite number of words.

Mr. Chairman, I oppose this amendment, and I would like to point out that discrimination against women in education is the oldest discrimination in our Nation. Originally no women were admitted to schools except those schools that were finally built for women only.

The gentlemen who proposed the amendment has placed in the RECORD some letters from schools as to why they oppose the amendment. I would like to submit that all of us, I presume, are a bit provincial in the way we look at things, but the most bigoted, the most provincial group of people in the country in my judgment are the men in the universities who run the institutions.

I would like to give Members an example from that illustrious university, Harvard. The letter from Harvard says:

The critical problems for Harvard are primarily financial and educational.

Then they lay it right on the line. What they are looking for is money. And after pointing out the problems of building additional dormitories possibly, none of which would be necessary, they then say:

In the longer run, there may be even more serious risk of substantially impairing the level of alumni support to the University. The available evidence seems to suggest that alumni support their university to a degree far in excess of alumnae. For example, Harvard alumni contribute to annual giving at a per capita rate over four times that of Radcliffe graduates, and large disparities are also evident at other private universities.

I would like to ask Members, is Harvard now admitting that one of the hidden criteria for admission to Harvard through the years more than 300 of them to be exact—has been: Will you as a graduate contribute to Harvard University?

I think that is ridiculous on the face of it. Surely they did not check to see if the Irish had jobs good enough to contribute to Harvard before they admitted the first Irishman. Surely they did not look to see what other groups did—or maybe it does explain why they did not permit Negroes to enter for such a long time. But I do not believe this. I believe this is a criterion which has been just established, and it has been established only in the case of admission of women. We cannot admit women because they might not contribute.

I think Harvard, having some fairly good mathematicians, should go back and look again. If a Radcliffe graduate has been giving 25 percent as much as a Harvard graduate, I would suggest they check the percentage of her income as opposed to the percentage of his, and they will find that she is giving a much higher percentage of her income than a man is giving of his income.

I urge Members to look through the provincialism of all the schools. Women today must support their families. If they are to support their families, they must have education. If they are to be admitted to the best graduate schools, they must have been admitted to the best undergraduate schools on exactly the same criteria as men. I urge you to oppose the amendment.

Mr. WYMAN. Mr. Chairman, I rise in support of this amendment. I do so largely for reasons outlined by the president of Dartmouth College in my State. I quote from a recent letter from President Kemeny dated October 27, 1971:

Congress ought not to use Federal support which amounts to only a small fraction of the University's revenues for undergraduate education—as the lever by which to force extraordinary changes in operations of private institutions where there is no compelling constitutional or social need to do so.

I have listened with interest to some of the remarks that have been made here urging that Mr. ERLENBORN's amendment is against womankind. It is no such thing.

All the pending amendment does is to change one small section of title X, to provide that its compulsion shall not apply to the undergraduate bodies of our private educational institutions.

Mr. Chairman, what business does the Congress of the United States have telling private institutions how they shall run their undergraduate affairs? What business is it of ours to take money from the people of this country in taxes and then tell private educational institutions they are not going to have any unless they are coed? Title X of this bill directs departments and agencies to which these taxes are appropriated not to give them to these private institutions unless they are open to women across the board. This unreasonably invades the policy prerogatives of these institutions. It is unsound.

The 90 to 10 formula is in the report, of course. It does not appear in title X. But the limiting scope of the amendment before us today merely exempts undergraduates. It will do nothing to discriminate against women in America or lessen their opportunities for educational advantage.

As the gentleman from Illinois has pointed out, women in this country have increasingly taken advantage of educational opportunities. Harvard Law School has women students now. Dartmouth College has women students now. All over America this is gradually opening up. In my district the University of New Hampshire has a substantial number of women in its student body. But this is occuring without the carrot and stick approach of title X. It seems to me it is a misuse of Federal funds, Mr. Chairman, to authorize such coercion for that is precisely what it is to demand that we interfere with the internal operations of privately run educational institutions by withholding Federal funds unless coed.

I certainly hope in its wisdom this Congress will reject the proposal of title X to apply this across the board and adopt the pending amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

For clarification, the amendment would affect only undergraduate admissions. All the other rights of undergraduate schools covered by this would continue to be protected.

In addition, I would point out that the New York Times and the Washington Post both have had editorials supporting the concept embodied in this amendment.

In addition, we have communications from Bowdoin College, Maine; Bryn Mawr College, Pa.; Columbia University, N.Y.; Dartmouth College, N.H.; Harvard University, Mass.; Mercer University, Ga.; Princeton University, N.J.; Rockhurst College, Mo.; Smith College, Mass.; and Yale University, Conn. Other institutions also support it.

Mr. WYMAN. I thank the gentleman.

As the gentleman points out, his amendment applies only to the admissions policy of these educational institutions. I submit to those here who have not yet made up their minds, what business is it of ours to deny Federal funds in order to coerce private institutions as to their admission policy on undergraduates? The application of title X to undergraduate admissions is wrong and it will be corrected by adopting the pending amendment.

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. WYMAN. I yield to the gentleman from New Hampshire.

Mr. CLEVELAND. Mr. Speaker, I appreciate the gentleman from New Hampshire (Mr. WYMAN) yielding.

I wholeheartedly agree with the views expressed so well by Mr. WYMAN and others this afternoon in support of this amendment. I was particularly pleased that Mr. WYMAN quoted from the letter written by Dr. John G. Kemeny, president of Dartmouth College, and can only say that I concur with the points made so well by Dr. Kemeny.

A particularly telling point, I felt, was that a major strength of America's university system is the great diversity of approaches and methods—private and public, sectarian and nonsectarian, large and small, coeducational and single sex—the diversity is great. It is this diversity that has helped produce the greatness of our universities. It would be regrettable to do away with any aspect of that diversity unless there is a compelling national interest in so doing. The antidiscrimination provision before us is not necessitated by any such compelling national interest.

It is worthy of note that this provision which meddles in the internal operation of our colleges and universities comes in the same bill that is providing billions of dollars for the higher educational institutions. I cannot help but remember some years ago when we were debating whether to establish Federal programs to aid education, a major concern of many of us was whether the Federal aid would be accompanied by Federal interference. Today the chickens are coming home to roost.

I intend to vote for the Erlenborn amendment to eliminate the provision prohibiting discrimination according to sex in undergraduate admissions. I am very pleased that the distinguished gentleman from Illinois is winning well deserved recognition nationally for his steadfast devotion to excellence and reason in developing educational programs.

Mr. MONAGAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as an Irishman who went to Harvard, I can assure the gentlewoman from Michigan that there was no prior commitment in my case in support of the Harvard Alumni Fund. In fact, I am afraid that the gentlewoman could not use my record of contributions as any argument in favor of the proposition that she put forth.

I regret that the gentlewoman saw fit to cast unmerited aspersions upon the Harvard record for fairness to applicants for admission. Too many poor but able students have passed through her halls to permit the production of any evidence to support a charge of discrimination and Harvard has led the academic field in equality of treatment of applicants and admission on the basis of merit.

However, I do think that this question should be treated not solely as a matter of discrimination but also as a question of what the effect of this provision would be upon some institutions that might wholeheartedly be examining into the question of changing the methods that have prevailed over the years and who would be inhibited from going forward with such a change because of the provisions of this legislation.

The gentleman from New York (Mr. PEYSER) pointed out several other considerations that I think are extremely important. One is, the fact that more than 41 percent of the undergraduates now enrolled in American colleges are women. The attempt to equate this with racial discrimination is really not legitimate.

Also I think it should be emphasized that in the field of education a broad range of possible arrangements may be healthy and desirable. There is no one percentage that applies everywhere and in all cases. I am talking about flexibility in the types of arrangements of proportions of the sexes that would be admitted in particular colleges.

Additionally I believe it should be emphasized, as the gentleman from Massachusetts (Mr. CONTE) has said, that an institution which is of one sex at the present time because of the limitation of 7 years that is contained in the bill would be prevented from experimenting and from going from one proportion to another gradually over a period of years. It might and very possibly would, as a result of this confining requirement and restriction, be compelled to go all the way or on the other hand to remain an institution of one sex.

I do not think the question of alumni contributions is one that should be dismissed out of hand. After all, we are talking in many of these cases of one-sex institutions and of colleges which are primarily private institutions from the point of view of the source of their financial resources. Therefore, any abrupt and substantial change in the character of the student body and, as a result, in the character of the institution could and very likely would have a depressing effect upon the volume of the contributions. It would be ironic to set up a system of Federal contributions and at the same time take away an equal amount of private contributions to a particular institution.

Finally, the criteria for judging the discrimination which is attacked are not adequately spelled out. Some of these institutions rely on other standards, rather subjective perhaps in certain cases, than the college entrance examinations or other similar tests. These systems of selection have worked out effectively and have worked out fairly and worked out without discrimination in the past in other areas, and it would be most unfortunate to substitute a mechanical objective test for these other types of tests that have met the standards of excellence over the years.

For these reasons, Mr. Chairman, I support this amendment.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MONAGAN was allowed to proceed for 1 additional minute.)

Mr. MONAGAN. Mr. Chairman, I yield to the gentleman from New York (Mr. SMITH).

Mr. SMITH of New York. I thank the gentleman for yielding.

Mr. Chairman, I wish to associate myself with the remarks of the gentleman in the well.

Mr. Chairman, I rise in strong support of the amendment of Mr. ERLENBORN, the gentleman from Illinois.

Title X of this bill, entitled "Prohibition of Sex Discrimination" reads, in its effective provisions, as follows:

Section 1001. No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that this subsection shall not apply—

1. in the case of an educational institution in which substantially all the students are of the same sex,

2. for seven years from the date an educational institutions begins the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education, or

3. to an educational institution which is controlled by a religious organization and where the application of this subsection would not be consistent with the religious tenets of such organization.

Mr. ERLENBORN's amendment would exempt out of this title all undergraduate schools and would leave the prohibition against sex discrimination to apply to graduate education and faculty employment and salaries.

If the proposed law stays in its present form, without the Erlenborn amendment, the admissions policies of private colleges and universities will be regimented beyond reason in the name of antidiscrimination, even though 41 percent of the undergraduates in America today are women. It strikes at the university which has been one of the strengths of higher education in America and which has offered students a wide range of social environments from which they could choose the kind best suited to their aptitudes and needs.

Mr. Chairman, as the report states on page 251:

Single-sex institutions of higher learning are rapidly decreasing in the United States. In the past decade, the number of single-sex institutions has dropped from 445 to 347, representing only about 3 percent of the total student enrollment in colleges today. At the same time, the number of coeducational colleges is increasing. During the last decade, coeducational institutions rose from 1,533 to 2,226. Single-sex institutions have a long history in education, and legitimate controversy continues between educators over the relative merits of single-sex versus coeducational institutions.

Mr. Chairman, I had the good fortune to graduate from Dartmouth College, about which Daniel Webster, from 1812 to 1816 a distinguished Member of this body from New Hampshire, said in the

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Dartmouth College case before the Supreme Court of the United States:

It is a small college, but there are those who love it.

Dartmouth College, now in its third century of service to this Nation, has been a college for men throughout its history and thus represents the small- or medium-sized private colleges and universities which have been and are either men's or women's colleges. We have seen that there are now about 347 of these colleges left.

Let me use Dartmouth College to illustrate to you how title X of this bill, without the Erlenborn amendment, will be counterproductive—how it will encourage what it purports to condemn: Discrimination on grounds of sex. The same considerations will apply to all of the other single-sex colleges and universities, whether they be women's colleges or men's colleges, and there are probably an equal number of both.

The trustees of Dartmouth College have been studying for 2 or 3 years, after two centuries of male education, the possibilities and probabilities of enriching the quality of Dartmouth education by admitting young ladies in substantial numbers to a total of about one-third of the undergraduate student body. In order not to cut down the present student body, they are also considering a 12-month operation of the college, with a staggered four-semester system. This will allow the proposed female increase in the student body without requiring substantial investment in new dormitories, classrooms, and other facilities.

The decision will probably be made within the next 2 months. If title X of this bill is adopted without the Erlenborn amendment, I can reasonably predict that the trustees will decide not to go ahead with coeducation but to remain substantially a college for men. I think this would be too bad. It is an example of how title X as it is now written will be counterproductive of the ends it seeks to promote in regard to the elimination of discrimnation on the grounds of sex.

Mr. Chairman, let me urge, in the name of the great diversity of American higher education, that all of my colleagues support this Erlenborn amendment to title X.

Mr. MONAGAN. I thank the gentleman from New York for his contribution.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that, perhaps, some of these liberal establishments which profess to be centers of excellence in the field of education, or some who think they are, are not willing to accept for themselves that which they would require of others. This might as well apply to a couple of newspapers that have been mentioned here today as supporting this amendment, the Washington Post and the New York Times.

I would like to try to clear the air with some questions, if I can, as to what this amendment really does, and then I am going to make my decision after I get answers to these questions.

I would like to ask the gentlewoman from Oregon who is floor manager of the bill (Mrs. GREEN) if this title has anything to do with admission policies and if the answer is "yes," then I will ask some other questions.

Mrs. GREEN of Oregon. Mr. Chairman, if the gentleman will yield, the answer is "yes."

Mr. WAGGONNER. Does this title require what is at the present time an all-male school of higher education at the undergraduate level the admission of females?

Mrs. GREEN of Oregon. It does not. If an institution is of all one sex or substantially of one sex, which is defined as 90 percent or more, it is exempt from the provisions of title X.

Mr. WAGGONNER. Then the gentlewoman is saying that conversely an all-female institution of higher education at the undergraduate level is not required to alter its admission policies to admit members of the male sex?

Mrs. GREEN of Oregon. The gentleman is correct.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. Not for the moment. Let me pursue these questions a little bit further.

Does this title say anything more than if an institution is already coeducational and the ratio of male to female in either direction exceeds 10 percent, and if such institution is participating and making available to those students who are enrolled there, male and female, and if a program is financed in part or in whole by a Federal program that in administering this particular program they cannot discriminate because of sex?

Mrs. GREEN of Oregon. That is correct. If they are 89 percent or less of one sex, then the discrimination clause would go into effect. However, there is also a transition period of 7 years from the time they began to move from one sex status to coeducational.

Mr. WAGGONNER. Let me clarify a little bit better the point I am trying to make and that is this: This applies, apparently, only to those programs wherein the Federal Government is in part or in whole financing a program or an activity?

Mrs. GREEN of Oregon. With Federal funds.

Mr. WAGGONNER. That is what I mean, Federal funds.

Mrs. GREEN of Oregon. It is really the same as the Civil Rights Act in terms of race.

Mr. WAGGONNER. That is the point I am coming to now.

The Civil Rights Act of 1964 says that you cannot discriminate because of race, color, creed, among other factors.

I have about come to the conclusion that we are about in the position we were when we were considering that particular proposal and amended it to say that you could not discriminate because of sex, and I have just about come to the practical conclusion that about the only people who can be discriminated against, if we do not accept this title, are white women.

Would the gentlewoman care to comment on that?

Mrs. GREEN of Oregon. It is true that the law of the country is that in terms of the admissions policy of any college, whether it has Federal funds or not, it cannot discriminate because of race, creed or national origin. I would let the black women speak for themselves, but a black woman does have some protection on the ground of discrimination on the basis of race and can file a charge on that basis.

A white woman has absolutely no redress at all.

For example, I received a doctorate degree from Yale University, but if I had ever applied for admission to undergraduate college at Yale University they would not have admitted me because I am a woman. It is that simple.

Mr. WAGGONNER. But we are still saying under this title that if you do not have a coeducational institution you do not have to alter your admission policy?

Mrs. GREEN of Oregon. That is correct, if it is all one sex at this time they are exempt from all provisions. They are not exempt, however, from the provision that is now the law on admission policy that there can be no discrimination on account of race, creed, color or national origin.

Mr. STEIGER of Wisconsin. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, let me proceed along the line of the gentleman from Louisiana, and let me ask the gentlewoman from Oregon (Mrs. GREEN) for clarification on what I thought I heard.

In title X the gentleman from Louisiana asked relating to a program on activities receiving Federal financial assistance, and under the "program on activity" one could not discriminate. That is not to be read, am I correct, that it is limited in terms of its application, that is, title X, to only programs that are federally financed? For example, are we saying that if in the English department they receive no funds from the Federal Government that therefore that program is exempt?

Mrs. GREEN of Oregon. If the gentleman will yield, the answer is in the affirmative. Enforcement is limited to each entity or institution and to each program and activity. Discrimination would cut off all program funds within an institution.

Mr. STEIGER of Wisconsin. So that the effect of title X is to, in effect, go across the board in terms of the cutting off of funds to an institution that would discriminate, is that correct?

Mrs. GREEN of Oregon. The purpose of title X is to end discrimination in all institutions of higher education, yes, across the board, but we do have the three exemptions to which I referred.

Mr. STEIGER of Wisconsin. Mr. Chairman, I must admit that I cannot have anything but mixed feelings about a debate on discrimination. The hearings before the committee are full of testimony clearly indicating discrimination by institutions of higher education in graduate enrollment, living practices and promotions.

I have three comments on the whole question of the amendment now before us. One is that I find myself somewhat surprised that there is so much power granted to HEW under title X when in fact the gentlewoman from Oregon has been a most strong opponent of granting additional powers to HEW. Perhaps in this field she feels that there is some greater justification for granting this much power.

Secondly, under the bill, under the titles which we have gone over before, we have in effect allowed the local financial assistance officers to have a rather broad sweep of powers in their right to pick and choose those who should receive aid which could work against low-income students, but in this one we now are going to say that it is the Federal policy that you cannot discriminate because of sex. This dichotomy confuses me on one hand we grant latitude and autonomy while on the other limiting autonomy.

And thirdly, Mr. Chairman, may I say in all honesty that I fail to be moved by the argument that because it is public policy under the Constitution that you may not discriminate because of race, creed or national original that now suddenly we find ourselves saying we will make this public policy that you may receive no Federal funds if you do not follow the open admissions policy advocated here by some, not as a right but under the law.

I think the Erlenborn amendment would help to make Title X a truly effective piece of Federal legislation, and it is for that reason that I intend to support the amendment.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentlewoman, of course.

Mrs. GREEN of Oregon. I have heard the Secretary quoted several times during debate on the Higher Education Act. Secretary Richardson, quoting the President of the United States, said on October 27, 1971, before the Senate committee:

Neither the President nor the Congress nor the conscience of the Nation can permit money which comes from all the people to be used in a way which discriminates against some of the people.

Mr. STEIGER of Wisconsin. Then may I say to the gentlewoman from Oregon, if you are going to follow that particular viewpoint, then let us admit that there is discrimination in title X, as written, because it excludes certain schools or institutions.

If we are going to have a rule, let us take them all out and not provide any distinction.

Mrs. GREEN of Oregon. I would be in favor of that and if at this time the gentleman wants to offer that kind of amendment, I would vote for it.

Mr. STEIGER of Wisconsin. But you are using the words of Secretary Richardson about discrimination.

Mrs. GREEN of Oregon. No, I am trying to make it as easy as possible for institutions of higher education to go through this transition period.

It would be my judgment that you would probably have a small percentage of people really in single sex institutions, in terms of the 7½ million. So I would try to make this transition period as easy as we can.

But, if I were just considering myself, I would say "yes"—I would want no form of discrimination against women any more than against any person because of race, color, creed or national origin.

Mr. BINGHAM. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I, for one, do not find this an easy question at all. I am troubled by some aspects of the Erlenborn amendment. Frankly, I am troubled also by some aspects of the committee bill.

I would like to begin by asking the able gentlewoman from Oregon a further question for purposes of clarification of the meaning of the words that would be stricken by the Erlenborn amendment which read, "in the case of an educational institution in which substantially all the students are of the same sex."

Now do I understand those words "educational institution" would apply to an all-girl undergraduate college? For example, take the case of Bryn Mawr, which has an all-girl undergraduate college but which has men in substantial numbers in its graduate schools. Would Bryn Mawr's undergraduate college be excluded under the committee's exclusion?

Mrs. GREEN of Oregon. I understand there is going to be an amendment offered on this point and I would accept it.

The graduate school has been accepting students of both sexes and the undergraduate school has not. The undergraduate school wants the 7-year transition period which should be from the time of enactment to the time the school begins that transition period.

But at the present time, any institution of higher education which is just for one sex would be exempt from the provisions.

Mr. BINGHAM. My question is, do you consider an undergraduate college as an educational institution for this purpose even though overall the university may be coeducational?

Mrs. GREEN of Oregon. No, in my judgment if you want to separate the graduate and undergraduate, an amendment would have to be offered, and I just said I would accept it. The answer to your question is—no. They would be one institution or university and we would not separate the graduate from the undergraduate in defining "institution."

Mr. DELLENBACK. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman?

Mr. DELLENBACK. The gentleman in the well has pointed out a very sound objection to this committee bill as it exists. I propose at the proper time to introduce an amendment which would make a type of distinction possible so that if in a single university there are separate components in the different admission policies, they can and will be treated differently.

Mr. BINGHAM. I thank the gentleman. I think that would certainly help.

However, I am still disturbed by the distinctions made in the bill between institutions which are considered to be all male or all female and those which are not.

We are confronted here with the proposition where an institution which has 9 percent females is not going to be bothered by this bill. But an institution with 11 percent females is going to be covered. That seems to me to be a very questionable distinction.

You will have similar odd situations where you have paired institutions, that is where you have an undergraduate college for men that is close, physically and geographically, to a college for women.

They may exchange facilities; they may exchange programs; but they are not going to be covered by this legislation. Whereas if these two paired institutions happened somewhere along the line to have come under one roof, they are going to be covered.

I think it is unfair to compare this title of the bill with the equal rights amendment. I seriously doubt whether this title in its present form complies with the equal rights amendment that we passed so overwhelmingly the other day. It certainly cannot be compared with the civil rights legislation which we have adopted.

We have not said—perish the thought—we have never said that an institution can be all black, or that, if it is all white, it does not have to accept blacks. Here we are saying just that, so far as discrimination on the basis of sex is concerned.

It is true that the distinction Mr. ERLENBORN seeks to draw between undergraduate schools and graduate schools may also be criticized, but at least it is clear and I do not think it is arbitrary. So far as the graduate schools are concerned, there is every reason to believe that we can move toward effective coeducation, and the difficulties that may arise in the case of undergraduate schools will not arise.

However, as I am strongly in favor of ending discrimination against women in all fields, including education, and in view of the fact that the Erlenborn amendment is so sweeping in its effect that it would substantially defeat the purpose of the whole title, I shall vote against the amendment.

Mrs. ABZUG. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, it seems that every time I get up here to discuss the subject of equal rights for women somebody has just received some instruction from his wife on how to vote. I must report again that I have not received any such instruction from my husband, which is a fact that merely sharpens the subject matter of this debate. The question before us, namely the need to eliminate discrimination against women in higher education is a very serious one, and I feel a little saddened that those who have spoken have made clear that they want to continue this discrimination.

The reason I feel sad is that the discussion today reveals some very deep attitudes of discrimination, and I will tell you why. Those who have argued in support of Mr. ERLENBORN'S amendment

have said, "What are you worried about? We are merely seeking to exempt undergraduate schools."

Well, merely seeking to exempt undergraduate schools from the ban on sex discrimination means that we are seeking to exempt the right of women to participate equally in the largest and the greatest number of higher educational facilities in this Nation. We all know that it is at the undergraduate level that people must enter in order to go onto higher graduate education. We also know that if we pass a bill only to eliminate discrimination in graduate schools, we reach few people indeed.

The other interesting thing that has happened here today is that we have had various statements and telegrams from colleges and universities or, rather, the heads of colleges and universities. We have Mr. ERLENBORN's statement of what the American Association of Universities said, and so on. It is interesting because the very telegrams and the very chancellors and the very presidents who may have said to Mr. ERLENBORN, "We do not like the idea of having to provide for women in our colleges," because that would "establish an undesirable degree and kind" of Federal influence over these institutions, have also sent us telegrams to support the Higher Education Act of 1971. I received such a telegram from the president of Columbia University. At best this position is hypocritical. They will accept Federal involvement when it comes to getting financing, but they will not accept Federal involvement when it comes to meeting what is clearly the spirit of the law—the objective and the goal of this Nation—namely, the eradication of discrimination. And it is discrimination which inherently and aggressively exists in the institutions of higher learning of this country. At worst their position is purely self-serving, seeking as it does to maintain the discrimination they practice to keep women out of their schools. Of the 34 members of the AAU, most of whom did not actually sign the statement Mr. ERLENBORN previously inserted in the RECORD—as he admits today—16 of them are the subject of charges filed against them in Federal and State forums for discrimination against women. Another eight of them have been accused of discrimination by women's groups on the individual campuses.

Certainly we cannot expect that the men who head these institutions—and they are all men—will look favorably upon women, against whom they have discriminated, seeking admission to their institutions. Unbiased admissions policies would threaten the male power structures which presently control these institutions, and of which these men stand as the leaders, saying "we won't let you in."

Their fears are not unfounded. As women gain equal access to institutions of higher learning, they will also gain greater access to the other facets of the power structure of the country—political, social, and economic.

There is another interesting aspect of the AAU letter. Yesterday, I received a telegram from James M. Hester, the president of New York University, a member of the AAU listed on Mr. ERLENBORN's letter, which reads:

I strongly affirm my support of H.R. 7248. I oppose discrimination against women and support the intent of Title 10.

President Hester's telegram raises the question as to whether the remaining 33 members listed on the AAU letter were fully aware of the position the organization has taken. Clearly, Mr. Hester was not. I am also advised that the heads of the Universities of Wisconsin, Indiana, Michigan, and Michigan State have retracted their support from the AAU position.

A second organization, the Association of American Colleges, which represents a membership of 800 liberal arts colleges across the country, recently adopted a resolution by membership vote, condemning sex discrimination—a gesture which simultaneously recognizes the existence of discriminatory policies and supports the anti-sex discrimination provision of the committee's bill.

The argument which my colleague offers is that the Federal Government should not interfere in any way with the admissions policies of private colleges and universities. Need I remind him that this bill does not regulate all institutions of higher learning. It merely regulates those that accept Federal money. Surely the women taxpayers of this country have a fundamental right to insure that their tax dollars do not support institutions which discriminate against them. Surely the men in this country who believe in equal rights for all—women too are entitled to see to it that their tax dollars are not used to aid schools which discriminate against men.

The formative influence on young minds of societal expectations of women who go to college cannot be exaggerated. Young girls who seek to achieve educationally rather than to accept the deferential role and the submissive role that society had dictated for them are found by psychologists to fear that they will suffer social rejection should they succeed.

If one reads the hearings of this committee, and other related reports, it is inescapably clear that women are seriously discriminated against in college admissions. I call your attention especially to a study done by Dr. Patricia Graham of Barnard College in New York, which shows that 75 to 90 percent of the well-qualified high school students who do not go on to college in this country are women. I assure you that this is not because young women are less interested in furthering their education than young men.

Other evidence in the committee hearings show that women are forced to meet higher standards of admission than are men. At the University of North Carolina, for example, admission of women at the freshman level was "restricted to those who are especially well qualified," but no comparable restrictions applied to men.

In Virginia, according to a 1964 report, 21,000 women were turned down for college entrance—but not one male student was rejected.

Another study, published last year by the American Association of Junior Colleges, showed that in one city the lowest rate of college attendance among black and white students of both sexes was in the category of white women. Clearly there is a pattern of discrimination. It was recognized by the committee, by numerous witnesses and outside authorities, and it must be recognized by this distinguished body.

There is a rising demand in this country by women seeking equal opportunity in education and in pay and in aspirations and in recognition.

What has been most appalling in the discussion here today is the way in which many of the Members of this body are prepared to perpetuate this discrimination against women. There is no other explanation for the comments made by those who support the Erlenborn amendment. What else would be the reason to adopt a provision in title X to ban sex discrimination in graduate schools and not in undergraduate schools? Could it be that if women were permitted equal entry to the institutions of higher learning, that they would become the presidents of colleges or that they might replace somewhat, if only a little, the power structure now totally dominated by males with participation by women?

It seems to me that those of the Members who have voted for the equal rights amendment cannot possibly vote for the Erlenborn amendment. To do so would indicate that the Members merely gave lip service to give their constituents—51 percent of whom are women—the idea that they favor equal rights for women, when, in fact, as soon as they are faced with the first crucial practical step of effectuating equal rights for women, they seek to cut it down to nothing.

I urge all the men in this House to reject the Erlenborn amendment. I would say education for women is certainly as important as the equal opportunity for those from different racial backgrounds or different national backgrounds or different ethnic origins—to which the Members have readily agreed. Perhaps it is because they do not fear the power of the other groups—and feel that the power of the women is potentially greater and I think they should. I believe 1972 will help these Members understand why.

Mr. SCHERLE. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the gentleman for yielding.

I have one question which comes to my mind, which I think has an important bearing on the balance of what we do here, and certainly it will have a bearing on what I do.

The question is this, and I would like to ask it of the gentlewoman from Oregon. I am thinking of a specific example now of a school which has a coeducational operation. Throughout the years they have had a total ceiling on enrollment. They have had a ceiling on female enrollment and a ceiling on male enrollment. They are all on the same campus, but they have what is called a women's division and a men's division. For example, they have a ceiling on total undergraduate enrollment which is 4,500, of which throughout the years they have admitted 3,000 men and 1,500 women, all undergraduates. Under the provision of this title, if a woman applied and a man applied, and this school with its ceiling overall of 4,500 had not been reached, but the 1,500 which has been their ceiling for women had been reached but they had only accepted 2,800 male students—which left them under their previous method of operation 200 vacancies for male students—would they be discriminating if they turned this young woman applicant down, not because of sex, but because they had reached their established and practiced ceiling throughout the years, and accepted the male because they still had 200 vacancies within their ceiling? Would this be discrimination under this act?

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman from Iowa yield?

Mr. SCHERLE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. This title X will not affect ceilings on institutional enrollments. It has nothing to do with how many students shall be admitted in total.

In terms of a quota, if a school is coeducational, as the gentleman suggested, and has a quota of 3,000 men and 1,500 women, and a woman is discriminated against on the basis of that quota, yes, the provisions of this title would affect the admission policy.

As I have said before, I oppose quotas, such as the Philadelphia plan. I believe it would be very wrong for us to establish a quota system in colleges or universities and so say, "Because you have admitted 3,000 men and 1,500 women you are immediately going to have to choose from among your applicants enough so that the group will be 50 percent men and 50 percent women." I would be adamantly opposed to that.

All that this title does is to ask that a woman be considered as a human being, that her qualifications, her high-school work and other qualifications be considered in the same fashion as those of a male applicant. If she qualifies, she should not be discriminated against on the basis of sex, just as we do not now discriminate on the basis of race.

I know that the gentleman from Louisiana realizes in many places they would like to establish a quota of X number of whites and blacks, and so forth. I believe that is wrong. It seems to me that individuals, whether they are white, black, yellow, brown, red, or whether they are male or female, ought to be considered on their individual merit and individual talent and whether or not they can do the work at that university.

Mr. WAGGONNER. Mr. Chairman, will the gentleman from Iowa yield?

Mr. SCHERLE. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. The net effect, then, would be to prohibit ceilings by sex if the ceiling had been reached for either sex before the other?

Mrs. GREEN of Oregon. The gentleman is correct.

Mr. WAGGONNER. I thank the gentlewoman.

Mrs. GREEN of Oregon. It would prohibit quotas now in effect or would prohibit the enactment of a quota system.

Mr. HUNGATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems that discrimination is a problem of our time. Is it not somewhat exhilirating to realize there are still some acts in some places where one can go to jail for failing to distinguish between a man and a woman.

I should like to say a few words on behalf of Harvard. It has been mentioned with some criticism before. In fact, some of my gentler colleagues have so enumerated the sins of that institution, Harvard, I have wondered why any lady would want to go there, except as a missionary.

When we discuss the problems of the treatment of blacks, really they cannot be serious in the criticism of Harvard University on that score compared with any other university in the United States, or in Harvard's treatment of any other minority group. I would offer to say they were probably admitting blacks at Harvard University when they were property in some of the States. Harvard can and should take a good deal of criticism, but we ought not to strike low blows.

On the question of mathematics, if that is a serious problem, we want to be very certain—in fact, I believe most Harvard types would want to be certain—that we do not mistake the exact time the university started, which was not 200 but over 300 years ago. It was 1636 when Harvard started laying bricks. There were no Elis then.

I might point out that among the people who have patterned our national life, for good or ill, were John Kennedy and Robert Taft, so apparently some of the inspiration there has been useful.

The gentleman to whom this whole program, I suppose, will be turned over, Secretary Richardson, I feel has those same flaws and virtues. He attended Harvard.

So far as discrimination is concerned, if you have been up to Cambridge lately and looked around, I think you will realize that around Harvard Square these days it is hard to tell the women from the men, without a doctor's certificate.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the Members know, I was relatively active in support of the proposed equal rights constitutional amendment and I continue to support that, including legislation to implement it. Furthermore, I support the objective of this title to end sex discrimination in higher education.

The question I have is whether this title is not a backward step rather than, as the gentlewoman from New York (Mrs. ABZUG) has charged, an opportunity for us to indicate that we are prepared to implement the proposed constitutional amendment guaranteeing equal legal rights for men and women. The question I have is this: Does the definition of educational institution as contained in this title apply both to public and private institutions? The reason I ask that question is that there are a great many public colleges and other institutions of higher education that would be exempted from the provisions of this law and build in the kind of sex discrimination that should be eliminated from our public institutions.

In other words, in the course of our hearings before the House Judiciary Committee on the subject of equal rights for men and women that there are mining institutions and agricultural institutions, medical schools, engineering schools and other public institutions of higher education supported by public funds, which in fact discriminate against women insofar as their admissions policies are concerned. I think for us to exempt from the provisions of title X institutions that are practicing that kind of sex discrimination would be a backward step and would not be fulfilling the objectives of the equal rights amendment.

I feel that the difficulty we are experiencing here results from an invasion of the jurisdiction on the House Judiciary Committee, which has pending before it, may I say, legislation to fulfill the equal rights amendment and to amend the Federal laws in every case where it is necessary to achieve equality of rights for men and women. I am fearful that what we are doing here could be a step backward.

If the gentlewoman from Oregon will explain the difference that may exist with respect to private and public institutions, I would appreciate it.

I yield to the gentlewoman.

Mrs. GREEN of Oregon. I thank the gentleman for yielding.

First, it does apply to public and private institutions. Second, it is a step forward—not a step backward. I think every single women's group that I know of, would consider it a step forward.

In terms of the equal rights amendment, the equal rights amendment as I said earlier, goes much further. When the other body takes the affirmative action that this House was willing to take in establishing equal rights for men and women, it would supersede this.

Mr. McCLORY. If the gentlewoman will please explain how we are going forward when it says in title X that it shall not apply in the case of an educational institution in which substantially all of the students are the same sex, I would appreciate it. What about the agricultural, the mining, the engineering, and the medical institutions which are public institutions but which are going to be exempted from what I consider to be an area where discrimination between men and women should be ended.

Mrs. GREEN of Oregon. Will the gentleman yield further?

Mr. McCLORY. Yes. I yield.

Mrs. GREEN of Oregon. They are certainly exempt at the present time. They do not follow——

Mr. McCLORY. I disagree with that. As a matter of fact, the University of Virginia is under court order right now to end its discrimination against women. I feel that other public institutions also should be required to end their sex discrimination. However, if this title is

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passed in this form, will it not build into the law the very exemption that we want to eradicate here?

Mrs. GREEN of Oregon. In my judgment, it will not.

The State of Virginia has a constitutional requirement which prohibits discrimination on the basis of sex, as at least two other States do, but there are varying degrees of statutory prohibition in other States. So, in my judgment, it is a real step forward in terms of ending another kind of discrimination that has pervaded our society for many years.

Mr. McCLORY. In my opinion, this title does not accurately set forth the purpose which it is intended to fulfill as it is presently written and composed. It requires a lot more study. I think it is something that should be considered by the Committee on the Judiciary in the form as introduced by my colleague, the gentleman from Illinois (Mr. MIKVA) or in some other improved form in order that we can end sex discrimination particularly in our public educational institutions as well as the private institutions where there is a denial of equality of legal rights.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words.

Mrs. GREEN of Oregon. Ms. Chairman, will the gentleman yield?

Mr. KOCH. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I wonder if we might reach an agreement on a limitation of time.

Mr. Chairman, I ask unanimous consent that all debate on this amendment close within 8 minutes.

Mr. KOCH. Not to include my 5 minutes.

Mrs. GREEN of Oregon. Your 5 minutes would not be affected.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. Not including the 5 minutes of the gentleman from New York?

Mrs. GREEN of Oregon. No; it does include the time of the gentleman from New York.

Mr. GROSS. Mr. Chairman, I thought the gentleman's time was divided among those standing. I do not think that was the intention.

The CHAIRMAN pro tempore. The gentleman has been recognized for 5 minutes.

Mr. KOCH. Mr. Chairman, we are witnessing today the kind of debate which undoubtedly has taken place in this House since its inception; namely, how to hold back the sands of time. Every group in this country, from our black citizens to our young people and many others, have been told when they petition this Congress for redress of legitimate grievances that they must wait and be satisfied with dribs and drabs until ultimately full rights are given.

Today's women are being told by the supporters of the Erlenborn amendment, "You must wait. You must be patient. You must not complain because there is a denial of equal rights to you."

The women of this country have made it clear they will not accept the salami tactics being used by the Congress; that is to say, "rights, a slice at a time."

The committee bill itself is too limited in that it does not grant full rights but the proposed amendment has no redeeming features and is an outrageous attempt to totally hold back the clock. One's right to attend undergraduate and graduate institutions should be predicated on ability, not on sex. The amendment must be defeated.

The CHAIRMAN pro tempore. Under the time limitation the Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, when we considered the equal rights amendment for women before this House, which was passed overwhelmingly, we did not have any "but" clauses in it or equal rights "except" clauses in it.

I, personally, feel that if we are going to grant public funds to institutions and carry out the will of the House as professed at that time, we should not have a limitation as to sex in this act. In other words, both sexes should be treated the same so far as their right to attend college is concerned. I have been disturbed however, about the statements that if there is to be no discrimination based on sex then there can be no separate living facilities for the different sexes. I have talked with the gentlewoman from Oregon (Mrs. GREEN) and discussed with the gentlewoman an amendment which she says she would accept. The amendment simply would state that nothing contained herein shall preclude any educational institution from maintaining separate living facilities because of sex. So, with that understanding I feel that the amendment now under consideration should be opposed and I will offer the "living quarters" amendment at the proper time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, let me just very briefly remind the House what this amendment would do. At the present time title X would apply nondiscrimination to both graduate and undergraduate programs, but would allow a single sex program in primarily single-sex institutions to continue. It would, however, prohibit any new institution from being developed on a single-sex basis. If some institution decided it wanted to start as a girls' schools, or it wanted to start as a boys' school, we would say absolutely no, that is prohibited.

My amendment would allow the effects of nondiscrimination in this title to apply to faculty, to employees, and to admission practices in the graduate schools so that the entry to the professions would be protected, and it would not apply the provision against sex discrimination in the case of undergraduate admissions.

To do so I believe is an unwarranted intrusion by the Federal Government into the internal administration of these institutions. In the same bill where we are holding out the prospect of putting Federal funds in every institution of higher education so that every institution will then come under the terms of title X, we are then saying "but if you take this money or any other Federal funds we are then going to determine for you what your administration practice should be." And we do not do it legislatively, we do not even give any criteria for the Office of Education to follow. We say "under a plan."

Under a plan that the Office of Education may approve. And if you started this process 7 years ago, or more, right now you must comply or all Federal funds will be withdrawn. I think that is totally unwarranted. I hope my amendment will be adopted.

The CHAIRMAN. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN) to close debate on this amendment.

Mrs. GREEN of Oregon. Mr. Chairman, it was just stated that if a new institution wanted to start out as a one sex institution that that would be prohibited. I beg to differ with my colleague. That is not the case.

It has been said that this is an unwarranted intrusion on the part of the Government into the administration of higher education institutions. We all know that the Government has intruded now for many years in the administration of all the schools, elementary and secondary, and higher education. It has intruded in terms of the Civil Rights Act. We now say you cannot discriminate against a person because of his race. If the Erlenborn amendment is adopted, however, we say go ahead and discriminate on the basis that that person is a woman.

Mr. Chairman, I am not going to expound at length on the few doctors we have in this country because quotas have been established, and women have been denied admission to medical schools. I am not going to go into the fact of the small number of women lawyers because there have been quotas, and women have not been admitted to law schools. But may I say to you that unless a woman is admitted at the undergraduate level she is not going to be able to go on to the graduate level, and do the caliber of work that she would like to do. So admission at the undergraduate level is very important if we are going to have more women at the graduate level.

Mr. Chairman, to summarize briefly, title X, at least as I see it, is simply an assertion of the basic American belief in human equality, and the title merely asks that universities and colleges act in good faith with their historic promise so that American women will be judged on an equal footing, on the basis of merit, as individuals without the restraints, alibis, or subterfuges of a quota system, obvious or implied.

Mr. Chairman, I ask that the Erlenborn amendment be defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

TELLER VOTE WITH CLERKS

Mrs. GREEN of Oregon. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mrs. GREEN of Oregon. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and

the Chairman appointed as tellers Mrs. GREEN of Oregon and Mr. ERLENBORN, Mrs. MINK, and Mr. ASHBROOK.

The Committee divided, and the tellers reported that there were—ayes 194, noes 189, not voting 48, as follows:

[Roll No. 349]

[Recorded Teller Vote]

AYES—194

Abbitt	Frelinghuysen	Powell
Abernethy	Frenzel	Price, Tex.
Addabbo	Frey	Purcell
Anderson, Ill.	Fuqua	Quie
Andrews, Ala.	Garmatz	Quillen
Andrews, N. Dak.	Giaimo	Randall
Archer	Goodling	Rarick
Arends	Gross	Rhodes
Ashbrook	Grover	Robinson, Va.
Ashley	Haley	Robison, N.Y.
Bell	Hall	Rooney, N.Y.
Bennett	Hammer-schmidt	Roush
Betts	Harsha	Rousselot
Bevill	Harvey	Runnels
Blackburn	Hastings	Ruppe
Boland	Hechler, W. Va.	Ruth
Bow	Heckler, Mass.	Satterfield
Bray	Heinz	Saylor
Brooks	Henderson	Scherle
Brown, Mich.	Hogan	Schmitz
Brown, Ohio	Horton	Schneebeli
Broyhill, N.C.	Hull	Schwengel
Buchanan	Hungate	Scott
Burke, Fla.	Hunt	Sebelius
Byrnes, Wis.	Hutchinson	Seiberling
Byron	Ichord	Shoup
Caffery	Johnson, Pa.	Shriver
Camp	Jonas	Sikes
Carter	Jones, N.C.	Smith, Calif.
Chappell	Keating	Smith, N.Y.
Clancy	Keith	Snyder
Clausen, Don H.	King	Spence
Clawson, Del	Kuykendall	Springer
Cleveland	Kyl	Steed
Collier	Landgrebe	Steele
Collins, Tex.	Latta	Steiger, Ariz.
Colmer	Lennon	Steiger, Wis.
Conable	Lent	Symington
Conte	McCollister	Talcott
Cotter	McCulloch	Taylor
Coughlin	McDade	Teague, Calif.
Crane	McDonald, Mich.	Terry
Daniel, Va.	McEwen	Thompson, N.J.
Davis, Wis.	McMillan	Thomson, Wis.
Delaney	Mathias, Calif.	Thone
Devine	Mathis, Ga.	Vander Jagt
Dickinson	Mayne	Veysey
Dorn	Mazzoli	Waggonner
Dowdy	Michel	Wampler
Downing	Miller, Ohio	Ware
Duncan	Mills, Md.	Whalen
du Pont	Minshall	Whalley
Edwards, Ala.	Mizell	White
Erlenborn	Monagan	Whitehurst
Eshleman	Morse	Whitten
Evins, Tenn.	Mosher	Widnall
Findley	Natcher	Williams
Fish	Nichols	Wilson, Bob
Fisher	Passman	Winn
Flowers	Pettis	Wyman
Flynt	Peyser	Young, Fla.
Ford, Gerald R.	Pickle	Zablocki
Forsythe	Poff	Zion
Fountain		Zwach

NOES—189

Abourezk	Brinkley	Dellums
Abzug	Broomfield	Denholm
Adams	Brotzman	Dent
Albert	Burke, Mass.	Dingell
Anderson, Calif.	Burleson, Tex.	Donohue
Anderson, Tenn.	Burlison, Mo.	Dow
Annunzio	Burton	Drinan
Aspin	Byrne, Pa.	Dulski
Badillo	Carey, N.Y.	Dwyer
Begich	Casey, Tex.	Eckhardt
Bergland	Celler	Edmondson
Biaggi	Chamberlain	Eilberg
Biester	Clay	Esch
Bingham	Corman	Evans, Colo.
Blatnik	Culver	Fascell
Boggs	Daniels, N.J.	Flood
Bolling	Danielson	Foley
Brademas	Davis, Ga.	Ford,
Brasco	Davis, S.C.	William D.
	de la Garza	Fraser
	Dellenback	Fulton, Tenn.
	Gallifianakis	McFall
	Gallagher	McKay
	Gaydos	McKevitt
	Gettys	McKinney
	Gibbons	Macdonald, Mass.
	Gonzalez	Madden
	Grasso	Mahon
	Gray	Mailliard
	Green, Oreg.	Mann
	Green, Pa.	Matsunaga
	Griffin	Meeds
	Griffiths	Melcher
	Gude	Metcalfe
	Hagan	Mikva
	Hamilton	Miller, Calif.
	Hanley	Mills, Ark.
	Hanna	Minish
	Hansen, Wash.	Mink
	Harrington	Mitchell
	Hathaway	Moorhead
	Hawkins	Morgan
	Hays	Moss
	Helstoski	Murphy, Ill.
	Hicks, Mass.	Murphy, N.Y.
	Hicks, Wash.	Nedzi
	Hillis	Nix
	Holifield	Obey
	Howard	O'Hara
	Jacobs	O'Konski
	Jones, Ala.	O'Neill
	Karth	Patman
	Kastenmeier	Patten
	Kazen	Pelly
	Kemp	Pepper
	Kluczynski	Perkins
	Koch	Pike
	Kyros	Podell
	Landrum	Preyer, N.C.
	Leggett	Price, Ill.
	Link	Pryor, Ark.
	Long, Md.	Pucinski
	McClory	Rangel
	McCloskey	Reid, N.Y.
	McCormack	Reuss
		Riegle
		Roberts
		Rodino
		Roe
		Rogers
		Roncalio
		Rooney, Pa.
		Rosenthal
		Rostenkowski
		Roy
		Roybal
		Ryan
		St Germain
		Sarbanes
		Scheuer
		Shipley
		Slack
		Smith, Iowa
		Staggers
		Stanton, James V.
		Stephens
		Stokes
		Stratton
		Stubblefield
		Stuckey
		Sullivan
		Teague, Tex.
		Thompson, Ga.
		Tiernan
		Ullman
		Van Deerlin
		Vanik
		Vigorito
		Waldie
		Wiggins
		Wolff
		Wyatt
		Wylie
		Yates
		Yatron
		Young, Tex.

NOT VOTING—48

Alexander	Diggs	Mollohan
Aspinall	Edwards, Calif.	Montgomery
Baker	Edwards, La.	Myers
Baring	Gubser	Nelsen
Barrett	Halpern	Pirnie
Belcher	Hansen, Idaho	Poage
Blanton	Hébert	Railsback
Broyhill, Va.	Hosmer	Rees
Cabell	Jarman	Siak
Carney	Johnson, Calif.	Skubitz
Cederberg	Jones, Tenn.	Stanton, J. William
Chisholm	Kee	Udall
Clark	Lloyd	Wilson, Charles H.
Collins, Ill.	Long, La.	Wright
Conyers	Lujan	
Dennis	McClure	
Derwinski	Martin	

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. BURTON

Mr. BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON: Page 198, line 4, strike out "SEX".

Page 201, after line 7, insert the following:

SEC. 1006. No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity: *Provided, however,* That nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

Redesignate the sections which follow accordingly.

Mr. BURTON. Mr. Chairman, this amendment was adopted in the subcommittee and due to a staff and clerical oversight was left out of the bill as reported.

Mr. Chairman, I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, the gentleman is absolutely correct. This was approved in the subcommittee. It affects blind people. It is a good amendment. It was inadvertently left out when the section was reported in the full committee. The amendment has my support.

Mr. BURTON. Mr. Chairman, I yield to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, the gentlewoman from Oregon has accurately explained the situation, and I would be happy to accept the amendment.

Mr. BURTON. Mr. Chairman, I ask for a "yea" vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. BURTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: On page 198, line 6, after SEC. 1001 insert "(a)".

On page 198, after line 22, insert the following new subsection:

"(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institutional to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided,* That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex."

Mr. QUIE. Mr. Chairman, this amendment would provide that there shall be no quotas in this sex antidiscrimination title.

The Civil Rights Act presently has a similar provision against quotas, in section 703(j) of the Civil Rights Act of 1964. It reads as follows:

(j) Nothing contained in this title shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, or national origin of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section or other area.

Also in the subcommittee we included in title X exactly the provision that I am offering an amendment, and it was adopted at that time. When the language

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was changed in the full committee that subsection was dropped.

But I point to another section of the bill on page 162. It extends and amends title IV of the National Defense Education Act, having to do with fellowships.

In the provision of the National Defense Education Act for the training of college teachers—and other post secondary teachers—I offered the amendment which would, among other things, have considered the need to prepare a larger number of teachers and other academic leaders from minority groups, and the gentlewoman from Oregon asked me if I would be agreeable to this similar provision that was included in my title X, to prevent quotas, to be placed there, so that there would not be a requirement of quotas of people of minority groups in the training of professors or instructors in institutions for post secondary education. We agreed to do that. The language appears on page 162 and says:

nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of persons of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of persons of that group in any community, State, section, or other area,

The gentlewoman indicated in her remarks in support of title X that she is opposed to quotas. To make it absolutely certain there will not be a requirement of quotas in the graduate institutions and employment in institutions of higher education similar to the prohibition against preferential treatment for minorities under the Civil Rights Act I believe this legislation is necessary. In that way we would have similar protection as that which exists in the Civil Rights Act and in another provision in the act before us, H.R. 7248.

Mrs. GREEN of Oregon. Mr. Chairman, I will just take 1 minute.

As I stated before, I am opposed to quotas. I do recall the debate on the EEOC when I asked the gentleman from Minnesota and the gentleman from Illinois if they would accept an amendment which would prohibit any preferential treatment in the EEOC and keep quotas out. The gentlemen would not accept that kind of amendment, and, as I understand it, they favor the Philadelphia Plan in industries. To my way of thinking a quota system would hurt our colleges and universities. I am opposed to it even in terms of attempting to end discrimination on the basis of sex.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The question was taken; and the chairman being in doubt, the committee divided, and there were—ayes 90, noes 1.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. DELLENBACK

Mr. DELLENBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLENBACK: On page 198, beginning on line 6, after Sec. 1001 insert "(a)".

On page 196, after line 22, insert the following new subsection:

"(b) For purposes of this section an educational institution means any pre-school, elementary or secondary school, or any institution of higher education, except that in the case of an institution of higher education composed of more than one school or college which is an administratively separate unit, such term means each such school or college."

Mr. DELLENBACK. Mr. Chairman and colleagues, we have in the bill as it now stands before us a situation where under section 1001 of subparagraph 2, although it could also happen under subparagraph 1 and subparagraph 3 but most particularly under subparagraph 2, a situation which I do not think is intended in the bill and yet it exists at the present time if the language of the bill remains.

Namely, we would have a situation where at the present time the graduate school of an institution of higher education might very well be in a position where it has admitted students of both sexes; whereas, another graduate school of the same institution or, perhaps, the undergraduate school would not have admitted both sexes. At one of the schools which has not admitted both sexes, then we have the situation where the school begins to move in that direction.

It is intended under subparagraph (2) that that school would have 7 years during which to be able to make that transition, yet because of the fact that the institution is treated as a whole and as a single entity it could not count the 7 years as beginning to run from the day it began the transition in this undergraduate school, say, because it has already had students of both sexes for a great many years in the past.

This is intended to make absolutely certain in a situation like that where there are administratively separate units, then the units should be treated separately and not as one package.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Hawaii.

Mrs. MINK. With the adoption by this body of the Erlenborn amendment which provides no exemption to undergraduate institutions, will the gentleman advise me as to the necessity of the gentleman's amendment, because we no longer need to deal with a distinction between undergraduate and graduate colleges.

Mr. DELLENBACK. We may still have separate units in a given institution where one would have multiple graduate schools. Here we are attempting to say where we have administratively separate units and they are striving to make the transition in one of these separate units, it should not be forced to do it overnight merely because another body of the university has had a mixture of sexes for some period of time. So, even with the exemption of the undergraduate schools, it seems to me this could possibly happen and that we would still need this.

Mrs. MINK. Mr. Chairman, if the gentleman will yield further. Is the gentleman attempting to make distinctions, then, within two graduate schools in one institution? Is that the purpose of the gentleman's amendment?

Mr. DELLENBACK. That is one purpose, to make such distinction possible. I think the primary situation is equated to the Bryn Mawr situation which was stated by the gentleman from New York (Mr. BINGHAM). We have had a communication from that institution wherein they expressed concern about the undergraduate division being in one situation and the two graduate schools of Bryn Mawr being alike in another institution. However, there is still this possibility.

I have not checked all of the 2,600 educational institutions in the Nation to see which, just as Bryn Mawr, have two graduate schools. It also could apply to other schools which have multiple graduate schools which could have different procedures in these different administrative units.

This is intended to block the possibility of a situation which would in effect say to one administratively separate unit, "You do not dare start it because if you do, you will have to do it overnight."

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. The gentleman used the words, "which is administratively a separate unit." Would the gentleman please for the purpose of the record define "administratively separate"?

Mr. DELLENBACK. The intention in using the term is to deal with different branches of one institution of higher education which would have separate admissions policies, and what one school would do in admitting students would not necessarily be binding on what another school or group within that university would be doing.

This is what I mean by administratively separate unit. Actually, this language was worked out by counsel for our side and I thought counsel for your side.

We were striving to reach the situation as I say where different schools or colleges within one university would have different controls over the admission to these separate schools or colleges.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(On request of Mrs. GREEN of Oregon, and by unanimous consent, Mr. DELLENBACK was allowed to proceed for 2 additional minutes.)

Mrs. GREEN of Oregon. Mr. Chairman, would the gentleman yield further?

Mr. DELLENBACK. I yield further to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. In the case of Oregon, the University of Oregon at Eugene, and the medical school in Portland, they would obviously be instances of two separate units. But where you have graduates and undergraduates on the same campus, and they are treated financially as the same unit or they have the same admissions policy, this amendment would not apply; is that correct?

Mr. DELLENBACK. It would depend, still staying with our University of Oregon——

Mrs. GREEN of Oregon. I have no question about that.

Mr. DELLENBACK. Going to the University of Oregon, as a further example, there is on the Eugene campus not only the undergraduate school of the university, but the law school. Just as with the medical school that is up at Portland, the law school on the campus of the University at Eugene has actually an entirely different admissions system than the undergraduate school.

In that situation I would say the law school has one policy, possibly, and the undergraduate school has maybe another policy. It is intended not to cover just a different physical location, but to cover a different administration where the people who normally direct the admissions policy may not be the same people in each instance.

Mrs. GREEN of Oregon. If the gentleman will yield further, then this does, I believe, clarify that when we define administration as a separate administrative unit, it is a unit which has a separate admissions policy and we limit it only to them?

Mr. DELLENBACK. I am seeking only to cover differences in admissions. In this particular proposal in dealing in terms of the phrase "administratively separate units," I am not dealing with administrations within the schools or colleges which in total make up the university other than those that pertain to admissions.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oregon (Mr. DELLENBACK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. THOMPSON OF GEORGIA

Mr. THOMPSON of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON of Georgia: on page 202, insert Sec. 1010. Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed as to prohibit any educational institution receiving funds under this act, from maintaining separate living facilities for the different sexes.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of Georgia. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, this amendment was discussed just a few moments ago, and I certainly have no objection to it. I would hope that in the interest of time we can accept it, and then reach a time limitation on the title.

Mr. THOMPSON of Georgia. I thank the gentlewoman from Oregon. All this amendment does is to allow for different living accommodations for the sexes. I hope it will be adopted.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. THOMPSON).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE XI—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

SEC. 1101. The Higher Education Act of 1965 adding after title XII the following new title:

"TITLE XIII—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

"SEC. 1301. The Congress, in recognition of the profound impact of mineral exploration and development on the health and safety of persons working in the mineral industries and on the interrelations of all facets of the natural environment, including, but not limited to, ground subsidence, mine fires, air and water resources, and fish and wildlife, and on outdoor recreation, aesthetic, agricultural, and other similar values of national, regional, and local significance, and in recognition of the fact that the prosperity and future welfare of the Nation is dependent, in large measure, on the sound exploration, extraction, processing, and development of its unrenewable mineral resources, declares that it is the purpose of this title to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists (a) for the mineral industries engaged in research, investigations, experiments, demonstrations, exploration, extraction, processing, developing, and production of such resources in a manner consistent with the need to protect and enhance the quality of the total environment, and (b) for the public agencies concerned with such mineral activities, with the health and safety of persons employed in such industries, and with the protection and enhancement of the total environment.

"SEC. 1302. (a) The Commissioner is authorized to make, in accordance with the provisions of this title, grants each fiscal year, for establishing and carrying out the work of a competent and qualified mineral resources conservation institute, center, or equivalent agency (hereinafter referred to as an 'institute'), to such institutions of higher education as he may select, not to exceed ten in the Nation, and selected so as to serve the needs of a region, which shall be an institution of higher education established in accordance with sections 1 through 5, 7, and 8, of the Act of July 2, 1862, as amended (7 U.S.C. 30–305, 307, and 308), or some other institution of higher education designated by the Governor of the State with which the institution is located. Institutions of higher education selected under this subsection are encouraged to cooperate with other such institutions in participating in the work of the institute.

"(b) The Commissioner shall approve any application or any modification thereof submitted annually under this section by a designated institute, which he finds, in consultation with the Secretary of the Interior—

"(1) sets forth a plan to provide for the training, consistent with the purpose of this title, of individuals as mineral engineers and scientists under a four-year undergraduate curriculum appropriate to the field of mineral resources and mineral engineering and related fields of environmental control, and to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to the exploration, extraction, processing, development, and conservation of mineral resources, to the solution of current and emerging problems of minerals technology, and to the protection and enhancement of health and safety of persons employed in the minerals industries and of the total environment affected by mineral operations;

"(2) gives assurances that such institute has or will promptly employ an adequate and competent faculty and administrative personnel;

"(3) sets forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title;

"(5) provides for making such reports, in such form and containing such information, as the Commissioner may require, in consultation with the Secretary of the Interior, and for keeping such records and for affording access thereto; and

"(6) meet such additional conditions and regulations as the Commissioner may from time to time prescribe consistent with the purpose of this title.

"(c) In approving applications under subsection (b) of this section, the Commission shall require the institute to show that its program of mineral research, investigations, demonstrations, and experimental projects has been developed so as to avoid, having due regard to the varying conditions and needs of each State or region, (1) undue displacement of mineral scientists and engineers engaged in such activities, and (2) duplication, to the greatest extent possible, of, such mineral projects conducted or being conducted by Federal or State agencies or other institutes.

"(d) There are authorized to be appropriated to the Commissioner for grants under this section for the fiscal year 1972, and for each succeeding fiscal year ending prior to July 1, 1976, such sums as may be necessary to pay not to exceed $500,000 annually of the estimated cost of establishing and carrying out the work of an institute. The Commissioner shall provide for an equitable distribution of sums appropriated for such grants. Such sums shall remain available until expended. The institute shall assume indirect costs. A minimum of 20 per centum of such grant shall be designated for scholarships, graduate fellowships, and postdoctoral fellowships.

"SEC. 1303. (a) There are authorized to be appropriated to the Commissioner for fiscal year 1972 and for each of the succeeding fiscal years ending prior to July 1, 1976, not to exceed $5,000,000 annually. Such sums shall remain available until expended for grants to institutes designated under this title where there is an application approved under this title to match, on a dollar-for-dollar basis, funds made available to such institutes by State or other non-Federal sources to pay the costs of conducting specific mineral research and demonstration projects of industrywide application relating (1) to the conservation, exploration, extraction, processing, development, or production of mineral resources, including but not limited to, the recycling and reuse of such resources and the products and wastes thereof, and (2) to the protection or enhancement of health and safety of persons employed in the minerals industries and of the environment in connection with mineral operations. The Commissioner shall provide for an equitable distribution of the sums appropriated among institutes for which an application is approved under section 1302 of this title.

"(b) Each application for a grant under this section and section 1304 of this title shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualification of the personnel who will direct and conduct it, the estimated cost, the extent of participation by nongovernmental sources in the project, including the identification of the participants, the importance of the project to the Nation, region, or State, and its relation to other known research projects theretofore pursued or being pursued. The Secretary of the Interior shall review each such application and shall make recommendations thereon to the Commissioner within thirty days after receipt of such application concerning the adequacy and merit of the project, the knowledge which it is expected to produce when completed, and

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such other matters as he deems appropriate. The Commissioner shall not make any grant for a project which the Secretary of the Interior recommends disapproval of, or which, in the judgment of the Commissioner, does not provide an adequate opoprtunity to train individuals as mineral engineers and scientists consistent with the purpose of this title.

"(c) In making grants under this section, the Commissioner shall prescribe such terms and conditions consistent with the purpose of this title.

"SEC. 1304. There are authorized to be appropriated to the Commissioner $10,000,000 for the fiscal year 1972, and increasing $2,000,000, annually for four years, from which he may, in consultation with the Secretary of the Interior make grants or contracts with any educational institution to undertake mineral research and demonstration projects consistent with the purposes and applicable provisions of this title.

"SEC. 1305. No research, demonstrations, or experiments shall be carried out under this title by an institute financed by grants under this title, unless all information, uses, products, processes, patents, and other developments resulting therefrom (with such exception or limitation, if any, as the Commissioner may find to be necessary in the public interest) be made available promptly to the general public. Funds appropriated under this title shall be available for printing and publishing the results of activities carried out with the assistance of such funds by institutes and for administrative planning and direction.

"SEC. 1306. To assure that any institute established under this title is adequately equipped to train individuals, the Commissioner may make grants to each institute to pay 50 per centum of the cost of purchasing equipment and supplies. The equipment and supplies so purchased shall be used primarily for the education and training of individuals consistent with the purposes of this title. No portion of any such grant shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building. There are hereby authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to remain available until expended, to carry out the purposes of this section.

"SEC. 1307. (a) The Commissioner shall appoint an advisory committee on mineral research composed of—

"(1) the Director of the National Science Foundation, or his delegate, with his consent;

"(2) the President, National Academy of Sciences, or his delegate, with his consent;

"(3) the President, National Academy of Engineering, or his delegate, with his consent;

"(4) the Director, Bureau of Mines, or his delegate, with his consent; and

"(5) such other persons as the Commissioner may appoint who are knowledgeable in the field of mineral research and its impact on health and safety and the quality of the environment.

"(b) The Commissioner shall designate the chairman of the committee. The advisory committee shall consult with, and make recommendations to, the Commissioner and the Secretary of the Interior on matters involving or relating to the purpose of this title. The Commissioner and the Secretary of the Interior shall consult with, and consider recommendations of, such committee in the conduct of mineral research and development and the making of any grant under this title."

Mrs. GREEN of Oregon (during the reading.) Mr. Chairman, I ask unanimous consent that title XI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

POINT OF ORDER

Mr. EDMONDSON. Mr. Chairman, I have a point of order as to this title.

The CHAIRMAN pro tempore. The gentleman will state the point of order.

Mr. EDMONDSON. Mr. Chairman, pursuant to House Resolution 661, I make a point of order against title XI of H.R. 2748 on the ground that the subject matter of title XI is within the jurisdiction of the Committee on Interior and Insular Affairs.

Under rule XI, clause 10, of the Rules of the House of Representatives, the Committee on Interior and Insular Affairs has jurisdiction over mining interests generally and over mining schools and experimental stations specifically.

Title XI of the bill authorizes grants to establish 10 mineral resources conservation institutes. The purpose of these institutes is to train mineral engineers and scientists, and to conduct research and experiments of either a basic or practical nature. These institutes clearly are mining schools and mining experimental stations within the meaning of the rules of the House.

Title XI of the bill also authorizes matching grants to these 10 new institutes for the purpose of conducting specific mineral research and demonstration projects of industrywide application. These are activities historically carried on by mining school and experiment stations. These activities also relate to mining interests generally. Both subjects are assigned to the Committee on Interior and Insular Affairs.

Title XI of the bill further authorizes grants to any educational institution to undertake mineral research and demonstration projects. Such projects can reasonably be expected to be carried out through the mining school or the mining department of the grantee. Moreover, the purpose of the research and demonstration projects is to promote the interests of the mining community generally.

Finally, a separate bill, S. 635, which also authorizes grants to establish mineral resources institutes, has been referred to the Committee on Interior and Insular Affairs, and is now pending before our committee. S. 635 and title XI of H.R. 7248 deal with the same subject matter. Both provide for mining schools, or institutes, which will engage in mining and mineral research, demonstrations, and experiments. Both will train engineers, scientists, and technicians in the minerals field. S. 635 was properly referred to the Committee on Interior and Insular Affairs. Title XI of H.R. 7248 deals with exactly the same subject, and it also is within the jurisdiction of the Interior Committee. I make a point of order against the retention of title XI in the bill.

The CHAIRMAN pro tempore. Does the gentleman from Pennsylvania (Mr. DENT) desire to be heard on the point of order?

Mr. DENT. Yes, Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. DENT) is recognized.

Mr. DENT. Mr. Chairman, at the outset I might say this particular section in the act embodies the contents of H.R. 3942, a bill introduced by myself and the gentlewoman from Oregon (Mrs. GREEN) as the initial and original proposal to create these mineral research schools. The gentleman from Pennsylvania (Mr. SAYLOR) was a cosponsor. It was introduced on February 3, 1971, and it was sent to the Committee on Education and and Labor—and properly so, we thought, and so think at this moment.

Mr. Chairman, the gentleman from Colorado (Mr. ASPINALL) and the gentleman from Oklahoma (Mr. EDMONDSON) contend that title XI of the bill is subject matter not properly within the jurisdiction of the Committee on Education and Labor, but rather within that of the Committee on Interior and Insular Affairs. This is not the case.

The subject matter of title XI is higher education, as is the subject matter of all of H.R. 7248. The subject matter of other referred-to legislation under consideration by the Committee on Interior and Insular Affairs is mineral research.

The thrust and purpose of title XI, as stated in section 1301 of the bill, is to assure the Nation an adequate supply of mineral engineers and scientists. The section also contains a congressional declaration to that effect.

The essence of all of title XI is to support the education of such personnel, and the colleges and universities that train them. It is not, in any way, an intrusion into the clear prerogative of the Committee on Interior and Insular Affairs in matters of "mining interests generally," as prescribed by rule XI—Powers and Duties of Committees—of the rules of the House. Rather—and rule XI is not silent on this point—it falls within the jurisdiction of the Committee on Education and Labor pursuant to its responsibility for "measures relating to education—generally."

Title XI is in most respects complementary to, rather than in conflict with, the bill on which the chairman of the Interior and Insular Affairs Committee intends to hold hearings—H.R. 10950. Whereas the emphasis of the Interior committee bill is on research, investigation, advancement of knowledge, and establishment of development programs, the stated purpose of title XI is "to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists." To achieve this purpose the title gives a high priority, for example, to the development and support of appropriate 4-year undergraduate curriculums by encouraging the employment of "adequate and competent faculty personnel," by recommending funds for equipment to be "used primarily for the education and training of individuals," and by making provision for scholarship funds. In support of more advanced education it provides for fellowships and postdoctoral fellowships. Title XI also provides sums for the conduct of specific mineral research and demonstration projects of industrywide application.

As made evident in a recent National Academy of Sciences article, entitled "Mineral Science and Technology: Needs, Challenges and Opportunities," our Nation's position in the mineral resources area is deteriorating dangerously. It is not so much the result of exhaustion of the country's mineral resources as it is of our not developing the needed technology for efficient processing and utilization of the resources we have. Of paramount importance at the present time is a strong governmental program directed at developing the human resources involved—that is, personnel trained in the fields of mineral sciences and technology—and a simultaneous program to develop the knowledge needed for the useful development of our solid, liquid, and gaseous mineral resources.

Title XI will provide an important beginning in support of the tremendous need for appropriate education in this critical area. In this respect it will effectively complement the Interior Committee bill which appropriately places emphasis on research and development.

H.R. 4392 proposed a new title XIII—Improvement of Mineral Conservation Education—to the Higher Education Act of 1965. It was referred to the Committee on Education and Labor; and it was included as title XI in the bill now before us, with none other than a few minor technical changes. At that time, the decision was made that the bill was properly within the jurisdiction of the Committee on Education and Labor. Since the question before the Chair does not involve language other than that contained in my original bill, I do not see on what basis the point of order can be sustained.

Moreover, it is apparent that the jurisdiction of some broad subject matters—such as mining—is often divided among committees. With respect to mining, it is obvious that "mining interests generally" are within the province of the Committee on Interior and Insular Affairs. Yet, insofar as health and safety legislation for miners generally, that is within the jurisdiction of the Committee on Education and Labor.

The bill before us contains a similar example. Title X—Improvement of Graduate Programs—provides grants, for instance, to medical schools. There is no challenge that this provision invades the jurisdiction of any other committee. Yet, the subject matter is medicine. With regard to the broad field of medicine: the Committee on Interstate and Foreign Commerce is responsible for the Public Health Service Act—including the Hill-Burton Act—and the Federal Food, Drug, and Cosmetic Act; the Committee on Ways and Means is responsible for medicare, which certainly relates to medicine; the House recently approved the Veterans' Medical Care Act of 1971, reported by the Committee on Veterans' Affairs; the Committee on Armed Services is considering legislation to provide medical schools for the armed services and the Committee on Foreign Affairs is considering legislation to create an international health agency. I could go on and on, but I expect I have made my point.

In the face of this, I respectfully suggest that the point of order is not valid; that title XI of H.R. 7248 is quite properly within the jurisdiction of the Committee on Education and Labor; and that the point of order should not be sustained.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is prepared to rule. The gentleman from Oklahoma (Mr. EDMONDSON) has raised a point of order against title XI, beginning on page 202, line 9, through page 210, line 15, on the grounds that the subject matter of this title is within the jurisdiction of the Committee on Interior and Insular Affairs and not the Committee on Education and Labor.

The Chair has listened to the arguments presented and has examined the provisions of title XI, as well as the provisions of the rule, House Resolution 661, which made consideration of this bill in order. The rule provides that any title, part, or section of the committee amendment in the nature of a substitute shall be subject to a point of order if the subject matter thereof is properly within the jurisdiction of another committee.

Title XI would provide that the Commissioner of Education may make grants for the establishment of not to exceed 10 "mineral resources conservation institutes" within existing institutions of higher education which he selects. Appropriations are authorized to enable such institutes to conduct educational training programs, not only in the areas of mineral resources exploration, extraction, processing, development, and conservation, but also in the areas of protection and enhancement of health and safety of persons employed in the minerals industries.

To be sure, the Committee on Interior and Insular Affairs has jurisdiction, under clauses 10 (k) and (l) of rule XI, over measures relating to "mining schools" and "mining interests." It should also be noted, however, that the Committee on Education and Labor, under clauses 6(a) and 6(m) of rule XI, has jurisdiction over measures relating to "education generally"—thus including institutions of higher education—and over "welfare of miners," which would include the health and safety of miners.

Where, as here, the jurisdiction of committees of the House is essentially and basically involved, the Chair must refer for guidance to the introduction and reference by the Speaker under rule XI of bills touching on similar subject matter. The Chair notes that on February 3, 1971, the Speaker referred H.R. 3492 to the Committee on Education and Labor. That bill, as does title XI of the committee substitute, proposes an amendment to the Higher Education Act of 1965 and seeks to establish precisely the type of mineral resources conservation institutes within existing institutions of higher education sought to be established by title XI.

The Chair holds that title XI in the form in which proposed by the Committee on Education and Labor is properly within the jurisdiction of that committee, and, therefore, overrules the point of order.

The Clerk will read.

The Clerk read as follows:

TITLE XII—CONSTITUTING THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM AS LAND-GRANT COLLEGES

SEC. 1201. The College of the Virgin Islands and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

SEC. 1202. In lieu of extending to the Virgin Islands and Guam those provisions of the Act of July 2, 1862, as amended, referred to above, relating to donations of public land or land script for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated to the Virgin Islands and Guam the sum of $3,000,000 each. Amounts appropriated under this section shall be held and considered to have been granted to the Virgin Islands and Guam subject to the provisions of that Act applicable to the proceeds from the sale of land or land script.

SEC. 1203. The Act of August 30, 1890, as amended (26 Stat. 417; 7 U.S.C. 322–326), is further amended—

(1) by striking the words "and Territory" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, and Guam";

(2) by striking the words "and Territories" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, and Guam";

(3) by striking the words "or Territory" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, or Guam";

(4) by striking the words "or Territories" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, or Guam"; and

(5) by striking the words "or Territorial" where they appear.

SEC. 1204. Section 22 of the Act of June 29, 1935, as amended (49 Stat. 439; 7 U.S.C. 329), is further amended—

(1) by striking the words "and Puerto Rico" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, and Guam.";

(2) by striking the figure "$7,800,000" and substituting in lieu thereof the figure "$8,100,000"; and

(3) by striking the figure "$4,320,000" and substituting in lieu thereof the figure "$4,360,000".

SEC. 1205. The Act of March 4, 1940 (54 Stat. 39; 7 U.S.C. 331) is amended—

(1) by striking the words "and Territories" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, and Guam";

(2) by striking the words "or Territories" wherever they appear and substituting in lieu thereof the words ", Puerto Rico, the Virgin Islands, or Guam"; and

(3) by striking the word "State" wherever it appears in the third proviso of that Act and substituting in lieu thereof the words "State, Puerto Rico, the Virgin Islands, or Guam".

SEC. 1206. Section 207 of the Agricultural Marketing Act of 1946 (60 Stat. 1091; 7 U.S.C. 1626), is amended by striking the period at the end of the section and adding the following words: ", and the term 'State' when used in this chapter shall include the Virgin Islands and Guam."

SEC. 1207. Section 3 of the Act of May 8, 1914, as amended (38 Stat. 373; 7 U.S.C. 343), is further amended by redesignating subsection (b) as paragraph (1) of subsection (b) and adding a new paragraph (2) to subsection (b) to read as follows:

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for pay-

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ment to the Virgin Islands and Guam, $100,000 each, which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1973, and June 30, 1974, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act."

SEC. 1208. Section 10 of the Act of May 8, 1914, as amended, is amended by striking the words "and Puerto Rico" and inserting in lieu thereof the words, ", Puerto Rico, the Virgin Islands, and Guam".

SEC. 1209. Section 4 of the Act of October 10, 1962 (76 Stat. 806, 16 U.S.C. 582a-3), is amended by striking the period at the end of the first sentence thereof and adding the following language: ", except that for the fiscal years ending June 30, 1973, and June 30, 1974, the matching funds requirement hereof shall not be applicable to the Virgin Islands and Guam and sums authorised for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research."

SEC. 1210. Section 8 of the Act of October 10, 1962 (76 Stat. 807; 16 U.S.C. 582a-7), is amended by striking the period at the end thereof and adding the words, ", the Virgin Islands and Guam".

SEC. 1211. Section 1 of the Act of August 11, 1955 (7 U.S.C. 361a-361l), is amended by striking the period after the second sentence and adding the words, ", Virgin Islands and Guam," and deleting "and" between the words "Hawaii and Puerto Rico".

SEC. 1212. Section 3 of the Act of August 11, 1955 (7 U.S.C. 361a-361l), is amended by redesignating subsection (b) as paragraph (1) of subsection (b) and adding a new paragraph (2) to subsection (b) to read as follows:

"(2) There are authorized to be appropriated for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, for payment to the Virgin Islands and Guam, $100,000 which sums shall be in addition to the sums appropriated for the several States of the United States and Puerto Rico under the provisions of this section. The amount paid by the Federal Government to the Virgin Islands and Guam pursuant to this paragraph shall not exceed during any fiscal year, except the fiscal years ending June 30, 1973, and June 30, 1974, when such amount may be used to pay the total cost of providing services pursuant to this Act, the amount available and budgeted for expenditure by the Virgin Islands and Guam for the purposes of this Act."

SEC. 1213. With respect to the Virgin Islands and Guam the enactment of this title shall be deemed to satisfy any requirement of State consent contained in laws on provisions of law referred to in this title.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. GOODLING. Mr. Chairman, I make a point of order against title XII of H.R. 7248, this bill.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. GOODLING. Mr. Chairman, I make a point of order against the language in title XII of the committee amendment to H.R. 7248. The language I refer to appears at page 210, line 16 through page 215, line 16 of the bill as reported by the Education and Labor Committee.

I make this point of order pursuant to the provision of House Resolution 661 (the rule on H.R. 7248) which states as follows:

and further, all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives, shall be subject to a point of order for such reason if such point of order is properly raised during the consideration of H.R. 7248.

The basis for my point of order is that the language to which I refer amends or alludes to eight specific agricultural statutes. These are:

First. The first Morrill Act (the act of July 2, 1862).

Second. The second Morrill Act (the act of June 29, 1890).

Third. The Bankhead-Jones Act (the act of June 29, 1935).

Fourth. The act of March 4, 1940.

Fifth. The Agricultural Marketing Act of 1946.

Sixth. The act of May 8, 1914.

Seventh. The act of October 10, 1962.

Eighth. The act of August 11, 1955.

In the 91st Congress the Chair referred to the Committee on Agriculture a bill (S. 1148) containing nearly identical language.

More recently, in this session of the 92d Congress, on October 27, 1971, a bill (H.R. 11436) containing the identical language of title XII was introduced and referred by the Chair to the Committee on Agriculture.

In addition, rule XI, clause 1(d) of the Rules of the House of Representatives vests jurisdiction over "agricultural colleges and experiment stations" in the Committee on Agriculture. Also, in the ruling of the Chair, Hinds Precedents IV, 4152, it was clearly held that the subject of land-grant colleges and experiment stations is within the jurisdiction of the Committee on Agriculture.

Mr. PERKINS. Mr. Chairman, I should like to be heard on the point of order.

The CHAIRMAN pro tempore (Mr. PRICE of Illinois). The Chair will hear the gentleman.

Mr. PERKINS. Mr. Chairman, all the land-grant colleges in America receive Federal assistance under educational programs which the Committee on Education and Labor has always handled.

The original bill, introduced by the gentlewoman from Oregon (Mrs. GREEN), myself and others, contained the land-grant college provision for the Virgin Islands and Guam. In accordance with all the rulings of the past, the ruling of the Chair, to be consistent, would have to be that the point of order should be overruled.

I have in mind the peculiar rule that was adopted when we first commenced to consider this bill, but I am of the opinion that if we set a precedent along that line we will never be able to legislate on any comprehensive piece of legislation in this Chamber.

Let me state that the Committee on Agriculture has not had exclusive jurisdiction down through the years over land-grant colleges. What committee assumed jurisdiction in connection with the Federal college here for the District of Columbia? And Alaska? And Hawaii? Not the Committee on Agriculture. So the committee is not in a condition to claim exclusive jurisdiction.

Also, the Senate bill, S. 659, has section 406, which provides land-grant status for the College of the Virgin Islands and the University of Guam, and the bill was referred to the Committee on Education and Labor just a month and a half ago.

Referrals which bestow jurisdiction follow precedents set in previous Congresses. I believe this is important. They follow precedents set in previous Congresses. These precedents, in my judgment, far overshadow any rule that has been adopted to hear this legislation, if we are going to have orderly procedure in this Chamber.

For example, on June 30, 1971, H.R. 17911, the exclusive purpose of which was to provide land-grant status to the College of the Virgin Islands, was referred to the Committee on Education and Labor. This proposal was not a part of a comprehensive bill. Even though it was a separate and single purpose piece of legislation, it was referred to the Committee on Education and Labor.

The precedents of the House fully support our contention that referral of a bill confers jurisdiction on the committee to which the bill has been referred.

It is my contention, Mr. Chairman, that in a situation of that type the referral of a bill confers jurisdiction, and takes precedence over any rule that may be adopted to hear any specific piece of legislation or to provide the orderly procedure for the hearing of a piece of legislation.

In passing judgment on the point of order, I respectfully call your attention to section 4362 through 4372 of the precedents of the House of Representatives.

You should consider this title as a component part of a major thrust in the committee bill to strengthen higher education in the Virgin Islands and Guam. That is all it is.

As an educational matter, H.R. 7248 proposes to provide additional money to the University of Guam and the College of the Virgin Islands. This is conforming to the other provisions of H.R. 7248 in which we amend the existing higher education programs for such programs in these islands, thus increasing their allotment of funds to such programs.

In conclusion, Mr. Chairman, I want to say to the committee that the benefits, the funding, in all of these land-grant colleges is such that we are legislating every time we bring a higher education bill to this floor for the land-grant colleges of this country. We are not trying here to steal away or assume the sole responsibilities of the Committee on Agriculture, but it is the duty of the Committee on Education and Labor to advance the cause of education in this country.

That is all we are doing in this legislation. It is our contention, therefore, that the point of order should be overruled.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. GOODLING) has raised a point of order against the provisions of title XII of H.R. 7248, as reported by the Committee on Education and Labor, on the ground that this title properly falls within the jurisdiction of a committee other than Education and Labor; namely, the Committee on Agriculture.

The Chair has examined the provisions of title XII. It provides that the College of the Virgin Islands and the University of Guam shall be considered as land-grant colleges in accordance with the provisions of the first Morrill Act, as amended. The title also amends the second Morrill Act, the Bankhead-Jones Act, and the act of March 4, 1940, plus some five other acts. Some of these measures were originally within the jurisdiction of the old Committee on Public Lands—now the Committee on Interior and Insular Affairs. Others were reported by the Committee on Education; still others by the Committee on Agriculture. The Chair notes that, in lieu of granting to these educational institutions public lands, section 1202 provides an authorization of $3 million to each institution.

Rule XI, clause 1, states that the Committee on Agriculture has jurisdiction over "agricultural colleges and experiment stations." Clause 10 of that rule gives the Committee on Interior and Insular Affairs jurisdiction of "measures relating generally to • • • the insular possessions of the United States. • • •" Education and Labor, under this same rule, oversees "measures relating to education • • • generally."

It is obvious to the Chair that to some degree the jurisdiction of at least these three committees of the House is touched on by the subject matter of title XII.

In this situation, the manner in which the text is drafted must be considered. The Chair has thus reviewed several different bills which have been introduced on the subject of colleges in the Virgin Islands and in Guam. Some of these bills have been referred to the Committee on Interior and Insular Affairs, others to Agriculture and Education and Labor. Bills in the precise form of title XII have, however, been consistently referred to the Committee on Agriculture.

Having taken all these matters into consideration, the Chair finds that title XII, as drafted in the pending bill, is properly within the jurisdiction of the Committee on Agriculture. The Chair, therefore, sustains the point of order and the language of section XII is stricken from the bill.

AMENDMENT OFFERED BY MR. MATSUNAGA

Mr. MATSUNAGA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATSUNAGA: Beginning with line 16 on page 210, strike out everything down through line 16 on page 215 and insert in lieu thereof the following:

TITLE XII—SPECIAL ASSISTANCE FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 1201. In order to enable the Commissioner of Education to make grants to the College of the Virgin Islands and the University of Guam in recognition of the fact that such institutions and the areas they serve do not receive the support afforded land-grant colleges, there is authorized to be appropriated the sum of $3,000,000 for each such institution to be used as an endowment, and the sum of $450,000 for each such institution for the fiscal year 1973, and each succeeding fiscal year, for strengthening higher education, including community service programs, in the areas they serve.

POINT OF ORDER

Mr. GOODLING. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN pro tempore (Mr. PRICE of Illinois). The gentleman will state his point of order.

Mr. GOODLING. Mr. Chairman, the Chair has already sustained a point of order against the language of title XII of the committee bill.

The gentleman from Hawaii's amendment does the same thing. It awards $3,000,000 to each of the schools included in title XII of the committee bill.

Since the point of order has already been sustained against the language of title XII, there obviously is no title XII in the bill anymore.

Thus, the language of the gentleman's amendment is no longer germane to any provision included in the bill.

Precedents are clear that any amendment must be germane to the particular paragraph or section to which it is offered—(V, 5811-5820; VII, 2922, 2936—and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered—V, 5822; VIII, 2927, 2931; ruling by Chairman NATCHER, July 14, 1970.

In summary, Mr. Chairman, the basis for my point of order is the ruling of the Chair on my earlier point of order and the fact that the proposed amendment is no longer germane to the bill.

The CHAIRMAN pro tempore (Mr. PRICE of Illinois). The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. GOODLING) makes a point of order against the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA).

The Chair has considered the point of order and read the language submitted by the gentleman from Hawaii. The amendment now pending is substantially different from the title in the committee amendment in the nature of a substitute against which the point of order was sustained. The current amendment is within the jurisdiction of the Committee on Education and Labor.

Since the original bill—the introduced version of H.R. 7248—had a title on the College of the Virgin Islands and the University of Guam, the amendment in the form of a new title on that same subject is germane.

The Chair, therefore, holds the amendment is germane and overrules the point of order.

Mr. MATSUNAGA. Blessed are the peacemakers, for their amendments shall be adopted. That, Mr. Chairman, I hope will be the lesson of this moment, for I offer my amendment as a peacemaker to settle a jurisdictional dispute which has arisen over title XII.

As a member of the Rules Committee, I witnessed from the very front row a battle royal between the Education and Labor Committee on the Committee on Agriculture. Because of my inherent love for peace, and upon the urging of the gentlewoman from Oregon, I decided to step in and play the role of peacemaker to avoid any bloodshed on the floor. Accordingly, I approached all parties involved in the jurisdictional dispute, including the gentleman from Pennsylvania, with the idea embodied in my amendment, and, as expected, all parties agreed that the amendment would resolve the jurisdictional dispute.

It was agreed, then, that a point of order would not be raised against title XII on condition that the pending amendment would be offered. I deeply regret the change of mind on the part of the gentleman from Pennsylvania.

My amendment omits all of the objectionable language in title XII as reported by the committee and contains new language which would, in effect, accomplish the same intended purpose; that is, to provide the same benefits to the University of Guam and the College of the Virgin Islands as are available to land-grant colleges.

If these two institutions of higher learning were constituted as land-grant colleges, they would each qualify for a one-time appropriation of $3 million, as an endowment in lieu of public land, and each would be eligible to receive approximately $450,000 annually to improve its educational program.

My amendment would provide those authorizations without conferring land-grant status on either school. Budgetwise, this would mean that the expenses engendered by the new title XII will be borne by the Department of Health, Education, and Welfare rather than the Department of Agriculture. My amendment would involve no additional expense on the part of the Government over and above that provided in the reported bill; nor would the institutions suffer any detriment.

It is appropriate, Mr. Chairman, that this unique status be conferred on these two schools. The demonstrated needs to which they respond are at least equal to, although somewhat different from, what we customarily think of as those of a land-grant college. The College of the Virgin Islands, for example, has begun a specialization in oceanography; and the University of Guam is the only American institution of higher education in the western Pacific area.

I believe, Mr. Chairman, that my amendment will successfully resolve a difficult parliamentary situation, and at the same time insure that these two im-

portant institutions will be better able to serve our fellow Americans in their respective areas.

For peace in the House and for equity to our two American territories, I urge the adoption of my amendment.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the distinguished gentleman from California.

Mr. BURTON. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA). As the author of this portion of the bill, and as chairman of the Territorial Subcommittee of the Committee on Interior and Insular Affairs, I commend the gentleman for finding a skillful way out of the paradox of the situation between the committees which in theory and in fact have jurisdiction in this area. Because of the jurisdictional phase, it is only because of the leadership given us by the gentlewoman from Oregon (Mrs. GREEN), along with the assistance of the gentleman from Hawaii that perhaps this long overdue step will be taken.

Again I commend the gentleman, and urge the adoption of his amendment.

Mr. MATSUNAGA. I thank the gentleman for his most generous remarks and for his expressed support of my amendment.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. MATSUNAGA. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, I believe that all of the Members know the substance of the amendment offered by the gentleman from Hawaii, and I wholeheartedly support and commend the gentleman from Hawaii for acting as the peacemaker, and finding a way out of a dilemma.

I hope that this amendment will be adopted.

Mr. MATSUNAGA. I thank the gentlewoman from Oregon for her kind remarks and for her most helpful support of my amendment. I commend her too for the prominent role she has played in trying to bring about an amicable solution to the jurisdictional dispute which has arisen. Mr. Chairman, I urge the adoption of my amendment.

Mr. DELLENBACK. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Hawaii.

Mr. Chairman, it is with real reluctance that I do rise to oppose the amendment, but I do so only after commending the gentleman from Hawaii for what really is an excellent attempt at peacemaking, which certainly is to be commended.

I believe it is extremely important, Mr. Chairman and colleagues, that the College of the Virgin Islands and the University of Guam be classified as land-grant colleges. I believe this is a very desirable move in education. It is not just a case of these particular dollars. Actually there are a series of acts that apply to land-grant colleges. There is the Agricultural Experimental Station Act, the agricultural research provision, there are cooperative extensions, there are other provisions in other educational bills which do apply to land-grant colleges.

It is my understanding that the Committee on Agriculture actually has before it a bill dealing with applying the status of land-grant colleges to these two particular institutions, the College of the Virgin Islands and the University of Guam.

I think that, in our desire to see that these institutions receive early benefits of the nature that is here provided in dollars, we may make a serious mistake in the long run. Some of us would have hoped that this bill would have contained the provision that was in this basic title and this point of order had not been made, so that the status of land-grant colleges would really rest on the shoulders of these institutions. But that is not here the case.

Mrs. MINK. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Hawaii.

Mrs. MINK. Mr. Chairman, I think that all of us concur with the gentleman from Oregon in that we would have preferred to have the title in the bill as it was written by the committee. But in view of the point of order it seemed to us that it would be very difficult to justify the continual denial of the right of these two institutions who educate American citizens, to have at least some of the benefits of land-grant status.

In discussing this matter with the chairman of the House Committee on Agriculture he advised me that one of the difficulties he felt that this bill encountered in his committee was the cost factor.

So I believe that the passage of this amendment offered by my colleague, the gentleman from Hawaii (Mr. MATSUNAGA) taking care of the funding of these two institutions out of the Department of Health, Education, and Welfare's budget, will pave the way for further consideration by the House Committee on Agriculture in subsequent sessions to clarify this matter, and convey full land-grant status to these two colleges without any additional cost.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, I wonder if we might take this time to have a limitation on debate.

Mr. Chairman, I ask unanimous consent that all debate on this title close in 10 minutes.

Mr. GOODLING. Mr. Chairman, I object to the limitation of time. I can assure you I am going to be brief, but I do not want to be limited in time for debate.

Mr. DELLENBACK. Mr. Chairman, may I say to the chairman of the subcommittee, that I do not know of anyone else on our side who is going to speak.

I might state that my interest is the long-range basic best interest of the University of Guam and the College of the Virgin Islands.

It is my concern that if we take this act now in an attempt to give them some benefit, we have no assurance, even if we authorize this proposal, that they will have funding under this authorization.

If you really want this benefit to reach these two institutions, I would urge the fastest possible action on their classification as land-grant colleges so that when we do move forward with funding for land-grant colleges, which surely we are going to be moving forward at the appropriate time, these colleges and universities will share in the benefits.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentleman.

Mr. MATSUNAGA. I agree with much of what the gentleman has said, but we are here and now faced with the fact that the point of order raised earlier against title XII was sustained. Consequently, we are unable under the provisions of the bill under consideration to extend the land-grant classification to the two institutions involved. The amendment which I have offered will grant the same benefits enjoyed by land-grant colleges to these two institutions without classifying them as land-grant colleges. I hope the gentleman will accept the amendment as the best solution under the circumstances.

Mr. DELLENBACK. Let me say in summary again, in reply to my colleague, the gentleman from Hawaii, that the point is it does not put them in the same status. If it did put them in the same status, then that would be a different thing.

But the very point I make is that it does not do so. It does not give them certain benefits which I think they ought to have. They do not get it this way and I am afraid we may short circuit that type of benefit for them if we take this step.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment close in 8 minutes.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

Mr. GOODLING. Mr. Chairman, I move to strike out the last word and rise in opposition to the amendment.

Mr. Chairman, let me say first of all to my good friend, the gentleman from Hawaii, ordinarily I am a peacemaker, but on this particular occasion I was not on the peacemaking team. I knew nothing about it until yesterday.

I have here the bill, H.R. 11436, which is an exact duplication of section XII of this bill. This bill was referred to the Committee on Agriculture on October 27, 1971. The chairman of the Committee on Agriculture has assured interested persons that hearings would be held on this legislation.

Mr. Chairman, the amendment offered by the gentleman from Hawaii makes no substantive changes in the bill. It simply gives the colleges of Guam and the Virgin Islands $6 million out of Uncle Sam's right pocket instead of his left.

It uses the same go-around tactic that the committee bill employed—to go around the Agriculture Committee in order to give away $6 million more to these two schools.

I object not only to the tactics that have been used, but to the very idea behind this boondoggle.

Why should my taxpayers put up another $6 million for these schools when our schools in Pennsylvania and every other State could use the money as well? I realize that only $6 million is involved here. I sat on the floor of this House in 1961, I believe, when we established another new unit in Government. At that time we were assured that the $1 million would never grow, but in some mysterious way some leaven got into the mixture. I recall we have had appropriation bills for as high as $100 million for this same unit of Government.

I want the record clear, Mr. Chairman, that I have opposed these go-around tactics. I appeared before the Rules Committee, along with our colleague, the chairman of the Committee on Agriculture, Mr. POAGE, to oppose this action.

I am sorry that he could not be here today for this debate. I include in the RECORD his statement before the Rules Committee.

Mr. POAGE's statement is as follows:

STATEMENT OF MR. POAGE ON H.R. 7248, THE HIGHER EDUCATION ACT OF 1971

Mr. Chairman, I am here today on behalf of the Committee on Agriculture to object to the inclusion of Title XII of the committee amendment to H.R. 7248.

This title deals with the designation of the schools in Guam and the Virgin Islands as land-grant colleges. The question of approving land-grant colleges on the Islands of Guam and the Virgin Islands has been considered by House Committees for the past two Congresses. During the 90th Congress two bills, H.R. 17942 and H.R. 17943, were referred to the Interior Committee, but no action was taken on this proposed legislation.

However, in the 91st Congress two committees of the House and two committees in the Senate got involved in this question.

In the First Session of the 91st Congress two bills, H.R. 105 and H.R. 106, dealing with this issue were again introduced and referred to the House Committee on Interior and Insular Affairs. These bills amended the Organic Acts of both Guam and the Virgin Islands. A subcommittee of that committee proposed to amend these bills by amending the Morrill Act, the Bankhead-Jones Act, and six other agricultural statutes over which the Committee on Agriculture has jurisdiction. The Morrill Acts of 1862 and 1890 are the basic laws establishing land-grant colleges.

When the Committee on Agriculture learned of the action of the Interior and Insular Affairs Committee, the staff of the Agriculture Committee consulted with the Parliamentarian of the House and was informally advised that the proposed committee amendment would be subject to a point of order as not being germane to the bill as originally drafted and referred to the Interior Committee.

In the meantime, a similar bill, S. 1148, was introduced in the Senate and referred to the Senate Committee on Interior and Insular Affairs. That committee approved the bill and reported it to the Senate. It then was referred to the Senate Agriculture and Forestry Committee. The Senate Agriculture Committee further amended and approved the bill. It then was passed by the Senate.

The Senate bill, S. 1148, was referred to the House Committee on Agriculture on September 14, 1970. Hearings were held before the Subcommittee on Department Operations and several witnesses appeared.[1]

On December 10, 1970, the Subcommittee on Department Operations held an executive session on the bill, and after a discussion of the merits, a motion to report the bill to the full committee was defeated.

Near the end of the Congress, the Senate then attached the text of S. 1148 to a House-passed wine bill, H.R. 14169. It was, however, too late in the session for a conference.

The Committee on Agriculture has attempted to fulfill its responsibilities in considering this legislation.

We believe that if other committees can take jurisdiction away from a committee simply because the committees interested in legislation don't approve of the action taken by the committee having jurisdiction, it will create chaos in the House.

The bill before you for consideration, H.R. 7248, has included in Title XII specific provisions for constituting the College of the Virgin Islands and the University of Guam as land-grant colleges. It proposes to amend the following specific statutes within the jurisdiction of the Committee on Agriculture:

1. The first Morrill Act (The Act of July 2, 1862).
2. The second Morrill Act (The Act of August 30, 1890).
3. The Bankhead-Jones Act (The Act of June 29, 1935).
4. The Act of March 4, 1940.
5. The Agricultural Marketing Act of 1946.
6. The Act of May 8, 1914.
7. The Act of October 10, 1962.
8. The Act of August 11, 1955.

When I learned of the action taken by the Subcommittee on Education, I wrote a letter to the Honorable Edith Green on April 30, 1971, a portion of which follows:

"It is our feeling that the jurisdiction of the Morrill Act, the Hatch Act, and the other statutes proposed to be amended by this legislation, are within the jurisdiction of the Committee on Agriculture. In the last session of Congress hearings on S. 1148 were held by the Subcommittee on Departmental Operations, chaired by the Honorable Eligio de la Garza, and in executive session a motion to favorably report the bill to the full committee failed. Whether this was a wise decision or not, we have tried to follow the rules of procedure.

"It seems to us that it would break down all orderly procedure if jurisdiction of legislation could be shifted from one committee to another simply by including a reference to some matter over which the committee does have jurisdictions. In the last Congress we could, for instance, have included authorization for the expenditure of funds to assist higher education in the Agricultural Act of 1970 had we felt this to be an acceptable procedure.

"We realize that there is considerable support for such a bill. Maybe it should be passed, but it seems to me to be a bad precedent to turn to another committee when the committee having original jurisdiction renders an unfavorable judgment.

"I have assured representatives of both Guam and the Virgin Islands that should they get someone to again sponsor this legislation and have it referred to the Committee on Agriculture, we would be glad to grant them another hearing."

Mr. Chairman, there are some things in the education laws that I don't like. If the Committee on Education and Labor is successful in amending agricultural legislation, then why cannot, for example, the Committee on Agriculture tie on sections in agriculture bills amending education legislation, or labor legislation, or tax legislation, or the banking regulations? It would seem that in order to prevent chaos and to continue the even flow of legislation through the committees having proper jurisdiction over legislation, orderly jurisdictional procedure should be observed.

[1] See Report made by Honorable G. V. "Sonny" Montgomery for the Committee relative to investigation of the Island of Guam.

Mr. MATSUNAGA. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Hawaii.

Mr. MATSUNAGA. My amendment is intended merely to bring equity to these two areas of Guam and the Virgin Islands, which are the only two areas in the whole United States—and I will remind the gentleman that these are territories of the United States—which do not have the benefits of a land-grant college. Every other area, including the gentleman's State has.

Pennsylvania State University enjoys a outright grant of $6.8 million annually under the land grant allocation. I could go on. Texas A&M, $9 million; Cornell, $6.3 million; Illinois University, $9.7 million, and so on. There are 68 land-grant colleges throughout the United States, including the University of Hawaii, which received $178 million in fiscal 1970, at an average of $2,500,000 each.

Mr. GOODLING. Before my time expires, I should like to ask the gentleman from Hawaii whether he can justify a land-grant college in the District of Columbia.

Mr. MATSUNAGA. The House has already acted upon that issue after due deliberation. It is not for me to rule on the justifiability of past actions of this House.

Mr. GOODLING. It was granted by the back-door method, just as you are attempting to do here.

Mr. MATSUNAGA. I will remind the gentleman that in this amendment we are not amending any agricultural act. It is for this reason that the Committee on Education has jurisdiction over this matter, as the gentleman well knows. If it were to amend the Morrill act or any other agricultural act, the jurisdiction would properly belong to the Committee on Agriculture. The Chair has already ruled.

I ask that the amendment be approved.

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, this issue has been before the committee long before I became chairman. To say that the Virgin Islands and Guam are not entitled to these benefits in lieu of land-grant college status is not realistic. In comparison to what is received in other areas in the amounts proposed are minimal. These areas and instutitions deserve equitable treatment, and this is the best way that we can possibly approach the problem.

I do not know how long it would take the Committee on Agriculture to act, but let me state to the members of the Committee on Agriculture that Chairman POAGE and I both understood that the point of order would be sustained, and Chairman POAGE did not have any objection to the amendment being offered by the gentleman from Hawaii. I urge all Members to support the amendment.

The Chairman. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN) to close the debate on this amendment.

Mrs. GREEN of Oregon. Mr. Chair-

man, I do think it is important to understand that the chairman of the Committee on Agriculture worked this out with the gentleman from Hawaii and did approve of the amendment which has been offered by the gentleman from Hawaii (Mr. MATSUNAGA).

At the present time students from Guam and the Virgin Islands can come to the States and go to school. They have to pay out-of-State tuition, which is very high. It seems to me the gentleman from Hawaii made a very valid point in terms of equity, that if we can strengthen the colleges and universities in Guam and the Virgin Islands and other places, we will give these youngsters a chance to obtain a good education at home.

Mr. Chairman, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Hawaii (Mr. MATSUNAGA).

TELLER VOTE WITH CLERKS

Mr. GOODLING. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. GOODLING. Mr. Chairman, I demand tellers with Clerks.

Tellers with Clerks were ordered; and the Chairman appointed as tellers Mr. MATSUNAGA, Mr. DELLENBACK, Mrs. GREEN of Oregon, and Mr. GOODLING.

The committee divided, and the tellers reported that there were—ayes 220, noes 158, not voting 53, as follows:

[Roll No. 350]

[Recorded Teller Vote]

AYES—220

Abourezk	Coughlin	Hawkins
Abzug	Culver	Hechler, W. Va.
Adams	Daniels, N.J.	Helstoski
Addabbo	Danielson	Hicks, Mass.
Albert	Davis, Ga.	Hicks, Wash.
Alexander	Dellums	Holifield
Anderson, Calif.	Denholm	Howard
Anderson, Ill.	Dent	Hungate
Anderson, Tenn.	Dingell	Jacobs
Annunzio	Donohue	Jones, N.C.
Ashley	Drinan	Karth
Aspin	Dulski	Kastenmeier
Badillo	du Pont	Kazen
Begich	Dwyer	Kemp
Bell	Eckhardt	Kluczynski
Bennett	Edmondson	Koch
Bergland	Edwards, Calif.	Kuykendall
Bevill	Eilberg	Kyros
Biaggi	Evans, Colo.	Landrum
Biester	Evins, Tenn.	Leggett
Bingham	Fascell	Link
Blatnik	Fish	Long, Md.
Boggs	Flood	McClory
Boland	Flowers	McCloskey
Bolling	Foley	McCormack
Bow	Ford, William D.	McDade
Brademas	Forsythe	McDonald, Mich.
Brasco	Fraser	McFall
Brooks	Fulton, Tenn.	McKevitt
Brown, Mich.	Gallifianakis	McKinney
Buchanan	Garmatz	Madden
Burke, Mass.	Gaydos	Matsunaga
Burton	Giaimo	Mazzoli
Byrne, Pa.	Gibbons	Meeds
Byron	Gonzalez	Melcher
Caffery	Grasso	Metcalfe
Carey, N.Y.	Green, Oreg.	Mikva
Casey, Tex.	Green, Pa.	Miller, Calif.
Cederberg	Griffiths	Mills, Ark.
Celler	Grover	Minish
Chisholm	Gude	Mink
Clark	Hamilton	Mitchell
Clausen, Don H.	Hammer-schmidt	Mollohan
Clay	Hanley	Moorhead
Cleveland	Hanna	Morgan
Collier	Hansen, Wash.	Moss
Collins, Ill.	Harrington	Murphy, Ill.
Corman	Harsha	Murphy, N.Y.
	Hathaway	Natcher
		Nedzi
Nelsen	Roe	Stephens
Nix	Roncalio	Stokes
Obey	Rooney, N.Y.	Stratton
O'Hara	Rooney, Pa.	Stubblefield
O'Konski	Rosenthal	Symington
O'Neill	Rousselot	Taylor
Patman	Roy	Teague, Tex.
Patten	Roybal	Thompson, N.J.
Pepper	Runnels	Thomson, Wis.
Perkins	Ryan	Thone
Pettis	St Germain	Tiernan
Peyser	Sarbanes	Ullman
Pickle	Saylor	Van Deerlin
Pike	Scheuer	Vanik
Podell	Sebelius	Waldie
Preyer, N.C.	Selberling	Wampler
Price, Ill.	Shipley	Whalen
Pryor, Ark.	Sikes	White
Pucinski	Slack	Widnall
Quillen	Smith, Iowa	Winn
Rangel	Staggers	Wyatt
Reid, N.Y.	Stanton, James V.	Yates
Rhodes	Steiger, Ariz.	Zablocki
Riegle	Steiger, Wis.	Zwach
Rodino		

NOES—158

Abbitt	Frey	Passman
Abernethy	Fuqua	Pelly
Andrews, Ala.	Gettys	Poff
Andrews, N. Dak.	Goldwater	Price, Tex.
Archer	Goodling	Purcell
Arends	Gray	Quie
Ashbrook	Griffin	Railsback
Betts	Gross	Randall
Blackburn	Haley	Rarick
Bray	Hall	Roberts
Brinkley	Harvey	Robinson, Va.
Broomfield	Hastings	Robison, N.Y.
Brotzman	Hays	Rogers
Brown, Ohio	Heckler, Mass.	Rostenkowski
Broyhill, N.C.	Heins	Roush
Burke, Fla.	Henderson	Ruppe
Burleson, Tex.	Hillis	Ruth
Burlison, Mo.	Hogan	Sandman
Byrnes, Wis.	Horton	Satterfield
Camp	Hull	Scherle
Carter	Hunt	Schmitz
Chamberlain	Hutchinson	Schneebeli
Chappell	Ichord	Schwengel
Clancy	Johnson, Pa.	Scott
Clawson, Del	Jonas	Shoup
Collins, Tex.	Jones, Ala.	Shriver
Colmer	Keating	Smith, Calif.
Conable	Keith	Snyder
Conte	King	Spence
Cotter	Kyl	Springer
Daniel, Va.	Landgrebe	Steele
Davis, S.C.	Latta	Sullivan
Davis, Wis.	Lennon	Talcott
de la Garza	Lent	Teague, Calif.
Delaney	McCollister	Terry
Dellenback	McKay	Thompson, Ga.
Devine	McMillan	Veysey
Dickinson	Macdonald, Mass.	Waggonner
Dorn	Mahon	Ware
Dow	Mann	Whalley
Dowdy	Mathias, Calif.	Whitehurst
Downing	Mathis, Ga.	Whitten
Duncan	Mayne	Wiggins
Edwards, Ala.	Michel	Williams
Erlenborn	Miller, Ohio	Wolff
Esch	Mills, Md.	Wydler
Eshleman	Minshall	Wylie
Findley	Mizell	Wyman
Fisher	Monagan	Yatron
Flynt	Morse	Young, Fla.
Ford, Gerald R.	Moshe	Young, Tex.
Fountain	Myers	Zion
Frenzel	Nichols	

NOT VOTING—53

Aspinall	Halpern	Powell
Baker	Hansen, Idaho	Rees
Baring	Hébert	Reuss
Barrett	Hosmer	Sisk
Belcher	Jarman	Skubitz
Blanton	Johnson, Calif.	Smith, N.Y.
Broyhill, Va.	Jones, Tenn.	Stanton, J. William
Cabell	Kee	Steed
Carney	Lloyd	Stuckey
Conyers	Long, La.	Udall
Crane	Lujan	Vander Jagt
Dennis	McClure	Vigorito
Derwinski	McCulloch	Wilson, Bob
Diggs	McEwen	Wilson, Charles H.
Edwards, La.	Mailliard	Wright
Frelinghuysen	Martin	
Gallagher	Montgomery	
Gubser	Pirnie	
Hagan	Poage	

So the amendment was agreed to.

The CHAIRMAN pro tempore. For what purpose does the gentleman from Wyoming rise?

Mr. RONCALIO. Mr. Chairman, I ask unanimous consent to offer an amendment to title XI.

The CHAIRMAN pro tempore. The gentleman from Wyoming asks unanimous consent to return to title XI for the purpose of offering an amendment thereto.

Is there objection to the request of the gentleman from Wyoming?

Mr. STEIGER of Wisconsin. Mr. Chairman, I object.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XIII—EVALUATION

SEC. 1301. The Higher Education Act of 1965 is amended by inserting after title XIII the following new title:

"TITLE XIV—EVALUATION OF FEDERAL EDUCATION PROGRAMS

"SEC. 1401. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such Federal education program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such Federal education program and his recommendations for such modifications in existing laws, regulations, procedures and practice as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

"(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration (with respect to Federal education programs), and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. Are there amendments to be proposed to title XIII? If not, the Clerk will read.

The Clerk read as follows:

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1402. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve equality will require far more dependable knowledge about the process of learning and education than now exists or can be expectd from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF A NATIONAL INSTITUTE OF EDUCATION

SEC. 1403. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1404. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this title the term "educational research" includes but is not limited to research (basic and applied), planning, surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1409 for a fiscal year shall be expended to carry out this title through grants to or contracts with qualified public or private agencies or individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out purposes of this title. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code, except that (1) to the extent that the Secretary deems such action necessary to recruit men and women of exceptional talent he may establish the entrance grade for personnel at a level up to two grades higher than the grade level provided for by such personnel under the General Schedule established by such title, and fix their compensation accordingly, and (2) to the extent the Secretary deems such action necessary to the discharge of his responsibilities, he may appoint personnel of the Institute without regard to the civil service or classification laws: Provided, That personnel appointed under this clause do not exceed at any one time one-third of the number of full-time, regular technical or professional employees of the Institute.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research, and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section;

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President without regard to the civil service laws and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title, and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS-18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is authorized without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to employ and fix the compensation of such personnel as may be necessary to carry out its functions.

(f) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1407. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, Territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as he deems necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed

by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1408. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waive any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1409. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XIV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. GROSS. Mr. Chairman, I make a point of order against title XIV inasmuch as it invades the jurisdiction of the House Post Office and Civil Service Committee.

Mr. Chairman, this title, on pages 220 and 222 and 223, includes authorizations for the Secretary of Health, Education, and Welfare to recruit men and women of certain talent, and establishes entrance grades for personnel at levels up to two grades higher than the grade levels provided for under the general schedule, and authorizes the Secretary to appoint personnel of the National Institute of Education without regard to the Civil Service or classification laws.

The lanaguage in title XIV also authorized the President to appoint a National Advisory Council on Education, Research and Development, and it authorizes the Council to employ and fix the compensation of such personnel as may be necessary to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to the classification of positions and the General Schedule rates of pay.

Clause 15 of rule XI of the Rules of the House of Representatives provides that the Committee on Post Office and Civil Service shall have jurisdiction over all matters relating to the Federal civil service.

The civil service laws, the classification laws, and the laws relating to the General Schedule all pertain to title 5, United States Code, and are clearly under the jurisdiction of the Committee on Post Office and Civil Service.

Therefore, Mr. Chairman, my point of order against title XIV is based on the fact that it contains matters that are clearly and wholly within the jurisdiction of the House Committee on Post Office and Civil Service. There can be no claim or pretense on the part of the House Committee on Education and Labor to jurisdiction in these matters.

Mr. Chairman, I insist that my point of order be sustained.

The CHAIRMAN pro tempore. Does the gentleman from Indiana (Mr. BRADEMAS) desire to be heard on the point of order?

Mr. BRADEMAS. I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order.

First, Mr. Chairman, I oppose the point of order made by the gentleman from Iowa on the basis that the scope of his point of order is much too broad. The intent of the rule adopted for consideration of the bill now under consideration is to provide that any "titles, parts, or sections" of the bill would be subject to a point of order where the subject matter jurisdiction was in question. In this case, Mr. Chairman, the personnel exemptions to the civil service laws are the only matters in question with respect to jurisdiction.

I contend, therefore, that the question of the point of order should be directed to those provisions with respect to which there is a question of jurisdiction, and not to the entire title.

Second, Mr. Chairman, with regard to the jurisdiction question, legislation to establish a National Institute of Education was introduced in the House during the 91st, and again during the 92d Congresses. In each instance the bills were referred to the Committee on Education and Labor. Extensive hearings were held over a period of 2 years, and at no time was the jurisdictional question raised. I suggest, therefore, Mr. Chairman, that this bill is clearly within the jurisdiction of the Committee on Education and Labor, and germane to the bill before this Chamber.

Third, Mr. Chairman, the specific provisions of concern to which the gentleman from Iowa makes reference have been a part of this legislation since the date of its introduction to the House 2 years ago. The only change made by the Committee on Education and Labor was to limit the number of exemptions from the civil service laws.

Therefore, Mr. Chairman, I hope that the point of order is overruled.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is prepared to rule.

The gentleman from Iowa makes a point of order against title XIV. The Chair has examined the title, and has found that the language in section 1405, and in section 1406 invades the jurisdiction of the Committee on Post Office and Civil Service.

Under the provisions of House Resolution 661 under which the Committee of the Whole is considering this bill, it is provided that all titles, parts, or sections of the said substitute, the subject matter of which is properly within the jurisdiction of any other standing committee of the House of Representatives shall be subject to a point of order.

The gentleman from Iowa has directed his point of order, not just to the sections on pages 220 through 223, but to the whole title.

Under the rule, the point of order in this case must be sustained against the whole title, and the entire title is thus stricken.

AMENDMENT OFFERED BY MR. BRADEMAS

Mr. BRADEMAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRADEMAS: On page 217, line 7, insert the following:

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1402. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 1403. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1404. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants of technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1408 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this Title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section; and

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessors was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1407. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as deemed necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, thestrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursements. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5a). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1408. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waive any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1409. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

Mr. BRADEMAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. I shall explain the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GROSS. Mr. Chairman, reserving the right to object, is the gentleman putting the language back with respect to the invasion of the jurisdiction of the House Committee on Post Office and Civil Service?

Mr. BRADEMAS. I may respond to the gentleman from Iowa that the gentleman from Indiana is not doing that. The gentleman from Indiana is offering an amendment which provides language contained in the bill under consideration with respect to the National Institute of Education, without any of the language to which the gentleman from Iowa was making reference to on the ground that it invaded the jurisdiction of the Civil Service and Post Office Committee.

Mr. GROSS. Mr. Chairman, with the assurance of the gentleman from Indiana that what has just been accomplished is not in this amendment that he offers, I withdraw my reservation of objection.

Mr. BRADEMAS. I am pleased to give the gentleman from Iowa that assurance.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. DELLENBACK. Mr. Chairman, reserving the right to object, may I direct a question to my colleague, the gentleman from Indiana?

Mr. BRADEMAS. Yes.

Mr. DELLENBACK. Are you saying to my colleague, the gentleman from Iowa, that the amendment which you are proposing is the language of the bill shy sections 1405 and 1406?

Mr. BRADEMAS. I am saying to the gentleman from Oregon and the gentleman from Iowa that the amendment I am offering is shy of the language which invades the jurisdiction of the Committee on Post Office and Civil Service.

Mr. DELLENBACK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana (Mr. BRADEMAS) is recognized.

Mr. BRADEMAS. Mr. Chairman, I shall be very brief.

The purpose of my statement has already been made clear in my colloquy with the gentleman from Iowa and the gentleman from Oregon. The amendment provides for the establishment of a National Institute of Education in the Department of Health, Education, and Welfare for the purpose of improving the processes of teaching and learning in the United States.

I might say in this respect, Mr. Chairman, that the bill under consideration contained in my amendment is the measure which President Nixon proposed in his message to Congress of March 3, 1970, on education reform in which the President urged the creation of a National Institute of Education, in the words of the President, as a "focus for educational research and experimentation." Again to quote President Nixon—

> We are not getting as much as we should out of the dollars we spend.

The President called for a searching reexamination of our entire approach to learning.

I might say that this bill has had strong bipartisan support. The members of the Select Subcommittee on Education on both sides of the aisle made a significant contribution to it. The measure also enjoyed widespread support from both sides of the aisle in the full Committee on Education and Labor.

I would like to express my appreciation for the strong support given this measure by the chairman of the Education and Labor Committee, Mr. PERKINS, and the ranking Republican on the committee, Mr. QUIE. My colleagues on the subcommittee Mrs. MINK, Mr. MEEDS, Mr. SCHEUER, Mr. CLAY, Mr. O'HARA, Mr. REID of New York, Mr. HANSEN, Mr. PEYSER, and Mr. KEMP, have devoted many hours to studying this measure and their support is deeply appreciated.

Mr. Chairman, I hope very much that this measure will win the strong support of Members on both sides of the aisle.

Mr. REID of New York. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, in his message on educational reform in March 1970, President Nixon proposed that the Nation establish a National Institute of Education to conduct basic and applied educational research both within the Institute and by contract with universities and other organizations. In the face of growing public disenchantment with schools and increasing resistance to tax levies substantial efforts have been made by the Congress to institute educational reform.

Federal money has been voted to assist schools with construction, improve educational programs, and strengthen educational administration. The Congress has given high priority to public education, yet it is apparent that the influx of additional Federal money into the schools has scarcely dented the problem. We have come to rely on a strategy of doing more of the same—more money for staff training and curriculum development, more money for special groups, special objectives and for different age levels.

It is a sad fact, Mr. Chairman, that out of our tremendous national investment in education, less than one-third of 1 percent goes to research and development, and the proportion is steadily diminishing. The Institute, Mr. Chairman, will be a focal point for a broad range of new people interested in educational reform. It will provide new stability for research policies so that plans can be implemented and results obtained. It will provide new visibility to the Nation's research effort in education. It will make possible a policy to attract first-rate people so that we can build highly competent staffs that can advise and help on the question of exactly what education is doing.

For a long time we have needed thoughtful, first-rate research on the meaning of education, with appropriate dissemination to educators throughout the country.

Since enactment of the Cooperative Research Act in 1956, research has made a disappointingly small impact on educational practice in America. Although Federal research support has increased the amount of research work in education, the inability of those still small efforts to make a visible dent on the tremendous problems facing educators today looms much larger than their limited accomplishments. Important gaps in our understanding of the learning process remain. We still cannot tell what methods will work with what children, or why. We still know relatively little about motivation, about what turns students on, or about the relevance of curricula. Moreover, we are just beginning to learn of the critical importance of early childhood education between the ages of 1 and 5 when the rate of learning may be at its peak.

Good research findings gather dust on the shelves for lack of an effort to translate concepts into classroom techniques. In the absence of strong Federal direction, too much research has dwelled on the inconsequential, too little on the major crises troubling our schools.

Mr. Chairman, it should be clear that the disappointing record of education research is the result of a curious neglect for this important function. We can ill afford to be cavalier about systematic efforts to invent and implement better ways of educating—the sooner we get down to serious work—the sooner we can begin to see results. Establishing a National Institute of Education represents the critical first step down that road. I urge my colleagues not to turn their backs on this opportunity to establish strong institutional leadership in educational research and development. Without the help of research and development, American education can only look forward to more of the same. For too many Americans, that just is not enough.

I will be happy to yield to the distinguished ranking member of the Committee on Education and Labor (Mr. QUIE).

Mr. QUIE. I thank the gentleman for yielding. I strongly support the inclusion of this title in the act. To me this may be the most important title. If the research turns out as I expect it will, this will prove to be the most important title.

Quoting the President, he said:

> We must stop pretending we understand the mystery of the learning process.

I believe if we are going to get at that, we must give the kind of leadership to research in education that some time ago was given to research in health at the National Institutes of Health. The only way we will do it is with the proposed National Institute of Education.

Mr. REID of New York. I thank the gentleman for his comments.

Mr. Chairman, I yield back the balance of my time, and I urge support for the amendment.

Mr. SCHERLE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, earlier I filed an amendment at the desk which would have eliminated title XIV from the bill. This provision simply opens up the Federal Treasury to the same educational researchers without any assurance that the quality of education would be improved.

The Office of Education in the last 10 years has spent approximately $1 billion in educational research. Most of this was contracted out to various educational research organizations. Under this bill all that would happen would be that a new organization, the National Institute of Education, would be created to do the same thing which is being done now. In other words, the same people who have been doing most of the projects would still be funded. The only obvious changes would be items such as the title on the door and the agency names on new stationery.

There is no protection in this bill which would limit the number of employees which this agency could hire. There is not even a limit as to the amount of money which the agency could have appropriated. This new bureaucracy could hire 1,000 or 10,000 people and pay them whatever they want.

The best solution to the present problem would be a genuine overhaul, not a new governmental agency.

Educational research is now operated under the Commissioner of Education. Under this bill the new agency would be under the Secretary of Health, Education, and Welfare, another bureaucratic responsibility, and they cannot handle what they have now.

How is it an improvement in educational research to bypass the Commissioner of Education? Even the administration's proposal placed this new institution under the Commissioner of Education.

By defeating this amendment, the House will have an opportunity to reject the concept that the way to solve problems is to recast an old agency with a new name and increase its size and scope with the same people who run the old program, with additional waste of time and effort.

I ask that the amendment be defeated.

Mr. REID of New York. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from New York.

Mr. REID of New York. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would say the gentleman is correct. We have spent $1 billion on research.

Mr. SCHERLE. If the gentleman will pardon me, the figure is $1 billion.

Mr. REID of New York. That is what I said. The gentleman is correct. We have spent $1 billion on research on education. But is the gentleman aware that we have spent in the same period $7 billion in research on agriculture, and $14 billion on health research, and the aircraft industry alone spends about $5 billion on research each year. Should we not spend at least that on education?

Mr. SCHERLE. At least the money spent on agriculture was spent under the Department of Agriculture and not taken out by the Department, as the Commissioner on Education has had done. We have all had intolerable experiences as far as the Department of HEW is concerned and to take this provision out from under the Commissioner of Education and place it solely under that incompetent agency would be a sad mistake.

Mr. Chairman, I ask that we vote down the amendment.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will take only 1 minute to urge the members of the committee to support the amendment. There was strong support in committee for the establishment of a National Institute of Education within the Department of HEW. In my judgment the proposal offers great promise.

Mr. Chairman, I urge support of the amendment.

Mr. DELLENBACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there is really a great deal that could be said on this. I commend the gentleman from Indiana (Mr. BRADEMAS) and his colleague, the ranking minority member of the committee, the gentleman from New York (Mr. REID) for their outstanding work on the subcommittee which wrestled long and hard with this concept of a national institute. They have here wrestled with one of the great crying needs of this Nation—educational research in a coordinated manner. I could talk at quite some length about this particular title. It is a modest one. Like many other provisions of this bill do, it does not call for large sums of new money, particularly initially as we move forward. It is dealing with the same type of crisis, this time in education that we faced some years ago when we needed research in the health field, and we created the National Institute of Health.

We had a need in aeronautics and space, and we created the Aeronautics and Space Administration, and we had a need in science, and we created the National Science Foundation. This is really very needed. I urge support of the amendment.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DELLENBACK. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, the Office of Education has about $544 million in funds, not under any formula, to spend as it wants. Is it not also true they have spent hundreds of millions of dollars in research of various types in the Office of Education? Would the gentleman say that if the Office of Education had done its job, that the National Institute of Education would be required?

Mr. DELLENBACK. If I may respond to that, I would say it in two ways. First, I am certain there have been through the years a series of programs in which the Office of Education has not measured up to the responsibilities that this Congress sought to place upon its shoulders. This goes back a great many years.

But still, even if that job had been done as the Congress had sought to place it upon those shoulders when various programs were created, I feel this sort of concentrated attention of personnel and of effort in the future would nevertheless be called for.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not see this as one of the crucial issues in the bill before us. I do, however, want to call to the attention of the Members of the House that in the field of higher education this probably has one of the lowest priorities.

The Office of Education has had over a period of years many hundreds of millions of dollars for research. Let me give an example. There was a grant given to a corporation here in Washington for $900,000, to find out if young people, college students, could gather accurate survey information. The Office of Education did not want new information. They had already sent out paid professionals to gather the information. They only wanted to find out if the students could gather accurate information.

That experiment cost $900,000. I told one reporter, that if they had come to me, for $1.50 I could have told them that some students would be able to and some would not.

After that contract was given and after $900,000 was spent, the HEW audit itself questioned items amounting to $283 million.

This corporation asked for renewal of the contract for the year 1971, and they asked that it be given on a sole source bid. In addition, they asked that the second audit be postponed. The Secretary of HEW obliged. He recommended to the Small Business Administration that it be on a sole source bid and they gave it to the Small Business Administration. That occurred before the audit for the previous year, in which $283,000 was questioned.

There are any number of other contracts which in my judgment show there is no consideration for the expenditure of funds.

If you will look at the language of NIE, you will find there has never been such broad language. There is nothing the NIE can do that the Office of Education cannot do, and there is nothing the Office of Education cannot do that the Office of NIE is not going to be doing.

I think that the action yesterday showed the lack of confidence of this Congress in the Department of HEW, when we talked about political interns. I share those views.

I am not going to argue long on this, but it does seem to me that in the Health, Education, and Welfare Department we have a National Institute of Health. Would you then advocate that we set up an Office of Health?

We have an Office of Education. Why do we need a National Institute of Education? Supposedly the purpose is to enable them to do research and duplicate the work already being done in the Office of Education.

May I just suggest that in my judgment if you want to save money, if you want to put money into the colleges and universities, if you want to improve education, and if you are going to cut funds this is the place to cut them.

Mr. QUIE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, on the health side of HEW there is a Public Health Service and a National Institute of Health. I do not believe anybody advocates that we put the National Institute of Health under the Public Health Service.

What the gentlewoman said about the Office of Education is true. I recall when an individual—I will not mention his name—came here to head cooperative research under one of the two previous administrations, and said that nothing good had happened prior to that. When he left the Office of Education he left in disappointment.

I do not believe we are going to have the most effective research program if we leave it under the Office of Education. I believe we need a National Institute of Education in order to accomplish it. This is what the administration is asking for.

The administration is asking for a National Institute of Education in order to separate this from the operation of the Office of Education.

We spend too little on research in education and the learning process. We know so little about it.

Just a little while ago we passed a child development bill. It is in conference now. We are having a hard time agreeing on that bill.

One of the problems on many ventures in education is that we do not really know enough about the learning process. The research has not been accomplished.

It is something like trying to find a cure for cancer. We cannot ask the doctors to cure cancer unless we conduct the research to tell them how to do it.

That is the really severe problem in education. We have severe problems that we once ignored. Once the children could go out to work without an education, but they need to be literate and they need skills to hold jobs. We just do not know how best to do this.

Something could be advocated other than to let the Office of Education run the research, but nobody has come up with a recommendation. The only recommendation I have seen so far, which seems to make sense to me, is the National Institute of Education. That is why I ask for adoption of the amend-

ment offered by the gentleman from Indiana (Mr. BRADEMAS.)

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I would not be quite as concerned about setting up an entirely new agency in the executive department if we had a provision in this title which said we would phase out research in the Office of Education.

To the best of my recollection, there is no provision in this title that says because now we are going to finance the NIE that we will phase out the research funds in OE. I suspect they will continue as they have and we will see hundreds of millions of dollars going down the drain while our schools decay before us.

Mr. QUIE. I want to remind you that the administration asked for $3 million for planning and development of the NIE for the first year. That indicates they want to spend money only to develop a sensible approach to planning so that they know what they want to do and not now repeal the authority and put it into the NIE and jump headlong into the program. We have jumped headlong into programs before, and we are not exactly sure of what we want to do in them. I think they will proceed slowly and be sure of their ground before they get into a full development of the NIE.

Mr. REID of New York. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. REID of New York. In further reference to what the gentleman is saying, President Nixon in his message to the Congress on the National Institute of Education said:

> Until we know why education works when it is successful, we can know little about what makes it fail when it is unsuccessful. This is knowledge that must precede any rational attempt to provide our every student with the best possible education.

The President's position is correct, and it is vital for this program.

I hope the amendment will be supported.

Mr. STEIGER of Wisconsin. Will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I want to associate myself with the remarks in support of the amendment to include the NIE. Am I correct in my recollection that the inclusion of the NIE as a title in the higher education bill was passed unanimously in both the subcommittee, as well as the full committee?

Mr. QUIE. Well, I am pretty certain it was unanimous in the full committee, but I cannot tell about the subcommittee.

Mrs. GREEN of Oregon. Will the gentleman yield?

Mr. QUIE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. The bill did not come out of the Subcommittee on Higher Education. It was under a different subcommittee, and I do not know what the picture is on that, because I do not serve on that subcommittee. In the full committee I do not recall the vote, but I reserved the right to oppose this particular title on the floor.

Mr. MEEDS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, not only have we had a paucity of educational research, not all of it good, I would tend to agree with the gentlewoman from Oregon, but we have not utilized properly what educational research we have.

I think one of the primary functions of the NIE is to be an umbrella agency, if you wish, over educational research being done in this country.

One of the great problems we have in the Office of Education is that they have it broken down so that educational research is being done by different departments. In some departments they do not know what the other departments are doing. Therefore, there is no coordination of the work or of the results and then a dissemination of these results to the areas that can properly utilize them.

We have the same thing happening in the States. By contracts through the Office of Education, educational research is being done all around this Nation, but that is not being properly backed up through the stream and into the place where it can be disseminated so that we do not end up doing the same kind of research all over the Nation.

A prime function of the NIE will be to provide the collection of data and dissemination of data so as to cut out some of the duplication.

Mr. BRADEMAS. Will the gentleman yield to me?

Mr. MEEDS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. I thank the gentleman from Washington.

I want to make only one other observation, Mr. Chairman, and that is that precisely, because the research and development effort that has been conducted and supported by the Office of Education over the years has not been as fruitful or as effective as it ought to be, that committee has provided for the establishment of a National Institute of Education that is not under the control either of the Office of Education or of the Commissioner of Education.

Most of the research activities now vested in the Office of Education will be transferred to the Institute. The National Institute of Education will assume responsibility for basic and applied research and development centers; Regional Education Laboratories; researcher training and experimental schools. The Office of Education will retain responsibility for education policy research relating to Office of Education programs, statistical gathering, some demonstration projects, and a modest share of dissemination activities serving both agencies. The Institute, however, will have principal responsibility for dissemination of the results of research.

Although the National Institute of Education would conduct a small amount of in-house research, most of its work would be performed by grant, contract, or other arrangement, by other agencies, institutions, and individuals.

Mr. Chairman, the proposed Institute would have the authority to carry on a broad range of research and development activities at every level of education, preschool through postgraduate school, within formal institutions of learning and in nonformal learning situations.

The new agency would be placed within the Department of Health, Education, and Welfare as an entity separate from the Office of Education and the Commissioner of Education. The distinct organizational identity of the Institute would permit it both the visibility and flexibility it requires to be effective.

Clearly, if educational research is to have an impact upon educational practice, the agency responsible for it must work effectively with other agencies engaged in educational programing or educational research. These include the Office of Education, the Office of Child Development, the National Institute of Child and Human Development, and the National Institutes of Health, all in the Department of Health, Education, and Welfare. Establishment of the Institute within this Department is therefore appropriate.

Yet it is also clear that only by separating the educational research and development effort from its present location within the Office of Education and from the direction of the Commissioner of Education can major gains be made in strengthening the effort:

A separate research and development agency is freer to foster approaches significantly different from existing institutional patterns than is an agency closely tied to those patterns through its major support functions.

Placing research and development in a separate agency allows that agency's leadership to adjust normal administrative patterns to fit the special character of a research and development agency.

A separate research and development agency can be attractive to highly creative and independent scholars who have difficulty operating in a normal bureaucratic setting.

Creating a separate agency for research and development makes it possible to assure greater stature to its leadership than is now possible.

Creating a separate agency assures that funds will be used for research and development and not diverted to what are essentially operating projects.

Finally, establishing an educational research and development agency outside the Office of Education, and from under the direction of the Commissioner of Education, will attract many excellent people who have been reluctant to deal with the research and development program of the Office of Education. Office of Education research has been plagued by a negative image—for management resulting in research of poor quality and of little substance; for failure to focus on genuine problems in education; and for insensitivity to any interests but those of the established educational leadership. A new agency outside the Office of Education, and from under the direction of the Commissioner of Education, can develop research and development programs responsive to each of these concerns.

Mr. Chairman, we have therefore sought to be responsive to the concerns that have been expressed in this regard. I thank the gentleman for yielding.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. BRADEMAS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 52, noes 50.

TELLER VOTE WITH CLERKS

Mr. ASHBROOK. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ASHBROOK. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mr. BRADEMAS, Mr. SCHERLE, Mr. REID of New York, and Mrs. GREEN of Oregon.

The Committee divided, and the tellers reported that there were—ayes 210, noes 153, not voting 68, as follows:

[Roll No. 351]

[Recorded Teller Vote]

AYES—210

Abourezk	Fish	Nedzi
Abzug	Foley	Nelsen
Adams	Ford, Gerald R.	Obey
Addabbo	Ford, William D.	O'Hara
Albert	Forsythe	O'Konski
Anderson, Calif.	Fraser	O'Neill
Anderson, Ill.	Frelinghuysen	Pepper
Andrews, N. Dak.	Frenzel	Perkins
Arends	Frey	Peyser
Aspin	Fulton, Tenn.	Pike
Badillo	Gallagher	Podell
Begich	Gibbons	Preyer, N.C.
Bell	Goldwater	Pryor, Ark.
Bergland	Goodling	Pucinski
Biester	Grasso	Quie
Bingham	Gray	Quillen
Blatnik	Green, Pa.	Railsback
Boggs	Grover	Rangel
Boland	Gude	Reid, N.Y.
Bolling	Hamilton	Rhodes
Bow	Hanley	Riegle
Brademas	Harrington	Robinson, Va.
Brasco	Harsha	Robison, N.Y.
Broomfield	Harvey	Rodino
Brotzman	Hastings	Roe
Brown, Mich.	Hathaway	Roncalio
Broyhill, N.C.	Hawkins	Rooney, Pa.
Buchanan	Hechler, W. Va.	Rosenthal
Burton	Heinz	Roush
Byrnes, Wis.	Helstoski	Roy
Byron	Hillis	Roybal
Camp	Horton	Ryan
Carey, N.Y.	Howard	St Germain
Carter	Jacobs	Sarbanes
Cederberg	Karth	Saylor
Chamberlain	Kastenmeier	Scheuer
Chisholm	Keating	Schneebeli
Clausen, Don H.	Keith	Schwengel
Clay	Kemp	Selberling
Cleveland	Kluczynski	Shipley
Collier	Koch	Shriver
Collins, Ill.	Kyros	Smith, N.Y.
Conable	Latta	Snyder
Conte	Leggett	Springer
Conyers	Lent	Staggers
Corman	Link	Stanton, James V.
Culver	Long, Md.	Steele
Davis, Ga.	McCloskey	Steiger, Wis.
Davis, Wis.	McCormack	Stokes
Dellenback	McCulloch	Symington
Dellums	McDade	Talcott
Denholm	McDonald, Mich.	Terry
Dent	McFall	Thompson, N.J.
Dingell	McKevitt	Thomson, Wis.
Donohue	McKinney	Thone
Dow	Mailliard	Tiernan
Drinan	Mathias, Calif.	Van Deerlin
Dulski	Matsunaga	Vander Jagt
Dwyer	Meeds	Vanik
Eckhardt	Melcher	Veysey
Edmondson	Metcalfe	Waldie
Edwards, Calif.	Mikva	Ware
Eilberg	Miller, Calif.	Whalen
Erlenborn	Miller, Ohio	Whalley
Esch	Mink	Widnall
Eshleman	Mitchell	Wilson, Bob
Evans, Colo.	Moorhead	Wolff
Fascell	Morgan	Wydler
Findley	Morse	Wyman
	Moss	Yates
		Zwach

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Abbitt	Gonzales	Pelly
Abernethy	Green, Oreg.	Pettis
Alexander	Griffin	Pickle
Andrews, Ala.	Gross	Poff
Annunzio	Haley	Powell
Archer	Hall	Price, Ill.
Ashbrook	Hammer-schmidt	Price, Tex.
Ashley	Hansen, Wash.	Purcell
Baring	Hays	Randall
Bennett	Heckler, Mass.	Rarick
Betts	Henderson	Reuss
Bevill	Hicks, Mass.	Roberts
Biaggi	Hicks, Wash.	Rogers
Blackburn	Hogan	Rooney, N.Y.
Bray	Hollifield	Rostenkowski
Brinkley	Hull	Runnels
Brooks	Hungate	Ruth
Burke, Fla.	Hutchinson	Sandman
Burke, Mass.	Ichord	Satterfield
Burleson, Tex.	Johnson, Pa.	Scherle
Burlison, Mo.	Jonas	Schmitz
Byrne, Pa.	Jones, N.C.	Scott
Caffery	Kazen	Shoup
Casey, Tex.	Kuykendall	Sikes
Chappell	Landgrebe	Slack
Clancy	Lennon	Smith, Calif.
Colmer	McClory	Smith, Iowa
Cotter	McCollister	Spence
Crane	McEwen	Steed
Daniel, Va.	McKay	Steiger, Ariz.
Daniels, N.J.	McMillan	Stratton
Danielson	Mahon	Stubblefield
Davis, S.C.	Mann	Sullivan
de la Garza	Mathis, Ga.	Teague, Calif.
Delaney	Mayne	Teague, Tex.
Dorn	Mazzoli	Thompson, Ga.
Dowdy	Mills, Ark.	Ullman
Downing	Mills, Md.	Vigorito
Duncan	Minish	Waggonner
du Pont	Minshall	Wampler
Edwards, Ala.	Mizell	White
Fisher	Mollohan	Whitehurst
Flood	Monagan	Whitten
Flowers	Montgomery	Williams
Flynt	Murphy, Ill.	Winn
Fountain	Myers	Wyatt
Fuqua	Natcher	Yatron
Galifianakis	Nichols	Young, Fla.
Garmatz	Nix	Young, Tex.
Gaydos	Passman	Zablocki
Gettys	Patten	
Giaimo		

NOT VOTING—68

Anderson, Tenn.	Gubser	Michel
Aspinall	Hagan	Mosher
Baker	Halpern	Murphy, N.Y.
Barrett	Hanna	Patman
Belcher	Hansen, Idaho	Pirnie
Blanton	Hébert	Poage
Brown, Ohio	Hosmer	Rees
Broyhill, Va.	Hunt	Rousselot
Cabell	Jarman	Ruppe
Carney	Johnson, Calif.	Sebelius
Celler	Jones, Ala.	Sisk
Clark	Jones, Tenn.	Skubitz
Clawson, Del	Kee	Stanton, J. William
Collins, Tex.	King	Stephens
Coughlin	Kyl	Stuckey
Dennis	Landrum	Taylor
Derwinski	Lloyd	Udall
Devine	Long, La.	Wiggins
Dickinson	Lujan	Wilson, Charles H.
Diggs	McClure	Wright
Edwards, La.	Macdonald, Mass.	Wylie
Evins, Tenn.	Madden	Zion
Griffiths	Martin	

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XV—ETHNIC HERITAGE STUDIES

SEC. 1501. The Higher Education Act of 1965 is amended by inserting after title XIV the following new title:

"TITLE XV—ETHNIC HERITAGE STUDIES

"STATEMENT OF POLICY

"SEC. 1501. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all students in the elementary and secondary schools of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this title to provide assistance designed to afford to students opportunities to learn about their own ethnic heritages and to study the contributions to the Nation made by other ethnic heritages.

"ETHNIC HERITAGE STUDIES PROJECTS

"SEC. 1502. The Secretary is authorized to arrange through grants to institutions of higher education for the establishment and operation of a number of ethnic heritage studies projects. Each such project shall carry on activities related to a single ethnic heritage or a group of ethnic heritages.

"AUTHORIZED ACTIVITIES

"SEC. 1503. Each project provided for under this title shall—

"(1) develop curriculum materials for use in elementary and secondary schools which deal with the history, geography, society, economy, literature, art, music, drama, language, and general culture of the ethnic heritage or group of heritages with which the project is concerned, and the contributions of that ethnic heritage or group of heritages to the American heritage.

"(2) disseminate curriculum materials to permit their use in elementary and secondary schools throughout the Nation, and

"(3) provide training for persons using or preparing to use the curriculum materials developed under this title.

"ADMINISTRATIVE PROVISIONS

"SEC. 1504. (a) In carrying out this title, the Secretary shall assure that grantees utilize (1) the research facilities and personnel of museums and of institutions of higher education having a special knowledge of the ethnic heritage or group of ethnic heritages concerned, (2) the special knowledge of ethnic groups in local communities, (3) the expertise of elementary and secondary school teachers, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations, which can contribute to an understanding of the ethnic heritage or group of ethnic heritages with which the project is concerned.

"(b) Funds appropriated to carry out this title may be used to pay all or part of the cost of establishing and operating the projects, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purpose of carrying out the purpose of this title.

"NATIONAL ADVISORY COUNCIL

"SEC. 1505. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be broadly representative of the Nation's identifiable ethnic groups and who shall be appointed, serve, and be compensated as provided in part C of the General Education Provisions Act, except that no member shall serve more than two years.

"(b) Such Council shall, with respect to the program authorized by this title, carry out the duties and functions specified in part C of the General Education Provisions Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1506. There is authorized to be appropriated to carry out this title for the fiscal year 1972, the sum of $20,000,000, and for the fiscal year 1973, the sum of $30,000,000."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XV be considered as read, printed in the RECORD, and open to amendment at any point.

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The CHAIRMAN. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gross: Strike out all of title XV beginning on line 11, page 226, and ending with line 12, on page 229.

Mr. GROSS. Mr. Chairman, in view of the financial situation of this country and the tremendous amount of money that is otherwise authorized through the process of this bill, I find it utterly incredible that the taxpayers of this country should be called upon at this time, in this hour of financial crisis in this country, to authorize the spending of $50 million for ethnic heritage studies. Just what ethnic heritage studies means I do not know. I would be most happy to have some enlightened member of this committee, which is so enlightened on everything, including the invasion of jurisdiction of other committees, tell me what it is proposed to obtain out of $50 million worth of ethnic heritage studies.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Illinois.

Mr. PUCINSKI. The gentleman has asked a very good and valid question. The bill provides funds for universities in this country to develop source material, curriculum material for the use of elementary and high schools across America on the history of various identifiable ethnic groups of this country. We have had enormous requests from teachers all over this country who would like to teach youngsters something about each other in their schools.

Mr. GROSS. I did not hear the gentleman. Did the gentleman say teach them something?

Mr. PUCINSKI. Something about their own ethnic heritage and the heritage of others.

Mr. GROSS. Do they not have parents? Cannot the parents teach them about their ethnic heritage?

Mr. PUCINSKI. Apparently often they do not. But this pertains to original source material. We have had many requests from schools all over the country for such material. If the gentleman would permit, I would like to quote from page 71 of the report a very eminent, noted professional, Prof. Ralph Vecoli of the University of Minnesota, who stated in support of this legislation this concept——

Mr. GROSS. I am sure the gentleman can conjure up all kinds of people in support of this proposition, especially those who are going to get some of the $50 million.

But how does the gentleman ever expect to balance a Federal budget or even come close to it if he is going to spend $50 million for this kind of thing?

Mr. PUCINSKI. I would be much more impressed with the gentleman's argument if he were not trying to delete this very important title, which is the smallest title of this bill, in a $22 billion package. The gentleman is going to sit down and tell us to kill this title for $50 million for the next 2 years, when we have $22 billion in this whole package.

Mr. GROSS. I would hate to have to go to the people of the Third Congressional District of Iowa and try to explain to them why in this crisis situation, with wage, price, and rent controls in effect, and no one knows as of now what the phase 2 controls will mean—and tell them that I voted to spend $50 million on ethnic heritage studies.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Iowa.

Mr. SCHERLE. Mr. Chairman, I thank my colleague, the gentleman from Iowa, for yielding.

Once again, we are involved with a "small" $50 million item. In the amendment previously adopted, the gentleman from Minnesota (Mr. QUIE) mentioned that initial funding of NIE would cost $3 million for the first year—which is true—just planning for the NIE. However, Mr. QUIE failed to tell the rest of the story—the second year would be $150 million, the third year would be $180 million, and the fourth year would be $220 million, and the fifth year would be $265 million. The billion dollars that was spent and wasted by the Office of Education on research within the last 10 years will be nothing compared to what this new beaucratic agency will cost us in the foreseeable future.

If this Congress is interested in assisting persons of ethnic heritage—that time is gone. When this country capitulated to the Russians over the division of Germany after World War II and failed to assist the Hungarians in their revolt for freedom in 1956—the injury to my ancestral countries is only too well known. We do not need to appropriate $50 million of the taxpayers' money to publicize our mistake.

Mr. GROSS. I thank my friend from Iowa for his comment with respect to spending under the previous title, but I am talking now about this title and a totally unnecessary expenditure of $50 million. If we cannot save this $50 million how in the world are we ever going to save this country from financial collapse?

I urge with the utmost sincerity that Members of the House adopt my amendment and strike this provision from the bill.

Mr. PIKE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from New York.

Mr. PIKE. Mr. Chairman, just to put the expenditure in perspective, I would like to point out that this 2-year program is less than the cost of the one C–5A aircraft.

Mr. GROSS. I do not know what that has to do with the argument I am making. What has the one C–5A aircraft to do with this?

Almost any expenditure of this Government, or any tax can be broken down into a relatively small cost or unit of revenue in relation to the whole. But in the aggregate it may mean an enormous amount of money.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the gentleman's concern for trying to bring some economy into this bill, but I suggest he is in the wrong church and in the wrong pew when he tries to strike down this title. We have had extensive hearings on this title. We have had practically every ethnic group in this country testify in support of this bill. The administration has testified in support of the bill.

Why are we urging this legislation? We are the most unusual Nation in the world. There is not another nation like us. We are a polyglot nation made up of many diverse ethnic groups, many religions, many nationalities, and many races. Yet if we looked at the curriculum source material of any school in this country, we find relatively little or no material about the various ethnic groups that came here and made up this country, and made this country great, and put this country together, and gave us this great land of ours.

We have had testimony from teachers who have said they wanted to try to have our young people know something about each other. This bill is designed, as the committee report states on page 71:

The need for these materials and the resultant improvement of self-awareness and understanding of others knows no social, racial or economic limitations, and therefore this program is not to be administered as if it were just for the economically and educationally disadvantaged child.

This is a bill to try to give teachers the material they can work with to try to help the youngsters of this country know something about their own ethnic heritage and the ethnic heritage of others; something about the ethnic mosaic that makes up America.

Why did we put this in this bill? I would have preferred if we could have gone a separate route, but the other body has already included this bill in the Higher Education Act.

This is why the gentlewoman from Oregon graciously consented to let us include this title in the bill, so that when we go to conference we can work out our differences, if any. We, of course, shall press to take the bill in the other body which is similar to ours if the House rejects this title.

We have had more testimony and letters from the various ethnic groups of America, urging adoption of this provision than any other bill before us, so that teachers can have something in their classrooms, some material in their classrooms, about the various ethnic groups in this country.

Look through the average textbook in this country. You will find practically nothing about the immigrants who came to America to make America great. I defy you to find a book, to show me any book with the source material to tell us something about the people who came to America and put this country together.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. PUCINSKI. I yield to my colleague from Illinois.

Mr. CRANE. I should like to take exception to what the gentleman just said. As a former history professor, I can assure the gentleman, from teaching history down through the years and from studying history through the years, which includes about 11 years of undergraduate and graduate level work, one can find a great deal of material touching upon our national cultural heritage.

Mr. PUCINSKI. Mr. Chairman, I cannot yield further.

I do not know where the gentleman was teaching. I should like to ask, with all due respect to his experience as a teacher, does he want to negate totally the testimony of teachers in the classroom all over this country who came before our committee and said, "Give us some source material"? Right now they have to go to consulates and various other places to get material about these groups.

The various organizations of this country—this country is steeped in rich ethnic history of people who came here and brought their culture to America. That is why it is the greatest country in the world, because we have had homogenization of the great cultures of the world.

Yet when one looks at the average book of America he will not find anything about this. Members are welcome to look at the hearings held by the subcommittee, to see the kind of persuasive testimony given by teachers from classrooms who work with young people.

It would be my hope we would reject this amendment, to let us go to conference.

Mr. COLLIER. Mr. Chairman, I move to strike the requisite number of words.

I am constrained to take exception to what my good friend and colleague from Illinois has just said regarding the inavailability of historical background of ethnic groups in this country.

Has the Library of Congress been checked? Or will this provide for writing history books currently that are presumed not to be available now?

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I am happy to yield to my colleague from Illinois.

Mr. PUCINSKI. Of course we can find material. I do not say we have no material at all. But the testimony of the teachers in the classrooms, first of all, is that this material is not directly available to them.

Mr. COLLIER. How then will this material be available to younger students? I am not quarreling with the proposal; I am trying to find out whether the gentleman is not actually using the wrong legislative vehicle to accomplish what is undoubtedly a good program.

Mr. PUCINSKI. The university develops source material, lecture material and information, whatever educational form it will take for presentation by a teacher in the classroom. The teachers can then request the material for their use in their classroom from the university.

Mr. COLLIER. But they do not develop the history which is already available.

Mr. PUCINSKI. And they request it for a teacher in a particular university for classroom use.

Mr. COLLIER. I do not think the teaching of history is developed through this type of approach. History in and of itself is a documentary from which ethic achievement and culture is derived.

I just cannot see how this section is going to accomplish what the gentleman understandably wishes to accomplish. I just do not believe it belongs in this bill.

Mr. PUCINSKI. I said at the outset, had we had our way about this, I would have preferred to bring the bill here separately, but the other body has included this title in the Higher Education Act.

We are going to go to conference.

Mr. COLLIER. I understand that.

Mr. PUCINSKI. We are not going to negotiate one-sidely. As far as the details of the bill are concerned, may I call your attention to the committee's report. I recommend you read the report, and I am sure it will help to persuade you.

Mr. COLLIER. I am not quarreling with the intent and purpose of it, because this in essence is politically motherhood, gingerbread, and apple pie. All I am saying is I do not think this is the best approach. I do not believe that merely because the other body does something that is improper it does not justify our taking the wrong road.

Mr. PUCINSKI. Will the gentleman yield?

Mr. COLLIER. No. Just one moment. I have already given the gentleman substantially of my limited time.

I repeat that I think this is the wrong approach, and at this point I would like to yield to my other colleague from Illinois.

Mr. CRANE. I thank the gentleman for yielding.

I would like to comment in this connection. Without having this kind of legislation on the books there is one area where there has recently been a determination to stress cultural heritage, namely, black studies in the colleges and universities. In giving a greater role in history to the very vital part played by blacks in our national experience, such studies developed without this kind of a grant.

One can argue that one's ancestry, whether Polish, Irish, German, or what have you, has been neglected in the past. This is primarily because of an emphasis existing in our history books for many years that attempted to blur cultural heritage.

I think black studies have contributed remarkably toward reviving an interest in one's own cultural background. I do not think that requires Federal aid.

Mr. PUCINSKI. Will the gentleman yield?

Mr. COLLIER. Yes, I yield.

Mr. PUCINSKI. That is precisely the point. We have a very impressive body of new material on black studies, but you do not have it on the other ethnic groups. What this bill tries to do is to make the resources available for the development of material in this country. This is precisely the point you are making, and that is why I say this legislation is important in order to bring some equity into the bill.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. COLLIER was allowed to proceed for 1 additional minute.)

Mr. COLLIER. In conclusion I must reiterate that I want to make the record clear. I agree with the intent, purpose and the long-range aspects of what is sought here. But because the Senate historically and traditionally writes legislation in a buckshot manner it does not justify our proceeding on what is obviously the wrong course to accomplish a laudable purpose.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

(By unanimous consent, Mr. PUCINSKI yielded his time to Mr. ANNUNZIO.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, this is one provision of the bill that I hope will not fall in the name of economy. An understanding of the racial divisions and the ethnic backgrounds has lead to my support and cooperation with the Education Committee on this bill. In the city of Detroit where two of the largest minorities happen to be—black and Polish Americans—we found from the Human Relations Commission, from numerous educators—and this information appears in the report of the committee—that we do not have an adequate appreciation of the ethnic contributions throughout the history of this country. That is not to say that they have not been touched upon to some extent, but as the gentleman with an educational background has pointed out, in the black studies these appreciations have just begun. We are talking about exposing ethnic cultures to all of the youngsters coming up from every background. That has not been done. It has been sadly lacking, although it has been noted and cited by numerous studies and recommendations as to the necessity for the consideration of programs of this kind.

Mr. Chairman, this is a very small price for us to pay for some beginning and understanding of the question involved here. We have got to bring an understanding of the ethnic contributions that each of the races has made in this country but which have been very poorly reproduced in the textbooks throughout our school system.

So, Mr. Chairman, I urge the members of the Committee to seriously consider

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the importance of this very significant amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Ladies and gentlemen of the committee, I may be considered a political or ethnic apostate after tonight. But, even though I am a member of the committee, who has the greatest admiration for Chairman PUCINSKI, I must support the amendment of the gentleman from Iowa. I should also say that I announced my concern about this particular provision of the bill in committee.

Mr. Chairman, I am an ethnic myself. My father was an Italian who came from Italy in 1914 and my mother's parents were born in Italy and came to this country in the early 1900's. I am therefore an ethnic and I am a product of this background of which I am very, very proud because of the tradition and culture of the Italian people in music, in the arts, and many other fields of endeavor.

However, we are not talking about that tonight. We are talking about a great deal of money. We are talking about the rights and privileges of parents like my father and mother to inculcate in us an appreciation and an understanding of our culture and background.

I think I can say with full justification that we ought not to be emotionally persuaded to support this ethnic studies program because of our desire to honor our fatherlands, whichever they may be. It is not necessary to spend this tremendous sum of money to educate people about their ethnic heritage or to teach them about their cultural heritage, nationality and background. In my opinion this can be done in the home.

There are large groups of Italians and Poles, Germans and Irish in America. But, there are hundreds of other legitimate ethnic groups of which we are proud, but each of which would require a special course of study if the ethnic studies program is adopted. This would require great sums of money and is beyond my comprehension. I urge this committee to support the amendment of the gentleman from Iowa (Mr. GROSS) to strike the entire title from H.R. 7248.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman and members of the committee, I rise in opposition to the amendment which has been offered by the gentleman from Iowa whom I realize is one of the watchdogs of the budget. I voted against the last amendment for his benefit, an amendment designed to create this superboard.

However, we are talking here about a small expenditure of money. We are not talking about a particular ethnic background of anyone.

I have had the opportunity to read volumes and volumes of writings by sociologists throughout the country who have been studying the ghettos and the ethnic problems of the inner cities of America. These sociologists, including Dan Moynihan, whom President Nixon invited to the White House, met on the ethnic question and they agreed that all of these young people from various ethnic backgrounds should be studied and that the ethnic heritage study curriculum should be carried and be developed in our colleges and universities so that these young people can develop pride within themselves to become better Americans.

We are not talking about people who are bad Americans. We are talking about good Irishmen who are good Americans, good Germans who are good Americans, good Poles who are good Americans, good black people who are good Americans, and good Italians who are good Americans.

It is an honor for me to include all people of all ethnic backgrounds who are good Americans because in order to be a good American you must be a good Pole, a good Irishman, a good Italian, a good black man, a good Swede, a good Chinese, a good Japanese, so on down the line. All that these sociologists are trying to develop in our young people is a sense of pride in their own ethnic heritage so that we can cut down on the crime and delinquency among them and encourage them to become better Americans and thereby to participate more constructively in our society.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I listened with great interest to the preceding speaker. This is just a little money, the gentleman says. I can imagine that if $50 million was offered to the city of Chicago, city officials would break their collective necks to come running down here to get it.

Mr. ANNUNZIO. Will the gentleman yield; the amount in this bill is $22 billion.

Mr. GROSS. I will say to the gentleman from Illinois that what we are talking about and what I am trying to save is $50 million.

Mr. ANNUNZIO. I was trying to point out to the gentleman that the Committee on Education and Labor comes before this House with a bill, and that they are spending millions and millions of dollars in administrational programs that never reach the children in the inner cities of America.

Mr. GROSS. I reiterate that $50 million is still a great deal of money where I come from, if it is not where the gentleman comes from.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to join with the gentleman from Iowa and also the gentleman from Kentucky in their statements.

Perhaps at another time in the history of this country, a program such as this one would be desirable and justified. Surely we are all proud of our ethnic background and enjoy immensely those occasions when we take some time to participate in festivities designed to preserve the traditions and folkways of our forebears.

But I do not have to remind anyone in this body of the precarious position of our economy today. We are only in the first stages of what promises to be a long and difficult battle to put our economic house in order. One of the major efforts on which that struggle will rise or fall will be whether we in the Congress succeed in curbing all Federal outlays not absolutely necessary for the betterment of the people of this Nation who must pay the bill.

This $50 million proposal, Mr. Chairman, is one of those items without which this Nation can survive without appreciable damage.

I know what pride in ethnic heritage is all about. Both of my parents were immigrants from Italy. No one was prouder of his heritage than my parents. In my house we did not have to go to a textbook or a classroom to learn of that background. It was taught in many ways in our house every day of our lives.

To me that seems the very best way to learn of one's ethnic heritage. And that avenue is still open for many. For others who want to learn more in this field I can only say that there are no locks on our libraries. The books and periodicals are there and if the desire for this type of an educational program is as vital as the proponents of this $50 million item would have us believe, then that desire should inspire people to seek out that knowledge on their own.

At this time in the economic life of our country, while millions are walking the streets looking for work, surely this proposal can wait for a happier day.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN) to close the debate on this amendment.

Mr. PUCINSKI. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Illinois.

Mr. PUCINSKI. Mr. Chairman, if the amendment to drop this legislation from the bill is passed, it will be an enormous disappointment to thousands upon thousands of ethnic organizations who have been pleading with Congress for this legislation.

I urge the House to reject this amendment and let us go to conference.

Mr. Chairman, I urge all of the Members to vote down this amendment, and to stay with the committee.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS).

TELLER VOTE WITH CLERKS

Mr. PUCINSKI. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PUCINSKI. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Messrs. GROSS, PUCINSKI, BRADEMAS, and COLLIER.

The Committee divided, and the tellers reported that there were—ayes 200, noes 159, not voting 72, as follows:

[Roll No. 352]

[Recorded Teller Vote]

AYES—200

Abbitt	Fountain	Pickle
Abernethy	Frelinghuysen	Powell
Alexander	Frenzel	Price, Tex.
Anderson, Ill.	Frey	Pryor, Ark.
Andrews, Ala.	Fuqua	Purcell
Andrews, N. Dak.	Galifianakis	Quie
Archer	Gettys	Quillen
Arends	Giaimo	Railsback
Ashbrook	Goldwater	Randall
Baring	Goodling	Rarick
Bell	Griffin	Rhodes
Bergland	Gross	Robinson, Va.
Betts	Grover	Robison, N.Y.
Bevill	Gude	Rogers
Biester	Hagan	Roncalio
Blackburn	Haley	Roy
Boland	Hall	Runnels
Bow	Hammer-schmidt	Ruth
Bray	Harsha	St Germain
Brinkley	Hastings	Sandman
Brooks	Hays	Satterfield
Broomfield	Henderson	Saylor
Brotzman	Hillis	Scherle
Broyhill, N.C.	Hogan	Schmitz
Buchanan	Hull	Schneebeli
Burke, Fla.	Hungate	Schwengel
Burleson, Tex.	Hutchinson	Scott
Burlison, Mo.	Ichord	Shoup
Byrnes, Wis.	Johnson, Pa.	Shriver
Byron	Jonas	Sikes
Camp	Keating	Smith, Calif.
Carter	Keith	Smith, N.Y.
Casey, Tex.	Landgrebe	Snyder
Cederberg	Latta	Spence
Chappell	Lennon	Springer
Clancy	Lent	Steed
Clausen, Don H.	McClory	Steele
Cleveland	McCloskey	Steiger, Ariz.
Collier	McCollister	Steiger, Wis.
Colmer	McCulloch	Stratton
Conable	McDade	Stubblefield
Conte	McDonald, Mich.	Talcott
Crane	McEwen	Teague, Calif.
Daniel, Va.	McKevitt	Terry
Danielson	McMillan	Thompson, Ga.
Davis, Wis.	Macdonald, Mass.	Thomson, Wis.
Delaney	Mahon	Thone
Dellenback	Mathias, Calif.	Tiernan
Dorn	Mathis, Ga.	Ullman
Dowdy	Mayne	Van Deerlin
Downing	Mazzoli	Vander Jagt
Dulski	Miller, Ohio	Vigorito
Duncan	Mills, Ark.	Waggonner
du Pont	Mills, Md.	Wampler
Dwyer	Minshall	Ware
Edmondson	Mizell	Whalley
Edwards, Ala.	Monagan	Whitehurst
Erlenborn	Montgomery	Whitten
Esch	Myers	Widnall
Eshleman	Natcher	Williams
Evins, Tenn.	Nelsen	Wilson, Bob
Findley	Nichols	Wilson, Charles H.
Fish	O'Konski	Winn
Fisher	Passman	Wyatt
Flowers	Pelly	Wydler
Flynt	Peyser	Wyman
Ford, Gerald R.	Pickle	Young, Fla.
Forsythe	Powell	

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Abourezk	Clay	Gibbons
Abzug	Collins, Ill.	Gonzalez
Adams	Conyers	Grasso
Addabbo	Corman	Gray
Albert	Cotter	Green, Oreg.
Anderson, Calif.	Culver	Green, Pa.
Anderson, Tenn.	Daniels, N.J.	Hamilton
Annunzio	Davis, Ga.	Hanley
Ashley	Davis, S.C.	Hanna
Badillo	de la Garza	Hansen, Wash.
Begich	Dellums	Harrington
Bennett	Denholm	Harvey
Biaggi	Dent	Hathaway
Bingham	Dingell	Hawkins
Boggs	Donohue	Hechler, W. Va.
Boiling	Dow	Heckler, Mass.
Brademas	Eckhardt	Heinz
Brasco	Edwards, Calif.	Helstoski
Brown, Mich.	Eilberg	Hicks, Mass.
Burke, Mass.	Esch	Hicks, Wash.
Burton	Evans, Colo.	Horton
Byrne, Pa.	Fascell	Howard
Caffery	Flood	Jacobs
Carey, N.Y.	Foley	Jones, Ala.
Celler	Fraser	Karth
Chamberlain	Fulton, Tenn.	Kastenmeier
Chisholm	Gallagher	Kazen
	Garmatz	Kemp
	Gaydos	Kluczynski
	Kyros	Murphy, N.Y.
	Leggett	Nedzi
	Link	Nix
	Long, Md.	Obey
	McCormack	O'Hara
	McFall	O'Neill
	McKay	Patten
	McKinney	Pepper
	Madden	Perkins
	Mailliard	Pettis
	Mann	Pike
	Matsunaga	Podell
	Meeds	Preyer, N.C.
	Melcher	Price, Ill.
	Mikva	Pucinski
	Minish	Rangel
	Mink	Reid, N.Y.
	Mitchell	Reuss
	Mollohan	Riegle
	Moorhead	Rodino
	Morgan	Roe
	Morse	Rooney, N.Y.
	Mosher	Rooney, Pa.
	Moss	Rosenthal
	Murphy, Ill.	Rostenkowski

NOT VOTING—72

Aspin	Gubser	Patman
Aspinall	Halpern	Pirnie
Baker	Hansen, Idaho	Poage
Barrett	Hébert	Poff
Belcher	Holifield	Rees
Blanton	Hosmer	Roberts
Blatnik	Hunt	Rousselot
Brown, Ohio	Jarman	Ruppe
Broyhill, Va.	Johnson, Calif.	Sebelius
Cabell	Jones, N.C.	Sisk
Carney	Jones, Tenn.	Skubitz
Clark	Kee	Slack
Clawson, Del	King	Stanton, J. William
Collins, Tex.	Koch	Stephens
Coughlin	Kuykendall	Stuckey
Dennis	Kyl	Taylor
Derwinski	Landrum	Teague, Tex.
Devine	Lloyd	Udall
Dickinson	Long, La.	Wiggins
Diggs	Lujan	Wright
Drinan	McClure	Wylie
Edwards, La.	Martin	Zion
Ford, William D.	Metcalfe	Zwach
Griffiths	Michel	
	Miller, Calif.	

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XVI—OCCUPATIONAL EDUCATION

SEC. 1601. This title may be cited as the "Occupational Education Act of 1971".

FINDINGS AND STATEMENT OF PURPOSES

SEC. 1602. The Congress finds and declares that—

(a) our educational system should be responsible for assuring that every young person leaving secondary school is prepared for and assisted in placement either in productive employment or in further education at the postsecondary level;

(b) the opportunity for postsecondary occupational education in programs which do not directly lead to a baccalaureate or advanced academic degree is severely limited in many parts of the Nation and is everywhere inadequate to meet existing needs, and that this situation adversely affects vital national economic and social goals;

(c) high-quality programs of postsecondary occupational education can be found in a wide variety of institutions, including public and private community and junior colleges, area vocational schools, technical institutes, private proprietary schools, college and university branches, and colleges and universities, and Federal support should encourage the utilization of all such facilities to meet the enormous needs in this field;

(d) the goals and purposes of the Congress in enacting the Vocational Education Act of 1963 and the amendments to that Act of 1968 cannot be realized until there is a widespread understanding of and support for occupational preparation in the general academic community which in turn is reflected in changed attitudes, curriculums, and practices in elementary and secondary schools; and

(e) the foregoing purposes and those of the Vocational Education Act Amendments of 1968 and related Acts cannot be realized without strong leadership and exemplary administration at the Federal level.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1603. For the purpose of carrying out part A of this title, there are hereby authorized to be appropriated $100,000,000 for the fiscal year 1972, $250,000,000 for the fiscal year 1973, $500,000,000 for the fiscal year 1974, and for each fiscal year thereafter such sums as may be necessary to assure that the purposes of this title are realized. From the sums appropriated for the fiscal year 1972, 80 per centum shall be available for the purposes of establishing a plan for administration under section 1613, making planning grants under section 1615, and for initiating programs under section 1616 in those States which have complied with the planning requirements of section 1615; and 20 per centum shall be available only for technical assistance under section 1618(a). From the amount appropriated for each succeeding fiscal year 85 per centum shall be available for grants to the States for carrying out part A, and 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1618.

ALLOTMENTS AND REALLOTMENTS AMONG STATES

SEC. 1604. (a) From the sums available for the fiscal year 1972, for allotment to the States under section 1603 the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000.

(b) From the sums available for any fiscal year beginning after June 30, 1972, for allotment to the States under section 1603, the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $1,000,000.

(c) The portion of any State's allotment under subsection (a) or (b) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time, on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States needs and will be able to use for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) for such year.

PART A—OCCUPATIONAL EDUCATION PROGRAMS

FEDERAL ADMINISTRATION

SEC. 1610. The Secretary of Health, Education, and Welfare shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

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(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this title;

(3) promote and encourage the coordination of programs developed under this title with those supported under the Vocational Education Act 1963, the Manpower Development and Training Act 1962, title I of the Economic Opportunity Act 1964, the Public Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this title and of related Acts.

GENERAL RESPONSIBILITIES OF COMMISSIONER OF EDUCATION

SEC. 1611. The Commissioner of Education shall, in addition to the specific responsibilities imposed by this title, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which relate to or have an effect upon occupational education so as to provide the maximum practicable support for the objectives of this title;

(2) promote and encourage the infusion into our system of elementary and secondary education of occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational education programs as a responsibility of the schools;

(3) utilize research and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

ESTABLISHMENT OF BUREAU OF OCCUPATIONAL EDUCATION

SEC. 1612. (a) There is hereby established in the United States Office of Education a Bureau of Occupational Education which shall be the principal agency within the Office of Education for the administration of this title, the Vocational Education Act of 1963, the Adult Education Act of 1966, functions of the Office of Education relating to manpower training and development, and functions of the Office relating to vocational, technical, and occupational training in community and junior colleges.

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner, and who is compensated at the rate specified for GS–18 of the General Schedule (5 U.S.C. 5332).

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions compensated at the rate specified for GS–17 of the General Schedule (5 U.S.C. 5332), one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions compensated at the rate specified for GS–16 of the General Schedule (5 U.S.C. 5332), at least two of which shall be filled by persons with broad experience in the field of postsecondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

STATE ADMINISTRATION

SEC. 1613. (a) Any State desiring to participate in the program authorized by this title shall in accordance with State law designate or establish a State agency which will have sole responsibility for fiscal management and administration of the program, and which will provide assurances satisfactory to the Commissioner that—

(1) such State agency shall submit to the Commissioner a plan of administration which makes adequate provision for effective participation in the planning, design, administration, and evaluation of the program authorized by this title of persons with broad experience in the fields of—

(A) public and private community and junior college education,

(B) postsecondary vocational and technical education,

(C) occupational education in private, proprietary institutions,

(D) economic and industrial development,

(E) manpower development and training,

(F) academic education at the college and university level,

(G) secondary vocational and technical education,

(H) elementary and secondary education,

(I) elementary and secondary counseling and guidance, and

(J) industry, commerce, and labor.

(2) the State advisory council for vocational education will be charged with the same responsibilities with respect to the program authorized by this title as it has with respect to programs authorized under the Vocational Education Act of 1963;

(3) there is an administrative device which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this title; and

(4) there is adequate provision for individual institutions or groups of institutions and for local educational agenices to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this title with which such institution or institutions or such agency disagree.

(b) The Commissioner shall approve any plan of administration which meets the requirements of subsection (a), and shall not finally disapprove any plan without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any plan, the provisions for judicial review set forth in section 1617 (b) shall be applicable.

AUTHORIZATION OF GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1614. From the sums made available for grants under this section pursuant to sections 1603 and 1604, the Commissioner is authorized to make grants to the States to assist them in planning and administering high-quality programs of postsecondary occupational education which will be available to all persons in all parts of the State who desire and need such education, and to promote occupational orientation and education in the regular elementary and secondary school programs.

PLANNING GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1615. (a) Upon the application of a State under section 1613, the Commissioner shall make available to the State the amount of its allotment under section 1604 for the following purposes—

(1) to assist the State administrative agency established in meeting the requirements of section 1613;

(2) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this title; and

(3) to enable the agency designated or established under section 1613 to initiate and conduct a comprehensive program of planning for the establishment and carrying out of the program authorized by this title.

(b)(1) Planning activities initiated under clause (3) of subsection (a) shall include—

(A) an assessment of the existing capabilities and facilities for the provision of postsecondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs funded under this title, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(C) the design of high-quality instructional programs to meet the needs for postsecondary occupational education and the development of an order of priorities for placing these programs in operation;

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in post-secondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried out under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1616 of this title unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried out.

PROGRAM GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1616. (a) From the allotments available to the States under section 1604(b) (upon application by the State administrative agency designated or established under section 1613), the Commissioner shall make grants to any State which has satisfied the requirements of section 1617. Such grants may be used for the following purposes—

(1) the design, establishment, and conduct of programs of post-secondary occupational education (or the expansion and improvement of existing programs) as defined by section 1620 of this title;

(2) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1615 (b)(1)(D) for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(3) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this title (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions);

(4) planning and evaluation activities designed pursuant to section 1615(b)(1)(E); and

(5) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this title.

(b) Programs authorized by this title may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangements can make a contribution to achieving the purposes of this title by providing substantially equivalent education, training or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this title which would not otherwise be available.

ASSURANCES; JUDICIAL REVIEW

SEC. 1617. (a) Before making any program grant under this title the Commissioner shall receive from the State administrative agency assurances satisfactory to him that—

(1) the planning requirements of section 1615 have been met;

(2) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(3) Federal funds made available under this title will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(4) adequate provision has been made by such agency for programs described in section 1616(a)(2);

(5) provision has been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this title;

(6) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this title, provision has been made for the effective participation of such students; and

(7) reports will be made in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title.

(b)(1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the title, the Commissioner shall notify the administrative agency that no further payments will be made to the State under this title until he is satisfied that there has been or will be compliance with the requirements of the title.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1613 (respecting approval of a State plan for administration) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

TECHNICAL ASSISTANCE; MODEL PROGRAMS

SEC. 1618. (a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this title upon the request of any State administrative agency designated or established pursuant to section 1613, and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provisions of this title and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1603, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this title and which might otherwise not be carried out (or be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the title);

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes of this title which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this title which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations.

PAYMENTS

SEC. 1619. Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

DEFINITIONS

SEC. 1620. For the purpose of this title—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1604) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "post-secondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide post-secondary education within a State, which is designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations) or to prepare individuals for enrollment in advanced technical education programs, but excluding any program to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which require a baccalaureate or advanced degree.

PART B—CONFORMING AND SUPPORTING AMENDMENTS TO OTHER ACTS

SEC. 1630. (a) Section 203(a)(3) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" at the end of clause (B), striking out the semicolon at the end of clause (C) and inserting

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in lieu thereof ", and", and by inserting a new clause as follows:

"(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education."

(b) Section 303(b)(3) of such Act is amended by redesignating clauses (C), (D), (E), (F), (G), (H), (I), and (J), respectively, as clauses (D), (E), (F), (G), (H), (I), (J), and (K), and by inserting a new clause as follows:

"(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;".

(c) Section 503(4) of such Act is amended by redesignating clauses (A), (B), and (C), respectively, as clauses (B), (C), and (D), and by inserting a new clause as follows:

"(A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education,".

SEC. 1631. (a) Section 104(a)(2) of the Vocational Education Act of 1963 (relating to the duties of the National Advisory Council on Vocational Education) is amended by inserting after "under this title" each time it appears ", and under part A of the Occupational Education Act of 1971,".

(b) Section 104 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting a new subsection as follows:

"(c) State advisory councils also shall perform with respect to the programs carried out under part A of the Occupational Education Act of 1971 functions identical with or analogous to those assigned under this title, and the Commissioner shall assure that adequate funds are made available to such Councils from funds appropriated to carry out part A of that title (without regard to whether such funds have been allotted to States) to enable them to perform such functions."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XVI may be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. HENDERSON. Mr. Chairman, I raise a point of order against section 1612 of title XVI.

The CHAIRMAN pro tempore. The Chair will hear the gentleman on his point of order.

Mr. HENDERSON. Mr. Chairman, section 1612 establishes a Bureau of Occupational Education. Subsecton (b) of section 1612 provides that the Deputy Commissioner of the Bureau shall be compensated at the rate specified for GS–18, and that the Bureau may assign not less than three positions at the rate specified for GS–17, not less than seven positions at the rate for GS–16, and not less than three senior advisers, one of whom shall be skilled in a recognized occupation, another in a branch of engineering, and a third in a branch of social or medical services.

All of these matters relate to the classification and the fixing of rates of compensation for Federal employees, and are matters that relate specifically to the Federal civil service.

Under clause 15 of rule XI of the Rules of the House of Representatives, matters relating to the Federal civil service are matters within the jurisdiction of the Committee on Post Office and Civil Service.

Mr. Chairman, in view of the lateness of the hour and the situation as it now exists, I should point out that Chairman DULSKI of the Committee on Post Office and Civil Service in September wrote to the chairman of the Committee on Education and Labor and pointed out these matters that we now make a point of order against as contained in section 1612.

Mr. Chairman, I urge that my point of order against section 1612 be sustained on the basis that it includes matter that is clearly within the jurisdiction of the Committee on Post Office and Civil Service.

The CHAIRMAN pro tempore. Does the gentleman from Illinois (Mr. PUCINSKI) desire to be heard on the point of order?

Mr. PUCINSKI. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the point of order. The provisions in question in title XVI, the Occupational Education Act, create a Bureau of Occupational Education and specify that 11 positions with specific responsibilities be included in that Bureau. Mr. Chairman, these provisions in no way impinge upon the jurisdiction of the Post Office and Civil Service Committee.

These provisions do not amend the Civil Service Act nor do they create any exemptions from that act. They simply specify that in the 11 positions created persons must be compensated at rates specified for supergrades. These provisions in no way require that these supergrades must be new supergrades, rather they can be positions which are presently assigned to the Office of Education by Congress. If the Office does not want to reassign these supergrades within the Office to this new Bureau, it will have to come before the Post Office and Civil Service Committee to request additional supergrades; and the decision on whether to give the office any new supergrades will be the decision of the Post Office and Civil Service Committee.

Therefore, Mr. Chairman, I would urge you to overrule the point of order.

Mr. Chairman, the last point I should like to make is that these provisions are in H.R. 7429, the Occupational Education Act, as it was referred to the Committee on Education and Labor.

The important thing is that we are not creating new positions. We are not asking the Civil Service Commission or the committee to approve these positions because these are positions already approved by the committee in previous allocations of supergrades to the Department. All we are saying is that the Commissioner shall reassign existing supergrades in his Department to this new Department for the new duties spelled out in the Act.

Therefore, I see no conflict between the jurisdictions of the committees, and I hope that the point of order will be overruled.

The CHAIRMAN pro tempore. Does the gentleman from Minnesota desire to be heard on the point of order?

Mr. QUIE. I should like to speak on the point of order in opposition, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. QUIE. Mr. Chairman, rule XI of the Rules of the House of Representatives outlines the jurisdiction of committees. The jurisdiction of the Committee on Post Office and Civil Service is set forth as covering, among other things, "(b) Federal civil service generally" and "(f) status of officers and employees of the United States, including their compensation, classification, and retirement."

It is true that section 1612 establishes by law a Bureau of Occupational Education within the U.S. Office of Education and requires that certain supergrade positions be assigned to that Bureau and that the persons who fill them have certain qualifications of a general nature, such as "highly qualified in the fields of vocational, technical, and occupational education" and "broad experience in the field of community and junior college education."

Now I want to make three points about these provisions:

First. They do not affect the Federal civil service generally or in any way at all; they do not amend, modify, or affect either directly or indirectly any act relating to the Federal civil service. At most, the provisions of this section say that from the supergrade resources available or made available to the Department, the new Bureau will have the specified number. Incidentally, in the opinion of everyone on our committee who worked on the occupational education title, these provisions were absolutely necessary to assure that the purposes of the Occupational Education Act were realized.

Second. While the provisions of this section mandate the assignment of certain supergrade positions to the new Bureau, they do not alter in any way any provision of law or civil service regulations relating to the compensation or classification of such positions, and of course they in no way affect the civil service retirement system.

Third. Finally—and I think this is the critical concern to the members of the Committee on Post Office and Civil Service—these provisions are not intended to have the effect of adding to the quota of supergrade positions established under title 5, United States Code, section 5108. Fixing the number of such positions is clearly a matter for the Committee on Post Office and Civil Service and these provisions do not interfere with that. The supergrade positions specified in section 1612 would have to come out of the quota established by the Committee on Post Office and Civil Service under section 5108 of title 5 of the United States Code.

Accordingly, I do not believe the point of order will lie against section 1612.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from North Carolina (Mr. HENDERSON) has raised a point of order against section 1612, beginning on page 235, line 18, through page 237, line 8, on the ground that the subject matter of subsection (b) of that section is within the jurisdiction of the Committee on Post Office and Civil Service and not the Committee on Education and Labor.

Section 1612(a) establishes in the Office of Education a Bureau of Occupational Education, which is to serve as the principal agency for the administration of various occupational, vocational, and manpower education and training programs. Section 1612(b) establishes the position of Deputy Commissioner at GS–18 to head the Bureau, and also prescribes the number of supergrade positions which must be assigned to the Bureau.

Clause 15(f), rule XI confers upon the Committee on Post Office and Civil Service jurisdiction over the status of officers and employees of the United States, including their compensation, classification, and retirement. Section 1612(b) of the committee substitute, if considered separately, is a subject properly within the jurisdiction of the Committee on Post Office and Civil Service. Under the precedents of the House, if a point of order is sustained against a portion of a pending section or paragraph, the entire section or paragraph may be ruled out of order.

Accordingly, the Chair sustains the point of order against section 1612, and the language in that section is stricken from the committee amendment.

AMENDMENT OFFERED BY MR. PUCINSKI

Mr. PUCINSKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PUCINSKI: Page 235 after line 17 insert the following:

ESTABLISHMENT OF BUREAU OF OCCUPATION EDUCATION

SEC. 1612. (a) There is hereby established in the United States Office of Education a Bureau of Occupational Education which shall be the principal agency within the Office of Education for the administration of this title, the Vocational Education Act of 1963 including parts C and I, the Adult Education Act of 1966, functions of the Office of Education relating to manpower training and development, and functions of the Office relating to vocational, technical, and occupational training in community and junior colleges.

(b)(1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner.

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions at least two of which shall be filled by persons with broad experience in the field of post-secondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

Mr. PUCINSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. GROSS. Mr. Speaker, reserving the right to object, does this in any way reinstate any part of the language stricken under the point of order?

Mr. PUCINSKI. Will the gentleman yield?

Mr. GROSS. Yes. Of course.

Mr. PUCINSKI. The amendment deletes the language:

And who is compensated at the rate specified for GS–18 of the General Schedule (5 U.S.C. 5332).

Compensated at the rate specified for GS–17 of the General Schedule (5 U.S.C. 5332).

Compensated at the rate specified for GS–16 of the General Schedule (5 U.S.C. 5332).

In other words, this amendment deletes the objectionable language as was objected to by the chairman of the committee. The chairman has seen the amendment and so far as I know it is germane.

Mr. GROSS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The amendment was agreed to.

Mr. MEEDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to establish some legislative history, and I would like to engage in a colloquy with the chairman of the subcommittee, the gentleman from Illinois, one of the prime architects of the Vocational Education Act of 1968 (Mr. PUCINSKI).

Title XVI of H.R. 7248 which authorizes funds for postsecondary occupational education is merely an extension of the provisions contained in the Vocational Education Amendments of 1968 isn't it? Although these are two separate authorizations, it is the intent of the committee that these two pieces of Federal legislation, providing extensive educational opportunities, be integrated at the Federal, State, and local levels. Is that not correct?

Mr. PUCINSKI. That is correct. This is a continuation of the Vocational Education Act.

Mr. MEEDS. And, also, in view of the fact that title XVI of this legislation authorizes funds for postsecondary occupational education and is merely an extension of that act, is it not the intent of the committee that these two pieces of Federal legislation, providing extensive educational opportunities, be integrated at the Federal State, and local levels? Would the gentleman agree with me on that?

Mr. PUCINSKI. That is quite correct. The purpose of this title is to complement the work that the vocational educators are doing. This adds to the tools that we have given them and the youngsters of this country for their education.

Mr. MEEDS. The very fact that we have now coined a new word for vocational education in this title should not be construed as a way to set up new administrative structures that would fragment the program of vocational education among various agencies at the Federal, State, and local levels. Am I correct in making this assumption?

Mr. PUCINSKI. Yes.

Mr. MEEDS. I noted that the provisions of the Occupational Education Act of 1971 call for the State advisory councils for vocational education established under Public Law 90–576 to serve also as advisory groups for the Occupational Education Act of 1971.

While we must recognize that this advisory group is advisory only and not administrative, it seems to me that this is a further assurance that we have that the Vocational Education Amendments of 1968 and the Occupational Education Act of 1971 will be integrated. Would the chairman agree with me?

Mr. PUCINSKI. The gentleman is absolutely correct.

Mr. MEEDS. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE XVII—STATE POSTSECONDARY EDUCATION COMMISSIONS

SEC. 1701. (a) Any State may designate or create a State agency or commission which is broadly and equitably representative of the public and of the public and private nonprofit and proprietary institutions of postsecondary education including community and junior colleges, technical institutes, four years institutions of higher education and branches thereof providing postsecondary academic and/or vocational and occupational training, in the State.

(b)(1) The Commissioner is authorized to make grants to State agencies or commissions designated or created pursuant to subsection (a) to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

(2) The Commissioner is further authorized to make grants to such State agencies or commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include consideration of a system of community service institutions as a means of achieving such purpose.

(3) The Commissioner shall make technical assistance available to such State agen-

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cies or commissions to assist them in achieving the purposes set forth in paragraphs (1) and (2).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 1702. (a) Each State agency or commission (established under section 1701) may establish a committee (hereinafter in this section referred to as the committee), the membership of which shall include representatives of—

(1) all State agencies having responsibility or an interest in postsecondary education;

(2) community and junior colleges, four-year institutions of higher education and branches thereof, technical institutes, proprietary institutions, vocational schools, comprehensive secondary schools, adult education agencies, and State manpower agencies providing postsecondary academic and/or vocational and occupational training; and

(3) the general public, labor unions, business and industry, and agriculture.

(b) The committee may delay and adopt a statewide plan for the expansion and improvement of community postsecondary education programs. Such plan may—

(1) designate areas of the State in which residents do not have access to occupational education, continuing education, and community service institutions of postsecondary education within reasonable community distance;

(2) designate areas of the State in which existing community service institutions cannot meet the postsecondary educational needs of the residents;

(3) set forth a statewide plan for the establishment, expansion, and improvement of comprehensive community service institutions in order to achieve the goal of making available to all residents of the States, within commuting distance, an opportunity to attend a postsecondary educational institution;

(4) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (3);

(5) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (4), for community service institutions of higher education;

(6) recommendations for coordination of duplicating programs in order to eliminate such duplications;

(7) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (3), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect postsecondary education institutions.

(c)(1) There are hereby authorized to be appropriated $16,000,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this title.

(2) Sums appropriated pursuant to paragraph (1) shall be equitably allotted by the Commissioner among the States on the basis of the amount needed by each State for the purpose of this section, except that no such allotment to any State shall be less than $100,000 except that in the case of American Samoa and the Trust Territory of the Pacific Islands such allotment shall not be more than $50,000 each. Such sums shall remain available until expended.

(d) For purposes of this title, the term "State" includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XVII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. If there are no amendments to title XVII, the Clerk will read.

The Clerk read as follows:

TITLE XVII—TEMPORARY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION IN FINANCIAL DISTRESS

FINDINGS AND PURPOSE

SEC. 1801. (a) The Congress finds that there is a national interest in maintaining a strong and diverse system of higher education. The Congress further finds that some institutions of higher education are in serious financial distress and that their financial situation is likely to continue to deteriorate. Yet there is insufficient information as to the nature and causes of such financial distress and as to the appropriate means for dealing with it.

(b) It is therefore the purpose of this title to provide temporary relief to institutions of higher education which are now in serious financial distress but which are capable of contributing to a strong and diverse system of higher education, and to provide for a study of the various means of support for higher education.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 1802. There are authorized to be appropriated for the purpose of making grants under this title $150,000,000 for the fiscal year 1972, and $150,000,000 for the fiscal year 1973.

ELIGIBILITY

SEC. 1803. (a) An institution of higher education shall be eligible for assistance under this title if—

(1)(A) the sum of its income from all sources during the most recent fiscal year ending prior to its application for assistance under this title did not increase over the annual average of the sums of such income during the most recent two fiscal years ending more than one year prior to such fiscal year by an amount determined by the Secretary to be ordinarily sufficient to prevent financial distress among institutions of higher education similar in size and other relevant respects to such institution; and

(B) in the case of a public institution of higher education—

(i) the total amount appropriated for higher education purposes for such most recent fiscal year by the State in which such institution is located and the political subdivisions of such State, divided by the per capita income of such State for such year, exceeds the State average amount appropriated for such purposes for such year by all States and their political subdivisions, divided by the sum of the per capita incomes of all such States for such year; or

(ii) the total amount appropriated for higher education purposes for such most recent fiscal year by the State in which such institution is located and the political subdivisions of such State, divided by the per capita income of such State for such year, exceeds the annual average of the total amounts appropriated by such State and its political subdivisions for such purposes for the two most recent fiscal years ending more than one year prior to such fiscal year, divided by the average of the per capita incomes of such State for each such year; or

(2)(A) the sum of the amounts paid, during the most recent fiscal year ending prior to its application for assistance under this title, to such institution by the Federal Government pursuant to grants or contracts for research purposes is less than the annual average of the amounts so paid during the two fiscal years immediately preceding such year by a percentage not less than the percentage determined by the Secretary to represent a substantial reduction in Federal support, and

(B) payments under such grants and contracts to such institution during the two most recent fiscal years ending prior to its application for assistance under this title constituted a percentage of the total income available to such institution (exclusive of income available only for capital outlay) during such period not less than the percentage determined by the Secretary to indicate a major degree of financial dependence upon the research activities of the Federal Government.

(b) An institution of higher education shall not be awarded more than one grant under this title.

CRITERIA FOR MAKING GRANTS

SEC. 1804. (a) The Secretary shall by regulation establish criteria for making grants to institutions of higher education which he has determined to be eligible under section 1803. Such criteria shall take into account—

(1) the extent of the institution's financial distress, considering any special circumstances which have served to aggravate or alleviate such distress;

(2) the institution's capacity, with the assistance of a grant under this title, to recover from is financial distress and contribute to a strong and diverse system of higher education; and

(3) such other factors as the Secretary deems relevant to carrying out the purpose of this title.

(b) In determining, for purposes of clause (2) of subsection (a), an institution's capacity, with the assistance of a grant under this title, to recover from is financial distress, the Secretary shall consider whether or not such institution has developed and will, if assistance is made available to it under this title, carry out a reasonable plan for moving to a sound financial basis and whether or not such institution offers an educational program which is viable in terms of its potential student market and the competition for such market from other institutions.

(c) As a condition to making a grant under this title to an institution of higher education, the Secretary may require that such institution furnish him such information as he deems necessary concerning the use which will be made of funds paid to such institution under this title and such other information, including the financial plans of such institution, as he deems necessary to carry out this title.

COUNCIL ON HIGHER EDUCATION RELIEF ASSISTANCE

SEC. 1805. The Secretary shall establish a Council on Higher Education Relief Assistance which shall advise him on the carrying out of this title, including the promulgation of criteria under section 1804, the application of those criteria to institutions of higher education which have applied for assistance under this title and have been determined to be eligible under section 1803, and the making of each grant under this title, including the amount of such grant. The Council shall consist of nine members who shall have competence in finance and management, who shall have experience in dealing with problems of higher education, and who shall be appointed by the Secretary without regard to the civil service or classification laws. The Secretary shall furnish such assistance to the Council as he determines that it needs in carrying out its functions under this title, and for this purpose the Secretary may appoint not more than ten individuals, without regard to the civil service or classification laws, as members of the staff of the Council.

NATIONAL STUDY

SEC. 1806. In order to assist government at all levels in developing a long-range strategy for the support of higher education, the Secretary shall undertake an analysis of alternative ways of supporting higher education, focusing primarily upon the roles and functions which might be performed by Federal, State, and local governments in providing assistance to the various types of higher education institutions and programs. The report of such study shall be submitted to the President and the Congress not later than November 1, 1972.

EXCLUSION OF SCHOOLS OR DEPARTMENTS OF DIVINITY

SEC. 1807. No grant may be made under this title to, or for the support of, a school or department of divinity, nor may any such grant be used for sectarian instruction or religious worship.

DEFINITIONS

SEC. 1808. For the purposes of this title—

(a) The term "fiscal year" means the 12-month period beginning with July 1 of a calendar year and ending with the close of June 30 of the next calendar year.

(b) The term "institution of higher education" means an institution of higher education as defined by section 1201 of the Higher Education Act of 1965.

(c) The term "per capita income of a State" means the total income of individuals within that State divided by the number of such individuals, as determined by the Secretary on the basis of the most recent data satisfactory and available to him.

(d) The term "school or department of divinity" means a school or department of divinity as defined by the last sentence of section 401(a)(2) of the Higher Education Facilities Act of 1963.

(e) The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XVIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

The CHAIRMAN pro tempore. For what purpose does the gentlewoman from Oregon rise?

Mrs. GREEN of Oregon. Mr. Chairman, I rise for the purpose of offering an amendment.

POINT OF ORDER

Mr. HENDERSON. Mr. Chairman, I was on my feet seeking recognition. I raise a point of order against section 1805 of this title.

The CHAIRMAN pro tempore. The Chair will hear the gentleman.

Mr. HENDERSON. Mr. Chairman, I raise a point of order against section 1805 of title XVIII.

Section 1805 authorizes the Secretary of Health, Education, and Welfare to establish a Council on Higher Education Relief Assistance, and includes provisions that the Secretary may appoint not more than 10 individuals, without regard to the civil service or classification laws, as members of the staff of the Council.

An exemption to the civil service or classification laws is a matter clearly within the Federal civil service generally. Under clause 15 of rule XI of the Rules of the House of Representatives, a matter relating to the Federal civil service generally is a matter clearly within the jurisdiction of the Committee on Post Office and Civil Service.

Mr. Chairman, I urge that the point of order be sustained on the basis that section 1805 includes matters that are within the jurisdiction of the Post Office and Civil Service Committee.

The CHAIRMAN pro tempore. Does the gentleman from Wisconsin (Mr. STEIGER) seek to discuss this point of order?

Mr. STEIGER of Wisconsin. I do, Mr. Chairman.

Mr. Chairman, the language found on pages 260 and 261, section 1805 of title XVIII of the Higher Education Act in no way in my judgment would interfere with the operation of the civil service system. Consistently pieces of legislation are brought to the floor of the House which in effect make possible the creation of advisory councils such as of the type described in this title, and providing further that certain personnel may be appointed by whoever the appointing officer is without regard to the classification or civil service laws.

It would be my judgment that this in no way interferes with the Rules of the House of Representatives insofar as the jurisdiction of the Committee on Post Office and Civil Service is concerned. It does not amend the Civil Service Act in any way whatsoever, and is consistent with provisions of law found heretofore in bills reported by the Committee on Education and Labor, and by other committees as well.

It further seems to me that the establishment of a precedent of this kind would make it difficult for any committee of the House to effectively determine the operation of a council or commission of this nature unless an effort were then made to take it to the Committee on Post Office and Civil Service for approval and the decision substantively made by an authorizing committee.

Therefore, Mr. Chairman, I would urge that the point of order not be sustained.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from North Carolina (Mr. HENDERSON) has raised a point of order against section 1805, beginning on page 260, line 18, through page 261, line 12, on the ground that the subject matter of a portion of that section is within the jurisdiction of the Committee on Post Office and Civil Service and not the Committee on Education and Labor.

Section 1805 directs the Secretary of HEW to establish a Council on Higher Education Relief Assistance in order to advise the Secretary on carrying out title XVIII of the committee amendment which authorizes grants for temporary relief for institutions of higher education in financial distress. A portion of section 1805 permits the appointment of nine Council members and of 10 staff members without regard to the civil service or classification laws.

Clause 15(f), rule XI, gives the Committee on Post Office and Civil Service jurisdiction over the status of officers and employees of the United States, including their compensation, classification, and retirement. Section 1805 includes a portion which, if considered separately, contains subject matter within the jurisdiction of the Committee on Post Office and Civil Service. Under the precedents of the House, if a point of order is sustained against a portion of a pending section or paragraph, the entire section or paragraph may be ruled out of order.

The Chair, therefore, sustains the point of order against section 1805, and the language of the section is stricken from the committee amendment.

AMENDMENT OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. GREEN of Oregon: Beginning with line 7 on page 256, strike out everything down through line 25 on page 262.

Mrs. GREEN of Oregon. Mr. Chairman, this is the place where $150 million can be saved. Yesterday you approved the section for financing institutional aid to the colleges and universities across the country. There is a formula for the distribution of these $950 million. The portion of the bill that I would strike out, with the support of the distinguished chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) is for $150 million authority that supposedly is earmarked for the neediest institutions. Now, while there are some vague criteria in the bill, I have been told that even the people in the Office of Education are greatly concerned about this title because they do not see how they could possibly draw up any criteria that would be fair in determining who were the neediest institutions in the United States.

Let me give you some examples.

If an institution has excellent management, and it remains in the black, and another institution has very poor management and it is in the red, does the Office of Education then say that we are going to give the funds to the institution that is in the red because they need the money?

If an institution stays in the black by accepting real sacrifices, such as by cutting back on programs or by cutting faculty, salaries, should it be deprived of aid in favor of an institution that deliberately runs into the red?

If several institutions need aid, and there is money enough for only one, which one will the Office of Education select?

The so-called determination of need will really be a subjective decision by the Commissioner of Education to give our money to more colleges that are doing what he likes. He will reject those that are not behaving the way he wants.

Mr. PERKINS. Mr. Chairman, will the gentlelady yield?

Mrs. GREEN of Oregon. I yield to the distinguished chairman.

Mr. PERKINS. We have already approved a direct institutional assistance program amounting to over $950 million annually. Is there not grave danger that the administration will seek to implement this $150 million authorization at the expense of the direct institutional aid program. The funding of the institutional aid program which this House has al-

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ready approved will be seriously jeopardized; is that correct?

Mrs. GREEN of Oregon. The gentleman is entirely correct. He points out one of the great dangers. For this reason it should be stricken from the bill.

Mr. PERKINS. Under the amendment the Commission will have all the latitude in the world. It will be a political football game.

Mrs. GREEN of Oregon. I think the gentleman is absolutely correct.

Mr. Chairman, we have in one of the other titles of the bill $120 million for developing institutions. These are primarily black institutions and new community colleges.

In my judgment, this particular title, now that $950 million has been agreed to by this House, is unnecessary. The gentleman from Iowa spoke a few moments ago about saving some money on the ethnic heritage title. This is an area where if you really want to cut down and if you want to save money so that it will go really to the needs of education in terms of the quality of the program, then I suggest that you support this amendment and delete this section from the bill.

Mr. GROSS. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman.

Mr. GROSS. Of course, if a $150 million saving will accrue from the adoption of your amendment, plus the $50 million saved from the ethnic heritage studies, you had better believe I am going to support your amendment.

Mrs. GREEN of Oregon. I thank the gentleman from Iowa—and that will be $200 million that would be saved.

Mr. Chairman, this is an unnecessary expenditure in my judgment.

PARLIAMENTARY INQUIRY

Mr. STEIGER of Wisconsin. Mr. Chairman, is an amendment in order at this point which would amend that title as it now stands, when we have an amendment to strike the title now pending?

The CHAIRMAN pro tempore. The Chair will state to the gentleman that an amendment to the title would be in order.

Mr. STEIGER of Wisconsin. Is it to be offered as an amendment to the substitute?

The CHAIRMAN pro tempore. As an amendment to the title only and not to the substitute.

AMENDMENT OFFERED BY MR. STEIGER OF WISCONSIN

Mr. STEIGER of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEIGER of Wisconsin: On page 260, add a new section 1805 to read as follows:

COUNCIL ON HIGHER EDUCATION RELIEF ASSISTANCE

SEC. 1805. The Secretary shall establish a Council on Higher Education Relief Assistance which shall advise him on the carrying out of this title, including the promulgation of criteria under section 1804, the application of those criteria to institutions of higher education which have applied for assistance under this title and have been determined to be eligible under section 1803, and the making of each grant under this title, including the amount of such grant. The Council shall consist of nine members who shall have competence in finance and management, who shall have experience in dealing with problems of higher education, and who shall be appointed by the Secretary without regard to the civil service or classification laws. The Secretary shall furnish such assistance to the Council as he determines that it needs in carrying out its functions under this title.

Mr. STEIGER of Wisconsin. Mr. Chairman, this would reinstate that section that was struck down as a result of the point of order raised against that provision in title XVIII by the gentleman from North Carolina (Mr. HENDERSON).

May I say in all honesty, Mr. Chairman, I cannot help but be somewhat sympathetic to the desire of those who say that this is the time to save money but at whose expense? I urge that the amendment I have offered be adopted to perfect title XVIII and then, Mr. Chairman, I urge that the motion made by the gentlewoman from Oregon to strike title XVIII be defeated.

This title was adopted on a bipartisan basis with the support of Members such as the gentleman from New York (Mr. SCHEUER), the gentleman from Indiana (Mr. BRADEMAS) and others on the majority side, as well as Members from the minority side within the Committee on Education and Labor. It is not—may I repeat, not—a substitute for another form of institutional aid or for that provision of institutional aid adopted in title VIII by this House by an overwhelming majority.

While title VIII in its introductory language declares that "an emergency condition has arisen which threatens the continued ability of many institutions," frankly, in my judgment, it does not address itself to that emergency. Only assistance targeted on those institutions proven to be in financial distress can meet an emergency.

We recognize that there is a serious financial crisis for some but not all institutions of higher education.

No one on this floor during the days of debate on this bill has said that all institutions are experiencing the same degree of financial need. Clearly, they are not. The Association of American Colleges, to which the gentlewoman from Oregon referred to earlier, in its release, stated—that out of about 1,500 colleges—

Some 365 of the nation's private colleges and universities may be ready to close their doors by 1981 unless immediate aid is forthcoming. Two hundred institutions will be exhausting their liquid assets within a year, according to the Association of American Colleges in a report released today, September 23rd.

Thus it seems to me that we do ourselves and our colleges a disservice if we do not recognize that there are some institutions which, unless we can give them this kind of rifled targeted approach, will be in financial difficulty. I, under no circumstances can stand here and say to the gentlewoman from Oregon or the distinguished chairman of the full committee, who are making an argument that is totally without foundation or substance, that somehow this is an alternative to title VIII. It is not. I have said it as clearly as I know how. It is a supplement, a complement, if you will, to the decision of the House to have a program of across-the-board institutional aid.

Some on the committee have been saying that we cannot treat student need through any one system, that it takes someone to look at each student's unique financial condition. If that is true—and there may always be questions to be asked about it—then surely no single system, no one formula, will meet the financial need of unique and very diverse institutions.

This title, therefore, allows the necessary amount of human decisionmaking in the determination of severe financial difficulty.

It ought to be clear, the bill sets forth certain "thresholds" which must be crossed before any institution is eligible even to apply for temporary assistance grants. This will cull out great numbers of institutions which are not in severe trouble and allow the decisionmaking to concentrate on a smaller number of institutions.

To assist him, the Secretary of HEW is directed to appoint a Council on Higher Education, and that is the amendment now pending before the committee.

The bill requires that no institution receive more than one grant, and that, before a grant is made, the institution shall demonstrate the capacity to contribute, with the help of the grant, to a strong system of higher education. This means that some institutions, perhaps the very small college—and there are, as you know, about 600 colleges with less than 500 students—may be able to demonstrate severe need, but no promise of making it even with a grant. We should not be in the position of having to save every institution with public money simply because it exists.

This title does not amend the Higher Education Act. It is a temporary title authorizing $150 million in fiscal year 1972 and $150 million for fiscal year 1973.

In summary, no State formula, categorical program, student aid program, or general aid provision will rescue those several institutions who—often through no real fault of their own—are in serious financial distress, can make a viable contribution to our higher education system, and need a specific grant of a specific size to get over a temporary financial hump.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. The gentleman from New York is recognized.

Mr. SCHEUER. I would like to ask my colleague, the gentleman from Wisconsin (Mr. STEIGER) a question. Is this title which provides an emergency fund of $150 million, which the gentleman quite correctly stated I supported in the full committee and the subcommittee, found in haec verba in the Senate bill that has passed the Senate?

Mr. STEIGER of Wisconsin. It is not identical language.

Mr. SCHEUER. Substantively is it the Senate bill?

Mr. STEIGER of Wisconsin. There is a provision, to which I referred during my

remarks during general debate, in, I believe, section 123 of the bill of the other body which does authorize a program similar in nature to this one.

Mr. SCHEUER. One hundred and fifty million dollars?

Mr. STEIGER of Wisconsin. One hundred and fifty million dollars.

Mr. SCHEUER. Very good. My colleague from Wisconsin very accurately describes my strong support of this authorization of $150 million in the subcommittee.

I know that he is a totally sincere man whose integrity and bona fides are beyond question. He and I both feel that this $150 million should be passed, should be available, and should not be instead of but rather should be in addition to the $800 million we have in the general funding measure. It is for this reason, to protect the goal that the gentleman from Wisconsin (Mr. STEIGER) and I both believe in, that I support the amendment offered by the gentlewoman from Oregon (Mrs. GREEN).

We have the opportunity to get the reassurances that we need to satisfy the gentleman from Wisconsin (Mr. STEIGER) and to satisfy me that the $150 million will be in addition to and not instead of the $800 million of general funding if the item were to be deleted in the House bill and were to be present in the Senate bill and were to be on the table in the conference committee negotiations.

Assuming that this provision is eliminated from the House bill, I, myself, with the distinguished gentlewoman from Oregon (Mrs. GREEN) or the distinguished chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) can ask asurances, perhaps cooperatively with the gentleman from Wisconsin (Mr. STEIGER) from the Office of Education that it would be their intent in requesting the funding and administering these bills that this $150 million would be in addition to and not instead of the basic $800 million we hope to fund today. I believe we could assure ourselves that the wish of the gentleman from Wisconsin and my wish would be carried out by the administration if we can have this next week or 10 days to get firm commitments from the Administration as to how they would spend the money and some commitments as to specific criteria or guidelines which would be employed in dispensing the funds so we would know this money would be used for the colleges in extremis and desperately in need of aid, as the gentleman from Wisconsin (Mr. STEIGER) and I agree is so urgently needed.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. Mr. Chairman, I wonder if we could arrive at a limitation of time. I ask unanimous consent that all debate on this amendment and all amendments thereto end in 5 minutes.

Mr. QUIE. That is 5 minutes after the gentleman from New York finishes?

Mrs. GREEN of Oregon. That is correct.

Mr. ERLENBORN. Mr. Chairman, reserving the right to object, I know there are probably more than five people standing at this time, and we will be in the very embarrassing position where each Member will have less than a minute.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on the Steiger amendment and this title close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the revised unanimous-consent request of the gentlewoman from Oregon?

There was no objection.

Mr. SCHEUER. In summation, I am supporting the amendment offered by the gentlewoman from Oregon (Mrs. GREEN) in order to put meat on the skeleton of the determination of the gentleman from Wisconsin (Mr. STEIGER) and my determination that this $150 million will be an emergency fund that will be in addition to the $800 million and not in substitution thereof.

I am doing this in support of the Steiger effort to preserve the full integrity of his splendid proposal.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, using the gentleman's logic, should we not defeat the whole bill, so we can put meat on the whole bill too? That is the gentleman's logic—defeat this title and then we can put meat on the bones. That is certainly a ridiculous logic. This title is substantively different from the Senate title, so we can meet in conference and discuss the differences.

Mr. SCHEUER. I ask my colleague, what are the substantive differences?

The CHAIRMAN pro tempore. The time of the gentleman from New York has expired.

Mr. SCHEUER. Mr. Chairman, I ask unanimous consent that I may proceed for an additional minute.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Chairman, a parliamentary inquiry. Are we not operating under a limitation of time at this point?

The CHAIRMAN pro tempore. The gentleman from New York had 2 minutes remaining. We are now operating under a limitation of time.

The Chair recognizes the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, the gentleman from New York asked me a question when his time ran out, as to some differences. One of the differences which is substantive is that in the Senate bill the aid is made through State agencies and here it is directly from the Commissioner.

I would say if the Members here are opposed to this title and do not want to aid institutions in financial distress, they ought to vote for the amendment of the gentlewoman from Oregon and strike it out, but if they are in favor of that aid they ought to vote against it and provide that emergency aid.

All of us on the committee had great reservations as to providing this kind of emergency aid, and how it is to be done, because we tried to develop some way of determining which institutions are in need. Finally those who voted for this title decided to leave that to the Secretary of Health, Education, and Welfare, and he could make the determination, and have an advisory committee evidently made up of the peers of the colleges which are in financial difficulty.

At least this will be an attempt to help those who are really in need now. Institutional grants in title VIII gives aid across the board. It will not make the relationship of one institution to another any different, and will not get at the severe financial distress some institutions have found themselves in.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. WILLIAM D. FORD. Mr. Chairman, the House has already voted to put within control of the Office of Education $800 million to be distributed according to a very carefully worked out formula which recognizes a number of criteria that should guarantee equity in that distribution to the institutions of higher education in this country.

This section becomes inconsistent with the purposes of that section already adopted by the House, because now it would purport to give the Secretary of HEW an additional $150 million, literally to spend any place he wanted, under any circumstances that appealed to his own individual judgment.

The temptation to make applications under this section, subject to all kinds of outside pressures would seem to me to be something we should not ask our friends in higher education to face.

What is even more dangerous, it seems to me, is that since HEW can spend this money willy-nilly, doing whatever they want, rather than distribute it under a formula which guarantees each State and each institution in a State its fair share, the temptation might be for the Office of Management and Budget to withhold the expenditure of funds under the $800 million authorized to be appropriated under title VIII of this bill and expend the funds instead under this section, so that they could engage in this sort of selective spending. In effect we could have this previously adopted section destroyed by the adoption of this section.

I therefore support the motion of the gentlewoman from Oregon to strike this title from the bill.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, while I do not believe that the $800 million provided in title VIII will ever be funded, I would feel much better today if we had $500 million in the section sought to be deleted. If we did so we would be making a much greater contribution to higher education than would be the case even if title VIII was fully funded.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I thank the gentle-

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man for yielding. I support the committee position on this amendment.

Mr. Chairman, I support H.R. 7248 and believe its provisions are much needed to meet a genuine crisis in the funding of higher education in America. I am confident the House shares this conviction and will approve the bill by an overwhelming majority vote.

Of course, there are some imperfections in the bill and some provisions which should be amended. While I favor the study of ethnics and cultural heritage in our schools, I believe the $50,000,000 Federal funding authorized for this purpose is excessive in these times. This authorization should be reduced or eliminated, in view of much more pressing educational needs and requirements for which tax dollars are needed.

In general, I support the committee's findings and recommendations on priorities and have voted accordingly on amendment proposals.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

(By unanimous consent, Mr. PERKINS yielded his time to Mrs. GREEN of Oregon.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. Mr. Chairman, I rise in strong support of the provision of my colleague from Wisconsin (Mr. STEIGER).

If we really look at what we are doing here, we are not talking about the matter of general institutional aid. We have dealt with that. The House has spoken as to what it feels should be done in beginning a program which is not going to institutions in particular crisis. The proposal before us now is a direct reflection of the statements that were made constantly before our subcommittee that many institutions are in a crisis situation. If we do not take this sort of step at this time and defeat this motion and leave this provision in the bill, we will not have done what these institutions need in order to take care of the crisis. We will have dealt in general across the board with institutions of higher education, which I personally believe is highly desirable, but we will not have met the crisis.

I yield to my colleague from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's yielding.

I want to say since we became involved in the development and implementation of title XVIII I have heard from a number of institutions of higher education that indicated they are in serious trouble and they will make application for this assistance.

It is inconceivable to me that this House this afternoon will decide to force those institutions to close simply on the basis that they think there is another program that will come along next year.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I could not help but think, when the gentleman from New York (Mr. SCHEUER) was in the well supporting the gentleman from Wisconsin of the prayer that one makes to be saved from help from his friends because he can protect himself from his enemies.

It is certainly the most unusual support I have ever heard for a proposition the gentleman has in the bill to strike it out from the bill to save it.

I certainly hope Mrs. GREEN's motion will fail and the gentleman's provision in title XVIII will stay in.

Why should we have both titles VIII and XVIII? There is one good reason. In title VIII there is a provision that the college must spend at least as much money as the average total expenditure in that institution over the last 2 years. The institution that is really in trouble and losing students and losing financial support will be unable to make those expenditures. That is exactly why some institutions are in trouble. They will not then qualify for aid under title VIII. These are the institutions that are in real difficulty and they can qualify for aid under title XVIII. That is why we need both provisions.

I hope that the title will stay in the bill.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon to close debate.

Mrs. GREEN of Oregon. Mr. Chairman, there are some 2,600 institutions of higher education across the country. It would be absolutely impossible for the Commissioner of Education to divide only $150 million among 2,600 institutions on any fair criteria.

I mentioned a while ago the impossibility of drawing up any formula or criteria that would be fair in terms of identifying the need. We have authorized by the previous action $800 million that would be distributed among all of the institutions in a general aid formula which I outlined yesterday.

Mr. Chairman, if we have the $800 million; if it is distributed among the 2,600 colleges, and if it is funded by the Bureau of the Budget, then the institutions that are in the greatest need will have the help which they require.

The gentleman from New York has made a very good point that if both of these titles are in here, we will have the Bureau of the Budget saying they will impound the $800 million that is designed for all of the institutions and for which the need is nationwide, and then they will spend $150 million which the Commissioner of Education is to give out as he sees fit.

This is not the manner in which we should legislate. We should stay with the main provision which is supported by every association of higher education in the United States. I do not recall any witnesses before our committee making a plea for the $150 million on emergency relief.

The developing institutions, as I mentioned a moment ago, which are primarily the black colleges in the South and the new community colleges, are already covered under title III to the extent of $120 million. They are the institutions in the greatest need and that $120 million ought to also be funded before there is any additional $150 million authorized or appropriated.

So, Mr. Chairman, I hope the amendment which I have offered will be adopted by the committee and that we can get on with the business of the consideration of this bill and close the debate. We have almost reached the end of the bill.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. STEIGER).

The question was taken; and on a division (demanded by Mr. STEIGER of Wisconsin) there were—ayes 24, noes 99.

So the amendment was rejected.

The CHAIRMAN pro tempore. The question now recurs on the amendment offered by the gentlewoman from Oregon (Mrs. GREEN).

The question was taken; and on a division (demanded by Mrs. GREEN of Oregon) there were—ayes 122, noes 17.

So the amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE XIX—YOUTH CAMP SAFETY

SEC. 1901. This title may be cited as the "Youth Camp Safety Act".

STATEMENT OF PURPOSE

SEC. 1902. It is the purpose of this title to protect and safeguard the health and well-being of the youth of the Nation attending day camps, resident camps, and travel camps, by providing for establishment of Federal standards for safe operation of youth camps, to provide Federal assistance to the States in developing programs for implementing safety standards for youth camps, to provide for the Federal implementation of safety standards for youth camps in States which do not implement such standards and for Federal recreational camps, thereby providing assurance to parents and interested citizens that youth camps and Federal recreational camps meet minimum safety standards.

DEFINITIONS

SEC. 1903. For purposes of this title—

(1) The term "youth camp" means—

(A) any parcel or parcels of land having the general characteristics and features of a camp as the term is generally understood, used wholly or in part for recreational or educational purposes and accommodating five or more children under eighteen years of age, living apart from their relatives, parents, or legal guardians for a period of, or portions of, five days or more, and includes a site that is operated as a day camp or as a resident camp; and

(B) any travel camp which sponsors or conducts group tours within the United States, or foreign group tours originating or terminating within a State, for educational or recreational purposes, accommodating within the group five or more children under eighteen years of age living apart from their relatives, parents, or legal guardians for a period of five days or more.

(2) The term "youth camp safety standards" means criteria directed toward safe operations of youth camps, in such areas as—but not limited to—personnel qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid; and medical services; food handling, mass feeding, and cleanliness; water supply and waste disposal; water safety including use of lakes and rivers, swimming and boating equipment and practices; vehicle condition and operation; building and site design; equipment; and condition and density of use.

(3) The term "youth camp operator" means any private agency, organization, or person, and any individual, who operates, controls, or supervises a youth camp, whether such camp is operated for profit or not for profit.

(4) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(5) The term "State" includes each of the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

GENERAL DUTY

SEC. 1904. Each youth camp operator shall provide to each camper safe and healthful conditions, facilities and equipment which are free from recognized hazards that are causing, or are likely to cause, death, serious illness, or serious physical harm, as well as adequate and qualified instruction and supervision at all times, wherever or however such camp activities are conducted and with due consideration of conditions existing in nature.

PROMULGATION OF YOUTH CAMP SAFETY STANDARDS

SEC. 1905. The Secretary shall develop, and shall by rule promulgate, modify, or revoke youth camp safety standards. In developing such standards the Secretary shall consult with State officials and with representatives of appropriate public and private organizations, and shall consider existing State regulations and standards and standards developed by private organizations which are applicable to youth camp safety. The Secretary shall make the initial promulgation of standards required by this section within one year after the effective date of this title.

STATE JURISDICTION AND STATE PLANS

SEC. 1906. (a) Any State which, at any time, desires to assume responsibility for development and enforcement of youth camp safety standards applicable to youth camps therein (other than travel camps) shall submit a State plan for the development of such standards and their enforcement.

(b) The Secretary shall approve a plan submitted by a State under subsection (a), or any modification thereof, if such plan in his judgment—

(1) designates a State agency as the agency responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of youth camp safety standards which standards (and the enforcement of such standards) are or will be at least as effective in providing safe operation of youth camps (other than travel camps) in the State as the standards promulgated under section 1905,

(3) provides for the enforcement of the standards developed under paragraph (2) in all youth camps in the State which are operated by the State or its political subdivisions,

(4) provides for an inspection of each such youth camp at least once a year during a period the camp is in operation,

(5) provides for an advisory committee, to advise the State agency on the general policy involved in inspecton aind certification procedures under the State plan, which committee shall include among its members representatives of other State agencies concerned with camping or programs related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with organized camping,

(6) provides for a right of entry and inspection of all such youth camps which is at least as effective as that provided in section 1909,

(7) contains satisfactory assurances that such State agency has or will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(8) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(9) provides that such State agency will make such reports in such form and containing such information as the Secretary may reasonably require,

(10) provides assurances that State funds will be available to meet the portions of the cost of carrying out the plan which are not met by Federal funds, and

(11) provides such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds received under this title.

(c) The Secretary shall approve any State plan which meets the requirements of subsection (a), but shall not finally disapprove any such plan, or any modification thereof, without affording the State agency reasonable notice and an opportunity for a hearing.

(d) Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall (1) notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan; and (2) shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that further payments to the State will be limited to programs or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payment shall be limited to programs or portions of the State plan not affected by such failure).

(e) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such plan is not supported by substantial evidence the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

GRANTS TO STATES

SEC. 1907. (a) The Secretary may make grants to States which have in effect plans approved under section 1906 to assist them in carrying out such plans. No such grant may exceed 80 per centum of the cost of developing and carrying out the State plan. Payments under this section may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of underpayments or overpayments.

(b) There are authorized to be appropriated for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, such sums as may be necessary to make the grants provided for in this section.

ENFORCEMENT BY SECRETARY; CITATIONS

SEC. 1908. (a) The Secretary shall be responsible for the enforcement of youth camp safety standards in States which do not have in effect a State plan approved under section 1906, and with respect to travel camps.

(b) The Secretary shall issue regulations and procedures providing for citations to youth camp operators for any violation of the duty imposed by section 1904, of any standard, rule, or order promulgated pursuant to section 1905, or of any regulations prescribed pursuant to this title. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimus violations which have no direct or immediate relationship to safety or health.

INSPECTIONS, INVESTIGATIONS, AND RECORDS

SEC. 1909. (a) In order to carry out his duties under this title, the Secretary may enter and inspect any youth camp and its records, may question employees, and may investigate facts, conditions, practices, or matters to the extent he deems it necessary or appropriate.

(b) For the purpose of any hearing or investigation provided for in this title, the provisions of section 8(b) of the Occupational Safety and Health Act of 1970 shall be applicable to the Secretary.

(c) To determine the areas in which safety standards are necessary and to aid in promulgating meaningful regulations, camps subject to the provisions of this title shall be required to report annually, on the date prescribed by the Secretary, all accidents resulting in death, injury, and illness, other than minor injuries which require only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of activity or motion, or premature termination of the camper's term at the camp. Camps operating solely within a State which has in effect a State plan approved under section 1906 shall file their reports directly with that State, and the State shall promptly forward such reports on to the Secretary. All other camps, including travel camps, shall file their reports directly with the Secretary. The Secretary shall compile the statistics reported and include summaries thereof in his annual report to the President and Congress.

PENALTIES

SEC. 1910. (a) Any youth camp operator who willfully or repeatedly violates the requirements of section 1904, any standard, rule, or order promulgated pursuant to section 1905 or regulations prescribed pursuant to this title may be assessed a civil penalty of not more than $2,500 for each violation.

(b) Any youth camp operator who has received a second or subsequent citation for a serious violation of the requirements of section 1904, of any standard, rule, or order promulgated pursuant to section 1905, or of any regulations prescribed pursuant to this title, shall be assessed a civil penalty of up to $1,000 for each such violation.

(c) Any youth camp operator who fails to correct a violation for which a citation has been issued under section 1908(b) within the period permitted for its correction may be assessed a civil penalty of not more than $500 for each day during which such failure or violation continues, or until the camp closes in its normal course of business.

(d) For purposes of subsection (b), a serious violation shall be deemed to exist in a youth camp if there is substantial probability that death or serious physical harm could result from a condition which exists, or from one or more practices, means, methods, operations, or processes which have been adopted or are in use, in such camp, unless the

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operator did not, and could not with the exercise of reasonable diligence, know of the presence of the violation.

PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 1911. (a) The United States district courts shall have jurisdiction, upon petition of the Secretary, to restrain any conditions or practices in any youth camp, or in any place where camp activities are conducted, which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger.

(b) Upon the filing of any such petition, the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order pending the outcome of an enforcement proceeding pursuant to this title.

(c) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any camp site or place of camp activity, he shall inform the affected campers, camp owners, and camp supervisory personnel of the danger and of the fact that he is recommending to the Secretary that relief be sought.

VARIATIONS

SEC. 1912. The Secretary, upon application by a camp owner showing extraordinary circumstances or undue hardship, and upon the determination by a field inspector, after inspection of the affected premises and facilities, that the conditions, practices, or activities proposed to be used are as safe and healthful as those which would prevail if the camp owner complied with the standard, may exempt such camp or activity from specific requirements of this title, but the terms of such exemption shall require appropriate notice thereof to parents or other relatives of affected campers.

TRAVEL CAMPS

SEC. 1913. (a) All travel camps shall register annually with the Secretary on such date as he shall prescribe.

(b) Registration shall consist of a declaration of intent to operate a travel camp and shall contain such other information as the Secretary may reasonably require, such as, but not limited to, a disclosure of the principal owners and/or operators and their addresses, a list of key supervisory personnel and their qualifications, the equipment belonging to the camp which will be utilized in operating the camp, and a reasonably explicit description of the itinerary for each planned tour route and activities, number of campers enrolled, number of counselors and supervisory personnel to accompany each tour and their qualifications.

FEDERAL RECREATIONAL CAMPS

SEC. 1914. (a) The Secretary shall develop safety standards to govern the operation of Federal recreational camps. The Secretary shall cooperate with Federal officers and agencies operating Federal recreational camps to assure that such camps are operated in compliance with the Secretary's standards. The Secretary may make the services of personnel of the Department of Health, Education, and Welfare available, without reimbursement, to other Federal agencies to assist them in carrying out this section.

(b) For purposes of this section, a Federal recreational camp is a camp or campground which is located on Federal property and is operated by, or under contract with, a Federal agency to provide opportunities for recreational camping to the public.

ADVISORY COUNCIL ON YOUTH CAMP SAFETY

SEC. 1915. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety, particularly the promulgation of youth camp safety standards. The Council shall consist of the Secretary, who shall be Chairman, and nine members appointed by him, without regard to the civil service laws, from persons who are specially qualified by experience and competence to render such service and shall include one representative from the Department of the Interior. Prior to making such appointments, the Secretary shall consult with appropriate associations representing organized camping.

(b) The Secretary may appoint such special advisory and technical experts and consultants as may be necessary in carrying out the functions of the Council.

(c) Members of the Advisory Council, while serving on business of the Advisory Council, shall receive compensation at a rate to be fixed by the Secretary, but not exceeding $100 per day, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

ADMINISTRATION

SEC. 1916. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress at least once during each fiscal year a comprehensive and detailed report on the administration of this title.

(b) The Secretary is authorized to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics needed to carry out his functions under this title; and such department or agency is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary.

(c) Nothing in this title or regulations issued hereunder shall authorize the Secretary, a State agency, or any official acting under this title to restrict, determine, or influence the curriculum, program, or ministry of any youth camp.

(d) Nothing in this title shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others.

AUTHORIZATION

SEC. 1917. There are authorized to be appropriated to carry out the provisions of this title (in addition to the amounts authorized by section 1907) such sums as may be necessary for the fiscal year 1973 and each fiscal year ending prior to July 1, 1976.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XIX be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

POINT OF ORDER

Mr. SAYLOR. Mr. Chairman, I make a point of order against section 1914.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. SAYLOR. Mr. Chairman, pursuant to House Resolution 661, I make a point of order against section 1914 of H.R. 7248 on the ground that the subject matter of the section is within the jurisdiction of the Committee on Interior and Insular Affairs.

Section 1914 permits the Secretary of Health, Education, and Welfare to develop safety standards that will govern the operation of Federal recreational camps, which are defined as camps on Federal property that provide recreational camping for the public. This definition includes campgrounds open to the public in: First, national parks; second, forest reserves created from the public domain; third, irrigation and reclamation projects; and fourth, public lands generally, which are usually called public domain. More Federal recreational camps are located on the foregoing categories of land than on any other Federal land.

Jurisdiction over legislation governing the use of the foregoing categories of Federal land is specifically assigned to the Committee on Interior and Insular Affairs by rule XI, clause 10, of the rules of the House.

The CHAIRMAN pro tempore. Does the gentleman from Oklahoma desire to be heard on the point of order?

Mr. EDMONDSON. Mr. Chairman, on behalf of the majority, and the chairman of the House Committee on Interior and Insular Affairs, I want to support the point of order made by the gentleman from Pennsylvania (Mr. SAYLOR). It is a point of order that the entire committee supports.

The CHAIRMAN pro tempore. Does the gentleman from New Jersey desire to be heard upon the point of order?

Mr. DANIELS of New Jersey. I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order raised by my colleague.

The essential question is whether section 1914 is, in the words of the rule, and I quote:

Properly within the jurisdiction of any other standing Committee of the House of Representatives.

The Education and Labor Committee clearly has jurisdiction over the general question of setting safety standards in youth camps. This is plain from the regular practice of referring bills dealing only with this subject matter to that mittee, such as H.R. 17131 and H.R. 17307 in the 90th Congress; H.R. 763 in the 91st Congress; and H.R. 1264 and H.R. 11227 in the 92d Congress.

It is, of course, true that the Committee on Interior and Insular Affairs has jurisdiction over public lands, and the question raised by the point of order is how to reconcile the geographical jurisdiction of the Interior Committee over national parks with the functional jurisdiction of the Education and Labor Committee over child safety conditions.

It seems clear to me that the two jurisdictions are not mutually exclusive and that certain matters may be appropriately considered one way or the other.

The Education and Labor Committee had before it a bill dealing with the subject of youth camp safety in general whose provisions should also be applicable to youth camps in Federal parks. Under those circumstances, the subject matter was properly before the Education and Labor Committee without in any way infringing on the Interior Committee's jurisdiction over national parks.

The CHAIRMAN pro tempore. Does the gentleman from New York desire to be heard on the point of order?

Mr. PEYSER. I do, Mr. Chairman.

Mr. Chairman, I rise in opposition to the point of order raised by the gentleman from Pennsylvania (Mr. SAYLOR).

Mr. Chairman, without having the parliamentary procedure or the background on how the Chair is going to reach its final decision, I believe that one thing that should be considered here is that the area of the Federal lands that are involved in the national parks and other areas that are used by camping associations and travel camps are specific areas that should be included in this particular act, and under this program. We gave instances that we can speak of, and will show of fatalities that have occurred on Federal lands where improper or no safety regulations that should have been enforced were enforced. Where we are in position now, or certainly are on our lands that are controlled by this Government, to incorporate this in one bill and leave this most important section as part of our Camp Safety Act.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. SAYLOR) has raised a point of order against section 1914 of the pending measure on the ground that it is not properly within the jurisdiction of the Committee on Education and Labor.

The section in question authorizes the Secretary of Health, Education, and Welfare to develop safety standards to govern the operation of Federal recreational camps.

As the Chair understands the section, it pertains to camps and campgrounds on Federal property—in national park reclamation projects, national forests, at facilities operated by the Corps of Engineers in connection with public works.

The Chair does not feel that his reading of rule XI discloses any clause which would place legislation with respect to safety standards at such campsites within the jurisdiction of the Committee on Education and Labor.

The Chair feels that if a bill embodying the provisions of section 1914 were introduced as a separate piece of legislation, it would be referred to a committee other than the Committee on Education and Labor.

The Chair, therefore, sustains the point of order and the language is stricken from the committee amendment.

PARLIAMENTARY INQUIRY

Mr. DANIELS of New Jersey. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DANIELS of New Jersey. Mr. Chairman, does the ruling of the Chair provide that just that one section be stricken from title XIX?

The CHAIRMAN pro tempore. The gentleman is correct.

AMENDMENT OFFERED BY MR. DANIELS OF NEW JERSEY

Mr. DANIELS of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELS of New Jersey: Insert on page 275 at the end of section 1913 of the reported bill, the following:

(c) The Secretary may for any year enter into an agreement with any major youth camp operator of travel camps under which such operator will act as his agent for purposes of this section, but such travel camps shall not, by reason of this subsection, be relieved of any of their obligations under this title."

Mr. DANIELS of New Jersey. Mr. Chairman, I would like to explain this amendment. It is a very plain and simple amendment.

The title provides:

Mr. Chairman, this amendment is endorsed by the Boy Scouts of America and other organizations that are interested in youth camps.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DANIELS of New Jersey. I yield to the gentleman.

Mr. PICKLE. I would like to inquire of the distinguished gentleman if the amendment you have offered is the same title XIX that is in the bill with the deletion of the Federal camps, that was sustained by the chairman?

Mr. DANIELS of New Jersey. That is correct.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. DANIELS of New Jersey. I am happy to yield to gentleman from Missouri.

Mr. HALL. Do I understand the gentleman to testify before the Committee that the camp and safety committee of the National Council Boy Scouts of America testified in favor of this section and for his amendment?

I happen to be a member of that National Camp and Safety Council and there are other members of the National Board of Boy Scouts of America on the floor. We have queried the Boy Scouts as to whether or not they favor this section and have had no reply. So I beseech the gentleman from New Jersey to provide any information that is available.

Mr. DANIELS of New Jersey. I do know the exact position of the Boy Scouts. As I said, this section is endorsed by the Boy Scouts of America.

Mr. HALL. Can the gentleman state by whom and where in the hearings the endorsement appears?

Mr. DANIELS of New Jersey. I do have before me a letter from the Boy Scouts of America dated October 12, 1971. Does the gentleman want me to read the entire letter or just an excerpt from it?

Mr. HALL. The gentleman's word is satisfactory.

Mr. DANIELS of New Jersey. I understand that this amendment will be inserted at the end of section 1713, a former bill be have as (c). I will read a quote:

That is exactly the language I proposed.

Mr. HALL. I thank the gentleman.

PARLIAMENTARY INQUIRY

Mr. PICKLE. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. PICKLE. Mr. Chairman, if I understand correctly, the gentleman from New Jersey has offered an amendment which would put back into the bill title XIX with the portion which has been deleted. My inquiry of the Chair is if that amendment is adopted, would it then be in order for amendments to be offered, or a substitute to that particular amendment be offered?

I have an amendment at the desk, Mr. Chairman, and I should like to offer that amendment at this time.

The CHAIRMAN pro tempore. The Chair would like to inquire whether the gentleman's amendment is an amendment to the amendment of the gentleman from New Jersey.

Mr. PICKLE. It is an amendment in the nature of a substitute to title XIX.

Mr. DANIELS of New Jersey. Mr. Chairman, will the gentleman hold that for a moment, because I do not have the technical amendment I would like to offer.

Mr. PICKLE. I will withhold it if my rights are protected.

The CHAIRMAN pro tempore. As the Chair understands, the amendment of the gentleman from Texas is in the nature of a substitute to the whole title.

Mr. PICKLE. That is correct.

The CHAIRMAN pro tempore. That would be in order after the perfecting amendments of the gentleman from New Jersey are disposed of.

Mr. ROSENTHAL. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I rise in support of the amendment and commend the distinguished chairman of the subcommittee (Mr. DANIELS).

Mr. Chairman, as one of the original congressional sponsors of youth camp safety legislation, I am pleased to see the fruit of many years work being considered here today. Title 19 of the Higher Education Act (H.R. 7248) is excellent camp safety legislation, and a fine sentiment of concern on the part of this House toward the well-being of our youth.

Since 1967, when I first introduced legislation in this area, the number of youngsters attending the Nation's 10,000 summer recreational camps has grown from 6 million to 8 million. The parents of these 8 million youngsters trust that their children are in trained hands and in a safe atmosphere—but this is not always the case. In 1971 alone, more than 80,000 summer campers incurred injuries due to accident or illness. Many of the mishaps involved hazards that could have been foreseen and should have been prevented.

As the situation stands today, 19 States have no regulations regarding camp safety; 40 have no standards for counselors or waterfront personnel; and 29 States require no inspections of camp facilities.

Clearly, the States have been negligent in supervising camp safety. The result of

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this laxity has been tragic injury and even death.

Action to remedy this neglect has now fallen to the Federal Government, and it is high time we assume this responsibility to our constitutents and to future generations. Campers have been jeopardized far too long; Federal regulations are too long overdue.

Title 19 of the Higher Education Act can provide that needed protection—quickly and efficiently. It is the most extensive piece of camp safety legislation ever proposed, and the most comprehensive method yet devised of assuring the health of our young campers.

It sets Federal standards, yet allows the States to administer their own camp safety programs, if they wish. Fair and equitable enforcement of the Federal standards is carefully provided for under the procedures described in title 19. Serious violations of the standards are subject to citation and civil penalty, and then only after repeated offense. This protects the legitimate and safe camp operator, and provides remedial, rather than punitive sanctions.

Those persons directly involved with camping and so vitally interested in the welfare of this Nation's campers have expressed enthusiastic support for title 19. The Boy Scouts of America and the American Camping Association have endorsed title 19. The Committee on Education and Labor has deemed title 19 a worthwhile camp safety program. Everyone, in fact, with experience in the field, recognizes the value of this title. The only vocal opposition to the act has come from the Nixon administration.

The Secretary of Health, Education, and Welfare does not like title 19. He says he already has the authority to investigate camp safety conditions, but—to follow the advice of President Nixon, who said to judge his administration by its actions and not its words—let us look at the record. The facts clearly show that Secretary Richardson and his department have done nothing to look into this problem. My authority for that statement is Mr. Richardson himself, who, in a letter dated October 19 to the minority leader, Mr. FORD, wrote:

> The extent to which there is a camp safety problem warranting federal intervention is unknown at this time.

I would like to point out that Mr. Richardson's letter not only admits the Department of Health, Education, and Welfare has not bothered to find out what the problem is in youth camp safety, but it also contends the Department has the authority to make the necessary investigation. I submit, Mr. Chairman, that this constitutes an appalling admission that the administration simply does not care about youth camp safety, is doing nothing about the problem, plans nothing, and, what's more, does not want to do anything.

Accordingly, it is up to Congress to seize the initiative. Already, the other body has passed strong youth camp safety legislation. We cannot neglect our duty. Warm and sunny days spent at summer camp should be a joyful experience and a fond memory for our children. It should not be marred by tragedy. For the welfare of the young campers, for the peace of mind of their parents, and for our commitment to the Nation's most precious natural resource, our young people, I urge you to support title 19 of the Higher Education Act, and resist any effort to weaken it.

I am including at this point an October 23, 1971, editorial from the Washington Post supporting title 19:

MAKING SUMMER CAMPS SAFE

Most of the nation's estimated eight million youth campers have now returned from happy weeks or months enjoying Nature and the outdoors. Many of the children were at safe, well-run camps where supervision is firm and accident prevention is taken seriously. That is not true for all the children, however; many attended camps where counselors had little or no knowledge of dangerous waters or woods, where safety equipment was not provided, where safety and health inspections were rare or non-existent. The statistical breakdown between safe and unsafe camps is not known. A possible guide is that out of 11,000 camps in the country only about 3,500 are accredited by the American Camping Association. According to Dr. John Kirk, president of the ACA, testifying in the last session of Congress, only "26 states have adequate legislation in the areas of sanitation. About 15 have safety regulations that would be meaningful. About three or four make reference to personnel." Against this background, the House is soon to consider an amendment to the higher education act offered by Representatives Daniels and Peyser.

The amendment, which is essentially the Youth Camp Safety bill, has been endorsed by such groups as the American Camping Association, the YMCA, the Boy Scouts of America, the Salvation Army. A main feature is that HEW sets minimum federal standards for safety in the camps. These standards can then be administered by the states; the latter will receive 80 per cent funding from the government to administer these safety measures. The Daniels-Peyser amendment is an effective approach because it provides incentives to let the states administer their own programs while ensuring that nationwide standards will be met. Thus, a camp in one state will have the same minimum safety standards as a camp a mile across a state line or a camp 2,000 miles across the country. Congress has been debating for years now on how to protect millions of children from poorly run camps, so the endorsement of the camping groups for this amendment can hardly be ignored. ACA President Kirk is on record as saying that the Youth Camp Safety bill "is one of the most outstanding pieces of proposed legislation that I have ever seen."

The need for federal minimum standards is great. Over the years, the list of camp deaths and injuries has grown long, from river drownings because children were not given life jackets to highway crashes of children riding on dangerous flatbed trailer trucks. Safety-minded officials say that large numbers of these tragedies could easily have been avoided.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. DANIELS).

The question was taken; and the Chairman pro tempore being in doubt, the Committee divided, and there were—ayes 67, noes 33.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. DANIELS OF NEW JERSEY

Mr. DANIELS of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANIELS of New Jersey:

On page 277, in Section 1917 strike out "197?" and insert in lieu thereof "1972".

The CHAIRMAN pro tempore. The gentleman from New Jersey is recognized in support of his amendment.

Mr. DANIELS of New Jersey. Mr. Chairman, I shall be very brief. The amendment is a technical amendment pertaining to section 1917 with regard to the authorization. The error was made in writing the bill. The first year this would become effective is in 1972, whereas pertinent language in the bill says 1973. We want to change the "1973" to "1972."

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey.

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PICKLE

Mr. PICKLE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute for title XIX offered by Mr. PICKLE:

Strike out all of title XIX and substitute in lieu thereof the following:

INVESTIGATION OF YOUTH CAMP SAFETY

SEC. 1901. The Secretary of Health, Education, and Welfare shall make a full and complete investigation and study to determine (1) the extent of preventable accidents and illnesses currently occurring in youth camps throughout the Nation, (2) the contribution to youth camp safety now being made by the State and local public agencies and private groups, (3) whether existing State and local laws adequately deal with the safety of campers in youth camps, (4) whether existing State and local laws relating to youth camp safety are being effectively enforced, and (5) the need for Federal laws in this field.

REPORT

SEC. 1902. The Secretary of Health, Education, and Welfare shall make a report to the Congress before January 1, 1973, on the results of his investigation and study under this title. Such report shall include his recommendations for such legislation as may be necessary or desirable.

AUTHORIZATION OF FUNDS

SEC. 1903. There is authorized to be appropriated $300,000 for carrying out the purposes of this Act.

Mr. PICKLE. Mr. Chairman, I have offered this amendment in the nature of a substitute to strike title XIX, or what is left of it, and ask for a study and a survey to be conducted so that we have more established facts.

This House may remember that 2 years ago this same measure was submitted to the House. It was submitted by the gentleman from New Jersey (Mr. DANIELS) in which he asked for a survey and a study to establish some facts about the camp situation in this country. The House turned down that request 2 years ago by a vote of 152 to 151. In other words, the House voted no for just a study at that time.

It has come back to us today on the basis that perhaps we have reached a point where we need a study and a survey made, because we are all faced now

the proposition that either we are going to take the Daniels bill which has been submitted in title XIX, or else we are going to take the Esch bill which is in the wings to be offered as a substitute.

I want to read some language about what happened 2 years ago. This is language of the gentleman from Kentucky (Mr. PERKINS):

> It is the committee's belief that each State can best implement the findings of the youth camp survey acting through the workings of its own state legislative process.

Again we have the gentleman from New Jersey (Mr. DANIELS) saying:

> There is no intent to compel any State to take affirmative action.

Again we have Mr. DANIELS saying:

> As I said before, we do not provide any compulsion. It is merely suggested that the findings of the study be widely disseminated.

Then the gentleman from Wisconsin (Mr. STEIGER), said:

> I will say in complete candor that I do not intend to come back with a bill to propose Federal standards for all camps.

Then the gentleman went on to say that we ought to have some kind of study.

The gentleman from Illinois (Mr. ERLENBORN) from the other side of the aisle, also said that this is not an area where we should seek or desire Federal regulations or laws to control youth camps.

This testimony was clearly established 2 years ago, and in spite of the fact that the House had known this might be a foot in the door, we did not have enough facts. Two years ago, the committee wanted a study before regulations would be issued. Two years later, the committee is willing to abandon the study and push for regulations.

Mr. Chairman, no one can stand in this well and oppose safety.

Certainly anyone who has had children in camp or anyone who has had anything to do with the camps would want to do everything to protect the safety and health and life of any child. We all agree on that principle.

Everyone is in favor of camp safety. There is not a man or woman in this Chamber who would vote against saving the lives of children.

But, Mr. Chairman, we must mix in some judgment with our fervor. I think the intent of the committee's legislation is good and I support that intent. However, I think we may be premature in our action today.

This legislation would create a new level of bureaucracy with strong regulations, inspections, and enforcement through fines, and injunctions.

Mr. Chairman, I will readily admit and even support legislation which might save the life of even one child away at camp. I know in my own mind that there are camps in this country which may need policing.

However, I think we first need to know the size, the scope and the seriousness of the problem of camp safety. This legislation today would have us charging out with an answer when we do not even know what the question is.

I do not think we know enough about the problems of camp safety. I am not certain in my own mind if the bill before us even goes to the heart of the matter. And before we jump with the solution, I think we would be wise to first survey the needs. I think we should first have a comprehensive governmental study to seek out the basics like, how many camps exist, who runs them, what kind of safety training exists for their personnel, what is the true accident record, and all the other pertinent questions which must be asked.

Mr. Chairman, in 1969, this body voted against such a study—yet today we find ourselves on the verge of implementing a strong Federal camp safety program without benefit of material documentary evidence.

If this is not enough to jar you—I ask that you consider another aspect of this legislation. To put it into operation is going to cost money; it is going to cost a lot of money. That cost will not be absorbed by the camp owners; that cost will be passed on to the users of the camps; that costs will be passed on to the children. Mr. Chairman, my guess is that this program will be so expensive that some children from middle and low incomes will no longer be able to afford any sort of camping activities.

Mr. Chairman, let me point to another objective of this bill—again a laudable objective, but perhaps unnecessary. I say it might be unnecessary because the Senate acted earlier on the question of uniform standards. I think it is important that a parent in Texas or in New York can send their child to a camp in New Mexico or New Jersey and know for certain that this particular camp will indeed be safe. Therefore, I think it is important that we have uniform standards of safety throughout the Nation. The Senate recognized this in authorizing each State to promulgate these standards.

Mr. Chairman, I do not think enough research has been done on this legislation. The Senate passed their bill with no hearings. The House bill had about 4 hours of hearings. The leadership of the Camping Association for Mutual Progress which represents camps throughout Louisiana, Texas, Arkansas, Oklahoma, and New Mexico, did not know of the legislation until it was already out of committee. They have contacted 104 camps throughout the five-State area of their association and none of the camps have ever heard of this legislation. These people should have an opportunity to come in and testify. I have been told that executives of 35 councils representing Texas, Oklahoma, and New Mexico have not been informed of this camping legislation. I have heard from managers of church camps in the Southwest who have never heard of this legislation. Representatives of State YMCA camps are opposed to it. I realize that there are always people who come in opposing legislation at the last minute claiming they did not know it was pending.

However, I have heard from enough people in the Southwest to believe that it will not be fair to pass this bill without giving them a chance to testify. Although I have only heard from people in the Southwest I wonder if camp operators all over the country know about the legislation we are considering today.

The question now is what to do. Are we going to put into law a bill that would set Federal standards for every recreational camp in the country?

That is our choice. We are entitled to ask why we are faced with that kind of proposition today.

This bill was tacked onto the higher education bill by the other body. In their weird wisdom they just stuck it on there and said they would run with that bill at this time. So our side felt we ought to have something to counteract it. Thus, they have put it in this form. The Senate had no hearings. I believe I am correct on that, that no hearings were held this year. I can sympathize with our distinguished chairman of the subcommittee, because here all at once, like a bolt, came this bill from the other side without any hearings.

The gentleman from New Jersey did hold hearings. I want to be sure that is understood. I understand he had hearings, for 2 days, for a total of 4 hours on this particular bill. Yet we have no printed hearings. We have no records to look at, we have no printed hearings. I am not privileged to see the facts which have been brought out before this committee.

I have called the committee to ask for the printed hearings, so I might see them. They were not available. I wonder about some of the statements, particularly those which make reference to the Boy Scouts of America, because the contention is that the Boy Scouts do recommend it.

I have a statement here from the Boy Scouts of America, and I talked with some representatives today. Their position is—and I hope I am stating it correctly—that their primary concern is safety.

The CHAIRMAN pro tempore. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. PICKLE was allowed to proceed for 5 additional minutes.)

Mr. PICKLE. Mr. Chairman, the Boy Scouts take the position that safety is their first concern. Two years ago they took the position that they preferred the States take over this matter and assume leadership.

But the proposition submitted to them was, "Are you for this camp safety bill?" Of course the Boy Scouts, and I assume the Girl Scouts and other organizations, would be for any kind of bill that would be for safety. I would not disagree with that.

I do not believe we are going to get a clear-cut statement from the Boy Scouts or the Girl Scouts that this is the particular bill they want. I have talked with my own Boy Scouts, and they question whether we ought to go this far, but they are not going to take a position in opposition to this bill.

Our committee had before them the bill from the other body, that says they want to establish Federal standards and if a State desires a State can adopt them and then the Federal Government will give some assistance.

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We have two bills before us, the Daniels-Peyser bill, and then we have the Esch bill, and these bills set up Federal standards either to be enforced by the Secretary of Health, Education, and Welfare, or Labor, or to be enforced by the State.

Do Members realize that in this bill there are penalties which would allow fines of up to $2,500, fines of $1,000, fines of $500?

I submit that we are going to take a long step here if we actually allow this bill to go through, before we have enough facts. That is why I have offered the substitute.

I have received many communications, I would be glad to read them. Most of my camp operators contend they have had no notice of the hearings.

We are just saying that we ask HEW to go out and make a survey, make a study, and come back to us and give us information about the extent of preventable accidents and illnesses currently occurring in the youth camps throughout the Nation, the contribution to youth camp safety now being made by State and local public agencies and private groups, whether existing State and local laws adequately deal with the safety of campers in youth camps, whether existing State and local laws relating to youth camp safety are being effectively enforced, and the need for Federal laws.

If this committee, after the survey, comes back and says, "There is a need, and here are the facts," that we must accept; and I believe this body then must take responsible action. But until that time we are premature if we set out here to pass a bill that provides for Federal standards and forced State standards which would be on a level with the Federal level, until we have more information.

I have before me a wire from the YMCA of Dallas, representing many of the YMCA's of Texas.

I have letters and wires from a dozen or more major camps in my district strongly opposing this measure, saying that the States ought to have the right to enforce any such standards.

Some of the girls camps in central Texas are saying that their record of safety is better than most any other place and there is no need for this, to at least let them work it out.

I have a wire from R. J. Kidd; a letter from Mrs. R. A. Lewis; a wire from L. W. Robertson, Mrs. Frank Harrison, director of Camp Mystic where my daughter went to camp, and a wire from Camp Champion, which is the camp owned by Horton Nestra and Coach Darrell Royal, expressing opposition to the bill in its present form.

I have heard from a group representing 22 Baptist camps in Texas.

Mr. Chairman, I could go on and on with the wires I have received.

I hope it is not intepreted that I am against safety in camps. As an Eagle Scout, I think I know what safety means in any camp. I repeat, as I conclude, we are all for safety. The question is, do we need to have this kind of bill at this point? I submit that the Youth Camp Safety Act has little or nothing to do with the higher education bill. I believe we will be better off with my proposal. Let us not get trapped into supporting the Daniel-Peyser bill, or the Esch bill. Support my substitute, and then we can have a study and have some facts to determine what to do.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. I wonder if we could reach some agreement on time on this title. The hour is getting late, and we still have another title.

Mr. ESCH. Mr. Chairman, will the gentleman yield to me?

Mr. PICKLE. I yield to the gentleman.

Mr. ESCH. I think we ought to take into consideration that this particular title really represents a total bill and would have 2 or 3 hours of general debate on it in any other circumstances. I think we should be allowed to proceed for awhile under the circumstances.

If this particular amendment is not adopted, I have a complete substitute bill which will take a great deal of time, so I think it is in the best interests of the House to proceed in due order and not to place any limitation of time on this until at least we see if the gentleman's amendment prevails.

Mr. ERLENBORN. Will the gentleman yield?

Mr. PICKLE. Yes. I yield to the gentleman.

Mr. ERLENBORN. I want to call the gentleman's attention to the last line of his amendment which is the authorization of funds. It says "to carry out the purposes of this act." That should be "the purposes of this title," since this is a title of another act.

Mr. PICKLE. Yes, that would be correct.

Mr. ERLENBORN. I wonder if the gentleman wants to ask unanimous consent to have the word "act" changed to the word "title."

Mr. PICKLE. That is my intent, and if no one objects, I will ask unanimous consent that the word "act" be replaced by the word "title."

The CHAIRMAN pro tempore. The Clerk will read the amendment as corrected.

The Clerk read the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DANIELS of New Jersey. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have served as chairman of the Select Subcommittee on Labor for the past 3 years, and I would like to say in response to the gentleman from Texas who proposed this amendment that our committee held hearings not only in this, the 92d Congress, but we also held hearings in the 90th Congress and the 91st Congress.

It is true that we had only 2 days of hearings this year, as you said, and the record was not printed. The reason for the delay in printing the record is that we deferred to the minority in order to have the Secretary of Health, Education, and Welfare come in to testify. He was not only invited in the usual manner by written invitation but by telephone. However, he failed to appear.

As you indicated, since the other body added the youth camp safety bill to the higher education bill, in order to preserve the position of the House, we added on title XIX to H.R. 7248. However, there are printed hearings in the 90th and 91st Congresses.

I want to say that everybody who asked for an opportunity to appear and testify had that opportunity. We gave wide publicity to the fact that we were going to conduct hearings on this matter. Anybody who expressed a desire to testify could have testified. We did have the major camping organizations in this country come before our committee to express their views.

There has been some doubt cast on the position of the Boy Scouts of America. I have here a photostatic copy of a letter dated October 22, 1971, from the Boy Scouts of America, signed by Russell A. Turner, manager of the Camping and Engineering Service, addressed not to me but to the Honorable MARVIN L. ESCH, of the House of Representatives. I would like to read a couple of paragraphs from this letter.

This gentleman was furnished with two bills, H.R. 11227, the Youth Camp Safety Act introduced by the gentleman from Michigan (Mr. ESCH) and my bill, H.R. 7248, and I quote these paragraphs:

> For about 5 years we have consulted with Members of Congress in connection with our mutual concerns for the welfare of the youth. We have joined the Welfare Camp Association and other agencies in a consulting role as several bills have been proposed. Our position is a matter of record on both Senator Ribicoff's bill and Congressman Daniels' proposed legislation on youth camp safety. Within the last 90 days we have indicated support for Mr. Daniels' bill, H.R. 1264 and the most recent, H.R. 7248, containing title XIX of the Higher Education bill which is a modification of H.R. 1264. These bills have been very carefully reviewed by us and by the American Camping Association and others. The Boy Scouts of America find this bill generally constructive and helpful. We concur that immediate safety standards are necessary to the welfare of these camps.

May I point out the fact that over 8 million young people, both boys and girls, each year go to camp in this country. There are approximately 10,000 to 11,000 camps. Many parents send their children to camp in the mistaken belief that these camps are safe. Yes; many camps are safe. But there are likewise many, many unsafe camps.

The testimony before our committee resulted in our hearing about many very tragic circumstances.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. DANIELS of New Jersey was allowed to proceed for 3 additional minutes.)

Mr. DANIELS of New Jersey. Mr. Chairman, we have heard of many tragic accidents where children were drowned, where children were molested because of inadequate personnel who were hired for the camps; where there were unlicensed drivers driving trucks taking boys and girls out on picnics, and the testimony pointed up the fact that many accidents have happened.

The testimony before our committee does show that there are 26 States that have regulations only with respect to sanitation of youth camps. Only 15 States have any form of safety legislation. Only three or four States have qualifications regarding personnel. At the same time 24, or nearly one-half of the States of this country have relatively little or no camp regulations.

And, Mr. Chairman, I might say that the State of Michigan has a very model code. Since it was adopted the State of Michigan has the best safety code in this country. Since they adopted their law about 10 years ago they have only had one drowning whereas heretofore there were at least two or three drownings a year. I might also point out the fact that this State which has a model safety law also has the best safety record in the country.

Now, Mr. Chairman, I point out to you also that the president of the American Camping Association had a hand in the drafting of that legislation.

I also would like to point out the fact that all of the major camping organizations in this country support this legislation. It is not only supported by the Boy Scouts of America but is supported by the American Camping Association, by the YWCA, the Boys Group of America, and National Safety Council, the Salvation Army, and the National Catholic Camping Association.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

Mr. ESCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman and members of the Committee, I think that some clarification is necessary and I rise in support of the substitute amendment for the following reasons.

First of all, it should be clear that I have had no communications to indicate that all interested parties did have an opportunity to testify including, and I have not seen any formal communication of our Secretary of Health, Education, and Welfare, where he refused to testify.

The gentleman from New Jersey, our distinguished chairman (Mr. DANIELS), has always been most fair and straightforward in allowing witnesses to appear and to proceed in an orderly fashion. However in this case, because of the press to place a title on the higher education bill, it was, in his estimation, necessary to proceed as he did.

Secondly, hearings on H.R. 1264, the youth camp safety bill, were in process when the higher education bill came up, and the subcommittee had no markup of any youth camp safety legislation whatsoever. Title X was put on as an amendment to H.R. 7248, the higher education bill, in the full committee where it surely does not belong.

At the outset let me indicate that I am strongly in favor of a program of youth camp safety, and originally we had hoped to have a bipartisan measure in this respect. But here we are working on a bill with only a cursory look at the testimony because it is not even printed as yet. The cursory look that we have had in reexamining the testimony indicated that as yet we do not know the extent or the nature of the problems involved in youth camp safety.

That is the one point that came out very clearly.

Furthermore, although in general many organizations throughout the country support some form of legislation, there has never been any clear-cut testimony on the specific legislation before us now. The one thing that we do know from the testimony at the hearings came from the president of the National Safety Council—and I hope the Members will listen carefully to this—the president of the National Safety Council testified in the hearings that a child was safer at a properly run camp than he was in his own home, or neighborhood playground.

A report from the Department of Health, Education, and Welfare supports the testimony of the president of the National Safety Council. The HEW report indicates that 60 percent of all injuries to the 18 million children under 16 years of age occur in the home. Schools have a higher incidence of recreational injuries than youth camps, that is one thing that we know.

Given that, the House should accept the amendment offered by the gentleman from Texas, and then proceed in an orderly fashion with the statistical analysis that is necessary. In conducting such an analysis, and to ask some of the consultation should be made with the various groups interested in camping, not just a few national organizations, but the working camps, and the members thereof who are trying to do an effective job. Then, and only then, can we proceed, as I say, in an orderly way to develop an effective youth camp safety program for all of our children in this country.

Mr. DENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the statement made by the gentleman who preceded me puts the finger right on the whole problem—the statement was made before the committee that a child was safer in a well-run camp than he was at home. That is true. That is all we are trying to do—to get well-run camps. There is no one who wants to do anything different in this bill.

I remember some 50 years ago when you could not pass a mine safety bill if you held people up with a six-gun. I remember some 40 years ago when you could never even think of passing an industrial safety bill. Always they had to have studies to find out the statistics. Let me give you the statistics.

This is a letter from Michael Kirwan. He says:

> The death of my son at the age of 15½ in August was a bizarre, ugly, and unnecessary tragedy. But even the death of my son was not nearly as important as the file of statistics I made on the number of camp tragedies.

That is a statistic to that man and to his family. This is all the statistics this House needs. What are we going to do—go out into the camps to find out how many children have been hurt? Is that the statistic you want? Does anybody in this place really believe that these camps are all safe and quiet little havens?

Let me tell you something. The brochures they have in most instances on these camps are so antiquated that they do not even cover or resemble what the camp looks like when the children are sent there by their parents. Anybody can be hired. No one needs to pass any kind of examination or test of any kind. There is not even a simple qualification or requirement as to their ability for training or anything.

A camp is an open place with absolutely no requirements as to who can run them and who cannot run them or who shall be allowed to run them.

This is the only place in the whole activity of youth in the entire country where there is not one single Federal regulation as to even minimum requirements for safety.

Drownings—do you want statistics on drownings?

Let me tell you about these youth camps. We visited some of the youth camps. I have seven grandchildren. I want to tell you, I would hesitate to send any one of them to some of the public camps I've seen.

Statistics—what do you want them on—tombstones? Do you want statistics in the obituary columns?

The statistics are the lack of Federal regulations whatsoever. There are no restrictions on who can run a camp and who can operate a camp, or what kind of a camp they have. There is no regulation on the brochures and the literature they send out which in many cases they don't resemble the place that they are going to go to. They advertise them and they say—"Qualified counselors". Qualified counselors—let me tell you—some of these counselors should never be allowed in youth camps. You do not know, Mr. PICKLE, and I do not know, Mr. PICKLE, when I send my children to camp what kind of people they are going to find there or the type of operator or even the type of campsite unless we have the time and can make a survey and visit.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman.

Mr. PICKLE. I can tell the gentleman that in Texas we have 100 or 125 camps and I have been through many of them and I have sent my children there. I say to you that the safety of those camps is as good as anything I think the Federal Agency would impose.

The gentleman from Pennsylvania does not need to appeal to us in such an emotional way. We are all for safety. No one is going to contend that we do not want to have proper regulations in any of these camps. But I ask you first—you ought to have the facts. You do not have

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the facts and your committee does not have the facts. We have incomplete information on this.

Mr. DENT. That is where I disagree. This committee is often condemned on the floor of the House. It seems to be the popular thing here like in the United Nations where they beat the United States over the head. Here they like to beat the Committee on Education and Labor over the head. Go ahead and scoff—that is what they did in the United Nations, too.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has expired.

(Mr. DENT asked and was given permission to proceed for 3 additional minutes.)

Mr. DENT. Mr. PICKLE, you may have the finest camps in the world in Texas. I am sure there is nothing in this bill that would make them unsafe. I think if you have fine camps, that is a great credit to your State. But there are States that have no regulations whatsoever. If they do not do this for themselves, it has been a policy of the Federal Government where a State is unable or unwilling to do that which should be done for the health, welfare, and protection of its citizens, then the Federal Government is bound by the Constitution to do it.

I remember the fight for a Federal safety law in mining, an act which was considered in this House in 1951 and 1952, and has been a continuing fight ever since. They said it was the craziest thing in the world—that they had safe mines. We will never have safe mines—but they are safer than they were.

We will never have accident-proof camps—but they will be safer than they are now.

You can talk all you want about finding a good camp. Sure, there are many of them run by honest, decent people, and the honest, decent camp owners of this country want this kind of legislation. They are not afraid of minimum laws regarding safety. What are they afraid of? They have good camps. It is only those who run fly-by-night camps, the same as those who operated the fly-by-night little industries that were hiring child labor that we are concerned with. This is something that sooner or later must be done. Whether you do it now or later, it will be done; but I would suggest that we do it now before tragedy strikes again in some home, which may be your own home.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. PEYSER. Mr. Chairman, I would like to know how many Members are interested in talking on the amendment.

Mrs. GREEN of Oregon. On this amendment only; I am not suggesting a limitation on the title.

Mr. PICKLE. Mr. Chairman, I object.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. PEYSER. Mr. Chairman, I object.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I move that all debate on this amendment close in 20 minutes.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentlewoman from Oregon.

The motion was agreed to.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. FISHER).

Mr. FISHER. Mr. Chairman, everyone is in favor of safety, whether it be in a factory, in a home, on a farm, on a campus, in a nursery, in a camp—or wherever.

Essentially, I am sure all will agree that safety in any activity is achieved because individuals apply commonsense and practices that are based upon experience.

That is particularly true in the operation of youth recreation camps. Those who operate such camps are in the safety business. For them safety is the name of the game.

It happens there are around 50 youth camps in my district—probably more than any other one district in the country. These camps are efficiently operated, accommodate thousands of youngsters who are attracted there from practically every State in the Union each year. They are proud of their remarkable safety record, and so are the parents of the youngsters who go there.

In most of these camps an experienced staff member is provided for each four to eight of the boys and girls, and their counselors are real professionals.

These camps are already well supervised. Texas State health laws require safety and health in all camps, with annual inspection. We already have State water safety laws, water quality laws, and other general safety requirements which must be observed.

If safety problems are bothersome in other areas of the country, I suggest you send those interested down to our area, and find out how it is done—most successfully, without any Federal controls.

I can tell you that I am informed that practically every one of the camps I represent are opposed to Federal intervention, because they know that as applied to them it is simply unnecessary.

These people I represent inform me they were unaware of hearings on this subject until after the bill was reported. They are convinced this is precipitate action and should be given further study.

Now, what would these proposed Federal standards entail? They cover everything imaginable. Let me cite a few.

"Personal qualifications for director and staff." Are these people going to have to look to Washington to determine whom they can hire—or fire?

Here is another one: "Ratio of staff to campers." Have we reached the point where camp operators are so dumb they must look to Washington for such decisions?

Here is another example: "Vehicle condition and operation." Again, what gives a bureaucrat in Washington, who would write the standards, the superior knowledge which would qualify him to dictate to camp operators the age, horsepower, and I suppose general appearance, of every vehicle that is used. If an operator chooses to use a cart pulled by a pony, that might or might not meet Federal standards.

And listen to this one: "Building and sight design; equipment; and condition and density of use." Will you not agree with me that camp operators are a hundred times better qualified to decide on the size, shape, and dimensions of buildings they use, than would be the Washington bureaucracy? How dumb do they think the people are who operate youth camps?

These are but a few of scores of other standards which Washington experts could design, with the open-ended authority provided by this bill.

Mr. Chairman, I earnestly hope the pending amendment will be adopted.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, my quarrel is not with the fact that we should have camp youth safety. I agree with this proposal. My problem is stated as a question: What is that subject doing in an Education and Labor bill? I have to sympathize with the Secretary of HEW, because we have literally made that Agency of Government a garbage disposal. Every type of legislation that we have no place for we send down to HEW. I am not surprised at all that the Department is unworkable and unmanageable. They have people employed down there simply "looking busy" which reminds me of an ordnance plant in Nebraska during World War II. The workers there were asked, "What is your job here?"

They said, "Just carry a wrench around and look busy."

That is the identical situation that we have created in the Department of Health, Education, and Welfare.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I rise to compliment the gentleman from Iowa in raising what I consider to be a highly important point at this juncture of the debate—and that is, just what is a youth camp safety, and a highly regulated Federal program of youth safety doing in a higher education bill? No wonder the American people begin to wonder what the Congress of the United States is doing on any given subject when it includes such unrelated and unstudied phases as this title XIX of the higher education bill. I commend the gentleman from Iowa on raising this all-important issue because, in my opinion, this title has absolutely no place in any higher education bill. Although the great majority of the Members of Congress are extremely sympathetic with the necessity of assuring the protection and safeguarding the health and well-being of the youth of the Nation attending camps, this title clearly does not belong in any higher education legislation. Therefore, a vote in support of the Pickle amendment which is now being considered is a responsible vote because, first, the subject should be more intensively studied to determine whether the Secretary of the Department of Health, Education, and Welfare should be granted all the power given to him in this title and to determine whether—under the 10th amendment of the Constitution—the Federal Government should even be in this field, and second, there should be a clear statement that this House will not be cowered into a position of having to do something just because the U.S. Senate was irresponsible enough to add this title into the Higher Education Act. I rise in support of the amendment as submitted by the Member from Texas (Mr. PICKLE), because I feel it is more responsible than title XIX which is now being considered.

Mr. SCHERLE. Mr. Chairman, this amendment establishing youth camp safety should be a State prerogative and not regulated here in Congress. Each State has a responsibility. I do not know what a Federal law would have done to prevent my colleague, the gentleman from Pennsylvania (Mr. DENT) from having difficulty with a canoe. Is it the fault of the canoe, or the lack of a Federal law? Commonsense must also prevail as far as personal decisions are concerned.

It is important for parents to make sure where their kids are going—don't rely on brochures. Jurisdiction should be first a parental responsibility coordinated with State legislation and let us not continue to saddle HEW with legislation that should be maintained at the State level.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, one of the reasons I think the committee ought to support the title as it is now before us is that it really sets only a very general and, I think, an acceptable standard of safety and of responsibility on the part of the operators of these camps, a standard I do not think anyone can really say is wrong. It provides that the Secretary can implement this by regulation. That would be the time to work at the specifics of these regulations. It also provides for the States to act on their own.

I am particularly impressed, Mr. Chairman, by a letter from the American Camping Association, Inc., which endorses this, a letter signed by John J. Kirk, the national president of the American Camping Association, which reads as follows:

OCTOBER 7, 1971.

Hon. DOMINICK V. DANIELS,
House of Representatives,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN DANIELS: I have just had the opportunity of reviewing the Youth Camp Safety Bill H.R. 7248 with amendments, and I personally feel it is one of the most outstanding pieces of proposed legislation that I have ever seen. It is my hope that the members of your committee and your colleagues in the House of Representatives will look favorably upon this bill and that very soon it will become the law of the land.

As a camp director of over twenty years, I know I speak for all responsible camp directors in saying that we commend you and the members of your committee for proposing such meaningful and needed legislation. If this bill becomes a reality, it will contribute most substantially to the safety and well-being of millions of children who now attend our summer camps.

On behalf of all camp directors and the millions of parents who send their children to camp each summer I wish to thank you and the members of your committee for your thoughtful and detailed analysis of the youth camp movement in America and for the efforts you and your colleagues on the Select Subcommittee on Labor have expended in proposing this fine piece of legislation. May I wish you every success in securing its approval and immediate passage.

Sincerely,

JOHN J. KIRK,
National President,
American Camping Association, Inc.

Mr. Chairman, this is an association of people who run camps. They are saying they favor this legislation. I think if they find this to be a useful piece of legislation that this speaks very well for the committee that has had the responsibility for drafting this title.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Chairman, I favor the amendment presently before us. I was a camp director for 11 years, which helped to put me through medical school. I now serve on the camping and safety committee of the National Council of the Boy Scouts of America. I have established BSA, and YMCA camps. I think this is no time for gruesome, tombstone, emotionalism; nor for likening apples to oranges and drawing similarly erroneous conclusions. I say to the Members of this committee that every Boy Scouts of America camp is inspected not only annually on a regional basis, but also at least every 2 years by Russell Turner, or his designees as director of the camping and engineering committee of the Boy Scouts of America, who I recognize as having said in the quoted letters that he would not oppose any safety measures for better camps. We all favor health and safety. I am sorry for every loss or accident—yes even illness in campers, but I will bet they are safer and healthier at camp than at home or school. I have had boys fall out of trees. I sat on the board of directors in a college last weekend with a boy in whom I took the first stitches I ever took. I have had boys burned. I have had them almost drowned. I have pulled them out. I have had them copperhead-snake bit. Of course, there is danger in summer camping activities.

But, Mr. Chairman, the point is that it is not a Federal responsibility. There is a point of responsibility with the parents before they let that child go to the camp to see that it is safely directed, and there is a responsibility with the organizations, and the States of the Union, to see that necessary regulations are enforced. It is not a Federal responsibility at this time.

I hope the amendment does pass.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I rise to support the substitute amendment of the gentleman from Texas (Mr. PICKLE). Let me point out from the beginning that I am as concerned as anyone in this country about safety standards for all youth camps in this country and I commend my friend, the gentleman from New Jersey (Mr. DANIELS) for his concern. It certainly is a matter of concern for me and all of my colleagues in this House to realize that an estimated 250,000 accidents occur each year among the 8 million or more youngsters who attend summer camps.

The problem that I envision is the fact that we are here handing over to a Federal agency the responsibility of running everything which will most likely result in its being unable to run anything. I question how many Members of this House, or of the committee who offered this bill, have paused to think of how many summer camps exist in this country. If each camp averaged 100 youngsters per year, this would mean that we are talking about 800,000 camps. If the average is 50 per year, which is probably closer to the actual figure, then we are talking about 1,600,000 camps. How much money and how many employees will be required to adequately supervise this many camps?

In the report of the Committee on Health, Education, and Welfare it is suggested that this program will cost $1 million for each fiscal year. This would amount to less than a dollar per year per camp. Is this realistic? A member of the staff of the Committee on Health, Education, and Welfare informed a member of my staff that few additional employees would be required to carry out this program. Does that make any sense?

The committee report on page 85 and following pages gives the impression that this will be a simple matter of passing on minimal standards to each State for youth camp safety and that each State will assign some agency to see that these standards are enforced. Fine, if it were that simple.

Mr. Chairman, a reading of the bill places this problem in an entirely different perspective. A State must meet some 11 different requirements as specified in the bill or be subjected to the wrath of the Secretary of Health, Education, and Welfare. If these are not met then the Secretary of Health, Education, and Welfare shall be responsible for the enforcement of the "youth camp safety standards in States which do not have in effect a State plan approved" by the Secretary. Under the provisions of the bill the Secretary of Health, Education, and Welfare has the right to "enter and inspect any youth camp and its records, may question employees, and may investigate

facts, conditions, practices, or matters to the extent he deems it necessary or appropriate."

Mr. Chairman, this is not only impractical—it is impossible. What kind of "army" of HEW workers would be necessary, and at what type of prohibitive cost, if the provisions of this title are to be carried out? I submit that this is another classic "boondoggle" which sounds great just like apple pie and motherhood but will open Pandora's box and set up another bureaucratic monster which will do little more than devour the taxpayer's dollars. I renew my opposition to title XIX of this bill. Certainly there is a need for safety in youth camps, but is there a pressing need for Federal legislation? There are still State governments which also have legislative responsibilities. We do not have the facts to act upon such a far-reaching program which would be established by title XIX. We do not have the benefit of a printed record of hearings. We do not know how many Federal officials will be required to enforce the provisions of title XIX. I have yet to hear how many camps will fall within the jurisdiction of title XIX. The amendment of the gentleman from Texas will provide us with the facts. I say again—there is a need for safety regulation but has it been shown that there is a pressing need for Federal legislation? Is this body willing to make all State legislatures subservient to the discretion of the Secretary of Health, Education, and Welfare without having the facts showing a pressing need for Federal intervention? State legislatures also have the right to pass safety legislation. Is there not anything left which can best be done on the local level? If the State government has not acted, why has it not acted? What is the nature of all the camps which would fall under the jurisdiction of title XIX? These are questions which should be answered as broad and far reaching as title XIX.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I must say I am a little amazed by some of the things I am hearing said about camp safety here.

There is a problem of camp safety. People seem to be saying, "We do not have any staistics dealing with safety in camps."

Statistics are very simple. I have a list right here of 35 children who were killed this summer, and this is one section of the country. They were all killed in camps; killed in accidents, for the most part, which never should have happened. There were drownings with no lifeguards on duty. Six were killed in a truck with a teenage girl driving on the highway, who had no proper license to drive a group of children, and there were no regulations in the camp as to who would or could drive.

We have lists from California, New Hampshire, Connecticut, Massachusetts, Minnesota, Oklahoma—I can name all these States with deaths in this year.

There were thousands of accidents. The last real study that was done was 10 years ago by an insurance company, which showed over 10,000 accidents in camps, many of which could have been avoided.

The Congress has passed legislation to protect our workers, our children in school, the wild mustangs, the seals and the whales, and I do not understand why we cannot pass legislation which simply says the Federal Government will establish som minimum standards that will protect our children in camp, and we will ask the States to implement them.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

(By unanimous consent, Mr. SCHEUER yielded his time to Mrs. GREEN of Oregon.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

(By unanimous consent, Mr. STEIGER of Wisconsin yielded his time to Mr. ESCH).

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I know many of the Members have been asking why this title is here. This is a very important title.

I should like to assure the Members I do not think it is entirely fair to blame either the gentlewoman from Oregon or the chairman of the full committee (Mr. PERKINS).

I did not want the ethnic studies title in this bill. I wanted a separate bill.

The gentleman from Indiana (Mr. BRADEMAS) did not want to include the National Institute of Education title in this bill.

The gentleman from New Jersey (Mr. DANIELS) did not want to include in this bill the camp program.

We would much rather have had these bills come here separately. But the situation we faced was beyond our control.

The other body has inserted these bills in their higher education legislation as a package. If we do not take action in the House on this legislation we will go to conference and we will be confronted with a totally non-negotiable situation. This is why we have put in these titles.

I know Members are irritated. Many Members ask why these are brought in in this manner. We wish they did not have to be brought in in this manner. But the situation was not strictly within our control.

If we fail to put these titles in this package, we will go to conference and have to confer on the legislation, and we will have to take it or leave it. Assume for a moment that we leave it. Suppose we do not want to take their bill. They will hold fast, and then we will hold up this entire higher education bill simply because we do not have anything to negotiate with.

I hope the Members will not blame the gentlewoman for these titles and approve this entire bill.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I think first it should be clear what the Department of Health, Education, and Welfare has said. It said:

> Because of the limited amount of information available about the accidential injury problem in youth camps further study of the extent and nature of the problem, including a review of the practices and requirements in the various institutions regarding such activities is necessary to provide a basis for determining the program needs to provide improved protection of health and safety of youth while attending camp.

According to the records, that was the specific statement of the Department of Health, Education, and Welfare which supported in effect the amendment offered by the gentleman from Texas (Mr. PICKLE) calling for a study.

I would also like to clarify one or two other points.

First and foremost, the statistics that we do have are incomplete. Second, the various camps and associations reports are inconsistent. There is an inconsistency between the various camping associations on the one hand and the various individual camps on the other hand. Third, the gentleman from New York, who is a cosponsor of this title, has suggested that there are statistics available as to individuals who were killed this summer in a truck accident in which there was a young lady who was driving a car without a permit.

That, gentlemen, is the essence of the reason why we should support this study. Any regulation we have, if it is disobeyed, will not bring about safer conditions in our camps. By the admission of the gentleman from New York himself, the girl was operating without a license. So, having a regulation per se, would not necessarily save those children's lives.

In closing there is one citizen here who should be mentioned and recognized today. That, I think, is Mitch Kirman who has suffered a personal tragedy and who has labored so long and tirelessly for an effective Youth Camp Safety Act. I respect and applaud the work that he has done.

But if we enact an ineffective youth camp safety bill, and if lives continue to be lost, because we have developed policy and regulations that are not effective, because we just have not had the necessary investigation, then I suggest that would be the cruelest hoax of all to the memory of Mitch Kirman's son and in the interests of our young people who attend camps yearly.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. DANIELS).

(By unanimous consent, Mr. DANIELS of New Jersey yielded his time to Mrs. GREEN of Oregon.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, the committee has stated that they would prefer that this bill not be before us. They were caught unaware, they said, because this measure came from the other body. In the period of time available they did not even have time for the hearings necessary. There is obviously a lack of facts and statistics.

The camps in my area contend by the dozens that they had no notice of this pending bill. They say they would like to testify on it. So I have submitted to you here a substitute which does call for a survey and a study.

The point I want to make is this, Mr. Chairman: I have submitted to you almost exactly the same amendment that this committee recommended the House should adopt 2 years ago. You have not gathered any additional or material facts between that time and now. I am asking that you do the same thing now that you wanted to do 2 years ago.

I do say we should finally face up to the facts involved in this matter in a very sensible and practical way. We need information that is sufficient, and none of us are going to duck the issues if these facts are proven.

Mr. FISHER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to my colleague from Texas.

Mr. FISHER. I think the gentleman should emphasize, as the gentleman from Michigan did a moment ago, the fact that HEW in a formal report on this matter expressed the opinion that they do not have enough facts concerning the history of accidents in camps upon which to base a judgment as to whether this legislation should be acted upon.

Mr. PICKLE. That is correct.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Mr. Chairman, it seems to me that it would be most unfair if the impression is left that this has been legislation that has been considered very lightly. I know of no chairman of any subcommittee in the House for whom I have a greater regard than the gentleman from New Jersey. I have watched his work on the committee and he does an excellent job.

It has been said that there were not sufficient hearings held on this legislation. Hearings were held on this legislation in the 90th Congress and they were printed. Hearings were held on this legislation in the 91st Congress and they were printed. Hearings were also held in the 92d Congress. Those are the only hearings that are not available to us at the present time.

Mr. Chairman, I am advised that there are 250,000 youngsters annually who require medical attention in hospitals beyond a day and a half who are injured in camps.

It seems to me that the gentleman from New York (Mr. PEYSER) has indicated the need for this kind of legislation, and he was quite right. We pass all kinds of legislation to protect birds or four-legged animals as he indicated. Why not consider the 250,000 youngsters that are injured each year?

The legislation which is before us now requires only minimum Federal standards. I do not doubt the word of the gentleman from Texas that the camps in Texas have very high standards. If that is so, then the legislation will not affect them. These are only Federal minimum standards. That is what the gentleman from New Jersey is recommending.

Now, with regard to recommendations, I am advised that copies on the Esch bill, which I understand will be introduced later if this amendment is defeated, and the Daniels bill were given to many groups of people, and after they had had an opportunity to study both bills they came back and recommended the adoption of the Daniels bill.

Let me read from a copy of a letter from the Boy Scouts of America, signed by Mr. Russell A. Turner, manager, Camping and Engineering Service in which he states in part as follows:

> Within the last 90 days we have indicated support for Mr. Daniels' bill, H.R. 1264, and the most recent, H.R. 7248, contained in title XIX of the Higher Education bill which is a modification of H.R. 1264 based on hearings conducted this summer.
>
> These bills have been very carefully reviewed by us and by the American Camping Association and others. The Boy Scouts of America finds this bill generally constructive and helpful.
>
> We concur that immediate safety standards are important to the welfare of youth.
>
> We would hope that you and your associates might see fit to join forces and support H.R. 7248.

Mr. Chairman, we also have telegrams from the Salvation Army in support of this bipartisan effort on the part of Mr. DANIELS of New Jersey and Mr. PEYSER. We have a letter signed by the director of camping services of the national YWCA, the American Camping Association, and so on.

So, Mr. Chairman, it seems to me in summary that this is legislation that has been carefully considered. The committee has been looking at the statistics for three sessions of Congress; that is, 5 years, and to say it has not been given adequate study is misleading.

We also have a letter from Secretary Richardson that says that his Department has the authority to spend the funds for a study and if it does not have a higher priority in the next year or two then, maybe, it will make a study.

Mr. Chairman, that is not a satisfactory response to those 250,000 injuries sustained each year in our youth camps.

Mr. Chairman, I hope that the amendment will be defeated and support will be given to the bill reported out by Mr. DANIELS of New Jersey's subcommittee.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. PICKLE).

The question was taken; and on a division (demanded by Mrs. GREEN of Oregon) there were—ayes 52, noes 53.

TELLER VOTE WITH CLERKS

Mr. PICKLE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. PICKLE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Messrs. PICKLE, DANIELS of New Jersey, ESCH, and Mrs. GREEN of Oregon.

The Committee divided, and the tellers reported that there were—ayes 184, noes 166, not voting 81, as follows:

[Roll No. 353]

[Recorded Teller Vote]

AYES—184

Abbitt	Fountain	Nichols
Abernethy	Fuqua	O'Konski
Alexander	Garmatz	Passman
Andrews, Ala.	Goldwater	Pelly
Andrews, N. Dak.	Gonzalez	Pettis
Archer	Goodling	Pickle
Arends	Gross	Pike
Ashbrook	Grover	Powell
Baring	Gude	Price, Tex.
Bell	Hagan	Pryor, Ark.
Bennett	Hall	Purcell
Betts	Hammer-schmidt	Quie
Bevill	Harsha	Quillen
Biester	Harvey	Rarick
Blackburn	Hays	Rhodes
Bow	Heckler, Mass.	Robinson, Va.
Bray	Henderson	Robison, N.Y.
Brooks	Hicks, Wash.	Rogers
Brotzman	Hillis	Rousselot
Broyhill, N.C.	Hogan	Runnels
Buchanan	Hull	Ruth
Burleson, Tex.	Hunt	Sandman
Burlison, Mo.	Hutchinson	Satterfield
Byrnes, Wis.	Ichord	Saylor
Byron	Johnson, Pa.	Scherle
Caffery	Jonas	Schmitz
Camp	Jones, N.C.	Schneebeli
Carter	Karth	Schwengel
Casey, Tex.	Kazen	Scott
Cederberg	Keating	Shoup
Chamberlain	Keith	Shriver
Chappell	King	Sikes
Clancy	Kuykendall	Smith, Calif.
Clark	Kyl	Snyder
Clausen, Don H.	Landgrebe	Spence
Clawson, Del	Latta	Springer
Cleveland	Lennon	Steed
Collier	Long, Md.	Steele
Collins, Tex.	McClory	Steiger, Ariz.
Colmer	McCollister	Steiger, Wis.
Conable	McDonald, Mich.	Stratton
Crane	McEwen	Stubblefield
Daniel, Va.	McKevitt	Talcott
Davis, Wis.	McMillan	Terry
de la Garza	Macdonald, Mass.	Thompson, Ga.
Dellenback	Mahon	Thomson, Wis.
Devine	Mann	Thone
Dickinson	Mathias, Calif.	Veysey
Dorn	Mathis, Ga.	Waggonner
Dowdy	Mayne	Wampler
Downing	Mazzoli	Ware
Duncan	Michel	Whalley
du Pont	Miller, Ohio	Whitten
Edwards, Ala.	Mills, Md.	Widnall
Erlenborn	Mizell	Wilson, Bob
Esch	Myers	Winn
Eshleman	Natcher	Wyatt
Evins, Tenn.	Nedzi	Wyman
Fisher	Nelsen	Young, Fla.
Flowers		Young, Tex.
Flynt		Zablocki
		Zwach

NOES—166

Abourezk	Davis, S.C.	Green, Pa.
Abzug	Delaney	Hanley
Adams	Dellums	Harrington
Addabbo	Denholm	Hastings
Albert	Dent	Hathaway
Anderson, Calif.	Dingell	Hawkins
Anderson, Ill.	Donohue	Hechler, W. Va.
Anderson, Tenn.	Dow	Heinz
Annunzio	Drinan	Helstoski
Badillo	Dulski	Hicks, Mass.
Begich	Eckhardt	Holifield
Bergland	Edmondson	Horton
Biaggi	Edwards, Calif.	Howard
Bingham	Eilberg	Hungate
Boggs	Evans, Colo.	Jacobs
Boland	Fascell	Jones, Ala.
Bolling	Fish	Kastenmeier
Brademas	Flood	Kemp
Brasco	Foley	Kluczynski
Brinkley	Ford, Gerald R.	Kyros
Broomfield	Ford, William D.	Landrum
Burke, Mass.	Fraser	Leggett
Burton	Frenzel	Lent
Byrne, Pa.	Frey	Link
Carey, N.Y.	Fulton, Tenn.	McCormack
Celler	Galifianakis	McDade
Collins, Ill.	Gallagher	McFall
Conte	Gaydos	McKay
Conyers	Gettys	McKinney
Corman	Giaimo	Madden
Cotter	Gibbons	Matsunaga
Daniels, N.J.	Grasso	Meeds
Danielson	Gray	Melcher
	Green, Oreg.	Mikva
		Minish

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Mink	Pucinski	Shipley
Mitchell	Railsback	Slack
Mollohan	Randall	Smith, Iowa
Monagan	Rangel	Stanton,
Moorhead	Reid, N.Y.	James V.
Morgan	Reuss	Stokes
Morse	Riegle	Sullivan
Mosher	Rodino	Symington
Moss	Roe	Thompson, N.J.
Murphy, Ill.	Roncalio	Tiernan
Murphy, N.Y.	Rooney, N.Y.	Van Deerlin
Nix	Rooney, Pa.	Vanik
Obey	Rosenthal	Vigorito
O'Hara	Rostenkowski	Waldie
O'Neill	Roush	Whalen
Patten	Roy	Whitehurst
Pepper	Roybal	Williams
Perkins	Ryan	Wolff
Peyser	St Germain	Wydler
Podell	Sarbanes	Yates
Preyer, N.C.	Scheuer	Yatron
Price, Ill.	Seiberling	

NOT VOTING—81

Ashley	Gubser	Pirnie
Aspin	Haley	Poage
Aspinall	Halpern	Poff
Baker	Hamilton	Rees
Barrett	Hanna	Roberts
Belcher	Hansen, Idaho	Ruppe
Blanton	Hansen, Wash.	Sebelius
Blatnik	Hébert	Slak
Brown, Mich.	Hosmer	Skubitz
Brown, Ohio	Jarman	Smith, N.Y.
Broyhill, Va.	Johnson, Calif.	Staggers
Burke, Fla.	Jones, Tenn.	Stanton,
Cabell	Kee	J. William
Carney	Koch	Stephens
Chisholm	Lloyd	Stuckey
Clay	Long, La.	Taylor
Coughlin	Lujan	Teague, Tex.
Culver	McCloskey	Udall
Davis, Ga.	McClure	Ullman
Dennis	McCulloch	Vander Jagt
Derwinski	Mailliard	White
Diggs	Martin	Wiggins
Dwyer	Metcalfe	Wilson,
Edwards, La.	Miller, Calif.	Charles H.
Findley	Mills, Ark.	Wright
Forsythe	Minshall	Wyatt
Frelinghuysen	Montgomery	Zion
Griffiths	Patman	

So the amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

TITLE XX—MISCELLANEOUS

REDESIGNATION OF SECTIONS

SEC. 2001. Title XII of the Higher Education Act of 1964 is redesignated as title XVI, and sections 1201, 1202, 1204, and 1205 of such Act are redesignated as sections 1601, 1602, 1604, and 1605, respectively, and cross-references to such title and such sections are redesignated accordingly.

WAIVER OF MATCHING REQUIREMENT IN CERTAIN CASES

SEC. 2002. Part A of the General Education Provisions Act is amended by adding at the end thereof the following:

"MODIFICATIONS OF MATCHING REQUIREMENTS

"SEC. 407. Where a provision of law relating to an applicable program limits the amount of Federal assistance which may be made available for carrying out the program to a specified portion of the cost thereof or requires a specified non-Federal contribution with respect to the program, the Commissioner may approve assistance to institutions of higher education (as defined in section 1601(a) of the Higher Education Act of 1965) for such program in excess of the portion so specified, or a lesser non-Federal contribution than that so specified, if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of such applicable program."

APPLICATION OF CERTAIN LAWS TO PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 2003. (a) Section 103(a) of the Higher Education Act of 1965 is amended by striking out "each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands" and inserting in lieu thereof "to American Samoa".

(b) Section 513(c)(2) of such Act is amended (1) by striking out the first sentence and inserting in lieu thereof the following: "Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to the elementary and secondary schools operated for Indian children by the Department of the Interior.", and (2) by striking out the last sentence thereof.

(c)(1) The first sentence of section 519 (a) of such Act is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 519(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(d) Section 602(a)(2) of such Act is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(e) Section 103(d)(1) of the Higher Education Facilities Act of 1963 is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(f) Section 103(a) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(g) Section 302(a)(3)(B) of the National Defense Education Act of 1958 is amended by striking out "and the District of Columbia" and by inserting in lieu thereof ", the District of Columbia, Puerto Rico, Guam, and the Virgin Islands".

(h) Section 1008(A) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(i)(1) Section 202(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 202(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(j)(1) Section 302(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 302(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(3) Section 307(b) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and inserting in lieu thereof "American Samoa".

(k)(1) Section 502(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(2) Section 522(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(3) Section 531(c)(1) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

EFFECTIVE DATE

SEC. 2004. Except as otherwise provided in this Act, each of the provisions of this Act, and each amendment made by this Act, shall become effective July 1, 1972.

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that title XX may be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOMFIELD: page 277 after line 20, insert:

"SEC. 2001. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired."

And renumber the remaining sections of title XX accordingly.

Mr. BROOMFIELD. Mr. Chairman, my amendment would postpone the effectiveness of any U.S. district court order requiring the forced busing of children to achieve racial balance until all appeals to that order have been exhausted.

Mr. Chairman, the American people have time and again expressed their overwhelming opposition to forced busing. The most recent Gallup poll shows that 74 percent of the people are against busing and favor the neighborhood school concept.

Congress has repeatedly reflected the mandate of the American people in stating its opposition to forced busing merely to arrive at a racial balance in our schools.

Nonetheless, some U.S. Federal courts have ordered busing in recent months. In many instances, I feel that these orders are breaking new constitutional ground—that these orders have created a new and unprecedented extension of existing law.

Mr. CAREY of New York. Mr. Chairman, will the gentleman yield for a moment?

Mr. BROOMFIELD. I yield to the gentleman from New York.

Mr. CAREY of New York. Mr. Chairman, would the gentleman accede to a unanimous-consent request, so that the committee can hear the amendment read again?

Mr. BROOMFIELD. Yes, I would.

Mr. CAREY of New York. Mr. Chairman, I ask unanimous consent that the amendment be read again.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request that the amendment be read again?

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Chairman, reserving the right to object, may I make a parliamentary inquiry?

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. GERALD R. FORD. If the amendment is read again it will not then be subject to a point of order if it is not germane?

The CHAIRMAN pro tempore. The Chair will state that a point of order relative to the germaneness of this amendment would come too late.

Mr. GERALD R. FORD. Mr. Chairman, I withdraw my reservation.

Mr. CAREY of New York. Mr. Chairman, may we discuss the Chairman's ruling?

The CHAIRMAN pro tempore. Does the gentleman from Michigan yield to the gentleman from New York?

PARLIAMENTARY INQUIRY

Mr. CAREY of New York. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. CAREY of New York. Mr. Chairman, since the author of the amendment has agreed that he would accede to the request that the amendment be read again, and the Chairman acceded to a point of order that the Committee was not in order in the reading of the amendment——

The CHAIRMAN pro tempore. The Chair will put the unanimous-consent request. Is there objection to the unanimous-consent request of the gentleman that the amendment be reread.

Mr. GERALD R. FORD. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. CAREY of New York. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. Does the gentleman from Michigan yield to the gentleman from New York for a parliamentary inquiry?

Mr. BROOMFIELD. No, Mr. Chairman. I have a short statement and I should like to complete it.

Mr. Chairman, I am not alone in stating this view. Only last September, Chief Justice Warren Burger said some Federal judges were misreading the Court's April decision on busing by ordering more than the law requires.

Given these conflicting judicial statements on just what the law says in regard to busing, it is easy to understand the confusion and emotion that surrounds the busing issue.

We can expect that many of these decisions ordering busing will be appealed and that on appeal they may be overturned. However, the appeals process is a long and difficult one. It may take 2 or 3 years. Thus, before the courts can completely decide this question, before the law is crystallized once and for all, busing will have become an accomplished fact.

Mr. Chairman, forced busing may prove to be an expensive, time consuming and disruptive mistake.

My amendment would only delay a lower court's busing order until all those parties have had a chance to plead their case at their court of last resort.

I believe that it is a fair and equitable approach to this most difficult problem. It gives the courts the time they need to adjudicate this question completely. I urge my colleagues to lend their support to this amendment.

SUBSTITUTE AMENDMENT OFFERED BY MR. WHITTEN FOR THE AMENDMENT OFFERED BY MR. BROOMFIELD

Mr. WHITTEN. Mr. Chairman, I offer a substitute amendment.

The CHAIRMAN. The Clerk will report the substitute amendment.

PARLIAMENTARY INQUIRY

Mr. CAREY of New York. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CAREY of New York. Mr. Chairman, if a point of order could be lodged against the amendment in its original form, will a point of order be allowed against the substitute if it is not germane?

The CHAIRMAN pro tempore. The Chair cannot answer that question until the Chair has heard the substitute.

The Clerk will report the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITTEN as a substitute for the amendment offered by Mr. BROOMFIELD:

"SCHOOL BUSING"

"SEC.—. (a) No Federal funds may be used, directly or indirectly, to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

"(b) No Federal funds may be used, directly or indirectly, to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school."

, and renumber the succeeding section accordingly.

POINT OF ORDER

Mr. BOGGS. Mr. Chairman, I make the point of order that the substitute amendment offered by the gentleman from Mississippi (Mr. WHITTEN) is not germane to title XX of the Higher Education Act and is out of order at this point in the bill.

The CHAIRMAN pro tempore. Is the gentleman from Louisiana raising the point of order to the substitute for the amendment? Or is the point of order being raised to the amendment?

Mr. BOGGS. Could I have had the opportunity, Mr. Chairman, to raise a point of order to the original amendment offered by the gentleman from Michigan, I would have raised it then, but I am now raising a point of order to the substitute, which is really not germane to the original amendment and certainly not germane to title XX of the bill.

The CHAIRMAN pro tempore. The Chair will hear the gentleman from Louisiana.

Mr. BOGGS. The gentleman from Mississippi (Mr. WHITTEN) seeks to incorporate in the higher education bill a provision dealing with a subject that has no relation to higher education—the question of court decisions having to do with busing.

As far as my knowledge is concerned, it has never been related to higher education and colleges, whether they be undergraduate or graduate colleges, which is the subject dealt with in this bill.

The proposal advanced by the gentleman from Mississippi is on an entirely different subject.

The CHAIRMAN pro tempore. Does the gentleman from Mississippi desire to be heard on the point of order?

Mr. WHITTEN. Yes, Mr. Chairman.

The amendment I offer is a substitute for an amendment which is now germane to the bill. This being in the nature of a substitute and directed and handled in the same way, I respectfully submit that it comes within the protection granted to the Broomfield amendment and therefore becomes germane at this point as a substitute for an amendment which is properly before the House.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from Louisiana makes a point of order against the amendment offered by the gentleman from Mississippi (Mr. WHITTEN) as a substitute for the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD).

The amendment offered by the gentleman from Michigan (Mr. BROOMFIELD), states that in the "case of any order on the part of any U.S. District Court which requires a transfer or transportation of any student or students"—the thrust of that amendment goes to court orders.

The substitute offered by the gentleman from Mississippi (Mr. WHITTEN) to the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) goes to school busing and the use or withholding of Federal funds.

So the Chair holds that the substitute offered by the gentleman from Mississippi (Mr. WHITTEN) is not germane to the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) and, therefore, sustains the point of order.

Mr. BOGGS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan.

Mr. Chairman, I know that we are coming to some amendments that will be highly controversial and highly emotional. Before discussing them I should like to commend the gentlewoman from Oregon and the other members of this committee for a very fine job under most difficult circumstances. The committee has brought here a consolidated bill deal-

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ing with the whole area of higher education. It is a good bill and I hope it passes.

Mr. Chairman, to the best of my knowledge this is the first time that this has occurred, and I know that it is quite a task to dispose of all 20 titles contained in this bill. But in many ways it is best for us to have some knowledge of what we are asked to do in the whole area of higher education at the Federal level than to come in as we have in the past with piecemeal legislation. And the fact is that many of us do now have a firm grasp of the full picture in the field of higher education. I am sorry that my good friend from Illinois plans to offer an amendment dealing with the legislation that was considered here and rejected on Monday last.

I say that not because I am in opposition to aid to elementary education. I say it because I think it is an entirely different subject; that it is not related to higher education; that the problems of elementary and secondary education are quite different generally throughout our country from those of higher education and to try to tie them together in this bill is an illogical marriage of two disparate subjects. That amendment and this amendment are not germane to higher education. But, it is coming and we will face it.

In that amendment I am informed that the whole question of busing will be debated.

Now, the gentleman who has offered this amendment seeks, I presume, to come to that discussion prior to the gentleman from Illinois. I would hope that his amendment would be defeated and I would hope that an amendment to strike the subject from the proposal of the gentleman from Illinois would prevail.

Mr. Chairman, I know that in polls conducted throughout the country when you go ask parents, "How do you stand on busing," the answer comes back almost invariably, "I am against it." Yet I also know that if you went and asked the same parent, "How do you stand on public education," the answer would come back invariably, "I am for it." But this does not stop busing. This is a vain and useless thing.

But, Mr. Chairman, our function here today, as it is in all legislative questions, is trying to see to it that we do what we consider best for our country.

In this particular case what is best for our country is to provide the best education we can have in this particular bill in the area of higher education and in the other bill in the area of elementary and secondary education.

Now, you know and I know that busing comes about from a whole variety of reasons. We had it for years merely as a transportation device to get people where they were going. Then we had it for years to preserve segregation. Everyone knows that. Now we have it because the courts have handed it down and said this is what must happen in certain areas of the country. This bill is not going to change that and lets not fool the people.

The CHAIRMAN pro tempore. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. BOGGS was allowed to proceed for 5 additional minutes.)

Mr. BOGGS. Mr. Chairman, if we adopt this amendment that the gentleman proposes—and he is a very sincere Member, I am very fond of him, and we have served together for many years—I ask you sincerely, with all of the earnestness that I can command, do you really help this bill by adopting this amendment?

Is there any higher educational institution in this country that has any busing problems? I do not know of one. There may be. This is a higher education bill. But what about in secondary and elementary education, where we have all these problems, and have all the emotionalism—and I know about it, I have lived through it for years, I do not have to tell you about it, I know. It has been part of my political life for 20 years. Does this help any school kid anywhere in the United States?

The court hands down the decree, and says you have to bus. If you write this provision into this bill it does not say, well, you do not bus, it simply says that you impose more, you impose more on the local taxpayers, most of whom, particularly in the areas where this problem is most acute, in the big cities, have already exhausted their remedies and their revenues. You say to them, oh, yes, we will give you some money to help in desegregation, but we are not going to let you use one penny to go out and buy buses, or pay school bus drivers, or all the other incidentals that result from a court decree.

You are not stopping the buses, you are not doing a thing about the busing, it is still going on, you are simply requiring that the local people will pay the cost and bear the burden.

It seems to me that every iota of logic commands us, if we are to legislate in this area, if we are to let the Federal Government assume, as it must, its proportionate share of the cost of educating our people, then the idea of trying by these indirect methods to overcome the decisions of the U.S. Supreme Court have no place in this type of legislation.

Whether I agree or disagree, I would say that the honest approach is in the approach of the gentleman from Georgia and the gentleman from Oklahoma who have put here on the desk petitions calling for constitutional amendments in this area. Do not take this legislation that this committee has struggled so long and so hard to report, and to perfect, and to pass, and use it as a vehicle that really will not accomplish what you seek to accomplish, but which would tie every school board and every school district in the United States into a hopeless situation on the expenditure of these funds that we make available.

That is my plea to you.

I hope the amendment of the gentleman from Michigan will be voted down, and I hope the other amendments that seek to bring about this result which cannot come to pass will also be voted down.

Mr. GERALD R. FORD. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, we have a very simple amendment before us at the present time. The amendment, in effect, says that no order on the part of any U.S. district court which requires the transfer or transportation of any student or students shall go into effect until such court order has been appealed to the highest court or until the time for such appeal has expired.

If this amendment is approved—if it is enacted into law, it simply means that no district court order forcing busing for the purpose of obtaining racial balance shall go into effect until the U.S. Supreme Court has made the final determination.

I think that is fair. It is a bipartisan amendment. I am told that five Members on the Democratic side of the aisle from the State of Michigan, Mr. WILLIAM D. FORD, Mrs. GRIFFITHS, Mr. O'HARA, Mr. NEDZI, and Mr. DINGELL have cosponsored this amendment in legislative form and they have been joined by the gentleman from Michigan (Mr. BROOMFIELD) and the gentleman from Michigan (Mr. MCDONALD).

This is legislation that would, in effect, put a stop order on Federal court action until there has been a final appeal to the U.S. Supreme Court. I think it is fair. I think it makes sense. I applaud the bipartisan authorship of this legislation and I hope the committee approves it.

Let me talk a minute, if I might, about the other legislation that my friend, the gentleman from Louisiana mentioned.

I think we have to differentiate between this amendment and the emergency school aid amendment which will be offered by the gentleman from Illinois (Mr. PUCINSKI).

The emergency school aid bill is aimed at helping those school districts primarily that are under court order to bus for the attainment of racial balance. The purpose of the legislation is to provide Federal funds to assist those school districts that through no fault of their own have to take action in conformity with a court order.

It is equity and justice on the part of the Federal Government to provide that financial assistance. I am interested in the best education that we can get at the elementary and secondary level. The best way in this emergency to obtain that best education is to provide Federal financial assistance rather than to force busing. Forced busing to attain racial balance is not the best way to get good education.

Let me illustrate. In my hometown of Grand Rapids, Mich., we have, for example, a pupil-teacher ratio of 25 students to one teacher. In my judgment, it would be far wiser to spend the money that we might spend for busing, to reduce the pupil-teacher ratio. It should be 8 to 1 or 7 to 1. It is a far wiser expenditure to use that money for the lowering of the pupil-teacher ratio. The emergency school aid bill will accomplish that objective; $1.5 billion will accomplish that.

I happen to think it is far wiser timewise for kids to be in their neighborhood schools rather than to spend a lot of time traveling from their home to a school which may be 3, 4, 5 or 10 miles away.

For that reason I am strongly in support of the emergency school aid bill. It is a case of equity. It is a case of helping to improve education. It is a better way to do it than by the method used or proposed under the current circumstances.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman.

Mr. RANGEL. I thank the gentleman for yielding.

I am new here and I recognize that we have three separate branches of Government. I know that busing is a very emotional and perhaps a political question. But does not your support of this amendment mean that the Members of the U.S. Congress are restraining the members of the judiciary from enforcing what they believe to be a constitutional mandate?

Mr. GERALD R. FORD. Under the Constitution, and I am sure the lawyers on the Committee on the Judiciary would agree, the Congress has the authority to prescribe rules and regulations as to appeals and the effect of an appeal during the process of appeal. That is all this legislation seeks to do.

Mr. RANGEL. In your history as a Congressman has it ever occurred before when Members politically did not like a court decision that we legislated new ones?

Mr. GERALD R. FORD. I am sure that in the history of the Congress that has been done. I cannot recall a specific case since I have been here, but it is certainly permissible under the constitutional authority allocated to the Congress of the United States.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

Mr. GERALD R. FORD. Mr. Chairman, I ask unanimous consent that I may proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. CAREY of New York. Mr. Chairman, reserving the right to object, I wonder if we could actually hear the wording of the amendment.

Mr. GERALD R. FORD. I think the better way to do that is to suggest that the gentleman come over and get copies of the amendment, but if you would like, I will read the amendment.

Mr. CAREY of New York. I would be glad to hear it now or read it later.

The CHAIRMAN pro tempore. Is there objection to the request that the gentleman from Michigan be given 2 additional minutes?

Mr. THOMPSON of Georgia. Mr. Chairman, if the gentleman from Michigan is going to read the amendment, I ask unanimous consent that he be given 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. GERALD R. FORD. The amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) is as follows:

On page 277 after line 20, insert:

"SEC. 2001. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in conection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired."

And renumber the remaining sections of title XX accordingly.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I know it is late. I know many of us would like to get through the amendment to title XXI, so we can dispose of the question up or down.

As I understand the amendment before the House, it is nothing more than a reaffirmation of existing procedures in the courts. A school district is confronted with a court order, and there is a stay of execution while it perfects its appeal. All this amendment does is merely to reaffirm as a statement of the Congress that local school districts faced with a court order do not have to implement the court order until all appeals have been perfected and completed and disposed of—all.

If a local school district chooses not to perfect an appeal, then at least until the time of such an appeal has run, I do not see how or why we should have a great deal of difficulty with that question. I do not see any objection to the amendment. I do not see much difference whether one is for it or against it. It is a reaffirmation, and if Members of the Congress really want to participate in that kind of reaffirmation, it seems to me they should be given that opportunity.

Mr. GERALD R. FORD. I would summarize what I have said in this way: The amendment merely holds the status quo in a school district until a final judgment has been made by the U.S. Supreme Court. I think that is fairness. That is equity. We ought to approve it.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from North Carolina.

Mr. JONAS. The record will show that U.S. district courts have refused to stay orders requiring busing pending appeal.

Mr. GERALD R. FORD. Mr. Chairman, in conclusion, this is a bipartisan amendment. It is in the form of a bill sponsored by five Members of the Democratic Party and two on the part of the Republican Party. I think the Committee ought to approve it.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment I offered a few moments ago, should have been in order. I know it will be in order when we come to the last or 21st section.

This amendment is as follows:

On page 282 after line 4 insert the following:

"SCHOOL BUSING

"SEC. 2004. (a) No Federal funds may be used, directly or indirectly, to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

"(b) No Federal funds may be used, directly or indirectly, to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition to obtaining Federal funds otherwise available to any State, school district or school."

, and renumber the succeeding section accordingly.

With the exception of changes to make it fit a legislative bill, this is exactly the same provisions as the Whitten amendments which have been adopted 2 successive years, sections 309 and 310 of Public Law 92-48 making appropriations for the Department of Education.

These prohibitions against the use of funds have simply not been enforced by the executive branch of Government.

On September 29, I wrote President Nixon as follows: I quote:

SEPTEMBER 29, 1971.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: You will recall that last year we got the Congress to adopt the so-called Whitten Amendments, which became a part of Public Law 91-380, making Appropriations for the Department of Health, Education and Welfare. This year, through the Office of Management and Budget, these amendments were recommended for retention and the Congress retained them as Sections 309 and 310 of Public Law 92-48. I quote the provisions here:

Sec. 309. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed, or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Sec. 310. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed, or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

I have watched this matter closely and I am convinced that the Department of Health, Education and Welfare is violating these provisions generally, and in many cases that Federal District Judges are directing their violation by calling on the Department to

prepare and submit plans which of necessity require forced busing.

In other cases it is reported that schools and school districts are being intimidated to the point of offering to go contrary to the intent of Congress as expressed in these provisions in connection with obtaining funds otherwise available to them.

I expect to ask the Congress, through the appropriate committees, to investigate this overall situation and hope and trust that you will use your good office toward this end.

I respectfully submit that it is imperative that we act *now* to save not only the power of the Congress which has passed these laws, but that we do it in order to save public education and protect the well-being of hundreds of thousands of youngsters and families of all races.

As we know from every section of the country, hundreds of millions of dollars are being required to be spent to move children around like checkers on a checkerboard, in school districts that are already fully integrated as that term is defined in the Civil Rights Act of 1964.

This is being done in areas where the money is badly needed for teachers' salaries and for additional training needed by many teachers.

We must act now. It will be pointed out that this action will not answer all the problems; and it won't; but it will be a solid start toward common sense.

We have seen law enforcement broken down, all traced back to the Federal Courts; we have seen the people's branch, the Congress, seriously weakened by redistricting demands by the Courts, in which the Congress has acquiesced. Now if we lose out here and let public education be destroyed, Russian communism will have won without doing anything except use the American people themselves.

Hoping that you may see fit to enlist your powerful position and good office in taking such action as may assist in saving the day for the American people, and thanking you, I am

Most cordially,

JAMIE L. WHITTEN,
Member of Congress.

I received an acknowledgement and promise of consideration, but to date no action.

Mr. Chairman, I understand that members of the committee will offer amendments similar to the one I offered. Should such amendments not be adopted I expect to offer my amendment as the last section of this bill. I believe the Congress is now ready to add legislative prohibitions to the restriction on use of funds which we adopted earlier this year.

We must act and we must act now.

My friend, the gentleman from Louisiana, would have this Congress believe that this Congress must have the courts tell us what to do with moneys that are appropriated by this Congress or authorized by this Congress. That is what has gotten the country into the fix it is in. Whatever Members may think about forcing students to go to schools against the wishes of their parents, when they are already going to integrated schools, whatever Members think about that, they must realize it is up to us to decide what we do with appropriations and with authorizations.

I suggest that Members look across this country and they will see that the quality of education is breaking down. There were five or six stories in yesterday's paper about school districts scattered throughout the United States refusing to vote bond issues to carry on the present low quality education in public schools. That is what is happening.

Mr. Chairman, people, whether white, Negro or of some other race, are opposed, whether by court order or otherwise, to having to send their children away from the school near home to some other place—when he or she is already attending an integrated school, at the whim of a Federal official or of a Federal judge.

I will say to my friend, the gentleman from Louisiana, the majority whip, that he is completely wrong when he takes the view that the Congress can pass on to the Federal courts its responsibility to say what this Congress shall authorize in a statute, or what the money we appropriate can be used for. That is our responsibility and ours only.

Our law enforcement has broken down the one man-one vote usurpation of power by the Federal courts, in which Congress has acquiesced has weakened this body. Now if we do not do something to save public education we will see a complete breakdown in Government.

I shall vote for the Broomfield amendment. It does not do much but it is a start. Then I shall vote for the Ashbrook and Green amendments. If they are not adopted I shall reoffer my amendment at the proper place in the bill.

The people are ready for action.

Mr. HAYS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think with all due respect to my friend, the majority leader, that he did not quite put the Broomfield amendment in the proper perspective. It does not stop busing. It does not prohibit busing. It does not tell the courts they cannot make orders. It simply says that we cannot force the busing until the appeals procedure has been had.

I am going to say something that might be controversial at first sight, but just let me finish before Members get upset. There is going to be a trial presumably someday in California for Angela Davis. I am not saying, as the President did once: She is guilty. I do not know whether she is or not. But if she is found guilty, I will be the first one to protest if there is an effort to execute her before she has a chance to appeal. Many people will join me on that who say that we ought to implement these things. But it is just as similar as anything we can think of. If the school district is ordered to bus, and they do not think the Court is right, they have the same right to appeal as anybody else does.

I will tell Members something. There has never been a segregated school in my district. Everybody who goes to school in my district—goes to an integrated school, but there is no single issue that has the unpopularity that we have seen in the consolidating of school districts and hauling kids from before daylight until after dark, and it is not done for integration at all. Ohio has, somehow or other, achieved the record of voting down more school levies in the last 3 or 4 years than any State in the Union, because people are fed up with some entity in the State capitol or some court or somebody else telling them what to do with their own money and their own schools and their own children.

Now, if there is any element of fairness at all, it is in the American procedure that everybody who is convicted in the courts has a right to exhaust his appeals, and that is all the Broomfield amendment does, and I am going to support it.

Mr. LENNON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I hope none of you have to have the experience that I have had since August 16, Hear me, please.

none of you have to have the experience that I have had since August 16. Hear me, please.

On August 18 of this year in my home county a decision was entered by the district court regarding the desegregation and, more particularly, the busing in schools in order to obtain a racial balance based on the ratio of the population of that county. The school board immediately called upon me—that was during the August recess—to go to the news media, television, and otherwise, and explain to the public why it was not in the public financial interest to appeal the decision of the district court. The decision of the district court was for immediate implementation of its order.

I refused to do that, to make that appearance on the TV media. We have two television stations in my hometown. I refused to issue a press release.

Finally, at long last, I helped convince the school board, through its attorney, that for psychological purposes, if for perhaps no other reason, they ought to appeal the case. There was a question of finances involved.

A week ago yesterday I was called on by two school boards to do the same thing, to appear on television and to have a press conference and to urge the school boards not to appeal the case. I again refused to do the same thing. But I did convince the school boards that for psychological reasons, the emotional impact on the parents related to busing, that they ought to go ahead with an appeal, even though that would not stay the order of the district court.

Now, ladies and gentlemen, the time is fast approaching for each one of you. I do not say it hopefully. I do not say it as if I wanted to be provincial or as if I wanted to be from the South. I am a Yankee; I am from North Carolina; that was the way I was described in Louisiana when I was visiting in New Orleans less than a couple of years ago.

You are going to be faced with this same situation. It is just unreasonable for me to believe that we cannot accept this amendment. It simply stays the action of the District Court until there is a final decision.

One of the things which has so distressed me was the lack of understanding of our people as between a court order and an HEW order or the threat of going into court through HEW. People do not understand the difference between de facto and de jure segregation. They do not understand it. Ninety-five percent do not. We have the responsibility of educating those people throughout this land.

The South is no longer the target. It is coming to Michigan, or the gentleman from Michigan would not be in the well to offer this amendment. It is coming to all the States of our Nation. Perhaps the time has come.

I say let us accept this amendment. It is reasonable. It is rational. It is in good faith. Ultimately every one of you is going to be called upon by his respective board of education in his political subdivision to do what? To stand up and speak out in opposition to an appeal. But the parents, the guardians of children, say, "For God's sake, can there not be some other court that can finally make a decision?"

Let us accept this amendment. It is reasonable, rational, and there is nothing emotional about it.

Thank you very much.

Mr. MIZELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members of the House, with the lateness of the hour, I certainly had no intention of speaking on this issue, but I must share with you things that have occurred in my district in North Carolina.

I have been saying for over a year now that busing of students and cross-busing of students simply for the purpose of achieving racial balance is no longer just a regional issue but, rather, is a national issue. I think the action that we see here this evening just emphasizes what we have been saying for a long time.

What does busing mean? The distinguished majority leader said that it meant many things. Well, let me tell you what it means to the people of the Fifth District of North Carolina and especially the people of Winston-Salem, N.C. Busing there means that little children from within the city of Winston-Salem, are taken and bused 20 miles out into the country to attend school there when they could have walked across the street and attended school. It means that little children are taken from 20 miles out in the county and bused into the city of Winston-Salem to attend school there when again they could have walked across the street to attend their neighborhood schools. This is what busing means to the people of the 5th District of North Carolina, and this is what it is going to mean in more and more areas of this Nation if this body does not take action once and for all to eliminate such a ridiculous exercise under the name of education.

This is not a racial issue in my area of the country, and I do not think it is a racial issue in the other areas of the country. We support quality education; we support equal facilities; we support getting the best qualified teachers that are available to teach in the schools. We believe in giving equal educational opportunity for all of the children. So this is not a racial issue.

I certainly want to commend the gentleman from Michigan for a nonpartisan effort here this evening in an attempt to bring at least some hope to the people in Michigan, because this is not a partisan issue. It is neither Democrat nor Republican issue but, rather, the issue is the preservation of our public schools. This is what really counts.

I say to the gentleman from Michigan and to the Members of this House, while I am going to support this amendment, I really believe that it will be an exercise in futility in attempting to accomplish what you hope to achieve here this evening.

I think I can best emphasize this as it relates to the court order in Winston-Salem, N.C., which was handed down by a Federal district court judge. This decision was appealed. The appeal was denied. Then at the very time that the Supreme Court was refusing to hear the case, Justice Burger was leveling criticism at the lower Federal judges because they could not interpret what the Supreme Court had said. I say to you, many of us cannot interpret what they said.

But, then, another opportunity was presented to the Court, and just this past week the Supreme Court once again refused to hear the case from Winston-Salem, N.C. In my opinion this was really an unforgiveable action by the Court, because while they were criticizing our Federal judges for not being able to interpret what the Court had said, but when they were given the opportunity to clear up the confusion, they refused to hear the case.

So, Mr. Chairman, I say to these gentlemen from Michigan, while I think we should adopt this amendment—I wish it had been adopted a long time before now for the children in my area of the country—I say it is going to be an act of futility, because whatever decision the district judge makes in Detroit or Pontiac, Mich., or wherever it might be, it is going to be a decision with which you are going to have to live. So, I say to you it is time that this body acted and acted in a responsible manner and enacted a constitutional amendment that will clear up this question once and for all.

Mrs. GREEN of Oregon. Mr. Chairman, I am rising to see if we can reach an agreement on time on this amendment.

It seems to me, Mr. Chairman, that everyone has made up his or her mind as to how he or she is going to vote on this and the amendments that will be in order from here on out.

Therefore, Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 15 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon (Mrs. GREEN).

Mr. DELLUMS. Mr. Chairman, I object.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 30 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. PUCINSKI. Mr. Chairman, reserving the right to object, there is another very important amendment coming to title XX which I understand the gentleman from Ohio has and which I am sure will be considered and debated.

Then, there is a whole title XXI to be offered.

Mr. CAREY of New York. Mr. Chairman, regular order.

Mr. PUCINSKI. Regular order is what I have. I have a right to reserve an objection.

Mr. Chairman, I would hope that we could, instead, go along with the original request made by the gentlewoman from Oregon so that we can move on with the other amendments that are pending. It is going to be a long evening otherwise.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentlewoman from Oregon (Mrs. GREEN) that all debate on this amendment end in 30 minutes?

Mr. QUIE. Mr. Chairman, reserving the right to object, my own reason for doing so is to point out that so far the Members who support the amendment have been talking on it, while I imagine there are a number of other people who are opposed to the amendment who should have an opportunity to express themselves.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request that all debate on this amendment close in 30 minutes?

Mr. DELLUMS. Mr. Chairman, reserving the right to object, I noticed since the point when the gentlewoman from Oregon raised the issue that more and more people have arisen to the floor, meaning that our time is divided smaller and smaller. I would like a ruling from the Chair on this.

The CHAIRMAN pro tempore. The Committee of the Whole has not accepted as yet the unanimous-consent request.

The Chair will put the request again.

Is there objection to the unanimous-consent request of the gentlewoman from Oregon (Mrs. GREEN) that all debate on this amendment end in 30 minutes?

There was no objection.

(By unanimous consent, Mr. BRADEMAS yielded his time to Mr. BADILLO.)

The CHAIRMAN pro tempore. The Chair will announce that each of the Members who were standing when the unanimous-consent request was agreed to will be recognized for 1¼ minutes.

The CHAIRMAN pro tempore. The Chairman recognizes the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Chairman, everyone of us here this evening at this late hour favors the best education for the children of this Nation whether they are black or white. The argument has been made that forced busing is the only way to provide good education for all children. It will be said that black children have been bused past good schools in the South to attend segregated schools of poor quality education. It will be asked: "Where were you while this was being done?"

I can say we never have done this in Indiana. We have never bused black or white children to get them to a school for any racial reason. But, today we are being threatened that we must start doing this. Why now should we bus our children from one area to another area, having those buses pass on the road and requiring hours of young children's time spent on a bus?

Not one argument tonight has stated that busing will assure better education for any child. This is what we are talking about; providing the best education that

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our taxpayers can provide for the children of our Nation. All agree that education needs more money.

How can we justify spending those hard-earned dollars for busing that are needed so badly for teachers, books, desks, and buildings?

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I support the Broomfield amendment. It would prevent busing orders by Federal district judges from being carried out until all appeals from such orders have been acted upon. This is fair. It is reasonable. It should be adopted.

Too often we have witnessed district judges assume inexcusable authority to project their own pet whims and preferences upon people who are helpless to resist, except through the process of appeal. Some such actions go far beyond what Supreme Court decisions require in the area of school busing.

Mr. Chairman, the American people are sick and tired of being kicked around and deprived of basic freedoms. Although the Congress cannot by statutory action overcome a Supreme Court decree, no matter how offensive and improper it may be, this Congress does control appropriations. It does function in the area of judicial procedure. The people have a right to expect this Congress to take advantage of every opportunity to delay, restrain, defeat, modify, or otherwise oppose compulsory busing of school children for the sole purpose of achieving a racial balance. Here is an opportunity to at least do something in that respect.

The Gallup poll reveals that 76 percent of the American people are opposed to busing. In Texas 78 percent of the people there oppose it. A massive demand is manifesting itself, from all corners of this Nation, demanding that this Congress do something to help alleviate this monstrous busing policy.

The real power lies in a constitutional amendment. I have signed discharge petitions in an effort to force the issue to a vote. I urge all of my colleagues to do likewise. Let us respond to the voice of the people, and do something about it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I favor this amendment. The reason why I was absent from the floor momentarily just now, was due to the fact that I was looking up the judicial authority on this particular section, because this is an unusual thing to limit the powers of the courts. I have not made an exhaustive investigation on it, but I have found decisions indicating that this is a constitutional and legal provision, and that this can be done under our Constitution, under the power of the Congress to establish inferior courts. I have found no decisions to the contrary.

I was first struck with the fact that I had not previously any memory of the Congress acting to restrict the jurisdiction of the lower courts in a similar manner but I have just come from the House library where I have been reading decisions on the subject.

One provision of the Constitution applicable here is section 8, clause 9 of article I, which reads:

> The Congress shall have power . . . to constitute tribunals inferior to the Supreme Court.

A complementary provision is article III, section I, which reads in pertinent part as follows:

> The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Under these provisions the courts have held that Congress has the power to enact laws such as the pending amendment. Pertinent decisions are to be found in the U.S. Code Annotated. Among them, for instance, is *Johnson* v. *San Diego Watters*, 190 Fed. Supp. 444, which held:

> Federal District Courts are creatures of statutes enacted pursuant to this article and have no jurisdiction other than that conferred by acts of Congress.

Also in *Henderson* v. *Kimmel*, 47 Fed. Supp. 635.

> Congress in its unfettered discretion may withhold or take away their jurisdiction.

Since I may or may not have an opportunity to speak when the busing prohibition amendments are before us in a broader manner, I would like to state my strong support for the neighborhood school concept; and for the concept that when court orders have required busing to achieve racial ratios, then the legislation before us should allow and provide Federal funds to carry the burden of this to insure that educational quality shall not suffer locally because of the court imposed busing.

Once I thought that prohibiting Federal funds for busing would protect us from imposed busing for racial ratios. I am convinced now that this is not so. The superintendent and other school authorities of my congressional district are of the same opinion. They have asked my support for Federal funds when the courts have imposed such busing.

In view of these conclusions I strongly support Federal funds from this bill to relieve the burden on the local schools when the courts have imposed such busing. Otherwise education will suffer seriously and this without any relief from court imposed busing.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, massive busing as mandated by certain district court orders is neither prescribed by the Constitution nor by the civil rights bill. To the contrary, massive busing as it has been imposed by court order in many areas of the country—particularly when it is specifically to achieve a certain racial mix.

The upheaval of education at the primary and secondary school levels caused by massive busing has been tragically disruptive to students and families across the country.

The costly and disruptive cross-city and cross-country busing mandates may satisfy the social planners, but it will do nothing for the quality of education nor for the millions of youngsters who are literally caught in the shuffle.

I have opposed in the past and do now oppose a dual school system—but I fear that a program of forced, massive busing will eventually destroy the public school system in this country as we know it.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, some of you may have read the newspapers this week indicating that the issue of busing was reached in the Supreme Court of this land, when the Court refused in the Pontiac case to disturb lower court orders ordering desegregation which was being accomplished by busing.

It seems to me that the issue we are discussing here tonight is the question of how we are going to provide the best kind of Federal aid for higher education. The issue that is being raised by the amendment, which I find is very ungermane, but apparently parliamentarily it has been ruled differently—the issue that is being discussed here tonight is how we can exercise congressional jurisdiction over the establishment of inferior courts to thwart that objective. It is far from clear constitutionally that our power over regulating inferior courts entitles us to interfere with or prevent the orderly process of justice, or to substitute our judgment as to the time when a Federal court order becomes finally operative. Most of the busing cases come up under the State jurisdiction in any case and are not within the jurisdiction of this body, even if we have the power to interfere with court orders.

I think the question that is raised by this amendment is merely a way in which people who oppose integration and who oppose the orderly implementation of the desegregation order of the Supreme Court in 1954 are using but one more effort to try to confuse the issues and to try to prevent this body from clearly providing aid for higher education without exacting the price of a vote against busing.

Therefore, Mr. Chairman, I oppose this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I am opposed to the Broomfield amendment and urge my colleagues to vote against it.

This amendment substantially changes the power of the Federal district courts to grant relief to successful plaintiffs against unconstitutional racial discrimination. However, as I listen to the impassioned plea of the minority leader in support of the amendment, I recognize that this is an essential part of the Nixon administration's plan to deny America a desperately needed single society. There is little doubt that we cannot move much further in eliminating the scourge of racial discrimination in America until we have eliminated it in our public schools. President Nixon's predecessor urged the elimination of racial discrimination because it is immoral. Tragically, President Nixon does not share that view of morality.

He has consistently told the American people that our Government will do only that which is required by the courts. Those who suffer racial discrimination will be denied executive action and moral leadership so desperately needed from their President.

The second essential part of this plan is evidenced in his Supreme Court nominations, his effort to stack the U.S. Supreme Court in favor of racial discrimination. He has made it clear in most of his nominations and considerations for nominations that among other qualifications he seeks is opposition to civil rights. Now we come to the third essential part of the plan to deny black America their constitutional rights. Stop the power of the courts to enforce those rights for 1 or 3 years and he may succeed in his Court packing plan.

All of this makes it imperative that we defeat the Broomfield amendment. It is also the reason that the U.S. Senate must prohibit the President from using the U.S. Supreme Court to frustrate rather than protect the rights of all Americans to a single society and to equal justice under law.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, I certainly commend the gentleman from Michigan (Mr. BROOMFIELD) for offering this amendment. Of course, for many in the South, it comes a few years too late. For others in cities such as Savannah, Augusta, and Atlanta, it will be a most equitable and helpful measure. I am delighted to support it. I would like to point out, however, that this is really not a permanent solution to the problem that we have upon us.

A permanent solution rests with a constitutional amendment.

I would like to take this opportunity to urge each and every Member of this body to sign the discharge petition—discharge petition No. 8, if you desire to limit the busing of pupils and quotas based upon race in employment; or discharge petition No. 9, if you desire only to limit pupil assignment based upon race, creed, or color.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DELLUMS).

(By unanimous consent, the time allotted to Mr. HAWKINS was granted to Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I have tried to listen carefully to those who are the proponents of this amendment. They have stated on this floor that this amendment is not a probusing amendment nor an antibusing amendment, but it merely serves to stay court action until such time as those districts that have been mandated to desegregate may seek a reversal in the court of last resort. Therein lies the travesty of this amendment. Because if it were an amendment that were either pro or con as regards this issue that has evoked such great hysteria, we could address ourselves to the question by allowing this body to work its will. But the fact is that this amendment only delays the inevitable. It means that this Congress is delaying the time when we face the question as to whether or not we have a democracy for all the people, and whether or not we will abide by the law of the land.

I understand many of my colleagues on the Republican side of the aisle, because you never purported to be a party of the people, and I understand many of my colleagues from the South, because I know the history of bigotry and racism in the South. To the rest of my colleagues, the liberals in this Congress on the Democratic side, I ask—How can any of you support this kind of amendment? All it is doing is delaying the time when you have to come to grips with the issue of busing. Perhaps we all know the answer to that question. It gives some of you 1 year or 18 months or 2 years to go out to your constituents and get reelected again under the banner of liberality to one part of your constituency, and under the banner of antibusing to another part of constituency. It is tragic that some of the liberals are not willing to stand up here on the floor of the House and address yourselves to this issue. That is the travesty of this amendment.

If you had any courage, you would stand up and face this issue, and vote this amendment down. All it does is give you a little more time to straddle the fence until such time as you can get reelected to come back to Congress.

I would suggest that we be as concerned and fervent about saving the children in this country as many in this Congress are about saving their jobs. I urge you to vote this amendment down, and to those "liberals" of the Democratic Party, I urge that all of you join in defeating this amendment. To do so would reflect personal courage, political integrity, and forthright leadership so desperately needed as regards this highly emotional issue.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

(By unanimous consent, Mr. PUCINSKI yielded his time to Mrs. CHISHOLM.)

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Chairman, this will come as a shock to some of my colleagues. I am opposing this amendment. I will tell you why. I look at it from a rather cold standpoint. We are busing all over the First District of Alabama as far as you can imagine. Buses are everywhere. Across the towns. Across the counties. Jumping over school zones and it has come to the point where a lot of people say to me, "How in the world are we ever going to stop this madness?" I say, "It will stop the day it starts taking place across the country, in the North, in the East, in the West, and yes, even in Michigan."

And so busing is ordered in Michigan and the first thing the members from Michigan do is come in with this amendment and ask us to delay it for them. But my friends, we are not going to stop the busing as long as we let them off the hook the minute it hits them. Let it hurt them and we will get their votes as we try to stop busing once and for all. Give them this relief and they will not be there when we need them.

I say let's hold their feet to the fire until we stop this busing foolishness.

It is for this reason, Mr. Chairman, that I am going to vote against the Michigan amendment. Finally, Mr. Chairman, it is interesting to see them squirm now. Where were they when we have needed them so badly over the years we have been trying to stop busing?

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. RYAN).

Mr. RYAN. Mr. Chairman, in the first place, I should like to commend the words of the distinguished majority leader who spoke earlier in this debate, because I think he made it very clear that this amendment is extraneous to the legislation pending before us and should be defeated.

But more importantly than that, the proposed action is virtually unprecedented. It is unprecedented for Congress to single out a specific area of judicial jurisdiction and legislate in that area alone. To single out one area—in this case desegregation orders which are issued by Federal district courts in order to obtain compliance with the law of the land as enunciated by the Supreme Court—and not touch any other area of litigation, be it torts, contracts, criminal law or other, is discriminatory, arbitrary, and capricious. It is an attempt to change Federal procedural law—not for all cases, but only in desegregation cases. The purpose is to frustrate the implementation of the 1954 Supreme Court decision, Brown against Board of Education.

Federal procedural law now provides well-established remedies for review of court decisions and for staying their execution. Whether or not a particular court order should be stayed is a matter for the judiciary to decide.

What precedent exists for a legislative injunction of a judicial order? This amendment constitutes a violation of the doctrine of separation of powers and the sacrifice of constitutional principles upon the altar of expediency. Instead of fueling the fires of bigotry, let the House look beyond the emotional uproar over busing and uphold the Federal judicial system.

The amendment should be defeated.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I support the gentleman from Michigan. I would say this about it. All of us who have had experience with the courts know that much would be gained in every case that has ever been determined if there were more time, more appeals and more consideration given to every

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case. We have reached a grave situation in America, and those of you who are familiar with busing know it.

We have the courts that have now moved into the legislative field, and the way the Constitution was written, the Founding Fathers determined that Congress would write the laws of this country. If more time is given, as it would be under this amendment, the courts would show more logic and, in turn, I hope the appeal courts would also, and I know the new Supreme Court in its judgment could better review the facts in each school district.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from New York (Mrs. CHISHOLM).

(By unanimous consent, Mrs. GREEN of Oregon yielded her time to Mrs. CHISHOLM).

Mrs. CHISHOLM. Ladies and gentlemen of this Chamber, the time has come that we must face a real reckoning of many things that many of us have been trying to avoid through parliamentary maneuvers and parliamentary tricks. Liberals show one face here in Washington, D.C., and something else in their representative home districts.

Let me say this: My heart bleeds this evening for all of those who are addressing themselves to the fact that we must not and cannot have young children being carted from one district to another in order to be able to give them the kind of education that is necessary to cope with a highly automated and technological society.

Where have you been for these many years? The black and Spanish-speaking children in the Southern and Western parts of the United States have been bused right past the white schools in your communities in order to go to the dilapidated buildings reserved for them to acquire some kind of education. Where have your voices been for those children through all those years?

Now it is the same old pattern, and because it now affects a certain segment that have been the beneficiaries of the status quo in America, it takes on a highly different picture now.

The same thing is happening with respect to the drug problem in this country. Where have you been all these years when drug addiction has seized certain groups in this Nation? Now everybody is crying out about what drugs are doing to the children, the youth of this country. Everybody is crying out about what cross-busing is doing to the children.

You know, let me bring it right down front to you. The fact of the matter is racism is so inherent in the bloodstream of this country that you cannot see beyond a particular limit. You are only concerned when whites are affected. If you were indeed concerned about the busing of young children for the sake of getting educational equality, your voices would have been raised years ago in terms of the fact that black and Chicano, Spanish-speaking children were getting an inferior education by being bused right past the white schools in their neighborhoods in which they lived to the dilapidated schools in the outlying districts.

Come out from behind your mask and tell it like it really is. Are we going to believe in the United States of America that we are going to try to bring about a society where every man and woman and child will be judged not on the basis of his race, but on the basis of his capabilities and his potentialities for realizing the dream we all speak so glibly about during political times?

I say to the Members: Where have you been? Where were you when the black children were being bused right past the white schools in the community? Nobody has addressed himself this evening yet to that particular issue, but it is very understandable why the Members are not addressing themselves to this issue.

There is a chance this evening to come out from behind your mask. Forget they are white children. Forget they are black children. Forget they are Spanish-speaking children. Just remember one thing: They are America's children. They are the children who are going to carry this country on when we pass off this scene, and the hope of this Nation really lies with these children. So for God's sake, let us be done with this amendment and deal with it objectively. Listen to the children of this Nation.

We would not be confronted with the problem we are confronted with tonight—at what time is it?—it is 10 after 9, unless it is because we have practiced sham and hypocrisy for so long, and it has finally caught up with us.

Mr. Chairman, I hope the Members vote down this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I share the concern over the children, and the issue today is one of creating a stable environment in the classroom so that the teachers can teach, and the children can learn—be those children black or white.

There has been such emotionalism on the issue of school busing that we have failed to grasp the purpose for our schools—and that is to create a stable environment in which the children can learn. The impact of the Broomfield amendment, whether we are for or against school busing, will do that. It will provide more stability to school systems, so that we will not have another generation of children growing up in an unstable atmosphere of school busing.

Mr. Chairman, the Members of this body may soon be called upon to cast their vote on the school busing question. With that point in mind, I am taking this opportunity to present this statement as we attempt to resolve this matter.

Few issues in the Nation give rise to so much emotionalism and dogmatism as the busing of schoolchildren to secure equal educational oportunity for all students. Extensive litigation is before almost every court in the Nation; numerous different resolutions, bills, and constitutional amendments are before both Houses of Congress; apparent differences in statements by administration officials give rise to confusion; the letter-to-the-editor columns of the papers are full of acrimonious charges and countercharges.

Far too little of this debate has concerned itself with the most important part of the slogan "equal educational opportunity"—education. The purpose of an educational system is to create an environment in which learning can take place. While there is clearly a place in the educational system for attempts to bring about social change and an upgrading of society, the primary purpose is, and must continue to be, to educate.

Schools, therefore, should concentrate on providing a stable atmosphere in which the teacher can teach and the student can learn. The student himself must be the center of our concern. The quality of programs and academic excellence must be our major interest. The student must be presented with the academic and practical skills that will allow him to become a useful and contributing member of society.

Schools do have an impact for social change, but 30 hours a week spent in a schoolroom cannot solve the problems caused by 130 hours in deprivation. If the school system is to have any impact at all on removing a student from deprivation it must be because it provides him with the knowledge and the ability to break out of the cycle of poverty and ignorance. Only if the schools can teach him to read and write, calculate, and make use of his skills can he find a job and take his place in a world consisting of something other than welfare checks, indolence, dilapidated housing, and hunger. If the schools do not provide the education then all the social contact in the world cannot improve the student's lot. It has been shown time and again that students do not necessarily achieve more in an integrated setting. It is the equality of the courses offered and the staff available, not just the racial mix of the students and teachers involved, which determines achievement. In my view, spending money on special programs for the deprived is far more important than spending it on pupil transportation.

"Community spirit" has been an important part of our national heritage—pride in one's community, working together, cooperating to secure common goals, helping out a neighbor in times of need. Indeed some of the most important "social" legislation of the last decade has attempted through the community action program to reinvigorate that sense of community. Almost invariably, the most important institution of a community is its school.

Children need a sense of community—a stability—if they are to develop most effectively. Children need to feel secure in their relationships with their parents, with their friends, with the parents of their friends, with their teachers and classmates. That security and stability can best come, in my opinion, through neighborhood schools, as near as possible to his home—although it obviously cannot always be within walking distance.

For these reasons I am a strong supporter of the neighborhood school concept. This general statement of views, however, does not deal with a number of specifics which must be acknowledged in the "busing" debate.

The first, and most obvious, is the removal of "dual" school systems. Since

holding office I have consistently supported the goal of unitary schools offering equal opportunity to all students. Indeed, every branch of the Government has affirmed again and again—through legislation, court rulings, and administration statements over the past two decades—that there cannot be separate school systems established on the basis of race. Nor can there be any question of the responsibility of school boards to take affirmative action to end the separate system.

There is serious confusion in the rulings of the courts on this entire question. It is important to point out that the Supreme Court did not hold that there must be racial balance in a school system. Indeed, it held that there are circumstances where an all black, or all white school is perfectly permissible. The Chief Justice recently expressed concern that the lower courts are widely misinterpreting the Supreme Court decisions in this area. The Court held that busing is one of the affirmative steps a school system can take to correct its purposeful discrimination of the past. It did not hold that this was the only step, or even the most desirable step.

It is imperative, in my view, that the Supreme Court immediately clarify its rulings. At the present time, different rules are being applied by different lower courts throughout the Nation—creating confusion and conflict.

Second, additional confusion and conflict has been created by administrative vascillation. It makes no sense for the administration to state that they will do everything possible to uphold the law and, at the same time, to say that no Federal funds can be used for busing when the courts have declared that this is the law. It is irrational for the Federal Government to refuse to have any monetary responsibility for regulations which it has imposed and which it is responsible for enforcing. That is why I introduced an amendment to the Emergency School Desegregation Act during consideration in the Education and Labor Committee which would permit use of Federal funds for busing costs arising from a court order. I am hopeful that a similar amendment will be adopted during consideration of this legislation on the House floor.

Third, the Congress itself has been negligent in establishing a clear-cut policy in this field. While we have addressed ourselves on a number of occasions to the problems arising from dual school systems, we have never made clear the congressional viewpoint with regard to desegregation in "de facto" instances, when school boundaries were drawn without regard to racial composition. I will support an amendment, to be offered by the gentleman from Michigan (Mr. O'HARA), which will make it clear that busing is not required by Federal law where no governmental segregation has been found. In short, in those areas where schools have been built, students assigned, and money spent on a color-blind basis, busing will not be a Federal requirement.

Finally, total racial balance is neither desirable nor practical throughout the Nation. Our efforts must be concentrated on the upgrading of the systems where segregation has taken place by social accident, not by governmental design. Four years ago I joined with a group of Republican colleagues under the leadership of Congressman ALPHONZO BELL in studying urban education. We were distressed by the lack of attention to the special problems of the urban poor—whether black or white—in educational programs. We offered a broad program to correct this difficult problem. Unfortunately, that study has largely been ignored. Until the Government and our people are willing to commit adequate money to erasing these inequalities resulting from their environment, the problems of poverty and ignorance will continue to plague us—particularly in our cities.

It is urgent that the Congress, the administration, and the courts accept our immediate responsibility to settle the confusion and unpredictability surrounding our educational system. Our Nation cannot afford another generation of students whose education suffers because of a lack of stable environment. Let us have rational, rather than emotional discussion and debate. Let those in all three branches of Government accept responsibility to clarify the confusion and to develop a specific functional policy. Then let us commit ourselves to adequate funding to meet the educational needs of all the children within that framework.

Mr. Chairman, I urge the Members to support the Broomfield amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, I support the Broomfield amendment.

I recognize that what the Broomfield amendment does is rather drastic in respect to the control that Congress exercises over the courts, but we are dealing with an extremely drastic problem. The entire problem has been discussed thoroughly. What I would like to do in the brief time available to me is to bring to the attention of the Members the situation which exists in Detroit at the present time and point out to the Members the reasons why I and most of my Democratic colleagues from Michigan support this amendment.

A few weeks ago a Federal judge in Michigan ruled that the extensively integrated Detroit public school system was guilty of de jure segregation. In my judgment that was plowing new legal ground. He gave the Detroit School Board until early December to come up with a new integration plan. He later instructed the State board of education to come up with a new integration plan in early January for a tricounty area affecting some 4.5 million people.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. NEDZI) has expired.

(By unanimous consent, Mr. DINGELL yielded his time to Mr. NEDZI).

Mr. NEDZI. Mr. Chairman, the area we are dealing with encompasses over 80 school districts with over 80 locally elected school boards. The implication of these actions suggests the prospect of court-ordered busing across school district lines and across county lines. There is the prospect that some Detroit school children would be affected by the Detroit plan in December and the tri-county plan in January, which might or might not be implemented together. At any rate there will be one move per child, and perhaps two or three which will have to be regarded as a possibility. In simplest terms there is the prospect that the lives of tens of thousands of school children are threatened with the disruption of changing schools in accordance with a court order that is subject to appeal and subject to overturn.

Suppose a Federal court order compelled busing is ordered and that decision is overturned on appeal? How do you unravel all the transfers which would have already taken place? How do you rectify and remedy the disruption? Furthermore, if the Federal court mandates cross-country busing, the most complex collateral questions will arise. For example, will the right to elect local school boards be altered? Will the obligations on school boards to levy taxes be changed? The highest courts of the land should be given the opportunity to rule and to clarify.

This is a most sensitive and far-reaching issue, worthy of the most careful deliberation. I believe that on October 19, we, cosponsors of the amendment (Messrs. BROOMFIELD, DINGELL, O'HARA, MCDONALD of Michigan, WILLIAM D. FORD, GRIFFITHS, and NEDZI) acted in a logical and responsible manner and in the public interest. We took two steps:

First, we asked Gov. William Milliken, Attorney General Frank Kelley, and the State board of education, all parties to the Detroit case, to "immediately announce their intention to appeal the District Court decision and to take all necessary steps to perfect such appeal." Yesterday, November 3, Governor Milliken announced his intention to appeal. Attorney General Kelley, who is the attorney for the Governor and State board of education can be expected to personally join in the appeal. The further concurrence of the State board of education is probable.

The second step was the introduction of the Broomfield amendment, now before the House.

Both steps are in the interest of equity. Both seek to avoid the wrenching chaos of piecemeal court decisions. I urge the passage of this amendment.

Without it I submit that unnecessary confusion is created in the minds of people, unnecessary emotionalism. There would be no problem whatsoever, in my judgment, to await the final verdict of the court before a busing order of this drastic consequence is implemented.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I would simply like to address my remarks to the Democratic side of the aisle. I had supposed that when this amendment was offered, and it was supposed to be a bipartisan amendment, that we were laying the predicate for the

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enactment later on this evening of the emergency school aid legislation, which I think is really the important business yet remaining for the House; yet I have listened in vain for any assurance from this side of the aisle that the adoption of this particular amendment is going to lead to the adoption of the emergency school aid legislation.

I would somehow hope before debate on this particular amendment is concluded we might hear some words from those who up until this time have been silent on that point. And lacking such assurances, I shall most certainly oppose this amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. BADILLO) to close debate on this amendment.

Mr. BADILLO. Mr. Chairman and members of the committee, I hope before the evening is over that we will all have an opportunity to express our points of view on this issue. Certainly if I have my way we will, because I have an amendment before the House which will strike off the busing provision that the gentleman from Illinois (Mr. PUCINSKI) is putting on the emergency school aid bill. I have an amendment which will strike out the neighborhood school concept which the gentleman from Illinois (Mr. PUCINSKI) is putting on the emergency school aid bill. I also have the House version of the Ribicoff amendment, where we will be able to test out whether this House intends to apply the same standard in the North and the South.

Mr. CAREY of New York. Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from New York.

Mr. CAREY of New York. I thank my colleague for yielding.

I just wish to respond on the Record to an unexpected comment from my colleague from Illinois (Mr. ANDERSON), whom I respect very greatly as one of the fine lawyers of the House. I know he agrees with me on the overall principle that justice delayed is justice denied; and he never before has stood in this Chamber and called for broad injunction by amendment in the Committee of the Whole House as to any procedure affecting our court system.

If this be some part of a predicate, as he says, to lay the groundwork to clear the air for the school desegregation bill, I want him to know there are many of us on this side who know nothing about the strategy, nothing about the so-called predicate, and I think it is a bad way to legislate.

If the gentleman knew about this, why did he wait until this time in the debate to bring it up? Why not expose the predicate, so we could all make a common judgment, not under a limitation of time for debate.

Mr. BADILLO. Mr. Chairman, this amendment is dishonest because it only limits a district court and does not in any way limit a State court. Actually we are amending the procedures of the court system. I say we must avoid in this Congress following the same process that was followed by many areas of the South, which discredited the judicial process.

If Members want to vote against busing and neighborhood schools, they will get their opportunity later on. Let us vote down this particular amendment, which does not meet the issue head on and only serves to insure that they will get an automatic right of appeal and delay the process for 2 years even if there is no basis in law or in fact for that appeal.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD).

The question was taken; and the Chairman announced that the ayes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. RYAN. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. RYAN. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mr. BROOMFIELD, Mr. PUCINSKI, Mrs. CHISHOLM, and Mr. RUTH.

The Committee divided, and the tellers reported that there were—ayes 235, noes 125, not voting 71, as follows:

[Roll No. 354]

[Recorded Teller Vote]

AYES—235

Abbitt	du Pont	King
Abernethy	Edmondson	Kluczynski
Addabbo	Eilberg	Kuykendall
Alexander	Erlenborn	Kyl
Anderson, Calif.	Esch	Landgrebe
Andrews, N. Dak.	Eshleman	Latta
Archer	Evins, Tenn.	Lennon
Arends	Fisher	Lent
Ashbrook	Flood	Long, Md.
Baring	Flowers	McCollister
Bell	Ford, Gerald R.	McDade
Bennett	Ford, William D.	McDonald, Mich.
Betts	Fountain	McEwen
Bevill	Frelinghuysen	McKay
Biaggi	Frenzel	McKevitt
Biester	Fulton, Tenn.	McKinney
Boland	Fuqua	McMillan
Bow	Galifianakis	Mahon
Brasco	Garmatz	Mathias, Calif.
Bray	Gaydos	Matsunaga
Brooks	Gettys	Mazzoli
Broomfield	Giaimo	Michel
Brotzman	Gibbons	Miller, Ohio
Brown, Mich.	Goldwater	Mills, Md.
Broyhill, N.C.	Goodling	Minshall
Buchanan	Grasso	Mizell
Burleson, Tex.	Gray	Mollohan
Burlison, Mo.	Green, Oreg.	Monagan
Byrnes, Wis.	Griffin	Montgomery
Byron	Gross	Murphy, Ill.
Caffery	Grover	Myers
Camp	Haley	Natcher
Carter	Hall	Nedzi
Casey, Tex.	Hammer-schmidt	Nelsen
Cederberg	Hanley	Nichols
Chamberlain	Hansen, Wash.	O'Hara
Chappell	Harsha	O'Konski
Clancy	Harvey	Passman
Clark	Hastings	Pelly
Clausen, Don H.	Hays	Perkins
Clawson, Del	Heinz	Pettis
Cleveland	Henderson	Peyser
Collier	Hicks, Mass.	Pickle
Collins, Tex.	Hillis	Pike
Colmer	Hogan	Podell
Conable	Horton	Poff
Cotter	Hull	Powell
Coughlin	Hungate	Price, Tex.
Crane	Hunt	Pryor, Ark.
Daniel, Va.	Hutchinson	Pucinski
Davis, Wis.	Ichord	Purcell
Delaney	Jacobs	Quie
Dellenback	Johnson, Pa.	Quillen
Devine	Jonas	Randall
Dingell	Jones, Ala.	Rarick
Downing	Jones, N.C.	Rhodes
Duncan	Kazen	Riegle
Dulski	Keating	Robinson, Va.
	Kemp	Robison, N.Y.
		Rogers
		Rooney, Pa.
		Rostenkowski
		Roush
		Rousselot
		Runnels
		Ruth
		Sandman
		Satterfield
		Saylor
		Scherle
		Scheuer
		Schmitz
		Schneebeli
		Schwengel
		Scott
		Shoup
		Shriver
		Sikes
		Slack
		Smith, Calif.
		Snyder
		Spence
		Springer
		Stanton, James V.
		Steed
		Steele
		Steiger, Ariz.
		Steiger, Wis.
		Stratton
		Stubblefield
		Talcott
		Teague, Calif.
		Terry
		Thompson, Ga.
		Thomson, Wis.
		Thone
		Tiernan
		Vander Jagt
		Veysey
		Waggonner
		Wampler
		Ware
		Whalley
		Whitehurst
		Whitten
		Widnall
		Williams
		Wilson, Bob
		Wilson, Charles H.
		Winn
		Wolff
		Wydler
		Wyman
		Yatron
		Young, Fla.
		Young, Tex.
		Zablocki
		Zwach

NOES—125

Abourezk	Eckhardt	Miller, Calif.
Abzug	Edwards, Ala.	Minish
Adams	Edwards, Calif.	Mink
Albert	Evans, Colo.	Mitchell
Anderson, Ill.	Fascell	Moorhead
Anderson, Tenn.	Fish	Morgan
Andrews, Ala.	Flynt	Morse
Annunzio	Foley	Mosher
Ashley	Fraser	Moss
Badillo	Gallagher	Murphy, N.Y.
Begich	Gonzalez	Nix
Bergland	Green, Pa.	Obey
Bingham	Gude	O'Neill
Blackburn	Hagan	Patten
Blatnik	Harrington	Pepper
Boggs	Hathaway	Preyer, N.C.
Bolling	Hawkins	Price, Ill.
Brademas	Hechler, W. Va.	Rangel
Brinkley	Heckler, Mass.	Reid, N.Y.
Burke, Mass.	Helstoski	Reuss
Burton	Hicks, Wash.	Rodino
Byrne, Pa.	Holifield	Roe
Carey, N.Y.	Howard	Roncallo
Celler	Karth	Rooney, N.Y.
Chisholm	Kastenmeier	Rosenthal
Clay	Keith	Roy
Collins, Ill.	Kyros	Roybal
Conte	Landrum	Ryan
Conyers	Leggett	St Germain
Corman	Link	Seiberling
Daniels, N.J.	McClory	Smith, Iowa
Danielson	McCloskey	Stokes
Davis, S.C.	McCormack	Sullivan
de la Garza	McFall	Symington
Dellums	Macdonald, Mass.	Thompson, N.J.
Denholm	Madden	Van Deerlin
Dent	Mailliard	Vanik
Dickinson	Mann	Vigorito
Donohue	Mathis, Ga.	Waldie
Dorn	Mayne	Whalen
Dow	Meeds	Yates
Drinan	Melcher	

NOT VOTING—71

Aspin	Halpern	Rees
Aspinall	Hamilton	Roberts
Baker	Hanna	Ruppe
Barrett	Hansen, Idaho	Sarbanes
Belcher	Hébert	Sebelius
Blanton	Hosmer	Shipley
Brown, Ohio	Jarman	Sisk
Broyhill, Va.	Johnson, Calif.	Skubitz
Burke, Fla.	Jones, Tenn.	Smith, N.Y.
Cabell	Kee	Staggers
Carney	Koch	Stanton, J. William
Culver	Lloyd	Stephens
Davis, Ga.	Long, La.	Stuckey
Dennis	Lujan	Taylor
Derwinski	McClure	Teague, Tex.
Diggs	McCulloch	Udall
Dowdy	Martin	Ullman
Dwyer	Metcalfe	White
Edwards, La.	Mikva	Wiggins
Findley	Mills, Ark.	Wright
Forsythe	Patman	Wyatt
Frey	Pirnie	Wylie
Griffiths	Poage	Zion
Gubser	Railsback	

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 278, line 4, after "Sec. 2002." insert "(a)" and following line 19 insert:

"(b) Part A of the General Education Provisions Act is further amended by adding at the end thereof the following:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 408. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system."

POINT OF ORDER

Mr. RYAN. Mr. Chairman, I make a point of order against the amendment.

This amendment does not deal with higher education. In fact, the section to which it is offered is entitled "Modifications of Matching Requirements" and pertains to non-Federal matching contributions to Federal assistance provided to institutions of higher education. Since the amendment is directed to elementary and secondary education, it is foreign to sections dealing with higher education.

There are no funds appropriated in this bill for the purpose of carrying out any program for transportation of students and teachers or for the purchase of equipment for transportation in order to overcome racial imbalance. Nor is there any program in this higher education bill which provides for the transportation of students or of teachers or for the purchase of transportation equipment in order to carry out any plan of racial desegregation of any school or school system.

Mr. Chairman, this amendment is clearly out of order. It is neither germane nor pertinent to the subject matter of the bill, nor does it pertain to the subject matter of the title, which refers to modifications of matching requirements under a heading entitled "Waiver of Matching Requirements in Certain Cases."

Mr. Chairman, I submit that this amendment should be ruled out of order.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. RYAN. I yield to the gentleman.

Mr. ANDREWS of Alabama. I would like to ask my friend from New York, if I can get his attention, Are you in favor of busing schoolchildren or not?

Mr. RYAN. My position is very clear on that. That does not pertain to the point of order. I am making a point of order that this amendment is not germane to this bill.

Mr. ANDREWS of Alabama. Will the gentleman answer my question?

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I would address myself to the point of order raised by the gentleman from New York.

Mr. Chairman, on page 278, line 4, this bill clearly opens up the General Education Provisions Act for modifications.

I would call your attention to the General Education Provisions Act.

In the compilation of the Federal education laws on page 11, it refers to this section as follows:

The provisions of this title shall apply to any program for which the Commissioner of Education has responsibility for administration either as provided by statute or by delegation pursuant to statute.

The modifications go to the General Education Act and having opened up the General Education Provisions Act, and under the precedents of the House, it cannot now be selectively said that an amendment to that provision would not obtain.

I point out that it is completely consistent with the precedents of the House to say that it is germane. It is an amendment specifically to section 2003, part A. Part A of the General Education Provisions Act applies to appropriations and evaluations. The amendment to which I will address myself clearly comes within the provisions of the General Education Provisions Act and therefore is germane.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is ready to rule.

The gentleman from New York makes a point of order against the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), to page 278, line 4, after section 2002. The point of order was raised as to the germaneness of the amendment offered by the gentleman from Ohio. The Chair has examined the amendment. The amendment goes to section 2002 of the bill, which in turn is an amendment to the General Education Provisions Act. The General Education Provisions Act in turn is part of the Elementary and Secondary Education Act of 1967, which is amended in several respects by the pending bill.

So the Chair holds that the amendment offered by the gentleman from Ohio is germane and overrules the point of order.

The gentleman from Ohio is recognized for 5 minutes in support of his amendment.

Mr. ASHBROOK. Mr. Chairman, I would point out to the Members that I had printed in the body of the RECORD the text of this amendment. It appears on pages H10344 and H10345 of yesterday's RECORD, along with an explanation of the amendment. One phrase has been added since yesterday—or for the purchase of equipment for such transportation.

Let me very simply explain what this amendment would do and why it is different from the other amendments that have been offered and will be offered.

As has already been pointed out, the General Education Provisions Act applies to every program administered by the U.S. Office of Education, either pursuant to statute or by delegation of authority. In other words, a busing amendment that would go to that particular statute, which is opened up on page 278, section 2002, would go to every single Federal education program.

Now, how is this different from the amendment which you will later have? The amendment of the gentleman from Illinois (Mr. PUCINSKI) will go to the one title of the law. It will serve as a limitation to the Desegregation Act which he will later offer. The amendment that I offer goes to every educational program on the books. So, therefore, it is broad in its coverage where his is limited only to the next title of the act which will be offered later this evening.

I have heard on the floor as opposition to my particular amendment that this is so broad it would cut out transportation in vitally needed areas. I merely ask you to read again the amendment, which clearly operates as a limitation on transportation where desegregation orders or racial balance schemes are perpetrated. It would not apply to any transportation for any other purpose under law, such as transportation for handicapped children, transportation for students in the usual school routine, so do not be misled by anyone who indicates that this would operate as a limitation for transportation under programs of that type.

This is one of the first times we have ever had an opportunity to vote on a busing amendment that goes to every single statute, every single program administered by the U.S. Office of Education. I do not think it is necessary to take a great amount of time in order to point out that this is one different approach. It is not limited. It would not go to one title. It would not go to one program. It goes to every single program administered by the U.S. Office of Education.

I do not think it is necessary to take an hour on this amendment. It has been said that whenever you offer a busing amendment you automatically open up 1, 2, or 3 hours of debate.

This is a very simple amendment. Admittedly it is broad. I happen to believe it is consistent with previous votes we have taken in this Chamber. I heartily encourage the Members to support this busing amendment which will be very broad in its scope and is very much supported and needed by the American people.

AMENDMENT OFFERED BY MRS. GREEN OF OREGON TO THE AMENDMENT OFFERED BY MR. ASHBROOK

Mrs. GREEN of Oregon. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. GREEN of Oregon to the amendment offered by Mr. ASHBROOK:

At the end of the amendment add the following:

"No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee.

Mrs. GREEN of Oregon. Mr. Chairman, I would have done almost anything that was possible not to have had this fight occur as a part of the higher education bill. I have great concern that all of the work that has gone on for a year and a half may go down the drain to-

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night. However, I think the moment of truth has arrived and perhaps this vote is inevitable. It has to come some time this year, and so maybe it is just as well that it comes tonight. But I have talked to the Parliamentarian to see if there was any possible way to block the amendments, and I was advised that it was not possible. I have pleaded with the gentleman from California (Mr. BELL) and the gentleman from Illinois (Mr. PUCINSKI) not to offer these amendments.

For some strange reason, the Secretary of Health, Education and Welfare has said this amendment is the most important education bill this year, and so, if it is, let us really face what the facts are. What Mr. Richardson wants is a desegregation bill, and he wants the Federal funds to go to those schools that are either under court orders or under HEW orders to desegregate or that are in the process of voluntarily desegregating.

Most of the Members know my position on busing. I have opposed busing for several years. We tonight cannot go back 100 years to correct the errors that may or may not have been made by our ancestors. It seems to me the only thing we can do is to begin, on November 4, 1971, and look at the state of education in this country and decide what is happening to it. I oppose busing because I do not think it is workable. We had prohibition when I was a small child and it did not work. We repealed the prohibition law.

I think the evidence is overwhelming that busing is not the answer to the very complex school problems of today.

The schools are deteriorating before our eyes. They are decaying. We have many social problems. We cannot find enough money for our classrooms. We cannot find enough money for our teachers. We cannot find enough money to do the things we ought to be doing. Instead we go on this busing binge and spend hundreds of millions of dollars on buying buses and hiring busdrivers. Let me illustrate this in two ways, one a very personal way, and one that I think represents what is happening.

I would suggest that probably everyone in this House whenever he has bought a home, if he has children, has looked at the schools before he has purchased a home. It is a major factor. I never participated in the buying of a home without inquiring about the schools that my boys would attend. If the Federal Government then is going to reach its long arm into my home and say, "Well, we are sorry, you bought your home here, but your children are going to have to be bused 30 miles," I say the Government has gone too far.

Now let me illustrate it on a greater scale.

If my colleagues from Los Angeles tell me I am in error I will rescind what I am saying. I had lunch with the superintendent of the school board in Los Angeles a couple of years ago. About 5 weeks ago, when this desegregation bill came up, I called the school superintendent's office.

This is my best information; that in Los Angeles they have not passed a bond issue since 1958, and they have not passed a tax levy since 1966. The earthquake of February, I am advised, has required the total abandonment or major repair of 65 buildings, and they do not have the funds. This year they are cutting out $50 million in programs for boys and girls that would somehow have helped to improve the quality of education.

They are under a court order. It is being appealed. But if the court order is upheld, I am advised that during the first year it will cost $42 million to buy buses and to hire busdrivers, and in each succeeding year it is going to cost between $20 and $25 million.

So while we somehow salve our consciences and think we are making up for the errors of the past by busing children because 100 years ago they bused them in the other direction, I suggest to you it is not the answer. Those $42 million or $20 million, or whatever they are, ought to be spent on boys and girls, rather than to have adults arguing or trying to solve social problems.

Now let me go to my amendment.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The time of the gentlewoman from Oregon has expired.

(By unanimous consent, Mrs. GREEN of Oregon was allowed to proceed for 3 additional minutes.)

Mrs. GREEN of Oregon. I think the moment of truth is here. The President has said no Federal funds are to be used for busing. Most of us thought that was great—or many of us did. But what has happened? I know of one case where the Secretary of Health, Education, and Welfare went to a school in Georgia and he said—

> If you will carry out this plan, you understand we cannot spend Federal funds. It is going to cost you $2.2 million to do this, and we cannot spend Federal funds. But if you spend your local funds for it we will promise to reimburse you.

I call that the height of hypocrisy. If this administration says that none of the Federal funds are to be spent for busing how in the world can they turn around and say, "But you have to spend your local or your State funds to accomplish the objectives, the social goals we have decided you ought to accomplish here in Washington."

This amendment I have offered merely says that neither HEW nor any other agency of the executive branch, can impose upon any local school district or State any requirements for any programs which require the expenditure of State or local funds for those purposes for which the Federal funds cannot be spent. That is all it is. It seems to me if we are not going to spend the Federal funds we have no business making requirements for the expenditure of local funds.

I hope that the amendment will be adopted.

Mr. PUCINSKI. Mr. Chairman, I move to strike the last word.

I ask the gentlewoman from Oregon to clarify this amendment, if she would be good enough. The amendment says:

> No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used. . . .

Do I correctly understand what this means is that the agency itself cannot induce, order, persuade, or require the things I have mentioned? Is that correct?

Mrs. GREEN of Oregon. That is correct. No officer or employee.

Mr. PUCINSKI. What is the situation in the case of a court order?

Mrs. GREEN of Oregon. This says "no officer or employee of the Department of HEW or any other Federal agency."

Mr. PUCINSKI. What if the local education agency decides to do these things on their own volition without any directive or requirement by the Federal agency?

Mrs. GREEN of Oregon. The gentleman can read the amendment. It does not touch any voluntary action that is taken.

Mr. PUCINSKI. That is the point. It does not disturb voluntary action, but it does impose the most rigid restrictions that the gentlewoman can impose on any directives from the Federal Government.

Mr. GERALD R. FORD. Will the gentleman yield?

Mr. PUCINSKI. I yield to the distinguished minority leader.

Mr. GERALD R. FORD. May I ask the distinguished gentlewoman from Oregon this question: is this an amendment to the Ashbrook amendment? It is not a substitute to the Ashbrook amendment, is it?

Mrs. GREEN of Oregon. No, it is not a substitute. It is an amendment to and addition to the Ashbrook amendment.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

At this late hour, Mr. Chairman, I certainly do not need to take 5 minutes, but I merely wish to tell the gentlewoman from Oregon that I wholeheartedly accept her amendment and hope it will be adopted and that the amendment to the amendment will be adopted.

Mr. HAWKINS. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I take this time because the gentlewoman from Oregon, I think, was rather misleading—and I am sure it was not intentional—in discussing the situation in Los Angeles. The court was very patient with the Los Angeles Board of Education, and it has been over a period of almost a decade. The court in making the decision in that particular case said—and this was a State and not a Federal court—that the Los Angeles Board of Education had every opportunity that any agency could possibly have to comply with the 1954 Supreme Court decision. The court said that the board of education had the opportunity to draw attendance area boundaries in a way which would have brought about desegregation without busing; that it had the opportunity to

select sites of new schools to avoid increased segregation, which it had failed to do; that it had not attempted to take creative or innovative methods to improve the schools; that it had not done anything about the transfer policies. As a matter of fact, it had passed policies which facilitated segregation and failed to establish model schools or to adopt a comprehensive plan of any kind for desegregation. It used its educational funds in such a way that it brought about inferior black schools in one part of the city and much better, higher quality schools, white schools, in another section of the school district. It said that it had done nothing to upgrade these inferior schools and to reduce the pupil-teacher ratios. The court then went on for several other paragraphs to cite official action in violation of the 1954 school decision.

The point is, Mr. Chairman, those of you who tonight speak of busing are speaking of what is now being required by the courts as the last resort. For more than 15 years the court did not mention the subject of busing. It left it up to the local school districts and up to you, the public officials, to sustain the principle that had been laid down by the Supreme Court decision. We had every opportunity to do many things to avoid the issue of busing. Those of you who talk about busing tonight as an evil curse—have voted against appropriations in this body that would have upgraded the schools. You have voted to sustain inferior black schools while building up better quality ones in white schools if at all. Then you object to the courts when they say that you cannot do this under the 14th amendment.

We have left the leadership to the courts and busing now seems to be the only thing left to do.

Somehow we are beginning to practice witchcraft. So, you want to do away with busing, legally if possible, but illegally if necessary. So, you would say to some misguided souls burn up the buses, bomb them, get rid of them in some way because it is evil. What type of witchcraft are we practicing?

Are we going to address ourselves to the problem of education by destroying buses?

Now, Mr. Chairman, it seems to me that some of us would be better advised to go to the parents and to ask them to address themselves to the real issue. What are the children doing? Are their children committing violence in the schools? Are they addicted to drugs?

Are they for the free love? These and many other problems are involved in our schools today. Is busing an evil curse? Most of us walked to school over long distances and were glad to get an education. Many children now want to go to school in Lincoln Continentals and foreign-made automobiles. I see nothing wrong about being bused to school at public expense if it means getting a better education.

Mr. Chairman, we are the ones who have created this problem. Busing is widespread. Over 60 percent of public school children are bused.

I have two examples to give to you. One exists on Capitol Hill. I see black and white parents who live across from me on North Carolina Avenue who bus their children to school every day. They are not busing them to obtain desegregation. They are busing them because they consider the neighborhood schools inferior schools.

Another example is in a district a few miles south of San Francisco where a model school was built in a black ghetto and the white parents want to bus their children to it because it is a good school.

Mr. Chairman, I say to the members of the Committee tonight that we had better address ourselves to the real issues in American education. I therefore ask for a "no" vote on the amendment.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I read the Green amendment, it is true what the gentleman from Illinois (Mr. PUCINSKI) suggests, that it would not preclude the local school districts from doing these things if they wanted to do them, but it seems to me it would preclude the Department of Health, Education, and Welfare from enforcing title VI of the Civil Rights Act to the extent that they are affected by the Swann decision.

It is my understanding that the Swann decision is now the law of the land, but that this language would prohibit the use of Federal funds to carry out the law if the Ashbrook amendment prevails. The amendment of the gentlelady from Oregon would mean that no officer of HEW could urge or require schools to transport children in order to overcome racial isolation as required under title VI of the Civil Rights Act. I just do not think that is right for our committee here to take that action which would in effect negate an action that this Congress took previously in passing the Civil Rights Act. Unfortunately it is written in such a way that I doubt it could have been subject to a point of order.

But, Mr. Chairman, let me make my own position on this whole busing question clear.

I do not feel that it is wise for us to be busing children all over the place just to conduct some social experiment and move them past their own school to some other school. I don't believe in forced busing. But I believe there are some methods by which schools can bring about more racial integration without it being harmful to the schools. I will give you an example of one case in Minneapolis. They have a situation there as I understand it so that instead of all the children in the first six grades in two areas going to two different schools, they have three grades in one school and three grades in the other which they call pairing. I do not see that that is harmful because we do send children from a larger area to junior high schools with a number of grade schools in that area. That is one method which is in use today and could require busing children.

Were my children going to school back home in Minnesota they would be going 18 miles in order to go to high school on a bus, but they would not look at that as so extremely harmful themselves.

The truth is, as the gentleman from California (Mr. HAWKINS) mentioned, that some people walked to school when they were young in the earlier days. I had to drive a car to school, because there was no bus going there at that time.

But let us be rational about this: There are times when the Federal Government has said to the schools that you must bus. That was the situation in the Swann decision. Now the President has said let us provide $1.5 billion in order to help out some of the school districts who are or will be desegregating. So the Federal Government says to some schools you must bus, and the Federal Government says here is $1.5 billion, but you cannot bus with this money even it told them they must. The same situation obtains with the enforcement of the Civil Rights Act, because the Swann decision approved extensive busing if necessary to achieve desegregation, as I understand. Then take any school district that voluntarily wants to desegregate their school. It is not forced on them at all. The school board, which is elected by the people, decides that they want to voluntarily desegregate their schools. And, remember, they come up for reelection, and if they do not do the job that the people demand then they will get defeated, but if they want to use some of this money to bring about integration of their schools, and the people do not want it they can correct it by the election method.

But the schools who wish to desegregate or end racial isolation should be permitted to do so. I do not believe the Federal Government should deny the schools that right and that opportunity to do it.

But I am saying that I as a person do not want to engage in social experiments which call for the busing of kids across three counties that they are talking about in Detroit. And I cannot understand that decision any more than the rest of you do, and I recognize the problem there.

But let use not cut off any funds that might go to a school to bus their kids, which the Federal Government says they must do—which the Federal Government required through our courts. The judicial branch is a separate branch of the Government that we cannot deny. We may feel that some court decisions are contrary to the best interests of many citizens right now, but yet as a principle, let us not try to undo a branch of the Government that is absolutely fundamental to our system of government. I do not believe we ought to be throwing brickbats at the courts which is the branch of Government we must depend on to protect our constitutional rights.

Mr. BADILLO. Mr. Chairman, I move to strike the requisite number of words.

It is important, Mr. Chairman, that we take time out to state our positions frankly on both sides as the gentlewoman from Oregon has done in stating her point of view. The question involved here is not whether we are engaging in social experiments, the question involved is whether we are going to respect the law. The issue of busing came up when the Supreme Court said that it was unconstitutional to have separate schools, and that the States and the localities had to take action with all deliberate speed to end this. And because the reality was such that segregation was caused by

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housing patterns, the only recourse left in most cases is to bus.

So it is not a question of a social experiment at all. It is a question of deciding whether we are going to obey the Constitution of the United States. We are not going to change the Constitution by passing this amendment here. All we are going to do is make believe that we are changing it, because you know that the decisions of the U.S. Supreme Court are going to continue to be the law of the land until a constitutional amendment is passed, and nothing that this Congress can do tonight or any other time is going to change that.

Mr. BURTON, Mr. Chairman, will the gentleman yield?

Mr. BADILLO. I yield to the gentleman from California.

Mr. BURTON. Mr. Chairman, I applaud and endorse the statement made by the gentleman from New York, as well as that of our colleague, the gentleman from California (Mr. HAWKINS). The courts of the United States have developed a plan that we, as elected representatives of the people, have the responsibility to execute and implement, and not throttle nor cripple, but to use all useful and reasonable means to implement the constitutional mandate.

Again I commend the gentleman from New York, and associate myself with his views.

Mr. BADILLO. Thank you. I appreciate my colleague's remarks. But what I want to point out is that we must be very careful. What is involved here is whether we are going to follow the pattern which many Southern States have followed, of trying to pretend that a legislative body can alone change the Constitution.

You know the Southern States were not successful and we are not going to be successful. But in the process of following that pattern which did not work, we are going to discredit the most important legislature in this country—we are going to discredit the U.S. Congress—because we are going to adopt the point of view which did not work before and is not going to work now.

If you really want to change the Constitution of the United States, then ask for a constitutional amendment. But let us make sure that we in this Congress show respect for the law and that we do not go into subterfuges which make our people believe that the Constitution is being changed and then have them find out 2 or 3 years later that it was not changed—as they found out when the Southern States did the same thing.

I want to say to the gentlewoman from Oregon and to some of my colleagues from the North, the last thing we should do here is to follow the pattern and the advice of the gentleman from the South—because it did not work in the South and it is not going to work in the North if we follow their example.

I urge you to defeat these two amendments.

Mr. CELLER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, 17 years ago the U.S. Supreme Court made a decision in the Brown case that there should be desegregation with all deliberate speed. Seventeen years have elapsed and there has been no deliberate speed in desegregation. In many sections there has been no desegregation.

We hear a great deal of talk in opposition to busing. There is no real opposition to busing. It is what happens at the end of the line. If busing is used to desegregate, then those who are opposed to desegregation are opposed to busing. So the question here is not busing. It is whether or not we are going to have integration—the law of the land. The question is the old question of whether or not we are going to integrate our schools or whether we are going to keep the schools segregated, and whether we are going to have equality in the schools or have schools that are different—separate but equal.

There has been a great deal of excitement. There is a great deal of haste. There is a great deal of hysteria that I have observed in this Chamber tonight, and amidst that haste and hysteria and excitement and emotion, you cannot get good legislation.

There is a great deal of controversy concerning this question of busing. A constitutional amendment has been offered, several have been offered and discharge petitions are at the Speaker's desk. Over 100 Members have signed a discharge petition to discharge the Committee on the Judiciary which has a number of these bills from further consideration.

I pledge you here and now, in order to evolve an appropriate remedy for this very vexatious question, to have the House Judiciary Committee conduct in the not too far future hearings on this subject of busing. We will hear all and sundry—not only Members of the House—but we will hear all those who have any kind of expertise in this subject. Thus there will be focused thereupon every conceivable view and aspect of the problem so that we members of the Committee on the Judiciary on which there are 36 trained lawyers, many of whom have much skill in the legal profession and in national affairs, men who are wise, men who know how to make discriminations, and men in whom I am sure you have considerable confidence—who will come up with some wise and proper solution.

I hope, therefore, that we will vote down these amendments. I fear you are making snap, hasty, ill-considered judgment, judgment without due consideration of all nuances of this very worrisome question. Let us have an opportunity to wrestle with this problem, and I am sure we will come up with something that will be satisfactory at least to the majority of the Members of this House, and because thereof, I honestly hope that you will vote down this amendment and the amendment to which it is an amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Massachusetts.

Mr. CONTE. The gentleman mentioned the Brown decision 17 years ago. I concur with the gentleman. Further, does not the gentleman feel that the gentlewoman's amendment negates title VI of the Civil Rights Act of 1964 that was passed by this House, the nondiscrimination measure applied to federally assisted programs?

Mr. CELLER. I am inclined to agree with the gentleman. That is another reason why I think there should be hesitation in making a decision on this subject now.

Mr. HOGAN. Mr. Chairman, I rise in support of the Ashbrook amendment as amended by the Green amendment. This amendment now reads:

> No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.
>
> No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officers or employee which would be prohibited by clause (1) on the part of a Federal officer or employee.

Earlier tonight I voted for the Broomfield amendment which reads:

> Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

Taking as an example the Prince Georges County School Board in my own congressional district, we find that during this past summer the board of education was presented with a massive busing plan which would have required the busing of some 7,000 elementary children up to 14 miles at an estimated cost of over $1 million. Such a plan made no sense, particularly when over 5,000 of those students are now within walking distance of their schools, and I am pleased that the school board was wise enough to reject this plan.

As a result of this rejection of the busing plan, Mr. J. Stanley Pottinger, director of HEW's Office of Civil Rights, in August notified the board that it was in violation of title VI of the Civil Rights Act of 1964. Administrative enforcement proceedings have been initiated against the board which would result in the elimination of $14 million of needed Federal funding to which the school system is entitled under the Emergency School Act program and title VI of the 1964 Civil Rights Act.

Because of the manner in which the Department of Health, Education, and Welfare has proceeded in its dealings with the Prince Georges County School Board in its attempts to achieve racial integration, the school board has now filed for injunctive relief in the U.S. District Court in Baltimore, charging that HEW has violated its procedures in dealings with the board and arguing that those violations constitute denial of due process.

In support of this move on the part of the school board in my congressional district, I called to my colleagues' attention yesterday that I have requested the General Accounting Office to review the administrative procedures of HEW in implementing school desegregation plans and the Emergency School Act program. While my request for this audit arises from the particular negotiations between HEW and the Prince Georges County School Board. I am asking for a GAO audit on the basis of a broad national review of HEW procedures in the event that other school districts around the country are experiencing similar procedural problems which result in actions detrimental to the individual school systems.

Mr. Chairman, sometimes Government bureaucracies tend to forget that they exist to serve the people, and not vice versa. If HEW bureaucrats have forgotten they are the servants of the people, and if the procedures they have designed and enforce mean hardships rather than service for the people, then something is terribly wrong.

As I stand here this evening, Mr. Chairman, arguing the merits and the necessity for this antibusing amendment, it seems to me that this should all be so unnecessary. I have only served in the Congress since the start of the 91st Congress in January 1969. Since that time, I have cast my vote against busing on at least five occasions that I can recall.

These five votes are as follows:

First. On December 18, 1969, I voted against the Senate amendments to the Labor-HEW appropriations measure which added the words "except as required by the Constitution" to language in the bill prohibiting funds from being used to force busing of students, abolishment of any school, or assignment of any elementary or secondary school student against the student's or parent's choice, and forbidding busing of students to a particular school as a condition precedent to obtaining Federal funds. This body failed by a vote of 181 to 216 to strip this Senate language from the appropriations measure and consequently we have come to see what many of us feared on December 18, 1969; that is, that HEW would use the Senate language as a loophole to nullify this antibusing provision.

Second. On February 19, 1970, this body passed the Labor-HEW appropriations—a new bill reported after the President vetoed the December 18 measure—by a vote of 315 to 81. This bill included the same anti-busing provision as the earlier bill without the Senate amendments. It also included a freedom of choice provision to the effect that no funds contained in the act be used to provide, formulate, carry out or implement any plan that would deny any student the right of attending any public school of his choice as selected by parent or guardian.

Third. On March 3, 1970, two votes were taken on the conference report on the Labor-HEW appropriations. The first vote on a motion to table the motion to accept the watered-down Senate anti-busing and freedom of choice amendment was defeated 164 to 222. The second vote to agree to the Senate language to modify the antibusing provisions "except as required by the Constitution" passed by a vote of 231 to 152.

Fourth. On June 30, 1970, this body clearly voted to table a motion to instruct conferees on the Office of Education Appropriations to agree to Senate amendments to strike out provisions prohibiting use of funds appropriated under the bill for forced busing and designed to protect freedom of choice school plans.

Fifth. Finally, Mr. Chairman, just this past Monday, November 1, this body failed to suspend the rules and pass H.R. 2266, the Emergency School Aid Act which we are tonight appending to the higher education bill. Clearly the negative vote of 135–222 expressed this body's disapproval of the committee version of the bill which blatantly endorsed Federal funding of massive busing programs.

So here we are again, Mr. Chairman, after this body has repeatedly expressed its opinion that massive busing is not a viable means for integrating schools, we are once again forced into the position of reiterating our posture. It seems that whatever we do in Congress, HEW ignores it and goes its way thwarting the will of the people as expressed here in Congress.

I wholeheartedly urge that this antibusing amendment be approved.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The question is on the amendment offered by the gentlewoman from Oregon (Mrs. GREEN) to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. BURTON. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. BURTON. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mrs. GREEN of Oregon, and Messrs. QUIE, ASHBROOK, and HAWKINS.

The Committee divided, and the tellers reported that there were—ayes 231, noes 126, not voting 74, as follows:

[Roll No. 355]

[Recorded Teller Vote]

AYES—231

Abbitt	Andrews, N. Dak.	Bevill
Abernethy	Archer	Biaggi
Alexander	Arends	Blackburn
Anderson, Calif.	Ashbrook	Boland
Anderson, Tenn.	Baring	Bow
Andrews, Ala.	Bennett	Bray
	Betts	Brinkley
		Brooks
Broomfield	Hammer-schmidt	Poff
Brotzman	Hansen, Wash.	Powell
Broyhill, N.C.	Harsha	Price, Tex.
Buchanan	Harvey	Pryor, Ark.
Burleson, Tex.	Hastings	Pucinski
Burlison, Mo.	Hays	Purcell
Byrnes, Wis.	Heins	Quillen
Byron	Henderson	Randall
Caffery	Hicks, Mass.	Rarick
Camp	Hicks, Wash.	Rhodes
Carter	Hillis	Robinson, Va.
Casey, Tex.	Hogan	Robison, N.Y.
Cederberg	Horton	Roe
Chamberlain	Hull	Rogers
Chappell	Hungate	Rooney, Pa.
Clancy	Hunt	Roush
Clark	Hutchinson	Rousselot
Clausen, Don H.	Ichord	Runnels
Clawson, Del	Johnson, Pa.	Ruth
Cleveland	Jones, Ala.	St Germain
Collier	Jones, N.C.	Sandman
Collins, Tex.	Kasen	Satterfield
Colmer	Keating	Saylor
Cotter	Keith	Scherle
Crane	Kemp	Schmitz
Daniel, Va.	King	Schneebeli
Davis, S.C.	Kuykendall	Schwengel
Davis, Wis.	Kyl	Scott
de la Garza	Landgrebe	Shipley
Delaney	Landrum	Shoup
Devine	Latta	Shriver
Dickinson	Lennon	Sikes
Dingell	Lent	Slack
Donohue	Long, Md.	Smith, Calif.
Downing	McCollister	Smith, Iowa
Dulski	McDonald, Mich.	Snyder
Duncan	McEwen	Spence
du Pont	McKay	Springer
Edmondson	McKevitt	Stanton, James V.
Edwards, Ala.	McKinney	Steed
Eilberg	McMillan	Steele
Eshleman	Macdonald, Mass.	Steiger, Ariz.
Evins, Tenn.	Madden	Stratton
Fisher	Mahon	Stubblefield
Flood	Mann	Sullivan
Flynt	Mathias, Calif.	Talcott
Ford, Gerald R.	Mathis, Ga.	Teague, Calif.
Ford, William D.	Mazzoli	Terry
Fountain	Michel	Thompson, Ga.
Frelinghuysen	Miller, Ohio	Thomson, Wis.
Fulton, Tenn.	Mills, Md.	Thone
Fuqua	Minshall	Tiernan
Galifianakis	Mizell	Vander Jagt
Garmatz	Mollohan	Veysey
Gaydos	Monagan	Vigorito
Gettys	Montgomery	Waggonner
Giaimo	Murphy, N.Y.	Wampler
Gibbons	Myers	Ware
Goldwater	Natcher	Whalley
Gonzalez	Nedzi	Whitehurst
Goodling	Nelsen	Whitten
Grasso	Nichols	Williams
Gray	O'Hara	Wilson, Bob
Green, Oreg.	O'Konski	Wilson, Charles H.
Griffin	Passman	Winn
Gross	Pelly	Wydler
Grover	Pettis	Wyman
Hagan	Peyser	Yatron
Haley	Pickle	Young, Fla.
Hall	Pike	Young, Tex.
		Zablocki

NOES—126

Abourezk	Corman	Helstoski
Abzug	Coughlin	Holifield
Addabbo	Daniels, N.J.	Howard
Albert	Danielson	Jacobs
Anderson, Ill.	Dellenback	Jonas
Annunzio	Dellums	Karth
Ashley	Denholm	Kastenmeier
Badillo	Dent	Kluczynski
Begich	Dorn	Kyros
Bell	Dow	Leggett
Bergland	Drinan	Link
Biester	Eckhardt	McClory
Bingham	Edwards, Calif.	McCloskey
Blatnik	Erlenborn	McCormack
Boggs	Esch	McDade
Bolling	Evans, Colo.	McFall
Brademas	Fascell	Madden
Brasco	Fish	Mailliard
Brown, Mich.	Foley	Matsunaga
Burke, Mass.	Fraser	Mayne
Burton	Frenzel	Meeds
Byrne, Pa.	Gallagher	Melcher
Carey, N.Y.	Green, Pa.	Miller, Calif.
Celler	Gude	Minish
Chisholm	Hanley	Mink
Clay	Harrington	Mitchell
Collins, Ill.	Hathaway	Moorhead
Conable	Hawkins	Morgan
Conte	Hechler, W. Va.	Morse
Conyers	Heckler, Mass.	Mosher

XUM

Moss	Rangel	Selberling
Murphy, Ill.	Reid, N.Y.	Steiger, Wis.
Nix	Reuss	Stokes
Obey	Riegle	Symington
O'Neill	Rodino	Thompson, N.J.
Patten	Roncalio	Van Deerlin
Pepper	Rooney, N.Y.	Vanik
Perkins	Rosenthal	Waldie
Podell	Rostenkowski	Whalen
Preyer, N.C.	Roy	Wolff
Price, Ill.	Roybal	Yates
Quie	Ryan	Zwach

NOT VOTING—74

Adams	Gubser	Rees
Aspin	Halpern	Roberts
Aspinall	Hamilton	Ruppe
Baker	Hanna	Sarbanes
Barrett	Hansen, Idaho	Scheuer
Belcher	Hébert	Sebelius
Blanton	Hosmer	Sisk
Brown, Ohio	Jarman	Skubitz
Broyhill, Va.	Johnson, Calif.	Smith, N.Y.
Burke, Fla.	Jones, Tenn.	Staggers
Cabell	Kee	Stanton,
Carney	Koch	J. William
Culver	Lloyd	Stephens
Davis, Ga.	Long, La.	Stuckey
Dennis	Lujan	Taylor
Derwinski	McClure	Teague, Tex.
Diggs	McCulloch	Udall
Dowdy	Martin	Ullman
Dwyer	Metcalfe	White
Edwards, La.	Mikva	Widnall
Findley	Mills, Ark.	Wiggins
Flowers	Patman	Wright
Forsythe	Pirnie	Wyatt
Frey	Poage	Wylie
Griffiths	Railsback	Zion

So the amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. ESCH TO THE AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ESCH. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the gentleman from Michigan offering an amendment to the Ashbrook amendment?

Mr. ESCH. Yes.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ESCH to the amendment offered by Mr. ASHBROOK:

The amendment is amended by striking the period at the end thereof and inserting: "; *Provided, however,* that this prohibition shall not apply to a local educational agency which is carrying out a plan of racial desegregation of its schools pursuant to the order of a court of competent jurisdiction."

Mr. CELLER. Mr. Chairman, I ask unanimous consent that the amendment be reread.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GERALD R. FORD. Reserving the right to object, Mr. Chairman, I only do this to clarify a parliamentary situation. I wish the time would not be taken out of the time of the gentleman from Michigan (Mr. ESCH).

As I understand the parliamentary situation, the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) is pending. We have just approved the amendment to the amendment offered by the gentlewoman from Oregon. I am concerned where in the text the amendment of the gentleman from Michigan (Mr. ESCH) would appear.

The CHAIRMAN pro tempore. The Chair is now entertaining a unanimous-consent request of the gentleman from New York that the amendment be reread.

Mr. GERALD R. FORD. May I amend the request of the gentleman from New York? If the amendment of the gentleman from Ohio could be read as amended by the amendment of the gentlewoman from Oregon as proposed to be amended by the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Will the gentleman yield for a moment?

Mr. GERALD R. FORD. I yield.

Mr. ESCH. I would just state to the gentleman from Michigan, our distinguished minority leader, that my amendment does not affect either the Ashbrook amendment as amended by the Green amendment. My amendment goes at the end of the Ashbrook amendment as amended.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York that the amendment be reread?

There was no objection.

The Clerk reread the amendment.

Mr. ESCH. Mr. Chairman, I think that this is a perfecting amendment to the amendment of the gentleman from Ohio.

This amendment does one thing and it does it very clearly. It is a perfecting amendment.

I believe that the Members can support this amendment, irrespective of their views on segregation. It does just this one thing: It says that, even though we have made prohibitions against using funds for busing, those prohibitions will not apply to those school districts that are already under a plan of carrying out racial desegregation of its schools pursuant to a court order.

There are now approximately 2,000 school districts in this country which are under court order to bus. I do not believe there is a Member in this House who would say that, if there is a court order to bus, that the Federal Government then should not be responsible to help that local school district in the busing operation. This is the essence of this amendment. It strikes just at those areas which are under court order and it explicitly states that, where they are under court order, funds can be used for busing purposes.

Mr. Chairman, I would urge the Members to support the amendment.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Illinois.

Mr. PUCINSKI. The first question which I have to propound to the gentleman from Michigan is this: Will this then not encourage courts to order massive busing plans, even though other plans might be appropriate, simply because the gentleman has made sure that the Federal Government is going to pay for all of the busing?

Mr. ESCH. I would say to the gentleman that the amendment which has been adopted and which was offered by the gentleman from Michigan (Mr. BROOMFIELD) does not apply in any case until it is carried to its highest appeal, and the second answer is "no," given the amendment of the gentlewoman from Oregon. My answer would be "no."

Mr. PUCINSKI. Mr. Chairman, if the gentleman will yield further, the gentleman has said to the gentleman from Michigan (Mr. GERALD R. FORD) that this proviso goes at the end of the amendment offered by the gentlewoman from Oregon (Mrs. GREEN). This means then that in the case of court-ordered districts, HEW and all the things that Mrs. GREEN proposed would be permissible and operative if this proviso is approved?

Mr. ESCH. In the case of court-ordered districts, the provisions of the prohibition embodied in this particular amendment would not apply. This would not allow the courts to order busing to take place and then have the Federal Government turn around and refuse to help pay for those busing problems.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. ESCH. I yield to the gentleman from Alabama.

Mr. ANDREWS of Alabama. As a matter of fact, your amendment would continue busing where courts have ordered busing; is that right? It would apply mostly to the South; is that right?

Mr. ESCH. I would answer the gentleman this way: If a school district is under court order to bus, they are going to have to bus in any case. What my amendment does is not to require busing but to say that Federal funds can be used to help local school districts that are in financial trouble with reference to school busing, and in order to do so——

Mr. ANDREWS of Alabama. Does the gentleman say "busing?"

Mr. ESCH. I say that this is the Esch amendment.

Mr. ANDREWS of Alabama. And it would apply in the South only.

Mrs. GREEN of Oregon. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I shall not take 5 minutes.

The amendment which I offered and which has just been approved had one prohibition. It said that Federal funds cannot be spent for a particular purpose and that nobody in the executive branch or any Federal agency can require a State or local school district to spend their funds for the purposes that the expenditure of Federal funds is prohibited.

As I understand the amendment which has been offered by the gentleman from Michigan and, maybe, this was not the gentleman's intent, he adds with a comma, "provided however that this prohibition"—and I must interpret that as a prohibition in the amendment which I offered. This prohibition, the expenditure of State and local funds shall not apply to a local agency carrying out a racial desegregation plan pursuant to an order of a court of competent jurisdiction.

Now, what it is saying is that you still will have to spend your local or State funds for the purpose for which you do not want to allow the Federal funds to be spent. All I am saying is that if this Congress in its wisdom decides that the Federal funds shall not be spent for these purposes I think it is hyprocrisy to turn around and then give another branch of the Federal Government the authority to go into the local districts and say you have to spend your local funds for that. Let us decide whether or not Federal funds are to be spent for it. If they are to be spent, then I would have no objection. But I think it is very unwise, and I think it is real hypocrisy. I have great affection and admiration for my friend, the gentleman from Michigan, but this simply erases in my judgment the amendment which was just voted on.

Mr. HAYS. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Ohio.

Mr. HAYS. Mr. Chairman, I think the gentlewoman has put the exact and correct interpretation on it, there is no question about it. I did not see who it was, but whoever it was who said that it was aimed primarily at the South was putting the correct interpretation on that, there is no question about that.

Mr. WAGGONNER. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I will be glad to yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I thank the gentlewoman for yielding.

The thing we have to remember as we give consideration to this proposed, so-called perfecting amendment, is that you are undoing what you have just started doing, and that is that we have begun, finally, to express a national policy in opposition to busing, period. And that is what we must continue to do, and you cannot relax this prohibition if you are going to have a prohibitive policy against busing.

Mr. BROWN of Michigan. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I would say as a lawyer that this amendment smacks of champerty and maintenance because a voluntary plan which would not justify the use of Federal funds, could be submitted to the courts and when decreed, under the Esch amendment, Federal funds could be used—in effect, the Esch amendment would encourage litigation.

Mr. ASHBROOK. Mr. Chairman, will the gentlewoman yield?

Mrs. GREEN of Oregon. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, the gentlewoman from Oregon has stated the case exactly. I would merely like to add, on her time, because I do not think it is necessary to take a full 5 minutes to do so, that while I appreciate the intentions of the gentleman from Michigan, it is not correct to say that his is a perfecting amendment to either of our amendments. It would be correct to say that it vitally changes not only the thrust, but the purposes of those amendments, and I would suggest that the amendment be defeated.

The CHAIRMAN pro tempore. The time of the gentlewoman from Oregon has expired.

Mr. BENNETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the gentleman from Michigan (Mr. ESCH) would respond to me I would appreciate it.

Would it be an accurate statement to say that the amendment you have offered is intended by the words "this prohibition" to apply to the first sentence of the prohibition of the Ashbrook amendment rather than to the Green amendment?

Mr. ESCH. If the gentleman will yield, the gentleman is correct in that it applies to the Ashbrook amendment, as amended.

Mr. BENNETT. That being the case, Mr. Chairman, I would like to say something. I do not often speak on the floor of the House, as you all know. I used to vote for the Whitten amendment with the idea that it would accomplish something I thought by the process of announcing that no funds should be spent for busing for racial ratios that in fact there would be no busing for racial ratios. I voted for those things hoping that would be so, because I oppose this idea of racial ratios being achieved by busing. But I have come to the conclusion that is no longer so. I know it is no longer so. I believe you are indulging in fighting windmills if you think it is so any longer.

The courts will decree busing for racial ratios if they desire to do so, and nothing that you say, by saying there are not going to be any Federal funds involved in it, will change it one iota, not even if you say there will not be any State or local funds involved in it at all.

Now look at my home district. Sixty-nine percent of the students of the district I represent are bused for racial ratios. About 85,000 students are bused for racial ratios.

My congressional district is 20 to 30 miles wide, and my school district is as wide and has 800-and-some-odd square miles, and people are bused in this tremendous district through the downtown traffic all the way across town—black people as well as white people—and they are furious about it. As a matter of fact, black people appealed the decision of the local court which had to do with busing because, they said, "it is hard enough to raise children in 1970 and 1971 without busing them for hours before daybreak and after dark across the city of Jacksonville, which is a big city."

So the truth of the matter is, as I stand before you tonight, it does not make any difference whether you say there are going to be no Federal funds for busing or not, because the courts are going to go ahead and say there is going to be busing, and the money is going to come out of the teachers' salaries, and out of gym and out of art classes, and out of things that could enrich education.

So let us not kid ourselves about it. Time is passed. It has gone. So I, myself, am supporting the Ashbrook amendment and am supporting the Esch amendment today, because I think this does only justice. How cruel can you be to a community like mine—which is not a rich community. It is a northern Florida community.

Anybody who knows Jacksonville knows what a wonderful city it is. But the average income of both black and white in the community that I represent is low. It is not the Gold Coast of Florida. There are people who have a hard time raising the money to send their kids to school and to have adequate schooling.

The courts have decreed that all the people, these multithousands of people, a tremendous percentage of our population, shall be bused across the center of Jacksonville and shall be bused in all directions as is now being done. This is in a school system that is barely able to hold its head up anyway. In fact, all the schools in my district were nonaccredited as of about 2 or 3 years ago.

We were about making our way out of it by passing bond issues and that sort of thing, and then came along the court decisions which decided we had to bus for racial ratios.

So I plead with you tonight. Do not be emotional about it. Be thoughtful about it. The courts are going to make decisions that you have to bus whether you have Federal, State, or local funds and it is going to come out of adequate education. So I plead with you to please support the Esch amendment and the Ashbrook amendment.

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in support of the Esch amendment.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am happy to yield to the gentleman from Michigan.

Mr. ESCH. Mr. Chairman, I appreciate the comment of the preceding gentleman. I think he raised the very point of clarification as to the intent of the Esch amendment.

The intent of the Esch amendment is to do one thing and that is to allow Federal funds—but not to require—allow Federal funds to be used in cases covered by a court order of desegregation.

I cannot accept personally the fact that the courts throughout this land have ordered local school districts to bus, with the most adverse experiences that our young children have had in those situations, and have it wreck the total educational system.

May I remind you there are 2,000 school districts that are under court order now. As the gentleman from Florida so eloquently stated the case for one of them, they cannot themselves financially bear the cost of busing. The intent of this amendment is not to encourage—and that is a false assumption—it is not to encourage busing; it is not to require busing. The intent is to provide that in the case where there has been court-ordered busing that we can use Federal funds to help those local school districts. You who have local school districts surely know what the intent of this amendment would do.

Mr. Chairman, I appreciate the gentleman yielding.

Mr. STEIGER of Wisconsin. Mr. Chairman, I must say in all honesty I have heard few more thoughtful, rational statements from the statement of the gentleman from Florida.

I cannot help but be impressed by the fact that we can tilt at windmills, as the distinguished gentleman suggested—or

XUM

XUM

walk up the aisle and down again in an effort to prevent funds from being used for busing, but the end product of our effort will still be busing and the forced use of local funds to pay for what the Federal courts order.

At least the decision to include the Esch amendment would make it possible for the Federal Government to bear a portion of its responsibility for the decisions of the Federal courts. It would not make a local school district suffer because we prevent funds under this act or another act to be used for that purpose. I think it is just that simple.

I must admit that while there are 2,000 districts under court orders, there is an additional 2,000 districts under HEW orders, and it seems to me there is every bit as much reason for the Federal Government to help pay for what its executive branch is doing. I would prefer to see the Esch amendment apply also to orders of HEW. While it does not, the language of the amendment would prevent us from falling completely off the cliff.

I hope the amendment will be adopted.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am delighted to yield to the gentleman from Illinois.

Mr. McCLORY. The gentleman makes a logical argument. I rise in support of the Esch amendment and hope the Esch amendment to the Ashbrook amendment will be adopted.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. Of course, I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. If I correctly understood the gentleman from Michigan, he placed his language immediately after the amendment which I offered separated only by a comma, and it reads, *"Provided, however,* That this prohibition * * *"

Now, I do not interpret that as Federal funds. I interpret that as applying only to the amendment which I offered, and if the gentlemen does not intend that, then may I suggest that it should be placed immediately after the Ashbrook amendment and not after the amendment which I have offered.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I am pleased to yield to the gentleman from Michigan for purposes of clarification.

Mr. ESCH. The prohibition applies to section 408 as amended, which in this case starts out—

No funds appropriated for carrying out any applicable program may be used for the transportation of students—

et cetera. Your amendment amended that, but in all cases the reference to funds would be applicable. Obviously it would be applicable throughout section 408.

Mrs. GREEN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I yield to the gentlewoman from Oregon.

Mrs. GREEN of Oregon. The gentleman speaks of "prohibition." There are two prohibitions.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. The gentlewoman from Hawaii is recognized.

Mrs. MINK. Mr. Chairman, I think that most of us have not paid careful attention to the precise language of the Ashbrook amendment. We are debating the issue of busing and neglecting what the language actually provides. It says that "no funds appropriated for the purpose of carrying out any applicable program may be used for transportation," and so forth. The comprehensive amendment offered by the gentleman from Ohio (Mr. ASHBROOK) would cover such programs as the impact program, Public Law 874. Many Members of this House are vitally concerned about funds they receive under Public Law 874. The Ashbrook amendment would cover these funds which are now going into these school districts and which once they are allotted are not identified in any separate way as Federal funds.

If you know anything about the utilization of moneys your receive from the Federal Government under Public Law 874, you know that one of the great advantages of Public Law 874 is that it comes with no restrictions on how it may be spent. It is considered part of the general revenues of your school district. It is applicable for any purpose whatsoever.

The Ashbrook amendment would place limitations upon your school district in the use of those funds. If a school district is under court order and is prohibited by the Ashbrook amendment from the use of Federal funds to comply with the court order, I am sure there are some in this body who would say, "Well, they could use local funds for this purpose. If they do it voluntarily, this is perfectly all right."

May I suggest the Ashbrook amendment amended by the Green amendment would prohibit your school district from using any of your local funds whatsoever even voluntarily for the purpose of complying with the court order, because your local funds will be so commingled with Public Law 874 moneys as to be indistinguishable. There would accordingly be not one single dollar available for compliance with the court order. This is the disaster, I believe, that is thrust upon us by the consideration of an amendment of this kind, which attempts to deal with an emotional issue and which does not attempt to realistically meet the facts of the day.

We know what our courts have said with respect to desegregation of our schools. Nothing we do in this Chamber is going to change that. The gentleman from Florida pointed that out quite eloquently. We all know that we will be facing tonight another amendment known as the Emergency School Desegregation Act. I submit at that time it will be more appropriate to address ourselves to the question of busing. During that debate we could address ourselves to busing which would relate to the matter of providing funds for desegregation. Let us not now, with a general prohibition, complicate all the other Federal programs which this House and this Congress have provided our school districts with—a very comprehensive amendment—which will have the effect in nearly every school district of preventing even voluntary action on the part of the school officials to comply with the intention of our Constitution and the orders of the Supreme Court.

Mrs. GREEN of Oregon. Mr. Chairman, I ask unanimous consent that all debate on this amendment and amendments thereto close in 10 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. SEIBERLING. Mr. Chairman, I object.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I move that all debate on this amendment and amendments thereto end in 10 minutes.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentlewoman from Oregon (Mrs. GREEN).

The motion was agreed to.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, I think we are acting in great haste tonight. We are reversing the clock in this House and turning our backs on the people of this country. We are voting against integration, and we are voting against the welfare of our children, and we are voting to deprive them of funds, and we are voting to deprive them of the future.

Mr. Chairman, I vote against the amendment and urge all Members to do so.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, one-third of a minute is hardly time enough to say anything, but let me say this for those who would be swayed by the gentleman from Florida. I, for one, am not going to give in to a judicial dictatorship. The people who elected me to come up here wanted me to represent their views, not to throw up my hands in despair and say that the Court is all powerful and anything ordered by the Court will not be opposed by me, an elected Representative of the people. The people are the masters of this land and not the nonelected members of the Court. Where I and the people I represent believe the Court has perverted the Constitution by their decision, it is my duty to do all that is legal and within my power as an elected Representative to the U.S. Congress to correct the wrong done by the Court. This included withholding funds which would otherwise be used to carry out the Court order.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I think we are working ourselves into a position where this House is going to look ridiculous no matter which way we vote on these half-baked, ill-considered amendments on school busing. We are not legislating as a deliberative body should. The chairman of the Judiciary Committee (Mr. CELLER) made a suggestion which gives us a rational way out of this blind alley. He is going to hold hearings before his committee on the whole question of school busing.

We should await the results of those hearings before acting on this very important issue.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. WOLFF).

PRIVILEGED MOTION OFFERED BY MR. WOLFF

Mr. WOLFF. Mr. Chairman, I take my time to send to the desk a privileged motion.

The Clerk read as follows:

Mr. WOLFF of New York moves to strike all after the enacting clause.

The CHAIRMAN pro tempore. The Chair will state that the motion in the form offered is not in order in the Committee of the Whole and it cannot be entertained.

Mr. WOLFF. Mr. Chairman, I move that the Committee strike the enacting clause and report the bill back to the House.

The CHAIRMAN pro tempore. Does the gentleman have his motion in writing at the Clerk's desk?

Mr. WOLFF. I do not.

The CHAIRMAN pro tempore. The Chair will state that the motion is not in order.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, I take this time to call attention to the fact that this would be an invitation in every instance in every community to go into court, because by going into court the court could relieve them from all the prohibitions that are contained in the amendment. It would be an invitation to trouble.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, I hate to believe that the statement of the gentleman from Florida is correct and that this body has lost its lawmaking authority. If this is true, I would call the attention of my colleagues to the fact that I have a discharge petition at the desk to limit the term of a Federal judge to 10 years, with the right to be renominated and reconfirmed for additional terms. I urge the Members to sign the petition.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I merely want to make one statement. The illusion has been held out that the courts will order busing schemes regardless of what we do here and, therefore, we must provide Federal funds for court-ordered busing. This is not logic. This is sideways thinking. The facts of life are very simple. The more Federal funds we make available, the more busing schemes will be foisted on the American people. The less Federal funds made available for busing, the fewer schemes will be perpetrated. Let us not encourage busing by telling the courts that we will pick up the bill where they order busing for racial reasons. Let us vote down the Esch amendment and adopt the Ashbrook-Green amendment.

The CHAIRMAN pro tempore. The Chair would like to have order in the Chamber.

The gentleman's time has expired.

The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, the question I have is: In view of the Broomfield amendment, which was adopted today, at what point does the Esch amendment apply, after all the remedies have been applied, or with the first court order?

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Michigan.

Mr. ESCH. The Esch amendment would apply after all remedies had been exhausted, and the decision final.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL. Mr. Chairman, that is all the time I need to indicate that this body has taken action tonight which engendered the kind of action taken at the United Nations. This has been an evening of national disgrace.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oklahoma (Mr. EDMONDSON).

Mr. EDMONDSON. Mr. Chairman, I join in regretting the time limitation which confronts us at this time, and the impossibility of dealing with inequities in the Esch amendment. It is impossible to deal through such an amendment with the problem and costs of a district that has integrated and put busing into effect under coercion or direction of HEW and not a court. I believe we have a real problem there, and the Esch amendment does not meet it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Georgia (Mr. BLACKBURN).

Mr. BLACKBURN. Thank you, Mr. Chairman.

Members of the committee, I just want to make one observation. The amendment of the gentleman from Michigan would give notice to the courts that we will endorse anything a court orders in the future and that we will agree to finance it. Gentlemen, I do not believe that is a proper exercise of the legislative function. I urge a vote against the Esch amendment on that basis.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

(By unanimous consent, Mr. BENNETT yielded his time to Mr. ESCH.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, this amendment definitely will do one thing. If you do not have busing in your neighborhood it is going to bring it in. I just want to make it plain. If you want the Esch amendment, to encourage the courts, it will bring it to your neighborhood.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Thank you, Mr. Chairman.

I would say to my colleague from Florida (Mr. BENNETT), I can appreciate the dilemma of the people in Jacksonville, Fla.; but let me say in all sincerity I don't believe the people in my district would want me voting for money that we do not have, for buses we do not need, to send children to schools they should not be attending in the first place.

I say vote the amendment down.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, in view of the shortness of time I should like to ask a parliamentary inquiry of the Chair. Are we working under a time limitation for all amendments to the Ashbrook amendment?

The CHAIRMAN pro tempore. The amendment and all amendments thereto.

Mr. KAZEN. In view of this limitation of time I will not be able to ask the author some questions I have on the main amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. I yield back my time, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. KEITH).

Mr. KEITH. Mr. Chairman, as I understand this, if you are obeying the law, you have to pay your own way. If you are disobeying the law and are taken to court, then the Government will pay your cost of the busing. If that is the case I will have to vote against the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oregon (Mr. DELLENBACK).

(By unanimous consent, Mr. DELLENBACK yielded his time to Mr. ESCH.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, as a member of the Committee on Appropriations, I would say that the result of the Esch amendment is self-explanatory. The more money we appropriate, the more busing you will get; the less money we appropriate, the less busing you will be forced to accept. It is that simple. This amendment does not require busing—agreed. However, by the same token, it does not prevent busing either. Do not be fooled by this "perfecting" amendment; because, while it does not require busing, it does certainly encourage it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. BELL).

Mr. BELL. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Michigan (Mr. ESCH).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. BLACKBURN. Mr. Chairman, I object.

Mr. BELL. Mr. Chairman, I yield to the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman, I appreciate

XUM

the gentleman yielding and the courtesy extended to me.

It should be reemphasized that the intent of the amendment is to cover section 408.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, in connection with a national legislature such as we have here, this is an indignity and a shameful reflection on the U.S. House of Representatives.

Mr. Chairman, a series of 20-second speeches—barely a breath and a blurted half sentence—on an issue of momentous importance to the Nation—might be amusing in a musical comedy spoof of the national legislature of the mythical kingdom of Graustark, but today in Washington it is an indignity and a shameful reflection on the U.S. House of Representatives.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Indiana (Mr. LANDGREBE).

Mr. LANDGREBE. There is no proof that the quality of education has been improved by busing. Therefore I support the Ashbrook-Green amendment without addition of the Esch amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. Mr. Chairman, I am afraid, well-meaning as this may be, this amendment is a blank check to the courts to continue and perpetuate some of the mischief that has been brought on our public schools.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. ESCH).

Mr. ESCH. Mr. Chairman and members of the Committee, I take my 1 minute with some misgivings sensing the mood of the House. Yet I would emphasize that the intent of the amendment as offered was not in any way to require busing but to focus attention on those children who are injured in cases where there has been court-ordered busing.

I would agree with the gentleman from Oklahoma, who makes a valid point that it would be more beneficial to include all, both HEW-required and court-ordered required, school districts.

I would hope the Members of the House will look upon this not as a busing or an antibusing amendment, but rather tonight accept the responsibility of assuming that our children, black and white, in those 2,000 school districts covered by court orders, will receive a proper education.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Oregon (Mrs. GREEN).

Mrs. GREEN of Oregon. Mr. Chairman, I still think the Esch amendment in effect completely nullifies the amendment I offered.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. ESCH) to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) as amended.

The question was taken; and on a division (demanded by Mr. ESCH) there were—ayes, 95, noes 162.

TELLER VOTE WITH CLERKS

Mr. THOMPSON of New Jersey. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. THOMPSON of New Jersey. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mrs. GREEN of Oregon, Mr. ESCH, Mrs. MINK and Mr. STEIGER of Wisconsin.

The Committee divided, and the tellers reported that there were—ayes 146, noes 216, not voting 69, as follows:

[Roll No. 356]

[Recorded Teller Vote]

AYES—146

Abourezk	Edwards, Calif.	Mink
Absug	Erlenborn	Mitchell
Adams	Esch	Monagan
Addabbo	Evans, Colo.	Moorhead
Albert	Fascell	Morse
Anderson, Calif.	Fish	Mosher
Anderson, Ill.	Foley	Moss
Annunzio	Forsythe	Obey
Ashley	Fraser	O'Neill
Badillo	Frelinghuysen	Patten
Begich	Frenzel	Pepper
Bell	Gallagher	Pickle
Bennett	Grasso	Pike
Bergland	Green, Pa.	Podell
Biester	Gude	Preyer, N.C.
Bingham	Hanna	Price, Ill.
Blatnik	Harrington	Quie
Boggs	Hathaway	Rangel
Boland	Hechler, W. Va.	Reid, N.Y.
Bolling	Heckler, Mass.	Reuss
Brademas	Helstoski	Riegle
Brasco	Hicks, Wash.	Robison, N.Y.
Brooks	Hillis	Rodino
Burke, Mass.	Holifield	Roncallo
Burton	Jacobs	Rooney, N.Y.
Byrne, Pa.	Jonas	Rosenthal
Carey, N.Y.	Karth	Roush
Celler	Kastenmeier	Roy
Chisholm	Kazen	Roybal
Clay	Kluczynski	Ryan
Collins, Ill.	Kyl	St Germain
Conable	Leggett	Schwengel
Conte	Link	Scott
Conyers	Long, Md.	Selberling
Corman	McClory	Steiger, Wis.
Coughlin	McCloskey	Stokes
Daniels, N.J.	McCormack	Symington
Danielson	McDade	Thompson, N.J.
de la Garza	McFall	Thone
Dellenback	McKay	Van Deerlin
Dellums	Madden	Vanik
Dent	Mailliard	Veysey
Donohue	Matsunaga	Waldie
Dorn	Mayne	Whalen
Dow	Mazzoli	Wilson, Bob
Drinan	Meeds	Wolff
du Pont	Melcher	Wydler
Eckhardt	Mikva	Yates
	Minish	Zwach

NOES—216

Abbitt	Chamberlain	Ford, Gerald R.
Abernethy	Chappell	Ford, William D.
Alexander	Clancy	Fountain
Anderson, Tenn.	Clark	Fulton, Tenn.
Andrews, Ala.	Clausen, Don H.	Fuqua
Andrews, N. Dak.	Clawson, Del	Galifianakis
Archer	Cleveland	Garmatz
Arends	Collier	Gaydos
Ashbrook	Collins, Tex.	Gettys
Baring	Colmer	Giaimo
Betts	Cotter	Gibbons
Bevill	Crane	Goldwater
Blaggi	Daniel, Va.	Gonzalez
Blackburn	Davis, S.C.	Goodling
Bow	Davis, Wis.	Gray
Bray	Delaney	Green, Oreg.
Brinkley	Denholm	Griffin
Broomfield	Devine	Gross
Brotzman	Dickinson	Grover
Brown, Mich.	Dingell	Hagan
Broyhill, N.C.	Downing	Haley
Buchanan	Dulski	Hall
Burleson, Tex.	Duncan	Hammer-schmidt
Burlison, Mo.	Edmondson	Hanley
Byrnes, Wis.	Edwards, Ala.	Hansen, Wash.
Byron	Ellberg	Harsha
Caffery	Eshleman	Harvey
Camp	Evins, Tenn.	Hastings
Carter	Fisher	Hawkins
Casey, Tex.	Flood	Hays
Cederberg	Flowers	Heinz
	Flynt	
Henderson	Montgomery	Schneebeli
Hicks, Mass.	Morgan	Shipley
Hogan	Murphy, Ill.	Shoup
Horton	Murphy, N.Y.	Shriver
Hull	Myers	Sikes
Hungate	Natcher	Slack
Hunt	Nedzi	Smith, Iowa
Hutchinson	Nelsen	Snyder
Ichord	Nichols	Spence
Johnson, Pa.	Nix	Springer
Jones, Ala.	O'Hara	Stanton, James V.
Jones, N.C.	O'Konski	Steed
Keating	Passman	Steele
Keith	Pelly	Steiger, Ariz.
Kemp	Perkins	Stratton
King	Pettis	Stubblefield
Kuykendall	Peyser	Sullivan
Kyros	Poff	Talcott
Landgrebe	Powell	Teague, Calif.
Landrum	Price, Tex.	Terry
Latta	Pryor, Ark.	Thompson, Ga.
Lennon	Pucinski	Thomson, Wis.
Lent	Purcell	Tiernan
McCollister	Quillen	Ullman
McDonald, Mich.	Randall	Vander Jagt
McEwen	Rarick	Vigorito
McKevitt	Rhodes	Waggonner
McKinney	Robinson, Va.	Wampler
McMillan	Roe	Ware
Macdonald, Mass.	Rogers	Whalley
Mahon	Rooney, Pa.	Whitehurst
Mann	Rostenkowski	Whitten
Mathias, Calif.	Rousselot	Widnall
Mathis, Ga.	Ruth	Williams
Michel	Sandman	Winn
Miller, Ohio	Sarbanes	Wyman
Mills, Md.	Satterfield	Yatron
Minshall	Saylor	Young, Fla.
Mizell	Scherle	Young, Tex.
Mollohan	Scheuer	Zablocki
	Schmitz	

NOT VOTING—69

Aspin	Hamilton	Roberts
Aspinall	Hansen, Idaho	Ruppe
Baker	Hébert	Sebelius
Barrett	Hosmer	Sisk
Belcher	Howard	Skubitz
Blanton	Jarman	Smith, Calif.
Brown, Ohio	Johnson, Calif.	Smith, N.Y.
Broyhill, Va.	Jones, Tenn.	Staggers
Burke, Fla.	Kee	Stanton, J. William
Cabell	Koch	Stephens
Carney	Lloyd	Stuckey
Culver	Long, La.	Taylor
Davis, Ga.	Lujan	Teague, Tex.
Dennis	McClure	Udall
Derwinski	McCulloch	White
Diggs	Martin	Wiggins
Dowdy	Metcalfe	Wilson, Charles H.
Dwyer	Miller, Calif.	Wright
Edwards, La.	Mills, Ark.	Wyatt
Findley	Patman	Wylie
Frey	Pirnie	Zion
Griffiths	Poage	
Gubser	Railsback	
Halpern	Rees	

So the amendment to the amendment was rejected.

The CHAIRMAN pro tempore (Mr. ROSTENKOWSKI). The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) as amended.

TELLER VOTE WITH CLERKS

Mr. ASHBROOK. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ASHBROOK. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Messrs. ASHBROOK, QUIE, and REID of New York and Mrs. GREEN of Oregon.

The Committee divided, and the tellers reported that there were—ayes 234, noes 124, not voting 73, as follows:

[Roll No. 357]

[Recorded Teller Vote]

AYES—234

Abbitt	Archer	Biester
Abernethy	Arends	Blackburn
Alexander	Ashbrook	Bow
Anderson, Tenn.	Baring	Bray
Andrews, Ala.	Bennett	Brinkley
Andrews, N. Dak.	Betts	Brooks
	Bevill	Broomfield
	Blaggi	Brotzman

Brown, Mich.	Hammer-schmidt	Preyer, N.C.
Broyhill, N.C.	Hansen, Wash.	Price, Tex.
Buchanan	Harsha	Pryor, Ark.
Burleson, Tex.	Harvey	Pucinski
Burlison, Mo.	Hastings	Purcell
Byrnes, Wis.	Hays	Quillen
Byron	Heinz	Randall
Caffery	Henderson	Rarick
Camp	Hicks, Mass.	Rhodes
Carter	Hillis	Robinson, Va.
Casey, Tex.	Hogan	Roe
Cederberg	Horton	Rogers
Chamberlain	Hull	Rooney, Pa.
Chappell	Hungate	Roush
Clancy	Hunt	Rousselot
Clark	Hutchinson	Roy
Clausen, Don H.	Ichord	Runnels
Clawson, Del	Jacobs	Ruth
Cleveland	Johnson, Pa.	St Germain
Collier	Jonas	Sandman
Collins, Tex.	Jones, Ala.	Sarbanes
Colmer	Jones, N.C.	Satterfield
Conable	Keating	Saylor
Cotter	Keith	Scherle
Coughlin	Kemp	Schmitz
Crane	King	Schneebeli
Daniel, Va.	Kluczynski	Schwengel
Davis, S.C.	Kuykendall	Scott
Davis, Wis.	Kyl	Shipley
Delaney	Landgrebe	Shoup
Devine	Landrum	Shriver
Dickinson	Latta	Sikes
Dingell	Lennon	Slack
Downing	Lent	Smith, Calif.
Dulski	Long, Md.	Snyder
Duncan	McCollister	Spence
du Pont	McDade	Springer
Edmondson	McDonald, Mich.	Stanton, James V.
Edwards, Ala.	McEwen	Steed
Eilberg	McKevitt	Steele
Esch	McKinney	Steiger, Ariz.
Eshleman	McMillan	Stratton
Evins, Tenn.	Macdonald, Mass.	Stubblefield
Fish	Mahon	Sullivan
Fisher	Mann	Talcott
Flood	Mathias, Calif.	Teague, Calif.
Flowers	Mathis, Ga.	Terry
Flynt	Mazzoli	Thompson, Ga.
Ford, Gerald R.	Michel	Thomson, Wis.
Ford, William D.	Miller, Ohio	Thone
Forsythe	Mills, Md.	Tiernan
Fountain	Minshall	Ullman
Frelinghuysen	Mizell	Vander Jagt
Fulton, Tenn.	Mollohan	Vanik
Fuqua	Montgomery	Veysey
Galifianakis	Myers	Vigorito
Garmatz	Natcher	Waggonner
Gaydos	Nedzi	Wampler
Gettys	Nelsen	Ware
Giaimo	Nichols	Whalley
Gibbons	O'Hara	Whitehurst
Goldwater	O'Konski	Whitten
Goodling	Passman	Widnall
Grasso	Pelly	Williams
Green, Oreg.	Pettis	Winn
Griffin	Peyser	Wydler
Gross	Pickle	Wyman
Grover	Pike	Yatron
Hagan	Poff	Young, Fla.
Haley	Powell	Young, Tex.
Hall		Zablocki

NOES—124

Abourezk	Conyers	Heckler, Mass.
Abzug	Corman	Helstoski
Adams	Daniels, N.J.	Hicks, Wash.
Addabbo	Danielson	Holifield
Albert	de la Garza	Karth
Anderson, Calif.	Dellenback	Kastenmeier
Anderson, Ill.	Dellums	Kazen
Annunzio	Denholm	Kyros
Ashley	Dent	Leggett
Badillo	Donohue	Link
Begich	Dorn	McClory
Bell	Dow	McCloskey
Bergland	Drinan	McCormack
Bingham	Eckhardt	McFall
Blatnik	Edwards, Calif.	McKay
Boggs	Erlenborn	Madden
Boland	Evans, Colo.	Matsunaga
Bolling	Fascell	Mayne
Brademas	Foley	Meeds
Brasco	Fraser	Melcher
Burke, Mass.	Frenzel	Mikva
Burton	Gonzalez	Minish
Byrne, Pa.	Green, Pa.	Mink
Carey, N.Y.	Gude	Mitchell
Celler	Hanley	Monagan
Chisholm	Hanna	Moorhead
Clay	Harrington	Morgan
Collins, Ill.	Hathaway	Morse
Conte	Hawkins	Mosher
	Hechler, W. Va.	Moss
	Murphy, Ill.	Reid, N.Y.
	Murphy, N.Y.	Reuss
	Nix	Riegle
	Obey	Robison, N.Y.
	O'Neill	Rodino
	Patten	Roncallo
	Pepper	Rooney, N.Y.
	Perkins	Rosenthal
	Podell	Rostenkowski
	Price, Ill.	Roybal
	Quie	Ryan
	Rangel	Selberling

NOT VOTING—73

Aspin	Halpern	Rees
Aspinall	Hamilton	Roberts
Baker	Hansen, Idaho	Ruppe
Barrett	Hébert	Scheuer
Belcher	Hosmer	Sebelius
Blanton	Howard	Sisk
Brown, Ohio	Jarman	Skubitz
Broyhill, Va.	Johnson, Calif.	Smith, N.Y.
Burke, Fla.	Jones, Tenn.	Staggers
Cabell	Kee	Stanton, J. William
Carney	Koch	Stephens
Culver	Lloyd	Stuckey
Davis, Ga.	Long, La.	Taylor
Dennis	Lujan	Teague, Tex.
Derwinski	McClure	Udall
Diggs	McCulloch	White
Dowdy	Martin	Wiggins
Dwyer	Metcalfe	Wilson, Charles H.
Edwards, La.	Miller, Calif.	Wright
Findley	Mills, Ark.	Wyatt
Frey	Patman	Wylie
Griffiths	Pirnie	Yates
Gubser	Poage	Zion
	Railsback	Zwach

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. CHAPPELL

Mr. CHAPPELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHAPPELL: Page 28, after line 4, insert the following as section 2005:

All data, statistics, or other information required by the Secretary to make determinations with respect to entitlements to any moneys under the Elementary and Secondary grants shall be obtained by him from the appropriate State educational agency. The Secretary shall require such State educational agency to provide only such data, statistics, or other information to him as is or are essential to enable him to carry out his duties under this Act.

And renumber the following section.

Mr. CHAPPELL. Mr. Chairman, the purpose of this amendment is simply to require the Secretary to go to the State agency rather than to the local school district for the information which is necessary to support the various applications for moneys under the elementary and secondary school grants and to require of such State agency only pertinent information.

The need for this legislation come to the attention of the Florida delegation through the Florida State agency which requested it, because the local school boards are not and the State agencies are properly equipped to efficiently furnish the tremendous volume of information required by HEW to support applications for funds. Further HEW has been requesting much information not pertinent to the applications. I urge its adoption.

Mrs. GREEN of Oregon. Will the gentleman yield?

Mr. CHAPPELL. I am glad to yield to the gentlewoman.

Mrs. GREEN of Oregon. Mr. Chairman, I cannot speak for everybody on the other side, but I personally see nothing wrong with the amendment. I am willing to accept it. It simply says we go to the State agency to get the material.

Mr. CHAPPELL. Thank you very much.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. CHAPPELL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PUCINSKI

Mr. PUCINSKI. Mr. Chairman, we are at the conclusion of title XX, and I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PUCINSKI: On page 282 after line 3 insert a new Title XXI as follows:

"TITLE XXI—EMERGENCY SCHOOL AID

"SEC. 2101. This title may be cited as the 'Emergency School Aid Act of 1971'.

PURPOSE AND POLICY

"SEC. 2102. (a) The purpose of this title is to provide financial assistance—

"(1) to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools, and

"(2) to encourage the voluntary elimination, reduction, or prevention of racial isolation in elementary and secondary schools with substantial proportions of minority group students.

"(b) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

"APPROPRIATIONS

"SEC. 2103. (a) There are authorized to be appropriated for carrying out this title not in excess of $500,000,000 for the fiscal year ending June 30, 1972, and not in excess of $1,000,000,000 for the succeeding fiscal year.

"(b) Funds appropriated under subsection (a) shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

"(c) From the sums appropriated under subsection (a) for each fiscal year there shall be reserved to the Secretary an amount equal to not less than 4 per centum of the sums so appropriated for the purpose of carrying out bilingual education programs in accordance with section 2105 (e).

"ALLOTMENTS AMONG STATES

"SEC. 2104. (a) From the sums appropriated pursuant to section 2103 (a) for carrying out this title for any fiscal year, the Secretary shall allot an amount equal to 90 per centum among the States by allotting to each State $100,000 plus an amount which bears the same ratio to the balance of such 90 per centum of such sums as the aggregate number of children aged five to seventeen, inclusive, in the State who are Negroes, American Indians, Spanish-surnamed Americans, or members of other racial minority groups (such as Orientals, Alaskan natives, and Hawaiian natives) as determined by the Secretary, bears to the aggregate number of such children in all of the States. The remainder of such sums (other than sums reserved under section 2103(c) may be expended by the Secretary as he may find necessary or appropriate (but only for activities described in section 2106 and in accordance with the other provisions of this title) for grants or contracts to carry out the purpose of this title stated in section 2102(a). The number of such children shall be determined by the Secretary on the basis of the

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most recent available data satisfactory to him.

"(b)(1) The amount by which any allotment to a State for a fiscal year under subsection (a) exceeds the amount which the Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reallotment to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a fiscal year shall be deemed part of its allotment under subsection (a) for such year.

"(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Secretary shall not fix a date for reallotment, pursuant to this subsection, of any portion of any allotment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any allotment to a State for a fiscal year shall be available for reallotment pursuant to this subsection unless the Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such allotment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 2106, 2107, and 2108, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title stated in section 2102(a) that their approval is not warranted.

ELIGIBILITY FOR FINANCIAL ASSISTANCE

"SEC. 2105. (a) The Secretary shall provide financial assistance by grant upon application therefor approved in accordance with this title to a local educational agency—

"(1) which is implementing a plan—

"(A) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of racially segregated students of faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of racial isolation in such schools; or

"(B) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of racially segregated students or faculty in such schools;

"(2) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of racial isolation in all the racially isolated schools in the school district of such agency;

"(3) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan—

"(A) to eliminate or reduce racial isolation in one or more of the racially isolated schools in the school district of such agency,

"(B) to reduce the total number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), who are in racially isolated schools in such district, or

"(C) to prevent racial isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 10 per centum, but not more than 50 per centum, of the enrollment consists of such children;

"(4) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing racial isolation in one or more of the school districts to which such plan relates; or

"(5) which, upon a determination by the Secretary—

"(A) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), and

"(B) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b),

"has established or will establish one or more stable, quality, integrated schools. For the purposes of this paragraph, an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Secretary determines that the number of children who are not in groups described in clause (A) constitutes that proportion of the enrollment which will achieve stability, in no event more than 70 per centum thereof, and (ii) a faculty which is representative of persons who are Negroes, American Indians, or Spanish-surnamed Americans, or members of other racial minority groups as determined by the Secretary under section 2104(a) and persons who are not members of such groups in the population of the larger community in which it is located, or, whenever the Secretary determines that the local educational agency concerned is attempting to increase the proportions of racial minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the racial minority group and nonminority group faculty employed by the local educational agency.

"(b) The Secretary is authorized to make grants to local educational agencies, which are eligible under subsection (a)(5), for unusually promising pilot programs or projects designed to overcome the adverse effects or racial isolation by improving the academic achievement of children in one or more racially isolated schools, if he determines that the local educational agency had a number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a) enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which is at least 15,000.

"(c) In cases in which the Secretary finds that it would effectively carry out the purpose of this title stated in section 2102(a), he may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan or activity described in subsection (a).

"(d)(1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

"(A) transfered (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determiantion by such agency that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice discrimination on the basis of race, color, or national origin in the operation of any school activity;

"(B) had in effect any practice, policy, or procedure which results in this disproportionate demotion or dismissal of instructional or other personnel from racial minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

"(C) in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of racial minority group from nonminority group children;

"(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of racial minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

"except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

"(2) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

"(3) All determinations and waivers pursuant to this subsection shall be in writing.

"(e)(1) The Secretary shall carry out a program to meet the needs of children who are from an environment in which the dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 2103(C) the Secretary is authorized to make grants to and contracts with—

"(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under this section, designed to meet the special educational needs of children who are from environments in which the dominant language is other than English for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the groups of which such children are members;

"(B) local educational agencies eligible for assistance under this section for the purpose of engaging in such activities;

"(C) local educational agencies eligible for assistance under this section for the purpose of carrying out activities authorized under section 2106 of this title to implement curricula developed under clause (A) or (B) or curricula otherwise developed which the Secretary determines meets the needs described in clause (A).

In making grants and contracts under this paragraph, the Secretary shall assure that sufficient funds from the amount reserved pursuant to section 2103(c) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Secretary determines meet the needs described in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary education personnel.

"(2)(A) In order to be eligible for a grant or contract under this subsection—

"(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

"(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

"(B) A program or project committee or board established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the group, the educational needs of which the program or project is intended to meet.

"(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under this section. The Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

AUTHORIZED ACTIVITIES

"SEC. 2106. Financial assistance under this title shall be available for programs or projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 2102(a), including—

"(1) remedial and other services to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 2105 or a program described in section 2109(2), when such services are deemed necessary to the success of such plan, activity, or program;

"(2) the provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of racial isolation) and the training and retraining of staff for such schools;

"(3) comprehensive guidance, counseling, and other personal services for such children;

"(4) development and employment of new instructional techniques and materials designed to meet the needs of such children;

"(5) educational programs using shared facilities for career education and other specialized activities;

"(6) innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 2104(a), and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

"(7) repair of minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of equipment) and the lease or purchase of mobile classroom units or other mobile educational facilities;

"(8) community activities, including public education efforts, in support of a plan or activity described in section 2105 or a program described in secton 2109(2);

"(9) special administrative activities, such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a plan or activity described in section 2105 or a program described in section 2109(2);

"(10) planning and evaluation activities; and

"(11) other specially designed programs or projects which meet the purpose of this title stated in section 2102(a).

CRITERIA FOR APPROVAL

"SEC. 2107. (a) In approving applications submitted under this title (except for those submitted under section 2105(e) and 2109(2)), the Secretary shall apply only the following criteria:

"(1) the need for assistance, taking into account such factors as—

"(A) the extent of racial isolation (including the number of racially isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

"(B) the financial need of such school district as compared to other school districts in the State.

"(C) the expense and difficulty of effectively carrying out a plan or activity described in section 2105 in such school district as compared to other school districts in the State, and

"(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceed those of other school districts within the State;

"(2) the degree to which the plan or activity described in section 2105, and the program or project to be assisted, are likely to effect a decrease in racial isolation in racially isolated schools, or in the case of applications submitted under section 2105(a)(3)(C), the degree to which the plan and the program or project, are likely to prevent racial isolation from occurring or increasing (in the absence of assistance under this title);

"(3) the extent to which the plan or activity described in section 2105 constitutes a comprehensive district-wide approach to the elimination of racial isolation, to the maximum extent practicable, in the schools of such school district;

"(4) the degree to which the program or project to be assisted affords promise of achieving the purpose of this title stated in section 2102(a);

"(5) that (except in the case of an application submitted under section 2109(1)) the amount necessary to carry out effectively the program or project does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

"(6) the degree to which the plan or activity described in section 2105 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

"(b) The Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

ASSURANCES

"SEC. 2108. (a) An application submitted for approval under this title shall contain such information as the Secretary may prescribe and shall contain assurances that—

"(1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Secretary;

"(2) the applicant has adopted effective procedures, including provisions for such objective measurements of educational and other change to be effected by this title as the Secretary may require for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs or projects and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

"(3) the applicant will provide such other information as the Secretary may require to carry out the purpose of this title stated in section 2102(a);

"(4) the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made; and

"(5) staff members of the applicant who work directly with children, and professional staff of such applicant who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed or otherwise treated without regard to their membership in a racial minority group, except that no assignment pursuant to a court order or a plan approved under title VI of the Civil Rights Act of 1964, or otherwise adopted under section 2105, will be considered as being in violation of this subsection.

"(b) An application for assistance under this title submitted by a local educational agency shall, in additon to meeting the requirements of subsection (a), contain satisfactory assurances that—

"(1) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 2102(a) or, in the case of an application under section 2105(e), would assist in meeting the needs described in paragraph (1)(A) of that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

"(2) such agency has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

"(3) the current expenditure per pupil (as defined in section 2111(a)) which such agency makes from revenues derived from its local sources for the academic year for which assistance under this title will be made avail-

able to such agency is not less than the current expenditure per pupil which such agency made from such revenues for (A) the academic year preceding the academic year during which the implementation of a plan or activity described in section 2105 or in section 2109(2) was commenced, or (B) the third academic year preceding the academic year for which such assistance will be made available, whichever, is later;

"(4) the plan with respect to which such agency is seeking assistance (as specified in section 2105(a)(1)) does not involve freedom of choice as a means of desegregation, unless the Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

"(5) for each academic year for which assistance is made available to the applicant under this title, such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner of Education;

"(6) such agency will not institute or have in effect any practice, policy, or procedure prohibited by clause (B), (C), or (D) of section 2105(d)(1);

"(7) such agency will not engage in a transaction described in clause (A) of section 2105(d)(1); and

"(8) such agency will carry out, and comply with, all provisions, terms, and conditions of any plan or activity as described in section 2105 or section 2109(2) upon which a determination of its eligibility for assistance under this title is based.

"(c) The Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency a reasonable time to modify its application.

"(d) The Secretary may, from time to time, set dates by which applications shall be filed.

"(e) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be an agency described in section 2105(a) or (e) or section 2109 and any one or more of such agencies joining in such application may be authorized to administer such program or project.

"SPECIAL PROGRAMS

"SEC. 2109. From the funds available to him under the second sentence of section 2104(a) the Secretary is authorized to make grants—

"(1) to eligible local educational agencies to carry out model or demonstration programs related to the purpose of this title stated in section 2102(a) if in the Secretary's judgment these programs make a special contribution to the development of methods, techniques, or programs designed to eliminate racial segregation or to eliminate, reduce, or prevent racial isolation in elementary or secondary schools; and

"(2) to local educational agencies to carry out programs for children who are from environments where the dominant language is other than English and who, (A) as a result of limited English-speaking ability, are educationally deprived, (B) have needs similar to the needs of other children participating in programs or projects assisted under this title, and (C) attend a school in which they constitute more than 50 per centum of the enrollment.

"PAYMENTS

"SEC. 2110. (a) Upon his approval of an application for assistance under this Act, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor the amount fixed for such application.

"(b) The Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

"(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 2106(b), the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 2102(a) or in the case of an application under section 2105(e) would assist in meeting the needs described in paragraph (1)(A). The service to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 2105(e), from the funds reserved under section 2103(c), or in case of an application under section 2109, from the sums available to the Secretary under the second sentence of section 2104(a).

"(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

"(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 2106(b), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

"(d) After making a grant or contract under this title, the Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

"(e) The amount of financial assistance to a local educational agency under this title may not exceed those net additional costs which are determined by the Secretary, in accordance with regulations prescribed by him, to be the result of the implementation of a plan or activity described in section 2105(a), (b), or (e), or of the operation of a program under section 2109(2).

"DEFINITIONS

"SEC. 2111. As used in this title, except when otherwise specified—

"(a) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditures made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

"(b) The term 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

"(c) The term 'gifted and talented children' means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

"(d) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

"(e) The term 'nonprofit' as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(f) The terms 'racially isolated school' and 'racial isolation' in reference to a school mean a school and condition, respectively, in which Negro, American Indian, or Spanish-surnamed American children, or children who are members of other racial minority groups as determined by the Secretary under section 2104(a), constitute more than 50 per centum of the enrollment of a school.

"(g) The terms 'elementary and secondary school' and 'school' mean a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(h) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(i) The term 'State educational agency' means the State Board of Education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

"(j) The term 'State' means one of the fifty States or the District of Columbia, and for purposes of section 2109, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

"EVALUATION

"SEC. 2112. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this title for any fiscal year shall be available to him under the second sentence of section 2104(a) for evaluation (directly or by grant or contract) of the programs, activities, and projects authorized by this title.

"JOINT FUNDING

"SEC. 2113. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under this title, any one Federal agency may be designated to act for all in administering the funds advanced.

"NATIONAL ADVISORY COUNCIL

"SEC. 2114. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representatives of racial minority groups, appointed by the President, which shall—

"(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the implementation of the criteria for the approval of applications;

"(2) review the operation of the program (A) with respect to its effectiveness in achieving the purpose stated in section 2102(a), and (B) with respect to the Secretary's conduct in the administration of the program;

"(3) meet not less than four times in the period during which the program is authorized and submit through the Secretary to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

"(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

"(b) The Commissioner shall submit an estimate under the authority of section 401(c) and part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

"REPORTS

"SEC. 2115. The Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed 'Emergency School Assistance' in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 2102(a). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than two times annually.

"GENERAL PROVISIONS

"SEC. 2116. (a) The provisions of parts B and C of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

"(b) Section 422 of such General Education Provisions Act is amended by inserting 'the Emergency School Aid Act of 1971;' after 'the International Education Act of 1966,'.

"PROHIBITION AGAINST BUSING

"SEC. 2117. No funds appropriated pursuant to this title may be used to acquire or pay for the use of equipment for the purpose of transporting children to or from any school, or otherwise to pay any part of the cost of any such transportation.

"NEIGHBORHOOD SCHOOLS

"SEC. 2118. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially non-discriminatory basis to adopt any other method of student assignment whether or not the use of such geographic attendance areas results in the complete desegregation of the schools of such agency."

Mrs. GREEN of Oregon (during the reading). Mr. Chairman, I believe this amendment has been available for every Member of the House, and in the interest of saving time I ask unanimous consent that it be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. QUIE. Mr. Chairman, reserving the right to object, I ask a question of the gentleman from Illinois.

Did he have his amendment printed in the RECORD?

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman.

Mr. PUCINSKI. The amendment is printed in the RECORD on page H10293 of this morning's edition of the CONGRESSIONAL RECORD.

Mr. QUIE. Mr. Chairman, I withdraw my reservation of objection.

Mr. GROSS. Mr. Chairman, further reserving the right to object, is this amendment the gentleman offers the bill that the House defeated by a substantial majority on Monday of this week?

Mr. PUCINSKI. This is an amendment to the Higher Education Act. It is title XXI with some major changes.

Mr. GROSS. With major changes?

Mr. PUCINSKI. Yes.

Mr. GROSS. How many and what major changes?

Mr. PUCINSKI. I will be very happy to discuss that when I am recognized under my regular order.

Mr. GROSS. Under your regular order? I did not think the House had gotten a special order yet.

Mr. PUCINSKI. We are proceeding in the regular order, and I will answer the gentleman's question at the proper time.

Mr. GROSS. And the gentleman will explain this to the third shift when it comes on at midnight?

Mr. PUCINSKI. I will explain it to the people who are here when I am recognized in regular order. The gentleman has posed a question.

Mr. GROSS. How many amendments does the gentleman have?

Mr. PUCINSKI. I do not have any amendments. The amendment pending at the desk is a complete amendment as far as this Member is concerned.

Mr. GROSS. One amendment?

Mr. PUCINSKI. Yes.

Mr. GROSS. Embodying some extractions from Monday's operation and some additions. Is that correct?

Mr. PUCINSKI. That is correct.

Mr. GROSS. I wonder how we are supposed to know without it having been read what the amendment contains.

Mr. PUCINSKI. I know the gentleman is an avid reader of the CONGRESSIONAL RECORD and the wisest Member in the Chamber. I know he has read the RECORD, and it is in the CONGRESSIONAL RECORD.

Mr. WAGGONNER. Will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Louisiana.

Mr. WAGGONNER. Let us try to clarify what the amendment is. We have been here too long to start refusing to answer questions. The gentleman is entitled to know what changes have been made since the bill was voted on under suspension on Monday.

There have been five basic changes made. The purpose and findings have been changed to coincide more nearly with the purposes of the bill. Initially, on page 25 of the bill, that language having to do with appropriations, objected to by the gentleman from Texas (Mr. MAHON), the chairman of the House Committee on Appropriations, and Mr. BOW, the ranking minority member, has been removed from the bill.

Additional language has been removed in the final section of the bill having to do with paying attorneys' fees and court costs in the instance of the side which prevails, and two amendments which add a total prohibition against busing and a neighborhood school amendment.

That constitutes the bulk of the change almost entirely as contrasted to the provisions of the bill which was voted on under suspension on Monday.

Mr. GROSS. Mr. Chairman, with that information I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. BOLAND). Is there objection to the request of the gentlewoman from Oregon?

Mr. COLMER. Mr. Chairman, reserving the right to object, I understand that this amendment, if this unanimous-consent request is granted, will be in order. My inquiry is whether in connection with this reservation at what point would a point of order be proper to raise?

The CHAIRMAN pro tempore. The Chair will respond to the gentleman from Mississippi by stating that if the pending unanimous-consent request is agreed to and the gentleman from Mississippi then raises a point of order, the Chair will entertain that point of order and consider it.

Mr. COLMER. I thought I misunderstood the Chair.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentlewoman from Oregon that the amendment be considered as read?

XUM

Mr. CLAY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

The Clerk proceeded to read.

PARLIAMENTARY INQUIRY

Mr. PUCINSKI. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. PUCINSKI. Is it in order to point out that this bill has been read once before and it took about 18 minutes?

The CHAIRMAN pro tempore. The Chair will state to the gentleman that that is not a parliamentary inquiry.

Mr. PUCINSKI. I thank the Chair.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk proceeded to read.

Mr. PUCINSKI. Mr. Chairman, I renew the unanimous-consent request that the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. CLAY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk proceeded to read.

Mr. WILLIAM D. FORD. Mr. Chairman, I ask unanimous consent that the amendment be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentleman from Michigan?

There was no objection.

POINT OF ORDER BY MR. COLMER

Mr. COLMER. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. COLMER. Mr. Chairman, in the interest of time, I shall read a statement here with reference to this point of order.

Mr. Chairman, the $1.5 billion secondary education bill now offered in the form of an amendment is not germane under the wildest scheme of consideration that has come up in my recollection.

Mr. Chairman, the germaneness provision is covered in the House Manual under rule XVI, clause 7, and the Manual states that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

Now, I do not have the bill before me, but I think I can quote them. The title of the bill under consideration is the higher education bill. The bill that is offered as an amendment, and which I contend is not germane, deals with elementary education and the integration question.

The fundamental purpose of H.R. 7248, known as the Higher Education Act of 1971, is "to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education." I think it would be a travesty upon parliamentary justice to rule that this amendment, which is H.R. 2266, with some minor amendments, would be in order as an amendment to the Higher Education bill when its fundamental purpose is "to assist school districts to meet special problems incident to desegregation and to the elimination, reduction, or prevention of racial isolation, in elementary and secondary schools."

The fundamental purpose of the measure before us, the higher education bill, is to amend and extend, as I said, the Higher Education Act of 1965, but the fundamental purpose of the proposed amendment, for a $1.5 billion bill itself, is to further desegregate the elementary and secondary schools of the Nation.

The rules could not be plainer. I just cannot see how under any stretch of the imagination this amendment could be considered as germane.

In Cannon's Precedents, Mr. Chairman, we find "the rule providing"—and I hope the Chair will particularly follow this—"that amendments must be germane has been construed as requiring that the fundamental purpose of an amendment be germane to the fundamental purpose of the bill to which it is offered."

The fundamental purpose of the amendment is for elementary schools. The fundamental purpose of the bill which is sought to be amended is for higher education.

It would be absurd, Mr. Chairman, to say that the fundamental purpose of the desegregation bill for secondary schools is germane to the fundamental purpose of the higher education bill. The very purpose of the germane rule in the House is to separate such issues.

Further in support of this point of order, Mr. Chairman, I cite Hinds' Precedents, V–6929, and I quote:

> The principle of germaneness relates to a proposition by which it is proposed to modify some pending bill, and not a portion of the bill itself.

As will be argued here.

Even though the words "and for other purposes" which incidentally are not in the title of the higher education bill—they are supposed to be there to show the nature of the measure.

Even so, the words "for other purposes" are used to embrace subjects outside of the main subjects to which the bill relates and which are reported by the committee itself.

It is clear that fringe subjects have no bearing, as it is the main thrust of the bill that counts.

I call the attention of the Chair that earlier in the evening in ruling on the so-called Whitten amendment, the Chair held that the Whitten amendment was not germane because it dealt with the question of money and segregation and was not embraced in the bill.

Finally, Mr. Chairman, I refer to another ruling in Cannon's Precedents which says that—

> An amendment proposing to add an individual proposition to a bill embodying another individual proposition is not admissible even though the two propositions belong to the same class.

It is clear that although some may claim that both of these bills could be generally considered as being in the education field, each is a separate proposition in the main and the point of order, I insist, should be upheld in accordance with the rules and precedents of the House.

Mr. Chairman, I have a number of other precedents here, but I shall not take the time of the Chair and of the Members of the House.

Mr. Chairman, my purpose in making this point of order is to try to preserve the sanctity of the rules of this House. I do not think this is a question, and I am sure the Chair shares that view, that should be decided upon a question of convenience or expediency, but it should be decided in accordance with the precedents of the House of Representatives which clearly make the amendment not germane.

The CHAIRMAN. Does the gentleman from Illinois (Mr. PUCINSKI) desire to be heard upon the point of order?

Mr. PUCINSKI. Yes, Mr. Chairman, I wish to speak in opposition to the point of order.

Mr. Chairman, the title of H.R. 7248 notwithstanding, the totality of this bill is concerned with higher education and as it relates to elementary and secondary education.

The title of this bill is not controlling, but rather the subject matter of the bill.

There are numerous provisions throughout this bill dealing with elementary and secondary acts, many of them have been amended in the titles that have already been accepted.

We have accepted some changes in the Vocational and Education Act, ESEA, extensions of title III and NDEA and, finally, the Ashbrook amendment that was just adopted by an overwhelming vote dealt with a number of amendments or a number of educational bills which have been amended by the Ashbrook amendment as well as by the previous amendments adopted by the House during the consideration of this legislation.

Therefore, Mr. Chairman, it is my contention that the nature of this bill, and all the preceding titles that have already been adopted dealing with elementary and secondary education—this amendment that is now pending affects the elementary and secondary education as well as higher education. So in my judgment the amendment I have offered which is pending before the House at this time is proper and is in order and I request that the point of order against it be overruled.

The CHAIRMAN pro tempore (Mr. BOLAND). Does the gentleman from North Carolina desire to be heard on the point of order?

Mr. RUTH. Mr. Chairman, I do. I realize the germaneness of a bill is a technical point. But in case the Chair is in doubt, I would like to review the situation because it may have some bearing on the Chair's decision. And I hope you have not reached one.

I would like to remind this body of some very strange things that happened in the Education and Labor Committee. As a member of the subcommittee which handled the desegregation bill or the Emergency Education Act, I think this body should be informed that the bill was finished in the subcommittee several days ago before the higher education bill and, as we expected it to come before the full committee, like an act from Heaven, we got the word from our chairman that the Democratic caucus had said that the higher education bill must precede the desegregation bill. There was not much to do but to accept this, and so we did.

Then, lo and behold, the Rules Committee came forward and said:

> We have now passed a rule on the higher education bill and we are not passing any more rules; so the desegregation bill cannot have a rule.

That was a little alarming to this Member who has been here but 3 years, and I would feel remiss if I did not inform you people and the Chair what transpired.

When our bill went to the full committee and was pushed back while the higher education bill came up, I did not get too suspicious, but then when the Rules Committee said that we could not have a rule, even the gentleman from North Carolina, from the South, began to get a little suspicious. And when the chairman of the Rules Committee tonight decided that this route which we were taking was not germane, I was not a bit surprised.

I would like to say that in all fairness, because of the strange ways in which things have happened—and it was not the intention of anybody who was for this bill or on the subcommittee to bring it up under suspension of the rules, but it was the only opportunity that we had—under suspension of the rules, it got the name of a busing bill. It got the name so firmly that even this Member voted against it.

We have now made it clear that this is not a busing bill. It is a desegregation bill. And if there ever was a dollar of Federal funds spent in secondary or elementary education, this is the most appropriate, because these are expenditures which the people in your school district need because of acts which we passed which forced desegregation on them, and if you are in contact with any of your school superintendents, I will assure you that they need this money.

I would like to conclude, Mr. Chairman, by stating again that this humble Member realizes that this is a technical situation, but I do hope you will consider what I have said.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. RUTH. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I wish to commend my colleague for calling these facts to the attention of the House, and merely add that every conceivable wrecking device has been used to keep this bill from the floor.

Mr. RUTH. I think I made that clear, and it is certainly a pleasure to be on the same side as the gentleman from Illinois.

The CHAIRMAN pro tempore (Mr. BOLAND). The Chair is prepared to rule. The Chair appreciates the counsel of all Members who have addressed themselves to the point of order.

The gentleman from Mississippi (Mr. COLMER) has raised a point of order against the amendment offered by the gentleman from Illinois (Mr. PUCINSKI) on the ground that the amendment is not germane to the bill under consideration. With reference to the remarks of the gentleman from Mississippi concerning the Chair's earlier ruling on the substitute amendment offered by the gentleman from Mississippi (Mr. WHITTEN) the Chair states that that ruling was on the germaneness of the substitute amendment to the amendment offered by the gentleman from Michigan (Mr. BROOMFIELD) and not to its germaneness to the bill.

The Chair is aware, as pointed out in the discussion on this point of order, that the title of the pending bill is "to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education;" but the title of a bill is not determinative of its scope, and the text of this bill, as amended and perfected by the Committee of the Whole, goes beyond the single subject matter of higher education.

The bill includes title X on discrimination in educational programs. This title reaches beyond higher education and is applicable to all educational programs, including elementary and secondary.

The bill also includes a title on youth camp safety, another matter not specifically related to higher education.

There is also title XIV, relating to the evaluation of Federal education programs, which relates as well to programs in the field of elementary and secondary education as it does to higher education.

The Chair would also point out that the Elementary and Secondary Education Act of 1965 is amended in several respects by the pending committee amendment in the nature of a substitute.

Where a bill contains so many diverse topics, the addition of other topics within the same general category may be germane. Here the general subject matter is education. The amendment deals with that subject. The Chair, therefore, holds the amendment germane and overrules the point of order.

The Chairman recognizes the gentleman from Illinois (Mr. PUCINSKI) for 5 minutes in support of his amendment.

Mr. PUCINSKI. Mr. Chairman, this amendment before us now is almost identical to the bill this House had passed by a 2-to-1 majority last December, when we had a similar bill here, except that this bill does not have the so-called William Ford amendment to which the gentleman from Texas (Mr. MAHON) had objected, because it placed certain limitations on the Appropriations Committee.

This bill today, however, differs substantially from the measure presented to the House last Monday, in that this amendment does not have legal fees that were in the bill Monday, but it does have an antibusing amendment suggested by the President, and it also has a definition of neighborhood schools, which we hope will be at least some guideline for courts in ascertaining what the legislative intent is on the neighborhood school situation.

I am not going to belabor the subject of busing any more, because I am sure that has been discussed adequately here.

This is a good bill which was carefully drawn by our subcommittee to meet the needs of schools which are now facing in many instances enormous problems of integration, schools that are under court orders or are in changing communities or changing neighborhoods. There are enormous problems in many of our schools.

This bill attempts to deal with those problems by giving administrators and teachers and principals of schools the money to help deal with the problems. That is why I was not particularly disturbed that we passed an antibusing amendment. I supported the antibusing amendment because this is not a transportation bill. This bill is designed to help school administrators deal with probably the most serious problem in American education in the history of American education.

I want to stress, however, Mr. Chairman, that no school can be compelled to participate in this program nor can any school be forced to integrate under this bill. This legislation is designed to help those schools forced to integrate because of court order or some other compulsion.

But I want to make crystal clear that this bill specifically provides nothing in this measure that can be construed to require a school to bus either students or teachers to overcome racial imbalance.

But in those schools forced to integrate by a court order, we see problems sweeping the country north, south, east, and west. This is the first time we have tried to come forward with a bill that will give the people some opportunity to try to cope with the problem.

It is tragic that this bill has had such a tough course. I do not like to bring this bill up at midnight tonight, but that is the only opportunity we have. We tried. We have been forced to go through the process of reading this bill over and over in our subcommittee, because of parliamentary demands by some members who have tried to impede the progress of this bill. As I say, every wrecking device imaginable was used to keep this bill from coming to the floor.

We have the busing question out of the way. Any effort to use this bill for busing is dead. We can now take a look at this bill on its merits. This bill is designed to help school administrators hire additional teachers they need as well as counseling and guidance and remedial education programs.

It will do all of the other things that are necessary to try to meet new problems with which many teachers are confronted and for which they are totally unprepared.

This bill provides funds to retrain teachers. In White Plains, N.Y., the superintendent told us that one of the most serious problems he had in his city was that very often white teachers had no concept of how to deal with the many problems minority children brought to school. So there was disunity, upheaval, dissention, and violence.

XUM

We had hearings in New York City a couple of weeks ago, and we found that 67 teachers had been assaulted so far this year, 27 of them raped, and one of them sprayed with lighter fluid and a match thrown at her. In Boston there were 200 teachers assaulted.

There are enormous problems to deal with. We need to help the local communities deal with the problems.

Are we going to shut down shop and let them struggle, let the schools be resegregated, and let the public schools go down the drain?

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. PUCINSKI was allowed to proceed for 5 additional minutes.)

Mr. PUCINSKI. Mr. Chairman, the fact remains that we do have a serious problem in this country. This bill has been carefully thought through. This is not something we wrote in some heat of passion. It is a bipartisan bill. It comes before this House presented by Members who carefully studied the problem. I do hope we can consider this and approve it.

I know we are dealing with an explosive problem but in the final analysis, it is children—schoolchildren—who suffer most. I do hope the House will adopt this legislation.

I wish to announce that starting next week, we will hold hearings on a general aid bill—the President's revenue sharing proposal—which will bring massive assistance to schools which are not qualified for relief under the bill. I am most anxious to get urgently needed help to these schools.

Mr. Chairman, I now yield to the gentlewoman from Oregon, the chairman of our subcommittee.

Mrs. GREEN of Oregon. Mr. Chairman, I should like to see if we can reach an agreement on time. This was debated last Monday. There is no Member here who does not know what is in the bill.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude in 30 minutes.

The CHAIRMAN pro tempore. Is there objection to the unanimous-consent request of the gentlewoman from Oregon?

Mr. QUIE. Mr. Chairman, reserving the right to object, I do so to point out that on Monday we had only 40 minutes in order to debate the bill. One of the reasons why it was defeated was that Members were denied the opportunity to express themselves.

I recognize most Members know what is involved, but one of the problems was the time limitation. With this number of Members present, I do not think we should be limited to 1 minute each. If the gentlewoman would look over the situation, perhaps we could get a more reasonable time.

Mrs. GREEN of Oregon. Mr. Chairman, the gentleman almost asks me to limit it to 10.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Oregon?

Mr. BADILLO. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 45 minutes.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentlewoman from Oregon (Mrs. GREEN).

The motion was agreed to.

The CHAIRMAN pro tempore. The Chair will recognize the named Members for one and three-quarters minutes.

The Chair now recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, I ask unanimous consent to yield my time to Mr. BADILLO.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

Mr. EDWARDS of Alabama. Mr. Chairman, I object.

Mr. WILLIAM D. FORD. Mr. Chairman, is it proper under the rules to recognize the members of the committee first in the order of seniority?

The CHAIRMAN pro tempore. The gentleman is correct. The Chair had intended to recognize the committee members toward the end, but the Chair will be glad to recognize the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. WILLIAM D. FORD. Mr. Chairman, I had intended that the Chair recognize the gentlewoman from Oregon.

The CHAIRMAN pro tempore. As the gentleman knows, it is customary for the chairman of the committee to close debate.

The Chair now recognizes the gentleman from Michigan (Mr. WILLIAM D. FORD).

SUBSTITUTE AMENDMENT OFFERED BY MR. WILLIAM D. FORD FOR THE AMENDMENT BY MR. PUCINSKI

Mr. WILLIAM D. FORD. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Substitute amendment offered by Mr. WILLIAM D. FORD for the amendment offered by Mr. PUCINSKI:

Strike out Section 2101 and all that follows and insert in lieu thereof the following:

SEC. 2101(a). The Commissioner of Education shall make a full and complete investigation and study to determine the extent of the need of local educational agencies in the Nation for assistance in meeting their special needs incident to carrying out plans for the elimination of racial segregation and discrimination among students and faculty in their elementary and secondary schools.

(b) The Commissioner of Education shall make a report to the Congress on the results of the study and investigation required by subsection (a) on or before July 1, 1972.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. WILLIAM D. FORD. I yield to the gentleman.

Mr. SCHEUER. Mr. Chairman, I ask unanimous consent that I be allowed to yield my time to the gentleman from Michigan (Mr. WILLIAM D. FORD).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. EDWARDS of Alabama. Mr. Chairman, I object.

Mr. WILLIAM D. FORD. Mr. Chairman, this amendment very simply strikes out all after the title in the first sentence of the Pucinski amendment and directs the Secretary of HEW to make a study of the subject matter of the Pucinski amendment and report back to this body on or before June 30, 1971, so that we can take up this very touchy subject under certainly more normal conditions.

I do not think any of us are proud of the performance that we have all taken part in tonight. I do not think any of us are happy about the way in which we have been legislating. Certainly we should not burden as important a piece of legislation as the Higher Education Act which has been worked out for the past 4 days with this very complicated 40-page amendment at this point.

It is all very well to talk about the fact that one or two issues are involved here that disturb people. The plain fact of the matter is that it is full of problems for everybody concerned, and people of good faith on all sides of a number of these issues would like to have an opportunity to work them out.

The principle we proceeded on when the administration asked for this legislation was that the money was needed in order to bus children. We have decided here today that we will not use Federal dollars to bus children. That being the case, the premise on which this legislation has rested for 2 years has now been eliminated.

I suggest that we send this back to the Secretary of Health, Education, and Welfare to see what he can come up with next year.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, I yield to the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. WILLIAM D. FORD. Mr. Chairman, I do not want anyone to think that this is in any way a tricky amendment. It is very plain and simple. It provides for sending the Pucinski amendment back to the administration for a study and specific recommendations. We had a specific recommendation which was the form of the legislation that passed through the subcommittee but then on August 3 of this year the administration changed its position on it.

Mr. Chairman, the principal purpose of this bill has been changed 180°. Since that time there has been absolute confusion in the country as to what if anything we would be able to do with this $1.5 billion if we passed this legislation.

The CHAIRMAN pro tempore. The Chair would inquire if any member of the committee would like to speak to the amendment which has been offered by the gentleman from Michigan (Mr. WILLIAM D. FORD)?

Mrs. GREEN of Oregon. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. Chairman, on Monday there was a vote of 135 to 222 on the amendment offered by the gentleman from Illinois (Mr. PUCINSKI). There have been some changes in it now, but in essence it is the same bill.

It seems to me that what this House ought to do is to recognize the needs of the schools across the country. The Education and Labor Committee ought to give serious consideration and this administration ought to give serious consideration to what is happening in our schools, especially in the urban centers. There we should bring in a bill that would do something for our schools.

Instead of this $1.5 billion bill, which the gentleman from Illinois earlier in the year called a massive busing bill, for that was the original intent of the bill, we ought to go back and look at the decay in our schools and look at the disorder, the chaos and violence and then determine to really do something about it.

So, I would hope that the Committee of the Whole House on the State of the Union would give serious consideration to the substitute amendment which has been offered by the gentleman from Michigan and vote on that. As the gentleman from Michigan said, we could go home and come back another day and work on a bill that will do something for our schools.

The CHAIRMAN pro tempore. The Chair would inquire again as to whether or not any member of the committee desires to speak to the amendment which has been offered by the gentleman from Michigan?

Mr. QUIE. Mr. Chairman, I would like to be heard on the amendment.

One of the problems that many of the Member are faced with is the very question that the gentlewoman from Oregon has raised when there is a prohibition against any of the money being used for busing: Is there any need for the assistance?

Mr. Chairman, let me tell the members of the committee briefly—and the gentleman from Illinois (Mr. PUCINSKI) indicated this—this is not a busing bill. He might have called it that earlier in the year, but no money will be used for busing. But there is still a tremendous amount of good that this could be used for.

The bill lists the authorizations and activities which include remedial aid services to meet the special needs of children; the provision of additional professional or other staff members and the training and retaining of staff for such schools; comprehensive guidance, counseling, and other personal services for such children; development and employment of new instructional techniques and materials designed to meet the needs of such children; educational programs using shared facilities for career education and other specialized activities; innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children; repair or minor remodeling or alteration of existing school facilities; community activities, including public education efforts in support of a plan or activity described in this program—the very things that are necessary that a school has to do in order to embark upon a quality program when there is an integration of the school. The President has been willing to permit the use of this additional amount of money for these schools. In fact he asked for it.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER of Wisconsin. I will be delighted to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding, and I think that the Members now ought to put aside any pique they might have. I myself voted against the Ashbrook amendment, but I do not feel any animosity for it. The House decided that no money can be used for busing, so let us not be angry because that is the case, and turn down the rest of the legislation.

Let us not stop the money that was intended for the purposes of this bill, and that the President intended for it. The President has requested that there be $1.5 billion to help in the additional costs of desegregation. Let us let the executive do this, and if it comes to authorizing money, let us get on with the act, because there are a great many more expenditures to improve education other than busing, because of the fact that in the minds of many people these expenditures are wise and necessary. They would be wise expenditures for education that will be needed under the authority that we will provide under the Emergency School Aid Act.

I thank the gentleman for yielding.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I am concerned about the limitation of debate on such a far-reaching measure. Nevertheless debate has been limited——

Mr. PUCINSKI. Mr. Chairman, if the gentleman will yield, will the chairman of the full committee tell this Member why we are here at 12:30, when the gentleman was the author and the chief sponsor in the committee in attempting to wreck the bill, and now he wants to completely wreck it, and we are here only because of his tactics.

Mr. PERKINS. Let me state to my distinguished colleague from Illinois that I have consistently stated that the higher education bill should have and must have priority over the emergency school aid measure. The basic authorization for higher education programs expired 4 months ago. The bill is already a comprehensive piece of legislation with authorizations of over $4 billion annually.

Obviously we will have complex problems to deal with in conference. We will have to work rapidly. Colleges and universities are now in the process of making their budgets, as is the administration and the Office of Education. Even though I have supported the emergency school aid measure in the past and will as separate legislation in the future, I believe we should vote down the Pucinski amendment tonight.

In my judgment our best course of action is to consider these measures separately. To do otherwise may severely complicate progress on both measures.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. BELL).

Mr. BELL. Mr. Chairman, this bill has been around for 18 months. We have all heard it, we have all debated it. A similar bill passed the House last year, but failed to get action in the other body. Much the same bill passed the Senate this year—so we are familiar with this act.

It contains, as has been said before, an absolute prohibition against busing. So that problem is out. The President himself has requested this legislation be passed. And he has requested and said that he will request full funding for this legislation.

The amount of money involved, as you all know, is $1.5 billion. That is what the President is going to request, and there will not be a big difference between the authorization and the appropriation because the needs are such that he hopes to come very close to that figure, when the appropriation is made.

The need for this money is quite apparent. The schools in your home districts are waiting for this money. They are in trouble, and they need help in the national problem of desegregation, not busing, but some of the problems that have to be worked out under desegregation. You all know what the problems are without my taking the time to go into them.

So I think it is fairly evident that there is a great need for this legislation, and I recommend that we pass it.

The CHAIRMAN pro tempore. The Chair would like to inquire again of the remaining listed Members on the time limitation as to whether or not they would desire to speak to the substitute amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD).

Mr. HAWKINS. Mr. Chairman, I do.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, a few moments ago I spoke in opposition to the anti-busing amendment. At that time I said we were given this problem because many school districts had not done what they should have done. I think consistently we should, therefore, make it possible for school districts to do the things they should do quite apart from busing.

The amendment offered by the gentleman from Illinois (Mr. PUCINSKI) would do that. Mr. BELL and I have worked on this matter for more than a year. I think the administration, to its credit, and I am one of the strongest critics of the administration—but I think the administration, to its credit, has offered this new concept for the first time, that this country will deal with the problem of desegregation head on and will make funds available for that purpose.

I would hope that without partisanship we would go along with this program. It is not just the administration's program, it is a program worked out in conjunction with the administration by a bipartisan group of Members of this House.

I think it is a good bill. It is a bill that has never really been discussed because the opposition has opposed open

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and full debate. We have not been given a full opportunity to discuss it. It is an opportunity that I think as Americans we should grasp in behalf of our children—and not think merely of our political fate.

I hope the motion to discuss this matter and to study it which is unnecessary should be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Chairman, I speak on this occasion primarily to those on our side of the aisle.

Mr. ALBERT. Mr. Chairman, will the gentleman yield to me just to make a brief statement?

Mr. GERALD R. FORD. I yield to the distinguished Speaker of the House.

Mr. ALBERT. Mr. Chairman, I am sorry this matter has had to come up under this procedure. I did not like bringing it up under suspension of the rules, but we were faced with a fact situation and not a theory.

This is the only way I know of to consider this legislation and I intend to support it.

Mr. GERALD R. FORD. I thank the distinguished Speaker for that statement. I think it will be extremely helpful and beneficial in defeating the Ford amendment and approving the Pucinski amendment to the higher education bill.

This is an important and critical issue at this juncture in time and I think the Speaker's words will be tremendously influential.

To the Members on my side, we have had a Republican conference and we have by word of mouth done a great deal of work trying to convince Members that we should support this program because it is an integral and vital part of the President's education program.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

The Chair recognizes the gentleman from Ohio (Mr. BOW).

Mr. BOW. Mr. Chairman, I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, as I mentioned, I have a letter from the President of the United States directed to me and dated October 31, 1971. I will only read three or four of the pertinent sentences, but I read them with emphasis because I think the people on our side should respond—and they are as follows:

As you know, I have consistently attached the highest importance to the enactment of the Emergency School Aid Act.

With this in view I wish to reemphasize with you how necessary this bill is. The funds must be available to local school officials for the purposes I have outlined if they are to plan adequately for the opening of school in the Fall of 1972.

Now what are those purposes? Those purposes are set forth in 2½ pages under the title of "Authorized Activities." The gentleman from Minnesota read a number of those authorized activities. They do not relate to busing. They relate to the day-to-day operations of the schools—schools that are under pressure—these are authorized activities that we should support. They are legitimate. They are bona fide.

I urge you as strongly as I can to defeat the Ford amendment and to support the Pucinski amendment as part of the higher education act.

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. ESCH) desire to speak on the Ford amendment.

Mr. ESCH. Yes, Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. ESCH) is recognized.

Mr. ESCH. Mr. Chairman, I rise in support of the Pucinski amendment and against the Ford amendment, as was so eloquently stated by our Minority Leader, the intent of the bill is to aid those schoolchildren in those districts who are facing the problem of school integration. Many thought that my previous amendment was misdirected. But there can be no question about the thrust of the Pucinski amendment. It has nothing to do with busing. It explicitly states that the purpose is to provide funds to help those school districts and those children who face the problems of integration.

I would like to inquire of the gentleman from Illinois, who is chairman of the subcommittee which produced the bill this amendment incorporates, about one critical aspect of eligibility for assistance under this amendment. Will the Secretary be authorized to apply the holding in the Singleton case—which is that you have to have a perfect racial balance in the faculty in every single school in your district—as a condition or requirement for assistance under this program?

Mr. PUCINSKI. The answer is absolutely not. As the gentleman knows, this holding has been applied to applications for assistance under the emergency school assistance program—because that program had no requirements spelled out in legislation and the Secretary applied court decisions as eligibility requirements. He could not do so under this amendment because the amendment is very specific in its terms and imposes no such requirement. If it did, very few school districts could qualify. The Secretary will have to apply the eligibility requirements spelled out in this amendment and those do not include racial balancing of faculty and staff in every school.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Chairman, I rise in opposition to the Ford amendment and yield to the gentleman from North Carolina (Mr. RUTH).

Mr. RUTH. Mr. Chairman, earlier I explained the trials and the tribulations of getting this bill to the floor. With the highest respect for the gentleman from Michigan, I point out that this is another effort to derail the bill, and I hope that you will vote against Mr. FORD's amendment. This gives the House an opportunity to work its will on the desegregation bill which has had all this trouble getting here.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Chairman, this is a very important bill to the schoolchildren throughout the South. It is important to the schoolchildren throughout the South because our schools are in shambles—our black schools, our white schools, and our integrated schools. Over the last 4 years we have had closed more than 400 schools, not because of inadequate facilities, but because they did not have the right racial balance.

In my own district we had a 6-year-old million dollar school, an all-black school was ordered closed by the Federal court because if it remained open, it would have been a segregated school, since all the children attending there were black and lived closer to it than to any other school. Fortunately, the court later reversed its order. But this money will help to provide for quality education of our children. With this money we will not bus or increase integration, but we are going to be attacking the problems of education. We are going to put the problems of busing aside now, and we are going to think about the welfare of the children and their future and the future of this Nation. That is where our money should be spent.

I certainly hope that this committee will turn down the amendment of the gentleman from Michigan (Mr. WILLIAM FORD) and support the Pucinski amendment, because it is needed.

May I say one thing more to those of you who may be concerned, that defeating the antibusing amendment will mean that there may be racially-identifiable schools, black schools, or a white school, true this may be, but if it is an inferior school, whether it is black or white, it should be upgraded, and this money will help do just that. In short, it will not integrate, but educate.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, I have another amendment I wish to offer later.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman and members of the committee, this legislation does not require anything on anybody's part if you do not feel that you have a need for this money. It does require a voluntary application on the part of any school system that feels that they have had or do have problems of desegregation with education. To my knowledge, every major complaint that any individual has made about this bill has been resolved by the committee and by the Department of Health, Education, and Welfare.

I am a practical man. I believe that some time during the 92d Congress we are going to get some sort of bill having to do with emergency assistance. It is my personal opinion that tonight under these circumstances with the language that is embodied in this bill we are going to come about as near to getting a bill that we can utilize and that our school boards can utilize as we will ever get.

We are not going to have any trouble with the Singleton decision having to do with racial quota assignments of teachers. There is nothing retroactive about it. It contains an absolute busing prohibition and a neighborhood amendment. We are going to go to conference with the Senate with a bill that they are going to have to meet us on more than halfway, inasmuch as this will be, if the Members so desire, an amendment or new title to the higher education bill. They have no such bill. I believe our conferees will stand up for this legislation. If they do not we can instruct the conferees.

I urge the Members to vote for the Pucinski amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I rise in support of the Ford amendment and in opposition to the amendment offered by the gentleman from Illinois.

We voted on this issue earlier in the week, and the amendment of the gentleman from Illinois was soundly defeated. My name has been brought into the discussion by the gentleman from Illinois. I objected to the bill earlier this week and especially to certain provisions in the bill and voted against it. This is still a one and one-half billion dollar proposal and it is still, regardless of all our protestations, in my judgment, in effect a roundabout way to enact a probusing amendment in the form of a $1.5 billion amendment.

I think, as the chairman of the Committee on Education and Labor thinks, that this amendment should not be adopted, that these funds should not be provided, and that the amendment of the gentleman from Michigan (Mr. FORD), should be approved.

Under the circumstances there is not enough money in all the land to finance this bill. The original bill provides for $20 billion plus. The additional $1.5 billion, should not be added to an already topheavy measure. I think we will be doing the schools of the country an injustice to lead them to believe that we can finance the huge sums provided in the pending measure. Are we forgetting that the estimated deficit for this year will be at least $35 billion in Federal funds—that the Federal funds deficit last year was $30 billion?

Certainly this is the time when we can at least defeat this $1.5 billion amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK. Mr. Chairman, I rise in support of the Ford amendment. I would like to be associated with the remarks of the gentleman who offered the amendment which seeks a study of the needs of these school systems who are in the process of desegregation.

I would like to advise this House I supported in committee the bill which is now the amendment offered by the gentleman from Illinois. I supported it when it came up before the House on Monday. The Pucinski amendment as it is now being presented, however, lacks specific assurance which we had provided in the bill which was voted on on Monday, which guaranteed against jeopardy of title I ESEA funds and impact aid funds.

The chairman of the Appropriations Committee has put very well the very critical problems facing not only this Congress, but the whole country; which is the lack of funds to provide the necessary quality education for our children.

The emergency desegregation program which was initiated by the President, consisting of $75 million he found to augment the program without congressional approval, threatened funding to these very programs to which I am addressing my remarks. There have been many attempts to curtail the appropriations of impact funds. I submit that if the amendment offered by the gentleman from Illinois is voted on tonight without assurance that title I funds and impact aid funds are protected, we will face a cut in funds again.

If this happens, we will have to be coming before this Congress time after time to seek supplemental appropriations for these two vital programs.

I urge support of the Ford amendment.

Mr. PUCINSKI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. First, Mr. Chairman, I shall place in the RECORD at the appropriate time a letter from the Secretary to the chairman of this committee, assuring the chairman that there will be no transfer of funds from existing programs to this program.

There was testimony before the committee, and the Secretary reaffirmed that principle, that this would be new money.

Secondly, the gentleman from Texas made a point about the lack of funds. The gentleman from Texas is the chairman of the Appropriations Committee. He is going to decide how much, if any, money is going to be funded for the program.

Let me remind the Members of one final thing. On November 15 of this year, in a few days, all money for the present emergency program will have expired. A continuing resolution will not do any good. The $75 million is gone.

There will be hundreds of school districts in this country which will be very adversely affected, because they have already hired teachers. They have made commitments. They are now operating under existing programs. That program will die on November 15, and a continuing resolution will not revive it, because the appropriation has expired.

I underscore to the Members that the people now proposing this study are the people who have tried to block this bill every bloody inch of the way.

Mr. Chairman, the letter from Secretary Richardson follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C. November 3, 1971.

Hon. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to express the strong opposition of the Department of Health, Education, and Welfare to the provisions of section 3(b) of H.R. 2266, the Emergency School Aid Act of 1971, as ordered reported on October 5, 1971 by the Committee on Education and Labor. This section would provide that no appropriation be authorized for the purposes of the Act in any fiscal year in which funds are not appropriated for the Elementary and Secondary Education Act of 1965 and P.L. 81-874 in amounts at least equal to the funds appropriated for those programs during the immediately preceding fiscal year.

Proponents of the section have expressed concern that funds for the Emergency School Aid Act would be diverted in the President's Budget from funds that the Administration would otherwise seek for ESEA and P.L. 81-874 programs. To the contrary, the Administration has repeatedly stated that the expenditure of $1.5 billion for Emergency School Aid will be in addition to funds for other education programs. In his May 21, 1970 Message on School Desegregation, President Nixon stated that he would recommend the expenditure of "an additional $1.5 billion" under the Act. Former HEW Secretary Robert H. Finch, in testimony before your committee, repeated the pledge that "no dollars will be taken from any existing educational programs" as a result of the Act. This pledge was repeated once again, in testimony this year, by U.S. Commissioner of Education Sidney P. Marland, Jr. Consequently, there should be no question whatever about diversion of funds from other programs.

In the light of these firm Administration commitments, section 3(b) is entirely unnecessary. Its only practical effect would be to mandate the funding of certain educational programs by the Congress at preceding year levels rather than allowing Congress the flexibility to decide necessary appropriation levels for Federal education programs on their own merits through the normal appropriations process.

As a result, I would very much urge the deletion of section 3(b) from the bill when the House of Representatives considers it.

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

The CHAIRMAN pro tempore. The question is on the substitute amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD) for the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. WILLIAM D. FORD. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. WILLIAM D. FORD. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman pro tempore appointed as tellers Mr. WILLIAM D. FORD, Mr. PUCINSKI, Mrs. GREEN of Oregon, and Mr. STEIGER of Wisconsin.

The Committee divided, and the tellers reported that there were—ayes 92, noes 269, not voting 70, as follows:

[Roll No. 358]

[Recorded Teller Vote]

AYES—92

Abernethy	Chappell	Fulton, Tenn.
Abourezk	Clay	Gettys
Adams	Collins, Tex.	Giaimo
Andrews, Ala.	Colmer	Gonzalez
Archer	Cotter	Green, Oreg.
Ashley	Crane	Griffin
Badillo	Daniels, N.J.	Gross
Baring	Dent	Haley
Bergland	Dingell	Hamilton
Biaggi	Edmondson	Hansen, Wash.
Blackburn	Edwards, Calif.	Hathaway
Blatnik	Eilberg	Hicks, Wash.
Brinkley	Evins, Tenn.	Hungate
Burlison, Mo.	Flynt	Hutchinson
Burton	Ford, William D.	Ichord
Carey, N.Y.		Jacobs

Karth	Mollohan	Scott
Kastenmeier	Moorhead	Selberling
Landgrebe	Nedzi	Sikes
Leggett	Obey	Slack
Long, Md.	O'Hara	Steed
McCormack	Patten	Steiger, Ariz.
McKay	Perkins	Sullivan
McMillan	Purcell	Symington
Mahon	Randall	Ullman
Mann	Rarick	Vigorito
Mathis, Ga.	Roe	Waldie
Matsunaga	Roush	Whalen
Meeds	Rousselot	Whitten
Mikva	Runnels	Yates
Mink	Schmitz	Zablocki

NOES—269

Abbitt	Fascell	Morgan
Absug	Fish	Morse
Addabbo	Fisher	Mosher
Albert	Flood	Moss
Alexander	Flowers	Murphy, Ill.
Anderson, Calif.	Ford, Gerald R.	Murphy, N.Y.
Anderson, Ill.	Forsythe	Myers
Anderson, Tenn.	Fountain	Natcher
Andrews, N. Dak.	Fraser	Nelsen
Annunzio	Frelinghuysen	Nichols
Arends	Frenzel	Nix
Ashbrook	Frey	O'Konski
Begich	Fuqua	O'Neill
Bell	Gallifanakis	Passman
Bennett	Gallagher	Pelly
Betts	Garmatz	Pepper
Bevill	Gaydos	Pettis
Biester	Gibbons	Peyser
Bingham	Goldwater	Pickle
Boggs	Gooding	Pike
Boland	Grasso	Podell
Bolling	Green, Pa.	Poff
Bow	Grover	Powell
Brademas	Gude	Preyer, N.C.
Brasco	Hagan	Price, Ill.
Bray	Hall	Price, Tex.
Brooks	Hammer-schmidt	Pryor, Ark.
Broomfield	Hanley	Pucinski
Brotzman	Hanna	Quie
Brown, Ohio	Harrington	Quillen
Broyhill, N.C.	Harsha	Railsback
Buchanan	Harvey	Rangel
Burke, Fla.	Hawkins	Reid, N.Y.
Burke, Mass.	Hays	Reuss
Burleson, Tex.	Hechler, W. Va.	Rhodes
Byrne, Pa.	Heckler, Mass.	Riegle
Byrnes, Wis.	Heinz	Robinson, Va.
Byron	Helstoski	Robison, N.Y.
Caffery	Henderson	Rodino
Camp	Hicks, Mass.	Rogers
Carter	Hillis	Roncalio
Casey, Tex.	Hogan	Rooney, N.Y.
Cederberg	Holifield	Rooney, Pa.
Celler	Horton	Rosenthal
Chamberlain	Hull	Rostenkowski
Chisholm	Hunt	Roy
Clancy	Johnson, Pa.	Roybal
Clark	Jonas	Ruth
Clausen, Don H.	Jones, Ala.	Ryan
Clawson, Del	Jones, N.C.	St Germain
Cleveland	Kazen	Sandman
Collier	Keating	Sarbanes
Collins, Ill.	Keith	Satterfield
Conable	Kemp	Saylor
Conte	King	Scherle
Conyers	Kluczynski	Scheuer
Corman	Kuykendall	Schneebeli
Coughlin	Kyl	Schwengel
Daniel, Va.	Landrum	Shipley
Danielson	Latta	Shoup
Davis, S.C.	Lent	Shriver
Davis, Wis.	Link	Smith, Calif.
de la Garza	McClory	Smith, Iowa
Delaney	McCloskey	Snyder
Dellenback	McCollister	Spence
Dellums	McDade	Springer
Denholm	McEwen	Stanton, James V.
Devine	McFall	Steele
Dickinson	McKevitt	Steiger, Wis.
Donohue	McKinney	Stokes
Dorn	Macdonald, Mass.	Stratton
Dow	Madden	Stubblefield
Downing	Mailliard	Talcott
Drinan	Mathias, Calif.	Teague, Calif.
Dulski	Mayne	Terry
Duncan	Mazzoli	Thompson, Ga.
du Pont	Melcher	Thompson, N.J.
Dwyer	Michel	Thomson, Wis.
Eckhardt	Miller, Ohio	Thone
Edwards, Ala.	Mills, Md.	Tiernan
Erlenborn	Minish	Van Deerlin
Esch	Minshall	Vanik
Eshleman	Mitchell	Vesey
Evans, Colo.	Mizell	Waggonner
	Monagan	Wampler
	Montgomery	Ware
		Whalley
	Whitehurst	Winn
	Widnall	Wolff
	Williams	Wydler
	Wilson, Bob	Wyman
		Yatron
		Young, Fla.
		Young, Tex.
		Zwach

NOT VOTING—70

Aspin	Hébert	Roberts
Aspinall	Hosmer	Ruppe
Baker	Howard	Sebelius
Barrett	Jarman	Siak
Belcher	Johnson, Calif.	Skubitz
Blanton	Jones, Tenn.	Smith, N.Y.
Brown, Mich.	Kee	Staggers
Broyhill, Va.	Koch	Stanton, J. William
Cabell	Kyros	Stephens
Carney	Lennon	Stuckey
Culver	Lloyd	Taylor
Davis, Ga.	Long, La.	Teague, Tex.
Dennis	Lujan	Udall
Derwinski	McClure	Vander Jagt
Diggs	McCulloch	White
Dowdy	McDonald, Mich.	Wiggins
Edwards, La.	Martin	Wilson, Charles H.
Findley	Metcalfe	Wright
Foley	Miller, Calif.	Wyatt
Gray	Mills, Ark.	Wylie
Griffiths	Patman	Zion
Gubser	Pirnie	
Halpern	Poage	
Hansen, Idaho	Rees	
Hastings		

So the substitute amendment was rejected.

AMENDMENT OFFERED BY MR. BADILLO TO THE AMENDMENT OFFERED BY MR. PUCINSKI

Mr. BADILLO. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BADILLO to the amendment offered by Mr. PUCINSKI:

On page 282 at line 9 after the title "Title XXI—Emergency School Aid" insert a "Part A" and after section 2118 insert a new "Part B" as follows:

"PART B

"PURPOSES AND FINDINGS

"SEC. 2151. The Congress finds that—

"(a) minority group isolation in our public schools, regardless of the origin of such isolation, causes irreparable harm to the children of this Nation;

"(b) minority group isolation in the public schools of our Nation's metropolitan areas, where the majority of our children live, is increasing and intensifying;

"(c) minority group isolation in large part results from housing, zoning, education, and other economic, social, and political policies and decisions of government at all levels;

"(d) the general welfare of this Nation requires the elimination of minority group isolation in public schools wherever and how it occurs; and

"(e) this Nation must therefore commit its moral strength and financial resources to the achievement of this goal.

"SEC. 2152. It is the purpose of this part—

"(a) to require State and local educational agencies in metropolitan areas throughout this country to develop and implement plans which will reduce and eliminate minority group isolation in our public schools, whatever the cause of such isolation; and

"(b) to provide financial assistance to assist State and local educational agencies to develop and implement such plans.

"DEFINITIONS

"SEC. 2153. As used in this part, except when otherwise specified—

"(a)(1) The term 'minority group children' means:

"(A) children, aged five to nineteen, inclusive, who are Negro, American Indian, or Spanish-surnamed Americans; and

"(B) as determined by the Secretary, children of such ages from environments where the dominant language is other than English and who, as a result of limited English-speaking ability, are educationally deprived.

"(2) The term 'Spanish-surnamed American' includes persons of Mexican, Puerto Rican, Cuban, or other Latin American or Spanish origin or ancestry.

"(b) The term 'minority group isolation' means a condition in which minority group children in a school constitute more than 50 per centum of the average daily enrollment of that school. The term 'minority group isolated' refers to a school in which such condition of minority group isolation exists.

"(c) The term 'school' means those elementary and secondary public schools of a State which are located within a standard metropolitan statistical area (SMSA).

"(d) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

"(e) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control, or direction of, public elementary or secondary schools in a district or other unit of the State, or a combination of such districts or other units and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school: *Provided*, That the term shall not refer to any such agency located outside an SMSA.

"(f) The term 'noncooperating local educational agency' means any local educational agency which refuses or has refused to participate in the preparation, submission, revision, or implementation of an acceptable plan as required by this part.

"(g) The term 'cooperating local educational agency' means any local educational agency that has participated in the preparation, submission, revision, and implementation of an acceptable plan as required by this part.

"(h) The term 'State' means any State in which there is an area defined as a standard metropolitan statistical area, and the District of Columbia.

"(i) The term 'Standard Metropolitan Statistical Area' or 'SMSA' means the area in and around cities of fifty thousand inhabitants or more as defined by the Office of Management and Budget: *Provided*, That the term shall mean only that portion of Statistical Area' or 'SMSA' means the area which lies wholly within the boundaries of one State. Each portion of an SMSA in a different State shall be considered an independent SMSA for purposes of this part.

"(j) The term 'Secretary' means the Secretary of Health, Education, and Welfare or his designee.

"(k) The term 'Federal educational funds' means Federal funds appropriated for grants, loans, contracts, or other financial assistance to a State educational agency, a local educational agency, an individual school, or to an individual in compensation for services rendered such organizations. This term shall not mean funds which go to individuals in the form of scholarships, fellowships, loans, cost-of-education payments, or other such assistance which is designed to further that individual's education, nor shall it mean funds which are to assist private, nonprofit organizations in the provision of education in preelementary and elementary situations.

"THE PLAN

"SEC. 2154. Each State shall prepare and file with the Secretary for his approval, in accordance with regulations issued by him, a plan under which it will establish and supervise the operation in each SMSA of an SMSA agency to develop with the local educational agencies within the SMSA a plan to reduce minority group isolation in their schools: *Provided*, That, should any State refuse to comply with the provisions of this part, the local educational agencies within an SMSA may then independently create or assume control of such an SMSA agency.

"SEC. 2155. The plan developed by each such SMSA agency shall—

"(a) contain the proposals by which the local educational agencies within an SMSA agree to reduce minority group isolation in their schools;

"(b) provide that by a date approved by the Secretary, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school of the SMSA shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools of that SMSA;

"(c) include the use of techniques, as appropriate in local circumstances, such as redrawing school boundaries, creating unified school districts, pairing schools or school districts, establishing educational parks and magnet schools as well as other techniques designed to end as soon as possible minority group isolation in all schools within the SMSA;

"(d) provide for the establishment of committees composed of local parents, teachers, and students, the members of such committees to be representative of the minority and majority population groups of the SMSA as a whole and the geographical areas within the SMSA, to advise the local education agencies and the SMSA agency, in open consultation including public hearings at which such persons have had a full opportunity to explore and discuss the program for which assistance is being sought and to offer recommendations thereon, regarding the development of the plan required by this part and to report periodically to the Secretary on the extent of compliance with the requirements of this part;

"(e) set forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committees established for the purposes of 402(d) above;

"(f) provide that in each year of operation of the plan, substantial progress toward fulfilling the requirements of this part shall be made; and

"(g) provide that State financial assistance to local educational agencies within each SMSA shall not be so calculated, based, rated, or fixed in any manner as to result in the condition that the per pupil contribution of the State to any minority group isolated school within the SMSA shall be less than per pupil contribution of the State to any nonminority group isolated school within the SMSA.

"SEC. 2156. (a) The plan required by section 2155 must be submitted to and approved by the Secretary no later than July 1, 1974.

"(b) The Secretary is authorized to promulgate and issue regulations regarding the time and manner of submission of such plans for his approval.

"SEC. 2157. In extreme and unusual cases should the Secretary determine that the size, shape, or population distribution of an SMSA would make inclusion of some parts of that SMSA in a plan unecessary for fulfillment of the purposes of this part or excessively disruptive of the educational process, he may exempt such parts from participation in the plan. Such exemptions shall be in writing, fully explained and justified, and freely available to the public and the committees established for the purposes of section 2155 (d).

"SEC. 2158. Each SMSA agency shall annually prepare and file in accordance with regulations issued by the Secretary a report setting forth the results achieved under the plan and any necessary amendments to the plan to correct any deficiency of the plan. The Secretary shall assure that the plan and any reports filed with the Secretary in accordance with this section shall be made readily available to the public and to the committees established for the purposes of section 2155(d).

"SEC. 2159. The Secretary is directed to review annually the plan and the reports of each SMSA agency. If the Secretary finds that for any reason the purposes of this part are not being effectuated by the plan and any amendments thereto he shall, after giving appropriate notice to all concerned parties, withdraw his approval of the plan and each local educational agency in question will be treated as a noncooperating local educational agency: *Provided*, That if within a period prescribed by the Secretary, but in no event exceeding one hundred and eighty days following the Secretary's withdrawal of approval, the local educational agencies through their SMSA agency submit a revised plan approved by the Secretary, the local educational agencies within the SMSA shall be entitled to receive all funds withheld during the period.

"SEC. 2160. (a) Because of its unique circumstances, the SMSA for the District of Columbia shall include for purposes of this part Montgomery and Prince Georges Counties in Maryland, Arlington, Fairfax, and Prince William Counties in Virginia and the cities of Falls Church and Alexandria in Virginia, notwithstanding the provisions of section 2153(1) of this part.

"(b) A single plan shall be designed and submitted by all local educational agencies included in the District of Columbia SMSA: *Provided*, That the existence of noncooperating local educational agencies within this SMSA shall not affect the status of cooperating local educational agencies.

"SEC. 2161. No State or local educational agency shall formulate or administer its plan in a manner that will result in the separation of minority group children within a school or classroom.

"FINANCIAL ASSISTANCE

"SEC. 2162. PLANNING FUNDS.—

"(a) Within six months of the date of enactment of this part, the Secretary shall notify each State and local educational agency within an SMSA of the requirements of this part.

"(b) The Secretary shall issue regulations establishing procedures and a timetable according to which SMSA agencies required to file a plan under this part may apply for funds authorized to be appropriated by this part.

"(c) Upon application meeting the standards established by the Secretary, the Secretary shall grant to each SMSA agency funds for the development of a plan to reduce minority group isolation pursuant to the requirements of this part, the amount of such funds being determined by the number of minority group students and the number of all students enrolled in schools in the SMSA.

"SEC. 2163. (a) Each year following the implementation of an approved plan, cooperating local educational agencies through their SMSA agency, may submit to the Secretary applications for financial assistance.

"(b) An application for assistance under this part may be approved by the Secretary only if he determines that—

"(1) such application—

"(A) sets forth a plan which is sufficiently comprehensive to offer reasonable assurance that it will achieve one or more purposes for which grants may be made under this part; and

"(B) contains such other information, terms, conditions, and assurances as the Secretary may require to carry out the purposes of this part;

"(2) the applicant has adopted effective procedures for the continuing evaluation of programs or projects under this part;

"(3) the programs or projects for which assistance is sought will not result, and in the case of an ongoing program or project has not resulted, in an increase in the percentage of racial separation in any school.

"(4) no part of the assistance provided under this part shall be used to supplant funds, equipment, or services which are used to assist any private school. Should any funds provided under this part be used for this purpose, or for any other purpose that the Secretary finds to be inconsistent with the purposes of this part, the Secretary shall file suit in the United States District Court for the District of Columbia against either the school which received such funds or the State educational agency, or both, for restitution of the funds.

"(c) Upon the submission and approval of such an application, the Secretary is authorized to provide a cooperating local educational agency with sufficient funds to meet its obligations under its approved plan.

"(d) Funds provided under this section may be used for the following purposes or any other purposes the Secretary finds will promote an end to minority group isolation:

"(1) establishing and constructing magnet schools or educational parks in locations chosen to reduce the degree of minority group isolation in the schools of the SMSA;

"(2) providing additional staff members including paraprofessionals to provide guidance counseling, and training to assist minority group children in adjusting to a nonminority group isolated school environment;

"(3) providing counseling, retraining, and guidance for professional and other staff members who will be working with minority group children;

"(4) developing and implementing interracial educational programs and projects involving the joint participation of minority group and nonminority group children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

"(5) providing such additional transportation for children as may be necessitated by the plan developed pursuant to this part: *Provided*, That in the review and approval of SMSA plans under this part, the Secretary shall assure that any burden of transportation shall fall equitably on both minority and majority children;

"(6) expanding or altering facilities to accommodate students transferred under the plan;

"(7) community activities, including public education efforts, in support of the plans, programs, projects, or other activities developed pursuant to this part;

"(8) planning and evaluation activities and expenses of administration;

"(9) work study programs to provide the financial assistance necessary for minority group children to complete their education; and

"(10) other specially designed programs or projects which meet the purposes of this part.

"(c) No funds granted under this part may be used to supplant State or local educational funds presently being expended by State and local educational agencies.

"(f) The Secretary shall issue regulations establishing procedures and a timetable according to which State and local educational agencies entitled to apply for financial assistance under this part may apply to the Secretary for funds authorized to be appropriated by this section.

"RESTRICTIONS ON FEDERAL FINANCIAL ASSISTANCE

"SEC. 2164. (a) No noncooperating local educational agency shall be entitled to receive any Federal educational funds under this Act: *Provided*, That the presence within an SMSA of a noncooperating local educational agency shall not affect the eligibility

of cooperating local educational agencies in the SMSA to receive Federal educational funds.

"(b) No State that fails to participate in the preparation, submission, revision, and implementation of any plan or plans required by this part, and no State that continues to provide State funds or assistance after July 1, 1973, to any noncooperating local educational agency under section 2154(a) shall be entitled to received any Federal educational funds under this Act.

"APPROPRIATIONS

"SEC. 2165. (a) For the fiscal years beginning July 1, 1972, and July 1, 1973, respectively, there is authorized to be appropriated $25,000,000 each year to be used by SMSA agencies to develop and promulgate the plan herein required to be filed.

"SEC. 2166. For the fiscal years beginning July 1, 1974, and for each of the nine fiscal years following, there is authorized to be appropriated $3,000,000,000 each year for purposes of carrying out this part.

"SEC. 2167. Funds so appropriated shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

"JUDICIAL REVIEW

"SEC. 2168. (a) Any person affected by the enforcement or nonenforcement in the SMSA in which he resides of any provision of this part may petition the Secretary for an expedited hearing of his complaint.

"(b) Within sixty days of receiving such petition the Secretary shall hold a formal hearing to determine whether the provisions and purposes of this part are being carried out in the cause raised by the petitioner. A transcript shall be kept of the proceedings of the hearing.

"(c) Within thirty days after the date of the hearing, the Secretary shall issue a decision in writing which sets forth his findings and appropriate orders.

"(d) The Secretary's decision shall be reviewable, upon petition, by the United States Court of Appeals for the District of Columbia Circuit. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(e) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

"LAWS REPEALED

"SEC. 2169. The following provisions of law are hereby repealed:

"(a) Section 181 of the Elementary and Secondary Education Act Amendments of 1966.

"(b) Section 422 of the Elementary and Secondary Education Act Amendments of 1970.

"(c) Section 2 of the Elementary and Secondary Education Act Amendments of 1970.

"(d) Sections 102(d) and 205(f) of the demonstration Cities and Metropolitan Development Act of 1966.

"(e) Section 401(b) of the Civil Rights Act of 1964."

Mr. BADILLO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, is this the so-called Ribicoff amendment?

Mr. BADILLO. It is.

Mr. ASHBROOK. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. BADILLO) in support of his amendment.

Mr. BADILLO. Mr. Chairman, this is the so-called Ribicoff amendment, and those of you who are asking to vote will immediately get the opportunity to do so because I would not even attempt to try to explain this in 1¼ minutes.

Mr. Chairman, during Monday's debate on the Emergency School Aid Act I served notice that were that legislation defeated under suspension of the rules and offered again as an amendment to the Higher Education Act, I would offer the provisions of H.R. 7212, the Urban Education Improvement Act, as a further amendment. That is what I am doing now, I read into the RECORD of Monday's debate a section-by-section analysis of this bill so that my colleagues would have ample opportunity to familiarize themselves with its provisions.

The legislation, I am now proposing, is the House counterpart to a bill authored by the distinguished senior Senator from Connecticut ABRAHAM RIBICOFF. He offered it as an amendment to the Senate version of the emergency school aid bill and while it was defeated on a 51-to-35 vote, it received the support of Senators from both parties from North and South, East and West. Among those voting for the amendment were Senator BROOKE, of Massachusetts, Senator STENNIS, of Mississippi, Senator MONDALE, of Minnesota, Senator JACKSON, of Washington, Senator HATFIELD, of Oregon, and the Senate majority leader, Senator MANSFIELD, of Montana.

All six Senators then mentioned as prominent presidential hopefuls voted for the amendment.

Mr. Chairman, I want to emphasize that my amendment is in no way a substitute for the amendment incorporating provisions of the Emergency School Aid Act. I supported that bill in committee and feel strongly the committee bill should be enacted.

What my amendment does is to build on the 2-year program authorized by the Emergency School Aid Act—to provide the planning resources and financial assistance necessary to end racial isolation in our schools—North and South, East and West. I would point out to my colleagues that Mr. PUCINSKI's amendment affirms a national policy that all guidelines and criteria established pursuant to that legislation shall be applied uniformly and "without regard to the origin or cause" of school segregation.

The amendment I offer today is based on what must be recognized as fact: that minority segregation and racial isolation in our schools is harmful to the education of our children whether it is de jure or de facto.

The essentials of my amendment are these:

First, it requires each State to prepare and file with the Secretary of Health, Education, and Welfare a plan under which an agency within each standard metropolitan statistical area in the State will develop with local educational agencies a program to reduce minority group isolation in their schools.

Second, it sets a 10-year goal of having the percentage of minority group enrolled in each school of the SMSA equal to at least half the percentage of minority group children enrolled in all schools in the SMSA.

Third, it requires a showing of substantial progress toward the goal in each year of operation of the program.

Fourth, it allows the Secretary of Health, Education, and Welfare in extreme and unusual cases to exempt portions of an SMSA from the plan where necessary because of the size, shape, or population distributions of an SMSA

Fifth, provides Federal funds both for the initial planning and for actual implementation of the plan—$25 million for each of the first 2 years of planning and $2 billion a year for each of the 10 years required to implement the plan.

This amendment does not mandate any particular plan or set of plans to be imposed from community to community across the country. It leaves great flexibility at the local level and envisions the active involvement of parents and community members, as well as educators and school officials. But the amendment is a call to action.

Mr. Chairman, this country is at a turning point in the crisis of national unity.

No longer is the problem of discrimination regional. Racial isolation is now just as pervasive in the North as it is in the South. The most recent figures on school integration show that while only 27.6 percent of black students in the North attend majority white schools, 38.1 percent in the South do.

North and South, we must recognize that the divisiveness undermining the strength of our country will end only when we develop a national commitment to attack segregation on a metropolitanwide basis.

I think my colleagues will recognize that the courts are moving steadily in this direction. The recent Pontiac and Detroit, Mich., school segregation cases undeline that point. And I would say to my colleagues as well, that in deciding these cases the courts are not permitting the very moderate timetable incorporated in this amendment, nor are they offering the substantial financial aid this amendment authorizes.

I urge adoption of this amendment.

The CHAIRMAN pro tempore. Do any of the remaining listed Members on the limitation of time desire to speak to the amendment offered by the gentleman from New York (Mr. BADILLO)?

The question is on the amendment offered by the gentleman from New York (Mr. BADILLO) to the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. BADILLO. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. Chairman, I yield back my time.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I yield to the gentleman from Michigan for the purpose of offering an amendment.

AMENDMENT OFFERED BY MR. WILLIAM D. FORD TO THE AMENDMENT OFFERED BY MR. PUCINSKI

Mr. WILLIAM D. FORD. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAM D. FORD to the amendment offered by Mr. PUCINSKI:

Page 2, before the period at the end of line 5, insert the following:

": *Provided*, That for the fiscal year ending June 30, 1972, and each subsequent fiscal year, no funds are authorized to be appropriated to carry out the provisions of this title for any fiscal year in which the funds appropriated for any program authorized by the Elementary and Secondary Education Act of 1965 and Public Law 81-874 are not at least equal to the funds appropriated for such program for the fiscal year immediately preceding"

Mr. WILLIAM D. FORD. Mr. Chairman and members of the Committee, this amendment is cosponsored by my colleague the gentlewoman from Hawaii (Mrs. MINK).

POINT OF ORDER

Mr. BOW. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN pro tempore. The Chair would indicate that the point of order comes too late.

Mr. BOW. Mr. Chairman, I was on my feet seeking recognition.

The CHAIRMAN pro tempore. The Chair did not notice the gentleman, but the Chair will agree that the gentleman was on his feet seeking recognition.

The gentleman from Ohio will state the point of order.

Mr. BOW. Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, under the rule that was adopted, this amendment invades the rights of another committee.

This amendment is an invasion of the rights of the Committee on Appropriations under section 11, clause 2. It will be noted that the amendment, as offered by the gentleman from Michigan, provides that funds can be appropriated for programs authorized under the elementary and secondary education act of 1965, which is not the act upon which we are working and Public Law 81-874, providing they are not at least equal to the funds appropriated for such program for the fiscal year immediately preceding

By this amendment there is an attempt to direct the Committee on Appropriations as to what their appropriations shall be in the next fiscal year. Therefore, there is no question but what this is an invasion into the prerogatives of the Committee on Appropriations by designating the appropriations that must be had.

Further, under section (c) where funds are appropriated under this section, they shall remain available for obligation for 1 fiscal year beyond which they are appropriated.

There again there is an invasion into the rights of the Committee on Appropriations by an amendment here which states the obligation for the fiscal year beyond that for which they are made.

Mr. Chairman, this is within the jurisdiction of the Committee on Appropriations and I submit it is subject to a point of order.

The CHAIRMAN. Does the gentleman from Michigan (Mr. WILLIAM D. FORD) desire to be heard on the point of order?

Mr. WILLIAM D. FORD. Yes, Mr. Chairman.

Mr. Chairman, I believe the gentleman is alluding to something that is not in the amendment, in reading from the Pucinski original bill. I can understand the confusion.

There has been a little fancy footwork. Mr. PUCINSKI did not take out of his amendment the paragraph that you referred to so you probably should have made the point of order against his amendment because it has the second paragraph which you describe in it. My amendment does not.

However, since the gentleman made a point of order as to that part of the former Pucinski bill which is in my amendment, I would like to point out to the House that the House adopted this language as a part of the bill when it was before the House in December 1970, and it did so by a vote of 2½ to 1.

It is very clear from what the gentleman has said—and Members can find, if you will look in the CONGRESSIONAL RECORD to refresh your memory, the discussion the gentleman participated in on the floor the other day—that notwithstanding the protestations of the President with respect to no intention to raid title I funds, impact aid funds, for the purpose of funding this bill, that that does not seem to be the intention of at least some members of the Appropriations Committee.

This is not a limitation on the actions of the Appropriations Committee. This is a limitation specifically on the authorization contained in this bill.

The special rule under which the higher education bill is being considered on the floor, as I understand it, carries the unique provision that says in effect that if a provision of the bill, or if an amendment were offered, if offered as a separate bill, and it would be assigned to a different standing committee than the Committee on Education and Labor, then a point of order would lie against such an amendment or provision in the bill. As a matter of fact, if the language of my amendment were offered as a separate proposition, it would have to come to the Committee on Education and Labor, because it deals entirely with conditions under which the authorization contained in this bill can go forward.

I would like to point out that every authorization, not only in our bills, but in every legislative bill that comes before the House, is a limitation on the Appropriations Committee. The Appropriations Committee can only appropriate such sums as are within the limitations set by the authorization and only for the purposes set forth in the authorizations. My language intends to limit the effect of the authorization of this bill by saying that that authorization shall not become operative until such time as title I and the impact program are funded at the same level as the year before, thereby being referred to by some people as a hostage amendment to indicate that it is not our intention but in fact it is our—it is not our intention to diminish these programs but in fact it is our intention to follow the suggestion of the President that any additions put in the desegregation bill be new funds and not be taken from the on-going Federal aid program.

Mr. PUCINSKI. Mr. Chairman, a parliamentary inquiry. Is it in order to point out, in commenting on the statement of the gentleman from Michigan, that the Secretary has assured the committee and the House that no dollars will be taken from any existing educational program and that whatever money is appropriated will be new money?

The CHAIRMAN pro tempore. Does the gentleman from Michigan (Mr. GERALD R. FORD) desire to be heard?

Mr. GERALD R. FORD. Yes, I do, Mr. Chairman. I would like to make one short, simple statement. I would hope that the Chair will sustain the point of order raised by the gentleman from Ohio. If the Ford amendment is approved, the net effect is that the Committee on Appropriations in all subsequent years during the life of this legislation will be required to maintain a certain level of appropriation. That being true, it is a clearcut invasion of the prerogatives and the jurisdiction of the Committee on Appropriations, and because the rule specifically makes points of order available where there was an invasion of another committee's jurisdiction, it would seem very obvious that the point of order should be sustained.

The CHAIRMAN pro tempore. The Chair is ready to rule. The gentleman from Ohio (Mr. Bow) makes a point of order against the amendment offered by the gentleman from Michigan (Mr. FORD) on the ground that this is an invasion of the jurisdiction of another committee, specifically the Appropriations Committee. The Chair has examined the language of the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD) and it is clear to the Chair, that the amendment proposes an authorization formula and sets priorities. No funds are appropriated by this language. The Chair should also point out that those provisions of the rule under which this bill is being considered which related to points of order on jurisdictional questions pertained only to the committee substitute. The rule did not authorize such points of order against amendments offered from the floor.

XUM

The only remaining question for the Chair is whether the amendment is germane. It appears to the Chair that the amendment relates to the authorization of funds in Mr. PUCINSKI's amendment, and is thus germane.

Therefore, the point of order raised by the gentleman from Ohio is overruled by the Chair.

The Chair recognizes the gentleman from Oregon (Mr. DELLENBACK).

(By unanimous consent, Mr. DELLENBACK yielded his time to Mr. BELL.)

Mr. BELL. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Michigan.

This is a mischievous amendment, meant not only to tie the hands of the administration, so that they cannot function either effectively or efficiently.

For example, the amendment refers to the word "program."

There are at least three possible interpretations of the word "program":

First. One "program" for instance—could be title I of ESEA—as a line item of appropriation.

Second. Another "program" could be—a specific named program within a "big program" such as a program within title I.

For example, the migrant program, which does not have its own line item appropriation.

Third. Still another "program" could be one that does not have a name appearing in legislation like—"Right To Read Program."

So, the claim that this amendment would only prohibit the President from taking money from ESEA or Public Law 874 and putting it in this legislation, is invalid for two reasons:

First. First, if it intended just to prohibit the President from taking funds from ESEA or Public Law 874, the amendment should refer only to total appropriations for ESEA and impact aid.

But no, it refers to programs which could mean programs under these two acts.

It could mean that anytime anyone of the programs under these two acts, however unimportant, was cut or shifted to a more worthwhile project, that the whole Emergency School Aid Act would be disastrously affected.

It might also mean that a nonmeritorious program must be funded to the detriment of some more desirable program which needs money.

It also might commit Congress in advance to a promise to fund a program even if such funding would be unwise.

Although I suspect that the intent of the authors of this amendment is to limit the President or this administration by this language. I think in reality they are limiting the Appropriations Committee and the Members of this House.

Obviously, the President does not appropriate money, only the Appropriations Committee and the Congress can do that.

Mr. Chairman, it is simply bad legislating to tie one authorization to another bill's appropriation.

It would result in confusion, duplication and inefficiency in administration.

It would set a bad precedent.

The gentleman from Michigan has opposed the legislation from the beginning.

I believe the amendment is mischievous and its results may not only damage the passage of the legislation, but may also, if passed, cause confusion and inefficiencies in its administration.

I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. WILLIAM D. FORD), to the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The question was taken; and on a division—demanded by Mr. BELL—there were—ayes 72, noes 158.

Mr. WILLIAM D. FORD. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the amendment was rejected.

AMENDMENT OFFERED BY MR. BADILLO TO THE AMENDMENT OFFERED BY MR. PUCINSKI

Mr. BADILLO. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BADILLO to the amendment offered by Mr. PUCINSKI:

At page 32, line 21.

Strike all of Section 2218, "Neighborhood Schools".

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. Mr. Chairman, I yield to the gentleman from New York (Mr. BADILLO).

Mr. BADILLO. Mr. Chairman, this amendment is to strike from the Pucinski amendment the provision that has to do with neighborhood schools. Of course, the gentleman from Illinois (Mr. PUCINSKI) has been talking about his amendment as the Emergency School Aid Act of 1971, and it is not that at all, because in the committee that part which had to do with neighborhood schools was voted down. The amendments he has added were voted down in the committee. After having gotten the busing amendment, what the gentleman from Illinois (Mr. PUCINSKI) seeks to do now is to put in a provision that would permanently recognize the neighborhood schools. So it would seem to say that the court can neither engage in busing nor in any way change the neighborhood school concept.

Of course, that is really dreaming, because that is saying we are going to ignore totally the courts and we are going to ignore totally the Constitution of the United States.

It is unrealistic enough to pretend that there is going to be no busing, because we all know regardless of what we do the courts are going to continue to order busing, and money is going to have to come from the local, State, and municipal treasuries.

What the gentleman from Illinois (Mr. PUCINSKI) is now seeking to put in here are those amendments which even his wildest dreams in the committee did not lead him to expect would be carried out.

I ask that the amendment be agreed to.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I believe the gentleman's amendment is an example of very fine and narrow technical distinction that looms very large for the future operation of the program.

Members may think we have already voted on this amendment. I take this time to indicate there is a very distinct difference. The amendment we voted on went to a program administered by the U.S. Commissioner of Education. If Members will note the amendment of the gentleman from Illinois very carefully, it refers specifically to the Secretary of Health, Education, and Welfare. I do not believe the Secretary of Health, Education, and Welfare desires to use these funds for busing, but if the gentleman's amendment is carried we will be in the position of prohibiting the Commissioner of Education from using funds for busing while allowing the Secretary of Health, Education, and Welfare, in this $1.5 billion program, to use funds for busing.

I suggest it is very important that this amendment be kept in.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. PUCINSKI. I should like to point out this neighborhood school amendment has been carefully worked out in order to give strength to this legislation.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. BADILLO) to the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The amendment to the amendment was rejected.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, we are operating an emergency school assistance program now under continuing resolution—Public Law 92-139—and have been for the past year or two.

My city of Austin a few months ago was given the questionable honor of being designated the first major city in the United States to be filed against by the administration on this mass busing and forced busing problem. This caused us a lot of problems, and we set about to do the best we could with it. We talked with HEW officials, who urged us to apply for these emergency funds, and as a result we applied for a grant in the neighborhood of $2.1 million. We got it approved on the local level. We got it approved on the regional level. We got it approved up here. Regional HEW said: "We will get you that money."

We waited and we waited, and finally 2 weeks ago Washington HEW said, "We are going to approve your application." Do you know what we got? We got $200,000. We got 10 cents on the dollar—10 cents on the dollar.

I say to you that these funds are needed, and mine in particular. But this 10 cents on the dollar is a great shock. It is not only a frustration but a shock. It has put my school district in a great disadvantage. I say to you somebody down the street, whether it is HEW or the Office of Management and Budget, ought to cough up with this money. Once they have encouraged us to apply, they should say, "We have a contract." We have tried to find out where the other 90 cents on the dollar has gone. No one knows. The regional office has promised to send someone to Austin to explain where and how the funds were cut. But they have not gone yet. We are still in the dark, our budget is in a critical condition because of it.

This same failure to perform is taking place all over the country. It is an inexcusable exercise. School districts are losing face with their Government.

The CHAIRMAN pro tempore. All time has expired. The question is on the amendment offered by the gentleman from Illinois (Mr. PUCINSKI).

The question was taken; and on a division (demanded by Mr. PUCINSKI) there were—ayes 157, noes 101.

TELLER VOTE WITH CLERKS

Mrs. MINK. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mrs. MINK. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Mr. PUCINSKI, Mrs. GREEN of Oregon, Mr. QUIE, and Mr. PERKINS.

The Committee divided, and the tellers reported that there were—ayes 211, noes 159, not voting 61, as follows:

[Roll No. 359]

[Recorded Teller Vote]

AYES—211

Abbitt	Dorn	Lennon
Addabbo	Downing	Lent
Albert	Drinan	McClory
Alexander	du Pont	McCloskey
Anderson, Calif.	Dwyer	McCollister
Anderson, Ill.	Edwards, Ala.	McDade
Anderson, Tenn.	Eilberg	McFall
Andrews, N. Dak.	Erlenborn	McKevitt
Annunzio	Esch	McKinney
Archer	Eshleman	McMillan
Arends	Evans, Colo.	Macdonald, Mass.
Bell	Fascell	Mailliard
Bennett	Fish	Mathias, Calif.
Bergland	Flood	Mayne
Betts	Ford, Gerald R.	Melcher
Blaggi	Forsythe	Miller, Ohio
Blester	Fountain	Mills, Md.
Bingham	Fraser	Mizell
Boggs	Frelinghuysen	Monagan
Boland	Frenzel	Moorhead
Bow	Frey	Morse
Bray	Fuqua	Mosher
Brooks	Galifianakis	Murphy, Ill.
Broomfield	Garmatz	Myers
Brotzman	Gaydos	Nelsen
Brown, Mich.	Gibbons	Nix
Brown, Ohio	Goldwater	O'Konski
Broyhill, N.C.	Gonzalez	O'Neill
Buchanan	Grasso	Passman
Burke, Fla.	Gray	Pelly
Burke, Mass.	Green, Pa.	Pepper
Byrne, Pa.	Grover	Pettis
Byrnes, Wis.	Gude	Peyser
Caffery	Hammer-schmidt	Pickle
Cederberg	Hanley	Pike
Chamberlain	Harsha	Podell
Clark	Harvey	Poff
Clausen, Don H.	Hastings	Powell
Clawson, Del	Hawkins	Preyer, N.C.
Cleveland	Hays	Price, Ill.
Collier	Hechler, W. Va.	Price, Tex.
Collins, Ill.	Heckler, Mass.	Pryor, Ark.
Conable	Heinz	Pucinski
Conte	Henderson	Quie
Conyers	Hicks, Mass.	Quillen
Corman	Hillis	Railsback
Cotter	Hogan	Reid, N.Y.
Coughlin	Hollifield	Reuss
Daniel, Va.	Horton	Rhodes
Danielson	Johnson, Pa.	Riegle
Davis, S.C.	Jonas	Robinson, Va.
Davis, Wis.	Jones, N.C.	Robison, N.Y.
de la Garza	Karth	Roe
Dellenback	Kasen	Rogers
Denholm	Keating	Rosenthal
Donohue	Keith	Rostenkowski
	Kemp	Ruth
	Klucsynski	Sandman
	Kyl	Sarbanes
	Landgrebe	Satterfield
	Landrum	Scheuer
	Latta	Schneebeli
	Leggett	Schwengel
	Link	Shipley
	Long, Md.	Shriver
	McCormack	Smith, Calif.
	McDonald, Mich.	Smith, Iowa
	McEwen	Spence
	McKay	Springer
	Madden	Steele
	Mahon	Steiger, Ariz.
	Mann	Steiger, Wis.
	Mathis, Ga.	Stratton
	Matsunaga	Talcott
	Mazzoli	Teague, Calif.
	Meeds	Thompson, Ga.
	Michel	Thomson, Wis.
	Mikva	Thone
	Minish	Vanik
	Mink	Veysey
	Minshall	Waggonner
	Mitchell	Wampler
	Mollohan	Ware
	Montgomery	Whalen
	Morgan	Whalley

NOES—159

Abernethy	Gettys	Moss
Abourezk	Giaimo	Murphy, N.Y.
Abzug	Goodling	Natcher
Adams	Green, Oreg.	Nedzi
Andrews, Ala.	Griffin	Nichols
Ashbrook	Gross	Obey
Ashley	Hagan	O'Hara
Badillo	Haley	Patten
Baring	Hall	Perkins
Begich	Hamilton	Purcell
Bevill	Hanna	Randall
Blackburn	Hansen, Wash.	Rangel
Blatnik	Harrington	Rarick
Bolling	Hathaway	Rodino
Brademas	Helstoski	Roncalio
Brasco	Hicks, Wash.	Rooney, N.Y.
Brinkley	Howard	Rooney, Pa.
Burleson, Tex.	Hull	Roush
Burlison, Mo.	Hungate	Rousselot
Burton	Hunt	Roy
Byron	Hutchinson	Roybal
Camp	Ichord	Runnels
Carey, N.Y.	Jacobs	Ryan
Carter	Jones, Ala.	St Germain
Casey, Tex.	Kastenmeier	Saylor
Celler	King	Scherle
Chappell	Kuykendall	Schmitz
Chisholm	Kyros	Scott
Clancy	Landgrebe	Selberling
Clay	Landrum	Shoup
Collins, Tex.	Latta	Sikes
Colmer	Leggett	Slack
Crane	Link	Snyder
Daniels, N.J.	Long, Md.	Stanton, James V.
Delaney	McCormack	Steed
Dellums	McDonald, Mich.	Stokes
Dent	McEwen	Stubblefield
Devine	McKay	Sullivan
Dickinson	Madden	Symington
Dingell	Mahon	Terry
Dow	Mann	Thompson, N.J.
Duliski	Mathis, Ga.	Tiernan
Duncan	Matsunaga	Ullman
Eckhardt	Mazzoli	Van Deerlin
Edmondson	Meeds	Vigorito
Edwards, Calif.	Michel	Waldie
Evins, Tenn.	Mikva	Whitten
Fisher	Minish	Wilson, Charles H.
Flowers	Mink	Wyman
Flynt	Minshall	Yates
Foley	Mitchell	Zablocki
Ford, William D.	Mollohan	
Fulton, Tenn.	Montgomery	
Gallagher	Morgan	

NOT VOTING—61

Aspin	Hébert	Ruppe
Aspinall	Hosmer	Sebelius
Baker	Jarman	Sisk
Barrett	Johnson, Calif.	Skubitz
Belcher	Jones, Tenn.	Smith, N.Y.
Blanton	Kee	Staggers
Broyhill, Va.	Koch	Stanton, J. William
Cabell	Lloyd	Stephens
Carney	Long, La.	Stuckey
Culver	Lujan	Taylor
Davis, Ga.	McClure	Teague, Tex.
Dennis	McCulloch	Udall
Derwinski	Martin	Vander Jagt
Diggs	Metcalfe	White
Dowdy	Miller, Calif.	Wiggins
Edwards, La.	Mills, Ark.	Wright
Findley	Patman	Wyatt
Griffiths	Pirnie	Wylie
Gubser	Poage	Zion
Halpern	Rees	
Hansen, Idaho	Roberts	

So the amendment was agreed to.

Mr. VANIK. Mr. Chairman, the higher education system in America faces a financial crisis which must be acknowledged and corrected. For clear awareness of this crisis, the Committee on Education and Labor should be commended on the job it has done in developing a solid legislative package to strengthen the financially troubled higher education system in America.

In the past 10 years, our Nation's student enrollments have increased at an unprecedented rate. Research and training programs have been expanded to meet acute national needs in the physical and social sciences. But in the process, the physical and human resources of colleges and universities have been burdened to meet their new and heavy commitments. Costs have risen sharply, while the recent economic decline has reduced the capability of private and public support for higher education to meet these costs. Most of our institutions will face serious financial problems, if they continue to function at just the present level of operations.

Several outstanding institutions of higher learning in my district are in financial trouble or face financial shortages this year. Case Western Reserve University needs about $100,000 to cover the undergraduate supportive services for this present school year. This fine university also needs another $60,000 to cover what the Economic Opportunity grants failed to cover in student aid.

At John Carroll University this fall, the total number of students who needed financial assistance was 562, but only 216 of these students received aid. This means that 61.6 percent of the total number of students with need were receiving no financial aid at all. These students are all good students, who deserve help, and citizens we should help.

I have only mentioned the student assistance problems, but these universities also are in desperate need for institutional aid.

It is time to face the fact that it is not possible to provide equal educational opportunity to American young people without paying the cost—not just the tuition and maintenance cost to the students but also the expanded cost of future educational needs.

Ohio has not received the educational aid from the Federal Government that properly reflects its population rank as sixth among the 50 States. The following table gives the specific statistics. In column three the unequitable distribution may be seen right down the line in many types of Federal aid to education in Ohio.

It is true that Ohio has devoted inadequate resources to educational programs. Approximately $400 or 18 percent less is spent per student in Ohio than in the other 49 States. The Ohio private educational institutions spend $500 less per student than other States. Our present Governor, John J. Gilligan, is desperately trying to correct this situation—but Federal aid is needed.

There has been a lack of State and Federal aid, and as a result the educational output of Ohio in relation to other comparable State schools has been woefully deficient. The other big 10 States have granted 18 percent more bachelor degrees per capita, and 116 percent more doctoral degrees per capita. Also, for each student enrolled in State colleges in Ohio, compared with other big 10 States, Ohio was next to last in the ratio of faculty to students, last in professional library staff, and last in the number of National Merit Scholars enrolled. Ohio may often have a great Big Ten football team—but in education it too often comes in last.

TABLE I.—POPULATION AND HIGHER EDUCATION ENROLLMENTS, REVENUES, AND EXPENDITURES—OHIO AND 50 STATES PLUS THE DISTRICT OF COLUMBIA, FISCAL YEAR 1969

	Ohio	United States (50 States plus District of Columbia)	Ohio versus United States (percent)	United States less Ohio
Population (thousands) [1]	10,591	199,861	5.3	189,270
Enrollments: [2]				
Head count, public	250,130	5,414,934	4.6	5,164,804
Head count, private	92,520	2,069,139	4.5	1,976,619
Total, head count	342,650	7,484,073	4.6	7,141,423
Full-time equivalent, public	207,875	4,382,637	4.7	4,174,762
Full-time equivalent, private	81,171	1,763,245	4.6	1,682,074
Total, full-time equivalent	289,046	6,145,882	4.7	5,856,836
Revenues (in thousands of dollars): [3]				
Total, except auxiliary enterprises:				
Public institutions	$444,462	$10,211,245	4.4	$9,766,783
Private institutions	211,239	5,972,658	3.5	5,761,419
Total	655,701	16,183,903	4.0	15,528,202
Total Federal support (except auxiliary):				
Public institutions	49,576	2,017,409	2.5	1,967,833
Private institutions	31,134	1,497,537	2.1	1,466,403
Total	80,710	3,514,946	2.3	3,434,236
Federal education and general support:				
Public institutions	44,885	1,551,825	2.9	1,506,940
Private institutions	27,107	952,675	2.8	925,568
Total	71,992	2,504,500	2.9	2,432,508
Federal student aid:				
Public institutions	4,691	175,352	2.7	170,661
Private institutions	4,027	126,552	3.2	122,525
Total	8,718	301,904	2.9	293,186
Expenditures (in thousands of dollars): [3]				
Educational and general:				
Public institutions	356,138	8,914,742	4.0	8,558,604
Private institutions	189,035	4,920,247	3.8	4,731,212
Total	545,173	13,834,989	3.9	13,289,816
Student aid:				
Public institutions	16,882	367,433	4.6	350,551
Private institutions	17,728	447,322	4.0	429,594
Total	34,610	814,755	4.2	780,145
Major public service programs:				
Public institutions	52,937	689,733	7.7	636,796
Private institutions	63	602,923	0	602,860
Total	53,000	1,292,656	4.1	1,239,656

[1] U.S. Bureau of Census, "Pocket Data Book, U.S.A. 1969," p. 41.
[2] National Center for Educational Statistics—Fall Enrollment in Higher Education 1969, pp. 45, 46, and pp. 69, 70; FTE calculation assumes that 1 part-time enrollment = 0.40 full-time equivalent.
[3] NCES—Financial Statistics of Institutions of Higher Education, 1968–69, pp. 16, 26, and 50, 57.

In the new legislation before us, H.R. 7248, there are general provisions for aid to both students and the States. I strongly support these provisions. The 59 public and 67 private campuses in Ohio, with their 300,000 students, would all receive support under this bill.

This bill will directly attack the national financial crisis in higher education which affects private, State, and local schools.

The direct Federal grants proposed under H.R. 7248 would provide, on the average, $125 per student to all private and public institutions, while providing proportionately higher support to smaller, often struggling, institutions.

At the current time, the major source of Federal support to higher education has been through research grants and programs. This has been wonderful for those institutions that have specialized in research; however, the benefits to instructional programs have been indirect and not generally available to many institutions of higher education.

As the chart has indicated, Ohio which serves about 5 percent of the Nation's students, has typically received about 2.5 percent of the Nation's Federal aid to higher education. In H.R. 7248, direct Federal grants to the institution represent about a 25-percent increase in Federal funds or $900 million nationally. In Ohio this would mean over $40 million and would represent a 50-percent increase in the level of Federal aid to schools in Ohio. The smaller institutions, which have historically been neglected by Federal funds, will benefit greatly by the provision that will allow $300 for each of the first 200 enrolled students and $200 for each of the next 100 students enrolled. Also, this bill will provide for a 5-year allotment of funds for smoother growth and better planning.

This bill would authorize the first Federal program of aid directly to public and private institutions of higher education on a per capita student population basis. The Nixon administration originally opposed any institutional aid program. The committee bill which provides direct institutional aid is a great step forward in congressional responsibility for education for all students.

The committee bill also provides an emergency institutional assistance provision which will authorize a 2-year program of $150 million per year for emergency relief to institutions in the greatest financial difficulty.

The Carnegie Commission on Higher Education has predicted that enrollment in American colleges will double by the year 2000. This increase of between 16 and 17 million in the National student population means that the Nation will need about 300 new institutions, two-thirds of them 2-year colleges in metropolitan areas. The reports of the Carnegie Commission endorse strong support for new colleges, recommending 175 to 235 2-year community colleges and between 80 and 105 4-year institutions. The majority of these will be needed in the crowded areas of the cities. H.R. 7248 is not the final solution to the problem of establishing new institutions, but it is a very strong step in the right direction.

Dyke College in my district has been refused aid by the Division of Student Assistance of the Office of Education for an elaborate and needed work-study program for 1972. Dyke College has much to offer to young people and adults who are trying to tune in to the system. As a baccalaureate degree-granting institution with an emphasis on business curriculums, it is in an outstanding position to help with inner city education in downtown Cleveland. Many students who should attend this university are excluded because of a lack of funds. This university will benefit greatly from the small university provisions of this bill.

I would also like to state, for the record, that I have supported the two attempts to override the President's veto of educational aid funds in 1970. I believe that those vetoes were shortsighted and unnecessary. A bill such as H.R. 7248 can help provide corrective action for several years of inadequate Federal support to higher education.

Education is investment in America's future; and Ohio needs a fair portion of that investment to catch up with the rest of the Nation.

As the financial crisis spreads throughout the country affecting every type of institution of higher learning, it would be tragic if we do not expedite the passage of this bill and fail to direct our priorities to support of higher education. With the onsurge of the technological era, America's and Ohio's future rest in the hands of its "trained citizens."

Mr. DONOHUE. Mr. Chairman, I most earnestly urge and hope that, with strengthening amendments, this bill H.R. 7248, the Higher Education Act of 1971, will be overwhelmingly approved by this House.

In our consideration of this vitally important measure I do not think we could have any better guidance and inspiration for our continuing and final legislative action than the admonition of the President himself when he said, in a speech back in October of 1968 when he was a candidate, and I quote:

When we talk about cutting the expenses of government, either Federal, State or local, the one area we can't shortchange is education.

In essence, this bill in intended and designed to insure, as much as it is humanly possible to do so, that the national educational progress of this country is not unwisely and imprudently shortchanged.

Mr. Chairman, the various titles and provisions in this bill have been patiently and fully explained by the knowledgeable and dedicated Members, on both sides, of the esteemed House Committee on Education and Labor and there is no need for any additional repetition at this time. Beyond extending most of its Federal aid to higher education programs throughout fiscal 1976, the bill, among other major features, establishes a new program of general assistance to colleges and universities; strengthens and expands, to include more consideration for middle-income families, student assistance; creates a Bureau of Occupational Education in the Office of Education; increases funds for library resources and research and the training of librarians; extends the Education Professions Development Act; initiates a National Institute of Education to review and make recommendations in respect to our entire approach to the learning process in this country and projects a most commendable procedure whereby the Comptroller General will constantly conduct examinations and evaluations of particular educational projects and programs, with pertinent reports to the Congress, so that Members of Congress can be given adequate and impartial information on which to continuously review, judge, and act on their effectiveness.

Mr. Chairman, there is no more serious question facing our people today than the financial crises affecting our higher institutions of learning and the imperative necessity of granting adequate Federal assistance to them to enable them to carry out their full educational commitment to this country.

There can be no doubt of the urgent necessity to strengthen our programs of student assistance and I am particularly gratified that a greater measure of concern and consideration, which I have long recommended, is being given to the parents of middle-income families, who are actually faced with real hardships, these days, in trying to finance the higher education of their children. Our middle-income group is the one that shoulders the proportionately heaviest burden of taxes and the patient members of this group have been too long and too much excluded from participation in Federal programs they are called upon to underwrite.

Another very wholesome provision in this bill infuses occupational education and counseling with the responsibility of job placement, into the regular elementary and secondary school systems, on an equal footing with traditional academic education. This cooperative educational effort to particularly prepare grade and high school students for gainful employment is, in my opinion, long overdue and represents a very earnest and timely attempt to meet one of the very top priority educational needs of our time.

Mr. Chairman, no one would pretend that this bill is a perfect legislative instrument that will completely solve, now and forever, all of our national educational problems and difficulties. However, it does represent the best compromise projection that could be reached by the most diligent and dedicated members, on both sides, of the very highly respected Education and Labor Committee; it has the endorsement of most of the recognized educational authorities and associations throughout the country and it most certainly constitutes a prudent investment in the basic resources of this Nation. As the most progressive legislative educational proposal that has been placed before the Congress in modern times I believe it merits the resounding approval of this House, in the national interest, and I again urge your overwhelming adoption of it.

Mr. PUCINSKI. Mr. Chairman, I rise in support of H.R. 7248 and especially those provisions authorizing a new ethnic heritage studies program and a new occupational education program. Bills on these programs were considered by the General Subcommittee on Education, which I serve as chairman, before they were added in committee as titles of H.R. 7248, the Higher Education Act of 1971. It is understood that jurisdiction over both the ethnic studies program and the occupational education bill will continue under the general subcommittee in education even though they are being considered as part of this bill.

The ethnic heritage studies program, contained in title XV of the bill, authorizes grants to colleges and universities for the development and dissemination of curriculum materials on ethnic groups for use in elementary and secondary schools. For fiscal year 1972, $20 million is authorized, and for fiscal year 1973, $30 million is authorized for this purpose.

The basic objective of this new program is to encourage among children of different ethnic groups a sense of positive identity about their own ethnic background as well as the background of others and the part each ethnic group had with the American past and also to provide them with an understanding of the nature of our society as a pluralistic society. Hopefully, this will lead us to discard the "melting pot" theory and to recognize what has always existed in our country: an amazing mosaic of diverse ethnic groups, each with its own characteristics, but each lending strength to the unified whole which forms the country.

An awareness of this fact and of its effects on our society is gradually coming to the forefront. Recently, the White House Conference on Youth, the National Advisory Council on the Education of Disadvantaged Children, and the National Commission on the Causes and Prevention of violence have all recognized that American youth must be made aware of their diverse ethnic origins and must be taught to respect the contributions to our history and society made by all groups forming the country.

The program contained in the bill before us would encourage this awareness by funding the development and dissemination of curriculum materials on the many ethnic groups within the country. These materials would be available for use in elementary and secondary schools at the discretion of local school districts.

As author of the original bill and as chairman of the subcommittee which reported the bill, I want to emphasize that this program is meant to be as broadly based as possible. In other words, as the committee report on H.R. 7248 states:

The need for ethnic heritage studies curriculum materials is not limited to the disadvantaged child.

These materials are not to be limited only to the black or brown minority groups. Although curriculum materials on these groups can be funded, this program is meant principally to develop materials on the many groups which are not presently being assisted. The reason for this emphasis on other groups is that there are presently many sources of funds for materials on blacks, Chicanos, and Puerto Ricans, including a number of already funded programs in the Office of Education. The proposed Emergency School Aid Act would also make substantial funds available for funding such programs.

I also want to emphasize that individual projects can be funded for only one particular ethnic group or for the development of intercultural materials and materials on related ethnic groups, but the principal thrust of this program is for individual projects to develop materials on identifiable individual ethnic groups.

Lastly, I want to emphasize that the Secretary is charged with the responsibility under the bill to assure that every grantee must use all available resources in developing its materials. These resources include local ethnic groups, ethnic museums, ethnic fraternal organizations, and colleges and universities, particularly associated with one or more ethnic groups. The grantees must use these resources to the maximum extent possible which means that they must seek the assistance of these groups and institutions wherever located in the country.

The second new program is contained in title XVI, the Occupational Education Act of 1971. This program is based on a bill introduced earlier this year by myself, Congressman AL QUIE, and a number of other Members.

The provisions of the Occupational Education Act results from the continuing oversight which the General Subcommittee on Education has been conducting on vocational and technical education. That oversight has shown that there are two major impediments to effective job preparation in our schools. These are an overemphasis on academic education in our elementary and secondary schools and a lack of good vocational programs in our postsecondary institutions.

The bill before us would help to correct these two deficiencies by authorizing funds for the introduction of occupational preparation, counseling and placement in elementary and secondary schools so that students can develop a better appreciation for vocational education, and for the improvement and expansion of postsecondary occupational courses. The bill authorizes for these purposes $100 million for fiscal 1972, $250 million for fiscal 1973, $500 million for

fiscal 1974, and such sums as may be necessary for each year thereafter.

During the first year of operation of this program, 80 percent of the funds would be available for grants to the States to assist them in organizing broad-based agencies to administer this program and in planning for its implementation. A State would receive two grants during the first year: one to assist in establishing the administrative agency and the second to assist in conducting the planning. The remaining 20 percent of the funds would be available during the first year to the Commissioner of Education to assist the States in establishing these agencies and in conducting their planning.

It is expected that in this planning each State will consider its needs for postsecondary education and for career development; and, all other factors being equal, each State should give the same emphasis in its planning to the introduction of career concepts into its elementary and secondary schools as it does to its improvement and expansion of postsecondary education. Furthermore, if a particular State has a well-developed postsecondary vocational program, it is anticipated that that State will give almost all of these funds to the introduction of career concepts into elementary and secondary schools.

In the second year of operation under the bill States would be eligible to receive grants for the implementation of their plans. These grants, however, would only be available to those States whose administrative agencies and plans have been approved by the Commissioner of Education in the year before. In this second year and in the succeeding years, almost all the funds will go for the implementation of these plans, for the actual operation of programs. The bill, however, has left discretionary authority in the Commissioner of Education to allow use of some of the funds available to a State for support of its administrative agency and for further planning.

The Occupational Education Act also improves the Federal administration of vocational and manpower programs. First of all, the bill places responsibility upon the Secretary of Health, Education, and Welfare, to coordinate all manpower and manpower related programs and to upgrade the importance of manpower training and vocational education within the Department.

Second, the act creates a Bureau of Occupational Education. This Bureau will be the agency within the Office of Education for the administration of the Vocational Education Act, the Manpower Development and Training Act, and related acts. The bill specifies that training and vocational education within occupational, vocational, and technical education in community and junior colleges must be placed in this Bureau and that all programs under the Vocational Education Act of 1963, as amended in 1968, are to be administered by this Bureau. These programs clearly include vocational research—part C—and curriculum development—part I of the act. The committee has made these specifications because it fears that as in the past the Office will spin off vocational programs to other bureaus and these bureaus will place them at the bottom of their priorities. An example of this is the administration by the Bureau of Educational Professional Development of part F of the Educational Professions Development Act of 1968. The Bureau has not only actively campaigned against the funding of this part, but has also downgraded the training of vocational teachers in its administration of other parts of the act.

The Occupational Education Act also contains provisions requiring that 10 supergrade positions must be placed within this new Bureau. As of October 18 there were only four supergrades in the present Bureau of Vocational and Technical Education while 55 positions were available within the entire Office of Education. I believe that the only way the Office is going to give fair consideration to the occupational education needs of the children of this country is to be forced by legislation to upgrade the Bureau of Vocational and Technical Education and to staff it with high caliber personnel.

Mr. HARRINGTON. Mr. Chairman, I wish to give my wholehearted support to the Higher Education Act of 1971.

The system of higher education in America faces a serious, if not desperate situation. The problem is a matter of finances. While college enrollments have been increasing dramatically, funds available to schools have been shrinking, and many schools are facing fiscal crises.

The Higher Education Act of 1971 is an important and effective step in solving the financial problems of America's institutions of higher learning.

American colleges and universities have not avoided the rising costs of the age of inflation. They have been among the first to feel the pinch of austerity that the Vietnam war has created in government spending in the domestic sphere. And now the current recession is drying up private contributions as well.

Although our State universities have provided a fine education to thousands, small colleges have also played a vital role. The effects of the recession have been especially disastrous to the private colleges and universities which rely almost wholly on tuition for their operating expenses. As a result these schools have often priced themselves out of the market.

Diversity has been one of the best features of the American system of higher education which we have always been so proud of. Without immediate and direct Government aid, many of these small private colleges will go under and our educational system will be much the poorer for that.

The bill under consideration would for the first time authorize general assistance to institutions of higher learning, both public and private. The $955 million would be a first step in alleviating the present crisis. In addition the bill authorizes a crucial $150 million per year in emergency aid to those schools in the worst financial distress.

Rises in tuition and cutbacks in school sponsored student aid have made it harder for needy candidates to get a college education. Nothing is more clearly in the national interest than equal educational opportunity. Our greatest resource as a nation is our people. The better educated those people are, the more valuable the resource. It is in our interest to make sure that every child gets the education he or she needs to develop to the best of his abilities.

It is even more important in the interest of justice to insure equal opportunity in education. Education is the surest vehicle for the poor and the underprivileged to advance.

The Higher Education Act of 1971 would extend for 5 years key programs in the area of equal educational opportunity.

Especially important to me is the college work-study program which this bill extends and modifies. Work-study not only gives a student an opportunity to earn his education and avoid the burden of future loan payments, it also can provide essential services to the school or other community organizations. Often, however, schools have to cut services to the bare minimum, thus depriving the student of the opportunity to contribute to the cost of his education. Only the Federal Government has the resources to sponsor this kind of work opportunity. I think that this has been one of the most successful of Federal aids to education. The present bill would for the first time allow half-time students to qualify for this aid.

A new program similar to the work-study program is the cooperative study program. This too provides aid to students in return for part-time work. In this case, the work would be chosen for its educational value. Students would work for business and/or community service organizations.

The bill would also provide a 5-year extension of the equal opportunity grants and the guaranteed student loan programs. Equal opportunity grants would be increased from $1,000 to $1,500 and would be made available to half-time students. The guaranteed student loan program is most important. Work-study and grant programs are not large enough and comprehensive enough to insure a college education to all who are qualified. The loan program therefore helps those who do not qualify for the other programs or supplements inadequate funds available in the other programs.

I applaud the youth camp safety provisions of the bill. As I said before, our children are our greatest national resource. We must keep these children healthy. Summer camps are places of activity that, on the whole, are wholesome for the young. But these activities can also be dangerous unless properly supervised in safe and proper facilities. At this time there are no Federal safety standards and no enforcement. Title 18 of the bill rectifies this situation.

More students than ever now are seeking higher education. The number will continue to increase in the future. Because facilities cannot be constructed overnight and qualified faculties take years of careful training, it is imperative that we begin to plan for future needs immediately.

Long-term planning seldom happens in our system of government. That is why I am particularly pleased with the provisions of this bill which lend Federal aid to the long-term planning and development of higher education in the United States. The Institute of Education, created by this legislation, is chartered with the idea of examining the initiatives that the Nation must undertake in maintaining an excellent system of higher education. The institute will be charged with examining the role of vocational training, professional training, adult education, 2-year colleges and full 4-year colleges. To help in exercising that function critically, the institute has been made relatively independent of the Federal agencies that already deal with education and reflect existing and sometimes outworn beliefs.

The committee report states that we will need 250 million square feet of additional floor space, at a cost of $10 billion, by the end of this decade. Steps must be taken immediately to meet this demand. Fortunately, the Higher Education Act provides funds for this purpose. It provides grants for developing institutions, grants and loans for expansion of graduate facilities, special funds for the development and expansion of technical schools and junior colleges, and funds to States for comprehensive planning of higher education facilities.

The Higher Education Act of 1971 extends some of the most effective and popular programs of Federal aid to education. It creates similar new programs which have an obvious chance of success. I urge my colleagues to pass this bill and defeat its crippling amendments.

Mr. BIAGGI. Mr. Chairman, I support the amendment offered by the gentleman from Illinois (Mr. PUCINSKI) to provide our Vietnam veterans with a greater opportunity to educate themselves.

Our veterans are coming back from this terrible war apparently unwanted and at times condemned. Many have drug habits that must be cured, but no facilities are available. Others seek jobs and find the market is closed to them. This amendment will help encourage those who wish to further their education or upgrade their skills to do so.

The aftermath of World War II gave rise to the GI bill which is still in effect today. This Nation recognized a need to repay its fighting men for the excellent job they did in defeating our enemies at that time.

While the current war is the subject of a great deal of public criticism, we should in no way transfer that criticism to the soldier who must fight that war. These men were brave nonetheless. They fought in defense of this country and its principles.

Now when they are in need of an uplifting we should do everything possible to say that we appreciate their efforts in Vietnam. This amendment will mean a great deal to these veterans. It was passed over in committee, but I feel strongly that it should not be passed over again today. Let us lend a helping hand to the vet. I urge adoption of this amendment.

Mr. JOHNSON of California. Mr. Chairman, I rise in support of H.R. 7248, the Higher Education Act, which we now have before us. Education is the prime means of developing human resources necessary in this fast moving age in which we live and I feel that the committee in making its recommendations to the House of Representatives should be congratulated upon the acceptance of this responsibility through the expansion not only of the various programs of the assistance for our colleges and universities and other institutions of higher learning, but also through special aspects of this legislation which will have a tremendously beneficial impact upon all levels of education from preschool to graduate work.

Federal aid to education really is nothing new. Since 1785 the number of Federal aid to education bills enacted by Congress approaches 200. The Morrill Act of 1862 established land-grant colleges. This was expanded in 1890 with payment of Federal funds to assist in the operation of these schools. The Smith-Hughes Act of 1917 provided Federal assistance to States for vocational education and I should interject here that I feel that the Occupational Education Act which is made a part of the bill we have before us is an appropriate expansion of this basic idea. In 1950 Public Laws 815 and 874, brought assistance to school districts in federally impacted areas. In 1958 we made a major advance in the adoption of the National Defense Education Act and many of us sitting here in the House of Representatives today had an active role in the passage of the Higher Education Facilities Act of 1963, the Landmark Higher Education Act of 1965, and the International Education Act of 1966, all of which we are extending under the proposals we have before us here today. I am proud of my role in the earlier legislative proceedings which resulted in the enactment of these three basic programs.

The improvements in these three programs plus the 1958 National Defense Education Act are extremely worthwhile and I believe represent a significant broadening of proven programs. There is no question but what we must continue our assistance to college and university students; must continue the expansion and improvement of our college libraries; must continue the Teacher Corps and other programs designed to improve teaching at all levels and must continue the development of adequate physical plants for our institutions of higher learning.

Without minimizing the importance of these continuing programs, I would like to emphasize today the provisions of this act which are innovative and I believe constitute a major breakthrough in our educational development at all levels.

First of all we have the general assistance to institutions of higher education. This is the most significant advance in college and university assistance in many years. Nationally, these allocations could amount to $1 billion next year, increasing to $1.25 billion by 1976. Two-thirds of the entitlement of an individual college would be based on full-time enrollment with the remaining one-third distributed on a cost-of-education basis related to the amount institutions receive in educational opportunity grants, work-study programs, and NDEA student loan funds. A special factor would provide added benefits to small institutions.

Pressures from inflation, rising costs, and spectacular increases in enrollment must be met and this is one way this can be achieved. Enactment of this program constitutes Federal acceptance of a responsibility for the financial well-being of the higher education community and recognizes the importance of these institutions as a national resource vital to the education of each succeeding generation.

In summarizing the problems of the higher education community, the committee in its report declared:

> The higher education community is now facing extraordinary change made difficult by acute financial distress.

Next I would turn to a program of particular significance to the Second Congressional District which I represent in California; namely, the establishment of a minerals conservation education program. Since 1887 Federal funds have supported agricultural research and training at university levels in each of our States. These have proven very beneficial to the agricultural industry. At the same time practically no attention has been given to the problem of mineral conservation and production and I think if we were to really appreciate the facts of the case we would find that our Nation is absolutely dependent on minerals for maintaining not only our standards of living but our very basic security. Without antimony we could have no batteries to start our automobiles. Without bauxite we would have no aluminum for aircraft, missiles, teakettles or house sidings and all the other aluminum manufactured goods. Without cobalt we would have no jet engines. Without copper our electrical energy system would be chaotic. Without tin we would be short of everything from cans to engine bearings.

In spite of the importance of these minerals for our Nation we are doing very little to train the scientists and engineers needed for this industry. A recent study indicated that there are 65,000 such scientists and engineers employed in the mineral fields. Even more recent statistics show that in 1970 there were only 120 bachelor degrees awarded in mineral engineering, the demand was three times that and the Bureau of Mines could have employed all of the 1970 graduates all by itself. The number of graduates are declining and the demand for their services will double in 5 years. The provisions which this act provides for the establishment and maintenance of a competent and qualified mineral resources conservation institute are essential if we are to reverse this trend.

Another section, I would like to mention specifically is title 16, the Occupational Education Act of 1971. As I indicated previously the Smith-Hughes Act of 64 years ago first brought the Federal Government into the role of assisting

local schools in the preparation of students to earn a living. This effort was broadened in 1963, and again in 1968, however, we are still facing very serious problems in that large numbers of students continue to leave our secondary schools completing their formal education and yet without any saleable skills. They just are not trained to hold a job and there is little wonder that these people who are still in their teens have little prospects for the future in a highly technical society other than welfare or crime.

One of the basic problems is that 80 percent of our secondary school students are enrolled in college preparatory courses and yet only 17 percent of these students ever achieve a degree. The result is that hundreds of thousands of people in high school have no clear-cut vocational goals nor do they have any opportunity to learn the vocational skills by which they can achieve these goals even if they were developed. The Amerl-Personnel and Guidance Association in its studies and reports to the committee made it very clear that there is a direct relationship between this deficiency and the current unrest and discontent which is being experienced on our high school and college campuses.

We are wasting a tremendous amount of human skills and therefore, I feel that the Occupational Education Act of 1971 and its programs of counseling and training at elementary and secondary school levels are of tremendous importance, not only will implementation of this act provide better counseling and better job preparation but I feel equally important, it will provide better placement programs for in the words of the committee:

> Schools must become much more interested in what happens to their students after they graduate. In other words, schools must become placement agencies for their students.

In summary there are 28 million people in this Nation between the ages of 18 and 24. More than 16 million of these are in the civilian labor force. They entered this force in many instances with a minimum of preparation and training as can be demonstrated by the fact that less than 2 million of these or one out of eight individuals have received any occupational preparation training prior to the time he entered the labor market.

Finally, Mr. Chairman, I mention one of the basic provisions of the act, title XIV, which creates a National Institute of Education. As the President has said:

> We are not getting as much as we should out of the dollars we spend on education.

In many instances, I feel that we are teaching the children of a space age with horse and buggy techniques.

We do not know all that we should about the science and technology of teaching. Today we spend three-tenths of 1 percent of our educational dollar on research. The man-years of research and development in the field of education total slightly over 5,000. Compare this with a defense research and development program covering 10 percent of our total investment or a health research and development program involving nearly 60,000 people expending 5 percent of our total health budget. Defense and health are important items, but is not education of equal importance? It is vital that we take appropriate steps to explore more fully the whys and wherefores of learning and teaching processes so that we can achieve more efficiencies and effectiveness in our schools. I believe it is and, therefore, give my full support to the National Institute of Education which would have the authority to carry on a broad range of research and development activities at every level of education, preschool through postgraduate school, within formal institutions of learning and in nonformal learning situations.

Mr. BOLAND. Mr. Chairman, I want to express my support for the Higher Education Act. All but a handful of this country's institutions of higher learning—schools ranging from humble little community colleges to the most celebrated universities—are beset with financial problems. Their plight, alarming for the past decade, now verges on desperation. Every step forward they have tried to take has been dogged by rising costs. Their students, too, are confronted by almost unprecedented financial problems: tuition rates are climbing beyond the reach of most American families.

The bill now before us would offer welcome relief. Indeed, it is hardly an exaggeration to say that the future of American higher education may hinge on the enactment of this bill.

Let me sketch out, just briefly, the background of the 1971 Higher Education Act.

Six years ago the Congress enacted legislation to strengthen higher education and broaden educational opportunity. This landmark bill, of course, was the 1965 Higher Education Act. Its record has been impressive. The assistance it offered has enabled our colleges to begin to expand community services and continuing education programs—programs that bring their own unique brand of enthusiasm to bear in resolving community problems. Colleges and universities have collected grant after grant to acquire needed library and research materials. Other grants answering a need equally pressing were set up for the establishment or expansion of programs of library or information science. Fellowships and traineeships, too, became possible. Special assistance goes to troubled institutions struggling to survive—predominantly black institutions, for example. Special grants to encourage cooperative arrangements among institutions, establish national teaching fellowships, and recruit the skills of retired teachers through professor emeritus grants have also been set up.

One major thrust of the 1965 act aimed at building the kind of comprehensive student aid program that would give every qualified high school graduate the opportunity for a postsecondary education. The effort made possible an expanded NDEA student loan program and a broader college work-study program. Two altogether new programs were initiated—a program of education opportunity grants, and one of federally insured and subsidized loans. These programs have been bringing higher education within the grasp of thousands. In fiscal 1971 alone, more than 560,000 students received NDEA loans. About 430,000 students took part in work-study programs, and 290,000 students showing exceptional financial need received educational opportunity grants. One million student loans were insured under the guaranteed student loan program.

Mr. Chairman, I am convinced that we should extend all these programs in our efforts to improve quality and opportunity in higher education. But we must do much more. We all know about the problems that have besieged our economy since enactment of the Higher Education Act 6 years ago. No institutions have been harder hit by inflation than colleges and universities. Costs have soared at a dizzying pace. But overall incomes, despite tuition increases, have lagged behind. Compounding the problem has been the dramatic increase in the number of students enrolled in our colleges and universities. It has been staggering: in 1960 about 3.6 million men and women were enrolled in slightly over 2,000 institutions of higher learning; a decade later enrollment had soared to an estimated 8.6 million students in 2,565 2- and 4-year colleges.

How have our colleges dealt with the students engulfing their campuses? They have been forced into making serious compromises with quality just to house and teach each yearly influx of students.

Many schools have been driven to deficit financing. At least four major studies carried out since last December have vividly outlined the financial problems of our colleges. A majority of our publicly supported colleges as well as our private ones are in major financial trouble or are headed for it.

How can the Federal Government help our institutions of higher learning to cope with this crisis? Based on testimony from everywhere in the higher education community, H.R. 7248 takes the best approach. First, the bill would extend for 5 years the categorical programs of aid under the Higher Education Act. It would, moreover, extend the provisions of the Higher Education Facilities Act—the legislation that has helped our colleges build both graduate and undergraduate academic facilities.

Still further, the bill would make significant changes in student aid programs. The educational opportunity grant program, now focused in the needy student, would make this focus still keener. The maximum grant would be increased from $1,000 to $1,500 a year—but renewal would not be automatic: A student would have to reapply each year as his need is reassessed. Half-time students, for the first time, would be eligible for these grants. Most important, perhaps, is the clarification of need. Contrary to proposals that would give the Federal Government a predominant role in determining student need, H.R. 7248 would treat need as an individual matter—case by case, student by student. It would provide the student financial aid officer with welcome guidelines to help him assess need and draw up a tailored package of grant and loan money to meet best each student's situation. The financial aid officer would consider all relevant factors, not just family income, in arriving at a family's expected contribution.

An important change would be made, too, in the State allotment of student aid funds. The allotment already established for work-study funds seems to be the fairest, and H.R. 7248 would adopt this formula for the NDEA student loan program and the educational opportunity grant program as well. One-third of appropriated funds would be distributed on the basis of full-time enrollment in institutions of higher learning; one-third on the basis of a State's relative number of high school graduates; and one-third on the basis of the number of children under the age of 18 living in families with annual incomes of less than $3,000 a year.

Aside from expanding and refining programs of student financial aid, H.R. 7248 would take bold and new steps to restore financial strength to our colleges. It would authorize an interim 2-year program of emergency assistance to rescue those institutions nearest bankruptcy. It would also initiate a program in general institutional aid—the area of greatest need.

The administration, first opposed to any form of institutional aid, later changed its position to endorse a limited program of aid based on a cost-of-education formula. This approach would base aid solely on the number of federally assisted students enrolled at an institution. H.R. 7248 takes a broader and more realistic approach in allocating institutional aid. Obviously, Federal aid encourages more students, many from disadvantaged backgrounds, to attend college. We must acknowledge this fact. The need for institutional aid, however, is not limited to those institutions enrolling federally aided students.

H.R. 7248 attempts a distribution of institutional aid wide enough to offer real help. Two-thirds of appropriated funds would be allotted on the basis of student enrollments, the other third on the basis of the number of students receiving educational opportunity grants, work-study grants, and NDEA student loans. A special weighted factor would aid small colleges.

If the money crisis in higher education is a national one and I believe that it is, then any effective effort to alleviate it must be broad in scope. H.R. 7248 would not penalize those colleges that may not have large numbers of federally assisted students, but that may well be making their own efforts to provide student aid. The bill would reach the small college as well as the large institution, and the private as well as the publicly supported college.

Of course, Mr. Chairman, the institutional aid formula in H.R. 7248 is not perfect, nor is it the final or the best answer to higher education's financial crisis. H.R. 7248 wisely provides for the establishment of a 17-member National Commission on the Financing of Postsecondary Education. This commission would study and report to the Congress the impact of past and present support for postsecondary education. It would examine every aspect of the financial crisis in higher education, proposing solutions that would help yield better understanding and action at all levels of government.

I believe this legislation would meet the pressing needs of both colleges and students.

H.R. 7248 is "must" legislation for the 92d Congress.

Mr. Chairman, all of the schools of higher education in my area have expressed support of this landmark legislation. I ask unanimous consent to insert with my remarks some of the correspondence I have received including a very fine letter from the president of Mount Holyoke College, Mr. David B. Truman. I insert, also, a communciation from the Massachusetts Association of Student Financial Aid Administrators.

MOUNT HOLYOKE COLLEGE,
South Hadley, Mass., October 6, 1971.

Hon. EDWARD P. BOLAND,
House of Representatives,
Washington, D.C.

DEAR MR. BOLAND: I have recently had an opportunity to review the provisions of the Higher Education Bill that has recently been reported to the House by the Education and Labor Committee, and I am writing to express my strong hope that you will be able to support its most essential provisions.

For obvious reasons, I am particularly interested in the provisions of the Bill for general institutional support. The compromise formula in the Bill, which as I understand it, would base two-thirds of the support upon full-time equivalent students and the other one-third on the cost of educational allowances related to the size of the present federal student aid programs, is probably sensible. I am particularly pleased that at least the two-thirds related to full-time equivalent students will be seriously proposed to the House. I am familiar with the arguments on both sides of this question and have argued myself a bit with John Brademas about his enthusiasm for the allowance emphasis. His position is understandable, and I can see why one might want to argue for what amounts to a kind of voucher system. Nevertheless, I think the general institutional support idea related to full-time equivalent students has a merit that is not necessarily obvious. This is that it should permit a considerable number of institutions to avoid being totally at the mercy of the market place in what they do.

I do not support the idea that colleges and universities should be indifferent to the needs and expressed demands of the community and particularly of prospective students. Nevertheless, I worry about the number of institutions that will simply do whatever seems to be popular at the moment. The full-time equivalent student formula should permit a substantial number of institutions, such as this one, to take a strong stand for the the kind and quality of education that they believe to be necessary and to be strong enough to withstand the pressures of fashion that otherwise might destroy them. Fashion is no stranger to the educational world, and I confess that I am sometimes horrified at the amount of phony packaging that is being offered in order to attract students. The system as a whole will not be strengthened by offering added inducements to this kind of thing. It can be strengthened by making certain that institutions that choose to stand for something will be strong enough to be able to live through the cycles of fashion that are so evident.

As the House Bill has developed, I have been seriously concerned about some of the proposals with respect to the abolition of sex discrimination. I am not prepared to argue that fully co-educational institutions should be allowed to maintain a discriminatory quota system. I would argue that it is not the business of the Congress to say that an institution which prefers to remain a college for women or a college for men should be compelled to adopt co-education whether they wish to or not. The ten per cent proposal that is in the current House Bill is better than some that I have seen, but I have my doubts even about that one. In the first place, the case for universal co-education is far from certain. The literature increasingly suggests that for both young men and young women it may be extremely important for both intellectual growth and social maturity to have the opportunity to attend institutions that are dedicated to one sex or the other.

In the second place, a Bill that is aimed at assisting in the survival of colleges that are hard-pressed financially should not impose the capital and operating costs that would follow from compelling them to open their doors to both sexes. These costs are somewhat higher usually for a women's college which decides to admit men, but they are not inconsiderable in the reverse situation. When we are trying our best to use our resources in the most intelligent and the most efficient way possible, it would be a grave disservice for the Congress to compel us to spend money in order to adopt an educational policy, co-education, with which we may not agree.

Forgive me for making this letter so long. I get kind of wound up on this subject. If the occasion presents itself, I would be more than pleased to discuss the whole question with you in more detail.

With all best wishes.

Sincerely yours,

DAVID B. TRUMAN.

SPRINGFIELD COLLEGE,
Springfield, Mass., October 11, 1971.

Hon. EDWARD P. BOLAND,
House of Representatives
Washington, D.C.

DEAR CONGRESSMAN BOLAND: Along with the American Council on Education and other important organizations, I support HR7248, the Higher Education Act as developed by the House Education and Labor Committee. I know you will do all you deem appropriate to consider this bill carefully. I hope you will be motivated to support it in its present form.

Thank you so much.

Sincerely,

WILBERT E. LOCKLIN.

COLLEGE OF THE HOLY CROSS,
Worcester, Mass., October 8, 1971.

Representative EDWARD P. BOLAND,
House Office Building
Washington, D.C.

DEAR REPRESENTATIVE BOLAND: I respectfully request your support of HR 7248 providing institutional aid for higher education with the disbursement formula offered by Representative Edith Green.

Sincerely yours,

(Rev.) JOHN E. BROOKS, S.J.,
President.

CAMBRIDGE, MASS.

Hon. EDWARD BOLAND,
House of Representatives,
Washington, D.C.

The Massachusetts Institute of Technology urges your strong support of H.R. 7248, the "Higher Education Act of 1971" as approved by the House Education and Labor Committee on September 30th. Of continuing importance to M.I.T. are those provisions which would end and strengthen existing student aid programs, including national defense student loans, and provide a secondary market for federally insured loans

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obtained by students from private lenders. Of special significance to institutions of higher education at this critical period of financial stress are the provisions for general institutional assistance. No specific formula will meet the needs of all institutions but some form of general assistance is urgently required now. We therefore endorse the provisions of H.R. 7248 for general assistance through grants based on total payment to federally assisted students attending the institution.

JEROME B. WIESNER,
President.

LEICESTER JUNIOR COLLEGE,
Leicester, Mass., October 7, 1971.

Mr. EDWARD P. BOLAND,
House Office Building,
Washington, D.C.

DEAR MR. BOLAND: May I urge you to support the Green Bill HR7248, which will probably reach the House floor within the next few days. The bill, as you know, provides for institutional aid for both public and private institutions of higher education with a formula which would give needed support to all colleges and the young men and women who attend them. These opportunities for students would be spread as far as possible, not only to the disadvantaged but also to the middle class, which has, in recent years, had to stand extraordinary economic pressures.

As you also know, many private colleges, especially the smaller ones who have to depend on tuition charges to pay their expenses, have been faced with decreasing enrollments and increasing deficits. Help is needed!

Therefore, I trust that you will support HR7248 on the floor of the House and, if it is successful, that you will do your best to see that it comes out of the conference committee intact.

We all appreciate your interest in education and will be grateful for your support of HR7248, a most important measure for all of us.

Sincerely,

HENRY C. BORGER,
President.

MASSACHUSETTS ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS,
October 8, 1971.

Representative EDWARD P. BOLAND,
Springfield, Mass.

DEAR REPRESENTATIVE BOLAND: The Massachusetts Association of Student Financial Aid Administrators requests your support for the 1971 Higher Education Bill H.R. 7248 which we understand has been reported out of the House Committee on Education.

We have been following this legislation closely and support the Bill as reported out of Committee. We ask that you do the same by voting in favor of this legislation.

Sincerely,

EDGAR F. HESKELBARTH,
President.

Mr. ROBISON of New York. Mr. Chairman, this is a big bill—a very big bill—and one posing some very big questions.

As with all omnibus measures, this one includes certain provisions that are altogether necessary and desirable, along with others that can, at best, only be described as highly questionable.

In that latter category, as this debate shows, falls the troubling policy question of what to do about the financial crisis affecting most of our institutions of higher education. The committee report, in explanation of and as justification for title VIII of the bill, details the dimensions of that crisis, though I am sure all of us are, by now, fairly similar with them. However, as the report notes, in part:

Hundreds of institutions of higher education face financial crisis of severe proportions. Inflation and rising costs have put them in a classic cost-price squeeze . . . aggravated by a spectacular increase in enrollment. In fiscal year 1940, college enrollment was only 1.5 million. In 1959 those enrolled for degree credit were 3.377 million; in 1969, 7.299 million. The figure projected for 1979 is 11.075 million.

Further on, the report notes:

The cost-price squeeze has had particular effect on the small private Liberal Arts college. Information available to the Committee indicates that in 1937–38, institutions enrolling under 500 students constituted 44 percent of the colleges and universities in the country and enrolled 18 percent of the students. Thirty years later they constituted 27 percent of the institutions and accounted for 2 percent of the students.

And, then from the report, this clincher:

Studies made by Dr. William W. Jellema for the Association of American Colleges indicate that, unless immediate aid is forthcoming, 365 of the nation's private colleges and universities may be closed in this decade. Two hundred of them will have exhausted their liquid assets within a year. Stated another way, of the private accredited institutions, 50 percent of four year institutions and 45 percent of those offering master's degrees in no more than three fields, and 48 percent of the Ph. D. granting institutions, can be expected to fail within ten years.

The problem is not limited to private colleges. Of 99 state universities and land grant colleges, five years ago none had an operating deficit. Last year a survey of 78 showed 12 in the red. Of 278 state colleges and universities, 75 percent say financial difficulty is their major problem.

Finally, later on in the report, with reference to my State, we are told:

Of the 39 private colleges and universities in New York eligible to receive state aid, 36 were in a deficit condition in fiscal year 1970 with combined cumulative deficits of $53,-254,000. Even with state aid, 21 institutions operated in fiscal year 1970 with a total deficit of $34,014,000. In 1971, New York private institutions had deficits totalling $70 million.

This is certainly a bleak picture and, based on my own personal knowledge, it is hardly overstated. Our institutions of higher education have been wrestling with their cost problem as best they can, in many cases making those hard decisions that, in the end, reflect on the quality of their educational output; deferring necessary maintenance work; freezing or cutting back on faculty and staff levels; postponing needed building programs, and so on. In addition, of course, tuition levels have been pushed ever higher. In New York, tuition in private institutions has increased over 30 percent in the period from 1966 to 1970—something that also places such private institutions in impossible competition with such of our other higher education facilities as the City College of New York which charges no tuition, and the State University of New York which charges only $400. Yet—as the report also notes—the private institutions have no alternative since, for those with low endowments, 80 to 85 percent of their income must come from tuition.

Accordingly, the private institutions in New York, as well as elsewhere, are experiencing a continuous drop in enrollment—in New York, itself, a drop in their share of total enrollment of 8.7 percent in undergraduates in the period from 1967 to 1970, explained in major part by the fact that the middle-income student is simply being squeezed out of those institutions to which the affluent can still afford to send their children, while the disadvantaged student can still get in with the aid of Federal and State subsidies of the sort extended and expanded by certain provisions of this bill.

Few, if any, of us argue with the justification for such aid to the students from our Nation's poorer families, for, as John Amos Comenius wrote in 1632:

The education I propose includes all that is proper for a man, and is one in which all men who are born into this world should share . . . Our first wish is that all men should be educated fully to full humanity; not only one individual, nor a few, nor even many, but all men together and single, young and old, rich and poor, of high and lowly birth, men and women—in a word, all whose fate it is to be born human beings; so that at last the whole of the human race may become educated, men of all ages, all conditions, both sexes and all nations.

Mr. Chairman, in line with that philosophical approach to equal educational opportunities for every citizen, it has become an accepted Federal responsibility to do what can be done to insure post-secondary education for all high school graduates desiring the same, regardless of their economic circumstances.

The question remains, however: How can this best be done?

As this debate has shown, there is no clear consensus as to the proper answer—either within the educational community, itself, or within this body. Accordingly, it comes as no surprise that the committee had to reach for a compromise solution—or that its recommendation in this regard will now apparently survive this debate and go on to an uncertain fate in conference with the other body, that uncertainty stemming from the fact that the other body's bill reached no such middle ground.

As for the measure before us, the committee has heeded—in one-third part—the argument advanced by such as the gentleman from Minnesota (Mr. QUIE), that any further Federal aid to institutions of higher learning should "follow" that accepted Federal purpose of guaranteeing post-secondary educations to those students who could not otherwise afford the same. Thus, one-third of the institutional aid moneys hereby provided will be used to support and extend—under a so-called cost-of-education formula—such existing Federal efforts as those embodied in the work study program and in educational opportunity grants and national defense student loans.

So far, so good; and I fully support this part of the package.

But then, next, the committee—with one eye clearly cocked in the direction of those middle-income, or lower middle-income, students who are being squeezed out, as I have noted, of their opportunities to enjoy the diversity our system of higher education has heretofore provided—recommends that the remaining two-thirds of the institutional aid moneys hereby provided is to be made available on a student-capitation formula to all colleges and universities in the Nation, on an across-the-board basis. In a rather curious fashion that I am still not altogether sure makes sense, it suggests that such aid be distributed on the basis of full-time-equivalent enrollment, calculated—so we are told—on the further basis of "credits-earned" multiplied by a factor of $100 for first- and second-year students, $150 for third- and fourth-year students and $200 for each graduate student. I am unable to determine where this distribution formula came from, nor precisely how it can be justified.

However, any such uncertainty bothers me far less than my nagging uncertainty about the wisdom of our embarking, at this point in time and in this fashion, on a new program of general Federal aid to all institutions of higher education.

It may well be in the national interest to do what we can to help slow the escalator of rising tuition costs at nearly every college and university—particularly for those middle-income students who, as I have mentioned, are so largely dependent on their own or their families' savings, earnings, or borrowings for their higher educational opportunities.

Indeed, I would not argue otherwise if any such question was clearly presented to us. However, I would argue with the contention made yesterday by the gentlewoman from Oregon (Mrs. GREEN), to the effect that the only way to hold tuition costs down for this lower-middle-income group is through a program of general institutional aid of the sort here proposed. Surely, there are other methods, including the variety of tuition tax-deduction—or tax-credit—proposals now pending before this very Congress, and which represent for us an alternative route which I, for one, would much prefer to travel.

For I think one has to ask if it is, as equally as clearly, in the national interest to now offer financial assistance to all colleges and universities regardless of the nature and severity of their financial problems, and regardless, too, of what they have done, on their own, to try to resolve those problems? Or even—as Alfred B. Fitt, a special adviser to Yale University, has put it "regardless of how wretched their programs, how limited their appeal to students, or how wastefully they are managed"?

This Nation can rightfully be proud of our achievements in the field of higher education. We have managed to succeed in doing what, until very recently, almost every European educator and a good many Americans insisted could not be done—that is, in insuring, generally speaking, intellectual excellence and creative scholarships through something other than the nationalized systems of higher education that exist in most other nations.

I fear we threaten—through any permanent program of general institutional aid—the diversity and flexibility inherent, thus far, in our avoidance of a nationalized system of higher education; a possibility which our college and university administrators seem unaware of in their desperate search for relief from their fiscal burdens, even as most of us, here, are glossing over the concern we ought to be exhibiting for the Constitutional question also involved in any across-the-board aid program to all institutions of higher education including those that are church-related.

But there is yet another side to this coin—one I touched upon, in passing, a few moments ago.

For all is clearly not well with our system of higher education—and I refer now to those more-shadowy problem areas where the mere infusion of Federal aid dollars will cast little light. It is painfully apparent that, with this explosion of recent years in college enrollments and the concomitant rapidly changing pattern of social problems—at least as viewed by our younger citizens—higher education in America is not meeting, as well as it used to, the felt needs and desires of those who partake of its offerings.

This fact is evidenced by the growing numbers of what we have begun to call college stop-outs—as opposed to "drop-outs" at lower educational levels; and, paradoxically, the former may become a problem even more difficult to deal with than the latter.

We understand all too little of this problem at the present time. I have seen no critical exploration thereof comparable to Charles Silberman's "Crisis in the Classroom," which deals with the need for re-examination and reform of teaching methods and curriculums at lower educational levels, regarding which Silberman contends that, if too many of our schools and those who run them are, with the best of intentions, making a botch of things as:

. . . an uncomfortably large number do, it is because it simply never occurs to more than a handful to ask why they are doing what they are doing—to think seriously and deeply about the purposes or consequences of education.

Silberman then goes on to suggest that:

. . . this mindlessness—the failure or refusal to think seriously about educational purpose, the reluctance to question established practice—is not the monopoly of the public school; it is diffused remarkably evenly throughout the entire educational system, and indeed the entire society.

Surely, as a fairly recent HEW publication contends:

. . . American children in the sixties are learning more than older brothers and sisters learned in the fifties.

But it is at that point that Silberman, for one, asks:

Why, then, the pervading sense of crisis? How explain the fact that an educational system that appears to be superbly successful from one standpoint appears to be in grave trouble from another?

What is my point, Mr. Chairman, in raising these questions in the context of the matters now before us?

My point relates, precisely, to my other fear that we threaten—through any permanent program of general institutional aid—to postpone the day when not just a handful but all of our institutions of higher education undertake that critical self-examination of their policies and practices which, other than those purely fiscal in nature, undergird their collective ability to maintain our formerly high standards of educational excellence but in a manner suitable to the felt needs of today's generation of students.

Is it, therefore, in the national interest—not to mention the truer, long-range interests of our institutions of higher education, themselves—for us to now undertake to preserve each and every such institution, good, bad, or indifferent, as if they were, for all the world, so many "little Lockheed Corporations" whom we must keep afloat at all costs?

The only proper answer would seem to be a negative one, which finding would seem to be bolstered by the committee's own admission—as exemplified by part B of title VIII in the bill which provides for the creation of a National Commission on the Financing of Post-secondary Education—that it now lacks the information it ought to have to consider higher education's fiscal crisis in-depth sufficient to assess alternative methods for resolving the same in appropriate, permanent fashion. The aforementioned high-level commission is to consist of four Members of Congress plus 13 other citizens to be appointed by the President, and is to report its findings and recommendations back to the President and the Congress by June 30, 1973. One could wish that we already had the benefits of this contemplated study in-depth. We need them prior to taking anything other than temporary action on institutional aid; which is one of the reasons why I support title XVIII in the bill, the one offering a purely temporary program of emergency fiscal relief to those institutions of higher educations experiencing severe financial distress.

I would personally prefer, had the voting situation here permitted, to see the dollars authorized for such a temporary program of emergency aid increased as might be needed in the event the general institutional aid provisions of title VIII had, on yesterday, been stricken. Because of a longstanding commitment to spend our silver wedding anniversary with my wife—the kind of commitment I am sure all husbands here will understand—I was not here for yesterday's vote on the Erlenborn amendment to so strike title VIII. Had I been here, however, I doubt I would have voted for that amendment which, in retrospect, seems to me now to have gone too far in also seeking to erase the cost-of-education institutional aid from this bill—something I have previously noted I support.

So what we have now, then, would seem to be a sort of "Hobson's" choice—at least insofar as institutional aid is concerned. I favor one-third—or the cost-of-education portion—thereof as contained in title VIII, while having grave reservations about the remaining two-thirds thereof, as representing a scattergun effort to meet the special needs of the lower-middle-income stu-

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dents in what might turn out to be a permanently unwise fashion. Those reservations—given the other features in this overall measure which I feel bound to support—are not sufficient to cause me to vote against the bill on final passage, for it deserves at least to go on now to conference to see what, if anything, can there be worked out by way of improvement on these points.

Mr. RARICK. Mr. Chairman, the Supreme Court continues to behave as if it is above and beyond obedience to the supreme law of the land; that is, the U.S. Constitution and the laws of Congress enacted pursuant thereto.

The Court decisions handed down on busing are in contravention of the Constitution itself, are contrary to the statutes enacted by this Congress and constitute clear usurpation. Certainly the Court's continued role of tyranny cannot go unchallenged. Our people must be reminded of the proper perspective of the respective roles of Government to prevent chaos and further distrust of our federal system.

Tragically, truth has become all but a stranger in our land and those who control the vehicle and means of communication to inform our people either are not doing so or they are distorting the truth.

The average American has been told from his TV set and has read in his newspaper that the Supreme Court has now "legalized" busing of schoolchildren and that the Supreme Court's order is the law of the land. Now we hear the same old line being parrotted in this Chamber. Nothing could be further from the truth. In fact, disregarding the constitutional questions presented, the latest decisions, if they do anything leave the question of busing in a more confused state than before.

But what is the law of the land?

We start with the Constitution of the United States, where the law of the land is defined in no uncertain terms in what is called the supremacy clause, found in article VI.

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby . . .

The crucial provision of our Constitution is:

> This Constitution and the Laws of the United States which shall be made in pursuance thereof . . . shall be the supreme Law of the Land . . .

Nothing is provided about Supreme Court decisions being the law of the land. On the other hand, judges are bound by acts of Congress.

Now Congress has enacted laws pursuant to the Constitution which are the law of the land. One of these laws goes right to the heart of our school problems today and points out the usurpation by the Supreme Court's ruling on busing.

Title 42 of the United States Code, section 2000C–B reads:

> . . . provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or the school district to another in order to achieve racial balance or otherwise enlarge the existing power of the court to insure compliance with Constitutional Standards.

42 U.S.C. 2000C Definition (b) reads:

> Desegregation means the assignment of students to public schools and within such schools without regard to their race . . . but desegregation shall not mean the assignment of students to public schools in order to overcome racial imbalance.

And then to make sure that the intent of Congress was not misunderstood, when we appropriated money to operate the Department of Health, Education, and Welfare, we wrote into that law—in English so plain no one can misunderstand—a provision forbidding HEW to misuse taxpayers moneys in busing to achieve racial balance.

The language of the HEW Appropriations Act reads:

> No part of the funds contained in this Act may be used to force busing of students, abolishment of any school, or to force any student attending any elementary or secondary school to attend a particular school against the choice of his or her parents or parent in order to overcome racial imbalance.

These laws are the law of the land.

And the courts are in direct disobedience of the very law which they are sworn to uphold.

Supreme Court decisions are not—I repeat "not"—the law of the land. All they are is the decision in a certain lawsuit between certain parties.

Of course, they may mean that the same Judges, on the same facts, dealing with the same law, will decide a new case in the same way. But again, they may not.

The law of the land is the Constitution—and the laws enacted pursuant thereto.

The word of the Constitution repeatedly establishes the supremacy of Congress over the Supreme Court. It grants Congress general powers to regulate all the Federal courts. It takes up the question of the courts' honoring the Constitution, and instructs the State courts to do so. While on the subject it omits any mention of either a right or responsibility of the Supreme Court in the matter.

It gives the Supreme Court original jurisdiction in certain Federal matters, such as cases arising out of treaties. But in allowing the Supreme Court to hear appeals—which is where it has raised the most ruckus—it was made inferior to Congress, for the Constitution explicitly gives Congress the right to regulate the Court's hearing of appeals. The Constitution, in naming three things that will be the "supreme law of the land," limits them to three—thus excluding all pretentions of the modern Court that if is the author of "supreme law" too, unless it is conceded that the Court is free to rewrite the Constitution.

The "independence of the judciary" is applauded on all sides, but what is meant by it is not settled. As some see it, it means that the Congress shall not tamper with the functioning of the courts. There shall be trial by jury. On the High Court the Justices shall be appointed for life "during good behavior" and Congress shall not meddle with this. Congress does have power to impeach judges for "bad behavior," and it has been exercised a few times on Federal jurists, though not at the Supreme Court level. In this view, any right of courts to annul laws is not part of the "independence of the judiciary." It is rather a trampling on the "independence of the legislature."

But this dilemma has often been voiced: Suppose that the States and Congress defy the Constitution? Who, then, if not the Supreme Court, will defend it? As Jefferson implied in his "Bunker Hill" analogy, the people will. They can get at legislators who defy the basic law on each election day and replace them. But there is no election day for the Supreme Court, so the more serious dilemma is "Who will defend the Constitution if the Court abuses it?"

Our responsibility under that Constitution is plain. The American people have no redress but in this House. The power of impeachment rests with us. The power of the purse rests with us. The very existence and jurisdiction of every district court and court of appeals in the Federal system rests with us. The appellate and supervisory jurisdiction of the Supreme Court is entirely ours to bestow, limit or abolish.

We behold judges, ignore the positive statute law which we have enacted and the Constitution which they have sworn to uphold.

Freedom of choice is not an empty slogan. Freedom of choice is the heart and soul of American liberty. The American people still understand this and we must understand that there is a point beyond which the great law-abiding majority cannot be pushed. We are perilously near that point.

Mr. Chairman, I state plainly and simply that this busing by the Supreme Court of the United States is founded neither in any possible construction of the Constitution nor in any possible understanding of the law.

It is a classic example of the arbitrary and unfettered exercise of naked power.

Long years ago Thomas Jefferson warned free men of this very possibility, when he dramatically pointed out that of all tyranny, judicial tyranny is the most fearful.

If the Constitution of the United States forbids a State to assign pupils to a school solely because of their race, it makes no difference whether the object of such assignment is segregation or forced integration under the newly invented "Doctrine of Racial Proportion." If government has no power to forcefully segregate, it has no power to forcefully integrate.

It does not take genius to understand that the State either has that power or does not. Until 1954, it had such power. The Constitution did not change, but in 1954 the Warren court decided the power had vanished. The Warren Burger court has now decided that although the State has no such power, the court has.

What this preposterous decision amounts to is that racial school assignments are unconstitutional if they are made by the States, but constitutional if made by the courts.

These decisions are a gross distortion of any possible interpretation of the Constitution.

There is yet another problem.

The Constitution of the United States places the legislative power in the Congress. It requires that the President execute the laws. Congress has stated plainly that desegregation does not mean integration, and has prohibited the use of Federal moneys for busing to further the "doctrine of racial proportions."

Mr. Chairman, this is judicial tyranny in its worst form. Federal judges—not one of whom was elected by or are responsible to the people—have combined to promulgate and attempt to enforce by judicial fiat compliance with rules contrary to the laws enacted by the Congress which are the law of the land.

The people whose children are endangered by this usurpation of power cannot be expected meekly to submit—nor should they.

In the guise of controlling public education, the judiciary has now destroyed it. The people are not deceived. They understand the total lawlessness of this attempt. As free Americans, they will do what is necessary to protect their children, and what they can to educate them. People across the Nation are awakening. They are asking questions, and they are demanding answers. They are not satisfied with the explanations they are receiving.

We must be strong and patient. These are dark times for those of us who love our children. But we have had other dark times in our history, and the courage to face them and win out.

Valley Forge was dark—so was Reconstruction.

To condone tyranny which we have the power to end, makes us responsible parties with the initial perpetrators.

Mr. JAMES V. STANTON. Mr. Chairman, I would like to commend the members of the Education and Labor Committee for recognising the great importance of fostering knowledge of our ethnic backgrounds by including in the higher education amendments a provision for the establishment of an ethnic studies program. Not long ago, it was considered quite unfashionable to speak in terms of one's nationality. In a rush to become Americanised many sought to forsake their ethnic background.

Fortunately, the snobbish notion that we must somehow be ashamed of our ethnic background has come to be rejected, and instead, we now realize that each race and nationality can and should take a great deal of pride in the historical achievements of their parents and forbears, and in the many unique customs and traditions which have been passed on from generation to generation.

The ethnic heritage studies program provided for in this bill will greatly facilitate the growth of this constructive attitude toward our ethnic background. The emphasis of this program is where it should be—upon the children in elementary and secondary schools. Through research financed by the act, curriculum materials which deal with all aspects of our ethnic heritage will be developed for the use of these schools. Not only will the children have an opportunity to gain knowledge of their own ethnic background, but also they will learn of the contributions made by other cultures and will realise the great value inherent in each of them. Prejudice, and intolerance of diversity, may thereby be reduced.

For these reasons, I urge prompt action for the establishment of the ethnic heritage studies program.

Mr. THONE. One of the best investments which we as a Nation can make, both for our future and that of all mankind, is in the field of education. The United States and the world face complex problems—hunger and disease still haunt our citizens, pollution threatens our environment, ignorance and fear still divide our world. The solutions to these and other problems are not readily discoverable and only an educated populace can hope to make strides toward their eradication.

Providing a quality education for all its citizens is certainly a fundamental purpose for the existence of the Government of the United States. Each and every citizen has the right to pursue such an education. The expense of providing such an education in terms of dollars is certainly large, but the consequences of a failure to provide the opportunity are far greater. The House of Representatives has the opportunity to take a significant step in upgrading the quality of American education and insuring that the opportunity to pursue it is available to all its citizens through the passage of H.R. 7248. By extending the funding for programs initiated by the Higher Education Act of 1965 and adding new programs to further aid both students and educational institutions, this legislation will have a marked effect on the quality of American life for generations to come.

Believing as I do in the value and importance of educating all of our people to the best of their abilities and inclinations, I wholeheartedly support H.R. 7248 and strongly urge my colleagues to do the same.

Mr. THOMPSON of New Jersey. Mr. Chairman, I rise in support of H.R. 7298, the Higher Education Act of 1971. This bill represents a massive overhauling of existing categorical programs with respect to student assistance and assistance to institutions of higher learning. In most instances, we have expanded existing programs and, in my judgment, improved upon them. We have also added a new element of Federal-aid arising from the extended hearings we held last year and the additional hearings of this year. Testimony from dozens of witnesses amply documents the fact that many of our colleges have reached the end of their resources and are in dire need of assistance. Similarly, the cost of higher education has reached a point where thousands of youngsters cannot meet ever increasing tuition costs. The record clearly calls for new avenues of Federal assistance.

Throughout the hearings honest difference of opinion developed as to the method by which additional Federal assistance should be channeled to public and private schools, and as a result our committee does not come before the House with unanimity of opinion. However, I do think that almost without exception we are united in the thought that the Federal role must be significantly expanded. Our task has been complicated by the recent decisions of the U.S. Supreme Court which hold that the constitutional protection of freedom of religion prohibits State government from becoming entangled in the process of religion. Although these decisions have clear import for the Federal Government, I believe that certain types of financial assistance can be made to nonpublic institutions.

We have had difference of opinion on specific issues in the subcommittee and in the full committee. The sharpest division occurred, as the report before you demonstrates, on the formula for allocating operating assistance to colleges and universities.

There are those who feel that assistance should be directed to each institution on a per capita basis irrespective of need or the financial status of the institution's students. Others support the formula advanced by the administration that assistance ought to be geared to the cost of education at a specific school and that the formula ought to take into account the number of students receiving financial aid. The committee adopted a compromise which in general would have two-thirds of a school's aid allocation paid on a per capita basis, and one-third based on a cost of education allowance. I voted for this compromise, albeit with some misgivings. Even at this late date I am willing to listen to anyone who advances a more equitable formula.

Speaking for myself, the bill is somewhat deficient as it relates to community colleges. I realize that there are those who feel that the original concept of the community college has been warped in that the past few years have witnessed an overemphasis on the use of the community college as a steppingstone to a 4-year college or university at the cost of downgrading its role as a center for career education. I do not think the community college must be an imitation of a 4-year institution, nor do I think it must of necessity take on the status of a vocational school. There is no reason why intelligent planning cannot accommodate both aspects of its function. Therefore, I regret that our committee did not see fit to incorporate the language of title X of the bill approved by the other body.

I would urge my colleagues to attend themselves to this bill. It is without question the most significant bill to come before the House in debate in my tenure on the subject of higher education. It will do much to shape the destiny of tens of thousands of our youth for years to come. The new Federal operating assistance which we authorise will literally mean life or death for many institutions of higher learning. On balance, it is a good bill, and I am pleased to support it. I could not conclude these remarks without expressing my admiration for the effort which the gentlelady from Oregon (Mrs. GRIFFITHS) and gentleman from Indiana (Mr. BRADEMAS) have expended to produce this piece of legislation.

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Mr. ANDERSON of Illinois. Mr. Chairman, no more troublesome and explosive issue has come to haunt the Nation in the entire history of American education than the issue of busing students to achieve an integrated school system. Difficult as it is to divorce this issue from its emotional overtones, we will fail our duty to the American people unless we do. First we must confess that the situations which busing is designed to correct are sadly enough the product of our own willful neglect. For now almost three centuries we have tolerated first with a blind unawareness, and more recently with bland unconcern the fact that more than a third of the black students of our Nation attend schools that are 95 percent black. While we labor the distinction between defacto and de jure segregation we continue to educate yet another generation of young Americans who grow up believing that America is indeed two separate and unequal societies—one white and the other black, brown or red. And as we compound this tragedy, it is the Nation that is the loser in lost talents and undeveloped skills that never achieve their full potential. We have all been guilty of doing less than we should have done. There has been timidity in the executive branch, inertia in the legislative branch, and a lack of clear cut judicial guidelines.

We in the legislative branch have an opportunity today to indicate our support for those school districts around the country who are involved in efforts to right old wrongs and to shoulder the responsibility of providing for equal educational opportunity. That is the real issue in the emergency school desegregation legislation. It is not whether busing is the best or only instrumentality to achieve that goal, for clearly there are situations that it may not be. I wish we could keep in mind during this debate some of the thoughts recently expressed by Father Theodore Hesburgh, Chairman of the U.S. Civil Rights Commission:

Busing is really not the issue. What is important is the education that awaits the child, especially the minority child, for the first time good education, at the end of the bus ride. Busing never aroused emotions when it was done for all the wrong reasons—like the black youngsters in Wallace's Alabama who were bused 100 miles a day from Selma to Montgomery and back to attend a black vocational school when there was a lily-white vocational school where the buses left from in Selma. I remember Medgar Evers saying that his first recollection of busing was the new school buses passing him and other black children on the way to school—a very bad school—splashing them with mud as the white children on their way to a good school yelled out the window, "Nigger, nigger!" No objections to busing then.

One can argue about the costs of equality in America today. God knows we have known the costs of inequality—wasted talents, frustration, poverty piled on poverty, generation after generation. Laws have been grudingly passed and more grudingly obeyed, with every possible legal evasion tested. If we are ever to emerge from our present state of inequality, it will not be by insisting on minimum compliance with minimum laws. Generosity, magnanimity, and human understanding will alone allow us to transcend, in our day, our dismal history of racial inequality.

If we do not provide the funds that would be authorized by this legislation, it will not strike a great blow against busing—but we will strike a heavy blow against millions of schoolchildren. We will have allowed an emotional approach to an admittedly difficult and complicated problem to deflect our vision of the larger and far more important objective of providing assistance to school districts which both need and deserve our support.

Mr. PRICE of Illinois. Mr. Chairman, the current economic crises affect all of us. We often have to make sacrifices to make ends meet. Increased demand too often necessitates inferior quality, and this can be seen every day in our market system of goods and services. An unfortunate situation, indeed, and especially tragic when the quality cutback is in the field of education.

I cannot overemphasize the importance of H.R. 7248, the Higher Education Act of 1971, to the continued high standard of education in this country. The very lives of many of our colleges are at stake. Inflation has taken its toll in decreased faculty, enlarged classes, reduced student aid, defunct research programs, and skyrocketing tuitions and fees.

The Higher Education Act of 1965 was largely successful in aiding the improvement of college education in the United States. H.R. 7248 is a sensible extension of the 1965 act and could restore health to the waning educational scene before the deterioration leaves irreparable damage. Title VIII is the heart of the bill as far as this problem goes. This title utilizes a two-part allotment formula based on fulltime equivalent enrollment and the aggregate amount of Federal student aid received by an institution.

Title VIII represents a bold step in the philosophy of Federal aid to education. It is designed to help our colleges and universities defray operating costs. Thus our schools will be able to determine how to best utilize the funds to their best advantage in dealing with their most urgent needs.

The colleges in the 24th Illinois Congressional District are valuable assets; they have opened their doors to many students who otherwise could not leave the area to further their schooling. I intend to do all I can to insure the future quality service of these institutions as well as of others across the land.

If title VIII were fully funded in fiscal year 1972, the maximum amount of aid authorized to the 117 eligible institutions in the State of Illinois would total about $47,445,548, and the maximum amount of institutional assistance authorized to the colleges in my area would be distributed as follows: Belleville area college could receive about $117,450; McKendree College, $158,538; and Southern Illinois University at Edwardsville, $1,206,680.

If we fail our institutions of higher learning, we fail our youth. If we fail our youth, we jeopardize the future of America and the world. I am confident that my colleagues will not let this most important resource slip through their fingers. We must preserve educational quality in spite of increasing demand. Therefore, I strongly urge my colleagues to support this legislation.

Mr. WOLFF. Mr. Chairman, I rise in support of H.R. 7428, the Higher Education Act of 1971. In 1943, President James Bryant Conant of Harvard University wrote that—

The primary concern of American education today is not the development of the appreciation of the "good life" in young gentlemen born to the purple—our purpose is to cultivate in the largest number of our future citizens an appreciation of both the responsibilities and the benefits which come to them because they are Americans and free.

I believe strongly in the responsibility of the Federal Government in the educational systems of our Nation. The critical importance of our institutions of higher learning to the welfare of our Nation and the critical nature of their current financial plight demand that we undertake broad initiatives in this field of assistance.

Recently, we have heard too many reports of cutbacks in programs and personnel in our colleges. Some have even had to close their doors to incoming students. We cannot afford to stand by and watch this shocking decline in our higher education system which provides the skilled and trained people so vital to the well-being of our industrial democracy.

There are several aspects of this bill on which I should like to record my views. With the cost of education rising so rapidly, I am strongly in favor of title IV of this bill which increases the availability of student financial aid. Under the provisions of this title, part-time students would, for the first time, be eligible for assistance and special consideration would be granted to veterans in all student aid programs. The educational opportunity grant program has been successful and the enlargement proposed will help to make it even more effective.

As I have stated, the higher educational institutions have been adversely affected by the recent economic recession. Under titles VIII and XVIII funds would be provided for general and emergency assistance respectively. With regard to the distribution of this institutional aid, the committee bill would provide substantially more aid to higher education in New York State than would the formula proposed by the gentleman from Minnesota (Mr. QUIE). In my district, for example, based on an appropriation of $100 million, higher education facilities would receive $231,690 whereas under the substitute they would receive only $103,436. In addition, the committee's language takes into consideration graduate student population, smaller colleges and community colleges.

As a supporter of equal rights for women, I was pleased to note the inclusion, in this bill of title IX which would prohibit sex discrimination in any education program receiving Federal financial support. It also has important provisions on equal employment and pay opportunities. Passage of this measure would implement, in at least the field of higher education, the principles embodied in the equal rights amendment.

New York State Commissioner of Education Ewald B. Nyquist, in a recent letter to the editor of the Washington Post, wrote:

We feel strongly that there are many complicated issues at stake here and that the entire future of higher education as a national resource is involved. We feel certain that the Congress, in its wisdom, will get to the heart of the matter and evolve a system that will be equitable and fair to all.

Although there were some improvements which I should have liked to see incorporated into this bill, I believe that we have passed a useful piece of legislation and I hope that we will provide the funds which will be necessary to insure the success of these very significant programs.

Mr. RYAN. Mr. Chairman, it is clear that the bill before us is no longer a higher education bill. Rather it has been converted into what a majority of the Members regard as an antibusing bill.

Presumably the original intent of the Pucinski amendment was to make palatable H.R. 2266, the $1.5 billion Emergency School Aid Act, which failed under suspension of the rules on Monday, by encumbering it with restrictions against using funds under that bill for busing in obeisance to the neighborhood school concept. The fact is that the administration's Emergency School Aid Act neither authorizes nor prohibits busing. However, I view such restrictions on the use of funds as illogical and inimical to desegregation, and I deplored the administration's recommendation for such a prohibition when it was made last August, for it represented another piece in the administration's southern strategy.

The restrictions are illogical because, if a school district is to receive Federal help in carrying out a desegregation plan, it should not be restricted in how it uses the funds to achieve the desired result of an integrated school system. Of course, the restrictions also are intended to hamstring execution of Federal court orders to desegregate, as well as HEW desegregation plans. On the one hand the Pucinski amendment offers Federal assistance; on the other hand it prohibits using it for transporting pupils. The only thing that can be said for it is that at least it recognizes that local school districts need Federal help in desegregating and does make available funds for limited help.

It is unfortunate that the chairman of the subcommittee (Mr. PUCINSKI) decided to offer this amendment to the higher education bill. I only wish he had listened to those of us who urged him not to do so during Mr. CONYERS' special order on November 3. The consequence of offering it was foreseeable. The door was opened to a flood of anticivil rights amendments, and the House had proceeded to vent its emotions, adopting three which are more sweeping than the Pucinski amendment.

1. THE BROOMFIELD AMENDMENT

The Broomfield amendment provides:

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

This would legislate a protracted delay in the execution of Federal court desegregation orders, which have a transportation component, interfering with established procedures for appellate review and grants of stays. There is no precedent and no justification for this kind of legislative injunction upon the judiciary. Its sole purpose is to frustrate the Supreme Court desegregation decision of 1954 and its mandate to the lower Federal courts to fashion and oversee desegregation decrees. It is designed to overrule *Dowell* v. *Board of Education*, 396 U.S. 269 (1969) and *Northcross* v. *Board of Education*, 397 U.S. 232 (1970), which held that desegregation orders should not be stayed pending appeal.

The "all deliberate speed" edict of 1954 becomes the every deliberate delay tactic of 1971—by an act of Congress, 17 years later. What a travesty! Congress, having failed to act to implement the 14th amendment for almost 100 years, the Supreme Court finally held "separate but equal" education to be violative of the 14th amendment. And now, instead of leading and educating their constituents, Congress, yielding to the passions of the times, cravenly acts to block the efforts of the Supreme Court.

2. THE ASHBROOK AMENDMENT

The Ashbrook amendment provides:

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

This is the perennial Whitten-type amendment revisited; but painted with a broader and bolder brush since the author regrettably perceives the mood of the House and is not hesitant to take full advantage of the emotional tide. Striking out beyond the confines of the Pucinski amendment, the Ashbrook amendment prohibits the use of any Federal funds for busing or transporting pupils.

I recognize that busing has become a highly emotional issue, but it has only become emotional in the context of school integration. For years rural school children have been bused for miles and for hours as new consolidated schools have been constructed all over the country to replace one-room schoolhouses. Central school districts are considered an advance in education. There have been no complaints.

For years in the big cities schoolchildren have been bused to schools—both public and private—beyond walking distance. There have been no complaints.

For years in the South, black schoolchildren were bused for miles and for hours—often out of their own neighborhoods right past white schools—in order to perpetuate segregation. How many white parents complained?

It should not be a question of how a child gets to school, but what is there when he or she arrives. The objective of the Federal courts in following the mandate of the Supreme Court and the objective of the Department of Health, Education, and Welfare in following the mandate of the Congress, as set forth in the Civil Rights Act of 1964, is to eliminate discrimination and achieve quality integrated education. The transportation of pupils to end school segregation and to overcome racial imbalance is one of the means used in achieving that objective. However, that objective is frustrated by the Ashbrook amendment which would prohibit the use of any appropriated Federal funds.

3. THE GREEN AMENDMENT

The Green amendment provides:

No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee.

A completely destructive amendment, the Green amendment appears to be aimed directly at the title VI of the Civil Rights Act of 1964—potentially the most effective weapon enacted by Congress for eliminating discrimination.

The power to deny Federal funds to programs in which there is discrimination was included in the Civil Rights Act of 1964 upon the insistence of several of us after it had been omitted from the bill the Justice Department drafted in 1963. I recall that, after the Attorney General met with us and reviewed the proposed draft in the summer of 1963, I organized a joint telegram from Members of Congress to President Kennedy expressing our disappointment and urging the inclusion of language which became title VI of the 1964 act.

Because it was an effective administration remedy, title VI engendered bitter controversy and became the target of the perennial Fountain amendments, which in better days we were able to defeat in Congress. Although in my opinion it was used too cautiously, and I repeatedly opposed both administrative and legislative attempts to undermine it, title VI did help to bring about compliance—until the advent of the Nixon administration. Its Southern Strategy dictated a deemphasis on civil rights enforcement by the Department of Justice and the virtual abandonment of title VI. When a conscientious public servant like Leon Panetta objected, he was fired.

By forbidding the Department of Health, Education, and Welfare—including the Office of Education—or any other Federal agency, to urge, persuade, induce, or require any local education agency to use any State or local funds for any purpose for which Federal funds may not be used, the Green amendment would have the effect of preventing busing with local funds as part of an HEW desegregation plan or in implementation of a Federal court decree.

This amendment will surely have

XUM

devastating effects upon efforts of both the Department of Justice and the Department of Health, Education, and Welfare to obtain compliance with the Supreme Court desegregation decision and the Civil Rights Act of 1964. In fact, it is difficult to understand how court decrees can be fashioned and HEW plans formulated to achieve integrated schools if Congress forbids Federal officials to seek compliance by just urging or persuading local education agencies to use even local funds for busing. "Pernicious" inadequately describes the impact the Green amendment will have on civil rights enforcement.

The cumulative effect of the four amendments—the Pucinski amendment with its noxious antibusing restrictions, the Broomfield amendment creating a Congressional injunction on the judiciary, and the Ashbrook and Green amendments crippling civil rights enforcement—is to frustrate the Supreme Court's historic decision *Brown* v. *Board of Education*, 347 U.S. 496 (1954), and, thus, the purpose of the higher education bill is defeated.

The higher education bill is intended to help make college opportunities available to those without the financial ability to pay—to the poor, to the disadvantaged, to minority group members who have suffered from inferior elementary and secondary education. Colleges have initiated a variety of compensatory programs to overcome years of inadequate and unequal elementary and secondary education. The irony is that these programs are particularly necessary because our elementary and secondary schools have failed to provide proper preparation for college. Yet the bill before us, as now amended, builds in and perpetuates the very ills at the elementary and secondary education levels which these programs were designed to overcome.

Tonight the House has reacted ignominiously to the antibusing fever which has moved from South to North aided and abetted by President Nixon's euphemistic statement:

I am opposed to the busing of children simply for the sake of busing.

From the high road of enactment of the Civil Rights Acts of 1964, 1965, and 1968 the House has retreated to the low road of repeal, leaving Brown against Board of Education crippled. Federal courts without power to enforce their own orders, and local school boards, which acted in compliance, exposed without congressional support.

When the higher education bill was amended with extraneous anticivil rights amendments, becoming a vehicle for the repeal of past civil rights advances, the character of the bill changed. It is no longer a bill with the single noble purpose of improving higher education but a bill now laden with an ingnoble purpose. I am unwilling to accept that kind of compromise as the legislative route to the original goal. Therefore, I must cast my vote against the bill, which has cast a dark and ugly shadow over this Chamber which will not go unrecorded by history.

Mr. ERLENBORN. Mr. Chairman, at this time I would like to take the opportunity to correct a misunderstanding concerning the opposition of the Association of American Universities (AAU) to title X.

On October 29, 1971, I received the following letter from Charles V. Kidd, executive secretary of the AAU:

Representative JOHN N. ERLENBORN,
330 Cannon House Office Building,
Washington, D.C.

DEAR MR. ERLENBORN: The presidents of universities which are members of the Association of American Universities (list attached) discussed at a meeting on October 27 the progress of universities in removing discrimination against women, and problems which must be solved by a number of institutions if their plans for admitting increased numbers of women are to be met. They noted the increase in enrollment of women in many institutions and reaffirmed their commitment to progress towards removal of all forms of discrimination at the maximum feasible rate.

In connection with this discussion, the universities expressed opposition to Title X of H.R. 7248 as it applies to admission of undergraduates on the ground that it would establish an undesirable degree and kind of Federal influence over the ability of institutions to select students. Maintenance of the appropriate degree of university control over selection of students, faculty and academic programs is essential to the maintenance of the autonomy of universities, which is in turn the key to the contributions which they can make to society.

The members also stressed their judgment that the enactment of Title X would tend to reduce the diversity which is a uniquely valuable characteristic of the American system of higher education.

Sincerely yours,

CHARLES V. KIDD,
Executive Secretary.

This letter was sent to me by Mr. Kidd upon the request of one of the minority staff because of my intention to introduce the amendment now before you. The letter is identical to one sent by Mr. Kidd to Mr. QUIE on October 28. At the time the request was made for Mr. Kidd to send the letter of October 29, inquiry was made as to the strength of the support of the AAU membership in adopting their position opposed to applying title X to undergraduate admissions. We were told at that time that the AAU's position was unanimous.

On the basis of the letter sent to me, and the telephone conversation with Mr. Kidd, I distributed a letter to all of my colleagues indicating the unanimous support of the AAU for my amendment. Subsequently, following my publication of Mr. Kidd's letter in the CONGRESSIONAL RECORD of November 1, I received the following letter from Mr. Kidd:

Representative JOHN N. ERLENBORN,
330 Cannon House Office Building,
Washington, D.C.

DEAR MR. ERLENBORN: I am writing to you with reference to my letter of October 29 reporting the attitude of the Association of American Universities toward Title X of H.R. 7248.

I have been instructed by the President of the Association, President William C. Friday of the University of North Carolina, to convey to you the circumstances and weight of the discussion of Title X at the AAU meeting. The discussion of Title X came at the end of a long meeting. Many members of the AAU were not present at that time and some of those present were not opposed to the legislation. The opposition to Title X as currently worded is not the position of many members of the AAU.

I regret that my letter reflected a solid position of the AAU, which does not in fact exist.

Sincerely yours,

CHARLES V. KIDD.

Since receiving this letter, I have had our minority staff contact both Mr. Kidd and Mr. Friday to clarify the situation. I regret that I was misinformed as to the extent of the opposition within the AAU to title X of this bill. I would like to note, however, that while the opposition to title X was not unanimous, it was nonetheless adopted as an official position of the AAU at a duly constituted business meeting, with a quorum present, by a majority of those present and voting. As such, it is entitled to as much weight as Members wish to ascribe to it.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair Mr. BOLAND, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 7248 to amend and extend the Higher Education Act of 1965 and other acts dealing with higher education, pursuant to House Resolution 661, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Mrs. GREEN of Oregon. Mr. Speaker, is this the proper time to ask for a separate vote on the Erlenborn amendment to title X?

The SPEAKER. It is.

Mrs. GREEN of Oregon. Mr. Speaker, I demand a separate vote on the Erlenborn amendment to title X.

The SPEAKER. Is a separate vote demanded on any other amendment to the committee amendment in the nature of a substitute? If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Beginning with line 11, on page 198, strike out everything down through line 12 and insert in lieu thereof the following new subsection "(1)":

"(1) to the undergraduate admissions policy of any institution of higher education."

The SPEAKER. The question is on the amendment.

Mrs. GREEN of Oregon. Mr. Speaker, on that I demand the yeas and nays.

PARLIAMENTARY INQUIRY

Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentlewoman will state the parliamentary inquiry.

Mrs. GREEN of Oregon. Mr. Speaker, when we are in the House, is it possible to ask for tellers with clerks?

The SPEAKER. It is.

Mrs. GREEN of Oregon. Then, Mr. Speaker, I withdraw the other request.

TELLERS VOTE WITH CLERKS

Mr. Speaker, I demand tellers.

Tellers were ordered.

Mrs. GREEN of Oregon. Mr. Speaker, I demand tellers with clerks.

Tellers with clerks were ordered; and the Speaker appointed as tellers Mr. ERLENBORN, Mrs. GREEN of Oregon, Mr. PERKINS, and Mr. QUIE.

The Committee divided, and the tellers reported that there were—ayes 186, noes 181, not voting 64, as follows:

[Roll No. 360]

[Recorded Teller Vote]

AYES—186

Abbitt	Fountain	Passman
Abernethy	Frelinghuysen	Pelly
Anderson, Ill.	Frenzel	Pettis
Andrews, N. Dak.	Frey	Peyser
Archer	Fuqua	Pickle
Arends	Gialmo	Poff
Ashbrook	Goldwater	Powell
Ashley	Goodling	Price, Tex.
Baring	Griffin	Quie
Bell	Gross	Quillen
Bennett	Grover	Railsback
Betts	Haley	Randall
Bevill	Hall	Rarick
Biester	Hammer-schmidt	Rhodes
Blackburn	Harsha	Robinson, Va.
Boland	Harvey	Robison, N.Y.
Bow	Hays	Rooney, N.Y.
Bray	Hechler, W. Va.	Roush
Brooks	Heins	Runnels
Broomfield	Henderson	Ruth
Brown, Mich.	Hogan	Sandman
Brown, Ohio	Horton	Satterfield
Broyhill, N.C.	Hungate	Saylor
Buchanan	Hunt	Scherle
Burke, Fla.	Hutchinson	Schmitz
Byrnes, Wis.	Ichord	Schnebeli
Byron	Johnson, Pa.	Schwengel
Caffery	Jonas	Scott
Camp	Jones, Ala.	Selberling
Carter	Keating	Shoup
Cederberg	Keith	Shriver
Chappell	King	Smith, Calif.
Clancy	Kuykendall	Snyder
Clausen, Don H.	Kyl	Spence
Clawson, Del	Landgrebe	Springer
Cleveland	Latta	Steed
Collier	Lennon	Steele
Collins, Tex.	Lent	Steiger, Ariz.
Colmer	McCloskey	Steiger, Wis.
Conable	McCollister	Stubblefield
Conte	McDade	Talcott
Cotter	McDonald, Mich.	Teague, Calif.
Crane	McEwen	Terry
Daniel, Va.	Mailliard	Thomson, Wis.
Davis, Wis.	Mann	Thone
de la Garza	Mathias, Calif.	Vander Jagt
Delaney	Mathis, Ga.	Veysey
Devine	Mayne	Waggonner
Dickinson	Mazzoli	Wampler
Dorn	Michel	Ware
Downing	Miller, Ohio	Whalen
du Pont	Mills, Md.	Whalley
Edwards, Ala.	Minshall	Whitehurst
Erlenborn	Misell	Widnall
Esheleman	Monagan	Williams
Evins, Tenn.	Montgomery	Wilson, Bob
Fish	Morse	Winn
Fisher	Mosher	Wydler
Flowers	Myers	Wyman
Flynt	Natcher	Young, Fla.
Ford, Gerald R.	Nelsen	Zablocki
Forsythe	Nichols	Zwach

NOES—181

Abourezk	Burlison, Mo.	Duncan
Abzug	Burton	Dwyer
Adams	Byrne, Pa.	Eckhardt
Addabbo	Carey, N.Y.	Edmondson
Alexander	Casey, Tex.	Edwards, Calif.
Anderson, Calif.	Celler	Eilberg
	Chamberlain	Esch
Anderson, Tenn.	Chisholm	Evans, Colo.
	Clark	Fascell
Andrews, Ala.	Clay	Flood
Annunzio	Collins, Ill.	Foley
Badillo	Conyers	Ford, William D.
Begich	Corman	
Bergland	Daniels, N.J.	Fraser
Biaggi	Danielson	Fulton, Tenn.
Bingham	Davis, S.C.	Gallifianakis
Blatnik	Dellenback	Gallagher
Boggs	Dellums	Garmatz
Bolling	Denholm	Gaydos
Brademas	Dent	Gettys
Brasco	Dingell	Gibbons
Brinkley	Donohue	Gonzalez
Brotzman	Dow	Grasso
Burke, Mass.	Drinan	Gray
Burleson, Tex.	Dulski	Green, Oreg.
Green, Pa.	Madden	Rogers
Gude	Mahon	Roncalio
Hagan	Matsunaga	Rooney, Pa.
Hamilton	Meeds	Rosenthal
Hanley	Melcher	Rostenkowski
Hanna	Mikva	Rousselot
Hansen, Wash.	Minish	Roy
Harrington	Mink	Roybal
Hathaway	Mitchell	Ryan
Hawkins	Mollohan	St Germain
Heckler, Mass.	Moorhead	Sarbanes
Helstoski	Morgan	Scheuer
Hicks, Mass.	Moss	Shipley
Hicks, Wash.	Murphy, Ill.	Sikes
Hillis	Murphy, N.Y.	Slack
Holifield	Nedzi	Smith, Iowa
Howard	Nix	Stanton, James V.
Hull	Obey	
Jacobs	O'Hara	Stokes
Jones, N.C.	O'Konski	Stratton
Karth	O'Neill	Sullivan
Kastenmeier	Patten	Symington
Kazen	Pepper	Thompson, Ga.
Kemp	Perkins	Thompson, N.J.
Kluczynski	Pike	Tiernan
Kyros	Podell	Ullman
Landrum	Preyer, N.C.	Van Deerlin
Leggett	Price, Ill.	Vanik
Link	Pryor, Ark.	Vigorito
Long, Md.	Pucinski	Waldie
McClory	Purcell	Whitten
McCormack	Rangel	Wilson, Charles H.
McFall	Reid, N.Y.	
McKay	Reuss	Wolff
McKevitt	Riegle	Yates
McKinney	Rodino	Yatron
McMillan	Roe	Young, Tex.

NOT VOTING—64

Aspin	Hastings	Rees
Aspinall	Hébert	Roberts
Baker	Hosmer	Ruppe
Barrett	Jarman	Sebelius
Belcher	Johnson, Calif.	Sisk
Blanton	Jones, Tenn.	Skubitz
Broyhill, Va.	Kee	Smith, N.Y.
Cabell	Koch	Staggers
Carney	Lloyd	Stanton, J. William
Coughlin	Long, La.	
Culver	Lujan	Stephens
Davis, Ga.	McClure	Stuckey
Dennis	McCulloch	Taylor
Derwinski	Macdonald, Mass.	Teague, Tex.
Diggs	Martin	Udall
Dowdy	Metcalfe	White
Edwards, La.	Miller, Calif.	Wiggins
Findley	Mills, Ark.	Wright
Griffiths	Patman	Wyatt
Gubser	Pirnie	Wylie
Halpern	Poage	Zion
Hansen, Idaho		

So the amendment was agreed to.

The SPEAKER. The question is on the amendment in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves to recommit the bill, H.R. 7248, to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. RYAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. PERKINS. Mr. Speaker, on passage I ask for a record vote by tellers.

Mr. BELL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 332, nays 38, not voting 60, as follows:

[Roll No. 361]

YEAS—332

Abbitt	Dulski	Keith
Abourezk	Duncan	Kemp
Abzug	du Pont	King
Adams	Dwyer	Kluczynski
Addabbo	Eckhardt	Kuykendall
Alexander	Edmondson	Kyl
Anderson, Calif.	Edwards, Ala.	Kyros
	Edwards, Calif.	Landrum
Anderson, Ill.	Eilberg	Latta
Anderson, Tenn.	Erlenborn	Leggett
	Esch	Lennon
Andrews, N. Dak.	Eshleman	Lent
	Evans, Colo.	Link
Annunzio	Evins, Tenn.	Long, Md.
Arends	Fascell	McClory
Badillo	Fish	McCloskey
Baring	Flood	McCollister
Begich	Flowers	McCormack
Bell	Foley	McDade
Bennett	Ford, Gerald R.	McDonald, Mich.
Bergland	Ford, William D.	McFall
Betts	Forsythe	McKay
Bevill	Fountain	McKevitt
Biaggi	Fraser	McKinney
Biester	Frelinghuysen	McMillan
Bingham	Frenzel	Macdonald, Mass.
Blatnik	Frey	Madden
Boggs	Fulton, Tenn.	Mailliard
Boland	Fuqua	Mann
Bolling	Gallifianakis	Mathias, Calif.
Brademas	Gallagher	Mathis, Ga.
Brasco	Garmatz	Matsunaga
Brinkley	Gaydos	Mayne
Brooks	Gettys	Mazzoli
Broomfield	Gialmo	Meeds
Brotzman	Gibbons	Melcher
Brown, Mich.	Goldwater	Mikva
Brown, Ohio	Gonzalez	Miller, Ohio
Broyhill, N.C.	Grasso	Mills, Md.
Buchanan	Gray	Minish
Burke, Fla.	Green, Oreg.	Minshall
Burke, Mass.	Green, Pa.	Mitchell
Burlison, Mo.	Griffin	Misell
Burton	Grover	Mollohan
Byrne, Pa.	Gude	Monagan
Byron	Hagan	Moorhead
Caffery	Hamilton	Morgan
Camp	Hammer-schmidt	Morse
Carey, N.Y.		Mosher
Carter	Hanley	Moss
Casey, Tex.	Hanna	Murphy, Ill.
Cederberg	Hansen, Wash.	Murphy, N.Y.
Celler	Harrington	Myers
Chamberlain	Harsha	Natcher
Chappell	Harvey	Nedzi
Chisholm	Hastings	Nelsen
Clark	Hathaway	Nichols
Clausen, Don H.	Hawkins	Nix
	Hays	Obey
Cleveland	Hechler, W. Va.	O'Hara
Collier	Heckler, Mass.	O'Konski
Collins, Ill.	Heins	O'Neill
Conte	Helstoski	Passman
Conyers	Henderson	Patten
Corman	Hicks, Mass.	Pelly
Cotter	Hicks, Wash.	Pepper
Coughlin	Hillis	Perkins
Daniel, Va.	Hogan	Pettis
Daniels, N.J.	Holifield	Peyser
Danielson	Horton	Pickle
Davis, S.C.	Howard	Pike
de la Garza	Hull	Podell
Delaney	Hungate	Poff
Dellenback	Hunt	Powell
Dellums	Ichord	Preyer, N.C.
Denholm	Jacobs	Price, Ill.
Dent	Johnson, Pa.	Price, Tex.
Dickinson	Jones, Ala.	Pryor, Ark.
Dingell	Jones, N.C.	Pucinski
Donohue	Karth	Purcell
Dorn	Kastenmeier	Quie
Dow	Kazen	Quillen
Downing	Keating	
Drinan		

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Railsback	Scott	Tiernan
Randall	Seiberling	Ullman
Rangel	Shipley	Van Deerlin
Reid, N.Y.	Shoup	Vander Jagt
Reuss	Shriver	Vanik
Rhodes	Sikes	Veysey
Riegle	Slack	Vigorito
Robinson, Va.	Smith, Calif.	Waggonner
Robison, N.Y.	Smith, Iowa	Waldie
Rodino	Snyder	Wampler
Roe	Spence	Ware
Rogers	Springer	Whalen
Roncalio	Stanton, James V.	Whalley
Rooney, N.Y.	Steed	Whitehurst
Rooney, Pa.	Steele	Whitten
Rosenthal	Steiger, Ariz.	Widnall
Rostenkowski	Steiger, Wis.	Williams
Roush	Stokes	Wilson, Bob
Roy	Stratton	Wilson, Charles H.
Roybal	Stubblefield	Winn
Runnels	Sullivan	Wolff
Ruth	Symington	Wydler
St Germain	Talcott	Wyman
Sandman	Teague, Calif.	Yates
Sarbanes	Terry	Yatron
Satterfield	Thompson, Ga.	Young, Fla.
Scherle	Thompson, N.J.	Young, Tex.
Scheuer	Thomson, Wis.	Zablocki
Schneebeli	Thone	Zwach
Schwengel		

NAYS—38

Abernethy	Collins, Tex.	Jonas
Andrews, Ala.	Colmer	Landgrebe
Archer	Conable	McKwen
Ashbrook	Crane	Mahon
Ashley	Davis, Wis.	Michel
Blackburn	Devine	Mink
Bow	Fisher	Montgomery
Bray	Flynt	Rarick
Burleson, Tex.	Goodling	Rousselot
Byrnes, Wis.	Gross	Ryan
Clancy	Haley	Saylor
Clawson, Del	Hall	Schmitz
Clay	Hutchinson	

NOT VOTING—60

Aspin	Hébert	Ruppe
Aspinall	Hosmer	Sebelius
Baker	Jarman	Sisk
Barrett	Johnson, Calif.	Skubitz
Belcher	Jones, Tenn.	Smith, N.Y.
Blanton	Kee	Staggers
Broyhill, Va.	Koch	Stanton, J. William
Cabell	Lloyd	Stephens
Carney	Long, La.	Stuckey
Culver	Lujan	Taylor
Davis, Ga.	McClure	Teague, Tex.
Dennis	McCulloch	Udall
Derwinski	Martin	White
Diggs	Metcalfe	Wiggins
Dowdy	Miller, Calif.	Wright
Edwards, La.	Mills, Ark.	Wyatt
Findley	Patman	Wylie
Griffiths	Pirnie	Zion
Gubser	Poage	
Halpern	Rees	
Hansen, Idaho	Roberts	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Wyatt for, with Mr. Martin against.
Mr. Lujan for, with Mr. Dennis against.

Until further notice:

Mr. Aspinall with Mr. Zion.
Mr. Taylor with Mr. Belcher.
Mr. Davis of Georgia with Mr. McCulloch.
Mr. Koch with Mr. Halpern.
Mr. Barrett with Mr. Pirnie.
Mr. Hébert with Mr. Broyhill of Virginia.
Mr. Teague of Texas with Mr. Lloyd.
Mr. Roberts with Mr. Findley.
Mr. Cabell with Mr. McClure.
Mr. Blanton with Mr. Baker.
Mr. White with Mr. Hansen of Idaho.
Mr. Jones of Tennesse with Mr. Ruppe.
Mr. Johnson of California with Mr. Gubser.
Mr. Aspin with Mr. Sebelius.
Mr. Carney with Mr. J. William Stanton.
Mr. Culver with Mr. Skubitz.
Mr. Kee with Mr. Smith of New York.
Mr. Staggers with Mr. Wylie.
Mr. Sisk with Mr. Hosmer.
Mr. Diggs with Mr. Derwinski.
Mr. Stuckey with Mr. Wiggins.
Mr. Stephens with Mr. Dowdy.
Mr. Miller of California with Mr. Metcalfe.
Mr. Udall with Mr. Wright.
Mr. Rees with Mr. Jarman.
Mrs. Griffiths with Mr. Patman.

Mr. CHAPPELL, Mr. HAGAN, Mrs. ABZUG, and Mr. DELLUMS changed their votes from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 661, the Committee on Education and Labor is discharged from the further consideration of the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education—the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MRS. GREEN OF OREGON

Mrs. GREEN of Oregon. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mrs. GREEN of Oregon moves to strike out all after the enacting clause of the bill S. 659 and insert in lieu thereof the provisions of H.R. 7248, as passed, as follows:

That this Act may be cited as the "Higher Education Act of 1971".

TITLE I—EXTENSION OF COMMUNITY SERVICE AND CONTINUING EDUCATION PROGRAMS

SEC. 101. Section 101 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

TITLE II—EXTENSION AND AMENDMENT OF PROGRAMS OF COLLEGE LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

SEC. 201. (a) Section 201 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and inserting after "1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

(b) Section 202 of such Act is amended by inserting before the period at the end of the first sentence ", and other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis".

(c) Section 202(a) of such Act is amended by inserting before "and (2)" the following: "except that under special and unusual circumstances the Commissioner is authorized to waive this requirement,".

(d) Section 202(b) of such Act is amended by inserting immediately preceding the semicolon at the end thereof the following: ", except that under special and unusual circumstances the Commissioner is authorized to waive this requirement".

(e) Section 203(a) of such Act is amended by striking out "$10" and inserting in lieu thereof "$20".

(f) Section 204(a)(2) of such Act is amended by striking out "and" immediately preceding "(C)", and inserting before the period at the end of the first sentence the following: ", and (D) to other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis".

(g) Section 221 of such Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 221. Only for the purpose of carrying out training programs under this part, there are authorized to be appropriated such sums as may be necessary for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976. In addition only for the purpose of carrying out research and demonstration programs under this part, there are authorized to be appropriated $5,000,000 for the fiscal year 1972, $10,000,000 for the fiscal year 1973, $20,000,000 for the fiscal year 1974, $35,000,000 for the fiscal year 1975, and $40,000,000 for the fiscal year 1976."

(h) Subsection (a) of section 223 of such Act is amended by striking out the period at the end of the subsection and inserting: ": *Provided, however,* That in any fiscal year not less than 50 percent of the grants made under this subsection shall be for the purpose of establishing and maintaining fellowships or traineeships under clause (2)."

(i) Subsection (b) of section 223 of such Act is amended by inserting after "institution of higher education" the following: "and other library and educational organizations or agencies".

(j)(1) Section 231 of such Act is amended by striking out "and" after "1969," and inserting before "to enable the Commissioner" the following: "and $9,000,000 for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976,".

(2) Effective on the date of enactment of this Act, part C of the Higher Education Act of 1965 is further amended by adding at the end thereof the following new section:

"EVALUATION AND REPORT

"SEC. 232. No later than March 31 of each calendar year the Librarian of the Congress shall transmit to the respective committees of the Congress having legislative jurisdiction over this part and to the respective Committees on Appropriations of the Congress a report evaluating the results and effectiveness of acquisition and cataloging work done under this part, based to the maximum extent practicable on objective measurements, including costs, together with recommendations as to proposed legislative action."

TITLE III—EXTENSION OF PROGRAMS TO STRENGTHEN DEVELOPING INSTITUTIONS

SEC. 301. Section 301(b)(1) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and the sum of $120,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976,".

AMENDMENT OF PROVISIONS RELATING TO DEVELOPING INSTITUTIONS

SEC. 302. (a) Section 306 of the Higher Education Act of 1965 is amended by striking out "(other than developing institutions)".

(b) Section 304(c) of such Act is amended by adding at the end thereof the following new sentence: "None of the funds appropriated pursuant to section 301(b)(1) shall be used for a school or department of divinity or for any religious worship or sectarian instruction."

TITLE IV—STUDENT ASSISTANCE

PART A—AMENDMENT AND EXTENSION OF EDUCATIONAL OPPORTUNITY GRANT PROGRAM

SEC. 401. So much of part A of title IV of the Higher Education Act of 1965 as precedes section 406 is amended to read as follows:

"PART A—EDUCATIONAL OPPORTUNITY GRANTS

"STATEMENT OF PURPOSE AND APPROPRIATIONS AUTHORIZED

"SEC. 401. (a) It is the purpose of this part to provide, through institutions of higher education, educational opportunity grants to assist in making available the benefits of higher education to qualified high school graduates of exceptional financial need, who for lack of financial means would be unable to obtain such benefits without such aid.

"(b) There are hereby authorized to be appropriated $295,000,000 for the fiscal year 1972 and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976, to enable the Commissioner to make payments to institutions of higher education that have agreements with him entered into under section 407, for use by such institutions for payments to undergraduate students for educational opportunity grants under this part. Sums appropriated pursuant to this subsection for any fiscal year shall be available for payment to institutions until the close of the fiscal year succeeding the fiscal year for which they were appropriated.

"DETERMINATION OF AMOUNT OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 402. From the funds received by it for such purpose under this part, an institution which awards an educational opportunity grant to a student for an academic year under this part shall, for such year, pay to that student the amount determined by the institution for such student for that year, which amount shall not exceed the lesser of $1,500 or one-half of the sum of the amount of student financial aid (including assistance under this title) provided such student by such institution and any assistance provided such student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations of the Commissioner, except that no student shall be paid during all the academic years he is pursuing his undergraduate course of study at one or more institutions of higher education in excess of $4,000 or $5,000 in the case referred to in the second sentence of section 403. The Commissioner shall, subject to the other limitations in this part, prescribe basic criteria or schedules (or both) for the determination of the amount of educational opportunity grants, taking into account the objective of limiting grant aid under this part to students of exceptional financial need who but for such aid would be unable to obtain the benefits of higher education, but such criteria or schedules shall not disqualify an applicant on account of his earned income if income from other sources in the amount of such earned income would not disqualify him. An individual who has, in years prior to the effective date of the Higher Education Act of 1971, been awarded an educational opportunity grant pursuant to this part shall continue to be eligible to receive a grant in accordance with the requirements of this part as in effect at the time of the initial grant.

"DURATION OF PERIOD OF ELIGIBILITY FOR EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 403. A student eligible therefor may be awarded an educational opportunity grant under this part for each academic year of the period required for completion by the recipient of his undergraduate course of study at the institution of higher education from which he received the educational opportunity grant, except that such period shall not exceed four academic years. The eligibility of a student for an educational opportunity grant may, in accordance with regulations of the Commissioner, be extended for up to an additional academic year where five academic years is the normal period needed to complete the course of study the student is pursuing, or where the student, because of his particular circumstances, is determined by the institution to need an additional year to complete a course of study normally requiring four academic years.

"SELECTION OF RECIPIENTS OF EDUCATIONAL OPPORTUNITY GRANTS

"SEC. 404. (a) An individual shall be eligible for the award of an educational opportunity grant under this part at any institution of higher education which has made an agreement with the Commissioner pursuant to section 407 (which institution is hereinafter in this part referred to as an 'eligible institution'), if the individual makes application at the time and in the manner prescribed by that institution.

"(b) From among those eligible for educational opportunity grants from an institution of higher education for each fiscal year, the institution shall, in accordance with the provisions of its agreement with the Commissioner under section 407 and within the amount allocated to the institution for that purpose for that year under section 406, select individuals who are to be awarded such grants and determine, pursuant to section 402, the amounts to paid to them. An institution shall not award an educational opportunity grant to an individual unless it determines that—

"(1) he has been accepted for enrollment as a student at such institution on at least a half-time basis or, in the case of a student already attending such institution, is in good standing and in attendance there on at least a half-time basis as an undergraduate student;

"(2) he shows evidence of academic or creative promise and capability of maintaining good standing in his course of study; and

"(3) he is of exceptional financial need and would not, but for an educational opportunity grant, be financially able to pursue a course of study at such institution of higher education. In determining financial need, expected family contributions shall be considered to be the contribution expected in the specific circumstances of the applicant, as determined by the student financial aid officer. Any calculation of the ability of a family to contribute shall include consideration of (A) family assets, (B) value of any social welfare services provided to the family by public or private agencies, (C) number of children in the family, (D) number of children attending institutions of higher education, (E) any catastrophic illnesses in the family, (F) business failures, (G) educational expenses of other dependent children in the family, and (H) other circumstances affecting the student's financial need.

"ALLOTMENT OF EDUCATIONAL OPPORTUNITY GRANT FUNDS AMONG STATES

"SEC. 405. The Commissioner shall allot funds appropriated pursuant to section 401 among the States in accordance with section 465.

"ALLOCATION OF ALLOTTED FUNDS TO INSTITUTIONS

"SEC. 406. (a) The Commissioner shall from time to time set dates by which eligible institutions in any State must file applications for allocation, to such institutions, of educational opportunity grant funds from the allotment to that State (including any reallotment thereto) for any fiscal year in accordance with section 465(a), to be used for the purposes specified in the first sentence of section 401(b). Such allocations shall be made in accordance with criteria which the Commissioner shall establish and which shall be designed to achieve such distribution of such funds among eligible institutions within a State as will most effectively carry out the purposes of this part.

"(b) Payment shall be made from allocations under this section to institutions as needed.

"AGREEMENTS WITH INSTITUTIONS—CONDITIONS

"SEC. 407. An institution of higher education which desires to obtain funds for educational opportunity grants under this part shall enter into an agreement with the Commissioner. Such agreement shall—

"(1) provide that funds received by the institution under this part will be used by it only for the purposes specified in, and in accordance with, the provisions of this part;

"(2) provide that in determining whether an individual meets the requirements of section 404(b)(3) the institution will consider such individual's income, including as a part thereof any expected contribution from parents or others upon whom the student may rely for support, except that there shall be deemed to be no expected contribution from the parents of a veteran (as that term is defined in section 101(2) of title 38, United States Code);

"(3) provide that the institution, in cooperation with other institutions of higher education where appropriate, will make vigorous efforts to identify qualified youths of exceptional financial need and to encourage them to continue their education beyond secondary school through programs and activities such as—

"(A) establishing or strengthening close working relationships with secondary-school principals and guidance and counseling personnel with a view toward motivating students to complete secondary school and pursue post-secondary-school educational opportunities, and

"(B) making, to the extent feasible, conditional commitments for educational opportunity grants to qualified secondary school students, who but for such grants would be unable to obtain the benefits of higher education, with special emphasis on students enrolled in grade 11 or lower grades who show evidence of academic or creative promise;

"(4) provide assurance that the institution will continue to spend in its own scholarship and student-aid program, from sources other than funds received under this part, not less than the average expenditure per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the agreement;

"(5) include provisions designed to make educational opportunity grants under this part reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and promote the purposes of this part."

PROGRAM CONSOLIDATIONS

SEC. 402. Section 408 of the Higher Education Act of 1965 is amended to read as follows:

"IDENTIFYING QUALIFIED LOW-INCOME STUDENTS; PREPARING THEM FOR POSTSECONDARY EDUCATION; SPECIAL SERVICES FOR SUCH STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"SEC. 408. (a) To assist in achieving the objectives of this section the Commissioner is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, or contracts with, institutions of higher education, including institutions with vocational and career education programs, combinations of such institutions, public or private agencies or organizations (including professional or scholarly associations), or in exceptional cases secondary schools or secondary vocational schools, for planning, developing, or carrying out within the States one or more of the services described in subsection (c), except that no grant may be made to an agency, organization, institution, or school other than a public or nonprofit private one.

"(b) Such services shall be designed to enable youths from low-income backgrounds who have academic potential (but may lack adequate secondary school preparation or be physically handicapped) to enter, continue, or resume a program of postsecondary education.

"(c) Such services are—

"(1) publicizing existing forms of student financial aid;

"(2) identifying youths described in subsection (b) and encouraging them to complete secondary school and to undertake postsecondary education;

"(3) encouraging youths described in subsection (b) who have dropped out of secondary school or college to reenter educa-

tional programs, including programs of post-secondary education;

"(4) generating skills and motivation necessary for success in education beyond high school;

"(5) providing counseling, tutorial, or other educational services, including special summer programs, to remedy academic deficiencies;

"(6) providing career guidance, placement, or other student personnel services (including health services);

"(7) identifying, encouraging, and counseling students with a view to their undertaking a program of graduate or professional education; and

"(8) providing other special or supplemental services necessary to achieve the purposes set forth in subsection (b).

"(d) Enrollees who are participating on an essentially full-time basis in one or more services being provided under subsection (c) may be paid stipends, but not in excess of $30 per month except in exceptional cases as determined by the Commissioner.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year 1972, and each succeeding fiscal year ending prior to July 1, 1976."

INCLUSION OF PROPRIETARY INSTITUTIONS

SEC. 408. Effective July 1, 1973, section 409 of the Higher Education Act of 1965 is amended to read as follows:

"DEFINITIONS

"SEC. 409. For the purposes of this part (other than section 406)—

"(1) The term 'academic year' means an academic year or its equivalent, as defined in regulations of the Commissioner.

"(2) The term 'institution of higher education' includes a proprietary institution of higher education (as defined in section 461 of this Act)."

PART B—EXTENSION AND AMENDMENT OF STUDENT LOAN INSURANCE PROGRAM

EXTENSION OF STUDENT LOAN INSURANCE PROGRAM

SEC. 411. (a) The first sentence of section 424(a) of the Higher Education Act of 1965 is amended to read as follows: "The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 438) to students covered by Federal loan insurance under this part shall not exceed $1,600,000,000 for the fiscal year 1972, $1,800,000,000 for the fiscal year 1973, $2,000,000,000 for the fiscal year 1974, $2,200,000,000 for the fiscal year 1975, and $2,400,000,000 for the fiscal year 1976."

(b) The second sentence of such section 424(a) is amended by striking out "1975" and inserting "1980".

(c) Section 428(a)(4) of such Act is amended by striking out "1971" and inserting "1976" and by striking out "1975" and inserting "1980".

(d) Section 433(c) of such Act is amended by striking out "for the fiscal year ending June 30, 1969, and for each of the two succeeding fiscal years" and inserting "for each fiscal year ending prior to July 1, 1976".

EXTENSION OF AUTHORITY FOR PAYING SPECIAL ALLOWANCES ON INSURED STUDENT LOANS

SEC. 412. Paragraph (7) of section 2(a) of the Emergency Insured Student Loan Act of 1969 (Public Law 91-95) is amended by striking out "1971" and inserting "1976".

AMENDMENTS TO INTEREST SUBSIDY PROVISIONS

SEC. 413. (a) Paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 is amended to read as follows:

"(1) Each student who has received a loan for study at an eligible institution—

"(A) which is insured by the Commissioner under this part;

"(B) which was made under a State student loan program (meeting criteria prescribed by the Commissioner), and which was contracted for, and paid to the student, within the period specified by paragraph (4); or

"(C) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (4), and which—

"(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than sixty days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

"(ii) in the case of a loan insured after June 30, 1967, is insured under a program covered by an agreement made pursuant to subsection (b),

and who has been determined by the eligible institution to be in need of the entire amount of such loan, after consideration of expected family contributions, in order to pursue a course of study at such eligible institution and has provided the lender with a statement evidencing such determination and stating the amount of the loan of which such student is in need, shall be entitled to have paid on his behalf and for his account to the holder of the loan, a portion of the interest on the loan. Such determination of need shall be made, and such statement shall be furnished, by the eligible institution, except that, in the case of eligible institutions located outside the United States, such determination shall be made, and such statement furnished, in such manner as the Commissioner may prescribe. In addition, the Commissioner shall pay an administrative cost allowance in the amount established by paragraph (2)(B) of this subsection with respect to loans to any student without regard to the borrower's need. In the absence of fraud by the lender, such determination of the need of a student under this paragraph shall be final insofar as it concerns the obligation of the Commissioner to pay the holder of a loan a portion of the interest on the loan."

(b) Section 428(b)(1)(H) of such Act is amended to read as follows:

"(H) provides that the benefits of the loan insurance program will not be denied any student because of his family income or lack of need if the institution has furnished the lender with a statement under paragraph (1) of subsection (a) of this section that the student needs a loan in the amount determined pursuant to such paragraph to pursue his course of study at that institution, except in the case of loans made by an instrumentality of a State or eligible institution;".

INSURANCE LIABILITY

SEC. 414. (a) Section 425(b) of the Higher Education Act of 1965 is amended to read as follows:

"(b) The insurance liability on any loan insured by the Commissioner under this part shall be 100 per centum of the unpaid balance of the principal amount of the loan, plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part."

(b) Section 427(a)(2)(D) of such Act is amended by striking out the following: "(but without thereby increasing the insurance liability under this part)".

(c) The last sentence of section 430(a) of such Act is amended by striking out "of the loan (other than interest added to principal)" and inserting in lieu thereof the following: "and interest".

INCREASE IN LOAN CEILINGS

SEC. 415. (a) Subsection (a) of section 425 of the Higher Education Act of 1965 is amended (1) by striking out "$1,500" and inserting in lieu thereof the following: "$2,500, except in cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education" and (2) by striking out "$7,500" and inserting "$100,000".

(b) Clause (A) of section 428(b)(1) of such Act is amended (1) by striking out "$1,500" and inserting in lieu thereof the following: "$2,500 (except in those cases where the Commissioner determines, pursuant to regulations prescribed by him, that a higher amount is warranted in order to carry out the purposes of this part with respect to students engaged in specialized training requiring exceptionally high costs of education)" and (2) by striking out "$7,500" and inserting "$10,000".

INCLUSION OF PART-TIME STUDENTS IN LOAN PROGRAMS

SEC. 416. Section 427(a)(1) of the Higher Education Act of 1965 is amended by striking out everything after "who (A)" down through "and (C)" and inserting in lieu thereof the following: "has been accepted for enrollment at an eligible institution on a full time or on a part-time basis or, in the case of a student already attending such institution, is in good standing there as determined by the institution on a full time or on a part-time basis, and (B)."

ALLOWANCES TO INSTITUTIONS FOR THEIR COSTS IN CONNECTION WITH THE INSURED STUDENT LOAN PROGRAM

SEC. 417. Section 428 of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(f) The Commissioner may pay to each eligible institution an allowance for each fiscal year which may not exceed 1 per centum of the amount of loans made to students at that institution for that year which are insured (1) by the Commissioner under this part or (2) by a State or nonprofit private loan insurance program (covered at the time the loan was made by an agreement under section 428 (b))."

TECHNICAL AMENDMENTS

SEC. 418. (a) Section 427 of such Act is amended to read as follows:

"REPAYMENT BY THE COMMISSIONER OF LOANS OF DECEASED OR DISABLED BORROWERS

"SEC. 437. If a student borrower who has received a loan described in clause (A), (B), or (C) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner), then the Commissioner shall discharge the borrower's liability on the loan by repaying the amount owed on the loan."

(b) Paragraph (1) of section 428(b) is amended (1) by striking out "and" at the end of clause (J) thereof, (2) by striking out the period at the end of clause (K) and inserting "; and" in lieu thereof, and (3) by adding at the end of such paragraph the following new clause:

"(L) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution, (ii) not in excess of three years during which the borrower is a member of the Armed Forces of the United States, (iii) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act, or (iv) not in excess of three years during which the borrower is in service as a full-time volunteer under title VIII of the Economic Opportunity Act of 1964."

(c) Section 428(c) of such Act is repealed.

(d) Paragraph (1) of subsection (c) of such section 428 is amended by striking out "adjusted family income of the borrower" and inserting in lieu thereof "the borrower's lack of need".

(e) Section 434 of such Act is amended by striking out "up to 15 per centum of their assets,".

(f) Section 435(a) of such Act is amended by inserting at the end thereof the following: "Notwithstanding any other provision of this part, whenever the Commissioner determines that it is necessary in order to carry out the purposes of this part and after affording an opportunity for a hearing, he is authorized to suspend, limit, or terminate eligibility under this part for any single otherwise eligible institution."

SAVINGS PROVISION

SEC. 419. The amendments made by this part shall not be effective with respect to any loan made after the date of enactment of this Act, in whole or in part, to consolidate or convert a loan made or contracted for prior to its effective date.

PART C—EXTENSION AND AMENDMENT OF THE WORK-STUDY PROGRAM

STATEMENT OF PURPOSE

SEC. 421. Section 441(a) of the Higher Education Act of 1965 is amended by striking out "from low-income families" and inserting in lieu thereof "with great financial need".

APPROPRIATIONS AUTHORIZATION

SEC. 422. Section 441(b) of the Higher Education Act of 1965 is amended to read as follows:

"(b) There are authorized to be appropriated $330,000,000 for the fiscal year 1972, $360,000,000 for the fiscal year 1973, $390,000,000 for the fiscal year 1974, $420,000,000 for the fiscal year 1975, and $450,000,000 for the fiscal year 1976 to carry out this part (other than section 447)."

REVISION OF STATE ALLOTMENT FORMULA

SEC. 423. Section 442 of the Higher Education Act of 1965 is amended by redesignating subsection (e) as subsection (b), and by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"SEC. 442. (a) From the sums appropriated to carry out this part, the Commissioner shall reserve the amount provided for in subsection (b) and shall allot the remainder among the States in accordance with section 465."

AUTHORIZING PARTICIPATION OF HALF-TIME STUDENTS IN COLLEGE WORK-STUDY PROGRAM

SEC. 424. Section 444(a)(3)(C) of the Higher Education Act of 1965 is amended (1) by striking out "full time" both times it appears, and (2) by inserting after "student at the institution" and after "attendance there" the following: "on at least a half-time basis".

CONDITIONS OF AGREEMENT

SEC. 425. (a) Section 444(a)(3) of the Higher Education Act of 1965 is amended (1) by striking out "from low-income families" and inserting in lieu thereof the following: "with the greatest financial need, taking into account grant assistance provided such student from any public or private sources", and (2) by amending clause (B) to read as follows: "(B) shows evidence of academic or creative promise and capability of maintaining good standing in such course of study while employed under the program covered by the agreement, and".

(b) Section 444(a) of such Act is amended by striking out paragraph (4).

WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

SEC. 426. Part C of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new section:

"WORK-STUDY FOR COMMUNITY SERVICE LEARNING PROGRAM

"SEC. 447. (a) The purpose of this section is to enable students in eligible institutions who are in need of additional financial support to attend institutions of higher education, with preference given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964, to obtain earnings from employment which offers the maximum potential both for effective service to the community and for enhancement of the educational development of such students.

"(b) There are authorized to be appropriated $50,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out this section through local project grants, without regard to the provisions of section 465.

"(c) The Commissioner is authorized to enter into agreements with public or private nonprofit agencies under which the Commissioner will make grants to such agencies to pay the compensation of students who are employed by such agencies in jobs providing needed community services and which are of educational value.

"(d) An agreement entered into under subsection (c) above shall—

"(1) provide for the part-time employment of college students in projects designed to improve community services or solve particular problems in the community.

"(2) provide assurances that preference will be given to veterans who served in the Armed Forces in Indochina or Korea after August 5, 1964 in recruiting students in eligible institutions for jobs under this section, and that the agency will make an effort to relate the projects performed by students to their general academic program and to a comprehensive program for college student services to the community.

"(3) conform with the provisions of clauses (A), (B) and (C) of paragraph (1) of section 444(a), and provide for the selection of students who meet the requirements of clauses (A), (B) and (C) of paragraph (3) of section 444(a);

"(4) include such other provisions as the Commissioner shall deem necessary or appropriate to carry out the purposes of this section.

"(e) For purposes of this section, the term 'community service' includes, but is not limited to, work in such fields as environmental quality, health care, education, welfare, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, conservation, beautification, and other fields of human betterment and community improvement."

PART D—EXTENSION AND AMENDMENT OF COOPERATIVE EDUCATION PROGRAMS

EXTENSION OF PROGRAM

SEC. 431. (a) Section 451(a) of the Higher Education Act of 1965 is amended by striking out "There are authorized to be appropriated $240,000 for the fiscal year ending June 30, 1969, $8,000,000 for the fiscal year ending June 30, 1970, and $10,000,000 for the fiscal year ending June 30, 1971," and inserting in lieu thereof "There are authorized to be appropriated such sums as may be necessary for the fiscal year 1972, and for each each succeeding fiscal year ending prior to July 1, 1976,".

(b) The second sentence of such section 451(a) of such Act is repealed.

(c) Section 451(b) of such Act is amended by striking out "$750,000 for the fiscal year ending June 30, 1969, and for each of the two succeeding fiscal years," and inserting in lieu thereof "such sums as may be necessary for the fiscal year 1972, and for each fiscal year ending prior to July 1, 1976,".

NEW USE OF FUNDS

SEC. 432. (a) Section 451(b) of the Higher Education Act of 1965 is amended by inserting after "training" the following: ", demonstration,".

(b) Section 453 of such Act is amended by inserting immediately before "or for research" the following: "for projects demonstrating or exploring the feasibility or value of innovative methods of cooperative education,".

PART E—AMENDMENTS TO GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

FORMULA FOR ALLOTTING STUDENT FINANCIAL ASSISTANCE FUNDS AMONG STATES

SEC. 441. Part E of title IV of the Higher Education Act of 1965 is amended by inserting after section 464 the following new section:

"ALLOTMENT OF FUNDS TO STATES

"SEC. 465. (a) Subject to the provision of subsection (c) ninety per centum of the sums appropriated for a fiscal year (1) under section 401(b) of this Act, (2) under section 441(b) of this Act (after making the reservation provided for in section 442), or (3) under section 201 of the National Defense Education Act of 1958, for fiscal years ending prior to July 1, 1976, shall each be allotted by the Commissioner among the States as provided in subsection (b).

"(b) In allotting sums under subsection (a), the Commissioner shall allot not to exceed two per centum of each sum being allotted between American Samoa and the Trust Territory of the Pacific Islands according to their respective needs for the assistance for which the sum being allotted was appropriated. The remainder of each sum shall be allotted as follows:

"(1) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of persons enrolled on a full-time basis in institutions of higher education in such State bears to the total number of persons enrolled on a full-basis in institutions of higher education in all the States;

"(2) one-third shall be allotted by the Commissioner among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of high school graduates (as defined in section 103(d)(3) of the Higher Education Facilities Act of 1963) of such State bears to the total number of such high school graduates of all the States; and

"(3) one-third shall be allotted by him among the States so that the allotment to each State under this clause will be an amount which bears the same ratio to such one-third as the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in such State bears to the number of related children under eighteen years of age living in families with annual incomes of less than $3,000 in all the States.

"(c) In the event the allotment to a State for a fiscal year after the fiscal year 1972 from the appropriations described in clause (1), (2), or (3) of subsection (a) plus any amounts allotted under subsection (d), is less than the amount so allotted to such State from the amount so appropriated for the fiscal year 1972, such allotment to the State shall be increased to an amount equal to its allotment from such appropriation for the fiscal year 1972, and the total of the increases thereby required shall be derived by proportionately reducing the allotments of each of the remaining States, but with such adjustments as may be necessary to prevent the allotment from such appropriation to any State from being thereby reduced below its allotment from such appropriation for the fiscal year 1972.

"(d) The sums remaining after making the allotments provided for in subsection (a) of this section shall be allotted among the States by the Commissioner in accordance with equitable criteria which he shall establish and which shall be designed to achieve a distribution of the sum being allotted among the States which will most effectively carry out the purpose for which the funds were

appropriated. Sums allotted to a State under this subsection shall be consolidated with, and become a part of, its allotment of funds from the same appropriation under the preceding subsections of this section.

"(e) The portion of any State's allotment under subsections (a), (b), (c), and (d) of this section for a fiscal year which the Commissioner determines will not be required in the State for the purpose for which appropriated may be reallotted by the Commissioner from time to time, on such dates as he may fix, to other States in such manner as he determines will best assist in achieving the purpose for which the funds were appropriated.

"(f) For purposes of this section (other than subsection (g)), the term 'State' does not include American Samoa or the Trust Territory of the Pacific Islands.

"(g) Sums appropriated under section 201 of the National Defense Education Act of 1958 for a fiscal year ending after June 30, 1976, shall be allotted among the States in such manner as the Commissioner determines to be necessary to carry out the purpose for which such amounts were appropriated."

TRANSFER OF FUNDS BETWEEN PROGRAMS

SEC. 442. (a) Effective with respect to fiscal years ending after June 30, 1972, subpart 1 of Part E of title IV of the Higher Education Act of 1965 is amended by adding at the end thereof (after the section added by section 441) the following new sections:

"TRANSFER BETWEEN PROGRAMS

"SEC. 466. Up to 10 per centum of the allotment of an institution of higher education for a fiscal year under section 406 or 442 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Commissioner shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"GUIDELINES

"SEC. 467. Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date."

WAIVER OF MAINTENANCE OF EFFORT REQUIREMENTS IN CERTAIN CASES

SEC. 443. (a) Section 464 of such Act is amended by inserting before the period at the end thereof the following ", except that under special and unusual circumstances the Commissioner is authorized to waive the application of any provision of such an agreement which is required by this section".

(b) The amendment made by subsection (a) shall be deemed to be effective from the date of enactment of the Higher Education Act of 1968.

PART F—SECONDARY MARKET AND WAREHOUSING

SEC. 451. Title IV of the Higher Education Act of 1965 is amended by adding at the end thereof the following new part F:

"PART F—STUDENT LOAN MARKETING ASSOCIATION

"DECLARATION OF PURPOSE

"SEC. 471. Congress hereby declares that it is the purpose of this part to establish a Government-sponsored private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for insured student loans and provide liquidity for student loan investments.

"CREATION OF AGENCY

"SEC. 472. (a) There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the 'Association'). The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Officers may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

"(b) The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

"(c) There are hereby authorized to be appropriated to the Secretary of Health, Education, and Welfare such sums as may be necessary for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association.

"BOARD OF DIRECTORS

"SEC. 473. (a) The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

"(b) An interim Board of Directors shall be appointed by the President, one of whom he shall designate as interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders under this title, seven of educational institutions, and seven of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

"(c) When in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

"(d) At the time the event described in subsection (c) has occurred, the interim Board shall turn over the affairs of the Association to the regular Board so chosen or appointed.

"(e) The directors shall serve for a term ending on the date of the next annual meeting of the common stockholders of the Association and, in the case of those directors appointed by the President, until their successors have been appointed and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(f) The Board of Directors shall meet at the call of its chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

"FUNCTIONS

"SEC. 474. (a) The Association is authorized subject to the provisions of this part, pursuant to commitments or otherwise, to make advances on the security of, purchase, service, sell, or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured under this part.

"(b) Any advance made under subsection (a) of this section shall not exceed 80 per centum of the face amount of an insured loan. The proceeds from any such advance shall be invested in additional insured student loans.

"COMMON STOCK

"SEC. 475. (a) The Association shall have common stock having a par value of $100 per share which may be issued only to lenders under part B of this title who are qualified as insured lenders under such part or who are eligible institutions as defined in section 435(b) (other than an institution outside the United States).

"(b) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 473(c).

"(c) The common stock of the Association shall be transferable only as may be prescribed by regulations of the Secretary, and, as to the Association, only on the books of the Association. The Secretary shall prescribe the maximum number of shares of common stock the Association may issue and have outstanding at any one time.

"(d) To the extent that net income is earned and realized, subject to section 476(b), dividends may be declared on common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock, except that no such dividend shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"PREFERRED STOCK

"SEC. 476. (a) The Association is authorized, with the approval of the Secretary, to issue nonvoting preferred stock with a par value of $100 per share. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(b) The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(c) In the event of any liquidation, dissolution, or winding up the association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"OBLIGATIONS

"SEC. 477. (a) The Association is authorized with the approval of the Secretary and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein.

"(b) The Secretary is authorized, on behalf of the United States, to guarantee payment

when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury.

"(c) To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

"GENERAL POWERS

"SEC. 478. The Association shall have power—

"(a) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

"(b) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

"(c) to adopt, amend, and repeal by its board of directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

"(d) to conduct its business, carry on its operations, and have officers and exercise the power granted by this part in any State without regard to any qualification or similar statute in any State;

"(e) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

"(f) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

"(g) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

"(h) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof; and

"(i) to enter into contracts, to execute instruments, to incur liabilities, and to do all things necessary or incidental to the proper management of its affairs and the proper conduct of its business.

"AUDIT

"SEC. 479. The accounts of the Association shall be audited at least annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 1, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury.

"AUDIT REPORT TO CONGRESS

"SEC. 480. A report of each such audit for a fiscal year shall be made by the Secretary to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of the Treasury and to the Association.

"OBLIGATIONS AS LAWFUL INVESTMENT, ACCEPTABLE AS SECURITY

"SEC. 481. All obligations issued by the Association shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this part shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States.

"PREPARATION OF OBLIGATIONS

"SEC. 482. In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and other materials, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

"ANNUAL REPORT

"SEC. 483. The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

"SEPARABILITY

"SEC. 484. If any provision of this part or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the part, and the application of such provisions to other persons or circumstances, shall not be affected.".

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 452. (a) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations or other instruments or securities of the Student Loan Marketing Association," immediately after "or obligations, participation, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(b) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus."

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464 (c)), is amended by inserting "or in obligations or other instruments or securities of the Student Loan Marketing Association;" in the second proviso immediately after "any political subdivision thereof".

(d) Section 107(8)(E) of the Federal Credit Union Act, as amended (12 U.S.C. 1957(8)(E)), is amended by inserting before the semicolon at the end thereof the following: ", or in obligations or other instruments or securities of the Student Loan Marketing Association".

PART G—EXTENSION AND AMENDMENT OF TITLE II OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

EXTENSION OF STUDENT LOAN PROGRAM

SEC. 461. The first sentence of section 201 of the National Defense Education Act of 1958 is amended to read as follows: "For the purpose of enabling the Commissioner to stimulate and assist in the establishment at institutions of higher education of funds for the making of low interest loans to students in need thereof to pursue their courses of study in such institutions, there are hereby authorized to be appropriated $625,000,000 for the fiscal year 1972, $675,000,000 for the fiscal year 1973, $575,000,000 for the fiscal year 1974, and $675,000,000 for the fiscal year 1975 and the succeeding fiscal year, to carry out this part, and there are further authorized to be appropriated such sums for the fiscal year 1977, and each of the next three fiscal years, as may be necessary to enable students who have received loans for school years ending prior to July 1, 1976, to continue or complete their education."

REVISION OF STATE ALLOTMENT FORMULA

SEC. 462. Section 202 of the National Defense Education Act of 1958 is amended to read as follows:

"ALLOTMENTS TO STATES

"SEC. 202. The Commissioner shall allot funds appropriated pursuant to section 201 among the States in accordance with section 465 of the Higher Education Act of 1965."

MODIFICATION OF LOAN LIMIT

SEC. 463. Section 205(a) of the National Defense Education Act of 1958 is amended to read as follows:

"SEC. 205. (a) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this title may not exceed $10,000 in the case of any graduate or professional student (as defined by regulations of the Commissioner, and including any loans from such funds made to such person before he became a graduate or professional student), $5,000 in the case of a student who has successfully completed two years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Commissioner, and including any loans from such funds made to such person before he became

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such a student), and $2,500 in the case of any other student.

ASSIGNMENT OF LOANS IN DEFAULT TO THE COMMISSIONER

SEC. 464. (a) Effective thirty days after the date of enactment of this Act section 204 of the National Defense Education Act of 1958 is amended by striking out "and" at the end of paragraph (3), by renumbering paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4) Provide that where a note or written agreement evidencing a loan has been in default for at least one hundred and eighty days despite due diligence on the part of the institution in making collection thereon, the institution may assign its rights under such note or agreement to the United States, without recompense, and that in that event any sums collected on such a loan shall be deposited in the general fund of the Treasury."

INCREASE IN MINIMUM RATE OF REPAYMENT

SEC. 465. Section 205(b)(2)(F) of the National Defense Education Act of 1958 is amended by striking out "$15" and inserting "$30."

PROVIDING THAT A VETERAN SHALL BE CONSIDERED SELF-SUPPORTING IN DETERMINING HIS NEED FOR A LOAN

SEC. 466. Section 207 of the National Defense Education Act of 1958 is amended by adding at the end thereof the following new subsection:

"(e) In determining, for purposes of clause (A) of paragraph (1) of subsection (b) of this section, whether a student who is a veteran (as that term is defined in section 101(2) of title 38, United States Code), is in need an institution shall not take into account the income and assets of his parents."

REIMBURSEMENT IN FULL TO COVER REDUCTIONS

SEC. 467. Section 208 of the National Defense Education Act of 1958 is amended to read as follows:

"PAYMENTS TO COVER REDUCTIONS IN AMOUNTS OF LOANS

"SEC. 208. In addition to the payments otherwise authorized to be made pursuant to this title, the Commissioner shall pay to the appropriate institution, at such time or times as he determines, an amount equal to the interest which, after the effective date of the Higher Education Act of 1971, has been prevented from accruing and the portion of the principal which has been canceled after such effective date on student loans pursuant to paragraph (3) of section 205(b) (and not previously paid under this section)."

REVISION OF PROVISION RELATING TO LOAN FORGIVENESS

SEC. 468. (a) Section 205(b)(3) of the National Defense Education Act of 1958 is amended to read as follows:

"(3) part or all of such loan may be canceled for certain service as a teacher, in accordance with section 210;".

(b) Title II of such Act is amended by adding at the end thereof the following new section:

"CANCELLATION FOR CERTAIN SERVICE AS A TEACHER

"SEC. 210. (a)(1) Fifteen per centum of the total amount of any loan made after June 30, 1972, from a student loan fund established under this title shall be canceled for each complete academic year of service by the borrower—

"(A) as a full-time teacher in an elementary or secondary school described in paragraph (3),

"(B) as a full-time staff member in a preschool program carried on under section 222(a)(1) of the Economic Opportunity Act of 1964 which is operated for a period which is comparable to a full school year in the locality: Provided, That the salary of such staff member is not more than the salary of a comparable employee of a local educational agency, or

"(C) as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system.

"(2) A teacher may receive cancellation of a loan under subparagraph (A) of paragraph (1) only for service in an academic year in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965, as amended (using a low-income factor of $3,000) exceeds 40 per centum of the total enrollments of the school.

"(b) In the case of a loan made before July 1, 1972, not to exceed 50 per centum of such loan (1) shall be canceled for service as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States at the rate of 10 per centum of the total amount of such loan for each complete academic year of such service, except that (A) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher in a public or other nonprofit elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965, as amended, and which for purposes of this paragraph and for that year has been determined by the Commissioner (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which there is a high concentration of students from low-income families, except that (unless all of the schools so determined are schools in which the enrollment of children described in clause (A), (B), or (C) of section 103(a)(2) of such title (using a low-income factor of $3,000) exceeds 50 per centum of the total enrollment of the school) the Commissioner shall not make such determination with respect to more than 25 per centum of the total of the public and other nonprofit elementary and secondary schools in any one State for any one year, (B) such rate shall be 15 per centum for each complete academic year of service as a full-time teacher of handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired children who by reason thereof require special education) in a public or other nonprofit elementary or secondary school system, and (C) for the purposes of any cancellation pursuant to clause (A) or (B), an additional 50 per centum of any such loan may be canceled, and (2) shall be canceled for service after June 30, 1970, as a member of the Armed Forces of the United States at the rate of 12½ per centum of the total amount of such loan for each year of consecutive service, but only if such loan was made after April 13, 1970.

"(3) For purposes of this section, the term 'academic year' means an academic year or its equivalent (as determined under regulations of the Commissioner)."

TITLE V—EXTENSION AND AMENDMENT OF EDUCATION PROFESSIONS DEVELOPMENT ACT

PART A—AMENDMENTS TO PART A OF TITLE V

EXTENSION OF NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT AND PROGRAM FOR ATTRACTING QUALIFIED PERSONNEL TO THE FIELD OF EDUCATION

SEC. 501. (a) Section 502(f) of the Higher Education Act of 1965 (the Education Professions Development Act) is amended by striking out "and" after "1968," and inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

(b) Section 504(b) of such Act is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

PART B—AMENDMENTS TO SUBPART 1 OF PART B

EXTENSION OF TEACHER CORPS PROGRAM

SEC. 511. Section 511(b) of the Higher Education Act of 1965 is amended (1) by striking out "and" after "1970." and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,", and (2) by striking out "1972" and inserting "1977".

PART C—AMENDMENTS TO SUBPART 2 OF PART B

ATTRACTING AND QUALIFYING TEACHERS TO ALLEVIATE TEACHER SHORTAGES

SEC. 521. Section 518(b) of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

VOLUNTEER SERVICE PROGRAMS

SEC. 522. Section 518(a) of the Higher Education Act of 1965 is amended by striking out "the succeeding", and inserting in lieu thereof "each succeeding", and by striking out "and" before "(2)" and by inserting before the period at the end thereof the following: ", (3) encourage volunteers (including high school and college students) for service as part-time tutors or full-time instructional assistants for educationally disadvantaged children, (4) compensate such tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs, and (5) provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage".

INCREASE IN AMOUNT AVAILABLE FOR ADMINISTRATION

SEC. 523. Section 520(a)(2) of such Act is amended (1) by striking out "and (C)" and inserting in lieu thereof the following: "(C) programs of such agencies to provide necessary training to teachers to enable them to teach other grades or other subjects in which such agencies have a teacher shortage, and (D)", (2) by striking out "3 per centum" and inserting in lieu thereof "5 per centum", and (3) by inserting before the semicolon ", or $20,000, whichever is greater".

"(6)(1) If for any academic year any portion of a loan is canceled under subsection (a) or (b), the entire amount of interest on such loan which accrues for such year shall be canceled.

"(2) Nothing in this section shall authorize refunding any repayment of a loan.

ELIMINATING CEILING ON AMOUNT FOR AIDES

SEC. 524. Section 530(a) of such Act is further amended by striking out paragraph (5) and redesignating paragraphs (6), (7), (8) and (9) as paragraphs (5), (6), (7), (8); and (5) thereof (as so redesignated) is amended by inserting after "because he" the following: "is teaching or".

PART D—AMENDMENT TO PART C

EXTENSION OF FELLOWSHIP PROGRAM

SEC. 531. Section 528 of the Higher Education Act of 1965 is amended by striking out "1971" each time it appears and inserting "1976".

FELLOWSHIPS IN SCHOOL NURSING

SEC. 532. Section 521 of the Higher Education Act of 1965 is amended by inserting "school nursing," after "such as library science,"

PART E—AMENDMENTS TO PART D (IMPROVING TRAINING OPPORTUNITIES FOR NON-HIGHER EDUCATION PERSONNEL)

SEC. 541. Section 532 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

PART G—TRAINING AND DEVELOPMENT OF VOCATIONAL EDUCATION PERSONNEL

SEC. 561. Section 555 of the Higher Education Act of 1965 is amended by striking out "and" after "1971," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

SUPPORT OF VOLUNTEER SERVICES PROGRAM

SEC. 542. Section 531(b) of such Act is amended by striking out the period at the end of paragraph (10) and inserting a semicolon, and by adding the following new paragraph at the end thereof:

"(11) programs or projects to encourage volunteers (including high school and college students) for service as part time tutors or full time instructional assistants in preschool, elementary, and secondary school classes, especially for educationally disadvantaged children;"

COMPENSATION OF TUTORS AND INSTRUCTIONAL ASSISTANTS

SEC. 543. Section 531(c) of such Act is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting a semicolon, and by adding the following new paragraph after paragraph (2):

"(3) compensating tutors and instructional assistants at such rates as the Commissioner may determine to be consistent with the prevailing practices under comparable federally supported work-study programs; or"

DEVELOPMENT AND STRENGTHENING PROGRAMS FOR THE EDUCATION OF TEACHERS AND RELATED EDUCATIONAL PERSONNEL

SEC. 544. (a) Section 531(b) of such Act is further amended by adding the following new paragraph at the end thereof:

"(12) programs or projects (including cooperative arrangements or consortium between constituents of higher education and junior and community colleges, or between such institutions and State or local education agencies and nonprofit education associations) for the development, expansion, or improvement of undergraduate programs for preparing educational personnel, including design, development, and evaluation of exemplary undergraduate training programs, introduction of high quality and more effective curriculums and curricular materials, and the provision of increased opportunities for practical teaching experience for prospective teachers in elementary and secondary schools."

(b) Section 531(c) of such Act is further amended by adding the following new paragraph at the end thereof:

"(4) projects or programs to develop, expand, or improve undergraduate and other programs for training educational personnel."

APPLICATION OF PART D TO INDIAN SCHOOLS

SEC. 545. Section 532 of the Higher Education Act of 1965 is amended by inserting "(a)" after "SEC. 532." and by inserting at the end thereof the following new subsection:

"(b) From the sums appropriated pursuant to subsection (a), the Commissioner may also make payments to the Secretary of the Interior to carry out the policy of this part with respect to persons preparing to serve as teachers of individuals on reservations serviced by elementary and secondary schools for Indian children operated or supported by the Department of the Interior. The terms upon which payments for that purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of this part".

PART F—AMENDMENTS TO PART E—(PROGRAMS OF TRAINING FOR HIGHER EDUCATION PERSONNEL)

SEC. 551. Section 543 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976."

PART G—TRAINING AND DEVELOPMENT OF VOCATIONAL EDUCATION PERSONNEL

SEC. 561. Section 555 of the Higher Education Act of 1965 is amended by striking out "and" after "1971," and by inserting before the period at the end thereof the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

TITLE VI—EXTENSION OR AMENDMENTS OF CERTAIN OTHER PROVISIONS OF LAW

EXTENSION OF PART A OF TITLE III OF NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 601. Section 301 of the National Defense Education Act of 1958 is amended by inserting after "1971," the following: "and for each succeeding fiscal year ending prior to July 1, 1976,", and by striking out "July 1, 1971" and inserting "July 1, 1976".

EXTENSION AND AMENDMENT OF TITLE IV OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958

SEC. 602. (a) The first sentence of section 402(a) of the National Defense Education Act of 1958 is amended by striking out "seven succeeding fiscal years" and inserting in lieu thereof "ten succeeding fiscal years".

(b) Section 403 of such Act is amended to read as follows:

"AWARD OF FELLOWSHIPS AND APPROVAL OF INSTITUTIONS

"SEC. 403. (a) Of the total number of fellowships authorized by section 402(a) to be awarded during a fiscal year (1) not less than one-third shall be awarded to individuals accepted for study in graduate programs approved by the Commissioner under this section, and (2) the remainder shall be awarded on such bases as he may determine, subject to the provisions of subsection (c). The Commissioner shall approve a graduate program of an institution of higher education only upon application by the institution and only upon his finding that the application contains satisfactory assurance that the institution will provide special orientation and practical experiences designed to prepare its fellowship recipients for academic careers at some level of education beyond the high school.

"(b) In determining priorities and procedures for the award of fellowships under this section, the Commissioner shall—

"(1) take into account present and projected needs for highly trained teachers in all areas of education beyond the high school,

"(2) give special attention to those institutions which have developed new doctoral-level programs especially tailored to prepare classroom teachers,

"(3) consider the need to prepare a larger number of teachers and other academic leaders from minority groups, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of persons of that group participating in or receiving the benefits of this program, in comparison with the total number or percentage of persons of that group in any community, State, section, or other area,

"(4) assure that at least one-half of all new fellowship recipients have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies,

"(5) allow a fellowship recipient to interrupt his studies for up to one year for the purpose of work, travel, or independent study away from the campus, except that no stipend or travel expenses may be paid for such period, and

"(6) seek to achieve a reasonably equitable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

"(c) Recipients of fellowships under this title shall be persons who are interested in an academic career in educational programs beyond the high school and are pursuing, or intend to pursue, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree.

"(d) No fellowship shall be awarded under this title for study as a school or department of divinity. For the purposes of this subsection, the term 'school or department of divinity' means an institution or department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects."

(c) Section 404(b) of such Act is amended to read as follows:

"(b) The Commissioner shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study, in lieu of tuition charged such person, such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount shall not exceed $4,000 per academic year for any such person."

EXTENSION AND EXPANSION OF TITLE VI OF THE NATIONAL DEFENSE EDUCATION ACT

SEC. 603. (a) Section 601(a) of the National Defense Education Act of 1958 is amended to read as follows:

"(a) The Secretary is authorized to make grants to or contracts with institutions of higher education for the purposes of establishing, equipping, and operating graduate and undergraduate centers and programs for the teaching of any modern foreign language, for instruction in other fields needed to provide a full understanding of the areas, regions, or countries, in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study. Any such grant or contract may cover all or part of the cost of the establishment or operation of a center or program, including the costs of faculty, staff, and student travel in foreign areas, regions, or countries, and the costs of travel of foreign scholars to teach or conduct research, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of this section."

(b) Section 601(b) of such Act is amended to read as follows:

"(b) The Secretary is also authorized to pay stipends to individuals undergoing ad-

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vanced training in any center or under any program receiving Federal financial assistance under this title, including allowances for dependents and for travel for research and study here and abroad but only upon reasonable assurance that the recipients of such stipends will, on completion of their training, be available for teaching service in an institution of higher education or elementary or secondary school, or such other service of a public nature or may be permitted in the regulations of the Secretary."

(c) Section 601 of such Act is further amended by adding a new subsection (c) to read as follows:

"(c) No funds will be expended under the title for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study."

(d) Section 603 of such Act is amended by striking out "and" after "1970," and by inserting after "1971," the following: "such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF THE INTERNATIONAL EDUCATION ACT OF 1966

SEC. 604. Section 105(a) of the International Education Act of 1966 is amended by striking out "and" after "1968," and by inserting after "1971" the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF PROGRAM TO ASSIST INSTITUTIONS IN THE ACQUISITION OF EQUIPMENT

SEC. 605. (a) Section 601(b) of the Higher Education Act of 1965 is amended by striking out "two" and inserting in lieu thereof "seven".

(b) Section 601(c) of such Act is amended by striking out "two succeeding fiscal years" and inserting "seven succeeding fiscal years".

EXTENSION OF NETWORKS FOR KNOWLEDGE PROGRAMS

SEC. 606. Section 802 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976".

EXTENSION OF PUBLIC SERVICE EDUCATION PROGRAMS

SEC. 607. Section 925 of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF PROGRAMS FOR IMPROVEMENT OF GRADUATE EDUCATION

SEC. 609. Section 1002(a) of the Higher Education Act of 1965 is amended by striking out "and" after "1970," and by inserting after "June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

EXTENSION OF LAW SCHOOL CLINICAL EXPERIENCE PROGRAM

SEC. 610. Section 1103 of the Higher Education Act of 1965 is amended by striking out "and" after "1969," and by inserting after "of the fiscal years ending June 30, 1970, and June 30, 1971," the following: "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,".

TITLE VII—HIGHER EDUCATION FACILITIES

PART A—EXTENSION AND AMENDMENT OF HIGHER EDUCATION FACILITIES ACT OF 1963

EXTENSION OF UNDERGRADUATE FACILITIES CONSTRUCTION GRANT PROGRAM

SEC. 701. (a) Section 101(b) of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1968," and inserting after "1971," the following "and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976,", and (2) by striking out the second sentence thereof.

(b) Section 105(b) of such Act is amended by striking out "and" after "1966," and by inserting after "succeeding fiscal years" the following: "and such sums as may be necessary for each succeeding fiscal year ending before July 1, 1976,".

EXTENSION OF GRADUATE FACILITIES CONSTRUCTION GRANT PROGRAM

SEC. 702. Section 201 of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1967," and inserting after "1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976," and (2) by striking out the third sentence thereof.

EXTENSION OF CONSTRUCTION LOANS AND ANNUAL INTEREST GRANT PROGRAMS

SEC. 703. Section 303(c) of the Higher Education Facilities Act of 1963 is amended (1) by striking out "and" after "1967," and inserting after "1971" the following: ", and such sums as may be necessary for each succeeding fiscal year ending prior to July 1, 1976," and (2) by striking out the third sentence thereof.

ARCHITECTURAL AND DESIGN STANDARDS

SEC. 704. The last sentence of section 401(a)(1) of the Higher Education Facilities Act of 1963 is amended by inserting after "Act" the following: "(1) have due consideration for excellence of architecture and design consistent with economical construction, and (2)".

AUTHORIZING THE SECRETARY FOR GOOD CAUSE TO RELEASE AN INSTITUTION FROM ITS OBLIGATION TO USE A FACILITY FOR TWENTY YEARS FOR THE PURPOSES FOR WHICH CONSTRUCTED

SEC. 705. Section 404(b) of the Higher Education Facilities Act of 1963 is amended by inserting "unless the Secretary determines that there is good cause for releasing the institution from its obligation" immediately after "section 401(a)(2),".

PROHIBITION ON USE OF FACILITIES FOR RELIGIOUS PURPOSES

SEC. 706. Section 404 of the Higher Education Facilities Act of 1963 is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under title I and II of this Act shall ever be used for religious worship or sectarian instruction or for a school or department of divinity."

PART B—NEW PROGRAM OF INSURED LOANS FOR CONSTRUCTION OF NONPROFIT PRIVATE ACADEMIC FACILITIES

SEC. 711. Title III of the Higher Education Facilities Act of 1963 is amended by inserting immediately after section 306 the following:

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 307. (a) In order to assist nonprofit private institutions of higher education and nonprofit private higher education building agencies to procure loans for the construction of academic facilities, the Commissioner may insure the payment of interest and principal on such loans if such institutions and agencies meet, with respect to such loans, criteria prescribed by or under section 306 for the making of annual interest grants under such section.

"(b) No loan insurance under subsection (a) may apply to so much of the principal amount of any loan as exceeds 90 per centum of the development cost of the academic facility with respect to which such loan was made.

"RIGHT OF RECOVERY AND INCONTESTABLE NATURE OF INSURANCE

"SEC. 308. (a) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under section 307 the amount of any payment made pursuant to that insurance, unless the Commissioner for good cause waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(b) Any insurance issued by the Commissioner pursuant to section 307 shall be incontestable in the hands of the institution or agency on whose behalf such insurance is issued, and as to any agency, organization, or individual who makes or contracts to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the agency, organization, or individual who makes or contracts to make such loan.

"CONDITIONS

"SEC. 309. Insurance may be issued by the Commissioner under section 307 only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Commissioner may charge a premium for such insurance in an amount reasonably determined by him to be necessary to cover administrative expenses and probable losses under sections 307 and 308. Such insurance shall be subject to such further terms and conditions as the Commissioner determines to be necessary."

MAKING REVOLVING LOAN FUND AVAILABLE FOR LOAN INSURANCE

SEC. 712. (a) Section 305 of such Act is amended—

(1) by striking out the heading therefor and inserting "Revolving Loan and Insurance Fund" in lieu thereof;

(2) by inserting "and loan insurance" immediately after "academic facilities loans" in the first sentence thereof; and

(3) by inserting "or loan insurance" immediately following "any loans" in the second sentence thereof. (b) Section 303(c) of such Act is amended—

(1) by inserting "and may insure loans" immediately after "academic facilities" in the first sentence thereof; and

(2) by inserting "and for insurance" immediately after "for loans" in the last sentence thereof.

EFFECTIVE DATE

SEC. 713. The amendments made by section 711 shall be effective July 1, 1972, and the amendments made by section 712 shall be effective as if enacted on the date of enactment of section 305 of such Higher Education Facilities Act of 1963.

TITLE VIII—HIGHER EDUCATION GENERAL ASSISTANCE

SEC. 801. The Higher Education Act of 1965 is amended by inserting after title XI the following new title:

"TITLE XII—GENERAL ASSISTANCE FOR HIGHER EDUCATION

"PART A—INSTITUTIONAL ASSISTANCE

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 1201. The Congress hereby finds and declares that an emergency condition has arisen which threatens the continued ability of many institutions of higher education to provide the education necessary to enable our citizens to make their full contribution to the Nation's economic and cultural development. It is therefore the purpose of this part to meet this critical need through general assistance from the Federal Government as provided in this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1202. There is hereby authorized to be appropriated for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to carry out the program of assistance to institutions of higher education under this part, an amount equal to the aggregate amount determined for all institutions of higher education for that year under paragraphs (2) and (3) of section 1203(a). Of the amount so appropriated for a fiscal year, two-thirds shall be available only for general education assistance grants under section 1203(a) and one-third shall be available for cost of education grants under section 1203(b).

"ASSISTANCE

"SEC. 1203. (a)(1) From two-thirds of the sums appropriated under section 1202 for a fiscal year, the Commissioner shall make a general assistance grant for such fiscal year to each institution of higher education in an amount not exceeding that applied for by such institution or in an amount determined under paragraphs (2) and (3), whichever is the lesser. Such a grant may be made only if any application therefor has been approved in accordance with section 1204.

"(2) Subject to paragraph (4), the amount of the grant to which an institution is entitled under this subsection for a fiscal year shall be the aggregate of—

"(A) the product obtained by multiplying $100 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students in the first two years of post-secondary education at the institution,

"(B) the product obtained by multiplying $150 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students in the upper division of the institution defined as the last two academic years of instruction at the baccalaureate level in an institution awarding such degrees, and

"(C) the product obtained by multiplying $200 times the full-time enrollment (including the full-time equivalent of the part-time enrollment for credit) of students who are pursuing a program of post-baccalaureate study.

"(3) Subject to paragraph (4), in addition to the amounts to be paid under paragraph (2), an institution shall be entitled to an additional $300 for each of 200 students and an additional $200 for each of 100 additional students of the total full-time enrollment of such institution.

"(4) If two-thirds of the sums appropriated for any fiscal year for making grants under this part are not sufficient to pay in full the total amounts that all institutions of higher education are entitled to receive under this subsection, the grant to each such institution shall be an amount which bears the same ratio to the amount to which it is entitled under this subsection as two-thirds of the sums so appropriated bears to the total amount all institutions are entitled to receive under this subsection.

"(5) Determinations of enrollment under this subsection shall be made on the basis of credits earned by students at the institutions during the academic year ending during the second fiscal year preceding the fiscal year for which the determination is made. The Commissioner shall by regulation prescribe (1) the number of earned credits which constitute enrollment on a full-time basis, and (2) a definition of 'credit' to be used for such determinations which shall be substantially uniform for all institutions.

"(b)(1) From one-third of the sums appropriated under section 1202 for any fiscal year, the Commissioner shall, subject to paragraph (2), make a grant to each institution of higher education in an amount equal to 33 per centum of the aggregate of educational opportunity grants and work-study payments under title IV of this Act and loans under title II of the National Defense Education Act of 1958 made for such year to students who are enrolled in such institution plus the amount attributable to veterans in such institution as determined under subsection (3), except that—

"(A) such grant shall be equal to 50 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year did not exceed one thousand,

"(B) such grant shall be equal to 46 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year exceeded one thousand, but did not exceed three thousand, and

"(C) such grant shall be equal to 42 per centum of such aggregate if the number of full-time students, and the full-time equivalent of the number of part-time students, enrolled in such institution during the most recent academic year ending prior to such fiscal year exceeded three thousand, but did not exceed ten thousand.

"(2) If one-third of the sums appropriated for any fiscal year for making grants under this part are more than or less than the amount necessary to pay in full the total amounts that all institutions of higher education are entitled to receive under this subsection, the grant to each such institution shall be an amount which bears the same ratio to the amount to which it is entitled under this subsection as one-third of the sums so appropriated bears to the total amounts all institutions are entitled to receive under this subsection.

"(3) The amount attributable to veterans for purposes of paragraph (1) of this subsection shall be determined, in the case of each institution of higher education, by multiplying the number of veterans enrolled in such institution who have not completed one full academic year at an institution of higher education and who—

"(1) served on active duty in the Armed Forces for at least one hundred and eighty days after August 4, 1964, and

"(2) are receiving an educational assistance allowance under section 1682 of title 38, United States Code, or are receiving vocational rehabilitation under section 1502 of such title,

by an amount equal to (A) 40 per centum of the educational assistance allowance which would be paid them if they had no dependents, in the case of veterans receiving payments under section 1682, or (B) the amount of tuition and fees paid on their account in the case of veterans being furnished vocational rehabilitation under section 1502.

"APPLICATIONS

"SEC. 1204. An institution of higher education may receive a grant under this part only if it submits an application therefor at such time and in such manner as the Commissioner shall prescribe by regulations. The application may be approved if the Commissioner determines that the application—

"(1) describes general educational goals and specific objectives of the institution and the amount of institutional income needed to meet such goals and objectives,

"(2) provides satisfactory assurance that—

"(A) the proceeds of the grant will be used for programs of the applicant institution consistent with such goals and objectives,

"(B) current operating support from non-Federal sources for educationally-related programs of the institution has not been reduced in anticipation of funds to be received under this part,

"(C) the applicant will make such reports as the Commissioner may require, including a summary report describing how the grant was expended and an evaluation of its effectiveness; and

"(3) contains such provisions as the Commissioner may require by regulation in order to protect the financial interest of the United States.

The Commissioner may waive the requirements of paragraph (2)(B) for any institution for any fiscal year if he determines such waiver would promote the purposes of this part.

"REPORT BY COMMISSIONER TO CONGRESS

"SEC. 1205. The Commissioner shall report to Congress within 120 days after the close of each fiscal year regarding the effectiveness of assistance under this part in meeting the goals and objectives of institutions of higher education and in encouraging diversity and autonomy among such institutions. The Commissioner shall also make such recommendations as seem appropriate regarding continuation, modification or extension of assistance under this part.

"LIMITATIONS

"SEC. 1206. No grant under this part may be made to, or used to support, a school or department of divinity or for religious worship or sectarian instruction. For purposes of this section, the term 'school or department of divinity' means an institution or department or branch of an institution whose program is specifically for the education of students to prepare them to be ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects.

"DEFINITIONS

"SEC. 1207. For purposes of this part—

"(1) The term 'institution of higher education' means an institution described in the first sentence of section 1601(a) of this title. A branch of an institution of higher education which is located in a community different from that of its parent institution shall be treated as a separate institution.

"(2) The term 'baccalaureate degree' means an undergraduate degree which normally requires at least four but not more than five years of full-time enrollment in an academic program for credit.

PART B—NATIONAL COMMISSION ON FINANCING OF POSTSECONDARY EDUCATION

"PURPOSE

"SEC. 1211. (a) It is the purpose of this part to authorize a study of the impact of past and present support and the appropriate level of future support for postsecondary education from private sources and from Federal, State, and local governments.

"(b) In order to give the States and the Nation the information needed to assess the dimensions of, and extent of, the financial crisis confronting the Nation's postsecondary institutions the study shall determine the need, the desirability, the form and the level of additional governmental and private assistance. Such study shall include but not be limited to (1) an analysis of the existing programs of aid to institutions of higher education, various alternative proposals presented to the Congress to provide assistance to institutions of higher education, as well as other viable alternatives which, in the judgment of the Commission merit inclusion in such a study; (2) the costs, advantages and disadvantages, and the extent to which each proposal would preserve the diversity and independence of such institutions; and (3) the extent to which each would advance the national goal of making postsecondary education accessible to all individuals, including returning veterans, having the desire and ability to continue their education.

"ESTABLISHMENT OF COMMISSION

"SEC. 1212. (a) There is hereby established, as an independent agency within the executive branch, a National Commission on the Financing of Postsecondary Education (hereinafter referred to as the 'Commission').

"(b) The Department of Health, Education, and Welfare shall provide the Commission with necessary administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) for which payment shall be made in advance, or by reimbursement, from funds of the Commission and such amounts as may be agreed upon by the Commission and the Secretary of Health, Education, and Welfare.

"CONTRIBUTIONS

"SEC. 1213. (a) The Commission shall have authority to accept in the name of the United States, grants, gifts or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"FUNCTIONS

"SEC. 1214. In conducting such a study, the Commission shall consider:

"(1) the nature and causes of serious financial distress facing institutions of postsecondary education; and

"(2) alternative models for long range solutions to the problems of financing postsecondary education with special attention to the potential Federal, State, local, and private participation in such programs, including, but not limited to—

"(A) the assessment of previous related private and governmental studies and their recommendations;

"B) the determination of the annual per student cost of providing postsecondary education for students in attendance at various types and classes of postsecondary institutions;

"(C) existing state and local programs of aid to postsecondary institutions;

"(D) the level of endowment, private sector support and other incomes of postsecondary institutions and the feasibility of Federal and State income tax credits for charitable contributions to postsecondary institutions;

"(E) the level of Federal support of postsecondary institutions through such programs as research grants, and other general and categorical programs; and

"(F) alternative forms of student assistance, including but not limited to loan programs based on income contingent lending, loan programs which utilize fixed, graduated repayment schedules, loan programs which provide for cancellation of referment of all or part of repayment in any given year based on a certain level of a borrower's income; and existing student assistance programs including but not limited to those administered by the U.S. Office of Education, the Social Security Administration, and the Veterans' Administration.

"REPORT TO CONGRESS

"SEC. 1215. Not later than June 30, 1973, the Commission shall make a final report to the President and Congress on the results of the investigation and study authorized by this part, together with such findings and recommendations, including recommendations for legislation, as they deem appropriate. An interim report shall be due no later than December 31, 1972. The Commission may release such other reports and studies at any time that it may desire.

"CONTRACT AUTHORITY

"SEC. 1216. In order to carry out the provisions of this part, the Commission is authorized to:

"(1) enter into contracts with institutions of postsecondary education and other appropriate individuals, public agencies and private organizations;

"(2) appoint and fix the compensation of such personnel as may be necessary;

"(3) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(4) utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local, and private agencies with or without reimbursement; and

"(5) consult with the heads of such Federal agencies as they deem appropriate.

"HEARINGS

"SEC. 1217. (a) The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this part.

"(b) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this part.

"MEMBERSHIP

"SEC. 1218. (a) The Commission shall be composed of—

"(1) two Members of the Senate who shall be members of different political parties and who shall be appointed by the President of the Senate;

"(2) two Members of the House of Representatives who shall be members of different political parties and who shall be appointed by the Speaker of the House of Representatives; and

"(3) not to exceed thirteen members appointed by the President not later than ninety days after the date of enactment of this Act. Such members shall be appointed from:

"(i) members of State and local educational agencies;

"(ii) State and local government officials;

"(iii) education administrators from private and public higher education institutions and community colleges;

"(iv) teaching faculty;

"(v) financial experts from the private sector;

"(vi) students;

"(vii) the Office of Education; and

"(viii) other appropriate fields.

"(b) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

"(c) The majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(d) The terms of office of the appointive members of the Commission shall expire after submission of the final report.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1219. There are hereby authorized to be appropriated $500,000 for the fiscal year 1972, and $1,000,000 for the fiscal year ending 1973, for the purpose of carrying out the provisions of this part."

TITLE IX—PROHIBITION OF DISCRIMINATION

SEC. 901. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that this subsection shall not apply—

(1) to the undergraduate admissions policy of any institution of higher education,

(2) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such change which is approved by the Commissioner of Education, or

(3) to an educational institution which is controlled by a religious organization and where the application of this subsection would not be consistent with the religious tenets of such organization.

(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) For purposes of this section an educational institution means any pre-school, elementary or secondary school, or any institution of higher education, except that in the case of an institution of higher education composed of more than one school or college which is an administratively separate unit, such term means each such school or college.

SEC. 902. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 901 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 903. Any department or agency action taken pursuant to section 902 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 902, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

SEC. 904. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 905. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance, or guaranty.

SEC. 906. No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity: *Provided, however*, That nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

SEC. 907. (a) Clause (1) of section 701(b) of the Civil Rights Act of 1964 is amended by inserting after "thereof" the following: "(except with respect to employees of a State, or a political subdivision thereof, employed in an educational institution)".

(b) Section 702 of title VII of the Civil Rights Act of 1964 is amended by the insertion of a period after "religious activities" and the deletion of the remainder of the sentence.

SEC. 908. Section 13(a) of the Fair Labor Standards Act of 1938 is amended by the insertion after the words "the provisions of sections 6" of the following: "(except section 6(d) in the case of paragraph (1))."

SEC. 909. (a) Subsection (1) of section 2(r) of the Fair Labor Standards Act of 1938 is amended by the deletion of the words "an elementary or secondary school" and the insertion of the words "a pre-school, elementary or secondary school".

(b) Section 3(s)(4) of such Act is amended by deleting "an elementary or secondary school" and inserting "a pre-school, elementary or secondary school".

SEC. 910. Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed as to prohibit any educational institution receiving fund under this act, from maintaining separate living facilities for the different sexes.

TITLE X—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

SEC. 1001. The Higher Education Act of 1965 adding after title XII the following new title:

"TITLE XIII—IMPROVEMENT OF MINERAL CONSERVATION EDUCATION

"SEC. 1301. The Congress, in recognition of the profound impact of mineral exploration and development on the health and safety of persons working in the mineral industries and on the interrelations of all facets of the natural environment, including, but not limited to, ground subsidence, mine fires, air and water resources, and fish and wildlife, and on outdoor recreation, aesthetic, agricultural, and other similar values of national, regional, and local significance, and in recognition of the fact that the prosperity and future welfare of the Nation is dependent, in large measure, on the sound exploration, extraction, processing and development of its unrenewable mineral resources, declares that it is the purpose of this title to assist in assuring the Nation, at all times, of an adequate supply of mineral engineers and scientists (a) for the mineral industries engaged in research, investigations, experiments, demonstrations, exploration, extraction, processing, developing, and production of such resources in a manner consistent with the need to protect and enhance the quality of the total environment, and (b) for the public agencies concerned with such mineral activities, with the health and safety of persons employed in such industries, and with the protection and enhancement of the total environment.

"SEC. 1302. (a) The Commissioner is authorized to make, in accordance with the provisions of this title, grants each fiscal year, for establishing and carrying out the work of a competent and qualified mineral resources conservation institute, center, or equivalent agency (hereinafter referred to as an 'institute'), to such institutions of higher education as he may select, not to exceed ten in the Nation, and selected so as to serve the needs of a region, which shall be an institution of higher education established in accordance with sections 1 through 5, 7, and 8, of the Act of July 2, 1862, as amended (7 U.S.C. 30–305, 307 and 308), or some other institution of higher education designated by the Governor of the State within which the institution is located. Institutions of higher education selected under this subsection are encouraged to cooperate with other such institutions in participating in the work of the institute.

"(b) The Commissioner shall approve any application or any modification thereof submitted annually under this section by a designated institute, which he finds, in consultation with the Secretary of the Interior—

"(1) sets forth a plan to provide for the training, consistent with the purpose of this title, of individuals as mineral engineers and scientists under a four-year undergraduate curriculum appropriate to the field of mineral resources and mineral engineering and related fields of environmental control, and to conduct competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to the exploration, extraction, processing, development, and conservation of mineral resources, to the solution of current and emerging problems of minerals technology, and to the protection and enhancement of health and safety of persons employed in the minerals industries and of the total environment affected by mineral operations;

"(2) gives assurances that such institute has or will promptly employ an adequate and competent faculty and administrative personnel;

"(3) sets forth policies and procedures which assure that Federal funds made available under this title for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available for purposes of this title, and in no case supplant such funds;

"(4) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title;

"(5) provides for making such reports, in such form and containing such information, as the Commissioner may require, in consultation with the Secretary of the Interior, and, for keeping such records and for affording access thereto; and

"(6) meet such additional conditions and regulations as the Commissioner may from time to time prescribe consistent with the purpose of this title.

"(c) In approving applications under subsection (b) of this section, the Commission shall require the institute to show that its program of mineral research, investigations, demonstrations, and experimental projects has been developed so as to avoid, having due regard to the varying conditions and needs of each State or region, (1) undue displacement of mineral scientists and engineers engaged in such activities, and (2) duplication, to the greatest extent possible, of such mineral projects conducted or being conducted by Federal or State agencies or other institutes.

"(d) There are authorized to be appropriated to the Commissioner for grants under this section for the fiscal year 1972, and for each succeeding fiscal year ending prior to July 1, 1976, such sums as may be necessary to pay not to exceed $500,000 annually of the estimated cost of establishing and carrying out the work of an institute. The Commissioner shall provide for an equitable distribution of sums appropriated for such grants. Such sums shall remain available until expended. The institute shall assume indirect costs. A minimum of 20 per centum of such grant shall be designated for scholarships, graduate fellowships, and postdoctoral fellowships.

"SEC. 1303. (a) There are authorized to be appropriated to the Commissioner for fiscal year 1972 and for each of the succeeding fiscal years ending prior to July 1, 1976, not to exceed $5,000,000 annually. Such sums shall remain available until expended for grants to institutes designated under this title where there is an application approved under this title to match, on a dollar-for-dollar basis, funds made available to such institutes by State or other non-Federal sources to pay the costs of conducting specific mineral research and demonstration projects of industrywide application relating (1) to the conservation, exploration, extraction, processing, development, or production of mineral resources, including but not limited to, the recycling and reuse of such resources and the products and wastes thereof, and (2) to the protection or enhancement of health and safety of persons employed in the minerals industries and of the environment in connection with mineral operations. The Commissioner shall provide for an equitable distribution of the sums appropriated among institutes for which an application is approved under section 1302 of this title.

"(b) Each application for a grant under this section and section 1304 of this title shall, among other things, state the nature of the project to be undertaken, the period during which it will be pursued, the qualification of the personnel who will direct and conduct it, the estimated cost, the extent of participation by nongovernmental sources in the project, including the identification of the participants, the importance of the project to the Nation, region, or State, and its relation to other known research projects theretofore pursued or being pursued. The Secretary of the Interior shall review each such application and shall make recommendations thereon to the Commissioner within thirty days after receipt of such application concerning the adequacy and merit of the project, the knowledge which it is expected to produce when completed, and such other matters as he deems appropriate. The Commissioner shall not make any grant for a project which the Secretary of the Interior recommends disapproval of, or which, in the judgment of the Commissioner, does not provide an adequate opportunity to train individuals as mineral engineers and scientists consistent with the purpose of this title.

"(c) In making grants under this section, the Commissioner shall prescribe such terms and conditions consistent with the purposes of this title.

"SEC. 1304. There are authorized to be appropriated to the Commissioner $10,000,000 for the fiscal year 1972, and increasing $2,000,000, annually for four years, from which he may, in consultation with the Secretary of the Interior, make grants or contracts with any educational institution to undertake mineral research and demonstration projects consistent with the purposes and applicable provisions of this title.

"SEC. 1305. No research, demonstrations, or experiments shall be carried out under this title by an institute financed by grants under this title, unless all information, uses, products, processes, patents, and other developments resulting therefrom (with such exception or limitation, if any, as the Commis-

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sioner may find to be necessary in the public interest) be made available promptly to the general public. Funds appropriated under this title shall be available for printing and publishing the results of activities carried out with the assistance of such funds by institutes and for administrative planning and direction.

"Sec. 1306. To assure that any institute established under this title is adequately equipped to train individuals, the Commissioner may make grants to each institute to pay 50 per centum of the cost of purchasing equipment and supplies. The equipment and supplies so purchased shall be used primarily for the education and training of individuals consistent with the purposes of this title. No portion of any such grant shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building. There are hereby authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1972 and each succeeding fiscal year ending prior to July 1, 1976, to remain available until expended, to carry out the purposes of this section.

"Sec. 1307. (a) The Commissioner shall appoint an advisory committee on mineral research composed of—

"(1) the Director of the National Science Foundation, or his delegate, with his consent;

"(2) the President, National Academy of Sciences, or his delegate, with his consent;

"(3) the President, National Academy of Engineering, or his delegate, with his consent;

"(4) the Director, Bureau of Mines, or his delegate, with his consent; and

"(5) such other persons as the Commissioner may appoint who are knowledgeable in the field of mineral research and its impact on health and safety and the quality of the environment.

"(b) The Commissioner shall designate the chairman of the committee. The advisory committee shall consult with, and make recommendations to, the Commissioner and the Secretary of the Interior on matters involving or relating to the purpose of this title. The Commissioner and the Secretary of the Interior shall consult with, and consider recommendations of, such committee in the conduct of mineral research and development and the making of any grant under this title."

TITLE XI—SPECIAL ASSISTANCE FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

Sec. 1101. In order to enable the Commissioner of Education to make grants to the College of the Virgin Islands and the University of Guam in recognition of the fact that such institutions and the areas they serve do not receive the support afforded land-grant colleges, there is authorized to be appropriated the sum of $3,000,000 for each such institution to be used as an endowment, and the sum of $450,000 for each such institution for the fiscal year 1973, and each succeeding fiscal year, for strengthening higher education, including community service programs, in the areas they serve.

TITLE XII—EVALUATION

Sec. 1201. The Higher Education Act of 1965 is amended by inserting after title XIII the following new title:

"TITLE XIV—EVALUATION OF FEDERAL EDUCATION PROGRAMS

"Sec. 1401. (a) The Comptroller General of the United States shall review, audit, and evaluate any Federal education program upon request by a committee of the Congress having jurisdiction of the statute authorizing such program or, to the extent personnel are available, upon request by a member of such committee. Upon such request, he shall (1) conduct studies of statutes and regulations governing such Federal education program; (2) review the policies and practices of Federal agencies administering such program; (3) review the evaluation procedures adopted by such agencies carrying out such program; and (4) evaluate particular projects or programs. The Comptroller General shall compile such data as are necessary to carry out the preceding functions and shall report to the Congress at such times as he deems appropriate his findings with respect to such Federal education program and his recommendations for such modifications in existing laws, regulations, procedures and practices as will in his judgment best serve to carry out effectively and without duplication the policies set forth in education legislation relative to such program.

"(b) In carrying out his responsibilities as provided in subsection (a) of this section, the Comptroller General shall give particular attention to the practice of Federal agencies of contracting with private firms, organizations and individuals for the provision of a wide range of studies and services (such as personnel recruitment and training, program evaluation, and program administration) with respect to Federal education programs, and shall report to the heads of the agencies concerned and to the Congress his findings with respect to the necessity for such contracts and their effectiveness in serving the objectives established in education legislation.

"AUTHORIZATION OF APPROPRIATIONS"

"Sec. 1402. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title."

TITLE XIII—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

Sec. 1301. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 1302. (a)(1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate education research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

Sec. 1303. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

Sec. 1304. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1308 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

Sec. 1305. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

Sec. 1306(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this Title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section; and

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessors was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

Sec. 1307. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of Title 31, U.S.C., to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, Territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as deemed necessary;

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursement. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5a. The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

Sec. 1308. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waiver any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

Sec. 1309. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

TITLE XIV—OCCUPATIONAL EDUCATION

Sec. 1401. This title may be cited as the "Occupational Education Act of 1971".

FINDINGS AND STATEMENT OF PURPOSES

Sec. 1402. The Congress finds and declares that—

(a) our educational system should be responsible for assuring that every young person leaving secondary school is prepared for and assisted in placement either in productive employment or in further education at the postsecondary level;

(b) the opportunity for postsecondary occupational education in programs which do not directly lead to a baccalaureate or advanced academic degree is severely limited in many parts of the Nation and is everywhere inadequate to meet existing needs, and that this situation adversely affects vital national economic and social goals;

(c) high-quality programs of postsecondary occupational education can be found in a wide variety of institutions, including public and private community and junior colleges, area vocational schools, technical institutes, private proprietary schools, college and university branches, and colleges and universities, and Federal support should encourage the utilization of all such facilities to meet the enormous needs in this field;

(d) the goals and purposes of the Congress in enacting the Vocational Education Act of 1963 and the amendments to that Act of 1968 cannot be realized until there is a widespread understanding of and support for occupational preparation in the general academic community which in turn is reflected in changed attitudes, curriculums, and practices in elementary and secondary schools; and

(e) the foregoing purposes and those of the Vocational Education Act Amendments of 1968 and related Acts cannot be realized without strong leadership and exemplary administration at the Federal level.

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 1403. For the purpose of carrying out part A of this title, there are hereby authorized to be appropriated $100,000,000 for the fiscal year 1972, $250,000,000 for the fiscal year 1973, $500,000,000 for the fiscal year 1974, and for each fiscal year thereafter such sums as may be necessary to assure that the purposes of this title are realized. From the sums appropriated for the fiscal year 1972, 80 per centum shall be available for the purposes of establishing a plan for administration under section 1413, making planning grants under section 1415, and for initiating programs under section 1416 in those States which have complied with the planning requirements of section 1415; and 20 per centum shall be available only for technical assistance under section 1413(a). From the amount appropriated for each succeeding fiscal year 85 per centum shall be available for grants to the States for carrying out part A, and 15 per centum shall be reserved to the Commissioner for grants and contracts pursuant to section 1413.

ALLOTMENTS AND REALLOTMENTS AMONG STATES

Sec. 1404. (a) From the sums available for the fiscal year 1972, for allotment to the States under section 1403 the Commissioner shall first allot such sums as they may require (but not to exceed $50,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $100,000.

(b) From the sums available for any fiscal year beginning after June 30, 1972, for allotment to the States under section 1403, the Commissioner shall first allot such sums as they may require (but not to exceed $500,000 each) to American Samoa and the Trust Territory of the Pacific Islands. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of persons sixteen years of age or older in such State bears to the number of such persons in all the States, except that the amount allotted to each State shall not be less than $1,000,000.

(c) The portion of any State's allotment under subsection (a) or (b) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the purposes of this title shall be available for reallotment from time to time, on such date or dates during such periods as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) or (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such States needs and will be able to use for such period, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) or (b) for such year.

PART A—OCCUPATIONAL EDUCATION PROGRAMS

FEDERAL ADMINISTRATION

Sec. 1410. The Secretary of Health, Education, and Welfare shall develop and carry out a program designed to promote and encourage occupational education, which program shall—

(1) provide for the administration by the Commissioner of Education of grants to the States authorized by this part;

(2) assure that manpower needs in subprofessional occupations in education, health, rehabilitation, and community and welfare services are adequately considered in the development of programs under this title;

(3) promote and encourage the coordination of programs developed under this title with those supported under the Vocational Education Act 1963, the Manpower Development and Training Act 1962, title I of the Economic Opportunity Act 1964, the Public Health Service Act, and related activities administered by various departments and agencies of the Federal Government; and

(4) provide for the continuous assessment of needs in occupational education and for the continuous evaluation of programs supported under the authority of this title and of related Acts.

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GENERAL RESPONSIBILITIES OF COMMISSIONER OF EDUCATION

SEC. 1411. The Commissioner of Education shall, in addition to the specific responsibilities imposed by this title, develop and carry out a program of occupational education that will—

(1) coordinate all programs administered by the Commissioner which relate to or have an effect upon occupational education so as to provide the maximum practicable support for the objectives of this title;

(2) promote and encourage the infusion into our system of elementary and secondary education of occupational preparation, counseling and guidance, and job placement or placement in postsecondary occupational education programs as a responsibility of the schools;

(3) utilize research and demonstration programs administered by him to assist in the development of new and improved instructional methods and technology for occupational education and in the design and testing of models of schools or school systems which place occupational education on an equal footing with academic education;

(4) assure that the Education Professions Development Act and similar programs of general application will be so administered as to provide a degree of support for vocational, technical, and occupational education commensurate with national needs and more nearly representative of the relative size of the population to be served; and

(5) develop and disseminate accurate information on the status of occupational education in all parts of the Nation, at all levels of education, and in all types of institutions, together with information on occupational opportunities available to persons of all ages.

ESTABLISHMENT OF BUREAU OF OCCUPATION EDUCATION

SEC. 1412. (a) There is hereby established in the United States Office of Education a Bureau of Occupational Education which shall be the principal agency within the Office of Education for the administration of this title, the Vocational Education Act of 1963 including parts C and I, the Adult Education Act of 1966, functions of the Office of Education relating to manpower training and development, and functions of the Office relating to vocational, technical, and occupational training in community and junior colleges.

(b) (1) The Bureau shall be headed by a person (appointed or designated by the Commissioner) who is highly qualified in the fields of vocational, technical, and occupational education, who is accorded the rank of Deputy Commissioner.

(2) Additional positions shall be assigned to the Bureau as follows—

(A) not less than three positions one of which shall be filled by a person with broad experience in the field of community and junior college education;

(B) not less than seven positions at least two of which shall be filled by persons with broad experience in the field of post-secondary occupational education in community and junior colleges, at least one of which shall be filled by a person with broad experience in education in private proprietary institutions, and at least one of which shall be filled by a person with professional experience in occupational guidance and counseling; and

(C) not less than three positions which shall be filled by persons at least one of whom is a skilled worker in a recognized occupation, another is a subprofessional technician in one of the branches of engineering, and the other is a subprofessional worker in one of the branches of social or medical services, who shall serve as senior advisers in the implementation of this title.

STATE ADMINISTRATION

SEC. 1413. (a) Any State desiring to participate in the program authorized by this title shall in accordance with State law designate or establish a State agency which will have sole responsibility for fiscal management and administration of the program, and which will provide assurances satisfactory to the Commissioner that—

(1) such State agency shall submit to the Commissioner a plan of administration which makes adequate provision for effective participation in the planning, design, administration, and evaluation of the program authorized by this title of persons with broad experience in the fields of—

(A) public and private community and junior college education,

(B) postsecondary vocational and technical education,

(C) occupational education in private, proprietary institutions,

(D) economic and industrial development,

(E) manpower development and training,

(F) academic education at the college and university level,

(G) secondary vocational and technical education,

(H) elementary and secondary education,

(I) elementary and secondary counseling and guidance, and

(J) industry, commerce, and labor.

(2) the State Advisory Council for Vocational Education will be charged with the same responsibilities with respect to the program authorized by this title as it has with respect to programs authorized under the Vocational Education Act of 1963;

(3) there is an administrative device which provides reasonable promise for resolving differences between vocational educators, community and junior college educators, college and university educators, elementary and secondary educators, and other interested groups with respect to the administration of the program authorized under this title; and

(4) there is adequate provision for individual institutions of groups of institutions and for local educational agencies to appeal and obtain a hearing from the State administrative agency with respect to policies, procedures, programs, or allocation of resources under this title with which such institution or institutions or such agency disagree.

(b) The Commissioner shall approve any plan of administration which meets the requirements of subsection (a), and shall not finally disapprove any plan without affording the State administrative agency a reasonable opportunity for a hearing. Upon the final disapproval of any plan, the provisions for judicial review set forth in section 1417(b) shall be applicable.

AUTHORIZATION OF GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1414. From the sums made available for grants under this section pursuant to sections 1403 and 1404, the Commissioner is authorized to make grants to the States to assist them in planning and administering high-quality programs of post-secondary occupational education which will be available to all persons in all parts of the State who desire and need such education, and to promote occupational orientation and education in the regular elementary and secondary school programs.

PLANNING GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1415. (a) Upon the application of a State under section 1413, the Commissioner shall make available to the State the amount of its allotment under section 1404 for the following purposes—

(1) to assist the State administrative agency established in meeting the requirements of section 1413;

(2) to strengthen the State Advisory Council on Vocational Education in order that it may effectively carry out the additional functions imposed by this title; and

(3) to enable the agency designated or established under section 1413 to initiate and conduct a comprehensive program of planning for the establishment and carrying out of the program authorized by this title.

(b) (1) Planning activities initiated under clause (3) of subsection (a) shall include—

(A) an assessment of the existing capabilities and facilities for the provision of post-secondary occupational education, together with existing needs and projected needs for such education in all parts of the State;

(B) thorough consideration of the most effective means of utilizing all existing institutions within the State capable of providing the kinds of programs funded under this title, including (but not limited to) both private and public community and junior colleges, area vocational schools, accredited private proprietary institutions, technical institutes, manpower skill centers, branch institutions of State colleges or universities, and public and private colleges and universities;

(C) the design of high-quality instructional programs to meet the needs for post-secondary occupational education and the development of an order of priorities for placing these programs in operation;

(D) the development of a long-range strategy for infusing occupational education (including general orientation, counseling and guidance, and placement either in a job or in post-secondary occupational programs) into elementary and secondary schools on an equal footing with traditional academic education, to the end that every child who leaves secondary school is prepared either to enter productive employment or to undertake additional education at the postsecondary level, but without being forced prematurely to make an irrevocable commitment to a particular educational or occupational choice; and

(E) the development of procedures to insure continuous planning and evaluation, including the regular collection of data which would be readily available to the State administrative agency, the State Advisory Council on Vocational Education, individual educational institutions, and other interested parties (including concerned private citizens).

(2) Planning activities carried out under this section shall involve the active participation of—

(A) the State board for vocational education;

(B) the State agency having responsibility for community and junior colleges;

(C) the State agency having responsibility for higher education institutions or programs;

(D) the State agency responsible for administering public elementary and secondary education;

(E) the State agency responsible for programs of adult basic education;

(F) representatives of all types of institutions in the State which are conducting or which have the capability and desire to conduct programs of postsecondary occupational education;

(G) representatives of private, nonprofit elementary and secondary schools;

(H) the State employment security agency, the State agency responsible for apprenticeship programs, and other agencies within the State having responsibility for administering manpower development and training programs;

(I) the State agency responsible for economic and industrial development;

(J) persons familiar with the occupational education needs of the disadvantaged, of the handicapped, and of minority groups; and

(K) representatives of business, industry, organized labor, and the general public.

(c) The Commissioner shall not approve any application for a grant under section 1416 of this title unless he is reasonably satisfied that the planning described in this section (whether or not assisted by a grant under this section) has been carried out.

PROGRAM GRANTS FOR STATE OCCUPATIONAL EDUCATION PROGRAMS

SEC. 1416. (a) From the allotments available to the States under section 1404(b) (upon application by the State administrative agency designated or established under section 1413), the Commissioner shall make grants to any State which has satisfied the requirements of section 1417. Such grants may be used for the following purposes—

(1) the design, establishment, and conduct of programs of postsecondary occupational education (or the expansion and improvement of existing programs) as defined by section 1420 of this title;

(2) the design, establishment, and conduct of programs to carry out the long-range strategy developed pursuant to section 1415 (b) (1) (D) for infusing into elementary and secondary education occupational preparation, which shall include methods of involving secondary schools in occupational placement and methods of providing followup services and career counseling and guidance for persons of all ages as a regular function of the educational system;

(3) special training and preparation of persons to equip them to teach, administer, or otherwise assist in carrying out the program authorized under this title (such as programs to prepare journeymen in the skilled trades or occupations for teaching positions);

(4) planning and evaluation activities designed pursuant to section 1415(b)(1)(E); and

(5) the leasing, renting, or remodeling of facilities required to carry out the program authorized by this title.

(b) Programs authorized by this title may be carried out through contractual arrangements with private organizations and institutions organized for profit where such arrangements can make a contribution to achieving the purposes of this title by providing substantially equivalent education, training or services more readily or more economically, or by preventing needless duplication of expensive physical plant and equipment, or by providing needed education or training of the types authorized by this title which would not otherwise be available.

ASSURANCES; JUDICIAL REVIEW

SEC. 1417. (a) Before making any program grant under this title the Commissioner shall receive from the State administrative agency assurances satisfactory to him that—

(1) the planning requirements of section 1415 have been met;

(2) the State Advisory Council on Vocational Education has had a reasonable opportunity to review and make recommendations concerning the design of the programs for which the grant is requested;

(3) Federal funds made available under this title will result in improved occupational education programs, and in no case supplant State, local, or private funds;

(4) adequate provision has been made by such agency for programs described in section 1416(a)(2);

(5) provision has been made for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this title;

(6) to the extent consistent with the number of students enrolled in nonprofit private schools in the area to be served by an elementary or secondary school program funded under this title, provision has been made for the effective participation of such students; and

(7) reports will be made in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this title.

(b) (1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State administrative agency, finds that any of the assurances required by subsection (a) are unsatisfactory, or that in the administration of the program there is a failure to comply with such assurances or with other requirements of the title, the Commissioner shall notify the administrative agency that no further payments will be made to the State under this title until he is satisfied that there has been or will be compliance with the requirements of the title.

(2) A State administrative agency which is dissatisfied with a final action of the Commissioner under this section or under section 1413 (respecting approval of a State plan for administration) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently but until the filing of the record the Commissioner may modify or set aside his action. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

TECHNICAL ASSISTANCE; MODEL PROGRAMS

SEC. 1418. (a) The Commissioner shall make available (to the extent practicable) technical assistance to the States in planning, designing, and carrying out the program authorized by this title upon the request of any State administrative agency designated or established pursuant to section 1413, and the Commissioner shall take affirmative steps to acquaint all interested organizations, agencies, and institutions with the provisions of this title and to enlist broad public understanding of its purposes.

(b) From the sums reserved to the Commissioner under section 1403, he shall by grant or contract provide assistance—

(1) for the establishment and conduct of model or demonstration programs which in his judgment will promote the achievement of one or more purposes of this title and which might otherwise not be carried out (or be carried out soon enough or in such a way as to have the desirable impact upon the purposes of the title);

(2) as an incentive or supplemental grant to any State administrative agency which makes a proposal for advancing the purposes of this title which he feels holds special promise for meeting occupational education needs of particular groups or classes of persons who are disadvantaged or who have special needs, when such proposal could not reasonably be expected to be carried out under the regular State program; and

(3) for particular programs or projects eligible for support under this title which he believes have a special potential for helping to find solutions to problems on a regional or national basis.

(c) In providing support under subsection (b) the Commissioner may as appropriate make grants to or contracts with public or private agencies, organizations, and institutions, but he shall give first preference to applications for projects or programs which are administered by or approved by State administrative agencies, and he shall in no case make a grant or contract within any State without first having afforded the State administrative agency reasonable notice and opportunity for comment and for making recommendations.

PAYMENTS

SEC. 1419. Payments under this title may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

DEFINITIONS

SEC. 1420. For the purpose of this title—

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and (except for the purposes of subsections (a) and (b) of section 1404) American Samoa and the Trust Territory of the Pacific Islands.

(2) The term "post-secondary occupational education" means education, training, or retraining (and including guidance, counseling, and placement services) for persons sixteen years of age or older who have graduated from or left elementary or secondary school, conducted by an institution legally authorized to provide post-secondary education within a State, which is designed to prepare individuals for gainful employment as semi-skilled or skilled workers or technicians or subprofessionals in recognized occupations (including new and emerging occupations) or to prepare individuals for enrollment in advanced technical education programs, but excluding any programs to prepare individuals for employment in occupations which the Commissioner determines, and specifies by regulation, to be generally considered professional or which require a baccalaureate or advanced degree.

PART B—CONFORMING AND SUPPORTING AMENDMENTS TO OTHER ACTS

SEC. 1430. (a) Section 203(a)(3) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" at the end of clause (B), striking out the semicolon at the end of clause (C) and inserting in lieu thereof ", and", and by inserting a new clause as follows:

"(D) provide assurance that equal consideration shall be given to the needs of elementary and secondary schools for library resources, textbooks, and other printed and published materials utilized for instruction, orientation, or guidance and counseling in occupational education."

(b) Section 303(b)(3) of such Act is amended by redesignating clauses (C), (D), (E), (F), (G), (H), (I), and (J), respectively, as clauses (D), (E), (F), (G), (H), (I), (J), and (K), and by inserting a new clause as follows:

"(C) programs designed to encourage the development in elementary and secondary schools of occupational information and counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education;".

(c) Section 503(4) of such Act is amended by redesignating clauses (A), (B), and (C), respectively, as clauses (B), (C), and (D), and by inserting a new clause as follows:

"(A) the development in elementary and secondary schools of programs of occupational information, counseling and guidance, and instruction in occupational education on an equal footing with traditional academic education,".

SEC. 1431. (a) Section 104(a)(2) of the Vocational Education Act of 1963 (relating to the duties of the National Advisory Coun-

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cil on Vocational Education) is amended by inserting after "under this title" each time it appears ", and under part A of the Occupational Education Act of 1971,".

(b) Section 104 of such Act is further amended by redesignating subsection (c) as subsection (d) and by inserting a new subsection as follows:

"(c) State advisory councils also shall perform with respect to the programs carried out under part A of the Occupational Education Act of 1971 functions identical with or analogous to those assigned under this title, and the Commissioner shall assure that adequate funds are made available to such Councils from funds appropriated to carry out part A of that title (without regard to whether such funds have been allotted to States) to enable them to perform such functions."

TITLE XV—STATE POSTSECONDARY EDUCATION COMMISSIONS

SEC. 1501. (a) Any State may designate or create a State agency or commission which is broadly and equitably representative of the public and of the public and private nonprofit and proprietary institutions of postsecondary education including community and junior colleges, technical institutes, four year institutions of higher education and branches thereof providing postsecondary academic and/or vocational and occupational training, in the State.

(b) (1) The Commissioner is authorized to make grants to State agencies or commissions designated or created pursuant to subsection (a) to enable them to make comprehensive inventories of, and studies with respect to, the postsecondary educational resources in the States and means by which such resources may be better planned and coordinated, improved, expanded, or altered in order to insure that all persons within the States who desire, and who can benefit from, postsecondary education may have an opportunity to do so.

(2) The Commissioner is further authorized to make grants to such State agencies or commissions to enable them to conduct comprehensive planning for statewide postsecondary education systems which will achieve the purpose set forth in paragraph (1). Such planning shall include consideration of a system of community service institutions as a means of achieving such purpose.

(3) The Commissioner shall make technical assistance available to such State agencies or commissions to assist them in achieving the purposes set forth in paragraphs (1) and (2).

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 1502. (a) Each State agency or commission (established under section 1501) may establish a committee (hereinafter in this section referred to as the committee), the membership of which shall include representatives of—

(1) all State agencies having responsibility or an interest in postsecondary education;

(2) community and junior colleges, four-year institutions of higher education and branches thereof, technical institutes, proprietary institutions, vocational schools, comprehensive secondary schools, adult education agencies, and State manpower agencies providing postsecondary academic and/or vocational and occupational training; and

(3) the general public, labor unions, business and industry, and agriculture.

(b) The committee may develop and adopt a statewide plan for the expansion and improvement of community postsecondary education programs. Such plan may—

(1) designate areas of the State in which residents do not have access to occupational education, continuing education, and community service institutions of postsecondary education within reasonable commuting distance;

(2) designate areas of the State in which existing community service institutions cannot meet the postsecondary educational needs of the residents;

(3) set forth a statewide plan for the establishment, expansion, and improvement of comprehensive community service institutions in order to achieve the goal of making available to all residents of the States, within commuting distance, an opportunity to attend a postsecondary educational institution;

(4) establish priorities for the use of financial and other resources in achieving the goal set forth in clause (3);

(5) make recommendations with respect to adequate State and local financial support, within the priorities set forth pursuant to clause (4), for community service institutions of higher education;

(6) recommendations for coordination of duplicating programs in order to eliminate such duplications;

(7) set forth a plan for the use of existing and new educational resources in the State in order to achieve the goal set forth in clause (3), including recommendations for the modification of State plans for federally assisted vocational education, community services, and academic facilities as they may affect postsecondary education institutions.

(c) (1) There are hereby authorized to be appropriated $16,000,000 during the period beginning July 1, 1972, and ending July 1, 1974, to carry out the provisions of this title.

(2) Sums appropriated pursuant to paragraph (1) shall be equitably allotted by the Commissioner among the States on the basis of the amount needed by each State for the purpose of this section, except that no such allotment to any State shall be less than $100,000 except that in the case of American Samoa and the Trust Territory of the Pacific Islands such allotment shall not be more than $50,000 each. Such sums shall remain available until expended.

(d) For purposes of this title, the term "State" includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

TITLE XVII—MISCELLANEOUS

SEC. 1701. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

REDESIGNATION OF SECTIONS

SEC. 1702. Title XII of the Higher Education Act of 1964 is redesignated as title XVI, and sections 1201, 1202, 1204, and 1205 of such Act are redesignated as sections 1601, 1602, 1604, and 1605, respectively, and cross-references to such title and such sections are redesignated accordingly.

WAIVER OF MATCHING REQUIREMENT IN CERTAIN CASES

SEC. 1703. (a) Part A of the General Education Provisions Act is amended by adding at the end thereof the following:

"Modifications of Matching Requirements

"SEC. 407. Where a provision of law relating to an applicable program limits the amount of Federal assistance which may be made available for carrying out the program to a specified portion of the cost thereof or requires a specified non-Federal contribution with respect to the program, the Commissioner may approve assistance to institutions of higher education (as defined in section 1601(a) of the Higher Education Act of 1965) for such program in excess of the portion so specified, or a lesser non-Federal contribution than that so specified, if he determines, in accordance with the regulations establishing objective criteria, that such action is required in furtherance of the purposes of such applicable program."

(b) Part A of the General Education Provisions Act is further amended by adding at the end thereof the following:

"PROHIBITION AGAINST USE OF APPROPRIATED FUNDS FOR BUSING

"SEC. 408. No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system." No officer or employee of the Department of Health, Education, and Welfare (including the Office of Education) or of any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization, to use any funds derived from any State or local sources for any purpose for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee."

APPLICATION OF CERTAIN LAWS TO PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 1704. (a) Section 103(a) of the Higher Education Act of 1965 is amended by striking out "each to Guam, American Samoa, the Commonwealth of Puerto Rico, and the Virgin Islands" and inserting in lieu thereof "to American Samoa".

(b) Section 513(c)(2) of such Act is amended (1) by striking out the first sentence and inserting in lieu thereof the following: "Not to exceed 5 per centum of the number of members of the Teacher Corps who are available shall be allocated to the elementary and secondary schools operated for Indian children by the Department of the Interior.", and (2) by striking out the last sentence thereof.

(c) (1) The first sentence of section 519(a) of such Act is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 519(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(d) Section 602(a)(2) of such Act is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(e) Section 103(d)(1) of the Higher Education Facilities Act of 1963 is amended by striking out "Puerto Rico, the Virgin Islands, American Samoa, and Guam" each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(f) Section 103(a) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(g) Section 302(a)(3)(B) of the National Defense Education Act of 1958 is amended by striking out " and the District of Columbia" and by inserting in lieu thereof ", the District of Columbia, Puerto Rico, Guam, and the Virgin Islands".

(h) Section 1008(A) of the National Defense Education Act of 1958 is amended by striking out "Puerto Rico, the Canal Zone, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "the Canal Zone, American Samoa,".

(i)(1) Section 202(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 202(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(j)(1) Section 302(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "among Puerto Rico, Guam, American Samoa, the Virgin Islands," and by inserting in lieu thereof "between American Samoa".

(2) The last sentence of section 302(a)(2) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," and inserting in lieu thereof "American Samoa".

(3) Section 307(b) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and inserting in lieu thereof "American Samoa".

(k)(1) Section 502(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(2) Section 522(a) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

(3) Section 531(c)(1) of such Act is amended by striking out "the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands," each time the phrase occurs and by inserting in lieu thereof "American Samoa".

SEC. 1705. All data, statistics, or other information required by the Secretary to make determinations with respect to entitlements to any monies under the Elementary and Secondary grants shall be obtained by him from the appropriate State educational agency. The Secretary shall require such State educational agency to provide only such data, statistics, or other information to him as is or are essential to enable him to carry out his duties under this Act.

EFFECTIVE DATE

SEC. 1706. Except as otherwise provided in this Act, each of the provisions of this Act, and each amendment made by this Act, shall become effective July 1, 1972.

TITLE XVIII—EMERGENCY SCHOOL AID

SEC. 1801. This title may be cited as the "Emergency School Aid Act of 1971".

PURPOSE AND POLICY

SEC. 1802. (a) The purpose of this title is to provide financial assistance—

(1) to meet the special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools, and

(2) to encourage the voluntary elimination, reduction, or prevention of racial isolation in elementary and secondary schools with substantial proportions of minority group students.

(b) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

APPROPRIATIONS

SEC. 1803. (a) There are authorized to be appropriated for carrying out this title not in excess of $500,000,000 for the fiscal year ending June 30, 1972, and not in excess of $1,000,000,000 for the succeeding fiscal year.

(b) Funds appropriated under subsection (a) shall remain available for obligation for one fiscal year beyond that for which they are appropriated.

(c) From the sums appropriated under subsection (a) for each fiscal year there shall be reserved to the Secretary an amount equal to not less than 4 per centum of the sums so appropriated for the purpose of carrying out bilingual education programs in accordance with section 1806 (e).

ALLOTMENTS AMONG STATES

SEC. 1804. (a) From the sums appropriated pursuant to section 1803 (a) for carrying out this title for any fiscal year, the Secretary shall allot an amount equal to 90 per centum among the States by alloting to each State $100,000 plus an amount which bears the same ratio to the balance of such 90 per centum of such sums as the aggregate number of children aged five to seventeen, inclusive, in the State who are Negroes, American Indians, Spanish-surnamed Americans, or members of other racial minority groups (such as Orientals, Alaskan natives, and Hawaiian natives) as determined by the Secretary, bears to the aggregate number of such children in all of the States. The remainder of such sums (other than sums reserved under section 1803(c)) may be expended by the Secretary as he may find necessary or appropriate (but only for activities described in section 1806 and in accordance with the other provisions of this title) for grants or contracts to carry out the purpose of this title stated in section 1802 (a). The number of such children in each State and in all of the States shall be determined by the Secretary on the basis of the most recent available data satisfactory to him.

(b)(1) The amount by which any allotment to a State for a fiscal year under subsection (a) exceeds the amount which the Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reallotment to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any such other States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a fiscal year shall be deemed part of its allotment under subsection (a) for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Secretary shall not fix a date for reallotment, pursuant to this subsection, of any portion of any allotment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any allotment to a State for a fiscal year shall be available for reallotment pursuant to this subsection unless the Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such allotment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 1806, 1807, and 1808, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title—stated in section 1802(a) that their approval is not warranted.

ELIGIBILITY FOR FINANICAL ASSISTANCE

SEC. 18. (a) The Secretary shall provide financial assistance by grant upon application therefor approved in accordance with this title to a local educational agency—

(1) which is implementing a plan—

(A) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of racially segregated students or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of racial isolation in such schools; or

(B) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of racially segregated students or faculty in such schools;

(2) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of racial isolation in all the racially isolated schools in the school district of such agency;

(3) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan—

(A) to eliminate or reduce racial isolation in one or more of the racially isolated schools in the school district of such agency,

(B) to reduce the total number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 18104(a), who are in racially isolated schools in such district, or

(C) to prevent racial isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 10 per centum, but not more than 50 per centum, of the enrollment consists of such children;

(4) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing racial isolation in one or more of the school districts to which such plan relates; or

(5) which, upon a determination by the Secretary—

(A) that more than 50 per centum of the number of children in attendance at the schools of a local educational agency is Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 18104(a), and

(B) that such local educational agency has applied for and will receive at least an equal amount of assistance under subsection (b),

has established or will establish one or more stable, quality, integrated schools. For the purposes of this paragraph, an integrated school shall be a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Secretary determines that the number of children who are not in groups described in clause (A) constitutes that proportion of the enrollment which will achieve stability, in no event more than 70 per centum thereof, and (ii) a faculty which is representative of persons who are Negroes, American Indians, or Spanish-surnamed Americans, or members of other racial minority groups as determined by the Secretary under section 18104

(a) and persons who are not members of such groups in the population of the larger community in which it is located, or, whenever the Secretary determines that the local educational agency concerned is attempting to increase the proportions of racial minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the racial minority group and nonminority group faculty employed by the local educational agency.

(b) The Secretary is authorized to make grants to local educational agencies, which are eligible under subsection (a)(5), for unusually promising pilot programs or projects designed to overcome the adverse effects of racial isolation by improving the academic achievement of children in one or more racial isolated schools, if he determines that the local educational agency had a number of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a) enrolled in its schools, for the fiscal year proceeding the fiscal year for which assistance is to be provided, which is at at least 15,000.

(c) In cases in which the Secretary finds that it would effectively carry out the purpose of this title stated in section 1802(a), he may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan or activeiy described in subsection (a).

(d)(1) No local educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) tranaferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination by such agency that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregaied public schools, and (ii) does not otherwise practice discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from racial minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of racial minority group from nonminority group children;

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of racial minority group children in such activities, which discriminates among children on the basis of race, color, or national origin; except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(3) All determinations and waivers pursuant to this subsection shall be in writing.

(e)(1) The Secretary shall carry out a program to meet the needs of children who are from an environment in which the dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 1803(c) the Secretary is authorized to make grants to and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under this section, designed to meet the special educational needs of children who are from environments in which the dominant language is other than English for the development of reading, writing, and speaking skills in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the groups of which such children are members;

(B) local educational agencies eligible for assistance under this section for the purpose of engaging in such activities;

(C) local educational agencies eligible for assistance under this section for the purpose of carrying out activities authorized under section 1806 of this title to implement curricula developed under clause (A) or (B) or curricula otherwise developed which the Secretary determines meets the needs described in clause (A).

In making grants and contracts under this paragraph, the Secretary shall assure that sufficient funds from the amount reserved pursuant to section 1803(c) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Secretary determines meet the needs described in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary education personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policy-making authority with respect to the program or project and (II) have demonstrated to the Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the group, the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under this section. The Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

AUTHORIZED ACTIVITIES

SEC. 1806. Financial assistance under this title shall be available for programs or projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 1802(a), including—

(1) remedial and other services to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 1805 or a program described in section 1809(2), when such services are deemed necessary to the success of such plan, activity, or program;

(2) the provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of racial isolation) and the training and retraining of staff for such schools;

(3) comprehensive guidance, counseling, and other personal services for such children;

(4) development and employment of new instructional techniques and materials designed to meet the needs of such children;

(5) educational programs using shared facilities for career education and other specialized activities;

(6) innovative interracial educational programs or projects involving the joint participation of Negro, American Indian, or Spanish-surnamed American children, or children of other racial minority groups as determined by the Secretary under section 1804(a), and other children attending different schools, including extra-curricular activities and cooperative exchanges, or other arrangements between schools within the same or different school districts;

(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of equipment) and the lease or purchase of mobile classroom units or other mobile educational facilities;

(8) community activities, including public education efforts, in support of a plan or activity described in section 1805 or a program described in section 1809(2);

(9) special administrative activities, such as the rescheduling of students or teachers, or the provision of information to parents and other members of the general public, incident to the implementation of a plan or activity described in section 1805 or a program described in section 1809(2);

(10) planning and evaluation activities; and

(11) other specially designed programs or projects which meet the purpose of this title stated in section 1802(a).

CRITERIA FOR APPROVAL

SEC. 1807. (a) In approving applications submitted under this title (except for those submitted under sections 1805(e) and 1809(2)), the Secretary shall apply only the following criteria:

(1) the need for assistance, taking into account such factors as—

(A) the extent of racial isolation (including the number of racially isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State.

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out a plan or activity described in section 1805 in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceed those of other school districts within the State;

(2) the degree to which the plan or activity described in section 1805, and the program or project to the assisted, are likely to effect a decrease in racial isolation in racially isolated schools, or in the case of applications submitted under section 1805(a)(3)(C), the degree to which the plan and the program or project, are likely to prevent racial isolation from occurring or increasing (in the absence of assistance under this title);

(3) the extent to which the plan or activity described in section 1805 constitutes a comprehensive districtwide approach to the elimination of racial isolation, to the maximum extent practicable, in the schools of such school district;

(4) the degree to which the program or project to be assisted affords promise of achieving the purpose of this title stated in section 1802(a);

(5) that (except in the case of an application submitted under section 1809(1)) the amount necessary to carry out effectively the program or project does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

(6) the degree to which the plan or activity described in section 1805 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(b) The Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

ASSURANCES

SEC. 1808. (a) An application submitted for approval under this title shall contain such information as the Secretary may prescribe and shall contain assurances that—

(1) the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Secretary;

(2) the applicant has adopted effective procedures, including provisions for such objective measurements of educational and other change to be effected by this title as the Secretary may require for the continuing evaluation of programs or projects under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs or projects and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

(3) the applicant will provide such other information as the Secretary may require to carry out the purpose of this title stated in section 1802(a);

(4) the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made; and

(5) staff members of the applicant who work directly with children, and professional staff of such applicant who are employed on the administrative level, will be hired, assigned, promoted, paid, demoted, dismissed or otherwise treated without regard to their membership in a racial minority group, except that no assignment pursuant to a court order or a plan approved under title VI of the Civil Rights Act of 1964, or otherwise adopted under section 1805, will be considered as being in violation of this subsection.

(b) An application for assistance under this title submitted by a local educational agency shall, in addition to meeting the requirements of subsection (a), contain satisfactory assurances that—

(1) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 1802(a) or, in the case of an application under section 1805(e), would assist in meeting the needs described in paragraph (1)(A) of that subsection, such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

(2) such agency has not reduced its fiscal effort for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

(3) the current expenditure per pupil (as defined in section 1811(a)) which such agency makes from revenues derived from its local sources for the academic year for which assistance under this title will be made available to such agency is not less than the current expenditure per pupil which such agency made from such revenues for (A) the academic year preceding the academic year during which the implementation of a plan or activity described in section 1805 or in section 1809(2) was commenced, or (B) the third academic year preceding the academic year for which such assistance will be made available, whichever is later;

(4) the plan with respect to which such agency is seeking assistance (as specified in section 1805(a)(1)) does not involve freedom of choice as a means of desegregation, unless the Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district by such agency;

(5) for each academic year for which assistance is made available to the applicant under this title, such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner of Education;

(6) such agency will not institute or have in effect any practice, policy, or procedure prohibited by clause (B), (C), or (D) of section 1805(d)(1);

(7) such agency will not engage in a transaction described in clause (A) of section 1805(d)(1); and

(8) such agency will carry out, and comply with, all provisions, terms, and conditions of any plan or activity as described in section 1805 or section 1809(2) upon which a determination of its eligibility for assistance under this title is based.

(c) The Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons by his disapproval and without affording the agency a reasonable time to modify its application.

(d) The Secretary may, from time to time, set dates by which applications shall be filed.

(e) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be an agency described in section 1805(a) or (c) or section 1809 and any one or more of such agencies joining in such application may be authorized to administer such program or project.

SPECIAL PROGRAMS

SEC. 1809. From the funds available to him under the second sentence of section 1804(a) the Secretary is authorized to make grants—

(1) to eligible local educational agencies to carry out model or demonstration programs related to the purpose of this title stated in section 1802(a) if in the Secretary's judgment these programs make a special contribution to the development of methods, techniques, or programs designed to eliminate racial segregation or to eliminate, reduce, or prevent racial isolation in elementary or secondary schools; and

(2) to local educational agencies to carry out programs for children who are from environments where the dominant language is other than English and who, (A) as a result of limited English-speaking ability, are educationally deprived, (B) have needs similar to the needs of other children participating in programs or projects assisted under this title, and (C) attend a school in which they constitute more than 50 per centum of the enrollment.

PAYMENTS

SEC. 1810. (a) Upon his approval of an application for assistance under this title, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor the amount fixed for such application.

(b) The Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 1806(b), the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 1802(a) or in the case of an application under section 1805(e) would assist in meeting the needs described in paragraph (1)(A). The services to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 1805(e), from the funds reserved under section 1803(c), or in case of an application under section 1809, from the sums available to the Secretary under the second sentence of section 1804(a).

(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (1) of section 1806(b), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational

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agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) After making a grant or contract under this title, the Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

(c) The amount of financial assistance to a local educational agency under this title may not exceed those net additional costs which are determined by the Secretary, in accordance with regulations prescribed by him, to be the result of the implementation of a plan or activity described in section 1805 (a), (b), or (c), or of the operation of a program under section 1809(2).

DEFINITIONS

SEC. 1811. As used in this title, except when otherwise specified—

(a) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditures made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(b) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of education services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(c) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(d) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control, or direction, of public elementary or secondary schools in a city, county, townships, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

(e) The term "nonprofit" as applied to an agency, organization, or institution means an agency, organization, or institution owned or operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(f) The terms "racially isolated school" and "racial isolation" in reference to a school mean a school and condition, respectively, in which Negro, American Indian, or Spanish-surnamed American children, or children who are members of other racial minority groups as determined by the Secretary under section 1804(a), constitute more than 50 per centum of the enrollment of a school.

(g) The terms "elementary and secondary school" and "school" mean a school which provides elementary or secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(h) The terms "Secretary" means the Secretary of Health, Education, and Welfare.

(i) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

(j) The term "State" means one of the fifty States or the District of Columbia, and for purposes of section 1809, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

EVALUATION

SEC. 1812. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation under this title for any fiscal year shall be available to him under the second sentence of section 1804(a) for evaluation (directly or by grant or contract) of the programs, activities, and projects authorized by this title.

JOINT FUNDING

SEC. 1813. Pursuant to regulations prescribed by the President, where funds are advanced by the Department of Health, Education, and Welfare and one or more other Federal agencies for any program, project, or activity funded in whole or in part under this title, any one Federal agency may be designated to act for all in administering the funds advanced.

NATIONAL ADVISORY COUNCIL

SEC. 1814. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representatives of racial minority groups, appointed by the President, which shall—

(1) advise the Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the implementation of the criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving the purpose stated in section 1802 (a), and (B) with respect to the Secretary's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized and submit through the Secretary to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) The Commissioner shall submit an estimate under the authority of section 401 (c) and part C of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions.

REPORTS

SEC. 1815. The Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with the appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 1802(a). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequent reports shall be submitted no less often than two times annually.

GENERAL PROVISIONS

SEC. 1816. (a) The provisions of parts B and C of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

(b) Section 422 of such General Education Provisions Act is amended by inserting "the Emergency School Aid Act of 1971;" after "the International Education Act of 1966;".

PROHIBITION AGAINST BUSING

SEC. 1817. No funds appropriated pursuant to this title may be used to acquire or pay for the use of equipment for the purpose of transporting children to or from any school, or otherwise to pay any part of the cost of any such transportation.

NEIGHBORHOOD SCHOOLS

SEC. 1818. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially non-discriminatory basis to adopt any other method of student assignment whether or not the use of such geographic attendance areas results in the complete desegregation of the schools.

The SPEAKER. The question is on the motion offered by the gentlewoman from Oregon.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7248) was laid on the table.

Mrs. GREEN of Oregon. Mr. Speaker, I ask unanimous consent that the Clerk, in the engrossment of the amendment to the Senate bill, be authorized and directed to make such changes in section numbers, cross-references, and other technical and conforming corrections as may be required to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

GENERAL LEAVE

Mrs. GREEN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that Mr. ELLENDER and Mr. YOUNG be appointed as additional conferees on the bill (H.R. 11418) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes."

ANNOUNCEMENT OF PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I have taken this time to announce to the Members of the House and also for the purposes of the RECORD that the program will continue today at noon with the consideration of the coffee agreement. At the conclusion of the debate on the coffee agreement, the program for this week will be concluded.

LEGISLATIVE PROGRAM

(Mr. BOGGS asked and was given permission to address the House for 1 minute.)

Mr. BOGGS. Mr. Speaker, I take this time in order to clarify what I said a moment ago. Some question has arisen in the minds of some people. It is our intention to conclude the consideration of the coffee agreement bill today and to vote on it today.

CONGRESSMAN DANIEL J. FLOOD NAMED HONORARY DOCTOR OF PHILOSOPHY BY THE UKRAINIAN FREE UNIVERSITY OF MUNICH, GERMANY

(Mr. MORGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MORGAN. Mr. Speaker, on Saturday night, October 23, in New York City, my distinguished colleague and dear friend in the Pennsylvania delegation, Congressman DANIEL J. FLOOD of Wilkes-Barre was given another great honor. He was named an honorary doctor of philosophy by the Ukrainian Free University of Munich, Germany, at the golden jubilee banquet at the Statler-Hilton Hotel, commemorating the 50th anniversary of the founding of the institution in Vienna, in 1921.

It was the sixth honorary degree my illustrious colleague has received, along with scores of citations over the years for his efforts on behalf of oppressed peoples everywhere. Of course Congressman FLOOD is also recognized for his efforts in behalf of social programs, in his capacity as chairman of the Subcommittee on Appropriations for the Departments of Labor; Health, Education, and Welfare.

Congressman FLOOD has continuously supported the cause of Ukrainian culture, and served at the head of a committee a few years back which led to the erecting of the Shevchenko Monument here in the Nation's Capital. He has been since its inception a strong supporter of the Captive Nations Week resolution.

Mr. Speaker, it is my pleasure to submit Mr. FLOOD's remarks in accepting this high honor which he gave Saturday night in New York:

ADDRESS BY CONGRESSMAN DANIEL J. FLOOD (D–PA.) IN ACCEPTING AN HONORARY DOCTORATE OF PHILOSOPHY DEGREE FROM THE UKRAINE FREE UNIVERSITY OF MUNICH, AT THE STATLER-HILTON HOTEL, NEW YORK CITY, OCTOBER 23, 1971

My Dear Friends for Freedom—for the freedom of Ukraine, for the preserved freedom of our great Nation—it is with the utmost humility and deepest gratitude that I wholeheartedly accept this priceless honor you have so generously conferred upon me. It is an honor that I shall treasure richly and to the end of my day. Believe me, in granting me this privilege to become associated as a favored son of the Free Ukrainian University, you have rekindled more than ever before my hopes and desires to continue to work with you in the advancement and realization of the cultural and political aspirations of the Ukrainian nation—the largest non-Russian nation both in the Soviet Union and in Eastern Europe—and also the progessive contributions of Americans of Ukrainian ancestry to our Nation.

Truly, I take immense pride in having the opportunities of over two decades to participate in the furtherance of these solid and precious goals. Over twenty years ago it was vitally important for me and my colleagues in Congress to establish the Displaced Persons Commission so that the hundreds of thousands of refugees from Communist tyranny, including many of you, may be given a new homeland in this country and freedoms which you were denied in your native land.

Soon therefore it was necessary to investigate officially the ways and means by which the countries of Eastern Europe, including Ukraine, came under Communist domination. My support of the famous Kerstern Committee was complete and undivided, and you well know the historic results of that august body. Cultural development in Ukraine and elsewhere has been severely repressed, but we managed to establish in the capital of this greatest nation on earth the everlasting symbol of Ukrainian culture and humanities in the Taras Shevchenko monument. The tremendous achievement is a source of pride and gratification to me and my colleagues in Congress.

Ladies and Gentlemen, as you see, we have been bound together in these and many other mutual efforts and achievements. But this honor that you so graciously endow me with tightens our bonds greater than ever for the truly challenging period ahead. For which, in all gratitude, I can only say most sincerely Dyakayu vom dushe (Thank you very much).

PHASE II: CANADA, THE CARIBBEAN, AND LATIN AMERICA; TIME TO AGAIN BE A GOOD NEIGHBOR

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matters.)

Mr. FASCELL. Mr. Speaker, in 2 weeks we will enter phase II of President Nixon's comprehensive program to restore this Nation to economic health. While restraints on wages and prices are still required, it is already clear that some tempering of the temporary stringent controls will be vitally necessary if we are not to seriously distort our economy while attempting to stimulate growth and halt inflation.

Equally important, however, will be greater flexibility in our new international economic policies if we are to prevent permanent damage to our long-term foreign policy interests and to avoid major distortions in patterns of world trade and investment.

Specifically, I urge the President to take advantage of the opportunity provided by the transition of phase II to end the unjust treatment of our neighbors in the hemisphere by immediately exempting all Western Hemisphere products from the 10-percent import surcharge. With respect to Latin America and the Caribbean, I am convinced that this can be done consistently with both the provisions of the General Agreement on Tariffs and Trade and the Trade Expansion Act. Moreover, I believe that we should seek a special waiver from GATT to exempt Canada from the import surcharge. It simply does not make sense to erect trade barriers between the United States and our closest friend and ally with whom we have so long had a policy of open frontiers and close military and economic cooperation.

I applauded and supported the President's international initiatives to halt the deterioration of the U.S. balance-of-payments position and to end the discriminatory practices of many nations against U.S. exports when they were first announced. I continue to support them generally today, but as chairman of the Inter-American Affairs Subcommittee of the Committee on Foreign Affairs, I am convinced that these policies should not and must not be carried out at the expense of our hemisphere neighbors.

The time has come to admit that the United States has made a mistake; that it is wrong to punish our hemisphere friends for the policies of other nations. Repeatedly, spokesmen for the administration have currently pointed out that it is principally the policies of Europe and Japan which have caused our problems. Our own policy should be consistent with that assessment.

Mr. Speaker, the United States has encouraged industrialization throughout the Americas. We have promoted economic growth which in turn provides markets for U.S. goods. We have urged export expansion and pledged to open our markets even more to Latin and Caribbean products by enactment of a system of general tariff preferences for the developing nations. Yet, just at the time when many hemisphere nations are beginning to expand their exports of manufactured products so that they can earn money with which to repay our development loans, we have levied an extra 10-percent duty—and this after agreeing to reduce our duties. It is not hard to understand why this move, originally coupled with a 10-percent reduction in aid, since rescinded, has provoked bitter resentment throughout the hemisphere.

The effect of the surcharge on hemisphere nations varies from country to country but in each country the effects, both real and psychological, are profound. For years we have deliberately encouraged our hemisphere neighbors to believe that they have a special relationship with the United States, and this should be the case for we share more than just geography. Our democratic tra-

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ditions and our history bind us together. Moreover, in every case our economies are inextricably bound. More than one-half of all exports of hemisphere countries go to the United States. Two-thirds of Canada's exports go to the United States and more than one-third of all Caribbean and Latin American exports, $14.6 billion in 1970, were to the United States.

It is difficult to sense from statistics the human impact of the surcharge but a brief glance at statistics does give a meaningful picture of the scale of the problems the surcharge creates. Of the $11 billion in goods Canada exports to the United States, 23.1 percent will be affected by the surcharge. This in turn will affect 3½ percent of Canada's GNP and cause thousands to be unemployed. Latin America and the Caribbean exported $5.2 billion to the United States in 1970. Almost $1 billion worth of this total will be affected by the surcharge. Included in the exports subject to the surcharge is 33 percent of all Mexico's exports, and $100 million each of both Argentina's and Brazil's exports. All this in retaliation for what? In 1970 we exported $269 million more to Argentina than we imported; $172 million more to Brazil than we imported; and $482 million more to Mexico than we imported. Overall, according to the U.S. Department of Commerce, we sold $917 million in goods to Latin America and the Caribbean than we bought from them in 1970. The facts are clear: Trade with almost all of our hemisphere neighbors is helping, not hurting the U.S. balance of payments.

Mr. Speaker, when this administration came into office, the President repeatedly stressed that its intent should be judged not by its pronouncements but by its actions. With respect to the Western Hemisphere, the administration has been long on promises and short on performance. Two years have gone by while we have waited for action on generalized preferences—now we have preferences in reverse. Phase II presents us with a splendid opportunity to step boldly forward with our hand extended in friendship toward our hemisphere neighbors and all the developing nations. I submit that the time has come to end our halting policy toward the hemisphere by abandoning an ill conceived import surcharge which punishes the innocent along with the guilty. The time has come to again be a good neighbor.

I include the following material:

TRADE AFFECTED BY U.S. SUPPLEMENTAL IMPORT CHARGE

[1970 data, dollars in millions and percent]

	GNP [1]	Total exports	Exports to United States	Duty-free [2]	Dutiable [3] quota items	Noncon-cession [4] items	Surcharge exempt	Subject to surcharge	Percent exports to United States affected	Percent total exports affected	Percent GNP affected [5]
Total	(6)	[7] 314,150	39,767.7	14,664.5	4,351.9	588.5	19,644.0	20,123.7	50.6	[7] 6.4	(6)
Developed countries	1,097,620	[7] 225,900	29,122.9	9,925.8	1,667.4	316.9	11,910.1	17,217.1	59.1	[7] 7.6	1.6
Developing countries	(6)	[7] 53,400	10,404.1	4,684.2	2,682.6	194.2	7,561.0	2,854.8	27.4	[7] 5.3	(4)
Communist [8]	(6)	[7] 34,850	218.2	53.8	[7] 1.9	[7] 47.4	172.2	44.0	20.4	[7] .1	(5)
Canada	78,140	16,861	11,024.6	7,675.0	758.7	39.1	8,472.8	2,552.0	23.1	15.1	3.3
OAS countries	129,898	14,575	5,168.6	2,587.5	1,598.1	122.5	4,308.1	861.5	16.7	5.9	.7
Mexico	31,580	1,402	1,197.6	440.7	174.8	119.0	734.5	463.1	38.7	33.0	1.5
Guatemala	1,729	298	87.1	61.1	21.4	(5)	82.5	4.6	5.3	1.5	.3
El Salvador	988	229	48.3	41.0	6.3	(5)	47.3	1.0	2.1	.4	.1
Honduras	675	172	95.9	74.9	7.7	(5)	82.6	13.3	13.9	7.7	2.0
Nicaragua	750	175	61.4	20.2	31.5	(5)	51.7	9.7	15.8	5.5	1.3
Costa Rica	886	229	115.2	84.3	28.3	.1	112.7	2.5	2.2	1.1	.3
Panama	992	114	75.3	57.9	15.8	(5)	73.7	1.6	2.1	1.4	.2
Colombia	6,610	750	269.2	203.4	48.5	.5	252.4	16.8	6.2	2.2	.3
Ecuador	1,782	218	108.3	91.6	11.0	(5)	102.6	5.7	5.3	2.6	.3
Peru	5,380	1,044	336.2	230.8	57.6	(5)	288.4	47.8	14.2	4.6	.9
Bolivia	938	220	24.2	21.2	.6	1.0	22.8	1.4	5.8	.6	.2
Chile	6,340	1,200	154.4	145.5	(5)	.1	145.6	8.8	5.7	.7	.1
Argentina	21,000	1,775	171.8	36.8	12.0	.4	49.2	122.6	71.4	6.9	.6
Paraguay	582	64	11.3	4.3	(5)	(5)	4.3	7.0	61.9	10.9	1.2
Uruguay	2,036	233	19.1	2.6	(5)	(5)	2.6	16.5	86.4	7.1	.8
Brazil	33,660	2,739	669.6	466.4	103.3	.5	570.2	99.4	14.8	3.6	.3
Venezuela	10,120	2,638	1,081.0	268.5	809.8	(5)	1,078.3	2.7	.2	.1	(5)
Trinidad and Tobago	815	482	232.0	82.5	146.4	(5)	228.9	3.1	1.3	.6	.4
Barbados	140	40	8.7	4.7	.1	(5)	4.8	3.9	44.8	9.8	2.8
Jamaica	1,110	299	185.7	164.8	13.4	.1	178.3	7.4	4.0	2.5	.7
Dominican Republic	1,351	214	185.1	62.9	105.8	.5	169.2	15.9	8.6	7.4	1.2
Haiti	425	38	31.9	20.5	4.1	(5)	24.6	7.3	22.9	19.2	1.7
Other Western Hemisphere	(6)	[7] 1,375	617.6	225.5	353.1	.8	579.4	38.2	6.2	[7] 2.8	. (5)
Greenland	(6)	(6)	1.8	.3	0	(5)	.3	1.5	83.3	(6)	(5)
Mig. and St. Pierre	(6)	(6)	.9	.2	0	.4	.6	.3	33.3	(6)	(5)
British Honduras	52	[7] 20	5.3	1.8	1.9	.3	4.0	1.3	24.5	[7] 6.5	2.5
Canal Zone	(6)	(6)	.8	.7	(5)	(5)	.7	.1	12.5	(6)	(5)
Bermuda	(6)	(6)	1.2	.8	(5)	(5)	.8	.4	33.3	(6)	(5)
Bahamas	(6)	39	80.8	26.1	28.6	(5)	54.7	26.1	32.3	29.3	(5)
Leeward and Windward Islands	(6)	(6)	5.6	2.4	1.7	(5)	4.1	1.5	26.8	(6)	(5)
Netherland Antilles	(6)	(6)	412.9	110.0	297.7	(5)	407.7	5.2	1.3	(6)	(5)
French West Indies	(6)	58	9.1	.2	8.7	(5)	8.9	.2	2.2	.3	(5)
Guyana	247	134	43.1	27.9	14.3	(5)	42.2	.9	2.1	.7	.4
Surinam	252	[7] 129	56.1	55.3	0	0	55.3	.	18.6	[7] .7	.4

[1] Estimated.

[2] Includes items which became duty-free Jan. 1, 1971, as part of the 4th stage Kennedy Round reductions, suspended duty items, and U.S. components entering duty-free under TSUS items 806.30 and 807.00.

[3] Includes: (a) Crude petroleum and most refined products. (b) Beet and cane sugar. (c) Fresh, chilled, or frozen beef, veal, mutton and goat-meat. (d) Cotton textile items covered by the long-term cotton textile agreement. (e) Dairy products under quantitative restrictions pursuant to sec. 22 of the Agricultural Adjustment Act, as amended. (f) Wheat and wheat flour. (g) Peanuts and peanut products except peanut butter. (h) Certain cotton and cotton waste.

[4] Col. 1 rate is identical to col. 2 rate.

[5] Not available.

[6] Yugoslavia is not considered a Communist country for purposes of this table. Of the Communist countries, only Poland receives MFN treatment from the United States; the surcharge therefore affects only some imports from Poland and none from other Communist countries.

[7] Excludes products already dutiable at col. 2 rates by reason of importation from countries not receiving MFN treatment from the United States.

[8] Less than $50,000.

[9] Less than 0.05 percent.

Note: Data sources: (1) GNP and total exports: International Financial Statistics (IMF) or State/AID estimates; (2) U.S. trade data: Department of Commerce publications and Tariff Commission computer printouts.

Source: Prepared by Department of State, Bureau of Economic Affairs Oct. 1, 1971.

[From the Miami Herald, Sept. 11, 1971]

AN ERRATIC POLICY FOR LATINS?

"It is difficult to comprehend the enormous problems confronting Latin America: the world's highest birth rate, unemployment equivalent to 27 per cent of the world force, massive illiteracy and ill health, a migration to the cities which is shattering centuries-old social and economic patterns virtually overnight . . . The facts—the sheer misery of millions—is staggering," U.S. Rep. Dante Fascell told the Congress last August.

"It is against this background," he added, "that we must measure our relations with Latin American governments."

Against that background, plus the fact that the United States enjoyed a favorable balance in Latin trade of $510 million in 1970, a hemispheric meeting begins Monday in Panama. On one side will be the United States; on the other, Latin America.

As has been demonstrated repeatedly, particularly since 1968, nothing unites the individualistic Latins so quickly and solidly as U.S. policies they don't like.

Officially, it will be a meeting of the Inter-American Social and Economic Council of the Organization of the American States. Realistically, it looms as a protest meeting against the new U.S. 10 per cent import surcharge.

The Latins want to know among other things why the U.S. includes them in punitive measures aimed at redressing imbalances caused by trade with other areas of the world.

They especially want to know why this should be so when the Nixon administration promised to follow a policy of exactly the opposite; providing a special trade break to Latin America.

And, it seems to us, they have a point.

[From the Miami Herald, Sept. 19, 1971]

HEAVYHANDED LATIN POLICY

"The United States cannot reverse the revolutionary processes which are taking place south of our borders and should try, instead, with all the patience, understanding and imagination at our disposal to help fashion new hemispheric relationships which will benefit all the peoples of the Western Hemisphere."

U.S. Rep. Dante Fascell, chairman of the House subcommittee on Inter-american Affairs, stressed this appropriate theme in his speech here Saturday night.

As probably the leading congressional spokesman on Latin America, Mr. Fascell emphasized again "the ordeal of change" taking place and cautioned that U.S. long-range interests require sympathy and understanding.

In this regard, he described as "heavy-handed" the application of the new U.S. import surcharge to Latin America, with which this country has a large annual trade surplus.

Mr. Fascell sounds the proper note, we think, when he calls for American nations to discard preconceptions and mutually explore new ground.

[From the Miami Review, Sept. 29, 1971]

PRESIDENT'S IMPORT SURTAX CAN HOBBLE LATIN PROGRESS

(By Lee Ruwitch)

When Congressman Dante Fascell insisted the other day that Mr. Nixon's across the board 10 per cent surtax on imports to salvage our pitiful balance of payments is "the right idea but the wrong method," he hit the nail right on the head.

For, what the President should have done was to allow for exceptions. Particularly, as Fascell stressed, when it comes to Latin America.

Many a Latin American country cannot survive without exports to the United States, and all our efforts—going back to the days of Franklin D. Roosevelt and ending with the days of John F. Kennedy—to stabilize the Latin American economy will go to the wind.

If that happens—and it surely will—political stability and the creation of a middle class in the lands of our neighbors will once more become the dream whose fulfillment against unemployment, poverty and extremism, will be shattered by renewed revolutions.

And the revolutions will, once more, give birth to the types of totalitarianisms from which we tried to rescue nations like Argentina, Brazil, Peru and others and against which we protest when we witness their rise in countries like Chile and Bolivia.

FDR never saw the fruits of his "Good Neighbor" policy because it came to life only briefly in the years of World War II as a matter of military alliance rather than "Good Neighbors."

The tragedy of assassination never permitted JFK to see any progress by the Alliance for Progress because his successors, as usual, forgot all about Latin America by way of their involvement in Asia, the Middle East and Europe.

So the fate of history made, once more, third class friends out of our Latin neighbors.

Now Mr. Nixon has rocked even that leaky boat by including the Latin nations in the 10 per cent import surtax which will make the survival of newly born and still developing commerce and industry dangerously difficult.

Yet anyone who knows Latin America well—and Mr. Fascell certainly does—knows also that it has never been the game of reckless politics which ruined the continent's economy but the lack of economic support which produced reckless politics. The import tax, applied to Latin America, may very well revive that trend.

[From the Christian Science Monitor, Oct. 14, 1971]

SPECIAL POSITION ERODING?—U.S. IMPORT CHARGE IRKS LATIN AMERICA

(By James Nelson Goodsell)

Latin American discontent with the United States is mounting.

Latest evidence of this trend springs from unhappiness over President Nixon's decision to place a 10 percent surcharge on all United States imports—a tax from which Latin America was not exempted.

What particularly rankles the Latins is what they regard as a growing tendency on the part of the Nixon administration to water down the special position Latin America had during previous administrations. As Latin America sees it, President Nixon is simply not interested in Latin America.

Even the administration's decision to exempt Latin America from a 10 percent cut in economic aid has failed to alter this feeling.

Most Latin American comment on the current United States economic situation and President Nixon's methods for meeting the problems facing Washington centers on the 10 percent import surcharge.

"This works against Latin America since we already run a trade deficit with the United States," a leading hemisphere diplomat in Washington commented last week. "Now we get slapped with a 10 percent tax that discriminates against us even more."

Numerous other Latin American diplomats in Washington, as well as government officials, echo these sentiments.

COMPLAINT SPELLED OUT

Galo Plaza Lasso, the Secretary-General of the Organization of American States, spelled out the Latin complaint pointedly when, in San Juan, Puerto Rico, he declared: "We must remember that it is not Latin American exports that are causing problems for the United States. On the contrary, the United States has a trade surplus with Latin America, which last year amounted to $790 million."

United States delegates to the recent Inter-American Economic and Social Council, meeting in Panama City, were subjected to sharp criticism from their Latin-American colleagues who arrived in the Panamanian capital hoping to hear word from Washington that Latin America was being exempted from the import surcharge.

Nathaniel Samuels, the deputy undersecretary for economic affairs, told the Latin delegates there would be no United States retreat on the surcharge.

When the conference wound up, the final document called for the immediate exemption of Latin America from the surcharge. The United States refused to sign the document, which each of the Latin American nations did sign.

The Panama meeting was one more standoff between Latin America and the United States, and to many hemisphere observers suggests the direction in which relations between Washington and Latin America are headed.

The Chilean delegate to the conference probably reflected the views of most of his Latin-American colleagues when he told the meeting that Latin America was being made to suffer for United States mistakes. "It is both unfair and unjust," he said, "for Washington to punish Latin American nations in an effort to resolve a problem not of their own making."

It is this point that increasingly galls Latin Americans. And to compound the problem, Latin Americans say they were led to believe their part of the world would receive preferential treatment from the United States.

"If this is preferential treatment," a Colombian at the Panama meetings said, "I would like to see what unpreferential treatment is!"

Moreover, in recent years, Washington has been encouraging Latin lands to diversify their exports and promising to take increasing amounts of Latin exports to help in this endeavor. Brasilians now reckon that the surcharge will affect close to $175 million worth of their exports to the United States and that the bulk will be in new areas into which they are just beginning to diversify.

MAKING THINGS CLEAR FOR THE LATINS

In case anyone still wonders why some Latin American nations are beginning to see Marxism and trade ties with the Soviet Union in their future:

Shortly after his inauguration, President Nixon indicated that his administration would continue to support development efforts in Latin America, called in the ambassadors of our southern neighbors and asked them to submit proposals. The product of these conferences was the consensus of Vina del Mar," a far-ranging plan for assistance and cooperation.

It has been virtually ignored.

Mr. Nixon commissioned New York Governor Nelson Rockefeller to undertake a personal mission to the capitals of Latin America and determine precisely what was needed. Governor Rockefeller submitted a detailed analysis of the area's needs.

It was cast aside.

Last April, Secretary of State William P. Rogers told the Latins in Costa Rica that the U.S. Government would take "immediate, positive" steps toward increasing their exports to the United States. He also told them that the administration intended to introduce legislation to grant developing countries "generalized tariff preferences on a wide range of products, including the 500 items requested by Latin America."

Last week, at a meeting of the Inter-American Economic and Social Council in Panama City, the Latin Americans finally were clued in on Mr. Nixon's real hemispheric policy: No increase in financial aid, no expansion of exports to the United States, no exemption from Mr. Nixon's 10 per cent import surcharge on non-quota goods.

The Latin Americans are saying bitter things. For some reason or other, they think they've been misled.

[From the Washington Post, Sept. 15, 1971]

WHO PAYS THE TARIFF?

In the current pushing and shoving among the world's great trading nations, a lot of small countries are getting hurt. Latin America illustrates the point. The United States did not really intend to harm the Latin economies last month when it imposed its 10 percent surtax on imports. The truth is that the White House and the Treasury were not thinking about Latin America at all. But intentional or not, the damage is real and the consequences are going to be serious.

President Nixon worked out his economic program with the advice of a special committee of able and experienced citizens, headed by Albert Williams, whose report has now been published. But in the matter of tariffs the President overrode this committee, which urged him to move toward removal of all barriers to international trade. The Williams committee is right on this issue, and the President is wrong. The evidence is already visible to the south.

The Latin Americans protest, with good logic, that it is unjust to make them pay a surtax designed to remedy a trade crisis in which they played no part. Latin America has traditionally bought more from the United States than it sells here. The Latins are not

the people to see about revaluing the yen and the Deutschemark. But the United States meets all objections with a shrug and the observation that it can't start making exceptions now.

Mr. Nixon attempted this week to placate the Latins with the decision that, for them alone, he would cancel the 10 percent reduction in foreign aid, it had originally been part of the program announced a month ago, with the surtax. But the countries getting the most aid are not those hardest hit by the surtax.

The extreme examples are Mexico and Brazil. Mexico does more business with the United States than any other country in Latin America and will be more severely damaged by the surtax than any other. But Mexico takes no direct aid from the United States. On the other hand, the United States gives more aid to Brazil than to any other Latin country. Brazil does half as much business with the United States as Mexico does. Since coffee is exempt, the surtax applies only to about 15 percent of Brazil's exports to this country. But it applies to fully 50 percent of Mexico's exports here.

Less than two years ago Mr. Nixon delivered a glowing speech on this country's responsibilities to Latin America. "They need," he said then, "to be assured of access to the expanding markets of the industrialized world." He promised them advance consultation on trade matters, and he also promised to pursue, worldwide, "a liberal system of generalized tariff preferences." They got no consultation on the surtax, obviously, and now they see the United States taking the lead in raising tariffs. Unfortunately the price of these moves comes high, and much of it is ultimately paid by small nations that cannot afford their large neighbors' mistakes.

[From the Vision Letter, Oct. 15, 1971]

THE DANGEROUS POLICY VACUUM IN LATIN AMERICA

President Nixon's new economic policy—no matter how popular in this country—is nothing less than a unilateral moratorium on our commitments to Latin America. Hanging in the balance is more than a third of a century of effort to create a "special relationship" with our Hispanic neighbors. Incredibly, this monumental effort is now being discarded because neither the president nor Secretary John Connally considers it any more than a peripheral concern.

We are certain that readers of *The Vision Letter* agree with us that this is a terrible mistake, threatening not just Latin America but our own national interests, and we feel that everyone in this country with any knowledge of or interest in Hemisphere affairs should join us in petitioning the government for an immediate review of what is tantamount to a policy of malignant neglect.

To that end, we ask for an immediate removal of the surcharge on imports of all goods coming from Latin America, tax that is unfair, unnecessary and counterproductive. And we ask that the White House and the indicated committees of the Congress move speedily to formulate a realistic and progressive policy toward the Hemisphere, a policy that at least attempts to deal with the legitimate aspirations of our remaining Latin American allies, and which is clearly enough stated to be pursued not only by this but succeeding administrations.

In the first place, the American people must be told the reason why we must have a "special relationship" with Latin America, why presidents Roosevelt, Truman, Eisenhower, Kennedy and Johnson were eager to foster such a relationship, even at the cost of huge sums of money, military intervention and the threat of global war. We have faced and we still face a choice of whether we want on the soft underbelly of the American hemisphere a community of friendly nations, political and economic partners, or whether we are to risk a polarization into hostile camps, with 20 sullen nations to the south of us feeding on their own misery and seeking their alliances and ideologies from outside the New World.

President Nixon, before the panic of the dollar crisis, had seemed aware of what was involved. In his foreign policy report to the Congress last February, he said this: "The United States has a great interest in furthering economic and social development in Latin America. If frustration continues to grow, radical forces will depict us as an obstacle to national development. We could become increasingly alienated from our Hemisphere neighbors." Yet the president himself has shown almost no real interest or concern, and by the imposition of the surcharge he has now erected the very obstacles of which he said "radicals" would accuse us.

Partly because of inadequate press coverage, the U.S. public and most members of Congress are not aware of the extreme state of Latin American anger and frustration, not among radicals but responsible government leaders and others who had committed themselves to an assumed alliance with the United States as the foundation of foreign affairs. Nor did that frustration begin with the president's August 15 address. From the start, this Administration has barraged Latin America with promises of future help, beginning with the Rockefeller mission. New terms of aid, new forms of technology transfer, preferential tariffs, greater consultation on regional matters—virtually none of them has materialized. There has almost been a pattern to it all: of promise, then delay, then a shrug of distinterest. The surcharge came as a last straw. Before August, the Latin Americans felt a sense of grievance; afterward, it was one of betrayal.

It has always, and wisely, been the policy of the United States to discuss inter-American affairs at a symbolically round table. A meeting of equals, despite obvious discrepancies of wealth and power, enabled us to avoid a confrontation of one nation against 20. But U.S. neglect is forcing the Latin Americans to look inward, and they are increasingly placing emphasis on purely regional organizations in which Washington has neither voice nor influence. In such organisms, common cause against the U.S. is the binding force.

The United States still has many friends in the Hemisphere and there is little doubt that most countries would like to look to us for support and leadership. Latin American governments know the value of a strong U.S. economy and, at the beginning, they were surprisingly sympathetic to our difficulties. What they cannot understand—and find intolerable—is Washington's new and almost insulting indifference.

There is no responsible official in the Administration who does not admit that the Nixon "low profile" policy has died a failure. But in its inception it at least seemed to have an underpinning of reason and purpose. For the policy vacuum that exists today there is no reason and no excuse. We must make a new start, and those in and out of government who know the stakes involved must start by raising their voices.

CUTLERY IMPORTS CUT DEEP INTO EMPLOYMENT IN THE UNITED STATES

(Mr. DENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DENT. Mr. Speaker, I have just received some information that I would like to pass on to the membership.

GSA evidently has just procured some $2.048 million worth of cutlery. Four American companies who produce cutlery received altogether approximately $500,000 of the $2.048 million. I have not been given the individual figures for each company's award; however, if averaged out, each company would have received $125,000. The fifth company received the balance of the $2.048, or approximately $1.048 million. This company is based in California, but to fulfill orders it imports its cutlery from Taiwan and Korea.

Apparently, Congress does not understand the significance of taking money out of American pockets and putting it into foreign pockets. This increases employment in foreign countries and increases unemployment in the United States. It also forces us to pass bills for aid to education, appropriations for emergency work programs, funds for welfare programs and many other kinds of workmaking payrolls. The money for these programs must come from American workers' pockets.

If the Government of the United States does not patronize its own producing facilities and try to keep some semblance of steady employment, how can we ask private enterprise and private citizens to refrain from buying foreign products?

The burning question America soon will have to answer is whether or not this Nation can survive with their present international trade policies. The answer, of course, is not simple but an answer must come forth. It cannot come from the administration or the President, it must come from the Congress. Only the Congress represents the grassroots of America, in 435 separate and distinct districts.

I am convinced, after a great number of years of following the trade picture closely, that the people are becoming aware of the doubletalk by our administrative and political leaders, which is bearing sour fruit represented by unemployment, disillusionment, disaster, distrust, and despair.

My old friend Oscar Strackbein, makes some very good points and I would like to quote from his presentation a few points worth repeating:

The need for a new trade policy has been borne in upon us in recent months by successive monthly trade deficits we have suffered since last spring.

The harsh reality of our weak competitive position in the world, including our own market, was recognized in August when the president proclaimed a supplemental duty of 10% on roughly half of our total imports, and cut the dollar loose from gold internationally.

In our trade, neither the action taken, nor anything so far contemplated by the administration in the form of trade legislation, has thus far reflected recognition of a far more basic affliction that plagues our economy. This is the changed competitive position of American industry in relation to imports, and the far-reaching implications of this change. To understand this change will require a review of our economic history of the past century.

Mass production had its origin in this country. Its economic potential depended on two important conditions: (1) fair competition as an antidote to monopoly and as assurance of passing reduced costs attributable to technology to the consumers, and (2) increasing mass purchasing power.

Our inventiveness and energy assured technological progress if incentive beckoned. The

efficacy of fair competition was clearly perceived and resulted in the Clayton and Federal Trade Commission Acts and yet later in the Robinson-Patman Act.

The automobile industry, especially as represented by Henry Ford, provides the classical example in the development in this country of the uniquely productive system that brought us to world industrial leadership. Ford's insight led him to tie the fortunes of mass-production to the mass-market or consumer purchasing power. He introduced the $5-a-day wage as an earnest fee of his faith.

After the unbelievable success of the automobile, a vast array of other products followed suit. Household appliances of all kinds, washers, driers, refrigerators, the telephone, radio, television; luxury wearing apparel, sports and recreational items, proliferated over the land to the point of saturation. The great moving power in this phenomenal process was the rich mass market for goods of all varieties. Our enterprising manufacturers had only to behold what the mass market had meant to one product after another and then go and do likewise.

A third element for the success of the vision was selection of products that were likely to enjoy an elastic demand, i.e., products so far acceptable to potential consumers that these would buy more and more of them as the price came down. Essential goods do not answer this description. The demand for them is inelastic. Food is an example. The number of stomachs is limited by the population. Nonessential goods that cater to human needs and desires (especially to ease, comfort, convenience, beauty and social prestige) once discovered or invented, are prime candidates for mass consumption if the price is sufficiently reduced.

Employee compensation, as recognized by Henry Ford, provides the great bulk of purchasing power if it keeps pace with rising productivity. Thus instead of looking upon wages as a necessary evil, to be kept as low as possible, as the early British economists saw it (Ricardo, Mill and others) American economists began to see them as the greatest of market constituents. Our laws began to reflect this recognition—so much so, in fact, that, with the addition of social welfare and other burdens (such as national defense) industrial costs of production became highly inflexible in this country except on the upward scope. Almost no competitive maneuverability remained. Great pressure developed for automation and worker displacement.

Without being explicitly conscious of it our enterprising product developers and merchandisers generated millions upon millions of jobs in this country by finding likely products and awakening the latent demand for them, reducing costs by mass production and then reaping the monetary reward.

Thus did our unique system come to lead the world. After World War II the other leading industrial nations, having seen the magic of our technology and business methods, embraced the system and adopted it with generous help from us.

Before long we were faced with an unpalatable fact: The other countries embraced our mass production but were reluctant to put into effect Ford's vision, namely rising wages as an absorbent of the volume of goods produced. While foreign wages did rise, they did not close the gap between them and us. Thus with lower wages and soaring productivity, foreign producers came to enjoy a widening gap between their unit costs and ours. Because their home purchasing power was inadequate they looked abroad for a market. We offered the most attractive of all.

The response of our industries was natural. They began heavy direct foreign investment—up to some $75 billion by now. Thus they enjoy the low foreign wage levels and rapidly rising productivity. Beyond that, many industries licensed use of their patents by foreign producers.

No longer does a mass market beckon—not because the potential is not there but because the new industry can no longer call its own. Outsiders can beat it in any race to the mass consumer market.

What then of the expansion and the new jobs that previously could be anticipated with confidence? How readily will our capital venture into so uncertain a future?

The accustomed climate of 1910–1955 is gone. It will not return of its own account.

Our mass market is diverted to serve as an outlet, not for innovaters and entrepreneurs at home, but the foreign based.

Our economy is being outflanked, upset and consumed by the very forces to which it gave birth and by ironic generosity handed over to other countries. We are driven to ever greater dependence on service activities rather than production even though we still have the most productive machine in the world.

Is there an alternative? If we can restore the former climate we can hope to reopen the doors to expanding employment. The restoration can be assured if we set a ceiling on the share of our market imports may supply and thus prevent their heading us off at the pass that leads to the mass market. This share might differ from product to product and provide reasonable flexibility.

In such a restored climate our industry could resume the course of cost and price reductions with both new and old products that enjoy an elastic demand, and thus restore to our system its employment-generating motivation.

Failure to understand the dilemma posed by the silent reversal of the international competitive tide which in time will leave our economy beached, will bedevil and even embitter our international relations, while an understanding of it will open the way to fruitful adjustment.

Following this presentation by Mr. Strackbein, the Wall Street Journal attacked his position by what they call "Our Over-the-Hill Economy." First, I'd like to answer some of the criticism by the Wall Street Journal, and I quote from the Wall Street Journal at this time:

In adjoining columns O. R. Strackbein paints a dreary picture of the U.S. economy, a view that may seem to be confirmed by recent events. Business has been sputtering along well below capacity, unemployment has been discouragingly high, and the U.S. has been having growing troubles with foreign competition.

Mr. Strackbein, an ardent spokesman for the new protectionism, feels that this country has simply encouraged and permitted too much of that foreign competition. In the process, he says, American industry has lost a major asset: domination of a huge domestic market.

First of all, Mr. Strackbein is not a spokesman for the new protectionism. He has been, over the years, a lonely voice in this country warning of the devastation wrought by our unsound trade policy. The Journal admits—

It's certainly true that the domestic mass market has had much to do with the rapid growth of American industry. (In passing it should be noted that *free trade with the United States* has made possible both the mass market and the industrial growth.)

What it does not say is that high-wage production makes high price consumer purchases possible, and mass production without consumption creates unemployment.

True, the Journal says other nations have made vast strides in technology; however, they have followed us, with our help, into the field of mass production, but have failed to follow us into the field of mass consumption. If we had no mass consumption we would have mass production sitting and rotting in our wharfs and unsellable.

The Wall Street Journal fails to realize that no nation can withstand the impact of products, produced under conditions not obtainable to our industries because of mandatory laws on the cost of production within their national marketplace.

FAIR LABOR STANDARDS

Too often we are content, as the Wall Street Journal appears to be, to hide behind the so-called depression of the "30's," and to blame that great catastrophe on so-called isolationism. Any modern day economist that is not single minded on the question of trade has to admit that the great depression, World War I and World War II come from different periods and different climates of world trade; and, yet our American apologists somehow find the proper stance to take and blame it all on isolationist trade policies.

Apparently, the idea is that the consumer is a different person than the producer, but he is not. The producer consumes products as does the distributor. We cannot exist without production, consumption and distribution. One is a vital part of the other.

Our trade policies have created a situation where we have today more unemployed, counting non-productive adults and unemployed youths entering the marketplace, percentage-wise than at any other time in our history. Unemployment if measured today, using the same measurements as in the Hoover depression time, would show the Hoover depression was not the catastrophe it was thought to be since social security, welfare, private pensions, trade adjustment assistance, military oriented jobs, in-service military personnel and the greatest percentage of public employees in the history of this country are in the unemployment ranks today, not so counted in the days of Herbert Hoover since everybody that could breathe or walk was counted as unemployed.

The Wall Street Journal seems to ignore the fact that communities that once had 4 to 5 newspapers are now single newspaper communities. Why?

They have another newspaper editorial called "The Virtue of Failure," and they talk about Look magazine and Cowles Communications that have folded and RCA has quit making computers. Their comment is that—

The virtue of failure allows the economy to shift money and manpower into uses where they are more likely to be productive.

What they don't tell you is that if all industries followed this "virtuous path" which industries would be left to absorb this "productive manpower."

The United States pays the highest wages on the face of this earth and yet

some think that it is fair competition to bring in a product produced at a much lesser wage, usually not even as much as our minimum wage. Naturally, because of the great wage differential, we cannot sell our products at a competitive price in the marketplace. I just don't see it that way.

Another interesting point is that the Wall Street Journal, and every other newspaper that uses the mails in the United States, enjoys the greatest per-item subsidy over any other single industry in this country. The Journal should temper its oblique criticism of Congress when they say—

Fortunately no one so far is urging government subsidies for permanent production of Look magazine and RCA computers.

It might interest the free trade advocates to know that the last remaining production of fine watches in this country, and also the last remaining bomb fuse manufacturer, had to be bailed out by the Pentagon in order to have at least one source of bomb fuses in case of need. Isn't this some sort of government subsidy to protect a facility no longer able to fight imports.

The arguments of free traders leave me cold. I have seen world wage differences over many years of study. In spite of all the arguments to the contrary the basic cost of any product has to be the cost of production, which is influenced in the main by wages and salaries.

In hearings on minimum wage laws we are told that industries have justification in going to foreign shores, across the Rio Grande, or across the Detroit River to produce goods because our minimum wage laws are too high in this country. What they seem to fail to understand is that wages, as such, are the only source of income that creates consumption whether it be consumption of goods or services. Production workers in other countries, because of their home purchasing power is inadequate, do not spend their money for goods and services. They have to export because they cannot afford their own products. As more industries close and consumer buying goes down, goods and eventually services here will have to be sold in other countries and since these other countries cannot afford our goods and services what will be the outcome? I think that's plain to see. A worldwide breakdown is definitely a serious threat. The last worldwide depression was charged to protectionism.

If the arguments on runaway industries and military material producing industries are sound, and if they could produce cheaply enough for this country to sell in low wage countries, they would not have to move in the first place. So if anyone thinks the answer is to remove all trade barriers and tariffs he is in for a very rude awakening. It just does not work that way.

This present depression in almost every exporting Nation can be traced to freer trade and a short sighted U.S. foreign policy. Our policy can honestly be blamed for all our unemployment. The work form has not kept up with U.S. consumption. Our jobs have been exported to Nations that export back unemployment.

PROTECTION OF OUR FORM OF GOVERNMENT AND DEVELOPMENT OF ITS RESOURCES — A MUST

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITTEN. Mr. Speaker, our Government was set up by the Founding Fathers as a government of three equal and coordinate branches—the legislative, the executive, and the judiciary. For such a system to work, there must be full comity of understanding of the rights and powers of each branch by the other two branches.

Unfortunately, Mr. Speaker, in recent years we have seen a breakdown in that relationship. First, we have seen the Federal courts largely forfeit that confidence by usurping the powers of the other two branches by changing the Constitution without a constitutional amendment, resulting in a breakdown in law enforcement, with crime running rampant — public buildings in Washington have all their doors closed but one, and it is unsafe to walk the streets—as the courts place the privileges of the criminal ahead of the rights of the general public. We see those actions result in deterioration of our public school system by forced busing, in schools and school districts already integrated.

The Supreme Court has claimed and exercised the right to determine who shall be seated in Congress by assuming the power to determine the makeup and size of districts, thus keeping members of the House of Representatives on a teeter pole of shifting populations, thus keeping the House of Representatives in a weak and uncertain situation so far as serving the people, not knowing what their district will be from month to month.

The Federal courts have thus largely destroyed the balance between the branches of Government established by the Constitution—and the Congress, by acquiescing, has been a party toward its own demise.

I have pending a resolution to establish a special Committee on the Constitution—in an effort to stop this trend.

RURAL DEVELOPMENT AND ENVIRONMENT PROTECTION RETARDED—BY EXECUTIVE ACTION

Mr. Speaker, I speak today to point out the fact that now we see the executive branch getting into the act for the President's Bureau of the Budget, in the President's name, is exercising its might to destroy the exercise of its constitutional power by the people's branch of the Government, the Congress. The President, while talking of rural development, of the restoration and protection of the environment, through his Budget Director, has either cut down or cut out programs approved by and actually directed by the Congress.

In recent weeks, the President's Director of the Budget has withheld $58 million in funds for rural water and waste disposal grants, $75 million for the Farmers Home Administration to make production loans, funds for rural housing for domestic farm labor, for mutual and self-help housing, flood prevention, resource conservation and development, land conservation and development—Appalachia—rural electrification loan fund—$216 million, rural telephone loan fund—$6,000,000.

AGRICULTURAL CONSERVATION PROGRAM—RENAMED "RURAL ENVIRONMENTAL ASSISTANCE PROGRAM"

Here, Mr. Speaker, the President, through his Director of the Budget, last year called for cutting out the program entirely, only to have Congress restore it at a $195,500,000 level, which the Director of the Office of Management and Budget promptly cut back to $140 million for the current year. For the coming year, the President's Director of the Budget has cut down this agricultural conservation program, which had existed for some 35 years, having renamed it the rural environmental assistance program, scaling the $195.5 million announced program directed by the Congress down to $140 million. This actually means a drastic curtailment in the protection provided by the Congress to our people for the basic resource of the Nation's life—our land including reduction in soil technicians as well as in practices.

Mr. Speaker, we recognize the need for protection of the environment. Our committee recommends funds to finance it—but it does not make sense to cut out a program which has done more to protect the environment than all the rest put together. Over 1 million Americans, in practically every county in every State, participate annually, putting up their money and their time to save and improve the soil and other natural resources; and this has been true for 35 years.

The contribution of the agricultural conservation program, as this program was called until December of last year, to the watershed programs and other conservation efforts can be seen from the following table:

Practice, unit (in thousands), and accomplishments, 1936–69

Water storage reservoirs constructed to distribute grazing, control erosion, and conserve irrigation water and wildlife, structures,	2,117.
Terraces constructed to control erosion or conserve water, acres,	31,612.
Stripcropping systems established to control wind or water erosion and conserve water, acres,	113,698.
Permanent sod waterways established to control erosion and safely dispose of excess runoff, acres,	1,067.
Competitive shrubs controlled on range or pasture to permit growth of adequate cover for erosion control, acres,	59,574.
Trees and shrubs planted for forestry purposes, erosion, control or land-use adjustment, acres,	4,941.
Forest tree stands improved for forestry purposes and erosion control, acres,	4,085.

WASTE OF OUR NATURAL RESOURCES—PAST AND PRESENT

Mr. Speaker, about 150 years ago this country had 8,000 billion board feet of timber. Today we have around 1,600 billion board feet left—only 20 percent of the original stand. This terrible waste of timber resources points up the extent to which our highly competitive economy can deplete a national asset in the generation of new wealth. It points up the need for continuing and expanding conservation efforts on a national basis.

Only 175 years ago we had 500 million acres of fertile soil in this Nation. We have already wasted 200 million acres—40 percent—and another 100 million acres—20 percent—is washing away today. It has been estimated than an average of 40 acres of topsoil flows down the Mississippi River each day of the year. Also, estimates are that more than 1 million acres of arable land are lost to residential areas, highways, and other urban developments each year.

Mr. Speaker, when the Office of Management and Budget has in effect summarily and preemptorily impounded more than one-fourth of the announced commitment of funds this Congress authorized for the agricultural conservation program—now called the rural environmental assistance program, that fact should have disturbed all Americans, particularly members of this distinguished body who must demand equality for the Congress with other branches of the Government.

As elected representatives of the people of this Nation, we, in this Congress, decided that $195.5 million in public funds ought to be devoted, in 1972, to conserving and preserving the soil and water which sustain those whom we represent. In fact, members of the Appropriations Committee Subcommittee on Agriculture, Environmental, and Consumer Protection, of which it is my privilege to be chairman, felt so strongly about this matter that we included firm language in our report so that there could be no mistake about our wishes. That report contained these words—relative to ACP, now REAP:

The Committee strongly condemns the failure to administer the full $195,500,000 called for by the Congress in 1971 . . . For 1972, the Committee has directed that the Secretary announce a program of $195,500,000, the same level as authorized in 1971.

This was approved by and became the action of the Congress. How could the intent of Congress be made more clear than that?

Mr. Speaker, the Director of the Office of Management and Budget saw fit to disregard the action of the Congress, to flaunt its directive and have withheld, impounded, if you will, by cutting back the announced program—$55,500,000 of the $195,500,000 we directed to be allotted to carry out sorely needed conservation practices by our Nation's farmers.

Consider what the $55.5 million could mean. Where the farmer puts up about two-thirds of the cost, including his labor, we are foregoing over $150 million in conservation which this Nation can ill afford to lose. This means we are not having erosion and sediment control measures installed; we are not having water conservation practices installed; and we are not having solid waste disposal practices sponsored to the extent that Congress determined was minimal.

Our soil is not an inexhaustible resource. Not only are we turning about 1 million acres a year to urban uses such as airports, roads, and housing, but millions of tons of soil wash into our rivers, lakes, and reservoirs. As we move with urgency to establish new programs to deal with the problems of urban and industrial pollution, we must not ignore the tried and true programs. ACP, now the rural environmental assistance program, represents one of the best environmental programs available to the American people. Where else can we get such an outpouring of private funds for a one-third Federal investment to achieve the conservation of land for this and future generations?

On the basis of this very sizable sample, they have indicated that this Nation could buy a great deal of conservation and environmental practices for the expenditure of a relatively few dollars. The county committee—farmers elected by participating farmers—reported that they had to reduce farmers' requests for matching Federal assistance, because of insufficient funds.

In order to meet the total amount the farmers were willing to invest, this 24 percent sample converted to a national figure indicated that farmers were willing to match the Federal Government's share up to $437,920,000. The samples by States produced the following figures:

States and farmers would be willing to underwrite the following percentage over the 1971 allocation

	Percent
Alabama	283
Alaska	205
Arizona	276
Arkansas	313
California	175
Colorado	436
Connecticut	170
Florida	587
Georgia	264
Idaho	255
Illinois	176
Indiana	330
Iowa	197
Kansas	159
Kentucky	299
Louisiana	167
Maryland	187
Massachusetts	208
Michigan	189
Minnesota	265
Mississippi	234
Missouri	271
Montana	215
Nebraska	291
New Hampshire	206
New Jersey	195
New Mexico	224
New York	192
North Carolina	239
North Dakota	211
Ohio	209
Oklahoma	320
Oregon	233
Pennsylvania	174
Rhode Island	213
South Carolina	232
South Dakota	182
Tennessee	228
Texas	245
Utah	198
Vermont	171
Virginia	320
Washington	184
West Virginia	385
Wisconsin	226
Wyoming	342
National	225

Under the ACP, millions of trees have been planted. But millions more are needed. As pointed out earlier, terraces and stripcropping systems have been established on millions of acres; millions of additional acres require similar treatment. Millions of acres of legumes have been established and improved, yet this much-needed task is not half completed. Over a million farmers in all 50 states have participated, matching public funds with their own money and then doing the physical work to make and keep a better environment. These million farmers right now are waiting for funds from us to match with their own, because they see these things which still need to be done. And these million conservationists are turned away with less than they are willing to use, because 28 percent of the money—$55.5 million—we said was to be made available to them has been withheld from them by the Executive office of the President. The Nation cannot long tolerate this treatment of congressional intent and directive, for the same thing has happened with regard to highway funds, to public flood control and navigation projects.

I cannot understand the President of the United States letting such situation come about. Though actually I doubt that the full facts have come to his personal attention. I call on him now, however, to correct this error, to cooperate with the Congress in doing something for the protection of the environment in cooperation with the more than 1 million volunteers willing to put up their time and their money as they have for 35 years.

Truly our land—the greatest heritage we can leave our children and our children's children—is endangered by this withholding action.

WE MUST PUT FIRST THINGS FIRST

Certainly we need to balance the budget and do something about inflation. Personally I believe we can do this by cutting out foreign aid, the United Nations, by cutting out the billions of dollars of funds spent each year in the name of "Defense" but for which we get no real defense, and in eliminating many, many expenditures for which we get no real return. If these expenditures are to continue despite my beliefs, it becomes more imperative that we not try to do these things by retarding the development of rural communities, by holding back funds for water systems, electricity, telephones, housing, so essential to relieve our overcrowded cities, or by jeopardizing the production of food, the protection of our people from floods or the development of our natural resources on which all the rest depends.

Mr. Speaker, I earnestly urge the Director of the Budget, and the President, to review these actions—for while the President unquestionably has the might, I respectfully submit, he does not have the right.

We must all remember that if we leave our children a land rich in natural resources, its rivers harnessed and its harbors developed, with schools and highways, adequate power, they could set up their own financial system.

On the other hand, we could leave our children all the money in the world and a worn out and eroded land and they could never make it—for they would have nothing on which to build.

Mr. President, the people need your help.

XUM

OPPOSITION TO THE PRAYER AMENDMENT

(Mr. MOSHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MOSHER. Mr. Speaker, I am very concerned, because this House presumably will have only 1 hour next Monday to debate an extremely important, perhaps historic issue, whether or not we shall approve House Joint Resolution 191, the so-called "Prayer Amendment."

Therefore, I use this opportunity to put myself on record in advance as being vigorously opposed to that proposed amendment. I will vote against it.

I have broadcast to the news media and to scores of concerned citizens and groups in our 13th Ohio Congressional District a statement of my reasons for opposing the amendment.

For the RECORD and for such interest as it may be to my fellow Members, I submit here the statement I have made to my constituents, as follows:

STATEMENT BY CHARLES A. MOSHER

It is important that I inform the people of Ohio's 13th Congressional District why I will vote *against* the so-called "Prayer Amendment" (H.J. Res. 191) when it is before the U.S. House of Representatives, probably on Monday, November 8, 1971.

Many wonderfully well intended, devout citizens (many of them my good friends) fervently believe the proposed amendment would guarantee "freedom of prayer," or "freedom of religion" in our public schools. But I am convinced quite the opposite would be true. It would kill that freedom.

I oppose the amendment because in actual practice it would require that some government body or official shall compose or approve, in effect shall prescribe whatever group prayers are allowed to be used. The amendment says only "nondenominational" prayers shall be legally allowed. Thus the amendment would establish government regulated religious observance in the public schools.

That is the exact opposite of religious freedom. That is exactly the opposite of what America has always stood for in these matters.

Many good people who ask me to vote for the amendment seem to assume that it would allow some kind of Christian prayer (even though nondenominational). But the fact is, the amendment in effect prohibits any distinctly Christian prayer. It certainly prohibits use of the traditional Lord's Prayer. It also prohibits any Hebrew prayer, or Hindu, or Buddhist, or Humanist—or what have you!

The amendment would be terribly restrictive because the only prayer it would allow legally in any school or public building is a "nondenominational" prayer. That automatically rules out all of your familiar prayers; and the big argument has only begun as to what is meant by a "nondenominational" prayer. Of those suggested, none has yet been agreed to as acceptable. Seemingly, "nondenominational" means a prayer that is meaningless, bland, without substance. Shall we have the U.S. Constitution require that only meaningless prayer, without any belief or inspiration in it, shall be legal?

In that sense, I suggest that the proposed amendment makes a mockery of prayer, it provides for cheap imitations, it places prayer in bondage and contempt, it would encourage religion by rote, by political sanction, it demeans religious faith. The amendment comes close to being blasphemy and sacrilege.

At best, the amendments if adopted might be meaningless; but I am convinced its results would be very harmful. Already there is great confusion about it. Attempts to put it into effect in the public schools inevitably would produce disruptive chaos, bitter religious arguments, endless litigation. To implement the amendment would seem to require the appointment of an official censor of group prayers in every school or other public building. Who would control that appointment?

Sponsors of the amendment say they want "voluntary" prayer. But that is not mentioned in the actual wording of the amendment, the word "voluntary" is not there. What it actually provides for is government sponsored prayer, prayers that are legally sanctioned, officially composed and provided—politically blessed. Once we establish such government sanctions, that inevitably provides the basis for subtle coercion, the use of compulsory school laws to impose official prayers and probably other controlled religious exercises.

Any such possible risk, no matter how well intended, is for me completely objectionable. It is absolutely contrary to the religious freedoms this nation has cherished. It would destroy the constitutional separation between church and state which is the essence of freedom to worship.

It is very significant that many of the major religious denominations are officially and vigorously opposed to the amendment. (Examples: The Lutheran Church of America, the American and Southern Baptist Conventions, the United Methodist Church, the United Preybyterian Church, the United Church of Christ, the Executive Council of the Episcopal Church, the American Jewish Congress, General Conference of Seventh-Day Adventists, the Friends, the National Council of Churches—these and many more officially *oppose* the amendment.)

Moreover, note that the House Judiciary Committee in 1964 after lengthy public hearings and careful consideration of this type of prayer amendment, decided against it. And in 1966 the U.S. Senate carefully considered it and voted it down. But it is now being brought back to us for a vote in the House on November 8th by a procedure which allows only one hour of debate, without any committee recommendtion or report.

Prayer for me is essentially a very personal, sacred religious experience. There is *nothing* in today's laws or court decisions which prohibits an individual from such prayer in school or anywhere else. I believe that is the way it should be, if prayer is to be really meaningful.

Therefore, I strongly rebel against any move to diminish the personal, sacred, meaningful nature of prayer and require that it be government censored and sanctioned—to make it an official formality, a mere shallow public show of devotion.

PRAYER AMENDMENT

The SPEAKER. Under a previous order of the House, the gentleman from Iowa (Mr. SCHWENGEL) is recognized for 1 hour.

Mr. SCHWENGEL. Mr. Speaker, the gentleman from California (Mr. CORMAN), and I, as well as others, have been leading the fight on the prayer amendment, and if everything goes according to plan, we will be discussing this matter on Monday next. Under the rule under which the bill comes to the floor we will be allowed only 1 hour of debate, and this will be woefully inadequate to discuss this important subject and consider all the implications of the amendment.

For that reason we have taken this time to place in the RECORD some observations and evaluations and some statements that I think are relevant and very important for every member to consider as we deal with this very important subject.

THE TRUTH ABOUT THE PRAYER AMENDMENT

For the first time in our nation's history a serious movement has developed to amend a key provision of the Bill of Rights in the Constitution. Specifically involved are the "religion clauses" of the first amendment which have stood as a bulwark for religious liberty since the approval of the Bill of Rights on December 15, 1971.

These clauses state: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This prohibition of government authority in the realm of religion was extended to all governments—state and local as well as federal—by the 14th Amendment and by the decisions of the U.S. Supreme Court.

The clamor for a constitutional prayer amendment has arisen because of two of the most misunderstood, misinterpreted, and misapplied decisions by the Supreme Court. In 1962—Engel against Vitale—the Court declared that Government composed and authorized prayers violate the first amendment of the Constitution. In 1963—Abington School District against Schempp, and Murray against Curlett—the Court ruled that devotional exercises in schools authorized by law are also prohibited by the first amendment.

The Court rulings were restrictions on government in the area of religious faith and practice. The rights and freedom of school children or school teachers to pray or to read the Bible were not involved in these cases.

Many people have mistakenly thought that the Court threw God out of the schools and that people who want to pray have been denied that right. Nothing could be farther from the facts in these cases.

Nevertheless, an emotion-laden movement has developed to undo what the Supreme Court is mistakenly charged with doing. This movement has crystallized into a proposed amendment to the Constitution, which reads as follows:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

At first glance many people react by saying, "What's wrong with a simple amendment like that? It is harmless, and it might do some good because the nation needs more prayer."

Others seem to think that the proposed amendment is meaningless, and if it is so harmless why make a fuss about it. "Let's go ahead and adopt the amendment," they say, "and get this bothersome religious question out of the way."

These are inadequate and irresponsible reactions to any proposal that affects in any way the basic principles of religious liberty that have served the American people so well the past 180 years.

Any effort to amend the Constitution, and especially the Bill of Rights, should not be made without full public discussion of all of the issues and without understanding the possible effects of such an action.

Without claiming a complete analysis of the effects of the proposed prayer amendment, I offer the following observations of some of the more obvious defects in this attempt to amend the First Amendment.

First, the proposed prayer amendment is supposed to correct an action by the Supreme Court which the Court never took. The proponents of the amendment in their anti-Supreme Court zeal and in their zeal to see to it that school children pray have set up a straw man. By a Constitutional amendment they propose to knock over this straw man. This is no way to amend the Constitution or to tamper with the Bill of Rights.

In the next place, the prayer amendment does not do what its proponents claim for it. They say that it puts God back into the classroom. They forget, however, that God is not moved around like a chessman either by the Supreme Court or by the prayer amendment zealots.

They say that such an amendment enables school children to engage in voluntary prayer, which, they mistakenly claim was prohibited by the Supreme Court. This right to voluntary prayer is already adequately protected by the First Amendment. It would be restricted rather than enhanced by the new proposed amendment.

What then would the prayer amendment do if it were placed in the Constitution? A cursory analysis reveals the following:

First. It protects only the "right of persons lawfully assembled." What do we mean by "lawfully assembled?" What about the rights of persons not in a "lawful assembly?" To provide constitutional rights for such a selected class of people is highly questionable and most unwise.

Second. It locates the places to which this "right" is applicable. The amendment would restrict the exercise of this right to "any public building which is supported in whole or in part through the expenditure of public funds." The right to pray should not be circumscribed in any such manner.

Third. It limits the kind of prayers in which people can participate in public buildings. Specifically, according to this amendment, the right to pray is limited to "nondenominational prayer."

This restriction on the prayer life of the people raises a number of questions which may not have been asked by the prayer amendment proponents, but which are certain to be asked by lawyers and administrators in future cases.

For instance, some arm of government, the teacher, the school superintendent, the school board, or other—must make a decision as to which prayer is denominational and which is not denominational. Government, by this act and to this extent, will be authorized by the Constitution to regulate the prayers in which people can participate. This was what the first amendment was intended to prohibit—the authority of government in the religious life of the people.

Thus the proposed amendment, which professes to provide for the rights of people in reality extends the powers of government into areas now prohibited by the first amendment.

Another effect of the prayer amendment, if it becomes a part of the Constitution, would be to introduce new and unlitigated principles into constitutional law. Such changes in constitutional principles would affect Government at all levels—legislative, judicial, and executive.

While the effects of such new constitutional principles might not be immediately apparent, only a fool would attempt to predict what actions Government might take 25 or 50 or 100 years from now. As for me, I do not want to take the risk of authorizing Government to participate in any way in regulating the religious life of the people.

The first amendment as it now stands adequately provides for the "free exercise" of religion by the people and adequately restricts Government from any activity that might be called "an establishment of religion." Both the State and the church have fared well under the first amendment. We want it to remain that way. Let us not spoil our unique arrangement in church-state relations in the United States by adding new, questionable and restrictive amendments to the Bill of Rights.

STATEMENT MADE AT PRAYER BREAKFAST BY FRED SCHWENGEL

Actually what concerns us here is not a confrontation between those in favor and those against the prayer amendment. On the issue at the very heart of this problem is our mutual concern for the essence of religion in its influence on our lives.

None of us is against religion.

None of us is against prayer per se.

It is unspeakable to think what life in our country and under our flag would be like had the influence of religion from the founding fathers to this moment been cut from our history.

What both sides on this issue seek to do is to promote religion.

The schism occurs on the simple proposition:

What is the best course to pursue? For religion—not against it!

Is the best course to violate or to deviate from the wisdom of the founding fathers in giving us the immense benefits of the first amendment to the Constitution of the United States:

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . ." and so on.

And is it right that some Board of Regents, some body of educators in power, shall determine, however undenominationally, that such and such a bland—*pleasing to all*—prayer, shall be uttered in unison by a school-room of children on orders from the teacher in accordance with her instructions.

Of course the prayer is not pleasing to all as has been so overwhelmingly demonstrated.

Or, as I believe, is it really right and consonant with our tradition and our inherent religious feeling, that government ON NO GROUND—shall compel with its inevitably dead-hand any form of religious dictation upon our pluralistic system of free choice.

The policy is as clear as day in the Bill of Rights and its very first amendment as I have just in part quoted it.

The policy is supported unequivocally by the Supreme Court of the United States.

The policy now bears the imprimatur of many of the leaders of all the churches that move freely and without dictate or hindrance under our flag.

And that is the reason—precisely that—to which religion under our flag up to now has achieved such immense popular success with a very minimum of bloodshed and a very maximum of acceptance and popular support and advance.

The way to help religion is not to direct it with or without denominational emphasis this way or that.

The way to help religion is to let religion direct itself.

The way to help religion is to let it go its own way under total—I insist—total independence from government intervention.

Every statistic, every court decision, every breath of the founding fathers as concentrated in the Constitution, bears out this view.

It is not right that the school-room, supported by taxation of all the people, should take from the home, from the church, the responsibility for religious instruction in any form. And prayer in the classroom of our public schools is a callous and—from my standpoint—an unreligious opening wedge. It is a shirking of responsibility from the places where it belongs.

That job, the job of teaching our children the meaning of God, and His worship, belongs in the home, the church, the neighborhood and the community—and definitely *Not* to government.

Of course it is possible to surround governmental law on prayer in the public school-room with all manner of protective or defensive qualifications presumably making it amenable to all faiths and denominations.

Nothing could be more unrealistic, unworkable, and fundamentally dishonest.

It becomes a process not for uniting our people under a religious banner of alleged ecumenism, but of creating endless religious controversy and even genuinely religious contempt.

A child who has been instructed by his parents not to attend school-room prayer and to walk out, creates a "religious incident" and becomes something of an outcast.

I happen to be a Bible-belt product and I believe devoutly in prayer and religious education and upbringing.

But I thank God that in our country, on this soil and under this flag—no matter what *my views* may be—my neighbor, if that's his persuasion, has the absolute right, unhindered in any way, to be an atheist, if he likes. Just as I have the right to be a Lutheran or a Catholic, a Mormon or a Methodist, or a follower of the Hebrew faith or Islam.

That is the very heart-beat of freedom in the institutions of this country not only in the religious area but in other areas as well.

This country owes its greatness to its unprecedented genius for absorbing whole populations from the ends of the earth with every religious faith under the sun and having them live under our flag—with all its troubles—under a general umbrella of mutual brotherhood, however imperfect, never encountered before in any civilization of mankind.

ON THE QUESTIONS ANSWERED BY CONGRESSMAN CHALMERS WYLIE

(By Representative FRED SCHWENGEL)

Mr. Speaker, for several weeks a number of us have been trying to clarify the real issues that are involved in the proposed prayer amendment, H.J. Res. 191. It has been our contention that the proposal, ostensibly put forward in the interests of voluntary prayer in schools, in reality denies both the voluntary principle in religion and the free exercise of religion. We have contended that the proposed amendment authorizes government involvement in religion and a supervisory role in school prayers that is not in the best interests either of religion or of the state.

We are now happy to point out that the distinguished gentleman from Ohio, who has sponsored the discharge petition and the prayer amendment, has confirmed our contention by his answers to 23 questions propounded to him by Mr. Gibbons of Florida. The questions and the answers are to be found in the CONGRESSIONAL RECORD, volume 117, part 30, pages 38694-38695. One would think that on the basis of his own analysis and answers to questions by the gentleman from Florida, the distinguished gentleman from Ohio would abandon his position and appeal to you to defeat his own prayer amendment.

May I read to you the questions asked about the prayer amendment and summarize and comment on the answers given by the gentleman from Ohio.

First question. Who is to determine what is a nondenominational prayer?

We could not state our position more clearly than the gentleman from Ohio if we had composed the answer ourselves. Listen to his answer. He said that the local school authorities would determine what is a nondenominational prayer and that if the schools abuse their authority the matter would be subject to judicial review.

Now, my colleagues I ask you, when, in America, since the approval of the Bill of Rights, has it been the business of governmental authorities to determine the contents of the prayers of the people?

Second question. Assuming a school elects to have a nondenominational prayer, is it to be given during the regular school hours?

Again, our friend from Ohio says that it would be lawful under his amendment for the school authorities to provide for the recitation of a prayer during school hours. This is precisely the authority to which we object. It is not the role of government to supervise or monitor the prayer life of the

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citizenry, much less the prayers of little children.

Third question. Who in the school will give the prayer?

The answer is that it would be a volunteer from the faculty, administration or student body. This is far from a good answer to the assumed desire on the part of school children to pray in school. In fact, it has not been established that the student bodies in the schools want such prayers sponsored by the school authorities.

Fourth question. May it be given out loud or silently?

Again we see the strong arm of governmental authority in prayer when we read the answer from the gentleman from Ohio. He said that the manner of praying should be left to the judgment of the local school authorities. We had been led to think that it was the religious needs of the school pupils that are being provided for by this amendment. And now it comes out that they would not be allowed to pray according to their own wishes but according to the decisions of the local school authorities.

Fifth question. Does your amendment envision that a school board should prescribe a certain prayer of their choosing as being the nondenominational prayer for their school system?

"Not necessarily," comes the answer, but then comes this revealing comment. "A local school board would have the power to say that a prayer is not nondenominational, I would think," says the sponsor of the prayer amendment. This would be a strange turn of events when a school board could determine whether a prayer is denominational or nondenominational when the religious people and organizations have not been able to agree on what is prayer. An expectation that an arm of government could resolve delicate religious issues such as this when religionists have never been able to do so is wishful thinking at best and at the worst is religious regimentation by public authority.

Sixth question. If not the school board, then would it be the principal or the teacher?

Mr. Speaker, I am amazed at the answer given by the sponsor of the prayer amendment—not really amazed at the answer as much as the fact that he would say it. Listen to his exact words. "The composition or selection of the prayer would be the function of the local school authorities."

This is precisely why we are opposed to prayer amendments. We do not believe in government authorities on any level composing or authorizing or selecting prayers for people to pray. This should be left to the people themselves, and it is this right that is guaranteed by the First Amendment as it now stands and as it is interpreted by the U.S. Supreme Court.

7th Question. Would your amendment allow police or judicial action to prohibit a prayer in a public building because it did not meet their interpretation of being a nondenominational prayer?

"Of course," answers the prayer amendment sponsor.

Shades of the dark ages! I never would have imagined that in our "land of the free" we would ever be faced with judicial or police authority to determine the contents of our prayers. For the sake of our children, for the sake of voluntary religion, for God's sake, let's defeat this perverse prayer amendment and continue our protection against government intrusion into our prayer life.

8th Question. Under your amendment can the federal government decide what is a nondenominational prayer?

The answer is that it should be the local school authorities, but in the case of a federal school "It would be within the power of the appropriate federal official to decide whether a prayer is nondenominational."

9th Question. Who in the federal government would decide?

The answer is summed up in the words of the prayer amendment sponsor, "I would assume that the official in charge of any specific activity where a prayer was a part would have the primary responsibility to say whether it was or was not nondenominational."

10th Question. Does your proposed amendment prevent the giving in a public building of a prayer that has not been classified as nondenominational?

The answer to this is as shocking as the full implications of the proposed prayer amendment itself. Hear the sponsor as he says, "The amendment would legitimize prayer if it is 'nondenominational.'"

There you have it loud and clear. This prayer amendment would "establish" a public school religion of "nondenominationalism." This must never happen in America, a nation to which many of our forefathers fled to escape religious persecutions and government determination of their religious life.

11th Question. When are persons not "lawfully assembled" under your amendment?

An ambiguous answer: "persons lawfully present at other lawful gatherings in public buildings would be included." Does the gentleman from Ohio mean that persons gathered to pray a denominational prayer in a public building on an unpopular issue could be dispersed as an unlawful assembly?

12th Question. Many church-related hospitals receive public funds—will your amendment restrict persons in these buildings to nondenominational prayers?

Mr. Wylie answers no, then proceeds to assert that providing for nondenominational prayer is expanding the right of persons not free to engage in denominational prayer.

13th Question. Under your amendment must all prayers in public buildings be nondenominational?

Mr. Wylie's contention that there are institutions which are now precluded by the Supreme Court's decisions from allowing any prayer of any type is false. The Court ruled against a government prescribed prayer and required devotional exercises.

14th Question. Is the purpose of your amendment to negate the Establishment Clause of the First Amendment by establishing a nondenominational prayer as a religion?

No, the gentlemen from Ohio declares, "the allowance of nondenominational prayer does not constitute a 'law respecting an establishment of religion,' in the words of the First Amendment."

Mr. Speaker, I contend that official prayers sponsored by government or agents of government at any level, whether they be nondenominational or denominational, are the first steps to the establishment of a religion. Nondenominationalism in this country is a flourishing type of religious expression supported by hierarchical structures which are as effective in their way as mainline denominational systems are in their way.

15th Question. Would you please define prayer as used in your resolution. Is it to be silent? Oral? In unison? To whom is it to be addressed? God? Jesus? Our Father? May it end with the words, "In Jesus' name. We pray, amen"?

Here again Mr. Wylie clearly indicates that government authority of some kind would be involved in drafting the "content and format" of prayers.

16th Question. Is the nondenominational prayer limited to the Christian religion? Is nondenominational prayer limited to the Judeo-Christian faith?

Our friend from Ohio refers back to his answer to number 10 which gives approval to limitation of the prayer to the Judeo-Christian faith.

17th Question. Do you envisage that "participation" as used in your proposal in all cases be "voluntary" or "noncompulsory"? If your answer is "yes" why were these words not included in the proposal.

Mr. Wylie said his answer was "yes" and that the words "voluntary" and "noncompulsory" were unnecessary. Does he mean that these concepts are unimportant? Or are they simply unnecessary in his desire to get government involvement in the prayer life of school children?

18th Question. If the nondenominational prayer that you propose is to be used in the classroom, and is voluntary or noncompulsory as far as the pupil is concerned, does the teacher have the same right as the pupil in this regard?

Mr. Wylie answers yes and seeks to support his view in answering question no. 19.

19th Question. If the nondenominational prayer is voluntary, how is a dissenting pupil or teacher to respond while the prayer is being offered?

Here our friend from Ohio subscribed to the idea that it is a wholesome thing for a member of a minority religious sect to withdraw from his fellow classmates either by standing or sitting "in respectful attention" while his peers take part in the ceremony. Or he may leave the room. The establishment of any religious practice by any unit of a government always leaves the dissenter in a precarious position should he choose to assert his conscience with respect to his religious beliefs.

20th Question. Are you attempting in any way to nullify the Establishment Clause of the First Amendment?

The prayer amendment sponsor answers with a resounding "No," and he then accuses the Supreme Court of changing the meaning of the First Amendment. This reminds me of the man who was caught in bed with another man's wife. He sat right up in bed and denied it!

21st. Question. If you concede the right to pray is an unalienable right and government may not constitutionally prohibit prayer, will not all those who are lawfully assembled in a public building be denied their constitutional right if the appropriate public body has not decided upon a nondenominational prayer?

The gentleman from Ohio does not really answer this question in his reply. He asserts that the public authorities involved would have to determine whether or not prayer is appropriate on such occasions.

22d. Question. If a public body was unable to determine what was a nondenominational prayer, or if a dissatisfied citizen disagreed with the decision, would this type of action be appealable to the Federal courts?

The reply is that there is no limit to constitutional relief in such cases. I can envision hundreds of court cases, deplorable community strife, and an complete paralysis of the free and voluntary exercise of religion by school pupils.

23d. Question. What do you mean by "in part"? Is it a majority of the funds or any part, no matter how small?

While the gentleman from Ohio says that the "in part" must be a substantial part, there is no way to tell how a court may decide since the amendment itself says "any public building supported in whole or in part by public funds."

May I take this opportunity to thank the gentleman from Ohio for his answers to these pertinent questions. He has confirmed all our doubts and fears and has given the House of Representatives the best reasons for rejecting in toto the proposed prayer amendment. We hope that on November 8 this proposal can be killed so dead that it will never be resurrected to haunt the free exercise of religion again.

[From the Milwaukee (Wis.) Sentinel, Nov. 4, 1971]

Deserves Defeat

The House of Representatives is scheduled to vote on the following proposed constitutional amendment on Monday:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

This proposed amendment is an outgrowth of the 1963 Supreme Court decision which disallowed prayer exercises imposed by school authorities upon public school students. The late Justice Hugo Black, who delivered the opinion in the case, summed it up by saying that ". . . the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government."

In a way, it was unfortunate that this issue was taken all the way up to the Supreme Court. But, confronted with the necessity of ruling on the issue, the high court had no choice but to find any sort of formal religious exercise in public schools unconstitutional.

The ruling did provide the basis for a lot of jokes about praying in school, which gave some support to the campaign to adopt the prayer amendment but which did not alter the fundamental fact that the government has no business making a religious exercise a part of the public education system.

The proposed prayer amendment was kept bottled in committee until this year when proponents succeeded in getting the signatures of a majority of House members on a discharge petition to bring the measure directly to the floor.

This would indicate that the amendment will be adopted by the House and be sent on to the Senate. There has been, however, a ground swell of opposition. Denomination after denomination has come out against it, as it dawned on more and more people that what the amendment would actually do is establish a secularized, ceremonial, state approved form of worship.

As a Baptist resolution opposing the amendment put it, "We fear that, if such a proposed amendment would become a part of the Constitution of the United States, a new religion of 'nondenominationalism' would in a measure become established which could threaten the integrity of both church and state."

The proposed prayer amendment deserves to be soundly rejected by the House.

What Persons Would Frame Non-Denominational Prayer?

Editor, West Bend News:

You rendered a public service in printing "A non-denominational prayer." It alerted your readers to the impending attempt in Congress to pass an amendment to the Constitution legalizing a "non-denominational prayer" by school children in tax-supported schools. This is the plan of forces seeking to destroy the Constitution's separation of church and state.

The promoters of this attack on the church-and-state provision do not explain who will frame this prayer. Maybe by one of those committees a President names to solve his problems? Where can the make-up be found? Abroad the members of one religion are shooting one another. In our land heresy trials are causing divisions.

To whom or to what will this projected prayer be raised?

Each zealot has his own candidate, hence the thousands of rivaling different houses of prayer. So why add the public schools to the list. And why legislate that pupils must pray there? Why not in their own homes? In privacy?

The forces that seek to circumvent the Supreme Court's ruling on the separation of church and state have induced the requisite number of representatives to bring the bill before the House. It could pass if the citizens who want the church and state ruling protected fail to tell their Representatives to vote NO. The Daily West Bend News prints your Congressman's name and address. Do it now.

Walter A. Sinclair.

West Bend.

[From Church and State, Sept. 1971]

Tampering With the First Amendment

The newest effort to amend the religious freedom clause of the First Amendment is led by powerful lobbies with the aim of promoting religious exercises in the public schools. These groups are concerned that the Supreme Court may have unduly curbed the free exercise of religion in the 1962 and 1963 school prayer rulings. Their answer is to amend the First Amendment so as to specifically permit voluntary "nondenominational prayer." Backers claim they have 175 of the 218 votes needed to discharge the proposal from the House Judiciary Committee and bring it to a House vote.

Objectors point out that the Supreme Court did not outlaw voluntary prayer in the schools, that the proposed amendment would add nothing to liberties already enjoyed, that government would be prescribing the kind of prayer that could be offered—("nondenominational"), and that the amendment might open the way to attacks on church-state separation.

The proposed amendment reads: "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

Similar proposals were defeated in recent years in both the House and Senate due largely to substantial opposition by religious leaders and constitutional authorities. The present proposal, like the earlier ones, has seen the religious community vigorously divided, but with a clear majority of religious leaders opposed to any change in the Bill of Rights.

John W. Baker, acting executive director of the Baptist Joint Committee on Public Affairs warned on July 21 that the proposed amendment could "circumvent the First Amendment freedoms" and "alter existing church-state relations." Many denominational leaders in Washington, D.C. share the Baptist leader's dislike for any meddling with the First Amendment.

Allen Statement

On July 29, Dr. Jimmy R. Allen, president of Americans United as well as the Baptist Convention of Texas, issued the following statement on the proposed amendment:

"The current campaign to buildoze the U.S. House of Representatives into tampering with the religious freedom guarantees of the Constitution is a dangerous assault on the liberties of all citizens. Americans United and its 100,000 members, most of whom are dedicated church members, are strongly opposed to the attempt to force a vote in the House on the proposed constitutional amendment to permit 'nondenominational' prayer in public buildings.

"Both Houses of Congress have examined such proposals in recent years and found them either meaningless gestures or dangerous restrictions on religious freedom. The Supreme Court, in protecting children from imposed or mandated religious observances, has made it clear that students and adults have always had the right to pray voluntarily in school or anywhere else. The nation's most eminent lawyers and religious leaders have told Congress that no 'prayer amendment' is needed to safeguard anyone's rights.

"The right to pray is presently quite safe. There are no restrictions anywhere on voluntary prayer. This being so, the promoters of a 'prayer amendment' evidently are seeking to pave the way for some sort of official prayer or religious observance. Surely a watered-down 'nondenominational' prayer, whatever that might be, must be meaningless or either offensive or blasphemous, and certainly not pleasing in the sight of either God or man.

"Further, the proposed amendment even purports to restrict prayer in public places to 'nondenominational' prayer. How could any American tolerate for a moment a government edict that his prayers in certain places must be 'nondenominational'? The promoters of this proposed amendment certainly cannot be friends either of genuine prayer or of religious liberty.

"Since the God-given right to pray is already secure, the proposed prayer amendment can only serve those who, using the mask of 'voluntary nondenominational prayer,' would impose sectarian practices on children and other citizens, assembled under compulsion, as under the school attendance laws. This would result inevitably in intercreedal strife and pave the way for all sorts of violations of the religious liberty of all citizens.

"Prayer and the right to pray must be beyond the power of government or politicians to either promote or hinder. Tampering with our Constitution's sacred principle of separation of church and state is a dangerous game. The best thing that government can do for religion is to let it alone. Religion has grown and thrived in America precisely because we have kept church and state separate. Religion has sunk to its lowest ebb in lands where government has sought to promote, sponsor, or meddle with it. 'Officializing' religion can only harm it.

"Americans who pray and who know what prayer is all about need no change in the Constitution to aid them. We call upon Congressmen who have mistakenly signed the discharge petition to withdraw their names in the interest of protecting religious liberty."

Religion in the Schools

In June 1963 the United States Supreme Court handed down its decision in *Abington School District* v. *Schempp*, 374 U.S. 203 (1963). This was the "Bible" case, decided one year after the "Prayer" case, *Engel* v. *Vitale*, 370 U.S. 421 (1962).

There is still considerable confusion among the general public and some school officials as to precisely what these decisions prohibited under our Constitution and, more importantly, what they did not prohibit. Certaintly the Supreme Court did not "expel God" from the classroom as some have alleged. Nor did the Court prohibit recognition of the existence of God in our public life. Rather, the Court found unconstitutional the requiring of certain specific practices in public schools as part of a religious exercise or program. Had the Court ruled otherwise, it could have put itself in the position of having to approve tax aid to parochial schools.

Some persons have spent more time condemning the Court for the decisions than in learning exactly what the Court said and in making use of the opportunities which the Court plainly advanced. It is well, then, to examine the Court's decisions to appreciate not what was prohibited as much as what was permitted within our constitutional framework.

In its decisions the Supreme Court held the following activities in public schools to be unconstitutional: requiring the recitation of an official nonsectarian prayer as part of a religious exercise (*Engel*); and/or requiring the reading of a portion of the Bible or the recitation of the Lord's Prayer as part of a religious exercise (*Schempp*).

What Is Permitted

The following activities were found by the Court to have no constitutional restraint: use of the Bible as a reference work for the teaching of secular subjects (*Schempp* at 224); study of the Bible for its literary and historic qualities (*Schempp* at 225); objective instruction in comparative religion or the history of religion and its relationship to

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the advancement of civilization (*Schempp* at 225); use of historical documents, such as the Declaration of Independence, which contain reference to God (*Engel* at 435); singing officially espoused anthems which include the composer's profession of faith in God (*Engel* at 435); and patriotic or ceremonial references to God (*Engel* at 436).

In addition, Justice Brennan, in a concurring opinion in *Schempp*, indicated that the following activities would appear to be constitutionally permissible; providing chaplains at military establishments and in penal institutions (*Schempp* at 296–97); exempting ministers and divinity students from military service (*Schempp* at 298); excusing children from school on their respective religious holidays (*Schempp* at 298); providing temporary use of public buildings to religious organizations when their facilities are unavailable because of emergency (*Schempp* at 298); saying invocational prayers in legislative chambers in the presence of adults who may absent themselves from such ceremonial exercises without incurring any penalty, direct or indirect (*Schempp* at 299–300); using the motto "In God We Trust" on currency, documents, and public buildings as devoid of religious purpose or meaning but recognition of historical fact (*Schempp* at 303); referring to divinity in the Pledge of Allegiance as merely recognition of the historical fact that the nation was believed to have been founded "under God" (*Schempp* at 304).

In sum, the *Engel* and *Schempp* cases sought only to prohibit government from requiring or sponsoring a religious exercise or devotion in the public schools. To have sanctioned such activity would have permitted "establishment of religion" by governmental fiat in violation of the First Amendment of the Constitution.

Also, to have held otherwise and permitted required religious exercises in public schools would have invited the religious conflict our forefathers sought to avoid. Across our nation heated debate and argument would have ensued over such subjects as whether the Protestant King James Version or the Catholic Douay Version of the Bible should be used, whether only selections from the Old Testament should be read, or whether the Lord's Prayer (Protestant or Catholic version) or the Hail Mary could be substituted for a secularistic prayer written by a state agency, or whether a Jewish or Buddhist prayer should be offered—depending on which group predominated.

All have a right to worship according to the dictates of conscience, not according to the dictates of some public official.

The Court did not in any sense prohibit an individual from praying in the public school, or from reading the Bible or any other literature regarded as sacred by any religious body. It did prohibit one from praying or reading sacred literature as a part of a devotional or religious training course conducted on public school property or under public school sponsorship. In other words, the Court did not rule against prayer in the public school, but against a "prayer meeting"; not against worship, but against a secularly supervised worship service conducted on public school property and under the auspices of secular, i.e., public authorities.

The pupil may pray or read the Bible for himself, but no one in the public school can tell him what to read, or what to pray, or read or pray to him or for him.

As the foregoing indicates, recognition of the existence of God in the public school system and throughout our public life has not been barred by these decisions. Teaching in public schools *about* our religious heritage as a significant part of this country's history is proper. Teaching *of* religion to children is properly relegated to the home and church and not to the public school teacher, who customarily professes no competency in this area and who might espouse religious beliefs contrary to those one might wish his children to be taught.

There have been attempts, of course, to have the Constitution amended to set aside the Supreme Court rulings. However, the preponderance of expert legal and religious opinion presented at Congressional hearings on proposed constitutional amendments opposed any change in the First Amendment. The advocates of amending away the effects of the *Engel* and *Schempp* rulings were unable to convince Congress that any "prayer amendment" was needed.

This subject is covered well in such books as John H. Laubach's *School Prayers: Congress, the Courts, and the Public* (Public Affairs Press, 1969) and Leo Pfeffer's *Church, State and Freedom* (Beacon, 1967).

The Court specifically declared in *Schempp:* "[I]t might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistently with the First Amendment."

A CHALLENGE AND A WARNING

Justice Brennan, in a concurring opinion, stated: "The holding of the Court today plainly does not foreclose teaching about the Holy Scriptures or about the differences between religious sects in classes in literature or history. Indeed, whether or not the Bible is involved, it would be impossible to teach meaningfully many subjects in the social sciences or the humanities without some mention of religion. To what extent, and at what points in the curriculum, religious materials should be cited are matters which the courts ought to entrust very largely to the experienced officials who superintend our Nation's public schools. They are experts in such matters, and we are not." (*Id.* at 300.)

Such statements were and are a challenge for a meaningful incorporation of instruction *about* religion in our public schools.

Many public school systems have developed courses, or units within traditional courses, to deal with religion. Some programs undoubtedly meet constitutional requirements for objectivity and neutrality. Others are surely impermissibly partisan or sectarian, and some are difficult to evaluate. The Religious Instruction Association (4001 Fairfield Avenue, Fort Wayne, Ind. 46807) serves as a clearing-house for information on what is actually being taught or planned, though it makes no attempt to judge or evaluate materials and programs from the standpoint of constitutionality.

So many different things are being done in schools around the country that no really adequate survey of existing programs is available, and still less has been done to ascertain the degree to which most programs meet the criteria of objectivity and neutrality.

Among the current offerings of public school teaching *about* religion are the following examples:

Holland, Mich., offers a twelfth grade elective course on the Bible. Needham, Mass., has a Bible-as-literature course. Elective courses on the Bible are offered in Corpus Christi and Dallas, Tex.; Bloomington, Ind.; Flat Rock, Mich.; Lynnfield, Mass.; Sidney, Nebr.; Altoona, Pa.; and Bound Brook, N.J.

Some schools incorporate teaching about religion into history, social studies, or humanities courses. Merritt Island, Fla., has units on several religions in a humanities course. A twelfth grade social studies course surveys modern religions of the world in Conneaut Lake, Pa. In Hinsdale, Ill., religion figures in World Culture, sociology, and psychology courses. St. Louis, Mo., has an elective ½ credit course in comparative religion for grades 10–12. Freeville, N.Y., has an elective comparative religion course and deals with religion in a world philosophy course. Artesia, Cal., has a historical survey of religions in the United States in a grade 8 one-semester elective course.

A 1970 survey by Alan Gorr of Augustana College in Rock Island, Ill., indicates that roughly half of the nation's larger high schools have courses or course units which "teach about religion objectively".

A major problem is highlighted by the fact that only five states are known to have written policies or guidelines to help local school boards and staffs to develop curriculum offerings in the field of religion. Oregon's 1969 policy statement strictly emphasizes neutrality and objectivity and bars the use of public funds for devotional displays.

But even the Oregon policy statement does not reach the heart of the matter. The selection of curriculum materials and the proper training and orientation of teachers are critical. Some of the curriculum material and course guides examined by the Americans United staff clearly do not meet the constitutional criteria of objectivity and neutrality. The development of proper policy statements and guidelines as soon as possible in every state is important, and programs which do not measure up constitutionally should be cleared up or eliminated. Groups concerned with maintaining church-state separation should be consulted in the preparation of materials or guidelines.

Americans need to understand what the Supreme Court ruled in *Engel* and *Schempp*. Time and energy spent in attacking the Court, or in promoting proposed constitutional changes which could wreck church-state separation, could be better spent on learning what the Court actually said.

RELIGIOUS LIBERTY DEFENSE

Although some religious leaders reacted negatively to the Court's prayer and Bible reading decisions, careful reflection and study of the rulings led most religious leaders and denominational bodies ultimately to endorse them heartily as defenses of religious liberty.

We need to remember that the job of the public schools is education and not religious indoctrination. Who, indeed, would really want to place the responsibility for religious training—training for commitment—in the hands of public officials? There is wisdom in the present arrangement which permits public education to deal objectively and neutrally with the role of religion in society but leaves religious training instruction, and devotions to the home and the church. This arrangement places responsibility where it belongs and preserves the American constitutional principle of separation of church and state.

As the Supreme Court said in *Schempp:* "The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church, and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade this citadel, whether its purpose or effect be to aid or oppose, to advance or retard."

President John F. Kennedy, approving the *Engel* ruling, described it as "a welcome reminder to every American family that we can pray a good deal more at home and attend our churches with a good deal more fidelity. . . . I would hope that as a result of this decision that all American parents will intensify their efforts at home, and the rest of us will support the Constitution and the responsibility of the Supreme Court in interpreting it."

MORE ON PRAYER AMENDMENT

(By Hon. FRED SCHWENGEL)

Mr. SCHWENGEL. Mr. Speaker, the October 28 issue of the Burlington Hawk-Eye contains a column entitled "Today's Religion" by Lester Kinsolving. Mr. Kinsolving's column contains some very astute observations with respect to the so-called "prayer amendment." I commend it to my colleagues.

THE CONGRESSIONAL PRAYER-MERCHANTS

(By Lester Kinsolving)

WASHINGTON, D.C.—Like a sort of 17-year-itch, what might be described as "The Prayer-Merchants of Congress" are at it again in a recurrent attempt to pass a Constitutional Amendment permitting prayer in public schools—over the vehement objections of numerous religious leaders.

Led by Rep. Chalmers P. Wylie (R-Ohio), 218 members of the house overrode their own Judiciary Committee with a discharge petition to bring to the House floor for an impending vote the following proposed amendment:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

This purportedly pious proposal has been strongly opposed by an impressively varied number of religious leaders, led by the Rev. Carl Bates, president of the nation's largest Protestant denomination, the Southern Baptist Convention. Seven other Baptist denominational leaders, as well as boards or leaders of such denominations as the Episcopal, United Methodist, United Presbyterian, Lutheran Church in America, Friends, Mennonite, Brethen, Unitarian-Universalist and thirteen Jewish organizations have all co-signed the Baptist petition which charges:

"If such a proposed Amendment becomes a part of the Constitution of the United States, a new religion of 'non-denominationalism' would in a measure become established, which could destroy the integrity of both church and state. . . . We deny that any elected body or governmental authority has the right to determine either the place or content of prayer as is implied in the proposed prayer amendment."

The religious leaders' petition also affirmed the U.S. Supreme Court decisions of 1962 and 1963, which, they said, "properly prohibited government intrusion into the religious activity of school children." And the only Catholic priest who is a member of Congress, Rep. Robert Drinan (D-Mass.) has stated:

"I think it is always short-sighted and unwise for those who do not obtain what they desire from the nation's highest tribunal to then go to Congress seeking to change the Constitution itself."

The Prayer-Merchants can count on winning points for piousity from some quarters—from the same kind of people who will brand any Congressman opposing this Amendment as being "anti-prayer" or even "anti-God."

But a growing number of religious leaders are beginning to wonder just how many of the Prayer-Merchants invariably have family prayers at breakfast—and how many of their children take advantage of their opportunity to pray privately during recess.

They are also wondering whether any child should be forced to undergo the daily embarrassment of asking to be excused for two minutes in lieu of being present for compulsory worship. Should a Catholic child be subjected to anti-Papal prayers as ordered by a school board of extremist Protestants? Should a Protestant child be obliged to be present for Hail Marys? Ought Jewish children be obliged to be present for prayers "through Jesus Christ, Our Lord"? What if the school board happens to be dominated by Black Muslims? Are the children of America's agnostics and atheists to be provided no protection from government-imposed theism?

Religious leaders are becoming increasingly aware that the two-minute "non-denominational" prayers (whatever this means) have often in past been used as a convenient surrogate for the obligation of school boards to teach about religion—which the U.S. Supreme Court upheld as constitutional (but which was generally overlooked in the furor over its school prayer decisions).

There is also the question as to just how much effect these compulsory prayers have upon the students—which was amply illustrated by the report of one Washington, D.C. daily, regarding an experiment in Maine. A school teacher surprised her classes by requiring that they write out the Lord Prayer, which they had been reciting daily for years. Results—from students identified as above average:

"Our Father, who art in Heaven, halloween thy name . . ."

"Give us this day our daily trespasses . . ."

"Forgive us this day our daily bread . . ."

MORE ON PRAYER AMENDMENT

Mr. SCHWENGEL. Mr. Speaker, One of the best analysis of the "pro and con" arguments in the dispute over the so-called prayer amendment appeared in my hometown newspaper, the Davenport Times-Democrat. The initial articles by Roger Munns appeared in the October 30th issue of the paper, and were followed by a summary in October 31, 1971.

THE DEBATE OVER SCHOOL PRAYER

(By Roger Munns)

For the first time in eight years, the long-dormant hot-potato issue of prayer in public schools will be tackled by Congress.

On Nov. 8, the House of Representatives will begin debate on a proposed amendment to the U.S. Constitution to allow "nondenominational" prayer in public institutions, the first action taken since the Supreme Court's memorable decision in 1963 banning bible reading in schools.

Rep. Fred Schwengel, R-Iowa, is leading the fight against the amendment, while a group known as the Citizens for Public Prayer is pushing the campaign for adoption.

The proposed amendment states:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through expenditure of public funds to participate in nondenominational prayer."

THE CASE FOR

"Of course there should be prayer in the schools," says Mrs. Dean Jasper, of 1207 17th St., Bettendorf.

"I think we all should be aware of the presence of God and I don't think it would offend anybody."

She added that her two children in public schools would benefit from the practice.

She echoed the opinions of several other persons contacted at random by the Times-Democrat who said they support the "prayer in schools" issue.

Opponents of the plan, notably Rep. Fred Schwengel, R-Iowa, plus Constitution experts and most area religious leaders, say the amendment is contrary to the long-established principle of separation of church and state, that a "nondenominational" prayer does not exist and any prayer so constructed would offend persons of various religions.

The main proponent for the plan is Rev. Robert G. Howes of Arlington, Va., Washington lobbyist and spokesman for the Citizens for Public Prayer, a national coalition of groups backing a restorative prayer amendment.

Rev. Howes told the Times-Democrat, "Never before in our history has it been more necessary that we get a grip on ourselves, that we find our spiritual heritage.

"We must stop and think awhile about the brotherhood among us, examine our consciences."

In a pamphlet written in 1968, he said, "There is no question that God belongs in the homes and the churches of America."

"There is no question that serious reexamination of His presence there is imperative.

"But religion is not strengthened at the hearth and the sectarian altar by denying it entry to the public classroom. Religion is not strengthened in the heads and hearts of American youth by wiping it off their lips precisely where most of them prepare for citizenship in a reverent society."

Msgr. Sebastian Menke, president of St. Ambrose College in Davenport, agreed.

"The public school system fosters a philosophy of life which has its own definite values and by excluding religion from the schools, it really says to children that religion is something they can take or leave. That it's a fringe benefit."

He said the pro-amendment persons were making "a good effort, if only to make people aware of the need of some kind of religion in connection with life."

He questioned the practicality of such an amendment, however, saying, "If you had even one atheist who says he doesn't want any recognition of God in the classroom, you would be hard put to say you would go ahead anyway."

But Rev. Howes believes a "nondenominational" prayer, which would offend no one, could be constructed.

Religious leaders "are working together more now than ever before. They are not jealous foes and robber barons fighting each other for every inch," he said.

"To suppose that any group of Americans with a sectarian majority would be so callous of its neighbors as to insist on a sectarian prayer in their schools is to fly in the face of the great bulk of American experience.

In the pamphlet, he said, "What is clearly urgent in this entire issue of majority-minority rights is a reasonable pluralism, the kind of adjustment and prudential accommodation which mature men make with their neighbors in any complex matter in which a common decision is required."

He said, "If faith groups are going to fight over every period, we aren't going to get anywhere. We are talking about honorable and reasonable solutions."

To the argument that such a prayer would standardize and take away the individuality of each religion, Rev. Howes said, "They should be applauding the new brotherhood between religions."

Of Schwengel and others who contend that such a prayer would be so stripped in content as to be meaningless, Rev. Howes said, "These are the generals without armies.

"They spend most of their time trying to come up with prayers they will be saying before mixed religious groups. Their own experience contradicts them on this issue."

Citing what he said was mass public support for the amendment, he said passage would be a "vindication of the democratic process. Clearly, on few, if any, other issues are the people more united. We are completely overlooking the civil rights of the vast majority of American people who want children to pray in schools."

The issue has been challenged as threatening the long-established separation of church and state, as set forth in the First Amendment to the Constitution.

Rev. Howes countered, "The amendment only meant that government could not support an institutional church. To the contrary, we are defending the Bill of Rights, trying to restore a substantial matter of free exercise of religion as the Constitution guarantees."

Finally, on the Supreme Court's decisions banning school prayer, Rev. Howes said, "We believe this is very serious precedent. These

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decisions could very well enter into a series of precedents."

Among them, he said, would be the eventual elimination of references to the deity on coins and paper currency, in the pledge of allegiance to the flag, in Thanksgiving prayer and the elimination of chaplains in the armed services.

The court has said the decisions should not be construed to include firmly entrenched, well-established practices that have few, if any, denominational overtones.

But Howes said, "People who say that are what we call minimalists—those who try to minimalize what the court did.

"They are trying to tell the people that a practice that worked for many years is not good and is unconstitutional. They are trying to square a circle and it won't work."

THE CASE AGAINST

"Good heavens, I'm not against prayer!" says Fred Schwengel, R–Iowa.

Citing his track score in which he has consistently stood up for religious groups, Schwengel said it was not at all inconsistent that he is leading the fight against a proposed amendment to the U.S. Constitution that would allow "nondenominational" prayer in public schools.

Schwengel has joined several national religious leaders and leading constitutional experts who oppose the proposal being pushed by the Citizens for Public Prayer.

Schwengel has repeatedly said such an amendment would allow the state to write the prayer and that such action would "weaken all religion."

"I'm not against this proposal because of religion, I'm against it for the sake of religion," he said.

"I recognize that no free society can function without a solid moral base. Very wisely, our forefathers, in the Bill of Rights, declared for freedom OF religion, not FROM religion."

He emphatically added, "The proposed amendment would tend to standardize and weaken prayer. Who would write it? Who would agree to it?

'Are you going to have to accept a school board's version? This will cause more difficulty among the denominations than you can image."

He said, I'm opposed to it because it's both bad law and bad religion."

On the U.S. Supreme Court's Bible-reading ban in 1963, Schwengel said, Many people mistakenly believe that the court threw God out of the school and that people who want to pray cannot.

"Nothing is farther from the truth."

His grandchildren attend a public school in Arlington, Va., Schwengel said, "and every day they open their classes with a moment of silence.

"Prayer is a very personal, meaningful thing, not something that is the same for everyone. Anyone can pray at any time."

In addition, he contended that the court has not "outlawed" the widespread use of religious courses that study various religions from a historical and literary point of view.

"The Supreme Court did not take prayer out of the school. It said you cannot write and direct a specified prayer."

John Schmidhauser, University of Iowa political science professor and instructor in constitutional law, said he agreed with the Supreme Court's judgment and said the amendment would be contrary to the principle of separation of church and state.

"I agree with the late President John F. Kennedy," he said, "All people with strong ethical convictions should be given every opportunity to observe their belief in private.

"But I'm not at all in favor of a reversal of the underlying constitutional principle that we maintain church and state separation.

"We should search our consciences and look to the great benefit that our full constitutional system has had by maintaining religious freedom."

Schwengel said, "The amendment would be the breakdown of this separation. Whenever in history there has been a church-dominated or state-dominated people, neither one has served the public interest very well. We must be forever jealous of this separation. Diversity brings us together."

Schwengel said he was particularly opposed to the amendment because it does not state that participation in "non-denominal" prayer shall be voluntary, he said.

Rev. Robert Howes, spokesman for the prayer group, said a child could choose to leave the room if he did not want to participate, but Schwengel scoffed, "Children don't work like that and you know it."

Robert Nuquist, lawyer and professor of history and government at Black Hawk Junior College, Moline, agreed. "You cannot force children to listen to prayers if their parents don't want them to. If the amendment were to pass, this would bring ridicule on many children."

John Norton, chairman of the political science department at St. Ambrose College, Davenport, also said he was opposed to the principle of subjecting school children to a "nondenominational" prayer, but he said the amendment, if adopted, would cause little change.

"When the chips are down, local school boards would duck the issue. There wouldn't be as much pressure as you think."

Schwengel said the main House proponent for the amendment, Rep. Chalmers P. Wylie, R-Iowa, has argued that Congress opens each session with a prayer and members hold prayer breakfasts.

"I attend every one of those," Schwengel said. "But there's one big difference. It's voluntary."

On the amendment as a political issue, Norton said, "Nobody wants it but nobody wants to be against God either."

But Schwengel said, "Sometimes things come along and you don't think about the political issue. Let the chips fall where they will. I have a deep and almost passionate feeling on this issue."

Schwengel said that when he first started his fight against the amendment, his mail ran 7–1 against him, but that with increased public awareness of the issue, he is now receiving a 3-to-1 ratio in favor of his stand.

He said if the odds were even that the House will pass the amendment, but 'if we make a good showing, and we will, the Senate will kill it."

If the House passes the proposal, it would have to be confirmed by the Senate, then ratified by 38 of the states.

[From the Davenport-Bettendorf (Iowa) Times-Democrat, Oct. 31, 1971]

NO NONDENOMINATIONAL PRAYER

(By Roger Munns)

"There's no such thing as a nondenominational prayer," says the Rev. R. T. Latham, pastor of the Unitarian Church in Davenport.

In denouncing a proposed amendment to the U.S. Constitution that would permit "nondenominational" prayer to be offered in public schools, Rev. Latham joined most other area church leaders contacted by the Times-Democrat.

The proposed amendment is intended by its sponsors to overcome the 1963 decision by the U.S. Supreme Court that it is unconstitutional to recite prayers in school classrooms and other public places.

In order to circumvent the decision, which is based on the constitutional principle of separation of church and state, the proposed amendment stipulates that only "nondenominational" prayers could be offered in public places.

Rep. Fred Schwengel, R-Iowa, is spearheading opposition to the amendment in Congress.

On Nov. 8, the House of Representatives will begin debate on the amendment:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through expenditure of public funds to participate in nondenominational prayer."

Rev. Latham said, "How can you have a prayer that would not reflect a denomination?"

The Rev. W. H. Grindstaff, pastor of the First Baptist Church in Bettendorf, said, "I don't know of a nondenominational prayer.

"In such a prayer, you couldn't address a deity. You couldn't say 'God' or 'Jehovah.' You couldn't say, 'In the name of Jesus Christ.' You couldn't even use 'amen.' "

Rev. Latham was outspoken on the issue.

"My response is very negative. To begin with, it's unconstitutional. The amendment is designed to appease the critics of prayer in school by using the word 'nondenominational.' The usage is totally inane. It's a verbal play to try to get past the basic crux of the whole issue.

"That is, of course, the separation of church and state."

He also said, "Who's going to make the determining judgment? What's the logic in the rationale that requires we have prayers in public school? To whom can you pray but to a god of some type?

"It would not only offend children, but it would be tantamount to imposition of some religion."

He agreed that clergymen are often called to deliver invocations and benedictions at meetings of persons of mixed religious backgrounds.

It is this type of prayer that proponents of the amendment, notably the Rev. Robert Howes, Arlington, Va., a Washington lobbyist and spokesman for the Citizens for Public Prayer, say could be used in schools.

Rev. Latham said he often says prayers for mixed groups but, "They're never non-denominational. The very term 'God' implies a denomination theology."

On the other hand, he said, the clergyman has the option of making an "aspiration," or a prayer without diety.

He gave an example: "As we involve ourselves in an occasion which speaks to the commitments of the past, the accomplishments of the present and the venture of the future, may we do so with mutual blessing and humility."

He said, "Anybody can make an aspiration. No amendment is needed."

He said he suspected persons favoring the prayer amendment would not accept the aspiration.

"They are people of the cultural conditioning in this country who believe that the survival of this country depends on man's proper obedience and obeisance to a god, preferably their particular God. You secure this blessing through prayer," Rev. Latham said.

He repeated that such a prayer, said in public schools, would be a religious imposition.

Rev. Grindstaff said, "I think basically our churches and our homes are the place for religion. As an individual, I would just as soon have my children taught the 'three Rs' in school."

Rev. Grindstaff mentioned a common argument among most clergymen—that if a non-denominational prayer could be constructed, it would be meaningless, or severely restricted in religious value.

"So many times an invocation is so watered down that I don't say anything. A prayer is a communication between the spirit of a man and his diety."

Rabbi Mordecai Levy of the Tri-City Jewish Center said, "We pray according to the dictates of our religious upbringing. To remove the theology is to reduce prayer to nothing. I am much opposed to the idea of prayers in schools. I would not want to reduce prayer to a cultural phenomenon."

To the argument that since religion is not

espoused in public schools, it is downplayed, he said, "True, we fail to teach religion to some of our people. But it is better than having a state-imposed religion."

Rev. Bruce H. Cooke, dean of Trinity Cathedral Episcopal Church in Davenport, said, "The use of prayers in the schools is really not effective, anyway.

"Effective prayer comes out of a community of people who think and believe largely alike," a situation, he said, that could not be attained in the classroom or with gatherings of persons of mixed religious beliefs.

On public invocations and benedictions, he said, "They're usually window dressings" and that the use of prayers at such occasions is "excessive."

"You seek to do God's work openly and through frankly announced religious channels rather than through an attempt to promulgate one's particular religion through government, social or economic channels," he said.

"You may apply your religious tenets to these areas, but, in my opinion, you do not seek to advance your own religious cause through them." He said such action was an imposition on persons of various beliefs.

Msgr. Sebastian Menke, president of St. Ambrose College, Davenport, said he favored the efforts of the pro-amendment forces.

He said, "It's a good effort if only to make people aware of the need of some kind of religious connection with life."

He added, however, that the attempt was probably futile, since any prayer introduced in the classrooms would be certain to offend certain people.

Another Catholic spokesman, Bishop Gerald O'Keefe, declined comment on the issue.

In addition to local opposition to the amendment, the Iowa Council of Churches' executive council voted on Oct. 8 to recommend defeat of the amendment.

In a letter to Schwengel, Rev. Paul King, executive secretary of the group, said, "The issues which surround the prayer amendment are easily misunderstood. It is not the case of whether or not prayer is allowed in our schools, but whether or not there should be state-written, state-directed or state-sponsored prayers."

Other statewide religious leaders are also opposed to the amendment.

Methodist Bishop James Thomas, Des Moines, said, "The first thing that bothers me about this is the fact that so many people feel if you are against the amendment, you are against prayer. That just isn't true."

He opposed the concept in which the "state would be able to dictate a prayer" and said even if such a prayer were formed it would be meaningless.

"It's impossible to develop any prayer that has any meaning if it is not natural, that is, if it does not spell out what it is talking about. I am very much against perfunctory prayer.

"There is no such thing as a nondenominational prayer. Prayer is not nondenominational. If you have developed a nondenominational prayer, you don't have a prayer."

And James Lair, executive minister of the Iowa Society of Christian Churches, Des Moines, in opposition to the amendment, said it was important to correctly interpret the Supreme Court's decision in 1963.

"The court never denied the right of personal prayers. They denied state prayers."

He said the whole issue of whether or not a "nondenominational" prayer could be constructed was "an academic question."

[From the Boston (Mass.) Globe, Nov. 4, 1971]

RELIGION OR PABLUM?

The US House is scheduled to vote next Monday on a proposed Constitutional amendment permitting "nondenominational" prayer ceremonies in public schools and other tax supported buildings. It is earnestly to be hoped that the House will refuse to approve this amendment.

Far from enhancing religious freedom, the amendment would diminish it and might ultimately lead to its abolition at the hands of the government. For who, if not governmental officials, will prescribe which forms of prayer are "nondenominational" and which are not?

Prayers designed to comply with a mandate that they be "nondenominational," as Harvard's noted Constitutional authority Paul Freund has observed, "would face the dilemma of being so bland as to be meaningless or so sectarian as to be divisive and repelling."

And if the dilemma is resolved by opting for blandness would not the result be, as one English cleric observed, a ceremony in which God is presented "as a trivial inconvenience that must be gotten out of the way before getting down to the real work of the day?"

It can be persuasively argued that the church and the home are the appropriate places in which to foster and practice religion. But if the church and the home fail in establishing piety among the people, what reason is there to believe that spoonsful of religious pablum concocted by public officials will succeed?

Indeed, the proposed amendment seems to say that religion is something to be forced down people's throats. Thus the amendment is plainly antithetical to democratic theory and practice.

Moreover, the amendment would establish a most dangerous precedent. If the religious freedom now protected by the First Amendment is thus watered down, next we may see assaults on such other Bill of Rights liberties as freedom of speech, press, and assembly; freedom from unreasonable search and seizure, and freedom from compulsory selfincrimination.

These and other Bill of Rights freedoms are America's most precious heritage. They should not be jeopardized by the adoption of anything at once so frivolous and so frightening as this proposed amendment.

WHO SHOULD PAY WHAT?

In both Congress and the Administration, UN nay sayers, still rankled by the vote on Taiwan, are fostering the dangerous notion that the United States is paying more than its fair share of UN costs. This is simply not so.

In absolute terms, it is true, the US is the largest contributor to the UN—$56 million in assessed fees and more than $200 million in voluntary contributions to such enterprises as the World Health Organization, the Educational, Scientific and Cultural Organization, U.N.I.C.E.F., refugee programs, the World Food Program, and so forth.

But is this more than its proper share? Hardly. The US gross national product of roughly 1 trillion is the largest of any nation in history, amounting to approximately 40 percent of the world GNP. On the basis, then, of ability to pay, the US should be paying approximately 40 percent of UN costs instead of the roughly 30 percent it now pays.

Measured in terms of its GNP, the US ranks, not first, but 12th in the list of 16 major donors. This is not the kind of generosity about which a justly proud Croesus amongst nations should boast—especially since the UN is a war-prone world's only peace keeping organization.

EDITORIAL POINTS

Those were innocent days, when the student who drank a few beers was considered devilish.

The best conservationists can say for oil wells off the local shore is that they wouldn't be as bad as World War III in the same neighborhood.

Maine votes to keep the income tax lest worse befall.

It's true that Massachusetts town government is not run by experts. On the other hand, no board of selectmen ever started a war in Asia.

The Postal Service really deserves credit. The junk mail always goes through.

The bomb test will prove that putting a match to a fuse will cause a big bang.

[From the Houston Chronicle, Oct. 22, 1971]

THE PRAYER AMENDMENT

The First Amendment to the U.S. Constitution starts: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Citing this amendment, the U.S. Supreme Court in 1963 banned Bible reading and organized prayers in public schools.

The Supreme Court ruling set off controversy; echoes are still being heard in Congress. The echoes are in the form of a proposed amendment to the constitution.

The amendment is potentially dangerous. While the amendment is proposed as a means to allow prayer in the classroom, it opens the possibility of federal intervention in the field of religion because the amendment poses so many questions.

The proposed amendment reads: "Nothing contained in this constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

A prayer amendment in one form or another has been pending in Congress since shortly after the Supreme Court ruling. In 1964, a House committee held hearings on an amendment and for six weeks listened as church officials, educators, legal scholars and representatives of private organizations spoke for or against the amendment. At the end, the committee was unable to agree and put the amendment aside. In 1966, the Senate turned back a prayer amendment proposed by Sen. Everett Dirksen.

The amendment now pending was tied up in the House Judiciary Committee. A petition by 218 House members forced the issue to the floor of the House, where it is expected to come to a vote next month. Not all the representatives who signed the petition necessarily favor its passage; some acted believing the amendment deserves debate. The petition was the work of Mrs. Ben Ruhlin of Cuyahoga, Ohio, and her Prayer Campaign Committee.

Opposing the prayer amendment are a group of church leaders, including leaders of the American Baptist Convention, the National Baptist Convention, the Southern Baptist Convention, the executive council of the Episcopal Church, the National Council of Churches of Christ, the American Jewish Congress, the United Presbyterian Church, the United Methodist Church, the Friends Committee on National Legislation, the Church of the Brethren and the Unitarian Universalist Assn.

The problem with the amendment is that it raises legal questions which would require further intrusion upon religious life to resolve. The principal question is: What is a nondenominational prayer? Religious leaders point out that major religious faiths have never been able to achieve a consensus on a definition of nondenominationalism.

The amendment raises the prospect of courts ruling that it is all right to use this word but not that word in a prayer; of a court approving a certain prayer and all of school children having to say that prayer because, according to the court, it is nondenominational. The parent would have no control over what prayer his child is taught to say in school. This, in truth, would be government control of religion, the very

thing the First Amendment was wisely written to prohibit.

There are other questions: Could only nondenominational prayers be prayed in a denominational or public institution which receives public funds? Who decides whether an assembly is lawful? Who writes the prayers the school children are to say? Who monitors the prayers to guarantee they are nondenominational?

We must avoid imposition of any religion by the state. If Congress wishes to go on record, perhaps by resolution, on behalf of the right of people to pray, fine. We believe the right to pray is adequately protected now by the First Amendment as written when this nation was founded. No tampering is required.

[From the Austin American, Oct. 15, 1971]

PUBLIC PIETY, PRIVATE BELIEF

By virtue of a discharge petition signed by 218 members of the House of Representatives, a proposed constitutional amendment to permit voluntary, nondenominational prayers in the public schools and in public buildings has been pried out of the House Judiciary Committee, where it has languished for the past eight years.

It now goes before the House for a vote, probably sometime in early November. The congressmen have from now until then to think seriously about the matter—even, if they are so inclined, to pray over it.

They might reflect that it is almost a law of history that a nation's outward piety increases in inverse proportion to its inward convictions.

[From the Wichita (Kans.) Eagle, Oct 13, 1971]

CHURCH OF CHRIST RESISTS RETURN OF SCHOOL PRAYERS

(By Barry Paris)

The 42-member executive council of the United Church of Christ voted unanimously Tuesday in Wichita to oppose the bill supporting "prescribed prayer" in public schools now before the U.S. House of Representatives.

In doing so the 2-million-member denomination becomes the first national religious body to formally oppose the proposed constitutional amendment (House Joint Resolution 191), expected to come before the House in November. The amendment is an attempt to override Supreme Court decisions declaring prayer reading in public schools unconstitutional.

The resolution called attention to the fact that the Supreme Court has affirmed the freedom of schools to include the study of religion in their curricula.

The proposed amendment reads, "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building . . . to participate in nondenominational prayer."

The UCC resolution based its opposition to the bill on the need for "scrupulous fairness" to people of all religious convictions. The responsibility for religious education and worship, said the council, lies primarily at home and in the church.

"(The UCC) strongly supports efforts of schools to increase and improve the teaching of moral values and the appreciation of the role of religion in the development of our heritage," said the executive council statement.

The proposed constitutional amendment was bottled up in the House Judiciary Committee from 1963 until early this month, when proponents obtained enough signatures to bring it to the floor of the House.

The UCC executive council, which conducts the business of the United Church of Christ between biennial meetings of its General Synod, is holding its annual fall meeting in Wichita this week.

Later Tuesday, the council appointed a task force on the status of women in the church and society and authorized $50,000 for its use in 1972.

Appointed cochairwoman of the task force were Mrs. Louise M. Wallace, Shawnee Mission, Kan., and Rev. Tilda A. Norberg, Staten Island, N.Y.

[From the Kansas City (Mo.) Star, Oct. 20, 1971]

DANFORTH QUESTIONS SCHOOL PRAYERS' VALUE

John C. Danforth, Missouri attorney general and an ordained Episcopal priest, said last night that nondenominational prayers in public schools are of questionable value at best.

The 35-year-old attorney general told about 250 persons at an interfaith dinner at the Country Club Christian Church that nondenominational prayer must be acceptable to everyone. It must receive the approval of Catholics, Protestants and Jews, practitioners of ethical science, agnostics and even atheists, he said.

Danforth discussed an amendment before Congress, which, if adopted, would read: "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

"The point of this amendment," he said, "would be to permit what is known as nondenominational prayers in public schools. The background of this proposed amendment is that in 1963 and 1964 the Supreme Court interpreted the first amendment as prohibiting prayers, even nondenominational which could be agreed upon by all religions, from being offered as part of the program in public schools."

Danforth said support of the amendment amounts to an admission of failure by church and parents in providing children with a sufficient religious background.

If the amendment passes the House of Representatives, he said, it would be well for thoughtful churchmen to consider whether school prayer would be of any value.

"It is my view that the kind of prayer which would be offered in public school is devoid of theological content and does not further the religious development of children," he said. "I believe such prayers tend to cheapen rather than enhance our religious heritage.

"Let us then begin to take our own responsibilities seriously as custodians of the faith. Let us not be willing to yield this responsibility to the state."

[From the Jewish Press, Omaha, Neb., Oct. 15, 1971]

SIDELINES

(By Mickey Gerelick)

When the astronauts landed on the moon they described their feat as "one giant step forward for mankind." Those who understand the space program (I don't) have convinced me it's true.

I'm equally convinced that the same government which sent men to the moon may be on the verge of taking "one giant step backward," in another area. And this area I do understand.

A Discharge Petition signed by 218 members of the House of Representatives will bring to the floor of Congress a proposal for a Constitutional Amendment to reverse the U.S. Supreme Court decision of 1963 banning prayer in public schools.

The proposal has been bottled up for nearly 10 years in the House Judiciary Committee. As a result of the Discharge Petition, however, it may come up for a vote in the House of Representatives as early as November 8.

They weren't teaching about moon landings when I was in High School (yes children, they did have high schools way back then.) But they were teaching about American government, and I was a pretty good student.

I know that enactment of a Constitutional Amendment requires a two-third vote in the House and Senate and ratification by the legislatures of three-fourths of the states. I also know that if the proposed prayer amendment becomes part of the Constitution, the Bill of Rights will be amended for the first time in our nation's history.

I'm not opposed to change where change is needed; but for my money the Bill of Rights is one of the soundest documents this country has produced, and tampering with it could set a dangerous precedent of jeopardizing all of our individual freedoms. That's a pretty big step backwards.

The whole business would be funny, if it weren't so frightening.

The amendment (H.J. Resolution 191) would authorize "nondenominational" prayer in public buildings, including public schools.

To the best of my knowledge, the major faiths have never been able to agree on a definition of "prayer" much less a definition of "nondenominational prayer."

Who then will decide the nature of these prayers? Congress or (God forbid) the local school boards? It's madness to suggest that any governmental body has the right or wisdom to determine where or when or what people should pray.

As it stands, the Bill of Rights protects the rights of any child to engage voluntarily in his own prayers whenever and wherever he chooses. (Even in school buildings; but without government supervision.) It also guarantees the rights of the atheist child not to pray wherever and whenever he chooses.

I'll go along with the wisdom of the Supreme Court decisions of 1962 and 1963 which properly prohibited government intrusion into the religious activities of school children. I strongly oppose the proposed amendment which, in its "nondenominationalism" would serve the needs of no one and which could destroy the protection offered by "separation of church and state."

I really believe in the American system of government—even when it produces such threats as the proposed prayer amendment. Proponents of the amendment can get it to the floor of Congress; but the congressmen who do the voting can be influenced by their constituents who put them in Congress. That's why I'm writing to my congressman today asking his support to defeat the prayer amendment.

For those of you who share my views—and my congressman—the address is: John Y. McCollister, Congressman, Second District Nebraska, 511 Cannon Office Building, Washington, D.C. 20515.

FALLACIES AND FALSEHOODS OF THE WYLIE AMENDMENT

A constitutional amendment which will radically alter the relationship between church and state in America is now under congressional consideration. The amendment, sponsored by Rep. Chalmers P. Wylie (R-Ohio), reads:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer." (H.J. Res. 191)

Despite the claims of its backers, the effect of the Wylie amendment will not be the "putting of God back into the public schools" but the injecting of the state into religion and the involving and entangling of the state with religion, with consequent grave damage to government and to religion, and to the certain destruction of church-state separation in America.

SHALL THE STATE INVOLVE ITSELF IN RELIGION AND IN RELIGIOUS CONTROVERSY?

The question posed to Congress by the so-called "prayer amendment" has nothing to do with individual, personal and voluntary prayer—i.e. with whether a child can bow his head and pray in school. This right has never been questioned by any responsible individual or any court in America. The question before Congress is whether prayer meetings can be held under the auspices or supervision of the state. The intent of the Wylie amendment is to permit officially approved and supervised, governmentally-sponsored corporate worship services in the public schools and elsewhere. Such corporate worship services will be tax-supported, in a large measure, since they will be conducted in tax-supported facilities and will usually involve some kind of supervision by teachers or others whose pay is drawn from the public treasury. One of the primary functions of the church is to lead and sponsor corporate worship. Shall the state now usurp this function? Shall the state, through its various agencies and officials, organize, supervise and subsidize regular and continuing programs of corporate worship in the public schools and other public places? Shall the government be empowered to officially authorize and approve some forms of corporate worship as "nondenominational" and officially disapprove and refuse to permit other forms of corporate worship as "denominational"? Shall religion now cease to be a private, personal and individual matter in this country, into which the state may not intrude itself or involve itself? Shall religion now become a function of the state, with some kinds of religion promoted and other kinds of religion prohibited in the public schools and all other public places in America? These are the questions which the Wylie amendment poses to every Congressman. It is not too much to say that the future destiny of this nation and the peace and harmony of every community tremble in the balance as each congressman considers how he shall vote on this matter.

There are a number of misconceptions and falsehoods underlying this amendment. We list some of these falsehoods below.

I. *The falsehood that prayer is presently forbidden in public facilities and that we must amend our constitution to "authorise" prayer.* Voluntary prayer is already permissible in all public places. The courts have never made any ruling approving or disapproving, *per se*, of any prayer or worship anywhere. The courts have only ruled against governmental sponsorship of, subsidy of, and involvement in prayer and worship services. If the Wylie amendment is added to the Constitution it will make it necessary for the courts to rule again and again on the very character and contents of worship itself, as to whether it is denominational and therefore prohibited, or nondenominational and therefore permitted in public buildings.

II. *The falsehood that the Wylie amendment is intended to permit "voluntary prayer" in public places.* The Wylie amendment doesn't even mention "voluntary prayer." It speaks only of "nondenominational prayer." Far from allowing "voluntary prayer," it will actually forbid truly voluntary prayer, for voluntary prayer necessarily reflects the peculiar faith and denominational orientation of each individual, and the Wylie amendment forbids all but "nondenominational prayer." A careful reading of the proposed amendment and scrutiny of the objectives of those who are pushing it reveal that it isn't voluntary prayer at all that they desire. The *participation* in the worship services they envision setting up in the public schools and elsewhere may be voluntary, because no person can actually be compelled to participate in worship. But the worship services themselves will be involuntary, from start to finish. The students obviously cannot pray any prayer they want to, because they might pray a "denominational prayer." So they will have to be told what to pray. The worship services resulting from the passage of this amendment will be held in buildings built and supported involuntarily; will be supervised by teachers and administrators whose salaries are paid involuntarily; will be patronized by students who are brought together at that particular spot involuntarily by the compulsory attendance law of the public schools.

III. *The falsehood that the amendment concerns itself only with the setting up of guidelines for a kind of worship which will be permitted in the public schools of America.* Even a casual glance at the amendment shows that it has far broader implications than prescribing and proscribing worship services in the public schools. The amendment doesn't even mention "public schools," but embraces within its scope worship in ALL public buildings throughout this nation. The words "lawfully assembled" in the proposed amendment should give pause to every thoughtful citizen. This yoking of state-approved "nondenominational" worship with the qualification that it be conducted in a "lawful assembly" has ominous overtones to those who believe that there cannot be any such thing as "unlawful assembly" for those who come together to worship God. Of course, the amendment applies only to persons "lawfully assembled in any public building." But what is a "public building?" The amendment goes on to define it as one "which is supposed in whole or in part through the expenditure of public funds." Are church buildings "public buildings?" They are so classified in the building codes and safety and fire regulations of most cities. They certainly are supported in part by public funds in that they are given tax exemptions and receive free public services, such as fire and police protection, which are essential to their functions. The Wylie amendment places in dire jeopardy the freedom and independence of all churches in America since it implies that only "nondenominational" worship may lawfully be offered in public buildings in this country, and church buildings are "public buildings" under the definition given in the amendment.

IV. *The falsehood that the amendment will only affect the kind of worship which will be allowed in public places.* It affects a great deal more than that. If worship of a certain state-approved "nondenominational" type is to be allowed in public schools and other public institutions, may not religious teachings of a certain state-approved "nondenominational" type also be carried on them? After all, religious worship is a kind of religious teaching. And if the public schools are now to become houses of worship and agencies for teaching a newly-established "nondenominational" state religion, tax support cannot be withheld from parochial schools. A larger part of the thrust for the passage of this dangerous change in the First Amendment of our Constitution has come from those who see the prospect of billions of dollars in tax money being made available to their church and its schools. Separation of church and state will cease to exist in any meaningful sense if this amendment is passed. All the court decisions, which have been based on the First Amendment since the founding of this nation will be undermined, and many, if not most, will be invalidated.

V. *The falsehood that there is any such thing as a "nondenominational prayer."* The stipulation that prayer be "nondenominational" is as ridiculous as would be a stipulation that prayer be non-religious. Secularized prayer isn't really prayer. To many it is sacrilege. To every church and religion its own prayers are nondenominational, and the prayers of all other groups are denominational. A prayer in the name of Jesus Christ would be forbidden in any public building by this amendment. There are many churches, such as the Quakers and the Churches of Christ, which do not believe in ceremonial prayers or a liturgy and which have no set or written prayers—no prayers at all which are formulated by one person, to be repeated in unison by others. Yet, this is the kind of prayer generally offered in the public schools. There are a number of churches which teach that it is sinful for unbelievers to conduct worship services. This violation of the faith of many will be authorized by the Constitution and will become a very prevalent practice if the Wylie amendment passes. It is obvious that the Wylie amendment will pave the way for deistic (i.e. prayers not offered in the name of Christ), liturgical, and therefore very much denominational, prayers in the public schools and elsewhere, as well as prayers which may be characteristic of some denominations but which are abhorrent and contrary to the faith of others.

VI. *The falsehood that some of the problems encountered in connection with our youth today, and the general breakdown of morals within our society, would be solved or improved if we had some kind of a little "nondenominational prayer" each day in the public schools.* This is like putting a band-aid on a cancer and expecting it to do some good. The causes for the moral decadence of our society lie deep indeed. None of those causes would be in the least affected by plastering a tiny bit of state-approved religious ceremonialism on the public schools.

VII. *The falsehood that the Wylie amendment has anything at all to do with true prayer or worship to God or that the promoters of this change in the basic law of our land are primarily interested in prayer as an end in itself.* All the evidence suggests that the sponsors of the Wylie amendment are interested in prayer as a means of achieving certain social and political purposes rather than in prayer as the intimate and personal communication of the heart and soul with God. It should greatly concern those Congressmen who are Christians that Jesus Christ condemned ostentatious, hypocritical and repetitious prayer and commanded his followers to pray at home, in privacy, behind closed doors (Matt. 6:6–7). Is the sort of prayer envisioned by the Wylie amendment the sort that Jesus condemned or the sort that He commended? To us, the answer is obvious.

James Madison said, "It is proper to take alarm at the first experiment on our liberties." We, therefore, plead with those who are entrusted with the guardianship of the rights and liberties of this great free nation—Resist this drive to change the First Amendment, knowing that if this current effort is successful, it will be but the beginning of a series of furious assaults upon our Bill of Rights and the precious heritage of freedom and justice which it protects.

DO NOT BE DECEIVED BY A "PRAYER" AMENDMENT

"Don't "booby-trap" religious freedom by an innocent-sounding "prayer" amendment that is in fact a "time-bomb" against religion.

Now is the time to stand up and fight for freedom.

What did the Supreme Court say . . ? . . . about prayer in public schools!

State composed and governmentally required prayers are a violation of the Constitution.

"In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

Governmentally sponsored or required devotions, such as Bible reading and recitation of the Lord's Prayer are unconstitutional.

The Bible and religion may be taught in public schools when presented objectively as part of the regular program of education.

XUM

The Supreme Court did not do this:

The Court did not prevent useful children from praying in school. It prohibited government from writing their prayers and sponsoring their devotions.

The Court did not put God out of the schools or out of public life in America. God is greater than either a Supreme Court decision or a constitutional amendment. He is not moved about like a chessman.

The Court did not express hostility to religion. "Nothing, of course, could be more wrong," the Court declared.

The Court did not establish a religion of secularism. It specifically said, "The state may not establish a 'religion of secularism' in the sense of affirmatively opposing or showing hostility to religion."

The Court did not eliminate all religious expressions from public life. It said that the Declaration of Independence, patriotic hymns, and religious expressions in patriotic or ceremonial occasions are not prohibited by the ruling.

Take a look at the innocent-sounding but insidious nondenominational prayer amendment:

The proposed amendment: "Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer." (H.J. Res. 191)

This amendment would not be merely an addition to the First Amendment, it would be a serious alteration of the basic constitutional provision for "no establishment" and "free exercise" of religion.

The amendment prescribes the kind of prayer the people in public buildings have a right to pray—nondenominational prayers.

The amendment by indirection authorizes government (a school board, principal, teacher, or some other official) to determine what is "nondenominational" prayer. This makes government a judge of theology and of prayer.

The amendment restricts the rights of the people it is supposed to protect. It could prescribe "nondenominational prayer" for hospitals, homes for the aged, other buildings supported in whole or in part through public funds, or even the chaplaincy.

The amendment introduces religion as a divisive factor into American life.

The amendment authorizes a perverted form of nebulous religion—nondenominational prayer.

Help preserve religious freedom, defeat the nondenominational prayer amendment.

Baptist Joint Committee on Public Affairs,
200 Maryland Ave., N.E., Washington, D.C.
20002.

PREMISES OF THE SUPREME COURT RESTRAINING GOVERNMENT REGARDING DEVIATIONS

(By C. Emanuel Carlson)

In June 1962, the Supreme Court of the United States set aside actions by the New York Board of Regents, and by a district school board, because these actions prescribed a religious activity, namely the saying of a prayer. At that time the Court rested its case on analysis without citing a single case. The decision resulted in unprecedented discussion and misunderstanding.

In handing down its opinion in the Maryland and the Pennsylvania cases, the Court took the opposite approach. This decision in June, 1963, contains a full review of the major decisions that the Court has handed down in interpreting the First Amendment. The Court's review is clearly written, and readable by most anyone. It should be carefully studied by all who prepare to discuss the issues.

This pamphlet attempts to outline the premises which are involved. It is prepared in order to facilitate study and discussion of the Court's actual decision.

1. The Court proceeds on the premise that present American law is rooted in the principles of the Constitution and not in the practices of the colonial period of our history. Thus the Court candidly admits that the colonial period did not carefully practice religious liberty, and it makes no attempt to fit these practices into its constitutional interpretations. It simply says:

It is true that this liberty frequently was not realized by the colonists, but this is readily accountable to their close ties to the Mother Country. However, the views of Madison and Jefferson, preceded by Roger Williams, came to be incorporated not only in the Federal Constitution but likewise in those of most of our States. (Pages 10–11)

Since many people draw their illustrative materials for church-state discussions from the colonial period, it becomes necessary to place dates after all actions or practices and to screen out those that precede 1791, when the first ten amendments became effective.

2. The Court accepts religious liberty as being as basic to American civic life as religion itself. After reviewing some of the evidences that the American people have been and are "a religious people," the Court said:

This is not to say, however, that religion has been so identified with our history and government that religious freedom is not likewise as strongly imbedded in our public and private life. (Page 10)

To state the scope and purpose of the First Amendment, the Court chose, among others, the words of Justice Jackson who while dissenting to the *Everson* case yet agreed that

"There is no answer to the proposition . . . that the effect of the religious freedom Amendment to our Constitution was to take every form of propagation of religion out of the realm of things which could directly or indirectly be made public business and thereby be supported in whole or in part at taxpayers' expense. . . . This freedom was first in the Bill of Rights because it was first in the forefathers' minds; it was set forth in absolute terms, and its strength is its rigidity." (Page 13)

Lest there be any misunderstanding the Court added the words of Justice Rutledge, who was joined in another Everson statement by Justices Frankfurter, Jackson, and Burton:

"The (First) Amendment's purpose was not to strike merely at the official establishment of a single sect, creed or religion, outlawing only a formal relation such as had prevailed in England and some of the colonies. Necessarily it was to uproot all such relationships. But the object was broader than separating church and state in this narrow sense. It was to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion." (Page 13)

This conclusion the Court asserted "has been firmly maintained ever since that time," citing a number of other cases in its support.

3. The Court looks upon the two parts of the First Amendment as supporting each other in the protection of this freedom:

The interrelationship of the Establishment and the Free-Exercise Clauses was first touched upon by Mr. Justice Roberts for the Court in *Cantwell* v. *Connecticut* . . . where it was said that their "inhibition of legislation" had "a double aspect. On the one hand, it forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship. Freedom of conscience and freedom to adhere to such religious organisation or form of worship as the individual may choose cannot be restricted by law. On the other hand, it safeguards the free exercise of the chosen form of religion. Thus the Amendment embraces two concepts—freedom to believe and freedom to act." (Page 14)

Both aspects of the First Amendment constitute reasons for a wholesome neutrality on the part of the state in its contacts with groups of religious believers and non-believers. Thus,

The wholesome "neutrality" of which this Court's cases speak thus stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenets of one or all orthodoxies. This the Establishment Clause prohibits. (Page 18)

But also this:

And a further reason for neutrality is found in the Free Exercise Clause, which recognizes the value of religious training, teaching and observance and, more particularly, the right of every person to freely choose his own course with reference thereto, free of any compulsion from the state. This the Free Exercise Clause guarantees. (Pages 18–19) On these points the Court also approved the language of Justice Rutledge in the Everson case, as follows:

"Our constitutional policy . . . (D)oes not deny the value or necessity for religious training, teaching or observance. Rather it secures their free exercise. But to that end it does deny that the state can undertake or sustain them in any form or degree. For this reason the sphere of religious activity, as distinguished from the secular intellectual liberties, has been given the two-fold protection and as the state cannot forbid, neither can it perform or aid in performing the religious function. The dual prohibition makes that function altogether private." (Page 18).

In this discussion it should be noted that references are made to the free exercise of religion which is accorded legislators in their procedures, courts in their opening, and military personnel in service. Neither cases nor precedents are presented by the Court regarding free exercise available for teachers or pupils who wish to exercise their religion in a public school without any legal prescription or directive. That such freedom exists cannot be doubted, but their nature and scope have not been determined by constitutional interpretation. Perhaps they neither can be nor should be.

4. Aware that there are 83 separate religious bodies each exceeding 50,000 members, the Court holds that all are equal before the law:

Almost a hundred years ago in Minor v. Board of Education of Cincinnati, Judge Alphonso Taft, father of the revered Chief Justice, in an unpublished opinion stated the ideal of our people as to religious freedom as one of "absolute equality before the law of all religious opinions and sects . . ."

"The government is neutral, and, while protecting all, it prefers none, and it disparages none." (Page 11)

This neutrality is directly applicable to those forms of religion which are antagonistic to the traditional forms. Hence:

It is insisted that unless these religious exercises are permitted a "religion of secularism" is established in the schools. We agree of course that the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe." Zorach v. Clauson . . . (Pages 21–22)

However, from this statement it does not appear that all ideas, attitudes, or social values are to be included under the word "religion," so as to prevent the teaching of the American heritage of values in the schools.

5. The Court holds that the principles which restrain governments from regulating or prescribing devotions also restrain them from other forms of support or hindrance to religion.

. . . this Court has rejected unequivocally the contention that the establishment clause forbids only governmental preference of one religion over another. Almost 20 years ago in *Everson*, . . . the Court said that "[n] either a state nor the Federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another." (Pages 12–13)

Then from the *Zorach* case in the words of Justice Douglas:

"There cannot be the slightest doubt that the First Amendment reflects the philosophy that Church and State should be separated. And so far as interference with the 'free exercise' of religion and an 'establishment' of religion are concerned, the separation must be complete and unequivocal. The First Amendment within the scope of its coverage permits no exception; the prohibition is absolute. The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concert or union or dependency one on the other. That is the common sense of the matter." (Page 16)

These comprehensive positions have been so often stated in the same or very similar words that there is every reason to believe the Court really means this as its position in the whole array of church-state issues that continue to plague legislatures and state or district courts.

6. The Court is clearly committed to the Fourteenth Amendment as the application to the states of the First Amendment's protection of the religious freedom of the American people:

First, this Court has decisively settled that the First Amendment's mandate that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" has been made wholly applicable to the states by the Fourteenth Amendment. Twenty-three years ago in *Cantwell* v. *Connecticut*, . . . this Court, through Mr. Justice Roberts, said:

"The fundamental concept of liberty embodied in that (Fourteenth) Amendment embraces the liberties guaranteed by the First Amendment. The First Amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws. . . ."

In a series of cases since Cantwell the Court has repeatedly reaffirmed that doctrine, and we do so now. . . . (Page 12)

While some aspects of federal-state relationships will of necessity be controversial, only nationwide principles of religious liberty can protect this nation from such religious divisions as have afflicted many other countries. It is hard to imagine responsible advocacy of public school systems in which religious emphases variously represent Mormons, Roman Catholics, Baptists, or Protestants. Hence the Torcaso decision said:

"We repeat and again reaffirm that neither a State nor the Federal government can constitutionally force a person to 'profess a belief or disbelief in any religion.' Neither can constitutionally pass laws or impose requirements which aid all religions as against nonbelievers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs." (Page 17)

Regarding the New York Board of Regents' proposed state prayer the Court said in the Engel v. Vitale decision:

". . . it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by the government." (Page 17)

Personal religious freedom is to be respected by state as well as by federal government:

The Free Exercise Clause, likewise considered many times here, withdraws from legislative power, state and federal, the exertion of any restraint on the free exercise of religion. Its purpose is to secure religious liberty in the individual by prohibiting any invasions thereof by civil authority. (Page 19)

7. The Court holds that all types of temporal knowledge can be given under public auspices leaving religious instructional goals to be reached by other agencies. From Emerson v. Board of Education the Court quotes: ". . . public schools are organized on the premise that secular education can be isolated from all religious teaching so that the school can inculcate all needed temporal knowledge and also maintain a strict and lofty neutrality as to religion. The assumption is that after the individual has been instructed in worldly wisdom he will be better fitted to choose his religion." (Page 15)

Also the Court asserts that governments can test the propriety of their involvement in his way:

The test may be stated as follows: What are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constitution. (Page 19)

The effort to gain temporal knowledge can include the objective study of religious materials:

In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected consistent with the First Amendment. (Page 22)

Thus it is not God nor even information about God that is excluded from the public school. Rather it is the religious ceremony by public authority that is excluded, and also the pursuit of institutional religious goals within the public schools.

8. The violation of the "no establishment" clause of the First Amendment is not affected by the presence or absence of either coercive force or required attendance. From the Engel v. Vitale decision:

"Although these two clauses may in certain instances overlap, they forbid two quite different kinds of governmental encroachment upon religious freedom. The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not." (Pages 17–18)

The Court's conclusion in these cases was based on the no-establishment clause:

The conclusion follows that in both cases the laws require religious exercises and such exercises are being conducted in direct violation of the rights of the appellees and petitioners. Nor are these required exercises mitigated by the fact that individual students may absent themselves upon parental request, for that fact furnishes no defense to a claim of unconstitutionality under the Establishment Clause. (Page 21)

9. When the freedoms of people are involved the place of watchfulness is at the beginning of violations rather than at some more gross oppression:

Further, it is no defense to urge that the religious practices here may be relatively minor encroachments on the First Amendment. The breach of neutrality that is today a trickling stream may all too soon become a raging torrent and, in the words of Madison, "it is proper to take alarm at the first experiment on our liberties." (Page 21)

10. Under the American Constitution the rights of the majority do not include the right to use state powers or the machinery of government for the attainment of religious ends:

While the Free Exercise Clause clearly prohibits the use of state action to deny the rights of free exercise to *anyone*, it has never meant that a majority could use the machinery of the State to practice its beliefs. Such a contention was effectively answered by Mr. Justice Jackson for the Court in *West Virginia Board of Education* v. *Barnette* (1943):

"The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to . . . freedom of worship . . . and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections." (Pages 22–23)

Conclusion. In view of these principles the Court concluded:

The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognize through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of neutrality. Though the application of that rule requires interpretation of a delicate sort, the rule itself is clearly and concisely stated in the words of the First Amendment. Applying that rule to the facts of these cases, we affirm the judgment in No. 142. In No. 119, the judgment is reversed and the cause remanded to the Maryland Court of Appeals for further proceedings consistent with this opinion. (Page 23)

QUESTIONS AND ANSWERS ON THE SUPREME COURT AND PUBLIC SCHOOL RELIGION

(By C. Emanuel Carlson)

On June 17, 1963, the United States Supreme Court, by an 8–1 decision, ruled that required Bible reading and recitation of the Lord's Prayer in public schools violate the First Amendment of the Constitution. The Court's decision does not answer all of the questions concerning the relation of religion to the public schools, but it does clearly answer a number of questions that are being asked about it.

The Court's opinion is not a lengthy document, only 22 pages, is very readable and can be understood by anyone. A careful reading of the document would clear up much misinformation about it.

Q.: What is the real point of the Supreme Court's decision?

Answer: The point is that all governments, federal, state, and local, under the Constitution of the United States lack the authority or power to involve themselves in the religious teachings and practices of the American people. Accordingly, the Court ruled that state legislatures and school boards do not have the authority to require religious exercises in the schools.

Q.: Is the Bible thereby exluded from use in the schools?

A.: The answer is clearly "No." It is the requirement of a religious use of the Bible which is ruled out. The Court's opinion expressly says that the Bible may be studied objectively for all the information it can yield.

Q.: Can one say that the Court has excluded God from the public schools and from American life?

A.: The answer to this question does not lie in the Constitution, in the Supreme Court, nor in state law or school board rules. It lies in the person's theology who asks the question. The person who says that his God has been excluded from the schools by a Court decision thereby professes a very small God.

XUM

The God who brought the Hebrew people over the Red Sea, and the God who raised Jesus Christ from the dead is not subject to government actions of any kind. This makes religious liberty a necessity.

Q.: May pupils pray while they are in school?

A.: The Court's decision places great emphasis on the person's right to free exercise of religion. If a pupil or a teacher wants to pray there is nothing in this decision that prevents the pupils from even agreeing to pray together, but they must not be ordered to pray. How far voluntary religious expressions can go in the public schools has not been stated in any decisions to date.

Q.: Will this decision tend to "secularize" the public schools and the American nation?

A.: The American public school has always been a secular institution. So also has the American "nation" ever since church and state were separated at the beginning of our national history. Our Constitution holds all powers of government to be secular powers. Compare the powers of Caesar Augustus with the kind of power displayed at Pentecost to get the difference. "Secularization of the nation" could be debated in a country with some state religion or a state church but hardly in the United States of America.

Many other nations have demonstrated that the way to "secularize the minds of the people" is to tell them that God is a puppet under government regulation. From this viewpoint America is and will be as "secular" as the influences people put into the democratic political process. This is a challenge to the churches.

Q.: Is this new Court decision a radical departure from American practice?

A.: American practices on this matter vary widely. Many states and numerous localities have forbidden for decades regular religious exercises in their schools on the same grounds as those announced by the Court.

Q.: Does the Court's ruling mean that our schools must promote "secularism"?

A.: No. The Supreme Court specifically said that neither "secularism" nor any form of religion could be promoted by school authority.

Q.: Does the Bible reading and prayer ruling mean that the Supreme Court is usurping or undermining the position of the local school board?

A.: The Supreme Court has the responsibility to define the meaning of the Constitution and the rights of all American citizens. The definition of these rights may at times conflict with given actions of the federal, state and local governments and also with given actions of individuals or private organizations. The rights of the people are rooted in the Constitution. The Supreme Court in limiting illegal and unconstitutional actions is exercising a necessary and proper power that is a cornerstone of the American constitutional system.

Q.: How does it happen that these matters come up now when these practices have gone on throughout our history?

A.: This is a complicated inquiry. Our history is affected by many things. The new mobility of population brings our constitutional principles to new tests. Also "religious exercises" no longer pass as simply "heritage." They have come to be more meaningful than "tradition," and are recognized as "religion." A new wave of litigation began in the 1940's with cases involving Jehovah's Witnesses, bus transportation, and released-time instruction. Litigation in the field became popular and frequent. Many states had discarded "public school religion" earlier, but now the "cold war" seems to make it more important. Furthermore, the "institutionalism" of our age has made Americans more aware of the need for protecting personal freedom, especially the inner man, from government regulation. Those who call for "less government" should be first to make serious efforts to exclude government from at least this "citadel".

Q.: Where is the school child to receive the values of group religious exercise?

A.: These values can and should be instilled in the home, in the church and in other voluntary societies. Indeed, only when affirmations of faith are purely voluntary are they useful in influencing others.

Q.: Does this sort of decision reflect a growing atheism in the United States?

A.: Not at all. From all careful studies, it is clear that there is much less atheism in America today than in the 1920's. Also, such atheism as exists is much less militant than it once was.

Q.: Will this decision cause an increase in parochial school attendance?

A.: Many forces are at work that will determine the future size of America's parochial schools. This opinion would be minor if it has any influence in this regard. Indeed, the opinion may be a force against an increase in parochial schools, for in its argument the Court implies that it would not tolerate direct federal aids to such schools.

Q: Legislatures as well as courts open with some kind of prayer. Why not the public schools?

A.: The Court pointed to congressional prayer as being not a legal requirement but an instance of free exercise of religion. They are free to do it if they wish. The same is said of the court sessions. The Court made no ruling on the freedom of school classes to do it if they so desire.

Q.: If there are no state laws on the subject are the schools free to do as they please in the matter of devotions?

A.: School boards, superintendents, principals, and in some measure also the teachers, operate the schools by the authority of the law. If any one attempts to use his legal authority so as to either advance or hinder the free exercise of religion this would violate the Court's ruling. The "use of law" includes much more than state legislation on this subject.

Q.: If a teacher has a class in which none of the pupils and none of their parents object to Bible reading and the Lord's Prayer, does the decision rule out the teacher's voluntary practices?

A.: The extent to which a teacher represents the legal power of the state is not now clear. This means that the teacher's initiative in the matter could well be challenged in future cases. It is not handled in this decision.

Q.: Is this carrying the principle of separation of church and state too far?

A.: The Court said that separation of church and state need not be applied to every aspect of their relationships, but in two matters this separation is "absolute". These two are: (1) no laws pertaining to an establishment of religion, and (2) no restraints on the free exercise of religion.

This leaves churches free to register deeds in a public office, to accept police protection, the use of public streets, fire departments and the like. But (1) and (2) are out. Is this "too far?" Some, especially those who want some help from government powers say "this is too far." I would expect Baptists to say, "No, it not too far."

Q.: What effect does this have on non-government schools that receive government aid?

A.: I do not believe the Court as a whole has spoken on this question. Some members of the Court have ideas on it. When this comes sharply under consideration financial aid could easily be defined as representing the use of law and therefore an "establishment of religion". This is interesting country for future exploration.

Q.: Could this precedent be used to abolish the chaplaincy from the Armed Services?

A.: The Court said the chaplaincy is there to protect the free exercise of religion by people who are ordered to certain locations, and it is described as "voluntary." I can foresee possible situations where the chaplaincy programs are more than this and become an "establishment of religion," in which case they would be vulnerable.

Q.: Does this decision announce to the world that we are renouncing our dependence upon God?

A.: "Dependence upon God" is experience by "the humble and contrite heart". This experience is not transmitted by law or by force of government authority. Rather, this decision announces that our governments do not pretend to such competence.

Q.: Does separation of church and state mean the separation of religion from government?

A.: The decision of the Court states clearly the right of public leaders to "free exercise of religion." The President, congressmen, judges and all may pray, read devotionals, and the rest. However, they may not use their public authority to inflict religious ideas or practice on the people. It is high time to take the politician out of the role of spiritual leadership that aims at political goals.

Q.: What effect does this decision have on federal aid to parochial schools?

A.: The decision so restrains governments from involvement in religious instruction and observances that it must be discouraging to the advocates of parochial aid from public funds. If this decision is widely studied and supported the American people of all religious traditions will understand more clearly the basis of American freedom.

Q.: How do public schools now properly relate themselves to religion?

A.: Several things mentioned:

(a) Objective study of the Bible, of poetry, of music, art, etc., is proper as curricular content in the subject where it belongs, that is in history, in literature, in music class, et al.;

(b) the public school may plan to transmit our cultural heritage but not to make believe that this is "religion;"

(c) the customs, morals and ideals of American life can be taught in the schools, but not as "religion;"

(d) respect for the convictions and the freedoms of the children as well as the teachers should be cultivated in the school;

(e) care should be exercise so no element of coercion nor the use of state power is brought to bear for religious purposes.

Is a Constitutional Amendment Necessary?
The Value of the First Amendment

Americans have as much or more religious liberty, at law, than any people on earth. For religious purposes we can preach, publish and distribute literature, educate our people in all sorts of schools, travel and assemble, own and use property, raise and spend funds, and create associations of those like-minded. The list could be longer. These freedoms are available to individuals and to voluntary groups. *True religion does not languish in the United States for want of legal freedom.*

This wide freedom exists in part because of the religious clauses of the First Amendment. Of course, no constitution can guarantee freedom, if freedom does not live in the minds of the people. Freedom is ideas, not words on paper. But, the First Amendment has been a stout bulwark against the restriction of liberty, and its operation has encouraged the ideas of freedom. A reading of the numerous Jehovah's Witnesses cases will demonstrate how effective the Amendment has been in our generation.

Therefore, those devoted to religious liberty should be most cautious about any proposal that alters or affects the First Amendment. They should demand proof that the proposal is needed and assurance that it will do better the things the First Amendment has done so well. Short of such proof and assurance, they should oppose changing the First Amendment. Echoing Edmund Burke, "The onus of proof is on the proposer of change."

The Nature of Words in the Constitution and Its Amendments

Read the Constitution and its Amendments noticing the pivotal words. They are broad words, subject to varied interpretations. "Interstate commerce," "liberty" "respecting an establishment of religion," "due process of law." These words necessarily say somewhat different things to different people and different generations. Were they narrow words of rigidly limited meaning, we would have had to ignore the Constitution or rewrite it several times by now. Some of our states drew up rigidly phrased constitutions and now wink at their regular violation. In political history the enduring and honored constitutions have been flexible. They have slowly gained their meaning by usage.

Quite properly, the leading proposals for a new amendment to the Constitution on the issue of publicly sponsored religious exercises have been cast in broad terms. For example, one says that nothing in the Constitution shall prohibit "the public authority administering any school system . . . or other public building supported in whole or in part through the expenditure of public funds from providing for or permitting the voluntary participation by students or others in prayer."

Obviously, these are not rigidly limiting words. "The public authority administering" is a very broad phrase. What agencies are covered by it? "From providing for" is even broader. Could this not mean the erection of a chapel and the hiring of a chaplain? No one knows today, even the author, for he would not be the interpreter of its actual operation.

In the long course of years, such an amendment could be used to alter present law on religious freedom and church-state relations in unpredictable ways. Were we in a bad situation respecting religious freedom, this might readily be hazarded. But the First Amendment alone has served us well. We have a backlog of case law that makes its meaning much more predictable than the meaning of a new amendment. Why experiment on this sensitive matter at this point in our history?

What the Supreme Court Did in the Prayer Cases

But some will say, "The Supreme Court took away our right to pray in school. The situation is bad." This judgment is flatly incorrect. The Supreme Court denied power to organize and promote religious exercises to *state authorities*—i.e., public school officials, not to individuals or purely voluntary groups. No federal decisions say a purely voluntary group may not get together for prayers in schools or other public buildings. True, some local officials have said so, but a federal amendment is not the answer to faulty local educational decisions.

Further, the Supreme Court did not restrict the use of the Bible for educational purposes. It clearly and solely restricted its use for what most Baptists would call devotional purposes. There is a big difference between the two uses.

The Novelty of the Prayer Amendments

To be sure, some argue that the amendments' intent is only to return us to practices of days before the Court restricted school religious exercises. But if that is so, the authors have erred badly and inexcusably. The proposal cited above involves a delegation of power in matters of religion to the federal government. Never before under the Constitution has there been such a power. The scope of delegated federal power, therefore, is moved into an area of authority previously reserved to the people or the states. Put differently, now the federal Constitution only has clauses relating to religion which restrict government. Most suggested prayer amendments involve clauses which empower government.

One Dilemma of State Religious Exercises

Before Christians move to support changes affecting the First Amendment to give governments power to provide prayer, they should face squarely the dilemma that any government must meet if it tries to promote religion.

On the one hand, if by some miracle state religious exercises can attain the level of true religion, these exercises cause domestic religious conflict. Each religious group that disagrees with this religious expression will have to swallow its conscience or will have to agitate to end this expression or will have to try to substitute its own variety of "true religion." Partly because of this fact learned from the bitter past, Americans have given broad meaning to the phrase, "Congress (or the states) shall make no law respecting an establishment of religion." They wanted it to limit government authority over religion so that religious controversy would not become political controversy.

On the other hand, if the state religious exercises are devised to satisfy everybody, they are not true religion. Indeed, they are a fraud. They encourage the participant to think he is religious or Christian because he goes through forms that seem religious or Christian. This kind of "comfortable" religion is cultural religion, a thing Christians who believe in a conversion experience have often insisted is an obstruction to faith.

Arguments Against State-Sponsored Religious Exercises

This dilemma alone makes the prospects of state-sponsored prayer or devotions under the proposed amendments of doubtful value to the individual or the society. And this dilemma includes only the beginning of a long list of arguments that can be mounted against state-sponsorship of religious exercise. A more complete list would include these considerations: The nature of true devotional exercises argues against their sponsorship by public authority. School prayers in classes for the younger child cannot be truly voluntary. Christians and the church, not the state, have the only Biblical authority in the area of religious exercises. Government should be strictly limited in its powers at the point of religious functions. Religious exercises are hard to handle in a pluralistic society. In actual practice, school religious exercises are commonly prostituted to such secular ends as classroom discipline and the promotion of school loyalty. Classroom religion has been shown to have little or no utility in the promotion of religious values. Nations which have had an abundance of classroom religion have not produced a vital religion in their citizens compared to America where classroom religion has been minimized or where it has not existed for generations. Classroom religion promotes the attitudes associated with cultural religion. An appeal for state-sponsored religious exercise is an argument that the family and church are inadequate for their religious tasks.

A Final Paradox

Some people plea for government sponsorship of religious exercises, "because we are a religious people." Were we truly a religious people, we would scarcely need government action to show it! We would show it by the abundance of our private and voluntary practice. And then there would be no question about its reality.

GENERAL LEAVE

Mr. SCHWENGEL. Mr. Speaker, a number of Members of the House have asked permission to have their statements put in the RECORD, so at this time I ask unanimous consent that all Members may have until close of business tomorrow in which to extend their remarks and include extraneous matter on this subject.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PRAYERS IN PUBLIC SCHOOLS

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 1 hour.

Mr. CORMAN. Mr. Speaker, for the past 8 years a major controversy has raged around the question whether or not government should be allowed to prescribe the organized recitation of prayers in public schools.

In 1964 the House Judiciary Committee responding to a barrage of public pressure agreed to hold public hearings on the issue of the school amendment. After months of hearing testimony from experts in the fields of law, education, and theology it was apparent that there was no substantial support for the amendment and the committee decided to recommend no changes in the first amendment.

Proponents of the amendment rekindled the controversy in 1966 and were successful in having the issue brought before the Senate for consideration. The Senate, concurring with the earlier decision reached by the House, was also in opposition to any amendment which would tamper with our religious freedom as it is preserved under the first amendment.

Relying on the tactics of fear and irresponsible rhetoric, the proponents were successful in bringing this issue to the forefront again this year and in securing the 218 names necessary to have this legislation discharged from the House Judiciary Committee.

Under the discharge procedure of the House, House Joint Resolution 191 is eligible to be brought up for consideration on Monday, November 9, with 1 hour of debate.

Considering the serious threat this amendment poses to our religious freedom, it is deserving of much more than the hour's debate allowed under House rules. In the absence of full committee hearings, the gentleman from Iowa (Mr. SCHWENGEL) and I have attempted to direct the attention of our colleagues to material which carefully analyzes the many arguments which surround this legislation.

In the 5 weeks since the discharge petition was successfully signed, we have submitted for consideration various examples of testimony which were heard at the 1964 House Judiciary hearings. We have also alerted our colleagues of the widespread opposition to this measure by such noted church groups as the National Council of Churches, the Southern Baptist Convention, the Lutheran Church of America, the American Baptist Convention, the United Methodist Church, the Episcopal Church, the United Presbyterian Church, and the National Jewish Community Relations Advisory Council as well as innumerable renowned experts in the field of constitutional law.

XUM

The subject in question remains the same today as it was in 1964 and 1966 and that is whether or not government should be allowed to prescribe the organized recitation of prayers in public schools.

In the 1962 and 1963 Engel and Schempp rulings, the Supreme Court took great care to protect the religious liberty of all citizens by forbidding the imposition of religious exercises upon public school students.

The right of individual children to pray voluntarily in school is secure. No change in the Constitution can improve on that constitutional protection. The proposed amendment, or any modification of it, could only create widespread confusion, lead to endless controversy and litigation over what prayers are or are not permissible, and strengthen the hand of those who would use compulsory school attendance to impose some sort of Government-sponsored religious exercises on children.

The schools have a monumental education task in these days of rapid change and social upheaval. Diverting them from that task and adding theological concerns to their education agenda would be tragic. The public schools, in a religiously pluralistic society, should serve the learning needs of children, not their devotional needs. If anyone imagines that the religious groups of America could agree on "nondenominational" prayer or accept the State's definition without conflict, he does not understand the dynamics of religious commitment. The public schools must not become the arena for such controversy.

The individual States by virtue of their "police power" have the authority to require compulsory education for all children. But under the "free exercise" clause of the first amendment, States are prevented from interfering with the religious practices of their citizens.

Enactment of the prayer amendment would result in our amending the Bill of Rights which is something which has not been done at any time in the history of our country. It would also represent the first time that a constitutional amendment has been used to restrict our individual rights rather than to expand upon them. Enactment of this potentially dangerous measure could very well be used as a precedent for rewriting other historical freedoms which we have been successful in protecting from infringement for close to 200 years.

If the proponents of the prayer amendment are successful in providing for teachers to conduct organized prayer in our public schools, the next logical step would be to give these same teachers the authority to tell children how to pray and the authority to explain to our children exactly what prayer means. Enactment of this amendment could easily be the first step down a road toward government control of religious activities.

I urge my colleagues to reflect on the very personal nature of an individual's religious beliefs and vote to preserve religious freedom as it is guaranteed by the first amendment by voting in opposition to the school prayer amendment.

On October 12, my distinguished colleague from Florida (Mr. GIBBONS) wrote to Representative CHALMERS WYLIE, the chief proponent of House Joint Resolution 191 and presented a series of questions to him regarding the nature and scope of his proposed amendment.

In responding to these questions Mr. WYLIE has given us some understanding of his concept of his "nondenominational" prayer. His remarks confirm our worst fears about the impact of the amendment.

Perhaps the most remarkable portion of Representative WYLIE's lengthy explanation of what his amendment will and will not do appears in the following passage:

> It is fair to say, also, that a prayer could be nondenominational in the context of the overall school program even if it would be regarded as sectarian if considered in isolation. It would seem to be legitimate for the appropriate authorities to permit the different religions represented in the school or other activity to take turns in offering a prayer of their respective religions. Considering the matter in its totality; the overall character of such a policy would be nondenominational.

In other words, this amendment will permit very sectarian prayers to be said in our schools as long as no one religion receives special treatment. This is not what the ordinary person would understand to be the meaning of the word "nondenominational." I would be very surprised if even my colleagues who have supported House Joint Resolution 191 understood that this was what they were proposing.

Representative WYLIE views his amendment as relating solely to voluntary prayer and in no way involving any establishment of religion. Yet Representative WYLIE's statements include the following:

> It would be lawful under the Amendment, for the school to provide for the recitation of a prayer during school hours.
>
> The composition or selection of the prayer would be the function of the local school authorities. In the usual case, this would be the local school board.
>
> The official in charge of any specific activity where a prayer was a part would have the primary responsibility to say whether it was or was not nondenominational.
>
> The fact that a decision (by a student or teacher) not to participate may result in some embarrassment to the nonparticipant would not be a sufficient reason to prohibit others from participating in the prayer.

These statements demonstrate clearly that Representative WYLIE seeks to restore to our schools a situation where the Government will prescribe the content of a nondenominational prayer, require its recital at the opening of the schoolday and force anyone who objects to single himself out for attention by standing quietly without participating or by leaving the room.

In our view, schoolchildren will inevitably be coerced, directly or indirectly, to conform. State-prescribed prayer will in effect be mandatory. Individual religious liberty is a fundamental tenet of our system of government, as is the prohibition against State involvement in religion. Both will be sorely jeopardized if this amendment is enacted.

Passage of the amendment will have a totally unsettling effect on school officials all over the country. They will be responsible for selecting nondenominational prayers. They will thereby be the target for parents who want a Christian prayer, parents who object to a Christian prayer, parents who want no prayer, and parents who complain that no prayer violates their rights.

Our schools have a monumental job to do in the 1970's. All over the country their resources, both human and financial, are sorely overtaxed. Polarization over integration and busing is growing. To add to their already enormous burdens the responsibility for mediating the demands of different "prayer" factions makes no sense, especially where the homes and churches could do this job instead.

The courts too will be totally overwhelmed under Congressman WYLIE's view of the areas which will demand extensive judicial review:

> Judicial review to determine whether a prayer selected is really nondenominational.
>
> Judicial review to stop prayer if it interfered with the educational functioning of the school.
>
> Judicial review to correct abuses in the school board's delegation of the power to compose a prayer.
>
> Judicial action to enjoin prayer where the courts determined the prayer was not really nondenominational.
>
> Judicial review to prevent any form of compulsion to participate.
>
> Judicial review of a school board's refusal to select a particular prayer, or any prayer.
>
> Judicial relief for any parent who disagreed with any of the above decisions.

We agree with Congressman WYLIE that his amendment will produce all this litigation. And for what? To have a bland moment of prayer in the public schools when the homes and churches could do a better job. Our courts are already overburdened with a vast array of jobs, including the enormous task of dealing with those charged with crimes. They need no new burdens of the magnitude which will be involved here.

Representative WYLIE, in asserting that his amendment in no way infringes on the establishment clause, asserts that the Supreme Court prayer decisions have "established agnosticism as the official public religion of this Nation."

Nothing could be further from the truth. The Supreme Court decisions have established only that government must be neutral toward religion. Moreover, it is Representative WYLIE who seeks to "establish" religion by sanctioning school prayer so as "to reverse the Supreme Court's establishment of agnosticism as the national religion." The clear implication is that Representative WYLIE would replace the neutrality he views as an establishment of agnosticism with an establishment of religiosity. This the Constitution should continue to forbid.

Statements of religious bodies, presidents of theological seminaries, deans of divinity schools, Baptist leaders, State Councils of Churches, and the Vermont Baptist State Convention are in opposition to the "prayer resolution" plus religious and newspaper editorials opposing the amendment, are as follows:

STATEMENTS OF RELIGIOUS BODIES

National Council of Churches of Christ in the U.S.A.:

"The Supreme Court of the United States in the Regents' Prayer case has ruled that 'in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government.' We recognize the wisdom as well as the authority of this ruling. . . ."

"We express the conviction that the First Amendment to our Constitution in its present wording has provided the framework within which responsible citizens and our courts have been able to afford maximum protection for the religious liberty of all our citizens."—"The Churches and the Public Schools," adopted by the General Board, June 7, 1963.

The United Methodist Church:

"Public schools may not properly establish any preferred form of religion for common exercises of worship or religious observances or study. . . ."—"A Statement Concerning Church-Government Relations and Education," adopted by the General Conference, May 1968.

"We . . . request the Congress of the United States to retain the historic relation between Church and State and to oppose H.J. Res. 191 and any other proposed prayer amendment to the Constitution."—Statement by the General Board of Christian Social Concerns, October, 1971.

The Episcopal Church:

"Whereas, We believe that worship and religious education are the responsibility of Church and home, and not of the public schools or governmental institutions . . ., therefore, be it

"Resolved, That the National Council of the Protestant Episcopal Church record its considered opinion that amendments to the Constitution of the United States of America which seek to permit devotional exercises in our public schools should be opposed."—The National Council of the Protestant Episcopal Church, May 27, 1964.

The Lutheran Church in America:

"The Constitution should not be amended except to achieve large and important public needs and purposes consistent with the basic nature of our constitutional system. The current proposals for constitutional amendment do not meet these standards. Parents, churches and school authorities would be better advised to direct their efforts to programs for study of religion and the Bible in the public schools . . . rather than to seek constitutional sanctions for devotional exercises in public schools that have at most a minimal religious value, which invite the intrusion of sectarian influences into the public school system, risk the violation of the rights of religious freedom and are a potential source of conflict in the community."—Second Biennial Convention, July 1964.

American Lutheran Church: "Proposals are now pending before the Congress of the United States to amend the Constitution in order to give constitutional sanction to certain types of religious practices in public institutions and in the public life. . . .

"We believe that it would be unwise for the Congress to give its approval to any such amendment . . . We . . . recognize . . . that in the end religion suffers and religious liberty in its fullness is threatened when government uses the power of its laws and the public school program to prescribe an official faith. . . ."—From "A Statement Commended by the Church" by the Second General Convention, Oct. 26, 1964.

The Lutheran Church, Missouri Synod: "The Board of Parish Education of the Lutheran Church—Missouri Synod, feels that the Dirksen (prayer) Amendment fails to recognize fully the religious pluralism of the American scene. We believe that Christians cannot join with non-Christians in addressing God in circumstances that deny Jesus Christ as Saviour and Lord. We believe likewise that non-Christians should neither be expected to participate in Christian prayer nor should they expect Christians to join them in prayers that deny Christ."

"The concept of voluntary participation in prayer provides either a coercive force or an embarrassing situation for both Christians and non-Christians. Under these circumstances we believe that it is best for the public school not to engage in prayer or other religious worship exercises." —The Board of Parish Education, July 29, 1966.

The United Presbyterian Church in the religious worship exercises."—The Board U.S.A.: "Religious observances (should) never be held in a public school or introduced into the public school as part of its program . . . Bible reading and prayers as devotional acts (in public schools) tend toward indoctrination or meaningless ritual and should be omitted for both reasons."—"Relations between Church and State in the United States of America," adopted by the 175th General Assembly, May 1963.

The Southern Baptist Convention: "Baptists had much to do with the writing of the First Amendment into the Constitution of the United States and have been in the forefront of preserving the religious liberty that our nation has enjoyed.

"We appeal to the Congress of the United States to allow the First Amendment of the Constitution of the United States to stand as our guarantee of religious liberty, and we oppose the adoption of any further amendment to that Constitution respecting an establishment of religion or respecting free exercise thereof.—Resolution adopted by the Southern Baptist Convention, May 22, 1964, reaffirmed June 2, 1971.

The United Church of Christ:

The Executive Council of the United Church of Christ supports the Supreme Court decision banning prescribed prayers and prescribed Bible reading in the public schools, calls attention to the aspect of the Supreme Court decision which affirmed the freedom of the schools to engage in the study of religion and opposes House Joint Resolution 191 which seeks to amend the United States Constitution.—Resolution by the Executive Council of the United Church of Christ, Oct. 12, 1971.

Christianity Today:

"We think that passage of this amendment would be a mistake. For one thing, persons already can and do voluntarily assemble for prayer in public buildings. . . .

"Secondly, this amendment is hardly the way to promote a revival of true religion. . . . Genuine piety is fostered not by government . . . but by families and individuals who practice reverence for God and obedience to him in all their activities and associations. . . .

"Finally, this amendment leaves open the possibility for some to assert that denominational prayer should not be permitted in public buildings. . . . Youth groups such as Campus Life or Inter-Varsity should be able to meet in schools for explicitly Christian prayers without fear that misguided authority will say only groups praying in a way that is acceptable to all religions are now constitutional."—Editorial, Oct. 8, 1971, page 32.

The American Baptist Convention:

"An amendment to permit compulsory Bible reading and prayer in the public schools is not only a danger to the freedom of nonbelievers, it is also a threat to the religious well-being of the believer. It is because of a deep respect for worship, and the recognition that prayer is essential and should be a vital encounter between man and God, that Baptists oppose devotional exercises that are more rote than worship. Therefore we affirm our belief in the separation of church and state as written in the first amendment of the Constitution of the United States."—Resolution adopted by the American Baptist Convention, May 22, 1964.

The Roman Catholic Church:

On June 16, 1964, the then National Catholic Welfare Conference issued a press release which stated:

"The Legal Department of the National Catholic Welfare Conference is very cautious toward the present interest of some in amending the Constitution in the manners now proposed to overcome recent judicial decisions precluding prayer and Bible reading in public schools. . . .

"The department continues to believe that the present clauses in the Constitution are of incalculable benefit to religion. . . . In combination, the 'free exercise' and 'no establishment' clauses are guarantees too vital to be tampered with lightly. . . ."

America Magazine, Jesuit Weekly:

"Reconciling the rights of all parents and students with respect to religion in public schools is a serious, difficult problem. It should not be trifled with by passage of this . . . ill-written, mischievous, and misconceived . . . amendment."—Editorial, Oct. 23, 1971.

The Christian Century:

"The proposed amendment would be a step toward a lowest-common-denominator culture-religion . . . which would endanger true religion as well as civil liberties by equating religious ideas and practices with national culture and patriotism.

"Prayer is an act of worship, not a gimmick for cranking up the academic or civic machinery. . . . Acts of worship cannot be divorced from real historical commitments without endangering the vitality of the religion or religions involved."—Editorial, Oct. 20, 1971.

Snagogue Council of America, and National Jewish Community Relations Advisory Council:

"Our Constitution can, of course, be amended . . . but . . . if the Constitution is amended . . . then let no one who supports this measure delude himself or his countrymen that he has rendered religion or liberty a service. In a plural society, it is not and should not be the business of government to aid religion and if it does assume that role, then, in the very process and precedent it establishes, it does religion a harm and disservice that will far outweigh the intended benevolence. For it will have compromised that free and unfettered exercise of religious liberty without which religious faith cannot for long retain its integrity and independance.

"Our profound respect for the role of our legislature and for the sacrificial desire of its members to serve the common good leads us to say to members of this Committee: Your business is not the promotion of religion. It is rather the preservation of a free and just society, for that, and nothing other and nothing less, offers the surest safeguard for the preservation and strengthening of our religious heritage."—Statement before Senate Judiciary Committee, August 8, 1966 by the Synagogue Council of America and the National Jewish Community Relations Advisory Council. (Approved and adopted joint testimony by all of the constituent organizations of both bodies.)

STATEMENT OF OPPOSITION TO PROPOSED CONSTITUTIONAL PRAYER AMENDMENTS, SEPTEMBER 15, 1971

The undersigned national religious organizations and leaders express their united opposition to S.J. Res. 191, now pending in the House of Representatives, and to other similar proposals for constitutional amendments to authorize "nondenominational" prayer in public buildings. We express the long-standing official positions of the nation's religious faiths which affirm the adequacy of the First Amendment to protect religious interests and to ensure religious rights.

The major faiths themselves have never been able to achieve consensus on a definition of prayer, much less a definition of nondenominational" prayer. We deny that any elected body or governmental authority has the right to determine either the place or the content of prayer, as is implied in the proposed constitutional prayer amendment. To authorize government by a constitutional amendment to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make

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of government of a judge of theology and an administrator of religious practice. If such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could destroy the integrity of both church and state.

The proposed constitutional amendment would introduce divisiveness into our national life and among the institutions of religion. Ostensibly proposed in behalf of religion, it would paradoxically proscribe and distort freedom of religious expression.

If the proposed prayer amendment should become a part of the Constitution, the Bill of Rights would have been amended for the first time in our nation's history. Such an amendment would open the doors for governmental intrusion into the religious affairs of the people. This we protest.

On the other hand, we affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. This right is adequately protected by the First Amendment as it now stands. For this reason we also affirm the wisdom of the Supreme Court decisions in 1962 and 1963 which properly prohibited government intrusion into the religious activity of school children.

We therefore respectfully petition the Congress of the United States to preserve the religion clauses of the First Amendment intact and to oppose any and all prayer amendments to the Constitution.

Dr. W. Hubert Porter, Associate General Secretary, American Baptist Convention.
American Ethical Union.
American Humanist Association.
Rev. Warren R. Magnuson, General Secretary, Baptist General Conference.
Baptist Joint Committee on Public Affairs.
The Church of the Brethren.
Executive Council of the Episcopal Church.
Friends Committee on National Legislation.
General Board of Christian Social Concerns, The United Methodist Church.
Mennonite Central Committee—Peace Section.
Dr. Joseph H. Jackson, President, National Baptist Convention, U.S.A., Inc.
National Council of the Churches of Christ in the U.S.A.
Rev. G. K. Zimmerman, Executive Secretary, North American Baptist General Conference.
Joint Advisory Committee of the Synagogue Council of America and the National Jewish Community Relations Advisory Council, consisting of:
American Jewish Committee
American Jewish Congress
B'nai B'rith—Anti-Defamation League
Central Conference of American Rabbis
Jewish Labor Committee
Jewish War Veterans of the USA
National Council of Jewish Women
Rabbinical Assembly
Rabbinical Council of America
Union of American Hebrew Congregations
Union of Orthodox Jewish Congregations of America and 85 state, county, and local Jewish Community Councils.
Rev. Richard J. Niebanck, Secretary for Social Concerns, Board of Social Ministry, Lutheran Church in America.
Office of Church and Society, Presbyterian Church in the United States.
Dr. S. S. Hodges, Executive Secretary, Progressive National Baptist Convention, Inc.
Rev. Alton L. Wheeler, General Secretary, Seventh Day Baptist General Conference.
Dr. Carl E. Bates, President, Southern Baptist Convention.
Council for Christian Social Action, United Church of Christ.
Unitarian Universalist Association.
Dr. William P. Thompson, Stated Clerk, United Presbyterian Church in the U.S.A.
Mrs. Marcus Rohlfs, President, American Baptist Convention.

Catholic Conference Opposes "Prayer Amendment"

WASHINGTON.—The U.S. Catholic Conference has gone on record in opposition to the so-called school prayer amendment, which is currently before the House of Representatives.

The Conference's position was announced by Bishop Joseph L. Bernadin, U.S.C.C. General Secretary, who said:

"I wish to emphasize that the Conference is not opposed to the concept of prayer in public buildings nor unconcerned about the vitally important matter of meeting the religious needs of children who attend public schools.

"Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer."

The text of the proposed constitutional amendment, on which the House is expected to vote November 8, states:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer."

Bishop Bernadin said:

"The subtle implication of the amendment, therefore, is that 'denominational' prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation.

"Moreover," Bishop Bernadin continued, "the amendment cannot be justified as a 'school prayer' amendment. The amendment does not say anything about state sponsorship of prayer in public schools as part of the regular school day. Yet this was the very thing the Supreme Court found unconstitutional in the school prayer cases."

"Passage of the amendment," he added, "might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved."

A Resolution on Religious Freedom and the Nondenominational Prayer Amendment

(Sec. 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer. H.J. Res. 191.)

Whereas, there is currently before the House of Representatives a proposal (H.J. Res. 191) to amend the Constitution of the United States so as to authorize participation in nondenominational prayer in any public building; and

Whereas, this proposal, by authorizing participation in nondenominational prayer, opens the door for government to determine what is acceptable prayer; and

Whereas, we are vitally concerned to maintain religious liberty, without any infringement by governmental regulation of any form, as now provided without qualification by the First Amendment to the Constitution;

Be it therefore resolved that we, the Baptist Joint Committee on Public Affairs, assembled in formal session on October 6, 1971, hereby record our opposition to H.J. Res. 191, and support our stand with the following reasons:

1. We are sympathetic with the sincere desire of many people to preserve the right of all persons to engage in genuine prayer. We deny, however, that any elected body or governmental authority has the right to determine either the place or the content of prayer, as is implied in the proposed constitutional nondenominational prayer amendment.

2. Moreover, we foresee that to authorize government by a constitutional amendment to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make of government a judge of theology and an administrator of religious practice.

3. We fear that, if such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could threaten the integrity of both church and state.

4. The amendment could enable government to impose the limits of "nondenominationalism" on religious practices in any building that is built in whole or in part by public funds—a school, a hospital, a day care center, a nursing home, a children's home—thereby nullifying the constitutional right of the free exercise of religion.

5. We affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. This right, we believe, is protected adequately by the First Amendment as it now stands:

Article 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . . .

6. Finally, it is our opinion that the proposed amendment is offered in view of a misinterpretation of the so-called "prayer and Bible reading" decisions of the Supreme Court in 1962 and 1963, which properly prohibited government intrusion into the religious activity of school children. At no time has the Supreme Court prohibited voluntary prayer but has only ruled against governmentally prescribed prayer and governmentally sponsored religious exercises.

The Wylie Prayer Amendment and Our Cherished Religious Liberty

(Adopted by the Church Council* [top policy-making group] of The American Lutheran Church on October 22, 1971.)

The guarantees of religious liberty written into the Constitution of the United States have served this nation well. Both church and state are the stronger because government cannot pass laws "respecting an establishment of religion or prohibiting the free exercise thereof."

As American Lutherans we cherish the freedom and the responsibility the First Amendment assures us. We cherish our freedom to pray, to assemble, to worship, to study, to teach, and to serve our neighbors as the fullness of our faith directs. We respect the similar freedoms and responsibilities of our neighbors of other religious faiths. We do not seek to impose our understandings upon them; we expect the same consideration from them.

By its very nature, religious expression is both personal and corporate. It cannot be forced or coerced. It must be true to its distinctive self and to its own corporate commitment. It resists becoming the captive of any race, class, ideology, or government, lest it lose its loyalty to its Lord.

This protection we enjoy in America. We are free to pray in our own words to our own God. We are free to read the Bible in the version we prefer. We are protected against having to speak governmentally composed

*Vote: 40 yes, 0 no, 0 abstaining, 4 absent. Makeup of Church Council: one parish pastor and one layman from each of the 18 Districts, two pastors-at-large, three laymen-at-large, ALC President and Secretary (a layman). [Comment: One more layman than clergy.]

prayers. We are protected against having to join in devotional exercises decreed by governmental authorities. We are free to pray in public and to read the Bible in public places. We cannot, however, force others to join us in such expressions of our religious faith. These freedoms and these protections our Constitution, as interpreted by the Supreme Court in its school prayer and Bible reading decisions, presently assures us.

We see no need, therefore, for any amendment to the Constitution to permit participation in "nondenominational prayer" "in any public building." Such an amendment would endanger our religious liberty; it would tend to establish a governmental nondenominational religion; it would pave the way for courts to intervene in defining what is acceptable as an expression of religion; and it would limit rights already granted and clearly established in American life.

The Church Council in 1971 reaffirms the paragraph commended by the 1964 General Convention and adopted by the 1966 Convention "as an expression of the policy and conviction of the American Lutheran Church":

"Reading of Scripture and addressing deity in prayer are forms of religious expression which devout persons cherish. To compel these religious exercises as essential parts of the public school program, however, is to infringe on the distinctive beliefs of religious persons as well as on the rights of the irreligious. We believe that freedom of religion is best preserved when Scripture reading and prayer are centered in home and church, their effects in the changed lives of devout persons radiating into the schools and into every area of community life. It is as wrong for the public schools to become agents for atheism, godless secularism, scoffing, irreligion, or a vague "religion in general" as it is for them to make religious rites and ceremonies an integral part of their programs."

As a nation we should be careful not to endanger our cherished religious liberty through the well-intended but potentially harmful "prayer amendment" (House Joint Resolution 191).

Opposition to Prayer Amendment to the Constitution

The Women's Division of the Board of Missions of the United Methodist Church expresses its grave concern over the movement for passage of the Prayer Amendment to the U.S. Constitution. We believe that such action would seriously jeopardize the traditional separation of church and state, erode the guarantees of the First Amendment, and cause substantial and unnecessary divisiveness in the religious community.

We would like to reaffirm the position of the 1968 General Conference of The United Methodist Church when it declared: "Public schools may not properly establish any preferred form of religion for common exercises of worship or religious observance or study."

The concept of government-imposed "nondenominational prayer" tends to ignore prayer as a personal communication between God and man. Such voluntary personal prayers may be offered in the public school at the present time, and are not in violation of Supreme Court decisions of 1962 and 1963.

We believe that "nondenominational prayer"—without particularized faith content and purposely intended to be inoffensive—would most likely result in meaningless petitions. Nothing could better be designed to alienate children and youth from commitment to a vigorous faith than being required to mouth meaningless prayers in the classroom.

Be believe it is unlikely that the major faiths will ever agree as to the precise meaning of the phrase, "nondenominational prayer". At the same time we refuse to confer upon governmental authority either the right or the theological competency to compose prayers to be used in public schools. In no way do we disparage the sincere efforts of those who seek to extend the influence of religion in our society. However, we believe the Prayer Amendment is not the proper vehicle. Instead we reaffirm our conviction that worship should be centered in the home, the churches and synagogues, and their congregations, rather than turned over to the schools or any public agency.

We, therefore, respectfully request the Congress of the United States to retain the historic relation between church and state and to oppose House Joint Resolution 191 and any other proposed prayer amendments to the Constitution.

Adopted October 24, 1971, by the Women's Division of the Board of Missions of the largest women's religious organization in the country. United Methodist Church, which is the elected national leadership of the 36,500 local women's organizations of the United Methodist Church.

Statement of Opposition to "Prayer" Amendment

We, the undersigned, are presidents of theological seminaries and deans of divinity schools who urged you to *oppose* the "prayer" amendment, H.J. Res. 191. Though its proponents doubtless mean well, they can do great harm to religion and freedom of religion in this country through this amendment, which, to use the words of the Jesuit weekly *America*, is an "ill-written, mischievous and misconceived proposal."

The institutions which we serve are devoted to theological education in the Judeo-Christian tradition, open to religion in all its forms, and involved at every level with a pluralistic society. Our institutions have flourished under the First Amendment of the Constitution and would be threatened by the proposed amendment to it.

We understand prayer to be the personal or corporate expression of belief by believers and belief is specific. There is no such thing as general faith. Prayer is the expression of a believer's (or body of believers') specific understanding of what is ultimately real, and of his relationship to it. It would be beyond the ability of any one of us to write a pluralistic prayer, and unthinkable for the state to recommend its use, even in the most optional way. It could not be prayed with integrity either by the believers or the unbelievers. It could only become a 'pro forma' exercise and thus do violence to the individual conscience.

This is not to say that we oppose the objective study of religion as part of the educational process. Indeed, we recommend the reading of the Holy Bible and other religious literature, the discussion of religious values, the posing of religious questions as a necessary part of academic instruction vital to any understanding of the human situation. But study is different in character from prayer, and we urge the members of Congress to recognize this distinction and to oppose any efforts to modify, enlarge, diminish, clarify or improve the First Amendment to the Constitution:

J. Brooke Mosley, President, Union Theological Seminary, New York.
Colin Williams, Dean, Divinity School, Yale University, New Haven.
Christopher F. Mooney, S.J., President, Woodstock College, New York.
George W. Webber, President, New York Theological Seminary, New York.
Edward R. Harris, Dean, Philadelphia Divinity School, Philadelphia.
Walter Harrelson, Dean, Divinity School of Vanderbilt University, Nashville, Tennessee.
Frederick Wentz, President, Hamma School of Theology, Wittenburg University, Springfield, Ohio.
Thadeus F. Zielinski, Prime Bishop, Howard University School of Religion, Washington, D.C.
Joseph M. Kitagawa, Dean, University of Chicago Divinity School, Chicago.
Thomas C. Campbell, Dean, Episcopal Theological School, Cambridge.
Louis J. Puts, C.S.C., Rector, Moreau Seminary, University of Notre Dame, Indiana.
John H. Tietjen, President, Concordia Seminary, St. Louis.
W. B. Blakemore, Dean, Disciples Divinity House, University of Chicago.
Michael Allen, Dean, Berkeley Divinity School, Yale University, New Haven.
Marshal L. Scott, President, McCormick Theological Seminary, Chicago.
David J. Draswell, President; Gerald L. Borchert, Dean, North American Baptist Seminary, Sioux Falls, South Dakota.
Don W. Holter, President, St. Paul School of Theology, Methodist, Kansas City, Missouri.
Merlyn W. Northfelt, President, Garrett Theological Seminary, Evanston, Illinois.
John L. Knight, President, Wesley Theological Seminary, Washington, D.C.
Albert C. Winn, President, Louisville Presbyterian Theological Seminary, Louisville, Kentucky.
James D. Glasse, President, Lancaster Theological Seminary, Lancaster, Pennsylvania.
Walter G. Muelder, Dean, Boston University School of Theology, Boston.
Fred W. Meuser, President, Evangelican Lutheran Theological Seminary, Columbus, Ohio.
W. Sibley Towner, Dean, Dubuque Theological Seminary, Dubuque, Iowa.
Ira Eisenstein, President, Reconstructionist Rabbinical College, Philadelphia.
Joseph D. Quillian, Jr., Dean, Perkins School of Theology, Dallas.
Roy Pearson, President, Andover Newton Theological School, Newton Center, Mass.
Beauford A. Norris, President, Christian Theological Seminary, Indianapolis.
J. Bruce Behney, Acting President, United Theological Seminary, Dayton, Ohio.

Proposed Prayer Amendment Would Endanger Religious Liberty, Baptist Leaders Declare

A number of Baptist leaders in the nation have asked Congress not to weaken or repudiate the First Amendment to the U.S. Constitution by passing a so-called prayer amendment to permit "nondenominational prayer" in public buildings.

The top executives and elected heads of six Baptist groups, in letters and statements to Congress, declared support for the Supreme Court decisions of 1962 and 1963 which prohibited government-sponsored prayers and devotions in public schools.

W. Hubert Porter, associate general secretary of the American Baptist Convention, in a letter to Cong. Emanuel Celler urged him to do everything in his power "to defeat all efforts to weaken or evade the First Amendment.

"Crusaders for an amendment to cut the heart out of the First Amendment by making constitutional the legislation of religion can make their case sound deeply religious and superbly patriotic," Porter said in a letter entered by Celler into the July 27 issue of the Congressional Record, the official daily journal of Congress.

"They at times make it appear that the steadfast friends of the First Amendment are against God, country, and motherhood, but such an impression is a deception and a delusion," Porter charged.

"The truest friends of religion and the most constructive citizens of the state are those who support those First Amendment guarantees that have made possible in the United States of America a fuller measure of religious freedom than was previously known in the world," declared the ABC executive.

Other top Baptist executives urging Congress not to approve the prayer amendment

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included S. S. Hodges of Washington, D.C., executive secretary of the Progressive National Baptist Convention, Inc, G. K. Zimmerman of Forest Park, Ill., the executive secretary of the North American Baptist General Conference, and Warren R. Magnuson, general secretary of the Baptist General Conference, Evanston, Ill.

The president of the Southern Baptist Convention, Carl E. Bates, of Charlotte, N.C., charged that the proposed prayer amendment "could lead to excessive involvement of the state in religious matters." Bates cited, in a message to Congress, the recent action of the SBC in which the convention reaffirmed its belief in the adequacy of the First Amendment to protect religious liberty.

"A new amendment to the Constitution on the subject of religious liberty could seriously alter church-state relations," Bates declared.

The acting executive director of the Baptist Joint Committee on Public Affairs, John W. Baker, explained that the proposed amendment to the Constitution "could circumscribe" the First Amendment in ways that would alter its meaning. It "creates ambiguities which do more harm than good for people and institutions," he said.

Baker, a political scientist, explained that the proposal raises several questions. "Does it mean that only nondenominational prayers could be prayed in a denominational or public institution which receives public funds? Who decides for an institution what is a lawful assembly? What problems are raised by the 'right of persons lawfully assembled'? Do others have the same rights? Who determines the content for a nondenominational prayer in a school? The school board, the superintendent, the principal, the teacher? If so, such a prayer becomes a government prescribed prayer," he said.

The Progressive Baptist executive, S. S. Hodges, agreed that a prayer amendment "could becloud the clear statement of the First Amendment and afford an opportunity for courts in the future to interpret the First Amendment differently."

The Supreme Court decision against an "official" prayer "does not hinder individuals from praying or giving other expression of their faith," Zimmerman observed.

"Furthermore, we do not believe that the Court eliminated God from our public life. It simply stated that the establishment of religion has a tendency to destroy government and to degrade religion," Zimmerman declared.

The American Baptist executive in his letter to Cong. Celler noted that "it is understandable that many good people are tempted to yield to the idea that the church 'has it made' when Congress puts God's name in the Pledge of Allegiance or prints His name on postage stamps and engraves it on coin or perhaps supports a 'Christian amendment.'

"But such a hope is really deceptive," W. Hubert Porter declared. "The idea of evangelism by legislation is nothing short of a dangerous illusion.

"Moreover," Porter continued, "it is quite clearly impossible for government to legislate religion without violating the rights of many citizens." If government gets into the business of sponsoring devotions on captive audiences, Porter wondered, whose religion it be?

"Will it be Buddhism in the state of Hawaii? Or Mormonism in the state of Utah Or a Baptist-oriented Protestantism in the state of Georgia? Or Roman Catholicism in the state of Massachusetts? Or Judaism in New York City?" Porter asked. He declared that the welfare of religion in a pluralistic society "must lean heavily upon a strict interpretation of the First Amendment."

(By Carl E. Bates, President, Southern Baptist Convention)

The proposed prayer amendment to the United States Constitution could lead to excessive involvement of the state in religious matters. The Southern Baptist Convention in St. Louis on June 2, 1971 reaffirmed its belief in the adequacy of the First Amendment to protect religious liberty. A new amendment to the Constitution on the subject of religious liberty could seriously alter church-state relations. As a Baptist I must be opposed to threats to religious liberty and, therefore, to a prayer amendment to the Constitution.

(By S. S. Hodges, Executive Secretary, Progressive National Baptist Convention)

The people called Baptists have always believed in and contended for the principle of religious liberty for all and the fact that prayer, to be genuine, must be voluntary . . . for prayer is communion with God.

The Progressive National Baptist Convention, Inc. adheres to this principle and believes further that prayer should neither be hindered nor compelled by any governmental or ecclesiastical authority.

We believe that the First Amendment to the Constitution which states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, is a sufficient guarantee of religious liberty for all. The Supreme Court of the United States has rendered decisions which fairly and adequately interpret this amendment.

We believe further that another amendment to the Constitution relative to religion in general and prayer in particular could becloud the clear statement of the First Amendment and afford an opportunity for courts in the future to interpret the First Amendment differently. Therefore, we oppose a prayer amendment to the Constitution.

(By Warren R. Magnuson, General Secretary, Baptist General Conference)

Through the years the First Amendment to the United States Constitution has proved to be a sufficient protection for the religious liberties of the American people. The decisions of the United States Supreme Court in its interpretation of the "establishment" and "free exercise" clauses generally have been sound.

As Americans we now enjoy full privileges and opportunities for the expression of our religious convictions. No additional amendments pertaining to religious liberty are needed now or for the foreseeable future.

(By G. K. Zimmerman, Executive Secretary, North American Baptist General Conference)

The decision by the Supreme Court that prayer "composed by government officials as a part of a government program to further religious beliefs" is unconstitutional is in keeping with the position held by our Baptist forefathers who sought religious freedom when they came to America. We continue to concur with the Supreme Court that the Regents' prayer in New York state was an "official" prayer and thus violated the rights of citizens under the First and Fourteenth Amendments. It does not hinder individuals from praying or giving other expression of their faith. Furthermore, we do not believe that the Court eliminated God from our public life. It simply stated that the establishment of religion has a tendency to destroy government and to degrade religion. Also, we believe that governmentally established religion and religious persecution go hand in hand. It is our hope and prayer that the decisions by the Supreme Court remain intact since this is in the best interests of our religious freedom.

[From the Baptist Press, Oct. 11, 1971]

SBC PRESIDENT URGES DEFEAT OF PRAYER AMENDMENT

(By Carl Bates, president Southern Baptist Convention)

Our Baptist forefathers fought and many of them suffered for the cause of religious freedom. Baptists made a significant contribution to freedom from governmental tyranny by helping to get the First Amendment incorporated into the nation's Constitution.

Now we see not only separation of church and state being attacked, but we see the free exercise of religion itself about to be breached.

Specifically I refer to the proposed constitutional "non-denominational prayer amendment" that probably will be voted on by the House of Representatives in Washington on November 8.

I have read this amendment carefully and have studied the decisions of the Supreme Court concerning prayer and Bible reading in public schools. It is my deliberate opinion that the Supreme Court gave voluntary religion a tremendous boost by removing governmental authority from the devotional life of school children.

It is my further opinion that the proposed prayer amendment (House Joint Resolution 191) is one of the most insidious developments against freedom and true religion that I have seen.

What is a "non-denominational" prayer, anyway? Does this mean that one could not pray in Jesus' name in any public building? Baptists, Catholics, Unitarians, Jews, Buddhists, and dozens of other groups do not agree on the nature and form of prayer. It hardly seems likely that the legislature and the courts could solve this centuries-old debate and define "non-denominational prayer" to everyone's satisfaction.

Even if they could devise a prayer that would be absolutely non-sectarian, then the bill before Congress would require and make mandatory this kind of prayer in public buildings. That hardly seems to be "voluntary" prayer. The bill before the House of Representatives is a contradiction in several directions and it should be defeated.

The Southern Baptist Convention, meeting in St. Louis in June, took a strong position against any change in the First Amendment and in favor of the voluntary nature of religion.

I urgently request that every Southern Baptist do all in his power to exercise the stewardship of his Christian influence by urging his congressman to vote against the "non-denominational prayer amendment." Assure him that a vote against the amendment is not a vote against God or against prayer, but it is a vote for freedom and true religion.

Now is the time to stand up and be counted for freedom. Don't be deceived by an innocent-sounding constitutional amendment that is in reality a "booby-trap" and a time-bomb against true religion.

Believe me, the fight against the "non-denominational prayer amendment" is a fight against regimented and governmentally sponsored religion. Real prayer and genuine New Testament religion have nothing to gain and all to lose if this amendment becomes a part of the Constitution.

PROPOSED RESOLUTION

To: Board of Directors of the Iowa Council of Churches

Re: Statement and Resolution in Opposition to Proposed Constitutional Prayer Amendment

On September 21, a major step toward the first change in the Bill of Rights in the nation's history was taken in the U.S. House of Representatives when the last of the required 218 signatures by Congressmen were added to a "discharge petition" for a "prayer amendment" to the Constitution. The effect of the discharge petition was to take the proposed amendment away from the House Judiciary Committee, to which it had been referred in January, and send it directly to the floor of the House, where it is expected to come to a vote on November 8.

If the proposed amendment receives a two-thirds majority vote in the House, which at this point is considered "very possible," it would go to the Senate. And if approved there, it would require ratification by three-fourths of the state legislatures.

The proposed amendment reads simply: "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through expenditure of public funds to participate in nondenominational prayer."

On September 15, 1971, thirty-eight religious leaders and religious institutions, Jewish and Protestant, petitioned the Congress of the United States "to preserve the religion clauses of the First Amendment intact and to oppose any and all prayer amendments to the Constitution."

In support of our national colleagues and religious institutions, the Iowa Council of Churches adopts the following resolution:

RESOLUTION

Whereas, we affirm the adequacy of the First Amendment to the Constitution of the United States to protect religious interests and to insure religious rights;

Therefore, the Board of Directors of the Iowa Council of Churches expresses to its member bodies and their congregations and to the members of the United States Congress from Iowa its opposition to the proposed amendment (as stated in paragraph three above) to the Constitution of the United States.

THE CONNECTICUT COUNCIL OF CHURCHES

(A statement by the board of directors, October 22, 1971, concerning the Prayer Amendment—U.S. Congress)

We call to the attention of the constituency of the Connecticut Council of Churches that there is a proposed amendment to the U.S. Constitution—Bill of Rights H.J. Res. 191: "Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

Perhaps at first glance this seems to be a restoration of a "treasured" practice which has been prohibited by our Supreme Court. We call to your attention that after closer inspection of the amendment we feel that the risks are greater than the benefits.

We are convinced that the free exercise of religion in our land is the primary responsibility of the church and the home and not of the state. We are not willing to delegate even to the state the determination of what is and what is not "nondenominational prayer".

According to information now available, the amendment could come to a vote as early as Nov. 8, 1971. Under Congressional rules there will be only *one hour* of debate, controlled by the sponsor. If passed it goes to the Senate, which passed a similar bill last year, then it would go to the states for ratification. We protest this one hour procedure on such a sensitive and far reaching matter.

We call upon all congregations of Connecticut, the Constitution State, to give this prayer amendment their most thoughtful consideration and encourage them to take action to assure its defeat.

COUNCIL OF CHURCHES
OF GREATER WASHINGTON,
Washington, D.C., October 22, 1971.

The Council of Churches of Greater Washington joins with distinguished churchmen of all major Protestant denominations in expressing its opposition to H.J. Res. 191 now pending in the House of Representatives and to similar proposals for Constitutional amendments to authorize so-called nondenominational prayer in public buildings.

We join these leaders in restating the long-standing official positions of the nation's religious faiths which affirm the adequacy of the First Amendment to protect religious interests and to ensure religious rights.

The Council of Churches supports the following statement which was adopted on October 4 by the representatives of the major Protestant communions and by many Congressmen:

"We, as Americans, are already guaranteed the right to participate in prayer—nondenominational or denominational—in buildings, public and private, and whether or not lawfully assembled. All this is guaranteed to us under the free exercise clause of the First Amendment and none of it has been diminished by any opinions of the Supreme Court. Thus, the proposed amendment might actually serve to lessen our religious liberty rather than broaden it."

OHIO COUNCIL OF CHURCHES,
Columbus, Ohio, October 26, 1971.

Mr. JAMES A. HAMILTON,
The Washington Office, National Council of Churches, 110 Maryland Avenue, N.E., Washington, D.C.

DEAR JIM: As Bob Graetz may have already informed you, we took the following actions at our General Board meeting on October 21, and Bob is following through on correspondence which it requests.

Resolved that General Board of the Ohio Council of Churches endorse the September 15, 1971, public statement of 38 national religious organizations and leaders entitled "Statement of Opposition to Proposed Constitutional Prayer Amendments, and Be It Further

Resolved that we communicate these actions to the members of the Ohio delegation in the U.S. Congress and the members of the Ohio General Assembly; and Be It Further

Resolved that we communicate these actions to the members of our constituent bodies and urge them to take similar actions.

We have had articles on the Prayer Amendment in our October and November Ohio Christian News stating much of the material in your new brochure from the Baptists. We could use 100 additional brochures which I will send to key ecumenical and denominational people for them to order directly from you.

Thanks for your very helpful services as we work together on this issue.

Sincerely yours,

CARLTON N. WEBER,
Executive Director.

MINNESOTA COUNCIL OF CHURCHES
RESOLUTION

RESOLUTION OPPOSING PROPOSED PRAYER AMENDMENT TO U.S. CONSTITUTION

Whereas, the U.S. Supreme Court of the United States has decided that required religious exercises of Bible reading and prayers in public schools violate the First Amendment of the Constitution, and

Whereas, it is the function of the home and church or synagogue to lead in the use of devotional Bible reading and prayer, and

Whereas, the U.S. Supreme Court has made it clear that the public school is free and should be encouraged to help the student to study and gain information about religion as an essential part of social studies, literature, and the arts, and

Whereas, the major faiths themselves have been unable to achieve a consensus on a definition of "non-denominational prayer", and

Whereas, many public schools in Minnesota and throughout the nation are making commendable headway in providing students with opportunities for objective studies about religion as part of their cultural heritage, and

Whereas, we strongly believe that the proposed Prayer Amendment to the U.S. Constitution would introduce uncertainty and create more divisiveness and confusion into our national life, our public schools, and among our religious institutions,

We, therefore strongly urge our Minnesota Representatives in the U.S. Congress to vote against the prayer amendment (H.J. Res. 191) to the U.S. Constitution and that the Supreme Court decisions in 1962 and 1963 which properly prohibited government intrusion into the religious activity of school children, be upheld.

A RESOLUTION ON RELIGIOUS FREEDOM AND THE NONDENOMINATIONAL PRAYER AMENDMENT

(Sec. 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer. H.J. Res. 191)

Whereas, there is currently before the House of Representatives a proposal (H.J. Res. 191) to amend the Constitution of the United States so as to authorize participation in nondenominational prayer in any public building; and

Whereas, this proposal, by authorising participation in nondenominational prayer, opens the door for government to determine what is acceptable prayer; and

Whereas, we are vitally concerned to maintain religious liberty, without any infringement by governmental regulation of any form, as now provided without qualification by the First Amendment to the Constitution.

Be it therefore resolved that we, the Board of Trustees and Directors of the Vt. Baptist State Convention assembled in formal session on Oct. 16, 1971, hereby record our opposition to H.J. Res. 191, and support our stand with the following reasons:

1. We are sympathetic with the sincere desire of many people to preserve the right of all persons to engage in genuine prayer. We deny, however, that any elected body or governmental authority has the right to determine either the place or the content of prayer, as is implied in the proposed constitutional nondenominational prayer amendment.

2. Moreover, we foresee that to authorise government by a constitutional amendment to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make of government a judge of theology and an administrator of religious practice.

3. We fear that, if such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could threaten the integrity of both church and state.

4. The amendment could enable government to impose the limits of "nondenominationalism" on religious practices in any building that is built in whole or in part by public funds—a school, a hospital, a day care center, a nursing home, a children's home—thereby nullifying the constitutional right of the free exercise of religion.

5. We affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. This right, we believe, is protected adequately by the First Amendment as it now stands:

Article 1. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise therof; . . .

6. Finally, it is our opinion that the proposed amendment is offered in view of a

misinterpretation of the so-called "prayer and Bible reading" decisions of the Supreme Court in 1962 and 1963, which properly prohibited government intrusion into the religious activity of school children. At no time has the Supreme Court prohibited voluntary prayer but has only ruled against governmentally prescribed prayer and governmentally sponsored religious exercises.

OTTO NALLINGER,
Executive Minister.

[From the Commonweal, Nov. 5, 1971]

THE PRAYER AMENDMENT

All, or almost all, Americans believe in "separation of church and state" but the term means quite different things to, say, the American Jewish Congress and the Knights of Columbus. The editors of this magazine, in turn, would sometimes agree with one of these organizations and sometimes with the other, and often enough with neither. The AJC school often strikes us as too rigid and inflexible in its approach to church-state problems, too doctrinaire; the Knights, on the other hand, and many other Catholic spokesmen are more willing than we are to see the state undertake the church's work. This variety, we suppose, is part of what has come to be thought of as the American way of religious pluralism, in which competing interpretations of the First Amendment strive for public support.

Such a competition is now underway, with the opposing forces lining up on the issue of a constitutional amendment to permit prayers in public schools, which will soon come to a vote in the House. The pro-Amendment forces see this as their chance to reverse Supreme Court rulings striking down Bible reading and compulsory prayer in the public schools, and perhaps to cast a vote against all recent changes in American life of which they disapprove. The anti-Amendment forces, on the other hand, view the matter as just one more attempt to create some kind of "official" American religion and force it on a captive audience.

Often enough, church-state issues are tortured and tortuous, requiring agonizing deliberation and in the end frequently leaving one not completely settled and certain in mind. This does not strike us as one of those cases. The prayer amendment is a bad idea whose time we hope has not come. Non-denominational prayer is urged by its sponsors, but in fact the major religious bodies in this country have never been able to agree on what the term really means. What is non-denominational prayer to some is the establishment of a certain kind of Protestantism to others. Further, the subtle pressure that would force children to recite state-authorized prayers seems to us a clear violation of a valued and valuable American tradition of religious liberty. Finally, even aside from all these points, points which we consider substantial, there is the fact that the school prayer amendment represents only the sheerest kind of religious tokenism, providing the shadow rather than the substance of religious belief and worship. One may believe that this country has not yet succeeded in working out the most satisfactory relationship between religion and public education, as we do, and yet be firmly opposed to the prayer amendment. We hope the voting in the House will reflect this fact.

AN AMENDMENT CHEAPENING RELIGION—THAT IS HOW MISSOURI'S ATTORNEY GENERAL REGARDS SCHOOL PRAYER PROPOSITION

(From An Address By Attorney General John C. Danforth)

(NOTE.—The speaker, an ordained Episcopal clergyman, spoke at an Interfaith Dinner, Country Club Christian Church, Kansas City.)

There is now before Congress a constitutional amendment proposition which, if adopted, would provide as follows: " . . . nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

The point would be to permit what are known as non-denominational prayers in public schools. The background is that in 1963 and 1964 the Supreme Court of the United States interpreted the First Amendment to the Constitution as prohibiting prayers, even non-denominational prayers which could be agreed upon by all religions, from being offered as part of the program in public schools. Under the current interpretation of the First Amendment, it is contrary to the Constitution for a teacher to lead a class in prayer, any prayer.

I do not want to engage in a legal analysis of the purpose and meaning of the establishment and free exercise clauses of the Constitution. Instead, I want to think with you about the fervor with which school prayers are championed, and what this fervor says about the health of religion in America today.

Those who feel that public school prayers are important to the religious development of children are naturally ardent in supporting the proposed constitutional amendment. Yet, such a position would amount to an admission of failure by the churches and by parents in providing children with a sufficient religious background. It would be a statement that what happens in the church and what happens in the home must be supplemented at school, or our religious heritage is in peril.

In reality, the form of supplemental religion offered by non-denominational prayer is of questionable value, at best. A non-denominational prayer must be acceptable to everyone. It must receive the approval of Catholics, Protestants and Jews, of Hindus, Muslims and Buddhists, of believers in Shinto, practitioners of ethical science, agnostics and even atheists. It must of necessity be innocuous and qualitatively different from prayer offered in the home or in the church.

In 1967, the following prayer recited at lunch time in Illinois public schools was held unconstitutional: "Thank you for the flowers so sweet. Thank you for the food we eat. Thank you for the birds that sing. Thank you for everything." Had that prayer been recited in the Jefferson City public schools where my children are enrolled, I would have resented it bitterly, for that sort of insipid prayer has nothing whatever to do with my religion or with the faith I want my children to learn. It amounts to a weak inoculation against religion, not a supplement for inadequate training in the home and church.

Concern that we are not teaching religion to our children undoubtedly accounts for much of the emotional intensity in the demand that prayers be recited in public schools. But overshadowing that concern is the panic we feel in sensing that national values are being eroded.

Despite the First Amendment, it has long been important in America to make a connection between religion and patriotism. We have inscribed "In God We Trust" on our coins. We have incorporated "Under God" into the Pledge of Allegiance. We have sung "God Bless America" and "Praise the Lord and Pass the Ammunition," and we have told ourselves that God is on our side.

Two questions arise concerning the appropriateness of emphasizing religion in an effort to increase support for governmental institutions.

The first is that independence from the state has long been a part of our religious heritage. Certainly Jeremiah did not go out of his way to make the faith acceptable to the king. Similarly, the early martyrs of Christianity were put to death because they refused to show even symbolic support for Caesar by placing a pinch of incense on the altar of state religion. Why then should religion today be manipulated for wholly secular purposes?

The second question is whether such a vapid religion as expressed in the form of a non-denominational prayer would have enough substance to provide any benefit whatever to educational or governmental institutions. Frankly, I do not believe it would.

It is my own view that the kind of prayer which would be offered in public schools is devoid of theological content and does not further the religious development of children. In sum, I believe that such prayers tend to cheapen rather than enhance our religious heritage.

Let us then begin to take our own responsibilities seriously as custodians of the faith. Let us not be willing to yield this responsibility to the state.

[From St. Louis Review (Archdiocesan Weekly), Oct. 15, 1971]

PRAYER IN PARKS AND IN SCHOOL

If a pending court case concludes by rigidly applying the separation of church and state doctrine to our public parks, new signs may read "please do not pray on the grass." If Representative Chalmers P. Wylie's (Rep. Ohio) prayer amendment passes through Congress and three-fourths of the state legislatures, "nondenominational" prayer in public schools will be free from the restrictions of the 1962 New York Regents prayer decision of the Supreme Court. While we believe that nature's sanctuaries appropriately invoke the sacred, we seriously question turning the public school podium into a prie-dieu.

Nondenominational prayers commissioned or authored by public school officials would involve the state in a form of religious instruction which would aspire to create a momentary religious climate in the classroom. Regardless of the worthiness and need for prayerful school children, public schools with captive audiences would violate freedom of religion by injecting prayers into their instructional routine. The proposed nondenominational character of such prayers appears fictional as history clearly illustrates that the majority denominations tend to dominate the prayer-making process. For example, immigrant minority Catholics were offended by Protestant bible reading in 19th century public schools.

If a group of public school students would initiate a moment of prayer at some free time during the day then the fact that they are on public property should not obstruct them. Prayer in the public parks rests upon the same principle. The park service has no business officially endorsing a specific prayer, but neither would the public character of its property be violated if a group initiates a prayer service which respects the rights of others.

We agree with the late Supreme Court Justice Hugo Black when he stated that the "wall between church and state . . . must be kept high and impregnable." However, to build walls where there is no chance of church-state unity appears to us as not only contrary to common sense but as a ludicrous legalism.

Christopher Kauffman.

[From the Newark (N.J.) Star Ledger, Oct. 3, 1971]

REGRETTABLE REVIVAL

Seven years ago the U.S. Supreme Court banned prayers in public schools on grounds they violated the Constitutional provision that prohibits the establishment of any religion by the state or its publicly supported institutions.

At the same time, the court held that school prayer abridged 14th Amendment protection of an individual's constitutional rights, the freedom from religious coercion. These rulings had sound constitutional validity, supporting the doctrine of separation of church and state.

While these rulings may not reflect popular opinion in some sectors, they stand as the law of the land. Unfortunately, the controversy has been revived by the House action in over-riding its Judiciary Committee by a bare majority to lift the ban on school prayer.

Under the House measure, the amendment is worded to get around the two Supreme Court rulings by having nondenominational school prayers. But it is pertinent to note that the major religious faiths have never been able to achieve a consensus on a definition of nondenominational observance.

It would mean the creation of these rituals would be assigned to non-religious sources, such as school authorities. These ecclesiastical powers belong to the church; they should not be politicized and exploited to circumvent constitutional strictures.

Last year, the New Jersey Supreme Court ruled a school prayer program in the Netcong High School, where a brief, nondenominational prayer used in the U.S. Senate was read, was unconstitutional. In a unanimous decision, the court said it found "no meaningful difference between the program involved in this case and programs which the U.S. Supreme Court held to violate the establishment clause of the First Amendment."

The House action is highly regrettable; it revives a controversy that created bitter, emotional divisions in our society and seeks to dilute clear cut, constitutional guarantees against intrusion on individual rights and the separation of state and church doctrine. The banning of school prayer does not deprive youngsters of the right to pray, which more properly belongs in the church and home, an atmosphere that reflects in a close and personal context each individual's and family's faith.

[From the Fort Wayne Journal-Gazette, Oct. 29, 1971]

PRAYER IN THE PUBLIC SCHOOLS

The effort to amend the Constitution and reinstate school prayers, however well-intentioned, may fall under the sheer weight of its contradictions and fallacies.

The proposed amendment is a reaction to Supreme Court decisions of the early 1960s against both Bible readings and prayers in the public schools. It has been bottled up in a House committee for a number of years, but will come to a floor vote next month. The fervor that managed to blast the measure out of committee with a discharge petition now shows signs of cooling in the face of the realities and complications.

First, the idea of attempting to amend the Constitution to neutralize or reverse unpopular Supreme Court decisions is something of an anathema in itself. The idea found expression in the drive by former Sen. Everett Dirksen to call a Constitutional convention to overturn the high court's decree on one-man, one-vote divisions for state legislatures. There also have been threats for another amendment to make the court retreat from its position on busing for school integration. The constant dabbling with Constitutional amendments for specific causes is an invitation to a mimeographed document with a different version for each pressure group.

The amendment, offered in the name of religious freedom, has the notable distinction of being opposed by a broad section of religious leaders who believe it would have just the opposite effect. In calling for the right of persons to participate in "nondenominational" prayer, the amendment clearly would require even more direct court intervention and interpretation, which the proponents themselves find objectionable. The amendment makes no attempt to define "nondenominational." Religious leaders themselves have never been able to reach a consensus on what that means or what form it should take, and the court again would be handed the problem.

The school prayer campaign essentially is an admirably motivated but inadequately considered effort that can only result in disappointment even if it succeeds. It is asking the public schools to set a moral tone that parents are unwilling or are failing to provide. The results are likely to be neither what the parents have in mind, nor what their children really need.

[From the Boston Globe]

A PERNICIOUS MEASURE—PRAYER AMENDMENT WOULD ERODE LIBERTY, NOT ENHANCE IT

In 1963 the Supreme Court of the United States ruled in two companion cases that prescribed public school bible readings and recitations of the Lord's Prayer were unconstitutional. Such activities, the court held, were in violation of the First Amendment's prohibition against the making of any laws "respecting an establishment of religion."

In some quarters the decisions were taken as violations of the right of free exercise of religion, a right supposedly protected by the very same First Amendment. The court was widely reviled as "Godless" and hostile to the cause of religion. But careful analysis showed otherwise. Not only had the court been extremely solicitous of the right of the free exercise of religion in other cases, but it had made it clear that government had no business favoring one religion over others, thereby depriving adherents of the others of their own freedom of worship as they saw it.

What the court struck down in the bible-reading and Lord's Prayer cases was not anyone's rights to engage in these particular forms of religious worship. Citizens and groups remained totally free to read from the bible and say prayers in their churches, their homes, and other places where these activities did not impinge on the religious freedom of contrary-minded citizens.

But the public schools, the court said in effect, should be neutral ground. Supported by taxpayers of all sorts of religious (and non-religious) persuasions, these schools ought not to be used as forums for the advancement of any particular faith.

Indeed, supporters of the Supreme Court asked what happens to the school child, taught to revere the Koran or the Torah, when the bible is read or the Lord's Prayer is recited in his classroom? Is he not confronted with the Hobson's choice of joining in the ceremony or being stigmatized as "different" by his classmates? And in either case is he not compelled to suffer an infringement of his freedom of religion?

Moreover, would not bible readings and prayer recitations in the public schools stir up all kinds of religious divisiveness in society, making parents angry wherever their children were put under pressure to subject themselves to religious exercise of a kind other than those of their own choice? Nor, argued the court's supporters, would a "non-sectarian" exercise be right. Propagation of such a faith, as one observer has said, would be "a regression to Constantinianism. If not to the emperor-cult of pagan Rome, where a single attenuated religion was the universal test of civic belonging."

Ever since the bible-reading and prayer decisions of the court were handed down, the Congress has resisted efforts to have it approve a proposed constitutional amendment nullifying these decisions. But now proponents of such an amendment have secured enough signatures to force a vote on the issue on the House floor as early as Nov. 8.

The amendment would specifically authorize "nondenominational prayer" in publicly-supported buildings by persons lawfully assembled there. This is a pernicious measure. It would have the effect of diminishing, not enhancing, religious liberty in the Nation. And even worse, it would represent a tempting precedent for similar diminishment of all the other Bill of Rights freedoms which serve collectively to distinguish our society from those where tyranny, whether of the left or of the right, holds sway.

MORE SUPPORT FOR PRAYER

Mr. WYLIE. Mr. Speaker, I would like to take this opportunity to list more organizations which have indicated their support for House Joint Resolution 191. The list is as follows:

Assemblies of God.
Baptist General Conference.
Brethren in Christ.
Christian Church of North America.
Christian and Missionary Alliance.
Christian Union.
Church of God (Cleveland, Tenn.).
Church of the United Brethren in Christ.
Churches of Christ in Christian Union.
Conservative Congregational Christian Conference.
Elim Missionary Assemblies.
Evangelical Church of North America.
Evangelical Congregational Church.
Evangelical Free Church of America.
Evangelical Mennonite Church.
Free Methodist Church.
General Conference of the Brethren Church.
Holiness Methodist Church.
International Church of the Foursquare Gospel.
International Pentecostal Assemblies.
Kansas Yearly Meeting of Friends.
Mennonite Brethren Church.
Midwest Congregational Christian Fellowship.
Missionary Church.
National Association of Free Will Baptists.
Ohio Yearly Meeting of Friends.
Open Bible Standard Churches.
Oregon Yearly Meeting of Friends.
Pentecostal Church of Christ.
Pentecostal Church of God.
Pentecostal Evangelical Church.
Pentecostal Holiness Church.
Primitive Methodist Church.
Reformed Presbyterian Church of North America.
Rocky Mountain Yearly Meeting of Friends.
United Fundamentalist Church
Wesleyan Church.
American Council of Christian Churches of California.

The National Association of Evangelicals, representing 38,000 churches, has passed a resolution supporting House Joint Resolution 191. This is indicative of the broad support which my amendment is receiving among churches and church leaders.

The resolution reads in part:

Because the main purpose of this amendment has not been clearly understood, much confusion has arisen. The sole issue of this legislation is the exercise of freedom. It is not a question of whether people should or should not pray, or how they pray, but their freedom to pray.

The Supreme Court has ruled out private or corporate prayer in public schools, even out of school hours with no school personnel involved with no compulsion on anyone.

If enacted, the proposed amendment will restore the freedom of persons to pray in public places where appropriate. It will leave absolutely undisturbed the freedoms secured by the First Amendment and the entire Bill of Rights.

I include the following:

[From the CONGRESSIONAL RECORD, Oct. 1, 1971]

STATEMENT OF CHURCHES AND RELIGIOUS ENTITIES IN SUPPORT OF THE PROPOSED CONSTITUTIONAL PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, recently, every Member of the House of Representatives received in the mail a "Statement of opposition to proposed constitutional prayer

amendments. It was also inserted in the CONGRESSIONAL RECORD on September 20, 1971. The correspondence was signed by various religious groups and leaders and expressed their opposition to House Joint Resolution 191, proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings.

Many clergymen, religious entities, civic organizations wholeheartedly endorse a prayer amendment to the Constitution. An analysis of the broad based support for the prayer amendment is contained in a recent publication prepared by "Citizens for Public Prayer," a nonsectarian, nonpartisan group. I commend this information to the Members for careful study.

SUPPORT FOR CIVIL RIGHT OF FREE PRAYER IS NATIONWIDE

One of the most wonderful aspects in the national drive to repeal the Supreme Court's two tragic prayer-ban decisions (1962 and 1963) is the survival of a massive public will for repeal. Despite the incredible silence of some so-called "religious leaders" and the open opposition of others, Americans everywhere have persisted in their conviction that the Court was very seriously wrong and that only a radical reversal of its majority conclusions can suffice to make safe again the civil right of public reverence in these United States.

"Religious leaders" who oppose a carefully worded prayer amendment are in most cases, we are certain from our long experience of the situation, *generals without armies*. There are, however, a number of religious leaders and organizations which do support free prayer in our public schools. Among them:

1. Dr. Billy Graham.
2. Patrick Cardinal O'Boyle (DC).
3. The North Carolina Baptist Convention.
4. Bishop Fulton J. Sheen.
5. The National Council of Catholic Youth.
6. Professor Charles E. Rice (Notre Dame).
7. Very Rev. Theodore Hesburgh (Notre Dame).
8. Nat. Association of Evangelicals.
9. Orthodox Greek Diocese of N. America.
10. Dioc. Council of Cath. Women (Pitts).
11. Dioc. C. of Cath. Women (Worcester).
12. Dioc. Council of Cath. Women (Buffalo).
13. Bishop Bernard J. Flanagan (Worcester).
14. Daughters of Isabella (RC).

Among other organizations supporting free prayer in public schools are:

1. The National JAYCEES.
2. Veterans of Foreign Wars.
3. The American Legion.
4. The legislature of Massachusetts.
5. The legislature of Maryland.
6. The legislature of North Carolina.
7. The legislature of Louisiana.
8. Nat. Federation of GOP Women.
9. National Kiwanis.
10. Nat. Conference of Mayors.
11. Nat. Conference of Governors.

Other indications of the massive public will for amendment are:

1. In the first official referendum on school prayer, on the Maryland ballot in November of 1970, 73% voted for amendment despite the tacit opposition of a popular governor who was overwhelmingly reelected and the absence of any organized campaign to win votes.

2. The latest Congressional poll of a home district on the subject of school prayer, announced by Congressman J. Irving Whalley of Pennsylvania on 21 July 1971, shows 94% in favor of free school prayer.

3. An Opinion Research national poll conducted for The Advocates TV program in January and February of 1971 shows upwards of 80% across America united in support of free school prayer, with majorities in each of the major faith groups.

4. Polls by Gallup, Harris, "Good Housekeeping" magazine, and numerous local and regional news media show, unanimously, a massive will for reversal of the Court.

5. One Congressional staffer, from Connecticut, told CPP that "in my eight years on the Hill, here, no subject has so motivated our district to political awareness as the subject of free school prayer." Another, from Maine, told CPP that his office had received "an unprecedented volume of mail on this matter." Senator Dirksen, who led the fight in the Senate at one point, described his mail as "king size."

Speaking to the Congressional First Friday Club in the Rayburn House Office Building on 10 September 1971, the National Coordinator of Citizens for Public Prayer, Rev. Robert G. Howes said in part:

It has been said there is no power like the power of an idea whose time has come. We are convinced that the idea of a national rededication to the principles of our foundation has come and that no better means to assure this exists than through ratification of a peoples amendment for public prayer.

[From the Congressional Record, Oct. 6, 1971]

PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, I respectfully take issue with the statement issued by a group of church leaders and Congressmen that my amendment "would alter the Bill of Rights for the first time in the Nation's history and would threaten religious freedom."

Sixteen amendments have been added to the Constitution since the adoption of the first 10 amendments. Each has been in the nature of a clarifying amendment as to basic fundamental rights.

For 171 years constitutional lawyers and people across this great Nation alike thought the first amendment clause "Congress shall make no law respecting an establishment of religion" meant exactly that. It was understood that the establishment of a religion meant the setting up or recognition of a state church or the conferring upon one church special favors denied to others. The word religion presupposed, for constitutional purposes, that a belief in God was the common denominator of all religions. The first amendment was designed to compel neutrality among religious sects. It was never contemplated that this clause would be tortured into compelling neutrality between religions which profess a faith in God and non-theistic religions or theism.

How can the language of my amendment "legalize a kind of religion?" It specifically says nondenominational which means without reference to a particular religious faith or sect.

In the Engel case, decided by the Supreme Court in 1962, the Court held:

"State officials may not compose an official state prayer and require that it be recited in the public schools of the state at the beginning of each day—even if the prayer is denominationally neutral and pupils who wish to do so may remain silent or be excused from the room while the prayer is being recited. The prayer in question was 'Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.'"

I think the decision was constitutionally wrong as an erroneous application of the doctrine of neutrality. The Court found the prayer to be denominationally neutral. In my judgment that meets the test of the establishment clause.

In the Stein against Oshinsky decision in 1965, the Supreme Court had a beautiful opportunity to clarify this whole situation. But, the court denied certiorari leaving the court of appeals' decision to stand. There students had asked to be allowed to initiate a prayer period on their own for those who wished to participate. The principal refused. A group of parents brought action to enjoin school officials from preventing recitation of prayers on the children's initiation. The Court held:

"The constitutional rights to free exercise of religion and to freedom of speech do not require a state to permit 'student-initiated' prayers in public schools; the Court of Appeals would direct judgment dismissing the complaint. The prayer they recited: 'Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything.'"

My amendment is clarifying in nature only and could not alter the meaning of the Bill of Rights one whit.

Of course, prayers are being recited in schools across the Nation. They are being recited in schools in my district. But, the persons involved believe they are acting unconstitutionally in view of the Court decisions. My amendment would say that a recognition of a Supreme Deity is perfectly proper and is a basic constitutional right as the framers of the first amendment intended. If, as Bishop John Wesley Lord said, "voluntary prayers may be said and are being said," my amendment would say only that it is right and proper and his argument falls of its own weight. My amendment would only write into the Constitution a practice which he feels is proper according to the first amendment. How does that alter the Bill of Rights?

[From the CONGRESSIONAL RECORD, Oct. 21, 1971]

RETORT TO PRAYER AMENDMENT OPPOSITION

Mr. WYLIE. Mr. Speaker, it is difficult for me to understand why certain ministers, of all people, are opposed to a constitutional amendment which would guarantee the right of prayer in public schools. Not all ministers are opposed to the amendment. I have received letters from many more than 38 who favor it. I do not question the sincerity nor the motives of those who oppose it, but I say unequivocally that they are misinformed about the meaning of this amendment and are guilty of not recognizing that in a democracy, the people govern. They are in apparent total ignorance of the will of the majority of the people. The people of the United States are determined to have their way on this issue.

On the one hand, it is suggested that the amendment would allow for no more than can be done now in public schools. If this be the case, then the amendment is needed to see that there is no further erosion of this basic fundamental right. On the other hand, opposition has been expressed that because of the separation of church and state argument prayer should not be allowed in schools.

There has not been a single case decided since the Engel case in 1962 which has permitted any practice which would indicate a tolerance toward voluntary prayer in public schools. In one case after another, students have been prevented from reading a voluntary prayer, from reading prayers from the CONGRESSIONAL RECORD, from singing the last verse of "America" because it mentions God, and—yes—even from saying the Pledge of Allegiance because of the phrase "one nation, under God."

In a democracy, the people govern. I noted in the CONGRESSIONAL RECORD for October 19, 1971, a statement by the Honorable J. GLENN BEALL, JR., Senator from Maryland, in which he publishes the results of polls on this issue beginning in August 1962 through February 1971. The results of these polls show that from 73 percent to 91.5 percent of the American people overwhelmingly favor the civil right of free school prayer, depending on the form of the question. In my own hometown of Columbus, Ohio, said to be a typical American community, a poll taken by ABC-TV on this question revealed that 91.5 percent said prayer should be permitted in public schools.

In the same edition of the CONGRESSIONAL RECORD, Senator HUGH SCOTT refers to a petition containing signatures of 5,000 residents from Bedford, and Everett, Pa., in support of a proposed constitutional amendment to allow voluntary prayer and Bible reading in public schools. Senator SCOTT says:

I was particularly heartened to learn that this wonderful expression of support was due in large part to the efforts of David Crawford, a 17-year-old student from Everett High School.

The people of the United States are determined to have their way on this issue as evidenced by the thousands of letters and petitions which I have received in my office since I filed the discharge petition.

[From the CONGRESSIONAL RECORD, Oct. 27, 1971]

A PETITION FOR PUBLIC PRAYER

Mr. WYLIE. Mr. Speaker, this morning I received another petition for public prayer addressed to all U.S. Representatives. The petition states:

We, the undesigned and deeply concerned citizens of the United States, in cooperation with Mrs. Ben Ruhlin's Prayer Campaign Committee, prayerfully request that each Member of the U.S. House of Representatives vote for the Joint Resolution No. H.J. Res. 191—authored by Congressman CHALMERS WYLIE, Republican of Ohio—on November 8, 1971. This resolution proposes an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings.

The name and address of the organization circulating the petition is the Fort Wayne Bible College, 1025 West Rudisill Boulevard, Fort Wayne, Ind., and contains 321 names.

[From the Congressional Record, Oct. 27, 1971]

SCHOOL PRAYER ISSUE REKINDLED—SUPPORT GROWS FOR CONSTITUTIONAL AMENDMENT

Mr. WYLIE. Mr. Speaker, letters have come in, in great volume from all over the United States in support of a constitutional amendment which would assure prayer in public schools.

A headline appearing in the Arizona Republic rather sums up public reaction. The headline read "School Prayer Issue Rekindled—Support Grows for Constitutional Amendment."

Among the letters I have received is one from Miss Helen Chan, of Provincetown, Mass., which I hope all Members of Congress will read. It says a great deal.

The letter follows:

PROVINCETOWN, MASS.,
September 23, 1971.

DEAR MR. WYLIE: I listened to WEEI this past Thursday evening while you presented your program to reinstitute Prayer in school, and to several of the people who phoned. For the time I could listen, it seemed that your cause was assailed by Devil's Advocates, and not too much helped by what the Queen in Camelot referred to as "the simple people"—churched but not too well schooled. From what one hears on WEEI one has the suspicion that Boston abounds with just those two opposites. The well-intentioned but not too well informed, and the informed to a degree on the shallow, specious side; and not at all well intentioned. Too often the latter are fiendishly articulate.

Falling somewhere between these two prevailing categories, I do want to assure you that your statistic of 80 per cent on the side of Prayers again would include many like myself; not reached by polls, not given to loud acclaiming over the phone. There must be many such; quiet, inclined to be devout, often unchurched, and therefore all the more aware that religion is not so much a matter of a service on Sunday as a constant, daily effort to "Do unto others . . ." plus a realistic awareness of our dependemes on the Grace of a Supreme Dietv, and full hearted gratitude for help and blessings bestowed . . . if we are but humble enough to notice them. I might add that in my own case I suffer a sense of shame for living in a country which makes sure God is mentioned on our money, calls on Him in times of war, but will not allow Him in the schools where the children are!

The minister-school-teacher struck me as so typical of the type of mind that thinks it thinks, and can be so all-fired glib and confident. Of such are school teachers who turn off the Young in droves! They are much aware that there is more in the Reality of Life than meets the eye. He mentioned something about there being far more compelling issues for a Congressman to busy himself about. As if there could be anything more compelling than an abiding realization that this Universe did not just happen: out of chaos it was Created. Scientists of any true stature are aware of the marvel of intricate symbiosis that is the evolutionary propoes. Teilhard de Chardin, the mystic-paleontologist, made it all clear in his "The Phenomenon of Man." This is the man the serious Young are reading!

There is one point that is rarely touched on in this prime need to bear witness to Faith in God . . . Jehovah . . . Buddha . . Krishna . . Mohammed . . . which over the many names of the All Pervading Creative Force. And that is in this objection that all such teaching, praying, bearing witness, "should" go on at home or in churches.

The stark fact is that in these materialistic, technocratic, hedonistic times there is no such teaching by the parents who are equally remiss in sending their children to church. Very much then, if it is not offered at all in the schools, there will never be, anywhere in all their formative years, that guiding influence that makes children aware of the Reality behind all being. To have the spiritual aspects of our nature totally neglected is worse than any crippling, any deprivation, any disadvantaging. Every last one of us needs constantly to be reminded of our Source. One thing is certain, if we have not the saving grace of gratitude in us for Life itself, we can not have it for parents, country . . . which means no capacity for kindness, love, loyalty . . . all the attributes that are part of our own evolution from animal to man to our destiny: Divinity.

God Bless!

HELEN CHAN.

[From the Congressional Record, Oct. 27, 1971]

PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, a recent letter written by the Honorable JOHN E. HUNT to Rev. M. M. Billman in his district eloquently states some of the merits and reasons in favor of the amendment which would permit nondenominational prayer in public schools. I commend this letter to my colleagues' attention:

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 22, 1971.

Rev. M. M. BILLMAN,
Camden, N.J.

DEAR REVEREND BILLMAN: This will acknowledge the materials you sent opposing the proposed amendment to the Constitution that would permit the recitation of voluntary, nondenominational prayer in the public schools.

I would first point out that I am a sponsor of such a proposal and I did sign the petition to discharge the House Judiciary Committee from further consideration of the legislation. In consideration of the broad and unrestricted religious freedom we enjoy and our religious heritage, I find it difficult to believe that "separation of church and state" was intended to mean that our children could not participate in voluntary prayer exercises in school. I am not troubled by the Supreme Court decisions which say that no official, governmental body can formulate and dictate any particular prayer that might be observed, but I find the Court's construction of "state neutrality" more than strained when students are forbidden to voluntarily assemble on school grounds, prior to regular school hours, to participate in a reading of the daily prayer that appears in the Congressional Record.

It is stated in one of the enclosures you sent that "These factors combine to operate with indirect coercive force on young and impressionable children to induce them to take part in these exercises, despite a freedom to be excused from participation." It is these same young and impressionable children who, I believe, in the absence of the right insured by the proposed amendment, will have indelibly etched in their minds the hyprocisy of an adult world, observing daily prayer in its highest institutions of government, that denies its youth of the opportunity to *participate* in this same type of observance. The young as well as a large number of responsible adult citizens have been unable to grasp the subtle distinctions if, in fact, there are any of substance.

The Constitution provides for amendments and, as you are well aware, the process is very tedious. Even should the proposed amendment be approved by a two-thirds vote of both the House and Senate, it would then have to be ratified by three-quarters of the State legislatures. I have no hesitation in expressing my belief that the controversy that was stirred in this field by the U.S. Supreme Court, revived repeatedly as school boards, States, churches, and lower courts strain with a myriad of interpretations of the Supreme Court's intent, more than justify taking the debate to the people and to the State legislatures which represent them. If it is feared that the proposed amendment will eventually result in widespread, acrimonious controversy and litigation—as the statement you enclosed indicates—my greater fear is that the evil that has pursued the confusion emanating from the Supreme Court's prayer decisions might go unchecked.

I have confidence in the constitutional amendment process and its safeguards against hasty action. At the same time, I have great faith in the ability of our people to meet the challenge of intelligent debate on the issues and to decide wisely. It is apparent that the religious leaders who now oppose this move are the prophetic generals without their armies. They have failed to alleviate the widespread disagreement with the Supreme Court's interpretations of the First Amendment which they (religious leaders) believe is the product of misunderstanding. It is indeed ironic that almost 10 years after the Supreme Court's first prayer decision, it was not until Congressman Wylie's discharge petition was signed by the requisite number of 218 Members on September 21, 1971, that I received the very first repudiations of the proposed amendment from scattered members of the clergy. Frankly, I am not swayed in my belief that the debate on the Prayer Amendment should now be taken to the people, and that will be accomplished by the submission of the amendment to the State legislatures upon the approval of two-thirds of the Members of the House and Senate.

Sincerely yours,

JOHN E. HUNT,
Member of Congress.

[From the CONGRESSIONAL RECORD, Oct. 27, 1971]

MORE SUPPORT FOR WYLIE PRAYER AMENDMENT

Mr. HUNT. Mr. Speaker, indicative of the widespread support of the so-called Wylie resolution—proposing a constitutional amendment to permit the recitation of voluntary, nondenominational prayer in public buildings—I would like to call to the attention of my colleagues the resolution recently adopted by the messengers of the Garden State Fellowship of Regular Baptist Churches at their annual meeting.

The Garden State Fellowship, inciden-

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tally, is the New Jersey State Fellowship in association with the General Association of Regular Baptist Churches located in Des Plaines, Ill. The latter consists of 1,450 local Baptist Churches which believe in the Bible and teach that salvation is by faith in Jesus Christ as the Personal Savior. The Garden State Fellowship consists of about 45 local Baptist Churches throughout the State of New Jersey.

The resolution follows:

RESOLUTION

Whereas, there is at present a Bill before the United States House of Representatives to provide for a Constitutional Amendment allowing resumption of prayer in the public schools of our land, and

Whereas, we have always lamented the removal of prayer and Bible reading from our schools, therefore, be it

Resolved, that we, the Messengers of the Churches in fellowship with the Garden State Fellowship of Regular Baptist Churches, meeting at Caldwell, New Jersey, on this 28th Day of September, 1971, call upon the legislators in the United States House of Representatives, and, pending passage by that body, those in the United States Senate, from our State, to vote for the proposed amendment to the Constitution of the United States, and, be it further

Resolved, that we commend Representative Wylie and others who support the Bill for their interest and leadership in promoting the return of prayer to our schools, and, be it further

Resolved, that we call upon those legislators who are in favor of the return of prayer to our schools to press also for the return of the Bible to our public schools, especially in these days of youthful rebellion, which we believe is directly traceable to the removal of prayer and Bible reading from the schools of our land, and that we pledge to such legislators our prayers and support in this vital undertaking.

[From the CONGRESSIONAL RECORD, Oct. 28, 1971]

NATIONWIDE SUPPORT FOR PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, several hundred letters have come into my office recently supporting House Joint Resolution 191, the amendment to permit nondenominational prayer in public schools. Four deserve to be given special attention because they demonstrate support among church leaders and public school officials.

The first letter is from the members of the Town Hill Methodist Church in Pennsylvania and is accompanied by a petition supporting nondenominational prayer in public schools. The second is from a Lutheran pastor in Toledo, Ohio, indicating his support and the support of his congregation for the amendment.

The third letter is from a retired professor of philosophy and religion. Enclosed with it is a statement, adopted by the Presbytery of Shenango which reflects my own views on this issue.

The fourth letter is in the form of a resolution adopted by the school committee of Cambridge, Mass., the governing body of the public school system of the city of Cambridge, endorsing this amendment.

The letters follow:

THE TOWN HILL
UNITED METHODIST CHURCH,
Shickshinny, Pa., October 18, 1971.

The Hon. CHALMERS P. WYLIE,
House of Representatives,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN WYLIE: The enclosed petitions were signed by adult members of The Town Hill United Methodist Church seeking to voice their opinion in favor of restoration of non-denominational prayers to the public schools of this country.

We are aware that many church leaders professing to represent us are in opposition to this matter, therefore, we desire to voice our own opinion.

Thank you for taking the time to review the letter and our petitions, and we trust that you will give due consideration to them.

Sincerely,

WILLIAM L. PRICE.

GOOD SHEPHERD LUTHERAN CHURCH,
Toledo, Ohio, October 19, 1971.

HON CHALMERS P. WYLIE,
Washington, D.C.

DEAR MR. WYLIE: You have our wholehearted endorsement in proposing the prayer amendment to the U.S. Constitution. It is high time that we as Christians speak up for our rights and privileges and promote that which has made us a great Nation, a trust in God. It is through prayer that we approach the guiding hand of God for our Nation.

I want you to know that the majority of my congregation does not agree with the objection raised by an official of the Lutheran Council in the U.S.A. Whoever it is has strictly spoken for himself and not by a popular vote of the congregations of the church body.

We lend you our support and our prayers.

Yours on the upward trail in Christ,
O. H. BERTRAM.

GROVE CITY COLLEGE,
Grove City, Pa., October 21, 1971.

Hon. CHALMERS P. WYLIE,
Member of Congress, House Office Building,
Washington, D.C.

DEAR SIR: According to the newspaper you said in reference to recent statements by some top church officials opposing the prayer amendment, "Some of the ministers are giving me a little bit of a problem".

The enclosed statement, adopted by our Presbytery in 1964, should reassure you that many of us as well as laymen are solidly behind you. We are glad you are sponsoring the amendment. You are doing the country a distinct service.

Faithfully yours,

PETER H. MONSMA.

A STATEMENT ON THE RELATION OF CHURCH AND STATE AND OF RELIGION AND EDUCATION*

Though our opinions differ concerning both the legality and the desirability of classroom religious programs in the public schools, we, the members of the Presbytery of Shenango of the United Presbyterian Church in the United States of America, feel impelled to register our concern lest recent Supreme Court rulings prohibiting States from ordering such practices be interpreted—by the Court or by others—as favoring a secular philosophy of government which is inherently hostile to theistic attitudes and practices.

We wish to reaffirm the historic position of our nation and of our church with regard to separation of church and state as organized institutions of society. We do not believe there should be an interlocking of church and state governments, nor dominance of either by the other, nor the granting by the state of official sanction or standing to any religious group. But we do not believe such separation of church and state demands a secular attitude or position on the part of the government in its own activities; nor do we believe that the establishment clause of the First Amendment to our Constitution means to rule out theistic attitudes and positions in favor of secular ones on the part of the government.

As the Presbytery sees it, from the days of the Founding Fathers a distinction has been assumed between an establishment of religion by the government for the private lives of its citizens and the religious character of its own activities. This seems clear from the Declaration of Independence, in which our forefathers appealed to the Supreme Judge of the world for the rectitude of their intentions, as well as from such legislative actions as the adoption of a theistic national anthem, the ordering of a theistic motto on our coins, and the theistic amendment of the pledge of allegiance to the flag. It is also clear from such appeals to God for assistance, guidance, and blessing as all our Presidents have made upon assuming office, from the annual Thanksgiving Day Proclamation, and many religiously inspired declarations and actions by government officials across the years.

In this connection, the Presbytery believes Mr. Justice Stewart correctly distinguishes between the established churches in sixteenth century England and eighteenth century America and the religious tradition of our people, reflected in countless practices of the institutions and officials of our government. The quarrels over the Book of Common Prayer in England and the history of the early establishment of an official church in our own States were instances of the government extending its functions to organized religion in a state or nation and prescribing features of it, not instances of the government's own religious position and observances in other functions and pursuits recognised as properly within its province.

We would further observe that though a government can maintain a position of neutrality in its dealings with religious movements and organizations, it can hardly be religiously neutral in its own sponsored activities. This seems especially true in the field of education. It is true, "worldly wisdom" in the sense of prudence and the mastery of various arts and sciences can be taught without specific religious implications. But when questions concerning the justification of moral principles, the nature of truth, and the explanation of existence arise, education enters the sphere of philosophy and religion, and here answers are inescapably placed in either a theistic, a skeptical, or a non-theistic framework. Obviously none of these answers can properly be described as "neutral", for the first affirms, the second questions, and the third slights or denies the relevance God has to life's beginning and to its meaning, goals, and values.

For the government through its schools to foster a skeptical or a non-theistic world view is to counteract our traditional faith and hence to undermine the moral and spiritual foundations upon which this nation was established. A broad theism may not be an adequate religion, but it is basic and important.

While as a Presbytery we stand opposed to narrowly sectarian teaching in our public schools, we do not believe that the reverent faith in a Supreme Being that has prevailed in our nation and its schools in the past should be illegalised and replaced by a non-theistic or a skeptical point of view. This would, to a marked degree, deprive the vast majority of our citizens of the free exercise of their religion and militate against the faith that as none other will prepare our children to live their lives effectively and well in a free land and to transmit their heritage unimpaired to posterity.

Our late President, John F. Kennedy, on the fateful day of his assassination, was to have delivered an address concluding with the Biblical admonition (also quoted by Benjamin Franklin at the Constitutional Convention in Philadelphia), "Except the Lord build the house, they labor in vain that build it: except the Lord keep the city, the watchman waketh but in vain" (Psalm 127:1). The distinguished historian Arnold J. Toynbee has observed that this verse succinctly summarises the history of civilisation. It is indeed a matter of record that the pathway of history is strewn with the wreckage of those nations which have ignored its warning.

SCHOOL COMMITTEE,
Cambridge, Mass., October 19, 1971.

Resolved: That the School Committee go on record as endorsing a bill introduced in the United States Congress by Representative Chalmers P. Wylie (R. Ohio) calling for a "Constitutional change to allow non-denominational prayer in public places such as schools."

A true copy.

Attest:

JOHN R. MCCARTHY,
Temporay Secretary of the School Committee.

LET US PRAY—AN AMENDMENT TO THE CONSTITUTION

Mr. WYLIE. Mr. Speaker, since becoming involved in the school prayer issue, I have read voluminous amounts of material on the subject. The most meaningful and persuasive arguments for me in favor of a constitutional amendment were presented in the Law Review article written by Charles E. Rice, Professor of Law, Notre Dame Law School, University of Notre Dame.

I especially urge my colleagues in the House to read it. Whether you agree with it or not, I think you will all concur that Professor Rice has written a very scholarly review which deserves thoughtful appraisal.

The article follows:

LET US PRAY—AN AMENDMENT TO THE CONSTITUTION

(By Charles E. Rice)

CONSTITUTIONALITY

The school prayer decisions were wrongly decided as a matter of constitutional law. Their basic fallacy lies in the Court's erroneous construction of the doctrine of neutrality which is implicit in the establishment clause of the first amendment. That clause reads simply, "Congress shall make no law respecting an establishment of religion. . . ." It was undeniably understood by its framers that establishment of religion "meant the setting up or recognition of a state church, or at least the conferring upon one church of special favors and advantages which are denied to others."[1] The motive for the enactment of the clause was, in the words of James Madison during a debate in the first Congress, that "the people feared one sect might obtain a preeminence, or two combine together, and establish a religion to which they would compel others to conform."[2] The goal, in a word, was to achieve governmental neutrality among religions. The word "religion," however, for constitutional purposes, presupposed that a belief in God was the common denominator of all religions. As the Supreme Court stated in 1890, "the term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will."[3] The establishment clause, therefore, was more precisely designed to ensure governmental neutrality among religious sects professing a belief in God. It was never meant to compel neutrality on the part of government as between those religions that profess a belief in God and those that do not, *i.e.*, between theistic and non-theistic religions. In the words of Mr. Justice Story, who served on the Supreme Court from 1811 to 1845, and who was himself a leading Unitarian:

Probably at the time of the adoption of the constitution, and of the first amendment to it . . . the general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state so far as was not incompatible with the private rights of conscience and the free-

Footnotes at end of article.

dom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation.

The real object of the amendment was not to countenance, much less to advance, Mahometanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment which should give to a hierarchy the exclusive patronage of the national government.[4]

It was in the light of this understanding that the Supreme Court properly affirmed, in 1892, that "this is a Christian nation."[5]

This background, of course, must be considered in conjunction with its complement in the first amendment, the free exercise clause. Together, the two clauses read: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . . ." The free exercise clause has always protected the believer and non-believer alike against any coercion to believe in, or disbelieve, any religion. But the establishment clause, at the same time, sanctioned a governmental hospitality toward, and impartial encouragement of theistic religions.

All this, however, has now been changed. In the 1961 case of *Torcaso v. Watkins*,[6] the Supreme Court invalidated a provision of the constitution of Maryland requiring a state employee to declare his belief in God. The test, said Mr. Justice Black speaking for the Court, unconstitutionally invaded the employees' "freedom of belief and religion. . . ."[7] The requirement was invalid because "the power and authority of the State of Maryland thus is put on the side of one particular sort of believers—those who are willing to say they believe in the existence of God."[8] The Court then emphasized the right of non-theistic beliefs to protection as religions.

We repeat and again reaffirm that neither a State nor the Federal Government can constitutionally force a person "to profess a belief or disbelief in any religion." Neither can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and *neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs*.[9] (Emphasis added.)

Appended to the last quoted clause was a footnote specifying that:

"Among religions in this country which do not teach what would generally be considered a belief in the existence of God are Buddhism Taoism, Ethical Culture, Secular Humanism and others."[10]

In view of this holding, it may now be said that there are two general types of religions entitled to the protection of the first amendment. On the one hand are those which profess a belief in God. For purposes of discussion, let us call them theistic, and for analysis we shall include therein both deistic and theistic beliefs in God with their variant interpretations of the nature of God and his providence. On the other hand are those non-theistic religions described in Mr. Justice Black's footnote in the *Torcaso* case. Of the four he mentioned, the two most important in contemporary terms are Ethical Culture and Secular Humanism, both of which may be called non-theistic religions in that they do not affirm the existence of God. It is reasonable also to include atheism and agnosticism, whether organized or unorganized, within the broad *Torcaso* description of non-theistic religions, since both are compatible with Ethical Culture and Secular Humanism.

It was difficult to tell whether the Court in *Torcaso* rested its decision upon the establishment clause or the free exercise clause, although it is more likely that it was the latter. In either event, today the Supreme Court has removed all doubt that the broad definition of religion applies to the establishment clause. The Court in the 1963 school prayer decision, which was based on the establishment clause, quoted approvingly the principle laid down in the *Torcaso* case, that neither a state nor the federal government "can constitutionally pass laws or impose requirements which aid all religions as against non-believers, and neither can aid those religions based on a belief in the existence of God as against those religions founded on different beliefs."[11] The Court has now ordained, therefore, through its misconstruction of the establishment clause, that the government is required to be neutral as between the two great classes of religions, the theistic and the non-theistic.

When this erroneously imposed neutrality is coupled with the Court's tendency to view the first amendment in rigorously absolute terms, one is drawn to the conclusion that the new interpretation would plainly interdict a governmental affirmation that there is, indeed, as the Declaration of Independence affirms, a "Creator," a "Supreme Judge of the World." Thus it is that Mr. Justice Brennan, in his extensive concurring opinion in the 1963 prayer case, in which opinion he probed the consequences of the Court's ruling, could bring himself to observe that the words "under God" in the pledge of allegiance are not necessarily unconstitutional only because they "may merely recognize the historical fact that our Nation (*was believed*) *to have been founded 'under God'*"[12] (emphasis added). Presumably, if the words were construed as a present affirmation of truth, rather than a rote commemoration of a historical fact (or curiosity), they would be unconstitutional.

Actions or proceedings have been instituted to remove those words from the pledge, to invalidate governmentally-paid chaplaincies in the military services and prisons, to strike down the tax privileges enjoyed by religious organizations, and to eliminate other remaining public evidences that this is a nation which subordinates itself to God. The free-exercise-clause rights of prisoners and military personnel could well be violated unless the government, as the *Schempp* Court noted, "permits voluntary religious services to be conducted *with the use of government facilities*. . . ."[13] (Emphasis added.) It may not be rash to note that the Court's reference only to "government facilities" leaves clouded the constitutional future of chaplains themselves on the government payroll. Similarly, the religious tax privileges in question apply to the purely religious activities of churches as well as to those activities, such as teaching mathematics in parochial schools, which serve a valid secular purpose. The tax privileges are, it as fair to say, in serious jeopardy of at least partial invalidation.

Given the proclivity of the current members of the Supreme Court to adhere tenaciously to their own abstractions (which in religion cases have generally been born in gratuitious and self-generated *obiter dicta* in the Court's own opinions), and given the sweeping character of those reigning abstractions, we may fairly expect the manifestations of our religious heritage in public life to be eliminated, singly but inexorably, by judicial decree. Only a constitutional amendment can be counted upon to check the trend, for the notion of judicial self-restraint seems to have fallen out of favor among the majority of the Court.

The objection is sometimes made that, if prayer is permitted in schools or other public activities, the practices will inevitably deteriorate into a rampant sectarianism in which, for example, a communal rosary in public school would become the order of the day in a district where Roman Catholics predominate. There are ample safeguards against such excess. For one thing, the common sense and good faith of the people involved at the local level can usually be counted upon to prevent the observances from being carried to a sectarian extreme. If, however, the problem actually does arise,

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*Adopted by the Presbytery of Shenango at its meeting in New Castle, Pa., January 28, 1964.

and, judging from experience, it will arise infrequently if at all, the state and federal courts should deal with it on a case-by-case basis. But in so doing, the courts ought to afford a greater latitude to the local governments to solve the problem than they are now given. At what point are the courts to intervene? In terms of the establishment clause, such things as the communal rosary ought to be prohibited as overly sectarian. The Lord's Prayer and Scripture reading, however, ought to be allowed, in view of our history and tradition. Also, if the case should ever occur, a mere devotional reading from the Koran, in a public school in which Moslems predominate, should be allowed, in deference to the federal character of our government and the general practical wisdom of local control.

Operating under the free exercise clause, the courts should invalidate a local practice only when there is actual coercion upon children to participate. In this context, mere embarrassment ought not to be considered such coercion, so long as scrupulous efforts are made by the authorities to minimize such embarrassment.

In fact, a proper deference by the Supreme Court to the concept of federalism and a healthy respect by the Court for the fairness and capacity of local governments would serve to restore a proper balance in this area. The Supreme Court of the United States is ill equipped to rule in a matter such as this by uniform, centralized decree. It is not, as has often been said, a "Supreme School Board." Nor should it be.

Some opponents of an amendment maintain that the inclusion of prayers in a public school necessarily violates the free exercise of religion by children and their parents, who do not believe in God. There are four weaknesses in that argument. First, in none of the cases in question was any child actually coerced to do or say anything, and the right of non-participation was scrupulously preserved. Second, the Supreme Court did not decide the cases on the free exercise basis, but rather under the establishment clause, and it is upon the Court's interpretation of the latter clause that approval or disapproval of the rulings ought to be based. Third, even if we do consider the free exercise question, the dictates of common sense are persuasive. Dean Erwin N. Griswold of Howard Law School said it this way in a passage that is worth quoting at length:

> Let us consider the Jewish child, or the Catholic child, or the nonbeliever, or the Congregationist, or the Quaker. He, either alone, or with a few or many others of his views, attends a public school, whose School District, by local action, has prescribed the Regents' prayer. When the prayer is recited, if this child or his parents feel that he cannot participate, he may stand or sit, in respectful attention, while the other children take part in the ceremony. Or he may leave the room. It is said that this is bad, because it sets him apart from other children. It is even said that there is an element of compulsion in this—what the Supreme Court has called an 'indirect coercive pressure upon religious minorities to conform.' But is this the way it should be looked at? The child of a nonconforming or minority group is, to be sure, different in his beliefs. That is what it means to be a member of a minority. Is it not desirable, and educational, for him to learn and observe this, in the atmosphere of the school—not so much that he is different, as that other children are different from him? And is it not desirable that, at the same time, he experiences and learns the fact that his difference is tolerated and accepted? No compulsion is put upon him. He need not participate. But he, too, has the opportunity to be tolerant. He allows the majority of the group to follow their own tradition, perhaps, coming to understand and to respect what they feel is significant to them.
>
> Is his not a useful and valuable and educational and, indeed, a spiritual experience for the children of what I have called the majority group? They experience the values of their own culture; but they also see that there are others who do not accept those values, and that they are wholly tolerated in their nonacceptance. Learning tolerance for other persons, no matter how different, and respect for their beliefs, may be an important part of American education, and wholly consistent with the First Amendment. I hasard the thought that no one would think otherwise were it not for parents who take an absolutist approach to the problem, perhaps encouraged by the absolutist expressions of Justices of the Supreme Court, on and off the bench.[14]

The fourth fallacy in the free exercise objection to an amendment is that the objection overlooks the right of the majority of citizens to the free exercise of their religion. Strict neutrality between theism and nontheism, as broadly defined by the Supreme Court, is not attainable. When public officials, including school teachers, are compelled to suspend judgment in the course of their official activities on the question of whether there is a God, the effect is an official adoption to that extent of the agnostic approach. Parents and children who believe in God may properly ask why those children must attend a public school where, over their objection, the basic question of God's existence is treated in an agnostic way which is incompatible with, and offensive to, their beliefs and the basic theistic tenets upon which the Republic was nurtured.

In short, there can be no governmental neutrality between theistic and non-theistic religions in terms of the establishment clause. The perpetual suspension of judgment enjoined by the Court on the part of government as to whether there is a God is in reality a mere replacement of the traditional and proper theistic affirmation by a new, non-theistic orthodoxy of agnosticism—a public agnosticism which will, if embedded in our law, spawn a public policy of affirmative and militant secularism.

PRACTICAL BENEFIT

A brief comment is in order on the practical benefit to be derived from a favorable resolution of the amendment question. The issue is, essentially, "can government constitutionally recognize that there is a God?" Implicit in such recognition is an affirmation that there is a standard of right and wrong higher than the state itself. The child who routinely sees the agents of the government, be they teachers or presidents, affirm the existence and supremacy of God and His law over all is less likely to follow the demagogue who asserts for the state, and for himself as its oracle, the final power to ordain what is right and wrong in a matter of public or private morality. Moreover, an inculcation of mere ethical values without reference to their divine source cannot serve this purpose as well as an assertion of the supremacy of an unchanging lawgiver. For, if ethical precepts arise from some non-divine source such as the Constitution, a consensus or a social contract, then they can be subject to change or disregard by a totalitarian state or by a modern democracy enjoying the assent of a majority of its citizens. If we are to preserve the limited government that is the hallmark of American constitutionalism, we can hardly disregard the lesson of history that a strong assurance against governmental abuse is a citizenry devoted to ultimate values transcending the changing will of the state. It is surprising, and disappointing that some Catholic opponents of a prayer amendment have not addressed themselves to this question of the necessity of a frank acknowledgement by the state of the existence of a divine standard higher than itself. On Thomas Jefferson's Memorial there is inscribed his questioning warning: "God Who gave us life gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God?"

In recent decades the schools of America have retreated from the unapologetic inculcation of love for God and country. Perhaps coincidentally, the educational philosophy of permissiveness gained supremacy during the same period. Today we are confronted with juvenile disciplinary problems of unprecedented magnitude. It is fair to say that the restoration and advancement of character will be furthered by teaching our children that there is indeed a "law of Nature and of Nature's God," which enjoins upon them a rejection of vagrant self-indulgence in favor of an ordered pursuit of a higher good.

FOOTNOTES

*Professor of Law, Notre Dame University School of Law.

[1] COOLEY, GENERAL PRINCIPLES OF CONSTITUTIONAL LAW 224–25 (1898).

[2] ANNALS OF CONG. 731 (1789) [1789–1791].

[3] Davis v. Beason, 133 U.S. 333, 342 (1890).

[4] STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES §§ 1874, 1877 (1891).

[5] Holy Trinity Church v. United States, 143 U.S. 457, 471 (1892).

[6] 367 U.S. 488 (1961).

[7] *Id.* at 496.

[8] *Id.* at 490.

[9] *Id.* at 495.

[10] *Id.* at 495 n.11.

[11] School Dist. of Abington Township v. Schempp, 374 U.S. 203, 220 (1963), quoting Torcaso v. Watkins, 367 U.S. 488, 495 (1961).

[12] *Id.* at 304.

[13] *Id.* at 226 n.10.

[14] Griswold, *Absolute Is In The Dark—A Discussion Of The Approach Of The Supreme Court To Constitutional Questions*, 8 UTAH L. REV. 167, 177 (1963).

[From the CONGRESSIONAL RECORD, Oct. 29, 1971]

SCHOOL PRAYER IS HISTORICAL

Mr. WYLIE. Mr. Speaker, on October 25, 1971, I received from Mr. George W. Archambo, of Mount Pleasant, S.C., correspondence concerning House Joint Resolution 191.

This correspondence deals with the history surrounding the adoption of the first amendment provision on freedom of religion and I commend it to the attention of my colleagues:

MOUNT PLEASANT, S.C.,
October 25, 1971.

Representative CHALMERS P. WYLIE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN: I am sorry that I was not aware of your fight to put prayer back in school. As it is, I am attempting to contribute a little information, which I hope may be useful. The enclosure should speak for itself, and more in this letter.

In an old history book: Eggleston, Edward, *A History of the United States and Its People;* ca. 1890 (title page missing), p. 200:

> "Before the Revolution, the Episcopal Church of England was established in the Southern Colonies, while the Congregational churches were supported by law in all the New England colonies except Rhode Island. During the Revolution, Thomas Jefferson led a movement in favor of religious freedom. Now there is no religious establishment in any part of the country, but all are free to worship in their own way. The Constitution provides that Congress shall not interfere with religious freedom. . . ."

The U.S. Supreme Court removed prayer and Bible reading from the public schools at the urgency of an atheist. Yet, this decision should not have been made, if the Supreme Court had considered the situation properly.

The above quote from Eggleston's history book shows that Jefferson led in a movement for religious freedom; and "the Constitution provides that Congress shall not interfere with religious freedom."

"Article I. Congress shall make no law respecting an establishment of religion. . . ." The question is, "Why?" Why should such a thought have occurred in the mind of Jefferson? Simple.

Religious conditions today are similar, but probably less so, than they were some two hundred years ago. In most Latin countries the *national* religion is Roman Catholic. In most North European countries the *national* religion is Lutheran. In England the *national* religion is Episcopal; in Scotland the *national* religion was Presbyterian. In other countries around the world, *national* religions of various lands in Moslem, Hindu, Buddhist, Shinto, etc.

Thomas Jefferson's influence was apparently illustrated in the composition of the First Amendment, and this expression was that Congress was in no position to have a hand in the establishment of a *national* religion. Likewise, "Congress shall make no law prohibiting the free exercise thereof."

It should be obvious to any intelligent person that prayer and Bible reading was the accepted thing in the public schools at the time that the Amendments were ratified and adopted, November 1791. Otherwise that First Amendment would have had the effect of removing prayer and Bible reading from the school system then and there. We would not have had prayer and Bible reading in the schools during the years I attended some forty years ago. But it was the accepted thing. And there were some great Justices in the Supreme Court in those days.

To refer again to the excerpt from Eggleston's history book, it relates that before the Revolution, the Episcopal Church of England was established in the Southern Colonies, and Congregational Church was supported by law in the New England colonies except Rhode Island. This seems to manifest a *national* recognition of particular denominations. Then Jefferson stepped into the picture and "led a movement in favor of religious freedom." "*Now* there is no religious *establishment* in any part of the country."

For any person to show some sort of allegiance to God and Christ, yet manifest an interest in not wanting prayer and Bible reading in the school program, as it had been for some two hundred years, that person's religion is faulty, and certainly not that of a Bible-believer.

I hope this letter and enclosed excerpt of my paper relative to the history of Christian education will be of some value to your fight to have prayer returned to the school system. Without it the result is already manifest: degeneration of good morals, respect for law and order, respect of the young toward their elders and their parents and teachers.

Feel free to reproduce any or all of this material if you think it worthy.

Yours for prayer in the schools.

GEORGE W. ARCHAMBO.

(This is an extract from a paper I did in a course, Christian Education, at Bob Jones University. I hope it may be of some interest. George W. Archambo, October 23, 1971.)

The first schools in America were similar to the schools in the days of the Reformation. A knowledge of the Bible and an interpretation of its contents was felt necessary for salvation. This meant that children had to be taught to read. Schooling was conducted, but there was little difference between the secular and the religious.

The Massachusetts Bay Colony passed a law in 1642 to enforce the education of children. Children were to learn to read and understand the principles of religion and the capital laws of the country. The education was for the benefit of the state more than for the child, for as the child grew to manhood and became eligible for public office, he must be educated.

The first schools were called Dame Schools, being taught by the responsible women of the town. Generally, these women had some education, enough to prepare the pupils for the next school, called the "School of the Three R's." This was the common school, teaching reading, writing, and arithmetic. From here the student could go on to the Latin grammer school, which was preparation for college. This school was the forerunner of our high school.[1]

In the year 1636 the first college was established in America. A young minister died leaving 750 pounds ($3600) and a library of 300 volumes to help man for the Christian ministry. This man's name was John Harvar, the college becoming Harvard College in his honor. As time and conditions permitted, other Church sponsored colleges appeared, Yale in 1701; Princeton, 1747; Kings College (Columbia) in 1754; Rutgers, 1766; and Charity Academy (University of Pennsylvania) in 1740.

Textbooks of this era were mainly the Catechism, the psalter, and the Bible as found in the home. In 1690, the New England Primer came into existence. This was one of the greatest of published books, contributing "perhaps more than any other book except the Bible, to the molding of those sturdy generations that gave to America its liberty and its institutions." It consisted of the alphabet, the Lord's Prayer, the Apostles Creed, the shorter Catechism, an account of the martyrdom of John Rogers, and a dialogue between Christ, youth and the Devil. Eighty-seven percent of the book was made up of selections from the Bible.[2]

The First Amendment of the Constitution prohibited the federal government from establishing a national religion, therefore allowing freedom of worship. The Constitution also made no allowance for education, and since the Tenth Amendment passed on to the states such powers as were not delegated to Congress, the states assumed the power for educating its people.[3]

As the frontier moved westward, educational facilities moved with it. Most of the public schools at the first taught the Bible, but as the need for better textbooks was felt, the Bible was gradually substituted by books with portions of Scripture, and with time, the Scripture gradually disappeared.

The *Dillworth Guide to the English Tongue* was introduced into the Colonies in 1750. It was less religious than the *New England Primer* but provided for advanced pupils as well as for the beginners. In 1783, Noah Webster presented his *Spelling Book*, which was still more secular, but more American than the Dillsworth book, and which, by 1890, was the best seller next to the Bible.[4] During the following years more textbooks appeared until now one can find many varieties from extremely Biblical to extremely secular.

FOOTNOTES

[1] Clarence H. Benson, History of Christian Education, p. 105.

[2] Benson, *op. cit.*, pp. 108, 109.

[3] *Ibid.*, p. 110.

[4] Benson, *op cit.*, p. 110.

Benson, Clarence H., *History of Christian Education*. Chicago, Moody Press. 1943.

[From the CONGRESSIONAL RECORD, NOV. 1, 1971]

A LEADING BAPTIST REPLIES TO "AMERICANS UNITED" IN SUPPORT OF PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, recently the so-called Americans United mailed to all Members of Congress a paper entitled "Fallacies and Falsehoods of the Wylie Amendment," which I regard as not accurate. Dr. James M. Bulman, parliamentarian of the Southern Baptist Convention, has responded.

I commended Dr. Bulman's letter to the attention of my colleagues:

DOCTOR BULMAN'S LETTER

A paper issued by Americans United, with headquarters in Silver Spring, Maryland, criticizes the following proposed amendment to the U.S. Constitution:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

One point particularly in the criticism is deserving of consideration. Before taking up this point, some observations will be made about the rest of the paper.

Certain alleged "fallacies and falsehoods" are set forth concerning "the drive to amend the First Amendment to the U.S. Constitution." If the prayer amendment is passed, it is claimed, "all the court decisions which have been based on the First Amendment *since the founding of this nation* will be undermined." Actually, the First Amendment has not remained inviolate throughout our republic, but was extensively changed by the Fourteenth Amendment of 1868 as the latter has been interpreted comparatively recently. Thus the Supreme Court acknowledged in Schempp case in 1963:

> "This Court has decisively settled that the First Amendment's mandate . . . has been made wholly applicable to the states by the Fourteenth Amendment. Twenty-three years ago . . . this Court, through Mr. Justice Roberts, said: '. . . The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws'."

Of course, only by such inclusion of the states was it possible for the high court in 1962 to ban a prayer sanctioned by the state of New York; and the same for other decisions of recent years relating to religion. The prayer amendment sponsored by Representative Wylie would restore to some extent the original provisions of the First Amendment.

The paper put out by Americans United claims that "voluntary prayer" is still "permitted in all public places," and also even *denominational* prayer—since "voluntary prayer necessarily reflects . . . the denominational orientation of each individual."

If one believes that prayer which is both "voluntary" and "denominational" is permitted in the schools, and wants it this way, then, obviously, he must regard the Wylie amendment, in authorizing only "*non*-denominational" prayer, as taking away something which we now enjoy. But if one wants voluntary and denominational prayer to be permitted, but believes that prayer of any kind, even *non*denominational prayer, is not now permitted, then, just as obviously, it would seem, he will look upon the Wylie amendment as offering some change for the good.

The paper cites the 1962 decision as saying the First Amendment must "at least mean that . . . it is not part of the business of government to compose official prayers for any group of the American people to recite." It is to be noted that this is a *partial* statement of what, in the eyes of the court, is prohibited: the First Amendment is said to mean "*at least*" what the court here sets forth. That the court regarded *more* to be prohibited than official "composing" of prayer is indicated by the further statement that the "power, prestige and financial support of government" cannot be placed behind religion: this might mean that school facilities are not to be used for religious exercises, and that school employees are not to participate with students in such exercises. And this is just what was said some months later when the Schempp decision found religious services objectionable because "held

in school buildings under the supervision and with the participation of teachers employed in those schools." As stated in the following summary which the late Senator Dirksen had placed in the Congressional Record (Sept. 19, 1966):

Not only did the Supreme Court in 1962 and 1963 prohibit religious services in the schools, where "in neither case was any child compelled to participate"; but since then, "a federal court has ruled, in a case arising in Whitestone, New York, that public school teachers cannot even permit pupils to recite prayers in classrooms by themselves and on their own initiative. The Supreme Court *refused* to review this last ruling."

Subsequent action by the high court has been to the same effect.

While professing to be able to see "voluntary prayer" as permitted by these court decisions, Americans United strangely are unable to see it in the Wylie amendment. This amendment, they claim, actually would not permit "voluntary" prayer, since it "doesn't even mention 'voluntary prayer'," and would even "forbid" such prayer. It is all the more improper for Americans United to try to make something out of the absence of the word "voluntary," since the 1962 decision, which they insist permits voluntary prayer, only use the word "voluntary" to say that prayer which is "voluntary" is *not free* . . . from the limitations of the Establishment Clause" of the First Amendment! But, of course, the Wylie amendment does not say that people are compelled to pray; and what it says about the "right" to pray must be understood in connection with the First Amendment's provision for the "free" exercise of religion.

It is suggested that there are sinister connotations in the amendment's reference to persons as "lawfully assembled"—as if this is somehow a threat to "freedom of assembly." Those "lawfully" assembled are to be defined in accordance with the First Amendment's provision for those "peaceably" assembled.

The question is raised whether a *church* is to be classified as a "public building," effect which, in the words of the proposed amendment, is one "supported in whole or in part through the expenditure of public funds." If so, it is argued, the amendment would "place in dire jeopardy the freedom and independence of all churches in America since it implies that only 'nondenominational' worship may lawfully be offered in public buildings." And it is pointed out that churches are classified as "public buildings" in the building codes and safety and fire regulations of most cities.

But what a city classifies for a particular purpose would by no means necessarily be the same as what the Supreme Court has classified in reference to such a subject as now before us. It is sufficient to say that if churches were now classified by the Supreme Court as public buildings "supported in whole or in part through the expenditure of public funds," then none of the churches could be in operation. In the Schempp case the court cited with approval these previous judicial pronouncements:

"The effect of the First Amendment to our Constitution was to take every form of religion out of the realm of things which could directly or indirectly be made public business and thereby be supported in whole or in part at taxpayers' expense. . . . The Amendment's purpose was . . . to create a complete and permanent separation of the spheres of religious activity and civil authority by comprehensively forbidding every form of public aid or support for religion."

Clearly, then, for the churches now to exist they must, and do, come under the clasification of institutions *not* "supported in whole or in part at taxpayers' expense."

By what appears to be a rather odd twist the Americans United contention is that authorization of "nondenominational" religious exercises would prevent tax support from being withheld from *"parochial"* schools—which by definition could hardly be anything other than denominational. This does raise the question as to just what is the "nondenominational" religious exercise which the amendment would permit, and we shall go into that question after a couple of other matters are noticed.

It is claimed that the proposed amendment will not help repair the breakdown of morals within our society. Such provision for prayer is described as "like putting a band-aid on a cancer." We shall not go into the question of the objective efficacy of prayer—though it may be remarked that Americans United appear to be making rather pretentious assertions as to what might and might not be responded to by the Almighty. One man may think a prayer of no value, while another may think quite differently. Why must the latter be prevented from saying the prayer simply because it is lightly regarded by the former?

But the question of the subjective significance of prayer needs some comment, especially in view of the court's contention in 1962 that "when the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain." Thus, the court meant that even though, say, a few atheistic students would not be compelled to join in a prayer, yet the government's sanction of that prayer in the classroom would exert undue influence on this minority.

By the same token, when the machinery of government, as now the case, supports the position of atheists and others who do not want prayer in the schools, then "indirect coercive pressure" is exerted against those who believe that prayer is important enough to be included in the schools. The court professes that the position of government toward religion is neutral—but "neutral you cannot be." In excluding religion from the classroom, the government is in effect inculcating the idea that religion is to be ignored in our national life. That which is ignored will easily be felt to be insignificant. Government sanction of prayer at least will not encourage the youth of today to think that religion may as well be dispensed with.

If the majority of students want to have prayer in the classroom, why should they have to submit to the will of a minority who not only do not want it for themselves but do not want others to be allowed to have it? Where a difference of opinion exists, everyone cannot have his way. Should not the majority prevail, with, of course, provision for one to be excused from participating in an observance to which he cannot conscientiously consult. Under the Wylie amendment, nobody would have to conform to the practice of those who want to pray in school; whereas as things now stand, those who want to pray must conform to the practice of those who do not want to pray.

The paper labels it a "falsehood" to think that the "promoters of this prayer amendment are primarily interested in prayer as and end in itself." I cannot speak for others. I can only say—as one who has tried to "promote" this amendment, not by activity in Washington, but in North Carolina—that I resent any assertion or insinuation that my efforts are not motivated by the primary concern for prayer as an end in itself.

Now for the one criticism of some merit. The criticism, to be sure, is expressed not very clearly or consistently. The upshot is that the term "nondenominational" allows of various definitions. This is true for our language in general. But what about the language of the court and the Constitution?

The 1962 decision recognized that the prayer sanctioned by New York was itself nondenominational in that it referred to "the fact the prayer may be denominationally neutral." That prayer consisted of the following words: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country." At least it would be a gain to have the Constitution changed so as to permit *this* prayer, or so I feel; for while it does not express all that I should desire, it is all right as far as it goes. This New York prayer is much like the religious sentiment of the Declaration of Independence, which is often said to be "deistic" (or "the religion of nature"); and its author, Thomas Jefferson, was rather deistic. Yet, the arch opponent of deism, John Witherspoon, signed the Declaration. The Calvinism (Presbyterianism) of Witherspoon did not exclude the concept of "nature's God" expressed in the Declaration. The religion of the Declaration was, from the standpoint of Witherspoon, true as far as it went.

But Americans United, while contending that "nondenominational might variously be defined, yet positively assert that it is definitely defined in one sense: "A prayer in the name of Jesus Christ would be forbidden in any public building by this amendment. No basis is given for this assertion. But I shall give basis for maintaining the contrary.

The Constitution must be interpreted consistently with itself. The Wylie amendment, on becoming a part of the Constitution, would mean that any religious concept authorized within the sphere of government by the Constitution is to be classified as "nondenominational." Contrary to popular claim, the existing Constitution is *not* altogether neutral in respect to religion: there is recognition of *"the year of our Lord,"* which, it cannot successfully be denied, can only refer to Jesus Christ. Thus to this extent the United States Constitution is a *Christian* document! This recognition of Jesus Christ authorized within the sphere of government by the Constitution would, by the addition of the Wylie amendment, be classified as "nondenominational." Thus prayer in reference to Jesus Christ as "Our Lord," or to the "year" of His birth, would be "nondenominational"; otherwise, the Constitution in one place would be authorizing only "nondenominational" religious concepts within the sphere of government, and then, inconsistently, in another place would be authorizing a "denominational" concept within that sphere.

[From the CONGRESSIONAL RECORD
November 1, 1971]

JEWISH SUPPORT FOR PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, the following letter, with excerpts of a letter by the Lubavitcher rabbi, Rabbi Menachem Mendel Schneerson, was received in my office on October 29 and is related to the upcoming vote of House Joint Resolution 191, an amendment to permit nondenominational prayers in public schools and buildings.

This letter was forwarded to me by Rabbi J. N. Kranz of the Lubavitcher Center, Oak Park, Mich.

Rabbi Schneerson points out the need for a nondenominational prayer in public schools. He also addresses himself to the principle of the separation of church and state and the need for safeguards. I would urge all Members to read Rabbi Schneerson's letter prior to casting their vote on November 8 on this vital issue:

LUBAVITCHER CENTER,
Oak Park, Mich., October 10, 1971.

HONORED CONGRESSMAN: H.J. Res. 191, the amendment concerning non-denominational prayer in the public schools, has been discharged from the Judiciary Committee through petition, and will come before the House for a vote.

We respectfully bring to your attention the views on this matter of Rabbi Menachem M. Schneerson (the *Lubavitcher Rabbi*), world Jewish leader.

Sincerely yours,

J. N. KRANZ,
Rabbi.
Y. M. KAGAN,
Associate Rabbi.

EXCERPTS OF A LETTER BY THE LUBAVITCHER RABBI, RABBI MENACHEM MENDEL SCHNEERSON

On the contrary, if there could have been any change at all (in my views), it was to reinforce my conviction of the vital need that the children in the public schools should be allowed to begin their day at school with the recitation of a *non-denominational* prayer, acknowledging the existence of a Creator and Master of the Universe, and our dependence upon Him. In my opinion, this acknowledgment is absolutely necessary in order to impress upon the minds of our growing-up generation that the world in which they live is not a jungle, where brute force, cunning and unbridled passion rule supreme, but that it has a Master Who is not an abstraction, but a personal G–d; that this Supreme Being takes a "personal interest: in the affairs of each and every individual, and to Him everyone is accountable for one's daily conduct.

Juvenile delinquency, the tragic symptom of the disillusionment, insecurity and confusion of the young generation, has not abated; rather the reverse is the case. Obviously, it is hard to believe that the police and law-enforcing agencies will succeed in deterring delinquency and crime, not to mention completely eliminating them at the root, even if there were enough police officers to keep an eye on every recalcitrant child. Besides, this would not be the right way to remedy the situation. The remedy lies in removing the cause, not in merely treating the symptoms. It will not suffice to tell the juvenile delinquent that crime does not pay, and that he will eventually land in jail (if he is not smart enough). Nor will he be particularly impressed if he is admonished that law-breaking is an offense against society. It is necessary to engrave upon the child's mind the idea that any wrongdoing is an offense against the Divine authority and order.

At first glance this seems to be the essential function of a house of prayer and of the spiritual leaders. However, anyone who does not wish to delude himself about the facts of house of prayer attendance, both in regard to the number of worshippers and the frequency of their visits, etc., etc., must admit that shifting the responsibility to the house of prayer will not correct the situation. Nor can we wait until the house of prayer will attain its fitting place in our society, and in the life of our youth in particular, for the young generation will not wait with its growing-up process.

Children have to be "trained" from their earliest youth to be constantly aware of "the Eye that seeth and the Ear that heareth". We cannot leave it to the law-*enforcing* agencies to be the keepers of the ethics and morals of our young generation. The boy or girl who has embarked upon a course of truancy will not be intimidated by the policeman, teacher or parent, whom he or she thinks fair game to "outsmart". Furthermore, the crux of the problem lies in the success or failure of bringing up the children to an awareness of a Supreme Authority. Who is not only to be feared, but also loved. Under existing conditions in this country, a daily prayer in the public schools is for a *vast* number of boys and girls the only opportunity of cultivating such an awareness.

On the other hand, as I have emphasized on more than one occasion, only a *strictly-non-denominational* prayer, and no other, should be introduced into the public schools. Any denominational prayer or religious exercise in the public schools must be resoluting opposed on various grounds, including also the fact that this would create divisiveness and ill-feeling. Likewise must Bible reading in the public schools be resoluting opposed for various reasons, including the obvious reason that the reading of Koran and the New Testament will arouse dissention and strife. Moreover, the essential objective is a religious expression that would cultivate reverence and love for God, and this can best be accomplished by prayer, while Bible reading is not so important in this instance.

1. It has been argued that the child attending public school is in the category of a "captive", since his refusal to participate in a prayer would "stigmatize" him. His participation would therefore be involuntary and an encroachment on his freedom.

In my opinion, the notion of "captivity" as applied in this case should lead to a conclusion which is quite the reverse, for the following reasons:

The child attending public school knows that his attendance is compulsory, because his parents and the government consider his education of the utmost importance. Together with this comes the recognition that what is really important and essential to his education is taken care of in the school. The child's instinctive feeling and inference from this is that anything that is not included in the school curriculum is of secondary importance if, indeed, of any importance at all. Hence, if religion (prayer) is excluded from the school, the child would inevitably regard it in the same category as an extra foreign language, or dancing, or music lessons, which are not required by the school but are left to the parents' free choice, and which the child, not illogically, considers a burden or even a nuisance. In other words, the present system of the public school education is such that it *impresses* upon the pupil the belief that everything connected with religion, such as knowledge of G–d's existence, etc., is of little consequence, or of no importance whatever.

It will neither interest nor impress the child if he were told that the exclusion of prayer from the school is due to the principle of the separation of State and Church, or to a constitutional technicality. These reasons or explanations, even if they be actually conveyed to the child from time to time will not nearly impress him as much as the plain fact itself, which reasserts itself each and every day, that nothing can be very important to his education if it is not included in the school program. Such a situation can only reinforce the child's attitude of indifference, or even disdain, to any religious beliefs.

The above would be true even in the case of a child who comes from a religious home and background. How much more so in the case of children whose parents and homes are not permeated with the religious spirit, or where religion is something which is practiced once a week, on the day of rest, or only on holidays and special occasions. This, after all, is the kind of home from which the vast majority of the public school children come, inasmuch as the truly religious parents make every sacrifice in order to provide their children with the religious education and environment of a parochial school.

2. To oppose non-denominational prayer "on constitutional grounds" is, in my opinion, althogether a misunderstanding or misrepresentation of the problem.

The issue is: Whether a non-denominational prayer wherewith to inaugurate the school day is, or is not, in the best interests of the children. If the answer is "yes", then obviously it should be made constitutional, for there can be no difference of opinion as to the fact that the Constitution has been created to serve the people, not vice versa.

It may be pertinent to add here that the approach that the Constitution of the U.S.A. must not be touched or amended under any circumstances, is in itself a flagrant violation of the letter and spirit of the Constitution, which has its own built-in machinery for future amendments that may be required in the public interest; machinery which has been used in the past to incorporate into the Constitution a number of amendments.

3. It is argued that the principle of separation of Church and State is the only safeguard for freedom of religion, equal rights for minorities, etc.

Without going into the question whether there actually exists a strict separation between State and Church in this country (for there are undeniable facts to the contrary, e.g., the institution of Chaplaincy in the armed forces; the opening of Congress with a prayer; the motto "In G–d we trust" on American currency, the emphasis on Divine Providence in the Declaration of Independence; etc., etc.), I submit that the validity of the argument is contingent upon the question who is behind this principle, and how is it to be interpreted and applied? Suffice it to cite an illustration from the representative States now in existence, in one of which the said principle is in full operational force, while in the other it is not. In the first, as the daily press reports, there is a calculated war on religion and religious practices, with the suppression of all religious freedom, etc. Incidentally (and perhaps it is quite relevant to our discussion), it all started there with a ban on religious instruction to young children. In other countries, for example, England, there is no separation of Church and State, there is religious instruction in the public schools, yet you find there complete religious freedom for all religious denominations.

4. Some argue further that the principle of separation of State and Church must be maintained at all costs, in order to prevent a resurgence of religious persecution so prevalent in the Middle Ages, when an established state-religion denied equal or any rights to other religions, etc.

The fallacy of this argument should be quite obvious. By way of illustration: Suppose a person was ill at one time and doctors prescribed certain medication and treatment. Suppose that years later the same person became ill again, but with an entirely different, in fact quite contrary, malady. Would it be reasonable to recommend the same medication and treatment as formerly?

In Medieval times the world suffered from an "excess" of religious zeal and intolerance. In our day the world is suffering from an excessive indifference to religion, or even from a growing materialism and atheism. Even where religion is practiced, it often lacks depth and inspiration. (The subject is too painful to discuss in detail.) Thus, if separation of Church and State was necessary, it is not at all the answer to the problems of our contemporary youth. Besides, the preservation of the principle is not at stake here, and the introduction of a non-denominational prayer in the public school will not endanger it in the least. Moreover a special clause to this effect can be included in the amendment.

5. It has also been argued that if a non-denominational prayer were permitted and left to the discretion of every school board in the country, this practice would lead to abuse.

I do not consider this a valid argument. Firstly, we are talking here about a strictly non-denominational prayer, and agreement should not be difficult on this point. Nor could there be room for any undercover abuse, since prayer would be recited openly in the school. Besides, a proviso could be made which would require the unanimous approval by the representatives of religious demoninations before the particular non-denominational prayer is introduced into the school. Moreover, there is no need to compose new non-denominational prayers, as there are already such.

6. The argument that a short non-denominational prayer would have no effect on the child reciting it, could not be considered as a serious argument by anyone who has

knowledge or experience in child education. On the contrary, the fact that prayer will be recited in the school and classroom, and day after day, will inevitably become an integral part of the child's thinking and is bound to be a factor which could be further cultivated to the child's advantage in terms of spiritual and psychological development.

Summarizing the above-said, my standpoint indicates the following course:

(a) All efforts, petitions, etc., should be brought to bear towards the introduction of a constitutional amendment which would permit the recitation of a strictly non-denominational prayer in all public schools.

(b) At the same time it should be clearly emphasized that any other kind of prayer or religious exercise, including Bible reading, is not desirable in the public schools because of the friction and divisiveness which such a practice would inevitably entail. It would surely be detrimental to introduce an amendment which would do just that.

(c) I am gratified to see that there are representatives in Congress who expressed their support for an amendment that would permit a non-denominational prayer in the public schools, while opposing sectarian prayer and Bible reading.

(d) The whole controversy as to the constitutionality of such a non-denominational prayer is of little, if any consequence to the problem itself. The crucial problem is how to build the ethical and moral fibre of the young generation which is educated in the public school system: Is the American child to grow up under an educational system which excludes all mention of the Divine Name, so that he (or she) will inevitably regard the world around him (or her) as a G-dless jungle; or is he (or she) to be encouraged to think that there is a Supreme Being, the Creator and Master of the World, Who ordains justice and liberty for all, and Who is the source of true blessing.

Certainly a non-denominational prayer in the public schools will not, in itself, provide an adequate basis for the right and complete world-outlook, but it is an indispensable first step in this direction, considering the state of our society as it is at present, and as it is likely to remain for quite a long time, insofar as it can be judged from the prevailing conditions and factors.

[From the CONGRESSIONAL RECORD, November 1, 1971]

MORE BAPTIST SUPPORT

Mr. WYLIE. Mr. Speaker, pastor Samuel Arthur Jeanes of the First Baptist Church of Merchantville, N.J., has written me a letter regarding House Joint Resolution 191.

I believe that Reverend Jeanes' letter is indicative of the feelings of many Americans. In addition, I think it eloquently points out what I am trying to accomplish with House Joint Resolution 191.

I commend this letter to my colleagues' attention:

FIRST BAPTIST CHURCH,
Merchantville, N.J., October 27, 1971.

Re: House Joint Resolution 191.
Hon. CHALMERS P. WYLIE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WYLIE: It is time that the muddled confusion created by court rulings on prayer in tax supported schools be ended. The polls that are taken clearly indicate that the American people, in overwhelming numbers, want to permit voluntary prayer in their schools.

Perhaps, the confusion has been caused because there are those who believe that the courts have said more than they really said and have hastily rushed us into a "prayer vacuum" in public education. The United States Supreme Court in the Board of Regents case ruled against the use of a prayer that was officially recommended by that Board with a directive that it be recited aloud in the presence of a teacher. In a second decision the United States Supreme Court, in the Abingdon, Pennsylvania School District case ruled against a Pennsylvania law requirement that ten verses be read from the Bible without comment at the opening of each school day. A third case never reached the United States Supreme Court but the U.S. District Court of Appeals for New York State ruled that little children could not recite a simple ancient prayer with their morning milk and cookies which went as follows:

"God is great, God is good,
And we thank Him for this food."

All the American people want is the opportunity for their children to offer voluntary prayer in their schools which was the practice for many, many years. The passage of House Joint Resolution 191 could grant this permission and certainly bring an end to the misunderstandings which have led to many excesses.

It is unfortunate that some religious bodies have been mounting pressure upon the Congress to thwart the will of the majority of the people. My attention has been called to statements from the American Baptist Convention of which I am a member. Such statements of opposition to voluntary prayer in our tax supported institutions supposedly are based upon resolutions passed by the Convention itself. May I call your attention to the fact that such resolutions are followed by a statement of explanation which says:

"What do American Baptist resolutions represent?"

"American Baptist resolutions are the attempt to help Baptists express a Christian view on crucial issues. To be sure resolutions passed by the American Baptist Convention cannot be said to represent the conclusions of all American Baptist, or even all the American Baptists attending the Convention. They do, however, represent the careful thinking of a large number of people."

To illustrate the limited extent of representation reflected by such resolutions let me quote from the June 4, 1971 issue of Christianity Today which says:

"During debate over a controversial statement on non-traditional 'family life styles' that could have been interpreted as endorsing pre-marital sex and homosexual practices, ABC Treasurer, Milton Bennett—a Toledo restaurant operator—invoked the parliamentary law requiring that a majority of delegates be present when business is transacted. Only a fourth of the 2,800 were on hand, bringing automatic adjournment . . . Bennett's ploy was the first such call in the memories of ABC officials. It will not be the last; delegates spoke privately of using it next year (many of the ABC's most controversial resolutions over the years have been passed by a fraction of a quorum)."

The American Baptist Convention claims about 6,100 individual churches with an approximate total membership of 1,500,000 people. There is no reason to believe that even half of the churches had delegates at the Convention session when this resolution against prayer in the schools was adopted. Furthermore, as a rule the delegates who do go to Convention sessions have no authority whatsoever to commit their congregations on any issues. Neither are any scientific efforts made to poll the thinking of the churches or their membership on such questions.

I trust that the members of the Congress will exercise seasoned judgment by accepting such sweeping statements from large organizations for what they are . . . expressions of men based upon very incomplete findings and voted, often by bodies that do not represent even a very small fraction of their total constituency.

The proposal before you does not require prayer, but it certainly does not prohibit it. Neither does it grant authority of any official body to determine the form or content of the prayer.

It should be remembered that the prayer decision of the Supreme Court was based upon their interpretation of the Constitution. However, the Constitution is an instrument ordained, not by the courts, but by the people. The courts may interpret it, but the people have a right to amend it. It should say clearly what the people want it to say.

If public prayer can be offered in the Halls of Congress at each opening session, in military camps and on board ship for our service men, at the inauguration of the President of the United States, at national political conventions, at social, civic and public functions, and even in our penal institutions, why should prayer be banned from the lips of our children and young people in the schools of the nation?

The passage of HJR 191 will give the world a moral witness that declares that for Americans God is important. And it will reaffirm what the Supreme Court itself has said that "we are a religious people whose institutions presuppose a Supreme Being".

Sincerely yours,
SAMUEL A. JEANES,
Pastor.

[From the CONGRESSIONAL RECORD, Nov. 1, 1971]

SOUTHERN BAPTIST SUPPORT FOR PRAYER

Mr. WYLIE. Mr. Speaker, the impression has been left that because of the Southern Baptist Convention opposition to House Joint Resolution 191, all Baptists are against it.

I respectfully suggest that not all Baptists feel as Dr. Carl E. Bates. I have received considerable correspondence to this effect. I call attention to a letter from Rev. Claud Logan Asbury of the Gibson Avenue Baptist Church, Wilmington, N.C.:

GIBSON AVENUE BAPTIST CHURCH
Wilmington, N.C., October 26, 1971.

DEAR CONGRESSMAN: As you know the requisite 218 signatures on Discharge Petition Number 1 concerning the proposed Prayer Amendment to the Constitution has been achieved in the U.S. House of Representatives. How grateful all Americans must be for this Victory.

It is my understanding that H.J. Res. 191 has been scheduled for consideration by the House of Representatives on November 8th. I am very hopeful that it will receive the two-thirds vote required for the passage of a Constitutional Amendment.

I believe the spiritual direction *Upward*, which Our Beloved Nation must take in the future depends, to a great extent upon the approval of A Prayer Amendment to our U.S. Constitution—this action in the U.S. House of Representatives can be the necessary *First Step*.

As you probably know, I am Sponsor of "The Asbury Resolution on Voluntary Prayer in The Public Schools", which has already been adopted by *two* Baptist State Conventions of The Southern Baptist Convention (consisting of all 50 states): the Baptist State Convention of North Carolina (which comprises 3,449 churches with a total membership of 1,023,147 people—this is the *second* largest Southern Baptist Convention State regarding churches and total membership—Texas being the largest), and the present home of Southern Baptist Convention President, Dr. Carl E. Bates, who is also pastor of the First Baptist Church, Charlotte, North Carolina—the resolution was adopted last year (1970) in the War Memorial Auditorium, Greensboro, North Carolina; and the Baptist State Convention of South Carolina (which comprises 1,509 churches with a total membership of 567,304 people)—it was adopted in 1964 in the First Baptist Church, Columbia, South Carolina, the State Capitol.

On behalf of the Baptist State Conventions of North and South Carolina (of the South-

ern Baptist Convention), which have adopted "The Asbury Resolution of Voluntary Prayer in the Public Schools", I deeply appreciate your vote for this Prayer Amendment to the Constitution.

With kindest regards and appreciation, I am

Very truly yours,
Rev. CLAUD LOGAN ASBURY.

[From the CONGRESSIONAL RECORD, Nov. 2, 1971]

SENATOR HOWARD H. BAKER JR. IN SUPPORT OF THE PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, recently, I received a letter from Senator HOWARD H. BAKER, JR., son-in-law of the late Senator Everett McKinley Dirksen who sponsored a prayer amendment identical to House Joint Resolution 191. I got the idea from Senator Dirksen. Senator HUGH SCOTT has introduced a resolution which is very similar and which has 46 cosponsors. Senator BAKER's letter deserves attention, it seems to me. The letter follows:

SEPTEMBER 24, 1971.

Hon. CHALMERS P. WYLIE,
Longworth House Office Building,
Washington, D.C.

DEAR CHALMERS: Please accept my congratulations on your splendid effort with respect to the prayer amendment.

As you know, on February 10 I introduced in the Senate S.J. Res. 32, which is identical to H.J. Res. 191. My proposal now has thirty-seven co-sponsors. You may recall that on October 13 of last year I offered the text of the amendment as an amendment to the Equal Rights amendment, which was then pending on the floor of the Senate. The prayer amendment was agreed to on a roll-call vote of 50–20. Final action on the Equal Rights amendment was never taken.

I want to cooperate with you in any way that I can in this matter. As a result of your successful drive to discharge the House Committee on the Judiciary from further consideration of H.J. Res. 191, the prospects for the amendment appear brighter than at any time in the past.

Sincerely,

HOWARD H. BAKER, JR.

[From the CONGRESSIONAL RECORD, Nov. 2, 1971]

PROPOSAL CONCERNING NONDENOMINATIONAL PRAYER IN PUBLIC BUILDINGS

Mr. GIBBONS: Mr. Speaker, very soon we will be voting on a proposal concerning non-denominational prayer in public buildings. As you know, Mr. Speaker, this proposal comes to us under a very difficult parliamentary situation in which debate will be limited to 1 hour and no amendments allowed. Unfortunately, there have been no hearings by the appropriate committee of the Congress on this proposal.

Should this proposal be adopted and become a part of our Constitution, it will be the first time in the entire history of this country that the first amendment to the Constitution of the United States has been changed.

The proposed amendment is as follows:

"Section 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

"Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress."

Because Mr. WYLIE's proposal raised so many questions in my mind, I propounded a set of questions and asked him to respond to them. Mr. WYLIE has responded to each question and I would like to have his response included in the RECORD so that each Member may have an opportunity to review each question and answer.

The letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 1, 1971.

Hon. SAM GIBBONS,
U.S. House of Representatives,
Washington, D.C.

DEAR SAM: My apologies for the delay in responding to your letter of October 12.

My response to the 23 questions you asked in said letter is as follows:

1. Question: Who is to determine what is a nondenominational prayer?

Answer: The local school authorities would determine this, subject to judicial review which should be exercised in the event those authorities clearly abuse their discretion. The United States Constitution is premised in its division of powers upon the principle of subsidiarity, that governmental functions are best entrusted to the lowest level of government able to accomplish them. To be sure, there are powers that are denied therein to any government, state or federal, such as the right to deprive a person of life, liberty or property without "due process of law." But the issue of school prayer is one which, prior to the Supreme Court prayer decisions in 1962 and 1963, was safely left to the good sense of the people in the localities involved. What is a nondenominational prayer is not the kind of question which requires a uniform national solution.

2. Question: Assuming a school elects to have a nondenominational prayer, is it to be given during the regular school hours?

Answer: It would be lawful under the amendment, for the school authorities to provide for the recitation of a prayer during school hours. Of course, it would be proper for the courts to intervene to prevent abuse, for example, if the practice were carried out in such a way and at such frequency and length as to interfere with the educational function of the school. It seems to me, the ordinary practice of opening the school day with a prayer, or of otherwise including prayer as an incidental part of the school day, would not constitute such an abuse.

3. Question: Who in the school will give the prayer?

Answer: The person giving the prayer should be a volunteer from among the faculty, administration or student body of the school. Clearly, no person could be compelled to give the prayer or otherwise participate.

4. Question: May it be given out loud or silently?

Answer: This should be left to the judgment of the local school authorities.

5. Question: Does your amendment envision that a school board should prescribe a certain prayer of their choosing as being the nondenominational prayer for their school system?

Answer: Not necessarily. It could be composed by a student. It could be the prayer from the *Engel* case, which the Supreme Court said was nondenominational or it could be the prayer of the Senate or House Chaplain. A local school board would have the power to say that a prayer is not nondenominational, I would think.

6. Question: If not the school board, then would it be the principal or the teacher?

Answer: The composition or selection of the prayer would be the function of the local school authorities. In the usual case, this would be the local school board. This board would have the power to delegate the task of composition or selection to a principal or teacher or, for that matter, a student. In all situations, serious abuse could be redressed by judicial action.

7. Question: Would your amendment allow police or judicial action to prohibit a prayer in a public building because it did not meet their interpretation of being a non-denominational prayer?

Answer: Of course, judicial action would be appropriate to prevent serious abuse in this as in all other areas of our national life which involve the application and protection of constitutional rights. It would, however, be a matter within the primary cognizance of the courts rather than the police authorities. Procedurally, any action to prohibit a prayer would follow the cases already decided on this question.

8. Question: Under your amendment can the federal government decide what is a nondenominational prayer?

Answer: See the answer to question 4. If, however, a federal school is involved, it would be within the power of the appropriate federal official to decide whether a prayer is nondenominational. His decision would, of course, be subject to judicial review, just as now.

9. Question: Who in the federal government would decide?

Answer: There is nothing mandatory in the language of this amendment which could be implied from your question. The primary purpose of this amendment is to protect the right of the people to the free exercise of their religion. If the people desire to include a prayer in the activity in question, the public official would have no power to forbid it, provided that the conduct of the prayer did not substantially interfere with the primary function of the school or other activity involved. The amendment would not confer on any official, state or federal, a power to prescribe a prayer so as to compel anyone to recite it or otherwise participate in it. The amendment only reinforces the right to the free exercise of religion. Again, I would assume that the official in charge of any specific activity where a prayer was a part would have the primary responsibility to say whether it was or was not nondenominational.

10. Question: Does your proposed amendment prevent the giving in a public building of a prayer that has not been classified as nondenominational?

Answer: The amendment would legitimize prayer if it is "nondenominational." As I mentioned, an example of an appropriate nondenominational prayer would be the New York State Regents' Prayer, which was composed by a Jewish rabbi, a Catholic priest, and a Protestant minister and was the subject of the decision by the Supreme Court in *Engel* v. *Vitale*, 370 U.S. 421 (1962). This prayer read: "Almighty God, we acknowledge our dependence upon Thee, and we beg thy blessings upon us, our parents, our teachers, and our country." Other prayers could readily be considered sufficiently nondenominational within the meaning of the amendment. It goes without saying that judicial review would be available to prevent serious abuse in this as in other areas.

It is fair to say, also, that a prayer could be nondenominational in the context of the overall school program even if it would be regarded as sectarian if considered in isolation. It would seem to be legitimate for the appropriate authorities to permit the different religions represented in the school or other activity to take turns in offering a prayer of their respective religions. Considering the matter in its totality, the overall character of such a policy would be nondenominational. And it is important, too, that such a policy would foster greater understanding and tolerance among the various creeds. Particularly in grade schools, this is an objective earnestly to be desired.

11. Question: When are persons not "lawfully assembled" under your amendment?

Answer: Trespassers, or disorderly persons, of course, would not be "lawfully assembled." School children, members of a city council, participants at a public meeting and persons lawfully present at other lawful

gathering in public buildings would be included.

"Assemble"—according to Webster's Seventh New Collegiate Dictionary—means to collect into one place or group; to meet together.

12. Question: Many church-related hospitals receive public funds—will your amendment restrict persons in these buildings to nondenominational prayers?

Answer: No. The amendment is designed to expand the rights of free exercise of religion as they now exist. Chuch-related hospitals or schools receiving public funds are not now precluded from permitting sectarian prayer on their premises. The amendment would not change their status in this regard. The amendment is permissive. It would restore to public schools and such other institutions as may be restricted by the Supreme Court's prayer decisions, the right to permit the participants therein to engage in nondenominational prayer.

13. Question: Under your amendment must all prayers in public buildings be nondenominational?

Answer: Where an institution is now precluded by the Supreme Court's decisions from allowing any prayer of any type, the amendment would restore their right to allow prayer provided that it is nondenominational. There are other situations which are clearly beyond the reach of the Supreme Court's school prayer decisions as presently construed. A municipal auditorium may presently be rented to an evangelist to conduct a sectarian service. Since the amendment is designed to expand rather than restrict the right to the free exercise of religion, such an arrangement and other similar situations which are presently allowed, would not be prohibited.

14. Question: Is the purpose of your amendment to negate the Establishment Clause of the First Amendment by establishing a nondenominational prayer as a religion?

Answer: The allowance of nondenominational prayer does not constitute a "law respecting an establishment of religion," in the words of the First Amendment. The Supreme Court's school prayer decisions, which held that such a practice in public schools violates the establishment clause, were wrongly decided.

15. Question: Would you please define prayer as used in your resolution. Is it to be silent? Oral? In unison? To whom is it to be addressed? God? Jesus? Our Father? May it end with the words "In Jesus' name. We pray, amen"?

Answer: The content and format of the prayer would be determined by the people and appropriate authorities. See question 10 above.

16. Question: Is the nondenominational prayer limited to the Christian religion? Is nondenominational prayer limited to the Judeo-Christian faith?

Answer: No. See question 10 above.

17. Question: Do you envisage that "participation" as used in your proposal in all cases be "voluntary" or "non compulsory"? If your answer is "yes," why were these words not included in the proposal?

Answer: Participation must be voluntary in all cases. These words were not included in the amendment because they are unnecessary. The amendment does not infringe upon the right to the free exercise of religion. Instead it reinforces that right. Under the Free Exercise Clause of the First Amendment, no person can be compelled to participate in prayer. This situation would remain unchanged.

18. Question: If the nondenominational prayer that you propose is to be used in the classroom, and is voluntary or non-compulsory as far as the pupil is concerned, does the teacher have the same right as the pupil in this regard?

Answer: Yes. It would violate the teacher's right to the free exercise of his religion if he were compelled to participate.

19. Question: If the nondenominational prayer is voluntary, how is a dissenting pupil or teacher to respond while the prayer is being offered?

Answer: The teacher or pupil who chooses not to participate would be free to stand or sit silently or to leave the room. Compulsion to participate would be forbidden, and judicial relief would be available in appropriate cases. However, the fact that a decision not to participate may result in some embarrassment to the non-participant would not be a sufficient reason to prohibit others from participating in the prayer. Also, there is a strong educational advantage to be attained by the amendment. Dean Erwin N. Griswold, now the Solicitor General of the United States, described the advantages of school prayer in an article in 1963:

"Let us consider the Jewish child, or the Catholic child, or the nonbeliever, or the Congregationalist, or the Quaker. He, either alone, or with a few or many others, of his views, attends a public school, whose School District, by local action, has prescribed the Regents' Prayer. When the prayer is recited, if this child or his parents feel that he cannot participate, he may stand or sit, in respectful attention, while the other children take part in the ceremony. Or he may leave the room. It is said that this is bad, because it sets him apart from the other children. It is even said that there is an element of compulsion in this—what the Supreme Court has called an "indirect coercive pressure upon religious minorities to conform." But is this the way it should be looked at? The child of a nonconforming or minority group is, to be sure, different in his beliefs. That is what it means to be a member of a minority. Is it not desirable that, at the same time, he experiences and learns the fact that his difference is tolerated and accepted? No compulsion is put upon him. He need not participate. But he, too, has the opportunity to be tolerant.

He allows the majority of the group to follow their own tradition, perhaps coming to understand and to respect what they feel is significant to them.

Is this not a useful and valuable and educational, and, indeed, a spiritual experience for the children of what I have called the majority group? They experience the values of their own culture; but they also see that there are others who do not accept those values, and that they are wholly tolerated in their nonacceptance. Learning tolerance for other persons, no matter how different, and respect for their beliefs, may be an important part of American education, and wholly consistent with the First Amendment. I hazard the thought that no one would think otherwise were it not for parents who take an absolutist approach to the problem, perhaps encouraged by the absolutist expressions of Justices of the Supreme Court, on and off the bench. (Griswold, Absolute Is In the Dark, 8 Utah L. Rev. 167, 177 (1963)).)"

20. Question: Are you attempting in any way to nullify the Establishment Clause of the First Amendment?

Answer: No. On the contrary the Supreme Court's school prayer decisions themselves violate the intent of the Establishment Clause. That intent was aptly described by Judge Thomas Cooley, a leading constitutional scholar of the nineteenth century, as follows:

By establishment of religion is meant the setting up or recognition of a state church, or at least the conferring upon one church of special favors and advantages which are denied to others. It was never intended by the Constitution that the government should be prohibited from recognising religion, or that religious worship should never be provided for in cases where a proper recognition of Divine Providence in the working of government might seem to require it, and where it might be done without drawing any invidious distinctions between different religious beliefs, organizations, or sects [Cooley, Principles of Constitutional Law (Boston, 1898), 224–25].

The school prayer decisions of the Supreme Court have the effect of establishing agnosticism as the official public religion of this nation. In the 1963 school prayer case, Mr. Justice Brennan wrote in his concurring opinion that the words "under God" in the pledge of allegiance are not necessarily unconstitutional in light of the Court's decision, because: "The reference to divinity in the revised pledge of allegiance, for example, may merely recognize the fact that our Nation *was believed to have been founded 'under God.'*" [*Abington School District v. Schempp*, 374 U.S. 203, 304 (1963) (Emphasis added)]. Apparently the words "under God" can be retained only if they are not seriously meant to be believed. Under this rationale it would violate the Constitution for a public official to affirm as a fact that the Declaration of Independence is true when it affirms that men are endowed with unalienable rights "by their Creator."

The amendment is designed to reverse the Supreme Court's establishment of agnosticism as the national religion. It is designed to permit the American people, lawfully assembled in public buildings, to affirm as a fact that this is indeed "one nation, under God," that indeed there is a Creator higher than the state.

21. Question: If you concede the right to pray is an unalienable right and government may not constitutionally prohibit prayer, will not all those who are lawfully assembled in a public building be denied their constitutional right if the appropriate public body has not decided upon a nondenominational prayer?

Answer: The basic right involved here is the individual right to the free exercise of religion. It would be the duty of the public body or officials involved to give due and reasonable recognition to that right. However, it still would be appropriate for that public body or those officials to conclude in a given case that the inclusion of prayer would interfere with the primary purpose of the assembly concerned. This decision would have to be based on reasonable grounds and it would be subject to judicial review to prevent serious abuse.

22. Question: If a public body was unable to determine what was a nondenominational prayer, or if a dissatisfied citizen disagreed with the decision, would this type of action be appealable to the Federal courts?

Answer: The federal and state courts would have jurisdiction to prevent serious abuse here. The amendment does not in any way limit access to the courts for constitutional relief.

23. Question: What do you mean by "in part?" Is it a majority of the funds or any part, no matter how small?

Answer: Presumably, the expenditure of public funds would have to be significant in light of the overall expense of operating the institution in question. The provisions of the amendment would not be brought to bear by a merely trivial or insignificant governmental expenditure. The amendment is primarily aimed at truly public institutions such as public schools. It would apply, for example, to a public school even though part of that school's budget were met by a donation from a private foundation. If the school is public, the pupils will be allowed to pray. If the school is essentially private, even though it receives substantial public support, the amendment would not change their present status. At the present time, those schools are permitted to allow even sectarian prayers. When the amendment says "nothing contained in this Constitution shall abridge the right . . . to participate in nondenominational prayer," it does not change the present rule applicable to private schools, since neither nondenominational nor sectarian prayer is forbidden therein. What the amendment would do is to change the rule presently applicable to schools which are authentically public. In those schools, both nondenominational and sectarian prayer are now forbidden by the Supreme Court. The amendment would allow nondenominational prayer in those schools.

It is my hope these answers will resolve any doubts which you may have had with regard to H.J. Res. 191, and I look forward to your affirmative vote on November 8.

Very truly yours,

CHALMERS P. WYLIE,
Member of Congress.

[From the CONGRESSIONAL RECORD, Nov. 2, 1971]

NONDENOMINATIONAL PRAYER IN PUBLIC SCHOOLS

Mr. WYLIE. Mr. Speaker, because I know better, I have never given the slightest credence to the propaganda-style statements that the people of the United States as a whole are opposed to guaranteeing the right of nondenominational prayer to children in the public schools. I have always recognized that these statements are not the fact because of the tremendous volume of mail I receive, not just from my own district, my own State, but from all over the country, with respect to the proposal to amend the Constitution to guarantee this right that will be called up in this body on Monday next. A heavy preponderance of that mail favors the proposed amendment to correct what most people believe to be a wrong perpetrated by the Supreme Court.

But I am nonetheless happy at this time to be able to inform my colleagues that a poll taken by the National Enquirer—a weekly newspaper which now has the largest circulation of any newspaper in the United States—shows that 92.6 percent of those responding in a 2-week period are in favor of prayer in schools and of a constitutional amendment to guarantee that as a right.

This, Mr. Speaker, is no piddling poll, based on the opinion of a minuscule portion of our population. More than 50,000 persons took the trouble to respond to the Enquirer's poll—a great contrast with the 1,000 or 2,000 who are interviewed in the normal and widely published opinion polls. Every single poll taken since June 26, 1962, shows an increase in the number of Americans favoring a constitutional amendment on school prayer.

I am greatly impressed with the heavy margin favoring the school prayer amendment, I hope that my colleagues will—as representatives of all the people and not just special interest groups—be impressed also.

In this connection, I would like to say also that I think the National Enquirer has done a great public service by conducting this poll, and I would like to express my appreciation to Mr. Generoso Pope, Mr. Henry Dorman, and the other executives and editors of the National Enquirer for their interest and for their dedicated service in helping to determine, for the record, just how the people do feel about this urgent matter.

Mr. Speaker, both the North Carolina and South Carolina Baptist State Conventions have endorsed House Joint Resolution 191.

I include the following article:

[From the Wilmington (N.C.) Star-News, Oct. 31, 1971]

REVEREND ASBURY GOES TO WASHINGTON

The Rev. Claud L. Asbury, pastor of Gibson Avenue Baptist Church, will be in Washington, D.C., this week to lend his efforts for the adoption of the "Prayer Amendment to the U.S. Constitution."

The Rev. Mr. Asbury has been the chief instigator in obtaining actions by the Wilmington Baptist Association, North Carolina Baptist State Convention and South Carolina State Baptist Conventions in approving recommendations to Congress that voluntary prayer be permitted in the public schools in the nation.

A similar action was approved by the Southern Baptist Convention last summer in St. Louis, by passage of "The Asbury Resolution on Voluntary Prayer in the Public Schools."

The House of Representatives will consider "The Prayer Amendment" on Nov. 8.

"The intent of the Prayer Amendment, sponsored by Rep. Chalmers P. Wylie of Ohio," Mr. Asbury said, "is to clarify the right of every individual to participate in voluntary prayer in the public schools. Such clarification is needed in light of the 1962 Supreme Court ruling which states that even a voluntary, denominationally neutral prayer is unconstitutional.

"The Asbury Resolution has already been adopted by two Baptist State Conventions—by that of North Carolina with 3,449 churches and a membership of 1,023,147 persons, and by that of South Carolina with 1,599 churches and a membership of 587,304 persons."

Mr. Asbury said South Carolina adopted the resolution in 1964, while North Carolina adopted it in 1970. He said North Carolina has the second largest state convention in total churches, with only Texas being bigger.

Dr. Carl Bates, pastor of the First Church of Charlotte, is president of the Southern Baptist Convention.

"I'll need all your prayers and all the help we can get this week in Washington," Mr. Asbury added.

Mr. Speaker, with an introduction like this, it is my hope to convey to my colleagues the view held by many thoughtful Americans that our moral fiber has been degenerating basically due to a lessening of motivated spiritual deference. The one thing we have all learned with respect to the recent tumult of activated youth and responsive civil rights movements is that these group dynamics have come about due to forces like the rapidity of present living and loss of concern for the individual in a world fastly becoming overpopulated and highly segmented. Many who realize what has happened are attempting to reverse the trend and steer us on a course of concern for our fellow man and his individualistic needs through prayer.

The well-known and respected David Lawrence, editor of U.S. News & World Report, sums up this view quite succinctly, and I commend his editorial, which appeared in the Evening Star, for my colleagues' consideration:

[From the Washington Evening Star, Sept. 6, 1971]

WHAT UNITED STATES NEEDS IS PRAYER DAY

(By David Lawrence)

The American people every year have certain holidays, such as Labor Day or Independence Day or Veterans Day or Memorial Day. There is one special day on which public opinion needs to be focused, and that is the holding of a prayer day.

For America has more crime and acts of lawlessness and misbehavior than ever before in its history. This is a result of the indifference of parents to the irresponsible acts of early youth.

Many a person may have had some religious teaching, but it may have made little or no impression on his or her mind. Sometimes this leads to a disordered life, and in recent years this has been increased in intensity by the availability of drugs.

Under these circumstances, shouldn't the American people admit that they have a serious problem on their hands and begin to put more stress on what constitutes a law-abiding citizen and a dedication to the fundamental principles of a decent life?

All religions have some principles in common. There are universal commandments which say "thou shalt not steal" and "thou shall not kill." Yet these two commandments are being widely ignored today. There are demonstrations instead in favor of "liberty" and what is really "license." The individual believes he has a right to do as he pleases even if it hurts someone else.

The government, of course, cannot participate in any religious teachings. Students today are not allowed even to indulge in "voluntary prayers" on their own in a brief session before school begins each day. The courts have not yet decided whether, if such prayers are not prescribed by the school authorities and are merely chosen by the parents and accepted for use by the students, they are permissible.

Why should there not be manifestations by the citizens, for example, to persuade small groups of boys and girls to attend classes in ethics to be held after school?

There are numerous ways of educating the youth of the country in the rules of good behavior. In most instances, no objection would be raised if they were told that many religions exist in the world and that virtually every one of them is based on a belief in a supreme being. Emphasis could be placed on the fact that a vast number of citizens are members of some church, attend its services and live by its precepts.

The time has come for national organizations to take up the whole problem of how to encourage young people to become interested in learning the difference between the factors that have produced unhappiness and those that have created happy lives.

If the government would set aside one day each year as prayer day and express the hope that all people would attend church and pray for the unfortunate individuals in the world, it would at least make an impression on the minds of many of the young that there is a duty to be helpful to people who need assistance.

In recent years considerable attention has been paid to pornographic literature and plays and shows and dances with a sexual appeal. This has had an impact on the generation that is growing up.

Decency can be achieved only by bringing back a spiritual feeling and an unselfishness that takes into account the consequences of one's acts. This applies particularly to the tens of thousands and perhaps millions who come to think, either through watching some TV shows or other theatrical presentations, that killing is permissible and that robbing is a proper way to get money to buy drugs or to indulge other desires and live one's own life in utter disregard for the effect on other human beings.

The National Commission on the Causes and Prevention of Violence reported last year that violence on television encourages real violence, especially by children in poor or disorganized families. A new study by government researchers just issued states that average youngsters appear to show similar patterns of behavior.

Certainly if there were a prayer day, it might start a trend of thought toward a restoration of morality in a country where people, especially the young, steal property and violate the person of their fellow men and do not believe they are doing anything wrong. This is a psychological dilemma with which the nation is confronted today.

WHY THE PRAYER AMENDMENT?

In response to certain critics who feel the Supreme Court's verdict with respect to the offering of prayer in school should stand unequivocally—however uncertain and misleading—I offer the statement in

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an effort to state the present judicial opinion and clarify the need for a constitutional amendment to assure the constitutional privilege to say a voluntary nondenominational prayer in school if that is a child's choice.

WHY THE PRAYER AMENDMENT?

Our founding fathers wrote into the Declaration of Independence: "We are endowed by our Creator with certain unalienable rights . . ." The recognition of the Supreme Deity is the very foundation stone of our Democracy. To this end, prayers were said in schools, in community halls, in public buildings by groups assembled all across this great land of ours whenever the spirit moved them and I am sure, if they thought about it, the participants felt they were carrying out the precepts of our Declaration of Independence.

This was true for 186 years until the Engel case decided by the Supreme Court in 1962. There the Court held: "State officials may not compose an official state prayer and require that it be recited in the public schools of the state at the beginning of each day—even if the prayer is denominationally neutral and pupils who wish to do so may remain silent or be excused from the room while the prayer is being recited." The prayer in question was: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country."

I would accept that holding on its narrow limits. Although, I agree with Justice Stewart and think his opinion is more correct when he says: "On the contrary, I think that to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation."

The mischief of this decision was not, at first, apparent. It was rather what came after. The following year the Supreme Court decided Abington v. Schempp. There it held that a Pennsylvania statute which provided for compulsory reading of ten verses of the "Holy Bible" without comment as a part of the opening exercise in the public schools was unconstitutional.

In the Stein v. Oshinsky decision in 1965, the Supreme Court had a beautiful opportunity to clarify this whole situation. But, the court denied certiorari leaving the Court of Appeals' decision to stand. There students had asked to be allowed to initiate a prayer period on their own for those who wished to participate. The principal refused. A group of parents brought action to enjoin school officials from preventing the recitation of prayers on the children's initiation. The court held: "The constitutional rights to free exercise of religion and to freedom of speech do not require a state to permit 'student-initiated' prayers in public schools, the Court of Appeals would direct judgment dismissing the complaint." The prayer they recited: "Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything."

Three years later, in DeSpain v. DeKalb, a federal court of appeals ruled that a teacher could not recite this ancient prayer, even if she left out the word God to comply with the Stein decision, "We thank you for the flowers so sweet; We thank you for the food we eat; We thank you for the birds that sing; We thank you for everything," leaving out the word God. The court said everyone knows what "you" means and the "intent is to offer thanks to God."

To show how far the courts have gone they said in that opinion, "It is not to be gainsaid that the verse may have commendable virtues in teaching kindergarten children 'good manners' and 'gratitude,' to use Mrs. Watne's words. In fact, however, that children through the use of required schoolroom prayer are likely to become more grateful for the things they receive or that they may become better citizens does not justify the use of compulsory prayer in our public school systems. As the plaintiffs point out, if prayers which tend to teach and inculcate these virtues are not within the ambit of the bar imposed by the first amendment against such religious activity, any religious activity of whatever nature could be justified by public officials on the basis that the activity has beneficial secular purposes; as a result the Supreme Court's admonitions in Engel and Schempp would become meaningless."

All of the decisions seem to say, if you recognize the Supreme Deity in any way in a public school, you are doing an unconstitutional act. If they do, we need a constitutional amendment to assure that my constitutional privilege to say a voluntary nondenominational prayer in a public building shall not be abridged.

If they say something less, then this amendment is an assurance there will be no further encroachment on this basic precept in our constitution, that we are endowed by our Creator with certain inalienable rights and the recognition thereof. Additionally, the 80% of the American people who feel they have been frustrated in a basic constitutional right will feel the Constitution is to protect them too.

REPORT FROM CALIFORNIA REGARDING THE PRAYER AMENDMENT

(Hon. CHALMERS P. WYLIE of Ohio)

By way of introduction of Mr. George Todt, the gentleman who composed the following article which I feel merits my colleagues' attention, I would like to state some of Mr. Todt's credentials. Presently, Mr. Todt is serving as President of the American Center for Education. His skills include recognition as an editorial columnist, commentator and lecturer. Mr. Todt's reports are carried in over 130 newspapers across the country and his column has received the George Washington Honor Medal from the Freedoms Foundation at Valley Forge on several occasions, as well as its first Special Freedom Leadership Award for 1962. This is the highest honor Freedoms Foundation has given a member of the mass communications media—press, radio or television—in its long and eventful history. Mr. Todt, as you will note, has been working assiduously with Mr. Sam Cavnar, a well renowned leader of the prayer movement.

[From the Valley (Calif.) News, Oct. 31, 1971]

GROUPS PUSHING PROJECT PRAYER

(By George Todt)

"Thank you for your letter supporting my Prayer Amendment to the Constitution. Sam Cavnar is a fine gentleman. As chairman of 'Project Prayer' his assistance on behalf of the Prayer Amendment campaign has been invaluable."

Congressman Chalmers P. Wylie (R-Ohio.)—Letter, Oct. 20, 1971.

How are Prayer Amendment forces doing in the battle now taking place throughout the nation prior to the scheduled "go for broke" vote on Nov. 8 in the House of Representatives?

In order to zero in on pertinent information regarding this matter, I questioned the national general chairman of Project Prayer on some of the vital issues. He is Samuel M. Cavnar, who is also vice president and treasurer of the American Center for Education in Hollywood.

GIVES WARNING

"We of Project Prayer totally refute the allegations of the liberal leadership of the National Council of Churches that their 40 million members are against voluntary school prayer," he told me. "To back up our contention, we proudly announce that more than 50,000 additional churches have gone on record as favoring voluntary school prayer.

"Some 38,000 churches of the National Evangelical Association, representing 30 denominations, have joined our effort. Also, the American Council of Christian Churches of Southern California and thousands of individual church leaders—including Dr. Harold Fickett of the First Baptist Church of Van Nuys, largest Baptist church in the West; Rabbi Judah Glasner of Tujunga, Dr. William Meyer of the Emanuel Presbyterian Church, thousands of lay groups of the Catholic Church, including Knights of Columbus and Women's Guild units, have offered their help."

But Cavnar warned against over-confidence and complacency.

He pointed out frankly the battle is far from over and has not yet been won in Congress where the Nov. 8 showdown vote is crucial.

While a plain majority-plus-one consisting of 218 congressmen signed the discharge petition of Congressman Chalmers Wylie (R-Ohio), which took the matter out of the hands of the long-stalling judiciary committee headed by Congressman Emanuel Celler (D-N.Y.), the Nov. 18 vote must have the approval of two-thirds of those present and voting. Much harder than a mere simple majority. Will it be done?

Of the 38 California congressmen, Cavnar noted that only 11 signed the vital discharge petition and all were Republicans.

"This does not mean California Democrats in Congress are against the measure," he said, "but it does mean they need to know where the voters of their own districts stand so they can make their decisions accordingly. We strongly suggest that all interested persons contact their own congressman immediately and let him know whether they are for or against this voluntary school prayer amendment."

TELLS SITUATION

In response to my query, Cavnar told me the over-all congressional support to force the Prayer Amendment out of the judiciary committee had been bi-partisan in nature. Some 118 Republicans were joined by 100 Democrats to accomplish the objective.

He pointed out also that the timely arrival of so many new church leaders to assist Project Prayer now only indicates that the leadership is catching up with the membership as far as going on record in favor of voluntary school prayer.

"All of the major national polling organizations have shown consistently at least a 3-to-1 favorable ratio among the general public over the past nine years," he said. "Now we must translate this favorable margin of public opinion into a winning vote in Congress. Many fine supporters have become apathetic or complacent because they assume nobody would vote against God. Hopefully not; but other issues may be involved. We must continue our outstanding grass roots mail campaign right down to the wire."

Further information may be obtained by writing to Pat Boone, national chairman, Project Prayer, 1680 N. Vine St., Hollywood, Cal. 90028 or telephoning (213) 466-6339 or (213) 461-3225.

THE RIGHT OF PRAYERS IN SCHOOLS

Striking back at opponents of his proposed constitutional amendment to guarantee the right of prayers in schools, Representative Chalmers P. Wylie (R-Ohio) today accused its critics of "total ignorance of the will of a majority of the people."

Wylie, who successfully led a drive to force the proposed amendment out of the House Judiciary Committee, said in a House speech that, despite organized opposition, "the people of the United States are determined to have their own way on this issue."

The proposed amendment will be called up to the House floor on November 8 as a privileged matter, under rules governing consideration of legislation taken from a committee by a discharge petition signed by a majority of members. A two-thirds majority of the House, however, will be necessary to advance the proposed amendment to the Senate. The House has never voted on the issue because of the adamant opposition of Judiciary Committee Chairman Emanuel Celler (D-New York).

Since Wylie succeeded in by-passing Celler and his committee, "a strange lobby of church leaders and Members of Congress has jointed in to fight this amendment," the Congressman said. "I do not question the sincerity nor the motives of those who oppose it, but I say unequivocally that they are misinformed about the meaning of this amendment and are guilty of not recognising that in a democracy the people govern. They act in apparent total ignorance of the will of a majority of the people."

The text of Wylie's remarks on the Floor follows:

"It is difficult for me to understand certain ministers, of all people, who are opposed to a constitutional amendment which would guarantee the right of prayer in public schools. Not all ministers are opposed to the amendment. I have received letters from many more than 38 who favor it. I do not question the sincerity nor the motives of those who oppose it, but I say unequivocally that they are misinformed about the meaning of this amendment and are guilty of not recognizing that in a democracy, the people govern. They act in apparent total ignorance of the will of a majority of the people. The people of the United States are determined to have their way on this issue.

"On the one hand, it is suggested that the amendment would allow for no more than can be done now in public schools. If this be the case, then the amendment is needed to see that there is no further erosion of this basic fundamental right. On the other hand, opposition has been expressed that because of the separation of church and state argument prayer should not be allowed in schools.

"There has not been a single case decided since the *Engel* case in 1962 which has permitted any practice which would indicate a tolerance toward voluntary prayer in public schools. In one case after another, students have been prevented from reading a voluntary prayer, from reading prayers from the Congressional Record, from singing the last verse of "America" because it mentions God, and—yes—even from saying the Pledge of Allegiance because of the phrase 'one nation, under God.'

"In a democracy, the people govern. I noted in the Congressional Record for October 19, 1971, a statement by the Honorable J. Glenn Beall, Jr., Senator from Maryland, in which he publishes the results of polls on this issue beginning in August 1962 through February 1971. The results of these polls show that from 73 percent to 91.5 percent of the American people overwhelmingly favor the civil right of free school prayer, depending on the form of the question. In my own hometown of Columbus, Ohio, said to be a typical American community, a poll taken by ABC–TV on this question revealed that 91.5 percent said prayer should be permitted in public schools.

"In the same edition of the Congressional Record, Senator Hugh Scott refers to a petition containing signatures of 5,000 residents from Bedford and Everett, Pennsylvania, in support of a proposed constitutional amendment to allow voluntary prayer and Bible reading in public schools. Senator Scott says: 'I was particularly heartened to learn that this wonderful expression of support was due in large part to the efforts of David Crawford, a 17-year-old student from Everett High School.'

"The people of the United States are determined to have their way on this issue as evidenced by the thousands of letters and petitions which I have received in my office since I filed the discharge petition."

WASHINGTON POST EDITORIAL ON PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, on Nov. 3rd in the Washington Post, an editorial appeared entitled "The Debate Over the Prayer Amendment." I would like to take this opportunity to commend the Washington Post for its objectivity in reporting the status of the prayer amendment. However, at the same time, I would like to clarify the word "nondenominational," over which many members of this body have expressed concern.

"Non" means absence of, according to Webster's Seventh New Collegiate Dictionary. Under "denominational" in the same dictionary, "denominational" is defined as the general name for a category of a religious organization uniting in a single, legal and administrative body. So "nondenominational" would mean not the designation of a religion or absence of a religion. Taken in common meaning, "nondenominational" means, to me at least, without reference to a particular religious faith or sect.

Mr. Speaker, I respectfully request unanimous consent to insert this editorial.

THE DEBATE OVER THE PRAYER AMENDMENT

We have been reading the Appendix of the Congressional Record with some care lately because in among the miscellaneous documents printed there a debate has been raging over the proposed prayer amendment to the Constitution. It is a fascinating debate, not only because it involves a crucial aspect of American life and a key part of the Constitution but because it cuts across and through religious lines like almost nothing we have ever seen.

This amendment, after being pried out of the House Judiciary Committee on a discharge petition, comes to a vote in the House on Nov. 8. It says, "Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer." There is a great deal to be said about this proposed amendment—its intent, the problem it seeks to solve, the problems it raises, and even its wording. But for the moment we want to pass all that by merely reporting on how the battle lines in that debate are forming.

Many, perhaps most, of the national religious organizations and leaders are opposed to the amendment. Statements of opposition have been made by such diverse groups as the Church of the Brethren, Executive Council of the Episcopal Church, General Board of Christian Social Concerns of the United Methodist Church, Joint Advisory Committee of the Synagogue Council of America, and the Executive Council of the United Church of Christ. Similar statements have been signed by the presidents or chief executive officers of the National Baptist Convention, Southern Baptist Convention, the United Presbyterian Church, and the Scottish Rite of Freemasonry. Editorials opposing the amendment have appeared in three major religious publications—Christianity Today, Christian Century, and America, the latter being the magazine of the Jesuits.

But it is quite clear that these leaders and organizations do not speak for all of those back home. One congressman expressed amasement that the president of the Southern Baptist Convention now opposes the amendment after seeming to concur a year ago when the North Carolina Baptist State Convention passed a resolution in favor of it. That is only one example out of many of such splits inside denominations. In the last few days, we have spotted in the Record communications from the following groups: United Methodist Church of Shickshinny, Pa., Good Shepherd Lutheran Church of Toledo, Ohio, School Committee of Cambrige, Mass., 321 students at Fort Wayne (Ind.) Bible College, and the New Jersey Fellowship of Regular Baptist Churches. In addition, support for the amendment has been registered by several individuals, a minister of the United Church of Christ in Cuyahoga Falls, Ohio, and a professor of law at Notre Dame.

This division among religious groups and leaders suggests to us, at least, the problems that arise any time a proposal is made concerning the proper relationship of church and state—which may also suggest why it is so important for the state to maintain its distance from the sponsorship of religious practices, even the "nondenominational" kind. But that gets to the merits of this amendment and, as we said, we will put that off for another day.

GRASSROOTS SUPPORT

Mr. Speaker, I request unanimous consent to insert the following news clippings which express more grassroots support for House Joint Resolution 191:

How distressed I am to read articles such as the one on "House Petition Forces School Praying to Vote." Personally, I pray that the amendment to put prayer back in the public schools will pass, and immediately.

We are a nation quick to forget our values. We hassle over such technicalities as defining nondenominational prayer, while prayer has never been denominational—it is a simple, sincere desire of the heart of man. Unlike other forces, its power is limitless. Therefore, prayer belongs not only in the schools, but in the church and home. Our daily lives should be those of constant prayer.

The proposals, voting, amending, and legislating take our time and attention. Yet, when our three astronauts were in serious trouble in outer space, no one proposed or voted to call us us to prayer. President Nixon immediately called the entire nation to seek God on their behalf. Surely this was nondenominational prayer and whether we believe it or not, it worked.

Aimlessly, we wander through procedures and regulations, making such statements as the one made by Rep. Emanuel Celler, D-N.Y., that to approve prayer in the public schools would be a "most grave error"; attributing to the eight years our schools have orbited in the tragic stratosphere of trouble, revolt and prejudices—while our future America, (your children and mine) is at stake. . . .

REV. WILLIAM T. SAWYER,
Christian Tabernacle Baptist Church.

FREEDOM TO CHOOSE

The stand against school prayers, in a Plain Dealer editorial, surprised this reader. It said: "The school pupil who would decline to pray might be scorned . . . the majority would be attempting to make the minority conform." I doubt that any child would be scorned, since we all believe in individuality and freedom of expression. Besides, even the minority would benefit if God answered the prayers of the majority, thereby helping to create a better world for all mankind. I also thought that the majority rules. The conclusion was: "Respect for religious liberty is one of the things that made America great." Was not God taught, along with reading, writing, and arithmetic, during colonial days? Was there not more love and respect for one's fellowman? Only God can ever cure society's ills . . . let's reach out to him, using any or all means.

MARIE SEIFFER.

Mr. Speaker, the overwhelming amount of correspondence I have received with regard to House Joint

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Resolution 191, an amendment to permit nondenominational prayer in public buildings, has indicated broad citizen support for such a measure. One citizen group, Pennsylvania Citizens for Public Prayer, has sent me an article which I feel elaborates on the fundamental principles involved with the prayer amendment. As this question-answer article explains, and I agree, the proposed amendment seeks to eliminate the confusion that the courts have created through their misinterpretation of the Constitution.

The astute answers and logical reasons the article presents in support of House Joint Resolution 191 merit the attention of my colleagues.

QUESTIONS AND ANSWERS ON THE CIVIL RIGHT OF FREE SCHOOL PRAYER

(Distributed by the Pennsylvania Citizens for Public Prayer, Chairman: Chester R. Doyle, Berwick, Pa.)

1. *The First Amendment to the Constitution is involved here. What does it say?*

It says two things. First, government must not establish, that is support and/or promote any particular religion; second, government must not interfere with the free exercise of religion on the part of its citizens.

2. *Does the First Amendment deny the right of free prayer in public schools?*

As originally written and interpreted with common sense, for many decades, the First Amendment to the Constitution does not deny the right of free, non-sectarian prayer in public schools. Public reverence is a matter of very long and very general record in the history of these United States. At the time the Supreme Court banned free prayer from the public schools of New York State on June 25, 1962, the majority of public school districts across America provided time for free school prayer.

3. *Why, then, is it now proposed that the First Amendment itself be amended?*

While there is nothing wrong with the First Amendment as written, once the Supreme Court intervenes to mis-interpret that Amendment, as it did in its two prayer-ban decisions, it becomes necessary to repeal this mis-interpretation and restore the First Amendment to its original sense. This restoration is *not an attack on the First Amendment, but rather a defense and a re-affirmation of it.* It is not a question of repealing or tampering with the First Amendment. The Court has already done this. It is a question of clarifying that Amendment so that it is in accord with the clear will of the nation. It is not those of us who advocate a peoples' amendment for public prayer who open a Pandora's box here but the Court which, ignoring the common sense of the First Amendment has already done so.

4. *Are you attacking the Supreme Court?*

We attack neither the institution nor the persons of the Court. Simply, with full democratic right, we question the two prayer-ban decisions. We believe, with Mr. Justice Stewart, that "the Court has misapplied a great constitutional principle." We do no more here than Abraham Lincoln did when, more than a century ago, he questioned the Dred Scott decision in these words: when all the words, the collateral matter was cleared away from it, all the chaff was fanned out of it, it was a bare absurdity . . . The Dred Scott decision covers the whole ground, and while it occupies it, there is no room for the shadow of a starved pigeon to occupy the same ground.

While no two cases are, of course, perfectly analagous, our dissent from the majority opinion of the Court in its two prayer-ban decisions is based, as was Lincoln's to Dred Scott on two counts—(a) whatever the obiter dicta (or incidental remarks) the deed of the decisions, the rationale of the decisions is very seriously wrong, (b) so long as the decisions stand no practise of public reverence among us is safe.

5. *What, in fact, did the Court do in its two prayer-ban decisions?*

Briefly, on June 25, 1962 and on June 17, 1963, the Court widened the First Amendment prohibition against government support of a particular sect or church (e.g. Roman Catholicism, Episcopalianism, Reform Judaism) to include government encouragement of free, non-sectarian prayer and other religious exercises in the public school. In its first decision, the majority of the Court said—"Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment clause." In its second decision, the Court said that even to question that the First Amendment meant reverence as such, rather than government support of a particular sect or church, is "entirely untenable and of value only as academic exercises." This kind of interpretation of the First Amendment is very clearly *fundamental.* It is not incidental. It is not isolated. It states *a principle which must affect all future Court decisions in matters falling under the purview of the First Amendment.* As the former Dean of Union Theological Seminary, Henry P. Van Dusen, put it:

The corollary in both law and logic of the Supreme Court's recent interdictions is inescapable, prohibition of the affirmative recognition and collaboration by government at all levels with all organs of religion in all relationships and circumstances. A consistent application of such a policy would involve a revolution in the Nation's habitual practice in the matter of religion . . . *Nothing less than this is at stake.*

6. *What did the Court, specifically, do in its two prayer-ban decisions?*

In 1962 the Court banned this prayer from New York State public schools:

Almighty God, we acknowledge our dependence upon Thee and we ask Thy blessings upon us, our parents, our teachers and our country.

Eleven of the thirteen judges who passed on the case before it reached the Court had ruled that the prayer was constitutional. Attorney Generals from nineteen States had intervened to support this constitutionality saying, in part:

Our founding fathers, together with the great and God-fearing leaders of the last century and a half, would be profoundly shocked were they to have been told in their day that in this year of our Lord . . . a voluntary, nondenominational acknowledgement of a Supreme Being and a petition for His blessings recited by American children in their classrooms is being seriously attacked as a violation of the Constitution of the United States.

In 1963, the Court banned reading of the Lord's prayer and parts of the Bible from public schools in Maryland and Pennsylvania. In each instance, by state law, no pupil was required to recite the prayer who wished to be excused, no teacher to lead it who wished to be excused. Remember, *the issue throughout is religion, an upreach of heart and mind to God, not what some call "teaching about religion."*

7. *Did not the Court, in its 1962 decision, say that the prayer in question had been state-composed and state-imposed and was, therefore, unconstitutional?*

It did, but this was a misunderstanding of both the situation and the principle involved. At the request of the Board of Regents of the State of New York, a representative group of religious leaders composed a prayer which was then made available to school administrators across the State. This prayer was no more state-composed or state-imposed than is the case in any instance where government seeks and uses the advice of relevant experts (e.g. engineers on highway construction, doctors on mental health) to meet the will of the people government serves. In short, we have here a perfect example of the *principle of subsidiarity.* Government does for families and individuals what they cannot accomplish in the dimension and place desired by themselves. When, in 1951, the Board of Regents of the State of New York enabled the beautiful prayer above, they did so with these words:

We believe that thus the school will fulfill its high funotion of supplementing the training of the home, ever intensifying in the child that love for God, for parents, and for home which is the mark of true character-training and the sure guarantee of a country's welfare.

8. *Did not the Court, in both decisions, go to considerable lengths to assure that it was not hostile to religion, and that we remain "a religious people?"*

There were here, as there are in most court decisions, many incidental remarks, pleasant phrases that do not express the heart of the decision, "obiter dicta." As noted in the answer to question #4 above, the deed of these decisions is absurd. No matter how many incidental assurances the Court may give (and for incidental remarks the other way see Mr. Justice Douglas' concurring opinion in the second decision) the fact is clear—these decisions place all public reverence in danger. We have a rather perfect example here of what you do thunders so loud I can't hear what you say. Progression from and use of the two prayer-ban decisions in attacks on other instances of public reverence (e.g. the 1968 Christmas prayer of the astronauts, the 1969 Peace Pageant in Washington, D.C.) make it more than clear that these decisions were not isolated or terminal but the very critical start of what could be a series of creeping secularisms. Whatever the innuendoes in the decisions, whatever stands between parentheses, *religion is very evidently no longer constitutionally welcome in our public schools.* Again, the subject is religion not "teaching about religion."

9. *There are those who argue that religion is still possible in schools. Do you agree?*

This is a question which must be very carefully considered and answered. At the start it must be stressed that *many (if not most) of those who argue in this fashion are actively opposing or, at least, minimizing the drive for a Peoples' Amendment for Public Prayer.* We call their line the Argument from Substitution. There are two key factors in our response to it. One is the factor of timing, the other is the factor of recognition of the radical precedent in the two prayer-ban decisions, a precedent which no amount of substitution will eradicate. *Timing.* Once the decisions have been fundamentally reversed, then it is time to ponder the whole matter of spirit and moral content in our public schools. Until then, *the substitutors are suggesting we band-aid a cancer.* They are suggesting we accept seemingly valid alternatives which, as we shall note, are often not valid alternatives at all and which do precisely nothing to root out the basic error of the decisions. The very first question to ask a substitutor is—*Do you, or do you not, favor a prayer amendment?* Many of the substitutors' proposals are void of any reverence (i.e. God as dates, works of art, which Pope ruled when, who reformed what where). Many have no affective content about them (e.g. the Bible as literature period), no collective brotherhood about them (e.g. silent meditation). The closer any of them comes to being real brotherhood in prayer, the more likely it is that it will be challenged and struck down by courts operating under the compulsion of prayer-ban illogic. *Recognition of the root of evil.* Some things may still be possible in our schools, but to press them while allowing the deadly virus of two prayer-ban decisions to fester is folly of very serious dimensions. *The argument from substitution is particularly dangerous* and must be watched carefully. While seeming to favor it, in fact it opposes and undercuts our cause. *Any film, article, or organization which advances the argument from substitution and does not clearly and repeatedly call for a prayer amendment is suspect and is working against us.*

10. *Why is it important to reverse the decisions? Briefly what did they do?*

a. *They denied a great and good practice,* a brotherhood of free prayer which had existed with a maximum of good sense and a minimum of mistakes in most of our school districts.

b. They created a precedent equating establishment in the First Amendment with reverence, though in each of the cases decided the prayer was non-denominational and voluntary. In terms of this precedent no practise of public reverence is now safe. At the same time, *all future decisions under the First Amendment are now tainted at the source.*

c. What happend in the effort constitutionally to reverse the Court is an almost unbelievable denial of the democratic process. Until September 21, 1971 when a successful "discharge petition" broke the back of the Celler blockade and forced a prayer amendment proposed by Congressman Chalmers P. Wylie (Ohio) to the House floor, despite repeated and "king size mails" to Congress, and in the face of poll after poll indicating that the massive majority of the American people want free prayer restored to their public school, there had not been one single *normal* floor vote on a prayer amendment bill in either chamber of the Congress. What is at stake, clearly, in addition to the civil right of free prayer is democracy itself. If the will of such a proven majority of the nation could break through to the floor only through the extremely unusual device of a successful discharge petition, then democracy itself is in danger.

11. *Is there an even larger sense in which a Peoples' Amendment for Public Prayer is now essential?*

There most certainly is. Indeed there has never been a time since Washington prayed in the snows of Valley Forge when we so much need again *a Nation on its Knees!* We are daily buffetted with evidence of arrogance, sex-ism, dope-ism, immorality and flagrant indecency among us. The school prayer issue, when it is debated in fifty states as we ponder a Peoples' Amendment for Public Prayer, could be a critical first step in the recovery of our spirit as *a reverent republic.* Here is how the National Coordinator of Citizens for Public Prayer put it at Harrisburg, Pennsylvania, on July 10, 1969:

America today is in deep and big trouble. I need not stress the suffering and angry poor, the anarchy, the lawlessness, the tragic syndrome of escape from responsibility through drugs, the filth in some of our theaters and on some of our stages. Nor do I come here to suggest that returning the civil right of free prayer to our children will all at once change everything. I do suggest that the fight for renewal of this civil right can become a great rallying point for those who, like us, stand outraged before the rot which spreads through the nation!

There is given to men now and then some relatively simple moment or symbol or place in which a number of complex and important things gather and at which a comprehensive remedy for multiple wrongs is clarified. Such a symbol was the penny on the pound of tea in Boston two hundred years ago. Such moments came at Valley Forge. Such places are Thermopylae and, perhaps, Stalingrad, surely at the Concord Bridge. There are in these times and things the symbolism and power to move whole peoples. *This kind of moment is now possible.*

This kind of moment is now before us as we fight to enable a vote in fifty states on a Peoples' Amendment for Public Prayer. Make no mistake. The national debate over a clarifying amendment to repeal the two tragic Supreme Court prayer ban decisions of 1962 and 1963 will not stop with the morning moment, the brotherhood of free prayer in our public schools. Involved will be the whole critical issue of God's role among us. Involved will be highly important ingredients of respect and reverence, our good traditions since the Pilgrims signed the Mayflower Compact "in the name of God," that supreme Fatherhood which makes all our brotherhood meaningful. Involved, in fact, may be the very survival of the democratic process. *Here is a place to take our stand explicitly once again* as a reverent republic and to recoup our collective sanity by re-asserting our national spirit.

12. *What wording do you suggest for this Peoples' Amendment for Public Prayer?*

Various wordings are, of course, possible. None will be easy to come by, none will be perfect, but *with reasonable ecumenism and good will on all sides, we can find the right words.* In any case, we have never shied away from critical issues before our national conscience just because it was difficult to say their solution in law. Whatever wording is decided here must be very carefully and prayerfully conceived so that it accommodates the will of the great majority of our people, while safeguarding as much freedom of abstention and silence to the minority as is consistent with the paramount will. But a wording must be decided. To avoid the matter because its semantics is complex is to deny the nation a remedy it obviously desires and to promote increasing civil disobedience in the subject area. Here is the text of the Wylie amendment:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer.

Much has been made already of the adjective "nondenominational", in many cases by those who did absolutely nothing during the long months when amendment proposals remained blocked in the Senate Constitutional Amendments Subcommittee (Chairman Birch Bayh) and the House Judiciary Committee (Chairman Emanuel Celler) to assist in finding perfect words to say what the people so clearly demand. For many decades in most of our school districts, the American people practiced the free brotherhood of prayer—with a minimum of mistake and a maximum of common sense. Surely this is possible again. Surely, in this age of good feelings among all religious groups, it should be possible—as never before—to come up with words which reasonably accommodate the need. What is essential, as in all civil rights, is that a principle be established. Once this principle has been established, then we must wrestle with wording and implementation. It is abundantly evident that many of those who raise the issue of semantics here before the principle of a reinstated civil right of free school prayer has been established do so to defeat the principle itself. Let's call a spade a spade. The same people, if they are true to their position here, must rise to question every piece of civil rights legislation simply because universally acceptable language is hard to find and implementation is difficult!

13. *What about school districts which defy the Court and re-institute free school Prayer—like Leyden, Massachusetts; Fair Chance, Pennsylvania; Netoong, New Jersey?*

First and foremost, they demonstrate that the subject is not dead and that honest Americans, are concerned enough about it to risk technical illegality. There are two kinds of defiance. One occurs in states where the Court's ruling is ignored by educational authorities. Residents of such states, however, must not deceive themselves into a false sense of security. They may, and very likely will, be challenged. They, too, should join now in the National Prayer Amendment effort. The second occurs in states where the local school board, providing for free prayer, comes into conflict with state educational authorities and such groups as the (so-called) Civil Liberties Union. We do not, of course, favor breaking the law. But there is much more involved here. We do understand civil disobedience when practiced responsibly. And this is clearly *a highly responsible instance of civil disobedience.* School districts which thus defy the Court are saying—we've had enough, we've waited more than seven years. These are frustrated but plainly honest citizens. They are not outlaws.

They are not desperadoes. The challenge here, as in the instance of urban riots, is not to condemn the abrasiveness so much as to remove the causes which transform peaceful citizens into civil disobedients. The challenge before those who are honestly concerned for "civil liberties" is rather to break the incredible denial of democracy in the Congress in the case of school prayer, rather than to fulminate against the decent citizens of defiant school boards. Those who are scandalized by technical law-breaking in such communities as Clairton, Pennsylvania and Leyden, Massachusetts and then do nothing to make it legally possible for school boards to do what the great majority of their constituents clearly desire are, at best, hypocritical. The greater sin, surely, lies with the apathetic mass of parents than with parents of the praying few, with the silent clergy rather than with defiant school boards, with those who while promoting "civil liberty" and preaching "the democratic process" deny civil liberty to the great majority of American parents and do absolutely nothing to vindicate the democratic process on this matter in the Congress!

14. *What about "religious leaders" who oppose a prayer amendment?*

Many real religious leaders do support the civil right of free school prayer. Among them are: the National Association of Evangelicals, the National Council of Catholic Youth, Dr. Billy Graham, Patrick Cardinal O'Boyle, Bishop Fulton Sheen, the North Carolina Baptist Convention, the South Carolina Baptist Convention, the Orthodox Greek Diocese of North America, the Diocesan Council of Catholic Women in Buffalo, the Diocesan Council of Catholic Women in Pittsburgh, the Diocesan Council of Catholic Women in Worcester (Mass.), Bishop Bernard J. Flanagan of Worcester, Professor Charles E. Rice (Notre Dame Law School.) Most of the other so-called "religious leaders" who oppose amendment are indeed generals without armies.

They do not have the support even of their own congregations. As the response to the next question will demonstrate, they do not speak for the American people. By the law of averages, they do not—in most cases—speak for their own denominational members. The noise and mimeo handouts of these generals without armies must not be permitted to obscure the hard reality—despite the tactics of these leaders who do not lead the American people have for more than nine years seen through the attempt to deceive them and remain convinced that free school prayer is important and wholly consonant with the Constitution. In fact, one of the most interesting aspects of the entire prayer amendment drive is the credibility gap which has opened between the American people everywhere and many of their so-called "religious leaders." Americans simply cannot be convinced that a practice which obtained in most of our school districts for many good decades has suddenly become divisive and harmful,

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much less unconstitutional. Those who try to tell them differently have already lost their trust.

15. *What do the polls show?*

Here are a few results:

A. Gallup (Aug. '62) Do you approve of religious observances in public schools? Approve—80% Disapprove—14% No Opinion—6%

B. Harris (Oct. 1964) 80% of the American people support free school prayer.

C. ABC–TV special—Poll of Columbus, Ohio, as typical American city (announced December 28, 1970) Should prayers be permitted in public schools? Yes 91.5%, No. 7.3% No Opinion 2.1%

D. On the ballot in Maryland (November 3, 1970) was a question on school prayer. 73% (409,050) voted yes; 27% (152,706) voted no.

E. A national poll conducted for the Advocates by Opinion Research of Princeton, NJ, in January, February 1971 showed 80% for a constitutional prayer amendment, 12% against, 4% undecided, 4% don't know.

F. The latest Congressional home district poll available to us (Congressman J. Irving Whalley, Penna.) announced on July 21, 1971 showed 94% in favor of school prayer, 4% opposed and 2% uncertain.

Mr. Speaker, as further indication of public support for House Joint Resolution 191, the amendment to permit nondenominational prayer in public buildings, I commend to my colleagues' attention a telegram I received in behalf of 2,700 Vermont Catholic Daughters of America endorsing the amendment.

SOUTH ROYALTON, VT.

Hon. CHALMERS WYLIE,
House of Representatives,
Washington, D.C.

DEAR MR. WYLIE: On behalf of the 2,700 Vermont Catholic Daughters of America, we heartily endorse your proposed amendment H.J. Res. 191.

Fraternally,

MRS. ANN AHER,
State Regent.

Mr. Speaker, on October 2, 1971, there appeared an article in Human Events entitled "House To Vote on School Prayer."

I hereby commend the article to the attention of my colleagues as we will be voting on this very important issue on Monday. I request unanimous consent for the article to appear herein:

[From Human Events, Oct. 2, 1971]

HOUSE TO VOTE ON SCHOOL PRAYER

As forecast by Human Events (Sept. 18, 1971, page 5), the House has forced crusty Judiciary Committee Chairman Emanuel Celler (D.-N.Y.) to release his strangehold on the constitutional amendment to put voluntary prayer back in the nation's public schools.

Exhausting all other means of persuading the 83-year old liberal solon to send the prayer resolution before the House, Rep. Chalmers Wylie (R.-Ohio) introduced Discharge Petition 1 last April 1, which, when signed by a majority (218) of the House members last week, wrested the measure from the Gotham chairman's grasp.

The five-month campaign for approval of the discharge petition ended when three congressmen—Jerry L. Pettis (R.-Calif.), Floyd V. Hicks (D.-Wash.) and Charles J. Carney (D.-Ohio)—added their written endorsements to the Wylie list, thus clearing the way for a full House vote on prayer in schools.

The prayer amendment is a result of 1962 and 1963 Supreme Court decisions which virtually banned religious ceremonies in publicly supported schools. The court in two celebrated cases held Bible reading and prayers—even nondenominational—in the public schools violated the 1st and 14th Amendment to the U.S. Constitution.

In the wake of those decrees, some 150 prayer resolutions were placed in the hopper, but all were blocked by Celler in his committee. In 1964 Celler held hearings on the prayer amendments, but none of the measures ever reached the floor of the House for debate.

Under House rules, action on discharge petitions can only occur on the second and fourth Mondays of the month, after the bill has been on the calendar for a seven-day period. The first two such days on the Wylie petition are both recess days—Oct. 11 (Columbus Day) and Oct. 25 (Veterans' Day). Therefore the vote is expected to come up Nov. 8, the second Monday in November. Organizations—pro and con—are already stirring up public reaction in attempts to gain victory for their side, and the battle taking shape promises to be hard-fought encounter.

Two weeks ago, 38 officials of national religious groups launched an anti-school prayer campaign by mailing a statement of opposition to every congressman's office. This coalition claims the prayer amendment would lead to government intrusion in religious matters. Among those who subscribe to this theory are officers of the American Baptist Convention, the Southern Baptist Convention, the Executive Council of the Episcopal Church, the National Council of Churches, the American Jewish Congress, the United Presbyterian Church, the United Methodist Church, the Friends Committee on National Legislation, the Church of the Brethren and the Unitarian Universalist Association.

Despite the impressive list of names, however, there are many critics of these officials who believe they are not representing their constituents.

"Every public opinion poll," said Wylie, "shows that an overwhelming majority of the people support an amendment to the Constitution which would permit the offering of prayer in public buildings."

Furthermore, according to the Citizens for Public Prayer, a pro-amendment organization with chairmen in 42 states: "'Religious leaders' who oppose a carefully worded prayer amendment are in most cases, we are certain from our long experience of the situation, generals without armies."

As evidence, the committee notes:

In November 1970, 73 per cent of Maryland voters cast ballots in favor of school prayer in an official election referendum.

Congressional polls of constituents have shown overwhelming support of voluntary prayer in public schools. When Rep. Irving Whalley (R.-Pa.) polled his district's voters this July, 94 per cent approved of prayer in schools.

In January and February 1971, an Opinion Research poll conducting a survey for the TV program "The Advocates," showed upwards of 80 per cent nationwide were in support of school prayer with majorities in each of the major faith groups.

Polls by Gallup, Harris and *Good Housekeeping* magazine, as well as many local and regional news shows, mirrored this high percentage of public support for school prayer.

Besides the Citizens for Public Prayer, there have been quite a number of various ad hoc pro-prayer amendment groups since 1962. One in particular is Mrs. Ben Ruhlin's Prayer Campaign Committee, which was praised by Wylie and other congressional supporters of the prayer amendment for the tireless effort of its members in working for approval of the prayer amendment and in gaining signatures on the discharge petition.

Other religious and civic groups and individuals have spoken out in favor of the prayer amendment counter to the various "religious leaders" in the opposition. Among the supporters are: evangelist Billy Graham, Patrick Cardinal O'Boyle of Washington, Bishop Fulton Sheen, Rev. Theodore Hesburgh of Notre Dame University, The Orthodox Greek Diocese of North America, the National Council of Catholic Youth, the National Association of Evangelicals, the North Carolina Baptist Convention, the Roman Catholic Daughters of Isabella, the Diocesan Councils of Catholic Women of Pittsburgh, Buffalo and Worcester, the National Jaycees, the American Legion, the Veterans of Foreign Wars, the state legislatures of Louisiana, Maryland, Massachusetts and North Carolina, the National Federation of Republican Women, the National Kiwanis, the National Conference of Governors and the National Conference of Mayors.

If, as expected, the House passes the prayer resolution by the two-thirds vote necessary for a constitutional amendment, the issue would have to be considered by the Senate. Some observers agree with the view of the New York *Times* that "the outlook for Senate adoption is cloudy."

Despite the liberal make-up of the Senate, proponents of the measure are quite optimistic. Rep. Richard Poff (R.-Va.), a prominently mentioned possible replacement for former Supreme Court Associate Justice Hugo Black, predicts favorable Senate action, though he says it will probably not come until next year at the earliest.

Moreover, Poff believes the proposal, following congressional approval, would receive swift ratification by the necessary three-fourths of the states. Bolstering Poff's theory is the fact that the Senate, by a 50-to-20 vote, did accept the prayer amendment as a rider to the women's rights constitutional amendment last November, although the entire package died at the close of the 91st Congress.

Sen. Howard Baker (R.-Tenn.), sponsor of a prayer amendment in the Senate and son-in-law of the late Sen. Everett Dirksen, who authored the original prayer amendment on which the current proposals are based, has reintroduced his amendment in the current session. Minority Leader Sen. Hugh Scott (R.-Pa.) also has one in the hopper. Baker's measure deals with prayer in public buildings, whereas Scott's deals with voluntary prayer or meditation in schools.

Scott's resolution (S.J. 34) has about 40 co-sponsors—liberals and conservatives, Democrats and Republicans. It is currently in the Senate Judiciary Committee's Subcommittee on Constitutional Amendments, chaired by Birch Bayh (D.-Ind.). No hearings have been set on it, but political pros believe Bayh will have to do something with the resolution as a result of the publicity following the signing of the Wylie House discharge petition.

Thus, after a long uphill battle, the first hurdle in returning voluntary prayer to the nation's public schools has been cleared. Now, the public reaction will become a factor in pressuring legislators to vote favorably to return voluntary prayers to America's schools. And after seven years of intransigence Emanuel Celler has been forced to move from his position of blocking the schoolhouse door against the entry of voluntary prayers.

One of the most active organizations in working for passage of the prayer amendment is Project Prayer, a group of prominent personalities, led by singer Pat Boone. Project Prayer, according to its Executive Director Sam Cavnar, will hold a congressional reception prior to the November vote on the amendment. Top names in the entertainment field will be called upon to woo congressional support for the proposal. Among the members of Project Prayer are: Walter Brennan, Dale Evans and Roy Rogers, Gale Storm, Virginia Grey, Joanne Dru, Glenn Ford, Coleen Gray, Brian Keith, Terry Moore, Lloyd Nolan, Mary Pickford, Efrem Zimbalist Jr., Ginger Rogers, Cesar Romero, Jane Russell, Adm. Felix Stump, Gloria Swanson, Danny Thomas, John Wayne and Calif. Gov. Ronald Reagan.

Mr. Speaker, in Tuesday's CONGRESSIONAL RECORD on page 38718 are my remarks concerning a poll conducted by the National Enquirer.

Today, I wish to commend to my colleagues the article which appeared in relation to this poll. I hereby insert the article from the National Enquirer:

[From the National Enquirer, Oct. 31, 1971]

ENQUIRER READER POLL ON PRAYERS IN SCHOOL

(This is the first Enquirer reader opinion poll. We believe your opinion is important and that you should have an opportunity to express your views on the vital issues of the day. We will take no side on any issue but we will provide space for expert opinions both for and against every question. We will present impartially, a brief summary of the issues and events surrounding each question. Then you tell us what you think. As soon as the ballots are counted, we will publish the results. So speak out. Make your opinion heard. Use ballot at bottom left of page to cast your vote.)

FOR

Dear Enquirer Reader:

Please help me to restore to this country—to your state—to you—a simple but profound right: The right to decide for yourself whether the schools of your community should be free to recite a prayer in the classroom.

The people have never spoken on this issue. Only the Supreme Court has spoken—to prohibit prayer.

This, although every public opinion poll shows that the vast majority of Americans wants prayer in our public schools.

The Constitution does not prohibit prayer in our schools, and never did. The First Amendment guarantees religious freedom. It reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ." Ponder those last six words.

Would the passage of the constitutional amendment I have proposed force any school to institute classroom prayer? No. It would only give each school the right to permit prayer.

Would the amendment impose any particular form of prayer, say that of one religion or another? No. The prayer any school may use can be as simple as an acknowledgment of our Creator, or of thanks to Him.

That acknowledgment has always been a part of the finest in American life. Since our earliest days we have celebrated a Thanksgiving Day. Our great basic document, the Declaration of Independence, asserts, "All men . . . are endowed by their Creator with certain unalienable rights . . ."

Reverence for the Supreme Being has always been a foundation-stone on which this nation was instituted, grew and became great. What American child would be harmed by it?

The Supreme Court took this tradition out of the classroom. All the proposed amendment would do is return it. Please help me restore the right of prayer to our schools. You can help immeasurably by expressing your support for the proposed amendment.

Congressman CHALMERS P. WYLIE.

THE FACTS

Controversy over the school prayer issue began in 1962, when the U.S. Supreme Court ruled on a New York State case. By a 6-to-1 vote, the Court decided that a nondenominational prayer used by public schools in that state was illegal.

Announcement of the decision touched off a nationwide debate. Bills were immediately introduced in both houses of Congress to lift the ban by amending the Constitution. None succeeded.

The following year, the Supreme Court broadened and reinforced its prohibition of public school prayer. Deciding on cases that originated in the states of Maryland and Pennsylvania, it ruled, 8 to 1, that the reading of Bible passages and recitation of the Lord's Prayer in public schools were unconstitutional.

Legislators, religious bodies, educators and ordinary citizens have lined up on both sides of the issue.

During the current session of Congress, Rep. Chalmers P. Wylie (R.-Ohio) introduced a proposed amendment to the Constitution that would have the effect of overruling the Supreme Court decisions on school prayer. The proposed amendment reads:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through expenditure of public funds, to participate in nondenominational prayer."

The measure went to the House Judiciary Committee for clearance—customary procedure under the rules of the House for all new legislation.

The Judiciary Committee, headed by Rep. Emanuel Celler (D.-N.Y.), an opponent of the proposed amendment, refused to release the bill for House action.

Congressman Wylie then prepared a "discharge petition" to by-pass the committee and force the measure to the floor for a vote.

This rarely-used procedure, by which the House in effect over-rules its own committee, requires the signatures of a majority of House members. After a six-month drive, the petition to free the school-prayer amendment from committee succeeded when the last of the 218 necessary signatures was added last month.

The proposed amendment will be ready to be voted upon by the full House on November 8 at the earliest. If it passes by a two-thirds vote, it will go to the Senate, where it must also pass by two-thirds. If it succeeds there, it then goes before legislatures of the 50 states. Three-fourths of the state legislatures must ratify it within seven years to make it the law of the land.

The amendment, if ratified, would have the effect of overruling the Court's decisions concerning public school prayer. It would make the option of conducting prayers in the public schools part of the Constitution. No court could then rule against it.

FOR

Dear Enquirer Reader:

I am in favor of the school prayer amendment and I want you, if you believe as I do, to show your support by voting yes in this opinion poll.

We are a nation with a strong religious heritage. The fact that our heritage represents a diversity of religious beliefs and religious institutions does not alter the strong faith we Americans—both in the past and today—have in God.

The Supreme Court's decision which prevents prayer in our public schools does not serve to preserve the freedom of religion that is a cornerstone of the Republic. In my judgment, such a policy discourages Americans in the voluntary exercise of our right to worship as we please.

I do not believe that voluntary prayer in our public schools represents the establishment of a state religion, nor do I believe it represents an infringement on the rights of those of us who choose not to participate.

I am convinced that public education, which is the focal point of our children's lives until they finish school, suffers a serious lack if our religious heritage and religious traditions are not allowed expression.

Our nation was founded by our forefathers who were oppressed in Europe for their religious beliefs. Many of these people made the long and dangerous journey to this country in order to have their freedom of worship, to pray and to believe as they saw fit. They were, as Dr. Billy Graham has pointed out, concerned with maintaining freedom OF religion, not freedom from religion.

For our government to act as if the religious practices of Americans through history either did not exist, or were not suitable for public exercise, is a serious departure from, and an infringement upon, this nation's faith in God.

I am supporting a Constitutional amendment which will allow our children to pray in public schools. I believe that this will allow them to grow in spirit as well as in mind and body. And I also believe that this represents your wishes, too. If I'm right, won't you please vote yes?

U.S. Senator STROM THURMOND,
Member of the U.S. Senate Judiciary Committee's Subcommittee on Constitutional Amendments, which held hearings on the School Prayer Amendment.

Mr. WYLIE. Mr. Speaker, a letter has come to my attention written by Mr. Samuel W. Collins of Tulsa, Okla., with regard to House Joint Resolution 191.

Mr. Collins has presented some very valid points with regard to this resolution and I would urge my colleagues in the House to review his letter:

S. W. COLLINS,
Tulsa, Okla., November 1, 1971.

President RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Attached are my memorandums on "The School Prayer Issue". From my studies of this issue I cannot overemphasize the necessity of restoring prayer in our public schools through the proposed Constitutional Amendment. From my viewpoint here is why it is so important: Our forefathers built our nation upon the solid foundation of the Constitution of the United States of America and the first "stone" in that foundation is religious freedom as written into the First Amendment in the Bill of Rights. I have a strong conviction that this "religious stone" in the foundation of our Constitution is being removed when *we* "Park God Outside of Public Schools."

That is why I respectfully submit for your support these "Memorandums" of the proposed Constitutional Amendment.

Respectfully submitted,

SAMUEL W. COLLINS.

[From the Tulsa Daily World, Sept. 5, 1971]

OPPONENTS OF SCHOOL PRAYERS FEAR INJURY TO BILL OF RIGHTS

(By S. W. Collins)

Referring to this article on the Supreme Court's decisions in 1962–63. Those decisions according to Mrs. Ben Ruhlin amount to a decision to "Park God outside of school." She stresses the voluntary nature of the proposed amendment which reads:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

This amendment would allow the bringing back to a former, original condition of prayer in the public schools such as we have had in the past before this Supreme Court's decisions. However, it emphasizes that the prayers be nondenominational. Attached are five articles to show the necessity of this amendment: 1. Is Atheism the Religion of the Future in the U.S.A. 2. For a Constitutional

Amendment on Public School Prayer. 3. Nondenominational Prayers. 4. The Turning Point and 5. Religion and Prayer.

From the above article: "But Such an amendment still runs up hard against the *prohibition* on religious practice." Does that mean that we must "Park God outside of school?" Of course it does not for the words—prohibition on religious practice—were not written in the Constitution of the U.S.A. Here is what the Bill of Rights on religion says: "Congress shall make no law respecting the establishment of religion or *prohibiting* the free exercise thereof". The proposed amendment does not change this law respecting the establishment of religion or prohibiting the free exercise thereof. But it does clarify the true meaning of this law in a way that is not compatible to the way the Supreme Court interpreted it. From a comprehensive study of the history of England, in connection with early American history, it can be stated with reasonable certainty that during the time when the religious clause in the Bill of Rights was written that it meant in effect that there shall be no law joining together an *established* religion and the state. It also meant as specifically stated: "or prohibiting the free exercise thereof". This latter clause in the Bill of Rights alone justifies making the proposed constitutional amendment. However, this proposed amendment simply clarifies the true meaning of the entire religious clause in the Bill of Rights.

In my opinion, the practical problems of the details involved in the successful administration of this proposed amendment and the protecting of the rights of those children who do not want to participate in such prayers should, under most circumstances, be studied and handled by the various states.

From my viewpoint, this issue of prayer in the public schools, which is so important to the future of our nation, has reached the stage of controversy where it should not be decided by nine men but by the peoples' decision on this Constitutional Amendment.

IS ATHEISM THE RELIGION OF THE FUTURE IN THE U.S.A.

(By S. W. Collins)

On Monday evening, March 23rd, 1971, I heard on TV Channel 11 the debate "Face to Face—Is Atheism the Religion of the Future?" Without making any comments on this discussion itself, which was well presented by Madame Murry O'Hara, the Atheist, and Dr. Edward Bowman, Protestant Minister, I had the feeling that through Madame O'Hara I was hearing Karl Marx expressing his bitterness about all religions and especially the Christian religion. Then my thoughts went back to the year 1959 when Premier Khrushchev of Russia visited the U.S.A. and said that our grandchildren would be living under (atheistic) Communism.

After an intense study of this possibility I wrote in 1962 the article, "Which America Is our Youth to Inherit?" Today, almost ten years later, that question remains unanswered. In our world there are many different kinds of religion including the atheistic religion of Communism and the Christian religion with diversified religious beliefs. Right or wrong every individual, according to his fingerprints, is a different human being who responds to the drawing power of some specific religious magnet that attracts him. Our forefathers recognized this right of religious freedom to choose their religious faith when they wrote the First Amendment to the Constitution on religion.

In this amendment they stated the following: "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof". In other words, from my studies of the meaning of this law, there shall be no law joining an established religion and the state together or prohibiting the free exercise thereof.

With this solid religious foundation, written into the laws of our land, why should the U.S.A. ever consider that atheism may be the religion of the future of our nation? Consider these reasons as the probable answer: In 1962–63, contrary to this foundation upon which our nation has been built, the doors of our public schools were closed to prayer but remained open to the atheism of Communism. Children in the formative years of their life *absorb* beliefs by the environment in which they live and without prayer in our public schools that belief which they *absorb* will be atheism. That is the main reason why the Godlessness of atheism may become the religion of the future in the United States of America—unless we restore prayer in our public schools before it is too late.

FOR A CONSTITUTIONAL AMENDMENT ON PUBLIC SCHOOL PRAYER

(By S. W. Collins)

Let us go back in time about one hundred years ago when the Supreme Courts of the past have stated that the government must be neutral in order to make absolutely certain that there would be separation of an *established* church and state. However, the meaning of "neutral" was never clearly defined by the earlier courts. At that time there must have been considerable controversy as to the meaning of "neutral" as the highly respected Dr. A. A. Hodge of Princeton University said, in effect, that strict neutrality is a great way to teach *atheism*. Evidently his strong remarks together with others helped create a tolerant meaning of neutrality so that a reasonable amount of nondenominational religion *could be and was practiced in the public schools*. For one hundred years and more we have had prayers in our public schools without jeopardizing religious freedom. In fact all religions thrived during that time. But since the Supreme Courts decision in 1962–63 what about the past almost ten years without prayer in our public schools? From my viewpoint that is what is jeopardizing religious freedom in the U.S.A.

In the establishment of justice for all, our laws and our courts have zealously protected the rights of minorities from the crushing power of majorities. However, in the separation of church from state in our public schools, is it not possible that a scattered majority might need legal protection from a concentrated minority? That is why there should be a Constitutional Amendment on this school prayer issue so that the scattered power of the majority can be collected to determine the verdict of the people.

THE MEANING OF THE WORD—ESTABLISHMENT

(By S. W. Collins)

"Congress shall make no law respecting the establishment of religion" was not a statement of *absolutism* as interpreted in 1962–63 by the Supreme Court for to be so would contradict the latter part of this law which states: "or prohibiting the free exercise thereof". To be compatible with this last clause it meant, in my opinion, that there shall be no law joining together an *established* religion and the state. I have been looking for further proof of this statement and I found it today in The American College Dictionary, 1952. The definition of the word *establishment* as given in this dictionary when referring to church is as follows:

"8. The recognition by the state of a church as the state church.

9. The church so recognized, esp. the church of England.

From this meaning of the word—establishment—which without any reasonable doubt was the one used in the religious clause in the First Amendment of the Bill of Rights one can say: Congress shall make no law respecting the recognition by the state of a church as the state church. That is why I say that there shall be no law joining together an *established* religion and the state. This also is a statement of *absolutism* in interpreting the meaning of this religious clause in our Constitution.

NONDENOMINATIONAL PRAYERS

(S. W. Collins)

In my Memorandum of 9–17–71 I expressed My Views—The Turning Point in U.S.A. History—A Constitutional Amendment Opening the Public School Doors to Prayer.

In these times of uncertainty only an optimist or a dreamer would make the above statement. I am both. But I say that with a feeling of conviction, provided the proposed constitutional amendment is one that allows participation in "nondenominational prayers" in our public schools and is made the law of the land.

Here are six reasons, in my opinion, why nondenominational prayers in the wording of this amendment are necessary:

1. They were a part of the unwritten laws of the land because for over one hundred years prior to 1962–63 there were a moderate amount of nondenominational prayers and religion in our public schools. During that time there was never any attempt to join state and church. In fact most religions (churches) prospered then and the morality of our youth was on a higher level than it is today.

2. Our public schools are one place in our nation that nondenominational prayers could reach our youth with understanding through prayers of communication between all religions. School teachers could have the feeling of religious freedom within the schools to express themselves to youth.

3. State and local authorities should be the ones to tell the school superintendents the kind of nondenominational prayers such as those prayers that are said in open session of the Supreme Court, the Senate and Congress which do not violate the proposed amendment or the religious clause in the Bill of Rights.

4. With these kind of prayers in our public schools all religions (churches) would find a source of new membership to build their future congregations and keep active and prosperous.

5. With the proposed constitutional amendment which was recently released from the House Judiciary Committee and the matching bill to the prayer amendment in the Senate SJ Res 34 made into law that would be a guide for the Supreme Court to use in any controversy regarding the meaning of nondenominational prayers.

6. This could be the "Moral Turning Point in U.S.A. History.

THE TURNING POINT—A CONSTITUTIONAL AMENDMENT OPENING THE PUBLIC SCHOOL DOORS TO PRAYER

(By S. W. Collins)

Why do we picture the morals of our youth on a toboggan slide going down hill and how can we change that picture? Lack of prayer in our public schools is one reason why we have this dilemma. Restoring prayer would reassure a picture of youth on the move upward keeping the U.S.A. a great nation.

Here is a chart picturing this downward slide of the morals of youth due to Our Parking God Outside of the Public Schools.

1. For *sixty-two years* a reasonable amount of nondenominational prayers could be and were practiced in our public schools without jeopardizing religious freedom.

2. Two years. God Parked Outside of Public Schools.

3. Seven years. These are the years of the toboggan slide where youth has the delusion, because too many older people do, that it is great fun to slide down the hill of moral decay.

4. One year. The Turning Point—*provided a Constitutional Amendment opens the public school doors to prayer.*

5. Eight years. The uphill climb restoring prayers to youth in the schools. (projected).

6. Twenty years. Prayer restored to youth in the public schools. (projected)

Our forefathers built our nation upon the solid foundation of the Constitution of the United States of America and the first "stone" in that foundation is religious freedom as written into the First Amendment in the Bill of Rights. It is this "stone" that is being removed from our Constitution when *we*, as Mrs. Ben Rhulin's youngest son said, "Park God Outside of Public Schools". She is asking the Congress of the U.S.A. to make a Constitutional Amendment restoring prayer in our public schools. From an analytical study of this foundation of religious freedom I have written this memorandum in support of her efforts:

RELIGION AND PRAYER

(By S. W. Collins)

Here is what Madame Chiang Kai-shek, a truly great Chinese woman said about religion and prayer:

In old Chinese art, there is just one outstanding object, perhaps a flower on a scroll. Everything else in the picture is subordinate to that one beautiful thing. An integrated life is like that. The one flower, as I see it now, is the will of God. But to know His will, and do it, calls for absolute sincerity, absolute honesty with one's self, and it means using one's mind to the best of one's ability.

Prayer is more than meditation. In meditation the source of strength is one's self. But when one prays he goes to a source of strength greater than his own.

I am often bewildered: I question and doubt my own judgment. Then I seek guidance; in prayer God enlightens my understanding, and when I am sure, I go ahead, leaving the results with Him. . . .

With me religion is a very simple thing. It means to try with all my heart and soul and strength and mind to do the will of God.

We are living in the dawn of the Atomic age of scientific laws of terrific power. This power in the hands of men, without guidance in prayer from a higher source of power, may be used to destroy mankind. But if the "WILL OF GOD", through prayer, is implanted within the minds of men *then* mankind will have the power to build a peaceful world.

That is why prayer should be restored in our public schools so that our children may become the men of tomorrow who will have that power.

Mr. CELLER. Mr. Speaker, since the adoption of our Constitution in 1787, we have had but 26 amendments to it. The first 10, of course, our Bill of Rights, were ratified in 1791. The fact that in the intervening 180 years since the ratification of the Bill of Rights the Congress and the States have seen fit to change our Constitution only 16 times, is a tribute to the marked foresight of our Founding Fathers, and an indication of how selective we have been and should be in changing our basic charter. Throughout the years we have recognized that the Constitution should not be reduced to a political poll, being amended to counter unpopular Supreme Court decisions and thereby injecting ephemeral moods into a broad, basic document intended to endure for ages. Most importantly, we must keep in sight the fact that none of the amendments which have been adopted have been directed to the Bill of Rights.

Let this be clear: a vote against House Joint Resolution 191 is not a vote against religious faith, nor is a no vote a yes for atheism. It is a vote which recognizes the Court decisions for what they really are. It is a vote steeped in the history of our country, recalling that a number of our States hesitated to ratify the Constitution until assured of the inclusion of a guarantee of religious freedom, and two of the States—Rhode Island and North Carolina—would not ratify the Constitution until the Bill of Rights had, in fact, been adopted. A no vote also recognizes that there can be no such thing as "nondenominational" prayer, that in a public school situation "voluntariness" of participation in prescribed prayer is an unrealistic concept, and finally, that despite the stimulated letter writing campaign, the major religious groups throughout the United States are concerned about where House Joint Resolution 191 may lead us.

Let me amplify.

Following the so-called school prayer decisions of the Supreme Court in 1962 and 1963, a ground swell erupted from coast to coast involving irate persons incensed by the action of the Court. Before long, the House Judiciary Committee had before it approximately 150 joint resolutions to amend the Constitution in one way or another. The primary objective of most of these resolutions was to legalize the recital of prayers and the reading of the Bible in public schools.

In 1964, the full House Committee on the Judiciary explored extensively all aspects of this controversial, highly emotional subject matter. For 18 days, over a 3-month period, the committee heard testimony for and against the then pending resolutions. The hearing record developed into three volumes, totaling 2,774 pages.

In the course of the hearings, it became clear that the decisions had been misread. By and large, the legal authorities who testified agreed that nothing in either case denies any of us the right to pray in public schools and public buildings, or even nonpublic schools or nonpublic buildings. Neither of the cases prohibits any of us from participating in nondenominational, or even denominational, prayer. And neither of the cases prevents prayer, whether or not those who wish to pray are lawfully assembled. Nor do the cases prevent the teaching about religion in its historical and cultural sense, as contrasted with dogma or creed. This, too, seems to be a point on which there is no disagreement.

Before inquiring into the nature and effect of nondenominational prayers, let us first consider who will produce them? Will teachers write the prayers? Will principals? Will school systems, as did the Board of Education of Union Free District No. 9, in New Hyde Park, N.Y.? Will the legislatures?

The cases which gave rise to all the furor simply precluded the prescription of prayers and the leading of prayers by public authority. To authorize government to intervene in the sacred privilege of prayer is to make Government a judge of theology and an administrator of religious practice. Prayers and religious practices should not be prescribed by law or by teachers or by public school administrators. Religion is simply not the business of the State. And it should not be made the business of the State!

Most organized churches oppose the amendment. Why? One basic reason is that it is a dangerous illusion to think that children can get a true religious experience through nondenominational prayer in public schools. Each religion confirms its faith in a form which bespeaks its basic tenets.

Statistics compiled 9 years ago by the Bureau of the Census disclosed the existence of some 200 different religious sects in this country. Of these, over 80 were found to have more than 50,000 members each. Here in the House, according to information compiled by the Congressional Quarterly and published in its January 15, 1971 issue, our membership belongs to some 25 of these religious sects.

Assuming that one could devise a nondenominational prayer, could it be meaningful? The hearings held by the Judiciary Committee in the 88th Congress were replete with testimony making it clear that any such prayer would have no religious value.

One witness characterized nondenominational prayer as a gimmick to salve our consciences by resort to ceremonial to make up for our shortcomings at home and in our churches. Another defined nonsectarian religion as one that "offends no one, makes no demands, and moves no one". A third sagely reminded the committee that to create a nondenominational prayer is to create an American religion which would not conform with any of the major faiths and would constitute inevitably a set of meaningless, watered-down, nonsectarian platitudes. Recitation of such a prayer would be a routine, vapid, mechanical exercise. As a matter of fact, reducing prayer to this lowest common denominator would, in my judgment, constitute an interference with the true exercise of genuine religion by those for whom the nondenominational prayer is foreign to their training.

One other thought should be kept in mind in this connection. Not only are the words to be used in a so-called nondenominational prayer difficult to formulate, but there are other aspects of prayer, as reflected in our churches and synagogues, which cannot be ignored.

In addition to having different prayers, people pray in different ways. Some religious group kneel; some do not. Some clasp their hands, some do not. Some bow their heads; some do not. Some pray with their heads covered; some pray with their heads uncovered. To some, all public oral prayer is theologically objectionable. How do you take these factors into account in devising a nondenominational prayer?

And what about our youngsters? Do we confuse them with our nondenominational prayers? When these prayers in school run counter to the students' training in their respective churches and homes, what confusions do we create? What questions do we raise? What inner conflicts and doubts do we arouse?

It is clear to me that religion cannot be inculcated through public schools or by lay people in other buildings. Rather,

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to be meaningful, religion is something uniquely the province of the church and the home. To attempt to supplement, substitute for, or compete with religious teachings through prayer in public buildings is clearly not in the best interests of religion or of the people. The official publication of the United Presbyterian Church has wisely stated "if you have 'faith in general' you have no faith to speak of. Faith has to be 'something in particular'." This makes sense to me. Nondenominational prayer, whatever that may be, would, of necessity, be meaningless.

One final aspect of the joint resolution should be discussed—its effect on our children.

Can we honestly expect school children freely to decide whether to participate in prayer conducted in their school environment? I believe it is fair to say that almost without exception every witness who addressed this question during the extensive hearings conducted in the 88th Congress by the House Judiciary Committee said it is asking the impossible.

In concurring in a 1948 Supreme Court decision declaring it a violation of the first amendment to use the public school system and its machinery for compulsory school attendance to enable sectarian groups to give religious instruction to the students, Mr. Justice Frankfurter said:

> The law of imitation operates, and nonconformity is not an outstanding characteristic of children. The result is an obvious pressure upon children to attend.—(*McCollum v. Board of Education*, 333 U.S. at 227.)

One of the cases which gave rise to the spate of prayer resolutions is *Abington School District* against *Schempp*, decided in 1963. That case involved a Pennsylvania statute which required the reading of at least 10 verses from the Holy Bible, without comment, at the start of each school day. The statute provided that a child would be excused from participating in, or even attending, the reading, upon parental request. In his concurring opinion Mr. Justice Brennan had this to say about children, conformity, and psychological pressure:

> First, by requiring what is tantamount in the eyes of the teachers and schoolmates to a profession of disbelief, or at least of nonconformity, the procedure may well deter those children who do not wish to participate for any reason based upon the dictates of conscience from exercising an indisputably constitutional right to be excused. Thus the excusal provision in its operation subjects them to a cruel dilemma. In consequence, even devout children may well avoid claiming their right and simply continue to participate in exercises distasteful to them because of an understandable reluctance to be stigmatized as atheists or nonconformists simply on the basis of their request.
>
> Such reluctance to seek exemption seems all the more likely in view of the fact that children are disinclined at this age to step out of line or to flout "peer-group norms." Such is the widely held views of experts who have studied the behaviors and attitudes of children. (374 U.S. at pp. 289–290)

In addressing the same question, the New Jersey Supreme Court concluded that it "ignores the realities of life" to suppose that children of minority groups will not be subjected to pressures to conform, and to disadvantage in the eyes of their schoolmates, if they decline to participate in religious activities of the school. (*Tudor v. Board of Education*, 100 A2d at p. 866 (1963))

In Illinois, the Supreme Court of that State recognized 61 years ago the pressures attendant upon a student who must separate himself from his peers because of his religious beliefs. The Court said:

> The exclusion of a pupil from this part of the school exercises in which the rest of the school joins, separates him from his fellows, puts him in a class by himself, deprives him of his equality with the other pupils, subjects him to a religious stigma and places him at a disadvantage in the school, which the law never contemplated. All this is because of his religious belief." (*People ex rel. Ring v. Board of Education*, 92 N.E. at p. 256 (1910))

In Wisconsin, even before the turn of the century, the Supreme Court addressed itself to this question as follows:

> When • • • a small minority of the pupils in the public school is excluded for any cause, from a stated school exercise, particularly when such a cause is apparent hostility to the Bible which a majority of the other pupils have been taught to revere, from that moment the excluded pupil loses caste with his fellows, and is liable to be regarded with aversion and subject to reproach and insult. (*State ex rel. Weiss v. District Board*, 44 N.W. at p. 975 (1890))

The State of Iowa's highest tribunal has also recognized the pressure "to go with the crowd" which is characteristic in young people. There the court said:

> Conceding, for argument's sake, that such attendance was voluntary in the sense that no requirement or command was laid upon non-Catholic pupils to attend or take part in such exercises, yet surrounded as they were by a multitude of circumstances all leading in that direction, impelled by the gregarious instincts of childhood to go with the crowd, and impressed with a sense of respect for their teachers, whose religious principles and church affiliation were unceasingly pressed upon their notice by their religious dress and strictly ordered lives, could a responsible person expect the little handful of children from non-Catholic families to do otherwise than to enter the invitingly opened door of the church, and receive, with their companions, the instructions there given?" (*Knowlton v. Baumhover*, 166 N.W. at p. 205 (1918))

Many of us have youngsters of our own. From our experiences with them and with their friends, wholly unrelated to matters of religion, we know that young people are conformists, that they do not want to be different, "square," or "chicken."

They will often do what is alien to their instincts and their up-bringing rather than be a disappointment to their peers.

In short, I question whether the voluntariness factor contemplated by this resolution can be effectuated. If prayers become a part of their school routine, those whose religious training is offended by the nondenominational features, those who have no religious training, and those who for any other reason would prefer not to participate will, by reason of the attendant circumstances, be deprived of the opportunity to exercise a free, unfettered judgment. They will be trapped by human nature.

We should not approve a constitutional amendment which is calculated to put our children on such a spot. Particularly should we not do this, when our expectations for true, worthwhile benefits from nondenominational prayer are minimal. Such is the case before us.

In sum, the theory of House Joint Resolution 191 is dangerous, it is incapable of producing the result the American people have been led to expect of it, it would in no way advance, but would set back, the cause of religion, and it would bring about a divisiveness, which we will regret for years to come.

For the sake of true religious freedom, for the sake of protecting the Bill of Rights, I urgently beseech you to vote against the resolution.

Mr. FULTON of Tennessee. Mr. Speaker, this coming Monday the House will vote on what I believe could be the most far-reaching piece of legislation brought before it this session. I am referring to House Joint Resolution 191, the so-called prayer amendment to our Constitution. And when I describe this act as far-reaching, I do so as an understatement.

To read this bill, one might at first glance consider it almost innocent. It states, in part, that "nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

But it seeks, while supposedly promoting religious practice in America, to counteract the very words which for almost 200 years have guaranteed every American's right to worship where he would, as he would. It would destroy the first amendment to our Bill of Rights—that promise which, among other things, states "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

And it would, to my great concern, place us in the same league as our godless Communist neighbors—subjected to the threats and edicts of Government saying who should be praised, and how, and where, and when. Is this what our forefathers sought when they came to America? Let us look back and see.

Throughout Europe for hundreds of years, the dictates of government religions and persecution of those unwilling to yield were common. The Pilgrims had their trials. They were encouraged to accept for their religious study the Parliament-authorized Book of Common Prayer. They refused. They were then encouraged to leave Anglican England—and eventually established a religious colony in Massachusetts free of the English establishment's divine beliefs.

But, ironically, what this group, and others fleeing religious intolerance, sought to avoid for themselves, they imposed on others. They established their own colonial churches, which by 1776 had eight or 10 colonies preaching at least a semiofficial belief. They had their own colonial prayers. Prayers to be read at church, naturally, and prayers for town meetings, school classes, and community events. Prayers which continued to drive their dissenters from an intolerant community, for fear the true faith as they saw it would be abandoned, or even worse, watered into lukewarm platitudes.

Our Founding Fathers in 1789 believed

that, for the Nation to be united in spirit, its people had to grow through religious choice. They also recognized, however, that that choice for each individual had to be made freely—the state had no right to coerce or impose a majority will. As James Madison said:

> Who does not see that the same authority which can establish Christianity in exclusion of all other religions, may establish with the same ease any particular Sect of Christianity, in exclusion of all other Sects?

This was seen true of any religion, not just Christianity, and guarded against in 1791 when the first amendment was adopted.

In 1962 and 1963 decisions, the Supreme Court ruled that first amendment safeguards would stand. It would not bend to virtually sterile "prayers" and Bible readings leading the child from his family's teachings and freedom of belief.

For many years prior to the Supreme Court decision, 10 States had banned by their Constitutions the reading of prayers or Bibles in public schools. Another 15 said no to such actions by statute. And still another 10 looked on the practices with a discouraging view.

Furthermore, many religious groups are standing strong, opposing this amendment, supporting the Bill of Rights. These to date include:

American Baptist Convention.
American Ethical Union.
American Humanist Association.
Church of the Brethren.
The Episcopal Church.
Society of Friends (Quakers).
The United Methodist Church.
Mennonite Central Committee—Peace Section.
National Baptist Convention, U.S.A., Inc.
National Council of the Churches of Christ in the U.S.A.
American Jewish Committee.
American Jewish Congress.
National Council of Jewish Women.
Rabbinical Council of America.
Union of American Hebrew Congregations.
Union of Orthodox Jewish Congregations of America.
United Synagogue of America.
Lutheran Church, Missouri Synod.
Lutheran Church in America.
American Lutheran Church.
Progressive National Baptist Convention, Inc.
Seventh Day Baptist General Conference.
Southern Baptist Convention.
Council for Christian Social Action, United Church of Christ.
Unitarian Universalist Association.
United Presbyterian Church in the U.S.A.

Also, an editorial by Mr. Henry Clausen, sovereign grand commander, Southern jurisdiction, Ancient and Accepted Scottish Rite of America, in the November New Age magazine urged defeat of the amendment. He called it the "foot in the door, the camel's nose in the tent, sure to result in further and eventual fatal intrusions."

Passage of this bill could, rather than expand the use and value of prayer in public facilities, literally reduce its meaning to nothing and make replacement by any other working unlawful.

For instance, should you be in a public financed or supported hospital—and most hospitals do receive State or Federal funds—your pastor, priest, or rabbi can now offer any prayer he and you feel appropriate. Should the bill pass, your choice of prayers could drop to one—nondenominational.

Or picture Evangelist Billy Graham seeking to hold a crusade in Washington's U.S. Armory-owned R.F.K. Stadium. He could preach his Gospel message—as long as he prayed to "Whomever this may concern." This, I believe, would fall short of his normally powerful address.

Or what about all the religious organizations on campus and in the working world—the Baptist Student Union, Elder Statesmen, Fellowship of Christian Athletes, Wesley Foundation, YMCA, YWCA, WMHA, the Hillel Foundation, and others. All are organizations in which prayer serves a vital part of their program, and carries their deepest message. Why not pass this bill—and watch their efforts on public campuses waste like soda without its fizz.

Yes, why not pass this bill? Let me list what I feel to be five solid reasons.

First, the position of God in the heritage of America is already recognized and assured. "In God We Trust" is on our currency. "Under God" are words from our Pledge of Allegiance. Chaplains remain in the Armed Forces. Classroom Bible study is still allowed for use in comparative religion or literature. And any student, teacher, or person may recite a silent prayer at any time, anywhere.

Second, many major questions as to what passage would, and not just could mean remain largely unanswered. This is particularly true since general debate once the bill is discharged from committee is limited to just 1 hour with proponents in control and no amendments allowed.

These unanswered questions include:

The first amendment both prohibits establishment of a state religion and provides guarantees for free exercise of religion. With the first amendment overridden, what guarantees of religious toleration would remain?

Also:

This new measure specifies use of a nondenominational prayer. I might ask—written by whom?

And:

Who is to say the teaching of this "nonreligion" religion should become the public school's responsibility? The parents? Does not it make more sense for parents to want to raise their children strong and upright in their own meaningful beliefs? Beliefs gathered at home and in the church or synagogue?

To this last point, I definitely say "yes." I am a parent, trying to raise children to be mindful of God's ways and Christian teachings. I, throughout my life, have sought to make more meaningful my own life with God, through a personal relationship to Him, my church, and its Sunday School in which I teach.

I value my religion and value my children's religion. I do not value a state religion, or even "just" a nondenominational prayer.

Because to me, this is no religion at all.

I will vote against the amendment.

Mr. MIKVA. Mr. Speaker, a great deal has been said about the first amendment impact of the proposed amendment. I am in full accord with my colleagues in the House and in the legal community who are gravely concerned about the first amendment implications of making the State the arbiter of what is a permissible "nondenominational" prayer. The Supreme Court has never placed any restrictions on voluntary prayer; it was compulsory school prayers which were the subject of the decision in the Engel case. The proposed amendment would authorize compulsory prayers in State-supported schools, so long as the prayer used met someone's criterion of what is "nondenominational." Along with numerous church leaders and religious groups, I view with great concern the breakdown in separation of church and state which would inevitably occur when State legislatures and Federal courts undertake to adjudicate competing claims over what is or is not "nondenominational" prayer.

Unfortunately, in the heated debate which has surrounded this proposed amendment, little concern has been shown for the primary victims of compulsory school prayer—the children who are forced to participate.

I am surely not the only person in this chamber who, as a child, attended a school where a majority of my schoolmates were of a religious and cultural heritage different from my own. Surely there are others in this chamber who shared the uneasiness I felt as I shifted from one foot to the other in silent discomfort while the class prayed to a God I did not believe in, from a tradition I did not share.

Prayer is a private thing, between a man and his God and my God is not nondenominational, and neither is yours. I do not want my children's prayers to start out "To Whom It May Concern." It is meaningless unless it is voluntary. The words must come from the soul, not from the school board. We would do well to heed the wise words of the New Testament on how to pray. Said Jesus:

> Do not be like the hypocrites, they love to say their prayers standing up in synagogue and at the streetcorners, for everyone to see them. I tell you this: they have their reward already. But when you pray, go into a room by yourself, shut the door and pray to your Father who is there in the secret place; and your Father who sees what is secret will reward you.

We will not make up for the failures of churches and families to instill religious faith in the young by imposing forced worship in the schools.

For the sake of our children, as well as our Constitution, let us reject the proposed amendment.

Mr. McKAY. Mr. Speaker, a constitutional amendment which will radically alter the existing relationship between church and state in America and which will mark the first constitutionally imposed limitation of religious practice in our history is now under congressional consideration. The proposed amendment reads:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the

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expenditure of public funds, to participate in nondenominational prayer. (H.J. Res. 191)

The fact that this proposed amendment appears on the surface to be beneficial is what makes it so dangerous, and at the same time so popular among some groups. I have never believed, however, that a public official should abandon what he knows to be right just for political popularity.

I am deeply concerned that the effects of this proposed amendment are not fully understood, nor is the magnitude of its proposed change fully appreciated.

First. The amendment could result in a severe diminution of our religious freedom since the only kind of prayer which, under its terminology, could be said in any public building is a "nondenominational" prayer. I am quite horrified at what could result if prayers which are currently being offered in all kinds of public buildings were challenged in the courts by those who felt the prayers were too "denominational." All of this could result in a de facto state religion of nonsectarianism.

Second. Since the only prayers this amendment would allow would be "nondenominational prayers," it would undoubtedly fall upon the courts to interpret this requirement. Thus, local district courts and, perhaps ultimately, the Supreme Court, would have to determine which prayers were nondenominational and, hence, acceptable. Once decided, local school districts and other public officials, in order to be "safe," would probably use only such "cleared" prayers. The final effect of this process would be that government, through the courts, would be prescribing forms of public worship. This is the very condition which the first amendment has prevented for 180 years and which the Founding Fathers wanted to avoid when they wrote the freedom of religion clause into the Constitution.

Third. Another problem associated with nondenominational requirement is that it may be neither desirable nor possible to construct a "nondenominational" prayer. It may be impossible because the protection which the Constitution extends to all religious denominations, and which the Court has said is extended to atheists, may prevent any mention of God in any such prayer. In *Torasco v. Watkins* (367 U.S. 488) the Court pointed out on page 495 that some religions are not founded on a belief in the existence of God and in a footnote listed some of them. The famous New York State Regents' prayer which was disallowed by the Supreme Court in the Engle case may appear on first reading to be nondenominational. Yet, Edmond Cahn, in the New York University Law Review (Dec. 1962), lists at least 10 groups whose religious beliefs would be offended by that seemingly innocuous prayer. Thus, the Court has suggested quite clearly that any reference to any Supreme Being would make a prayer denominational and, hence, unacceptable.

Fourth. Nondenominational prayer is undesirable, from my own point of view, because any such "to whom it may concern" type of prayer which would meet the "nondenominational" requirement is not the kind of prayer that I want to offer in public places nor is it the kind of prayer in which I want my children to participate. I can think of no greater disrespect to God than to relegate Him to a minor inconvenience before roll call. I want my children to pray to their Father in Heaven. I want them to pray in the name of Jesus Christ. And I want them to pray voluntarily, spontaneously, and meaningfully. None of these may be possible under the proposed amendment.

Fifth. It also should be noted that the proposed amendment is unnecessary. Prayers are being offered every day in public buildings all across this Nation from the halls of Congress to local city halls. They are even being offered in schools. The Supreme Court never did abolish prayers in schools—they merely prohibited Government from writing or selecting those prayers. In fact, the Court said:

Nothing, of course, could be more wrong than to interpret this decision as expressing hostility toward religion.

The Court went on to say that:

The state may not establish a religion of secularism in the sense of affirmatively opposing or showing hostility to religion.

As Dallin Oaks, now president of Brigham Young University, said in his article in the Improvement Era in 1961, the *Engle* case "breathes resentment, not against prayer, but against State-required and State-authored prayer." Even in the public schools, daily prayer has been allowed by the Courts so long as certain steps were taken to avoid direct participation in those prayers by the State. See *Reed v. Van Hoven*, 237 F. *Supp.* 48 (W.D. Michigan, 1965).

Six. Not only is the amendment unnecessary, it could possibly unleash divisive forces of competing religions—each fighting for a version of a "nondenominational prayer" favorable to their particular doctrine. In fact, history is replete with instances in which nondenominationalism and nonsectarianism have been used as a guise under which a majority religion has imposed its doctrine on minority religions. Much of the conflict which caused our forebears to leave England was over which version of the Scriptures should be used in school and in public places.

Seven. The proposed amendment runs counter to the first amendment in our inspired Constitution. The first amendment reads:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .

The proposed prayer amendment would limit the free exercise of religion in public places by requiring it to be nondenominational, whatever that may be interpreted to mean. I do not want to lose this first amendment freedom for the proposed amendment. Those who complain when the Court prohibits a form of state-sponsored religious expression to which they have become accustomed should remember two things. The same first amendment also protects religions from attack by the state—matter of *Panarella v. Birenbaum*, 302 N.Y.S. 2nd 427, 1969—and to quote again from Dallin Oaks:

The same procedures that the Supreme Court has approved to bar school prayers . . . can now be used to eliminate secularistic influences from the public schools.

It is apparent that I feel very strongly about this proposed amendment. My own religious group has had too much of a history of persecution to let any attempt to diminish our first amendment protection of religious freedom go unnoticed

Mr. PODELL. Mr. Speaker, I rise today in opposition to House Joint Resolution 191, the proposed constitutional amendment that would authorize prayer in public schools and public buildings.

It is no mere accident that the Bill of Rights has never been amended throughout the course of American history. The 10 amendments to the Constitution which spell out the fundamental guarantees of human liberty have withstood the changing winds of doctrine with remarkable durability, maintaining their indispensable role as a bulwark of the oldest written operative constitution in the world.

The first amendment, which guarantees religious freedom, was written by men who had seen and deplored the frightful sectarian persecutions in Europe and the establishment of mandatory faiths. They were determined that in America men would be free at last to pursue their own religious beliefs without governmental interference.

To this end, the Founding Fathers desired to create a wall of separation between church and state. They were deeply convinced that religion flourishes best when it is the responsibility of the church and the home. They also realized the profound psychological truth that religion thrives where it is voluntary rather than dependent on the coercive power of the state. James Madison, coauthor of "The Federalist Papers," formulated the rationale for church-state separation when he wrote:

It is proper to take alarm at the first experiment of our liberties . . . Who does not see that the same authority which can establish Christianity in exclusion of all other religions may establish with the same ease any particular sect of Christians, in exclusion of all other sects?

The proposed constitutional amendment which we are considering, far from introducing unity into our national life, would paradoxically proscribe and distort freedom of religious expression and would serve as a divisive force. It would make government an arbiter of religious faith. It would authorize government to intervene in the sacred privilege of prayer and would make the government both a judge of theology and an administrator of religious practices.

After the Supreme Court, in Engel against Vitale, 1962, and Abington School District against Schempp, 1963, decided that prayer in school was a violation of the freedom of religion clause of the First Amendment, many irate Americans charged that the Court had "expelled God from school," and many of our citizens took the decision as an indication that the Court was hostile to religion. This is far from the case. In fact, we Americans always were and still are guaranteed the right to participate in prayer, whether nondenominational or

denominational, and in buildings both public and private. All this is guaranteed to us under the free exercise of religion clause of the first amendment. What the High Court said, in effect, was not that you may never pray in school as an individual but that when prayer becomes coerced, it is not the free prayer which is assured by the Constitution.

Prayer in its very essence is voluntary. It should come willingly from the spirit. To the believing member of a church or synagogue, prayer is a personal dialog with the Almighty. Such a dialog cannot rightly be frozen into a formula by the state.

Supporters of the prayer-in-school amendment assert that the use of a nondenominational prayer would avoid the problem of religious coercion. In reality, it would not provide a solution to that problem but rather would create a far more serious difficulty. As 38 religious leaders and organizations pointed out in opposing the measure, it is impossible for the major faiths to agree on what constitutes nondenominational prayers.

Someone would have to select or write the prayer. It might be a State legislature or a local school board or an individual teacher. In any event, allowing State or local officials to write a religious statement would have the disastrous effect of politicizing prayer. It would create the clear prospect that the legislature or the school board would write or choose a prayer reflecting the majority will of the community and in the process impinge upon the beliefs of the minority. Many Americans believe it is impossible to write a nondenominational prayer that will satisfy Baptists, Methodists, Jews, Mormons, Lutherans and Catholics, as well as the devotees of the many other religions practiced in our country. I strongly share their belief.

I cannot emphasize too strongly my conviction that true religious feeling is learned in the home and in one's place of worship. To strengthen our national sense of religious purpose, we must strengthen our homes and churches, not bureautically impose a weak, bargain-basement civic religion on our children and adult groups as if they were puppets.

In these troubled times, Americans need true religion, not transparent religiosity. Our people want real religious commitment, not fabricated surface piety. We need voluntary meetings of the devout, not captive audiences for prayer.

A vote for House Joint Resolution 191 is not a vote for enhancing the role of religion in our country. It is a vote for spurious mechanization of the spiritual. It is a giant step backward from freedom.

While the proposed prayer amendment may seem acceptable on the surface, it is in reality an erosive step that would weaken our Nation's religious liberty. The plain fact is that adoption of this amendment would create more problems than it would solve. Most harmful, it would encourage the divisiveness and angry passion that have always marked religious quarrels. I urge my colleagues to vote against this resolution that would tamper with the fundamental liberties bequeathed to us by our Founding Fathers in the Bill of Rights.

Mr. ROY. Mr. Speaker, we are discussing a most important and emotional issue, as has been pointed out many times. It is so easy to paint the question as one of support or lack of support for prayer. This is ridiculous, as we all know.

The true question is not whether we as individuals believe in prayer and in religion itself, but how we can best support the religious beliefs which we hold important.

Supporters of House Joint Resolution 191 claim they want to restore prayer to our schools and thus take at least one step toward retaining the religious heritage of the United States. To begin with, prayer does not need to be restored to our schools. There has never been any sort of ruling to prevent a child from praying in school.

There have been Supreme Court decisions removing government-sponsored prayer from our public schools. These decisions were based on the first amendment to our Constitution, which states in part:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

This country was founded by men and women who felt religion was a personal matter, something to be dealt with by each individual according to the dictates of his conscience. It is an area in which government does not belong. That is the reasoning behind the first amendment.

The prayer amendment would stand in opposition to this reasoning. It states:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

The application of this principle to our schools would open a Pandora's box of questions: Would subtle pressures be applied to the children who refuse to take part? What agency would be entrusted with writing the nondenominational prayer? What religious benefit would really be gained from such a watered-down expression of piety?

In many ways there is a rather plaintive note to many of the letters I have received urging my support of this resolution. One woman expressed herself this way:

As one of your projects I would like for you to consider the subject of putting prayer back in the schools. That is the only way some children ever hear the word of God.

Unfortunately, that may be true. But it is not the responsibility of the schools to correct the situation. It is a duty of the schools to discuss religious movements as they relate to world history and read portions of the Bible in literature courses. Religion has been important to man as long as he has walked on this planet.

Despite a lack of religious training in many facets of everyday life, however, it is not the place of our schools to make up for this deficiency. No agency of government should attempt to inculcate religious beliefs in any form. To make such an attempt is to invite sectarian strife which would damage the freedom of religion which we all hold dear. Religious leaders know this. That is why the overwhelming majority of them have expressed opposition to this resolution. Their lives are devoted to a furthering of religious devotion, yet they realize that the prayer amendment would not only not further such devotion, but in fact would harm the atmosphere in which devotion is possible.

I would like to quote from a letter which the pastors of five churches in my hometown of Topeka, Kans., sent to a local newspaper:

It is not that we do not want praying pupils and praying teachers. It is simply the fact that we agree with the Supreme Court that such practices are in violation of the "establishment of religion" section of the First Amendment. We believe that these decisions enhance and strengthen religious liberty in the country. Such liberty would be endangered if a school board, or a teacher representing that board, could lift up any preferred form of religion for common exercises of worship in a school room which might have pupils holding to different faiths.

Similar sentiments have been expressed by virtually all religious groups in the United States, including the National Council of Churches, the U.S. Catholic Conference, the National Jewish Community Relations Advisory Council, the American Baptist Convention, the United Methodist Church, and many others.

There are other reasons why this resolution should be defeated. As the first restriction on the Bill of Rights, the prayer amendment would establish a dangerous precedent. The legal battles arising from trying to agree on "nondenominational" prayers would be injurious to all concerned.

But the basic reason for opposing the prayer amendment is that it would not do what it is supposed to do. As a religious man, I firmly oppose any measure, such as this one, which would damage the spirit of religious freedom in this country.

Let us put our faith in God, but let us do it each in his own way.

Mr. RARICK. Mr. Speaker, I find it strange that the major opposition to the prayer amendment comes from religious leaders. Most would expect that church leaders would be leading the fight for prayer since "more good is wrought by prayer than this world dreams of." An assortment of educated explanations are offered to avoid saying that they do not want children to pray in school.

Bill after bill comes through Congress to provide taxpayer funds to be used by religious institutions for education, poverty, and medicine; yet I have never received the first letter objecting that such legislation constitutes a violation of the separation of church and State.

America's children in many areas are forced to submit to forced busing to a distant school to be used as guinea pigs in experimental programs. While in the schools and without parental approval, children are taught sex as if it is a basic educational course, made experts on drugs, exposed to pornography labeled as art, and compelled to read and appreciate perversion and subversion called

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literature. Yet not one organized church group has been heard to complain about this indecency or to lobby for decency in our public schools.

The American school children are sometimes required to read the "Communist Manifesto," "Das Kapital," and the works of many radical extremists who oppose constitutional government and the American free enterprise system, but they are forbidden to study or read the Bible.

Those who oppose letting the children pray in school have gone so far as to claim that prayer violates religious freedom.

One segment of our society protected under the Supreme Court rulings is the antireligious—the atheistic. Apparently, many of our church people have forgotten Madeline Murray, the professed atheist who demanded that atheistic rights be protected in public schools.

Present Supreme Court rulings which established humanism as a national religion in violation of the first amendment is more in keeping with article 124 of the Constitution of the Soviet Union, which reads as follows:

In order to insure to citizens freedom of conscience, the church in the USSR is separated from the state, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

The prayer amendment, House Joint Resolution 191, does not weaken the first amendment—it strengthens it. The prayer amendment but repeals the anti-constitutional prayer rulings of the Supreme Court, which violate the first amendment and has provoked the crisis with which we are now confronted.

Prior to the Supreme Court decisions, our children were allowed to pray in school; and except for the atheists like Mrs. Murray, the overwhelming majority of the American people—including church leaders—must be assumed to have approved of prayer in public schools. In the first 173 years of our country's existence when there was prayer in our schools, there was far more morality and respect for one's fellow man and far less crime and violence than there is today.

The issue of the prayer amendment is very simple—are we again going to allow our children to pray in school or are we going to support the Supreme Court's humanistic rulings now being defended by many church leaders who believe that there is something wrong about giving children the chance to pray in public schools?

GENERAL LEAVE

Mr. CORMAN. Mr. Speaker, I ask unanimous consent that all Members may be permitted to extend their remarks and include extraneous matter on the subject matter of my special order today.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

TAKE PRIDE IN AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. The American people have access to the best foodstuff available. The average caloric-per-day consumption level for the U.S. citizen is 3,200 calories a day as compared to 1,810 per day in India.

LET'S STOP PICKING ON CANADA

The SPEAKER. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

Mr. REUSS. Mr. Speaker, our bumptious and self-righteous posture on trade and monetary problems is not much helping our balance of payments, and is fast losing us friends all over the world. Nowhere is this posture more damaging and less warranted than in our relations with Canada.

Canada and the United States have developed the largest bilateral trade flow of any two nations in the world. In 1970, the United States exported some $9 billion in goods to Canada, representing 22 percent of U.S. exports and 75 percent of Canadian imports. In the same year, we imported some $11 billion in goods from Canada, representing almost 30 percent of our imports and some 70 percent of Canadian exports.

Yet to judge from the treatment we have accorded Canada since the President's August 15 announcement of his new economic policy, Canada is neither a great neighbor whose good will we particularly value, nor our best trading partner, nor our biggest export market.

No, Canada is just one nation among others who should be grateful to us for all the international burdens we have shouldered these many years. No, Canada is just one trading partner among others. And if she is to be singled out at all, it is because after years and years of running a deficit in her merchandise trade with the United States, she has dared over the last several years to run a surplus in this trade—a wrong for which we can claim redress.

So on August 15, we slapped a 10-percent surcharge on imports from Canada along with those from everyone else. And to bolster our competitive advantage, we proposed not only to subsidize our exporters but to exclude Canadian and other foreign manufacturers from the benefits of the 7-percent investment tax credit.

In taking these steps, we blithely chose to overlook the fact that Canadian-United States trade, however mutually beneficial, looms far larger in the Canadian economy than in the U.S. economy. Our surcharge affects some 25 percent of Canadian exports and most hurts labor-intensive industries in Canadian provinces already suffering from high unemployment.

We have blithely turned our blunderbuss on Canada when, to the extent that we have legitimate grievances on trade restrictions and undervalued currencies, they chiefly involve Japan and the countries of the European Common Market. Indeed, Canada floated her dollar in May 1970, and since that time it has appreciated in value vis-a-vis the U.S. dollar by some 7 percent.

If the administration could not bring itself to exempt Canada from the import surcharge, as it should have, even at the risk of compounding our violation of GATT rules, it could at least have shown understanding for Canadian complaints and given assurances that the surcharge would be removed just as soon as international currency realinement was achieved.

But Secretary of the Treasury Connally has left our Canadian friends as much in the dark about his intentions and objectives as the other leading industrial countries, who have nevertheless expressed their willingness to strike a good bargain on currency realinement. Worse, the Secretary and his spokesmen have apparently added insult to injury by telling Canadian officials that Canada should look to the extraction and partial processing of raw materials for exports, abandon plans to diversify her economy, and leave the production of finished goods to us.

Seemingly, the United States has a long list of Canadian trade barriers which we would like to see removed. But if the list leaked to the Chicago Tribune on October 10 is authentic, and it appears to be, it could probably be matched item for item by similar U.S. trade restrictions.

To be sure, the 1965 United States-Canadian auto free-trade agreement, which included special protection for Canadian companies, probably stands in need of revision. And Canadian subsidies which permit subsidiaries of companies based in third countries—for example Michelin tires—to export more cheaply to the United States, are probably unduly generous at our expense.

But to my knowledge, prior to the August 15 surcharge and the deaf ear the Treasury offered worried Canadian officials a few days later, Canada showed no reluctance to sit down and discuss outstanding differences on trade and economic policy with us. Understandably, with what Canadians view as a club held over their heads, the Canadian disposition to talk has recently weakened.

There have been more than enough frictions in Canadian-American relations in recent years—over fishing rights and energy resources, over Vietnam and China policies, over the domination of key sectors of the Canadian economy by U.S. business interests. Canadians are already unpleasantly conscious of our wealth and power and the dependence of their economy on ours. Why confirm their worst suspicions—that when it comes to getting our own way, we are ready to throw our weight around with a vengeance and trample all over the sensibilities and interests of a good friend and neighbor?

The shabby treatment we are according Canada is part and parcel of a policy that assumes we can afford to go it alone until others meet all our demands for the realinement of currencies, lifting of trade restrictions, and sharing of defense burdens. But why should other nations accept all the responsibility for our balance-of-payments difficulties, when these are as much a result of our own sins and omissions as theirs?

The longer we pursue our present course of bluster and swagger in international economic affairs, the more we stand to lose. We risk retaliation for the protectionist measures we have adopted to club others into seeing our way. We will exhaust the existing disposition of others to negotiate a reasonable currency alinement in which we give a little along with them. And we will erode the trust and good will that have made postwar cooperation in trade and finance work well, and which are needed to make it work better.

To restore a healthy United States-Canada relationship there must be achieved within the next few weeks a realinement of currencies coupled with the withdrawal of the import surcharge. The need for such action was well expressed by Dr. Arthur F. Burns, chairman of the Board of Governors of the Federal Reserve System in the following colloquy before the House Banking and Currency Committee on November 1, 1971:

Mr. REUSS. Dr. Burns, you have quite properly mentioned the international monetary implications of the President's new economic program, and I would like to ask you about that. There apparently is under discussion a proposal for working out the first phase of the international monetary mess that we are in, and so far as I can delineate, it seems to consist of:

1. A realignment of major currencies with something on the order of a five percent devaluation of the dollar, accompanied by a significant revaluation of the yen and the mark, and somewhat smaller amounts for other major currencies.

2. A broadened band within which the currencies fixed at these new parities could fluctuate.

3. An agreement, on the part of our major trading partners to negotiate a better sharing of the military burden, negotiate down trade barriers, and to negotiate a new and improved international monetary system.

4. The rescinding of the ten percent import surcharge.

There seems to be a difference of opinion within this country on whether this would be a good deal for us. I hold the view that it would be a good deal, and that we ought to move towards something like that. On the other hand, some friends of mine seem to be opposed to any kind of devaluing of the dollar, whether for reasons of prestige or not, is note quite clear, and instead seem to say: Well, we can go on just as we are, and we can keep the ten percent import surcharge in effect all of this year and for the indefinite future.

Into which camp would you put yourself?

Dr. BURNS. Well, I would—

Mr. REUSS. Do you agree with me that something like this would be a good deal and that we should not be doctrinaire and should try to work it out?

Dr. BURNS. I am going to be very general, and I hope you do not think I am evasive in replying to your question. I will not be very specific because some delicate negotiations are now in process and I do not think I ought to comment on them.

But, in general, let me say that my judgment is: first, that economic theology must be avoided. We should not be doctrinaire in our thinking and in our approach.

Second, in my judgment those who feel that time is on our side, and that we can be relaxed about reestablishing the international monetary order, and that we can be relaxed about the import surcharge, I have grave doubts about that. In my judgment time is on nobody's side, and what we should do is try to return to a viable international order for the sake of our economy and for the sake of harmonious political relations with the rest of the world.

Mr. REUSS. To all of this I say, "hooray." I think that is an excellent and nonevasive answer.

With currencies realined and the surcharge removed, the process of reconciliation with Canada will have been well begun. It can be completed only if we abandon our present disposition to take Canada for granted and recognize that the benefits of a good neighbor policy, like the benefits of trade, flow two ways.

I include an October 24, 1971, Washington Post article by Claude Lemelin, associate editor of the Canadian newspaper Le Devoir of Montreal, which traces the rapid deterioration in Canadian-American relations since August 15:

CANADA: OUR FURIOUS FRIEND

(By Claude Lemelin)

MONTREAL.—Relations between Canada and the United States have become increasingly strained since Aug. 15, when President Nixon jolted the international community by imposing his 10 per cent import surcharge and floating the U.S. dollar.

During the two months since then, the tone of public and private communications across the celebrated "longest undefended border in the world" has been raised to a new and grating pitch. Relations between Ottawa and Washington, once cited to the international community as a paragon of harmony, have deteriorated to the point where mutual distrust delays the resumption of fruitful negotiations.

A watershed may have been reached in U.S.-Canada relations. Even if the two nations succeed in patching up their disagreements in the coming months, it may well be that they are destined to grow further apart. Certainly, the Nixon administration's unilateral disruption of trade across the 49th parallel—the most intensive in the world—has compelled the Trudeau government to grope for an alternative to North American integration for the Canadian economy.

Such an "agonizing reappraisal" — a borrowed phrase used by Canada's Minister for Trade and Industry, Jean-Luc Pépin, in a speech delivered in Houston earlier this month—would merely extend to economic policy a basic decision taken three years ago by the Trudeau government in the field of foreign policy. To dilute the pervasive American influence that grew out of Canada's special and privileged postwar relationship with the United States, Ottawa then decided to "diversify" its foreign policy by establishing diplomatic relations with China and developing closer links with the Soviet Union, as well as by tightening existing relations with Europe, Japan and other countries in the Pacific basin.

It is unlikely that an early removal of the American import surcharge would end the search in Canada for an economic alternative. Come what may, Ottawa is expected at the very least to pursue with a new urgency its drive for diversification of Canada's economic relations.

"What happened once can always happen again," a government official close to Prime Minister Trudeau remarks. "We can no longer afford to be without contingency plans in the face of future isolationist moves by the U.S. government."

Last week, Soviet Premier Alexis Kosygin's visit to Ottawa provided the Trudeau government with the opportunity to explore one such alternative: The expansion of trade and economic cooperation with the Soviet Union. A general exchanges agreement was signed, providing for regular contacts and possibly joint scientific and cultural projects, and both the Canadian and Soviet leader expressed high hopes for future trade between the two countries. But despite Trudeau's use of Mr. Kosygin's visit to induce the Nixon administration into a more amenable posture on U.S.-Canada economic relations, the Canadians harbor no illusions about the significance of the Soviet "alternative." No matter how fast Soviet-Canadian trade expands in coming years, it could not possibly compensate for any substantial shortfall in Canada's exports to the United States.

THE AUGUST 15 MEETING

The relentless deterioration in U.S.-Canada relations began at a meeting in Washington on Aug. 19, during which Treasury Department officials questioned the long-term viability of Canadian manufacturing industries within the North American economy and raised doubts about the desirability of maintaining relatively free access to the U.S. market for those industries. The same officials also indicated that policies recently implemented by Canada to spur the development of technologically advanced industries north of the border were unacceptable to the United States and suggested that Canada specialize instead in the extracting and processing of raw materials for American industry.

During the meeting, held at the urging of the Canadians and attended by Finance Minister Edgar Benson and his colleague Jean-Luc Pépin, Treasury Secretary John Connally refused to exempt Canada from the 10 per cent import surcharge. But the Canadians were less disturbed by Connally's rejection of their one specific request, which they half-expected, than by his officials' open challenge to the continental assumptions that have guided Ottawa's economic policies for more than a quarter century.

Unlike Japan, Britain and the Common Market countries, Canada was not unduly disturbed by the monetary aspects of President Nixon's new economic program. But the import surcharge and the "buy American" clause attached to the 7 per cent investment credit now before Congress were quite another matter.

Canada's exports to the United States reached $10.2 billion last year—representing 68 per cent of Canada's total exports and almost 15 per cent of her gross national product. The surcharge would severely affect more than a quarter of Canada's exports to America—$2.5 billion of goods—while the "buy American" clause would jeopardize an additional $300 million of Canadian machinery exports southward.

Canadian officials claim that such drastic curtailment of foreign trade would destroy in a single year more than 100,000 jobs, thus raising Canada's already high unemployment rate—7.1 per cent last month—by two full percentage points at the very least. Given the fast growth of the labor force and the inevitable concentration of unemployment in Quebec, the French-speaking province where separatist sentiment has been growing steadily in recent years, this prospect horrifies the Trudeau government.

In addition, the substantial tax break the United States would grant to the Domestic International Sales Corporations (DISCs) proposed by President Nixon would significantly reduce business investment in Canada. The DISCs—which Canadian officials maintain would violate the General Agreement on Tariffs and Trade—would receive long-term deferral of U.S. income taxes by acting as U.S. firms' domestic funnels for foreign sales, thereby encouraging the firms to substitute exports from American plants

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for production by overseas subsidiaries. About half of Canadian manufacturing industry and more than 60 per cent of resource industries are owned and controlled by American corporations. Consequently, any substantial discentive to foreign investment enacted by Congress is bound to bring about economic stagnation in Canada.

For all those reasons, the Canadian cabinet decided on Aug. 16 to press at the earliest opportunity for an immediate and unconditional exemption of Canadian products from the import surcharge. Canadian embassy officials in Washington had strongly advised against the ministerial trek; U.S. Treasury officials had let them know that Secretary Connally had more pressing things to do than listen to Canadian grievances, and that the administration could not afford to take anything but a hard line.

But the Trudeau government could not afford to ignore internal political considerations: Not to go to Washington would have provided opposition parties with choice ammunition a few months away from the next federal elections. It was also felt in Ottawa that, even if an early exemption from the surcharge could not be expected, a top-level meeting would still be useful, if only to probe the Nixon administration's long-term views on U.S.-Canada relations and to remind it of the disastrous impact its new "game plan" would have on the Canadian economy.

After the rebuffs of the Aug. 19 meeting in Washington, the Canadian cabinet quietly began to draw up—almost from scratch—contingency plans to safeguard the country's economic interests. What shocked the Canadians into this fundamental economic review was not so much the U.S. Treasury's emphasis on the admittedly substantial bilateral balance-of-payments surplus from which Canada has benefited in the last two years—the first such surpluses since 1891. (Ottawa and Washington don't even agree on figures; according to Canadian statistics, the surplus was $1.1 billion in 1970, while U.S. statistics put it much higher, at $1.5 billion.) The Canadians were totally unprepared for a major onslaught against Canada's industrial development policies, an onslaught that could easily have been construed as an unwarranted American intrusion in the country's internal affairs.

REPORT OF THE U.S. VIEW

Canada's Trade and development policies toward the United States are essentially mercantilist, U.S. Treasury officials are reported to have said. Not only do Canadians want to sell their natural resources, for which the United States has an urgent need, but they try to expand by all possible means—efficient or not—their output and exports of manufactured goods. Whenever the Canadian government agrees to import anything from the United States—be it automobiles, aircraft, military equipment or computers—it always tries to negotiate "Canadian content" and other offsetting clauses. In fact, the Nixon administration often has the impression that Canada would prefer not to import anything from the United States, it was further said. (Canada's imports from America totaled $9.2 billion in 1970, more than the total for Japan and Britain combined.)

In recent years, Treasury officials allegedly went on, Canada's industrial development has become distinctively more interventionist and more aggressive. Rather than let market forces freely determine the location of manufacturing plants within North America, Ottawa attracts U.S. firms to Canada with a wide range of subsidies. Branch plants recently established by Control Data and IBM are obvious examples.

Thus, concluded the American spokesmen there are several aspects of Canadian economic policies that inevitably lead to dilemmas and contradictions with the United States. Many of Canada's secondary industries are inefficient and excessively dependent on the U.S. market, while their artificial expansion has put a ceiling on U.S. exports of manufactured goods to Canada. How, then, is the United States expected to get the foreign exchange it needs to buy Canadian raw materials? Canadians would clearly be better off if their secondary industries were based on the processing of natural resources. Continental economic integration could then proceed without conflicts of interest arising regularly between Canada and the United States.

Despite the near panic those blunt statements provoked within the Canadian government, politicians maintained a shocked silence in Ottawa for several weeks while officials probed further the Nixon administration's intentions toward the Canadian economy. When a second meeting in Washington between civil servants failed to dispel the ominous signs of a U.S. retreat into protectionism and economic nationalism, the Canadian cabinet feverishly began to draw up its contingency plans, both to counter the immediate threat of the U.S. import surcharge and to reassess Canada's long-term development strategy and trading pattern.

ACTIONS BY CANADA

On Sept. 7, Canada became the first country to take legislative action seeking to neutralize the impact of the import surcharge on its trade with the United States. For the remainder of the current fiscal year, which ends next March 31, $80 million has been allocated for so-called "employment maintenance grants"—a thinly disguised form of export subsidy that will enable firms exporting more than 20 percent of their output to America to maintain at least in part their competitive position in the U.S. market. If the surcharge outlasts the current fiscal year, a further $200 million is expected to be allocated to the employment maintenance program. Ottawa also announced special government purchases of food exports that have been hurt by the U.S. surcharge. The resulting stocks will be donated to the world food program.

Also following the Washington meeting, Trudeau announced the indefinite postponement of talks with the United States on joint development and exploitation of energy resources on a continental basis. The Nixon administration is eager to negotiate with Canada a North American free trade agreement for energy resources, so Trudeau's curt announcement, justified by lack of ministerial time, given Canada's urgent economic problems, could be interpreted as a subtle reprisal against Secretary Connally's poker tactics.

Opposition parties in the House of Commons have repeatedly called for the imposition of a surcharge on Canadian exports of natural resources. Business lobbies in Canada have begun to press more and more forcefully for the imposition of a retaliatory surcharge on imports of manufactured goods from the United States.

On Oct. 15, Canada again became the first of the United States' trading partners to make substantial budgetary adjustments to neutralize the impact on her economy of the Nixon program. The $1 billion supplementary budget tabled by Finance Minister Benson included a 7 percent cut in corporate income taxes, a 3 percent cut in personal income taxes and new spending programs designed to boost employment this winter.

Since the abortive visit to Ottawa of Secretary of Commerce Maurice Stans on the last weekend of September, there have been no official communications between Ottawa and Washington, short of normal diplomatic contacts. During the IMF meeting at the end of September, however, John Petty, assistant secretary of the Treasury for international affairs, convoked the Canadian press corps in Washington for an unusual on-the-record briefing.

Though Canadian correspondents generally interpreted this move as a thinly disguised attempt at U.S. arm-twisting, Petty actually tried to dispel the ominous impressions gathered by Canadian ministers and civil servants during their August meetings with U.S. Treasury officials. He categorically denied that it was the Nixon administration's policy to reduce Canada to the role of raw materials supplier for the United States; indeed, he expressed satisfaction at the recent expansion of Canadian output and exports of manufactured goods. To be sure, Petty reiterated Washington's criticism of several aspects of Canadian economic policies, but he emphasized that these disagreements could easily be resolved through bilateral negotiations.

UNOFFICIAL CHANNELS

Canadian officials were not displeased by Petty's somewhat irregular initiative, but wondered why the Nixon administration chose not to make its views known through official channels. Puzzlement verged on irritation when the Chicago Tribune, on Oct. 11, published an alleged Treasury document entitled "Grievances Against Canada." The document listed 17 U.S. demands (including unilateral tariff changes, amendments to Canada's tax reform, and revisions of her industrial development policies) as conditions for the exemption of Canadian goods from the import surcharge.

"We believe there is nothing wrong with communication (channels)," Prime Minister Trudeau told the House of Commons in answer to questions by opposition members. The problem, Trudeau said, is that "it is not American policy to put the proper stuff into the channels which would satisfy the Canadian people."

Ottawa's reaction to the Chicago Tribune article exemplifies the Trudeau government's tough, yet subdued stand toward what are literally considered in the country as "beggar-thy-neighbor" policies by the Nixon administration. Canadian officials first expressed skepticism about the authenticity of the document—at least on its status as a policy statement. The external affairs secretary, Mitchell Sharp, duly acknowledged a State Department denial that the list of grievances represented in any way official policy toward Canada. But at the same time, Sharp began to list Canada's own grievances against the United States, thereby implying that, in Ottawa's view, the Chicago Tribune leak had been deliberate and represented the U.S. Treasury's response to a tough speech in Toronto three days before by the national revenue minister, Herbert Grey.

Sharp mentioned the maintenance of the American Selling Price on chemicals, in violation of a commitment made during the Kennedy round of tariff cuts; the U.S. ban on the importing of uranium, of which Canada has the largest world reserves; the manufacturing clause in the U.S. copyright act, which prevents a Canadian author from selling in the United States more than 1,500 copies of a book published in Canada without forfeiting his copyrights; and restrictions on Canadian immigration into the United States. Why Canada should want to encourage the emigration of citizens is beyond comprehension, but no doubt the issue is a useful bargaining point since Canadian laws here are notably more liberal than America's and the country has recently received a substantial influx of U.S. immigrants—draft-dodgers, protesters against the Vietnam war, critics of the American way of life and whatnot.

"We have a long list," Sharp added, tongue-in-cheek, "but I think that these are matters that ought to be negotiated between our countries in the ordinary way and certainly ought not to be associated with the surcharge."

BARRAGE OF STATEMENTS

Quite obviously, then, the Trudeau government has been far from innocent of recourse to "unofficial" or "improper" channels. Indeed, Canadian ministers have mounted since mid-September a barrage of increasingly aggressive statements on the future of U.S.-Canada relations. Sharp fired the first shot in New York on Sept. 21; he was soon followed by Trudeau in Ottawa, Jean-Luc Pépin in Houston, Herbert Grey in Toronto and Edgar Benson all over the place.

"Suggestions from responsible authorities in the United States that Canada should reduce its secondary manufacturing industry and concentrate on the exploitation and processing of natural resources are as insensitive as they are misinformed," said Sharp. "We have the fastest-growing labor force in the world. Extractive and processing industries could not begin to absorb the labor force we have today, let alone provide the new jobs we need now and in the future.

"The enunciation of the Nixon Doctrine," continued the Canadian minister, "and more particularly the economic measures taken by the United States last month, has effectively, perhaps brutally, challenged some of our assumptions and led us to re-examine our position as an industrial and trading nation.

"Needless to say, we in Canada are asking some pretty fundamental questions about the future. We have proceeded in the postwar period on the assumption of freer trade and stable trading relationships between Canada and the United States, relationships which have been profitable to both countries. The announcement of Aug. 15 could not help but shake that assumption and, as a government responsible for the security and prosperity of more than 20 million Canadians, we have to look at the alternatives," Sharp said.

"A PROUD NATION"

Trudeau was even blunter on Sept. 23, during one of his infrequent television interviews. "When the Americans look at what they're doing, they say: 'Well, you know, we're doing this to the Japanese and we're doing this to the Europeans.' They don't seem to realize what they're doing to Canadians. If they do realize what they're doing and if it becomes apparent that they just want us to be sellers of natural resources to them and buyers of their manufactured products—all these 'ifs'—I repeat we will have to reassess fundamentally our relation with them, trading, political and otherwise.

"They will have to realize that Canadians are also a proud nation," the prime minister warned "and that if they are really trying to rearrange the North American continent so that we are just a supplier and that we won't be able to find jobs for our growing labor force and we won't be able to have an advanced technological society that we can manage ourselves, that is a very, very serious hypothesis. I don't think the Americans realize this or envisage it."

As part of Canada's reassessment of her economic relations with the United States, Sharp earlier this month submitted to the Canadian cabinet an External Affairs staff study outlining the various alternatives. None of the theoretical possibilities—which range from a trade war to a common market arrangement with the United States—has yet been excluded, Trudeau recently noted. But Sharp indicated earlier that, in practice, a common market arrangement was out of the question. This would provide not only for free trade between the two countries, but also for a common North American tariff against the rest of the world. It is felt in Ottawa that, given the relative size and political weight of the two economies, such an arrangement would virtually shift the responsibility for Canadian commercial and development policies from Ottawa to Washington, thereby drastically eroding Canada's sovereignty.

MIGRANT FARMWORKERS

The SPEAKER. Under a previous order of the House, the gentleman from South Carolina (Mr. DAVIS) is recognized for 15 minutes.

Mr. DAVIS of South Carolina. Mr. Speaker. I rise today dismayed, but even more, outraged at the high-handed conduct of one of the very agencies supported and protected by this Congress. I speak out with concern for the citizens of the country and the people of the First District of South Carolina. I express my amazed wonderment at how bureaucratic worms have managed to wiggle their way into the top echelon of this agency.

I have been systematically ignored, repeatedly refused, and totally denied any audience with these people who are alleged to be aiding the farmworkers of America. I am speaking of the Migrant Division of the OEO here in the Capitol itself.

I could more easily understand the lack of communication between my office and the Migrant Farm Workers Division if they were separated by miles. But, Mr. Speaker, to have that very agency right here in the Capitol, in the shadow of my office, and to still be able to obtain absolutely no satisfaction whatsoever—that is just incomprehensible. Mr. Speaker, let me give you some examples of how this agency has disregarded the pleas of the very people they are supposed to be aiding—the only purpose for which they were formed.

I have, on at least a dozen different occasions, made an attempt to get the people of the Migrant Farm Workers Division of the OEO to sit down and discuss several problems with me and my constituents. In the very beginning the agency—the Migrant Farm Workers Division of the OEO—had the courtesy to respond to my office. That was one time. Since that time I have had no further work, no correspondence, no dealings at all with anyone in that office. Quite frankly, Mr. Speaker, at the risk of seeming fallacious, I wonder if perhaps one of the construction crews may have mistakenly dug out that department and transported it off somewhere.

I have gone so far as to bring at my expense several people from the First District—people who are well versed to the problems of the district. We have attempted to meet with the representatives of the Migrant Workers Division of the OEO. Do you think they would honor us, come to my office, at my request? They did not. We were ignored—not put off—ignored! I made a personal request to Mr. Arnold Baker, one of the heads of that division. I even went as far as formally requesting through the congressional liaison of the OEO—Mr. Henry Max Maggenti—a meeting between my people and their department. We did not even get the time of day.

I heard about this flat refusal not from the Migrant Workers Division, but from one of the constituents of my district. Even worse, my constituent said someone in that department commented:

I'm sick and tired of the Congressman being involved in these problems.

Well, Mr. Speaker, not only am I involved in these problems, but, by the grace of God, I will die defending the people of the First Congressional District of South Carolina, and no two-bit, scatterbrained, flaming idiot bureaucrat is going to change that—no matter what he says or thinks. I feel it is about time we get rid of the Arnolds and the others of his type, the overstuffed shirts, those who disregard the very purpose for which they were appointed or hired. We should replace them with a lineup that can follow the game plan, or at least hear the signals being called. I say we cannot have any agency in this country which can shatter the good faith of the people they serve—and make no mistake about it, the faith of the people has been broken and callously tossed aside. I have brought complaint after complaint—I have made request after request all with the same results—a great big fat zero.

Well, Mr. Speaker, now I am finished making requests and now I am going to begin making demands. I am going to demand an accounting of this agency and the way it is being run—right now.

I am going to demand that Mr. Baker and associates realine their thinking to some more in line with the people for whom they work. I am going to demand that they either get on the stick or get out the door.

Today I am going to do my best to get some satisfaction. If it means tightening the purse strings, I shall turn into a scrooge. If it means persuading my colleagues in this body to reappraise their thinking about the Migrant Workers Division, I shall labor tirelessly in that cause. In short, I am going to do my best to see such inaction on the part of an agency designed to aid the people—will cease—at once. I call on the Members of this body to aid me in this fight.

U.S. CARIBBEAN POLICIES: EXCHANGE OF LETTERS WITH DEPARTMENT OF STATE

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, in an address to the House on September 9, 1971, entitled "Panama Canal Treaty Negotiations: Propaganda Campaign on Isthmus in High Gear, July 2–August 25, 1971," I quoted a digest of a newsstory in the Spanish language Isthmian newspaper El Panama America of July 23, 1971, attributing some startling statements concerning certain Latin American policies of the United States to Assistant Secretary of State for Inter-American Affairs, Charles A. Meyer. Because of their nature, instead of emphasizing that particular quotation in my introductory remarks, I wrote the Secretary of State asking whether Assistant Secretary Meyer was correctly quoted and

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whether his alleged statements reflect the policy of the Department of State and the executive branch of our Government.

Assistant Secretary Meyer replied, denying the alleged statements but did not answer my second question. This led me to write him a second letter emphasizing the necessity for extreme care when speaking of Panama Canal policy matters.

As to the contentions of those in our Government and in Panama that continued U.S. sovereignty over the Canal Zone represents what is termed "colonialism," the fact is that surrender of such sovereignty to Panama would result in the creation of such status and render the efficient operation of the canal impossible.

Because the indicated exchange of letters should be interest to all Members of the Congress and others concerned with the conduct of U.S. policies in the Caribbean, I quote them as parts of my remarks:

SEPTEMBER 15, 1971.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C. 20520

DEAR MR. SECRETARY: The news section of *El Panama America* of July 23, 1971 (Morning Edition) attributes the following statement to Under Secretary of State Charles A. Meyer:

". . . the time of United States military intervention into other countries is past, even in the most serious circumstances. Not even (a) communist take over of a country would change the U.S. attitude . . . If the communists should cut off Venezuelan oil shipments, or if the Santo Domingo incidents should be repeated, or if communists took over Panama, the U.S. would not intervene. There will be no United States military intervention in Panama."

In view of the recent reorganization of the Panama Government to effect a leftist composition, the arrival on the Isthmus of Soviet experts, and the truculent press campaign against the United States now being waged in Panama, answers to the following questions are desired:

1. Are the above statements attributed to Under Secretary Meyer correctly quoted?

2. Do they reflect the policy of the Department of State and the Executive Branch of the U.S. Government in the premises?

A marked copy of my September 9 address is attached.

An early reply is requested.

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

DEPARTMENT OF STATE,
Washington, D.C., September 24, 1971.

Hon. DANIEL J. FLOOD,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN FLOOD: I have just returned to Washington to find your letter of September 15 addressed to Secretary Rogers which refers to a news article of a Panamanian newspaper dated July 23, 1971.

I can simply say that the editorial interpretation of the newspaper leaves me speechless at its inaccuracies. The only time that I have referred to United States intervention in my two and one-half years was in answer to specific questions as to whether the United States would intervene in Chile if Salvador Allende were elected, and that was in June of 1970. I have never been asked nor have I ever commented on Communism as a reason for intervention or non-intervention, on Venezuelan oil as a reason for intervention or non-intervention, on any aspect of Santo Domingo, and most specifically in no case have I referred to Panama or the Panama Canal.

With my best regards,

Sincerely,

CHARLES A. MEYER,
Assistant Secretary.

OCTOBER 5, 1971.

Hon. CHARLES A. MEYER,
Assistant Secretary of State for Inter-American Affairs, State Department, Washington, D.C.

DEAR MR. SECRETARY: I am glad that you were in a position to deny the statements attributed to you in the July 23, 1971, morning issue of *El Panama America:* You and the country at large are served by the denial.

In the introduction to my address in the *Congressional Record* of September 9 on "Panama Canal Treaty Negotiations in High Gear, July 2–August 25, 1971", I did not give the alleged statements any emphasis because it was difficult to believe that you could have been so reckless in dealing with the delicate situation at Panama. Instead, I wrote the Secretary of State and am glad that I did. At a convenient time, I may quote the resulting exchange of letters including your denial so that it may have wider dissemination.

In your important position you have to be very careful indeed when speaking of Panama Canal problems for they may involve not only the independence of Panama but also the security of the entire Western Hemisphere. Such questions cannot be settled by surrendering United States sovereignty over the Canal Zone for that would open the door for Soviet power to expedite its program of conquests in the Americas.

The U.S.S.R. is already dominant in Egypt and at the Suez Canal. Their policy since 1917 has been to wrest control of the Panama Canal from the United States, either by nationalization or internationalization. Surrender of our sovereignty over the U.S. owned Zone territory to Panama would deliver control and defense of the Canal to Panama and make any treaty arrangements subject to unilateral cancellation by Panama, which already has a pro Red government and has whipped its people into a frenzy of anti-United States hatred. Could there be any reason for the U.S.S.R. seeking the control of the Panama Canal except to undermine the capability of the United States to oppose the spread of communism? These are realistic questions that require evaluation as to the consequences.

It seems that as regards our Panama Canal policies the State Department has been playing Russian roulette, which can only end in self destruction. Panama is a very small and weak country utterly unable to protect itself, the Canal, or its necessary protective frame of the Canal Zone. The sovereignty question is not a one sided dispute between a great and powerful country and a little one but our own and Panama's protection and the security of the Free World. The question of sovereignty is not a mere emotional matter as some have asserted but a subject that involves the operation and defense of the Canal in all its stark realities.

The present crisis at Panama is not the first time that our government has been tested as regards our Panama Canal policies. In 1923 when Panama made formal demands for increased sovereignty over the Canal Zone, Secretary of State Charles Evans Hughes spoke with a refreshing degree of candor stating that the United States "could not, and would not, enter into any discussion affecting its full right to deal with the Canal Zone and to the entire exclusion of any sovereign rights or authority on the part of Panama" and that it was "an absolute futility for the Panamanian Government to expect any American administration, no matter what it was, any President or any Secretary of State, ever to surrender any part of these rights which the United States had acquired under the Treaty of 1903." (Foreign Relations, 1923, Vol. III, p. 684.)

On another occasion Secretary Hughes stated that it is "part of American policy not to yield to any foreign power the control of the Panama Canal, or the approaches to it, or the obtaining of any position which would interfere with the right of protection on the part of the United States or would menace the freedom of its communications." (*Encyclopaedia Britannica,* 1957, Vol. 15, p. 738.)

The above statements by Secretary Hughes were not made in the interest of oppression but were declarations of national policies commensurate with the heavy responsibilities assumed by the United States in perpetuity for the construction, maintenance, operation, sanitation and protection of the Panama Canal for which its protective frame of the Canal Zone is indispensable.

Finally, it is important to point out that it was a statement similar to the one attributed to you that is widely accepted as the prime cause of the Korean War in which there were a total of 157,530 American casualties.

Again thanking you for your statement of denial, I am

Sincerely yours,

DANIEL J. FLOOD,
Member of Congress.

A NEW FOREIGN AID BILL

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Mrs. ABZUG) is recognized for 5 minutes.

Mrs. ABZUG. Mr. Speaker, I rise to call the attention of my colleagues to the fact that I am today introducing a bill to amend the Foreign Assistance Act.

The action of the Senate on Friday, October 29, in rejecting the Foreign Assistance Act has provided Congress with the opportunity to redesign U.S. programs of foreign assistance and help build a new era in world affairs. I for one welcome the chance. But we must act rapidly to restore the best and most urgent of these funds. So I introduce today the bill introduced in the Senate by the gentleman from South Dakota (Mr. MCGOVERN) and urge my colleagues' favorable and immediate consideration of it. It points toward a foreign policy for the 1970's.

By the admissions of both the House and Senate Foreign Relations Committees, this year's foreign assistance bill is a perpetuation of old concepts and outmoded policies. The time has come, as the era of the cold war draws to an end, to redefine our foreign policy objectives, to end our insistence on "the containment of communism" and the attendant predominance of military assistance in our foreign aid programs. The time has come to end our noblesse oblige attitude toward developing nations and the attendant bilateral approach we have incorporated into every aspect of our foreign assistance. The time is upon us here in the Congress, but we must move rapidly to assure that the urgent need of friends are not pushed aside while we undertake a necessary reexamination of our aid policy.

The event that has crystallized this crisis in foreign aid and polarized both our society at home and the world community is the American military involvement in Indochina. This bill insures an end to this awful war by providing a cut-off of funds for U.S. military activities in Indochina 6 months after enactment, assuring at the same time the protection of our withdrawing forces and the release of all prisoners of war before withdrawal is completed.

The bill provides almost $400 million for Israel. Israel cannot wait on our deliberations. The common theme echoed throughout the turbulent Middle East is implacable hatred for Israel. Israel cannot lose ground. It is time now to provide Israel with the Phantoms she needs. This is, however, the only incorporation in this foreign assistance bill of military assistance funds—this $300 million in credit sales for Israel already authorized by both Foreign Relations Committees—that I consider emergency enough to warrant inclusion into this proposed legislation. The bill also provides $85 million in security supporting assistance for Israel, also endorsed by the committees. Both are essential.

The Pakistani refugees too cannot wait. Their daily plight is too immediate to hang on the deliberations of the U.S. Congress. Therefore this bill authorizes the full $250 million sought for their assistance.

There are other provisions I wish to call to your attention: an absolute cut-off of aid to the repressive regimes in Pakistan and Greece, full funding for the multilateral agencies including the United Nations, accelerating the end of the bilateral aid program to June of 1973, and with the sole exception of the credit sales to Israel, separating out all military assistance from this foreign assistance bill.

I urge your favorable consideration.

A copy of the bill follows:

S. 2796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Assistance Act of 1971".

PART I—ECONOMIC ASSISTANCE

DEVELOPMENT LOAN FUND

SEC. 101. Title I of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Development Loan Fund, is amended as follows:

(1) In section 202(a), relating to authorization—

(A) strike out "$685,000,000 for the fiscal year 1967, $450,000,000 for the fiscal year 1968, $350,000,000 for the fiscal year 1969, $350,000,000 for the fiscal year 1971" and insert in lieu thereof "$400,000,000 for each of the fiscal years 1972 and 1973";

(B) beginning with the word "That", immediately after *"Provided,"*, strike out through *"Provided further,"*.

(2) In section 203, relating to fiscal provisions, strike out "1970 and or the fiscal year 1971" and insert in lieu thereof "1972 and or the fiscal year 1973".

(3)(A) Section 209, relating to multilateral and regional programs, is amended—

(i) by striking out subsection (a) and inserting in lieu thereof the following: "(a) The Congress recognizes that the planning and administration of development assistance by, or under the sponsorship of the United Nations, multilateral lending institutions, and other multilateral organizations contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance. It is the sense of Congress that an increasing proportion of United States assistance to the developing countries should be channeled through multilateral organizations and that the United States Government should undertake such measures as may be necessary to help increase the competency and capacity of such organizations."; and

(ii) by inserting at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of law, the President shall reduce the amounts and numbers of loans made by the United States directly to individual foreign countries with the objective of phasing out the bilateral loan program by not later than June 30, 1973.

"(d) In furtherance of the provisions of subsection (a) of this section, any funds appropriated under this part I may be transferred by the President to the International Development Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank or other multilateral lending institutions and multilateral organizations in which the United States participates for the purpose of providing funds to enable any such institution or organization to make loans to foreign countries. Any such transfer shall be made—

(1) only if the institution or organization agrees that, in making loans out of funds so transferred, it will emphasize and take into account those matters emphasized and taken into account by the President under sections 201(b) and (f), 207, and 208 of this Act;

"(2) without regard to any other provision of this title; and

"(3) upon such other terms and conditions as the President may determine."

(B) Subsection (b) of such section 209 is amended by striking out "REGIONAL PROGRAMS.—".

(C) Section 205 of such Act is repealed.

(D) Effective July 1, 1975, section 619 of such Act is amended by inserting after "this Act" the following "(other than title I of chapter 2 of such part)".

Technical cooperation and development grants

SEC. 102. Title II of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to technical cooperation and development grants, is amended as follows:

(1) In section 212, relating to authorization, strike out "$183,500,000 for the fiscal year 1970, and $183,500,000 for the fiscal year 1971" and insert in lieu thereof $231,300,000 for each of the fiscal years 1972 and 1973".

(2) Section 214, relating to authorization for American schools and hospitals abroad, is amended as follows:

(A) by inserting in subsection (a), after "United States citizens", a comma and the following: "or administered by United States citizens who assure the President that they will have responsibility for administering the funds made available under this section,";

(B) by inserting before the period at the end of subsection (b) a comma and the following: "or administered by United States citizens who assure the President that they will have responsibility for administering the funds made available under this section"; and

(C) by striking out in subsection (c) "for the fiscal year 1970, $26,900,000, and for the fiscal year 1971, $12,900,000", and by inserting in lieu thereof "for each of the fiscal years 1972 and 1973, $30,000,000".

(3) At the end of such title II, add the following new section:

"SEC. 220A. SUEZ CANAL.—The President is authorized to furnish financial assistance, on such terms and conditions as he may determine, for assisting in the reopening of the Suez Canal after agreement has been reached by the parties involved, which agreement provides for the use of the canal by the ships of all nations, including Israel, on a nondiscriminatory basis. For the purpose of carrying out this section, there are authorized to be appropriated not to exceed $10,000,000 in Egyptian pounds now owned by the United States and determined by the President to be in excess to the normal requirements of departments and agencies of the United States. Amounts appropriated under this section are authorized to remain available until expended."

HOUSING GUARANTIES

SEC. 103. Title III of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to housing guaranties, is amended as follows:

(1) In section 221, relating to worldwide housing guaranties, strike out "$130,000,000" and insert in lieu thereof "$180,000,000".

(2) In section 223(i), relating to general provisions, strike out "June 30, 1972" and insert in lieu thereof "June 30, 1974".

INTERNATIONAL DRUG CONTROL ASSISTANCE

SEC. 104. (a) Chapter 2 of the Foreign Assistance Act of 1961, relating to development assistance, is amended by inserting after title III the following new title:

"TITLE IIIA—INTERNATIONAL DRUG CONTROL ASSISTANCE

"SEC. 226. AUTHORITY.—(a) The President is authorized to furnish assistance to any foreign country, on such terms and conditions he determines necessary, in order to encourage and enable that country to control or eliminate the production, processing, or distribution of drugs within or across its boundaries.

"(b) The President is authorized to furnish assistance to any international organization, such as the United Nations Special Fund for Drug Abuse Control, involved in efforts to control or eliminate the production, processing, or distribution of drugs.

"(c) Of the funds provided to carry out the provisions of this Act, not less than $25,000,000 shall be available each fiscal year only to carry out the provisions of this title.

"(d) For purposes of this section, 'drug' means any matter which is included within the definition of controlled substance under title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970."

(b) Section 620 of such Act, relating to prohibitions against furnishing assistance, is amended by adding at the end thereof the following new subsection:

"(v)(1) The President shall determine annually, before furnishing any military, economic, and other assistance to a foreign country under this or any other law, whether such country has undertaken appropriate measures to prevent drugs, partially or completely processed or produced in or transported through such country, from unlawfully entering the United States or from being unlawfully supplied to citizens of the United States.

"(2) Except as otherwise provided under paragraph (3) of this subsection, if the President determines that a foreign country has not undertaken appropriate measures to prevent any such drugs from unlawfully entering the United States or being unlawfully supplied to United States citizens, he shall immediately cease to furnish all military, economic, and other assistance to such country authorized under this or any other law. The President is urged also to seek, through the United Nations or any other international organization, the imposition of international economic sanctions against such country.

"(3) If the President finds that a foreign country referred to under paragraph (2) of this subsection has undertaken, after his determination, appropriate measures to prevent such drugs from unlawfully entering the United States or being unlawfully supplied to United States citizens or finds that the overriding national interest requires that military, economic, or other assistance be furnished to such country, the provisions of such paragraph shall not apply to that coun-

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try unless the provisions of such paragraph would apply further to that country as a result of a further determination.

"(4) The President shall utilize such agencies and facilities of the United States Government as he may deem appropriate to assist foreign countries in their efforts to prevent the unlawful entry of drugs into the United States or from being unlawfully supplied to United States citizens.

"(5) No provisions of this or any other law shall be construed to authorize the President to waive the provisions of this subsection.

"(6) For purposes of this subsection—

"(A) 'drug' means any matter which is included within the definition of controlled substance under title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970; and

"(B) 'foreign assistance' means any tangible or intangible item provided by the United States Government (by means of gift, loan, sale, credit sale, guaranty, or any other means) under this or any other law to a foreign country, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country."

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 105. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Ovearseas Private Investment Corporation, is amended as follows:

(1) In the first provisio of section 238(c), relating to definitions, strike out "required by law to be".

(2) At the end of section 239, relating to general provisions and powers, add the following new subsection:

"(g) Except for the provisions of this title, no other provision of this or any other Act shall be construed to prohibit the operation in a particular country of the programs authorized by this title, if the President determines that the operation of such program in a particular country is important to the national interest."

(3) Section 240(h), relating to agricultural credit and self-help community development projects, is amended by striking out "June 30, 1972" and inserting in lieu thereof "June 30, 1973".

ALLIANCE FOR PROGRESS

SEC. 106. Section 252(a) of the Foreign Assistance Act of 1961, relating to authorization for the Alliance for Progress, is amended—

(1) by striking out "for the fiscal year 1970, $482,250,000, and for the fiscal year 1971, $428,250,000" and inserting in lieu thereof "for each of the fiscal years 1972 and 1973, $364,000,000"; and

(2) by striking out "$90,750,000" and inserting in lieu thereof "$129,000,000".

Programs relating to population growth

SEC. 107. Section 292 of the Foreign Assistance Act of 1961, relating to authorization, is amended to read as follows:

"SEC. 292. AUTHORIZATION.—To carry out the purposes of this title, there is authorized to be appropriated to the President $125,000,000 for each of the fiscal years 1972 and 1973, which amounts are authorized to remain available until expended. Other funds provided to carry out the provisions of this part I shall also be available to carry out the purposes of this title and, notwithstanding any other provision of this Act, funds used for such purposes may be used on a loan or grant basis. The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of this Act to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of this Act."

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 108. Section 302 of the Foreign Assistance Act of 1961, relating to authorization, is amended as follows:

(1) In subsection (a), strike out "for the fiscal year 1970, $122,620,000, and for the fiscal year 1971, $122,620,000" and insert in lieu thereof "for each of the fiscal years 1972 and 1973, $143,000,000."

(2) Subsection (b)(2) is amended—

(A) by striking out "for use in the fiscal year 1970, $7,530,000, and for use in the fiscal year 1971, $7,530,000" and inserting in lieu thereof "for use in each of the fiscal years 1972 and 1973, $15,000,000"; and

(B) by adding at the end thereof the following new sentence: "The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of this Act to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of this Act."

(3) In subsection (e), strike out "$1,000,000 for the fiscal year 1970 and $1,000,000 for the fiscal year 1971" and insert in lieu thereof "$1,000,000 for each of the fiscal years 1972 and 1973".

(4) At the end of such section 302, add the following new subsection:

"(f) There are authorized to be appropriated to the President for each of the fiscal years 1972 and 1793, in addition to other amounts available for such purposes, $1,000,000 in Egyptian pounds owned by the United States and determined by the President to be excess to the requirements of departments and agencies of the United States, for the purpose of providing technical and vocational training and other assistance to Arab refugees. Amounts appropriated under this subsection are authorized to remain available until expended."

CONTINGENCY FUND

SEC. 109. Section 451(a) of the Foreign Assistance Act of 1961, relating to the contingency fund, is amended by striking out "for the fiscal year 1970 not to exceed $15,000,000, and for the fiscal year 1971 not to exceed $30,000,000" and inserting in lieu thereof "for each of the fiscal years 1972 and 1973 not to exceed $30,000,000".

REFUGEE RELIEF ASSISTANCE

SEC. 110. Part I of the Foreign Assistance Act of 1961, relating to economic assistance, is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—REFUGEE RELIEF ASSISTANCE

"SEC. 481. REFUGEE RELIEF ASSISTANCE.—There is authorized to be appropriated to the President for the fiscal year 1972, in addition to funds otherwise available for such purpose, not to exceed $250,000,000 to remain available until expended, for use by the President in providing assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan. Such assistance shall be distributed, to the maximum extent practicable, under the auspices of and by international institutions and relief agencies or United States voluntary agencies."

PART II—MILITARY ASSISTANCE

GENERAL MILITARY ASSISTANCE

SEC. 201. Part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended as follows:

(1) Section 505, relating to conditions of eligibility, is amended by striking out subsection (e).

(2) Section 507(a), relating to restrictions on military aid to Latin America, is amended to read as follows: "(a) Except as otherwise provided in this section, the value of defense articles furnished by the United States Government under this Act to Latin American countries shall not exceed $10,000,000. Not to exceed $25,000,000 in value of defense articles may be furnished under this part on a cost-sharing basis to an inter-American military force under the control of the Organization of American States."

(3) At the end of chapter 2 of such part II, add the following new sections:

"SEC. 511. MILITARY ASSISTANCE ADVISORY GROUPS AND MISSIONS.—(a) It is the sense of Congress that the need for large United States military assistance advisory groups and military aid missions in foreign countries has diminished substantially during the last few years. In the words of the Peterson Task Force Report on International Development, 'The United States now can reduce its supervision and advice to a minimum, thus encouraging progress toward self-reliance. United States military missions and advisory groups should be consolidated with other elements in our overseas missions as soon as possible.'

"(b) In accordance with the provisions of subsection (a) of this section, the total number of United States military personnel assigned and detailed, as of September 30, 1971, to United States military assistance advisory groups, military missions, and other organizations of the United States performing activities similar to such groups and missions, shall be reduced by at least 25 per centum by September 30, 1972.

"SEC. 512. MILITARY ASSISTANCE AUTHORIZATIONS FOR THAILAND, LAOS, AND SOUTH VIETNAM.—After June 30, 1972, no military assistance shall be furnished by the United States to Thailand, Laos, or South Vietnam directly or through any other foreign country unless that assistance is authorized under this Act or the Foreign Military Sales Act.

"SEC. 513. LIMITATIONS ON AVAILABILITY OF FUNDS FOR MILITARY OPERATIONS.—(a) No funds authorized or appropriated under any provision of law shall be made available by any means by any officer, employee, or agency of the United States Government for the purpose of financing any military operations by foreign forces in Laos, South Vietnam, North Vietnam, Thailand, Cambodia, or Burma outside the borders of the country of the government or person receiving such funds unless Congress has specifically authorized or specifically authorizes the making of funds available for such purpose and designates the area where military operations financed by such funds may be undertaken outside such borders.

"(b) Upon requesting Congress to make any such authorization, the President shall provide to Congress a copy of any agreement proposed to be entered into with any such government or person and the complete details of the proposed military operation. Upon such authorization by Congress, the President shall provide a copy of any such agreement and thereafter of all plans and details of such operation.

"SEC. 514. SPECIAL FOREIGN COUNTRY ACCOUNTS.—(a) Except as otherwise provided by subsection (b) or (c) of this section, no defense article may be given, and no grant of military assistance may be made, under this or any other law to a foreign country unless the country agrees—

"(1) to deposit in a special account established by the United States Government the following amounts of currency of that country:

"(A) in the case of any excess defense article to be given to that country, an amount equal to 25 per centum of the fair value of the article, as determined by the Secretary of State, at the time the agreement to give the article to the country is made; and

"(B) in the case of a grant of military assistance to be made to that country, an amount equal to 25 per centum of each such grant; and

"(2) to allow the United States Government to use such amounts from that special account as may be determined, from time to time, by the President to be necessary to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

"(b) The President may waive any amount of currency of a foreign country required to be deposited under subsection (a)(1) of this section if he determines that the United States Government will be able to pay all of its official costs payable in the currency of that country enumerated under subsection (a)(2) of this section without the deposit of such amount and without having to expend United States dollars to purchase currency of that country to pay such costs.

"(c) The provisions of this section shall not apply in any case in which an excess defense article is given, or a grant of military assistance is made, to a foreign country under an agreement with that country which allows the United States Government to operate a military or other similar base in that country in exchange for that article or grant.

"(d) Section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), shall not be applicable to the provisions of this section."

Security supporting assistance

SEC. 202. (a) At the end of such part II, add the following new chapter:

"Chapter 4—Security Supporting Assistance

SEC. 531. GENERAL AUTHORITY.—The President is authorized to furnish assistance to friendly countries, organizations, and bodies eligible to receive assistance under this Act on such terms and conditions as he may determine, in order to support or promote economic or political stability. The authority of this chapter shall not be used to furnish assistance to more than twelve countries in any fiscal year.

"SEC. 532. AUTHORIZATION.—There are authorized to be appropriated to the President not to exceed $614,400,000 to carry out the purposes of this chapter for the fiscal year 1972 and not to exceed $85,000,000 for such purposes for that fiscal year for Israel only. Where commodities are furnished on a grant basis under this chapter under arrangements which will result in the accrual of proceeds to the Government of Vietnam from the sale thereof, arrangements should be made to assure that such proceeds will not be budgeted by the Government of Vietnam for economic assistance projects or programs unless the President or his representative has given prior written approval. Amounts appropriated under this section are authorized to remain available until expended. None of the funds authorized by this section shall be made available to the Government of Vietnam unless, beginning in January 1971, and quarterly thereafter, the President of the United States shall determine that the accommodation rate of exchange, and the rate of exchange for United States Government purchases of piasters for goods and services, between said Government and the United States is fair to both countries.

"SEC. 533. UNITED STATES REFUND CLAIMS.—It is the sense of the Congress that the President should seek the agreement of the Government of Vietnam to the establishment and maintenance of a separate special account of United States dollars, which account shall be available solely for withdrawals by the United States, at such times and in such amounts as the President may determine, in satisfaction of United States dollar refund claims against the Government of Vietnam arising out of operations conducted under this Act. Such account should be established in an amount not less than $10,000,000 and maintained thereafter at a level sufficient to cover United States refund claims as they arise."

(b) Chapter 4 of part I of the Foreign Assistance Act of 1961 is hereby repealed. All references to such chapter or any sections thereof made prior to the date of the enactment of this Act shall hereafter be deemed to be references to chapter 4 of part II of the Foreign Assistance Act of 1961, as added by subsection (a) of this section, or to appropriate sections thereof. All references to part I of the Foreign Assistance Act of 1961 made prior to the date of enactment of this Act shall hereafter be deemed to be references also to chapter 4 of part II, and all references to part II of such Act shall be deemed not to include chapter 4 of such part II

PART III—GENERAL AND ADMINISTRATIVE PROVISIONS

Prohibitions Against Furnishing Assistance

SEC. 301. Section 620 of the Foreign Assistance Act of 1961, relating to prohibitions against furnishing assistance, is further amended by adding after subsection (v), as added by section 104(b) of this Act, the following new subsections:

"(w) No assistance shall be furnished to Greece under this or any other Act, and no sale or credit shall be made to, and no guaranty shall be made on behalf of, Greece under the Foreign Military Sales Act."

"(x)(1) All military, economic, or other assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), all sales of agricultural commodities (whether for cash, credit, or by other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Pakistan under this or any other law shall be suspended on the date of enactment of this subsection.

"(2) The provisions of this subsection shall cease to apply when the President reports to the Congress that the Government of Pakistan is cooperating fully in allowing the situation in East Pakistan to return to reasonable stability and that refugees from East Pakistan in India have been allowed, to the extent feasible, to return to their homes and to reclaim their lands and properties.

"(3) Nothing in this subsection shall apply to the provision of food and other humanitarian assistance which is coordinated, distributed, or monitored under international auspices."

Authorization of Administrative Expenses

SEC. 302. Section 637(a) of the Foreign Assistance Act of 1961, relating to authorization of administrative expenses of the agency administering part I, is amended by striking out "for the fiscal year 1970, $51,125,000, and for the fiscal year 1971, $51,125,000" and inserting in lieu thereof "for each of the fiscal years 1972 and 1973, $51,800,000".

Miscellaneous Provisions

SEC. 303. (a) (1) Section 652 of chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is amended to read as follows:

"SEC. 652. LIMITATION UPON EXERCISE OF SPECIAL AUTHORITIES.—The President shall not exercise any special authority granted to him under section 506(a), 610(a), or 614(a) of this Act unless the President, at least ten days prior to the date he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority."

(2) The last sentence of section 506(a) of such Act, relating to special authority, is repealed.

(3) The last sentence of section 634(d) of such Act, relating to reports and information, is amended by striking out "614(a),".

(b) Such chapter 3 is amended by adding at the end thereof the following new sections:

"SEC. 653. CHANGES IN ALLOCATION OF FOREIGN ASSISTANCE.—(a) Not later than thirty days after the enactment of any law appropriating funds to carry out any provision of this Act (other than section 451 or 637), the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each. Notwithstanding any other provision of law, the United States Government shall not provide to any foreign country or international organization any funds under that law which are in excess of 10 per centum of the amount of each category of assistance which the President notified the Congress that the United States Government intended to provide that country or organization under that law, unless the President (1) determines that it is vital to the security of the United States that such country or organization receive funds in excess of the amount included in such notification for that country or organization, and (2) reports to Congress, at least ten days prior to the date on which such excess funds are to be provided to that country or organization, each such determination, including the name of the country or organization to receive funds in excess of such per centum, the amount of funds in excess of that per centum which are to be provided, and the justification for providing the additional assistance.

"(b) The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 614(a) of this Act.

"SEC. 654. PRESIDENTIAL FINDINGS AND DETERMINATIONS.—(a) In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

"(b) No action shall be taken pursuant to any such finding or determination prior to the date on which that finding or determination has been reduced to writing and signed by the President.

"(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

"(d) No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

"SEC. 655. LIMITATIONS UPON ASSISTANCE TO OR FOR CAMBODIA.—(a) Notwithstanding any other provision of law, no funds authorized to be appropriated by this or any other Act may be obligated or expended in any amount in excess of $250,000,000 for

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the purpose of carrying out directly or indirectly any economic or military assistance, or any operation, project, or program of any kind, or for providing any goods, supplies, materials, equipment, services, personnel, or advisers in, to, for, or on behalf of Cambodia during the fiscal year ending June 30, 1972.

"(b) In computing the $250,000,000 limitation on obligation and expenditure authority under subsection (a) of this section in fiscal year 1972, there shall be included in the computation the value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Cambodia in such fiscal year by gift, donation, loan, lease, or otherwise. For the purpose of this subsection, 'value' means the fair market value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Cambodia but in no case less than 33⅓ per centum of the amount the United States paid at the time such goods, supplies, materials, or equipment were acquired by the United States.

"(c) No funds may be obligated or expended for any of the purposes described in subsection (a) of this section in, to, for, or on behalf of Cambodia in any fiscal year beginning after June 30, 1972, unless such funds have been specifically authorized by law enacted after the date of enactment of this Act. In no case shall funds in any amount in excess of the amount specifically authorized by law for any fiscal year be obligated or expended for any such purpose during such fiscal year.

"(d) The provision of subsections (a) and (c) of this section shall not apply with respect to the obligation or expenditure of funds to carry out combat air operations over Cambodia.

"(e) After the date of enactment of this Act, whenever any request is made to the Congress for the appropriation of funds for use in, for, or on behalf of Cambodia for any fiscal year, the President shall furnish a written report to the Congress explaining the purpose for which such funds are to be used in such fiscal year.

"(f) The President shall submit to the Congress within thirty days after the end of each quarter of each fiscal year, beginning with the fiscal year which begins July 1, 1971, a written report showing the total amount of funds expended in, for, or on behalf of Cambodia during the preceding quarter by the United States Government, and shall include in such report a general breakdown of the total amount expended, describing the different purposes for which such funds were expended and the total amount expended for such purpose, except that in the case of the first two quarters of the fiscal year beginning July 1, 1971, a single report may be submitted for both such quarters and such report may be computed on the basis of the most accurate estimates the President is able to make, taking into consideration all information available to him.

"(g) Enactment of this section shall not be construed as a commitment by the United States to Cambodia for its defense."

LIMITATION ON UNITED STATES PERSONNEL AND PERSONNEL ASSISTED BY UNITED STATES IN CAMBODIA

SEC. 304. Chapter 3 of part III of the Foreign Assistance Act of 1961 relating to miscellaneous provisions, is further amended by adding after section 655, as added by section 303(b) of this Act, the following new section:

"SEC. 656. LIMITATIONS ON UNITED STATES PERSONNEL AND PERSONNEL ASSISTED BY UNITED STATES IN CAMBODIA.—The total number of civilian officers and employees of executive agencies of the United States Government who are citizens of the United States and of members of the Armed Forces of the United States (excluding such members while actually engaged in air operations in or over Cambodia which originate outside Cambodia) present in Cambodia at any one time shall not exceed two hundred. The United States shall not, at any time, pay in whole or in part, directly or indirectly, the compensation or allowances of more than fifty individuals in Cambodia who are citizens of countries other than Cambodia or the United States. For purposes of this section, 'executive agency of the United States Government' means any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment within the executive branch of the United States Government."

ANNUAL FOREIGN ASSISTANCE REPORT

SEC. 305. (a) Chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is further amended by adding after section 656, as added by section 304 of this Act, the following new section:

"SEC. 657. ANNUAL FOREIGN ASSISTANCE REPORT.—(a) In order that the Congress and the American people may be better and more currently informed regarding the volume and cost of assistance extended by the United States Government to foreign countries and international organizations, and in order that the Congress and the American people may be better informed regarding the sale of arms to foreign countries and international organizations by private industry of the United States, not later than December 31 of each year the President shall transmit to the Congress an annual report, for the fiscal year ending prior to the fiscal year in which the report is transmitted, showing—

"(1) the aggregate dollar value of all foreign assistance provided by the United States Government by any means to all foreign countries and international organizations, and the aggregate dollar value of such assistance by category provided by the United States Government to each such country and organization, during that fiscal year;

"(2) the total amounts of foreign currency paid by each foreign country or international organization to the United States Government in such fiscal year, what each payment was made for, whether any portion of such payment was returned by the United States Government to the country or organization from which the payment was obtained or whether any such portion was transferred by the United States Government to another foreign country or international organization, and, if so returned or transferred, the kind of assistance obtained by that country or organization with those foreign currencies and the dollar value of such kind of assistance;

"(3) the aggregate dollar value of all arms, ammunitions, and other implements of war, and the aggregate dollar value of each category of such arms, ammunitions, and implements of war, exported under any export license, to all foreign countries and international organizations, and to each such country and organization, during that fiscal year; and

"(4) such other matters relating to foreign assistance provided by the United States Government as the President considers appropriate, including explanations of the information required under clauses (1)–(3) of this subsection.

"(b) All information contained in any report transmitted under this section shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplement to any report shall be transmitted to the Congress at the same time that the report is transmitted.

"(c) If the Congress is not in session at the time a report or supplement is transmitted to the Congress, the Secretary of the Senate and the Clerk of the House of Representatives shall accept the report or supplement on behalf of their respective Houses of Congress and present the report or supplement to the two Houses immediately upon their convening.

"(d) For purposes of this section—

"(1) 'foreign assistance' means any tangible or intangible item provided by the United States Government under this or any other law to a foreign country or international organization, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country;

"(2) 'provided by the United States Government' include, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit sale, or guaranty; and

"(3) 'value' means value at the time of transfer except that in no case shall any commodity or article of equipment or material be considered to have a value less than one-third of the amount the United States Government paid at the time the commodity or article was acquired by the United States Government."

(b) Section 644(m) of such Act is amended by striking out—

"(m) 'Value' means—" and inserting in lieu thereof—

"(m) 'Value' means, than in section 657 of this Act—".

(c) Subsection (a) of section 634 of such Act is repealed.

(d) The provisions of this section shall apply with respect to any fiscal year commencing on or after July 1, 1971.

PART IV—MISCELLANEOUS PROVISIONS

FOREIGN MILITARY SALES

Sec. 401. The Foreign Military Sales Act is amended as follows:

(1) In section 31(a), relating to authorization, strike out "$250,000,000 for each of the fiscal years 1970 and 1971" and insert in lieu thereof "$300,000,000 for the fiscal year 1972 for Israel only".

(2) In section 31(b), relating to aggregate ceiling on foreign military sales credits, strike out "$340,000,000 for each of the fiscal years 1970 and 1971" and insert in lieu thereof "$523,800,000 for the fiscal year 1972".

(3) In section 33(a), relating to regional ceilings on foreign military sales, strike out "$75,000,000" and insert in lieu thereof "$100,000,000".

(4) Section 33(c), relating to regional ceilings on foreign military sales, is repealed.

EXCESS DEFENSE ARTICLES

Sec. 402. Section 8 of the Act of January 12, 1971, entitled "An Act to amend the Foreign Military Sales Act, and for other purposes" (84 Stat. 2053), is amended—

(1) by striking out the first and second sentences of subsection (a) and inserting in lieu thereof the following: "Subject to the provisions of subsection (b), the value of any excess defense article granted to a foreign country or international organization by any department, agency, or independent establishment of the United States Government (other than the Agency for International Development) shall be considered to be an expenditure made from funds appropriated under the Foreign Assistance Act of 1961 for military assistance. Unless such department, agency, or establishment certifies to the Comptroller General of the United States that the excess defense article it is ordering is not to be transferred by any means to a foreign country or international organization, when an order is placed for a defense article whose stock status is excess at the time ordered, a sum equal to the value thereof shall (1) be reserved and transferred to a suspense account, (2) remain in the suspense account until the excess defense article is either delivered to a foreign country or international organization or the order therefor is cancelled, and (3) be transferred from the suspense account to (A) the general fund of the Treasury upon delivery of such article, or (B) to the military assistance appropriation for the current fiscal year upon cancellation of the order.";

(2) by striking out, in subsection (b), "$100,000,000" and inserting in lieu thereof "$150,000,000"; and

(3) by adding at the end thereof the following new subsection:

"(e) Except for excess defense articles granted under part II of the Foreign Assistance Act of 1961, the provisions of this section shall not apply to any excess defense article granted to South Vietnam prior to July 1, 1972."

INTERPARLIAMENTARY UNION

SEC. 403. The first section of the Act of June 28, 1935, entitled "An Act to authorize participation by the United States in the Interparliamentary Union" (22 U.S.C. 276), is amended as follows:

(1) Strike out "$53,550" and insert in lieu thereof "$102,000".

(2) Strike out "$26,650" and insert in lieu thereof "$57,000".

(3) Strike out "$26,900" an insert in lieu thereof "$45,000".

INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

SEC. 404. Part IV of the Foreign Assistance Act of 1969 is amended as follows:

(1) Strike out the title of such part and insert in lieu thereof the following:

"PART IV—THE INTER-AMERICAN FOUNDATION ACT."

(2) The caption of section 401 and subsection (a) of such section of that part are amended to read as follows: "INTER-AMERICAN FOUNDATION.—(a) There is created as an agency of the United States of America a body corporate to be known as the Inter-American Foundation (hereinafter in this section referred to as the 'Foundation')."

(3) Section 401 of such part is amended by striking out "Institute" wherever it appears and inserting in lieu thereof "Foundation".

(4) Section 401(e)(4) of such part is amended to read as follows:

"(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed $10,000 in any fiscal year), allowed and paid;".

(5) Section 401(1) is amended to read as follows:

"(1)(1) The chief executive officer of the Foundation shall be a President who shall be appointed by the Board of Directors on such terms as the Board may determine. The President shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(2) Experts and consultants, or organizations thereof, may be employed as authorized by section 3109 of title 5, United States Code."

ANNUAL AUTHORIZATION FOR STATE DEPARTMENT AND USIA

SEC. 405. (a) It is the purpose of this section to enable the Congress generally, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives in particular, to carry out the purposes and intent of the Legislative Reorganization Acts of 1946 and 1970, with respect to—

(1) the analysis, appraisal, and evaluation of the application, administration, and execution of the laws relating to the Department of State and the United States Information Agency and of matters relating to the foreign relations of the United States; and

(2) providing annual authorizations of appropriations for that Department and Agency.

(b) Section 15 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2680), is amended to read as follows:

"SEC. 15. (a) Notwithstanding any other provision of law, no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress.

"(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities of all departments, agencies, and independent establishments of the United States Government conducted outside the United States or its territories or possessions. Any such department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility."

(c) The last sentence of section 13 of such Act (22 U.S.C. 2684) is repealed.

(d) Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) is amended to read as follows:

"PRIOR AUTHORIZATIONS BY CONGRESS

"SEC. 701. Notwithstanding any other provision of law, no appropriation shall be made to the Secretary of State, or to any Government agency authorized to administer the provisions of this Act, under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress."

WITHDRAWAL OF UNITED STATES FORCES FROM INDOCHINA

SEC. 406. (a) Subject to the provisions of subsection (c) of this section, no funds authorized or appropriated under this or any other law may be expended six months after the date of enactment of this Act, to deploy or maintain United States Armed Forces in or the conduct of United States military operations in or over Indochina.

(b) Nothing in this section shall be construed to affect the authority of the President to—

(1) provide for the safety of American Armed Forces during their withdrawal from Indochina,

(2) arrange for asylum or other means of protection for South Vietnamese, Cambodians, and Laotians who might be physically endangered by the withdrawal of American Armed Forces, or

(3) to provide assistance to the nations of Indochina, in amounts approved by the Congress, consistent with the objectives of this section.

(c) This section shall have no force or effect if North Vietnam and other adversary forces in Indochina holding American prisoners of war or Americans designated as missing in action but held as prisoners of war have not completed the release and repatriation of all such prisoners and missing in action by a date five months after the date of enactment of this Act.

LIMITATION ON UNITED STATES ACTIVITIES IN CAMBODIA

SEC. 407. Section 7(a) of the Special Foreign Assistance Act of 1971 (84 Stat. 1943) is amended by striking out "Cambodian military forces" and inserting in lieu thereof "military, paramilitary, police, or other security or intelligence forces".

RESTRICTIONS RELATING TO FOREIGN TROOPS

SEC. 408. Section 401(a) of Public Law 89-367, approved March 15, 1966 (80 Stat. 37), as amended, is amended—

(1) by inserting in the second sentence of paragraph (1), after "to or for the use of the Armed Forces of the United States", the following: "or of any department, agency, or independent establishment of the United States"; and

(2) by inserting in the introductory matter preceding clause (A) of paragraph (2) of such section, after "Armed Forces of the United States", the following: "or of any department, agency, or independent establishment of the United States".

REPEAL OF FORMOSA RESOLUTION

SEC. 409. The joint resolution entitled "Joint Resolution authorizing the President to employ the Armed Forces of the United States for protecting the security of Formosa, the Pescadores, and related positions and territories of that area", approved January 29, 1955 (69 Stat. 7; Public Law 64-4), is repealed effective upon the date of adjournment sine die of the first session of the Ninety-second Congress.

USE OF FOREIGN CURRENCIES

SEC. 410. (a) Section 502(b) of the Mutual Security Act of 1954 is amended to read as follows:

"(b) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, local currencies owned by the United States, which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961, and which are determined by the Secretary of the Treasury to be excess to the normal requirements of the United States, shall be made available to appropriate committees of the Congress engaged in carrying out their duties under section 136 of the Legislative Reorganization Act of 1946, and to the Joint Committee on Atomic Energy and the Joint Economic Committee and the Select Committees on Small Business of the Senate and House of Representatives for their local currency expenses. Any such excess local currencies shall not be made available (1) to defray subsistence expenses or fees of witnesses appearing before any such committee in the United States, or (2) in amounts greater than the equivalent of $100 a day for each person, exclusive of the actual cost of transportation."

(b) The amendment made by this section is effective March 1, 1972.

STRICT LABEL LAW NEEDED TO END HEALTH DANGER TO CONSUMERS

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, I am introducing a bill today with the bipartisan support of 28 Members of the House, to require the name and address of processed food manufacturers to appear on all food labels.

Food manufacturers and distributors are putting consumers at a dangerous disadvantage by refusing to list the name and address of the manufacturer on processed food labels. Without this information, consumers are at a loss to identify and avoid foods found or thought to have been contaminated in the manufacturing process.

Three times in the last 4 months, the Food and Drug Administration alerted the public to the fact that canned foods of a manufacturer were suspected of containing a poisonous botulism infection. In one of the most publicised efforts, the public received urgent warnings against eating the foods prepared by Bon Vivant. Thousands of cans made by that company were already on grocers' shelves and even in some kitchen pantries. But consumers had no way of spotting them. The manufacturer's name is not required by law to be on the can and many

manufacturers' products sell under dozens of distributor brand names. Recalling all possibly tainted cans under these circumstances, or enabling consumers to avoid them, was an almost impossible task.

Under my bill, consumers will be able to tell at a glance who made each food product and determine whether they could safely buy or use it.

The idea for the proposal came from a constituent of mine, Mrs. Francis J. Heffernan, who complained in a letter to me that Bon Vivant products were selling under various brand names in her neighborhood without any indication that Bon Vivant made them. My correspondence with the Food and Drug Administration reveals that manufacturers and distributors are taking advantage of a loophole in the Fair Packaging and Labeling Act which permits them to imprint the name and address of the manufacturer, packer, or distributor on the labels. My bill will close that loophole and require that the name and address of the manufacturer as well as the distributor, and the packer—if different from the manufacturer—appear on the label.

Initial cosponsors of this proposal proposal include: Mr. BADILLO, Mrs. CHISHOLM, Mr. DANIELSON, Mr. DONOHUE, Mr. EILBERG, Mr. FASCELL, Mr. GUDE, Mrs. GRASSO, Mr. HALPERN, Mr. HELSTOSKI, Mrs. HECKLER of Massachusetts, Mr. LENT, Mr. MCCORMACK, Mr. MATSUNAGA, Mrs. MINK, Mr. MITCHELL, Mr. MORSE, Mr. PELLY, Mr. PODELL, Mr. RHODES, Mr. RYAN, Mr. TIERNAN, Mr. SCHWENGEL, Mr. ST GERMAN, Mr. HARRINGTON, Mr. MINISH, Mr. HAWKINS, and Mr. RHODES.

Following is the text of my correspondence with Mrs. Heffernan and the Federal agencies regarding this legislation:

NEW YORK CITY,
July 12, 1971.

Hon. JONATHAN BINGHAM,
New York City.

DEAR MR. BINGHAM: With regard to the unfortunate matter of the Bon Vivant Soup Co. there is one aspect which troubles me—and of which little has been said. That is, the fact that this company's product was marketed under many different labels—and the public was completely unaware of the fact that they were not getting a product processed by the company whose labels the can bore. In other words, when I purchase a product put out by S. S. Pierce I assume I am getting a superior product. If I wanted something cheaper (and, I believe, not so good) I would purchase another brand.

I think legislation should be passed to protect the consumer in this respect. Every can should show the actual processor of the food, in addition to the label under which it is sold. When I buy "Ann Page" products (A & P)—who has put it up; the same goes for Grisdale products and others too numerous to mention.

Sincerely yours,

LILLIAN HEFFERNAN.

AUGUST 10, 1971.

Mrs. FRANCIS J. HEFFERNAN,
New York, N.Y.

DEAR MRS. HEFFERNAN: Thank you for your interesting letter concerning the labeling of foods. I certainly share your concern.

As you may know, the Congress passed a very comprehensive "Truth in Packaging Act" in 1966. I am contacting the Federal Trade Commission and the Food and Drug Administration, which administer that Act, to determine whether the type of information you mention is or could be required under its provisions. If their responses are not satisfactory I will certainly give serious consideration to introducing legislation to amend that Act, to require that the actual manufacturers be noted on food labels.

In any case, I will be in touch with you further on this matter.

Cordially,

JONATHAN B. BINGHAM.

FEDERAL TRADE COMMISSION,
Washington, D.C., Aug. 19, 1971.

Hon. JONATHAN B. BINGHAM,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BINGHAM: This will further acknewledge your recent correspondence which contained a letter from Mrs. Francis J. Heffernan of New York City. Mrs. Heffernan cites the recent unfortunate matter involving the Bon Vivant Soup Company and seeks information concerning the requirement for the name and place of business of a manufacturer on the product.

As noted by you in your interim response to Mrs. Heffernan's letter, the Fair Packaging and Labeling Act requires each label of a consumer commodity to bear the name and place of business. However, this name may be that of either the manufacturer, packer, or distributor as now set forth in the Act. The implementing regulations require that when the name used is not that of the manufacturer then a qualifying phrase must be used such as "Distributed by ———" or "Manufactured for ———".

As I am sure you realize, foods, drugs, cosmetics and devices are under the jurisdiction of the Food and Drug Administration while all other "consumer commodities", as that term is defined in the Act, are under the jurisdiction of the Federal Trade Commission. Since your interest is primarily concerned with the labeling of foods, the information provided by the Food and Drug Administration to your inquiry will be most applicable.

If I may be of further assistance, please do not hesitate to let me know.

With kind regards,

Sincerely,

MILES W. KIRKPATRICK,
Chairman.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION,
Rockville, Md., August 27, 1971.

Hon. JONATHAN B. BINGHAM,
House of Representatives,
Washington, D.C.

DEAR MR. BINGHAM: This is in reply to your request of August 4, 1971, for comment on a letter from Mrs. Francis J. Heffernan, New York, New York, concerning labeling.

Both the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act require that name and place of business of the manufacturer, packer, or distributor be on the label. FDA does not have authority to specify which of the above must be declared.

The Federal Food, Drug, and Cosmetic Act does, however, authorize the inspection of shipping records and food products must carry lot numbers identifying their source for recall and other purposes pursuant to our good manufacturing practice regulations (21 CFR 128.8(i)).

If we can be of further assistance, please let us know.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

FARMERS HOME ADMINISTRATION PROVIDES INVALUABLE SERVICE TO THE RURAL COMMUNITY

(Mr. ROUSH asked and was given given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROUSH. Mr. Speaker, the Farmers Home Administration is an "unsung hero." I say "unsung" because our rural problems, until recently, have grown in an atmosphere of little attention. FHA programs were undernourished for years. Fortunately, we are finally facing up to the fact that, on a per capita basis, the rural community has twice the housing problem endured in the cities. Water supply systems in many regions are still primitive and badly in need of modernization. But most important of all, it must be noted that other economic dilemma in rural America interrelates very seriously with our urban problems. Because of the situation, many have been forced to seek employment and in many cases unemployment in our cities. The small rural community is a diminishing commodity.

In the face of this, the Farmers Housing Administration assumes the role of hero because it provides loans and grants in an effort to improve living conditions, solve water supply problems, and thereby help to halt the migration. Loans are being made in record proportions. The dollars loaned in fiscal 1971 surpassed any previous year. More than 3 million rural citizens were benefited. In my own congressional district, the Fourth District of Indiana, loans in excess of $6.2 million have accounted for the financing of 480 new homes. Another $1¼ million has gone specifically to farming service loans.

The record is clear; this agency is providing invaluable service. The rural community is responding to this opportunity to help itself. And because of this opportunity and response, it is evident that the programs are working. But further expansion is required—the rural economic condition demands it. More importantly, consideration for the lives involved demands it.

FREE CHINA BETRAYED

(Mr. GROSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROSS. Mr. Speaker, the outrageous action by which the United Nations expelled Free China has aroused in the American people a deep sense of anger and betrayal, and rightly so.

One lucid expression of this comes from the newsletter of the Southern States Industrial Council, an organization of chief executives of Southern businesses, both large and small, which employ more than 3 million people.

In order that the Members of Congress may have an opportunity to read these views, I include the newsletter for insertion in the RECORD at this point:

SENSING THE NEWS

(By Anthony Harrigan, Executive Vice President, Southern States Industrial Council)

The expulsion of Free China from the United Nations exposes the worthlessness of that organization as an agency of peace and freedom in the world. Red China, which fought U. N. peace-keeping forces on the battlefield in Korea and which sponsored aggressive warfare in Southeast Asia, is rewarded with membership in the international body. The Free Chinese on Taiwan, who have bravely opposed communist tyranny for more than two decades, are treated as outcasts.

In these circumstances, the United States Congress has every reason to withdraw all financial assistance from the United Nations. Indeed, there is strong by-partisan sentiment in Congress to do precisely that. For years, the United States has financed the U. N. while the organization worked against American interests and the cause of freedom. Now is the time to take decisive action. Free nations throughout the world should know that the American people do not countenance rewards for aggressor states. While signaling their convictions to other countries Americans also should clearly understand the background of the betrayal of the free Chinese, who are allies of the United States.

The Nixon administration must take full blame for the disaster at the U. N. In recent weeks, the Administration had an opportunity to warn the U. N. that it would cut off funds for the organization's operations if a free nation were expelled to make a place for one of the most tyrannical and dangerous governments of modern times. Numerous members of Congress called on President Nixon and urged him to voice such a warning. He did not heed their request—instead Secretary of State Rogers issued a special statement, announcing that the U.S. would not cut off funds.

The expulsion of Free China has deeper roots than that, however. From the beginning of his administration, Mr. Nixon made it plain that he sought a new "understanding" with Communist China. When he announced his mission to Peking it was apparent that he would seek this understanding at the expense of Free China. The announcement of the mission was de facto recognition of a country responsible for thousands of American deaths in Korea and which still holds Americans captured in that war. It is no wonder, therefore, that Pakistan's ambassador to the U.N., who voted to admit Red China and expel Free China, said: "I would like to acknowledge that President Nixon's new policy contributed to the victory." This is a true statement worthy to be remembered when Mr. Nixon's presidential record is assessed.

Now, unless the administration changes course, Red China will have a seat on the Security Council as President Nixon suggested. Red China's representatives will be based in New York where they will have abundant opportunities for propaganda and subversion. Can anyone doubt that formal recognition of Red China, with Peking's ambassador stationed in Washington, will be far behind? The status of Free China in American official circles is likely to diminish to that of the shadow representation of such captive nations as Estonia and Latvia.

It is incredible that these developments should take place in an administration once regarded as hard-line anti-communist. It seems unlikely that a liberal Eugene McCarthy or Hubert Humphrey would have dared abandon the Free Chinese as rapidly as Richard Nixon has abandoned these reliable allies. The real losers in this diplomatic disaster are the American people, for the Red Chinese are determined to humiliate and cripple the United States. President Nixon in recent months has conferred enormous political advantage on Peking. The Chinese Communist regime has achieved a new great power status in the world as the result of Mr. Nixon's abandonment of a containment policy maintained by four presidents.

The American people are likely to pay dearly in blood and national treasure for Mr. Nixon's appeasement of Red China. As for the U.N., it most probably will go the way of the League of Nations after that organization appeased fascist Italy in 1935 by ignoring the plight of Ethiopia.

BILL TO BRING EMPLOYEES OF PRIVATE AND NONPROFIT HOSPITALS UNDER COVERAGE OF NATIONAL LABOR RELATIONS ACT

(Mr. THOMPSON of New Jersey asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMPSON of New Jersey. Mr. Speaker, on November 9th, 10th, and 16, the Special Subcommittee on Labor will hold hearings on H.R. 11357, a bill to bring employees of private, nonprofit hospitals under the coverage of the National Labor Relations Act.

These employees were initially covered by the NLRA when it was passed in 1935, but then were excluded from coverage in 1947 when the Taft-Hartley amendments were passed. The legislative history sheds little light on the reasons for their exclusion, and we intend to reexamine the wisdom of that decision.

We will also be looking at the problems of employees in publicly-operated hospitals and private, for-profit hospitals and nursing homes during these hearing. The number of serious hospital strikes in recent years in all categories of hospitals, and by the way they employ well over 2 million people, has convinced me that the congress should examine the underlying causes of this unrest and determine whether a legislative remedy is called for. As is our practice, we plan to receive testimony from some of the employees themselves, the unions involved, management representatives, and experts from the academic community.

I include at this point in the RECORD a staff analysis of H.R. 11357, which traces the history of the present exemption.

The analysis follows:

H.R. 11357

EMPLOYEES OF NONPROFIT HOSPITALS

Purpose of H.R. 11357

H.R. 11357 is intended to restore to employees of nonprofit hospitals the rights guaranteed to most all other employees by section 7 of the National Labor Relations Act "to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purposes of collective bargaining or other mutual aid or protection," and the corollary right in section 7 "to refrain from any and all such activities."

H.R. 11357 would also give to employers the rights guaranteed to most all other employers, i.e., the right to invoke the protections of the National Labor Relations Act against the unfair labor practices engaged in by unions as enumerated in sections 8, 9, 10, and elsewhere.

Legislative History and Purpose of the Existing Exemption

Section 2(2) defines the term "employer" as not to include "any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual." This "exemption" was added to the original Wagner Act of 1935, in the Taft-Hartley Amendments of 1947 for reasons which are not altogether clear.

A. Decisions Under the Wagner Act.

The Wagner Act of 1935 did not exclude the employees of nonprofit hospitals from the protections afforded most other employees, and the Labor Board and the reviewing courts refused to create an exception by implication.

The only case reported under the Wagner Act is *Central Dispensary and Emergency Hospital*, 40 NLRB 1011 (1942). There, the Building Service and Maintenance Workers filed a petition to conduct an election among certain employees at the Emergency Hospital in Washington, D.C. to determine whether or not they wished to be represented by the union. The Labor Board agreed to conduct the election, and said the following:

"The Hospital contends that it is a charitable institution, but neither charitable institutions nor their employees are exempted from operation of the Act by its terms, although certain other employers and employees are exempted. If Congress did not intend to except charities from the scope of the Act, an exact determination of the Hospital's status in this respect becomes immaterial . . . *employees of hospitals, like employees of automobile factories, must live upon their wages.*" (Emphasis supplied.)

The Hospital appealed this Labor Board decision to the U.S. Court of Appeals for the District of Columbia. That court, in an opinion by then Judge Thurman Arnold, wrote:

"Respondent (Hospital) argues that the spirit or policy of the act is such that we should read into it an exemption of charitable hospitals. . . . We are unable to follow the reasoning. . . . We cannot understand what considerations of public policy deprive hospital employees of the privilege granted to the employees of other institutions. . . . *"NLRB* v. *Central Disp. & E. Hosp.*, 145 F. 2d 852 (1944), *cert. den.* 65 Ct. 684.

B. The Taft-Hartley Amendments.

In 1947, there were certain amendments offered to the Wagner Act. In the House, Representative Hartley introduced a bill which would have exempted from the Labor Act "institutions that qualify as charities under our tax laws," i.e., churches, hospitals, schools, colleges, and societies for the care of the needy.

The only comment on the floor of the House came from Congressman Klein, who spoke in opposition:

"'Employer,' for the first time, excludes charitable and educational organizations. While the number of workers thus deprived of any participation in the terms of their employment may not be large, it seems ironical that organizations devoted to the social welfare should be exempted from bargaining with their own, often underpaid employees."

The bill passed the House and it went to the Senate.

There was no committee report or proposal in the Senate comparable to that in the House. However, Senator Tydings offered a floor amendment to exclude from the term "employer" the nonprofit hospitals. Debate was very scant.

Senator Tydings explained that "this amendment is designed merely to help a great number of hospitals which are having very difficult times. They are eleemosynary institutions, no profit is involved in their operations, and I understand from the Hospital Association that this amendment would be very helpful in their efforts to serve those who have not the means to pay for hospital service."

Senator Taft then explained that "the committee considered this amendment, but did not act on it, because we felt it was unnecessary. The committee felt that hospitals were not engaged in interstate commerce; and that their business should not be so construed. We felt it would open up the question of making further exemptions. That is why the committee did not act upon the amendment as it was proposed."

The remainder of the debate was very brief, and between Senators Taylor and Tydings.

XUM

"Mr. Taylor: What does the amendment do? Does it prevent hospital employees, particularly nurses, from organizing? Is that the sense of the amendment?

"Mr. Tydings: It simply makes a hospital not an 'employer' in the commercial sense of the term. . . .

"Mr. Taylor: Would nurses be prevented from organizing—they are poorly paid.

"Mr. Tydings: I don't think so. . . . They (the hospitals) should not have to come to the National Labor Relations Board. . . . A charitable institution is away beyond the scope of labor management relations in which profit is involved.

"Mr. Taylor: These may not be profitmaking institutions, but even so I feel that simply because an institution, even one like the Red Cross, is kept up by popular subscription, the professional workers being employees of the Red Cross, should be permitted a decent living and should not be hamstrung in their efforts to obtain it.

"Mr. Tydings: I agree with the Senator."

The bill then passed the Senate. The conference committee accepted the Senate version, which is now part of section 2(2) of the National Labor Relations Act.

Experience Under the Exemption

The National Labor Relations Board, initially, extended the exemption to a host of other eleemosynary, charitable, educational and similar types of institutions.

1. Colleges and universities, *The Trustees of Columbia University*, 97 NLRB 424 (1951).

2. Symphonic orchestra, *Philadelphia Orchestra Association*, 97 NLRB 548 (1971).

3. Radio stations operated by religious organizations, *Lutheran Church, Missouri Synod*, 109 NLRB 859 (1954).

4. Institutions for the training of the handicapped, *Sheltered Workshops of San Diego, Inc.*, 126 NLRB 961 (1960).

5. Privately owned profit hospitals, *Flatbush General Hospital*, 126 NLRB 144 (1960).

6. Hotels operated by the YMCA, *Young Men's Christian Association of Portland, Oregon*, 146 NLRB 20 (1964).

7. Food service caterers at educational institutions, *Crotty Brothers, N.Y. Inc.*, 146 NLRB 755 (1964).

8. Oceanography studies conducted by private educational institution owned ships, *University of Miami, Institution of Marine Science Division*, 146 NLRB 1448 (1964).

9. Food service caterers at a hospital, *Horn and Hardart Co.*, 154 NLRB 1368.

Experience indicated that the withholding of Labor Board jurisdiction did not cut down on the number of strikes or of labor unrest. Accordingly, in recent years, the Labor Board began to assert jurisdiction over areas it had formerly left alone.

1. Private, profit hospitals, *Butte Medical Properties*, 168 NLRB 52 (1967).

2. Private, profit nursing homes, *University Nursing Home*, 168 NLRB 53 (1967).

3. Nonprofit, cooperative insurance companies, *California State Automobile Association*, 170 NLRB No. 106 (1968).

4. Professional sports, *The American League of Professional Baseball Clubs*, 189 NLRB No. 85 (1971).

5. Private colleges and universities, *Cornell University*, 183 NLRB No. 41 (1970).

6. Philanthropic lodging houses, *Penn-Keystone Realty Corp.*, 191 NLRB No. 105 (1971).

7. Nonprofit educational broadcast stations, *Pacifica Foundation*, 75 LRRM 1428.

The only broad area of charitable, educational, eleemosynary institutions wherein the Labor Board does not now exercise jurisdiction concerns the nonprofit hospitals, explicitly excluded from the Labor Act by section 2(2).

Changes Made in Existing Law by H.R. 11357

(Except as noted, existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman)

Section 2(2) of the Labor-Management Relations Act, as amended by this bill, would provide as follows:

"The term 'employer' includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof [or any corporation or association operating a hospital, if no part of the net earnings inure to the benefit of any private shareholder or individual], or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization."

ECONOMIC JUSTICE FOR TRANSIT RIDERS

(Mr. RYAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RYAN. Mr. Speaker, on behalf of 19 New York City Members of Congress, I today sent a letter to Secretary of the Treasury John Connally, calling upon the Cost of Living Council to freeze all mass transit and commuter service fares at levels no higher than those in effect during the 90-day period of August 15 through November 14. The present freeze on fares should not be relaxed as long as wage and price controls are in effect.

In addition to these calls for administrative action, yesterday I introduced legislation (H.R. 1155) which would freeze all mass transit and commuter service fares through April 30, 1973. Today, I have reintroduced that legislation on behalf of myself and 16 members of the New York City congressional delegation.

Mass transportation and commuter services are part of the lifeblood of this Nation's urban centers. Millions of residents are dependent upon them. And any increase in fares, particularly at a time when wages and salaries are being subjected to stringent guidelines, would result in large numbers of individuals being made virtual prisoners in their own homes. Hardest hit would be those in low-paying and part-time jobs, as well as those who are unemployed or living on social security.

In order to insure economic justice for these individuals and to promote stabilization of the economy, it is essential that there be no increase in mass transit or commuter service fares.

The New York City delegation is particularly concerned about transit fares due to the immediate threat to the present 30-cent fare on New York City's subways and buses, in light of the defeat of the $2.5 billion transportation bond issue on Tuesday. Such a fare hike would be an outrage—perpetrated on those very people who can least afford it. It would be, in essence, an unconscionable and regressive form of taxation. The defeat of the bond issue does not change that fact. An increase in mass transit fares is as intolerable now as it was before the outcome of the balloting. And the failure of the bond issue cannot be used as an excuse for raising New York City's subway fares.

Although the bond funds will not be available, the balance of the agreed-upon package to maintain the present fare can still be put into effect. And with certain adjustments to make up for the lack of bond funds, New York's 30-cent fare can still be saved.

But the issue is much larger than just New York City's fare problems. Mass transit costs significantly affect millions of urban dwellers nationwide, most of whom are in low and moderate income brackets. For them mass transit and commuter services are essential. There simply is no adequate substitute. Allowing transit fares to rise would be an act of economic violence against them.

Joining me in sponsoring this legislation to freeze transit fares are Representatives BELLA ABZUG, JOSEPH ADDABBO, HERMAN BADILLO, MARIO BIAGGI, JONATHAN BINGHAM, FRANK BRASCO, HUGH CAREY, SHIRLEY CHISHOLM, SEYMOUR HALPERN, EDWARD KOCH, JOHN MURPHY, BERTRAM PODELL, CHARLES RANGEL, BENJAMIN ROSENTHAL, JAMES SCHEUER, and LESTER WOLFF.

At this point I include in the RECORD the text of the letter dated November 3, 1971, which has been sent to Secretary Connally calling for a continuation of the freeze on mass transportation and commuter service fares:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 3, 1971.

Hon. JOHN CONNALLY,
Chairman, Cost of Living Council,
Washington, D.C.

DEAR MR. SECRETARY: We are writing to urge that all mass transit and commuter service fares be frozen at levels no higher than those in effect during the ninety-day period of August 15 through November 14.

Across the country, millions of low and moderate income people of necessity use mass transit in their daily lives. Increases in the price of this transportation thus fall most heavily upon them. Since wages and salaries are to be subject to severe guidelines, it is imperative that urban mass transit fares be frozen, so as not to subject people of low and moderate income to an untenable economic hardship.

Urban mass transit and commuter fares are particularly worthy of such attention because they are unavoidable. For most low and moderate income people who depend on urban mass transit, there really is no satisfactory substitute.

Thus we urge most strenuously that all mass transit and commuter service fares be maintained at levels no higher than present levels throughout the period that the Economic Stabilization Act and any amendments thereto are in effect.

With kindest regards.

Sincerely,

William F. Ryan, Charles B. Rangel, Mario Biaggi, Bella Abzug, Emanuel Celler, Hugh L. Carey, Frank J. Brasco, Benjamin S. Rosenthal, Edward I. Koch, Seymour Halpern, Joseph P. Addabbo, Shirley Chisholm, Herman Badillo, Lester L. Wolff, Bertram L. Podell, James H. Scheuer, Jonathan B. Bingham, John M. Murphy, James J. Delaney.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. HOLIFIELD for November 6 on account of official committee business.

Mr. BARRETT (at the request of Mr. NIX) for Thursday, November 4 and Friday, November 5, on account of illness.

Mr. PELLY, for week of November 8 to November 13 on account of personal business in district.

Mr. SAYLOR (at the request of Mr. GERALD R. FORD) for November 5, 1971, on account of official business.

Mr. MCKEVITT (at the request of Mr. GERALD R. FORD) for November 5, 1971, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. DU PONT) to revise and extend his remarks and include extraneous material:)

Mr. MILLER for 5 minutes, today.

(The following Members (at the request of Mr. DENHOLM) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. REUSS for 20 minutes, today.

Mr. GONZALEZ for 10 minutes, today.

Mr. ASPIN for 10 minutes, today.

Mr. DENT for 5 minutes, today.

Mr. DAVIS of South Carolina for 15 minutes, today.

Mr. FLOOD for 10 minutes, today.

Mrs. ABZUG for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WHITTEN, to revise and extend his remarks on H.R. 7248 and amendments thereto.

(The following Members (at the request of Mr. DU PONT) and to include extraneous matter:)

Mr. ESCH.

Mr. DERWINSKI in two instances.

Mr. WYMAN in two instances.

Mr. SCHERLE.

Mr. WHALEN.

Mr. BRAY in two instances.

Mr. HUNT.

Mr. DEL CLAWSON.

Mr. SCHWENGEL in three instances.

Mr. ROUSSELOT.

Mr. SCHMITZ.

Mr. GUDE in two instances.

Mr. BOB WILSON in three instances.

Mr. MCDONALD of Michigan.

Mr. KUYKENDALL.

Mr. WYLIE.

Mr. VANDER JAGT.

Mr. SMITH of New York.

Mr. DELLENBACK.

Mr. MCCLORY.

Mr. ANDERSON of Illinois.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous material:)

Mr. GONZALEZ in three instances.

Mr. CAREY of New York in three instances.

Mr. BADILLO in three instances.

Mr. DENT.

Mr. RARICK in three instances.

Mr. SYMINGTON.

Mr. ROONEY of New York.

Mr. HUNGATE.

Mr. MURPHY of New York.

Mr. ANDERSON of California in three instances.

Mr. JACOBS.

Mr. ANDERSON of Tennessee.

Mr. BARRETT.

Mr. CHAPPELL.

Mr. EVINS of Tennessee in three instances.

Mr. STEPHENS in three instances.

Mr. FAUNTROY in five instances.

Mr. BEGICH in three instances.

Mr. HOWARD.

Mr. RYAN in three instances.

Mr. WALDIE in three instances.

Mr. DORN in two instances.

Mr. PICKLE in five instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 976. An act to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 1237. An act to provide Federal financial assistance for the reconstruction or repair of private nonprofit medical care facilities which are damaged or destroyed by a major disaster; to the Committee on Public Works.

S. 2770. An act to amend the Federal Water Pollution Control Act; to the Committee on Public Works.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 32 minutes a.m., Friday, November 5, 1971) the House adjourned until 12 o'clock noon.

OATH OF OFFICE OF MEMBER

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members of the House of Representatives, the text of which is carried in section 1757 of title XIX of the Revised Statutes of the United States and being as follows:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 92d Congress, pursuant to Public Law 412 of the 80th Congress entitled "An act to amend section 30 of the Revised Statutes of the United States" (U.S.C. title 2, sec. 25), approved February 18, 1948:

H. JOHN HEINZ III, 18th District of Pennsylvania.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1254. A letter from the Assistant Secretary of Defense (Comptroller), transmitting certification that during the period of January through June 1971, no use was made of funds appropriated in the Department of Defense or the Military Construction Appropriation Acts of 1971 to make payments under contracts in a foreign country except where it was determined that no excess foreign currencies of the country involved were available, pursuant to sections 637 and 109, respectively, of the above-mentioned acts; to the Committee on Appropriations.

1255. A letter from the Assistant Secretary of the Interior, transmitting certification that an adequate soil survey and land classification has been made of the lands in the San Luis Water District and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation, pursuant to Public Law 172, 83d Congress; to the Committee on Appropriations.

1256. A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting a report on borrowing authority for the period ended June 30, 1971, pursuant to section 304(b) of the Defense Production Act of 1950, as amended; to the Committee on Banking and Currency.

1257. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204 (d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

1258. A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition; to the Committee on Armed Services.

RECEIVED FROM THE COMPTROLLER GENERAL

1259. A letter from the Comptroller General of the United States, transmitting a list of reports of the General Accounting Office issued or released in October 1971, pursuant to section 234 of Public Law 91-510; to the Committee on Government Operations.

1260. A letter from the Comptroller General of the United States, transmitting a report on fees not charged for processing applications for new drugs by the Food and Drug Administration, Department of Health, Education, and Welfare; to the Committee on Government Operations.

1261. A letter from the Comptroller General of the United States, transmitting a report on opportunities for increasing effectiveness of overseas trade exhibitions by the Department of State and the Department of Commerce; to the Committee on Government Operations.

XUM

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 45. A bill to amend title 18 of the United States Code by adding a new chapter 404 to establish an Institute for Continuing Studies of Juvenile Justice; with amendment (Rept. No. 92-608). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 10344. A bill to authorize the District of Columbia to enter into the Interstate Compact on Mental Health (Rept. No. 92-609). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 11489. A bill to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969; with amendment (Rept. No. 92-610). Referred to the Committee of the Whole House on the State of the Union.

Mr. McMILLAN: Committee on the District of Columbia. H.R. 11490. A bill to regulate the location of chanceries and other business offices of foreign governments in the District of Columbia (Rept. No. 92-611). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.J. Res. 946. Joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes (Rept. No. 92-612). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 601. Resolution providing funds for the expenses of the Committee on House Administration to provide for maintenance and improvement of ongoing computer services for the House of Representatives and for the investigation of additional computer services for the House of Representatives; with amendment (Rept. 92-607). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BLATNIK:

H.R. 11567. A bill to amend section 451 of the Tariff Act of 1930 so as to exempt certain private aircraft entering or departing from the United States and Canada at night or on Sunday or a holiday from provisions requiring payment to the United States for overtime services of customs officers and employees and to treat snowmobiles as highway vehicles for the purposes of such section; to the Committee on Ways and Means.

By Mr. CLARK:

H.R. 11568. A bill to amend the Internal Revenue Code of 1954 to limit the use of industrial development bonds to rural areas, to allow a credit against income tax to employers for the expenses of providing job training programs in rural areas, and otherwise to encourage fuller and more effective use of the human resources of such areas; to the Committee on Ways and Means.

By Mr. DANIELS of New Jersey:

H.R. 11569. A bill to provide certain new transportation services to elderly persons, to authorize studies and demonstration projects for the improvement of transportation services to the elderly, and for other purposes; to the Committee on Banking and Currency.

By Mr. DANIELS of New Jersey (for himself and Mr. ESCH):

H.R. 11570. A bill to amend the Manpower Development and Training Act of 1962 by postponing the expiration of title II thereof for 1 year; to the Committee on Education and Labor.

By Mr. HELSTOSKI:

H.R. 11571. A bill to amend chapters 31, 34, and 35 of title 38, United States Code, to increase the vocational rehabilitation subsistence allowances, the educational assistance allowances, and the special training allowances paid to eligible veterans and persons under such chapters; to the Committee on Veterans' Affairs.

H.R. 11572. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing the deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

H.R. 11573. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 11574. A bill to amend the Urban Mass Transportation Act of 1964 to authorize grants and loans to private nonprofit organizations to assist them in providing transportation service meeting the special needs of elderly and handicapped persons; to the Committee on Banking and Currency.

By Mr. KOCH (for himself and Mr. ROSTENKOWSKI):

H.R. 11575. A bill to amend title 23 of the United States Code to authorize construction of exclusive or preferential bicycle lanes, and for other purposes; to the Committee on Public Works.

By Mr. MILLS of Arkansas:

H.R. 11576. A bill to provide that the willful failure to file a final income tax return is a felony; to the Committee on Ways and Means.

By Mr. POFF:

H.R. 11577. A bill to designate the dam and reservoir on the Jackson River in the State of Virginia as the "Ben C. Moomaw Dam and Lake"; to the Committee on Public Works.

By Mr. PUCINSKI:

H.R. 11578. A bill to authorize the Secretary of the Interior to establish the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RYAN (for himself, Mrs. ABZUG, Mr. ADDABBO, Mr. BADILLO, Mr. BIAGGI, Mr. BINGHAM, Mr. BRASCO, Mr. CAREY of New York, Mrs. CHISHOLM, Mr. HALPERN, Mr. KOCH, Mr. MURPHY of New York, Mr. PODELL, Mr. RANGEL, Mr. ROSENTHAL, Mr. SCHEUER, and Mr. WOLFF):

H.R. 11579. A bill to amend the Economic Stabilization Act of 1970 to stabilize mass transit and commuter service fares through the period ending midnight April 30, 1973; to the Committee on Banking and Currency.

By Mr. SLACK:

H.R. 11580. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. STAGGERS (for himself and Mr. SPRINGER):

H.R. 11581. A bill to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators; to the Committee on Interstate and Foreign Commerce.

By Mrs. ABZUG:

H.R. 11582. A bill to amend the Foreign Assistance Act of 1961, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BINGHAM (for himself, Mr. BADILLO, Mr. DANIELSON, Mr. DONOHUE, Mr. EILBERG, Mr. FASCELL, Mrs. GRASSO, Mr. GUDE, Mr. HALPERN, Mr. HARRINGTON, Mr. HATHAWAY, Mr. HAWKINS, Mr. HELSTOSKI, Mrs. HECKLER of Massachusetts, and Mr. LENT):

H.R. 11583. A bill to amend the Fair Packaging and Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business, and packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. BINGHAM (for himself, Mr. MCCORMACK, Mr. MATSUNAGA, Mr. MINISH, Mrs. MINK, Mr. MITCHELL, Mr. MORSE, Mr. PELLY, Mr. PODELL, Mr. RHODES, Mr. RYAN, Mr. ST GERMAIN, Mr. SCHWENGEL, and Mr. TIERNAN):

H.R. 11584. A bill to amend the Fair Packaging Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business, and packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. BROTZMAN (for himself, Mr. MCKEVITT, Mr. MCDADE, and Mr. ROE):

H.R. 11585. A bill to require that all schoolbuses be equipped with seatbelts for passengers and seatbacks of sufficient height to prevent injury to passengers; to the Committee on Interstate and Foreign Commerce.

By Mr. COLLINS of Illinois (for himself and Mr. MILLS of Arkansas):

H.R. 11586. A bill to amend the Social Security Act to provide that the total amount of a State's required expenditures for aid or assistance under the cash public assistance programs during either of the fiscal years 1972 and 1973 shall not exceed the total amount of its expenditures under such programs during the fiscal year 1971; to the Committee on Ways and Means.

By Mr. DANIELSON:

H.R. 11587. A bill to establish the Cabinet Committee on Oriental-American Affairs, and for other purposes; to the Committee on Government Operations.

By Mr. FINDLEY:

H.R. 11588. An bill to continue mandatory price support for tung nuts only through the 1976 crop; to the Committee on Agriculture.

By Mr. GARMATZ (for himself, Mr. LENNON, Mr. DINGELL, Mr. LEGGETT, Mr. TIERNAN, Mr. CLARK, Mr. PELLY, Mr. DOWNING, Mr. GROVER, Mr. DE LA GARZA, Mr. JAMES V. STANTON, Mr. MILLS of Maryland, Mr. ROGERS, Mr. GOODLING, Mr. JONES of North Carolina, Mr. BYRNE of Pennsylvania, Mr. DU PONT, Mr. MCDONALD of Michigan, Mr. ASHLEY, Mr. FORSYTHE, Mr. KARTH, Mr. MCCLOSKEY, and Mr. ROONEY of Pennsylvania):

H.R. 11589. A bill to authorize the foreign sale of certain passenger vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. HAMMERSCHMIDT:

H.R. 11590. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. HARRINGTON:

H.R. 11591. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers; to the Committee on Post Office and Civil Service.

By Mr. PRICE of Texas (for himself, Mr. STEIGER of Arizona, and Mr. ALEXANDER):

H.R. 11592. A bill to amend the Agricultural Act of 1949; to the Committee on Agriculture.

By Mr. STRATTON:

H.R. 11593. A bill to amend title 23 of the United States Code to authorize construction of exclusive or preferential bicycle lanes, and for other purposes; to the Committee on Public Works.

By Mr. SYMINGTON (for himself and Mr. COUGHLIN):

H.R. 11594. A bill to amend the Internal Revenue Code of 1954 so as to permit certain tax-exempt organizations to engage in communications with legislative bodies, and committees and members thereof; to the Committee on Ways and Means.

By Mr. ESCH:

H.R. 11595. A bill to establish a National Adoption Information Exchange System; to the Committee on Education and Labor.

By Mr. TEAGUE of Texas (by request):

H.R. 11596. A bill to amend chapter 41 of title 38, United States Code, to improve job counseling and employment services for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PRYOR of Arkansas:

H.R. 11597. A bill to provide that all nursing homes receiving Federal assistance in any form must meet the standards imposed upon nursing homes under the medicaid program; to the Committee on Interstate and Foreign Commerce.

By Mr. SEIBERLING:

H.J. Res. 953. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. HANLEY:

H. Con. Res. 445. Concurrent resolution to protect the domestic specialty steel industry; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mrs. HICKS of Massachusetts, Mr. FORSYTHE, Mr. RYAN, Mr. HOGAN, Mr. BUCHANAN, Mr. COUGHLIN, Mr. ROSENTHAL, Mr. ABBADDO, Mr. MAZZOLI, Mr. BIAGGI, Mr. PIKE, Mr. YATES, Mr. HELSTOSKI, Mr. MCCLOSKEY, Mr. ST GERMAIN, Mr. SCHWENGEL, and Mr. DENHOLM):

H. Con. Res. 446. Concurrent resolution expressing the sense of Congress with respect to placing before the United Nations General Assembly the issue of the dual right of all persons to emigrate from and also return to one's country; to the Committee on Foreign Affairs.

By Mr. MINISH:

H. Con. Res. 447. Concurrent resolution expressing the sense of Congress that there should be a boycott in the United States of French-made products until the President determines France has taken successful steps to halt the processing of heroin and its exportation to the United States; to the Committee on Ways and Means.

By Mr. ANDREWS of North Dakota:

H. Res. 684. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. EDMONDSON:

H. Res. 685. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. GREEN of Pennsylvania:

H. Res. 686. Resolution calling for peace in northern Ireland and the establishment of a united Ireland; to the Committee on Foreign Affairs.

By Mr. NIX:

H. Res. 687. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. VEYSEY (for himself, Mr. PETTIS, Mr. ROUSSELOT, Mr. TEAGUE of California, and Mr. BOB WILSON):

H. Res. 688. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. WYMAN:

H. Res. 689. Resolution concerning Phantom F-4 aircraft for Israel and other matters; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ARCHER introduced a bill (H.R. 11598) for the relief of Oi Kwan, which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

GEORGE BUSH RAN ALL THE WAY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. STEIGER of Wisconsin. Mr. Speaker, this week's Life magazine contains a warm tribute to the U.S. Ambassador to the United Nations, George Bush.

There are some cynics who claim that the President and our U.N. delegation were not really serious in the effort to preserve Taiwan's membership in the United Nations.

No one, in my judgment, could have more effectively carried out the policy of this Nation than George Bush and Peter Young's perceptive piece deserves the thoughtful attention of the Congress:

IS IT ARM TWISTING TO LET THEM KNOW HOW WE FEEL?

(By Peter Young)

Almost to the end, Ambassador George Bush had been optimistically predicting a small margin of victory for the U.S. position. Then the danger signs began to appear. On a procedural vote granting priority to the U.S.'s "important question" resolution, Bush won—but by two votes less than he had anticipated. Next, the newly admitted Sultanate of Oman, under heavy lobbying from Arab delegations who favored Peking, left the hall with orders to stay away. Qatar, another new mini nation and an apparent ally of the U.S., "took gas," as one observer put it, and abstained from voting. Ireland's opposition was still another surprise blow.

At one point during the vote, Bush enormously provoked about something, was seen rushing to the side of a delegate from Cyprus. The Cypriot had performed an about-face on the floor, abstaining on the key vote despite his government's previous commitment to support the U.S.

Later, surveying he shambles of defeat, Bush still couldn't believe some of the turnarounds that had brought it about. "At the start, we had all the votes we needed. Then we got these defections from countries we had thought were assured. I can understand the views of our allies who were opposed to us all along on this issue. They have certain bilateral relations with the People's Republic that must be respected. What I can't understand is infidelity, when a delegate who has given his firm assurance of support suddenly goes against you. That's going back on one's word."

For Bush, who just a year ago lost another political battle—his own race for the U.S. Senate as a Republican from Texas—the China outcome was a "tremendous disappointment." In trying to save Taiwan's seat, he had set what must be a U.N. track record for personal effort.

"On to the next event!" was his manner of welcoming each new day leading up to the crucial votes. He wolfed down breakfasts of cold cereal and yogurt—or milk and crackers if the ulcers were back. Then staff meetings at the mission at 9:30. Sponsors' meeting at 10:30. Lobbying at the missions of Ghana ("On the fence") and Indonesia ("Question mark"). Back to the U.N. north lounge to sound out a Nigerian delegation ("Opposed"). Lunch at the Waldorf Astoria with Secretary General U Thant ("I think he feels we are on a losing wicket, but he has been discreet enough to stop short of influencing the vote"). An afternoon spent politely listening to speeches in the General Assembly. Five-thirty cocktails with the Liberians ("They're strongly on our side in this"). A private drink with Secretary of State Rogers. A phone call to the President ("'Win it! Win it!' he tells me"). A black-tie dinner at the Iranian mission ("No comment"). And finally back to his luxurious 42nd-floor ambassador's suite in the Waldorf Towers for a light scotch and water ("Sometimes I'm so tired I want to cry").

"We came a long way," says Bush, "but not long enough. Two months ago we really would have been clobbered. There was this oddball notion that we weren't serious, just going through the motions. We laid that one to rest. We went out to the big and the small. Fiji, Upper Volta. You can't kiss off the smaller countries and say those wieners don't count. They all count.

"Then there was the problem of getting sponsors for our resolutions. We'd be told, 'You've got Chad and Nicaragua and that's it. Ha, ha.' We were told we'd never get Australia and New Zealand. So, okay, they come on board. Then they said Japan would never join as a sponsor. No way. And we get Japan. So, finally, I guess you could say we solved the problem of quality cosponsors. Unfortunately, it wasn't enough."

Bush is a lanky, singularly personable, Yale-educated 47-year-old who made his for-

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tune in off-shore oil drilling. He had served two terms as a congressman from Houston when he gave up his seat, reportedly at President Nixon's urging, to try unsuccessfully for the Senate. His appointment as the U.S. delegate early this year was greeted with some skepticism by the U.N. community. Touchy and insular, they looked on the choice of an unknown, diplomatically inexperienced Texas millionaire as a calculated expression of U.S. disdain for the world body.

But it soon became apparent, as he hustled endlessly from reception to back room to foreign mission on Manhattan's East Side, that whatever George Bush lacked in diplomatic polish he made up in wit, stamina and enthusiasm. "There's a great flow of adrenalin churning in me all the time," he says. "If I were supposed to be a low-key, stuffy diplomat with a doctorate in political science, I'd have to take acting lessons."

Bush describes his job with a Nixon-like analogy: "You might say I'm quarterback, Secretary of State Rogers is the coach and the President is the owner of the club."

He also recalls advice he got from fellow Texan Lyndon Johnson when he took the U.N. assignment: "George, you're going to be in New York putting vegetables in the soup and calling it vegetable soup. Someone at the State Department will be adding fish and calling it chowder. But it's the President who will be stirring up the whole conglomeration, and don't you forget it."

As ambassador, Bush goes through channels, but he does have a close, direct relationship with the President. During the tense, vote-seeking days of the China debate he used it regularly. This line to the White House was a distinct asset in dealing with foreign diplomats, though some thought that he overdid it with his frequent references to "what the President told me at tea the other day."

Blunt in speech, Bush calls the U.N. "that crazy, troubled Disneyland on the East River," a "fishbowl and rumor mill" beyond compare. He was amused at his own staff's "noon lounge report," a daily survey of gossip currently making the rounds of the delegates' lounge. One day just before the China vote, the report had the U.S. writing out checks to foreign ambassadors to buy their votes. Another had a U.S. plane swooping into the Maldive Islands to pick up the Maldivian delegate—who had yet to arrive in New York—to make sure he was on hand to vote.

"Utter and complete nonsense," says Bush. "It's hard to believe people would attach any significance to such ramblings."

Some U.S. campaign efforts were more real, however, and, if anything, they had a negative effect. After a visit to Bush, New York Senator James Buckley warned publicly that if the Nationalist Chinese were expelled, he would introduce legislation calling for a major reduction of U.S. contributions to the U.N. Buckley said he spoke for at least 21 other senators. When a spokesman for Bush announced that the ambassador "shares the concern voiced by the group of senators," some diplomats took it to mean that Bush was formally echoing the threat. They sizzled at what looked like economic arm-twisting on the part of the U.S.

"Sure it would be arm-twisting," said Bush, "if we went in there and said you do this or do that, or else. All we've been trying to tell the other delegates is that something was brewing in Congress. The problem seemed to be that if you pressed a point of view, people thought you were trying to pressure them. We wanted to know how they felt. Is it arm-twisting to let them know how we feel?"

Whether or not they agreed with the U.S. on the China issue, or even with U.S. tactics, which in effect made the votes a kind of international popularity contest, the foreign delegates came away personally impressed by Bush's warmth and candor. "You may dislike what George is trying to do," was a typical assessment, "but you can't dislike George." "Arm-twisting, hell," said another. "Bush could charm a bird off a branch."

In the end, neither charm nor energy was enough, and it came time to face defeat. When Nationalist China's Ambassador Liu Chieh quietly led his delegation out of the Assembly, Bush caught up with him in the hall and wrapped an arm over his shoulder. "Your delegation," he said, "acted with great dignity." It was a quality in short supply that night at the U.N.

CONSTITUTIONAL SCHOLARS OPPOSE PRAYER AMENDMENT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. DRINAN. Mr. Speaker, when 300 attorneys agree on anything it is noteworthy. When more than 300 of our most eminent law school deans, law school professors, and constitutional lawyers agree in this opposition to House Joint Resolution 191, the prayer amendment, it is an historic occasion.

I was therefore particularly gratified to receive today, under cover of the following letter from Harvard Law School's distinguished constitutionalist, Prof. Paul A. Freund, a statement entitled "Our Most Precious Heritage," and the names of its endorsers.

The letter and statement speak for themselves. I would add only that as a former law school dean, and as a Member of this House, I am honored to be associated with this extraordinary group of men and women in my opposition to House Joint Resolution 191.

The letter and statement follow:

LAW SCHOOL OF HARVARD UNIVERSITY,
Cambridge, Mass., November 2, 1971.

DEAR CONGRESSMAN: The more than 300 constitutional lawyers and law professors who have signed the enclosed statement, "Our Most Precious Heritage", have joined together to urge you to oppose H.J. Res. 191, the school prayer amendment. We hope that you will give the views outlined in this statement your careful consideration before deciding how you will cast your vote on November 8.

Sincerely,

PAUL A. FREUND.

OUR MOST PRECIOUS HERITAGE

Our Bill of Rights is America's most precious heritage. For a century and three-quarters it has spread the mantle of protection over persons of all faiths and creeds, political, cultural and religious.

Under our system, special responsibility for the interpretation and application of the Bill of Rights rests with the Supreme Court. In discharging this responsibility the Court has from time to time handed down decisions which have aroused considerable controversy. Some of the decisions have been subjected to strong criticism and even condemnation. There have, no doubt, been decisions which have been deemed by a majority of the American people, at least in their immediate reaction, to have been unwise, either in the conclusion reached by the Court or in the manner by which that conclusion was reached.

It may be that the Court's 1962 and 1963 decisions against state-sponsored prayer and devotional Bible reading in the public schools belong in this category. If so, it is much too early to judge whether it will be the popular judgment or the Court's that will be vindicated by time. But whichever the case, we are convinced that it would be far wiser for our nation to accept the decisions than to amend the Bill of Rights in order to nullify them.

We recognize that the Constitution provides for its own amendment, and that no provision of it, including the Bill of Rights, is immune to repeal or alteration at the will of the people expressed through the medium of constitutional amendment. Yet, it is relevant to recall in this respect the concluding paragraph of Thomas Jefferson's great Virginia statute for Establishing Religious Freedom:

"And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right."

American liberties have been secure in large measure because they have been guaranteed by a Bill of Rights which the American people have until now deemed practically unamendable. If now, for the first time, an amendment to "narrow its operation" is adopted, a precedent will have been established which may prove too easy to follow when other controversial decisions interpreting the Bill of Rights are handed down. In the past, the Court has construed the provisions against infringement of the free exercise of religion and of speech and assembly, or securing the privilege against self-incrimination, or requiring fair trial procedures, in a manner deemed by many at the time to be unduly restrictive of the proper powers of government. It is certain that it will do so again in the future. If the first clause of the Bill of Rights, forbidding laws respecting an establishment of religion, should prove so easily susceptible to impairment by amendment, none of the succeeding clauses will be secure.

A grave responsibility rests upon the Congress in taking this "first experiment on our liberties." Whatever disagreements some may have with the Bible-Prayer decisions, we believe strongly that they do not justify this experiment. Accordingly, we urge that Congress approve no measures to amend the First Amendment in order to overrule these decisions.

LIST OF SIGNERS

Benjamin Aaron, University of California, Los Angeles School of Law.
Richard I. Aaron, University of Utah College of Law.
Norman Abrams, University of California, Los Angeles School of Law.
Lee Allen Albert, Yale Law School.
Owen Alpin, University of Utah College of Law.
Anthony G. Amsterdam, Stanford University Law School.
Charles E. Ares, Dean, University of Arizona School of Law.
Morris S. Arnold, Indiana University School of Law.
Frank Askin, Rutgers—the State University School of Law.

George B. Baldwin, University of Wisconsin Law School.
Milner Ball, University of Georgia School of Law.
Stephen R. Barnett, University of California, Los Angeles School of Law.
Charles H. Baron, Boston College Law School.
Louis Bartelt, Jr., Dean, Valparaiso University Law School.
Babette Barton, University of California, Berkeley School of Law.
Patrick L. Baude, Indiana University School of Law.
David C. Baum, Columbia University School of Law.
Albert Beisel, Boston University School of Law.
Edmund O. Belsheim, University of Nebraska College of Law.
Robert Bennett, Northwestern University School of Law.
Wallace R. Bennett, University of Utah College of Law.
Eric E. Bergsten, University of Iowa College of Law.
Bruce Berner, Valparaiso University Law School.
Arthur L. Berney, Boston College Law School.
Robert Berry, Boston College Law School.
Robert L. Birmingham, Indiana University School of Law.
Boris I. Bittker, Yale Law School.
Charles L. Black, Jr., Yale Law School.
Jerry P. Black, Jr., Vanderbilt University School of Law.
Vincent A. Blasi, University of Michigan Law School.
Alfred Blumrosen, Rutgers—the State University School of Law.
James F. Blumstein, Vanderbilt University School of Law.
Robert L. Bogomolny, Southern Methodist University School of Law.
Arthur Bonfeld, University of Iowa College of Law.
Ronald N. Boyce, University of Utah College of Law.
Abner Brodie, University of Wisconsin Law School.
Alexander D. Brooks, Rutgers—the State University School of Law.
Ralph S. Brown, Yale Law School.
Paul W. Bruton, University of Pennsylvania Law School.
Robert A. Burt, University of Michigan Law School.
Richard M. Buxbaum, University of California, Berkeley School of Law.
Kendal C. Byrnes, John Marshall Law School.
Norman Cantor, Rutgers—The State University School of Law.
Beverly May Carl, Southern Methodist University School of Law.
Paul D. Carrington, University of Michigan Law School.
Robert Carter, Rutgers—The State University School of Law.
Linda K. Champlin, Ohio State University College of Law.
Richard J. Childress, St. Louis University School of Law.
Jesse Choper, University of California, Berkeley School of Law.
Chapin D. Clark, University of Oregon College of Law.
Homer H. Clark, Jr., University of Colorado School of Law.
Jack Clarke, University of Alabama School of Law.
Arlen C. Christenson, University of Wisconsin Law School.
William Cohen, Stanford Law School.
Robert H. Cole, University of California School of Law.
Daniel G. Collins, New York University School of Law.
Thomas M. Cooley, University of Pittsburgh School of Law.
John E. Coons, University of California, Berkeley School of Law.
George Cooper, Columbia University School of Law.
Vern Countryman, Harvard University Law School.
I. Boyce Carrington, University of Georgia School of Law.
Lindsey Cowen, Dean, University of Georgia School of Law.
Archibald Cox, Harvard University Law School.
Melvin G. Dakin, Louisiana State University Law School.
Tony D'Amato, Northwestern University School of Law.
Charles W. Davidson, University of Iowa College of Law.
Clifford Davis, University of Connecticut School of Law.
Frederick Davis, University of Missouri School of Law.
Samuel M. Davis, University of Georgia School of Law.
Paul R. Dean, Dean, Georgetown University Law Center.
Bernard L. Diamond, University of California, Berkeley School of Law.
Charles Donahue, University of Michigan Law School.
Peter J. Donnici, University of San Francisco School of Law.
Norman Dorsen, New York University School of Law.
David A. Dow, Dean, University of Nebraska College of Law.
Steven Duke, Yale Law School.
Melvin A. Eisenberg, University of California, Berkeley School of Law.
Thomas I. Emerson, Yale Law School.
Charles Fairman, La Jolla, Calif.
D. M. Feild, Mercer University School of Law.
N. P. Feinsinger, University of Wisconsin Law School.
David E. Feller, University of California, Berkeley School of Law.
Roger W. Findlay, University of Illinois College of Law.
Howard P. Fink, Ohio State University College of Law.
Ted Finman, University of Wisconsin Law School.
Edwin Brown Firmage, University of Utah College of Law.
John G. Fleming, University of California, Berkeley School of Law.
Jefferson B. Fordham, University of Pennsylvania Law School.
Morris D. Forkosch, Brooklyn Law School.
G. W. Foster, Jr., University of Wisconsin Law School.
Sanford Fox, Boston College Law School.
John P. Frank, Phoenix, Arizona.
Lionel H. Frankel, University of Utah College of Law.
Monroe H. Freedman, George Washington University National Law Center.
Paul A. Freund, Harvard University Law School.
William Fry, Columbia University School of Law.
Ralph F. Fuchs, Indiana University School of Law.
Walter Gellhorn, Columbia University School of Law.
Michael E. Geltner, Ohio State University College of Law.
Jules B. Gerard, Washington University School of Law.
Elmer Gertz, Chicago, Illinois.
Donald A. Giannella, Villanova University.
Willard Hurst, University of Wisconsin Law School.
Stephen B. Goldberg, University of Illinois College of Law.
Ronald L. Goldfarb, Washington, D.C.
Al Goldman, University of Kentucky, College of Law.
Roger L. Goldman, St. Louis University School of Law.
Harvey J. Goldschmidt, Columbia University School of Law.
Irving A. Gordon, Northwestern University School of Law.
Murray A. Gordon, New York, N.Y.
Mitch Gould, Boston College Law School.
Charles Goulden, University of California at Berkeley Law School.
Kenneth W. Greenawalt, New York, N.Y.
Howard L. Greenberger, Dean, New York University School of Law.
Charles Gromley, Valparaiso University Law School.
Roger D. Groot, University of Georgia School of Law.
Stuart Gullickson, University of Wisconsin Law School.
Gerald Gunther, Stanford Law School.
Donald J. Hall, Vanderbilt University School of Law.
J. Reid Hambrick, George Washington University National Law Center.
Eva Hanks, Rutgers, the State University School of Law.
William D. Hawkland, University of Illinois College of Law.
Peter H. Hay, University of Illinois College of Law.
Willard Heckel, Dean, Rutgers, the State University School of Law.
David M. Helfeld, Dean, University of Puerto Rico School of Law.
Thomas C. Heller, University of Wisconsin Law School.
Orrin L. Helstad, University of Wisconsin School of Law.
Louis Henkin, Columbia University School of Law.
Lawrence Herman, Ohio State University College of Law.
Bruce C. Heskett, University of Alabama Law School.
Jack Hiller, Valparaiso University Law School.
N. William Hines, University of Iowa College of Law.
Wythe W. Holt, Jr., University of Alabama Law School.
Bert Earl Hopkins, Dean, University of Connecticut School of Law.
Richard S. Hornsberger, University of Nebraska College of Law.
Harold Horowitz, University of California, Los Angeles School of Law.
James Houghteling, Boston College Law School.
Harold E. Hurst, Dean, University of Denver College of Law.
Willard Hurst, University of Wisconsin Law School.
Vincent C. Immel, Dean, St. Louis University School of Law.
Davis Isbell, Washington, D.C.
Bruce Jacob, Ohio State University College of Law.
Eli Jarmel, Rutgers—The State University School of Law.
Erwin Jones, Valparaiso University Law School.
Thomas E. Jones, Jr., University of Wisconsin Law School.
John M. Junker, University of Washington School of Law.
Sanford H. Kadish, University of California, Berkeley School of Law.
Yale Kamisar, University of Michigan Law School.
Robert J. Kanenshine, Vanderbilt University School of Law.
Marvin M. Karpatkin, New York, New York.
Kenneth L. Karst, University of California, Los Angeles School of Law.
Wilbert G. Katz, University of Wisconsin Law School.

XUM

Andrew L. Kaufman, Harvard University Law School.
Herma Kay, University of California, Berkeley School of Law.
Page Keeton, University of Texas, Austin School of Law.
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James A. Lake, Sr., University of Nebraska, College of Law.
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Stanley Laughlin, Ohio State University College of Law.
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William J. Lockhart, University of Utah College of Law.
Ephraim S. London, New York, New York.
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Arnold H. Lowey, University of North Carolina School of Law.
Louis Lusky, New York, New York.
James B. MacDonald, University of Wisconsin Law School.
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W. Howard Mann, State University of New York at Buffalo School of Law.
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Burke Marshall, Yale Law School.
Will Maslow, New York, New York.
Richard C. Maxwell, University of California, Los Angeles, School of Law.
Robert C. McClure, University of Minnesota Law School.
Wayne McCormack, University of Georgia School of Law.
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James E. Meeks, University of Iowa College of Law.
Albert R. Menard, Jr., Dean, University of Idaho School of Law.
Saul H. Mendlovitz, Rutgers—the State University School of Law.
Samuel Mermin, University of Wisconsin Law School.
Frank I. Michelson, Harvard University Law School.
Arthur R. Miller, University of Michigan Law School.
Arthur S. Miller, George Washington University National Law Center.
Richard S. Miller, Ohio State University College of Law.
Vernon X. Miller, Dean, Catholic University of America School of Law.
Andrea Monsees, Valparaiso University Law School.
Girard Moran, Rutgers—the State University School of Law.
Arval A. Morris, University of Washington School of Law.
Charles J. Morris, Southern Methodist University School of Law.
Herbert Morris, University of California, Los Angeles School of Law.
John K. Morris, University of Utah College of Law.
Seymour H. Moskowitz, Valparaiso University Law School.
Jay Wesley Murphy, University of Alabama School of Law.
William P. Murphy, University of North Carolina School of Law.
Barry Nakell, University of North Carolina School of Law.
Nathaniel L. Nathanson, Northwestern University School of Law.
Charles R. Nesson, Harvard University Law School.
Dawn C. Netsch, Northwestern University School of Law.
Paul Neuhauser, University of Iowa College of Law.
Wade J. Newhouse, State University of New York at Buffalo Law School.
Frank C. Newman, University of California, Berkeley School of Law.
Melville B. Nimmer, University of California, Los Angeles, School of Law.
Paul Oberst, University of Kentucky College of Law.
Leo J. O'Brien, Dean, Loyola University, Los Angeles School of Law.
John C. O'Byrne, Northwestern University School of Law.
Oliver Oldman, Harvard University Law School.
Robert M. O'Neil, University of California, Berkeley School of Law.
Thomas J. O'Toole, Northeast University School of Law.
James C. N. Paul, Dean, Rutgers—the State University School of Law.
John Payne, Rutgers—the State University School of Law.
Roger Paul Peters, Southwestern University School of Law.
Bruce Peterson, Dean, University of Tulsa School of Law.
Philip E. Peterson, Dean, University Idaho College of Law.
Leo Pfeffer, New York, New York.
Sheldon J. Plager, University of Illinois, College of Law.
Shad Polier, New York, New York.
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A. J. C. Priest, University of Virginia School of Law.
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Barbara Rintala, University of California, Los Angeles, School of Law.
Joseph B. Robison, New York, New York.
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Sanford J. Rosen, New York, New York.
Keith Rosenn, Ohio State University College of Law.
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C. Dallas Sands, University of Alabama School of Law.
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Benno C. Schmidt, Jr., Columbia University School of Law.
William Schroeder, Boston College Law School.
Herman Schwartz, State University of New York at Buffalo School of Law.
Murray L. Schwartz, Dean, University of California, Los Angeles, School of Law.
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Lawrence M. Stone, University of California at Berkeley Law School.
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Lawrence A. Sullivan, University of California at Berkeley Law School.
Russell Sullivan, University of California Hastings College of Law.
Clyde W. Summers, Yale Law School.
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Robert W. Swenson, University of Utah College of Law.
Michael Swygert, Dean, Valparaiso University Law School.
Melvin J. Sykes, Baltimore, Md.
Ralph J. Temple, Washington, D.C.
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E. Wayne Thode, University of Utah College of Law.
A. J. Thomas, Jr., Southern Methodist University School of Law.
Joseph R. Thome, University of Wisconsin Law School.
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Ann Van Wynen, Southern Methodist University School of Law.
David H. Vernon, University of Iowa College of Law.
Martin M. Vols, Dean, University of Louisville School of Law.
George J. Wallace, University of Iowa College of Law.

Jon R. Waltz, Northwestern University School of Law.
Burton Wechsler, Valparaiso University Law School.
Russell J. Weintraub, University of Texas School of Law.
Burns Keston, University of Iowa College of Law.
William C. Whitford, University of Wisconsin Law School.
Donald D. Wilkes, University of Georgia School of Law.
Melvin L. Wulf, New York, N.Y.
J. Nelson Young, University of Illinois College of Law.
Zigurds L. Zile, University of Wisconsin Law School.
Morris B. Abram, New York, New York.
Robert Bartels, University of Iowa, College of Law.
John Bauman, University of California, Los Angeles School of Law.
Francis X. Beytagh, Notre Dame Law School.
Ralph Bischoff, New York University School of Law.
Reed Chambers, University of California, Los Angeles School of Law.
Leroy D. Clark, New York University School of Law
Walter G. Farr, New York University School of Law.
Louis Feinmark, New Haven, Connecticut.
Everett F. Fink, Hartford, Connecticut.
Robert F. Fletcher, University of Washington School of Law.
Henry H. Foster, New York University School of Law.
Thomas Franck, New York University School of Law.
James Gambrell, New York University School of Law.
Albert H. Garretson, New York University School of Law.
Fannie Klein, New York University School of Law.
William Klein, University of California, Los Angeles School of Law.
Homer Kritke, New York University School of Law.
John W. Larson, University of Iowa, College of Law
Andreas F. Lowenfeld, New York University School of Law
Henry McGee, University of California, Los Angeles School of Law.
Roy M. Mersky, University of Texas Law School.
Addison Mueller, University of California, Los Angeles School of Law.
Russell Niles, New York University School of Law.
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Herbert Peterfreund, New York University School of Law.
Joel Rabinowitz, University of California, Los Angeles School of Law.
Gary Schwartz, University of California, Los Angeles School of Law.
Michael Schwartz, New York University School of Law.
John Taggart, New York University School of Law.
Telford Taylor, Columbia University School of Law.
Edmund Ursin, University of California, Los Angeles School of Law.
Charles A. Wright, University of Texas Law School.

WILLIAM C. BARNARD, CHIEF EDITORIAL WRITER

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. JAMES V. STANTON. Mr. Speaker, I believe that the Cleveland Plain Dealer has made an excellent choice in appointing Bill Barnard as its new chief editorial writer. Bill has been a close friend for many years, and the high quality of his reporting is well known to all of those familiar with the political scene in Cleveland. I am extremely pleased that his talent and ability have been recognized through this well-deserved promotion.

In Bill's honor, I would like to insert the following article in the RECORD:

VAIL NAMES WILLIAM BARNARD CHIEF EDITORIAL WRITER AT PLAIN DEALER

William C. Barnard, a member of The Plain Dealer staff since 1957, has been named chief editorial writer by Thomas Vail, publisher and editor.

Barnard, 33, succeeds Ray Dorsey, who retired yesterday after 34 years on The Plain Dealer, including seven years as chief editorial writer.

Earlier this year Barnard was named an associate editor, one of several editors who research and write this newspaper's editorials.

Since 1965 Barnard had covered various aspects of Cleveland's political scene. He was City Hall reporter from 1965 through 1969, and became political writer that year.

He started on The Plain Dealer as a copy boy in 1957 while attending John Carroll University. Barnard later became a police reporter, rewriteman and covered Cuyahoga County criminal courts.

In 1969, along with several other Plain Dealer staff members, Barnard visited other major metropolitan cities to interview their mayors to learn more about these cities and their problems.

He has followed candidates for mayor, governor, senator and president on their campaign trails since 1964.

In 1968 he shared in a Press Club award for his work on "The Making of a Mayor," a special Plain Dealer Sunday magazine description of the election of Mayor Carl B. Stokes.

Earlier this year Barnard, and five other staff members, received an Associated Press enterprise award for coverage of the Ohio loan scandals.

Barnard served as president of the Cleveland Newspaper Guild in 1966 and was general chairman when the American Newspaper Guild held its 1968 convention here.

He is a director of the City Club of Cleveland and of Sigma Delta Chi, professional journalism society.

Barnard and his wife, Mildred, have three children, Mary Elizabeth, 9, Geoffrey, 7, and Genevieve, 5. They live at 3084 East Overlook Road, Cleveland Heights.

FOUNTAIN VALLEY'S WATER FACTORY 21

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. HOSMER. Mr. Speaker, the November 4 edition of Water Desalination Report, the respected international journal of the desalting industry, contains a current status report of one of the world's most significant desalting projects. Its report on the desalting reclamation plant to be built at Fountain Valley in southern California follows:

STATE OF CALIFORNIA CLEARS ORANGE COUNTY DESALTING-RECLAMATION PROJECT

An important milestone for Orange County Water District's "Water Factory 21" (to develop technology of fresh water via desalting and waste water reclamation for the 21st century) was passed last week. The State of California's Water Resources Control Board gave WF-21 a full bill of health from environmental and financial assistance standpoints. The desalting-reclamation plant will be built at Fountain Valley, Calif.

FEDERAL-STATE GRANTS

Significance of the State endorsement is it makes the desalting-reclamation project eligible for up to $10.9 million in State and Federal research-development financial support. The official endorsement signed on Oct. 26th by Paul R. Bonderson, chief of the Water Quality Control Div. of the Board, carries an extra bonus: a recommendation, in effect, to Environmental Protection Agency to approve the project for the maximum allowable Federal grant, or about $6.1 million. Total State money under terms of the Calif. Clean Water Bond Act of 1970 toward the project amounts to about $2.7 million.

These amounts are primarily for the 15 MGD waste water reclamation plant, which has an estimated cost of $10 million. The 3 MGD VTE desalting module is not included, and its $8.1 million cost is being paid for separately by OCWD and OSW in amounts of $3.2 million and $4.9 million respectively. Total cost of the project desalting and reclamation portions, is put at $31.3 million, and includes expansion of the desalting module to a 15 MGD prototype plant. OCWD's share of expenses is 43 per cent of total project costs.

OWEN HAPPY

Last week in Washington, Langdon P. Owen, executive sec'y. of OCWD, elated over latest State approvals of the project, said WF-21 stood as shining example of "early and proper environmental planning." He also prophesied that some version of WF-21 would have to be undertaken by most every water treatment group in the U.S., if the tough water bill just reported by the Senate Public Works Committee is adopted this session of Congress. On the score of environmental planning, Owen early in the planning of the desalting-reclamation-ground water protection project consulted with conservation-environmental protection groups, such as the Sierra Club, and invited their participation in the project. In return, the Sierra Club has endorsed WF-21 as exemplar of how a research-development project's environmental planning should be handled from the outset.

Owen also pointed out a chief objective of the bill recently approved by Senate Public Works Committee is to eliminate all pollution discharges into streams and lakes by 1985. This means, Owen says, practically all municipal and industrial treatment plants are going to have to come up with something similar to WF-21. It could mean also a burgeoning market for desalting equipment, since many water pollutants can only be eliminated via a desalting tertiary treatment process. But against bleak performance level of desalting equipment firms in 1971, Owen said he didn't want to rake desalting mfer's. the wrong way with another projection of a "future rosy market." He sighed relief, however, at clearance for the project granted by the State.

Approval from the Water Resources Control Board climaxes an almost infinite no. of offices, boards, committees, etc. which OCWD has appeared before in order to go ahead with construction. It all prompted Owen to say, "Once we're safely on a construction path, I'm thinking about preparing a case study and going back to the State Legislature and saying, 'Look, these are all the requirements you've placed on us.' Smaller outfits without OCWD's resources, financial and otherwise, just couldn't make it. They'd drop by the wayside."

FEDERAL APPROVAL NECESSARY

Approval for the project is still necessary from Region IX offices of Environmental

Protection Agency, and the State sanction came in a letter to Paul De Falco, administrator of EPA's Region IX. The State letter said WF-21 is approved for a federal grant for the maximum allowable cost of $5,486,000 and also approved for the State's grant of $2,494,000 for the reclamation portion.

Envirogenics is contractor for supplying the VTE desalting module and, though OSW's contractor, Owen says so far he's highly impressed with quality of the co.'s work. He mentioned, however, in OCWD's agreement with OSW that OCWD can pull out any time if work under Envirogenics' contract becomes "environmentally unacceptable."

High priority has gone to visual appearance of the plant site in the environmental planning program. A 125-ft. wide greenway has been constructed along the plant's entire 1300-ft. west border. The greenway is made up of a ridge of 20-ft. pine trees, and response of nearby residents has been "more than favorable." Only one resident objected at time of OCWD's presentation of plans to the Fountain Valley City Council. That resident objected the desalting plant should be enclosed in a building. But he became pacified by the pleasing screen of pine trees.

FORESTRY PRACTICES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. DINGELL. Mr. Speaker, two items relating to forestry practices appeared in recent issues of the Christian Science Monitor which I would like to share with my colleagues.

The item of September 14, 1971, reported on testimony of a lifelong logger, Mr. Bob Ziak, in opposition to the devastation of our forests by means of clear cutting. The other item, carried on October 2, 1971, relates to pending forestry legislation.

I insert the texts of the two articles at this point in the CONGRESSIONAL RECORD:

LOGGER'S PLEA FOR FORESTS

(NOTE.—Bob Ziak has lived and logged near Astoria, Ore., all his life. At Senate hearings on forest legislation held in Portland, Ziak, speaking from notes scratched hurriedly on an envelope, humbled the professional and political experts with a personal plea for conservation.)

My name is Bob Ziak. I am a clear cut high lead logger.

I was born in Astoria, Ore. 54 years ago. My father was a logger. My mother took me from the hospital to a logging camp to live. The forests are my life.

At first the timber was virgin, production was tremendous, there were no controls and the resulting destruction and waste was appalling.

I've clear cut to the edge of a river, destroyed priceless streams, found jewellike lakes within our cutting lines and left them as ugly holes staring into the skies.

I've seen the Eagle tree coming crashing down, nest, eggs and all. I've seen the Eagle tree left standing all alone only to see the birds leave and the tree die because each needed a stand in order to survive.

I helped log thousands of clear cuts, saw the animals move in and then come under a murderous crossfire from hunters on the network of roads, with no place in sight to go in their terror-stricken flight.

I am deeply concerned about our forests. They are disappearing—from 600 years of age to 35. Man planted in solid blocks, tree farming if you wish, but our forests are going, going, gone.

Detach yourself from his earth and look down on us from the heavens above. Gentlemen, this is all there is. There is no more and time is running out.

NATIONAL FOREST POLICY

A "National Timber Supply Act" which would have increased logging of the national forests and destroyed much of the remaining wilderness area died in Congress in early 1970, a victim of the environmental protection movement. Now two more bills dealing with forest management are under consideration, and conservationists are mobilizing for another battle.

One, sponsored by Senator Mark Hatfield (Rep., Ore.), is a warmed-over version of the National Timber Supply Act, conservationists charge. (Hatfield was a co-sponsor of that legislation.) The other, sponsored by Senator Lee Metcalf (Dem., Mont.) has their blessing. The conservationists' prime objection to the Hatfield bill concerns the use of proceeds from the sale of timber in the national forests.

Hatfield proposes that most of the money, which now goes to the general treasury, would go into a Forest Land Management Fund to be used for timber management, reforestation, research, developing recreation facilities, and "development of other multiple uses of the forests to obtain a wider range of goods and services while maintaining or improving the quality of the environment." Opponents fear the environmental objectives would be largely ignored, and emphasis would be placed on increased logging of public land.

The Metcalf bill provides that all the net proceeds from sales of national forest timber would go into a trust fund to be used to "complete the national forest system . . . , enlarge tree-planting operations on federal forest lands, and to carry out other activities to improve the environment within federal forest lands." It makes no mention of use of such funds to obtain a "wider range of goods and services."

The Hatfield bill would provide federal matching funds for reforestation and development of tree nurseries on both private and state-owned land. The Metcalf bill offers no matching funds. It provides heavy penalties if loggers do not follow "sound forest practices," which under the definition contained in the bill, include reforestation, erosion control, etc.

Clear-cutting—harvesting of all trees in an area, regardless of maturity—would be allowed only if the secretary of agriculture agreed that in a given instance it was a sound forest practice. Logging in national forests could be done only in accordance with management practices developed by the government after public hearings.

A major provision of the Metcalf proposal would prohibit exports of logs from either national or commercial forests unless the secretary of agriculture determined, after public hearings, that "projected domestic timber supply needs for each of the next five years can be satisfied entirely by domestic supply."

We doubt that such a restriction, with its potentially damaging effects on foreign trade, is wise. The important thing is to assure that "sound forest practices" are applied to the present forests and new forests are established, as the bill provides.

The explanation accompanying the Hatfield bill says it is designed to "restore the quality of public and private forest lands; to enhance and expand recreational opportunity on such lands . . . to enhance the quality of the environment and the resources of the public lands." Those are laudable goals. But it appears to us that the Metcalf bill provides more of the safeguards necessary to their accomplishment.

THREE HUNDRED FORTY-SIX CONSTITUTIONAL LAWYERS AND LAW PROFESSORS SIGN STATEMENT IN OPPOSITION TO PRAYER AMENDMENT

HON. EMANUEL CELLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. CELLER. Mr. Speaker, more than 300 lawyers and law professors from over 60 law schools have attached their names to a statement, "Our Most Precious Heritage." I urge upon my colleagues to ponder the message of "Our Most Precious Heritage" and, therefore, insert this into the RECORD, together with the signatories thereto:

OUR MOST PRECIOUS HERITAGE

Our Bill of Rights is America's most precious heritage. For a century and three-quarters it has spread the mantle of protection over persons of all faiths and creeds, political, cultural and religious.

Under our system, special responsibility for the interpretation and application of the Bill of Rights rests with the Supreme Court. In discharging this responsibility the Court has from time to time handed down decisions which have aroused considerable controversy. Some of the decisions have been subjected to strong criticism and even condemnation. There have, no doubt, been decisions which have been deemed by a majority of the American people, at least in their immediate reaction, to have been unwise, either in the conclusion reached by the Court or in the manner by which that conclusion was reached.

It may be that the Court's 1962 and 1963 decisions against state-sponsored prayer and devotional Bible reading in the public schools belong in this category. If so, it is much too early to judge whether it will be the popular judgment or the Court's that will be vindicated by time. But whichever the case, we are convinced that it would be far wiser for our nation to accept the decisions than to amend the Bill of Rights in order to nullify them.

We recognize that the Constitution provides for its own amendment, and that no provision of it, including the Bill of Rights, is immune to repeal or alteration at the will of the people expressed through the medium of constitutional amendment. Yet, it is relevant to recall in this respect the concluding paragraph of Thomas Jefferson's great Virginia statute for Establishing Religious Freedom:

"And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right."

American liberties have been secure in large measure because they have been guaranteed by a Bill of Rights which the American people have until now deemed practically unamendable. If now, for the first time, an amendment to "narrow its operation" is adopted, a precedent will have been established which may prove too easy to follow when other controversial decisions interpreting the Bill of Rights are handed down. In the past, the Court has construed the provisions against infringement of the free exercise of religion and of speech and assembly, or securing the privilege against self-incrimination, or requiring fair trial procedures, in a manner deemed by many at the time to be unduly restrictive of the proper powers of government. It is certain that it will do so again in the future. If the first clause of the Bill of Rights, forbidding laws respecting an establishment of religion, should prove so easily susceptible to impairment by amendment, none of the succeeding clauses will be secure.

A grave responsibility rests upon the Congress in taking this "first experiment on our liberties." Whatever disagreements some may have with the Bible-Prayer decisions, we believe strongly that they do not justify this experiment. Accordingly, we urge that Congress approve no measures to amend the First Amendment in order to overrule these decisions.

LIST OF SIGNERS

Benjamin Aaron, University of California, Los Angeles School of Law.
Richard I. Aaron, University of Utah College of Law.
Norman Abrams, University of California, Los Angeles School of Law.
Lee Allen Albert, Yale Law School.
Owen Alpin, University of Utah College of Law.
Anthony G. Amsterdam, Stanford University Law School.
*Charles E. Ares, University of Arizona, School of Law.
Morris S. Arnold, Indiana University School of Law.
Frank Askin, Rutgers—the State University School of Law.
George B. Baldwin, University of Wisconsin Law School.
Milner Ball, University of Georgia School of Law.
Stephen R. Barnett, University of California, Los Angeles School of Law.
Charles H. Baron, Boston College Law School.
*Louis Bartelt, Jr., Valparaiso University Law School.
Babette Barton, University of California, Berkeley School of Law.
Patrick L. Baude, Indiana University School of Law.
David C. Baum, Columbia University School of Law.
Albert Beisel, Boston University School of Law.
Edmund O. Belsheim, University of Nebraska, College of Law.
Robert Bennett, Northwestern University, School of Law.
Wallace R. Bennett, University of Utah College of Law.
Eric E. Bergsten, University of Iowa College of Law.
Bruce Berner, Valparaiso University Law School.
Arthur L. Berney, Boston College Law School.
Robert Berry, Boston College Law School.
Robert L. Birmingham, Indiana University School of Law.
Boris I. Bittker, Yale Law School.
Charles L. Black, Jr., Yale Law School.
Jerry P. Black, Jr., Vanderbilt University, School of Law.
Vincent A. Blasi, University of Michigan Law School.
Alfred Blumrosen, Rutgers—the State University School of Law.
James F. Blumstein, Vanderbilt University School of Law.
Robert L. Bogomolny, Southern Methodist University School of Law.
Arthur Bonfeld, University of Iowa College of Law.
Ronald N. Boyce, University of Utah College of Law.
Abner Brodie, University of Wisconsin Law School.
Alexander D. Brooks, Rutgers—the State University School of Law.

*Deans of law schools.

Ralph S. Brown, Yale Law School.
Paul W. Bruton, University of Pennsylvania Law School.
Robert A. Burt, University of Michigan Law School.
Richard M. Buxbaum, University of California, Berkeley School of Law.
Kendal C. Byrnes, John Marshall Law School.
Norman Cantor, Rutgers—The State University, School of Law.
Beverly May Carl, Southern Methodist University, School of Law.
Paul D. Carrington, University of Michigan Law School.
Robert Carters, Rutgers—The State University, School of Law.
Linda K. Champlin, Ohio State University, College of Law.
Richard J. Childress, St. Louis University, School of Law.
Jesse Choper, University of California, Berkeley, School of Law.
Chapin D. Clark, University of Oregon, College of Law.
Homer H. Clark, Jr., University of Colorado, School of Law.
Jack Clarke, University of Alabama, School of Law.
Arlen C. Christenson, University of Wisconsin, Law School.
William Cohen, Stanford Law School.
Robert H. Cole, University of California, School of Law.
Daniel G. Collins, New York University, School of Law.
Thomas M. Cooley, University of Pittsburgh, School of Law.
John E. Coons, University of California, Berkeley, School of Law.
George Cooper, Columbia University School of Law.
Vern Countryman, Harvard University Law School.
I. Boyce Carrington, University of Georgia, School of Law.
Lindsey Cowen, University of Georgia, School of Law.
Archibald Cox, Harvard University Law School.
Melvin G. Dakin, Louisiana State University, Law School.
Tony D'Amato, Northwestern University School of Law.
Charles W. Davidson, University of Iowa College of Law.
Clifford Davis, University of Connecticut School of Law.
Frederick Davis, University of Missouri School of Law.
Samuel M. Davis, University of Georgia School of Law.
*Paul R. Dean, Georgetown University Law Center.
Bernard L. Diamond, University of California, Berkeley School of Law.
Charles Donahue, University of Michigan Law School.
Peter J. Donnici, University of San Francisco School of Law.
Norman Dorsen, New York University School of Law.
*David A. Dow, University of Nebraska College of Law.
Steven Duke, Yale Law School.
Melvin A. Eisenberg, University of California, Berkeley School of Law.
Thomas I. Emerson, Yale Law School.
Charles Fairman, La Jolla, Calif.
D. M. Field, Mercer University School of Law.
N. P. Feinsinger, University of Wisconsin Law School.
David E. Feller, University of California, Berkeley School of Law.
Roger W. Findlay, University of Illinois College of Law.
Howard P. Fink, Ohio State University College of Law.
Ted Finman, University of Wisconsin Law School.
Edwin Brown Firmage, University of Utah College of Law.
John G. Fleming, University of California Berkeley School of Law.
Jefferson B. Fordham, University of Pennsylvania, Law School.
Morris D. Forkosch, Brooklyn Law School.
G. W. Foster, Jr., University of Wisconsin, Law School.
Sanford Fox, Boston College Law School.
John P. Frank, Phoenix, Arizona.
Lional H. Frankel, University of Utah College of Law.
Monroe H. Freedman, George Washington University, National Law Center.
Paul A. Freund, Harvard University Law School.
William Fry, Columbia University School of Law.
Ralph F. Fuchs, Indiana University School of Law.
Walter Gellhorn, Columbia University School of Law.
Michael E. Geltner, Ohio State University College of Law.
Jules B. Gerard, Washington University School of Law.
Elmer Gertz, Chicago, Illinois.
Donald A. Giannella, Villanova University.
Willard Hurst, University of Wisconsin Law School.
Stephen B. Goldberg, University of Illinois College of Law.
Ronald L. Goldfarb, Washington, D.C.
Al Goldman, University of Kentucky School of Law.
Roger L. Goldman, St. Louis University School of Law.
Harvey J. Goldschmidt, Columbia University School of Law.
Irving A. Gordon, Northwestern University School of Law.
Murray A. Gordon, New York, N.Y.
Mitch Gould, Boston College Law School.
Charles Goulden, University of California at Berkeley Law School.
Kenneth W. Greenawalt, New York, N.Y.
*Howard L. Greenberger, New York University School of Law.
Charles Gromley, Valparaiso University Law School.
Roger D. Groot, University of Georgia School of Law.
Stuart Gullickson, University of Wisconsin Law School.
Gerald Gunther, Stanford Law School.
Donald J. Hall, Vanderbilt University School of Law.
J. Reid Hambrick, George Washington University National Law Center.
Eva Hanks, Rutgers, the State University School of Law.
William D. Hawkland, University of Illinois College of Law.
Peter H. Hay, University of Illinois College of Law.
*Willard Heckel, Rutgers, the State University School of Law.
*David M. Helfeld, University of Puerto Rico School of Law.
Thomas C. Heller, University of Wisconsin Law School.
Orrin L. Helstad, University of Wisconsin School of Law.
Louis Henkin, Columbia University School of Law.
Lawrence Herman, Ohio State University College of Law.
Bruce C. Heskett, University of Alabama Law School.
Jack Hiller, Valparaiso University Law School.
N. William Hines, University of Iowa College of Law.
Wythe W. Holt, Jr., University of Alabama Law School.
*Bert Earl Hopkins, University of Connecticut School of Law.
Richard S. Hornsberger, University of Nebraska, College of Law.

XUM

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James Houghteling, Boston College Law School.
*Harold E. Hurst, University of Denver College of Law.
Willard Hurst, University of Wisconsin Law School.
*Vincent C. Immel, St. Louis University School of Law.
Davis Isbell, Washington, D.C.
Bruce Jacob, Ohio State University College of Law.
Eli Jarmel, Rutgers—The State University School of Law.
Erwin Jones, Valparaiso University Law School.
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Yale Kamisar, University of Michigan Law School.
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Donald B. King, St. Louis University Law School.
Arthur Kinoy, Rutgers—the State University School of Law.
*James Kirby, Ohio State University College of Law.
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Donald W. Large, University of Wisconsin Law School.
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Charles H. Livengood, Jr., Duke University School of Law.
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William J. Lockhart, University of Utah College of Law.
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Jean C. Love, University of Wisconsin Law School.
Arnold W. Lowey, University of North Carolina School of Law.
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James B. MacDonald, University of Wisconsin, Law School.
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Will Maslow, New York, New York.
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James B. Meeks, University of Iowa, College of Law.
*Albert R. Menard, Jr., University of Idaho, School of Law.
Saul H. Mendlovitz, Rutgers—the State University, School of Law.
Samuel Mermin, University of Wisconsin, Law School.
Frank I. Michelson, Harvard University, Law School.
Arthur R. Miller, University of Michigan, Law School.
Arthur S. Miller, George Washington University, National Law Center.
Richard S. Miller, Ohio State University, College of Law.
*Vernon X. Miller, Catholic University of America, School of Law.
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Frank C. Newman, University of California, Berkeley School of Law.
Melville B. Nimmer, University of California, Los Angeles, School of Law.
Paul Oberst, University of Kentucky, College of Law.
*Leo J. O'Brien, Loyola University, Los Angeles, School of Law.
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Oliver Oldman, Harvard University Law School.
Robert M. O'Neil, University of California, Berkeley School of Law.
Thomas J. O'Toole, Northeast University, School of Law.
*James C. N. Paul, Rutgers—the State University School of Law.
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Roger Paul Peters, Southwestern University, School of Law.
*Bruce Peterson, University of Tulsa School of Law.
*Philip E. Peterson, University of Idaho College of Law.
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Shad Poller, New York, New York.
Daniel H. Pollitt, University of North Caroline, School of Law.
A. J. C. Priest, University of Virginia, School of Law.
Charles W. Quick, University of Illinois, College of Law.
Carl Rachlin, New York, New York.

*Walter A. Rafalko, New York Law School.
James A. Rahl, Northwestern University, School of Law.
Henry Ramsey, University of California, Berkeley School of Law.
Walter D. Raushenbush, University of Wisconsin, Law School.
Allen Redlich, University of Wisconsin, School of Law.
Norman Redlich, New York University, School of Law.
Charles A. Reich, Yale Law School.
Douglas Rendelman, University of Alabama School of Law.
William G. Rice, University of Wisconsin, Law School.
Barbara Rintala, University of California, Los Angeles, School of Law.
Joseph B. Robison, New York, New York.
Charles B. Robson, University of Georgia, School of Law.
Eleanor Jones Roe, University of Wisconsin, Law School.
Sanford J. Rosen, New York, New York.
Keith Rosenn, Ohio State University College of Law.
Arthur Rosett, University of California, Los Angeles, School of Law.
Hugh A. Ross, Case Western Reserve University Law School.
*Eugene V. Rostow, Yale Law School.
Wallace Rudolph, University of Nebraska College of Law.
Lawrence Sager, New York University School of Law.
Paul H. Sanders, Vanderbilt University School of Law.
C. Dallas Sands, University of Alabama School of Law.
*John D. Scarlett, Drake University Law School.
Robert L. Schmid, University of Utah College of Law.
Benno C. Schmidt, Jr., Columbia University School of Law.
William Schroeder, Boston College Law School.
Herman Schwartz, State University of New York at Buffalo School of Law.
*Murray L. Schwartz, University of California, Los Angeles, School of Law.
Alan Schwarz, Ohio State University College of Law.
John Scurlock, University of Missouri School of Law.
Robert Sedler, University of Kentucky College of Law.
Ralph D. Semerad, Albany Law School.
Herbert Semmel, University of Illinois, College of Law.
*Thomas Shaeffer, Notre Dam Law School.
Richard Shapiro, Boston College Law School.
Edward F. Sherman, Indiana University School of Law.
Arthur H. Sherry, University of California at Berkeley Law School.
Melvin G. Shimm, Duke University School of Law.
Norman J. Singer, University of Alabama, School of Law.
T. A. Smedley, Vanderbilt University, School of Law.
Carl B. Spaeth, Stanford Law School.
Francis O. Spalding, Northwestern University, School of Law.
John C. Stedman, University of Wisconsin, Law School.
Walter W. Steele, Jr., Southern Methodist University, School of Law.
George Neff Stevens, University of California, Hastings College of Law.
Richard Stevenson, Valparaiso University Law School.
Lawrence M. Stone, University of California at Berkeley Law School.
Victor J. Stone, University of Illinois, College of Law.
Lawrence A. Sullivan, University of California at Berkeley Law School.
Russell Sullivan, University of California, Hastings College of Law.

Clyde W. Summers, Yale Law School.
Justin Sweet, University of California at Berkeley Law School.
Robert W. Swenson, University of Utah College of Law.
*Michael Swygert, Valparaiso University Law School.
Melvin J. Sykes, Baltimore, Md.
Ralph J. Temple, Washington, D.C.
Samuel S. Thurman, University of Utah College of Law.
E. Wayne Thode, University of Utah College of Law.
A. J. Thomas, Jr., Southern Methodist University School of Law.
Joseph R. Thome, University of Wisconsin Law School.
Paul Tractenberg, Rutgers—the State University School of Law.
Lawrence H. Tribe, Harvard University Law School.
Albert E. Utton, University of New Mexico School of Law.
Arvo Van Alstyne, University of Utah College of Law.
John Van Dyke, University of California Hastings College of Law.
Ann Van Wynen, Southern Methodist University School of Law.
David H. Vernon, University of Iowa College of Law.
*Martin M. Volz, University of Louisville School of Law.
George J. Wallace, University of Iowa College of Law.
Jon R. Waltz, Northwestern University School of Law.
Burton Wechsler, Valparaiso University Law School.
Russell J. Weintraub, University of Texas School of Law.
Burns Weston, University of Iowa College of Law.
William C. Whitford, University of Wisconsin Law School.
Donald D. Wilkes, University of Georgia School of Law.
Melvin L. Wulf, New York, N.Y.
J. Nelson Young, University of Illinois College of Law.
Zigurds L. Zile, University of Wisconsin Law School.
Morris B. Abram, New York, New York.
Robert Bartels, University of Iowa, College of Law.
John Bauman, University of California, Los Angeles School of Law.
Francis X. Beytagh, Notre Dame Law School.
Ralph Bischoff, New York University School of Law.
Reed Chambers, University of California, Los Angeles School of Law.
Leroy D. Clark, New York University School of Law.
Walter G. Farr, New York University School of Law.
Louis Feinmark, New Haven, Connecticut.
Everett F. Fink, Hartford, Connecticut.
Robert F. Fletcher, University of Washington School of Law.
Henry H. Foster, New York University School of Law.
Thomas Franck, New York University School of Law.
James Gambrell, New York University School of Law.
Albert H. Garretson, New York University School of Law.
Fannie Klein, New York University School of Law.
William Klein, University of California, Los Angeles School of Law.
Homer Kritke, New York University School of Law.
John W. Larson, University of Iowa, College of Law.
Andreas F. Lowenfeld, New York University School of Law.

* Deans of law schools.

Henry McGee, University of California, Los Angeles School of Law.
Roy M. Mersky, University of Texas Law School.
Addison Mueller, University of California, Los Angeles School of Law.
Russell Niles, New York University, School of Law.
John O'Reilly, Boston College Law School.
Herbert Peterfreund, New York University School of Law.
Joel Rabinowitz, University of California, Los Angeles School of Law.
Gary Schwartz, University of California, Los Angeles School of Law.
Paul Bender, University of Pennsylvania School of Law.
Martha Field, University of Pennsylvania School of Law.
Michael Schwartz, New York University School of Law.
John Taggart, New York University School of Law.
Telford Taylor, Columbia University School of Law.
Edmund Ursin, University of California, Los Angeles School of Law.
Charles A. Wright, University of Texas Law School.
Paul J. Mishkin, University of Pennsylvania School of Law.

THE U.N. VOTE ON CHINA AND THE PRESIDENT'S TRIP TO PEKING

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. SCHMITZ. Mr. Speaker, the New York Times, on October 26, 1971, said:

Equally important, however (in the U.N. vote) was the confusion created in many capitals by the evidence that the President, in planning his trip to Peking, was flashing one political signal while the United States seemed to be pursuing another in the United Nations.

Last week's vote in the United Nations to expel the Republic of China and admit Red China in its place is a direct result of our Government's gestures toward the Chinese Communists. The steps taken by the present administration toward Red China since coming into office wrote the script for tyranny's triumph on the East River last Monday night. Forty or 140 U.S. representatives lobbying at the United Nations have no weight in the scales of international politics when compared to one President journeying to the court of oriental despot Mao Tse-tung.

There can be no "two China" policy. This should now be overwhelmingly clear to any who may have had lingering doubts on this score. The myth of a "two China" policy was intended to quell opposition in the United States to the administration's new China policy. As we can see by the U.N. vote, it is meaningless in the world of international affairs.

Many Americans have been misled by this myth, including some of my own constituents. While the response to my latest report to the people of my district, on China policy, runs approximately 3 to 1 in favor of total rejection of the Communist regime in Peking, it is almost unanimous against abandoning Nationalist China. Thus, almost all my constituents who supported the President's course of action did so because they did not see that it involved an either/or choice. The U.N. vote confirms that it does.

And perhaps the expulsion of Nationalist China will serve a useful purpose for this reason, by bringing the American people face to face with the fact that we are abandoning a longtime ally in favor of a sworn enemy. This is vitally important, since there is still time to reverse this disastrous course if enough people voice their opposition to the whole of our present China policy.

If Red China is Red, it is not China. And there is no more complete and horrible way of "ignoring 800 million people" than to consign them for the foreseeable future, without hope of rescue, to those whose goal is to make them a human anthill.

The U.N. action in expelling a charter member which has abided in every particular by the U.N. Charter should also serve to confirm for millions what many of us have been saying for a long time: that the United States should stop supporting the U.N. A strong movement is underway in Congress to do just that, in light of the U.N.'s most recent demonstration of prejudice in favor of despotism. Included among those lining up in opposition to continued U.S. support of the U.N. is Congressman JOHN J. ROONEY, the influential head of the House Appropriations Subcommittee on State, Justice, Commerce and Judiciary, which handles U.S. contributions to the U.N. Letters to Congressman ROONEY supporting the move to halt U.S. funding of the U.N. might be helpful.

Early this year I introduced H.R. 2632 to get the United States out of the U.N. altogether. I am asking my colleagues to reconsider this bill in light of what has happened.

Winston Churchill's words after Munich apply precisely and inevitably to the fiasco which took place in the United Nations last Monday night:

And do not suppose that this is the end. This is only the beginning of the reckoning. This is only the first sip, the first foretaste of a bitter cup which will be proffered to us year by year unless, by a supreme recovery of moral health and martial vigor, we arise again and take our stand for freedom as in the olden time.

U.S. GOVERNMENT ACTIVELY ENGAGES IN EXPORTING JOBS

HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. GREEN of Pennsylvania. Mr. Speaker, each year an untold number of jobs are lost in this country through firms which transport their capital and their operations abroad. Last week, the Philco Ford Corp. in my own district announced the shutdown of its operation, largely because it has been exporting jobs to low-wage countries overseas.

Unfortunately, we have no policy or means to help unemployed workers find

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jobs. In fact, the U.S. Government actively engages in exporting jobs.

I recently came upon a declassified State Department document which details the Mexican border program, a collaborative arrangement between the United States and Mexico. Through its operation American firms, anxious to avoid the costs of American labor are establishing bases in low wage countries like Mexico. The report, which lauds the program, indicates the growth in size of American investment along the border.

I have also included material prepared for me, which indicates that the State Department completely underestimates the magnitude of the border operation, and in this sense it completely underestimates the impact this program has on jobs in the United States.

What follows is a Department of State report on the Mexican border industry problem.

The following survey suggests that operations are more extensive than the State Department realizes. Employment in American-owned border plants exceeds the 100,000 mark in plants which pay at daily rates averaging between $2.24 and $2.88.

[Submitted by an AFL-CIO union, Brick and Clay Workers, 116,000 jobs]

MATAMOROS, TAMAULIPAS

Company and products	Number of employees	Border name
U.S. Individuals: Semi-conductors	300	Aparatos Electronicos de Tamaulipas.
U.S. Individuals: Swimming pool equipment	100	A y O de Mexico.
Bendix Corp., Teterboro, N.J.: Mobile communication equipment.	750	Aerotech de Matamoros.
Hunt Electronics, Dallas, Tex.: Variable control switches.	500	Border Electronic Mexicana.
CTS Microelectronics, West LaFayette, Ind.: Control switches potentiometers.	400	C T S de Mexico.
Control Data, Minneapolis, Minn.: Motors toy servo-mechanisms.	500	Cedro de Mexico.
U.S. Individuals: Switches, coils, transformers	450	Condura.
U.S. Individuals: Radio and TV components	600	Com Tvonics.
Mexican Individuals: "Piggy" banks	100	Creaciones Sorensic.
Mexican Individuals: Shrimp processing	650	Camarones Selectos.
Duro Paper, Ludlow, Ky: Paper bags	450	Duro de Matamoros.
Zenith Electric, Chicago, Ill.: Cathode ray tubes, TV tuners.	500	Electropartes de Matamoros.
U.S. Individuals: Mercury relays	400	Electro-Semblies de Mexico.
U.S. Individuals: Dismantling railroad cars	300	Empresa Lee.
U.S. Individuals: Tape recorder circuits, cameras	350	Electro Armadora.
Electronic Control Corp., Euless, Tex.: Light reductors, switches, tempcontrols, mixers, hand tools.	200	Electronic Cont. Corp. de Mexico.
Telectronic Industries, Dallas, Tex.: Color TV assembly.	300	Industrias Telectronicas de Mexico.
C. R. C. Corp., Houston, Tex.: Oil field equipment	150	Industrias Fronterizas.
Diamond Al Kali, New York, N.Y.: Fertilizers and insecticides.	100	Insecticidas y Fertilizantes del Norte.
Luria Bros., Brownsville, Tex.: Dismantling railroad cars.	100	La Maquiladora.
Leece-Neville Co., Brownsville, Tex.: Fractional horse-power motors.	200	Leece-Neville Co.
P. R. Mallory, Indianapolis, Ind.: Capacitors, switches, controls.	500	Mallory Electronics de Mexico.
Sprague Electric, North Adams, Mass.: Capacitors	400	Mexicomp.
Union Carbide, New York, N.Y.: Ceramic capacitors	200	National Carbon Everready.
Mexican Capital: Shrimp processing	400	Productos Mavinos Golfo, Atlantica.
Albert Foods: Shrimp processing	350	Productos Alta.
U.S. Individuals: Shrimp processing	450	Procesandora de Mariscos.
Slager-Gen. Precision, Glendale, Calif.: Synchro components tachometer.	400	Precisiones Generales.
E. K. Products, Hurst, Tex.: Radio controls for model planes, boats, and autos.	300	R. C. de Mexico.
Tex-Tan Leather, Brownsville, Tex.: Leather boots	200	Tex-Tan Mexicana.
Varo Corp., Garland, Tex.: Electronic controls	300	Varo Mexicana.
Varel Mfg., Dallas, Tex.: Oil field tools	100	VMC de Metamoros.
U.S. Individuals: Tire recapping	100	Vitalizadora de Baja Bravo.

REYNOSA TAMAULIPAS

Company and products	Number of employees	Border name
Calavo Growers, Vernon, Calif.: Grading of fruits and vegetables.	300	Empacadores Calmo.
Unknown: Brassieres	200	Rey-Mex Bra.
W. T. Liston, Harlingen, Tex.: Bricks	100	Tex-Mex de Mexico.
U.S. Individuals: Infant clothing	200	Tradeway Enterprise de Mexico.

NUEVO LAREDO, TAMAULIPAS

Company and products	Number of employees	Border name
Nielsen Marketing Service, Clinton, Iowa: Classification of commercial coupons.	250	A.C. Nielsen de Mexico.
Mexican Capital: Mocassins	200	American Footwear.
Curtis Mathes, Athens, Tex.: Stereo, TV and radio components.	850	Curtis Mathes de Mexico.
Frontier Foods, Laredo, Tex.: Fruit preserves	350	Conservas de Laredo.
U.S. Individuals: Transistors, diodes, circuits	400	Di-transuients de Mexico.
Marshville Mfg., Mechanicsburg, Pa.: Women's and infants clothing.	500	Dorell.
S. W. Evans and Son, Philadelphia, Pa.: Umbrella frames.	300	Evans de Mexico.
Hoenig Instruments, Houston, Tex.: Medical instruments.	700	Instruments Kraft de Mexico.
F.T.V. Corp., San Antonio, Tex.: Plastic flowers	200	Flores Internacionales.
Mexican Capital: Colonial furniture	500	Industrias de Muebles Tradicionales.
Unknown: Women's dresses	500	La Garde.
Amer-Mex Data, Laredo, Tex.: Punch cards	300	Mex-Amer de Datos.
U.S. Individuals: Mocassins	250	Mex-Moc.
Pinatas International, Wichita, Kans.: Pinatas	200	Pinatas Internacionales.
Frontier Novelty Laredo, Tex.: Sun glasses	250	Preductos A y M.
Sarkes Tarzian, Inc., Bloomington, Ill.: Transistors, selectors for TV.	350	Sarkes Tarzian Mexicana.
Transitron, Wakefield, Mass.: Wiring harnesses, semi-conductors, diode circuits.	1,700	Transitron Mexicana.
Videocraft, Mfg., Chicago, Ill.: High voltage and convergence transformers.	850	Video craft Mexicana.

PIEDRAS NEGRAS, COAHUILA

Company and products	Number of employees	Border name
A. Dewiad Casing, Los Angeles, Calif.: Classification and packaging of hog and sheep casing.	750	Empacadora de Piedras Negras.
Maida Development Co., Hampton, Va.: Ceramic Capacitors.	500	Maida Mexicana.
Sarkes Tarzian Inc., Bloomington, Ill.: TV selectors, UHF and VHF tuners.	700	Sarkes Tarzian Mexicana.
U.S. Individuals: TV components	1,000	Trad Electronics Corp.
U.S. Individuals: Electronic components	550	Treces, S.A.
Unknown: Felt shoes	450	T. T. Corp.

CIUDAD ACUNA, COAHUILA

Company and products	Number of employees	Border name
Standard-Knollsman Ind., Melrose Park, Ill.: TV tuners.	600	Standard Components.
Unknown: Plastic fishing worms	200	La Amistad Productos de Plastico.

CIUDAD JUAREZ, CHIHUAHUA

Company and products	Number of employees	Border name
Figure Flattery Brassiere, New York, N.Y.: Women's Lingerie.	200	Acapulco Fashions.
Nielsen Marketing Service, Clinton, Iowa: Classification of commercial coupons.	300	A. C. Nielsen de Mexico.
Boss Manufacturing, El Paso, Tex.: Work gloves	200	Boss de Mexico.
Cowtown Boot, Fort Worth, Tex.: Cowboy boots	100	Calzado y Articulos de Piel.
Coilcraft, Gary, Ind.: Induction coils and resistors	300	Coil Craft de Mexico.
Am. Hospital Supply, Evanstown, Ill.: Paper hospital gowns.	150	Convertores de Mexico.
Paper Novelty Mfg., Stanford, Conn.: Christmas decorations.	200	Double-Glo Products.
Advance Ross Electric, Chicago, Ill.: Antennas, deflection yokes.	300	Electronica Advance-Ross.
Mexican Capital: Frozen and Canned Peppers	200	Empacadora y Frigorifico Rodeo.
Essex International, Fort Wayne, Ind.: Thermostats, electro magnetic switches.	400	Essex International.
Mexican Capital: Prefabricated metal	150	Estructuras Metalicas, Del Norte.
Baldwin Piano, Cincinnati, Ohio: Wiring harness for electric organ piano keyboards.	550	Fabricantes Tecnicos.
Unknown: Fertilizer	100	Fertilizantes Certificados de Mexico.
Unknown: Control boxes	250	Hatch Internacional.
Sprague Electronics, Worcester, Mass.: Integrated circuits.	1,000	Icamex.
U.S. Individuals: Disassembly of railroad cars	100	Industrias L.E.T.
Kessler Industries, El Paso, Tex.: Aluminum casting wrought iron furniture.	200	Industria Nortena.
Kessler Industries, El Paso, Tex.: Metal structures	250	Industries Cordova Americas.
Southwest Molding Co., El Paso, Tex.: Wood moldings.	100	Maderas Selectas Y Molduras.
Mexican Capital: Wood moldings	100	Madeveria Del Valle.
Mexican Capital: Furniture and moldings	300	Maderex.
Valley Forge Co., Brooklyn, N.Y.: Wiring terminals	350	Manufacturera de Componentes.
State Lumber, El Paso, Tex.: Hollow core doors	400	Molduras de Pino.
Mexican Capital: Furniture	250	Puertas Labradas.
R.C.A. TV components, Indianapolis, Ind.: Deflection yokes.	1,000	RCA Victor Mexicana.
Susan Crane Corp., Dallas, Tex.: Adornment gifts	200	Susan Crane de Mexico.
Guild Mocassins, El Paso, Tex.: Mocassins	200	Zapatillas Mexicanas.

PALOMAS, CHIHUAHUA

Company and products	Number of employees	Border name
Mexican Capital: Plastic toys	50	Los Plastoy.
Mary Max Containers, Deming, N. Mex.: Dose containers for hospitals.	50	La Planta.

AGUA PRIETA, SONORA

Company and products	Number of employees	Border name
Dixson Inc., Grand Junction, Colo: Electronic measuring instruments.	300	Dea Industrial.
Ensign Coil, Chicago, Ill.: Coil winding	250	Agua Prieta Electronica.
Dickson Electronics Corp., Douglas, Ariz.: Capacitors transistors.	200	Dickson Mexicana.
T.W.M. Industries, Tempe, Ariz.: Instrument panels, electronic subassembly.	350	Electronics Sonorense.
Wood Manufacturing, Douglas, Ariz.: Paper garments	300	Fabrica Luis Leon.
Wood Manufacturing, Douglas, Ariz.: Men's shirts	350	Fabricas de Camisas Arazon.
General Industrial, Inc., Phoenix, Ariz.: Punch cards	200	Industrias Generales de Agua Prieta.
Unknown: Radios	350	Swan Mexicana.

[Submitted by an AFL-CIO union, Brick and Clay Workers, 116,000 jobs]

AGUA PRIETA, SONORA—Continued

Company and products	Number of employees	Border name
Will Ross, Inc., Milwaukee, Wis.: Paper dresses	250	Industrias Abson.
Commercial Furnitures & Interiors, Tucson, Ariz.: Wood furniture.	200	Taller Ramos.
American Asbestos Textile Corp., Morristown, Pa.: Fireproof industrial clothing.	400	Textiles Industriales Incombustibles.
National Coil, Sheridan, Wyo.: Coil components	250	Transeletros.

NOGALES, SONORA

Company and products	Number of employees	Border name
Milady Brassiere and Corset, New York, N.Y.: Bras	300	ABC de Mexico.
Airco Speer Electronics, St. Marys, Pa.: Coil winding	400	Airdo de Mexico.
Mexican Capital: Phonograph and radio repair	175	Armadora de Radios de Nogales.
Kimberly Clark, Neenah, Wis., Paper dresses	450	Avent.
Bachelor Industries, Tucson, Ariz.: Paper garments	400	Bino, S.A.
Coin Art, Nogales, Ariz.: Musical instruments	150	C.A. Mexicana.
Camp Trails, Phoenix, Ariz.: Pack frames, canvas bags.	250	Camp trails.
Unknown: Colonial Furniture	400	Casa Don Carlos
Chas. E. Gillman, Chicago, Ill.: Wiring harnesses	350	Chas. E. Gillman, Inc.
Griffith Electric, Linden, N.J.: TV components	275	C I A Electronica Mexicana.
C. P. Clare, Chicago, Ill.: Relays	275	C. P. Clare de Mexico.
Debby Mfg., Tucson, Ariz.: Women's apparel	250	Debby Mfg.
General Electronic of Arizona, Nogales, Ariz.: Transistors, circuits.	400	Electronica General de Nogales.
Unknown: Clothing	275	Empresas Almac.
Electro-netic Products, Carpentersville, Ill.: TV tuners.	300	Enpi de Mexico.
Lear Jet Stereo, Detroit, Mich.: Auto and home stereo equipment.	550	Estereo Industries.
IBA, Inc., Nogales, Ariz.: Electronic components	250	I B A, Inc.
Motorola, Inc., Nogales, Ariz.: Transistors, integrated circuits.	475	Industrial Motorola.
General Industriel, Phoenix, Ariz.: Punch cards	200	Industrias Generales de Agua Prieta.
Information Storage Systems, Cupertino, Calif.: Data processing equipment.	800	Information Storage Systems.
General Industriel, Phoenix, Ariz.: Punch cards	225	Key Punch de Sonora.
Lasey Mfg., Nogales, Ariz.: Bras	200	Lasey de Mexico.
West Coast Industries, Nogales, Ariz.: Men's jackets	200	Manufacturas Industriales.
IBN, Inc., Nogales, Ariz.: Electronic components	375	Maquilas Internacional.
Memorex, Santa Clara, Calif.: Memory cores electronic components.	500	Mem-Mex.
Mexican Capital: Condensors	200	Nogales Internacional.
Art Ley, Nogales, Ariz.: Musical instruments	175	Productos musicales.
U.S. Individuals: Capacitor	275	Promotoras de Inversiones Industrias.
Unknown: Men's clothing	250	Sr. Ricardo.
Southwest Instrument, Tucson, Ariz.: Precision instruments.	200	Southwest Instruments de Mexico.
Erie Technological Products, Erie, Pa.: Electronics	400	Technologia Mexicana.
Samsonite Luggage: Attaché briefcases, etc.	550	Samsonita de Mexico.

SAN LUIS RIO COLORADO, SONORA

Company and Products	Number of employees	Daily wage scale per 8-hr. day	Border name
Carlo of California, Los Angeles, Calif.: Men's slacks and shirts.	275	$3.68	San Luis Sports Wear.
Mexican Capital: Micro-electronic assemblies.	200	3.68	Servicios General de San Luis.

MEXICALI, BAJA CALIFORNIA

Company and Products	Number of employees	Daily wage scale per 8-hr. day	Border name
Kayser Roth Corp., Los Angeles, Calif.: Men's jackets.	300	$3.68	Al-Mex Industrial.
Mexican Capital: Women's apparel	250	3.68	Andres A. Camou.
Unknown: Men's overalls	400	3.68	Argus.
North American Rockwell, Anaheim, Calif.: Integrated circuits.	850	3.68	Autonetica.
Stan Thompson, Los Angeles, Calif.: Golf clubs.	250	3.68	Cal Golf de Mexico.
Unkdown: Men's apparel	300	3.68	Cal-Max Industrial.
U.S. Individuals: Traffic signs	500	3.68	Cal-Tex de Mexico.
Kayser Roth Corp., Los Angeles, Calif.:	575	3.68	Cali de Mexicali.
Unknown: Women's apparel	250	3.68	Canoca.
Unknown: Lamps	225	3.68	Casa de Lampayas.
Certron Corp., Anaheim, Calif.: Magnetic tape casettes.	450	3.68	Certron Audio.
Kayser Roth Corp., Los Angeles, Calif.: Swin suits.	750	3.68	Cole de Baja California.
Unknown: Women's apparel	500	3.68	Confecciones de Mexico.
Mexican capital: Classification of used clothing.	175	3.68	Continental industrial.
Mexican capital: Women's apparel	200	3.68	Creaciones Mexicanas.
Unknown: Women's apparel	350	3.68	Depor-Mex.
Hughes Aircraft, Los Angeles, Calif.: Integrated circuits.	750	3.68	Ensambladores Electronicos de Mexico.
Roseda Corp., Los Angeles, Calif.: Men's slacks.	250	3.68	Ensam Bladora Analuac, S.A.
Mexican Capital: Women's apparel	175	3.68	Estela Benavides Gonzeles.
Bluebell, Inc., El Peso, Tex.: Women's apparel.	400	3.68	Estilos de Mexicali, S.A.
Tyron Enterprises, Los Angeles, Calif.: Women's slacks.	500	3.68	Estilos Fortuna.

MEXICALI, BAJA CALIFORNIA—Continued

Company and Products	Number of employees	Daily wage scale per 8-hr. day	Border name
Unknown: Electronics	400	$3.68	Electro Industrias de Mexico.
Unknown: Electronic components	325	3.68	Electronica, Cal, Mexico.
Appliance Industry, Los Angeles, Calif.: Mufflers exhausts.	350	3.68	Fabricaciones Metalicas Mexicanas.
Unknown: Women's apparel	300	3.68	Fammo.
Mexican Capital: Cleaning scrap copper	150	3.68	Fernando Mancera, Velez.
Fenton Co., Gardena, Calif.: Rim finishing	400	3.68	Fenton de Mexico.
Rattel, Inc., Goleta, Calif.: Coils	350	3.68	Goleta Coil S.A.
S.X. Graham Co., San Diego, Calif.: Furniture	300	3.68	Industrial Mueblera de Mexical.
Lattery Manufacturing, Holtville, Calif.: Women's apparel.	225	3.68	Industrial Ensambladora.
Lattery Manufacturing, Holtville, Calif.: Paper dresses.	250	3.68	Industrias Maguiladoras S.A.
Unknown: Women's apparel	200	3.68	Jolsa.
Kamar, Los Angeles, Calif: Cloth toys	225	3.68	Kay Mar Internacional.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	225	3.68	Maguiladora da Beja, Calif.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	225	3.68	Cbimaco de Baja, Calif.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	400	3.68	Ensambladora de Mexcali.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	200	3.68	Felsa de Baja, Calif.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	375	3.68	Ensamblodora Mexica.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	300	3.68	Maquiladora Daval.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	325	3.68	Maquiladora Felix.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	300	3.68	Maquiladora Kory.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	400	3.68	Maquiladora Modelos Debby.
Mex-Tex Industries, Los Angeles, Calif.: Women's apparel.	225	3.68	Modelos.
Monterey modes, Los Angeles, Calif.: Women's apparel.	250	3.68	Maquiladora, Monterey.
Raytheon, Mountain View, Calif.: Semiconductors.	850	3.68	Maquiladora Electronics.
Mexican Capital: Women's apparel	200	3.68	Maquiladora Independencia.
Mohawk Manufacturing Co., Santa Fe Springs, Calif.: Aluminum Vans.	500	3.68	Maquiladora Industrial.
Mexican Capital: Women's apparel	200	3.68	Macal.
Wright Autotronics, Los Angeles, Calif.: Automobile instruments.	275	3.68	Meter Mex.
Ammex Bronze Ind. Los Angeles, Calif.: Crystal Chandeliers.	300	3.68	Mexam.
Unknown: Men and women's apparel	400	3.68	Mexicali Textil.
Mattel, Inc, Gardena, Calif.: Toys	2,000	3.68	Mextel.
Raytheon, Mountain View, Calif.: Circuits	500	3.68	Microcircuits.
Unknown: Men and women's clothing	300	3.68	Modas de Mexicali.
Unknown: Women's apparel	250	3.68	Modelos Yuky.
Mexican Capital: Women's apparel	275	3.68	Mode Mex.
International Furniture, Corona, Calif.: Colonial furniture.	300	3.68	Muebles Internacionales.
Unknown: Colonial furniture	400	3.68	Muebles Universo.
Frank & Son Inc., New York, N.Y.: Colonial furniture.	550	3.68	Nueva Espana Internacional.
The Diga Co., Van Nuys, Calif.: Bras	400	3.68	Oiquita de Mexico.
Unknown: Auto mufflers	325	3.68	Productos Superma.
Appliance Ind., Los Angeles, Calif.: Auto rims.	300	3.68	Pulidora de Metales.
Rattel, Goleta, Calif.: Radio and TV coils	350	3.68	Rattel Internacional.
Unknown: Radio and TV parts	400	3.68	Radio y Television de California.
Richard Milton Co., San Fernando, Calif.: Sporting goods bags.	225	3.68	Richard Milton de Mexico.
Mexican Capital: Tape cassettes	175	3.68	Sanchez y Asociados
Mexican Capital: Women's apparel	200	3.68	Salvador Lodezma Fernandez.
San Marcos Furniture, La Mesa, Calif.: Dining room furniture for Sears.	500	3.68	San Marcos Furniture.
Raytheon, Mountain View, Calif., Semiconductors.	750	3.68	Semi-Conductores.
Unknown: Calculator motors	700	3.68	Tecnica California.
Mexican Capital: Women's apparel	150	3.68	Tallerde Costura Ailcia.
Do	100	3.68	Taller progreso.
Unknown: Metal finishing	200	3.68	Transiscos de Mexico.
Western Gear Corp., Pasadena, Calif.: Motor winding.	350	3.68	Western Gear de Mexico.

TECATE, BAJA CALIFORNIA

Company and Products	Number of employees	Daily wage scale per 8-hr. day	Border name
Mexican Capital: Ceramic tile	250	$3.68	Ceramic de Tecate.
Craftex Mills, Philadelphia, Pa.: Furniture upholstery.	400	3.68	Craf Tex.
Unknown: Transformers, controls, end tachometers.	500	3.68	Electronica intercontinental.
Genisco, Compton, Calif.: Transformers	275	3.68	Genisco Mexicana.
Unknown: Packaging of metal clamps	150	3.68	Industrial Internacional de Tecate.
Mexican Capital: Electronics subcontract	125	3.68	Maquiladora la Frontera.
Mexican Capital: Women's apparel	175	3.68	Maquiladora T K T.
Mexican Capital: Electronics subcontracting.	150	3.68	Maquiladora Tecate.
Micro-Technology, Los Angeles, Calif.: circuits.	300	3.68	Micro Tec Tecate.
U.S. Individuals: Cleaning of scrap copper	150	3.68	Nacional de Quimica.

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[Submitted by an AFL-CIO union, Brick and Clay Workers, 116,000 jobs]

TECATE, BAJA CALIFORNIA—Continued

Company and Products	Number of employees	Daily wage scale per 8-hr. day	Border name
National Tool & Die Co., Huntington Park, Calif.: Diamond bits.	350	$3.68	National Wire de Mexico.
Unknown: Women's handbags	225	3.68	Sedano.
Temple Industries, Tecate, Calif.: Condensors.	200	3.68	Tecate Internacionel.

TIJUANA, BAJA CALIFORNIA

Sun and Sand: Women's beach wear	500	$3.68	Arena y Sol de Mexico.
Unknown: Voltage regulators	250	3.68	Artesanias Electro Mechanicas.
Bourns, Inc., Riverside, Calif.: Transformers	2,500	3.68	Bourn de Mexico.
Unknown: Women's apparel	200	3.68	Bragalva.
Cal Pacific, San Diego, Calif.: Transformers, resistors.	225	3.68	Cal Pacifico.
Mexican Capital: Electronic subcontracting	150	3.68	Centro Electronico.
U.S. Individuals: Classification of coupons	225	3.68	Clasificadora Mercantil.
Fairchild Controls, San Diego, Calif.: Semiconductors.	700	3.68	Componentes de Mexico.
Unknown: Cushion covers	250	3.68	Costuras Industriales del Noroeste.
Unknown: Women's apparel	300	3.68	Desira de Mexico.
Mexican Capital: Pipe cutting	150	3.68	El Amigo.
Cal. Pacific of California, San Diego, Calif.: Relays.	300	3.68	Electron.
Warwick Electronics, Niles, Ill.: TV sets for Sears.	3,000	3.68	Electronica de Baja, Calif.
Unknown: Electronic components	500	3.68	Electronica de Tijuana.
Walter Corp., Crystal Lake, Ill.: FM radio tuners.	500	3.68	Electronica Internacional.
Electro-Mex, Tempo City, Calif.: Circuits	275	3.68	Electro-Mex.
Viking Industries: Circuits transformers	400	3.68	Ensambladores Electronicos de Baja, Calif.
Bondray Enterprises, Paramount, Calif.: Electronics contracting.	350	3.68	Ensambles Electricos.
Unknown: Aircraft fasteners	750	3.68	Exactitud.
Mexican Capital: Women's apparel	150	3.68	El Rey de Tijuana.
Dorothy C. Thorpe, Sun Valley, Calif.: Decorative ornaments.	200	3.68	Dorothy C. Thorpe.
Mexican Capital: Fibre glass furniture	150	3.68	Francisco Canales Rivera.
Air West, San Francisco, Calif. Aircraft radios	1,000	3.68	Fenix Electronica.
Unknown: Women's apparel	200	3.68	Gar-Jai.
Republic Corp., San Diego, Calif.: Electronics contracting.	250	3.68	Imeco.
Audio Magnetic Corp., Gardena, Calif.: Magnetic tapes.	300	3.68	Industrias Beta.
Marshall Ind., San Marino, Calif.: Circuits	300	3.68	Industrias Marshall.
Control Data Corp., San Ysidro, Calif.: Printed circuits.	200	3.68	Industrias Moga.
Cal. Pacific of Calif., San Diego, Calif.: Transistor bases.	400	3.68	Industrias Microtecnicas.
Pulse Engineering, Santa Clara, Calif.: Transformers.	275	3.68	Industrias Pul.
Unknown: Wheel finishing	400	3.68	Industrias Universales Unidas de Mexico.
Unknown: Electronic components	400	3.68	Intercon de Mexico.
Unknown: Cutting and polishing pipe	200	3.68	Integracion de Productos Metalicos.
Karen Lingerie New York, N.Y.: Lingerie	750	3.68	Karen de Mexico.
Kaynar, Pico Rivera, Calif.: Plastic Specialties	375	3.68	Kaynar de Mexico.
General Industrial, Phoenix, Ariz.: Punch cards.	250	3.68	Key punch de Mexico.
Unknown: Plastic auto seats	325	3.68	La Estrella de Tijuana.
Los Angeles Furniture, Los Angeles, Calif.: Furnitura mouldings.	400	3.68	Lafco.
Mexican Capital: Women's apparel	150	3.68	Maquiles de Mexico.
Unknown: Electric motors	200	3.68	Maquila Tecate.
Unknown: Stereo and tape recorders	350	3.68	Marco.
Microtronics, Redondo, Calif.: Circuits	275	3.68	Microfusion.

TIJUANA, BAJA CALIFORNIA—Continued

Company and Products	Number of employees	Daily wage scale per 8-hr. day	Border name
Republic Corp., San Diego, Calif.: Electronic subassemblies.	650	$3.68	Minielectro.
Unknown: Stuffed toys	200	3.68	Munecasy Juguetes.
Meritabrasive Products, Compton, Calif.: Coated abrasives.	175	3.68	Merit Products de Mexico.
Unknown: Women's coats	400	3.68	Modas Maria.
Neutronics, Los Angeles, Calif.: Coils and resistance frames.	500	3.68	Neutron.
Unknown: Electronics	350	3.68	Omega.
Korel Manufacturing, Los Angeles, Calif.: Women's apparel.	325	3.68	Ropa Patty.
Unknown: Tents and fabric seats	300	3.68	San Juan.
Salmar Sportswear, Los Angeles, Calif.: Women's apparel.	450	3.68	Salmar Y Cia.
Solitron Devices, San Diego, Calif.: Semiconductors, light voltage assemblies.	1,000	3.68	Solitron.
Super Tool, Los Angeles, Calif.: Drill guards	250	3.68	Super Honing and Grinding, de Mexico.
Electro-Mex Inc., Tempo City, Calif.: Transformers.	500	3.68	Switch Luz.
Pulse Engineering, Santa Clara, Calif.: Coils, transformers.	600	3.68	Tecnica Magnetica.
Bourns Inc., Riverside, Calif.: Electronics contracting.	1,000	3.68	Tri Continental.
Litton Memory Products Division, Beverly Hills, Calif.: Memory cores.	1,500	3.68	Triad de Mexico.
Litton Industries Memory Products Division, Beverly Hills, Calif.: Coils.	1,250	3.68	Triad de Mexico.
Universal Molding, Lynwood, Calif.: Picture frames.	150	3.68	Universal Molding and frame.
Venus Manufacturing Co., Valley Stream, N.Y.: Women's apparel.	500	3.68	Venus de California.
Mexican Capital: Women's apparel	150	3.68	Victor Manuel Nicola's del Rio.
Unknown: Women's apparel	200	3.68	Y.A.B.
Lou Gene of California, Los Angeles, Calif.: Women's apparel.	425	3.68	Luz de California.

ENSENADA, BAJA CALIFORNIA

Mexican Capital: Paper envelopes and files	100	$3.68	Fabrica Ensambladora.

TORREON, COAHUILA

U.S. Individuals: Mocassins	400	$2.384	Albert Humphrey, Jr.

SAN LUIS POTOSI, S.L.P.

Lockheed, San Diego, Calif.: Ship bins, lockers.	1,000	$2.70	Industrias Comet.

GUADALAJARA, JALISCO

Motorola, Phoenix, Ariz.: Transistors circuits relays, etc.	1,700	$2.70	Semiconductores Motorola.
Burroughs, Detroit, Mich.: Circuits relays	2,700	2.70	Burroughs de Mexico.

MEXICALI, BAJA CALIFORNIA

Kenworth Cart Division, Pacific, Foundry: Special duty trucks sweepers, Customized trucking units	750	$3.68	Kenworth de Mexico.
Kern Products, Bakersfield, Calif.: Jellies, jams, juices, preserves.	900	3.68	Kern de Mexico.

NAME, PRODUCT, AND AFFILIATION

Dorell; women's and infant's clothing; Marshville Manufacturing, Mechanicsburg, Pa.

Evans de Mexico; umbrella frames; S. W. Textile Corp., Morristown, Pa.

Textiles Industries Incombustibles; fireproof industrial clothing; Americ n Asbestos Textile Corp., Morristown, Pa.

Airco de Mexico; coil winding; Airco Speer Electronics, St. Marys, Pa.

Crafted; furniture upholstery; Crafted Mills, Philadelphia, Pa.

Tecnologia Mexican; electronics; Erie Technological Products, Erie Pa.

BORDER INDUSTRY PROGRAMS

1. SUMMARY

The Mexican border industry program which was established in 1965 and amplified in March, 1971, has experienced particularly rapid growth in recent months. Approximately 290 firms are presently engaged in assembly operations along the U.S. border with a total employment of about 31,000. Prospects are for continued growth during the near future with perhaps 330 firms employing almost 40,000 workers by the end of 1971. The Embassy estimates that total product value of these firms will reach $500 million in 1971.

The Mexican Government has generated considerable publicity for the border industry program as a result of its push for exports and closer economic integration of the border area with the rest of Mexico. The authorized zone for such operations has been significantly expanded to include coastal areas, and indications are that further expansion to interior cities, on a case-by-case basis, is probable.

Although fairly extensive information concerning the program has been made available through public statements, selected studies, and promotional publications, most of it is limited in scope or significantly dated. Furthermore, a large number of essentially border industry firms have elected to operate under free zone rather than border industry provisions. This airgram, therefore, has been prepared as a general analysis of the present status of the entire border industry program.

2. LEGAL BASIS

When the *bracero* program which permitted temporary Mexican farm labor to enter the United States was terminated in 1965, the Mexican Government was faced with an unemployment problem in northern border cities. In May, 1965, it announced a Border industrialization Program designed specifically to attract foreign manufacturing operations, particularly that involving assembly, in an effort to promote the economy of that area. The initial resolution permitted Mexican or foreign-owned (not limited to U.S.) firms to establish manufacturing operations in cities along the northern border. Such operations were confined to the customs zone of the city—effectively within 20 kilometers of the border—but not so specified. Raw materials and equipment could be imported in-bond and duty free, but all production was required to be exported.

A further resolution of March 17, 1971 extended the authorized zone to a specific 20 kilometer-wide strip along all borders and coasts, but did not change the substance of the other provisions. About 85 percent of the firms so established are U.S.-owned with the remainder Mexican owned, and all but four are located along the U.S. border. All production by firms registered under the program is exported to the U.S., although a small amount is subsequently re-exported to third countries.

The border industry program was developed solely by the Mexican Government, and all participating firms are subject to relevant Mexican laws and regulations. The only U.S. Government involvement in the program is through the application of appropriate U.S. import and export regulations. A large portion of the re-imports into the U.S. under this program are made under Sections 806.30 and 807.00 of the U.S. Tariff Code which provide that, under certain conditions, manufactured products of U.S. origin when re-imported into the U.S. are assessed import duties only on the value added through foreign processing. These provisions, of course, are of general application and not merely for re-imports from Mexico.

3. BORDER INDUSTRIES OPERATING UNDER SPECIAL CIRCUMSTANCES

The Mexican Government executive resolution of March 17, 1971 defines the border industry zone a 20-kilometer-wide strip along all coasts and borders. Several cities along the western portion of the border (principally Tijuana, Mexicali, Nogales and Agua Prieta) have for a number of years, however, been designated as free zones. Accordingly, firms establishing operations in such areas are not required to register with the Secretariat of Industry and Commerce as border industries in order to obtain duty-free importation privileges. Several firms were actually engaged in assembly operations in those areas before the establishment of the program, and a large number of firms (about 90) have chosen to operate under free zone as opposed to border industry regulations. Firms operating under free zone regulations, incidentally, can also sell their products in Mexico within the limits of the free zone. In practice, only a few firms producing finished products, such as radios, have actually taken advantage of this privilege.

Four firms in the interior have also been granted border industry status. Three of these are firms that found local markets insufficient to continue operation. Rather than lose the employment offered by these firms, the Mexican Government has permitted them to use existing facilities for border industry-type assembly operations. Such firms are presently located in Guadalajara, San Luis Potosi, and Torreón. President Echevarria in a speech at Nuevo Laredo on May 6, 1971 also announced that border industry status was being granted to three small towns, Sabinas Hidalgo, Anahuac Rodriguez, and Cerralvo, in the state of Nuevo León near the U.S. border but beyond the 20 kilometer limit. Most observers of the program are of the opinion that if a firm can offer sufficient economic advantage to Mexico, it will be permitted to establish a border industry plant almost anywhere in the country. Finance Minister Margain recently stated in Nogales and again in Mérida, Yucatán that more such firms should establish in the interior, not only to provide additional employment, but to avoid Mexican balance of payments loss through salary expenditures on the U.S. side of the border.

Many persons in commenting on border industry operations have identified the program with re-imports into the U.S. under Tariff Sections 806.30 and 807.00. A number of border industry plants, however, do not utilize these Sections. These firms either perform operations on which no duty is assessed (such as the Matamoros shrimp deveining industry, cleaning of scrap copper, and a number of classification operations involving commercial coupons, used clothing, and sausage casings), or operations in which transformation of the product results in full duty application (such as in railroad car disassembly, tire recapping, manufacture of most adornments, food products and furniture, and even some electronic products).

Accordingly, the Mexican Government considers a "border industry" to be primarily one which a) temporarily imports most of its equipment and raw materials, and b) exports all of its production. In practice the following characteristics can also be added: c) it is either an assembly or limited processing operation, and d) is labor intensive. The Embassy has, therefore, included in its consideration of border industries those firms which meet the above characteristics but are not registered as such with the Secretariat of Industry and Commerce.

4. GROWTH

The recent growth in the number of border industry plants dates essentially from the release in October, 1970 of the U.S. Tariff Commission Report to the President on Sections 806.30 and 807.00. The Commission concluded that repeal of these two Sections "would probably result in only a modest number of jobs being returned to the U.S., which likely would be more than offset by the loss of jobs among workers now producing components for export and those who further process the imported products" and that based on 1969 data, "the net effect of repeal would be a $150–200 million deterioration in the U.S. balance of trade." Growth of the program was relatively slow under the course of the Tariff Commission study, but approximately 75 firms have begun operations since that time, and another 30–40 firms are actively considering establishment.

The Mexican Government is also offering significantly more publicity to border industry operations than in the past. In March, Industry and Commerce Secretary Torres Manzo addressed a border industries seminar in Phoenix, Arizona, sponsored by the American Chamber of Commerce of Mexico. President Echeverria, accompanied by several cabinet members and numerous other high-ranking Government and industry officials, recently presided at the inauguration of a new border industry plant during a visit to Nogales. The theme of the visit was economic development of the border area, and the President and other speakers dwelt at length on the importance of the program to border city economics.

Management consultant firms and both private and public industrial development groups along the border have also increased their promotional efforts as to some extent border cities compete for interested firms. Industrial parks have recently been established in several Mexican border cities and are planned for others. U.S. border city chambers of commerce have been particularly active in promoting the program on the grounds that new industries inevitably benefit both sides of the border. A number of firms also indicate that recently increased labor costs in the U.S. combined with stronger foreign competition and decreased demand have accelerated establishment of border operations.

5. PRINCIPAL CHARACTERISTICS

Given the limitation of Mexican Government statistics resulting partly from free zone activity, the Embassy has attempted its own calculations concerning the extent of border industry operations (based on the definition of border industries indicated in Section 3). While these statistics are considered reasonably accurate, they are not—and can never be—entirely exact because of the constant change involved. A number of firms are in the process of establishment; several others are known to be on the verge of discontinuing operation. Estimates concerning employment, production and balance of payments are based on limited data available from the Mexican and U.S. Governments and from the industries involved.

A. Number and nature of firms

About 290 firms are presently engaged in border industry operation and approved applications for establishment have been granted another 35 firms, of which perhaps 20 will actually set up operations. The Embassy would expect that by the end of 1971 about 330 firms (including those in the free zones) will be in operation. Almost 70 percent of these firms are engaged in assembly of either textiles or electric-electronic products. Recently established firms show a greater diversification, however, as other industries seek to reduce labor costs. New ventures include dismantling of scrap railroad cars, diverse food processing and packaging, and assembly of musical instruments, boats and caskets. While electronics and textiles will probably remain the bulwark of the program, their relative predominance is expected to decrease somewhat.

B. Capital

Most of the firms are wholly-owned subsidiaries of U.S. companies. Many, however, have chosen names which do not identify the parent company, and a significant number have been set up under the mantle of already existing subsidiary companies in Mexico. Accordingly, no meaningful estimate of U.S. investment is available. A rapidly growing number of companies are being set up as subcontracting operations by either U.S. or Mexican businessmen. While major operations in the area will continue to be subsidiaries of U.S. companies, the number of subcontractors, especially Mexican-owned, is expected to grow. No third country has yet established a border industry plant, although several Japanese firms have expressed interest in west coast operations.

C. Employment

Approximately 31,000 persons are presently employed in border industry operations, and this total is expected to rise to 35,000–40,000 by the end of 1971. (Employment may show fairly significant fluctuations as a result of changes in demand in the United States, primarily in electronics.) An estimated 85 percent of the employees in border industry plants are female. The electric-electronic industry supplies over 50 percent of the total employment and textiles an additional 20 percent. The tedious assembly and sewing involved in these operations are areas in which women have long been considered to be optimum employees. A few firms have experimented with male employees in these fields and found them quite satisfactory, but others have been less successful. Many of the new industries entering the border program are heavier operations which require male workers. However, these firms usually do not employ large numbers, and the over-all proportion of female employees is expected to continue to be high. Most of the employees are paid the minimum wage which, including all fringe benefits, averages about $.55 per hour. Skilled technical workers receive a significantly higher salary, and many textile firms offer piece-work incentive systems beyond the minimum wage.

D. Trade unions

Slightly over one-half of the border industry firms are unionized—with a notably higher percentage along the eastern, as opposed to western end of the border. With only a few exceptions, labor conflicts have not been a problem for border industries. In a few cases, plant managers indicate that unionization has facilitated operation. On the other hand, labor militancy has reportedly been a major factor in limiting border industry growth in some areas—notably Reynosa and Nuevo Laredo. Mexican labor leaders, while supporting growth of the pro-

gram, have expressed concern over its stability. They suggest that the Mexican Government should seek assurance from the U.S. Government that no unilateral action, i.e., repeal of Sections 806.30 and 807.00, will be taken which might result in precipitate termination of the program.

Labor leaders have also requested some form of guaranty that a firm cannot withdraw overnight leaving unpaid salaries and termination benefits. (In some smaller plants with little capital equipment, this could easily be done and was one of the early problems of the program in the Tijuana area.) Border city officials have expressed similar concern and suggested that at some later date the Mexican Government may require a bond to ensure adequate employee compensation.

E. Value added and foreign exchange flow

Total production of the border industries should reach approximately $500 million in 1971. Around $350 million of this production will re-enter the U.S. under Sections 806.30 and 807.00, with duty assessed on $125 million value added in Mexico.

Value added data, however, should not be confused with foreign exchange flow. For U.S. Customs purposes the percentage of U.S.-origin components in a reimported product under Sections 806.30 and 807.00 takes into consideration *only those components which have maintained their identity.*

The remainder is considered "value added" for duty purposes. Accordingly, value added in Mexico may include not only labor costs, fixed overhead, and any local raw materials, but also U.S.-origin components which have been transformed (lost their identity), U.S. products consumed in processing (such as hydrogen and liquid nitrogen), and a reasonable profit margin. (Value added calculations by the Mexican Government, however, include only processing costs and locally produced inputs.) The gold wire soldered to an integrated circuit, for example, is fully dutiable under Section 807.00 even though of U.S. origin since it is no longer in the spool form in which it was exported. The profit margins included in duty calculations often do not actually exist since wholly-owned subsidiaries in many instances are included in parent plant costing and either have no profit on their own account or remit such profits as do exist.

Other direct factors which must be taken into consideration in calculating actual foreign exchange flow resulting from border industry operations include some electricity and natural gas (most border cities are tied into both U.S. and Mexican distribution networks) and salaries spent on the U.S. side of the border. Most observers estimate that about 60 percent (although estimates range from a low of 30 percent to a high of 80 percent) of salaries paid to border plant employees returns to the U.S. in the form of retail purchases. Finally, while only a few of the U.S. firms engaged in border assembly indicate that such operations have permitted them to increase exports to third countries, a number state that they have been able to substitute U.S.-origin components for previously imported foreign components.

F. Effect on U.S. border cities

Discussion of the border industries in the United States has involved considerable disagreement over the possible creation of new jobs in U.S. border cities. Statistics indicate that approximately 3,000 new industrial positions directly related to Mexican border industries (as opposed to increased service and commercial employment) have resulted along the Texas border. No adequate data are available, however, as to whether these are totally new positions or merely transferred from another section of the U.S. Texas border city officials do indicate that the presence of border industries dampened the rise in unemployment in their areas during the recent U.S. economic slow-down.

While U.S. border cities have unquestionably benefitted from the border industry program both in new industrial employment and in increased commercial activity, the "twin plant" concept has not developed to the extent originally expected. This concept encouraged U.S. firms to establish counterpart operations on both sides of the border. The products would be initially processed in the U.S. plant, shipped to the Mexican plant for labor intensive assembly or finishing, and then returned for additional operations such as inspection, finishing, packaging, and distribution. A majority of the U.S. firms involved in border industries are located in the border states, but only a limited number have established a significant manufacturing operation in U.S. border cities themselves.

6. OUTLOOK

Given the large possibilities for labor intensive assembly combined with advanced technology, the immediate outlook for the border industry program is for continued growth, probably at a rather high rate. Mexican Government officials, however, have indicated that the program will not be permitted to expand indefinitely. President Echeverría in his recent visit to Nogales stated that the "Government must *for the time being, temporarily*, continue facilitating the operation of border industries" (emphasis added). At the same time Industry and Commerce Secretary Torres Manzo suggested that Mexican capital should begin to play a greater role in the program. Torres Manzo subsequently noted in Tijuana on May 26, 1971 that the border industry program is a "necessary evil" which provides employment and training to local workers until such time as they may be absorbed by Mexican industries. He also stated that eventually the free zones must also be abolished and integrated into the economy of the rest of the country. Accordingly, while border industry operations will continue to be welcome in Mexico in the immediate future, the long-term goal of the present Administration is toward development of Mexican industry in the area including both basic industry utilizing local raw materials and Mexican control of assembly operations.

A number of circumstances already exist which could lead to restriction of the program. Publicity concerning employment offered by border industries has resulted in increased migration to border areas. Combined with already heavy migration resulting from relatively higher border wage levels and from aspirations to enter the U.S., an ever greater demand is being placed on social responsibilities of Mexican border cities. One border city official even voiced the philosophical question of whether, considering all aspects of the border industry program over a period of several years, urban problems might not show an increase. He specifically noted possible shortages in housing, water, electricity, and medical facilities. Others have voiced particular concern over the growing sociological problem created by women rather than men becoming the chief wage earners of households.

Another factor already creating some difficulty is the shortage of technical personnel in Mexico. While border industries usually train their basic assembly employees, most industries seek to employ technicians (electricians, machinists, etc.) with existing skills. Since the supply of such persons in the border areas is limited, some firms are reported to be now recruiting in Mexico City, Monterrey and Guadalajara.

Finally, as interested public and private officials all along the border have pointed out, the program has a basic characteristic of instability. The heavy predominance of electronics and textiles make operations quite sensitive to change in U.S. demand. Should the products of these industries encounter a prolonged slump in the U.S. market, operations of border firms would undoubtedly be substantially reduced.

SPECIAL NOTE CONCERNING ATTACHED TABLES

Except where otherwise referred, the attached data were prepared by the Embassy with the assistance of some if the Consulates along the U.S. border. Sources included the Mexican Secretariat of Industry and Commerce, officials of U.S. and Mexican border cities, border industry firms, private development corporations and management consultant firms, and assorted publications and even newspaper clippings.

Statistics relating to production and employment, although believed to be reasonably accurate, are necessarily estimated based on all available data. Similarly, the operation of listed individual firms has for the most part been recently verified. Nevertheless, the sheer numbers of companies involved has prevented absolute certainty in every case. In particular the Embassy suspects that a further small number of unidentified firms may be operating in the free zones, particularly Mexicali and Tijuana:

BORDER INDUSTRY FIRMS—LOCATION

City	Number of firms	Total employment
Matamoros	33	4,500
Reynosa	4	300
Nuevo Laredo	18	3,200
Piedras Negras	7	600
Ciudad Acuna	2	800
Ciudad Juarez	27	3,100
Palomas	2	100
Agua Prieta	12	600
Nogales	31	3,600
San Lu s Rio Colorado	2	100
Mexicali	74	6,000
Tecate	13	700
Tijuana	63	5,500
Ensenada	1	20
Torreon	1	80
San Luis Potosi	1	200
Guadalajara	2	1,700
Total	293	31,100

BORDER INDUSTRY FIRMS—PRINCIPAL ACTIVITIES

Field	Number of firms	Approximate employment
Electric-electronics	118	16,500
Textiles	77	5,700
Metalworking	26	1,700
Furniture and wood products	16	1,200
Food products	8	1,500
Leather products	6	300
Plastics	6	1,200
Other	36	3,000
Total	293	31,100

U.S. IMPORTS FROM MEXICO UNDER SECS. 806.30 AND 807.00*

[Dollars in millions]

Year	Total value	Dutiable value	Percent U.S. components
1966	$7.0	$3.4	51
1967	19.5	7.1	64
1968	74.6	24.1	68
1969	150.0	53.1	65
1970	220.0	82.0	63
1971 (estimated)	350.0	125.0	64

*Includes only U.S. components which have retained identity.

Source: U.S. Tariff Commission Publication 339, September 1970; and U.S. Department of Commerce.

BORDER INDUSTRY FIRMS[1]

MATAMOROS, TAMAULIPAS

Number of firms: 33.
Total employment: 4,500.

Name, product, and affiliation

1. Aparatos Electronicos de Tamaulipas, Semi-conductors, U.S. individuals.
2. A y D de México, Swimming pool eqpt., U.S. individuals.

[1] Data compiled by the Embassy as of May 1, 1971.

3. Aerotech de Matamoros, Mobile communication equipment, Bendix Corporation, Teterboro, N.J.
4. Border Electronic Mexicana, Variable control switches, Hunt Electronics, Dallas, Texas.
5. C.T.S. de México, Control switches, potentiometers, CTS Microelectronic, W. Lafayette, Ind.
6. Cedro de México, Motors for servo-mechanisms, Control Data Corp., Minneapolis, Minn.
7. Condura, Switches, coils, transformers, U.S. individuals.
8. Com Tronicas, Radio & TV components, U.S. individuals.
9. Creaciones Sorensic, "Piggy" banks, Mexican Capital.
10. Camarones Selectos, Shrimp processing, Mexican Capital.
11. Duro de Matamoros, Paper bags, Duro Paper, Ludlow, Ky.
12. Electropartes de Matamoros, Cathode ray tubes, TV tuners, Zenith Electric, Chicago, Ill.
13. Electro-Semblies de México, Mercury relays, U.S. individuals.
14. Empresa Lee, Dismantling railroad cars, U.S. individuals.
15. Electro Armadora, Tape recorder circuits, cameras, U.S. individuals.
16. Electronic Control Corp de Mexico, Light reductors, switches, temp. controls, mixers, hand tools, Electronic Control Co., Euless, Texas.
17. Industrias Telectronicas de México, Color TV assembly, Telectronic Industries, Dallas, Texas.
18. Industrias Fronterizas, Oil field equipment, C.R.C. Corporation, Houston, Texas.
19. Insecticidas y Fertilizantes, Diamond del Norte, Fertilizers & insecticides, Diamond Alkali, New York, N.Y.
20. La Maquiladora, Dismantling railroad cars, Luria Brothers, Brownsville, Texas.
21. Leece-Neville Co., Fractional horsepower Motors, Leece-Neville Co., Brownsville, Texas.
22. Mallory Electronics de México, Capacitors, switches controls, P. R. Mallory, Indianapolis, Ind.
23. Mexicomp, Capacitors, Sprague Electric North Adams, Mass.
24. National Carbon Everready, Ceramic capacitors, Union Carbide, New York, N.Y.
25. Productos Marinos Golfo-Atlantico, Shrimp processing, Mexican Capital.
26. Productos Alfa, Shrimp processing; Albert Foods.
27. Procesadora de Mariscos, Shrimp processing, U.S. individuals.
28. Precisiones Generales, Synchro components, tachometers, Singer-General Precise, Glendale, Calif.
29. R. C. de México, Radio controls for model planes, boats & autos, E. K. Products, Hurst, Texas.
30. Tex-Tan Mexicana, Leather boots, Tex-Tan Leather, Brownsville, Texas.
31. VARO Mexicana, Electronic controls, Varo Corp., Garland, Texas.
32. VMC de Matamoros, Oil field tools, Varel Manufacturing, Dallas, Texas.
33. Vitalizadora de Bajo Bravo, Tire recapping, U.S. individuals.

REYNOSA TAMAULIPAS

Number of firms: 4.
Total employment: 300.

Name, product, and affiliation

1. Empacadores Calmo, Grading of fruits & vegetables, Calavo Growers, Vernon, Calif.
2. Roy-Mex-Bra, Brassieres, (unknown).
3. Tex-Mex de México, Bricks, W. T. Liston, Harlingen, Texas.
4. Tradeway Enterprise de México, Infant clothing, U.S. individuals.

NUEVO LAREDO, TAMAULIPAS

Number of firms: 18.
Total Employment: 3,200.

Name, product, and affiliation

1. A. C. Nielsen de México, Classification of commercial coupons, Nielsen Marketing Service, Clinton, Iowa.
2. American Footwear, Mocassins, Mexican capital.
3. Curtis Mathes de México, Stereo, TV & Radio components, Curtis Mathes, Athens, Texas.
4. Conservas de Laredo, Fruit preserves, Frontier Foods, Laredo, Texas.
5. Di-Transuientes de México, Transistors, diodes, circuits, U.S. individuals.
6. Dorell, Women's & infant's clothing, Marshville Manufacturing, Mechanicsburg, Pa.
7. Evans de México, Umbrella frames, S.W. Evans & Sons, Philadelphia, Pa.
8. Flores Internacionales, Plastic flowers, F. T. V. Corporation, San Antonio, Texas.
9. Instruments Kraft de Mexico, Medical instruments, Hoenig Instruments, Houston, Texas.
10. Industrias de Muebles Tradicionales, Colonial furniture, Mexican capital.
11. Le'Garde, Women's dresses, (unknown).
12. Mex-Amer de Datos, Punch cards, Amer-Mex Data, Laredo, Texas.
13. Mex-Moc, Mocassins, U.S. individuals.
14. Pinatas Internacionales, Pinatas, Pinatas Intl., Wichita, Kansas.
15. Productos A y M, Sun glasses, Frontier Novelty, Laredo, Texas.
16. Sarkes Tarzian Mexicana, Transistors, selectors, for TV, Sarkes Tarzian Inc., Bloomington, Ill.
17. Transitron Mexicana, Wiring harnesses, semiconductors diodes, circuits, Transitron, Wakefield, Mass.
18. Videocraft Mexicana, High voltage & convergence transformers, Videocraft Manufacture, Chicago, Ill.

PIEDRAS NEGRAS, COAHUILA

Number of firms: 7.
Total Employment: 600.

Name, product, and affiliation

1. A. Dewied Casing Co., Classification & packaging of hog & sheep casing, A. Dewied Casing, Los Angeles, Calif.
2. Empacadora de Piedras Negras, Meat packing, Mexican Capital.
3. Maida Mexicana, Ceramic capacitors, Maida Development, Hampton, Va.
4. Sarkes Tarzian Mexicana, TV selectors, UHF & VHF tuners, Sarkes Tarzian Inc., Bloomington, Ill.
5. Trad Electronics Corp., TV components, U.S. individuals.
6. Treces, S. A., Electronic components, U.S. individuals.
7. T. T. Corporation, Felt shoes, (unknown).

CIUDAD ACUNA, COAHUILA

Number of firms: 2.
Total employment: 800.

Name, product, and affiliation

1. Standard Components, TV tuners, Standard Kolisman Industries, Melrose Park, Ill.
2. La Amistad Productos de Plastico, Plastic fishing worms (unknown).

CIUDAD JUAREZ, CHIHUAHUA

Number of firms: 27.
Total employment: 3,100.

Name, product, and affiliation

1. Acapulco Fashions, Women's lingerie, Figure Flattery Brassiere, New York, N.Y.
2. A. C. Nielsen de México, Classification of commercial coupons, Nielsen Marketing Service, Clinton, Iowa.
3. Boss de México, Work Gloves, Boss Manufacturing, El Paso, Texas.
4. Calzado y Articulos de Piel, Cowboy boots, Cowtown Boot, Fort Worth, Texas.
5. Coil Craft de México, Induction coils & resistors, Coilcraft Inc., Gary, Ind.
6. Convertores de México, Paper hospital gowns, Am. Hospital Supply, Evanstown, Ill.
7. Double-Glo Products, Christmas decorations, Paper Novelty Mfg., Stamford, Conn.
8. Electronica Advance Boss, Antennas, deflection yokes, Advance Boss Electro, Chicago, Ill.
9. Empacadora y Frigorifico Rodeo, Frozen & canned peppers, Mexican capital.
10. Essex International, Thermostats, electromagnetic switches, Essex International, Fort Wayne, Ind.
11. Estructuras Metálicas del Norte, Prefabricated metal, Mexican capital.
12. Fabricantes Técnicos, Wiring harness for electric organs, piano keyboards, Baldwin Piano, Cincinnati, Ohio.
13. Fertilizantos Certificados de México, Fertilizer (unknown).
14. Hatch Internacional, Control boxes, (unknown).
15. Icamex, Integrated circuits, Sprague Electronics, Worcester, Mass.
16. Industrias L.E.T., Disassembly of railroad cars, U.S. individuals.
17. Industria Norteña, Aluminum castings, wrought iron furniture, Kessler Ind., El Paso, Texas.
18. Industrias Cordova Americas, Metal structures, Kessler Ind., El Paso, Texas.
19. Maderas Selectas y Molduras, Wood moldings, Southwest Molding Co., El Paso, Texas.
20. Madereria del Valle, Wood moldings, Mexican capital.
21. Maderex, Furniture & moldings, Mexican capital.
22. Manufacturers de Componentes, Wiring terminals, Valley Forge Co., Brooklyn, N.Y.
23. Molduras de Pino, Hollow core doors, State Lumber, El Paso, Texas.
24. Puertas Labradas Furniture, Mexican capital.
25. RCA Victor Mexicana, Deflection yokes, RCA TV Component, Indianapolis, Ind.
26. Susan Crane de Mexico, Adornment gifts, Susan Crane Corp., Dallas, Texas.
27. Zapatillas Mexicanas, Moccasins, Guild Moccasins, El Paso, Texas.

PALOMAS, CHIHUAHUA

Number of firms: 2.
Total Employment: 100.

Name, product, and affiliation

1. Los Plastoy, Plastic toys, Mexican capital.
2. La Planta, Dose Containers for hospitals, Mary Max Containers, Deming, New Mexico.

AGUA PRIETA, SONORA

Number of firms: 12.
Total Employment: 600.

Name, product, and affiliation

1. Agua Prieta Electrónica, Coil winding, Ensign Coil, Chicago, Ill.
2. Dea Industrial, Electronic measuring instruments, Dixson Inc., Grand Junction.
3. Dickson Mexicana, Capacitors, Transistors, Dickson Electronics Corporation, Douglas, Arizona.
4. Electronica Sonorense, Instrument panels, electronic sub-assemblies, TWM Industries, Tempe, Arizona.
5. Fabrica Luis Leon, Paper garments, Wood Manufacturing, Douglas, Arizona.
6. Fabricas de Camisas Aragon, Men's shirts, Wood Manufacturing, Douglas, Arizona.
7. Industrias Apson, Paper dresses, Will Ross, Inc., Milwaukee, Wisc.
8. Industrias Generales de Agua Prieta, Punch cards, General Industrial, Inc., Phoenix, Arizona.
9. Swan Mexicana, Radios (unknown).
10. Taller Ramos, Wood furniture, Commercial Furniture and Interiors, Tucson, Arizona.
11. Textiles Industriales Incombustibles, Fireproof Industrial clothing, American Asbestos Textile Corporation, Morristown, Pa.
12. Transelectros, Coil components, National Coil, Sheridan, Wyoming.

NOGALES, SONORA

Number of firms: 31.
Total employment: 3,600.

XUM

Name, product, and affiliation

1. ABC de México, Bras, Milday Brassiere and Corset, New York, N.Y.
2. Airco de México, Coil winding, Airco Speer Electronics, St. Marys, Pa.
3. Armadora de Radios de Nogales, Phonograph and radio repair, Mexican capital.
4. Avent, Paper dresses, Kimberly Clark, Neenah, Wisconsin.
5. Bino, S. A., Paper garments, Bachelor Industries, Tucson, Arizona.
6. C. A. Mexicana, Musical instruments, Coin Art, Nogales, Arizona.
7. Camp Trails, Pack frames, canvas bags, Camp Trails, Phoenix, Arizona.
8. Casa Don Carlos, Colonial furniture (unknown).
9. Chas. E. Gillman, Inc., Wiring harnesses, Chas. E. Gillman, Chicago, Ill.
10. Cia Electronica Mexicana, TV components, Griffith Electric, Linden, N.J.
11. C. P. Claire de México, Relays, C. P. Clare, Chicago, Ill.
12. Debby Manufacturing, Women apparel, Debby Manufacturing, Tucson, Arizona.
13. Electronica General de Nogales, Transistors, circuits, General Electronics Arizona, Nogales, Arizona.
14. Empresas Almac, Clothing (unknown).
15. Enpi de México, TV tuners, Electro-Netic Products, Carpentersville, Ill.
16. Estereoindustrias, Auto and home stereo equipment, Lear Jet Stereo, Detroit, Mich.
17. IBA, Inc., Electronic components, IBA, Inc., Nogales, Arizona.
18. Industrial Motorola, Transistors, integrated circuits, Motorola, Inc., Phoenix, Arizona.
19. Industrias Generales de Agua Prieta, Punch cards, General Industrial, Phoenix, Arizona.
20. Information Storage Systems, Data processing equipment, Information Storage Systems, Cupertino, Calif.
21. Keypunch de Senora, Punchcards, General Industrial, Phoenix, Arizona.
22. Lasey de México, Bras, Lasey Manufacturing, Nogales, Arisona.
23. Manufacturas Industriales, Men's jackets, West Coast Industry, Nogales, Arisona.
24. Maquilas Internacionales, Electronic components, IBA, Inc., Nogales, Arisona.
25. Mem-Mex, Memory cores, electronic components, Memorex, Santa Clara, Calif.
26. Nogales Internacional, Condensors, Mexican capital.
27. Productos Musicales, Musical instruments, Art Ley, Nogales, Arisona.
28. Promotoras de Inversiones e Industrias, Capacitors, U.S. individuals.
29. Sr. Ricardo, Men's clothing (unknown).
30. Southwest Instruments de México, Precision instruments, Southwest Instruments, Tucson, Arizona.
31. Technologia Mexicana, Electronics, Erie Technological Products, Erie, Pa.

SAN LUIS RIO COLORADO, SONORA

Number of firms: 2.
Total employment: 100.

Name, product, and affiliation

1. San Luis Sportswear, Men's slacks and shirts, Carlo of California, Los Angeles, Calif.
2. Servicios Generales de San Luis, Microelectronic assemblies, Mexican capital.

MEXICALI, BAJA CALIFORNIA

Number of firms: 74.
Total employment: 6,000.

Name, product, and affiliation

1. Al-Mex Industrial, Men's jackets, Kayser Roth Corp., Los Angeles, Calif.
2. Andres A. Camou, Women's apparel, Mexican capital.
3. Argus, Men's overalls (unknown).
4. Autonetica, Integrated circuits, North American Rockwell, Anaheim, California.
5. Cal Golf de Mexico, Golf clubs, Stan Thompson, Los Angeles, Calif.
6. Cal-Mex Industrial, Men's apparel (unknown).
7. Cal-Tex de México, Traffic sign, U.S. individuals.
8. Cali de Mexicali, Women's apparel, Kayser Roth Corp, Los Angeles, Calif.
9. Canoca, Women's apparel (unknown).
10. Casa de Lamparas, Lamps (unknown).
11. Certron Audio, Magnetic tape cassettes, Certron Corp., Anaheim, Calif.
12. Cole de Baja California, Swim suits, Kayser Roth Corp., Los Angeles, Calif.
13. Confecciones de Mexico, Women's apparel (unknown).
14. Continental Industrial, Classification of used clothing, Mexican capital.
15. Creaciones Mexicanas, Women's apparel, Mexican capital.
16. Depor-Mex, Women's apparel (unknown).
17. Ensambladores Electronicos de Mexico, Integrated circuits, Hughes Aircraft Co., Los Angeles, Calif.
18. Ensambladora Anahuac, S.A., Men's slacks, Roseda Corp., Los Angeles, Calif.
19. Estela Benavides Gonzáles, Women's apparel, Mexican capital.
20. Estilos de Mexicali, S.A., Women's apparel, Bluebell, Inc., El Paso, Tex.
21. Estilos Fortuna, Women's slacks, Tyron Enterprises, Los Angeles, Calif.
22. Electroindustrias de Mexico, Electronics (unknown).
23. Electronica Cal Mexico, Electronic components (unknown).
24. Fabricaciones Metálicas Mexicanas, Mufflers, exhaust, Appliance Industry, Los Angeles, Calif.
25. Fammo, Women's apparel (unknown).
26. Fernando Mancera Velez, Cleaning scrap copper, Mexican capital.
27. Fenton de Mexico, Rim finishing, Fenton Company, Gardena, Calif.
28. Goleta Coil, S.A., Coils, Rattel, Inc., Goleta, Calif.
29. Industrial Mueblera de Mexicali, Furniture, S. X. Graham Co., San Diego, Calif.
30. Industrial Ensambladora, Women's apparel (unknown).
31. Industrias Maquiladoras, S.A., Paper dresses, Lattery Manufacturers, Holtville, Calif.
32. Jolsa, Women's apparel (unknown).
33. Kamar Internacional, Cloth toys, Kamar, Los Angeles, Calif.
34. Maquiladora de Baja California, Women's apparel, Mex Tex Industries, Los Angeles, Calif. (plus following affiliates, Nos. 35–43):
35. Chimaco de Baja California.
36. Ensambladora de Mexicali.
37. Felsa de Baja California.
38. Ensambladora Mexicana.
39. Maquiladora Daval.
40. Maquiladora Felix.
41. Maquiladora Kory.
42. Modelos Debby.
43. Modelos Monterrey.
44. Maquiladora Monterrey, Women's apparel, Monterrey Modes, Los Angeles, Calif.
45. Maquiladora Electronics, Semi-conductors, Raytheon, Mountain View, Calif.
46. Maquiladora Independencia, Women's apparel, Mexican capital.
47. Maquiladora Industrial, Aluminum vans, Mohawk Manufac., Santa Fe Springs, California.
48. Macal, Women's apparel, Mexican capital.
49. Meter Mex, Automobile Instruments, Wright Autotronics, Los Angeles, Calif.
50. Mexam, Crystal chandeliers, Ammex Bronze Industries, Los Angeles, Calif.
51. Mexicali Textil, Men & Women's apparel (unknown).
52. Mextel, Toys, Mattel, Inc., Gardena, Calif.
53. Microcircuitos, Circuits, Raytheon, Mountain View, Calif.
54. Modas de Mexicali, Men & women's clothing (unknown).
55. Modelos Yuky, Women's apparel (unknown).
56. Mode Mex, Women's apparel, Mexican capital.
57. Muebles Internacionales, Colonial furniture, International Furniture, Corona, Calif.
58. Muebles Universo, Colonial furniture (unknown).
59. Nueva Espana Internacional, Colonial furniture, Frank & Son, Inc., New York, N.Y.
60. Olguita de Mexico, Bras, The Olga Co., Van Nuys, Calif.
61. Productos Suprems, Auto mufflers (unknown).
62. Pulidora de Metales, Auto rims, Appliance Industries, Los Angeles, Calif.
63. Rattel Internacional, Radio & TV Coils, Rattel, Goleta, Calif.
64. Radia y Television de California, Radio & TV parts (unknown).
65. Richard Milton de Mexico, Sporting goods bags, Richard Milton C, San Fernando, Calif.
66. Sánchez y Asociados, Tape cassettes, Mexican capital.
67. Salvador Ledesma Fernandez, Women's apparel, Mexican capital.
68. San Marcos Furniture, Dining room furniture for Sears, San Macos Furn., La Mesa, Calif.
69. Semi-Conductores, semi conductors, Raytheon, Mountain View, Calif.
70. Tecnica California, Calculator motors (unknown).
71. Taller de Costura Alicia, Women's apparel, Mexical capital.
72. Taller Progreso, Women's apparel, Mexican capital.
73. Transiscos de Mexico, Metal finishing (unknown).
74. Western Gear de Mexico, Motor winding, Western Gear Co., Pasadena, Calif.

TECATE, BAJA CALIFORNIA

Number of firms: 13.
Total Employment: 700.

Name, product, and affiliation

1. Ceramica de Tecate, Ceramic tile, Mexican capital.
2. Craftex, Furniture, upholstery, Craftex Mills, Philadelphia, Pa.
3. Electronica Intercontinental, Transformers, control tachometers (unknown).
4. Genisco Mexicana, Transformers, Genisco, Compton, Calif.
5. Industrial Internacional de Tecate, Packaging of metal clamps (unknown).
6. Maquiladora La Frontera, Electronics subcontracting, Mexican capital.
7. Maquiladora TKT, Women's apparel, Mexican capital.
8. Maquiladora Tecate, Electronics subcontracting, Mexican capital.
9. Micro Tec Tecate, Circuits, Micro-Technology, Los Angeles, Calif.
10. Nacional de Quimica, Cleaning of scrap copper, U.S. individuals.
11. National Wire Die of Mexico, Diamond bits, National Tool and Die, Huntington Park, Calif.
12. Sedano, Women's handbags, (unknown).
13. Tecate Internacional, Condensors, Temple Industries, Tecate, Calif.

TIJUANA, BAJA CALIFORNIA

Number of firms: 63.
Total employment: 5,500.

Name, product, and affiliation

1. Arena y Sol de Mexico, Women's beach wear, Sun and Sand, Los Angeles, Calif.
2. Artesanias Electromecánicas, Voltage regulators (unknown).
3. Bourns de Mexico, Transformers, Bourns Inc., Riverside, Calif.
4. Bragalva, Women's apparel (unknown).
5. Cal Pacifico, Transformers, resistors, Cal Pacific, San Diego, Calif.
6. Centro Electrónico, Electronic subcontracting, Mexican capital.
7. Clasificadora Mercantil, Classification of coupons, U.S. individuals.
8. Componentes de Mexico, Semi-conductors, Fairchild Controls, San Diego, Calif.

9. Costuras Industriales del Noroeste, Cushion covers (unknown).
10. Desire de Mexico, Women's apparel (unknown).
11. El Amigo, Pipe cutting, Mexican capital.
12. Electrón, Relays, Cal Pacifica of Calif., San Diego, Calif.
13. Electrónica de Baja California, TV sets for Sears, Roebuck, Warwick Electronics, Niles, Ill.
14. Electrónica de Tijuana, Electronic components (unknown).
15. Electronica International, FM radio tuners, Waller Corp., Crystal Lake, Ill.
16. Electro-Mex, Circuits, Electro-Mex, Tempo City, Calif.
17. Ensambladores Electronicos, Circuits, transformers, Viking Industries, Chatsworth, Calif.
18. Ensambles Electricos, Electronics contracting, Bondray Enterprises, Paramount, Calif.
19. Exactitud, Aircraft fasteners (unknown).
20. El Rey de Tijuana, Women's apparel, Mexican capital.
21. Dorothy C. Thorpe, Decorative ornaments, Dorothy C. Thorpe, Sun Valley, Calif.
22. Francisco Canales Rivera, Fiberglass furniture, Mexican capital.
23. Fenix Electronica, Aircraft radios, Air West, San Francisco, Calif.
24. Gar-Jai de Mexico, Women's apparel (unknown).
25. IMECO, Electronic contracting, Republic Corporation, San Diego, Calif.
26. Industrias Beta, Magnetic tapes, Audio Magnetic Corp., Gardena, Calif.
27. Industrias Marahall, Circuits, Marahall Industries, San Marino, Calif.
28. Industrias Mega, Printed circuits, Control Data Corp., San Ysidro, Calif.
29. Industrias Microtecnicas, Transistor bases, Cal Pacific of Calif., San Diego, Calif.
30. Industrias Pul, Transformers, Pulse Engineering, Santa Clara, Calif.
31. Industrias Universales Unidas de México. Wheel finishing (unknown).
32. Integración de Productos Metalicos, Cutting and polishing metal pipe (unkown).
33. Intercon de México, Electronic components (unknown).
34. Karen de México, Lingerie, Karen Lingerie, New York, N.Y.
35. Kaynar de México, Plastic specialties, Kayner, Pico Rivera, Calif.
36. Key Punch de Mexico, Punch cards, General Industrial, Phoenix, Arizona.
37. Le Estrella de Tijuana, Plastic auto seats (unknown).
38. Lafco, Furniture mouldings, Los Angeles Furniture, Los Angeles, Calif.
39. Maquilas de México, Women's apparel, Mexican capital.
40. Maquila Tecate, Electric motor (unknown).
41. Marco, Stereo and tape recorders (unknown).
42. Microfusion, Circuits, Microtronics, Redondo, Calif.
43. Minielectro, Electronic subassemblies, Republic Corp., San Diego, Calif.
44. Munecas y Juguetes, Stuffed toys (unknown).
45. Merit Products de Mexico, Coated abrasives, Merit Abrasive Products, Compton, Calif.
46. Modas Maria, Women's coats (unknown).
47. Neutron, Coils and resistance frames, Neutronics, Los Angeles, Calif.
48. Omega, Electronics (unknown).
49. Ropa Patty, Women's apparel, Korel Manufacturing, Los Angeles, Calif.
50. San Juan, Tents and fabric seats (unknown).
51. Salmar y Cía., Women's apparel, Salmar Sportswear, Los Angeles, Calif.
52. Solitron, Semi-conductors, high voltage Assemblies, Solitron Devices, San Diego, Calif.
53. Super Honing and Grinding de Mexico, Drill guards, Super Tool, Los Angeles, Calif.
54. Switch Luz, Transformers, Electro-Mex, Inc., Tempo City, Calif.
55. Tecnica Magnetica, Coils, transformers, Pulse Engineering Co., Santa Clara, Calif.
56. Tri Continental, Electronics contracting, Bourns Inc., Riverside, Calif.
57. Triad de Mexico, Memory cures, Litton Memory Products Division, Beverly Hills, Calif.
58. Triad de Mexico, Coils, Litton Memory Products, Beverly Hills, Calif.
59. Universal Molding and Frame, Picture frames, Universal Molding, Lynwood, Calif.
60. Venus de California, Women's apparel, Venus Manufacturing, Valley Stream, N.Y.
61. Victor Manuel Nicolás del Río, Women's apparel, Mexican capital.
62. Y.A.B., Women's apparel (unknown).
63. Luz de California, Women's apparel, Lou Gene of California, Los Angeles, Calif.

ENSENADA, BAJA CALIFORNIA

Number of Firms: 1.
Total Employment: 20.

Name, product, and affiliation

1. Fábrica Ensambladora, Paper envelopes & files, Mexican capital.

TORREON, COAHUILA

Number of Firms: 1.
Total Employment: 80.

Name, product, and affiliation

1. Albert Humphrey, Jr., Mocassins, U.S. individuals.

SAN LUIS POTOSI, S.L.P.

Number of Firms: 1.
Total Employment: 200.

Name, product, and affiliation

1. Industrias Comet, Ship bins, lockers, electronics, Lockheed, San Diego, Calif.

GUADALAJARA, JALISCO

Number of firms: 2.
Total Employment: 1,700.

Name, product, and affiliation

1. Semiconductores Motorola, Transistors, circuits relays, etc., Motorola, Phoenix, Arizona.
2. Burroughs de México, Circuits, relays, Burroughs, Detroit, Mich.

ROY WILKINS WRITES FROM IRELAND

HON. HUGH L. CAREY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. CAREY of New York. Mr. Speaker, I would like to bring to the attention of my colleagues a very perceptive column in the New York Post of October 30, 1971, by Mr. Roy Wilkins, the distinguished president of the National Association for the Advancement of Colored People. In the column, written from Ireland, Mr. Wilkins compares the racial injustices suffered by black Americans in the United States with the plight of the minority people in Northern Ireland. He finds many parallels between the two, and in the area of elective representation, he notes that black Americans, while still insufficiently represented, are miles ahead of the minority people of Northern Ireland.

The article follows:

AN ERRIE FEELING

(By Roy Wilkins)

DUBLIN.—A sign painted on available surfaces in Southern Ireland urges, "Join the I.R.A." Thus the warfare in Northern Ireland is screamed at every tourist.

All the people, white and black, who declare that the Negro minority in America suffers a peculiar persecution because of its race, should visit this capital of the Republic of Ireland. This is the grandstand of what seems the most cruel, senseless and futile exercise in hatred to be found in the last third of the 20th century.

Of course it is not so regarded by those caught up in its welter of death. There are Irish protagonists who have fought their foes, either with guns or ideas, their entire lifetimes. Their children and grandchildren carry on.

It is the Irish Republican Army to which some Americans of Irish descent have sent their savings regularly to carry forward propaganda and to purchase arms. It is the I.R.A. which has been accused of fomenting guerrilla fighting, bombings and murders in the North. The I.R.A., a band of patriots to some, has been branded by others as to the extremists to which terrorists have attached themselves.

There is more to the struggle than religious differences. There must be political reasons for the blood-letting, the presence of British troops and the meeting of the prime ministers of Britain and the two Irelands. Because of this politics there are many angles that make comments mischievous for outsiders. Add to this the ultrasensitivity of all schools of Irish and British thought and the danger of pop-offs becomes obvious.

It is clear, however, regardless of other factors, that the Protestant majority is not doing right by the Catholic minority.

If an American over here were to close his eyes and listen he would swear that he was hearing the complaints of American Negroes about the racial injustices in the U.S.A. Are the black Americans insufficiently represented in elective posts? They have been and still are, but compared to the Catholics of Northern Ireland, the Negro American is miles ahead. His 12 Congressmen and one U. S. Senator are not enough, but much better than the representation for Northern Ireland Catholics.

Black Americans have had to fight every inch of the way to win even token amount of the jobs and the pay they should have. The $100 billion U. S. construction industry stubbornly refuses to admit Negroes, except on a token basis, to the comfortable $11,000 to $21,000 wage scales.

But the Protestant majority in Northern Ireland just as steadfastly restricts Catholics, solely on the ground of their religion, in employment. Religious roadblocks are placed in their path in education and housing, as well as in the general administration of justice.

If it seems a sin to some that American blacks are still judged on their skin color, it is equally sinful that the calculated mistreatment of Catholics here is done on the excuse of religion. The fanaticism has progressed to killings, guerrilla fighting, shootings in the back, bombing of innocent persons and operations in sheer terror.

It may be that no passing commentator can appreciate the various roles and alignments, nor tune himself to the myriad nuances that have errupted into savage fighting. But if the fighting has to stop in Southeast Asia, if policemen are not to be stabbed in the back in Florida, if black youths are not to be murdered in their beds in Chicago, then the killing must stop in Northern Ireland.

Irishmen must not kill each other and tear the police and the economy apart with hatred and violence.

And the political fotrays must cease hiding behind the meanest and deadliest of all prejudices, religion.

XUM

BEAUTY BE DAMMED

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. WALDIE. Mr. Speaker. one of the most impressive grassroots conservation efforts in the history of California is presently taking place.

This effort is aimed at protecting the last wild river systems in the State from the dreadful results of damming and diversion of fresh river water to areas to the south of the river systems.

The leader in this fight has been the Committee of Two Million led by Mr. Joseph Paul of San Francisco.

Mr. Speaker, recently Time magazine generously devoted considerable space in its San Francisco edition to causes worthy of concern and consideration by Time readers.

I was delighted to learn that among these causes was an advertisement calling attention to the efforts of the Committee of Two Million to preserve the rivers of the north coast of California.

This ad was prepared by the San Francisco agency Hoefer, Dieterich & Brown, Inc., and is an example of the fine public service efforts of the advertising industry. The ad was chosen for publication in competition with many others. Hoefer, Dieterich & Brown, Inc., is deserving of gratitude and praise for its work on behalf of the wild rivers of California.

Mr. Speaker, I would like, at this time, to include the text of the Time and entitled, "Beauty Be Dammed," for inclusion in the RECORD.

BEAUTY, BE DAMMED

This is the Eel River today. Sooner or later, the California water lobby will succeed in damming up all this beauty under huge, ugly reservoirs. Forever.

Unless we stop them. Forever.

The water lobby wants to dam the last three wild rivers in our state. The Eel, the Trinity, and the Klamath. These dams would destroy millions of acres of natural beauty, great stands of redwoods, salmon and steelhead runs, large herds of deer and elk, and the home of most of America's last bald eagles.

Recently, this plan was stopped by a few far-sighted legislators and economists. People who know that Southern California does not need Northern California water. That there is no California water shortage. And that there are sensible alternatives to prepare us for possible future shortages.

Unfortunately, the water lobby has only been stopped temporary.

Now, however, there are two ways to stop them permanently. One is House Resolution 7288, sponsored by Congressmen Jerome R. Waldie and 7 other California representatives. The other is California State Senate Bill 107. These bills will preserve all three river systems. Forever.

You can help this legislation pass. Details (and the facts about the California water situation) are in The Wild Rivers Reporter, a publication of the California Committee of Two Million.

Send for a free copy. And the California water lobby be dammed.

The California Committee of Two Million is a group formed to pass legislation to save the Eel, Trinity, and Klamath river systems from a series of 20 dams proposed by various state and federal agencies.

Gentlemen: I'd like to help dam up the California water lobby.

——Please send me a free copy of The Wild Rivers Reporter.

——Please enroll me as a charter member of CCO2M. Enclosed is my contribution of $——.

NAME ----------

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CITY ----------

STATE ---------- ZIP -------

Please make check payable to CCO2M.

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Advertising and Public Relations,
San Francisco.

MORE ON PRAYER AMENDMENT

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. SCHWENGEL. Mr. Speaker, the American Lutheran Church has reaffirmed its opposition to the so-called prayer amendment. A letter which I have received from the general president, Kent S. Knutson, together with the resolution follows:

THE AMERICAN LUTHERAN CHURCH,
Minneapolis, Minn., November 2, 1971.

Hon. FRED SCHWENGEL,
House of Representatives,
Washington, D.C.

DEAR MR. SCHWENGEL: Your attention is invited to the enclosed statement by the Church Council of The American Lutheran Church regarding the proposed prayer amendment, House Joint Resolution 191.

The Church Council of The American Lutheran Church is the legislative agency that functions between general conventions for the 4,822 member congregations whose baptized membership is 2,543,293 persons.

After considering this particular statement, the vote to adopt was 40—yes, 0—no, 0—abstentions and 4 members absent.

The statement, as it speaks to the present situation, reaffirms a paragraph from a previous statement, "An American Lutheran Position on Church-State Relations in the U.S.A.", adopted by the 962 voting members at the 1966 General Convention.

In the motion to adopt the statement, the Church Council also voted to send a copy of the statement to all members of the House of Representatives for consideration in relation to House Joint Resolution 191.

Sincerely yours,

KENT S. KNUTSON,
General President.

THE PROPOSED PRAYER AMENDMENT AND OUR CHERISHED RELIGIOUS LIBERTY

(A statement adopted October 22, 1971, by the Church Council, the legislative agency between general conventions of the 4828 member congregations (whose membership is 2,543,293 baptized persons) of the American Lutheran Church, by a vote of forty (40) in favor, none (0) against, no (0) abstentions, with four (4) members absent. (C70.10.17B))

The guarantees of religious liberty written into the Constitution of the United States have served this nation well. Both church and state are the stronger because government cannot pass laws "respecting an establishment of religion or prohibiting the free exercise thereof."

As American Lutherans we cherish the freedom and the responsibility the First Amendment assures us. We cherish our freedom to pray, to assemble, to worship, to study, to teach, and to serve our neighbors as the fullness of our faith directs. We respect the similar freedoms and responsibilities of our neighbors of other religious faiths. We do not seek to impose our understandings upon them; we expect the same consideration from them.

By its very nature, religious expression is both personal and corporate. It cannot be forced or coerced. It must be true to its distinctive self and to its own corporate commitment. It resists becoming the captive of any race, class, ideology, or government, lest it lose its loyalty to its Lord.

This protection we enjoy in America. We are free to pray in our own words to our own God. We are free to read the Bible in the version we prefer. We are protected against having to speak governmentally composed prayers. We are protected against having to join in devotional exercises decreed by governmental authorities. We are free to pray in public and to read the Bible in public places. We cannot, however, force others to join us in such expressions of our religious faith. These freedoms and these protections our Constitution, as interpreted by the Supreme Court in its school prayer and Bible reading decisions, presently assures us.

We see no need, therefore, for any amendment to the Constitution to permit participation in "nondenominational prayer" "in any public building." Such an amendment would endanger our religious liberty; it would tend to establish a governmental nondenominational religion; it would pave the way for courts to intervene in defining what is acceptable as an expression of religion; and it would limit rights already granted and clearly established in American life.

The Church Council in 1971 reaffirms the paragraph commended by the 1964 General Convention and adopted by the 1966 General Convention "as an expression of the policy and conviction of The American Lutheran Church":

"Reading of Scripture and addressing deity in prayer are forms of religious expression which devout persons cherish. To compel these religious exercises as essential parts of the public school program, however, is to infringe on the distinctive beliefs of religious persons as well as on the rights of the irreligious. We believe that freedom of religion is best preserved when Scripture reading and prayer are centered in home and church, their effects in the changed lives of devout persons radiating into the schools and into every area of community life. It is as wrong for the public schools to become agents for atheism, godless secularism, scoffing irreligion, or a vague 'religion in general' as it is for them to make religious rites and ceremonies an integral part of their programs."

As a nation we should be careful not to endanger our cherished religious liberty through the well-intended but potentially harmful "prayer amendment" (House Joint Resolution 191).

REGULATORY RESPONSIBILITIES OF THE ATOMIC ENERGY COMMISSION

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. BINGHAM. Mr. Speaker, as the sponsor of legislation in the House—H.R. 9542—to transfer the regulatory responsibilities of the Atomic Energy Commission over nuclear power plants to the Environmental Protection Agency, I was interested to learn of remarks made by Mr. Robert Lowenstein on October 18 to the annual conference of the Atomic Industrial Forum at Bal Harbour, Fla.

Mr. Lowenstein is a distinguished lawyer in the nuclear field. He was on the legal staff of the Atomic Energy Commission from 1952 to 1965. From 1961 to 1964 he served as Director of the Division of Licensing and Regulation, and in his last year with the Commission he was Assistant Director of Regulation. Upon leaving the AEC he received its distinguished service award. He has remained active in nuclear affairs through his Washington law firm, and as vice chairman of the Committee on Enivronmental Law and Technology of the Atomic Industrial Forum.

In his remarks at the annual conference, which is attended by leaders of the atomic industry from aroumd the country, Mr. Lowenstein recommends that:

The time has come to reconsider the question of reorganizing the AEC so as to separate the Commission's regulatory from its promotional and operational responsibilities.

He concludes that:

Today's conditions . . . require an agency whose appointed heads can devote their full time and energies to the regulatory program and who do not have even the appearance of a conflict in responsibility.

Coming from such an experienced and respected member of the atomic energy establishment, I think these remarks are most significant, and will be of interest to Members of Congress and other readers of the RECORD. The full text of Mr. Lowenstein's remarks follow:

REMARKS PRESENTED BY ROBERT LOWENSTEIN

I must confess to some surprise at seeing such a large audience. In thinking about this afternoon's discussion, I thought of the possibility that there wouldn't be any audience—that half of the audience would be back home stuffing envelopes with 40-day showcause statements and the other half would be in New York or Boston reassuring their underwriters that AEC didn't really mean it. And, I decided, those not required to file 40-day statements probably wouldn't come to Florida either. I figured they would just about have finished their 60-day cost-benefit analyses and, having concluded that the costs of nuclear power outweigh the benefits, would have decided to stay home.

Seriously, though, although this convention is meeting today in the midst of the most serious regulatory problems which have faced the AEC, the situation is not quite hopeless. The advent of a new General Counsel, a new Commissioner and a new Chairman, the first in many years to be appointed from outside the field of atomic energy, will bring fresh points of view to AEC, and hopefully some new approaches. And some new approaches are badly needed; on that the industry, environmentalists and public groups will all agree.

I am sure we all wish you well in your endeavors.

It is interesting and instructive to look back briefly over the less than two years since NEPA was enacted to a time which, in retrospect, seems sons ago. At the time of NEPA's enactment in 1970, AEC was conducting meetings in various parts of the country to refute the claims of two up-start Californians who had asserted that Part 20 limits should be reduced. AEC at that time also denied jurisdiction over thermal and other non-radiological effects, disclaimed interest in our responsibility for state regulatory requirements, and steadfastly maintained the position that nuclear power reactors being constructed as base load plants were not of "practical value".

AEC obviously wasn't reading its Congressional mail which reflected the growing public concern as to the AEC's regulatory policies.

Since January 1, 1970, AEC has issued regulations which so reduce permissible effluents that Gofman and Tamplin have had to find other grounds on which to criticise AEC. Also, in contrast to January 1970, AEC is now exercising jurisdiction as to all non-radiological environmental matters, including thermal effects. And antitrust reviews are routinely conducted with respect to all power reactors.

In December 1969, at the Forum Annual Conference in San Francisco, at a similar panel discussion, I observed that

"A minor issued raised by an intervenor could become a dramatic confrontation if litigation before the AEC necessarily requires a $200,000,000 needed plant to stand idle until the hearing is concluded. . . . It should be possible to adapt hearing procedures so that public disagreement over power reactor operation can be deliberately considered without necessarily converting each disagreement into an eye-ball to eye-ball confrontation between the utility and the opposition."

Such confrontation, too, I am sad to say, have come to pass in the past two years, not once but many times. Commissioner Doub's remarks offer the hope that AEC will soon be dealing with this paramount problem.

Dramatic as the changes in AEC's regulatory programs have been, it is not likely that the rate of change in development of national policy or of AEC regulatory problems will diminish much in the year or two ahead. The changes confronting AEC during the past two years have not occurred in isolation. They have been accompanied by changes in social values and goals of the public at large, changes which are reflected in the programs of all environmental agencies, federal and state.

Additional air and water pollution control legislation is under consideration in Congress. Amendments to the Federal Water Pollution Control Act, under consideration before the Senate Public Works Committee, might give States a major role in regulating radiological effluents in addition to the controls exercised by AEC; House and Senate committees, as well as the Joint Committee on Atomic Energy, are considering power plant siting legislation; the Senate Interior Committee is conducting a study under the leadership of Senator Jackson (principal sponsor of NEPA) of national energy policy. The Senate Interior Committee is also considering Senator Jackson's land use policy bill. The Hart-McGovern bill would authorize a new form of citizens' action, and shift a large part of the burden for resolving environmental controversies from regulatory agencies to the courts.

Drastic modifications in AEC's organization and its programs are, I believe, essential not only for AEC to catch up with the changes and added workload of the last two years, but if it is to meet the challenge of continued change and new problems in the years ahead.

It is for this reason I would like to discuss two particularly important areas to which I would commend your attention.

1. *There is need for an expanded rule-making program with more meaningful procedures for public and industry participation.*

Although the AEC has recently come to give more emphasis to the issuance of regulations of general applicability to establish its nuclear safety requirements, much more can be done. The objective of the AEC's reactor standards or rulemaking program should be to define at an early date what constitutes acceptable design for each of the safety systems of a nuclear power plant. Although accomplishment of this objective might require several years to achieve, it should be adopted now by the AEC as a near-term goal. The issue then in both regulatory staff reviews and contested hearings could center about questions concerning the applicant's compliance with regulatory requirements instead of, as presently, a searching examination, case-by-case, as to what represents an acceptable degree of safety in reactor location, design and operation.

The need for regulation of general applicability is of crisis proportions with regard to non-radiological environment matters under NEPA. Regulations are critically needed to define the matters which should be considered in applicant's environmental reports and AEC environmental statements, and to define the issues which may be raised properly in contested reactor licensing proceedings. Regulations are also needed to establish standards for the consideration of such issues by the staff, by safety and licensing boards, and by the Commission itself.

A shift in the emphasis from case-by-case adjudication to general rulemaking will facilitate more meaningful participation by interested members of the public. For this purpose, I believe the Commission should publish reports by the AEC staff evaluating the safety or environmental aspects of important proposed rules prior to or contemporaneously with issuance of significant proposed rules for public comment. The Commission should also hold public hearings on its important proposed regulations as a means of encouraging public and industry participation and also as a means of conducting a more meaningful public inquiry into safety and environmental issues of public interest.

2. *The time has come to reconsider the question of reorganizing the AEC so as to separate the Commission's regulatory from its promotional and operational responsibilities.*

The question whether AEC's regulatory responsibilities should be separated from its promotional and operating responsibilities is almost as old as the AEC regulatory program. Underlying the issue have been two persistent questions: whether the public will have confidence in important safety decisions by an agency which has both promotional and regulatory responsibilities; and whether the heads of the agency (in this case, the five commissioners) have the time to carry out both regulatory and operating functions adequately.

Personally, I have never been impressed by the argument that AEC promotional responsibilities have prejudiced its consideration of regulatory questions. As one who spent many years on the regulatory side of the Commission, I know that is not true. But I think the AEC, the utility industry and the public at large have paid dearly in loss of public confidence in AEC decisions because of the appearance of conflict between regulatory and promotional functions.

In 1957, a Joint Committee staff study concluded that:

"As a longer range view is taken of atomic energy development, however, the strength of the arguments against a separate agency diminish, and tend at some point to be outweighed by the arguments favoring separation. When the day of commercial atomic power arrives, and the atomic industry can operate free from Government assistance, one can see definite advantages in an agency established to regulate that industry which would be independent of the government's manufacturing, producing, and operational efforts in the atomic energy program." (p. 47)

Four years later, the Joint Committee staff undertook a new study of AEC's regulatory program. The staff report of that study was issued in March 1961. I think you will be interested in some quotations from the report:

"3. The inability to formulate needed regulatory policy.

Finally, the Commission, with its heavy promotional and operational responsibilities, has been unable to formulate much needed

regulatory policies and standards. As a result, its regulatory actions, on occasion, have been marked by inconsistency and a resulting uncertainty which adversely affects the industry.

These problems, and the others identified in Part IV of this study, have not as yet become critical because the AEC's workload and the peaceful uses of atomic energy have not progressed to the point where cumbersome organization and procedures produce an operational crisis or inadequate protection for the public. However, there is every indication that as the Commission's regulatory workload increases, it will be unable to successfully meet its many-sided responsibilities for the regulation and development of atomic energy. (p. 4)

"(1) Delay in adjudication.—Delay has been a factor in the licensing of both reactors and materials but, perhaps because the caseload is still not high, no great backlog of cases has been built up. Moreover, such delays as have occurred have not as yet actually delayed the completion of any reactors.

The one case in which an active intervention required an adversary proceeding in reactor licensing, the PRDC case, has been extended over a period of more than 4 years and the end is not yet. Moreover, since a construction permit is involved, there remains the prospect of a contest at the operating license stage if the construction permit is granted but the findings of operating safety are open to dispute. Not only did this case run for a protracted period; in doing so it absorbed a great deal of Commission and staff time. While the PRDC case involved questions for which there was no precedent, the burden on the agency of conducting two or three contested reactor licensing proceedings at the same time would not be easy to estimate. Procedures which are reasonably expeditious and an organization at the decision making level which inspires public confidence seem necessary if the risk of the paralyzing effects of contested cases is to be avoided. (p. 56)

". . . The AEC seems also to have found it difficult to devote attention to forward planning for its growing regulatory responsibilities, though this difficulty has stemmed less from the pressure of adjudicatory business than from the preponderant burden of operating and promotional responsibilities. Given the continuing conflict with its operating and promotional responsibilities, the AEC seems destined to devote insufficient time to regulatory policy unless some change in organization can relieve it of its adjudicatory function. (p. 59)

"Although continued progress in reactor development can be expected over the next 10 years, the period of commercial exploitation of this great resource is not yet at hand. Advantage should be taken of this period of developmental activity by private industry and government to establish within the present framework of the AEC an organization adequate to meet the current needs and to provide a foundation for the creation of an independent agency when large-scale development of atomic power makes such a move desirable." (p. 67)

The importance of the safety and environmental questions which must be considered in AEC's regulatory program, and the need for public confidence in the agency's decisions on those questions, are, I believe, so compelling under today's conditions as to require an agency whose appointed heads can devote their full time and energies to the regulatory program and who do not have even the appearance of a conflict in responsibility between that program and any other.

I recognize that difficult questions are presented by a proposal to separate these functions, but there are many possible alternatives and they do not all require a transfer of the regulatory function.

THE MISCHIEF OF SUPREME COURT PRAYER DECISIONS

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. HUNT. Mr. Speaker, there continues to be a great deal of confusion as to what the U.S. Supreme Court's prayer decisions actually meant. Some would have you believe that prayer in the public schools has not really been outlawed, but that is misleading because what they mean is that if your child wants to pray, he has no choice but to do so by way of thinking it to himself. This much is clear; participation in prayer is prohibited. This is precisely what the Wylie prayer amendment, House Joint Resolution 191, is designed to overcome. All the hand wringing about what the word "nondenominational" means is peripheral.

To illustrate the mischief of the Supreme Court prayer decisions and the manner in which they have been applied by the lower courts, I would like to include in the RECORD a number of news stories concerning the now famous Netcong, N.J., High School prayer case. In that case, students assembled in the gymnasium on their own initiative prior to regular school hours for the purpose of participating in a reading of the daily prayer that appears in the CONGRESSIONAL RECORD. The New Jersey courts went on to rule this practice unconstitutional and the U.S. Supreme Court refused to hear it. I commend these stories to your attention and urge that you consider the implications carefully when House Joint Resolution 191 is called up for a vote on Monday, November 8:

SCHOOL PRAYER: NETCONG TAKES A LESSON

(By Phillip Truckenbrod)

A prayer was said yesterday morning in Netcong High School by Principal Vincent Togno before most of the student body, but school officials maintained they had not violated the 1965 U.S. Supreme Court decision outlawing prayer in public schools.

The Netcong Board of Education technically has abanboned its controversial decision to return prayers to the public schools and has substituted a brief reading from the Congressional Record, but the effect is exactly the same since the selection to be read each morning is a quotation of the Senate chaplain's opening prayer.

The unique attempt to provide for voluntary expression of religion in the schools without directly violating the U.S. Supreme Court decision was announced Monday by the board and initiated yesterday morning at Netcong High School.

Togno read from the Congressional Record of Aug. 8, quoting a prayer by the Rev. Dr. Edward Elson to students who had voluntarily gathered in the gymnasium five minutes before the official opening of the school day.

Meanwhile, in Sayreville yesterday, public school students paused for the second consecutive day for two minutes of silent meditation immediately after the Pledge of Allegiance to the flag. Daniel Di Poalo, the Sayreville Board of Education member who introduced the motion to install the meditation period, said the situation there was "completely quiet."

Netcong Superintendent of Schools Joseph Stracco said the whole session there lasted only one to one-and-a-half minutes and was attended by more than 300 of the high school's 340 students.

The morning the religious exercise will be conducted for the second time in the high school and will be initiated in the town's elementary school.

The complicated attempt to reintroduce prayer to the Netcong schools began on Sept. 2, when the board decided to ask local clergymen to write a nondenominational prayer for the classroom use. The board next announced it would introduce a period of silent meditation in the schools until the clergymen came up with their prayers.

Last week the ministers of Netcong and Stanhope, which shares Netcong's high school, met to compose the prayer but adjourned indefinitely with nothing but a statement saying they supported the board's decision. On the same day the board again changed the plan, this time substituting a voluntary five-minute period of meditation before the official opening of classes each morning.

Last Monday the board announced the five minute pre-school meditation period would be filled with the prayer quotations from the Congressional Record, a plan evolved by a committee of high school teachers and students.

The New Jersey Chapter of the American Civil Liberties Union plans to file suit in Morris County to halt the prayer readings "if the Netcong board stops shifting ground so quickly so we can prepare the necessary papers," said Stephen Nagler, state ACLU executive director.

Nagler, who debated the school prayer issue on a New York radio station Monday night with a member of the Netcong Town Council and the chairman of the clergy group from Netcong, said the tactic of reading the prayers from the Congressional Record was "still the establishment of religion in the schools and is only a backhanded attempt to evade the law."

Stracco said neither he nor officials of the school board had been notified of the ACLU's plans to take the matter to court, nor had they had any communication from Madalyn Murry O'Hair of Austin, Tex., who has publicly announced sending letters to the board threatening legal action if prayers were reintroduced in the Netcong schools.

Mrs. O'Hair brought the suit in 1965 which led to the Supreme Court decision banning public school prayer.

Meanwhile in Texas, Mrs. O'Hair continued her stand against the Netcong board's action, calling the latest development "the biggest joke that has been played on this country in a long time, but when we go into court they won't think it's so funny."

"Netcong is trying to drag the Congress into this," she said, "and we know Congress isn't such a responsible body any more."

Stracco, however, said, "It is not the intent of the board to use this as a method of circumventing the ruling of the Supreme Court."

The superintendent's uncle, school board President Palmer Stracco, said he did not see how anyone could find fault with the latest tactic because it was merely the reading in a public school of a published record of Congress.

Togno said he followed his reading from the Congressional Record yesterday with a short talk on "brotherhood and citizenship."

He said the prayer this morning would be read by Dennis Morgan, a Netcong High School teacher. Plans for the immediate future call for the pre-school sessions to be handled by faculty or officials at the high school, he said, and possible student involvement later.

[From the Washington Daily News, Dec. 8, 1969]

SCHOOL TO CONTINUE DAILY READINGS OF CONGRESS PRAYERS

NETCONG, N.J.—The Netcong Board of Education rejected yesterday a decision by the state attorney general and voted to continue prayer readings from the Congressional Record at Netcong High School.

Atty. Gen. Arthur J. Sills ruled last week that the readings were unconstitutional, but the board said in its decision. "We have consulted with our attorneys . . . who inform us the attorney general's opinion is that and nothing more, with no operative effect in law."

By a 7–1 vote, the board adopted a resolution calling on Joseph Stracco, the superintendent of schools, "to continue school prayer."

The religious exercise period is conducted daily in Netcong High School on a voluntary basis. A student volunteer reads from the Congressional Record of a particular date those "remarks" of the chaplain of the House of Representatives or the Senate.

NEW JERSEY SEEKING BAN IN NETCONG—SCHOOL PRAYER FIGHT ON

TRENTON.—The State Board of Education decided Wednesday to go to court in an effort to stop the reading of prayers from the Congressional Record at Netcong High School.

Legal steps probably will be taken Thursday in Superior Court, Morris County, to secure an injunction that would prevent continuation of the "period for free exercise of religion" at the high school each morning.

State Education Commissioner Carl L. Marburger asked the attorney general's office to initiate legal action as soon as possible.

The state board said it was "troubled by the disrespect for law evidenced by the Netcong Board of Education" Tuesday night when it voted to continue the religious activity at the high school despite a ruling by Atty. Gen. Arthur J. Sills that it was unconstitutional.

Board member Martin S. Fox of Millburn, an attorney, first moved that the Netcong board be urged to "promptly reconsider its ill-conceived action." The board then unanimously adopted his second motion that legal action be filed in the state board's name to stop the Netcong practice.

The state board's action came only a few hours after Wallington High School began a similar program of religious readings from the Congressional Record over the objections of Wallington School Supt. Edward M. Dzurinko.

The state board apparently was unaware of the Wallington development at the time it met, but a spokesman for the Department of Education said the Wallington board would be formally notified of the Sills opinion and that if legal action was necessary to stop the program there it probably would be taken.

Mrs. Virginia Annich, a deputy attorney general who prepared the Sills opinion and who is handling the board's legal action in the Netcong case, said each situation would probably have to be dealt with individually.

"The use of the Congressional Record as source material for religious readings cannot be employed to circumvent the Supreme Court's pronouncements banning school prayer," Sills said in an opinion requested by State Education Commissioner Carl L. Marburger.

"There is no rational distinction between prayer and Bible passages read from a prayer book or Bible, and prayer and Bible passages read from the Congressional Record," the opinion said. "It is the reading of the prayer and Bible passages that is proscribed, not the source books from which they are taken."

The Netcong board voted 7–1 "to continue school prayer," anyway.

"It should be kept in mind that the constitutionality of the type of program currently in operation at Netcong High School has never been passed upon by either the Supreme Court of New Jersey or the Supreme Court of the United States," the local board said in a prepared statement.

Fox, however, said the "tenor" of the Netcong program had been decided by the courts and found unconstitutional.

AMERICA'S TWO-CLASS SOCIETY

(By Frank Getlein)

We delude ourselves that we have created—or at least are creating—the first classless society in the history of mankind, one in which all men are equal before the law and the law knows no favorites.

This may have been true at one time, but a series of recent legal decisions have changed that profoundly. Paradoxically, in the name of a greater equality, we are in the process of creating a society so monumentally unequal that just about every historic alternative society would have been shocked and unbelieving at what we are doing, from Egypt and Babylon to Inca and Aztec, from Rome and Greece to Victoria's England and Franco's Spain.

The two classes are the government and the rest of us. This is a conventional-enough breakdown for a two-class society, but we have pushed the distinction far beyond the wildest dreams of the Soviet Union, the Sun King, or the Chinese Mandarins, all of whom were pretty good at making the same distinction.

The latest decision establishing a legally enforceable difference in kind between these two classes of citizens was handed down the other day in Morristown, N.J. Superior Court Judge Joseph H. Stamler ordered the board of education of nearby Netcong to cease and desist from allowing the students in its charge to read and listen to "inspirational remarks" taken from the prayers of the chaplains of the Senate and the House of Representatives and recorded in the Congressional Record.

Stamler ruled that this practice constituted an "establishment of religion," and hence was in violation of the First Amendment, which prohibits Congress from making any law regarding said establishment.

The lyric leap by which the amendment really means to prohibit a New Jersey board of education from allowing children to hear congressional prayers and to allow Congress to continue its establishmentarian practices is not only a rather charming example of the judicial mind at work—God bless you, Judge Stamler, if you'll pardon the expression—it is also one of the growing number of judicial slack-wire balancing acts on this question which have effectively established the United States as a two-class society, the government and the rest of us.

President Nixon, for instance, has had some of the country's famed preachers preaching right there in the White House in cavalier disregard of the First Amendment.

Congress provided the subversive prayers for the New Jersey subversives, and you would think someone would do something about that.

And the Supreme Court, as is well known, maintains a paid functionary to pray God to save that honorable court, a service he has faithfully performed even while the honorable court was ruling that less honorable institutions—boards of education among them—had better pray silently, if at all.

The ordinary mind would imagine that an illegal establishment of religion in this country is something that would come from government rather than from obscure school districts, but that's why ordinary minds remain ordinary.

The forbidding of publicly paid-for prayer to everyone except the government is about as blatant an example of class legislation—in whatever form—as can easily be imagined. It is more than that. It is an unspeakable arrogance on the part of the government that neither Charlemagne nor Louis XIV nor Henry VIII would have dared attempt.

The distant origins of all human societies seem to have derived in part from the felt need for communal intercession and petition to the deity, or "prayer," as it is called by ordinary minds. The priest-king of early societies ruled his people and led their prayers to their gods. You can see that role surviving in the opening of "Oedipus," by Sophocles. For that matter, you can see a dim survival of it in Queen Elizabeth II and her people.

Until this country was founded, religion was always established. It was more than an individual's communing with his God; it was the people, as a people and therefore with government sanction, communing with God.

For many excellent reasons, this Republic scrapped the established church principle, and that's what that phrase in the First Amendment is all about. It is a logical extension of that scrapping that has, so many decades later, brought the wrath of Stamler down upon those who would follow the old ways.

But it is intolerable that the government, forbidding its citizens to listen to prayers in public places, should itself devote portions of the taxpayers' money to the hiring of prayer-sayers for the government itself.

Let the President, the Congress and the Supreme Court take their chances along with the rest of us.

VOLUNTARY SCHOOL PRAYER PLEA DENIED

The Supreme Court turned down today a plea that it is constiutional to let public school students join voluntarily in prayers before classes begin.

The Board of Education of Netcong, N.J., had argued that its program of prayers for high school students satisfied Supreme Court decisions of 1962 and 1963 about religion in the schools.

However, the New Jersey Supreme Court ruled NOV. 9 that it could find "no meaningful difference" between what Netcong students did, and what the Supreme Court had outlawed.

Today, the Supreme Court refused, in a brief order, to disturb that ruling. Justices Potter Stewart and Byron R. White said they thought the court should examine the issue, but it takes the vote of four justices to grant review.

The Netcong high school has been setting aside five minutes before classes for teachers and students wishing to join in voluntary prayer.

"Participation may be total, or partial, regular or occasional, or not at all," the local school board specified.

The practice was challenged as illegal by the New Jersey attorney general and state education officials, who tried unsuccessfully to stop the prayers.

In its appeal, the local school board argued that its program did not involve officially composed prayers, and did not coerce any student into participating. Those were the reasons the Supreme Court had cited in striking down prayers and Bible-reading in the earlier decisions, the school board contended.

EDUCATIONAL, RELIGIOUS, AND LEGAL GROUPS OPPOSE THE PRAYER AMENDMENT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. ROSENTHAL. Mr. Speaker, a vote on House Joint Resolution 191, the prayer amendment, is scheduled for this Monday. The question of prayer in the public schools is one which has been debated at some length. I am opposed to any attempt to end the strict separation of church and state and will, therefore, vote against this measure.

Proponents of the amendment contend that it is an extension of the religious freedoms granted under the Constitution. Nothing is farther from the truth. Rather than a guarantee of religious expression, House Joint Resolution 191 is a serious threat to it. It gives the Government the power to dictate what prayers an individual may say in public. It is only a short step from Government permission to Government prescription.

More importantly, this amendment is a direct attack on the Bill of Rights, and especially the first amendment. Throughout our history it has stood as the major safeguard of the freedoms we Americans hold most dear. Tampering with this vital document would set a dangerous precedent. I stand in opposition to all attempts to modify the Bill of Rights.

Educational, religious, and legal groups all over America share this view. I am inserting in the RECORD at this point statements by a number of highly respected organizations in opposition to the resolution.

The statements follow:

OPPOSITION TO PRAYER AMENDMENT TO THE CONSTITUTION

The Women's Division of the Board of Missions of the United Methodist Church expresses its grave concern over the movement for passage of the Prayer Amendment to the U.S. Constitution. We believe that such action would seriously jeopardize the traditional separation of church and state, erode the guarantees of the First Amendment, and cause substantial and unnecessary divisiveness in the religious community.

We would like to reaffirm the position of the 1968 General Conference of The United Methodist Church when it declared: "Public schools may not properly establish any preferred form of religion for common exercises of worship or religious observance or study."

The concept of government-imposed "nondenominational prayer" tends to ignore prayer as a personal communication between God and man. Such voluntary personal prayers may be offered in the public school at the present time, and are not in violation of Supreme Court decisions of 1962 and 1963.

We believe that "nondenominational prayer"—without particularized faith content and purposely intended to be inoffensive—would most likely result in meaningless petitions. Nothing could better be designed to alienate children and youth from commitment to a vigorous faith than being required to mouth meaningless prayers in the classroom.

We believe it is unlikely that the major faiths will ever agree as to the precise meaning of the phrase, "nondenominational prayer". At the same time we refuse to confer upon governmental authority either the right or the theological competency to compose prayers to be used in public schools. In no way do we disparage the sincere efforts of those who seek to extend the influence of religion in our society. However, we believe the Prayer Amendment is not the proper vehicle. Instead we reaffirm our conviction that worship should be centered in the home, the churches and synagogues, and their congregations, rather than turned over to the schools or any public agency.

We, therefore, respectfully request the Congress of the United States to retain the historic relation between church and state and to oppose House Joint Resolution 191 and any other proposed prayer amendments to the Constitution.

Adopted October 24, 1971, by the Women's Division of the Board of Missions of the United Methodist Church, which is the elected national leadership of the 36,500 local women's organizations of the United Methodist Church.

THE PROPOSED PRAYER AMENDMENT AND OUR CHERISHED RELIGIOUS LIBERTY

(A statement by the Church Council of the American Lutheran Church.)

A statement adopted October 22, 1971, by the Church Council, the legislative agency between general conventions of the 4828 member congregations (whose membership is 2,543,293 baptized persons) of The American Lutheran Church, by a vote of forty (40) in favor, none (0) against, no (0) abstentions, with four (4) members absent. (C70.10.173)

The guarantees of religious liberty written into the Constitution of the United States have served this nation well. Both church and state are the stronger because government cannot pass laws "respecting an establishment of religion or prohibiting the free exercise thereof."

As American Lutherans we cherish the freedom and the responsibility the First Amendment assures us. We cherish our freedom to pray, to assemble, to worship, to study, to teach, and to serve our neighbors as the fullness of our faith directs. We respect the similar freedoms and responsibilities of our neighbors of other religious faiths. We do not seek to impose our understandings upon them; we expect the same consideration from them.

By its very nature, religious expression is both personal and corporate. It cannot be forced or coerced. It must be true to its distinctive self and to its own corporate commitment. It resists becoming the captive of any race, class, ideology, or government, lest it lose its loyalty to its Lord.

This protection we enjoy in America. We are free to pray in our own words to our own God. We are free to read the Bible in the version we prefer. We are protected against having to speak governmentally composed prayers. We are protected against having to join in devotional exercises decreed by governmental authorities. We are free to pray in public and to read the Bible in public places. We cannot, however, force others to join us in such expressions of our religious faith. These freedoms and these protections our Constitution, as interpreted by the Supreme Court in its school prayer and Bible reading decisions, presently assures us.

We see no need, therefore, for any amendment to the Constitution to permit participation in "nondenominational prayer" "in any public building." Such an amendment would endanger our religious liberty; it would tend to establish a governmental nondenominational religion; it would pave the way for courts to intervene in defining what is acceptable as an expression of religion; and it would limit rights already granted and clearly established in American life.

The Church Council in 1971 reaffirms the paragraph commended by the 1964 General Convention and adopted by the 1966 General Convention "as an expression of the policy and conviction of The American Lutheran Church":

Reading of Scripture and addressing deity in prayer are forms of religious expression which devout persons cherish. To compel these religious exercises as essential parts of the public school program, however, is to infringe on the distinctive beliefs of religious persons as well as on the rights of the irreligious. We believe that freedom of religion is best preserved when Scripture reading and prayer are centered in home and church, their effects in the changed lives of devout persons radiating into the schools and into every area of community life. It is as wrong for the public schools to become agents for atheism, godless secularism, scoffing irreligion, or a vague "religion in general" as it is for them to make religious rites and ceremonies an integral part of their programs.

As a nation we should be careful not to endanger our cherished religious liberty through the well-intended but potentially harmful "prayer amendment" (House Joint Resolution 191).

COMMITTEE FOR PUBLIC EDUCATION AND RELIGIOUS LIBERTY,
New York, N.Y., October 28, 1971.

Hon. BENJAMIN S. ROSENTHAL,
House of Representatives,
Washington, D.C.

DEAR MR. ROSENTHAL: On behalf of the 31 civic, religious, labor and educational groups that comprise the Committee for Public Education and Religious Liberty (PEARL) in New York City, I strongly urge the members of the House to defeat by an overwhelming vote, the proposed constitutional amendment that would permit state-sponsored prayers in public schools. Such a vigorous rejection of this proposal would demonstrate to the American people that the House of Representatives is unwavering in its support of the guarantees of freedom contained in the Bill of Rights.

Never in the history of the United States have the people approved an amendment which would dilute the strength of the Bill of Rights.

H.J. Res. 191, if adopted, would weaken those guarantees of the First Amendment that are not and should not be subject to change.

The proposed amendment reflects dissatisfaction with the decisions of the Supreme Court holding that the First Amendment does not permit state-sponsored prayer in public schools. It is in an effort to nullify the ruling of the highest court in our land outlawing such prayers as a violation of religious liberty and church-state separation.

Should this amendment be adopted it would set a precedent that would encourage amending the Constitution to overrule every controversial Supreme Court decision. It would thereby reduce the Constitution to the level of a statute easily repealed or amended.

The claim that participation in school prayers is entirely voluntary under the terms of this proposal is unrealistic.

Young children rarely are able to set themselves apart from their peers, or risk the disapproval of their teachers, by not taking part in a prayer service which has the approval of school authorities but conflicts with their own beliefs.

The amendment purports to permit only "non-denominational prayer." But what is non-denominational in the eyes of one sect is offensive to another.

The high court has interpreted the Constitution as restricting the government from interfering in the affairs of religious groups in order to protect their independence, freedom and integrity. The proposed amendment would impose on government officials the responsibility of determining which prayers are denominational and which are not, thereby acting in the role of a censor.

For all these reasons, we ask members of the House to defeat the prayer amendment.

Respectfully yours,

WILLIAM F. HADDAD, *Cochairman.*

TOPICAL STATEMENT, SEPARATION OF CHURCH AND STATE

The National Council of Jewish Women is concerned and alarmed by efforts to amend the Bill of Rights to permit non-denominational prayers in our public schools and to invalidate landmark Supreme Court decisions which affirm that governmentally required prayers are a violation of the Constitution.

NCJW speaks as a denomination organization founded on religious principles and dedicated to the protection of religious belief. It holds that freedom to worship in his own way and in the place of his own choosing is the inalienable right of the individual. Separation of church and state is fundamental to freedom of religion.

For almost two centuries, the Bill of Rights has served this nation in protecting the religious freedom of its citizens. NCJW opposes all proposals to modify the First Amendment in any way.

H.J. Res. 191 now pending on the Calendar of the House of Representatives poses a major threat to religious freedom in America. It gives the Government power to prescribe the kind of prayer which the individual may offer in public buildings—non-denominational prayers. The proposed amendment introduces a devisive element into our society and would create no end of confusion and conflict on the definition of what is "non-denominational prayer."

NCJW strongly protests this infringment on the religious liberty of all Americans. Any law concerning prayer is an intrusion upon the conscience of the individual and, per se, violates freedom of religion. It urges the members of the House of Representatives to reject this resolution, or any other which would weaken the First Amendment of the Constitution.

OUR MOST PRECIOUS HERITAGE

(A Statement by more than 300 constitutional lawyers and law professors)

Our Bill of Rights is America's most precious heritage. For a century and three-quarters it has spread the mantle of protection over persons of all faiths and creeds, political, cultural and religious.

Under our system, special responsibility for the interpretation and application of the Bill of Rights rests with the Supreme Court. In discharging this responsibility the Court has from time to time handed down decisions which have aroused considerable controversy. Some of the decisions have been subjected to strong criticism and even condemnation. There have, no doubt, been decisions which have been deemed by a majority of the American people, at least in their immediate reaction, to have been unwise, either in the conclusion reached by the Court or in the manner by which that conclusion was reached.

It may be that the Court's 1962 and 1963 decisions against state-sponsored prayer and devotional Bible reading in the public schools belong in this category. If so, it is much too early to judge whether it will be the popular judgment or the Court's that will be vindicated by time. But whichever the case, we are convinced that it would be far wiser for our nation to accept the decisions than to amend the Bill of Rights in order to nullify them.

We recognize that the Constitution provides for its own amendment, and that no provision of it, including the Bill of Rights, is immune to repeal or alteration at the will of the people expressed through the medium of constitutional amendment. Yet, it is relevant to recall in this respect the concluding paragraph of Thomas Jefferson's great Virginia statute for Establishing Religious Freedom:

"And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right."

American liberties have been secure in large measure because they have been guaranteed by a Bill of Rights which the American people have until now deemed practically unamendable. If now, for the first time, an amendment to "narrow its operation" is adopted, a precedent will have been established which may prove too easy to follow when other controversial decisions interpreting the Bill of Rights are handed down. In the past, the Court has construed the provisions against the infringement of the free exercise of religion and of speech and assembly, or securing the privilege against self-incrimination, or requiring fair trial procedures, in a manner deemed by many at the time to be unduly restrictive of the proper powers of government. It is certain that it will do so again in the future. If the first clause of the Bill of Rights, forbiding laws respecting an establishment of religion, should prove so easily susceptible to impairment by amendment, none of the succeeding clauses will be secure.

A grave responsibility rests upon the Congress in taking this "first experiment on our liberties." Whatever disagreements some may have with the Bible-Prayer decisions, we believe strongly that they do not justify this experiment. Accordingly, we urge that Congress approve no measures to amend the First Amendment in order to overrule these decisions.

"FESS" WEISSMUELLER AND THE LOUISVILLE TURNERS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. MAZZOLI. Mr. Speaker, in this great melting-pot country of ours, we are blessed with a rich diversity of traditions and institutions brought over from foreign lands. As an American of Italian ancestry, I am of course quite proud of the contribution that has been made by the cultural heritage of Italy.

But today, I wish to call attention to a German institution, the "Turnverein." My city of Louisville, Ky., has had the good fortune since 1848 to be the home of an active chapter of the American Turners.

For 123 years, the Turners in Louisville have conducted constructive programs of physical education and gymnastics for citizens of all ages. Perhaps, most important has been their work with young people.

A great measure of the Turners' success can be attributed to the efforts of people like Mr. John "Fess" Weissmueller, who have devoted their lives to the instruction and encouragement of youngsters.

"Fess" Weissmueller is now 73 years old and is preparing to retire after 53 years as a "professor of gymnastics" for the Louisville Turners. In that span he has done much to make Louisville a better place to live.

I would therefore ask that the following article from the Louisville Courier-Journal, written by John Filiatreau, be inserted in the RECORD. It is entitled: "He Tames 'Monsters'."

The article follows:

HE TAMES "MONSTERS"—THEIR MOTHERS STAND IN AWE AS THE YOUNGSTERS TOE THE LINE FOR "FESS"

(By John Filiatreau)

In the middle of a weekday, 35 mothers are gathered into a sunstreaked, dusty gymnasium at 310 E. Broadway with their children, who range in age from 3 to 5.

The mothers look like mothers of small children usually look in the afternoon. Some seem dazed, like long-distance runners after a race. Some have spots of peanut-butter or chocolate on their blouses and slacks. Some have unruly strands of hair hanging over their eyes.

They talk, mostly about their kids. The conversation begins, "Do you know what my little monster did this morning?"

And the little monsters, filled with energy and mischief, line up like military-school cadets. They become well-behaved, purposeful, transformed.

The reason for the transformation is a tiny, 73-year-old man who speaks with a trace of a German accent and has been an instructor of gymnastics for the Louisville Turners since 1918.

During a recent class for beginning Turners, John "Fess" Weissmueller displayed the mastery that has enabled him to charm four generations of children and their mothers.

"I just don't know how he does it," said one mother. "They just think he's wonderful. He never has to raise his voice to the kids, and they do whatever he says. I wish they were that good for me."

"Fess" (for professor) Weissmueller has a body that is remarkably athletic for man of his age. The muscles of his arms still bulge. But his age is evidenced by discoloration of the veins in his arms, the sagging skin of his face and neck, and the weakness of his voice. Now, some of the mothers must help him to twist, push and lift the small children through their exercises.

But Weissmueller is obviously the man in charge. He controls the children with quiet comments, clipped gestures and fleeting smiles.

Weissmueller plans to retire soon. "I'm going to quit in a couple of weeks," he recently said. "I've seen a lot of them come and go."

In his work for the Turners, Weissmueller has put thousands upon thousands of Louisville athletes through their paces. Once a top gymnast himself, he is recognized throughout the United States as one of the best men in his field.

What does it do for the kids?

"Well, it strengthens their coordination, gives them a lot of grace, and helps them tremendously to get along with other children," says Mrs. Edward Denker, who said she lives in "the Grinstead Drive area."

"It also prepares them for kindergarten—gets them used to taking directions," she said. Mrs. Denker's four children all get some Turner instruction.

For Mrs. Denker, and many other Turners members, the primary value of the club is its benefit to their children.

"We mothers know one another mostly as the children's parents," she said. "We talk about the children, mostly."

But the Turners club technically American Turners-Louisville, Inc. has activities ranging from the gymnastics instruction for 3-year-olds, to dances for teen-agers, to volleyball and pinochle for the elderly members, to swimming and boating at their summer facility on River Road.

Turners have been familiar to Louisville for a long time. The club was founded in 1848, and is the oldest Turners chapter in the United States.

The Turners movement got its start in Berlin, Germany, in 1811 when Friedrich Ludwig

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Jahn devised a philosophy of exercise based on the ancient regimes of Greek and Roman civilizations.

Due to an uncomfortable political situation in Germany during the Napoleonic wars, three of Jahn's followers, like many of their countrymen, fled to America. After they had arrived in 1824, they helped introduce gymnastics to the United States at Harvard and Yale universities.

They built the first gymnasium in the country in 1825, at Northampton, Mass., but their followers made no effort to organize until German-born Louisvillians met in a Market Street tavern on July 25, 1848, and formed the local chapter.

Louisville Turners had started America's first public instruction in physical education by 1850. And in 1852, they started the city's first kindergarten. Their first champion was Wilhelm Vogt, who had been a personal friend of Jahn in Germany; he won first prize in the 1852 festival of western Turners societies.

It hasn't always been a smooth road for these first 123 years. Just before the Civil War, members of the Know Nothing Party—who bitterly opposed Catholics and foreign-born Americans—forced many Turners to flee Louisville.

The Know Nothings also repeatedly threatened to burn the new Turner Hall which was located on Floyd Street between Market and Jefferson. In 1860, a fire—apparently an act of arson—burned the building to the ground, and all the Turners' records went up in smoke.

Since 1917, the Louisville Turners headquarters has been at its present location at 310 E. Broadway. Since 1911, they have also had a park facility on the Ohio River—at 3125 Upper River Road. Turners activities are centered at the Broadway location from Labor Day to Memorial Day, and at the river park during the summer.

The days when Turners were readily identified as Americans of German origin are long gone. Now, many nationalities are represented.

The club's membership presently numbers approximately 1,150 local families—for perhaps a total membership of 5,000. Its popularity is evident—it has a waiting-list long enough to require a wait of about a year.

MILITARY AID TO GREECE DEBATE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. DERWINSKI. Mr. Speaker, in view of the uncertain status of the foreign aid bill, which included House language placing restrictions on aid to Greece and if passed by the Senate would have had prohibitions against aid to the present Greek Government, it may be well to carefully study that item in foreign policy debate.

At the present time I am serving as a delegate to the United Nations General Assembly. Keeping in mind the voting record of the U.N. China question, I must point out that on the key vote in which we tried to make the Albanian resolution an important question, the three NATO allies who voted with us were Luxembourg, Portugal, and Greece. May I also add, Mr. Speaker, that from my vantage point here at the United Nations I am very much aware of the continuing complications on the Island of Cyprus whereby U.N. peacekeeping forces must operate. Objective observation of that scene shows that the Government of Greece has been extremely responsible in working to keep that situation calm and prevent a recurrence of the previous complications.

Concluding this brief commentary on my part I wish to insert a column from the Sacramento, Calif., Union by the distinguished international columnist Dumitru Danielopol, whose very timely article points out the impressive record of support which Americans of Greek origin give to the present government of that country.

The column follows:

[Reprinted from Editorial page, the Sacramento, Calif., Union, Oct. 11, 1971]

MILITARY-AID-TO-GREECE DEBATE

(By Dumitru Danielopol)

WASHINGTON, D.C.—A leading Greek publisher has come to the defense of Athens' military-backed regime with an impressive collection of arguments. Most of them are designed to answer congressional criticism of continued military aid to Greece.

Savas Konstantopoulos, publisher of Athens' daily "Eleftheros Kosmos," says American lawmakers are being duped by anti-government Greeks who preach "democracy" but who have something quite different in mind.

The 90-page document which appeared in the Congressional Record debunks one argument after another used by the anti-government witnesses who claim that the military destroyed democracy in Greece and deny that the coup was staged in April 1967 to avert civil war and a possible Communist takeover.

The arguments are not new on either side but this paper is interesting because it quotes Greek political figures in its defense of the Athens regime.

Konstantopoulos, in his document, deplores that the House of Representatives voted to limit aid to Greece on the basis of flimsy, often erroneous evidence from prejudiced, unqualified and often suspect witnesses. One of them was Mrs. Andreas Papandreou.

The House Foreign Affairs subcommittee that sparked the aid restriction did not call witnesses from the Greek-American community, an ethnic group that maintains exceptionally close ties with the mother country.

Greek organizations in the United States and Canada have made it quite plain that they are outraged by the congressional action.

The "Order of Ahepa", the Society of the Castorians of New York "Omonoia", the "Panepirotic Federation of America and Canada," the "Greek American Progressive Association" and the "Pan-Arcadian Federation" all have deplored the congressional action and unanimously voted to urge the Senate to restore military aid to Greece.

PURIFYING LABOR DEPARTMENT STATISTICS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. OBEY. Mr. Speaker, over the years the Government, the press, professional economists and the public have been able to rely on the Labor Department's unemployment and consumer price statistics, and on the analysis and explanation which accompanied their release each month.

However, it appears the handling of this statistical series is undergoing a process of political purification, starting with elimination of the monthly press conferences at which skilled statisticians candidly discussed the latest figures and moving now to the omission of key information from Department news releases.

Mr. Speaker, John W. Kole of the Milwaukee Journal dealt with this troublesome transformation in an interpretive article headed, "Labor Department Hiding Key Unemployment Data." The article which describes the coming credibility gap in labor statistics follows:

LABOR DEPARTMENT HIDING KEY UNEMPLOYMENT DATA

(By John W. Kole)

WASHINGTON, D.C.—When the Labor Department announced Thursday that the number of major US labor areas with more than 6% unemployment had risen to 65, it neglected to mention that this was the highest number since 1961.

Only in recent months has this kind of key information been omitted from department news releases. It is clearly an attempt by the Nixon administration to cover up some facets of the highest unemployment levels in a decade.

George Meany, president of the AFL-CIO, criticized the news policy last week in a letter to Labor Secretary James Hodgson, declaring that he was "deeply disturbed by the continuing series of events that indicate an alarming attempt to politicize the Bureau of Labor Statistics."

BUSINESSMEN CONCERNED

But business leaders, who also had learned to rely over the years on the unvarnished truth from bureau statistics and reports, also are concerned.

The trend started early this year as Hodgson and other administration officials were embarrassed when their rosy statements about the monthly unemployment figures were contradicted by the candor of bureau experts.

In an action that many believe was ordered by the White House, Hodgson ordered cancellation of two monthly press conferences, one of which had been held for two decades, covering unemployment and consumer price statistics.

Ever since, Sen. William Proxmire (D-Wis.), has called bureau officials before his Joint Economic Committee on the morning the monthly jobless figures are announced, but he has been unable to persuade the bureau to reinstitute the press conference.

OTHER COVERUPS

Thursday's release was only the latest example of the Labor Department's new operation obscurantism.

Another was early in October when the monthly unemployment report showed that the seasonally adjusted jobless rate for September was still at 6%—down a hair from the 6.1% in August. The press release started by declaring that "employment rose substantially in September. . . ."

But that report failed to point out that by jumping back up to 10.5%, black unemployment had returned to its May peak, which was the highest in almost eight years.

Late last month, it was disclosed that the department was reorganizing the bureau to get some new statisticians in key positions, a move that Proxmire blasted as an attempt to slant the figures. The administration denied the charge.

The monthly report on major labor areas with 6% or more unemployment has been showing a sharply rising curve all year. Racine is the only major labor area in Wisconsin on the list.

In January, only 40 of the 150 major areas were on the list. But unlike last Thursday, the monthly news release pointed out then that this was the highest number since March, 1964.

Of 785 other labor areas, mostly smaller than the major listings, 284, plus 10 separate counties, now are on the substantial unemployment list, up 16 from the previous months. Among those 16 newly added areas are Kewaunee, Montello and Rice Lake in Wisconsin.

On the same day, four Wisconsin counties—Door, Langlade, Monroe and Shawano—were added to the persistent unemployment list by the Commerce Department. This means that unemployment has been 6% or above for more than a calendar year and that it has been 50% over the national average for several years.

UNITED NATIONS

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. ROUSSELOT. Mr. Speaker, there has been a great deal of discussion both in the Senate, in the House of Representatives, and among the American people as to what value we gain from our participation in the United Nations. Much of the discussion was substantiated by the recent vote to seat the Communist dictatorship of Red China and terminate the membership of the perfectly law-abiding and decent country of Taiwan.

For some time, I have advocated that we take a hard look at United States financial participation in the United Nations, and in all probability terminate our activity with this organization in as much as the Secretary General of the United Nations, U Thant, admitted in his annual report that the United Nations has not adequately met its objectives in serving the cause of world peace.

The executive committee of the Federation of Republican Women of Los Angeles County recently passed a resolution which gives serious thought as to what our position should be as it relates to the United Nations. Since the Federation of Republican Women is the largest political organization in the County of Los Angeles, I believe this resolution which was passed at their board meeting on October 27, 1971, merits careful consideration.

Whereas, the majority of the members of the United Nations, by their vote on October 25th, have violated the provisions of the United Nations Charter, resulting in the seating of Red China and the expulsion of Nationalist China from the United Nations; and

Whereas, Nationalist China, as a Charter Member and a Member of the Security Council since 1945, has abided by all provisions as set forth in the United Nations charter; and

Whereas, the original intent of the U.N. was to provide a forum for peaceful nations; and the United Nations by its actions in Katanga and the admittance of Red China has departed from its original intentions; and

Whereas, the United Nations has now become an instrument for the advancement of Communist goals,

Therefore, be it resolved that the Los Angeles County Federation of Republican Women goes on record as favoring withdrawing all United States financial support and membership in the United Nations; and

Be it further resolved that the L.A. C.R.W. urges the removal of the United Nations from the United States.

YOU CANNOT PICK A DANDELION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. VANDER JAGT. Mr. Speaker, recently it was my great pleasure to participate in the dedication of Kysor Industrial Corp.'s new Sherer dual jet plant at Marshall, Mich. I was deeply touched by the remarks of Mr. Raymond A. Weigel, president of Kysor Industrial Corp., and I would like to share them with my colleagues in the House of Representatives.

The remarks follow:

YOU CANNOT PICK A DANDELION

This has been a wonderful day and it has been, indeed, a real pleasure to have with us Governor Milliken, Congressman Vander Jagt, all of the City officials and the many dignitaries who have helped us celebrate this occasion. It is likewise a real pleasure for the many company executives and directors to share in these proceedings.

We have created and dedicated a fine facility and I know it will serve us well if we remember this little story that I believe to be an appropriate amile—

"Isn't it wonderful," said the teacher, "when you go out into the woods and fields, to see what strange and beautiful things are coming up out of the ground! Trees and flowers, grass and bushes, and all kinds of plants, no two alike, with all sorts of different shapes and colors—have you looked closely at some of these?"

Certainly they had. They were normal youngsters, nine-, ten-, and eleven-year olds, naturally interested in anything they could push, pull, touch, lift, examine, taste, hear, or smell.

"Tell me what you have seen," said the teacher. In no time they had recalled berry-bushes, Indian pipes, Jack-in-the-pulpits, many kinds of trees—with commentary on which were best for climbing—and a variety of field flowers and stinging nettles.

"Well," said the teacher, "I wonder if any of you know about something I saw the other day. If you know the name of it, don't say it, but raise your hand if you think you know. Walking across a field I saw a slender stem coming up about nine or ten inches from a small plant, and on top of the stem a little ball of white, fluffy stars. If you pick the stem and blow, whoof, they scatter into a whole galaxy of stars." There were shining eyes and eager hands raised—"Don't say it!" said the teacher. "But I wonder if any of you know what was there before the ball of stars appeared? If so, what did it look like?

"There was a little yellow flower, with lots of tiny petals all crowded together," said one.

"It looked something like a little sunflower, only there was no brown center," said another. "It was all full of the little petals, like an aster or a chrysanthemum."

"Right!" said the teacher. "And what was it like before that yellow flower opened?"

"It looked like a little umbrella, upside down and almost closed, with a yellow lining showing," said a girl, holding out one hand, palm up, thumb and finger tips together making a bud-like form.

"Right!" said the teacher. "And what was it like before that! Somebody else." "A tight little cone-shaped green bud," said a boy, making a tighter bud with his fingers, lower down, remembering the stem was then not so high. By this time some were fairly bursting to name it. "No," said the teacher. "Don't name it yet. But what was it like before that?"

"Just a little bunch of leaves coming out from the center, a sort of green rosette," said a girl. "And before that?"

"Just a tiny little bit of green coming up out of the dirt!"

"Right!" said the teacher. "Now what do you call all of this?"

"Dandelion!" they exploded in chorus.

"Yes," said the teacher. "Do you like dandelions?" he continued. Of course, they liked dandelions. Who doesn't enjoy the green buds with yellow linings, the cheery gold blossoms scattered among the grass, and the marvelous airy globes of elfin stars—until he has acquired a prejudice, and learned to resent them as an intruder in lawns?

"Did you ever pick dandelions?" Yes, they had all picked dandelions.

"No you haven't!" said the teacher. You cannot pick a dandelion! It is impossible to pick a dandelion! What was it you picked, Bill?

"It was like what you said at first," said Bill. "The whole ball of fluff that you can blow."

"What! No yellow flower? No litle bud, like the upside-down umbrella, nearly closed, with the yellow lining showing? No tight green cone? No cluster of green leaves all coming out from the center?—What was yours like, Anne?"

"I've picked whole bunches of dandelions as yellow flowers," said Anne. "You know, we used to take one and hold it under somebody's chin and say, 'Do you love butter?' Then we'd look to see if the yellow color was reflected from under their chin."

"But when you got a yellow flower, you couldn't blow any white stars from it, could you? And did any of you bother to pick dandelions when you only saw tight green buds, or the plant leaves? But you all said that a dandelion is really all of this. Whatever you picked, you got a fragment of something.

"You cannot really pick a dandelion—for a dandelion is not a thing that exists all at once. It is a performance. And it only happens when the sun and earth, the sky and water are all working together. The pattern may be in the seed, as the pattern of music is in the score, but it doesn't come to life till the players play it, or the singers sing it. Here is a sheet of paper. Let us assume for this purpose that on it is written one of Beethoven's finest works—Can you hear it?—No! And even if we had a flute player of the finest talent playing alone from this score, you would not hear it. The score becomes music only as the players and singers pour themselves into the performance, just as the sun and earth and air and water pour themselves into a dandelion. And every plant, and every living thing is really a world performance—even a factory. Here is a factory. Here is brick and steel and wood and leather and cloth assembled together into walls, roofs, floors and rooms with desks and chairs and machines and like the symphony it must be played—to an audience—and patrons and friends are important. You are the players—you are the patrons—you are the friends. Altogether we can render a great performance and a needed service. If we remember—you cannot really pick a dandelion."

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WILLIAM HOWARD BENSON

HON. ROBERT G. STEPHENS, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. STEPHENS. Mr. Speaker, my hometown of Athens, Ga., recently lost one of its most outstanding citizens when William Howard Benson passed away on October 8 at the age of 83.

Throughout his lifetime, Mr. Benson contributed his time, energy, and wise guidance to various organizations in Athens and he was elected citizen of the year in 1967, an honor he richly deserved.

Mr. Speaker, I would like to insert in the RECORD the following editorials about Mr. Benson which have appeared in the Athens Banner-Herald and the Athens Daily News:

[From the Athens (Ga.) Banner-Herald, Oct. 11, 1971]

W. H. BENSON CONTRIBUTED MUCH TO HIS COMMUNITY

William Howard Benson was one of Athens outstanding civic leaders and businessmen. The community lost a leading citizen in his passing Friday night at the age of 83.

A native of Marietta, he had lived in Athens since 1918 when he founded Benson's Bakery which has grown considerably through the years under his guidance and that of his son, Edsel Benson.

With his business interests, he was closely associated with all major civic and service programs of the community. It would be difficult to name any service organization in Athens and the surrounding area which at some time has not benefitted by his concern.

Mr. Benson was Citizen of the Year in 1967, an honor well deserved.

He established the Athens Crime Prevention Committee, raised finances for the Coburn Kelley Memorial Tennis Courts at the YMCA and was in the charter group which established the Athens Little League.

Mr. Benson provided the first Athens home for the Salvation Army and played major roles in expanding playground and recreational facilities for the Athens area, particularly Memorial Park. He was a prime mover in organizing the Athens Industrial Development Board, Georgia Eggs Inc. and the Clarke County Fair Association.

He had served as chairman of the Board of Deacons at the First Baptist Church and as president of the Athens Rotary Club. He was the first president of the Athens Boosters Club.

Mr. Benson also had his hand in many other projects, providing wise counsel and financial assistance.

He contributed much to the Athens community.

W. H. Benson lived a full life. He left many friends in this community and in other areas. We shall all miss him and share his loss with the Benson family.

[From the Athens (Ga.) Daily News, Oct. 12, 1971]

W. H. BENSON

The entire community will feel the loss of William Howard Benson. The death of the Athens business and civic leader last Friday night will leave a void in community leadership.

Mr. Benson held many posts of civic honor during his life and enjoyed promoting the better welfare of the entire community. He was a firm proponent of law and order and contributed both physically and financially to constructive moves of the community.

Successful in business, having founded Benson's Bakery in 1918, he served as chairman of the board of deacons of First Baptist Church. He was a past-president of the Athens Rotary Club. He served as the first president of the Athens Boosters Club when it was organized and also established the Athens Crime Prevention Committee and contributed to its work on a continuing basis.

He led the way to successful financing of the Coburn Kelley Memorial Tennis Courts at the YMCA and was recognized for his community work when elected Citizen of the Year in 1967. He also was a charter member of the Athens Little League. It was W. H. Benson who was the prime leader in organizing the Athens Industrial Development Board, Georgia Eggs Inc., the Clarke County Fair Association and Athens Memorial Park. Through his efforts the first home for the Salvation Army in Athens was provided. He played a leading role in expansion of playgrounds and recreational facilities in the Athens Area and constantly bore the needs of the young as he went about helping build and improve his community.

We will all miss W. H. Benson, but we are all better for his having been with us. He was a truly devoted and giving citizen.

FOREST FIRES

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. BOB WILSON. Mr. Speaker, about a year ago fires blackened thousands of acres of forest and brush lands in southern California causing loss of lives and millions of dollars in property damage. Since that time five of my California colleagues have been working with me in trying to improve the fire prevention and firefighting capability of the U.S. Forest Service. These colleagues are: JERRY L. PETTIS, BARRY GOLDWATER, JR., CHARLES M. TEAGUE, JOHN G. SCHMITZ, and JOHN H. ROUSSELOT. We are encouraged by new programs that are being considered by the Forest Service including a more efficient aerial tanker strike force. The need for such a force was recently covered in a KFWB radio report which I insert in the RECORD:

[From KFWB Editorial, Oct. 12, 1971]

AERIAL FIRE TANKERS: AN AIR FORCE SUCCESS

(By Arthur A. Schreiber, general manager)

A year ago, when 600 thousand acres of California was going up in flames, KFWB began an editorial series proposing that heavy surplus military aircraft be converted into a federal aerial tanker strike force.

Our reason: The nation loses 4.3 million acres of forest and $600 million a year to wildfires.

We suggested that squadrons of heavy tankers could knock out fires while they're still small by using liquid retardant overkill.

The public liked the idea, and so did government. The proposal percolated up through city councils, boards of supervisors, civic groups, the State Legislature . . . finally to Congress.

San Bernardino Congressman Jerry Pettis, and five California colleagues, asked Congress for money and the Air Force for help. They got both.

Congress gave the U.S. Forest Service a million dollars for research. Aerospace Corporation, of San Bernardino, is designing an electronic guidance system to see through smoke. Food Manufacturing Corporation designed a fast conversion tank system for cargo planes.

At 10 a.m., Friday, October 8, just one year and eight days after KFWB's initial proposal, the first heavy aerial tanker, a Vietnam veteran C-130 Hercules, arrived over the Santa Barbara fire with a 3,000-gallon load. It came from the 146th Tactical Airlift Wing, Air National Guard, Van Nuys.

True, this was only a prototype, testing the equipment. But also true . . . A Vietnam veteran pilot took it in for eight test runs and hit the target eight times, dead center . . . 24,000 gallons.

He proved that the basic system works.

His commanding officer said later: "This is the most exciting thing this outfit has done in 10 years."

KFWB couldn't agree more. And we'll now look forward to the day when massive wildfires will be a rarity, rather than an annual event, in our land.

WOMAN TURNS TRUCK DRIVER

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mrs. GRASSO. Mr. Speaker, an individual's personal commitment to a worthy goal has a beneficial impact on the lives of many people.

In the case of Sue Hemingway of North Granby, her marvelous efforts to improve the quality of life in her community through a metal can recycling program represent responsible citizen action of the highest order. It is my hope that the activity of Mrs. Hemingway and other dedicated citizens involved in Granby's can recycling program will provide an incentive to other communities in our battle to save the environment.

For the interest and information of my colleagues, an article which appeared in the Hartford Courant on this encouraging program follows:

WOMAN TURNS TRUCK DRIVER TO HELP CAN RECYCLING EFFORTS

(By Barbara Greenberg)

"You can't buy a can that we can't recycle."

That's the claim The Can People (American Can Co., Continental Can Co., National Can Corp., and Heeken Can Co.) made in a national advertising campaign last spring.

They were a little premature.

Theoretically, all cans can be recycled.

Technologically, the Can People do not have facilities to recycle all the cans all the time.

Sue (Mrs. James) Hemingway of North Granby is trying to unravel the can paradox.

When she saw the full-page ad in The Courant last April, she decided Granby should recycle cans. The town already was successfully recycling glass containers and newspapers.

She contacted the can companies, only to discover that there are 200 can recycling plants in the country—but none in Connecticut.

Because of this, most recycling groups in the Hartford area have not attempted recycling cans. Trucking becomes too expensive.

Mrs. Hemingway solved that problem. She drives the truck herself as far as the National Can Corp. in Danbury. National ships them to New Jersey and the Bronx where they are recycled. Although National pays for the cans ($10 a ton for bi-metal; $20 a ton for steel; $300 a ton for aluminum), it is not enough to cover the expense of renting the truck. However, Granby does so well with glass collection (they collect 8–11 tons of glass for every ton of cans and receive $20 a ton), that they come out ahead. The money goes into an environmental fund.

Sue talks about cans almost the way one talks about a chronic disease.

"Aluminum cans irk me the most," she says. "Five billion of them are produced a year in this country. They aren't biodegradable: they will never, ever disintegrate in a land fill. I think we should pressure companies to stop manufacturing them," she asserts.

She also wishes bi-metal cans could be eliminated, "Because they have more than one component, it's more expensive and difficult to recycle them. They tend to just accumulate in scrap yards."

Indeed, cans, which have been around since the French Revolution, are losing their popularity.

The mayor of Rochester, N.Y., has called for a public ban on them; Minneapolis is considering a mandatory deposit for glass, plastic and metal containers; last summer, one national park banned metal food cans.

William F. May, chairman of the board and president of American Can, in a telephone interview, said there are isolated examples. But he admits they indicate a trend. "Responsible citizens say we are contributing an unbearable burden to solid waste."

May is understandably defensive.

When it comes to litter, May's statisticians say metal containers are only 17 per cent of roadside litter. They say beer and soft drink cans amount to only one half of one per cent of the nation's solid waste.

But Sue Hemingway's family accumulates about 30 cans a week: tuna fish cans, dog food cans, fruit drink cans, soup cans . . .

Just the last two recycling drives in Granby yielded 3,700 pounds of steel and bi-metal cans and there have been six drives altogether. Town officials say there is a significant decrease in the volume of solid waste going into the landfill since recycling projects began. They are sure this will make the landfill last longer than it otherwise would.

Even so, May does not think recycling is the ultimate answer to solid waste; rather "Government and business leaders should develop a new industry of resource recovery."

He is talking about "solid waste systems"—systems which recover waste material for fuel or reuse. "We cannot rely on turning our housewives and boy scouts into garbage collectors," he said.

But the housewives—and volunteers-turned-garbage-collectors—don't seem to mind one bit. Sue Hemingway says it's become a game in her family. "We try to see how much we can keep out of the solid waste stream." She also adds that many Granby citizens have rallied to the cause.

Granby and North Granby are the only towns in northern Connecticut successfully recycling not only paper and glass, but cans also. Sue Hemingway deserves most of the credit.

She organized school children ("The best way to get parents involved is to educate the children," she maintains), and spoke to industrial and town leaders to convince them to donate materials so volunteers could build bins. Chuckles Sue: "It was almost as if they said to each other, 'Let's give this broad everything she wants!' "

The town set aside some land near the town garage; a local industry donated five tons of asphalt for a backtop and a town crew laid it. Another company donated lumber. And the bins were complete. Now the town even drives the glass containers to Dayville. "After such great cooperation, I didn't have the nerve to ask them to drive to Danbury, too," admits Sue sheepishly.

But that's her only sign of timidity. Outspoken and dedicated, this mother of four now hopes other towns will recycle cans, too. Aside from the ecologic benefits, it might relieve her of her truck-driving job. "If several towns collect cans, then scrap dealers would be interested in hauling them. But we have to generate a steady volume. I think several towns could do that."

Mrs. Hemingway is optimistic. She knows community recycling can be succesful; she also thinks recycling is an answer to solid waste. "The public interest is evident. It's no longer possible for industry to pass the buck and say, 'Well, the people don't care.' We do care; we're proving it. Now it's up to the can people to keep up with us. And we keep gathering momentum," she smiles cheerfully.

TWO SUPERLATIVELY QUALIFIED COURT NOMINEES

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. DEL CLAWSON. Mr. Speaker, a column in the Washington Evening Star of October 28 places the President's nominating powers in proper perspective. At this point in the RECORD I would like to commend the article by James J. Kilpatrick to the attention of my colleagues. The article follows:

TWO SUPERLATIVELY QUALIFIED COURT NOMINEES

(By James J. Kilpatrick)

The President announced his two nominations for the Supreme Court a little before 8 o'clock Thursday evening, and the wire services began calling around Capitol Hill looking for reaction. The nominees were Lewis F. Powell of Virginia and William Rehnquist of Arizona. How did they strike Emanuel Celler?

The old New York liberal, dean of the House and chairman of its Judiciary Committee, allowed himself a small sigh. "On the whole, good." But Powell had been described to him as an arch-conservative, and "I would not have appointed him."

Celler has been misinformed as to Powell—the Virginian is a man of law, not of ideology—but his brief comment invites renewed appreciation of the genius of our constitutional system. "I would not have appointed him." Of course not. But Celler is not President of the United States. More to the point, neither is Hubert Humphrey; and Humphrey would not have appointed him, either. But Richard Nixon is; and Richard Nixon did.

This is of the essence. On the domestic side, a President's power to nominate members of the Supreme Court is by far his most important power.

If he chooses wisely—wisely, that is to say, by his own lights—and if he can get his nominees confirmed, a President can leave his own lengthened shadow on the law. "We live under a Constitution," said Chief Justice Charles Evans Hughes in the famous line, "but the Constitution is what the judges say it is." Precisely. And how do we get our judges? We get them by presidential nomination.

It is curious that so many persons in public life appear to be discovering this truth so belatedly. Two factors may account for the sudden buzz of liberal alarm and conservative delight. The first is Nixon's candor—one might wish, in this instance, that the President had not been quite so candid. The second is recent history.

Nixon's immediate predecessors—Truman, Eisenhower, Kennedy and Johnson—had the same power, but they seemed never to know what to do with it. None of them was a lawyer. It makes a difference.

Harry S. Truman thought of honoring his pals. Heaven alone knows what Dwight D. Eisenhower thought. John F. Kennedy and Lyndon B. Johnson had two chances each, and they used them alike: Each tapped an old friend, and each paid a political debt—Byron White and Arthur Goldberg, Abe Fortas and Thurgood Marshall. Nixon is thus the first President since Franklin D. Roosevelt to exercise his appointive power fully, knowingly and deliberately, in the acknowledged hope of achieving particular ends at law.

If such a power were absolute, our system would fail. The judicial branch gradually would fill up with rubber stamps and obedient hacks. But the power is not absolute. It is checked first by the Senate's power to withhold its consent, and second by the device of life tenure. The power is checked also by public opinion and by political pressure.

When all the checks and balances work perfectly, we get to the point we have reached just now. Powell and Rehnquist are superlatively qualified for service on the court.

I have known Powell for 30 years as a great lawyer and good citizen. He is the best Virginia has to offer, and by the repeated professional judgment of his colleagues, perhaps the best the bar has to offer. Rehnquist is possessed of a formidable intellect. He is as profound a student of the Constitution as any Sam Ervin or Abe Fortas, and he is only 47. He will grow.

Nixon's own judgment is that his two nominees share his judicial philosophy. "I would imagine that it may be charged that they are conservatives." But surely it is Nixon's right deliberately to choose conservatives, just as it was Roosevelt's right deliberately to name liberals. This is the way the system is supposed to work.

Humphrey would not have named Powell and Rehnquist—or Burger or Blackman, either. But Humphrey didn't win. Wait till next time.

The President has acted responsibly in every sense of the word. One devoutly hopes the Senate will respond in kind.

NUCLEAR EXPLOSION IN ALASKA

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. BEGICH. Mr. Speaker, in the past several weeks, I have received numerous phone calls, letters and visitors in regard to the scheduled "Cannikin" nuclear explosion that is to take place on Amchitka, Alaska, Saturday. In the past several days, numerous individuals and organizations have become increasingly vocal in voicing their opposition to the test.

I have attempted to communicate directly with the President by letters and telegram, but to this date my inquiries remain unanswered.

Many people who have expressed concern about the nuclear blast, and there are many, are disturbed and concerned for environmentally oriented purposes and the safety of wildlife in the vicinity of the Aleutian chain. Some are concerned about the dangers and unknown consequences that the blast will have on the people who inhabit the 30 communities on the Aleutian chain and the Alaska peninsula as well as the Kodiak Island communities.

The threat to the safety of the people on the Aleutian chain is my greatest concern.

It is difficult for me to understand the administration's persistence in its posi-

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tion and its plans to go through with the nuclear blast.

Mr. Speaker, in the great hope that it will bear some influence in preventing the nuclear explosion, I want to share portions of a very distressing letter with my colleagues that a member of my staff received from his cousin, Mary Simeonoff of Akhiok, Alaska:

LETTER FROM ALASKA

DEAR FRANK: How do you feel about this Amchitka Blast? We sure are not for it. But no matter what we say. They will go thru with it. You know? I think they are trying to use us in Alaska for guinea pigs. How do they know the radiation will harm human beings as well as our fish industry later in the future. Even our land food. Gee don't be surprised if we start having deformed babies in a few years from now. As you know we pick several kinds of berries. And if we eat that or any thing that grows on the ground. Will cause some after effects. Even the ocean animals. Gosh don't be surprised if we catch a two headed fish or any sea animal. Wouldn't that be something. Not only that Aleutian Islands is earthquake country. And if that blast triggers one of the main ones. Boy will we have tremors for a while. Maybe erupt a new volcano. And also cause tidal waves.

Now it's getting colder. And if they give a tidal wave warning. Boy it will be a little cold to spend a night or two up on the hills. With no kind of shelter. You know if they plan on serious things like that. They should put a Fallout shelter in each village. If people in each village are instructed on how to build one. I am sure they would try to build one. But you know they won't waste money on us like that. But use us for guinea pigs. What are they trying to prove? Anyway. Trying to prove they can have a better or best atomic weapon? Well, there you can see. They are using us Alaskans for guinea pigs. Or they'd test it out elsewhere. They talk about water pollution. Oil polluting the ocean. That's just a sample. Just think in the future to come. When that radiation leaks out. It will not be blocked in. One good earthquake will crack it open. No telling where it will seep out from. In dry land or under the sea. There goes our fish industry. It certainly isn't going to feel safe to eat our native food after we know that the Blast has gone through. Gosh you know, for those that really think about it. Sure isn't a comfortable thinking, or feeling. It may not do any harm. But, then, again it sure gives a person an uncomfortable feeling. Makes a person feel unsecure. Especially out on Rural Villages. We have no protection of any kind, whatsoever. I know it must not be too safe. *Because why*, are they holding off, or keep putting it off. I just hope if, and when they do go through with it, we will have the right wind. So none or much of it will blow this way.

I pray hard. And I am sure I am not the only one. I am sure Our Lord is our only help now. If we pray hard and really believe in Our Heavenly Father.

Walt and I talked, that maybe we should have unperishable food put in a sack or something ready to grab just in case. As well as bottled water. We want to tell the people here. But we are afraid they might panic or something. So I guess we'll just have to wait and see. But we sure hope and pray they don't go through with it.

They already know it is going to be some blast. Then why are they testing it out. Just trying to show off I suppose.

Oh, well, I guess there is nothing, we as nothings in Alaska can do about it. They wouldn't hear us even if we tried to talk to them. But, let's just hope and pray for the best.

Bye now, with much love from all.

love,

Cousin MARY S.

A COMMONSENSE APPROACH TO A STRONG PRO-AMERICAN POLICY

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. SCHERLE. Mr. Speaker, an extremely perceptive column by nationally known and respected David Lawrence concerning our colleague, J. HERBERT BURKE, appeared in last night's Washington Star. Ever since 1945, when the United Nations was founded, two of its members, Ukrainian SSR and Byelorussian SSR, have been allowed seats equal to every other nation in the organization. This is despite the fact that both of these members have been part of the Soviet Union since 1918. They do not have separate diplomatic relations with any foreign state, nor do they conduct their foreign relations in any way different from the Soviet Union. It would make just as much sense to allow Texas and Hawaii to have separate seats in the United Nations. Both of these states formerly were independent countries, but are now an integral part of the United States.

HERB BURKE'S resolution, which I am cosponsoring, is another example of the commonsense approach to a strong pro-American foreign policy which this distinguished member of the House Foreign Affairs Committee has worked so long to achieve.

I respectfully urge that the House carefully consider, with due speed, this important resolution:

REPRESENTATIVE BURKE'S IMPENDING RESOLUTION

(By David Lawrence)

It's time to begin examining the membership of the United Nations, as some of the countries on the list don't really belong there at all, since they haven't achieved independence.

Rep. J. Herbert Burke, R-Fla., will introduce in the House in a few days a resolution asking Congress to clarify once and for all "the inequitable representation in the United Nations for member states." He points out that the Soviet Union maintains three separate and equal votes in the world body to one each for all other members. He adds:

"The Soviets claim that both the Ukrainian SSR and the Byelorussian SSR are separate states. However, according to our State Department's Soviet desk, the British Embassy's information office and the French Embassy's information office, these two integral states of the U.S.S.R. have not been sovereign since the 1918 revolution, have no separate diplomatic relations with any other state, nor conduct their own foreign relations separate from that of the U.S.S.R.'s."

Burke states that, in view of this, "according to international law they are nonexistent as duly recognized, separate, nation-states" and "should have no representation." He says they should, therefore, "be expelled from the United Nations."

In the formal resolution which he presented, Congressman Burke would have the House declare:

"Resolved, that it is the sense of the House of Representatives that the President acting through the United States delegation at the United Nations, should take such steps as may be necessary to bring before the General Assembly of the United Nations the question of the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations and seek their expulsion."

There are many other countries whose independence may be wobbly. The "captive nations" of Eastern Europe, which have been under the control of the Soviet Union since the close of World War II, are hardly sovereign states. They are under the yoke of the Soviets. Yet the United Nations participates in the fiction that these countries are independent units and enjoying self-government when, as a matter of fact, they are not.

An investigation of the status of all the nations which are dominated and under virtual management by a foreign government would be enlightening. It would reveal that some of the countries are mere satellites or tools of a patron government and have been brought into the United Nations under false pretenses.

The expulsion of Taiwan, which has for years been an independent entity, opens up the whole subject of whether all countries which have really gained their freedom are eligible for membership in the United Nations. Apparently their former rulers are politically powerful enough to deny them a seat.

The United Nations, therefore, instead of being a free organization, is a political instrumentality whose membership is controlled by votes of governments which seek the support—either military or political—of major powers.

Under international law there is no justification for seating a country which does not truly have an independent status, but the world has witnessed a spectacle in the last two weeks wherein Taiwan, which is unquestionably independent, has been expelled while two so-called "states" which are integral parts of a major power still remain in the United Nations along with a number of satellites of that same power.

Can the United Nations afford to present to the world the image of an organization which ignores the requirement that only independent states are qualified for membership or the rule of fairness that no nation shall be able to put one of its colonies or provisions into the U.N. and thereby gain extra votes for political purposes?

Rep. Burke's resolution will open the eyes of many members of Congress and show them how the United Nations continues to accept as members two allegedly independent states which, in fact, have been a part of the Soviet Union since 1918. It certainly is time for international law to be invoked if the United Nations is to be respected as an institution composed of a group of truly independent governments.

COURT CHOICES NEEDED TO RESTORE BALANCE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. DERWINSKI. Mr. Speaker, the reaction across the country to the two choices of the President for appointment to the Supreme Court has been, for the most part, positive. I am especially pleased that the outstanding publication serving the district I represent, The Chicago Heights Star, saw fit to strongly endorse the President's choices.

The article follows:

[From the Chicago (Ill.) Heights Star, Oct. 24, 1971]

COURT CHOICES NEEDED TO RESTORE BALANCE

Lewis F. Powell, Jr. and William Rehnquist have followed Spiro Agnew as surprise selections of President Richard M. Nixon. But, surprise or not, we believe that the President's latest choices may do more to restore faith in government and balance on the United States Supreme Court than Agnew ever brought in in Southern votes.

Criticize him if you will, but President Nixon clearly has heard the rising voices of resentment and anger concerning the highest court. Balance is definitely needed and the President has selected two men whom we believe will tip the scales of justice back to that finely balanced positions.

Powell and Rehnquist have already been branded by many as "law and order" apostles; conservatives ready to authorize wire taps in every home; and, proponents of "authoritarian rule." Their critics will probably multiply in number as more biographical information is revealed.

Powell and Rehnquist are both known to favor wire-tapping to catch criminals and subversives. Both men have stated publicly in the past that they fear the dangers of internal subversion and revolution much more than they fear government repression.

While we cannot agree with their first position 100 per cent, we can share their fear of revolutionaries. Fighting underground subversives who throw Molotov cocktails and bomb buildings in cowardly fashion is much more difficult that opposing repressive laws for the laws must be made in full view of the public.

We believe that this nation has grown sick at the sight of a Supreme Court that permits convicted criminals to go free because of minor technicalities. We happen to agree with the President that it is time for the Peace forces to be heard on the Nation's highest court. We share the opinion that there has been too much judicial permissiveness—a permissiveness that is spoiling this society.

We support and applaud the President on his surprise selections and hope that the appointments receive quick confirmation by the Senate. The scale of Justice must be balanced or we will quickly find ourselves in a society where no law is respected and order will be a forgotten word.

MRS. NATAHLI PAINE, RESEARCH ASSOCIATE

HON. WILLIAM R. ANDERSON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. ANDERSON of Tennessee. Mr. Speaker, in a statement I made in the CONGRESSIONAL RECORD, volume 117, part 25, page 32558, on a new treatment for hard drug addiction, the name of research associate, Mrs. Natahli Paine, was inadvertently omitted by the printer. For purposes of RECORD accuracy, deserved recognition and correct history, the heading of sample random interviews should read as follows: Carbon Dioxide Therapy—Rapid Coma Technique Treatment of Drug Addiction: Sample Random Interviews by Natahli Paine, Research Associate.

I would be remiss if I did not note the encouragement and outstanding assistance rendered this project by Natahli Paine, research associate. Mrs. Paine has devoted much time, effort, and talent toward achieving a thorough trial of the new procedure.

POLITICS, THE CONSTITUTION, AND THE WARREN COURT

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. HUNGATE. Mr. Speaker, the October 1971 Journal of the American Bar contains a worthwhile review of a book by Professor Kurland of the University of Chicago on politics, the Constitution, and the Warren Court.

I commend the review and the book to my colleagues for their consideration in this time when the Supreme Court plays such an active role in the daily lives of all our citizens:

POLITICS, THE CONSTITUTION, AND THE WARREN COURT

(By Arthur J. Marinelli, Jr.)

By Philip B. Kurland. University of Chicago Press, 5750 Ellis Avenue, Chicago, Illinois 60637. 1970. $9.75. Pages 222. *Reviewed by Arthur J. Marinelli, Jr., of the Ohio Bar (Athens).*

Professor Kurland examines the significance of the Warren Court in the context of the Court's relationship to the other branches of government and in the light of American constitutional history. In five essays based on the Cooley lectures he delivered at the University of Michigan Law School, Professor Kurland argues that the Warren Court has contributed much to the centralization of power and authority in the national government over local governments. He believes the Warren Court accepted one of its most essential functions in being the guardian of interests that would otherwise be unrepresented in the government of the country. The Court protected the individual against government and minorities against the tyranny of the majority.

He believes the Warren Court suffered from three basic failings. First, it preferred to write codes of conduct rather than resolve particular controversies. He suggests that the Court carried every position to its logical extreme. In many cases this resulted in one-dimensional thinking that tended to ignore countervailing interests in society. Second, the Court failed to recognize that it is not equipped with the data-gathering machinery for broad rulemaking as distinguished from the resolution of particular litigation. The Court's major failing was to command and coerce without providing the reasoning and persuasion necessary to convince. Professor Kurland writes that "The Nixon Court has awesome tasks before it: To match the Warren Court attainments in the protection of individuals and minorities that today justifies the Court's existence; to restore the confidence of the American Public in the rule of law. One or the other is not enough."

Professor Kurland believes that the Warren Court was not a creator of any major doctrines in the areas for which it has become best known. School desegregation cases and the reapportionment cases were in the making long before the Warren Court's opinions were rendered. The development of the concept of equality as a constitutional standard was the major new frontier the Court has developed. It is in his chapter on "Egalitarianism and the Warren Court" that Professor Kurland discusses the evolving concepts of "substantive equal protection" and "state action". Egalitarianism has been one of the principal factors shaping current constitutional decisions, especially if the demand for racial justice is included within egalitarian influence.

The Court was in a state of tension with Congress during the entire tenure of Chief Justice Warren. However, the author points out, the Court's decisions were only mildly restrictive of executive power, and the Court faces a danger of submission only when the Congress and the President join forces. Since the Warren Court did not engage in conflict with the President, it was never in any real danger of submission.

The Warren Court carried on the great tradition of its predecessors in placing restraint on state power. The school desegregation cases, the criminal procedure cases, the reapportionment cases collectively manifest a shift of power from the states to the nation. Professor Kurland sees this phenomenon illustrated in the labor law cases and to a less marked degrees in the absorbing of corporation law into the national domain.

Professor Kurland should be commended for this outstanding work. The author has used his great knowledge of constitutional law and history extremely well. Recommended reading for every lawyer interested in constitutional law, this book provides a valuable framework for understanding many of the great legal issues of our time and many of the issues likely to face the Nixon Court.

APPEALS COURT RENDERS DECISION ON THREE SISTERS BRIDGE

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. FAUNTROY. Mr. Speaker, today, I am placing in the RECORD the text of the opinion filed by Chief Judge David Bazelon of the U.S. Court of Appeals for the District of Columbia in the case of District of Columbia Federation of Civic Associations against Volpe, which is concerned about the controversy of the Three Sisters Bridge.

In an earlier appeal, the court held that the bridge could not be built except in compliance with the hearing, environmental protection, safety, and other requirements of Federal law applicable to the construction of federally assisted highway projects. In this decision, the court finds that these statutory requirements were not met and remanded the case to the Secretary of Transportation for a determination as required by the law.

Among the issues that require a determination is whether there is "no feasible and prudent alternative to the use of such—parkland or historic sites—land," and that the "project includes all possible planning to minimize harm to such." Another of these determinations which must be made is that the highway project be "based on a continuing comprehensive transportation planning process" as determined by the Department and not by some other agency. Additionally, the court held that the Secretary must make his determinations only on the

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merits of the issue without consideration of the pressures or concerns not made "relevant by Congress in the applicable statutes."

It seems to me that this opinion is a clear and well reasoned chapter in this long and tortuous imbroglio over this bridge. I commend its reading to my colleagues in the Congress, because I think it clearly sets out the issues and provides some clear and definitive guidelines that can end the acrimony over what ought to be something which is decided reasonably by reasonable men:

[U.S. Court of Appeals for the District of Columbia Circuit]

Appeals from the U.S. District Court for the District of Columbia

No. 24,838: D.C. Federation of Civic Associations, et al., Appellants, v. John A. Volpe, Secretary of Transportation, et al.

No. 24,843: D.C. Federation of Civic Associations, et al., v. John A. Volpe, Secretary of Transportation, Appellant; the District of Columbia, et al., Walter J. Hickel, Secretary of Interior, et al., Appellants.

Decided October 12, 1971.

Messrs. Roberts B. Owen and *Gerald P. Norton* for appellants in No. 24,838 and appellees in No. 24,843.

Mr. Thomas L. McKevitt, Attorney, Department of Justice, with whom *Assistant Attorney General Kashiwa*, *Messrs. Thomas A. Flannery*, United States Attorney, *Joseph M. Hannon*, Assistant United States Attorney, and *Edmund B. Clark*, Attorney, Department of Justice, were on the brief, for federal appellees in No. 24,838 and federal appellants in No. 24,843.

Mr. John E. Hess, Assistant Corporation Counsel for the District of Columbia, with *Messrs. C. Francis Murphy*, Corporation Counsel, and *Richard W. Barton*, Assistant Corporation Counsel, were on the brief, for D.C. appellees in No. 24,838 and D.C. appellants in No. 24,843.

Before BAZELON, *Chief Judge*, FAHY, *Senior Circuit Judge*, and MACKINNON, *Circuit Judge*.*

Opinion filed by BAZELON, *Chief Judge*. Circuit Judge MACKINNON dissents.*

BAZELON, *Chief Judge:* This appeal injects us back into the midst of a long and sometimes acrimonious imbroglio over the proposed construction of a bridge across the Potomac River from Virginia into the District of Columbia. In an earlier appeal we held that the so-called Three Sisters Bridge could not be built except in compliance with the hearing, environmental protection, safety, and other provisions of federal law applicable to the construction of federally-assisted highway projects.[1] That question, accordingly, is no longer open. We must now decide whether the Department of Transportation did, in fact and in law, heed the applicable federal statutes when it decided that the bridge should be built. On the basis of an extended factual inquiry, the District Court concluded that the Department had failed to comply with some of the provisions.[2] We affirm that part of the District Court's judgment. As to the provisions with which the District Court's judgment. As to the provisions with which the District Court found compliance, however, we have concluded that the statutory requirements were not satisfied, and the case will therefore be remanded to afford the Secretary an opportunity to make appropriate determinations as required by the statute.

The factual background of this dispute has been described in detail in our earlier opinion [3] and in the opinion of the District Court.[4] Briefly stated, the controversy concerns a projected bridge between the Georgetown waterfront in the District of Columbia and Spout Run in Virginia. The bridge, which would be part of the Interstate Highway System and would be built largely with federal funds, would traverse the Three Sisters Islands, would "affect the Georgetown Historic District," [5] and would use some parkland. The precise amount of harm to parkland and historic sites has not yet been determined, however, since the planning of the bridge—including the approaches and access roads—is not yet finalized.[6] A source of continuous controversy since its conception, the proposed bridge was deleted from the Interstate Highway System in January, 1969, when the National Capital Planning Commission, the official planning body for the District, adopted "a comprehensive transportation plan which did not include the Three Sisters Bridge." [7] The bridge was redesignated part of the Interstate System six months later after Representative Natcher, Chairman of the Subcommittee on the District of Columbia of the House Appropriations Committee, indicated unmistakably that money for construction of the District's subway system would be withheld if the bridge plan were not revived.[8] To satisfy the Chairman, it was necessary, first, for the District of Columbia City Council to reverse its earlier position,[9] and vote to approve the project. On August 9, 1969, the District government so voted, with the swing members loudly protesting that they would not have changed their votes but for the pressures exerted by Representative Natcher.[10] The second prerequisite of redesignation was a decision by Transportation Secretary Volpe that the project should go ahead as part of the Interstate System. He announced that decision on August 12, 1969, and the project sprang full-blown back to life on the following day.

On April 6, 1970, we held that the hearing and planning requirements of title 23 of the United States Code were fully applicable to this project notwithstanding a 1968 Act directing that construction of the bridge begin not later than thirty days after the Act's passage.[11] We remanded the case to the trial court for an evidentiary hearing to determine whether the Secretary had complied with the pertinent provisions in concluding that the project should be revived. The case is before us on appeal and cross-appeal from the trial court's decision.

I

Given our earlier decision, the Secretary's approval of the bridge must be predicated on compliance with a number of statutory provisions. Plaintiffs [12] challenge with two lines of argument the District Court's finding of compliance. First, they maintain that the Secretary's determinations under the statute were tainted by his consideration of extraneous factors unrelated to the merits of the questions presented. They allege—and argue, moreover, that the District Court specifically found—that pressures exerted by Representative Natcher contributed to the decision to approve the bridge. Second, they argue that quite apart from the allegations of pressure, the record and applicable legal principles do not support a finding of compliance. The two strands of argument are plainly related, in plaintiff's view, since the alleged shortcomings under each statutory provision illustrates and lend substance to the argument that the rational, impartial evaluation of the project envisioned by the statute was impermissibly distorted by extraneous pressures. We consider first plaintiff's argument that the determinations could not stand even if there had been no extraneous pressure.

A. Requirements of § 138

If a proposed federally-assisted highway project would encroach on parkland or historic sites, the Secretary of Transportation must determine before construction can begin that there is "no feasible and prudent alternative to the use of such land," and, assuming such a finding, that "the project includes all possible planning to minimize harm to such park . . . or historic sit." [13] The District Court concluded that Secretary Volpe had complied with each of these requirements.

In defending the Secretary's action, the government can hardly maintain that there was no "feasible" alternative to construction of the Three Sister Bridge. This exemption applies, as the Supreme Court indicated in *Citizens to Preserve Overton Park, Inc. v. Volpe*, only if the Secretary finds that "as a matter of *sound engineering*, it would not be feasible to build the highway along any other route." [14] It could still be argued, however, that the Secretary rejected each of the feasible alternatives because none of them was "prudent." In construing this exemption, the Supreme Court pointed out that the very existence of the statute indicates that protection of parkland was to be given paramount importance. The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative routes reached extraordinary magnitudes. If the statutes are to have any meaning, the Secretary cannot approve the destruction of parkland unless he finds that alternative routes present unique problems.[14]

Our review of the Secretary's determination is hindered not only by the lack of any formal findings, but also by the absence of a "meaningful administrative record within the Department of Transportation evidencing the fact that proper consideration has been given to the requirements of this section." [15] However regrettable, the failure to provide explicit findings indicating why all possible alternatives to the bridge would be unfeasible or imprudent does not, in itself, invalidate the Secretary's action.[16] But the complete non-existence of any contemporaneous administrative record is more serious. Absent a record, judicial review of the Secretary's action can be little more than a formality [17] unless the District Court takes the disfavored step of requiring the Secretary to testify as to the basis of his decision.[18] And even the Secretary's "*post hoc*" rationalizations," [19] filtered through a factfinder's understandable reluctance to disbelieve the testimony of a Cabinet officer, will rarely provide an effective basis for review. Furthermore, it is hard to see how, without the aid of any record, the Secretary could satisfactorily make the determinations required by statute. The absence of a record, in other words, simultaneously obfuscates the process of review and signals sharply the need for careful scrutiny.

Secretary Volpe's testimony before the District Court did little to allay the doubts generated by the lack of an administrative record. Indeed, his testimony—on occasion uncertain and inconsistent with the testimony of others [20]—itself gives rise to at least a serious question whether he considered all possible alternatives to the plan eventually approved. It is clear, moreover, that the Department of Transportation failed to apply its own procedures generally applicable to determinations under § 138.[21] That failure is especially disquieting since the procedures at issue were designed specifically to insure that determinations under § 138 would be made, in the Secretary's words, only after "a great amount of real independent and genuine review [by] people who were not particularly highway oriented. . . ." [22]

Furthermore, an apparent misconception about our earlier decision may itself have distorted the Secretary's determination under § 138. The government has read our earlier opinion to mean that a bridge must be built, albeit in accordance with the provisions of title 23, somewhere in the vicinity of the proposed Three Sisters Bridge. Congress did direct, as we previously indicated, "that a bridge be built over the Potomac following the general configurations laid out in the cost estimates." [23] Viewed in context, however, the statement does not convey the meaning which the government suggests, for we held that "nothing in the statute indicates that Congress intended the bridge to be built contrary to its own laws." [24] If the bridge cannot be built consistently with applicable law, then plainly it must not be built. It is not inconceivable, for example, that the Secretary might determine that present and foreseeable traffic needs can be handled (perhaps by expansion of existing bridges) without construction of an additional river crossing. In that case, an entirely prudent and feasible alternative to the Three Sisters Bridge might be no bridge at all,[25] and its construction would violate § 138. Thus, the Secretary may have disregarded one possible prudent and feasible alternative to the use of parkland and historic sites on the mistaken assumption that that alternative was foreclosed by our earlier decision.[26]

While these difficulties give rise to at least a substantial inference that the Secretary failed to comply with § 138, that inference ripens into certainty when one turns to the second determination required by § 138. Before the project can begin, the Secretary must determine that all possible planning has been done to minimize harm to the affected parkland and historic sites. Yet the District Court found, and the Secretary apparently concedes, that final design of the ramps and interchanges is not yet complete. Thus, when Secretary Volpe purportedly complied with § 138 in August, 1969, he could at best have been "satisfied . . . that the designs which *would* be developed based on the preliminary plans *would* result in a minimum taking of parkland," [27] but he could not have concluded that the necessary planning had already been done. The District Court reasoned that the expectation of future planning could satisfy § 138. But that reasoning seems inconsistent with the Supreme Court's subsequent admonition that § 138 can be obeyed "only if there *has* been 'all possible planning to minimize harm' to the park." [28] Moreover, the District Court approved the § 138 determination on the basis of the Secretary's testimony that a "minimum of parkland would be taken" for the ramps and interchanges.[29] More is at stake, however, than the "minimum taking" of parkland. Section 138 speaks in terms of minimizing "harm" to parkland and historic sites, and the evaluation of harm requires a far more subtle calculation than merely totaling the number of acres to be asphalted. For example, the location of the affected acres in relation to the remainder of the parkland may be a more important determination, from the standpoint of harm to the park, than determining the number of affected acres. The Secretary has not yet determined which acres will be taken. In addition, a project which respects a park's territorial integrity may still, by means of noise, air pollution and general unsightliness, dissipate its aesthetic value, crush its wildlife, defoliate its vegetation, and "take" it in every practical sense.[30]

Absent a finalized plan for the bridge, it is hard to see how the Department could make a meaningful evaluation of "harm." Furthermore, Secretary Volpe did not consult with other planning agencies to coordinate efforts to minimize harm to the park and historic sites.[31] He also made no studies of potential air pollution damage to the park. His approval of the project under § 138 was, in short, entirely premature, and we hold that he must make new determinations consistent with the statutory standards.

B. Requirements of § 134

The Secretary cannot approve federally-assisted highway projects in urban areas unless he finds "that such projects are based on a continuing comprehensive transportation planning process" carried out in conformance with Congress's objective of promoting the development of transportation systems.[32] The Secretary reasoned, and the District Court approved his reasoning, that the bridge project was consistent with such a planning process since the bridge had been approved by, and was subject to the continuing scrutiny of, the Transportation Planning Board (TPB) of the Metropolitan Washington Council of Governments.[33] Plaintiffs, on the other hand, emphatically deny compliance with § 134 on the grounds that the "comprehensive transportation plan promulgated by the National Capital Planning Commission (NCPC) in December, 1968, specifically 'rejects the Three Sisters Bridge . . . as being both unnecessary and undesirable.'" [34] While plaintiffs point out that NCPC is the official planning agency for the District of Columbia and that it alone has prepared a comprehensive transportation plan, the government contends that the Council of Governments, unlike the NCPC, is a regional organization which must consider the interests of the surrounding jurisdictions.

We are unwilling to resolve this dispute by some abstract balancing of NCPC disapproval against TPB approval. That approach would, we are convinced, entirely miss the point of § 134. That section does not suggest that the Secretary has satisfied his statutory responsibility as soon as he has found a single plan which incorporates a proposed highway project. Nor can it reasonably be interpreted to mean that the project must be approved by every plan applicable to the affected region. The section speaks, after all, in terms of "planning," not "plans," and it is not our function to decide that one plan has merit while another does not. Rather, it is for the Secretary to determine whether a particular project will be consistent with sound transportation planning for the region.

Decisionmaking responsibility under § 134 has been delegated by Secretary Volpe to the Public Roads Division Engineer, Mr. Hall. Mr. Hall disregarded NCPC disapproval of the project because he believed that "TPB was the primary agency to which he should look in making his finding." [35] The District Court approved his finding on that same reasoning. But that reasoning cannot do service for the more sophisticated determination required by the statute. In making his "mental" finding [36] of compliance with § 134, Mr. Hall apparently did no more than adopt TPB's conclusion that the project was "consistent with comprehensive planning" for the region.[37] Yet that is precisely the determination that the Department of Transportation, taking into account the recommendations of local plans, must make. The statute plainly does not permit the Department to delegate its statutory responsibility to a local planning agency. On remand, the Department must reevaluate the project in light of the purposes of § 134.

Since the determination was not grounded on a correct understanding of the statute's requirements, we need not now decide whether the substantive result, if reached pursuant to appropriate procedures, would itself be supportable. But to aid the Department's redetermination under § 134, we should make clear our misgivings about the result and our doubts that it could be upheld on the present record even under the constrained standard of substantive review.[38] TPB approved the bridge project in 1967, two years before Mr. Hall made his finding under § 134.[39] No comprehensive transportation plan had been adopted at that time, either by TPB or any other planning agency. NCPC, which did not formulate its plan until December, 1968, was on record at the time of TPB's action in 1967 as approving the bridge project. TPB approved the project not under § 134, but under the Demonstration Cities and Metropolitan Development Act of 1966.[40] NCPC, on the other hand, developed a transportation plan in response to President Johnson's call for the development of a "comprehensive plan for a D.C. highway system" which would permit the Department of Transportation to determine whether the Three Sisters Bridge and other projects would be "appropriate links" in such a plan; [41] it then rejected the bridge proposal. And even if TPB approval were not—at least on its face—stale, inapposite, and unsupported by any underlying, comprehensive plan, we would still have difficulty accepting the Department's finding without some explanation of how the § 134 determination could be made *before* plans for the bridge are finalized.[42] Nothing in the record suggests that TPB approval—whatever its other apparent shortcomings—embraced each conceivable design that might eventually be adopted.

C. Requirements of § 109(a)

The Secretary's approval of plans for a federally-assisted highway project is conditioned on a determination that the proposed facility will "adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance." [43] The District Court held that planning for the Three Sisters Bridge had not "proceeded to a sufficient degree for the responsible officials to determine that the planned facility is structurally feasible." [44] Accordingly, the Court enjoined construction of the bridge until the planning had advanced to a stage where structural feasibility was assured. We find the District Court's judgment consistent with the statute and the facts presented, and it is therefore affirmed.

Plaintiffs also argue, however, that the project was approved before the Secretary could be certain, first, that river bed conditions would support the bridge, and second, that no safety hazard would arise from the increase in air pollution attributable to traffic on the bridge. Again, we are unable to accept the District Court's disposition. With regard to river bed conditions, the District Court noted that [b]efore the construction of a bridge, it is necessary to make extensive investigations of subsurface conditions to determine if they are sufficient to support the foundations for the bridge piers. This is done primarily by means of borings . . . At the time Mr. Hall approved the plans, specifications and estimates for the pier construction, these borings had not been completed, and subsequently problems developed so that the plans for the project had to be modified.[45]

Called to testify before the District Court, Mr. Hall still could not be certain "that the present planned foundation is adequate." [46] Nevertheless, the District Court found compliance with § 109 because of Mr. Hall's testimony "that there is no question that the piers can be built to support the bridge as presently planned." [47] The Department of Transportation is obviously unwilling to construct a bridge known to be unsafe, and during the course of construction the Department would surely verify the suitability of the river bed conditions. But § 109(a) requires not only that the bridge be safe, but also—and no less important—that its safety be ascertained *before* the Secretary approves the project. That requirement minimizes the safety hazards and at the same time insures that public funds will not be squandered on a demonstrably unsafe proposal. Where planning reveals defects in design or location,

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those defects can be corrected on paper rather than on steel and concrete.

The District Court's findings are not entirely clear as to whether questions about the safety of river-bed conditions could be more fully resolved before construction resumes. We hold that if such questions do exist, the Secretary must take steps to resolve them to the fullest practical extent before granting approval of the project under § 109(a).

Plaintiffs' second contention under § 109 (a) concerns the dangers of air pollution. The District Court concluded that evidence of a potential air pollution hazard was insufficient to support a finding "that the defendants are required to undertake a study of such [air pollution] effects." [48] We can find no basis in the statute's language or purpose for the conclusion that certain hazards are, as a matter of law, immaterial to the Secretary's evaluation of a project's safety. The District Court would surely agree that Congress did not intend to permit construction of a bridge in a situation, however rare, where air pollution would be a significant threat to safety. It does not follow, of course, that air pollution will be a significant hazard in all—or even any—highway projects. And the District Court apparently concluded that no extraordinary dangers are likely to arise from the Three Sisters Bridge. Still, the gathering and evaluation of evidence on potential pollution hazards is the responsibility of the Secretary of Transportation, and he undertook no study of the problem. His staff has far greater resources and expertise on this matter than the District Court, and it is possible that a study by the Department would reveal significant dangers which had escaped the attention of the District Court. Inquiry into this issue cannot be foreclosed merely because the District Court found no significant evidence of air pollution hazards. That determination must be made in the first instance by the Secretary of Transportation.[49]

D. Requirements of § 128

Section 128 [50] requires that public hearings be held before construction can begin. In the earlier appeal we specifically held applicable to the Three Sisters Bridge project not only § 128, but also the Department of Transportation's implementing regulations.[51] Those regulations require, in certain specified situations, a hearing on project location and a hearing on project design. After exhaustive consideration of the record, the District Court concluded that the Department had not complied with the design hearing requirement, but that the location hearing requirement had been satisfied.

While the government did not admit error with regard to the design hearing, it nevertheless chose to hold the necessary hearing in a commendable effort to reduce the number of issues outstanding.[52] Since the question has now been mooted, we express no opinion on the District Court's conclusion. As for the location hearing, the District Court reasoned that a hearing held in 1964 satisfied the requirement, even though different proposals were the subject of that hearing,[53] since the change in plan was "so insubstantial that the public would not be affected any differently than by the original proposal which formed the basis for the first hearing . . . ." [54] We have no quarrel with the District Court's reasoning, but on the present record we are unable to accept its application to this case. Of the proposals submitted at the 1964 hearing, the one most similar to current plans for the bridge was still off by 1,500 feet on the District of Columbia shore and 950 feet on the Virginia shore.[55] Ramps and interchanges as well as the routing of traffic have also been substantially redesigned. Nevertheless, the District Court could not "conceive how any members of the public would be affected differently by the present location than by one of the three" considered in 1964.[56] It is entirely conceivable to us that the differences in the plans would, in fact, have a substantially different impact on persons on both shores. We would be reluctant, of course, to disturb the District Court's finding of fact on this point if it were clear that a finding had actually been made. But there is no indication in the record before us that the District Court gathered evidence on this issue, and we have nothing to support the conclusion but the conclusion itself. Moreover, in making the determinations required by this opinion, the Secretary may conclude that current plans must be abandoned in favor of a new location. Accordingly, we remand this issue to the District Court for clarification of the factual basis of its conclusion, and for reconsideration in light of any further location changes the Secretary of Transportation may order.[57]

E. Requirements of § 317

If the Secretary determines that lands owned by the United States are needed for a proposed highway project, he must file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which it is desired to appropriate.[58]

After concluding that the bridge project would use federal parklands under the jurisdiction of the Interior Department's National Park Service, and after noting defendant's admission that a map had not been filed, the District Court went on to find "compliance with the spirit, if not the letter, of § 317." [59] The court based its finding on the consultation between the Transportation and Interior Departments with regard to this project, and on the issuance by the latter of permits for the use of the parkland.

We agree with the District Court that the failure to supply a map should not be an absolute bar to the construction of the bridge if the purposes of § 317 have in fact been realized. That section is designed, as the District Court acknowledged, to require the Secretary of Transportation to give notice to the Secretary of the Department having control of the land, and provide a means by which the latter may protect any governmental interest in use of the property for purposes other than highway construction.[60]

We need not decide whether the District Court erred in finding compliance with the spirit of § 317. In view of our conclusion that the case must be remanded for new determinations, it would not appear to be a significant burden on the Department to remove all doubts under this section by filing the appropriate map.[61]

F. Provisions other than title 23

At the hearing below, the District Court barred plaintiffs from presenting evidence on a number of allegations in their complaint because those allegations related to statutory provisions which the District Court found inapplicable to the Three Sisters Bridge project. Thus, the Court concluded that the project was exempted by Congress from compliance with certain provisions of the federal Code, as well as provisions of the District of Columbia Code.[62]

In 1968 we held in *D.C. Federation of Civic Associations, Inc.* v. *Airis* [63] that this project must comply with pertinent requirements of the D.C. Code. Later that year, Congress directed, in Section 23 of the Federal-Aid Highway Act, that [n]otwithstanding any other provisions of law or any court decision or administrative action to the contrary . . . construction [of the Three Sisters Bridge] shall be undertaken as soon as possible . . . and shall be carried out in accordance with all applicable provisions of Title 23 of the United States Code.[64]

The District Court then held explicitly that the Three Sisters Bridge had been exempted from all of the pre-construction provisions of title 23, and implicitly that the the bridge had been exempted from the comparable provisions of the D.C. Code.[65] On appeal from that decision, we held that the bridge must comply with all applicable provisions of title 23. Our opinion did not indicate flatly, however, that the project must also comply with non-title 23 provisions. In view of the District Court's conclusion that compliance with non-title 23 provisions is not required, we must now resolve the ambiguity arguably left by our earlier opinion.

The applicability of these provisions was not squarely faced in the parties' briefs,[66] nor was it discussed at oral argument. While our earlier opinion did make one specific reference to the issue, the parties now draw opposite conclusions from that reference. Discussing section 23's directive that the bridge be built "notwithstanding any . . . court decision . . . to the contrary," we pointed out that [p]resumably the "court decision" language refers to our decision in *Airis* [holding D.C. Code provisions applicable to the Three Sisters Bridge], but the reference is mistaken since that decision was not "to the contrary." [67]

Under these circumstances, we are reluctant to resolve the dispute without providing the parties an opportunity to discuss the question on the merits. Accordingly, we defer judgment on this issue to permit the parties to file, within twenty days from the date of this opinion, memoranda dealing with the question.

II

As Part I of this opinion makes clear, the Secretary's determinations failed to comply with a significant number of title 23 provisions applicable to the Three Sisters Bridge. Taken as a whole, the defects in the Secretary's determinations—in particular, his effort to make the determinations before plans for the bridge were complete—lend color to plaintiffs' contention that the repeated and public threats by a few Congressional voices did have an impact on the Secretary's decisions. As the District Court pointed out, [t]here is no question that the evidence indicates that strong political pressure was applied by certain members of Congress in order to secure approval of the bridge project. Congressman Natcher stated publicly and made no secret of the fact that he would do everything that he could to withhold Congressional appropriations for the District of Columbia rapid transit system, the need for which is universally recognized in the Washington area, until the District complied with the 1968 Act.[68]

When funds for the subway were, in fact, blocked, Representative Natcher made his position perfectly clear, stating that "as soon as the freeway project gets under way beyond recall then we will come back to the House and recommend that construction funds for rapid transit be approved." [69]

The author of this opinion is convinced that the impact of this pressure is sufficient, standing alone, to invalidate the Secretary's action. Even if the Secretary had taken every formal step required by every applicable statutory provision, reversal would be required, in my opinion, because extraneous pressure intruded into the caloulus of considerations on which the Secretary's decision was based. Judge Fahy, on the other hand, has concluded that since critical determinations cannot stand irrespective of the allegations of pressure, he finds it unnecessary to decide the case on this independent ground.

In my view, the District Court clearly and unambiguously found as a fact that the pressure exerted by Representative Natcher and others did have an impact on Secretary Volpe's decision to approve the bridge. The Court pointed out that [t]he statement issued by the Secretary at the time he directed the Federal Highway Administrator to restore the bridge to the Interstate System indicates that the pressure on the rapid transit funds *was a consideration at that time*.[70]

The Court also found, on the basis of the Secretary's contemporaneous statements and his testimony before the Court, that there is no question that the pressure regarding the rapid transit appropriations *was given some consideration* at the time of the approval of the project in August, 1969.[71]

The Secretary's testimony indicated, as the court below pointed out, that "his decision was based on the merits of the project and not *solely* on the extraneous political pressures." [72]

Notwithstanding these findings of fact, the Court determined as a matter of law that since the Secretary was not acting in a judicial or quasi-judicial capacity, his decision would be invalid only if based *solely* on these extraneous considerations.[73] I cannot accept that formulation of the applicable legal principle. While Judge Fahy is not entirely convinced that the District Court ultimately found as a fact that the extraneous pressure had influenced the Secretary's decision—a point which is for me clear—he has authorized me to note his concurrence in my discussion of the controlling principle of law: namely, that the decision would be invalid if based in whole or in part on the pressures emanating from Representative Natcher. Judge Fahy agrees, and we therefore hold, that on remand the Secretary must make new determinations based strictly on the merits and completely without regard to any considerations not made relevant by Congress in the applicable statutes.

The District Court was surely correct in concluding that the Secretary's action was not judicial or quasi-judicial,[74] and for that reason we agree that much of the doctrine cited by plaintiffs [75] is inapposite. If he had been acting in such a capacity, plaintiffs could have forcefully argued that the decision was invalid because of the decision-maker's bias,[76] or because he had received ex parte communications.[77] Well-established principles could have been invoked to support these arguments, and plaintiffs might have prevailed even without showing that the pressure had actually influenced the Secretary's decision.[78] With regard to judicial decisionmaking, whether by court or agency, the appearance of bias or pressure may be no less objectionable that the reality. But since the Secretary's action was not judicial, that rationale has no application here.

If, on the other hand, the Secretary's action had been purely legislative, we might have agreed with the District Court that his decision could stand in spite of a finding that he had considered extraneous pressures. Beginning with *Fletcher v. Peck*,[79] the Supreme Court has maintained that a statute cannot be invalidated merely because the legislature's action was motivated by impermissible considerations (except, perhaps, in special circumstances not applicable here [80]). Indeed, that very principle requires us to reject plaintiffs' argument that the approval of the bridge by the District of Columbia City Council was in some sense invalid. We do not sit in judgment of the motives of the District's legislative body, nor do we have authority to review its decisions. The City Council's action constituted, in our view, the approval of the project required by statute.[81]

Thus, the underlying problem cannot be illuminated by a simplistic effort to force the Secretary's action into a purely judicial or purely legislative mold. His decision was not "judicial" in that he was not required to base it solely on a formal record established at a public hearing. At the same time, it was not purely "legislative" since Congress had already established the boundaries within which his discretion could operate. But even though his action fell between these two conceptual extremes, it is still governed by principles that we had thought elementary and beyond dispute. If, in the course of reaching his decision, Secretary Volpe took into account "considerations that Congress could not have intended to make relevant," [82] his action proceeded from an erroneous premise [83] and his decision cannot stand.[84] The error would be more flagrant, of course, if the Secretary had based his decision solely on the pressures generated by Representative Natcher. But it should be clear that his action would not be immunized merely because he also considered some relevant factors.[85]

It is plainly not our function to establish the parameters of relevance. Congress has carried out that task in its delegation of authority to the Secretary of Transportation. Nor are we charged with the power to decide where or when bridges should be built. That responsibility has been entrusted by Congress to, among others, the Secretary, who has the expertise and information to make a decision pursuant to the statutory standards. So long as the Secretary applies his expertise to considerations Congress intended to make relevant, he acts within his discretion and our role as a reviewing court is constrained. We do not hold, in other words, that the bridge can never be built. Nor do we know or mean to suggest that the information now available to the Secretary is necessarily insufficient to justify construction of the bridge. We hold only that the Secretary must reach his decision strictly on the merits and in the manner prescribed by statute, without reference to irrelevant or extraneous considerations.

For the purposes of the foregoing discussion, we have assumed that pressures exerted by Congressional advocates of the bridge are irrelevant to the merits of the questions presented to Secretary Volpe. It does not seem possible to make even a colorable argument of relevance except with regard to § 138. It might be argued that the potential loss of the subway was the type of "unique problem" and cost of "extraordinary magnitude" [86] that the Secretary could properly consider in deciding, pursuant to § 138, that there were no prudent alternatives to the use of parkland for the bridge. The Secretary plainly understood that the price of abandoning, modifying, or even delaying construction of the bridge was the loss of appropriations for the District's subway. He undoubtedly viewed the prospect of that loss with understandable alarm, and may have concluded that the destruction of parkland was inescapable and appropriate in the face of Representative Natcher's clear and enforceable threat. We cannot agree, however, that a determination grounded on that reasoning would satisify the requirements of § 138.

Neither the section's legislative history nor the Supreme Court's decision in *Overton Park* indicates clearly whether or not this sort of consideration should be deemed relevant. We are persuaded, however, that holding these pressures relevant would effectively emasculate the statutory scheme. The purpose of § 138, in our view, was to preserve parkland by directing the Secretary to reject its use except in the most unusual situation where no alternative would be available. The "unusual situation" posited here is entirely the product of the action of a small group of men with strongly-held views on the desirability of the bridge, who, it may be assumed, are acting with the interests of public at heart. They may well be correct in concluding that a new bridge is needed and that no alternative location is available. But no matter how sound their reasoning nor how lofty their motives, they cannot usurp the function vested by Act of Congress in the Secretary of Transportation. Until the statute is amended or repealed by another Act of Congress, the Secretary must himself decide, bearing in mind the statute's mandate for the preservation of parkland, whether a prudent alternative is available. Congress could not have contemplated that an alternative would be "imprudent" merely because persons who are convinced that parkland should be used have the power to decree that all alternatives to the use of that parkland shall henceforth be agonizing. Our interpretation of § 138 is essential if the Secretary is to be insulated from extraneous pressures that have no relevance to his assigned statutory task.

To avoid any misconceptions about the nature of our holding, we emphasize that we have not found—nor, for that matter, have we sought—any suggestion of impropriety or illegality in the actions of Representative Natcher and others who strongly advocate the bridge. They are surely entitled to their own views on the need for the Three Sisters Bridge, and we indicate no opinion on their authority to exert pressure on Secretary Volpe. Nor do we mean to suggest that Secretary Volpe acted in bad faith or in deliberate disregard of his statutory responsibilities. He was placed, through the action of others, in an extremely treacherous position. Our holding is designed, if not to extricate him from that position, at least to enhance his ability to obey the statutory command notwithstanding the difficult position in which he was placed.

III

We conclude that the case should be remanded to the District Court with directions that it return the case to the Secretary [87] for him to perform his statutory function in accordance with this opinion. It seems clear that even though formal administrative findings are not required by statute, the Secretary could best serve the interests of the parties as well as the reviewing court by establishing a full-scale administrative record which might dispel any doubts about the true basis of his action.[88] Accordingly, the District Court is directed to enjoin construction of the bridge until the defendants have complied with the applicable statutory provisions as set forth in our opinion.

Reversed and remanded.

FOOTNOTES

*Judge MacKinnon dissents, but in the interests of expediting this matter consents to the immediate release of the majority opinion and reserves his right to file a dissenting opinion.

[1] D.C. Federation of Civic Ass'ns, Inc. v. Volpe, — U.S. App. D.C. —, 434 F.2d 436 (1970), holding that "both the planning and building provisions of Title 23." *Id.* at 447. In their complaint before the District Court on remand plaintiffs alleged that the Secretary had not complied with the following provisions: 23 U.S.C. §§ 102, 103, 128(a), 134, 138, and 317 (1970), and the regulations implementing § 128(a), 23 C.F.R. Part 1, App. A (1970). Apart from alleged violations of title 23, plaintiffs also complained of violations of various sections of title 7 of the District of Columbia Code, and of 16 U.S.C. §§ 1, 470 (1970); 33 U.S.C. §§ 401, 403, 525 (1970); and 49 U.S.C. § 1655 (1970). At the commencement of trial, the District Court granted plaintiffs' motion to amend their complaint to allege also a violation of 23 U.S.C. § 109(a) (1970). The Court granted plaintiffs a hearing on each complaint under title 23, but not under any of the other statutory provisions. *See* p. — *infra;* D.C. Federation of Civic Ass'ns, Inc. v. Volpe, 316 F. Supp. 754, 761 & nn. 13–14 (D.D.C. 1970).

[2] 316 F. Supp. 754 (D.D.C. 1970).

[3] 434 F.2d 436 (1970).

[4] 316 F. Supp. 754 (D.D.C. 1970).

[5] *Id.* at 769.

[6] *Id.* at 774.

[7] *Id.* at 759.

[8] *Id.*

[9] On Jan. 17, 1969, the District's City Coun-

Footnotes at end of article.

cil had voted to approve the NCPC transportation plan which rejected the Three Sisters Bridge as unnecessary and undesirable. *Id.*

[10] *Id.* at 764, 767.

[11] Pub. L. No. 90–495, 82 Stat. 827 (1968); *see* p. —— *infra*.

[12] For purposes of this opinion we refer to appellants (and cross-appellees) in this Court as "plaintiffs," and to appellees (and cross-appellants) as "defendants." 23 U.S.C. § 138 (1970).

[13] 401 U.S. 402, 411 (1971).

[14] *Id.* at 412–13.

[15] 316 F. Supp. at 769.

[16] Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 409 (1971). *But see* note 88 *infra*.

[17] *Id.* at 420 ("review [of the Secretary's decision] is to be based on the full administrative record that was before the Secretary at the time he made his decision"). *See also* Environmental Defense Fund v. Ruckelshaus, —— U.S. App. D.C. ——, 439 F.2d 584, 598 (1971).

[18] Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 420 (1971); United States v. Morgan, 313 U.S. 409, 422 (1941).

[19] Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 420 (1971) ("Such an explanation will, to some extent, be a '*post hoc* rationalization' and thus must be viewed critically.").

[20] Secretary Volpe testified, for example, that he "believed that he had consulted with Mr. Braman's office with respect to the Bridge project." (Transcript at 808–09), but Mr. Braman pointed out that his office was "not involved in the Three Sisters matter at any time." (Tr. at 1005). The Secretary also testified that the Federal Highway Administrator, Mr. Turner, had discussed with him the § 138 problem, and that the Administrator had made an oral recommendation. (Tr. at 722). Nevertheless, Mr. Turner indicated in his testimony that he did not believe he had made any recommendation to the Secretary or had even discussed with him the specific question of the determination under § 138. (Tr. at 977). *See generally* Brief for Appellants at 34–35. Asked about his consideration of a number of alternatives to the Three Sisters Bridge, Secretary Volpe testified that he could not recall having considered the possibility of a tunnel at "any location other than the Three Sisters Islands," (Tr. at 780), upgrading the Jefferson Davis Highway to Interstate standards (Tr. at 779), or a number of other potential alternatives. *See* Brief for Appellants at 36–38.

[21] 316 F. Supp. at 769–70. The procedures in question involved the Department's Office of Environmental and Urban Systems, headed by Mr. James Braman.

[22] Tr. at 644 (testimony of Secretary Volpe).

[23] 434 F. 2d at 446.

[24] *Id.* at 447.

[25] *Cf.* Environmental Defense Fund v. Corps of Engineers, 325 F. Supp. 728 (E. D. Ark. 1971).

[26] Testifying before the District Court, Secretary Volpe did indicate that he "had considered several alternatives including the bridge, *no bridge*, the tunnel, various types of ramp connections etc. . . ." (Tr. at 742) (emphasis added). It is possible, however, that the Secretary might have given that alternatives (and the studies which seem to support it, *see* Brief for Appellants at 36 n. 2) more extensive consideration if his Department had not been convinced, judging by its representations before this Court, that "no bridge" was not a viable alternative in view of Section 23 of the Federal-Aid Highway Act of 1968.

[27] 316 F. Supp. at 775 (emphasis added).

[28] Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 405 (emphasis added).

[29] 316 F. Supp. at 775.

[30] *Compare* Brief for Federal Appellees at 11: "The park areas underneath the bridge would, in essence, remain available for park purpose uses. . . ."

[31] 316 F. Supp. at 794.

[32] 23 U.S.C. § 134 (1970).

[33] 316 F. Supp. at 794.

[34] *Id.*

[35] 316 F. Supp. at 794.

[36] Tr. at 1109.

[37] 316 F. Supp. at 794.

[38] *See* Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 415–16 (1971).

[39] 316 F. Supp. at 794.

[40] 42 U.S.C. § 3334 (1970); *see* 316 F. Supp. at 794 n.57.

[41] Statement of President Johnson, August 23, 1968, 114 Cong. Rec. (Part 24) 30959 (1968).

[42] The Secretary is not required, of course, to resolve every conceivable ambiguity in a proposed plan before testing its compliance with the applicable statutory provisions. But where he does purport to make a determination required by statute, for example under § 134, in advance of the completion of planning, his determination must remain flexible and be subject to continuing reconsideration as the plans for the project mature.

[43] 23 U.S.C. § 109(a) (1970).

[44] 316 F. Supp. at 793.

[45] 316 F. Supp. at 790.

[46] Tr. at 603.

[47] 316 F. Supp. at 790.

[48] 316 F. Supp. at 791.

[49] We express no opinion at this time on the amount or type of investigation which the Secretary should undertake in evaluating the air pollution hazards. In his testimony before the District Court, Secretary Volpe indicated that his Department "consider[s] air pollution in the overall consideration of all our projects," Tr. at 811, and it is possible that the consideration already given would satisfy the requirements of the statute. But the District Court made no findings on the Secretary's action, and approved the project apparently because the evidence seemed insufficient, in its view, to warrant a holding that the Department must undertake a study of the problem. 316 F. Supp. at 791. Rather than returning the case to the District Court for clarification of its findings on this point, it seems most efficient, in view of our remand to the Secretary under other provisions, to permit the Secretary to reconsider at the same time his determination under § 109(a).

[50] 23 U.S.C. § 128(a) (1970).

[51] Policy and Procedure Memorandum 20–8, 23 C.F.R. Part I, App. A (1970).

[52] Naturally, we do not decide whether the design hearing held by the Department complied with the requirements of PPM 20–8 and § 128(a). That question has not been presented to us. If plaintiffs have objections to the hearing, those objections should be lodged in the District Court.

[53] The plan under consideration, the so-called Howard Needles report, proposed three alternative locations for a central Potomac crossing. 316 F. Supp. at 776.

[54] *Id.* at 779.

[55] *Id.* at 778.

[56] *Id.* at 779.

[57] The District Court made an additional finding of error under § 128(a). The section requires that the "State highway department . . . *certify* to the Secretary that it has had public hearings . . ." (emphasis added). The District Court held, and we agree, that the certifying officer "should be one who knows as a fact that the actions to which he is certifying have been taken." 316 F. Supp. at 789. The District Court found that the certifying officer had assumed that certification was appropriate "merely because the project had reached the stage where the certification is normally made." *Id.* That assumption, the District Court held, was an "insufficient basis for the certification." *Id.* at 790. The defendants do not contest that finding, and it is therefore affirmed.

[58] 23 U.S.C. § 317 (1970).

[59] 316 F. Supp. at 796–97.

[60] United States v. 10.69 Acres of Land, 425 F.2d 817, 819 (9th Cir. 1970).

[61] Subsequent to the District Court's decision, the National Park Service announced in a letter (a photocopy of which is included in Brief for Appellants) that it does object to at least one aspect of the bridge plan. Leter from George B. Hartzog, Jr., Director, National Park Service, Department of the Interior, to Martin K. Schaller, Executive Secretary, Office of the Mayor-Commissioner, Dec. 15, 1970, reproduced in Brief for Appellants at App. A. That objection, moreover, includes an allegation that current plans for the bridge "conflict with [the Service's] understanding of the terms of an agreement signed May 25, 1966, by the National Park Service" and the Virginia and District of Columbia highway departments. It is precisely that prior—and, perhaps, misconstrued—agreement on which the government now relies to demonstrate compliance with the "spirit" of § 317. The letter may, in other words, have undercut the factual predicate of the District Court's reasoning. Whatever the significance of this attempted supplementation of the record, it is clear that any doubts will be removed by our holding that the Secretary must comply with the letter of § 317.

[62] At issue are 16 U.S.C. §§ 1, 470; 33 U.S.C. §§ 401, 403, and 525; 49 U.S.C. § 1655 (1970), and various sections of title 7 of the District of Columbia Code.

[63] 129 U.S. App. D.C. 125, 391 F. 2d 478 (1968).

[64] Pub. L. No. 90–495, 82 Stat. 827 (1968).

[65] 308 F. Supp. 423 (D.D.C. 1970).

[66] Plaintiffs clearly asked for a ruling in this Court on 16 U.S.C. § 470(f) (1970), and provisions of title 7 of the D.C. Code. They have not explicity asked for a ruling on any other non-title 23 provision.

[67] D.C. Federation of Civic Ass'ns, Inc. v. Volpe, 434 F. 2d 436, 447 & n. 50 (1970).

[68] 316 F. Supp. at 762. The "1968 Act," section 23 of the Federal-Aid Highway Act of 1968, is discussed at p. — *supra*.

[69] 316 F. Supp. at 762.

[70] *Id.* at 764–65 (emphasis added).

[71] *Id.* at 766 (emphasis added).

[72] *Id.* at 765–66 (emphasis added).

[73] *Id.* at 765.

[74] See Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 414–15 (1971).

[75] See, *e.g.*, Pillsbury Co. v. FTC, 354 F. 2d 952 (5th Cir. 1966); Jarrott v. Scrivener, 225 F. Supp. 827 (D.D.C. 1964).

[76] *See generally* 2 K. DAVIS, ADMINISTRATIVE LAW § 12.01 *et seq.* (1958).

[77] *Cf.* Sangamon Valley Television Corp. v. United States, 269 F.2d 221 (D.C. Cir. 1959).

[78] *See, e.g.*, Pillsbury Co. v. FTC, 354 F.2d 952, 964 (5th Cir. 1966).

[79] 10 U.S. (6 Cranch.) 87, 129–31 (1810).

[80] *Cf.* Griffin v. County School Bd. of Prince Edward County, 377 U.S. 218, 231 (1964); Gomillion v. Lightfoot, 364 U.S. 339, 347 (1960). *But see* Palmer v. Thompson, 403 U.S. 217, 224–25 (1971).

[81] *See* 23 U.S. § 103(d) (1970).

[82] United States *ex rel.* Kaloudis v. Shaughnessy, 180 F.2d 489, 491 (2d Cir. 1950). *See also* United States *ex rel.* Accardi 1. Shaughnessy, 347 U.S. 260 (1954), a case remarkably similar to the one before us. *Cf.* Shaughnessy v. United States *ex rel.* Accardi, 349 U.S. 280 (1955).

[83] *Cf.* Perry v. Perry, 88 U.S. App. D.C. 337, 338, 190 F. 2d 601, 602 (1951).

[84] Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 416 (1971) ("the court must consider whether the decision was based on a consideration of the *relevent* factors") (emphasis added); Wong Wing Hang v. I. & N.S., 360 F.2d 715, 719 (2d Cir. 1966), *cited with approval in* Citizens to Preserve Overton Park, Inc. v. Volpe, *supra*, at 416;

L. JAFFE, JUDICIAL CONTROL OF ADMINISTRATIVE ACTION 182 (1965).

See also SEC v. Chenery Corp., 318 U.S. 80, 87–88, 92–94 (1942), where the Court pointed out, inter alia, that "[i]f an order is valid only as a determination of policy or judgment which the agency alone is authorized to make and which it has not made, a judicial judgment cannot be made to do service for an administrative judgment." *Id.* at 88. *Accord*, SEC v. Chenery Corp., 332 U.S. 194, 196 (1947); Sunbeam Television Corp. v. FCC, 100 U.S. App. D.C. 82, 243 F.2d 26 (1957) (Fahy, J.); Chae-Sik Lee v. Kennedy, 111 U.S. App. D.C. 35, 294 F.2d 231 (1961).

It might be argued that a remand would be futile here since the agency can only repeat the process it purports already to have undertaken; namely, considering the project solely on its merits. While we agree that a remand would be academic if the agency would inevitably arrive at the same result, NLRB v. Wyman-Gordon Co., 394 U.S. 759, 766–67 n.6 (1969); Friendly, *The "Limited Office" of the Chenery Decision*, 21 AD. L. REV. 1, 5 (1968), it seems entirely possible that the agency could reach a different result if it could insulate itself from extraneous pressures unrelated to the merits of the question. On remand, the agency will have an opportunity to take steps to achieve the insulation required by statute and long-established principles of administrative law, perhaps by compiling a full-scale administrative record, utilizing fully intra-agency review procedures, and consulting with other agencies and planning groups.

[85] *Cf.* Sunbeam Television Corp. v. FCC, 100 U.S. App. D.C. 82, 243 Fed.2d 26 (1957).

[86] *See* Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 412–13 (1971).

[87] *Cf. id.* at 419 n.33.

[88] While formal findings are not required by statute, they are compelled by one of the Department's own internal regulations, DOT Order 5610.1, issued on October 7, 1970. *See generally* Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 417–19 (1971). That Order was not in effect at the time the Secretary's determinations were made. Plaintiffs argue that the Order should be applied retrospectively, and that it should therefore constitute an independent basis for reversal. While the Supreme Court rejected a similar claim in *Overton Park, supra*, that decision may be distinguishable in that a full administrative record was available there to facilitate review. *Id.* at 419. While the proposed distinction would seem to have a good deal of force, we need not reach the question in view of our conclusion that the Secretary failed, irrespective of DOT Order 5610.1, to make the determinations required by statute. When the Secretary makes new determinations on remand, the Order will presumably apply.

MRS. MYRTLE SPEIDEL HONORED

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. GAYDOS. Mr. Speaker, each year the Allied Veterans of the city of McKeesport, Pa., single out for public recognition a woman who best exemplifies the highest standards of community service and responsibility.

This year the veterans have saluted Mrs. Myrtle Speidel as their "Woman of the Year." Mrs. Speidel has spent nearly 50 years giving comfort and assistance to people of all ages from all walks of life. She has been particularly involved in helping veterans. During World War II, she sold war bonds for the American Legion and contributed countless hours as a volunteer worker for the USO in Pittsburgh, bringing cheer and pleasure to thousands of men in uniform. She still takes an active role in promoting "Tag Days" for veterans and in visiting patients in Veterans hospitals in the area.

However, servicemen have not been the sole beneficiaries of this gracious lady's love and compassion. During the depression years of the 1930's, Mrs. Speidel took it upon herself to provide cooked lunches for children at St. Pius School in McKeesport. Without her, many youngsters would otherwise have gone hungry because their parents were out of work and had no money for food.

This exceptional woman also has given of herself in other fields of community service. She has taught advanced first aid classes for the Red Cross, devoted much time and effort in work for the Community Chest, its X-ray mobile unit and Health-O-Rama. She has been active in the Christmas Seal campaign, McKeesport Hospital, the YWCA, and the Auberle Home for Boys in McKeesport. She still visits the sick and the aged in their homes or in hospitals, bringing with her the warmth of friendship as well as gifts of food and clothing.

Although Mrs. Speidel belongs to many notable organizations, she has been deeply involved in the Catholic Daughters of America. A member of Court 221, CDA, since 1928, she has held every elected office in that organization, including several terms as its regent.

Her unselfish dedication to helping others has not, however, prevented this remarkable woman from raising her own family. Mrs. Speidel and her husband, William, were married in 1920 and, in addition to their own two sons, they now have a family which includes six grandchildren and two great-grandchildren.

Mr. Speaker, it is with great pride and pleasure that I join the McKeesport Allied Veterans in recognizing a woman whose ideals and spirit of sacrifice have made her an inspiration to everyone who has come in contact with her. Mrs. Myrtle Speidel is, indeed, a credit to her family, her community, and her country.

THE TORY WELFARE STATE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. CRANE. Mr. Speaker, it is clear that, in our own country, efforts at developing massive government programs to solve real societal problems have failed to do the things they were meant to do. The expansion of the welfare state philosophy has seen not the solution of problems but, instead, has led to their being compounded.

Government involvement in urban renewal has provided us with a classic case of failure. Intended to assist poor families in substandard housing, the program, instead, helped businessmen to tear down substandard housing and replace them with luxury apartments, reaping significant profits for themselves and driving the poor even further into the inner city. Jason R. Nathan, New York City Housing and Development Administrator, stated that—

> Even if the Federal government spent ten times the money they do now—which they won't—it would not be enough. After ten or fifteen years of traditional programs, for example, we have not even begun to approach the problem in Bedford-Stuyvesant in Brooklyn.

The U.S. Commission on Civil Rights found that Federal projects in Cleveland had drastically reduced the amount of low-rent housing in the city and had contributed to the creation of a new ghetto. Out of the resentments which were produced a new bitterness grew, culminating ultimately in riots. Commenting on the Cleveland developments, Father Theodore Hesburgh, president of the University of Notre Dame and a member of the Civil Rights Commission, said:

> These federal programs are coming in, supposedly to help the community. They want to rebuild our society. What has happened in many cases is that people who are presently in the worst situation have their houses swept out from under them by bulldozers, they are given very little help in finding houses and they generally do worse than where they came from. This is immoral.

Similar examples can be provided in the fields of agriculture, education, and welfare. Beyond this, however, is the fact that we often pay with our own freedom for such programs. Thirty-six years ago the eminent Swedish economist Gustav Cassel explained in a prophetic lecture how a welfare state or "planned economy," long enough continued must lead to despotism:

> The leadership of the State in economic affairs which advocates of Planned Economy want to establish is, as we have seen, necessarily connected with the bewildering mass of government interferences of a steadily cumulative nature. The arbitrariness, the mistakes and the inevitable contradictions of such policy will, as daily experience shows, only strengthen the demand for more rational coordination of the different measures and, therefore for unified leadership. For this reason, Planned Economy will always develop into Dictatorship.

While our own society seems committed to repeating the mistakes of the welfare state, the new conservative government in England is attempting, in a number of important respects, to restore freedom to an economy and a society which had permitted itself to proceed even further along welfare-state lines than our own.

The National Health Service, hailed by some in this country as a model to be followed by Americans, has been a notable failure in Britain, leading to significant reforms now being instituted by Prime Minister Heath and his government. In an important article entitled "The Tory Welfare State," Mr. Arthur Seldon, editorial director of the Institute of Economic Affairs of London, writes that—

> Sir Keith Joseph's increased use of pricing is his most hopeful step in the right direction . . . What the N.H.S. requires is more competition both within its vast bureaucracies and from outside . . . The

N.H.S. receives too little—barely 5 per cent of the national product because it limits us to taxation. With the whole battery of taxation, social insurance, private insurance, fees, charges and reimbursements, France and Germany, Belgium and Norway, Canada and the United States raise 6 to 7 per cent.

In his article, which appears in the Daily Telegraph of October 15, 1971, Mr. Seldon discusses other steps of the Heath government away from the welfare state. He also discusses the problem is instituting change while working with an immobile civil service. He writes:

Is a government changing the direction of social policy, affecting half of public expenditure, effectively served by a civil service working in a 25 year old groove? . . . Perhaps more systematic reference by Ministers to unofficial outsiders acting as a second string to provide a constant flow of second opinions. Like the N.H.S., bureaucracies should have competition both within and from outside.

Hopefully, the Heath government will be able to alter the welfare state and restore to Great Britain a free and healthy economy. Hopefully, there will be those in this country who will take similar steps to turn back a growing welfare state which has cost us billions of dollars, hampered our freedom, and failed to solve any of the problems at which it was aimed.

I wish to share Mr. Seldon's article with my colleagues, and insert it into the RECORD at this time:

[From the Daily Telegraph, Oct. 15, 1971]

THE TORY WELFARE STATE—ARTHUR SELDON LOOKS AT THE NEW CONSERVATIVE PLAN OF "SELF-HELP"

The post-war "consensus" Labour-Conservative Welfare State lasted a quarter of a century, 1945 to 1970. This morning Mr. Edward Heath's Conservatives discuss further steps in the new Tory Self-Help Welfare State.

The old Welfare State was designed to give the same benefits to all, in need or not. It may have been egalitarianism, dogmatism, even Socialism. It was certainly not common humanity, common sense, or respect for individuality. It was the universalist creed run riot. The new Welfare State is based on human circumstances: benefits go to people who cannot help themselves; the happily increasing number who can, pay for the dignity of choice.

So far most of the measures are in the right direction. What more could be done?

Mrs. Margaret Thatcher was quick off the mark with the reassertion of variety in secondary education. The increased emphasis on primary schooling, the work of experts and officials, is more difficult to judge in the absence of an effective voice for parents. Even then, it would mean little in the absence of fees to show the costs of alternative forms of education.

The argument for the additional year to 16 would be more convincing if Mrs. Thatcher showed the cost in services sacrificed elsewhere—in education, or hospitals, or more money for people unable to work.

FINANCING EDUCATION

"Direct grants" should go to parents, not to schools: to consumers, not to producers. And not only where Labour local authorities decline to take places in independent schools. Much more generally Government could make a start at withdrawing from the business of building, owning and running schools, at which it is not very good because politics should not get mixed up with education, and providing finance to low-income parents and loans to students.

It could begin with nominal fees for State schools, a principle approved for nursery schools by Lady Plowden and several members of her Committee. It could encourage self-help by tax rebates on school fees, fares, etc. (up to £140 for each child in Australia). And it could, as in the United States, experiment with vouchers and "performance contracting." Private companies are employed (in Arkansas and Indiana) to teach backward children and are paid by results. The results are very good.

Sir Keith Joseph's increased use of pricing in the National Health Service is his most hopeful step in the right direction. But to make his emphasis on better management in the N H S a reality he too will have to use payment by results. Good management, as in private industry, requires competitive incentives for efficiency and penalties for inefficiency. Sir Keith and Mr Michael Alison know all this: they have yet to apply it.

The introduction of better methods or businessmen, a little more centralisation here or more decentralisation there, will not suffice. What the N H S requires is more competition both within its vast bureaucracies and from outside. More internal competition requires a massive move to a more federal structure, with much more regional or local autonomy. And this requires power to raise money locally. The straitjacket of attempted equality must be loosened for the sake of higher standards all round, for psychiatric and geriatric patients as well as for normal acute and emergency medical care.

And competition from outside requires heroic decisions to encourage private capital to build hospitals and private insurance to cover more than the meagre 5 per cent of the people. There are millions of pounds that could be channelled into medical care. British health should come before the National Health Service. Mr Enoch Powell has said "Britain is stuck with the N H S . . . for my lifetime and beyond it." He must be proved wrong. The N H S receives too little—barely 5 per cent of the national product because it limits us to taxation. With the whole battery of taxation, social insurance, private insurance, fees, charges and reimbursements, France and Germany, Belgium and Norway, Canada and the United States raise 6 to 7 per cent, and more. And in periodic refinment of their methods they never dream of copying the N H S. Not even Senator Edward Kennedy, who praised the N H S the other day, is advocating it in his country. Why then should British Conservatives see the 1946 creation of Bevan as untouchable?

Mr. Peter Walker and Mr. Julian Amery have taken the longest step in the right direction. Their housing allowances in cash will put low-income private tenants on the same financial footing as low-income council tenants with rent rebates.

They should now be persuaded to take an even longer stride nearer their goal. Rent rebates retain non-market rents; housing allowances promote them. Rebates frustrate the rationing function of rents and necessitate rationing by officials; allowances strengthen rationing by rents. Not least, the dual rebate-cum-allowance system segregates council from private tenants.

Messrs. Walker and Amery could put this right by introducing cash housing allowances for *all* tenants. They have been used in Europe for many years. Or, if the change is too sudden, *all* tenants, Council and private, could be given housing vouchers. The perspective must be long run. The United States Department of Housing and Urban Development under Mr. George Romney is sponsoring research by the private Urban Institute in Washington to discover the possible effects of housing allowances of varying kinds—cash or vouchers—in raising rent in the short run and increasing the supply of housing in the long run. They would, moreover, cost much less than local government building.

The new pensions scheme will shift the emphasis from State to occupational and private pensions generally: another step in the right direction.

But the introduction of graduated national insurance contributions to pay for the uniform State pension will create pressure for graduating the pension. Sir Keith Joseph and Mr. Paul Dean may have solved the immediate problem of finding more money without raising taxes, but they will be making severe difficulties for Conservatives in the 1980's.

Far better to make a start with winding up the whole national insurance system. Australia has managed very well without it. Her pensioners are better off than ours; and less money has to be raised in taxes. The Prime Minister, Mr. William McMahon, is resisting Australian academic Labour-like talk of "national superannuation" that Mr. Heath's Tories have rightly rejected.

The Reserve Pension Scheme must not become a backstairs to State control of industry, as envisaged under Mr. Hugh Gaitskell, and as is happening in Sweden. The board of management must be strong enough to segregate its funds from general revenue. There are worrying doubts here. The solution is to expedite the expansion of occupational and private pensions—not least by removing their control from the Inland Revenue—so that only a small and diminishing number have to resort to the State's Reserve Scheme.

The Family Income Supplement is yet another move on the right lines. But if 60 per cent do not ask for it, the Cabinet should recognise its weakness—that claimants have to initiate a claim—and go the whole way to reverse income tax. In time it could replace family allowances and other wasteful benefits (Canada has been discussing means-testing its family allowances). And it would take over from the half-way measure of vouchers.

AMERICAN EXPERIENCE

The main doubt is the effect on incentives. A recurrence of Speenhamland demoralisation is not inevitable. The New Jersey experiment so far indicates no marked disincentive. Abuses are probable, but controllable. They should not distract Conservative attention from the central aim of mastering poverty so that all can pay for welfare. The abuses are tiny compared with the thousands of millions raised in taxes and paid back to taxpayers in universal benefits.

But is a government changing the direction of social policy, affecting half of public expenditure, effectively served by a civil service working in a 25 year old groove? British civil servants are incorruptible, but they are not chameleons. They are able, experienced, specialists with opinions, value-judgments, feelings of their own. Ministers out of office evolve new thoughts: Civil servants continuously "in office" generate inertia.

If the American system of bringing in senior officials with each government has defects, though in Washington recently I saw its advantages, new solutions may have to be evolved. Perhaps more systematic reference by Ministers to unofficial outsiders acting as a second string to provide a constant flow of second opinions. Like the NHS, bureaucracies should have competition both within and from outside. The Tory Welfare State may stand or fall by it.

THE ADMINISTRATION'S NATIONAL HEALTH PROPOSALS THREATEN VA HOSPITAL SYSTEM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. TEAGUE of Texas. Mr. Speaker, many national veterans organizations are vitally concerned about the future of the VA hospital system as Congress proceeds to consider plans for a national health care system. Recently the Director of the Office of Management and Budget responded to inquiries from various Members of Congress and indicated that a virtual moratorium had been placed on major VA hospital construction programs pending a study of the effects of the President's health care proposals.

Mr. Speaker, the VA hospital construction program is already lagging behind the needs of our growing veteran population and the demand for hospital treatment is expanding rapidly. At the present time, approximately 35 percent of the patients who receive treatment in VA hospitals are eligible for medicare and the Veterans' Administration is not reimbursed by medicare funds for the treatment of these patients. These patients, eligible under medicare but cared for by the VA, would cost the medicare fund an additional $500 million.

Mr. Speaker, if a national health care program is adopted which does not afford the Veterans' Administration an opportunity to properly utilize its vast resources and potential, it is reasonable to expect that the cost of any national health care legislation will be increased by between $1 billion and $1½ billion annually. Before any such national health care plan is enacted, it would appear that a firm policy commitment should be enunciated by the administration as to the future role of the VA hospital system.

Mr. Speaker, the Veterans of Foreign Wars recently testified before the Ways and Means Committee concerning this situation, and I hope that my colleagues will give careful consideration to their statement which follows.

STATEMENT OF FRANCIS W. STOVER, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and members of the committee: Thank you for the privilege of appearing before this Committee to present the views of the Veterans of Foreign Wars of the United States respecting national health insurance legislation.

The membership of the Veterans of Foreign Wars is presently at an all-time high of more than 1.7 million members. Approximately one-fourth of these members, or around 450,000, are veterans of the Vietnam war. We also have a few members who served in the Spanish-American war before the turn of this century. Our membership, therefore, includes veterans who have served in the Armed Forces of the United States during America's wars from 1898 to the present Vietnam war.

Legislation concerning veterans rights and programs comes within the jurisdiction of the Committee on Veterans Affairs, headed by its long-time distinguished Chairman, Olin E. Teague of Texas. It is realized that your Committee does no have primary jurisdiction over legislative proposals concerning veterans programs.

The Veterans of Foreign Wars has no official position respecting any of the proposals before this Committee which propose to expand health coverage in one way or another for the general population. However, because of a statement by the Director of Office of Management and Budget, George P. Shultz, it has become clear to veterans and their families that the Administration holds that these national health insurance proposals under consideration by this Committee have profound implications for the Veterans Administration hospital system. Moreover, the Administration has imposed a moratorium on the construction of any new VA hospitals until these national health insurance proposals have been brought to a successful conclusion by the Congress.

The Veterans of Foreign Wars is deeply disturbed that the Administration has officially declared that there is an affiliation between national health insurance legislation and veterans hospital and medical care. That is the principal reason that the Veterans of Foreign Wars is here today. This, however, is not a recently arrived at position. To the contrary, there has been a growing concern among our members that any greatly expanded health care system for the general population could be extremely detrimental to the VA hospital and medical care program. In that regard, our national organization has adopted a number of mandates, all of which contemplate that the Veterans Administration hospital system be maintained intact and that various aspects of this system be improved and expanded to insure that veterans receive the highest quality medical care this nation can provide.

Among our national priority legislative programs for this year, as approved by our Commander-in-Chief, Joseph L. Vicites of Pennsylvania, is one that calls for all-out opposition to any merging of VA hospitals or facilities in any proposed national health insurance plan. Further, our Commander-in-Chief Vicites issued a statement, dated October 26, which was the official V.F.W. reaction to the announcement by the Administration that it has placed a moratorium on the construction of new VA hospitals until these national health insurance proposals have been brought to a conclusion.

In March 1971 at the V.F.W. Washington Conference of National Officers and State commanders, the subject of national health insurance was of primary concern to our National and State leadership from all over the nation. At that time an article appeared in our V.F.W. Magazine concerning many of the bills under consideration by this Committee today. This article entitled "National Health Insurance: A Threat to VA Hospital System?" by Cooper T. Holt, Director of the V.F.W. Washington Office, and Norman Jones, Director of the V.F.W. National Veterans Service, was placed in the Congressional Record by Olin E. Teague, Chairman, House Veterans Affairs Committee, on Wednesday, March 17, 1971.

It would be deeply appreciated, Mr. Chairman, if a copy of our Commander-in-Chief's statement of October 26 concerning the stopping of all VA hospital construction and the article in our V.F.W. Magazine, as it was placed in the Congressional Record of March 17, 1971, be made a part of my remarks at the close of my statement.

In addition, Mr. Chairman, it would be appreciated if a copy of a newspaper clipping from the Sunday edition of the Washington Post of October 10, 1971 entitled "VA Hospital Delay," which spells out the decision of the Administration to delay construction of new hospitals, also be made a part of my remarks at the conclusion of my statement.

The Veterans Administration hospital and medical system is one of our greatest national assets. Few realize the magnitude of this system which is providing quality medical care to an average daily patient load of approximately 155,000 beneficiaries. To provide this kind of care, the VA operates 165 hospitals, plus there are 5 more which are under construction. All of these hospitals are accredited. The VA operates 202 outpatient clinics. The VA operates 76 nursing homes. The VA operates 6 restoration centers. The VA operates 3 blind rehabilitation centers. The VA operates 32 drug units. The VA operates 16 domiciliaries.

This is indeed a comprehensive and truly national health care system. It requires an annual appropriation which exceeds $2 billion for fiscal year 1972. It covers a wide range of services. Among its patients are older veterans of the Spanish-American War and younger veterans of the Vietnam War—the most crippling war in our history. The nation has dedicated itself to providing quality medical care and treatment for the nation's veterans and the VA is performing this service.

The V.F.W. is mindful that dedicated VA hospital personnel are operating in many areas under severe budgetary restrictions and limitations. Adequate funds and personnel for VA hospitals has been a primary concern of the Veterans of Foreign Wars for many years. The Congress has responded magnificently to this threat to reduce and diminish VA hospital care. Over the last several years Congress has added funds to the annual VA hospital budget, funds which were not requested or recommended by the Office of Management and Budget and its predecessor, the Bureau of the Budget.

The Veterans of Foreign Wars is deeply appreciative of the favorable and continuing support of the Congress for adequate funds and personnel for veterans hospitals and medical care.

It is the Office of Management and Budget which poses a serious threat to veterans hospitals. As indicated, the present Director of the Office of Management and Budget, Mr. George P. Shultz, has placed a moratorium on constructing new VA hospitals on the theory that veterans medical care is interrelated and interwoven with any legislation the Congress may approve respecting national health care for all citizens.

The Veterans of Foreign Wars totally disagrees with this policy. The veterans hospital system is performing its mission of delivery of health care to veterans. What many do not realize or admit is that the VA is making a significant contribution to the health care needs of the entire population. Permit me to explain what is meant by this.

The V.F.W. has always held that the Veterans Administration is the greatest single source of medical health care training in the nation. The VA presently provides training for half of the three and four year medical students in the nation. This fiscal year of 1972 the VA will provide training for 53,000 individuals in 60 different categories of health sciences. More than 800,000 veterans are admitted to VA hospitals and 8 million outpatient visits are made each year by veterans.

The VA is the primary teaching facility for 81 of our nation's medical schools. The VA is affiliated with 51 dental schools, 287 nursing schools, 274 universities and colleges, and 84 community and junior colleges. Recent statistics indicate there is a national shortage of 50,000 doctors and 250,000 paramedical personnel. It would be most short-sighted and self-defeating to take any action which would reduce or destroy the capability of the VA to continue its training and educational programs which are helping to educate and train doctors and other medical personne..

In addition, the VA will conduct 6000 research projects. This is a contribution little known by the general public. Research in VA hospitals has practically eliminated tuberculosis because of chemotherapy treatments which originated in a VA hospital. The pacemaker which has helped save the lives of so many heart patients was discovered and developed in VA hospitals. Another outstanding example of VA research is the isolation of a virus in the Bronx VA hospital which could cause leukemia.

Another great contribution being made by the VA hospital system, which many are not aware of, is its care of the older veteran. Many World War I veterans, whose average

age is 75, and older veterans of World War II, are being taken care of in VA hospitals each day. To reduce or eliminate VA hospital care would sharply increase the load on the Medicare program. The record shows that regardless of how one looks at the facts the VA is presently saving or subsidising the Medicare program about a half a billion dollars a year. This is another factor which should be given serious consideration in any of your deliberations respecting the bills before you which propose reducing or swallowing up veterans hospitals and medical care capability and facilities.

Mr. Chairman, the Veterans Administration is authorized to operate not less than 125,000 hospital beds for the care of veterans. It actually is presently operating about 115,000 hospital beds. In the appropriation bill for fiscal year 1972 Congress has made it the law of the land that the VA must operate not less than 97,500 beds with an average daily patient census of 86,500. The V.F.W. will continue to work for maximum utilisation of all VA hospitals to full capacity as authorized by the Congress. This is the VA hospital system that we want maintained as a separate entity for the care and treatment of veterans.

During these times of the high cost of medical care and the great national concern expressed with respect to this national problem, it is extremely perplexing to the V.F.W. that the Administration is ignoring the fact that the VA's centrally administered national hospital system is delivering health care to the nation at about one-third of the cost of other medical systems. Even more baffling is the fact that there is great concern about the shortage of medical personnel, and those in national policy making positions at the highest level of Government are ignoring the vast education and training programs of the VA.

Our first knowledge that the VA hospital system could be in for trouble was the President's message on health and hospitalization which was delivered to the Congress on February 18, 1971. In this lengthy statement which proposes to create new agencies to administer health insurance and take care of medical problems, it is noted that the Veterans Administration is only mentioned in two places. Very disturbing to the V.F.W. is one of these references which would place the Veterans Administration in a subordinate role to the Department of Health, Education, and Welfare. The message recommends that the Veterans Administrator confer with the Secretary of Health, Education, and Welfare on ways the VA medical system and some of its resources can be used. It should be the other way around. It is the VA which is handling in a very successful manner a comprehensive medical and health system. The health system the Department of Health, Education, and Welfare operates is the Public Health Service with 8 hospitals and 30 clinics, which, by the way, have been earmarked for closing. The VA has more experience and expertise running a national hospital system than any other department or agency of our Government.

There is some encouragement, however, in the fact that the VA was mentioned and give rise to the hope that there are some in the Office of Management and Budget who realize the potential of the VA of delivering health care for veterans and the general population.

In summary, the Veterans of Foreign Wars is extremely hopeful that no action will be taken by this Committee in reporting a national health insurance bill which can be construed or interpreted by the budget planners as a justifiable basis to reduce or eliminate veterans hospitals and medical care.

Your favorable consideration of the views and recommendations made in behalf of the Veterans of Foreign Wars will be deeply appreciated.

Thank you.

ENERGY NEEDS IN AMERICA

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. HOWARD. Mr. Speaker, recently the National Governors' Conference sponsored a symposium on the critical situation involved in meeting America's ever-growing energy needs.

Two of the speeches at this symposium which was held in suburban Washington are worthy of the attention of all Members of this House.

The symposium was organized by Edmond F. Rovner, secretary of economic and community development in the cabinet of Maryland Gov. Marvin Mandel. Mr. Rovner, prior to assuming his present post, was administrative assistant to our good friend, the Honorable JONATHAN BINGHAM, of New York, and a legislative representative for the United Electrical Workers of America.

Mr. Speaker, I insert at this point in the RECORD the remarks of Dr. Chauncey Starr of UCLA and Dr. S. David Freeman, research director for the study of national energy policy for the 20th Century Fund:

ENERGY SYSTEMS AND STATE GOVERNMENT

(By Dr. Chauncey Starr, dean, School of Engineering and Applied Science, University of California, Los Angeles)

Thank you, Governor Mandel, for such a laudatory introduction. Among my hidden virtues which you did not mention is that of being an amateur poet and I would like to introduce the subject of my talk today by presenting a statement of the problem in the form of a limerick:

There is a tiger named power,
Who works by the kilowatt-hour,
If we urge him faster,
Will he become master,
And show an intent to devour?

In a more serious vein, the core of the worldwide energy problem is the increasing need to allocate resources and control energy use as a matter of public policy, and to do so within the framework of an already established energy system that has grown rapidly and effectively under a laissez faire philosophy of development. Your program at this meeting has included most of the pertinent issues which relate to this issue of public policy. It might be most useful, therefore, if I were to present the broad general framework which encompasses many of these detailed considerations.

Energy is a basic and indispensible need for social development—both for improving the materialistic aspects of life and for improving its intangible esthetic qualities. No society has been able to function without energy utilization or to improve its quality of life without also increasing its dependence on energy. It is an ingredient as basically essential as water or food. There has been an historically direct correlation between the quality of life of any group and its per capita energy consumption. Thus, a nation's energy demand is a product of population and the per capita quality of life.

In the past century, energy has been very cheap and its contribution very great. It was cheap because energy resources have been plentiful, easily accessible and man's technology has been successfully concentrated on reducing the cost of delivering energy in its various forms. It has also been cheap because the by-product social cost of those items which the economists call externalities (such as environmental, ecological, and public health impacts) have not been assessed to the energy users. The massive use of energy as a stimulus for social development is only a matter of the past two centuries. This historical application of energy to man's needs was also paralleled by an increase in literacy, an increase in material productivity, and an improved quality of life generally. Although this is mostly evident today in the highly industrialized portions of the world, the positive contributions of energy use are visible everywhere in varying degree.

Our present problem in the operation of energy systems is directly the result of man's success in utilizing energy for constructive purposes. The increase in energy consumption has become so great that both the supply of energy and its by-product impacts have become current matters of issue. It is clear that the compounding growth rate of energy use cannot go on indefinitely on a worldwide basis without catastrophic repercussions in terms of supply, social consequences and costs. In fact, the present cost trend worldwide is for the past availability of low cost energy to disappear. There already are substantially increasing energy costs due to the increased difficulties associated with finding new fossil fuel resources. If in addition, the future cost of energy includes the cost of by-product social effects, or the cost of removing these, then in fact, energy may soon become an expensive commodity.

Energy use eventually will be limited as a matter of public policy. This will require a compromise between energy demands, the quality of life, and energy availability. Allocations of energy will result from both governmental regulations and the indirect operation of economic forces. It might be of interest, therefore, to outline some of the developing conditions which will effect governmental policy and governmental approaches to the energy problem.

First, the present trend of doubling energy consumption in short time periods cannot continue very long. In the industrially developed nations of the world, the per capita consumption of energy must inevitably level off for many sociological, technological, and economic reasons. Just as food consumption per capita approaches a reasonable limit determined by dietary needs and food quality, in the same way, energy consumption per capita will begin to approach a level which will provide every individual a reasonable quality of life. Unfortunately, because the energy consumption per capita in the industrially developed nations is ten to twenty times greater than that of the underdeveloped portions of the world, the understandable goal of the underdeveloped peoples to reach the quality of life found in the industrial nations will create an overwhelming demand on worldwide resources. The resource problem is thus worldwide in origin and arises from the unlimited cumulative demand versus limited resources.

Fortunately, energy forms are frequently interchangeable. Technological developments, the most recent of which has been the commercial realization of nuclear power, can markedly change some of the limitations on man's energy use. However, certainly for the next century every energy resource of the world will be tapped as fully as it can be. While nuclear power, and perhaps the as yet undeveloped fusion power, will help in relieving the pressures on our fossil fuel resources, this is only partial help. There is no evidence that technologically developed new energy sources can materially relieve the demand on the world's fossil fuel in the next century. We face then, a worldwide management problem of so distributing our energy resources and so allocating their end uses as to provide for all people the most effective use of the energy available.

The issue of the environmental impact of energy utilization is not new. Smoke abatement in the big cities of the world has been a matter of concern for some hundreds of years. There is no question that the increased use of energy throughout the world and particularly in the industrial nations requires increased attention to removing the unpleasant byproducts of energy use. Unfortunately, the technologies for providing a clean environment are not fully developed, although the scientific principles are clearly in hand. It is only recently that priority has been given to the technology of pollutant removal or prevention, and there is very little doubt that eventually control of the environmental side effects of energy utilization will be brought to socially acceptable levels. Pollution is man-made and is man-controllable. However, pollution control is itself a new "growth industry" and will create an additional energy demand. Water, solid, and air pollution control techniques use chemical plant processes, all of which consume energy. For example, the proposed effluent treatment methods for reducing pollutants from automobiles result in increased fuel consumption.

The recent increase in public sentiment for maintaining environmental values will probably increase with time. Clearly, as the materialistic needs of our society are met, the aesthetic values become relatively more important. From a purely economic point of view it is not necessarily a cost penalty to invest in a clean environment. Those of you with industrial backgrounds know that a clean well kept manufacturing shop is, in fact, less costly than one in which the floor is used as a disorderly wastebasket and a haphazard material storage area. The indirect costs of employee morale, health and accidents, have taught industry that a clean and orderly shop is a worthwhile investment. In the same way, a clean society may be less costly overall than a dirty one. A clean society may have less public health costs and less problems of antisocial behavior. It may provide a better environment for industry and maintenance of employment. It may provide a better educational environment. I would like to believe that a public investment in a clean social environment will be in the long run the most advisable allocation of our national resources. Whether this is true or not, the public demand for establishing clear targets for environmental quality is already substantial and likely to increase with time.

In many cases, such environmental targets will be costly and in many cases operational compromises will have to be reached. Nevertheless, the issue is one of how to meet such targets or how to arrive at these compromises, rather than whether it should be done at all. A further problem in achieving the environmental quality values which the public is asking for is the relative novelty of many of these complex issues to the public involved. I happen to believe, for example, that nuclear power is the safest and cleanest of all electricity generating approaches, and that the breeder reactor may be a saving technical development for the continuous availability of energy for mankind. It is also clear that it is going to take years of public education to communicate the rationale for my confidence in nuclear power to the concerned public. Another aspect of establishing appropriate targets for environmental quality is the conflicting interests of special groups. We all know that many of the organized special interest groups do not represent a balanced indicator of the priorities appropriate to the majority welfare. The complex issues of environmental tradeoffs, of benefits versus costs, the questions of immediate versus long-term impacts, the questions of social and technical responsibilities—these all require years of analytic development and public discussion in our complex society before optimal rational approaches are taken for meeting the goals of environmental quality. Nevertheless it can be done and in fact, I believe we have no choice but to do it.

One of the inevitable consequences of an attempt to improve the total environment in which we live is that most approaches to simultaneously maintaining the materialistic contributions to our quality of life and reducing their environmental impacts require an increase in per capita energy consumption. Because of this multiplying effect, the special area of energy use requires much greater attention in terms of environmental effects than might be associated with many other of the technical systems in our society.

It is thus clear that the governmental problems of allocating and regulating energy use will be faced indefinitely by limited resources, increasing demand, and need for public regulation and environmental restrictions. There is no clean solution to such a complex of issues. The role of government will necessarily be one of compromising, adjusting and allocating to those uses where the marginal social utility is greatest. This is not an unfamiliar governmental activity, as best exemplified by government funding problems. It is well to realize however, that government intervention into the energy supply systems and the energy use systems has proceeded very slowly in the past and primarily as the result of the regional monopoly situations associated with electricity and gas distribution and regional air pollution. The coming problems of "black-outs" and fuel shortages may require planning and intervention on a broader base which includes the whole energy system.

It is well to realize that no single governmental body, national or state, will be able to control worldwide demand and supply, or to control the rate and direction of technological development. For the individual states in our country, the problem is compounded by the fact that fossil fuel availability within a state is often influenced by national and international considerations which bear no relevance to the state's particular interest. Further, the states cannot expect to import energy and export pollution. Many of the recent public initiatives have focussed on this particular aspect. While it is true that electrical transmission lines and gas pipe lines permit the separation of energy source from the user, the public awareness of the issues involved are already interfering with the freedom to separate cause and effect in energy systems. Also, the states cannot expect to maintain the wellbeing of their citizens without an adequate energy supply in various forms. We do not have the choice of stopping the growth of energy use without facing the same type of social and political issues that we would face if we ceased growth in a needed water supply—whether caused by population increase of life-style. Finally, states cannot expect that the "free market economy" will arrive at the desirable mix of energy services which are best for our society. Unfortunately, we do not have a free market in the energy systems of our nation. As a result of regulated utilities, taxes, land use polices, pollution regulations, import restrictions and the like, our energy system (like most other national systems) is a mix of free competitive market opportunity and highly administered situations.

The states do have substantial power to governmental body must undertake to review, plan, control, allocate, and regulate the activities of our energy systems. Whether this is done federally or by the states, or both, is a matter in which you are certainly far more expert than I. It might be of interest however to give consideration to how such a governmental overview can be accomplished.

The states do have substantial power to control the generation and distribution of energy as well as the utilization of energy within their own boundaries, through regulatory requirements, environmental requirements, taxes, land use zoning, easements and the like. The national and state governments involved in this type of governmental exercise of authority must constantly make compromises to provide enough energy for public welfare and maintain environmental acceptability both for the present and the future. This type of optimal compromise involves a multi-technical, multi-resource analysis, as well as the weighing of the benefits and social costs for the many different groups involved in our public. To perform such a function the government will require a total energy system assessment which includes an analysis of the detailed operations of the system and an anlysis of the effects of pending technological or operational changes.

Long range options and their impacts will have to be studied and weighed both in government councils and public debate. Both the legal and regulatory mechanisms for implementing any policies will have to be established. It will be necessary to carry on a continuous analysis of the performance of existing energy systems. Finally, it will be necessary to provide a continuing education of the public on all these aspects. The management of such a complex set of interlocking activities should be coordinated by a single agency—perhaps an Energy Systems Board, either national or state. In this respect the operating experience in the State of California with its Air Resources Board might be of interest to other states as applied to the energy system problem. In view of the technical, social, political, and economic complexities which enter into the energy system in any state, the energy problem cannot be effectively handled by any narrowly circumscribed set of independent regulatory agencies, each dealing only with one sector of the energy problem.

In summary, energy is a fundamental requirement of our society and now has surrounding it many of the issues and governmental problems already similar to those the government has found in other limited resource matters. It will always be in short supply, inadequate for everyones needs. There will be periodic crises involving blackouts, energy shortages of varous forms, and environmental outcries. It will be a perpetual problem requiring careful management to extract the maximum public good from the resources available to us. As with many other of our societal issues, it does not have a simple, clean solution. On the other hand, it is clearly manageable and our technology does have the capability of eventually providing adequate compromises for the maintenance of the public welfare. It is, however, an area of composite responsibility which government bodies have only recently recognised as one that requires long term persistent attention. The effective marshalling of our industrial, technological, and governmental capabilities will be needed to achieve a balance of continued energy supply and an improved quality of life.

REMARKS OF DR. S. DAVID FREEMAN, VISITING PROFESSOR AT THE UNIVERSITY OF PITTSBURGH AND RESEARCH DIRECTOR FOR THE STUDY OF NATIONAL ENERGY POLICY FOR THE 20TH CENTURY FUND

Maybe the way to begin this particular meeting is to ask the question: is there really an energy crisis? Or is this something that has just been dreamed up so we can hold seminars to relieve the economic hardship in the hotel business? One of my former colleagues who was on the Council of Economic Advisory in the White House has recently suggested that the energy crisis is just something that the oil companies dreamed up to jack up oil prices. I do think it is worthwhile to stop a minute during this day-and-a-half session to examine a little more carefully than perhaps we have: is

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there really a crisis? What is the fuss all about? The lights stayed on this summer. There were no brown-outs to speak of except for a few in New York City, but no one was deprived of electricity, and no one was without fuel last winter. Energy supply was really not different in the last twelve months from the last several years as far as the average consumer is concerned. Perhaps the energy crisis is just a myth.

I'd like to go on the record on the other side of that position. I think what we have experienced in the last year or two have been small warning signals of a coming crisis that could be of horrendous proportion. It's true that what we have experienced thus far has not been anything of dire consequence. And perhaps the causes of the problems today have been somewhat different in nature from the causes that we have to worry about for the future. What I mean is this: we have gone through an era in the last two decades since World War II where I think in the large sense of the word we can look back now and say we squandered our plushest, most economical fossil fuel resources, squandered them in the sense that we have had a policy of producing this energy as fast as we possibly could, selling it at the lowest possible price, and using energy as the backbone of priming the pump for economic growth.

We paid almost no attention to the question of adequacy of reserves from any long-term perspective, and of course, we paid no attention to the side-effects of using this energy this rapidly, to the side-effects on human beings who mine coal underground, or to the side-effects on the mountainside of east Tennessee where I grew up where the agency I work for, TVA, is directly responsible for orphaning perhaps a million acres of land through purchasing coal without any provisions for reclamation until they got religion, at least some religion, just a few years ago.

We were just unconcerned with the future. Promotional policies and low pricing policies were a fast moving train, and the economy got very much accustomed to this plentiful supply of low-cost energy. And just about the time that the growth rate for all forms of energy began to really accelerate, the nation woke up to the environmental problems that were being caused.

The energy industry, I think, would have supply problems enough if there were no environmental movement at all. What has happened is the very large supplies of natural gas, for example, that were primarily discovered as a by-product in the search for oil and shut in in the twenties and thirties are gone. This gas was available at the end of World War II, when long distance pipelines first became feasible, but gas is now rationed to consumers. The gas industry is growing faster than its reserves are growing. Low-priced natural gas has filled ⅔ of the growth in energy supply in this country since World War II. That era is coming to an end anyway and at the time when we find that the marketplace is shoving the customer to natural gas because it is the only form of fuel that is now available to meet air quality standards.

So we have a double whammy at work creating a gas shortage in my view mean that the Federal Power Commission will be spending most of its time this winter, and every winter from now on as far as I can see, rationing gas. Either the Power Commission will be doing it or the companies will have to do it themselevs, because there just is not enough natural gas to go around.

We have a similar situation with oil where we have pursued a policy, rightly or wrongly, that is succeeding in draining America first. We have utilized a very large percentage, nobody knows what percentage, but an appreciable percentage of all the oil located within the 48 states of the continental United States. We probably have depleted our oil resources more than any industrial nation in the world. We are now importing 20% of our oil and yet the economy is demanding more and more and more oil.

It seems to me an anomaly for the White House to single out the automobile to boost the economy when the automobile is a major source of pollution in our cities and uses so much energy so lavishly. We find ourselves really hooked on this dilemma. The economy, in just about every major aspect, is demanding more and more energy, but we have enacted a series of environmental protection laws tend to outlaw our major source of supply, coal, because we do not know how to use it today in a way that will comply with the environmental laws we have enacted. We find that natural gas which was once so plentiful is now scarce and that our oil supplies are coming in a large degree from abroad and hopefully from Alaska, where we too have this head-on collision between energy needs and the environment.

What all this suggests is that although the lights didn't go out this summer, there is trouble ahead in fuel supply. And when we come to the electric power industry and its need to utilize these fuels in generating electricity, we come to the other basic problem that's troubling America: how to use our land. What parts of America should remain green and in their natural state and where are we to industrialize? Here we are groping for a policy. We have no mechanism for siting power plants, oil refineries, or any major installation.

We have a situation in the United States on the east coast—people don't realize it—where there is no place an oil refinery can be located to my knowledge, and very few places where power plants can be located without serious objection and very few places where large airports can be located. Americans are not turning in their driver's licenses—even the people who are turnig in their draft cards aren't turning in their driver's licenses to my knowledge. We are still demanding more energy, we are still flying planes and demanding comforts and conveniences. I think it is going to be necessary to connect-up the needs for these services with the needs to provide them. It may be the answer to decide as a matter of national policy to slow down the rate of growth in these areas.

But certainly there is going to be some growth and certainly in order to sustain that growth we're going to have to have a national land use policy in the future. Somebody is going to have to decide where the facilities that are needed are to be located, and that somebody, I think, is going to have to be somebody representing the people of the United States. The way the situation is now, there are a lot of agencies equipped to say, "No, don't put it here." But there isn't anyone with the authority to decide where to place these facilities. That is one of the reasons why I think that the power plant siting legislation is important not only in and of itself, but as a forerunner of some real land use planning to take care of all major industrial establishments in this country. The problem is much broader and deeper than just power plants. They are the most important and among the largest of industrial installations and it's a very good place to start.

We find ourselves facing an energy crisis that in a sense is just over the horizon, but in another sense it is with us today. If you are in electric power business and trying to get a power plant completed and licensed or if you art in the gas business and trying to buy gas supplies to sell to your customers this winter, the crisis is already here. I don't think anyone has a quick solution to these problems. But we have yet really to focus on and discuss the main issues. There are two core subjects that I'd like to at least mention.

First, it seems to me we have neglected the research and development that is needed to give us technology to implement a policy of reconciliation between energy and the environment. It is quite obvious that we can't go into the 1970's, through the '70's and into the 1980's with todays technology. The environmental awareness revolution, if nothing else, demands a new order of magnitude for our research budget. It is my personal feeling that we as a nation are offbase in our research, that we are underfunding research by several orders of magnitude. This is not a question of another $50 million for this and another $20 million for that. This nation ought to be spending three or four times as much money as it is now spending in the research and development of a vast array of technology to implement a policy of reconciliation between the energy needs of the country and the environmental concerns.

In the meantime, while this research program is mounted and implemented, and the lead times here are enormous, we are going to have to get off the promotional kick in the energy business and begin a belt tightening series of programs of conservation of energy. Efficiency at the point of consumption is going to have to become a working objective of everybody in the business and in government. Efficiency all down the line will have to be a very important part of our program.

I think we are wasting perhaps as much as one-third of the energy we use in this country and you can identify the places where it is wasted very readily. I use waste in a very real sense. By a policy of low prices, with many of the costs of energy being subsidized by society as a whole, we have induced a rate of growth much higher than is necessary. By fully insulating homes we could cut down appreciably on the space heating load, by requiring industrial locations where industry and power plants are located in an industrial center and using back pressure turbines a lot of the waste heat can be used as process steam in industry. This is a major use of energy in this country. If we really began a system of mass transit, we could cut down on the energy used in transportation, and there are many other such examples of waste.

I do not think we can solve the long-term energy crisis. But we could help buy time to develop new sources of energy and avoid dire shortages in the meantime. The promotional rates in electric power and to a certain extent natural gas no longer serve the nation's needs. We must begin to practice conservation and undertake a massive research and development program. That is at least the beginning of a national energy policy that will bring us a reconciliation of what is now a head-on collision between two very important purposes in our society: energy needs and environmental protection.

Thank you.

THE UNITED NATIONS AND RED CHINA—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. RARICK. Mr. Speaker, I recently reported to my people on the United Nations and Red China. I insert my report in the RECORD at this point:

RARICK REPORTS TO HIS PEOPLE ON THE UNITED NATIONS AND RED CHINA

Because 59% of the people of our District indicated on the legislative opinion poll that they favored the two-China policy in the United Nations—that is giving one seat to the Nationalist Chinese and another seat to the Communist Chinese—and since the United Nations has now voted to kick Nationalist China out and give all of that charter member's rights to Red China, I thought that today I would make my report to you on the United Nations and Red China and the probable consequences of this action.

Let me first tell you that there never was any such thing as a two-China policy; that is except in the political circles as an excuse to sell out our ally Nationalist China and to use the communications media to appeal to the equality syndrome of the American people. The two-China policy was a fraud from the beginning to the end. It was a fence-straddling political invention by Henry Kissinger to sway American public opinion that we were trying to treat both Chinas fair and equal.

There is but one China and therefore there could never have been a two-China policy. Taiwan is but a province or a State of China. It is not and never has been a separate country. Chiang Kai shek has never claimed that he was the head of Taiwan. He and his political party occupied the United Nations China seat as the representative of the entire Chinese people. His position was that his government was merely in Taiwan in exile until such time as they were able to resume control of mainland China. The entire battle and the vote of the U.N. was a power play to decide which of the two political power structures represented all the people of China; i.e., including Taiwan or Formosa.

The gamble of the United Nations vote was all or nothing for both political movements. The other governments in the world and their people understood this. Apparently only the American people didn't. And how could they? All they were hearing was the plea for just representation in the U.N. by a two-China policy which was invented by the Administration presently in power. The U.N. would have had no more right to divide China into two Chinas than they would to have voted Hawaii, the Panama Canal Zone, or Alaska a seat as a government separate from the United States and without our permission.

The full gravity of the United Nations General Assembly vote replacing Nationalist China with the Red Chinese regime as the representative of the Chinese people has not been explained.

The effect of this vote can only be to establish Red chinese sovereignty over Taiwan, its people, laws, and government.

Within a short time those who felt that the U.N. vote was merely a matter of musical chairs in that organization will awaken to the full impact.

When the Red Chinese Communist Party assumes a seat in the U.N. General Assembly, the American people will learn what arrogance really means.

Once the Red Chinese get their subversives, to be called United Nations diplomats, into the United States, I fear that through the cooperation of our national wire services and television networks the American people can expect to have Mao Tse-tung's Communist spokesmen sneering at them in their living-room or den in the evening from the TV set and denouncing our leaders and government in the morning at breakfast from the front pages of our newspapers. True, you will be told that their denunciations are news and this is what is meant by bringing all of the countries of the world together so we can talk about our differences.

Remember also that the Red Chinese diplomatic mission to the United Nations are given full immunity from all U.S. laws. They will have the freedom of our country until they are caught performing their subversive acts and then the only penalty they will receive is that they will be expelled from the country and replaced with other trained saboteurs.

Our Government can expect to be notified that all U.S. military bases, hospitals, and installations on Taiwan are encroaching upon the sovereign territory of the Red Chinese, accompanied by demands that we immediately withdraw, preparatory to Red China taking physical possession of its own province.

It will be interesting to see the reaction of the Nixon administration when Chairman Mao decides, under international law, to exert his new rule over Taiwan and attempts to occupy his own "province" now held by the "rebel forces," our allies, the Nationalist Chinese whom we are treaty-bound to defend.

Who knows of any international law which prevents a sovereign from exercising control and sovereign rights over its own territory—its own people?

Failure of the United States to withdraw would place us on untenable grounds before the august U.N. body and result in repeated denunciations for interference in the internal affairs of another nation. And consider how the presence of the 7th Fleet in the Straits of Formosa to defend the people on Taiwan from their national government could be made to appear.

All Red China needs is time. I fear the U.N. vote did far more than change the occupancy in the China seat—it was the death sentence for millions of Chinese living on Taiwan—and the eventual seizure of all U.S. interests and investments.

This is what you the U.S. taxpayers have bought at a cost of $300 million-plus a year as well as tolerating the existence of the atheistic U.N. and its bureaucrats in our country.

Consider that the United States is paying from one-third to 40% of the entire cost of the U.N. operations, yet we have one vote out of the 131 votes in the General Assembly and have never used our veto on the Security Council for fear it might offend some Communist country.

In comparison, the Russians, who have three votes, i.e., including Ukraine and Byelorussia, pay but 16.5% and of this they are $82 million in arrears. Of the smaller countries 54 pay less than 2% each of the U.N. budget and 67 other countries pay but 4/100 percent each. The following chart shows percentage contributions to the United Nations budget which U.N. member nations are expected to pay:

PERCENTAGE CONTRIBUTIONS TO U.N. BUDGET

(Source: Washington Daily News, Oct. 28, 1971)

[*In percent*]

United States	33.0
U.S.S.R. (Including Ukraine and Byelorussia)	16.5
France	6.0
United Kingdom	5.9
Japan	5.4
China	4.0
Italy	3.5
Canada	3.1
54 Countries (Each less than)	2.0
67 Countries (Each)	.04

No informed person would ever consider the United Nations as being an example of equal rights when over one-half of the voting countries of the U.N. don't even contain as many people as we have in the U.S. with our one vote and direct payment of one-third of the operations.

The manifest illegality in the U.N. is obvious to any observer. It is wantonly misapportioned and could not pass the "one man, one vote" legal formula under which the Members of this House must comply.

The population of the United States is over 200 million, yet 70 member states, or well over one-half of the 127 votes in the U.N., do not have the total population of the United States of America, which has one vote and pays most of the bills. How undemocratic and ill-informed can our leaders be?

The President's home State of California is more populous than 99 voting members of the U.N. Yet Californians are not represented by population for their State.

The District of Columbia, with a 1970 census count of 764,000 people, is larger in population than each of 14 voting members in the U.N., and the District of Columbia citizens talk about being a colony within our country that we of the United States are but a colony of the U.N.

In 1970, the census counted 668,700 American Indians, of which 468,700 live on reservations. Twelve voting members of the U.N. do not represent the population of American Indians who have no vote.

In the United States, there are estimated to be 20 million Negroes, who are constantly being told about the power of voting, yet have never been told that of the 41 votes the African Continent controls in the U.N., only four of the 41 represent people surpassing the American Negro population; that is, Ethiopia, Nigeria, South Africa, and United Arab Republic. Yet the American Negro has no U.N. vote except the U.S. vote for 205 million Americans.

The Jewish population in the United States exceeds 5,800,000, while the population of Israel is but 2,900,000. Yet Israel gets a vote, while America, who pays most of the bills, gets but one vote for 205 million people.

United Nations advocates who call for the "one-man, one-vote" principle to be applied in Southern Rhodesia, are silent with regard to the abuse of this same principle in the United Nations.

For example, of the member nations of the U.N., only India and the U.S.S.R. exceed the United States in population. Yet, the United States has one vote, as do all the other nations, while Soviet Russia has three votes. The United States, which has approximately 2,000 times more people than Maldive Islands, has a vote in the General Assembly that can be canceled by the vote of the Maldive Islands.

The undemocratic voting apportionment in the United Nations is manifested by the following comparisons:

Asia, with about 10 times the population of the United States, has 26 votes to our one vote—a voting advantage of 2.6 to 1.

Africa, whose total population is about twice that of the United Sates, has 41 votes to our one vote—a voting advantage of approximately 20 to 1.

Europe, with a population about 2.5 times that of this coutnry, has 21 U.N. votes, or a voting advantage of about 8 to 1.

South America, with a population approximately 10 percent less than that of the United States, has 13 votes to our one for a voting advantage of about 15 to 1.

It is incredible that this great Nation, whose taxpayers foot a larger share of the U.N. bill than any other country allows its people to be discriminated against in such an unfair and undemocratic manner.

Here is a chart showing statistics on the continents and the United States, population in thousands to the nearest thousand, and numbers of U.N. votes.

Continents and United States	Population	Number of U.N. votes
Africa	335,916	41
Asia	1,946,812	26
Europe	454,896	21
North America	309,294	13
South America	180,057	13
United States	205,000	1

Here is another chart listing the member state of the U.N. and population in thousands to the nearest thousand:

MEMBERS OF UNITED NATIONS GENERAL ASSEMBLY

[Population in thousands]

Afghanistan	17,000
Albania	2,200
Algeria	14,000
Argentina	24,800
Australia	12,500
Austria	7,400
Barbados	300
Belgium	9,700
Bolivia	4,600
Botswana	629
Brazil	93,305
Bulgaria	8,500
Burma	27,700
Burundi	3,600
Byelorussia (SSR)	9,670
Cambodia	7,100
Cameroon	5,800
Canada	21,400
Central Africa (republic)	1,500
Ceylon	12,600
Chad	3,700
Chile	9,800
China	14,320
Colombia	21,116
Congo (Brazzaville)	900
Congo (Kinshasa)	17,400
Costa Rica	1,800
Cuba	8,400
Cyprus	600
Czechoslovakia	14,700
Dahomey	2,700
Denmark	4,900
Dominican Republic	4,300
Ecuador	6,100
El Salvador	3,400
Equatorial Guinea	300
Ethiopia	25,000
Fiji	527
Finland	4,700
France	51,100
Gabon	500
Gambia	400
Ghana	9,000
Greece	8,900
Guatemala	5,100
Guinea	3,900
Guyana	721
Haiti	5,200
Honduras	2,700
Hungary	10,300
Iceland	200
India	554,600
Indonesia	121,200
Iran	24,400
Iraq	9,700
Ireland	3,000
Israel	2,900
Italy	53,700
Ivory Coast	4,300
Jamaica	2,000
Japan	103,500
Jordan	2,300
Kenya	10,900
Kuwait	700
Laos	3,000
Lebanon	2,800
Lesotho	1,000
Liberia	1,200
Libya	1,900
Luxembourg	400
Madagascar	6,900
Malawi	4,400
Malaysia	10,800
Maldive Islands	107
Mali	5,100
Malta	300
Mauritania	1,200
Mauritius	900
Mexico	50,700
Mongolia	1,300
Morocco	15,700
Nepal	11,200
Netherlands	13,000
New Zealand	2,763
Nicaragua	2,000
Niger	3,800
Nigeria	55,100
Norway	3,900
Pakistan	136,900
Panama	1,500
Paraguay	2,400
Peru	13,600
Philippines	38,100
Poland	33,000
Portugal	9,600
Rumania	20,300
Rwanda	3,600
Saudi Arabia	7,700
Senegal	3,900
Sierra Leone	2,600
Singapore	2,100
Somalia	2,900
South Africa	20,100
Southern Yemen	1,300
Spain	33,200
Sudan	15,800
Swaziland	420
Sweden	8,000
Syria	6,200
Thailand	36,200
Togo	1,900
Trinidad and Tobago	1,100
Tunisia	5,100
Turkey	35,000
Uganda	8,600
Ukrainian (SSR)	43,515
USSR	188,563
United Arab Republic	33,900
United Kingdom	56,000
Tanzania	13,200
United States	204,600
Upper Volta	5,400
Uruguay	2,900
Venezuela	10,800
Yemen	5,700
Yugoslavia	20,600
Zambia	4,300

Source: World Almanac 1971.

Citizens of member nations of the U. N. except one have voting power from 2 to over 2,000 times greater than that of U. S. citizens. This is rather hypocritical for an organization that preaches one-man one-vote in Rhodesia.

The members of the United Nations, their populations, and the voting power of each citizen in relation to that of each U. S. citizen is shown in the following chart:

MEMBERS OF THE UNITED NATIONS, THEIR POPULATIONS, AND THE VOTING POWER OF EACH CITIZEN IN RELATION TO THAT OF EACH U.S. CITIZEN

[In thousands]

Member	Population	Vote
Maldive Island	94	2,008.0
Iceland	190	1,030.0
Malta	324	600.0
Gambia	324	600.0
Luxembourg	329	595.0
Gabon	454	432.0
Kuwait	468	420.0
Cyprus	587	334.0
Mauritania	780	252.0
Congo (Braz.)	900	218.0
Trinidad and Tobago	947	207.0
Mongolia	1,019	193.0
Panama	1,210	162.0
Central African Republic	1,320	148.0
Costa Rica	1,391	141.0
Libya	1,559	126.0
Nicaragua	1,597	123.0
Togo	1,603	122.0
Jamaica	1,728	114.0
Albania	1,814	108.0
Singapore	1,820	108.0
Jordan	1,860	105.0
Paraguay	1,949	100.0
Lebanon	2,152	91.0
Sierra Leone	2,183	90.0
Honduras	2,200	89.0
Dahomey	2,244	87.0
Somalia	2,250	87.0
Liberia	2,500	78.0
Israel	2,523	78.0
Burundi	2,600	75.0
New Zealand	2,627	75.0
Uruguay	2,682	74.0
El Salvador	2,824	69.0
Ireland	2,849	69.0
Laos	3,000	65.0
Rwanda	3,000	65.0
Niger	3,193	61.0
Senegal	3,400	58.0
Guinea	3,420	58.0
Dominican Republic	3,452	57.0
Zambia	3,600	56.0
Bolivia	3,653	55.0
Norway	3,704	54.0
Ivory Coast	3,750	54.0
Malawi	3,753	52.0
Chad	4,000	49.0
Guatemala	4,284	46.0
Mali	4,384	45.0
Haiti	4,551	43.0
Tunisia	4,565	41.0
Finland	4,603	42.0
Denmark	4,773	41.0
Ecuador	4,877	40.0
Upper Volta	5,000	39.0
Yemen	5,000	39.0
Cameroon	5,103	38.0
Syrian Arab Republic	5,399	36.0
Cambodia	5,740	34.0
Madagascar	6,262	31.0
Iraq	7,004	24.0
Austria	7,195	27.0
Uganda	7,270	27.0
Cuba	7,336	27.0
Ghana	7,500	26.0
Sweden	7,661	25.0
Saudi Arabia	8,000	25.0
Bulgaria	8,144	24.0
Byelorussia	8,454	23.0
Greece	8,480	23.0
Chile	8,492	23.0
Venezuela	8,772	22.0
Kenya	9,104	22.0
Portugal	9,107	22.0
Malaysia	9,137	22.0
Nepal	9,388	21.0
Belgium	9,428	21.0
Tanzania U.R.	10,046	20.0
Hungary	10,120	20.0
Ceylon	10,965	18.0
Australia	11,185	17.0
Peru	11,357	17.0
Algeria	11,500	17.0
Netherlands	12,124	16.0
Formosa	12,293	16.0
Morocco	12,959	15.0
Sudan	13,180	15.0
Afghanistan	13,800	14.0
Czechoslovakia	14,058	14.0
Congo (L.)	15,300	13.0
Colombia	15,434	13.0
South Africa	17,474	11.0
Romania	18,927	10.0
Yugoslavia	19,279	10.0
Canada	19,571	10.0
Argentina	22,045	9.0
Ethiopia	22,200	9.0
Iran	22,860	8.0
Burma	24,229	8.0
United Arab Republic	28,900	7.0
Thailand	29,700	7.0
Turkey	31,118	6.0
Poland	31,161	6.0
Philippines	31,270	6.0
Spain	31,339	6.0
Mexico	39,643	5.0
Ukraine, S.S.R.	44,636	4.0
France	48,492	4.0
Italy	52,639	4.0
Great Britain	54,006	4.0
Nigeria	56,400	3.0
Brazil	78,809	2.0
Japan	97,350	2.0
Pakistan	100,762	2.0
United States	194,593	1.0
U.S.S.R.	229,100	.9
India	471,627	.4

Source: American Institute of Economic Research, Great Barrington, Mass., 1969.

Our leadership must assume its share of responsibility, but those nations who supported the Albanian resolution must never be permitted to escape their culpability.

Something must be done to defuse the United Nations and its manipulations by the Communist bloc powers. As it now is proceeding, we don't need to worry about a Communist invasion; we invite them into our country, give them diplomatic immunity from our laws and would have our people believe that Communist agents working at the U.N. are agents working for world peace.

It has been my opinion for many years that the interests of the United States would be best served by our getting out of the U.N. The U.N. was planned and created by communists and internationalists as a vehicle for establishing a socialist police state type one-world government. The great majority of Americans do not know the truth about the United Nations because their history books have provided one-sided and even false information and the mass communications media have substituted emotional slogans for factual and accurate information about the U.N.'s establishment, its structure, its operations, and its goals.

There can be no United Nations as intended by the U.N. bureaucrats and at the same time a sovereign United States. There can be only one or the other. And those of us who are Americans and understand the protections we so take for granted under the Constitution, which are known by no other people on the face of the earth, are not willing to surrender our country or our freedoms to the whims of that motley bunch of U.N. bureaucrats who clapped in glee and danced at the U.N. vote expelling Nationalist China and admitting Communist China. I leave to your imagination what this bunch would do to our liberties and property if they ever got complete control of the U.N.

On October 27, I filed discharge petition No. 10 to discharge H.R. 2632, a bill by Mr. Schmitz, a Republican of California, to rescind and revoke membership of the United States in the United Nations and the specialized agencies thereof and for other purposes.

Signatures of 218 Congressmen are necessary to discharge this bill for an imminent vote. Passage of H.R. 2632 would remove the United States from the U.N. and the U.N. from the United States, thus freeing our people from the ever-tightening yoke of international controls and the erosion of national sovereignty and constitutional government.

Any American recognizing the threat of the U.N. Organization to our people, as do Mr. Schmitz and I, can aid in discharging this bill by urging other Americans to encourage his Congressman to sign discharge petition No. 10 so that we may have an opportunity to remove this cancer from our shores and our leaders from its contagious infection before it becomes fatal.

To date, no one can determine what the full impact of the President's trip to Peking will be, but we can be sure that it will further the interests of world communism and may give to the communist powers the privilege of influencing the election, if not selecting the next President of the United States.

The U.N. instigated and conceived by "Americans," organized by "Americans," and paid for by "Americans," is the most anti-American, undemocratic threat to America existing today. With the U.N. as with our State Department's foreign policy, Americans come last.

No thinking American who believes in democracy or constitutional government could support or honor the U.N. failure.

The American Dream is Freedom—Not Peace at any Cost.

REVOLUTIONARY ANTIMILITARISM IN COMMUNIST THEORY AND PRACTICE—IX

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. SCHMITZ. Mr. Speaker, in conjunction with the House Committee on Internal Security's investigation into subversion of our Armed Forces I insert in the RECORD at this point the concluding segment of Dr. Robert E. Beerstecher's thesis entitled "Revolutionary Antimilitarism in Communist Theory and Practice."

This last portion of Dr. Beerstecher's study deals briefly with Communist antimilitary activities from 1941 through the late 1960's. With the shattering of the alliance between Nazi Germany and the Soviet Union the Communist Parties of the world were forced to rally round a new banner. When Hitler attacked the Soviet Union the "unjust imperialist war" became overnight the "great patriotic war." The Soviet parties in the various parts of the world did an about face and became the champions of military strength. They moved from disintegration work to the strengthening those armed forces which were obviously necessary to prevent the conquest of the "socialist motherland."

The defeat of Germany and Japan signaled the return of Communist antimilitary activity directed against the United States and various other non-Communist nations. The Soviets had never considered the free nations anything more than temporary allies, or to put it another way, enemies to be taken on at a later date. What we considered to be the peace following World War II meant nothing more to the Communists than time to begin preparing for world war III, and the weapon of revolutionary antimilitarism was quickly brought into play. Communists who had joined the U.S. military at the beginning of the war were ready to play their parts in the new struggle.

The first antimilitary operation of some size undertaken against the United States after the war had as its object the acceleration of our demobilization process and hastening the withdrawal of our forces from forward positions outside the continental United States. With the North Korean attack on South Korea antimilitary agitation and propaganda shifted to support the Communist war effort in that part of the world. The slogan "Korea for the Koreans" and elaborately "documented" charges of U.S. genocide against the people of Korea became major themes of antimilitary work.

From approximately 1948 onward an extremely important aspect of the Communist antimilitary campaign focused on disarmament, of the United States that is. While the Communist Party of the Soviet Union uses the people of their empire to prepare for war, it is the job of the Communist Party of the United States and its various collaborators, conscious, and otherwise, to prepare the United States to lose the war. Dr. Beerstecher points out that at the 19th Congress of the Communist Party of the Soviet Union held in October of 1952:

> The Communists made "peace" and "peaceful co-existence" the center of their new (antimilitary) campaign, reorienting their whole effort towards revolutionary pacifism.

In the final chapter of this excellent study Dr. Beerstecher summarizes the concept of revolutionary antimilitarism. Communist revolutionary antimilitarism is permanent, systematic, mass, organizational warfare, the prerequisite for Soviet victory.

While the Leninists are incorrect in their stated theds that the armed forces of non-Communist nations are basically a weapon used by the "ruling class" to suppress the people, the basic Clause witsian concept that for would-be conquerers the destruction of the potential victims armed forces is the surest key to successful conquest, can hardly be denied. That the Communists have the wrong doctrinal reason for the right target can be of little comfort to ourselves should they have success.

Since it is the high degree of organization which gives the armed forces their strength, the key to antimilitarism is disorganization of these forces, both on the level of the individual soldiers and of those facets of society on which he depends for the successful completion of his mission.

The higher the level of technology on which the soldier depends, the greater the scope for antimilitary activity. No matter how sophisticated the available weaponry, it is useless without well-trained and well-motivated soldiers to operate it, Communist antimilitary operations have as their target all the elements necessary for successful defense of the target nation.

The Communist organization acts always upon the historical present and attempts to take into account the relevant characteristics of the contemporary historical situation. It does not, however, forget certain basics. Although it attempts to induce confusion about permanent facts of existence among potential victims, it has never forgotten that the cutting edge of communism is force.

The Armed Forces of the United States of America stand between ourselves and immediate subjugation by the Soviet Union. Just as our fighting forces protect us, we in the Congress must protect them. Not only must we assure that they have the finest equipment available in the quantity necessary to prevail over present and potential enemies, but we must thwart the efforts of those who are working behind the lines, as it were, to destroy the integrity of these forces.

By understanding the tactics utilized by the Communists to destroy armed forces past we have the historical knowledge necessary to help preserve armed forces present and provide for freedom's future. Dr. Beerstecher's contribution toward this end is of inestimable value.

The concluding portion of Dr. Beerstecher's study follows:

REVOLUTIONARY ANTIMILITARISM IN COMMUNIST THEORY AND PRACTICE—IX

(By Robert E. Beerstecher, Ph. D.)

CHAPTER XVII: THE WAR YEARS—1939–44

Defeatism, having triumphed in France, was given renewed emphasis in communist propaganda campaigns aimed at neutralization and destruction of the military establishments in both Great Britain and the United States.

American communists were dedicated by Moscow to isolating the United States from the rest of the world. Even after the fall of France, and the beginning of the devastating V-bomb raids on Great Britain, the Communist Party of the United States worked to prevent American involvement in the war on the Continent. At the same time, the communists carried out a major "peace" campaign against buildup of the armed forces of the United States. "Not a man, not a cent, not a gun for imperialist war and military

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purposes!" ran one popular communist anti-militarist slogan of the period.[1]

The compulsory military training program came under communist attack. "Are you old enough to die?" asked another slogan circulated by American communists among the youth, "Do you come within the conscription age?" [2] A note of defeatism prevailed in the propaganda prepared for the new recruits being drafted into the military services. For example, one pamphlet widely circulated among American servicemen contrasted "a job, marriage, a home, security, civil liberties and peace" with "shell-shock, gas, an armless body, a grave in some Flanders Field," and called upon the reader to make his choice "right now!" [3]

There was little if anything subtle about communist propaganda. Consider the pamphlet which was headed with the question "Want to die?" followed by the assertion "Wall Street needs dough!" [4] "This time," the communists proclaimed, "The Yanks are not coming!" "Be neutral," they urged the American civilian and servicemen alike, "Join in a protest for peace. Keep the U.S. out of imperialist war. No loans for any belligerent country. Remember, youth wants no part of war." [5]

On June 21, 1941, an event occurred which necessitated still another complete reversal in the international communist party line. On that date, Germany invaded the Soviet Union. By that single act, the "unjust, imperialist war" became the "great patriotic war." Overnight, the same communist propaganda organ which had boasted that "The Yanks are not coming" began clamouring for the immediate entry of the United States in the war.

Throughout the world, the battle cry of the communist press became "Defend the Soviet Union." Where local communist parties had been struggling to undermine the morale of the armed forces, the emphasis was now placed on building up the military strength of the country. A party directive issued to Australian communists during the period is typical of the guidance furnished all foreign communist parties through the Comintern:

"It is the duty of the members of the Communist Party in the armed forces to do everything in their power to improve the fighting strength and morale of our fighting forces. The Communist soldier must be the best and most efficient soldier. Let it be understood that a bad soldier is a poor Communist." [6]

Communists everywhere took advantage of the call to national patriotism to increase their prestige and position, by entering the armed forces. This was especially true in the United States after December 7, 1941, when America was plunged into the war. On the day after the Japanese attack on Pearl Harbor, the Communist Party of the United States pledged "its loyalty, its devoted labor and the last drop of its blood in support of our country in this greatest of all crises that ever threatened its existence." [7] The Party called for "national unity." In the months that followed, 15,000 men and women members of the Communist Party and the Young Communist League entered the American armed forces.[7] Unlike the communists who had been sent to "colonise" the armed forces during the late 1920's and early 1930's for the purpose of securing training for revolution, the main task of the American communist in the military service during World War II was to gain recognition as a "good" American. In addition to this drive for legitimacy, American communists also sought to excel as "good" soldiers in order to win promotion and positions is which they could influence their fellow soldiers in the interests of international communism.[8] The tendency of communists in the army during World War II to seek positions of political utility was not as evident at the time as it has later become.

Drawing upon their party training, discipline and previous experience, many communists became educational instructors, political intelligence officers, editors, etc. They sought out positions in mass information media organisations and in military government units.[9]

The American communists were also active on the home front throughout the war. One of the most successful measures which the communist youth organisation utilised to gain adherents among the men in service was their famous "SOS", or "Sweethearts of Servicemen." Communist service canteens were established in many of the major military centers in the United States. In addition, communist-dominated front organisations and labor unions were utilised to widen the potential recruiting grounds for new communist members among servicemen. Unions "adopted" individual servicemen and service units, sending presents and parcels which contained their share of pro-communist propaganda. These "adoptions" were financed by individual member levies of the type Lenin had advocated shortly after the turn of the century.

Although the Soviet Union was heavily engaged in war; it still maintained the Comintern as its primary means of marshalling the international communist movement in its behalf. On June 10, 1943, however, the Comintern was summarily dissolved by Moscow as a war measure. In commenting on its dissolution, Stalin himself declared:

"The dissolution of the Communist International . . . facilitates the organization of the common onslaught of all freedom-loving nations against the common enemy—Hitlerism. It exposes the lie of the Hitlerites to the effect that 'Moscow' allegedly intends to intervene in the life of other nations and to 'Bolshevise' them." [10]

The dissolution of the Comintern was merely the Soviet Union's means of lulling the more gullible into believing that it no longer exercised control over the communist movement outside of its national borders. In effect, however, the communist control mechanism was being sent underground, for it was carried on covertly through official Soviet diplomatic channels until the apparatus reemerged after the end of the war in the form of the Communist Information Bureau, the Cominform.

CHAPTER XVIII: THE AFTERMATH OF THE WAR—1944–50

The prospect of victory in World War II brought with it the realization to the Soviets that with or without its monopoly of the atomic bomb, the United States represented the sole major obstacle to the post-war achievement of world socialism. Conscious that wide dispersal of large American military forces spelled potential opposition to communist machinations for gaining broad political control in the occupied areas, the Soviets undertook an antimilitarist propaganda and agitational program to weaken, neutralize and destroy the post-war military strength of the United States and its major Western allies. Keystone of the Soviet program was the rapid dissolution of the western military potential through acceleration of the rate at which the planned mass demobilization program for the American armed forces was to be carried out. Parallel programs were undertaken in Britain and France as well.

From its inception, the program was assured of at least partial success, for it was based on the concept of applying leverage in an existing situation, rather than in the creation of new devisive influences in a hostile environment.

Communist propaganda organs in the United States initiated the program in September, 1944, when the first demobilization plan was announced by the War Department. Although the plan was unquestionably narrow in scope and evidenced lack of thorough consideration of the complex problem it proposed to resolve, it was heralded in the New York *Daily Worker* as being "extremely sensible and democratic." [11] Thereafter, with growing emphasis throughout 1944 and early 1945, the American communists agitated both on the home front and within the armed forces for a speeding up of the demobilization program. All propaganda facilities and agitational media available to the communist party were utilized, including those of the front organizations and the controlled labor unions. The central slogan of the campaign was "bring the boys home by Christmas." Typical of the means by which pressure was exerted were the postcards furnished the troops and the public at large by the National Maritime Union. Each card carried a message which urged the President of the United States to make "every ship a troopship" for getting American servicemen home from abroad. On one day alone, December 17, 1945, an estimated 60,000 such postcards were received by the Adjutant General of the Army.[12]

Disorders occurred within the ranks of American forces stationed in Europe, the Middle East and the Pacific in January, 1946, when the War Department announced that there would be a slow-down in demobilization. While these disorders were primarily spontaneous, there is evidence to support the fact that individuals and organizations with communist sympathies attempted to promote discontent among American troops in those areas during this same period.[13]

From the information available it is clear that even without the uncessing pressures created by the communist's campaign, the demobilization of the American armed forces at the end of World War II was destined to have been accomplished in an utterly chaotic manner; yet it appears unlikely that the dissolution of American military strength would have occurred as rapidly as it did, or to the degree that it did, had it not been for the machinations of the communists.

In the immediate post-World War II era, the international communist movement lacked an efficient organization for transmitting propaganda and agitational guidance from Moscow to the far-flung communist parties throughout the world. Its dependence on Soviet diplomatic personnel proved to be highly unsatisfactory, for not only were local contacts difficult to maintain, but overt identification with the Soviet Union destroyed the faction (created during the war resulting from the dissolution of the Comintern) that the local communist parties were not Moscow-dominated, but were really nationalist groups. The founding of the new Cominform in 1947 resolved the Soviet dilemma.[14]

Throughout the period leading to the outbreak of the Korean war, Soviet antimilitarist propaganda emphasized major themes calculated to weaken the relative military strength and power potential of the United States. Foremost among these themes was one predicated on the American monopoly of the atomic bomb. Asserting that the United States would not always have a monopoly on such weapons, the communists agitated for the voluntary prohibition of all nuclear weapons, and the immediate curtailment of all weapons' production and testing.[15]

American interventionalist policies in colonial and semicolonial areas (i.e., undeveloped areas) provided another of the dominant themes emphasized in the international communist antimilitarist press. In their propaganda, the communists singled out the United States military for criticism of the support given to the Kuomintang against Mao's Chinese people's army.[16] American control of the former Japanese-mandated islands in the Pacific was frequently characterized as "detrimental to the cause of the people in the Far East." [17] Similarly, it was charged that United States military aid to Holland was underwriting the war in Indonesia, while American military assistance to France was making a major contribution to the crushing of the national liberation movement in Indo-China.[18]

Another major theme emphasized by the communists was the claim that the United States and its allies were maintaining large military forces camouflaged as laborers and building battalions in the western zones of Germany—German military forces which were being groomed to act as the "mercenaries of world reaction" against the Soviet Union.[19] The threat of the revival of German militarism figured prominently as one of the basic propaganda themes calculated to marshal public opinion throughout Europe against the United States, but was only one part of the larger campaign which aimed at making American military forces unwelcomed abroad and forcing their ultimate withdrawal from the Continent. Considerable agitation was carried out in England, France and Italy, and elsewhere throughout the world, to force those governments to deny further basing rights to American military forces. Typical of the propaganda line was the one carried out in France and Italy, where party chieftains had declared not only that their countries would never go to war against the Soviet Union, but that their countrymen would never bear arms against the homeland of socialism.[20] Leading French communists complained that the French army had been dissolved—that it had been incorporated into a foreign command where it existed only to play the role of an armed valet, a tool of American reaction, eventually to be used against the Soviet Union.[21] This theme became more prevalent as Marshall Plan assistance pointed Europe towards economic recovery, at which time one of the leading French communists asserted that one of the military consequences of the Marshall Plan was "the liquidation of French national defense." [22]

Of all the propaganda themes utilized by the communists, the one which had the most telling effect was the theme of "peace". Just as the official Soviet diplomatic line condemned war propaganda and war mongering, so, too, the communist line emphasized the desire of all people to live in peace, neglecting, however, to explain that the "democratic" peace which they called for meant complete submission to world socialism.[23] In order to capitalize on the universal desire for peace, the communists underwrote the World Peace Congress which was formed jointly in Prague and Paris in 1949.

The withdrawal of American forces from many countries after the end of World War II created a virtual vacuum which permitted the local communist organisations an extremely fertile and almost unopposed field in which to work. This was especially true in the Far East where communist propaganda had accused the United States of retaining troops for the purpose of "imperialist intervention." The United States was accused both of intervening in China's internal affairs and retaining troops in the Philippines to suppress that countries freedom.[24] Philippine communists did not wait for the complete withdrawal of American forces to begin their own anti-militarist campaign. In one directive issued by the Communist Party of the Philippines, all party members were called upon to work for the "aggressive politicalization of the armed forces of the enemy, particularly the rank and file of the foot soldiers." [25] "At the proper time," the directive continued, "these foot soldiers can be made to desert and turn their guns against their officers." [26] The Huk campaign of violence in the Philippines found its parallel in the colonial and semi-colonial areas throughout the world.

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Guerrilla tactics by the communists were also carried out in a broad area in Greece, Malaya, Burma and Indochina. The successful communist take-over in China is now history.

Communist propaganda aimed at securing a speedy withdrawal of Western military forces from both friendly and occupied areas was paralleled on the diplomatic front by overtures made by the Soviet Union during the first sessions of the General Assembly of the United Nations. Calling for general regulation and reduction of all armaments, the Soviet representative repeatedly raised the question as to whether the time had come for the withdrawal of foreign troops from non-enemy countries in Europe. The Soviet proposal, it was asserted, was motivated by the consideration that "the unwarranted maintenance by the Great Powers of armed forces in those countries was abnormal now that the war was over." [27]

Public pronouncements by Joseph Stalin sought to lull the Western allies into the belief that the intentions of his government were entirely peaceful. At the same time, he decried those who were, as he put it, raising the clamor about a new war. The danger of a new war, Stalin asserted in January, 1947, did not exist.[28] There were, however, those who talked loudly of war, Stalin said, in order (a) to frighten with the spectre of war certain naive politicians among their opposite partners and thereby help their governments to wring from the latter the largest possible concessions; (b) to prevent for a time the reduction of military budgets in their own countries; (c) to delay the demobilization of the armed forces and thereby prevent the rapid growth of unemployment in their countries.[29]

Even as Stalin talked, the sovietization of Eastern Europe was underway. Here, too, antimilitarism played a major role. Unlike the colonial areas of Asia where the communists underwrote a program of guerrilla action and violence, the situation in Europe, and more especially in Eastern Europe, was conducive to the application of non-violent antimilitarist techniques. When the war ended, the local communist parties, as the result of their partisan resistance activities, were participants in the coalition governments of both Italy and France, as well as in the several countries of Eastern Europe, i.e., Albania, Bulgaria, Czechoslovakia, Hungary, Poland and Rumania, which later emerged as the "peoples' democracies." Although the communists were the predominant political factions in the Italian and French governments, they failed to establish "democracies" of the type which they developed in Eastern Europe. The finite communist explanation as to the underlying cause for this failure is that France and Italy "were occupied by the armies of the United States and Britain, which balked the democratic will of these peoples." [30] This provided the communists with added reason for attempting to disintegrate the organised military forces of the United States and its allies.

CHAPTER XIX: KOREA AND THE CRUSADE FOR PEACE—1950–53

In June, 1950, the "cold" war erupted into a full scale shooting war. The battleground was Korea. Communist reaction was immediate, with parties throughout the world parroting the Cominform dogma that British-American imperialism was responsible for the aggression in Korea.[31] War had broken out, it was asserted, because American interests were desirous of making Korea into an American colony.

Communist antimilitarist agitation and propaganda took various forms, all calculated to weaken public support in the West for the UN forces assigned to Korea. In the United States, the communists organised a series of mass meetings demanding the recall of all American forces from the Far East.[32] French communists, who had been engaged in an active defeatism campaign within the French armed forces, extended their program to include the slogan "Korea for the Koreans" which paralleled their action slogan of "Viet-Nam for the Viet-Namese." [33] English communists, led by Harry Pollitt, deviated from the standard communist dogma by declaring that war was not inevitable. All people, they said, must work for world peace, must demand the immediate end of the war in Korea, and should demand the immediate withdrawal of British troops from Malaya, another world trouble spot.[34] Further, the British communist party condemned the joint British-American "invasion" of Korea, comparing that action with the intervention of Hitler and Mussolini in Spain during the late 1930's. The UN flag, it was asserted, had only been used to disguise the flagrant British-American aggression. British communists emphasized the necessity for the withdrawal of the British navy and military contingents from the Korean area. "Not a soldier, not a gun for the American war" became the communist password in Britain.[35]

May day slogans in 1951 throughout Great Britain emphasized the fact that British soldiers serving under American command in Korea were "fighting and dying for American big business." [36] Stalin himself reaffirmed the antimilitarist doctrine when, in early 1951, he directed all communists through a statement in *Pravda* to describe the United Nations war against North Korea and China as an "unjust" war. Allied soldiers were called upon by Stalin to perform their duties on the front "in a formal way without faith in the righteousness of their mission and without enthusiasm." In the face of such conduct, Stalin said, "The most experienced generals and officers can suffer defeat."

Not until the Korean war entered its second year did the communists discover the popular appeal of atrocity claims. They played it initially in low key with suggestions that "asphyxiating gas" had been used in Korea.[37] Soon, however, their propaganda campaign began emphasizing crimes of a major nature, e.g., germ warfare, mass genocide, etc. Their major mechanism for mass appeal was the World Council of Peace. Early in 1952, the Council charged that American military forces in Korea had made use of bacteriological weapons.[38] These charges were repeated in communist propaganda organs throughout the world, and were later "supported" by alleged depositions by captured American airmen describing their participation in germ warfare in Korea and China during the winter of 1951 and the spring of 1952.[39]

Under the auspices of the World Peace Council, an "International Scientific Commission for the Investigation of the Facts Concerning Bacterial Warfare in Korea and China" was formed. The report of this communist-disciplined commission published in the Peking-controlled *Chinese Medical Journal* specifically alleged that plague, anthrox and cholera had appeared in Korea and China as the result of extensive use of such bacteria in warfare.[40] This, and other antimilitarist propaganda published in Peking by the Red Cross Society of China in 1952, aimed at creating the picture of an inhumane America. Disseminated throughout the world in the diplomatic pouches of the people's democracies of Eastern Europe, the propaganda pamphlets alleged that American soldiers had been deliberately indoctrinated in racial hatred during their military training so that they would treat Koreans as inferior beings; that high-ranking American officers issued instructions that units in the field would not take prisoners; that prisoners-of-war were wantonly shot; that Korean civilians were turned over to the South Koreans to be tortured or murdered in cold blood; that entire villages had been laid to waste by systematic destruction without rea-

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son; and that servicemen soldiers were encouraged by their officers to rape the Korean women."[42]

Another typical example of the atrocity propaganda which was widely circulated through communist channels was the product of the Cominform-controlled Women's International Democratic Federation.[43] The WIDF charged systematic machine-gunning of defenseless civilians by low-flying American aircraft, the use of incendiary bombs against villages housing only women and children; the pillaging of Korean archeological treasures; the establishment of brothels in which women were forced to submit to the American soldiers, etc. The report emphasized that civilians were killed by Americans and South Koreans alike, some by having cartridges exploded in their mouths, some by having their heads split with axes, some by being buried alive. Babies were allegedly dashed to death on the ground, women were raped and drowned, while one Korean mother was alleged to have been led naked through the streets of her village by American soldiers who later killed her by pushing a red-hot iron into her vagina.[44]

Although the primary focus of attention was on Korea and the Far East, secondary propaganda and agitational campaigns were carried out using European themes. For example, Italian communists propagated the line which stressed that Italian military forces under NATO were being commanded by Americans. "We favor an army which belongs to Italy," the communists cried patriotically, " . . . not one in service of and subordinate to the United States."[45] Togliatti, the leading Italian communist, offered the support of his party to any Italian government which would withdraw from NATO, without any of the previous strings demanding that the communists accede to power.[46] The cry "against the remilitarisation of Germany" was also heard throughout Europe. French communists led the agitation against the reconstruction of "Hitler's war machine". They also called for the end of the American "occupation" of France, the outlawing of the atom bomb, and the establishment of universal peace.[47]

By 1952, a major change was becoming evident in the international communist movement. Whereas previously the communists had been making a purely proletarian approach in its peace propaganda campaign, it became clear that a new world-wide offensive was being launched aimed at the formation of political coalitions centered on an anti-American program. The Soviet Union, the party line proclaimed, was sparing no effort "to save mankind from the catastrophe of atomic destruction." Appealing to the nationalist spirit as the basis for coalition fronts, the communists attacked those who agreed to "the liquidation of the national character of the army". The theme emphasized the necessity for "defense of national independence" and lamented that government officials acted as "lackeys" of the U.S. imperialists.[47]

The Nineteenth Congress of the Communist Party of the Soviet Union was held in Moscow in October, 1952. Georgi Malenkov, speaking on behalf of the party's Central Committee, opened the Congress with a declaration indicating that antimilitarism still remained the first task of all communists. Malenkov declared that it was the duty of every communist to continue to struggle against the preparation and unleashing of a new war, to unite for the consolidation of peace the mighty anti-war democratic front, to strengthen the bonds of friendship and solidarity with the Peace Partisans the world over, insistently to expose all preparations for a new war, all machinations and intrigues of warmongers . . ."[48]

Footnotes at end of article.

Malenkov's speech revealed that the appeal to a christian patriotism, although was being abandoned. Henceforth, it was the "partisans of peace", rather than the working people, with whom political bonds were to be sought. The communists made "peace" and "peaceful co-existence" the center of their new campaign, reorienting their whole efforts towards revolutionary pacifism. Traditional slogans of class warfare were replaced by slogans of the new "Peace Partisans" who struggled against militarism and war.

Stalin also spoke at the Nineteenth Congress, declaring that peace movements could not in themselves achieve permanent peace:

"It is most probable that the present peace movement, should it be successful, will result in prevention of a *given* war, in its postponement, a temporary preservation of a *given* peace, to the resignation of a belligerent government and its replacement by another government, ready to preserve peace for the time being . . ."

However, Stalin continued, "In order to eliminate the inevitability of war, imperialism must be destroyed."[49] By imperialism, Stalin meant the United States.

CHAPTER XX: PEACE IN OUR TIME—1953–60

Death wrote an end to Stalin's long reign on March 5, 1953; but Soviet antimilitarism did not end with Stalin's passing. In fact, his demise was followed almost immediately by indications that the international communist movement had been directed to heighten its peace offensive. Communist propaganda now aimed at relaxing international tensions in order to permit the new regime to consolidate power within Russia and the Soviet bloc. Moreover, it served as a dampener on Western defense efforts which had been given increased impetus by the Korean war.

Calling for an immediate cease-fire in Korea, the avowed communists throughout the world and their "partisans of peace" proclaimed that "we, the people, must impose peace!"[50] Within months, the "reactionary imperialist war" in Korea was halted by an armistice, an event hailed by the communist world as a victory for the forces of peace and socialism. Flushed with what appeared to be a major propaganda success, the "partisans of peace" tended to lapse into a state of blissful inactivity which caused considerable concern within certain quarters of the international communist movement. To combat the growing lethargy within the pink fringe of the American communist movement, William Z. Foster, who had shepherded the Communist Party of the United States since the downfall of Earl Browder after the end of World War II, declared that the fight against the war danger should be continued even in the face of victory in Korea. "When one has the enemy on the retreat," Foster asserted, "one must drive to destroy him."[51]

The drive to destroy the "enemy," i.e., American imperialism, centered on preventing American involvement in the war in Indo-china; on prohibiting all forms of chemical and bacteriological warfare; on suspension of production and testing of atomic and hydrogen weapons; on preventing the re-armament of Germany and Japan; and on undermining acceptance of the American doctrine of "mass" retaliation.[52] But of even greater importance was the communist task of shattering "the 'big-lie' that the U.S.S.R. in any sense constitutes a war menace."[53]

American imperialism was identified in communist propaganda organs everywhere as "the main enemy of world peace."[54] However, although "police" actions, wars of aggression, and wars of intervention were resolutely opposed, there was not always unanimity as to the extent to which the danger of war actually existed in the post-Korean era. For example, when the United States moved to establish a military alliance with Pakistan in 1954, the National Committee of the Communist Party of India declared the action to be a "menace to peace and a threat to India's freedom and sovereignty."[55] Some Indian communists argued, however, that their National Committee was guilty of overestimating the threat. While agreeing that American imperialism was the main enemy of world peace, the India communists were not prepared to accept the alliance as either an immediate or a direct threat to India.[56] This, and similiar splits within the international communist movement, represented the handwriting on the wall for the major doctrinal reversal which would be announced at the Twentieth Congress of the Communist Party of the Soviet Union in 1956.

Antimilitarist agitational activities initiated by the communists aimed at undermining existing collective security arrangements involving the United States and preventing the formation of new ones. Major emphasis was placed on weakening American prestige throughout Asia by attempting to block the formation of SEATO. In addition, Japan was chosen as one of the principal battle grounds in the communist campaign which was marked by near-violent mass meetings and demonstrations demanding the liquidation of American military bases and the complete withdrawal of American forces.[57] In Europe, the attack was centered against NATO and the possibility of an European Defense Community. The pattern in tiny Portgual was typical of the propaganda and agitational campaign carried out by the communists in every NATO country. Protest meetings were held, petitions circulated for signatures, and leaflets distributed by the hundreds emphasizing the economic impact of the country's participation in NATO and calling for getting rid of the foreign interference in the political and military affairs of their government. The communists also called for withdrawal from NATO, emphasizing the necessity for an immediate reduction in military expenditures and war preparations.[58]

The effectiveness of the communist campaign was considerably weakened by the intellectual ferment which was taking place within the international communist movement. On the one hand, Stalin had reiterated shortly before his death the dogma on the inevitability of war. Those within the party who warned of the war danger were ever mindful of the fact that Stalin's dogma had not been denied by the new regime. Yet it was manifestly incompatible with the new campaign for "peace" and "peaceful co-existence." The dilemma was not resolved until the meeting of the Twentieth Congress of the Communist Party of the Soviet Union.

At the Congress, Stalin's dogma on the inevitability of war was denied. "For the first time in history," the communists were told, "war is not inevitable."[59] While imperialism still retained the economic base for war, it was explained, it was no longer a world-wide system. The forces of peace, i.e., the Soviet Union, the people's democracies of Eastern Europe, and neutral countries such as India, had emerged as a major force in the world strong enough to prevent the outbreak of war.[60] The Soviet Union was, in effect, no longer a victim of imperialist encirclement.

The new doctrinal position led to a series of agonizing reappraisals of communist strategy and party tactics. Within the Communist Party of the United States, the self-criticism took the form of charges by the National Committee that the party had been guilty of gross over-estimation of the war danger. In the fight for peace, the criticism of the National Committee ran, the analysis of the concrete international situation had not been well grounded in reality. Moreover, it was charged, people had been misled into believing that war was imminent, which made them ill-prepared to accept the concept that "peaceful co-existence" was possible.[61] This criticism was aimed directly at the leadership of William Z. Foster who

denied its validity, and who subsequently broke with the party over it.[62]

By the end of 1957, communist parties throughout the world were being called upon by the Cominform to reaffirm their solemn pledge that they regarded the struggle for peace as their foremost task, and that they would do everything in their power to prevent war. According to the Cominform line, "the question of war or peaceful co-existence is now the crucial question of world policy."[63] Again and again the phrase was repeated that war was not inevitable. "War can be prevented," the communists chanted, "peace can be preserved and made secure."[64] The drive was on to thaw the "cold" war.

In their struggle against the "cold" war, the communist propaganda organs characterized it as being fostered by American imperialists for the purpose of preparing an "all-out war against the socialist and progressive war."[65] Moreover, they proclaimed that the "cold" war had been the longest and most militant "war scare" in history, and that it was "pregnant" with war danger.[66] Premier Khrushchev's visit to the United States in the Spring of 1959 did much to convince the disciples of the "partisans of peace" and the "cold" war had come to an end, and that "peace", or rather, "peaceful co-existence" was just around the corner. Moreover, Khrushchev's sweeping disarmament proposals before the United Nations was eloquent testimony to the fact that antimilitarism still remained a living part of Soviet doctrine.

CHAPTER XXI: THE PAST IS PROLOGUE

Soviet antimilitarism has recorded positive gains since 1940 in its attack against American military potential. How significant these gains have been, however, cannot be accurately assessed, for the available information is not sufficient to permit the assignment of a percentile quotient for the degree of success achieved. However, when it is remembered that the communists themselves consider their antimilitarist activities as preparation, rather than an end, it becomes apparent that the real significance lies not only in what has gone before, but in what is yet to come.

Soviet antimilitarism will undoubtedly continue to emphasize peace, peaceful co-existence and disarmament. Public apathy relative to national defense matters will be encouraged, while defense expenditures will be attacked as unnecessary waste of public funds.

The importance of studying the revolutionary episodes of the past in order to cull from them lessons applicable to the future is emphasized by the communists. When this technique is used to study revolutionary antimilitarism, it permits invaluable insight into the *modus operandi* of modern communism. It reveals that revolutionary antimilitarism is applied by the Soviets on an international scale; that no non-communist country is exempt from Soviet machinations; that all military forces, and especially the navy, are vulnerable to disintegration and demoralization tactics; that communists in non-communist states place loyalty to the Soviet Union above loyalty to their own country; that these communists advance the cause of Soviet power by advocating and actively working for the revolutionary defeat of their own government in time of war; that all communist activity, including revolutionary antimilitarist work, is preparation for armed insurrection, the supreme form of struggle.

The Soviets define antimilitarism as "a mass international movement of struggle against the politics of militarism and imperialist war."[67] War and militarism they assert, are spawned by capitalism, and cannot be abolished without force, armed uprising and proletarian war. Wars between imperialist states and wars of imperialist intervention and counterrevolution against the proletarian state, are "unjust" wars, and according to the Soviets, they must be opposed. But this does not mean that the Soviets are pacifists or that they are opposed to all war. National revolutionary wars, including the struggles of colonial countries and national minorities, are considered "just" wars. When war does occur, agitation in favor of its speedy termination is usually initiated. In addition, the communists utilize the economic and political crisis created by war to rouse the masses to action and hasten the downfall of the state.

The communist program governing propaganda and mass agitational work in non-communist countries during war consists of five main points. First, it rejects the concept of "national" defense. All support to the government is withdrawn by the communists who refuse to recognize any fatherland other than the revolutionary socialist fatherland, the Soviet Union. Second, the communists propagate defeatism, emphasizing that the real enemy is within the existing government. Third, it calls for revolutionary disintegration work on an international scale in all the belligerent countries, stressing the need for mass fraternization between the troops across the front lines. Fourth, it popularizes the slogan "Transform the imperialist war into civil war," for revolution in war means civil war. Finally, the program emphasizes the slogan of "proletarian revolution," and supports all revolutionary mass actions, claiming that real "peace" is possible only under soviet power.

Revolutionary antimilitarism is an essential prerequisite for achieving soviet power. It is implicit in the communist theory of revolution that the realization of soviet power, i.e., the conquest of the political power in a non-communist state and the establishment of the dictatorship of the proletariat, requires and must be preceded by the disintegration of the organized military forces of the state. Just as Clausowitz held that the army is the key to victory in every country, the soviets consider that the armed forces are the decisive factor in revolution. For the soviets, there is no such thing as a neutral army, navy or air force. They hold that the armed forces, as the chief instrument of state power, must be destroyed. For them, as it was for Marx and Engels, the first commandment for revolutionary victory remains: smash the existing military structure of the state and replace it with a new one. The achievement of this objective requires actual penetration of the armed forces.

The establishment of soviet power in a non-communist state is subordinate to the task of defending the revolutionary socialist fatherland. The foremost task of all communists is the defense of the Soviet Union. One of the primary means by which this task is advanced is revolutionary antimilitarism which implies systematic, permanent, mass organizational warfare.

Revolutionary antimilitarism is systematic warfare. Failure to carry on systematic antimilitarist work is considered by the communists as tantamount to a dereliction of revolutionary duty. Soviet theorists emphasize that revolution does not spring from the spontaneity of the masses; it comes only as the result of careful advanced preparation, training and prosecution by a specially trained group of professional revolutionaries. The importance of systematic propaganda, systematic agitation and systematic organizational activities in achieving disintergration of the armed forces and mobilizing the masses for revolution is repeatedly stressed in communist literature. Knowledge of military tactics, organization, weapons, and training is considered to be an essential qualification for all militant communists. Every effort is made to convert ideologically the armed forces of noncommunist states, but the communists recognizes that a physical fight for control of the army, navy and air forces will also be necessary on the outbreak of armed uprising. To acquire the requisite military experience and training, communist parties and youth leagues send their members into the organized military forces of the state, acting on the promise that the best place to learn about the strengths, weaknesses, capabilities and vulnerabilities of the enemy is from within enemy ranks.

Revolutionary antimilitarism is permanent warfare. Antimilitarist propaganda, agitation and organizational activities are considered to be basic tasks which form an integral part of the daily routine of all communists. These tasks usually take precedence over all other assigned tasks. They are carried on continuously, daily, year in and year out. Whenever setbacks occur, the tempo of antimilitarist activity may suffer temporarily, but it is usually renewed with increased vigor, for all antimilitarist work is considered as preparation for the decisive battles "yet to come." Exigencies of war or peace may necessitate changing fundamental themes or tactics, and the intensity with which work in the armed forces is pursued may vary considerably from country to country, but the requirement for communists to engage in antimilitarist work continues as long as the objective of world soviet power remains unattained.

Revolutionary antimilitarism is mass warfare. According to Lenin, the two essential requisites for successful revolution were that it be a mass movement and that it "touch" the military, i.e., the man in the armed forces, or at least a part of them, must be on the side of the masses. Mass militarization is a characteristic of modern war. The mobilization of vast segments of the population from all classes further contributes to the mass character of modern military forces. The distinction between the military front and the civilian rear tends to disappear as dependence on labor, industry and transport to support the military establishment increases. Specialized techniques are employed by the communists to link the men in service with the working class. Mass dissemination media, including pamphlets, leaflets, mail and the highly specialized antimilitarist press and radio, provide the communists with potent weapons for propaganda and agitation among the military forces. Support of the concrete immediate demands of servicemen, including the specialized interests of racial, religious and national minorities, is part of the concentrated mass action through which the communists attempt to influence and control the armed forces. Whoever captures the youth, the communists assert, controls the armed forces and determines the future. Thus work among the youth seeks to establish their subordination to communist discipline even before they enter military service. A well-developed program to influence the man under arms through their wives, mothers, sisters and sweethearts is also pursued by the communists.

Soviet theorists assert a significant correlation exists between the revolutionary spirit of the armed forces and the revolutionary spirit of the masses. They claim that the armed forces are an extension of the masses and that the awakening of the revolutionary spirit among the troops contributes to the revolutionization of the masses.

Revolutionary antimilitarism is organizational warfare. The organization of revolution requires a militant organization, a communist apparatus, capable of combining both legal and illegal, violent an non-violent activity. Paralleling every legal or overt communist apparatus engaged in mass disintegration activities is an illegal, underground communist organization, the basic building block of which is the secret cell. The illegal

Footnotes at end of article.

XUM

organization plays an important role in the struggle against war before the outbreak of war; it is also through this illegal organization that the communists seek to carry on their revolutionary activities after the outbreak of war. Communist nuclei or cells are created at every level of command in the armed forces. In addition, the communists form soldiers' and sailors' committees, as well as various types of servicemen's clubs, through which, by securing for themselves the position of authority, they are able to influence and control the men. The communists also insinuate themselves into leading positions in youth organizations, social clubs, trade unions, fraternal groups, etc., using them whenever possible to maneuver group support for antimilitarist ends.

The pattern of communist machinations in the past serves as a prologue for the future. It indicates that the Soviets continue to rely heavily upon revolutionary antimilitarism in their struggle for world domination.

FOOTNOTES

[1] *Ibid.*, p. 853.
[2] *Ibid.*, p. 864.
[3] *Ibid.*, p. 849.
[4] *Ibid.*, p. 851.
[5] *Ibid.*, pp. 849–874.
[6] *Communist Plan for Victory*. Report by J. D. Blake to State Conference (Victoria), 12–15 February 1943. (Communist Party of Australia), pp. 29–30.
[7] As quoted from *The Communist*, December, 1941, by William Z. Foster, *History of the Communist Party of the United States* (New York: International Publishers, 1952), p. 409.
[8] *Ibid.*
[9] Philip Selznick, *The Organizational Weapon*. (Santa Monica: The Rand Corporation, January, 1952), USAF Project Rand Report No. R–201, p. 247.
[10] *Ibid.*, p. 221.
[11] Foster, *op. cit.*, p. 415.
[12] John C. Sparrow, *History of Personnel Demobilization in the United States Army*. Department of the Army Pamphlet No. 20–210 (Washington: July, 1952), p. 104.
[13] *Ibid.*, p. 221.
[14] *Ibid.*, p. 167.
[15] Official propaganda organ for the Cominform was the weekly newspaper, *For a Lasting Peace, For a People's Democracy!* which was published every Friday in nineteen languages, i.e., Russian, Chinese, French, English, Italian, German, Spanish, Swedish, Korean, Japanese, Dutch Arabic, Polish, Czech, Slovak, Bulgarian, Hungarian, Rumanian and Albanian. Until the expulsion of Yugoslavia from the Cominform in 1948, the paper was printed in Belgrade. Thereafter, the editorial offices and presses were moved to Bucharest.
[16] Moscow *New Times*, January 24, 1947, p. 1; August 20, 1947, p. 1; September 3, 1947, p. 13.
[16] *Ibid.*, January 9, 1947, p. 8.
[17] *Ibid.*, January 16, 1947, p. 7.
[18] *Ibid.*, July 30, 1947, p. 1; January 16, 1947, p. 3.
[19] *Ibid.*, January 9, 1947, p. 5.
[20] *Pour une paix durable, pour une democratie populaire:* French edition of *For a Lasting Peace*, November 1, 1948, p. 2.
[21] *Ibid.*, December 1, 1948, p. 5.
[22] *Ibid.*
[23] Moscow *New Times*, December 3, 1947, p. 1.
[24] Sparrow, *op. cit.*, pp. 293–94.
[25] Philippines, Congress, House, Special Committee on Un-Filipino Activities, *Communism in the Philippines* (Manila: 1952). p. 21.
[26] *Ibid.*
[27] Moscow *New Times*, January 1, 1947, p. 18.
[28] *Ibid.*, pp. 1–2.
[29] *Ibid.*
[30] Foster, *op. cit.*, p. 442.
[31] *For a Lasting Peace*, July 10, 1950, p. 1.
[32] *Ibid.*, p. 2.
[33] *Ibid.*, August 18, 1950, p. 3.
[34] *Ibid.*, November 3, 1950, p. 5.
[35] *Ibid.*, July 21, 1950, p. 6.
[36] *Ibid.*, April 27, 1951, p. 3.
[37] *Ibid.*, March 30, 1951, p. 4.
[38] *Political Affairs*, April, 1952, p. 26.
[39] These were collected and published in 1954 by the North Korean Ministry of Culture and Propaganda under the title *Depositions of Nineteen Captured U.S. Airmen on Their Participation in Germ Warfare in Korea.*
[40] Special Number, Vol. 70, Nos. 9–12, September-December, 1952.
[41] *Out of their own mouths*, pp. iii-iv.
[42] *For a Lasting Peace*, August 3, 1951, p. 1 of supplement.
[43] It is interesting to note that this same technique was charged by the communists in the pages of the *International Press Correspondence* during the late 1920's. Then, however, the alleged perpetrators were Polish fascists, not American soldiers, while the alleged victim was a female communist party worker.
[44] *For a Lasting Peace*, April 13, 1951, p. 2.
[45] *Problems of Communism*, No. 5, Vol. 2, 1953, p. 15.
[46] *Cahiers du communisme*, March, 1952, p. 332.
[47] *Problems of Communism*, No. 1, 1952, p. 1.
[48] *Ibid*, No. 1, Vol. 2, January, 1953, p. 15.
[49] *Ibid.*
[50] *Political Affairs*, May, 1953, p. 2.
[51] *Ibid.*, May, 1954, p. 15.
[52] *Ibid.*, p. 17.
[53] *Ibid.*
[54] *Ibid.*, April, 1954, p. 56.
[55] *Ibid.*, p. 55.
[56] *Ibid.*, p. 56.
[57] *For a Lasting Peace*, September 17, 1954, p. 4.
[58] *Ibid.*, June 25, 1954, p. 3; March 5, 1954, p. 3; March 12, 1954, p. 4; March 26, 1954, pp. 1 & 3; April 2, 1954, p. 3.
[59] *Political Affairs*, April, 1956, p. 22.
[60] *Ibid.*
[61] *Ibid.*, September, 1956, pp. 59–64.
[62] *Ibid.*, October, 1956, p. 35.
[63] *Ibid.*, January, 1958, pp. 1–2.
[64] *Ibid.*, June, 1958, p. 23.
[65] *Ibid.*, July, 1958, p. 13.
[66] *Ibid.*
[67] Vavilov, *op. cit.*

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THE NIXON ECONOMIC PROGRAM

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. DENT. Mr. Speaker, may I commend to my colleagues the following address delivered by the president of the AFL–CIO, Mr. George Meany, at the recent convention of the Industrial Union Department.

As usual, Mr. Meany's remarks are timely, constructive, and worthy of the attention of the Congress. The subject of Mr. Meany's address is, "The Nixon Economic Program: What Is Right With It, What Is Wrong With It, and What Changes Should Be Undertaken." I trust my colleagues will find it of value.

Mr. Meany's remarks follow:

A SPEECH BY AFL–CIO PRESIDENT GEORGE MEANY AT THE CONVENTION OF THE AFL–CIO INDUSTRIAL UNION DEPARTMENT AT THE SHOREHAM HOTEL, IN WASHINGTON, D.C., ON OCTOBER 5, 1971

I am delighted to see so many of you here this morning and so many here yesterday, who came to demonstrate their "belief" in the equity and the fairness of the Nixon program—a program designed to take care of big business at the expense of the rest of society.

This feature of the President's approach—in which he tries to indicate or his henchmen try to indicate that labor leaders are out of step with their membership—sort of bugs me. On the morning of August 16th, which was the morning after the President did his flip-flop without explanation—oh, incidentially, one of the news magazines says that I flew into a rage when I heard President Nixon make his statement that night and that I called Al Zack and I called a lot of other people and just went off in a fit of temper. Well, I tell you the truth and I believe in truth—I fell asleep while the President was delivering his address and that is gospel truth.

The next morning, however, I made what I thought was a temporate statement. I said that while we had agreed that we would cooperate with anything the President wanted to do to fight the inflation battle, provided that it was fair and equitable, this program that the President had presented did not meet the test of equity. It was discriminatory against workers and in favor of big business and, therefore, we were opposed. That was Monday morning and Tuesday morning Jim Hodgson, our representative in the Cabinet made a statement that Mr. Meany was out of step with the workers of this country; that the workers liked the President's program. I was just wondering how he managed to get that information in a short space of a few hours and I think it was quite a feat especially in view of the fact that he didn't know any more about the President's program than I did up to the time the President went on the air. He wasn't even present at the meeting on the program.

They have tried to portray us as demanding our pound of flesh at the expense of other citizens of this nation. They, of course, remembered we said we would cooperate but there is one part of our statement that we have made and reiterated since February 1966 that they seemed to forget. We said we would cooperate with a program that was fair and equitable.

Labor's long time philosophy which has motivated its actions for many years and motivates it today is that no segment of the American society can for any long time gain and profit at the expense of the others and that means labor. We don't think labor can profit at the expense of the rest of the citizenry. We don't think bankers can take it all. We don't think it can go all one way. We think this is the kind of system where there has to be some balance and we have taken this position consistently.

When we made our first statement on the inflation problem in February 1966—during the Johnson Administration—we said we would accept wage and price restraints to hold down inflation provided they were equitable.

In the final analysis, our people are the victims of inflation. It is the housewives, the wives of our members, who know what inflation is all about. And whether or not it is a wage-push inflation or a profit-push inflation is really not the point.

The point is that we had in this country a certain high price psychology. Of course, some say wages are responsible, high wages—the old cliche that we are pricing ourselves out of the market and all that sort of baloney.

It would be nonsensical to say that wages don't play a part in prices, but it would also be nonsensical to say that wages are the only factor. There are profits, dividends, management salaries and the greatest inflationary item of all—the interest rates that corporations and individuals have to pay when they need to borrow money to keep things going.

So it is only natural that we would react to high prices because our members are quite keenly aware of high prices. And when we had a contract expiring in the last five or six years we found the same attitude on the part of our members. They say, we want to make up what we have lost through inflation since our last contract.

So, we made it crystal clear that we were ready to cooperate in the interest, not only of the other people, but the interest of our own members.

I think when we look at this picture, we cannot settle for propaganda, we have got to stick to facts. We can't escape the facts.

Now it is a fact that the President of the United States in February of 1969, just a couple of weeks after he took office, made a pledge that he was going to keep prices down and he was going to do it by a new economic game plan. And this economic game plan was going to restrict credit—make money more expensive—but he was going to stop inflation without adding to unemployment. That is what he said and that is what he put in writing. He was going to bring prices down without making the worker pay for it through additional unemployment.

I don't know of any economists who felt that this could be done but Mr. Nixon must have had somebody's advice when he said that because he put it in writing.

I'll tell you, as for myself, I don't believe he could make money more expensive, slow business down—the expression he used—without causing more unemployment. But I certainly did think that if he did cause more unemployment, that it would have the effect of holding down the price level.

However he managed to do something that, according to all of the rules was not possible. He managed to have us in a depression with inflation still running rampant.

After February of 1969 and right up to August of this year we got nothing out of the White House except the success story. Everything is O.K. Nothing wrong. The Nixon "game plan" is working. And we're not going to change it.

A few months after the "game plan" went into effect, the first unemployment figures came out in the early spring or summer of 1969, showing quite a rise in unemployment. The under-secretary of the treasury, Mr. Walker, in a statement to the press said, "See, this proves that the Nixon plan is working." It was putting people out of work.

Mr. Connally made a speech on September 15th in London in which he said the same thing. They deliberately slowed down the economy and deliberately accepted millions of more unemployed.

But, as time went on, we got nothing from the Administration except the story of success. Everything was fine; 1971 was a good year; 1972 was going to be a better year. Last December the President vetoed a public employment bill which would have provided 200,000 jobs and he vetoed it on the grounds that it was not necessary, that the economy was on the up-grade and they wouldn't need this sort of legislation. However, this June he did sign a similar bill. But we lost 60,000 jobs from January to June. So we were faced with this stubborn refusal to admit that the economic "game plan" was not working.

Then came the star performance on the night of August 15th. No explanation of the failure of "Game Plan No. 1." In fact no mention of "Game Plan No. 1."

It reminded me somewhat of what happened in the Soviet Union during the 20's and 30's, where they were promising the Soviet people more consumer goods, a better supply of the good things of life and they did this through the five-year plans. Only they had about four or five five-year plans in six years and when they announced a new five-year plan they never mentioned the previous five-year plan or the one before that, even though they had only put it into effect a year and a half before.

Now, of course, in that society the people accept; they don't question. I imagine they have their own opinion, but they don't publicly question the government. But this is the United States and we do question the government and we do insist that the President of the United States, who makes these promises, has an obligation at least to explain why he can't keep the promise or to make an apology for his error.

Anyway, when he finally made this speech, finally got off his butt and tried to do something real about this question of prices by a price freeze, everybody in this country applauded. It was a great performance.

But we took a hard look. We're practical people and while everybody else got into a state of euphoria, saying, "Well, everything is going to be great" and the stock market shot way up—we took a good look at what the President did.

He froze prices and wages for a period of 90 days. But that's not all he did. He proposed to Congress that they give a tax bonanza to business by an investment tax credit. And this investment tax credit, which was given a nice name of "Job Development Tax Credit" on the theory that if you make the big corporations a little more prosperous, somewhere down the line enough will trickle down to help the ordinary people. He proposed that they repeal the excise tax on automobiles and he had a little cost sheet on this. He said this costs so much, that costs so much and he said, Now, I have to get the money.

So he postponed a government employee wage increase that he had announced sometime before under the law which provides for comparability between the wages of federal employees and private employees. He postponed that and that, according to his statement, was worth $1.3 billion. Of course he was giving industry $3 billion so he had to get a little more. So, what did he do? He postponed all action on his welfare reform bill which a few months bfeore was his No. 1 legislative item. And then he postponed all further activity on what he had referred to earlier in his regime as the "new federalism"—the aid to cities from the federal government.

So in order to pay for this tax bonanza, he took $1 billion plus from the government employees; $1.1 billion from aid to cities and $1.1 billion from the poor in order to help the great corporations in their program of investment on the theory that this is what creates jobs.

But he did more than that. He took billions of dollars—and I say this advisedly. We don't know the exact figure. We have figures from certain unions as to what this costs—and I'm sure it would go up to billions, He did this by nullifying legal collective bargaining contracts which contain deferred wage increases, cost-of-living increases, calendar-scheduled increases, increases for hundreds of thousands of teachers and state and county workers throughout the country. With the stroke of a pen, he took these billions of dollars from one party at the bargaining table and put the money into the pocket of the other party at the bargaining table.

No one in this Administration, as far as I know, has defended this. We have challenged the Administration on the right of the President to do this. There is no defense, but the rule stands. In this city alone, one local union from the Retail Clerks will lose $3 million between October 1st and November 15th in deferred wage increases.

Thousands of teachers throughout the country are denied their rights for wage increases already scheduled. And you know when a teacher takes a job in a school system, paying $6500, with stepped up increases, they're taking a job that is going to pay them $9300 or $9600 at a certain date. That's all part of the job. And I don't look upon that as some sort of an inflationary increase. I look at something like that as scheduled by a community and the tax rate is adjusted to meet it. Now, Mr. Nixon didn't do anything about reducing the taxes the community put on in order to pay these salaries for local employees—teachers and so forth.

What happened on the night of August 15th was something similar to what Juan Peron used to do in the Argentine. If you know the history of that unhappy country, you know that when Peron was the boss, he raised wages from the balcony. He declared holidays from the balcony. He felt that his method was better than collective bargaining and, let me tell you, he had a lot of workers who felt it was a great idea. Of course, the employers had to pay and the net result finally was that all outside capital ran away and they had real trouble down there.

But what difference is there between Juan Peron standing on the balcony and saying that he's giving millions of workers a raise as of that minute out of the pocket of the employer without consulting the employer—what difference is there between that and the action of President Nixon in taking hundreds of millions of dollars out of the pockets of the workers and giving it to the employer?

Then, of course, the pollsters got busy. You know, they have great faith in the pollsters and I'm just wondering whether the pollsters really go out to get public opinion or whether they go out and get some kind of a result.

This Princeton Poll went out a few days later and it showed, according to them, that 72% of the people were favorable to the President of the United States. The question asked was quite simple. "Do you approve of the President's program to create new jobs and bring down prices?"

How in the name of common sense they only got 72% favorable to that I don't know. They didn't say, "Do you approve of the President's program to freeze wages and prices; to nullify contracts; to give $3 billion to big business; to cut out the welfare reform program; to terminate federal aid to cities?" No, they didn't say that.

They said, "Do you approve of the President's plan to create new jobs and bring down prices?"

Well, I think that the 28% are just the hard-line, anti-Nixon people who won't buy anything from this man.

Now we have the Bureau of the Census. The Bureau of the Census is going in the public opinion business. This is the first time that this has happened, as far as I can find out, in the history of this country. They are sending out a questionnaire, They're going to question people who are affected by the freeze.

There's one cute little question—"Are you a trade union member?"

At no time do they ask them "Do you belong to the Chamber of Commerce?" or "Do you belong to the Baptist church or some other church," but "Are you a trade union member?"

As I say, this is something new. Maybe they feel that this poll business is so good they ought to go into business for themselves.

However, we finally got some indication of the Administration's belief in equity. Yesterday they had a vote in the House of Representatives and this was on the question of the federal pay raise due in January. Under the law, the President has the say over comparability. He gave the increase and under the law he had a right to take it away, provided the Congress did not overrule him—either House of Congress. So yesterday, they had a vote, forced, I understand, by the Republican leadership. They felt yesterday was a real good day for there were a lot of fellows not here in town. The House refused to override the President's action in postponing the wage increase for federal employees. Now, it goes to the Senate on Wednesday and, of course, if the Senate should disapprove the President's action, the wage increase would go into effect.

But, the Republican leader in the House said last evening on a television show that the vote showed the House felt there should be equity in this situation. And how does he arrive at equity? He said, "Well, under the freeze, workers in the private sector are making a contribution and it is only right that workers in the public sector would make a contribution." So they cut out their wage increase and there is equity between the workers in the federal government and the workers in the private sector, according to the Republican leader in the House.

However, the spirit of equity doesn't go beyond that. What about equity between the public employees plus the private employees and big business in this country?

I think all of these things give us a picture which I think is rather serious, and that is the evident attempt to convince people that things are not what they seem; to convince people, in our case, that labor bosses don't represent the workers of this country.

I think this is an insult to the intelligence of the American worker. I am sure that our members know what is at stake in inflation; I am sure their wives know; and I am sure they know what is at stake is an attack on the trade union structure.

There seems to be more and more widespread use in this country of propaganda, the science of deception, using TV, radio and the news media. It is a modern version of the so-called "big lie" technique used by all the dictators. And the Administration seems to believe that what this country needs every month or so is a good television performance by the President of the United States—that they can sell anything if they use the right techniques.

We don't accept the idea of deceit, of propaganda. Nor do we accept the idea that phony promises are all right in politics, either in campaigns or any other time. We think the American people are entitled to an explanation of what happened to promises made by the highest officials of the government.

And you remember the promises in '68? Oh, we are going to reduce crime, you are going to be able to walk the streets of any of our

nation's cities without any fear and so on. Going to keep prices down. Going to make five million new jobs.

After all, 1968 is not so long ago. We remember.

But now we are getting more propaganda. In a speech about 10 days ago we got "the new prosperity." You are now in the period of "the new prosperity."

What the hell was wrong with the old prosperity? What was wrong with the prosperity that we had in January, 1969 when Mr. Nixon took office.

We only had 4.5% increase in prices and, of course, that was not good. We didn't like it, but it was much better than we have today when we are over 6%. We only had 3.4% unemployment under the old prosperity that Mr. Nixon found when he came into office. Now we have over 6 percent unemployment—a difference of 2,250,000 people who have lost jobs.

So this stuff about "new prosperity" is like the stuff you see in the stores—you know, new Fab, new All, new Old Spice, new baloney.

And then we hear what a wonderful thing this business of profits is. Mr. Nixon, in his Detroit speech about 10 days ago, said profits, that's the thing that counts. That's the thing that keeps the wheels turning.

If you have any friends that have any worries, tell them profits are going to settle their worries. I am sure the 14½ million people on relief were delighted to hear about that. I am sure that the 25½ million people living in this country below the poverty level, were delighted to hear that their problem is going to be solved by profits.

Let me tell you, the No. 1 problem in this country today for business and everyone else is jobs.

What business needs is not some windfall bonanzas in the tax field, what they need is more consumers, more customers. And that would be brought about by stepping up jobs to where we have relatively full employment at decent wages.

I find nothing in this program that started on the 15th of August that attacks that problem, except on the theory that if you give big business a boost and their profits go up things are bound to be better and there is bound to be more jobs. That might have been true 20 or 30 years ago; it is no longer true today.

We have 28% of the industrial capacity of this country lying idle today. So why does business need an incentive from the government for new installations and new equipment when this equipment is not being used? Well, it could be one or more reasons. Maybe the reason is that I just mentioned—they don't have enough customers. Maybe equipment is not modern enough, even though it may be only 10 or 12 years old. We have cases in this country where new equipment was installed, where old factories were closed up and new ones opened with the newest equipment that mechanical, technological science can give to these people. And the net result was a tremendous increase in the production of the particular article that was being made and they laid off a good percentage of the workforce. In other words, they increased production, but they didn't increase the number of jobs.

Now, if the President had said, "We will give them a tax break on the investment that makes jobs and we will give them a break when they show the jobs," boy, we would buy that one. But, no, they merely have to spend the money, even though they had already planned to spend it, even though it was already in their program.

Well, despite all this propaganda, we still have the problems—we still have unemployment, we still have high prices. And labor still has its consistent position.

We reject completely the idea that the President of the United States has the power to nullify contracts.

We will resist any attempt to limit labor's right to strike. No President, even in wartime, has ever asserted that right.

And we repeat our pledge to the people of this country that we are interested in holding prices down; we are interested in a prosperous America, not just for our members but for all of the people of this great country.

And we will cooperate with this Administration or any other administration with any fair and equitable plan to keep inflation under control. We will not be patsies for the failure of "Economic Game Plan No. 1."

USDA: A SALESMAN FOR PCB'S?

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. RYAN. Mr. Speaker, I am deeply concerned by a report in tonight's Washington Evening Star that the U.S. Department of Agriculture is considering a plan which would allow Swift & Co.—the Nation's largest meatpacking firm—to market some 50,000 turkeys tainted with a highly toxic industrial chemical—polychlorinated biphenyls, PCB's.

As Members of the House may recall, on September 22, I brought to the attention of this body the fact that these turkeys, located in Minnesota, had been discovered to have PCB levels significantly above the Food and Drug Administration's guideline of 5 parts-per-million in edible tissue. Despite the fact that USDA made this discovery on August 6, neither the Department of Agriculture nor the FDA made any effort to alert the consumer to the potential hazard of their findings.

The apparent efforts of the Department of Agriculture to find a way so that these contaminated birds can now be sold demonstrates the concern the Department seems to have for the financial interests of large corporations, while casting aside the health interests of the consumer. Such action cannot be countenanced.

These turkeys should have been destroyed and disposed of long ago in a manner that would have safeguarded our health and the environment. Any attempt to salvage them now would be intolerable. Therefore, tonight as soon as I learned of this threat to the Nation's health about to be perpetuated by the Department of Agriculture, I immediately expressed to the Secretary of Agriculture my firm opposition to any plan to market these birds and demanded a full report on this incident.

At this point, I include in the RECORD, G. David Wallace's article which appeared in the Evening Star detailing the Agriculture Department's proposed action.

The article follows:

[From the Washington Evening Star, Nov. 4, 1971]

GOT SHOT OF PCB's—TAINTED TURKEYS MAY BE PURIFIED

(By G. David Wallace)

The Agriculture Department is considering a plan which would enable Swift & Co. to market 50,000 turkeys tained with DDT-like chemicals if the meat can be made to measure up to federal standards.

The plan, which the government estimates could save Swift $900,000, consists of cooking the chemicals out of the turkeys, then clearing them for use in frozen dinners, soups and pot pies. Officials emphasized in interviews that the meat would have to be proven safe.

If adopted, the plan would be the closing chapter in what remains the most mysterious incident yet involving contamination of food by a family of industrial chemicals called polychlorinated biphenyls, or PCBs. The chemicals have been blamed for skin ailments in humans and liver disease and birth defects in test animals.

The contaminated turkeys were discovered at the Swift & Co. plant in Detroit Lakes, Minn., last August. Officials still have not disclosed the source of the contamination.

Agriculture Department experts say something evidently contaminated fat that was used as a finishing ration and fed to the turkeys in their last six weeks before slaughtered.

"We now have reason to believe there was one 'hot' shot of fat into one ration," said Dr. Fred J. Fullerton, director of field operations for the department's Consumer and Marketing Service.

But neither Fullerton nor his special assistant, Dr. Joseph Stein, would speculate on what contaminated the fat. "I think I know," said Stein. "If it ever comes to where we have some proof, we'll give you a call," said Fullerton.

Can it happen again?

"If it's true what I think, that source has been eliminated," said Stein.

A three-state survey in September led the department to declare the incident an isolated one. Officials said at the time they would test the turkeys lot by lot to see if any were safe enough to be released for Thanksgiving tables.

The tests found every lot contained excessive levels. The federal guideline for PCBs sets a maximum permissible level of 5 parts per million. Stein said many of the turkeys contained 100 parts per million and some had over 300.

Stein said the salvage operation being considered by Agriculture is feasible because PCBs concentrate in animal fat. Poultry has very little fat between muscle, so stripping the fat from the birds would dispose of most of the PCBs, he said, and cooking would get the rest.

In any case, said Stein, the specially processed birds would not be cleared for sale unless post-processing tests showed them to be safe.

The birds, meanwhile, are locked up in a Swift Twin Cities warehouse. "The only thing we're doing at the moment is holding them for the USDA to test," said a company spokesman. "At the present time we have no end use of any kind in mind for them."

Swift spokesmen said it would be after Thanksgiving before the firm gets together with Agriculture to do something with the birds.

Two previous incidents of PCB contamination, both involving broiler chickens, ended with the birds being destroyed. Agriculture Department officials said it would have been too expensive to salvage the chickens. Since the turkeys are bigger and more valuable, salvaging them is economically feasible, they said.

USE CAUTION SHOPPING FOR TOYS

HON. JAMES G. O'HARA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. O'HARA. Mr. Speaker, the Child Protection and Toy Safety Act was enacted by Congress nearly 2 years ago.

Its passage was widely reported in the press at that time, and there have been subsequent reports of unsafe toys being "banned" by the Food and Drug Administration.

As a result, many parents now believe that all hazardous toys have been removed from market shelves and every toy offered for sale is Government-assured safe.

Nothing could be further from the truth.

With Christmas now less than 2 months away, the heaviest toy-buying season of the year will soon be upon us. Last year, just before Christmas and a year after passage of the act, I discovered that there were a number of unsafe toys being purchased.

While the FDA has been moving to force hazardous toys off the shelves, there undoubtedly will be unsafe toys again offered for sale to unwary parents.

Recently Trudy Lieberman, consumer writer for the Detroit Free Press, alerted readers of her column to the potentially hazardous toys which may be on the shelves. Her article bore the warning headline "Some Are Dangerous—Use Caution Shopping for Toys."

I insert this article, along with a letter which I wrote to the FDA earlier this year about its toy safety activities for the Christmas season, and the FDA response in the RECORD:

SOME ARE DANGEROUS—USE CAUTION SHOPPING FOR TOYS

(By Trudy Lieberman)

In September, the Food and Drug Administration issued a list of children's toys which had been banned from the market because they were dangerous.

But as you do your Christmas shopping, the FDA ban doesn't insure that you won't encounter one of those hazardous toys, nor will you be able to tell with much certainty whether a formerly dangerous toy has been redesigned.

Most of the toys on the September FDA list were rattles, stuffed animals, small dolls and squeaker squeeze toys.

They were banned for various reasons—metal squeakers could be squeesed out, sharp wires and sharp edges protruded, small parts of some toys were likely to break loose and some dolls were held together with straight pins.

The FDA said most of the toys on their list had been redesigned or discontinued. But when you go shopping, how do you know what you are getting?

The FDA admits you'll have a problem. "Most likely, the consumer (will be buying) a redesigned toy," says Larry Blend, a compliance officer in FDA's Bureau of Products Safety. But not necessarily.

Blend warns there could be some toys left over from last year that merchants could be selling although banning means that a product can no longer be sold. Blend says that toys purchased before July of this year might be the old toys.

Some toys on the FDA's September list have been banned as recently as September 15.

"We're still finding a lot of toys on the market that can cause safety problems," said Walter Johnson of the Bureau of Product Safety.

This Christmas the consumer will receive little information about toy safety or redesigned toys from store clerks, from manufacturers or from the package that the toy comes in.

"Unfortunately the retailers are always the last to know anything in a safety issue," Johnson said.

The Free Press found that some retailers hadn't seen or heard of the FDA's most recent list.

"I doubt if all our clerks would know about the banned toys," said Jim Clark, toy buyer for the J. L. Hudson Co. "I would hope that the clerks ask the supervisors if they don't know," he said.

"We're trying to help the customer buy safe toys and those that aren't too old for the child," he said. "To my knowledge we don't have any toys that have been banned or remodeled."

The toy buyer at Sears Roebuck and Co., said the sales clerks in his store were not aware that the banned toys had reappeared on the market as redesigned toys.

"The point had never come up. We had not communicated with our people," he said and added that Sears was going to send a teletype with this information to all its stores in the Detroit area.

A salesman in charge of toys for one of the Kresge stores said he had not been sent a list of the banned items.

Toy manufacturers won't be much help this year either because they rarely code toys or identify them by lot or batch number.

The toy industry is not as sophisticated as the food and drug industries, which code their products for quick identification if something is hazardous, says one local FDA official.

Instead the toy industry has redesigned many of its products and sent them back to retailers bearing the same identifying numbers—if there were any numbers on the toy at all. In many cases the toy was simply redesigned and put back on the market without any identification.

"Naturally we don't advertise on the box that this toy had been banned and is now redesigned," said one toy industry executive.

The FDA is considering a regulation that would require coding throughout the toy industry.

But in the meantime, the FDA's Blend says: "I'm willing to bet there will be a lot of voluntary coding when consumers start calling the toy firms to ask if such and such a toy is safe. I'm sure they are calling them now."

For example, when the Stahlwood Toy Manufacturing Co. of New York began having retailers ship back some of its redesigned toys it began adding an "s" for safety to the numbers on its redesigned toys.

Stahlwood's Tutti-Fruitee Squeese Toy number 140 has become Tutti-Fruitee Squeese Toy number 140s.

The competitive toy industry, which numbers some 12,000 firms, has been reluctant to code its products because anything (such as coding) that would even marginally increase costs could affect profits, said the FDA's Johnson.

Information on the toy packages isn't likely to be very informative although you may see some packages that offer some information.

A spot check of squeeze toys in a dime store showed that a few of the toys were labeled "safe and non-toxic" meaning that a child could chew it and not be poisoned by the paint on the toy. But some of these say nothing about the type of squeaker in the toy.

One toy made by Arrow Products, Mineola, N.Y., was labeled "safe, approved toy with specially designed device to hold squeaker for child safety."

Be careful with the word "approved". The Food and Drug Administration doesn't approve any toy offered for sale. It gives informal guidances to toy firms on the safety of its products but does not give an approval stamp to anything.

The agency, can, however, acting under the provisions of the Toy Safety Act require a firm to put cautionary labeling on products that are deemed hazardous.

One such group of products that are back on the market this year with labeling saying the product must be used by adults are the various lawn dart games. Several models of lawn darts were banned last December because of inadequate labeling. The games are now sold in adult sporting goods sections rather than toy sections of department stores.

The FDA would also like to see manufacturers label all toys according to the age group for which it is intended. Some toys may be hazardous to a three-year-old but not to an eight-year-old. Either FDA regulations or a voluntary industry standard on such labeling may not be far off.

For example, Johnson of the Bureau of Product Safety said that some molding sets that mold things like metal soldiers resemble volcanoes. These are appropriate only for children over 10, he said.

Estimating any potential hazard for a certain age child is one of the first things a parent should do when selecting toys.

But he may have to watch for other things too because of minimal help from retailers and manufacturers.

"Parents should use a little more common sense and discretion than they usually do," Johnson said. "Most people buy the toys they would like to have rather than the toys that are safe."

"People tend to buy what's attractive," said Robert Jones, a salesman for the Stahlwood Toy Manufacturing Co.

Jones bemoaned the fact that the high-impact plastic baby rattles his company will soon be making won't be as brightly colored as the regular plastic ones.

"I'll tell you how a consumer can tell a rattle made from the high impact plastic. It's dull and unattractive," he said. "The colors will be faded."

But the high impact rattles will withstand breakage and thus prevent the rattle's insides from shaking loose and being swallowed by a child.

The FDA's list of banned toys included several rattles that exposed small objects and sharp wires when they were broken.

One test the FDA uses on plastic rattles and other plastic toys is to drop them from a height of four and a half feet 10 times onto a tile floor. If the toy breaks during any of the trials and exposes hazardous parts, the toy fails the test.

Some of the squeaker toys that have been redesigned may not have any squeaker at all. They'll be self-squeaking.

"They won't be too noisy and won't be as fascinating, but to get something you have to give up something," said Jones.

Other squeeze toys will have the squeaker recessed into the toy and glued in place so it can't be pulled out.

It might be wise for parents to manipulate the squeese toy to determine if the squeaker is firmly planted inside.

Another set of toys that will have design changes or may have already been changed are electrical and thermal toys such as little girl's toy ovens that bake cakes like mother's real oven.

The interior of the oven gets hot enough to bake a cake—about 350 degrees. Manufacturers are trying to minimize the external surface temperature of the ovens.

Robert Pollock, quality control director for Kenner Products Co. of Cincinnati, said his company is trying to keep the external temperatures near the vent holes of its plastic oven under 170 degrees.

At this point there are no FDA regulations for the external temperatures of toy ovens or for other oven features. The agency hopes that regulations will soon be proposed that will set maximum temperatures for these oven surfaces.

For example, a maximum of 149 degrees would be allowed for metal surfaces allowed for wood, glass and plastics which don't conduct heat as efficiently. Automatic locking devices would be required to prevent accidental opening of high-temperature ovens

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and electric cords would have to withstand a pull of 40 pounds.

The FDA's Johnson urges caution in buying these toys. He advises the consumer to look for the Underwriters Laboratory (UL) seal on the product. The UL seal assures that an electrical product has met minimum safety requirements.

Make sure there is adequate insulation, not just a sheet of thin plastic around bare wires. Check the thickness of the side panels of these toys for their insulating ability and also the smoothness of the panel edges.

Of course, there are the obvious things on toys that parents must not overlook—such things as dolls' clothing attached by straight pins and stuffed animal's eyes that can easily pop out.

Even that old time favorite Raggedy Ann may not be as innocent as she looks.

Johnson said that the old model Raggedy Ann was constructed with spikes in her legs that were shoved into a wad of toilet paper. The new model is made with the body parts joined together.

JUNE 29, 1971.

CHARLES C. EDWARDS,
Commissioner, Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C.

DEAR COMMISSIONER EDWARDS: I have long been interested in the subject of toy safety, and as a sponsor of the Child Protection and Toy Safety Act of 1969, believed that its enactment would result in the prompt elimination of hazardous toys from the marketplace.

I was bitterly disappointed when, less than a month before Christmas Day of 1970, it was discovered that unsafe toys were being sold and that the Food and Drug Administration had not taken the strong action intended by Congress when it enacted the Child Protection Act.

Now it is less than six months until Christmas, 1971. It is not too early, in my estimation, to seek assurance from the Food and Drug Administration that every possible action is being taken to fully implement the Child Protection Act. While unsafe toys should be barred from store shelves at all times, the large numbers of toys sold during the Christmas season make it appropriate for the FDA to plan a special toy safety campaign during that period.

I would strongly recommend, in light of the experience of Christmas, 1970, that the FDA begin *now* to plan a vigorous and comprehensive Christmas "Toy Safety Check" campaign to be implemented no less than three months before December 25, 1971. The assurance that Christmas toys are safe is, in my view, the best gift we can give to American children and their parents.

The principal component of the special Christmas Toy Safety Campaign should be increased and intensive surveillance of stores by the FDA field representatives. If regular FDA manpower is insufficient for the task, I would suggest that the field staff be augmented by voluntary manpower recruited from among consumers and provided with training in the identification of hazardous toys and other products designed for use by children.

Finally, I would like to address myself to some specific provisions of the Toy Safety Act, and the Food and Drug Administration's implementation of these provisions.

1. Imminent Hazard—As you are aware, the Act gives the Secretary of Health, Education and Welfare the authority to declare a dangerous toy an imminent hazard to the public health, he may declare the toy a banned hazardous substance, thus prohibiting its sale immediately upon publication of an order in the Federal Register. Apparently there is some reluctance on the part of the Food and Drug Administration to use this authority. I note that even though a number of toys have been identified as dangerous and available for purchase, the FDA has never used the "imminent hazard" provisions of the Act but, instead has chosen slower administrative procedures or negotiation. What plans do you have to utilize the imminent hazard provisions of the Toy Safety Act?

2. Thermal and Electrical Hazards: The Food and Drug Administration has promulgated regulations regarding toys with mechanical hazards. At this writing, more than 18 months after the effective date of the Act, the Food and Drug Administration still has no regulations applying to toys with thermal or electrical hazards as provided by the Act. When does the FDA plan to promulgate thermal and electrical hazard regulations?

I would appreciate a response at your earliest convenience.

Very truly yours,

JAMES G. O'HARA.

JULY 29, 1971.

CHARLES C. EDWARDS,
Commissioner, Food and Drug Administration, Department of Health, Education and Welfare, Washington, D.C.

DEAR COMMISSIONER EDWARDS: On June 29, 1971 I addressed a letter to you commenting on the FDA's administration of the Child Protection and Toy Safety Act of 1969. To date, I have received no reply nor even an acknowledgement of receipt of my letter.

A copy of that letter is enclosed, and a response at your earliest convenience would be appreciated.

Very truly yours,

JAMES G. O'HARA.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, PUBLIC HEALTH SERVICE, FOOD AND DRUG ADMINISTRATION,
Rockville, Md., September 13, 1971.

Hon. JAMES G. O'HARA,
House of Representatives,
Washington, D.C.

DEAR MR. O'HARA: Commissioner Edwards has asked us to extend our apologies for the delay in answering your June 29 and July 29, 1971 letters about our hazardous toy activities under the Child Protection and Toy Safety Act of 1969. An unusually heavy volume of mail in the last three months has prevented us from replying as promptly as we would have liked. We regret any inconvenience you may have suffered.

Please be assured the Food and Drug Administration is committed to an effective program to reduce hazards associated with the use of toys. You may be interested in some of the major actions we have taken as well as our current and projected programs in this area.

For example, we are conducting a survey of toy manufacturers to detect toys subject to banning regulations.

This survey of products manufactured by approximately 170 firms is expected to be completed by the end of this month. More than half of the inspections will be conducted in the New York Toy Center, where major manufacturers display samples of their toys.

Also, members of our Bureau of Product Safety staff involved in the enforcement of the Child Protection and Toy Safety Act have visited the toy center to preview some of the items which we anticipate will be advertised for this Christmas season. Additional visits will be made later this month.

As of August 23, 1971, a total of 63 firms have had one or more toys found to be a "banned toy." In all, 148 of the approximately 600 toys examined were determined to be banned. Since April 12, 1971, a total of 61 toys were found to need voluntary correction of a hazard. These toys were not subject to a specific banning regulation.

The following banning regulations were published in FY 71:

Banned Toys
a. Toy rattles
b. Noisemaker toys.
c. Dolls, stuffed animals, etc.
d. Lawn darts
e. Toy caps

Regulations currently being developed include:

1. Banned Toys
a. Clacker Balls
b. Baby Walker/Bouncers
c. Toys with with sharp points
d. Lead paint on toys
e. Toys with aspiration and ingestion hazards
f. Toys with thermal/electrical hazards
g. Pacifiers (other than those classed as medical devices)
2. Age labeling of toys
3. Fireworks (banning of additional fireworks)
4. Repurchase regulations
5. Product coding regulations
6. Children's furniture (cribs, bassinettes, chairs, mesh playpens, etc.)
7. Revision of regulation on dolls to add aspiration, ingestion and asphyxiation to the present potential hazards, as a basis for banning.

When a toy is examined by our Toy Review Committee and is found to contain a hazard that is not covered by a banning regulation, the firm is asked to tell FDA how it plans to eliminate the hazard.

We believe this has been an effective way of increasing consumer protection and, at the same time conserving FDA field resources, judging from the better than 90 percent positive response to our requests.

In addition, toy manufacturers have voluntarily submitted samples of toys directly to the Committee for evaluation, often prior to marketing. We then provide advisory opinions on their status under the law.

As an example of such voluntary activity, we are considering surveying toy protective sporting equipment—football helmets, shoulder pads, catchers masks, baseball protective caps, etc. We plan to take these matters up with the affected industry if hazards are encountered.

We also are encouraging preparation or revision of voluntary industry standards to reduce children's injuries by cooperating with:

1. Motorcycle Industry Council (minibikes).
2. Underwriters' Laboratories (vaporisers).
3. Association of Playground Equipment Manufacturers (playground equipment).
4. Toy Manufacturers Association (infant's and pre-school toys).

As you will note, we are developing regulations covering toys with thermal and electrical hazards and we plan to publish a comprehensive proposal on this matter soon.

With respect to imminent hazards, a final regulation was published July 1 in the *Federal Register*. A copy is enclosed.

You can be sure we share your concern about the safety and welfare of our children; and we are moving as quickly as staff and resources permit to assure that all toys on the market are safe.

Please let us know if we can be of further assistance.

Sincerely yours,

M. J. RYAN,
Director, Office of Legislative Services.

IMMINENT HAZARD TO PUBLIC HEALTH

In the FEDERAL REGISTER of December 9, 1970 (35 F.R. 18679), the Commissioner of Food and Drugs proposed a statement of interpretation and policy defining an "imminent hazard to the public health" within the meaning of the Federal Food, Drug, and Cosmetic Act and the Federal Hazardous Substances Act.

In response, comments were received from individuals, from manufacturers and distributors of foods, drugs, and toys, and from associations representing industry and consumers. The comments can be summarized as follows:

1. The proposal is invalid insofar as it relates to the Federal Food, Drug, and Cosmetic Act in that:

a. Section 507 of the act does not contain "imminent hazard" provisions authorizing the summary removal of antibiotic drugs from the market.

b. The statute precludes delegation to the commissioner of the authority conferred upon the Secretary of Health, Education, and Welfare by the "imminent hazard" provisions of sections 505 and 512 to suspend approval of an application for a new drug or a new animal drug.

c. The proposal defines an "imminent hazard to the public health" and does not define an "imminent hazard to the health of man or of the animals for which the drug is intended," the criteria in section 512.

2. The proposal should provide for the declaration of an "imminent hazard" only in the absence of equally effective alternative measures. In such instances, interested persons who would be adversely affected should be given advance notice and an opportunity to advance arguments against the issuance of such a declaration.

3. Because of the dissimilarity between those products subject to the Federal Food, Drug, and Cosmetic Act and those subject to the Federal Hazardous Substances Act, a separate defining statement should be promulgated under each act.

4. The proposal is improper to the extent that it permits consideration of the number of anticipated injuries as a factor in the exercise of the judgment whether an "imminent hazard" exists; whereas, if the anticipated injury is not trivial, the fact that only a few people may be harmed is irrelevant.

5. To the extent that the proposal defines an "imminent hazard" as other than a hazardous substance presently in distribution, the definition is contrary to the terms and purposes of the Child Protection and Toy Safety Act of1969 (Public Law 91–113, which amended the Federal Hazardous Substances Act).

The Commissioner has evaluated the comments and finds that:

1. The proposal is not invalid, as it relates to the Federal Food, Drug, and Cosmetic Act:

a. Section 507 of the act, while not explicitly containing the term "imminent hazard," does require that regulations promulgated to provide for certification of antibiotic drugs contain provisions necessary to assure the safety and efficacy of such drugs. To effectuate these purposes, 21 CFR 146.1 provides that an order issuing, amending, or repealing an antibiotic drug certification regulation may be made effective immediately when the Commissioner finds it necessary to deal with an imminent hazard to the public health. The proposed definition is intended to be applied in such a situation.

b. Sections 505 and 512 provide non-delegatable authority for the Secretary to suspend approval of an application for a new drug or a new animal drug if he finds there is an imminent hazard to the public health. This definition of imminent hazard will be the standard used by the Commissioner in making his recommendations to the Secretary on whether or not an "imminent hazard" exists regarding a new drug or new animal drug.

c. The term "imminent hazard to the public health" includes the concept of "imminent hazard to the health of man or of the animals for which the drug is intended," as those words are used in the Animal Drug Amendments of 1968.

2. The proposed definition does not preclude the Commissioner's employing equally effective alternative remedies when available. He would, under appropriate circumstances, consult with interested persons before arriving at a final conclusion that an "imminent hazard" exists.

3. The definition of "imminent hazard" is meant to apply to, and does apply to, all products subject to the Federal Food, Drug, and Cosmetic Act and the Federal Hazardous Substances Act. The impact on the public health of an "imminent hazard" will be substantially the same whatever the type of product.

4. The definition does not preclude the finding of an "imminent hazard" solely because the anticipated injuries are few in number. On the contrary, it is intended to provide notice that even few anticipated injuries may result in a finding of "imminent hazard" if the nature, severity, and duration of the anticipated injury so warrants.

5. Distribution in interstate commerce of a hazardous product does not in and of itself warrant a finding that the product necessarily presents an "imminent hazard" to the public health. Were this not so, this additional category of hazard in the statutes would not be needed.

Therefore, having considered the comments received and other relevant information, the Commissioner concludes that the proposal should be adopted without change. Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 507, 512, 701(a), 52 Stat. 1052–53, as amended, 1055, 59 Stat. 463, as amended, 82 Stat. 343–51; 21 U.S.C. 355, 357, 360b, 371(a)) and the Federal Hazardous Substances Act (secs. 2, 3, 10(a), 74 Stat. 372–75, as amended, 378; 15 U.S.C. 1261–62, 1269), and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 3:

§ 3.73 Imminent hazard to the public health

(a) Within the meaning of the Federal Food, Drug, and Cosmetic Act and the Federal Hazardous Substances Act, an imminent hazard to the public health is considered to exist when the evidence is sufficient to show that a product or practice, posing a significant threat of danger to health, creates a public health situation (1) that should be corrected immediately to prevent injury and (2) that should not be permitted to continue while a hearing or other formal proceeding is being held. The "imminent hazard" may be declared at any point in the chain of events which may ultimately result in harm to the public health. The occurrence of the final anticipated injury is not essential to establish that an "imminent hazard" of such occurrence exists.

(b) In exercising his judgment on whether an "imminent hazard" exists, the Commissioner will consider the number of injuries anticipated and the nature, severity, and duration of the anticipated injury.

(Secs 506, 507, 512, 701(a), 52 Stat. 1052–53, as amended, 1055, 59 Stat. 400, as amended, 82 Stat. 343–51, 21 U.S.C. 355, 357, 360b, 371(a), secs. 2, 5, 10(a), 74 Stat. 372–75, as amended, 378, 15 U.S.C. 1261–62, 1269)

VETERANS DAY, 1971, WAS A MEMORABLE MONDAY HOLIDAY

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. McCLORY. Mr. Speaker, on Monday, October 25, 1971, the people of the United States commemorated Veterans' Day by paying tribute to those brave men and women who have responded to their country's call in time of war and national security. This year, for the first time, this tremendously important day in our national life was celebrated on the fourth Monday in October. As the author of the Monday Holiday Act, I am extremely gratified to know that millions of veterans and nonveterans alike were able to reflect on the meaning of this national legal holiday over a long 3-day weekend.

This year's Veterans' Day was far more memorable for me than in previous years for another very important reason. Due to the long weekend holiday, a great many citizens—including a number of Members of Congress were enabled to visit veterans being cared for in our various veterans' hospitals. I took occasion this past weekend to visit the Downey Veterans Hospital in Downey, Ill., in my congressional district. For the patients at Downey, this holiday in their honor meant that loved ones from afar could travel to see them over the weekend. Others were able to return to their homes to be with friends and relatives. In earlier years, these same opportunities were far more limited.

Mr. Speaker, the message which Members of Congress took to veterans all across the land was that Congress will not forget them and will not rest on past actions but will continue to press for solutions to the problems which these men and women must bear.

Mr. Speaker, during my recent visits with veterans at Downey Veterans Hospital and elsewhere, I have become more convinced than ever that "the bravest are the tenderest." They ask so very little of us and they have given so much.

I am proud to be a Member of this House, Mr. Speaker, but I am far prouder to be an American. Veterans' Day—the fourth Monday of October—affords an excellent opportunity to express our pride, our affection, and our gratitude to our gallant veterans.

PRAYER AMENDMENT

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. WYLIE. Mr. Speaker, I commend to the attention of my colleagues the following communications which I received today in support of House Joint Resolution 191:

CUYAHOGA FALLS, OHIO,
November 4, 1971.

CHALMERS P. WYLIE,
U. S. Congress,
House of Representatives,
Washington, D.C.:

Please support the amendment for school prayer. Reaffirm the intent of this Nation's founders. Let us pray in schools, in public, and in private to promote the general welfare and secure the blessings of liberty to ourselves. I believe this to be part of our American heritage.

Prayerfully,

Rev. CHARLES W. EVANS,
Northminster U.P. Church.

AKRON, OHIO,
November 4, 1971.

Congressman CHALMERS P. WYLIE,
Longworth Building,
Washington, D.C.:

For prayer in and on all occasions, schools, public, private and all over America and the world.

Dr. WILLIAM S. PERRY,
Past Pres. of Council of Churches,
Greater Akron.

CUYAHOGA FALLS, OHIO,
Nov. 4, 1971.

CHALMERS P. WYLIE,
House of Representatives, Washington, D.C.:

Official board Bethany United Church of Christ, Cuyahoga Falls, Ohio, favors voluntary non-denominational prayer.

NANCY READ,
Secretary.

STATEMENT OF BISHOP EDGAR A. LOVE, BALTIMORE AREA, UNITED METHODIST CHURCH, RETIRED

I am 100 percent in favor of restoring prayer to public schools and am quite willing to be quoted. Add my name to the list.

We put "In God We Trust" on our coins and the Judeo-Christian tradition has guided the destiny of this country. The spiritual undergirding of our nation must be preserved and I favor prayer in the schools as a means of so doing.

THE WORLD METHODIST COUNCIL,
Philadelphia, Pa., November 2, 1971.

Hon. CHALMERS P. WYLIE,
House of Representatives,
Washington, D.C.

MY DEAR CONGRESSMAN: The great mass of so-called "silent voters" of the USA are grateful to you for promoting the permissive and voluntary right of prayer and Bible reading to be returned to the public schools through your Joint Resolution 191.

We believe that total education which is the responsibility of the public school must include the recognition of the transcendent spiritual, as well as secular, social and political realities of education.

We also believe that the existing interpretation of the Supreme Court on this issue is discriminating in favor of a minority on the principle that if a few do not want it, not even a permissive and voluntary provision should be made to permit the majority to have it.

Furthermore, we believe that the Supreme Court used the word "establishment" in support of their decision in a secular sense and not as the Fathers of the Constitution see it.

We believe also that the people through their elected representatives should have a voice in this important permissive phase of the education of their children. Above all at this particular hour of secularism at its worst in America, the recognition of the supernatural through voluntary and permissive exercises in the public school is our children's right within the Founders' meaning of the Constitution. You have our active support in this effort.

Sincerely yours,

FRED P. CORSON.

ST. SIMONS UNITED METHODIST CHURCH,
St. Simons Island, Ga., November 2, 1971.

Representative CHALMERS P. WYLIE,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN WYLIE: I greatly appreciate the effort you are making toward having prayer placed back in the public schools. There are a few ministers who have been very vocal in opposing this, but I personally feel that they are a small minority of the ministers of our nation.

Our founding fathers did not want a State-Supported Denomination but I have never felt that they wanted to exclude religion from our nation.

I think we have already experienced some moral let-down on the part of youth as a result of taking prayer out of our public schools. I personally would rather have a Catholic prayer or a Jewish prayer than no prayer at all. The Supreme Court has gone to the extreme in the decision opposing prayer in our public schools and has set a dangerous precedent. If this idea were carried to the extreme, there would be no chaplains for our young men in the Armed Services and we would not even have a chaplain for our Senate or the House of Representatives whose salaries would be paid out of the United States Treasury.

Please do all that you can to let the House of Representatives know that there are thousands of the clergy in this country who very much want prayer back in our public schools. We deeply appreciate what you are doing. I plan to write many of the Congressmen of our states and would be glad to help in any other way possible.

With kind personal regards.

Fraternally yours,

DAVID CRIPPS.

LEGION COMMANDER URGES HOUSE TO APPROVE PRAYER RESOLUTION

The American Legion National Commander John H. Geiger, of Des Plaines, Ill., today urged members of the House of Representatives, set to vote November 8 on the School Prayer Constitutional Amendment, to "search their consciences," to restore the right of Americans to participate in prayer in public schools. The full text of Geiger's statement follows:

"I am gratified to note that the House of Representatives will consider the 'School Prayer Amendment' proposal on November 8. The American Legion has long been mandated to seek appropriate legislative relief to permit those who desire to participate in voluntary prayer in tax-supported institutions. Legionnaires everywhere believe that our government, dedicated to the principles of religious freedom from its inception, should extend that concept of religious freedom to permit non-coercive and individually voluntary prayer in the public schools.

"I urge the members of the House of Representatives to search their consciences, and consider the will of the vast majority of Americans who believe in prayer to a supreme being. If they do so, I am certain we can expect from our representatives far more than the two-thirds majority necessary to pass this measure."

A PROPER VIEW OF THE PRAYER AMENDMENT

Mr. Speaker, the following editorial appeared in the November 4 issue of the Los Angeles Herald Examiner. It deals with the prayer amendment which will be voted on November 8. It is concise and well-written and I feel that it should receive the serious consideration of my colleagues.

PUBLIC PRAYER

The House next Monday is expected to vote on a constitutional amendment which would allow non-denominational prayers in public buildings.

Long bottled up in the Judiciary Committee, the proposed amendment was prodded out of the committee by a collection of 218 signatures—representing a majority of all House members—on a discharge petition sponsored by Rep. Chalmers Wylie, R-Ohio, the amendment's author.

It is intended to reverse the Supreme Court rulings of 1962 and 1963 that banned organized school prayer as a violation of the First Amendment guarantee of Religious Freedom.

The proposed amendment does not require prayer in schools or any other public buildings; it merely permits prayer.

The amendment states that "Nothing in the Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

To become part of the Constitution, the measure must be approved by a two-thirds vote in both Houses of Congress and ratified by three-fourths of the state legislatures.

Voluntary non-denominational prayer would not advance one religion over the other. Our founding fathers were divinely inspired when they founded our nation on the premise that there is a Supreme Being.

Our nation nurtured its strength from those concepts which always refer to the Diety. Indeed, our spiritual heritage is a reservoir of our strength and if our nation is to remain free, then we must remain a nation under God, as we say in the Pledge of Allegiance.

Citizens who believe prayers should be permitted in public buildings should contact their congressman in Washington, D.C., before Monday's vote.

Mr. Speaker, addressing the closing session of the recent 3-day conference of the Northeast Regional Council of Academic Affairs Administrators—hosted by Camden County (New Jersey) College—our colleague from New Jersey (JOHN E. HUNT) warned that Congress would not overlook the fact of the college-based radical attack on the establishment when it comes to pouring huge new sums of Federal revenues into the coffers of our already financially troubled higher educational institutions.

It was less than a year ago that the House Internal Security Committee, surveying the possible sources of revenues for an assortment of radical groups, reported:

Radicalization of students was advanced on many campuses by an assortment of speakers ranging from pseudo-intellectuals who exaggerated what may be bad about our society to anarchists and nihilists who denounced even that which is good about America. In far too many instances, such radical orators (by preaching disruption, destruction and violence) would appear to transcend the cherished First Amendment rights of free speech . . . They addressed students whenever convenient—on a mall, in a dormitory or in classrooms. And for the privilege of often seeming to incite impressionable audiences to riotous behavior or resistance to law, such persons were reported as receiving as honoraria rather handsome fees.

Of the 99 colleges and universities responding to the committee's survey, representing less than 4 percent of the Nation's colleges and universities, 1,168 speakers delivered 1,414 speeches over a period of 2 school years between 1968 and 1970 and received honoraria amounting to $911,835, or almost $650 per speech.

The committee concluded:

Since, in a sampling from 3.8 percent of institutions of higher education, funds in this volume are derived by such persons, the Congress of the United States can reasonably conclude that the campus-speaking circuit is certainly the source of significant financing for members or supporters of organizations promoting disorderly, violent, and revolutionary activity. Speaking appearances not only produce revenues but also afford a forum where the radicalization process may be continually expanded.

Mr. Speaker, I want to commend Mr. HUNT for his forthright position on this sensitive issue.

BUSINESSMEN TUNE IN TO GOVERNMENT

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. ANDERSON of Illinois. Mr. Speaker, I had the occasion recently to read an address by Mr. Herbert P. Patterson, president of the Chase Manhattan Bank, in which he calls on his fellow businessmen to make a greater effort to communicate with officials and representatives in Washington who handle the day-to-day legislative and executive branch business that so vitally affects all aspects of commerce and industry in our society today. He points out that Washington has become in effect the headquarters of a substantial part of the Nation's business which is conducted either under the auspices of or on behalf of the Federal Government. He goes on to say that vital legislation affecting every American businessman is daily being reviewed and revised in the Standing Committees of the House and Senate and is daily being enforced and implemented in the myriad offices of the Federal bureaucracy. In light of these developments, there are two things that businessmen cannot afford. First, they cannot afford not to know what is going on in Washington; second, they cannot afford to remain silent and to assume that their interests are being represented when they fail to make them known to their duly elected representative in the Congress at the appropriate time, which is during committee deliberations.

I think Mr. Patterson made some excellent points in this outstanding speech and I commend it to the attention not only of my colleagues, but to all American businessmen who understand the importance of keeping in touch with what is happening in the Nation's Capitol.

ADDRESS BY HERBERT P. PATTERSON, PRESIDENT, THE CHASE MANHATTAN BANK AT COMMERCE AND INDUSTRY ASSOCIATION NEW YORK CITY, SEPT. 22, 1971

ONE MANAGEMENT JOB THAT CANNOT BE DELEGATED

I'm very pleased to have this opportunity of appearing at your Forum and am gratified that you preferred listening to me rather than strolling through the park on this last day of summer.

Like most of you, I look forward to the summer months as a time to catch up on my reading. However, I now look back in dismay at the relatively few books and articles I've managed to read thoroughly.

I did find one article especially provocative. It appeared in the July–August issue of The Harvard Business Review under the intriguing title "The Sounds of Executive Silence."

Those of you who read it will recall that author Norman Adler points out that the stridency of both the radical left and the radical right is on the upsurge. The academic community has become increasingly vocal; politicians at all levels of government are rarely at a loss for words on any subject; yet from most corporate executives comes only silence.

The author deplores what he calls "this self-imposed intellectual and social celibacy," and he argues that businessmen make a serious mistake in shunning the national debate on vital economic and social issues—issues that are increasingly determining the well-being of our country and the conduct of our business enterprises.

Mr. Adler pleads his case as a lawyer and former corporate executive concerned with the broad role of business in our society. My own interest in the subject derives from my personal experiences over the past two years in broadening my contacts with government officials in Washington where the "executive silence" is often deafening.

For a few minutes this afternoon, I'd like to draw on these experiences and share with you some thoughts about the increasing need for more constructive dialogue between businessmen and government officials; the means for accomplishing this; and the benefits that can be realized from it.

As for the need, it seems to me that all we have to do is look around us. We see fully as many decisions being made on the future of business and banking in the halls of Congress these days as in corporate board rooms. Legislation on auto safety, air and water pollution, packaging requirements, cigarette advertising and other issues has had a profound impact on scores of businesses.

What Congress and the Executive Branch do over the next several months in implementing President Nixon's proposals may possibly shape our national economy for years to come.

I might say, parenthetically, that—given the drift of inflation and the drain on our dollar reserves—I feel the President had little choice except to act as he did in the emergency. But it is well to recognize that the steps he has taken in Phase One will not, in themselves, solve our economic problems. They will do no more than provide a breather for the country, so it can deal more forcibly with the fundamental causes of its economic malaise. Because controls—and none of us like them—inevitably and rather quickly lose their effectiveness, they are seldom a satisfactory solution for the longer run.

Ultimately, cooperation is the key: cooperation abroad, among the leading currency nations of the world and cooperation at home among labor, business and government. Those of you who must compete regularly against the Japanese have some idea of what the labor-business-government triad can accomplish through cooperation.

At the risk of seeming somewhat naive, I'd also like to suggest closer cooperation between the major political parties in curbing inflation. Bipartisanship in this area is, I know, always easy to talk about and difficult to accomplish. Yet that's what people used to say about our postwar foreign policy until a determined band, led by Senator Arthur Vandenberg, showed that cooperation was possible in bringing to fruition the Marshall Plan and the Atlantic Pact. In my judgment, the need for a similar bipartisan approach to inflation control is presently urgent and may determine America's economic fate in the Seventies and even beyond. It is simply not possible to plan the course of an economy as vast and complicated as ours within a two-year election cycle.

Some of the main hazards facing the economy in the decade ahead are governmental. As Fortune Magazine pointed out recently, the U.S. cannot have a continuing healthy economy unless it improves the quality of its government. If we in business want to promote this improvement and have a voice in the decision-making process, we must come to know government officials and keep our point of view constantly before them, just as labor and other segments of society are doing.

So much, then, for the need.

What are the best means of meeting this need?

Surely, business associations such as Commerce and Industry perform an indispensable role in furthering better communications between businessmen and government officials. They can be highly effective in handling broad problems that may extend well beyond the reach of individual companies.

But businesses associations don't relieve the executive of his own personal responsibilities in the government relations area. The time is long past when top executives could rely entirely on others to do their work of communicating with government.

This is a job that's become too important for top management to delegate. It has become a do-it-yourself project. The executive himself can be far more effective in presenting his company's views on major issues than anyone else can on his behalf.

During the past two years, as I indicated earlier, I've tried to practice what I preach by going to Washington every few weeks to talk with Senators, Congressmen and other government officials.

Washington has been described as a marvelous blend of southern efficiency and northern hospitality. Commuting to there may not be everyone's idea of fun. Nonetheless, it is the "Headquarters City" of the world's biggest borrower, biggest lender and biggest spender . . . a "Headquarters City" where each day decisions are made which profoundly affect our business and personal lives.

Moving around Capital Hill and calling on Federal agencies in downtown Washington is the best way I know of getting a "feel" for which issues are primary and which are secondary. No matter how many "confidential" reports an executive reads, the only way be can absorb the mood of Washington is to be on the scene. Legislators have a pretty good grasp of public opinion, and today's vocal public opinion has an amazing way of becoming tomorrow's legislation.

I've spoken with some businessmen who acknowledge frankly that they are timid about calling on their Congressmen or testifying at Congressional hearings. I must confess that I myself started out with some trepidation, if only because the prime rate was then at its highest level since the Civil War. In fact, my associates wouldn't even let me call on Congressman WRIGHT PATMAN until my third visit.

However, the reception has always been cordial and the conversation pleasant. You may have to cool your heels while a Congressman shuttles over to the Capitol to cast a vote, or has his picture taken on the steps with a visiting 4–H Club from back home, but most lawmakers do welcome visits from concerned businessmen.

A California Congressman explained to me one reason why. "We can read a bill," he said, "and not see that its going to hit a certain industry. You people know immediately that it would have an effect on your particular business or your community. That's when you should get on the phone or write a letter, or, better, come down to Washington."

As you know, members of our New York congressional delegation all have offices right here in the area as well as in Washington, so you can often find them in town on Mondays and Fridays when they are home mending fences.

Well, you may ask, why would a Congressman want to see me? What have I got to offer him?

For one thing, you have information—or ready access to it—and that's an extremely valuable commodity in Congressional circles. Too many businessmen assume that legislators are experts on every conceivable subject. That's an obvious physical impossibility, as the legislators themselves are the first to admit. After all, more than 15,000 bills and resolutions have been introduced in Congress just since January. The average Congressman's research facilities are considerably

limited, so he's more than glad to have information that will help him do a more efficient job.

For example, I have found one Congressman who was deeply interested in the various options open for funding public education, and our economists at the bank provided him with a cost-benefit analysis. A Congressional Commitee wanted to know how many new manufacturing plants had been denied natural gas servicing over the past few years, and our Energy Division was able to come up with the answer. During one monetary crisis, a Congressman wanted to explain to his constituents what was going on, so I agreed to appear as "guest panelist" on his local television program.

Admittedly, these are areas that a bank would be likely to have more background on than other businesses. But if you take a hard look at your own field, the chances are you'll find many information sources that could prove very helpful to Congressmen and, at the same time, provide a means of closer communication.

As Senators and Representatives are favorably impressed when businessmen do take the time to plead their case personally, the benefits can be well worth the effort.

This point was underscored a few weeks ago during the Congressional inquiry into the Lockheed case. When Chairman Wright Patman opened hearings on the legislation, no fewer than twenty-four bankers appeared to testify. Mr. Patman insisted that we give our name, rank and serial number. Virtually every man at the witness table was Chairman or President of his particular bank. Many Committee members commented approvingly on the willingness of senior executives to participate in the hearings themselves rather than delegating the task.

Another recent illustration of the benefits of personal contact involved the issue of interlocking directorates, a favorite target of corporate critics these days. The current best-seller, "America, Inc.," suggests that a handful of corporations, interlocked with large banks and insurance companies, control our pocketbook, our environment, out health and safety—and—through political contributions—even the machinery of govenment.

Such extravagant charges and the legislative proposals growing out of them are based on the assumption that interlocking directorates are inherently evil and automatically imply the passing of "inside information." One section of the so-called Bank Reform Act would have made it virtually impossible for commercial banks like ours to attract outside businessmen to serve on Boards of Directors.

The banking community pointed out that, under the bill we would have Boards restricted largely to retired individuals and inside directors. By the very nature of their positions, the latter would be subordinate to the Chairman, so he'd have no real accountability. Many Congressmen saw the validity of this argument, and these features have now been modified considerably in the latest legislative draft.

However, the benefits of Washington liaison work should not be judged solely by the success or failure of one piece of legislation, but by the opportunity it affords to get your story across on a sustained basis. It is important—in fact, imperative—to reinforce the dialogue between business and government, especially when you are not asking for any favorable consideration. In that way the communications channels will be open for the inevitable occasions when you want a Congressman to support your position.

Now obviously, nobody becomes an expert on Washington in two years and I am no exception, but on the basis of what I've learned so far, I would offer two concluding suggestions.

One is that businessmen are likely to fare better on Capitol Hill if they state positively what they are FOR rather than harping everlastingly on what they are AGAINST.

If you approach a Congressman with constructive suggestions you are likely to get a much more receptive hearing. Particularly is this true if you call on him while a bill is in the formative stages, when changes can easily be made.

On two occasions recently, once in Washington and once in New York, Congressmen have discussed with me their initial thoughts on a piece of legislation and asked for comments and even language for the proposed bill. On other occassions our bank has worked closely with the Executive Branch to provide ideas on implementing Congressional action.

Several Congressmen have complained to me that one of the most common mistakes businessmen make is to wait until the last minute and then try to summon them off the House floor to talk just before the final vote. Legislators resent this—and I suspect you and I would, too, if we were in their place.

The only thing worse is to say nothing at all during the weeks a bill is up for committee hearings and debate, then write your Congressman a brusque letter of complaint. More than one Congressman has noted ruefully that after having voted "Yea" on a measure on which his pre-vote mail had been running 5 to 1 in favor—he finds that the post-vote mail abusing him for his stand outnumbers the letters of thanks by 10 to 1!

My second and final suggestion, is that businessmen should be prepared and willing to speak out on social as well as economic issues.

One Congressman put it this way: "The only time I see or hear from businessmen is when there is talk of raising taxes or lowering tariffs. I'd like to see some of them when we're debating significant social issues that may not affect them directly, but will have a much greater indirect impact on their business, as well as their personal lives."

Business executives usually don't get where they are unless they are highly able, analytical and articulate about business matters. Why not then apply these same qualities to the world of social and political activity? The alternative may be further waves of restrictive legislation and further shifts of initiative from the private to the public sector.

In summary, I am utterly convinced that we need more activists in the top ranks of our business community—heads of corporations, who are willing to go to "Headquarters City" and become personally involved—thus replacing "executive silence" with raised executive voices on the great issues of the day.

SPEECH OF HON. JOHN J. RHODES AT AMERICAN BANKERS ASSOCIATION CONVENTION

HON. ROBERT G. STEPHENS, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. STEPHENS. Mr. Speaker, when the American Bankers Association met recently in annual convention in San Francisco, one of the featured speakers was our colleague from the First District of Arizona, the Honorable JOHN J. RHODES. His address was so well conceived and so well received that I, as a member of the House Committee on Banking and Currency concerned with the issues upon which he spoke, include in the RECORD the full text of Mr. Rhodes' address:

THE AMERICAN ECONOMY

It is a great pleasure for me to have this opportunity to address the American Bankers Association.

I intend to devote my remarks this morning to an issue that has somehow managed to drive the war in Southeast Asia out of the headlines. I refer, of course, to the American position in world trade and finance: not an esoteric topic for the members of this audience to be sure, but a subject normally considered mysterious by the general public and indeed, even by many Members of Congress.

Interestingly enough in view of the attention lavished on the problem in recent years, economists still argue over the exact meaning of the term *balance of payments deficit*.

First, it may refer to the *liquidity balance*, that is, to a comparison between U.S. liquid liabilities and our ability to meet these liabilities on demand. The steadily-widening gap between U.S. gold reserves and potential foreign claims on that gold has for a number of years been undermining confidence in the dollar abroad. On the day of the President's major economic policy changes, U.S. gold reserves were $10.5 billion and potential foreign claims were $61.9 billion. Thus, the gap stood at $41.4 billion. The very size of this gap itself, however, reduces the significance of the liquidity balance: foreign nations are well aware that any attempt to press their claims against the dollar would destroy it as an international currency, and do irreparable harm to their own economies as well as ours. With the dissolution of the gold pool, the establishment of the two-tier gold price system, and the President's August 15th announcement that the United States would no longer exchange gold for dollars on demand of foreign central banks, it is not now helpful to analyze the balance of payments problems only in terms of liquidity deficits measured in terms of gold.

Secondly, the term "balance of payments deficit" may refer to the *official settlements balance*, which is designed to measure the extent of the intervention by governments in exchange markets in order to maintain stable exchange rates. For some time prior to the current crisis, the stable exchange rate system was being undermined by transactions in the Euro dollar market which were occurring outside the normal settlements process. Since early this spring, moreover, a number of foreign currencies have been allowed to "float" in relation to the dollar, thus further impairing that system. Efforts to evaluate the significance of government intervention in exchange markets, to the extent that such intervention still continues, must therefore under present conditions be judged ineffective.

It makes sense, therefore, to use the term *balance of payments deficit* to refer to the difference between total autonomous payments by American nationals to nationals of other countries, and total autonomous receipts to our nationals from nationals of other countries, over a stated period of time. This approach makes it possible to measure the basic structural forces influencing the position of the United States in the international economy. The balance of payments account defined in this way includes such subsidiary accounts as the trade or merchandise balance, the balance of investment earnings, the balance on private capital account, and the balance on the U.S. government account. Taken together, these various balances indicate the overall state of the United States balance of payments.

There are several aspects of this method of looking at the balance of payments problem which I believe are insufficiently emphasized. Many items in the balance of payments ledger, for example, are closely interrelated. Thus, foreign aid and the direct investment of American capital abroad, usually counted as "deficit" items in balance of payments analysis, may—and usually do—lead to increased merchandise exports as a result of foreign purchases of United States goods with American dollars.

Moreover, the dilemma which European

nations confront as they evaluate the United States balance of payments problem is often forgotten. On the *one* hand, European bankers often express fear that as a result of its continuing balance of payment difficulties, the dollar will be permanently weakened and the United States will no longer be able to play the role in international commerce which it has assumed since World War II. On the other hand, European statesmen frequently worry that the United States will overcome its balance of payments deficit too precipitously, thus creating a shortage of dollars for currency reserve purposes abroad. The Nixon economic initiatives will hopefully force both the European nations and ourselves to face up to these problems, and move us toward a solution to the balance of payments problem that is beneficial to all participants in the world economic system.

Finally, the fact that its international receipts and payments are in balance in itself does not indicate that a country is either well-off, or strong economically, as the case of the so-called "emerging nations" quite clearly shows. Many of the underdeveloped countries have no trade deficit at all, because they have little to export and no domestic markets to attract imports. No one would suggest that we envy them. Deficits themselves, in fact, tell us little about the condition of a nation's economy: the balance of payments deficits suffered by the nations of Europe after World War II were clearly a sign of grave economic weakness, while United States deficits after 1947 were a function of the enormous economic strength which enabled us to spend billions on foreign aid and national security programs while maintaining a high level of prosperity at home.

Unfortunately, our present balance of payments problems are most certainly not a sign of economic strength. The relevant questions for the present, then, are these: how serious is the current adverse balance in the United States international accounts? What are the factors which led to the current deficit? What does it reveal about the state of the United States economy? How much of a threat is it to the international monetary system? Is it necessary to reduce the deficit, and if so, by what means?

At this point it might be useful to block out the parameters of the problem. The United States has been experiencing deficits in its international accounts every year since 1950, with the sole exception of 1957. During the past six years, the deficits have ebbed and flowed, reaching a low of $1.3 billion in 1968 and rising to $3 billion in 1970.

What is alarming is the *manner* in which these deficits have recently been created. Until 1964, the United States balance of payments deficit was almost totally a function of United States government expenditures abroad, plus the outflow of private capital resulting from investments by American business firms in overseas operations. No one expected government expenditures to continue at a high level indefinitely; and since private investments normally result in subsequent inflows of earnings on those investments ; nd at the same time stimulate United States merchandise exports, few economists expressed great alarm concerning the long-term effects of the deficit. Moreover, the merchandise trade balance continued to be highly favorable to the United States. In 1964 the surplus of exports over imports reached a peak of $6.6 billion. That trade surplus has been declining ever since. For the first six months of this year, our trade balance has actually been in deficit, accumulating at an annual rate of $745 million. There is now a real possibility that we will run a deficit in our trade account for the full year of 1971, the first time in 78 years that this has occurred.

The overall deficit for 1971, in fact, may well approach $5 billion, despite the 10 percent import surcharge. And even that figure is deceptively low, since it does not reveal the extent to which private capital outflows are being held down by tax restrictions. The Office of Foreign Direct Investments of the Department of Commerce estimates that such restrictions have reduced capital outflows by $2–$3 billion a year.

An immediate cause of our rapidly-increasing balance of payments deficit is the astonishing increase of imports into the United States which began in 1965 and accelerated rapidly after 1967. An examination of import figures for the past decade is instructive here. According to Department of Commerce figures, since 1961 sales of foreign automobiles in the United States are up 1500 percent; non-electrical machinery, 622 percent; iron and steel products, 464 percent; scientific instruments, 652 percent; and clothing, 388 percent, as measured in millions of dollars. Between 1967 and 1970 alone, imports of finished consumer goods rose by 94 percent.

Many fail to realise the importance of a surplus of exports over imports to the overall condition of the American economy. There can be no doubt that the volume of imports into the United States held back the growth of the economy during the second quarter of this year, wrecking chances for the success of the Administration's previous game plan. It is not only true that domestic patterns affect world trade. Domestic economic developments themselves must always be affected by changes in the patterns of international economic relationships, and policymakers ignore that fact at their peril.

The reasons behind the growing United States difficulties in world trade are not difficult to identify. First would be the economic policies of the mid-Sixties, now widely judged to have been disastrous by economists of every school of thought. The orgy of deficit spending which began in 1965 and culminated in the $24 billion federal budget deficit of 1968, at a time of nearly full employment, led both to massive inflation and a flow of foreign imports into the United States. Inflation, of course, has a heavy impact upon our capacity to export: from 1965 to 1970, export prices rose 16 percent in the United States, 10 percent in Europe and only 9 percent in Japan. These figures alone go a long way toward explaining why we are expected to run a $3 billion trade deficit with Japan alone in the current year.

But the inflation of the past few years and the corresponding decline in the United States position in foreign commerce cannot be blamed only on government deficit spending. The "demand-pull" inflation of the middle and late Sixties, in fact, has been superseded by a "cost-push" spiral which is largely a function of the rising prices attached to American manufactured goods. And those rising prices, in turn, are largely a function of steadily-rising wages in excess of increases in the productivity of American workers. One of the best indications of productivity in the manufacturing sector is unit labor costs per hour. This country maintained steady unit labor costs during the 1950's and early 1960's despite significant wage increases because increased productivity matched wage increases. Since 1966, by way of contrast, the pay per hour of the American industrial worker has been rising at an annual average rate of 6.8 percent per year, while output per hour of work has been increasing by only 1.6 percent per year. Increased labor costs, of course, are quickly reflected in the price of goods, and thus our ability to compete with foreign products both *at home and abroad* has been steadily impaired.

The disappearance of our trade surplus has led to a dramatic rise in protectionist sentiment in the United States, which has already had a serious impact upon Congressional deliberations on trade issues. Demands for substantially higher tariffs, import quotas, and other trade restrictions are heard in every quarter. While temporary adjustments may in some instances be necessary to offset temporary disadvantages, or to counter unjust discrimination by other nations, the imposition of high protective tariffs under contemporary economic conditions would probably be counter-productive. At best, they would constitute a mere bandaid on a gaping wound, with temporary effects only. If the tariff device is employed at all, in fact, it ought to be utilized flexibly, to counter certain existing inequities in trade conditions which are beyond our power to eliminate.

The European Community is now the world's largest trading unit, whose exports have increased by a multiple of ten and whose real output grew by three-fold from 1950 to 1970. Similarly, Japanese exports increased by a multiple of 20 and her real output five-fold during the same period. These countries can now produce and compete with us on an equal footing, and we should insist that they do so. I regard the 10 percent import surcharge recently imposed by the President as essential to the short-run health of the American economy. Over the long term, however, I hope that this measure—along with similar devices now employed by virtually all of our trading partners—can be eliminated as part of a new world-wide move toward more free international trade.

Fundamentally, however, the American economy will never be restored to a condition of stable growth unless inflation is brought permanently under control. That, in turn, will not occur until means are found to deal with constantly-escalating demands, supported by liberal use of strikes in basic industries, for wage increases in excess of productivity. Pay increases already guaranteed for 1971 have reached a new high of 20.5 cents an hour: the five largest wage settlements of 1971 will result in an average increase of more than 30 percent in payroll costs in affected industries over the next three years.

If continued unchecked, these trends will literally destroy the American economy, both domestically through continued rampant inflation, and internationally in terms of our capacity to compete in world commerce. That is why I have introduced in the Congress legislation to deal effectively with labor disputes in industries which are vital to the national health and welfare.

Briefly, this measure would establish a five-man court to exercise jurisdiction in labor disputes in industry substantially affecting commerce. The jurisdiction of the Court would be invoked: 1) upon petition of The Attorney General, after all collective bargaining, mediation and similar efforts have failed, or: 2) upon petition of either party to the dispute.

In other words, the Court would become involved in a particular dispute after the parties themselves had exhausted all avenues for voluntary settlement, had failed to come to an agreement, and as a result, a work stoppage had occurred or appeared imminent. It could also be invoked if the President had determined a settlement to be inflationary, or otherwise inimical to the best interests of the country.

Once the jurisdiction of the court had been invoked, it would be empowered to enjoin any actual or threatened work stoppage for a period of 80 days. During this time, collective bargaining between the employer and the employee would continue under supervision of the Court, which would be authorized to issue whatever orders were necessary to induce the parties to make every effort to settle their differences through collective bargaining.

If, at the conclusion of the 80 day period, the parties advise the Court that a negotiated settlement is impossible, the Court will continue the strike injunction and set the case down for immediate hearing and final determination. All due processes of law will be guaranteed, and the parties will be

given every reasonable opportunity to present arguments in support of their positions.

Finally, a binding judgment will be handed down, covering all matters of dispute including rates of pay, hours, and conditions of work.

The result should be a reasonable settlement. The main winner will be society. The losses which come with national emergency strikes will be stopped; the economy will become more stabilized, and the costs of wildly-inflated settlements will not continue to be an ever increasing burden to the consumer, and to American efforts to remain competitive in international trade.

This is not a revolutionary idea. We in this country and in the Anglo-Saxon world submit every known dispute to our courts for solution. Labor-management relations disputes should be no different; their characteristics do not justify the abandonment of our traditional concepts for making final determinations. Leaving final solutions in labor disputes to the law of the fang and the claw, which is the economic barbarism which we, today mistakenly call "labor-management relations," is certainly not to be tolerated much further.

I have deliberately said nothing about interest rates for two reasons. In the first place, I do not believe in talking about a matter in which the audience is much more expert than I will ever be. The second reason, of course, is that governmental action as well as interplay of the money market has much to do with interest rates. Therefore, for the purposes of the present discussion, I will merely indicate that interest is certainly an important element in the determination of commodity prices and express my hope that the banking industry will do its level best to invoke whatever self-discipline is necessary to keep interest rates reasonable under existing circumstances so that the economy may be aided thereby, rather than deterred in its efforts to expand.

There are, of course, many other dimensions to the current international monetary crisis with which I cannot deal this morning. The balance of payments problem of the United States is only one part of the larger problem of maintaining an adequately-functioning international monetary system. Since few, if any, nations in the present era are willing to allow their domestic economies to adjust freely to each other through the interplay of broad international economic forces, as was the case under the "free gold" standard of the 19th Century, ways must be found to provide adequate liquidity for the settlement of international accounts. Use of Special Drawing Rights during the past 18 months has provided a partial solution to this problem. The Special Drawing Rights concept requires further exploration by the nations of the free world, with a view towards expanded utilization of the device. Finally, a number of important economists both in and out of the academic life have suggested the use of free-floating exchange rates as a way of solving the current international monetary crisis. Should free-floating exchange rates be adopted by the major trading nations, changes in the conditions of supply and demand would be met by adjustments in capital flows and the composition of international trade as well. While many regard this proposal as too drastic to be justified under current conditions, it may offer the best long-range solution to the liquidity problem.

But no matter what measures are taken by the world's monetary authorities in the complex negotiations now beginning, it is clear that a healthy dollar is essental to a smoothly-functioning world monetary system. That is why we must look not to panaceas from abroad, but to economic discipline here at home to solve the balance of payments problem which confronts us.

The time has arrived for the United States to face up to its own problems—not with gimmicks and economic bandaids, as we did so often during the 1960's, but with sound policies directed at the real causes of our difficulties. I believe that the present Administration is doing exactly that. If we in our capacities do the same, the balance of payments problem will be solved, and we will proceed to lay sound foundations for an American economy strong enough to fulfill the many demands placed upon it.

THE PRESENT CIRCUMSTANCES OF HIGHER EDUCATION

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. ESCH. Mr. Speaker, over the past 5 years higher education has undergone a period of turmoil and unrest. The situation appears to be quieting down now, but the fiscal problems which private colleges and universities must face remain as indicated in the recent debate over the higher education bill of 1971. For this reason, I am introducing a report which was submitted to Counselor Robert H. Finch in October 1970. This article articulates the several points of view taken by the heads of small colleges. I think my colleagues would appreciate hearing these viewpoints which I am introducing at Counselor Finch's request.

COUNSELOR'S CONSULTANTS FROM PRIVATE COLLEGES AND UNIVERSITIES—REPORT ON THE PRESENT CIRCUMSTANCES OF HIGHER EDUCATION

The Consultants: John A. Howard, President, Rockford College, Chairman; David Andrews, President, Principia College; Alexander Jones, President, Butler University; and Roy F. Ray, President, Friends University.

INTRODUCTION

The amount of turmoil and disruption within the academic community and the uneasiness of the general public about what is taking place on the campus call for some searching thought about the nature, the functions and the policies of the academic institution and suggest the need to re-examine the assumptions which have shaped higher education in this country.

Three assumptions which have had wide acceptance are worthy of preliminary consideration. The first is that the academic process is so central to man's welfare that it is self-justifying—whatsoever the college or university chooses to do is inherently valuable because it is a college or university which chooses to do it. The second assumption is that an academic institution because of its nature and its mission is indestructible. The third is that our republic if it holds fast to the Bill of Rights is likewise indestructible.

Developments in recent years cause us to reconsider all three of these assumptions. The rapidly growing crime rate, the increase—particularly among the young—of hostility toward the institutions of our society, and the seemingly irreconcilable polarization on one issue after another suggest that our political and social institutions are far from indestructible. In like manner, the conflicts and animosities and devastation which have occurred in some of the strongest and most prestigious academic communities have proven that an institution of higher learning is a fragile thing which can be shattered by a relatively small band of determined brigands.

Finally, the thrusts against society which have originated on various campuses have put in sharp focus the fact that educational institutions are not operating in a vacuum and are not immune to the concerns or the judgments of the larger society, but are in fact agencies which must account to the public for their performance. No academic institution, however distinguished it may be, can properly expect the larger society to support it if it is perceived to be engaged in the overt and effective destruction rather than the refinement and improvement of the institutions and values cherished by the society.

The creative and responsible meshing of the proper work of the academic community with the legitimate concerns and hopes of the society is the primary consideration to which responsible educators must address themselves in this time of crisis on the campus.

A VIEW OF THE OBLIGATIONS OF THE ACADEMIC INSTITUTION

Purposes

The college or university has as its first obligation to determine through its supreme policy board, trustees or regents, what will be its institutional purposes. At the level of higher education, there has been a tendency to regard basic institutional purposes in terms of abstract functions—the dissemination of knowledge and skills, the development of new knowledge, the critical examination of what is known or believed, the compilation and comparison of data, and so forth. Whereas such functions are proper and primary activities of an academic community, it may be misleading to phrase the mission of a college or university only in such terms.

The problem is that the processes themselves may come to be looked upon as superior in importance to the product of the processes. Error of this kind is demonstrated whenever a faculty member's stature is judged by the volume and frequency of his scholarly products rather than by what, if anything, his research contributes to man's knowledge or understanding.

Of far more serious concern is the hierarchy of institutional values that seem to have developed among academic personnel. A study of university objectives conducted by Edward Gross and Paul Grambsch under the auspices of the United States Office of Education was published in June, 1967. In that study, more than 7,000 faculty members and administrators at 68 public and private universities responded to a query on what they believe the objectives of the university actually are, and what they ought to be. The respondents considered the foremost objective of the university to be, "To protect the academic freedom of the faculty." That is also what they thought *should* be the foremost objective.

A process seems to have achieved top billing.

Reading down both lists through the first ten items in order of importance, one does not find any reference to the student in terms other than as a unit of intellectual raw material. Here, we believe, is one crucial clue to what has caused in recent years an ever-growing defection of college students from the values and norms of their own society. To a significant extent, institutions of higher learning have not concerned themselves with what the student does with what he knows, how he behaves and how well he will be able to perform as a mature individual, or as a competent parant or as a responsible citizen.

The fact is that education does have consequences. Whether the college drama department produces "Marat-Sade" or "Victoria Regina" will influence the students. Whether the reading lists are weighted with existentialist or revolutionary or establishment authors will make a difference. Whether the institution's public platform is most frequently occupied by Chicago Seven types or restrained scholars will have a lasting impact on student values and student attitudes.

To phrase the institutional purposes only in terms of scholarly functions is to formalize an indifference to the students as human beings and officially to ignore the responsibilities which students will be called upon to bear later. We believe that institutional purposes must be phrased in terms of personal and citizenship objectives for the student as well as in terms of appropriate scholarly processes.

For a college or university to concern itself with character and citizenship training may, for some, raise the specter of a system of higher education committed to perpetuating the status quo or to re-enforcing only the values of the most powerful elements in society. It is in connection with this concern that the autonomy and the diversity of American colleges and universities must be accentuated and assured. As each board of control develops its own definition of objectives for the students and for the academic functions in the institution(s) under its jurisdiction, a system of education appropriate to a dynamic and pluralistic society will be guaranteed.

Policies

The specific policies adopted by a college or university must be those which will sustain and promote the purposes of that institution. Policies should be established with meticulous care, stated clearly, and enforced fairly and fully.

Many policies will vary from campus to campus in accordance with the diverse purposes which have been formulated. Nevertheless, we believe that there are some policies which are essential to the proper functioning of all higher education in this country and therefore belong in the basic documents of every institution. Among such policy concerns, we suggest the promotion of attitudes of affirmation, appreciation, and commitment, to counteract a prevailing enthusiasm for criticism and dissent, an insistence upon rational processes as the only proper basis for judging public issues, and the setting of reasonable and appropriate limits upon the conduct of all members of the academic community. A brief amplification of these three may be helpful.

First, we believe our colleges and universities need to identify, endorse, and teach those attitudes which are needed for the survival of a free society and for the updating and improvement of the institutions which govern and facilitate its activities. One key affirmation should be that of the worth and dignity of every human being. Another is an unwavering commitment to cherish and sustain a system of law as the only method by which justice can be achieved for the citizens of a community or a nation.

Second, the policies of institutions of higher learning need to emphasize that the rational process is central to all human progress. Although man's rationality may be a fallible guide, it is nevertheless the most reliable one he has. Certainly, of all the institutions of society, none has greater cause to be dedicated to the supremacy of rationality then the academic institution. One of the techniques employed by those persons who wish to destroy our institutions of higher learning is to encourage young people to substitute strong feelings and violent action for rationality and civility. Clearly, every college and university must effectively oppose this summary rejection of the life of the mind, which is, after all, the denial of its reason for existence.

Third, each college or university must determine what limits of conduct are needed for it to achieve its stated purposes.* For instance, if it has made a commitment to teach the importance of a system of law it cannot countenance the flaunting of public law without making a mockery of that commitment. Whatever limits it may set must be made known fully to all college personnel, and then it must also make known the machinery and procedures it will use to enforce those limitations. It must, further, enforce them firmly and fairly.

Personnel

Education deals with knowledge and with people. As has been noted, concern for the one seems to have subordinated concern for the other. Now that almost half of the Nation's college-age youth enroll in programs of higher education, any basic imbalance or malfunction of higher education can have devastating consequences. As colleges and universities move to repair the imbalance between concern for knowledge and concern for students, it is of utmost importance that their personnel be selected with this critical point in mind.

The trustees or regents bear the full moral, legal and financial responsibilities for the college or university which they serve. Whatever happens or does not happen on the campus is ultimately upon their shoulders. It is they who are responsible to the state and to the citizens of the state which has granted their charter. Be it public or private, an institution derives its basic authorization from the state. It should be noted that the governor and the state legislature, because of the charter function, have a far more direct responsibility for the institutions of higher learning than does the federal government.

A first obligation of the trustees is to make certain that the institutions they govern perform in a manner which is not inimical to the public interest. Since the trustees adopt the statement of purposes and institute policies to assure the fulfillment of those purposes, and since they select a chief officer to carry out the purposes and the policies, their role is critical in the determination of the nature as well as the success of the academic institution. The individuals selected as trustees or regents must be of the stature and the wisdom and the conscience to deliver effectively on the grave responsibilities which they bear.

The quality and the training of the people who administer higher education is also basic to the success of the institution. Unfortunately, it is seldom that a person makes an early decision and prepares himself for academic administration, so that many who are called to the profession enter it ill-equipped for the job.

We wish to register the need for more attention to the recruitment and preparation of academic administrators, and a special plea that each academic institution, in choosing its leadership, make every effort to enlist only those people who fully understand and will capably deliver on the purposes of that institution.

In any consideration of the impact of the college experience upon the students, it is obvious that the selection of the people who will be teaching the students is of supreme importance. If faculty selection is based only upon the scholarly competence of the professors, then an overt revolutionist may appear qualified. However, if the concern in faculty appointments extends to whether the graduating students will be fit to lead a responsible life in a free society, then the total hostility of such a person toward a responsible free society would seem to make him conspicuously unqualified for appointment to a college or university faculty.

In our judgment, of all the factors which have contributed to the disintegration of the campus community and to the anarchic trends in the larger society, the greatest single force has been the policy followed by many institutions of higher learning which considers the character and the convictions of a prospective faculty member as irrelevant if his scholarly credentials are adequate. As a result of such policies, a significant and growing number of determined revolutionaries have been hired as professors and have been protected in their efforts to subvert the nation and enlist its young people in their own philosophies and their destructive acts.

We repeat, the student's outlook on the world and the values to which he commits himself are profoundly affected by his experiences in college and particularly by the people who are chosen as his professors. Education, since it plays a major role in shaping the lives of the nation's youth, is a very presumptuous undertaking. If the experience in college results in warping the attitudes or even destroying the lives of some students, the people who control and administer the college cannot escape their responsibility for such consequences. Above all, this thought must be kept in mind as appointments are made to the teaching faculty.

In the selection of students, as in the selection of trustees, administrators and faculty, we believe the academic institution must pay first attention to the purposes it has set for itself as it devises its admissions standards and procedures, and prepares the literature for student recruitment. The college or university has a primary obligation to make known to its prospective students what it is trying to accomplish, how it goes about it, and what is the framework of limitations within which it chooses to operate. It also has an obligation to try to admit only those students who find the institutional purposes compatible with their own and who are willing to abide by the policies and the rules. It has a further obligation to try to screen out in the admissions process those students who are incapable of handling the academic program and those students who are unwilling to meet the standards of personal conduct. It is no favor to the student to enroll him in an educational institution in which his mental capacities, his training, his life style or his political objectives will be completely incompatible with the standards of the institution.

Clearly, one of the institutional shortcomings which has led to campus turbulence has been the inadequate screening of student applications for admission.

Accountability

There seems to have been a tendency for institutions of higher learning to regard themselves as a thing apart from and superior to the rest of the society. Such an attitude disregards the facts. The college or university derives its students, its funds, and its mandate from the society. Furthermore, the college or university, as it goes about its work, will have a powerful impact

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*One subject related to the matter of limitations on conduct which has not had sufficient study is the question of how much internal challenge and legitimate conflict an academic institution can sustain without having its operations break down altogether. It is possible for the leadership personnel of a college to be required to spend so much time in attending to a never-ending series of inflamed grievances that they are effectively prevented from doing their necessary work. Such a problem is illustrative of the new circumstances in which answers must be found for which no precedent exists. On this particular matter, any effective answer will require the help of people of good will from all segments of the campus community.

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upon the present and future shape of the society.

It seems to us that each academic institution must bear in mind its stewardship to the larger society. It is for this reason we emphasize the need for the institutional statement of purpose to incorporate information about the impact it wishes to have upon its students as well as to set forth its aspirations for scholarly productivity. If the statement of purpose is comprehensive and precise, then the institution itself is in a position to judge its success and to report fully on its progress to its constituency and to the general public.

Part of the present crisis in higher education arises from lack of public knowledge about what is actually taking place on the campus. We believe each college or university, public or private, can only assure its long-term strength and creativeness by reporting periodically and candidly to the larger society on its stewardship.

JOINT CONCERNS OF THE GOVERNMENT AND THE ACADEMIC COMMUNITY

Foreign policy

Among the most frequently mentioned topics of discontent on American campuses is that of the relations between the United States and other countries, particularly the developing nations. American foreign policy is the subject of forceful criticism by many students and faculty. In the case of the war in Southeast Asia, violent actions and defiance of the law have been instigated on campuses and proclaimed as "justifiable protest".

We wish to register our concern about an imbalance of presentations on college campuses about American foreign policy. The facts, as known to the officials who deal with military and foreign affairs, and the government's policy position in relation to these facts, are rarely heard, much less understood, by the academic community. Criticism of American foreign policy and proposals in opposition to it are, on the other hand, in abundant supply. The Scranton Commission reports that the majority of American college students oppose the Vietnam war. This is a predictable attitude when it is realized that almost nothing but negative commentary has been heard by many students.

Our nation is faced with a rapidly growing, intensely emotional domestic hostility against its foreign policies and military actions, an hostility which will prove increasingly dangerous if not intelligently dealt with.

Whether the best source of accurate and balanced information is indeed the government itself, or rather some private organization, may be argued. However, our Department of State issues in limited supply some well-documented materials and has a program of campus visits and open forums for youth under way. These programs are severely restricted by the amount of funds made available. Less than $750,000 a year is alloted for the operating expenses of the whole public affairs programs of the State Department. We believe that the government must greatly expand these services of the State Department, so that the facts and the reasoning which guide our foreign relations may be much better understood by the general public, and particularly by the academic community, in order to elicit intelligent efforts to undermine and destroy.

Such organizations as the Foreign Policy Association are in a position to be very helpful and influential toward this end if they have sufficient funds to do so. We encourage private foundations to consider this need and this opportunity.

Academic institutions, themselves, must be alert to their obligations to provide a balanced program of speakers and programs and information that support as well as criticize foreign policy. College administrations must recognize that they bear a large measure of responsibility for campus attitudes. Since colleges are properly expected to provide the circumstances where rational thought rather than emotions will prevail in judging public issues, either the speakers should be chosen for their ability to present a factual, dispassionate and reasoned position, or the college should provide a forum for the critical review of emotional presentations.

Academic institutions must recognize that their programs will have a significant impact on how students judge and respond to issues of intense concern. At present it is evident that many professors who discuss American foreign policy are in strong disagreement with what they believe the government is trying to do. No energy nor appropriate expense should be spared to provide these professors with full and accurate information about our foreign policy and to help them understand the real and practical problems of international affairs, in order to inform their judgment and guide their theoretical formulations. College administrators, too, need to be encouraged to lend their support to the expansion of communications and understanding between the teaching faculty and government officials. Present programs of the State Department in this direction are commendably conceived but pitifully inadequate in comparison to the great need.

We are aware of the necessary restraint on publicity of information about confidential or sensitive aspects of foreign relations and we are cognizant of the caution which State Department public relations officers must exercise in their work, but we are confident that more information can be properly provided to more people, and we urge the officers of government to give this matter high priority.

Department of Justice

Another division of government which needs to develop a closer interaction with the academic community is the Department of Justice. Among the beneficial results of such interaction, there are several which we perceive as especially significant.

In the first place, college people need a better understanding of the personnel, the policies and the program of the Department of Justice. Although the few who have taken a position of total opposition to our society will persist in considering the Department of Justice as a repressive agency, it is our belief that there are many others in the academic community who hold unwarranted suspicions and fears concerning the competence, the attitudes and the techniques of the federal law enforcement officers. From our conversations with members of the Department of Justice, we are confident that campus visits will do much to allay these fears and suspicions.

At present, visits by the Attorney General or his representatives are planned to more than 50 campuses. As rapidly as the availability of personnel and funds permits, additional visits should be scheduled. To the extent that there are erroneous judgments of the activities of the Justice Department, the needed cooperation between the academic community and the national law enforcement agencies is undermined or thwarted.

One particularly helpful service which the Department of Justice might provide would be a central clearinghouse which would collect and disseminate information concerning campus disruption and violence. Those educators who are responsible for maintaining an orderly and scholarly academic environment at their respective schools would be greatly aided by having access to accurate and useful information about instances of turmoil elsewhere including data about what occurred, what countermeasures (or earlier preventive measures) were employed, what proved effective, what did not, and, if possible, the reasons why.

Access to a clearinghouse of this kind would, we believe, be of great benefit.

A further joint concern with the Justice Department is the necessity to help all citizens understand that there cannot be justice for anyone without a prior commitment to a system of law. Justice has no meaning except within a framework of law. Cooperative endeavors between personnel of the Justice Department and the academic community to increase this understanding are strongly recommended.

Another mutual concern is the still-growing use of illegal drugs. Because of the ease with which such drugs can be obtained, the highly specialized investigations necessary to control this activity, and the limited and conflicting research which has been made public, colleges find themselves particularly helpless in this matter.

The Federal Bureau of Narcotics and Dangerous Drugs is the federal agency with responsibility for control of illegal drugs. It has officers who cooperate with foreign and domestic agencies in trying to reduce the traffic in illegal drugs. This Bureau also conducts training programs for a large and growing number of law enforcement officers from state and local governments. As the effect of this training program spreads, colleges and universities will greatly benefit from having well-trained and knowledgeable local law enforcement officers with whom to consult.

The rapid growth of drug abuse on the nation's campuses has been made possible not only by the ready availability of drugs and the effluence of many students, but also by the naivete and the unpreparedness of campus administrations and local authorities to cope with the situation. One particular problem faced by academic institutions is the attitude of many students and faculty that, if a person chooses to use drugs, that decision should be his own business as long as he does not hurt others. However, such statistical information as is available indicates that the largest portion of users of illegal drugs take up this practice as a result of contact with a friend or acquaintance who is already a participant. In a very real sense, the casual user of drugs is as much a carrier of this habit as the person who is infected with a communicable disease is a carrier of that disease to those around him. It appears that a student attending a college which has a high percentage of users of illegal drugs will be far more likely to become a user himself than if he attended another college where very few are involved.

In the complex matter of dealing with drug abuse, particularly, in this time when there is widespread lack of support for existing legislation, the interaction and cooperation between the academic community and the Bureau of Narcotics and Dangerous Drugs is highly necessary.

The participation of the Federal Government in financial support of higher education

The manner in which funds are provided for educational institutions is a matter of great concern and bears on almost all of the other topics of this report.

The vast increase in federal appropriations for higher education in the last decade has been of untold help to faculty, students, and their academic institutions. Nevertheless, the federal aid in the form in which it has been provided, i.e., direct grants for specific purposes, has also created many problems. Among them:

1. The research function of higher education has, in the view of many, expanded far beyond its proper relationship to other functions of education as a result of the proportion of federal aid allocated to research.

2. Some significant part of academic activity is directed into other fields of scholarship than would have been chosen by the professors and researchers involved, the choice now being influenced by those fields of study which the federal government has chosen to subsidize.

3. A relatively small number of academic institutions has received the majority of federal assistance: decisions made by the federal government have determined which institutions would grow stronger. Many small colleges have not been able to obtain what they regard as their fair share.

4. According to the Scranton Report, about half the current income of institutions of higher education comes from government sources. Colleges and universities have become dependent upon the government and are therefore gradually losing control of their own budgets and their own destinies.

5. This dependence upon the central government also raises the question of political captivity. At what point does a recipient academic institution become so dependent upon its federal grants that it becomes fearful of expressing views or taking action contrary to the views of government offices and officers involved in the granting process?

6. The labor required in the academic community to apply for, account for and report on federal grants multiplies and multiplies;

7. Each time the federal government establishes a new program of federal aid grants, there is the additional financial burden on the government to process, disseminate, audit and evaluate the grants.

There is an alternate way of providing funds for education which would eliminate or minimize most of these problems and offer many additional advantages. This alternate technique has been put into effect in the states of Indiana and Michigan, and seems to be working very well. It is a tax credit for gifts to institutions of higher education.

For example, under the Michigan program, the individual taxpayer computes his state income tax, and if he chooses, may make a gift to the college of his choice in the amount of $100 or 20% of his tax owed (whichever is smaller). If he makes such a gift, he then reduces the amount of tax he pays to the state by the amount of his gift. A corporation can do the same thing in the amount of $5000 or 10% of his tax obligation (whichever is smaller).

The advantages of the tax credit system of support are manifold:

1. There is almost no governmental overhead cost. The taxpayer attaches his gift receipt to his tax form. There is no need to maintain various governmental officers to supervise and administer this kind of subsidy as must be done in the case of programs of federal grants;

2. Each college can spend these tax credit revenues according to its particular needs. (The Scranton Commission, like almost every other educational advisory group, has urged more unrestricted federal support.)

3. There is no problem of the separation of church and state. Colleges with religious affiliations may receive tax-deductible gifts now and would be equally eligible for tax credit gifts;

4. The small colleges would have a chance to hold their own in this competition, turning to their neighbors and alumni for tax credit gifts;

5. The disadvantaged colleges would benefit particularly, in that many of their alumni have small incomes, but would be pleased to pay part of their taxes to their alma mater. Further, these colleges could call upon the altruism of people in other parts of the country, some of whom would prefer to send their funds to a college with special needs;

6. Institutional autonomy would be protected by this plan;

7. Only as much of the tax credit funds would go into research as the individual college or university chooses to allocate to that function;

8. This program would tend to focus educational funds in population centers, giving further impetus to the junior college movement, since people are likely to support nearby institutions, and invest their funds in the local economy;

9. The gift tax credit would also increase the accountability factor of the educational institution since the neighbors (and alumni) whose gifts would be sought, would have a much more complete knowledge of the effectiveness of the institution than a remote granting body in Washington would have.

This statement is not the proper place to spell out all the details of a specific proposal, but we commend this technique of support for higher education to the Administration, urging it to be tried on a modest basis. If the tax credit for gifts proves to be as useful as we believe it will be, then perhaps many grant programs can be phased out with offsetting increases in the tax ceiling over a period of time, and with very great economies accruing to the government. We wish to emphasize we are not recommending the immediate revocation of existing programs of grants in favor of tax credits. The grant programs are woven much too deeply into the fabric of higher education to be abruptly terminated without disaster.

CONCLUSION

Recent studies of campus unrest have tended to emphasize and reemphasize the importance of protecting the dissent function, along with an emphatic condemnation of violence, destruction and terrorism. There is indeed a proper concern that efforts to eliminate or reduce intolerable acts on campus not take a direction which would discourage or suppress the open rational discussion of all issues.

On the other hand, there is a danger that over-emphasis on the dissent function may create or substantiate an impression that dissent is somehow inherently virtuous or valuable of itself. Dissent for the sake of dissent is just as foolish as dogmatic support of the status quo.

Dissent and protest and confrontation seem to have become glory terms for a growing number of people, particularly the youth. Recognizing this phenomenon, those of us who bear responsibilities for the functioning of the various services of society must devote major attention to maintaining our own perspective of the true worth and workability of our social institutions and enlisting such perspective on the part of others.

Some psychologists who have analyzed the attitudes of the present college student generation point to the widespread characteristic of "playing it cool". There appears to be among the youth a propensity for skepticism and criticism and a complementary scarcity of affirmation. To a great degree, such attitudes reflect a prominent absence of words and acts of affirmation on the part of the adult leadership of our society.

It will be futile to develop the techniques of controlling inappropriate dissent if we do not provide and proclaim for our nation, and especially for our youth, institutions which are worthy of improvement, principles which are worthy of personal commitment, and causes which are worthy of sacrifice.

As important as all the other matters are on which we have touched, it is our judgment that in the long run those actions which will do the most to counteract the turmoil and turbulence that now beset the colleges will be acts of genuine and enthusiastic affirmation by leaders in all fields of endeavor, acts which manifest their conviction that life is worth living, our social institutions are worth preserving and improving, and man can stand up to and solve the problems he faces.

INTEGRITY OF PRESS UPHELD

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. McDONALD of Michigan. Mr. Speaker, the editorial integrity of our press corps has been upheld throughout the years because, like the people a free press serves, it is varied in its outlook. There are liberals, conservatives and radicals, each of whom writes from a particular viewpoint to a particular audience. All play an equal role in bringing to the people of this country all facets of an issue. Their editorial opinions often clash, but I submit that it is this very clash which brings about orderly and constructive change.

One such writer, commentator and lecturer, is Mr. George Todt, of California. I recently became acquainted with Mr. Todt's work in the Van Nuys News in California, and would like to share some of his columns with my colleagues.

Mr. Todt is a journalist of the old school. His columns bite, sting and jostle, depending on his topic. But the most important product of his work is the constructive thought that goes into the column, and is left with the reader. It is that effort which sets Mr. Todt apart, and which moves me to share these samples of his writing. Mr. Speaker, I herewith submit a representative sampling of Mr. George Todt, journalist.

URGE WORLDWIDE NUCLEAR TALKS

(By George Todt)

"Hero worship exists, has existed, and will forever exist universally among mankind." CARLYLE—"Sartor Resartus."

Even columnists have their heroes in the world of journalism. These according to our individual tastes and backgrounds, of course. In such areas we all differ, quite fortunately.

But if pressed personally to name a pundit whose views I found most sympathetic to my own now and over the past 20 years while writing this column, the choice would be easy to make for me.

He would be David Lawrence, editor of U.S. News and World *Report*, whose consistent reason and lucidity give emphasis to his fine moderately conservative viewpoint.

ASK WORLD CONFERENCE

Sometimes I differ with Lawrence on his views, but he receives, invariably, my most respectful attention.

In a recent editorial, the gifted writer has noted that the Soviet Union has asked the United Nations to call a universal conference which would consider disarmament with respect not only to conventional but also nuclear weapons.

Instead of merely the five nuclear powers—U.S., Soviets, French, British and Red Chinese—being invited to the party, all would come.

In a recent letter to the Secretary-General of the UN, Soviet Foreign Minister Andrei Gromyko stated that position of the USSR.

"The Soviet Union believes that the world disarmament conference could consider the whole complex of problems relating to disarmament, with regard to both nuclear and conventional armaments.

INTOLERABLE CONSEQUENCES

"At the same time, inasmuch as the nuclear armaments race arouses the greatest anxiety among peoples, primary attention

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could be devoted to the questions of prohibiting and eliminating nuclear weapons, if the majority of the participants in the conference should so desire."

Lawrence pointed out that it has long been obvious that thermonuclear conflict would bring about the most catastrophic war in history with intolerable consequences for mankind.

For this reason, he suggested that the Sept. 6 letter of Gromyko be taken seriously, as it was in line with the Soviet proposal made in March 1962.

This proposal favored the eliminating of stockpiles and ending the production of "all kinds of weapons of mass destruction including atomic, hydrogen, chemical and biological" ones.

TO SEEK FORMULA

Shortly afterwards, the United States expressed itself in pursuit of the same objective.

But this is the first time either nation, or any other one, has made a proposal that a "universal" conference be called for all nations to find a formula to implement the worldwide disarmament idea.

After watching a recent replay of Gregory Peck in "On the Beach" and Charlton Heston playing "The Omega Man"—both portraying last men on earth following a devastating nuclear war—I must admit the worldwide disarmament concept is attractive for our continuing future.

"The big question," says Lawrence, "is whether, if a worldwide agreement is reached to ban nuclear arms altogether and destroy existing weapons, there could be an assurance that the pledges had been fulfilled.

LEADERS HAVE REFUSED

"Methods of verifying by inspection would have to be provided so that the peoples of all countries could be relieved of the fear of nuclear war."

And that's the nub of the whole argument, it seems to me.

In the past, the Communist leaders have adamantly refused on-the-site inspection. Actually, their proposals have amounted to asking the United States to merely take them in complete good faith—in other words buy a pig-in-a-poke.

The real $64 question is: How can reasonable people trust the pledge word of the Red leaders? What does the record show? How wise would we be to take them at their word in so serious a matter as disarmament?

KEPT FEW TREATIES

For answer to practical Americans who use reason instead of emotion or hysteria, we must start out with numerous broken treaties the USSR has made with us since 1917—which marked the advent of Lenin to power.

The only treaties the Soviets ever kept faithfully were a few which were self-serving to them and these were very few indeed.

The Red hero of the Soviet Union, Josef Stalin, once said that anyone foolish enough to believe the promises of Communist leaders "would also believe in wooden water." He was so right.

How can we assure the fidelity and good faith of proven liars who will make a treaty and break their word before nightfall if it behooves them to do so? Ought we to risk our survival upon it?

That is the real stumbling block to this otherwise excellent proposal of worldwide disarmament. Can the deceitful Communist leopard change his spots? Don't bet on it.

SCHOOL PRAYER HOPES BOOSTED

(By George Todt)

"Thrice is he armed who hath his quarrel just, And he but naked, though locked up in steel, Whose conscience with injustice is corrupted." SHAKESPEARE—Henry VI. Pt. II. Act III. Sc. 2.

Many millions of American citizens who look forward to the restoration of voluntary Bible reading and prayer in public schools were heartened and thrilled by a recent earth-shaking event in Congress.

The House of Representatives, by affixing the names of 218 supporting congressmen to a regular discharge petition, succeeded in discharging House Joint Resolution 191 from further consideration—or lack of it—by the House judiciary committee.

This is the school prayer matter which has been made controversial by the efforts of such persons as atheist Madeline Murray in the past, supported by Rep. Emanuel Celler (D-N.Y.) chairman of the judiciary committee.

In this column on Sept. 12 we mentioned the "Resolution Number I" of the National Society of the Sons of the American Revolution at its annual convention held in Houston, Tex., this year.

SPANS 6 YEARS

The SAR called unequivocally for the accomplishment of voluntary Bible reading and prayer in public schools.

Hundreds of other fine patriotic, conservative organizations have backed this measure over the past eight years, but it never got to the House floor to be voted on because chairman Celler bottled it up in his committee.

Millions of letters were showered on Celler asking that the measure be brought to the House floor for an honest vote.

Now Celler has been dealt a smashing defeat and has suffered loss of prestige in the process. This is only the second time in history that a bill has been taken away from a committee chairman by means of a discharge petition.

OPTIMISM RISES

Most congressmen are very reluctant to sign a measure of this kind in the first place, believing it might water down some legislative prerogatives.

It is almost a certainty that numerous additional congressmen will vote favorably for House Joint Resolution 191 when the final vote comes Nov. 8—because many more than signed the petition were for it, but hesitated to sign only because it has been done so rarely before.

The fight was led to a successful conclusion regarding the vital discharge petition by the skillful maneuvering of a freshman in the House, Rep. Chalmers Wylie (R-Ohio).

But under his leadership this time he was most fortunate to have literally millions of devoted fellow citizens and hundreds of conservative organizations—for once pulling together in harness—to create the needed win.

TWO MEN NAMED

As is so often the case, some of the Johnny-Come-Lately's have been taking the bows and most of the credit for this commendable endeavor, but as a writer who backed this work from the beginning eight years ago, let me give you my idea on those who deserve the lion's share of acclaim.

They are two men from Los Angeles: Pat Boone, singer who lives in Bel Air, and Samuel M. Cavnar, vice president and treasurer of the American Center for Education, who lives in Reseda.

They are national chairman and general chairman respectively of the veteran organization, "Project Prayer," which has been in the fight from the beginning and includes some of the most prominent modern American patriots.

Hammering a way relentlessly, although suffering untold defeats along the way, these men simply would not quit until their objective was reached.

They have given generously of their time and resources to coordinate this exemplary movement, bring others into "Project Prayer".

GOES TO WASHINGTON

Now is their moment of triumph for the first phase of the effort—the payoff comes on Nov. 8 when Congress votes on the measure—and both men believe their victory is in reality that of every member of the united team which made it possible. Both give generous credit to others.

But Rep. Wylie, the victorious field marshal in the fight for the stubbornly resisted discharge petition, wrote Cavnar—who had left a much-needed fund-raising campaign at the American Center for Education to go to Washington in the last stages to help him—the following "Dear Sam" letter:

"May I take this opportunity to thank the many people involved in 'Project Prayer' and you personally for your untiring work with regard to the petition which discharged House Joint Resolution 191 from further consideration by the House judiciary committee.

"It is only through the efforts of concerned groups such as 'Project Prayer' that a constitutional amendment which would permit non-denominational prayer in public buildings can become a reality.

EVERY VOTE COUNTS

"On Nov. 8 the House will consider this proposal. It is imperative that you continue your vigorous support for this measure. A two-thirds is required for passage of this amendment.

"Therefore, every vote we can muster will be needed as we face mounting opposition."

A stunning victory has been won by the pro-prayer forces at this point, but it is not the entire campaign. More continuing assistance is needed now.

Those who would like to help put the prayer amendment across in Congress on Nov. 8, when the matter comes to vote, may address their letters to either Pat Boone and Samuel M. Cavnar, 1680 N. Vine St., Suite 900, P.O. Box 3450, Hollywood, Cal. 90028, or telephone 466-9339.

THE LATE HONORABLE WINFIELD K. DENTON

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. HAMILTON. Mr. Speaker, I was deeply saddened to learn of the death of the Honorable Winfield K. Denton. He was a dedicated public servant who served his community as a prosecutor, his State as a legislator, and his Nation as a Congressman. I knew him as a warm friend, a devoted family man, a conscientious and effective Congressman, and a person whose interests and influence ranged far beyond the boundaries of the Indiana district he loved so much and served so well.

I do not think I have ever known a Congressman who took the interests and concerns of his constituents more to heart. His concern for them reminded me of a pastor's concern for the members of his congregation. His constituents' interests were his interests and their welfare was his chief concern. He wanted their opportunities broadened, their lives enhanced and their burdens made easier. He was a friend and a counselor to all who came to him for help.

He was a man with a far view, whose work on the House Subcommittee on Appropriations for the Interior Department resulted in the establishment of many of the national parks which we prize today.

He was born, and lived all of his life in the Ohio River city of Evansville, Ind., and his ceaseless efforts to modernize the navigational facilities on the river contributed greatly to making the Ohio the commercial artery which it is today. An aviator in World War I and a member of the Judge Advocate General's staff in World War II, he was a veteran who fought the veterans' fight for welfare and dignity.

As a Hoosier, proud of his heritage and his State, he was instrumental in the development of the Abraham Lincoln Boyhood Memorial.

I am grateful for his life and the contributions he made, and I extend my deepest sympathy to his surviving daughters and their families.

ANNUAL FOURTH DISTRICT QUESTIONNAIRE

HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. DELLENBACK. Mr. Speaker, I am mailing to all residents of the Fourth Congressional District of Oregon my fifth annual questionnaire. As soon as the questionnaires have been returned and the results tabulated, I will report the results for the information of my colleagues.

The questionnaire follows:

LETTER AND QUESTIONNAIRE

OCTOBER, 1971.

DEAR FELLOW OREGONIAN: Your responses to the questionnaire which I've sent annually throughout the Fourth District have been most helpful. Now once again I'm asking you to take a few minutes of your time to give me the benefits of your thinking on some of today's critical national issues.

I will welcome getting the thinking of as many individual constituents as possible—young, middle-aged and elderly; experienced voters and those about to vote for the first time.

When you have completed the attached questionnaire, simply detach at the fold, place an eight cent stamp on it, and return it to me.

The form of the questionnaire is necessarily quite limited. If you have some comments you'd like to add or some questions you want to ask, I'd be happy to hear from you.

I'll be reporting the results of this year's opinion poll just as soon as they are tabulated. Thank you once again for your help.

Sincerely,

JOHN DELLENBACK.

QUESTIONNAIRE

1. When Phase II of the economic stabilization program ends, what should the federal government do? (check one):
   a. Establish voluntary wage-price guidelines.
   b. Establish mandatory wage-price controls.
   c. Take no further action with regard to wage-price controls or guidelines.
2. Which of the following do you feel are effective contributions toward world peace? (check one or more):
   a. The President's proposed trip to Peking.
   b. The President's proposed trip to Moscow.
   c. U.S. assistance in Mid-East negotiations.
   d. The SALT talks.
   e. None of the above.
3. In the area of national health insurance, which do you prefer? (check one or more):
   a. A federal program of health care for the poor.
   b. Tax credits for premiums for private insurance.
   c. A federal program to help all meet costs of catastrophic illness.
   d. Health insurance for employees required to be provided by employers.
   e. Complete nationalization of health insurance.
   f. No new federal legislation in this area.
4. Under present management of national forest lands, there is: (check one or more):
   a. Too little emphasis on wilderness use.
   b. Too little emphasis on recreation use.
   c. Too little emphasis on commercial use.
   d. A good balance of uses.
5. In order to regulate campaign expenditures for federal offices, which of the following (if any) would you favor? (check as many as you favor):
   a. Strict reporting of campaign receipts and expenditures before election day.
   b. Small tax credits for campaign contributions.
   c. Limit the amount an individual or group can contribute to a single candidate.
   d. Limited federal funds to pay for some radio, television, newspaper and other advertising for all major candidates.
   e. Limit on total amount any candidate can spend.
6. Which five of the following do you consider to be the most critical problem areas facing the nation today? Please number 1 through 5 in order of their importance:

Aid to agriculture	National defense
Aid to elderly	Population control
Campaign spending	Poverty
Consumer protection	Prison reform
Crime	Race relations
Drug abuse	Sex discrimination
Economy	Tax reform
Education	Transportation
Environment	Unemployment
Foreign relations	Vietnam
Gun control	Welfare
Health care	Other
Housing	

UNITED FEDERATION OF TEACHERS OPPOSES SCHOOL PRAYER AMENDMENT

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. RYAN. Mr. Speaker, on Monday, this House is expected to consider the so-called school prayer amendment, which is designed to overrule U.S. Supreme Court decisions which have upheld the separation of church and state as embodied in the first amendment to the Constitution. This amendment raises more questions than it answers, but its adoption would surely breach the wall between church and state, which our Founding Fathers wisely constructed. The United Federation of Teachers has issued a statement in opposition to this constitutional amendment, which would be most useful to the House in reaching an objective judgment.

I include in the RECORD the legislative memorandum of the United Federation of Teachers which sets forth their opposition to the school prayer amendment and which is signed by Albert Shanker, president, UFT, and Alice F. Marsh, legislative representative.

The memorandum follows:

LEGISLATIVE MEMORANDUM

In Opposition to the proposed Constitutional Amendment.

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

STATEMENT IN OPPOSITION

We agree that Justice Black who ruled "• • • it is no part of the business of government to compose official prayers for any group of The American people to recite as part of a religious program carried on by the government."

At the present time no one is prevented from praying in schools, or other public buildings as long as it is done silently. To mandate the saying of any prayer either denominational or nondenominational is a violation of the individual's right to relate to God in his own way.

There are many legal questions that passage of this amendment will pose. What is a public building? Will not churches be considered "public buildings" since they receive tax exemption? What is a nondenominational prayer? Every sect has its own prayers—some written—some informal. How can all groups agree on one prayer? Implementation of this amendment would create more divisiveness in our society than already exists.

We urge a "no" vote on this amendment.

NICHOLAS DRUGA—RED CROSS TRAINING SAVES LIVES

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. FULTON of Tennessee. Mr. Speaker, for the third time in recent weeks, I have learned of the heroism of a Nashvillian, a man whose quick thinking and application of Red Cross training on May 21, 1970, saved a young girl's life.

The man, Mr. Nicholas Druga, was on an outing at a lake near Decatur, Ga., when he spotted the girl, perhaps 15 months old, floating on her side about 6 feet from shore.

How did Mr. Druga react? In his own words—

I didn't have time to think a great deal. I ran immediately into the water, brought her to shore, and immediately began mouth-to-mouth resuscitation.

There was a lot of screaming by then and I guess it was probably a minute to a minute a half before the girl started crying. This was her first sign of life.

After the girl had been revived, Mr. Druga returned her to her parents who conveyed her to the hospital.

I learned later that perhaps a half-gallon of water was pumped from her stomach before she was fully recovered.

For his action, Mr. Druga will receive the American National Red Cross' highest award, the Certificate of Merit. This honor is granted persons who use Red Cross first aid or water safety methods to save, or attempt to save, a life.

When asked about his feelings concerning the award, Mr. Druga said—

I am greatly honored to receive this award. It will be a nice memento to show my children.

XUM

I am sure my colleagues and our fellow countrymen would agree that the action which this award reflects deserves the highest praise.

PRAISING THE CRIMINAL REFORM POSITION OF WGR RADIO-TELEVISION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. SMITH of New York. Mr. Speaker, I wish to share with my distinguished colleagues an editorial opinion recently broadcast by WGR-TV-Radio in Buffalo, N.Y.

As viewers and listeners in my own nearby 40th District are quick to realize, criminal activities are rampant across America.

The American system of justice, especially our police agencies, have been slighted. They have been held in contempt by those few individuals who demonstrate their pity and sympathy for the perpetrator of violent crime while wholly disregarding the innocent victim of such acts.

There are, of course, necessary reevaluations needed in our judicial system, prison system, and the area of law enforcement efficiency. This has been demonstrated in the explosive situation in our corrections institutions, the critical backlog of cases in the courts, and the difficulty of many law enforcement agencies around the United States to accomplish their mission.

One further reform is an absolute necessity. A drastic change in public attitude toward criminals and criminal activity is needed and needed now. I envision the American public arriving at the breaking point in regard to the alarming trend of defense for lawlessness and disrespect for judicial authority.

Therefore, I wish my colleagues to study the following enlightened editorial opinion of WGR. I compliment WGR on their stand and urge all Americans to heed their inferences:

LENIENCY OF THE COURTS

We thank the Warner and Swasey Company of Cleveland for this contribution.

Every 36 minutes someone is murdered in America. Who's next?

Don't think you're immune. As crime mounts it gets closer and closer to every one of us, and will until it catches the most softhearted. Criminals are no respecters of persons.

In ten years murders in the United States have increased 62 per cent, and all violent crimes have increased 130 per cent.

A major reason crime increases alarmingly, experts say, is because courts, and juries and parole boards are too lenient, and because police are more criticised than praised as they should be.

There are 4 million serious crimes in this country every year. Almost half are committed by people under 18, so don't be too quick to condone campus violence and playground warfare which in numerous cases spawn more crime and criminals. For too much sympathy is wasted on the criminal instead of his victim.

The worst crimes are all too often committed by second and third offenders who would not be loose to prey on decent people if courts had not been too lenient.

Did you ever "get out of" jury duty? Did you ever write a letter of thanks and praise to a hard-headed judge, or to a heroic police officer? Or to his widow?

ANNA CHENNAULT: REAPPRAISE U.N. SUPPORT

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. BUCHANAN. Mr. Speaker, a thoughtful examination of the issues which have been raised in the wake of the United Nations tragic ouster of Taiwan was recently given by a lady who is certainly one of the world's loveliest and most effective ambassadors for freedom, Mrs. Anna Chennault. Mrs. Chennault's analysis was published in the October 26, 1971, edition of the Washington Daily News, and I take pleasure in calling it to the attention of my colleagues in the House of Representatives at this time:

[From the Washington Daily News, Oct. 26, 1971]

ANNA CHENNAULT: REAPPRAISE U.N. SUPPORT

(By Judy Luce Mann)

Anna Chennault, a long-time foe of Peking's admission to the United Nations and a woman who has for years been the rallying point for numerous hardline anti-communist causes, today called the expulsion of Taiwan from the U.N. "tragic," and urged the United States to reappraise its role and support of the world organization.

Mrs. Chennault, who visited Asia last spring as President Nixon's private ambassador and who has long been regarded as Taiwan's most powerful advocate in Washington, said she has not been in touch with the White House since the United Nations vote to seat mainland China last night.

She said, however, that she, as well as members of the U.S. delegation to the U.N. "all knew the vote would be close."

"I speak as an American citizen, a private citizen," said the Chinese-American widow of Flying Tiger ace Gen. Claire Chennault from her Washington office "I consider this an anti-American vote and I question that in the future the American public will continue to give the kind of financial support to this world organization.

"Many people I have talked to, whether they are American or whether they are people sympathetic with people fighting for freedom, (wonder) if a country like Nationalist China, a founding member of the United Nations, a member of the Security Council, a country that never failed to pay its dues could be expelled from the United Nations. What will happen to the many other smaller nations in the United Nations?

"With this kind of movement, I wonder whether we should look at the United Nations with reality. That whether the United Nations herself needs to be reorganized. Her effectiveness is in question. How much good can this world organization do in preserving world peace?

"I think we as taxpayers, that we share all the expenses of the United Nations, paying almost 40 per cent of the upkeep, we have certain doubts and disappointments at this kind of result coming out of the United Nations."

Mrs. Chennault said, "Let's hope the United Nations will not end up like the League of Nations," but said she thinks "many countries are going to ask for a reappraisal of this world organization."

Mrs. Chennault predicted there would be "lots of discussion" both in the private and public sectors of the United States about its role in the United Nations. She said she feels "very disappointed that our friends let us down. Particularly all those nations that have been getting aid from us.

"The United Nations effectiveness is in grave doubts," she said. "Should it continue to get our support? Many senators and congressmen have already expressed this thought. My first reaction at the vote was very tragic. I feel very sorry for the United Nations.

"Fortunately, the big events can't be settled in the United Nations anyway."

PHOSPHATE REMOVAL

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. GUDE. Mr. Speaker, today's water quality standards in keeping with our environmental concerns require our maximum research effort on phosphate removal processes in sewage waste treatment. The Environmental Protection Agency has announced that it plans $500 million to assist municipalities in developing facilities to remove phosphates from sewage. It is imperative that any system of phosphate removal which shows promise be carefully evaluated for economy, efficiency, and technical feasibility.

One such project is the PhoStrip process which is being given a trial in a joint effort with the Washington Suburban Sanitary Commission.

Mr. Speaker, I commend to my colleagues a report on this proposed demonstration as described in the following article from the Washington Evening Star of October 25, 1971:

[From the Washington Star, Oct. 25, 1971]

TEST IS PLANNED—NEW PROCESS FOR SEWAGE

A new process to remove phosphate from sewage will be tested by the Washington Suburban Sanitary Commission.

Developed by Biospherics, Inc. of Montgomery County, the new PhoStrip process will get its first test in WSSC's Piscataway Plant in Prince Georges County.

The process involves the development of micro-organisms that produce a "phosphate-starved" activated sludge within the sewage. After absorbing the phosphate, the sludge is moved to another environment where it is made to release the phosphate in concentrated form.

Biospherics contends that the PhoStrip process is more economical than comparable existing methods of treating sludge because it is compatible with modern equipment now used in sewage treatment plants and does not require additional construction.

The firm also claims the process will lower operating costs and will generate less residual chemical sludge than other methods. A lower residual sludge would reduce the problem of disposing of solid waste.

President Nixon recently said that the federal government will spend $500 million to help cities develop phosphate-removing facilities. "We feel a successful demonstration of this process will garner a significant portion of the phosphate removal market for Biospherics," said Gilbert Levin, president of the research firm.

WSSC and Biospherics have agreed to a joint publication of the pilot program's results.

SUPREME COURT NOMINEES

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. SCHERLE. Mr. Speaker, 2 weeks ago, President Nixon nominated his third and fourth candidates to the U.S. Supreme Court. True to his promise, Mr. Nixon has chosen two judicial conservatives whose philosophy agrees with his own, and who may be counted on to uphold a strict interpretation of the Constitution. Both men deserve to be confirmed promptly by the Senate because both are acknowledged to be men of unimpeachable integrity and outstanding intellectual ability.

Lewis F. Powell, Jr., is widely respected as one of the country's ablest lawyers. He has earned the reputation of a scholarly advocate who puts regard for the law above all other considerations, a reputation which has gained him the presidency of three major legal associations: the American Bar Association, the American Bar Foundation, and the American College of Trial Lawyers.

William H. Rehnquist, Assistant Attorney General in the U.S. Department of Justice, enjoys a similar good name among members of the legal profession. As head of the Office of Legal Counsel, he has acted as "the President's lawyer's lawyer" since the beginning of the Nixon administration. Rehnquist is known as an exceptionally hard-working man and one who, though well-versed in the art of politics, is more attuned to the law than to politics. Having served as clerk to the late Supreme Court Justice Robert H. Jackson, he is quite knowledgeable about the Court's operations.

Between them, these two men would bring a formidable array of legal talent to the high bench. Both would contribute the kind of professionalism and moral probity which the American people have a right to expect from the Supreme Court. Petty partisan considerations should not deter the Senate from approving these nominees. Nor should the baseless charges of the Senate's two chief self-appointed critics be taken seriously. Neither is in a position to challenge anyone's record of integrity or intellectual distinction. The Court has too much pressing business pending before it even to delay approval of these two eminently worthy men. They should be confirmed immediately.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?"A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

PROGRAM OF NEW YORK HOTEL AND MOTEL TRADES COUNCIL REGARDING EXEMPTION OF LOW-PAID WORKERS FROM WAGE FREEZE

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. RYAN. Mr. Speaker, during this period of economic stabilization, I would like to point out that there are millions of hard-working, industrious people who are not able to earn nearly enough to attain an acceptable standard of living. Hence I have introduced H.R. 11406—along with House Concurrent Resolution 414, 423, and 434 with consponsors—to exempt low-paid workers from Government restrictions on wage increases, until their wages reach the point where they are no longer substandard.

A cogent example of the need for such legislation is presented by the New York Hotel and Motel Trades Council. I would like to insert in the RECORD a petition of the New York Hotel and Motel Trades Council to the President and the Cost of Living Council which calls for a four point program exempting low-paid workers from the wage freeze. In addition, I include an article from "Hotel," the weekly newspaper of the hotel and motel workers of New York, which describes the plight of low-wage workers and the need to exempt them from the freeze in the next phase of the President's economic stabilization program.

The petition and article follows:

A PETITION TO PRESIDENT NIXON AND THE COST OF LIVING COUNCIL

The August 15 order of the President freezing wages and prices and the rulings by the Cost of Living Council are unfair and inequitable.

The wages of hotel workers and workers in similar jobs by no stretch of the imagination can be viewed as inflationary.

The hotel workers are in no position to bear the burden of the freeze. Its continuation would mean hardship for them, even forcing many to depend on welfare subsidies.

Therefore we, undersigned hotel workers, ask that these four principles be included in government policy:

1. Immediate exemption from the freeze of all who earn less than $125 a week or $6,500 a year.

2. Establishment of a National Wage Review Board to fairly adjust the wages of those earning more than $125 a week or $6,500 a year.

3. Immediate restoration of the right of all workers to bargain for improved health, welfare and pension plans, since such funds are non-inflationary.

4. That all wage adjustments negotiated before the freeze be paid as of the date they were due—and that the government not allow employers to pocket money which contractually belongs to the workers.

[From Hotel, Oct. 4, 1971]

UNION ADOPTS FOUR-POINT STAND, SEEKS THAW OF PAY BELOW $125

Our union last week called on the Nixon Administration to accept a four-point proposal which would allow the hotel workers to go after wage increases.

Adopted unanimously by the Executive Board of the Hotel and Motel Trades Council Monday, the plan would unfreeze the wages of workers earning less than $6,500 a year or $125 a week. Workers earning more than that would be entitled to increases that eliminate or reduce existing wage inequities.

In addition, employer contributions to pension and health care plans would be exempt from the freeze and increases provided in contracts negotiated before the freeze would be paid as of the dates originally due.

A petition campaign in support of the four points is being launched in the shops. The collected petitions will be submitted to President Nixon and his Cost of Living Council.

The four-point plan broadens the existing campaign on the wage issue which moved forward last week when delegations of workers and officers approached individual hotel managements and called on them to join the union in an appeal to Washington for a thaw of hotel wages. In other hotels, membership or shop committee meetings were held on the wage fight and plans made to go to management.

The union statement setting forth the four points has been sent to the President's Cost of Living Council and members of Congress. This is the text:

The August 15 order of the President freezing wages and prices and the subsequent rulings by the Cost of Living Council are unfair and inequitable. The wages of hotel workers and of workers in similar jobs are not inflationary. The hotel workers are in no position to bear the burden of the freeze. Its continuation would mean hardship for them, even forcing many to depend on welfare subsidies.

The New York Hotel and Motel Trades Council, the union of New York City's 30,000 hotel workers, therefore proposes that these four principles be made the policy of the government:

1. All workers now earning less than $125 weekly or $6,500 a year should be wholly exempt from the wage freeze.

2. Wages above $125 weekly or $6,500 a year should be reviewed by a national board charged with eliminating wage inequities. This board should be made up of representatives of industry, labor and the public in equal numbers.

3. Employer contributions to pension and health care funds are non-inflationary and should be wholly exempt from the freeze.

4. Collective bargaining agreements negotiated before the freeze order should be honored. In particular, wage increases should be paid as of the dates due under the contracts.

The Hotel and Motel Trades Council stands ready to elaborate its views and to submit evidence in support of them.

The petition form similarly sets forth the four points and requests that they be made official policy.

The Royal Manhattan was the first hotel approached on the wage issue. In addition to asking management to join the union in an appeal to the Cost of Living Council for a hotel wage thaw, the delegation pointed out that night shift hotel workers are being denied the five-cent differential increase due Sept. 1 and asked that management put the increment into an escrow fund for payment to the workers later.

Peter Learmount, vice president and general manager, cited the "no retroactivity" ruling by the Administration but said the hotel would pay if the government reversed its policy. He affirmed this position in a letter to the union received last week.

XUM

Louis Lynch, executive assistant to the President, was the chief spokesman for the delegation.

About 30 delegates and officers went to the New Yorker management Tuesday and put the case strongly for joint union-management action on the wage question. Responding to Council Representative John Morgano, who spoke for the delegation, General Manager Xavier Lividini said the hotel is a member of the Hotel Association and that it will do what the association decides.

A delegation saw the management of the Sheraton Motor Inn Thursday, as this issue was being readied for the press.

The first shop discussion of the four points took place at a membership meeting at the Abbey-Victoria Tuesday. The points were welcomed as a detailing and extension of a wage fight that has to be waged on two fronts—with the employers and with the government. Lynch made the report. An Abbey-Victoria delegation will call on management this Monday, Oct. 4.

A SALUTE TO VFW POST 7048

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. MOLLOHAN. Mr. Speaker, the Federal Government maintains 98 military cemeteries in the continental United States for the burial of those men and women who served, or are serving with honor, in our Armed Forces.

Congress has granted the serviceman and the veteran this right of burial in a national cemetery, but it is evident that many will not have the opportunity to exercise that right tomorrow.

Thirty-seven of our national cemeteries have no remaining space and others will soon be full.

The acquisition of land and subsequent development of new national cemeteries could cost the people of this Nation literally millions of dollars, yet someday this body must face the question of providing burial space for our veterans.

Many public-spirited groups have long grappled with the problem of securing burial spaces for our veterans, for the families of many of our veterans cannot afford the ever-increasing costs of burial.

One such group is Veterans of Foreign Wars Post 7048, located in my hometown of Fairmont, W. Va. Recently the post and its ladies auxiliary received a top national award for community service from its national organization in recognition of its fine efforts in establishing a section for burial of our veterans in West Virginia. Commander in Chief Herbert R. Rainwater commended the members at that time on "the inspiring zeal and high quality leadership" they showed.

Today, thanks to the efforts of the post and its auxiliary, every veteran and active serviceman and servicewoman in West Virginia is being guaranteed free burial space in several veteran's memorial sections, at Marion County Memorial Gardens in Fairmont, at Highland Hills Memorial Gardens in Follansbee, and at Parkview Memorial Park in Wheeling. The veteran receives a certificate with the provision that the lot cannot be sold or transferred.

It took a lot of hard work to realize this goal, and I salute VFW Post 7048 and its ladies auxiliary for seeing it through. Their efforts to insure that our veterans rest in honor typify what is good in America.

SOVIET SUBS NOW NO. 1

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. BOB WILSON. Mr. Speaker, I have come before this body a number of times in recent weeks to talk about the need for maintaining a naval force that is second to none in the world. We have received many reports of the expanding submarine fleet of the Soviet Union and how it is affecting the balance of power on the high seas between the United States and Russia.

Recently Vice Adm. Ray E. Peet, commander of the U.S. First Fleet, addressed a San Diego Navy League audience about this problem. So that our colleagues may have the benefit of the respected opinions of Admiral Peet, I request that the following news story be printed in the RECORD:

ADMIRAL REPORTS NO EQUIVALENT TO SOVIET A-SUBS

Vice Adm. Ray E. Peet, commander of the U.S. 1st Fleet which is charged with defense of the West Coast, told a San Diego Navy League audience last night he has no forces totally effective against new Soviet missile submarines.

He referred to the nuclear-powered Echo II and Charlie-type submarines, unveiled in Russia last year, which carry eight 400-mile missiles—reportedly capable of being fired underwater against surface ships.

"These missiles can be launched well outside the line of sight and radar range of our ships," he said. "We have no equivalent counterforce."

He blamed the Soviet edge on severe recent cutbacks in the Navy's budget and noted that the Russian missiles are advanced developments of U.S. Regulus missiles which the Navy had to abandon in 1958 because of economy moves that year.

"Unless we receive more money or drastically reduce our overhead, our Navy will soon sink in its own money problems," Peet warned.

"I fear for the future of our great country and our ability to react in the face of a showdown with the Russians."

He said the Navy may have to order a "drastic reduction of shore establishments" in order to shift money to ship and weapons procurement unless Congress votes more Navy funds.

"Shore establishment reductions have a devastating effect on local economies," he told the Navy League members.

Peet said the Soviet force of submarines carrying Polaris-type missiles capable of destroying a city will outnumber the U.S. Polaris force by 1973.

"The picture is grim," he said. "Tonight, there is within range of you at least one ballistic missile Yankee-class submarine. It is equipped with 16 nuclear-tipped missiles."

He said the only U.S. advantage over the rapidly expanding Soviet submarine and surface fleet is aircraft carriers.

He labeled as "fallacious thinking," attempts by antiwar groups to halt the sailing of the carrier Constellation from San Diego Oct. 1 and current attempts to stop the carrier Coral Sea from leaving Alameda for the Far East next month.

"To suggest we give up aircraft carriers—one of the major reasons I'm not willing to trade navies with the Russians—would be foolhardy, indeed," he said.

"I have not seen any evidence that the Soviets intend to cut back their forces. To the contrary, they are building offensive sea power at an alarming rate."

EAST COAST OFFSHORE OIL DRILLING

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. GUDE. Mr. Speaker, the Department of the Interior has developed a tentative schedule for the leasing of portions of the Atlantic Outer Continental Shelf to oil companies for offshore drilling operations. The potential for massive environmental damage to the Nation's eastern shoreline is most real.

The Atlantic Outer Continental Shelf has thus far remained a relatively unspoiled region. Millions of Americans enjoy a shoreline to date unspoiled by the 20th century's own form of the "black death"—the oil slick. Experience with west coast oil drilling mishaps has shown that these operations are far from fail safe and that no foolproof technique yet exists for the cleanup of these oil spills.

Yesterday I signed a letter along with 59 of my colleagues to the Secretary of the Interior requesting that he rescind the Department's schedule for Atlantic shelf leasing and further that all plans for oil leases be held in abeyance until better safeguards and cleanup techniques are developed. I believe that these would be the minimal steps mandated by the potential for damage to the sea and shoreline caused by offshore oil drilling.

I would like to share that letter with my colleagues for their information:

HOUSE OF REPRESENTATIVES,
Washington, D.C.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
U.S. Department of Interior,
Washington, D.C.

DEAR MR. SECRETARY: We, the undersigned, have become increasingly disturbed about the prospects for heavily increased offshore oil drilling off our Nation's precious coastlines.

Certainly, the most immediate potential threat is your Department's plan for selling drilling leases on the Atlantic Outer Continental Shelf, a heretofore untapped and unspoiled region with unique wetland and estuarian characteristics.

As you are only too well-aware from your own long service in Congress representing Maryland's Eastern shore, thousands of miles of priceless East Coast areas could be dealt a stunning economic and environmental blow if an oil slick were loosed anywhere off the Atlantic Coast.

The lessons of previous spills and "blowouts" in relatively unpopulated areas would be magnified many times were a spill or blowout to occur in the Atlantic, bordered by the most populous areas in America with so many citizens depending so heavily on coastal areas for recreational activities and the resulting commerce.

Therefore, we would like to take this opportunity to call on you to personally rescind the Department's tentative schedule for Atlantic Outer Continental Shelf leasing and to hold any future plans for Atlantic leasing in abeyance until more foolproof spill cleanup procedures and other safeguards are developed.

We would appreciate your early decision on this matter.

Sincerely,

GILBERT GUDE,
(And 59 others).

THE NORTHERN IRELAND SITUATION: A REPORT, NO. 13

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. BIAGGI. Mr. Speaker, lest anyone doubt that Northern Ireland is at war, I am including in the RECORD today a small item that was buried on the inside pages of the Washington Post. It is important to note that combat is the order of the day for the British troops assigned to the area.

For this reason, I have introduced my bill, H.R. 11467, which would provide 25,000 emergency refugee visas for those trying to escape the war in Northern Ireland. Already several thousand refugees have fled the strife-torn north. I have also asked the President to provide emergency refugee relief funds to the Republic of Ireland to help them cope with the problem.

Mr. Speaker, I am presently seeking cosponsors on my bill and hope that my colleagues who are interested in aiding these beleaguered people will join me in reintroducing the measure on November 18.

[From the Washington, D.C., Post, Oct. 29, 1971]

IRISH WIN A FACEOFF ON BRIDGE

BELFAST, NORTHERN IRELAND.—Heavily armed Irish Republican troops forced British soldiers yesterday to abandon explosive charges they were planting in a bridge at the border between Northern Ireland and the Republic.

A 30-man Irish army patrol led by Lt. Bernard Goulding took combat positions against the British troops as they were planting gelignite charges in the span, near Munneiy in County Monaghan. The British have been cutting bridges and roads along the border, trying to reduce the flow of arms and men into the strife-ridden north.

Goulding pointed a submachine gun at his British counterpart and demanded he hand over the explosives. The tense confrontation lasted 90 minutes before maps were produced indicating that the bridge was located just inside the Republic. The British soldiers withdrew.

In Dublin, the Irish cabinet reportedly approved a plan to seek up to $7.2 million to provide the Republic's army with new firepower and to finance a recruiting drive.

Sources said a prime purpose of the plan, expected to be presented to the Irish Parliament soon, is to fortify the border between the Republic and Northern Ireland.

CANCER ATTACK LEGISLATION

HON. JAMES W. SYMINGTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. SYMINGTON. Mr. Speaker, the Committee on Interstate and Foreign Commerce has today concluded its consideration of the cancer attack legislation which constitutes the most intensive and massive legislative authority ever given to a government of any nation to conquer disease. This landmark bill was prepared after 3 months of hearings before the Public Health Subcommittee on which I serve. It closely resembles the Senate version—which was enacted after 3 days of hearings by the Senate—but strengthens and modifies it to gain the benefit of the full attention and momentum of the bio-medical and scientific community. It provides for direct submission of the cancer attack budget to the White House, allowing only for comments, not change, by the Secretary of HEW and the Director of National Institute of Health. The Director of the National Cancer Institute is elevated to the position of Associate Director of the NIH and is appointed by the President. Authorizations for the first 3 years are $400 million, $500 million, and $600 million respectively; the President may, of course, request additional authorization and appropriation at any time. It authorizes an additional $90 million for the establishment of 15 new clinical cancer centers within 3 years, and gives emphasis throughout to treatment as well as research. A special panel of advisors is authorized to serve the President on a continuing basis by providing an overview of the entire program and assisting the President in evaluating its effectiveness. It achieves the foregoing without dismantling the National Institutes of Health, or reducing the Federal attention to stroke, lung and heart problems, and other debilitating and/or fatal diseases. It passed the subcommittee unanimously and the whole committee by a vote of 26 to 2. I will urge its adoption when it reaches the floor of the House.

HAPPY 25TH WEDDING ANNIVERSARY

HON. WILLIAM A. BARRETT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. BARRETT. Mr. Speaker, I would like to wish my constituents, Albert and Ethel Zavodnick, a happy 25th wedding anniversary.

I can think of no better way than to submit a poem written by our mutual friend Simon F. Kolmaister, of Hyattsville, Md.

I was asked to write a poem
Or a ditty for this occasion
So here I go my friends
Offering my felicitation
On your 25th, Dear Obby and Etty
May the Almighty his blessing upon you bestow
With "naches," health and happiness
As toward the 50th you go.
May He grant you all your wishes
And help you both retain your charms
May you find everlasting strength
In each others arms.
Let's raise the wine cup high
In a toast to Obby and Etty,
Let's all wish them Mazeltov
Amidst cheers, flowers and confetti.

GRANVILLE ALLISON

HON. DAN KUYKENDALL

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. KUYKENDALL. Mr. Speaker, a longtime friend and a prominent member of our community died last Saturday night. We send sympathy to the family of Granville Allison of Memphis—to his widow, Mrs. Katherine Allison, and his son, Granville Allison, Jr., who is a distinguished newspaperman on the sports desk of the Evening Star here in Washington.

But the loss also belongs to the City of Memphis, and an editorial in the Memphis Press-Scimitar of November 2 tells us why.

GRANVILLE ALLISON

When Granville Allison, who died Saturday at the age of 73, lost his larynx in 1951, he might have retired in the literal sense of the word.

But Mr. Allison was a man of tremendous courage and vision. After he retired as assistant vice president of First National Bank in 1962, he became busier than ever. He organized and was the first president of the Lost Chord Club, composed of others who had undergone similar surgery. He also was laryngectomy counselor for the Memphis Speech and Hearing Center and a member of the Center's board of directors. He was a former clerk and treasurer of St. John's Episcopal Church. He was a man of quiet humor, meticulous dress, and charming manners.

In a day in which so many are crusading for better communication, Mr. Allison long ago had learned to communicate with those who needed his skilled help to live better, more useful lives. He was greatly admired as a man who created a new career for himself, as a dedicated churchman, and as a fine family man. Memphis has lost a fine citizen.

IN LINE OF DUTY

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. CHAPPELL. Mr. Speaker, on October 18, Grady Williamson, Jr., a very valued citizen of Daytona Beach, Fla., died in Seoul, Korea. Grady was on duty because for many years he had traveled with his dance troupe from Daytona

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Beach to areas all over the world with the USO to entertain servicemen. Turkey, Japan, Greece, Italy, Germany, and Okinawa are the names of just a few countries where the troupe appeared—often as volunteers, receiving only their transportation and expenses.

Grady Williamson died when the bus which carried his troupe was struck by a truck. He had stayed with the disabled bus because of the troupe's equipment.

Daytona Beach will surely miss the abilities and civic spirit of Grady. Having acted as chairman of the March of Dimes many times, he was awarded the Distinguished Service Award in 1967 by the Daytona Beach Jaycees. He enriched the lives of many people; he brought a fine measure of lightness to the lives of many thousands more; and finally he gave his life for a cause in which he deeply believed. I know Grady Williamson will live on and on in the hearts of all who knew him.

HOUSE OF REPRESENTATIVES—*Friday, November 5, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

May the God of hope fill you with joy and peace in your faith, that by the power of the Holy Spirit, your whole life and outlook may be radiant with hope.—Romans 15: 13. (Phillips).

Eternal God, our Father, we lift our hearts unto Thee in prayer for our country, for all who in State, church, and school are shaping the future of our fair land and especially for this House of Representatives as it faces the trying tasks of this troubled time. Give to all these leaders courage, faith, and wisdom that the programs planned, the decisions made, and the work done may be in accordance with Thy will for the good of our Republic.

Grant unto us light for dark days, strength for weak moments, rest for weary hours, and a will to play our full part in the drama of this age. Through it all may the benediction of Thy presence be upon us.

In the spirit of the Master we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5060. An act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

H.R. 11423. An act to extend the Federal Water Pollution Control Act until January 31, 1972.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1977. An act to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes.

S. 2781. An act to amend section 404(g) of the National Housing Act.

PRIVILEGES OF THE HOUSE IN THE MATTER OF UNITED STATES OF AMERICA V. JOHN DOWDY, ET AL.

The SPEAKER laid before the House the following communication from the Clerk of the House:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., November 4, 1971.

The Honorable the SPEAKER,
U.S. House of Representatives.

DEAR SIR: On this date, I have been served with a subpoena duces tecum that was issued by the United States District Court for the District of Maryland. This subpoena is in connection with the case of the United States of America v. John Dowdy, et al.

The subpoena commands the Clerk of the House to appear in the said United States District Court for the District of Maryland, Baltimore, Maryland on the 8th day of November 1971 at 9:30 o'clock A.M., and requests certain House records that are outlined in the subpoena itself, which is attached hereto.

The rules and practices of the House of Representatives indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS,
Clerk, U.S. House of Representatives.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

Subpoena to Produce Document or Object.

United States District Court for the District of Maryland. No. 70-0123—criminal docket.

United States of America v.
John Dowdy, et al.

To: Clerk, United States House of Representatives, Washington, D.C.

You are hereby commanded to appear in the United States District Court for the District of Maryland at Room 325, U.S. Post Office Building, Calvert and Fayette Streets in the city of Baltimore, on the 8th day of November, 1971 at 9:30 o'clock A.M. to testify in the case of United States v. John Dowdy, et al. and bring with you all original roll call records of the United States House of Representatives for September 27, 28, 29, and 30, 1965.

This subpoena is issued upon application of the United States.

October 26, 1971, John G. Sakellaris, Asst. U.S. Attorney, Stephen H. Sachs, Special Asst. U.S. Attorney, 325 U.S. Post Office Bldg., Balto., Md. 21202, Area Code 301, 962-2043.

PAUL R. SCHLITZ,
Clerk.
CHARLOTTE WILLIAMS,
Deputy Clerk.

Mr. BOGGS. Mr. Speaker, I offer a privileged resolution and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 690

Whereas in the case of the United States of America against John Dowdy, et. al. (criminal action numbered 70-0123), pending in the United States District Court for the District of Maryland, a subpena duces tecum was issued by the said court and addressed to W. Pat Jenninga, Clerk of the House of Representatives, directing him to appear as a witness before the said court at 9:30 antemeridian on the 8th day of November, 1971, and to bring with him certain documents in the possession and under the control of the House of Representatives: Therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That W. Pat Jennings, Clerk of the House, or any officer or employee in his office whom he may designate, be authorized to appear at the place and before the court in the subpena duces tecum beforementioned, but shall not take with him any papers or documents on file in his office or under his control or in possession of the House of Representatives; be it further

Resolved, That when the said court determines upon the materiality and the relevancy of the papers and documents called for in the subpena duces tecum, then the said court, through any of its officers or agents, be authorized to attend with all proper parties to the proceeding and then always at any place under the orders and control of this House, and take copies of those requested papers and documents which are in possession or control of the said Clerk; and the Clerk is authorized to supply certified copies of such documents or papers in his possession or control that the court has found to be material and relevant and which the court or other proper officer thereof shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under the said Clerk; and be it further

Resolved, That as a respectful answer to the subpenas duces tecum a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Commitee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING ADDITIONAL INVESTIGATIVE AUTHORITY TO THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. BOLLING, from the Committee on Rules, reported the following privileged resolution (H. Res. 676, Rept. No. 92-613), which was referred to the House Calendar and ordered to be printed:

H. RES. 676

Resolved, That, notwithstanding the provisions of H. Res. 18, Ninety-second Congress, the Committee on Interior and Insular Affairs is authorized to send not more than three members of such committee and not more than one staff assistant to attend the Fifteenth Session of the International Lead and Zinc Study Group in Malaga, Spain, during the period November 1 through 6, 1971.

Notwithstanding the provisions of H. Res. 18 of the Ninety-second Congress, first session, local currencies owned by the United States shall be made available to the members of the Committee on Interior and Insular Affairs of the House of Representatives and one staff assistant engaged in carrying out their official duties pursuant to the authority to travel outside the United States as set forth in this resolution. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by the members and the employee of the committee, the following conditions shall apply with respect to their use of such currencies:

(1) No member or employee of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee or its employees in any country where local currencies are available for this purpose.

(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports shall be filed by the chairman with the Commitee on House Administration and shall be open to public inspection.

(5) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of differences in time zones.

Mr. BOLLING. Mr. Speaker, I call up House Resolution 676 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

Mr. GROSS. Mr. Speaker, will the gentleman from Missouri yield?

Mr. BOLLING. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I would ask the gentleman from Missouri if we might have a brief explanation of this resolution.

Mr. BOLLING The gentleman from Missouri will say to the gentleman from Iowa that the situation is a most unusual one. We are asking the House to pass a resolution to provide and make possible for three members and one staff member of the Committee on Interior and Insular Affairs to receive their subsistence expenses, and so on, through counterpart funds.

It is an unusual situation in that they are already there in Spain. They were invited by the Department of State to attend this meeting. It was thought by the Committee on Interior and Insular Affairs that they would be able to use counterpart funds, but it was discovered that they could not without the passage of this resolution. This is merely an attempt to save a few dollars by using counterpart funds for the expenses of these three Members, and one staff member presently in Spain.

They are going to be starting back not too long after we get the resolution through. They will be coming back about November 6.

Mr. GROSS. Is the gentleman from Missouri saying that there are no counterpart funds in Spain?

Mr. BOLLING. The gentleman from Missouri is saying that the Committee on Interior and Insular Affairs and the State Department discovered that without this resolution counterpart funds could not be used for the payment of some or all of the expenses of this group. That is the reason that I say that we are in effect saving some American dollars by this resolution.

It requires a two-thirds vote to pass this resolution today because it was just filed a moment ago.

Mr. GROSS. Mr. Speaker, if it will save any money I am perfectly willing to let it go through on a majority vote, but I have my doubts about whether it will save any money.

The SPEAKER. The question is, Will the House now consider House Resolution 676?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 676.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING COMMITTEE ON WAYS AND MEANS TO MAKE STUDIES AND INVESTIGATIONS WITHIN ITS JURISDICTION

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 597 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 597

Resolved, That, effective January 3, 1971, the Committee on Ways and Means, acting as a whole or by subcommittee, is authorized to conduct full and complete studies and investigations and make inquires within its jurisdiction as set forth in clause 21 of rule XI of the Rules of the House of Representatives. However, the committee shall not undertake any investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 2. (a) For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned and to hold such hearings and require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person designated by such chairman or member. The chairman of the committee, or any member designated by him, may administer oaths to any witness.

(b) Pursuant to clause 28 of rule XI of the Rules of the House of Representatives, the committee shall submit to the House, not later than January 2, 1973, a report on the activities of that committee during the Congress ending at noon on January 3, 1973.

SEC. 3. (a) Funds authorized are for expenses incurred in the committee's activities within the United States; however, local currencies owned by the United States shall be made available to the Committee on Ways and Means of the House of Representatives and employees engaged in carrying out their official duties for the purposes of carrying out the committee's authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members and employees of the committee, the following conditions shall apply with respect to their use of such currencies:

(1) No member or employee of such committee shall recieve or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee or its employees in any country where local currencies are available for this purpose.

(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transporation if furnished by public carrier, or if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

(b) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of differences in time zones.

Mr. HALL (during the reading). Mr. Speaker, I ask unanimous consent that House Resolution 597 be considered as read. We have had it in our hands since October 19.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA) and pending that yield myself such time as I may consume.

Mr. Speaker, this resolution is unusual too, but in a very different way from the one that was just passed. This is up in the normal procedure. The resolution has been around quite some time. The thing that is unusual about it is that for the first time in a great many years the Committee on Ways and Means is asking for such a resolution.

As I understand, the initial request was made in connection with a conference which some members of the Committee on Ways and Means and their staff were going to attend this month. But that conference has been postponed.

There is a possibility that the Committee on Ways and Means at a later date will send a delegation to a meeting which I believe the chairman of the Committee on Ways and Means is prepared to describe.

Mr. MILLS. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I am glad to yield to the gentleman.

Mr. MILLS. Mr. Speaker, in all fairness to the membership of the House, this idea did not originate with the committee. We do not want to take credit for it.

We were asked by the Commissioners of the European Common Market through an official invitation to visit some sessions of the European Common Market in order to discuss problems of trade between the European Common Market and the United States. This was, we thought, a matter that we could not treat lightly. We discussed it in committee. I think the committee was unanimous in its feeling that we should at least consider the invitation. It was not possible for us, because of the schedule of the committee, to avail ourselves of the opportunity to go at the time first suggested by the commissioners. That was the first week of November of this year—this week, in fact.

Now they are asking us to consider the possibility of being there for some 3 or 4 days sometime during the month of January. No decision has yet been made, and in all frankness, I am not certain yet that the committee or a part of the committee will actually go. But in the event we do go, it is necessary for us to have this permission from the House in order to do so.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I am glad to yield to the gentleman.

Mr. BYRNES of Wisconsin. Mr. Speaker, I think it should be distinctly understood as we consider this resolution that this should not be taken as a commitment one way or the other to go or not to go to this particular meeting. I should say to the House that this is still a matter that is being discussed in the committee. There are other problems which we feel we have in being away during any time when the Congress is in session and might have business, since our business schedule is very full.

So the passage of this resolution, I would hope, would not necessarily be a judgment as to whether we will or will not take advantage of the invitation and the urging that is being pressed on us to go.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. BOLLING. I am glad to yield to the gentleman.

Mr. GROSS. Thinking in terms of the election campaign next year, I wonder if so many committees and the chairmen of committees will be traveling to various places in the world.

But I am disappointed on two counts. In the first place, I am disappointed that the Committee on Ways and Means with its tremendous power over finances is not going over to Europe before the end of this month, because as I understand it, the Europeans are saying that the U.S. must devalue the dollar before the end of the month. The committee might have some influence in saving the dollar.

The other count on which I find disappointment is that I would like to have heard that going somewhere to investigate coffee prices. This resolution is a fitting prelude to what is to come and I would suggest the committee go somewhere and find out why the American coffee consumers have to be soaked for the benefit of coffee producers overseas.

I am disappointed that the committee is not taking a trip in behalf of the the American consumers in this instance.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I am very much in favor of this resolution. I believe the Ways and Means Committee can do the country a tremendous service in going to Europe and talking to some of the countries there, particularly those in the Common Market. We knew long ago that the Common Market countries would set up a real barrier to American-made products. I think it is high time that we had some real horse traders to go over and discuss some of their trade barriers with them. We have had trade barrier after trade barrier erected against U.S. products and up until now, we have accepted them without erecting any of our own. We have a new trade situation in the world today. Every nation is looking after its own trade interests. We must look after ours. I would hope that when this committee gets over there they will do exactly that.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Missouri.

Mr. HALL. I agree with the gentleman, and I would like to associate myself with his comments. I believe that the architects that supervise the construction should be wary lest inferior products are used in the edifice. In that connection, maybe it would have been better if we had passed this resolution on October 19 and got them over there before John Bull decided to join the European Common Market. Does the gentleman think that this may have been an act of prevention that would have been worth more than a pound of cure, in fighting off and staving off further advocates of the Kennedy round, variable tariffs, currency exchange controls, and all the techniques that are used against us as we "free-trade" more and more, in spite of higher production costs?

Mr. LATTA. In answer to the gentleman's question, I would have to honestly say that I do not believe we could have talked Great Britain out of joining the Common Market, but I think it is high time that we started looking after Uncle Sam instead of acting like Uncle Sap. I have no further requests for time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO FILE A REPORT ON H.R. 11589

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries have until midnight Friday night to file a report on H.R. 11589, to authorize the foreign sale of certain passenger vessels.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

AMENDING THE FISH AND WILDLIFE ACT OF 1956 TO PROVIDE A CRIMINAL PENALTY FOR SHOOTING AT CERTAIN BIRDS, FISH, AND OTHER ANIMALS FROM AN AIRCRAFT

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5060), a bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 10, after "crops" insert: , and each such person so operating under a license or permit shall report to the applicable issuing authority each calendar quarter the number and type of animals so taken

Page 2, line 21, strike out "and"

Page 2, after line 21, insert:

"(C) the number and type of animals taken by such person to whom a permit was issued; and

Page 2, line 22, strike out "(C) and insert: "(D)

The SPEAKER. Is there objection of the gentleman from Michigan?

Mr. GROSS. Mr. Speaker, reserving the right to object, may I ask the gentleman if there are any "other body sleepers" in this bill, ungermane sleepers?

Mr. DINGELL. I will give the gentleman absolute assurance that there are no sleepers anywhere in this bill. I will tell the gentleman that the Senate amendments are mostly inconsequential and require a little more reporting than what was required in the House bill.

Mr. GROSS. I thank the gentleman. I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. RONCALIO. Mr. Speaker, reserving the right to object, I should like to propound a question to the gentleman. Did the conferees come back with any changes regarding helicopters or criminal penalties for killing buzzards?

Mr. DINGELL. If the gentleman from Wyoming will yield, this is not a unanimous consent for consideration of a conference report. It is a unanimous-consent request to recede and concur in Senate amendments. The amendments do not distinguish between helicopters and fixed-wing aircraft. The only changes in the bill made by the Senate are to require a little oftener reporting in cases where permits are issued for the taking of predatory species by the staff.

Mr. RONCALIO. I have no objection, Mr. Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

(Mr. DORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, I rise today to make my position crystal clear on the Higher Education Act which passed the House at 2 a.m. this morning. This bill contains many urgently needed provisions to assist both the students and the institutions of higher education. It authorizes a total of $24.3 billion in Federal assistance, including a new $5 billion program of grants to institutions of higher education. These programs will be of tremendous assistance to our colleges and universities caught by the squeeze of rising prices and recession. It provides in addition important new assistance to occupational education. Mr. Speaker, this bill recognizes what we have long argued: That our Nation must assign the highest priority to education.

Mr. Speaker, throughout the week beginning Monday with the emergency education bill I consistently supported Federal funds for those school districts already busing under court orders and those school districts busing under the decree of the U.S. Department of Health, Education, and Welfare. Two thousand school districts across the country are presently under court order to bus children. Those school districts, including those in Charlotte, Greensboro, Jacksonville, and, yes, Detroit, should be aided by the Federal Government if they are going to be forced by the same Federal Government to bus schoolchildren. Likewise I believe that my own school district which obeyed the Court decisions and started busing under agreements with HEW should not be penalized and discriminated against. We should receive Federal financial aid which would greatly aid us in promoting quality education. Mr. Speaker, neither is it fair to reward those areas where buses have been burned and destroyed at the expense of my people who believe in obeying the law as interpreted by the Courts. The objective of many busing amendments last night will be to reward violence and de facto school practices in some areas while my people who were first under the gun continue to bus and uphold the law.

Mr. Speaker, I maintain that in my area of the country with a comparatively low per capita income and where busing is in effect we should not be placed under a position of raising taxes to support orders and decrees of the Federal Government. That cost should be shared by the Federal Government.

SCHOOL BUSING

(Mr. SYMINGTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SYMINGTON. Mr. Speaker, the votes cast yesterday and in the small hours of this morning reflected the overwhelming and decisive reaction of this House to the national experience with schoolbusing as a means of achieving racial ratios. Certainly, in too many instances court-enforced plans which require busing and which were promulgated under the authority of the *Brown* decision have failed rather than contributed to the cause of education. Their impact has ranged from baffling to agonizing. But I do not feel entitled to assume that in no school district in this whole broad land has busing for this purpose contributed to the cause not only of education but of social and community harmony without which education is so irreparably distorted.

I very much favor neighborhood schools as the schools of first and best result, and busing, if any between contiguous communities where interaction between neighborhoods already invites and, in fact, requires the closer understandings that joint schooling can confer. I oppose the long ride where its primary justification is to achieve racial balance. I find it no more conducive to education when it is used to promote integration than when it was used to promote segregation.

But we were given, if you will, the chance to "discriminate" in this matter. The opportunity to endorse Federal assistance to busing where it best answers the educational needs of the children involved was not given us. We were obliged to issue a draconian ban on all Government assisted busing, or to decline to do so. The ban was issued, I take it, in response to the conclusion that no future judgments of Federal officials, including the President, no struggling school authorities, and no courts could be trusted to invest with prudence one dime of Federal funds for the named constitutionally required purpose. Even the Gallup polls, so frequently referred to, could not be so interpreted.

In any event, I could not join in that assumption because I deemed it to be an unwarranted prohibition against the exercise of executive and judicial discretion, abused in the past no doubt, but nevertheless essential for the future under our form of Government.

PELLY OPPOSES PRAYER AMENDMENT

(Mr. PELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PELLY. Mr. Speaker, an official leave of absence next week will prevent me from being here to vote on House Joint Resolution 191, the so-called prayer amendment.

This has been a matter that has caused me great concern. At first, I was inclined to vote in favor of this amendment, but consequent study has reversed my thinking.

Mr. Speaker, I cannot support any move at this time to tinker with our Bill of Rights. I am paired against the amendment, and were I present, I would vote against this proposed constitutional change to permit prayers in schools.

PERSONAL EXPLANATION

(Mr. CHAMBERLAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBERLAIN. Mr. Speaker, on Monday of this week it was necessary for me to be absent, and I find that I missed several rollcall votes. I would like to state that had I been present, I would have voted on these several issues as follows:

On rollcall 329 I would have voted "nay."

On rollcall 330 I would have voted "yea."

On rollcall 331 I would have voted "yea."

On rollcall 332 I would have voted "yea."

On rollcall 333 I would have voted "yea."

On rollcall 335 I would have voted "yea."

On rollcall 336 I would have voted "yea."

On rollcall 338 I would have voted "nay."

On rollcall 341 I would have voted "nay."

CALL OF THE HOUSE

Mr. HALL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 362]

Abernethy	Gallagher	Passman
Abourezk	Gaydos	Patman
Alexander	Gettys	Pike
Anderson, Tenn.	Grasso	Pirnie
Aspin	Griffiths	Poage
Aspinall	Gubser	Price, Tex.
Badillo	Hagan	Pryor, Ark.
Baker	Halpern	Pucinski
Baring	Hanley	Purcell
Barrett	Hansen, Idaho	Rees
Belcher	Hansen, Wash.	Riegle
Bell	Hastings	Roberts
Bingham	Hawkins	Rooney, N.Y.
Blanton	Hébert	Rostenkowski
Broyhill, Va.	Heckler, Mass.	Roy
Cabell	Henderson	Ruppe
Carey, N.Y.	Holifield	Ruth
Carney	Horton	Ryan
Celler	Hosmer	St Germain
Chisholm	Jarman	Saylor
Clark	Johnson, Calif.	Scheuer
Clausen, Don H.	Karth	Scott
Clay	Kee	Sebelius
Collins, Ill.	King	Sikes
Conte	Kluczynski	Sisk
Conyers	Koch	Skubitz
Cotter	Lennon	Staggers
Coughlin	Lent	Stanton, J. William
Culver	Lloyd	Steed
Dellums	Long, La.	Steele
Denholm	Lujan	Stephens
Dennis	McClory	Stuckey
Dent	McCloskey	Sullivan
Derwinski	McClure	Taylor
Diggs	McCormack	Teague, Calif.
Dwyer	McCulloch	Thone
Edmondson	McKevitt	Udall
Edwards, La.	Madden	Ullman
Esch	Martin	Ware
Findley	Metcalfe	White
Fish	Mikva	Whitten
Ford, William D.	Mitchell	Wiggins
Fraser	Mollohan	Wilson, Bob
Fulton, Tenn.	Montgomery	Wright
Fuqua	Moorhead	Wyatt
Galifianakis	Morgan	Wylie
	Nichols	Zion
	O'Hara	

The SPEAKER. On this rollcall 288 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONTINUATION OF THE INTERNATIONAL COFFEE AGREEMENT ACT OF 1968

Mr. MILLS of Arkansas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8293) to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968.

The SPEAKER. The question is on the motion offered by the gentleman from Arkansas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8293, with Mr. GRAY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Arkansas (Mr. MILLS) will be recognized for 1 hour, and the gentleman from Wisconsin (Mr. BYRNES) will be recognized for 1 hour.

The Chair recognizes the gentleman from Arkansas (Mr. MILLS).

Mr. MILLS of Arkansas. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the purpose of H.R. 8293 is to continue to October 1, 1973, the authority of the President to carry out the obligations of the United States under the International Coffee Agreemen of 1968. This authority is contained in title III of Public Law 90–634, the International Coffee Agreement Act of 1968. The President's authority under this law expired on July 1, 1971.

I would stress that all that is involved in this bill is an extension of the President's authority for the life of the International Coffee Agreement which will terminate on October 1, 1973. Members will recall that it was only last December that the Committee on Ways and Means reported a bill to extend title III of Public Law 90–634 to July 1 of this year. At that time, the committee expressed grave concern about the continued discriminatory practice of Brazil in favoring its exports of soluble coffee. This practice, which placed at a serious disadvantage soluble coffee manufacturers in this country, is prohibited under the International Coffee Agreement. It was the committee's feeling at that time that if no solution to this problem was found, the committee would not consider any further proposal to extend the President's authority to carry out U.S. obligations under the Coffee Agreement.

As required by the legislation last December—Public Law 91–694—the President has now reported to the Congress on an accord on soluble coffee reached between the United States and Brazil. Basically, this accord provides that Brazil will make available to soluble coffee manufacturers in this country 560,000 bags of coffee which will be free of the Brazilian contribution quota tax. Based on the information presented to the committee, it is believed that this action by Brazil will remove the disadvantage faced by domestic soluble coffee manufacturers under the agreement.

The committee did receive objections to the United States-Brazil accord on soluble coffee from a small number of coffee roasters who do not manufacture soluble coffee. These firms were benefited by the competitive situation that existed under the discriminatory treatment of soluble coffee exports from Brazil. The committee is satisfied that the agreement on soluble coffee if carried out effectively, is to the interest of the U.S. coffee trade as a whole and can result in lower prices to soluble coffee consumers in this country. Further, it is anticipated, in recommending this legislation, that there will be no repetition of the discriminatory treatment of soluble coffee exports to the detriment of our own soluble coffee manufacturers.

It should also be noted that the new procedures in the International Coffee Organization are providing more adequate safeguards to prevent unwarranted price increases to coffee consuming countries. Since the freeze and drought in Brazil in 1969 which had resulted in sharp price increases, the expansion of export quotas under the new provisions of the agreement has resulted in price declines in world coffee prices. These price declines have subsequently been translated into price declines both in the wholesale and the retail market for coffee.

The Committee on Ways and Means is satisfied that the extension of the President's authority for the remaining life of the International Coffee Agreement is desirable and agrees with the President that the bill, H.R. 8293, should be enacted into law. Thus, the committee urges the enactment of this legislation.

Now, Mr. Chairman, the principal objective of the agreement itself—not the bill before us, but the agreement that I referred to, of 1968—which this legislation supports is to stabilize international green coffee prices at levels which are fair to both producers and consumers. The agreement proved very quickly that it could fulfill this objective effectively in a period of stable supply. Until 1970, however, there was no real test of its ability to protect the consumer in a coffee supply crisis.

Last year such a crisis occurred. It arose from the severe damage suffered by the Brazilian crop the preceding year which drastically reduced the Brazilian coffee available for export in 1970–71. A similar catastrophe had struck the Brazilian crop in 1954, following which prices leaped to record levels. Against those 1954 price levels we can measure just how valuable the agreement has been to the American consumer.

As the full dimension of the 1970 disaster in Brazil became apparent throughout the coffee trade, prices began to soar. By August 1970, when the International Coffee Council held its annual meeting, the average price of U.S. coffee imports derived from Bureau of the Census data had reached more than 46 cents per pound. This was 12 cents above the average level of the previous 2 years. Moreover, failing resolute council action, nothing could have prevented prices from continuing their rapid ascent.

In these circumstances the council, under strong pressure from the U.S. delegation, took decisive steps to prevent a repetition of the runaway price situation of 1954. It fixed the annual export quota for the coffee year beginning October 1, 1970, at a level which ensured that there would be adequate coffee to satisfy anticipated world demand.

These decisions succeeded dramatically. Prices leveled off at once. And from January 1971, when coffee purchased in the new coffee year began flowing into the United States in substantial quantities, the average imported price declined steadily. Last month the average price of imported coffee was slightly over 39 cents per pound. That was a healthy turnaround of over 7 cents per pound in a brief period.

Although roasted coffee prices incorporate many cost factors beyond the influence of the Coffee Agreement, retail coffee prices have reflected the same favorable trend. The recent crest in coffee prices was reached in November 1970, when the Bureau of Labor Statistics found that the average price of a 1-pound can was 96 cents. Since the time the average retail price declined for 8 consecutive months before rising slightly—1/10 cent per pound—in August. Over that 8-month period the price of a 1-pound can declined by over 3 cents per pound, moving downward when food costs as a whole were rising sharply.

Let us compare the record of 1970 retail coffee prices with the comparable situation in 1954. In August of 1954, the American housewife paid a record $1.23 for a 1-pound can. And the average price for the entire year was over $1.10. The difference between the peaks in the retail price between 1954 and 1970 was therefore a remarkable 27 cents per pound. I submit that the effectiveness of the agreement in achieving greater price stability is quite clear.

In my view, Mr. Chairman, these statistics demonstrate that the International Coffee Agreement has justified the faith of this Congress. The agreement has proven its ability to control excessive price swings so harmful to both producers and consumers. At a time when we are waging an all-out campaign against inflation it is helpful to know that we are a party to an agreement which steadies the price of our largest agricultural import.

Mr. LONG of Maryland. Will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman.

Mr. LONG of Maryland. I would not want to challenge the gentleman's statement that the coffee agreement has been of some value in stabilizing coffee prices. However, I think that the experience worldwide shows that such stabilizing agreements stabilize the price upward. The gentleman has, of course, shown the price has gone down historically. I wonder if he would claim that the existence of the coffee agreement is the only reason why coffee prices have had a long-term trend down and whether it is not due to the fact that the very high price of coffee caused a tremendous increase in the production of coffee worldwide in many countries and also that there has been a tendency for the high price of coffee—and coffee has been high in price even though it might have been going downward—to make many people economize on it and use less of it and shift to other types of beverages.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MILLS of Arkansas. Mr. Chairman, I yield myself 2 additional minutes.

The fact is that the price of coffee did not start downward in 1971 until there was a change made by the Coffee Council in the quotas of coffee coming into the United States. If Brazil, the cause of the drop, was unable to ship us the amount of coffee that they were permitted to under the quota, we could have obtained that coffee from other sources. Of course, we could have done that had there been no agreement whatsoever involving coffee. I am not alleging, by any stretch of the imagination, that the agreement itself is the entire factor having to do with the price of coffee. I thought I made that clear in my statement. If I did not, I intended to.

What I was trying to do was show under the same crisis-supply situation in 1954 and in 1970 and 1971 the difference in the behavior of the price of coffee to the consumer when we had the coffee agreement and when we did not have the coffee agreement.

My contention is that the coffee agreement itself had a lot to do with that difference in some 27 cents in the price of coffee to the consumer during these two supply crises.

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield further, when I was in Colombia a couple of months ago, I found that they feel very strongly that this coffee agreement is a great thing for them.

Mr. MILLS of Arkansas. It is.

Mr. LONG of Maryland. And it is possible that, if we got out of coffee stabilization very suddenly, such action would have a drastic impact upon the economy of that country.

Mr. MILLS of Arkansas. That is what they tell me.

Mr. LONG of Maryland. But I could not help but reflect upon the fact that we would pay much higher prices for Colombian coffee if not for this coffee agreement. In a way, this is foreign aid and it amounts to a great deal of money.

I also could not help feeling that this is one of the things which keeps coffee-producing countries from moving out of the production of coffee into the production of other types of products such as oranges, flowers, and other things. This is what they must do eventually—get away from a one-crop economy. But they would not do it until they have to. And as long as we keep their coffee prices up, they do not have to.

Mr. MILLS of Arkansas. Actually, there are some 40 countries involved in the international coffee agreement. I think the price stability that the agreement on coffee accomplishes does a great deal to stabilize the economies of these countries.

One must bear in mind that none of these countries are fully developed economically. All of them are underdeveloped countries. However, I deny the fact that this is a form of foreign aid. But if it is, it strikes me as being preferable to other types of foreign aid when we enable the people there to do something to help themselves—it is preferable to that type of foreign aid that comes entirely from expenditures out of the Federal Treasury. They, too, I think, prefer this to other methods.

Mr. MONAGAN. Mr. Chairman, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Connecticut.

Mr. MONAGAN. Is this not similar, in theory at least, to our farm program here domestically by which we seek to keep the level of the income to the farming community at a reasonable level?

Mr. MILLS of Arkansas. Actually, I think it could be so compared to the sugar quota. But the difference in the coffee agreement on prices and the sugar quota legislation is that sugar has gone up all the time while coffee has gone down during this year.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Missouri.

Mr. HALL. All of us have received from the World Coffee Information Center a letter dated October 13 and a well-prepared brochure. I am a little bit concerned about the constant statement that the price of coffee has gone down, especially since 1963, or even relatively since 1954.

The CHAIRMAN. The time of the gentleman from Arkansas has again expired.

Mr. MILLS of Arkansas. Mr. Chairman, I yield myself 2 additional minutes.

The CHAIRMAN. The gentleman from Arkansas is recognized for 2 additional minutes.

Mr. MILLS of Arkansas. Mr. Chairman, I was not talking about that period of time. I was talking about the period in 1954 and 1970 and 1971 when I talked in terms of coffee prices going down.

Mr. HALL. Mr. Chairman, if the gentleman will yield further, I appreciate the gentleman's statement, but I am still concerned, and my real concern is for the consumer.

It is true that in the period of 1970 to 1971 insofar as I know—and the gentleman has supplied additional information on that—the price of imported green coffee has gone down slightly to the figure that the gentleman stated, 79 cents a pound, but there has been a constant rise all during that period of time in the cost to the consumer. In other words, the cost of a 1-pound can.

It was relatively about 76 cents in 1969. It went up in 1970 to over 90 cents, and has had a continuous climb since then.

I realize the value of stabilizing the largest import of foodstuff that we have in the United States. I can even understand why we might want such an arrangement when they have a big killing frost and/or drought down there in order to insure continuing importation. I could even understand that we might, by some odd reasoning down in the State Department, want such an arrangement so that we continue to pay high prices when they are actually dumping coffee offshore of Sao Paulo, Brazil, or elsewhere, when they have an oversupply. But for the life

of me I cannot understand why we keep on talking about decreasing costs of coffee when in the World Coffee Information Center themselves, both by graph and by word, admit we are paying a lot more for coffee on your imports of green coffee—and I grew up in a coffee importers, blenders, and distribution factory, I might say to the gentleman, from the great Southwest—but still the price to the consumer has gone steadily up since 1963 from a low of 65 cents a pound to the price quoted by the gentleman of 96 cents at this time.

Mr. MILLS of Arkansas. I am pointing out to the gentleman the situation that existed prior to this agreement because you find greater fluctuations within the period prior to the agreement, and you find less fluctuations in prices during the period of time that we have had the present agreement, since 1968.

Let me give the gentleman this information to go along with the information that he has produced.

During the preagreement period the cost of the coffee market price fluctuated from—and this is green coffee we are talking about—from 24 to 65.7 cents. That is a fluctuation of 41.7 cents.

In the postagreement period the range has been between 30.3 and 44.4 cents, or a difference of 14.1 cents.

Now, it is this range of 14.1 compared to the range of 41.7 that I have been trying to point out in what I have said earlier.

Mr. HALL. I do appreciate that, if the gentleman will yield further, and again they have a beautifully drawn bar graph on the reverse side of this World Coffee Information Center brochure, but there is one thing that keeps gnawing at me, and that is the cost to the consumer, plus the fact that I used to see coffee importers call the New York Importation Center, long before the days of this agreement, and this was in the days when we did not use the long-distance telephone, they did it either by telegraph or by day letter, and they in turn would call the Port of New Orleans. A price would be fixed, an upset price would be established. And I think the gentleman from Arkansas knows that the coffee importation business was one of the most reckless gambles and dangerous things that a man could get into, and men were made or they were broken almost overnight, depending on what they had on hand and depending on when a particular ship might land, and which port it went to and what the upset market price was established at, and so on.

Mr. MILLS of Arkansas. One of the big factors was this big variation in prices, it either broke them or made them rich.

Mr. HALL. But the gentleman would not have anything to say about the climbing and increasing prices, and the fact that the minimum average of the consumer price has gone up from 1963 to 1971?

Mr. MILLS of Arkansas. I will yield to the gentleman from Wisconsin (Mr. BYRNES) if he desires to reply.

Mr. BYRNES of Wisconsin. Mr. Chairman, if you are going to look at the cost of coffee to the consumer in this country, it is important to look at the inflationary impact of increased costs attributable to the processing of coffee. I think it is important to note that the retail price increases for coffee have been less than the price increases of all other commodities, despite these increased processing costs.

Insofar as the coffee agreement is related to present prices, I believe we have to recognize that coffee presents a more salutary situation than exists with many other commodities.

Mr. MILLS of Arkansas. Actually, if I may further answer the gentleman from Missouri, with respect to the agreement and its effect on prices, we must bear in mind that the agreement only relates to the price of raw coffee, that is the green coffee. The retail value that is charged in the retail store may reflect a whole lot more than just this store's price of raw coffee, because there is some domestic markup, the domestic processing and the domestic distribution costs and you and I know that there have been increases in the cost of processing coffee just as there have been increases in the cost of processing practically everything else.

Mr. HALL. The gentleman makes a valid point. But to give an interpretation and analysis, what we are seeing is that after we have the agreement, just as we likened the situation a while ago to farm prices, or let us say to dairy marketing orders, as soon as we get in it, the floor becomes the ceiling and what happens is the producer who works, and many others, as in the case of eggs or in the case of dairy products, we may actually lower the prices relative to other foods, but it does not get back to the guy who puts in the sweat and takes the risk. Goodness knows, this has happened there and I am afraid with this coffee agreement this exact same thing is happening to the consumer as prices are going up, because of the markup and not because of the cost of the import.

But be that as it may, it may not get back to the person who deserves it in the first place and we are actually subsidizing the intermediary or the transshipper.

Mr. MILLS of Arkansas. If the gentleman will look at the brochure from the World Information Center at the charts on the inside, there is a title—"United States Spread Between Value of Green Coffee Imports and Retail and Retail Prices of Roasted Coffee, 1950–71." It is demonstrated on this chart that as the price of green coffee went down at the back there, the heavy brown, the lighter brown, the retail price, was going up.

I am talking of prior to the beginning of the year 1970, if you will notice at the peak there, just over 1970, there is a decline in the import value.

Mr. HALL. I will say to the gentleman, that is exactly what I was referring to.

Mr. MILLS of Arkansas. I know, but that is the point of the agreement. If you look at the price of a 1-pound can, the price has gone up during that same period of time, and that is due to our own inflation in the United States. It is not a reflection of the increase in the import price of green coffee. The agreement relates only to green coffee—not retail coffee. This clearly shows that.

Mr. HALL. I accept that in part, on the basis of the gentleman's expertise for 1970, to the period under the date.

But also if you go on with the graph, in 1963, from the time we entered the International Coffee Agreement.

Mr. MILLS of Arkansas. It was in 1968. We did not enter the present agreement until 1968.

Mr. HALL. I can remember when we debated it here in 1963 for a long time, and approved it. Anyway, on raw coffee, if you draw a line from 1963 to 1966, the trend gradually increases and does not decrease in both cases on the imports of green coffee and the cost to the consumer.

Mr. MILLS of Arkansas. Let me correct that. It was not 1963, it was 1968—but actually the first agreement effective date, as I recall, started in 1964.

Mr. GROSS. No; it was started in 1963.

Mr. MILLS of Arkansas. Yes; started legislation in 1963, but we did have the act of 1968 for the second agreement. That is what the confusion is about.

I thank the gentleman.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Arkansas has consumed 25 minutes.

Mr. BYRNES of Wisconsin. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. COLLIER) a member of the committee.

Mr. COLLIER. Mr. Chairman, I was the only member of the Ways and Means Committee who voted against this bill in committee. I did so because I very candidly feel that this legislation is in fact back door foreign aid which is financed out of the average housewife's grocery budget. With all due respect to my chairman, I cannot find a sound parallel to what was the situation in 1954 and that of today.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. The gentleman is making a valid point. The important question here is not whether the cost of coffee has gone up or down over the years. There is no lack of economic factors to explain these long-term trends. The really important point is this: Are we not paying a lot more for our coffee as a result of this coffee agreement, which restrains production and interferes with the free flow of the coffee into the United States except under rigid quotas?

The gentleman has put his finger on the essential point. This coffee agreement is basically foreign aid to coffee-producing countries like Colombia, Brazil, and others. We are helping them to stabilize their economies at the expense of the average American consumer, the housewife. We ought to get some credit for it. It does not go into our

foreign aid figures at all. Yet it belongs there, to the tune of hundreds of millions of dollars a year.

Another aspect I think is equally important. I am not sure we are doing the economies of the producers of coffee any good in the long run, because we are encouraging them to postpone getting out of the product of coffee. They will admit to you when you are there, as I was, that they must produce less coffee and more of other products. Too much of their land and other resources are in the production of coffee.

In the long run they would make more money on other crops—like strawberries, oranges, flowers, and so on.

Mr. COLLIER. I share the gentleman's judgment and appraisal of the situation before us today. I think it is significant that from 1963, when we actually entered into the Coffee Agreements Act, even though the implementing legislation was not until 1965, that the price of coffee in this country did in fact rise, notwithstanding the alleged or announced purpose of the Coffee Agreements Act was to stabilize prices. Perhaps they have stabilized prices, but it would appear from the long-range review of these prices that it did stabilize them upward.

Presently, contrary to what the average person might think, there is and will remain a substantial stockpile of coffee, so that this provides a built-in protection today against any lean years which might otherwise create the type of situation that existed in 1954. In fact, as of September 30, 1963, the world carryover of stocks of coffee was estimated at about 68 million bags. In 1970, for example, Brazil, the No. 1 exporter of coffee under the Coffee Agreements Act, had an excess in production of 21.9 million bags. Brazil during the same period exported 17.7 million, which means, obviously, that there was a substantial surplus from their production which went into a stockpile and which would provide protection against any sharp fluctuation in prices such as was experienced in 1954.

Tracing the history of the Coffee Agreement Act, I think it is necessary to understand that the prime purpose was to alleviate these fluctuations which were generally the result of surpluses or overproduction. However, if stabilized prices mean the kind of increases that we have witnessed in the cost of coffee in recent years, it becomes evident that the beneficiaries are the exporting countries, and certainly not the importing nations of which the United States is by far the largest.

Furthermore, the largest exporter of coffee, who undoubtedly receives the greatest benefits, is Brazil, and that is the one nation that has repeatedly flagrantly violated the coffee agreement over the years. Brazil has been guilty of gross discrimination in its own practices notwithstanding, as I said, that the Brazilians were the No. 1 beneficiary of the coffee agreement.

The fact of the matter is, by having created what is an international coffee market—and that is exactly what the Coffee Agreement Act has done—the cost has continued to rise, moving from about 76 cents a pound in 1969 to $1 a pound today. I am convinced from data available to me that the coffee agreement has resulted in the American housewife paying about 15 to 20 cents more per pound for coffee than she would if we were operating in a free market where supply and demand would determine the price.

We speak of free trade on the one hand as a means of contributing to better international relations, but I doubt whether there is any evidence that this is really the case. It is my considered opinion that if we were to treat coffee on the world market as we do other products, rather than make it uniquely controlled, the participating nations, both the importers and the exporters, would be better off in the long run.

Admittedly we might run into some temporary resentment on the part of certain exporters if we did not renew the coffee agreement, but much more important, I would say, is what has been and is the situation as a result of the imposition of the 10-percent import surcharge on other commodities.

If these agreements are temporarily renewed today, I hope and trust Congress will make a real in-depth study to remedy the situation in the near future. After all, coffee is not a necessary item in terms of nutrition or of dietary requirements in this country, so the law of supply and demand would replace the present international coffee cartel. I am sure that if this does develop, it will be the American housewife who will be the beneficiary rather than the exporting members of the International Coffee Council.

Mr. MILLS of Arkansas. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Chairman, I would like to add a few words in support of this legislation and to review how important it is to so many developing countries. We are the largest single consumer of coffee—more than one-third of all the world's imports last year. Whatever we do—or fail to do—has an enormous impact on the livelihood of millions of families in the under-developed world. I do not believe the U.S. Congress can take such a responsibility lightly.

It is our Latin American neighbors who are the main suppliers of coffee, providing about two-thirds of both United States and world supplies. What happens to coffee is of critical importance to them. Many of them are dependent on this single crop to an extent that is difficult for an American to comprehend. Last year Colombia earned 66 percent of its foreign exchange from coffee; El Salvador almost 50 percent; and even an economy as large and growing as Brazil's still depended on coffee for 37 percent of its export earnings. In fact, seven Latin American countries derived more than 20 percent of their foreign exchange revenues from coffee. No item in the U.S. export picture even approaches such importance.

Clearly then, the economic health of a good part of the world is linked to coffee. The agreement has attempted to safeguard this health by providing price stability at levels which are fair to both producers and consumers. I believe it has generally succeeded in fulfilling that goal. And in the process it has helped give to the developing countries of Latin America and other areas the kind of predictability so necessary to effective planning and sound policy decisions.

But there is an even more compelling argument in favor of our continued implementation of the ICA, and that is our own export trade. All of us are very anxious to improve the U.S. trade balance. But this is an interdependent world. We will not be able—or willing—to sell our goods to our Latin neighbors unless they have the foreign exchange to pay for them. And, as I have already pointed out, coffee is their biggest foreign exchange earner. Last year, the United States exported over $4.7 billion worth of goods to the 14 principal Latin American coffee suppliers. Many of these countries paid for their U.S. goods largely with dollars earned from their coffee trade with us. For example, in El Salvador, Guatemala, and Colombia, more than half of our exports were paid for by coffee; in Brazil, that proportion was more than a third; and two more countries—Ecuador and Costa Rica—financed about a quarter of our exports with coffee.

In conclusion then, I feel convinced that our support for an orderly coffee market is not only necessary but also in our own enlightened self-interest. Not only is it in our political interest to assist these countries' development programs by insuring a more nearly stable flow of exchange earnings from coffee, but our economic interest in an expanding trading system is also served.

For all these reasons, I strongly urge a favorable vote on this important legislation.

Mr. Chairman, there is talk about this being backdoor foreign aid. This is too simple an analysis. Coffee country exports do indeed earn dollars. But what do they do with their dollars? Last year they bought $4.7 billion worth of American products. So this becomes a two-way street, economically beneficial to the United States and the coffee producing countries.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. That is, of course, the same argument given for our foreign aid, to give foreign aid to other countries because they spend the money back in the United States. When we give the money to Americans, do they not also spend it in the United States? When we give the money to Americans. We get both the goods and the money.

Mr. FASCELL. The concept of diversifying crops, is also an oversimplification. Diversification in many cases means pro-

duction of agricultural products which would compete with U.S. agricultural products in the U.S. market. Coffee does not.

Mr. MONAGAN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Connecticut.

Mr. MONAGAN. I want to compliment the gentleman from Florida, the chairman of the Inter-American Affairs Subcommittee of the Committee on Foreign Affairs, for pointing out the international implications of this agreement, wholly apart from the economic considerations.

At this time, when there is a tendency in some quarters in Latin America to say we are not assuming responsibilities we should, and that we do not have concern for them, I believe it is extremely important to emphasize, as the gentleman does, the fact that with this agreement we are taking the initiative and we are making some sacrifices to bring about economic stability, which certainly is important to the United States as well as to the countries immediately affected.

Mr. FASCELL. I thank the gentleman from Connecticut. I thoroughly agree with his observation. An orderly, stable coffee market is in our own interest.

We are struggling with legislation and administrative programs to stabilize our economy. I do not see how one could argue, that by implementing an agreement which has shown that price stability is useful and helpful to the United States and Latin America, that we in some way would be affecting adversely our own economy. It seems to me we are acting in our own self-interest.

I commend the Committee on Ways and Means for bringing the bill to the floor, and for its understanding of the interlinking of the economies of North and South America. The committee's resolution of the coffee problem and its efforts in other areas demonstrates the knowledge and leadership, of it's distinguished chairman, the Honorable WILBUR MILLS of Arkansas, in the field of foreign economic policy.

Mr. BYRNES of Wisconsin. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I want to understand our friends around the world, too, if we have any, but first of all I am here to represent the people of the Third District of Iowa and this country, and not the Brazilians and Colombians, plus the rest of the coffee producers around the world. Nor am I so much interested in the importers of coffee. I am interested in the consumers of coffee in this country.

Before we get through here this afternoon, before this goes to a vote, I should like someone to tell me why our U.S. representatives went to London on August 30 or 31 of this year and voted to cut the past year's quota of export coffee from 49½ million bags to a quota this year of 2½ million bags less, or 47 million bags.

I want somebody to tell me why it is in the interest of the people of this country to cut 55 million 132-pound bags off of the supply of coffee.

Mr. Chairman, it is almost impossible for me to believe that in the situation existing in this country today—with wage and price controls being clamped on, with inflation chewing us up, and the high costs of living—that the Ways and Means Committee would have the nerve, if not unmitigated gall, to bring this legislation to the House floor.

This innocuous-appearing bill has for its purpose a further increase in the price of coffee and that means more millions filched from the pockets of American consumers.

Yes, this is another foreign aid handout bill by courtesy of the Ways and Means Committee which treated the matter with such smugness that it did not even bother to hold hearings to determine the extent of the rape that it has already perpetrated upon the Nation's consumers by way of high coffee prices.

I was here in 1963 when this deal was spawned and when the price fixing in coffee was turned over to an international cartel in London. I said then, and that statement is to be found in the CONGRESSIONAL RECORD, that coffee prices for Americans would be stabilized just one way, and that would be up and up.

I well recall the answer I got from Mr. MILLS, the chairman of the Ways and Means Committee. In his most affable bedside manner he said, in effect, that I did not know what I was talking about, even though and about the same time in 1963, his colleague from Arkansas, Senator J. WILLIAM FULBRIGHT, had this to say:

> To make an argument that this (coffee) agreement is in the interest of the consumer is something less than frank.

A few years later, when this infamous coffee agreement came up for discussion, I reminded Mr. MILLS of his previous statement and he then conceded that coffee prices to American consumers had gone right on up.

It is interesting to note that on or about November 19, 1970, the Folger Coffee Co., one of the Nation's largest distributors, informed Mr. MILLS that "prices of coffee are unreasonably high today"; that "world supplies of coffee have been plentiful all along and the size of the increases in prices is unwarranted."

Despite a 25-percent increase in the size of the Brazilian coffee crop and an abundance in storage, the price continued to rise, but then what happened?

Two weeks after President Nixon threw his wage and price freeze into effect last August 14, the international cartel in London, apparently with the approval of the State Department, voted for new and more restrictive quotas on exports which will have the effect of still further increasing prices.

A limitation on export quotas in 1969–70 produced a reported 41-percent increase in the price of green coffee and with the newly approved reduction of 2½ million bags—from 49½ to 47 million bags for export—it ought not to be hard, even for the members of the Ways and Means Committee, to figure out what lies ahead for the housewives of this country and their families.

Could it be that the coffee gang in London, in their meeting on or about August 30 of this year, had in mind some settlement of Brazil's extension of its territorial limits to 200 miles out on the high seas? Is this coffee-price raid on American consumers to be a continuing payoff for a glorified form of blackmail?

Mr. Chairman, few subjects have had a more checkered career in the House of Representatives than this bill before you here today. It was with obvious reluctance that the gentleman from Arkansas (Mr. MILLS) sought and obtained a 6-month extension of the International Coffee Agreement on December 18, 1970. At that time I called his attention to a critical report issued by the General Accounting Office and urged that before there was another extension, the Ways and Means Committee go into that report.

Mr. MILLS, apparently with presidential stars already dancing before his eyes but not clearly visible elsewhere, concluded his remarks on that December day by saying:

> It—the GAO report—is a matter as well as the entire subject that will be looked into by the committee before there is any further extension of this agreement—

And then he added—

> If there ever is any extension.

In other words, there appeared to be serious doubt in the mind of the gentleman from Arkansas that there would be another extension when the agreement expired on July 1 of this year.

But on June 8, 1971, when the rule making this bill in order came before the House, Mr. MILLS was right back at the old stand admitting, in response to my questions, that his committee held no hearings as he had promised it would last December before reporting the pending 2-year extension. Nor did the committee call in—as promised—officials of the General Accounting Office to explain the basis for their criticism.

And what did the GAO report say in its report? Let me quote a few excerpts:

> The ICA—International Coffee Agreement—has functioned to increase prices and to transmit foreign aid rather than to stabilize prices.

Again the GAO said, and please listen carefully:

> It is interesting to note that the ICO—International Coffee Organization—has estimated that, without the coffee agreement, coffee prices would have fallen to one-half their 1966 levels.

And the GAO indicated its estimate of the fall in price was conservative.

Then this from the GAO:

> It is our understanding, from discussions with State Department officials, that the United States does not view the ICA as a permanent arrangement. Apparently there is some doubt that a third ICA will be necessary.

What could have been more pertinent to the Ways and Means Committee and to Members of the House in consideration of what we have before us today than a hearing and testimony on the record with regard to the GAO report that without the international cartel coffee prices would have fallen to half their 1966 levels? And who in the State Department does not view the cartel as permanent?

Apparently Mr. MILLS, despite his backing and filling of the past on this subject, is willing to again, and for another 2 years, throw American consumers to the tender mercies of the plantation owners in Latin America and the Zaibatsu in London.

Try to smile it off if you will but this coffee trade involves some $3 billion a year and it has been estimated by some sources in the coffee trade that American consumers paid a tribute, through increased prices, of $900 million in 1970 and they are expected to pay through the nose by an even larger figure in this year 1971. The GAO says that in calendar year 1970, U.S. coffee assistance amounted to $640 million and emphasized that figure is conservative.

Mr. Chairman, according to the latest report by the distinguished gentleman from Louisiana (Mr. PASSMAN), chairman of the Appropriations Subcommittee on Foreign Operations, this Government has shoveled out $2,738,200,000 in foreign aid to Brazil and $1,119,400,000 to Colombia, two of the principal coffee exporting nations. I doubt that any of the revenue from these rigged coffee prices is included in those figures.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. BYRNES of Wisconsin. Mr. Chairman, I yield 3 additional minutes to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding me the additional time.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield for one moment?

Mr. GROSS. I will yield to the gentleman from Louisiana as soon as I have finished my statement.

On November 14, 1963, when this racketeering coffee agreement was first brought to the House floor by the gentleman from Arkansas and his committee, I pointed out that there was a lot of weeping for foreign coffee growers, but not a soul shedding tears for the plight of the American farmer. I said then:

> Oh, no, there are no bleeding hearts for American farmers. Instead you seek to initiate here today another and new foreign giveaway program . . . to be financed by American consumers. It is to be piled on top of the millions upon millions of dollars that go into Latin America every year through the Alliance for Progress and other such programs and devices. Now you want to compound the felony of the giveaway program . . . more foreign aid through higher coffee prices.

I think that if I were a presidential candidate, instead of trying to popularize the 25-cent cup of coffee in America through an international cartel, I would be trying to find out from Foggy Bottom officials and others how certain foreign governments in the Common Market got away with slamming the door on the exports of poultry farmers in Arkansas, Iowa, Georgia, and Alabama—to name only a few.

Mr. Chairman, the consumers of coffee in this country have already been victimized for too many years. This is the time to call a halt.

Mr. MILLS of Arkansas. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I will yield first to the gentleman from Arkansas (Mr. MILLS), and then I will yield to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. MILLS of Arkansas. Mr. Chairman, I am sure the gentleman from Iowa has a copy of the GAO's report with him?

Mr. GROSS. Yes, I do.

Mr. MILLS of Arkansas. Would the gentleman turn to page 66, please. That is appendix 8. I want the gentleman to analyze this just a little bit because he seems to have so much difficulty with the statement made by the GAO.

Will the gentleman please explain to me what this means:

2. World demand

Log E=1.88—.253 log P+.751 log Y
(3.2) (—3.2) (5.8)
R^2=.941 DW=2.40

Mr. GROSS. Mr. Chairman, I will say to the gentleman from Arkansas that he had an excellent opportunity in the period in which this bill has been kicking around, or between last December, when the 6-month extension was put into effect to this date, to secure that information.

Mr. MILLS of Arkansas. I have asked the question of the people down town, and they cannot explain it.

Mr. GROSS. The gentleman had an excellent opportunity to call them in to explain what that means.

But let me call the attention of the gentleman to page 51, where the GAO says that had it not been for this cartel the price of coffee would have been reduced by half of the 1966 level.

Mr. MILLS of Arkansas. But I want the gentleman from Iowa to please share with me his explanation of what this means.

Mr. GROSS. I do not know whether that applies to coffee or to sugar.

Mr. MILLS of Arkansas. It pertains to coffee.

Mr. GROSS. They are both contained in this report.

Mr. MILLS of Arkansas. But appendix 8 has to do with coffee.

Mr. GROSS. But you had an excellent opportunity to call them in and find out what this is all about.

Mr. MILLS of Arkansas. I have had discussions with them, and they cannot explain it, and I thought maybe the gentleman could.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. MILLS of Arkansas. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, I would not want the gentleman to be inaccurate in some of the statistics that he used. He did not cite the source of his figures when he said that someone had estimated that the United States has paid a "tribute" to the extent of $900 million in the calendar year 1970 in the increased price of coffee. The Department of Commerce figures for calendar year 1970 show that the total value of coffee imported was only $1,159,533,194. It would be difficult to believe that there was a "tribute" to the extent of $900 million, which represented increased prices in there.

So I just wanted the gentleman to know that the figures are not really accurate.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I am happy to yield to the gentleman.

Mr. GROSS. I am sure that the New Orleans Coffee Association, which I understand is opposed to this agreement, could give the gentleman all kinds of figures. I believe you are a member of the Committee on Ways and Means; is that correct?

Mr. WAGGONNER. Yes.

Mr. GROSS. If you had used your not unusual influence upon the chairman to get a hearing on this subject and get the New Orleans Coffee Association and the Pacific Coast Coffee Association in—I think they could have helped you with some of your questions.

Mr. WAGGONNER. Perhaps if the New Orleans Coffee Association was interested in making a protest, they should have come to me as a member of the committee rather than to the gentleman from Iowa.

Mr. GROSS. They did not come to me.

Mr. MILLS of Arkansas. The gentleman talks in terms of no hearing. It is impossible for the chairman of any committee when he announces a legislative hearing to force anybody to come in to testify. We announced hearings and nobody wanted to testify, which would indicate to me that the gentleman from Iowa is seeing far more damage in this proposition than anybody—consumers, processors, or growers—see in it.

Mr. GROSS. I know that I am paying in some places 25 cents for a cup of coffee and the price is up to 50 cents for a cup of coffee in others. The price of a cup of coffee right here off the House floor is 15 cents a cup.

Mr. MILLS of Arkansas. That is not due to the price we pay for green coffee.

Mr. GROSS. The operators' prices have tripled since the coffee agreement on her wholesale purchases.

Mr. MILLS of Arkansas. But it is not due to the price of green coffee.

Mr. GROSS. Don't you believe it.

Mr. BYRNES of Wisconsin. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. PELLY).

Mr. PELLY. Mr. Chairman, I wish to indicate my firm intention to vote against H.R. 8293 because I am opposed to the continuation of the International Coffee Agreement.

My opposition is due to the fact that many Latin American countries who benefit from this agreement have been

seizing and fining U.S. vessels on the high seas and on water which under international law are not under the sovereignty of any such nation. It hardly seems equitable that the United States should participate in arrangements which are of tremendous value to the coffee-growing countries of South America when many of them, over many years, have illegally seized our fishing vessels and subjected them to heavy fines. Only this year Ecuador, as an example, has seized and fined our tuna vessels for fishing on the high seas beyond their 12-mile limits in excess of $1.3 million.

Recently the House passed a bill of mine which would tighten up the Fishermen's Protective Act so that the amounts of these fines would be deducted from any allocation of money under our foreign aid program. Pending the outcome of this legislation in the Senate I have refrained from offering amendments of a similar nature to other bills in which Latin American countries have an interest. However, I am frank to say, Congress should tighten the antiseizure provisions of the Foreign Assistance Act and the same is true of the sugar quota bill. Originally I thought I would try to amend the International Coffee Agreement but, perhaps mistakenly, I am constrained to delay such action until I know the outcome of any bill to tighten the Fisherman's Protective Act. So I am not offering an amendment today.

Mr. Chairman, notwithstanding that I am not offering an amendment, I again repeat, I am not going to support this legislation as long as Latin American countries arbitrarily claim sovereignty for 200-miles beyond their shores. I know that Brazil and the United States are holding what is termed "preliminary discussions" in connection with the seizure of shrimp boats off the coast of Brazil. However, I am sure these talks were arranged to reduce congressional opposition to legislation of interest to South American countries. The time of these talks is scheduled in other words, because of H.R. 8293.

Of course, I welcome the talks but after many years of bitter experiences I am dubious as to how much they will accomplish.

Mr. Chairman, I think that all these nations and ourselves have a common interest in conservation and it has been unfortunate that our State Department has been unable to overlook the issue of sovereignty and concentrate on conservation of fishery resources.

However, I do not believe that we will ever work out any agreements with these nations on the basis of sovereignty or of conservation as long as we continue to turn the other cheek and provide assistance to these countries in every conceivable way, as we have done in the past. So as I said, I intend to vote against the extension of the International Coffee Agreement.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman.

Mr. CARTER. I am very much interested in the gentleman's statement about Ecuador capturing fishing vessels from the gentleman's area. It is interesting to note that one of those vessels, the *Esperalda*, I believe it was called, was given to Ecuador or loaned to Ecuador by this country. This is another incident where our foreign aid works against us.

Mr. Chairman, I thank the distinguished gentleman for yielding.

Mr. PELLY. I will say to the gentleman that these tuna vessels do not come from my district—they come from the United States. That is why I am here as a member of the Fish and Wildlife Conservation Subcommittee.

Mr. CARTER. Certainly, and I am on your side.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. PELLY. I yield to the gentleman.

Mr. GROSS. I was trying to get the last report of what is going on down in Latin America with respect to the situation which the gentleman alludes to. I called the State Department this morning, the Bureau of Latin American Affairs. They report that talks took place from October 25 to October 29 this year.

They were "exploratory" talks and everything was going fine until a certain Representative PELLY issued a statement that Congress would never pass a coffee extension act until some progress in the talks had been made.

The Brazilians then stated that this put them in a bad position because if the talks with respect to the extension of their territorial limits and fishing rights and the Coffee Act were linked up in the minds of their people, the people would believe the Government had sold out on the 200-mile limit to get the Coffee Act passed.

So the talks were called off, and the State Department does not expect a resumption of those talks until the Coffee Act is passed—a further verification of the blackmail that is being practiced.

Mr. PELLY. For the benefit and information of the gentleman from Iowa, I never said that this international agreement and this legislation would not be approved, as far as I knew, unless they agreed to something down there. I have not believed in that type of diplomacy. I welcome those talks. I know they are just another series of cocktail parties. But nevertheless I had hoped that we could work out something with all those nations on the basis of conservation and forget their claims to sovereignty.

So, as I have said, that is an inaccurate report. Again I say, Mr. Chairman, that I must oppose this legislation because of the seizures which those Latin American countries have made of our fishing vessels. I am hopeful that in due course we can arrive at some agreement with them, but I am very doubtful.

I yield back the remainder of my time.

Mr. MORSE. Mr. Chairman, I rise in support of H.R. 8293 which would extend the implementing legislation essential for keeping the International Coffee Agreement in operation. Although the agreement runs until September 30, 1973, it cannot be carried out by the United States without this renewal of implementing legislation, which expired on June 30, 1971.

The United States carries a strong and important commitment to the International Coffee Agreement and to the instrumentality which it has evolved during the 9 years since its formation. The fact that this country is the consumer for over one-third of the world's coffee production naturally gives it a leading role to play in determining what happens to the world coffee market from year to year. As a party to the ICA we, along with 61 other producer and consumer nations, have disciplined ourselves to attaining a reasonably stable system for the marketing of coffee, with a resultant constancy of supply and price benefiting consumers, processors, and producers alike. The International Coffee Agreement over the years, by creating a flexible system of controls which seek to balance supply and demand, has clearly helped to stabilize a market which previously and traditionally has been subject to wild price gyrations, deleterious to all concerned.

At this time, the President needs the authorization H.R. 8293 provides to implement our commitment to the agreement through September 1973. The high visibility of our commitment—if there were no other reasons—argues for the United States to be very meticulous in fulfilling it, especially in these times when the fabric of international cooperation must be woven even more carefully if numerous current issues are to be resolved constructively.

There are several features of the International Coffee Agreement which are particularly valuable to the American consumer. During periods of normal coffee harvests in the producing countries, the ICA mechanism operates to stabilize coffee import prices by linking production levels to projected world demand. From 1965 to 1969 coffee import prices—a major determinant of the retail price—actually fell, at a time when the overall consumer price index was moving up rapidly. Then, in the aftermath of the heavy and damaging freeze in Brazil during 1969, the destabilizing pressures on world prices were muted by the mechanism of the agreement, and prices were held well below the peak registered in 1954 when a similar short harvest occurred. The U.S. import price of coffee today is at a lower level than the average price during the decade of the 1950's. And despite two severe frosts in Brazil the price of coffee in real terms has gone up only 9.7 percent during the life of the agreement. Clearly, the effect of the International Coffee Agreement has been substantial.

Price stability, one can say without hesitation, is a matter of high concern in this chamber. Its continuation with regard to coffee is one of the objectives which H.R. 8293 will serve well.

The second objective of this legislation is no less topical for the Congress as it strives to strengthen our balance-of-payments position. For the 41-producer members of the International Coffee Agreement, coffee sales represent a highly important source of foreign exchange earnings. Coffee is the most significant agricultural export of the developing world. For the developing countries of Latin America, Africa, and Asia, coffee is second only to petroleum among all commodities as a source of foreign exchange. The list of producer countries includes a high proportion with which the United States has maintained a favorable balance of trade over a long period of years, and from which we have seen the dollars spent on coffee returning to our own exporters in exchange for a wide variety of goods and services. For example, United States exports to the 14 major Latin American coffee-producing countries were $4.7 billion during 1970. To a major degree, the future of that trade depends on the smooth growth of coffee supply and consumption, worldwide, which 62 nations have found best assured through the instrumentality of the ICA.

But the effects extend well beyond the earning of foreign exchange by the producers. The agreement, in addition, lends stability to such elements as employment rates and governmental revenues which, in turn, lessens the uncertainties with which the planners of national development efforts have to contend. Thus, the ICA has a widespread salutory effect on the development aspirations of producer nations.

I am convinced, for all these reasons, that the discipline to which the great number of developing countries, and many developed countries, submit in adhering to the ICA is a heartening form of enlightenment and an example of international cooperation which the United States should find worthy of continued support.

Mr. MATSUNAGA. Mr. Chairman, I rise in support of H.R. 8293, which would continue the International Coffee Agreement Act to Ocotober 1, 1973.

Once again, I would like to point to the need for continuing the President's authority to carry out and enforce certain provisions of the International Coffee Agreement Act of 1968. In demonstrating this need, Hawaii is perhaps the best example in the circumstances. Hawaii is the only State in the Union which produces coffee commercially. At one time our industry produced as much as $17.5 million worth of coffee annually, but because of the instability of the price of coffee on the domestic market, as well as on the world market, that industry has dwindled to a production of only $1.3 million annually. Before the coffee agreement was entered into, at times when the price of coffee was good everybody went into the coffee business; the following season the price would plummet down, because of the oversupply and then everybody would go out of the coffee business. As a consequence, the supply would then become so limited that the price of coffee would go sky high, and once again everybody would go into the coffee business. This vicious cycle continued throughout the seasons before the International Coffee Agreement was entered into.

Mr. Chairman, the International Coffee Agreement has achieved its primary objective—relative stability of price at a level which is reasonable to consumers and equitable to producers of coffee. The extension of the President's authority under the International Coffee Agreement Act of 1968 would be beneficial to American consumers, who drink more coffee than the citizens of any other country.

As a Representative from the Island State, where, in a relatively small area called Kona, on the Island of Hawaii, the only coffee is grown in the United States, I can say with some authority that the International Coffee Agreement and the 1968 implementing act have benefited the producers of American coffee and helped to stabilize the price of coffee for American consumers.

Mr. Chairman, I urge a favorable vote on H.R. 8293.

Mr. ANDERSON of Illinois. Mr. Chairman, I support this legislation to extend the President's authority to implement and enforce the International Coffee Agreement of 1962, as amended and extended by the 1968 agreement. Over the years this agreement has proved to be a most effective instrument for insuring a sufficient supply of coffee to this country, at stabilizing the price of coffee at a fair level both for the producing and consuming countries, and thereby, of stabilizing the economies of the developing countries which are the principal producers of this commodity. Some 62 countries are currently parties to this most important agreement, and I think it is commendable that such a high degree of cooperation has been achieved between these countries on this matter. Should we not continue our participation in this program, the agreement most likely would collapse and result in a serious decline in both the export earnings of the coffee producing countries, and in U.S. exports to them as well.

Mr. Chairman, I think it is especially important that we indicate to the developing countries today that we have no intention of becoming international dropouts, as might have been signalled by the vote in the other body just a week ago today. In that connection, I am hopeful that some restoration of our bilateral and multilateral assistance program can be worked out in the immediate future, for we can neither financially or morally afford to turn our backs on the third world.

Mr. Chairman, at this point in the RECORD, I would like to include a paper written by Mr. James W. Howe, a senior fellow at the Overseas Development Council, entitled "How Will Uncle Sam's New Economic Policy Affect the Poor Countries?" In some respects, Mr. Howe's paper is dated in that it was written prior to the vote in the other body; but that vote underscores the prophetic nature of Mr. Howe's statement that the current climate in this country, "may bring out the worst in the Congress at a critical time for developing countries." Mr. Howe goes on to take the position that the President's new economic policy, if successful, will benefit the developing countries, and he backs this up with a most cogent and persuasive argument. He concludes:

By giving Americans a resounding success, particularly in our pocketbook, it may restore to us a sense of perspective and confidence necessary if we are to play a constructive role in the world. For if we default and turn inward, it is hard to imagine who on this shrinking planet would fill the moral vacuum.

At this point, I include the full text of Mr. Howe's most refreshing analysis:

HOW WILL UNCLE SAM'S NEW ECONOMIC POLICY AFFECT THE POOR COUNTRIES?

(By James W. Howe)

THE AUGUST 15 POLICY

The President's New Economic Policy, announced on August 15, did more than freeze prices and wages. On the international front its effects were equally dramatic. In one stroke it cut the U.S. and therefore the whole trading world loose from its moorings to the monetary system set up by the Bretton Woods Agreement at the close of World War II. Three of the things it did are of especial interest to the poor countries:

1. It dethroned gold by announcing the dollar would no longer be redeemed in gold, thus inducing most European countries and Japan to let the market decide the value of the dollar in their own markets. This may make their goods more expensive in the U.S. and U.S. goods cheaper in their markets.

2. It imposed a ten percent surcharge on many imports into U.S.

3. It announced a 10% cut in aid.

Much has been written about these effects but little has been heard of the impact of the U.S. actions on the hundred odd poor countries in the world. What will its effects be on them?

Many believe the long-run effects of the NEP on the LDC's will be beneficial both as a result of improving the world's trading system in general and of stepping up LDC exports to a revived, full-employment U.S. economy. The short-run effects are something else. They arise from the tone rather than the subetance of the U.S. statement. The overtones of economic nationalism—blaming international speculators and our own past generosity for our current predicament, together with the 10% cut in aid—may bring out the worst in the Congress at a critical time for developing countries. This fall both the U.S. bilateral aid program and major funding proposals for virtually all the international institutions are up for decision. Foremost among these proposals is President Nixon's request for a three year U.S. contribution of $960 million to the highly important International Development Agency (IDA)—the part of the World Bank that lends money to poor countries on easy terms.

The tone of the President's announcement may play directly into the hands of protectionist and isolationist sentiment on Capitol Hills. One Congressional aide remarked that economic jingoism has now been made respectable, with the chief target being the developing countries. He added: "the small valiant group of liberal internationalists will now have to battle even greater odds" as a result of that jingoism.

THE SURCHARGE ON IMPORTS

More immediately, the developing countries are being hit by the 10% surcharge on imports. A staff study by the Organization of American States, for example, estimates that over one-fourth of Latin American exports to the United States are affected. Understandably, the world's poor countries feel

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it is unfair that they are being penalized for a deficit in the U.S. balance of payments that they were in no way responsible for bringing about. Far better, they argue, for the U.S. to exempt the poor countries from the surcharge. Such a position would also be consistent with the Administration's declaration of support for preferences—i.e., the proposed system of setting lower tariffs on the import of manufactured goods from developing countries.

Whether these countries should be exempted from our import surcharge depends largely on timing: if the surcharge is temporary, as we maintain, there is no need for exemption. Indeed exemption, by making the surcharge more complex than the simple bargaining instrument that it now is, would be implying an expectation of quasi-permanence, tend to transform it from a temporary measure in pursuit of monetary reforms to outright protectionism. The answer is clear: don't exempt the developing countries, but rather remove the surcharge quickly.

Of course, if the surcharge fails to bring about a reform of the monetary system—say, within six months—it would become a serious and unfair burden on the poor countries. Then there would be a convincing case for exemption.

CHANGES IN EXCHANGE RATES MAY HELP THE LDC'S

The developing countries will also be affected by changes that take place in the rates of exchange between the dollar and the currencies of Europe and Japan. The OAS staff study concluded that Latin America would probably not be better off as a result of exchange rate changes, and might be worse off. Its position vis-a-vis the U.S. would deteriorate, primarily because of the surcharge, and while it would gain foreign exchange in its dealings with Europe and Japan, there would be an overall turning against Latin America in terms of trade. This means the things Latin America exports would bring less and the things she buys would cost more. The reason for this is that Latin American currencies would be devalued in relation to European and Japanese currencies.

This may be too pessimistic a view. Not only Latin America but any poor country which devalues with the dollar in relation to Europe and Japanese currencies stands to benefit for these reasons: 1) since the prices of its goods fall in Europe and Japan it should sell more there; 2) since the cost of European and Japanese imports go up in the U.S. this may open up opportunities for poor countries to sell us light manufactures, especially labor-intensive ones, at an advantage over other rich countries whose labor costs are higher. Thus, if that price advantage increases sales in the U.S., its position with the U.S. *may* improve rather than deteriorate. This is more likely if the surcharge is quickly lifted. Moreover, its position with the other rich countries *should* improve. Poor countries (especially in Africa) which continue to tie their currency to the French franc or the British pound may be disadvantaged thereby in U.S. markets. For some of them, however, the U.S. market is not very important.

Some Asian countries, like Korea, may find it advantageous to devalue with the dollar or at least to appreciate in relation to the dollar less than the yen does. In this way, they will stand to gain in both markets by exporting to Japan at lower costs and by partially supplanting Japanese exports to the U.S.

THE MONETARY FUND'S "PAPER GOLD"

These problems of the trading relationship between the developing countries and the United States will be very important, and will figure significantly in their concern with what happens next. But they will also keep a close watch on another major prospect to emerge from the Administration's New Economic Policy. This prospect is the likely agreement of the major industrial nations to rely less on dollars, gold, and sterling as international reserves and to find substitutes, such as the "Special Drawing Rights" (SDR's)—the so-called "paper gold." These SDR's, which are merely bookkeeping entries that different nations agree to treat as "good as gold," are now being created by the International Monetary Fund (IMF) at the rate of about $3 billion per year. They are used as international reserves held by individual countries to settle their debts with one another. Some believe the rate of increase may have to expand to $5 billion or more per year as a result of dethroning gold and the dollar.

But how are the benefits of the SDR's—this extra "gold"—to be shared? At present, SDR's are given to IMF members in accordance with a formula which gives nearly three quarters of the total to the ten richest members. The rest of the world, far more populous and mostly poor, gets the balance. Needless to say, these other countries were not represented in the making of the initial decisions.

Now, however, various plans have been put forward to introduce some greater equity into the system, and to give the poor countries a greater share of the windfall from creating SDR's. Some plans would give the poor countries all the windfall—for example, by making rich countries pay something for the SDR's (instead of getting them free), with the proceeds going to the developing world. To say the least, this would represent an ethical improvement over the present system. These proposals are often discussed under the heading of "the link"—that is, as a way of linking creation of SDR's to assistance for development.

The subject of the link is opened up by the growing awareness that a new reserve asset is needed—such as the SDR—to supplement and in part to substitute for existing assets. But the issue is complex. In the U.S. there is considerable support for the link—both in Government and among outside experts. But there is little support for the link in Europe where there are fears that this would distort the creation of SDR's from its primary purpose. I believe the Europeans are wrong, and that their fears are ill-founded. But those fears are so real that some monetary experts sympathetic to the link believe that pushing it at this time might actually kill the chances for monetary reform.

So what should the LDC's do? On the one hand, it is clearly unfair that the use of SDR's should be continued and expanded under the present formula where the rich get the lion's share and the poor get the leavings. But on the other if pushing the link prematurely causes the Europeans to kill monetary reform everyone would be worse off. One may well doubt whether, after August 15, the Europeans have any choice but to agree to expanding the use of SDR's. Hence the fear they will kill the expansion may well be overdrawn.

Once the immediate job of monetary reform is done, LDC's will be properly justified in turning the pressure on for reform in the distribution of the SDR windfall. This might be done over the next two years, perhaps in connection with the next round of negotiations on replenishment of IDA, the soft-loan affiliate of the World Bank. The subject is also likely to come up at the next meeting of the UN Conference on Trade and Development. Given enough pressure, it is unlikely the world would long tolerate anything as blatantly "rich man take all" as the present system for distributing SDR's.

FOREIGN AID REDUCTIONS

In addition to these matters of monetary reform, the August 15 package included a 10% cut in U.S. aid. This was a measure inspired more by its expected domestic appeal than by a reasoned case that the poor countries had done something for which the cut was a fair and just response—or that they did not need as much aid—or that we could not afford it. Indeed, developing countries may view it as a decision by the U.S. that poor countries should tighten their belts so that U.S. consumers can buy more cars. Later announcements make it clear the cut will not apply to Latin America and it is still not clear whether it will apply to security-related aid. Thus the cuts may fall heavily on technical and capital aid to Asia and Africa and on U.S. contributions to multilateral agencies. Some believe the 10% cut in expenditures can be managed without disastrous results by slowing certain programs provided there is not a further cut in the already tight expenditure ceiling recently handed out for next year. The more serious damage of the aid cut in expenditures may be to invite the Congress to make even deeper cuts in appropriations needed to start new programs. Already there is talk that opponents of aid will use this to argue for cuts of 30% or more in funding of multilateral and bilateral programs. This would really hurt development abroad and would leave further behind the richest country in the world, which already is lagging behind Europe in sharing the burden of development.

To make matters worse, the administration surprisingly announced a delay in its willingness to untie aid. Last year the U.S. had opened an initiative—which was well on the road to success—for an agreement among aid-givers under which all would simultaneously untie their aid. At present American and most other aid consists not of money which the recipient can spend where he can get the best bargain, but rather of goods and services from the aid-giving country. Nearly 100% of U.S. bilateral aid is so "tied." Some have estimated this cuts the value of the aid by about 15% compared with a system of world-wide competitive procurement. Obviously if the NEP makes U.S. goods more competitive it would be to our advantage to untie all aid. Therefore the logical thing would be for the U.S. to resume the initiative for untying. If such an agreement were reached it would be a major boon to the poor countries.

EFFECTS ON PRIVATE INVESTMENT IN LDC'S

What will the NEP do to the flow of private investment from the U.S., Europe and Japan to the developing countries? Such investment helps growth in the LDC's by providing capital, technology, ready made markets and entrepreneurial ability to LDC's often at a cost geared to the profitability of the industry. There has been growing opposition in U.S. labor circles to U.S. investments abroad especially in labor intensive industry. This reflects labor's concern about growing unemployment in the U.S. The August 15 initiative, if successful in reducing unemployment, may reduce opposition to U.S. investment in LDC's.

In addition to hopefully relieving domestic U.S. anxieties about investment abroad, the NEP should help shift some investment from Europe and Japan into LDC's who devalue with the dollar. There may be some relocation of Japanese labor-intensive industry into Asian LDC's. Such a relocation from developed Europe to less developed Mediterranean countries is also a possibility.

IF THE NEP SUCCEEDS

At the outset of this article I said the tone of the August 15 statement had a great, though unintended, potential for harm even as its substance had great potential for good. By the same token, if the "valiant few" in Congress can avert that potential harm, then the August 15 policy can have enormous benefits far beyond its commercial, investment and monetary effects. By giving Americans a resounding success, particularly in our pocketbook, it may restore to us a sense of perspective and confidence necessary if we are to play a constructive role in the world. For if we default and turn inward, it is hard to imagine who on this shrinking planet would fill the moral vacuum.

If the New Economic Program succeeds in its primary objective, then it will also succeed in helping LDC's. To succeed in its primary objective would involve the following:

1. Less unemployment and inflation at home; full employment in the U.S. would benefit LDC's more than any other factor;
2. Realigning exchange rates to favor the U.S. (and LDC's who remain pegged to the dollar);
3. Reforming the international monetary system to provide more flexibility and a new mix of international reserves;
4. Removing the surcharge in the very near future; and
5. Avoiding protectionist, isolationist trends here at home.

If these things come to pass, the whole world can congratulate itself and the poor countries of the world will benefit, probably out of proportion to the world in general. Should the August 15 program fail, LDC's will probably suffer disproportionately more than does the world in general.

Mr. ANDERSON of California. Mr. Chairman, I rise in opposition to H.R. 8293, a bill which would continue the International Coffee Agreement of 1968.

This agreement has authorized the creation of an international coffee cartel consisting of 62 countries. The cartel's supporters claim that its purposes are, first, to hold down the price of coffee and, second, to avoid extreme fluctuations in price.

However, since 1968, when the agreement first went into effect, the price of coffee in the United States rose from 93 on the wholesale price index to 114 in April 1971. This represents a rise of 21 points over 3 years. Over the same 3-year period, all other commodities have risen only 12 points.

Both the taxpayers and the coffee-consuming public of the United States are paying to support this cartel.

First, the taxpayer is being asked to pay $230,400 to finance our share of the International Coffee Organization for fiscal year 1971. For the next 2 years, the taxpayer is expected to pay $280,000 annually to continue our membership in the cartel.

Second, because of artificially high prices caused by the coffee agreement, the U.S. consumer has to pay more for his coffee.

Mr. Chairman, this bill should be designated a foreign aid bill—not a consumer bill. The American housewife pays higher prices for coffee, and the artificial profits are distributed by the cartel to foreign governments, such as Brazil and Colombia.

Mr. Chairman, our economy, for the most part, has been frozen. At this time, we must reevaluate our spending programs with an eye toward cutting the fat and the waste, and toward saving the taxpayers money whenever and wherever possible.

First, we should begin with the farm subsidy program, which, as we all know, benefits the huge agribusinessman who can afford to cultivate large tracts of land. This giveaway program paid agribusinessmen $3 billion in 1970—the largest single payment going to the J. G. Boswell Co. which took in $4.4 million in Government payments. Boswell—hardly of the "dirt farmer" image—is primarily a cotton producer.

Second, we should eliminate the Sugar Act, which—like the Coffee Act—establishes quotas and artificially high prices. Thanks to the cartel created by the Sugar Act, the American consumer pays $600 million more for his annual supply of sugar than he would at world market prices.

In addition to higher prices, the taxpayer pays approximately $90 million annually to support the sugar cartel.

Third, and most immediately, Mr. Chairman, we must reject an extension of the Coffee Act, and repudiate this costly coffee cartel.

In total, if we could remove these special interests from the backs of the taxpayer, we could save the American taxpayer over $3.8 billion this year alone, and save the consumer close to three-fourths of a billion dollars at the market place this year.

Mrs. MINK. Mr. Chairman, I rise in support of H.R. 8293, legislation to continue until September 30, 1973, the International Coffee Agreement Act of 1968.

The bill makes no changes in this highly succcessful program, which has brought great benefits to the consumers of the United States, but merely allows it to continue for 2 more years. The U.S. participation in this program ended on July 1, 1971.

The International Coffee Agreement Act has a major effect on the coffee industry of Hawaii. It is imperative that the act be extended so that the Hawaii growers, as well as consumers all across the Nation, do not suffer irreparable injury.

Coffee in Hawaii is grown in the Kona region of the Island of Hawaii, and thus derives its name, "Kona Coffee." Our coffee is particularly fancied by those seeking distinctive and highly satisfying flavor.

Kona Coffee production was more than 3,000 tons in 1968, and had a market value exceeding $1.5 million. Coffee is one of the promising crops of Hawaii agriculture, as there appears to be a strong and potentially large market for this valuable product.

The basic purpose of the act is to provide legislative authority to implement the International Coffee Agreement which was first established in 1962 to assure an efficient supply of coffee at reasonable prices. The agreement is designed to stabilize the price of coffee at a level fair to both producing countries and consuming countries. Under the current agreement, which was signed in 1968, 62 countries are participating.

Under the act, the President has authority to require that valid certificates accompany coffee imports from any member of the International Coffee Organization and to limit coffee imports from countries that are not members of the agreement. Protection for the consumer is also provided in provisions allowing Presidential actions in the event of an unwarranted increase in the price of coffee.

The act has worked to allow the continued existence of the Hawaii coffee industry that would otherwise suffer from intolerable market fluctuations of the type that existed prior to the agreement. With numerous countries cpable of producing an over-supply of coffee at low-wage scales, the program prevents destructive marketing practices that could have an adverse impact on the economies of these countries. Under the coffee program, these countries receive a fair income and are able to expand their economic base.

Because of the many benefits of this program to producers and consumers alike, I strongly urge adoption of H.R. 8293.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas (Mr. MILLS).

Mr. MILLS of Arkansas. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. BYRNES).

Mr. BYRNES of Wisconsin. Mr. Chairman, I yield myself 8 minutes.

Mr. BYRNES of Wisconsin. Mr. Chairman, do I correctly understand that the gentleman from Arkansas has no further requests for time?

Mr. MILLS of Arkansas. We have no further requests.

Mr. BYRNES of Wisconsin. Mr. Chairman, I am going to be very brief. There are several things in relation to this bill that impress me, and that is why I rise in support of the legislation.

First, let us remember that underlying what we are doing today is a treaty obligation of the United States. We entered into a treaty in 1962 with the various countries involved. Originally, at that time, I think there were some 50 countries, including consuming and producing countries. It was submitted to the Senate for ratification and ratified in 1963.

In order to carry out the obligations that this country had under the treaty, it was necessary that certain implementing legislation be enacted. We had to authorize the Customs Bureau to require certificates of origin with respect to the importation of the coffee that was involved. The Committee on Ways and Means acquired jurisdiction of the implementing legislation rather than the Foreign Affairs Committee because the agreement had to be implemented through the Bureau of the Customs.

The committee felt the agreement was meritorious and the Congress did provide implementation for that first agreement. It proved satisfactory. It proved advisable. It proved effective. In 1968 the treaty was renegotiated and again ratified by the Senate. We passed implementing legislation in 1968. The implementing legislation has expired and the bill before the House would extend the implementing legislation to September 30, 1973. That is why we are here today.

Let me suggest that the issue involved is whether we are going to live up to a firm commitment that this country has—and I doubt that this is the occasion that we want to run away from treaty obligations that have been agreed to by the President of the United States and confirmed by the Senate. I am not suggesting that the House should not play its part in these matters, but I am suggesting it is a pretty sensitive situation when we turn our backs on an agreement of that formality. That is one of the reasons why I

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am impressed with the necessity of passing this legislation.

Let me address the question of the stabilization of prices. A look at the chart which the gentleman from Missouri displayed shows that there has been a leveling off of prices in lieu of the sharp peaks and the deep valleys that existed in the 1950's, when there was not any agreement. Greater price stability over a period of time means prices higher than they would otherwise be, and at other times lower than they would otherwise be. This second fact—the lower prices that have prevailed in place of the peak, preagreement prices—that much of the criticism here today overlooks.

That does not mean we did not get into a very difficult situation as far as supply was concerned in 1970. We did. The world market situation suffered because of a severe drought and frost in Brazil in 1969. But if Members will note, the effect on prices in late 1969 and 1970 was much less drastic than the fluctuations that occurred in 1954 and 1955 when we had a similar situation. And in 1971 coffee prices have in fact been coming down.

While I recognize that the GAO developed a formula and reached some conclusions with respect to the stabilization of prices, they did leave out of their formula the critical periods when we had a real disruption in the supply of coffee, namely the situation that existed in 1954–55 due to the decrease in supply stemming from adverse weather in Brazil.

Let me suggest that the Department of Agriculture is also an authoritative voice in this area. Here is what they said in commenting on the GAO report:

> In examining the record it can be pointed out that the first agreement has done the job of promoting price stability for coffee consumers and producers alike. Import prices are almost 25 percent lower than the average price between 1953 and 1962, and only 10 percent higher than during the world coffee slump of 1962. The sharp price fluctuations that plagued the world coffee market in past years have been eliminated and buyers of coffee have been assured steady supplies at predictable and stable prices.

The report goes on to say:

> In the absence of the agreement, in our judgment, prices would have fallen somewhat and this would occur only in the short-run. Past experience demonstrates that this fall in prices would have been self-limiting, and prices would eventually rise completing the "boom" and "bust" cycle.

The comments of the Department of Agriculture are appendix X to the GAO Report. If they are correct, these agreements have had a salutary result.

Let us briefly look at prices a little further, Mr. Chairman.

One of the ways we measure what has happened with prices is how they vary from a base period. Let us look first at the wholesale price index for coffee. Using the base period of 1957 to 1959 as 100, what do we find?

We find that as of April 1971, on all the price index for all commodities 120; on all foods, it was 125.4; but for coffee—the index was 114, showing much less of an increase over that base period in the price of coffee than we have had in the other commodities.

I am not suggesting that can be attributed just to the agreement, but I do not think we can complain that the price of coffee has been adversely affected and that the consumer has been adversely affected by the agreement.

Using the same base period of 1957–59 as 100, let us look at the Consumer Price Index for March 1971. For all foods it was 134.8, but for coffee the price index was 109.4. Again that, the increase in coffee prices has been much less than it has been for other commodities.

If we want to add in one more factor that it seems to me is of some significance, in 1954, when we had the very serious problem in the coffee market due to adverse weather that was also a problem in 1969, the Consumer Price Index for coffee peaked at 150.9. The price index as a result of the 1969 adverse weather went to 110.7 in January of this year and has been diminishing since then, and was 105.3 in September. Contrasting these two historical situations does, I believe, show that the coffee agreement has had a salutory effect.

In view of the reasons I have outlined, Mr. Chairman, I support the bill.

Mr. MILLS of Arkansas. Mr. Chairman, we have no further requests for time.

Mr. BYRNES of Wisconsin. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 8293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302 of the International Coffee Agreement Act of 1968 (19 U.S.C. 1356f) is amended by striking out "July 1, 1971" and inserting in lieu thereof "October 1, 1973".

Mr. MILLS of Arkansas (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, I take this time to insert in the RECORD excerpts from a news article in the August 31, 1971, issue of the Wall Street Journal, headed "World Export Quota for Coffee Reduced To Reverse Price Drop."

It is datelined London and says in part:

> Coffee producing and consuming nations agreed to limit the world export quota for the year beginning October 1 to 47 million bags, off from 49.5 million bags in the current crop year.
>
> The accord was reached by the council of the International Coffee Organization after 17 days of negotiation, mainly between Brazil and the Ivory Coast for the producers and the U.S. on the consuming side.

The smaller quota says the Wall Street Journal—

> Is designed to boost world coffee prices from present levels.

Then I should like to insert some information from the National Democrat, the summer and fall 1971 issue, which is I am sure, the bible for all Democrats, including the distinguished chairman of the Ways and Means Committee, for it is the official publication of the Democrat National Committee.

Mr. MILLS of Arkansas. I do not receive it.

Mr. GROSS. Well, I will be glad to see that the gentleman is put on the mailing list. I am on it, for some reason or other. At least I get it.

On page 11 of the summer and fall 1971 issue it states:

> Thirty-one months of Nixonomics and the American Consumer.

Among other things it sets forth the price of pork chops, hamburger, and so forth in January 1969 and June 1971.

Lo and behold, the Democrats say that coffee, regular, 1 pound, was 76 cents in 1969 and up to 93 cents—93 cents in June of 1971.

Does the gentleman still want to contest with such an authoritative publication as this?

Mr. MILLS of Arkansas. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Arkansas.

Mr. MILLS of Arkansas. Not with this very authoritative document the gentleman quoted second, but with the article in the Wall Street Journal.

I should like to call my friend's attention to the fact that there is machinery within the agreement itself—not this bill, but the agreement—and in the event prices of coffee should rise in connection with this reduction in the quota then the quota itself can be raised within the agreement itself. Any time the quota forces a price rise that quota can be raised under the agreement. So I would not worry, if I were the gentleman, about that reduction.

Mr. GROSS. But I do worry, because all the consumers of this country are getting is an increase in coffee prices.

I used to pay a nickel for a cup of coffee a few years ago. Since this coffee agreement went into effect it is 15 cents and in some places 25 cents. That is a pretty hefty increase. I do not think the cost of operation of our little eating place off the House floor has increased that much. The woman who operates it tells me the wholesale price of the coffee she buys is three to four times what it was before this cartel fixing of prices over in London. I am referring to the Zaibatsu in London, the Japanese version of the gang that is fixing prices of coffee for the American consumer.

You can try to popularize, if you wish, a 25- or 50-cent cup of coffee. In my district, if I am a candidate for reelection, I do not intend to try that.

Mr. MILLS of Arkansas. If the gentleman will yield further, all that the gentleman finds at fault is with respect to the agreement itself, not the bill, because the bill has nothing whatsoever to do with the very points that the gentleman makes. The agreement was approved by the Senate, and it will be in effect until October 1973. All in the world this bill does is to give the President the authority to have the machinery necessary to carry out the agreement. They have been doing it. I dare say they can do it, perhaps in a cumbersome sort of way but not in as clean cut a way as they can if they have this bill.

Mr. GROSS. I have no illusions about what is going to happen here today, but I certainly would like to run against some individual who voted for a continuation of this machinery, as you call it, which provides that we join in a cartel which meets in London and agrees to cut the export supply of coffee which in turn either sends the price to the consumer up in this country or maintains it at an artificially high level.

Mr. MILLS of Arkansas. I would not want the gentleman moving into Arkansas and running against me. I know that.

Mr. WOLFF. Mr. Chairman, I move to strike the requisite number of words.

I just take this time to tell the gentleman from Iowa that if he comes over to our side, coffee is only 10 cents.

Mr. GROSS. Well, I have always known there was some favoritism around here. I did not know what it was.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GRAY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 8293) to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968, pursuant to House Resolution 465, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 200, nays 100, not voting 130, as follows:

[Roll No. 363]

YEAS—200

Abbitt	Buchanan	Davis, Wis.
Abourezk	Burke, Mass.	de la Garza
Adams	Burleson, Tex.	Dellenback
Anderson, Ill.	Burlison, Mo.	Dorn
Andrews, Ala.	Burton	Dow
Annunzio	Byrne, Pa.	Downing
Arends	Byrnes, Wis.	Duncan
Ashley	Byron	Dwyer
Bennett	Caffery	Edwards, Calif.
Bergland	Casey, Tex.	Eilberg
Betts	Cederberg	Erlenborn
Bevill	Chamberlain	Esch
Blatnik	Chappell	Evans, Colo.
Boggs	Collins, Tex.	Evins, Tenn.
Boiling	Colmer	Fascell
Bow	Conable	Fisher
Brademas	Corman	Flood
Brinkley	Coughlin	Flowers
Brooks	Daniel, Va.	Flynt
Brotzman	Daniels, N.J.	Foley
Brown, Mich.	Danielson	Ford, Gerald R.
Brown, Ohio	Davis, Ga.	Forsythe
Broyhill, N.C.	Davis, S.C.	Fountain
Fraser	McDonald, Mich.	Roe
Frelinghuysen	McEwen	Rogers
Frenzel	McFall	Roncalio
Frey	McKay	Rooney, N.Y.
Gallagher	McKinney	Rooney, Pa.
Garmatz	McMillan	Rousb
Giaimo	Mahon	Sandman
Gibbons	Mailliard	Satterfield
Goldwater	Mann	Schneebeli
Gonzalez	Mathias, Calif.	Seiberling
Goodling	Mathis, Ga.	Shriver
Gray	Matsunaga	Slack
Green, Oreg.	Meeds	Smith, Iowa
Green, Pa.	Melcher	Stanton, James V.
Griffin	Miller, Calif.	Steiger, Wis.
Hamilton	Mills, Ark.	Stratton
Hammer-schmidt	Mills, Md.	Stubblefield
Hanna	Monagan	Sullivan
Hansen, Wash.	Morse	Symington
Harrington	Mosher	Talcott
Harvey	Moss	Teague, Calif.
Hastings	Murphy, Ill.	Thomson, Wis.
Hathaway	Murphy, N.Y.	Ullman
Hechler, W. Va.	Myers	Van Deerlin
Heckler, Mass.	Natcher	Vander Jagt
Hicks, Mass.	Nelsen	Vanik
Hicks, Wash.	Obey	Vigorito
Hogan	O'Neill	Waggonner
Howard	Patten	Waldie
Hull	Perkins	Wampler
Hunt	Pettis	Ware
Jacobs	Pickle	Whalen
Johnson, Pa.	Pike	Whalley
Jonas	Powell	Whitehurst
Jones, Ala.	Preyer, N.C.	Widnall
Jones, N.C.	Price, Ill.	Williams
Jones, Tenn.	Pryor, Ark.	Wilson, Charles H.
Kazen	Quie	Wolff
Keith	Railsback	Wyman
Kuykendall	Reid, N.Y.	Yatron
Kyros	Reuss	Young, Tex.
Landrum	Rhodes	Zablocki
Leggett	Robinson, Va.	Zwach
McDade	Robison, N.Y.	

NAYS—100

Abzug	Grover	Podell
Anderson, Calif.	Gude	Poff
Andrews, N. Dak.	Haley	Quillen
Archer	Hall	Randall
Ashbrook	Harsha	Rangel
Begich	Hays	Rarick
Biaggi	Heinz	Rodino
Biester	Helstoski	Rosenthal
Blackburn	Hillis	Roybal
Brasco	Hungate	Runnels
Bray	Hutchinson	Sarbanes
Broomfield	Ichord	Scherle
Burke, Fla.	Kastenmeier	Scheuer
Camp	Keating	Schmitz
Carter	Kemp	Schwengel
Clancy	Kyl	Scott
Clawson, Del	Latta	Shipley
Cleveland	Long, Md.	Shoup
Collier	McCollister	Smith, Calif.
Crane	McCulloch	Snyder
Delaney	Macdonald, Mass.	Spence
Devine	Mayne	Springer
Dickinson	Mazzoli	Steiger, Ariz.
Dingell	Michel	Stokes
Donohue	Mikva	Terry
Dowdy	Miller, Ohio	Thompson, Ga.
Drinan	Minish	Thompson, N.J.
Dulski	Minshall	Tiernan
du Pont	Mitchell	Veysey
Eckhardt	Nedzi	Winn
Edwards, Ala.	Nix	Wydler
Eshleman	O'Hara	Yates
Gross	O'Konski	Young, Fla.
	Pelly	

NOT VOTING—130

Abernethy	Chisholm	Ford, William D.
Addabbo	Clark	Fulton, Tenn.
Alexander	Clausen, Don H.	Fuqua
Anderson, Tenn.	Clay	Galifianakis
Aspin	Collins, Ill.	Gaydos
Aspinall	Conte	Gettys
Badillo	Conyers	Grasso
Baker	Cotter	Griffiths
Baring	Culver	Gubser
Barrett	Dellums	Hagan
Belcher	Denholm	Halpern
Bell	Dennis	Hanley
Bingham	Dent	Hansen, Idaho
Blanton	Derwinski	Hawkins
Boland	Diggs	Hébert
Broyhill, Va.	Edmondson	Henderson
Cabell	Edwards, La.	Holifield
Carey, N.Y.	Findley	Horton
Carney	Fish	Hosmer
Celler	Johnson, Calif.	Jarman
	Karth	Sebelius
	Kee	Sikes
	King	Sisk
	Kluczynski	Skubitz
	Koch	Smith, N.Y.
	Landgrebe	Staggers
	Lennon	Stanton, J. William
	Lent	Steed
	Link	Steele
	Lloyd	Stephens
	Long, La.	Stuckey
	Lujan	Taylor
	McClory	Teague, Tex.
	McCloskey	Thone
	McClure	Udall
	McCormack	White
	McKevitt	Whitten
	Madden	Wiggins
	Martin	Wilson, Bob
	Metcalfe	Wright
	Mink	Wyatt
	Mizell	Wylie
	Mollohan	Zion
	Montgomery	
	Moorhead	
	Morgan	
	Nichols	
	Passman	
	Patman	
	Pepper	
	Peyser	
	Pirnie	
	Poage	
	Price, Tex.	
	Pucinski	
	Purcell	
	Rees	
	Riegle	
	Roberts	
	Rostenkowski	
	Rousselot	
	Roy	
	Ruppe	
	Ruth	
	Ryan	
	St Germain	
	Saylor	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Martin for, with Mr. McClory against.
Mr. Horton for, with Mr. Rousselot against.
Mr. Aspinall for, with Mr. Landgrebe against.
Mr. Abernethy for, with Mr. Roberts against.
Mr. Nichols for, with Mr. Fuqua against.
Mr. Price of Texas for, with Mrs. Grasso against.
Mr. Kluczynski for, with Mr. Addabbo against.
Mr. Johnson of California for, with Mr. Hanley against.
Mr. Gettys for, with Mr. Koch against.
Mrs. Griffths of Michigan for, with Mrs. Chisholm against.
Mr. Carney for, with Mr. Dellums against.
Mr. Rostenkowski for, with Mr. Diggs against.
Mr. Carey of New York for, with Mr. Conyers against.
Mr. Cabell for, with Mr. Bingham against.
Mr. Link for, with Mr. Badillo against.
Mr. Fulton of Tennessee for, with Mr. Hawkins against.
Mr. Holifield for, with Mr. Clay against.
Mr. Montgomery for, with Mr. Ryan against.
Mr. Broyhill of Virginia for, with Mr. Gubser against.
Mr. Don H. Clausen for, with Mr. Halpern against.
Mr. Denholm for, with Mr. Collins of Illinois against.
Mr. Passman for, with Mr. Metcalfe against.
Mr. Boland for, with Mr. Udall against.
Mr. Conte for, with Mr. Dennis against.

Until further notice:

Mr. Henderson with Mr. Belcher.
Mr. Taylor with Mr. Pirnie.
Mr. Teague of Texas with Mr. Hosmer.
Mr. Aspin with Mr. Skubitz.
Mr. Barrett with Mr. Hansen of Idaho.
Mr. Blanton with Mr. Baker.
Mr. Celler with Mr. Saylor.
Mr. Madden with Mr. Bell.
Mr. Cotter with Mr. Derwinski.
Mr. Sikes with Mr. King.
Mr. Staggers with Mr. Wiggins.
Mr. Culver with Mr. Smith of New York.
Mr. Dent with Mr. Lent.
Mr. Edmondson with Mr. Bob Wilson.
Mr. Purcell with Mr. Mizell.
Mr. Pepper with Mr. Fish.
Mr. Whitten with Mr. McClure.
Mr. Steed with Mr. Sebelius.
Mr. Stephens with Mr. O'Konski.
Mr. Hébert with Mr. McKevitt.
Mr. McCormack with Mr. Zion.
Mr. Lennon with Mr. Findley.
Mr. Morgan with Mr. Steele.
Mr. Moorhead with Mr. Peyser.
Mr. William D. Ford with Mr. McCloskey.
Mr. Gaydos with Mr. Wyatt.

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Mr. Galifianakis with Mr. Ruppe.
Mr. St Germain with Mr. Lujan.
Mr. Karth with Mr. William J. Stanton.
Mr. White with Mr. Ruth.
Mr. Anderson of Tennessee with Mr. Thone.
Mr. Alexander with Mr. Riegle.
Mr. Baring with Mr. Lloyd.
Mr. Clark with Mr. Wylie.
Mr. Hagan with Mr. Pucinski.
Mr. Rees with Mr. Patman.
Mr. Wright with Mr. Stuckey.
Mr. Mollohan with Mr. Jarman.
Mr. Kee with Mrs. Mink.
Mr. Roy with Mr. Sisk.

Messrs. HUNGATE and BRASCO changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BURLESON of Texas. Mr. Speaker I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on H.R. 8293, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

THE PRAYER AMENDMENT

(Mr. HUNGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNGATE. Mr. Speaker, it would seem appropriate on the prayer amendment for the Congress to have prayer or at least meditation and I invite my colleagues to join me.

Oh Lord,
Heal those who would worship laws instead of their Creator, and
Forgive those who would dictate to their fellow man
When to pray
Where to pray
How to pray
And yes, Oh Lord, to whom they should pray.
Help us to know the Compassionate understanding of an Abraham Lincoln, who in early manhood broke away from the structured scheme of Christian theology and who "confessed to being no Christian," yet whose spiritual leadership saved our Nation.
Lend us the idealism of an Eisenhower, who inspired not just America but the world, with the messianic and unselfish quality of his leadership, but whose affiliation with organized religion was postponed until his 62nd year. All of this was after his election to the Presidency and after completion of his "Crusade in Europe", bringing freedom to millions.
Finally, let us learn from one who is universally respected as a great teacher, revered by millions as a savior.
Lord, correct with kindness those who have forgotten his teachings about prayer, to wit:

And when thou prayest, thou shalt not be as the hypocrites are: for they love to pray standing in the synagogues and in the corners of the streets, that they may be seen of men. Verily I say unto you. "They have their reward.' But thou, when thou prayest, enter into thy closet, and when thou has shut thy door, pray to thy Father which is in secret; and thy Father which seeth in secret shall reward thee openly. But when ye pray, use not vain repetitions, as the heathen do: for they think that they shall be heard for their much speaking. Be not ye therefore like unto them: for your Father knoweth what things ye have need of, before ye ask him. . . .

Not everyone that saith unto me, 'Lord, Lord,' shall enter into the kingdom of heaven; but he that doeth the will of my Father which is in heaven. Many will say to me in that day, 'Lord, Lord, have we not prophesied in thy name? and in thy name done many wonderful works?' And then will I profess unto them, 'I never knew you: depart from me, ye that work iniquity.' The Lincoln Reader, pg. 539, Rutgers University Press, 1947.

LEGISLATIVE PROGRAM FOR WEEK OF NOVEMBER 8

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader the program for the rest of the week, if any, and the schedule for next week.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. BOGGS. In response to the distinguished minority leader, this completes the program for this week.

Next week the first order of business on Monday is House Joint Resolution 191, the prayer amendment, to be followed by District Day. There are four bills: H.R. 10677, Incorporate Gold Star Wives; H.R. 11490, Chancery Act amendment; H.R. 11489, conform charitable trust to U.S. law; and H.R. 10344, interstate compact on mental health. This will be followed by H.R. 10729, Environmental Pesticides Act under an open rule with 2 hours of debate.

On Tuesday House Resolution 601, Computer Services Funds for House Administration Committee; House Resolution 507, Dismissing Election Contest in 38th District, California; also a continuing resolution to be considered under an open rule with 1 hour of debate; and H.R. 9212, black lung benefits, with 1 hour of debate under an open rule.

On Wednesday and Thursday the Military Procurement Conference Report, which is subject to a rule being granted; and H.R. 11341, District of Columbia Revenue Act, which is subject to a rule being granted. Also H.R. 8787, the Guam and Virgin Islands Delegates bill, under an open rule with 2 hours of debate. The rule on the latter bill has already been adopted.

Of course, conference reports may be called up at any time, and any further program will be announced later. We hope not to have a session on Friday next.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. I wonder if the distinguished majority leader foresees another 2:30 in the morning session next week.

Mr. BOGGS. No.

Mr. GROSS. Or in the immediate future?

Mr. BOGGS. Not in the immediate future, I would say. I thank the gentleman for staying here.

Mr. GROSS. What was that?

Mr. BOGGS. I thank the gentleman for remaining here so earnestly and working so hard.

Mr. GROSS. Well, I did not know how to escape. I will say the gentleman programed it, and that was about all I could do.

ADJOURNMENT OVER TO MONDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERSONAL STATEMENT

Mr. McCORMACK. Mr. Speaker, I was unavoidably detained on the previous rollcall vote. I would like the RECORD to show that I would have voted affirmatively if I had been present.

PERSONAL STATEMENT

Mr. FOLEY. Mr. Speaker, on Monday, November 1, I was unavoidably detained on rollcalls Nos. 330 and 332. Had I been present, I would have voted "yea."

On yesterday, November 4, I was unavoidably detained on rollcall No. 358. Had I been present, I would have voted "yea."

BLACK LUNG DISEASE BILL

(Mr. ERLENBORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ERLENBORN. Mr. Speaker, the bill H.R. 9212, known as the black lung bill, is again scheduled for next week.

I have today received a letter from Merlin K. DuVal, M.D., Assistant Secretary for Health and Scientific Affairs, that explains quite clearly the problems that are entailed in eliminating the use of X-ray as a means for determining whether one is afflicted with pneumoconiosis. I am going to insert this in the RECORD today. I hope Members will have an opportunity to read it and will then understand the very grave problems that the Social Security Administration would have in administering this law should H.R. 9212 be passed in its present form.

Mr. Speaker, the letter I have referred to follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., November 4, 1971.

Hon. JOHN N. ERLENBORN,
House of Representatives,
Washington, D.C.

DEAR MR. ERLENBORN: As you know, the House of Representatives is scheduled to consider H.R. 9212 soon. As Assistant Secretary for Health and Scientific Affairs, I am especially concerned about the provisions of this bill to the effect that no claim for benefits under Title IV of the Federal Coal Mine Health and Safety Act of 1969 may be denied solely on the basis of a chest X-ray which is negative for pneumoconiosis.

Under Title IV, benefits are payable to miners totally disabled due to pneumoconiosis. For purposes of this title, section 410(b) defines pneumoconiosis as a "chronic dust disease of the lung arising out of employment in an underground coal mine." The diagnosis of pneumoconiosis requires evidence of dust retention in the lung. This may be demonstrated by opacities seen on chest X-rays, classified under the International Classification of Radiographs of Pneumoconioses, or by tissue examination.

Chest X-rays are readily obtainable and widely employed. Tissue examination during life, requires either a biopsy or a surgical excision, the latter most usually in the course of surgical exploration or surgical treatment for other chest or pulmonary disease. Tissue diagnosis is not, however, commonly available as a basis for diagnosing the presence of dust and reactions to dust in the lungs of coal miners applying for benefits. Also, risk and discomfort to the patient is involved in such procedure. However, beyond even these considerations, it should be recognized that when a good quality X-ray is classified negative for pneumoconiosis, there is no sound medical basis for a conclusion that pneumoconiosis exists in the individual to a degree to be disabling or that any disabling lung impairment he has is attributable to that disease.

My difficulty with the pending amendment, therefore, arises from its assumption that if an X-ray is negative for pneumoconiosis, there is still some other feasible means by which a living miner may be diagnosed as having the disease for the purpose of determining that it exists to a disabling degree. Based upon present scientific and medical knowledge, such is not the case.

Some have advocated that individuals be found eligible for benefits on the basis of pulmonary function tests, such as those which evaluate oxygen transfer. Such tests are valuable in determining whether a respirable disability exists but they do not tell us whether pneumoconiosis contributes to that disability. In brief, such tests do not establish whether there is dust retention in the lungs and hence do not show whether an individual has coal miner's pneumoconiosis.

The proposed amendment seemingly contemplates the allowance of claims where the X-rays are negative for pneumoconiosis, despite the fact that there is no medically-accepted means of diagnosing pneumoconiosis in the living miner other than by X-ray (except for those very unusual cases where biopsy has been performed. This would result in the payment of benefits on the basis of pulmonary dysfunction without evidence of dust retention in the lung, thereby providinging the benefits of the Act to many coal miners with pulmonary dysfunction regardless of its cause.

Thus. the amendment apparently would convert Title IV from a pneumoconiosis disability benefit program to a broader program for benefits to coal miners who are disabled due to any respiratory impairment. This would make benefits payable to coal miners in those cases where there is no medical evidence that pneumoconiosis is the disabling cause involved. Such benefits, however, would be unavailable to the many individuals in the general population who suffer identical respiratory disabilities.

Sincerely yours,
MERLIN K. DUVAL, M.D.,
Assistant Secretary for Health and Scientific Affairs.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, did the gentleman say this so-called black lung bill is programed for next week? I thought it was programed for today. That is one of the reasons why I am here.

Mr. ERLENBORN. The black lung bill is scheduled for next week.

Mr. HALL. I wish I had an antenna like the gentleman does, so I could tune in on the program, and garner this programing intelligence.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, it was announced here early this morning that the black lung bill was postponed until next week and that the official business today was consideration of the coffee agreement.

Mr. HALL. Mr. Speaker, I thank the gentleman. I must have had a short nap about 3:35 a.m.

U.S. ROLE IN SOUTH ASIA

(Mr. MORSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MORSE. Mr. Speaker, I believe that the United States can play a positive part in alleviating some of the current suffering in South Asia and in restoring some order and equity to this ravaged area, if U.S. policymakers carefully and completely reevaluate the role we are presently playing there. With Indian Prime Minister Gandhi currently visiting the United States and engaging in talks with President Nixon, there can be no better time than right now to examine some of the axioms upon which our policies toward India and Pakistan are based.

Mr. Richard Morse, of Andover, Mass., an industrial consultant specializing in South Asia investment, has recently written an extremely timely article for the Christian Science Monitor suggesting certain major U.S. initiatives toward India as a possible way to avoid the currently brewing war between India and Pakistan. Mr. Morse suggests that the United States, in the past, has failed to study with sufficient thoroughness the implications of the elections of 1970–71 in both these countries, and he concludes that, properly understood, the elections may be used as a resource for regional peace.

I commend Mr. Morse's article to my colleagues as a highly enlightened and thoughtful exposition of the nature of domestic politics in the region and the implications of these politics for constructive U.S. policy measures. I ask unanimous consent that the article be included in the RECORD.

DEMOCRACY DIVIDED
(By Richard Morse)

A shocking disparity exists between the state of United States-India communications and the life-and-death issues facing both countries. In a near-vacuum in political relations, Prime Minister Gandhi and President Nixon will sit down early next month to make hard choices that add up to war or peace in South Asia.

The immediate crisis is over the mounting strain of East Pakistan refugees on India and Pakistan's tragic impasse in reaching a settlement enabling the refugees to return home. An underlying factor, however, is America's gross indifference to the Pakistan and Indian elections of 1970–71. If President Nixon can recapture the spirit and strengths of these elections, he will find that they are still a resource for peace.

1. Populist parties committed to meeting needs of the poor—for land, jobs, housing, and health—won striking victories in India and in both wings of Pakistan. Progress toward economic and social freedom through Asia's largest free elections creates an underlying unity more basic than the violence since March.

2. Mrs. Gandhi's perspicacity and drive swept India beyond one-party rule, past the split in the Congress Party, to an era of strongly contested Central and State elections. This was India's fifth nationwide vote. In Pakistan's first, tensions built up during the long period of delay broke in a sudden polarization between East and West. Though their first free vote is at present aborted. Pakistanis gained a plane of political action they are not likely to yield easily.

3. The New Congress Party's clear victory over anti-Muslim forces carried Prime Minister Gandhi back into office with greater room for flexibility in negotiations with Pakistan than any Indian Government since independence. Without this anticommunal mandate, Mrs. Gandhi probably could not have withstood pressures for immediate Indian intervention when the Pakistan Army suppressed the Bengal movement in March. India's absorptive margin is now perilously close to its limit. Mrs. Gandhi's electoral mandate is still paramount, however, a source of pride in India and a basis for positive relations.

4. Federalism in India showed new suppleness. As the personality of major states like Tamil Nadu has grown, Central-State relations have taken on the diplomatic delicacy of relations between nations. The Indian Constitution permits an election for the national government but not necessarily for all state governments at once. Most state governments were not put to the electoral test in 1971, providing continuity amid change. New Congress gains in key states such as West Bengal offered fresh prospects of stability.

The federalist process, broadly conceived, is the best if not the only means of reversing catastrophe. Only grand initiatives can succeed:

1. President Nixon faces an uphill task in building conviction on the part of Prime Minister Gandhi that the U.S. is genuinely responsive to the freely expressed needs of Asia. Only the President personally can establish this trust. A concrete step would be to take the occasion of Mrs. Gandhi's visit to announce creation of a bipartisan commission, chaired by the Secretary of State, charged with giving highest priority to the restructuring of U.S. foreign policy

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to respond positively and on terms of full equality to proposals of democratic countries for the conquest of poverty.

2. The President must also be equipped to demonstrate to Mrs. Gandhi that the U.S. is offering positive incentives, as well as effective pressures, for the Pakistan Government to restore real negotiations with elected representatives in East Pakistan. Commitment of large U.S. economic resources may be required, not only to help rebuild shattered lives in eastern Bengal but also to undergird the transition to mutually productive economic relations between Pakistan and India.

3. Elevation of the talks to this plane would enable President Nixon to ask Prime Minister Gandhi to offer her own concepts on a style and structure of relations between India and Pakistan that would be conducive to a creative Pakistan settlement, and on forward moves in Indian policy to promote such a settlement.

Democracy divided against itself cannot stand. The unique position of Indira Gandhi and Richard Nixon as the elected leaders of the world's largest democracies is their ultimate source of effective action for peace.

ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1971

The SPEAKER. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 30 minutes.

Mr. RANDALL. Mr. Speaker, over 6 weeks ago the House considered H.R. 10351, the Economic Opportunity Amendments of 1971. I take this time today to look back in an effort to appraise what was really done when that bill was passed and also to provide for the record some comments on the poverty program which because of the lateness of the hour of final passage on Thursday night, September 30, there was no time remaining to prepare any remarks for the record in order to be time for a flight to our home district that weekened.

Although I did not support H.R. 10351 on final passage for reasons I shall hereinafter clearly explain, in years past I have always been able to praise the operation of certain portions of the poverty program in most of the rural counties of west central Missouri which it is my privilege to represent in Congress. In former years I have been able to say some very complimentary things about the regional director of the Office of Economic Opportunity, Don Thomason. That is not possible this year because he retired and removed himself from this position. I regret I am deprived of this opportunity now because, while I have been very critical of some of the OEO programs, it has always been pleasant to be able to say there were some good features of the total program that were well administered.

My reference to our former regional director does not mean that I am critical of the current incumbent Director. I can only say there has been no frequent contact with our office as there was with the former Director.

Mr. Speaker, it is my privilege today, however, to salute the West Central Rural Development Association which carries on its operations in nine of the 14 counties in our congressional district. Charles Braithwait, the director, has done an excellent job. The president of the association, William Krudwig, and all of his directors and the staff are dedicated, hard-working and strongly motivated persons. I make reference to this particular community action agency because it has operated very efficiently within an entirely rural area. This situation highlights or puts into clear focus the impediment, or the roadblock that has stood in the way of my support of the OEO, or the poverty program in former years, and that is the inadequate funding by OEO of rural projects.

In spite of all the hard work of these good people connected with the west central Missouri agency, just like all the other agencies in all the other rural areas in Missouri and across the Nation, they do not have the funds to do the job that is there to do or that which they would prefer to do. It is the same story year after year that the great bulk of the money goes to the big urban areas and the rural areas are given little consideration.

It would be unproductive at this point and probably repetitive to dwell again on the scandals of the poverty program which have happened in the past coast to coast in our big cities. I know it will be argued that there have been improvements in the operation of OEO and it is true there have been some improvements in the administration of these programs in the cities.

Notwithstanding the same sad story is repeated year after year; that is, that the funding for projects in the rural areas and particularly for the elderly in these areas amounts to a few crumbs that fall off the table after the cities and big urban areas have consumed the lion's share of funds.

Of course, I was pleased and gratified to find that this year one new program introduced by the committee chairman, the gentleman from Kentucky (Mr. PERKINS) was in the bill. I refer to the Rural Housing Development section. This program was designed to assist people in rural areas with an annual income of less than $6,200 for a family of four to obtain standard housing through low interest loans with repayment for as long as 30 years. To say it is a modest experiment in rural housing is a gross understatement, because the altogether insufficient sum of $10 million was all that was authorized nationwide for repair and rehabilitation of rural housing.

Mr. Speaker, I have diligently studied the content of H.R. 10351, as amended. At the very first look, I was amazed to discover that while this is authorizing legislation, it contained nothing but an enabling provision for the $2.19 billion for fiscal year ending June 30, 1972 and $2.75 billion for the fiscal year ending June 30, 1973. I looked in vain for any detailed breakdown of funds earmarked for the several specific purposes.

One thing seems certain—those who authored and drafted this bill intended to leave the allocation of all of the funds to the executive branch. Search as you will, there is no separate authorization or any specific amount earmarked for the several programs of the Office of Economic Opportunity.

I have found in the bill we passed the rather strange section entitled "Transfer of Funds" which authorized the Director of the OEO to transfer an amount not to exceed 10 percent of any allocation from any appropriation for the purpose of carrying out any other program or activity under the act.

I had no alternative but to oppose H.R. 10351 on final passage because of such questionable provisions as the foregoing and also because of the hard fact that once again, with the slight exception of $10 million this year for rural housing out of a total of about $5 billion authorized, the rural areas and the substantial population of elderly in these rural areas are once again forgotten under the provisions of H.R. 10351.

The gentleman from New York (Mr. SCHEUER), circulated a "Dear Colleague" letter a week or two before H.R. 10351 came to the floor, saying that he would offer an amendment to earmark $50 million for a new program designed to serve the elderly poor. The CONGRESSIONAL RECORD will show that I supported him on that amendment as revealed at page 34315 of the RECORD. One unfortunate outcome of that effort was that the Chair ruled on a voice vote that the amendment had not prevailed. We were not able to generate enough interest from those present on the floor to have recorded tellers ordered. The distinguished gentleman from New York used two words which can certainly be substantiated by conditions all over our country when he pointed out that there had long been a "systematic discrimination" against the elderly people by the poverty program. To make his case even more convincing and to prove that he must be right, the chairman of the House Committee on Education and Labor (Mr. PERKINS) on page 34315 of the day's debate, admitted that the present Economic Opportunity Act was expending only $8.5 million a year nationwide for all of the senior citizens of our country. He added, "we should be spending more." In all fairness, the chairman did say that he felt kindly disposed toward the Scheuer amendment as an effort to increase the country's awareness to the problems of the aged.

I thought it was significant that the gentleman from New York (Mr. SCHEUER) presented another figure, even lower than that of the chairman. He pointed out that only $6 million had been spent on the elderly poor in the previous fiscal year. He went on to delineate some figures that would be interesting were it not that they tell such a sorrowful story. Proceeding upon the assumption that the elderly poor comprise about 20 percent of the total poverty population, and then proceeding further upon the fact that approximately $2 billion was the total appropriated last year, the elderly should have, in all fairness, received about one-fifth of that $2 billion, or $400 million. Yet, instead of receiving their 20-percent share of that total appropriation, they received less than one-third of 1 percent, because 1 percent of $2 billon is $20 million and the elderly poor received a total of $6 million, or less than one-third of 1 percent.

The gentleman from New York has not gone off the deep end or run wild with

statistics. Actually he has been most conservative because all his amendment proposed was not to push the poor up to parity on a per capita basis, which would have meant setting aside $400 million. His amendment instead provided only a little over one-tenth of parity because his amendment called for earmarking only $50 million for all of our old people at the poverty level.

We have all heard over the years about the rioting by the blacks and some of the other minority people claiming that they have received inadequate funding under the poverty program. It seems that after a few riots they have always received greater funding. Our elderly poor, on the other hand, are almost invisible. They are silent. They are not organized. You never heard of them forming a sit-in or a stand-in, or invading Government offices to burn files. I suppose it could be said they are not listened to because they have not raised their voices. The fact remains that they have lived lives of dignity. For the most part they have worked hard and they are poor now because they are old and have to live on pensions that are inadequate for even their basic needs in this time of inflation.

The amendment of the gentleman from New York which was defeated would have greatly helped our aged poor, even though it went only one-tenth of the way to parity with youth and the middle-aged poor. It was a shame the Scheuer amendment was not adopted as a part of the bill. Its failure was reason No. 1 that I could not support the bill on final passage.

The second reason that I found it impossible to support the Office of Economic Opportunity Act Amendments of 1971 was its new title X which added a National Legal Services Corporation to the existing Economic Opportunity Act. I suppose there are some who pretended to to believe that the legal services of the OEO as it is presently constituted has been successful and helpful. The lofty ideal was to make equal justice under law become a reality for the poor. This lofty goal has not worked so well in our State of Missouri. Our chief executive had to exercise his Governor's veto over some projects in the metropolitan St. Louis area. I am not sure that each of the complaints were serious, but there was such a multiplication of complaints that when all were totaled together they made up such a substantial objection to the OEO legal program that our Governor had to act.

As to the operation of this OEO legal aid program, I have never been satisfied that there was a preservation of the lawyer-client relationship. Notwithstanding, in the metropolitan areas of our State of Missouri, there have been questions continually raised about the eligibility of the client to be served by the legal services program of the OEO. It is my understanding that quite frequently all that is necessary is for a person to come to an OEO lawyer and say, "I am indigent." No other questions are ever asked.

Perhaps the philosophy of this new Legal Services Corporation is best and accurately described in the report which accompanies H.R. 10351. In the discussion of a declaration of policy at pages 38 and 39 of the report, those who prepared the report quite properly say that the integrity of the attorney-client relationship and the adversary system of justice requires that there be no political interference with the performance of legal services. But the report goes on to say that while the existing legal services have done real well, the new private nonprofit corporation must work "to encourage the availability of legal services and legal institutions to all citizens of the United States from extraneous interference." Now surely that must have been a slip of the tongue or we should say a slip of the pen to include the words "all citizens," because if this report means anything, it means we are not just talking about the poor but really all the citizens of the country.

It has been argued that this National Legal Services Corporation is a great step forward in the direction of eliminating the legal services system from politics. The very creation of this corporation is disturbing to me. My first objection is that this is permanent legislation. Congress will not have an opportunity to work its will after a year or two as it ordinarily does when programs come up for renewal. No longer will our Governors be able to veto the activities of this new Legal Services Corporation. I have searched carefully and I can find no limit on the amount of money which could be paid the executive director of this Corporation. Take, for example, a man like Mr. William Kuntsler. He could be hired as the executive director and be paid a salary of $100,000 as the bill was passed. Moreover, there are no set limits on fees to be paid to consultants. Some of our colleagues have consulted the GAO and have been advised that the General Accounting Office says that the wording in the bill does not contain sufficient authority to properly audit the Corporation's activities.

Certainly there should continue to be grave reservations about the content of title X. It may be, or may become in my judgment, a shelter providing handsome compensation for young laywers with a radical attitude who, when once appointed under this Corporation, would be free from all future control. This means that at least these young radicals have a haven where they can operate as they please and yet be paid for it from taxpaper's money. This is truly a bonanza for all the radicals in the legal profession.

Mr. Speaker, after all the eager beavers flock into this National Legal Services Corporation, we may very well have what one member called during the debate, "judicare." Maybe this is a plan of some kind to parallel medicare, whereby all persons would be entitled to prepaid legal services just as under medicare a recipient is entitled to hospitalization.

For my own part, there also remains the concern of the advocate role played by the eager young men in this legal program. It is entirely possible these young men would involve themselves in class action suits. If and when by luck or chance the defendant should win, even then the defendant must pay his own legal fees out of his own pocket. However, if there is to be any fairness in such types of legal actions in those instances where the defendant prevails, meaning he has won his lawsuit, then the court should be able to award a judgment for attorney fees to the defendant as well as his court costs. As I appraise this new Legal Corporation, I can see it may very well be the cause of an almost endless proliferation of litigation against innocent defendants who, even if they win their lawsuits, have to pay out high attorney's fees to their own counsel. Remember the plaintiff's fees have been provided for by the new corporation which means the defendant as a taxpayer is paying both his own lawyer and also the lawyer of his plaintiff's adversary.

Bear in mind, the title X which we are discussing is no longer an authorization for appropriations limited to 2 years as are all the other provisions of the bill. This section is permanent legislation.

It is my judgment, Mr. Speaker, that when the House passed title X as part of the antipoverty program, we created a legal monstrosity which may very well return to haunt all those who supported it. If any other features are needed to serve as a cautionary warning, the very creation of a legal corporation to serve as a canopy or umbrella for a group of young radical lawyers should be enough. If that were not enough, one need only to take a look at the composition of the 17-member board of directors, only six of whom are required to be from the bar associations. To complicate things two members must come from among those individuals who are eligible for assistance under this title and two more members must come from among former legal service project attorneys.

I commented that the creation of this corporation was disturbing for a variety of reasons. We know that the other body of Congress has already voted on this and that brings up even another source of worry in that the House conferees may yield to the Senate and permit federally funded antipoverty attorneys to participate in criminal cases which they are now forbidden to do.

The CONGRESSIONAL RECORD at page 34328 will show that I tried my best to keep this provision from becoming law by voting for the amendment of the gentleman from Ohio (Mr. DEVINE) to strike out all of title X.

Reason No. 3 why I could not support H.R. 10351 on final passage was the so-called Brademas amendment or the comprehensive child care provisions. These provisions, since passage, have been described by the program's most bitter enemies as the new child control law. To start with, this amendment was not really an amendment at all in the ordinary sense of the word; instead it was a whole new body law. Who could argue that a 63-page document, printed in the RECORD only the day before the debate on this bill falls into the category of amendments in the ordinary sense of the use of that word? In fact, on Thurs-

day, September 30, the great majority of the membership were not conversant with the contents of those 63 pages. Certainly there should have been a lot more time allowed for the explanation of a thing on this kind of legislation improperly and falsely labeled as an amendment. How can the membership be expected to legislate in the dark when one who offers such an amendment is given 5 minutes to explain it and then debate is permitted to proceed for no more than an hour on such an important and far-reaching matter. It is no consolidation and certainly no answer, as was heard on that floor that afternoon, to say that the other body had already passed what was of the same content as the Brademas amendment, and so everything must be all right.

What was proposed and what was called the Brademas amendment was really a Comprehensive Child Development Act. It was a vast system of day care centers for children of all income levels. It would ultimately extend day care services to children in all income groups, wealthy and poor alike. I thought we had reached the ultimate when the family assistance program was proposed which contained the guaranteed annual wage. I must have been wrong because this program is just as revolutionary. Over in the other body, the junior Senator from New York said that this program would revolutionize the concept of child rearing in America. At the present time it will cover only about one-third of all American families—one out of three—but its long term objective is to extend these federally designed and therefore federally controlled programs to encompass all American children regardless of income.

At page 34310 of the CONGRESSIONAL RECORD of September 30, 1971, one will find recorded the key vote on the comprehensive child development program. It was a recorded teller count and the result of that vote made the Brademas amendment, or the comprehensive child development program a part of the bill by a vote of 203 to 181. The RECORD will show that I was one of those 181 who opposed this amendment. I concluded this amendment was not just a provision to help working mothers. It was a plan that goes far beyond that.

The previously passed Senate bill set the cutoff for child care to families earning less than $6,690. This, according to the minority leader and others conversant with costs of funding such a program would cost $20 billion a year. That income limitation figure was finally lowered by a recorded teller count to a figure of $4,320 in the House.

How much this will really cost no one can accurately estimate. In a recent newspaper account the Secretary of Health, Education, and Welfare said it would cost $16 billion per year if we provided care for only half of the 40,000,000 eligible children. It was reported in the Washington papers the other day that the Senate and House conferees would look at the Senate figure of $6,900 annual income and then consider the House figure of $4,320 annual income and probably agree on a compromise to give child care to all those earning as much as $5,250 per year.

The very term "child development" is so vague that no one really knows what it may entail in the future. One writer in appraising the work of the House on this momentous bill has said it is so broad that every American child could instantly become a ward of the Federal Government. Bear in mind there was no report of any kind to accompany the comprehensive child development program offered in the House. The over 60 pages was simply printed in the RECORD the night before and then offered in the House September 30. The fact that there was no report should have served as a reason for everyone to vote to recommit this whole thing to committee until there is a chance to review or study it.

The only report available at the time of our action was the Senate committee report which went so far as to say the child development program would authorize the Federal Government "to involve itself in comprehensive physical health, mental health, emotional, and cognitive development services; and to identify and treat physical, mental, and emotional problems of all children under 14 years of age."

Finally, the Senate report ends with the phrase "and other activities" which we all know is a catchall phrase and could include just about anything any Government bureaucrat wanted it to include.

Such a comprehensive provision is enough to raise questions whether this measure intends to destroy parental authority and indeed the family. Does it create rights of a child against his parents, the Government, or the school? Is it a right that he can take into the courts and sue upon? Does anyone know? Without saying so, the bill that we adopted could create mental clinics, replace schools and substitute a form of indoctrination instead of education. The Secretary of Health, Education, and Welfare has gone so far as to say that he does not hesitate to state that the purpose of child care is not merely to free mothers so that they can work, rather as the Secretary puts it, "it is an opportunity to invest in the development of the next generation."

Mr. Speaker, it may very well be that one of the best descriptions of the so-called Child Development Act added to the economic opportunity bill under what we called the Brademas amendment is by the hard-hitting James J. Kilpatrick in a feature story which appeared in the Washington Sunday Star on October 24, 1971. I am going to read into the RECORD at this point the full content of his description of the child development plan exactly as it appeared when headlined, "Child Development Plan Is a Monstrosity":

CHILD DEVELOPMENT BILL IS A MONSTROSITY

(By James J. Kilpatrick)

When the House met on the afternoon of September 30, not more than 40 or 50 members had any very clear idea of what might be contained in a proposed "Child Development Act." The bill was not even before them.

Before the afternoon had ended, after a legislative coup led by John Brademas of Indiana, the House incredibly had voted 203–181 to graft this unbelievable bill onto the Economic Opportunity Act of 1971. The Senate some weeks ago adopted a milder but similar plan. The whole scheme now awaits action by conference committee.

The Brademas bill runs to 11,000 words. It occupies 22 columns of fine type in the CONGRESSIONAL RECORD. No measure of greater importance has cleared the floor of the 92d Congress, and few have had less attention from the press.

The bill is a monstrosity. No other word suffices. Many observers had expected, as a part of plans for welfare reform, to see some bill enacted that would provide modest Federal subsidies for a few day care centers in major cities. These had been vaguely envisioned as places where welfare mothers could leave their children while they went off to work. Instead, the House has approved a breathtaking, full-blown plan for the "comprehensive" development of children to the age of 14. It is the boldest and most far-reaching scheme ever advanced for the Sovietization of American youth.

The bill begins with a recital that Congress finds "that millions of American children are suffering unnecessary harm from the present lack of adequate child development services, particularly during their early childhood years." To remedy this harm, the bill directs the Secretary of Health, Education, and Welfare to foster programs that will provide "comprehensive physical and mental health, social, and cognitive development services necessary for children participating in the program to profit fully from their educational opportunities and to attain their maximum potential."

Such programs may include food and nutritional services; medical, psychological and educational services; appropriate treatment to overcome emotional barriers; and "dissemination of information in the functional language of those to be served to assure that parents are well informed." Religious guidance plays no part.

Applications for Federal financing would be funneled through various child development councils. These in turn would supervise local policy councils, to be composed either of parents or of representatives "chosen by such parents in accordance with democratic selection procedures approved by the Secretary."

Local proposals would float up to a new office of child development. This office would create a special committee to develop Federal standards for child development services. Another committee would prepare a uniform minimum code for child development facilities. The facilities would be financed through a new child development facility insurance fund. Meanwhile, a national center for child development would foster "research." A child development research council would smile upon it all.

The bill would provide "free" care for all children of families earning not more than $4,320 a year. Other children would pay a small fee. Mr. Brademas could not really say what the program might cost—maybe $350 million in fiscal '73—but the House authorization is open-ended. The bill contemplates, ultimately, Federal support of "the entire range of services that have to do with the development of a child."

Doubtless the contrivers of this nightmare had good intentions. In the context of a sovietised society, in which the children are regarded as wards of the State and raised in State-controlled communes, the scheme would make beautiful sense. But it is monstrous to concoct any such plan for a society that still cherishes the values (however they may be abused) of home, family, church, and parental control. This bill contains the seeds for destruction of middle America; and if Richard Nixon signs it, he will have forfeited his last frail claim on middle America's support.

Perhaps my views on the poverty program are parallel to those expressed by the gentlelady from Oregon (Mrs. GREEN) who on September 30 during debate on the bill at page 34303 of the RECORD indicated that in her judgment there had been a tremendous waste in the war on poverty since the very first day the first poverty law became operative.

In her words, "It has been a scandalous waste of Federal funds." The thing that impressed me about her comments was her mention of the fact that in her city of Portland, Oreg., a consulting firm was hired to make a survey. At the time of the survey, a total of $27 million had already been spent on the war on poverty in that area. This survey was to cover a target population of between 50,000 and 60,000 people. The study concluded that 86 percent of the people in this target area had never heard of the poverty program.

To recapitulate, I opposed H.R. 10351 for three reasons: First, because of the continuing failure and neglect to authorize programs for the rural areas and particularly an adequate program for the rural elderly; second, because of the creation of a permanent and unlimited legal services section known as the National Legal Services Corporation, and third, because of the addition of the comprehensive child development program which is at once so vague and yet so potentially far reaching and open ended as to make parental care increasingly less important and as time goes on to have more and more of our children regarded as wards of the Government.

TAKE PRIDE IN AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

Enrollment in journalism schools in the United States increased by more than 16 percent from 1965 to 1966 and increased by nearly 100 percent from 1960.

SICKLE CELL DISEASE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

Mr. KEMP. Mr. Speaker, sickle cell disease is a prevalent illness among persons of black ancestry, but compared to other diseases has been neglected in the past. This neglect, in part, may have been due to lack of national leadership and lack of cohesive indigenous movements. One cohesive movement that I have become aware of is the American Sickle Cell Foundation.

The American Sickle Cell Foundation will be administered by a board of directors in consultation with a national advisory board. Regional offices will be established throughout the country and general membership will include interested individuals and affiliate organizations. These affiliate groups will retain their individual identities and goals while participating in a coordination of activities through the national Foundation according to charter agreements.

At present, President Nixon is recommending Federal funds to be designated for "combating sickle cell disease." Too often in the past such funds have been haphazardly portioned out to private organizations and local government groups for application to research programs. This has resulted in a fragmentation of research results which, without a coordinating agency, tend to become lost and dissipated without effective followup action programs.

Mr. Speaker, I am delighted that my good friend, John Mackey, is on the steering committee of the national foundation along with Bill Cosby, Willie Naulls, Dr. J. Alfred Cannon, and Dr. Herbert B. Avery. I am sure all of my colleagues are aware of the fact that John is an all-pro, tight end for the Baltimore Colts and is president of the National Football League Players Association. His commitment is typical of the modern professional athlete who is deeply concerned about helping to solve this Nation's problems and is involved in community and national programs of positive action. I am proud to call this to the attention of my colleagues and point out there are many others who are active in charity programs and endeavors to solve social problems.

Mr. Speaker, for those colleagues not particularly familiar with sickle cell disease, I am pleased to say that Dr. Herbert B. Avery, medical project director, sent to me a brochure which describes the causes and effects of the disease, as well as the extent of physical devastation resulting from it. The brochure also describes the goals of the American Sickle Cell Foundation as a cover agency dedicated to the detection, diagnosis, treatment, and prevention of this disease.

I take pleasure in inserting the brochure at this point:

THE AMERICAN SICKLE CELL FOUNDATION

WHAT IS SICKLE CELL DISEASE?

Sickle Cell Disease or Sickle Cell Anemia, as it is also called, is an inherited hemoglobin disorder of the red blood cells producing a distinctive disease process. The purpose of hemoglobin in the red cells is to combine with oxygen received from the lungs and to carry this oxygen throughout the body to serve as fuel for body tissue.

In Sickle Cell Anemia, the disease alters the arrangement of the hemoglobin substance so that, in stressful conditions when the body is deprived of oxygen, the red cells assume an abnormal shape similar to that of a crescent-moon or a sickle. This particular shape of the red cells makes traveling through the smaller blood vessels extremely difficult and produces, among other effects, an obstruction or a blood clot.

While Sickle Cell Anemia has been extensively reported and discussed in medical literature, it remains relatively unknown among the general population, due in part, to the fact that it is almost exclusively limited to persons of particular ethnic groups and geographic locations. It has been reported in American Blacks, Africans, American Indians, Caucasians of Mediterranean extraction, inhabitants of South India, and individuals of Caribbean countries. However, statistics reveal that this condition occurs by far most frequently in persons of black ancestry.

It is important to state here that Sickle Cell Anemia is not an infectious or venereal disease, nor is it a condition that arises from or is similar to leukemia. It is a genetically inherent condition which is present in the blood system of each affected person from birth.

WHAT IS THE CAUSE OF SICKLE CELL ANEMIA?

The original cause of Sickle Cell Anemia is unknown although many of its signs and symptoms are understood. Current theory, not fact, is that evolution played a major role in this disease development. Studies in certain African countries have demonstrated that individuals with Sickle Cell Anemia are less affected than otherwise normal individuals by malaria, a disease long recorded in ancient times. It has been suggested that changes over many centuries may have taken place in the blood of Africans to protect them from malaria. If so, resulting change was transferred to the "New World" and Caribbean countries as a result of the slave trade.

While we do not know the historical causes of Sickle Cell Anemia, we do know the causes of its immediate effect upon the human body. In normal health, blood components, red blood cells are round, relatively flat, coin-shaped discs which maintain their basic shape throughout their individual cell life. These red blood cells contain a protein substance called hemoglobin. As the red blood cells pass through the lungs, it is this hemoglobin in the cells which adheres to oxygen particles carrying them throughout the circulatory system and thus feeding body tissue.

In Sickle Cell Anemia, the hemoglobin in the red blood cells, due to inherited weakness, is compressed against the cell wall; the otherwise round cells thus become increasingly flattened and curved into sickle shape rods. Under these conditions the sickle cell, by its reduced surface capacity, carries less oxygen than would a normal shaped cell.

A double problem now occurs: These cells obviously can no longer carry the amount of oxygen needed to feed body tissue, also, the sickle shaped cells no longer readily flow through the small blood vessels but rather tend to become hooked together into clusters, causing a "jamming-up" and blockage of the small blood vessels. Thus while they are unable to carry out their function of providing oxygen nourishment to body tissues themselves, at the same time, they also are impeding the flow of other normal shaped cells.

The sickled cells, themselves, are much more fragile than normal cells. This may result in a breakdown of cell walls, causing the blood cells to die more rapidly than normal cells. The individual life span of a normal red blood cell is approximately 120 days; the life span of a sickled cell is approximately 40 to 50 days. Thus the body must work ever harder to produce replacement cells. Gradually this becomes a losing battle and eventually the body is unable to produce new cells fast enough to replace damaged and dying cells. The result is the specific condition called anemia, which causes progressive weakness, fatigue and greatly reduced resistance to infections and infectious diseases. So the cycle goes through progressively increasing pain and medical complications leading eventually to death.

HOW DOES SICKLE CELL ANEMIA AFFECT THE BODY?

These clusters of sickled cells in the small blood vessels cause blood clots which stop the flow of cells carrying oxygen to body tissue. The resulting lack of oxygen to nourish body tissue causes it to die. As body tissue dies it

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results in extreme localized pain which is usually the primary presenting symptom of this disease.

The first symptoms usually appear two to four years of age. The child may go for months relatively free from pain, but, because of the chronic state of anemia, the child may tire easily and eat poorly.

Symptoms may be brought on by an infection such as the common cold or other disorders or conditions such as diabetes, excessive fatigue and high altitude level which may affect the body's need for oxygen. As a result of these factors, the child may develop a "crisis", a period in which the symptoms become severe with marked pain in the abdomen, legs and arms, swelling of the joints, weakness, vomiting and jaundice (yellow color of the eyes). In addition the child's urine may become dark in color and his blood count may drop rapidly, producing shock.

These conditions may become severe enough to produce serious complications such as strokes with resulting paralysis. Such "crisis" occur quite frequently throughout the childhood period and as a result children have a tendency to be below average in height and weight, and demonstrate a delay in changes resulting in puberty. It is, however, important to note that Sickle Cell Anemia does *not* produce mental retardation unless, possibly, as a result of severe neurological complications.

In addition to the general body deterioration which results from the natural progress of this disease, Sickle Cell Anemia is a particular hazard for persons who work in high and low altitudes, such as in airplanes, skin diving, mining, or in occupations where the oxygen supply in the air may be limited.

Sickle Cell Anemia is also particularly hazardous to pregnant women whose body capacities are being extended beyond self-maintenance to provide oxygen nourishment for their unborn babies.

Twenty years ago persons with Sickle Cell Anemia rarely lived beyond the age of 20. In the past, maternal deaths during pregnancy ran as high as 50 percent in women with Sickle Cell Anemia. Medical science has improved these statistics considerably; however, even today the incidents of spontaneous miscarriages in pregnancy are still 20 percent higher for mothers with Sickle Cell Anemia than for other mothers.

Common symptoms of Sickle Cell Anemia include:

High susceptibility to communicable diseases such as tuberculosis and influenza.

High susceptibility to infections such as pneumonia and kidney infections.

Low recuperation and healing powers to all diseases, infections and injuries.

Extreme fatigue and weakness.

Loss of appetite and loss of weight.

Episodes of severe body pain, including painful and swollen joints such as knees and elbows.

Enlarged liver and spleen and blood episodes in the urine.

Small localized strokes and open sores that will not heal.

Blindness due to retinal detachment or lens cataracts.

HOW IS SICKLE CELL ANEMIA INHERITED?

The genetic weakness which causes Sickle Cell Anemia is passed on from one or both parents to their children. Red blood cells with normal homoglobin components are given a medical designation of A. Red blood cells containing the sickle cell traits are given a medical designation of S.

Thus, if two parents each have hemoglobin type A, their children will also have hemoglobin type A and they will not have Sickle Cell Anemia. If one parent has hemoglobin type A and the other parent has type S, their children may inherit an SA combination, which results in a mild form of the disease. If two parents each have the combination SA type blood, their children may inherit either SA combination or an SS type of blood. If both parents have the SS type, the children inevitably inherit the severe form of the disease.

Since each child is the product of genes from both parents, the child obtains one gene from the mother and one from the father resulting in a certain expression. For example, if both parents are AA–AA cell combination children would be AA since there is no other possible combination allowed. If both parents are SS all children will be SS.

Because this is an inherited disorder, it may be presented in two different forms: (1) affected individuals that as a result of the disease will show certain specific signs and symptoms (severe form), and (2) "carrier trait" individuals who show no outward signs of the disease, but have the ability to transfer this disorder into future generations (mild form).

In this instance each parent is affected by the trait or mild form of the Sickle Cell Disease. Twenty-five per cent of the children born to the couple would have the severe form of the disease, fifty per cent would have the mild or trait form, and twenty-five per cent would have a genetic make-up without any form of the disease.

HOW WIDESPREAD IS SICKLE CELL ANEMIA?

At present it is estimated that approximately 10 percent of all American blacks are carriers of the inherent trait and may suffer mild forms of Sickle Cell Anemia. It is generally agreed that sickle cell anemia occurs in this country in about one out of every 400 blacks and the carrier rate occurs in approximately one out of every 11 black persons. Applying these statistics to current population figures, it is estimated that there are now at least 50,000 persons in this country with Sickle Cell Anemia and about two million individuals with sickle cell trait.

According to the 1970 census the City of Los Angeles, where specific statistics are now being kept, has a Negro population of 503,606 persons. Of these 1,259 persons could have Sickle Cell Disease; 45,324 persons potentially could be diagnosed as having the sickle cell trait. This may be contrasted with the incidence of another inherent disease, phenylketonuria (PKU), which is limited almost exclusively to the white population. The disease, PKU, occurs in about 1 out of every 20,000 persons. In comparing overall prevalence statistics, Sickle Cell Anemia is approximately ten times more common than PKU in the Los Angeles area. It is interesting to note that the California State Legislature has recently passed a law requiring that the test for PKU be performed for all newborn babies as a preventive medical measure.

WHAT CAN BE DONE ABOUT SICKLE CELL ANEMIA?

At the present time there is no specific cure for sickle cell anemia. However, there are many methods of management for the effects it produces. Experience has shown that rest, warmth, fluids, blood transfusions and antibiotics for infections have aided in combating "crises" when they arise.

New chemicals and drugs are being investigated in hopes of altering the disease process. At present, the best approach to this problem lies in the prevention of the disease particularly in its severe form SS since affected individuals do not outgrow this condition.

Sickle Cell Anemia may be identified in individuals by a relatively simple and inexpensive blood test which demonstrates the abnormal red cell shape and distinguishes the affected individual from the carrier trait. The preventive approach can be accomplished through extensive survey testing and through giving adequate genetic counseling to parents who have evidence of carrying the defective trait.

Through use of genetic research, it may be possible one day to rearrange the hemoglobin pattern of Sickle Cell Anemia and convert it to a normal one, even before the child is born. The hope and outlook for this disease is in continued research and general concern regarding this condition.

WHAT IS THE AMERICAN SICKLE CELL FOUNDATION?

This is a national organization of professional persons and interested laymen dedicated to the detection, prevention and treatment of Sickle Cell Disease. One major aim of the American Sickle Cell Foundation is to promote the accessibility of a screening and counseling services process for all pregnant black mothers during their prenatal care, for their babies at the time of delivery, for all black children entering school, for young men entering the armed services, and for persons in related hazardous occupations, as well as for couples applying for marriage licenses. The results of such mass screening will be individually and confidentially applied in genetic counseling and in planning treatment programs.

Screening will be performed of the individual's own choosing and will take place in health and institutional facilities in which there is complete confidence that the personal and confidential nature of their medical history could be protected minimizing any risk of labeling or exploitation.

The American Sickle Cell Foundation is established with offices in Los Angeles, California, 8803 South Broadway. It is administered by a Board of Directors in consultation with a National Advisory Board.

Affiliated groups retain their individual identities and goals while participating in a coordination of activities through the national Foundation according to charter agreements. Among the Foundation's goals are: coordination of research, creation of training programs, fund raising and publicity directed toward establishing detection and treatment programs.

PANAMA SEA LEVEL PROPOSAL: "THE SEA SNAKES ARE COMING"

The SPEAKER. Under a previous order of the House the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, on a number of occasions in statements before this body and in testimony before congressional committees, I have emphasized the danger of infesting the Caribbean Sea and Atlantic Ocean with the poisonous Pacific sea snake, which is related to the cobra.

One of the leading authorities in the study of this breed of predator is Dr. William A. Dunson, associate professor of biology, the Pennsylvania State University, who recently cruised between San Diego, Calif., and Panama in the Scripps Institute of Oceanography vessel *Alpha Helix*.

Dr. Dunson has summarized his observations and conclusions in a most illuminating article in the November 1971 issue of Natural History, the journal of the American Museum of Natural History.

His principal conclusions are:

First. That the risk of biological catastrophe in the construction of a sea-level canal across the American Isthmus is so high that this project must be opposed.

Second. That the major fresh water barrier between the oceans afforded by Gatun Lake must be preserved.

Third. That the infestation of the Atlantic by the poisonous Pacific sea snake would be ominous for the resort business.

Fourth. That the yellow bellied Pacific sea snake must be kept in its natural place in the Pacific.

Mr. Speaker, identical bills in both House and Senate, H.R. 712 and S. 734, providing for the major modernization of the existing Panama Canal would retain and enlarge Gatun Lake and thus continue to protect Atlantic Ocean countries from this peril.

To give Dr. Dunson's timely contribution wider circulation, I quote it as part of my remarks and commend it for study by all concerned with the interoceanic canal question.

Dr. Dunson's article follows:

[From Natural History, November 1971]

THE SEA SNAKES ARE COMING

(By William A. Dunson)

"As we sailed along we saw multitudes of grampuses every day; also water-snakes of divers colours. Both the Spaniards and Indians are very fearful of these snakes, believing there is no cure for their bitings." Basil Ringrose, 1679, in *The Buccaneers of America*, by John Esquemeling.

The accuracy of this early description by an English pirate of the yellow-bellied sea snake, *Pelamis platurus*, off the coast of Ecuador could not be greatly improved upon today. This venomous member of the sea snake family is found in great numbers along the Pacific coasts of Mexico and Central and South America, between Baja California and Ecuador. The extreme variation in coloration (divers colours") of the serpent is most unusual, and we have no more access to an antivenom for its poison than Ringrose had in 1679.

Our appalling ignorance of this remarkable snake's habits has recently been forcibly brought home by a renewal of interest in construction of a sea-level canal between the Atlantic and Pacific Oceans. The Atlantic-Pacific Inter-oceanic Canal Study Commission, which for economic and military reasons recommended construction of a sea-level canal in Panama, gave little consideration to the possibly deleterious effect of intermingling organisms from the two oceans. Other scientists, however, reflecting our increased ecological knowledge, have shown more awareness of the problems. A National Academy of Sciences committee reported that "great dangers would result from building a sea-level canal. . . . " The Pacific yellow-bellied sea snake came to center stage in this debate because it is one of the species that no one would like to see ushered into the Atlantic Ocean by our engineering follies. Another undesirable Pacific immigrant could be the crown-of-thorns starfish, which consumes coral.

To estimate the likelihood of the yellow-bellied sea snake passing through a sea-level canal, we must understand the habits of this marine reptile. It has traditionally been considered a pelagic "blue-water" species that only rarely came close to land. But in a recent cruise of the Scripps Institution of Oceanography research vessel *Alpha Helix* between San Diego and Panama, we often observed this sea snake present within a few miles of shore, and we caught some individuals within a few hundred feet of land. Another striking finding of our recent studies is that the yellow-bellied sea snake drifts passively with surface ocean currents and is sometimes swept onto coastal beaches, where it dies in the sun.

Sea snakes represent the end result of millions of years of specialization for life under very stringent conditions. For a reptile, the ocean is anything but an environmental featherbed. Its high concentration of salts (about 3.5 percent sodium chloride) makes it difficult for reptiles to retain water in their bodies, yet keep the salt concentration low. The total salt concentration of the body fluids of vertebrates is usually only about one-third that of sea water. Marine mammals keep a low blood-salt level by excreting concentrated urine, but the reptilian kidney is very weak and completely unable to produce urine more concentrated than blood. It is not surprising, therefore, to find that all marine reptiles have salt-excreting glands.

The kinds of salt glands developed reveal the divergent evolutionary paths taken by the ancestors of marine reptiles. In turtles, salty "tears" are secreted by a gland behind the eye. In the marine iguana, a large gland in the nose secrets a fluid that is sneezed out the nostrils. In the sea snakes, I have recently discovered a third type of gland, which is located under the tongue, that secrets salt into the mouth.

Sea snakes are closely related to cobras and kraits, and like them, have fixed fangs and a potent venom. As a family, they are widely distributed, being found between the latitudes of South Africa and Japan in the western Pacific and Indian Oceans, eastward to a zone between Mexico and Ecuador.

There are no sea snakes in the Atlantic Ocean, the Mediterranean Sea, or the Red Sea. The Atlantic only narrowly escaped being a home for these successful reptiles, which apparently migrated to the New World sometime after the Central American land bridge rose out of the sea for the last time, about four million years ago. Occasionally, sea snakes are found just inside the South Atlantic at Cape Town, but these individuals are as rare and out of place as the doomed sea turtles swept to the British Isles by the Gulf Stream.

Thus, sea snakes are only rarely found outside the tropical zone or the transition zone between the tropics and the temperate zone. I believe that even the most widespread form, the yellow-bellied sea snake, can breed only if the water temperature is above 68° F. Because it is able to feed at the surface and to float with ocean currents, this particular snake has by far the greatest range of any sea snake. Other kinds, such as *Laticauda*, the banded sea snakes, are much more restricted in range.

The greatest number of all sea snake species is found in the Indo-Australian area, the snakes' ancestral home. The Strait of Malacca, between the Malay Peninsula and Sumatra, harbors as many as 27 different kinds. Unfortuntely, we still know very little about how so many species are able to live in the same area without competing with one another.

The bits of information we do have about the life history and ecology of sea snakes reveal many interesting adaptations. Being air breathers, these snakes must surface. The flattened tail and laterally compressed body make them efficient divers, although most remain in relatively shallow water. Because many species feed on eels and other bottom-dwelling fish, they cannot venture into water too deep for their feeding dives. George Pickwell, an expert on sea snakes, has observed *Laticauda* trap small fish in rock crevices with the folds of its body and then grasp the fish with its mouth. I have watched a sea snake in a small aquarium use coils of its body to immobilize a fish against the side of the tank before seizing and swallowing it. This feeding response may explain how sea snakes can catch fish that could easily outswim them in open water. Shrimp and prawns have been found in the stomachs of certain sea snakes; they may have been caught while they were buried in bottom sand or mud.

The yellow-bellied sea snake, however, is entirely a surface feeder. This snake floats at the surface, perhaps simulating a stick, and fish are attracted to it as to any floating object. The snakes have been observed many times with a group of small fish faithfully swimming underneath; with a swift sideways strike the snake has a meal.

Respiration in sea snakes is interesting because they are reportedly capable of staying submerged for anywhere from two to eight hours. Their metabolism is much slower than that of mammals like ourselves, but this only partially explains dives of this duration. The sea snake's lung is greatly enlarged, extending all the way to the base of the tail. As in other snakes, the left lung is small, while the right lung is highly developed. Even the trachea, the windpipe connecting with the lung, has been modified to provide an area for exchange of gases. Certain areas of the lung in the rear of the body may serve no respiratory function but may instead act as a hydrostatic organ. In this way the snake might be able to regulate its buoyancy. Sea snakes may also have an increased tolerance for anoxia, or lack of oxygen, allowing them to pay off an "oxygen debt" after they return to the surface.

However these snakes tolerate submersion, they certainly feel at home in the water. Some sea snakes in the Philippines, which feed only on bottom-dwelling eels, have been observed diving down out of sight in clear water of a maximum depth of 500 feet. We do not know how they avoid the effects of great pressure at these depths. Types of sea snakes that must dive to the bottom for their food are confined mainly to waters within the 100-fathom line. Thus they may not be capable of diving to depths greater than 600 feet.

Sea snakes differ greatly in their breeding habits. At breeding time, certain kinds, such as *Laticauda*, mass near islands in the tropical Pacific. In the Philippine Islands there is a commercial fishery based on the islets where the snakes congregate. In a single year on Gato Islet, as many as 100,000 snakes are killed for their skins. Others are taken alive, spitted on pointed bamboo sticks, and then roasted or smoked before being eaten. Shore-breeding sea snakes lay their eggs in crevices or in caves and leave them to hatch, but the yellow-bellied sea snake never comes ashore, even at breeding time. Mating takes place at sea and the young are born alive in the water.

Several attempts have been made to define the breeding season of sea snakes, but it is by no means certain that reproduction is limited to a particular time of year. In areas with a pronounced rainy, or monsoon, season, it is quite likely that reproduction is timed to occur when the snakes return in numbers to the coast at the beginning of the storms.

It is then that fishermen pulling in their nets encounter them along the coasts and estuaries of Southeast Asia. The snakes may move into river mouths where the salinity is quite low and on occasion continue up the rivers. In one case a sea snake was caught in a freshwater lake (Grand Lac) in Cambodia after having ascended the Mekong River.

Temperature is a major factor in the distribution of sea snakes, and they are found primarily in the tropical areas of the world. In fact, the yellow-bellied sea snake is rarely found where the average temperature of the sea surface drops below 68° F. for even one month. This applies even to such equatorial regions as the Galápagos Islands or the Peruvian coast where the sea is relatively cool because of the influence of the cold Peru current coming up from the South Pole. Off the warmer Ecuadorian coast about four hundred miles away, sea snakes are numerous.

Cold surface waters keep the yellow-bellied sea snake out of the Atlantic Ocean. Migrants from the warm waters of the Indian Ocean are sometimes carried as far as Cape Town

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on the southwestern tip of Africa, but they soon die if they drift any farther. Cool waters would also prevent the yellow-bellied sea snake from invading the Mediterranean Sea, even if it could cross the barrier posed by the warm, salty waters of the Red Sea.

This snake tolerates heat no better than it does cold. I first suspected that the yellow-bellied sea snake was sensitive to high temperatures when I put some in a small bucket in the open sun at Acapulco and they quickly died. In the laboratory we found that the upper lethal limit was indeed low, about 91° F. Since the surface temperature of the tropical seas where these snakes live is as high as 88° F., I began to wonder how these snakes could live at the surface in the hot sun. The answer appears to be that the snakes dive into the cooler water below. Off the coast of Panama, we found that some snakes were cooler than the surface water that surrounded them. If the purpose of diving is only to escape the hot rays of the sun, then shallow dives would be effective because even an inch of water would partially protect the snakes.

This hypothesis, regulation of temperature by diving, is supported by the observations of a Mexican fisherman I met. He was familiar with yellow-bellied sea snakes and confidently predicted that the best time to find them was during rains. We did find snakes on sunny days, but on calm, cloudy days with intermittent showers, they were very numerous about five miles off the Mexican coast at Acapulco. According to my hypothesis, the snakes would not have to dive on rainy days when solar radiation is less intense; therefore more of them should be visible at the surface.

The sun is not the sea snake's only enemy on the surface of the sea. There are potential predators both above and below. When not floating among the tree trunks and assorted debris of the land, the yellow-bellied sea snake is very conspicuous. The startlingly marked tail is especially noticeable, so much so that you might think that the snake wants to be seen. Some experiments carried out by Ira Rubinoff of the Smithsonian Marine Laboratory in Panama indicate that this may, in fact, be so. In the eastern Pacific the sea snake has no known enemies. Even such voracious Pacific predatory fish as snappers will refuse to nibble at the snake unless it is completely camouflaged inside a piece of squid, and then they reject the morsel as soon as they taste it. The reason for their aversion becomes obvious when the snakes are offered to Atlantic predatory fish, which have never encountered a sea snake before. These fish will eat the snakes, but in about one out of twelve meals they will be bitten by the snake and die. Thus it seems that there has been a selection pressure against those Pacific fish with a taste for sea snakes. They do not live long enough to reproduce themselves. Since both sight and taste appear to be involved in the recognition of the snake by Pacific fish, the coloration might be considered a warning to all concerned: "Don't tread on me or attempt to eat me."

However, even the most deadly animals usually have an Achilles' heel, enabling at least one predator to feed on them. In this case we suspect that some of the most famous snake eaters, the birds, feed occasionally on sea snakes. There have been isolated reports of eagles and seabirds eating sea snakes. Sea snakes have also been taken from the stomachs of Philippine moray eels.

As Rubinoff has pointed out, studies of predation on sea snakes are relevant to the possible movement of the yellow-bellied sea snake into the Atlantic Ocean through the proposed sea-level canal. If the snakes were to work their way into the Atlantic through the canal, as seems likely, Atlantic fish would initially prey heavily on them before the strong selective force against snake eating took effect. But then a sea snake population explosion could occur, assuming that other environmental factors were favorable.

The question of the ability of sea snakes to move or to migrate is an interesting one since the various species differ greatly among themselves in this trait. One of the most astounding observations ever made on massed sea snakes was reported from the Strait of Malacca by W.P. Lowe in *The Trail That Is Always New*, 1932.

Leaving Colombo we departed for Penang, and the voyage from now on became more interesting, as there was a good deal to be seen, such as rocks covered with sea-birds, chiefly Gannets and Shearwaters. To starboard lay the beautiful green island of Sumatra, and to the port the Malay Peninsula. The water now became very calm and oily in appearance. After luncheon on 4th May I came on deck and was talking to some passengers when, looking landward, I saw a long line running parallel with our course. None of us could imagine what it could be. It must have been four or five miles off. We smoked and chatted, had a siesta, and went down to tea. On returning to the deck we still saw the curious line along which we had been steaming for four hours, but now it lay across our course, and we were still very curious as to what it was. As we drew nearer we were amazed to find that it was composed of a solid mass of sea-snakes, twisted thickly together. They were orange-red and black, a very poisonous and rare variety known as *Astrotia stokesii*. Some were paler in colour and as thick as one's wrist, but the most conspicuous were as thick as a man's leg above the knee. Along this line there must have been millions; when I say millions I consider it no exaggeration, for the line was quite ten feet wide and we followed its course for some sixty miles. I can only presume it was either a migration or the breeding season. I have on various occasions looked in vain in these same waters, and also enquired from officers of ships navigating this region, but have failed to hear of a similar occurrence. Many people have seen snakes of this description but never in such massed formation. It certainly was a wonderful sight. As the ship cut the line in two, we still watched the extending file of foam and snakes until it was eventually lost to sight.

Our present knowledge of sea-surface phenomena can partly explain this unusual sight. Lowe emphasizes the sea's calmness and that the snakes were mixed with foam. This is a classic description of a slick, albeit an unusually long one. Slicks form when surface water currents converge. Anything floating at the surface, a few molecules of organic material, a sea snake, or a tree trunk, may be concentrated into slicks by the horizontal convergence of flow. I am convinced that the aggregation of sea snakes described by Lowe must have occurred in a large slick because I have observed the same phenomenon, only on a smaller scale, in the eastern Pacific.

On days with little wind, slicks also form off the coasts of Mexico and Central America and they often contain thousands of snakes. The association of yellow-bellied sea snakes with slicks has been noted many times by fishermen, but only rarely by scientists. It tells us that this sea snake probably spends most of its time at the surface in a passive, motionless state. Yellow-bellied sea snakes are rarely seen swimming actively unless disturbed or diving. They are commonly observed in association with drifting debris in slicks. On windy or choppy days these snakes are widely dispersed and difficult to find. On occasion, currents also carry the yellow-bellied sea snake onto beaches, where it perishes because it is unable to crawl back to the water.

The ability of the yellow-bellied sea snake to drift contributes to its success as a world traveler. Wafted by currents and feeding occasionally on fish that seek cover in its shadow, it can cross vast expanses of open ocean. But it does not habitually live in pelagic, or open ocean, areas, probably because these areas are relatively sterile. Fish are more abundant in the coastal zones. The open ocean is no barrier to its movements, however, as it is to many bottom-feeding species of sea snakes found in the Indo-Australian region.

All of the sea snakes are poisonous. In the early stages of their evolution for a life in the sea, sea snakes probably derived a considerable advantage from their venom. The original purpose of the venom may have been to subdue large prey and perhaps secondarily to protect against predators. Yet some sea snakes, for example *Laticauda*, are famous for their docile nature. Children in Fiji pick them up and are rarely bitten. On the other hand, certain sea snakes are easily aggravated and may bite readily if provoked by being stepped on or handled roughly.

Sea snake bites are frequently not fatal, however, because of the snakes' apparent reluctance to inject venom even when they do bite. Only about one-quarter of those bitten by sea snakes ever show signs of poisoning. The purpose of withholding the venom is unknown, but whatever the explanation, we should be grateful, for sea snake venom is the most potent of any snake's. H. A. Reid, an authority on snakebite in Malaya, compared the toxic effect of the dried venom of a sea snake (*Enhydrina*) with that of three of the most deadly land snakes—the common cobra, the tiger snake, and the death adder. When injected under the skin of rats or rabbits, the sea snake venom was about two to ten times as toxic as that of the land snakes. But when sea snakes do inject venom, they deliver less of it than do land snakes. This may be of little consolation, however, unless you are the second or third person bitten by a particular snake: one scientist has calculated that the venom ejected by one fresh adult sea snake is enough to kill three men.

For North Americans the main hazard from sea snakes will arise if they are allowed to swarm into the Caribbean and tropical Atlantic through the proposed Panamanian sea-level canal. A specially appointed Committee on Ecological Research for the Interoceanic Canal has agreed with my prediction that the yellow-bellied sea snake would be able to move through a sea-level canal and reach the Atlantic Ocean. This would be ominous for the Caribbean resort trade, because tourists are unlikely to want to share their place in the sun with a dangerous snake. Live sea snakes could be washed ashore in Trinidad Nassau, or Miami Beach.

The effect of the snake's presence on man might be only one of the problems caused by its entry into the Caribbean. Rubinoff's studies on the interaction between predatory fish and sea snakes indicate that the snakes might eliminate large numbers of Atlantic fish. In some of his tests sea snakes were swallowed by captive Atlantic fish and then later regurgitated alive as the fish died from the effects of a bite. Thus one snake might kill more than one unsuspecting predatory fish.

Other potential canal migrants could be even more dangerous to the ecology of the tropical Atlantic. We only have to look at the history of the introduction of alien species into new environments to see how much damage can be done. The construction of the Welland Canal between Lake Erie and Lake Ontario allowed the movement of lampreys into the western Great Lakes, resulting in the decimation of lake trout. Other introduced species that have become nuisances in their adopted homes are starlings, house sparrows, pigeons, and carp in the United States, rabbits in Australia and Hawaii, goats in New Zealand and the Galápagos Islands, and the mongoose in Jamaica and Hawaii. The financial and ecological damage done by these and similar introduced pests is staggering. As more alien species become established in an area, the complex web of ecological relationships between the native animals and plants becomes strained and may break in places, causing extinction of some native forms. The demise of most of the unique Hawaiian birds can be directly traced to the introduction of alien species.

The proposed sea-level canal could involve the mixing of species on an unprecedented scale, and no one can predict the consequences. As a biologist, I find the risk of catastrophe so high that construction of the canal must be opposed. There is a slight hope of creating barriers in the canal, of temperature perhaps, to prevent interocean movements. This could be effective against the sea snake because it is very sensitive to high temperatures. But many other organisms may not be so sensitive. In weighing the alternatives and considering possible damage to the environment, the massive costs of a sea-level canal, the expected benefits from the new canal, and the costs and benefits from enlarging the present freshwater canal, I must conclude that construction of the sea-level canal would be a disaster of the first magnitude. The sea-level canal should not be built and the yellow-bellied sea snake should be kept in its rightful and natural place in the Pacific.

THE ETHNIC HERITAGE STUDIES PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. JAMES V. STANTON) is recognized for 10 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, the ethnic heritage studies program which was included in the Higher Education Act as reported from the Education and Labor Committee could enhance considerably the quality of our children's education at a relatively low cost. I very much regret the action of the House yesterday in deleting this program from the bill.

The ethnic heritage studies program is so worthwhile that I urge the conferees on the part of the House to grant this body another opportunity to vote upon the proposal by accepting the program as incorporated in the Senate-passed version of the Higher Education Act. This Nation was built by men of many different nationalities, and by fostering a knowledge of their historical achievements and their diverse cultures, we will greatly enrich the lives of our young people. For this reason, I strongly feel that we should not permit the possibility of launching such a program to die such a quick and untimely death.

TEXTILES: NEW STRENGTH FOR A VITAL INDUSTRY

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DORN. Mr. Speaker, the Honorable Stan Nehmer, Assistant Secretary of Commerce, played a vital and effective role in negotiating a fair trade textile agreement with Japan, Hong Kong, Korea, and Taiwan. Mr. Nehmer rendered invaluable assistance in successfully negotiating an agreement which will provide encouragement and vitality to our largest industry and its 2.3 million employees.

Mr. Speaker, Mr. Nehmer recently delivered a very timely and superb address to the annual convention of the Defense Supply Association at the Washington Hilton Hotel. I commend this excellent address to the attention of my colleagues and to the people of our country:

TEXTILES: NEW STRENGTH FOR A VITAL INDUSTRY

(Remarks by Stanley Nehmer, Deputy Assistant Secretary of Commerce for Resources)

I

I'm honored at being asked to join the distinguished panelists this morning to discuss a question you correctly place among the critical issues of this decade.

Could the U.S. textile and apparel industry, as it exists today, meet the vast and complex needs of our country in the event of a national emergency?

Like most of you, I am sure, I might be tempted to answer with a quick "Yes," if for no other reason than to recognize the accomplishments of an industry that has performed so well in past emergencies.

But much has happened over the past decade. The industry has been faced with major increases in imports which were affecting its strength and its capability to produce large quantities of goods quickly in all areas.

What I wish to do today is to discuss this import problem and some of the ways generally in which the industry has been affected.

The greatest surge in imports has occurred over the last five years. Between 1966 and 1971 imports of man-made fiber textiles and apparel increased 157% from Japan, 1521% from Taiwan, 1238% from Korea, and 466% from Hong Kong.

I do not know whether in fact the industry is still capable of meeting every single need that might ever arise in any future emergency. There may have been recent changes not yet recorded in our statistics of the industry's capability to produce products in some specific lines. In the more general sense, however, the overall capability of the industry to produce in an emergency lies in the recent success of the Administration's efforts to secure reasonable limitations on uncontrolled and skyrocketed imports of wool and man-made fiber textiles and apparel. These efforts of the last two and a half years culminated on October 15 with the signing of government-to-government understandings with Japan, the Republic of China, the Republic of Korea, and Hong Kong.

The story I am about to tell you is real.

II

The United States has been the only major import market with no quantitative restrictions on imports of wool and man-made fiber textiles and apparel. This has made us the prime target for exporting countries, particularly those whose labor costs are low in relation to ours. Our market is so vast, we can, of course, accept substantial volumes of imports, and we can allow imports to grow in the future. But we were confronted with a situation we could not accept in which all growth of this trade was directed at the United States and crippled the largest employer of all U.S. manufacturing industries. The U.S. textile and apparel industry was taking it on the chin from imports for a long time. The result has been a direct and damaging effect on the health of the industry, and consequently on the economic health and well being of communities throughout our 50 states.

We are not the only country with a textile import problem, of course. Other countries have confronted the same issues and, while their reactions have differed in some respects from country to country, they have responded in a singular way—with restraints on imports.

For example, ten European countries and Canada have had agreements with Japan, and some with Korea, Taiwan and Hong Kong, restricting imports of wool and/or man-made fiber textiles and apparel from these countries. Many countries also have resorted to quotas and administrative devices to restrict imports. In some cases their markets have been protected by industry restraint arrangements not officially enforced by their governments. Government-industry price boards in some countries impose restrictions on imports whose prices are below certain levels.

The cumulative impact of these measures is obvious. United Nations figures for 1968, the latest available, show that the United States took 72 percent of Taiwan's apparel exports that year, and the Common Market countries took only 6 percent. We took 62 percent of Korea's apparel exports, compared again with 6 percent for the European Community. We took 58 percent of Japan's apparel exports, and the Common Market took only 5 percent.

A large portion of Japan's textile mill product exports goes to Hong Kong to be made into apparel. We took 40 percent of Hong Kong's apparel exports in 1969 while the Common Market took 17 percent.

The U.S. market for textiles and apparel literally has been flooded with imports in recent years, particularly imports of man-made fiber products. In 1964, our imports of cotton, wool and man-made fiber textile products amounted to 1.5 billion equivalent square yards. In 1970, imports of these three amounted to 4.5 billion yards—with an increase of more than 700 percent for man-mades alone.

This fantastic growth has continued throughout 1971. Overall imports of textiles this year are expected to reach 6.3 billion square yards, an increase of 42 percent, with imports of man-mades going to a record 4.7 billion square yards—up 72 percent from last year and exceeding all of last year's textile imports put together.

This growth in imports of wool and man-made fiber textiles and apparel has been in marked contrast to orderly growth which has been achieved in cotton textiles. This phenomenon has resulted from the existence over the last decade of the Long Term Cotton Textile Arrangement (LTA), a multilateral agreement in which the governments of some 30 importing and exporting countries participate. Under the LTA we have negotiated bilateral cotton textile agreements with 28 governments covering 80–85 percent of our total cotton textile imports.

The significance of the LTA lies in the fact that the penetration of the U.S. market by cotton textile imports has increased in an orderly fashion over the last five years, while the import penetration for wool products has increased by about one third and has almost tripled for man-made fiber products.

Japan, Taiwan, Hong Kong and Korea have emerged over the last few years as the principal sources of U.S. textile and apparel imports, accounting for almost 60 percent of total imports of these products. Their importance can be seen in the fact that our imports of man-made fiber textiles and apparel from these four countries in the first eight months of this year were up 70 percent over the same period last year.

Japan, of course, is the largest supplier and, as such, has shown phenomenal growth. Our

imports of cotton, wool and man-made fiber textile products from Japan increased 117 percent between 1964 and 1970, from 531 million yards to 1,152 million yards. For the first eight months of 1971 imports of these products from Japan were 41 percent higher than in the corresponding period of 1970. There was a particularly alarming jump in imports of man-mades which were up 74 percent from the same period a year earlier—more than twice the annual rate of growth of such imports from Japan since 1964. And the growth an import of man-mades from Taiwan, Korea and Hong Kong has been equally impressive.

This flood of imports has contributed significantly to the U.S. balance of payments problems. In 1961, we enjoyed a modest favorable balance of $54 million in textiles and apparel made from cotton, wool and man-made fibers. By 1964 we had a deficit of $153 million. Last year the deficit climbed to $1.3 billion, and this year it is expected to exceed $1.9 billion. The trade deficit in man-made fiber products alone likely will more than double from 1970 to 1971, reaching almost $1.4 billion. Indeed our overall textile trade deficit in 1971 is expected to reach $2.15 billion, larger than that for any other major sector facing serious import impact. It is larger than our overall trade deficit, which is estimated to reach $2 billion this year, the first year since 1893 that the U.S. will experience a trade deficit.

III

Even a cursory examination shows that the rapid build-up of imports of this magnitude has brought severe hardship to an industry that is vitally important to the U.S. economy. Over the last two and a half years, while domestic production of man-made fiber products grew at an annual rate of only 3.3 percent, imports were growing at an annual rate of 77 percent.

U.S. textile and apparel production employs approximately 2.3 million workers—four times more than the American steel industry and five times more than the automobile industry—yet textile industry employment as of August 1971 was the lowest in six years. Employment in the industry has declined by over 100,000 jobs over the last two and a half years. In the absence of restraints on imports, this figure could have been expected to rise to as high as a quarter of a million jobs lost by the end of next year.

Textile and apparel plants are located in all 50 states, with the majority of the jobs in non-metropolitan areas, and the industry is unique in the increasing opportunities it offers for the unskilled and semi-skilled, youthful workers and minority-group members to find an entree to the industrial economy. But in an industry where the system is based on seniority, these employees are the first to be laid off.

Many other industries are significantly dependent on the textile and apparel industry. It is the chief customer of 675,000 cotton farmers; sole customer of 200,000 wool growers; principal customer of man-made fiber producers; primary customer of textile machinery and industrial sewing machines, and a major customer for U.S.-produced plastics, synthetic materials, dyestuffs and chemicals. Obviously, the U.S. textile problem affects all of these.

The U.S. textile industry prides itself on the growing role of automation and modernization, pointing out that it is the most efficient in the world in an operating sense. This can be attributed not only to technological inputs but also to the billions of dollars invested by the industry over the last decade to make it the most modern and efficient.

Yet, at a time when investment in modern plant and production facilities is required to stay competitive, the industry has not been able to maintain its previous capital expenditures for new plant and equipment. These expenditures dropped 11 percent in 1970, showed a slight rise to $580 million this year, but remain significantly below the $820 million level of 1966.

Accompanying this decline has been a drop in the number of textile and apparel firms in operation. In the period 1969–70, 550 of these firms failed. Another 170 failed in the first eight months of 1971, bringing the total to over 700 in two and a half years.

IV

The rapidly rising tide of imports unmistakably is the chief cause of the depressed condition of the textile and apparel sector of the U.S. economy today. Given such a fact, no government could permit the tide to continue to rise without taking steps to moderate the rate of import growth.

The history of our efforts to achieve this moderation is fully documented, beginning with the first full presentation of the issues to eleven countries by Secretary of Commerce Stans during his trips to Europe and the Far East in April and May 1969.

We suggested that the most appropriate solution would be a multilateral agreement on trade in wool and man-made fiber textiles and apparel, perhaps similar to the existing multilateral agreement on cotton textiles. Unfortunately, this suggestion was not favorably received.

Deciding that our preference for a multilateral solution should not be a bar to any progress at all, and eager to explore every reasonable avenue, we turned to the concept of bilateral talks, and began a long series of textile discussions with the Japanese Government in July 1969. In June 1970, these discussions broke down.

In the period of these talks, there was growing sentiment in the United States that the ultimate solution would have to be textile quota legislation, and such legislation was in fact introduced in the 92nd Congress. It passed the House in November 1970 but time ran out on that session of Congress before the Senate could act, and has been reintroduced and is now pending in the 93rd Congress. The Administration supported these textile quota provisions reluctantly, always emphasizing our preference for a negotiated settlement.

The Japanese Government, no doubt prompted in some small way by this movement toward quotas, asked to resume negotiations in October 1970. The U.S. Government agreed, but after three more months of negotiations the Japanese terminated the talks last March 8—at the same time the Japanese textile industry announced its own unilateral program of restraints on textile and apparel exports to the United States.

The Japanese industry program, which went into effect July 1, was clearly deficient and unacceptable. It provided no assurance of effective administration and nothing to prevent the Japanese industry from concentrating on exports of particular products in the sensitive categories.

Rejecting the Japanese industry program as not an acceptable solution, President Nixon on March 11 said the United States must "give the fullest consideration to the other alternative solutions to the textile problem." Clearly, it was time for action—and now we have acted.

The four major textile-producing countries of the Far East again were invited to negotiate a government-to-government solution to the textile problem. The negotiations that followed this renewed initiative on the part of the United States were both long and difficult, but were conducted in a spirit of mutual respect and cooperation. The results, I am sure, are well known to all of you.

On October 15, the White House announced that Ambassador-at-Large David Kennedy had that morning on behalf of the United States signed a memorandum of understanding with the Government of Japan with respect to limiting man-made fiber and wool textile exports to the United States. Similar understandings were signed later the same day with Hong Kong and on the following day with the Republic of Korea. An understanding with the Republic of China was signed earlier in the month. The undertakings are for five years in the case of Taiwan, Korea, and Hong Kong, and for three years in the case of Japan, subject to extension.

The growth rates of man-made fiber and textile apparel exports to the United States that will be permitted under these understandings range from about 5 to 7½ percent annually. Although larger than the recent rate of increase in the growth in the U.S. market, it represents only one-tenth of the abnormally high growth rates which these countries have experienced in our market this year. The growth rate for wool textile and apparel exports will be only 1 percent annually. Thus these understandings provide other countries with fair and orderly access to our market.

Of major importance will be specific limitations on trade in the most sensitive wool and man-made fiber textile and apparel categories in our market, and procedures to establish limits on categories not subject to specific ceilings if they should increase to the point of threatening to disrupt the U.S. market. Together these procedures provide for comprehensive controls on textile imports from the four major supplying countries.

Finally, it should be noted that the solution to the problem achieved by the Administration has been on the basis of negotiated mutually satisfactory agreements without risk of retaliation or confrontation. At the same time, the groundwork has been laid for even more positive contributions toward friendly cooperation in the future.

V

What does this all mean for the domestic textile and apparel industry? What does it tell us, to come back to the question I first posed, about the industry's future ability to meet the nation's needs if an emergency should arise?

My considered opinion, having lived with the textile import problem for so many years, is that the industry is in a new "ball game"—the same kind of new "ball game" that has epitomized the Administration's New Economic Policy since it was first announced by President Nixon on August 15. The agreements, which will be effectively administered, should provide the industry with new hope and confidence for the future. The substantial slowing down in the rate of growth imports will mean increased domestic output and increased employment. Strength will be restored to this essential sector of our economy—strength which will permit this industry to continue to serve our country with the wide range of products essential to our needs at all times.

SECRETARY STANS CAUTIONS—"WAIT A MINUTE"

(Mr. DORN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DORN. Mr. Speaker, Secretary Maurice Stans recently delivered a very timely and excellent address to the 40th International Conference of the Financial Executives Institute at the Shamrock in Houston. While the Congress is considering water pollution control legislation, I commend to the attention of my colleagues a careful study of this superb speech on the subject of environment as related to our economy and the general welfare.

Mr. Stans is a dynamic and progressive Secretary of Commerce, and a thorough consideration and evaluation of his remarks on this occasion is recommended to the members of my Committee on Public Works, now drafting a water quality bill which will affect industry and municipalities and, indeed, every individual in the United States.

I recommend to the Congress and to the people of our country Secretary Stans' great address:

ADDRESS BY THE HONORABLE MAURICE H. STANS

Mr. Chairman, it is a very great pleasure for me to be here today for this meeting of the Financial Executives Institute.

Many of you are old friends, and we have much in common to discuss—because of the financial background we share and because the relationship between business and government is constantly becoming more important to all of us.

Today I was faced with a choice of talking about the subject most on your mind, but of a changing and passing nature—the President's Economic Program—or, a matter of more long-run concern to business, industry and the public—the question of a balanced national approach to the environmental issues facing the nation.

The latter is the one I have chosen to discuss.

ENVIRONMENT

A concern that must be seen in perspective is the matter of the environment and the anti-pollution movement in the country today.

This is a very emotional issue in many quarters. It is a very political one in many quarters. The public for its part is demanding action—actively, vocally, impatiently demanding immediate action to resolve pollution problems.

This creates opportunities to make progress. But it also presents some difficulties.

President Nixon has declared that the nation has been long overdue in halting its abuses of the air, land and water. He has made a commitment to eliminate pollution and to cleanse the atmosphere and conditions in which we live.

So there is no question that the environment ultimately has to be cleaned up, that we have to deal with pollution.

The question is, how do we go about doing this? And in the most sensible way?

PRIORITIES

The public's desire for immediate solutions is understandable; its impatience may be justified, in many respects.

But we cannot have single track minds in which the environmental issue overrides everything. That is how some people would have us look at our problems.

But if we yield unquestionably to every popular demand, if we settle for quick, immediate solutions to one set of problems, we can very quickly catapult ourselves into others that are much more serious.

There is evidence that this is happening—and it could lead to an environmental backlash.

So before we act out of panic—out of ecological hysteria, or misinformation—I think it is time to stand back, and look at the environmental problem in the whole.

It is high time for the entire nation to weigh the needs against the demands and say: "Wait a minute, here—what are our priorities?"

We need to weigh our technological capabilities against the demands for immediate change and say: "Wait a minute—can we really get there from here?"

We need to weigh each specific proposal against economic reality and say: "Wait a Minute, how do the benefits compare with the costs?

PROBLEMS

In other words, the problem is: how do we develop public and private policies in which economics and technology are factored into every environmental assessment?

Let me spell it out.

Industry has been indiscriminately accused by some of ignoring the pollution problems of our times and being responsible for most of them.

The charge is dead wrong and it is unfair.

Industry, of course, must bear a share of the blame. But the fact recognized by too few people is that many of the worst polluters are outside of industry—municipalities, other governments, agriculture, and the public itself. Witness the fact that hundreds, perhaps thousands of American communities pour millions of tons of untreated sewage into waters every day.

RESPONSE

By contrast, almost across the board, American industries have launched vastly complex and expensive efforts to help clean up the air, water and landscape of the country.

For example:

The chemical industry in 1970 spent $600 million for pollution abatement.

The iron and steel industry has spent more than a billion dollars on air and water facilities, and almost two-thirds of that in the last two years.

The automobile industry currently is investing a quarter of a billion dollars a year in pollution research and development.

The electric industries will spend two-thirds of a billion dollars on pollution control this year alone.

The paper industry is spending $321 million for air and water pollution control this year.

The petroleum industry is spending more than $500 million in pollution control this year, and in addition is developing expensive facilities in other countries to reduce the sulphur content of fuel oils being shipped here.

The oil and tanker industries are working closely with the government to eliminate oil discharges and accidental spills into the oceans.

The fact is that, on average, American companies will have increased their pollution control spending by almost 50 percent this year over the last year. They will spend some $18 billion over the next five years to meet the requisite standards.

Unfortunately business has failed to make these achievements credibly known to the American people. This idea still persists in many quarters that industry is doing almost nothing to fight pollution and what it does do is only because it is being dragged across the line. Neither is true.

There are deliberate polluters, of course, but most business has been working at pollution control for a long time—and it can be proud of its conservation records.

PROGRESS

As a result of industry's efforts, the nation is visibly cleaner today than it was in the past.

PRESSURES

But the critics of industry press the public to insist upon quick solutions to these complex problems.

The people, in turn, press the Congress.

As a result, arbitrary timetables have been imposed, and severe regulations have been applied; research has been forced to divert from the orderly paths of science and technology; and untested ideas have been put to action before they are ready.

All of this has given some people a false feeling that the problems will all go away if we only put enough squeeze on business to act.

The trouble is that in the development of these pressures, reason sometimes gets lost and extremes become the result.

Many of the results have been beneficial to be sure, but some have been ill-conceived and harmful to people, to business, and to the country.

PHOSPHATES

Let me give you a few examples, starting with phosphate detergents—the washday ingredient that has recently come to typify the pollution villains.

Environmental pressures against phosphates were based on the argument that they accelerated the growth of algae which can destroy life in the waters.

Because of these pressures, the sale of detergent phosphates was banned by state and local governments over the country on a random crazy-quilt geographic basis.

But in the rush, perhaps someone should have said, "Wait a minute—what are we really doing here?"

As we now know, the answer is that we were taking foolish actions instead of careful ones.

DANGERS

First we set out to find a substitute for phosphates. But what happened?

Detergent manufacturers spent millions of dollars switching over to NTA, a substance used in Sweden and Canada—but it was shoved aside at the request of the government because some officials were concerned that it might create health hazards. Additional safety tests are now being carried on, but NTA cannot be used.

Then another substitutes began reaching the public containing caustic materials that were dangerous, especially to children. If those products get in a child's eyes, they can blind. Or if they are accidentally swallowed, they can maim or even kill. They have done so.

To limit these risks, the FDA has instituted labeling requirements for caustic detergents.

Unfortunately, the fact is that small children creeping on the floor next to the washing machine can't read them.

Some chemical substitutes for phosphates also wash out the flame-proofing in children's cotton sleepers which the textile industry has been working hard to develop.

FACTS

At this point more facts began to come to light:

First, phosphates are not of themselves polluters. They are nutrients, harmless to people and in fact a necessary element in human life.

Second, various scientific studies revealed that huge amounts of phosphates were pouring into the nation's waters from human waste, agricultural runoff and natural erosion—in many places far more than from detergents.

Next Congress was given scientific testimony that 85 percent of the people do not contribute phosphate waste to waters that can be affected by them, because of where they live.

Also, Congress took scientific testimony that removal of phosphates alone could rarely reduce the growth of algae.

Finally, evidence has accumulated that the general use of certain caustic substitutes in detergents could cost up to $2 billion a year in wear and tear on clothes and on washing machines.

CIRCLE

As a result, the Surgeon General of the United States has now advised state and local governments not to ban phosphates, and has recommended that housewives return to using phosphate detergents.

And the Environmental Protection Agency has advocated a $500 million program to deal

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with phosphates from all sources through improved sewage treatment plants in affected areas.

So today we are back roughly where we started about two years ago, doing what we should have done in the beginning. We are dealing with phosphates at the treatment plants in specific trouble areas, not in legislative councils and public forums all across the nation.

In the long trip around this circle, all we have done is delay progress and confuse the people—at great inconvenience and unnecessary cost to the public, to industry and to government.

My purpose in citing these points is not to defend phosphates, or the industries that use them, or the products that contain them. Instead it is a way of saying.

"Wait a Minute. Before we rush helter-skelter into immediate responses to such problems of nationwide concern, isn't it prudent first to take the time to know what we are doing? To weigh all of the factors and consequences involved?"

POWERPLANT SITINGS

For another example, take the siting of new electric power plants.

This is all too familiar to many of you. I am sure.

The nation's need for more electric power is rapidly outrunning our capacity to generate it, and our demands for energy are going to double by 1980.

The answer would seem to be simply to build more power plants.

But in many areas of the country it has become almost impossible to do so.

Environmentalist pressures in the courts have placed the entire atomic power program in suspense, just as we face our years of greatest need.

The total amount of public and private construction being held up by environmental actions in the United States today is somewhere between $5 and $10 billion—and many of these are the electric power plants we must have to meet our needs.

So we are losing both electric power, and at least a $5 billion shot in the arm that our country could use for new jobs and the economy.

EXAMPLES

We all know the power trouble that New York City has been having for years. Con Ed is being forced to seek as many as 40 different approvals, many of them on environmental grounds alone, and until it can get clean atomic power it has had to build high-cost, short-term gas turbine plants that further pollute the skies of New York.

Houston is another case in point. Generating plant construction has been blocked because of complaints that the effluents, even after a costly cooling process, would raise the temperature of the discharge basin some two degrees above the present temperature levels.

Isn't it time someone said: Wait a Minute.

If we fix the right priorities—if we integrate our environmental, technological and economic interests—*all* of them can be served without one dominating the other.

The President has urged the Congress to enact legislation to resolve the power plant siting problem. He wants to assure public discussion of plans, quick and proper resolution of environmental issues, and timely construction of the facilities.

A law along such lines is urgently needed.

DDT

Another case in point is insecticides.

We all know there are valid arguments against some of them, but in the rush away from them, we can create massive new problems.

For example, in New Jersey, without DDT, more than one million oak trees have been blighted by the Gypsy moth.

Without DDT, forest insects went rampant in Sweden, eating away the raw material of that country's biggest industry.

DDT is estimated to have saved 500 million lives throughout the world.

Without DDT in India there would be 100 million cases of malaria each year instead of a few hundred thousand.

In Ceylon, without DDT, malaria cases went from almost none up to 10 percent of the population.

In Sweden, Ceylon, Venezuela and others, without DDT insects became so devastating that laws against DDT have been repealed or amended.

In parts of the United States, without DDT, insects have made it increasingly difficult to grow lettuce, lima beans, sweet corn, and so on.

Now, in time perhaps, substitutes for present insecticides can be developed and proved out. But in the meantime, most of the substitutes are uncertain or don't even exist.

The whole question is whether by precipitous action we will create an expensive gap between the present means and the later solutions.

Again this is not a brief for DDT. This is just a way of saying:

"Wait a Minute. Before we act precipitously and ban products for one reason, shouldn't we at least be certain that the cure is not worse than the disease?"

ONE-INDUSTRY TOWNS

What about one-industry towns? Today a growing number of small communities across the country are fearful that they will lose their life if their single sustaining industry is forced to close, either because of rigid environmental protection controls or because they can't cope with the economic cost of complying.

For example:

In one California community, environmental regulations closed down the biggest industry, a cement plant. The result—175 men out of work.

The same thing happened to a small chemical plant in West Virginia. One hundred and thirty men became jobless.

There are many others.

Isn't it time for someone to say "Wait a Minute?"

Are the environmental dangers so imminent, so critical, that we have to throw thousands of productive people out of work? Are the dangers so great, so immediate, that whole communities must be run through the economic wringer?

Isn't it time that we first measure all the evidence, recognizing legitimate concerns on the one hand, weighing them fairly against valid considerations on the other, then act reasonably and carefully to protect both the environment and the jobs? It may take a bit longer but the end result would be far more satisfactory.

SST

For another example, Congress killed the SST.

The two prototype airplanes could have been used to test the environmental consequences of supersonic flight.

Instead, forty thousand jobs were lost, along with an estimated $450 million in wages and other benefits, together with losses in research, technology, aircraft leadership and foreign trade—all immeasurable.

Shouldn't we as a nation have said "Wait a Minute?" Are we so afraid to build just two experimental airplanes that we would willingly sacrifice thousands of jobs, jeopardize the the economic health of an entire city, forgo the technological advantage of an entire industry, and deny major benefits to our balance of payments?

Isn't it time we weigh our potential against the risk in every reasonable case?

PIPELINE

What about the Trans-Alaska pipeline?

Again, people have said, "let's not build it because of the possible adverse consequences to the environment".

No one suggests that we ignore these possible dangers. Everyone agrees that we must take every known precaution to protect the environment.

But there is another side of the coin—the nation's need for the oil and the benefits to Alaska.

Isn't it time somebody says on things like this, "Wait a Minute?"

We already have the technological means to provide reasonable protection against dangers to the Alaskan environment. Are we so afraid of what might happen that we will sacrifice the enormous new sources of oil we need for our homes, our cars, our jobs, our country? Will we sacrifice potential jobs for thousands of people who would be employed in the shipping industries, in Alaska and elsewhere? Will we turn our backs on all of the economic benefits to that state and to the country?

The environmental risks are recognized, but isn't it time we recognize that other considerations must also be taken into account in the national interest?

EMISSION STANDARDS

And what about the tougher emissions standards for transportation? Certainly they should be sought and should be achieved.

But—wait a minute—in the past decade the amount of hydrocarbons given off by an automobile has already been reduced by 80 percent, carbon monoxide emissions by 70 percent. And with existing capabilities, these improvements can continue in an orderly way.

But a mandatory standard of the Clean Air Act demands a 90 percent reduction below the remaining levels by 1975.

For hydrocarbons, according to experts, that level is as much as foliage gives off in the average yard of the average American home in the average suburb.

The same experts estimate that every car would have to be parked for two days after getting its tank filled—literally—because gasoline going from the pump to the car gives off at least twice the daily allowable hydrocarbons for that car.

Spreading one ounce of house paint releases the same daily quota of hydrocarbons.

Burning up two logs on the fire in the fireplace also emits the daily quota.

The list of examples could go on.

The Environmental Protection Agency has reported to Congress that we simply do not have the technology to comply with some of the standards that have been set in accordance with law.

To try to achieve these standards will result in millions of dollars of added costs, which inevitably have to go into higher consumer prices.

If we try to solve our environmental problems more quickly than our technology permits, not only will we raise costs sharply and suddenly, but we will also increase the number of false steps that we take along the way. The incomplete state of our knowledge leads directly to pitfalls that can't be foreseen.

So isn't it time to say: Wait a Minute. Let's weigh each need against the technological realities and let's not impose any more arbitrary deadlines that can't be met with the technology in sight.

Let's do the things we can do first, while making orderly progress against the others.

OFFSHORE DRILLING

What about offshore drilling? Certainly we should take every possible practical step to stop polluting the oceans.

But—wait a minute.

We have learned many things from the unfortunate spill at Santa Barbara.

For one, university studies have proved that oceans are very sturdy systems, able to take far more environmental punishment than man would ever willingly inflict.

Before we make offshore drilling too difficult let's recognize that by the end of this decade, offshore wells will have to provide 30 percent of our oil. And it will also provide much of the low-sulphur fuel that is urgently needed for clean air.

PROPOSALS

As all of you know so well, there are many other matters which we could cite and say "Wait a Minute." These examples make the point.

Let me give you some specifics as to guidelines in dealing with these matters in the future.

First, a determination of the economic impact should be required before environmental acts are mandated.

The public must know what the costs will be, what the alternatives are, and whether it will get its money's worth.

Second, a technological determination should be prepared in connection with any governmental action, indicating the time required to carry it out.

Third, we must avoid panicky, ad hoc approaches to the problems of air, land and water pollution, and develop feasible, long-range plans to deal with them on a balanced basis of regular, gradual improvements, always with consideration of the public interest and of the economic and technological factors involved.

Fourth, government should study whether companies and industries can finance the improvements that they are being required to make without prejudice to their financial security or their normal capital improvements and consider whether assistance might be required.

Fifth, the Congress should be urged to support all of the President's environmental plans relating to other than the business areas, so that industry's progress will be matched by progress in municipal disposal and other nonindustrial pollution problems.

Sixth, coordinated methods should be developed for governments to reach prompt conclusive decisions on power plant locations, as proposed by the President, in order to end those critical delays.

And finally, antitrust attitudes should be reviewed to determine the possibility of cooperative industry attempts, working together to resolve environmental problems.

OBSERVATIONS

Let me add this set of simple observations before I finish.

First, none of the major problems we face can be resolved instantly, all of them are too complex. They call for long-range programs and careful consideration of priorities and financing.

Second, business alone cannot be held responsible for all of our pollution. The burdens of responsibility and cost must be shared by all levels of government, by agriculture and by the public.

And third, the technology we need in order to solve our problem must be developed in many fields. We have a tremendous flow of uncoordinated, uncertain, imprecise data about the environment, and industry faces a severe shortage of environmental engineering specialists.

Fourth, we have to achieve greater conformity of state and local actions dealing with pollution control before we bog down the whole country in conflicting regulations and deadlines.

MANKIND

Finally, we have to recognize that even our manmade problems, in some instances, are essential to satisfying human existence on this planet. After all every new birth brings us instantly a new polluter. But even the most ardent of the environmentalists have yet to call for "no new starts" there.

Here again I suppose we could say, "Wait a Minute."

But what I am talking about is the necessity to recognize that the pollution problem exists in a real world, and it calls for balance and objectivity.

I can reduce it all to absurdity:

If we had no cars on the street, there would be no automobile pollution.

If we built no power plants, we would have no pollution from utilities.

If we washed no clothes we would have no pollution of our waterways, and so on.

But what kind of country would we have left?

The line between that kind of nonsense and the kind of sense we need to resolve the problem requires a sense of reality in dealing with the economic and technological factors, and with the impatience of those who would like to clean up the country overnight.

CONCLUSION

The time has come to bring these things into focus and stop overheating the view that we are killing ourselves today.

Without pause or equivocation, we must continue to halt pollution of the world, but we must do it realistically, soundly.

This point of view is supported by people like Dr. Philip Handler, President of the National Academy of Sciences, who not long ago said this: "My special plea is that we do not, out of a combination of emotional zeal and ecological ignorance, romanticising about the 'good old days' that never were, hastily substitute environmental tragedy for existing environmental deterioration. Let's not replace known devils by insufficiently understood unknown devils."

So all we seek fundamentally in these considerations is a balance of values, a weighing of proper priorities, a measuring of the costs against the benefits.

And, gentlemen, if we approach our problems in that spirit of balance and fairness, we can meet our ecological needs, clean up the country and do so without undue economic risks for anyone, all within the framework of continued technological progress.

That is the way I think we ought to do it.

MINORITY REPORT ON H.R. 1163—THE SO-CALLED STRATEGIC GRAIN RESERVE BILL

(Mr. GOODLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GOODLING. Mr. Speaker, one of the most foolish pieces of legislation to emerge from the Agriculture Committee in recent years may be coming to the floor of the House before long.

I am referring to H.R. 1163, the so-called strategic reserve grain bill.

The following editorial from the Wall Street Journal of October 25, 1971, states the case against this bill both succinctly and accurately:

LOOKING BACKWARD ON THE FARMS

The Nixon administration has sharply increased feed grain subsidies, but a number of lawmakers aren't satisfied. They still plan to press for a program already approved by the House Agriculture Committee.

By a 21-to-10 vote, the committee decided to resurrect an old proposal for "strategic" reserve stocks of wheat and feed grains. The only strategy involved in the plan is purely political.

Under the proposal the Agriculture Department would buy up to 300 million bushels of wheat and 25 million tons of feed grains at above-market prices. It could dispose of any of this enormous stockpile only if market prices moved considerably above current levels.

This arrangement, of course, would be stacked on top of the existing price-support setup. Like the present program, too, it would channel benefits chiefly to the larger commercial farmers who could get along very well without government help.

The Nixon administration quite correctly thinks the reserve gimmick is a lousy idea, an open invitation to the waste and scandal that has marked stockpile history in the past. House Democrats profess to be delighted by Republican opposition, claiming that they can use it to embarrass GOP candidates in the Midwest next year.

Maybe there still are some votes that can be bought with this sort of government giveaway, but their number has been diminishing, and not only because of the decline in the number of farmers. Many farmers have begun to recognize that the best hope for their business lies in taking more of the management responsibility away from government.

Instead, the backward-looking Agriculture Committee suggests moving toward even more federal involvement.

Even though we all know there is more than enough grain around, this bill would require the American taxpayer to shell out nearly $1.5 billion to accumulate 300 million bushels of wheat and 25 million tons of feed grains. Then he would get socked again with annual storage costs of over $200 million a year in the years ahead.

Grain farmers too would suffer in the years ahead as this artificial glut was dumped onto the market.

In order that all Members of the House be more fully informed about this bad legislation, I include at this point in the RECORD the following minority report on H.R. 1163 as set forth in House report 82-575:

MINORITY REPORT

We oppose the enactment of H.R. 1163 because we feel it is an ineffective and wasteful gesture that will bring more mischief than relief both to farmers and to the general public.

This bill purports to be a "strategic" reserve. Although the word "strategic" connotes stability and long-range commitment, this bill seems more "tactical" in nature. Its very legislative life is gracefully terminated at a tactically convenient time beyond the upcoming elections.[1]

While we appreciate the political arithmetic of both the Committee and the House and realise that if the issue were simply Republican vs. Democrat, this bill probably would pass.

The issue, however, is neither that simple nor that partisan. Nor should it be.

The issue is whether this plan is good for farmers and whether it is good for the public.

We contend that it is adverse to the farmer's interest and expensively futile for the public.

BAD FOR FARMERS

The avowed purpose of the bill is to raise farm prices. That is a noble objective, but little convincing evidence has been adduced that government purchases on top of the existing CCC non-recourse loan program will accomplish this.

[1] Sec. 7 of H.R. 1163 provides that authority to purchase commodities for the reserve expires at the end of the marketing year on the 1973 crop.

XUM

Most surely, however, farmers will find that after the so-called "reserve" has been accumulated it will hang there . . . like an economic sword of Damocles . . . for years to come as a threat to higher market prices.

Under the terms of the bill, grain must be sold into the market at 120 percent of the previous five-year market average. This mandate is further circumscribed by possible Presidential or Congressional actions.[a]

Thus, it is more probable than possible that in future years the surplus in this so-called reserve will be dumped onto the market and destroy any chance grain producers might have for better prices.

We must note, of course, that an amendment to cure this obvious defect was offered in the Committee. This amendment would have insulated the reserve more thoroughly from the market by setting the release price at 100 percent of parity. Unfortunately and despite our support, it was rejected by the Committee by a 16–14 vote.

The following tables prepared by the Department of Agriculture show the current and the five-year average price received and the prices at which grain could be dumped onto farm markets under H.R. 1163:

TABLE 1.—WHEAT—SELECTED DATA RELATED TO H.R. 1163

[Dollars per bushel]

	Average price received		120 percent of average price received preceding 5 years
	Current crop	Preceding 5 years	
Crop year:			
1961	$1.83	$1.83	2.20
1962	2.04	1.80	2.16
1963	1.85	1.82	2.18
1964	1.37	1.84	2.21
1965	1.35	1.77	2.12
1966	1.63	1.69	2.03
1967	1.39	1.65	1.98
1968	1.24	1.52	1.82
1969	1.24	1.40	1.68
1970 (preliminary)	1.34	1.37	1.64
1971 (estimate)	1.30	1.37	1.64

Source: USDA/ASCS–GR Oct. 4, 1971.

TABLE 2.—CORN—SELECTED DATA RELATED TO H.R. 1163

[Dollars per bushel]

	Average price received		120 percent of average price received preceding 5 years
	Current crop	Preceding 5 years	
Crop year:			
1961	$1.10	$1.11	1.33
1962	1.12	1.08	1.30
1963	1.11	1.08	1.30
1964	1.17	1.08	1.30
1965	1.16	1.10	1.32
1966	1.24	1.13	1.36
1967	1.03	1.16	1.39
1968	1.08	1.14	1.37
1969	1.15	1.14	1.37
1970 (preliminary)	1.36	1.13	1.36
1971 (estimate)	1.00	1.17	1.40

Source: USDA/ASCS–GR Oct. 4, 1971.

TABLE 3.—SORGHUM—SELECTED DATA RELATED TO H.R. 1163

[Dollars per bushel]

	Average price received		120 percent of average price received preceding 5 years
	Current crop	Preceding 5 years	
Crop year:			
1961	$1.01	$0.96	1.15
1962	1.02	.94	1.13
1963	.977	.95	1.14
1964	1.05	.94	1.13
1965	1.00	.98	1.18
1966	1.02	1.01	1.21
1967	.98	1.01	1.21
1968	.95	1.01	1.21
1969	1.07	1.00	1.21
1970 (preliminary)	1.14	1.01	1.21
1971 (estimate)	.95	1.03	1.24

Source: USDA/ASCS–GR Oct. 4, 1971.

TABLE 4.—BARLEY—SELECTED DATA RELATED TO H.R. 1163

[Dollars per bushel]

	Average price received		120 percent of average price received preceding 5 years
	Current crop	Preceding 5 years	
Crop year:			
1961	$0.979	$0.895	1.07
1962	.915	.893	1.07
1963	.897	.899	1.08
1964	.947	.898	1.08
1965	1.02	.916	1.10
1966	1.05	.952	1.14
1967	1.00	.966	1.16
1968	.91	.983	1.18
1969	.872	.985	1.18
1970 (preliminary)	.956	.970	1.16
1971 (estimate)	.85	.958	1.15

Source: USA/ASCS–GR, Oct. 4, 1971.

TABLE 5.—OATS—SELECTED DATA RELATED TO H.R. 1163

[Dollars per bushel]

	Average price received		120 percent of average price received preceding 5 years
	Current crop	Preceding 5 years	
Crop year:			
1961	$0.642	$0.623	0.75
1962	.624	.614	.74
1963	.622	.618	.74
1964	.631	.627	.75
1965	.622	.624	.75
1966	.665	.628	.75
1967	.659	.633	.76
1968	.60	.640	.77
1969	.586	.635	.76
1970 (preliminary)	.628	.626	.75
1971 (estimate)	.57	.628	.75

Source: USDA/ASCS–GR Oct. 4, 1971.

COST TO THE PUBLIC

If, as the advocates of this bill contend, it won't cost the taxpayers anything, then one might ask why do they want it.

The truth is that this bill, like nearly every farm commodity bill, is going to cost the taxpayer and cost him plenty.

In its original report on H.R. 1163 the Department estimated the total cost of establishing a grain-soybean reserve to be from $1.5 billion to $1.7 billion in addition to storage payments of $250 million per year.

The Committee amendment deletes soybeans (a position we strongly support, incidentally); thus the cost figures must be revised. The following table prepared by the Department of Agriculture estimates the costs for the bill as approved by the Committee. As can be seen, the total cost would be $1.455 billion plus $215 million per year in storage costs.

This table also projects the estimated additional cost that would be incurred by the enactment of this bill over and above the cost that would be incurred under the present program. As can be seen, the additional cost for feed grains is estimated to be $107 million and for wheat $36 million, for a total of $143 million. There would also be an extra $6 million in interest and storage costs.

The table is as follows:

TABLE 6.—ACQUISITION AND ANNUAL STORAGE AND INTEREST COSTS UNDER H.R. 1163

	Feed grains		Wheat	
	Loan rate	Maximum purchase price	Loan rate	Maximum purchase price
Acquisition costs:				
Quantity purchased (million of bushels)	100	100	100	100
Purchase price (per bushel)	$1.05	$1.17	$1.25	$1.37
Cost per 100,000,000 bushels (millions)	$105	$117	$125	$137
Cost of maximum reserve (millions)	[1] $937	[1] $1,044	[2] $375	[2] $411
Annual interest costs (millions): Per 100,000,000 bushels at 4 percent	$4	$5	$5	$5
Annual storage costs (millions): Per 100,000,000 bushels at 13 cents per bushel	$13	$13	$13	$13
Interest and storage costs (millions): Per 100,000,000 bushels	$17	$18	$18	$18
For maximum reserve	[1] 152	161	[2] 54	[2] 54

[1] 25,000,000 tons.
[2] 300,000 000 bushels.

These figures, of course, reflect only the additional acquisition costs involved in the bill.

The cost of storing and handling the accumulated surplus would go on and on. At $215 million a year it would take only five years before the U.S. taxpayer has shelled out over a *billion dollars* to grain warehouses. In ten years the storage would exceed $2 billions.

Another instance where the public's generosity would be further taxed is when the Secretary "disposes" (i.e. gives away) the so-called reserve for (1) relieving distress in the United States and the Virgin Islands under certain circumstances, (2) civil defense activities, and (3) for the preservation of and maintenance of foundation herds of cattle, sheep, and goats, etc. In these instances there would be no reimbursement to the U.S. Treasury.[a]

Thus, the three main elements of increased costs would be (1) higher acquisition costs, (2) prolonged storage, and (3) disposition of inventory without compensation to the government.

UNSOUND IN CONCEPTION

The idea of a "grain reserve" or an "ever normal granary" has been around for centuries. There is, of course, nothing wrong with the public having a little extra grain on hand in case of a shortage.

If indeed there is extra grain around, who should own it?

And how likely is it there will be an actual shortage?

And are alternative sources of grain available?

And what happens to market prices later when there is a large bumper crop with a reserve (i.e. surplus) already on hand?

H.R. 1163 does not effectively answer any of these qustions because it proposes that the Federal Government rather than farmers or the private grain trade be the keeper of the surplus.

It fails to recognize the fact that there is no shortage of grain now or in the foreseeable future.

It ignores sources of grain both at home and overseas that would be available.

In brief, it simply adds another price depressant to farmers' market price picture.

UNSOUND IN EXECUTION

Neither does it take into account changing conditions. H.R. 1163 would base purchases

[a] See sec. 4 of H.R. 1163.

and sales on a supply and demand situation that was projected as of a specified date near the beginning of the marketing year. The demand for grains cannot be pinpointed at the beginning of the marketing year since many variables affect both supply and utilization. Production estimates of the crops later in the year would change the supply-use relationship and consequent stock change. As a result, purchases might be required to be made at a time when sound policy indicated that sales be made or vice versa. Thus, in some years we might find that too much or too little was purchased.

Even operating under ideal circumstances, if too much grain was removed from the market, the price would cause a decline in utilization. A decline in use in turn would bring a further increase in carryover and necessitate additional purchases. Additionally, the situation for a particular grain or group of grains could vary between regions. For example, an ample supply in the Pacific Northwest could occur at the same time there was a shortage in the Southeast.

Furthermore, the Department's current policies are moving toward an improvement of grain marketing conditions. The extended or reseal loan program permits producers to store grain in periods following the year in which it was produced either on farms or in warehouses, with the storage charge paid by USDA. This program enables farmers to carry grain from years of overproduction into years when production is less than utilization. H.R. 1163 would disrupt this program and would deprive producers of the opportunity to make decisions on grain storage and the opportunity for storage income. Grain farmers would lose control of grain that they sold to store under a reserve contract and would be required to pay a much higher price under the resale formula to buy stocks that were in reserve contracts than they presently pay to redeem reseal loans.

As pointed out earlier, this bill likely would not have the effect of raising farm prices to the level of the government's purchase price. It might possibly bring some price increase, particularly in those years when increase in carryover was small. But in years of large increase in stocks (as is the case presently), little price effect would result. Large stocks in CCC hands would act to depress prices even though an announced resale policy existed.

Another important point made by the Department of Agriculture is that an offer to buy might bring more than the required amount specified in the bill. Thus, the problem of rationing or allocating purchases could arise. In addition, if prices were particularly low in one area and purchases created a shortage in the market, this might necessitate shipments from other areas. Such movements would disrupt and stifle the livestock and poultry industries.

A final point is that in the event and to the extent that market prices are increased a reduction in the wheat marketing certificate and feed grains payments would result. Thus, a program participant's income would be reduced while nonparticipants would get a "windfall." This could easily act to reduce program participation in later years. And as program participation falls, production increases make even larger purchases necessary. Conversely, if program participation were to be maintained at desirable levels, the payment made for acreage set gram costs.

SUMMARY

This bill is bad for grain farmers.
It is costly to taxpayers too.
It is ineffective.
It should be rejected by the House.

Page Belcher; Charles M. Teague; William C. Wampler; George A. Goodling; Clarence E. Miller; Robert B. Mathias; Wilmer D. Mizell; Paul Findley; J. Kenneth Robinson.

OHIO RELIGIOUS LEADERS OPPOSE WYLIE SCHOOL PRAYER AMENDMENT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, on Monday, the House will be asked to vote on the so-called school prayer amendment, House Joint Resolution 191. The mail from my district, with the exception of form letters, is running 2 to 1 against adoption of the prayer amendment. Some of the foremost religious leaders and groups in my district and in the State of Ohio have sent communications to me opposing the amendment. I think some of these letters and resolutions will be of interest to my colleagues, and I insert them in the RECORD at this point:

THE COUNCIL OF CHURCHES
OF GREATER AKRON,
Akron, Ohio, November 3, 1971.

Hon. JOHN F. SEIBERLING,
MEMBER,
House of Representatives

DEAR SIR: Approval of the "Prayer Amendment" (H.J. Res. 191) will create chaos. We urge you to vote down this bill.

Over one year ago, the Council of Churches of Greater Akron (including Akron, Cuyahoga Falls, Barberton and all of Summit County) was asked to endorse the effort to seek revision of the First Amendment of the U.S. Constitution. After a careful analysis of the provisions of the First Amendment, and a further analysis of the Supreme Court decisions during the past decade relating to "Religion and the Public Schools", the Council's Central Board and Assembly felt it could not, in good conscience, provide the endorsement.

Subsequently a position paper was developed and released to the constituency. It supported the present form of the First Amendment and provided a cogent rationale for doing so.

The position paper also stressed the positive alternatives for value education and teaching "about" religion in the public schools. Only one congregation out of 130 adopted a dissenting resolution, to our knowledge.

ADDITIONAL ALTERNATIVES

We understand that substitute resolution is being drafted by Representative John F. Seiberling and others. We urge your most serious consideration of this alternative. It is a very positive statement of clarification.

Most major denominations have adopted positions opposing the prayer amendment. The Akron Council includes fourteen denominational groupings.

Our position does reflect "constituency level" support.

Best wishes.

Sincerely yours,

JAMES P. EBBERS.

[From Position Paper, Council of Churches of Greater Akron]

A STATEMENT ON PRAYER IN PUBLIC SCHOOLS

CHURCH-STATE ISSUE

Numerous issues affecting church-state relations, the place of religion in public life, and the recognition of deity by government, are the arena of public debate.

SCRIPTURE GUIDELINES

We recognise that Scripture gives only guidelines, not blueprints, for determining the relationship between church and state. The charge given the church to make disciples of all men, the power given government to support good and curb evil, these remain basic for all generations. The specific ways of fostering and protecting these essentials vary from society to society and from age to age.

HERITAGE

Included in the American heritage is a recognition that man and the nation live under God. We hold that, while a practical level of civic righteousness may be achieved by men without conscious reference to deity, man's highest good is expressed by conscious commitment to divine purposes, and a nation best prospers when its people practice such affirmation as ". . . all men are created equal, that they are endowed by their Creator and certain inalienable rights, that among these are life, liberty and the pursuit of happiness". Such, happily, are the loyalties which compel our nation today, as they have in the past.

CONSTITUTION

As a fruit of this very heritage and these same loyalties, a religious pluralism has developed. The Constitution denies to government the right to interfere with the person's exercise of his religion, provided he does not tread upon the rights of others. The Constitution prohibits making any religion an established religion, showing no favoritism to one religion over another. It requires that government must steer a difficult course of benevolent neutrality. Government may not discriminate against those who practice no religion. It must remain neutral in its actions even though it carefully weighs these matters. It must foster a climate conducive to the free exercise of religion without creating a climate which makes exercise of religion incumbent upon any person.

CHURCH AND STATE

Both church and state, under God, serve genuine needs of human beings. In so doing, they mutually affect one another. Neither should surrender its independence to the other, nor perform functions exclusively appropriate to the other. They complement each other as they address themselves to the best interests and well-being of persons. They compromise each other, intensify community divisiveness, create religious or political animosities, and foster anti-government or anti-religious atmosphere, when either performs a function exclusively appropriate to the other.

A flexible friendly cooperation to achieve what is agreed as being for a common good has marked church-state relations in this nation. This has been especially true in the areas of education, welfare services, ministries to persons in institutions and the armed forces.

SCHOOLS AND RELIGION

It is a distortion of the principle of neutrality of the state towards religion to insist that public schools ignore the influence of religion upon culture and persons. Public schools no more should be agents for atheism, godless secularism, scoffing irreligion or a vague "religion in general" then they should be agents of a particular and sectarian faith. The process of education ought to include knowledge of major religious groups and their emphases, the influence of religion upon the lives of people, the contribution of religion to society, taught in history, literature and special science at the level of the pupils comprehension. The objective of such instruction is *understanding* rather than *commitment*, a teaching ABOUT religion rather than a teaching OF religion.

PRAYER AND SCRIPTURE IN SCHOOLS

Reading of Scripture and addressing deity in prayer are forms of religious expression which devout persons cherish. As such, these practices are essentially ritualistic in nature. What is cherished as a ritualistic religious expression by devout persons becomes a breach of neutrality by the state and an encroach-

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ment on the First Amendment when practiced as religious ceremony with the public school program. Mr. Justice Black, rendering the majority opinion in the case of Engle v Vitals ("The New York Regents' Prayer") declares, "New York has adopted a practice wholly inconsistent with the Establishment Clause. There can be no doubt that . . . the program of daily classroom invocation of God's blessings as prescribed in the Regents' Prayer . . . is a religious activity". To facilitate, assign or stipulate these religious exercises as integral parts of the public school program is to infringe on the distinctive beliefs of religious persons as well as on the rights of the irreligious. In the words of James Madison, "it is proper to take alarm at the first experiment on our liberties". Any breach of neutrality that is today a trickling stream may all too soon become a raging torrent. Any form of religious practice opens the way for sectarian intrusion into an institution of public education and offends minority groups. In the end religion suffers and religious liberty in its fullness is threatened when government uses the power of its laws and the public school program to engineer acts of faith.

More than a few teachers discretely and quietly conduct some sort of devotional exercise or meditational period in their classroom. They may do this because of a personal persuasion that children should be exposed, if not to the moral and spiritual rearmament that religion supplies them, at least to these aspects of our national religious heritage. They should be fully aware, however, that functioning in their capacities as teacher they constitute an intrinsic part of a state agency. As such they are committed by our Constitution to a position of neutrality, just as is the state. As the Establishment Clause and the Free Exercise Clause of the First Amendment are binding, thru the Fourteenth Amendment, upon the legislatures of the states, so are they binding upon the persons of teachers. Devotional exercises for the cultivation and nurture of religious faith ought to be centered in the home and church, with the effects of the changed lives of devout persons penetrating into the schools and every other area of community life. Community agencies carry no responsibility for such religious nurture.

PROPOSED AMENDMENTS

In so far as some proposed resolutions to amend the Constitution (Scott, S. 34; Flynt, H.R. 73; Fulton, H. R. 83; Garmatz, H.R. 88, to cite a few of the many) are directed to the purpose of validating references to God on public occasions, in public ceremonies, proclamations and documents, they are unnecessary. Neither the holdings nor chief opinions in the cases decided by the Supreme Court support the view of that the Constitution outlaws reference to God and to expression of belief and dependence upon Him, whether it be in public schools or on various public occasions. The Constitution as the basic law of the land should not be amended except to achieve some great and compelling public purpose or need. To say that the Constitution requires the deletion, in public life, of all references to our religious heritage is to interpret it as manifesting hostility to religion. This is categorically inaccurate and untrue. The Constitution as it stands, assures the free exercise of religion. The schools, the community, the government and the churches must see to it that this freedom is fully respected.

CONCLUDING COMMENDATION OF POSITION

We, the members of the Commission on Faith and Ecumenical Relations, commend this position to the Central Board of the Council of Churches of Greater Akron, as repressive of its position on the issue of prayer in public schools.

Approved by the Central Board on July 22, 1971.

Ratified by the Assembly on September 27, 1971.

DISCUSSION RESOURCES

Resources which may be used in discussing the issues of this statement:

1. S. Duber, "The Public School and Religion—The Legal Conter". (Public Library).
2. Abington v. Schempp (Nos. 142 and 119), Supreme Court of the United States (1956).
3. Engle v. Vitale (No. 370), Supreme Court of the United States (1962).
4. "Religion and the Schools: From Prayer to Public Aid"; National School Public Relations Assoc., 1201 16th Street N.W., Washington D.C. 20035. ($4.00).

THE OHIO BAPTIST CONVENTION,
Granville, Ohio, November 3, 1971.

Hon. JOHN F. SEIBERLING,
House of Representatives,
Washington, D.C.

DEAR MR. SEIBERLING: This is a follow-up to a telegram sent you today, a copy of which is enclosed.

Also enclosed is a copy of our two Resolutions dealing with this subject, as acted upon at the annual sessions of The Ohio Baptist Convention at the Arlington Memorial Baptist Church in Akron, October 15, 1971.

We would make it perfectly clear that The Ohio Baptist Convention is for prayer and for retaining and strengthening the spiritual values of life. Our concern with this proposed Amendment (H.J. Res. 191) is that while suggesting worthy goals, it does, in fact, move us a giant step toward destroying the first Amendment to the Constitution of the United States.

To enact such a law puts the government in the position of having to determine which prayers are "lawful," which type of religious exercise is "nondenominational," and which is not.

It is our sincere desire that you vote against this proposed Amendment because, in the long run, it will do more harm to the cause of religion than good.

Sincerely yours,
JOSEPH IRVINE CHAPMAN,
Executive Minister.

Enclosures: Telegram resolutions.

TELEGRAM
NIGHT LETTER,
November 3, 1971.

To the Members of Congress.
From the State of Ohio.

The Ohio Baptist Convention, representing 110,000 members in 340 churches, on October 15, at their annual sessions in Akron, voted a resolution in opposition to the so-called prayer amendment (H.J. Res. 191).

We are for prayer and for retaining the spiritual values of life but to put the government in the position of monitoring or supervising prayer and to determine what is an interdenominational or non-sectarian prayer creates more problems than it solves. We urge you to vote against this proposed amendment.

JOSEPH IRVINE CHAPMAN,
Executive Minister.

A RESOLUTION ON RELIGIOUS FREEDOM AND THE NONDENOMINATIONAL PRAYER AMENDMENT

(Sec. 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer. H.J. Res. 191).

Whereas, there is currently before the House of Representatives a proposal (H.J. Res. 191) to amend the Constitution of the United States so as to authorize participation in nondenominational prayer in any public building; and

Whereas, this proposal, by authorizing participation in nondenominational prayer, opens the door for government to determine what is acceptable prayer; and

Whereas, we are vitally concerned to maintain religious liberty, without any infringement by governmental regulation of any form, as now provided without qualification by the First Amendment to the Constitution;

Be it therefore resolved that we, the Ohio Baptist Convention, assembled in formal session on October 13–15, 1971, hereby record our opposition to H.J. Res. 191, and support our stand with the following reasons:

1. We are sympathetic with the sincere desire of many people to preserve the right of all persons to engage in genuine prayer. We deny, however, that any elected body or governmental authority has the right to determine either the place or the content of prayer, as is implied in the proposed constitutional nondenominational prayer amendment.

2. Moreover, we foresee that to authorize government by a constitutional amendment to intervene in the sacred privilege of prayer long enshrined in the character and tradition of our nation, is to make of government a judge of theology and an administrator of religious practice.

3. We fear that, if such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could threaten the integrity of both church and state.

4. The amendment could enable government to impose the limits of "nondenominationalism" on religious practices in any building that is built in whole or in part by public funds—a school, a hospital, a day care center, a nursing home, a children's home—thereby nullifying the constitutional right of the free exercise of religion.

5. We affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. This right, we believe, is protected adequately by the First Amendment as it now stands:

Article 1 Congress shall make no law respecting an establishment, or prohibiting the free exercise thereof; . . .

6. Finally, it is our opinion that the proposed amendment is offered in view of a misinterpretation of the so-called "prayer and Bible reading" decisions of the Supreme Court in 1962 and 1963, which properly prohibited government intrusion into the religious activity of school children. At no time has the Supreme Court prohibited voluntary prayer but has only ruled against governmentally prescribed prayer and governmentally sponsored religious exercises.

PRAYER IN PUBLIC PLACES

That the Resolution concerning House Joint Resolution 191 adopted by this Convention is interpreted to mean that the OBC is in favor of permitting any person or persons the right to engage voluntarily in public or private prayer without governmental authorization, supervision or interference.

NORTHEAST LAKES COUNCIL,
Cleveland, Ohio, November 2, 1971.

Congressman JOHN F. SEIBERLING,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN SEIBERLING: I am deeply disturbed about the House of Representatives resolution number 191 which is popularly referred to as the School Prayer Amendment. All the Jews in the Synagogues with which I work in western New York, northern Ohio and Michigan are deeply concerned about this threat to the Bill of Rights.

We urge you to vote against this Amendment and to permit each person to find his own religious outlet in his home, in his Church or Synagogue.

Please protect our Bill of Rights,

Sincerely,
DAVID S. HACHEN, *Rabbi.*

TELEGRAM

AKRON, OHIO, *September 21, 1971.*

JOHN SEIBERLING,
House of Representatives,
Washington, D.C.

Religious groups throughout history have come to the United States because of the guarantee in the Bill of Rights—separation of church and state. Do not allow this most basic human freedom to be abridged.

Mrs. HERBERT NEWMAN,
(Representing 200 women of Beth El Synagogue Sisterhood.)

THE EPISCOPAL CHURCH IN THE DIOCESE OF OHIO,
Cleveland, Ohio, November 1, 1971.

Hon. JOHN F. SEIBERLING,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN SEIBERLING: I understand that within the next few days you will be called upon to express yourself on H.J. Res. 191—the so-called School Prayer Amendment to the Bill of Rights.

As the titular head of the Episcopal Church in northern Ohio it is my judgment that enactment of this amendment would be a great mistake.

Obviously, I believe in prayer, advocate prayer, and feel that prayer is essential to a vital religious life. But for instruments of government to sponsor prayer, even if it be "nondenominational prayer," would be wrong.

The official policy-making body of our Episcopal Church nationally has taken this view, as have the policy-making bodies of most major denominations.

You would do the cause of religion no service by voting for this measure. I urge you to assist in its defeat.

Ever sincerely yours,
JOHN H. BURT.

IS PATRIOTISM UNCHRISTIAN?

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, the Washington Post of October 15, 1971 ran an interesting article by William Greider entitled "Group Plans to Show Radical Spirit of '76." The lead paragraph states:

A group of young New Left radicals has surfaced with a new recipe for revolution—instead of burning American flags, they intend to wrap their cause in the stars-and-strips and the spirit of '76.

In direct contrast to this radical approach by a radical segment of our society, Dr. Joseph Irvine Chapman, executive minister and executive assistant of the Ohio Baptist, the publication of the Ohio Baptist Convention, offers the time-honored approach to desirable corrective action which has been the trademark of this Nation since its beginning.

Dr. Chapman goes to the heart of a very thorny problem today, that is "conscience" versus patriotism. Dr. Elsberg, who heisted the Pentagon papers, has stated that his conscience was clear and, in essence, that the good he served was a higher good. The Berrigan brothers, from what I have read, would also fall into this category. There appears, however, to be a new wrinkle in New Left tactics; namely, that their behavior is American patriotism of the highest order. Jerry Rubin touched on this theme when he appeared at congressional hearings wearing the uniform of a soldier of the American Continental Army. His statements to the press at the time made the point that the people of the movement were the "real" Americans because their activity was in keeping with the spirit of the American Revolution.

Dr. Chapman's message should be reiterated over and over, and for this reason I insert it in the RECORD at this point:

IS PATRIOTISM UN-CHRISTIAN?

(By Dr. Joseph Irvine Chapman)

We are living in a time when it seems to be the "in thing" to constantly belittle your country, to ferret out and magnify all of its faults, to break into government offices and destroy government documents, to disobey the laws of the land, and to "leak" stolen documents to the press.

Not only have the above items—along with others that might be named—become more and more prevalent, but there has been increasing support for such actions by those who have accepted ordination to the Christian ministry. There are some religious leaders whose "stock in trade" seems to be the destruction of American democracy and the American way of life as we know it.

To be perfectly clear and to avoid any possible misunderstanding, let me state very clearly and emphatically that I believe the Christian's first loyalty and responsibility is to God. Furthermore, I believe that there are times and circumstances when the Christian has to make a willful choice between the demands of the State and the demands of God. When and if such circumstances arise, we must first of all be true to God and His Word.

However, the Christian who faces such issues needs to be very careful that the stance he takes is the will of God and not merely his own; that it is supported by scripture; and that he has taken every possible legal step to resolve the problem "before taking the law into his own hands." Furthermore, he must be willing to personally accept the consequences of his actions. To disobey the laws of the land without a clear-cut scriptual mandate is also a sin against God!

There seems to be some among us who forget that God's Word tells us plainly that governments and secular rulers are set forth to rule as a part of God's plan for man. Jesus himself made clear that we are to render unto Caesar the things that are Caesar's, even as we are to render unto God the things that are God's.

Since my conversion experience, I have been a citizen of two kingdoms: the kingdom of God and my own beloved country.

As a citizen of the kingdom of my Lord and Savior, Christ has had, and will always have, my first loyalty. I promised to follow Him wheresoever he should lead me, and whatever the cost I want to be faithful to that promise, forever.

Yet, during these same years, I have been and am a citizen of the United States. The land of my birth has valid and rightful claims upon me. To disobey its laws, tear down its institutions, weaken its cause, bring shame and disrespect upon it or destroy its very foundations is wrong and, before God, it is a sin. The only exception is where there is a clear conflict between the law of God and the law of the land.

I know some of the failures and mistakes of my country. I know the areas of its weaknesses also. But I love my country, I am loyal to it, and I think all citizens should love their country, be loyal to it and seek its highest good. They should use every orderly and legal means possible to improve it, to strengthen it, and to change it for the better.

Let us be done with disrespect for our institutions; let us be done with flag burning and those tactics that weaken and ultimately destroy the very freedoms that give us the opportunity to protest those things we think are wrong; let us be done with thinking only of what is wrong with our country and remember how much there is that is good and right in America.

I don't think it is unchristian to be patriotic. I am proud to be an American. I am proud for what my country has accomplished, is accomplishing and can accomplish in the coming tomorrows. I am proud of the freedoms we enjoy; I am proud of the opportunities that confront us. I think it is about time all who feel this way say so.

THE BEGINNING OF THE END?

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, as far back as 1963 the Wall Street Journal expressed grave concern about the usefulness of the United Nations in the worldwide pursuit for world peace. Citing various examples at that time the Journal editorial labeled the world body a "Forum for Hypocrisy." The more recent travesty in which Red China was admitted to the U.N. and the Taiwanese government expelled could sound the death knell for that organization as a meaningful and useful instrument in the world community.

I insert at this point the Wall Street Journal editorial of July 26, 1963, entitled "Forum for Hypocrisy":

FORUM FOR HYPOCRISY

Many of the things wrong with the United Nations are capsuled in the demands of independent African countries for strong action against Portugal and South Africa.

The Security Council is currently entertaining these arguments; the Africans would really like to get the two nations expelled from the UN but may settle for something like economic sanctions. It is not necessary to defend Portugal's cruelties in its African colonies or South Africa's policy of apartheid in order to see the revealing light this whole business sheds on the world organization.

One part of it is that the UN has become a forum for hypocrisy. There is always a certain amount of hypocrisy in diplomacy, we suppose, but the UN has elevated it to the level of sanctity.

Item: The attack on Portugal and South Africa rests on the charge that their policies are threatening international peace. Of all the things they are doing, that certainly is not one of them, and everyone knows it. Yet the Security Council; including the U.S., gravely agrees to listen to this nonsense.

Item: Nkrumah of Ghana sends the Council a message saying he will be satisfied with nothing less than immediate independence for Portugal's African colonies. Such talk comes with poor grace from the Communist-lining dictator of a police-state; Ghana-style independence would hardly rate as an improvement for any colony.

Naturally all this provides the Soviets with wonderful opportunities for propaganda, and the UN has certainly become a forum for that, too. The Soviet representative could hardly wait to applaud Nkrumah's sentiments, denounce Portugal and its allies (the U.S.) and propose a worldwide boycott of Portugal.

More serious are the implications of any UN action—indeed, even the present discussion of it—against these countries. For what is proposed is simply meddling in nations' internal affairs, something the UN is not supposed to do and most emphatically should not be doing. In the case of South Africa it's not even a question of colonies but strictly of policies within a sovereign nation.

On that precedent, what is to prevent the

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UN from acting against the U.S.? It could easily seize the pretext that this country is not moving fast enough on desegregation and hence, by UN logic, threatening the peace. The answer is that there is nothing in the world to prevent it. But such a possibility does not seem to disturb the UN's American fans, including the U.S. Government.

These various anomalies stem from a central difficulty, which is also a form of hypocrisy or else of stunning naivete: The assumption that a large collection of nations would in fact work together in harmony to guarantee world peace. The inclusion of the Soviet Union is alone enough to explode that notion, but there are a good many other nations as well which have no desire to get along with each other or with us.

Because of this fundamental philosophical error, it is not surprising to see the peace organization waging war to suppress an independence effort, as in Katanga, or aiding our enemies, as in Cuba, or now talking of interfering in internal affairs. No amount of praise of the UN can alter the fact that it is founded on a delusion.

Those who are more realistic about the UN say that, for all its faults, it still has some diplomatic and other uses. Probably it does. But it is certainly not encouraging that impression by lending itself to this witless exercise in the Security Council. And we think the U.S. Ambassador to the UN ought to call that performance by its right name.

A WORD TO THE WISE

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, the October 23 issue of the Wittenberg Torch, the student newspaper of Wittenberg University, Springfield, Ohio, carried a column by Chuck Edgar which seems to me to be both straightforward and a clear thinking presentation of a position which more and more youth may well be assuming as we get into 1972. The theme of Mr. Edgar's column and others emanating from responsible youth are largely overlooked by the media which seems to find news value only in the bombastic rhetoric of the youthful militants.

In insert the above-mentioned column in the RECORD at this point:

WHERE IS MR. NIXON?

(By Chuck Edgar)

DEAR MR. NIXON: Is there really a Republican in the White House?

Sincerely,

AMERICA.

It is approximately 12½ months from election day, 1972, when the nation will once again go to the polls and choose who shall lead the United States for four years. At this time the leading (unannounced) candidate for the G.O.P. presidential nod is President Richard M. Nixon. But is this the same man who the Miami Republican convention of 1968 nominated? This observer thinks not.

The most pressing issue to those unfortunates in the Wittenberg Class of '75 is the draft. It seems that Nixon told the nation in his acceptance speech before the convention that he would end conscription and operate the military on an all-volunteer basis. Nixon has been in office close to three years, but is Curtis Tarr looking for a new job right now? Enough said.

We can also remember Mr. Nixon (circa '68) telling us that the U.S. should stand-up to the Asian communists and assert our international strength to protect our eastern allies from subversion and overt aggression (remember the Pueblo?).

It would seem that, if the President is actually doing this, he has chosen a strange way to go about it. After all, open trade with mainland China in "non-strategic goods" hardly fits the Nixon foreign policy plan of 1968. This, of course, is based on the realization that when a nation trades with a totalitarian-aggressive government, there is virtually no such thing as a "non-strategic good".

It is enough that the White House is carrying on its friendship overtures to Peking, but furthermore it is now about to sell-out our allies on Formosa by virtually giving the Nationalist Chinese seat in the U.N. to Red China. Yessiree, folks, ol' Nixon's really standin' up to those reds.

On the domestic side we have witnessed a complete perversion of Nixon's alleged economic conservatism. Last August 15, as we know, he announced his price freeze (including wages and salaries). Again we ask, is this the Nixon of 1968? Unless he somehow equates free enterprise and government control of the heart of the market economy, the answer must be in the negative.

Other less publicized domestic programs now advocated by the executive branch of government are national health insurance (merely a toned-down version of liberal democrat Ted Kennedy's plan), a form of guaranteed annual income in the guise of welfare "reform", and a revenue sharing plan more than slightly reminiscent of the Democratic rhetoric in the Senate a time ago.

As one can plainly see by now, President Nixon has decided that the way to the salvation of the republic is the nationalization of its economy and economic-political fraternization with its self-proclaimed enemies. It is for these reasons that most leading conservatives (Wm. F. Buckley, Young Americans for Freedom, etc.) have suspended their support of the same man they backed only three years ago.

The significance of this lies in the fact that with an ever-rising conservative trend in the middle classes, Nixon is treading dangerous political water. However, as yet the "Silent Majority" types have not yet begun to exert their strength to stop Nixon's leftward swing. Perhaps in the future they will, say, when the President appoints William Kuntsler to the Supreme Court and tells the nation that he did so because he wanted a "strict constructionist" on the court.

FINALLY—RECOGNITION FOR RECORD

(Mr. MITCHEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, although the odds against making a hole-in-one during a round of golf are something like 1,500 or 2,000 to 1, I am happy to say that I have been fortunate to have accomplished that feat a few years ago.

It is exciting enough and quite unusual for a person to make even one hole-in-one during his golfing days but a constituent of mine, Mr. Walter Fast, from my hometown of Peoria, Ill., has made not one, but two aces—and Mr. Fast is only 92 years old.

He waited until November 12, 1970, to make his first ace, on the 13th hole of the Madison Golf Course in Peoria. Jim Obert, golf editor for the Peoria Journal Star wrote immediately after that to the famous Guiness Book of World Records in London, England, and when the 18th edition of the Guiness book was published last month, it noted that Mr. Fast became the oldest man in history to make a hole in one, at the age of 91 years and 339 days. Then, on June 24 of this year, Mr. Fast broke his own record by making his second hole in one at the age of 92 years and 175 days.

His feats are certainly an inspiration to those of us hackers who are apt to get discouraged with our game from time to time.

I salute Mr. Fast. As a fellow golfer and a fellow Peorian, I am proud of him and extend best wishes to him for many more years of golfing enjoyment. I include a story appearing in the October 30 edition of the Peoria Journal Star about Mr. Fast's accomplishments in the RECORD at this point:

FINALLY—RECOGNITION FOR RECORD

In a story out of London last Wednesday, the publishers of the Guiness Book of World Records admitted they can't keep up with the golf feats of Peorian Walter Fast.

When the 18th edition of the Guiness book was published last week, it noted that Fast, 1116 W. Nebraska, became the oldest man in history to make a hole in one when at the age of 91 years and 339 days he scored an ace on the 140-yard 13th at Madison.

Fast executed his hole in one Nov. 12, 1970, while playing with Roy Kilby, Vince Strangeland and his brother, Dr. Harry Fast of Mackinaw, who is 92.

Walter Fast plays golf twice a week and has never ridden a motorized cart in his life.

Journal Star golf editor Jim Obert began a correspondence with the Guiness publishers that turned out to be one-sided.

Obert supplied the name of Fast to Guiness, along with details of his hole in one and asked that it be recognized as a world record. Weeks passed and no answer from London. Another letter. And no answer again.

Meanwhile, Fast continued to play golf.

On June 24 of this year, he was out again at Madison, his favorite course. He came to the 13th hole where he had made his original bid for golf immortality.

He had used a driver the time before. This time he pulled a three-iron from his bag. The wind was with him. The ball on the clubface made a plinking sound as it flew toward the green. It bounced a couple of times and went into the hole.

Fast had done it again! This time he was 92 years and 175 days old.

Obert sent another letter to London, in which he informed the lexicographers of golf memorabilia that if they were considering Fast's first hole in one as a record they might as well forget it. He had bettered himself.

The Guiness people had already set the type for their latest publication, which has over 500 pages of information concerning "the spectacular feats of man and the wonders of the universe."

Fast's second ace put the publishers in a "bind."

So Wednesday they released a short story to United Press International in London saying Fast is too fast for them.

Wednesday night, Fast received a telephone call from a television station in Boston. The caller wanted a taped interview. Local television stations also contacted him.

Now that he has received the approbation he deserves, Fast ought to skip the 13th hole at Madison for a while.

SENSIBLE COVERAGE OF NATIONAL CONVENTIONS

Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, we have

a sound working relationship with the press here and in the other body. We are able to conduct business in an orderly fashion and the press are able to meet their responsibility of reporting to the public the activities which take place here. This is possible only because certain regulations have been established, limiting the access to the floor to Members, while at the same time providing adequate facilities for the media.

I feel that all would suffer if this Chamber were filled with television cameras, photographers, reporters, and technicians, zeroing in on conversations and attempting to evaluate isolated discussions. Their goal would be a laudable and understandable one: they would merely be trying to find out what was happening and report it to the public. But the result, I am sure, would be complete chaos, a perhaps innocent misinterpretation of events, and a total loss of efficiency.

But such is the case at another representative body; the national conventions. Here elected delegates must also try to carry out their responsibilities in as efficient a manner as possible. But because of the almost free access to the floor, it is not possible.

I have made known my disappointment over the fact that my own party has failed to establish regulations limiting access to the floor at the conventions. An editorial in the October 30 issue of the Bridgeport Post summarizes these feelings very well. I draw it to the attention of my colleagues on both sides of the aisle.

The editorial follows:

SENSIBLE COVERAGE

At the risk of drawing upon ourselves the wrath of a large segment of the electronic medium we support the proposal of Congressman John S. Monagan of Waterbury to bar television crews from the floor of the 1972 Democratic National Convention.

Mr. Monagan spoke the truth with his claim that "itinerant technicians and commentators" have been involved in the creation of pseudo incidents.

Delegates to a national convention, whether it be Democratic or Republican, are entitled to the privilege of doing their job without being harassed every so often by a fellow wandering about in an attire resembling that of a Martian.

During the 1968 Chicago convention a few of the television newsmen did a far better job of spreading rumors than they did in reporting facts. Some print journalists claim the boom for Senator Edward M. Kennedy was propelled to a good degree by television personalities who engaged in making, not reporting, news.

It is totally unfair to shove a microphone in front of a delegate and without warning throw a political bombshell in his face. Yet, this is the procedure which is followed to liven up the coverage.

Sure, every politician wants to have his image transmitted across the land. Why not set up interview studios in the hall where the delegates and others could be questioned in a dignified atmosphere, if they felt it appropriate.

Mr. Monagan simply wants the same rules applied to the convention of his party that govern the floor of the U.S. House of Representatives and U.S. Senate. The leadership of the Democratic Party would do well to heed his suggestion. The Republicans would not harm themselves by playing copycat either.

TEN DEATHS A MONTH: VIETNAM DRUG TOLL

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the liberalized amnesty program for voluntary drug abuse treatment in the armed services initiated by the Department of Defense in the spring has experienced some success. During the first 5 months of this year only 612 servicemen were treated under the amnesty program while in the succeeding 3 months 2,511 men participated. That is an increase of over 400 percent for the latter period. These statistics relate solely to servicemen in Vietnam.

During the first 5-month period of this year the deaths of 58 American servicemen in Vietnam were attributable to drug-related causes and 36 deaths were drug related during the next 3 months. The total of 94 deaths means that there has been an average of over 10 deaths a month due to drug-related causes for this year.

Quite significantly there has been a lack of participation in drug-abuse treatment programs by members of the U.S. Marine Corps. For the first 8 months of this year only two Marines had been treated under the amnesty program. There has been only minor participation by members of the Marine Corps in either military hospitals or outpatient treatment for drug abuse.

These statistics are based upon actual Vietnam hospital utilization reports—referred to as MACV RCS:6260–1—which I have received for the months of June, July and August from Brig. Gen. John K. Singlaub, Deputy for Drug and Alcohol Abuse. On July 26, I reported what I believed to be the first official Armed Forces drug-abuse figures for the months of January through May of 1971 based upon these hospital reports.

In order fully and accurately to comprehend the extent of the military drug problem, plan remedial action, and evaluate the effect of any remedical action which might be taken it is essential to have up-to-date and accurate statistics readily available. Despite the full cooperation of General Singlaub there has been a constant delay of almost 2 months in the receipt of these statistics which are prepared by the commanders of U.S. military hospitals in Vietnam. This delay was present in July and there has been no significant improvement. Two months is an unconscionable delay in the compilation of these statistics even though they originate in Vietnam.

These military hospitalization reports contain a statistical breakdown by service of the number of patients discharged from military hospitals—that is, Army, Air Force, Navy and Marine Corps, the number of men with less than 2 years of service, race, rank, age, the number of deaths from drug-related causes, the number of outpatient visits, transfers of patients out of the country with drug-related diagnosis, type of drug abuse, and admissions under the amnesty program.

Upon a review of these reports I find that in comparison with the first 5 months of this year they show that: There were 9,070 visits to the outpatient facilities of the military hospitals for drug-related reasons during the first 5 months of this year and 8,127 visits during the next 3 months for a total of 17,197. Nearly 80 percent of those treated and discharged from the military hospitals for drug abuse were between the ages of 18 and 21 for the first 5 months but during the next 3 months of this year this age group was reduced to 65 percent of the total treated.

One commissioned officer and no warrant officers were reported as being treated for drug abuse during the first 5-month period and only one commissioned officer and two warrant officers were treated in the next 2 months.

Since July the Department of Defense has taken some commendable actions in an attempt to solve the drug problem in the military including the institution of an amnesty program, review of all discharges other than dishonorable, and the program of drug testing for those servicemen in Vietnam. But all these programs are inadequate to cope with this complex problem. They do not go far enough to be fully effective. The Nation must not evade its responsibility to those servicemen already caught in the web of drug addiction. We must take positive action now to solve this ever increasing problem.

The provisions of my bill, H.R. 8216, "The Armed Forces Drug Abuse Control Act of 1971", which I introduced on May 10 for the purpose of establishing drug abuse control organizations in the armed services would render a viable solution to this situation. This bill would establish a Drug Abuse Control Board in each branch of the service to oversee the drug abuse control program for the purpose of: First, preventing those not already addicted to dangerous drugs from beginning; second, rehabilitating those already addicted, and third, through enforcement, eliminating the source of the drug supply available to members of the military. I have subsequently reintroduced this bill on several occasions with the bipartisan support of over 50 cosponsors.

On July 26 I introduced H.R. 10080, establishing a Military Drug Abuse Review Board, in an effort to set up review procedures for veterans of the Vietnam era who received a dishonorable discharge for drug abuse reasons. The Department of Defense has ordered the review of the cases of those servicemen who have received undesirable discharges for drug abuse reasons. Although commendable this action is not totally adequate. The cases of those men who received dishonorable discharges should also be examined. An incident which could lead to an undesirable discharge in one branch of the service might result in a dishonorable discharge in another. The benefits to which a veteran is entitled should not be denied to some and granted to others when they have all been discharged for similar activity.

I include the military hospital utilization reports for the months of June, July and August, as follows:

HOSPITAL UTILIZATION REPORT

(For use of this form, see MACV Directive 190-4)

From: MACMD-PS.
To: MACPM.
Reports control symbol MACV RCS 6260-1. Period covered: August 1-31, 1971.

SECTION A.—PERSONNEL DATA

Hospital	Number of patients discharged: USA	USAF	USN	USMC	Under 2 years service	DOD civilians	Race: Caucasian	Negro	Other	Rank: E1/E5	E6/E9	Warrant officer	Commissioned officer	Age: 18-21	22-25	26-29	Over 30
3d Field	5				5		4	1		5				4	1		
3d Surg	1						1				1					1	
24th Evac	13				6		10	3		11		1	1	9	2		2
67th Evac	21				21		20	1		21				19	1	1	
85th Evac	45				23		39	6		45				38	7		
91st Evac	4				4		2	2		4				3	1		
95th Evac	15				9	1	10	6		15				9	5	1	1
Detox C CRB	1,124				493		624	500		1,118	6			644	290	179	11
Detox C LB	300				250		163	137		297	3			263	90	6	1
Organic Med Treatment Fac	295				217		237	58		295				223	70	1	1
Total	1,823				1,028	1	1,110	714		1,811	10	1	1	1,152	467	189	16
377 USAF Disp		1					1			1				1			
315 USAF Disp		4			1		3	1		4				3	1		
483 USAF Hosp		3			1		1	2		3				3			
366 USAF Disp	10	7			6		13	4		17				14	3		
Total	10	15			8		18	7		25				21	4		
Drug Rehab C																	
LSB Nha Be			11	1	10		9	3		12				10	2		
Total	1,833	15	11	1	1,046	1	1,137	724		1,848	10	1	1	1,183	473	189	16

SECTION B.—DEATHS RESULTING FROM DRUG ABUSE

Mortuary	Number of deaths: USA	USAF	USN	USMC	DOD civ.	Total	Race: Caucasian	Negro	Other	Rank: E1-E5	E6-E9	Warrant officer	Commissioned officer	Age: 18-21	22-25	26-29	Over 30
Tan Son Nhut	9					9	8	1		8	1			4	4		1
Da Nang	1					1	1			1				1			1
483d USAF Hosp	1					1	1				1						1
Total	11					11	10	1		9	2			5	4		3

SECTION C.—DRUG ABUSE RELATED OUTPATIENT VISITS

	USA	USAF	USN	USMC	DOD civ
Outpatient visits	1,997	56			1

SECTION D.—TRANSFERS—TRANSFERS OF PATIENTS OUT OF COUNTRY WITH DRUG-RELATED DIAGNOSES

	USA	USAF	USN	USMC	DOD civ.
Transfers to PACOM	8				
Transfers to CONUS	1,478	135	73		

SECTION E.—TYPE OF DRUG ABUSE

	Narcotics: Addict	Nonaddict	Dangerous drugs user	Marihuana user	Other, user
USA	525	1,301	6		11
USAF	11	2	1	1	
USN	35	13			
USMC		1			
DOD civ					1

SECTION F.—REHABILITATION EFFORTS

	USA	USAF	USN	USMC
Admissions under amnesty program	742	55	44	

SECTION G.—GENERAL COMMENTS

Figures in section B are clinically suspected deaths pending autopsy results. Autopsy proven deaths for May 1971 have been finalized at 4. Autopsy proven drug deaths for June 1971 have been finalized at 1. Autopsy proven drug deaths for July 1971 have been finalized at 2. Clinically suspected deaths for the month of August 1971 is 11.

Contact for additional information: Herbert E. Straughn, Maj, USAF, MSC. Approving officer: David L. Fowler, MAJ, MSC, USA, Chief, Administrative Division.

HOSPITAL UTILIZATION REPORT

(For use of this form, see MACV Directive 190-4)

From: MACMD-PS.
To: MACPM.
Reports control symbol MACV RCS 6260-1. Period covered: June 1-30, 1971.

SECTION A.—PERSONNEL DATA

Hospital	Number of patients discharged: USA	USAF	USN	USMC	Under 2 years service	DOD civ.	Race: Caucasian	Negro	Other	Rank: E1/E5	E6/E9	Warrant officer	Commissioned officer	Age: 18-21	22-25	26-29	Over 30
3 Field	3	1			1		4			4				2	1	1	
3 Surg	2				2			2		2				2			
8 Field	4				2		3	1		4				4			
18 Surg	13				13		11	2		13				9	4		
24 Evac	13				6		7	5	1	12	1			8	4		1
67 Evac	8				8		7	1		8				6	2		
85 Evac	37				30		29	8		37				31	4	1	1
91 Evac	63				44		41	22		63				53	9		1
95 Evac	18				15		17	1		18				17	1		
Detox Center	126				96		78	48		122	4			86	35	5	
Org Med Treat Fac[1]	461	10			397		373	91	7	469	2			361	107	2	1
Subtotal	748	11			554		570	181	8	752	7			579	167	9	4
183 USAF H	10	37	3		37		42	8		50				34	15	1	
317 USAF D																	
366 USAF D	15	17			12		21	11		32				23	8	1	
35 USAF D		4					2	2		4				3	1		
12 USAF D	1	3			3		2	2		4				2	2		
6251 USAF D		4					3	1		4				4			
Subtotal	26	65	3	0	52		70	24		94				66	26	2	
Total	774	76	3		606		640	205	8	846	7			645	193	11	4

SECTION B.—DEATHS RESULTING FROM DRUG ABUSE

Hospital mortuary	Number of deaths: USA	USAF	USN	USMC	DOD civ.	Total	Race: Caucasian	Negro	Other	Rank: E1-E5	E6-E9	Warrant officer	Commissioned officer	Age: 18-21	22-25	26-29	Over 30
Tan Son Nhut	9					9	7	2		8	1			4	3		2
Da Nang	2					2	2			2				1	1		
Total	11					11	9	2		10	1			5	4		2

SECTION C.—DRUG ABUSE RELATED OUTPATIENT VISITS

	USA	USAF	USN	USMC	DOD Civ.
Outpatient visits	2,929	254	4		

SECTION D.—TRANSFERS—TRANSFERS OF PATIENTS OUT OF COUNTRY WITH DRUG-RELATED DIAGNOSES

	USA	USAF	USN	USMC	DOD civ.
Transfers to PACON	8	2			
Transfers to CONUS	26	6	9		

SECTION E.—TYPE OF DRUG ABUSE

	Narcotics: Addict	Nonaddict	Dangerous drugs user	Marihuana user	Other, user
USA	509	242	6		13
USAF	54	22	2	2	1
USN	2				
USMC					
DOD civ					

SECTION F.—REHABILITATION EFFORTS

	USA	USAF	USN	USMC
Admissions under amnesty program	588	54	84	2

SECTION G.—GENERAL COMMENTS

[1] First time report for this type of patient. The army organic medical treatment facility of 80 beds is part of a Brigade or Division size field unit.
[2] 3d Marine Amphibious Brigade final report due to standown.

Contact for additional information: Herbert E. Straugh, MAJ, USAF, MSC, Statistician. Approving officer: David L. Fowler, MAJ, MSC, USA, Chief, Administrative Division.

HOSPITAL UTILIZATION REPORT

(For use of this form, see MACV Directive 190-4)

From: MACMD-PS.
To: MACPM.
Reports control symbol MACV RCS 6260-1. Period covered: July 1-31, 1971.

SECTION A.—PERSONNEL DATA

Hospital	Number of patients discharged						Race			Rank				Age			
	USA	USAF	USN	USMC	Under 2 years service	DOD civilians	Caucasian	Negro	Other	E1/E5	E6/E9	Warrant officer	Commissioned officer	18-21	22-25	26-29	Over 30
3 Field	3				2		3			3				2		1	
3 Surg	0				0		0			0				0			
8 Field	3				2		2	1		3				1	2		
18 Surg	31				26		26	5		31				26	4	1	
24 Evac	9				5		4	5		9				6	3		
67 Evac	45	1			41		38	8		46				15	28	3	
85 Evac	29				19		24	5		29				21	6	2	
91 Evac	47				34		40	7		47				37	10		
95 Evac	23				20		20	3		23				20	3		
Treat Center	813				316		597	216		801	12			407	249	152	5
Org Med																	
Treat Fac	452	2			436		337	104		448	5	1		358	88	6	2
Subtotal	1,456	3			811		1,091	354	13	1,440	17	1		893	393	165	7
483 USAF H	3	8			4		5	6		11				9	2		
377 USAF D																	
366 USAF D	15	7		1	8		17	6		23				15	8		
315 USAF D		11			4		6	5		11				9	2		
12 USAF D																	
6251 USAF D		1					1			1				1			
Subtotal	18	27		1	16		29	17		46				34	12		
Total	1,473	30		1	827		1,120	371	13	1,486	17	1		927	504	165	7

SECTION B—DEATHS RESULTING FROM DRUG ABUSE

Mortuary	Number of deaths						Race			Rank				Age			
	USA	USAF	USN	USMC	DOD civ	Total	Caucasian	Negro	Other	E1-E5	E6-E9	Warrant officer	Commissioned officer	18-21	22-25	26-29	Over 30
Tan Son Nhut	12					12	10	2		12				7	4	1	
Da Nang	2					2	2			2				2			

SECTION C.—DRUG ABUSE RELATED OUT-PATIENT VISITS

	USA	USAF	USN	USMC	DOD civ.
Outpatient visits	2,641	145			

SECTION D.—TRANSFERS—TRANSFERS OF PATIENTS OUT OF COUNTRY WITH DRUG RELATED DIAGNOSES

	USA	USAF	USN	USMC	DOD civ.
Transfers to PACOM	1				
Transfers to CONUS	128	80	48		

SECTION E.—TYPE OF DRUG ABUSE

	Narcotics		Dangerous drugs user	Marihuana user	Other, user
	Addict	Nonaddict			
USA	595	849	5		
USAF	59	58	2		
USN	10	15		5	
USMC					
DOD civ					

SECTION F.—REHABILITATION EFFORTS

	USA	USAF	USN	USMC
Admissions under amnesty program	669	43	30	

SECTION G.—GENERAL COMMENTS

Figures in section B are clinically suspected deaths pending autopsy results. Autopsy proven drug deaths for April 1971 have been finalized at 3. All previous reports should read: Total U.S. Army Deaths 3; Autopsy proven 3.

Contact for Additional Information: Herbert E. Straughn, MAJ, USAF, MSC, Hlt. Svs. Administrator. Approving officer: David L. Fowler, MAJ, MSC, USA, Chief, Administrative Division.

MATSUNAGA MAKES 11TH HOUR APPEAL TO HALT CANNIKIN

The SPEAKER. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 10 minutes.

Mr. MATSUNAGA. Mr. Speaker, never have I felt as frustrated in any effort to accomplish some good as I feel today, the day before the scheduled explosion of a 5-megaton nuclear bomb at Amchitka, Alaska. It appears now that President Nixon will not heed the pleadings of millions of Americans and other peoples of the Pacific border to alter his orders to the Atomic Energy Commission to proceed with the test.

But hope springs eternal in the hearts of men, and in the hope that the President may yet decide to reverse his ill-advised decision, I am sending him the following 11th-hour appeal:

Mr. President: The recent revelation of serious apprehension even among your own advisors about the possible disastrous effects of Cannikin, the five-megaton nuclear test scheduled for tomorrow, confirms what thinking Americans have been seriously concerned about for months: Cannikin may bring death and untold human suffering and cause irreparable damages to our environment.

Moreover, if Cannikin is conducted as planned, our position at the strategic arms limitation talks is likely to be jeopardized; our relations with our two most valued trading partners, Canada and Japan, may be ruptured beyond repair.

I have been alarmed over the fact that the Atomic Energy Commission, in an unprecedented display of arrogance, planned to conduct the test illegally, without revealing to the environmental protection agency all of the facts concerning the dangers involved.

Classified documents concerning the environmental impact of the test were made available to the public only this week under the guns of a Federdal court order. It is clear that these documents were classified by the AEC not for security reasons, but because the information they contained did not support the agency's decision to proceed with Cannikin.

As an advocate of open government, I was mortified to be told by the AEC that your orders to proceed with the test were contained in a letter to Chairman James Schlesinger, also classified "Secret."

Mr. President, under existing law, you are the only one who can stop Cannikin. While the authority belongs to you, and you alone, the responsibility for any tragic consequences of Cannikin must be borne by the American people. As a Representative of the people of Hawaii, along with millions of thinking Americans, I am, therefore, making this eleventh hour appeal to you to reconsider your ill-advised secret approval of the test, and canned Cannikin.

SPARK MATSUNAGA,
Member of Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. HAGAN (at the request of Mr. BOGGS), for today, on account of official business.

Mr. HORTON (at the request of Mr. GERALD R. FORD), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. RANDALL for 30 minutes today, to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. DU PONT) to revise and extend their remarks and include extraneous matter:)

Mr. HUNT, for 60 minutes, on November 9.

Mr. MINSHALL of Ohio, for 5 minutes, today.

Mr. KEMP, for 5 minutes, today.

(The following Members (at the request of Mr. RUNNELS) to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 10 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

Mr. JAMES V. STANTON, for 10 minutes, today.

Mr. MATSUNAGA, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MICHEL and to include extraneous matter.

Mr. MATSUNAGA to extend his remarks prior to passage of H.R. 8293, today.

(The following Members (at the request of Mr. DU PONT) and to include extraneous material:)

Mr. HUNT.
Mr. MORSE in two instances.
Mr. ASHBROOK in three instances.
Mr. SCHMITZ.
Mr. WYMAN in two instances.
Mr. FRELINGHUYSEN.
Mr. GERALD R. FORD.
Mr. McDONALD of Michigan.
Mr. KEMP.
Mr. ARCHER in two instances.
Mr. NELSEN.

(The following Members (at the request of Mr. RUNNELS) and to include extraneous material:)

Mr. FRASER.
Mr. DRINAN.
Mr. DENT.
Mr. GONZALEZ in three instances.
Mr. HAGAN in three instances.
Mr. RODINO in three instances.
Mr. EDWARDS of California in two instances.
Mr. KLUCZYNSKI in three instances.
Mr. PUCINSKI in six instances.
Mr. RYAN in three instances.
Mr. RARICK in three instances.
Mr. ROGERS in three instances.
Mr. DINGELL in three instances.
Mr. WALDIE in three instances.
Mr. CULVER in five instances.
Mr. BROOKS.
Mr. PIKE in two instances.
Mr. EILBERG.
Mr. ROE in two instances.
Mr. MANN.
Mr. MAHON.
Mr. DAVIS of South Carolina in two instances.
Mr. WRIGHT in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1977. An act to establish the Oregon Dunes National Recreation Area in the State of Oregon, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 2781. An act to amend section 404(g) of the National Housing Act; to the Committee on Banking and Currency.

ADJOURNMENT

Mr. RUNNELS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 2 minutes p.m.), under its previous order, the House adjourned until Monday, November 8, 1971, at 12 o'clock noon.

CONFERENCE REPORT ON H.R. 8687

Mr. HÉBERT submitted the following conference report and statement on the bill (H.R. 8687) authorizing appropriations for fiscal year 1972 for military procurement, research and development, and for anti-ballistic missile construction; and prescribing Reserve strength:

CONFERENCE REPORT (H. REPT. NO. 92-618)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8687) to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—PROCUREMENT

SEC. 101. Funds are hereby authorized to be appropriated during the fiscal year 1972 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $94,200,000; for the Navy and the Marine Corps, $3,254,900,000 of which not to exceed $801,600,000 shall be available for a F-14 aircraft program of not less than 48 aircraft; for the Air Force, $3,029,800,000: *Provided*, That $14,500,000 of funds available to the Air Force for aircraft procurement shall be available for the procurment of 30 armed STOL aircraft.

MISSILES

For missiles: for the Army, $1,066,100,000; for the Navy, $704,100,000; for the Marine Corps, $1,300,000; for the Air Force, $1,791,200,000.

NAVAL VESSELS

For naval vessels: for the Navy, $3,067,100,000, of which $14,600,000 is authorized only for advance procurement for the nuclear powered guided missile frigate DLGN-41. The contracts for advance procurement for the DLGN-41 shall be entered into as soon as practicable unless the President fully advises the Congress that its construction is not in the national interest.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $112,500,000; for the Marine Corps, $63,900,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $193,500,000.

OTHER WEAPONS

For other weapons: for the Army, $33,000,000; for the Navy, $1,300,000; for the Marine Corps, $1,000,000.

XUM

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. (a) Funds are hereby authorized to be appropriated during the fiscal year 1972 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $1,880,000,000;

For the Navy (including the Marine Corps), $2,418,700,000 of which amount not more than $4,492,000 may be used to carry out research and development in connection with the Navy's Project Sanguine, and of which amount $150,000 shall be available only for carrying out an environmental compatibility program in connection with the Sanguine project, and of which amount $300,000 shall be available only for biological and ecological effects research in connection with the Sanguine project;

For the Air Force, $2,979,000,000; and

For the Defense Agencies, $465,700,000.

(b) Section 40 of Public Law 1028, approved August 10, 1956 (70A Stat. 636; 31 U.S.C. 649c) is amended to read as follows:

"SEC. 40. Unless otherwise provided in the appropriation Act concerned, moneys appropriated to the Department of Defense (1) for the procurement of technical military equipment and supplies and the construction of public works, including moneys appropriated to the Department of the Navy for the procurement and construction of guided missiles, remain available until spent, and (2) for research and development remain available for obligation for a period of two successive fiscal years."

(c) None of the funds authorized to be appropriated by this Act may be used to carry out any research and development work in connection with a deep underground system for the Sanguine project.

SEC. 202. There is hereby authorized to be appropriated to the Department of Defense during fiscal year 1972 for use as an emergency fund for research, development, test, and evaluation or procurement or production related thereto, $50,000,000.

TITLE III—RESERVE FORCES

SEC. 301. For the fiscal year beginning July 1, 1971, and ending June 30, 1972, the Selected Reserve of each Reserve component of the Armed Forces will be programed to attain an average strength of not less than the following:

(1) The Army National Guard of the United States, 400,000.

(2) The Army Reserve, 260,000.

(3) The Naval Reserve, 129,000.

(4) The Marine Corps Reserve, 45,849.

(5) The Air National Guard of the United States, 88,191.

(6) The Air Force Reserve, 49,634.

(7) The Coast Guard Reserve, 15,000.

SEC. 302. The average strength prescribed by section 301 of this title for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever any such units or such individual members are released from active duty during any fiscal year, the average strength for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 303. (a) Section 270(a) of title 10, United States Code, is amended by adding below clause (2) thereof a new sentence as follows:

"However, no member of such unit (not on active duty for one year or longer shall be required to perform a period of active duty for training if the first day of such period falls during the last one hundred and twenty days of his required membership in the Ready Reserve."

(b) Section 502(a) of title 32, United States Code, is amended by adding below clause (2) thereof a new sentence as follows: "However, no member of such unit who has served on active duty for one year or longer shall be required to participate in such training if the first day of such training period falls during the last one hundred and twenty days of his required membership in the National Guard."

TITLE IV—ANTI-BALLISTIC MISSILE CONSTRUCTION AUTHORIZATION; LIMITATIONS ON DEPLOYMENT

SEC. 401. (a) Military construction for the Safeguard anti-ballistic missile system is authorized for the Department of the Army as follows:

(1) Technical and supporting facilities and acquisition of real estate inside the United States, $68,500,000.

(2) Military family housing, four hundred and thirty units, $11,070,000:

Malmstrom Safeguard site, Montana, two hundred and fifteen units,

Grand Forks Safeguard site, North Dakota, two hundred and fifteen units.

(b) There are authorized to be appropriated for the purpose of this section not to exceed $109,570,000, of which not more than $5,200,000 shall be available for community impact assistance as authorized by section 610 of Public Law 91-511.

(c) Authorization contained in this section (except subsection (b)) shall be subject to the authorizations and limitations of the Military Construction Authorization Act, 1972, in the same manner as if such authorizations had been included in that Act.

SEC. 402. Notwithstanding the repeal provision of section 605(b) of the Act of October 26, 1970, Public Law 91-511 (84 Stat. 1204, 1223), authorizations contained in section 401 of the Act of October 7, 1970, Public Law 91-441 (84 Stat. 905, 909) for the following items which shall remain in effect until fifteen months from the date of this Act and which shall be increased from $8,800,000 to $9,200,000:

(a) two hundred family housing units at Malmstrom Safeguard site, Montana.

(b) two hundred family housing units at Grand Forks Safeguard site, North Dakota.

SEC. 403. (a) None of the funds authorized by this or any other Act may be obligated or expended for the purpose of initiating deployment of an anti-ballistic missile system at any site; except that funds may continue to be obligated or expended for the purpose of advanced preparation (site selection, land acquisition, site survey, and the procurement of long leadtime items) for anti-ballistic missile system sites at Francis E. Warren Air Force Base, Cheyenne, Wyoming, and Whiteman Air Force Base, Knob Noster, Missouri. Nothing in this section shall be construed as a limitation on the obligation or expenditure of funds in connection with the deployment of an anti-ballistic missile system at Grand Forks Air Force Base, Grand Forks, North Dakota, or Malmstrom Air Force Base, Great Falls, Montana.

(b) Section 402 of Public Law 91-441 (84 Stat. 905, 909) is hereby repealed.

TITLE V—GENERAL PROVISIONS

SEC. 501. Subsection (a)(1) of section 401 of Public Law 89-367, approved March 15, 1966 (80 Stat. 37), as amended, is hereby amended to read as follows:

"(a)(1) Not to exceed $2,500,000,000 of the funds authorized for appropriations for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes to support: (A) Vietnamese and other free world forces in support of Vietnamese forces, (B) local forces in Laos and Thailand; and for related costs, during the fiscal year, on such terms and conditions as the Secretary of Defense may determine. None of the funds appropriated to or for the use of the Armed Forces of the United States may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States (under section 310 of title 37, United States Code) serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970. Nothing in clause (A) of the first sentence of this paragraph shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: *Provided*, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of United States Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war."

SEC. 502. No part of the funds appropriated pursuant to this Act may be used at any institution of higher learning if the Secretary of Defense or his designee determines that at the time of the expenditure of funds to such institution recruiting personnel of any of the Armed Forces of the United States are being barred by the policy of such institution from the premises of the institution except that this section shall not apply if the Secretary of Defense or his designee determines that the expenditure is a continuation or a renewal of a previous grant to such institution which is likely to make a significant contribution to the defense effort. The Secretaries of the military departments shall furnish to the Secretary of Defense or his designee within 60 days after the date of enactment of this Act and each January 31st and June 30th thereafter the names of any institutions of higher learning which the Secretaries determine on such dates are barring such recruiting personnel from the campus of the institution.

SEC. 503. The Strategic and Critical Materials Stock Piling Act (60 Stat. 596; 50 U.S.C. 98-98h) is amended (1) by redesignating section 10 as section 11, and (2) by inserting after section 9 a new section 10 as follows:

"SEC. 10. Notwithstanding any other provision of law, on and after January 1, 1973, the President may not prohibit or regulate the importation into the United States of any material determined to be strategic and critical pursuant to the provisions of this Act, if such material is the product of any foreign country or area not listed as a Communist-dominated country or area in general headnote 3(d) of the Tariff Schedules of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of such Communist-dominated countries or areas is not prohibited by any provision of law."

SEC. 504. (a) The amount of $325,100,000 authorized to be appropriated by this Act for the development and procurement of the C-5A aircraft may be expended only for the reasonable and allocable direct and indirect costs incurred by the prime contractor under a contract entered into with the United States to carry out the C-5A aircraft program. No part of such amount may be used for—

(1) direct costs of any other contract or activity of the prime contractor;

(2) profit on any materials, supplies, or services which are sold or transferred between any division, subsidiary, or affiliate of the prime contractor under the common control of the prime contractor and such division, subsidiary, or affiliate;

(3) bid and proposal costs, independent research and development costs, and the cost of other similar unsponsored technical effort; or

(4) depreciation and amortization costs on property, plant, or equipment.

Any of the costs referred to in the preceding sentence which would otherwise be allocable to any work funded by such $325,100,000 may not be allocated to other portions of the C-5A aircraft contract or to any other contract with the United States, but payments to C-5A aircraft subcontractors shall not be subject to the restriction referred to in such sentence.

(b) Any payments from such $325,100,000 shall be made to the prime contractor through a special bank account from which such contractor may withdraw funds only after a request containing a detailed justification of the amount requested has been submitted to and approved by the contracting officer for the United States. All payments made from such special bank account shall be audited by the Defense Contract Audit Agency of the Department of Defense and, on a quarterly basis, by the General Accounting Office. The Comptroller General shall submit to the Congress not more than thirty days after the close of each quarter a report on the audit for such quarter performed by the General Accounting Office pursuant to this subsection.

(c) The restrictions and controls provided for in this section with respect to the $325,100,000 referred to in subsections (a) and (b) of this section shall be in addition to such other restrictions and controls as may be prescribed by the Secretary of Defense or the Secretary of the Air Force.

SEC. 505. (a) Notwithstanding any other provision of law, no funds authorized to be appropriated by this or any other Act may be expended in any amount in excess of $350,000,000 for the purpose of carrying out directly or indirectly any economic or military assistance, or any operation, project, or program of any kind, or for providing any goods, supplies, materials, equipment, services, personnel, or advisers in, to, for, or on behalf of Laos during the fiscal year ending June 30, 1972.

(b) In computing the $350,000,000 limitation on expenditure authority under subsection (a) of this section in fiscal year 1972, there shall be included in the computation the value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Laos in such fiscal year by gift, donation, loan, lease, or otherwise. For the purpose of this subsection, "value" means the fair market value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Laos, but in no case less than 33⅓ per centum of the amount the United States paid at the time such goods, supplies, materials, or equipment were acquired by the United States.

(c) No additional expenditures in excess of the limitation prescribed in subsection (a) of this section may be made for any of the purposes described in such subsection in, to, for, or on behalf of Laos in any fiscal year beginning after June 30, 1972, unless such expenditures have been specifically authorized by law enacted after the date of enactment of this Act. In no case shall expenditures in any amount in excess of the amount authorized by law for any fiscal year be made for any such purpose during such fiscal year.

(d) The provisions of subsections (a) and (c) of this section shall not apply with respect to the expenditure of funds to carry out combat air operations in or over Laos by United States military forces.

(e) After the date of enactment of this Act, whenever any request is made to the Congress for the appropriation of funds for use in, for, or on behalf of Laos for any fiscal year, the President shall furnish a written report to the Congress explaining the purposes for which such funds are to be used in such fiscal year.

(f) The President shall submit to the Congress within thirty days after the end of each quarter of each fiscal year, beginning with the fiscal year which begins July 1, 1971, a written report showing the total amount of expenditures in, for, or on behalf of Laos during the preceding quarter by the United States Government, and shall include in such report a general breakdown of the total amount expended, describing the different purposes for which such funds were expended and the total amount expended for such purposes, except that in the case of the first two quarters of the fiscal year beginning July 1, 1971, a single report may be submitted for both such quarters and such report may be computed on the basis of the most accurate estimates the Secretary of Defense can make taking into consideration all information available to him.

SEC. 506. (a) Beginning with the calendar year 1972, the Secretary of Defense shall submit to the Congress each calendar year, at the same time the President submits the Budget to the Congress pursuant to section 201 of the Budget and Accounting Act, 1921, a written report regarding development and procurement schedules for each weapon system for which fund authorization is required by section 412(b) of Public Law 86-149, as amended, and for which any funds for procurement are requested in such budget. Beginning with the calendar year 1973, there shall be included in the report data on operational testing and evaluation for each such weapon system for which funds for procurement are requested (other than funds requested only for the procurement of units for operational testing and evaluation and/or long lead-time items). A weapon system shall also be included in the annual report required under this subsection in each year thereafter until procurement of such system has been completed or terminated, or until the Secretary of Defense certifies in writing that such inclusion would not serve any useful purpose and gives his reasons therefor.

(b) A supplemental report shall be submitted to the Congress by the Secretary of Defense not less than thirty nor more than sixty days before the awarding of any contract or the exercising of any option in a contract for the procurement of any such weapon system other than procurement of units for operational testing and evaluation and/or long lead-time items) unless (1) the contractor or contractors for that system have not yet been selected, and the Secretary of Defense determines that the submission of such report would adversely affect the source selection process and notifies the Congress in writing, prior to such award, of such determination, stating his reasons therefor, or (2) the Secretary of Defense determines that the submission of such report would otherwise adversely affect the vital security interests of the United States and notifies the Congress in writing of such determination at least 30 days prior to such award, stating his reasons therefor.

(c) Any report required to be submitted under subsection (a) or (b) of this section, as the case may be, shall include detailed and summarized information with respect to each weapon system covered by such report, and shall specifically include, but shall not be limited to—

(1) the development schedule, including estimated annual costs until development is completed;

(2) the planned procurement schedule, including the best estimate of the Secretary of Defense of the annual costs and units to be procured until procurement is completed;

(3) to the extent required by the second sentence of subsection (a) of this section, the results of all operational testing and evaluation up to the time of the submission of the report, or, if operational testing and evaluation has not been conducted, a statement of the reasons therefor and the results of such other testing and evaluation as has been conducted.

(d) In the case of any weapon system for which procurement funds have not been previously requested and for which funds are first requested by the President in any fiscal year after the Budget for such fiscal year has been submitted to the Congress, the same reporting requirements shall be applicable to such system in the same manner and to the same extent as if funds had been requested for such system in such Budget.

TITLE VI—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 601. (a) It is hereby declared to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces at a date certain, subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces. The Congress hereby urges and requests the President to implement the above-expressed policy by initiating immediately the following actions:

(1) Establishing a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

(2) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.

(3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established by the President pursuant to paragraph 1) hereof or by such earlier date as may be agreed upon by the negotiating parties.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

F. EDW. HÉBERT,
MELVIN PRICE,
O.C. FISHER,
CHARLES E. BENNETT,
JAMES A. BYRNE,
SAMUEL S. STRATTON,
LESLIE C. ARENDS,
ALVIN E. O'KONSKI,
WILLIAM G. BRAY,
BOB WILSON,
CHARLES GUBSER,
Managers on the Part of the House.

JOHN C. STENNIS,
STUART SYMINGTON,
HOWARD W. CANNON,
THOMAS J. MCINTYRE,
HARRY F. BYRD,
MARGARET CHASE SMITH,
(with reservations on Mansfield amendment)
STROM THURMOND,
JOHN TOWER,
PETER H. DOMINICK,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8687), an act to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—PROCUREMENT

Aircraft

Army

The House bill provided an authorization of $111.2 million for procurement of Army aircraft and support equipment. The Senate reduced this amount by $17 million, citing the availability of prior-year funds to support the fiscal year 1972 program.

The House recedes.

Navy and Marine Corps

The House bill provided an authorization of $2,513,200,000 for procurement of aircraft for the Navy and Marine Corps, with no funds authorized to be appropriated for F–14 aircraft or transport aircraft of the DC–9 or 737 type.

The Senate authorized a total of $3,256,200,000 for Navy and Marine Corps aircraft, including $24.4 million for five DC–9 or 737-type aircraft and earmarked $801.6 million for an F–14 aircraft program of not less than 48 aircraft.

For the F–14A fighter, the House withdrew its authorization of $806.1 million, without prejudice, pending conclusion of a Navy and Defense Department review of the program. The Senate authorization of $801.6 million, a reduction of $4.5 million from the administration's original request, recognized prior-year funding available for advanced procurement of F–14A engines. The Navy-DOD review urged continuation of the F–14A program. The conferees, therefore, agreed to authorize $801.6 million for 48 F–14A aircraft.

The House recedes.

The House bill eliminated authorization in the amount of $24.4 million for five C–9 type medium transport jet aircraft. The Senate bill authorized procurement of these aircraft. The House supported the view that obsolete propeller-driven aircraft of the Navy should be replaced by modern jet aircraft but felt that alternatives to satisfy Navy transport requirements had not been fully explored. The Secretary of Defense subsequently advised the conferees that alternative programs had been investigated but procurement of "off-the-shelf" commercial aircraft is the most efficient procedure.

The House, therefore, recedes.

For the EA–6B electronic warfare aircraft, the House authorized $218.9 million for 19 aircraft. The Senate reduced the request by $55 million to eliminate 7 aircraft, but added $4.4 million of long lead funding for procurement of the 7 in fiscal year 1973, a net reduction of $50.6 million. The conferees upheld the Senate reduction of the seven aircraft but added $18.6 million for procurement of additional electronic equipment.

The authorization, therefore, is $186.9 million, a reduction of $32 million from the budget request, and will allow procurement of 12 EA–6B aircraft.

The Navy request and the House bill included $102.3 million for procurement of 30 Harrier aircraft. The request for funds assumed that these aircraft would be manufactured in England. The Senate added $23.7 million as a first increment of funding to establish domestic production of the aircraft. The House supported the domestic production concept in its report on the authorization bill for fiscal year 1970 (House Report No. 91–522). However, funds authorized for this purpose in fiscal year 1971 (Public Law 91–441) were not included in the appropriation act (Public Law 91–668). The House Appropriations Committee in its report, House Report 91–1570, stated that "This action does not terminate the Harrier program and does not preclude future manufacture of Harrier in the United States."

The conferees agreed to delete the $23.7 million added by the Senate and urge the Department of Defense to explore the possibility of achieving the objective of domestic production of any follow-on to the AV–8A Harrier.

The Senate recedes.

The House bill provided $298.1 million for procurement of 36 P–3C antisubmarine warfare aircraft. The Senate reduced the program by 12 aircraft and $51 million to effect a smoother production rate. The conferees agreed to the Senate position.

The House recedes.

The House bill included $3.8 million for procurement of two light transport jet aircraft as a part of the modernization/replacement program of Navy mission support aircraft. The Senate deleted this authorization from the bill. The conferees agreed to restore the $3.8 million.

The Senate recedes.

The House bill included $1.3 million to modify A–7 type aircraft to operate an extended-range version of the Walleye II glide bomb. The Senate deleted these funds on the basis that this new program should be reoriented to the "fly-before-buy" concept, and that operational-type testing validate that it can be operated from a single place aircraft such as the A–7 before large quantities of missiles are procured and many aircraft are modified.

The House recedes.

The House bill authorized $3,102,000,000 for procurement of 200 aircraft by the Air Force. The Senate reduced this amount by $113 million and 12 aircraft. The Senate recognized that the contract for the C–5A program has been restructured to a fixed-loss type of contract and that the funds requested in fiscal year 1972 are needed to pay the expenditures at Lockheed to continue the program; however, the Senate reduced the authorization by $72.2 million "to minimize the possible build-up of large excess funds that might detract from any continuing management improvements and efficiency in this program."

The conferees agreed to the Senate position while recognizing that under the terms and conditions of the restructured C–5A contract, additional funding will be required in the next fiscal year to complete the program.

The House recedes.

For the C–130E tactical transport, the House bill provided for procurement of 12 aircraft for $40.8 million. The Senate bill deleted these aircraft without prejudice. The House conferees were able to convince the Senate conferees of the necessity of authorizing these aircraft this year.

The Senate recedes.

The Senate added language to the authorization bill making $14.6 million of funds available to the Air Force for aircraft procurement available for the procurement of 30 armed STOL aircraft. The authorization of these aircraft was requested after the House had completed initial action on the fiscal year 1972 authorization bill. The conferees agreed to accept the Senate language which does not add to the dollar amount authorized in the bill.

The House recedes.

Missiles

Army

The House bill provided an authorization of $1,101,100,000 for the Army procurement of missiles. The Senate reduced the authorization related procurement for the Safeguard ABM program by $35 million—from $674 million to $639 million—in recognition of delays in the program caused principally by construction slippage. The items affected by the Senate reduction relate to Safeguard ground equipment, repair parts and support material.

The House recedes.

[Additional action on Safeguard is discussed further on in this statement.]

Navy

The House bill provided an authorization of $701,500,000 for procurement of missiles by the Navy. The Senate increased this amount by $2.6 million to procure additional AIM–7E Sparrow missiles to offset slippages experienced in the AIM–7F program.

The administration requested $61.3 million for procurement of the Sparrow missile. The House reduced the procurement account to $37.4 million and transferred $23.9 million to RDT&E because of difficulties in development of the 7F version of the missile. The Senate reduced the RDT&E account by another $2.6 million but increased the procurement account by $2.6 million for the additional 7E missiles. The Sparrow program total, therefore, remained at $61.3 million.

The conferees agreed to the Senate revision.

The House recedes.

Air Force

The House bill provided an authorization of $1,841,400,000 for procurement of missiles by the Air Force. The Senate reduced this amount by $66.5 million, with $61 million of the reduction being applied to the Minuteman program and $5.5 million applied to modification of the Falcon missile.

The conferees agreed to restore $14 million of the Senate reduction for Minuteman guidance and control units. The Senate recedes on $14 million and the House recedes on $47 million.

The conferees also agreed to restore $2.3 million of the Senate reduction related to the Falcon modification program to support operational requirements. The Senate recedes on $2.3 million. The House recedes on $3.2 million.

Naval vessels

For the Navy Shipbuilding and Conversion Program the House bill authorized $3,326,900,000. The Senate reduced this authorization by $318.3 million. The conferees agreed on an authorization totaling $3,067,100,000.

DLGN

Both the House and the Senate had identical language setting aside $14,600,000 of the Navy shipbuilding program for advance procurement for the nuclear-powered guided-missile frigate DLGN 41. In addition, the House bill had the further requirement that "The contract(s) for advance procurement for the DLGN 41 shall be entered into as soon as practicable unless the President fully advises the Congress that its construction is not in the national interest." The Senate amendment deleted this language. The Department of Defense had announced that it would not proceed with DLGN 41. Without DLGN 41 there would only be seven nuclear-powered frigates for three nuclear-powered aircraft carriers. Since the Navy has testified that it needs at least four nuclear-powered frigates to escort each nuclear-powered aircraft carrier, without additional DLGN's the number of escorts would be far below the minimum desired. Hence, it was agreed that the language should be retained.

The Senate recedes.

Nuclear attack submarines

The Senate added $22.5 million for long lead time items for a sixth nuclear attack submarine. Since the Soviets are speeding the development and production of new submarines, the conferees agreed that the long lead time items for this extra submarine would be desirable.

The House recedes.

Submarine tender

The House approved a budget request for two submarine tenders for a total of $214,000,000. The Senate reduced this amount so as to provide $123,000,000 full funding for one submarine tender and $15,000,000 advanced funding for an additional submarine tender. Since the conferees were advised that the reduction in funding did not affect the production schedule for the follow-on submarine tender, the House accepted the Senate position.

The House recedes.

Replenishment oiler

The House provided $56.5 million for one AOR Replenishment Oiler. The Senate deleted this ship because of Navy testimony that such a ship would not be needed for nuclear carriers and that alternative approaches were being examined. However, it was pointed out that less than one percent of the fleet would be nuclear by the end of fiscal year 1972. Since the 99-percent balance of the fleet needed oilers and since 19 of the 25 present oilers are already 25 years old, the conferees agreed to retain the House authorization.

The Senate recedes.

ATS rescue and salvage ships

The House provided $83,000,000 for three ATS Rescue and Salvage Ships. The Senate deleted two of the ships and dropped the amount available to $30.4 million. The Department of Defense did not seek restoration of the funds.

The House recedes.

Claims and other cost increases

The House provided the budget request of $373.7 million for claims and other cost increases. The Senate found that $155.7 million was not required for obligation in fiscal year 1972 and deleted that amount. The conferees were advised that a portion of the reduction should be applied against the "completion of prior year programs" category; there is no objection to this bookkeeping change.

The House recedes.

TITLE II—RESEARCH AND DEVELOPMENT

General

Both the House and Senate modified the Research and Development authorization requested by the Department of Defense. The departmental request totaled $7,950,800,000. The House bill authorized a total of $7,963,300,000, whereas the Senate authorization totaled $7,605,200,000. The conferees agreed on a total of $7,793,400,000. The amount agreed upon is $169,900,000 less than that approved by the House, is $188,200,000 more than the amount authorized by the Senate and is $157,400,000 less than was requested by the Department of Defense.

The adjustments made by the two Houses and those agreed upon in conference are reflected in the following table:

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

[In millions]

Program element	Fiscal year 1972 request	House Change	House Authorization	Senate Change from House	Senate Authorization	Conference action Change from Senate	Conference action Authorization
ARMY							
Human factors in military system	4.1	.....	4.1	−0.8	3.3	.....	3.3
Military selection, training, and leadership	3.4	.....	3.4	−.2	3.2	.....	3.2
Performance effectiveness of the American soldier	4.6	.....	4.6	−.7	3.9	.....	3.9
General chemical investigations	7.9	.....	7.9	−2.0	5.9	.....	5.9
Manpower resources development	6.3	.....	6.3	−1.6	4.7	.....	4.7
Heavy lift helicopter	47.0	−11.5	35.5	−5.5	30.0	.....	30.0
Aerial surveillance, target acquisitions, and night operations	9.1	.....	9.1	−2.7	6.4	.....	6.4
Aircraft weapons	40.8	.....	40.8	−12.8	28.0	.....	28.0
Utility tactical transport aircraft system	20.5	.....	20.5	−7.6	12.9	+7.6	20.5
Surface-to-air missile (SAM–D)	115.5	.....	115.5	−15.0	100.5	+15.0	115.5
Terminal homing	28.0	.....	28.0	−9.9	18.1	+5.0	23.1
Prototype hardsite development	65.0	.....	65.0	−5.0	60.0	.....	60.0
Safeguard	410.0	.....	410.0	−52.4	357.6	.....	357.6
Tracked and special vehicles	8.5	.....	8.5	−8.5	.....	+8.5	8.5
Main battle tank	27.5	.....	27.5	+35.3	62.8	.....	62.8
Technical support of the military man	11.2	.....	11.2	−2.2	9.0	+1.7	10.7
Joint tactical communications system (TRI–TAC)	10.0	−5.2	4.8	+.4	5.2	.....	5.2
Tactical automatic data processing system equipment	23.4	.....	23.4	−8.4	15.0	.....	15.0
Institute of the man	5.7	.....	5.7	−.5	5.2	.....	5.2
Prototype program	.....	.....	.....	.....	.....	+12.0	12.0
Programs not in dispute	1,071.4	.....	1,071.4	.....	1,071.4	.....	1,071.4
Total	1,950.0	−16.7	1,933.3	−115.0	1,818.3	+61.7	1,880.0
NAVY							
Center for Naval Analysis, Marine Corps	1.0	.....	1.0	−.1	.9	.....	.9
Center for Naval Analysis, Navy	8.6	.....	8.6	−1.4	7.2	.....	7.2
Special foreign currency program	2.9	−.3	2.6	.....	2.6	.....	2.6
Destroyer helicopter system (LAMPS)	38.5	.....	38.5	−17.0	21.5	+4.5	26.0
Aircraft flight test, general	5.3	.....	5.3	−1.0	4.3	.....	4.3
ST major systems development	31.2	.....	31.2	−5.4	25.8	.....	25.8
Underseas long-range missile system (ULMS)	109.5	.....	109.5	−6.5	103.0	.....	103.0
Fleet ballistic missile system	38.9	.....	38.9	−6.0	32.9	.....	32.9
Advanced Sparrow	.....	+23.9	23.9	−2.6	21.3	.....	21.3
F8M command control (Sanguine)	14.8	.....	14.8	−2.1	12.7	+1.0	13.7
New ship design	12.0	.....	12.0	−1.0	11.0	.....	11.0
Personnel support	7.8	.....	7.8	−.4	7.4	.....	7.4
Education and training development	3.3	.....	3.3	−.7	2.6	.....	2.6
Other Marine Corps systems	9.7	.....	9.7	−3.0	6.7	+3.0	9.7
Joint tactical communications system, Navy (TRI–TAC)	.....	+.6	.6	−.6	.....	.....	.....
Joint tactical communications system, Marine Corps (TRI–TAC)	.....	+2.0	2.0	−2.0	.....	.....	.....
NAVY—Continued							
ASW management and technical support	14.5	.....	14.5	−4.5	10.0	+4.1	14.1
Prototype program	.....	.....	.....	.....	.....	+10.0	10.0
Programs not in dispute	1,984.8	.....	1,984.8	.....	1,984.8	.....	1,984.8
Total	2,434.3	+26.2	2,460.5	−85.7	2,374.8	+43.9	2,418.7
AIR FORCE							
Flight vehicle subsystem concepts	19.4	.....	19.4	−5.8	13.6	+5.8	19.4
Reconnaissance drones	1.5	.....	1.5	−1.5	.....	.....	.....
C–5A airlift squadrons	26.0	.....	26.0	−3.6	22.4	+3.6	26.0
Advanced missile options	7.0	.....	7.0	.....	.....	+5.0	5.0
Hound Dog II	12.1	.....	12.1	−7.0	5.1	.....	5.1
Minuteman squadrons	186.6	.....	186.6	−10.0	176.6	+5.0	181.6
Tactical air-to-air missile	.....	+10.5	10.5	−2.7	7.8	.....	7.8
Survivable satellite	6.0	.....	6.0	−3.0	3.0	+3.0	6.0
Aerospace defense program	10.0	.....	10.0	−8.0	2.0	+8.0	10.0
Military satellite communications system	8.6	.....	8.6	−4.5	4.1	.....	4.1
Special activities	212.2	.....	212.2	−8.2	204.0	.....	204.0
Satellite data relay system	37.8	.....	37.8	−30.0	7.8	+10.0	17.8
Advanced radiation technology	28.1	.....	28.1	−5.0	23.1	+5.0	28.1
Laboratory independent exploratory development	5.4	.....	5.4	−5.4	.....	.....	.....
Human resources	5.0	.....	5.0	−.1	4.9	.....	4.9
Tactical information processing and interpretation	8.5	.....	8.5	−3.0	5.5	+3.0	8.5
Improved capability for operational test and evaluation	5.0	.....	5.0	−5.0	.....	+2.9	2.9
Protective system	31.5	.....	31.5	−7.0	24.5	+5.0	29.5
Joint tactical communications system (TRITAC)	.....	+2.6	2.6	−2.6	.....	.....	.....
Prototype program	.....	.....	.....	.....	.....	+12.0	12.0
Programs not in dispute	2,406.3	.....	2,406.3	.....	2,406.3	.....	2,406.3
Total	3,017.0	+13.1	3,030.1	−119.4	2,910.7	+68.3	2,979.0
DEFENSE AGENCIES							
ARPA:							
Overseas defense research	27.5	−10.0	17.5	−4.0	13.5	+3.0	16.5
Advanced sensors	9.0	.....	9.0	−3.0	6.0	+3.0	9.0
Other	191.5	.....	191.5	.....	191.5	.....	191.5
DCA:							
Defense communications planning group	34.0	.....	34.0	−31.0	3.0	+8.3	11.3
Other	16.6	.....	16.6	.....	16.6	.....	16.6
DIA/NASA/DASA	189.1	.....	189.1	.....	189.1	.....	189.1
DSA (ODC) program	13.2	.....	13.2	.....	13.2	.....	13.2
Technical support to Office of Secretary of Defense and organizations of Joint Chiefs of Staff program	18.5	.....	18.5	.....	18.5	.....	18.5
Total	499.4	−10.0	489.4	−38.0	451.4	+14.3	465.7
Emergency fund	50.0	.....	50.0	.....	50.0	.....	50.0
Total Department of Defense R.D.T. & E.	7,950.8	+12.5	7,963.3	−358.1	7,605.2	+188.2	7,793.4

Note: Detail does not add to total because certain classified items were omitted.

Two-year limitation on research and development

The Senate bill included a new section 201(b) which limits the time period, within which funds authorized for research and development by any act may be obligated, to two consecutive fiscal years commencing with fiscal year 1972. It is the intent of this section that, unless otherwise provided in the appropriation Act for fiscal year 1972 or subsequent years, funds appropriated for RDT & E will be available for obligation for only two successive fiscal years.

The House bill contained no comparable provision.

This action conforms with that of the Congress last year, when the same restrictions were imposed in the Department of Defense Appropriation Act, 1971, P.L. 91-668.

The House conferees are in general agreement with the objectives of this section which encourages the more timely and effective use of RDT & E funds and should provide a significant improvement in Congressional control of Department of Defense spending.

The House conferees agreed to accept the Senate language.

Defense special projects group

The Senate, in its action on the bill, reduced the amount requested for the Defense Special Projects Group by $31 million, from $34 million to $3 million. In its report, the Senate Committee stated that the continuation of this organization after completion of the Southeast Asia sensor system work (for which the remaining $3 million is provided) is not warranted; that any future tasks involving sensor development and applications should be assigned to the military departments under DDR & E coordination; and that advanced technology in sensors should be conducted, as in the past, by the Advanced Research Projects Agency until they show sufficient promise and progress to justify the assumption of development responsibility by the cognizant service.

The Deputy Secretary of Defense by separate letters and in the reclama stated the importance of retaining the demonstrated DSPG capability to rapidly accomplish high-priority tasks and to respond quickly to multi-service requirements. However, the conferees agreed with the Senate report which stated:

• • • that an organization which has been created for a specific task should not be perpetuated after the task is completed because 'it seemed essential to retain the experience and capabilities of DCPG.' This could lead to a proliferation of organizations and functions within the Department of Defense and circumvent the existing established structure and procedures of the Department which has demonstrated time and again that it has both the technical competence and 'Quick Reaction Capability' needed to get a job done well and within the time required. The demonstrated skill of the 157 military personnel will not be lost, but could serve to benefit their respective services when they are reassigned to duty. The same may be said of those of the 57 civilian employees whose capabilities are deemed important to retain.

The conferees agree that there is little or no justification to continue the Defense Special Projects Group. This organization was created specifically to develop and deploy the sensor systems identified as the "McNamara line" to satisfy a wartime requirement in Southeast Asia. The $3 million requested to complete that effort has been approved by both Houses. The $17 million requested to support an experimental test, which would employ the sensor technology developed for Southeast Asia, was denied by the Senate because it is designed for interim use and substantially duplicates work which the Army is doing and which is more comprehensive and addresses a mid-1970s' capability. There is no convincing need for such a near term capability. Moreover, while the NATO allies have expressed an interest in this program, they are not contributing financially to its support.

The conferees agreed to accept the Senate reduction.

The conferees agreed to restore the $3 million for development of physical security equipment and the $5.3 million for development of standoff surveillance equipment, both of which were denied by the Senate. However, the work to be performed with these funds should be conducted by the responsible military department. Therefore, the Department of Defense should transfer these funds to the respective military department to do these tasks. The Department of Defense is directed to disestablish the Defense Special Projects Group by the end of fiscal year 1972 or as soon as practicable.

The conferees agreed that in the future, work involving sensor technology should be pursued by the Department of Defense as it was done prior to the creation of the Defense Special Projects Group. Under that procedure, the Advanced Research Projects Agency (ARPA) and the military departments support such advanced technology. When the advanced technology conducted by ARPA shows sufficient promise, the next phases of development should be picked up by the individual service. DDR & E, under that procedure, will be responsible for coordinating all of the Department of Defense efforts involved as it now does for the total Research and Development program.

Prototype program

The Department of Defense reclama to the Congress on the fiscal year 1972 Military Procurement Authorization bill, which was submitted on October 13, 1971, requested authorization of $67.5 million to initiate an advanced prototype program. This formal request followed a series of presentations made by the Deputy Secretary of Defense, the Director of Defense Research and Engineering, and principal representatives of the military departments before committees of the House and Senate to describe the details of the proposed program. Hearings before the Senate Armed Services Committee were held on September 9, 1971, and the proceedings have been printed under that date with the title "Advanced Prototype."

The proposal is to initiate a procedure of procuring advanced prototypes of systems and components to demonstrate technical feasibility before taking any further procurement steps in a program. It would allow the thorough test of prototype hardware against military needs before a commitment is made to full-scale development. *The underlying objective of this program is to place more reliance on the performance of hardware and less emphasis on paper analysis.* Both the feasibility and utility of a new weapon should be evaluated to the extent possible with hardware demonstrations in advance of production.

The proposed program of $67.5 million consists of five projects for the Army at an estimated cost of $23.5 million, six projects for the Navy at $20 million, and four projects for the Air Force at $24 million.

The conferees agreed on a program of $34 million, divided $12 million Army, $10 million Navy, and $12 million Air Force. While in agreement with the objectives of this program, the conferees reduced the request by half because (a) the lateness of appropriations will reduce the period of time for which funds are required during fiscal year 1972; and (b) the Congress did not have time to review the individual projects in sufficient detail to establish either the validity or urgency of all the requirements. For example, one item proposed for the Army involved $3.5 million for a clean air engine. The effort is largely directed towards the reduction in harmful exhaust emissions, or air pollution control. This raises a question not only of the propriety of Department of Defense involvement in such effort, but also whether adequate consideration has been given to the extensive work being done by the automobile industry and non-defense agencies on the same problem.

The conferees urge the Department of Defense to initially pursue those projects which have the highest priority and which offer the greatest promise. If the Department of Defense finds that additional amounts are needed later in the fiscal year, such requirements will be considered appropriate candidates for reprograming actions.

Project Sanguine

The Senate bill included restrictive language, under Section 201(a), which establishes a limitation of $3,492,000 on the amount of money authorized for the Navy fiscal year 1972 RDT & E appropriation relating to research and development on project Sanguine. Within this amount, $150,000 is available only for an environmental compatibility program, and $300,000 is available only for biological and ecological effects research relating to the Sanguine project.

New language was added by the Senate, as Section 201(c), which prohibits the use of funds for research and development on a deep underground system for the Sanguine project.

The House bill contained no comparable provisions.

The Senate conferees agreed to restore $1,000,000 of the Senate reduction, making a total of $4,492,000 available to cover obligations already incurred by the Navy under the continuing authority. However, consistent with the restrictions of Section 201(c), obligations for fiscal year 1972 will exclude effort on the deep underground system.

The House and Senate conferees agreed that the prohibition on funds for the deep underground system during fiscal year 1972 does not prejudice a proposal to initiate this program if it is included in the budget for fiscal year 1973. Rather, it reflects the determination that a decision to initiate work involving this system in fiscal year 1972 is premature. That decision must await the outcome of the feasibility studies being conducted by the National Academy of Sciences and the National Academy of Engineering on the overall Sanguine project, as well as some results from the environmental studies being conducted by nine separate educational institutions.

Technical support of the military man program

The Senate, in its action on the bill, reduced the amount requested for this program by $2.2 million, from $11.2 million to $9 million. This reduction was applied specifically to the Food Technology project conducted at the Army Natick Laboratories at Natick, Massachusetts. In its report, the Senate stated that it considered that the remaining $4 million would be adequate to support this exploratory development program during fiscal year 1972.

The conferees agreed to restore $1.7 million of the amount reduced which will provide a total of $10.7 million for the "technical support of the Military Man" program and raise the funds for the Food Technology project to $5.7 million.

The restoration of $1.7 million will allow meeting a requirement of $350,000 for procurement of Cobalt-60 to be used in food irradiation work and for other food research to be conducted by the laboratories.

Safeguard

The Senate added a separate title, Title IV, to the bill which includes authorization for military construction for the Safeguard system in the amount of $109.6 million. The House had already approved construction authorization for ABM when it passed H.R. 9844, the Military Construction Authorization bill. That bill provided $183.6 million in construction authorizations for Safeguard. The Senate reduction of $74 million in construction authorization was taken in recognition of delays in the program caused by slippage in construction work. The full impact of these delays became known after the House had completed its action on the bill. The House conferees were satisfied that the construction funds would not be used in the fiscal year for which intended; and the House, therefore, accepts the Senate reduction.

Section 403 of Title IV of the Senate bill also contained restrictions on the deployment of the Safeguard ABM to two sites: Grand Forks Air Force Base in Grand Forks, North Dakota, and Malmstrom Air Force Base in Great Falls, Montana. The Senate bill further authorized advanced preparation of ABM sites at Whiteman Air Force Base at Knobnoster, Missouri, and Francis E. Warren Air Force Base at Cheyenne, Wyoming. The House bill had included authorization for continued deployment at Malmstrom, Grand Forks and Whiteman and, in addition, had provided authorization for advance deployment at both Francis E. Warren and at a possible National Command Authorities site in the Washington, D.C., area. The Senate bill, therefore, had the effect of eliminating deployment authorization for Whiteman and eliminating the possibility of advance preparation in the Washington, D.C., area.

The conferees on the part of the House recognized that because of delays caused by construction problems, no appreciable amount of deployment work could move forward at Whiteman in the present fiscal year and that, because of delays, commencement of advance work for the Washington, D.C., site, if found necessary, would not likely begin before fiscal year 1973. The Senate conferees assured the conferees on the part of the House that it remained their intent to provide for the survivability of our land-based deterrent and that their actions were chiefly dictated by program delays. Mr. Arends, of the House conferees, while agreeing to the conference report, wished to be recorded as in continued opposition to the elimination of deployment authorization at Whiteman.

The House, therefore, recedes.

The following compares the dollar amounts by categories in ABM authorization. The House amounts in each case were the amounts requested by the administration. Senate bill amounts are the amounts agreed to by the conference.

[In millions of dollars]

	House bill	Senate bill
Procurement	674.0	639.0
R.D.T. & E.	410.0	357.6
Military construction	172.5	98.5
Family housing	11.1	11.1
Total	1,267.6	1,106.2

TITLE V—GENERAL PROVISIONS

Chrome and the national stockpile

Section 503 of the Senate amendment contains language designed to remove the embargo on the importation of chrome ore from Rhodesia.

The language of Section 503, as added by the Senate, would amend the United Nations Participating Act of 1945 (22 U.S.C. 287c(a)) by adding the following new language:

"On or after January 1, 1972, the President may not prohibit or regulate the importation into the United States pursuant to this section of any material determined to be strategic and critical pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a), which is the product of any foreign country or area not listed as a Communist-dominated country or area in general headnote 3(d) of the Tariff Schedules of the United States (19 U.S.C. 1202), for so long as the importation into the United States of material of that kind which is the product of such Communist-dominated countries or areas is not prohibited by any provision of law."

Stated very simply, the language provides that the President cannot prohibit imports of a strategic material from a free world country if importation of such material is permitted from a Communist-dominated country.

The issue involved in the Senate language is whether the United States need for chrome ore, both from an economic and national security standpoint, should be subordinated to the policy position established by the United Nations in its sanctions against Rhodesia.

The United Nations Security Council, for the first time in the history of the United Nations, on December 16, 1966, imposed mandatory economic sanctions on Rhodesia. The country's primary exports—asbestos, iron ore, *chrome ore*, pig iron, sugar, tobacco, copper and meat and meat products were placed on the selective sanctions list. The effective date of the sanctions order was January 5, 1967.

On May 29, 1968, the United Nations Security Council voted to broaden the sanctions by imposing a virtual total embargo on all trade. On March 18, 1970, the Security Council reaffirmed existing sanctions and called on member states to enforce them more strictly.

The President of the United States, on January 5, 1967, issued an Executive Order, Number 11322, which effectively implemented the economic embargo adopted by the Security Council of the United Nations.

The United Nations Security Council Sanctions Committee, in a report published in June 1970, reported that it received 21 complaints, all from the United Kingdom, of violations involving chromite and ferrochrome shipments from Rhodesia to France, Japan, Netherlands, Italy, Spain, West Germany and the United States. The U.S.S.R. has identified Red China as another customer for Rhodesian material. Mozambique and the Republic of South Africa did not observe the sanctions from the outset and have helped to facilitate the exportation of Rhodesian chrome.

The principal impact of the economic embargo on imports from Rhodesia is the inability of the United States industry to import chrome ore.

Chromium is a strategic mineral essential to the production of steel. It is not produced in the United States.

There are legitimate and important national security considerations involved in evaluating continuation of our current reliance on the Soviet Union for more than 60 percent of our national needs for a strategic and critical material like chrome. While there is currently a surplus of chrome in the national stockpile of critical materials, the surplus is not large enough to meet U.S. needs for very long and further dissipation of the stockpile would be damaging to the national security. Furthermore, it would defeat the very purpose of the stockpile if the United States were to rely on the stockpile as a major source of chrome in the future as it has in recent years.

As the dominant world supplier of chrome, the Russians have driven the price from a pre-sanction level of about $25 per ton up to present levels of $72 per ton. Thus, the present price is 288 percent of the presanction price, according to U.S. Bureau of Mines figures.

Foreign producers of stainless steel, who may benefit from Rhodesian sanctions (by virtue of a capability of securing lower cost Rhodesian ore in violation of the sanctions) have increased their penetration of U.S. markets. Imports of specialty steels are at an all-time high—22% of the total domestic market in the first quarter of 1971. For some individual specialty steels, the penetration is even greater; 35 percent of stainless cold rolled sheets, 68 percent of the market for stainless wire rods, and 54 percent for stainless wire. The imports have a direct effect on domestic employment and production in the specialty steel and the ferroalloy industries.

Discussion of the Senate position on this matter reflected the general consensus that continued observance of the U.N. imposed embargo against the importation of chrome ore from Rhodesia adversely affects the national interests of the United States in that it—

(a) makes the United States dependent upon the Soviet Union as a major source of a critical defense material,

(b) places U.S. steel producers in a very unfavorable competitive position in both the domestic and international market,

(c) contributes directly to unemployment in the U.S. steel industry, and

(d) substantially increases pressure to reduce the amount of chrome ore maintained in the national stockpile.

In view of these considerations, the House agreed to accept the Senate provision on this subject. However, consistent with the objectives of the House-Senate conferees on this matter, the Senate conferees agreed to accept House language which places this statutory change in the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98).

C–5A funding restrictions

Section 504 of the Senate amendment continues restrictions enacted for Fiscal Year 1971 relating to the contingency funding for the C–5A program and the requirement that such funds be utilized strictly for that program.

The Defense Department had advised that the restrictions contained in Section 504 of the Senate amendment had been incorporated by reference in the restructured contract for the C–5A. The Department of Defense further advised as follows: "to preclude disruption of our negotiated settlement in subsequent years, we further provided in the contract that these restrictions would continue if required by subsequent Congressional actions. Accordingly, our contract with Lockheed would not be breached by continuation of these restrictions in Fiscal Year 1972 or in any future fiscal year under such circumstances."

The Department of Defense further advised that although it did not favor continuation of these general restrictions in respect to the Lockheed contract, it would "if the Congress wished to do so, . . . accommodate whatever decision is reached by the Congress."

The restrictions embodied in Section 504 of the Senate amendment, among other things, preclude the Lockheed Corporation from including bid and proposal costs, independent research and development costs, and the costs of other similar unsponsored technical effort, or depreciation and amortization costs on property, plant or equipment in those costs recoverable under the C–5A aircraft program.

The House conferees pointed out that denying to the Lockheed Corporation the opportunity to recover legitimate costs directly or indirectly allocable to the C–5A program was a harsh and unique statutory restriction heretofore unparalleled in government procurement.

It was, for example, pointed out that denial of depreciation and amortization costs on property, plant, and equipment would deny to the Lockheed Corporation a positive cash flow totalling more than $10 million. This positive cash flow would occur during the period when cash will be most critical to the Lockheed Corporation.

Among the House conferees who consider this Senate language unnecessarily restrictive and harsh were Congressmen Les Arends, Charles S. Gubser and Bob Wilson. They believed that the United States entered into a bonafide agreement which designated Lockheed's fixed loss on the C–5A program to be

$200,000,000, and to restrict the traditional right of recovering depreciation, bid and proposal and independent research and development costs is to add upwards of an additional $20,000,000 in fixed loss. They consider it unfair for Congress to legislatively amend the contract on what they believe to be an ex post facto basis. However, after considerable discussion the House conferees recognized that the Senate was adamant in its position and in the broader interest of enacting the entire bill into law, the House conferees receded with the exception of Mr. Arends, Mr. Gubser, and Mr. Wilson, and accept the Senate position on this provision of the bill.

Ceilings on expenditures in Laos

Section 505 of the Senate bill imposes a ceiling of $350 million on expenditures in, to, for, or on behalf of Laos, excluding combat air operations in or over Laos by U.S. military forces. The section further requires quarterly written reports by the President of the United States to the Congress showing the total of expenditures by the U.S. government during the preceding quarter subject to the ceiling, with a breakdown of the purposes for which the expenditures were made. The section also provides that after the date of enactment of this Act any request for the appropriation of funds for use in, for, or on behalf of Laos shall be accompanied by a written report explaining the purpose for which such funds are to be used.

The Congress has been advised that the ceiling established by the section, $350 million, is equivalent to the total expenditures programmed by the administration in Laos for fiscal year 1972, excluding the normal and usual expenses of the embassy discussed below.

The House conferees are in sympathy with the purposes of the limitation and the House, therefore, recedes.

The conferees intend that the $350 million limitation should include all assistance-related activities in Laos. However, the conferees wish to make it understood that it is not the intent to place a ceiling on, or reduce, funds available for vital non-assistance-related activities in programs which must be carried on irrespective of assistance-related operations in Laos, such as the normal expenses incurred by the State Department in the operations of its embassy and such normal and usual expenses of the embassy as would be incurred in peacetime in the absence of any military, paramilitary, or economic assistance programs of any kind.

Reporting of schedules and testing prior to procurement

The Senate bill contained a new general provision, Section 506, which requires the Secretary of Defense to submit annual reports on development schedules, procurement schedules, and operational testing and evaluation (OT&E) for weapon systems for which funds for procurement are requested. In addition supplemental reports are required to be submitted 30 to 60 days prior to awarding of a procurement contract.

The House bill contained no similar provision.

The purpose of the Senate language is to augment and supplement the Congressional Authorization Data Sheets and the Selected Acquisition Reports which have been provided in the past, but which have been either too late or lacking in sufficient detail to satisfy the needs of the Congress. Section 506 will improve this procedure by requiring that the Congress be provided with additional and timely information in support of the major weapon systems proposed for procurement in budget submissions, and also when the decision to award a contract for such systems is made. The effectiveness of the Congress in the review and consideration of budget proposals and of contract awards for procurement of weapon systems is directly proportional to the adequacy and timeliness of information upon which to base its judgment.

The need for such information on a continuing basis is a direct reflection of the frustrations experienced by the Congress in being surprised by recurring cost overruns. The concern of both houses of Congress has been expressed repeatedly on the escalating costs of weapon systems particularly in the present atmosphere of a troubled economy and increasing demands of domestic programs.

It has become increasingly apparent that weapons systems have entered volume production before adequate development and testing has been completed. In effect, the Military Departments were gambling that major problems would not be encountered and that any design changes required after completion of testing would be of a relatively minor nature. Such has not been the case. Testimony has confirmed that proceeding with volume production too soon in too many cases has delayed rather than accelerated operational capability. Moreover, necessary fix-up costs resulting from such unwarranted concurrency have been a major cause of costly overruns.

The Department of Defense now recognizes and is placing the required emphasis on completion of a greater portion of development and of operational testing before volume production is begun. To this end, a Deputy Director, Defense Research and Engineering (Test and Evaluation) has been established, and each Service has been directed to establish an operational test and evaluation office to provide the Service Chiefs with "a clear picture of the operational suitability of a weapon system for Service use, to include its principal deficiencies and limitations and the corrective actions required prior to full scale introduction into the force."

The requirements of Section 506 are consistent with the requirements established by Deputy Secretary of Defense memorandum of April 21, 1971, to the Secretaries of the military departments, which states in part:

"Prior to the Production Decision, the Military Departments will provide the Director, Research and Engineering with an assessment of the test results in terms of response to the initial questions or issues (associated with development test and evaluation, and operational test and evaluation) previously identified. The Deputy Director, Test and Evaluation, will review this assessment and provide an independent recommendation to the Production Decision meeting."

The requirements of Section 506 also are consistent with a later letter dated August 3, 1971, from the Deputy Secretary of Defense which states in part:

"The objective of the overall operational test and evaluation effort for any program is to aid in providing at major decision points in the acquisition and development process the best information possible at that point in time as to: the military utility of the prospective system; its expected operational effectiveness, operational suitability (including reliability, logistic, and training requirements); need for modifications; and the organization, doctrine and tactics for system deployment. For programs intended for acquisition, phases of operational test and evaluation must be successfully executed in a timely manner to provide needed information as required. New acquisition programs requiring DSARC processing, or those which are currently in their early stages, will be so executed that an initial phase of operational test and evaluation will be accomplished prior to the major production decision to assist in estimating before that decision system operational effectiveness and suitability. In the case of well-advanced or on-going programs where contract or other binding arrangements preclude such initial operational test and evaluation prior to the first major production decision, there nevertheless will be accomplished such initial operational test and evaluation as early in the acquisition cycle as possible."

The above excerpts from the April 21 memorandum and August 3 letter best summarize the information on operational test and evaluation required by Section 506 (c)(3).

The Secretary of Defense reclama dated October 13, 1971, acknowledges the need for additional information to be provided to the Congress when he states, "As time goes on, we would certainly expect to continue to improve on the data submitted to meet the needs of the Congress." Section 506 serves to recognize this commitment and makes it a legal requirement commencing at the beginning of calendar year 1973. This provides ample notice and time for implementation by the Department of Defense.

The major objections stated in the Defense Department's reclama address Subsection (b) which requires a supplemental report to the Committees "not less than 30 nor more than 60 days" before the awarding of any contract or the exercising of any contract option to procure production quantities of a weapon system. The argument is that the integrity of the source selection process is jeopardised because it would be exposed to undue outside influence. This concern reflects a possible misunderstanding of the intent of the subsection. It is not intended to relate to the contract action but rather to the earlier decision to procure. The name of a successful bidder would not therefore be disclosed prior to notice of selection.

Secretary Packard also states his view that "it would be to our mutual advantage to have our staffs work out the details of any additional information you require rather than make it a specific matter of the law." Experience in negotiating with the Department of Defense during the past two years to obtain such readily available information as identification of projected procurement quantities and costs by year for all major weapon systems has proven to be unsuccessful.

The House conferees were very much in sympathy with the purposes of Section 506. The conferees were concerned, however, that the reporting procedure not adversely affect the validity of the source selection process and not impose requirements which might in some instances have an adverse effect on national security. The Department of Defense had expressed concern about such reports adversely affecting the position of competing contractors whose proposals are being evaluated in source selection. The department was also concerned about an adverse effect on the government's negotiating position. To provide proper safeguards, therefore, the House conferees proposed, and the Senate conferees accepted, an amendment which provides that the submission of reports would not be required in those instances where the Secretary of Defense determines that such report would adversely affect the source selection process and prior to awarding of contracts notifies the Senate and House of such determination in writing. The amendment further provides for the removal of the requirement for a report in those instances where the Secretary of Defense determines that such report would adversely affect the vital security interests of the U.S. and notifies the House and Senate in writing of his reasons for such a determination at least thirty days prior to the awarding of the contract.

With this amendment, the House accepts the Senate provision.

In summary, the reporting requirements of this section hopefully will provide the Congressional Committees with consolidated development and test data *before* key decision points, such as the initial major procurement award of a system, have passed. This is another major step in Congressional efforts to monitor and keep abreast of the acquisition of major weapon systems costing billions of dollars.

Use of Los Alamitos Naval Air Station

Section 507 of the Senate bill provided that none of the funds authorized by this or any other Act may be used for carrying out aircraft flying operations at the United States Naval Air Station, Los Alamitos, California, until thirty days after the Secretary of Defense has submitted to the Congress a written report which "discusses and determines the best use to which the naval air station might be feasibly devoted."

The House bill contained no similar provision.

The Department of Defense strongly opposed the provision on the grounds that it would delay the valuable use of the military facility and could delay the relocation of essential Reserve units.

The House conferees took the position that the Procurement authorization bill is not the proper vehicle for this provision and that setting such a limitation in law would be an extremely undesirable precedent. The House had no opportunity to consider the provision.

The House conferees are in sympathy with the need for a prompt decision on the use to be made of Los Alamitos and join the Senate conferees in urging the Department of Defense to firm up its plans for the facility. To this end the conferees request that the Department of Defense submit a report on plans for Los Alamitos to the Congress prior to any action and, if possible, not later than December 31, 1971.

The Senate recedes.

Termination of hostilities in Indochina

The Senate bill contained a provision (sec. 601), popularly known as the Mansfield Amendment, declaring it to be the policy of the United States to terminate at the earliest practicable date all U.S. military operations in Indochina and to provide for the withdrawal of U.S. military forces from Indochina not later than six months after the date of enactment of this legislation subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with that Government.

The language of the amendment calls for: establishing a date for withdrawal contingent upon the release of prisoners of war, negotiating for an immediate cease-fire, and negotiating for an agreement to provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war. The amendment is almost identical to a provision on termination of hostilities which appears in section 401 of Public Law 92-129, enacted into law September 29, 1971.

Because the House has previously rejected a specific deadline for withdrawal of U.S. troops from Indochina, the House conferees were adamant in their opposition to the Senate provision, particularly the establishment of a six-months deadline. The House conferees were also of the position that the provision would be more properly presented as a declaration of the sense of Congress rather than as the declared policy of the United States.

The Senate conferees were equally vigorous in defending the position of the Senate in support of the amendment and were adamant in opposing attempts to have the provision eliminated from the legislation.

After extensive discussion, the conferees agreed to a compromise which incorporates the major portion of the Senate language. It continues the language which declares the provision to be the "policy of the United States." However, it deletes the language setting the date at "not later than six months" after date of enactment and provides instead for withdrawal "at a date certain."

Also, the conferees amended the provision to require an accounting for all Americans missing in action who had been held by or known to the Government of North Vietnam and forces allied with such Government, in addition to the release of all prisoners of war, as a condition for the withdrawal of American troops. This requirement of an accounting for the missing is consistent with the action by the Congress in Public Law 92-129. More than three-fourths of the American servicemen listed by the Department of Defense as prisoners of war or missing in Southeast Asia have never been accounted for by the Government of North Vietnam and forces allied with that Government.

Mr. Arends, one of the House conferees, while signing the conference report, wished to be recorded as in opposition to the language accepted by the conferees which states that this provision is the "policy of the United States" rather than the "sense of Congress" as contained in Public Law 92-129.

While honoring her obligation as a Senate conferee to uphold the legislation as passed by the Senate, Senator Smith wishes to make it clear that, individually, she does not approve of the Mansfield amendment even in the modified form in the conference report.

Pay increases for certain grades of uniformed services

Title VII of the Senate bill provided increases in basic pay and basic allowance for quarters, primarily for personnel in the lower officer and enlisted grades, at a total cost of $381,100,000 per year.

The House bill contained no similar provision.

In essence, the Senate amendment would provide small additional increases mostly for enlisted men in lower grades on top of the substantial pay increases voted by the Congress in Public Law 92-129 as a further effort towards achieving the proposals of the Presidential commission on military pay (the Gates Commission) to effect an all-volunteer force.

The House conferees pointed out that the substantial pay increases provided by Public Law 92-129, which followed a pay increase earlier in the year for military personnel, were only enacted by the Congress on September 29 and their impact on recruitment and retention has not yet been determined. The House conferees pointed out that the Senate amendment would provide small changes in the adjustments made by Public Law 92-129. For example, the typical E-3 who receives a pay increase of $157.33 per month under Public Law 92-129 would get an additional increase of $15.50 under the Senate amendment; the typical E-4 who receives a pay increase of $105.50 under Public Law 92-129 would receive an additional increase of $16.17 under the Senate amendment. The House conferees also pointed out that the additions of the Senate amendment were not in the pay proposals originally made to the Congress at the beginning of the year by the administration and that these increases could not be justified on the basis of personnel need or any certainty that they would increase the likelihood of a volunteer force.

Moreover, it is pointed out that the Department of Defense in expressing its views on the additional military pay increase contained in the Senate amendment advised that although it did "concur in the additional increases proposed to be provided in Mr. Allott's amendment" it "believed that the pay provisions in the conference report on H.R. 6531 (P.L. 92-129) met the tests of equity and competitiveness."

Thus, since the Department of Defense views the pay levels established by P.L. 92-129 as adequate and as meeting the tests of equity and competitiveness, and since, by any reasonable standard, the levels of pay provided enlisted personnel are equal to or better than comparable civilian pay levels the House conferees were of the view that the additional annual expenditure of more than $380 million for another military pay increase had not been justified.

The Senate conferees vigorously defended the pay provisions of the Senate bill. The Senate conferees pointed out (1) that the higher basic pays for the lower enlisted and junior officer grades as contained in the Allott amendment have passed the Senate on two separate occasions during this session of Congress; (2) that these increases are supported by the President of the United States; (3) that the volunteer concept is now a firm national policy and that these increases for the young men entering the service are now considered essential to the fulfillment of this objective. However, after extensive discussion, the House remained adamant. The House conferees, however, agreed that should the additional pay increases of the Senate bill be formally submitted as a legislative proposal by the administration or passed as legislation by the Senate, the House would stand ready to give it prompt consideration.

The Senate, therefore, recedes.

Adjustment of Federal civilian pay

The Senate bill contained a separate title, Title VIII, unrelated to the general purposes of the military procurement authorization bill. The title would have provided comparability pay adjustments for Federal civilian personnel with the stipulation that those increases shall not be greater than the general average of wage and salary adjustments authorized for the private sector under the Economic Stabilization Act of 1970. In essence, the Senate action is designed to supersede the President's decision to postpone the next scheduled Federal employee pay increase until July 1, 1972, and to require that increases be provided for Federal employees at such time, on or after January 1, 1972, that wage increases are permitted in the private sector.

The House conferees pointed out that H. Res. 596, which would have rejected the President's delay of the next Federal employee salary adjustment, has already been considered and rejected by the House of Representatives. In addition, the matter was also considered by the House Committee on Post Office and Civil Service, which has reported a bill, H.R. 10881, the language of which is quite similar to the provisions of Title VIII of the Senate amendment. Since the House had rejected House Resolution 596 and has not had an opportunity to complete Floor action on H.R. 10881, the House conferees were of the view that it would be improper for them to accept the Senate provision. Moreover, the House conferees pointed out that a Senate Committee only recently agreed to report S. 2722, a bill having the same objectives as the Senate provision and language quite similar to the provisions of H.R. 10881.

In view of these circumstances the House conferees, therefore, were adamant in their opposition to the Senate language.

The Senate, therefore, recedes.

Summary

The bill as presented to the Congress by the President included programs totaling $22,188,337,000. The bill as passed by the House totaled $21,252,682,000. The bill as passed by the Senate totaled $21,016,442,000.

The bill as agreed to in conference totals $21,318,870,000.

The figure arrived at by the conferees is $871,467,000 less than the amount requested by the President.

The House recedes from its disagreement to the amendment of the Senate to the title of the bill and agrees to the same.

F. EDW. HÉBERT,
MELVIN PRICE,
O. C. FISHER,
CHARLES E. BENNETT,
JAMES A. BYRNE,
SAMUEL S. STRATTON,
LESLIE C. ARENDS,
ALVIN E. O'KONSKI,
WILLIAM G. BRAY,
BOB WILSON,
CHARLES GUBSER,
Managers on the Part of the House.

JOHN C. STENNIS,
STUART SYMINGTON,
HOWARD W. CANNON,
THOMAS J. MCINTYRE,
HARRY F. BYRD,
MARGARET CHASE SMITH,
(with reservations on Mansfield amendment)
STROM THURMOND,
JOHN TOWER,
PETER H. DOMINICK,
Managers on the Part of the Senate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1262. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Agriculture for "Forest protection and utilization," Forest Service, for the fiscal year 1972, has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to 31 U.S.C. 665; to the Committee on Appropriations.

1263. A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to authorize additional judgeships for the U.S. courts of appeals; to the Committee on the Judiciary.

1264. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, together with a list of the persons involved, pursuant to section 212(d)(6) of the act; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows

Mr. BOLLING: Committee on Rules. House Resolution 676. Resolution authorizing additional investigative authority to the Committee on Interior and Insular Affairs (Rept. No. 92-613). Referred to the House Calendar.

Mr. BROOKS: Joint Committee on Congressional Operations. Report on changing the Federal fiscal year: testimony and analysis. (Rept. No. 92-614). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLMER: Committee on Rules. House Resolution 693. Resolution providing for the consideration of House Joint Resolution 946. Joint resolution making further continuing appropriations for the fiscal year 1972, and for other purposes (Rept. No. 92-615). Referred to the House Calendar.

Mr. COLMER: Committee on Rules. House Resolution 694. Resolution providing for the consideration of H.R. 11060. A bill to limit campaign expenditures by or on behalf of candidates for Federal elective office; to provide for more stringent reporting requirements; and for other purposes (Rept. No. 92-616). Referred to the House Calendar.

Mr. GARMATZ: Committee on Merchant Marine and Fisheries. H.R. 11589. A bill to authorize the foreign sale of certain passenger vessels (Rept. No. 92-617). Referred to the Committee of the Whole House on the State of the Union.

Mr. HÉBERT: Committee of Conference. Conference report on H.R. 8687 (Rept. No. 92-618). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CULVER:

H.R. 11599. A bill to amend the Social Security Act to provide for advanced payment for extended care and home health services under certain circmumstances; to the Committee on Ways and Means.

By Mr. DANIELSON (for himself, Mr. DENT, Mr. HOLIFIELD, Mr. ST GERMAIN, and Mr. SPRINGER):

H.R. 11600. A bill to amend the Internal Revenue Code of 1954 to disallow deductions from gross income for salary paid to aliens illegally employed in the United States; to the Committee on Ways and Means.

By Mr. MCCOLLISTER (for himself and Mr. VEYSEY):

H.R. 11601. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 11602. A bill to amend the Economic Stabilization Act of 1970, as amended, to direct the President to stabilize rentals and carrying charges through the period ending at midnight April 30, 1972, and to authorize local governments to stabilize such rentals and charges thereafter; to the Committee on Banking and Currency.

By Mr. PETTIS:

H.R. 11603. A bill to authorize the Secretary of the Interior to sell certain rights in the State of California; to the Committee on Interior and Insular Affairs.

By Mr. PIKE:

H.R. 11604. A bill to amend the Internal Revenue Code of 1954 to relieve employers of 50 or less employees from the requirement of paying or depositing certain employment taxes more often than once each quarter; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 11605. A bill to establish minimum prisoner treatment standards for prisons in the United States, and to create an agency to hear complaints arising from alleged infractions of such standards; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 11606. A bill to amend the Vocational Rehabilitation Act to provide special services, artificial kidneys, and supplies necessary for the treatment of individuals suffering from end stage renal disease; to the Committee on Education and Labor.

By Mr. ROGERS:

H.R. 11607. A bill to limit U.S. contributions to the United Nations; to the Committee on Foreign Affairs.

By Mr. WALDIE:

H.R. 11608. A bill to establish a national research and development program for the development of equipment to enable the physically handicapped to move about independently; to the Committee on Interstate and Foreign Commerce.

By Mr. JOHNSON of Pennsylvania:

H. Res. 691. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. MCCOLLISTER:

H. Res. 692. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. JONES of Alabama:

H.R. 11609. A bill for the relief of the estate of Clarence Schrimsher; to the Committee on the Judiciary.

By Mr. PETTIS:

H.R. 11610. A bill to provide for the exchange of certain public land in Napa and Sonoma Counties, Calif., for certain land within the Point Reyes National Seashore; to the Committee on Interior and Insular Affairs.

SENATE—*Friday, November 5, 1971*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D. offered the following prayer:

O Thou who art eternal and unchangeable, perfect in justice and truth, we who are less than perfect, crave Thy presence and Thy power. Lift us above our limitations and impart to our waiting hearts a full measure of Thy grace. Rescue us from our roving and lead us in paths of righteousness. When we are weak, make us strong. When we are ignorant, make us wise. When we are sinful, grant us forgiveness. Let Thy new life arise in us for our soul's sake and the welfare of the people we serve. Guide us through this day, reinforce us in our labors, watch over us in our journeying and in the end help us to lie down in the pace and safety of Thy house. And to Thee shall we ascribe all glory and praise. Amen.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the President pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Ronald S. Berman, of California, to be Chairman of the National Endowment for the Humanities, which was referred to the Committee on Labor and Public Welfare.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1483) to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 11418) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. SIKES, Mr. PATTEN, Mr. LONG of Maryland, Mrs. HANSEN of Washington, Mr. MCKAY, Mr. MAHON, Mr. CEDERBERG, Mr. JONAS, Mr. TALCOTT, and Mr. BOW were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to a concurrent resolution (H. Con. Res. 417) to commend the Intergovernmental Committee for European Migration for successfully performing valuable humanitarian work on the occasion of its 20th anniversary, in which it requested the concurrence of the Senate.

HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 417) to commend the Intergovernmental Committee for European Migration for successfully performing valuable humanitarian work on the occasion of its 20th anniversary was referred to the Committee on Foreign Relations.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, November 4, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE FUTURE OF AMERICAN BUSINESS

Mr. SCOTT. Mr. President, recently, the Nation's business press was briefed at the White House on one of the country's most urgent tasks: to take a good look at the future of American business. This look into the future is exactly what the White House Conference on the Industrial World Ahead: A Look at Business in 1990, is undertaking at the Sheraton-Park Hotel in Washington, via a busy agenda for 3 days starting February 7.

There are several important reasons why I wish to call your attention to this Conference—the first business conference by the White House.

A primary reason is that more than 1,500 individuals from business, labor, the professions, education and government—many among the best thinkers in our land—will apply their special talents and insights to an intensive study of our industrial world ahead.

Cochairing this major event will be Commerce Secretary Maurice H. Stans and Labor Secretary James D. Hodgson. Secretary Stans ably expresses what this Conference is all about:

Preparing for the future. If we are going to meet the demands of tomorrow, we must arrange a rendesvous today.

While we can't exactly predict the future,

Secretary Stans notes:

We can prepare for it on the basis of reasonable assumptions and projections. The Nixon administration is bringing some of the Nation's best thinkers and planners together to look not at today's economic problems, but rather at how we can anticipate and plan for the requirements of a Nation of 300,000,000 citizens 20 years hence. By examining our future growth, perhaps we can avoid, or alleviate, many of the problem areas which might become future crises.

Other information sought includes the drawing up of indicators as to where we will be in world markets, what jobs will be available for our labor force, and how our work and business environments will be altered.

A high point will be an address by President Nixon, who has already emphasized that to avoid the whiplash of future shock, we must "become the managers of change."

Four broad themes have been established for the agenda: Technology and resources for business, the structure of the private enterprise system, the social responsibility of business, and the human side of enterprise.

Other conference accomplishments, according to Secretary Stans' hopes, are the drawing up of indicators for 1990 as to where we will be in world markets, what jobs will be available for our labor force, and how our work and business environments will be altered. He states:

We hope the 1990 Conference will prime us to act positively and in advance—and not merely react—to opportunities and problems down the road.

The Conference, then is an undertaking that well deserves our recognition, for it aims at our future economic health. The Conference represents an important step ahead toward insuring our economic future.

NATIONAL HUNTING AND FISHING DAY

Mr. SCOTT. Mr. President, last June, the distinguished Senator from New Hampshire (Mr. MCINTYRE) introduced Senate Joint Resolution 117 to provide that the President of the United States declare the fourth Saturday of each September as "National Hunting and Fishing Day." This resolution, if approved, will give public recognition to the many contributions of America's 50 million hunters and fishermen to the cause of conservation and outdoor recreation.

I applaud the goals of this resolution and have already asked that my name be added as a cosponsor. Every day, young men and women are learning about the delicate ecological balances necessary to maintain a healthy environment. Hunters and fishermen have done more than their share in this effort by actively supporting legislation to assure the next generation that we will have clean air and clean water. Pennsylvania's million-plus sportsmen, especially, are deeply involved in the fight for a better environment, and the Senate's approval of this resolution for a National Hunting and Fishing Day would be a fitting tribute to them and to all the Nation's outdoorsmen.

MARC J. SONNENFELD—SUMMER INTERN

Mr. SCOTT. Mr. President, in the summer of 1967, Marc J. Sonnenfeld worked in my office as a summer intern. We realized then that he possessed many unusual capabilities and talents and had developed a great interest in politics and legislation.

Our faith in him has been justified. He recently graduated from Harvard Law School where he delivered the English address at commencement. He is currently teaching three law courses for undergraduates in the Department of Political Science at Wellesley College and says he frequently reflects upon his experiences here in Washington and that they gave him a realistic perspective for the courses he teaches.

Mr. President, I ask unanimous consent that his commencement address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

FROM LAW SCHOOL TO LAW PRACTICE

(By Marc J. Sonnenfeld)

Today, my classmates and I emerge from the Law School into the special role for which we have been trained during the past three years—the role of advocates in an adversary system of justice. Despite our long anticipation of this occasion, it is a difficult time to emerge from the relative tranquility of law school into the throes of the legal profession, for as the newspapers daily remind us, it is a time when congestion is strangling the courts in big cities throughout the country, and when justice has become a commodity that Americans regularly find elusive, capricious, and uncertain.

As members of the bar, we are soon to find ourselves not only adversaries within this system, but also among the custodians of the system itself. Writing more than a century ago, de Tocqueville perceived the germination of this custodial role when he observed, "If I were asked where I place the American aristocracy, I should reply without hesitation that it is not among the rich, who are united by no common tie, but that it occupies the judicial bench and the bar." This legal aristocracy developed and matured, and if de Tocqueville were writing a century later, he might certainly have observed also a close connection between the legal establishment and the spectacular acceleration in the breakdown of the American legal system.

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Traditionally, this Law School has taken pride in training leaders of the bar. Consequently, the Law School must share some responsibility for the present state of the legal system. Thus, critics have alleged that for decades the Law School structured a curriculum which reflected with remarkable fidelity the commercial demands of corporate law firm practice. For example, Ralph Nader charges that the educational system at the Law School has "faithfully nourished and fundamentally upheld a developing legal order which has become more aristocratic and less responsive to the needs and strains of a complex society."

These criticisms ring true to many of us as we reflect upon our experiences during the past three years. However, these criticisms also overlook, or at best minimise the significance of the fact that America did achieve its present economic greatness through endeavors in the corporate form; and for this reason, and rightly so, from the days of de Tocqueville and before, the Law School has provided leadership for corporate enterprise. And, the Law School must continue to train corporate experts, as long as the corporate form of organization continues to flourish in American society, thereby perpetuating the need for enlightened members of the Bar to provide guidance for industry and finance.

Yet, we are emerging from Law School at a unique time in American history—a time when an elevated level of consciousness has led many Americans to realize that "more" is not necessarily better than "less," and that the quality of life is of greater significance than the quantity of goods supporting life. We might even conclude that for better or for worse, through the use of the corporate device, the means of production of goods and services in this country has been built, and now, the building process seems largely completed. The burning issue is no longer how to produce more goods and services, but rather, how to distribute equitably those goods and services which the system has produced.

And this, I would submit, is the prime challenge facing the bar and especially the Law School Class of 1971—how to develop a theory and practice for a just allocation of legal resources and manpower.

If the courts, rather than the streets, are to become the battle grounds for the domestic conflicts of the coming decades, then the confidence of the American people in their judicial system must be restored. At the gateway of restoring this confidence is the necessity of assuring equal access to unbiased forums of adjudication through attorneys who will employ the same rigorous advocacy that has been the standard in corporate legal representation to representation of public interests and basic rights. The congestion in the courts is but itself a reflection of the present inequality in the deployment of legal resources, for backlogs deny access to the courts to those who seek to vindicate fundamental rights or to challenge the status quo. The present allocation of legal resources thereby favors the perpetuation of interests vested in the status quo.

Judge Skelly Wright correctly observed recently, that as students during the nineteen sixties, we were inspired by the dignity and moral courage of a Supreme Court that was prepared to act on the ideals to which America is theoretically and rhetorically committed. Yet, but for zealous advocates who advanced previously neglected individual causes and public interests, the Supreme Court would not have been moved to so act. Now, without equally zealous advocates in the trial courts of the nation, the full fruits of these advances will never reach their intended beneficiaries.

Indeed, as we enter the realm of the bar, let us hope that we will be able to move the bar with us, in the direction indicated by Charles Reich, when he stated, "As the law becomes more and more a determinative force for public and private affairs, the lawyer must carry the responsibility of his specialized knowledge and formulate ideas as well as advocate them." Hopefully, we will be able to formulate and advocate ideas for a more equitable deployment of legal resources in the Law School, the law offices, and the courtrooms.

FOREIGN AID—HOUSING FINANCING COMMITTMENTS

Mr. SCOTT. Mr. President, as Congress is now reviewing our foreign aid commitments, I think it would be helpful to take a firsthand look at the realities and achievements of our assistance to developing countries for housing financing purposes.

Mr. Stanley Baruch, Director of the Agency for International Development's Office of Housing, recently addressed the XII World Congress of the International Union of Building Societies and Savings Associations in Berlin, Germany.

I ask unanimous consent to have Mr. Baruch's remarks printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE GEOGRAPHIC AND INSTITUTIONAL EXPANSION OF INTERNATIONAL HOUSING ASSISTANCE FROM THE UNITED STATES

(An Address by Stanley Baruch)

My purpose in addressing you today is to describe an exquisite collaboration between the governmental apparatus of the United States and the private, prestigious and prosperous United States Savings and Loan industry to provide a magnificent product for the good of mankind and the eternal gratitude of the entire free world. Since I first reported this remarkable phenomenon from this same forum in London six years ago, two enormous changes have occurred in this always wonderful undertaking to make it even more meaningful. One change was quantitative with the addition of more than one-half billion dollars to the available resources. The other was qualitative involving the transformation of the principal thrust of the program into one which creates or strengthens housing finance institutions in the developing countries.

I will deal in greater detail with both these developments later on but it is essential to refer to them in my introductory comments because they both are startling manifestations of my principal thesis. All the world must be made to realize that while the Marxists mumble on behalf of the proletarian and the collectivists screech their cacophony of discord and academicians weep and wail about how woefully terrible things are and wring their hands in despair, *only* the United States has found a formula which actually does something on a huge scale to help less fortunate families in developing countries improve their housing and raise their families with increased dignity and a better chance for the future. We will not be shy or the least bit reluctant to announce from every rostrum that only the distinctive free world combination of political democracy and economic private capitalism produces the dynamics, the chemistry, the resources and the generosity which will help the disadvantaged throughout the entire world share in all the good things the world has to offer.

It is a fortunate and indeed spectacular coincidence that the conclusion of the first full decade in the growth of home financing institutions in the developing world was also highlighted by the worldwide expansion of the A.I.D. Housing Guaranty Program. The nineteen sixties were blessed with two very significant and dramatic achievements. On the one hand a remarkable network of savings and loan institutions began to flourish throughout Latin America. This was the most meaningful breakthrough in home finance in the developing world in a region seemingly abandoned with forgotten promises and dismayed by the shattering of lofty expectations. Simultaneously, and in almost a parallel evolution, the A.I.D. Housing Investment Guaranty Program has matured during the same decade. Side by side with the growth of the new housing finance institutions the A.I.D. Housing Guaranty Program has now become a complementary development tool of paramount importance.

To understand the significance of these events it is first necessary to contemplate the deplorable conditions that were faced in most countries before 1960. The plight of millions of miserable human beings packed into the rapidly festering urban areas has been extensively documented and widely publicized. This unprecedented onslaught of migrants aspiring to a better life in the cities has led ironically in many cases to the creation of the most wretched slums and squatter settlements in history.

The financial and institutional conditions which aggravated this intolerable situation were equally depressing and an awareness of their inadequacies are essential to an understanding of the situation. In Latin America, for example, credit facilities for housing were almost non-existent prior to 1960. Savings were seldom placed in thrift institutions, and low and middle income families in need of long-term credit had none available or else they placed themselves at the mercy of usurers. Government budgets and other public financing had been inadequate to make more than token inroads into the problem. Clearly, basic changes were required in existing economic structures to break the stagnated vicious circle of traditional financing.

In Latin America, the savings and loan movement has provided the only significant institutional innovation capable of meeting this challenge. From its modest bit dramatic start in Peru in 1958, the Latin American thrift and home-ownership endeavor has now, as you all know so well, grown to comprise more than 200 associations and a savings base in excess of one billion dollars. At least 270,000 families who would not otherwise be properly housed have become homeowners and almost one and one-half million human beings no longer live as animals; an eternal tribute to the greatness of the savings/home lending cycle.

This incredible success would not have been possible without the dedication of thousands of people throughout the western hemisphere. Often for the first time on a meaningful scale, public and private sectors were united with a common goal, while international cooperation also reached a new high as the United States provided the needed initial technical assistance and tens of millions of dollars in concessional "seed capital" loans.

Equally as dramatic and as an indispensable complement to the development process, the A.I.D. Housing Guaranty Program has proven to maturity during the past decade. At the same moment that the fledgling Latin American savings and loan systems were in their infant stages and receiving limited amounts of concessional "seed capital" loans, the United States Congress conceived another way to augment substantially the international resources available for housing finance. The Housing Guaranty Program was established in the Foreign Assistance Act of 1961 with ten million dollars to encourage U.S. builders and their occasional Latin American partners to utilize advanced construction, marketing, financing, and management techniques in demonstration housing projects in Latin America. Under the program, the Agency for International Development guaranteed the investments of U.S. lenders, such as savings and loan associations, banks, insurance companies, and pension funds, in the long-term financing of housing projects which made possible private home ownership for middle and lower-middle income families in the developing nations.

Since that modest start in 1961, the program has expanded geometrically both in volume and in scope. Thus, while the fact that by June of this year a total of 109 projects involving investments of more than $561 million had either been completed or were under construction or were in various stages of negotiation is interesting taken by itself, it is not really the truly startling statistic in the transformation that has occurred.

It would indeed have been irrational at a time when the steamroller success of the Latin American savings and loan movement was demonstrating the logic and rewards deriving from concentration on the building of institutions, to have limited the guaranty program to one which continued to concentrate on the development of individual projects. No matter how excellent a single project may have been, and a large part of the early housing guaranty projects fell in that category, its meaning and multiplier effect for a developing country was very much one-dimensional indeed. Certainly, the significance of the expanded potential resulting from new institutional approaches was not overlooked by either A.I.D. or the U.S. Congress. Five years ago they collaborated in expanding the horizons of the program by including as eligible projects those which lent support to the creation and strengthening of housing cooperatives, free trade union groups, mortgage insurance systems, and most particularly, the establishment of thrift and home ownership institutions so as to attract an increasing volume of domestic savings to be used exclusively for housing finance purposes. A similar premium was placed on self-help by the borrowing country; on experimentation so as to produce lower cost homes and on rewarding the borrowing institutions for providing larger percentages of the mortgage finance themselves. Our whole new concept was facilitated by the increasing capacity of the Latin American savings and loan systems to utilize larger and larger amounts of resources effectively. This provided a logical and competent set of institutional borrowers through which the newly oriented guaranty loans could be channeled.

Thus, the entire thrust of the program was forcedly but lovingly wrenched and remodeled so that the enormous resources might even more effectively become a multidimensional developmental tool. While this was happening the numbers game was also taking place and the Latin American program which modestly appeared on the scene with $10 million in 1961 today has $550 million authorized for our friends to the South. And, as you will soon see, that was only the beginning of the story.

However, even before we get to the worldwide explosion of the program, two other major occurrences took place during the past decade which are also essential to describe in order for there to be a full understanding of the remarkable nature of this device we have at our disposal. The first of these were actions taken by the Congress of the United States in 1965 and 1968, which for the first time fully caused the huge strength, prestige and capacity of the U.S. savings and loan industry and the Federal Home Loan Bank System to become a part of the new international housing activity. In 1965, U.S. legislation was amended so as to permit all savings and loan associations which were members of the Federal Home Loan Bank System to invest up to 1 per cent of their assets in programs eligible to receive the A.I.D. housing investment guaranty. It is not spoiling the suspense to report that this generous action by the industry and by the Congress now provides us with the major investor under the program. During the lean years when money was tight, the A.I.D. housing guaranty program would have been swamped in inglorious doom were it not for the integrity and generosity of the savings and loan associations which carried us through that terrible era.

In 1968, in recognition of the fact that very complex, costly and burdensome negotiations were required for my office to execute a separate contract with every participating savings and loan association, the U.S. Congress once again demonstrated its wisdom by authorizing all of the Federal Home Loan Banks to participate in the program directly and to sell participations to eligible investors throughout the country. What this has meant is that borrowers now deal directly with the Federal Home Loan Bank of New York or Boston, both of which have been designated by the Chairman of the Federal Home Loan Bank Board to represent the entire System, and my office then has only to deal with either of these two institutions rather than with perhaps as many as twenty associations which may be involved with a single loan. This has been a blessing without limitation and I share eagerly with the hundreds of thousands of persons who will now be able to buy homes in developing countries in a collective expression of gratitude for this magnificent and generous effort.

The final component in remaking the conceptualization and substance of the program has been the total emphasis we now place on indigenous achievement. In every country of the world where I go to explain the program and its potential I am now able to say that apart from the generous lenders who must be from the United States every other facet of the program is yours. It is now designed to assist local builders, use local materials, and engage the guidance and direction of local institutions to make profits and to benefit only local homeowners. The response to this dramatic expression of the simple truth of what the housing guaranty program has become, as you might imagine, has been electrifying.

And yet even these stunning adjustments were not the most spectacular in terms of what has transpired within this past decade. I must confess that I still sit back and reflect in awe that only slightly more than a year ago the Congress of the United States in its infinite wisdom and motivated by the tremendous successes of the housing program in Latin America and probably frightened by the absence of housing finance progress elsewhere in the developing world authorized the rebirth of the housing guaranty program for every region of the world and provided an additional $130 million in guaranty authority with which to initiate this undertaking. Just think, for many years it had become a tradition that housing finance assistance from the United States was respectable for Latin America but disreputable, anti-economic and just a "no-no" for every place else. The incongruity and insipid dimensions of this sophomoric exercise by those who indulged and nourished it became clearly understood by the A.I.D. senior officials last year and the A.I.D. Administrator, Dr. John A. Hannah, decided to utilize the program authority made available to him by the Congress to carry out this function. There was created a centralized Office of Housing to which has been delegated all of the operating authority necessary to march forward energetically and creatively in every part of the world including Latin America. The old Latin American office which I directed was moved virtually intact and elevated to become a full-fledged central A.I.D. office and continues to expand to meet the new challenges with which we are now confronted. Our new Office, in addition to its housing guaranty responsibilities, also has the responsibility for all A.I.D. housing and urban development activities in Africa, the Middle East, and Asia.

Placed together in one big pot the grand total of resources that we have for the guaranty program alone amounts to $710,100,000. An additional $100 million has already been approved by the House of Representatives in the current Foreign Assistance Act and will be receiving consideration from the United States Senate sometime this month.

In my judgment, the growth and new activity which I have just described reflects handsomely on our modest achievements in conceptualizing and molding the program and in adapting to the realities and legitimate requirements of our collaborating partners in other countries. It is, however, even more significantly a dramatic vote of confidence in and indeed an expression of homage to the Latin America savings and loan movement which has more than any other single achievement demonstrated the viability of institutional development as a means of solving at least a part of the terrible housing problem which exists every place in the world.

While most of you are familiar with the housing accomplishments in Latin America, and the presence here today of the distinguished Board of Directors of the Inter-American Savings and Loan Union bears witness to the unbelievably wide range of successes we have witnessed there, I think it would be valuable to acquaint you now with some of the efforts to extend these accomplishments to other areas of the world. During the past year we have undertaken not only to bring large sums of guaranty resources to a wide range of countries in Africa and Asia but to do so within the framework of institutional development and thereby encourage longer range solutions to each country's housing problems. Thus almost every one of our major loan programs involves the creation or strengthening of mortgage loan institutions and national or municipal housing authority.

Particularly notable among these efforts is a ten million dollar project recently authorized for the Congo. Savings and loan legislation has already been passed in collaboration with A.I.D. guidance and a portion of the first phase of the loan will be used as seed capital for the new mortgage finance system.

In the Ivory Coast the $5 million first phase of a $25 million project soon to be initiated will build low to middle income housing involving an Ivorian sponsor, an Ivorian borrower, an Ivorian administrator, and Ivorian inspectors. Later stages of the loan program will provide seed capital for a savings and loan system to be administered through a governmental housing bank.

A $10 million loan to Morocco will fortify the national housing authority and build low to middle income housing. Later stages of this program will witness the development of a savings and loan system to be administered by a government institution.

In Ethiopia, where A.I.D. already has a $5 million pilot demonstration project under construction, a new $10 million project is being negotiated. During the initial stages of this program A.I.D. will provide technical assistance to the municipality of Addis Ababa to create a municipal housing authority. One million dollars are earmarked as seed capital for the savings and loan system, and $4 million will be for specific pilot demonstration low to middle-income housing projects.

A $4.2 million project is being negotiated in conjunction with the government of Liberia. In the initial stages the National Housing Authority will administer specific low to middle-income housing projects, and a seed capital loan for a mortgage financing institution is envisioned for the future.

Negotiations for a $40 million guaranteed

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loan in Nigeria are well underway. It is anticipated that Africa's most populous nation will benefit initially from specific housing projects while longer range development plans contemplate the use of a portion of the loan as seed capital to develop a savings and loan system.

Even the poorest countries in Africa stand to benefit from the A.I.D. Housing Guaranty Program. Chad, Botswana, Lesotho, and Swaziland are all being seriously considered for early authorization.

Simultaneously with our considerable involvement in Africa during the past year, other regions have received high priority treatment as well. In the Middle East a $50 million project is currently being negotiated with the largest mortgage lending institution in the country and with the Government of Israel. The proposed loan will provide for a greatly expanded national effort to develop housing for minority groups, new immigrants, young families, and current owners of sub-standard dwellings.

In Iran a $25 million project is currently under negotiation to provide workers' housing in connection with two vast new industrial development projects and involving the participation of a government housing entity. Here, too, the prospect for a burgeoning savings and loan system is spectacular.

The Office of Housing is currently expanding its horizons into the Far East as well. In Thailand a recommendation has been made for a $32 million guaranty program. The project will include a two phase capital assistance program to a new mortgage finance institution for $20 million, $6 million to the Department of Public Welfare for low income projects, and $6 million to be used in competitive pilot demonstration housing projects.

South Korea will also be a recipient of A.I.D. Guaranty assistance. A $15 million project is contemplated as a start, two-thirds of which will be negotiated with an official housing finance institution. In connection with this program a number of innovative institutional changes have been recommended which will improve Korea's long-term mortgage financing capacity.

Thus you can see that our undertakings are as diverse as they are far-flung, as creative as they are based on fiscal and developmental realities; as generous and substantial as they are designed to inspire the largest contribution by far to come from the borrower.

It is weird that despite everything I have reported to you this morning describing more than a decade of incredible progress, and despite the almost unlimited future for housing as a component of international development, some of our cerebral colleagues remain unconvinced of the merits of our programs. Everyone who has ever had anything to do with the housing and housing finance industries is only too familiar with the lop-sided half truths and cliches which classical fuddy duddies use to belittle the developmental significance of housing investment and its related institutions and particularly the importance of international capital transfers for the financing of housing activities. In their distorted vision, housing is viewed only as "inflationary" and "nonproductive," when indeed each of our multitudinous successes has provided the affirmative rebuttal to these narrow gauge theoreticians who conveniently ignore the huge expanded job opportunities, the institutional development implications, and the over-all political and social stability inherent in increased housing investments. Their arguments have ultimately been rendered impotent.

Equally insidious among the occasional critics who elect from time to time to take pipsqueak potshots at the irritating succession of triumphs achieved by the international housing loans, are those sadly misguided, albeit erudite, persons who spend what could otherwise be hours of productivity conceiving complex proposals to cope with the "urban totality." Their very pathetic exercises in futility unfortunately have the sad effect of hypothesizing programs which are always beyond operational grasp. Their more ambitious extrapolations regularly share a common emphasis on joint programming of all economic sectors involved in the urban experience. Sad to state, even though such inter-disciplinary interplay may be almost inspirational for the academicians, its very comprehensiveness automatically and inevitably interferes with the immediate and extensive program of making loans to housing finance institutions to support the creation of viable private home building industries in the developing countries. Thus the thinkers once again classically have undertaken to substitute a program of doing nothing for a program which does something good. It seems to me that society stands to lose heavily if it ever enters seriously into that kind of bargain.

As many of you know, I have persisted in this theme for many years and have suffered the barbs which seem to be the inevitable destiny of us Hottentots. Having incurred wounds of the flesh in this rhetorical by-play, although no wounds to my spirit, I must confess I felt a certain nasty gratitude when I read in the *New York Times* on Sunday, July 25, 1971, under the banner headline, "Urban Studies Center in Shift to Stress Specific Problems" that the pioneering Harvard/MIT Center for Urban Studies in a radical change will give up broad general research this Fall to concentrate instead on specific urban problems. "The initial emphasis will be on housing . . ."

Surely, if the Joint Center finally acknowledges how right we have been all these years, then the lesser luminaries are certain one by one to follow. I am resolved to be generous to a fault, as we welcome them into the ranks of the achievers.

And so, with most of the more grotesque and contradictory arguments of the skeptics laid to rest, the expansion of the worldwide housing program can now be viewed calmly and objectively on the basis of its merits.

Before summing up these achievements we must note the limitations within which our resources can function. If all the efforts by all the governments, private sectors and international lending agencies to increase the available mortgage financing were put in one pile and then administered in the most coordinated and efficient manner, the end product would not be even close to a panacea for all the housing problems in the developing world. It is not possible, granted the necessity to use international housing loans only for those families who can repay them, to provide any substantial assistance for that huge accumulation of indigent or irregularly employed human beings who are not financially capable of assuming the responsibilities of home ownership. As awesome as their plight may be, it is unrealistic to view it as a housing problem and efforts must be made to increase economic productivity and employment opportunities and otherwise to fulfill the social welfare obligations which are the normal responsibilities of any contemporary society.

At the same time, the mission we have to collaborate in helping to make available long-term housing credit for responsible families who have earned the right and accumulated the capacity to become a part of the home owning community is a noble and inspirational undertaking in which to become involved. Economic and political leadership comes from the middle class and traditionally revolutionary leadership has also emerged from this same group when the lag between its capacity to share in the good things and its ability to do so is irrationally distorted.

In synthesis, the geographic expansion of the worldwide housing program, while spectacular in and of itself, has been matched in importance by the transformation of its image from one which initially suggested only an overwhelming compulsion to help U.S. entrepreneurs into one which is now universally acknowledged as a development oriented, institution-binding, indigenous, host-country polarised undertaking. It has achieved this goal operationally, while at the same time maintaining the free enterprise, private home ownership, private home building industry, and unsubsidised middle-income oriented mystique which has understandably made it so attractive to the developing countries, the U.S. public, and the Congress of the United States.

My firm conviction is that he new directions we have embarked upon represent a meaningful and constructive breakthrough in the concept of international assistance. What we have undertaken to do experimentally can serve, and in fact must serve, as an inspiration to the rest of the developed countries to join with us in this glorious undertaking. So many depend on our unfaltering pursuit of the goals we have established that I beseech each of you here present not to lose the opportunity before it eludes us forever.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Virginia (Mr. BYRD) is recognized for 15 minutes.

THE NEW WELFARE PROPOSAL

Mr. BYRD of Virginia. Mr. President, since some controversy has developed in the press as to the position of the Finance Committee in regard to the administration's new welfare proposal, as one member of that committee I want to make clear my position.

I have opposed and will continue to oppose reporting this welfare proposal to the Senate during calendar year 1971. I believe that adequate time should be taken so that the public can understand the many ramifications, the high cost, and the lack of work incentives in the new welfare plan.

I support the position of the distinguished chairman of the committee, the Senator from Louisiana (Mr. LONG) who feels that there should be full hearings on the bill.

There is no hurry that I can see as to why it should be reported to the Senate so quickly. President Nixon himself recognized the inflationary aspect of the proposal when, in his speech on August 15 last, he asked Congress to delay the effective date until July 1, 1973.

Yes, July 1, 1973.

So, certainly, there is no reason to be rushing this proposal through Congress during 1971. I see no reason to rush in reporting the bill to the floor early in 1972.

Whatever proposal the Finance Committee reports, if it is done in the late spring, it would be plenty of time.

I note from reliable newspaper reports that supporters of the plan believe the timing is all important, that they fear the measure's chances may diminish next year the closer debate gets to the nominating conventions and the presidential campaigns. I think they will diminish, too, because the more the public understands the bill, the more the public realizes just what the HEW proposal will do, the more opposition there will be to it.

Thus, I do not blame those who favor the proposal for wanting to rush it through the Finance Committee and then through the Senate, because that is the only way they will get it enacted—to rush it through.

I submit, Mr. President, that the people of this country are not going voluntarily to double the number of people on welfare.

The United States today has on its welfare rolls 12 million persons. Under the proposal submitted by Secretary Richardson of the Department of Health, Education, and Welfare, we would have 26 million persons drawing public assistance.

Mr. President, Secretary Richardson himself, in an official statement before the committee, described this proposal as revolutionary and expensive. Mr. President, assuredly it is revolutionary and expensive. It is lacking in work incentives. It would increase the cost for the first year of its operations by $5.5 billion over the present welfare costs. And it would increase the number of public assistance recipients from the present 12 million to 26 million persons.

So I concur fully in the appraisal of Secretary Richardson that this new proposal is revolutionary and expensive. That is why I say, so far as the Senator from Virginia is concerned and so far as my one vote on the Finance Committee is concerned, I shall vote to keep that proposal in the committee during the calendar year 1971; and I have some doubt that I will vote to report it to the Senate during the calendar year 1972. I made no commitment to report this measure to the floor on any particular date.

I have one desire in this regard, and that is to do what I can to see that the American people understand the ramifications and understand the cost of this revolutionary and expensive proposal.

I might say, Mr. President, that I am somewhat surprised that such a proposal would be submitted to the Congress by the present administration. In 1968 when Richard M. Nixon was campaigning for the Presidency, he stated time and again that he was going to do what he could to reverse the trend of the welfare state. I subscribe to those views that Mr. Nixon enunciated in 1968.

Mr. President, I want to ask the Senate a question. There are 100 Members of the Senate, 99 other Members besides me, and certainly somebody must have an answer to the question. The question is this: How do we reverse the trend of the welfare state by doubling the number of people on welfare?

I want to give some figures in regard to just a few of the States selected at random as to how the number of welfare recipients would be increased.

In the State of Texas there are now 600,000 persons on welfare. If Mr. Richardson's proposal is enacted into law, there would be 1,600,000 Texans on welfare.

In North Carolina there are now 200,000 persons on welfare. If the HEW proposal is enacted into law, there will be 800,000 persons on welfare.

In Puerto Rico there are now 300,000 persons on welfare. If this new, revolutionary, and expensive proposal is enacted into law, there will be 1 million persons on that island drawing public assistance from the taxpayers of the United States.

In my State of Virginia, we now have 140,000 persons on welfare. Under this proposal, if it is enacted into law, Virginia will have 566,000 persons on welfare.

Mr. President, this is a very original proposal. The ramifications are great. Secretary Richardson himself stated it better than anyone else, I think, when he used the words "that this new welfare is revolutionary and expensive" in summing up the ramifications of the proposal.

So, Mr. President, I want to make clear the position of one member of the Finance Committee. I shall make no agreement as to when I shall cast my vote to report this measure to the floor of the Senate.

The only commitment I shall make is that I will do my best in the intervening months—and I hope there will be many, many months—before such a bill is reported to the Senate to acquaint the people of the United States with the facts. If the people know the facts in respect to this revolutionary and expensive program, then Mr. Richardson's revolutionary and expensive program will, in my judgment, never be enacted into law.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period of 30 minutes for the transaction of routine morning business with each Senator being limited to 3 minutes.

Is there morning business?

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BYRD OF VIRGINIA AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, NOVEMBER 8, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday, immediately following the recognition of the two leaders under the standing order, the distinguished senior Senator from Virginia (Mr. BYRD) be recognized for not to exceed 15 minutes, following which there be a period for the transaction of routine morning business for 30 minutes, with statements therein limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON USE OF FUNDS APPROPRIATED FOR ACTIVITIES IN FOREIGN COUNTRIES

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, that no use was made of funds appropriated, during the period January 1–June 30, 1971, to make payments under contracts for any program, project, or activity in a foreign country except where it was determined that the use, by purchase from the Treasury, of currencies of such country was not feasible for the reason that the Treasury Department was not holding excess foreign currencies in the country involved; to the Committee on Appropriations.

PROPOSED ADDITIONAL FUNDS FOR THE CONDUCT OF AN INTERNATIONAL AERONAUTICAL EXPOSITION

A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition (with an accompanying paper); to the Committee on Armed Services.

REPORT ON BORROWING AUTHORITY

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, a report on borrowing authority, for the period ended June 30, 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Fees Not Charged for Processing Applications for New Drugs," Food and Drug Administration, Department of Health, Education, and Welfare, dated November 4, 1971 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Opportunities for Increasing Effectiveness of Overseas Trade Exhibitions," Department of Commerce, Department of State, dated November 4, 1971 (with an accompanying report); to the Committee on Government Operations.

LIST OF REPORTS OF THE GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office, for the month of October 1971 (with an accompanying report); to the Committee on Government Operations.

REPORT ON ADEQUATE SOIL SURVEY AND LAND CLASSIFICATION OF CERTAIN LANDS

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, that an adequate soil survey and land classification has been completed in the San Luis Water District, Central Valley project, Calif., (with accompanying papers); to the Committee on Interior and Insular Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

XUM

By the PRESIDENT pro tempore:

A resolution adopted by the Aiken Baptist Association of South Carolina, Aiken, S.C., relating to the first amendment of the Constitution; to the Committee on the Judiciary.

A resolution adopted by the County Judges and Commissioners Association, Dallas, Tex., expressing support for the right of school districts and other local governments to local control; to the Committee on the Judiciary.

A resolution adopted by the Evangelical Covenant Church of America, Chicago, Ill., praying for the enactment of legislation relating to private education in the United States; to the Committee on Labor and Public Welfare.

The petition of Josephine Boehman, relating to education in the public schools; to the Committee on Labor and Public Welfare.

A resolution adopted by the Society of Military Widows, Columbia, S.C., praying for the enactment of legislation to include present widows and children of deceased retired career military men in the proposed survivor benefit plan; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD of West Virginia (for Mr. EASTLAND), from the Committee on Agriculture and Forestry, without amendment:

S. 2559. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans (Rept. No. 92-426).

By Mr. BURDICK, from the Committee on Interior and Insular Affairs, without amendment:

S. 588. A bill to increase the authorization for the appropriation of funds to complete the International Peace Garden, N. Dak. (Rept. No. 92-427).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

Mr. MAGNUSON. Mr. President, as in executive session, I report favorably, from the Committee on Commerce, sundry nominations in the U.S. Coast Guard which have previously appeared in the CONGRESSIONAL RECORD, and I ask unanimous consent, to save the expense of printing them on the Executive Calendar, that they may lie on the Secretary's desk for the information of Senators.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Herbert H. Mulvany, and sundry other officers, for promotion in the Coast Guard; and

George H. Moritz, and sundry other Reserve officers, to be permanent commissioned officers of the Coast Guard.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TOWER (for himself, Mr. WILLIAMS, and Mr. BOGGS):

S. 2813. A bill to amend the Vocational Rehabilitation Act to provide improved vocational rehabilitation services to individuals. Referred to the Committee on Labor and Public Welfare.

By Mr. COOK:

S. 2814. A bill to authorize the Secretary of the Interior to establish the Zachary Taylor Home National Historic Site in the State of Kentucky. Referred to the Committee on Interior and Insular Affairs.

By Mr. HART (for himself and Mr. HARRIS):

S. 2815. A bill to prohibit the importation, manufacture, sale purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors and pistol clubs. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 2816. A bill for the relief of Mary Danos Nayak. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 2817. A bill to promote the public welfare by amending the Longshoremen's and Harbor Workers' Compensation Act to provide for compensation for persons injured by certain enumerated acts, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TOWER (for himself, Mr. WILLIAMS, and Mr. BOGGS):

S. 2813. A bill to amend the Vocational Rehabilitation Act to provide improved vocational rehabilitation services to individuals. Referred to the Committee on Labor and Public Welfare.

Mr. TOWER. Mr. President, I rise to introduce a bill for myself, the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Delaware (Mr. BOGGS) to amend the Vocational Rehabilitation Act in order to provide financial assistance to people suffering from severe kidney disease. There are many people who need treatment by hemodialysis or kidney transplantation; yet, they do not have the funds to pay for one of these two remarkable and expensive means by which they could continue to live useful and productive lives.

Before discussing the specific provisions of the bill, I wish to point out the tragic nature of kidney disease and the appalling effect it has on the lives of so many Americans.

Each year approximately 58,000 Americans die from kidney diseases, and in Texas alone, some 2,500 of my constituents are struck down by these afflictions yearly. In 1964, the latest statistical year available, kidney diseases were responsible for some 140 million man-days of restricted activity, 63.5 million man-days of bed disability, and 17 million manworkdays lost. Although many of the persons who die of kidney disease are of retirement age, a significant percentage are in their most productive years.

In the 1950's two new forms of treatment for severe kidney disease were developed—hemodialysis and kidney transplantation. During the 1960's and into the 1970's both of these methods of treatment have been refined and at the present time are the accepted means of prolonging the useful life of many patients suffering the final stages of kidney failure. As of today in the United States more than 5,000 individuals are being maintained through hemodialysis and more than 4,300 kidney transplant operations have been performed—more than 500 of these during the first 8 months of this year.

These two forms of treatment are of great significance. Hemodialysis is a technique by which the blood is cleansed of impurities using an artificial kidney machine. The machine continuously pumps a portion of the patient's blood through tubular membranes surrounded by a liquid. The blood remains in the tubular membrane but the impurities normally removed by the kidney pass into the liquid. Patients suffering from the severe stages of kidney disease usually require dialysis two or three times a week. Each dialysis takes some 6 to 12 hours. Fortunately, home hemodialysis may be used in many cases, thus reducing the cost and inconvenience of hospital care.

Kidney transplantation involves the donation of a kidney from another person and its implantation into the patient.

Although both these forms of treatment are being used extensively in the United States, there are many persons whose lives could be prolonged by hemodialysis or transplantation but who presently have no way of gaining access to either. Estimates of the number of persons who are in need of such treatment vary, but most experts agree that 8,000 to 10,000 of the nearly 60,000 who die each year of kidney disease could have been reasonably assisted by one of these procedures. Some individuals with kidney failure currently are being helped; yet thousands are not, in most cases because they lack adequate financial resources. The tragedy of technology in existence but out of reach strikes many families experiencing kidney disease.

Present cost estimates for hemodialysis vary greatly with location. If the individual must be dialysized in a hospital, costs average around $35,000 to $40,000 annually. In an ambulatory care facility, costs are between $14,000 tnd $20,000 per year. If home dialysis is feasible, first year costs, including purchase of a kidney machine and training in the care and operation of the machine, average between $12,000 and $20,000. Subsequent costs however are lower, often between $4,000 and $6,000 annually. As new developments continue, these costs should decrease to the point where the expense may be borne by the family with the aid of health insurance and a minimum of public assistance.

Kidney transplantation is less costly in the long run than hemodialysis, but imposes still a tremendous financial burden for most Americans to assume. Again, cost estimates vary considerably, but generally run between $8,000 and $10,000, with average annual expenses following a successful transplant of about $1,000. If complications occur, of course, costs can run higher.

These cost estimates graphically demonstrate the financial crisis faced by many Americans with a family member who must receive one of these modes of treatment to remain alive. Although a kidney transplant is less costly, not all persons with severe kidney disease are good medical candidates for the procedure. Even among those who are, hemodialysis is generally required for some

period before the transplant operation can be carried out. Some transplant patients require hemodialysis for a period of time after the operation as well.

Where do families turn when faced with a financial burden of this magnitude? At present, far too many have nowhere to turn. The programs that do exist cover very few Americans adequately, yet for these fortunate few, financial help is available at the Federal, State, or local level. Current programs include health insurance benefits for a very few individuals; private philanthropic organizations such as the National Kidney Foundation which provide some assistance but cannot hope to meet the full need; State-financed aid programs which offer limited assistance—now in operation in 25 States—State-Federal programs including medicaid for individuals in the poverty range; and the vocational rehabilitation program which covers certain individuals in some but not all States; and Federal programs including medicare and the Veterans' Administration aid for veterans.

These programs are laudable attempts to provide the kidney patient with adequate treatment, but they are not able to cover even a significant number of the men and women afflicted. It is clear that financial aid should be provided for all persons who could benefit from these two proven forms of kidney disease treatment. I have become personally aware of the inadequacies of the present programs when I have attempted to help constituents find assistance in obtaining treatment. I have watched with pride the efforts of local communities to raise money for a kidney victim—and also with despair as the size of the crisis became clear. Even the excellent work of such private agencies as the National Kidney Foundation is dwarfed by the size of this problem. Solution of this problem requires a cooperative effort between the various levels of government, the private health sector and philanthropy. The time has come for the Federal Government to assume a role of leadership in this matter.

After carefully considering the various alternative approaches which the Federal Government could pursue, I have come to the conclusion that in reality there is only one program that can seriously address itself to the problem I have defined.

Mr. President, the bill that I introduce today would enable the Vocational Rehabilitation Administration to assume that leadership role. With additional funds and expanded authority, the program could effectively improve and increase its present efforts. It could develop a coordinated effort to provide kidney disease patients with a comprehensive approach to the most successful treatment possible.

As I was considering this legislative proposal, I was impressed with the fine record of the Vocational Rehabilitation Administration. Last year, the Administration celebrated its 50th anniversary. It has pursued the admirable goal of assisting handicapped individuals to rise above their limitations.

Thousands of handicapped persons return each year to a useful and productive life through the assistance of this agency. Its courage and determination, together with that of the individuals it has assisted, forms a proud chapter in the history of this Nation.

A program for kidney failure patients is well within the spirit and the ability of the vocational rehabilitation program. The affliction constitutes a serious handicap. A patient who fails to obtain treatment is forced to discontinue his work. A patient who is successful in obtaining treatment must often make serious vocational and psychological adjustments. Recognizing this fact and its responsibility, the Vocational Rehabilitation Administration took a first step against kidney disease in 1966. In response to inquiries from state agencies, the Administration issued a general memorandum saying kidney patients could be accepted according to existing rules and regulations if the State agencies involved desired. To date, more than 40 States have accepted at least one patient. Most of these programs, however, have a severely limited enrollment of kidney patients because the agencies lack funds with which to enter this new field.

New Federal legislation should seek to strengthen any on-going Federal programs which are attempting to handle the problem. This is far preferable to the creation of new agencies, or to the addition of new responsibilities to agencies which are not designed to handle them. The earnest efforts and demonstrated ability of the Vocational Rehabilitation Administration to address itself to the problem, make it a logical vehicle for an expanded program. Additional funds would enable the agency to launch a stronger effort to aid those who now have nowhere to turn for needed assistance.

The Vocational Rehabilitation Administration is the only agency capable of rendering comprehensive kidney disease assistance. Vocational rehabilitation is the only approach that recognizes that the problems the patient will encounter are more than the immediate medical treatment required and it is the only agency capable, by its very nature and purpose to assist in a comprehensive manner. The memorandum of 1966 demonstrated this recognition when it stated:

> This is a relatively new type of treatment and a new venture for vocational rehabilitation agencies. The rehabilitation plan for each client should anticipate all problems he will face upon return to work—social, economic, vocational, as well as medical.

This approach to the needs of the patient is indeed an enlightened one, and one which should be encouraged.

The vocational rehabilitation program is an outstanding example of State and Federal cooperation. Each State has been able to address itself to the particular needs of its patients in so far as resources allow. The States have been free to tailor the program to best serve the needs of its own citizens and to assist the kidney patients who were incapable of obtaining treatment otherwise. A State is better able to evaluate the financial resources of a prospective patient. Vocational rehabilitation funds could supplement funds available from other sources such as private health insurance in order to provide the medical services, equipment, and supplies actually needed. Such a responsible approach to the administration of funds would permit a maximum use of available funds and a minimum of waste.

Mr. President, my proposal consists of four amendments to the Vocational Rehabilitation Act.

The first amendment would authorize $25,000,000 for the assistance of individuals suffering from kidney failure. This authorization would be designated as an expansion grant funds, to be distributed to the States for the expansion of their fledgling kidney programs and for the inauguration of programs in States where none now exist. The grants would be provided on a 90–10 matching basis. This formula provides significant Federal assistance but insures each State to a 10-percent commitment. It is consistent with present funding for expansion grants.

The second amendment would require the Secretary of Health, Education, and Welfare to include in his annual report to the Congress on the Vocational Rehabilitation Act a section on the utilization of the funds specifically designated from this program.

The third amendment sets forth, in statutory language, the range of assistance that the State agencies are required to provide to individuals suffering from kidney failure. This assistance for physical restoration would permit the use of funds for medical treatment to include professional services, artificial kidney machines, and medical supplies. Because the State agencies are required to provide physical restoration services, the Vocational Rehabilitation program would be authorized to respond to the problem in an immediate, responsible manner.

The final amendment would allow the State agencies a greater range of flexibility in formulating plans of assistance for each individual by allowing the agency a longer period of time to evaluate, assist, and follow-up on the patient's progress. Kidney patients often encounter minor difficulties in adopting to the treatment. For this reason, the additional 6 months will allow the agency the freedom to address itself to the needs of the patient.

I am introducing this legislation in an effort to provide an immediate, effective form of assistance. The high cost of kidney disease treatment can be greatly reduced as the treatment becomes more readily available and as medical technology advances to provide more effective, and even more humane modes of treatment. As medical research progresses, we may be able to devise tests for early detection and be able to treat kidney ailments to prevent the disease from progressing to the end stage of kidney failure. This bill is not intended to relieve private insurance companies and private philanthropic agencies of their traditional responsibilities. I am hopeful, that instead, these agencies will build upon this legislation in an effort to meet the needs of these patients.

I urge careful and prompt consideration of this legislation. The problem is real; it is urgent; and it needs solution.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vocational Rehabilitation Amendments Act of 1971".

SEC. 2. Section 1(b)(3) is amended by adding at the end thereof the following new sentence: "For the purpose of making grants and contracts set forth in this paragraph (3), in addition to the amounts authorized in the previous sentence, there is authorized to be appropriated for the fiscal year ending June 30, 1972, the sum of $25,000,000 for vocational rehabilitation services for handicapped individuals suffering from end stage renal disease".

SEC. 3. Section 9 of the Vocational Rehabilitation Act is amended by inserting "(a)" after the section designation and by inserting at the end thereof the following new subsection:

"(b) The annual report required by subsection (a) of this section for the fiscal year ending June 30, 1972, shall set forth the number of grants made for the vocational rehabilitation services to individuals suffering from end stage renal disease together with an evaluation of the success of such services."

SEC. 4. (a) Section 11(a)(2)(A) of such Act is amended by adding at the end thereof a comma and the following: "(v) special services, artificial kidneys, and supplies necessary for the treatment of individuals suffering from end stage renal disease."

(b) Section 11(b) of such Act is amended by striking out "or 6 months in the case of an individual with any other disability" and inserting in lieu thereof a comma and the following: "or twelve months in the case of an individual suffering from end stage renal disease or six months in the case of an individual with any other disability".

By Mr. COOK:

S. 2814. A bill to authorize the Secretary of the Interior to establish the Zachary Taylor Home National Historic Site in the State of Kentucky. Referred to the Committee on Interior and Insular Affairs.

Mr. COOK. Mr. President, the boyhood home of Zachary Taylor, overlooking what was originally Beargrass Creek in Jefferson County, Ky., stands today as a reminder of the colorful history of both that State and our great Nation.

In 1785, when Col. Richard Taylor moved his young family through the wilderness of the Ohio Valley to settle on a small plantation just outside the muddy frontier township of Louisville, he brought much of the Old South with him. The 400-acre farm and one-room cabin in which the Taylors began to carve a new life out of the western frontier gradually developed into one of the larger and more gracious of the plantations of the New South. The large brick homestead, known today as "Springfield," stands as a reminder of both the hardships of the early settlers to our Western United States and the rich and colorful culture which developed in their wake. The long, tall corridors, hand-carved paneling and original metal "lift locks" of the present structure reflect the spirit and style of the general and President who grew up with it, "old rough and ready," Zachary Taylor: fearless, determined, polished, stubborn, confident, and proud.

This property is an important part of the heritage of my State and our Nation. The building is symbolic of the land which Taylor loved, the frontier which he fought for as an individual and as a politician, as a general and as a President. As historian Claude Bowers pointed out, no single servant of the Republic did more, or as much, in negotiations or in battle, to open to settlement the rich commonwealths of Indiana, Illinois, Kentucky, Missouri, Wisconsin, and Michigan. As one of the two President's homes not now owned by the Federal Government and as an historic site characteristic of Kentucky and her frontier spirit, I would like very much to see this property designated a national historic shrine. For myself, for the Kentucky Heritage Commission which has taken an active interest in this and numerous other sites of historical significance throughout the State, and Kentucky, therefore, I am introducing a bill for your worthy consideration.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to preserve and interpret for the benefit of present and future generations the home of President Zachary Taylor in Jefferson County, Kentucky, the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange such home and so much of the surrounding property as he determines necessary and appropriate for the establishment and administration of a national historic site.

SEC. 2. The property acquired pursuant to the first section of this Act shall be known as the Zachary Taylor Home National Historic Site, and it shall be administered by the Secretary of the Interior in accordance with the provisions of the Act entitled "An Act to establish a National Park Service and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2–4) and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461–467).

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, except that not more than $100,000 of appropriated sums shall be expended in connection with the acquisition of the home and surrounding property referred to in the first section.

By Mr. HART (for himself and Mr. HARRIS):

S. 2815. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs. Referred to the Committee on the Judiciary.

LIMITATIONS ON HANDGUN OWNERSHIP

Mr. HART. Mr. President, today, I am introducing a bill that would limit handgun ownership to law enforcement officers and security guards.

Other handguns, with a few exceptions, would be bought at fair value by the Government and destroyed. Fair value can be generally interpreted to mean the price that a handgun would bring in the open market on the day before the bill is enacted. The measure would not affect rifles and shotguns.

The bill reflects my conclusion—and the conclusion of the National Commission on the Causes and Prevention of Violence—the Eisenhower commission—of which I was a member, that the Nation has little chance of curbing violent crime until handguns are no longer readily available to all comers.

First of all, I should candidly acknowledge that this handgun program will require a very extensive education program to achieve enactment and successful implementation.

Many Americans will be reluctant to turn in their pistols until they have all the facts. And the facts present overwhelming evidence that the safety of a household is diminished—not increased—by the presence of a pistol in the house.

Handgun control is difficult to institute here simply because we are one of the few nations in the world with a great many handguns in circulation among people accustomed to having them.

One-hundred years ago, handgun control would have been relatively easy. Few people owned them, even—despite what the cowboy movies tell us—in the wild West.

Fifty years ago, it would have been relatively easy to ban cigarettes. Few, if any, people smoked them. But by 1970, too many in the Nation were hooked. And, in the same sense, we are hooked on handguns.

There are now about 25 million of them in the country and sales have quadrupled in the past decade.

They account for three-quarters of all firearms homicides and woundings although they comprise only one-quarter of all the guns in the Nation. Whenever a living creature is killed by a handgun, it is almost always a human being.

DO THEY OFFER SOUND PROTECTION?

Most citizens owning handguns imagine these weapons to be sound home protection devices. But no serious study of handgun employment—and there have been many—has concurred in this notion.

Only in a very, very tiny percentage of cases are they ever successfully used against burglars or home robbers—simply because burglars seldom enter an occupied house and bandits can easily get the drop on any householder who does not walk around the house with a gun in his hand.

If you open the door to a bandit's knock, then he will have you covered when he enters. If he sneaks in through an open door or window, the householder still has no chance to go for his weapon.

Conceivably, a householder might have time to arm himself if bandits take minutes to force their way in. But even in that unlikely circumstance, would not the householder be as well off with a shotgun in his hands as a pistol?

Studies in Detroit and Los Angeles show that only 2 percent of home robberies and 1 percent of home burglaries result in the intruder being shot by the householder—These studies are detailed in "Firearms and Violence in American Life," volume 7 of the staff reports to the National Commission on the Causes and Prevention of Violence, available for $1.25 at the U.S. Government Printing Office, Washington, D.C. 20402.

For this minimal protection against intruders, Americans are paying a high price in the killing and wounding—both accidental and deliberate—of family members, friends, and acquaintances.

Most American homicides do occur in the home and the handgun is the usual instrument because it is handy and is most often kept loaded.

Another study described in the Violence Commission staff report demonstrated that 71 percent of all killings in Chicago involved relatives, friends, and neighbors. Almost always, the attacks were generated by sponstaneous rage and the attacker was not necessarily determined to kill.

It seems abundantly clear to me that although a handgun ban might result in more bloody noses and black eyes, there would also certainly be fewer funerals.

WHERE DO THE CRIMINALS GETS THEIR GUNS?

My mail, perhaps not surprisingly, runs heavily against the proposed measure. Since I announced my intentions to submit a handgun control bill October 8, I have received 607 letters in opposition and only 99 in favor.

Many of them, I should state in fairness, are more pitying than outraged. A common theme among opponents, if I may paraphrase, goes like this:

"How can you be so feebleminded as not to realize that only honest citizens will turn in their guns, leaving themselves at the mercy of criminals who do not?"

Well, let us take a look at the common street criminal. He has been studied as much as handguns have been. And the obvious fact is that the street criminal is almost invariably young and impulsive. He is most likely to be in his teens or early twenties and robbery is not a career he has planned far in advance.

The second fact is that practically every handgun ever used in a criminal act was at one time owned by an honest citizen.

Inescapably, we learn that those millions of "honest" handguns provide the reservoir that keeps the criminal arsenals full. The reason handguns are so easily available to criminals is simply because handguns are everywhere.

Handguns in honest hands get into the streets through burglaries, thefts, pawns, loans and, sometimes, sales.

Contrary to popular belief, it is not the usual practice for a criminal to contemplate a crime and then go looking for a gun.

Far more often, offenders commit crimes only after they find themselves with the capacity to intimidate a victim. In other words, there is solid evidence that firearms generate violent crime.

The great pool of "honest" handguns is constantly leaking into the hands of those who have criminal tendencies, but lack the weapon to intimidate.

The last catch basin for these guns is the police, who are constantly confiscating and destroying criminal weapons but never fast enough to catch up with the new supply. Meanwhile, the new supply is inspiring new violence.

WHY JUST HANDGUNS?

Handguns represent the major threat to our society's safety.

The handgun is the favorite criminal weapon for the most obvious of reasons. It is light, cheap, readily concealable and can be easily whipped out of a coat pocket.

Long guns, on the other hand, meet none of these tests. True, they can represent a threat to safety but they have a great many wholesome purposes. And they are certainly not designed primarily for the killing and wounding of humans.

Since most long gun killings and woundings are accidental, probably the most effective way of making them more harmless would be State-sponsored safety training programs for young hunters similar to safety training programs we have for young drivers.

Because of their handy design, handguns account for three-quarters of all firearms homicides and woundings even though they comprise only one-quarter of all the guns in the Nation.

HOW LONG WOULD IT TAKE TO DRY UP HANDGUNS?

Even if the bill were to pass tomorrow, it would doubtlessly take many years to achieve the desired results.

Let us face it—success would depend heavily on citizen appreciation of the fact that handguns are an unacceptable element in our society.

The bill provides a moratorium period of 180 days for citizens to sell handguns to the Government. After that, any unauthorized person with a handgun in his possession would be subject to a jail term of 5 years and/or a maximum fine of $5,000.

But how quickly handguns can be collected will certainly depend heavily on whether citizens study all the facts and willingly reach the same conclusions that I have.

Having reviewed the studies of experts for a number of years I have concluded that this is the best course, although I know that many will be in disagreement.

WHAT ABOUT THE "RIGHT TO BEAR ARMS"?

My correspondence in opposition to gun control laws often cite the second amendment to the Constitution, which reads in full:

A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

The right of the people to keep and bear arms has always been closely tied to the right of each State to maintain and arm a militia, now called the National Guard.

When the second amendment was drafted, the militia was made up of all our able-bodied men. When called for service, they were expected to provide their own weapons, something no longer required.

The Founding Fathers remembered that the British had stopped the colonial militias from arming themselves and wanted to make such the Federal Government would not do the same thing.

The Supreme Court has held that firearms regulation is not unconstitutional unless it impairs the effectiveness of the militia.

In 1939, the Court found that the amendment was enacted with the:

Obvious purpose to assure the continuation and render possible the effectiveness of the militia. It must be interpreted and applied with that end in mind.

Now that is a strict interpretation of the Constitution. A "loose" interpretation of the second amendment, on the other hand, would prevent Congress from regulating even weapons such as machine guns, bazookas, and grenades.

And if the "right to bear arms" were construed as an absolute individual right, then Congress would be unable to protect society by disarming insane persons and convicted mobsters.

So we might argue about how much "infringement" there should be, but I do not believe it is valid to claim that any infringement is unconstitutional.

WOULD AN EFFECTIVE HANDGUN BAN STOP KILLINGS?

My correspondents commonly make the point that guns are harmless in themselves, that they are only harmless pieces of machinery until picked up by a hostile hand.

Very often, I see the phrase: "Guns do not kill people, people kill people."

This is occasionally followed by the statement, "If a man wants to kill someone, he will find a way to do it whether he has a gun or not. So why bother to take away guns?"

It is true that people kill people but, I would have to add that handguns make the job a great deal easier—and possibly more tempting. And does not Government have some responsibility to make it as difficult as possible for people to kill each other?

Indeed, the fact remains that a handgun makes it easy to approach a victim without immediately alarming him and they allow deadly attacks to be made by persons who are unable physically or psychologically to overpower their victims through violent physical contact.

It is certainly not surprising that handguns are presently the favorite weapons for attacks on police.

The policeman himself is capable of defending against many forms of attack. He is trained and equipped to ward off attacks with blunt instruments, knives or fists. And if surprised at close range, his firearm is usually enough to overcome an attacker.

Therefore, clearly it is the handgun's capacity to deal instant death from a distance that threatens police lives. And a handgun provides the attacker with the additional element of surprise.

HANDGUNS: USEFUL POLITICAL WEAPONS?

Since I announced my intention to introduce a strong handgun bill, I have

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had occasion to speak to many who oppose the notion.

In these conversations, I have been surprised at one recurring theme: That widespread ownership of handguns is somehow necessary to forestall a national takeover by Communists or some other sinister political force.

Here are a few typical remarks, extracted from conversations and letters:

The first thing Hitler did when he came into power was pick up all the guns . . .

How about all those extremist groups? They're not going to turn in their handguns . . .

But isn't a disarmed nation ready prey for those who believe in political violence?

Well, I do not know if Hitler picked up private weapons or not but even if he did, I am sure it did not make one whit of difference in Germany's political course. That regime, as I recall had strong popular support in the thirties and no minority, however well supplied with handguns, would have had much of a chance to overthrow it.

Furthermore, there is no evidence in modern history that an abundant handgun supply has contributed to the stability or instability of government.

Handguns, true, are a favorite weapon of terrorists but they are very little use against terrorists. If handgun possession is outlawed, then it seems to me that the authorities have one more legal weapon against political extremists.

Frankly, at this moment in history I see no internal conspiracies against America of great threat. But even if there were, free availability and possession of handguns would be more to the benefit of violent rebels than of peaceful loyalists.

WHO WOULD GET EXEMPTIONS?

Handguns would be allowed to police and licensed security guards. Target shooting clubs would be allowed to own handguns if they were stored in a secure place or at a police station.

Antique guns—those manufactured before 1890—would be exempt along with some more modern weapons judged to be collectors' items.

CONCLUSION

It is for these many reasons that I have decided to press for a ban on handguns. I would guess that it will not be a totally popular undertaking.

Historian Richard Harris once cogently noted that success in politics depends not so much on making friends as on avoiding enemies.

There is, I think, a great reservoir of potential support for stricter gun legislation, but there is also an awaiting cauldron of angry and emotional opposition. The temper of the mail makes that clear.

But nothing in these letters, telegrams and phone calls convinces me, based on the evidence, that the handgun is a wholesome element in our society. It is of hardly any use in home defense.

And all the studies, all the facts, indicate clearly that it is a device that is of primary use to the criminal class. And why should we go on helping them out?

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD in my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2815

A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors and pistol clubs

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Handgun Control Act of 1971".

SECTION 1. The Congress hereby finds and declares—

(a) that annual sales of handguns in the United States have risen sharply in the last decade, bringing the total number of handguns in private hands to approximately twenty-four million by the end of 1968; and

(b) that handguns play a major role, and a role disproportionate to their number in comparison with long guns, in the commission of homicide, aggravated assault, and armed robbery, and that the percentage of violent crimes in which handguns are used is increasing; and

(c) that most homicides are committed in altercations between relatives, neighbors or other acquaintances, rather than in a confrontation between strangers; and

(d) that handguns in the home are of less value than is commonly thought in defending against intruders, and are more likely to increase the danger of a firearm fatality to the inhabitants than to enhance their personal safety; and

(e) that with few exceptions, handguns are not used for sporting or recreational purposes and that such purposes do not require keeping handguns in private homes; and

(f) that more than one-half of all handguns are acquired secondhand and that licensing and restrictions on sale of new handguns will not significantly reduce handgun crime and handgun violence; and

(g) that violent crimes perpetrated with handguns constitute a burden upon and interfere with interstate and foreign commerce and threaten the internal security and domestic tranquillity of the Nation; and

(h) that fear of firearms crimes discourages citizens from traveling between the States to conduct business or to visit the Nation's Capital; and

(i) that crimes committed with guns have disrupted our national political processes, and threaten the republican form of government within the States as guaranteed by article IV of the Constitution; and

(j) that a national firearms policy which restricts the availability of handguns for nonlaw enforcement and nonmilitary purposes will significantly reduce violent crime, reduce deaths from handguns, and reduce other handgun violence in the United States.

SEC. 2. Title 18, United States Code, is amended by inserting immediately after chapter 50 thereof the following new chapter:

"CHAPTER 50A—HANDGUNS

"Sec.
"1091. Unlawful acts.
"1092. Licensing.
"1093. Penalties.
"1094. Exceptions.
"1095. Voluntary delivery to law enforcement agency; reimbursement.
"1096. Rules and regulations.
"1097. Effect on State law.
"1098. Separability clause.
"1099. Appropriations.
"1100. Definitions.

"§ 1091. Unlawful acts

"(a) Except as provided in section 1094 of this chapter and in subsection (c) of this section, it shall be unlawful for any person to import, manufacture, sell, buy, transfer, receive, or transport any handgun and handgun ammunition.

"(b) Except as provided in section 1094 of this chapter and in subsection (c) of this section, it shall be unlawful, after one hundred and eighty days from the effective date of this chapter, for any person to own or possess any handgun or handgun ammunition.

"(c) The Secretary may, consistent with public safety and necessity, exempt from the operation of subsection (a) and subsection (b) of this section such importation, manufacture, sale, purchase, transfer, receipt, possession, ownership, or transportation of handguns and handgun ammunition by importers, manufacturers, or dealers, licensed under chapter 44 of this title, and by pistol clubs licensed under this chapter, as may in his judgment be required for the operation of such pistol clubs or for purposes in section 1094 of this chapter.

"(d) It shall be unlawful for any licensed importer, manufacturer or dealer to sell or otherwise transfer any handgun or handgun ammunition to any person, except another licensed importer, manufacturer or dealer, without presentation by the purchaser or recipient of written verification that the receipt or purchase is being made by or on behalf of a person or government agency eligible to obtain and possess handguns under section 1094 of this chapter or a pistol club licensed under this chapter.

"(e) Every manufacturer, importer and dealer who sells or otherwise transfers handguns or handgun ammunition shall maintain records of sale or transfer of handguns and handgun ammunition in such form as the Secretary may by regulations provide and shall permit the Secretary to enter the premises at reasonable times for the purpose of inspecting such records.

"§ 1092. Licensing.

"(a) A pistol club desiring to be licensed under this chapter shall file an application for such license with the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. The fee for such license shall be $25 per year.

"(b) Any importer, manufacturer, or dealer desiring to be licensed under this chapter shall apply as provided in chapter 44 of this title.

"(c) Any application submitted under subsection (a) shall be approved if—

"(1) no member of the pistol club is a person whose membership and participation in the club is in violation of any applicable state laws;

"(2) no member of the pistol club is prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922 (g) or (h) of this title;

"(3) no member of the pistol club has willfully violated any of the provisions of this chapter or of chapter 44 of this title or any regulations issued thereunder;

"(4) the pistol club has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact in connection with its application;

"(5) the club has been founded and operated for bona fide target or sport shooting and other legitimate recreational purposes; and

"(6) the pistol club has premises from which it operates and—

"(A) maintains possession and control of the handguns used by its members, and

"(B) (i) has procedures and facilities for keeping such handguns in a secure place, under the control of the club's chief officer, at all times when they are not being used for target shooting or other sporting or recreational purposes, or

"(ii) has effected arrangements for the storage of the members' handguns in a facility of the local police department or other nearby law enforcement agency.

"(d) (1) The Secretary must approve or deny an application for a license with the sixty-day period beginning on the date it is received. If the Secretary fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Secretary to act. If the Secretary approves an applicant's application, such applicant shall be issued a license upon payment of the prescribed fee.

"(2) The Secretary may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has violated any provision of this chapter or of chapter 44 of this title or any rule or regulations prescribed by the Secretary under such chapters. The Secretary's action under this paragraph may be reviewed only as provided in subsection (e) of this section.

"(e) (1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of revocation of a license shall be given to the holder of such license before the effective date of the revocation.

"(2) If the Secretary denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

"(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or revoke a license, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to revoke the license, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.

"(f) Each licensed pistol club shall maintain such records of receipt, sale, or other disposition, of handguns at such place, for such period, and in such form as the Secretary may by regulations prescribe. Such pistol clubs shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary may enter at reasonable times the premises (including places of storage) of any pistol club for the purpose of inspecting or examining (1) any records of documents required to be kept by such pistol club under the provisions of this chapter or chapter 44 of this title and regulations issued under such chapters, and (2) any handguns or ammunition kept or stored by such pistol club at such premises.

"(g) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

"(h) The loss or theft of any firearms shall be reported by the person from whose possession it was lost or stolen, within thirty days after such loss or theft is discovered, to the Secretary. Such report shall include such information as the Secretary by regulation shall prescribe, including, without limitation, the date and place of theft or loss.

"§ 1093. Penalties

"(a) Whoever violates any provision of Section 1091 of this chapter shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.

"(b) Whoever knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of an importer, manufacturer, dealer or pistol club, licensed under this chapter, or in applying for a pistol club license under the provisions of this chapter, shall be fined not more than $5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.

"(c) Any handgun or handgun ammunition involved or used in, or intended to be used in, any violation of the provisions of this chapter or chapter 44 of this title or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"(d) Except as provided in subsection (b), no information or evidence obtained from an application or certificate of registration required to be submitted or retained by a natural person in order to comply with any provision of the chapter or regulations issued by the Secretary shall be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application for registration containing the information or evidence.

"§ 1094. Exceptions

"(a) The provisions of this chapter shall not apply with respect to the importation, manufacture, sale, purchase, transfer, receipt, or transportation of any handgun or handgun ammunition which the Secretary determines is being imported or manufactured for, sold, or transferred to, purchased, received, owned, possessed, or transported by, or issued for the use of

"(1) a professional security guard service which is licensed by the State in which the handgun is to be used, and which is authorized to provide armed security guards for hire; or

"(2) the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

"(b) Every security guard service purchasing, receiving, owning, possessing or transporting handguns under Subsection (a) shall maintain records of receipts, sale, ownership and possession of handguns in such form as the Secretary may provide and permit the Secretary to enter the premises at reasonable times for the purpose of inspecting such records.

"(c) The provisions of this chapter shall not apply with respect to the importation, sale, purchase, transfer, receipt, or transportation of a handgun manufactured before 1890, or any other handgun which the Secretary determines is unserviceable, not restorable to firing condition, and intended for use as a curio, museum piece, or collectors' item.

"§ 1095. Voluntary delivery to law enforcement agency; reimbursement

"(a) A person may at any time deliver to any Federal, State, or local law enforcement agency designated by the Secretary a handgun owned or possessed by such person. The Secretary shall arrange with each agency designated to receive handguns for the transfer, destruction, or other disposition of all handguns delivered under this section.

"(b) Upon proof of lawful acquisition and ownership by a person delivering a handgun to a law enforcement agency under this section, within one hundred and eighty days of the effective date of this chapter, the owner of the handgun shall be entitled to receive from the United States a payment equal to the fair market value of the handgun or $25, whichever is more. The Secretary shall provide for the payment, directly or indirectly, through Federal, State, and local law enforcement agencies, of the amounts to which owners of handguns delivered under this section are entitled.

"(c) The amounts authorized in subsection (b) of this section shall be paid out of the fees collected under section 1092(a) of this chapter to the extent that such fees are sufficient for this purpose. The remainder of amounts authorized in subsection (b) of this section shall be paid out of general revenues.

"§ 1096. Rules and regulations

"(a) The Secretary may prescribe such rules and regulations as he deems necessary to carry out the provisions of this chapter.

"§ 1097. Effect on State law

"No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

"§ 1098. Separability

"If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

"§ 1099. Assistance to the Secretary

"When requested by the Secretary, Federal departments and agencies shall assist the Secretary in the administration of this title."

"§ 1100. Appropriations

"There are authorized to be appropriated such sums as are necessary to carry out the purposes of this chapter.

"§ 1101. Definitions

"As used in this chapter—

"(1) The term 'person' and the term 'whoever' include any individual, corporation, company, association, firm partnership, club, society, or joint-stock company.

"(2) The term 'importer' means any person engaged in the business of importing or bringing handguns into the United States for purposes of sale or distribution; and the term 'licensed importer' means any such person licensed under the provisions of chapter 44 of this title.

"(3) The term 'manufacturer' means any person engaged in the manufacture or assembly of handguns for the purposes of sale or distribution; and the term 'licensed manufacturer' means any such person licensed under the provisions of chapter 44 of this title.

"(4) The term 'dealer' means (A) any person engaged in the business of selling handguns at wholesale or retail, (B) any person engaged in the business of repairing handguns or of making or fitting special barrels, or trigger mechanisms to handguns, or (C)

any person who is a pawnbroker. The term 'licensed dealer' means any dealer who is licensed under the provisions of chapter 44 of this title.

"(5) The term 'fair market value' means the prevailing price on the open market for such weapons immediately prior to enactment or at the time of voluntary transfer under Section 1095 of this chapter, whichever is higher, the method of establishing such prices to be prescribed by the Secretary in accordance with his authority under Section 1096.

"(6) The term 'Secretary' or 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

"(7) The term 'handgun' means any weapon—

"(A) designed or redesigned, or made, or remade, and intended to be fired while held in one hand;

"(B) having a barrel less than ten inches in length; and

"(C) designed or redesigned, or made or remade, to use the energy of an explosive to expel a projectile or projectiles through a smooth or rifled bore.

"(8) The term 'handgun ammunition' means ammunition or cartridge cases, or bullets designed for use primarily in handguns.

"(9) The term 'pistol club' means a club organized for target shooting with handguns or to use handguns for sporting or other recreational purposes.

"(10) The term 'licensed pistol club' means a pistol club which is licensed under this chapter.

SEC. 3. The enforcement and administration of the amendment made by this Act shall be vested in the Secretary of the Treasury.

SEC. 4. Nothing in this Act or the amendment made thereby shall be construed as modifying or affecting any provision of—

(a) The National Firearms Act (chapter 53 of the Internal Revenue Code of 1954);

(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or

(c) section 1715 of title 18, United States Code, relating to nonmailable firearms.

SEC. 5. The provisions of this Act shall take effect 180 days following the date of enactment.

By Mr. MONDALE:

S. 2817. A bill to promote the public welfare by amending the Longshoremen's and Harbor Workers' Compensation Act to provide for compensation for persons injured by certain enumerated acts, and for other purposes. Referred to the Committee on Labor and Public Welfare.

COMPENSATION TO VICTIMS OF CRIME

Mr. MONDALE. Mr. President, we hear much about crime rates and there is a great deal of appropriate concern about this problem. Although there is considerable confusion about the data, it is all too clear that violent crime is a threat to all of us. And yet, many law-abiding citizens—especially those least able to pay—are subjected to sometimes staggering financial setbacks when they fall victim to such crimes.

As a practical matter, Government must assume the principal burden of assisting victims of violent crime. Techniques such as civil suits or insurance have little usefulness where the criminal is without assets and the victim is too poor to pay insurance premiums or hire a lawyer to prosecute the suit. Unfortunately, this is all too often the case.

In view of these facts, I firmly believe we should pass legislation in this Congress to allow compensation to the innocent victim of violent crime. I believe this is only right, because this society has an obligation, which it has not met, to the crime victim, just as it helps victims of other misfortunes.

There will always be those in society who are unable to make provisions for themselves or their families to meet the unexpected hazards that may befall a citizen. The maintenance of law and order and protection of the society is a primary function of the Government. How then can a just and fair Government turn its back on the suffering of the tragic figure represented by the unsuspecting, innocent victim of criminal activity?

We should pass this compassionate legislation for many reasons. Although significant steps have been taken in recent years to help local police apprehend the criminal, we have done nothing to recognize the rights of his victim. It is time to consider his plight.

While all segments of society are represented among the victims of crime, certain persons are far more vulnerable than others. Those individuals without resources and insurance are often the most exposed to criminal activity and suffer the most.

We must also acknowledge that existing methods of restitution and compensation are inadequate and ineffective. Finally, a crime compensation program can give impetus to our efforts in the past Congress to control crime. This legislation could lead to more citizen cooperation in promptly reporting crimes, thus aiding in the apprehension of dangerous criminals.

It is for these reasons that I am today offering the "Compensation to Victims of Crime Act" which would authorize the Secretary of Labor to pay compensation, for actual expenses, loss of earning power and other damages to persons injured by certain criminal acts. No distinction would be made among the victims of crimes committed within Federal, State, or local jurisdictions.

Compensation for victims of violence is not a new concept. It has been practiced in various forms since ancient times. Both the Mosaic Law and the Code of Hammurabi provided for public reparations to individuals who suffered criminal assaults, at least under some circumstances. Such compensation was generally awarded only when the criminal was not caught, and was a way of inducing the Government to do everything possible to apprehend the criminal. Compensation was motivated less by a concern for the victim than by a desire to punish society for failing to find the criminal.

In contrast, today's proposals for compensating the victims of violence are properly motivated by a humanitarian desire to alleviate the suffering of such victims. The idea of compensating the innocent victim was first proposed in Congress by former Senator Ralph Yarborough in 1965 and repeated in succeeding Congresses. The distinguished majority leader (Mr. MANSFIELD), has introduced a similar measure in the present Congress.

These earlier proposals, however, were focused principally on a minority of violent crimes—those under Fedral jurisdiction. A plan applying only to the District of Columbia cleared the Senate last year as a little noticed part of a broad anticrime measure, but it was dropped from the bill which was finally enacted. The time has come, I think, to enact a single measure of national scope.

Only seven States have enacted legislation providing for limited compensation. Compensation to innocent victims has been proposed in several others. California, 1965, and New York, 1966, were the pioneering States in this field. Compensation laws were passed by Hawaii in 1967, in Maryland and Massachusetts in 1968, in Nevada in 1969, and in New Jersey this year.

The philosophy behind this proposed legislation is simple: Providing protection from criminals is the responsibility of Government and citizens generally are discouraged from carrying weapons for self-defense. If an individual is injured by a criminal, the Government has failed in its duty to that individual and thus should make some restitution to him.

Edmund G. Brown, former Governor of California, once noted that it was ironic that his State spent millions of dollars for the rehabilitation of criminals in its corrective institutions, yet left the victims to fend for themselves. Arthur Goldberg, former Associate Justice of the U.S. Supreme Court, has written that the victim of a crime has been denied the "protection" of the law, and that "society should assume some responsibility for making him whole."

It is a mockery of justice that an innocent victim should be forced to bear the experience of the crime and also the burden of paying for it. This is particularly true when we look at existing studies identifying typical victims. They show that the physically weak, the young, the aged, the female, and the handicapped, are most vulnerable to crimes of robbery and assault. The psychologically weak, the unintelligent, and the unstable are more vulnerable to many crimes because of the unnecessary risks that they may take.

The socioeconomically weak, the poor, the nonwhite, the immigrant, are also more vulnerable than others, because the majority of crimes occur in the deprived areas in which they are forced to live. Studies have proven that those persons with incomes under $6,000 per year are far more likely to be victims of crime than those with higher incomes.

Thus, the statistics show that the heaviest burden rests precisely on those least able to handle the consequence of violent crime against the person. Generally speaking, it is just those factors that tend to disadvantage a person in general that make him more vulnerable to crime. Or to put it another way, the one who suffers the greatest impact of criminal violence is also the victim of society's long inattention to poverty and other forms of social injustice.

It is only right and decent, therefore, that society, through a program of public compensation, recognize its obligation toward these victims.

The financial hardships, such as paying hospital and doctor bills and suffering lost wages, are particularly difficult for many victims of crime to bear. Those who are least able to provide for themselves in the first place are more often victimized, thus put in an even worse financial position, and then left to fend for themselves. Dr. Karl Menninger has suggested that the typical American views the person convicted of crime with contempt, his chief feeling being that the criminal should be punished, but neither the public nor the offender seems to express any particular sympathy for the victim of crime. He tends to be overlooked or merely forgotten.

The attitude of the offender perhaps helps to explain the problem. Research conducted on more than 800 inmates placed in Florida correctional institutions between July 1, 1962, and June 30, 1963, indicated that those in prison for capital offenses seemed to realise their social obligations, including reparation of their wrongs. Those imprisoned for aggravated assault or violent theft, however, could not accept their responsibilities to their victims and seemed to view their incarceration as fully paying their debt to society.

Again, the victim is the forgotten man in the criminal triangle. Our criminal cases pit the State against the accused suspect with scarcely a mention of the victim. Essentially there are three parties interested in the outcome of a crime: The victim, the offender, and society; but the victim has been virtually forgotten by the other two and lacks the means to gain justice.

This is not to say that compensation of victims by the State is an idea that is received negatively. Opinion polls indicate that the vast majority of the public favors a victim compensation plan, as do legislators, law enforcement officials, and a presidential task force.

Among supporters of the idea have been the National Association of Chiefs of Police and the President's Commission on Law Enforcement and Administration of Justice.

The need for a crime victim's compensation program is highlighted by the fact that there are no viable alternatives at the present time. It is almost always futile for a victim to sue a criminal for damages. Most criminals do not have the financial resources to compensate a victim. A criminal must also be apprehended first and the victim must have the means to be able to sue.

A victim cannot seek satisfaction from the State by going to court; this avenue is blocked by the doctrine of sovereign immunity. The courts cannot impose liability on the State without a directive from the legislature.

Private insurance rarely, if ever, offers the full range of compensation needed to make a victim whole. Even partial insurance coverage, for medical costs and lost wages, is usually well beyond the means of most of the potential victims. Despite the affluence of many Americans, between 40 and 50 million have annual incomes that provide only marginally adequate housing, medicine, and food. Such persons understandably do not have the resources to provide even the inadequate insurance coverage which may now be purchased.

In 1967, almost $4 billion was paid to the beneficiaries of policyholders who died, but 29 percent of all Americans owned no life insurance of any kind. In families with incomes under the $5,000 level, 42 percent were not insured. In 1967, although health insurers paid almost $10 billion in benefits, 27 percent of the total population carried no hospital expense coverage by private health insurance organizations.

Crime control is on everybody's mind. I say we must act now, because millions of Americans today are frightened. The fear of violent crime is real. The threat of being assaulted, mugged, robbed, or raped is curtailing the pleasure of an evening walk, or plans for an evening activity outside of the home. People are fleeing their homes in the cities to the hoped-for safety of suburban living. Residents of many areas will not go out on the street at night. Others have added bars and extra locks to windows and doors in their homes. Busdrivers in major cities do not carry cash, because incidents of robbery have been so frequent.

Let me cite just a few figures to show the extent of the violent crime problem. Figures available from the FBI uniform crime reports indicate that the amount and rate of violent crime over the last 10 years has been frightening. Between 1960 and 1970, violent crime rose 156 percent. In 1970 alone, 731,402 acts of violence were reported to the police. One crime of violence occurred every 43 seconds.

National information on crimes of violence has been available in this country only since the 1930's. The FBI uniform crime reports are the only national crime data available. They consist of voluntary submissions by most local police jurisdictions in the country on offenses known to the police and arrests made. Consequently, the number of criminally inflicted injuries can only be estimated, because of the victim's hesitance, inability and inaccuracy in reporting crimes to the police. There is a considerable gap between the reported figures and the true figures which are sometimes estimated to be nearly twice as high as reported rates.

Although it is difficult to make comparisons among nations with their different histories, cultures, levels of development, criminal statutes, and statistical reporting procedures, the United States probably has true rates of serious violence among the highest of the industrialized countries. Yet Great Britain and New Zealand have been paying crime victims since 1964. Compensation programs are also in effect in parts of Canada and Australia, and Sweden is setting up such a program.

Under my proposal, the Secretary of Labor would be empowered to grant awards for victims of assaults, robberies, arson, murder, attempted rape, kidnaping, and other violent crimes. The bill has provisions which are designed to prevent abuses. For example, a person who was injured by an accident, rather than a crime, would be discouraged from making a false application by the requirement that the crime be reported within 72 hours. Thus, there would be ample opportunity for law enforcement officials to ascertain whether a crime had been committed.

Another provision authorizes criminal prosecution for fraudulent applications for compensation. The likelihood of false claims is also sharply reduced by excluding property damage from the act's coverage.

A thorough investigation would be conducted in each case to verify the loss claimed and thus lessen the possibility that claims might be inflated. Compensation could be paid to the injured person, to any person responsible for the care of the injured person and to the dependents or closest relative of any deceased victim. Payments would cover expenses resulting from injury or death, loss of earning power, pecuniary loss to dependents of the victim, and could also compensate for pain and suffering. The Federal payment could be reduced to reflect compensation received by the victim from other sources.

The bill I am introducing is different from others in this area in several respects. First, as noted above, it makes no distinctions as to the level of government whose criminal laws are involved. It will cover certain additional classes of injuries, such as those resulting from efforts to apprehend violations of law. It also provides a special death gratuity for law enforcement officers and firemen. It will aid in law enforcement by requiring that crimes be reported within 72 hours. It provides for full compensation for actual expenses and loss of earnings. Finally, it assigns the administrative responsibility to an existing agency rather than creating yet another commission.

The Secretary of Labor currently administers workmen's compensation benefit programs for millions of workers, including Federal employees and related personnel, employees in the District of Columbia, and longshoremen and harbor workers. I believe building upon this existing agency would provide a more effective administrative vehicle for the "Compensation to Victims of Crime Act," and that the added delays and expenses which would be encountered in creating a new agency would, thus, be eliminated.

On the surface, the victim presently sustains the full burden of medical expenses, lost wages, and related expenses. Ultimately, of course, society suffers in terms of lost jobs, productivity and purchasing power. In addition to the humanitarian basis for the legislation, a program of public compensation can reduce some of the costs to society in other ways. By requiring victims to report crimes promptly, as a prerequisite to compensation, such a program could help law enforcement authorities apprehend criminals. This could reduce crime by removing from society criminals who would otherwise remain at large to commit further crimes. In addition, the very prospect of more effective law enforce-

ment would deter the would-be violators from committing criminal acts.

Policemen and firemen, and their survivors, would be eligible for all of the benefits the bill provides. However, I think it is appropriate that special provision be made for such public servants who are killed by violence in the course of their duties. It is for that reason that I have included a special $50,000 death gratuity for the dependents of such personnel.

The States and foreign governments which have adopted a compensation plan find that it is achieving its purposes fairly well. Awards have been used to keep families together, to avert foreclosures and evictions, as well as to pay bills and keep the victims out of debt. Their experience shows that the proposal is not only desirable but workable. I urge that the "Compensation to Victims of Crime Act" be given early consideration and that we in Congress show our compassion for these victims.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2817

A bill to promote the public welfare by amending the Longshoremen's and Harbor Workers' Compensation Act to provide for compensation for persons injured by certain enumerated acts, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424) is amended by inserting:

"TITLE I—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION"

immediately above the heading of section 1, by striking out "this Act" wherever it appears in section 1 through 51, inclusive, and inserting in lieu thereof "this title", and by adding immediately after section 51 the following new title:

TITLE II—CRIMINAL INJURIES COMPENSATION

SHORT TITLE

SEC. 201. This title may be cited as the "Compensation to Victims of Crime Act".

PURPOSE

SEC. 202. (a) It is a purpose of this title to promote the public welfare by establishing a means of compensating victims of violent crimes.

DEFINITIONS

SEC. 203. As used in this title the term—

(1) "child" means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and a child conceived prior to but born after the death of the victim;

(2) "Secretary" means the Secretary of Labor;

(3) "dependent" means those who were wholly or partially dependent upon the income of the victim at the time of the death of the victim or those for whom the victim was legally responsible;

(4) "personal injury" means actual bodily harm and includes pregnancy, mental distress, nervous shock, and loss of reputation;

(5) "relative" means the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, siblings of the whole or half blood, spouse's parents;

(6) "victim" means a person who is injured, killed, or dies as the result of injuries caused by any act or omission of any other person which is within the description of any of the offenses specified in section 206 of this title;

(7) "guardian" means one who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent;

(8) "incompetent" means a person who is incapable of managing his own affairs, whether adjudicated or not; and

(9) "State" means a State, the District of Columbia, Puerto Rico, or the Virgin Islands, American Samoa, Guam and the Trust Territory of the Pacific Islands.

(10) "political subdivision" means the general local authority to prosecute any of the acts described in section 206.

FUNCTIONS

SEC. 204. In order to carry out the purposes of this title, the Secretary shall—

(1) receive and process applications under the provisions of this title for compensation for personal injury resulting from violent acts described in this title;

(2) pay compensation to victims and other beneficiaries in accordance with the provisions of this title; and

(3) hold such hearings, sit and act at such times and places, and take such testimony as he may deem advisable.

AWARDING COMPENSATION

SEC. 205. (a) In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 206 of this title, the Secretary may, in his discretion, upon an application, order the payment of, and pay, compensation in accordance with the provisions of this title, if such act or omission occurs within any State or political subdivision thereof.

(b) The Secretary may order the payment of compensation—

(1) to or on behalf of the injured person;

(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person;

(3) in the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more of such dependents;

(4) in the case of a payment for the benefit of a child or incompetent the payee shall file an accounting with the Secretary no later than January 31 of each year for the previous calendar year;

(5) in the case of the death of the victim, to any one or more persons who suffered pecuniary loss with relation to funeral expenses.

(c) For the purposes of this title, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(d) In determining whether to make an order under this section, or the amount of any award, the Secretary may consider any circumstances he determines to be relevant, including the behavior of the victim which directly or indirectly contributed to his injury or death, unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.

(e) No order may be made under this section unless the Secretary supported by substantial evidence, finds that—

(1) such an act or omission did occur; and

(2) such act or omission was the proximate cause of the injury or death.

(f) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission, or if such act or omission is the subject of any other legal action. Upon application from the Attorney General, the Attorney General of any State, or chief executing officer of any political subdivision thereof, or the person or persons alleged to have caused the injury or death, the Secretary shall suspend proceedings under this Act until such application is withdrawn or until a prosecution for an offense arising out of such act or omission is no longer pending or imminent. The Secretary may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

OFFENSES TO WHICH THIS ACT APPLIES

SEC. 206. (a) The Secretary may order the payment of, and pay, compensation in accordance with the provisions of this Act for personal injury or death which resulted from offenses in the following categories:

(1) assault with intent to kill, rob, rape;
(2) assault with intent to commit mayhem;
(3) assault with a dangerous weapon;
(4) assault;
(5) mayhem;
(6) malicious disfiguring;
(7) threats to do bodily harm;
(8) lewd, indecent, or obscene acts;
(9) indecent act with children;
(10) arson;
(11) kidnaping;
(12) robbery;
(13) murder;
(14) voluntary manslaughter;
(15) attempted murder;
(16) rape;
(17) attempted rape; or
(18) other crimes involving force to the person.

(b) The Secretary may also order payment of, and pay, compensation in accordance with the provisions of this Act for personal injury or death which resulted from the flight or pursuit of a criminal or suspected criminal.

APPLICATION FOR COMPENSATION

SEC. 207. (a) In any case in which the person entitled to make an application is a child, or incompetent, the application may be made on his behalf by any person acting as his parent, guardian or attorney.

(b) Where any application is made to the Secretary under this title, the applicant, or his attorney, and any attorney of the Department of Labor, shall be entitled to appear and be heard.

(c) Any other person may appear and be heard who satisfies the Secretary that he has a substantial interest in the proceedings.

(d) Every person appearing under the preceding subsections of this section shall have the right to produce evidence and to cross-examine witnesses.

(e) If any person has been convicted of any offense with respect to an act or omission on which a claim under this title is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing or certiorari in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

PROCEDURES

SEC. 208. (a) The Secretary is authorized to subpena and require production of documents in the manner of the Securities and Exchange Commission as required by subsection (c) of section 18 of the Act of August 26, 1935, and the provisions of subsection (d) of such section shall be applicable to all persons summoned by subpena or otherwise to attend or testify or produce such documents as are described therein, except that no subpena shall be issue except under the signature of the Secretary, and application to any court for aid in enforcing such subpena may be made only by the Secretary.

(b) The Secretary is authorized to administer oaths, or affirmations to witnesses, receive in evidence any statement, document, information, or matter that may contribute to his functions under this title, whether or not such statement, document, information, or matter would be admissible in a court of law, except that any evidence introduced by or on behalf of the person or persons charged with causing the injury or death of the victim, any request for a stay of action, and the fact of any award granted shall not be admissible against such person or persons in any prosecution for such injury or death.

(c) The Secretary may delegate his powers under this title to any officer under his jurisdiction.

ATTORNEYS' FEES

SEC. 209. (a) The Secretary shall publish regulations providing that an attorney shall, at the conclusion of proceedings under this title, file with the agency a statement of the amount of fee charge, in connection with his services rendered in such proceedings.

(b) After the fee information is filed by an attorney under subsection (a) of this section, the Secretary may determine, in accordance with such published rules or regulations as it may provide, that such fee charged is excessive. If, after notice to the attorney of this determination, the Secretary and the attorney fail to agree upon a fee, the Secretary may, within ninety days after the receipt of the information required by subsection (a) of this section, petition the United States district court in the district in which the attorney maintains an office, and the court shall determine a reasonable fee for the services rendered by the attorney.

(c) Any attorney who willfully charges, demands, receives, or collects for services rendered in connection with any proceedings under this title any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than $2,000 or imprisoned not more than one year, or both.

NATURE OF THE COMPENSATION

SEC. 210. The Secretary may order the payment of compensation under this title for—

(1) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(2) loss of earning power as a result of total or partial incapacity of such victim;

(3) pecuniary loss to the dependents of the deceased victim;

(4) pain and suffering of the victim; and

(5) any other pecuniary loss resulting from the personal injury or death of the victim which the Secretary determines to be reasonable.

FINALITY OF DECISION

SEC. 211. The orders and decisions of the Secretary shall be final.

LIMITATIONS UPON AWARDING COMPENSATION

SEC. 212. (a) No order for the payment of compensation shall be made unless—

(1) the act, to which the personal injury or death to be compensated for is based, was reported to the proper law enforcement authorities within 72 hours after its occurrence, unless the Secretary finds that the requirement of this paragraph is unreasonable; and

(2) the application has been made within two years of the personal injury or death.

(b) No compensation shall be awarded in any situation in which the Secretary, at his discretion, determines that unjust enrichment to or on behalf of the offender would result.

(c) Compensation shall be paid as follows:

(1) 100 percent of all hospital and medical bills, and for any other pecuniary loss or expense proximately arising from the injury or death to be compensated for;

(2) loss of earning power not to exceed twice the average weekly industrial wage as determined by the Secretary, until the victim resumes gainful employment at a rate equal to or in excess of the rate of earning power that the victim had at the time of his injury; and

(3) an amount not to exceed $10,000 for pain and suffering.

POLICE AND FIREMEN'S DEATH BENEFITS

SEC. 213. (a) The Secretary shall pay a gratuity of $50,000 to a dependent of a law enforcement officer or fire officer upon certification by the Governor of any State that—

(1) a law enforcement officer employed by that State or a unit of general local government within that State to enforce the criminal laws of that State has been killed in the line of duty; or

(2) a fire officer employed by that State or a unit of general local government within that State has died in the line of duty as the result of injuries proximately caused by any one of the enumerated acts described in section 206.

(b) Payment of a gratuity under this section shall preclude any death benefits under section 205.

TERMS AND PAYMENT OF THE ORDER

SEC. 214. (a) Except as otherwise provided in this section, any order for the payment of compensation under this title may be made on such terms as the Secretary deems appropriate.

(b) The Secretary shall deduct from any payments awarded under section 205 or 213 of this title any payments received by the victim or by any of his dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this title), a State or any of its subdivisions, for personal injury or death compensable under this title, but only to the extent that the sum of such payments and any award under this title are in excess of the total compensable injuries suffered by the victim as determined by the Secretary.

(c) The Secretary shall pay to the person named in the order the amount named therein in accordance with the provisions of such order.

EMERGENCY AWARDS

SEC. 215. (a) Whenever the Secretary determines, prior to taking action upon a claim, that—

(1) such claim is one with respect to which an award probably will be made, and

(2) undue hardship will result to the claimant if immediate payment is not made, the Secretary may make emergency awards to the claimant pending a final decision in the case.

(b) The amount of any emergency award made under subsection (a) shall be deducted from the amount of any final award made to the claimant.

(c) Where the amount of any emergency award made under subsection (a) exceeds the amount of the final award, or if there is no final award, the recipient of any such emergency award shall be liable for the repayment of such amount in accordance with rules and regulations prescribed by the Secretary. The Secretary may waive all or part of such repayment where in his judgment such repayment would invoke severe hardship.

RECOVERY FROM OFFENDER

SEC. 216. (a) Whenever any person is convicted of an offense and an order for the payment of compensation is or has been made under this title for a personal injury or death resulting from the act or omission constituting such offense, the Attorney General may within 3 years institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action.

(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

(c) The Secretary shall provide to the Attorney General such information, date, and reports as the Attorney General may require to institute sections in accordance with this section.

EFFECT ON CIVIL ACTIONS

SEC. 217. An order for the payment of compensation under this title shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

REPORTS TO THE CONGRESS

SEC. 218. The Secretary shall transmit to the President and to the Congress annually a report of its activities under this title including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded.

PENALTIES

SEC. 219. The provisions of section 1001 of title 18 of the United States Code shall apply to any application, statement, document, or information presented to the Secretary under this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 220. There are hereby authorized to be appropriated such sums as may be necessary to carry out the other provisions of this title.

EFFECTIVE DATE

SEC. 221. This title shall take effect on January 1, 1973.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2509

At the request of Mr. SCOTT, the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOPER), the Senator from Colorado (Mr. DOMINICK), the Senator from Georgia (Mr. GAMBRELL), the Senator from South Carolina (Mr HOLLINGS), the Senator from New York (Mr. JAVITS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Vermont (Mr. STAFFORD), the Senator from Missouri (Mr. SYMINGTON), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 2509, to incorporate Pop Warner Little Scholars, Inc.

S. 2528

At the request of Mr. HRUSKA, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2529, to incorporate Junior Achievement, Inc.

S. 2620

At the request of Mr. MAGNUSON, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 2620, to promote the economic well-being of the United States by providing authority to negotiate commercial agreements including the granting of most favored national treatment with countries having nonmarket economies.

SENATE RESOLUTION 190—SUBMISSION OF A RESOLUTION TO AUTHORIZE AN EMERGENCY SESSION OF THE SECURITY COUNCIL

(Referred to the Committee on Foreign Relations.)

Mr. MANSFIELD. Mr. President, by request I submit a resolution on behalf of the senior Senator from Oklahoma (Mr. HARRIS) and ask unanimous consent that it be printed together with his statement.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution is as follows:

S. RES. 190

Whereas in recent weeks there have been numerous reports from South Asia suggesting that a conflict between the Governments of India and Pakistan could erupt at any moment; and

Whereas a conflict between these two populous countries would be a major disaster for world peace and could involve outside powers; and

Whereas the People's Republic of China, the Union of Soviet Socialist Republics and the United States of America have all expressed concern at the heightening tension in South Asia; and

Whereas in the past the absence of the People's Republic of China from the United Nations has made it difficult for all parties interested in peace and stability in South Asia to communicate their views freely among one another; and

Whereas the People's Republic of China is now ready to assume its seat on the United Nations Security Council; and

Whereas an immediate exchange of views in the Security Council by parties directly or indirectly involved in the menacing conflict in South Asia could improve the prospects for peace in that area: Now, therefore be it

Resolved, That it is the sense of the Senate that the United States should instruct its delegation at the United Nations to propose the formal inscription on the agenda of the Security Council of an item entitled "The Threat to Peace in South Asia" and that the United States delegation should call for an emergency session of the Security Council on this subject at the earliest possible date.

The statement of Mr. HARRIS is as follows:

Mr. HARRIS. Mr. President, with the admission of the People's Republic of China into the United Nations, the world is entering a new diplomatic era.

The People's Republic of China, by sheer weight of population and by geographic size, has always had a profound effect on other nations' policies. But so long as it remained in isolation, it did not engage in an open and free exchange of views with others on international crises.

The result was often the delay of political settlement. This was true in Korea. It has been true in Vietnam. And today it is particularly true in South Asia.

The smouldering conflict there between India and Pakistan may be the greatest threat to world peace since World War II. For not only would a war between these two states involve two enormous population masses, untold casualties and a possible religious war. There would also be the grave danger that concerned outside powers, in particular China, the Soviet Union and the United States, might at some point be drawn in. In that event the world would face the possibility of a war involving 51% of the entire population on the globe, a catastrophe on a scale with World War II.

From the beginning we have known that a political settlement between India and Pakistan would be difficult. The reason is clear. At stake is not simply the future but the political survival of two major world states. But what the states directly involved would have found difficult in any case, the People's Republic of China, the Soviet Union and the United States have made impossible. Both by their actions of support for one side against the other as well as by their failure to consult with one another about a political solution, they have delayed, not facilitated a political settlement.

I believe we can wait no longer for political discussions leading to an end to this menace to world peace. Both the powers directly involved, India and Pakistan, and those major powers indirectly involved must participate. And there is only one body where these discussions can be held, the UN Security Council.

We must end the practice of making the United Nations the court of no resort. Many experienced observers believe the world may literally be standing edge of the final precipice. Now is not the time to neglect the only world forum which brings together all interested parties without cost in prestige or position to any.

Today I am therefore introducing a resolution which declares it to be the sense of the Senate that the United States should instruct its delegation at the United Nations to propose the formal inscription on the agenda of the Security Council of the item "The Threat to Peace in South Asia" and that the United States delegation should at the same time call for an emergency session of the Security Council on this subject.

I urge support for this resolution so that the world may understand the danger it faces and take steps towards its elimination. I urge that we not pass up the unique diplomatic opportunity to move towards peace in South Asia which I believe we all can agree China's entry into the United Nations may present.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTION

S. CON. RES. 48

At the request of Mr. DOLE, the Senator from Nebraska (Mr. CURTIS), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of Senate Concurrent Resolution 48, relating to the Holy Crown of St. Stephen.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971—AMENDMENTS

AMENDMENT NO. 603

(Ordered to be printed and to lie on the table.)

Mr. COOK submitted an amendment, intended to be proposed by him, to the amendment (No. 585), intended to be proposed by Mr. PASTORE (for himself and Mr. CASE) to the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

AMENDMENTS NOS. 604 AND 605

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA submitted two amendments, intended to be proposed by him, to S. 986, supra.

AMENDMENT NO. 606

(Ordered to be printed and to lie on the table.)

TUNNEY, CRANSTON, KENNEDY, AND HARRIS AMENDMENT TO S. 986

Mr. TUNNEY. Mr. President, certain changes have been made in the text of the amendment originally circulated.

First, the word "guidelines" has been added in addition to the word "rules and regulations." S. 986 makes reference in section 110(a) to FTC guidelines rather than rules and regulations. The change would insure that the amendment was all inclusive.

Second, the original text referred to "legislative" rules issued in accordance with the Federal Trade Commission Act. In the final draft I have omitted the word "legislative." This change is intended to make it clear that the rules here contemplated may be developed pursuant to the informal procedure contained in section 553 of the Administrative Procedure Act.

Third, language has been inserted in the amendment to make it clear that Federal preemption is limited to labeling and disclosure requirements and that State law may continue in other areas such as performance under a warranty, prohibitions against waivers of implied warranties, and recovery of damages.

Fourth, for such State requirements to continue the FTC must not only find that a State law affords greater or additional protection but in addition that the laws are being adequately enforced. In this way an inadequately enforced law may not be used as an excuse to avoid the minimum standards of S. 986. Language has been added to insure continuing review of State law.

ANALYSIS OF AMENDMENT

The FTC is given the power to exempt certain transactions or classes of transactions from S. 986 if it determines first that the State law affords greater or additional protection to consumers and that the law is adequately enforced. The exemption may be only for some classes of transactions and not for others. It may be, for example, that the more effective protection of a State law is limited in application to products used in the construction of housing or sold by door-to-door salesmen. The exemption granted by the FTC would then be limited to the class or classes of transactions specified in the application, or as to which appropriate findings are made. The exemption language "to the extent specified in such determinations" permits the FTC, for example, to validate State law that prohibits reduction of damages for breach of implied warranty, but which does not have disclosure requirements. This is the situation in Massachusetts and Maryland. Under S. 986, while there may not be a disclaimer of implied warranties, the minimum Federal standards appear to permit clauses limiting liability to replacement and repair. Under the amendment, State laws making sellers responsible for accidents would be permitted to rule transactions occurring subject to the laws of those States. The California statute goes further in this area as well as required performance under a warranty. For example, once a manufacturer chooses to give a written warranty he must either provide in-State servicing facilities or fully reimburse retailers for work under the warranty.

Legitimate business interests will be protected by the second finding that the FTC must make. The FTC must find, in effect, that granting the exemption does not put an undue burden on business operating in interstate commerce. The amendment will not unduly burden the FTC, since the application, as is the case with applications to the Federal Reserve Board under the Truth in Lending Act, must be made by an appropriate State agency having jurisdiction to protect consumers. Applications by private interests for approval are not provided for.

Text of amendment to be proposed by Mr. TUNNEY for himself, Mr. CRANSTON, Mr. KENNEDY, and Mr. HARRIS to S. 986:

AMENDMENT NO. 606

On page 41, strike out lines 16 through 22 and insert the following:

(b) labeling, disclosure, or other requirements of a State with respect to written warranties and performance thereunder, inconsistent with those set forth in Section 102, 103, or 104 of this title or with rules and regulations of the Commission issued in accordance with the proceedures set forth in Section 109 of this title, or with guidelines of the Commission shall not be applicable to warranties complying therewith. However, if upon application of an appropriate state agency, the Commission determines (pursuant to rules issued in accordance with the Federal Trade Commission Act, as amended) that any requirement of such State (other than a labeling or disclosure requirement) covering any transaction to which this title applies (1) affords protection to consumers greater than the requirements of this title and (2) does not unduly burden interstate commerce, then transactions complying with any such State requirement shall be exempt from the provisions of this title to the extent specified in such determination for as long as the State continues to administer and enforce effectively any such greater requirement.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 477

At the request of Mr. SCOTT, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of amendment No. 477, to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENTS NOS. 576 THROUGH 581

CONGRESS SHOULD END BUREAUCRATIC AND JUDICIAL TYRANNIES IN RESPECT TO CHILDREN AND THEIR PARENTS

Mr. ERVIN. Mr. President, on November 2, 1971, Mr. ALLEN, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, and I submitted amendments Nos. 576, 577, 578, 579, 580, and 581 to S. 2515, a bill to further promote equal employment opportunities for American workers. Since that time Mr. BAKER, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, and Mr. TOWER, have expressed to me their desires to become cosponsors of these amendments. Pursuant to their request, I hereby ask unanimous consent that each of these Senators be designated as cosponsor of each of these amendments.

The PRESIDING OFFICER. There being no objection, the Senators named by the Senator from North Carolina are hereby designated as cosponsors of the amendments mentioned by him.

Mr. ERVIN. The first of these amendments forbids any Federal court and any Federal department, agency, or officer from undertaking to exercise either directly or indirectly the power to assign children to public schools in any school system whose board has adopted a freedom of choice method for assigning children to public schools and to classes in public schools.

Amendment No. 576 is in full harmony with the equal protection clause of the 14th amendment because it treats all schoolchildren and their parents exactly alike and this is all that the equal protection clause requires of any State agency.

The other five amendments guarantee to every child, black, brown, red, yellow, or white, the right to attend his neighborhood school and forbid the transportation of any child by busing or otherwise to change the racial composition of any school or any class in any school. Manifestly, the action of Federal courts and of the Department of Health, Education, and Welfare requiring school boards to bus children to change the racial composition of any school or any class in any school flouts the equal protection clause in two respects. First, this action requires the school board to divide the children in a given school district into two groups, and to permit one group to attend their neighborhood school and to deny the other group the right to attend their neighborhood school. Hence, this action violates the equal protection clause of the 14th amendment because it requires the school board to treat children similarly situated in a different manner.

This action violates the equal protection clause a second way in that it requires that the children who are denied the right to attend their neighborhood school be transported by bus or otherwise to schools elsewhere for the purpose of either decreasing children of their race in the neighborhood school or to increase children of their race in the school elsewhere. Hence, such action denies the children who are bused the right to attend their neighborhood school on account of their race, and thus violates the equal protection clause in a second way.

I trust that the Senate and the House will approve these amendments and thus restore basic freedoms to the school children and parents of America.

For the information of the Senate, I ask unanimous consent that each of these amendments be printed in full at this point in the body of the RECORD as a part of my remarks.

The PRESIDING OFFICER. There being no objection, the amendments were ordered printed in the RECORD, as follows:

AMENDMENT No. 576

At the end of the bill insert the following:

TITLE—FREEDOM OF CHOICE IN STUDENT ASSIGNMENTS TO PUBLIC SCHOOLS

SEC. 14. The Civil Rights Act of 1964 (42 U.S.C. 1971, 1975a—1975d, 2000a—2000a—2000h—6) is amended by adding at the end thereof the following new title:

"TITLE XII—PUBLIC SCHOOL—FREEDOM OF CHOICE

"SEC. 1201. As used in this title—

"(a) 'State' means any State, district, Commonwealth, territory, or possession of the United States.

"(b) 'Public school' means any elementary or secondary educational institution, which is operated by a State, a subdivision of a State, or governmental agency within a State, or any elementary or secondary educational institution which is operated, in whole or in part, from or through the use of governmental funds or property, or funds or property derived from a governmental source.

"(c) 'School board' means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

"(d) 'Student' means any person required or permitted by State law to attend a public school for the purpose of receiving instruction.

"(e) 'Parent' means any parent, adoptive parent, guardian, or legal or actual custodian of a student.

"(f) 'Faculty' means the administrative and teaching force of a public school system or a public school.

"(g) 'Freedom of choice system' means a system for the assignment of students to public schools and within public schools maintained by a school board operating a system of public schools in which the public schools and the classes it operates are open to students of all races and in which the students are granted the freedom to attend public schools and classes chosen by their respective parents from among the public schools and classes available for the instruction of students of their ages and educational standings.

"SEC. 1202. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, such financial assistance from any such program or activity on account of the racial composition of the student body at any public school or in any class at any public school in any case whatever where the school board operating such public school or class maintains in respect to such public school and class a freedom of choice system as defined in section 1201(g).

"SEC. 1203. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, any such Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school.

"SEC. 1204. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity of any public school in any public school system by way of grant,

loan, or otherwise shall withhold or threaten to withhold any such Federal financial assistance from any such program or activity at such public school to coerce or induce any school board operating such public school system to close any public school, and transfer the students from it to another public school for the purpose of altering in any way the racial composition of the student body at any public school.

"SEC. 1205. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school in any public school system by way of grant, loan, or otherwise shall withhold or threaten to withhold any such Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school system to transfer any member of any public school faculty from the public school in which the member of the faculty contracts to serve to some other public school for the purpose of altering the racial composition of the faculty at any public school.

"SEC. 1206. Whenever any department, agency, officer, or employee of the United States violates or threatens to violate section 1202, section 1203, section 1204, or section 1205 of this Act, the school board aggrieved by the violation or threatened violation, or the parent of any student affected or to be affected by the violation or threatened violation, or any student affected or to be affected by the violation or threatened violation, or any member of any faculty affected or to be affected by the violation or threatened violation may bring a civil action against the United States in the district court of the United States complaining of the violation or threatened violation, and the district court of the United States shall have jurisdiction to try and determine the civil action irrespective of the value or the amount involved in it and enter such judgment or issue such order as may be necessary or appropriate to redress the violation or prevent the threatened violation. Any civil action against the United States under this section may be prosecuted in the judicial district in which the school board aggrieved by the violation or threatened violation has its principal office, or in the judicial district in which any school affected or to be affected by the violation or threatened violation is located, or in the judicial district in which a parent of a student affected or to be affected by the violation or threatened violation resides, or in the judicial district in which a student affected or to be affected by the violation or threatened violation resides, or in the judicial district in which a member of a faculty affected or to be affected by the violation or threatened violation resides, or in the judicial district encompassing the District of Columbia. The United States hereby expressly consents to be sued in any civil action authorized by this section, and hereby expressly agrees that any judgment entered or order issued in any such civil action shall be binding on the United States and its offending department, agency, officer, or employee, subject to the right of the United States to secure an appellate review of the judgment or order by appeal or certiorari as is provided by law with respect to judgments or orders entered against the United States in other civil actions in which the United States is a defendant.

"SEC. 1207. No court of the United States shall have jurisdiction to make any decision, enter any judgment, or issue any order requiring any school board to make any change in the racial composition of the student body at any public school or in any class at any public school to which students are assigned in conformity with a freedom of choice system as defined in section 1201(g) of this Act, or requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district, or denying to any student the right or privilege of attending any public school or class at any public school chosen by the parent of such student in conformity with a freedom of choice system as defined in section 1201(g) of this Act, or requiring any school board to close any school and transfer the students from the closed school to any other school for the purpose of altering the racial composition of the student body at any public school, or precluding any school board from carrying into effect any provision of any contract between it and any member of the faculty of any public school it operates specifying the public school where the member of the faculty is to perform his or her duties under the contract."

AMENDMENT No. 577

At the end of the bill insert the following:

LIMITATION

SEC. 14. No court, department, agency, officer, or employee of the United States shall have jurisdiction or power to require any State or local public school board to assign any member of a public school faculty to any public school other than the school in which such member contracts to serve.

AMENDMENT No. 578

At the end of the bill insert the following:

TITLE —BUSING LIMITATION

SEC. 14. No department, agency, officer, or employee of the United States empowered to extend Federal financial assistance to any program or activity at any public school by way of grant, loan, or otherwise shall withhold, or threaten to withhold, any Federal financial assistance from any such program or activity at such public school to coerce or induce the school board operating such public school to transport students from such public school to any other public school for the purpose of altering in any way the racial composition of the student body at such public school or any other public school.

SEC. 15. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order requiring any school board to transport any students from one public school to another public school or from one place to another place or from one school district to another school district in order to effect a change in the racial composition of the student body at any school or place or in any school district.

AMENDMENT No. 579

At the end of the bill insert the following:

LIMITATION

SEC. 14. No court, department, agency, officer, or employee of the United States shall have jurisdiction or power to require any State or local public school or any other State or local agency empowered to assign children to public schools to transport any child from one place to another place, or from one school to another school, or from one school district to another school district to alter the racial composition of the student body at any public school.

AMENDMENT No. 580

Intended to be proposed by Mr. ERVIN (for himself, Mr. ALLEN, Mr. ELLENDER, Mr. GAMBRELL, and Mr. GURNEY) to S. 2515, a bill to further promote equal employment opportunity for American workers, viz: At the end of the bill insert the following:

LIMITATION

SEC. 14. No court, department, agency, officer, or employee of the United States shall have jurisdiction or power to deny to any child the right to attend the public school nearest his home which is operated for the education of children of his age and ability.

AMENDMENT No. 581

Intended to be proposed by Mr. ERVIN (for himself, Mr. ALLEN, Mr. ELLENDER, Mr. GAMBRELL, and Mr. GURNEY), to S. 2515, a bill to further promote equal employment opportunities for American workers, viz: At the end of the bill insert the following:

DISCRIMINATION ON ACCOUNT OF RACE, CREED, COLOR, OR NATIONAL ORIGIN PROHIBITED

SEC. 14. (a) No person shall be refused admission into or be excluded from any public school in any State on account of race, creed, color, or national origin.

(b) Except with the express approval of a board of education legally constituted in any State or the District of Columbia and having jurisdiction, no student shall be assigned or compelled to attend any school on account of race, creed, color, or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone, or attendance unit, by whatever name known, shall be established, reorganized, or maintained for any such purpose: *Provided*, That nothing contained in this Act or any other provision of Federal law shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

NOTICE OF DISTRICT OF COLUMBIA REVENUE HEARINGS—CHANGE OF DATE

Mr. EAGLETON. Mr. President, it is my understanding that the House of Representatives will not act on the District of Columbia revenue legislation (H.R. 11341) on Monday, November 8, 1971. In order that the Senate District Committee will have the House-passed legislation before it, I am rescheduling the hearings of the Senate District Committee on H.R. 11341, originally set for Wednesday, November 10, to Tuesday, November 16, 1971, at 10 a.m. in room 6226, New Senate Office Building.

NOTICE OF HEARINGS OF THE SELECT COMMITTEE ON EQUAL EDUCATIONAL OPPORTUNITY

Mr. MONDALE. Mr. President, in accordance with the requirements of section 111(a) of the Legislative Reorganization Act of 1970, I announce that the Select Committee on Equal Educational Opportunity will hold hearings on the following days:

November 8, 1971, 10 a.m., room 1318, New Senate Office Building. Inequality in school practices.

November 10, 1971, 10 a.m., room 1318, New Senate Office Building. Michigan education.

November 16, 1971, 10 a.m., room 1318, New Senate Office Building. Learning motivation.

ADDITIONAL STATEMENTS

THE 25TH ANNIVERSARY OF ELECTION OF SENATOR SPARKMAN TO THE SENATE

Mr. ALLEN. Mr. President, today marks the 25th anniversary of the election to the U.S. Senate of my distinguished senior colleague from Alabama (Mr. SPARKMAN) and it is my great privilege to express my congratulations to him on this benchmark occasion. He has performed monumental and singular service to Alabama and the Nation during his 10 years in the U.S. House of Representatives and during the 25 years in this great body.

To the best of my knowledge, the senior Senator from Alabama became the first man in our Nation's history to be elected simultaneously to both Houses of Congress. This happened in 1946, when he ran for reelection as a Representative and also ran for the U.S. Senate to fill out the unexpired term of the late Senator John H. Bankhead. He immediately resigned his House seat and took his Senate seat on November 6, 1946.

His 35 years of combined service in House and Senate have been, perhaps, the most portentous, fateful and perilous in the life of our country—extending from 1936—in the fading years of the Great Depression, into the ages of the atom and of outer space, and through three wars—one of which was the biggest and another the longest in American history.

Few men have seen longer total service in Congress than Alabama's senior Senator, and one of these was my predecessor—Senator Lister Hill, who retired in 1969. Twenty-five years ago Senator Hill escorted newly elected JOHN SPARKMAN down the Senate aisle to take the oath of office and to begin one of the longest periods on record of being junior Senator from any State—a period my colleague relates in jest—which was to last more than 22 years, until Senator Hill retired on January 2, 1969 and passed on the mantle of senior Senator. It then became my privilege and honor to take over the business of being junior Senator from the great State of Alabama.

Today, among the 100 Members of this august body, Senator SPARKMAN ranks number seven from the top in total years of service, and he is recognized as one of the most influential Members of the U.S. Senate.

Mr. President, I believe that my distinguished fellow Alabamian will agree that one of his greatest contributions as a Member of Congress has been primarily in building the economic programs that strengthen Alabama and the Nation, for he knows that the backbone of national defense, the foundation of world leadership and the source of a healthy, prosperous people is a productive, thriving economy. He is one of these key Senators who have built their present positions of power and influence through long, unbroken service, through their legislative skills and tireless energy, and the respect and cooperation they command from their fellow Senators.

He has long been the Senate's expert on housing and financial matters, and as chairman of the Committee on Banking, Housing, and Urban Affairs he holds awesome responsibility for the economic health of the Nation, for housing, the needs of our towns, cities and urban areas, deposit insurance, and the Federal lending programs which support and stimulate industrial growth.

This chairmanship coincides with his present responsibilities as chairman of the Subcommittee on Financing and Investment of the Senate Small Business Committee, vice-chairman of the Joint Committee on Defense Production, senior member of the Joint Economic Committee and a key member of the strategic steering committee of the Democratic majority in the Senate. These enable him to keep a watchful eye on all programs for business, small and large, and for maintaining the Nation's economic strength.

As the ranking member of the Foreign Relations Committee, and especially as chairman of the Subcommittee on European Affairs, JOHN SPARKMAN's strong, realistic voice makes him the committee leader for building our country's strength and security against Communist aggression, foreign markets for our products and ever stronger foundations for lasting peace.

The fact that the Democratic Party in 1952 selected him as its vice presidential nominee speaks for the respect and affection held for him.

Despite all his multiple Senate duties and national responsibilities, Senator SPARKMAN still lives and thinks as a plain-spoken, farm-bred son of Alabama. And Alabama today is a living monument to his dedicated service to the people of his State.

The record is written for all to read and that record bespeaks what he has accomplished. The fact is that JOHN SPARKMAN has placed his imprint upon the greatest body of beneficial legislation ever enacted in any comparable period in the history of our country.

Mr. President, it is with humility and with greatest respect that I salute my senior colleague and fellow Alabamian.

BAN ON PEP AND DIET PILLS

Mr. HRUSKA. Mr. President, it is my pleasure to report that the Nebraska Medical Association recently joined the growing list of State associations which have recommended a ban on prescribing pep and diet pills except for clearly recognized medical conditions.

The association's action calls upon all Nebraska physicians to limit use of these drugs, amphetamines and methamphetamines, except in cases where there is a sound medical reason.

This action was taken with due regard for the many people who have relied on these drugs as an aid in diet control.

In that connection, Dr. Roger Mason, president of the association, says medical science has determined these medicines are no longer thought to be helpful in weight reduction.

He also points out that reducing prescriptive use of the drugs will reduce the quantity manufactured and thereby reduce also the chances of them getting on the illegal market.

It is to be hoped that all Nebraska physicians will follow the guidance submitted by their association. If so, their joint action can become a most valuable aid in our national battle against drug abuses.

We have read much about the innocent inculcation of children into the drug culture by parents who apply a pill for every problem. I am among those who believe the constant search for palliatives in drugs has most certainly had its effect on our current drug problems.

I applaud the Nebraska Medical Association for taking its decisive action, and the American Medical Association for leading the way with similar action earlier this year.

We are in a desperate and vital battle against illicit drugs which are destroying our young people. We must use every weapon at our command. Stricter control over the use of prescriptive drugs is one key aspect of the battle.

Mr. President, I ask unanimous consent to have printed in the RECORD a report on the Nebraska Medical Association action, written by Mary McGrath of the Omaha World-Herald, and an editorial comment upon the subject by William O. Dobler, editor of the Lincoln, Nebr., Star.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DOCTORS VOTE LIMIT ON PRESCRIPTION DRUGS

(By Mary McGrath)

KEARNEY, NEB.—Nebraska will find it more difficult to get some drug-based pep pills and diet pills if the state's physicians carry through on a drug abuse-control program adopted Sunday by the Nebraska Medical Association.

The association, which approved constitutional changes dropping the word "state" from its name immediately, held the mid-year meeting of its House of Delegates—the voting body—at the Holiday Inn here Saturday and Sunday.

The house approved a report which calls on every doctor to put an almost total ban on prescribing amphetamines and methamphetamines except for clearly recognized medical conditions.

Nebraska thus joins the list of states where doctors are limiting these drugs, following the lead of a policy adopted by the American Medical Association in June.

Dr. Roger Mason of McCook, state president, said in an interview that recognized medical conditions which call for the drugs in question include depression and narcolepsy, the latter a condition in which a person is unable to stay awake.

Medical science has changed its evaluation in some other areas where these drugs previously were held to be medically indicated, Dr. Mason said.

"In the past, these medicines were thought to be helpful in weight reduction through appetite control. Now it has been demonstrated that they are not," he said.

Physician participation in the association's program is on a voluntary basis.

The drug-control program was recommended to the association by its policy committee, which studied similar programs being used in other states.

"I think the use of these drugs for diet

control probably will be affected the most," said Dr. Charles Landgraf Jr. of Hastings, who helped chair the Sunday session.

Cutting back on the prescription use of amphetamines and methamphetamines should help curb the manufacture of these drugs and reduce the chance of them getting on the illegal market, Dr. Mason said.

EVENTS IN PERSPECTIVE

(By William O. Dobler)

Public concern over the matter of drugs continues to show itself in one way or another. Communities in Nebraska beyond Lincoln and Omaha are now taking a serious look at the situation, most of them finding no large abuse problem but concluding that preventive measures would be in order.

At its weekend meeting at Kearney, the Nebraska Medical Association went on record in favor of tightened control over the distribution of household pep pills and diet pills. These are more officially known as amphetamines and methamphetamines.

The House of Delegates of the association called on every doctor to put an almost total ban on these drugs except for clearly recognized medical conditions. The idea is to make the drugs far less available than they have been in the past, an achievement that could be of benefit to a great many people.

Dr. Don Parkinson, Director of an Omaha drug abuse clinic, said this action by the association would help. An amphetamine tablet that costs 10 cents to 15 cents to make goes from $1 to $3 on the street drug market, he said. Cutting back also is a step toward getting the American public to stop looking for a pill to cure every problem, he said.

It is not unreasonable to question whether the American people have not relied in the past too heavily upon the American health delivery system. It is the abuse of that system that has contributed to some of our current problems.

Recently, we read an article in the New York Times about the unemployment rolls in that city. Many people were drawing unemployment compensation as though it were a right to which they were entitled in the natural course of events.

The trouble with this is that unemployment compensation comes to be viewed as a natural part of life rather than an emergency kind of program. People in New York are sitting on unemployment rolls while they seek out just the exact kind of job that suits their fancy.

One actor said that unemployment compensation was the only thing that permitted him to remain an actor. He had no hope of working year around at acting but could work just enough during the year to qualify himself the rest of the time for full unemployment benefits.

Thus, he had established a life style of part-time work and relief payments. Others had done the same thing, using unemployment checks as a means of support while they pursued leisurely ways of life that would otherwise be impossible for them.

One woman was about to run out of unemployment eligibility. When that happened, she said, she would have to settle for a $3.25-an-hour office job rather than another high-toned job she would like to have.

But she would rather be on relief than take the $3.25-an-hour job.

People tend to do the same thing in the area of health, taking advantage of insurance and the whole health care system to receive medical attention they really do not need. And rather than trying to solve their problems, they have looked for a pill to make their problems bearable.

These people seem incapable of facing any personal challenge. Certainly, they do not want their minds cluttered with an uncertainty nor their bodies afflicted with the slightest pain.

When conditions really call for the use of depressive or stimulative drugs, it is wonderful that they are available. But there should be, as they now will be, a clear medical need for stich drugs before they are prescribed.

The American people need to get over the idea that problems can be ignored, pushed into the background by a pill and they simply go away. They need to face the fact that real problems do not just fade away into oblivion.

Medical profession control of common drugs will help toward this end. And it should be of assistance in the drive to curb the abuse of drugs among a growing number of youthful adherents.

PUBLIC REACTION TO THE WAGE-PRICE FREEZE—MAJORITY DOUBT EFFECTIVENESS

Mr. PROXMIRE. Mr. President, the success or failure of the administration's economic program clearly depends on the American public's confidence. Members of the administration, economists and private pollsters who have testified before the Joint Economic Committee and others have stressed the important role of consumer expectations and public confidence in the program if price and wage stabilization is to be effective.

BAD NEWS NOT PUBLICIZED

Early in October, the Cost of Living Council asked the Census Bureau to conduct a survey on the wage-price freeze. This survey was completed and the results were made available to the public in mid-October, but the Cost of Living Council gave it absolutely no publicity. The press releases that have accompanied the Council's other announcements were absent. This is especially surprising because when the survey was announced it attracted wide attention since President George Meany of the AFL–CIO objected strongly to its format. It is only because the staff of the Joint Economic Committee found out about the survey results through other sources that we were able to examine it. I do not mean to imply that the survey was withheld from the public, but since the data are only available on request, the amount of exposure they have received has, I am sure been severely limited. At least one can say that the bad news was not proclaimed from the housetops.

Mr. President, since no interpretation by the Council accompanied the data I hesitate to judge the results. But on the surface it would appear that among those interviewed, only 33 percent believe that the President's actions have stopped the rise in prices.

MAJORITY BELIEVE PRICE FREEZE INEFFECTIVE

The majority, 51 percent, do not think that the price freeze has been effective. The majority believe, however, that wages have been effectively frozen.

The survey also asked whether the freeze was equally fair to all groups in the country. Opinion in this case was almost equally divided—while 41 percent thought it was fair, 37 percent did not believe that the freeze has been equitable. As Hobart Rowen pointed out in a recent Washington Post article:

The nation has an enormous stake in the psychological attitudes of business, labor and the consumer toward the prospect of controlling inflation.

I sincerely hope that the administration and the Cost of Living Council will study the survey answers carefully and make their interpretation of the results public. If the public's belief in the equity and effectiveness of the administration's program is eroded, its chances for success will be greatly diminished.

Mr. President, I ask unanimous consent to have printed in the RECORD a tabulation of the Census Bureau survey prepared by the staff of the Joint Economic Committee and following it the article by Mr. Rowen.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

RESULTS OF THE CENSUS BUREAU SURVEY CONDUCTED FOR THE COST OF LIVING COUNCIL ON THE WAGE-PRICE FREEZE

[In percent]

1. Has the government done anything since August 15 to keep prices from rising?

Yes	70
No	25
Do not know	5

2. What did the government do?

Froze wages	85
Froze prices	83
Froze rents	32
Other	3

3. Did the freeze keep you or anyone living with you from getting a raise?

Yes, already has	21
Yes, between now and November 15	4
No	72
Do not know	5

4. Has your main income (those not receiving wages or salaries) been affected by the freeze?

Yes	5
No	89
Do not know	4

5. Do you think the freeze has stopped increases in wages since it was announced?

Yes	60
No or partly	17
Do not know	23

6. Do you think it has stopped increases in prices?

Yes	33
No	51
Do not know	16

7. Do you think the freeze has stopped increases in rents?

Yes	26
No	14
Do not know	60

8. Have you noticed fewer special sales since the price freeze?

More sales	13
Fewer sales	17
Same number	37
Do not know	34

9. Are products you buy becoming harder to find since the freeze?

Yes	5
No	85
Do not know	10

10. Is the freeze equally fair to all groups in the country?

Yes	41
No	37
Do not know	22

Among those who thought the freeze unfair, 43% thought business and bankers are benefiting, 39% thought doctors, lawyers and other professionals are benefiting. Among the same interviewees, 62% thought working people, union members and wage earners are not benefiting and 28% said poor people, blacks, Spanish Americans and other minority groups are not benefiting.

[From the Washington Post, Oct. 31, 1971]

HOBART ROWEN—BUSINESS, CONSUMERS EDGY ABOUT IMPACT OF PHASE II

Spokesmen for the Nixon administration are trying to suggest that the recent bear market in Wall Street can all be attributed to "uncertainty" over the Phase II controls operation; that once the new rules are published and understood, the stock market—and the economy—will resume an upward march.

But this is not the whole story. There is, indeed, uncertainty over the nature and the functioning of the wage-price controls system, involving a Pay Board and a Price Commission. There is even a chance that in mid-November, the AFL–CIO will walk off the Pay Board if the board fails to approve substantial wage increases in 1971 and 1972 provided in existing contracts.

And that's just the domestic side of the New Economic Policy announced on Aug. 15. Throughout the free world, there is great concern that Mr. Nixon has touched off a protectionist tide that may envelop everybody in a recession.

But with or without the New Economic Policy, there is growing concern among business and academic economists that underlying trends here show weakness.

I think there is little mystery about the situation: the administration, at every opportunity, stresses that no big bureaucracy is needed to police price increases, because there is now no excess demand in the economy, hence no threat of a black market, as in World War II or Korea.

Hence, they say, if care is taken not to push monetary and fiscal policy too far, the risk of excessive purchasing power can be averted.

But that's a declaration that the economy will be kept under wraps, below capacity, with excessive unemployment. It contradicts the whole rationale for an "income policy," which was belatedly adopted to allow for the stimulus necessary to get back toward full employment.

On "Meet the Press" two weeks ago, Walter W. Heller, who has a knack for putting things succinctly, observed that the President "sounds as though Phase II is designed to make the world safe for profits, rather than for jobs, and I think there has been an imbalance there . . . The rhetoric has been going the wrong way, and I have found too little attention to that four-letter word, 'jobs'."

Former Economic Council Chairman Arthur M. Okun told the National Economists Club the other day that even assuming that the President is successful in his attempt to cut the level of inflation in half, the unemployment rate will range well over 5 per cent in 1972, with Gross National Product running $50 billion below capacity.

Now, officially, this is not the way the administration sees the picture. The President, in his address of Oct. 8 announcing the Pay Board and the Price Commission, said:

"Let us look into the future.

"I have said that 1972 will be a very good year for the American economy. Let me broaden that estimate tonight.

"The coming year can be more than a very good year for the American economy, it can be a great year for America and the world.

"It can be a year, for the first time in 15 years, in which we can achieve our goal of prosperity in a time of peace."

There should be evidence, fairly soon, whether the President has called the turn, or whether Okun is right in saying that the nation is "two years away" from prosperity.

By the 4th quarter of the year, if consumers haven't shaken their doldrums, there is little chance that the current "consensus" forecast among economists for a 9 per cent GNP gain to about $1,150 billion can be achieved. And there would be zero chance for Mr. Nixon's "great" year, meaning unemployment moving down toward 4 per cent.

The nation has an enormous stake in the psychological attitudes of business, labor, and the consumer toward the prospect of controlling inflation.

In recent years, the consumer has demonstrated that his reaction to inflated prices is to quit spending—where he can—and to save more. The pocketbook doesn't get unbuttoned until there is some assurance of stability.

Thus, the failure of consumer spending to expand since the freeze betrays a real lack of confidence in the future effectiveness of the controls system.

People seem skeptical of the Price Commission's ability to control prices with only a limited number of agents. Checks in retail stores by The Washington Post and New York Times show widespread violations during the freeze, with mere wristslapping efforts at compliance.

Labor, meanwhile, seems destined to "get theirs," almost certainly through the validation of existing contracts.

Herbert Stein, Presidential economist and one of the chief designers of the Phase II Operation, said last week that the government, labor and business would have to evolve a satisfactory relationship because "no one (group) can be in a position of being responsible for tearing it (the system) down."

That's certainly logical. But whether logic will prevail remains to be seen. There is a danger that Mr. Nixon's Phase II will fall apart, and as Heller said, in that case the President will have to set up a government wage-price board to concentrate on what Okun calls the "whales" in the economy, or slap direct controls on everybody.

It would be much better if Phase II is moved smartly into place with a decent wage yardstick—5 to 6 per cent, if the Price Commission holds a tough line on prices, with adequate enforcement personnel; and if Congress speeds up and improves the expansionary elements in the tax program.

As Heller suggested, everyone—and that includes George Meany—ought to re-focus attention on that four-letter word: JOBS.

DR. WILLIS M. TATE

Mr. TOWER. Mr. President, the Dallas Morning News of Friday, October 29, contains a most laudatory editorial about my good friend Dr. Willis M. Tate, president of Southern Methodist University, in Dallas. Dr. Tate has done a truly remarkable job at SMU in calmly steering the university through what have been stormy times at many other great American educational institutions. In order that Senators may know more about a great Texas educator, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DR. WILLIS M. TATE

Reports that Dr. Willis M. Tate is expected to move up to the position of chancellor of Southern Methodist University surprised many in Dallas this week. This move, and the election of his successor as president of the school, will be proposed to the board of trustees at a Nov. 12 meeting.

Dr. Tate was elected president on May 6, 1964, to succeed one of the best-loved men in Methodism and the history of SMU, Dr. Umphrey Lee. Dr. Tate was inaugurated on May 5, 1965, and his inaugural address stated a philosophy that has guided him since. Among other things, he said:

"Only when a nation is dedicated to freedom can such an institution as this endure. Just as surely, only as universities are free in their quest can a nation remain free."

Dr. Tate said also, "At Southern Methodist University has been forged a dream of excellence. We are committed to quality in learning."

His concluding words were, "Here, then, is our challenge and our commitment: To create and maintain an atmosphere of friendly cooperation, a fellowship of growing personalities, an environment of inquiry, a colony of democratic living and a scene for adventures of the spirit."

Throughout one of the most troubled epochs in American academic history, Dr. Tate has lived up to this challenge and this commitment. He has steered SMU wisely between the extremes of the ultraconservatives and the radical liberals—often in face of criticism from many in this city, in the university faculty and in the student body. That he has always been right, he would be the first to deny; that he has been a leader of integrity and courage, none can deny.

SMU is fortunate to have had a man of his caliber to guide it so much longer than most university presidents have survived the turbulence of our era. The institution will benefit from having his wisdom and experience helping a new president take over the difficult job of succeeding him.

Dallas, too, has been blessed by the unselfish services of Willis Tate, who has been as active in community affairs as his other heavy duties permitted, and who has always been effective as a civic counselor.

In gratitude for SMU's achievements—educational and material—Dallas wishes for Willis Tate many years of continued leadership for that university and for this community of which it is so important an institution.

A MATTER FOR SENATE CONCERN

Mr. MONDALE. Mr. President, last week, the press carried reports of a speech by Dr. Clay T. Whitehead, Director of the White House Office of Telecommunications, in which public broadcasting was severely criticised. In light of the many recent attacks by the administration on the media, this latest broadside merits the close attention of the Senate, especially since the presence of Federal funds in public broadcasting makes it especially susceptible to this form of pressure.

The crux of Dr. Whitehead's criticism appears to be a belief that public television has been imitating the commercial networks. From my experience, nothing seems further from the truth. I have been greatly impressed with the quality of offerings from public television—a quality of programing that seems materially to have increased since the Congress created the Corporation of Public Broadcasting in 1967. Indeed, public television has proven to be a valuable complement to commercial television, offering the kind of programs not to be found elsewhere.

We are all aware of "Sesame Street."

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This outstanding series has not only assisted millions of young children along the road of learning, it has also, by its example, lifted the sights of all other children's television producers. I am informed that this week a new children's series began on public television. It is called "The Electric Company," and it is intended to help young children to read. Clearly, if the Nation is to solve its educational crises, we must exploit all the means possible to reach and teach children. "The Electric Company" represents a giant step in this direction.

But in addition to children's programs, public television has given Americans such fine series as "Civilisation," and it has become the primary place on the dial for quality drama and music for programs specifically designed to increase the pride and participation of our Nation's minorities.

The major problem with public television is that it has been grossly underfunded. It cannot be expected to put on a complete feast for millions on a franks-and-beans budget. Until Dr. Whitehead addresses himself to the question of how to increase this funding, I think we are justified in wondering if this is yet another instance of the administration attempting to mold the media in its image.

Bernie Harrison, the respected television writer, illuminated this subject in a column published in the Washington Evening Star of October 22. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IT IS EASIER SAID THAN DONE

(By Bernie Harrison)

We reported some of the highlights yesterday of a speech in Miami by Clay T. Whitehead, the top White House aide on communications who wants public broadcasters to stop imitating the commercial networks and do more "diverse, innovative" programs, responsive to community needs and problems.

That's TV rhetoric, of course—and much easier said than done. There was no official comment yesterday on the speech from the Corporation for Public Broadcasting, nor is there likely to be.

One of the big reasons for limited local programming seems fairly obvious and can be spelled out in one word—money. But money still is only half of it, the other half of it being creative television people with the savvy and know-how to do those desirable shows.

Up to now, it seems to me that Whitehead's observations and recommendations on a variety of broadcasting issues have been interesting and intriguing. The Miami speech reveals either an unfortunate naivete about programming, or it was a political speech reflecting White House thinking about some recent happenings in public broadcastings.

Whitehead seemed to be saying that the Public Broadcasting Act of 1967 seems to have been forgotten. Considering its niggardly annual budget from Congress, the corporation simply has put much of it into supporting network programming in news and the arts. It's not imitating network shows, but trying to do quality shows in news and the arts that the commercial networks no longer do.

What can be done on a local basis? Well you can think of a lot of things, but then what happened to "Newsroom" on Channel 26, and how much local programming does a commercially profitable independent do?

There occasionally are good locally produced programs. I saw one yesterday at a screening, an hour program for WRC-4 to be seen at 8 p.m. tomorrow, on which David Eaton interviews members of the "Black Caucus" in Congress. Eaton gave his guests a variety of subjects to discuss, from Red China to Attica, and they responded with a lively expression of their individual and collective views. It's not the kind of a show, however, you dash home to catch on the tube, and if you don't have a couple of these on your TV schedule, you're out of business.

OUR POLICY IN THE MIDDLE EAST

Mr. PEARSON. Mr. President, as we all know, the vicious dog of war does not lie dead in the Middle East. For the past 15 months, Israel and Egypt have observed a cease-fire. Talks on the conditions for a peaceful settlement, begun through the intermediary of the U.N. Secretary General, have continued with the United States assuming the role of honest broker between the parties.

This diplomatic initiative on the part of the United States has been fruitful. Not only has it succeeded in shifting the course of events from a road of military confrontation to a path of peaceful negotiations, but the cease-fire itself, together with the revised proposal for reopening the Suez Canal, the successful containment of Jordan's civil war last year, and the peaceful transition of government in Egypt following the death of President Nasser, reveal the underlying stability which remains in the Middle East, and in addition, offer evidence that the United States can still use its influence for positive restraint in that region.

The American initiative has been encouraging to the American people as well, because it has represented an effort to take in hand the plowshares of reason and diplomatic bargaining, and lay away the mindless sword of war. After we ignored the warning of some of our greatest military leaders and in the 1960's became involved in a land war in Asia, the United States then found itself compelled by the realities of its own domestic problems to place more reliance on the diplomatic arm of its foreign policy in the 1970's. Our Middle East policy over the past year and a half is the leading example of this shift in emphasis and technique. In my view, Mr. President, this shift has been a welcome sign of maturity in our foreign policies and a credit to the understanding on the part of the present administration of the enormously complex and influential role assumed by the United States in world affairs during the years since World War II.

SOVIET MILITARY BUILDUP

There is, however, a darker side of this picture. I am referring to the buildup of Soviet military forces in Egypt and other Arab nations, including the transfer of an estimated 100 Soviet pilots to the area and the shipment of a small number of the world's most modern fighter aircraft from Russia to Egypt. Soviet ground-to-air defensive missiles have also appeared on the west bank of the Suez Canal in large numbers as a means of limiting the penetration capabilities of Israeli aircraft into the air space over Egypt. An estimated 20,000 Soviet military personnel are in Egypt today, led there by high ranking officers with considerable field responsibility.

We know that a portion of these Soviet forces are involved in surveillance of the United States Sixth Fleet in the Mediterranean and in land support for an increasingly active Soviet naval force in the Eastern Mediterranean region. While the strength of our own naval forces in the Mediterranean remains unchallenged, we must consider the present situation in the light of the fact that the Soviet Union and the Government of Egypt have signed, for the first time in history, a treaty of cooperation calling for coordinated military policies between the two countries.

This has taken place at a time when the United States is actively pursuing a policy goal of peaceful settlement. The Soviet Union has, in spite of its overtures for a detente in Europe and its willingness to negotiate a limitation of strategic armaments with this country, and in spite of its invitation to the President for a state visit to Moscow next May, pursued an aggressive policy of military penetration into the continent of Africa at the point where it bridges both Asia and Europe—a region of historic power rivalries and military conflict since the time of the ancient Assyrians.

Although this region is distant from our homeland and its resources are not critical to the prosperity or the security of the United States, this penetration by Russia has surely increased the prospects that a spark of conflict, ignited by the Arab-Israeli dispute, could bring a major confrontation between the world's two great nuclear powers. This, Mr. President, is a situation neither we nor the other nations of the world can afford to neglect.

UNDERLYING CONDITIONS OF CONFLICT UNRESOLVED

As the Soviet presence grows, the truly unfortunate aspect of this situation is this: The underlying conditions that have led to war in the Middle East three times since 1948, when the nation of Israel was created, are not being ameliorated. The outlook for 3 million Palestinian refugees in Jordan and Lebanon remains nearly hopeless in spite of herculean efforts by the United Nations Relief and Works Agency and dedicated private groups similarly motivated by humanitarian principles.

Nor has normal commerce been restored to the region. The Suez Canal remains closed, and while discussions continue on a proposal to reopen it, the construction of a worldwide petroleum tanker fleet to sail Cape Horn has moved rapidly ahead, with over 100 such superships now sailing the seas of the world. These vessels cannot use the canal. In addition, Israel has built a pipeline to carry oil across the Sinai Desert, and Egypt has found economic relief in payments from oil-producing Arab States. Unless the canal can be reopened in the relatively near future, the Middle East faces a dislocation of its entire commercial foundation and a significant increase in its economic dependence on external factors.

The economic development of the Arab nations has, in many cases, been disrupted by the burden of refugee assistance, outbreaks of civil conflict, and the demands of military leadership for the buildup of defense establishments. The underlying social revolution and the breakdown of traditional patterns of life in the Arab world, is a phenomenon with which the United States and Western Europe are inevitably related, yet these things are, unfortunately, contributing to the disruption of good relations between the Arab world and the West. While it has been persuasively argued that communism is alien to Arab traditions, it can also be argued, and with equal persuasion, that western democracy is being passed over as a desirable form of government by the Arab world. If we hope to improve the understanding of Arabs about ourselves, then we need a greater understanding of the aspirations of both Arab and Jew as they go about the business of building nations which can provide security and a good life for their people.

THE PROPOSAL TO REOPEN THE SUEZ CANAL

In my view, Mr. President, the proposed reopening of the Suez Canal would be a wise first step for Egypt and Israel to take, as well as from the point of view of the interests of the United States. While serving to separate the armies of the two parties, it would also restore normal commerce on a major international waterway and as a result, almost certainly revive the interest of European nations in the maintenance of peace in the entire Middle Eastern region.

This proposal cannot be allowed, Mr. President, to become simply a vehicle for the movement of Egyptian troops across the Canal. Nor can it be allowed to freeze out Israeli shipping. It would be my hope that United States policy will remain very firmly set in support of the position that a reopening of the canal must be based on the free passage of the commercial shipping of all nations, so as to raise the stake of every trading country in preserving the waterway open and its fair administration for all users.

I am aware that such an agreement is a complex one, and cannot be dissociated from questions of the cease-fire between Israel and Egypt, or from the nature of an interim settlement, or the question whether Israel can find a secure position to which it can withdraw in the Sinai Desert. All these questions must be left for resolution by the parties themselves—the only viable means by which a settlement can be reached—but, in my view, the United States should continue its favorable stance with regard to a canal agreement. Eventually, if this requires sending American troops to the area as part of an international peacekeeping contingent at the invitation of the parties, I would support such a step.

DEBATE AT THE UNITED NATIONS

The United Nations General Assembly is expected, again this year, to become a forum for heated discussions on issues related to the Middle East. It would be my view that the principle of negotiations between the parties should prevail in this context, as in others. A viable settlement cannot be imposed by the Big Four acting outside the U.N., nor can it be imposed by the same powers exercising their role within this organization.

While it is appropriate and proper for the nations of the world gathered in this forum to seek new ideas for the peaceful settlement of the Arab-Israeli dispute, any attempt to alter the terms of the Security Council Resolution 242, which has been the basis of our own diplomatic activities on behalf of a peaceful settlement, should be rejected. There are indeed differences in interpretation of this resolution as between Tel Aviv and the Arab capitals. But the position of the United States should, in my opinion, Mr. President, be firmly maintained in support of the basic framework on which indirect talks to date have been carried on, and I believe the progress, however limited, from these talks underscores the value of maintaining this basic framework for any future discussions.

U.S. POLICY IN SUPPORT OF ISRAEL

Above all, it is essential that the policy of the United States in support of the security of Israel be clearly asserted for all the world. Not only would it be disruptive of United Nations efforts toward a settlement, but it would be a grave error in terms of our relationship with the Soviet Union, if the commitment of the United States to maintain a balance of power in the Middle East were misunderstood or misinterpreted at this juncture.

Because actions speak louder than words, Mr. President, and because it is my own judgment that the military balance in the region is subject to change as a result of the Soviet buildup there, I have joined with a large number of my colleagues in cosponsoring a resolution calling on the President to respond positively to the request of Israel for additional F-4 Phantom aircraft and related supporting assistance. These aircraft are needed to bolster the defense capabilities of Israel, and they are not sought lightly by those who recognize that the security of Israel and the stability of the Middle East are bound up together.

SUPPORTING ASSISTANCE FOR ISRAEL

Perhaps the most appealing side of Israel's plight is its tenacious, scrapping and determined fight as the underdog. Our policy of support for Israel is an example of the doctrine that we will help those who help themselves. This small nation has sacrificed in its own defense and for its own development to an extent not duplicated in the less developed world. It is elemental to the credibility of the Nixon doctrine—which has in many ways been limited thus far to our policies in Asia—that the request of Israel for supporting assistance be fully considered and approved in the deliberations of the Senate and of the administration over the foreign assistance program for the coming year.

PRESERVING U.S. INFLUENCE

Moshe Dayan, the Israeli Defense Minister, has remarked that the more friends the United States can make in the Arab world, the more secure Israel will feel. Israel is a nation which has learned through tragedy and disappointment that it must make its own decisions and pay the price for them. It is a head nation, because it has to be.

I am convinced that what General Dayan says bears an element of truth. The influence of the United States in the Arab world, while not completely gone, appears to rest in the hands of a few friendly Arab Governments who lack a direct interest in the question of territory or border disputes with Israel. We cannot expect these governments to remain indifferent should a new crisis arise where the Soviet Union is heavily alined in a military and diplomatic stance with the United Arab Republic. The nations of Libya and Syria have already established a loose federation with Cairo and are in consultation with regard to military and foreign policy questions. The presence of the Soviet Union in Egypt, Mr. President, will serve to neutralize what influence the United States retains among other Arab governments unless this presence is eventually reduced. While I consider it significant that recent Soviet statements have raised hope for the ultimate withdrawal of Soviet troops from Egypt, we cannot afford to sit back and relax because of such comments.

SOVIET INTENTIONS MUST BE CLARIFIED

I believe, Mr. President, that some clarification of the Middle East situation should be sought as a matter of the highest priority before the President travels next May to the Soviet Union. That Government has chosen to raise the level of its military presence in the region. That Government has shifted its own policy from one of development assistance, as symbolized by the Aswan Dam project, to one of military assistance on a large scale. The nation has, in spite of its overtures for negotiated restraints as against the risk of nuclear war on other fronts, persisted in exploiting the animosities of Arab and Jew.

I would raise, therefore, Mr. President, the proposal that the United States seek from the Soviet Union a clarification of its intentions in the Middle East as a prerequisite to the President's Moscow visit, and that, again, this subject be raised as a matter of priority there.

It would be a risk to world peace should our own commitment to the security of Israel be misjudged. It would also constitute a risk to world peace should the intentions of the Soviet Union be allowed to remain clouded and unclear. It is a fact, Mr. President, that the United States has no formal agreement of mutual security with the Government of Israel, and proposals to establish such an agreement have generally met with a cool reception both in Tel Aviv and in Washington. But it would seem entirely appropriate, in a time when we are busy negotiating with the Russians for the security of Europe, and indeed for the security of the entire world in the face of escalating military technological developments such as multiple warheads and antiballistic missile systems, that they answer clearly the simple question: What are their intentions in the Middle East?

This is not a proposal of the kind that

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would create a Presidential commission to study the problem or a proposal to seek an international commission to rent a large hall in Geneva and talk the problem over. This is simply a proposal that our Government ask the Russian Government to tell us what limit it places on its own military involvement in the Arab-Israeli conflict. If this information is refused, then our Government must simply make up its own mind on the basis of our intelligence and our estimates of the situation.

DIPLOMACY MUST HAVE A CHANCE TO WORK

We know from past experience that there is an element of Soviet foreign policy which will lead to the most extreme measures for the military penetration of the non-Communist world, as witnessed by the Cuban missile crisis through which President Kennedy brought this Nation in 1962. Tragic it is and tragic it would be if the diplomatic initiatives of the United States of America in the Arab-Israeli conflict, were allowed to succumb under the heavy weight of Soviet military presence in the region and, as a result, we should find ourselves locked into a confrontation if through diplomacy the two disputing parties fail to resolve their differences.

It should be made clear, to the Soviet Union and to other nations as well, that the United States will not allow a situation to grow where its hands are tied by Soviet air power in Egypt and the Eastern Mediterranean region. The interest of the United States lies firmly on the side of stability and peace in this region, and it also lies on the side of the defense and protection of the democratic nation of Israel. We will not be driven into a corner where our principles and our national interests are in conflict. The time to seek a clear understanding of Soviet intentions, and thus of the relationship of great power interests to the Arab-Israeli conflict, is now. I would call on the President to undertake through diplomatic channels this effort and report to the appropriate committees of the Congress at the earliest possible time.

GLOBAL VIEW REQUIRED

President Nixon, as I recall, in his first state of the world message, and in subsequent messages, elaborated his own view that problems such as the Middle East and strategic arms control are bound up together. As a matter of practical policy, he has to some degree changed this view in order to isolate the complex technical and strategic questions of the SALT talks from other areas of differences between the United States and the Soviet Union. Similarly, American policy has sought to reduce the impact of our differences in Europe, particularly in Germany, and as a result the recent four-power agreement on Berlin has contributed to the normal growth of political and economic relationships between Western and Eastern Europe. But it would be my judgment that the fundamental concept expressed earlier by the President still applies, and that these issues must be articulated into a coherent foreign policy based on an understanding of the global interests of the United States. This in fact has been the [illegible] of our foreign policy and has served to bring a lasting sense of unity to this country during a most difficult period in its development as a world leader.

A MEASURE OF PREVENTION

The proposal I raise is a measure of prevention. It is a measure of potential benefit both to the United States and to Israel, and, I daresay, to the Arab nations themselves. Before we find ourselves engaged in an escalating arms race in the Middle East, we must exhaust all our resources for limiting this arms race and preventing it from rising to new levels of competition, which themselves threaten the capability of a small nation such as Israel for maintaining its own military security. Already the combined forces of the Arab nations far outweigh those of Israel. The technical capacity, the training, and the sheer willpower of the Israeli leaders and their people have maintained this nation of 3 million souls secure through three exhausting—if brief—periods of conflict. No one knows better than the American people the kind of drain prolonged fighting and the sacrifices of war impose upon a great people. There is an end of patience and waiting in every society. The desire to get on with the business of economic development and the resolution of outstanding social inequities cannot be suppressed in a healthy nation. We as Americans understand this. We as Americans should realize it also exists in the countries of the Middle East, both Israel and the Arab nations, and that it should not be open to exploitation by the Soviet Union or any other great power.

EXPULSION OF NATIONALIST CHINA FROM THE U.N.

Mr. PELL. Mr. President, a perceptive article written by former Ambassador Charles W. Yost, and published in the Providence Journal, points out some pertinent facts in connection with the recent U.N. action with regard to the expulsion of Nationalist China.

It was an excellent article with which I found myself in agreement. I believe it would be of interest to Senators. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MORE SOUR GRAPES THAN BITTER TEA

(By Charles W. Yost)

While it is natural for the administration and some members of Congress to express disappointment at the outcome of the UN vote on Chinese representation, the reactions are excessive and in some cases disingenuous. They taste more of sour grapes than of bitter tea.

When a simple majority of the General Assembly in November 1970—a year ago—approved the Albanian resolution (attempting to substitute Peking for Taipeh) it was quite clear that, whatever the United States might do, the days of Taiwan in the UN were numbered. It would clearly be impossible for the United Nations much longer to ignore that Mao, not Chiang, governs China.

President Nixon, presumably for this and other reasons, decided that a dramatic new departure in United States policy toward the People's Republic was in the United States national interest. That was a wise decision. [illegible] from the moment he announced his trip to Peking, it became [illegible] likely that a seat for Taiwan in the UN could be preserved. The final blow to the American attempt to preserve it through a "dual representation" formula was Henry Kissinger's second visit to Peking at the very moment this UN vote was about to be taken.

OTHER SIDE

Prominent members of the Congress are now reproaching some of our friends for having "deserted" the United States on this vote, and are threatening in consequence either to cut aid to them or to the UN or both. Particularly at a time when an unhealthy trend toward "neo-isolationism" is appearing in the United States, members of Congress would do well to look at the other side of the picture.

What do our friends who voted "against us" say? First, they point out that the United States had for 20 years insisted that only one Chinese government should sit in the UN. Others had repeatedly proposed a "dual representation to it; in August, 1971 was simply too late.

Nor were our protestations that it would be outrageous to exclude the representatives of the 14 million people on Taiwan very persuasive, when we ourselves had for two decades been excluding the representation of the 700 million people on the mainland.

Second, it was clear that "dual representation" would not bring the People's Republic into the U.N. as the United States now professed to desire, because Peking considered that its acceptance of such a formula would admit the existence of a rival Chinese government, which Chiang Kai-shek still unshakably claims to be.

Third, and most important, as the representative of a NATO ally said to me, at the moment you are reestablishing your relations with Peking by setting up the President's visit, you are asking us to jeopardise ours by this vote. And you are exerting the crudest sort of pressure on us and others to do so. Is that a proper way to treat your allies?

COMMON INTEREST

If the United States wishes the support of its friends and allies in a matter of major importance, it must hammer out with them a policy of common interest to all.

In this case a substantial majority of our allies had decided that it was in their interest to bring Peking into the world community and the UN, whatever might be the effects on Taiwan of doing so. They interpreted President Nixon's decision to visit Peking, over the strong objections of Taiwan, as a recognition of the wisdom of that policy.

From their point of view, therefore, it was the United States, not they, which by its last-minute introduction of the dual-representation proposal was deviating irresponsibly from a policy in the interest of the alliance as a whole.

It seemed to them, moreover, that the administration was behaving in this contradictory way primarily for domestic political reasons—in an attempt to appease right-wing Republicans who had been outraged by the President's intention to visit Peking and to deflect their rage from him to the United Nations.

It is heartening that the administration has opposed "retaliation" against the UN through cutting our contributions to it, but unfortunate that the administration and some members of Congress have suggested that cuts might be appropriate because United States contributions to the UN are "disproportionate."

MORE NOT LESS

Of course the real sense in which our contributions are "disproportionate" is that they are considerably less than our share of the world's GNP would warrant. On that basis we should be contributing closer to 40 per cent than to 30 per cent of the regular budget, and more—rather than less, as the administration has itself proposed—to UN development programs.

Moreover, all the major UN programs to which we contribute are ones for which we voted—indeed, often ones we proposed and vigorously advocated on national as well as international grounds.

The overriding fact should be that it is clearly in the United States' national interest to strengthen rather than weaken the United Nations.

Because of Vietnam and our domestic preoccupations, we are properly reducing our unilateral presence and commitments overseas. Yet the world remains as unstable and dangerous a place as ever, nor can it be reliably stabilized by some sort of Washington-Moscow-Peking troika.

A reinforced UN in which big, middle and small states all play a role in multilateral peacekeeping offers the best long-term prospect for world stability. It would be the height of folly for the United States to jeopardize that prospect because of pique over our failure to impose our ambiguous and ambivalent China policy on our allies and on the United Nations.

FORCED BUSING

Mr. TOWER. Mr. President, I was very much heartened by the action of the House of Representatives yesterday when it passed the Higher Education Act. Their action in writing strong antibusing provisions into the emergency school assistance program, which was adopted as an amendment to the Higher Education Act, was very important. First, it showed the large and growing sentiment in the country opposing forced busing in our public educational system. Secondly, it showed that we in the Congress are going to do everything that we can to see that the educationally devastating policy of court-ordered busing will not be allowed to continue.

Mr. President, the Washington Post of Monday, November 1, contains a Gallup poll sampling of the attitude of Americans toward busing. I ask unanimous consent that the results of that poll be presented at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SEVENTY-SIX PERCENT OF PUBLIC OPPOSES BUSING

(By George Gallup)

PRINCETON, N.J., Oct. 31.—In the latest nationwide survey, three in every four persons, voice opposition to the busing of Negro and white children from one school district to another.

Although an increasing number of school districts, particularly in the South, have followed court orders to bus students to achieve a better racial balance, opposition has remained firm. Both the latest survey and the previous one in late August show only 18 per cent in favor of busing.

However, views on busing have softened somewhat since a still earlier survey in the spring of 1970, when 11 per cent of all adults interviewed expressed support of busing.

The latest survey is based on in person interviews with 1,506 adults, 18 and older, in approximately 300 scientifically selected localities across the nation. Interviewing for the latest survey was conducted Oct. 8–11.

All persons who said they had heard or read about the issue were asked this question:

In general, do you favor or oppose the busing of Negro and white school children from one school district to another?

As the following table shows, overwhelming opposition to busing is found in all four major regions of the nation, particularly the South.

Whites, both in the South and outside the South, oppose busing, while a fairly close division of opinion is found among Negroes.

The national results and results by key groups:

[In percent]

	Favor	Oppose	No opinion
National	18	76	6
Whites	15	79	6
Negroes	45	47	8
East	22	71	7
Midwest	16	77	7
South	14	82	4
Far West	21	72	7

In a test election in which President Nixon is pitted against Sen. Edmund Muskie of Maine and Gov. George Wallace of Alabama, supporters of all three express overwhelming opposition to busing, as seen in the following table:

[In percent]

	Favor	Oppose	No opinion
Wallace supporters	8	89	3
Nixon supporters	10	85	5
Muskie supporters	25	65	8

Among the reasons given by those who oppose busing (1) Children should go to school where they live—busing is not fair to them nor to their parents; (2) it's an unneeded expense—the money could be better spent improving the quality of education for both races; (3) the time spent on long bus trips is enervating and a waste of time.

The chief reasons given by those in favor of busing are that busing will upgrade the quality of education for Negroes and in the long run will improve race relations in the nation.

Mr. TOWER. Mr. President, the results of that poll show that Americans overwhelmingly oppose the forced busing of schoolchildren. Nationwide, an estounding 76 percent are opposed to this policy. In every section of the Nation and among every minority group, busing is opposed. The more that this invidious policy spreads to other sections of the Nation, the more the opposition spreads. The cost in both economic and social terms is simply too high to allow us to continue busing our schoolchildren.

Mr. President, I was likewise heartened by another development in the House yesterday. Chairman CELLER, of the Judiciary Committee, has finally agreed to hold hearings in the near future on legislative measures concerned with the busing question. I believe that this will include hearings on the companion to the constitutional amendment introduced by myself, the Senator from Tennessee (Mr. BROCK), and a number of other Senators. That will move this most important piece of legislation still another step closer to enactment. I, for one, shall continue to press for action until we have defeated once and for all the threat of forced busing in the Nation.

ADDRESS BY J. IRWIN MILLER, CHAIRMAN, CUMMINS ENGINE CO., COLUMBUS, OHIO

Mr. MONDALE. Mr. President, amid the din of seemingly endless prescriptions to help a deeply troubled America, it is increasingly difficult to find good sense—let alone cause for hope.

But every so often, a speech or an article appears which jolts us out of our discouragement—and forces us to think and hope anew about the future of our country.

I have just read such a speech. Its author is J. Irwin Miller, a leading industrialist who has spent the better part of his life fighting against social and economic injustice.

Mr. Miller is no dissident, and he can hardly be described as a radical. According to his own description, he is "a favored member of society, a capitalist, an owner, a person certainly not anxious to lose his present favorable position in the economy."

But his privileged position in no way narrows or obscures his vision.

He gives a clearheaded and sensitive view of where we are going and how we can still refind our way.

As Mr. Miller observes:

We appear to be headed for some kind of national dead end—unless we act. Discretion alone says that we should be willing to experiment as boldly with our social institutions as we have with our science and technology, and the sooner the better.

I urge Senators to read this remarkable and thoughtful speech and to consider its basic recommendations for reform.

Mr. President, I ask unanimous consent that J. Irwin Miller's speech entitled, "Access to Affluence for All—Or a National Dead End," be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

[From the Minneapolis Tribune, Oct. 31, 1971]

ACCESS TO AFFLUENCE FOR ALL—OR A NATIONAL DEAD END

(From a recent speech in Columbus, Ind., by industrialist J. Irwin Miller, chairman of the Cummins Engine Co. of Columbus)

Until very recently the human race has known only the condition of scarcity. From the dawn of history, life on this planet has been a struggle to provide food for all, shelter for all, medicine for all, personal security for all. Famine, natural disasters and disease have been our constant and unconquered enemies. It is not surprising, therefore, that in all our thinking we still are accustomed to think in terms of scarcity, of not enough to go round. This thinking lies at the root of our economic decisions, of our forms of government, and it conditions all our national choices.

Now, by a remarkable series of achievements, we have within a few generations changed the human condition more dramatically than at any time in the past 5,000 years. We can grow more than enough food. Our technology makes each man and woman fantastically productive. We know more about health, and we have the medical knowledge to prolong life and to control plagues. I could go on, but, as viewed by any previous generation, our condition is one of actual or potential abundance—and it is certainly no longer one of scarcity. This is the

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first time—and we are the first people—for whom such a claim could be made.

St. Paul once said, "I know how to be abased, and I know how to abound." Of the two, the latter has always proved more difficult for humans to handle. We are having trouble dealing with abundance.

Today there is no longer any physical reason why any single baby born in America should not have access to a healthful diet, to needed medicine and adequate health care or to an education individually suited to his or her capacities. But our reaction is still conditioned by our habits of scarcity. It will cost too much. You can't do everything at once. Taxes are too high now—and so on.

WHY NOT FULL EMPLOYMENT?

There is no longer any physical reason why every American willing and able to work should not have access to useful and gainful employment—at all times—and not just at the peak of the business cycle. But our reaction is still the reaction of people plagued with scarcity. Full employment has always meant inflation; we cannot have stable costs unless jobs are reasonably scarce. But while the good things that we want and demand for ourselves and our children are for the first time available to the very large majority of all Americans, there remains a substantial and undiminished core of our people in the inner city, in the deep South, in Appalachia, in the Southwest, for whom these things, under present arrangements, are still quite simply out of reach.

In earlier times, when their possession was not a reasonable possibility, families suffered these conditions not gladly, but at least with a sense of resignation to the inevitable, and they did so with the knowledge that all classes to a degree suffered them, too. If your baby got smallpox, you sorrowed, but you became resigned because there was no cure. If your baby, however, gets smallpox today, and you cannot gain access to the vaccine or medicine you know will cure him, there are no lengths—legal or illegal—to which you will not go to get that vaccine for him. Clearly, under a generally admitted condition of affluence, all will demand, and all will finally gain access to that affluence.

It will be taken by pressure or force from those who control society, if it is not made available as rapidly as changing conditions and desire justify. You and I have only to read our history books to know that this is the way of human beings—and that there is no stopping them. The affluent majority is indeed in great peril, unless it can change its ways and begin to think in terms of plenty, rather than in terms of scarcity.

In times of scarcity it was realistic to say to those on the bottom of the pile. "Don't ask for a bigger slice of the cake. The cake itself isn't big enough for the needs of everybody. Join us in promoting growth, and everybody's slice will be bigger." But things are quite different when it becomes possible to make the cake big enough for everybody. Under such conditions, if some are prevented access to a just portion, all hell will finally break loose.

BASIC GOALS FOR ALL

What then does this mean for us who sit in the catbird seat of affluence? I think it means that this high standard of personal living which most Americans, and all of us in this room, enjoy is a fine thing, only provided some other things come first:

Access to a healthy diet for every American baby comes first.

Access to needed health care for every American comes first.

Access to an education suited to each American's capacities comes first.

Access to equal justice without regard to race or the amount of money you have comes first.

Access to meaningful employment for every able-bodied, willing citizen comes first.

Decent living conditions and a healthy, attractive environment for all comes first.

These are not goals to be aimed at provided my present standard of living is not impaired, or provided my taxes are not raised. Your and my standards of private living will be what remains to be gained after all Americans—especially the newly born—have equal access to the abundance of our new society.

In a society of abundance, the survival of those on top of the pile will very probably hang upon their ability to accomplish changes in systems and equitable redistribution of our new wealth, such that no doors of opportunity are closed to any American simply by reason of where he was born, or how much money his parents had, or because of his race, or his religion.

There is no longer excuse not to make America in truth the land of equal opportunity, and this task now comes first—and most especially is it the responsibility of those of us who find themselves most favored.

THE NEW AMERICAN DREAM

May I suggest how we might set about achieving the new American dream? We have attacked the last hundred years with a spirit which has been usefully described as technological radicalism and social conservatism. It is in good part due to the unbridled growth of technology that we have gained our age of abundance and affluence. We are, however, not wholly at ease in Zion. The plastic bottles in which everything arrives are great, but what do we do when we are finished with them? The automobile is great, but what about the growing yellow smog that first hung over Los Angeles, then Phoenix, then Rome, then Tokyo, and now Indianapolis? And what will that smog be with 50 million more cars when they are ready to be junked?

The young sometimes say that we must blow the whistle on technology, as if man can ever really be stopped inventing and exploring. I do not find that desirable or realistic. But it may indeed be appropriate to reverse our emphases in the last third of the century—and become technological conservatives and social radicals.

What might it mean to become technologically conservative? Well, the age-old warning of the conservative is: "Look before you leap. Take account of all consequences of your action before you take the action." For example, the decision to build 15 million cars a year instead of 8 million would involve the same decisions as now on necessary working capital, required capital expansion, new debt, return on investment and the rest—but we must in the future also solve the problems of maintaining clean air for all with the new, increased population of cars before we build the cars.

We ought to provide adequate roads and traffic systems for the new amount of cars before they hit the road, and we should provide and implement adequate plans for their ultimate disposal before we build them. Technological conservatism would mean closing the loop on each new technical innovation before turning it loose for production—all with the aim of realizing its benefits and preventing its evils before they occurred.

REALISM ABOUT TAXES

Technological conservatism is not too difficult to accept, but social radicalism sounds like something else. And, if there is anything good in the notion, the burden of proof is surely on me.

I stand here (along with you) as a favored member of society, a capitalist, an owner, a person certainly not anxious to lose his present favorable position in the economy. But you and I have also to be realists. Most of the established systems through which the society functions and through which it maintains order and stability are not working very well today. The tax system is not working well. Education in this state is financed mainly by the property tax, and that tax bears heaviest on families whose savings are mostly invested in a house. The property tax is seriously regressive. So we patch it up with a sales tax, which also bears heaviest on those least able to pay—as also do the federal excise taxes and the Social Security tax, under which the man who earns $7,000 a year pays as much as the man who earns $40,000.

The tax system has now become so inequitable that it has caused what has been termed the taxpayers' revolt. Desperately needed bond issues for hospitals and appropriations for adequate school budgets are voted down, not because people don't want the hospitals and schools, but because today's tax system is a mess. So almost any thoughtful change in it has at least a 50–50 chance of being an improvement. That is why we should risk radical change in our search to correct thoroughly bad conditions.

In a nation that strongly prides itself on "equal justice under law," it makes a substantial difference in the judicial or police treatment you receive and the length of time you are held in jail pending trial, whether you are a youth or an adult, have long hair or short hair, whether you are black or white, rich or poor. Our ancestors came to this country to escape this kind of inequality in the application of the law, and they did not always reject violence and revolution in their determination to gain equal justice for themselves and their children.

SOCIAL SERVICES BANKRUPT

There is little reason to believe that the groups who today have less than complete access to equal justice in our society will be less determined to obtain it than were those revolutionary ancestors whom we revere so greatly, or that they will in the end use less-threatening methods if all else seems to fail. Prudence would therefore seem to be on the side of radical overhaul of the machinery of justice to make the application of justice truly equal.

A simple person would assume that one of the very first fruits of a general condition of affluence would be the provision of the basic social services at new standards of quality to more and more people. A fellow might even wonder what is affluence for—if not for this. Yet every major service institution today is close to bankruptcy. The universities and colleges, public and private, are close to bankruptcy. Some have folded, and all have cut back on quality and quantity of service. Local government is generally near bankruptcy. Garbage collection, police protection, street maintenance are deteriorating before our eyes—and are nowhere perceived to be reaching new standards of excellence.

Health care for the average citizen is declining, while health costs are rising faster than any other cost in the society. I could go on—but these are samples familiar enough to each of us to suggest that in these vital respects we will not somehow muddle through, that things will not somehow naturally get better.

GROUPS BLOCKING PROGRESS

The systems of our society, designed for other people in other times, are failing in services to us all, and we need to set about changing them. Alas, this also means change in the attitudes of people, and especially the people most deeply imbedded in these same systems—people who, through fear and through inertia, now too often stand in the way of seriously needed changes.

Business and labor are both obstacles to achieving genuine low-cost housing. From one or the other comes resistance to new programs for land-planning and zoning, for public housing, revision of building codes or the introduction of new technology.

The medical profession has been a chief obstacle to increasing the numbers of doctors, introducing paramedical personnel into the system, comprehensive care or establishing meaningful incentives to reduce costs.

The legal profession has been an obstacle to the reduction of the cost of legal services, the extension of services to the poor and reform of the courts.

The welfare bureaucracy has often become an adversary of the people it exists to serve.

The political process has recently become a means of stifling dissent and denying total participation.

We appear to be headed for some kind of national dead end—unless we act. Discretion alone says that we should be willing to experiment as boldly with our social institutions as we have with our science and technology, and the sooner the better.

Last week at the International Synod of Catholic Bishops in Rome, Cardinal John Heenan, archbishop of Westminster, proposed that the art treasures of the Vatican Museum be sold and that the proceeds be given to the poor of the world. Understandably, this remarkable suggestion met immediate opposition.

Cardinal Joseph Slipyi, the exiled archbishop of Lwow, who has spent 18 years in Soviet prisons, spoke sharply against the proposal of the English cardinal. Slipyi maintained that the art treasures of the Vatican are, in the eyes of faithful Christians, an important graphic endorsement of the authenticity of the Christian message.

According to this line of reasoning, the theological claims of the Catholic Church are more credible because the church owns an impressive collection of masterpices, mostly of Greek or Western European origin. I seriously doubt the validity of this position.

Any church, because it outlives its individual members, is likely over a long period of time to inherit impressive holdings of different kinds. The Roman Catholic Church, as the oldest and original Christian community, has, for almost 2,000 years, been the recipient, in Rome and around the world, of gifts and legacies from its devoted and faithful members. The same process goes on all the time in all the churches. It has simply gone on for a longer period of time in the Catholic Church than in any other Christian community.

Consequently the Vatican Museum today houses one of the most impressive collections in the world. This museum is, in fact, a cluster of galleries, each of which could be famous in its own right.

The Belvedere is one section, housing some of the rarest of classical antiquities, including the statues of Apollo Belvedere, the Torso of Hercules and the magnificent Greek Laocoon. The Egyptian, Etruscan and Renaissance collections, taken with their handsomely designed individual settings, are probably the most impressive collection in the world.

Cardinal Slipyi's esteem, both for this collection and for the role of the church in preserving it, is well-placed. An institution that protects such treasures for posterity deserves the appreciation of all men who cherish human genius.

Cardinal Heenan's proposal, however, should be examined from the point of view of those outside the Catholic community. If the Vatican should start to disperse its collections, with or without compensation, what response might there be from other Christians, from Jews, Moslems and Buddhists, and from the art centers of the world?

Cardinal Slipyi sees the Vatican collection as an indirect validation of Catholic doctrine. What kind of validation of the Christian message would result if the Vatican masterpieces were given to different national galleries, with the understanding that the receiving countries would in turn give to their own poor the value of the donated art work? Might the response from New Delhi, Cairo, Tel Aviv, Peking, Lima, Warsaw, Moscow, London, Paris somehow lessen world esteem for the Catholic Church? I think not.

Bear in mind that such munificence on the part of the Vatican would leave untouched such enduring architectural treasures as St. Peter's Basilica, Berninin's colonnade, the Sistine Chapel, Michelangelo's frescoes, the Sala Regia (with frescoes by Vasari, Salviati and Zucari), the tomb of St. Peter, the Vatican gardens and the entire Vatican Library collection of books, manuscripts, maps, music and prints.

The positions of Cardinals Heenan and Slipyi are not really contradictory. One stresses what might be done with an enormously valuable collection if it were shared more widely. The other stresses the merit of holding and displaying this collection in the future as it has been held for centuries.

The gospel of Jesus Christ never did and cannot now depend on the possessions, mundane or artistic, of those who preach it. Quite the contrary, Christ Himself promised that those who speak in His name would be identified by their modest possessions and the degree of their generosity.

Undoubtedly Cardinal Heenan's radical proposal raises a cloud of questions about how to disperse the Vatican collection equitably to the world. None of these practical problems, however, lessens the value of his imaginative and healing gesture. It could be one of those uniquely eloquent acts in human history that benefit the donor and the recipient in equal degree and leave no pain of loss in the one who is the giver.

THE GENOCIDE CONVENTION AND MENTAL HARM

Mr. PROXMIRE. Mr. President, one of the acts prohibited by the Genocide Convention is "causing serious bodily or mental harm to members of the group." The fear has been expressed that this section will include any action that upsets or inconveniences a member of a minority group.

This point of view is contrary to the intent and purpose of the Genocide Convention. The framers of the convention, in their debates, stated that they desired to prevent the permanent impairment of mental facilities such as caused by electric shocks or narcotic drugs. The Committee on Foreign Relations has offered a reservation to the Treaty saying:

That the U.S. Government understands and construes the words "mental harm" appearing in article II(b) of this convention to mean permanent impairment of mental faculties.

With this understanding of the intent of the framers is clear that genocide does not include those acts which merely antagonize or inconvenience a minority group. Rather, genocide includes only those actions taken to destroy a racial, ethnic, or religious group.

Mr. President, I urge the Senate to ratify the Genocide Convention without delay.

THE NEW HALLOWEEN

Mr. HART. Mr. President, Halloween and its joys and excitement for young Americans again has been marked by irrational and cruel incidents: razor blades hidden in apples which are given to young children—damaging drugs mixed into pieces of candy.

This was not the first Halloween when these incredible actions have been reported in the press. Jesse O. Gray, of Kalamazoo, Mich., may have pointed to a way where the choice of trick and treating is less apt to be marked by tragedy. He has outlined in a very brief message a system for the "New Halloween."

Because I believe the idea has merit, I ask unanimous consent that Mr. Gray's description be printed at the conclusion of my remarks, so that as the Nation plans for Halloween 1972, consideration may be given to such a proposal.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

LET'S SAVE "HALLOWEEN"

Halloween is one of the most fascinating days of the year, when neighborhood children and parents are supposed to be brought together through the goodness of giving and receiving. Children devastating in their own ways are full of laughter, jokes and tricks to perform in order to receive treats. These are some of the things that make Halloween such an enjoyable day.

But these few sentences that are written above really cannot explain the true feelings and thoughts of Halloween, this is something that has to be experienced. Awful as it may seem, there are demons and tricksters that are not children who are determined to destroy the fun of Halloween for children with their dastardly tricks with the use of hazardous products. This is something that has happened before and it is a chance that we cannot gamble on again. The leaders of our future world who are now children would be the ones subjected to things that had been put into the little goodies that could not be realistically examined.

Although evil things have happened before this doesn't mean that Halloween could and can not still be enjoyed. I believe that I've thought of a system in which to make Halloween, if not the same, more enjoyable than before. If instead of children going to homes and receiving candy, etc., they can receive scrip which would be worth what ever the home owner would want to give away to each child. This scrip could be prepaid, so that on Halloween the children can receive scrip instead of the candy and exchange the scrip at certain grocery market for selected Halloween items which they would want. We've just made Halloween enjoyable once again and also taken the danger away. Here you've just read the proposed new system for the "New Halloween."

THE CANNIKIN TEST

Mr. MONDALE. Mr. President, the countdown is rapidly proceeding on the Atomic Energy Commission's Cannikin test, scheduled to take place on Amchitka Island this Saturday.

If the warnings of environmental experts are confirmed, Cannikin would be a tragedy for our Nation. It could become a synonym for human arrogance or catastrophic folly.

If the AEC's assurances prove valid, the mounting wave of opposition may quickly dissolve. I doubt that it will vanish from our thoughts.

For with or without any irreparable environmental destruction, if the test does go on, a valid question will linger on in the minds of many Americans. Why were our doubts never answered by our Government?

XUM

Until doubts about Cannikin are fully and openly discussed by the Atomic Energy Commission, we may not be able to persuade many Americans that their views matter at all in the Government's seemingly impervious decisionmaking process.

Objections to the Cannikin test are based on a number of very serious matters, not excepting an earnest desire to reduce the nuclear arms race. At a minimum, there is a danger to fish and wildlife in the immediate vicinity of the test site. Second, there is the possibility that the test could trigger a large natural earthquake. Third, radioactive gases may be emitted which would contaminate marine, and eventually, human, life. Finally, some fear a seismic tidal wave could be unleashed, carrying its destructive force as far as Hawaii, Japan, and the west coast of the United States.

Officials in the AEC have dismissed these fears, despite their knowledge that the Cannikin blast will be four times the size of any underground test the United States has ever set off. It will explode with the force of 250 Hiroshimas. This is the equivalent of 10 billion pounds of dynamite—enough to move 3 cubic miles of earth.

Even top officials within the administration find this prospect alarming. According to the Washington Post, November 4, 1971:

President Nixon's chief environmental advisor came out almost a year ago against a five-megaton underground nuclear explosion on Amchitka because he feared there was a chance the test might trigger a large, natural earthquake and release radiation into the sea.

In a secret memo to Under Secretary of State John N. Irwin II, which was made public only yesterday, Chairman Russell Train of the President's Council on Environmental Quality reviewed the AEC's previous experience with smaller nuclear explosions at the Nevada test site:

The evidence is strong that natural strain energy stored in the earth has been released in the Nevada test site by the underground explosions. . . . Fault scars over six feet in height and several miles in length have resulted from fault movements initiated by underground explosions.

Chairman Train also disagreed with the AEC's predictions that radiation would not leak into the sea until 100 or even 10,000 years after Cannikin had taken place. He states in the same memo:

U.S. Geological Survey calculations indicate a time for such movement might be as short as one or two years. If the shorter times are correct, then the level of radioactivity in the groundwater entering the ocean would be in excess of 10,000 to 100,000 the minimum permissible concentration for water.

In the face of these warnings, why does the AEC insist on conducting the test? According to one AEC official, the reasons for going ahead can be summarized:

Cannikin's going to give us three things. It's going to tell us if our warhead design is correct. It's going to give us some clues as to how our own offensive missiles survive an ABM. And it's going to give us a better hand at the SALT table with the Soviet Union.

Both fact and commonsense demonstrate that this rationale is paper thin. Weapons experts have pointed out that the warhead the test seeks to prove may be already obsolete. Nor is there any evidence that Cannikin will increase the chances for getting an agreement for mutual arms reductions at the SALT talks. In fact, no reason put forth so far can justify the risks associated with the enormous explosion scheduled to take place on Amchitka.

This past July, I joined with many Senators in cosponsoring an amendment to delete funds for the Cannikin test from the AEC appropriation. Congress did enact a law which permitted only the President to authorize a go-ahead on Cannikin. I regret that he has decided to hold the test.

Today, I have cosigned, with my distinguished colleague from Massachusetts (Mr. BROOKE) a telegram to the President urging that he order a cancellation of the test. Already, 36 Members of the Senate have joined in this effort to stop the Amchitka explosion.

I sincerely hope that we will be successful in halting the impending blast and in restoring confidence among our citizens that their views really do matter to the Government and its leaders in Washington.

Mr. President, I ask unanimous consent that the full text of our telegram be printed in full at this point in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

NOVEMBER 5, 1971.

We the undersigned urge you to reconsider your decision to allow the Atomic Energy Commission to proceed with "Cannikin," the underground nuclear test scheduled for this Saturday on Amchitka Island, Alaska.

We feel that you have little to lose and much to gain by reversing your original decision to proceed. Thousands of people in this country, in Canada and Japan, and throughout the world oppose the test and have expressed their anxiety about it, both publicly and in the form of personal letters and telegrams. Seismologists have argued persuasively that the force of the blast will be so great that there is a small though palpable risk of earthquake, tidal wave, and radioactive contamination of the ocean. Environmentalists have demonstrated that the test will endanger wildlife populations. Weapons experts have pointed out that the warhead the test seeks to prove may be obsolete.

Behind all these arguments and anxieties, we are united in the feeling that no reason profferred thus far justifies the hostile act of unimaginable power that is about to take place on Amchitka. We believe that to proceed with the test is to endanger national security and world peace, not to further it.

We therefore urge you to cancel the Amchitka test.

CRISIS IN ULSTER

Mr. RIBICOFF. Mr. President, on October 20, the senior Senator from Massachusetts (Mr. KENNEDY) joined me in introducing Senate Resolution 180 calling for an end of the violence and bloodshed in Northern Ireland. Many of the critics of this resolution apparently never bothered to read the entire resolution or to acquaint themselves with the facts of what is going on in Northern Ireland today.

Alfred Friendly, writing in today's Washington Post, analyzes the trends taking place in Northern Ireland in a most lucid and perceptive manner. The article includes the observations that the Northern Ireland Parliament will have to be abolished, that the 14,000-man British military force is in difficulty, and that the threat of a rightist backlash has been overstated.

A recent editorial in the British publication, New Statesman urges the British Government to take a firm decision to withdraw its army within a year. The article, entitled "Ulster—Our Vietnam?", warns of the danger that the present British Government will soon turn Ulster into a British Vietnam.

Because of the lack of information and analyses on the situation in Northern Ireland, I feel that all of my colleagues should make an effort to acquaint themselves with the facts. I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 5, 1971]

CRISIS IS FORCING ULSTER TOWARD RULE BY LONDON

(By Alfred Friendly)

BELFAST, November 4.—A new sound is to be heard today amid the noise of gelignite explosions and submachine guns—the death-rattle of Northern Ireland's government.

Informed opinion in Ulster, the collective name for Northern Ireland's six counties, is growing to a consensus that it is only a matter of time—possibly before the end of the year—until the semi-independent Parliament in Stormont Castle is suspended and direct rule from London takes its place.

The half-million Catholic minority will settle for nothing less. The million Protestants in the province are on the threshold of recognizing that Northern Ireland is no longer governable under their 50-year-old one-party rule.

[Since 1921, Northern Ireland, which is part of the United Kingdom, has been governed in domestic affairs by its own parliament—dominated by the Protestant Unionist Party. Ulster also has representatives in the parent British Parliament in London.]

Official denials from here and London are daily given less credence.

This is not to say that the British government has already taken the firm decision to apply direct rule. For the moment there is only talk of "new initiatives" in interim devices such as the establishment of a cabinet ministry for Northern Ireland affairs. They may well be attempted but they are recognised less, by Prime Minister Brian Faulkner himself, as only precursors to the end of the Ulster Parliament.

If direct rule comes, it would mean abolishing the Ulster Parliament and, probably putting in its place a commission of top-level men, both Protestant and Catholic, perhaps of existing political leaders or perhaps totally nonpolitical appointed by London.

Its role would be primarily administrative. It would be in charge of the day-to-day economic, welfare, educational and communal affairs. Responsibility for all internal security as well as for basic policy would be reclaimed by the British Parliament.

It is thought that besides being a high-level community council with its operations carried on by Ulster's present civil service employees, it would also have the task of planning for a new government and a new constitution for Northern Ireland, perhaps two or three years hence. If it were to have any reality and acceptance, it would have to provide for the end of Unionist Party rule, a real role in government for the minority, and clauses for its protection.

Reginald Maudling, the Conservative home secretary who is in charge of Northern Ireland affairs, has promised as much, saying that whatever comes about, provision must be made for a continuing, active and guaranteed participation of Ulster Catholics in government.

Spokesmen for the 14,000-man British "peacekeeping" force—the adjective grows increasingly sour each day—speak bravely of winning "in the long haul," of the attrition it is wreaking on the IRA terrorists, of the number of leaders captured, and so many rifles and pounds of gelignite uncovered in the latest raid. But the forecasts of triumph sound hollow.

The IRA maintained an intolerable level of death and destruction in October with less than one ton of gelignite. Supplies needed for one month of its war are such that a corporal's guard could carry them across the totally unguardable border with the Republic of Ireland in one night. As for recruits, suffice it to say that by now probably 25 per cent of the Catholic population supports the IRA campaign of violence—so intensely has the rage against the British army mounted since internment without trial was instituted less than two months ago.

Events have validated a comment made months ago by Austin Currie, one of the half-dozen members of the Social Democratic and Labor Party, the opposition, all-Catholic political body in Stormont. He said that while it was true that the IRA could not defeat the British, the army could not defeat the IRA without resorting to measures that would totally alienate the minority community—which by that very fact would be self-defeating.

The Catholics, it now seems quite clear, will accept nothing less than a coalition administration of Ulster. The Unionists at Stormont are unwilling to accord it. If there is to be an end to terror in Ulster, London must achieve it.

Since the riots of August 1969, the Unionists, under prodding from both Labor and Conservative governments in Britain, have introduced numerous reforms to help correct a half-century of injustice, and are prepared to undertake even more.

The reforms are admirable and constructive, but they fail to go that last 20 feet to the top of the mountain: they do not, and will not, allow for the presence in the Ulster government of Catholics who espouse the hope, even by constitutional, peaceful and democratic methods, ultimately to obtain unification of Ulster with the Republic of Ireland. By history, conviction and emotional imperative, every Northern Irish Catholic cannot but proclaim that goal.

From the not-very-private comments and activity in the last few days of the former Labor government's home secretary, James Callaghan, it seems clear he and doubtless his party as well have already reached that realization. Maudling can not be blind to the reality either, or remain long beguiled with the notion that somehow there will be a military victory over the IRA.

"Stormont is not reformable, it must be abolished," says John Hume, the most dynamic and influential leader of the Social Democrats.

Last weekend, the Rev. Ian Paisley, fanatic and firebrand leader of the extreme fundamentalist Protestant right wing, declared he had it 'on the highest authority' that the government in London had decided on direct rule. As is his wont, he doubtless overstated the matter, but the best opinion here is that he has a germ of the truth.

No one dares believe that direct rule is any easy answer. If it were, it would have been instituted long since. It is an enormous gamble, and if it is taken it is only because anything else is no gamble at all but a certainty of disaster.

The big questions are what will be the reactions of the Catholics and of the Protestants if direct rule is attempted.

The guess is that the Catholics will accept it, provided the commission gives them fair representation and that the deal includes a promise of ultimate nonsectarian government, plus the guarantee of their right to campaign by peaceful and legal means for unification with the Republic of Ireland, the decision to be made by the majority of the Ulster population. Protestants as well as Catholics.

Obviously, the IRA will not accept any solution that does not immediately grant its objective of unification now. It can be expected to continue the war or, if the terrorists abated it for the moment, to resume it very soon. After all, they see themselves, not inaccurately, as the victors, the force that shot down Stormont, so why not continue for the whole course?

But Currie, Hume and the Social Democrats, and all other Catholic and non-Unionist moderates hope that with the promise of a fair deal now in Ulster and the permission to keep working peacefully and constitutionally for the ultimate goal, the Catholic community will opt for peace and withdraw their active and tacit support from the IRA.

As for the Protestants, the conventional wisdom for a year or more has been that the mere announcement of direct rule and the end of one-party Unionist government would be the signal for a huge and bloody backlash—civil war, in short.

Happily, that no longer looks quite so inevitable. There is an almost palpable sense of Protestant defeatism in Ulster, of acceptance that there is no escape but to yield.

Particularly significant is the fact that when Paisley made his sensational announcement last weekend that direct rule had been decided on by the British government he did not at the same time repeat his year-long battle cry for his followers to fight to the death, or even to take up arms against what he previously characterised as the utlimate in betrayal and unacceptability.

Even some of the most thoughtful, Unionist politicians and leaders think—as the Catholic leaders have insisted for some months—that the threat of a rightist backlash has been overstated.

If the Protestants took up arms, the fight would be against the British Army, its role changed once again back to what it was—defense of the Catholics. Sober second thought is that even Paisley's extremists, the die-hard Orangemen, have no stomach for a fight against British troops.

About half of the Protestant community, the "haves," stand to gain more economically by stability and an end to the present horror than they will lose with the abolition of their Parliament. Business was once very good in Ulster and can be again, with peace.

It is only the little man in the Protestant ghetto who will have no food for his ego, no sustenance to his claim to importance, having lost his former political dominance that he flaunted and symbolised when he paraded in his Orange sash, who has everything to lose and nothing to gain. If there is to be a backlash, it is he who will do the lashing.

But perhaps even he can see Goetterdaemmerung when it stares him in the face and will forego the glory of getting killed by a British bullet.

The army must remain, it seems clear, for some time to come, to battle the expectable continuation of terror by the IRA and the potential if not the actuality of a Protestant backlash.

[From the New Statesman, Oct. 22, 1971]

ULSTER—OUR VIETNAM?

Unless the Labour Opposition wakes up and does its duty, this government will soon turn Ulster into our Vietnam. We shall be unable to extricate ourselves from an unwinnable civil war which corrupts our political morals and destroys our army as a fighting force. The real tragedy of Vietnam was that the Americans did not will it: they slithered into it. Indeed they hardly knew they were at war until it was too late to withdraw "without dishonour" and "without breach of faith." Much the same is happening to us now in Northern Ireland. Already the shooting of a couple of soldiers a week is no longer rated front-page news: it has become part of the normal process of "upholding law and order" in Northern Ireland. Internment without trial, which shocked us a few weeks ago, is now accepted as part of that same process. To judge by their previous facility for blind acquiescence, the government will soon be defending the methods of our investigators in the camps as "inevitable in the circumstances". The most deadly disease of British and American democracy is the way we acclimatise ourselves to the evils done in out-of-the-way places on our behalf. The British army is now occupying Ulster and waging the Orangeman's war against the IRA. Like the Kennedy/Johnson Administration our government has announced that the enemy must first be beaten; when that has been achieved they will consider a political settlement. But in order to smash the IRA we should have to cut off the supply of arms. We do not have the troops to close the border with the Irish Republic any more than the Americans had to seal off South Vietnam. As for gunrunning, the first planeload of communist arms was discovered in Amsterdam this week. But before we succumb to an orgy of self-congratulation we should remember that, both in Palestine and the Canal Zone where the Czechs supplied the arms to Jewish and Egyptian terrorists, our counter-measures failed. There is no reason to think that they would be more successful in the northern province of an island which most Irishmen deeply feel belongs to them.

That is why the government's policy of beating the IRA and then making a peace settlement is completely impractical. The very existence of Stormont precludes a discussion of the Irish problem in anything but Ulster loyalist terms. On that basis, since the IRA has the active support of the Communist world and the passive support of the Eire government and people, there is no reason why the fighting should ever stop.

The Labour Party cannot shrug off its responsibilities by being marginally more squeamish than the government as each stage of the crisis develops. Nor is it any use piously asking for all-Ireland conferences which everyone knows will never be convened. The situation cries out for an alternative strategy. The British people want to get out of this mess. There is now no tidy and painless way backwards, but there is a bold alternative available if the Labour Party has the courage and sagacity to proclaim it.

The New Statesman has urged before that we should take a firm decision to withdraw the army within a year. Present policies give no hope of a political settlement and a radical change of policy is at least worth a try. Stormont must go to make way for one year of rule from Westminster, whose purpose would be to force the hostile factions into compromise under threat of army withdrawal.

Such a suggestion sounds draconian and immediately it is made hands are thrown up in horror. It is not democratic, it would cause ill-feeling and worst of all it would lead to blood-letting. So say the critics. But

what they do not face is the hopelessness of the present situation and the worse horrors soon to come.

As we know from long experience overseas, the British army is not immune to the pressures of a situation that would corrupt, demoralise and brutalise any army in the world. Fighting in Ulster is the usual dirty business—which our troops have grown to detest—when they have to police two hostile communities. On other occasions they have had hopes of a speedy release from the ordeal. If the army is told that it must garrison Ulster for a prolonged period then it will start to hit back at the terrorists by copying some of their methods. Fighting fire with fire will become the justification for tactics beyond any humane defense. Surely it was the signs that such a thing was beginning to happen and a resolution that it should go no further that brought us out of India and Palestine, Cyprus and Aden.

It is hypocritical to pretend that the army can be left in Ulster without a gradual depletion of its morale and degeneration in its methods. At the very least a change in policy would spare us the shame and grief of Americans as they discover more and more about how the Vietnam war was fought. But a new policy offers more than that. Irishmen would be given a choice. Come what may at the end of one year the British army would withdraw. During that year the Irish could co-operate in establishing a settlement if they chose. They would clearly understand the consequences of not doing so. Failing a settlement, when the army left there would be civil war. It would be a Palestine situation. We believe the great majority do not want that. The Labour Party should advocate a daring course that gives Irishmen, freed from the need to posture, a chance to opt for moderation.

MILITARY ASSISTANCE FOR GREECE

Mr. ALLEN. Mr. President, I have a telegram from the Honorable Dimitri Liberis, elected representative of the people of Athens, in which he expresses his appreciation for the vote of the Senate on Friday, October 29, 1971, in support of military assistance to Greece. Mr. Dimitri Liberis requests that the sentiments expressed in his telegram be conveyed to the Government of the United States and to all Members of the Senate.

Mr. President, in compliance with this request, I ask unanimous consent that the telegram be printed in the RECORD.

Needless to say, I am of the strong conviction that any alternative proposal to the foreign aid bill that may be brought out by the Foreign Relations Committee should take into account realistic priorities as between grants tied to our national security interests under NATO and other treaty obligations and grants solely for development assistance to newly found friends of most questionable loyalty. Greece has been a most loyal ally and one vital to the security of the United States and Western Europe. I cannot believe that the American people are in a mood to abandon this proven ally and friend of the United States.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

Senator JAMES ALLEN,
Washington, D.C.:

I feel obliged to thank you personally as well as all the other Senators for the victories in the interest of proper and ethical relationship between our countries. The Greek people they believe and they will always believe that the United States of America are the leaders of the free world. Your decision honors the U.S.A. Government, the U.S.A. Senators and the American people. May we wish that this decision for our country will be the beginning of a series of new achievements of the American Nation towards the benefit of the humanity.

Respectfully yours,
DIMITRI LIBERIS,
Elected Representative of the People of Athens.

P.S.—I kindly request you to give a copy of this letter of thanks to your Government and all your honorable colleagues in the Senate.

PERSONAL FINANCIAL DISCLOSURE

Mr. CHILES. Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the Secretary of the Senate, dated November 5, 1971, wherein I certified as true a complete statement of the financial assets of my wife and myself.

There being no objection, the letter and statement was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 5, 1971.

Hon. FRANCIS R. VALEO,
Secretary of the Senate,
Washington, D.C.

DEAR MR. SECRETARY: My purpose in writing this is to report to you a statement of the financial status, holdings, and liabilities for my wife and myself. This statement is compiled as of November 1, 1971.

Assets

Cash in checking and savings accounts approximately	$2,300.00
Capital Account, Peterson, Carr, Chiles & Harris (resigned from practice of law on April 1, 1971, liquidation in process)	3,864.62
Carr, Chiles & Ellsworth, partnership (See Schedule A)	12,305.02
Stocks and other securities (See Schedule B)	114,593.58
Real estate (See Schedule C)	309,707.07
Miscellaneous Assets (See Schedule D)	22,490.00
Liabilities	
Accounts Payable (Estimate)	800.00
Notes Payable	96,000.00
These figures disclose a net worth of approximately	366,460.29

The foregoing, Mr. Secretary, I attest as being a true and accurate statement of the financial holdings and liabilities of my wife and myself.

Most sincerely,
LAWTON CHILES.

SCHEDULE A

Carr, Chiles & Ellsworth partnership—Assets

	Value	Equity
Stock:		
International Bank of Miami 55 shares $25 (½ equity)	$1,375.00	$456.33
Lakeland First Mortgage Corp., 12,147 shares $2.75 (½ equity)	33,404.25	11,134.75
Notes receivable:		
Casa Bella Development, Inc. (½ equity)	1,775.81	591.93
Total assets (Carr, Chiles & Ellsworth partnership)	——	36,915.06
Chiles Equity (⅓)	——	12,305.02

SCHEDULE B

Stocks and other securities

Unlisted securities:		
Scholarship Services, Inc.	shares	2,693
The Camelot Co.	do	200
Lake Bonny Properties, Inc. (⅓ equity)	do	875
Industrial Development, Inc.	do	5
Over-the-counter stock:		
Founder's Financial Corp.	do	22,228
Harwick Companies, Inc.	do	5,000
Listed securities:		
American Telephone & Telegraph	do	200
American Home Products	do	100
Marcor	do	1,020
Pittsburgh Brewing Co.	do	500
Total unlisted securities		$52,792.03
Total value over-the-counter stocks		$52,251.75
Total value listed securities		$55,706.00
Total stock and other securities		$160,758.75
Notes payable—Lake Bonny Properties, Inc.		$46,165.17
Total value stocks and other securities		$114,593.58

SCHEDULE C

Real estate

Highway frontage U.S. 98 South, Lakeland, Fla. Contract for deed balance receivable: $8,-138.51; mortgage receivable: $52,000.00; total receivable: $60,138.51. Equity: 1/8 ownership	$10,022.75
The Colonial Building, 910 South Florida Avenue, Lakeland, Fla. Completed August 1966, 6 units, 5,000 sq. ft., lot 100'x 135'. Gross rental, $16,000 per year. Bldg.: $60,000, land: $30,-000. Less mortgage: $46,831.91. Equity: ½ ownership	21,584.04
Red Lobster Inn, Lakeland, Fla. Completed January 1968, with addition November 1968. M.A.I., $340,000. Less mortgage: $178,-677.07. Equity: $161,322.93 (½ ownership).	
Red Lobster Inn, Daytona Beach, Fla. Completed June 1969. M.A.I., $350,000. Less mortgage: $230,618.42. Equity: $119,381.58 (½ ownership).	
Red Lobster Inn, Tampa, Fla. Completed June 1969. Value estimate: $325,000. Less mortgage: $170,480.07. Equity: $154,519.93 (½ ownership).	
Red Lobster Inn, St. Petersburg, Fla. Completed October 1969. Value estimate: $364,000. Less mortgage: $231,868.12. Equity: $132,131.88 (½ ownership).	
Secondary financing obligation on 2 of 4 units: $46,155.75.	
Red Lobster Inns—total equity—(½ ownership) ($521,200.57)	260,600.28
Assets: Real estate	
Residence: 940 Hollingsworth Drive, Lakeland, Fla. Value estimate: $50,000. Less mortgage: $35,000. Equity: $15,000	15,000.00
Residence: 3807 North Woodstock Drive, Arlington, Va. Value estimate: $72,500. Less mortgage: $58,000. Note payable: $12,000. Equity: $2,500.00	2,500.00
Total real estate	309,707.07

SCHEDULE D

Miscellaneous assets

Note receivable—Keresty	$490.00
Household furnishing and miscellaneous	9,000.00
Mortgage receivable—mountain property, North Carolina	13,000.00
Total miscellaneous assets	22,490.00

THE SENATE'S ROLE IN CONFIRMING SUPREME COURT NOMINEES

Mr. BAYH. Mr. President, the Senator from California (Mr. TUNNEY) and I have recently received a scholarly study of the role of the Senate in the confirmation of nominees to the Supreme Court. This study was prepared by Paul Brest, assistant professor of law at Stanford University; Thomas C. Grey, assistant professor of law at Stanford University; and Arnold M. Paul, formerly professor of history at Michigan State University. They have extensively studied both the history surrounding the adoption of article II, section 2, clause 2, and the Senate's own precedents in the confirmation process.

I hope that each Senator will take the time to read this entire memorandum. But I especially want to draw attention to the memorandum's conclusion:

—First, it is the Senate's affirmative responsibility to examine a nominee's political and constitutional philosophy, and to confirm his nomination only if he has demonstrated a clear commitment to the fundamental values of our Constitution—the rule of law, the liberty of the individual, and the equality of all persons.

—Second, the Senate should consider a nominee, not in isolation, but in the context of the President's other nominations, past and promised; and that the Senate performs a proper constitutional role in preventing the Chief Executive from distorting the Court in his own image.

Indeed, the views of these distinguished scholars parallel the views of at least one of the current nominees. William Rehnquist wrote an article in the Harvard Law Record in 1959 advocating a wide-ranging exploration of a nominee's views. He said then—and his testimony at the Judiciary Committee hearings indicates he still believes—that the Senate should "thoroughly inform itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him." I fully agree.

Unfortunately, the members of the Judiciary Committee have not been able to probe the judicial philosophy of Mr. Rehnquist as deeply as the public interest requires. The nominee has refused to give us his personal opinions on issues on which he defined the Justice Department's position or gave advice to the Department. These are some of the most important issues of our day: The power of the Executive to invade the privacy of an individual by wiretapping without a warrant, for example, and the power of the Executive to engage in wide-scale surveillance of persons exercising their first amendment rights to assemble peacefully, and to petition the Government for redress of grievances.

I do not believe that the attorney-client privilege is as broad as Mr. Rehnquist has asserted. But I will respect Mr. Rehnquist's caution in this matter. Therefore, I have written to the President and the Attorney General—Mr. Rehnquist's clients by his own admission—asking them to release the nominee from any obligation he may have under canon 4 of the American Bar Association Code of Professional Responsibility, or any other obligation he may have to the Department not to express his personal opinions on certain matters. This will enable Mr. Rehnquist to respond fully to the committee's proper questions about his judicial philosophy.

It is clear that the President and the Attorney General have the authority, as do any clients of any lawyer, to waive the attorney-client privilege. I call on them to do so in this case in the interest of the Nation as a whole.

Mr. President, I ask unanimous consent that the memorandum on the role of the Senate in the confirmation process, and the letter I sent to the President be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From Harvard Law Record, Oct. 8, 1959]

THE MAKING OF A SUPREME COURT JUSTICE

(By William H. Rehnquist)

(Note.—William H. Rehnquist possesses B.A. and LL.B. degrees from Stanford University, and an M.A. from the Harvard Graduate School of Arts & Sciences (1949). He was a law clerk to the late Justice Robert H. Jackson of the United States Supreme Court in 1952 and 1953. This article was written shortly before Mr. Justice Stewart was named to the Supreme Court. It was delayed by the editors, pending his confirmation by the Senate.)

The Supreme Court of the United States is now in the midst of one of the storms of criticism which have periodically assailed it. Bills have been introduced in Congress to limit the jurisdiction of the high court, to overrule some of its controversial non-constitutional decisions, and to declare the sentiment of the Senate as to the necessity of judicial background on the part of a nominee to the Court. It has been urged that the "advice" of Senate be sought by the President before any nomination to the Court is made.

Criticism of the Supreme Court can easily become frustrating to the critics, because the individual justices are not accountable in any formal sense to even the strongest current of public opinion. Nonetheless, it ill behooves the critics of the present Court to seek imposition of new curbs on it until such controls as now exist are fully tested and found wanting. Specifically, until the Senate restores its practice of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him, it will have a hard time convincing doubters that it could make effective use of any additional part in the selection process.

As of this writing, the most recent Supreme Court Justice to be confirmed by the Senate was Charles Evans Whittaker. Examination of the Congressional Record for debate relating to his confirmation reveals a starting dearth of inquiry or even concern over the views of the new Justice on constitutional interpretation. Mr. Justice Whittaker was nominated by President Eisenhower in March, 1957. Brown v. Board of Education (the Segregation Cases), 347 U.S. 483, had been decided three years before, and implementing decisions had been handed down in the interim. *Slochower* v. *Board of Higher Education*, 350 U.S. 551, where the Court held by a vote of 5–4 that the New York School Board could not fire a teacher for the reason that he had invoked the Fifth Amendment before a Congressional Committee, had been decided less than a year before. At the moment of Whittaker's nomination, the series of cases involving the rights of Communists to be admitted to practice law in a state and to refuse to answer questions put to them by legislative investigating committees was pending on the docket of the Supreme Court.[1]

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If any interest in the views of Mr. Justice Whittaker on these cases was manifested by the members of the Senate, it was done either in the cloakroom or in the meeting of the Judiciary Committee. The discussion of the new Justice on the floor of the Senate succeeded in adducing only the following facts: (a) proceeds from skunk trapping in rural Kansas assisted him in obtaining his early education; (b) he was both fair and able in his decisions as a judge of the lower federal courts; (c) he was the first Missourian ever appointed to the Supreme Court; (d) since he had been born in Kansas but now resided in Missouri, his nomination honored two states.

Given in addition the fact that Mr. Justice Whittaker had been an eminently successful courtroom lawyer, the fact that he had been a leader in the activities of the organised bar, and the fact that he had been very highly regarded as a judge of the lower federal courts—all of which he was—the Senators could still have no indication of what Mr. Justice Whittaker thought about the Supreme Court and segregation or about the Supreme Court and Communism.

Less than thirty years before, the Senate had made no bones about its concern with the judicial philosophy of a Supreme Court nominee. Then, too, the Supreme Court was nearing the vortex of a storm—but it was a storm raised by the very groups who are claimed to be the special wards of the Warren court. State and federal laws regulating minimum wages, maximum hours, and other business practices were being struck down by the Court as violative of "freedom of contract;" a freedom which, the Court said, was embodied in the phrase "due process of law." The labor injunction, the strike as a conspiracy, and the "yellow-dog" contract were in their heyday. When, in February, 1930, President Hoover sent to the Senate the name of Circuit Judge John J. Parker to be Associate Justice of the Supreme Court, he sparked one of the most remarkable battles over a judicial nomination in the history of the upper chamber.

Objections to Parker's confirmation were at once voiced by two groups: organised labor, and the National Association for the Advancement of Colored People. Labor's objection was based on Parker's opinion, as a judge of the Circuit Court of Appeals for the Fourth Circuit, in the so-called "Red-Jacket" case.[2] His opinion for that court had upheld an injunction forbidding certain union organisers from attempting to organise a mine, and thereby induce the employees of the mine to breach their "yellow-dog" contracts. The objection of the NAACP stemmed from a campaign speech made by Parker in 1920, while running for governor of North Carolina on the Republican ticket. In this speech he had said:

"The Negro, as a class, does not desire to enter into politics. The Republican party of North Carolina does not desire him to do so. We recognise the fact that he has not yet reached the stage in his development where

[1] *Schwarz* v. *New Mexico Board of Bar Examiners*, 353 U.S. 232; *Konigsberg* v. *State Bar of California*, 353 U.S. 252; *Watkins* v. *United States*, 354 U.S. 178; *Sweezy* v. *New Hampshire*, 354 U.S. 234.

[2] *International Organization, United Mine Workers* v. *Red Jacket Consolidated Coal & Coke Co.*, 4th Cir., 18 F2d 839, decided April 18, 1927.

he can share in the burdens and responsibilities of government. This being true and every intelligent man in North Carolina knows that it is true . . . the participation of the Negro in politics is a source of danger to both races."

No very definite issue developed as to the campaign speech. It seemed agreed by most of the participants in the debate that the statements were understandable in the context of North Carolina politics, but that from a hindsight born with Parker's nomination for national office they would much better have been left unsaid.

As to the labor injunction, though, precise battle lines were drawn and the issue was debated in editorial columns, in masses of letters and telegrams to the Senate Judiciary Committee, and finally on the floor of the Senate. The most surprising fact about this great debate of 1930 was that none of the protagonists on either side doubted that the question should be: What were Parker's views on labor injunctions and yellow dog contracts? The New York World, in opposing Parker's confirmation, probably spoke for both sides when it said editorially on April 23, 1930:

"The Senate has every right, if it so chooses to ask the President to maintain on the Supreme Court bench a balance between liberal and conservative opinion in the country as a whole, and every right on this premise to object that the presence of Judge Parker on the bench would increase, rather than lessen, the top heavily conservative bias of the Supreme Court as now constituted."

Most of the participants further agreed that the result reached by the Court of Appeals in the "Red-Jacket" case was undesirable; Parker's antagonists contended that he approved the result, or at least never batted an eye in reaching it, while his defenders claimed that he was bound by controlling decisions of the Supreme Court on the question, and as a judge of an intermediate appellate court had no choice but to follow them.

A few glittering generalities were hurled by each side, but to a remarkable degree editorial writers, members of the bar, and Senators engaged in a case-by-case analysis of the law as Parker found it when he had written the "Red-Jacket" opinion three years previously. The administration stood squarely behind its nominee, and Attorney General Mitchell even prepared a legal memorandum reaching the conclusion that Parker had no choice in writing the opinion that he did. On the Senate floor, the forces in favor of confirmation were nominally led by Senator Overman from the nominee's home state of North Carolina. But though Overman did a prodigious amount of work behind the scenes, he took little part in the debate on the law. The forces opposing confirmation were led by Senator William E. Borah of Idaho.

Senator Borah's principal speech began in the afternoon of one day and concluded the following day. The first part of it, before any requests to yield were made, occupies nine of the full, closely printed pages of the *Congressional Record*. Borah spoke to a question charged with emotion and public interest, and on which most of the demagogic fireworks were in the armory of his side. Yet his speech is anything but rabble rousing. Instead it is a closely reasoned, masterful exposition of the role of the Supreme Court in our system, coupled with an analysis of the precedents in an attempt to show that Parker must have reached his "Red-Jacket" result by choice, since the controlling cases did not compel it.

Almost any reply to Borah would have been anti-climactic, yet Senator Gillett of Massachusetts gave the Idahoan no quarter. He did not quarrel with the propriety of the inquiry, but he took vigorous issue with Borah's interpretation of the state of the law as Parker found it. In what appears to be an even closer reading of the cases than Borah's, Gillett ably defended the proposition that Parker was doing only what the Supreme Court decisions required him to do. After extended debate, the Senate refused to confirm Parker by a vote of 41–39.

Several times during his debate Senator Borah made clear his views as to the nature and scope of the Senate's inquiry into the philosophy of a Supreme Court nominee. In his principal speech, he mentioned that the case of *Hitchman Coal Co. v. Mitchell*, 245 U.S. 229, upholding the legality of "yellow-dog" contracts, had been decided thirteen years earlier by the Supreme Court. At this point he was interrupted by Senator Carter Glass of Virginia:

GLASS. "And we have sat here all these years and permitted that to remain in the law?"

BORAH. "No; we have tried by an Act of Congress to repudiate that principle, but the Supreme Court of the United States said that our action was null and void. Mr. President, that is what makes this matter so very important. They pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Court something of their views on these questions."

Again, during the debate on Parker's confirmation, Borah said:

"Upon some judicial tribunals it is enough, perhaps, that there be men of integrity and of great learning in the law, but upon this tribunal something more is needed, something more is called for, here the widest, broadest, deepest questions of government and governmental politics are involved."

Surely the first part of this last quotation epitomizes the Senate's attitude, as manifested in discussion on the floor, toward the confirmation of Mr. Justice Whittaker. His integrity, his learning, his success at the bar, would be the only necessary subjects of inquiry in the case of a judge appointed to a lower court. Indeed, perhaps no further inquiry would be proper in the case of a judge of a lower court. He is not there to apply his own judicial philosophy, willy-nilly, to the litigants before him, but rather to decide the case of those litigants by application of the principles laid down by higher courts. Such a process involves the use of the same ability to reason by analogy as lawyers call on constantly, and therefore the legal ability of an appointee to a trial court is of paramount importance.

Similarly, in the case of the judge who actually tries the case, we do not expect a decision between individual litigants strictly in terms of popular sentiment. The people through their legislative representatives enact what laws they will, subject to constitutional limitations. But once a law is written, neither the people nor their representatives are further consulted as to what was meant by it; the written words, together with relevant background material, are interpreted by a presumably impartial judge. Democracy ends at the courthouse door, and Joe Doaks is not to be imprisoned simply because a majority of the people sitting in the jury box or on the courthouse steps think he should be.

These reasons suggest that the primary concern with an appointee to an inferior federal court should be his ability to apply rules laid down by more authoritative sources, rather than his feeling as to whether this material is right or wrong. But in the case of the Supreme Court, the "something more" which Borah spoke of comes into play. I would prefer to interpret this phrase, not as meaning that it takes more ability to be a Justice of the Supreme Court than a judge of the lower federal courts, but rather that there are additional factors which come to play in the exercise of the function of a Supreme Court Justice.

The Supreme Court, in interpreting the constitution, is the highest authority in the land. Nor is the law of the constitution just "there," waiting to be applied in the same sense that an inferior court may match precedents. There are those who bemoan the absence of *stare decisis* in constitutional law, but of its absence there can be no doubt. And it is no accident that the provisions of the constitution which have been most productive of judicial law-making—the "due process of law" and "equal protection of the laws" clauses—are about the vaguest and most general of any in the instrument. The Court in *Brown v. Board of Education*, supra, held in effect that the framers of the Fourteenth Amendment left it to the Court to decide what "due process" and "equal protection" meant. Whether or not the framers thought this, it is sufficient for this discussion that the present Court thinks the framers thought it.

Given this state of things in March, 1957, what could have been more important to the Senate than Mr. Justice Whittaker's views on equal protection and due process? It is high time that those critical of the present Court recognize with the late Charles Evans Hughes that for one hundred seventy-five years the constitution has been what the judges say it is. If greater judicial self-restraint is desired, or a different interpretation of the phrases "due process of law" or "equal protection of the laws", then men sympathetic to such desires must sit upon the high court. The only way for the Senate to learn of these sympathies is to "inquire of men on their way to the Supreme Court something of their views on these questions."

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., November 4, 1971.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: When you announced the nomination of William Rehnquist to be a Justice on the Supreme Court, you stated that one of the criteria you used was "the judicial philosophy of those who serve on the Court." You have said that these nominees share your judicial philosophy, "which is basically a conservative philosophy."

The members of the Senate Judiciary Committee have been attempting for the last two days to explore for themselves the judicial philosophy of William Rehnquist. Many members of the Committee appear convinced that this is a fit subject for inquiry by the Senate. Indeed, Mr. Rehnquist has stated at the hearings that he believes that the Senate should thoroughly inform itself on the judicial philosophy of a Supreme Court nominee before voting on whether to confirm him. *See also* William H. Rehnquist, "The Making of a Supreme Court Justice," Harvard Law Record, Oct. 8, 1959, p. 7; C. Black, "A Note On Senatorial Consideration of Supreme Court Nominees," 79 Yale L.J. 657 (1970).

Unfortunately, the Committee has been unable to inform itself fully regarding Mr. Rehnquist's judicial philosophy because he has felt it necessary to refrain from answering a number of questions. Some of the questions at issue involve Mr. Rehnquist's refusal to respond based upon his claim of the lawyer-client privilege arising out of his work as Assistant Attorney General since 1969. In my view, the lawyer-client privilege does not require Mr. Rehnquist to remain silent concerning his own views on questions of public policy and judicial philosophy merely because he has advised you and the Department of Justice on these matters or because he has publicly defended the Department's position. As one scholarly observer has noted:

"The protection of this particular privilege is for the benefit of the client and not for the attorney, the court, or a third party. The client alone can claim the privilege, and in fact the client must assert such privilege, since it exists for his benefit." E. Cleary, *Modern Trial Evidence* § 1007 (1956).

And as Professor McCormick has noted (Handbook of the Law of Evidence § 96 (1954)), "it is now generally agreed that the privilege is the client's and his alone."

Despite my view that the privilege is inapplicable here, I am writing to urge you—in the interest of the nominee and of the nation—to waive the lawyer-client privilege in this situation. I have made a similar request of the Attorney General. This would release Mr. Rehnquist from any obligations he might have under Canon 4 of the American Bar Association Code of Professional Responsibility, see Code of Professional Responsibility, DR4–101(c)(1), or any other obligations he may have to refuse to answer questions involving his own views on questions of public policy or judicial philosophy. It is essential that the Senate, which must advise and consent to this nomination, have the fullest opportunity to determine for itself the nominee's personal views of the great legal issues of our times. I hope you will be able to cooperate to this end.

Sincerely,

BIRCH BAYH,
U.S. Senator.

TRANSFER OF FORT WORTH CLINICAL RESEARCH CENTER

Mr. HUGHES. Mr. President, I wish to comment about the transfer of the Fort Worth Clinical Research Center, which has in the past been operated by the National Institute of Mental Health, to the Bureau of Prisons of the Department of Justice.

The question of what the Federal Government's plans are for the Fort Worth facility was one of the first matters which came to my attention when I came to the Senate in January of 1969. In the spring of that year, on April 16, 17, 18, and on June 13, Senator Yarborough, the chairman of the Labor and Public Welfare Committee held hearings on this question, since the administration at that time was planning to close down the Fort Worth facility. I participated in a number of the hearings over which Senator Yarborough presided on this question at that time and came away with a feeling that the facility should remain open until a clearer picture of planning had emerged for the further use of the facility and for the development of replacement services to those persons whom the institution was meant to accommodate. Consequently, I firmly supported keeping the facility open and actively operating at that time. Due largely to Senator Yarborough's active advocacy of this position, the administration agreed to allow the facility to continue its functions.

This year we have again been confronted with the question of what is to be done with the Fort Worth facility. The picture has changed some, but a good deal of confusion continues to exist. Early this year, the administration proposed to the Congress not that the facility be closed, as had been proposed in 1969, but that, instead, it be transferred to the Bureau of Prisons to be used as a 500-bed medical-correctional facility whose primary mission would be focused on the treatment of Federal offenders who have histories of drug abuse. A minimum of 250 of the available beds at the facility would be used to treat drug abusers and drug dependent persons. The remaining beds would be used for men and women who pose other medical-correctional problems, including chronic medical and surgical cases, psychiatric cases, and so on.

On June 29, 1971, in connection with a broader, but connected policy dispute, the Senate passed a concurrent resolution indicating that it was the sense of the Senate that Public Health Service hospitals and outpatient clinics should remain open at the present time. On August 2, 1971, the House of Representatives passed a similar resolution, which contained essentially the same language, but also contained additional language which extended the provisions of the resolution so that it also covered the two clinical research centers operated by the Public Health Service—one at Lexington, Ky., and one at Fort Worth, Tex. The House resolution provided that it was the sense of the Congress that those two facilities also remain open and operating under the Public Health Service. This latter language obviously conflicted with administration plans to transfer the facility in Fort Worth to the Bureau of Prisons, as well as with the administration's long-term plans to close down or transfer the treatment facility at Lexington, Ky., as well.

The difference between the two resolutions has been discussed at length in conference committee and, regrettably, it has been impossible for the conferees from the two Houses to reach agreement on the differences in the two versions of the resolution. Senator KENNEDY, the chairman of the Senate conferees, has consequently filed an agreement to disagree report on the legislation, and it will serve to end this particular matter for now. No common position having been reached in opposition to the transfer by the Congress, the Bureau of Prisons has now taken over the facility.

I felt strongly, however, that a compromise result would have been better, and feel an obligation to make views on the matter clear for the record, so that when related matters come up before this body, there will be no misunderstanding about my position.

There is no question about the size of the drug problem in this country, and about the very close relationship between that problem and the crime problem. Both the Secretary of Department of Health, Education, and Welfare and the Attorney General has stated that during the past year, 30 percent of all offenders committed to Federal custody had a history of drug abuse. I am sure that the figure for State and local offenders must be even greater, because of the nature of the crimes brought into the Federal court system.

The real question is what do we need to do to face up to this gigantic problem. My concern is that the transfer of this facility to the prison system will be presented by the administration and accepted by the people as a proposal which sufficiently answers the need for drug treatment programs in the Federal prison system and serves as a model for State and local penal treatment programs as well. If this is so, the transfer of this facility will have constituted a tragedy of gigantic proportions. The transfer of the Fort Worth facility takes place in a setting of confusion and contradiction which serves to cloud the basic issues.

First of all, it is difficult to know exactly how successful the Fort Worth program has been to date, since there has never really been a sincere Federal commitment to the programs there. In 1966 there were 687 patients in the facility there. In 1966 the average daily patient load at the Fort Worth center was 687 patients. In 1970, in spite of a growing drug epidemic, the comparable figure was 380 patients. Though the population there has always contained a very high percentage of Mexican Americans, when a member of my staff was there not long ago, he was told there were only two Spanish-speaking staff members on the entire staff of the facility. Though it has been called a research facility, there has only been one special research project there in the past 2 years, according to the information I have received.

Second, we were also told in 1969 and then again this year that the primary reason that the facility at Fort Worth was no longer being continued as a drug treatment facility under the Public Health Service was that treatment could more productively be carried out in local community facilities, where individuals could be allowed to live in half-way house facilities or be treated as outpatients. It was anticipated that few, if any, patients would be required to be placed in beds and on inpatient status for any significant period of time. This corresponds with a growing consensus on the part of administration officials that the treatment program had not been satisfactory in terms of the results obtained and individuals may be better treated in facilities near their home communities.

We were also told in 1969, however, that the Fort Worth facility was being closed down for budgetary reasons.

There is no question about it—

said Dr. Joseph English, Administrator, Health Services and Mental Health Administration of HEW—

the major consideration here, Senator, and the recommendation that we are making is the result of the budgetary and the personnel constraints under which we are operating.

And we were told that the Lexington, Ky., facility would be the next to go.

The question has not been whether the Fort Worth facility should be closed—

said Dr. English—

the only question has been when it should be closed. The same is true of the Lexington facility.

A little later on Dr. English stated:

I think that we would argue, sir, that the best strategy of all would be to close both of these facilities which have limitations, and build a new one, but we are not prepared to do that this year.

Third, the GAO recently reviewed the manner in which both the HEW and Department of Justice programs were progressing under the Narcotic Addict Rehabilitation Act, under which authority the Fort Worth, Lexington, and Bureau of Prisons programs are operating. They found that the programs appeared to be dramatically underutilized and restrictive. I would like to ask that excerpts of the GAO report appear in the RECORD following my remarks. So where we are,

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as a practical matter, is in a situation where we do not definitely know whether the experiment at Fort Worth was successful; where we do not have a clear idea of the real underlying basis for the transfer; and where the GAO—and, I should add, a number of other experts—question the success and the breadth of the present programs being run by both the Bureau of Prisons and the Lexington and Fort Worth administrators.

What we are doing in this situation is—by our inaction—to allow the transfer of a facility, worth a good deal of money, out of HEW and into the Bureau of Prisons, with nothing more than a general statement on the part of the executive branch that the facility does not fit into HEW's long-range plans and that there is an abundance of drug-related crime to be dealt with. Both statements may be true, but neither statement is very persuasive, so far as demonstrating why that is specifically being done makes sense. I think that we owe the American public more than this in our decisionmaking.

My own feeling is that we should have taken the time available until the end of this fiscal year to have a group of professionals determine the various purposes for which the facility can be useful as a drug treatment facility—whether it can be usefully used for veterans, who need drug treatment services for example, or for members of the armed services, or for civilians in some new way, or, indeed, for prisoners. But I think, first of all, that Congress needs to know the alternatives before it can act reasonably and make its own judgments with respect to Federal facilities such as this one.

Fourth, the Department of Justice—both in this connection and generally—ought to be compelled to spell out in detail just what its plans are for treating offenders convicted of drug-related crimes. It is time that prison system officials—at both the Federal and local levels—faced the hard question of whether they plan to treat drug dependence as an illness, which it is, or as a crime—or whether they plan to straddle the fence on this issue. And then they ought to spell out how they plan to utilize the facilities they have within the philosophical framework they choose.

This same philosophical point arose during the debate last year on the Controlled Dangerous Substances Act. During that debate—on November 24—I placed in the RECORD examples of authoritative and expert opinions that drug dependence is an illness or disease. I would like to request that that document be inserted into the RECORD again at the conclusion of my remarks—there have been more recent decisions on this same question, but I think that the document is sufficiently clear. If drug dependence is an illness, then it ought to be dealt with within the kind of treatment setting most conducive to rapid recovery. It is not clear on the record that the Fort Worth facility is that kind of a facility.

Also, I would like to say that, for my own part, I would not want the fact that there was no agreement reached by the Congress on the transfer of this facility to be construed as being an acceptance of the program for drug offenders which is presently underway at the Bureau of Prisons. That program may be the best that can be conceived—but I have not become convinced that that is so from the information that I have received thus far.

And finally, I would like to say for the record that, as chairman of the Subcommittee on Alcoholism and Narcotics of the Labor and Public Welfare Committee, I intend to take an active interest in the treatment programs that are being developed in the prisons of the country at the local, State, and national levels. It is clear, I believe, that the subcommittee has a jurisdictional interest in those programs.

I ask unanimous consent that certain material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXAMPLES OF AUTHORITATIVE AND EXPERT OPINIONS THAT DRUG DEPENDENCE IS AN ILLNESS OR DISEASE

1. STATE LEGISLATURES

In 1966, the New York State Legislature enacted a comprehensive new law on drug addiction. Section 200(1) contains the following "declaration of purpose":

"1. The human suffering and social and economic loss caused by the disease of drug addiction are matters of grave concern to the people of the State. The magnitude of the cost to the people of the State for police, judicial, penal and medical care purposes, directly and indirectly caused by the disease of drug addiction, makes it imperative that a comprehensive program to combat the effects of the disease of drug addiction be developed and implemented through the combined and correlated efforts of Federal, State, local communities and private individuals and organizations."

This has been the law of New York since 1966, without any detrimental effect whatever on local law enforcement efforts.

2. UNITED STATES SUPREME COURT

In *Linder* v. *United States*, 268 U.S. 5, 18 (1925), the Supreme Court stated that, with respect to narcotic addicts, the Harrison Act:

". . . does not undertake to prescribe methods for their medical treatment. They are diseased and proper subjects for such treatment. . . ."

In *Robinson* v. *California*, 370 U.S. 660, 667 (1962), the Supreme Court noted that the State of California recognized that narcotic addiction is "an illness," and also that the Supreme Court had recognized in 1925 in the *Linder* case that addiction is a disease. The Court, relying upon the disease concept of drug dependence, declared unconstitutional a statute that purported to make such dependence a criminal offense.

3. THE AMERICAN MEDICAL ASSOCIATION

Dr. Henry Brill, Chairman of the American Medical Association Committee on Alcoholism and Drug Dependence, testified before the Senate Subcommittee on Juvenile Delinquency, of the Committee on the Judiciary, with respect to hearings on the bills that were later to become H.R. 18583, that—

"In regard to handling of offenders, drug dependence, as distinguished from drug abuse, should be regarded as an illness."

Dr. Brill, in addition to his position as Chairman of the AMA Committee, was also Chairman of the National Academy of Sciences/National Research Council Committee on Drug Abuse, the Medical Advisory Committee to the Bureau of Narcotics and Dangerous Drugs, and Vice-Chairman of the New York State Narcotic Commission. Thus, his views reflect both law enforcement and medical treatment positions.

It should be noted that no witness who appeared before any Committee considering all of the legislation relating to law enforcement and treatment with respect to drug abuse, has suggested that drug dependence is not properly regarded from a medical standpoint as an illness or disease. (The Department of Justice has stated only that the bill should not reflect this fact.)

In the AMA book on "Drug Dependence—A Guide For Physicians" (1969), it is stated that—

"The physician should remember that the person who is drug dependent (psychologically, physically, or both) is sick and deserves understanding and treatment. . . ." (Page 63).

4. WORLD HEALTH ORGANIZATION

The Fourteenth Report of the WHO Expert Committee on Mental Health (1967) states that—

"In legislation drawn up concerning persons dependent on alcohol and other drugs, it should be recognized and stated that these are sick persons. . . ."

The opinion of WHO is particularly important. The Single Convention on Narcotic Drugs, 1961, to which the United States is a signatory, was established under the auspices of the United Nations. Under this Treaty, the WHO has the responsibility for determining the abuse potential of dangerous drugs. By international treaty, therefore, the opinion of WHO carries special weight in this country.

5. THE NATIONAL COUNCIL ON CRIME AND DELINQUENCY

A policy statement on narcotics law violations by the Advisory Council of Judges of the National Council on Crime and Delinquency (1964) stated that—

"The narcotic drug addict is a sick person, physically and psychologically, and as such is entitled to qualified medical attention just as our other sick people."

6. THE U.S. CRIME COMMISSION REPORT ("THE CHALLENGE OF CRIME IN A FREE SOCIETY")

The U.S. Crime Commission noted that compulsory treatment for narcotic addiction arose out of:

". . . growing awareness that drug addiction was a medical illness and that a clearer distinction, which would make some allowance for the quality of compulsion in addiction, should be made between addicts and other offenders." (Page 228).

WASHINGTON, D.C.

To the President of the Senate and Speaker of the House of Representatives:

This is our report on the limited use of Federal programs to commit narcotic addicts for treatment and rehabilitation. The programs are authorized by the Narcotic Addict Rehabilitation Act of 1966 (28 U.S.C. 2901) and are administered by the Departments of Justice and Health, Education, and Welfare.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of this report are being sent to the President of the United States; the Director, Office of Management and Budget; the Attorney General of the United States; and the Secretary of Health, Education, and Welfare.

ELMER B. STAATS,
Comptroller General of the United States.

LIMITED USE OF FEDERAL PROGRAMS TO COMMIT NARCOTIC ADDICTS FOR TREATMENT AND REHABILITATION

(Comptroller General's report to the Congress)

Why the review was made

DIGEST

Because narcotics addiction has reached the dimensions of a national emergency—as defined below in a Presidential statement—the General Accounting Office (GAO) reviewed the manner in which two Federal agencies were implementing a 1966 law designed to deal more effectively with drug addiction and addict rehabilitation.

Dimensions of the narcotics addiction problem

In a message to the Congress on June 17, 1971, the President stated, in part, that:

In New York City more people between the ages of 15 and 35 years die as a result of narcotics than from any other single cause.

The cost of supplying a narcotic habit can run from $30 a day to $100 a day. This is $210 to $700 a week, or $10,000 to over $36,000 a year.

Untreated narcotic addicts ordinarily do not hold jobs. Instead, they often turn to shoplifting, mugging, burglary, armed robbery, and so on. They also support themselves by starting other people—young people—on drugs.

The financial costs of addiction are more than $2 billion every year, but at least these costs can be measured; the human costs cannot.

1966 act

The Congress passed the Narcotic Addict Rehabilitation Act (28 U.S.C. 2901) in 1966. The law was designed primarily to enable the courts to deal more effectively with the narcotic addiction rehabilitation problem. In summary, the act:

Authorizes pretrial civil commitment for treatment, in lieu of prosecution, of addicts charged with certain Federal crimes (title I).

Provides for sentencing to commitment for treatment of addicts convicted of certain Federal crimes (title II).

Provides for civil commitment for treatment of persons not charged with any criminal offenses (title III).

Provides for rehabilitation and post-hospitalization-care programs for addicts civilly committed and for financial and technical assistance to States and municipalities in the development of treatment programs for addicts (title IV).

Findings and conclusions

Pretrial civil commitment (title I) has not been used to the extent anticipated during the first 3 years of the program. Only 179 addicts were committed compared with the 900 a year estimated before the act was passed. As far as GAO could determine this was due to three causes: (1) lack of appropriate emphasis on implementation of title I by the U.S. attorneys, (2) a preference by U.S. attorneys for postrial commitments (title II), and (3) the practice of referring addicts to State and local courts for prosecution when the crimes also were violations of State laws. (See pp. 11 and 18.) Referral of addicts to State and local courts for prosecution excluded the addicts from eligibility for pretrial civil commitment under title I. Also only a few States had active civil commitment programs.

Although it has been recognized that the majority of the crimes committed by addicts fall under the jurisdiction of State and local courts, neither the National Institute of Mental Health nor the Department of Justice (the Department) had directed its financial assistance programs toward the development of close working relationships between State or local courts and federally funded State or local narcotic addict rehabilitation programs or the development of State or local civil commitment programs.

About 57 percent of the persons who voluntarily applied for examination and evaluation of treatment potential during the first 3 years of the civil commitment program (title III) were rejected by the two Public Health Service clinical research centers on the basis that these applicants were unsuitable for treatment. As a result the court did not commit the rejected applicants for treatment. At July 31, 1971, about 50 percent of the capacity at the two Federal centers was being used for rehabilitating narcotic addicts.

U.S. attorneys generally indicated that they did not regard their offices as appropriate intake points for requests from persons seeking treatment under the title III program, except for introducing commitment petitions to the U.S. district courts. The attorneys indicated also that they did not wish to engage in those services usually associated with social work agencies for those persons who inquired about the program but did not file petitions or who were found to be unsuitable for treatment. GAO's review indicated that the administration of the title III program could be improved and greater assistance could be provided to addicts if the Department of Health, Education, and Welfare (HEW), through its grantees and contractors, were to assist the U.S. attorneys by performing certain intake functions and activities under the program.

Recommendations or suggestions

The Attorney General should emphasize to all U.S. attorneys the intent of the title I program and encourage them to give greater consideration to its use.

The Attorney General and the Secretary of HEW should revise their grant program guidelines to stress the development of close working relationships between rehabilitation programs and the courts and to encourage arrangements whereby the Department and HEW would participate jointly in the development of State and local civil commitment programs.

The Attorney General and the Secretary of HEW should consider having HEW grantees or contractors involved in the treatment and rehabilitation of narcotic addicts provide assistance to U.S. attorneys by performing the following nonlegal intake functions: (1) receiving the request from a person seeking treatment and rehabilitation under the program, (2) determining that there is reasonable cause to believe that the person is a narcotic addict, (3) determining that appropriate State or local facilities are not available for the treatment of the person, and (4) helping the person prepare and file a petition for commitment with the U.S. attorney's office.

Agency actions and unresolved issues

The Assistant Attorney General for Administration stated that the title I pretrial civil commitment procedure had not been used to the extent to which it might have been. He stated also that the Department was inclined to agree with the reasons for the underuse set forth in this report. He cited, however, other possible reasons for the underuse of title I.

He gave a number of reasons why any instruction the Attorney General might issue to U.S. attorneys could be only in the nature of recommendations and would not be binding.

The Assistant Attorney General did not agree with GAO's opinion that the Department had not made a serious effort to assist States in developing close working relationships between the courts and narcotic addict rehabilitation programs. Both he and HEW's Assistant Secretary, Comptroller, indicated, however, that grant guidelines would be used to encourage development of State and local civil commitment programs.

Many of the title III precommitment functions assigned to U.S. attorneys, the Assistant Attorney General stated, were or could be performed by the Surgeon General. The Assistant Secretary, Comptroller, stated that HEW had no objection to expanding its role in determining the availability of State and local treatment facilities although he advised that additional resources would be required.

Matters for consideration by the Congress

Because of the congressional interest in the problem of narcotic addiction and addict rehabilitation, this report is being sent to the Congress to point out the results of GAO's review of the Federal civil commitment programs.

CHAPTER 1. INTRODUCTION

We reviewed the efforts of the Departments of Justice and Health, Education, and Welfare to administer narcotic addict treatment and rehabilitation services provided under titles I and III of the Narcotic Addict Rehabilitation Act (NARA) of 1966 which authorized the Federal civil commitment program. This program and the related direct services are administered jointly by the U.S. attorneys of the Department and by the National Institute of Mental Health (NIMH) of HEW.

Drug abuse has been one of the most widely reported problems in the United States in the past few years. The relationship between narcotic addiction, crime, the courts, and the prisons has been highly publicized, and efforts have been intensified to understand and deal with the problem of addict rehabilitation as well as crimes stemming from drug abuse. The incidence of narcotic addiction is increasing, and conservative estimates are that there are about 180,000 narcotic users in the country. A strictly legalistic and punitive approach to a problem of this magnitude has been challenged by professionals in both the law enforcement and the medical fields.

Civil commitment of narcotic addicts is generally understood to mean compulsory confinement in a special narcotics treatment facility followed by outpatient treatment under intensive parole-type supervision. The treatment regimen consists of withdrawing the addict from his physical dependence upon narcotics and providing therapy and training to overcome his psychological dependence upon drugs. Commitment is for an indeterminate period not to exceed the prescribed number of years set forth in the applicable statutes.

Congress recognized narcotic addiction as a problem in 1929 with enactment of legislation calling for the establishment of two clinical research centers for treatment of drug addicts. The centers—at Fort Worth, Texas, and Lexington, Kentucky—were opened in the mid-1930's and are still in operation.

In 1962 the White House Conference on Narcotic and Drug Abuse was convened because drug traffic and abuse was growing and was of critical national concern. The President's Advisory Commission on Narcotic and Drug Abuse was established in 1963 to recommend a program of action. The Commission's final report, issued on November 1, 1963, pointed out among other matters, that the treatment at the two Federal centers had, in essence, become a revolving-door process for voluntary patients who entered and left treatment as they desired and who were more properly the responsibility of the patients' States and communities. Of the total 87,000 admissions to both centers from 1935 through 1964, 63,600 were voluntary admissions of addicts who applied for treatment and the remaining 23,400 were Federal prisoners. Most of the voluntary patients—an average of over 70 percent during this period—left the centers against medical advice.

The Commission recommended that voluntary patients be accepted only for purposes of research study and that Federal financial and technical assistance be authorized for State and local programs. The Commission recommended also that a special treatment program be established within the Federal prison system and that a Federal civil commitment statute be enacted to provide an alternative method of handling Federal prisoners who were narcotic addicts.

In 1966 the Congress passed NARA to enable the courts to deal more effectively with the narcotic addiction problem.

In summary, the main titles, or parts, of NARA are as follows:

Title I authorizes the pretrial civil commitment for treatment, in lieu of prosecution, of addicts charged with certain Federal crimes.

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Title II provides for the sentencing to commitment for treatment of addicts convicted of certain Federal crimes.

Title III provides for the civil commitment for treatment of persons not charged with any criminal offenses.

Title IV provides for rehabilitation and post-hospitalization-care programs for addicts civilly committed and for financial and technical assistance to States and municipalities in the development of treatment programs for addicts.

Eligibility for civil commitment under titles I and II may be extended by a U.S. district court to any narcotic addict charged with, or convicted of, an offense against the United States, but excludes any person:

Charged with a crime of violence;

Charged with unlawfully importing or selling, or conspiring to import or sell, a narcotic drug; [1]

Against whom there is pending a prior charge of a felony;

Convicted of a felony on two or more occasions (Title II provides—on two or more prior occasions); and

Previously civilly committed on three or more occasions (Title II provides—civilly committed on three or more occasions under the title I program).

A person eligible under title I is committed by a U.S. district court to the custody of the Surgeon General for treatment. The total period of treatment for any such person may not exceed 36 months. Generally the person will be confined in an institution for part of this period and then may be conditionally released, at the discretion of the Surgeon General, for supervised aftercare treatment in his community. If the person successfully completes the treatment program, the criminal charge is dismissed; if not, prosecution of the charge may be resumed.

A person not given the opportunity to elect civil commitment, or who does not so elect, if subsequently prosecuted and convicted, may receive sentencing to commitment for treatment under title II. Such a person is committed to the custody of the Attorney General who provides for his treatment.

Under title III, any person seeking treatment for narcotic addiction may voluntarily file a petition with a U.S. attorney. A member of his immediate family or household also may file a petition. Title III provides that a U.S. attorney has the responsibility for determining whether there is reasonable cause to believe that the person seeking treatment is a narcotic addict and whether appropriate State or local treatment facilities are available. It is upon these determinations that the U.S. Attorney is authorized by NARA to petition a U.S. district court for commitment.

Before the court can commit a person for treatment, he must undergo examination and evaluation by two qualified physicians appointed by the court to determine whether he is a narcotic addict and is likely to be rehabilitated through treatment. NARA requires that one of the two physicians be a psychiatrist. Upon completion of the examination and evaluation, each physician is required to file a written report with the court.

Most of these examinations and evaluations for the courts have been made by either the Fort Worth or the Lexington clinical research centers of the Public Health Service, and such examinations and evaluations at these centers can take up to 30 days.

[1] A person convicted for this offense may be offered title II if the court determines that the sale or importation was for the primary purpose of enabling the offender to obtain a narcotic drug which he required for his personal use because of his addiction to such drug.

NARA provides also that, if the court determines, after receiving the reports of the examining physicians and after a hearing, that a person seeking treatment is a narcotic addict who is likely to be rehabilitated through treatment, the court order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Public Health Service for a period not to exceed 6 months. At the discretion of the court, and upon the advice of the Surgeon General, the person may then be provided with supervised aftercare in his home community for as long as 3 years.

Also the court, acting upon the recommendation of the Surgeon General, has the authority to ultimately release a person from the civil commitment program; however, in no case may the person voluntarily withdraw from the program after having been committed for treatment by court order.

NIMH has been delegated the responsibilities assigned to the Surgeon General under NARA and is concerned principally with the treatment and rehabilitation aspects of the program. The U.S. attorneys are the principal administrators involved in formalizing the narcotic addicts' entries into and exits from the civil commitment program.

Both title I and title III persons have been sent for treatment to the Federal centers in Fort Worth and Lexington and have been sent for supervised aftercare to community facilities which receive Federal financial assistance. Title II persons received treatment at one of three Federal prisons located in Danbury, Connecticut; Alderson, West Virginia; or Terminal Island, California.

The principle that treatment was the primary responsibility of the State and local communities was established by title IV and was expanded by allowing title III commitments only when appropriate State or other treatment facilities were not available. Also, although certain grant provisions of title IV were repealed by the Alcoholic and Narcotic Addict Rehabilitation Amendments of 1968, the basic principle of title IV—development of community programs for addicts—was incorporated in the new law and in later amendments which permitted NIMH to make grants for construction and/or staffing of narcotic addict facilities in communities.

In February 1967, shortly after passage of NARA, the President called for enactment of legislation in the area of Federal assistance for the control of crime. The Presidential proposal, introduced in the Senate as the Safe Streets and Crime Control Act of 1967, followed the Presidential message on crime in America. The message called for an intensified attack on the narcotics and drug problem by every level of government and included the following statement on the Federal rehabilitation effort.

"• • • to carry out the purposes of the Narcotic Addict Rehabilitation Act of 1966, I am instructing the Secretary of Health, Education, and Welfare, in consultation with the Attorney General and the Secretary of the Treasury, to coordinate the rehabilitation efforts of all the Federal agencies concerned and to work through local and State facilities to the greatest possible extent. Federal rehabilitation efforts will be closely related to local programs that may qualify for federal support under the grant provisions of the Safe Streets and Crime Control Act of 1967."

The legislation was enacted in June 1968 as the Omnibus Crime Control and Safe Streets Act of 1968. The act created the Law Enforcement Assistance Administration, under the general authority of the Attorney General and within the Department, to administer the program. The act, as amended in 1970, requires the Attorney General to submit to the President and to the Congress annual reports on the operation and coordination of the various Federal assistance programs relating to crime prevention and control, including those authorized by NARA.

In his message to the Congress on June 17, 1971, the President outlined a comprehensive approach to the solution of the drug abuse problem. The key element in his recommendation was the creation of the Special Action Office for Drug Abuse Prevention which would have direct responsibility for all Federal drug abuse training, education, prevention, treatment, rehabilitation, and research programs and activities. As an interim measure, the President, by Executive Order 11599, established the Special Action Office for Drug Abuse Prevention within the Executive Office of the President to coordinate the work of all Federal agencies in their drug abuse prevention activities.

CHAPTER 2. NEED FOR ENCOURAGING USE OF CIVIL COMMITMENT PROGRAMS

NARA was intended to enable the Federal courts to deal more effectively with the problem of narcotic addiction and to bring about a fundamental reemphasis on rehabilitation. The legislation was based on the recognition that narcotic addiction was a medical problem. Title I of NARA was one of the most innovative departures from past methods of dealing with narcotic addicts by permitting pretrial civil commitment, instead of criminal prosecution, of arrested addicts who are charged with nonviolent Federal crimes and who show prospect for rehabilitation.

The title I provision of NARA has not been used to the extent anticipated at the time it was passed. During the first 3 years of the program—July 1967 to June 1970—179 drug addicts were committed, compared with the estimated 900 a year. As far as we could determine, expectations of anticipated use of title I were not met because of (1) the lack of appropriate emphasis on implementation of title I by U.S. attorneys and (2) a preference by U.S. attorneys for the use of posttrial commitments authorized by title II of NARA. Also the use of the title I program has been reduced by the practice of referring addicts who were potentially eligible for the title I program to State and local courts for prosecution when the crimes also were violations of State statutes.

Our view indicated also that neither NIMH nor the Department had directed its financial assistance programs toward the development of close working relationships between State or local courts and Federally funded State or local narcotic addict rehabilitation programs or the development of State or local civil commitment programs.

Actual use of title I less than expected

Our review showed that, despite initial expectations that 900 addicts would be eligible each year under the title I pretrial civil commitment program, only 207 persons had been examined for admission into the program and only 179 had been accepted for treatment during the first 3 years of the program's operation—July 1967 to June 1970. In contrast, 509 addicts had been sentenced for treatment under the title II posttrial commitment program. Whether to use title I or II is the decision of the court.

The small number of addicts accepted under the title I provisions was in striking contrast to expectations prior to passage of NARA. For example, there was congressional concern as to whether the 1,800-bed capacity of the two Federal centers would be sufficient to handle the expected patient load. Officials from the administrative agencies alleviated the concern, in part, by pointing out that they had the authority to contract for facilities if the patient load became a problem.

Also studies made by the Department and HEW indicated that a large number of addicts would be charged with crimes in the Federal courts and therefore would be eligible for the commitment program. HEW estimated that about 1,800 persons suspected of narcotic addiction would be brought before

the Federal courts each year because of criminal activity and that about 900 of these persons would be treated under title I for narcotic addiction. It was estimated that 100 persons would not qualify and that 800 persons, after examination, would not be eligible for treatment. HEW could not provide us with supporting data for these estimates, and we have no basis for questioning the estimates or for validating them. The number of persons expected to be eligible in 1 year for rehabilitation under title I was greater than the actual number of commitments in 3 years under both title I and title II.

During our review we attempted to establish the number of Federal offenders who were narcotic addicts, as well as the number of such offenders who were denied rehabilitation because of the eligibility restrictions contained in NARA. Records available at U.S. attorneys' offices which we visited were not sufficient for making these determinations.

To determine the reasons for the underuse of title I, we solicited, by questionnaire, the comments of 23 U.S. attorneys in offices located in those Federal districts with indexes of major narcotic addiction. Of the 22 replies,[2] 21 disclosed that 48 addicts were processed under title I during the year ended December 31, 1969. Although these 21 U.S. attorneys represented the districts having the highest incidence of drug addiction, 10 of them reported no title I civil commitment cases, four reported one civil commitment case, and seven reported two or more cases.

Because 20 cases were reported by the U.S. attorney at one location—the District of Columbia—we inquired into the practices followed at that location. We were informed that (1) the U.S. attorney and Federal judges within the district court in Washington, D.C., accepted the merits of a civil commitment program and were willing to offer the addicts a chance for rehabilitation and (2) there were many addicts in the District of Columbia who were charged with Federal offenses, such as thefts from mail boxes and check forgeries, which did not exclude them from eligibility under title I, whereas in other districts these types of offenses were generally referred to State or local courts.

In response to our questionnaire, one U.S. attorney merely stated that his office did not process title I cases. The paraphrased comments of two others follow.

One U.S. attorney informed us that his inquiry within his office early in 1970 had disclosed no study, understanding, or use of title I and that few, if any, of the staff were aware of the existence of the act. Although he indicated a desire to develop a viable commitment program, he envisioned problems in attempting delayed prosecution of those addicts committed for treatment who did not successfully complete rehabilitation. The problems would stem from the passage of time, which might affect the availability of witnesses or the usefulness of other evidence.

Another U.S. attorney stated that his office had not yet developed a program for commitment in lieu of prosecution. He pointed out that suspension of prosecution for serious offenses was not considered appropriate and that, for minor offenses, his office favored dismissal of the charges and referral to the State for treatment and rehabilitation.

Our review showed that in some districts the U.S. attorneys preferred criminal prosecution to the civil commitment option. Also U.S. attorneys advised us that (1) they encountered practical difficulties in ascertaining which persons charged with Federal crimes were narcotic addicts and (2) the difficulties were compounded by the defendants' or defense counsels' lack of cooperation in disclosing cases of narcotic addiction. Legislation currently being considered by the Congress addresses the identification problem by requiring immediate emergency medical treatment for persons who appear to be drug abusers and who are charged with Federal crimes. Such emergency treatment would include determination of addiction, detoxification, and identification of rehabilitation potential prior to determination of whether to prosecute.

[2] One reply was not responsive.

Agency comments

In commenting on our draft report by letter dated June 16, 1971, the Assistant Attorney General for Administration informed us that the title I procedure had not been used to the fullest possible extent. He stated that the Department was inclined to agree with our reasons for the underuse.

The Assistant Attorney General pointed out that title I did contain a rather detailed listing of eligibility requirements and that one major reason for the underuse of title I was that, under the eligibility requirements as written, many addicts who probably would benefit from treatment simply were ineligible. He pointed out also that the decision to use title I was wholly discretionary with the courts and that the courts themselves were under no obligation to state their reasons when they determined not to use title I.

The Assistant Attorney General also stated that, although the Department was not in a position to comment on the frequency with which any one given court declined to use title I, he suggested that the underuse of title I might have been due to factors other than those which we specified in the report.

In our draft report we suggested that HEW, through NIMH, and the Department jointly develop and distribute information to defense attorneys and to the courts on the concept of treatment under title I and stress the importance of the civil commitment program.

HEW's Assistant Secretary, Comptroller, stated that HEW agreed with our suggestion and would continue to work with the Attorney General in jointly developing and distributing additional information on title I.

The Department, although agreeing that our suggestion had merit, indicated that it did not see any way in which the suggestion could be implemented meaningfully and cited, as an example, that it would be a monumental task to contact all defense attorneys to advise them of the availability of title I commitments.

We are aware of the problems that would be associated with informing all defense attorneys of the concept of treatment under title I, but we believe that there is a need for continued exploration of ways to publicize and implement the provisions of title I. We believe also that the Department should seek opportunities, such as bar association meetings and articles in professional legal publications, to inform defense attorneys of the concept of treatment under title I.

In our draft report we suggested also that the Attorney General issue instructions to U.S. attorneys that they consider the use of title I in all cases in which narcotic addicts are charged with Federal offenses.

The Assistant Attorney General for Administration advised us that our suggestion had overlooked two important considerations: (1) the offender might not be an eligible person within the definition of the statute and (2) there might be many reasons why the U.S. attorney would not want to utilize title I. For example, if a U.S. attorney believed that a person was not likely to benefit from the program, any effort to get the person into the program might be futile. Also, since the pending charge is held in abeyance conditioned upon the person's successful completion of the program, the situation frequently might arise when the person did not successfully complete the program, and, because of the passage of time, the U.S. attorney would be unable to try the person on the underlying criminal charge. The Assistant Attorney General pointed out that, in situations such as this, the person was neither rehabilitated nor made to pay for his offense and that consequently neither the goal of rehabilitation nor the goal of justice was served.

The Assistant Attorney General advised us that any instructions which the Attorney General might issue could be only in the nature of an advisory recommendation, which was the current policy of the Department, and that he certainly could not issue any binding instructions. He emphasized that any decision of whether to invoke the provisions of title I was a prosecutorial decision which must be left to the sound discretion of the U.S. attorneys.

We recognize that title I has eligibility requirements, and we do not question the merits of such requirements. Also we have no basis for questioning the Assistant Attorney General's statement that any decision of whether or not to invoke the provisions of title I is a prosecutorial decision which must be left to the discretion of U.S. attorneys. We believe, however, that the possible application of title I should be considered in all cases in which narcotics addicts are charged with Federal crimes.

With regard to the Assistant Attorney General's concern for prosecuting Federal offenders after substantial delays for purposes of treatment, it should be noted that in 1966 the Senate Committee on the Judiciary, in considering the then-proposed NARA, discussed the possibilities of the effect of delays in criminal prosecution but, on the basis of the testimony of medical authorities and the then-Attorney General, was persuaded that pretrial civil commitment offered worthwhile advantages and that the possibility of resuming the criminal prosecution would remain as a sanction reinforcing the addicts' disposition to cooperate throughout their programs of treatment.

Recommendation to Attorney General

We recommend that the Attorney General emphasize to all U.S. attorneys the intent of the title I program and encourage them to give greater consideration to its use.

Need to encourage development of State civil commitment programs

Although it has been recognized that the majority of the crimes committed by addicts fall under the jurisdiction of State courts, neither NIMH nor the Department has directed its efforts toward the development of close working relationships between State or local courts and federally funded State or local narcotic addict rehabilitation programs or the development of State or local civil commitment programs.

NARA provided not only for the commitment of narcotic addicts under Federal court jurisdiction but also for Federal assistance to aid State and local agencies in developing narcotic addict treatment facilities. The Omnibus Crime Control and Safe Streets Act of 1968 created the Law Enforcement Assistance Administration (LEAA), within the Department, to assist State and local governments to improve their criminal justice systems—the police, the courts, and institutions for corrections—as well as to develop narcotic addict treatment and rehabilitation programs.

NIMH's grant programs, which are concerned primarily with increasing the availability of non-Federal treatment programs for narcotic addicts, have a potential for assisting the development of State civil commitment programs. NIMH's guidelines for the narcotic grant programs, however, do not encourage the development of civil commit-

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ment programs for the treatment of addicts referred by State and local courts. Our review of 22 NIMH grants awarded through April 30, 1971, showed that some grantees had been required to assist the Federal civil commitment program; however, none of these grants had included a requirement for the grantee to accept commitments or referrals from State and local courts.

The use of title I generally was intended to apply to addicts who committed such Federal crimes as mail theft, check forgery, auto theft, and other nonviolent crimes. Many of these Federal crimes are also violations of State statutes and often are prosecuted in the State or local courts under State statutes. Under the provisions of NARA, only U.S. district courts are empowered to invoke title I.

Therefore, when addicts who commit Federal crimes are referred to State or local authorities for prosecution, opportunities for pretrial civil commitment in lieu of prosecution are lost if the State does not have a civil commitment program.

An indication of the number of persons committing certain types of Federal offenses and who therefore may be eligible for title I commitment but who are tried in State courts is provided by Post Office Department (now the U.S. Postal Service) statistics which show that during fiscal year 1970, 2,093 persons were convicted in Federal courts and 3,225 were convicted in State or local courts for the theft of mail from letter boxes. Post Office Department officials estimated that, nationwide, about 20 percent of the persons arrested on such mail-theft charges were addicts. On this basis, we estimated that about 640 addicts were convicted in State or local courts of thefts from letter boxes and thus could not be considered for pretrial civil commitment under the title I program. Also, in New York City, which has the largest estimated narcotic addiction problem in the country, a 3-month study showed that 45 percent of the persons arrested for thefts from letter boxes were narcotic addicts.

We believe that, because only a few States have active civil commitment programs, NIMH and LEAA should seek, particularly through grant program guidelines, the development of close working relationships between State or local courts and Federally funded State or local narcotic addict rehabilitation programs or the development of State or local civil commitment programs.

Agency Comments

The Assistant Attorney General for Administration did not agree with our conclusion that LEAA had not made a serious effort to assist the States in developing close working relationships between the courts and narcotic addict rehabilitation programs. He pointed out that LEAA, from fiscal year 1969, had provided about $25 million to a number of programs concerned with the rehabilitation of the narcotic addict.

The Assistant Attorney General stated that it was true that LEAA had been involved in developing civil commitment programs for the narcotic addict (1) because LEAA funding went to the States which were largely responsible for the spending of the money and (2) because changes in State laws would be needed in most cases to establish such programs and because LEAA had not been involved to a great extent in influencing changes in State legislation. The Assistant Attorney General agreed that LEAA had not developed guidelines regarding civil commitment programs for the narcotic addict.

Recommendation to Attorney General and to the Secretary of Health, Education, and Welfare

We recommend that the Attorney General and the Secretary of HEW revise their grant program guidelines to stress the development of close working relationships between rehabilitation programs and the courts and to encourage arrangements whereby the Department and HEW would participate jointly in the development of State and local civil commitment programs.

HEW's Assistant Secretary, Comptroller, informed us that HEW, in its community assistance program guidelines, would stress the need for local treatment agencies to cooperate with State and local civil commitment programs. He also stated that HEW would coordinate its activities with LEAA to support the development of local treatment services which emphasized acceptance of State and local court commitments in the locales in which LEAA was supporting the development of legislation for civil commitment programs.

The Assistant Attorney General said that LEAA would make it a point to develop guidelines in greater detail with State planning agencies regarding civil commitment programs. He said also that NIMH and LEAA had several committees with representatives from both agencies, including one on drug addiction, which could be assigned the task of studying and considering ways in which the two agencies could stimulate and promote the development of civil commitment programs for narcotic addicts.

We were told that, in the annual report to the President and to the Congress required under the 1970 amendments to the Omnibus Crime Control and Safe Streets Act, the Department planned to provide data on the programs conducted, plans developed, and problems discovered in the operation and coordination of Federal efforts to stimulate the development of State and local civil commitment programs.

CHAPTER 3. OPPORTUNITIES FOR IMPROVING ADMINISTRATION OF TITLE III PROGRAM

Our review indicated that the administration of the title III program could be improved and that greater assistance could be provided to addicts if HEW, through its grantees and contractors, were to assist the U.S. attorneys by performing certain nonlegal activities concerned with helping persons who seek treatment under the program.

Of the persons who voluntarily submitted for examination and evaluation of treatment potential under the title III program during the first 3 years of its operation, about 57 percent were rejected by the two Public Health Service clinical research centers. The rejections were made on the basis that the persons were unsuitable for treatment, and therefore the court did not commit them for treatment to the Federal centers. At July 31, 1971, about 50 percent of the available capacity at the two Federal centers was being used for rehabilitating narcotic addicts.

Following is a summary of the statistical data received from 19 U.S. attorneys' offices[a] responding to our questionnaire regarding the voluntary civil commitment program authorized by title III. The data represents calendar year 1969 figures only.

Narcotic addicts in district[a]	56,036
Narcotic addicts who contacted U.S. attorneys' offices about commitment under the NARA title III program	3,804
Title III petitions filed with the courts	1,123
Narcotic addicts rejected by HEW after examination and evaluation as not being suitable for treatment under title III	596

[a] Obtained from Bureau of Narcotics and Dangerous Drugs, Department of Justice.

Administration by National Institute of Mental Health

During the first 3 years of the title III program, 2,801 addicts, or about 57 percent of the 4,889 who voluntarily sought commitment, were rejected by the Federal treatment centers during the examination and evaluation phase of the program. Rejections were made on the basis of the persons' being unsuitable for treatment. At July 31, 1971, about 50 percent of the capacity of the two centers was being used for rehabilitating narcotic addicts.

According to HEW, the addict's motivation toward treatment, to a high degree, indicates his relative suitability for treatment. This eligibility conditions, including suitability for treatment, must be met before a person may be admitted to the program for treatment.

The Congress gave the Surgeon General broad authority for treatment of addicts who are likely to be rehabilitated. NIMH was delegated the responsibilities of operating the program for the Surgeon General and was authorized to delegate any of its responsibilities to other public agencies or to private agencies or to contract with such agencies for facilities and services for examining or treating addicts.

Treatment can include, but is not limited to, services in the medical, educational, social, psychological, and vocational fields. It can include also corrective and preventive guidance and training and any other rehabilitation services designed to protect the public as well as to benefit the addict by correcting his antisocial tendencies and ending his dependence on, and susceptibility to, narcotics.

The Surgeon General is authorized by NARA to restrict commitments under the program when he certifies that adequate facilities or personnel for treatment of patients under the title III program are unavailable.

HEW believes that a higher potential exists for successful rehabilitation for persons who are highly motivated for treatment than for those who are not so motivated. Accordingly NIMH has elected to accept those persons who have high motivation for rehabilitation and to reject all others as not being suitable for treatment. HEW advised us that:

"Our experience has borne out the belief of experts in this field that a high degree of motivation on the part of addicts is an essential prerequisite if treatment and rehabilitation programs are to be successful. We have found that the individuals who have been most disruptive and uncooperative, most eager to leave the program prematurely, and who have profited least have been those with insufficient motivation who, frequently, were in the program only because of pressures from relatives and friends. Our experience has also demonstrated that the disruptive influence exerted by such addicts on the other patients is extremely detrimental."

Early in fiscal year 1970, the chiefs of the clinical research centers, in response to an NIMH request, coauthored a paper on their experiences regarding the suitability of addicts for treatment. The paper was distributed to community agencies as a guide in screening applicants and to officials of courts to promote greater understanding of the reasons for rejection.

The gist of the paper was that the persons being rejected required large amounts of medical, nursing, and social work time and that additional resources of trained personnel would be needed to treat larger numbers of antagonistic patients, psychotic patients, mentally retarded patients, and others with special problems. The paper stated that:

"It is possible to retain and treat some patients in the hospital whose behavior is chronically antagonistic and disturbing to others. The problem is that we have to devote large amounts of medical, nursing and social work time to small groups of these patients. With additional resources of trained personnel we could accept and treat larger numbers of antagonistic patients, psychotic patients, mentally retarded patients, and others with special problems. However, at the present time, the fiscal and personnel restraints within the Federal Government are very severe, and we are forced to limit our program to the number of patients who can be adequately treated within our current limitations. We do not foresee any lifting of those limitations at any time in the immediate future. Accordingly, we will try to give the best treatment possible to those patients who are most highly motivated to benefit from it."

Formalized guidelines issued in March 1970 to the community agencies which were under contract and which were performing narcotics addiction treatment activities included basically the same criteria with respect to motivation for acceptance of applicants for treatment.

Rejections by the Federal treatment centers during the examination and evaluation phase of the program, which was made to avoid formal commitment of persons considered unsuitable for treatment, rose from 56 percent during fiscal year 1969 to 62 percent during fiscal year 1970.

Agency Comments

The Assistant Secretary, Comptroller, HEW, stated that court commitments should be restricted when personnel and facilities were not adequate to provide the authorized treatment and control services and that the voluntary civil commitment program was directed toward accepting only those addicts with high motivation for treatment. He stated that to do otherwise would seriously diminish the overall rehabilitation potential of the addicts committed to the program and that patients cannot be considered "likely to be rehabilitated" unless they are highly motivated. He stated further that HEW's experience had borne out the belief of experts in the field that a high degree of motivation on the part of addicts was an essential prerequisite if treatment and rehabilitation programs were to be successful.

The Assistant Secretary, Comptroller, acknowledged that the provisions of NARA, which direct that addicts be committed to treatment only if they are considered likely to be rehabilitated, limited the intake of patients into the program. He stated that HEW believed this to be the intent of the Congress and considered HEW's practice of weeding out individuals unlikely to be rehabilitated to be consistent with NARA and with HEW's judgment as to the best way to manage the program at that point in time.

Administration by U.S. attorneys' offices

We found that many U.S. attorneys questioned the use of the title III program and particularly their own role in assisting program applicants. Many persons who inquired about the program did not file petitions with the U.S. attorneys, and many who did were rejected by the Public Health Service clinical research centers as being unsuitable for treatment. Comments from U.S. attorneys generally indicated that they did not wish to take on the type of work that required following up on such persons or providing referral services, which they said was usually associated with social agencies.

NARA requires that an applicant voluntarily seeking treatment for narcotic addiction must petition the U.S. attorney's office and that the U.S. attorney, in turn, must petition a U.S. district court. Following the U.S. attorney's petition to the U.S. district court, the court requires an examination and evaluation of a person to determine whether he is a narcotic addict and is likely to be rehabilitated before deciding whether the applicant should be committed for treatment. The examination and evaluation function has been performed mostly at the clinical research centers. We understand that some examinations and evaluations are being performed in community facilities which have contracted with HEW to perform such services.

To gain an insight into the intake process at the U.S. attorneys' offices, we discussed the process with representatives of the U.S. attorneys' offices in four selected cities and obtained, by questionnaire, information from 22 U.S. attorneys' offices.

U.S. attorneys' comments in response to our questionnaire indicated that there appeared to be general agreement that the U.S. attorneys' offices were not appropriate intake points for persons seeking treatment under the title III program because intake involved the type of work usually associated with social agencies. There are, however, certain legal functions that must be performed by the U.S. attorney, such as making eligibility determinations and filing petitions with the court.

One U.S. attorney, whose district had a relatively high ratio of commitments to the estimated addict population, expressed one of the most favorable opinions, i.e., that the program was running quite smoothly and that the purpose of the legislation was being effectively realized. He went on to explain, however, that most of the commitments were referrals from the State courts and that some other intake point would, in his opinion, be more successful in generating voluntary commitments.

Other U.S. attorneys generally were far less complimentary about the program's effectiveness. One deemed the program ineffective stating that, of 43 persons submitting petitions under the title III program in his district, only one was accepted for treatment. Another reported that all the persons sent to clinical research centers from his district were addicted to narcotic drugs, yet about 75 percent were found to be unfit subjects for rehabilitation. Still another, who had a large number of petitioners accepted, emphasized the point that commitments were voluntary and stated that, to his knowledge, no sanctions had been imposed on escapees. He went on to state that use of the courts for title III commitments, in his opinion, was cumbersome, constituted a waste of time and money, delayed treatment, and deterred applicants.

Another U.S. attorney recommended that, at the very least, the evaluation and examination phase of the program be done locally and entirely on the initiative of NIMH and that the person be referred to a court for commitment only after completion of evaluation and examination.

Comments which emphasized the view that the U.S. attorneys' offices were not social-work-type agencies were most frequently offered as an explanation for the lack of any referral to available treatment centers or of followup on those persons who had not pursued the steps to commitment or who had been found to be unsuitable for treatment.

Agency Comments

Because U.S. attorneys generally agreed that their offices were not appropriate intake points for persons seeking treatment for narcotic addiction, except with respect to the performance of the required legal functions, we suggested in our draft report that the administration of the title III program possibly could be improved if HEW would assume the responsibility for certain precommitment functions assigned to U.S. attorneys. These functions include determining whether there is reasonable cause to believe that the person seeking treatment is a narcotic addict and whether appropriate State or local treatment facilities are available.

The Assistant Attorney General advised us that many of the precommitment functions currently assigned to U.S. attorneys were, or could be, performed by the Surgeon General. He stated that there was no objection to having a prescreening conducted by the Surgeon General to ensure that a person was suitable for treatment. The Assistant Secretary, Comptroller, HEW, had no objection to expanding HEW's advisory role to U.S. attorneys in determining the availability of State and local treatment facilities, although he advised that additional resources would be required. The Assistant Secretary, Comptroller, stated that HEW considered it inappropriate to require the Surgeon General, acting through NIMH, to perform the legal functions required of U.S. attorneys. He stated that it would be unwise to mix the legal and therapeutic functions.

We did not intend to imply that HEW should take over any of the legal functions of the U.S. attorneys. Our concern was for improving the administration of the title III program by having nonlegal functions performed by HEW, instead of by U.S. attorneys.

Recommendation to Attorney General and to Secretary of Health, Education, and Welfare

We recommend that, to provide greater assistance to addicts who are seeking treatment and to improve the administration of the title III program, the Attorney General and the Secretary of HEW consider having HEW grantees or contractors involved in the rehabilitation of narcotic addicts provide assistance to U.S. attorneys by performing the following nonlegal intake functions: (1) receiving the request from a person seeking treatment and rehabilitation under the program, (2) determining that there is reasonable cause to believe that the person is a narcotic addict, (3) determining that appropriate State or local facilities are not available for the treatment of the person, and (4) helping the person prepare and file a petition for commitment with the U.S. attorney's office.

CHAPTER 4. SCOPE OF REVIEW

Our review was directed principally to an examination of those policies, procedures, and practices of the Department of Health, Education, and Welfare and the Department of Justice relating to the implementation of the pretrial commitment and voluntary commitment programs under NARA. Our review was made during 1969 and 1970 and covered the pertinent activities of the Department and HEW from the passage of NARA in November 1966.

Our work included a review of (1) the legislative history of NARA, (2) national and local reports on the problems of addiction, crime, and the courts, and (3) records, reports, and the related guidelines of the Department and HEW. A significant part of our fieldwork was done at program sites in Albuquerque, New Mexico; Chicago, Illinois; New York, N.Y.; and San Antonio, Texas.

We also contacted NIMH field and regional office staffs, the offices of U.S. attorneys, and operating officials concerned with State or local programs, including those programs assisted with Federal grants. We supplemented site visits with questionnaires and made selective inquiries at key offices of several Federal, State, and local agencies. We also visited the NIMH centers at Lexington and Fort Worth, NIMH headquarters at Bethesda, Maryland; and the LEAA regional office in Des Plaines, Illinois.

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[a] Three U.S. attorneys' offices did not supply statistical data.

APPENDIX I

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., July 29, 1971.

Mr. DEAN K. CROWTHER,
Assistant Director, Civil Division,
U.S. General Accounting Office,
Washington, D.C.

DEAR MR. CROWTHER: The Secretary has asked that I reply to the draft report of the General Accounting Office entitled, "Limited Impact of Federal Programs for Treating and Rehabilitating Narcotic Addicts." As requested, we are enclosing the Department's comments on the findings and recommendations in your report.

[See GAO note.]

We appreciate the opportunity to review and comment on your draft report.

Sincerely yours,

JAMES B. CARDWELL,
Assistant Secretary, Comptroller.

GAO NOTE.—Deleted comments pertain to material presented in the draft report which has been revised or which has not been included in the final report.

COMMENTS ON THE GENERAL ACCOUNTING OFFICE DRAFT REPORT ENTITLED: LIMITED IMPACT OF FEDERAL PROGRAMS FOR TREATING AND REHABILITATING NARCOTIC ADDICTS, DHEW, DEPARTMENT OF JUSTICE, AND VETERANS' ADMINISTRATION

[See GAO note.]

GAO Recommendation: That the Secretary of Health, Education, and Welfare, and the Attorney General jointly develop and distribute meaningful information to the defense attorneys and the courts on the concept and treatment under Title 4, and stress the importance of the civil commitment program enabling the courts to deal more effectively with the problem.

HEW Comment: We concur with this recommendation, and will continue to work with the Attorney General in jointly developing and distributing additional information regarding Title I of the Narcotic Addict Rehabilitation Act (NARA).

[See GAO note.]

In the past, we have met with U.S. Attorneys of all the large United States Court Districts to discuss Title I, and in cooperation with the Department of Justice, have conducted training seminars for U.S. Attorneys at both the Lexington and Fort Worth Clinical Research Centers. Staff members have also appeared on the programs of Sentencing Institutes sponsored by the Administrative Office of the U.S. Courts to present information regarding Title I to U.S. Judges and, on numerous other occasions, have discussed the program with the U.S. Judges, who are of critical importance because they make the final decision regarding commitment.

GAO Recommendation: That the Secretary of Health, Education, and Welfare and the Attorney General jointly include in each of the agencies grant and funding guidelines the importance of meaningful linkages between rehabilitation programs and the courts and encourage working arrangements whereby joint funding could be used to develop State or local court civil commitment programs.

HEW Comment: We concur with this recommendation.

We will expand our efforts in this area by stressing in our community assistance program guidelines the need for local treatment agencies to cooperate with State and local court civil commitment programs. The plans of grant applicants to do so can be considered during the evaluation of applications and subsequently monitored during our administration of these grants. Also, we will coordinate our activities with the Law Enforcement Assistance Administration (LEAA) through the recently established LEAA NIMH Liaison Committee so that we support, to the extent permitted by budget constraints, the development of local treatment services which emphasize acceptance of State and local court commitments in the locales in which LEAA is supporting the development of legislation for civil commitment programs.

[See GAO note.]

Provisions of the NARA, which we believe to be sound, state that narcotic addicts will be committed to treatment if, after a period of examination and evaluation, they are considered "likely to be rehabilitated." In conformance with these provisions NIMH has as stated in the report, "exhibited a tendency to accept only those addicts with high motivation for treatment." To do otherwise would seriously diminish the overall rehabilitation potential of the patients committed to the program.

We believe that the patterns cannot be considered "likely to be rehabilitated" unless they are highly motivated. It is widely recognized that the process of treatment and rehabilitation is a difficult and demanding one for addicts.

Our experience has borne out the belief of experts in this field that a high degree of motivation on the part of addicts is an essential prerequisite if treatment and rehabilitation programs are to be successful. We have found that the individuals who have been most disruptive and uncooperative, most eager to leave the program prematurely, and who have profited least have been those with insufficient motivation who, frequently, were in the program only because of pressures from relatives and friends. Our experience has also demonstrated that the disruptive influence exerted by such addicts on the other patients is extremely detrimental.

[See GAO note.]

We acknowledge that the provisions of the Act which state that addicts will be committed to treatment only if they are considered likely to be rehabilitated limits the intake of patients into the program. We believe this to be the intent of Congress and consider our practice of "weeding-out" individuals unlikely to be rehabilitated consistent with both the NARA and our judgment as to the best way to manage the program at this point in time.

[See GAO note.]

We consider it inappropriate to require the Surgeon General, acting through NIMH, to perform the functions now required of U.S. Attorneys. It would be unwise to mix legal and therapeutic functions; not only would it be impractical from a fiscal standpoint (NIMH would need a greatly expanded staff to cover the District Courts), but our involvement in the legal function would diminish the confidence of the addict in our therapeutic role and would tend to destroy the effectiveness of therapeutic relationships. The suggestion to have the Surgeon General petition the Courts to commit the addicts is contrary to long-standing policy to avoid having the Public Health Service become involved, except by providing medical judgments, in committing people to mental or other institutions. To do so would remove an important "check" from the commitment process. We presently examine and evaluate potential commitments and, to some extent, determine the availability of State and local facilities. We have no objection to expanding our role, which is now advisory to the U.S. Attorneys, in assessing the availability of facilities although additional resources would be required.

[See GAO note.]

APPENDIX II

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., June 16, 1971.

Mr. IRVINE M. CRAWFORD,
Associate Director, Civil Division,
U.S. General Accounting Office,
Washington, D.C.

DEAR MR. CRAWFORD: This is in response to your request for comments on the draft report titled "Limited Impact of Federal Programs for Treating and Rehabilitating Narcotic Addicts." The report expresses your concern over the need for the Federal Government to more effectively deal with the problem of narcotic addiction.

Although the report covers the activities of three Federal organizations, our comments are generally limited to those areas which deal with the relationship of the Department of Justice to the Narcotic Addict Rehabilitation Act (NARA) of 1966. Regarding those areas of the report which deal with the National Institute of Mental Health [See GAO note] we lack the requisite expertise to make meaningful comments.

In evaluating your recommendation that the Attorney General distribute information to defense attorneys and the courts concerning the concept of treatment under Title I of NARA, the fact must be recognized that Title I of NARA has been on the statute books for almost five years. Presumably, defense counsel seeking some alternative to prosecution for their addict-clients would be aware of the availability of the program. Accordingly, while your suggestion has merit, we do not see any way in which it can be meaningfully implemented. For example, it would be a monumental task to require the Attorney General to contact all defense counsel to advise them of the availability of title I commitments. In the same vein, any general announcement, as in the form of a press release, would be of limited impact.

The report recommends that the Attorney General issue instructions to United States Attorneys that they consider the use of Title I in all cases in which narcotic addicts are charged with Federal offenses. This recommendation overlooks two important considerations. Firstly, the offender may not be an eligible person within the definition of the statute. Secondly, there may be many reasons why the United States Attorney may not want to utilize Title I. For example, if he believes that the individual is not likely to benefit from the program, any efforts to get the individual into the program may be futile; additionally, since the pending charge is held in abeyance conditional on the individual successfully completing the program, the situation may frequently arise when the individual does not successfully complete the program, but because of the passage of time, the United States Attorney is unable to try the individual on the underlying criminal charge. Witnesses may disappear or their memories may fade; evidence may be lost; and any number of other factors may occur which would prevent a prosecution. In a situation such as this, the addict is neither rehabilitated nor is he made to pay for his offense; neither the goal of rehabilitation nor of criminal justice has been served. Accordingly, any instruction which the Attorney General might issue could be in the nature of a recommendation only; certainly he could not issue any binding instructions. And insofar as any advisory recommendation is concerned, this is no different than the present policy of the Department. However, it must be observed that any decision as to whether or not to invoke the provisions of Title I is a prosecutorial decision which must be left in the sound discretion of the United States Attorneys.

Of course, there is one overriding consideration which must be taken into account with respect to Title I. It is wholly discretionary with the court as to whether or not the Title I procedure will be used with any one individual. Accordingly, even if both the United States Attorney and the Surgeon General recommend to the court that Title I be used, the court is under no compulsion to use this procedure. See 28 U.S.C. § 292(a). There is no way in which the United States Attorney can compel the court to use this procedure. The court itself is under no obligation to state its reasons when it determines not to use Title I; therefore, an important factor which must be considered in examining the relative low use of Title I is the court itself. The GAO report does not in any way take this into account. While we are not in a position to comment on the frequency with which any one given court declines to use Title I, we would simply suggest that the disuse of Title I may be due to factors other than those which are specified in the report.

We do not agree with the comments in the report indicating that the Law Enforcement Assistance Administration (LEAA) has made little serious effort to assist the States in developing linkages between the courts and narcotic addict rehabilitation programs. LEAA has funded a varied number of programs concerned with the rehabilitation of the narcotic addict totaling approximately $25 million since fiscal year 1969. These programs include prevention/public education programs, treatment/rehabilitation programs and enforcement and control programs.

It is true that LEAA has not been involved in developing adequate civil commitment programs for the narcotic addict. This can be traced to at least two problems. First, the bulk of LEAA funding goes directly to the States and they are largely responsible for the spending of the money. Secondly, changes in State laws would be needed in most cases to establish such programs, and LEAA has not been involved to too great a degree in influencing changes in State legislative matters.

It is also correct to state that LEAA has not developed guidelines regarding civil commitment programs for narcotic addicts. LEAA could certainly do considerably more and we will make it a point to develop this area in greater detail with our State Planning Agencies. In this regard, the National Institute of Mental Health and LEAA have several committees with representation from both agencies, including one on drug addiction. This committee could be assigned the task of studying and considering ways in which the two agencies could stimulate and promote the development of civil commitment programs for narcotic addicts.

As pointed out in the draft report, an annual report to the President and the Congress is required under the Omnibus Crime Control Act of 1970. In preparing our annual report pertaining to this Act, we plan to provide data on the programs conducted, plans developed, and problems discovered in the operation and coordination of Federal efforts to stimulate the development of State and local court civil commitment programs.

With respect to having the Surgeon General perform any of the functions now performed by the United States Attorney, we envision some difficulty. Certainly there is no objection to having a "pre-screening" conducted by the Surgeon General to insure that an individual is a suitable person for treatment. However, the commitment of an individual under NARA is a legal function; the addict is subjecting himself to a relatively long period of carefully supervised treatment. Therefore, we would object to any proposal which would have the Surgeon General himself petition the court for the commitment of an addict. Many of the pre-commitment functions, e.g., the determination of whether an addict is in fact an addict who is likely to be rehabilitated, can be—and we are advised are and will be—performed by the Surgeon General; however, the actual commitment proceeding should and must be left in the control of the United States Attorney.

The report notes, quite correctly, that the Title I procedure has not been used to the extent to which it might be. We are inclined to agree with the reasons for this disuse set forth in the report. However, we would like to point out that Title I does contain a rather detailed listing of eligibility requirements. We believe that one major reason for the disuse of this provision is the fact that under the eligibility requirements as written, many addicts who probably would benefit from Title I treatment are simply ineligible under the Act.

With respect to Title III commitments, the report indicates that during the first 3 years of operation, 57 percent of the addicts who sought treatment were rejected as unsuitable. We can offer no concrete explanation for this, other than the apparent policy of NIMH to select only those addicts for whom complete recovery is deemed highly likely. Coupled with this, of course, is the reluctance of NIMH to accept for treatment those addicts who appear "intractable" or who seems to be troublemakers. Within the confines of the program as presently constituted, there is a sound basis for this reluctance on the part of NIMH; indeed, their task is difficult enough with the "average" addict, without having to introduce potential troublemakers into the patient population.

[See GAO note.]

We appreciate the opportunity afforded us to comment on your proposed report to the Congress.

Sincerely yours,

L. M. PELLERZI,
Assistant Attorney General for Administration.

APPENDIX III

PRINCIPAL OFFICIALS OF THE DEPARTMENTS OF JUSTICE AND HEALTH, EDUCATION, AND WELFARE RESPONSIBLE FOR THE ADMINISTRATION OF ACTIVITIES DISCUSSED IN THIS REPORT

TENURE OF OFFICE

Attorney General of the United States:
John N. Mitchell, from Jan. 1969 to present.
Ramsey Clark, from Oct. 1966 to Jan. 1969.

Secretary of Health, Education, and Welfare:
Elliot L. Richardson, from June 1970 to present.
Robert H. Finch, from Jan. 1969 to June 1970.
Wilbur J. Cohen, from Mar. 1968 to Jan. 1969.
John W. Gardner, from Aug. 1965 to Mar. 1968.

Director, National Institute of Mental Health:
Dr. Bertram S. Brown, from June 1970 to Present.
Dr. Stanley F. Yolles, from Dec. 1964 to June 1970.

THE PRESIDENT'S PROPOSED VISIT TO CHINA

Mr. ALLEN. Mr. President, Dr. Richard L. Walker, director of the Institute of International Studies at the University of South Carolina, is widely recognized as one of this country's foremost China scholars. The New York Times, Tuesday, October 26, 1971, carried an article by Dr. Walker with respect to forthcoming attempts at peace through "summitry" with particular reference to projected meetings in Peking. In the article, Dr. Walker points out, among other things:

It is important for the President to remember that the Communist leaders conduct relations on two levels. As convinced Leninists, the men in Peking still support revolutionaries in other countries (many of them trained in China) in order to bring about the overthrow of those very governments with which they maintain perfectly respectable and proper diplomatic contacts and other relations. The seeming new harmony developing in relations between Washington and Peking should not be allowed to obscure Mao Tse-tung's continuing commitment to targets of opportunity for revolutionary change in the third world.

Mr. President, I believe that Dr. Walker's opinions are worthy of serious consideration by all Senators and I ask unanimous consent that his article entitled "About Those Meetings in Peking" be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLEN. Mr. President, in this same context, it is interesting to note the summitry success achieved by Communist Party boss, Leonid I. Brezhnev, on his recent visit to France. This success came in the form of an unexpected announcement that France had volunteered to attempt to hasten preparations for a European Security Conference which the Communist Party has long urged in furtherance of its objective to dismantle the NATO Alliance. The European Security Conference proposal is not a new one. A draft treaty on European collective security was first submitted at the Berlin Foreign Ministers' Conference in 1954 by the Soviet delegation. It was known then as the "Molotov plan." The original formula has since been promoted periodically by various Communist-controlled governments or by Warsaw Pact countries en bloc. It is worthy of note that again the initiative was exercised not by the head of the government, Mr. Kosygin, but the head of the Communist Party, Mr. Brezhnev.

Mr. President, I suggest that it may be time for the Senate to examine some of the implications of this last Brezhnev initiative as it relates to the national security of our Nation and that of Western Europe.

In furtherance of this objective, I ask unanimous consent that the following articles from the New York Times be printed in the RECORD: "Brezhnev, In Paris, Wins Accord on Security Talks," "Brezhnev Said To Assume Control of Ties With West."

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 2 and 3.)

Mr. ALLEN. Mr. President, finally, Mr. President, in view of President Nixon's announced plans to visit heads of Communist Parties and heads of their subservient governments, in Russia, Peking, China, and other Communist nations, I think it only reasonable that many citizens should entertain some reservations concerning the value of the visits.

In fact, one of the better known critics of "summitry" negotiations, at least up until now, has been Dr. Henry Kissinger. We think the views and opinions on "summitry" expressed by Dr. Kissinger in his book "The Necessity for Choice—1961" remain valid. For this reason, some of his observations and conclusions excerpted from the chapter entitled "On Negotiations," may be of interest to all Senators. I ask unanimous consent that the excerpts be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Exhibits 1, 2, 3, and 4 are as follows:

EXHIBIT 1

[From the New York Times, Oct. 26, 1971]

ABOUT THOSE MEETINGS IN PEKING

(By Richard L. Walker)

COLUMBIA, S.C.—We are obviously entering a dramatic new age of diplomacy—fraught with all the dangers of former attempts at peace through "summitry." Despite cautions from President Nixon and Mr. Kissinger, there has been a tendency to intensify the drama and build up great expectations. In the case of China, basic power realities and conflicts remain. Chou En-lai may be offering new smiles and seemingly flexibility, but his position is that of a first-generation true believer in Bolshevism.

However well briefed the President is, it will hardly be possible for him to comprehend the historical depth or geographical vastness of China. Mao Tse-tung's domain remains insulated from the potential dangers of "barbarian" (in Communist language,

"decadent bourgeois" or "imperialist") influences. A visit to Shanghai or Peking or to a selected commune will offer the President no more opportunity to grasp Chinese realities than did high-level tours reveal many of the brutalities of Soviet life under Stalin.

It is hardly likely either that we will have much more knowledge about China as a result of the President's tour or resultant opportunities for visits by others. After all, we are not, we hope, so chauvinist as to believe that only Americans can find out the facts. Hundreds of visitors from other countries have been in the Chinese People's Republic during the last two decades, including Japanese who handle the Chinese language. Ironically, even without access to China, American scholars have probably been better informed about developments there than any others.

Let us hope that they will have helped the American President on two counts. First, they can prepare him to expect a different perspective on the world on the part of the Chinese with whom he will negotiate. The Chinese world view is continental; it is, above all, concerned with Asia, with borders, with contacts overland. Chou En-lai's demand that the Americans get out of Asia makes sense within this Chinese dispensation.

American power and the surging economies of many Pacific nations, especially Japan, now make it necessary that China get away from its landsman's perspective and join in what Premier Sato has termed the "New Pacific Age." Certainly this is one important message which the President can carry to Peking—one on which he has many persuasive arguments to offer and trump cards in his hand. He will have made a major step toward reconciling conflicting world views if he persuades the Chinese leaders to eliminate the word Asia from discussions.

Second, it is important for the President to remember that the Communist leaders conduct relations on two levels. As convinced Leninists, the men in Peking still support revolutionaries in other countries (many of them trained in China) in order to bring about the overthrow of those very governments with which they maintain perfectly respectable and proper diplomatic contacts and other relations. The seeming new harmony developing in relations between Washington and Peking should not be allowed to obscure Mao Tse-tung's continuing commitment to targets of opportunity for revolutionary change in the third world.

The very month the American table tennis team visited China, Communist leaders there made a quantum leap forward in overt expressions of support for insurgents in other countries. A new clandestine radio station speaking for Burmese insurgents, for example, began operating at that very moment.

It is unlikely that Americans in Peking can persuade leaders there to abandon their support for "wars of national liberation." What we might hope to do is to bring the Chinese people into the new Pacific interdependence in such a way as to make counterproductive the Communist support of revolutionary violence in countries with which they become involved. This is the line which President Nixon should push with persistence.

Peking's two levels of relations in revolutionary strategy have confused world leaders who should have known better—Nehru, Sukarno, Nkrumah. Our President has competent advisers, and probably they will have cautioned him not to overlook the dangers still inherent in Peking's two-level approach.

Perhaps they will also teach him two old Chinese proverbs: "To know the road ahead, ask those coming back," and, "Great doubts, deep wisdom; small doubts, little wisdom."

EXHIBIT 2

[From the New York Times, Oct. 26, 1971]

BREZHNEV, IN PARIS, WINS ACCORD ON SECURITY TALKS

PREPARATIONS TO START

(By Henry Giniger)

PARIS, October 25.—President Pompidou and Leonid I. Brezhnev, leader of the Soviet Communist party, agreed quickly today to begin active preparation for a European security conference.

The agreement was made known at a state dinner in Versailles that marked the end of the first day of a six-day visit by Mr. Brezhnev. The Soviet leader was received this afternoon with the honors of a chief of state, and only a few discordant notes marred the friendly atmosphere of Mr. Brezhnev's first visit to a Western country since he became party leader in 1964.

[Dissidents in the Soviet Union used the occasion of the Brezhnev trip to publicize their views. An open letter was made public on behalf of dissenters, and 90 Jews who demonstrated in downtown Moscow were detained eight hours by the police.]

In toasts this evening, Mr. Pompidou and Mr. Brezhnev spoke in similar terms of the need to end hostility between blocs.

Mr. Brezhnev said that France and the Soviet Union were close "on a fundamental problem—that of ending the division of the world into political-military blocs." Mr. Pompidou declared such blocs carried within them "the certainty of permanent confrontation and the threat of a conflict that would be a final cataclysm."

The President said that there was nothing to prevent the opening, "in the shortest time," of joint preparations for a security conference in Helsinki. Both men upheld the principles of inviolability of frontiers, and of noninterference in the affairs of other nations. Mr. Pompidou pointedly added:

"We respect everyone's independence and we are determined to have our own respected and to give ourselves the political, economic and—why not say it—military means."

An elaborate and warm welcome was given to Mr. Brezhnev, his wife and other Soviet officials.

At Orly airport, Mr. and Mrs. Pompidou greeted Mr. Brezhnev at the end of a red carpet that stretched from the salon d'honneur to the gangway of the white Ilyushin-62 jet that brought the Soviet delegation.

At the Elysée Palace, the Soviet leader told Mrs. Pompidou, France is not only a great country but a powerful friend of the Soviet Union."

Pompidou declared that French-Soviet friendship was "a necessary and probably essential element of European security." Both smiled cordially during the statements.

But the visit is expected to fall short of complete success in Moscow's eyes because the French continue to refuse to agree to a full-fledged treaty of friendship and alliance.

However, a final communique may include a joint declaration that Moscow may interpret as the equivalent of a treaty.

The Brezhnev visit will be a mixture of ceremony, sightseeing and serious talk.

The French Communist party, the largest in the West after the Italian party, made a special effort to get crowds out at the airport and along the route into the city. A few youth, belonging to a committee for support of Soviet Jews, shouted denunciations and there was some scuffling with other Frenchmen.

Security precautions were tight, with 6,000 policemen and paramilitary forces concentrated in Paris. Minor outbreaks by the Jewish and extreme rightist groups were quashed. As a precaution, 56 members of the extensive Eastern European colony in Paris were flown to Corsica yesterday, to be lodged in a hotel until the visit ends Saturday.

A 1945 law covering aliens resident in France permits the Government to take special security measures. This law has been used to protect foreign dignitaries from people who are hostile and might resort to violence. Among those sent to Corsica yesterday was the Czech journalist and writer Pavel Tigrid, who issued a protest against the humiliating and unjustified" measure.

While Mr. Pompidou, Mr. Brezhnev and 100 others dined on foie gras, turbot and saddle of lamb, a few dozen right wingers clashed with the police on the Champs-Elysée as they tried to demonstrate against the Soviet Union. A few of the Soviet flags that lined the avenue were burned.

EXHIBIT 3

[From the New York Times, Oct. 26, 1971]

BREZHNEV SAID TO ASSUME CONTROL OF TIES WITH WEST

SOVIET CHIEF WIDENS ROLE

(By Bernard Gwertzman)

WASHINGTON, October 25.—Leonid I. Brezhnev, the Soviet party leader, was reported today to have signaled Western leaders that he has officially assume over-all responsibility for Moscow's relations with the United States and Western Europe.

United States officials said that the Soviet leader told Chancellor Willy Brandt in Moscow last month that Mr. Brezhnev's trip to France evolved naturally from a division of responsibilities in the ruling Politburo during the last year. Mr. Brezhnev began a five-day visit to Paris today.

Mr. Brandt reported to United States and other Western officials on the contents of his 16 hours of talks in the Crimea with Mr. Brezhnev. As a result of this development, Mr. Nixon has said publicly that he expects to meet with Mr. Brezhnev during his visit to Moscow next May. Until now, as party leader, Mr. Brezhnev has met no Americans other than Gus Hall, head of the American Communist party.

Until last year, Mr. Brezhnev dealt only with Communist leaders, leaving relations with Western countries primarily to Premier Aleksei N. Kosygin, who is officially the head of the Soviet Government.

Mr. Kosygin, according to Mr. Brandt's report, has been assigned primarily responsibility for the Middle East, "Third World" countries, and presumably, less important Western countries. He currently is winding up a visit to Canada and is scheduled to visit Cuba tomorrow.

Because of his long experience in economic matters, Mr. Kosygin is also thought to have major responsibility for trade matters. Experts here believe two of the prime reasons for the trip to Canada were to display Soviet interest in expanding trade ties with Canada and to exchange information on technology in Arctic areas.

PODGORNY DEALS WITH VIETNAM

President Nikolai V. Podgorny, the ceremonial Chief of State, has reportedly been charged with Vietnamese affairs—he visited North Vietnam earlier this month.

Mr. Brandt explained that the discussions he had with Mr. Brezhnev on the division of labor within the Politburo were in general terms, and some key countries—such as China and Japan—were not mentioned.

Because the Soviet Communist party always has taken direct responsibility for relations with Communist countries, Mr. Brezhnev is assumed to have been the one primarily charged with Chinese matters.

United States analysts said that Mr. Brezhnev's expoaition to Mr. Brandt was meant to serve as a signal to him and other key Western leaders that they could now deal directly with him, and did not have to go through regular protocol channels, such as Mr. Kosygin's office or that of Foreign Minister Andrei A. Gromyko.

They also said that because of Mr. Brezhnev's heavy domestic responsibilities as General Secretary of the party, it was unlikely that he would make more than a few trips to the West. He is said to be likely to follow up his trip to France with a visit to West Germany.

United States analysts attach significance to the Brandt-Brezhnev conversation because it seemed to confirm what had been noted here in recent months: Mr. Brezhnev's continuing rise in pre-eminence in the last year and a concomitant acceleration of Soviet efforts to improve relations with Western Europe and the United States.

American policy-makers have long assumed that Mr. Brezhnev was the Politburo's "chairman of the board." But now analysts believe that he has also become the prime initiator of Soviet diplomatic moves toward the West, and is laregly responsible for the dynamism of Kremlin diplomacy. Mr. Brezhnev has taken personal direction of Soviet policy toward West Germany and France, and will serve as the principal Soviet representative when Mr. Nixon visits Moscow.

United States specialists said that despite Mr. Brezhnev's preeminence, there was still collectivity of leadership in the 15-man Politburo. They believe that on key policy matters, Mr. Brezhnev must still achieve a consensus. At the party congress held from March 30 to April 9, Mr. Brezhnev said that the Politburo meets at least once a week.

Mr. Brezhnev's role began to change in August, 1970, when he broke the precedent of the post-Khrushchev leadership and met privately with Mr. Brandt, who was in Moscow to sign the Soviet-German treaty.

In October of 1970 Mr. Brezhnev led the Russians at talks with the visiting French President, Georges Pompidou. When Prime Minister Pierre Elliott Trudeau of Canada arrived in Moscow in May, Mr. Brezhnev shared the negotiations with Mr. Kosygin.

EXHIBIT 4

EXCERPTS FROM "THE NECESSITY FOR CHANGE"

(By Dr. Henry Kissinger)

The temptation to conduct personal diplomacy derives from the notion of peace prevalent in both the United States and Great Britain. If peace is the 'normal' relation among states, it follows that tensions must be caused by shortsightedness or misunderstanding and that they can be removed by a change of heart of the leading statesmen. . . . If peace ultimately depends on personalities, abstract good will may well seem more important than a concrete program. Indeed, the attempt to achieve specific settlements can appear as an obstacle rather than as an aid to peace. . . .

Within two years of assuming office, President Eisenhower, whose party had charged its opponents with being soft toward Communism, found himself engaged in a summit meeting which called forth a flood of self-congratulatory comment, both in America and abroad. . . .

The conviction was widespread on both sides of the Atlantic that the Cold War had been due largely to personal distrust. . . .

Both in the United States and in Great Britain it was implied without significant opposition that good will supplied its own rationale, that to intrude specific proposals into the atmosphere of *détente* could only disturb the prevailing harmony. . . .

Perhaps the most moving, if also fatuous, statement of the philosophy of personal diplomacy was made by the then Foreign Minister Macmillan. At the end of the Foreign Ministers' Conference in 1955, in a statement which goes far to explain his later policy as Prime Minister, he said of the Geneva summit meeting:

"Why did this meeting send a thrill of hope and expectation round the world? It wasn't that the discussions were specially remarkable . . . it wasn't that they reached any very sensational agreement. It wasn't really what they did or said. What struck the imagination of the world was the fact of the friendly meeting between the Heads of the two great groups into which the world is divided. *These men, carrying their immense burdens, met and talked and joked together like ordinary mortals* . . . The Geneva spirit was really a *return to normal human relations* . . .

"It meant seeing the other man's point of view. It meant, above all, the human note . . . I cannot help thinking that last summer's *Geneva idyll* was not a vague or sham affair." [Emphasis added.]

It is easy to sympathize with Mr. Macmillan's call for a return to normal human relations. One wonders, however, whether the democracies' notion of normality is not their Achilles' heel. . . .

Hardly a year after the Hungarian rebellion of 1956, many in the West again insisted on a summit conference and dismissed all attempts to define an agenda as transparent attempts to sabotage a conference. . . .

In retrospect it may be doubted whether the protestations of our peaceful intent which were generally regarded as one of the main achievements of the Geneva summit conference were so unmixed a blessing, indeed whether it was not a misconception to believe that after a decade of Soviet intransigence it was our task to reassure the Communist leaders.

Since the Geneva summit meeting made no progress towards settling any of the issues that divided the world, it was no accident that a little more than a year later the concurrent crises of Suez and Hungary marked a renewal of the tensions of the Cold War. . . .

When the summit conference of 1960 collapsed before it had even started, a shudder of apprehension went through the world. A chance for peace seemed to have been lost. . . .

Moreover, many of the arguments advanced on behalf of summit diplomacy were fatuous in the extreme. It was urged that only the heads of state could settle the really intractable disputes. No subordinate, it was said, would dare to abandon the rigid positions of the Cold War. . . .

Many of these contentions were open to serious doubt even before the collapse of the Paris Conference. It is trivial to pretend that problems of the complexity of those which have rent the world for a decade and a half can be solved in a few days by harassed men meeting in the full light of publicity. It cannot be in the interest of the democracies to adopt a style of diplomacy which places such a premium on the authority of a few leaders.

The notion that a series of summit meetings might induce Mr. Khrushchev to forget his demands on Berlin did not do justice to the intelligence of the Soviet dictator. Surely it bordered on the frivolous to suggest that Mr. Khrushchev could be induced to table his demands without noticing it, as it were.

They ensured that nothing of consequence could possibly happen at the summit. If concessions were to be forthcoming, it was certain that Mr. Khrushchev would prefer to make them to the Allies individually than at a summit conference—where they might appear as a response to Western unity.

Finally, the idea that the imminence of a summit meeting places a constraint upon intransigence is not borne out by the record. When heads of state are the principal negotiators, their most effective bargaining device—in some circumstances the only available one—is to stake their prestige in a manner which makes any concession appear as an intolerable loss of face.

The evasion of concreteness, the reliance on personalities, the implication that all problems can be settled with one grand gesture, all these tempt the Soviet leaders to use negotiations to demoralize the West.

During his last two years in office President Eisenhower was at conferences, preparing for or recuperating from good will visits almost constantly. Such a diplomacy may suit a dictatorship or a state which wishes to demoralize its opponents by confusing all issues. It is not conducive to developing constructive long-range policies. It is a useful device to buy time, though at a price which makes it unlikely that the time will be well used.

The difficulties which are "ironed out" are often soluble only because they are inconsequential. But the mere fact that they are settled is taken as a proof of the possibility of "progress." Agreements, rather than contributing to a solution of the real issues, become a means of postponing coming to gripe with them. They do not end the Cold War; they perpetuate it.

Soviet leaders to use meetings of heads of state to demoralize the West. Phrases such as "relaxation of tensions" and "peaceful coexistence" become devices to press extreme demands. The West is invited to accept Soviet proposals or suffer the penalty of a return to the vilifications of the Cold War.

When the primary purpose of summit meetings is thought to be the fostering of abstract good will, they become not a forum for negotiations but a substitute for them; not an expression of a policy but a means of obscuring its absence. The constant international travels of heads of government without a clear program or purpose may be less an expression of statesmanship than a symptom of panic.

GINSBERG ASKS CONGRESS NOT TO RUBBERSTAMP PHASE II ECONOMIC LEGISLATION

Mr. PROXMIRE. Mr. President, on Tuesday, Mr. David Ginsberg testified before the Senate Banking Committee on the President's phase II economic legislation. Mr. Ginsberg was formerly the General Counsel to the Office of Price Administration during World War II. He is a recognized and outstanding authority on price and wage control legislation.

Mr. Ginsberg cautioned the Congress against rubberstamping the sweeping delegation of authority which would be given to the President by the Economic Stabilization Act. This legislation virtually gives the President a blank check without any adequate safeguards or standards. In my opinion, it would be a serious mistake for the Congress to authorize this legislation without having all the facts before it. Unfortunately, we have no way of knowing what the Price Commission or the Pay Board are going to do over the next few months. We have no way of knowing what kind of standards will be issued by the Price Commission and Pay Board; we have no way of knowing how these guidelines will be applied to specific companies or unions; we do not know which companies or segments of the economy will be subject to mandatory wage and price control; we do not know which industries will be exempt from the standards; in short, we

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know virtually nothing about how the program will operate and yet we are being asked to rush the amendments to the Stabilization Act through without the information we need to make an intelligent decision.

During his testimony, Mr. Ginsberg strongly argued that Congress should not extend the Stabilization Act beyond its expiration date of April 30, 1972. If we wait until next spring before extending the act, we will have much more information about how the program is operating, what the problems are and whether any inequities are in need of correction.

Mr. Ginsberg made it quite clear that the President already has enough authority under the existing Economic Stabilization Act to carry out the announced phase II of the economic program. Thus we are under no immediate pressure to pass legislation. The President already has all the authority he needs to implement phase II.

Nonetheless, I believe some interim amendments to the Stabilization Act might be in order prior to April 30 in order to give the President more flexibility in combating inflation. For example, the proposed amendments to the Stabilization Act would authorize the President to control interest rates and dividends as well as prices and wages. While administration spokesmen made it clear that this authority would most likely not be used, there may be some advantage in having it on the books. I believe, therefore, that Congress should pass whatever refinements may be necessary to the Stabilization Act while deferring an extension until next April.

The Congress has surrendered much power to the executive branch in the economic and foreign policy areas. Some witnesses have characterized the Economic Stabilization Act as an economic Tonkin Gulf Resolution. I believe this is a fair and accurate description. It is time that we begin to reassert our constitutional authority in the economic sphere. I, therefore, hope that the Congress will not blindly extend the Stabilization Act for an additional year as requested by the President.

Mr. President, I ask unanimous consent to insert in the RECORD at this point the transcript of Mr. Ginsberg's excellent and well-received testimony before the Senate Banking Committee. I hope that all Senators who are interested in this legislation will carefully read Mr. Ginsberg's remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF MR. DAVID GINSBERG, ATTORNEY AT LAW, WASHINGTON, D.C.

THE CHAIRMAN. I understand you do not have a prepared statement. You may present the case as you see fit. We are glad to welcome you back to the Committee.

Mr. GINSBERG. Thank you very much, Mr. Chairman. Ultimately the Committee must come to legislate and what I plan to do is to consider with you the exact terms and provisions of S. 2712.

I am going to address myself to the bill and go through the bill with you and to indicate areas where I think that the Committee may wish to re-examine the language.

I should say at the outset that this proposed bill calls for more comprehensive restraints and fewer safeguards than any legislation that I have seen come before the Congress.

When I speak of this bill, I mean the Economic Stabilization Act of '70 and these proposed revisions.

In general I find that the revisions are somewhat improvements to the original bill, but on the whole there is less here I think that meets the eye.

Now first as to Section 2. If the members of the Committee have the bill in front of them, they can follow it.

Senator PROXMIRE was just addressing himself to the issue of standards. It is a very fundamental issue that is before this Committee.

As the bill indicates, the President is given the authority to issue such orders and regulations as he may deem appropriate. And that is it. As he may deem appropriate. I am not aware that legislation of this sort has been enacted by this Congress before.

I should say at this point that the legal question of the authority to delegate to the President has just been considered within the last ten days by the Court of Appeals for the District of Columbia circuit. There was a masterful opinion that was handed down by the Court which fully delineates the considerations that are involved here. The opinion has not yet been reported.

I should think it would be of interest to the Committee and I would ask, Mr. Chairman, that it be included in the record at the end of my testimony, so that the text will be available for inspection.

The CHAIRMAN. Do you have the text there?

Mr. GINSBERG. I have it here, and I can hand it to the reporter.

The CHAIRMAN. Was that the Court of Appeals for the District of Columbia?

Mr. GINSBERG. It was a Court of Appeals decision in the Meat Cutters Case. The title is Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO against Connally. The citation of the case, although it is not yet reported, is 448 Fed. 2d, 689, and one of your colleagues, former Senator Gore, was counsel for the Meat Cutters Union.

The CHAIRMAN. That was here in the District?

Mr. GINSBERG. It was here in the District. It was an opinion written by Judge Leventhal, who was the General Counsel for the Office of Price Stabilization and it indicates an awareness of the background and details that will concern this Committee.

The CHAIRMAN. I didn't get the name. It was written by whom?

Mr. GINSBERG. By Judge Leventhal, who was with——

The CHAIRMAN. Oh, yes, I am sure we all remember him.

Mr. GINSBERG. I think the Committee will find it of considerable interest.

The CHAIRMAN. I will say without objection the opinion will be printed in the record.

Mr. GINSBERG. The point that was made by the Court, and I am quoting, "We conclude that the rule of law has been beleagured, but not breached." It went as far as it could be, but somehow we passed a sufficiency here in terms of the law.

My own point, and I would hope this Committee would agree, is that the rule of law should be observed and safeguarded.

Now I have certain specific suggestions to make.

I want to go back to a point that again Senator PROXMIRE made at the beginning. The central issue of uncertainty that persists in the country today is a lack of knowledge as to what the pay board and what the price commission are going to do. These are the central issues. This is the critical point. And this is the uncertainty of which we speak, not the provisions of this legislation, but what those boards are going to do. That is the critical issue.

In these circumstances, I should have thought that the wiser course for this Committee would have been to defer the issue until such time as the Price Commission and the Pay Board have acted, so you would have before you a concrete set of standards which this Committee and the members of the Committee and the Congress could consider, and in their wisdom determine should be incorporated into the law.

I had assumed that this in fact would happen. But I gather from the testimony this morning and from what I read in the papers that the Administration is pressing for immediate enactment of this legislation.

The CHAIRMAN. I wonder if I may ask you a question?

Mr. GINSBERG. Certainly.

The CHAIRMAN. Is there any question as to the legality of the establishment of the boards and commissions and similar entities? Don't you feel that that provision is in here in order to validate what the President has done?

Mr. GINSBERG. I think, Senator, there are major issues of validity that will be involved and that have been involved. Indeed I don't think I am saying——

The CHAIRMAN. The reason I asked that is because you say we ought to wait until they have acted.

Suppose the point is raised that the President did not have the authority?

Mr. GINSBERG. There is no question, Senator, that this Committee would have to act before the expiration of the law. The law remains in effect until April 30 of next year. So that there is no question about the continuing validity of the Act, the regulations and commissions that have been established and so on. The total apparatus remains under existing law without any question, no question of validity on that score, they are supported fully by existing law.

The question is whether, before the law expires, and before this Committee has any awareness of the details of the standards and regulations that these various boards and commissions will announce before too long, I hope, then this Committee, having this data before it, would be able to act with some specificity, would be able to provide a degree of permanency and security for the actions which these boards have taken. This would be my first point.

But I want to move on from there. I assume for the moment that this Committee will determine, in accordance with the Administration's request, that it proceed to the consideration of legislation at this time.

Senator CRANSTON. May I ask a question, Mr. Chairman?

The CHAIRMAN. Yes.

Senator CRANSTON. Is it your feeling that the President has all of the authority he needs to do what he desires to do now without any action by the Congress?

Mr. GINSBERG. The operative word, Senator, is "Now," and the answer unquestionably is yes, he has full authority to proceed at the present time under existing law.

That law will not expire until the end of April next year.

Now then if this Committee decides that it must act, without knowledge of what the standards and guidelines of these boards and commissions will be that they will establish, then I would suggest certainly that the language of Section 202 be modified and that certain standards and criteria be included in the Act, broad standards.

These will not modify his discretion. But, for example, instead of "The President is authorized to issue such orders and regulations as he may deem appropriate," at least insert what was done during war time, "as in his judgment are generally fair and equitable and will accomplish the purposes of this Act." Or alternatively, "as in his judgment

are broadly fair and equitable, will avoid gross inequities, and will accomplish the purposes of this Act." So you tie the findings of the statute into the authorization which is given the President.

Now I have a further point in connection with Section 202, the broad grant of authority to the President.

It is not possible, Mr. Chairman, to have general price and wage controls in this country without a substantial bureaucracy. You can not have price and wage control with a Price Commission with 400 employees, or 3,000 IRS investigators checking the records. You can not put this country into a straightjacket of price control and wage control with an apparatus of that sort. And it was for this reason that I have repeatedly emphasized wherever I can, before the Joint Economic Committee and before Congressman Patman's Committee, that the Congress should begin to make its views clear that selective wage and price control would be highly appropriate in these circumstances.

I see no reason whatever, Mr. Chairman, to control all prices at retail and wholesale. Obviously agricultural commodities will not be included, fishery products should be out, rates which are controlled by the states and the Federal Government, should they also be taken over by the Federal apparatus.

The CHAIRMAN. That question was raised yesterday and we were told it is under consideration.

Mr. GINSBERG. I should hope so.

The CHAIRMAN. And also the question of freedom of the press.

Mr. GINSBERG. Yes. Well, I think that one may have been overdone. I see no reason why the press—

The CHAIRMAN. It was included in the 1942 and '50 Acts.

Mr. GINSBERG. No, it was thought that this would fall under a different standard. I think that there is no reason, Mr. Chairman, to control any price which does not affect the cost of living, or where competition is operating. Wide areas of the economy should be exempt, otherwise this is certain to break down. It cannot succeed with the kind of apparatus that is presently contemplated. Phase 3 then becomes inevitable.

I would provide a procedure here under which industries may apply for exemption on the grounds that they do not meet the statutory criteria for control.

Now, there is another defect in Section 202. All of these issues I am raising are not unknown in my view to the Administration. It is devoid of any requirements for consultation or hearing. There are no hearings which are provided for in this bill, Mr. Chairman. The President may act without hearings, without notice.

Why shouldn't, so far as practicable, the President be required—this will be of course, the price boards—to consult and advice with representative members of the affected groups. We did it in wartime. Why should this requirement be eliminated at this stage? I am at a loss to understand that.

So much for Section 202. Let's move to the problem of delegation. This is in Section 203, the bottom of page 2 of the bill.

Section 3 of this proposed bill amends Section 203 of the Economic Stabilization Act and it validates the authorization of the delegation of power to these several boards and commissions that have been established. And all legal power is placed in one man, the chairman of the board. Yet we have prices being set by seven men who apparently are not exercising legal power in the framework of this law.

It is not conceivable to me that prices, the establishment of prices and the establishment of wages are not in themselves the exercise of a lawful power.

The question I am raising is a very fundamental one. You spoke, Senator, a moment ago, of possible questions of legality. I see major questions of legality here, where legislative power is being delegated essentially to private persons. This in a sense is a form of corporate statism.

This, Senator, you will recall, is the issue that was raised in the NRA cases, in the hot oil cases. It is the delegation of government power, legislative power, to a private group.

I need only recall to this Committee the recent stories regarding the memorandum which was required before labor would agree to serve on the board and which indicated that the Cost of Living Council would in no sense supervise or review the actions of the Pay Board or the Price Commission.

The CHAIRMAN. Were you connected with the Blue Eagle?

Mr. GINSBERG. I arrived at the time the Blue Eagle was dying, Senator, and it is just—I see Senator Taft's name here. It is just thirty years ago that I remember sitting with him, reviewing in great detail exactly the provisions of a law comparable to this one, a law which ultimately we put into effect during wartime.

Now, let me turn now from the problem of delegation of legislative power to private groups, which is a major issue, to the issue of sanctions.

This Committee will understand that if the government is unwilling to establish the necessary organization to enforce the law, assuming that the government desires the law to be obeyed, then some sanction should be provided which will enable that law to be enforced, private sanctions.

There is provision here for willful violations, a criminal fine of $5000 for each violation. There is no question about that. I am not raising any doubts about it. There is a provision for a civil penalty, $2500 for each violation. No problem. But in each case the action must be referred to the Attorney General.

Why don't we exclude in the legislation provision for self-executing sanctions, treble damage suits, as we have in the antitrust laws, or double damage suits as we have in the Fair Labor Standards Act?

I, myself, think, as I have already indicated, that wide areas of the economy should be exempted, subject perhaps to the record-keeping provisions of the law. But if you are going to seek to control prices in these areas it is essential that the law be observed. And to do that it will not be possible to have the Attorney General decide in each case. Suppose he decides not to move. Am I thereby unable to enforce the law?

So I would strongly urge this Committee to consider the possibility of small suits, double damages, treble damages, in the case of businesses, and perhaps also in the case of consumers, a minimum recovery of say $300 or $500, plus reasonable attorneys' fees as determined by the court.

There is a safeguard which was omitted and which I regard as extremely important. I believe this law should include a provision that no person should be held liable for damages or penalties if he acted in good faith on reliance on the regulations or on opinions which were provided to him or if he had reason to believe that the action was not in violation of law. There is no such provision in this. I am at a loss to understand why it was not included.

The CHAIRMAN. Isn't that stretching it pretty far, the general principle of law, that ignorance of the law is no defense?

Mr. GINSBERG. No, Senator. I think where you are seeking to regulate an economy with the breadth you are doing here—Senator, this was done in the case of the Fair Labor Standards Act.

The CHAIRMAN. I would agree on the good faith provision, but when you say when he believes he was not acting in violation of the law——

Mr. GINSBERG. I said "or he had reason to believe"— this is an external standard—"that the action was not in violation of the law." He has the burden of proof of persuading the court or administrator that there was no violation of law.

The CHAIRMAN. Oh, you say he would have the burden of proving that he did not believe.

Mr. GINSBERG. Exactly right. One can go through the bill in great detail.

The CHAIRMAN. Senator Packwood thought you said if he did not violate the law, but I told him if I understood it correctly, you were basing it on his belief that he did not violate the law.

Mr. GINSBERG. On an external standard, that he would have the burden of proof of showing to the Court or to the Administrator that he had a reasonable basis for acting in the way in which he did.

This is exactly the provision I should say that is presently contained in the Fair Labor Standards Act, and that is exactly how the law is administered there, and I think properly.

There is no provision in this law for administrative review. Why it was done, I don't know. But the proposed bill would exempt these procedures from the Administrative Procedure Act.

I am not criticising it, I am simply at a loss to understand it, because if it becomes impracticable to apply the Administrative Procedures Act, the Administrative Procedure Act itself indicates that it need not be used.

So that I raise a serious question as to the absence of any hearings, the exemption from the Administrative Procedure Act, the lack of any requirement on the part of the President for obligating these boards to consult and advise with those that are affected by the regulations.

It is simply a total grant of authority, without hearing, without review, without consultation, to act. I am concerned as to the scope of this grant.

The CHAIRMAN. You would in effect provide an alternative to this?

Mr. GINSBERG. I would hope, Senator, that where it is practicable, that there be hearings before regulations are announced, that people be given an opportunity to be heard, a record be made.

This was done during wartime, it was done twice, it was done during World War II and it was done again during Korea.

But now when we are imposing these controls during peacetime, when presumably we have somewhat greater leisure, somewhat less urgency, these safeguards are all abandoned. This is inexplicable from my viewpoint.

Now on the matters of judicial review. Senator PROXMIRE will recall when I came before the Joint Economic Committee, I strongly urged the establishment of an Emergency Court of Appeals which could hear reviews from actions of the Administrator. This was done. A temporary emergency Court of Appeals was established, so that there is some degree of improvement. But I have various questions which are not answered.

The objective of having a single court of appeals hearing reviews from wherever they may come throughout the country, so there can be a single policy established, a single price policy or wage policy, for the entire country, is certainly commendable, essential.

But what happens in the case of criminal cases? Who then interprets the law? Does it then go to the Emergency Court of Appeals? If there is no such consolidation, such coordination, then of course you will have innumerable interpretations of the same rule throughout the country.

One important fact is that there are no findings. If I can direct the attention of this Committee to Section 207(f) of this bill, the top of page 8 of the bill, it reads as follows

in the present draft: "No regulations of any agency exercising authority under this title should be enjoined to set aside in whole or in part unless a final judgment determines that the issuance of such regulations was in excess of the agency's authority or was arbitrary or capricious."

The lawyers on the Committee will find this familiar language.

Then this sentence: "No order of such agency shall be enjoined or set aside in whole or in part unless a final judgment determines that such order is based upon facts which are not supported by substantial evidence."

I have not seen language of this sort in any legislation. Facts which are not supported by substantial evidence.

Now the Committee, Senator Sparkman, will recall that all of the conventional statutes which we have had in the field of labor and other fields call for findings which are not supported by substantial evidence. But the draftsmen of this bill, not having provided for findings, used another word and called it facts which are not supported by substantial evidence, and I simply do not understand what this means.

Indeed I question whether there is any rational meaning to this formulation.

Now then there is another provision right in the next subsection, in section (g). You will notice the last sentence is: "The injunction may be issued by the Temporary Emergency Court of Appeals upon appeal or after hearing upon recommendation of a District Court or Judge." It is that language "upon recommendation of a District Court or Judge," about which I simply raise a question with you for further consideration. This means, if I understand it correctly, that unless a District Judge recommends it, neither the Temporary Court of Appeals nor the Supreme Court may act. It is again a provision of the law which is hardly explicable.

There is one other provision and then we can open for questions if there are any, the ratification provision.

I direct the attention of the Committee to Section 213 on page 18, the bottom of the page, under which everything that has been done so far by these various boards and commissions, regulations, guidelines, interpretations and so on, are all validated.

This again hardly is to be justified. What this really means is that the Congress, without knowing what action it is taking or what action it is seeking to validate, has approved all that has gone before.

I can assure this Committee that there are dozens of lawsuits in preparation throughout the country which challenge the actions which have been taken.

At the most I should suppose—and this was done both in World War II and in Korea—the previous actions are subjected to the standards and safeguards of this law which is enacted, to be enacted. But they are not simply validated out of hand, without knowledge on the part of this Committee or the Congress of what it is acting on.

One could go through this draft in greater detail, but this raises some of the major issues. I would hope that before this Committee reports out this bill some of these issues be attended to with case.

(The opinion submitted by Mr. Ginsberg follows.)

The CHAIRMAN. Thank you very much. Certainly you have made some thought-provoking suggestions and we do have respect for the experience that you have had in this field.

There is one thing I want to ask you though. You seem to advocate selective controls. As a matter of fact, I believe most of those that have objected to this—I may be wrong in this—have felt we ought to have general across-the-board controls, as we had in World War II and in Korea.

Mr. GINSBERG. It gets down to the technical language, Senator, of the economists. If you are dealing with a demand pool inflation, where there is an excess of purchasing power throughout the country—

The CHAIRMAN. As was the case in both of the previous instances.

Mr. GINSBERG. As was the case in both previous instances, then surely we must all be advocates of general controls. But where you have got five or six million unemployed, and where the economy is operating at about 75 percent of capacity, I should think that the only controls that were warranted are those where there are rigidities in the system, where competition is not really operating, and the controls are made effective in those areas.

And besides that, if an Administration is committed against the notion of establishing the necessary framework for organization, then all you do by establishing these broad general controls is induce a habit of violation and you get people into the notion that it really doesn't make much difference whether you charge the exact price, or a little bit more and so on.

So that it is far better to make the mistake of narrowing the controls at the outset than it is to broaden them and engender this habit of violation which I think would be fatal.

The CHAIRMAN. I want to make it clear, I was not intending to suggest by my question that we have across-the-board controls, I am not in favor of that. I lived through the '42 Act, I was deeply involved in the enactment of the Korean Act. And I don't want to go through that experience any more. I am sure the country doesn't want to go through the administration of any such act as either of those.

Let me ask you one last question. Have you discussed these matters with the Treasury Department, the Department of Justice?

We had a gentleman here from the Department of Justice yesterday, Mr. Gray, and apparently he was the one that headed up the work on the part of the Department of Justice on this. Of course the Secretary of Treasury has been quite active in it, and he was represented here yesterday by the Under Secretary.

Have you discussed this with any of them?

Mr. GINSBERG. No, Senator, I have made my views available to certain members of the Administration, but not to the people who are immediately concerned with the drafting of this legislation. I have not been in contact with them.

The CHAIRMAN. I wonder if it might not be well for you to do so?

Senator PROXMIRE. Could I suggest, if the Chairman would yield, that we send to the Department of Justice and perhaps the Treasury Department, the testimony that we had this morning from Mr. Ginsberg and ask them to comment on it? Would that be acceptable?

The CHAIRMAN. I see no objection to it. I don't want us to get in the habit of trying to send all of the conflicting views down there.

Senator PROXMIRE. No, but I think this is extraordinary testimony.

The CHAIRMAN. I agree with you. And if there is no objection, we will do that.

Senator Proxmire?

Senator PROXMIRE. I want to commend you, Mr. Ginsberg, on your testimony. This is the second time you have testified in this general area. You have testified before the Joint Economic Committee, we had five solid weeks of hearings, as you know, on the new economic program, and no one in my view did a more competent or impressive job than you did.

I think your testimony this morning, while much briefer, is of equal importance. It is most significant and I am so happy you have come here. I think you have served the Committee extraordinarily well, with your background from World War II and the Korean War, as General Counsel of OPA, obviously you know what you are talking about.

I am going to be very brief, because the hour is late. I would like to ask you about the answer we got from Mr. Gray on the exemption from the Administrative Procedure Act.

As I recall, and I may be unfair to him, his principal reason for not relying on this Act was the matter of time. He felt if you tied this up in hearings, if you had to go through this procedure, you have great complexity and delay and confusion and you wouldn't have the kind of clear-cut operation that you have with this exemption.

What is your response to that?

Mr. GINSBERG. My answer would be that there may very well be cases, Senator, where it is impracticable to use the provisions of the Administrative Procedure Act, but the Act itself anticipates his possibility and if a finding is made that it is impracticable to use it, then that is it, and you may go forward and act.

But there are vast areas of action where more mature reflection is necessary, where consultation is desirable, where hearings are useful, where the Act can be used. So that subject again to the views of those who are actually working with this problem, I don't really understand why the Administrative Procedure Act is not made applicable.

Senator PROXMIRE. The Administrative Procedure Act contains its own remedy?

Mr. GINSBERG. It does, indeed.

Senator PROXMIRE. To take care of the time factor.

Mr. GINSBERG. Yes.

The CHAIRMAN. Would the Senator yield?

Senator PROXMIRE. Yes, sir.

The CHAIRMAN. Why not, as you suggested a minute ago, instead of placing it under the Administrative Procedure Act, set up an alternative plan along the lines you suggested, saying that hearings when requested may be held, and consultation be had and those things that you mention?

Mr. GINSBERG. I see no reason whatever, Senator. It can be done. It has been done before. The patterns are there. Consultation is simple, groups should be consulted if they are affected by these regulations and if it is impracticable, then it can't be done and the law should specifically anticipate that.

But there are the two ways, as Senator Sparkman indicated.

The CHAIRMAN. It seems to me that the Administrative Procedure Act is rather involved, it has many features to do, and if we could—I am just throwing this out as a suggestion—let it stand as it is—

Mr. GINSBERG. I would be satisfied either way.

The CHAIRMAN. But that these things we mentioned should be part of it.

Mr. GINSBERG. I think it could be done, Senator, and I see no reason why it shouldn't be done, either in this statute or incorporated by reference to the Administrative Procedure Act. But one or the other surely should be done.

The CHAIRMAN. Yes.

Senator Proxmire?

Senator PROXMIRE. You criticize the provision on page 2, line 7, "The President is authorized to issue such orders and regulations as he may deem appropriate," with virtually no restraints. And you suggested standards, you gave us two alternatives. Is this all you have in mind, or would you go further than that? Would you provide that it would be necessary to—for example, not in this part of the bill but anywhere in the bill that the standards for wage increases, for example, be related to productivity increases, plus consideration of cost of living, or do you think that it is unwise to get into that detailed a standard?

Mr. GINSBERG. It was for this reason, Senator, that my first point really is we should wait, or this Committee would be well-advised to wait to consider what it was the pay board and the price commission did. They will develop, I am certain, standards of the kind to which you refer. I think it would be unwise for this Committee to try to write into law, without the kind of consultation with those groups, or really to try to do the work of the Price Commission and the Pay Board.

So that my own recommendation would be to have more general standards in this law, and allow them to be developed, but consistent with these more general standards, which I do believe are important.

Senator PROXMIRE. That brings me to my final point, and this is the point I have been trying to make with every witness, and I feel very, very strongly about it. I have talked to the leadership and others about it. I don't know how the Chairman feels about it, but I am inclined to accept with great enthusiasm your suggestion that we see what happens before we make a final definitive action and extend this for a year.

On the other hand, there may be some legislation that is desirable right now, so they can have an effective Phase 2 at the beginning, without extending the law.

How would you feel about our providing some additional coverage, for example, the interest and dividend coverage that was requested, a request for some judicial review, something of that kind, some of these requirements that they have to have, but not extend the law until we have an opportunity—after all, it doesn't expire until April 30, we have a long, long time—until we see how it will operate?

Mr. GINSBERG. I would strongly urge this be done by the Committee. I think you would be well-advised to consider this in a more mature fashion, and not be pushed into action before all of the facts are before you.

And I think the critical facts would be the proposed actions of the Pay Board and the Price Commission in terms of their guidelines and standards.

With those before you, you will have the kind of standards which really should be embodied in the law.

Senator PROXMIRE. The one objection we have gotten to that, from both Mr. Walker and Chairman Burns, is this would engender increased uncertainty on the part of the business community and the public and it would inhibit the operation of Phase 2, if we don't give the President all of this authority promptly, in the next month or so.

Mr. GINSBERG. Yes, I heard the testimony, and I respect Chairman Burns and his views. My own feeling has been and as I indicated before, that the uncertainty that exists at the present time is not the uncertainty of Presidential power, but the uncertainty of what the Pay Board and what the Price Commission are going to do. And the fundamental uncertainty is whether wages will be effectively controlled or whether prices will be more effectively controlled than wages. This is the critical issue.

I don't think that issue is affected by the extention of the authority under this law. So that I think I can understand the market uncertainty, for example, but it is an uncertainty that derives not from any action of the Congress, but from the actions of these Boards and Commissions.

Senator PROXMIRE. Thank you.

The CHAIRMAN. Senator Cranston?

Senator CRANSTON. I want to join my fellow Senators in expressing admiration and appreciation for your testimony. It was very, very constructive and helpful.

Is there any clear-cut and satisfactory definition of the word "impracticable" insofar as its use in the Administrative Procedure Act is concerned?

Mr. GINSBERG. No, Senator, not that I would myself recommend. I think that administrators are generally responsible, and any administrator that makes a decision to forego hearings, and decide that it is impracticable, ultimately must defend that position. He will be challenged. And it can even be challenged in the court; if he acted arbitrarily and capriciously, I think there would be a basis for going into court and saying he wasn't acting in good faith.

So that I think there is a self-operating limitation here.

Senator CRANSTON. In regard to the civil actions that you suggest we give consideration to, are you thinking of them in terms of being brought in state or Federal courts or both?

Mr. GINSBERG. Yes. The question is a very good one. I wrestled with that one. I think that actions by purchasers who are buying and selling in the ordinary course of business should be free to go into the Federal courts only. But consumers, if we have any controls at the consumer level, which we are seeking to enforce—and I would hope as I indicated that they be avoided—but if a consumer remedy is given, then I strongly urge the remedy be made available in the state courts as well as in the Federal courts, so that enforcement could be local.

This was done, by the way, in World War II.

Senator CRANSTON. Do you suggest limits on the damages?

Mr. GINSBERG. Yes, I would suggest either double or treble damages or say $500, whichever is more.

Senator CRANSTON. Do you have any concern that the courts already so heavily burdened and so far behind in their work, could handle the work, could handle the workload that may come to them under this?

Mr. GINSBERG. I am concerned about that. And it is partly for that reason, too, Senator, that I have urged throughout this period that we narrow the scope of controls, so as to not create a climate of violation, nor to burden the courts unduly.

Senator CRANSTON. Could a program of appointing special commissioners expert in this field by the courts be a solution to that problem?

Mr. GINSBERG. I think it is a partial solution, but finding the people, arranging for their compensation and training them is a very difficult thing. We used voluntary boards during World War II, and it was often a very difficult thing to develop and to handle fairly.

Senator CRANSTON. Thank you very much. That is all I have, Mr. Chairman.

The CHAIRMAN. Thank you very much. We do appreciate your coming.

Let me announce the witnesses for tomorrow.

Mr. Leon Keyserling, testifying on behalf of the National Realty Commission.

Mr. Robert Frase, testifying on behalf of the Association of American Publishers.

Mr. William E. Dunn, on behalf of the Association of General Contractors.

Professor Arthur Miller, law professor from George Washington University.

Mr. Milton Carrow, Chairman of the Administrative Committee, American Bar Association.

The Committee stands in recess until ten o'clock tomorrow morning.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CONSUMER PRODUCTS WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

The PRESIDENT pro tempore. Pursuant to the previous order, the Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDENT pro tempore. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendment in the nature of a substitute be agreed to and that the bill as thus amended be treated as original text for the purpose of further amendment.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection, and it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. HRUSKA. Mr. President, I ask unanimous consent that Peter Chumbris, a member of the staff of the Committee on the Judiciary, be allowed the privilege of the floor during the consideration of S. 986.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, this is a very important bill. It has been the subject of long hearings with not only the administration involved, but also with the Federal Trade Commission, Members of the House, and others. This act has been a long time coming.

As I will demonstrate, we have had other acts going back to 1965 and the bill we bring up today culminates many acts, conferences, hearings, and committee recommendations that have been made in years past.

Today we will consider S. 986, the Consumer Product Warranties and Federal Trade Commission Improvement Act of 1971. This act has been long in coming, and now we will be making that important step to protect the public and business from the recriminations, and hard feelings which have surrounded the issuance of warranties.

CONSUMER PRODUCT WARRANTIES

For many years warranties have confused and misled American consumers. A warranty is a complicated legal document whose full essence lies buried in myriads of reported legal decisions and in complicated State codes of commercial law. The consumers' understanding of what a warranty on a particular product means to him may not always coincide with the legal meaning.

I need not point out to anyone who buys in the American market the pages of fine print that seem to show a distinct question of warranty in the original contract. It is a complicated legal document and more than usual it coincides with the legal meaning.

Because of certain complaints by consumers in the automobile warranty area, the Federal Trade Commission instituted a field investigation in 1965 to see if there was a significant failure of performance on the part of the automobile

manufacturers to live up to their warranty promises.

While the Federal Trade Commission investigation was being conducted, Senator Hayden and I introduced late in 1967 warranty legislation covering automobiles and appliances. These bills required suppliers to disclose clearly and conspicuously the terms of their warranties. No action was taken on them in the 90th Congress.

In response to the proposed warranty legislation and as an extension of its initial investigative effort the Federal Trade Commission asked its staff to prepare a comprehensive report on automobile warranty practices. That report, published in October 1968, concluded that—

Performance of manufacturers and dealers under the warranty has not achieved the levels implied by the warranty, and failure to perform up to warranted standards has been encountered in the manufacture and preparation of cars for delivery to consumers.

The report went on to conclude that—

In servicing under the warranty an excessive amount of service does not meet the standards of consumer acceptability, and replacement of cars which have revealed serious malfunctions and which can not be repaired by the dealer is infrequent.

While the Federal Trade Commission worked on the automobile warranty problem, in October 1969, Senator Moss and I introduced the Consumer Products Guaranty Act (S. 3074).

Initial hearings on S. 3074 were held in late January 1970. At that time the Federal Trade Commission promised to submit its report on the automobile warranty problem soon; and the Task Force on Appliance Warranties and Services said it would report to the committee in March.

That report was published in October 1968, and indicated in many cases that performance of manufacturers and dealers was not up to the level implied by the warranty.

On February 19, 1970, the Federal Trade Commission issued its automobile warranty report which advocated Federal legislation to solve the problems related to automobile warranties and service. The Commission proposed enactment of "a new and comprehensive Automobile Quality Control Act, which would give statutory recognition to the public utility obligations of automobile manufacturers and provide for minimum standards of quality, durability, and performance of new automobiles on manufacturers to provide consumers with defect-free automobiles in compliance with such standards and to repair defective automobiles and automobile parts which do not conform to such standards." In short, the Commission advocated the creation of a mandatory statutory warranty.

In March the administration testified to the need for Federal warranty legislation covering a wide range of consumer products, going beyond the automobile warranty. After careful study the Senate Commerce Committee amended the Magnuson-Moss bill to incorporate certain constructive suggestions of the administration, industry, and consumer witnesses and ordered S. 3074 reported. The reported bill was passed by the Senate unanimously on July 1, 1970, and although the House held hearings on S. 3074 and related bills, no action was taken by the House prior to the adjournment of the 91st Congress.

With the reintroduction of the "Consumer Products Warranties and Federal Trade Commission Improvements Acts of 1971" (S. 986), the bill before us now, the committee again held hearings on the warranty and Federal Trade Commission reform proposals. And following intensive executive consideration—many days and many meetings—of S. 986, the committee ordered it reported.

The President in his Consumer Message of February 24, 1971 in outlining proposals designed to provide a "buyer's bill of rights" indicated that he would propose a "Fair Warranty Disclosure Act" to provide for clearer warranties and prohibit the use of deceptive warranties. The proposed "Fair Warranty Disclosure Act of 1971," submitted by the administration was introduced by me on March 12, 1971 by request.

The warranty provisions of S. 986, the bill before us, are designed to meet four basic needs: first, the need for consumer understanding, second, the need for minimum warranty protection for consumers, third, the need for assurance of warranty performance, which is very important, and fourth, the need for better product reliability.

I might just say here that I have no doubt that most of the manufacturers in the United States do want to comply with the last part of this proposal; in other words, they want a manufactured product that has better product reliability.

In the first place, the bill is designed to promote consumer understanding. Far too frequently, suppliers of consumer products fail to communicate to the consumer what, in fact, they are offering him in that small piece of paper proudly labeled "warranty."

The consumer really does not know what to expect from the warranty offered. Whom should he notify if his product stops working during the warranty period? What are his responsibilities after notification? How soon can he expect a fair replacement? Will repair or replacement cost him anything? There is a great need to generate consumer understanding by clearly and conspicuously disclosing the terms and conditions of the warranty and by telling the consumer what to do if his guaranteed product becomes defective or malfunctions.

There is also a need to insure consumers certain basic protection when they purchase consumer products which have written warranties. Normally when goods are sold, the law provides that certain warranties by implication accompany the sale of these goods. That is a basic principle of law. For example, the law implies a warranty of fitness for ordinary use or, where the seller knows that the goods are to be used by the buyer for a particular purpose, the law implies a warranty of fitness for a particular purpose. For example, if you buy a washing machine, it is supposed to clean clothes. The law allows the seller to disclaim his implied warranties only by using such words as "as is" or "without fault" or by disclaiming the implied warranties when issuing an express warranty. These rules do no injustice to commercial buyers who are sophisticated in the ways of the marketplace and can judge the import of the express warranty and the implication of the disclaimer of the implied warranty. Unfortunately, the ordinary purchaser of consumer products does not know the meaning of words in an express warranty which state, for example, "this warranty is in lieu of any other express warranties or the implied warranties of merchantability or fitness." Many warranties use those words. In this situation a consumer's rights may, without his knowledge, well be limited rather than expanded when a supplier of consumer products gives him a piece of paper with a bold claim of warranty written across the top. Therefore, there is a need to prohibit the disclaimer of implied warranties when a supplier of consumer products guarantees his products in writing.

In the marketplace today many warranties which promote consumer understanding and honor the implied warranties are, nevertheless, unsatisfactory because the warrantor does not live up to the promises he has made. There is no practical way to enforce these warranties except through the courts—a process which is prohibitively expensive for most consumers. But economic sanction can be a very effective enforcement tool. If warrantors who did not perform as promised suffered direct economic detriment, they would have strong incentives to perform as promised. Therefore, there is a need to insure warrantor performance by monetarily penalizing the warrantor for nonperformance—and awarding that penalty to the consumer as compensation for his loss. One way to effectively meet this need is to provide reasonable attorney fees and court costs to successful consumer litigants, thus making consumer resort to the courts feasible. Such feasible court action would also encourage suppliers to develop workable informal dispute settlement procedures for the expeditious settlement of consumer complaints—and this bill provides for that in a fair way.

In final analysis, many—I say most—warranty problems could be cured if products were made sufficiently reliable to last the length of the warranty period and beyond. Thus, there is a basic need to stimulate better product design and quality control for the production of more reliable products. One way of accomplishing this is by making it economically rewarding for producers of consumer products to build reliability into their products.

Under present marketing conditions the consumer has available to him little or no information about the product reliability potential of any consumer product he buys. He can not look to the length of the warranty period as a possible indicator of product reliability because variance in warranty terms and performance permits producers of less reliable products to compete on ostensibility the same terms of duration as producers of more reliable products. Both producers may use the rubric "warranty" and offer identical duration periods, but one producer might warrant parts only and require the consumer to mail the product to the plant while the other producer might provide for repair without charge and fix the product in the home. Only when the rules of the warranty game are clarified so that the consumer can look to the warranty duration of a guaranteed product as an indicator of product reliability—because all costs of breakdown have been internationalized—will consumers be able to differentiate on the basis of price between reliable and less reliable products. Such differentiation should produce economic rewards from increased sales and reduced service costs for the producer of the more reliable products. I say again, I think most manufacturers want to be in that category.

Before the duration of a warranty can become a useful comparative gauge of product reliability, it is necessary to clearly designate for the consumer whether the warrantor of the product is willing to assume all costs connected with the repair or replacement of the warranted product and whether he is willing to absorb all consumer costs incidental to any failure to live up to the promises of free and timely repair or replacement. Only a warrantor giving this type of "full" warranty is in a position to increase his profit by making product reliability or service capability improvements. And to the extent that consumer choice in the marketplace is guided by the desire for reliable products as measured by the duration of the warranty, there is incentive for a supplier of a consumer product to offer a full warranty of long duration. Therefore, there is a need to identify for the consumer which products are fully warranted and to create standards for "full" warranty.

FEDERAL TRADE COMMISSION IMPROVEMENTS

The other part of the act has a long history.

In 1938 the Wheeler-Lea Trade Commission Act expanded the powers of the Federal Trade Commission to cover "unfair or deceptive acts or practices in commerce."

This goes back to the time when the distinguished former Senator from Montana, Mr. Wheeler, was chairman of the Senate Committee on Interstate and Foreign Commerce, and Mr. Lea of California, a long time Member of the House of Representatives, was chairman of the counterpart House committee. The two of them, in 1938, got together and introduced this bill.

The purpose of this expanded authority, in the words of the House Committee report, was to make "the consumer, who may be injured by an unfair trade practice, of equal concern, before the law, with the merchant or manufacturer injured by the unfair methods of a dishonest competitor."

That is a part of the matter before us, too. Congress, however, did not accompany this broad grant of authority with a concomitant expansion of the Commissions' powers of enforcement, except in the limited arena of food, drug, and cosmetic advertising.

Thus the sole enforcement weapon available to the FTC to police the vast majority of consumer frauds and cheats has been the cease-and-desist order. Even in 1938, a minority of the House committee reporting the Wheeler-Lea Act recognized and decried the inadequacy of such a limited enforcement power. I quote from a part of their report. They voted for the bill, but they did not think, even then, that it went far enough.

Unless the disseminator of a false advertisement knows at the time of the dissemination that he may at some time in the future be held accountable by a criminal or civil penalty action for the unlawful dissemination, he will not be deterred from such dissemination. It is just this deterring effect that is lacking when dependence is placed upon cease-and-desist order for enforcement.

Their fears proved well-founded. Each subsequent decade has brought forth indictments of the FTC's incapacity to enforce section 5(a)(1) of the Federal Trade Commission Act, the original act.

In the 90th Congress, I introduced and the Senate passed S. 3065, known as the Deceptive Sales Act, to give the FTC authority to seek preliminary injunctions to bring unfair or deceptive practices to a halt. The House did not act on that bill. This legislation was reintroduced in substantially identical form in the 91st Congress, in May 1969, by the Consumer Subcommittee chairman, Mr. Moss and myself as S. 2446.

On October 31, 1969, President Nixon, in his consumer message to Congress called for "expanded powers for a revitalized Federal Trade Commission, to enable it to protect consumers promptly and effectively." The administration's Consumer Protection Act of 1969 was introduced for the administration by Senators BAKER, GRIFFIN, PROUTY, SCOTT, and myself as S. 3201, on December 3, 1969.

We waited a long time to get that act and it was late in the session when we introduced it. It had not come up, despite the rhetoric of the consumers' message a long time earlier.

The Consumer Subcommittee commenced its hearings shortly after introduction of S. 3201, receiving the testimony of Mrs. Knauer, the Consumer Adviser to the President, and Assistant Attorney General McLaren on behalf of the administration. The subcommittee also sought the benefit of the experience of each member of the FTC individually.

Commissioner Philip Elman, in testimony before the committee, explained how the FTC's regulatory anemia was related to its dependence upon cease-and-desist order:

As to most products and services offered to the public, principal protection for the consumer is left to the Federal Trade Commission and its limited power to prohibit unfair and deceptive practices solely through issuance of orders to cease and desist having only a prospective effect. Unless and until an order based on past violations is issued, no penalties, criminal or civil, can be imposed for practices that violate the law, no matter how flagrant and harmful to the public.

He goes on to say this—and most of the commission testified to the same thing. I just quote this as typical testimony from the commission.

And even as to respondents under order, they are subject to civil penalties only if violations of the order are proved in a new, separate proceeding brought by the Attorney General in a federal court. Finally, while injured consumers are given a private right of action under a few statutes (e.g., the Consumer Credit Protection Act), no recovery of damages may be had under the FTC Act even when they result from unfair and deceptive practices which violate an outstanding order to cease and desist. And Commissioner Mary Gardiner Jones strongly concurred:

"What we need are stronger sanctions. A cease-and-desist order is not enough to create the kind of deterrent that one needs so that in fact business will police itself, because no agency, State or Federal, can police violations of law. What you depend on is for the community to police itself. But in order for a community to police itself, you have to have effective sanctions."

Burgeoning public impatience with the commission in the consumer-conscious 1960's—fueled by revelations of bureaucratic ineptitude and consumer neglect—led President Nixon in April 1969, to seek from the American Bar Association a "professional appraisal of the present efforts of the FTC in the field of consumer protection." The ABA responded with a landmark study performed by a special commission under the chairmanship of Miles W. Kirkpatrick. Among other things, the Kirkpatrick Commission concluded:

We believe that effective law enforcement in this area requires the creation of new procedural devises, including a right in the FTC, in appropriate situations, to seek preliminary injunctions against deceptive practices, and some form of private relief for or on behalf of consumers injured by such practices.

FTC Chairman Caspar Weinberger, who had taken the reins of the Commission at the moment in its 50-year history when it had reached its nadir in public esteem and confidence, on behalf of a unanimous Commission, sought new powers from Congress. In addition to authority to obtain preliminary injunctions, Chairman Weinberger asked for: First, a clarification of the Commission's rulemaking authority—this is a bone of contention in this bill; second, authority to assess civil penalties for existing violations of law; third, authority to assess civil penalties for violations of existing Commission orders; and fourth, authority to award damages to consumers injured by acts or practices found by the Commission to violate the law.

Chairman Weinberger told the committee that:

These provisions represent extremely important proposals, the enactment of which will enable the Commission to give the country's consumers the protection from unfair and deceptive practices to which they are entitled.

And support for such amendments was restated by the new Chairman, Miles W. Kirkpatrick—who conducted the Bar Association study and is now the Chairman of the Federal Trade Commission—in March 1971.

Because of the unanimity of opinion regarding the need for some Federal Trade Commission improvements and because of the urgency of that need, the Senate Commerce Committee reported a bill—S. 3201—to the Senate floor late in the second session of the 91st Congress. When that bill failed to receive floor action, Senator Moss and I pledged

to renew our efforts to improve the Federal Trade Commission in the 92d Congress.

Therefore, we decided to combine the FTC reforms with the warranty legislation, which are related to one another in terms of purpose—in goals and objectives—and which we feel essential for balanced protection of the consumer by the Federal Trade Commission. Thus, title I of S. 3201 was joined with S. 3074 to form S. 986, the Consumer Products Warranties and Federal Trade Commission Improvements Act of 1971, which is now before the Senate.

BRIEF DESCRIPTION

Title I of S. 986 requires the supplier of a consumer product costing more than $5 who chooses to warrant in writing—and I want to place special emphasis on the word "chooses." No manufacturer needs to warrant anything; but if he does put a warranty on it, this title applies.

I repeat: Title I of S. 986 requires the supplier of a consumer product costing more than $5 who chooses to warrant in writing that product to clearly and conspicuously disclose the contents of that warranty and to designate the warranty as either a "full" warranty in compliance with Federal standards, or to designate the warranty using words which indicate the specific limitation. This is often done. Title I would prohibit a supplier offering a warranty in writing from disclaiming his implied warranties. In other words, the present practice of using very limited express warranties to reduce consumer rights which would have been avilable for the disclaimer of implied warranties is proscribed in title I of S. 986.

If a supplier fails to honors his warranty or service contract promises, the consumer can avail himself of certain specified remedies. If that supplier has provided a bona fide informal dispute settlement mechanism by which disputes between suppliers and consumers are to be resolved, then the consumer would have to utilize that informal dispute settlement mechanism before pursuing other avenues of redress. If a supplier does not have an informal dispute settlement mechanism for resolving consumer complaints, or if the consumer is not satisfied with the results obtained in any informal dispute settlement proceeding, the consumer can pursue his legal remedies in a court of competent jurisdiction, having afforded the supplier a reasonable opportunity to cure the breach. Such pursuit is made economically feasible by the provision in the bill which awards reasonable attorney fees—based upon actual time expended—and court costs to any successful consumer litigant. In addition to private consumer remedies, the bill provides that any violation of title I is a violation of the Federal Trade Commission Act and allows the Federal Trade Commission or the Attorney General to seek preliminary injunctions against persons violating such provisions.

I admit that this is a controversial section of the bill, and an amendment will be offered either to knock out title I or to amend it, on which there will be a vote on Monday, as I understand, excuse me, title II is where there is the controversy.

Mr. COOK. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COOK. Did the Senator say that there was a controversy relative to title I?

Mr. MAGNUSON. Yes, but I meant title II. There will be some amendments. I do not know what they are. I do not think title I is a subject of the controversial matters the Senator is talking about.

Mr. COOK. No. I was going to say—because relative to the——

Mr. MAGNUSON. I heard that some amendments may be of a technical nature to title I, but title II the matter I am coming to now, is the one the Senator is concerned with.

Mr. COOK. All right. For the record, I might say that the Senator would agree that the language presently contained in title I, the Senator from Washington and this junior Senator from Kentucky are totally in agreement on.

Mr. MAGNUSON. Yes, that is good. Yes.

Title II of S. 986 would authorize the Federal Trade Commission to seek a preliminary injunction or a temporary restraining order against parties committing acts or practices which are unfair or deceptive to consumers. Title II would also authorize the Commission to assess civil penalties—up to $10,000 per violation—against those suppliers of consumer products who knowingly commit unfair or deceptive acts or practices in violation of section 5(a)(1) of the Federal Trade Commission Act. Such penalties—and I want to *stress* this—could be compromised, mitigated, or settled if the Commission provided a public statement of its reasons for such action and the court approved the compromise, mitigation, or settlement.

In order to redress consumer injury resulting from violations of the Federal Trade Commission Act, the Commission is authorized to initiate civil actions in the district court seeking reasonable and appropriate consumer redress. Such action could include such things as recission, reformation, refunding of money, or return of property, among others.

Title II of S. 986 also expands the Federal Trade Commission's jurisdiction beyond activities in interstate commerce to those acts or practices affecting interstate commerce. And the Commission is authorized in title II to act through its own attorneys to seek civil penalties against persons knowingly—and I underline the word "knowingly"—violating the Federal Trade Commission Act or against those persons failing to comply with an order of the Commission.

Finally, title II of S. 986 authorizes the Commission to define with specificity through legislative rules those acts or practices which are unfair or deceptive to consumers and in violation of section 5(a)(1) of the Federal Trade Commission Act. In promulgating legislative rules which would have the force and effect of law—and I say again, this is one of the controversies involved—the Commission would publish an order of proposed rulemaking stating with particularity the reason for the rule. It would then allow interested parties 30 days to comment on the proposed rule in writing or in an agency hearing and it would make all such comments publicly available. After receiving these initial comments, the Commission would allow its staff and other interested persons an opportunity to respond within a designated period of time to the comments initially received. These responses would, likewise, be made public. If on the basis of the record so compiled there were a disparity of views concerning material facts, the Commission would proceed to an agency hearing in accordance with the provisions of sections 556 and 557 of title 5 of the United States Code, and any cross-examination allowed could be limited as to scope and subject matter. Having proceeded in accordance with these requirements, the Commission would then be in a position to promulgate a final rule based upon the record so compiled.

After the Commission had promulgated a rule, it would send the rule and accompanying brief to Congress. If within 60 days neither House nor Senate passed a resolution disapproving the rule, the rule would become effective.

Customary preenforcement judicial review would be available during the congressional review process and for a period of 10 days following the expiration of the congressional review period. Whether or not preenforcement judicial review were sought, judicial review of a legislative rule would be allowed in any enforcement proceeding in which that rule was applied to prove that section 5(a)(1) of the Federal Trade Commission Act has been violated.

Nothing in the bill would disturb the present exemptions from Federal Trade Commission jurisdiction contained in section 5(a)(6) including the exemptions for banks contained in that section.

Mr. President, finally, it is the purpose of the bill to improve the consumer's position in the marketplace by making the Federal agency responsible for his economic well-being more effective, and by delineating with specificity the duties which suppliers of consumer products assume when offering warranties or products.

In addition, it is the purpose of the bill to improve the consumer's position in the marketplace by enabling him to make more informed product choices, and by making it economically feasible for him to pursue his own remedy with suppliers of consumer products who breach their voluntarily assumed warranties or service contract obligations.

This goes on every day in this country, every place, everywhere.

As to title I of the bill, as I mentioned, regarding suppliers of consumer products, we used the figure of $5. That was subject to considerable discussion in the committee as to whether it should be a little more or not have the $5 in at all on any product. But we try to be practical about these bills, and that seemed to be the best judgment of the committee.

The rest of the matters which I have here go into more detail about the discussions of title I and title II.

Mr. President, I ask unanimous consent to have printed in the RECORD the section-by-section analysis which is contained beginning on page 10 of the report of the Committee on Commerce.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

TITLE I

Definitions (Section 101)

(1) As used in Title I, "Commission" means the Federal Trade Commission.

(2) The term "consumer product" is defined in paragraph (2) of section 101. A consumer product is personal property, not real property; and it is tangible personal property. Furthermore, to qualify as a consumer product the tangible personal property must *normally* be used for either personal purposes, or family purposes, or household purposes.

There are many products which are used both for personal and business purposes. A typewriter, for example, is clearly a consumer product when it is used in the home by members of the family. In many situations, however, typewriters are purchased by businessmen for use solely in their establishment. To the extent that there is any necessary ambiguity in the term "consumer product", the ambiguity should be resolved in favor of coverage. Personal or family use of a typewriter is normal; therefore, for the purposes of this title, a typewriter would be considered a "consumer product". Of course, the Federal Trade Commission could exempt a warrantor from the disclosure and labeling provisions of the bill to the extent that he sells consumer products to consumers for use in their businesses.

The term "consumer product" is also defined to include property intended to be attached to, or installed in, real property without regard to whether it is so attached or installed. An appliance which became attached to or became installed in real property might no longer be considered "tangible personal property" because the appliance, having become a fixture, might be characterized as real property rather than personal property. The definition of "consumer product" insures the coverage of a fixture normally used for personal, family, or household purposes no matter what its legal characterization as real or personal property would be.

The operative effect of the term "consumer product" is limited in paragraph (2) of section 101 by language which states that "the provision affecting consumer products in sections 102 and 103 of this title shall apply only to consumer products actually costing the purchaser more than $5 each." This language has the effect of excluding products actually costing the consumer $5 or less from the disclosure and designation requirements of title I. However, any excluded consumer products remain subject to the provisions of the Federal Trade Commission Act and, if they are warranted in writing, to the other sections of this title, particularly section 110. A written warranty of a consumer product costing $5 or less which meets Federal standards for warranty under section 104 of this title may be designated a "full" warranty, although there is no requirement that it be so labeled.

(3) Paragraph (3) of section 101 defines "purchaser" or "consumer" to mean any person who is entitled by any warranty in writing or service contract in writing which is offered or given to enforce against the supplier the obligation of the warranty or service contract. A person includes a corporation, partnership, or other entity which might have purchased a consumer product as defined in paragraph (2) of section 101. For example, a corporation purchasing a color television set would be deemed to be a "purchaser" within the meaning of this act.

The words "entitled by any warranty" permit a supplier to specify which classes of people are entitled to enforce the obligations of the warranty or service contract. In those situations where the warranty does not specifically limit coverage to persons who actually bought the product at retail, it is expected that the warranty will be construed reasonably. For example, a person who received an appliance as a gift should be entitled to the warranty privileges even though he is not specifically designated in the warranty as being entitled to enforce the terms of the warranty or service contract. Similarly, the warranty should be considered transferable during the effective period of the warranty unless there is a specific disclaimer of transferability.

Because the definition of "purchaser" or "consumer" applies to those persons entitled to enforce warranty obligations against "suppliers" and because the term "supplier" excludes those people not regularly engaged in the business of making consumer products available to consumers, the warranty provisions of S. 986 do not apply to periodic private transactions. In addition, because the definition of "purchaser" is tied to the definition of "warranty in writing" the meaning of purchaser in the bill may not necessarily correspond to the normal concept of "purchaser" or "consumer". For example, in section 110 of the bill private remedies are limited to purchasers of consumer products. "Purchaser" does not mean one who simply purchases a consumer product but means one who purchases a consumer product and by the terms of that purchase is entitled by a warranty in writing or by a service contract in writing to enforce rights against the supplier.

(4) The term "reasonable and necessary maintenance" is defined in paragraph (4) of section 101. These words are used in section 104(c). If a supplier can show that a purchaser failed to provide reasonable and necessary maintenance, he is entitled to avoid his duties to repair or replace any malfunctioning or defective warranted consumer product if such failure caused the malfunction or defect. "Reasonable" maintenance means that which the consumer could be expected to perform or have performed given the skills he or she may be expected to possess and the tools normally available to a consumer or the availability of maintenance facilities. "Necessary" maintenance includes the concept of reasonable maintenance but goes on to require that that reasonable maintenance be necessary to keep the consumer product operating in a predetermined manner and performing its intended function.

(5) Paragraph (5) of section 101 defines the term "repair" to include not only repair in the normal sense of correcting a malfunctioning consumer product, but also replacing that malfunctioning consumer product with a new consumer product or component thereof which is identical or equivalent to the malfunctioning consumer product or component. The term is used in section 104 in defining the duties of suppliers meeting federal standards for warranties. To that extent, the concept of repair as set forth in paragraph (5) of section 101 has direct applicability only to "full" warranties. However, it is possible that in the limited warranty contexts the definition of repair in this bill might serve as a guide to the meaning of the word "repair".

(6) The term "replacement" is defined in paragraph (6) of section 101. This term has direct applicability only to "full" warranties but might also serve as a guide in other warranty situations. The term includes the normal concept of replacement and requires that such replacement be with a new consumer product being replaced. The term also includes the refunding of the actual purchase price of the consumer product in two situations. Such refund can be made if repair or replacement is not commercially practicable or if the purchaser is willing to accept such refund in lieu of repair or replacement. In other words, the purchaser is required to accept a refund in lieu of repair or replacement if such repair and replacement is not commercially practicable; on the other hand, if repair and replacement is commercially practicable, the consumer may, if he desires, accept such refund in lieu of repair or replacement if it is offered.

Of course, when a product is replaced the purchaser is obliged to make the defective product "available to the supplier." If the product is portable, the purchaser might have to return the product to the point of purchase. In making a product "available" the purchaser is required to free that product of any liens or encumbrances. In those situations where fixtures are to be replaced, the purchaser should be under no obligation to make the malfunctioning consumer product available free and clear of any liens or encumbrances attached to it because it is part of the real property. It would be impractical to require the purchaser to pay off the mortgage on his own house in order to be eligible for replacement. The substitution of one fixture for another should result in the transfer of the security interest from the defective product to the new consumer product so that the interests of the secured party would not be prejudiced.

(7) Paragraph (7) of section 101 defines "supplier." Any person engaged in the business of making a consumer product or service contract available to consumers either directly or indirectly is to be considered a supplier. This definition would include all persons in the distribution chain from the component supplier, to the manufacturer, to the distributor, to the retailer. It would not include any person selling a consumer product who is not regularly engaged in the business of making such products available.

(8) Paragraph (8) of section 101 defines "warrantor" as any supplier or any party who gives a warranty in writing.

(9) Paragraph (9) of section 101 states that the term "warranty" includes guaranty and to warrant is to guarantee.

The term "warranty in writing," central to the operation of title I of this bill, is defined in paragraph (10) of section 101. The warranty in writing may be either a "full warranty" or a "limited warranty" which is in writing and warrants against defect or malfunction of a consumer product.

A "warranty in writing against defect or malfunction of a consumer product" is defined in paragraph (11) of section 101. A warranty in writing against defect or malfunction is one in which there is a written affirmation of fact or promise made "at the time of sale." (Thus, as applied to advertising only point-of-sale advertising could be found to create a warranty in writing under the terms of this definition. But see section 110 (d) with respect to the broader category of express warranty.) The written affirmation or promise, however, must relate to the nature of the material or workmanship and promise or affirm that such material or workmanship is defect-free or will meet a specified level of performance over a specified period of time. For example, a statement that a particular clothes washer would "effectively wash clothes" would create a "warranty in writing against defect or malfunction of a consumer product" if that statement became part of the basis of the bargain between the supplier and the purchaser. That statement represents a "promise" that the "material and workmanship" of the product are such that it will "meet a specified level of performance," namely washing clothes effectively. Alternatively, a warrant in writing against defect or malfunction of a consumer product could arise if a supplier undertakes in writing to refund, repair, replace, or take other remedial action with respect to the sale of a consumer product in the event that the product fails to meet specifications set forth in the undertaking. For example, the supplier might state: "If this washer doesn't wash clothes effectively, I will refund its pur-

chasing price." This statement would create a warranty in writing against defect or malfunction of a consumer product. It represents an undertaking in writing to refund if the product fails to wash clothes clean. In any event, any written affirmation, promise or undertaking discussed above would have to become a part of the basis of the bargain between the supplier and the purchaser to qualify as a "warranty in writing against defect or malfunction of a consumer product."

(12) Paragraph (12) of section 101 defines the term "without charge". In section 104 a supplier making a "full" warranty which meets federal standards must repair or replace any malfunctioning or defective consumer product within a reasonable time and "without charge". Normally a warrantor who assumed the obligation to remedy a defect or malfunction within a reasonable time and "without charge" would not assess a consumer with any costs attendant to the discharge of the warranty obligations. For example, a warrantor could not require the purchaser to pay for the return of a consumer product by mail if the consumer had to pay for the postage or it was very difficult to mail. (See discussion of section 104 *infra*). This paragraph, however, does not mean that the supplier is obligated to affirmatively compensate the purchaser for any incidental costs associated with the defect or malfunction of a consumer product. State contract law would be applied to determine when and if incidental expenses were appropriate when a consumer product became defective or malfunctioned.

Paragraph (12) of Section 101, however, affirmatively requires the warrantor to compensate the purchaser for any reasonable, incidental expenses resulting from the warrantor's failure to repair or replace within a reasonable time the malfunctioning or defective consumer product. Such incidental expenses may also be compensated if the warrantor imposes any unreasonable duties upon the purchaser as a condition of securing repair or replacement such as the duty to ship a piano back to the factory in order to secure repair. (See Hearings on S. 3074 before the United States Senate Committee on Commerce (91st Congress: 2nd Session), at 262.)

Disclosure requirements (section 102)

Section 102 of Title I outlines disclosure requirements for suppliers of consumer products who offer warranties in writing or service contracts in writing. Suppliers are required to disclose fully and conspicuously in simple and readily understood language the terms and conditions of their warranties. The Federal Trade Commission is authorized to detail these disclosure requirements in accordance with procedures set forth in Section 109 of title I.

Enumerated in section 102 as certain informational areas which the Federal Trade Commission is to consider when promulgating disclosure regulations. These guidelines delineate informational areas that would promote consumer understanding of the warranties both at the time of the sale and when the product breaks down. For example, paragraph (8) subsection (a) of section 102 suggests that the warrantor tell the consumer on what days and during what hours the warrantor will perform his obligations in case of defect or malfunction. If a refrigerator breaks down, for example, a consumer could consult his warranty to ascertain whether the warrantor had emergency service on Saturdays or Sundays. This information, coupled with that in paragraph (9) relating to the period of time it would take the warrantor to effect repair or replacement, would enable the consumer to know what to expect and to take necessary precaution against the spoilage of food in the interim before repair could be effectuated. Such information would also be useful to the consumer in making his product selection at the time of sale. He may be more prone to purchase a product from a supplier who provides emergency service for such products as refrigerators.

The Committee is of the belief that the consumer should also be notified of his ability to seek redress through informal dispute settlement mechanisms that the warrantor may offer or through legal remedies made economically feasible because of the recovery of reasonable costs, including attorneys' fees based upon actual time expended on a case. If the warrantor is required to inform the consumer of his rights in the event the warrantor fails to perform, the Committee believes the warrantor will have greater incentive to perform as promised.

Subsection (b) of section 102 authorizes the Federal Trade Commission to determine the manner and form in which information pertaining to any written warranty should be presented and displayed in advertising, labeling, point-of-sale material, or any other representations in writing. The subsection makes explicit the fact that the Commission is not authorized by this title to prescribe the duration of warranties given or require that a product or its components be warranted. Furthermore, the Commission under authority of title I may not prescribe the substance of written warranties except to the extent provided in section 104 of title I. Such limitations are to be read in conjunction with the savings provision in section 112 of title I which says that "nothing contained in this title shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act, or any statute defined therein as an Antitrust Act."

Designation of warranties (section 103)

Section 103 of title I requires suppliers warranting in writing their consumer products to clearly and conspicuously designate such warranties in a manner that will enable consumers to readily discern the types of warranties being given. If a warranty meets the federal standards set forth in section 104 then it is to be conspicuously designated a "full" warranty. For example, an appliance with a full one year warranty would be headed: "Full one year warranty." If a warranty in writing does not meet federal standards, it would be designated in such a way as to clearly indicate to the consumer the fact that it is a "limited" as opposed to a "full" warranty. Such warranty would be required to indicate clearly the nature of its limited scope. For example, an appliance might be designated as a "parts only warranty" or a warranty on an article of clothing might be headed "colorfastness only". The Federal Trade Commission, in Section 109, is empowered to define in detail the designation requirements for limited warranties.

There are several exceptions to the designation requirements set forth in section 103. In the first place, if a product costs the consumer $5 or less, a warranty on that product does not need to be designated in accordance with section 103. (See discussion of the definition of "consumer product" *supra*.) The Federal Trade Commission may also exempt the supplier from complying with the designation requirements in section 103. Finally, section 103(b) excludes from the designation requirements of section 103 "expressions of general policy concerning customer satisfaction which are not subject to any specific limitations." For example, a statement such as "satisfaction guaranteed or your money back" does not have to be designated as a full or partial warranty. Section 103(b) also exempts such general policy statements from the provisions of sections 102 and 104 of title I. In order to be eligible for exemption, a general policy statement must not be subject to any "specific" limitations. The word "specific" is included in order to protect a supplier from a consumer who uses a product for ten years and then complains of dissatisfaction with the products. A refusal of a supplier to honor such an expression of dissatisfaction from a consumer who has used a product without expressing his objections for ten years would not amount to a "specific" limitation on the general policy concerning customer satisfaction.

In those situations where the purchaser may obtain both written statements or representations not subject to any specific limitations as well as specific warranties in writing from the same supplier of a consumer product, the written statement or representation not subject to any specific limitations should control unless the warranty in writing clearly and conspicuously excludes the guaranty of customer satisfaction. (See also 110(d)(2)) In any event, any statements or representations falling within the exclusion in section 103(b) would remain subject to the provisions of the Federal Trade Commission Act and to section 110 of title I.

Federal Standards for Warranty (Section 104

Section 104, of title I describes the duties which a supplier must assume before giving a "full" warranty. At a minimum the supplier must promise to repair or replace any malfunctioning or defective consumer product, within a reasonable time, and without charge. In addition, he may only impose the duty to notify the supplier of any defect, or malfunction unless the supplier can show that the imposition of additional duties would be reasonable.

The words "repair" and replace" are defined with specificity in section 102 of title I. The concept of "reasonable time" cannot be precisely defined. Reasonable time will vary according to the customary time for repair of similar consumer products, the location of the consumer, the consumer's day-to day need for the product and other factors. The term "without charge" is defined in paragraph 12 of section 102 of title I. In order to add certainty to the relationship between the supplier and the purchaser, the Federal Trade Commission is empowered under section 109 to define with specificity, to the extent possible, the duties imposed upon the supplier who decides to fully warrant his products. Such rules and regulations would be promulgated in accordance with procedures set forth in section 109 of title I.

In determining whether a supplier can impose duties other than notification upon the purchaser, the court or Commission would compare the magnitude of the economic burdens "necessarily" imposed upon the warrantor against the magnitude of the burdens of inconvenience and expense "necessarily" imposed on the purchaser. The word "necessarily" requires the court or Commission to explore the alternatives available to the supplier and the purchaser before weighing the supplier's burden against the purchaser's burden.

To illustrate, suppose the manufacturer of a small, portable widget offers a "full" warranty but requires the consumer to personally deliver the widget to a service center in case of malfunction or defect. The supplier argues that this is a reasonable burden because it would be cheaper for the purchaser to bring the widget to the service center than it would be for the supplier to maintain a pick-up system. Before evaluating the reasonableness of the duty imposed by the supplier, the court or Commission should explore alternative methods of returning the widget to the service center for repair. For example, it may be less costly to all parties concerned to use the mails for the transporting of the malfunctioning or defective product. If this were so, then the burden of personal delivery to the service center would be unreasonable.

But further analysis might be necessary in order to determine what type of mailing duty would be reasonable.

For example, suppose the warrantor changes his warranty to require the purchaser to mail the widget to a service center for repair. Suppose the warrantor can expect the return of 1 widget for every hundred sold and that the average cost for mailing that widget to the service center is $1.00. The supplier's economic burden, then, is $1.00 per 100 widgets sold if he absorbs the cost of mailing the product back. In all likelihood he would pass this cost on to his purchasers by charging 1¢ more per widget sold. If the supplier pays the cost of mailing, then the cost to the one purchaser out of a hundred who has to send his widget back for repair would be his time in having to package and mail the widget plus the 1¢ increase in purchase price. The remaining 99¢ would be paid by other purchasers and the price of the widget would reflect its acquisition and complete warranty costs. If the purchaser was required to pay the mailing charge, then his expense would be his time required to package and mail the widget plus the $1.00 mailing charge. Thus the burden on the purchaser would be 100 times as great if he were required to pay for the postage whereas the burden on the supplier, in either situation, would remain constant. A requirement for the consumer to pay for the mailing cost would, therefore, be unreasonable because of the magnitude of the burden imposed upon the consumer in comparison with an available alternative approach.

Subsection (b) of Section 104 states that the full warranty duties assumed by a supplier extend to the purchaser. "Purchaser" is defined in paragraph (3) of section 101. (See discussion *supra*.)

Subsection (c) of section 104 states that a supplier does not have to repair or replace a consumer product which malfunctions or becomes defective during the warranty period if he can sustain the burden of proof and show that damage, while in the possession of the purchaser (as opposed to damage in transit prior to possession for example), or unreasonable use caused the product to malfunction or become defective. (See discussion *supra* of "reasonable and necessary maintenance" in section 102.)

Full and limited warranting of a consumer product (section 105)

Section 105 states that the warranty provisions in S. 986 would not prohibit the selling of the consumer product which has both full and limited warranties if such warranties were clearly and conspicuously differentiated. For example, a consumer product might be sold with a "Full One Year Warranty". The supplier might also offer free parts replacement for an additional year. That limited warranty might be labeled a "Two Year Free Parts Replacement Guarantee". In other words, the measure of time for the limited warranty would run from the time of purchase to the end of the warranty period. In this case the limited warranty during the first year would actually be covered by the full warranty.

Service contracts (section 106)

Section 106 provides that a supplier may sell a service contract to the purchaser in lieu of, or in addition to, a warranty. Section 106 requires that a service contract fully and conspicuously disclose in simple and readily understood language its terms and conditions. The Federal Trade Commission is authorized to describe the manner and form in which the terms of service contracts shall be clearly and conspicuously disclosed. This section, then, puts service contracts and warranties on a parity as to disclosure requirements.

Designation of representatives (section 107)

In hearings on S. 986 concern was expressed that warrantors would be prevented from designating to representatives certain performance obligations assumed under a written warranty. Section 107 states that nothing in title I shall be construed to prevent any warrantor from making any "reasonable and equitable arrangements" for representatives to perform warranty duties. The section also states that "no such arrangement shall relieve the warrantor of his direct responsibility to the purchaser or necessarily make the representative a co-warrantor." The phrase "reasonable and equitable arrangements" is intended to make it clear that, to the extent a supplier asks or requires another party to assume responsibilities under the warranty, that party is not to be victimized by unreasonable or inequitable arrangements. For example, the Federal Trade Commission has reported that some of the problems associated with automobile warranties in the past may have resulted from the failure of auto manufacturers to reasonably and equitably compensate their dealers for warranty work.

Nothing in section 107 is intended to dictate the method of compensation. The supplier could build into the wholesale price the cost of warranty service and then compensate dealers who perform the warranty obligation on the basis of each service call made; or the manufacturer could establish a wholesale price that does include built-in element for warranty service and a dealer who performs the warranty obligation could receive his compensation out of the dollar margin between the wholesale and retail price. These are approaches to compensation which would satisfy requirements of section 107 if they met the test of "reasonable" and "equitable."

While a manufacturer can issue a warranty that says certain authorized service representatives will repair or replace the defective product, the consumer has recourse directly against the manufacturer as warrantor, if these representatives fail to perform. The manufacturer could not defend against an action for breach of a warranty obligation by arguing that the designated representative, not the manufacturer, was responsible for the failure of performance.

Limitation or disclaimer of implied warranties (section 108)

Subsection (a) of section 108 prohibits a supplier (defined in paragraph (7) of section 102) from disclaiming implied warranties, such as the warranties of merchantability or fitness, thereby building a basic floor of protection for consumers whose products are warranted in writing. This subsection is designed to eliminate the current practice whereby a supplier gives an express warranty while simultaneously disclaiming implied warranties—a practice which often has the effect of limiting the rights of the consumer rather than giving him something additional as he might be led to believe.

Subsection (b) of section 108 has been included in the bill to clarify the relationship between implied warranties and express warranties. Questions have been raised as to whether an express warranty would control the duration of an implied warranty. The subsection states that an express warranty would control the duration of an implied warranty if the intention to incorporate such a limitation is clearly expressed on the face of the warranty and if the express warranty is of reasonable duration and the limitation is conscionable. For the most part this subsection describes existing state law. A supplier may not expressly limit the duration of the implied warranty in an accompanying express warranty if such limitation as to duration would be unconscionable or if the duration of the express warranty is unreasonably short.

Federal Trade Commission (section 109)

The Federal Trade Commission is required to promulgate rules and regulations to facilitate the implementation of certain aspects of title I. The Commission is to determine when a warranty in writing does not have to be designated in accordance with section 103 ("full" or limited); it is required to define in detail the disclosure requirements in paragraph (2) of subsection (a) of section 103 (limited warranties); and it is required to define in detail the duties set forth in subsection (a) of section 104 (free repair or replacement, etc.). Section 109 also sets forth in the procedure which the Federal Trade Commission is required to follow in establishing such rules. The language describing the type of procedure which the Commission is to follow in promulgating rules represents a compromise between simple informal rulemaking procedure and the more complex, complicated, and time consuming formal hearings procedure contained in sections 556 and 557 of title 5 of the United States Code. But for the qualifying words "structured so as to proceed as expeditiously as practicable" the Commission would be bound to follow at all times the formal hearing procedure when carrying out its rulemaking responsibilities. The qualifying words, however, have been added to indicate the Committee's desire not to require a formal oral hearing with cross examination as a part of all proceedings. It is the intent of the Committee to afford interested parties, both consumers and industry representatives, greater procedural rights than accorded under section 553. Therefore, the Committee provides for a public record and an opportunity for an agency hearing which assures judicial review on the basic of "substantial evidence." (See section 706 of title 5 of the United States Code.)

As to the type of public record developed and the form of agency hearing provided, the Committee is of the opinion that the Federal Trade Commission can determine the type of proceeding it should hold so as to promulgate rules as expeditiously as practicable. The Committee desires to avoid the abuse of cross examination by interested parties to delay unduly the rulemaking process. Therefore, the Committee anticipates that expeditious rulemaking would not normally include formal hearings. But an opportunity for all interested persons to participate in the rulemaking should be afforded. In many situations, in the Committee's view, interested persons could submit all or part of the evidence in written form. The Committee also expects the Federal Trade Commission to exercise vigorously its discretion which permits it "as a matter of policy . . . to provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence." (See subsection (b) of section 556 of title 5 U.S.C.) Such Commission action would avoid unwarranted delays caused by repetitious testimony offered by parties with essentially common interests.

In determining the type of proceeding that the words "upon a public record after an opportunity for an agency hearing structured so as to proceed as expeditiously as practicable" requires, the Commission or any reviewing court should be guided by the rulemaking provisions in title II of S. 986 which describe the way in which the Commission shall issue legislative rules. (See section 206 of this bill.) It is the intent of this Committee to avoid judicial-type proceedings for the resolution of non-factual issues. (See Davis, Administrative Law Treaties, Sec. 606 (1958)).

Private remedies (section 110)

Section 110 spells out the remedies available to the purchaser of consumer products. A purchaser can invoke informal dispute settlement procedures established by suppliers or, having afforded a supplier a reasonable opportunity to cure, may resort to formal adversary proceedings with reasonable attorney's fees available after successful litigation.

Subsection (a) of section 110 declares that

it is the policy of Congress to encourage the development of informal dispute settlement mechanisms. If a supplier develops such a mechanism, then the "purchaser" as defined in title I is required to utilize such mechanism prior to resorting to formal legal action. The Federal Trade Commission is empowered to promulgate guidelines for the establishment of these informal dispute settlement mechanisms and is required to supervise them on its own initiative or when petitioned by an interested party to insure their bona fide operation. This provision is not intended to require the Commission to review individual disputes but only to require them to oversee generally dispute settlement mechanisms.

Subsection (b) authorizes any "purchaser"—i.e. one entitled by a written warranty or written service contract to enforce against the supplier obligations set forth in the written warranty or service contract—to sue for breach of such warranty or service contract to enforce against the supplier obligations set forth in the written warranty or service contract—to sue for breach of such warranty or service contract in an appropriate district court, but such suit shall be subject to the jurisdictional requirements of section 1331 of title 28 of the United States Code. In effect, this means a person or class of persons must show individual damages of ten thousand dollars or more in order to bring suit in a Federal court.

But any "purchaser" damaged by the failure of a supplier to comply with any obligations assumed under an express or implied warranty or service contract subject to this title—i.e. a warranty in writing, a service contract in writing, an express warranty (defined in section 110(d)(1)), or implied warranties—may sue in any State or District of Columbia court of competent jurisdiction. The Federal rights created by Title I of this bill, thus, are for practical purposes going to be enforced in State rather than Federal courts.

As previously mentioned, prior to commencing any proceeding authorized by Title I a purchaser must afford the supplier a reasonable opportunity to cure any breach including the utilization of any bona fide informal dispute settlement mechanism. Any purchaser who utilizes an informal dispute settlement mechanism would not be prevented from seeking formal judicial relief following such utilization. Of course in a class action suit only representatives of the class would have to avail themselves of any bona fide informal dispute settlement mechanism on behalf of the class before the class action suit could be instituted.

In order to preserve the status quo as to the eligibility under state law for participation in class actions, subsection (b) of section 110 provides that "nothing in this subsection shall be construed to change in any way the jurisdictional prerequisites or venue requirements of any state." Because federal rights would be enforced in State courts, some might argue that limitations that certain States impose on participation in class action litigation would not be valid. The above-mentioned language preserves such limitations but does not affect the requirement the suits covered in title I may not be maintained until a purchaser or his representative first utilizes any bona fide informal dispute settlement mechanism which the supplier has provided.

Subsection (c) of section 110 provides for the recovery of court costs and reasonable attorney's fees in the event a "purchaser", as defined in Title I, is successful in a suit for breach of an express or implied warranty or service contract obligation. This provision would make it economically feasible for consumers to pursue their remedies in state courts. It should be noted that an attorney's fee is to be based upon actual time expended rather than being tied to any percentage of the recovery. This requirement is designed to make it economically feasible to pursue consumer rights involving inexpensive consumer products. Of course where small claims courts are available, the Committee encourages their use; and to the extent legal representation is not necessary in such courts, attorney's fees would probably not be available.

Subsection (d) of section 110 defines an "express warranty" in a manner paralleling the Uniform Commercial Code's definition. If a consumer product accompanied by a warranty in writing or service contract in writing has been expressly warranted outside the writing, then the purchaser can enforce the terms of that warranty against the supplier actually making it and recover court costs and reasonable attorney's fees. For example, a salesman selling a consumer product warranted in writing for one year who says: "I guarantee that this product will perform perfectly for 5 years" would be deemed to have created an express warranty. If he was not acting as an agent for the retailer or manufacturer in making that statement, only the salesman would be deemed to be The warrantor. And the purchaser would have recourse only against the salesman in enforcing the terms of his express warranty. Of course "an affirmation merely of the value of the consumer product or service or a statement purporting to be merely the supplier's opinion or commendation" does not create an express warranty.

Government enforcement (section 111)

Subsection (a) of section 111 states that any failure to comply with the requirements (including regulations promulgated by the Commission and given the full force and effect of law) imposed by or pursuant to the title, shall be considered a violation of section 5 of the Federal Trade Commission Act.

Paragraph (1) of subsection (b) of section 111 gives the District Courts of the United States jurisdiction to restrain violations of title I if an action is brought by the Attorney General or the Commission. Any temporary restraining order or preliminary injunction would be issued by a District Court without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that would cause loss or damage would be granted by a court of equity. Such restraining order or preliminary injunction would be dissolved if a complaint was not filed within a reasonable time after issuance as specified by the court.

Paragraph (2) of subsection (b) of section 111 authorizes the Attorney General to serve a civil investigative demand upon any person "under investigation" who may be in the possession, custody or control of documentary material relative to any violation of title I. The procedures to be followed in serving civil investigative demands are set out in detail in section 111. It is important to note that such demand may be served only on persons who are under investigation. This burden, however, should not be great because the Attorney General, believing anyone to be in possession of documentary material relevant to any violation of this title, could put that person under investigation prior to the serving of a demand in order to comply with the "under investigation" requirement.

Savings provision (section 112)

This section states that existing authority of the Federal Trade Commission under the Federal Trade Commission Act is in no way superseded by this title. This provision also assures that those products not specifically covered under this bill because of the $5 exemption applicable to section 102 and 108 are, nevertheless, subject to the Federal Trade Commission's power to proscribe unfair and deceptive acts or practices. (*See also* section 113(c)).

Scope (section 113)

Subsection (a) of this section states that the provisions of this bill and the powers granted both to the Federal Trade Commission and to the Attorney General extend to the sale of consumer products and services "affecting" interstate commerce as well as those "in" interstate commerce. This subsection would make the rights and remedies in title I available to low income consumers within our cities who are often victimized by acts only "affecting" interstate commerce.

Subsection (b) of section 113 specifies the way in which Title I would interact with State laws regulating warranty practices. States would be preempted from requiring labeling or disclosure requirements that differed from those prescribed by Title I of this bill. Suppliers of consumer products, therefore, would not have to print warranties in conformance with fifty different disclosure formulas or labeling procedures. Rules of the Federal Trade Commission filling out the disclosure and designation requirements would preempt any different State requirements. Any rules defining "full" warranty duties (section 104) would constitute preemptive national standards for warranty unless the Commission permitted a State to deviate from those rules in a manner prescribed in the rule.

Because title I of this bill allows a supplier to give a warranty or not as he chooses and because it allows him to define the contents of any warranty given (as long as it is not unfair or deceptive or does not contain a disclaimer of implied warranties), the Committee has not been willing to follow the suggestion of those affected persons who asked that federal legislation totally preempt State action. The Committee was of the opinion that States should be free to determine that, for the protection of their citizens, a particular level of warranty protection would be required. Of course, the way in which any mandatory warranty protection would be required to be presented would have to be consistent with federal disclosure and designation standards. And to the extent a supplier offered a "full" warranty in compliance with federal standards he should be protected against the imposition of additional burdens by a State unless the Federal Trade Commission, in exercising its rulemaking authority, permitted such imposition for good cause shown.

For the purposes of illustration, it would be consistent with the provisions of subsection (b) of section 113 for a State to determine that all widgets sold in that state must contain a "Parts Only Warranty" for one year or a "Full One Year Warranty." In other words, a State can work within the provisions of this bill, and the rules and regulations implementing it, to advance the interests of consumers within its borders by mandating coverages which the Federal bill *describes* but does not mandate.

Subsection (c) of section 113 states that nothing in Title I changes State law which allows a person to recover consequential damages for injury to the person resulting from a breach of warranty.

Effective date (section 114)

Section 114 sets forth the timing for implementation of Title I. The effective date is six months after the date of enactment. Any requirements related to the marketing of products—e.g. disclosure or designation requirements—shall apply only to products which are manufactured after the passage of this six month period. Any of those requirements that cannot reasonably be met without the promulgation of rules shall take effect six months after the promulgation of the rules (with an additional six month extension possible). And the Federal Trade Commission is required to promulgate such rules as soon as possible but in no event later than one year after the date of enactment. The time limitation on the Commission applies to the promulgation of initial rules and would not restrict the Commission's rulemaking activity in the warranty area *in futuro*.

TITLE II

Expanded Federal Trade Commission jurisdiction (section 201)

Section 201 of this title expands the Federal Trade Commission's jurisdiction from acts and practices "in" interstate commerce to those "affecting" interstate commerce. This expansion of the Commission's jurisdiction is intended to permit its more effective policing of the marketplace by bringing within its reach local practices which are unfair or deceptive and which thereby have an adverse impact upon interstate commerce.

In considering certain arguments against expansion of the Commission's jurisdiction the Committee was mindful of the danger of making the Commission alone responsible for eradicating fraud and deceit in every corner of the marketplace. This is not the Committee's intent in expanding the jurisdiction of the Commission. State and local consumer protection efforts are not to be supplanted by this expansion of jurisdiction. In many situations the Commission, through its Consumer Advisory Boards and expanded field office operations would work concurrently with state and local governments to attack in their incipiency flagrant consumer abuses. However, this expansion of jurisdiction would enable the Commission to move against local consumer abuses where state or local consumer protection programs are non-existent or where fly-by-night operators hit one local area and then quickly move on to another before local officials can take action. (For similar expansion of authority see sections 205 and 209 of title II of this bill.)

Civil penalities (section 202)

This section of the bill authorizes the Federal Trade Commission, through its own attorneys, to initiate civil actions to recover penalties against any person (including partnerships, corporations, or other entities (who commits an act or engages in a practice which he knows is unfair or deceptive to consumers and prohibited by section 5(a)(1). The maximum penalty recoverable would be $10,000 per violation, but this penalty could be settled if the Commission publicly stated its reasons and the court approved the settlement.

In any civil action initiated under authority of the amendment to the Federal Trade Commission Act set forth in this section, the Commission would have to show "actual knowledge or knowledge fairly implied from objective circumstances." A violation of a Commission rule would in most cases constitute a violation with "knowledge fairly implied from objective circumstances" unless the person against whom the action was brought could show why he should not have been expected to have knowledge of the Commission rule or that the rule is invalid.

The civil penalty which can be imposed is $10,000 "for each such violation." The Commission would have to judge what constituted "each such violation" in the particular case, but "each such violation" would not necessarily be each product unfairly or deceptively sold. The focus, in the opinion of the Committee, should be on the decision-making process of the person against whom the penalty is sought, the number of different decisions he made and the harm generated by those decisions to commit acts unfair or deceptive "to consumers" in violation of section 5(a)(1) of the Federal Trade Commission Act.

Consumer redress (section 203)

Following the issuance of an order to cease-and-desist, the Commission may seek without further administrative proceeding remedial relief on behalf of consumers in an action initiated in district court. This provision would enable the Commission to more adequately protect consumers by affording them specific redress. At the present time cease and desist orders have prospective application only and afford no specific consumer redress to consumers already injured.

It was, of course, not the intention of the Committee in granting new powers to the Commission to supplant private actions by consumers. The Committee's intent in giving these remedial powers was (1) to reinforce the Commission's credibility in policing the marketplace by authorizing sanctions which could realistically be expected to inhibit unlawful business practices and (2) to enable the Commission, where its investigation of an act or practice revealed damage to consumers, to utilize the results of that investigation for the benefit of the damaged parties.

The nature of the relief the Commission could obtain from the court on behalf of consumers would be limited only by the nature of the injury done and the remedial powers of the court. The enumeration of types of relief available are advisory only and would not limit the Commission in pleading or the court in acting to fashion other appropriate relief.

This section would not affect whatever power the Commission may have under section 5 to fashion relief in its initial cease-and-desist order, such as corrective advertising or any other remedy, which may be appropriate to terminate effectively unfair or deceptive acts or practices. Section 203 is applicable to those situations where the Commission acts to make specific consumers whole and not to general actions designed to dissipate the prior effects of unfair or deceptive acts or practices.

Penalty for violation of cease-and-desist order (section 204)

This section increases the potential penalty for violation of an order of the Commission from $5,000 to $10,000 in order to add to the enforcement capability of the Commission. The FTC may seek such penalty through its own attorneys rather than relying upon the Justice Department. In addition to increasing the penalty, this section authorizes the Commission to seek mandatory injunctions against persons in violation of a Commission order for whom the threat of economic penalty is more apparent than real because they have no available resources with which to pay the penalty.

Expansion of jurisdiction (section 205)

See discussion in section 201 *supra*.

Rulemaking (section 206)

Section 206 of title II would amend subsection (g) of section 6 of the Federal Trade Commission Act. Subsection (g) presently authorizes the Commission "to make rules and regulations for the purpose of carrying out the provisions of this Act." Unfortunately these words have generated many questions. What kinds of rules is the Commission authorized to make? What procedures must be followed in making such rules? How are such rules to be judicially reviewed? When are they to be reviewed?

The Committee has provided some answers to these questions at least with respect to certain categories of rules and regulations. These answers should facilitate the use of rulemaking by the Commission in those areas involving unfair or deceptive acts or practices which are "unfair or deceptive to consumers." While facilitating rulemaking, the Committee has simultaneously afforded interested parties an opportunity to participate in agency proceedings during the formulation of rules and has provided for significant review of such rules after promulgation.

Nothing in section 206 is intended to affect the past or present rulemaking activities of the Federal Trade Commission (including Trade Regulation Rules); and future activities would only be affected to the extent specifically discussed in section 206. Advisory Opinions and guides would not be considered "[s]uch rules and regulations as are specifically provided for hereinafter . . ."

Paragraph (1) of amended subsection (g) authorizes the Commission to promulgate procedural rules in accordance with section 553 of title 5 of the United States Code. But paragraph (1) specifically negates the provisions within section 553 permitting promulgation of procedural rules without notice published in the Federal register and without an opportunity for interested parties to participate in the rulemaking proceeding. The Committee believes that the procedural rules which the Commission adopts should be submitted prior to promulgation for public scrutiny and comment because of their potential impact upon the rights of consumers and businessmen.

Paragraph (2) of subsection (g) of the Federal Trade Commission Act, as amended by section 206 of title II, would authorize the Commission to issue "legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this Act proscribes." The Committee chose to characterize these rules as "legislative" for three reasons: 1) the procedures prescribed resemble the procedures followed by Congress in formulating legislation; 2) the rules are to be reviewed by the Congress as well as the courts; and 3) the rules are to have the force and effect of law following their adoption as compared to rules which simply interpret a statute without having the force of law. There is precedent for such characterization. Professor Davis states that "the strongest authority for the distinction between interpretative and legislative rules is the action and attitude of the Supreme Court, even in the absence of specific articulation of the distinction. Explicit recognition of the distinction is found in a few opinions of lower courts, in Congressional action, in administrative action, in reports or special studies of administrative law, and in remarks of leading commentators." (DAVIS, ADMINISTRATIVE LAW TREATISE § 5.04 (1958))

In issuing legislative rules the Commission must adhere to certain procedures described in section 206. In the first place, the Commission would publish in the Federal Register an order of proposed rulemaking. This publication would state with specificity the reasons for the proposed rule. Following the publication of the proposed rule, interested persons (those who could be affected directly or indirectly by the promulgation of the rule or the failure or such promulgation including consumers or consumer organizations) would be given thirty days to submit written comments. These comments would then become a part of a docket and made available to the public at the Federal Trade Commission Building or some other appropriate place. The Commission staff and interested persons would then be given a suitable period of time to respond to the initial comments, taking issue with those submissions they disagree with and supporting those with which they are in accord. The Commission, on the basis of the initial and secondary submissions, would then decide whether further proceedings were necessary.

The Commission would continue the proceedings only if there was "a disparity of views concerning material facts upon which the proposed rule is based." It is important to note that there must be a "disparity of views" concerning "facts" (as opposed to questions of policy) which are "material". In determining the question of materiality the Commission should consider whether the facts were central to the proposed rule and whether they were facts which could be proved or disproved by the accumulation of further information.

If the Commission determined that material facts were in dispute, it would then con-

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duct an agency hearing in accordance with sections 556 and 557 of title 5 of the United States Code "at which the Commission may permit cross-examination (limited as to scope or subject matter) by one or more parties as representatives of all parties having similar interests." If it permitted cross-examination, the Commission could structure it in a manner suitable for the resolution of the facts in dispute while avoiding any undue administrative burden or unreasonable delay.

Following any such hearing, the Commission would promulgate a final rule based on the record compiled in the applicable proceedings described above. This final rule would be reviewed by the Congress, and could be reviewed by a court either in a pre-enforcement proceeding, or in an enforcement proceeding, or in both.

Congressional review would follow the final promulgation of a legislative rule. The Commission would send to the Senate and House of Representatives a copy of the rule and a brief in its support. The rule and accompanying brief would then be referred to the appropriate committees—*i.e.* the Senate Commerce Committee and the House Interstate and Foreign Commerce Committee. If either the House of Representatives or the Senate acted within sixty days by passing a resolution negating the Commission's action, then the legislative rule would become null and void. If, however, neither body took action within sixty days against the rule, then it would "become effective." Of course, if the rule itself had an effective date longer than the sixty day Congressional review period, then that date would control. In calculating the sixty day period for Congressional review those days falling within an adjournment of either body for more than thirty calendar days to a date certain would be included in the calculation.

Pre-enforcement judicial review could be undertaken any time after final promulgation of the legislative rule by the Commission and until ten days after the expiration of the "sixty calendar day" time period for Congressional review. For example, suppose that the Commission publishes its final rule and simultaneously submits a copy of it, along with an accompanying brief, to Congress. Suppose, further, that Congress takes no recess during the sixty days following such submission. Any interested party may petition for pre-enforcement judicial review within sixty days following the Commission submission to the Congress or within ten days after the expiration of the sixty days. Suppose, however, that Congress adjourned for more than thirty days after the submission by the Commission thereby tolling the running of the sixty calendar days. In that case the time period for pre-enforcement judicial review would be correspondingly lengthened.

Subsection (g) of the Federal Trade Commission Act, as amended by section 206, would explicitly authorize the court to review the legislative rule in accordance with that provision in the Administrative Procedure Act requiring the rule to be supported by *substantial evidence* "on the basis of the entire record before the court (including any additional evidence adduced)." (See U.S.C. § 706). Of course any court reviewing such rule would take judicial notice of the action, or lack thereof, of Congress during its review of the rule on questions of policy.

Section 206 provides only for the prospective application of legislative rules, thereby eliminating any question about their possible retrospective reach.

Finally section 206 contains a provision that assures that there would be no *legislative* prohibition against judicial review of rules when applied in Commission enforcement proceedings. Of course judicial review of rules previously reviewed may be restricted for judicial reasons—*e.g.* by the application of the doctrine of *Stare decisis* or *res adjudicata*.

In the course of the Committee's consideration of the Commission's rulemaking power the issue of preemption was discussed. At the present time a Trade Regulation Rule would preempt state legislation or regulation that conflicted. But the "conflict" test is a very difficult one to apply.

It is the view of this Committee that the Federal Trade Commission would be empowered to prescribe with specificity, when promulgating legislative rules, the extent to which comparable State law is preempted and how it is preempted. For example, if the Commission were to prescribe a uniform national rule governing the practices of door-to-door salesmen it would prescribe the effect of that rule on the various state statutes. It might standardize the forms to be used and the procedures to be followed while specifically leaving state law intact as to enforcement procedures and penalty provisions.

Use of own attorneys (sections 207 and 208)

Section 207 authorizes the Commission to seek documentary evidence from any "party"; under the present terms of the Federal Trade Commission Act such evidence may be obtained only from "corporations."

As authorized in sections 202 and 205 the Commission may act through its own attorneys to enforce the Federal Trade Commission Act. Section 207 permits them to use their own attorneys "to invoke the aid of a court in requiring the attendance and testimony of witnesses and the production of documentary evidence"; and authorizes them to go to court in their own behalf to seek "writs of mandamus to enforce the Federal Trade Commission Act or any order of the Commission made in pursuance thereof."

Section 208 authorizes the Commission to seek a civil penalty against any corporation which fails to file any annual or special report required by the Federal Trade Commission Act.

Expansion of jurisdiction (section 209)

See discussion in section 201 *supra*.

Preliminary injunction (section 210)

This section would permit the Commission to obtain a preliminary injunction through court procedures initiated by its own attorneys against any act or practice which is unfair or deceptive to a consumer and thus prohibited by section 5 of the Federal Trade Commission Act. The purpose of section 210 is to permit the Commission to bring an immediate halt to acts or practices which it can show are damaging to consumers. At the present time such practices might continue for several years until final agency action is completed.

The section authorizes the Commission to seek either a temporary restraining order or preliminary injunction. Notice is required by this section, however, when a temporary restraining order is issued.

Section 210 also contains a clause requiring that preliminary injunctions authorized in this section be granted "under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loes or damage is granted by courts of equity." This clause is intended to prevent arbitrary request for injunctive relief by the Commission.

Separability (section 211)

This section states that if any portions of title I or title II of this bill are determined to be unconstitutional, the remaining portions of the bill are not affected thereby.

Mr. MAGNUSON. Now, Mr. President, there is no time limitation today on the bill, so I yield the floor.

Mr. HRUSKA. Mr. President, the pending measure is entitled, "a bill to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes."

Mr. President, this bill consists of two titles. The bill's two titles should be considered in separate measures.

Their respective subjects are widely different in nature and in scope.

Title I is limited to warranties. It has for its subject the substantive law as proposed on "consumer product warranties."

As to warranties on consumer products, it contains definitions, standards, designations, and limitations requirements and prohibitions as to content. It seeks to enable the Federal Trade Commission to establish rules as to procedures and implementation of the title I provisions as to warranties. It contains provisions for enforcement by private remedies and by Government action; and authorizes use and application of various statutory provisions already enacted and relating to procedures, such as civil investigative demands.

As to title I, I would defer to the judgment of the Committee on Commerce. It is a title that legitimately belongs within its jurisdiction. The committee has thoroughly covered the area covered by title I by competent witnesses and by committee deliberation.

It is my understanding that the action of the committee in reporting the bill was unanimous. I would defer to their judgment and would not seek to comment upon the wisdom of their recommendations or the contents of the bill. This is a field in which legislative action by Congress is due. It should be accorded prompt and proper legislative action.

Here, and later in the other body, and still later in conference committee, if that is indicated, it can be worked out.

Title II, on the other hand, deals with a separate and distinct subject. It seeks to vastly and drastically increase and broaden the powers and the duties of the Federal Trade Commission. It seeks a comprehensive and far-reaching restructuring of that body's method of functioning, its mission, its procedures, as well as its jurisdiction.

It would vest in the Commission a new and long-sought—and heretofore denied by Congress—rulemaking power. It would be given authority to issue legislative rules "defining with specificity acts or practices which are unfair or deceptive to consumers."

Such rules would have the force and effect of law, with substantial sanctions for violations thereof, ranging up to $10,000 for each violation.

It is thought by many to be an abdication of legislative power by Congress which is unprecedented—and perhaps even beyond the point in this regard contained in the National Recovery Act of the early 1930's. That act was declared unconstitutional by the Supreme Court in the Schlechter case.

The act would authorize the Commission to institute class actions in the courts "to redress injury to consumers" caused by acts or practices which were subject of cease and desist orders.

The Members of this body will recall that a bill for consumer's class actions was before the Senate in the last Congress. It failed of passage. It was the subject of hearings in the Committee on the Judiciary, after the bill had been reported by the Commerce Committee.

Mr. President, the two titles should be considered separately. There was testimony before the Commerce Committee by former Postmaster General Day. On this subject he said, after completing his testimony on title I:

> Now I turn very briefly to title II. My discussion is brief only because this is a different major subject, not particularly related to warranties and not in last year's version of this Senate warranty bill, and to adequately discuss title II would require a separate in-depth statement.
>
> Many of the proposals in title II have been fought over for years, and repeatedly rejected as unsound. Title II in our opinion should be a separate bill. It should have full hearings with a chance after plenty of notice for testimony, for example, on behalf of parties involving in pending FTC cases where some of these very same issues are being contested.

So, there are several reasons why title II should be considered separately and apart from title I of the pending measure. First, their subjects are different and distinct. Second, the title I subject matter is properly in the purview and jurisdiction of the Committee on Commerce. Third, title II is properly a subject for the Committee on the Judiciary, dealing as it does with adjective, procedural law; and having a direct and massive impact on the entire judiciary.

Mr. President, that latter point is very important. Last year at the meeting of the American Bar Association, the subject of the efficiency of the courts and their overburdened status was discussed by a number of speakers.

On August 20, Chief Justice Warren Burger spoke on it. It was a speech that was televised nationally. In commenting on the overburdening of the courts and, in fact, upon the tendency toward impairment of court procedures because of heavy dockets Chief Justice Burger said:

> Third, entirely new kind of cases have been added because of new laws passed by Congress and decisions of the Courts . . . Two recent statutes alone added thousands of cases relating to commitment of narcotics addicts and the mentally ill. These additions came when civil rights cases, voting cases, and prisoner petitions were expanding by the thousands. 1940–1970 Personal injury cases multiplied 5 times. Petitions from State prisoners seeking Federal habeas corpus 80 to 12000 etc. . . .
>
> Meanwhile, not a week passes without speeches in Congress and elsewhere and editorials demanding new laws—to control pollution, for example, and new laws allowing class actions by consumers to protect the public from greedy and unscrupulous producers and sellers. No one can quarrel with the needs, nor can we forget that large numbers of people have been without protection which only lawyers and courts can give.
>
> The difficulty lies in our tendency to meet new and legitimate demands with new laws which are passed without adequate consideration of the consequences in terms of caseloads.
>
> Now we must make a choice of priorities.

Mr. President, that is the testimony and the thinking of Chief Justice Burger on this subject.

It might be well to recall parethetically at this point that under the system of government which we have the Federal courts are courts of limited jurisdiction. We should consider that there are only, in round numbers, on the order of 400 judges comprising trial judges and appellate judges in the Federal judiciary. There are 4,000 judges in the judiciary systems of the 50 States. That gives us an idea of the tremendous burden that would result from title II being added to an already almost insurmountable burden on the 400 judges in the Federal system.

The fact that title II is properly a subject for the Committee on the Judiciary was conceded by a consent to a brief period of time in which the Committee on the Judiciary was given in which to consider the measure. The Commerce Committee on July 16 granted the Judiciary Committee till October 16 in which to have hearings and report the bill back. The time was far too short. In the first week of August, the Senate began its summer recess.

The committee was already heavily committed, during the entire month of September and October and it was beyond the capability of the staff and the committee in the short time remaining, to accord any time to this very vital and important title II and its subject matter.

In 1970 we had 5 days of hearings in the Committee on the Judiciary on only that part of the present title II consisting of the consumer class action which is now provided for in section 203; 5 days of hearings on a complicated and very comprehensive subject; and there were over 400 pages of testimony on that aspect only. That aspect forms a rather small part of the subject matter treated in present title II, which undertakes a comprehensive and radical restructuring and revision of the Federal Trade Commission Act. This is so because it gets into many other aspects and procedures which are complicated and which are very important. And for the most part—I call attention again that we are discussing a subject matter in which there had been demands, requests, and bills for similar amendments for amending the Federal Trade Commission Act which were repeatedly turned down by Congress in the past 30 years as being unsound.

There is further reason for considering title II in the Committee on the Judiciary and as a separate measure. It lies in the fact that earlier this year there was rendered a report on selected independent regulatory agencies, including the Federal Trade Commission, by the President's Advisory Council on Executive Organization. Much inquiry and study went into that report. Findings and recommendations were made, including particular reference in one portion of the report to the Federal Trade Commission, its jurisdiction, its mission, and its functioning.

It would be well to receive in committee hearings the views and testimony from those who worked on that report, as well as other authorities before taking action in this Chamber on revising the Federal Trade Commission Act. Not a single word of testimony in the hearings of the Committee on Commerce refers to the overall study and report by the Advisory Council on Executive Organization. As far as I have been able to discover from the record, no reference has been made to the concept of restructuring the Federal Trade Commission Act as outlined in the report of the Advisory Council. Other authorities besides those who wrote the report and took action on it, would include members of the judiciary, who could testify as to the impact on the courts by restructuring the Federal Trade Commission.

It is for these and other reasons that title II should be deleted from the bill, S. 986, or referred to the Judiciary Committee.

This should be borne in mind: Title I is self-sufficient in its own terms to proceed with the vital and highly important program for consumer protection. In the field of warranties, it is entirely self-contained, self-sufficient. Its going into effect would not be impaired in the slightest by deferring action on title II till a later time, and subject to proper processing by the proper committee.

Sound legislative procedure would be to defer action on a rebuilding of the Federal Trade Commission at this time, but to go ahead with the first part of S. 986.

Mr. President, what are the alternatives here parliamentarily? One alternative would be for a motion to be made for reference of title II to the Committee on the Judiciary. It should receive full and undivided attention on a scale and to a degree that would be commensurate with its importance.

A second alternative would be to strike title II for the same purpose. It would achieve the same purpose as a reference to the Committee on the Judiciary of title II.

Failing in that, or if those methods and alternatives are not considered advisable at this time, then a series of amendments should be proposed, discussed, and voted upon by this body. One would be the amendment proposed by the junior Senator from Kentucky, and joined in by the senior Senator from New Hampshire and this Senator. It has for its purpose the striking of section 203 which provides for consumer class actions on a statutory basis and which would enact in its place a statute that would call for the creation of a study commission to treat with this very important subject. The Senator from Kentucky is persuaded, as he will shortly tell us, that the subject is of sufficient importance, vitality and relevance that it should be accorded that type study so that we would really have something that would be workable and acceptable in the field of enforcing the rights which consumers have when they become abused and when they have causes of action.

Mr. COOK. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr COOK. Mr. President, I ask unanimous consent that a copy of the hearings before the Consumer Subcommittee of the Committee on Commerce be placed on the desk of each Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, an additional alternative would be an amend-

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ment which would strike section 206 which provides for legislative rulemaking. That section is truly a startling and spectacular departure from what we have now. It is a very radical step, indeed, and a step which has been repeatedly proposed in Congress over the last three decades and each time rejected by Congress as unsound. As to that rulemaking power, section 206, Mr. President, the language which is specifically involved is that which is found on page 45 of the bill, subsection (2):

> The Commission is hereby authorized to issue legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this Act proscribes.

A good deal of space in the bill is given as to how these rules will be adopted and promulgated, how they will be construed and applied. But there is one thing that is not said here; nothing is said about the very, very broad nature of this rulemaking power. It is indeed very, very broad.

These powers of the Commission, under proposed section 206, could even reach such matters as wage and price controls, Mr. President.

Suppose, for example, that the Commission should decide in its judgment—and all that counts in this regard is the Commission's judgment—that it is unfair to consumers for labor to keep increasing its demands and then for business to keep increasing its prices because this feeds inflation and is unfair to the consumers.

Despite all the problems that you could conceive of Congress having if it had to wrestle with the problem of wage-price controls, the Federal Trade Commission could cut right through that and simply issue its trade regulation rules saying what shall be done in those respects.

Under the proposed section 206, the FTC could reach farmers; could reach laborers and union activities, as long as they decided that, whatever it is the farmer or the laborer or the union was doing rebounded unfairly to the interest of consumers. One would have to grant that in all of those areas they could find room to address themselves to activities of any of those groups of individuals as they affect consumers.

For example, despite other Federal laws, they could forbid farmers to leave productive acreage unplanted and unharvested, on the ground that doing so works adversely to the interest of consumers who would otherwise have the benefit of that produce. The commission, under this proposed rulemaking power, could forbid the use of trademarks. It could forbid brand advertising or any other means of building good will. We know this from pronouncements that have been made by at least one present FTC commissioner: There is an interest on the part of the commission today, under the heading of rational purchase decisions, to look upon anything which would cause or induce a consumer to buy a product for reasons other than price-quality reasons, as an unfair means of including a purchase based upon false values.

There has been a great deal of talk about this recently. There is a movement within the Commission toward looking upon such good will as an unfair practice adverse to the interests of consumers.

We could go quite a little into the scope of what this broad grant of legislative power would result in, if it became law.

Let us remember the background of such enactment or such adoption of rules. It would be a rulemaking authority, a legislative rule, a rule exercised by five Presidential appointees to the Federal Trade Commission. Three of the five could adopt such a rule as long as they complied with the very sketchy and somewhat unsatisfactory conditions contained in title II under that section. We could even envision three of these appointees, well intentioned as they are, who would be enough to form a quorum, and by a vote of 2 to 1, would be able to adopt a legislative rule that would have the full force and effect of law. And it would subject persons, in case of violations, to civil penalties of $10,000 for each violation.

That is a far cry from the manner in which Congress normally enacts statutes, because we do have two Chambers, we have committees in each, we have hearings in each, we have debates, and we have reports. And when each committee gets through, there is action in each body. After that action there may be a conference committee, and there is final passage, and there is the signature or veto by the President. All those procedures are provided. None of them is present in the matter of legislating in the far-flung, far-reaching legislative proposals which are embraced in section 206 of title II.

With a little study and consideration, I am certain Members of this body would be very, very concerned that something is being enacted far beyond what the Nation needs at this time and what the consumers need at this time.

There is a provision in the bill with reference to the rulemaking power which seems to be good because it is said there is to be congressional review. That congressional review consists of the following: Upon the rule being promulgated, it would be reported to each House of Congress and it would lie here for 60 days. Either House would have the privilege of passing a resolution or indicating in some official way that it is displeased with it or that it would not like to have it enacted into law. As a practical matter, anyone who has a working knowledge of the Congress knows that 60 days is not sufficient for that purpose. It is a perfect nullity for all practical purposes. It is said that this matter could be referred to or reviewed by the Court, but that is not true.

One of the witnesses, a man who has spent 35 years in the field of antitrust law, in marketing law, and commercial law, Mr. Gilbert H. Weil, testified in this fashion:

> I see no basis for court review. Once a statute comes on the books which says that the Commission can enact legislative regulations with regard to anything that it might deem to be an unfair practice, I see no ground for a court saying, "No, as a matter of law what you have decided is unfair is not unfair," because unfairness is a highly subjective standard. These powers of the Commission could even reach such matters as wage and price controls.

Then the witness goes into the matter of what areas the Commission could go into, and simply by its pronouncement that a certain action or inaction was unfair, make it unfair, and it would turn to the broad provisions of title II, section 206, to prove its point; and no court would be inclined to upset that finding and ruling.

Mr. COOK. Mr. President, will the Senator yield?

Mr. HRUSKA. Yes; I am happy to yield.

Mr. COOK. I would hope that the Senator from Nebraska would also take into consideration in this debate, first of all, language that the Senate itself should reject on its face and should resent in the highest order, and that is that the Commission is hereby authorized to issue legislative rules.

Mr. President, I do not think anybody on the floor of the U.S. Senate or in either House of the Congress should have to be reminded of article I, section 1, of the Constitution of the United States, which says that all legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives.

How in the world can we, as the duly vested constitutional body with legislative powers, by the stroke of a pen or the vote of any Member of this body, give to a legislatively created body, a commission appointed by the President, legislative rulemaking authority?

That is not theirs. It is not intended that we could give it up. It is not intended that we could extend it to someone else, to do our job for us. We have merely said to them, "Here, we want something done; now, you make the legislative rules to perform these things; we are giving you this authority, and that is fine and dandy."

Can we really abdicate our constitutional authority so easily? It seems to me we cannot. And once we start this theory of saying that bureaucracy is now so big and unwieldly, and has become so tremendous that we can no longer sit here and debate, discuss and come up with legislative rulemaking powers on this floor, that we now have to delegate that legislative rulemaking authority to an organization created by us, appointed by the President for a given period of years, not elected by the people of any district or any State, and say, "You now have legislative rulemaking power, for which you can take not only any corporation, but any individual, into court; you can find him criminally liable; you can impose a penalty on him; you can send him to jail, purely and simply because the Congress of the United States abdicated its responsibility under article I, section 1 of the Constitution, and delegated to seven men the right to promulgate, not rules, but legislative rulemaking power." I suggest that that should be developed during this colloquy.

I thank the Senator from Nebraska.

Mr. HRUSKA. I thank the Senator from Kentucky for that contribution. I know he has followed this legislation with a great deal of diligence, with his usual very fine legal interpretations. The comments he has made are certainly very pertinent.

Mr. President, the rulemaking section, section 206, is a detailed and comprehensive rulemaking provision which was included in the bill primarily in response to former Chairman Weinberger's specific request for clarification of the Commission's rulemaking authority. In discussing this provision, however, the Commerce Committee report accompanying the bill states:

> Nothing in section 206 is intended to affect the past or present rulemaking activities of the Federal Trade Commission.

This interpretation would leave intact the Commission's current rulemaking authority. The text of the section is itself unclear, for it provides only for "such rules and regulations as are specifically provided for hereinafter," without specifically stating that "such rules and regulations" constitute the whole of the Commission's rulemaking authority.

It is wholly illogical that section 206 should be anything less than a comprehensive delineation of the Commission's total substantive rulemaking authority. Otherwise, it will serve only to confuse the status of Commission rulemaking, in spite of its allegedly clarifying purpose.

Let us turn to another specific subject, Mr. President, and a very important one to the economy and the continued well-being of this Nation. That is our antitrust laws and our antitrust policy.

If section 206, as written, is construed as not affecting the Commission's current rulemaking activities, then the Commission will be free to issue rules not only defining unfair acts or practices, to which the legislative authority of section 206 is limited, but also to unfair methods of competition. The question of the Commission's ability to rewrite the antitrust laws in such fashion must be carefully studied, lest the Commission upset the careful antitrust rules judicially declared by the courts for more than half a century.

Mr. President, such careful study has not been accorded this subject. It has not even been engaged in. There is no testimony on the subject in the Commerce Committee hearings or in its report. And if there is any subject that requires careful study and attention, it would be the antitrust statutes and antimonopoly laws of this land.

What about the current Federal Trade Commission rulemaking power? Should the language of section 206 actually be intended to continue intact the Commission's current and not yet judicially approved rulemaking practices, the Commission would be free to legislate broadly, without observation of traditional concepts of due process? The issuance of rules without observation of the traditional procedural hearing safeguards, such as the right to cross-examination, as provided in sections 556 and 557 of the Administrative Procedure Act, would not be objectionable if the only decisions involved were policy decisions involving the particular issues of an administrative proceeding. But the concept of consumer fairness requires the establishment of clear and accurate marketplace facts, rather than the making of policy decisions. Approving the Commission's current rulemaking procedures absolves it of any responsibility to deal with facts at all.

The right to a hearing under section 206 is of great concern to many people. Even if the sole rulemaking authority granted to the Commission were that set out in section 206, there is no certainty that the Commission would have to observe the traditional hearing requirements associated with due process. This issue goes not so much to the text of the section as to the interpretation of the Commerce Committee report accompanying the bill.

Section 206 itself provides that in promulgating legislative rules, the Commission may—and let us underscore that word "may"—initially provide for the presentation of views in written form only, and may forgo a formal hearing with attendant cross-examination if such written statements do not disclose any "disparity of views concerning material facts."

However, in explaining the meaning of this phrase, the committee report declares that a hearing is required only when the Commission determines that the disputed facts are both "central to the proposed rule" and are "facts which could be proved or disproved by the accumulation of further information."

This interpretation is contrary to the purpose of this section. There is clearly no need for a hearing if there are undisputed facts which overwhelmingly support or undermine the Commission's position. But once the facts are disputed, it may be impossible to determine whether or not the disputed facts are "central to the proposed rule" unless cross-examination is first afforded. More importantly, the purpose of cross-examination is to seek to discredit asserted facts through cross-examination itself, not through the presentation of additional—as opposed to contrary—facts or information.

The cross-examining party need not have any additional information to discredit facts through cross-examination. Indeed, rebuttal evidence is usually submitted at a different time during the proceeding. But under the committee report's interpretation, parties will not be able to obtain a hearing, and therefore to exercise the formal right of cross-examination with respect to vigorously disputed facts, if those parties do not possess further information.

Mr. COOK. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield to the Senator from Kentucky.

Mr. COOK. I merely ask the Senator from Nebraska if he has known of any major piece of legislation that has come to this floor, any substantial piece of legislation, that has come here without a full-blown hearing.

Mr. HRUSKA. Not to this Senator's recollection.

Mr. COOK. And this is a legislative body.

Mr. HRUSKA. It is indeed.

Mr. COOK. We are proposing that an organization have legislative rulemaking authority, and they may. They may have a hearing if they so desire.

The Senator from Nebraska will recall, in his many years in the Senate, that when a major amendment is brought up on this floor, when a compromise will be worked, that compromise is the basis of one thing and one thing only: I will guarantee to the proponent of the amendment that he will be given hearings; we will review this matter; and then we will put it in its true context for later action by the Senate of the United States.

Is that not true?

Mr. HRUSKA. That is true. That is a very common and recognized procedure and a very beneficial, wholesome one.

Mr. COOK. Do we not have another, a second, very serious problem in this matter? It seems to me that not only have we violated article I, section 1, of the Constitution, but also, we have delegated our legislative authority to a legislatively created body; and we now are saying to that legislatively created body, "We are giving you legislative power, and you may, if you so desire, hold hearings; but you really do not have to, and you do not have to exercise due process."

Mr. HRUSKA. Due process is totally lacking, and the provisions of section 206 clearly indicate that.

On the matter, for example, of the right to cross-examination, if the Commission does provide for a hearing under section 206, there is still some question as to whether it must permit the basic right of cross-examination—even with the hearing—and the hearing is totally in their own discretion.

Mr. COOK. Last year, in S. 2301, we had the major fight that the Commission—not in its legislative rulemaking authority but in its rulemaking authority, within the confines of the statute—could pick and choose who it wanted to testify, that it could pick one of a group, and not even allow those who desired to testify or wanted to testify the opportunity to present their case and the opportunity to have the right of cross-examination—that is, the whole process again being a severe limitation of due process.

Mr. HRUSKA. That was one of the disputed and controversial points in S. 3201 in the last Congress.

A specific reference to sections 556–557 of title 5, United States Code—which affords the parties the right to cross-examination in administrative proceedings—was added to section 206 in the final Senate Commerce Committee print of the bill. The section qualified the application of these formal hearing procedures in only one respect—by stating that:

> The Commission may permit cross-examination (limited as to scope or subject matter) by one or more parties as representatives of all parties having similar interests.

So there we have a reenactment again of the point to which reference was made by the Senator from Kentucky.

Mr. COOK. If the Senator will yield, I will ask a carte blanche question: How would the American people who would be either individually or collectively on trial like to be told that they could have only one or two people testify in their behalf, if they represented a class or a group, and that they would be limited as to scope and limited as to what they could testify, if in fact an individual were on trial and had a number of witnesses?

XUM

Let us say he had a number of witnesses to testify as to his character, and the judge were to say:

I'm sorry. If you will just pick one out of that group, if he represents a group, that will be satisfactory.

I think that would be the basis for appeal as to the failure of due process under the Constitution, and I do not think there is any question in the world that there would not be the necessity of going to the Supreme Court to have that matter ruled on.

Mr. HRUSKA. Likely not. If the members of a legislative body would adopt that type of practice and that provision to apply to their own legislating, I suggest that following the adjournment of any session in which that would occur and the next election, there would be a brand new occupancy in that legislative body by new representatives who would succeed those guilty of such very improvident and very unwise action.

This language, read against the backdrop of the requirement that cross-examination be afforded, would appear to state simply that the Commission may require some limited cross-examination to be conducted on a representative basis in order to avoid repetitious and time-consuming cross-examination by many parties all seeking to discredit the same asserted facts. However, the committee report has construed this language to mean that the Commission may deny the right to cross-examination altogether, and when it decides to permit cross-examination, to permit it on a representative basis only. (Id. at 27.) In effect, the report has deleted from the bill the specific mention of sections 556–57 of title 5—added in the final committee print—and has instead described section 206 as though it were reviewing an earlier committee print.

LEGISLATIVE REVIEW

Finally, in construing the provision providing for the 60-day referral of the legislative rules to Congress for its review (section 206(2)(ii)), the committee report states:

Of course any court reviewing such rules would take judicial notice of the action or lack thereof, of Congress during its review of the rule on questions of policy.

There is no support for such a statement in the text of the subsection itself. The only purpose of the report's comment could be to turn congressional inaction into approval and make it more or less binding on a court reviewing promulgation of a Commission rule, since congressional action—to strike down a rule—would foreclose appellate review altogether.

Ordinarily, congressional silence is not taken as an indication of either approval or disapproval of judicial or administrative action. With its press of business, the Congress cannot be expected to spend any time reviewing rules except where there has been an egregious misuse of delegated legislative authority. The binding effect of congressional inaction provided for by the committee report, however, might go not just to policy questions but also to questions of fact.

Primarily as a result of the language of the committee report—which gains very little support from the text of the section itself—a number of serious issues have been raised as to the scope and procedures of the Commission's substantive rulemaking authority. First, the scope of Commission rulemaking authority would not be clarified. Additionally, the Commission would be free to legislate with respect to the antitrust laws as well as consumer rights, and could do so with virtually no restrictions. When the Commission decides to issue a rule, it might be able to do so without a hearing—or, if it holds a hearing, without cross-examination—and obtain virtually automatic court approval if Congress does not immediately act to strike the rule down. Without the gloss of the committee report, correction of those problems which do exist in the text itself would require very few modifications. In view of the language of the report, however, such correction may require complete revision of section 206 or total retraction or repudiation of the report.

A. SECTION 203—FTC CLASS ACTION

Now, Mr. President, a few comments on section 203, which is the provision providing for authorizing the commission, after issuance of a cease-and-desist order, to commence an action in Federal court "to redress injury to consumers caused by the acts or practices which were the subject of the cease and desist order." This section, in effect, is a class action provision with the Federal Trade Commission as the plaintiff suing on behalf of consumers for retroactive damage and other types of relief. Assuming that it is desirable to have these actions, the following specific issues are raised.

Here, Mr. President, I shall refer briefly to some of the propositions which we developed in great detail in 5 days of hearings on S. 3201 held in 1970 before the Committee on the Judiciary—more than 400 pages of testimony. We have in section 203 the very subject matter that we treated with so voluminously, so profitably, and so fruitfully, to show the vast impact that this provision of class actions would have on the court system and on the rights of litigants, on their counsel, and on everyone concerned.

1. DAMAGES

The section does not specify in even the most rudimentary fashion how damages or other injury are to be proved or how awards are to be made to individual injured consumers. Does the section mean therefore that once liability has been determined, a court may simply create a money fund of unspecified proportions out of some ill-defined general damage assessment against a defendant, issue a press release inviting any consumer with a colorable claim of injury to collect from the fund, and turn the uncollected funds over to the Federal Trade Commission or the Treasury? Is it the intent to eliminate jury trial, if requested, on factual claims relating to damages? Should the court have a master to supervise damage claims? Or does the section mean that proof of specific injury is not required at all—that relief will be afforded at someone's fiat? There is, for example, no requirement or suggestion in either the text of the section or the committee report that, when a section 203 class action has been filed, either the Commission or the court should issue notice to the consumers on whose behalf the Commission has brought the action. If neither the court nor the Commission knows which specific consumers are being represented in the action, neither one will be able, let alone be required, to assess the extent of each individual consumer's injury prior to levying a money judgment against a defendant.

The possibility of damage windfalls without proof of specific injury also suggests that section 203 may constitute the most extensive penalty provision ever devised. There is language in the committee report which states that the class action provision was designed not only to benefit consumers but also to enable the Commission to punish recalcitrant defendants with whatever sanctions the Commission or the court can devise.* In view of the open-ended nature of this section, which conceivably authorizes both general and punitive damages without proof of individual injury and without any other clearly defined limitations, it is a mystery why the committee ever bothered to include in title II a special provision—section 202—authorizing the Commission to seek civil penalties for "knowing" violations of section 5 of the act and why any effort was made in section 204 of the bill to raise from $5,000 to $10,000 the civil penalty for violation of an outstanding cease-and-desist order.

Mr. COOK. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. COOK. In regard to the Senator's discussion on section 203, so that I think we can get this thing in its true perspective, I should like to read from an article in yesterday's Washington Evening Star entitled "FTC Charges Ads for Mouthwash Lie."

It states in part:

A spokesman for the Senate Commerce Committee, which approved the bill, said even if the provision is enacted it would be difficult to get refunds for purchasers of a product such as Listerine, which has been marketed for years.

So, they themselves show how section 203 would operate, that it would not operate for the benefit of the consumer. But, more important, the question I ask the Senator from Nebraska is: Where in the language in section 203 do we talk about anything in regard to the statute of limitations? Where in section 203 do we talk about anything connected with estoppel? Where in section 203 do we talk about any action brought by the Commission or judgment rendered as res judicata?

*The Report states that the "Committee's intent in giving these remedial powers [section 203]." was not only to "enable the Commission . . . to utilize the results of that [cease and desist order] investigation for the benefit of the damaged parties," but also to "reinforce the Commission's credibility in policing the marketplace by authorizing sanctions which could realistically be expected to inhibit unlawful business practices." (Sen. Comm. Rep., p. 24.)

Is the door closed to the honest consumer who may later want to bring an action? Is he out of court? Is he through? What are his remedies when we decide, carte blanche, to pass the authority on to someone to be a big brother to act for everyone else, yet not knowing who he is going to act for? And then he is going to include an individual who in fact is aggrieved, or may be aggrieved in the future, or may have been aggrieved in the past? None of this appears in section 203, or in an analysis of the record, or in any testimony taken relative to its origination.

Mr. HRUSKA. The answer to the questions by the Senator with reference to settlement of the claims, with reference to the statute of limitations, with reference to the overlapping suits, with reference to all of these things is that there are no provisions dealing with that.

Mr. COOK. If a plaintiff has already brought an action, is he through when the Commission brings one? Must he merge his action with that action? I expect that what will occur, if the Senator does not mind, when all these problems occur, and they will, and if this bill is passed, we will then revert merely to section 206 and let the FTC with its legislative rules give them power to solve the problem and then go on its merry way being nice to the self-contained facilities. That can only create new problems, but then they will turn the page to the statute and solve other problems.

Mr. HRUSKA. The Senator from Kentucky is familiar with this illustration because it came out during the Judiciary Committee hearings last year and probably came out during the hearing in the Committee on Comerce, where a hypothetical class action case, involving automobiles or farm implements would be filed for damages. A particular purchaser of that farm implement or automobile could readily be determined. As between the dealer and the purchaser of that equipment, a settlement could readily be made, but because of the pendency of the suit it would conceivably be prejudicial either to the dealer or to his manufacturer that a settlement be made with only one purchaser so that the dealer would have to say, perforce, "I am sorry, Mr. Customer, but I cannot make this settlement with you. I would like to. I know it is right. You would have it now instead of 2 or 6 or 7 years later, minus court costs and attorneys' fees. You just have to bear with the times." Because the class action is pending no individual settlements can be made.

Section 203 would be completely counterproductive. It would stultify commerce and the rights and benefits to consumers, rather than give them an advantage.

Mr. COOK. How about something far more severe than that? How about something about that same supplier out in Nebraska or that same individual farmer out in Nebraska who wanted to bring that action on his own and not in a class, who finds that an action was brought by the FTC in the District of Columbia at the lower court level and lost, and then finds himself not even within the purview of being able to do anything, or by taking the long appeal to try to overrule a provision already made in the Federal courts?

Mr. HRUSKA. That is depriving him, for all practical purposes, of any rights he might otherwise have. In Judge Murrah's testimony we had last year before the Judiciary Committee, he called attention to the $100 million settlement that was made in a drug case. It had been filed in 1966. Four years later, the money was in the court, or available in the court, and then came the long years with the proposition of trying to find out how to distribute the money and where to pay it.

I point out, among other things, that it is necessary, of course, to notify members of the class action the cost of that, or to give notice, which came to $300,000.

Mr. COOK. If that is the Pfizer case, that was settled, not adjudicated. It was settled in the lower court—the District Court of New York. I would also remind the Senator from Nebraska, it is interesting that Judge Wyatt, who rendered an almost 75-page opinion as to the fact that the plaintiffs in the case should accept the settlement, notified the thousands of plaintiffs in that case that he would recommend that settlement, even though, if they tried their actions individually, their opportunities to seek a judgment would be 50–50, if not less.

So we also see that we get ourselves into a situation where many people under that particular class action agree to a settlement, because the court advises them that their opportunity to bring their action to a conclusion would be futile, and that their opportunity to come to a conclusion by reason of the court action was 50–50, if not less, and that therefore they had better settle.

Mr. HRUSKA. Mr. President, I ask the Senator from Kentucky whether this type of case and this line of argument was considered in the Committee on Commerce.

Mr. COOK. It was considered in the Committee on the Judiciary at great length.

Mr. HRUSKA. I know that. However, during the formulation of the pending bill, was there any intensive discussion of the ramifications and the terrific impact on the court system, as well as upon the litigants, along the line we have been discussing in this colloquy?

Mr. COOK. Mr. President, again I say to the Senator from Nebraska that in all fairness to the committee, under S. 3201 last year, we had a different measure than S. 986 this year.

We disposed of those considerations last year in our bill. And that bill passed the Senate.

There was no discussion about this. However, this year when we received the bill, S. 986, the immediate position was taken that this was a very similar bill in essence as S. 3201 of last year.

It was my contention that it was not, that title II of this bill was an altogether brand new animal and that under those circumstances extensive additional hearings should be held.

I must confess that additional hearings on S. 986 were held at my request, so that this information could be put into the RECORD.

Mr. HRUSKA. Mr. President, does the Senator from Kentucky agree with me that the provisions of S. 3201 of last year bears very little, if any, resemblance to the provisions of title II of S. 986?

Mr. COOK. Mr. President, as we say in my part of the country, hardly a smidgen.

Mr. HRUSKA. Mr. President, Judge Murrah is the Director of the Federal Judicial Center, and he is also the Chairman of the Judiciary Committee on Multi-District Litigation of the United States District Courts.

He testified at length on this matter. I read in part from the decision in the Pfizer case:

We must realize that class action litigation, with its built in protection for the absent class, is complex, expensive and time-consuming.

It is necessary of course to notify the members of the class . . . the cost of that, of just giving notice came to $300,000.00.

It is difficult to tell this subcommittee just how much work has gone into this (case) and what it does entail.

The Civil cases were commenced in 1966 . . . I do not know how to estimate the time it will take to distribute the funds.

That was 5 years after the action was commenced. There is no specificity, no provisions, and no consideration given to this tremendous impact upon the judicial system.

I say again that the idea that it was proper fodder, proper grist, for the mill to recognize this. However, the time granted the Judiciary Committee was far too short. Four to 5 weeks in a committee that had complete bookings and commitments for that time. It was impossible to make any progress. The better course of wisdom would be to refer this to the Judiciary Committee and go ahead with enactment of only title I. It is self-sufficient and self-contained. It can go forward, get established and get to working in the field of warranties proper.

I again submit that this would be terrific impact to put on the Federal judicial system which has only 400 judges. To put that kind of burden on the Federal system would eventually virtually immobilize many courts in the land at the Federal level.

That is very conceivable.

With the many cases authorized by law, the Federal court system is already struggling and groaning and is proceeding with a great deal of difficulty. We have to consider that in due time we ought to consider them with reference to what specific amendments will be proposed and also with reference to a policy question as to the strategy.

It is my hope that title II will go back to the Judiciary Committee, either by a reference of this body or by striking the title and giving the Judiciary Committee the opportunity to come back in due time with the proper processing of the bill.

Mr. COOK. Mr. President, I would like to make one point very clear. If in fact any individual in the United States as a consumer has the right to come to court, I do not care how crowded the Federal system is, he has to have that right. And that right has to be defended.

XUM

So, the question of what it would do to the court system was the problem presented to us. That is why we proposed a new section 3, and this new section 3 provides that we examine the feasibility of whether any individual in the United States who buys a refrigerator, or some other items, has to find out whether he can join a class group somewhere in the United States so that he can be part of a class action and ultimately recover a small part of his loss by reason of the complications of class actions.

Title III sets up, in fact, a small claims court throughout the United States under the federal system for the benefit of consumers.

We did this years ago when we set up the bankruptcy courts. So to say that it cannot be done is a useless argument. We have done it for thousands and thousands and thousands of people across this country. We ought to have a means by which an individual who finds himself with a bad product or finds himself absolutely frustrated by a multitude of correspondence or finds himself out of patience with a repairman who says that he is coming on Monday and never comes, has a means to go to the Federal court and get that individual or corporation and its representatives in court, not along with 300,000 other people that he has to wait for, so that they can all join in a class action. The court can then make a determination there for that individual's benefit that he has received a bad product and that something must be done about it. There is then an order on the books. However, we cannot go into this system as in the Pfizer case where they had one meeting and a determination was made that a settlement should be concluded. There were 131 lawyers in that courtroom. If we do that, the consumers will not be protected.

Mr. HRUSKA. Mr. President, the Senator from Nebraska finds that we are in complete agreement. Every man who has a controversy should be entitled to bring it into court.

The practical situation is that with the high order of priority given to criminal cases, it sometimes takes from 12 to 18 to 24 months to bring criminal cases before the Federal courts for trial. And in such cases there are involved the lives and the liberties of people accused of crime. If we double or triple the number of judges there will still not be enough judges to take care of the volume of litigation that will spring up from this Congress with the many other pieces of litigation that are being constantly referred to it because of laws enacted by Congress.

Mr. COOK. That is why we want to have title III in the bill. Somehow or other, I have been receiving telegrams from various individuals throughout the country, who say that the amendment to strike section 203 will destroy the bill, and so forth.

I would like to find any great advocate of the consumers—and, I certainly consider myself one—who will show the country that class actions set the laws on the part of an individual consumer.

Let us take the Pfizer case. Not an individual who bought drugs and was overcharged for them, unless he kept every bill, is entitled to go into Federal court in Chicago to have his claim established, and any money awarded to him. The only people who will recover under the Pfizer judgment, which is a multimillion-dollar settlement, will be institutional buyers who can produce a record. They will recover. Hospitals will recover tremendous sums. But patients who bought from the hospitals or drug stores will recover nothing. Let us take the Philadelphia bread case. Again, an attempt was made on the part of consumers, individuals who bought bread day in and day out. They did not know there was a fixed-price basis. They attempted to group together and become a part of the action, and they were denied the right to become a part of the action. The only people who recovered in that class action were the schools and institutions that could produce records of everything they bought.

The lady does not keep her slips from the grocery store every time she comes home. At the end of the year, she cannot say, "Here is where I bought one, and here is where I bought another, so I can recover."

The only point I am trying to make is that a great many individuals before our committee and staff, in discussions on the bill, tried to convince the consumer groups in this country that the individual consumer was going to have an opportunity to recover, and I have yet to learn of a class action where a determination has been made that the individual was going to recover a thing. Those who received the largest recoveries were institutions which had all the records and could submit them, and about which there was no question. The Pfizer case took 4 years, and then came the task of trying to decide those who should be paid the money. Those who got the biggest recovery in that case were State institutions and hospitals. The individuals who bought those drugs at inflated prices are going to recover not one dime.

Mr. HRUSKA. I thank the Senator.

Mr. President, I yield the floor.

Mr. MAGNUSON. Mr. President, I ask this question because I have great respect for the Senator from Kentucky's legal analysis of all the bills that come before our committee. For the record, perhaps the Senator could answer this question.

Does an individual have the private right of action based on violation of the Federal Trade Commission Act now?

Mr. COOK. Does an individual have a right of action?

Mr. MAGNUSON. Yes, for violation of the Federal Trade Commission Act. I am asking the Senator's legal opinion.

Mr. COOK. If a cease and desist order has been issued by the Federal Trade Commission and that cease and desist order has been sustained, I think an individual would have a private cause of action. Yes.

Mr. MAGNUSON. Based on that?

Mr. COOK. Yes. He can also bring his own action.

Mr. MAGNUSON. How would the Senator divide the action of an individual between Federal court jurisdiction and State court jurisdiction now? Obviously, in State courts, different States have different rules.

Mr. COOK. Is the Senator saying section 203, by reason of the tenure of the question—is designed to get around the jurisdictional limitation and diversity of States?

Mr. MAGNUSON. No, I do not think it is. It is designed to give the Federal Trade Commission the right to sue.

Mr. COOK. Does not that overcome diversity?

Mr. MAGNUSON. Would it? I do not know.

Mr. COOK. Does not that overcome jurisdictional diversity of citizenship and jurisdictional limitation?

Mr. MAGNUSON. I am advised by the staff that it does enable the Commission to seek relief for people otherwise barred. Either because there is no right of action or because of jurisdictional limits.

Mr. President, I listened with great interest to the Senator from Nebraska. Unfortunately, I had to leave the Chamber for a few moments, but I wish to clarify the phrase he discussed at some length, the phrase "legislative rule." This is a traditional law characterization that the Supreme Court has recognized.

I refer to page 26 of the report on the bill which states:

> Paragraph (2) of subsection (g) of the Federal Trade Commission Act, as amended by section 206 of title II, would authorize the Commission to issue "legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers and which section 5(a) (1) of this Act proscribes." The Committee chose to characterize these rules as "legislative" for three reasons: 1) the procedures prescribed resemble the procedures followed by Congress in formulating legislation; 2) the rules are to be reviewed by the Congress as well as the courts; and 3) the rules are to have the force and effect of law following their adoption as compared to rules which simply interpret a statute without having the force of law. There is precedent for such characterization. Professor Davis states that "the strongest authority for the distinction between interpretative and legislative rules is the action and attitude of the Supreme Court, even in the absence of specific articulation of the distinction. Explicit recognition of the distinction is found in a few opinions of lower courts, in Congressional action, in administrative action, in reports or special studies of administrative law, and in remarks of leading commentators." (DAVIS, ADMINISTRATIVE LAW TREATISE § 5.04 (1958))

So this is not new or radical; it is as traditional as the administrative agencies themselves.

Mr. President, because of a printing error, it is necessary to offer the following technical amendments. Beginning on page 34, line 25, strike all through page 35, line 18 and make a substitution. It is merely a printing error.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MAGNUSON. Mr. President, I do not think it is necessary to read it. I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

> Beginning on page 34, line 25 strike all through page 35, line 18 and substitute the following:
>
> (b) Any purchaser damaged by the failure of a supplier to comply with any obligations assumed under a written warranty or service contract in writing subject to this title may bring suit for breach of such warranty or service contract in an appropriate district court of the United States subject to the jurisdictional requirements of section 1331, title 28, United States Code, and any purchaser damaged by the failure of a supplier to comply with any obligations assumed under an express or implied warranty or service contract subject to this title may bring suit in any State or District of Columbia court of competent jurisdiction: *Provided*, That prior to commencing any legal proceeding for breach of warranty or service contract, any purchaser must have afforded the supplier a reasonable opportunity to cure the breach including the utilization of any informal dispute settlement mechanisms established pursuant to subsection (a) of this section. Nothing in this subsection shall be construed to change in any way the jurisdictional prerequisites or venue requirements of any State.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, I have another technical amendment. On page 41, line 24, strike the word "limiting" and insert in lieu thereof "regarding."

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 41, line 24 strike the word "limiting" and insert in lieu thereof the word "regarding".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MAGNUSON. Mr. President, as I said earlier, we expect to have further discussion on the bill. All of us interested in the bill are in general agreement with the leadership that we have our votes on the bill on Monday. I would ask the majority leader, who is in the Chamber, if we plan to meet at 10 o'clock on Monday morning.

Mr. MANSFIELD. We plan to meet at 11 o'clock at the present time, but we can change it to 10 o'clock.

I want to express the hope that while we have such a large attendance in town we have some votes on amendments today.

I understand an amendment will be offered by Senators TUNNEY, CRANSTON, KENNEDY, and HARRIS. I see no reason why that cannot be faced up to this afternoon. The Senate would be that much better off if we get some of these amendments considered this afternoon. I understand a distinguished Senator who is very interested in the bill has to leave at about 4:30 this afternoon. We will not go beyond then, but if we can act on some of these matters in the meantime it will help considerably. We want to adjourn sine die by the 1st of December.

Mr. MAGNUSON. Yes. I am sorry I asked that question.

Mr. MANSFIELD. The Senator just had two technical amendments accepted.

Mr. MAGNUSON. The Senator from Virginia (Mr. SPONG) has an amendment. The Senator from Utah (Mr. MOSS) wants to discuss the bill. The Senator from Kentucky (Mr. COOK) is going to necessarily discuss his amendment again on Monday, so Senators present can understand what we are voting on. This is true of the Senator from Nebraska (Mr. HRUSKA). I think it is agreed, by all Senators who are interested in offering amendments, that the votes would come on Monday.

The Senator from California (Mr. TUNNEY) wants to make a statement on his amendment. I may say that I am willing to accept that amendment, but the Senator from New Hampshire (Mr. COTTON) cannot be here, because of the illness of his wife.

Mr. MANSFIELD. Mr. President, if the Senator will yield, I have no intention of meaning that we would complete action on the bill today, but I had hoped we would get as many amendments acted on as possible, and, on that basis, complete action on the bill Monday.

Mr. MAGNUSON. We do not have that many amendments. The ones who are interested in offering amendments, I think, agreed to vote on them Monday.

I can accept the amendment of the Senator from California, subject to clearing it with the Senator from New Hampshire (Mr. COTTON).

Mr. COOK. Mr. President, if the Senator will yield, may I say to the Senator from Washington, relative to the amendment of the distinguished Senator from California, that, as ranking Republican member of the Consumer Subcommittee, I have no objection.

Mr. MAGNUSON. I am sure the Senator from New Hampshire (Mr. COTTON) will agree, but, as a matter of courtesy, to the ranking Republican member of the full committee, I think he should be notified.

Perhaps the Chair can recognize the Senator from California.

Mr. TUNNEY obtained the floor.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. HRUSKA. Mr President, I send to the desk two amendments, which I ask to have printed and lie on the table.

The PRESIDING OFFICER. The amendments will be received and printed and will lie on the table.

Mr. TUNNEY. Mr. President, I wish to thank the distinguished Senator from Washington for the remarks he made that he would not have any objection to the amendment I am planning to offer.

I would like to submit for printing an amendment to S. 986, cosponsored by Senators CRANSTON, KENNEDY, and HARRIS. I shall be calling the amendment up for consideration on Monday, if that is agreeable.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. TUNNEY. Mr. President, is it agreeable to the distinguished Senator from Washington that the amendment be called up on Monday?

The PRESIDING OFFICER. Does the Senator from Washington agree that the amendment will be called up on Monday?

Mr. MAGNUSON. Yes.

Mr. TUNNEY. I thank the Senator.

Mr. MANSFIELD. Can we say at 10:15 or 10:20 a.m. Monday?

Mr. TUNNEY. I am willing to have it called up at 9:15.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

The Senate continued with the consideration of the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

Mr. COOK. Mr. President, will the Senator from California yield?

Mr. TUNNEY. I yield.

Mr. COOK. Mr. President, I send an amendment to the desk for printing.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. TUNNEY. Mr. President, I ask unanimous consent that an analysis of the amendment be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

TUNNEY, CRANSTON, KENNEDY AND HARRIS AMENDMENT TO S. 986

Certain changes have been made in the text of the amendment originally circulated.

First, the word "guidelines" has been added in addition to the words "rules and regulations". S. 986 makes reference in Section 110(a) to FTC guidelines rather than rules and regulations. The change would ensure that the amendment was all inclusive.

Second, the original text referred to "legislative" rules issued in accordance with the Federal Trade Commission Act. In the final draft I have omitted the word "legislative." This change is intended to make it clear that the rules here contemplated may be developed pursuant to the informal procedure contained in Section 553 of The Administrative Procedures Act.

Third, language has been inserted in the amendment to make it clear that federal preemption is limited to labeling and disclosure requirements and that state law may continue in other areas such as performance under a warranty, prohibitions against waivers of implied warranties and recovery of damages.

Fourth, for such state requirements to continue the FTC must not only find that a state law affords greater or additional protec-

tion but in addition that the laws are being adequately enforced. In this way an inadequately enforced law may not be used as an excuse to avoid the minimum standards of S. 986. Language has been added to ensure continuing review of state law.

ANALYSIS OF AMENDMENT

The FTC is given the power to exempt certain transactions or classes of transaction from S. 986 if it determines first that the state law affords greater or additional protection to consumers and that the law is adequately enforced. The exemption may be only for some classes of transactions and not for others. It may be, for example, that the more effective protection of a state law is limited in application to products used in the construction of housing or sold by door to door salesmen. The exemption granted by the FTC would then be limited to the class or classes of transactions specified in the application, or as to which appropriate findings are made. The exemption language "to the extent specified in such determinations" permits the FTC, for example, to validate state law that prohibits reduction of damages for breach of implied warranty, but which does not have disclosure requirements. This is the situation in Massachusetts and Maryland. Under S. 986, while there may not be a disclaimer of implied warranties, the minimum federal standards appear to permit clauses limiting liability to replacement and repair. Under the amendment, State laws making sellers responsible for accidents would be permitted to rule transactions occurring subject to the laws of those States. The California statute goes further in this area as well as required performance under a warranty. For example, once a manufacturer chooses to give a written warranty he must either provide in-state servicing facilities or fully reimburse retailers for work under the warranty.

Legitimate Business interests will be protected by the second finding that the FTC must make. The FTC must find, in effect, that granting the exemption does not put an undue burden on business operating in interstate commerce. The amendment will not unduly burden the FTC, since the application, as is the case with applications to the Federal Reserve Board under the Truth in Lending Act, must be made by an appropriate state agency having jurisdiction to protect consumers. Application by private interests for approval are not provided for.

TEXT OF AMENDMENT TO BE PROPOSED BY MR. TUNNEY FOR HIMSELF, MR. CRANSTON, MR. KENNEDY, AND MR. HARRIS TO S. 986

On page 41, strike out lines 16 through 22 and insert the following:

"(b) labeling, disclosure, or other requirements of a State with respect to written warranties and performance thereunder, inconsistent with those set forth in Section 102, 103, or 104 of this title or with rules and regulations of the Commission issued in accordance with the procedures set forth in Section 109 of this title, or with guidelines of the Commission shall not be applicable to warrants complying therewith. However, if upon application of an appropriate state agency, the Commission determines (pursuant to rules issued in accordance with the Federal Trade Commission Act, as amended) that any requirement of such State (other than a labeling or disclosure requirement) covering any transaction to which this title applies (1) affords protection to consumers greater than the requirements of this title and (2) does not unduly burden interstate commerce, then transactions complying with any such State requirement shall be exempt from the provisions of this title to the extent specified in such determination for as long as the State continues to administer and enforce effectively any such greater requirement."

Mr. TUNNEY. Mr. President, the Senate has before it legislation designed to provide further protection for the consumer from warranty fraud and deception. S. 986, the Consumer Product Warranties and Federal Trade Commission Improvement Act of 1971, is a good bill which should have good results in the fight to end consumer deception in America. I applaud the efforts of Mr. MAGNUSON, Mr. Moss, and the other committee members to enlist the power of the Federal Government in the struggle to insure that the Nation's consumers are protected by fair product guarantees.

However, some States, like my own California, have a consumer warranty statute which provides greater or additional protection than this proposed Federal law. Yet, as section 113(b) of S. 986 is now worded, no State warranty law would be enforceable unless it is "consistent" with its Federal counterpart.

I do not believe that it is the intent of the committee to prevent the States from becoming partners with the Federal Government in consumer protection. Many States legislatures have worked long and hard to enact consumer protection statutes and their work must not unnecessarily be thrown out the window. Such additional benefits have applied to the important areas of warranty performance, implied warranties, and the recovery of damages.

I am, therefore, offering an amendment, along with Senators CRANSTON, KENNEDY, and HARRIS, which would set minimum Federal consumer warranty and performance standards, but would also encourage the various States to continue to be laboratories of innovative experimentation in the consumer field.

The purpose of this amendment is to insure that such State provisions, in areas other than labeling and disclosure, which are enforced and provide greater or additional protection, shall not be abrogated by S. 986 or by any rule or regulation promulgated by the Federal Trade Commission.

The amendment would create a procedure under which the Federal Trade Commission would allow State laws to continue in effect by exempting specific classes of transactions from this act. Upon the application of an appropriate State agency, the Federal Trade Commission would determine whether the State's law provides greater or additional protection without an undue burden on business. If it does and is adequately enforced, then transactions complying with such State requirements would be exempt from the provisions of S. 986 to the extent specified by the Federal Trade Commission. The exemption requirement would preclude the possibility of dual coverage.

I believe that the new burdens imposed on the Federal Trade Commission under title II of S. 986 would not unduly tax its resources by also having the further burden of reviewing State action. However, as in all areas it is my hope that the Congress will appropriate funds for the FTC up to the full level of authorization.

The right of a State to develop greater or additional protections to the consumer would be subject to two important limitations. First, the amendment would not permit labeling and disclosure requirements by States conflicting with the terms of S. 986. Thus, a State would not be able to raise barriers to free flow of goods in interstate commerce by requiring that a manufacturer package or label his product in some fashion not fully consistent with this act.

The second important limitation on a State's power is that it may not impose burdens upon a manufacturer which constitute an undue burden on interstate commerce. Both of these limitations on a State's power are expressly provided for in the proposed amendment.

In short, this amendment will permit the States to advance the fundamental interests of their citizens without in any way frustrating the basic congressional objective of providing essential labeling and disclosure and minimum performance standards applicable on a nationwide basis.

Manufacturers have expressed concern on the need for uniform regulations throughout the Nation. I can understand the desirability of uniform requirements for the printed warranties that are attached to the products shipped throughout the country.

On the other hand, the citizens of California should not receive reduced protection in areas other than labeling and disclosure.

A comparison of the provisions of S. 986 and existing California law will clearly point out the need for allowing the States to retain the right to provide certain additional protection for their citizens.

In California, if a manufacturer chooses to give an express warranty he must then either maintain authorized service facilities in the State or fully reimburse the actual reasonable cost of all his retailers for servicing his warranty.

If the manufacturer chooses the latter option, then the consumer has the right to return defective goods to the retailer for repair or replacement. The retailer, in turn, has the right to collect from the manufacturer his full costs in servicing the warranty. California law also requires that warranty repairs be completed within 30 days and permits any consumer or retailer injured by a willful breach of this procedure to sue for triple damages. S. 986 speaks only of repair within a reasonable time and limits damages to actual consumer damages and only against the warrantor.

While there may not be a disclaimer of implied warranties under S. 986, the bill appears to permit clauses limiting liability to replacement and repair. The person injured when a defective part causes injury is not going to be comforted to know that a new part will be supplied. It should be clear that State laws making sellers responsible for such an injury should be permitted to rule transactions occurring, subject to the laws of those States.

Specifically, we are thinking there of a situation in which an automobile has an accident as a result say of a defect in a small part in the wheel, the axle, or the brakes. Under California law, a person could sue for all damages resulting from that accident, rather than just for the replacement of the part in the automobile that failed.

Mr. President, ample precedent does exist for what my amendment attempts to do. For instance, California led the Nation in enacting strong automobile emission control standards. The National Clean Air Act of 1970 contains a provision which allows the Administrator to waive Federal emission standards if a State statute requires more stringent emission control standards.

The National Highway Traffic Safety Administration and the Federal Highway Administration take a similar approach in administering the Federal Highway Safety Act.

To the extent that a State goes further in its standards than the uniform standards required by the act, that State's more restrictive standards are allowed.

The final report of the National Commission on Product Safety recommends that States be allowed to experiment with innovative regulatory measures. The report continues:

> In addition, some product hazards may be regulated most effectively by complementary State and Federal regulation.

Finally, the truth-in-lending law provides a procedure whereby a State law is reviewed and if more stringent, it is allowed to continue.

Some might be of the opinion that S. 986 will not preempt existing State laws, as long as such laws are consistent with the broad intent of the legislation. I feel that we must make absolutely clear to the FTC and to the courts that the intent of Congress is not total preemption of State laws.

My opinion on the need to clarify the effect of section 113(b) has been confirmed by Congressman JOHN MOSS of California, chairman of the House Subcommittee on Commerce and Finance, the California attorney general, the chairman of the California State Senate Judiciary Committee and the public interest research group headed by Ralph Nader.

Mr. Fairfax Leary, representing Ralph Nader's public interest research group, has made the following recommendation:

> Finally, just as in the Clear Air Act, 84 Stat. 1689, it must be clear that this Federal Act does not preempt the provisions of any existing or future State law giving greater consumer protection. An example of such an act is the California Consumer Warranty Act, Chapter 13333 of the California Statutes of 1970.
>
> There is a provision which you currently have in the bill which gives preemption over provisions that afford greater consumer protection.
>
> It would seem to me in the case of the California Consumer Warranty Act, and that is a good act, and I think it should be allowed to exist side by side with this Act. Industry may also try the ploy of asking for a full federal preemption. This would be most unfortunate in this field, as the states can continue to serve as laboratories for increased consumer protection.
>
> We suggest that the federal rules should provide a floor but not a ceiling on consumer protection.

I believe that the enactment of this amendment to S. 986 would allow the Federal Government the greatest opportunity to engage in cooperative action with the various States to provide consumers with the type of thorough protection that they have so long deserved.

In closing, let me say that I believe the American consumer has waited long enough for Federal action to provide complete protection against the "buyer beware" attitude of some of our Nation's businesses. Regulation of guarantees is one more step along the path toward our goal of creating a "Bill of Rights" for the consumers. Therefore, I urge that this amendment be adopted and that we then act swiftly in favor of S. 986.

Mr. COOK. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. COOK. Mr. President, I congratulate the Senator from California on his statement. I could not agree with the Senator more. I think, frankly, that it ought to be a standard of legislative history that if this body imposes the responsibility or the obligation to preempt, then it should either preempt at a relatively equal level or a higher level, and that if it did attempt to preempt on a lower level, we should be subject to severe criticism.

I think that, in essence, is what the Senator is saying. I think the Senator is saying it has been established in the State of California, to the best of his knowledge and understanding, that the provisions of the California statutes, in some respects, require a higher degree of responsibility than the responsibility already contained in S. 986 or to be the subject of rulemaking authority of the Federal Trade Commission. Consequently, to that extent, the Senator feels that the State of California should be protected, and that in the event the rules and regulations under this act would become of a superior character for the benefit of the consumer, then obviously the statutes of the State of California would become preempted, and become subject to the rules and regulations of the Federal Trade Commission.

Mr. TUNNEY. The Senator is correct. That is the basic substance of my amendment.

Mr. MAGNUSON. Mr. President, as I said earlier, I am sure the committee would be willing to accept this amendment when they are here on Monday.

Just to make the record clear, it is my understanding that the purpose of the amendment is to allow a State to establish statutory requirements which exceed those in the bill before us.

Mr. TUNNEY. That is correct.

Mr. MAGNUSON. But it is also my understanding that the Federal Trade Commission will be empowered to determine the appropriateness and scope of any additional protection.

Mr. TUNNEY. That is correct. That reservation is specifically stated in the amendment.

Mr. MAGNUSON. So, if there were established any great burden on interstate commerce, the FTC would have a chance to look at it?

Mr. TUNNEY. That is correct. One provision of the amendment is that if there is an undue burden on interstate commerce, the Federal Trade Commission does not grant the exemption.

Mr. MAGNUSON. Does the Senator from Kentucky want some time?

Mr. COOK. Mr. President, I have joined with my distinguished colleagues the ranking minority member on the Committee on the Judiciary, Mr. HRUSKA, and the ranking minority member on the Committee on Commerce, Mr. COTTON, in support of an amendment to strike all of title II from the bill, S. 986. I have done so not because I oppose the majority of the provisions contained in that title but because, as I shall point out later in more detail in connection with my statement directed to my own amendment, I believe the amendments to the Federal Trade Commission Act effected by title II of this bill are worthy of consideration on their own merits. I have consistently urged that the two titles be considered separately so that attention can be focused on the far-reaching changes which are proposed to be made in the Federal Trade Commission Act.

I have indicated that I do not oppose the majority of the provisions contained in title II of this bill. Let me state affirmatively that I support those provisions recommended and incorporated in S. 1219, which are also part of title II. Beyond that, I support the other changes effected by title II which would permit the Federal Trade Commission to more effectively carry out its present role as a guardian of the marketplace. I am most concerned, however, Mr. President, about certain features of title II which would amend the act in a way so as to radically revise the mission and character of the Federal Trade Commission.

I believe a dramatic change in the role of that agency at this time would be unwise and detrimental to the carefully planned program of revitalization of the agency which has been undertaken by the Nixon administration.

It is not my intent in cosponsoring and supporting the Hruska amendment to bury those changes in the FTC Act which are needed to carry forward the processes of revitalizing the Federal Trade Commission. It would be my hope, Mr. President, that should this amendment carry, title II, absent the controversial sections 202, 203 and 206, would be reintroduced and speedily enacted so as to give the Commission the tools it needs to perform its present mission. After we have had some experience with the agency exercising the expanded powers which it would be given even after the elimination of the sections to which I have referred, and after the comprehensive study of consumer grievances and remedies which would be provided under title II of the Hruska amendment or title III of my amendment, which everybody on both sides of the aisle appears to agree to be necessary and desirable, will be time enough to consider the sort of changes in role of the FTC contemplated by sections 202, 203, and 206 of title II.

Mr. President, my support of this amendment will undoubtedly be characterized by the consumerists as an anti-consumer vote. I realize there is little I

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can say which would prevent them from doing so. I will say, however, that by supporting the Hruska amendment, I am not voting against expanded consumer advocacy functions for the FTC as such but, rather, am voting for a rational and comprehensive approach to the problem of consumer remedies legislation.

I might suggest that we have other bills that are presently before our committee, relative to consumer advocates, relative to commissions to be set up under consumer advocates; and there seems to be no way that those functions can be accommodated in the provisions as set forth in title II, if enacted. Beyond that, I will have to let my record as the ranking minority member of the Consumer Subcommittee of the Committee on Commerce speak for itself. I am content to let my case rest on the basis of my attendance at hearings and participation in the processes of drafting and refining various pieces of consumer legislation pending before the Committee on Commerce including the bill which we are discussing, S. 986.

Mr. DOLE. Mr. President, we are aware of the too-frequent facts of commercial life that——

Consumers do not always get what they have paid for;

Product guarantees are sometimes written in language that is difficult if not impossible for the average consumer to understand; and

Warranty obligations are often disregarded.

Thus, I am pleased that the Senate today is considering S. 986, the Consumer Product Warranties and Federal Trade Commission Act of 1971. This bill contains a number of worthwhile features which would be important steps forward in solving these problems.

It would: Set forth minimum disclosure standards for written warranties on consumer products costing more than $5 each; define Federal content standards for full warranties; provide consumer remedies for the breach of written warranty and written service contract obligations; and expand and improve the Federal Trade Commission's ability to deal with unfair consumer activities.

Mr. President, although I strongly support the goal of S. 986 to increase consumer protection, I seriously question whether one provision of the bill would offer the best approach to accomplishing this goal. Section 203 authorizes the Federal Trade Commission under certain circumstances to bring civil actions in Federal court to recover damages and provide other relief for injuries caused by acts which are "unfair or deceptive to consumers."

I believe section 203 would create many more problems than it would solve. It is language that is extremely vague and does not define those acts or practices upon which recovery may be had. Rather, recovery would be based on the amorphous standard of acts or practices "unfair and deceptive to consumers." It establishes no statute of limitations on actions based on these "unfair or deceptive" acts. It does not identify the real parties in interest who would be entitled to recover in such actions and it does not specify how a final judgment would be apportioned. This provision fails to provide for the effect on judgments rendered by the Federal Trade Commission in private litigation where cases are brought after the Government's action. These are just a few of the serious problems that come to mind. It is clear to me that section 203, while giving the consumer the appearance of providing a remedy, in the long run does little to redress the consumer ills. Thus, I strongly support the proposal of my colleague from Kentucky (Mr. COOK) that section 203 be deleted.

At the same time as I support deletion of this provision, I would also like to express my support for Senator COOK's proposal that the Office of Consumer Affairs in cooperation with the Attorney General, enlist the support of the National Institute for Consumer Justice to study ways of settling consumer disputes. At the present time, we have insufficient data on the nature and frequency of consumer disputes and on the effectiveness of existing procedures such as small claims courts, class actions, and private dispute settlement techniques, including arbitration in resolving consumer grievances. The National Institute for Consumer Justice has recently charted a program to study these and related matters of consumer redress, and its expertise and resources would be extremely valuable in charting the Federal goal in this area.

Before we attempt any major effort to provide the consumer with additional protection or improved methods of asserting his rights, we must first have a sound basis in the facts and figures of consumer affairs which the National Institute for Consumer Justice can provide. Once we get a clear picture of existing methods for resolving consumer grievances, we will then be ready to move forward quickly to improve these methods and provide others that which will be speedy, inexpensive, and effective in solving consumer problems.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in view of the fact that there is to be no more discussion or debate on the pending business, I ask unanimous consent that it be laid aside until the conclusion of the morning business on Monday next, and that there be a period for the conduct of morning business at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

FARM CREDIT ACT OF 1971

Mr. TALMADGE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1483.

The PRESIDING OFFICER (Mr. EAGLETON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1483) to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes which was to strike out all after the enacting clause and insert:

That this Act may be cited as the "Farm Credit Act of 1971".

POLICY AND OBJECTIVES

SEC. 1.1. (a) It is declared to be the policy of the Congress, recognizing that a prosperous, productive agriculture is essential to a free nation and recognizing the growing need for credit in rural areas, that the farmer-owned cooperative Farm Credit System be designed to accomplish the objective of improving the income and well-being of American farmers and ranchers by furnishing sound, adequate, and constructive credit and closely related services to them, their cooperatives, and to selected farm-related businesses necessary for efficient farm operations.

(b) It is the objective of this Act to continue to encourage farmer- and rancher-borrowers' participation in the management, control, and ownership of a permanent system of credit for agriculture which will be responsive to the credit needs of all types of agricultural producers having a basis for credit, and to modernize and improve the authorizations and means for furnishing such credit and credit for housing in rural areas made available through the institutions constituting the Farm Credit System as herein provided.

SEC. 1.2. THE FARM CREDIT SYSTEM.—The Farm Credit System shall include the Federal land banks, the Federal land bank associations, the Federal intermediate credit banks, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by and subject to the supervision of the Farm Credit Administration.

TITLE I—FEDERAL LAND BANKS AND ASSOCIATIONS

PART A—FEDERAL LAND BANKS

SEC. 1.3. ESTABLISHMENT; TITLE; BRANCHES.—The Federal land banks established pursuant to section 4 of the Federal Farm Loan Act, as amended, shall continue as federally chartered instrumentalities of the United States. Their charters or organization certificates may be modified from time to time by the Farm Credit Administration, not inconsistent with the provisions of this title, as may be necessary or expedient to implement this Act. Unless an existing Federal land bank is merged with one or more other such banks under section 4.10 of this Act, there shall be a Federal land bank in each farm credit district. It may include in its title the name of the city in which it is located or other geographical designation. When authorized by the Farm Credit Administration, it may establish such branches or other offices as may be appropriate for the effective operation of its business.

SEC. 1.4. CORPORATE EXISTENCE; GENERAL CORPORATE POWERS.—Each Federal land bank shall be a body corporate and subject to supervision by the Farm Credit Administration, shall have power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this Act or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business.

(6) Make loans and commitments for credit, accept advance payments, and provide services and other assistance as authorized in this Act, and charge fees therefor.

(7) Operate under the direction of its board of directors.

(8) Elect by its board of directors a president, any vice president, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, including joint employees as provided in this Act, define their duties, and require surety bonds, or make other provision against losses occasioned by employees.

(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, and agents are elected or provided for; its property acquired, held, and transferred; its loans and appraisals made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

(10) Borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, terms, conditions, and rates of interest as may be determined.

(11) Accept deposits of securities or of current funds from its Federal land bank associations and pay interest on such funds.

(12) Participate with one or more other Federal land banks in loans under this title on such terms as may be agreed upon among such banks.

(13) Approve the salary scale of the officers and employees of the Federal land bank associations and the appointment and compensation of the chief executive officer thereof and supervise the exercise by such associations of the functions vested in or delegated to them.

(14) Deposit its securities and its current funds with any member bank of the Federal Reserve System and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(15) Buy and sell obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency, and make such other investments as may be authorized by the Farm Credit Administration.

(16) Conduct studies and make and adopt standards for lending.

(17) Delegate to Federal land bank associations such functions vested in or delegated to the bank as it may determine.

(18) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

(19) Perform any function delegated to it by the Farm Credit Administration.

(20) Require Federal land bank associations to endorse notes and other obligations of its members to the bank.

(21) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

SEC. 1.5. LAND BANK STOCK; VALUE; SHARES; VOTING; DIVIDEND.—(a) The capital stock of each Federal land bank shall be divided into shares of par value of $5 each, and may be of such classes as its board of directors may determine with the approval of the Farm Credit Administration.

(b) Voting stock of each bank shall be held only by the Federal land bank associations and direct borrowers and borrowers through agents who are farmers or ranchers, which stock shall not be transferred, pledged, or hypothecated except as authorized pursuant to this Act.

(c) The board of each bank shall from time to time authorize the issue or increase of its capital stock necessary to permit the issuance of additional shares to the Federal land bank associations so that members of such associations purchasing stock or participation certificates therein may be eligible for loans from the bank.

(d) Nonvoting stock may be issued to the Governor of the Farm Credit Administration, and may also be issued to Federal land bank associations in amounts which will permit the bank to extend financial assistance to eligible persons other than farmers or ranchers. Participation certificates with a face value of $5 each may be issued in lieu of nonvoting stock when the bylaws of the bank so provide.

(e) Dividends shall not be payable on any stock held by the Governor of the Farm Credit Administration. Noncumulative dividends may be payable on other stock and participation certificates of the bank. The rate of dividends may be different between different classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the bank by such classes and issues, but otherwise dividends shall be without preference.

SEC. 1.6. REAL ESTATE MORTGAGE LOANS.—The Federal land banks are authorized to make long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, and continuing commitments to make such loans under specified circumstances, or extend other financial assistance of a similar nature to eligible borrowers, for a term of not less than five nor more than forty years.

SEC. 1.7. INTEREST RATES AND OTHER CHARGES.—Loans made by a Federal land bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the board of directors of the bank from time to time, with the approval of the Farm Credit Administration. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable costs on a sound business basis taking into account the cost of money to the bank, necessary reserves and expenses of the banks and Federal land bank associations, and providing services to stockholders and members. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

SEC. 1.8. ELIGIBILITY.—The services authorized in this title may be made available to persons who are or become stockholders or members in the Federal land bank associations and are (1) bona fide farmers and ranchers, (2) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs, or (3) owners of rural homes.

SEC. 1.9. SECURITY.—Loans shall not exceed 85 per centum of the appraised value of the real estate security, and shall be secured by first liens on interest in real estate of such classes as may be approved by the Farm Credit Administration. The value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration, to adequately secure the loan. However, additional security may be required to supplement real estate security, and credit factors other than the ratio between the amount of the loan and the security value shall be given due consideration.

SEC. 1.10. PURPOSES.—Loans made by the Federal land banks to farmers and ranchers may be for any agricultural purpose and other credit needs of the applicant. Loans may also be made to rural residents for rural housing financing under regulations of the Farm Credit Administration. Rural housing financed under this title shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, planned or recomemnded for the rural area where it is located: *Provided, however*, That a Federal land bank may not at any one time have a total of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 per centum of the total of all loans outstanding in such bank: *Provided further*, That for rural housing purposes under this section the term "rural areas" shall not be defined to include any city or village having a population in excess of 2,500 inhabitants. Loans to persons furnishing farm-related services to farmers and ranchers directly related to their on-farm operating needs may be made for the necessary capital structures and equipment and initial working capital for such services. The banks may own and lease, or lease with option to purchase, to persons eligible for assistance under this title, facilities needed in the operations of such persons.

SEC. 1.11. SERVICES RELATED TO BORROWERS' OPERATIONS.—The Federal land banks may provide technical assistance to borrowers, members, and applicants and may make available to them at their option such financial related services appropriate to their on-farm operations as determined to be feasible by the board of directors of each district bank, under regulations of the Farm Credit Administration.

SEC. 1.12. LOANS THROUGH ASSOCIATIONS OR AGENTS.—(a) The Federal land banks shall, except as otherwise herein provided, make loans through a Federal land bank association serving the territory in which the real estate offered by the applicant is located. If there is no active association chartered for the territory where the real estate is located, or if the association has been declared insolvent, the bank may make the loan through another such association, directly, or through such bank or trust company or savings or other financial institution as it may designate. When the loan is not made through a Federal land bank association, the applicant shall purchase stock in the bank in an amount not less than $5 nor more than $10 for each $100 of the loan and the loan shall be made on such terms and conditions as the bank shall prescribe.

PART B—FEDERAL LAND BANK ASSOCIATIONS

SEC. 1.13. ORGANIZATIONS; ARTICLES; CHARTERS; POWERS OF THE GOVERNOR.—Each Federal land bank association chartered under section 7 of the Federal Farm Loan Act, as amended, shall continue as a federally chartered instrumentality of the United States. A Federal land bank association may be organized by any group of ten or more persons desiring to borrow money from a Federal land bank, including persons to whom the Federal land bank has made a loan directly or

through an agent and has taken as security real estate located in the territory proposed to be served by the association. The articles of association shall describe the territory within which the association proposes to carry on its operations. Proposed articles shall be forwarded to the Federal land bank for the district, accompanied by an agreement to subscribe on behalf of the association for stock of the land bank equal to not less than $5 nor more than $10 per $100 of the amount of the aggregate loans desired or held by the association members. Such stock may be paid for by surrendering for cancellation stock in the bank held by a borrower and the issuance of an equivalent amount of stock to such borrower in the association. The articles shall be accompanied by a statement signed by each of the members of the proposed association establishing his eligibility for, and that he has or desires a Federal land bank loan; that the real estate with respect to which he desires a loan is not being served by another Federal land bank association; and that he is or will become a stockholder in the proposed association. A copy of the articles of association shall be forwarded to the Governor of the Farm Credit Administration with the recommendations of the bank concerning the need for the proposed association in order to adequately serve the credit needs of eligible persons in the proposed territory and a statement as to whether or not the territory includes any territory described in the charter of another Federal land bank association. The Governor for good cause shown may deny the charter applied for. Upon the approval of the proposed articles by the Governor and the issuance of such charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States. The Governor shall have power, in the terms of the charter, under rules and regulations prescribed by him or by approving bylaws of the association, to provide for the organization of the association, the initial amount of stock of such association, the territory within which its operations may be carried on and to direct at any time changes in the charter of such association as he finds necessary in accomplishing the purposes of this Act.

SEC. 1.14. BOARD OF DIRECTORS.—Each Federal land bank association shall elect from its voting shareholders a board of directors of such number, for such terms, in such manner, and with such qualifications as may be required by its bylaws.

SEC. 1.15. GENERAL CORPORATE POWERS.—Each Federal land bank association shall be a body corporate and, subject to supervision of the Federal land bank for the district and of the Farm Credit Administration, shall have the power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this Act or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real estate and personal property necessary or convenient to its business.

(6) Operate under the direction of its board of directors in accordance with this Act.

(7) Elect by its board of directors a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act; define their duties; and require surety bonds or make other provision against losses occasioned by employees. No director shall, within one year after the date when he ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which he served.

(8) Prescribe by its board of directors its bylaws, not inconsistent with law, providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers and employees elected or provided for; its property acquired, held, and transferred; its general business conducted; and privileges granted it by law exercised and enjoyed.

(9) Accept applications for Federal land bank loans and receive from such bank and disburse to the borrowers the proceeds of such loans.

(10) Subscribe to stock of the Federal land bank of the district.

(11) Elect by its board of directors a loan committee with power to elect applicants for membership in the association and recommend loans to the Federal land bank, or with the approval of the Federal land bank, delegate the election of applicants for membership and the approval of loans within specified limits to other committees or to authorized employees of the association.

(12) Upon agreement with the bank, take such additional actions with respect to applications and loans and perform such functions as are vested by law in or delegated to the Federal land banks as may be agreed to or delegated to the association.

(13) Endorse and shall become liable to the bank on loans it makes to association members.

(14) Receive such compensation and deduct such sums from loan proceeds with respect to each loan as may be agreed between the association and the bank and may make such other charges for services as may be approved by the bank.

(15) Provide technical assistance to members, borrowers, applicants, and other eligible persons and make available to them, at their option, such financial related services appropriate to their operations as it determines, with Federal land bank approval, are feasibly under regulations of the Farm Credit Administration.

(16) Borrow money from the bank and, with the approval of such bank, borrow from and issue its notes or other obligations to any commercial bank or other financial institutions.

(17) Buy and sell obligations of or insured by the United States or any agency thereof or of any banks of the Farm Credit System.

(18) Invest its funds in such obligations as may be authorized in regulations of the Farm Credit Administration and approved by the bank and deposit its securities and current funds with any member bank of the Federal Reserve System, with the Federal land bank, or with any bank insured by the Federal Deposit Insurance Corporation and pay fees therefor and receive interest thereon as many be agreed.

(19) Perform such other functions delegated it by the Federal land bank of the district.

(20) Exercise by its board of directors or authorized officers or agents all such incidental powers as may be necessary or expedient in the conduct of its business.

SEC. 1.16. ASSOCIATION STOCK; VALUE OF SHARES; VOTING.—(a) The shares of stock in each Federal land bank association shall have a par value of $5 each. No person but borrowers from the bank shall become members and stockholders of the association. If an application for membership is approved and if the applied-for loan is granted, the member of the association shall subscribe to stock in the association in an amount not less than 5 per centum nor more than 10 per centum of the face amount of the loan as determined by the bank. Stock shall be paid for in cash by the time the loan is closed. The association shall then purchase a similar amount of stock in the land bank. Stock shall be retired and paid at fair book value not to exceed par, as determined by the association, upon the full repayment of the loan and if the loan is in default may be canceled for application on the loan, or under other circumstances, for other disposition, when approved by the bank. The aggregate capital stock of each association shall be increased from time to time as necessary to permit the securing of requested loans from the bank for the association's members.

(b) The stock issued by an association may be voting stock or nonvoting stock of such classes as the association determines with the approval of the bank under regulations prescribed by the Farm Credit Administration. Each holder of voting stock shall be entitled to only one vote, and no more, in the election of directors and in deciding questions at meetings of stockholders. Participation certificates may be issued in lieu of nonvoting stock when the bylaws of the association so provide.

PART C—PROVISIONS APPLICABLE TO FEDERAL LAND BANKS AND FEDERAL LAND BANK ASSOCIATIONS

SEC. 1.17. LAND BANK RESERVES; DIVIDENDS.—(a) Each Federal land bank shall, at the end of each fiscal year, carry to reserve account a sum of not less than 50 per centuin of its net earnings for the year until said reserve account shall be equal at the end of such year, after restoring any impairment thereof, to the outstanding capital stock and participation certificates of the bank. Thereafter, a sum equal to 10 per centum of the year's net earnings shall be added to the reserve account until the account shall be equal to 150 per centum of the outstanding capital stock and participation certificates of the bank. Any amounts added to the reserve account in excess of 150 per centum of the outstanding capital stock and participation certificates may be withdrawn from such reserves with the approval of the Farm Credit Administration.

(b) Any bank may declare a dividend or dividends out of the whole or any part of net earnings which remain after (1) the maintenance of the reserve as required in subsection (a) hereof, (2) the payment of the franchise tax as required by section 4.0 for any year in which any stock in the bank is held by the Governor of the Farm Credit Administration, and (3) with approval of the Farm Credit Administration.

SEC. 1.18. ASSOCIATION RESERVES; DIVIDENDS.—(a) Each Federal land bank association shall, out of its net earnings at the end of each fiscal year, carry to reserve account a sum not less than 10 per centum of such earnings until the reserve account shall equal 25 per centum of the outstanding capital stock and participation certificates of such association after restoring any impairment thereof. Thereafter, 5 per centum of the net earnings for the year shall be added to such reserve account until it shall equal 50 per centum of the outstanding capital stock and participation certificates of the association. Any amounts in the reserve account in excess of 50 per centum of the outstanding capital stock and participation certificates may be withdrawn with the approval of the Federal land bank.

(b) Any association may declare a dividend or dividends out of the whole or any part of its net earnings which remain after (1) maintenance of the reserve required in subsection (a) hereof and (2) bank approval.

(c) Whenever any association is liquidated, a sum equal to its reserve account as required in this Act shall be paid and become the property of the bank in which such association is a shareholder.

SEC. 1.19. AGREEMENTS FOR SHARING GAINS OR LOSSES.—Each Federal land bank may enter into agreements with Federal land bank may enter into agreements with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof, and associations are authorized to enter into any such agreements and also,

subject to bank approval, agreements with other associations in the district for sharing the risk of loss on loans endorsed by each such association.

SEC. 1.20. LIENS ON STOCK.—Each Federal land bank and each Federal land bank association shall have a first lien on the stock and participation certificates it issues, except on stock held by the Governor of the Farm Credit Administration, for the payment of any liability of the stockholder to the association or to the bank, or to both of them.

SEC. 1.21 TAXATION.—Every Federal land bank and every Federal land bank association and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Federal land bank or a Federal land bank association to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Federal land banks and the notes, bonds, debentures, and other obligations issued by the banks or associations shall be deemed and held to be intrumentalities of the Government of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act 1941 (31 U.S.C. 742(a)).

TITLE II—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

PART A—FEDERAL INTERMEDIATE CREDIT BANKS

SEC. 2.0. ESTABLISHMENT; BRANCHES.—The Federal intermediate credit banks established pursuant to section 201(a) of the Federal Farm Loan Act, as amended, shall continue as federally chartered instrumentalities of the United States. Their charters or organization certificates may be modified from time to time by the Farm Credit Administration not inconsistent with the provisions of this title as may be necessary or expedient to implement this Act. Unless an existing Federal intermediate credit bank is merged with one or more other such banks under section 4.10 of this Act, there shall be a Federal intermediate credit bank in each farm credit district. It may include in its title the name of the city in which it is located or other geographical designation. When authorized by the Farm Credit Administration, it may establish such branches or other offices as may be appropriate for the effective operation of its business.

SEC. 2.1. CORPORATE EXISTENCE; GENERAL CORPORATE POWERS.—Each Federal intermediate credit bank shall be a body corporate and, subject to supervision of the Farm Credit Administration, shall have power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this Act or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold dispose, and otherwise exercise all of the incidents of ownership of real and personal property necessary or convenient to its business.

(6) Make and discount loans and commitments for credit, and provide services and other assistance as authorized in this Act, and charge fees therefor.

(7) Operate under the direction of its board of directors.

(8) Elect by its board of directors a president, any vice president, a secretary, and a treasurer, and provide for such other officers, employees, and agents as may be necessary, including joint employees as provided in this Act; define their duties and require surety bonds or make other provision against losses occasioned by employees.

(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, and agents elected or provided for; its property acquired, held, and transferred; its loans and discounts made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

(10) Borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, and such terms, conditions, and rates of interest as may be determined.

(11) Purchase nonvoting stock in or pay in surplus to, and accept deposits of securities or of current funds from production credit associations holding its shares and pay interest upon such funds.

(12) Deposit its securities and its current funds with any member bank of the Federal Reserve System, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(13) Buy and sell obligations of or insured by the United States or any agency thereof, or securities backed by the full faith and credit of any such agency and make such other investments as may be authorized by the Farm Credit Administration.

(14) Delegate to the production credit associations such functions vested in or delegated to the intermediate credit bank as it may determine.

(15) Approve the salary scale of the officers and employees of the association and the appointment and compensation of the chief executive officer thereof and supervise the exercise by the production credit associations of the functions vested in or delegated to them.

(16) Amend and modify loan contracts, documents, payment schedules, and release, subordinate, or substitute security for any of them.

(17) Conduct studies and make and adopt standards for lending.

(18) Enter into loss sharing agreements with other Federal intermediate credit banks and production credit associations.

(19) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the banks.

(20) Participate with one or more other Federal intermediate credit banks or production credit associations in the district, in loans under this title on such terms as may be agreed upon among such banks and associations.

(21) Perform any function delegated to it by the Farm Credit Administration.

SEC. 2.2. FEDERAL INTERMEDIATE CREDIT BANK STOCK; VALUE; DIVIDEND; ADDITIONAL STOCK; RETIREMENT.—(a) The capital stock of each Federal intermediate credit bank shall be divided into shares of par value of $5 each and may be of such classes as its board of directors may determine with the approval of the Farm Credit Administration.

(b) Voting stock of each bank shall be held only by the production credit associations which stock shall not be transferred, pledged, or hypothecated except as provided in this title or as authorized under regulations of the Farm Credit Administration.

(c) The board of each bank shall from time to time increase its capital stock to permit the issuance of additional shares to production credit associations in such amounts as shall be determined by the board.

(d) Nonvoting stock may be issued to the Governor of the Farm Credit Administration. Nonvoting stock may also be issued to production credit associations in such amounts as will permit the association to extend financial assistance to eligible persons other than farmers, ranchers, and producers or harvesters of aquatic products. Participation certificates, with a face value of $5, may be issued in lieu of such nonvoting stock when the bylaws of the bank so provide.

(e) Participation certificates also may be issued by a bank to financing institutions other than production credit associations which are eligible to borrow from or discount eligible paper with the bank.

(f) Dividends shall not be payable on any stock held by the Governor of the Farm Credit Administration other than the tax imposed by section 4.0(c) but noncumulative dividends may be payable on other capital and participation certificates in an amount not to exceed a per centum permitted under regulations of the Farm Credit Administration, in any year as determined by the board of directors. Such dividends may be in the form of stock and participation certificates or, when the Governor of the Farm Credit Administration holds no stock in the bank, in cash. The rate of dividends may be different between different classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the bank by such classes and issues, but otherwise dividends shall be without preference.

(g) Each Federal intermediate credit bank, with the approval of the Farm Credit Administration, may determine the amount of the initial or additional stock in the bank to be subscribed for by the production credit associations in the farm credit district served by the bank in order to provide capital to meet the credit needs of the bank. The amount so determined shall be allotted among the associations in the district upon such basis that, as nearly as may be practicable, the sum of the stock already owned and the additional amount to be subscribed for by each association will be in the same proportion to the total amount of stock already owned and to be subscribed for by all of the associations in the district that the average indebtedness (loans and discounts) of each association to the bank during the immediately preceding three fiscal years is of the average of such indebtedness of all associations to the bank during such three-year period. Each association shall subscribe for stock in the bank in the amount so allotted to it. Such subscriptions shall be subject to call and payment therefor shall be made at such times and in such amounts as may be determined by the bank.

Whenever the relative amounts of stock in a bank owned by the associations differ substantially from the proportion indicated in the preceding paragraph, and additional subscriptions to stock through which such proportion could be reestablished are not contemplated, the bank, with the approval of the Farm Credit Administration, may direct either separately or in combination such transfers, retirements, and reissuance of outstanding stock among the associations as will reestablish the aforesaid proportion as nearly as may be practicable. Outstanding stock which is retired for this purpose, except as otherwise approved by the Farm Credit Administration, shall be the oldest stock held by the association and the bank shall pay the association therefor at the fair book value thereof not exceeding par.

The banks may issue further amounts of

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participation certificates with the same rights, privileges, and conditions, for purchase by institutions other than production credit associations which are entitled to receive participation certificates from the bank as patronage refunds. Participation certificates held by other financing institutions may be transferred to other such institutions upon request of, or with the approval of the bank.

After all stock held by the Governor of the Farm Credit Administration has been retired, the bank may retire other stock at par and participation certificates at face amount under regulations of the Farm Credit Administration. Such other stock and participation certificates shall be retired without preference and in such manner that, unless otherwise approved by Farm Credit Administration, the oldest outstanding stock or certificates at any given time will be retired first. In case of liquidation or dissolution of any production credit association or other financing institution, the stock or participation certificates of the bank owned by such association or institution may be retired by the bank at the fair book value thereof, not exceeding par or face amount, as the case may be.

(h) Except with regard to stock held by the Governor, each Federal intermediate credit bank shall have a first lien on all stock and participation certificates it issues and on all allocated reserves and other equities for any indebtedness of the holder of such capital investments to the bank.

(i) In any case where the debt of a production credit association or other financing institution is in default, the bank may retire all or part of the capital investments in the bank held by such debtor at the fair book value thereof, not exceeding par or face amount as the case may be, in total or partial liquidation of the debt.

SEC. 2.3. LOANS; DISCOUNTS; PARTICIPATION; LEASING.—(a) The Federal intermediate credit banks are authorized to make loans and extend other similar financial assistance to and discount for, or purchase from, any production credit association with its endorsement or guaranty, any note, draft, or other obligation presented by such association, and to participate with such association and one or more intermediate credit banks in the making of loans to eligible borrowers, all the foregoing to be secured by such collateral, if any, as may be required in regulations of the Farm Credit Administration. The banks may own and lease or lease with option to purchase, to persons eligible for assistance under this title, equipment needed in the operations of such persons.

(b) The Federal intermediate credit banks are authorized to discount for, or purchase from, any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, and any association of agricultural producers engaged in the making of loans to farmers and ranchers, with its endorsement or guaranty, any note, draft, or other obligation the proceeds of which have been advanced or used in the first instance for any agricultural purpose, including the breeding, raising, fattening, or marketing of livestock; and to make loans and advances to any such financing institution secured by such collateral as may be approved by the Farm Credit Administration: *Provided*, That no such loan or advance shall be made upon the security of collateral other than notes or other such obligations of farmers and ranchers eligible for discount or purchase under the provisions of this section, unless such loan or advance is made to enable the financing institution to make or carry loans for any agricultural purpose.

(c) No paper shall be purchased from or discounted for any national bank, State bank, trust company or savings institution under subsection (b) if the amount of such paper added to the aggregate liabilities of such national bank, State bank, trust company or savings institution, whether direct or contingent (other than bona fide deposit liabilities), exceeds the lower of the amount of such liabilities permitted under the laws of the jurisdiction creating the same, or twice the paid-in and unimpaired capital and surplus of such national bank, State bank, trust company, or savings institution. No paper shall under this section be purchased from or discounted for any other corporation engaged in making loans for agricultural purposes including the raising, breeding, fattening, or marketing of livestock, if the amount of such paper added to the aggregate liabilities of such corporation exceeds the lower of the amount of such liabilities permitted under the laws of the jurisdiction creating the same, or ten times the paid-in and unimpaired capital and surplus of such corporation. It shall be unlawful for any national bank which is indebted to any Federal intermediate credit bank, upon paper discounted or purchased under subsection (b), to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitations herein contained.

SEC. 2.4. TERMS.—Loans, advances, or discounts made under section 2.3 shall be repayable in not more than seven years from the time they are made or discounted by the Federal intermediate credit bank, and shall bear such rate or rates of interest or discount as the board of directors of the bank shall from time to time determine with the approval of the Farm Credit Administration, but the rates charged financing institutions other than production credit associations shall be the same as those charged production credit associations. In setting the rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable costs on a sound business basis taking into account the cost of money to the bank, necessary reserves and expenses of the bank and production credit associations, and providing services to borrowers from the bank and associations. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank. No obligation tendered for discount by a financing institution, without the approval of the Farm Credit Administration, shall be eligible for discount upon which the original borrower has been charged a rate of interest exceeding by more than 1½ per centum per annum the discount rate of the bank.

SEC. 2.5. SERVICES RELATED TO BORROWERS' OPERATIONS.—The Federal intermediate credit banks may provide technical assistance to borrowers, members, and applicants from the banks and production credit associations, including persons obligated on paper discounted by the bank, and may make available to them at their option such financial related services appropriate to their on-farm operations as determined to be feasible by the board of directors of each district bank, under regulations of the Farm Credit Administration.

SEC. 2.6. NET EARNINGS—DETERMINATION; ANNUAL APPLICATIONS; SURPLUS ACCOUNT; ABSORPTION OF NET LOSS.—(a) If, at the end of a fiscal year a Federal intermediate credit bank shall have stock outstanding held by the Governor of the Farm Credit Administration, such bank shall determine the amount of its net earnings after paying or providing for all operating expenses (including reasonable valuation reserves and losses in excess of any such applicable reserves) and shall apply such net earnings as follows: (1) to the restoration of the impairment, if any, of capital stock and participation certificates, as determined by its board of directors; (2) to the restoration of the amount of the impairment, if any, of the surplus account or allocated reserve account established by this subsection, as determined by its board of directors; (3) 25 per centum of any remaining net earnings shall be used to create and maintain an allocated reserve account; (4) a franchise tax shall be paid to the United States, as provided in section 4.0 of this Act; (5) reasonable unallocated contingency reserve account may be established and maintained; (6) dividends on stock held by production credit associations and on participation certificates may be declared as provided in section 2.2(f) of this title; and (7) any remaining net earnings shall be distributed as patronage refunds as provided in subsection (b) of this section.

Amounts applied to reserve account as provided in (3) above, either herstofore or hereafter, shall be allocated on the same patronage basis and have the same tax treatment as is provided in subsection (b) of this section for patronage refunds. At the end of any fiscal year that the allocated reserve account of any bank exceeds 25 per centum of its outstanding stock and participation certificates, such excess may be distributed, oldest allocations first, in stock to production credit associations and participation certificates issued as of the date of the allocations.

If and when the relative amounts of stock in a Federal intermediate credit bank owned by the production credit associations are adjusted to reestablish the proportion of such stock owned by each association, as provided in the first or second paragraphs of section 2.2(g) of this title, amounts in the reserve account that are allocated to production credit associations may be adjusted in the same manner, so far as practicable, to reestablish the holdings of the production credit associations in the allocated legal reserve accounts into substantially the same proportion as are their holdings of stock.

No part of the surplus account established by a Federal intermediate credit bank on January 1, 1957, consisting of its earned surplus account, its reserve for contingencies, and the surplus of the production credit corporation transferred to the bank, shall be distributed as patronage refunds or as dividends. In the event of a net loss in any fiscal year after providing for all operating expenses (including reasonable valuation reserves and losses in excess of any such applicable reserves), such loss shall be absorbed by: first charges to the unallocated reserve account; second, impairment of the allocated reserve account; third, impairment of the surplus other than that transferred from the production credit corporation of the district; fourth, impairment of surplus transferred from the production credit corporation of the district; fifth, impairment of stock and participation certificates held by production credit associations and participation certificates held by other financing institutions; and sixth, impairment of nonvoting stock.

(b) (1) If at the end of a fiscal year a Federal intermediate credit bank shall have outstanding capital stock held by the Governor of the Farm Credit Administration, patronage refunds declared for that year shall be paid in stock to production credit associations and in participation certificates to other financing institutions borrowing from or discounting with the bank during the fiscal year for which such refunds are declared. The recipients of such patronage refunds shall not be subject to Federal income taxes thereon. All patronage refunds shall be paid in the proportion that the amount of interest earned by the bank on its loans to and discounts for each production credit association or other financing institution bears to the total interest earned by the bank on all such loans and discounts outstanding during the fiscal year. Each participation certificate issued in payment of patronage refunds shall be in multiples of $5 and shall state on its face the rights, privileges, and conditions applicable thereto. Patronage refunds shall not be paid to any other Federal intermediate credit bank, or to any Federal land bank or bank for cooperatives.

(c) If, at the end of a fiscal year a Federal intermediate credit bank shall have no outstanding capital stock held by the Governor of the Farm Credit Administration, the net earnings of such bank shall, under regulations prescribed by the Farm Credit Administration, continue to be distributed on a cooperative basis with an obligation to distribute patronage dividends and with provision for sound, adequate capitalization to meet changing financing needs of production credit associations, other financial institutions eligible to discount paper with the bank, and other eligible borrowers, and prudent corporate fiscal management, to the end that the current year's patrons carry their fair share of the capitalization, ultimate expenses, and reserves. Such regulations may provide for the application of less than 25 per centum of net earnings after payment of operating expenses to the restoration or maintenance of the allocated reserve account, additions to unallocated contingency reserve account of not to exceed such per centum of net earnings as may be approved by the Farm Credit Administration, and provide for allocations to patrons not qualified under the Internal Revenue Code, and the payment of patronage in stock, participation certificates, or in cash, as the board may determine. If during the fiscal year but not at the end thereof a bank shall have had outstanding capital stock held by the Governor of the Farm Credit Administration, provision will be made for the payment of the franchise tax required in section 4.0.

(d) Such allocations of reserve account shall be subject to a first lien as additional collateral for any indebtedness of the holders thereof to the bank and in any case where such indebtedness is in default may, but shall not be required to, be retired and canceled for application on such indebtedness, and, in case of liquidation or dissolution of a holder thereof, such reserve account allocations may be retired, all as is provided for stock and participation certificates in section 2.2(g) of this title.

SEC. 2.7. DISTRIBUTION OF ASSETS ON LIQUIDATION.—In the case of liquidation or dissolution of any Federal intermediate credit bank, after payment or retirement, as the case may be, first, of all liabilities; second, of all stock held by the Governor of the Farm Credit Administration at par; third, of all stock owned by production credit associations at par and all participation certificates at face amount; any remaining assets of the bank shall be distributed as provided in this subsection. Any of the surplus established pursuant to section 2.6 (excluding that transferred from the production credit corporation of the district) which the Farm Credit Administration determines was contributed by financing institutions other than the production credit associations discounting with or borrowing from the bank on January 1, 1957, shall be paid to such institutions, or their successors in interest as determined by Farm Credit Administration, and the remaining portion of such surplus (including that transferred from the production credit corporation of the district) shall be paid to the holders of voting and nonvoting stock pro rata. The contribution of each such financing institution under the preceding sentence shall be computed on the basis of the ratio of its patronage to the total patronage of the bank from the date of organization of the bank to January 1, 1957. The allocated reserve established pursuant to section 2.6 shall be paid to the production credit associations and other financing institutions to which such reserve is allocated on the books of the bank. Any assets of the bank then remaining shall be distributed to the production credit associations and the holders of participation certificates pro rata.

SEC. 2.8. TAXATION.—Every Federal intermediate credit bank and the capital, reserves, and surplus thereof and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation except taxes on real estate held by a Federal intermediate credit bank to the same extent, according to its value, as other similar property held by other persons is taxed. The obligations held by the Federal intermediate credit banks and the notes, bonds, debentures, and other obligations issued by the banks shall be deemed to be instrumentalities of the Government of the United States, and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

SEC. 2.9. [Vacant.]

PART B—PRODUCTION CREDIT ASSOCIATIONS

SEC. 2.10. ORGANIZATION AND CHARTERS.—Each production credit association chartered under section 20 of the Farm Credit Act of 1933, as amended, shall continue as a federally chartered instrumentality of the United States. Production credit associations may be organized by ten or more farmers or ranchers or producers or harvesters of aquatic products desiring to borrow money under the provisions of this title. The proposed articles of association shall be forwarded to the Federal intermediate credit bank for the district accompanied by an agreement to subscribe on behalf of the association for stock in the bank in such amounts as may be required by the bank. The articles shall specify in general terms the objects for which the association is formed, the powers to be exercised by it in carrying out the functions authorized by this part, and the territory it proposes to serve. The articles shall be signed by persons desiring to form such an association and shall be accompanied by a statement signed by each such person establishing eligibility to borrow from the association in which he will become a stockholder. A copy of the articles of association shall be forwarded to the Governor of the Farm Credit Administration with the recommendations of the bank concerning the need for such an association in order to adequately serve the credit needs of eligible persons in the proposed territory and whether that territory includes any area described in the charter of another production credit association. The Governor for good cause shown may deny the charter. Upon approval of the proposed articles by the Governor and the issuance of a charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States. The Governor shall have the power, under rules and regulations prescribed by him or by prescribing in the terms of the charter or by approval of bylaws of the association, to provide for the organization of the association, the initial amount of stock of the association, the territory within which its operations may be carried on, and to direct at any time such changes in the charter as he finds necessary for the accomplishment of the purposes of this Act.

SEC. 2.11. BOARD OF DIRECTORS.—Each production credit association shall elect from its voting members a board of directors of such number, for such terms, with such qualifications, and in such manner as may be required by its bylaws.

SEC. 212. GENERAL CORPORATE POWERS.—Each production credit association shall be a body corporate and, subject to supervision by the Federal intermediate credit bank for the district and the Farm Credit Administration, shall have power to—

(1) Have succession until terminated in accordance with this Act or any other Act of Congress.

(2) Adopt and use a corporate seal.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to its business.

(6) Operate under the direction of its board of directors in accordance with this Act.

(7) Subscribe to stock of the bank.

(8) Purchase stock of the bank held by other production credit associations and stock of other production credit associations.

(9) Contribute to the capital of the bank or other production credit associations.

(10) Invest its funds as may be approved by the Federal intermediate credit bank under regulations of the Farm Credit Administration and deposit its current funds and securities with the Federal intermediate credit bank, a member bank of the Federal Reserve System, or any bank insured under the Federal Deposit Insurance Corporation, and may pay fees therefor and receive interest thereon as may be agreed.

(11) Buy and sell obligations of or insured by the United States or of any agency thereof or of any banks of the Farm Credit System.

(12) Borrow money from the Federal intermediate credit bank, and with the approval of such bank, borrow from and issue its notes or other obligations to any commercial bank or other financial institution.

(13) Make and participate in loans, accept advance payments, and provide services and other assistance as authorized in this title and charge fees therefor.

(14) Endorse and become liable on loans discounted or pledged to the Federal intermediate credit bank.

(15) Enter into loss sharing agreements with the Federal intermediate credit bank and other production credit associations.

(16) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired, its officers and employees elected or provided for, its property acquired, held, and transferred, its general business conducted, and the privileges granted it by law exercised and enjoyed.

(17) Elect by its board of directors a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define their duties, and require surety bonds or make other provisions against losses occasioned by employees. No director shall, within one year after the date when he ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which he served.

(18) Elect by its board of directors a loan committee with power to approve applications for membership in the association and loans or participations or, with the approval of the bank, delegate the approval of applications for membership and loans or participations within specified limits to other committees or to authorized officers and employees of the association.

(19) Perform any functions delegated to it by the bank or the Farm Credit Administration.

(20) Exercise by its board of directors or authorized officers or employees, all such incidental powers as may be necessary or expedient to carry on the business of the association.

SEC. 2.13. CAPITAL STOCK; CLASSES OF STOCK; TRANSFER; EXCHANGE; AND DIVI-

DENDS.—(a) A production credit association may issue voting stock, nonvoting stock, preferred stock, participation certificates, and provide for an equity reserve. Holders of stock, participation certificates, and equity reserve shall have such rights, not inconsistent with the provisions of this section, as are set forth in the bylaws of the association. Stock shall be divided into shares of $5 par value each, and participation certificates shall have a face value of $5 each.

(b) Voting stock may be purchased only by farmers and ranchers, or producers or harvesters of aquatic products, who are eligible to borrow from the association. Each holder of voting stock shall be entitled to no more than one vote except as otherwise provided in subsection (d) hereof. No voting stock or any interest therein or right to receive dividends thereon shall be transferred by act of the parties or by operation of law, except to another person eligible to hold voting stock, and then only as provided in the bylaws.

(c) Nonvoting stock may be issued to the Governor of the Farm Credit Administration and to other investors.

(d) Preferred stock, which shall be nonvoting, may be issued to the Governor and to other investors when authorized by a majority vote of the outstanding shares of voting stock, by a majority vote of the outstanding shares of the nonvoting stock, and by a majority vote of the outstanding shares of preferred stock, except that all stock held by the Governor shall be excluded from voting hereunder. For the purpose of this subsection only, the holders of such stock shall be entitled to one vote, in person or by written proxy, for each share of stock held. The authorization to issue preferred stock shall state the privileges, restrictions, limitations, dividend rights (either cumulative or noncumulative) redemption rights, preferences, and other qualifications affecting said stock, and the total amount of the authorized issue to which it belongs.

(e) Participation certificates may be issued to persons eligible to borrow from the association to whom voting stock is not to be issued.

(f) Each borrower from the association shall be required to own at the time the loan is made voting stock or participation certificates as provided in the bylaws of the association, in an amount equal in fair book value (not exceeding par or face amount, as the case may be), as determined by the association, to $5 per $100 or fraction thereof of the amount of the loan. Such stock and participation certificates shall not be canceled or retired upon payment of the loan or otherwise except as may be provided in the bylaws. Notwithstanding any other provision of this section for a loan in which an association participates with a commercial bank or other financial institution other than a Federal intermediate credit bank or another production credit association, the requirement that the borrower own stock or participation certificates shall apply only to the portion of the loan which is retained by the association.

(g) Voting stock shall, within two years after the holder ceases to be a borrower, be converted into nonvoting stock at the fair book value thereof, not exceeding par. Consistent with the provisions of this part, and as provided in the bylaws of the association, each class of stock and participation certificates shall be convertible into any other class of stock (except preferred stock) and into participation certificates.

(h) As a further means of providing capital, an association may, as provided in its bylaws, and with the approval of the bank, require borrowers to purchase stock or participation certificates in addition to that required in subsection (f) hereof, or invest in the equity reserve, in an aggregate amount not exceeding $5 per $100 or fraction thereof of the amount of the loan. Any portion of the amounts invested under this subsection which is no longer required for the purposes of the association may be returned to the owners thereof by revolving or retirement in accordance with its bylaws.

(i) Dividends shall be paid on referred stock in accordance with the authorization of the stockholders to issue such stock. Dividends on stock, other than preferred stock, and on participation certificates may be paid by an association as provided in its bylaws at such rate or rates as are approved by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration, and may be paid, upon such approval, even though the amount in the surplus accounts is less than the minimum aggregate amount prescribed by the bank as provided in section 2.14.

(j) Except with regard to stock held by the Governor, each production credit association shall have a first lien on stock and participation certificates it issues, allocated surplus, and on investments in equity reserve, for any indebtedness of the holder of such capital investments and, in the case of equity reserve, for charges for association losses in excess of reserves and surplus.

(k) In any case where the debt of a borrower is in default, the association may retire all or part of the capital investments in the association held by such debtor at the fair book value thereof, not exceeding par or face amount, as the case may be, in total or partial liquidation of the debt.

SEC. 2.14. APPLICATION OF EARNINGS; RESTORATION OF CAPITAL IMPAIRMENT; AND SURPLUS ACCOUNT.—(a) Each production credit association at the end of each fiscal year shall apply the amount of its earnings for such year in excess of its operating expenses (including provision for valuation reserves against loan assets in an amount equal to one-half of 1 per centum of the loans outstanding at the end of the fiscal year to the extent that earnings in such year in excess of other operating expenses permit, until such reserves equal or exceed 3½ per centum of the loans outstanding at the end of the fiscal year, beyond which 3½ per centum further additions to such reserves are not required by may be made) first to the restoration of the impairment, if any, of capital; and second, to the established and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Federal intermediate credit bank.

(b) When the bylaws of an association so provide, available net earnings at the end of any fiscal year may be distributed on patronage basis in stock, participation certificates, or in cash, except that when the Governor holds any stock in an association the cash distribution shall be such percentage of the patronage refund as shall be determined under regulations of the Farm Credit Administration. Any part of the earnings of the fiscal year in excess of the operating expenses for such year held in the surplus account may be allocated to patrons on a patronage basis.

SEC. 2.15. SHORT- AND INTERMEDIATE-TERM LOANS; PARTICIPATION; OTHER FINANCIAL ASSISTANCE; TERMS; CONDITIONS; INTEREST, SECURITY.—(a) Each production credit association, under rules and regulations prescribed by the board of directors of the Federal intermediate credit bank of the district and approved by the Farm Credit Administration, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to (1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural purposes and other requirements of such borrowers, (2) rural residents for housing financing in rural areas, under regulations of Farm Credit Administration, and (3) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs. Rural housing financed under this title shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, planned or recommended for the rural area where it is located. The aggregate of such housing loans in an association to persons other than farmers or ranchers shall not exceed 15 per centum of the outstanding loans at the end of its preceding fiscal year except upon prior approval by the Federal intermediate credit bank of the district. The aggregate of such housing loans in any farm credit district shall not exceed 15 per centum of the outstanding loans of all associations in the district at the end of the preceding fiscal year. For rural housing purposes under this section the term "rural areas" shall not be defined to include any city or village having a population in excess of 2,500 inhabitants. Each association may own and lease, or lease with option to purchase, to stockholders of the association equipment needed in the operations of the stockholder.

(b) Loans authorized in subsection (a) hereof shall bear such rate or rates of interest as are determined under regulations prescribed by the board of the bank with the approval of the Farm Credit Administration, and shall be made upon such terms conditions, and upon such security, if any, as shall be authorized in such regulations. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the association, necessary reserves and expenses of the association, and services provided to borrowers and members. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan in accordance with the rate or rates currently being charged by the association. Such regulations may require prior approval of the bank or of Farm Credit Administration on certain classes of loans; and may authorize a continuing commitment to a borrower of a line of credit.

SEC. 2.16. OTHER SERVICES.—Each production credit association may provide technical assistance to borrowers, applicants, and members and may make available to them at their option such financial related services appropriate to their on-farm operations as is determined feasible by the board of directors of each district bank, under regulations prescribed by the Farm Credit Administration.

SEC. 2.17. TAXATION.—Each production credit association and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such associations shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority. Such associations, their property, their franchises, capital, reserves, surplus, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, territorial, or local taxing authority; except that interest on the obligations of such associations shall be subject only to Federal income taxation in the hands of the holder thereof pursuant to the Public Debt Act of 1941 (31 U.S.C. 742(a)) and except that any real and tangible personal property of such associations shall be subject to Federal, State, territorial, and local taxation to the same extent as similar property is taxed. The exemption provided in the preceding sentence shall apply only for any year or part thereof in which stock in the production credit associations is held by the Governor of the Farm Credit Administration.

TITLE III—BANKS FOR COOPERATIVES

SEC. 3.0. ESTABLISHMENT; TITLES; BRANCHES.—The banks for cooperatives established pursuant to sections 2 and 30 of the Farm Credit Act of 1933, as amended, shall continue as federally chartered instrumentalities of the United States. Their charters or organization certificates may be modified from time to time by the Farm Credit Administration, not inconsistent with the provisions of this title, as may be necessary or expedient to implement this Act. Unless an existing bank for cooperatives is merged with one or more other such banks under section 4.10 of this Act, there shall be a bank for cooperatives in each farm credit district and a Central Bank for Cooperatives. A bank for cooperatives may include in its title the name of the city in which it is located or other geographical designation. The Central Bank for Cooperatives may be located in such place as its board of directors may determine with the approval of the Farm Credit Administration. When authorized by the Farm Credit Administration each bank for cooperatives may establish such branches or other offices as may be appropriate for the effective operation of its business.

SEC. 3.1. CORPORATE EXISTENCE; GENERAL CORPORATE POWERS.—Each bank for cooperatives shall be a body corporate and, subject to supervision by the Farm Credit Administration, shall have power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this Act or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to its business.

(6) Make loans and commitments for credit, provide services and other assistance as authorized in this Act, and charge fees therefor.

(7) Operate under the direction of its board of directors.

(8) Elect by its board of directors a president, any vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, including joint employees as provided in this Act define their duties and require surety bonds or make other provisions against losses occasioned by employees.

(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, or agents elected or provided for; its property acquired, held, and transferred; its loans made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

(10) Borrow money and issue notes, bonds, debentures, or other obligations individually or in concert with one or more other banks of the System, of such character, and such terms, conditions, and rates of interest as may be determined.

(11) Participate in loans under this title with one or more other banks for cooperatives and with commercial banks and other financial institutions upon such terms as may be agreed among them.

(12) Deposit its securities and its current funds with any member bank of the Federal Reserve System, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(13) Buy and sell obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency and make such other investments as may be authorized by the Farm Credit Administration.

(14) Conduct studies and adopt standards for lending.

(15) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

(16) Perform any function delegated to it by the Farm Credit Administration.

(17) Exercise by its board of directors or authorized officers, employees or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

SEC. 3.2 BOARD OF DIRECTORS.—(a) In the case of a district bank for cooperatives, the board of directors shall be the farm credit district board and in the case of the Central Bank for Cooperatives shall be a separate board of not more than thirteen members, one from each farm credit district and one at large. One district director of the Central Bank Board shall be elected by each district farm credit board and the member at large shall be appointed by the Governor with the advice and consent of the Federal Farm Credit Board.

(b) For the purposes of this section the provisions of sections 5.1 (b) and (c), 5.4, 5.5, and 5.6 shall apply to and shall be the authority of the Central Bank for Cooperatives the same as though it were a district bank.

SEC. 3.3 BANK FOR COOPERATIVES STOCK; VALUE; CLASSES OF STOCK; VOTING; EXCHANGE.—(a) The capital stock of each bank for cooperatives shall be in such amount as its board determines, with the approval of Farm Credit Administration, is required for the purpose of providing adequate capital to permit the bank to meet the credit needs of borrowers from the bank and such amounts may be increased or decreased from time to time in accordance with such needs.

(b) The capital stock of each bank shall be divided into shares of par value of $100 each and may be of such classes as the board may determine with the approval of the Farm Credit Administration. Such stock may be issued in fractional shares.

(c) Voting stock may be issued or transferred to and held only by (1) cooperative associations eligible to borrow from the banks and (ii) other banks for cooperatives, and shall not be otherwise transferred, pledged, or hypothecated except as consented to by the issuing bank under regulations of the Farm Credit Administration.

(d) Each holder of one or more shares of voting stock which is eligible to borrow from a bank for cooperatives shall be entitled only to one vote and only in the affairs of the bank in the district in which its principal office is located unless otherwise authorized by the Farm Credit Administration, except that if such holder has not been a borrower from the bank in which it holds such stock within a period of two years next preceding the date fixed by the Farm Credit Administration prior to the commencement of voting, it shall not be entitled to vote.

(e) Nonvoting investment stock may be issued in such series and in such amounts as may be determined by the board and approved by the Farm Credit Administration and, except for stock held by the Governor, may be exchanged for voting stock or sold or transferred to any person subject to the approval of the issuing bank.

SEC. 3.4. DIVIDENDS.—Dividends may be payable only on nonvoting investment stock, other than stock held by the Governor of the Farm Credit Administration, if declared by the board of directors of the bank.

SEC. 3.5. RETIREMENT OF STOCK.—Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 4.0 (b) before any other outstanding voting or nonvoting stock shall be retired except as may be otherwise authorized by Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called stock retired in response to a call, reserving the right to have such stock included in the next call for retirement. When the requirements of section 4.0(b) have been met, voting stock may also be retired at fair book value not exceeding par, on call or on such revolving basis as the board may determine with approval of the Farm Credit Administration with due regard for its total capital needs: *Provided, however*, That all equities in the district banks issued or allocated with respect to the year of the enactment of this Act and prior years shall be retired on a revolving basis according to the year of issue with the oldest outstanding equities being first retired. Equities issued for subsequent years shall not be called or retired until equities described in the preceding sentence of this proviso have been retired.

SEC. 3.6. GUARANTY FUND SUBSCRIPTIONS IN LIEU OF STOCK.—If any cooperative association is not authorized under the laws of the State in which it is organized to take and hold stock in a bank for cooperatives, the bank shall, in lieu of any requirement for stock purchase, require the association to pay into or have on deposit in a guaranty fund, or the bank may retain out of the amount of the loan and credit to the guaranty fund account of the borrower, a sum equal to the amount of stock which the association would otherwise be required to own. Each reference to stock of the banks for cooperatives in this Act shall include such guaranty fund equivalents. The holder of the guaranty fund equivalent and the bank shall each be entitled to the same rights and obligations with respect thereto as the rights and obligations associated with the class or classes of stock involved.

SEC. 3.7. LENDING POWER.—The banks for cooperatives are authorized to make loans and commitments to eligible cooperative associations and to extend to them other technical and financial assistance, including but not limited to discounting notes and other obligations, guaranties, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder.

SEC. 3.8. ELIGIBILITY.—Any association of farmers, producers, or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing

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farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm business services or services to eligible cooperatives and conforms to either of the two following requirements:

(a) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(b) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case,

(c) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, or farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and nonmember business transactions with the United States or any agency or instrumentality thereof; and

(d) a percentage of the voting control of the association not less than 80 per centum, or such higher percentage as established by the district board is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives.

SEC. 3.9. OWNERSHIP OF STOCK BY BORROWERS.—(a) Each borrower at the time a loan is made by a bank for cooperatives shall own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional ownership requirements may be based on the face amount of the loan, the outstanding loan balance or on a percentage of the interest payable by the borrower during any year or during any quarter thereof, or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers. In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required to own a corresponding amount of stock in the Central Bank, but voting stock shall be in the one district bank designated by the Farm Credit Administration.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest in the loan retained by such bank.

SEC. 3.10. INTEREST RATES; SECURITY; LIEN; CANCELLATION; AND APPLICATION ON INDEBTEDNESS.—(a) Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time, with the approval of the Farm Credit Administration. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

(b) Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

(c) Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness of the owner thereof to the bank. In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.

(d) In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair book value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a district bank in another district bank on account of such indebtedness, shall be retired or equitably adjusted.

SEC. 3.11. EARNINGS AND RESERVES; APPLICATION OF SAVINGS.—(a) Each bank for cooperatives, at the end of each fiscal year when said bank shall have stock outstanding held by the Governor of the Farm Credit Administration, shall determine the amount of its net savings after paying or providing for all operating expenses (including reasonable valuation reserves and losses in excess of any such applicable reserves) and shall apply such savings as follows: (1) To the restoration of the amount of the impairment, if any, of capital stock, as determined by its board of directors; (2) 25 per centum of any remaining net savings shall be used to create and maintain a surplus account; (3) it shall next pay to the United States a franchise tax as provided in section 4.0 of this Act; (4) reasonable contingency reserves may be established; (5) dividends on investment stock may be declared as provided in this title; and (6) any remaining net savings shall be distributed as patronage refunds as provided in subsection (c) or (d) of this section: *Provided*, That any patronage refunds received by a district bank from any other bank for cooperatives shall be excluded from net savings of the district bank for the purpose of computing such franchise tax. Amounts applied as provided in (2) above after January 1, 1956, shall be allocated on a patronage basis approved by the Farm Credit Administration. At the end of any fiscal year any portion of the reserve established under (4) above which is no longer deemed necessary shall be transferred to the surplus account and, if the surplus account of any such bank for cooperatives exceeds 25 per centum of the sum of all its outstanding capital stock, the bank may distribute in the same manner as a patronage refund any part or all of such excess which has been allocated: *Provided*, That any surplus and contingency reserve shown on the books of the banks as of January 1, 1956, shall not be distributed as patronage refunds. In making such distributions except as otherwise provided in section 3.5 and distributions by the Central Bank, the oldest outstanding allocations shall be distributed first. Whenever used in this title, the words "surplus account" as applied to any bank for cooperatives shall mean any surpluses and contingency reserves shown on the books of the bank as of January 1, 1956, and any amounts accumulated as allocated or unallocated surplus after said date. Said surplus account shall be divided to show the amounts thereof subject to allocation as provided in this subsection and may be further subdivided as prescribed by the Farm Credit Administration.

(b) Whenever at the end of any fiscal year a bank for cooperatives shall have no outstanding capital stock held by the Governor of the Farm Credit Administration, the net savings shall, under regulations prescribed by the Farm Credit Administration, continue to be applied on a cooperative basis with provision for sound, adequate capitalization to meet the changing financing needs of eligible cooperative borrowers and prudent corporate fiscal management, to the end that current year's patrons carry their fair share of the capitalization, ultimate expenses, and reserves related to the year's operations and the remaining net savings shall be distributed as patronage refunds as provided in subsections (c) and (d) of this section. Such regulations may provide for application of less than 25 per centum of net savings to the restoration or maintenance of an allocated surplus account, reasonable additions to unallocated surplus, or to unallocated reserves of not to exceed such per centum of net savings after payment of operating expenses as may be approved by Farm Credit Administration, and provide for allocations to patrons not qualified under the Internal Revenue Code, or payment of such per centum of patronage refunds in cash, as the board may determine. If during the fiscal year but not at the end thereof a bank shall have had outstanding capital stock held by the United States, provision will be made for payment of franchise taxes required in section 4.0.

(c) The net savings of each district bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsections (a) or (b) of this section whichever is applicable, shall be paid in stock or in cash, or both, as determined by the board, as patronage refunds to borrowers of the fiscal year for which such patronage refunds are distributed. Except as provided in subsection (d) below, all patronage refunds shall be paid in proportion that the amount of interest and service fees on the loans to each borrower during the year bears to the interest and service fees on the loans of all borrowers during the year or on such other proportionate patronage basis as the Farm Credit Administration may approve.

(d) The net savings of the Central Bank for Cooperatives after the earnings for the fiscal year have been applied in accordance with subsections (a) or (b) whichever is applicable, shall be paid in stock or cash, or both, as determined by the board, as patronage refunds to the district banks on the basis of interests held by the Central Bank in loans made by the district banks and upon any direct loans made by the Central Bank to cooperative associations, or on such other proportionate patronage basis as the Farm Credit Administration may approve. In cases of direct loans, such refund shall be paid to the district bank or banks which issued their stock to the borrower incident to such loans, and the district bank or banks shall issue a like amount of patronage refunds to the borrower.

(e) In the event of a net loss in any fiscal year after providing for all operating expenses (including reasonable valuation reserves and losses in excess of any applicable reserve), such loss may be carried forward or carried back, if appropriate, or otherwise shall be absorbed by charges to unallocated reserve or surplus accounts established after the date of enactment of this Act; charges to allocated contingency reserve account; charges to allocated surplus accounts; charges to other contingency reserve and surplus accounts; the impairment of voting stock; or the impairment of all other stock.

(f) Notwithstanding any other provisions of this section any costs or expenses attributable to a prior year or years but not recognized in determining the net savings for such year or years may be charged to reserves or surplus of the bank or to patronage allocations for such years, as may be determined by the board of directors.

(g) For any year that a bank for cooperatives is subject to Federal income tax, it may pay in cash such portion of its patronage refunds as will permit its taxable income to be determined without taking into account savings applied as allocated surplus, allocated contingency reserves, and patronage refunds under subsections (a) or (b) of this section.

SEC. 3.12. DISTRIBUTION OF ASSETS AND LIQUIDATION OR DISSOLUTION.—In the case of liquidation or dissolution of any bank for cooperatives, after payment or retirement, first, of all liabilities; second, of all capital stock issued before January 1, 1965, at par, any stock held by the Governor of the Farm Credit Administration at par, and all nonvoting stock at par; and third, all voting stock at par; any surplus and reserves existing on January 1, 1965, shall be paid to the holders of stock issued before that date, stock held by the Governor of the Farm Credit Administration, and voting stock pro rata; and any remaining allocated surplus and reserves shall be distributed to those entities to which they are allocated on the books of the bank, and any other remaining surplus shall be paid to the holders of outstanding voting stock. If it should become necessary to use any surplus or reserves to pay any liabilities or to retire any capital stock, unallocated reserves or surplus, allocated reserves and surplus shall be exhausted in accordance with rule prescribed by Farm Credit Administration.

SEC. 3.13. TAXATION.—Each bank for cooperatives and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such bank shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority. Such banks, their property, their franchises, capital, reserves, surplus, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, territorial, or local taxing authority; except that interest on the obligations of such banks shall be subject only to Federal income taxation in the hands of the holder thereof pursuant to the Public Debt Act of 1941 (31 U.S.C. 742(a)) and except that any real and tangible personal property of such banks shall be subject to Federal, State, territorial, and local taxation to the same extent as similar property is taxed. The exemption provided in the preceding sentence shall apply only for any year or part thereof in which stock in the bank for cooperatives is held by the Governor of the Farm Credit Administration.

TITLE IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

PART A—FUNDING

SEC. 4.0. STOCK PURCHASED BY GOVERNOR; RETIREMENT; FRANCHISE TAX; REVOLVING FUND.—(a) The Federal land banks, the Federal intermediate credit banks, the banks for cooperatives, and, subject to section 2.13(d), the production credit associations may issue stock which may be purchased by the Governor of the Farm Credit Administration on behalf of the United States as a temporary investment in the stock of the institution to help one or several of the banks or associations to meet emergency credit needs of borrowers. The ownership of such stock shall be deemed to not change the status of ownership of the banks or associations, but, during the time such stock is outstanding, the pertinent provisions of the Government Corporation Control Act shall be applicable.

(b) The Governor shall require the retirement of such stock at such time as in his opinion the bank or association has resources available therefor and the need for such temporary investment is reduced or no longer exists. If the Governor determines that a production credit association does not have resources available to retire stock held by him, but in his judgment, the Federal intermediate credit bank of the district has resources available to do so, the Governor may require such bank to invest in an equivalent amount of nonvoting stock of said association and the association then shall retire the stock held by the Governor.

(c) For any year or part thereof in which the Governor holds any stock in a bank of the System, such institution after complying with sections 1.17, 2.6, 2.14, 3.11, respectively, shall pay to the United States as a franchise tax a sum equal to the lower of 25 per centum of its net earnings for the year before establishing any contingency reserves or declaring any dividends or patronage distribution, not exceeding a rate of return on such temporary investment calculated at a rate determined by the Secretary of the Treasury equal to the average annual rate of interest on all public issues of debt obligations of the United States issued during the fiscal year ending next before such tax is due, multiplied by the percentage that the number of days such stock is outstanding is of three hundred and sixty-five days. Such payments shall be deposited in the miscellaneous receipts in the Treasury.

SEC. 4.1. REVOLVING FUNDS AND GOVERNMENT DEPOSITS.—(a) The revolving fund established by Public Law 87-343, 75 Stat. 758, as amended, shall be available at the request of the Governor of the Farm Credit Administration for his temporary investment in the stock of any Federal intermediate credit banks or production credit associations as provided in section 4.0 and for any other purpose authorized by said Act. Funds received from the partial or the full retirement of such investments shall be deposited in this revolving fund.

(b) The revolving fund established by Public Law 87-494, 76 Stat. 109, as amended, shall be available at the request of the Governor of the Farm Credit Administration for his temporary investment in the stock of any bank for cooperatives as provided in section 4.0 of this Act. Funds received from the partial or full retirement of such investments shall be deposited in this revolving fund.

(c) The Secretary of the Treasury is authorized, in his discretion, upon the request of the Farm Credit Administration, to make deposits for the temporary use of any Federal land bank, out of any money in the Treasury not otherwise appropriated. Such Federal land bank shall issue to the Secretary of the Treasury a certificate of indebtedness for any such deposit, bearing a rate of interest not to exceed the current rate charged for other Government deposits, to be secured by bonds or other collateral, to the satisfaction of the Secretary of the Treasury. Any such certificate shall be redeemed and paid by such land bank at the discretion of the Secretary of the Treasury. The aggregate of all sums so deposited by the Secretary of the Treasury shall not exceed the sum of $6,000,000 at any one time.

SEC. 4.2. POWER TO BORROW; ISSUE NOTES, BONDS, DEBENTURES, AND OTHER OBLIGATIONS.—Each of the banks of the System, in order to obtain funds for its authorized purposes, shall have power, subject to supervision of the Farm Credit Administration, and subject to the limitations of paragraph (e) of this section, to—

(a) Borrow money from or loan to any other institution of the System, borrow from any commercial bank or other lending institution, issue its notes or other evidence of debt on its own individual responsibility and full faith and credit, and invest its excess funds in such sums, at such times, and on such terms and conditions as it may determine.

(b) Issue its own notes, bonds, debentures, or other similar obligations, fully collateralized as provided in section 4.3(b) by the notes, mortgages, and security instruments it holds in the performance of its functions under this Act in such sums, maturities, rates of interest, and terms and conditions of each issue as it may determine with approval of the Governor.

(c) Join with any or all banks organized and operating under the same title of this Act in borrowing or in issuance of consolidated notes, bonds, debentures, or other obligations as may be agreed with approval of the Governor.

(d) Join with other banks of the System in issuance of System-wide notes, bonds, debentures, and other obligations in the manner, form, amounts, and on such terms and conditions as may be agreed upon with approval of the Governor. Such System-wide issue by the participating banks and such participations by each bank shall not exceed the limits to which each such bank is subject in the issuance of its individual or consolidated obligations and each such issue shall be subject to approval of the Governor: *Provided, however*, There shall be no issues of System-wide obligations without the concurrence of the boards of directors of each of the 12 districts and the Central Bank for Cooperatives and the approval of the Governor for such issues shall be conditioned on and be evidence of the compliance with this provision.

(e) No bank or banks shall issue notes, bonds, debentures, or other obligations individually or in concert with one or more banks of the System other than through their fiscal agent under any provision of this Act except under subsection (a) of this section: *Provided*, That any bank or banks may issue investment bonds or like obligations other than through the fiscal agent if the interest rate is not in excess of the interest allowable on savings deposits of commercial banks of comparable amounts and maturities under Federal Reserve regulation on its member banks.

SEC. 4.3. AGGREGATE OF OBLIGATIONS; COLLATERAL.—(a) No issue of long-term notes, bonds, debentures, or other similar obligations by a bank or banks shall be approved in an amount which, together with the amount of other bonds, debentures, long-term notes, or other similar obligations issued and outstanding, exceeds twenty times the capital and surplus of all the banks which will be primarily liable on the proposed issue, or such lesser amount as the Farm Credit Administration shall establish by regulation.

(b) Each bank shall have on hand at the time of issuance of any long-term notes, bonds, debentures, or other similar obligations and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under the authority of this Act, obligations of the United States or any agency thereof direct or fully guaranteed, other readily marketable securities approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of long-term notes, bonds, debentures, or other simi-

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lar obligations outstanding for which the bank is primarily liable.

SEC. 4.4. LIABILITY OF BANKS; UNITED STATES NOT LIABLE.—(a) Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same title of this Act. Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make. Such calls shall be made first upon the other banks operating under the same title of this Act as the defaulting bank, and second upon banks operating under other titles of this Act, taking into consideration the capital, surplus, bonds, debentures, or other obligations which each may have outstanding at the time of such assessment.

(b) Each bank participating in an issue shall by appropriate resolution undertake such responsibility as provided in subsection (a), and in the case of consolidated or Systemwide obligations shall authorize the Governor to execute such long-term notes, bonds, debentures, or other obligations on its behalf. When a consolidated or System-wide issue is approved, the notes, bonds, debentures, or other obligations shall be executed by the Governor and the banks shall be liable thereon as provided herein.

(c) The United States shall not be liable or assume any liability directly or indirectly thereon.

SEC. 4.5. FINANCE COMMITTEE.—There shall be established a finance committee for the banks organized and operated under titles I, II, and III, respectively, of this Act, composed of the presidents of each bank. Each such committee may have such officers and such subcommittees for such terms and such representation as may be agreed upon between the banks. When appropriate to the performance of their function, the subcommittees, or representatives thereof, of the various banks shall constitute such subcommittees in connection with System-wide issues of obligations. The finance committees and subcommittees acting for the banks of the System shall, subject to approval of the Governor, determine the amount, maturities, rates of interest, and participation by the several banks in each issue of joint, consolidated, or System-wide obligations.

SEC. 4.6. BONDS AS INVESTMENTS.—The bonds, debentures, and other similar obligations issued under the authority of this Act shall be lawful investments for all fiduciary and trust funds and may be accepted as security for all public deposits.

SEC. 4.7. PURCHASE AND SALE BY FEDERAL RESERVE SYSTEM.—Any member of the Federal Reserve System may buy and sell bonds, debentures, or other similar obligations issued under the authority of this Act and any Federal Reserve bank may buy and sell such obligations to the same extent and subject to the same limitations placed upon the purchase and sale by said banks of State, county, district, and municipal bonds under section 355 of title 12, United States Code.

SEC. 4.8. PURCHASE AND SALE OF OBLIGATIONS.—Each bank of the System may purchase its own obligations and the obligations of other banks of the System and may provide for the sale of obligations issued by it, consolidated obligations, or System-wide obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, and to deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

SEC. 4.9. FISCAL AGENCY.—A fiscal agency shall be established by the banks for such of their functions relating to the issuance, marketing, and handling of their obligations, and interbank or intersystem flow of funds as may from time to time be required.

PART B—DISSOLUTION AND MERGER

SEC. 4.10. MERGER OF SIMILAR BANKS.—Banks organized or operating under titles I, II, or III, respectively, may upon majority vote cast by their voting stockholders and contributors to their guaranty funds in accordance with the voting strength provisions of section 5.2(c) of this Act relating to elections of directors of the district boards, and with the approval of the Farm Credit Administration, merge with banks in other districts operating under the same title of this Act.

SEC. 4.11. BOARD OF DIRECTORS FOR MERGED BANK.—In the event of merger of two or more banks to serve borrowers in more than one farm credit district, a separate board of directors shall be created for the resulting merged bank. The board thus created shall be composed of two directors elected by each of the district boards involved, at least one of which from each district shall have been elected by the eligible stockholders of or subscribers to the guaranty fund of the merging banks, and one director appointed by the Governor with the advice and consent of the Federal Farm Credit Board. Notwithstanding the foregoing, the bylaws of the merged bank may, with the approval of the Farm Credit Administration, provide for a different number of directors selected in a different manner. The board so constituted shall have such separate and distinct powers, functions, and duties as are normally exercised by a district board related to the operations and policies of the banks which were merged.

SEC. 4.12. DISSOLUTION; VOLUNTARY LIQUIDATION; MERGERS; RECEIVERSHIPS; AND CONSERVATORS.—(a) No institution of the System shall go into voluntary liquidation without the consent of the Farm Credit Administration and with such consent may liquidate only in accordance with regulations prescribed by the Farm Credit Administration. Associations may voluntarily merge with other like associations upon the vote of a majority of each of their stockholders present and voting or voting by written proxy at duly authorized meetings, and with the approval of the supervising bank and the Farm Credit Administration. The Federal Farm Credit Board may require such merger whenever it determines, with the concurrence of the district board, that an association has failed to meet its outstanding obligations or failed to conduct its operations in accordance with this Act.

(b) Upon default of any obligation by any institution of the System, such institution may be declared insolvent and placed in the hands of a conservator or a receiver appointed by the Governor and the proceedings thereon shall be in accordance with regulations of the Farm Credit Administration regarding such insolvencies.

PART C—RIGHTS OF APPLICANTS

SEC. 4.13. NOTICE OF ACTION ON APPLICATION.—Every applicant for a loan from an institution of the System shall be entitled to prompt notice of action on his application, and, if the loan applied for is reduced or denied, the reason for such action.

SEC. 4.14. RECONSIDERATION.—Any applicant who has reason to believe that the action on his application by an association failed to take into account facts pertinent to his application, or has misinterpreted or failed to properly apply the applicable law or rules and regulations governing his application, may, if he so requests in writing within thirty days of the date of that notice, request an informal hearing on his application and the action of the association in reduction or denial thereof, or the reason for such action, in person before the loan committee or officer or employee thereof authorized to act on applications under section 1.15(11) or 2.12(18). Promptly after such a hearing, he shall be notified of the decision upon reconsideration and the reasons therefor.

SEC. 4.15. NOMINATION OF ASSOCIATION DIRECTORS; REPRESENTATIVE SELECTION OF NOMINEES.—Each production credit association and each Federal land bank association shall elect a nominating committee by vote of the stockholders at the annual meeting to serve for the following year. Each nominating committee shall review lists of farmers from the association territory, determine their willingness to serve, and submit for election a slate of eligible candidates which shall include at least two nominees for each elective office to be filled. In doing so, the committee shall endeavor to assure representation to all sections of the association territory and as nearly as possible to all types of agriculture practiced within the area. Employees of the association shall not be eligible to be nominated, elected, or serve as a member of the board. Nominations shall also be accepted from the floor. Members of the board are not eligible to serve on the nominating committee. Regulations of the Farm Credit Administration governing the election of district directors shall similarly assure a choice of two nominees for each elective office to be filled and that the district board represent as nearly as possible all types of agriculture in the district.

SEC. 4.16. PROHIBITION AGAINST TAX-EXEMPT GUARANTEES.—Notwithstanding any other provision of this Act, no guarantee shall be made on any instrument of indebtedness the income from which is exempt in whole or in part from Federal taxation.

TITLE V—DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION

PART A—DISTRICT ORGANIZATION

SEC. 5.0. CREATION OF DISTRICTS.—There shall be not more than twelve farm credit districts in the United States, which may be designated by number, one of which districts shall include the Commonwealth of Puerto Rico. The boundaries of the twelve farm credit districts existing on the date of enactment of this Act may be readjusted from time to time by the Federal Farm Credit Board, with the concurrence of the district boards involved. Two or more districts may be merged as provided in section 5.18(2).

SEC. 5.1. DISTRICT BOARDS OF DIRECTORS; MEMBERSHIP; ELIGIBILITY; TERMS.—(a) There shall be in each farm credit district a farm credit board of directors composed of seven members. Each farm credit district board may include in its title the name of the city in which the banks of the System for the district are located or other geographical designation.

(b) To be eligible for membership on a farm credit district board a person must be a citizen of the United States for at least ten years, and a resident of the district for at least two years.

A person shall not be eligible who—

(1) is or has, within one year next preceding the date of election or appointment, been a salaried officer or employee of the Farm Credit Administration or of any institution of the System;

(2) has been convicted of a felony or adjudged liable in damages for fraud; or

(3) if there is at the time of his election another resident of the same State who was elected to the district board by the same electorate, except where a district embraces only one State.

No director of a district board shall be eligible to continue to serve in that capacity and his office shall become vacant if, after his election or appointment as a member of a district board, he continues or becomes a salaried officer or employee of the Farm Credit Administration, or any institution of the System, or a member of the Federal Farm Credit Board, or if he becomes legally incompetent or is finally convicted of a felony or held liable in damages for fraud. In any event, no director shall, within one year after the date when he ceases to be a member of the board, be elected or designated to serve as a salaried employee of any bank or joint employee of the district for which he served as director.

(c) The terms of district directors shall be for three years, except that the terms of appointed directors may be for a shorter or longer term to permit the staggering of such appointments over a three-year period but in no event shall such appointed director be eligible to serve for more than two full terms.

SEC. 5.2. SAME; NOMINATION; ELECTION; APPOINTMENT.—(a) Two of the district directors shall be elected by the Federal land bank associations, two by the production credit associations, and two by the borrowers from or subscribers to the guaranty fund of the bank for cooperatives. The seventh member shall be appointed by the Governor with the advice and consent of the Federal Farm Credit Board.

(b) At least two months before an election of an elected director the Farm Credit Administration shall cause notice in writing to be sent to those entitled to nominate candidates for such elected director. In the case of an election of a director by Federal land bank associations and borrowers through agencies, such notice shall be sent to all Federal land bank associations and borrowers through agencies in the district; in the case of an election by production credit associations, such notice shall be sent to all production credit associations in the district; and in the case of an election by cooperatives which are voting stockholders or subscribers to the guaranty fund of the bank for cooperatives of the district, such notice shall be sent to all cooperatives which are eligible, voting stockholders or subscribers to the guaranty fund at the time of sending the notice. The notice in the case of associations shall state the number of votes the board of each association is entitled to cast for nomination and election based on the voting stockholders of the association as determined by the Farm Credit Administration as near as practicable to the date of the notice. After receipt of such notice those entitled to nominate a director shall forward nominations to the Farm Credit Administration. The Farm Credit Administration shall, from the nominations received within sixty days after it sends such notice, prepare a list of candidates for such elected director, consisting of the three nominees receiving the highest number of votes, except that for elections to fill vacancies the Farm Credit Administration may specify a shorter period than sixty days but not less than thirty days.

(c) At least one month before the election of an elected director, the Farm Credit Administration shall mail to each person or organization entitled to elect the elected director a list of the three candidates receiving the highest number of votes from those nominated in accordance with subsection (b). In the case of an election of a director by the Federal land bank associations, the directors of each land bank association shall cast the vote of such association for one of the candidates on the list. Each association shall be entitled to cast the number of votes specified in the notice prior to the nomination poll as determined by the Farm Credit Administration to be the number of voting stockholders of each association, and each direct borrower and borrower through agent shall be entitled to cast one vote. Each production credit association shall be entitled to cast the number of votes specified in the notice of nomination poll as determined by the Farm Credit Administration to be equal to the number of voting stockholders of each association. Each cooperative which is the holder of voting stock in or a subscriber to the guaranty fund of the bank for cooperatives shall be entitled to cast one vote except as provided in subsection 3.3 (d). The votes shall be forwarded to the Farm Credit Administration and no vote shall be counted unless received by it within sixty days after the sending of such list of candidates, except that for election to fill vacancies the Farm Credit Administration may specify a shorter period than sixty days but not less than thirty day. In the case of a tie another runoff election between those tying shall be held.

(d) Any vacancies in the board of directors shall be filled for the unexpired term in the manner provided in sections 5.1 and 5.2 for the selection of such directors.

SEC. 5.3. DISTRICT DIRECTORS CONSTITUTE BOARDS OF DIRECTORS FOR FEDERAL LAND BANKS, FEDERAL INTERMEDIATE CREDIT BANKS, AND DISTRICT BANKS FOR COOPERATIVES.—The members of each farm credit district board of directors shall be and shall have all the functions, powers, and duties of directors for the Federal land banks, the Federal intermediate credit banks, and the district banks for cooperatives in their respective districts.

SEC. 5.4. DISTRICT BOARD OFFICERS.—Each farm credit district board shall elect from its members a chairman and a vice chairman and shall appoint a secretary from within or without its membership as it may see fit. The chairman, vice chairman, and secretary shall hold office for a term of one year and until their successors are selected and take office.

SEC. 5.5. COMPENSATION OF DISTRICT BOARD.—Members of each farm credit district board shall receive compensation, including reasonable allowances for necessary expenses, in attending meetings of the board as district board and as directors of the district banks including travel time. The compensation shall not be in excess of the level set by the Farm Credit Administration. In addition to attending said meetings, a director may not receive compensation and allowances for any services rendered in his capacity as director or otherwise for more than thirty days or parts of days in any one calendar year without the approval of the Farm Credit Administration.

SEC. 5.6. POWERS OF THE DISTRICT FARM CREDIT BOARD.—(a) Each farm credit district board shall have power to—

(1) Act as the board of directors for the district and of the several banks of the System in the district.

(2) Provide rules and regulations, governing the banks and associations in the district, not inconsistent with law.

(3) Elect or provide for joint officers and employees for the banks in its district which are institutions of the System or, upon agreement with banks in other districts, joint officers and employees of institutions in more than one district. The salary or other compensation of all such joint officers and employees and the allocation thereof between the banks shall be fixed by the district farm credit board. Officers and employees elected or provided for by the district farm credit board, whether separate officers and employees of the institutions or joint officers and employees, shall be officers and employees of the district institutions served by them. Employment, compensation, leave, retirement, except as provided in subsection (b) of this section, hours of duty, and all other conditions of employment of such joint officers and employees and of the separate officers and employees of the institutions in the district provided for by the board of directors shall be without regard to the provisions of title 5 of the United States Code relating to such matters, but all such determinations shall be consistent with the law under which the banks are organized and operate. Appointments, promotions, and separations so made shall be based on merit and efficiency and no political test or qualification shall be permitted or given consideration. The limitations against political activity and conflict of interest of such officers and employees shall be in accordance with rules and regulations prescribed by the Farm Credit Administration.

(4) Authorize the acquisition and disposal of such property, real or personal, as may be necessary or convenient for the transaction of the business of the banks of the System located in its district, upon such terms and conditions as it shall fix, and to prorate among such banks the cost of purchases, rentals, construction, repairs, alterations, maintenance, and operation in such amounts and in such manner as it shall determine. Any lease, or any contract for the purchase or sale of property, or any deed or conveyance of property, or any contract for the construction, repair, or alteration of buildings, authorized by a district farm credit board under this subsection shall be executed by the officers of the bank or banks concerned pursuant to the direction of such board. No provision of law relative to the acquisition or disposal of property, real or personal, by or for the United States, or relative to the making of contracts or leases by or for the United States, including the provisions set out in titles 40 and and 41, and including provisions applicable to corporations wholly owned by the United States, shall be deemed or held applicable to any lease, purchase, sale, deed, conveyance, or contract authorized or made by a district farm credit board or the banks of the System under this subsection.

(5) Authorize agreements for the provision of joint services betwen institutions in the System and between districts for those banks' and associations' functions and for those services to borrowers which can most effectively be performed by the joint undertakings of the district or districts, all of such activities to be subject to the same supervision of the Farm Credit Administration as is applicable to such institutions under this Act.

(6) Formulate broad policy considerations concerning the funding operations of the banks in the district and, in concert with the other district boards, furnish unified long-range policy guidance for the funding of the System.

(b) The provisions of subsection (a) of this section are qualified as follows:

(1) Each officer and employee of the banks of the System who, on December 31, 1959, was within the purview of the Civil Service Retirement Act, as amended, shall continue so during his continuance as an officer or employee of any such banks or of the Farm Credit Administration without break in continuity of service. Any other officer or employee of such banks and any other person entering upon employment with any such banks after December 31, 1959, shall not be covered under the civil service retirement system by reason of such employment, except that (1) a person who, on December 31, 1959, was within the purview of the Civil Service Retirement Act, as amended, and thereafter becomes an officer or employee of any such banks without break in continuity of service shall continue under the civil service retirement system during his continuance as an officer or employee of any such banks without break in continuity of service and (2) a person who has been within the purview of said Act as an officer or employee of such banks and, after a break in such employment, again becomes an officer or employee of any of such banks may elect to continue under the civil service retirement system during his continuance as such officer or employee by so notifying the

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Civil Service Commission in writing within thirty days after such reemployment.

(2) Each of the banks of the System shall contribute to the civil service retirement and disability fund, for each fiscal year after June 3, 1960, a sum as provided by section 4(a) of the Civil Service Retirement Act, as amended, except that such sum shall be determined by applying to the total basic salaries (as defined in that Act) paid to the employees of said banks who are covered by that Act, the per centum rate determined annually by the United States Civil Service Commission to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in such section 4(a). Each bank shall also pay into the Treasury as miscellaneous receipts such portion of the cost of administration of the fund as is determined by the United States Civil Service Commission to be attributable to its employees.

PART B—CREDIT ADMINISTRATION ORGANIZATION

SEC. 5.7. THE FARM CREDIT ADMINISTRATION.—The Farm Credit Administration shall be an independent agency in the executive branch of the Government. It shall be composed of the Federal Farm Credit Board, the Governor of the Farm Credit Administration, and such other personnel as are employed in carrying out the functions, powers, and duties vested in the Farm Credit Administration by this Act.

SEC. 5.8. THE FEDERAL FARM CREDIT BOARD; NOMINATION AND APPOINTMENT OF MEMBERS; ORGANIZATION AND COMPENSATION.—(a) There is established in the Farm Credit Administration a Federal Farm Credit Board. The Board shall consist of not more than thirteen members, one of whom shall be designated by the Secretary of Agriculture. The remainder of the Board shall be appointed by the President, with the advice and consent of the Senate, one from each farm credit district, to be known as the appointed members.

(b) In making appointments to the Board, the President shall have due regard to a fair representation of the public interest, the welfare of all farmers, and the types of institutions constituting the Farm Credit System, with special consideration to persons who are experienced in cooperative agricultural credit, taking into consideration the lists of nominees proposed by the Farm Credit System as hereinafter provided.

(c) Each appointed member of the Board shall have been a citizen of the United States and shall have been a resident of the district from which he was appointed for not less than ten years next preceding his appointment, and the removal of residence from the district shall operate to terminate his membership on the Board. No person shall be eligible for nomination or appointment if within one year next preceding the commencement of his term he has been a salaried officer or employee of the Farm Credit Administration or a salaried officer or employee of any institution of the Farm Credit System. Any person who is a member of a district farm credit board when appointed as a member of the Federal Farm Credit Board shall resign as a member of the district board before assuming his duties as a member of the Board. No person who becomes an appointed member of the Board shall be eligible to continue to serve in such capacity if such person is or becomes a member of a district farm credit board, or an officer or employee of the Farm Credit Administration, or director, officer, or employee of any institution of the Farm Credit System. No director shall, within one year after the date when he ceases to be a member of the Board, be elected or designated to serve as a salaried officer or employee of any bank, joint officer or employee, or officer or employee of the Farm Credit Administration.

(d) The Secretary of Agriculture shall designate one member of the Board to serve at the pleasure of the Secretary. He shall be known as the Secretary's representative on the Board. He shall be a citizen of the United States and shall have been a resident of the United States for not less than ten years preceding his designation on the Board. No person shall be designated by the Secretary if such person is a member of a farm credit district board, an officer or employee of the Farm Credit Administration, or an officer or employee of any institution operating under the supervision of the Farm Credit Administration. The Secretary's representative shall not be eligible to serve as Chairman, Vice Chairman, or Secretary of the Board but shall otherwise possess all the rights and privileges of membership on the Board.

(e) The term of office of the appointed members of the Board shall be six years and such members shall serve until their successors are duly appointed and qualified. No appointed member of the Board shall be eligible to serve more than one full term of six years and, in addition, if he is appointed to fill the unexpired portion of one term expiring before his appointment to a full term, he may be eligible thereafter for appointment to fill a full term of six years.

All vacancies for the offices of appointed members shall be filled for the unexpired portion of the term upon like nominations and like appointments: *Provided, however,* That the district board of directors may select a representative to meet with the Board, without the right of vote, prior to the filling of a vacancy occasioned by death, resignation, disability, or declination in the office of member from that district, under rules and regulations prescribed by the Board.

(f) A list of nominees for appointment as an appointed member of the Board shall be presented to the President for consideration in the filling of any office of Board member. The list shall be composed of one selected by each voting group in the district in which the member's term is about to expire or in which a vacancy occurs, determined in accordance with the procedure prescribed in section 5.2 of this title for the nomination and election of members of a district farm credit board, except that the list of candidates for the Board for final election in the district shall be the two nominees of each voting group receiving the highest number of votes.

(g) The members of the Board shall meet and subscribe the oath of office and annually organize by the election of a Chairman and Vice Chairman. The Board shall appoint a Secretary from within or without the membership. Such officers of the Board shall serve for one year and until their successors are selected and take office. The Board may function notwithstanding vacancies exist, provided a quorum is present. A quorum shall consist of a majority of all the members of the Board, for the transaction of business. The Board shall hold at least four regularly scheduled meetings a year and such additional meetings at such times and places as it may fix and determine. Such meetings may be held on the call of the Chairman or any three Board members.

(h) Each of the Board members shall receive the sum of $100 a day for each day or part thereof in the performance of his official duties at regular and special meetings of the Board and regular and special meetings of district boards. In addition to attending said meetings, members may receive compensation for services rendered as member for not more than thirty days or parts of days in any calendar year, and shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of their official duties without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States. The Secretary's representative if he is a full-time officer or employee of the United States shall receive no additional compensation for his official duties on the Board, but may receive travel and subsistence and other expenses.

(i) The Board shall adopt such rules as it may see fit for the transaction of its business, and shall keep permanent records and minutes of its acts and proceedings.

SEC. 5.9. POWERS OF THE BOARD.—The Federal Farm Credit Board shall establish the general policy for the guidance of the Farm Credit Administration and approve the necessary rules and regulations for the implementation of this Act not inconsistent with its provisions; may require such reports as it deems necessary from the institutions of the Farm Credit System; provide for the examination of the condition of and general supervision over the performance of the powers, functions, and duties vested in each such institution, and for the performance of all the powers and duties vested in the Farm Credit Administration or in the Governor which, in the judgment of the Board, relate to matters of board and general supervisory, advisory, or policy nature. The Board shall function as a unit without delegating any of its functions to individual members, but may appoint committees and subcommittees for studies and reports for consideration by the Board. It shall not operate in an administrative capacity.

SEC. 5.10. GOVERNOR; APPOINTMENT; RESPONSIBILITIES.—The Governor of the Farm Credit Administration shall be appointed by and serve at the pleasure of the Federal Farm Credit Board. He shall be responsible, subject to the general supervision and direction of the Board as to matters of a broad and general supervisory, advisory, or policy nature, for the execution of all of the administrative functions and duties of the Farm Credit Administration. During any period in which the Governor holds any stock in any of the institutions subject to supervision of the Farm Credit Administration, the appointment of the Governor shall be subject to approval by the President and during any such period the President shall have the power to remove the Governor.

SEC. 5.11. COMPENSATION; SALARY AND EXPENSE ALLOWANCE.—The compensation of the Governor of the Farm Credit Administration shall be at the rate fixed in the Executive Pay Schedule. The Board shall fix the allowance for his necessary travel and subsistence expenses or per diem in lieu thereof.

SEC. 5.12. COMPLIANCE WITH BOARD ORDERS.—It shall be the duty of the Governor of the Farm Credit Administration to comply with all orders and directions which he receives from the Federal Farm Credit Board and, as to third persons, all acts of the Governor shall be conclusively presumed to be in compliance with the orders and directions of the Board.

SEC. 5.13. FARM CREDIT ORGANIZATION.—The Governor of the Farm Credit Administration is authorized, in carrying out the powers and duties now or hereafter vested in him by this Act and acts supplementary thereto, to establish and to fix the powers and the duties of such divisions and instrumentalities as he may deem necessary to the efficient functioning of the Farm Credit Administration and the successful execution of the powers and duties so vested in the Governor and the Farm Credit Administration. The Governor shall appoint such other personnel as may be necessary to carry out the functions of the Farm Credit Administration: *Provided,* That the salary of positions of Deputy Governors shall not exceed the maximum scheduled rate of the general schedule of the Classification Act of 1949, as amended. The powers of the Governor may be exercised and performed by him through such other officers and employees of the Farm Credit Administration as he shall designate.

SEC. 5.14. SEAL.—The Farm Credit Administration shall have a seal, as adopted by the Governor, which shall be judicially noted.

SEC. 5.15. ADMINISTRATIVE EXPENSES.—The Farm Credit Administration may, within the limits of funds available therefor, make necessary expenditures for personnel services and rent at the seat of Government and elsewhere; contract stenographic reporting services; purchase and exchange lawbooks, books of reference, periodicals, newspapers, expenses of attendance at meetings and conferences; purchase, operation, and maintenance at the seat of Government and elsewhere of motor-propelled passenger-carrying vehicles and other vehicles; printing and binding; and for such other facilities and services, including temporary employment by contract or otherwise, as it may from time to time find necessary for the proper administration of this Act.

SEC. 5.16. ALLOCATION OF EXPENSES FOR ADMINISTRATIVE SERVICES BY THE FARM CREDIT ADMINISTRATON; DISPOSITION OF MONEY.—(a) The Farm Credit Administration shall prior to the first day of each fiscal year estimate the cost of administrative expenses for the ensuing fiscal year in administering this Act, including official functions, and shall apportion the amount so determined among the institutions of the System on such equitable basis as the Farm Credit Administration shall determine, and shall assess against and collect in advance the amounts so apportioned from the institutions among which the apportionment is made.

(b) The amounts collected pursuant to subsection (a) of this section shall be covered into the Treasury, and credited to a special fund and, without regard to other law, shall be available to said Administration for expenditure during each fiscal year for salaries and expenses of said Administration. As soon as practicable after the end of each such fiscal year, the Administration shall determine, on a fair and reasonable basis, the cost of operation of the Farm Credit Administration and the part thereof which fairly and equitably should be allocated to each bank and association as its share of the cost during the fiscal year of such Administration. If the amount so allocated is greater than the amount collected from the bank or other institutions, the difference shall be collected from such bank or other institutions, and, if less, shall be refunded from the special fund to the bank or other institutions entitled thereto or credited in the special fund to such bank or other institutions for use for the same purposes in future fiscal years.

SEC. 5.17. QUARTERS AND FACILITIES FOR THE FARM CREDIT ADMINISTRATION.—As an alternate to the rental of quarters under section 5.15, and without regard to any other provision of law, the banks of the System, with the concurrence of two-thirds of the district boards, are hereby authorized—

(1) To lease or acquire real property in the District of Columbia or elsewhere for quarters of the Farm Credit Administration.

(2) To construct, develop, furnish, and equip such building thereon and such facilities appurtenant thereto as in their judgment may be appropriate to provide, to the extent the Federal Farm Credit Board may deem advisable, suitable, and adequate quarters and facilities for the Farm Credit Administration.

(3) To enlarge, remodel, or reconstruct the same.

(4) To make or enter into contracts for any of the foregoing.

The Board may require of the respective banks of the System, and they shall make to the Farm Credit Administration, such advances of funds for the purposes set out in this section as in the sole judgment of the Board may from time to time be advisable for the purposes of this section. Such advances shall be in addition to and kept in a separate fund from the assessments authorized in section 5.16 and shall be apportioned by the Board among the banks in proportion to the total assets of the respective banks, and determined in such manner and at such times as the Board may prescribe. The powers of the banks of the System and purposes for which obligations may be issued by such banks are hereby enlarged to include the purpose of obtaining funds to permit the making of advances required by this section. The plans and decisions for such building and facilities and for the enlargement, remodeling, or reconstruction thereof shall be such as is approved in the sole discretion of the Board.

SEC. 5.18. ENUMERATED POWERS.—The Farm Credit Administration shall have the following powers, functions, and responsibilities in connection with the institutions of the Farm Credit System and the administration of this Act:

(1) Modify the boundaries of farm credit districts, with due regard for the farm credit needs of the country, as approved by the Federal Farm Credit Board, with the concurrence of the district boards involved.

(2) Where necessary or appropriate to carry out the policy and objectives of this Act, issue and amend or modify Federal charters or the bylaws of institutions of the System; approve change in names of banks operating under this Act; approve the merger of districts when agreed to by the boards of the districts involved and by a majority vote of the voting stockholders and contributors to the guaranty funds of each bank for each of such districts, voting in the same manner as is provided in section 4.10 of this Act; approve mergers of banks operating under the same title of this Act, merger of Federal land bank associations, merger of production credit associations and the consolidation or division of the territories which they serve; and approve consolidations of boards of directors or management agreements. Such mergers shall be encouraged where such action will improve service to borrowers and the financial stability, effect economies of operation, or permit desirable joint management, or consolidation of territories and office quarters.

(3) Make annual reports directly to the Congress on the condition of the System and its institutions and on the manner and extent to which the purposes and objectives of this Act are being carried out and, from time to time, recommend directly legislative changes.

(4) Except for associations, approve the salary scale for employees of the institutions of the System, and approve the compensation of the chief executive officer of such institutions.

(5) Coordinate the activities of the banks in making studies of lending standards, including appraisal and credit standards; approve national and district standards, procedures, and appraisal forms; prescribe price and cost levels to be used in such standards, appraisals, and lending; supplement the work of the district under the foregoing where necessary to accomplish the purposes of this Act.

(6) Prescribe loan security requirements and the types, classes, or number of loans which may be made only with prior approval.

(7) Conduct loan and collateral security review.

(8) Approve the issuance of obligations of the institutions of the System and execute on behalf if the banks consolidated and System-wide obligations for the purpose of funding the authorized operations of the institutions of the System, and prescribe collateral therefor.

(9) Approve interest rates paid by institutions of the System on their bonds, debentures, and similar obligations, the terms and conditions thereof, and interest or other charges made by such institutions to borrowers.

(10) Make investments in stock of the institutions of the System as provided in section 4.0 out of the revolving fund, and require the retirement of such stock.

(11) Regulate the borrowing, repayment, and transfer of funds and equities between institutions of the System.

(12) Coordinate and assist in providing services necessary for the convenient, efficient, and effective management of the institutions of the System.

(13) Undertake research into the rural credit needs of the country and ways and means of meeting them and of the funding of the operations of the System in relation to changing farming and economic conditions.

(14) Prepare and disseminate information to the general public on use, organization, and functions of the System and to investors on merits of its securities.

(14) Require surety bonds or other provision for protection of the assets of the institutions of the System against losses occasioned by employees.

16) Prescribe rules and regulations necessary or appropriate for carrying out the provisions of this Act.

(17) Exercise such incidental powers as may be necessary or appropriate to fulfill its duties and carry out the purposes of this Act.

SEC. 5.19. DELEGATION OF DUTIES AND POWERS TO INSTITUTIONS OF THE SYSTEM.—The Farm Credit Administration is authorized and directed, by order or rules and regulations, to delegate to a Federal land bank such of the duties, powers, and authority of the Farm Credit Administration with respect to and over a Federal land bank or Federal land bank associations, their officers and employees, in the farm credit district wherein such Federal land bank is located as may be determined to be in the interest of effective administration; and, in like manner, to delegate to a Federal intermediate credit bank such of the duties, powers, and authority of the Farm Credit Administration with respect to and over a Federal intermediate credit bank or production credit associations, their officers and employees, in the farm credit district wherein such Federal intermediate credit bank is located, as may be determined to be in the interest of effective administration; to authorize the redelegation thereof; and, in either case the duties, powers, and authority so delegated or redelegated shall be performed and exercised under such conditions and requirements and upon such terms as the Farm Credit Administration may specify. Any Federal land bank or Federal intermediate credit bank to which any such duties, powers, or authority may be delegated or any association to which any power may be redelegated, is authorized and empowered to accept, perform, and exercise such duties, powers, and authority as may be so delegated to it.

SEC. 5.20. EXAMINATIONS AND REPORTS.—Except as provided herein, each institution of the System, and each of their agents, at such times as the Governor of the Farm Credit Administration may determine, shall be examined and audited by farm credit examiners under the direction of an independent chief Farm Credit Administration examiner, but each bank and each production credit association shall be examined and audited not less frequently than once each year. Such examinations shall include objective appraisals of the effectiveness of management and application of policies in

carrying out the provisions of this Act and in servicing all eligible borrowers. If the Governor determines it to be necessary or appropriate, the required examinations and audits may be made by independent certified public accountants, certified by a regulatory authority of a State, and in accordance with generally accepted auditing standards. Upon request of the Governor or any bank of the System, farm credit examiners shall also make examinations and written reports of the condition of any organization, other than national banks, to which, or with which, any institution of the System contemplates making a loan or discounting paper of such organization. For the purposes of this Act, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act, the Federal Reserve Act, the Federal Deposit Insurance Act, and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.

SEC. 5.21. CONDITIONS OF OTHER BANKS AND LENDING INSTITUTIONS.—The Comptroller of the Currency is authorized and directed, upon request of the Farm Credit Administration to furnish for confidential use of an institution of the System such reports, records, and other information as he may have available relating to the financial condition of national banks through, for, or with which such institution of the System has made or contemplates making discounts or loans and to make such further examination, as may be agreed, of organizations through, for, or with which such institution of the Farm Credit System has made or contemplates making discounts or loans.

SEC. 5.22. CONSENT TO THE AVAILABILITY OF REPORTS AND TO EXAMINATIONS.—Any organization other than State banks, trust companies, and savings associations shall, as a condition precedent to securing discount privileges with a bank of the Farm Credit System, file with such bank its written consent to examination by farm credit examiners as may be directed by the Farm Credit Administration; and State banks, trust companies, and savings associations may be required in like manner to file a written consent that reports of their examination by constituted State authorities may be furnished by such authorities upon the request of the Farm Credit Administration.

SEC. 5.23. REPORTS ON CONDITIONS OF INSTITUTIONS RECEIVING LOANS OR DEPOSITS.—The executive departments, boards, commissions, and independent establishments of the Government of the United States, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Reserve banks are severally authorized under such conditions as they may prescribe, upon request of the Farm Credit Administration, to make available to it or to any institution of the System in confidence all reports, records, or other information relating to the condition of any organization to which such institution of the System has made or contemplates making loan or for which it has or contemplates discounting paper, or which it is using or contemplates using as a custodian of securities or other credit instruments, or a depository. The Federal Reserve banks in their capacity as depositories, agents, and custodians for bonds, debentures, and other obligations issued by the banks of the System or book entries thereof are also authorized and directed, upon request of the Farm Credit Administration, to make available for audit by farm credit examiners all appropriate books, accounts, financial records, files, and other papers.

SEC. 5.24. JURISDICTION.—Each institution of the System shall for the purposes of jurisdiction be deemed to be a citizen of the State, commonwealth, or District of Columbia in which its principal office is located. No district court of the United States shall have jurisdiction of any action or suit by or against any production credit association upon the ground that it was incorporated under this Act or prior Federal law, or that the United States owns any stock thereof, nor shall any district court of the United States have jurisdiction, by removal or otherwise, of any suit by or against such association except in cases by or against the United States or by or against any officer of the United States or against any person over whom the courts of the State have no jurisdiction, and except in cases by or against any receiver or conservator of any such association appointed in accordance with the provisions of this Act.

SEC. 5.25. STATE LEGISLATION.—Whenever it is determined by the Farm Credit Administration, or by judicial decision, that a State law is applicable to the obligations and securities authorized to be held by the institutions of the System under this Act, which law would provide insufficient protection or inadequate safeguards against loss in the event of default, the Farm Credit Administration may declare such obligations or securities to be ineligible as collateral for the issuance of new notes, bonds, debentures, and other obligations under this Act.

SEC. 5.26. REPEAL.—(a) The Federal Farm Loan Act, as amended; section 2 of the Act of March 10, 1924 (Public Numbered 35, Sixty-eighth Congress, 43 Stat. 17), as amended; section 6 of the Act of January 23, 1932 (Public Numbered 8, Seventy-second Congress, 47 Stat. 14), as amended; the Farm Credit Act of 1933, as amended; sections 29 and 40 of the Emergency Farm Mortgage Act of 1933; Act of June 16, 1934 (Public Numbered 361, Seventy-third Congress, 48 Stat. 963); Act of June 4, 1936 (Public Numbered 644, Seventy-fourth Congress, 49 Stat. 1461), as amended; sections 5, 6, 20, 25(b), and 39 of the Farm Credit Act of 1937, as amended; sections 601 and 602 of the Act of September 21, 1944 (Public Law 425, Seventy-eighth Congress, 58 Stat. 740, 741), as amended; sections 1, 2, 3, 4, 5, 6, 7, 8, 16, and 17(b) of the Farm Credit Act of 1953, as amended; sections 2, 101, and 201(b) of the Farm Credit Act of 1956 are hereby repealed. All references in other legislation, State or Federal, rules and regulations of any agency, stock, contracts, deeds, security instruments, bonds, debentures, notes, mortgages and other documents of the institutions of the System, to the Acts repealed hereby shall be deemed to refer to comparable provisions of this Act.

(b) All regulations of the Farm Credit Administration or the institutions of the System and all charters, bylaws, resolutions, stock classifications, and policy directives issued or approved by the Farm Credit Administration, and all elections held and appointments made under the Acts repealed by subsection (a) of this section shall be continuing and remain valid until superseded, modified, or replaced under the authority of this Act. All stock, notes, bonds, debentures, and other obligations issued under the repealed acts shall be valid and enforceable upon the terms and conditions under which they were issued, including the pledge of collateral against which they were issued, and all loans made and security or collateral therefor held by, and all contracts entered into by, institutions of the System shall remain enforceable according to their terms unless and until modified in accordance with the provisions of this Act; it being the purpose of this subsection to avoid disruption in the effective operation of the System by reason of said repeals.

SEC. 5.27. AMENDMENTS TO OTHER LAWS.—(a) The Executive Schedule of basic pay (80 Stat. 408, 5 U.S.C. 5311–5317), as amended, is further amended by striking from positions at level IV the "Governor of the Farm Credit Administration." (5 U.S.C. 5315(51)) and inserting in positions at level III the additional position "(58) Governor of the Farm Credit Administration." (5 U.S.C. 5314).

(b) The third paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 393) is amended to read as follows:

"The Federal Reserve banks are authorized to act as depositaries for and fiscal agents of any Federal land bank, Federal intermediate credit bank, bank for cooperatives, or other institutions of the Farm Credit System."

SEC. 5.28. SEPARABILITY.—If any provision of this Act or the application thereof to any persons or in any circumstances, is held invalid, the remainder of this Act and the application of such provision to other persons or in other circumstances shall not be affected thereby.

SEC. 5.29. RESERVE RIGHT TO AMEND OR REPEAL.—The right to alter, amend, or repeal any provision or all of this Act is expressly reserved.

Mr. TALMADGE. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives and ask for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. TALMADGE, Mr. MCGOVERN, Mr. ALLEN, Mr. MILLER, and Mr. BELLMON conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 2) to establish a Uniformed Services University of the Health Sciences and to provide scholarships to selected persons for education in medicine, dentistry, and other health professions, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 2) to establish a Uniformed Services University of the Health Sciences and to provide scholarships to selected persons for education in medicine, dentistry, and other health professions, and for other purposes, was read twice by its title and referred to the Committee on Armed Services.

THE AVAILABILITY OF FEDERAL FUNDS FOR FOREIGN AID

Mr. MANSFIELD. Mr. President, pursuant to my request, I have received a highly informative memorandum from the Congressional Research Service of the Library of Congress. It is an analysis of the availability of Federal funds for bilateral foreign assistance or for U.S. participation in closely related forms of international cooperation.

It seems to me that this memorandum ought to lay to rest any—any—reasonable doubt as to the deep commitment of this Nation to the acceptance of a very liberal share of the cost of participation

in the common affairs of the world and in meeting the world's needs for a decent peace. The memo should make clear, too, that the action of the Senate in rejecting the current approach of the foreign aid program was by no means a catastrophe, either to this Nation or to the concept of U.S. participation in international cooperation. On the contrary, it was a first step in a long overdo change. It was a first step in ending the disillusioning state of international isolationism into which the distortions of this program have done so much to insinuate the Nation.

Notwithstanding, the initiative of the Senate in terminating the authorization of new money for the foreign aid program, there remain ample funds already appropriated—excessive funds—in my judgment, in the pipeline. They are more than sufficient to forestall an overnight legal liquidatiton of the aid administration or sudden disemployment of dedicated staff.

Indeed, the funds already appropriated are so ample that without further congressional action, the program will be able to go on in the same wasteful and counterproductive pattern for many months, if not years. I hope that will not be the case, that it will not take further legislative-executive conflict to bring about a change. I hope that the administration will now move quickly on its own authority and on the basis of recent action in the Senate, to begin to reorganize this endeavor on a more rational and reasonable basis, utilizing for this purpose, at the outset, funds already appropriated, and resuscitating, if need be, the Peterson report of last summer, which contained some very cogent reasons for change.

In this connection, I have requested that the Congressional Research Service prepare another study analyzing the manner in which appropriations in the pipeline may be utilized in the future by the administration. That study is now in the last stages of preparation and it will be put in the RECORD, either later this afternoon or on Monday, as soon as it is received. However, the analysis which I already have seems to me to be of such relevance to the discussion of this issue that I shall not delay in making it available to the Senate.

Before I ask unanimous consent to include the memorandum in the RECORD, I should like to make a further observation, relative to the question as to whether or not there is authority to continue paying salaries on the basis of funds heretofore made available for foreign aid.

I invite the attention of the Senate to section 617 of the Foreign Assistance Act, which reads as follows:

SEC. 617. Termination of Assistance.—Funds made available under this Act shall remain available for a period not to exceed twelve months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto.

That language is broad enough to permit the administration to use funds which it can obligate for the purposes of paying salaries and liquidation expenses, if such be the case and such is the will of Congress.

I would point out that if the President can find enough money to begin an aid program to Cambodia in the amount of $100 million, there should be no difficulty in using the authority of section 617 to prevent suffering for American and foreign nationals in the AID programs.

I ask unanimous consent that the memorandum which I asked the Library of Congress to put together for my use be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

LIBRARY OF CONGRESS MEMORANDUM

Following is a summary of aid funds in the pipeline—that is, they have been appropriated in prior Foreign Assistance Act appropriation bills, but not expended. A memorandum on how funds in the pipeline can be administered will be forwarded to you soon.

A second part of this memorandum consists of a list of laws enacted by the Senate during 1971 which contain authorizations or appropriations for programs of international cooperation or assistance other than those in the Foreign Assistance bill which was defeated. The programs selected have necessarily been based on a subjective judgment regarding those which are relevant. The total amounts could possibly be enlarged by including additional items designated in the legislation, such as, in the Department of State appropriation, the $244,750,000 for the "Administration of Foreign Affairs" or the $4,793,000 for "Missions to International Organizations," the $196,806,000 appropriated for U.S.I.A., the $9,000,000 appropriation for ACDA, or the $39,661,000 for international activities in the Department of Commerce appropriation, or by attempting to calculate the costs of international cooperative activities of numerous other agencies which do not have funds designated in their authorization or appropriation legislation for international cooperation or assistance but which do not participate in such efforts such as NASA. However, it must be kept in mind that a large part of the funds under the "Administration of Foreign Affairs" category in the State Department Appropriation are the basic, unavoidable expenses of conducting a foreign policy, and would exist regardless of the foreign assistance activities of the Department of State. For some appropriations, such as the International Activities program of the Commerce Department, there is a direct return to the U.S. in the form of providing facilities and organization for U.S. business participation in trade promotion activities overseas such as trade shows, trade fairs and the acquisition of market information. In other of the items listed above it would be probably difficult to separate out the components which might justifiably be labeled "foreign aid." The page from the U.S. Government Organization Manual which follows will give you some idea of the extent of U.S. participation in multilateral organizations.

MULTILATERAL INTERNATIONAL ORGANIZATIONS IN WHICH THE UNITED STATES PARTICIPATES [1]

NOTE.—Descriptions of most of the organizations listed below may be found in the publication entitled *United States Contributions to International Organizations, Fiscal Year 1969* (House Document No. 432, 91st Cong., 2d sess.).

The United States participates in the organizations named below in accordance with the provisions of treaties, other international agreements, congressional legislation, or some Executive arrangements. In some cases, no financial contribution is involved.

I. United States and specialized agencies

United Nations
Special Programs [2]
Food and Agriculture Organization
Intergovernmental Maritime Consultative Organization
International Atomic Energy Agency
International Bank for Reconstruction and Development
International Civil Aviation Organization
International Development Association
International Finance Corporation
International Labor Organization
International Monetary Fund
International Telecommunication Union
United Nations Educational, Scientific and Cultural Organization
Universal Postal Union
World Health Organization
World Meteorological Organization

II. Inter-American organizations

Special Programs [2]
Organization of American States
Inter-American Defense Board
Inter-American Development Bank
Inter-American Indian Institute
Inter-American Institute of Agricultural Sciences
Inter-American Tropical Tuna Commission
Pan American Health Organization
Pan American Institute of Geography and History
Pan American Railway Congress Association
Postal Union of the Americas and Spain

III. Other International Organizations

Asian Development Bank
Asian Productivity Organization
Australia, New Zealand and United States Treaty Council
Central Treaty Organization
Colombo Plan Council for Technical Cooperation in South and Southeast Asia
Customs Cooperation Council
General Agreement on Tariffs and Trade
Hague Conference on Private International Law
Intergovernmental Committee for European Migration
International Agreement Regarding the Maintenance of Certain Lights in the Red Sea
International Bureau of Exhibitions
International Bureau of the Permanent Court of Arbitration
International Bureau for the Protection of Intellectual Property
International Bureau for the Publication of Customs Tariffs
International Bureau of Weights and Measures
International Coffee Organization
International Commission for the Conservation of Atlantic Tunas

[1] Various commissions, councils, etc., subsidiary to the organizations listed here are not named separately on this list. There include the international bodies for narcotics control, which are subsidiary to the United Nations.

[2] These programs include, for example, the United Nations Development Program, the United Nations High Commissioner for Refugees, United Nations Children's Fund, United Nations Fund for Population Activities, United Nations Fund for Drug Abuse Control, United Nations Relief and Works Agency for Palestine Refugees in the Near East, and United Nations Peacekeeping Force in Cyprus, which are special programs of the United Nations, but not separate organizational entities.

[3] These programs include, for example, Inter-American Export Promotion Center, OAS-Special Multilateral Fund (Science and Education), and OAS-Special Development Assistance Fund.

XUM

International Commission for the Northwest Atlantic Fisheries
International Center for the Study of the Preservation and Restoration of Cultural Property
International Control Commission for Laos
International Cotton Advisory Committee
International Council of Scientific Unions and 16 Associated Unions:
International Astronomical Union
International Union of Biochemistry
International Union of Biological Sciences
International Union of Pure and Applied Chemistry
International Union of Crystallography
International Union of Geodesy and Geophysics
International Geographical Union
International Union of the History and Philosophy of Science
International Mathematical Union
International Union of Physiological Sciences
International Union of Pure and Applied Physics
International Union of Radio Science
International Union of Theoretical and Applied Mechanics
International Union of Geological Sciences
International Organization for Pure and Applied Biophysics
International Union of Nutritional Sciences
International Criminal Police Organization.
International Hydrographic Organization
International Institute for Cotton
International Institute for the Unification of Private Law
International Lead and Zinc Study Group
International North Pacific Fisheries Commission
International Rubber Study Group
International Secretariat for Volunteer Service
International Seed Testing Association
International Union of Forest Research Organizations
International Union of Official Travel Organizations
International Whaling Commission
International Wheat Council
International Wool Study Group
Interparliamentary Union
North Atlantic Assembly
North Atlantic Treaty Organization
North Pacific Fur Seal Commission
Organization for Economic Cooperation and Development
Permanent International Association of Navigation Congresses
South Pacific Commission
Southeast Asia Treaty Organization

As noted, the costs of participation for some agencies appear as a line item in the Federal budget, while in others the costs are included in the general administrative funds for the parent agency.

Some comment should be made about the relationship of the Eximbank to the Foreign Assistance Act.

EXIMBANK

The hearings before the Foreign Relations Committee are on foreign assistance and related programs. The related programs include the Export-Import Bank. The amounts authorized for the Eximbank—the Bank receives no appropriated funds—to use are often included as foreign aid. In one sense, they are not foreign aid, but rather, domestic aid. The three main programs of the Bank are designed to expedite, or in some cases, make possible, sales of U.S. goods overseas to foreign purchasers by providing export credits and other services. Eximbank loans are nominally commercial loans in which the bank finances a certain percentage of the transaction—recently up to 50 percent—while the rest of the financing comes from the private market. The guarantee and insurance programs are designed to make certain the payment from foreigners for American goods purchased in commercial transactions. The part of the Eximbank's operations that might be considered aid is the difference in credit terms available through the Bank and through the open market or in competition with terms from agencies similar to the Eximbanks in other countries. In addition, there are cases which involve countries or firms with large capital requirements which do not enjoy a competitive credit rating. In cases such as these, the Eximbank loan or guarantee may be the only way that the commercial transaction can be completed. Eximbank operates like a true bank, that is, its loans must have a "reasonable" chance for repayment and in fact the Bank has been wholly self-supporting in the recent past having made $120 million last fiscal year from the repayment of loans and for insurance and guarantee charges. For this reason the Export Expansion Act of 1971—Public Law 92–126, approved August 17, 1971—is not included.

PART I. FOREIGN ASSISTANCE FUNDS IN THE PIPELINE

This is a breakdown of the funds in the foreign assistance "pipeline" (funds appropriated but not expended) as of the end of fiscal 1971 June 30, 1971. Except as noted, these funds are not unobligated funds which could be transferred from account to account but rather are obligated but not yet expended.

[In millions]

Worldwide technical assistance	$149.5
Alliance for Progress	62.7
Multilateral agencies, mainly U.N., mainly UNDP	147.4
American schools abroad	26.9
Indus Basin loan	6.9
Indus Basin grants	4.0
Contingency funds (appropriated as such)	30.3
Social Progress Trust Fund (for Inter American Development Bank)	18.4
Administration expenses, AID	9.6
Development loans (Alliance for Progress)	1,003.9
Worldwide Development loans	1,032.0
Development Loan Fund (liquidation)	8.0
Supporting assistance (military, administered by AID)	704.0
Administered by AID subtotal (obligated)	3,203.6
Administered by AID unobligated	104.8
Military assistance (grants and credits administered by Department of Defense)	1,574.6
Total military and economic aid "in the pipeline"	4,883.0

Source: Budget Coordination Branch, Budget Division, AID.

PART II. LEGISLATION PASSED BY THE SENATE DURING 1971 CONTAINING FUNDS FOR INTERNATIONAL COOPERATION

1. Enacted legislation:

Peace Corps Act, amendment, P.L. 92–135, approved October 8, 1971:

Authorizing appropriations to carry out the purposes of the Peace Corps Act during fiscal 1972	$77,200,000

National Science Foundation Authorization Act of 1972, P.L. 92–86, approved August 11, 1971:

International Cooperative Scientific Activities	$4,000,000

Department of State appropriation for fiscal 1972, P.L. 92–77, approved August 10, 1971:

Contributions to International Organizations (annual obligations of membership in 33 international organizations including U.N. and 8 specialized agencies, 6 Inter-American organizations, 6 regional organizations including NATO, OECD, and Colombo Plan, and 12 other international organizations)	$152,864,000
Mutual Educational and Cultural Exchange Activities	40,500,000
Center for Cultural and Technical Interchange between East and West	5,630,000
International Commissions (includes U.S. share of expenses commissions and 9 fisheries commissions)	12,190,000
International Conferences and contingencies (for necessary expenses of participation by the United States in international activities which arise for which specific appropriations have not been approved)	$2,125,000
Total	213,309,000

Agriculture-Environmental and Consumer Protection Appropriations Act, 1972, P.L. 92–73, approved August 10, 1971:

Scientific Activities Overseas (Special foreign currency program)	$10,000,000
For expenses under title I of of P.L. 480	86,565,000
Commodities supplied in connection with dispositions abroad under title II	453,835,000
Foreign agricultural service	25,536,000

Office of Education and Related Agencies Appropriation Act, 1972, P.L. 92–48, approved July 9, 1971:

Educational Activities Overseas (Special foreign currency program)	$3,000,000

Second Supplemental Appropriations Act, 1971, P.L. 92–18, approved May 25, 1971:

Investment in Inter-American Development Bank (authorized by P.L. 91–599 of Dec. 30, 1970)	$275,000,000
International Aeronautical Exposition	2,800,000
For an additional amount for "Contributions to International Organizations"	408,000
Foreign Agricultural Service	725,000
Department of State, International Commissions	401,000
Mutual educational and cultural exchange age	676,000
Migration and refugee assistance	57,000

Departments of Labor, and Health, Education, and Welfare, and Related Agencies Appropriation Act, 1972, P.L. 92–80, approved August 10, 1971:

Scientific activities overseas (Special foreign currency program)	$25,545,000

2. Bills passed by Senate (not yet enacted):

S. 748. Passed Senate October 19, 1971. Amends the Inter-American Development Bank Act to authorize the appropriation of $900 million, in two installments, for the Special Operations Fund of the Bank. Not appropriated yet.

S. 749. Passed Senate October 20, 1971. Amends the Asian Development Bank Act to provide a total of $100 million over a two-year period to be called U.S. Special Resources. U.S. Special Resources are to be used to finance high priority development projects in Southeast Asia.

S. 2010. Passed Senate October 20, 1971. Authorizes the contribution of three annual installments of $320 million each for a total of $960 million to the International Development Association which is an affiliate of the International Bank.

ORDER FOR RESUMPTION OF PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that resumption of morning business extend through the remainder of the afternoon, with statements therein being limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SITUATION WORSENS IN THE COAL MINING INDUSTRY DUE TO PROLONGED STRIKE

Mr. RANDOLPH. Mr. President, there are approximately 100,000 coal miners who are not gainfully employed at the present time because of the serious strike which is having a tragic impact not only on the workers and operators of the industry, but also on economic conditions generally in the United States.

The strike has been in progress a little less than 1 month officially, but actually started October 1, 1971. However, since a period beginning about 5 or 6 weeks ago, tens and tens of thousands of coal miners in the State of West Virginia, joined by thousands of coal miners in other States, have not been at work. Thousands of workers in other industries, such as the railroad industry and other indirect and direct businesses that are associated with the mining and delivery of coal, have been affected.

Mr. President, the situation worsens. I bring to the attention of the Senate and, in fact, of the people of the United States by my remarks at this time the very, very urgent need for the negotiators of labor and management to settle their controversy.

Mr. President, I shall not have printed in the RECORD, but I wish to read into the RECORD a letter I have sent in the past few minutes to the President of the United States which brings into focus this problem which has very deep implications for the well-being of our country.

Mr. President, the letter reads:

THE PRESIDENT,
The White House.

DEAR MR. PRESIDENT: According to a newspaper article today, Secretary of Labor James D. Hodgson, "upset at a lack of reported progress in efforts to settle the month-old coal strike, summoned management and labor representatives to his office yesterday for a lecture." The account further revealed that a Labor Department spokesman said: "The Secretary wants to convey to them a sense of urgency about these negotiations."

This Senator, who conveyed to you, Mr. President, on October 14, a message of urgency about the tragic economic and social consequences of the coal strike, bespeaks the concern of many thousands of West Virginians and millions of Americans with respect to the apparent slowness of progress in the coal labor-management negotiations.

Mr. President, I had printed in the RECORD at an earlier date my telegram of October 14.

I continue to read the letter:

We commend Labor Secretary Hodgson for his very real concern in confronting the negotiators on both sides and expressing an official sense of responsibility with respect to their off-and-on negotiations.

Mr. President, I believe the coal dispute negotiators need, as I indicated in my October 14 message to you, "more than mere liaison between the Government managing the controlled economy and the negotiating parties." The negotiators, and the tragic national situation growing out of the failure of their negotiations to date, need the attention and, indeed, the assistance of the whole Cost of Living Council—not Secretary Hodgson alone.

Mr. President, this is a new element that I inserted in this message which was not in my earlier communication to the President.

I continue to read:

I believe that the Administration managing the controlled economy will demonstrate that it can keep economic stabilization activities in balance with other acts which have long been on the statute books, such as the Fair Labor Standards Act. Collective bargaining must be perpetuated and stimulated as a disputes settlement procedure. I know you have said so, and I presume Labor Secretary Hodgson was working to that end when he spoke with the coal negotiators.

The economy, social good order and the welfare of people, and the national energy requirements demand an early end of the impasse which continues between coal management and the coal miners' union.

Mr. President, I do not rise in the Chamber today for the purpose of speaking a few words or making a perfunctory assertion of my concern. I believe that this is a subject which must have the earnest attention of the administration, and all parties concerned for the welfare of our people, and, of course, for the well-being of the Nation as a whole.

ORDER OF RECOGNITION OF SENATORS STENNIS AND BYRD OF VIRGINIA ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, on Monday next, immediately following the recognition of the two leaders under the standing order, the distinguished Senator from Mississippi (Mr. STENNIS) be recognized for not to exceed 15 minutes; and that he then be followed by the distinguished senior Senator from Virginia (Mr. BYRD) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I assume that this will be the final quorum call of the day.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR BANKING, HOUSING AND URBAN AFFAIRS COMMITTEE AND THE FINANCE COMMITTEE TO MEET DURING THE SESSIONS OF THE SENATE NEXT WEEK

Mr. BYRD of West Virginia. Mr. President, I have been authorized by the majority leader to ask unanimous consent for permission for the Committee on Banking, Housing and Urban Affairs and, if necessary, the Committee on Finance to meet during the sessions of the Senate next week.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for Monday next is as follows:

The Senate will convene at 10 a.m. After the two leaders have been recognized under the standing order, the distinguished Senator from Mississippi (Mr. STENNIS) will be recognized for not to exceed 15 minutes; to be followed by the distinguished senior Senator from Virginia (Mr. BYRD) for not to exceed 15 minutes; at the conclusion of which there will be a period for the transaction of routine morning business; not to exceed 30 minutes, with statements therein limited to 3 minutes; after which the Chair will lay before the Senate the unfinished business, S. 986, a bill to provide minimum disclosure standards for written consumer product warranties.

It is anticipated that, on Monday, the Senate will complete action on S. 986, the so-called consumer warranties bill. Senators are, therefore, on notice that there will be rollcall votes.

ADJOURNMENT TO 10 A.M. MONDAY, NOVEMBER 8, 1971

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. on Monday next.

The motion was agreed to; and (at 1 o'clock and 16 minutes p.m.) the Senate adjourned until Monday, November 8, 1971, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 5, 1971:

NATIONAL ENDOWMENT FOR THE HUMANITIES

Ronald S. Berman, of California, to be Chairman of the National Endowment for the Humanities for a term of 4 years, vice Barnaby C. Keeney, term expired.

XUM

EXTENSIONS OF REMARKS

MICHIGAN CITIZENS INVOLVED IN ENVIRONMENTAL IMPROVEMENT

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, November 5, 1971

Mr. RANDOLPH. Mr. President, it is my contention that the efforts of government and industry to create a clean environment cannot be fully effective without the involvement of a concerned citizenry.

I am gratified and encouraged when I see individuals and organizations dedicated to ending the pollution that threatens our way of life and the strength of our society.

I was privileged yesterday to participate in and address the annual meeting of Keep Michigan Beautiful, Inc., in Flint, Mich. At this meeting I witnessed evidence of the type of citizen involvement and dedication that I am confident will help us achieve the goal of a country free of pollution. More than 200 representatives of chapters throughout Michigan attended the meeting.

Arthur E. Nelson, president of Keep Michigan Beautiful, presided at the meeting. Speakers at the morning session were John J. Rourke, chairman of the Allen Park Beautification Committee; Mrs. Wilfred Cole, chairman of the Davison Environmental and Beautification Committee; and Bruce Campbell, chairman of the Clinton County chapter of KMB.

My address was delivered at the luncheon session at which Mrs. William G. Milliken brought greetings from her husband, the governor of Michigan and honorary chairman of the organization. She proved herself to be informed and articulate on environmental matters.

This meeting was arranged and coordinated under the direction of Mrs. Leland Smith, the very able vice president and executive director of Keep Michigan Beautiful.

I was introduced by Robert B. Healy, vice president of the organization.

Mr. President, I ask unanimous consent that the text of my address be printed in the RECORD.

There being no objection, the address was ordered printed in the RECORD as follows:

A CLEAN ENVIRONMENT FOR A BETTER AMERICA

(By Senator JENNINGS RANDOLPH)

As I prepared for this visit to Flint, I took time to read some of your literature of "Keep Michigan Beautiful".

One of the stories in your newsletter dramatically illustrated the frustrations encountered by those of us who work for a clean environment. It reported that, although the Michigan Highway Department has more than 4,000 litter barrels placed along the highways of your state, people still throw their trash indiscriminately from cars and contribute to the filthy mess along our roads. Cleaning litter along the roads this year will cost Michigan taxpayers alone more than $1 million.

This little news item struck a responsive chord with me. There is seldom a morning that I leave my house in Washington, D.C., to go to work and do not find some evidence of carelessness on the sidewalk or in my front yard.

I believe that people are genuinely concerned about the environment and sincerely want a clean world in which to live. But too many of our citizens are simply thoughtless in their everyday actions.

It is understandable that a small scrap of paper may seem insignificant. We should stop to think, however, that there are more than 210 million people living in the United States, and if each of us carelessly threw away just one small piece of paper a day, our collective carelessness would amount to a huge quantity of trash.

I have long preached that while governments must pass laws and provide money to control pollution, individual citizens must perform an important role in keeping our communities clean . . . and beautiful.

Aesthetic considerations are recognised by the Federal government as being as important facet of environmental protection and enhancement. In 1965 Congress passed the Highway Beautification Act, which has designed mainly to control junkyards and outdoor advertising along highways.

After five years of experience, it became apparent that the desired results were not being achieved. We therefore created the Highway Beautification Commission, which is now conducting a thorough study of the problem and will make its recommendations to Congress for a more effective program.

In a similar vein, I do not believe that all highways should be strictly utilitarian structures for the fastest possible movement between points. There are many areas with spectacular scenery that people cannot enjoy because of the lack of access.

To remedy this situation, I intend to propose next year that we begin an orderly program to build scenic highways. These new roads would be developed to facilitate the enjoyment of the American countryside and would not be ordinary commercial highways.

With our population increasingly concentrated in large urban areas, I believe it is very important to provide the means for people to enjoy the beauties of the American countryside.

Michigan has large areas of this wonderful countryside and such a program would be of great value to your state.

It is encouraging and heartening to see the commitment of citizen action organizations like "Keep Michigan Beautiful". This kind of involvement is essential to furthering our environmental efforts. You have 83 county chapters engaged in a wide variety of activities, and I was very impressed by the literature your organization has developed to assist them.

While involvement of everyone is needed, I realize that it is not easy to change old habits. Abraham Lincoln made a statement in 1862 that is applicable to the environmental challenge we face today. He said:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise with the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country."

Lincoln did not overstate the case for a clean environment. The challenge today is, as he declared, to save our country.

We have heard, of course, many of the environmental horror stories. We know that air pollution from any sources is reaching dangerously high levels. We know that adequate supplies of clean water are becoming scarce because of pollution and wasteful usage. And we have frequently heard that some day soon we may be literally buried in our trash and garbage.

These stories have even greater impact when we look at statistics revealing the magnitude of the problem. How, for instance, can the city of New York collect and dispose 24,000 tons of solid waste every day of the year? The answer is that it can't. Even with collections two and three times a day, there are so many neighborhoods in New York that are never free of unsightly, unhealthy piles of trash.

While New York is our largest city, its problems are not unique except in magnitude.

They exist in communities in West Virginia, in Michigan and in other states. Although there are serious environmental problems common to all parts of the country, there are additional situations that affect more limited areas, but which are equally severe.

In West Virginia, several thousand miles of streams are contaminated by the acids pouring into them from the coal mines that are a mainstay of my state's economy. In the Great Lakes area, including Michigan, there are serious questions of how to dispose of tailings from iron mines without damaging the environment or crippling this important industry. Even in the sparsely populated deserts of New Mexico, vast areas are being damaged by air-polluting electric power plants and the strip mining that provides the fuel for their use.

The situation is critical. It weakens our national economy and undermines the structure of our society. I do not exaggerate the gravity of the situation when I tell you that ending pollution is a matter of life and death.

I am encouraged, however, that American determination and American inventiveness are rising to the challenge. Much of my encouragement is based on the continuing concern of the American people for the environment. The ecological explosion that took place a couple of years ago was no passing fad. We have awakened to the enormity of our past sins against nature.

History has taught us that an aroused public can accomplish many positive results. Our people are now aroused against pollution and I, as one Senator, welcome the pressure they are exerting.

Nearly 150 years ago, Thomas Jefferson stated the necessity for change.

"As new discoveries are made, new truths discovered and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times."

I am gratified to tell you that the Committee on Public Works, which I have the responsibility to chair, is no newcomer to the battle against pollution, and we as Senators, know that times change and the challenges to meet new conditions are very real. For most of the past decade we have been involved in the development of legislation to protect and enhance our air, water, and land resources. Progress has been made, and we have learned much. We know, for instance, that the solutions that were adequate a mere ten years ago are frequently invalid today.

Last year the Committee developed major legislation to help resolve air pollution and solid waste problems. This year our main environmental effort has been directed toward development of the most comprehensive water pollution bill ever placed before the Congress.

Two days ago this bill was passed by the Senate by a vote of 86-0. When this bill becomes law we will have established a goal of clean water throughout our country by 1985,

and provided the mechanisms for reaching it.

In the past 18 months I have traveled extensively in the United States on my own personal crusade for the environment. Everywhere there are dramatic examples of the progress people are making. Innovations in environmental technology are an almost daily occurrence. Here in Michigan significant progress is being made in finding ways to usefully dispose of the sludge that results from sewage treatment.

In the Muskegon area experiments are underway to utilize these sewage treatment byproducts to enrich the soil rather than permitting them to be a source of pollution themselves.

At the University of Missouri and elsewhere, experiments are underway in the use of glasphalt, a substance containing reclaimed glass, in the paving of roads. In Los Angeles and in West Virginia, industry is developing waste to effectively and profitably reclaim aluminum and steel cans so that they will not be left to rust along our roadsides and elsewhere. Within the past month, the people of Missouri approved $150 million in state bonds to help build sewage treatment plants.

I have frequently said I believe the American people are willing to pay the cost of creating and maintaining a clean environment. This does not mean that they would or should pay excessively. We have the technical know-how to halt environmental abuses in many areas now, but some of it is so costly that serious questions of economics must be resolved before it is placed in use.

Even by the most economical means, the cost of cleaning up pollution will be high. The Environmental Protection Agency estimates that between 1970 and 1975 we must spend $105 billion in public and private funds to meet currently anticipated requirements.

This total amounts to 10 per cent of America's gross national product. It includes $24 billion for air pollution control, of which $6 billion would be in the abatement of pollution caused by automobiles. Another $38 billion will be needed to lessen water pollution, and $43.5 billion will be needed to collect and dispose of solid wastes.

Spending by both government and industry on reducing pollution has increased dramatically in recent years. Federal funding for pollution control and abatement increased from $763 million in fiscal year 1969 to an estimated $2.014 billion in fiscal 1972. Included is direct financial assistance to state and local governments for programs and capital investments such as treatment facilities. They will undoubtedly rise even further.

We must not, however, view these massive expenditures as simply money spent without any substantial return. They are public investments that will not only create a cleaner environment, but will have a substantial economic impact through the manufacture of new equipment and the construction of new facilities as well as the stimulus resulting from operating expenditures.

More than 300 years ago, when our European forefathers came to this country, America was a pristine wilderness. The waters were crystal clear, the air was pure and the land was undisturbed.

This was a condition of our country before man arrived in large numbers, and indeed, even before there was a United States of America. It was a land ripe for development and, for reckless exploitation in too many instances.

I am sure even the most ardent conservationist knows we cannot return to that early condition. We can, however, do better than we have, and we can make our peace with nature.

America can continue to be a strong and vital nation, and it can do so without destroying the natural environment. This is perhaps the great challenge of our time, and I am happy to give you my support to "Keep Michigan Beautiful" in meeting the challenge.

NUCLEAR DETONATION AT CANNIKIN

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. BEGICH. Mr. Speaker, Cannikin is to be detonated tomorrow, November 6, 1971, despite great concern and opposition by public and private individuals and organizations in Alaska, and throughout the Nation.

My only personal feeling at this time is one of deep concern and disappointment that the test will proceed in the face of many unanswered questions raised by responsible persons. I believe our national decisionmaking process must become, over a period of time, much more responsive to such a situation.

I want no one to take away with them the impression that the verdict on Cannikin will be in shortly after the test. Nothing could be further from the truth. The real threat of the test, beyond the possible creation of earthquake and tidal wave activity, is the slow deadly process of radiation contamination. Should this occur, it will endanger one of the world's great fishing grounds and the inhabitants of the area. My concern will remain for a very long time.

On the eve of this day of uncertainty, my solemn inquiries and requests for explanations and assurances for human safety from the responsible individuals, still remain unanswered and largely unrecognized.

Expressions of concern about this nuclear test by all those concerned have turned from concern to deeply emotional feelings of insecurity, destitution, and helplessness.

Mr. Speaker, the following are some of the communications I have received from concerned citizens regarding the scheduled nuclear test. I am also including a headline article from one of Alaska's most respected newspapers, the Kodiak Mirror, which exemplifies the seriousness of the potentially adverse effects the planned detonation will have on a large number of Alaskan people.

I share the concerns of these people and wish to include them in the CONGRESSIONAL RECORD. The words of these citizens speak far more eloquently than anything I can say at this time:

[From the Kodiak (Alaska) Mirror, Oct. 22, 1971]

VILLAGERS AFRAID OF CANNIKIN; ARE PREPARING TO FLEE

Old Harbor villagers are packing up their valuables again and preparing to "hightail it up the hill behind our town in case that Cannikin thing at Amchitka triggers off another disastrous earthquake and tital wave," says Old Harbor Mayor Sven Haakanson who says he is appealing to the federal government "to have naval vessels standing by off each of our island villages just in case!"

"The government people say that we have nothing to be afraid of about Cannikin—but other scientists, including even some government ones, do not agree about that. And the government people tell us that there is a 90 per cent assurance that nothing will go wrong. But that still leaves a ten per cent chance that something can go wrong—and that's why the village people are afraid again and are preparing to flee to high ground," says Mayor Haakanson.

"We feel that it is a MUST that the government provide the villages each with a naval ship fully equipped and provisioned to take care of village people who just might have to be evacuated suddenly," says Haakanson.

Haakanson stated this morning, "We hoped that when the Aleut League protested and filed its suit that that would mean the end of this recurring threat to our lives and property—but the government is ignoring the Aleut League," Haakanson noted grimly.

"The villagers of Old Harbor do not approve of this Cannikin threat. They are afraid. We remember the 1964 tidal wave disaster all too well. I think that all of our Kodiak Island villagers share our fear and our concern.

"I am in town to contact the president and board members of the Kodiak Area Native Association to urge that they join with us in demanding that standby ships be stationed off the villages at the time of the blast—and to generally protest Cannikin even though it seems that the government isn't paying any attention to the people on this thing."

UNIVERSITY OF ALASKA,
College, Alaska, October 25, 1971.

Hon. NICK BEGICH,
House of Representatives,
Washington, D.C.

DEAR MR. BEGICH: In the interests of the student body of the Associated Students of the University of Alaska, the following resolution was adopted in regards to the Cannikin blast by the A.S.U.A. Senate.

"Whereas, The Cannikin test blast scheduled for October, 1971, on Amchitka Island in Alaska, may trigger a major devastating earthquake, may set in motion a severe destructive tsunami, may leak fatal radioactive material into the air or into the water, thereby damaging the human environment or destroying the Alaskan fishing industry, may impede or erase progress in the strategic arms talks, is not apparently necessary to national security and since such an inordinate and unnecessary risk would be to defy reason and intelligent judgment,

"Be it resolved in the interest of human life and for the sake of human life and for the sake of Alaska and Alaskans, the A.S.U.A. Senate asks for the cancellation of the proposed Cannikin test."

Sincerely yours,

KARL N. SOPP,
Senate President,
A.S.U.A. Pro-Tem.

VAN NUYS, CALIF.,
October 28, 1971.

Congressman NICK BEGICH,
Congressional Office Building,
Washington, D.C.

DEAR CONGRESSMAN BEGICH: You can add my name and I am sure many other people are concerned over the Presidents OK to set off the 5 megaton blast at Amchitka. Aside from the environment issue, the sabre rattling at this time seems so foolish. Here he plans to visit and confer with the leaders of China and Russia while planning for larger warheads.

The President's past actions seem to hold the people in contempt. His promise to get out of Vietnam while enlarging the conflict

to Cambodia and Laos. His nomination of Carswell and Hainsworth to the Supreme Court. His pushing for the SST. His wage and price controls after inflation has almost ruined our economy. His 10% tax on imports in the face of the disastrous example of what happened after the Smoot-Hawley tariff act.

What we need now is to regain confidence in our government, not to instill fear in the people.

While speaking in favor of a better environment, he fires Hickel, lets Secretary of Commerce Stans speak out in favor of DDT and Detergents. Does very little about the oil spills that seem to be on the increase.

I am enclosing articles that I have been distributing among many groups and to members of congress.

Sincerely,

IRVING STEIN.

HAINES, ALASKA,
November 2, 1971.

Representative NICK BEGICH,
U.S. House of Representatives,
Washington, D.C.:

Operation Cannikin poses threat to insuring domestic tranquility lives. Unconstitutional under preamble of Constitution? Internal agitation is not for the United States. Stop the bomb.

DOROTHY FOSSMAN.

MIDDLEBURY COLLEGE,
Middlebury, Vt.

DEAR REPRESENTATIVE BEGICH: I read this morning of the President's OK for the go-ahead on the Amchitka Bomb testing, and could hardly believe it. "National security" should never override peoples' safety—a bomb of this size should never be tested!

As an Alaskan, I would hope that all means possible are being used to halt the test—Alaska is not so remote a place as to warrant this Nation's "playing" with bombs! The article I read said court cases are starting to try and legally stop the tests—please back them and do all you can. It's urgent.

Thank you.

Sincerely,

KATE BOESSER.

ANCHORAGE, ALASKA.

DEAR MR. BEGICH: Please do whatever you can to convince the President to cancel the atomic blast. It's his duty to protect the Pacific Basin, not endanger it. Maybe he feels safe because he's on the Atlantic, but I don't!

Sincerely,

ALEEN HERRING.

FORMER SENATOR A. WILLIS ROBERTSON—IN MEMORIAM

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, November 5, 1971

Mr. BYRD of Virginia. Mr. President, the Staunton, Va., Leader of November 3 contains a splendid editorial tribute to our late former colleague, Senator A. Willis Robertson.

The editor and publisher of the Staunton Leader is Gen. E. Walton Opie, long a close personal friend of Senator Robertson. The tribute which General Opie has written is one of special warmth and authenticity.

In his editorial, General Opie recounts the long and distinguished career of Senator Robertson in public life. In addition, he captures much of the essence of Senator Robertson as a man.

I am sure that all who knew Senator Robertson will agree with General Opie's concluding sentence:

There never was better company, few spoke more eloquently and effectively, and none surpassed him in sincerity, love of state and country, and willingness to serve his people to the limit of his great energy and acumen.

I ask unanimous consent that the editorial entitled "A. Willis Robertson, Statesman," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A. WILLIS ROBERTSON, STATESMAN

Absalom Willis Robertson won himself a place in Virginia and U.S. history as a statesman who put state and country above personal and political considerations. The latter came to be largely disregarded by the people when his name was on a ballot because of his reputation for consistent adherence to the principles of representative government and independent judgment.

Nevertheless Sen. Robertson was an ornament of the Virginia Democratic Party, becoming one of the most highly regarded men in the House and then the Senate. He enjoyed tremendous personal popularity with his colleagues of both parties, and influence which was effective in creating decisive support for good legislation.

During his seven terms in the House from 1932 to 1946, he was especially interested in conservation of wildlife and its environment, heading a joint commission which accomplished much in this field. As a joint sponsor of the Robertson-Patman Act which made tax revenue from arms and ammunition sales available for game and fish projects, he scored a victory for wildlife which contributes greatly to its preservation and to the enjoyment of sportsmen to this day.

As chairman of the Senate Banking and Currency Committee, he became a widely recognized authority on banking laws, one of the most important of which he authored and saw to enactment. He also served on the Senate Appropriations Committee on Defense Production, to both of which and to his other duties he contributed experience, wide knowledge and hard work. He was a recognized expert on trade and tariffs.

Willis Robertson did not win election to Congress without making his mark as a dedicated public servant. As a young lawyer residing in Lexington, he was elected to the State Senate in 1916, serving until 1922, when he ran for Commonwealth's attorney of Rockbridge County, in which office he also served six years. His service as commissioner of game and inland fisheries overlapped that as county prosecutor, and it was as commissioner that he won statewide prominence and esteem and accounted for his selection for the role he played in Congress in the field of conservation.

Running in 1946 for the U.S. Senate to serve out the term of Sen. Carter Glass, who had died after a long illness, he was nominated on the third ballot by the Democratic Party in an intensively contested convention fight. He was elected to a full term in 1948, '54 and '60, losing at age 79 to William B. Spong Jr. by a small margin in 1966. This was in a political climate marked by his conservative, Constitutional outlook and the liberalism of his opponent.

Although Sen. Robertson was vigorous and healthy at the time, there was considerable popular objection to the continued incumbency of a number of elderly senators. His age is believed to have played a decisive factor in the narrow defeat of this distinguished senior Senator from Virginia. He magnanimously resigned before the expiration of his term so Senator-elect Spong could attain some seniority by appointment to fill out the term.

The undeniably great Virginian served for several years as a consultant of the World Bank and then returned to his home in Lexington. Grieved by the death of his lovely wife, Gladys C. Robertson, in 1968, he took no further part in public affairs and his heart finally failed him on Monday, Nov. 1.

Willis Robertson's degrees and other honors were numerous. A veteran of Army service in World War I, he was discharged as a major. His obituary in the news columns recounted the legion of evidences of the high regard in which he was held as lawyer, statesman, orator, conservationist, Bible scholar and churchman. As a hunter and flaherman he was adept with gun and flyrod and a raconteur of anecdotes of field, stream, politics and people of all types. There was never better company, few who spoke more eloquently and effectively, and none surpassed him in sincerity, love of state and country, and willingness to serve his people to the limit of his great energy and acumen.

BLOW THE WHISTLE ON CRIME

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. KOCH. Mr. Speaker, like most city residents everywhere, New Yorkers are afraid and frustrated by street crime. What an outrage that people are made to feel that they must be prisoners in their apartments and homes after dark.

Despite all the talk about street crime, we do not hear many practical suggestions about what the average citizens can do. Let me make one. It is simple, inexpensive and it works.

On every block in New York City, residents can organize a block association and give whistles to everybody with these instructions:

First. Anytime you see something suspicious going on—blow your whistle.

Second. Anybody who hears a whistle, dial the police on 911 and blow your whistle.

The shrill din of many whistles going off to alert neighbors to potential crime is often enough to scare off muggers or intruders. Such reaction may also help deter further crimes in the area once it is known that residents are alert and prepared to act on a prearranged system of signaling each other.

The whistle system has already been successfully used for months by the Bank-Bethune Street Block Association in the West Village of Manhattan. Three criminals have been apprehended and several other potential crimes have been prevented. There has not been one false alarm and it has the support of the local police precinct.

Since starting a "Blow the Whistle on Crime" campaign, my congressional office has been flooded with inquiries from people seeking information and whistles. The campaign has received enthusiastic support from police, police auxiliary, and block associations.

"Blow the Whistle on Crime" can promote a greater sense of community solidarity and a closer relationship with the local police. It benefits residents and merchants alike.

By blowing the whistle, we can show that fear and frustration need not be our only reaction to crime.

BACKGROUND INFORMATION ON NONDENOMINATIONAL PRAYER AMENDMENT

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. EVINS of Tennessee. Mr. Speaker, as the Congress contemplates consideration of the so-called nondenominational prayer amendment to the Constitution, I wanted to provide my colleagues and others with copies of letters from constituents, editorials, statements, and other materials relating to this important question and issue bearing on the separation of church and state.

I recommend to my colleagues and country a reading of a sampling of the writings being circulated concerning this matter.

The materials follow:

AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE,
Silver Spring, Md., October 22, 1971.

Hon. JOE L. EVINS,
Rayburn House Office Building,
Washington, D.C.

DEAR JOE: On November 8 you will vote on the "nondenominational prayer amendment" to the U.S. Constitution. As one who has worked in the field of church-state relations for many years, may I tell you that this amendment, in its ultimate effect, will be disastrous to church-state separation and religious liberty in America.

We who are members of the Church of Christ, of all people, have a stake in preserving the religious freedom which has blessed our efforts here to restore New Testament Christianity. The Restoration Movement began in the United States and has made small headway elsewhere—primarily, I believe, because of the climate of complete religious freedom we enjoy, based on church-state separation which prevails here as it does nowhere else on earth.

I know that you are very busy, but because your vote on the Wylie Amendment will have vast consequences for the Church, as well as for all religion and for our entire society, I am requesting an opportunity to come to your office to talk with you personally about this matter. This could well be the most important issue on which you will ever vote, as a Congressman. I will be calling your office for an appointment in the next few days, and I hope that, busy as you are, you will see fit to grant it.

Enclosed in our own in-depth analysis of the proposed amendment, and several other items pertaining to it which may interest you.

Fraternally,

GASTON D. COGHILL,
Director of Organization.

FALLACIES AND FALSEHOODS OF THE WYLIE AMENDMENT

A constitutional amendment which will radically alter the relationship between church and state in America is now under congressional consideration. The amendment, sponsored by Rep. Chalmers P. Wylie (R-Ohio), reads:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembly, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer." (H.J. Res. 191)

Despite the claims of its backers, the effect of the Wylie amendment will not be the "putting of God back into the public schools" but the injecting of the state into religion and the involving and entangling of the state with religion, with consequent grave damage to government and to religion, and to the certain destruction of church-state separation in America.

SHALL THE STATE INVOLVE ITSELF IN RELIGION AND IN RELIGIOUS CONTROVERSY?

The question posed to Congress by the so-called "prayer amendment" has nothing to do with individual, personal and voluntary prayer—i.e. with whether a child can bow his head and pray in school. This right has never been questioned by any responsible individual or any court in America. The question before Congress is whether prayer meetings can be held under the auspices or supervision of the state. The intent of the Wylie amendment is to permit officially approved and supervised, governmentally-sponsored corporate worship services in the public schools and elsewhere. Such corporate worship services will be tax-supported, in a large measure, since they will be conducted in tax-supported facilities and will usually involve some kind of supervision by teachers or others whose pay is drawn from the public treasury. One of the primary functions of the church is to lead and sponsor corporate worship. Shall the state now usurp this function? Shall the state, through its various agencies and officials, organize, supervise and subsidize regular and continuing programs of corporate worship in the public schools and other public places? Shall the government be empowered to officially authorize and approve some forms of corporate worship as "nondenominational" and officially disapprove and refuse to permit other forms of corporate worship as "denominational"? Shall religion now cease to be a private, personal and individual matter in this country, into which the state may not intrude itself or involve itself? Shall religion now become a function of the state, with some kinds of religion promoted and other kinds of religion prohibited in the public schools and all other public places in America? These are the questions which the Wylie amendment poses to every Congressman. It is not too much to say that the future destiny of this nation and the peace and harmony of every community tremble in the balance as each congressman considers how he shall vote on this matter.

There are a number of misconceptions and falsehoods underlying this amendment. We list some of these falsehoods below.

I. The falsehood that prayer is presently forbidden in public facilities and that we must amend our Constitution to "authorize" prayer. Voluntary prayer is already permissible in all public places. The courts have never made any ruling approving or disapproving, *per se*, of any prayer or worship anywhere. The courts have only ruled against governmental sponsorship of, subsidy of, and involvement in prayer and worship services. If the Wylie amendment is added to the Constitution it will make it necessary for the courts to rule again and again on the very character and contents of worship itself, as to whether it is denominational and therefore prohibited, or nondenominational and therefore permitted in public buildings.

II. The falsehood that the Wylie amendment is intended to permit "voluntary prayer" in public places. The Wylie amendment doesn't even mention "voluntary prayer." It speaks only of "nondenominational prayer." Far from allowing "voluntary prayer," it will actually forbid truly voluntary prayer, for voluntary prayer necessarily reflects the peculiar faith and denominational orientation of each individual, and the Wylie amendment forbids all but "nondenominational prayer." A careful reading of the proposed amendment and scrutiny of the objectives of those who are pushing it reveal that it isn't voluntary prayer at all that they desire. The participation in the worship services they envision setting up in the public schools and elsewhere may be voluntary, because no person can actually be compelled to participate in worship. But the worship services themselves will be involuntary, from start to finish. The students obviously cannot pray any prayer they want to, because they might pray a "denominational prayer." So they will have to be told what to pray. The worship services resulting from the passage of this amendment will be held in buildings built and supported involuntarily; will be supervised by teachers and administrators whose salaries are paid involuntarily; will be patronized by students who are brought together at that particular spot involuntarily by the compulsory attendance law of the public schools.

III. The falsehood that the amendment concerns itself only with the setting up of guidelines for a kind of worship which will be permitted in the public schools of America. Even a casual glance at the amendment shows that it has far broader implications than prescribing and proscribing worship services in the public schools. The amendment doesn't even mention "public schools," but embraces within its scope worship in ALL public buildings throughout this nation. The words "lawfully assembled" in the proposed amendment should give pause to every thoughtful citizen. This yoking of state-approved "nondenominational" worship with the qualification that it be conducted in a "lawful assembly" has ominous overtones to those who believe that there cannot be any such thing as "unlawful assembly" for those who come together to worship God. Of course, the amendment applies only to persons "lawfully assembled in any public building." But what is a "public building"? The amendment goes on to define it as one "which is supported in whole or in part through the expenditure of public funds." Are church buildings "public buildings"? They are so classified in the building codes and safety and fire regulations of most cities. They certainly are supported in part by public funds in that they are given tax exemptions and receive free public services, such as fire and police protection, which are essential to their functions. The Wylie amendment places in dire jeopardy the freedom and independence of all churches in America since it implies that only "nondenominational" worship may lawfully be offered in public buildings in this country, and church buildings are "public buildings" under the definition given in the amendment.

IV. The falsehood that the amendment will only affect the kind of worship which will be allowed in public places. It affects a great deal more than that. If worship of a certain state-approved "nondenominational" type is to be allowed in public schools and other public institutions, may not religious teachings of a certain state-approved "nondenominational" type also be carried on there? After all, religious worship is a kind of religious teaching. And if the public schools

are now to become houses of worship and agencies for teaching a newly-established "nondenominational" state religion, tax support cannot be withheld from parochial schools. A large part of the thrust for the passage of this dangerous change in the First Amendment of our Constitution has come from those who see the prospect of billions of dollars in tax money being made available to their church and its schools. Separation of church and state will cease to exist in any meaningful sense if this amendment is passed. All the court decisions which have been based on the First Amendment since the founding of this nation will be undermined, and many, if not most, will be invalidated.

V. The falsehood that there is any such thing as a "nondenominational prayer." The stipulation that prayer be "nondenominational" is as ridiculous as would be a stipulation that prayer be non-religious. Secularized prayer isn't really prayer. To many it is sacrilege. To every church and religion its own prayers are nondenominational, and the prayers of all other groups are denominational. A prayer in the name of Jesus Christ would be forbidden in any public building by this amendment. There are many churches, such as the Quakers and the Churches of Christ, which do not believe in ceremonial prayers or a liturgy and which have no set or written prayers—no prayers at all which are formulated by one person, to be repeated in unison by others. Yet, this is the kind of prayer generally offered in the public schools. There are a number of churches which teach that it is sinful for unbelievers to conduct worship services. This violation of the faith of many will be authorized by the Constitution and will become a very prevalent practice if the Wylie amendment passes. It is obvious that the Wylie amendment will pave the way for daistic (i.e. prayers not offered in the name of Christ), liturgical, and therefore very much denominational, prayers in the public schools and elsewhere, as well as prayers which may be characteristic of some denominations but which are abhorrent and contrary to the faith of others.

VI. The falsehood that some of the problems encountered in connection with our youth today, and the general breakdown of morals within our society, would be solved or improved if we had some kind of a little "nondenominational prayer" each day in the public schools. This is like putting a bandaid on a cancer and expecting it to do some good. The causes for the moral decadence of our society lie deep indeed. None of those causes would be in the least affected by plastering a tiny bit of state-approved religious ceremonialism on the public schools.

VII. The falsehood that the Wylie amendment has anything at all to do with true prayer or worship to God or that the promoters of this change in the basic law of our land are primarily interested in prayer as an end in itself. All the evidence suggests that the sponsors of the Wylie amendment are interested in prayer as a means of achieving certain social and political purposes rather than in prayer as the intimate and personal communication of the heart and soul with God. It should greatly concern those Congressmen who are Christians that Jesus Christ condemned ostentatious, hypocritical and repetitious prayer and commanded his followers to pray at home, in privacy, behind closed doors (Matt. 6:6-7). Is the sort of prayer envisioned by the Wylie amendment the sort that Jesus condemned or the sort that He commended? To us, the answer is obvious.

James Madison said, "It is proper to take alarm at the first experiment on our liberties." We, therefore, plead with those who are entrusted with the guardianship of the rights and liberties of this great free nation—Resist this drive to change the First Amendment, knowing that if this current effort is successful, it will be but the beginning of a series of furious assaults upon our Bill of Rights and the precious heritage of freedom and justice which it protects.

WHY DO RELIGIOUS BODIES OPPOSE "PRAYER" AMENDMENTS?

(A selection of statements by some of the major religious bodies in the United States.)

THREE BASIC REASONS

Most of the major religious bodies in the United States oppose any amendment to the Bill of Rights that would permit state-supervised prayers in public schools.

They oppose such an amendment for three basic reasons:

1. They are concerned about real, meaningful prayer. Prayer is the single, most direct expression of religious devotion. As such, it must be voluntary. Proposed amendments would subject prayer to government sponsorship and regulation, and this the churches cannot concede.

2. They are concerned about the rights of all—including minorities and non-theists—in a pluralistic society. Proposed amendments would infringe those rights by authorizing civil devotions that would inevitably be shaped by majority pressures. They would impose objectionable religious practices and expression on public schools which are already the center of community conflict and controversy. They would make religion the subject of divisiveness and antagonism rather than harmony and peace.

3. They are concerned about amending the Bill of Rights for the first time in the nation's history. The First Amendment has safeguarded religious liberty and other basic religious freedoms for nearly two centuries. If it can be amended now for this purpose without profound and careful consideration it may be easier to amend for other purposes.

National Council of Churches of Christ in the U.S.A.:

"The Supreme Court of the United States in the Regents' Prayer case has ruled that 'in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government.' We recognize the wisdom as well as the authority of this ruling. . . ."

"We express the conviction that the First Amendment to our Constitution in its present wording has provided the framework within which responsible citizens and our courts have been able to afford maximum protection for the religious liberty of all our citizens."—"The Churches and the Public Schools," adopted by the General Board, June 7, 1963.

The United Methodist Church:

"Public schools may not properly establish any preferred form of religion for common exercises of worship or religious observances or study. . . ."—"A Statement Concerning Church-Government Relations and Education," adopted by the General Conference, May 1968.

"We . . . request the Congress of the United States to retain the historic relation between Church and State and to oppose H.J. Res. 191 and any other proposed prayer amendment to the Constitution."—Statement by the General Board of Christian Social Concerns, October, 1971.

The Episcopal Church:

". . . Whereas, We believe that worship and religious education are the responsibility of Church and home, and not of the public schools or governmental institutions . . ., therefore, be it

"Resolved, That the National Council of the Protestant Episcopal Church record its considered opinion that amendments to the Constitution of the United States of America which seek to permit devotional exercises in our public schools should be opposed."—The National Council of the Protestant Episcopal Church, May 27, 1964.

The Lutheran Church in America:

"The Constitution should not be amended except to achieve large and important public needs and purposes consistent with the basic nature of our constitutional system. The current proposals for constitutional amendment do not meet these standards. Parents, churches and school authorities would be better advised to direct their efforts to programs for study of religion and the Bible in the public schools . . . rather than to seek constitutional sanctions for devotional exercises in public schools that have at most a minimal religious value, which invite the intrusion of sectarian influences into the public school system, risk the violation of the rights of religious freedom and are a potential source of conflict in the community."—Second Biennial Convention, July 1964.

American Lutheran Church:

"Proposals are now pending before the Congress of the United States to amend the Constitution in order to give constitutional sanction to certain types of religious practices in public institutions and in the public life. . . .

"We believe that it would be unwise for the Congress to give its approval to any such amendment . . . We . . . recognize . . . that in the end religion suffers and religious liberty in its fullness is threatened when government uses the power of its laws and the public school program to prescribe an official faith. . . ."—From "A Statement Commended by the Church" by the Second General Convention, Oct. 26, 1964.

The Lutheran Church, Missouri Synod:

"The Board of Parish Education of the Lutheran Church—Missouri Synod, feels that the Dirksen (prayer) Amendment fails to recognise fully the religious pluralism of the American scene. We believe that Christians cannot join with non-Christians in addressing God in circumstances that deny Jesus Christ as Saviour and Lord. We believe likewise that non-Christians should neither be expected to participate in Christian prayer nor should they expect Christians to join them in prayers that deny Christ."

"The concept of voluntary participation in prayer provides either a coercive force or an embarrassing situation for both Christians and non-Christians. Under these circumstances we believe that it is best for the public school not to engage in prayer or other religious worship exercises."—The Board of Parish Education, July 29, 1966.

The United Presbyterian Church in the U.S.A.: "Religious observances (should) never be held in a public school or introduced into the public school as part of its program . . . Bible reading and prayers as devotional acts (in public schools) tend toward indoctrination or meaningless ritual and should be omitted for both reasons."—"Relations between Church and State in the United States of America," adopted by the 175th General Assembly, May 1963.

The Southern Baptist Convention: "Baptists had much to do with the writing of the First Amendment into the Constitution of the United States and have been in the forefront of preserving the religious liberty that our nation has enjoyed.

"We appeal to the Congress of the United States to allow the First Amendment of the Constitution of the United States to stand as our guarantee of religious liberty, and we oppose the adoption of any further amendment to that Constitution respecting an establishment of religion or respecting free exercise thereof.—Resolution adopted by the Southern Baptist Convention, May 22, 1964, reaffirmed June 2, 1971.

The United Church of Christ: The Executive Council of the United Church of Christ supports the Supreme Court decision banning prescribed prayers and prescribed Bible reading in the public schools, calls attention to the aspect of the Supreme Court decision which affirmed the freedom of the schools to engage in the study of religion and opposes House Joint Resolution 191 which seeks to amend the United States Constitution.—Resolution by the Executive Council of the United Church of Christ, Oct. 12, 1971.

Christianity Today:

"We think that passage of this amendment would be a mistake. For one thing, persons already can and do voluntarily assemble for prayer in public buildings. . . .

"Secondly, this amendment is hardly the way to promote a revival of true religion . . . Genuine piety is fostered not by government . . . but by families and individuals who practice reverence for God and obedience to him in all their activities and associations . . .

"Finally, this amendment leaves open the possibility for some to assert that denominational prayer should not be permitted in public buildings. . . . Youth groups such as Campus Life or Inter-Varsity should be able to meet in schools for explicitly Christian prayers without fear that misguided authority will say only groups praying in a way that is acceptable to all religions are now constitutional."—Editorial, Oct. 8, 1971, page 32.

The American Baptist Convention:

"An amendment to permit compulsory Bible reading and prayer in the public schools is not only a danger to the freedom of nonbelievers, it is also a threat to the religious well-being of the believer. It is because of a deep respect for worship, and the recognition that prayer is essential and should be a vital encounter between man and God, that Baptists oppose devotional exercises that are more rote than worship. Therefore we affirm our belief in the separation of church and state as written in the first amendment of the Constitution of the United States."—Resolution adopted by the American Baptist Convention, May 22, 1964.

The Roman Catholic Church:

On June 16, 1964, the then National Catholic Welfare Conference issued a press release which stated:

"The Legal Department of the National Catholic Welfare Conference is very cautious toward the present interest of some in amending the Constitution in the manners now proposed to overcome recent judicial decisions precluding prayer and Bible reading in public schools. . . .

"The department continues to believe that the present clauses in the Constitution are of incalculable benefit to religion. . . . In combination, the 'free exercise' and 'no establishment' clauses are guarantees too vital to be tampered with lightly. . . ."

America Magazine, Jesuit Weekly:

"Reconciling the rights of all parents and students with respect to religion in public schools is a serious, difficult problem. It should not be trifled with by passage of this . . . ill-written, mischievous, and misconceived . . . amendment."—Editorial, Oct. 23, 1971.

The Christian Century:

"The proposed amendment would be a step toward a lowest-common-denominator culture-religion . . . which would endanger true religion as well as civil liberties by equating religious ideas and practices with national culture and patriotism.

"Prayer is an act of worship, not a gimmick for cranking up the academic or civic machinery . . . Acts of worship cannot be divorced from real historical commitments without endangering the vitality of the religion or religions involved."—Editorial, Oct. 20, 1971.

Synagogue Council of America, and National Jewish Community Relations Advisory Council:

"Our Constitution can, of course, be amended . . . but . . . if the Constitution is amended . . . then let no one who supports this measure delude himself or his countrymen that he has rendered religion or liberty a service. In a plural society, it is not and should not be the business of government to aid religion and if it does assume that role, then, in the very process and precedent it establishes, it does religion a harm and disservice that will far outweigh the intended benevolence. For it will have compromised that free and unfettered exercise of religious liberty without which religious faith cannot for long retain its integrity and independence.

"Our profound respect for the role of our legislature and for the sacrificial desire of its members to serve the common good leads us to say to members of this Committee: Your business is not the promotion of religion. It is rather the preservation of a free and just society, for that, and nothing other and nothing less, offers the surest safeguard for the preservation and strengthening of our religious heritage."—Statement before Senate Judiciary Committee, August 8, 1966 by the Synagogue Council of America and the National Jewish Community Relations Advisory Council. (Approved and adopted joint testimony by all of the constituent organizations of both bodies.)

STATEMENT OF OPPOSITION TO PROPOSED CONSTITUTIONAL PRAYER AMENDMENTS, SEPTEMBER 15, 1971

The undersigned national religious organizations and leaders express their united opposition to S.J. Res. 191, now pending in the House of Representatives, and to other similar proposals for constitutional amendments to authorise "nondenominational" prayer in public buildings. We express the long-standing official positions of the nation's religious faiths which affirm the adequacy of the First Amendment to protect religious interests and to ensure religious rights.

The major faiths themselves have never been able to achieve consensus on a definition of prayer, much less a definition of "nondenominational" prayer. We deny that any elected body or governmental authority has the right to determine either the place or the content of prayer, as is implied in the proposed constitutional prayer amendment. To authorize government by a constitutional amendment to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make of government a judge of theology and an administrator of religious practice. If such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could destroy the integrity of both church and state.

The proposed constitutional amendment would introduce divisiveness into our national life and among the institutions of religion, it would paradoxically proscribe and distort freedom of religious expression.

If the proposed prayer amendment should become a part of the Constitution, the Bill of Rights would have been amended for the first time in our nation's history. Such an amendment would open the doors for governmental intrusion into the religious affairs of the people. This we protest.

On the other hand, we affirm the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision. This right is adequately protected by the First Amendment as it now stands. For this reason we also affirm the wisdom of the Supreme Court decisions in 1962 and 1963 which properly prohibited government intrusion into the religious activity of school children.

We therefore respectfully petition the Congress of the United States to preserve the religion clauses of the First Amendment intact and to oppose any and all prayer amendments to the Constitution.

Dr. W. Hubert Porter, Associate General Secretary, American Baptist Convention.
American Ethical Union.
American Humanist Association.
Rev. Warren R. Magnuson, General Secretary, Baptist General Conference.
Baptist Joint Committee on Public Affairs.
The Church of the Brethren.
Executive Council of the Episcopal Church.
Friends Committee on National Legislation.
General Board of Christian Social Concerns, The United Methodist Church.
Mennonite Central Committee—Peace Section.
Dr. Joseph H. Jackson, President, National Baptist Convention, U.S.A., Inc.
National Council of the Churches of Christ in the U.S.A.
Rev. G. K. Zimmerman, Executive Secretary, North American Baptist General Conference.
Joint Advisory Committee of the Synagogue Council of America and the National Jewish Community Relations Advisory Council, consisting of:
American Jewish Committee.
American Jewish Congress.
B'nai B'rith—Anti-Defamation League.
Central Conference of American Rabbis.
Jewish Labor Committee.
Jewish War Veterans of the USA.
National Council of Jewish Women.
Rabbinical Assembly.
Rabbinical Council of America.
Union of American Hebrew Congregations.
Union of Orthodox Jewish Congregations of America.
And 85 state, county, and local Jewish Community Councils.
Rev. Richard J. Niebanck, Secretary for Social Concerns, Board of Social Ministry, Lutheran Church in America.
Office of Church and Society, Presbyterian Church of the United States.
Dr. S. S. Hodges, Executive Secretary, Progressive National Baptist Convention, Inc.
Rev. Alton L. Wheeler, General Secretary, Seventh Day Baptist General Conference.
Dr. Carl E. Bates, President, Southern Baptist Convention.
Council for Christian Social Action, United Church of Christ.
Unitarian Universalist Association.
Dr. William P. Thompson, Stated Clerk, United Presbyterian Church in the U.S.A.
Mrs. Marcus Rohlfs, President, American Baptist Convention.

DON'T BE DECEIVED BY A "PRAYER"

Don't "booby-trap" religious freedom by an innocent-sounding "prayer" amendment that is in fact a "time-bomb" against religion.

Now is the time to stand up and fight for freedom.

What did the Supreme Court say? . . . about prayer in public schools?

State composed and governmentally required prayers are a violation of the Constitution.

"In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

Governmentally sponsored or required devotions, such as Bible reading and recitation of the Lord's Prayer are unconstitutional.

The Bible and religion may be taught in public schools when presented objectively as part of the regular program of education.

The Supreme Court did not do this:

The Court did not prohibit school children from praying in school. It prohibited

government from writing their prayers and sponsoring their devotions.

The Court did not put God out of the schools or out of public life in America. God is greater than either a Supreme Court decision or a constitutional amendment. He is not moved about like a chessman.

The Court did not express hostility to religion. "Nothing, of course, could be more wrong," the Court declared.

The Court did not establish a religion of secularism. It specifically said, "The state may not establish a 'religion of secularism' in the sense of affirmatively opposing or showing hostility to religion."

The Court did not eliminate all religious expressions from public life. It said that the Declaration of Independence, patriotic hymns, and religious expressions in patriotic or ceremonial occasions are not prohibited by the ruling.

Take a look at the innocent-sounding but insidious nondenominational prayer amendment:

The proposed amendment: "Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer." (H.J. Res. 191)

This amendment would not be merely an addition to the First Amendment. It would be a serious alteration of the basic constitutional provision for "no establishment" and "free exercise" of religion.

The amendment prescribes the kind of prayer the people in public buildings have a right to pray—nondenominational prayers.

The amendment by indirection authorizes government (a school board, principal, teacher, or some other official) to determine what is "nondenominational" prayer. This makes government a judge of theology and of prayer.

The amendment restricts the rights of the people it is supposed to protect. It could prescribe "nondenominational prayer" for hospitals, homes for the aged, other buildings supported in whole or in part through public funds, or even the chaplaincy.

The amendment introduces religion as a divisive factor into American life.

The amendment authorizes a perverted form of nebulous religion—nondenominational prayer.

Help preserve religious freedom defeat the nondenominational prayer amendment.

Baptist Joint Committee on Public Affairs, 200 Maryland Ave., N.E., Washington, D.C. 20002

AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE,
Silver Spring, Md., October 19, 1971.

DEAR CONGRESSMAN: We are writing you on behalf of more than 100,000 persons in all the states who are seriously concerned with attempts to change the First Amendment to the Federal Constitution. These persons are all Godfearing and practitioners of prayer in their homes and churches. They do not, however, believe that prayer should become an object of government concern.

The proposal to change our First Amendment reads as follows:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

This quite clearly puts government officials in the position of defining what kind of prayer may or may not be offered in public buildings and places. What is "nondenominational prayer?" This would have to be defined by public officials, a responsibility which we believe should lie beyond their purview.

Tampering with the First Amendment is a serious matter. It can undermine the entire cornerstone of our freedom. Congress should not start us in this direction.

The church leaders and followers with whom we are in daily contact are against this proposal, and we hope you will be too.

Cordially,

GLENN L. ARCHER, 33°,
Executive Director.
C. STANLEY LOWELL, 33°,
Associate Director.

TENNESSEE BAPTIST CONVENTION,
Clinton, Tenn., November 2, 1971.

Hon. JOE L. EVINS,
The House of Representatives,
Washington, D.C.

DEAR MR. EVINS: I appeal to you to keep our present constitutional provision on separation of church and state. I believe it is adequate as stated.

Senator Hugh Scott is no doubt sincere in his proposed constitutional amendment concerning prayer in public schools or other public buildings. However, his sincerity seems to me to be misguided.

I don't believe anyone has offered an improvement on our present document and the interpretation of it by the Supreme Court.

Thank you for your consideration.

Sincerely yours,

HAYWARD HIGHFILL.

BAPTIST JOINT COMMITTEE ON PUBLIC AFFAIRS,
Washington, D.C., November 3, 1971.

Hon. JOE L. EVINS,
House of Representatives,
Washington, D.C.

DEAR MR. EVINS: On Monday, November 8, Congressman Wylie will bring H.J. Res. 191 to the floor in an attempt to amend the religion clauses of the First Amendment. The proposed amendment would authorize governmental entanglement in religion.

Dr. Carl Bates, President of the Southern Baptist Convention, evaluates H.J. Res. 191 as ". . . one of the most insidious developments against freedom and true religion that I have ever seen." With him we oppose this piece of legislation as unnecessary, divisive, unwise, and dangerous.

I hope that on next Monday you will not only be in intellectual and emotional opposition to H.J. Res. 191, but also that you will make every effort to be present to vote against the resolution.

Sincerely yours,

JOHN W. BAKER.

BOARD OF CHRISTIAN SOCIAL CONCERNS OF THE UNITED METHODIST CHURCH

To: Members of the House.
From: A. Dudley Ward.
Re: The Prayer Amendment.
Date: October 22, 1971.

DEAR REPRESENTATIVE: I would like to send along to you a copy of our Board's official policy statement on the Prayer Amendment. This resolution was adopted at a recent Annual Meeting held in Washington, D.C.

The statement basically opposes "nondenominational prayers" as most likely to become "meaningless petitions." Also, since undefined by the churches and synagogues, the authorization of such prayers would mean that governmental authority would have to compose and endorse these petitions for use in the classroom. This, we believe, would constitute a breach of the separation of the church and state as provided in the Constitution.

We therefore, urge that you oppose House Joint Resolution 191 when it comes before the House on November 8th or soon thereafter, as well as any other proposed prayer amendments to the Constitution. We are, of course, unreservedly in favor of prayer but believe it should appropriately be centered in the home and in the churches and synagogues. Your prayerful consideration of this question will be greatly appreciated.

Yours sincerely,

Dr. A. DUDLEY WARD,
General Secretary.

PRAYER AMENDMENTS TO THE CONSTITUTION
(Statement of the Board of Christian Social Concerns of The United Methodist Church)

The Board of Christian Social Concerns expresses its grave concern over the movement for passage of the Prayer Amendment to the US Constitution. We believe that such action would seriously jeopardize the traditional separation of church and state, erode the guarantees of the First Amendment, and cause substantial and unnecessary divisiveness in the religious community.

We would like to reaffirm the position of the 1968 General Conference of The United Methodist Church when it declared: "Public schools may not properly establish any preferred form of religion for common exercises of worship or religious observance or study."

The concept of government-imposed "nondenominational prayer" tends to ignore prayer as a personal communication between God and man. Such voluntary personal prayers may be offered in the public school at the present time, and are not in violation of Supreme Court decisions of 1962 and 1963.

We believe that "nondenominational prayer"—without particularized faith content and purposely intended to be inoffensive—would most likely result in meaningless petitions. Nothing could better be designed to alienate children and youth from commitment to a vigorous faith than being required to mouth meaningless prayers in the classroom.

We believe it is unlikely that the major faiths will ever agree as to the precise meaning of the phrase, "nondenominational prayer." At the same time we refuse to confer upon governmental authority either the right or the theological competency to compose prayers to be used in public schools. In no way do we disparage the sincere efforts of those who seek to extend the influence of religion in our society. However, we believe the Prayer Amendment is not the proper vehicle. Instead we reaffirm our conviction that worship should be centered in the home, the churches and synagogues, and their congregations, rather than turned over to the schools or any public agency.

We, therefore, respectfully request the Congress of the United States to retain the historic relation between church and state and to oppose House Joint Resolution 191 and any other proposed prayer amendments to the Constitution.

Approved by the Board of Christian Social Concerns October 7, 1971; Vote: 32 yes, 0 no, 1 Abstain.

THE AMERICAN LUTHERAN CHURCH,
Minneapolis, Minn., November 1, 1971.

Hon. JOE L. EVINS,
House of Representatives,
Washington, D.C.

DEAR MR. EVINS: Your attention is invited to the enclosed statement by the Church Council of The American Lutheran Church regarding the proposed prayer amendment, House Joint Resolution 191.

The Church Council of The American Lutheran Church is the legislative agency that functions between general conventions for the 4,822 member congregations whose baptised membership is 2,543,293 persons.

After considering this particular statement, the vote to adopt was 40—yes, 0—no, 0—abstentions and 4 members absent.

The statement, as it speaks to the present situation, reaffirms a paragraph from a previous statement, "An American Lutheran Position on Church-State Relations in the U.S.A.", adopted by the 982 voting members at the 1966 General Convention.

In the motion to adopt the statement, the Church Council also voted to send a copy of the statement to all members of the House of Representatives for consideration in relation to House Joint Resolution 191.

Sincerely yours,

KENT S. KNUTSON,
General President.

THE PROPOSED PRAYER AMENDMENT AND OUR CHERISHED RELIGIOUS LIBERTY

A statement adopted October 22, 1971, by the Church Council, the legislative agency between general conventions of the 4828 member congregations (whose membership is 2,543,293 baptised persons) of The American Lutheran Church, by a vote of forty (40) in favor, none (0) against, no (0) abstentions, with four (4) members absent. (C70.10.173)

The guarantees of religious liberty written into the Constitution of the United States have served this nation well. Both church and state are the stronger because government cannot pass laws "respecting an establishment of religion or prohibiting the free exercise thereof."

As American Lutherans we cherish the freedom and the responsibility the First Amendment assures us. We cherish our freedom to pray, to assemble, to worship, to study, to teach, and to serve our neighbors as the fullness of our faith directs. We respect the similar freedoms and responsibilities of our neighbors of other religious faiths. We do not seek to impose our understandings upon them; we expect the same consideration from them.

By its very nature, religious expression is both personal and corporate. It cannot be forced or coerced. It must be true to its distinctive self and to its own corporate commitment. It resists becoming the captive of any race, class, ideology, or government, lest it lose its loyalty to its Lord.

This protection we enjoy in America. We are free to pray in our own words to our own God. We are free to read the Bible in the version we prefer. We are protected against having to speak governmentally composed prayers. We are protected against having to join in devotional exercises decreed by governmental authorities. We are free to pray in public and to read the Bible in public places. We cannot, however, force others to join us in such expressions of our religious faith. These freedoms and these protections of our Constitution, as interpreted by the Supreme Court in its school prayer and Bible reading decisions, presently assures us.

We see no need, therefore, for any amendment to the Constitution to permit participation in "nondenominational prayer" "in any public building." Such an amendment would endanger our religious liberty; it would tend to establish a governmental nondenominational religion; it would pave the way for courts to intervene in defining what is acceptable as an expression of religion; and it would limit rights already granted and clearly established in American life.

The Church Council in 1971 reaffirms the paragraph commended by the 1964 General Convention and adopted by the 1966 General Convention "as an expression of the policy and conviction of The American Lutheran Church":

"Reading of Scripture and addressing deity in prayer are forms of religious expression which devout persons cherish. To compel these religious exercises as essential parts of the public school program, however, is to infringe on the distinctive beliefs of religious persons as well as on the rights of the irreligious. We believe that freedom of religion is best preserved when Scripture reading and prayer are centered in home and church, their effects in the changed lives of devout persons radiating into the schools and into every area of community life. It is as wrong for the public schools to become agents for atheism, godless secularism, scoffing irreligion, or a vague "religion in general" as it is for them to make religious rites and ceremonies an integral part of their programs."

As a nation we should be careful not to endanger our cherished religious liberty through the well-intended but potentially harmful "prayer amendment" (House Joint Resolution 191).

BOARD OF MISSIONS OF THE UNITED METHODIST CHURCH,
New York, N.Y., November 2, 1971.

DEAR CONGRESSMAN: There are many church women in this country who do not want the Bill of Rights changed by the proposed "prayer" amendment.

Enclosed is a statement adopted ten days ago by the national representatives of the largest woman's religious organization in the country. We hope you will vote *against* H.J. Res. 191 on November 8th.

Sincerely yours,

MRS. WAYNE W. HARRINGTON,
President, Women's Division, Board of Missions of the United Methodist Church.

OPPOSITION TO PRAYER AMENDMENT TO THE CONSTITUTION

The Women's Division of the Board of Missions of the United Methodist Church expresses its grave concern over the movement for passage of the Prayer Amendment to the U.S. Constitution. We believe that such action would seriously jeopardize the traditional separation of church and state, erode the guarantees of the First Amendment, and cause substantial and unnecessary divisiveness in the religious community.

We would like to reaffirm the position of the 1968 General Conference of The United Methodist Church when it declared: "Public schools may not properly establish any preferred form of religion for common exercises of worship or religious observance or study."

The concept of government-imposed "nondenominational prayer" tends to ignore prayer as a personal communication between God and man. Such voluntary personal prayers may be offered in the public school at the present time, and are not in violation of Supreme Court decisions of 1962 and 1963.

We believe that "nondenominational prayer"—without particularized faith content and purposely intended to be inoffensive—would most likely result in meaningless petitions. Nothing could better be designed to alienate children and youth from commitment to a vigorous faith than being required to mouth meaningless prayers in the classroom.

We believe it is unlikely that the major faiths will ever agree as to the precise meaning of the phrase, "nondenominational prayer". At the same time we refuse to confer upon governmental authority either the right or the theological competency to compose prayers to be used in public schools. In no way do we disparage the sincere efforts of those who seek to extend the influence of religion in our society. However, we believe the Prayer Amendment is not the proper vehicle. Instead we reaffirm our conviction that worship should be centered in the home, the churches and synagogues, and their congregations, rather than turned over to the schools or any public agency.

We, therefore, respectfully request the Congress of the United States to retain the historic relation between church and state and to oppose House Joint Resolution 191 and any other proposed prayer amendments to the Constitution.

Adopted October 24, 1971, by the Women's Division of the Board of Missions of the United Methodist Church, which is the elected national leadership of the 36,500 local women's organizations of the United Methodist Church.

OFFICE OF GOVERNMENT LIAISON,
Washington, D.C., November 2, 1971.

DEAR CONGRESSMAN: I have enclosed a copy of the statement of the Most Rev. Joseph L. Bernardin, General Secretary, United States Catholic Conference, opposing H.J. Res. 191, the "Prayer Amendment."

In view of the serious questions raised in the statement, I urge you to oppose H.J. Res. 191.

Sincerely,

JAMES L. ROBINSON,
Director.

CATHOLIC CONFERENCE OPPOSES "PRAYER AMENDMENT"

WASHINGTON.—The U.S. Catholic Conference has gone on record in opposition to the so-called school prayer amendment, which is currently before the House of Representatives.

The conference's position was announced by Bishop Joseph L. Bernardin, USCC General Secretary, who said:

"I wish to emphasize that the conference is not opposed to the concept of prayer in public buildings nor unconcerned about the vitally important matter of meeting the religious needs of children who attend public schools."

"Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer."

The text of the proposed constitutional amendment, on which the House is expected to vote November 8, states:

"Nothing contained in this constitution shall abridge the right of persons lawfully assembled in any public building supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer."

Bishop Bernardin said:

"The subtle implication of the amendment, therefore, is that 'denominational' prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation."

"Moreover," Bishop Bernardin continued, "the amendment cannot be justified as a 'school prayer' amendment. The amendment does not say anything about state sponsorship of prayer in public schools as part of the regular school day. Yet this was the very thing the Supreme Court found unconstitutional in the School Prayer cases."

"Passage of the amendment," he added, "might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved."

BAPTIST PRESS,
Nashville, Tenn., October 13, 1971.

Hon. JOE L. EVINS,
Congressman, Fourth District, Tennessee,
House of Representatives, Washington, D.C.

DEAR MR. EVINS: On November 8, H.J.R. 191, the so-called "prayer amendment" to the Constitution, is tentatively scheduled for a vote in the House. I am writing as a concerned citizen of Tennessee to urge you to vote against this amendment.

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You will, I know, vote your own convictions. For that, I am thankful. As you weigh the pros and cons on the issue involved, please allow me to share with you my own convictions as additional input from back home. I believe you should oppose H.J. R. 191 for the following reasons:

1. The alleged need for the amendment is based on a false premise—that the Supreme Court decisions of 1962 and 1963 ruled out voluntary prayer in public schools. They did not. They prohibited governmentally prescribed prayer such as that composed by the New York Regents. There is a big difference.

2. The current wording of the First Amendment to the Constitution is an adequate protection for religious liberty. The current wording does not either prohibit or condone prayer or Bible reading—it leaves such matters up to the individual situation. Thus the proposed amendment is completely unnecessary.

3. If H.J.R. 191 is approved, it would amount to a violation of the current wording of the First Amendment. It would "establish" prayer which must be "non-denominational." And the First Amendment demands that Congress make no law which would be an "establishment of religion."

4. It is a poorly-worded amendment. The word "non-denominational" is unnecessary and objectionable. Does that word mean that I, as a Baptist, could not pray "in Jesus' name" at a school meeting? Or that a Jew must include the phrase "in Jesus' name" in his prayer in order to be "non-denominational"? Furthermore, the phrase in the proposed amendment, "persons lawfully assembled in any public building supported in whole or in part through the expenditure of public funds" is vague and unnecessary.

Does this mean that prayer is not permitted in any buildings not built with public funds? Of course not, we would assume. But the amendment as proposed is vague and poorly worded and should not be passed in its current form. It is a bad proposal.

5. At least seven national religious bodies have adopted strong statements warning Congress against adopting a so-called "prayer amendment." The Southern Baptist Convention adopted such a statement on June 3, 1971, reaffirming a previous resolution adopted in 1964. I am enclosing a copy of that resolution. In addition, similar statements have been adopted by the American Baptist Convention, the General Conference of the United Methodist Church, the Board of Parish Education of the Lutheran Church—Missouri Synod, the National Council of the Protestant Episcopal Church, the General Assembly of the United Presbyterian Church, U.S.A., and the Board of Homeland Ministries of the United Church of Christ. For your information, I am enclosing excerpts from these statements.

There are many other reasons too numerous to list, but these are the principal ones. I would urge you to examine the issue on its own merits; but remember, the issue is larger than simply a guarantee that prayer shall be permitted in public buildings. The issue at stake is religious liberty—something our forefathers died for, something the First Amendment guarantees in its current wording. I am convinced that to pass H.J.R. 191 would be to weaken, not strengthen religious liberty. It would establish a governmentally-sponsored religion of "non-denominationalism."

Frankly, I was a little disappointed that you and all of the Tennessee Congressmen signed the discharge petition to bring H.J.R. 191 out of the House Judiciary Committee. But I realize that a vote in favor of discharge does not necessarily mean you favor the amendment itself—only that you feel the House should vote on it.

No doubt there is a great deal of misunderstanding about these matters among many sincere religious people of our state and nation. It is not politically expedient to be against God, motherhood, the flag, or prayer. But the issue is not being against prayer, it is being *for* religious liberty! I hope you will vote in support of this great heritage of ours and work for the defeat of H.J.R. 191.

Sincerely,

JAMES R. NEWTON.

RESOLUTION NO. 2—RELIGIOUS LIBERTY

In this anniversary year we are grateful for the witness which our Baptist movement has been privileged to bear. The discernment of the call of God in Christ has led us to a glorious experience of evangelism and missionary outreach through the power of the Holy Spirit.

Our leaders and our people have firmly rejected the use of the coercive powers of government in the realm of religion. Baptists had much to do with writing the First Amendment into the Constitution of the United States and have been in the forefront in preserving the religious liberty that our nation has enjoyed. We have unflinchingly declared our desire for separation of church and state in resolutions, in sermons and in policies and practices.

1. We, the messengers of the Convention hereby affirm our support for the concepts and the vocabulary of the First Amendment, including both its prohibition upon government roles in religious programs and its protection of free exercise of religion for the people.

2. We enunciate our concern that public officials and public servants of all types shall have the same free exercise of religion as other citizens, but that this freedom does not entitle them to use public or official powers for the advancement of religious commitments or ideas. In applying this principle to the field of public education, we affirm the historic right of our schools to fulfill academic freedom for the pursuit of all knowledge, religious or otherwise.

3. We appeal to the Congress of the United States to allow the First Amendment of the Constitution of the United States to stand as our guarantee of religious liberty, and we oppose the adoption of any further amendment to that Constitution respecting establishment of religion or free exercise thereof.

4. We urge all our channels, leaders, and churches to involve themselves thoroughly in study of the biblical, the historical, and the contemporary issues related to religious liberty to the end that our heritage of freedom and responsibility under God may be clearly understood and appreciated by the next generation and by ever larger proportions of the world's peoples.

EXCERPTS FROM STATEMENTS ADOPTED BY VARIOUS RELIGIOUS BODIES

1. Resolution adopted by the *Southern Baptist Convention*, meeting in Atlantic City, N.J., May 22, 1964, and reaffirmed by the SBC Meeting in Detroit, Mich., May 27, 1966.

". . . We, the messengers of the Convention hereby affirm our support for the concepts and the vocabulary of the First Amendment, including both its prohibition upon government roles in religious programs and its protection of free exercise of religion for the people.

". . . We appeal to the Congress of the United States to allow the First Amendment of the Constitution of the United States to stand as our guarantee of religious liberty, and we oppose the adoption of any further amendment to that Constitution respecting establishment of religion or free exercise thereof. . . ."

2. Resolution adopted by the *American Baptist Convention*, meeting in Atlantic City, N.J., May 22, 1964, and reaffirmed by the ABC meeting in Kansas City, Mo., May, 1966.

". . . Baptists have long opposed any compulsion to conformity in religious belief or in the practice of religion. The first amendment has supported this freedom. The proposed change in that amendment could weaken it and bring the power of the state to bear on individuals to conform and to participate in prescribed religious practices.

An amendment to permit compulsory Bible reading and prayer in the public schools is not only a danger to the freedom of non-believers, it is also a threat to the religious well-being of the believer. It is because of a deep respect for worship, and the recognition that prayer is essential and should be a vital encounter between man and God, that Baptists oppose devotional exercises that are more rote than worship. Therefore we affirm our belief in the separation of church and state as written in the first amendment of the Constitution of the United States. . . ."

3. Resolution adopted by *General Conference of the United Methodist Church* meeting in Dallas, Tex., April 23, 1968.

". . . The United Methodist Church is opposed to all establishment of religion by government. Therefore, we are in agreement with the Supreme Court's decision declaring unconstitutional required worship services as part of a public school program. We believe these decisions enhance and strengthen religious liberty within the religious pluralism that characterizes the United States of America. . . ."

4. Statement adopted by the *Board of Parish Education, Lutheran Church-Missouri Synod*, July 29, 1966.

". . . The Board of Parish Education of the Lutheran Church-Missouri Synod, feels that the Dirksen Amendment fails to recognize fully the religious pluralism of the American scene. We believe that Christians cannot join with non-Christians in addressing God in circumstances that deny Jesus Christ as Savior and Lord. We believe likewise that non-Christians should neither be expected to participate in Christian prayer, nor should they expect Christians to join them in prayers that deny Christ.

". . . We support the idea that home and church have the responsibility for a religious education which seeks commitment and provides time for prayer or devotional exercises. . . ."

5. Resolution adopted by the *National Council of the Protestant Episcopal Church*, meeting May 26-28, 1964.

"Whereas recent decisions of the U.S. Supreme Court relate only to prayers and Bible reading which are part of official exercises in public schools; and

"Whereas we believe that these decisions are not hostile to religion, and that it is no proper function of government to inculcate religious beliefs or habits of worship; and

"Whereas we are advised that nothing in these decisions prevents voluntary expressions of reverence or religious sentiments in the schools, nor forbids the offering of prayers on public occasions, such as inaugurations;

". . . Now, therefore, be it resolved that the National Council of the Protestant Episcopal Church record its considered opinion that amendments to the Constitution of the United States of America which seek to permit devotional exercises in our public schools should be opposed."

6. Action of the 176th *General Assembly of the United Presbyterian Church, U.S.A.*, meeting in Oklahoma City, May 1964.

". . . A careful reading of the . . . Supreme Court's decision will indicate that our children may still pray in school as the spirit moves them. Teachers may still teach objectively about the religious heritage of our country. The Bible may be used in connection with courses in world history, literature, etc. Christians and others with differing beliefs in God may still invoke His name and His aid as they fulfill the duties of public office. . . .

". . . No social issue ever pronounced on by a recent general assembly has been more thoroughly and responsibly studied than this one. The committee recommends that the General Assembly affirm the 175th General Assembly's approval of the church-state support" (which urged opposition to any change in the wording of the First Amendment to the Constitution.)

7. Statement of Policy voted by the *Board for Homeland Ministers, United Church of Christ*, May 28, 1964.

"Measures now pending in Congress, such as the Becker amendment, would give legal sanction to prayer and devotional Bible reading in the public schools. Proponents of this legislation contend that such Bible reading and prayers are 'good things' and therefore belong in the public schools. They close their eyes to the real issues raised by the proffered constitutional amendments. These issues are religious liberty and the roles of government, the home, and religious institutions in the practice of religion in America. . . . The Supreme Court has properly ruled that it is not the business of government to write and prescribe prayer for public schools. . . ."

WOODBURY SEVENTH-DAY ADVENTIST CHURCH,

Woodbury, Tenn., October 28, 1971.

Representative JOE L. EVINS,
House of Representatives,
Washington, D.C.

DEAR MR. EVINS: The "Prayer Amendment" (House Joint Resolution 191) will be up for consideration in a few days. This proposed change to our Constitution poses a serious threat to the freedom of religion, and therefore may I urge you to oppose this by voting against it.

It would completely alter the First Amendment by proscribing what kind of prayer can or cannot be offered in a public building. Prayer, as you well realize, is a most sacred and personal act, and government must not invade this basic right.

Let me again urge you to oppose this amendment, and to use your influence to see that our religious freedoms, as presently guaranteed by the Constitution, be preserved.

Sincerely yours,

A. H. GERST.

UNION THEOLOGICAL SEMINARY,

New York, N.Y., November 1, 1971.

DEAR FRIENDS: It is reported that The Prayer Amendment will soon be before you for vote.

As leaders of religious institutions, we want you to know that many of us are emphatically opposed to this amendment for the reasons indicated on the enclosed statement.

We ask you, please, to read the statement and urge you to vote against the amendment. And we wish also to express our appreciation for your ministry in Washington on our behalf.

Gratefully,

J. BROOKE MOSLEY.

GENERAL CONFERENCE OF SEVENTH-DAY ADVENTISTS,

Washington, D.C., October 12, 1971.

Representative JOE L. EVINS,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE EVINS: The purpose of this letter is to oppose the passage of the School Prayer Constitutional Amendment. On two previous occasions, the General Conference of Seventh-day Adventists has authorized testimony in opposition to similar bills. This position has not changed.

Seventh-day Adventists welcome the concern and the solicitude for religion which the proposed amendment represents. Prayer is an important element in the life of faith, and contributes much to the moral strength of a nation, especially the youth among us. We believe this to the extent that in addition to cheerfully supporting the public school system with our taxes, we operate the second largest Protestant parochial school system in the United States. However, the Seventh-day Adventist Church emphatically opposes this, or any other, amendment that would have the effect of altering the force and effectiveness of the safeguards and guarantees provided by the First Amendment to the Constitution.

Your opposition to the School Prayer Constitutional Amendment will help to keep this nation strong by helping to keep the First Amendment to the Constitution strong.

Very sincerely,

W. MERVIN ADAMS,
Associate Director, Department of Public Affairs and Religious Liberty.

THE UNITED PRESBYTERIAN CHURCH,

Philadelphia, Pa., October 13, 1971.

Hon. JOE L. EVINS,
House Office Building,
Washington, D.C.

DEAR MR. EVINS: We write to urge your opposition to H.J. Res. 191—the so-called "Prayer Amendment."

The first General Assembly of our church in 1789, commenting on the affirmation in our historic Westminster Confession that "God alone is Lord of the conscience and hath left it free from the doctrines and commandments of men . . . " said we "consider the rights of private judgment, in all matters that respect religion, as universal and unalienable: (we) do not even wish to see any religious constitution aided by the civil power. . . ."

In 1962-63, our denomination undertook a study in-depth of church-state relations. One of the questions studied at the local congregational and regional (presbytery) levels was the issue of prayer and Bible reading in the public schools. One hundred and thirty-one presbyteries reported their findings, and *two-thirds of them approved opposition to that practice.* Nine hundred and eighty-nine sessions of local churches and congregational groups reported their findings and *two-thirds of them took the same position.*

These findings were ratified by the 175th General Assembly (1963) in adopting the Report on Relations between Church and State that:

Religious observances never be held in a public school or introduced into the public school as part of its program. Bible reading in connection with courses in the American heritage, world history, literature, the social sciences, and other academic subjects is completely appropriate to public school instruction. Bible reading and prayers as devotional acts tend toward indoctrination or meaningless ritual and should be omitted for both reasons. Ministers, priests, and rabbis should be free to speak in public schools, provided their speaking does not constitute religious indoctrination or their presence form a part of a religious observance.

The issue today is the same.

H.J. Res. 191 would make the first change in our history to our cherished Bill of Rights. It would, in fact, make of government an administrator of religious practice and a judge of theology.

There is no prohibition today against our children praying in school *as the spirit moves them.* Nor is there any prohibition against teachers teaching objectively about our country's religious heritage. Nor is there any prohibition against use of the Bible in connection with the study of world history, literature, etc. We would oppose such prohibition if attempted.

But we equally oppose nondenominational prayers authored, in effect, by those who are agents of the state.

We urge the defeat of H.J. Res. 191.

Sincerely yours,

LOIS H. STATE,
Moderator of the 183rd General Assembly.
WILLIAM P. THOMPSON,
Stated Clerk of the General Assembly.

STATEMENT OF OPPOSITION TO "PRAYER" AMENDMENT

We, the undersigned, are presidents of theological seminaries and deans of divinity schools who urge you to *oppose* the "prayer" amendment, H.J. Res. 191. Though its proponents doubtless mean well, they can do great harm to religion and freedom of religion in this country through this amendment, which, to use the words of the Jesuit weekly *America*, is an "ill-written, mischievous and misconceived proposal."

The institutions which we serve are devoted to theological education in the Judeo-Christian tradition, open to religion in all its forms, and involved at every level with a pluralistic society. Our institutions have flourished under the First Amendment of the Constitution and would be threatened by the proposed amendment to it.

We understand prayer to be the personal or corporate expression of belief by believers and belief is specific. There is no such thing as general faith. Prayer is the expression of a believer's (or body of believers') specific understanding of what is ultimately real, and of his relationship to it. It would be beyond the ability of any one of us to write a pluralistic prayer, and unthinkable for the state to recommend its use, even in the most optional way. It could not be prayer with integrity either by the believers or the unbelievers. It could only become a "pro forma" exercise and thus do violence to the individual conscience.

This is not to say that we oppose the objective study of religion as part of the educational process. Indeed, we recommend the reading of the Holy Bible and other religious literature, the discussion of religious values, the posing of religious questions as a necessary part of academic instruction vital to any understanding of the human situation. But study is different in character from prayer, and we urge the members of Congress to recognize this distinction and to oppose any efforts to modify, enlarge, diminish, clarify or improve the First Amendment to the Constitution.

J. Brooke Mosley, President, Union Theological Seminary, New York.

Colin Williams, Dean, Divinity School, Yale University, New Haven.

Christopher F. Mooney, S.J., President, Woodstock College, New York.

George W. Webber, President, New York Theological Seminary, New York.

Edward R. Harris, Dean, Philadelphia Divinity School, Philadelphia.

Walter Harrelson, Dean, Divinity School of Vanderbilt University, Nashville, Tennessee.

Frederick Wentz, President, Hamma School of Theology, Wittenberg University, Springfield, Ohio.

Thadeus F. Zielinski, Prime Bishop, Howard University School of Religion, Washington, D.C.

Joseph M. Kitagawa, Dean, University of Chicago Divinity School, Chicago.

Thomas C. Campbell, Dean, Episcopal Theological School, Cambridge.

Louis J. Puts, C.S.C., Rector, Moreau Seminary, University of Notre Dame, Indiana.

John H. Tietjen, President, Concordia Seminary, St. Louis.

W. B. Blakemore, Dean, Disciples Divinity House, University of Chicago.

Michael Allen, Dean, Berkeley Divinity School, Yale University, New Haven.

Marshal L. Scott, President, McCormick Theological Seminary, Chicago.

David J. Draswell, President, Gerald L. Borchert, Dean, North American Baptist Seminary, Sioux Falls, South Dakota.

Don W. Holter, President, St. Paul School of Theology, Methodist, Kansas City, Missouri.

Merlyn W. Northfelt, President, Garrett Theological Seminary, Evanston, Illinois.

John L. Knight, President, Wesley Theological Seminary, Washington, D.C.

Albert C. Winn, President, Louisville Pres-

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byterian Theological Seminary, Louisville, Kentucky.

James D. Glasse, President, Lancaster Theological Seminary, Lancaster, Pennsylvania.

Walter G. Muelder, Dean, Boston University School of Theology, Boston.

Fred W. Meuser, President, Evangelican Lutheran Theological Seminary, Columbus, Ohio.

W. Sibley Towner, Dean, Dubuque Theological Seminary, Dubuque, Iowa.

Ira Eisenstein, President, Reconstructionist Rabbinical College, Philadelphia.

Joseph D. Quillian, Jr., Dean, Perkins School of Theology, Dallas.

Roy Pearson, President, Andover Newton Theological School, Newton Center, Mass.

Beauford A. Norris, President, Christian Theological Seminary, Indianapolis.

J. Bruce Behney, Acting President, United Theological Seminary, Dayton, Ohio.

NATIONAL ASSOCIATION OF EVANGELICALS,
Washington, D.C., October 15, 1971.

Hon. JOE L. EVINS,
House of Representatives,
Washington, D.C.

DEAR MR. EVINS: The U.S. Supreme Court decision concerning prayer and Bible reading in the public school has been a live issue for the past nine years. The concerted effort to get corrective action through legislation has varied but the public has had a sustained interest in a Prayer Amendment since 1962.

Contrary to what is usually reported the "practices at issue" which the Court found to be unconstitutional were voluntary on the part of the participants. Justice Douglas was careful to note this in both of his concurring opinions. In the *Engle* case he said:

". . . there is no element of compulsion or coercion in New York's regulations . . . No student is compelled to take part . . . Provision is also made for excusing children . . . from saying the prayer or from the room in which the prayer is said . . . Students can stand mute or even leave the classroom, if they desire."

Again in the *Schempp* decision Justice Douglas noted:

"In these cases we have no coercive religious exercise aimed at making the students conform. The prayers announced are not compulsory . . . coercion, if it be present has not been shown."

So the "practices at issue" were outlawed because they were "religious" and not because anyone was forced to participate. In the light of this many have pressed for administrative and legal decisions which border on the ridiculous.

In the absence of any protest by parent or child little children in Public School 184 (Queens, N.Y.) were forbidden to say, "God is great, God is good, and we thank Him for our food" before they ate. The same prohibition was imposed upon the students in DeKalb, Ill., with another nursery rhyme without the name of God in it because it sounded like a prayer. Both cases were upheld by the U.S. Supreme Court.

The *Washington Star* commenting on the DeKalb case said editorially:

"There was a good bit of speculation a few years ago about the lengths of absurdity to which the court might go after its initial attack on the recitation of prayers in public schools. Now we know. Its ruling in this case is the end of the line."

But the *Star* was wrong. Several subsequent decisions have gone further. In Netcong, N.J., high school students have been forbidden to voluntarily meet before school started to hear a prayer read from the Congressional Record. The Supreme Court of New Jersey also ruled unconstitutional a similar arrangement in Leyden, Mass., for prayer outside of school hours.

Equally absurd, we think, is the suit to enjoin the traditional erection of a Creche on the Ellipse each year at Christmas time and a plethora of other cases which seem to be an expansion of the doctrine established by the Supreme Court in the prayer and Bible reading decisions.

The primary interest most of us have in this matter is to see religious freedom restored. It may well be that prayer and Bible reading no longer has a useful place in the public schools if it ever did. But that is not the point. To outlaw everything that is "religious" we believe is wrong if the "free exercise" clause of the First Amendment means anything at all. Yet that seems to be the construction that is put upon the *Engel* and *Schempp* decisions by the courts at all levels. We sincerely believe that corrective action is necessary and overdue.

The drafting of a language for a Prayer Amendment is very difficult, but we believe you legislators are capable of refining the wording of the currently proposed Amendment if need be. The substance of it reads as follows:

"Nothing contained in this constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

The word "nondenominational" seems to confuse a lot of people and we think it might be deleted altogether without changing the intent of the Amendment. If a qualifying adjective is considered desirable the word "corporate" would probably be less controversial than "nondenominational." The sole issue of the legislation is the exercise of freedom. It is not a question of whether people should or should not pray, or how they pray, but their freedom to pray under appropriate conditions and circumstances.

If enacted the proposed Amendment will restore the freedom of persons to pray in public places when and if it is appropriate. It will leave absolutely undisturbed the freedoms secured by the First Amendment and the entire Bill of Rights.

It will not promote or inhibit prayer by anyone.

It will not impose responsibility upon any public official or individual to pray or not to pray.

It will not require anyone at any time or place to initiate or supervise prayer.

It will not deprive anyone of any rights or privileges he now enjoys.

As everyone knows such legislation cannot become law until it has been ratified by three-fourths of the states. Every poll taken on the subject during the past nine years has indicated an approximate 3 to 1 majority in favor of the Prayer Amendment notwithstanding the rather large number of religious leaders who are voicing opinions contrary to their constituency. Congress has an obligation to let the people decide the issue by the due process provision of amending the Constitution. Surely this should never be done hastily or without due consideration, but there is no other issue on the current scene that has had as long or a more sustained interest by the public than the Prayer Amendment.

There is no other level at which this matter can be resolved. The U.S. Supreme Court seems adamant. Scores of attempts have been undertaken at the state and school board levels to devise a way whereby the need could be met within the strictures imposed by the courts but to no avail. Just recently the Pennsylvania Senate unanimously passed a bill that would permit brief periods of silent prayer or mediation in the public schools. This is being strongly opposed by ACLU which contends that the measure is "patently unconstitutional." In opposing the bill, the ACLU said the New Jersey Supreme Court held an almost identical law to be unconstitutional in 1970 and the U.S. Supreme Court refused to review its decision.

It is hoped that you will not only support the Prayer Amendment with your vote but that you will also contribute your expertise as a legislator and persuasive speaker to encourage other support as well.

Sincerely yours,

CLYDE W. TAYLOR,
General Director.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C.

To: All Members of the House of Representatives who are Freemasons
Subject: The "Prayer Amendment"

We have enclosed material which we believe may be of value to you in your consideration of H.J. Res. 191, the "Prayer Amendment" by Congressman Wylie.

1. A letter to all members of the Craft in the State of Iowa from Grand Master Woodrow Morris.

2. An editorial prepared by Mr. Henry Clausen, Sovereign Grand Commander, Southern Jurisdiction, Ancient and Accepted Scottish Rite of America, for publication in the November issue of the New Age.

Of the wealth of material on the subject of the "Prayer Amendment", we believe that this letter and editorial speak most eloquently to us, and to all members of the Craft, of our responsibility and our obligations.

We urge you to read and consider these messages, and we hope that you will join with us in opposing the "Prayer Amendment"—not only to protect our Bill of Rights, but also to preserve our religious freedom and our democratic form of government.

Sincerely,

FRED SCHWENGEL, 33°.
MIKE MCCORMACK, 32°.

P.S. There is an abundant supply of additional material on this subject, including a list of the leading religious organizations in the U.S. who oppose the "Prayer Amendment" and who have indicated a growing concern with this issue. If you wish further information, or if you have any hesitancy about opposing H.J. Res. 191 please feel free to contact either of us.

GRAND LODGE OF IOWA, A.F. & A.M.,
October 28, 1971.

To: The Masons of Iowa
From: Woodrow W. Morris, Grand Master
Subject: Proposed amendment to the Constitution of the United States permitting the use of prayers in the Public Schools.

Brethren! It would be hard for a Mason, or any group of Masons, to come out in opposition to prayer. But in the controversy over the use of prayers in the Public Schools, it is not a question of being for or against prayer. Rather, it is a question of a proposed amendment to the Constitution of the United States of America which strikes at one of our fundamental liberties—that which is guaranteed all Americans in the Bill of Rights—the separation of church and state.

This guarantee is very close to our Masonic doctrine so plainly stated in our ritual dedication of Masonic Temples. Every Masonic lodge hall in Iowa is in part dedicated to our being "unalterably opposed to any one organization directing and controlling a school, a church, and a seat of civil government." Again, we assert that "Civil, religious, and intellectual liberty are the triple temples of our country's greatness, but they must stand alone, upon separate foundations and under separate roofs."

No! Masons are not opposed to prayer. In fact, as every Mason knows, we believe we should never "enter upon any great and important undertaking without first invoking the blessing of deity."

The amendment to the United States Constitution which is being promoted by Congressman Chalmers P. Wylie in the House of Representatives is designed to sweep aside the landmark decision of the Supreme Court forbidding the use of prayer in the schools as being contrary to the Bill of Rights, and it would, therefore, weaken this guarantee of one of our basic American rights.

The proposed amendment calls for making it legal to use non-denominational prayers in public schools. Who writes such prayers? And after they have been written, who will decide whether the prayer is or is not denominational? (I suspect that the cartoon in the Des Moines Register on September 29, 1971 by Conrad pretty well describes how this might come out.)

As Masons we are for prayer—but in its proper place, under proper circumstances, and at appropriate times; but let us be opposed to any act which is an infringement of our basic liberties.

BEWARE THE BOOMERANG

Congress soon will be asked to pass and to submit to the states for ratification an amendment to the Constitution permitting "nondenominational" prayers in public schools.

That raises these critical questions: Who is going to say what is a "nondenominational" prayer? What authority, governmental or private, will determine the place and content of such prayers? Who will be the super spokesman? How will the prayer be enforced? What provisions of our Constitution will the amendment discard? Will the amendment, in effect, rewrite the Bill of Rights?

These are insoluble and contentious questions in a country of diverse religious creeds. Any attempt at answering them would entangle the government disastrously in a conflict where there should be peace among pluralism. That is why many church organizations oppose the amendment, especially since they feel our Bill of Rights and its First Amendment as presently written adequately protect religious liberty, and that tinkering with the language would intrude the government wrongfully into the religious arena.

It will be recalled that the United States Supreme Court case of *Engel* v. *Vitale* in 1962 struck down as a violation of our Constitution a practice of New York that forced its public school children to recite this daily "prescribed" prayer:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our Country."

There then swept across our Nation in some quarters an emotional and psychological wave criticizing the Court. This cast up upon the shores of Washington several proposed amendments. It was erroneously assumed that the Court was against God. But all that the Court barred was the *enforced* recitation of a state-composed prayer. Any child then or now may pray in a public school *voluntarily*. The vice of the New York practice was the state compulsion. That is the opposite of American voluntaryism.

It is no official concern of the state whether a child prays or is trained in religious values. That is for the parents, the home, the churches or, if desired, religious schools.

Before deciding to amend the Constitution, we should take a deep breath. Like matrimony, it is something that should not be done lightly. We should understand first what will be the full impact upon our future lives. It is not something with which to "tinker". I am reminded of the popular verse of some years ago that ran:

"I thank my God the sun and moon
Are both stuck up so high
That no presumptuous hand can stretch
And pluck them from the sky.
If they were not, I do believe
That some reforming ass
Would recommend to take them down
And light the world with gas!"

The present attempt to amend our Constitution so as to permit the so-called "nondenominational" prayers should be firmly rejected. It would invade our present fundamental Constitutional rights and basic freedoms rather than confer an additional one. It would impair the integrity of our hard-won guarantee of religious liberty. It would tinker with the solid base of interpretive case decisions that have given life and substance to the means by which our Founding Fathers set out to preserve peace and harmony among our people. Such a deviation as now proposed, however slight and however well meant, would be exploited by religious zealots. It would be the foot in the door, the camel's nose in the tent, sure to result in further and eventual fatal intrusions.

May I suggest that as an individual you make your voice heard. Tell your views to your elected representatives. Your help can be decisive.

HENRY C. CLAUSEN, 33°
Sovereign Grand Commander.

INDUSTRIAL UNION DEPARTMENT AFL–CIO,
Washington, D.C., November 4, 1971.

DEAR CONGRESSMAN: This is a plea to Congress that it not meddle with the Bill of Rights. These amendments are the building blocks which sustain our pluralistic society. It is this belief in the virtue and verity of the Bill of Rights which leads us to urge you to vote against the Prayer Amendment (H. J. Res. 191).

Among the most treasured heritages we possess is that of religious freedom. Since the inception of our country, we have retained this right to its fullest. It has been working. It remains unquestioned even in these troubled times. Since this is the undeniable fact why tamper with the Constitution which has so steadfastly guaranteed and made possible this freedom?

We are impressed that all the major religious denominations join in opposition to H. J. Res. 191. They recognize that the task of sustaining the religious spirit in America is deeply individual and essentially private; that it cannot be nurtured by government edict, government preparation of "non-denominational" prayers, by government intervention in the religious lives of children. They realize that the Supreme Court decisions in this area leave religion where it rightly belongs, in the home and our religious institutions, the responsibility of parents and members of the clergy. We subscribe to the sentiment expressed in a recent editorial in a religious publication which noted:

"This amendment is hardly the way to promote a revival of true religion . . . genuine piety is fostered not by government . . . but by families and individuals who practice reverence and obedience to him in all their activities and associations."

Finally, a point of great consequence . . . there has never been a revision of the Bill of Rights in the long history of the Constitution. And for sound reason—the Bill of Rights has worked effectively for the people. To start the process of tinkering with these basic amendments would be to embark on a gravely dangerous adventure. It would encourage the alteration of the Bill of Rights every time a Supreme Court decision did not meet with overwhelming favor. And this would indeed be calamitous.

In short, we ask your support of the Bill of Rights and respectfully suggest that you will best serve the American hope by voting against H. J. Res. 191.

Sincerely,

I. W. ABEL, *President.*

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., July 19, 1971.

DEAR COLLEAGUE: Today you received a copy of the hearings on school prayers, held in the 88th Congress, 2d session. You will note that there were 18 days of hearings and you will note further that every facet of this sensitive issue was explored. These hearings were held before the full Committee of 35 lawyers and at the conclusion thereof no consensus on language could be found that would not breach the intent of the First Amendment.

I commend to your attention the exhaustive nature of these hearings and trust you will conclude, as I have concluded, that additional hearings cannot cover any ground which has not already been covered in the volumes before you.

To discharge the Committee and bring the prayer resolution to the floor of the House would nullify the intensive work of this Committee.

With every good wish, I am

Sincerely yours,

EMANUEL CELLER,
Chairman.

[From the Washington Evening Star, Nov. 2, 1971]

ALBERT SAYS HE WILL OPPOSE RESOLUTION ON SCHOOL PRAYER

House Speaker Carl Albert said today he will oppose the resolution for a constitutional amendment to permit school players. The vote is set for Monday.

"Prayer in school is all right," Albert told reporters, "but I'm afraid this would be tampering with the First Amendment and I'm not prepared to do that at this stage of the game."

Rep. Chalmers P. Wylie, R–Ohio, is leading the prayer effort. He was the chief sponsor of a successful petition drive to force the resolution out of the Judiciary Committee over the objection of Chairman Emanuel Celler of New York.

Nothing can stop Wylie from calling up the resolution Monday. It is considered a privileged matter. As a proposed constitutional amendment, however, passage requires a two-thirds vote.

CONFIDENT OF MAJORITY

Carrying a well-thumbed list of House members, Wylie has said he is confident he has more than a majority for the resolution but he is not certain he has two-thirds.

Wylie said there are 96 House members firmly opposed and 246 for the amendment. That leaves 98 either undecided or unwilling to talk.

House attendance on Monday often is off as much as 100. If only those committed one way or the other show up, Wylie would win. But absenteeism is likely to strike both sides. Albert said he would be unsurprised if Wylie succeeds.

OPPOSITION MOUNTS

Opposition outside Congress has mounted steadily since the petition drive went over the top with the required majority of 218 signatures.

The list of opponents now includes the National Council of Churches, the Southern Baptist Convention, the Lutheran Church of America, the American Baptist Convention, the United Methodist Church, the National Jewish Community Relations Advisory Council and the American Civil Liberties Union.

Until 1962 it was common in public schools to open the day with a classroom prayer. But that year the Supreme Court struck down the practice as a violation of the First Amendment.

[From the Knoxville (Tenn.) News-Sentinel, Sept. 26, 1971]

THE PRAYER AMENDMENT

Congress should reject as unwise the latest proposal to bring religious ritual back into the public schools.

Over the objections of its own Judiciary Committee, the House has agreed to vote

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Nov. 8 on a constitutional amendment permitting "non-denominational prayer"—whatever that is—in schools and other public buildings.

This is the same amendment the late Sen. Everett McKinley Dirksen championed without success in the 1960s. And it has no more merit now than it had then.

The Supreme Court ruled in 1962 and 1963 that neither the recitation of prayer nor the required reading of Bible passages has any place in the nation's public schools.

Such ceremony is a clear violation of the separation of church and state and, in many cases, a ritual that tends to degrade religion rather than glorify it.

The prayer amendment is opposed by many churches as a Government intrusion into the religious affairs of the people.

Yet the amendment seems to —have a good chance of passing the House, and at least a fair chance of getting the necessary two-thirds approval in the Senate.

This would be an appropriate time for Congress to put an end to such controversy—once and for all— turn its attention to more urgent public business.

OAK RIDGE, TENN.,
October 26, 1971.

Hon. JOE L. EVINS,
U.S. House of Representatives,
Washington D.C.

DEAR REPRESENTATIVE EVINS: I wish to make you aware of my opposition to the proposed non-denominational prayer amendment to the Constitution of the United States which will soon be acted upon in the House and Senate. I feel that the right to pray voluntarily is amply protected by the First Amendment and that the Supreme Court rulings on school religious exercises in 1962 and 1963 were wise ones.

As you know, national religious leaders have expressed their opposition to such an amendment and I wish to associate myself with their position. I trust that you will consider carefully your position in this matter.

Sincerely,

REV. DR. ARTHUR GRAHAM,
Minister.

FIRST BAPTIST CHURCH,
Monterey, Tenn., October 29, 1971.

Congressman JOE L. EVINS,
House of Representatives
Washington, D.C.

DEAR CONGRESSMAN EVINS: I had hoped the so-called Prayer Amendment would die a natural death, but since it is still a possibility I urge you to vote against it.

I believe we are protected sufficiently by the First Amendment, and I fear any move to weaken it.

Sincerely yours,

WM. J. POWELL.

OUR MOST PRECIOUS HERITAGE

Our Bill of Rights is America's most precious heritage. For a century and three-quarters it has spread the mantle of protection over persons of all faiths and creeds, political, cultural and religious.

Under our system, special responsibility for the interpretation and application of the Bill of Rights rests with the Supreme Court. In discharging this responsibility the Court has from time to time handed down decisions which have aroused considerable controversy. Some of the decisions have been subjected to strong criticism and even condemnation. There have, no doubt, been decisions which have been deemed by a majority of the American people, at least in their immediate reaction, to have been unwise, either in the conclusion reached by the Court or in the manner by which that conclusion was reached.

It may be that the Court's 1962 and 1963 decisions against state-sponsored prayer and devotional Bible reading in the public schools belong in this category. If so, it is much too early to judge whether it will be the popular judgment or the Court's that will be vindicated by time. But whichever the case, we are convinced that it would be far wiser for our nation to accept the decisions than to amend the Bill of Rights in order to nullify them.

We recognize that the Constitution provides for its own amendment, and that no provision of it, including the Bill of Rights, is immune to repeal or alteration at the will of the people expressed through the medium of constitutional amendment. Yet, it is relevant to recall in this respect the concluding paragraph of Thomas Jefferson's great Virginia statute for Establishing Religious Freedom:

"And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right."

American liberties have been secure in large measure because they have been guaranteed by a Bill of Rights which the American people have until now deemed practically unamendable. If now, for the first time, an amendment to "narrow its operation" is adopted, a precedent will have been established which may prove too easy to follow when other controversial decisions interpreting the Bill of Rights are handed down. In the past, the Court has construed the provisions against infringement of the free exercise of religion and of speech and assembly, or securing the privilege against self-incrimination, or requiring fair trial procedures, in a manner deemed by many at the time to be unduly restrictive of the proper powers of government. It is certain that it will do so again in the future. If the first clause of the Bill of Rights, forbidding laws respecting an establishment of religion, should prove so easily susceptible to impairment by amendment, none of the succeeding clauses will be secure.

A grave responsibility rests upon the Congress in taking this "first experiment on our liberties." Whatever disagreement some may have with the Bible-Prayer decisions, we believe strongly that they do not justify this experiment. Accordingly, we urge that Congress approve no measures to amend the First Amendment in order to overrule these decisions.

LIST OF SIGNERS

Benjamin Aaron, University of California, Los Angeles School of Law.
Richard I. Aaron, University of Utah College of Law.
Norman Abrams, University of California, Los Angeles School of Law.
Lee Allen Albert, Yale Law School.
Owen Alpin, University of Utah College of Law.
Anthony G. Amsterdam, Stanford University Law School.
*Charles E. Ares, University of Arizona School of Law.
Morris S. Arnold, Indiana University School of Law.
Frank Askin, Rutgers—the State University School of Law.
George B. Baldwin, University of Wisconsin Law School.
Milner Ball, University of Georgia School of Law.
Stephen R. Barnett, University of California, Los Angeles School of Law.
Charles H. Baron, Boston College Law School.
*Louis Martelt, Jr., Valparaiso University Law School.
Babette Barton, University of California, Berkeley School of Law.
Patrick L. Baude, Indiana University School of Law.
David C. Baum, Columbia University School of Law.
Albert Beisel, Boston University School of Law.
Edmund O. Belsham, University of Nebraska, College of Law.
Robert Bennett, Northwestern University, School of Law.
Wallace R. Bennett, University of Utah College of Law.
Erie H. Bergsten, University of Iowa College of Law.
Bruce Berner, Valparaiso University Law School.
Arthur L. Berney, Boston College Law School.
Robert Berry, Boston College Law School.
Robert L. Birmingham, Indiana University School of Law.
Boris I. Bittker, Yale Law School.
Charles L. Black, Jr., Yale Law School.
Jerry P. Black, Jr., Vanderbilt University, School of Law.
Vincent A. Blasi, University of Michigan Law School.
Alfred Blumrosen, Rutgers—the State University School of Law.
James F. Blumstein, Vanderbilt University School of Law.
Robert L. Bogomolny, Southern Methodist University School of Law.
Arthur Bonfeld, University of Iowa College of Law.
Ronald N. Boyce, University of Utah College of Law.
Abner Brodie, University of Wisconsin Law School.
Alexander D. Brooks, Rutgers—the State University School of Law.
Ralph S. Brown, Yale Law School.
Paul W. Bruton, University of Pennsylvania Law School.
Robert A. Burt, University of Michigan Law School.
Richard A. Burt, University of Michigan Law School.
Richard M. Buxbaum, University of California, Berkeley School of Law.
Kendal C. Byrnes, John Marshall Law School.
Norman Cantor, Rutgers—The State University, School of Law.
Beverly May Carl, Southern Methodist University, School of Law.
Paul D. Carrington, University of Michigan Law School.
Robert Carters, Rutgers—The State University, School of Law.
Linda K. Champlin, Ohio State University, College of Law.
Richard J. Childress, St. Louis University, School of Law.
Jesse Choper, University of California, Berkeley, School of Law.
Chapin D. Clark, University of Oregon, College of Law.
Homer H. Clark, Jr., University of Colorado, School of Law.
Jack Clarke, University of Alabama, School of Law.
Arlen C. Christenson, University of Wisconsin, Law School.
William Cohen, Stanford Law School.
Robert H. Cole, University of California, School of Law.
Daniel G. Collins, New York University, School of Law.
Thomas M. Cooley, University of Pittsburgh, School of Law.
John E. Coons, University of California, Berkeley, School of Law.
George Cooper, Columbia University School of Law.

*Deans of law schools.

Vern Countryman, Harvard University Law School.
I. Boyce Carrington, University of Georgia, School of Law.
Lindsey Cowen, University of Georgia, School of Law.
Archibald Cox, Harvard University Law School.
Melvin G. Dakin, Louisiana State University, Law School.
Tony D'Amato, Northwestern University School of Law.
Charles W. Davidson, University of Iowa College of Law.
Clifford Davis, University of Connecticut School of Law.
Frederick Davis, University of Missouri School of Law.
Samuel M. Davis, University of Georgia School of Law.
Paul R. Dean, Georgetown University Law Center.
Bernard L. Diamond, University of California, Berkeley School of Law.
Charles Donahue, University of Michigan Law School.
Peter J. Donnici, University of San Francisco School of Law.
Norman Dorsen, New York University School of Law.
*David A. Dow, University of Nebraska College of Law.
Steven Duke, Yale Law School.
Melvn A. Esenberg, University of California, Berkeley School of Law.
Thomas I. Emerson, Yale Law School.
Charles Fairman, La Jola, Calif.
D. M. Field, Mercer University School of Law.
N. P. Feinsinger, University of Wisconsin Law School.
David E. Feller, University of California, Berkeley School of Law.
Roger W. Findlay, University of Illinois College of Law.
Howard P. Fink, Ohio State University College of Law.
Ted Finman, University of Wisconsin Law School.
Edwin Brown Firmage, University of Utah College of Law.
John G. Fleming, University of California, Berkeley School of Law.
Jefferson B. Fordham, University of Pennsylvania, Law School.
Morris D. Forkosch, Brooklyn Law School.
G. W. Foster, Jr., University of Wisconsin, Law School.
Sanford Fox, Boston College Law School.
John P. Frank, Phoenix, Arizona.
Lionel H. Frankel, University of Utah College of Law.
Monroe H. Freedman, George Washington University, National Law Center.
Paul A. Freund, Harvard University Law School.
William Fry, Columbia University School of Law.
Ralph F. Fuch, Indiana University School of Law.
Walter Gellhorn, Columbia Unversty School of Law.
Michael E. Geltner, Ohio State University College of Law.
Jules B. Gerard, Washington University School of Law.
Elmer Gertz, Chicago, Illinois.
Donald A. Giannella, Villanova University.
Willard Hurst, University of Wisconsin Law School.
Stephen B. Goldberg, University of Illinois College of Law.
Ronald L. Goldfarb, Washington, D.C.
Al Goldman, University of Kentucky School of Law.
Roger L. Goldman, St. Louis University School of Law.
Harvey J. Goldschmidt, Columbia University School of Law.
Irving A. Gordon, Northwestern University School of Law.
Murray A. Gordon, New York, N.Y.
Mitch Gould, Boston College Law School.
Charles Goulden, University of California at Berkeley Law School.
Kenneth W. Greenawalt, New York, N.Y.
*Howard L. Greenberger, New York University School of Law.
Charles Gromley, Valparaiso University Law School.
Roger D. Groot, University of Georgia School of Law.
Stuart Gullickson, University of Wisconsin Law School.
Gerald Gunther, Stanford Law School.
Donald J. Hall, Vanderbilt University School of Law.
J. Reid Hambrick, George Washington University National Law Center.
Eva Hanks, Rutgers, the State University School of Law.
William D. Hawkland, University of Illinois College of Law.
Peter H. Hay, University of Illinois College of Law.
*Willard Heckle, Rutgers, the State University School of Law.
*David M. Helfeld, University of Puerto Rico School of Law.
Thomas C. Heller, University of Wisconsin Law School.
Orrin L. Helstad, University of Wisconsin School of Law.
Louis Henkin, Columbia University School of Law.
Lawrence Herman, Ohio State University College of Law.
Bruce C. Heskett, University of Alabama Law School.
Jack Hiller, Valparaiso University Law School.
N. William Hines, University of Iowa College of Law.
Wythe W. Holt, Jr., University of Alabama Law School.
*Bert Earl Hopkins, University of Connecticut School of Law.
Richard S. Hornsberger, University of Nebraska, College of Law.
Harold Horowitz, University of California, Los Angeles School of Law.
James Houghteling, Boston College Law School.
*Harold E. Hurst, University of Denver College of Law.
Willard Hurst, University of Wisconsin Law School.
*Vincent C. Immel, St. Louis University School of Law.
Davis Isbell, Washington, D.C.
Bruce Jacob, Ohio State University College of Law.
Eli Jarmel, Rutgers—The State University School of Law.
Erwin Jones, Valparaiso University Law School.
Thomas E. Jones, Jr., University of Wisconsin Law School.
John M. Junker, University of Washington School of Law.
Sanford H. Kadish, University of California, Berkeley, School of Law.
Yale Kamisar, University of Michigan Law School.
Robert J. Kanenshine, Vanderbilt University School of Law.
Marvin M. Karpatkin, New York, New York.
Kenneth L. Karst, University of California, Los Angeles, School of Law.
Wilbert G. Katz, University of Wisconsin Law School.
Andrew L. Kaufman, Harvard University Law School.
Herma Kay, University of California, Berkeley, School of Law.
Page Keeton, University of Texas, Austin School of Law.
Frank B. Kennedy, Washington, D.C.
Edward L. Kimball, University of Wisconsin Law School.
Donald B. King, St. Louis University Law School.
Arthur Kinoy, Rutgers—the State University School of Law.
*James Kirby, Ohio State University College of Law.
Robert Knowton, Rutgers—the State University School of Law.
Milton R. Konvitz, Cornell Law School.
Guy Kornblum, University of California, Hasting College of Law.
Philip B. Kurland, University of Chicago Law School.
Wayne R. LaFave, University of Illinois College of Law.
James A. Lake, Sr., University of Nebraska College of Law.
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Stanley Laughlin, Ohio State University College of Law.
*Hiram H. Lesar, Washington University School of Law.
Charles H. Livengood, Jr., Duke University School of Law.
*William B. Lockhart, University of Minnesota Law School.
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Ephraim S. London, New York, New York.
Jean C. Love, University of Wisconsin Law School.
Arnold W. Lowey, University of North Carolina School of Law.
Louis Lusky, New York, New York.
James B. MacDonald, University of Wisconsin, Law School.
Daniel R. Mandelker, Washington University, School of Law.
W. Howard Mann, State University of New York at Buffalo, School of Law.
William L. Marbury, Baltimore, Md.
William Marsh, Indiana University School of Law.
Burke Marshall, Yale Law School.
Will Maslow, New York, New York.
Richard C. Maxwell, University of California, Los Angeles, School of Law.
Robert C. McClure, University of Minnesota Law School.
Wayne McCormack, University of Georgia, School of Law.
Thomas R. McCoy, Vanderbilt University, School of Law.
John K. McNulty, University of California, Berkeley School of Law.
James E. Meeks, University of Iowa, College of Law.
*Albert R. Menard, Jr., University of Idaho, School of Law.
Saul H. Mendlovitz, Rutgers—the State University, School of Law.
Samuel Mermin, University of Wisconsin, Law School.
Frank I. Michelson, Harvard University, Law School
Arthur R. Miller, University of Michigan, Law School.
Arthur S. Miller, George Washington University, National Law Center.
Richard S. Miller, Ohio State University, College of Law.
*Vernor. X. Miller, Catholic University of America, School of Law.
Andree Monsees, Valparaiso University, Law School
Girard Moran, Rutgers—the State University School of Law
Arva A. Morris, University of Washington, School of Law.
Charles J. Morris, Southern Methodist University, School of Law.
Herbert Morris, University of California, Los Angeles School of Law.
John K. Morris, University of Utah, College of Law.
Seymour H. Moskowitz, Valparaiso University Law School.

*Deans of law schools.

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William P. Murphy, University of North Carolina, School of Law.
Barry Nakell, University of North Carolina, School of Law.
Nathaniel L. Nathanson, Northwestern University, School of Law.
Charles R. Nesson, Harvard University Law School.
Dawn C. Netsch, Northwestern University, School of Law.
Paul Neulhatser, University of Iowa College of Law.
Wade J. Newhouse, State University of New York at Buffalo Law School.
Frank C. Newman, University of California, Berkeley School of Law.
Melville B. Nimmer, University of California, Los Angeles, School of Law.
Paul Oberst, University of Kentucky, College of Law.
*Leo J. O'Brien, Loyola University, Los Angeles, School of Law.
John C. O'Byrne, Northwestern University, School of Law.
Oliver Oldman, Harvard University Law School.
Robert M. O'Neil, University of California, Berkeley School of Law.
Thomas J. O'Toole, Northeast University, School of Law.
*James C. N. Paul, Rutgers—the State University School of Law.
John Payne, Rutgers—the State University, School of Law.
Roger Paul Peters, Southwestern University School of Law.
*Bruce Peterson, University of Tulsa School of Law.
*Philip E. Peterson, University of Idaho College of Law.
Leo Pfeffer, New York, New York.
Sheldon J. Plager, University of Illinois, College of Law.
Shad Polier, New York, New York.
Daniel H. Pollitt, University of North Carolina, School of Law.
A. J. C. Priest, University of Virginia, School of Law.
Charles W. Quick, University of Illinois, College of Law.
Carl Rachlin, New York, New York.
*Walter A. Rafalko, New York Law School.
James A. Rahl, Northwestern University, School of Law.
Henry Ramsey, University of California, Berkeley School of Law.
Walter D. Raushenbush, University of Wisconsin, Law School.
Allen Redlich, University of Wisconsin, School of Law.
Norman Redlich, New York University, School of Law.
Charles A. Reich, Yale Law School.
Douglas Rendelman, University of Alabama School of Law.
William G. Rice, University of Wisconsin, Law School.
Barbara Rintala, University of California, Los Angeles, School of Law.
Joseph B. Robison, New York, New York.
Charles B. Robson, University of Georgia, School of Law.
Eleanor Jones Roe, University of Wisconsin, Law School.
Sanford J. Rosen, New York, New York.
Keith Rosenn, Ohio State University College of Law.
Arthur Rosett, University of California, Los Angeles, School of Law.
Hugh A. Ross, Case Western Reserve University Law School.
* Eugene V. Rostow, Yale Law School.
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Paul H. Sanders, Vanderbilt University School of Law.
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Herman Schwartz, State University of New York at Buffalo School of Law.
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Alan Schwarz, Ohio State University College of Law.
John Scurlock, University of Missouri School of Law.
Robert Sedler, University of Kentucky College of Law.
Ralph D. Semerad, Albany Law School.
Herbert Semmel, University of Illinois, College of Law.
* Thomas Shaeffer, Notre Dame Law School.
Richard Shapiro, Boston College Law School.
Edward F. Sherman, Indiana University School of Law.
Arthur H. Sherry, University of California at Berkeley Law School.
Melvin G. Shimm, Duke University School of Law.
Norman J. Singer, University of Alabama, School of Law.
T. A. Smedley, Vanderbilt University, School of Law.
Carl B. Spaeth, Stanford Law School.
Francis O. Spalding, Northwestern University, School of Law.
John C. Stedman, University of Wisconsin, Law School.
Walter W. Steele, Jr., Southern Methodist University, School of Law.
George Neff Stevens, University of California, Hastings College of Law.
Richard Stevenson, Valparaiso University Law School.
Lawrence M. Stone, University of California at Berkeley Law School.
Victor J. Stone, University of Illinois, College of Law.
Lawrence A. Sullivan, University of California at Berkeley Law School.
Russell Sullivan, University of California, Hastings College of Law.
Clyde W. Summers, Yale Law School.
Justin Sweet, University of California at Berkeley Law School.
Robert W. Swenson, University of Utah College of Law.
*Michael Swygert, Valparaiso University Law School.
Melvin J. Sykes, Baltimore, Md.
Ralph J. Temple, Washington, D.C.
Samuel S. Thurman, University of Utah College of Law.
E. Wayne Thode, University of Utah College of Law.
A. J. Thomas, Jr., Southern Methodist University School of Law.
Joseph R. Thome, University of Wisconsin Law School.
Paul Tractenberg, Rutgers—the State University School of Law.
Lawrence H. Tribe, Harvard University Law School.
Albert E. Utton, University of New Mexico School of Law.
Arvo Van Alstyne, University of Utah College of Law.
John Van Dyke, University of California Hastings College of Law.
Ann Van Wynen, Southern Methodist University School of Law.
David H. Vernon, University of Iowa College of Law.
*Martin M. Volz, University of Louisville School of Law.

George J. Wallace, University of Iowa College of Law.
Jon R. Waltz, Northwestern University School of Law.
Burton Wechsler, Valparaiso University Law School.
Russell J. Weintraub, University of Texas School of Law.
Burns Weston, University of Iowa College of Law.
William C. Whitford, University of Wisconsin Law School.
Donald D. Wilkes, University of Georgia School of Law.
Melvin L. Wulf, New York, N.Y.
J. Nelson Young, University of Illinois College of Law.
Zigurds L. Zile, University of Wisconsin Law School.
Morris B. Abram, New York, New York.
Robert Bartels, University of Iowa, College of Law.
John Bauman, University of California, Los Angeles School of Law.
Francis X. Beytagh, Notre Dame Law School.
Ralph Bischoff, New York University School of Law.
Reed Chambers, University of California, Los Angeles School of Law.
Leroy D. Clark, New York University School of Law.
Walter G. Farr, New York University School of Law.
Louis Feinmark, New Haven, Connecticut.
Everett F. Fink, Hartford, Connecticut.
Robert F. Fletcher, University of Washington School of Law.
Henry H. Foster, New York University School of Law.
Thomas Franck, New York University School of Law.
James Gambrell, New York University School of Law.
Albert H. Garretson, New York University School of Law.
Fannie Klein, New York University School of Law.
William Klein, University of California, Los Angeles School of Law.
Homer Kritke, New York University School of Law.
John W. Larson, University of Iowa, College of Law.
Andreas F. Lowenfeld, New York University School of Law.
Henry McGee, University of California, Los Angeles School of Law.
Roy M. Meraky, University of Texas Law School.
Addison Mueller, University of California, Los Angeles School of Law.
Russell Niles, New York University School of Law.
John O'Reilly, Boston College Law School.
Herbert Peterfreund, New York University School of Law.
Joel Rabinowitz, University of California, Los Angeles School of Law.
Gary Schwartz, University of California, Los Angeles School of Law.
Michael Schwartz, New York University School of Law.
John Taggart, New York University School of Law.
Telford Taylor, Columbia University School of Law.
Edmund Ursin, University of California, Los Angeles School of Law.
Charles A. Wright, University of Texas Law School.

OAK RIDGE, TENN., *Nov. 1, 1971.*

Hon. JOE L. EVINS,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN EVINS: We would like to urge you to oppose House Joint Resolution 191 which would, in effect, allow prayer in public places and thus alter the First Amendment to the Constitution.

For us, religion is a personal thing. Its practice belongs in the home and in the church, not in public places. House Joint Resolution 191 will change this and therefore, deny those people of dissenting religious beliefs or those who do not wish to make religious expression in public the opportunity to behave as their beliefs dictate. Of course, it can be argued that those people do not have to participate in this public prayer, but self-consciousness and the fear of being made fun of will coerce would-be non-participants into participating. What really frightens us is the effect of this on children. These children will not refuse to participate because they are either too young to understand or too afraid of being ridiculed if they do understand and wish not to participate. The religious teachings of American parents and American churches could be gravely undermined with no legal recourse for these parents. And what we especially fear is an over zealous teacher or group leader altering or destroying all of the beliefs and ideals we have worked so patiently to instill in our children.

There have already been two cases before the Supreme Court that have argued that in choosing whether or not to participate in public prayer or public religious instruction will cause children to have to choose between accepting this religious expression or being made fun of for not participating. These cases are McCollum v. Board of Education (1948) and Engel v. Vitale (1962). The court ruled in favor of the parents protesting these religious activities in both cases because it was obvious that these children could make no fair decision with respect to their religious beliefs. But H.J. Res. 191 could change all that.

The case of Engel v. Vitale especially intrigues us. The Court ruled that the Board of Education in a New York town was unconstitutional in giving a prayer to a principal that each child was to say aloud each day (allowing students not wishing to participate to remain silent or leave the room). However, it was the one dissenting opinion that bothers us. The Justice in question wrote, "... I think that to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation." This statement, we feel, shows an insufficient comprehension of the early history of our country. The concept of religious freedom and dissension developed from a desire to establish a place where all religions or no religion would be accepted. This does not connotate a unified religious heritage, rather a heritage of diverse religions free from persecution by the government and not attached to the government as with the concept of a state church. H.J. Res. 191, if passed, would nullify this heritage of religious freedom and thus wipe out a cornerstone upon which this country was founded.

But most basically, we feel that H.J. Res. 191 must be defeated because its passage would alter the civil rights of American citizens to their great disadvantage. It would also open the door to abuse of this Resolution without legal recourse. We must keep church and state—prayer and public places separate. We implore you to vote against House Joint Resolution 191.

Sincerely,

SANDY K. JOHNSON,
ERIC J. JOHNSON.

OAK RIDGE, TENN.,
October 30, 1971.

DEAR MR. EVINS: I am writing to you about the school prayer amendment (H.J. Res. 191).

Please do all you can to stop this amendment which will weaken the First Amendment, a bulwark of our Constitution.

I am all in favor of everyone praying according to his conscience, but let us not allow the government to interfere in our personal rights.

With best wishes,

MRS. HENRI A. LEVY.

OAK RIDGE, TENN.,
October 24, 1971.

DEAR CONGRESSMAN EVINS: At this time, I wish to express my feelings about the Prayer Amendment.

I feel that separation of church and State is one of the most fundamental rights of democracy and guaranteed to us by our great Constitution. We are each entitled to worship in our own way and to raise our children accordingly.

I feel that the people who want prayer in the schools are really trying to influence other people's children.

I hope you will vote against this amendment.

Sincerely yours,

ROSE G. ROBBINS.

TULLAHOMA, TENN.,
October 26, 1971.

Hon. JOE L. EVINS,
House of Representatives
Washington, D.C.

DEAR MR. EVINS: Last week I attended my church circle. Our Pastor, A. Richard Smith, attended and brought up the subject of the Wylie Bill (concerning school prayer). Offhand, I would have said I was for it but, after discussing the matter with Pastor Smith and learning that most of the higher-ups in church circles are against it for various reasons, I feel I am inclined to be against it also. I feel the church dignitaries have gone into this fully and are better fitted to judge its merits. I understand that a number of denominations have banded against this bill.

Therefore, I am writing to urge you to vote against the Wylie Bill when it comes up, I believe, the 8th of November.

Thanks for past courtesies,

Sincerely,

MARY JEAN BLACKMAN.

NEW ALBANY, IND.,
November 1, 1971.

Hon. JOE L. EVINS,
U.S. House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE EVINS: We have been reading with much concern that the School Prayer Amendment will soon be brought before the House for voting.

We strongly support the restoration of public Prayer and know that its influence is vital to students in the school system.

Those who understand the real meaning of Prayer know that with God all things are possible. And without Spiritual awareness all is chaos.

When Prayer was removed from the schools, crime was accelerated tremendously.

It was the acknowledgement of God in the lives and affairs of the founders of our country that brought it to the success that was attained. Since attention has been turned elsewhere, we have suffered considerably—as individuals and as a nation.

We urge you to vote in favor of the Amendment that will restore public Prayer to these United States: H.J. Res. 191—November 8, 1971.

Very respectfully yours,

Mr. and Mrs. MILLARD V. HAMMOND.

OAK RIDGE, TENN.

Hon. JOE EVINS,
House of Representatives,
Washington, D.C.

SIR: I wish to protest against the proposed amendment to the United States Constitution to permit non-denominational prayer in the public schools and other public places. This action is a direct defiance of recent Supreme Court rulings. It raises many questions such as: "What is non-denominational prayer?" It will change the interpretation of the amendment and affect the established separation of church and state. Such prayer will have a divisive effect on the Nation, and our Bill of Rights will be changed, as a result.

I urge that all matters pertaining to religion be left in their proper sphere—that of the church, synagogue and home—and that prayer, which is so individual, be left to each individual where and when he chooses to use it.

Respectfully yours,

MRS. F. T. HOWARD.

NORRIS, TENN.,
October 23, 1971.

Representative JOE EVINS,
House Office Building,
Washington, D.C.

DEAR REPRESENTATIVE EVINS: This is to let you know that, as a member of a Christian church, I am unalterably opposed to the school prayer amendment (H.J. Res. 191) which the Congress will soon consider. This amendment represents a serious threat to the American religious freedom which we have enjoyed since the country was founded. I hope you will note that at least 26 religious organizations, including the Southern Baptist Convention, have gone on record as opposing the measure. I hope you will use your vote and influence to defeat it.

Sincerely,

B. E. FARMER.

OAK RIDGE, TENN.,
November 1, 1971.

Hon. JOE EVINS,
Washington, D.C.

DEAR SIR: Don't you think it would be a dangerous precedent to alter (or weaken) the safeguards supplied in the Bill of Rights to our Constitution?

The prayer amendment being considered would do just that! It could conceivably open the door to governmental tampering with religious freedom at the local as well as national level.

Please give this serious consideration as it is indeed a serious matter.

Let me assure you that there are many, many of us who feel that the passage of this amendment would be a serious mistake.

Sincerely,

WILFRED J. WARD.

OAK RIDGE, TENN.,
November 2, 1971.

Representative JOE L. EVINS,
House Office Building,
Washington, D.C.

DEAR REP. EVINS: I think the school prayer amendment (H.J. Res. 191) is one of the most unwise and dangerous pieces of legislation to come along in a very long time. The Bill of Rights has served us well for almost 200 years and it is sad that the unthinking response to emotional feelings might lead us to change it for the first time over this issue.

Please vote against the bill and urge other Congressmen to do the same.

Sincerely,

MRS. ELIZABETH PEELLE.

NASHVILLE, TENN.,
November 2, 1971.

Hon. JOE L. EVINS,
House of Representatives,
Washington, D.C.

DEAR MR. EVINS: Please list me as one very much in favor of continuation of the religious liberties afforded Americans by the First Amendment and, thus, as one in opposition to the proposed "nondenominational prayer amendment" (House Joint Resolution 191).

Prayer is an intensely individual, personal, very denominational relationship/response to God . . . something that can be entered into only voluntarily and spontaneously. It is not something that can be confined to the repetition of a grouping of governmentally prescribed words. We have, now, religious freedom. Let us not allow our government (or any elected agency) define, restrict, or interpret our religious responses.

I endorse the Baptist Joint Committee on Public Affairs' listings, charging that opposition to the prayer amendment:

1. Supports the right of all persons to engage in genuine prayer without governmental determination of either place or content of such prayer;

2. Opposes any amendment which would "make of government a judge of theology and an administrator of religious practice";

3. Protests evolvement of a "new religion of nondenominationalism" which would threaten the integrity of both Church and State;

4. Charges that imposing the limits of nondenominationalism on prayer in public buildings nullifies the constitutional rights of the free exercise of religion; and

5. Affirms the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision.

Government cannot determine what is acceptable prayer. Please vote against this proposal and preserve our religious freedom.

Sincerely,

(Miss) LEE POTTERS.

OAK RIDGE, TENN.,
October 30, 1971.

Hon. JOE L. EVINS,
House of Representatives
Washington, D.C.

DEAR MR. EVINS: This is to inform you of my opposition to the school prayer amendment, which is soon to be voted on by the House of Representatives.

The principle of the separation of church and state, as guaranteed by the first amendment, has been the cornerstone of religious freedom in the United States. Tampering with this guaranty would be deplorable.

In view of the fact that practically all the organized religious bodies are opposed to the school prayer amendment, I am puzzled as to where the support for it is coming from, and I wonder whether it really has much support. It appears to be a phony issue if there ever was one.

I am not going to argue the merits of the school prayer question, since this was done by the Supreme Court in its decisions in 1962 and 1963, with which I am sure you are familiar.

Sincerely yours,

RICHARD P. METCALF.

OAK RIDGE, TENN.,
October 31, 1971.

Congressman JOE L. EVINS.

Will you please vote against House Bill, H.J. Res. 191 the so called school prayer amendment.

I do not wish the Bill of rights to be altered in any way.

I teach an adult Sunday school group in my church, First Christian, in Oak Ridge.

Thank you.

ALMA J. FULKS.

OAK RIDGE, TENN.,
October 31, 1971.

JOE L. EVINS,
Member of Congress, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN EVINS: We are writing to inform you of our heartfelt opposition to the H.J. Resolution 191 (School Prayer Amendment). As you probably are aware, twenty-six major religious faiths are in opposition to this amendment—ranging from the Southern Baptist Convention to the Union of American Hebrew Congregations.

We oppose this attack on the first amendment because it surely will impinge on individual religious freedom. We urge you to use your offices to defeat this effort.

Sincerely,

Dr. and Mrs. RALPH M. KNEISLEY.

OAK RIDGE, TENN.,
October 31, 1971.

Representative JOE EVINS,
House of Representatives,
Washington, D.C.

DEAR MR. EVINS: On November 8, I understand that the House will vote on the so-called "prayer amendment" intended to permit something called non-denominational prayer in the schools.

I urge you to vote *against* this evil bill. I want the government to have nothing to do with making laws about religion. The First Amendment is all I want to hear the government say about the subject. A lot of meddlers think they will put God in the schools with laws. They will put the devil in instead.

Please vote against the prayer amendment.

Sincerely yours,

MELVIN FABRIC.

OAK RIDGE, TENN., *November 1, 1971.*

Hon. JOE L. EVINS,
House of Representatives,
Capitol,
Washington, D.C.

DEAR SIR: It has come to my attention that religious freedom, guaranteed by the First Amendment of the U.S. Constitution, is under frontal attack by means of H.J.R. 191 (Prayer in Schools Amendment).

Through this letter, I wish to inform you that I am unalterably opposed to H.J.R. 191.

The Bill of Rights, in its present form, has served this republic well since its inception. Recent cases before the U.S. Supreme Court, in which the Court demonstrated its true greatness in defending the Bill of Rights amply document the need for the minority to be protected against the power of the majority.

If you have any patriotism; if you love your country; if you love freedom, vote no to H.J.R. 191!

Sincerely,

JAMES M. JACOBS.

OAK RIDGE, TENN.
November 1, 1971.

Hon. JOE L. EVINS,
Capitol, House of Representatives,
Washington, D.C.

DEAR SIR: I urge you to vote against House Joint Resolution 191, the so-called school prayer amendment.

H.J. Res. 191 would in fact operate in the public school systems, to captive audiences, required by the State to be there.

H.J. Res. 191 would in fact also extend beyond the public schools into all the public forum.

H.J. Res. 191 will give popular support to the predominant religious practices and persuasions of the majority.

Such popular support will be stifling to the atmosphere of freedom for other religious expression. There will be an environment of a State religion in fact if not in law.

As the Bill of rights is now written, separation of Church and State protects all citizens. H. J. Res. 191 will further the religious freedom of only a "democratic majority."

The intolerance of the silent majority is well-known to all. Note particularly previous cases of point, McCollum v. Board of Education (1948), and Engel v. Vitale (1962). These Supreme Court decisions demonstrate the Court's greatness in protecting every individual American. These cases document clearly the group pressures on minorities to participate against their will; they document clearly the coercive power of the majority; they document the need for the present Bill of Rights, unamended, to protect the minorities.

If you vote no to H.J. Res. 191, you will not be voting to take prayer out of the public schools. Time for individual prayer in the schools and in other public institutions is not prohibited by the Bill of Rights or by any Supreme Court decisions interpreting freedom of religions.

If you vote no to H.J. Res. 191, you will be voting to retain clear separation of Church and State.

Sincerely,

DONNA N. JACOBS.

P.S.: If you couple H.J. Res. 191 with Tennessee's law forbidding disruption of a religious service, then the extent to which both laws might act in concert to prevent religious and political expression in the public forum is unlimited. This is another reason to not only vote no on H.J. Res. 191, but to actively speak against it to your constituents and colleagues.

NASHVILLE, TENN.,
November 1, 1971.

Hon. JOE L. EVINS,
House of Representatives,
Washington, D.C.

DEAR MR. EVINS: The Wylie Amendment concerning authorised prayer has come to our attention. Citizens of the United States do not need this change of constitution. Therefore we urge you to vote *against* the bill when it comes before the House on November 8.

Thank you and best wishes.

Sincerely,

IRMA LEE BATEY
ANNIE MARY BATEY.

STAR BIBLE PUBLICATIONS,
Fort Worth Tex., October 28, 1971.

JOE L. EVINS,
House of Representatives,
Washington, D.C.

DEAR BRO. EVINS: This is to register my vigorous opposition to the nondenominational prayer amendment which is to come before the house on November 8. It seems to me that this would be contrary to the first amendment and that it would give further occasion for religions to demand tax money for the support of their private institutions.

Sincerely yours,

ALVIN JENNINGS,
President, Star Bible Publications.

OAK RIDGE, TENN.

Representative JOE L. EVINS,
House of Representatives
Washington, D.C.

We are opposed to the school prayer amendment H.J. Res. 191.

DON and ROBERTA STEINER.

MEMPHIS, TENN.,
October 30, 1971.

Hon. JOE L. EVINS,
House of Representatives,
Washington, D.C.

DEAR SIR: I am opposed to the "Nondenominational" Prayer Amendment to the Constitution.

Prayer is not presently forbidden in public facilities and there is no need to amend the Constitution to authorise prayer. Voluntary prayer has never been forbidden.

Please do not support this seemingly innocent but deceptive Amendment.

Sincerely yours,

MRS. GERTRUDE SPARKS.

ROBERT E. LEE SCHOOL,
Fayetteville, Tenn., November 1, 1971.

Hon. JOE EVINS,
House Office Building,
Washington, D.C.

DEAR SIR: Vote "no" on the proposed "non-denomination prayer amendment." This proposed change is fraught with political and religious Chicanery.

There is enugh divisiveness in our land without inviting more.

We are unalterably opposed to this proposed amendment.

Vote "no."

Sincerely,

C. A. GEARHEN,
HAVELON E. GEARHEN.

STATEMENTS BY RELIGIOUS GROUPS IN OPPOSITION TO THE WYLIE "PRAYER" AMENDMENT

OPPOSITION TO THE SO-CALLED PRAYER AMENDMENT

Mr. PASSMAN. Mr. Speaker, I include the following letter from the New Orleans Baptist Theological Seminary regarding the so-called prayer amendment.

The letter follows:

NEW ORLEANS BAPTIST
THEOLOGICAL SEMINARY,
New Orleans, La., October 19, 1971.

Hon. OTTO E. PASSMAN,
House of Representatives,
Washington, D.C.

MY DEAR MR. PASSMAN: I note with keen interest that the House of Representatives will vote soon on H.J. R. 191, the so-called prayer amendment. I am writing to urge you to vote against this proposed amendment to the United States Constitution.

I am fully sympathetic to the desire of many people to preserve the right of all persons to engage in genuine prayer. It is unfortunate that many who have clamored for a prayer amendment such as H.J. R. 191 have been mistaken in their belief that the Supreme Court prohibited voluntary prayer in the public schools or other public buildings. As a matter of fact the Supreme Court was very careful to point out that it was only ruling against governmentally required recitation of an officially composed prayer.

The present prayer amendment is not needed to affirm the right to engage in voluntary prayer. That right is already adequately insured in the Bill of Rights in the first amendment. The present proposed amendment opens a pandora's box of constitutional questions which it will take generations to untangle. It would appear to establish a religion of "nondenominationalism" without defining what that is. It also puts the government in the position of deciding what is and what is not acceptable prayer in a public place. It is not in keeping with the long established tradition of religious liberty and the separation of church and state in America. It is not the business of any governmental official or agency to determine the place or content or leader for any form of prayer or other religious exercise. This is said with perfect clarity in the first amendment of the United States Constitution. "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . . ."

I am aware that you signed the discharge petition to bring this bill to the floor. I would hope that your signature on the petition was only for the purpose of bringing this bill to a vote and does not imply your support for it. I agree that Congress needs to face this issue and vote it down resolutely.

The people at the grass roots level who have clamored for the passage of this bill need to be told of the inherent dangers contained in it. I do not understand how anyone who has seen the potential danger of this bill could support it.

Sincerely,

J. TERRY YOUNG.

METHODISTS OPPOSE PRAYER AMENDMENT

Mr. SCHWENGEL. Mr. Speaker, as evidenced by the following statement, the Methodists of this country are opposed to the proposed constitutional amendment regarding prayer in public buildings:

A STATEMENT CONCERNING CHURCH-GOVERNMENT RELATIONS AND EDUCATION

(Adopted by the General Conference of the United Methodist Church, May 1968)

"The fundamental purpose of universal public education at the elementary and secondary level is to provide equal and adequate educational opportunities for all children and young people, and thereby insure the nation an enlightened citizenry.

"We believe in the principle of universal public education and we reaffirm our support of public educational institutions. At the same time, we recognize and pledge our continued allegiance to the U.S. constitutional principle that citizens have a right to establish and maintain private schools from private resources so long as such schools meet public standards of quality. Such schools have made a genuine contribution to society. We do not support the expansion or the strengthening of private schools with public funds. Furthermore, we oppose the establishment or strengthening of private schools that jeopardize the public school system or thwart valid public policy.

"To fulfill the government's responsibility in education, sometimes it and non-public educational institutions need to enter a cooperative relationship. When public funds are utilized, it should be only when it is in the best interests of the whole society. Extreme caution must be exercised to see that religious institutions do not receive any aid directly or indirectly for the maintenance of their religious expression or the expanding of their institutional resources. Such funds must be for the expressed purpose of fulfilling a strictly public responsibility subject to public accountability.

"Public schools have often been an important unifying force in modern pluralistic society by providing a setting for contact at an early age between children of vastly different backgrounds. We recognize in particular that persons of all religious backgrounds may have insight into the nature of ultimate reality which will help to enrich the common life. It is therefore essential that the public schools take seriously the religious integrity of each of the children entrusted to their care. Public schools may not properly establish any preferred form of religion for community and its governmental agencies, and examine their obligations to the community in the light of this support. We believe it is imperative that all church-related institutions of higher education determine on their own initiative what benefits, services, and opportunities they ought to provide for the community as a whole as distinct from their usual campus constituencies.

"In situations where the continued existence of church-related colleges and universities seems dependent upon the availability of direct public grants, those responsible for the administration of such institutions—including the judicatories of the church to which they are related—may have to give serious consideration to several possibilities:

"1. Merger with similarly threatened institutions in order to produce a stronger united institution.

"2. Relinquishing church ownership or control to become public or nonsectarian private institutions.

"3. Establishing schools, departments or chairs of religion adjacent to the public or non-sectarian institutions permitting interchangeable credits.

"In making provision for church-related educational institutions, churches should avoid spreading their resources so thinly that their ability to maintain the integrity of their mission in higher education may be undermined.

"The hazards which confront church-related institutions of higher education in becoming involved in programs supported by government are that such participation may:

"1. compromise academic freedom or divert the institution from its basic philosophy of education;

"2. develop into dependence or lead to adaptation of program in order to insure continued government support;

"3. inhibit the right and responsibility of social criticism, including criticism of governments;

"4. create imbalances in program that will make of education a narrowing rather than a liberalizing experience;

"5. interfere with the right of the institution to be innovative and experimental in program, method, and procedures;

"6. require secrecy with respect to the development, reporting, or proposed application of results of research, which secrecy violates the scholarly norm of free search for and sharing of knowledge;

"7. deny the right to emphasize those values and commitments which it shares with its sponsoring religious body."

"Freedom of inquiry poses a risk for established ideas, beliefs, programs and institutions. We accept that risk in the faith that all truth is of God. Colleges and universities can best perform their vital tasks of adding to knowledge and to the perception of truth in an atmosphere of genuine academic freedom.

"We affirm the principle that freedom to inquire, to discuss, and to teach should be regulated by the self-discipline of scholarship and the critical examination of ideas in the context of free public dialogue, rather than by supervision, censorship, or any control imposed by churches, governments, or other organizations. In the educational process, the individual has the right freely to appropriate for himself what he believes is real, important, useful and satisfying.

"Experience has demonstrated that freedom to inquire, to discuss, and to teach is best preserved when colleges and universities are not dependent upon a single base or a few sources of support. When an educational institution relies upon multiple sources of financial support, and where those sources tend to balance each other, the institution is in position to resist undue pressures toward control exerted from any one source of support. In the case of church-related colleges and universities, we believe that tuitions, scholarships, investment returns bequests, payments for services rendered, loans, government grants, and gifts from individuals, business corporations, foundations, and churches should be sought and accepted in as great a variety as possible. Care must be exercised to insure that all support from any of these sources is free from conditions which hinder the college or university in the maintenance of freedom of inquiry and expression for its faculty and students.

"We recognize that the freedom necessary to the existence of a college or university in the classical sense may be threatened by forces other than those which are involved in the nature and source of the institution's financial support. Institutional freedom may be adversely affected by governmental requirements of loyalty oaths from teachers and students; by public interference with the free flow of information; or by accreditation and certification procedures and requirements aimed at dictating the content of college and university curricula.

"With respect to church-related institutions of higher education, we deplore any ecclesiastical attempts to manipulate inquiry or the dissemination of knowledge; to use the academic community for the promotion of any particular point of view; to require

ecclesiastical 'loyalty oaths' designed to protect cherished truth claims; or to inhibit the social action activities of members of the academic community. We call upon all members of The United Methodist Church, in whatever capacity they may serve, to be especially sensitive to the need to protect individual and institutional freedom and responsibility in the context of the academic community.

BAPTIST GENERAL CONVENTION OF TEXAS OPPOSES ERRONEOUSLY LABELED PRAYER AMENDMENTS

Mr. BCHNARDT. Mr. Speaker, the House will soon be called upon to vote on House Joint Resolution 191, commonly called the prayer amendment. The Baptist General Convention of Texas messengers—delegated—met in Houston, Tex., last week. The issue, House Resolution 191, was opposed by this group. For the information of my colleagues, I submit the following wire service report of the action by the Baptist General Convention of Texas:

The 1.0 million Baptist General Convention of Texas reaffirmed Thursday its "opposition to the constitutional amendments erroneously labeled in some channels as "prayer amendments,' now being considered by the Congress of the United States, which would revise or supersede the First Amendment." The resolution said any amendment would weaken the First Amendment's strength "and open the way to further revision and modification in the future and therefore endanger our precious freedom of religion and religious liberty." The Convention Christian Life Commission report stated that authorizing participation in nondenominational prayer "opens the door for government to determine what is acceptable prayer. . . . No government has the right to determine either the place or the content of prayer. To authorize government to intervene in the sacred privilege of prayer makes government a judge of theology and an administrator of religious practices. The amendment would enable government to impose the limits of 'nondenominationalism' on religious practices in any building built in whole or in part by public funds."

MORE ON PRAYER AMENDMENT

Mr. SCHWENGEL. Mr. Speaker, I have just received the following letter from Tilford E. Dudley, director of the Washington Office of the Council for Christian Social Action, United Church of Christ. The letter, together with the enclosed statement give further indication of the growing concern of church leaders with respect to the so-called prayer amendment:

UNITED CHURCH OF CHRIST, COUNCIL FOR CHRISTIAN SOCIAL ACTION,
Washington, D.C., October 29, 1971.

Re: The Prayer Amendment.

DEAR CONGRESSMAN: You will soon be considering the proposed constitutional amendment permitting devotional prayer in the public schools. I'm sure you are interested in the position of church bodies.

Enclosed is the resolution of the Executive Council of the United Church of Christ, adopted October 13, opposing the amendment because it might be "interpreted as over-riding or reversing the Supreme Court decisions . . . banning prescribed prayers in public schools."

The United Church of Christ is a Protestant denomination formed by the merger of the Congregational and the Evangelical & Reformed Churches. It has 7,000 local churches with about 2,000,000 members. Its top deliberative body, the General Synod with about 700 delegates, meets biennially. The Synod elects the Executive Council, both its 21 members and the 4 church officers who are members ex officio. The Executive Council is empowered to act for the Synod between Synod sessions.

The Division of Christian Education of the United Church Board for Homeland Ministries adopted a statement opposing the amendment on October 19. It said the practical effect of the proposal would "signal the end of . . . the historic neutrality of government toward religion" and require the government to become a theological arbiter. It said the public schools "should save the learning needs of children, not their devotional needs."

On June 10, 1963 the U.C.C. Council for Christian Social Action adopted a similar statement, saying that "devotional activities . . . should not be included in the curriculum of the public schools."

Respectfully yours,

TILFORD E. DUDLEY,
Director, Washington Office.

UNITED CHURCH BOARD FOR HOMELAND MINISTRIES—DIVISION OF CHRISTIAN EDUCATION, EDWARD A. POWERS, GENERAL SECRETARY

Statement Adopted by the Divisional Committee on Christian Education, October 19, 1971

The Division of Christian Education of the United Church Board for Homeland Ministries is deeply concerned about the proposed Wylie "Prayer" Amendment (H.J. Res. 191) calling for the legitimation of "nondenominational prayer" in publicly funded facilities.

The historic neutrality of government toward religion stated in the "no establishment—free exercise" clauses of the present Bill of Rights has kept national public life free from sectarian controversy and. . . . The practical effect of the proposed change would signal the end of this American tradition and could bring about a scramble for state approval by one religious denomination or another. To assume that consensus can be achieved about a non-denominational prayer is unrealistic in the light of American cultural diversity and religious pluralism. Its adoption would require the government and the courts to become theological arbiters, judging which prayers addressed to the Deity are acceptable to the state and which are not. Nothing could be more alien to the spirit of prayer than to shape it to the requirements of the state.

Though we are concerned about the integrity of religion, we are equally concerned about the integrity of the schools. It is no secret that the backers of the proposed change hope and intend to upset the present constitutional prohibition on *official* prayer in the public schools. It is worth noting that there is no such prohibition on *voluntary* prayer by believing individuals when they deem it appropriate nor can there be any such prohibition of a voluntary act in accordance with the free exercise clause of the First Amendment.

The schools have a monumental educational task in these days of rapid change and social upheaval. Diverting them from that task and adding theological concerns to their educational agenda would be tragic. The public schools, in a religiously pluralistic society, should serve the learning needs of children, not their devotional needs. If anyone imagines that the religious groups of America could agree on "non-denominational" prayer or accept the state's definition without conflict, he does not understand the dynamics of religious commitment. The public schools must not become the arena for such controversy. For the integrity of the schools as well as the integrity of religion, we urge the defeat of this proposed change in the Bill of Rights.

RELIGION IN THE PUBLIC SCHOOLS

A Resolution Adopted by the Executive Council of the United Church of Christ, October 13, 1971

The Executive Council of the United Church of Christ supports the Supreme Court decisions banning prescribed prayers and prescribed Bible reading in the public schools, calls attention to the aspect of the Supreme Court decision which affirmed the freedom of the schools to engage in the study of religion, and opposes House Joint Resolution 191 which seeks to amend the United States Constitution. The Executive Council believes this proposed amendment has the danger of being intercepted as over-riding or reversing the Supreme Court decisions and permitting prescribed prayer in public schools.

At the same time, believing that the health of our communities depends upon widely shared and deeply held moral values resting upon fundamental convictions about the meaning of human life and that our society's well being also requires scrupulous fairness to all such convictions and full religious liberty, the Executive Council.

(1) strongly supports efforts of schools to increase and improve the teaching of moral values and the appreciation of the role of religion in the development of our heritage. and

(2) urges the Instrumentalities, Conferences and churches of the United Church of Christ to work to help the public understand both the scope and the limitations of the Supreme Court decisions concerning prescribed prayers and prescribed Bible reading in the public schools.

SCHOOL PRAYER

Mr. DORN. Mr. Speaker, I commend to the attention of my colleagues and to the people of our country the following editorial from the Anderson Independent, October 3, one of the South's leading newspapers:

SCHOOL PRAYER AMENDMENT: CHURCHES RIGHT IN WARNING AGAINST DANGER

Two hundred eighteen representatives, just the needed number, have appended their signatures to a discharge petition to pry the school prayer amendment out of committee and onto the House floor, and it may be that all of them have good intentions in so doing.

But you know what road is paved with those. We submit that the intentions of the 38 national religious leaders who signed a statement in opposition to the proposed constitutional amendment are just as good and their understanding of American traditions better.

The religious leaders include representatives of the Southern Baptist Convention and several other Baptist groups, the United Presbyterian Church, the National Council of Churches of Christ, the Episcopal Church, the United Methodist Church, the United Church of Christ, the Church of the Brethren, the Lutheran Church, the Synagogue Council of America and the American Jewish Congress.

Affirming "the right of school children or any other segment of the population to engage voluntarily in their own prayers without government authorization or supervision," the religious leaders point out that "this right is adequately protected by the First Amendment as it now stands."

So the school prayer amendment is, in the first place, quite unnecessary.

But in the second place, it is fraught with danger. For the evil at which the U.S. Supreme Court struck when it forbade officially authorized or supervised prayers and religious observances in the public schools was precisely the evil which our ancestors sought to escape from in Europe.

It is the kind of evil which produced centuries of religious persecution—government intrusion into the sphere of religion, which is and ought to be a private affair between the individual and the God he worships or does not, as he chooses.

What IS the "interdenominational prayer" which the proposed amendment would permit? As the religious leaders pointed out, they themselves can achieve no consensus on a definition. How, then, can politicians or school board members expect to?

And why should they? Why should prayer be cheapened by using it as a device to quiet unruly children?

The basic issue, though, was stated in simple terms by Sen. Sam Ervin almost exactly five years ago when the Senate rejected a similar amendment.

"Political freedom," the North Carolina Democrat declared, "cannot exist in any land where religion controls the state, and religious freedom cannot exist in any land where the state controls religion."

This the men who wrote the Bill of Rights knew full well, and we do not think their latter-day would-be successors are likely to improve upon their handiwork.

MORE ON THE PRAYER AMENDMENT

Mr. SCHWENGEL. Mr. Speaker, opposition to the proposed constitutional amendment regarding prayer in public buildings continues to grow as evidenced by the following editorial which appeared in the September 24 issue of the Washington Daily News:

THE PRAYER AMENDMENT

Congress should reject as unwise the latest proposal to bring religious ritual back into the public schools.

Over the objections of its own Judiciary Committee, the House has agreed to vote Nov. 8 on a constitutional amendment permitting "nondenominational prayer"—whatever that is—in schools and other public buildings.

This is the same amendment the late Sen. Everett McKinley Dirksen championed without success in the 1960s. And it has no more merit now than it had then.

The Supreme Court ruled in 1962 and 1963 that neither the recitation of prayer nor the required reading of Bible passages has any place in the nation's public schools.

Such ceremony is a clear violation of the separation of church and state and, in many cases, a ritual that tends to degrade religion rather than glorify it.

The prayer amendment is opposed by many churches as a government intrusion into the religious affairs of the people.

Yet the amendment seems to have a good chance of passing the House, and at least a fair chance of getting the necessary two-thirds approval in the Senate.

This would be an appropriate time for Congress to put an end to such controversy—once and for all—and turn its attention to more urgent public business.

WHAT IS A NONDENOMINATIONAL PRAYER?

Mr. ECKHARDT, Mr. Speaker, in a column appearing in the Baltimore News American on October 9, John Roche takes a very perceptive look at the issue of prayer in public schools. Aside from the constitutional questions this issue has raised, Mr. Roche sees some very practical reasons why a constitutional amendment to allow nondenominational prayer in public buildings is not a good idea. For instance, he points out the questionable value of "mechanized piety" and the difficulty of determining an acceptable nondenominational prayer.

I urge my colleagues to read the column which follows:

NONDENOMINATIONAL PRAYERS

(By John P. Roche)

There is something profoundly distasteful, even sacrilegious about organized, mechanized piety. Thus I have always reacted negatively to prayers in the public schools (along with such secular liturgies as the pledge of allegiance to the flag).

I recall, 35 or 40 years ago, starting every school day with the singing of "America," the pledge of allegiance, and a prayer. We went through it like robots (I thought for years it was "one nation, invisible, withlibertynjustusfrail") except that around 1936 the accompanying Nazi-like salute was eliminated. Instead of putting one's arm out, palm out, towards the flag in the corner, you put it out, palm in, and then brought it back to rest roughly on your heart.

The content of the prayers is a total blank, though one can guess that the Almighty was regularly invoked in a supportive, disciplinary role. At any rate, we marched in, went through the drill, marched out. Somewhere along the way a critic popped up briefly and called for an end to the flag salute, but my vague recollection is that my father and his friends of the Veterans of Foreign Wars put a speedy stop to that caper. I can't recall anybody protesting against the prayer, probably because the Jewish kids didn't listen either.

The result is that I have never, over the years, been able to work up much ideological steam on either the pledge or the prayer.

The notion that eliminating prayers from schools will breed Godlessness strikes me as preposterous (I have always believed that Sunday schools are truly the devil's workshops.)

On the other hand, school prayers have never impressed me as a bulldozer that was leveling the wall of separation between church and state. Historically that simply won't wash: note the prayer that opens each congressional day and has since 1790.

However, I was pleased on other grounds when the Supreme Court knocked out school prayers; you might say I found it esthetically cheering. I am deeply moved by the liturgical beauty of a Latin High Mass, and have sat transfixed with grief at a conservative Jewish funeral service as a magnificent cantor poured 5,000 years of suffering into the Kaddish, the prayer for the dead. I am appalled at the thought of millions of little Americans converting religious beauty into a babble of mumbo-jumbo, into a kind of bureaucratic petition.

Moreover, it is an invasion of privacy. Without getting involved in the immensely complex theological question of the efficacy of prayer, we have it on very high authority that when Christ was asked by the Pharisees "when the Kingdom of God should come. He answered them and said, the Kingdom of God cometh not with observation . . . the Kingdom of God is within you." (Luke 17, 20–21).

Congress has before it a constitutional amendment designed to legalize something called "nondenominational prayer" in public buildings, e.g., schools. It is, in effect, an attempt to overturn the various court decisions on the subject.

The proposal is simply insane. What is a "nondenominational prayer?" One addressed "to whom it may concern?" Who will formulate such a monstrosity? An expert committee composed of a Muslim, a Jew, a Catholic, a Jehovah's Witness, 15 assorted Protestants, and a Zen Buddhist? All one can hope is that Congress will quietly give this scheme a "nondenominational" funeral and get back to serious business.

SCHOOL PRAYER AMENDMENT

Mr. DELLENBACK. Mr. Speaker within the near future the House of Representatives will be considering the so-called school prayer amendment to the U.S. Constitution. On the surface a proposal to permit prayer in public buildings seems unquestionably laudable, but I believe that, under careful and close examination, the proposed amendment shows itself as being highly undesirable and even dangerous.

Recently two of the leading newspapers in my Congressional District, the Eugene Register-Guard and the Medford Mail-Tribune, each published an excellent editorial explaining some of the dangers of the school prayer amendment. Since this issue will be before us soon, I call these editorials to the attention of my colleagues and urge them to give careful scrutiny to the points raised therein.

The editorials follow:

[From the Eugene (Oreg.) Register-Guard, Sept. 29, 1971]

HOW NOT TO HELP THE CHURCHES

Soon the House of Representatives will vote upon submitting to the states a proposed Constitutional amendment which would read as follows:

"Nothing contained in this Constitution shall abridge the right of persons, lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

This, of course, is an attempt to get around the Supreme Court's so-called "school prayer decisions," which are so misunderstood by the many and so misrepresented by the few.

Contrary to what a few would have the rest of us believe, the Supreme Court did not rule prayer out of the classroom. Any teacher or pupil can pray all he wants in any school, church, gas station, hardware store, restaurant or football stadium. He has an absolute right to do this. What the Court did say was that nobody should be compelled to pray in any place and, especially, that he could not be required to recite a prayer that somebody else prescribed. Thus prayer, the prayer the supplicant chooses, is protected, not forbidden. Also protected is the right not to pray at all.

And what in the Sam Hill is a "non-denominational" prayer? It should be a prayer that is satisfactory to the Roman Catholic, the Mormon, the Methodist, the Jew, the Buddhist, the Moslem, the Adventist, the agnostic and the non-believer. If it does not please all, it is not non-denominational. Who wants a prayer that fits those exacting requirements?

Most responsible church leaders oppose this foolishness. Congressman John Dellenback is an example. A nationally known figure in Presbyterian circles, he understands the guarantees of the First Amendment. That amendment does not abridge liberty, but enhances it. It guarantees that a person can practice a religion that might be out of favor with the civil authorities—as long, of course as he otherwise behaves himself. Cannibalism is a no-no, religious belief or not.

The founding fathers lived in an age when the church dominated the political life of many countries, as it still does in some. They did not want that to happen here. They also had close at hand instances of religious persecution in which the political institutions dominated or outlawed certain kinds of religious assembly They didn't want that to happen here either. Thus the First Amendment was drawn to insure the mutual protection of church and state and to keep each from becoming predatory.

On Constitutional grounds, the proposed amendment is a monstrosity. The genius of the U.S. Constitution is the absence of trivial details. It is a broad document, setting up a general framework, not a petty listing of exceptions to the rule. If the Constitution had not been broad, and interpreted that way over the years, it could not have survived.

The proposed amendment is a can of worms.

[From the Medford (Oreg.) Mail Tribune, Sept. 24, 1971]

VICIOUS PRAYER AMENDMENT

The House of Representatives soon will vote on a proposed new amendment to the U.S. Constitution. It says:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

Sound innocent enough? Maybe. But maybe not.

What, for heaven's sake, is "nondenominational prayer"?

Is it something that Jews, Mohammedans, Buddhists, Roman Catholics, Baptists, Lutherans, Methodists, Presbyterians, Episcopalians, Seventh-Day Adventists, Jehovah's Witnesses, atheists, agnostics, freethinkers—and those who seldom even think about religion—all can subscribe to without offense?

If so, such a "nondenominational prayer" is going to be a pretty wish-washy affair with no real religious meaning.

And who is going to write these "nondenominational prayers"? A teacher? A school superintendent? A school board? Or a Governor or member of the Legislature? And who gives them that right?

Do you, Mr. Methodist, want your friend and neighbor, the school superintendent, (who may happen to be a Seventh-Day Adventist) to write prayers your children will hear in school, or be asked to recite—or leave?

Or do you, Mr. Roman Catholic, wish an agnostic to prepare a "nondenominational prayer" for the use of your children—or for you yourself, for that matter?

It can readily be seen why the major Christian denominations are opposed to this proposed amendment. What is less clear is how a majority of the House of Representatives was gulled into signing the petition to have it brought to the floor from the Judiciary Committee. And just what are the motivations of those who pushed the petition?

Presumably, this is intended to "return God to the public schools." We had not been informed He had been rejected.

The Supreme Court has never "banned prayer in the public schools." What it did ban was an officially-prepared prayer that could be forced on children of any or all or no religious beliefs.

School children and teachers are now free to pray—or to refrain from prayer—as the spirit moves them, just so long as they do not infringe on the religious or educational rights and beliefs of others. And they can do this in school, or in the courthouse, or the federal buildings, just as freely as they can in their own homes and churches.

This proposed amendment is vicious in that it seeks to enforce a conformity of belief—and in view of the "nondenominational prayer" business, it would be a conformity so bland and meaningless as to be near-sacrilegious to confirmed believers.

Not only is it a threat to freedom. It is a threat to organized religion itself—which in this country has thrived as in no other nation because of the firm wall of separation between church and state.

—E. A.

DISTRICT OF COLUMBIA REST ROOMS UNSAFE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. RARICK. Mr. Speaker, safety in our Nation's Capital continues to deteriorate so rapidly that it may soon be necessary to assign an armed guard to every female employee so that she can go to the powder room without being assaulted.

Yesterday's double rape on Pennsylvania Avenue right beside the White House is going a long way to educate by firsthand experience our permissive minded people that crime is neither controlled nor curbed by massive outpourings of tax dollars, increased civil rights for the criminals, or even gun control laws.

Now the Federal employees in the downtown area near the White House are to have locked rest rooms and additional security guard patrols, and the women are to be advised to go to rest rooms only in pairs. I ask that related newsclippings follow my remarks.

The material follows:

SECURITY TIGHTENED AFTER RAPES—POLICE SQUADS GUARD OFFICES

Two 10-man tactical squads were moved into the downtown area near the White House today in the aftermath of two rapes in office building rest rooms.

The police commander of the area met with security officials from the busy section of the city to plan tactics against intruders.

Insp. Garland Waters, commander of the 2nd District, which covers many of the newer downtown office buildings, including the two Pennsylvania Avenue structures where the rapes took place, said he would re-emphasize a security program instituted last November.

The additional scooter patrolmen sent into the area today were given special instructions and a lookout for the rape suspect—believed to be the same man in both cases. However, their deployment today was also partly for security for the visit here of India's prime minister, Indira Gandhi.

WILL LOCK REST ROOMS

An official of one federal agency that rents space in the building at 1750 Pennsylvania Ave., where one of the rapes occurred, said today that security would be bolstered in its jurisdiction. This would include more uniform guard patrols and locked rest rooms. The official also said that women would be advised to go to rest rooms only in pairs. The United States Information Agency, with main headquarters next door, occupies several floors at 1750.

Police also revealed they were called to another downtown office building yesterday to check a report of a suspicious-looking loiterer near a women's washroom shortly before the two rapes.

Officers could not locate the man. But his description tallied with that of the man believed responsible for the two rapes that occurred within a half-hour of each other yesterday.

The first attack occurred about 12:15 p.m., when a 46-year-old woman was raped in a seventh-floor rest room of the Mills Building at 1700 Pennsylvania Ave. NW.

The busy office building is within a block of the White House and is across the street from the Executive Office Building where a 30-year-old economist, Ritchie Reed, died of multiple stab wounds after being attacked in a rest room Oct. 1. There has been no arrest in that case.

The second rape occurred about 25 minutes later, at 12:40 p.m. in the building at 1750 Pennsylvania Ave., when a 50-year-old woman entered a rest room on the fifth floor.

She was in a cubicle when a man who police said apparently was already in an adjacent booth said, "Don't scream or make any noise or I'll shoot you." He then asked her if she had any money.

When she said she did not, the man—still in the next cubicle and out of her sight—said, "Do as I say and you won't get hurt . . . If someone comes in, don't make a sound."

He ordered her to unlock the cubicle door and face away from it. The man then entered and was attempting to rape her when another woman entered the rest room.

The assailant pushed her face against the wall and held her until the second woman left. The man then raped her, told her to wait there for five minutes, and fled, police said.

In the first rape, police said the assailant may have followed the woman into the rest room. And in one of the assaults, the room was locked, with keys available only to employees.

DESCRIPTIONS MATCH

One of the victims was a federal government employe; the other was employed by a private firm. Both women were white.

Both women gave similar descriptions of the man. He was described as black, in his early 20s, slender, wearing a tan trenchcoat. The second rape victim said he was wearing maroon trousers and brown shoes with a strap and buckle.

The women said they saw no weapons.

A representative of the Charles E. Smith Companies, one of the city's large management firms and which operates 1750 Pennsylvania Ave., said restrooms there, in areas rented by private tenants, had been locked for several years. He said this was the firm's policy in all private-tenant buildings.

An official of the United States Information Agency, said that security also would be tightened in the part of the building in its jurisdiction.

He said that uniformed patrols would be increased. He said a plan was already being put into effect to lock restroom doors "because of a general feeling of unease" and numerous thefts.

Of thieves operating in the area, he said, "The character of these guys has changed. They're more brazen, and they're no longer deterred by old-fashioned controls" such as the mere presence of a guard.

NEW ACTION EXPECTED

The Oliver T. Carr firm, which manages and has an interest in the Mills Building at 1700 Pennsylvania, called a meeting of its officers today to discuss heightened security.

Oliver T. Carr Jr., president of the company of the same name, said today that "we are reacting in a very positive and constructive way" in reviewing and changing security measures in buildings managed by the firm.

He would not discuss specific precautions, either at the Mills Building or at some dozen other buildings managed by the firm, mostly downtown. However, he said, "We have already decided on half a dozen changes and are reviewing our procedures." He said the firm had begun discussing the problem after the Reed slaying.

Police said that the only case similar to yesterday's in the downtown area was a rape of an employe of a building on 15th Street NW two months ago. It also occurred in a restroom.

Security in downtown office buildings—private and government—has been increasingly a problem in recent years, and was highlighted by the rest-room slaying of Reed. Shortly after that at least one agency—the Small Business Administration—installed combination locks on rest-room doors.

GSA IS CAUTIOUS

A spokesman for the General Services Administration, the government's housekeeping agency, said today that "we feel security is tight in our own buildings." But, he noted, "You just can't provide enough people to make any building 100 percent secure—what do you finally do: Put a guard in every rest room?"

The two buildings where yesterday's rapes occurred are private buildings, with some space leased by the federal government. Usually, the GSA spokesman said, the agency would have security responsibility only when a sizable segment of the building was leased.

At GSA buildings, he said, the agency feels that having uniformed guards at most entrances as well as roving patrols inside acts as a deterrent.

Guards are posted during the night at entrances of both buildings where the rapes occurred—but not during the day.

[From the Washington Evening Star, Nov. 6, 1971]

SCREAMS SCARE AWAY MAN IN NW REST ROOM

A woman in a third-floor rest room in an office building at 1800 G Street NW today screamed to scare away a would-be assailant who matched the description of the man who raped two women in separate downtown buildings on Wednesday.

District police early this afternoon had few details about the attack about noon but said that the suspect evidently used the same method as a man who raped a 50-year-old woman in the Proprietary Association Building at 1700 Pennsylvania Avenue and a 46-year-old woman in a fifth-floor rest room at 1750 Pennsylvania Ave. within a 25-minute period.

The building where today's incident occurred is only a block away.

MR. HOFFMAN'S SEEDBED

Hon. PETER H. B. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. FRELINGHUYSEN. Mr. Speaker, this next January will mark the end of the career of an outstanding servant of the world community. Mr. Paul G. Hoffman was appointed in 1958 to be administrator of the United Nations Development Program, and it was through this agency of the world body that Mr. Hoffman was able to work toward his aim of creating "a world without want and a world without war."

Mr. Hoffman's work in the U.N. Development Program laid the groundwork for further development of the less affluent countries of the world, by viewing their problems as a matter of increasing skills and knowledge that would allow them to control the economic development of their countries. He saw a need to improve individual economies, to work "from the outside on the inside, using the resources of the countries themselves, instead of outside stimulants." His was an approach aimed at improving the scientific and technological capabilities of the people of less developed countries, as well as utilising the resources of such countries in the world market, thus stimulating these underdeveloped economies. Under his leadership, the program has moved from a budget of $54 million in 1959 to $241 million in 1971, with a projected aim of $500 million in 1976.

The following is an editorial from the New York Times, honoring Mr. Hoffman and a farewell statement made by him before the Second Committee of the General Assembly on October 14, 1971:

[From the New York Times, Oct. 26, 1971]

MR. HOFFMAN'S SEEDBED

"In order to build a united Europe," Paul G. Hoffman once said, "you first have to build Europeans." In pursuit of this ideal, now seemingly near fulfillment, Mr. Hoffman as head of the Marshall Plan for European recovery after World War II stressed self-help and cooperation among Europeans to solve their common problems.

A similar philosophy has guided Mr. Hoffman's efforts over the last thirteen years to move nations toward a far more ambitious goal, the development of a "global integrated economy" which he sees as the best hope for the prosperity and peace of mankind. As Administrator of the United Nations Development Program, the former automobile executive has used his generous gift of persuasion untiringly to promote self-help and mutual aid among the nations of the world, rich and poor.

Beginning with a modest $54 million in 1959,the U.N.'s development effort has expanded to $241 million in 1971, with a target of $500 million five years hence. These are modest sums compared with the billions invested in the reconstruction of war-torn Europe after V-E Day. They are pitifully inadequate when measured against the needs of the developing countries. But through its location of resources and its development of technicians, the program has laid the groundwork for economic returns far beyond its original investments. The future may reveal this effort as "the seedbed for a flowering human well-being that could cover the face of this planet," Mr. Hoffman told the General Assembly's Second Committee in a farewell address the other day.

Secretary General Thant has nominated Rudolph A. Peterson, the San Francisco banker who headed President Nixon's Task Force on Foreign Aid, to succeed Mr. Hoffman when he retires next January. This could be a fortuitous choice, since Mr. Peterson's study group recommended a major shift in United States aid to multilateral institutions, including U.N.D.P. But if Mr. Hoffman's seedbed is to flower, Congress will have to begin to act on Mr. Peterson's sound advice.

Last year while fifty other countries increased their contributions to the program, the United States contribution remained static at $86.3 million because of Congressional cuts in a Nixon request for $100 million. It is essential that the full $100 million requested as the United States commitment for this year be voted to maintain the momentum of this cooperative effort toward a more prosperous and peaceful world.

NO TIME LIKE THE FUTURE

(Statement by Paul G. Hoffman)

Mr. President, fifteen years ago, in the fall of 1956, I joined this Second Committee of the General Assembly as a representative of the United States of America. On the basis of many discussions with my fellow members from the developing countries, I came to believe strongly that the underlying cause of poverty in the low-income nations was *not* a lack of resources. Rather it was a failure—a *tragic* failure—to realize the potentials of the natural wealth and human talents at the disposal of those countries. It seemed to me, therefore, that there was urgent need for a large-scale programme specifically designed to help the developing nations make progressively better use of their vast latent power to speed their own progress.

The members of the second committee agreed that such an action programme *was* essential. They appointed a sub-committee which worked diligently and creatively for some two years to determine just how this type of technical cooperation could best be moved from concept to reality. They decided that a new United Nations agency was called for, and recommended the creation of the special fund. Among others, Ambassador Henry Cabot Lodge became interested—more than that, he became enthusiastic—about the approach the special fund represented. And he persuaded the United States of America to pledge that it would contribute *one* dollar for every *two* dollars that might be raised for such a programme from all other sources.

Mr. President, in 1958, on this very same fourteenth of October—precisely four thousand, seven hundred and forty-eight days ago—the United Nations General Assembly, by resolution 1240, officially established the proposed special fund. I give the exact number of days which have elapsed since the passage of resolution 1240, because the basic meaning of everything that has been accomplished by the special fund—and its successor, the UNDP—is to be found in the impact of our work on *daily* human life. Development *planning* must often take the perspective of years and decades. But development *progress* must gain momentum day by day. For people—and it is people and their human needs that concern us here—must be able to see, and sense, and take hope from perceptible changes for the better in their lives.

In fact, when Secretary-General Dag Hammarskjold invited me to become managing director of the special fund, I accepted out of a deep-seated conviction that at least *three* fundamental changes were needed in world affairs. First, I believed that there had to be a change in the old ways of peace-making and peace-keeping—since such traditional methods as maintaining a balance of power, creating spheres of influence or building alliances and ententes had proved to have dangerous and sometimes fatal weaknesses. Thus I saw the potential role of the United Nations—based as it was on the principle of collective security—as being supremely important.

But I was also convinced that if the United Nations did not function in ways substantially different from those of the League of Nations, it, too, would fade into formalised futility. Specifically, I felt that the United Nations must be made as directly relevant as possible to the daily lives and future hopes of all the world's peoples. And since there was such desperate need—in everyone's interest—to help speed the economic and social progress of the world's low-income countries, it seemed clear that a major UN role in that effort would do much to give the organization this life-sustaining relevance.

Finally, I felt that some fairly radical changes were called for in the development process itself. As I indicated earlier in these remarks, I believed that such changes must focus on a better and fuller utilisation of low-income country resources. For example, the low-income countries obviously required large-scale capital investments—both domestic and external—to finance urgently needed and often quite costly improvements in agriculture, industry, infrastructure and other economic sectors. Yet they could not realistically count on a long-term continuation of these capital flows, unless they could accurately identify and assess those natural resources that were truly investment-worthy. For while, as I have noted, it seemed clear in 1959 that the low-income countries *did* possess vast untapped natural riches, their location generally remained to be tracked down and their specific usefulness in the complex development process remained to be discovered.

Then, again, the people of the low-income countries had to be helped to acquire the skills and knowledge which would allow them to assume control of their own development and—particularly—of the domestic resources for fueling that development. Only in this way could these countries become fully independent both economically and politically—and take their rightful place as full members of the world community.

Finally, if either of these new directors were to be followed with any real hope of success, the low-income countries would have to acquire the scientific and technological capabilities that are essential both for creating economic wealth and for using it to advance human well-being.

This interlocking pattern—which soon came to be known as "pre-investment and technical cooperation"—was not only some-

what experimental but also a bit paradoxical. On the one hand, because pre-investment was a rather indirect approach, it could not be expected to produce such rapid short-term results as could, for example, the direct provision of capital. On the other hand, it seemed the surest path to long-term progress—progress that would have steadily growing momentum and lasting impact because it was based on the *internal* growth resources of the developing countries themselves rather than on perpetual injections of outside stimulants.

Mr. President, many events that have taken place since I assumed my first United Nations post have strengthened the convictions I held at that time. With regard to peace-keeping, for example, when governments have provided the UN with the support required to do the job, the organisation has compiled a far more constructive record than is generally appreciated. In fact, to borrow a phrase from the national sport of my own country, its batting average in this regard is better than that ever registered by any other peace-keeping mechanism. Moreover, the UN has acquired matchless facilities for quiet diplomacy, for conciliation, for relieving tensions through public dialogue on debate, and for constabulary action. These capabilities, if allowed their full potential scope, could make our organisation what the peoples of the world originally dreamt it would be—the eventual guarantor of a world without war.

It can also fairly be said that the UN's involvement in efforts to realise another great human dream—the dream of a world without want—have strengthened all aspects of the organization. Although its economic and social activities have been quantitatively modest, they have made the UN newly relevant to more than a hundred governments and to hundreds of millions of people. Thus, the United Nations' future now rests on a far firmer base than that ever possessed by any previous international organization.

A prime reason for this, of course, is the fact that on balance the development efforts of the United Nations family have largely met the expectations with which they were undertaken. Speaking of the UNDP alone, its cooperation with low-income countries all over the world has already helped rewrite our planet's catalogue of such vital natural resources as arable land, water for irrigation and power production, industrial minerals, conventional and exotic fuels, and the varied wealth of the oceans. Moreover, the projects that uncovered these resources, and others aimed at evaluating low-income country opportunities for productive commercial enterprises, have helped to stimulate five thousand million dollars of follow-up investment capital.

In addition, well over six hundred thousand men, women and young people of the developing nations have been locally trained in the skills required for exploiting domestic resources to produce domestic benefits. Because much of this training work involves the teaching of teachers and the instructing of instructors, new knowledge and new abilities are multiplying themselves and spreading very widely from small core-groups.

The achievements of UNDP-assisted institutes for applied technical research cannot, naturally, be quantified in the same statistical fashion. Nevertheless, there is ample evidence that this work has appreciably strengthened the technological muscle of the developing nations. What is happening here is not a mere transfer of technology from the industrialised to the low-income countries. It is an organic adaptation and root-taking process—in the course of which, incidentally, some new technologies are springing up which may find an even fuller flowering as they are re-seeded in the wealthier countries to whose problems they are also applicable.

One example which immediately comes to mind, is the use of saline water for irrigation. The rather fascinating story of that project is told in the portfolio entitled "in a real and vital way" which I have had the privilege of providing to the members of this committee. And that portfolio presents only a minute part of the indisputable evidence that multilateral pre-investment and technical cooperation is no longer experimental but essential.

Beyond these tangible accomplishments, there are a number of intangible gains which merit mention here. The special fund, and later the UNDP, have used their resources to help finance and coordinate the field activities of the UN's department of economic and social affairs and of sixteen other international agencies affiliated with the UN family. In this way the UN system has made available to the low-income countries development wisdom and experience from every part of the world—including the hard-won practical know-how of the developing countries themselves. We are proud that one third of the experts serving abroad under UNDP programming and financing come from low-income countries that are receiving UNDP assistance.

The UNDP's participating agencies, for their part, have not only restructured themselves individually for effective development work in the field. They have also made remarkable progress towards welding themselves into an integrated development system which—though by no means fully perfected—is already unique in the annals of international and inter-organisational cooperation.

Furthermore, in 1958, the United Nations needed a greatly expanded field development network—because development is a grass-roots matter which cannot be successfully masterminded from a detached and lofty distance. I take particular satisfaction from the fact that, starting with twenty-eight resident representatives of the technical assistance board, the UNDP now has almost one hundred full-time, local and regional offices. All of these, today, have great responsibilities and great opportunities to function as leaders of the most experienced development coalition the world has ever known. Moreover, through its field offices, our UN development system can maintain direct and intimate contact with the needs, opportunities, activities and aspirations of the low-income countries we serve.

I would not lay claim, Mr. President, to a record of total success. We have experienced a number of serious problems and shortfalls affecting, on occasion, the quantity, quality and rapidity of our response to low-income country needs. As this committee knows, at the June 1968 meeting of the UNDP's governing council, I asked that council to authorize the undertaking of what was called a "capacity study". This study aimed at providing recommendations for so restructuring the UNDP that it would be able—with normal evolutionary changes—to handle a $1,000 million programme by 1976, with approximately half the resources for such a programme coming from the recipient countries. Such restructuring was necessary because of a four-fold growth in services rendered by the UNDP over the years since 1959, and an even greater growth in the diversity and depth of those services.

On the basis of the capacity study, of the UNDP's own experience, and—above all—of the work undertaken by our governing council, a consensus on restructuring was reached. To the best of our ability, the changes recommended in that consensus have been fruitfully carried out. We have established four regional bureaux, a bureau for programme coordination, and a bureau for policy planning. This latter bureau is concerned with evaluating our programme's progress and effectiveness, and with providing long-range guidelines on new directions the UNDP might take. It also serves the advisory panel on programme policy, whose members include some of the most distinguished experts in the entire development field. Working under the chairmanship of Mr. David Morse, this panel searches for the best means of helping developing countries to cope with such pervasive and critical problems as unemployment, malnutrition, the population explosion and the relationship between development and environmental protection through new and more adequate forms of technical cooperation. The panel reports its findings to the administrator who, in turn, submits them to the inter-agency consultative board and then—if appropriate—to the governing council for action.

To sum up in a very few words what has happened since 1959, our programme has not only grown in the size and scope of its activities. It has not only evolved a new physical and operational structure. It has also, I believe, become continuously more knowledgeable about the staggering dimensions and unbelievable complexities of the development process—and continuously more flexible and innovative in meeting the demands of that process.

In this connection, Mr. President, I have mentioned some truths that seemed clear to me when I became managing director of the United Nations special fund. But there were also many truths which I did *not* then clearly see—and quite a number which I didn't see at all.

To begin with, it was common knowledge in 1959 that both gross national products and individual productivity rates throughout the low-income countries had to be greatly and rapidly increased. Sophisticated development thinkers also perceived the necessity for establishing production priorities—so that, for example, industrialization would have an adequate agricultural base, and so that there would be some kind of division of labor among the various low-income countries in their productive output. But at that time few, if any, had grasped the essential truth that a more equitable *distribution* of both the means of production and of newly produced wealth was equally essential. In fact, only lately have we come to realize that this and other types of social reform are not only moral and political imperatives, but vital incentives to productivity itself. For it is a simple human truth that no one can or will work hard or well for long, unless he is rewarded with an adequate income and adequate opportunities for a life of decency and dignity.

This brings me to one of the most acute dangers which we did not foresee at the start of the 1960s—the crisis of unemployment that now casts so dark a shadow over the 1970s. Hundreds of millions are already jobless or underemployed throughout the developing countries, and—because of the population upsurge—their numbers are constantly climbing. This is a mainspring of social unrest and even of violence. It shackles national productivity. Worst of all, it rots the human spirit in as deadly a way as disease ravishes the human body. Unemployment and underemployment are twin plagues which must be overcome—and this may well turn out to be the number one priority of the second development decade.

Considering the problem of health in more literal terms, I also did not fully appreciate, in 1959, the direct relationship between health improvement and economic growth. Healthy people can produce more than they consume. Sick people consume more than they produce. And while major improvements in disease prevention and medical treatment have been realized by the low-income countries, this remains a major problem area.

In 1959, it was also difficult to detect the symptoms of the urban breakdown that now

threatens so large a part of the developing world. Going almost equally unchecked was the deterioration of the countryside which has proved to be a major cause of many troubles afflicting the cities. Now, it is glaringly apparent that new ways must be sought to reduce urban overcrowding by making it possible for people to earn a decent living and live a decent life in rural areas. The "green revolution" is evidence of the contribution that applied agricultural research can make to solving this problem. But further research must be carried out, and the results even more widely applied, so that the benefits of the green revolution will grow, and expand their impact to increasing numbers of people in ever larger parts of the world. Greater agricultural productivity is, of course, only one of many changes which must take place if rural life is to be a better life. Education must be oriented to specific rural needs. Industrialization must be decentralized to rural areas. Above all, the will to modernize and the willingness to accept change must be invigorated.

Again in 1959, many of us fell short of fully understanding the fact that a revolution was needed in all areas of education and training. We know, of course, that the illiterate and the unskilled were numbered in the hundreds of millions. But we did not realize the vital importance of closely orienting education and training to the demands of development itself. Nor did we truly appreciate that this orientation had to be accomplished without neglecting cultural needs, or smashing supportive cultural patterns. For man not only does not, but cannot, live by bread alone.

The overwhelming impact of the population explosion was also only dimly felt at the start of the 1960s. Now, however, we know that the war against poverty and poverty of opportunity simply cannot be won so long as masses of unwanted children continue to be born into a world that cannot adequately feed, clothe, house, and school them—or, even give them the loving care which is as essential to their healthy growth as having enough to eat.

A further problem which we sensed—but about which we were too little concerned a decade or so ago—was the problem of protecting our planet's environment and conserving its resources. For this, I have less excuse than most, since it was two of my own countrymen—President Theodore Roosevelt and Governor Gifford Pinchot—who over sixty years ago first sounded the environmental alarm. The clamour of that alarm is today almost deafening—and for very good reason. We have used up this planet's natural resources at a frighteningly reckless rate. We have so polluted the atmosphere, the water and the soil that with almost every breath of air and every bite of food, we also too often ingest an assortment of environmental poisons.

Yet I firmly believe, Mr. President, that there is *no* irrevocable conflict between development and environmental protection. Quite to the contrary, they can and must be mutually supportive. I would like to dwell briefly on this point because it is rightly of such great public concern.

First of all, increased productivity is necessary for providing both the financial and the technical resources to undo the environmental damage that has already been done. Second—and here the work of the UNDP provides confirming testimony—development properly carried out is a *means* of resource improvement and conservation. In fact, our projects of land irrigation, soil improvement, reforestation, fishery development, hydro-electric and geothermal power production and urban planning are environment-oriented by their very nature. Third, the new earth resources satellites which will soon be orbiting our planet, are equipped both to locate new resources, and to detect the early signs of resource damage or depletion. This is another example of the potential marriage between development and conservation, with technology as the beneficent broker.

Furthermore, I have read some recent research reports which throw an interesting light on this entire situation. From this research, it seems probable that our growing pollution problems are *not* primarily caused by excessive growth in production. A more basic reason may be that we are turning out *new types* of goods, and using *new types* of productive methods which are highly pollution-prone. It has been suggested, therefore, that one way in which the pollution crisis can be substantially eased is through an increased use of such renewable, natural substances as wood, rubber and animal fibres. I find this suggestion intriguing because, for obvious reasons, it would offer the low-income countries significantly better opportunities in international trade.

There is another truth about the development process which was perhaps not sufficiently recognised in 1959. This has to do with the importance of building a network of global trading relationships in which the low-income countries can make their essential contributions to a healthier global economy—and through which they can earn increasing amounts of the capital they need for modernising their productive machinery. To this end, the wealther countries must make concessionary adjustments in both their tariff barriers and their import quota systems—since these present "rules of the game" put most of the low-income countries at an unfair and insuperable disadvantage in the international market place. As a by-product, they also perpetuate today's globally distorted patterns of international trade, and prevent a truly rational division of productive labour. For their part, however, the developing countries must not so over-protect their domestic industries as to keep production costs at levels which would both limit domestic consumption and prevent a sizable growth in exports. This kind of export growth is essential to the low-income countries—as I have just suggested—since it constitutes their primary means of earning foreign exchange. In short, a delicate balance must be struck that will serve the interests of both the low-income countries and the entire global economy—a difficult, but surely not unattainable, goal.

One step toward reaching it would be the provision and use of external aid in ways that would more directly help the developing countries to strengthen their trading capabilities, both with each other and with the rest of the world. A growing number of UNDP-supported projects are devoted to this end—as well as to helping the low-income nations increase their earnings from such so-called "invisibles" as the tourist trade. Might I also add my voice to that of the under-secretary-general for economic and social affairs, Mr. Philip De Seynes, who so eloquently expressed to this committee the need for the current reexamination of world fiscal policies to take into account the requirements of the low-income countries—Not as a peripheral matter but as part of the vital centre.

Finally, and of great importance, I did not adequately appreciate the role that a stable government—and a centralization of development responsibility—play in the development process. Unless such responsibility is accepted at the very highest levels—by a prime minister, or a single member of his cabinet, or a central planning authority—progress will be unnecessarily slow and erratic. At the same time, experience has also demonstrated the importance of *popular* participation in planning, as well as in carrying out, development activities. For there is a direct link between the degree of participation and the depth of motivation.

Mr. President, the list of problems I have just cited would seem enough to stagger the stoutest of heart—even though that list is by no means all inclusive. Yet, there is another—and I think fundamentally more valid—way of reacting to this roster of difficulties. For the problems we face today are essentially *not* new problems. They were present, at least in embryo, long before the start of the 1960s. The fact that today we can and do recognize these problems is to me a source of great encouragement. For it is a matter of historical record that the gravest political and economic crises which have confronted the world in the twentieth century came to a head because men could not see, or would not face, their basic causative factors. The other side of the coin is equally a matter of record. Whenever we recognised our dangers and defined their dimensions accurately, we have always been able to cut them down to manageable size. In many cases, we have even been able to convert them into opportunities for progress. In short, while the 1970s are pregnant with possible disaster, these same years can also give birth to both a far more livable world and a far better way of life for all its people.

But if this is going to happen, certain economic, political and social conditions must be met. In the political field we must ease international tensions, thus creating a climate which will permit us to reduce our present obsession with armaments to a more realistic level based on actual security needs. It simply mocks reason that the wealthier nations are devoting some two hundred thousand million dollars every year to building their defense capabilities, and less than fifteen thousand million dollars to helping their poorer next-door neighbours combat the poverty and poverty of opportunity which are major sources of international tension.

At the same time, we must also move rapidly toward a goal which may now be unattainable in the political sphere but is quite feasible in the economic. For while it may take nations a long time to learn how to stop shooting, or even shouting, at one another, they can surely come to terms with the fact that—from an economic standpoint—our planet is no longer many worlds. Actually, it is very close to being one *one* world—and all our economic policies must be shaped in conformity with this growing interdependence.

I can attest to the feasibility of that aim on the basis of my personal experience as Administrator of the European Recovery Programme. It has been quite rightly said that there are vast differences between the Marshall Plan and our current development efforts, because the one dealt with the basically simpler problem of reconstruction while the other involves the much more difficult business of building from the ground up. Yet, if the methods were different, some of the goals are very much the same. So, too, can be some of the end results.

Specifically speaking, the integration of Western Europe's national economies and the eventual creation of a European Common Market were indispensable prerequisites for progress toward recovery. That integration moved rapidly ahead and the Common Market came into being. Not only did this help stimulate an almost miraculous economic growth in the participating countries, it also welded their economies so tightly and complexly together as to make it highly unlikely that war can ever again erupt between those nations of Europe that were long traditional enemies. In the same sense, a *globally* integrated economy—one in which the richer and the poorer countries both contribute and receive as equal partners—is a prime prerequisite for tomorrow's development progress. And to the extent that we do create this one

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economic world, we shall also build an irreversible momentum towards world peace.

I think I can add, Mr. President, without being accused of self-serving, that an important part of this progress toward economic globalism must be a substantial strengthening and expansion of multilateral development programmes. Every survey made of today's development scene agrees on the need for increasing the ratio of multilateral to bilateral assistance, from its present level of approximately ten per cent to between 20 and 25 per cent.

As regards the UNDP, let me take this opportunity to make a final restatement of our need for increased resources. It is true that voluntary pledges have grown from some 54 million dollars for 1959 to some 240 million dollars for 1971. But that 240 million dollars, in my view, represents just about half of what the developing countries require and could absorb from the UNDP system—and about half of the amount which that system is rapidly equipping itself to dispense with full effectiveness. Thus, I should like to express once again my fervent hope that—by no later than 1976—voluntary contributions to the UNDP will reach the 500 million dollar level.

To these political and economic considerations, let me add a brief word about the need for new social approaches. As I have already said, extensive social reform is essential to permit a much wider distribution of wealth and a much greater equality of opportunity than most of the world's people now enjoy. But there is another type of social reform which I consider no less imperative. By this I refer to the need for more mature and farsighted approaches to the use of technology.

Frankly speaking, the way we have handled technology resembles far too closely the way that the sorcerer's apprentice in the fairy tale tried to employ powers which he did not understand and could not fully control. Far too much of our technological wizardry has been devoted to creating unspeakably frightful weapons. Far too much of it has also been heedlessly employed for exploiting the earth's resources, rather than for rationally using and continually replenishing them. And far too much of our technology has been applied without due consideration for its impact on the human spirit, on our cultures and on our ways of life. As a result—while technology has made it possible for hundreds of millions of people to improve their material conditions—our planet is in many ways becoming a more dangerous and less humanly satisfying homesite for the entire race of man.

In view of this trend, we must make a clear-cut decision. Either we take fuller control of our technology and consciously turn it to more humanistic ends, or eventually our technology will control and completely dehumanize us.

As I appear before you for the last time, Mr. President, I will take the liberty of saying a very few personal things that I have long wanted to say. The days of my involvement with development have been among the richest, the most fulfilling, and the most gratifying of my life. They have been enriched by invaluable associations with men and women of good will from every part of the world. They have been fulfilling because my work has been more absorbing, more challenging and more interesting than anything I have ever done or could even imagine doing. And they have been gratifying because I have had the chance to see that progress toward a better world is in fact being made. That progress is far too slow—and it is appalling to contemplate the fact that in large parts of our planet poverty and poverty of opportunity still kill and permanently cripple quite as many people as would be killed or permanently crippled in a conventional war. Nevertheless, conditions *are* demonstrably better in several respects than they were ten years ago. Beyond this, there is a visibly growing momentum in both the development process, and the process of international cooperation for development. If we take full advantage of our opportunities to accelerate that momentum, we can create a future quite unlike any time that ever was before. We can build the first truly humanistic society in all of human history—a society in which the great majority of men, women and children can find personal happiness, personal fulfillment, personal meaning and purpose in the days and years of their lives.

May I close by saying that major credit for whatever may have been accomplished by the United Nations development programme belongs to Secretary-General U Thant. He is not only intellectually but emotionally concerned with speeding development progress for he comes from a poor country, and poverty is something he has seen and lived with. His unfailing encouragement and support for our programme has been one of its strongest moving forces.

I would also be remiss if I did not place on the Record here the great contributions made by my present and former associates in the UNDP—the headquarters staff, the field staff, the international experts and their national counterparts. I only wish that I could name every one of them, for these many thousands of men and women—who have been called the UN's ploughshare armies—deserve to be personally known for their deeds and their dedication. I am sure that my successor will be supported with the same high competence and unswerving loyalty that has always characterized the UN development family. And I am equally sure that this committee will be the same wise and generous source of strength for the UNDP's new administrator that it has always been for me.

My warmest thanks go to both the present and past members of our programme's governing council. Through the years, they have shown continuing evidence of their deep concern for development. And they have translated this powerful feeling into effective practical action by the enlightened guidance they have provided to the programme's administration.

Very shortly I shall step down from the post I have held for four thousand, seven hundred and forty-eight days. But I shall never step away from the convictions that brought me to that post, or from a concern about the future of development. For, Mr. President, I regard development as one of the greatest causes to which mankind has ever devoted itself in all its long history—a cause which the future may reveal as the seedbed for a flowering of human well-being that could cover the face of this planet.

EVERY RED DIPLOMAT IS A TRAINED SPY

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. RARICK. Mr. Speaker, the decision of the Belgian Government to expel or bar from Belgium more than 30 Soviet spies disguised as diplomats as announced in yesterday's Washington Evening Star is more evidence that imperialistic Russia has not abandoned its traditional practice of subversion of free countries by its agents.

According to the news account, Soviet diplomats and trade representatives will be asked to leave in small groups. Details of the nature of the subversion were not provided, apparently because the Belgian Government is playing down the incident since the North Atlantic alliance with headquarters in Brussels has assigned Belgium the task of arranging the first talks with the Soviet Union on troop reductions in Europe.

The most recent case of the disclosure of Russian spy activity recalls to mind two other recent instances of subversion by the Soviets.

In March of this year, the Mexican Government expelled five members of the Soviet Embassy staff in retaliation for alleged Soviet support of a plot to overthrow the Mexican Government—See CONGRESSIONAL RECORD of April 27, 1971, pages 12294–12295. Officials had uncovered a plot by Mexican guerrillas trained in Moscow and North Korea to overthrow the Mexican Government.

In September of this year, the British expelled 105 Soviet Communist employees at the Russian Embassy in London on the basis of information and documents revealing a Russian spy network and plans for infiltration of agents for the purpose of sabotage—See CONGRESSIONAL RECORD of September 24, 1971, pages 33403–33404.

But in the United States, where we have diplomats of numerous Communist countries as well as the Reds in the United Nations crowd, the Nixon administration takes the position that the Communists are our friends and can do no wrong. We not only have Red diplomats here in America in the Soviet Embassy and consulate but also have them in embassies of most of the Communist countries of the world as well as at the U.N. Headquarters in New York City where they are given diplomatic status.

And our leaders are so busy improving trade relations with Russia, which supplies 80 percent of the arms, planes, and other materials of war to kill our American men in North Vietnam, that they fail to understand that every Red diplomat is a trained Communist spy.

I insert related newsclippings at this point in the RECORD:

[From the Evening Star, Nov. 4, 1971]

BELGIUM SET TO EXPEL 30 RUSSIANS

BRUSSELS.—The Belgian government has decided to expel or bar from Belgium more than 30 Soviet citizens named as spies by defector Anatoi Tchebotarev, an informed source reported today.

About a third of the Soviets have already left the country, the source said. He predicted there would be no sudden mass expulsion, as there was recently in Britain; instead, diplomats and trade representatives will be asked to leave in small groups.

They would all be gone "within a reasonable time," the source said. This would reduce the number of adult Soviet males in Belgium by more than a fourth.

The Foreign Ministry declined to comment.

Tchebotarev, 33, was a counsellor at the Soviet Trade Mission in Brussels a few doors from the U.S. Embassy. He left Oct. 3 in a car belonging to his mission. Later, it was announced that he is in the United States. The list of names he furnished was given to Belgium by the U.S. government, the source said.

Among those who have returned to Moscow are Konstantin I. Leontiev, 50, commercial director of a Soviet-Belgian trading firm called Belso, and two employes of the Soviet airline Aeroflot, Oleg Gluchenko, 34, and Yuri Parafenov, 40.

An informed source said Leontiev was a colonel of Soviet military intelligence though not its chief in Belgium.

One reason the Belgian government is playing down the case is that the North Atlantic alliance, which has its headquarters in Brussels, has given Belgium the job of arranging the first talks with the Soviet Union on troop reductions in Europe. Foreign Minister Pierre Harmel is reported reluctant to take a strong stand for fear of hampering the prospective negotiations.

[From the Washington Evening News, Nov. 2, 1971]

U.S. MAY WIDEN SOVIET TRADE

(By Ted Knap)

President Nixon is reassessing his opposition to giving the Soviet Union "most favored nation treatment" in regard to trade, the White House disclosed today.

"Most favored" status, now granted U.S. allies and only two communist countries (Poland and Yugoslavia), would substantially reduce the U.S. tariff on Russian imports and greatly expand trade between the two superpowers.

A White House official said the question "is under active study on a re-examination basis." Last summer and earlier, the White House said Mr. Nixon was opposed to extending favored status to the Soviet Union.

The re-examination is linked to the President's announcement yesterday that Commerce Secretary Stans will go to the Soviet Union in about two weeks to discuss expanding trade and removing barriers.

Two chief obstacles to U.S.-Soviet trade are high tariffs on Soviet imports and restrictions on what American companies export to Russia.

Mr. Stans' office said he looks on his trip as a "break thru opportunity to launch a new level of "economic diplomacy." He was invited by Soviet Trade Minister Nicolai Patolichev. Their efforts to open commercial doors between are expected, to pave the way for Mr. Nixon's journey to Moscow next May.

The Commerce Department said Mr. Stans is the first commerce secretary to visit Russia since World War II and the first Nixon cabinet member to go there.

The Stans trip and Mr. Nixon's reassessment of U.S. tariff policy toward Russia are arousing new right-wing anger.

"We are gravely concerned—more so than under any previous President—about Nixon's continued efforts to liberalise trade with the Soviet Union," said Albert Forrester, Young Americans for Freedom program director.

[From the Washington Star, Nov. 5, 1971]

RUSSIANS TO BUY U.S. GRAIN, UNIONS DROP SHIPPING RULE

(By George Sherman)

The Nixon administration has arranged for a massive sale of American grain to the Soviet Union. The deal for the first time will suspend the rule of U.S. maritime unions that all shipments must be carried in American vessels.

According to administration officials, the Agriculture Department is announcing that $136 million in corn, barley and oats will be sold privately to the Soviet Union between now and July.

Purchases are to be paid for in U.S. dollars by the Russians.

According to these officials, President Nixon himself intervened with the Maritime Council, composed of the leading maritime unions, to gain agreement that the grain can be carried in foreign vessels, based on competitive bidding.

Previously, all such moves to sell grain to the Soviet Union have been thwarted by the demand of the unions that at least 50 percent of the shipments be carried in American bottoms. Because American vessels have been more expensive, there have been no Soviet purchases and private sellers in this country have not been able to reach agreement.

The proposed sales, therefore, are the first since President Kennedy's controversial grain sale to Moscow in 1963. The $136 million figure, according to administration officials, is more than the total value of all American exports to the Soviet Union last year—$116 million.

The announcement today precedes a visit to Moscow next month by Secretary of Commerce Maurice Stans to scout the prospects of increasing Soviet-American trade.

The grain sale is expected to have a big political impact in the Middle West, where the grain market is depressed. The $136 million figure includes two million tons of corn, 500,000 tons of barley and 300,000 tons of oats. Officials say that the contract was negotiated directly between the Soviet government and the Continental Grain Co. of New York and Cargill, Inc., of Minneapolis.

But the administration took a direct hand through personal presidential phone calls and White House meetings persuading the maritime union presidents to drop their ten-year-old opposition and allow competitive bids for shipping.

The stage was set, these officials say, by Nixon's success in getting Congress to pass last year the new Merchant Marine Act, which appropriated the first funds for constructing 300 American merchant ships over the next ten years.

In the official view here, this presidential initiative convinced the maritime unions and shippers that the American government intended to make American shipping competitive in world trade.

Therefore, the argument continues, the unions now realise that more jobs and contracts are to be gained by allowing competitive bids for shipments even to the Soviet Union and Communist China. Administration officials stressed that under the Maritime Council decision, even Soviet vessels would be allowed to carry the grain if they make the lowest bid.

The President's initiative followed his announcement last June, when erasing the barriers to trade with Communist China, that from now on shipments of grain to both mainland China and the Soviet Union would not need prior clearance from the Department of Agriculture. At that time, he also set government policy against the 50 percent requirement for American shipping.

But the maritime unions immediately said they would not drop that requirement. The announcement being made today marks a success for the President, officials say, in gaining the unions' agreement to his policy of last June.

NADER'S REPORT ON THE M–16

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. ASPIN. Mr. Speaker, the Connecticut Citizens Action Coalition issued a report on November 1 charging that the Colt Firearm Co. has engaged in a systematic program of subverting the quality control program in the manufacture of the M–16 rifle.

During the manufacture process, the M–16 is routinely submitted to endurance and interchange tests.

According to the Citizen Action Coalition, that has been organized by Ralph Nader, Colt insured that rifles would pass the endurance tests by switching parts during the test procedure. Some of the switching was actually done while Government inspectors were present, but their attention was diverted by Colt officials while workers replaced faulty parts.

Based on the testimony of Colt workers and after consultation with ordnance experts, the Nader group has also charged that the interchangeability tests have been subverted by Colt. The interchangeability of weapon's parts of the M–16 rifle is crucial to every American soldier in a combat situation. One Colt worker described how barrels were switched during the interchangeability tests to insure that good results would occur during tests witnessed by Government inspectors.

The Connecticut Citizen Action Coalition has stated publicly that there has been no collusion between the Colt officials and the Government inspectors.

Mr. Speaker, this report raises serious questions about the integrity of a major arms manufacturer. Our soldiers in the field must have the finest equipment that we can provide for them. I recommend this report, which follows, to my colleagues for their careful study:

THE M–16 COLT'S LETHAL LEMON

INTRODUCTION

"The Subcommittee is interested not only in getting the facts, but in seeing that they are reported accurately. Colt Industries shares in this interest. We categorically assert that inspection standards are never violated. In fact, we know of not a single instance when a rifle that had been shipped showed any deviation from quality control standards at the time of shipment."

Mr. Paul Benke, President, Colt's Firearms, Inc., Before Special Subcommittee On M–16 Rifle.

"After every thousand rounds or so we tell Mr. Ivy (the range supervisor) what sort of problems we have covered up in the last series. Parts, including carriers, extractor springs, and bolts, are switched on the endurance gun, out of sight of government men."

A targeter on the testing range at Colt's.

During the past eight years, Colt's Firearms, Inc., a subsidiary of Colt, Industries has produced 2.5 million M–16 rifles at a cost to the government of $250 million.

This report, based upon that weapon of war, is not prepared in order to support war nor to condone the existence of already inflated defense budgets.

On the contrary, we hope that its publication will help to focus attention on a most cruel and violent form of corporate subversion of the public and national interest. Although we deal here with only the misconduct of a single defense contractor, this report may indicate a much larger problem in quality control procedures of defense contractors generally.

How helpless are the victims of such corporate greed and deceit as that practiced by Colt's? To whom does the soldier in the field turn when his rifle fails to fire, or when a spare part which is supposed to replace a worn one perfectly, fails to fit?

What of the worker in the Colt's plant? There exists, we believe, a peculiarly close parallel between his fate and that of the soldier in the rice paddy thousands of miles away. Both are the victims of a callous and insensitive company attitude. Both have little hope of sympathetic hearings and affirmative action if they do protest about the quality of weapons.

Perhaps it was most of all the feeling of

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empathy with the soldier in the field which led some Colt's workers to approach our organization for help after they felt they had exhausted all established channels. In spite of warnings from management that they should not make trouble and at the risk of losing their jobs and security, these workers told us their story.

Whether their courageous action becomes a model and an incentive for other concerned employees in other places will depend on the degree of governmental and public support afforded them.

In addition to speaking with workers, we discussed at length our findings with various experts on quality control and the M–16 itself. In most cases they are not surprised at our stories of Colt's violations of quality control standards and their flagrant deceit in attempting to cover up those violations. However, they were astonished, if not shocked, by the severity of those violations.

The series of destructive activities which we are to present in this document paint a brutal picture of a corporation which purports to act in the national interest, which stresses the need for national defense, but which is not interested in defending either its own workers or the troops over whom it waves the flag. Here is a devastating example of a corporate "profit" patriotism which subverts humanity for the pocketbook.

SUMMARY

This report outlines the findings of the Connecticut Citizens Action Group concerning production and testing of the M–16 rifle by the Colt's Firearms Company.

Colt's Firearms Company has engaged in deceit and deception to subvert government testing procedures designed to insure the reliability of the M–16 rifle in combat.

The Quality Control Program of Colt's stressed the concealment of errors in important endurance and interchange tests.

Under standing orders from Colt's management, range employees were told to exchange weakened parts in the endurance test rifles for new parts from the assembly line.

Quality Control Technicians would distract government inspectors while workers replaced weakened parts.

Colt's systematically subverted each stage of the testing process.

Parts of the weapons chosen for the gun interchange tests were inspected before and after disassembly of the rifles and defective parts replaced.

Employees were ordered to improperly pretest reassembled weapons, change defective parts and target the weapon to insure passage of government tests.

Employees were ordered to cheat during the government test of reassembled rifles to insure agreement between pre-assembly and post-assembly tests.

Colt's hand bent barrels to repair rifles which could not pass accuracy tests.

Bending involved bending the rifle between steel beams and striking the rifle against the floor to realign barrels.

Bending was done during overtime hours when government inspectors were not present or occasionally during the day in a closed, windowless booth.

At one time employees were told to pretend to leave the plant and return later to bend barrels.

Government inspectors at the West Hartford range could not have been unaware of the deceptive practices employed by Colt's.

The practices employed by Colt's meant that defective test weapons were delivered to the government and that the shipments which they represented were not proved reliable or of the contract stipulated quality. The integrity of the entire quality control process was undermined.

CCAG calls for:

Justice Department investigation of the violations of the criminal laws by Colt's management.

House and Senate hearings to examine these derelictions which affect the safety of our troops.

Examination of other Colt's production and testing procedures.

Reassessment of the contract relationship between Colt and the United States and the ability of Colt to bid or receive contracts.

An examination of the federal inspection and contract compliance programs.

Protection of the concerned employees who exposed Colt's deceptive practices.

ACTIVITIES IN THE FIRING RANGE

Every M–16 produced by Colt's receives a *First Inspection* when it is fully assembled and operable. If it is accepted by Colt's quality control inspectors, it is wheeled into the range on a special rack. The gun is first subjected to a *Function Firing Test*, in which it is fired simply to assure that the rifle can cycle a bullet, or round, safely, and at the proper rate of speed. Faults are generally corrected on the spot, with an adjustment or part replacement. Once accepted, the weapon is placed on a concrete mount, from which it is fired in a *Target and Accuracy Test*. An inaccurate gun is set aside in specially marked "repair" racks; an accepted gun is sent out of the range to the *Wash* room, where it is disassembled, cleaned, and reassembled. The weapon is then moved to the *Final Inspection* room. Weapons rejected for targeting deficiencies are supposed to be repaired, tested again for accuracy, and if accepted, sent on through the wash procedure to be replaced among final inspection rifles from the same shipment.

Once the weapons have been approved by final inspectors, government quality assurance inspectors randomly select two sets of M–16's: one set of four for the *Endurance Test* and a group of ten for the *Ten Gun Interchange Test*. These performance tests are designed to calculate the field efficiency of the weapons. In the first case, each weapon in the set is fired 6,000 times in eight hours, with periodic forced air cooling, and regular disassembly and washing of parts. The second test requires that the ten weapons be disassembled and the resulting parts thoroughly mixed, randomly paired, and reassembled into ten acceptably performing weapons. In either test, if any weapon is rejected due to malfunctions or failure to function, the whole set is rejected, and a new set randomly chosen from the same shipment. If the second set must also be rejected, for either of these reasons, the entire shipment is rejected and must be totally reprocessed. Acceptance of either a first or second test set from both the Endurance Test and the Interchange Test will permit delivery to the government of an M–16 shipment.

QUALITY CONTROL: KEY TO A RELIABLE WEAPON

The elaborate performance tests to which all M–16's must be subjected serve a two-fold purpose. First, they are designed to monitor the extensive manufacturing and assembly processes that precede the weapon's arrival at the range. MIL–Q–9858A, the military's production quality control rule book, states that "final testing shall provide for reporting to designers (of) any unusual difficulties, deficiencies or questionable conditions" that surface in the range. Quality controlled tests, such as the endurance, and target and accuracy tests, are relied upon as flagging operations which will signal weaknesses anywhere in the production line. The appearance of a malfunction in the course of a performance test possibly indicates more than a mere defective weapon; it may denote a specific live weakness—human or mechanical—that if unchecked might adulterate every succeeding piece. When quality controls are maintained, excessive or specifically unacceptable malfunctions are reported in a timely manner; engineers and designers are put on notice of line deficiencies, and the weaknesses may be identified and corrected. The second function of quality controlled performance testing is to detect and reject defective weapons, or shipments. Integrity of test procedures is especially critical with regard to the endurance and interchange tests, where each selected weapon represents the quality and precision of all 6,000 guns in the subject shipment. The covering of a product defect inscribed in any one rifle may result in the over-looking of a like defect in every other member of the shipment. Adulteration of one quality control record in any part of the extra-critical endurance or interchange tests might mean delivery of a 6,000 gun shipment of unproven weapons.

ENDURANCE TESTING: COLT'S PROFIT CONTROL SYSTEM

Since at least 1966, Colt's has systematically practiced a program of deceit intended to circumvent required government testing procedures. Employees assigned to the endurance guns have been under standing orders to hide malfunctions, particularly those which would cause a shipment to be rejected.

Colt's quality control specialists have closely monitored the tests to discover weakened parts. However, the purpose of this monitoring has not been to detect errors in processing which might affect the performance of the rifle in combat but to pinpoint those defects which must be concealed from government inspectors. According to one of the workers, "It is standard practice that if the gun should fail to feed and fail to fire, we pull back the charging handle, recharge the gun and continue firing without the government men detecting it. The Colt's weapon technician would keep the government agent occupied during the cover up. If a weakened extractor spring is causing trouble, the Colt's men [Quality Control Technicians] might give you a new spring without the government man knowing it."

This practice is in sharp contrast to the testimony of Mr. Dan Grove, head of quality control for Colt's, before a 1967 House Special Subcommittee on the M–16. Mr. Grove testified that on the endurance test, no extraction malfunctions are permitted. Further, he claimed that the company stiffened inspection and testing measures voluntarily, when reports of malfunctions filtered back from Viet Nam.

Colt's, however, does not rely solely upon the watchfulness and ingenuity of its quality control technicians in distracting government inspectors. After each 1000 rounds are fired, the rifle is taken to a washroom to be cleaned. In the washroom, while the rifle is partially disassembled, Colt's quality control analysts have an opportunity to conceal defects. One way in which this is done is just prior to the wash break to have the company quality control officer precede the government inspector and the targeter into the wash room. Having developed concern over some particular part on the endurance gun, the officer selects from fresh assembly line parts a replacement piece for the test weapon. The chosen part is immersed in a parts wash basin filled with a murky solution and capped with a layer of foam. Colt's quality control representative then informs the targeter in which corner of the basin the part lies and the targeter is ordered to perform a sleight of hand operation to swap the worn part for the new one.

According to a Colt's employee, "Parts, including carriers, extractor springs and bolts, are switched on the endurance gun, out of sight of the government men. For example, if we see that the extractor spring is weakened, at the one thousand round regular wash break, the spring is switched by the targeter or the quality control analyst."

Unfortunately, Colt's quality control program, stressing exchange of parts, hiding of defects, and deception does little to insure

the proper functioning of the M–16 rifle in combat. On the contrary, these practices insure that specific endurance guns which were defective are delivered to the U.S. military and that the shipments they represent were not proved reliable or of contract stipulated quality.

However, Colt's quality control program does serve to increase the profits of Colt's by saving Colt's the necessity of remedying deficiencies in their production procedures and of retesting rejected shipments. Retesting would be required if the test rifles failed.

Colt's quality control procedures make the detection of failures unlikely. Unfortunately, for the American public and the soldiers who must depend on the M–16 in extended combat situations, Colt's quality control system has become a profit control system.

TEN GUN INTERCHANGE TEST: A TEST BY ANY OTHER NAME—A FRAUD

One purpose of the interchange test is to insure the reliability of the weapon in combat use. Interchangeability is itself the basis of mass production. To the soldier in the field, the ability to replace and exchange parts is crucial.

For each shipment of approximately six hundred thousand weapons, ten rifles are randomly selected by government agents and disassembled. The parts are mixed and from the mixed parts ten new rifles are assembled. The performance of these reassembled rifles is then tested against the performance of the original ten. The test is usually conducted over a two day period.

Colt's thoroughness in hiding possible defects and in rigging testing procedures was nowhere more clearly indicated than in the practices employed in the gun interchange tests. As soon as the rifles were selected, Colt began subverting the testing procedures. According to an employee the interchange mixing was done in a room called the process room or the parts inspection room. "We did a 'dry run' before and after assembly. This consisted of a check of indent, head space, and trigger pull. Although these weapons came straight out of the final inspection room, we often found improper fits on these checks. We always changed the parts, whether it was before the breakdown, or after reassembly. Orders for switches were given by the quality control man or the range master."

Even accidents could play a role in Colt's test tampering procedures. An employee explains how. "When weapons are disembled for the interchange, the parts are placed in numbered boxes. Frequently, a box is upended and some of the parts are lost. We take new parts from the assembly line to replace them. Government agents are not told."

When Colt's purpose was the hiding of defects rather than the discovery of production deficiencies, Colt's was not satisfied with a single review and replacement of parts from the disassembled guns. The reassembled rifles were improperly tampered with before the government test began. As one employee indicated, "Many a night I or someone else sneaked into the room to shoot, change barrels, and even target the test weapon." The purpose of such tampering was stated by another employee, "I have seen the whole upper receiver—the barrel—changed during overtime, with the new receiver selected from outside the test group. I have seen the test gun fired during overtime and corrected to insure that good results would be had during the government witnessed regular test firing."

Even the government tests were not overlooked by Colt's. Despite Colt's replacement of test part and its improper pretesting of the rifles, Colt's employees were ordered to cheat during the government test of the reassembled rifles. An employee recounted, "Since we were not closely watched during interchange targeting tests, we have been instructed to cheat in that area." Employees were told to be sure that the preassembly and post assembly target accuracy test agreed even if this meant tampering with the gun during the tests.

If Colt's exhibited the dedication and thoroughness in producing a reliable rifle that it exhibited in subverting the testing process, there can be little doubt that fewer weapon failures would occur in combat.

HAND-BARREL BENDING—A CROOKED CRAFT

"The first word on this is do not do it. . ."

"Gunsmithing," Ray F. Dunlop.

Colt's cynical disregard of manufacturing integrity is demonstrated clearly by their repair procedures. Colt's consistent policy has been to turn out quantities of rifles, regardless of the cost to their worker's health (see *Hartford Courant*, July 10, 1971) or the lives of the users of the M–16. The frauds and illegalities that characterized the endurance and interchange tests lurk in the repair procedures as well.

Rifles are target tested to determine accuracy. Those which are approved pass on to await possible interchange or endurance testing. Those which fire high, low or wide of the mark are set aside to be repaired. On rare occasions these weapons are returned to the assembly area to be recalibrated. Most often, however, they are "repaired" by range workers, none of them of whom are gun smiths nor have any special training in weapons repair. In his book "The Complete Guide to Gunsmithing, Gun Care and Repair", Charles Edward Chapel states emphatically "Only a few experts can straighten barrels."

Despite the surgical nature of the hand-barrel straightening process, Colt's workers routinely straighten rifles by hand. One worker described the company's delicate handling of the repairs:

"I have participated in the normal repair process, which involves bending fully assembled weapons between steel beams at the targeting mounts, or whacking the muzzle end on the floor of the firing booths." Another worker illustrated a Colt technique:

"The prime method I was taught and which I have used to repair inaccurate rifles is to bend the barrel either by straining the muzzle between the mounting beams or by striking the flash suppressor against the floor."

It is difficult to conjure up a more amazing image than the picture of a worker in a modern factory grasping the world's most sophisticated rifle by the butt and "whacking" its flash suppressor on the target range floor.

In its face this method of barrel straightening appears highly irregular. Suspicion is deepened when it is known that repairs on U.S. Government rifles always are made out of sight of government inspectors. Usually repair work was carried out in the early morning hours before the day shift reported for work or in the evening after the last shift "departed" from the range.

"It was perfectly understood by all range employees," one worker told the Connecticut Citizen Action Group, "that the practice (bending) while approved by the company was strictly against governmental regulations."

A worker described in detail one way his deception was carried out:

"The range master or his assistant, the lead man, would tell us at 3:30 to walk out of the range, and leave the company grounds for a half hour or so, to give the impression that we were not staying for overtime. This would deceive the inspectors; they would leave for the day and we would return and bend. We were all on the dock the whole time as was the approved arrangement".

Sometimes when the number of defective rifles became too numerous repairs were undertaken during the normal work day. Workers were instructed to make repairs by bending the barrel between steel rods on the firing mounts when inspectors were absent. One worker reported:

"Once in a while, we are told by Mr. Ivy (the range master) to bend a few (rifles) in any part while the government men are out of the range at the wash rack with the endurance gun."

Workers sometimes hand-bend guns during the day shift in booth seven, an enclosed, window-less booth installed a few years ago. The same worker reported:

". . . on occasion when there is a sizable back-log of repair weapons and a shortage of new work, Mr. Ivy assigns a man to bend rifles during the regular shift, behind the closed door of the booth, out of sight of the government inspectors."

If the fault was minor, a "correction" might be made at the shooting mount.

"Occasionally if the fault was only a slightly low trajectory, the rifle was held by the stock and the flash suppressor at the mussle end was knocked on the rubber floor mat in the shooting booth." So much for craftsmanship and precision.

FOREIGN AND SPORT GUNS

Non-U.S. Government weapons routinely were hand-bent in front of government inspectors. A Colt's worker said, "I . . . have hand-bent during regular hours and in the open, rifles belonging to foreign nations and rifles of the non-military sports model." Another worker was more specific.

"During regular work hours on Wednesday, October 6, 1971 I witnessed the following scene at the targeting area in the firing range. ——— was testing and hand bending M–16's which were known to be destined for a foreign power. A U.S. Government inspector, passing through the area on his normal rounds, was heatedly told by Mr. ——— that the bending was none of the inspector's business, as the rifle wasn't for U.S. troops."

While bending of U.S. weapons was not carried out directly in front of government inspectors, they could not fail to know that it was taking place. There was no indication that U.S. Government rifles were treated differently than those destined for allies overseas. No repair machine was present at the range much of the time. Colt's did bring a repair machine in but it served largely ornamental purposes. One worker stated, "I have never seen the machine used in the entire period of my employment." Another admitted to using it "once a couple of years ago." Even if it had been used, it could only correct wide firing defects not high or low trajectories.

Government inspectors closed their eyes to what was taking place. Merely because they seldom witnessed hand-bending of M–16's, does not absolve them from responsibility. The range is a small world. If the inspectors had cared to, they could have easily deduced, if not actually discovered, the hand-bending taking place.

GOVERNMENT INSPECTION

How much is the United States Government to blame for the shabby quality control and defective weapons at the Colt's plant? At what level of government should most responsibility be placed?

These are not easily answered questions. But it is clear that the Government has not performed its responsibility since the beginning of the M–16 controversy several years ago.

In its "Findings and Recommendations" on the M–16 hearings, the House Special Subcommittee on the M–16 Rifle made the following conclusions:

"That corrective action on deficiencies reported and improvement of the weapon have been unnecessarily delayed."

"That the rifle project manager, the administrative contracting officer, the members of the Technical Coordinating Committee, and others as high in authority as the Assistant Secretary of Defense for Installations and Logistics knowingly accepted M–16 rifles

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that would not pass the approved acceptance test."

"That no instructions regarding tightening of production quality controls were issued by the rifle project manager, Army Material Command, or anyone in high authority after continued reports of malfunctions were received from Vietnam."

"That the Government Inspector at Colt's plant took the initiative only after reading newspaper reports of problems being experienced. These newspaper reports were not published until about 6 months after notices of excessive malfunctions were received by the rifle project manager and the Army Material Command."

"That the only inspection tightened as a result of those adverse reports was the one on barrel chambers. This tightened inspection revealed an excessive number failed to meet specifications."

The trend in military inspections of defense contracts has been to stress process review rather than product inspection. While process review is important, a simultaneous downgrading of product inspection may in part explain the inadequacy of government inspection of the M-16. The failure of government inspection to uncover product defects in the endurance and interchange denied the government the ability to assess the functioning of the production process.

Another reason for the inadequacy of government inspection is suggested in an important statement contained in the Subcommittee's findings. These findings questioned the legality and propriety of Colt's hiring of Major General Lynde who had a short time before approved terms of the contract for procurement of the M-16 while at the Defense Department.

Such questionable ties at what is nearly the top of the defense establishment clearly taint the validity of the entire quality control process. So perhaps we should not be surprised that the Senior Quality Assurance Representative at the Colt's plant (top government employee at the plant) would not be the most conscientious inspector. Nor should we be surprised that the 10 or 12 government inspectors working under him would display laxity and inefficiency in their work.

From 1967 congressional hearings on the M-16 before the Special Subcommittee on the M-16 Rifle the following exchanges took place:

Mr. MORGAN (Congressman). How does the inspection by your inspectors assure that weapons and spare parts will all receive adequate inspection so as to minimize or prevent the acceptance of delivery to the Government of defective material and/or components?

Mr. KANTANY. We monitor their inspection, like targeting . . . also we have 6,000-round reliability test, we witness the whole complete test.

Mr. MORGAN. How can three or four men, covering the hundreds of employees, keep such a close surveillance on them?

Mr. KANTANY. Well, this is a system that is set up. As far as complaints go, we have not had any complaints, field complaints. If we did, we would have to go into the system more thoroughly.

Dead soldiers have no way of reaching Mr. Kantany. The government posture on inspection appears to be one of abdication of responsibility. "This is a set up." As though nothing should be done about it. "We have not had any complaints." As though the government should only act when complaints are made. How many lives were lost in the six months between the time the first M-16 complaints in large number were filed and Mr. Kantany read the newspaper articles which motivated him to make a token change in inspection procedures for barrels? Mr. J. Ronald Fox, who was Assistant Secretary of the Army for Installations and Logistics told CCAG that he could recall no one coming to him with a major quality problem while he was Assistant Secretary.

Government inspectors at the West Hartford range are responsible for defective weapons production in that they could not be unaware of a large percentage of the illegal and deceitful practices that Colt's is employing.

"Around 1968 we were getting a large number of guns which didn't have a champer on the bolt; failure to feed malfunctions were regularly occurring in the endurance weapons. We were covering these malfunctions, on order while the government men stood or sat behind us."

"Government inspectors have seen the bending of foreign guns. Last week I was bending a rifle that didn't say "Property of U.S. Government" on the lower receiver. The Inspector saw me bending the barrel, but he didn't say anything. He didn't question me as to whether or not it was a U.S. gun."

"Twice I was caught doing bending during secret over-time periods. Once an agent . . . found me; he took the rifle out of my hands, recorded the serial number, and reported it to the range master, Johnson, who took the gun himself."

"Every time I fired it, it malfunctioned . . . I covered once or twice, as instructed by the range master and quality control officers. But three or four times the government agent looked up from his crossword puzzles and caught the malfunction. He and the quality control representative blamed the problems on the magazines, a squashed round, etc. These were not the causes."

(Statements from Colt's workers)

While government representatives at the plant were surely not unaware of Colt's activities, the point must be made that in a larger sense much of what goes on in the plant must be beyond the control of the inspectors. What happens to the inspector who attempts to have rejected a large number of weapons while the corporate executives and higher government officials stress the importance of turning out large numbers of weapons? Unless he has support at the top, he will probably have little success in correcting defective weapons and practices.

MORE THAN PALLATIVES AND RHETORIC

In some instances the impact of corporate crime is difficult to understand. A father whose child is scarred on a floor furnace may not understand that the burns are the result of the failure of the American Gas Association to develop adequate safety standards for gas fired floor furnaces. However, the link between Colt's subversion of quality control standards and the failure of weapons in combat is more apparent. Colt cannot plead that it did not realize that its products would be used in fundamental life and death situations; it cannot plead that it could not foresee the impact of its actions.

Yet in a situation where both honest and competent management were required, deception, fraud, and negligence occurred. Greed, incompetence, apathy, and dishonesty were factors. However, the soldiers in Viet Nam were also victims of concentrated yet unaccountable corporate power, a type of institutional and personal lawlessness which is not often enough seen for the crime that it is.

The behavior of the management of Colt's could only be described as criminal. Section 2154 of Title 18 of the U.S. Code makes it a crime to make, construct, or cause to be made or constructed in a defective manner any war material, war premises, or war utilities or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing or repairing any such war material. The penalty is a fine of not more than $10,000 and imprisonment for not more than thirty years.

Section 2155 of Title 18 says, "Whoever with intent to injure, interfere with, or obstruct the national defense of the United States willfully injures, destroys, contaminates, or infects or attempts to so injure, destroy, contaminate or infect any national defense materials, shall be fined not more than $10,000 or imprisoned not more than ten years or both.

National defense materials include arms, armament . . . and other articles of whatever description and any part or ingredient thereof intended for, adapted to, or suitable for the use of the United States in connection with the national defense.

Clearly, the management of the West Hartford range was aware of and involved in the subversion of testing procedures and the falsification of test results. The pervasiveness of these practices and the length of time for which they were pursued indicate that they were an integral part of management policy for which higher officers of Colt are responsible.

At the very least, the pervasiveness and duration of these practices indicate that management, understanding the crucial nature of these testing procedures, should have known of these derelictions. Officers have a duty to manage and a duty to inform themselves. Criminal negligence is the omission of an act which an ordinary or reasonable man would perform by reason of which another person is endangered in life or bodily safety.

The Department of Justice should be requested to investigate whether or not any laws of the United States have been violated by the behavior of Colt's management and whether or not prosecution is warranted.

FURTHER INVESTIGATION

In at least three areas Connecticut Citizen Action Group has uncovered the most serious violations. These cast real doubt upon the adequacy of other Colt production and testing procedures. In order for these matters to be fully explored, a thorough Senate investigation should be undertaken. We are, therefore, requesting that you hold hearings as soon as possible to examine these derelictions which affect the safety of our troops.

The effect of Colt production and repair procedures upon the consumers of Colt's sport weapons and upon the quality of weapons received by allies of the United States are also matters worthy of concern.

The performance of federal inspectors indicates that the federal inspection and contract compliance programs on defense contracts should be examined. The nature of the contract relationships between the United States and Colt and the ability of Colt to bid on and receive other contracts should be reassessed. The commitment of the Nixon Administration and the Senate to the rhetoric of protecting our troops in Viet Nam will be tested by the response to the derelictions of Colt. If the issues are not carefully investigated and penalties imposed, concern becomes mere pose and support mere expediency.

DAY OF CATASTROPHE

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mrs. MINK. Mr. Speaker, last night the House did violence to the Constitution and obliterated what progress has been made in human rights in the last decade.

For the first time in my 7 years in Congress, I voted against an education bill.

I voted against this higher education bill which was decimated on the floor because the money and material benefits it provided could not possibly overcome the damage inflicted upon our constitutional rights of equality and to our fabled concepts of human brotherhood, to our love for our children and for human life.

Last night the House voted against equality for women, by granting legislative approval of the discriminatory undergraduate admission policies of our prestigous private colleges and universities.

Last night the House voted against the Constitution, by establishing legislative sanction for the ignoble principle of separate but equal education for our children.

Last night the House voted against human dignity, by striking from the bill a provision which would have recognized the contributions of our ethnic minorities as an integral part of our Nation's life.

Last night the House struck down a program to protect the lives of our small children who participate in summer camps and voted instead in favor of more deaths and more injuries.

And the night before, the House struck out the college intern program and cast a vote of no confidence in the desire of our youth to learn how to work through the system, an idea to which we all give such lipservice.

Blacks, women, all ethnic minorities, our children, and our college students—all the truly unrepresented groups in our society were placed in the rubble heap of this saddest day of my congressional experience.

OPPONENTS OF THE PRAYER AMENDMENT ARE CONFUSING THE ISSUE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. ARCHER. Mr. Speaker, next Monday the House of Representatives will have an opportunity to vote in favor of the proposed Voluntary Prayer Amendment to the Constitution. There has been a definite attempt by some to confuse the issue involved and to imply that the amendment would interfere with the traditional separation between church and State. The proposed amendment would do nothing of the sort.

I have been impressed with the activities of one national organization—the Youth for the Voluntary Prayer Amendment—which is working to spread the truth concerning the need for the amendment.

The following is the text of a speech which has been made to various civic and youth organizations by the executive secretary of the youth for the voluntary prayer amendment, Miss Mary Fisk, a graduate student at Georgetown University in Washington, D.C. I sincerely hope that all of my colleagues will take the opportunity to read Miss Fisk's remarks before voting on Monday.

The text of the speech follows:

SPEECH TEXT OF MARY FISK, EXECUTIVE SECRETARY OF THE YOUTH FOR VOLUNTARY PRAYER AMENDMENT

American institutions are under attack, but it is an internal siege. This is not the first time this has happened, since our history affords us examples of disgruntled groups and destructive causes. However, these were but isolated incidents, dispersed cases which foundered upon the essential stability and justice of the American system.

What distinguishes this contemporary attack from past ones is that this new phase has the advantage of the support of the very system it would profane.

This attack is multi-pronged; the one which concerns us deeply lies in the fact that from its inception, the United States of America was founded on the recognition of the existence of God, and because of this recognition, the nation realises the consequent existence of the rights of all men. This very basic realization, upon which all our institutions are premised, has been banned from the public schools. No longer are children permitted to affirm the existence of God; no longer is the Divine Being hailed as the source of all rights. The militant minority who find abhorrent the mention of His name have triumphed over the majority who worship Him, over the traditions of two hundred years of freedom.

Because this attack upon the Creator has begun in the schools, it is the youth of the nation who are prohibited from exercising their First Amendment right to pray. It is therefore, the youth who must lead the struggle against the forces of atheism and secularism, and must work to restore both the recognition of dependence upon God and the right to acknowledge Him if they so desire.

The Youth for the Voluntary Prayer Amendment was formed as the vehicle for this task; the committee has been working to put God back in the classrooms since 1965. It has sought to inform the American people of the dangers of the path down which the Supreme Court decisions are leading us.

1. HISTORY OF SUPREME COURT DECISIONS RE: CHURCH AND STATE

The First Amendment states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."

While the decisions which declared the prayer and Bible reading to be unconstitutional were not made until 1962 and 1963, it is necessary to review some cases further back relating to the principle of church and state, for these cases provide the bases for the prayer decisions with which we are concerned.

A. *Everson v. Board of Education* 1947 (5-4 decision).

The Court held that New Jersey could provide free bus transportation to children attending private and church-affiliated schools, on the grounds that citizens cannot be deprived of the benefits of public welfare legislation because of their religion. The transportation was for the children, and any aid to the religious institution was incidental.

However, in spite of the decision itself, the majority for later decision written by the late Justice Black paved the way for later decisions *against* religion.

"Neither (the state nor the federal government) can pass laws which aid one religion, *aid all religions*, or prefer one religion over another . . . Neither a state nor the federal government can, openly or secretly, participate in the affairs of any religious organizations or groups or vice versa . . ."

B. *McCollum v. Board of Education* 1948 (8-1 decision).

The Court held that an Illinois program of religious education in public schools during "released time", i.e., *not* during regularly scheduled class time, was unconstitutional.

C. *Zorbach v. Clauson*, 1952 (6-3 decision).

The Court held that a New York program of religious education during "released time" but *not on school premises* was constitutional.

The *Everson* dictum was quoted in both *McCollum* and *Zorbach*.

With the tone of the preceding decisions in mind, let us look at the more recent cases which have made the move for a constitutional amendment necessary:

D. *Engel v. Vitale* 1962 (6-1 decision).

The New York Board of Regents prayer which was said in the public school system of that state read as follows:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country."

The Court held that the daily recitation of this prayer was unconstitutional on the grounds that it violates the Establishment clause of the First Amendment. The Court's decision was based on the fact that the prayer was written by government officials (i.e., the Board of Regents) for a religious program carried out by the government in public schools. Neither the fact that the prayer was nondenominational nor voluntary served to influence the opinion of the Court.

E. *Murray v. Curlett* 1963.

It was the required practice in the Baltimore City schools that the Bible and/or the Lord's Prayer be recited. A child could be excused from participation if he had the written consent of his parents. Mrs. Murray and her son brought suit against the rule on the grounds that:

1. their minority rights as atheists were being violated by the theistic majority
2. the atheistic child was subject to the abhorrent teaching that God is the source of moral values
3. the readings required the presence of religious or sectarian books in public schools (eg., Bible)

F. *Abington School District v. Schempp* 1963.

As in the *Murray* case in Maryland, in Pennsylvania the law required that the Bible be read briefly at the start of each school day.

The Schempp family brought suit to enjoin the school district from conducting the Bible readings. This family of Unitarians argued that the Pennsylvania law violated the Establishment of religion clause of the First Amendment; as in the *Murray* case, the Schempps objected to the doctrines implicit in the Bible. While the children could have been excused from the classroom during the readings, Mr. Schempp claimed that such absence would have an adverse effect on his children—they would, in short, be "socially ostracized" by their teachers and peers.

Since the principles involved were the same, the *Murray* and *Schempp* cases were argued and decided together. In an 8-1 decision, the Court held that the Bible readings and the recitation of the Lord's prayer were religious exercises. As such, it was a clear violation of the Establishment clause to have them conducted by public school authorities in public schools.

The dissenting opinion was rendered by Justice Stewart, who sought to balance the Establishment clause with the equally valid free exercise clause. If government is to be truly neutral in the matter of religion, it must not prevent those who wish to pray from doing so. Finally, he added that for the cases in question to be unconstitutional, it would be necessary to prove that children were being coerced into participation. This was clearly not the case.

II. THE ARGUMENT FOR VOLUNTARY PRAYER IN PUBLIC SCHOOLS

1. It would seem that the emphasis by the Supreme Court on the Establishment clause has resulted in the exclusion of the free exercise clause. If indeed it is the duty of the state to remain neutral in matters concerning religion, then logic would require that those who wish to pray, and who do not force others to pray with them, not be prohibited from doing so by the government. The free exercise clause clearly states that Congress shall not prohibit the free

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exercise of religion; the 14th Amendment applies this regulation to the states. Therefore, it appears that neither the federal government nor the states have the right to prevent people from praying.

In addition, if religious exercises are forbidden in the classroom, the result is not neutrality on the part of the government, but in effect the establishment of the religion of secularism.

2. To discuss the wording of the First Amendment divorced from the historical context in which it was written is impossible. If we turn to the Founding Fathers, we are provided with a clear idea of what rights they were concerned with protecting.

Traditionally, they were used to close ties between church and state, ties which too often led to abuses. This was the case in both England and the early colonies. In England, for example, the Anglican Church was the established religion; the clergy were subsidised with public funds; only church members could vote and hold office. *Thus, what the Congress, when considering the Bill of Rights, desired to prevent was favoritism on the part of the national government to any single denomination.* With the English example fresh in their minds, the framers of the Constitution wrote the Establishment clause of the first Amendment, *to specifically prevent any such preferential treatment of a religious group by the government.*

To support this view, one has only to look at the Annals of the First Congress (1789), the session during which the First Amendment was debated and finally approved. James Madison, who played a major role in the drafting of the Bill of Rights, wanted to ascertain the *exact* meaning of the First Amendment position on religion:

"Mr. Madison said he apprehended the meaning of the words to be that Congress should not establish a religion and enforce legal observance of it by law, nor compel men to worship in any matter contrary to their conscience."

Madison then made a motion to insert the word "national" before "religion", so that the Establishment clause would read, "Congress shall make no law respecting the establishment of national religion". The motion would have made clear beyond a doubt the intent of the framers, but Madison withdrew it when he was persuaded that it was unnecessary.

Thus it seems that the purpose of the Founding Fathers has largely been misinterpreted in the recent decisions. It is interesting to note that the same day the Bill of Rights was passed by the Congress, that body also passed a resolution calling on the President to declare a day of public prayer and thanksgiving.

George Washington complied with the request and set aside October 3, 1789 for that purpose. So much for the modern view that the writers of the First Amendment wanted to remove any trace of religion from public affairs.

3. It is impossible to deny that, from its earliest beginnings in the colonies, this nation was founded on the belief in God. As Law Professor Charles Rice puts it, the "colonies, later the independent states, and finally the nation were all premised, in their juridical and social structure, upon the facts that there is a providential Creator and that man, society, and the state ought in some way to acknowledge Him and His law."

4. The continual expression of this belief in public documents, Presidential remarks, and cultural mores is more than an orthodox religious position. It is a philosophical realization that if we deny the source of moral values, if we remove the foundation of liberty from the classrooms, how long will the youth of the nation respect that liberty? Even a man as determined as Thomas Jefferson to keep church and state separate remarked,

"God Who gave us life gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God?"

Thus, we are unable to divorce our heritage of freedom from the conviction held by the Founding Fathers that it was a Supreme Being who was ultimately responsible for it. To bar this realization from the classrooms can only result in the removal of a vital part of our tradition and our commitments as a people.

5. The decisions which removed voluntary prayer from the schools set dangerous precedents. If it is unconstitutional for children to pray in schools, it is quite possibly unconstitutional for sessions of the Supreme Court and Congress to start with prayers, for the President to make references to God in his inaugural address, for astronauts to read from the Bible, for phrases such as "in God we trust" to be publicly displayed. In short, there is the very real danger that the prayer decisions are but a first step in a long process which will eventually remove all references to God from public view and national conscience.

The Schempp decision indicates that a federal or state law is unconstitutional if it involves government sponsorship or conduct of a "religious exercise", or if that exercise has a purpose or a primary effect that "advances or inhibits religion". The threat to the tax privileges of religious institutions is clear, since such privileges do have precisely the effect of advancing religion by allowing critically needed funds to remain with the churches.

6. What the Court apparently was attempting to do in the *Murray* and *Schempp* cases was protect the minority rights of nontheists. But what is perfectly clear is that the rights of the children were no violated, since they were never forced to pray. So since the majority who do wish to pray are now being prohibited from their religious practices, it would seem that it is the rights of the majority which are in danger. But, as usual, no one is hurrying to protect *them*.

I have listed just a few of the arguments to support the principle of voluntary prayer. I encourage you to do more reading on the subject, and recommend as a starting point *The Supreme Court and Public Prayer* by Charles Rice, New York: Fordham University Press, 1964.

What is at stake here transcends the right to pray in schools, transcends even the right to worship in the manner in which one may choose. What is truly at stake is the very foundation of freedom; as John Kennedy stated in 1961, "the belief that the rights of man come not from the generosity of the state but from the hand of God."

It is time to affirm the heritage which made us great; to exercise the rights stated in the Constitution; to assert the divine ground of all moral values; to restore the moral fiber of our nation's youth. We would do well to recall the words of the late Franklin Roosevelt:

The Almighty God has blessed our land in many ways.

He has given our people stout hearts and strong arms with which to strike mighty blows for freedom and truth. He has given to our country a faith which has become the hope of all peoples in an anguished world.

So we pray to Him now for the vision to see our way clearly—to see the way that leads to a better life for ourselves and for our fellow men—to the achievement of His will, to peace on earth.

URBAN CHANGE—A SUGGESTION ON HOW TO MEET IT

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. PICKLE. Mr. Speaker, as chairman of the Capitol Area Comprehensive Health Planning Commission in Austin, Tex., Mr. Terrell Blodgett is well acquainted with the problems of our growing urban population and the problems of planning how to deal with them.

In a recent article in the magazine Texas Town and City, however, Mr. Blodgett's open reason, his good commonsense, and his concern for the future are transformed into the hows and whys of city planning. And he affords us insights and directives which would be valuable to any public servant from any branch of the government with a concern for building a better world.

I would like to include his article in the RECORD at this time:

MUNICIPAL ADMINISTRATION MODERNIZING RESPONSE TO MEET EVOLVING DEMANDS

(By Terrell Blodgett)

Change is the key word, the key condition that dominates our lives today as individuals and as city administrators.

The young are embracing the word with enthusiasm and an often radical dedication. A typical example is the youngster sent three blocks to the supermarket for a loaf of bread. He came back and reported he couldn't find the store. He guessed they had "torn it down."

Buildings aren't the only things being torn down, and it's easier for us to adjust to falling plaster and bricks than to crashing ideas ond ideals. The guidelines are better written for putting the bricks back together in a new structure than the guidelines for putting back together our ideas for running our individual lives, our cities, the nation and the world.

THE FUTURE IS TODAY

We used to categorize a lot of problems for future consideration, giving us time to prepare. But today, we find the future in our laps.

Let's look at where we are and how we got there.

First, we got bigger. At the present rate of population increase in urban areas alone, we will have twice as many people in our cities in 11 years as we do now. The increase is 6.5 percent annually.

The pattern of that growth, however, is what has the greatest significance to us, because it has forced us to consider a change of approach in dealing with city problems. In the 1950's urban growth was so rapid that it was all we could do to concentrate on streets and water and sewers, and we are still running behind demand all the time.

Between 1960 and 1970 the growth pace slowed and several SMSA's lost population. Our problems were suddenly more "people problems" than plumbing problems. The guidelines weren't there, because the same problems had never been there before in the same way. City administrators are now pioneering a whole new approach to city management, to public administration as a whole.

Remember that the Chinese sign for crisis consists of two ideographs—one means danger and the other means opportunity. City officials hold the key through their decisions and courses of action as to whether Texas cities move into a period of increased danger or of increased opportunity.

A NEW SOCIETY

A new society is being created today, not a changed society. A revolution shatters institutions and power relationships. We aren't talking about blowing up General Motors with a good-sized bomb, but we are talking about restructuring our organizations to deal with new challenges.

John Gardner, who really shook up HEW when he came in as its director in 1965, wrote a book before he assumed that post in which he said, "Most organizations have a structure that was designed to solve problems that no longer exist." The "self-renewing" organization was defined by him as one that constantly changes its structure in response to changing needs.

The social Psychologist Warren G. Bennis extends this reasoning, saying he believes we must adjust to and accept the fact that we have an increasing and intense polarization in American life. Not just the blacks and the whites, not just the rich and the poor, not the men and the women nor the scientists and the humanists.

It ia the old fashioned scarcity-oriented technological culture versus the new more person-centered culture. He says old culture tends to give preference to technological requirements over human needs. An example occurred in Austin recently. An independent community corporation is trying to accumulate funds to back banks loans for housing repairs for low income families. The corporation investigates the loan applicant who does not meet full bank requirements as a good credit risk, then agrees to back the loan if the bank will make it. They follow up on complaints, and they learned that one woman was falling behind in her payments because she was accustomed to paying all bills by the week when she got her pay check. She couldn't adjust to saving a little each week to make the monthly payment on her repair note. When the corporation staff asked the bank to allow her to make weekly payments, they were told, "But we can't do that. We use a computer system and all our payments are set up on a monthly basis." "Are you in business to serve people or your computers?" was an incisive question asked by the staff member. After several conversations, the weekly payments were arranged and the woman hasn't missed one since.

ADAPTABILITY, FLEXIBILITY

Adaptability, flexibility are keys to living in this age of change. Where do you stand as an individual today? Are your ideas flexible? Have you looked at your administrative techniques and asked if they allow for flexibility? Have you examined the administrative functions of city departments and asked the same question?

And, then, have you taken the next important step? Have you looked at your city with a broader view than its formerly primary responsibility of providing streets, police and fire service to a given area? Do you see how your city and your manageemnt function is related to the area, the region, the state and the nation in dealing with pollution, labor relations, economics, finance and the money market, population changes and migrations, transportatiton, and in dealing with pressing social concerns of minorities, youth, and the aged?

Do you see how your responsibility and opportunity is increased by the "new federalism"—the trend toward decentralization and reversing the flow of power back down to your backyard?

Revenue sharing and welfare reforms are proposed as means of increasing the effectiveness of state and local governments. The American public is maturing in its recognition of the role of government in modern society, but the resistance to the necessary taxation to carry out that role is as strong as ever.

With limited money, the approach to city problems has got to have priorities even when it is a total approach. Looking at total community development, we need to ask ourselves.

What are the economic, social and political goals toward which the community and area should strive? (It's best to identify these problems yourself in advance and begin planning to solve them rather than do your planning in a crisis)

What are the community and area problems—including ineffective government—standing in the way of these goals?

What should be the priorities in attacking these problems?

How can we achieve public support and cooperation in solving these problems and achieving area and community goals?

IDENTIFYING PROBLEMS

A key to identifying problems and reaching solutions that the community will support is community participation. This age can be characterized as "participatory democracy." The watchword for the future must be anticipatory democracy."

The old way was often to get a few people together quietly and try to solve problems. But it won't work along in the modern city. All significant leadership elements in the community must be brought together. This new concept shook many a city when it was applied under the anti-poverty program in 1964. It brought problems, but it demonstrated that when problems are met headon, rather than evaded, new understanding can result.

A positive benefit observed by the Urban Coalition in its collaboration with representatives of *all* areas of the community was that the less powerful elements in the community learn some interesting lessons. They often begin the discussions with some astonishingly oversimplified notions about power. They sometimes think that there is someone somewhere in the community so powerful he can just push a button and solve most current problems if he were just unselfish enough to do so. The object is thus to find the man near the button and persuade him or force him to press it. They soon discover in open talks with the so-called power structure that all power operates under restrictions, and there isn't any button that can be pressed to solve our serious problems.

The identification of problems should not be general, but should pinpoint strengths and weakness. It can be done by geocoding and by computer if these technological assists are available. But it can be done manually if they are not. Check out each city function by census tract or by age breakout or other division of figures that will pinpoint strengths and weaknesses specifically. This is the thorough way, because there is a big difference in infant mortality rates for example, from one census tract to another. The overall average may be good, but chances are that in one part of town too many babies are dying.

How about fire protection, library service and police protection and utility service? How do they check out for all areas of the city? Utility installations and zoning and building codes lead into a major problem in every city—housing. Can you do something about the housing problem through better regulation or enforcement and have you sought out the wide range of programs available to help solve your problems?

In the very act of trying to bring community leaders together to talk about problems, the city administrator will be participating in a new and challenging move toward community participation and decentralization in public administration. Yes, advisory committees eventually want more voice in decision making, and power struggles emerge, and the desire to move upward manifests itself more strongly in white and blue collar neighborhoods as well as the inner city groups.

But we can probably all agree that efforts must be made to satisfy honestly and fairly the unbridled desire of many groups in our society to rise, as quickly as possible. To leave them feeling subjugated, excluded or oppressed is to invite crises and conflict.

We need to gain the confidence of the dissenting groups in our community. They are pessimistic and doubting. A Gallup poll a year after the moon landing showed half of the people polled who lived in ghettoes in Washington, D.C., did not believe it. They thought the moon landing was faked.

Those discontented people making demands on us reflect the observation of the French historian who said, "The evil which was suffered patiently as inevitable seems unendurable as soon as the idea of escaping from it crosses man's mind."

Even though the evil has become less as reforms have been made, and even though some abuses have been removed, the ones that remain appear more galling because sensitivity to it has become more acute.

UTILIZING RESOURCES

We need all the help we can get. Some cities have brought in teams of social scientists to work with special groups; some cities have decentralized several related programs (such as adult education, social services), establishing common service boundaries and an area coordinator available to the people. You may conceive of an innovation in problem solving that will be a guide to all. There is plenty of room for innovation, because the problems are not solved and no one has found all the right approaches yet.

A major resource for solution of problems lies under your jurisdiction—your employees.

When you take the next step after identifying where you are by beginning to decide where you want to go, you are going to need to look at your employees.

You need good help, expert help, and you need to ask yourself if your recruitment and personnel practices are attractive. It's a whole new ball game with young people today. They are idealistic, deeply concerned about social issues. That puts the burden on us. How can we make our cities more adaptive, responsive and exciting in order to attract the brightest young men and women? How can we demonstrate a new legitimacy, a compelling moral imperative to solve problems that will challenge them?

Eighty percent of college-age youth, according to a recent poll, listed as a major factor influencing career choice "the opportunity to make a meaningful contribution."

Our attention needs to be turned to employee practices as well as recruiting. We have had but did not need polls to tell us dissent is growing among public servants in many quarters.

Employees believe in participatory democracy too! They need to be made to feel they are a part of the total picture. It involves breaking down that old structure of *those who make decisions and those who carry them out.* They need assistance in developing their own ideas so they can articulate their suggestions. Senior officials must assume the responsibility of helping them develop ideas on policy issues. Employees should have some forum through which they can develop their own ideas regarding organization and public policy.

It will be increasingly necessary to deal with unionization of public employees.

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The necessity to strengthen the employee's identification with the city's total goals and to make him feel a part of the decision-making rather than down at the far end, receiving directives, is indisputable. With all the outside problems, the city needs a united front in its employee resources.

In addition to the resource of his employees, the administrator has unlimited resources from other areas within his reach. It is often a matter of making yourself familiar with them. It's part of remembering that *you are not and the city is not independent and isolated.* You must be aware of and responsive to everything and everyone around you, state and federal agencies, local Chamber of Commerce, National Alliance of Businessmen, Urban Coalition, your Community Action Agency, NAACP, Urban Corps, Urban League, councils of government, school system, counties, special districts—all governmental and private agencies.

COMMUNITY RESOURCES

Managers across the country are utilizing the wide range of community resources in an ever-increasing manner.

Graham Watt, now deputy mayor of Washington, D.C., decided that the Concentrated Employment Program could help solve his manpower problems while he was manager of Dayton, Ohio. Under his leadership, the federal concept of CEP—that a concentrated employment program be federally funded and administered at the federal level by the U.S. Department of Labor—was amended and tailored to meet the special needs of the Dayton community. Consequently, Dayton became the first city in the nation where the CEP was sponsored jointly by the city government and the community action agency.

Amarillo has tackled in a new way the reading problem of elementary and junior high school students by opening four school libraries four nights a week during the school year, utilizing funds from the Emergency School Assistance Act. The move has certainly helped an already overcrowded Main Public Library in Amarillo from being inundated during the evening hours.

One other example should suffice to illustrate the use of other community resources:

The City of El Paso, along with more than 50 other cities across the country, is finding another answer to its manpower problem—the Urban Corps. Fifteen University of Texas at El Paso students are finding a slot—in engineering, parks and recreation, airport, and a number of other city departments. The negative attitude which many young people have toward local governments can be changed, but it requires giving them the chance to become a real part of it, and to see what is right—and wrong—about the community. Above all, we must have a willingness to deal with today's youth not as a burden but as a much-needed resource.

To reiterate: your city is not isolated and independent and can never again be so! The future of your city depends not so much on your doing a good job of cementing your city streets but on your cementing a lasting and fruitful relationship with—

your employees
your citizens all over town, and
the other agencies and individuals who can work with you to enhance the quality of life for all of your citizens.

CONCLUSION

City administrators are confronted with an opportunity never given before—a role of significant leadership in an era of historic change. Do you remember the story of the group of travelers who arrived at a mountain pass with a narrow log traversing it for a bridge? The leader asked the group if they thought it could be crossed safely. They agreed it could. Then he asked who would go with him. No one was willing.

Believing it can be crossed is having faith, he said, but you'll never get across unless you add the commitment to action and walk across.

NATIONAL ACTION GROUP POSITION ON BUSING

HON. JACK H. McDONALD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. McDONALD of Michigan. Mr. Speaker, Mrs. Irene McCabe, the chairman of the National Action Group—NAG—and a resident of Pontiac, Mich., testified in the U.S. Senate yesterday her group's position on busing. Hearing this testimony were members of the Select Committee on Equal Educational Opportunity, chaired by the Honorable Senator from Minnesota, WALTER F. MONDALE.

The recent court decisions, which led to busing not only in Pontiac but in other cities, has created a furor which will be with us for a long time. Until this issue is settled once and for all either by the Supreme Court or by an amendment to the U.S. Constitution, there will be busing and there will be problems.

The public outcry which followed those busing decisions brought with it several articulate spokesmen who have risen above the gutter tactics of violence and senseless dissent and have focused attention on this problem with eloquence and reason. Mrs. McCabe is one of those citizen leaders.

Mr. Speaker, I am proud to represent this Pontiac woman. Her testimony before that committee drove to the heart of the busing issue—its effect on our schoolchildren. I present for printing in the CONGRESSIONAL RECORD her remarks before the committee with the hope that all of my colleagues will read this testimony and heed its message.

The remarks follow:

STATEMENT BY MRS. IRENE MCCABE, CHAIRMAN, NATIONAL ACTION GROUP, BEFORE THE SELECT COMMITTEE ON EQUAL EDUCATION OF THE U.S. SENATE

Good Morning. Senator Mondale. Members of the Select Committee on Educational Opportunity. Ladies and Gentlemen.

I am Mrs. Irene McCabe of Pontiac, Michigan.

And I am Chairman of the National Action Group.

We are an organization of parents and concerned citizens who have formed together to oppose the forced busing of school children away from neighborhood schools.

We are not educational experts or statisticians or PHDs. In fact I am a high school graduate, mother and housewife.

I personally appreciate the opportunity to appear before you to discuss the serious implication of the recent court decisions on busing as they bear on educational opportunities in Pontiac, and ultimately on the lives of millions of parents and their children throughout the nation.

As you know, Judge Damon Keith of the Federal District Court of the Eastern District of Michigan, has ruled that school children in Pontiac must be bused out of their neighborhoods to distant schools in order to achieve an artifical racial balance.

That decision was appealed to the Supreme Court of the United States. The Court refused to review the lower Court decision last week and so the lower Court decision will stand. It is being implemented.

Let me first speak of Pontiac.

We are a community of 85,000 people.

76.5% of our people are white. 23.5% of our people are black. There are 29 elementary public schools in Pontiac and 8 secondary public schools.

It has been alleged that the boundaries of the various schools were drawn to concentrate blacks with blacks and whites with whites.

But I deny that. I believe that Pontiac is a totally integrated city with some concentrations of blacks and whites in certain areas due to the social and economic realities of a society. But Pontiac is also a city with a progressive open housing ordinance.

As a result of Judge Keith's ruling, busing was begun in September of this year to give the schools a racial balance equal to the population of the city.

The assumption has been that this re-arrangement will give all students an equal educational opportunity.

It is our opinion that this is not so.

We are aware that beginning with the historic decision in Brown vs. Board of Education in 1954, the Supreme Court has consistently ruled that children must be given an equal educational opportunity.

The National Action Group supports that view enthusiastically. We believe that every child . . . black or white . . . rich or poor . . . northern or southern . . . should have that right.

But we do not believe that equal educational opportunity results by forcing children to be bused great distances from their homes and dropped into sociological mixing bowls in order to try and prove some social planner's view that the only road to equal educational opportunity is through a color scale which precisely mixes black, white, red, yellow and brown.

That is unmitigated foolishness. And I sincerely believe that we all know it.

Busing is wrong. It effectively destroys the Neighborhood school concept. It prohibits the day to day involvement of parents in the local school. It denies the parents the right to effect and control the formal education and development of their children by removing the child from his community. And it ends children's involvement in school activities which require after school hours like sports and civil projects.

Do you know what happened in Pontiac? Opposition to the forced busing was almost universal, black and white alike. The city could not believe the headlines.

The extremists seeking to exploit the situation, blew up ten buses. Thank God no one was hurt.

Then actual busing began.

The incidents of violence between students increased 854% in the period from September 7-29 over the same period in 1970.

Robberies shot up from one to twenty four.

Assaults went up from thirteen to eighty-four.

Aggravated Assaults where the injured were treated went up from five to thirty-one.

Disorderly person arrests went up from one to forty-one.

Mr. William E. Neff, principal of Whitfield Elementary School in Pontiac, was so disturbed about it that he sent this letter home to the parents on October 15, 1971:

"Dear Parents: I would like to call your attention to a very serious problem which exists and which has continued throughout the first six weeks of school. A great number of fights and incidents of intimidation have occurred among students. These incidents occur in some instances with only white involved, on other occasions between blacks and between black and white students as well. The fighting includes all areas of our student body. In many cases children are reluctant to report incidents to teacher or principal because of threats of reprisals if they do."

Also, as a result of the ill-conceived and hastily imposed busing program the school board hired drivers who were both untrained and unsafe. I have driving records and police records here to show you.

The buses themselves were unsafe. A maintenance crew of three, who last year barely maintained thirty or thirty-one buses this year are unsuccessfully attempting to maintain over one hundred buses.

Here is a picture of a bus that just two weeks ago stopped on the highway and the rear axle and all four wheels slipped off just moments after unloading its precious, uninsured cargo.

In Pontiac, Michigan, where there was not structured hostility last year, now there is.

Where there was not community polarization, now there is.

Where there was both student and parent participation, now there is none.

Where there was an effective educational environment, now there is none.

Busing is not the answer to better educational opportunity. It only creates conflict and ruins the traditional role of the school.

Most of all, it removes the influence of the family, the parents and the community upon their children.

Few will argue that the transient nature of our society today has already greatly reduced the influence of parents on children.

Crime is at an all time high. More children are on narcotics than ever before. Pornography and sexual permissiveness is tearing down our moral fibre.

Suicides are at an all time high.

And correspondingly religious influence and participation is at an all time low.

Surely we see each day the growing madness of our society.

And we now are to remove that single most important restraint—the influence of the mother and father on the child through the local school?

We believe that busing must be stopped.

Toward that end we are announcing today a massive campaign to ask men and women throughout the country to encourage their Congressmen and their Senators to support Congressmen Norman Lent's House Joint Resolution No. 620 to amend the United States Constitution.

Hopefully, our letters, our telegrams and our calls will convince a majority of you who represent us that busing is wrong and must be prohibited.

According to Mr. George Gallop, as of a few days ago, 79% of white Americans feel this way and 47% of black Americans.

That is a strong mandate.

It was distinctly stated in the Congressional Record of March 24, 1970, by the President of the United States:

"I am dedicated to continued progress toward a truly desegregated public school system. But, considering the always heavy demands for more school operating funds, I believe it is preferable, when we have to make the choice, to use limited financial resources for the improvement of education—for better methods, and advanced educational materials—and for the upgrading of the disadvantaged areas in the community rather than buying buses, tires and gasoline to transport young children miles away from their neighborhood schools."

And we of the National Action Group agree.

Thank you, Mr. Chairman.

BILL TO AID THE HANDICAPPED

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. WALDIE. Mr. Speaker, the administration announced this week that the total number of Americans in Vietnam has dropped to just over 196,000 men. It would appear we are moving out of Vietnam; bringing our boys home. As a result, a number of measures have been offered to this Congress that would provide educational, financial, and medical benefits to the men who served their country in this war.

But, Mr. Speaker, today I have some figures to add to the totals the Defense Department is releasing every day. These figures are certainly not as impressive, but they are certainly more dramatic than any figures released from any war.

There are 4,353 veterans of the Vietnam war now receiving compensation from the Veterans' Administration because they are classified "lower extremity amputees." Mr. Speaker, these men have lost portions, or all, of their legs. There are 6,544 veterans of this same war who receive compensation because they are classified paraplegics or quadraplegics. The figures go on and on. The totals from just the Vietnam and Korean conflicts are staggering—12,984 men are now receiving payments because they cannot move their arms and legs, or do not have any arms or legs to move.

Mr. Speaker, these men need more than just compensation from this Government. They need the assurance of this body that something is being done to help them lead better lives in our society.

At the same time, we also need to do something about similar cases in civilian society. There are untold numbers of people today who cannot move because motorized wheelchairs are useful only on smooth surfaces. What about the children who want to go fishing or camping, but can only go if carried on the back of a parent? What about the parent who cannot take his child on such excursions because he cannot walk and no means of conveyance is available?

Mr. Speaker, I am introducing legislation today that is designed to help these very people. My bill would direct the Secretary of Health, Education, and Welfare to establish a national research and development program to develop and facilitate the availability of low-cost equipment and devices which will enable physically handicapped individuals to move about independently. As part of that program, the Secretary would place special emphasis on the development of low-cost, self-propelled devices for transporting nonambulatory individuals across smooth and rough terrain.

This legislation would establish a mandate for our technological society to come up with the devices necessary to give livelihood back to individuals who are physically handicapped by birth, accident, and even war.

I urge the House to give this legislation prompt consideration and action. The sooner research and development of this kind of equipment can start, the sooner veterans of all wars, and physically handicapped citizens of this Nation, can see our willingness to make them a useful part of this society.

IN OPPOSITION TO THE WYLIE AMENDMENT—HOUSE JOINT RESOLUTION 191

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. CORMAN. Mr. Speaker, on October 4, the United Ministries in Public Education adopted a resolution calling for the defeat of the Wylie amendment—House Joint Resolution 191.

At this time I would like to direct my colleagues' attention to this resolution which is representative of the broad national opposition working for the defeat of the Wylie amendment.

RESOLUTION

The United Ministries in Public Education, a joint program of the Episcopal Church, Presbyterian Church in the U.S., the United Church of Christ and the United Presbyterian Church in the U.S.A., is deeply concerned about the proposed Wylie "prayer" amendment (HJ Res. 191) calling for the legitimation of "non-denominational prayer" in publicly funded facilities.

The historic neutrality of government toward religion stated in the "no establishment—free exercise" clauses of the present Bill of Rights has kept national public life free from sectarian controversy and permitted the fullest latitude for the voluntary profession and practice of religious freedom. The practical effect of the proposed change would signal the end of this American tradition and could bring about a scramble for state approval by one religious denomination or another. To assume that consensus can be achieved about a non-denominational prayer is unrealistic in the light of American cultural diversity and religious pluralism. Its adoption would require the government and the courts to become theological arbiters, judging which prayers addressed to the Disty are acceptable to the state and which are not. Nothing could be more alien to the spirit of prayer than to shape it to the requirements of the state.

Though we are concerned about the integrity of religion, we are equally concerned about the integrity of the schools. It is no secret that the backers of the proposed change hope and intend to upset the present constitutional prohibition on official prayer in the public schools. It is worth noting that there is no such prohibition on voluntary prayer by believing individuals when they deem it appropriate nor can there be any such prohibition of a voluntary act in accordance with the free exercise clause of the First Amendment.

The schools have a monumental educational task in these days of rapid change and social upheaval. Diverting them from that task and adding theological concerns to their educational agenda would be tragic. The public schools, in a religiously pluralistic society, should serve the learning needs of children, not their devotional needs. If anyone im-

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agines that the religious groups of America could agree on "non-denominational" prayer or accept the state's definition without conflict, he does not understand the dynamics of religious commitment. The public schools must not become the arena for such controversy. For the integrity of the schools as well as the integrity of religion, we urge the defeat of this proposed change in the Bill of Rights.

DAVID E. ENGEL,
Chairman.
DOUGLAS M. STILL,
Executive Secretary.

SIZE OF WINE BOTTLES

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. DENT. Mr. Speaker, I would like to further extend my remarks of October 28, 1971, regarding the American winemakers and the injustices to which they are subjected. Last week in the November 3 issue of the Evening Star an editorial entitled "Old Wine in Short Bottles" underscored the immediate need to remedy the problem of the American wine industry.

The controversial issue concerns the size of the wine bottle. The Star article emphasizes the fact that European wine bottles often contain a full two ounces less than American bottles, for they are not required to meet the U.S. 25.6-ounce standard. As a result, European winemakers have a definite price advantage over their American counterparts. Action must be taken to protect the industry as well as the consumer.

The regulation now being considered by the Alcohol, Tobacco, and Firearms Division of the Internal Revenue Service would rectify the situation by requiring the European winemakers to meet the same 25.6-ounce standard. A similar requirement established over 35 years ago for exporters of foreign liquors has not raised any major compliance problems. I think the Division is justified in establishing a regulation equalizing production in the wine industry as well.

It is of major importance that we justify the standards in this industry. Our American winemakers are fast growing tired of seeing their profits eaten up by their European competitors simply because this Government will not impose equal standards.

OLD WINE IN SHORT BOTTLES

The Alcohol, Tobacco & Firearms Division of the Internal Revenue Service is now considering a proposal to impose upon imported European wines the same regulation as to bottle size that the law has long imposed on domestic wines.

This equalization before American law of American wines with foreign ones is justified and overdue.

The standard American wine bottle, established by federal regulations, is the "fifth," a bottle containing 25.6 ounces, or one fifth of a gallon. No such standard has been imposed upon European wines imported here with the result that the vast majority of European wines are sold here in bottles containing as much as 10 percent less.

This means that in every case of 12 bottles, American wine contains the equivalent of one extra bottle. Prices and taxes are figured accordingly, so that European wines automatically get a competitive advantage courtesy of the United States government which, at the same time, collects less tax per bottle of European wine.

While most bottles are labeled with the number of ounces contained, both American and European bottles appear on all restaurant menus and in most retail advertising as simply and equally "bottles."

This obvious inequity is easily corrected. The proposed change would allow a reasonable time for an orderly transition to the new standard size. Foreign exporters of Scotch and Irish whiskey, cognac, gin and vodka have had no trouble complying with comparable regulations for more than 35 years now.

There is no reason in the world why foreign vintners cannot do the same. As a balancing gesture, it would be nice for their American counterparts to return to graceful bottle shapes and to real corks.

TEXAS TOKAMAK—POWER FOR THE FUTURE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. PICKLE. Mr. Speaker, this Monday Dr. Anthony Robson and Dr. Bill Drummond and their associates stood tall and proud before a $1 million aluminum and quartz "doughnut." And they had every right to, for that doughnut contains much hope for clean power for the future.

In that strange looking machine lie the hopes for controlling thermonuclear fission—or the hydrogen bomb—for peacetime purposes, a feat President Nixon's science adviser, Dr. Edward E. David, calls, "about as important as the invention of the wheel."

Dr. David was keynote speaker at the dedication Monday of the experimental device called the Texas Tokamak in a new physics-mathematics-astronomy building at the University of Texas at Austin. Dr. Robson is designer of the machine and Dr. Drummond is director of the university's center for plasma physics and thermonuclear research.

Joining me as honored guests at the dedication were, not only Dr. David, but also former chairman of the Joint Committee on Atomic Energy, Congressman CHET HOLIFIELD, and Congresmen JOHN YOUNG and MELVIN PRICE, both current committee members, and University of Texas regents, Mrs. Lyndon B. Johnson, Mr. Joe Kilgore, and Mr. Frank Erwin. We were most pleased and honored to have all these distinguished guests join us in Austin for this auspicious occasion, and extend a hearty thank you to Dr. David for his fine address.

I would like at this time to insert two articles, one from the Austin American and one from the university's Daily Texan, to tell us more about the dedication, the machine, and the meaning it contains for the future of the world. The articles follow:

[From the Austin American, Nov. 2, 1971]

UNIVERSITY OF TEXAS TOKAMAK IS DEDICATED TO PRODUCE SAFE ENERGY

(By Leslie Taylor)

An experimental device scientists believe will one day tame for peaceful uses the uncontrolled energy released in the explosion of a hydrogen bomb was dedicated on the University of Texas campus Monday.

Dr. Edward E. David Jr., science adviser to President Nixon, said Monday the Texas Tokamak will "help lay the groundwork on which the next generation of energy-producing mechanisms will be built—around the turn of the century."

Success of the Texas project would be a major breakthrough toward the ultimate goal of production of limitless supply of inexpensive and environmentally-safe power from thermonuclear fusion.

That production could become a reality by 1978, according to Dr. Anthony Robson, the UT research scientist who designed the Texas Tokamak.

Current and former members of the Joint Committee on Atomic Energy in Washington attended dedication ceremonies in the unfinished Physics-Math-Astronomy Building at UT.

Guests included Congressman Chet Holifield, former chairman of the committee, and John Young and Melvin Price, both committee members. Also in attendance were U.S. Rep. Jake Pickle and UT regents Mrs. Lyndon B. Johnson, Joe Kilgore and Frank C. Erwin.

The $1 million Tokamak, an aluminum and quartz doughtnut complete with 16 copper coils to form magnetic fields and 350 half-ton batteries for power, housed in the basement of the P-M-A building, is financed jointly by the university, the Atomic Energy Commission, Edison Electric Institute, and the Texas Atomic Energy Research Foundation, an organization of Texas' 10 investor-owned utility companies.

David praised the cooperation among the academic world, industry and government that made the project possible.

Thermonuclear fusion, the combining of the nuclei of heavy hydrogen, produces a large energy release. To produce the reaction, UT scientists must heat the hydrogen gas (which they extract from sea water) to the point that it becomes a plasma—a rapidly moving stream of gas atoms—approximately 100 million degrees. That temperature must be maintained and the plasma confined for a time long enough for the fusion reaction to take place.

The Texas Tokamak is an adaptation of a similar Russian device developed 10 years ago and utilizes the Russian confinement techniques.

Plasmas, Robson said, flow along magnetic fields easily, but, they are constrained when surrounded by the magnetic bands. UT scientists will cool the copper magnetic coils to the temperature of liquid nitrogen in order to get the maximum magnetic field possible.

Robson said the UT scientists' unique contribution to the on-going research is a heating method called turbulent heating. It is based on the discovery that when a fast, high voltage is applied to a plasma, resistance becomes greater and consequently heating is increased.

He said UT research scientists will apply 40,000 megawatts of power to the plasma for one-millionth of a second to produce a temperature of 100 million degrees for one second to produce the fusion reaction. Robson said he is "confident" that can be achieved.

He said measurement of the experiment will begin in January and it will take approximately one year to evaluate the results. The project itself began in April, 1970.

It is one of five such projects in the United States. The others are located in government laboratories at Princeton, Oak Ridge, Los Alamos and Livermore.

Robson said this machine experiment is designed to produce a higher temperature than has ever been produced before and to understand how the plasma acts.

A bigger and more expensive Tokamak would then be built to gain higher temperatures and longer confinement times in order "to get more power out of the machine than was put in."

By 1978, assuming funding is available, the problems should be solved, Robson said. "Then development of power will be in the hands of industry to be determined by economics and not scientists."

Robson could not estimate how much it would cost to build fusion power plants, but said the cost of the fuel would be negligible, the major cost being capital costs.

"By the middle of the next century," Robson said, "power will be produced by fusion. Scientifically, it's inevitable. Supplies of fossil fuels are diminished and pollution consciousness is restricting their use. The ultimate source of power is clearly fusion."

In a press conference following dedication ceremonies, David said Russian scientists had shared their findings on the Tokamak freely with American scientists and he felt certain American scientists would do the same.

"It's one of the fields that gives us hope that the free flow of information can be extremely fruitful for the world," David said.

[From the University of Texas Daily Texan]

FUSION PROGRAM HIGHLY PRAISED

(By Bonnie Cox)

President Richard M. Nixon's science adviser said here Monday that the University has "managed to take the lead in finding a way in which forward-looking industry can become involved productively with basic academic research."

Dr. Edward E. David, speaking to 200 guests at the formal dediction of the Texas Tokamak in the new Physics-Mathematics-Astronomy (PMA) Building, commended the co-operation of the University and industry in advancing thermonuclear fusion research.

"Here in a university setting we have the example of basic researchers, theoreticians, engineers and students working together on a national, social and economic problem with financing by enlightened industry," David explained.

This co-operation is essential, David stated, because "the federal government can no longer be counted upon to do the research."

University President Stephen H. Spurr presided at the ceremonies and U.S. Rep. Chet Holifield, D-Calif., as principal speaker said the Texas Tokamak is an "important experimental program" that is attempting "to duplicate, here on earth, the sun's energy mechanism."

University Regent Mrs. Lyndon B. Johnson, U.S. Reps. J. J. Pickle, D-Tex., and Melvin Price, D-Ill., Chet Holified of California, and John Young of Texas, were recognized guests at the proceedings. Price said "the Texas Tokamak will be a leader among those in its field in the U.S. and also a leader in world competition."

Dr. William E. Drummond, director of the University's Center for Plasma Physics and Thermonuclear Research, spoke on the successful thermonuclear research program here where "talented young researchers are working to provide us with a limitless supply of energy in the future."

The Texas Tokamak, a $1 million doughnut-shaped aluminum laboratory in the basement of the PMA Building, is one of six thermonuclear fusion devices in the country.

Each laboratory is tackling a different phase of the over-all problem of the evolving national energy supply, David said. The Texas Tokamak is unique in its concentration on heating plasma (gas atoms) up to 100 million degrees by turbulence.

"By containing the plasma long enough to extract some of its energy," David stated, fusion could become "an everyday reality and an international achievement."

The fusion research programs "promise to provide abundant power from inexpensive fuel with fewer problems of pollution, waste disposal and safety than fission power plants," David said.

Clarifying the necessity of the fusion research programs, David said "the energy crisis is upon us, and indeed there is an increasing disparity between the growth of energy consumption and the growth of energy supply."

Predicting that fusion energy could be used commercially by the turn of the century, David suggested "the competitive-cooperative race for the controlled thermonuclear reaction is the archetype of international competition we will increasingly be engaged in as societies turn away from wars between themselves to wars on mutual problems."

SENATOR HUBERT H. HUMPHREY ANNOUNCES PROPOSAL TO BREATHE NEW LIFE INTO RURAL AMERICA

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. EVINS of Tennessee. Mr. Speaker, my attention has been called to an article appearing in the Los Angeles Times by Senator HUBERT H. HUMPHREY, former Vice President of the United States, concerning legislation he has introduced in this Congress to finance an accelerated program of growth and development in rural America.

Certainly there is great public support in favor of a strong rural development program and I commend Senator HUMPHREY for the introduction of this needed legislation and assure him of my support of the principle of this legislation to develop rural America.

Because of the interest of my colleagues and the American people in rural development I place the article by Senator HUMPHREY in the RECORD herewith.

The article follows:

[From the Los Angeles (Calif.) Times, Sept. 16, 1971]

A PLAN FOR BREATHING NEW LIFE INTO RURAL AMERICA

(By HUBERT H. HUMPHREY)

In the short period since World War II, the population of the United States has grown by 55 million people. The value of the goods and services we produce has grown from $280 billion a year to nearly $1 trillion. The two-home family is becoming nearly as commonplace as the two-car family.

On the other hand, 3 million farms have disappeared in the technological revolution that is still sweeping agriculture. More than 30 million people have abandoned the small farms and towns for the cities, so that 75% of our people are crowded onto less than 2% of the land. Twenty-five per cent occupy all the rest—many of them in lonely decline—while city residents live in overcrowded disorder.

The result of all this movement has been a national crisis of the environment, which in many respects lies at the heart of all the talk about ecology.

This problem of the changing relationships between the people and the land has festered the social and economic sores which have erupted around us.

If the trend to megalopolis continues, in the next 30 years 100 million more Americans will be crammed into the big cities where 150 million are already living; if these 100 million new Americans were to live in newly created communities, a city the size of Portland, Ore., would have to be created every 30 days over the next 30 years.

We have become a troubled nation. We are vaguely aware that we could have shaped our society with consideration for resources, people and space, demanding quality as well as quantity.

Instead, we have rushed after something we call "progress," piling more and more people into less and less space.

These trends can be stopped, or at least slowed down and possibly reversed. Certainly a nation which has explored outer space for a decade can muster the energy and technology and the will to create a life here in our country that offers opportunity and decent living conditions for all.

But the land, as space to live on, is taking priority over the old idea of the land as something to be exploited no matter what the consequences. The changes that will be necessary must be based on nationwide geography and not just political geography. We must head toward a rural-urban balance—a healthy balance between the people and the land.

The fact is, we have space to spare. But it is time now to stop acting as though it were a limitless resource. Government—all levels of government—must begin planning together. We must begin to do those things which will influence our nation's growth in a more orderly way—in a way designed for people, rather than expediency.

We must design a national growth policy that will have as its central premise the relationship of people to land, water, air and resources. There must be a healthy balance that permits people to live in harmony with their environment.

We must establish the right of all people to have a realistic choice about where they will live and work—not a choice dictated by politics or economics.

This means that young people will not be forced, as they are now, to migrate to metropolitan areas because there are no jobs at home. This means that people who may want to live in small towns can expect to find good schools for their children, a decent transportation system, and the best of medical care and medical facilities.

This means new industries, modern social services and cultural activities. It means that Americans should be able to enjoy all the benefits of life, liberty and property not only in big cities, not only in suburbs, but all over America.

A century ago, "Go West, young man" was not a tourist travel slogan. It was a firm national population policy designed to serve America's best interests.

Accordingly, the federal government gave incentives to settlers—the Homestead Act. And the federal government gave incentives to railroads to open up the West. Large land grants to the railroads made some people millionaires who probably didn't deserve it, but they did provide highways of steel to take people in and bring the crops out.

And just a little more than 100 years ago the federal government encouraged the growth of higher education in the Midwest and West by establishing the Land Grant College Act. The government was concerned with everyday necessities of life as well: In 1896 a federal act established the Rural Free Delivery service.

And then, for some reason, we stopped. As

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farming became more mechanized in the early decades of the century, as Americans tumbled into cities and then out of cities and into suburbs, just when we needed a population policy—we stopped.

We must develop a long-range population policy in the United States to bring vitality back to rural areas. We already have a number of laws on the books providing for federal assistance to rural America, and progress is being made in some areas. But we have yet to look at the problem in terms of an overall solution.

We have yet to consider our urban and rural problems in the light of a need for a national growth policy—a national plan to achieve rural-urban balance.

It seems that concern for rural segments of our population is the lowest priority item in the national budget. In the past, Congress has adopted a number of programs in the name of rural development, but all of them are inadequately funded.

Accordingly, we must establish major new sources of financial assistance for the development of rural America—financing for business and industrial development, for new payrolls and new jobs, for better schools, for medical centers and hospitals close to the people for parks and recreation areas, for improved transportation systems, for day care facilities, museums and cultural centers, for desperately needed housing.

And much more: industrial parks, water and sewer systems, waste disposal plants, community colleges, rural slum clearance, streets and highways, police and fire stations, and libraries.

Two steps should be taken to allow these developments to occur: First, the Department of Agriculture should be reorganized to insure a major emphasis on financing farm credit and nonfarm rural development requirements. Second, rural credit should be expanded by making it available to private and public borrowers unable to get credit from commercial sources for rural development purposes.

An initial subscription by the government could be $2 billion in 10 annual payments averaging $200 million. This would enable the system to issue about $2 billion to $3 billion a year in debentures and bonds in its early years, increasing to a potential of $10 billion to $20 billion a year when it is in full operation and when full or partial borrower owned status is achieved.

This is not a proposal merely to bail out a community or a business or a farm that is on the precipice of disaster. We already have laws that help businesses and institutions in such circumstances.

This program is designed for long-term, constructive, orderly development of America. America needs a development program just like the ones through which we are helping other nations in the world.

Our own big cities and suburbs are in trouble. And while they try to deal with the problems of yesterday, hundreds and hundreds of people from rural America get off the busses today, putting pressure on already overloaded urban systems and adding to welfare rolls.

We know that if there is to be a healthy, productive, prosperous and free America, we must rejuvenate, revitalize and modernize the vast areas of rural America.

I don't plan to start a massive back-to-the-farm movement, but we must give the young people who are still growing up in rural areas some reason to want to stay home. If we can develop the industries and shops, create the jobs, build the schools, provide the health and recreational services in rural America, those young people will stay, and many of those who have left will return.

But what Congress does will matter very little unless the unending political war between rural and urban interests begins to cool off. Politicians in rural areas make political hay by attacking "evil" city people, while in the cities, they have been demagoguing about the reactionary forces of rural America.

It is imperative that city and country stop shooting one another down and begin working together—because rural and urban America are inseparably tied together.

We are not talking about a city problem or a rural problem. It is not a liberal issue nor a conservative issue. It is not Northern, Southern, Eastern or Western. It is the very life of our country.

This is something we must face together as Americans. The issue at hand is the nation's destiny.

NOT-SO-FREE ENTERPRISE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. CRANE. Mr. Speaker, this morning's Wall Street Journal contains a very insightful article by the columnist Alan L. Otten, entitled "Not-So-Free Enterprise."

In this article, Mr. Otten makes the very valid point that much of private industry seems to be coming to Government for assistance while simultaneously decrying any form of such assistance for other industries.

He notes that—

More and more, American industry—linchpin of the great free enterprise economy—seeks succor from government. There's always some perfectly valid reason, of course . . . Regardless of the reason, though, the end result is always the same—and maybe it's time to stop and think it all through a little more rationally.

Mr. Otten laments the fact that industries seem more interested in applying for governmental subsidies than in diversifying and seeking to make a profit. He asks:

Why don't defense and aerospace companies move more aggressively to take up their current slack with more work on mass transit, pollution control, waste disposal and other newly expanding areas? The technology is different, they claim; they lack the know-how; the market is uncertain. Yet these are precisely the problems that aggressive capitalism is supposed to specialize in overcoming. Obviously many of these companies prefer to avoid the risks, and to wait instead for a new cycle of defense or some special bailout, a la Lockheed."

Few consider what it means in economic terms to turn over the hard-earned dollars of taxpayers to subsidize an industry which is not competitive and cannot succeed in the free market. Economist Henry Hazlitt notes that—

By restrictive policies wage and capital returns might indeed be kept higher than otherwise within the X industry itself; but wages and capital returns in other industries would be forced down lower than otherwise. The X industry would benefit only at the expense of the A, B, and C industries . . . The result is also that capital and labor are driven out of industries in which they are more efficiently employed. Less wealth is created. The average standard of living is lowered compared with what it would have been.

Mr. Hazlitt, discussing the idea of Government subsidies for inefficient industries, writes that—

If we had tried to keep the horse-and-buggy trade artificially alive we should have slowed down the growth of the automobile industry and all the trades dependent on it. . . . it is just as necessary to the health of a dynamic economy that dying industries be allowed to die as that growing industries be allowed to grow.

Mr. Otten presents the dilemma we face clearly. He states that—

There's a crying need for some sort of serious national discussion and debate on just how far and fast the administration, Congress, and the country want to continue down this road to some modified form of state socialism.

I wish to share Mr. Otten's article from the Wall Street Journal of November 5, 1971, with my colleagues, and insert it into the RECORD at this time:

NOT-SO-FREE ENTERPRISE

(By Alan L. Otten)

WASHINGTON.—Amtrak tells Congress it needs another large injection of federal funds to keep its passenger trains operating.

U.S. airlines ask for lots more government help, too, and find a sympathetic listener in Civil Aeronautics Board Chairman Secor Browne.

Defense contractors lobby the Pentagon to boost profit margins and extend other aid to lift them from their current depressed state.

More and more, American industry—linchpin of the great free enterprise economy—seeks succor from the government. There's always some perfectly valid reason of course. Industrial capacity must be saved for national defense. Thousands of jobs have to be preserved. The public must continue receiving some service that industry can offer only at a loss. Foreign firms are competing unfairly with cheap labor and government subsidies.

Regardless of the reason, though, the end result is always the same—and maybe it's time to stop and think it all through a little more rationally.

Consider some examples that indicate just how addictive the habit has become. Lockheed gets special big federal loan guarantees and extra government business to help it out of its troubles. The Navy probably will sweeten its existing F-14 aircraft contract to bail out the beleaguered Grumman. The Pentagon cuts back the number of assault ships it wants from Litton Industries, but earmarks more than $100 million to ease Litton's pain.

Why don't defense and aerospace companies move more aggressively to take up their current slack with more work on mass transit, pollution control, waste disposal and other newly expanding areas? The technology is different, they claim; they lack the know-how; the market is uncertain. Yet these are precisely the problems that aggressive capitalism is supposed to specialize in overcoming. Obviously many of these companies prefer to avoid the risks, and to wait instead for a new cycle of defense or some special bailout, a la Lockheed.

Or look at the railroads. The Penn Central received major federal help and more may be coming. Amtrak knew from the start that the initial government financing wouldn't be nearly enough. Congress and the Department of Transportation prepare broad new aid for freight carriers. The rails' complaints are legitimate enough: They are forced to pay big wage increases, to continue serving unprofitable routes, to compete with tax-subsidized bus and truck companies and airlines. Yet efforts have been notably limited to meet the problem through better service, lower rates, greater productivity.

Now, after several lush years, airlines feel the pinch—and bee-line for Washington. Pan Am and TWA ask government intervention to keep international air fares high. Domestic lines and plane makers urge government aid in developing new planes.

The pattern is by no means confined to defense, space, transportation. The White House considers private industry's research and development efforts so inadequate that it discusses new tax breaks, and other financial incentives to spur them. When brokerage houses became wobbly and Congress and the public clamored for protection for investors, industry argued that it couldn't set up an insurance corporation to do the job without $1 billion of stand-by credit from the Treasury.

The housing industry lobbies for ever-greater federal funds for homebuilding. Despite the possibility of eventually whopping profits, most firms refuse to move into the highly touted "new towns" area unless they get almost complete government guarantees against loss.

The recent intense drive for government protection against import competition is essentially just a different aspect of the same picture. Steel, textiles, autos and all the other import-hit firms find quota or tariff protection far more attractive than the supposedly traditional answers of American capitalism—modernized plants, greater efficiency, product innovation, higher quality, lower prices.

The new economic policy announced by President Nixon on Aug. 15 contains a basic inconsistency in this regard. Wage and price controls were ordered to check rising prices in the United States. Yet the import surcharge levied at the same time pushes up prices on imported goods; these imports in the past have served as a major constraint on prices of domestically produced items and as one of the strongest spurs to modernization and innovation by U.S. industry.

There has been far too little attention, too, to the buy-American provisions in the pending tax bill, which allow a new 7% investment tax credit only on American-made machinery and equipment. This provision will keep many U.S. companies from buying more efficient and possibly cheaper foreign machinery—and thus permanently freeze into the U.S. price structure the higher costs of the American equipment.

A particularly bit of irony: The textile industry, after finally winning its long battle for greater government protection against foreign-made textiles, promptly turns around and lobbies for permission to buy foreign-made textile machinery—and still get the 7% investment credit. The reason the industry advances is that high-quality textile machinery simply isn't available in this country.

Clearly, there's a crying need for some sort of serious national discussion and debate on just how far and fast the administration, Congress and the country want to continue down this road to some modified form of state socialism. Maybe all the government help—loans and special contracts and subsidies and import quotas and the rest—are indeed necessary to protect U.S. companies and preserve U.S. jobs. Or maybe it would be better to let traditional free-market forces make the decisions, even at some cost and damage to individual workers and industries.

In any event, though, government policy in so vital a matter should be more than merely reacting to emergencies, bailing out one company or industry and then another. Whichever way the policy is to go, it certainly should be more carefully considered, more precisely planned than it is now or has been recently.

And perhaps in the meantime, too, there could be a little less preaching about the wonderful principles of the free-enterprise system by businessmen who frequently find these principles so difficult to practice.

PRAYER IN THE SCHOOLS

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. BROOKS. Mr. Speaker, an article in the October 31, 1971, edition of the Beaumont Journal, a leading Texas newspaper, delineated very strictly the background and issue involved in the prayer amendment which is expected to be voted on Monday. I thought this article entitled, "Prayer in the Schools," would be of interest to other Members of Congress.

Mr. Speaker, I insert at this point the article written by Mr. Don Boyett of the Beaumont Journal:

PRAYER IN THE SCHOOLS

(By Don Boyett)

Out in West Texas there's an old saying that a smart politician will come out for the flag and motherhood and be against dust storms. Since 1962 many of these politicians have added one more to the list of affirmatives: Prayer in the school room.

In 1962, and again in 1963, the Supreme Court handed down two First Amendment decisions which many people understood banned prayers and Bible reading in public schools. Few bothered to read and study the decisions and demagogues found a new cause against the "Warren Court."

Since that time several attempts have been made in Congress to amend the Constitution to "allow prayer in the schools." And with the campaign led by organizations with such names as "Americans for God," the flag and motherhood politicians have been placed in the position of casting a vote for or against prayer.

Next week the House is scheduled to vote on a discharge petition that could start the ball rolling for an amendment to the Constitution. The proposal supposedly would permit "nondenominational" prayers in public gatherings and if a two-thirds majority should approve, a major step will have been taken toward the first change in our Bill of Rights.

The measure is said to have strong grass roots support and some fear it will pass. It would be tragic if it did.

It appears that a majority of the support for this legislation comes from people who believe the Supreme Court threw prayer out of the public schools. It is interesting to note that opposition to the legislation is centered in the leadership of every major religious body in America.

Why could the lines be drawn in this manner, seemingly pitting the ministers against prayer and the laity for prayer? A lack of understanding and an appeal to emotionalism are the keys.

The 1962 decision (Engel v. Vitale) ruled that the reading of an official prayer in a public school violated the First Amendment. In 1963 the Court held (Abington Township v. Schempp) that reading of the Bible and recitation of the Lord's Prayer in classrooms, under direction of the local board of education, was unconstitutional.

Both cases dealt with state or local statutes requiring a religious exercise at the outset of each public school day. Note the word requiring.

The court did not prohibit school children from praying in school. It prohibited government from writing their prayers and requiring religious exercise in the school. It said further that the Bible and religion may be taught in the public schools when presented objectively as part of their program of education.

But emotionalism took over. Without reading or thinking, many Americans joined movements to amend the Constitution or impeach the Court.

How many of these same people would pray a prayer in public? How many would maintain a reverent attitude—even listen—during a public prayer?

Too often prayer is an automatic item on the agenda of public gatherings. It's there because it is expected; because it is the thing to do; because of fears of what others might think if it were omitted. And how often is sacrilege committed when public prayer is included?

The prayer amendment supposedly would permit the reading of "nondenominational" prayers in public gatherings. But what is a nondenominational prayer? Who would write it? Would it create, as some fear, a new religion of nondenominationalism?

And what of the dangers to amendment of our Bill of Rights? What new doors would it open?

A statement of opposition to the proposed amendment was issued recently by lay and cleric leaders of most major chruch groups in America. It stated, "We deny that any elected body or governmental authority has the right to determine either the place or the content of prayer." It further stated that the signers affirmed the right of school children and others to engage voluntarily in their own prayers without government authorization, "and that this right is adequately protected by the First Amendment as it now stands."

It would be tragic if our Bill of Rights were tampered with because of emotionalism and through ignorance. Flag and motherhood are enough issues to hold above question.

ENVIRONMENTAL LAND USE CONFERENCE TO BE HELD IN BALTIMORE COUNTY, MD.

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. BYRON. Mr. Speaker, on November 10 at the Hunt Valley Inn in Baltimore County, Md., the Baltimore County Committee of the Maryland Environmental Trust will sponsor its fall environmental conference. The topic will be environmental land use.

Panels will be held throughout the day highlighted by an address by Senator HENRY M. JACKSON, of Washington. Local government officials, State representatives and legislators, and members of the environmental trust will be featured in the panels.

I would like to commend George Wills, chairman of the Maryland Environmental Trust, and his colleagues for arranging this outstanding conference on a subject of great importance in the contemporary scene. I wish the conferees well and am sure that this meeting will produce positive results.

MEDICARE

HON. JOHN C. CULVER

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. CULVER. Mr. Speaker, during this past year I have received many heartbreaking letters about one of the major shortcomings of medicare: The denial of medicare benefits to patients weeks or months after they received medical help and thought they were covered. Letter after letter has come into my office describing the shock experienced by elderly persons when they receive sizable bills for hospitalization or other care they were assured would be paid for under medicare. Today I am introducing legislation that will remedy this defect by removing a major source of uncertainty senior citizens experience with their health insurance programs.

Several of the cases have been outrageous. Two years after his wife died, 80-year-old John Wantz, of Maquoketa, received notice that medicare had changed its mind about her care and billed him $1,621 for hospital care. The claim was originally approved by them while she was being cared for, originally paid by medicare, and then retroactively rejected nearly 2 years later.

In another case, an elderly man from Grinnell, who had been completely disabled for 15 years, was hospitalized with an internal hemorrhage and a stroke. While in the hospital he contracted pneumonia. After being hospitalized for 28 days and thinking he was covered by medicare, the patient was told that medicare might pay for none of his medical expenses. In her letter to me, his wife made clear that, after the family was already shaken by the illness, they now had the added anxiety of who would pay the bills:

> In our case the bill is $2,000. They told me it would be several months before I heard. So you wait and worry how in the world you can pay it.

Fortunately, by contacting the Social Security Administration, we were able to assist the patient in obtaining reconsideration, with the result that medicare paid the bill.

It is my hope that the enactment of this bill will take the "wait and worry" out of medicare bills. The difficulty with the present law is that the determination of whether a patient qualifies for medical care, especially posthospital care, is usually made after the services are rendered.

As a result of this problem, many physicians are reluctant to run the risk of referring their patients to nursing homes, and consequently choose the safer route of leaving them in the hospital, a route that is more expensive and often not as beneficial to the patient. In fact, shaving one hospital day from the medicare national average could result in savings up to $400 million a year.

Caught in this no-man's-land is the unsuspecting elderly patient who has relied in good faith on his doctor's certification. Even with this certification, few patients can be absolutely certain that the services they received will be covered by medicare. Too often they will receive large bills weeks or months after the services were performed. And it can mean a charge of hundreds or even thousands of dollars, wiping out the financial resources of persons living on limited incomes.

Nursing homes are also in a dilemma because they may not receive payment for services performed in good faith. To avoid the risk, extended care facilities by the hundreds have dropped out of the medicare program: In Iowa during the last 2 years, the number of extended care facility beds in medicare has dropped from 5,000 to 2,000, a significant curtailment of health services to the elderly.

To help solve this problem, my bill would authorize advance approval for extended care facilities. Under this proposal the Secretary of Health, Education, and Welfare would establish specific periods of time after hospitalization during which a patient would be presumed to require services in a nursing home. In cases where a patient failed to convalesce as rapidly as expected, additional extended care payment beyond the presumed period would be approved by the intermediary, based upon appropriate medical evidence. A similar measure would also apply to posthospital home health services.

The complexity and uncertainty of the extended care determination, plus the fact that it is usually made retroactively, has caused confusion for everyone—patients, doctors, medical facility administrators. Enactment of the bill I am introducing today will allow the elderly to know, with the certainty Congress originally intended, that their bills for skilled nursing care will be covered, and eliminate the jolt of huge medical bills arriving unexpectedly after the medical care was provided.

THE SOVIET ATTACK ON MEXICO

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. SCHMITZ. Mr. Speaker, an article which appeared in the November issue of the Reader's Digest deserves the closest scrutiny by all my colleagues. The subject of this informative account is the effort of the Soviet Union to train, organize, and fund a guerrilla movement in our neighboring country of Mexico.

This particular operation did not take place in 1920 or 1930 when the Comintern was in its heyday. It took place this year. How could this be when practically every imminent academician who sees fit to pronounce on matters Soviet assures us that the cold war is over, if it ever did in fact exist? Perhaps the Soviets have not yet gotten the word.

This article should put an end to the artificial distinction which is continually drawn to show the doctrinal differences between the Soviet Communists and the Chinese Communists to the effect that the Chinese Communists promote guerrilla wars while the Soviet Communists do not. Khrushchev and Brezhnev have both openly supported what they term wars of national liberation as has Mao Tse-tung. To the Communists revolution is simply a matter of seizing power. The means of seizing power is tailored to the situation in which power is sought. What works best is best.

Another nonexistent difference between Communist parties intellectualized into being by some of our Sovietologists and Communist experts who seems to be seized by a publish-or-perish complex can also be forgotten in view of Soviet efforts to start a guerrilla war in Mexico. It is patently obvious that no conflict of doctrine or action exists between the Cuban Communist Party and the Soviet Communist Party on the question of exporting armed revolution. They both do it.

The author of this piece, John Barron, briefly outlines a facet of Communist guerrilla activity with which we in the United States are very familiar. This is the propaganda line which accompanies Communist "liberation" wars:

> These terrorist tactics would be accompanied by unremitting psychological warfare. All propaganda would sound one underlying theme: the inevitability of guerrilla triumph over the "injustices" of Mexican society and government. Each attempt of the government to defend itself against the guerrillas would be seized upon as proof of its "repressive, totalitarian" character. Selected, sympathetic foreign correspondents would be invited to melodramatic interviews portraying the romance of revolution, the idealism of young men impelled by conscience to take up arms. All the while, the KGB through its worldwide resources would surreptitiously foster the impression that the masses were rising up against another degenerate Latin American oligarchy.

This propaganda approach was totally successful in marketing Fidel Castro in the United States and achieved appreciable success in deceiving a number of college students as to the nature of Ho Chi Minh and his gang. As long as many influential segments of our mass media continue to see, hear, and, most importantly, speak, no evil about communism this propaganda line will continue to bear fruit in our Nation.

The article concludes with a résumé of recent Soviet KGB operations in other nations:

> What happened in Mexico is merely part of a worldwide pattern of KGB subversion. Elsewhere in Latin America, and in Africa and Asia, evidence of KGB efforts to undermine other societies emerges again and again.
>
> Last July Ecuador expelled three KGB officers after catching them trying to organize nationwide strikes through the Marxist-dominated Ecuadorian Workers Confederation. All three were "diplomats" assigned to the Soviet embassy.
>
> In 1969, Ethiopia deported three KGB officers and three Czechs who had recruited dozens of Ethiopian students and organized them into clandestine cells. Handwritten notes and printed propaganda captured from the students showed they were being trained initially to disrupt the universities, ultimately to overthrow the government.
>
> The Congo threw out the entire Soviet embassy staff of 98 after the KGB openly supported armed rebels against the government in 1963. When relations were restored in 1968, the Soviet Union signed a protocol specifically limiting it to seven diplomats in the Congo, but, by the spring of 1970, the Soviet embassy staff had swelled to 42. Then the Congolese unraveled a KGB network that reached into the universities, the army, the Ministry of Informaton and the National Documentation Center. Four KGB officers were expelled, and the embassy was again cut down to size.
>
> In April 1968, Colombian police, alerted by Mexican authorities searched two couriers at the Bogota airport and relieved them of $100,000 which they had received from a KGB officer in Mexico. Eventually, the communist couriers admitted that the money was destined for the most murderous band of terrorists in Colombia, the *Fuerzas Armadas Revolucionarias*.
>
> Increasing terror in Turkey culminated this year in a series of kidnapings and the murder of the Israeli consul general. Police ascertained that some of the students behind the terrorist acts had undergone clandestine training in neighboring Syria. Further investigation established that the training had been arranged by a Soviet "diplomat" in Damascus, Vladimir Shatrov, and his Russian "chauffeur," Nikolai Chornenkov.
>
> From Ceylon to the Sudan, from Argentina to Yugoslavia, Soviet embassies continue to spawn subversion. All the while, the Soviet Union publicly affects rectitude and professes friendship. The day after Mexico expelled the five KGB officers, the Soviet embassy in Mexico City issued a statement of aggrieved innocence: "We do not understand, we cannot explain the measure taken by the Mexican government."

To this list we can add the more recent examples of Great Britain, which expelled 105 Soviet agents in September of this year, and Belgium, which just yesterday expelled 30 Soviet citizens.

What is the situation in the United States? Are the Soviet diplomatic, consular and trade personnel refraining from the type of activity which led to mass expulsions in Britain and Belgium? Is the Soviet's conduct in the United States, continually denounced by Moscow as the main imperialist enemy, substantially different from their conduct in England, Belgium, Mexico, Ecuador, Ethiopia, Turkey, and so forth? There is no evidence which would lead us to believe this and much evidence to the contrary.

Mr. J. Edgar Hoover warns us of the threat these people pose to our Nation every year in his appearance before congressional committees. In March of this year Mr. Hoover stated to our colleagues on the House Appropriations Subcommittee on State, Justice, Commerce, and Judiciary that:

> THE SOVIET BLOC
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> Mr. HOOVER. The most serious threat to the security of our country is Soviet Russia and its satellites. As the power of the USSR has grown since the end of World War II, so has the intensity of the Soviet-bloc espionage aimed at the United States. The FBI as a result has been confronted with a constantly increasing volume of work.
>
> There has been a steady increase over the years in the number of personnel from the Soviet-bloc countries assigned in the United States. As of March 1, 1971, there were 1,172 Soviet-bloc officials and 1,454 of their dependents in our country. The buildup is evident when we compare these figures to the 806 officials and 1,174 dependents here as of July 1, 1966. Not included in the figures cited are the numerous couriers, members of special delegations and other officials temporarily in this country but not assigned to official establishments.
>
> (Discussion off the record.)
>
> Mr. HOOVER. A Soviet defector has stated that 70 to 80 percent of all personnel assigned to Soviet diplomatic establishments work in the intelligence field.
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> Mr. HOOVER. The targets of the Soviets, aided by the intelligence services of the satellite countries of Poland, Czechoslovakia, Romania, Hungary, Bulgaria, and Mongolia, are our most closely guarded military, scientific, political, economic and industrial secrets. In addition to engaging in clandestine activity to obtain vital data of these types, the Soviet-bloc intelligence officers collect a wealth of publicly available information of conferences and conventions as well as from periodicals and magazines to which they subscribe.
>
> Some of the Soviet-bloc intelligence officers in our country are "illegals" who have no ostensible connection with the USSR. They are deep-cover intelligence professionals who easily blend into our population using assumed identities. Eventually each becomes the nucleus of an espionage network. The detection and identification of these deep-cover agents constitute counterintelligence problems which require much detailed and extensive investigative effort.

In the last 5 years the number of Soviet bloc personnel in the United States has increased by 30 percent! There were 787 Soviet—USSR—officials in the United States as of March 1971. There are 114 U.S. officials in the Soviet Union. The Soviet Union has over 600 percent more official personnel assigned to our Nation than we have to theirs. This does not include the Soviet satellite officials stationed in the United States nor ours stationed in the satellites. However when we recall that all the Bloc officials are stationed in the U.S. proper, Washington and New York, and our officials in the Bloc are scattered all over Eastern Europe, we get a better idea of the actual situation. The Soviet-Bloc has 1,172 officials stationed in Washington and New York and we have 114 officials in Moscow. There are 4 or 5 Soviet officials stationed in San Francisco and a similar number of U.S. officials stationed in Leningrad as advance parties for consulates.

It should be apparent to all that this disproportionate representation has adverse ramifications on the security of our country. In the light of what has happened this year in Great Britain, Belgium, and Mexico, it is time that the United States took action to reduce the number of Soviet-Bloc personnel in the United States to a level proportionate to the number of personnel we have in the Bloc.

The article which appeared in the November issue of the Readers' Digest concerning the Soviet attempt to start a war in Mexico follows:

[From the Reader's Digest, November 1971]

THE SOVIET PLOT TO DESTROY MEXICO

(By John Barron)

For years the Western powers have known that the Soviet embassies within their borders are heavily staffed with KGB officers, members of the Soviet Union's massive intelligence agency. Ostensibly they serve as "diplomats," but quite obviously they are present to gather very special information. Rarely, however, are their more sinister activities exposed in detail and in depth. Here, "The Soviets Plot to Destroy Mexico" opens the locked doors of the Trojan horse which many nations harbor—the Soviet embassy—and reveals the everyday business of KGB envoys—sabotage, betrayal and violent insurrection.

The Reader's Digest began a survey of subversion in Latin America three years ago. The following story of what happened recently in Mexico is based on this research, and on dozens of interviews with intelligence officers, on captured diaries and confessions, and on conversations with Soviet defectors and KGB officers themselves.

Just before midnight on March 12 this year, five of the most important men in the government of Mexico met at the National Palace. A senior intelligence officer distributed a formal report and a stack of photographs. Silently the officials studied the documents, initially with dismay, then with the anger of men betrayed.

The import of what the Mexican leaders read was staggering. The detailed intelligence summary revealed a KGB plot conceived in Moscow to plunge Mexico into a civil war and destroy its government by armed force. In the words of a Mexican servant of the KGB, it would make of Mexico "another Vietnam."

In an epic counter-intelligence coup, the Mexican security service had uncovered not only the Soviet plan but the identities of the principal KGB officers and Mexican agents involved. Security men had seized caches of arms and explosives, located clandestine training centers and hideouts, and captured guerrilla chieftains. It was a near thing. For the evidence showed that soon the first fires were to be set, the first bombs detonated, the first policeman killed.

"We shall, of course, act—and act decisively," declared the President of Mexico, Luis Echeverría.

The adviser who had drafted the intelligence report spoke up quickly: "Strike at the embassy, Mr. President. All begins with the embassy. And with Netchiporenko. He is *Numero Uno*."

It was true. During the 1960s the KGB had completely taken over the Soviet embassy in Mexico City and developed it into one of the world's great sanctuaries of subversion. And of all the Russians the most skilled and dangerous was Oleg Maksimovich Netchiporenko, justifiably considered by the KGB to be one of its top agents. Slender and darkly handsome, he wore a debonair mustache, and with his wavy black hair and olive complexion looked utterly Latin. Indeed, Mexican authorities suspected that he was either the child of Spanish communists who had fled to Russia after the Spanish Civil War or perhaps the son of a Russian father and a Spanish mother. He kept himself in superb condition by jogging daily and playing tennis the year round. Strangers often guessed him to be ten years younger than his actual age—40. His Spanish was flawless; he spoke the differing idioms of laborers, diplomats and students with equal fluency.

Netchiporenko had trained himself to adapt, chameleon-like, to disparate environments. He could and sometimes did don the clothes of a *Campesino*, go out into the countryside and win automatic acceptance as a farmer or laborer. Similarly, at the universities, where he spent many of his working hours, students thought of him as one of them. With the same ease, he could affect the manners of a bright young Mexican business or professional man. Indeed, he once assumed just such a pose and strode into the U.S. embassy. For more than an hour he wandered about, gleaning what information he could, until a security officer recognized him as a KGB agent.

Netchiporenko simply was the best KGB field operative in Latin America. He knew it; so did everybody else in the embassy. Few KGB officers, though, felt comfortable around

him. He disdained intellectual inferiors and scarcely condescended to speak to the Russians he considered stupid or unimportant. Sometimes he insulted colleagues by ignoring a dull comment and walking away without a word. But the primary reason no one relaxed around Netchiporenko was that he also was the SK officer—the officer charged with preserving the security of the *Sovyetskaya Kolonia* or Soviet colony in Mexico.

As such, he constantly scrutinised everyone for the least portent of disaffection or psychological breakdown. KGB officers, conditioned from their earliest training to watch each other, realised that in his eyes deviation from prescribed behavior had to be cause for official suspicion. So they feared Netchiporenko, and he had almost no real friends. He was not the kind who needed them.

THE DUNGEON

Netchiporenko had arrived in Mexico City with his wife and two small children in 1961. Although he had been thoroughly briefed in Moscow, the life and routine of the embassy still demanded some unexpected adjustments. The embassy itself surprised and amused him. Everything about it reeked of conspiracy.

A somber gray Victorian villa with ornate cupolas and shuttered windows, it stood partially hidden behind trees at Calzada de Tacubaya 204. A tall iron fence encircled the grounds, which armed sentries patrolled. At night an armed guard paced the roof. A concealed camera photographed everyone admitted through the gate. At embassy receptions, guards ensured that no guests ventured beyond the reception rooms on the first floor. Foreigners never were allowed in the small, sterile offices and apartments on the second floor.

But the most inaccessible area of the embassy was a large section of the third floor known among KGB officers as the "dungeon." This was the *Referentura*, the heart and brain of any Soviet embassy. Here all operations of the KGB were planned and administered. Here the secrets of Soviet subversion in the Western Hemisphere were stored.

Testimony of Russians who have fled from Soviet embassies in various countries indicates that *Referenturas* the world over are much the same. They normally are divided into soundproofed rooms designed for conferences, study and the drafting of messages. The most restricted area houses the files as well as cipher and radio equipment for communications with Moscow. No documents may ever be removed from a *Referentura;* no briefcases, cameras or recording equipment ever brought in. A *Referentura* staff includes a chief, his deputy and cipher personnel who live under virtual house arrest. Rarely does the KGB permit them to leave the embassy grounds, and then only in a group accompanied by armed security personnel.

To enter the *Referentura* in Mexico City, an officer walked down a narrow corridor and pressed a buzzer which opened the door of an antechamber and alerted the watch of his approach. At the end of the chamber was a steel door with a peephole through which he was inspected.

All outside windows of the *Referentura* had been sealed with cement to block long-range electronic or photographic surveillance. KGB officers complained that, with sunlight and fresh air thus shut out, the atmosphere inside was perpetually dark, dank and musty. They grumbled also because, as a result of this dungeon-like atmosphere, smoking was forbidden.

The *Referentura* never closed. And, during the ensuing years, Netchiporenko was to come to it at any hour of the day or night. It was the one place in Mexico where he could feel completely secure and speak of his work freely.

In Moscow, the KGB had advised Netchiporenko that his wife would be expected to "help out" at the embassy. He did not understand that this meant a full-time job. Because the KGB refused to permit employment of a single Mexican, most Russian wives had to labor as secretaries, file clerks, telephone operators, typists or petty administrators.

When a reception was held at the embassy, a list of duties for the wives was posted. Some were to attend as guests, some as maids, and others as kitchen helpers. Netchiporenko had to inform his wife that at her first party in Mexico she would be a maid. After the guests left, he and all the other Russian men waited while their wives did the dishes.

However, Netchiporenko soon accepted, as necessary to security, the rules that bound all Russians in Mexico City. He perceived that the embassy, regarded by the KGB as one of its four or five most important installations outside the Soviet Union, offered boundless professional opportunities. Energetically, he set out to make the most of them.

WEB OF SUBVERSION

Netchiporenko's work began in the *Referenturis* with briefings about some of the KGB operations against Mexico. They revealed that the Russians were less interested in collecting intelligence about the country than in developing agents who could influence Mexican policies and create disorder.

The Russians had almost succeeded in 1959 in bringing significant segments of the Mexican economy to a standstill. That year, the KGB bribed labor leader Demetrio Vallejo to paralyze the national railway system with wildcat strikes. Caught consorting with KGB officers Nikolai Remisov and Nikolai Aksenov, Vallejo admitted taking a million pesos ($80,000) from them to organize the strikes.

Netchiporenko saw that now the KGB was attempting to plant female agents in key secretarial positions within the most important government ministries. It also was seeking to position in the Foreign Ministry an agent who could affect assignments of Mexican diplomats throughout the world. In an even more sinister operation, the KGB was trying to establish its own private detective force composed of a corrupt ex-police official and cashiered cops. Through them it planned to gather data for blackmailing Mexicans, to harass anti-Castro Cuban exiles and to execute "wet affairs."[1]

Netchiporenko was to be involved in all these operations. But his primary assignment was to infiltrate the universities and recruit students for future subversion. Prospects usually were spotted through the Communist Party or the Institute of Mexican-Russian Cultural Exchange. The latter was directed by the Soviet cultural attache, a KGB officer; it was financed by the KGB; and its daily affairs were administered by Mexican communists handpicked by the KGB. Openly, the Institute disseminated Soviet propangada and sponsored meetings of communist sympathisers. Covertly, it served other functions. With offices strategically located throughout the country, it offered KGB officers a ready excuse to travel to any section of Mexico. Youths attracted by its films, book shows and free Russian lessons unknowingly were evaluated by the KGB. Those who appeared particularly promising were approached and offered scholarships to Patrice Lumumba Friendship University in Moscow, where the KGB could develop their subversive potential.

A MAN FOR THE KGB

Hearing about the scholarship, an embittered Mexican named Fabricio Gomez Souza addressed an inquiry to the Soviet embassy. Invited to the Institute's office in Mexico City for an interview, he arrived on a summer afternoon in 1963 and was courteously greeted in Spanish by Netchiporenko.

"There is nothing I care to say to you," Gomez announced. "I came to see the Russians." Netchiporenko coolly surveyed the Mexican, spoke a few sentences in Russian, then said in Spaniah, "I am Russian. Now please sit down and let me see if I can help you."

Gómez was a squat, muscular 31-year-old schoolteacher with black eyes and a scowling, swarthy face. Since finishing college ten years before, he had taught school in the small town of Nanchital. Long interested in communism, he had read extensively about Marxist and other revolutionary theory. Early in 1963 he married. While still honeymooning, his bride fell ill and died of an ailment that doctors could not diagnose. In his grief and rage, Gómez blamed Mexico, its culture and institutions for failing to provide the kind of medical care that might have saved her life. Now he believed that Mexican society must be destroyed so that it might be rebuilt, and he had concluded that the most practical way to destroy it was to work with the Russians.

As the two men talked late into the evening, Netchiporenko knew that here was a man for the KGB. Gómez was no posturing student caught up in a fad. Rather, he emerged in Netchiporenko's judgment as a tough, realistic convert who could be trained to endure, obey and do whatever was necessary for the KGB.

So strong was Netchiporenko's recommendation that the KGB acted swiftly to spirit Gómez out of the country. KGB processing for Patrice Lumumba ordinarily required months. But within three weeks Netchiporenko handed Gómez cash and tickets for a flight to Moscow. From the moment he landed the KGB treated him as a very special student. Indeed, he was. For Fabricio Gómez Souza was destined to lead the guerrilla force that the Soviet Union for years later was to unleash upon Mexico.

THE PRIME TARGET

During the next two years, Netchiporenko sent at least a dozen others off to Moscow and at the same time recruited agents for the KGB directly from Mexican universities. Yet KGB headquarters kept demanding more. From his own briefings in Moscow, Netchiporenko could appreciate why.

The pressure reflected KGB judgment that Mexico was the most important target in Latin America, not only because of its proximity to the United States but because of the great potential of its abundant natural resources and sublime climate. A succession of national administrations had been making dramatic social and economic progress. Allocating more money to education than to any other purpose, the government reduced adult illiteracy from 63 percent in 1940 to 17 percent in 1970. Between 1960 and 1970, annual per-capita income increased from $330 to $660.

Poverty, exacerbated by rapid population growth, endured. But the average Mexican, who enjoyed incomparably more freedom than a Soviet citizen, could see proof of continuing betterment, and thereby derive hope for the future. Thus, if Soviet subversion was to succeed in Mexico, this government had to be undermined.

Accordingly, in the mid-1960s, the KGB slipped more and more officers into Mexico City in the guise of diplomats. In the fall of 1966, it assigned one of its best staff specialists in Latin American affairs as *Rezident*, the KGB boss of the embassy.[2] He was Boris Pavlovich Kolomiakov, an officer who, like Netchiporenko, had never suffered serious failure.

[1] The KGB term for operations requiring the spilling of blood.

[2] In most Russian embassies, the ultimate authority in all important matters is the senior KGB officer, or *Rezident*. Unless the Soviet ambassador is a representative of the Central Committee, he is merely a ceremonial figurehead and administrator.

At 47, Kolomiakov was balding but trim and vigorous. Comfortable with authority and responsibility, he was proud of his assignment and of his reputation. The first to arrive at the embassy, the last to leave, he worked and studied constantly. He daily read as many as 20 Mexican, U.S. and Canadian newspapers. No matter what the pressures of work, he daily reserved at least half an hour for improvement of his English. His wife privately complained to others that he spent too much of their money on books and periodicals.

In purely personal matters, Kolomiakov was kind. An inflexible caste system prevailed throughout the Soviet colony, rank being the sole determinant of perquisites and social standing. The few non-intelligence personnel were the outcasts, openly referred to as "lesser mortals." Kolomiakov flouted these distinctions. An illness in any Soviet family brought from him a visit, flowers and assurances of all help needed. He could be a compassionate counselor when marital difficulties arose.

If Kolomiakov was kind to his subordinates personally, he was mercilessly demanding of them professionally. He required that all match his own energy and insisted upon measurable "production," which he could chart and report to Moscow. Laxity or errors evoked from him withering reprimands that could turn even veteran KGB officers pale. Once he summoned a highly regarded subordinate and upbraided him for nearly an hour. When the officer emerged from his office, a secretary saw him weeping. Three days later, he abruptly departed for the Soviet Union. His banishment was never explained officially; the rumor that swept through the embassy was simply: "He failed."

NEAR DISASTER

By 1968, the number of Russians over whom Kolomiakov presided at the embassy had grown to a preposterous 57, all but eight of whom were professional intelligence officers. The Soviet embassy staff was more than three times as large as those of the embassies of Great Britain, West Germany, France or Japan. While these nations had extensive trade and other ties with Mexico requiring diplomatic representation, the Soviet Union had virtually none.

Among Mexico's world trading partners, Russia in 1968 ranked almost last. That year, it purchased only $368 worth of Mexican goods. There were only 216 legal travelers between the two countries. Few Soviet ships called at Mexican ports. Cultural relations between the two nations were virtually nonexistent, and Mexico found that it needed only five diplomats in Moscow.

Indeed, the Russians barely bothered to pretend that they were engaged in diplomacy. Weeks often passed without any Soviet "diplomat" making an official visit to a Mexican government office. The Russians opened their consular and cultural offices only four hours a week. Thus, armored with the protection of diplomatic status, they were almost entirely free to ply their true trade of subversion.

More than half the KGB personnel were engaged primarily in operations against the United States, but an apparatus of more than 20 men, led by Netchiporenko, was working exclusively against Mexico. And by 1968 they had developed in the universities a corps of agents who gave the KGB a new capability for violence. As the 1968 Olympic Games approached, the KGB perceived a way to use these youthful agents with devastating effect.

The trouble began with a commonplace incident on July 23, when dozens of students from two preparatory schools got into a brawl. Police intervened to break it up, and in so doing bloodied some heads. On July 26, the Young Communist Party staged a long-planned rally to celebrate the Cuban revolution and attempted to march on the National Palace. When the police moved to halt them, the communists attacked with clubs and rocks, and another brawl ensued.

Demonstrations called to protest "police brutality" culminated in destructive rioting the next three nights as mobs shattered windows, set buses afire and hurled Molotov cocktails in downtown Mexico City. A quickly formed National Strike Council appealed to all Mexican students to boycott classes. Students seised the National University and the Polytechnic Institute, whose combined enrollment exceeded 120,000. In August, these schools became sanctuaries from which a band of zealots sallied forth to demonstrate and riot. As the violence intensified, foreign journalists speculated that the Olympics might have to be canceled.

After the initial outbreaks in July, only a minute fraction of the thousands of rioters were communists; fewer still had ever heard of KGB. Usually, however, the actual violence was initiated by so-called *Brigades de Choque*, or shock brigades. These were disciplined groups of 15 to 30 men, often including paid thugs. Many were organized, financed and led by members of the Young Communist Party or youths directed by the KGB through the Institute for Mexican-Russian Cultural Exchange. Communists constituted only a small minority on the 200-member National Strike Council. Yet eight of the most vigorous, effective and intransigent leaders in the disturbances were agents of the KGB—four of them recruited by Netchiporenko.

During the turmoil, the KGB maintained contact with its young agents through the Communist Party. Moreover, the second week in September, KGB agent Boris Voskoboinikov, who masqueraded as Soviet cultural attaché, rendesvoused with students outside Popular Preparatory School No. 1. And KGB officer Valentin Loginov, the same week, met two separate groups of students near a downtown theater.

As the disturbances continued, the army, on September 18, took over the National University, across the street from the Olympic Stadium. The next week, Mexico suffered its worst violence since the revolutionary battles of the 1920s. Students and adult anarchists managed to acquire large quantities of arms, and fierce gunfights broke out nightly between them and troops. Around schools, students battled police with pistols, knives, clubs and gasoline bombs. Intensifying violence gravely threatened the Olympic Games, scheduled to begin October 12.

Disaster appeared imminent when the government learned that riot leaders were secretly planning a climactic assault on the Polytechnic Institute, now occupied by the army. Their purpose was to create casualties and chaos that would doom the Olympics once and for all. Preparing for the attack, they stored, in apartments of the sprawling Tlatelolco housing project, explosives and hundreds of weapons, including .22-caliber machine guns and high-powered rifles with telescopic sights.

The afternoon of October 2, some 6000 youths gathered for a rally in the Plaza of Three Cultures, adjacent to the apartment project. The government authorized a rally, but stationed troops in the vicinity to prevent any march. The gathering was peaceful enough until the eighth speaker took the podium. He was Socrates Amado Campos Lemus, a radical fugitive whom authorities had hunted for weeks. As plainclothesmen moved to arrest him, an army helicopter dropped a flare, signaling the troops to advance into the plaza.

Using a bullhorn, General José Hernández Toledo declared the rally over, and urged the students to disband. Suddenly, volleys of sniper fire rang out from apartment balconies, and Hernández was felled by three bullets, two in the back, one in the leg.

A terrible battle lasted about ten minutes, with troops shooting up into balconies at the snipers and the revolutionaries spraying bullets down into the plaza. Twenty-six civilians and two soldiers, almost all in the plaza, died. But as some 80 hard-core members of the National Strike Council attempted to flee through the rear of the project, police captured them. Without their leadership, the uprising ended, and the Olympics proceeded.

The KGB had come close, but had failed. So, a new onslaught was planned, to be led by Fabricio Gómez Souza, whose potential Netchiporenko had so quickly perceived five years before. Now the KGB turned to him and Patrice Lumumba Friendship University.

"HELPFUL" NORTH KOREANS

Nikita S. Khrushchev had announced in 1960 that Patrice Lumumba University was being established to train "intelligentsia cadres" for the nations of Africa, Asia and Latin America. However, within the Soviet Union, Russian authorities have stated the university's mission more plainly: "To educate students from underdeveloped countries so they can return to their homelands to become the nucleus for pro-Soviet activities."

The First Vice Rector of Patrice Lumumba was Pavel Ershin, a major general of the KGB. Other KGB officers and agents serve on the faculty, which must obey the dictates of the KGB. Students are selected primarily on the basis of their potential usefulness to the KGB. (If the Russians really want to educate a foreigner to work, for instance, on a Russian foreign-aid project back home, the student does not attend Patrice Lumumba; he goes to a first-rate Soviet university or technical school.)

Upon arrival at Patrice Lumumba in the autumn of 1968, Gómez joined some 30 other Mexicans who also had come to Moscow without the knowledge of their government. After studying Russian for a year, he was put into a special class of students who had demonstrated the greatest revolutionary zeal. Even in this elite, he distinguished himself during the next four years of indoctrination by his cold fanaticism and obedience to the Russians. In October 1968, when the KGB gave Gómez his initial assignment, it probably had as much confidence in him as it ever places in a foreigner.

He began the assignment as leading actor in an elaborate fiction staged by the KGB. One morning, Mexican students in Moscow were called together, ostensibly to hear a fresh report about the recent violence in their country. An unfamiliar Russian, who purportedly had talked with travelers just back from Mexico City, appeared before them. He gravely stated that the Mexican army had killed hundreds of students, arrested thousands more, and was now hunting down all remaining "progressives" in a murderous purge of the universities. "They are slaughtering students in the streets as if they were insects," he concluded. "And today there is no Pancho Villa, no Emiliano Zapata to defend them."

Gómez stood up, as if rising spontaneously to the challenge. "I request permission of the university to conduct a meeting of all Mexicans," he said formally. "I mean no disrespect, but we would prefer that no one else be present. We Mexicans must redeem our own honor."

Passionately, Gómez harangued his fellow countrymen on the necessity of avenging the dead students and sweeping Mexico and Marxist revolution. "I say it is time to stop musing about theory," he cried. "It is time to act. All of us must prepare ourselves as guerrilla warriors."

That evening, Gómez invited to his dormitory ten or so selected Mexicans, including two entrusted with supporting roles in the KGB plot. Inspired by more oratory, bravado and vodka, the group proclaimed the birth of the *Movimiento de Acción Revolucionaria*

(MAB). At the suggestion of Gómez, the students also agreed to solicit guerrilla training from Cuba and North Vietnam.

With addresses supplied by an obliging Russian "professor," the Mexicans first visited the Cuban embassy in Moscow. Two Cubans received them hospitably, offering coffee and cigars while listening attentively to their proposals. "We of course are sympathetic to your objectives," said one Cuban. "However, our diplomatic relations with Mexico form an extremely valuable channel into the non-socialist camp. At this time it would not be in the greater interests of revolution for us to provoke a break in relations."

The North Vietnamese were more brusque. "We are already fighting a guerrilla war," said a wisened, bespectacled functionary. "Our lives are at stake, and we have absolutely no resources to spare."

Back at the university, Gómez dutifully affected dejection as he recounted the Mexicans' experiences to the Russian "professor." "An idea occurs to me," remarked the Russian. "Have you thought of the North Koreans? Perhaps they would be helpful."

At the North Korean embassy, Gómez spoke the same preliminary lines that the KGB had cued him to use at the other embassies. The North Koreans dispensed with pretenses. "Yes, yes, we have agreed; it is arranged," an officer said to Gómez. "Are you the one appointed to fly to Pyongyang?"

The KGB had dictated, directed and managed each act of this scenario, beginning with the "report" to assembled Mexican students and ending with the visit to the North Korean embassy—all in order to conceal its sponsorship of the guerrillas. It sought to create the illusion that Mexican students had spontaneously decided to form a guerrilla force, and on their own initiative had found a patron in North Korea, which had no diplomatic ties with Mexico. This is what most Mexicans subsequently drawn into the movement would be led to believe. Through this deception the Russians expected to escape retaliation and avoid the loss of their vital embassy in Mexico.

THE CLOWN

Early in November, Gómez flew via Aeroflot to the North Korean capital of Pyongyang, where he conferred with intelligence and military officers. Again the Koreans were well prepared. They advised Gómez that no more than 50 dedicated revolutionaries were required. Each would be developed into a leader and teacher of future recruits. Once the force of 50 was deployed, it would multiply like a cancer through the cities and mountainous countryside of Mexico. To permit time for careful selection of trainees and to avoid attracting attention, the Koreans recommended that the 50 Mexicans be brought to Pyongyang in three successive contingents.

Back in Moscow, Gómez picked up $25,000 from the North Korean embassy and divided it among four other students chosen by the KGB to return with him to Mexico as recruiters. Traveling singly by separate routes, they landed in Mexico City in late December 1968 and early January 1969.

At the same time, the Russians dispatched to Mexico City a senior KGB officer who, in the temporary absence of the ambassador, became chargé d'affaires. He was Dimitri Alekseyevich Diakonov, whom the other Russians promptly dubbed "The Clown." In private, they laughed at his appearance and manners. His pate was totally bald except for growths of hair protruding angularly from either side of his head. If he let the hair grow, he looked as if he had horns; if he cut it, he looked as if he had been scalped. His hair, combined with huge, sunken eyes and a guttural voice, made him seem like a caricature of a bomb-throwing Bolshevik of the early 1900s. Attempting to make a speech, he was virtually powerless to control his hands. He alternately stuck his thumbs in his pockets and leaned backward, or clutched his hands behind his back and learned forward. In either posture, he created the impression of a man about to topple.

Moreover, Diakonov was a stern puritan appalled by the adultery and lewd references to sex commonplace in the cloistered Soviet colony. At a weekly Communist Party meeting, he stood up to call for reform. "I am shocked," he began, "to hear within an embassy of the Soviet Union dirty talk about sex. Such talk is contrary to communist morality. Yet it is heard all the time, even, I am ashamed to say, among the female comrades. . . ." Waves of giggles from the women interrupted, embarrassed and mystified Diakonov.

All the women knew that the worst offender against his concept of communist morality was Lydia Netchiporenko, Oleg's wife. When Netchiporenko had first met her, Lydia was a 19-year-old sale clerk with a lithe figure and the face of a madonna. Her physical appeal initially obscured in his eyes her lack of education and her coarseness. While KGB training and travel transformed him into a sophisticated, cosmopolitan man, Lydia utterly failed to grow intellectually, and deteriorated physically into dumpiness. Her scatological jokes, which once had seemed amusingly risqué to Netchiporenko, now shamed him. After a couple of drinks at parties, she would make vulgar advances to other KGB officers, who dared not offend either her or her husband.

Lydia cunningly used her husband's power, appointing herself watchdog over the Russian wives. Their private lives became her official domain. She pried incessantly, and maliciously tried to set woman against woman by asking questions of one that might incriminate or debase another. She delighted in degrading a woman by making false accusations, then forcing her to disprove them. Netchiporenko came to loathe her, and so did everybody else.

Ignorant of this background, Diakonov stumbled on with his speech: "I want you to know something else. I am shocked by the statements some of you make about the Mexicans. They are naïve and can be manipulated, but it must not be said that they are dirty, that they are lazy, that they have no culture. . . ."

Giggles and smirks again greeted Diakonov, for again Lydia was the prime culprit. Then, suddenly, the laughter stopped as if turned off by a switch. Kolomiakov was on his feet and clearly enraged. "Why do you insult Comrade Diakonov?" he shouted. "He is absolutely correct. Comrade Diakonov speaks for the party. He also speaks for the organs of state security. Do you understand?" Everybody understood.

However foolish Diakonov may have appeared to the Russian women, he was not the clown they thought him. In the back alleys of the world, he had proven himself the equal of the most violent men. The government of Argentina threw him out of Buenos Aires in 1959 after he created chaos by instigating labor riots. In 1963, he turned up in Brazil as a member of a Soviet "Peace Prize Commission." His labors there culminated in a rebellion by noncommissioned officers of the Brazilian army, and he was kicked out of the country. A specialist in strikes, riots and violence. Diakonov was admirably equipped to deal with guerrillas. And that was his mission in Mexico.

THE ROAD TO PYONGYANG

Through Diakonov, the KGB was kept informed of the recruiting progress being made by Gómez and his Mexican subordinates. Kolomiakov in turn suggested prospective recruits spotted by the KGB apparatus in Mexico.

One name that had long been in the *Referentura* file of prospects was that of Angel Bravo Cisneros, a mustachioed student radical who looked a little like a pudgy Adolf Hitler. On a cool evening in April 1968, Gómez traveled to the old and lovely colonial city of Morelia to seek him out. At a café frequented by students near the University of Michoacán, the two talked fervently for an hour or so about Vietnam, Cuba and revolution in general.

Bravo seldom used one word when he could find three. His conversation was larded with revolutionary slogans and hoary Marxist clichés, which he declaimed as if he had originated them. Unable to achieve distinction in scholarship, he had turned to anarchy. In this, he had attained some success, joining a variety of extremist groups and helping foment a series of student riots.

You have demonstrated energy," Gómez said, "but that is no substitute for knowledge and skill. We must leave the country and be trained by experts."

"Such training would be an honor of which I would always strive to be worthy," Bravo responded.

"Good," Gómez replied. "I want you to establish residence in Mexico City. In the months ahead, I will send to you comrades who are to undergo training. You will serve as liaison between them and me, and also ensure that they obtain all necessary travel documents. At the proper time, you will lead them on the journey out of the country."

"Perhaps you have observed that I am possessed of great intellectual curiosity," Bravo said grandly. "I would be pleased to know the land to which I will journey."

Gómez glowered at him. "You are to take orders, not ask questions. I will tell you only this: our duty is to make of Mexico another Vietnam."

Through the summer, a succession of youths in their early 20s checked in with Bravo in Mexico City. Fourteen men and two women were gathered in the city when Gómez visited Bravo in mid-August. "Your journey is about to begin," said Gómez, unwrapping a package containing nearly $9000.

"Divide the comrades into groups of two or three and give each person $500. Instruct each group to make its own arrangements to fly to Paris. But make certain that each group leaves on a different day and uses a different airline. Tell everyone to assemble at 10 a.m. on September 7 at the Eiffel Tower."

"Are we to be trained in France?" Bravo asked with excitement.

"Pay attention," Gómez ordered. "You are to tell the comrades no more than I have told you. However, after you gather in Paris, you are to guide them to West Berlin, where you will stay at the Hotel Colombia. Each day you must cross into East Berlin and, beginning at 1 p.m., stand on the corner by the Restaurant Moscow. Sooner or later you will see a man you know. From him you will receive further orders."

All 17 Mexicans appeared as planned at the Eiffel Tower on September 7. Though some grumbled about being kept in ignorance of their ultimate destination, they willingly flew on to Berlin. After falling on three successive days to meet anyone he recognized in East Berlin, Bravo began to worry. The future guerrillas didn't have enough money left to pay their hotel bills, and soon there would be none for meals. On the fourth day, however, as Bravo stood by the Restaurant Moscow, he felt a tap on his shoulder, and there was Gómez.

After listening to Bravo's account of the trip and the group's financial plight, Gómez said, "I will see what can be done. Walk around for a while, and meet me here in a couple of hours."

Gómez returned in mid-afternoon with about $1000. "Tomorrow bring me passport photographs of each of the comrades, including yourself," he instructed. "We should be able to depart in three or four days. Until then, you and I will meet here daily." On their seventh day in Germany, Gómez told Bravo: "We go tomorrow. Bring everyone to the main railway station of East Berlin at noon."

In the dark, cavernous old railroad terminal, four somber North Koreans awaited the Mexicans. They handed each a Korean passport bearing his photograph and a Korean name. In return, they required each to surrender his Mexican passport and all other papers reflecting his true identity. At 5 p.m., Gómez led the Mexicans aboard the night train to Moscow. Only after it started to move did he reveal that their final destination was Pyongyang.

To the customs and immigration officials who boarded the train at the Polish and Soviet borders, it was obvious that the Mexicans were not the Koreans their passports represented them to be. When a Soviet inspector approached, the youngest of the future guerrillas, Felipe Penaloza, nervously pulled from his pocket both his Korean passport and his Mexican draft card, which he had neglected to give to the Koreans in Berlin. "*Nyet, nyet!*" exclaimed the Russian, grabbing the Mexican document. But, seeing the boy's terror, the inspector smiled, patted his shoulder and walked away with the draft card. The KGB had prepared the way thoroughly.

More North Koreans greeted the Mexicans in Moscow and drove them in embassy cars to a hotel where they were confined for five days pending the flight to Pyongyang. The KGB had, of course, supervised all travel arrangements. But the trip was so contrived by them that at no time in Moscow or during the entire passage across the Soviet Union did any Mexican except Gómez converse with a Russian. To all but Gómez, it seemed that the Koreans were in charge.

"SOME COMRADES WILL DIE"

WHATEVER the Mexicans may have expected in North Korea, doubtless none anticipated the grueling regimen that awaited them. The guerrilla training camp, set in a valley between two mountain ranges some 35 miles northwest of the capital, was bleak and forbidding. It consisted of wooden barracks, a mess hall, frame buildings housing classrooms and administrative offices, and ranges for practice in small arms, demolition and hand-to-hand combat. The training day, beginning with a solid hour of exercise, lasted from 6 a.m. to 11 p.m. The trainees were told that they must henceforth forsake both sex and alcohol. Both were labeled useless and disruptive distractions from fighting. Except for an occasional visit to a circus or outing in the countryside, no recreation was provided. There were excursions to factories and villages—but only to teach the Mexicans how to destroy them.

They received zealous instruction in all the tools of terror. These included arson, explosives, karate, assassination, extortion, ambush, disguise clandestine travel, recruitment, communications and weaponry. In learning about weapons, the students practiced almost exclusively with American-made equipment. A humorless little Korean known as Comrade Lee explained why.

"In the initial phase of guerrilla warfare, you must make the enemy supply you with arms and money," he began. "To obtain money, rob banks and stores. While sustaining you, these assassinations and expropriations contribute to the terrorization of the enemy. For a time they can also mislead him into thinking he is confronted merely by common criminals.

"The Mexican army and police buy mostly American arms. They are what you will be using, at least in the first years."

The most realistic and brutal of the training exercises pitted the young guerrillas against regular elements of the North Korean army. The Mexicans were required to infiltrate military bases, sabotage guarded vehicles, set ambushes, fight the soldiers with their bare hands and flee pursuing patrols. The women trainees received no special consideration, except that in the field their packs were not as heavy as the men's. Fatigue, injury or illness excused no one from the nightly seminars at which the day's lessons were rigorously reviewed.

In its harshness, the training had a purpose beyond making the Mexicans physically strong and technically proficient. The communists strove to develop each one into a disciplined fanatic, consumed by the objective of destroying the Mexican government. A senior instructor called Comrade Sung repeatedly stressed the concept of selflessness and sacrifice.

"Some comrades will die lonely deaths of wounds which cannot be attended," he warned. "Some will be imprisoned with no hope of liberation until victory. Many of you will have to discharge your revolutionary duties in the night, then work all day at ordinary jobs in which you have no interest. No matter what the hour, when the order comes to move, to bomb, to kill, you must obey instantly."

As in Moscow, Gómez was a prize pupil. But he did not really need all the tactical training. His was a higher mission of organization, planning and leadership. So, after less than three months, Gómez slipped out of the North Korean camp. Picking up $10,000 in Moscow, he flew in early January 1970 to Berlin, then on to Mexico. There he began assembling the final contingent of would-be guerrillas.

Locked in the *Referentura*, reading the reports that charted the progress of Gómez and the *Movimiento de Acción Revolucionaria*, Netchiporenko could be proud of himself. Gómez had justified every expectation, and thereby had enhanced Netchiporenko's already glittering reputation at the KGB center in Moscow. Then the unexpected suddenly clouded Netchiporenko's prospects.

HOW MUCH DID SHE KNOW?

On the morning of February 7, 1970, Kolomiakov received a telephone call from the Soviet commercial office located in a small villa adjacent to the embassy. "Raya has vanished," an attaché said.

Immediately Kolomiakov summoned Netchiporenko to the Referentura and informed him that Raya Kiselnikova had apparently fled. To Netchiporenko, the news had special and terrible meaning.

The widow of a Soviet physicist who had died of radiation, Raya was 30, blond, blue-eyed, pretty and sensuous. Officially she was a secretary in the commercial section of the embassy; actually she was much more. As a student of literature, she had personally known many Russian intellectuals. Later, study in East Berlin, with opportunities to sneak into West Berlin, had given her furtive, delicious tastes of Western life. Ever since, she had continued intellectually to quest, explore and educate herself. Russian men were almost compulsively attracted to her, not only because of her seductive appearance but because she could talk to them about the world as few of their wives could. Moreover, she had about her a girlish openness that tempted men to trust and confide.

Even KGB officers felt at ease with Raya. They sometimes commanded her presence in the evening, ostensibly as a cover for some secret assignment. Usually this was merely a pretext to enjoy her company. But on occasion she did serve as a genuine decoy and thereby witnessed clandestine meetings between the KGB and its Mexican agents. A few officers flaunted their secret exploits in an attempt to impress her with their importance. Even Kolomiakov, who harbored no amorous designs on Raya, liked and relied upon her.

But the man who most trusted and confided in her was Netchiporenko himself. She was all he yearned for in a wife, all that Lydia was not. If he had one genuine friend in Mexico, it was Raya. Now he had to ask himself tormenting questions: Exactly what had he told her in the many unguarded moments they had shared? How much did she know? Many another KGB officer had to search his memory with the same questions.

As SK officer responsible for recovering any defector, Netchiporenko immediately organized a hunt for Raya. All other business of the KGB halted while every available Russian joined the search. The corrupt ex-police official who commanded a squad of cashiered cops for the KGB was summoned. The KGB did not have to tell him what to do if his detectives found Raya. He knew that he was to retrieve or kill.

All efforts were in vain. On February 10, the Mexican government announced that Raya Kiselnikova had requested and received political asylum. The Soviet embassy demanded an interview with her, and Kolomiakov sent Netchiporenko. He was magnificent in his tender appeals. Never referring to communism or the Soviet state, he spoke of her love of Russian culture and their bond with each other. Constantly he stressed, as the KGB always does in such a situation, that if she returned now, she would be guilty of no more than a foolish peccadillo which would be promptly and permanently forgiven.

But having tasted the gaiety, liberty and promise of Mexican life, Raya had come to look upon the Russian embassy as an Orwellian ant heap. And ultimately she saw it, permeated as it was by pettiness, mistrust, fear, regimentation and conspiracy, as a microcosm of Soviet society. She began to cry. "Oleg, I am sorry, I am sorry," she said. "You must know I can never go back."

As Mexican security officers stepped forward to end the interview, Netchiporenko kissed her and left, also in tears.

KGB interrogations of embassy personnel permitted no illusions about the value of the intelligence Raya might disclose to the Mexican government. She knew that Netchiporenko had recruited some of the students who emerged as prominent leaders in the 1968 riots. She personally had accompanied Valentin Loginov to his clandestine meeting with students at the height of the riots. She had heard KGB officers brag about bribing certain magazine and newspaper editors to publish pro-Soviet stories. She could recite in clear, meaningful detail what went on inside the embassy.

But one question concerned Kolomiakov and Netchiporenko more than any other: Could Raya conceivably know anything about Gómez and the guerrillas? Strenuous reconstructions of associations, conversations and all data to which Raya might have had access yielded no evidence that she did. Neither could clandestine KGB sources discover any indication that the Mexican government had become aware of the incipient guerrilla movement. Thus, the KGB elected to let the operation continue. As the months passed without disaster, it seemed that Raya's defection would be nothing more than a minor blemish on Netchiporenko's brilliant record.

"COMRADES, WE ARE READY"

The guerrilla training in North Korea for the final 23 recruits and the 17 members of the second contingent ended in August 1970. They split into three groups for the journey home via Moscow. By late September, all were back, mentally and physically ready for their secret labors.

The morning after the last group landed in Mexico City, Gómez convened his chief deputies, including Bravo, in an apartment at Calle Medellín 27. "Our immediate objective is to increase our numbers as rapidly as possible without making any sacrifice in quality of personnel," he announced. "Once

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our numbers are sufficient, we will divide into an urban guerrilla force and a rural guerrilla force. Comrades, we are ready to begin."

The *Movimiento de Acción Revolucionaria* progressed with astonishing swiftness. In less than two months it doubled in size by adding some 50 recruits spotted and screened by the first ten guerrillas who had returned from North Korea in 1969. Clandestine schools were established in Zamora, San Miguel de Allende, Querétaro, Puebla, Chapala and Mexico City. A special school for the training of future instructors was founded in Salamanca. Apartments or houses where guerrillas could hide and mount operations were acquired in Mexico City, Acapulco and Jalapa.

Some of the guerrillas took jobs; both to earn money for the movement and to cloak themselves in an aura of respectability. One of the most ruthless, Alejandro López Murillo, opened a beauty salon in Mexico City. The idea was good. The police were unlikely to look for terrorists among hairdressers or women in a beauty parlor. Neither were they likely to search parlors for weapons and explosives.

The first robbery was plotted in late November, with all the military precision learned in North Korea. López, who had worked at the Banco de Comercio in Morelia for a while, suggested the target. He recalled that about three times a month the bank sent a courier by bus to deposit U.S. dollars in a central bank in Mexico City. With the approval of Gómez, the plotters decided to waylay the courier.

Four guerrillas visited Morelia to familiarize themselves with the appearance of the courier, a thin, elderly man. One, "Comrade Hilda," remained in Morelia to watch the terminal of the Three Star Bus Company. The night of December 18, she telephoned Mexico City to report that the courier had departed on a bus due in the capital at 6 a.m.

About 4 a.m. in Mexico City, three guerrillas hailed a taxi. They knocked the driver unconscious with a pistol and, binding and gagging him, threw him on the floor of the back seat. Shortly before six o'clock, they drove to the bus station, where Bravo and two more members of the squad were waiting.

When the courier stepped from the bus, the six guerrillas saw that he was escorted by a young man they believed was a police detective. They quickly wrestled both men to the ground, then grabbed the courier's satchel, ran to the stolen taxi and escaped. Hurriedly, Bravo ripped open the satchel, passed out handfuls of dollars and stuffed some into his own pockets. Abandoning the cab, the guerrillas fled. In the safety of an apartment, Bravo counted out the money he had kept—almost $30,000. Not until he read the afternoon papers did he learn that the total loot was $84,000.

With money allocated by Gómez, Bravo bought a Volkswagen and a Datsun van. Gómez also sent a courier to the Texas border to purchase wigs for disguises and walkie-talkies. The remainder of the $84,000 was allocated for weapons and operating expenses.

While his men plotted additional robberies and trained more and more recruits, Gómez scheduled the first guerrilla attack for July 1971. He planned to detonate bombs simultaneously at 15 airports, hotels, restaurants and public buildings throughout Mexico.

The explosions would proclaim the existence of the *Movimiento de Acción Revolucionaria* and a siege of the Mexican government. Each subsequent bombing, robbery and assassination would be calculated to achieve maximum shock and publicity at minimum risk. Continuing and intensifying terror, first in one part of the country, then another, would create a growing aura of guerrilla invincibility and government impotence to protect its citizens. Such an aura could be expected to attract to the movement extremist groups and opportunists who thought to secure their future by joining the winning side. Additionally, through atrocities against police and public officials, the guerrillas hoped to provoke the government into retaliatory measures that would alienate many citizens and drive them into MAR ranks.

The movement would also gather strength in the Mexican mountains, in whose virtually uncharted areas bandits and fugitives had long found refuge. At the outset, only small raiding parties would venture out of the mountains to sabotage railways, bridges, power lines and factories. In time, organized battalions would descend to ambush army units and sack whole towns.

These terrorist tactics would be accompanied by unremitting psychological warfare. All propaganda would sound one underlying theme: the inevitability of guerrilla triumph over the "injustices" of Mexican society and government. Each attempt of the government to defend itself against the guerrillas would be seized upon as proof of its "repressive, totalitarian" character. Selected, sympathetic foreign correspondents would be invited to melodramatic interviews portraying the romance of revolution, the idealism of young men impelled by conscience to take up arms. All the while, the KGB through its worldwide resources would surreptitiously foster the impression that the masses were rising up against another degenerate Latin American oligarchy.

"THE COLONEL" ASKS SOME QUESTIONS

Then the unforeseen happened. In February 1971, an elderly constable was walking homeward outside a small mountain village some 30 miles from Jalapa. It was a long walk, and he often stopped to rest at an abandoned shack about halfway to his house. On this afternoon, as he approached, he heard voices from the shack. Looking inside, he saw four youths, one of whom was drawing a diagram on a blackboard. More out of curiosity than suspicion, the constable said, "Good afternoon, friends. What are you drawing?"

"None of your business, old man," one of the young men answered contemptuously. "Get out of here."

"Just a moment," said the constable. "I am a police officer. I have asked a proper question...."

"Get away or we'll beat hell out of you!" shouted the youth.

As two of the young men advanced on him, the constable drew his revolver. "I warn you, I am a good shot," he said. "Take the blackboard and march."

The constable delivered the four to the police. To them, the diagram was a mystery, and had the youths offered the least explanation, they doubtless would have been released. But their insolent refusal to say anything caused the police to telephone Mexico City.

The next morning, a man who was introduced only as "the colonel" arrived. He saw at once that the blackboard diagram was of electrical transmission towers—towers being marked for destruction. A gifted interrogator, the colonel soon extracted all that the four youths knew—which was not very much. They said that a "Comrade Antonio" had persuaded them to become "guerrilla warriors" so they could "fight for Mexico." He told them that he would return in a month or so to inform them of plans for their training. Meanwhile, they were to practice shooting and making bombs. One youth did remember that Comrade Antonio had mentioned a "*Movimiento de Accion Revolutionaria*." Another thought they would be trained somewhere in Jalapa. The search for an MAR hideout in Jalapa began.

About a month later, in Mexico City, Gómez ordered Bravo to inspect the clandestine MAR center in Jalapa. Bravo took a bus to Jalapa, and knocked on the door of the guerrilla house at Guadalupe Victoria 121. He did not recognize whoever it was that politely opened the door, but this was not surprising because by now the movement had many new members. As soon as he stepped inside, he heard a shout: "*Manos arriba, traidor!* (Hands up, traitor!)" Looking into the muzzle of a submachine gun and the fierce eyes of the man who held it, Bravo sensed that he stood very near death.

Shortly after midnight, he was ushered into a room at the police station and left alone with "the colonel." For four of five minutes the colonel stared at him silently, responding to nothing he said. Then the colonel methodically began his interrogation, and soon Bravo had told everything. The KGB had never dealt with Bravo, and Gómez had withheld much from him. But as leader of a contingent to Korea and an accomplice in the robbery, he knew a great deal, including the importance of Gómez and the location of several guerrilla centers.

Four days later, Gómez, having heard nothing from Bravo, traveled to Jalapa himself in search of him. The guerrilla house appeared dark and empty as he unlocked the front door. But suddenly a beam from a flashlight struck his face; then the lights flashed on. "Ah, Señor Gómez," said a man pointing a cocked .38-caliber revolver. "It is you for whom we have waited most."

Led away to jail, Gómez screamed curses and vows to kill all who might have betrayed him. It was useless. Within the week, the Mexican security service devastated the *Movimiento de Acción Revolucionaria*, raiding its clandestine centers, capturing its 19 most important leaders and laying traps that would ensnare many more.

"MEXICO IS GRATEFUL"

When the intelligence advisers presented their report the night of March 12, they were able to accompany it with voluminous and concrete evidence. It was the kind of proof any responsible chief of state covets on the eve of a momentous decision. Photographs showed the American M-1 rifles and .45-caliber pistols, hand grenades, cartridges, short-wave radios, even some of the money remaining from the robbery. Signed confessions and captured diaries recorded the training of the guerrillas and their plans for terror. Dossiers on Kolomiakov, Netchiporenko and Diakonov detailed their involvement and that of the KGB.

It was clear that Mexico had barely escaped grievous damage. The Russians might never have realized their ultimate goal of creating "another Vietnam." But they were only months away from achieving their minimum objective of serious social disruption. Had the guerrillas multiplied and mounted sustained attacks, Mexico would have had to waste its resources on new arms and armies. These could have been raised only at the expense of education, industrial development, transportation, rural electrification and social reforms.

"I have some thoughts," said the President. "I wish a few more hours to contemplate them. Let us meet again in the morning." As his intelligence advisers turned to leave, he called to them: "Gentlemen, you have saved your country and our people from terrible tragedy. Mexico is grateful."

On March 15, the government announced the capture of the guerrillas and indicated that arrests were continuing. The announcement shocked Mexico, but doubtless the consternation was greatest in the *Reforentura* at the Soviet embassy. The ripening fruits of years of planning, hundreds of clandestine meetings, and painstaking recruitment suddenly were destroyed. And, momentarily, Moscow would be demanding explanations.

There was, however, one consolation for the KGB in the official announcement. It offered no intimation that the Mexican government had the least suspicion of the true sponsorship of the *Movimiento de Acción Revolucionaria*. Apparently, Gómez had not talked; seemingly, Netchiporenko, Kolomiakov and Diakonov were safe.

Then, on March 17, Mexico ordered its ambassador to leave Moscow quietly. The following morning Diakonov, the Soviet chargé d'affaires, received a curt message. His presence at the foreign ministry was required immediately. Foreign Minister Emilio Rabasa greeted him with none of the customary niceties.

"The continued presence of you, Dimitri A. Diakonov, Boris P. Kolomiakov, Oleg M. Netchiporenko, Boris A. Voskoboinikov and Alexandre P. Bolchakov [the latter a KGB officer involved in recruiting students] is intolerable to my government," the foreign minister announced. "You are hereby ordered to depart the territory of Mexico immediately."

"What is the reason for this?" asked Diakonov.

"Señor Diakonov, you, I and the State Security Committee of the Soviet Union all know the reason why," replied Rabasa. "There will be no further discussion. This interview is at an end."

The expulsion of five diplomats, including the chargé d'affaires, was an extraordinary diplomatic slap in the face for the Soviet Union. Mexico was aware that whenever a nation dares to expel KGB officers, the Soviet Union retaliates with a belligerent denunciation and the arbitrary ouster of an equal number of diplomats from Moscow. However, having recalled its ambassador, Mexico now had only four diplomats left in the Soviet Union. If the Russians retaliated in kind, they would, in effect, sever diplomatic relations. Thereupon the Mexicans could order all Russians out of Mexico and close the great Soviet sanctuary of subversion once and for all. So, the Soviet Union swallowed its humiliation without protest.

Other Latin American nations rallied to the support of Mexico. Colombia and Honduras sent their ambassadors to the foreign ministry to declare their endorsement of the Mexican action. Leading newspapers throughout the hemisphere denounced the Russians and praised the Mexicans. Costa Rica consulted the Mexican government, then announced suspension of negotiations which had been expected to result momentarily in diplomatic relations with the Soviet Union.

On March 21, the expelled Russians waited at the airport for a plane home. Their enforced departure was probably regretted most by Netchiporenko, whose life had been so intimately intertwined with a country he would never be allowed to see again. But he was a good actor to the end, smiling and bantering with reporters. Kolomiakov, the KGB boss who never forgave a mistake, also was in character. Just as their flight was announced, he jumped out of line and took a swing at a photographer. His last blow in Mexico missed.

EPILOGUE

What happened in Mexico is merely part of a worldwide pattern of KGB subversion. Elsewhere in Latin America, and in Africa and Asia, evidence of KGB efforts to undermine other societies emerges again and again.

Last July Ecuador expelled three KGB officers after catching them trying to organize nationwide strikes through the Marxist-dominated Ecuadorean Workers Confederation. All three were "diplomats" assigned to the Soviet embassy.

In 1969, Ethiopia deported three KGB officers and three Czechs who had recruited dozens of Ethiopian students and organized them into clandestine cells. Handwritten notes and printed propaganda captured from the students showed they were being trained initially to disrupt the universities, ultimately to overthrow the government.

The Congo threw out the entire Soviet embassy staff of 98 after the KGB openly supported armed rebels against the government in 1963. When relations were restored in 1968, the Soviet Union signed a protocol specifically limiting it to seven diplomats in the Congo. But, by the spring of 1970, the Soviet embassy staff had swelled to 42. Then the Congolese unraveled a KGB network that reached into the universities, the army, the Ministry of Information and the National Documentation Center. Four KGB officers were expelled, and the embassy was again cut down to size.

In April 1968, Colombian police, alerted by Mexican authorities, searched two couriers at Bogotá airport and relieved them of $100,000 which they had received from a KGB officer in Mexico. Eventually, the communist couriers admitted that the money was destined for the most murderous band of terrorists in Colombia, the *Fuerzas Armadas Revolucionarias*.

Increasing terror in Turkey culminated this year in a series of kidnapings and the murder of the Israeli consul general. Police ascertained that some of the students behind the terrorist acts had undergone clandestine training in neighboring Syria. Further investigation established that the training had been arranged by a Soviet "diplomat" in Damascus, Vladimir Shatrov, and his Russian "chauffeur," Nikolai Chernenkov.

From Ceylon to the Sudan, from Argentina to Yugoslavia, Soviet embassies continue to spawn subversion. All the while, the Soviet Union publicly affects rectitude and professes friendship. The day after Mexico expelled the five KGB officers, the Soviet embassy in Mexico City issued a statement of aggrieved innocence: "We do not understand, we cannot explain the measure taken by the Mexican government."

THE LATE HON. JAMES G. FULTON

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. EILBERG. Mr. Speaker, while in Philadelphia for the funeral of a beloved uncle, the news of the death of Jim Fulton reached me. It was indeed a sad day.

The Honorable James G. Fulton was universally recognized as a distinguished newspaper man and a highly respected Member of Congress, who served long and well his city, his State, and his country.

But most Members will have, as do I, personal and very special memories of Jim Fulton. Perhaps it was that not only did he seem to be interested in matters which he knew personally concerned us, he always found the time to help.

It was he who arranged for one of our fine astronauts to go to my home city of Philadelphia last March to speak before a gathering of Boy Scouts. Because of his contacts at a certain embassy, it was he who was helping an elderly gentleman from my district to get back to his native land "before the snow flies" for a last visit there. And it was Jim Fulton's office that called from Pittsburgh 3 days before his death to see how the old gentleman was making out with his visa.

And there were others in my district who benefited because of Jim Fulton—because he cared.

And because he cared, Jim Fulton made it a better world.

THEOLOGIANS OPPOSE PRAYER AMENDMENT

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. DRINAN. Mr. Speaker, I wish to bring to the attention of my colleagues the following highly relevant letter and statement which I have received in opposition to House Joint Resolution 191, the so-called prayer amendment.

The distinguished deans and presidents of our foremost theological seminaries do not ordinarily take public positions in connection with matters before the Congress. Their statement on this issue is, therefore, particularly significant:

UNION THEOLOGICAL SEMINARY,
New York, N.Y., November 1, 1971.

DEAR FRIENDS: It is reported that The Prayer Amendment will soon be before you for vote.

As leaders of religious institutions, we want you to know that many of us are emphatically opposed to this amendment for the reasons indicated on the enclosed statement.

We ask you, please, to read the statement and urge you to vote against the amendment. And we wish also to express our appreciation for your ministry in Washington on our behalf.

Gratefully,

J. BROOKE MOSLEY.

STATEMENT OF OPPOSITION TO PRAYER AMENDMENT

We, the undersigned, are presidents of theological seminaries and deans of divinity schools who urge you to oppose the "prayer" amendment, H.J. Res. 191. Though its proponents doubtless mean well, they can do great harm to religion and freedom of religion in this country through this amendment, which, to use the words of the Jesuit weekly America, is an "ill-written mischievous and misconceived proposal."

The institutions which we serve are devoted to theological education in the Judeo-Christian tradition, open to religion in all its forms, and involved at every level with a pluralistic society. Our institutions have flourished under the First Amendment of the Constitution and would be threatened by the proposed amendment to it.

We understand prayer to be the personal or corporate expression of belief by believers and belief is specific. There is no such thing as general faith. Prayer is the expression of a believer's (or body of believers') specific understanding of what is ultimately real, and of his relationship to it. It would be beyond the ability of any one of us to write a pluralistic prayer, and unthinkable for the state to recommend its use, even in the most optional way. It could not be prayed with integrity either by the believers or the unbelievers. It could only become a 'pro forma' exercise and thus do violence to the individual conscience.

This is not to say that we oppose the objective study of religion as part of the educational process. Indeed, we recommend the reading of the Holy Bible and other religious literature, the discussion of religious values, the posing of religious questions as a necessary part of academic instruction vital to any understanding of the human situation. But study is different in character from prayer, and we urge the members of Congress to recognize this distinction and to oppose any efforts to modify, enlarge, diminish, clarify or improve the First Amendment to the Constitution:

J. Brooke Mosley, President, Union Theological Seminary, New York.

Colin Williams, Dean, Divinity School, Yale University, New Haven.

Christopher F. Mooney, S.J., President, Woodstock College, New York.

George W. Webber, President, New York Theological Seminary, New York.

Edward R. Harris, Dean, Philadelphia Divinity School, Philadelphia.

Walter Harrelson, Dean, Divinity School of Vanderbilt University, Nashville, Tennessee.

Frederick Wentz, President, Hamma School of Theology, Wittenberg University, Springfield, Ohio.

Thadeus F. Zielinski, Prime Bishop, Howard University School of Religion, Washington, D.C.

Joseph M. Kitagawa, Dean, University of Chicago Divinity School, Chicago.

Thomas C. Campbell, Dean, Episcopal Theological School, Cambridge.

Louis J. Putz, C.S.C., Rector, Moreau Seminary, University of Notre Dame, Indiana.

John H. Tietjen, President, Concordia Seminary, St. Louis.

W. B. Blakemore, Dean, Disciples Divinity House, University of Chicago.

Michael Allen, Dean, Berkeley Divinity School, Yale University, New Haven.

Marshal L. Scott, President, McCormick Theological Seminary, Chicago.

David J. Draewell, President, Gerald L. Borchert, Dean, North American Baptist Seminary, Sioux Falls, South Dakota.

Don W. Holter, President, St. Paul School of Theology, Methodist, Kansas City, Missouri.

Meriyn W. Northfelt, President, Garrett Theological Seminary, Evanston, Illinois.

John L. Knight, President, Wesley Theological Seminary, Washington, D.C.

Albert C. Winn, President, Louisville Presbyterian Theological Seminary, Louisville, Kentucky.

James D. Glasse, President, Lancaster Theological Seminary, Lancaster, Pennsylvania.

Walter G. Muelder, Dean, Boston University School of Theology, Boston.

Fred W. Meuser, President, Evangelican Lutheran Theological Seminary, Columbus, Ohio.

W. Sibley Towner, Dean, Dubuque Theological Seminary, Dubuque, Iowa.

Ira Eisenstein, President, Reconstructionist Rabbinical College, Philadelphia.

Joseph D. Quillian, Jr., Dean, Perkins School of Theology, Dallas.

Roy Pearson, President, Andover Newton Theological School, Newton Center, Mass.

Beauford A. Norris, President, Christian Theological Seminary, Indianapolis.

J. Bruce Behney, Acting President, United Theological Seminary, Dayton, Ohio.

WATER POLLUTION CONTROL

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. RARICK. Mr. Speaker, I have recently received correspondence from the Honorable John J. McKeithen, Governor of the State of Louisiana, dealing with the official position of the State of Louisiana with respect to national water pollution control legislation now being considered in Congress.

I include Governor McKeithen's letter and enclosure in the RECORD at this point:

STATE OF LOUISIANA,
EXECUTIVE DEPARTMENT,
Baton Rouge, La., November 3, 1971.

Hon. JOHN R. RARICK,
U.S. Congressman, House Office Building, Washington, D.C.

DEAR CONGRESSMAN: The State of Louisiana is active as a member of the Environmental Comimttee of the Southern Governors' Conference. At a recent meeting of a Spotlight Conference on the Environment sponsored by the Southern Governors' Conference a statement of policy was drawn up by the many technical experts and governors' representatives in attendance, which reflects the basic position of the states in the Southern Conference with respect to national water pollution control legislation now being considered in Congress.

Attached hereto is a copy of the statement developed at the Spotlight Conference. As Governor of the State of Louisiana, I would appreciate your support in making Congress aware that the positions and proposed changes presented in this statement as a means of rectifying unsatisfactory sections in pending legislation is the official position of the State of Louisiana.

With best personal regards,

Sincerely yours,

JOHN J. MCKEITHEN,
Governor of Louisiana.

STATEMENT ON NATIONAL WATER POLLUTION CONTROL LEGISLATION ADOPTED BY THE SPOTLIGHT CONFERENCE ON THE ENVIRONMENT, SPONSORED BY THE SOUTHERN GOVERNORS CONFERENCE, OCTOBER 1, 1971

The Conference lauds Congress for the importance it has attached to the national effort to control water pollution, and encourages the Congress to continue its in-depth study of performance at both the State and Federal levels.

Very significant accomplishments have been made during the past five years under current Federal and State legislation. The Conference urges Congress to move forward by building on those accomplishments. It is unlikely that new laws with different goals and different strategies will speed progress. Rather, it is more likely that such action will destroy the momentum that has finally built up after years of effort.

The Conference is convinced that neither the federal government nor the individual states embarked on independent programs will be able to conduct separate water pollution control programs which will in an effective and efficient manner meet public expectations. We believe that improvement in federal-state relationships is desirable and that Congress could provide the avenue for that improvement through modifications of existing federal laws.

In light of the foregoing, the Conference is concerned that the thrust of current proposals under consideration in the Congress will inadvertently lead to further deterioration of relationships. Unless the underlying structure of government in the United States is charged drastically, it is evident that the states must play a very significant role in water pollution control. Exercising their police and welfare powers, the states are uniquely endowed with the necessary sovereign authorities. This, coupled with knowledge of local mores and priorities, indicates a primary role in such functions as the administration of permit systems, the establishment of receiving water and effluent standards, the determination of waste water purification requirements and the basic enforcement duties.

The magnitude of projected expenditures coupled with the need for concerted and effective action dictate a strong planning role for both state and federal governments. However, there is little likelihood that plans will be adopted unless they are developed with full participation of local governments.

On the other hand, the federal government is better equipped to serve in the role of supporter and overseer. The federal government should provide high level technical assistance, provide a national system for storage and retrieval of basic data, support research in government and universities, provide for training of scientists and technicians, provide adequate financial assistance, and enforce interstate standards.

It is desirable and inescapable that the states follow the course set by the federal government. Therefore, it is extremely important that the federal government advocates efficient goals and policies, and follows a dependable and consistent course of action.

The Conference believes that the national effort will be furthered if the federal government uniformly monitors states' activities to insure that they are effective and the Conference suports the concept that the federal government should step in when a deficiency cannot otherwise be satisfied.

We believe that a fair appraisal of the national water pollution control effort during the past few years would lead to the conclusion that many major delays and shortcomings can be traced in large measure to the failure of the federal government to perform in the functions narrated above. We are concerned that some of the proposals coming to our attention would move the federal government deeper into the front line responsibilities of the states while tending to ignore the major responsibilities that only the federal government can efficiently fulfill.

The weight of the legislative proposals coming to the attention of the Conference do not attain the proper balance between state and federal efforts. In our opinion many of the proposals place the federal government in a dominant role with the states relegated largely to the role of puppet. That position does not provide the freedom necessary for the states to make the valuable contributions that they are uniquely capable of making.

The most serious objections are the reduction of the state's role and the vesting of sweeping powers granted to the administrator of the Environmental Protection Agency. Rather than strengthening the nationwide effort, these moves would demoralize the states and place in the administrator far more authority and responsibility than could be assimilated within any reasonable time frame. The result would be unwarranted delay in achieving the goal of effective control and enhancement of water quality.

The Conference believes that the administration of discharge permits, or the equivalent thereof, is one of the most critical issues that Congress should face in connection with the amendments to the Federal Water Pollution Control Act. We believe that this issue has extremely important consequences in terms of federal-state relationships and also in terms of the longer range aspects of state water pollution control programs. The intrusion of the 1899 Act administered by the U.S. Corps of Engineers has created difficulties, increased work, and in some instances promoted delay in implementing schedules. Proposals to perpetuate a federal permit system by simply transferring the 1899 authority to the Environmental Protection Agency, while laudatory in the sense that one federal agency is eliminated, does nothing to reduce or correct the present dilemma. Instead of basing the permit system on the Refuse Act of 1899, the Conference proposes that a fresh start be initiated through the establishment of a waste disposal permit system administered by the states and backed up by the federal government.

The system would function through programs established under state laws with the provision that the state programs meet minimum standards set forth in the federal legislation establishing the system. Each state would administer a permit program except where a state refuses to do so or where its program would not meet the requirements of the federal legislation. In those situations, the Environmental Protection Agency would be required to implement a system meeting the requirements of the legislation.

This alternative approach is contained in the proposal submitted to the staff of the Senate Public Works Committee through the office of Daniel J. Evans, Governor of the State of Washington. The Conference endorses Governor Evans' proposal in principle and urges the members of the Southern Governors' Conference to support the permit system proposed by Governor Evans by appropriate communication with their respective congressional delegations.

While this statement has singled out the permit issue, many other proposals coming to the attention of the Conference cause concern and in some instances, strong opposition. It is recognized that these proposals have not yet been embodied in proposed legislation and, in fact, some of the proposals in themselves are self-contradictory.

The pollution control administrators in the states comprising the Southern Governors Conference stand ready to work with and assist the Committee staffs and the members of Congress in the development of crucially important water pollution control legislation.

A DIRTY GAME

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. ARCHER. Mr. Speaker, I call the attention of my colleagues to an editorial in the Dallas Morning News entitled "A Dirty Game" which comments on today's climate when the President of the United States fills vacancies in the High Court.

The editorial says:

The liberals have succeeded in making the nomination and confirmation process for the Supreme Court a political inquisition. Once a relatively routine procedure for confirmation of a President's appointments, the process has now become a carnival of character assassination. The object of the new game of "get-the-nominee" is to make the victim rue the day he was nominated, if not the day he was born.

This timely commentary is attached:

[From the Dallas Morning News, Oct. 13, 1971]

A DIRTY GAME

The liberals have succeeded in making the nomination and confirmation process for the Supreme Court a political inquisition.

Once a relatively routine procedure for confirmation of a president's appointments, the process has now become a carnival of character assassination. The object of the new game of "get-the-nominee" is to make the victim rue the day he was nominated, if not the day he was born.

The game was played so successfully in besmirching the reputations of two previous court nominees from the South that the players now begin slinging mud even at those whose names are merely mentioned as possible nominees.

Abe Lincoln once told a story of a man who had been seised by a mob, beaten up, tarred and feathered and then ridden out of town on a rail. The man's last comment was, "If it weren't for the honor of the thing I'd just as soon they'd left me out of this."

For many men who have spent a lifetime in public service, the honor of being nominated to the Supreme Court must be balanced off against the certainty that their families, their good names and their careers will be smeared and vilified from coast to coast. It seems more than likely that many good men will agree with Rep. Richard Poff that the honor isn't worth it.

The purpose of all this has nothing to do with the advertised claim that the pressure groups and their mouthpieces are merely seeking to maintain the high ethical standards of the court. Their championing of the present Justice Douglas and the former Justice Fortas indicates that their ethical standards can be exceedingly elastic when the choice is one of their own.

The purpose is to prevent President Nixon from exercising the right of appointment which his victory at the polls and the Constitution give.

Conservative writer Bill Buckley has suggested that the pressure groups are implying that they will ease up on their minority veto and allow the President to name one choice of his own if he will buy them off by appointing one nominee of their own choosing. If Buckley's assessment is correct, no doubt this "bargain" would be sold to the public as just routine political compromise.

But in fact this type of bargain falls in about the same category as an armed robber's offer to let the victim keep his life if he will hand over his money.

It is true that with the power to obstruct given them by the minority veto, those who play this game have a useful weapon. But the game can be played by more than one side. The minority veto can be exercised by more than one minority or organized pressure group.

The liberals were quick to cry for respect for the spirit as well as the rules of the system when it was working to their own pattern. Now that the voters have put a comparatively conservative president in office, some liberals seem ready to throw a monkey wrench into the gears. The danger is that other partisans and pressure groups may decide that they, too, can get their way through obstructionism.

If that happens, the operation of the democratic system will be brought to a grinding halt and the minority veto will have destroyed majority rule as an effective principle in our national government.

PALMER COLLEGE PRESIDENT MAKES CASE FOR COMMUNITY COLLEGES

HON. MENDEL J. DAVIS

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. DAVIS of South Carolina. Mr. Speaker, one of the leading figures in the city of Charleston, S.C., within the first district, the Honorable Charles Palmer, has made what I consider a very strong point for the advancement of junior colleges. Doctor Palmer, long a pioneer in the field of local secondary education, recently appeared before the Community College Study Committee and made a very good case not only for Palmer College, but for all other junior and community colleges in the State. The text of the statement follows:

STATEMENT BY CHARLES E. PALMER

My name is Charles E. Palmer and I have served as President of Palmer College since its founding in 1954. I deeply appreciate the invitation to meet with you today and this opportunity to discuss the possibility of a community college system for South Carolina.

Palmer College, and all other independent and church-related colleges, *must* be vitally interested in the work of your committee and the recommendations it will make to the 1972 General Assembly. Since Palmer College was founded and has operated successfully for seventeen years as a "community college," the shape of things to come is of tremendous importance and significance to us. Your recommendations, and subsequent actions based thereon by the General Assembly, may determine whether or not there will be any private junior colleges in South Carolina in the years ahead.

To give you a brief presentation on the future role of Palmer College as we now see it, we must first tell you how we came into being and what is our present role.

Palmer College was chartered by the state of South Carolina in June, 1954, as a non-profit independent junior college. From its very beginning, Palmer College has been occupationally-oriented and student-centered and its primary objective through the years has been to provide educational opportunities to all those who live in the communities served by the College.

In the early years, the College concentrated on business programs but has developed into a comprehensive community college offering four college transfer programs leading to the Associate in Arts Degree. Four programs in General Business and Accounting lead to the Associate in Business Degree. Two programs in Police and Correctional Administration lead to the Associate in Criminal Justice Degree. Five programs in Secretarial Science and Office Administration lead to the Associate in Business Degree. This year, a new Associate in Human Services Degree program is being offered. Other programs are being studied and will be added to the Palmer College Curriculum as deemed desirable and feasible.

Palmer College operates two campuses—in Columbia and Charleston—and will provide educational services to approximately 2,500 students during fiscal year 1971–72. Over 95% of these students will be from South Carolina. The institutional budget this year is slightly less than $2,000,000. The College is dependent almost entirely upon revenues from tuition and fees, and has developed a significant student financial aid program, utilizing both Federal aid programs and College resources. The College has no endowment and receives no church or other support.

Our application for regional accreditation as a general purpose junior college has been accepted by the Southern Association of Colleges and Schools. The Evaluation Committee was on-campus in February, all necessary reports and responses have been submitted, and action on the application is to be taken by SACS during its annual meeting the week after Thanksgiving.

Palmer College has recently purchased and is now developing a beautiful new 27.5 acre campus in Columbia, and expects to occupy a new $1,680,000, 52,000 square feet, academic building by 1973. A new $600,000 dormitory-apartment building housing 120 students was occupied in September. Caughman Hall, a multipurpose building, is in process of modernization and expansion, and construction will be complete by November 15. A new campus for Charleston is planned. A long-

range planning study will be completed by December 1, giving the College data and projections to guide future growth.

Projections for Palmer College during 1970–1980 call for an increase in enrollment to 1,400 full-time and 1,800 full-time equivalent students by 1974. By 1980, the full-time enrollment is estimated to reach 1,800 and the full-time equivalent enrollment is estimated to reach 2,500 students. Total head-count is expected to exceed 5,000. These are conservative estimates which assume little or no change in the present two-year college situation in South Carolina. The student body is approximately 38–40% black and the student body attitudes and relationships are excellent with no evidence of racial or other disharmony.

The next three years will see the addition of 8 to 10 new associate degree programs at Palmer College. Broader offerings in Adult Education are planned. Palmer College currently offers off-campus classes at five locations and plans 6 to 8 additional off-campus locations within the near future. Thirty-four full-time and twenty-three part-time faculty are employed regularly and the total is expected to reach one hundred twenty-four teachers by 1980.

Investment in Plant amounted to $754,000 at December 31, 1970, and is expected to reach $1,500,000 by December 31, 1971. By 1980, the total investment in Plant is expected to be well above $10,000,000.

Palmer College was established as a Junior College with an "open door" admissions policy years before there were any publicly-supported two-year colleges in South Carolina. From inception, it was intended that when the time was right for the establishment of a publicly-supported Junior or Community College System in South Carolina, Palmer College would become a part of that system and continue serving the Charleston and Columbia areas and the entire state. Palmer College has for years been doing what the community college system is intended to accomplish.

The following statement has been formally adopted and subsequently reaffirmed by the Board of Trustees of Palmer College.

"Role and Scope: Palmer College conceives its role for the decade 1970–1980 as that of a general purpose junior college offering occupational and college transfer programs to serve the needs of the people of South Carolina through its two resident campuses in Columbia and in Charleston, and through off-campus classes conducted throughout the State wherever the College can meet a demonstrated need."

It was against this background, and with the encouragement of the then Executive Secretary of the Commission on Higher Education, that Palmer College in October, 1967, was offered as an outright gift to the State of South Carolina for the express purpose of serving as the nucleus for a state system of junior colleges. The State Budget and Control Board referred the Palmer College offer to the Commission on Higher Education for study and consideration of the factors and details which would be involved in acceptance of the offer.

The offer still remains open at the suggestion of the Commission on Higher Education. Palmer College, of necessity, has proceeded with its plans for increased students, programs, and facilities. The institution has great capacity for growth and has been in the forefront of development of two-year college offerings in South Carolina. Given the opportunity, Palmer College can and will be a major factor in a leadership role in the development of a system of two-year colleges to meet the needs of all the people of South Carolina.

What is the future role of Palmer College? It may be one of significant achievement—a leading role in the development of increased educational opportunity for all in our state. Or it may be a hard struggle for existence requiring major changes in objectives and basic institutional purposes.

The future role of Palmer College will depend largely upon the recommendations of your committee and the legislative actions by the General Assembly which are expected to be based thereon.

VIEWS OF THE SHAPE A COMMUNITY COLLEGE SYSTEM, IF ANY, SHOULD TAKE TO MEET EDUCATIONAL AND TRAINING NEEDS OF SOUTH CAROLINIANS

1. The General Assembly should adopt a statewide plan for the operation and administration of all two-year post-secondary educational institutions in South Carolina. It should be articulated with and a part of the higher education master plan for South Carolina.

2. All plans adopted by the General Assembly and all policies promulgated by the Commission on Higher Education and other State agencies should recognize private institutions, both junior and senior, as being assets of the state with truly substantial values and desirable capabilities which should be conserved and fully utilized for the benefit of all the people of South Carolina.

3. All private educational institutions, junior and senior, should be afforded the opportunity to participate in all plans and programs for higher education as equal partners. This has particular reference to various Federal programs and funds from which private institutions are effectively excluded at present.

4. Student financial aid in the form of grants, loans and work opportunities should be made available to all students under regulations which would provide aid in some form to all students from all economic levels sufficient to allow all students to attend the institutions of their choice, whether public or private.

5. Some form of institutional support should be provided in the most desirable manner legally possible in order to establish and maintain acceptable levels of quality in programs and facilities at private institutions, thus eliminating the very real possibility that, if such aid is not provided, the State will have to assume the responsibility for providing replacement facilities and programs at immeasurably greater cost to the taxpayer.

6. South Carolina should have its own plan for two-year institutions and educational opportunities, and not a copied version of what has been attempted in other states. A "community college system," as generally understood in academic circles, may not be the best plan for South Carolina.

7. A feasible plan would make provision for the establishment of junior college districts or regions throughout the State, with local boards which would have responsibilities for all two-year, post-secondary, institutions within the district or region. Such a plan would permit district or regional determination of the educational opportunities to be provided within the jurisdiction. For instance, one junior college district in an urban area might provide several separate facilities for technical education, allied health sciences, college parallel programs, and other specialized areas of significance, with each providing a core curriculum of liberal arts and general education courses. Another junior college district in a rural area might have only one facility offering therein those programs and only those programs for which the jurisdiction has a proven need. These might include forestry, agriculture, agri-business, and many other programs not needed in urban institutions. Flexibility and responsiveness to local needs should characterise these districts or regions and their local boards.

8. A sub-division of the Commission on Higher Education should be provided for *state-level coordination and control* of two-year post-secondary, institutions.

9. It should be clearly enunciated by the General Assembly that no publicly-supported institution will be established or permitted in future in any area where a private institution already exists, without first having a thorough study performed by a competent independent agency to determine the effect such new public institution would have on the existing private institutions and/or other public institutions which may already be in operation in the area.

10. It should be required that consideration be given and negotiations be conducted to determine whether or not it would be possible and in the best interests of all the people for the State to acquire those private junior and/or senior colleges already existing in areas where new or expanded public institutions are proposed, and that such actions be completed before any commitments are made concerning any additional educational facilities within those areas. Contracting with private colleges and exchanges of faculty and students should be encouraged.

11. Funding of both two-year and four-year colleges and universities should be primarily a State function with some measure of local district or regional support, and with some measure of student support through tuition and fees. Such funding should take into consideration and provide for adequate student financial aid (point 4) and institutional support (point 5) to the end that state, local, and student funds be effectively utilized to the maximum extent possible. Existing *public and private facilities* and capabilities should be utilized to the maximum before any new facilities are undertaken.

I deeply appreciate your courtesy in permitting this long but very concerned and sincere expression of the views of Palmer College on the subject which is the mission of your committee.

CHINA VOTE AND THE U.N.

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. MICHEL. Mr. Speaker, on Tuesday of this week the Peoria Journal Star published what I consider to be an excellent editorial on the political base of the U.N. and the China vote. I believe my colleagues will be interested in reading it.

[From the Peoria Journal Star, Nov. 2, 1971]

U.N. BASE A FRAUD

The actual repercussions of the UN vote on "China" have only just begun, because the greatest of these will arise from the new conditions and background that have been created rather than from the event itself.

The simple fact is that the vote was one of pure political expediency of the sort that repeatedly makes the U.N. as a glorious symbol a complete fraud.

No conceivable principle could be invoked as the explanation for voting to exclude Taiwan, a country of fourteen million people.

If we invoke the principle that de facto governments, such as that of Red China, ought to be included simply because they exist and we must deal with reality, we should vote to let Red China enter—and that is an acceptable principle.

However, as often as it has been invoked in argument over the years by Canada and others of our "friends", it is grossly violated when concurrent with letting China enter, they vote to kick out a "de facto" country of fourteen millions.

Is it a matter of size?

Then more than half of those who voted to exclude Taiwan ought to get out themselves, because they are smaller than Taiwan.

Is it because the government of Taiwan is not regarded as truly representative of the people of that island country? Then, again, half of those voting to kick her out ought to be kicked out, themselves.

No, what was involved was pure, raw power politics—in that Red China demanded Taiwan's expulsion, and many countries would rather pay that blackmail to the giant than stick on principle to the midget.

There is no other excuse for the vote, and the countries of Western Europe, Canada, and Mexico joined the leftist bloc for it under conditions whereby they simply humiliate themselves by knuckling under to the "conditions" demanded by Red China.

They have tried to excuse it by saying that Taiwan was originally a part of China and "split off". (Would you accede to Manhattan island being separated from the U.S.?) That is pure bunk. Taiwan was one of many areas and people, different from the Han-Chinese, who were conquered at one time or another by one or more Chinese Emperors, and that bestows no "natural right" whatever in 1971.

This is the heart of the matter—the vote was completely amoral.

It was made easier for many, including Mexico, Canada and the Common Market countries because Nixon was negotiating with Red China and they could pretend "he didn't really care", and easier still because they were all suffering and screaming from the U.S. "surcharge" against their exports to America—although most of them have been putting like sanctions on U.S. exports to their own countries for many years.

The fact remains that it underlines the fact that the political base of the UN is largely a fraud.

As such, it will revive the awareness that Russia has three votes and the U.S. but one—the same as a staggering number of nations smaller than the state of Illinois and not a few no larger than the Peoria metropolitan area.

The vote system is a fraud.

The financing leans very heavily from the beginning on the U.S. Hence, the financing is a fraud. "Multilateral aid" really means U.S. aid taken from the sweat of U.S. taxpayers but dispensed in the name of the UN—another fake and fraud.

It is this persistent element of fakery that has made the glorious symbol of man's dreams so shabby in the reality.

We knew it was "imperfect" when it was organized, but it was a "step". After 25 years, however, instead of improving and reforming, it has become worse instead of better in its principles as practiced and in its political composition out of all representative reason, and in its financial fakery.

There are those who will begin to think that no genuine, meaningful international organization can possibly develop from this mess, and that its dissolution will be the first step towards a sane reorganization.

There will be a review of its many falsities and failings, and a receptive audience in the United States.

These two factors will now be in the background of every event, together with a complete disillusionment of looking to the UN for a just or workable solution to any international problem from the Suez canal to the Far East.

And that is why the repercussions have hardly begun.

The UN is in every serious trouble from this day forward—and it did not happen in a day. It has been working itself into that position steadily for a very long time.

It has utterly failed to act in a manner that would promote the one great asset that was available to it—a world-wide moral force.

Morality has nothing to do with its decisions, and that has become all too brilliantly obvious.

C. L. Dancey.

JOHNNIE McKEIVER WALTERS, MAN OF THE YEAR

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. MANN. Mr. Speaker, my hometown of Greenville, S.C., has boasted many distinguished sons—giants among ordinary men, if you will—who have risen to heights of excellence in every facet of our national existence. Each year, the Greenville Chapter of the Society for Advancement of Management honors one of its outstanding citizens by conferring upon him its coveted "Man-of-the-Year" award.

This year's recipient is known to all of us as the Nation's No. 1 tax collector and enforcer of the wage-price freeze, the Commissioner of Internal Revenue, Johnnie McKeiver Walters. His confirmation by the Senate earlier this year constituted another achievement in a long and illustrious career in the legal profession and government service. His life has been a record of accomplishment, as documented by the following citation which was presented to him on October 28 by the Greenville Chapter of the Society for Advancement of Management:

JOHNNIE MCKEIVER WALTERS—A SOUTH CAROLINA GENTLEMAN AND PUBLIC SPIRITED SERVANT

As the son of a South Carolina farmer, you early learned the value of hard work and acquired the habits of self-direction and self-support. As a result, you worked your way through Furman University.

You served your country gallantly in World War II, successfully completing fifty missions for which you earned the Distinguished Flying Cross, the Air Medal with Clusters, and the Purple Heart.

As a graduate of the Law School of the University of Michigan you began to establish the pattern of your career by working as an attorney in the Chief Counsel's office within the Internal Revenue Service. Your potentials were recognized as you progressed to Assistant Head of the Legislative and Regulations Division.

Being unwilling to carve a narrow set of experiences, you left the IRS and for eight years served in the Legal Department of a major U.S. corporation. You then successfully demonstrated your professional skills by engaging in the private practice of law in your native state.

As a practicing attorney in Greenville, you were actively engaged and provided leadership in community and professional affairs, serving the United Fund, the Symphony Association, the Little Theatre, the Rotary Club, the Greater Greenville Chamber of Commerce, and the Greenville County Bar Association. You were Chairman of the Tax Section of the South Carolina Bar Association, and Chairman of the Southeastern Liaison Tax Committee.

With such a distinguished record of service and professional experiences, you attracted the attention of the President of the United States and received an appointment as Assistant Attorney General, Tax Division, United States Department of Justice. In this role you further distinguished yourself to the extent that this year you were appointed Commissioner of Internal Revenue by President Nixon, an appointment confirmed by the U.S. Senate on August 4, 1971.

As Commissioner, you are responsible for planning and developing policies of the IRS and administering its seven regions and fifty-eight districts. You have arrived at this point in your career by demonstrated excellence in previous assignments and with an established reputation for fairness in all public and private dealings.

In arriving at this major management challenge in your career, you have reflected credit on yourself, your native state, and upon all people who value good and equitable government. Not only for what you have done, but also for what you will do for your country, the Greenville Chapter of the Society for Advancement of Management proudly recognizes you as its Man-of-the-Year.

Since it carries a message for all of us who are affected by the economic stabilization effort, I give you now a summary of Johnnie Mc. Walters' acceptance speech which also reveals a great deal about the "Man-of-the-Year" himself—his sense of modesty, charity, sensitivity and dedication to duty.

The summary follows:

INTERNAL REVENUE SERVICE AND THE ECONOMIC STABILIZATION PROGRAM

INTRODUCTION

It always is a great pleasure to return to one's home town. It's doubly so when one's friends and neighbors are honoring him.

We naturally are proud and happy to be named Greenville's Man of the Year for 1971. If this related to a fiscal year, we presume the award might relate primarily to our endeavors at the Department of Justice. But, we hope it relates to a calendar year so that we can include our Internal Revenue Service efforts as well.

John Donne said no man is an island unto himself. Likewise, no man can be "Man of the Year" all by himself. We could not have advanced to our present state without the continuing encouragement and help of parents, family, teachers, and friends. I am a very fortunate man. Mom and Dad were wonderful parents. I could not ask for a better wife, or greater children. And, during my school days, I was fortunate enough to study under some *master* teachers—in high school, J C Hungerpiller, Helen Baker, Katherine Lee; at Furman, both of the Gilpatricks, Nick Mitchell, and others; at the University of Michigan, Paul Kauper, Paul Leidy, Layland K. James. Friends—we could name dozens, but we must mention Dr. B. E. Geer of this city, and Mr. A. L. M. Wiggins and Mrs. David R. Coker of my native home of Hartsville. Further, we cannot overlook our associates in work—particularly those in the two great Government departments: Justice and Treasury. So, in a sense, an award of this nature has to be symbolic. Accordingly, tonight we accept and thank you for this award as reflecting credit upon all those wonderful people who have helped us reach this point. We wish each one of them were here to share in this occasion, and we're particularly happy that my aunt is here. Also, we're happy my best girl Donna is here, and that Dee Dee can be with us tonight. Our other three children would like to be in Greenville also.

IRS—TRANSITION

We have been Commissioner of Internal Revenue for almost three months now. In

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the two and a half years before that it was our privilege to serve as Assistant Attorney General in charge of the Tax Division of the Department of Justice. In that role, we had a continuing opportunity to develop a close working relationship with Internal Revenue.

My first exposure to the Service, of course, came in the early 1950's when we worked in the Chief Counsel's office. Then, in corporate practice in New York and later in private practice here, we were in frequent contact with the Service as we represented our clients.

With this background, we had supposed that the transition from the Department of Justice to the IRS would be a smooth one—something like a riverboat captain taking the wheel from the pilot when the ship is safely away from shore and in deep water. That, however, was not the case. Just days after we arrived at IRS, the President announced the wage-price freeze, and virtually overnight the Service was deeply involved in the program to stem inflation and revitalize the economy.

Unlike the Reverend Billy Graham, who says he has only one quarterback, in this program the Internal Revenue Service is not so blessed. In this extremely vital program, we have been working for Secretary Connally; Arnold Weber, Executive Director of the Cost of Living Council; and General Lincoln, Director of the Office of Emergency Preparedness. Even so, the Service performed its roll well—maybe too well, because we have been selected to be No. 1 in Phase 2!

STABILIZATION ROLE

Why did the President pick the Internal Revenue Service to play a major role in coordinating and administering this new program. First of all, the Service is an organization of more than 65,000 employees carrying out a number of really quite distinct activities. In addition to auditing returns and collecting taxes, we regulate the liquor industry, we administer the laws on gun control and explosives, we wage war against organized crime, we investigate bribery attempts, and so on. Our employees tend to be well educated and well trained.

For example, we have over 13,000 professional accountants, thousands of lawyers, and a good sprinkling of many other professions, from architects to petroleum engineers.

We have long experience, considerable know-how, and stability in administering our voluntary self-assessment tax system. And while no one loves a tax collector, nevertheless, Americans respect IRS as an organization with high integrity.

The success of the President's Economic Stabilization Program naturally depends upon voluntary compliance. The very nature of our tax system and our administration of the system affords the Service a knowledge of and relationship with the business community, and a familiarity with business practices and problems. This is uniquely valuable in the program designed to revitalize the economy. Of great importance, because the Internal Revenue Service believes in decentralization and a grass roots approach, we have offices across the breadth and length of the country. All told, we have around 900 local offices, some of them very small it is true, but all of them representing a physical presence in the community.

In collecting more money from more people with fewer employees than any other country in the world, we contact a large number of citizens and businesses. Of the $200 billion we collected last year, we had to collect only 3% by direct enforcement measures. But the Service cannot claim all the credit—or even most of it. Under our system, the American citizen assesses and pays his own taxes, with minimum enforcement by the Government. A great part of Internal Revenue's efforts therefore are devoted to programs designed to acquaint taxpayers with the responsibilities so that they themselves can make their returns and pay their taxes.

The President announced the Wage-Price Freeze Program in exactly this spirit—a program aimed at improving the lot of Americans with Americans voluntarily administering the Program. Having been bred in such a spirit, the Internal Revenue Service took to the Program as a duck takes to water. Within 48 hours, the Service designated more than 350 Internal Revenue Service offices as Local Service and Compliance Centers. We mobilized across the country and shifted employees into wage-price assignments as a by-product of their regular assignments and duties. In addition to their regular tax assignments, our people began providing information to citizens on wage-price freeze matters and looking into complaints about violations.

Consistent with the spirit of the program, our investigators primarily are seeking to bring everyone on board. Allegations of violations are discussed by telephone, by letter, or in person—all with the goal of securing compliance—and securing it fast. We are not interested primarily in punishment or sanctions. The President is relying on the voluntary compliance of all Americans, and that is our touchstone.

In checking complaints, naturally we give priority to cases that seem to have the greatest potential impact on prices, rents, or area wage structure, and to cases that represent a large number of complaints. Fortunately, we have been able to close most complaints by telephone.

PHASE 2

We are pleased by the commendable response of our people in Phase I and we know that the President, Secretary Connally, General Lincoln, and Arnold Weber are all pleased with their performance. Now, on the threshold of Phase II, we are gratified at the key role the President has assigned to the Service. As you know, on October 7 the President announced that the Government's program of price and wage restraints will continue beyond November 13. The President has appointed a seven-man Price Commission made up of persons outside government to hold down price and rent increases and to prevent windfall profits. He has appointed a 15-man Pay Board made up of equal representation from labor, management, and the public to hold down inflationary wage and salary increases.

The Cost of Living Council, headed by the Secretary of the Treasury, will over-see the whole.

Rounding out the picture, the program provides for committees on interest and dividends, on the health service industry, on state and local government cooperation, and on expanding productivity.

The objective of the Stabilization Program is essentially to reduce the rate of inflation and the annual increase in the cost of living to 2 to 3 percent by the end of 1972. At the same time, the program has what might be termed a "self-destruct" feature in that it seeks to bring about conditions in which reasonable price stability can be maintained *without* artificial and abnormal restraints.

We are going to try to accomplish our role in Phase II with around 3,000 manyears of IRS employment, supplemented by people with special skills borrowed from other agencies. In our National Office in Washington, an Assistant Commissioner for Stabilization will administer and give leadership to the new program. He will report directly to us and to the Director of the Cost of Living Council, Mr. Donald Rumsfeld.

Although we are still ironing out details, we do expect to be in business on November 14. Will it work? We are optimistic that it will, but two conditions obviously have to be met:

First, the program itself must prove to have been well designed; and

Secondly, it must have public support.

The people who developed the program were realistic and designed a system to serve two goals:

Hold down wages and prices for some reasonable period; and

Gain time so that Americans can look to eventual stability *without any program of restraints.*

For too long now commercial activities and forecasts have been geared to considerable inflation. This had become a way of life. The President's Program is aimed at eliminating that philosophy and achieving economic stability.

This truly is a sweeping peacetime program reaching into all phases of the American economy. It is a critically important program. Phase I created an expectation in the country that something would be done to halt inflation. An overwhelming portion of the American people want to see inflation brought to a halt. The recent polls show that well over 65% of the people, in some polls 75%, are in favor of the freeze and the Economic Stabilization Program.

We think the climate for success exists. As the American people have made this Country's unique voluntary self-assessment tax system work, so too they will support the President's Economic Stabilization Program.

We might note that IRS will not be alone in monitoring prices, rents, and wages. In the first place, millions of loyal Americans who not only agree with the President's efforts to achieve greater economic stability but also have a personal economic interest in that goal will be watching prices, rents, and wages closely. While many of these will be acting individually, some of them will be acting collectively in an organized way. For instance, the AFL-CIO Executive Council has instituted a program under which at State and local central labor bodies will monitor prices and rents, investigate complaints, and in general follow up the program. Naturally, the laboring man has a keen interest in the program and, accordingly, the AFL-CIO is acting in a responsible and sound way. As the agency charged with responsibility in Phase II, we welcome all cooperative help available.

CONCLUSION

In our stabilization work, as well as in our primary mission, the Service recognizes the very real impact it has on the lives and fortunes of the citizens of this country. Taxpayers are forced to deal with us—they have no choice. This being so, we believe it is imperative upon each and every IRS employee to respond with *courteous, efficient, and timely* service. Nothing less will do. We therefore are approaching our responsibilities with two primary concerns. We should demonstrate:

(1) *A sense of urgency* in our work; and

(2) *A greater sensitivity* in the discharge of our responsibilities.

The Service must respond promptly. Neither citizens-taxpayers nor the Government can afford undue delay in resolving economic or tax issues. Further, we must respond courteously and timely. Our goal in our role as Commissioner will be to achieve a real sense of urgency and greater sensitivity. This does not mean less vigorous enforcement of our tax laws. In fact, we should be more vigorous—because we hope to do a better job earlier. Accordingly, our recommendation to you—our friends—is to treat your Federal tax affairs properly and timely!

We in the Internal Revenue Service will dedicate our best efforts to the great national economic program just as we historically have to our tax mission. Our ability to succeed rests, as it always has, on you. We have every confidence that the good people of this country will meet today's challenges. In behalf of all Americans, we urge your wholehearted support of this program so critical not only to the country but the entire free world.

F. J. BORCH, CHAIRMAN OF THE BOARD OF GENERAL ELECTRIC, COMMENTS ON INTERNATIONAL TRADE

HON. CHARLES W. WHALEN, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. WHALEN. Mr. Speaker, on October 12, 1971, Mr. F. J. Borch, chairman of the board of the General Electric Co., addressed the Economic Club of Detroit on the subject of "International Trade: What Is the Problem?"

While reading Mr. Borch's comments, I was particularly impressed with the facts he developed concerning the discriminatory effect of border taxes imposed by our European trading partners. I believe many of my colleagues will find his remarks of interest. Therefore, I insert Mr. Borch's speech at this point in the RECORD:

INTERNATIONAL TRADE: WHAT IS THE PROBLEM?

I am delighted to be with you on Columbus Day. Not only do we have free-floating currencies, but we also have a free-floating Columbus Day—it was celebrated yesterday in many states in the Union. As we honor the courageous navigator of strange seas, it is highly appropriate that we should be discussing the trade relationships between the Old World and the New.

This is a subject with which the Detroit automotive industry, its banking community—and, I might add, its retailers, and its electric utilities—have had much continuing experience, and I thought perhaps the viewpoint of an electrical manufacturer would be of interest.

It is a privilege, of course, to be here and to talk to this distinguished audience on a subject of such seriousness as the United States' foreign economic posture. One must approach such an assignment with a certain amount of disclaimer. I should say at the outset that I claim no expertise on extractive materials or agriculture.

Rather, I speak to you from the viewpoint of a manufacturer with operations in most of the major countries of the world, and with several hundred million dollars of exports to those countries. Events of recent years in international trade have been particularly disappointing to one who represents a Company that has consistently favored commerce between countries with a minimum of restrictive barriers and protective measures. We probably coined the expression, "free, fair trade", many years ago, though I am not sure of that. But we still believe in that objective for the U.S. and its trading partners, and are disturbed to note how far the trading nations of the world have drifted from trade that is both free and fair.

I must apologize for the fact that I am going to use a lot of numbers in this talk, but I see no alternative when I find that intelligent men on both sides of both oceans have been discussing the United States' trade situation with more heat than light.

So, let us take a look at the numbers. But before we do, I see from your program that General Electric just dropped a billion dollars in annual sales over night—from $9 to $8 billion. I've got to get back and find out what happened.

U.S. TRADE BALANCE

One of the numbers that has been flashing a red alert for some time now is the U.S. trade balance with other countries. Obviously, if the United States is going to have any kind of equilibrium in our balance of payments we've got to have a trade and private investment balance sufficient to cover all the other imbalances that spring from military expenditures abroad, U.S. tourists abroad, foreign economic aid, and so on.

An obviously unacceptable alternative would be to resign ourselves to the fact that our favorable trade balance can never be restored and then restrict foreign travel, foreign investment, imports, and foreign aid accordingly.

So, let us look at our trade balance. As you know, the U.S. trade surplus declined from some $7 billion in 1964 to approximately $2 billion last year. As of August 1971 our cumulative current trade balance was in deficit for the fifth consecutive month, and totalled almost $1 billion in the red. If we wind up with a negative balance for the year, it will be the first time since 1893.

U.S. INVESTMENTS BALANCE

Now, let's cover the subject of our private investments balance offshore.

We have all heard that American investments offshore are having a dire effect on the U.S. balance of payments—let's take a look.

In 1964, the direct private investment by U.S. companies offshore reached a cumulative total of $47 billion; investment during the year was $2.3 billion; while income returned from this investment was $4.7 billion—or about twice the annual capital outflow. In 1970, the cumulative total reached $69 billion; the outgo for the year of our direct investments abroad was $4.4 billion; while the return on this investment to the U.S. was $7.9 billion! (*See Exhibit A, following text.*)

Now, if we take the overall commercial picture—the combination of trade and return on investment—we find that, in 1964, the return on investment comfortably supplemented a substantial trade balance in holding down claims against the dollar; while today the return from direct investments is our *last remaining positive item of significance.*

Labor officials, and others, who wax rhetorical about the dire effects of U.S. foreign investments on the U.S. balance of payments and U.S. jobs should look at these figures, which show that as our trade balance deteriorated rapidly, the return from our foreign investments accelerated—and a good thing it did, otherwise the dollar would be in a lot worse shape than it is today. And then they should go behind the numbers to find out why it was necessary to make these investments in the first place.

So in spite of the rhetoric on both sides of both oceans having to do with the dire effects of U.S. private investments offshore on our BOP, the figures show that much of this is "hogwash"—or in more polite terms let us tag it as "False Rhetoric No. 1". We are thus drawn to the conclusion, based on the numbers, that the real problem with the dollar and the U.S. balance of payments is the drastic slippage in our *trade*, and that's what we should be discussing.

WHY THE DRASTIC CHANGE?

Which brings us to our second point: Why the drastic change in our trade balance?

Again, we are being told on both sides of both oceans that it's because of U.S. inflation—and that we should get our own house in order. Let's take a look.

This is what happened to domestic consumer price levels in major industrial countries between 1964 and 1970.

In the U.S. the domestic consumer price index rose 25% from 1964 to 1970.

Let's admit that's bad. But let's take a look at what happened to each of our major trading partners: Japan, 40%; France, 27%; Germany, 17%; Italy, 21%; U.K., 31%;—a range of from 17 to 40%, with only Germany appreciably below our 25%. And none of these countries had their Vietnams, and its inflationary impact. (See Exhibit B, Table I.)

INFLATION NOT THE MAIN CAUSE

From which the conclusion can reasonably be drawn that inflation is not the main cause in the reversal of the U.S. trade balance. Everyone had inflation, but not everyone had trade balance problems to the same degree. Let's tag this one as "False Rhetoric No. 2".

So then what is the cause of the massive change in our trade balance? Well, of course, then it must be, according to our concerned friends on both sides of the oceans, U.S. productivity, or the lack thereof, that is the culprit.

And, we must admit, at first glance they could be right. In the U.S., productivity—in terms of output per man hour—increased 14% between 1964 and 1970. Among our major trading countries the increase ranged from 22% in the U.K. to 99% in Japan. (See Exhibit C, Table I.)

So, it is certainly true that output per manhour in other countries has grown much more rapidly than in the U.S. in recent years. It should! All other industrial countries have much greater incentives to modernize their manufacturing facilities to increase productivity—via their tax structures, such as our pre-1969 investment tax credit of 7% much more rapid depreciation for tax purposes, and so forth. The disadvantage under which our manufacturing industries have operated since 1968 in this respect is clearly illustrated by the fact that the U.S. rules, until very recently, allowed an average tax cost recovery of under 8% in the first year, as compared with an average of 32% for the five countries mentioned; 34% for us vs. 63% for them at the end of three years; and 66% for us compared to 93% for them at the end of seven years. (See Exhibit D.)

These tax cost recovery allowances are typical of the incentives offered in other countries for the purpose of increasing productive investment.

So, in view of our national interest, it is pertinent to ask why other industrial countries have done these things: certainly not to give a "bonanza to business," as critics of President Nixon's proposals have contended, but to improve productivity, strengthen and grow their economies and thereby maintain a fuller level of employment.

And it is appropriate to note that the pending investment tax credit of 7%, if passed by Congress, together with a cutback in ADR, as seems most likely at the moment, will still leave us well short of equality with other countries in this regard.

PRODUCTIVITY NOT THE REAL REASON

So, on this subject, we can now say, well, we probably have the answer then, productivity has gone up much faster for them than it has for us. But before we accept that, let's take a further look at what really counts; namely, unit labor costs in manufacturing, which are a combined measure of output and total employment costs.

It will come as a surprise to no one in this room that our wage and salary costs have been going up at a rate that exceeds productivity—in fact, between 1964 and 1970 unit labor costs in the U.S. rose by nearly 20%, much of the rise occurring during 1968–70.

Surely, the other industrialised countries haven't experienced this sort of situation—or have they? Well, to be accurate, there is statistical variation all over the map but it comes down to this: Italy is very close to our 20% increase in these costs; France is marginally lower at about 16% and Japan—a circumstance I'll get to in a moment—is recognizable lower at a 12% unit labor cost increase. But two of our biggest trading partners display the following unit cost increases—Germany, 26%; and Britain, almost 33%—both markedly higher than the U.S (*See Exhibit C, Table II.*)

I should emphasize that these costs are stated in terms of national currencies rather than U.S. dollars, thus eliminating the dis-

tortions of revaluations both up and down that have occurred in these countries.

Now, a word on Japan. The big divergence really occurs in 1969 and 1970, when our own unit labor costs shot up. Before that, Japanese unit labor cost rises paralleled ours. Despite this generally comparable unit labor cost picture for the Japanese, they nevertheless turned around our two-way trade to their positive advantage by 1965.

Thus, the differences in unit labor cost trends do not seem to account for the massive change in our U.S. trade balance, and to tag U.S. productivity, or the lack thereof, as the chief culprit would seem to qualify as "False Rhetoric No. 3". At this point, we can then suggest that as bad as inflation is, as bad as our productivity fall-off is—both for our domestic economy and for all of our citizens—neither is the main cause for our trade imbalance.

So then we come down to the core of the problem: What is the real reason for the serious U.S. trade situation?

INTERNATIONAL TRADE—A TOP NATIONAL PRIORITY

It is my thesis, as a manufacturer, that it boils down to the fact that other countries have placed international trade as a top national priority and have adopted structural policies to promote their trade balances and their balance of payments. The success of these policies is reflected in the degree to which they have been able to shield their export prices from the inflation that took place in their domestic economies.

Thus, in the U.S., the export price index has almost kept pace with the domestic price index from 1964 to 1970—namely a 25% domestic rise and 20% export rise—for a spread of 5 points. But the rise in export indices of all but one of the other countries doesn't begin to approach the rise in their domestic indices during this period. In Italy, for example, the domestic price index rose 21% while the export index rose only 9%—a spread of 12 points. In Japan the spread is 32 points. In France and England (both of whom devalued their currencies—thus lowering the price of their exports) we see spreads of 19 and 21. And only Germany (as a result of up-valuation) kept her spread to 3 points. So, we have the U.S. at 5 points, and the others ranging from 3 to 32. (See Exhibit B, Tables II and III.)

How could they thus insulate their export pricing from their domestic economies? Let me suggest at least three reasons.

DEVALUATION—ONE REASON

First, they had the freedom to devalue their currencies when their trade and their balance of payments got in trouble. Both England and France took advantage of this ability to devalue over the last several years with the result that their export prices were reduced and their import prices increased. Meanwhile, for good technical reasons, under the IMF, the United States was unable to institute similar compensatory competitive steps. So here we have one major reason some of the other countries have been able to offset their inflation and increased unit labor costs whereas we have not been able to.

By the same token, a number of other countries with consistently favorable balances have not done the reverse to the degree they should have; namely, revalued upwards, notably Japan.

With this picture, I would give high marks to the Administration for its current emphasis on upvaluing other currencies and cutting loose from gold.

The second structural reason they could maintain the differential between their export prices and their domestic prices—in favor of their exports, is that they have been very careful to protect those domestic industries that they consider important to their economy, or to their employment, from what they consider might be disruptive imports. Let me give two examples among a great many, of how this is done.

GOVERNMENT PROCUREMENT—ONE FORM OF PROTECTION

The first example is the allocation of the available business by their government procuring agencies to their domestic manufacturers at prices that guarantee an acceptable return on investment. The result is high prices for such equipment in the home country. This enables the maufacturer to adopt pricing practices which result in quotas in third markets and the United States significantly lower (10% to 50%) than the price paid by their own government customers.

In my opinion, the attempt to keep other countries' government procurement practices more in line with those of the United States, if the U.S. market is to remain open to them, is long over-due, since the modest 6% Buy American penalty is an inadequate remedy. If, for example, we were free to bid, to go in there and seriously quote our own domestic prices, which we are not, we would be very competitive. And, at the least, it would bring out into the open, for the attention of their own taxpayer-consumers, the differentials they pay for this two-price system.

If our trading partners would follow the same kind of open bidding that our TVA does, as required by law, resulting in purchasing tens of millions of dollars worth of electrical equipment offshore each year, I, for one, would gladly give up the Buy American 6% for the open bidding and the salutary effect it would have on this form of dual pricing. Until agreement is reached on open procurement, country-by-country, I believe our own government should no longer entertain bids from those who insist on closed procurement in their own countries.

UNDER THE GOVERNMENT UMBRELLA

The second example of how foreign governments protect their own domestic industries is by moving in, in one form or another, when their own private enterprises can't cut it. We have seen this happen in steel, airlines, nuclear reactors, computers, commercial aircraft, jet engines. When the government steps in, the competitive rules change.

Of course, under this government umbrella, there is little need to be responsible for earnings, and there is no requirement that dividends be paid to non-existent stockholders. Financing can be obtained from the country's treasury or nationalized financial institutions at concessionary rates or even without costs. Pricing, especially for export, can be jiggered for political purposes rather than economic realities, but such management nevertheless escapes the shadow of bankruptcy.

Privately-owned companies find it extremely hard—not to say, impossible—to stand up against such competition. It is sobering to note that some of these state-owned industries are now selling half of their production into export. And in the years immediately ahead, such competition is going to grow, and with it so will the size of the problem. These state-owned industries don't meet the economic criteria as we understand them, can insulate themselves from the disciplines of the marketplace, and by virtue of their semi-sovereign nature possess advantages not enjoyed by private concerns.

How we, in this country, are going to be able to handle such competition—domestically and internationally—poses some difficult and sticky choices for ourselves and our own government. Probably we shall have to depend on the almost continuous efforts of our commercial diplomats to persuade the governments that their industries must behave according to the usual rules of economics. But, as we know, the art of diplomacy doesn't always work. So I suspect we will have to revitalize the use of our countervailing duty laws—and, perhaps through new legislation, see to it that the President possesses fast-acting retaliatory powers which are not now on the statute books.

So much for some of the ways that countries protect those domestic industries that they consider important to their economics. Let us turn now to the third, and to me the most significant of all the reasons why the U.S. will remain at a growing and permanent disadvantage as long as these structural differences exist and proliferate—the different tax policies of our major trading partners.

TAX STRUCTURES AS AN INCENTIVE

If we look at the tax structures of many of these countries, we find a wide variety of incentives designed to promote exports. The extent to which some foreign countries have lowered their net income taxes on export income has recently been documented in hearings before the Congress. American businessmen should read these documents to get some idea of how serious this matter has become. While our tax officials undertook a massive effort beginning in 1962 to make sure that export income of U.S. corporations was taxed here in full, foreign countries have continued to permit the shifting of export income to a tax haven subsidiary, for example, or given extra deductions for costs tied to exports, such as extraordinary depreciation deductions for export related assets. In our country, the Administration has proposed to counter this practice by favoring export income on a tightly controlled basis under the DISC proposal, but the proposal is not well understood in Congress and the direction has been to try to water it down, far below the effective level of an export incentive, and then to kill it.

Now let's turn to border taxes and export rebates.

Let me say that I smile ruefully at much of the hue and cry on both sides of both oceans at the imposition of what some call the "trade wall" of the 10% surcharge. Today's sound and fury absolutely fascinates me as a manufacturer who has spent many years trying to scale the import tax walls of other countries, where the rates of their border taxes range from 11% in Germany to 23% in France, and whers the peaks for electrical appliance and TV imports reach 20% in Japan clear up to 36⅔% in England. You, here in Detroit, have the same problem with automobiles where the border tax rate rises to 33⅓% in France, 36⅔% in the U.K., and as high as 40% in Japan. And now we are in the process of repealing our own modest 7% automotive excise tax. (See Exhibit E.)

A QUESTION OF EQUITY

If I seem to have strong opinions on the equity of these situations, it is because I believe that the most important of the trade-affecting measures built into the structure by our trading partners is the heavy reliance on indirect taxes that are not reflected in the price of their exports and are imposed at the border on imports.

When the GATT rules were written some 25 years ago, they provided that the member countries could exempt their exports from indirect taxes—which, then, were understood to be mainly sales and excise taxes, and charge an appropriate compensating border tax on imports. Simultaneously, the GATT rules forbade both export rebates and border levies for direct taxes—that is, those imposed on personal and corporate income, and for social security contributions.

What we did not foresee was the full impact of the difference in tax structures in Europe and Japan, relying heavily on high rate indirect taxes, with a simultaneous shift in this country away from indirect taxes toward almost total reliance on the income tax as a source of national revenue. Excluding social security contributions, some 55% of Federal revenues come from the income tax, which cannot be rebated at the border under the GATT rules. (*See Exhibit F.*)

HOW WE ARE DISADVANTAGED

As a result of these opposing tax structures, we face the following situation.

On products sold in his own country, the European manufacturer charges his domestic customer on a basis which reflects his tax burden, whether this burden is made up of income taxes, social security taxes, value added taxes, and whatever else. The mix, as these taxes are paid and collected, happens to be what each country determines for itself. In the U.S., the manufacturer's domestic price also reflects the mix of all taxes imposed by all our levels of government.

But there the similarity ends. For when the European manufacturer exports to the U.S. or elsewhere, his government rebates or waives the actual total amount of his indirect taxes that are included in his domestic price. His product then reaches the United States where it crosses the border free of U.S. taxes—or did, before August 15th. Thus, his export product price reflects domestic price, less the big domestic tax rebate, and no U.S. tax.

Now, let's turn the coin over. When the United States manufacturer exports to Europe, his price reflects the burden of all U.S. taxes that can be ascribed to production and sale and there is no rebate from the U.S. Treasury for any of these. But at the European border the goods become subject to a tax equal to the local indirect tax rates—which I just mentioned as ranging from 11 to 36⅔%.

And, as if that were not enough, the border tax is usually imposed on the landed cost, including the European customs duty. There is no corresponding burden on domestic sales. This is just a bit of additional salt rubbed into the wound.

TABLE-TILTING

This combination of the U.S. and foreign tax burdens clearly imposes a trade disadvantage on our exports. I am fully aware from the testimony before the Williams Commission and studies made elsewhere that economists are not agreed on the measure of this disadvantage; nor can they agree on just how to measure the extent to which European export tax rebates inflate imports to this country. But they do agree that the system has this table-tilting effect, and the higher the rate of the foreign TVA, the more decisive the effect will be. I am convinced that it is high time to recognise this tax structure tilting as a major cause of our trade balance troubles.

Let us then go forward in time to 1972–73, and let us assume the major European industrial countries will all have harmonised their value-added tax at a rate of 15% or more. A European manufacturer exporting to the U.S. will therefore reflect in his export price only a small portion of his national tax burden and social costs—and none of the U.S. federal tax burden. The American exporter to Europe, however, will—just as before—find that his landed price covers his full share of U.S. taxes and that at the border there must be, in addition, a contribution to Europe's tax take of something around 15%.

ALL THREE STEPS NECESSARY

For these reasons—and in spite of the hue and cry on both sides of the waters about "economic overkill" I believe that all three measures, as proposed by the President, were necessary. Revaluation without the investment tax credit; the investment tax credit without the 10% surcharge; the surcharge without the investment tax credit or revaluation—would have failed to face up to at least one or the other of the structural differences that currently disadvantage the U.S.

Much of the controversy about "economic overkill" is centered on the 10% surcharge. How long should it remain?

A PROPOSAL

I propose that the major industrial nations of the world should agree on a basic principle of overriding importance: namely, that there will no longer be any import surtaxes or export subsidies on goods crossing their borders. If a country feels the need for protection let's call it protection and approach it by the tariff route which is open for all to see and where the legitimate threat of retaliation is enough to cause any country to pause. Until this principle is agreed upon, enunciated, and implemented, I would not want to see the U.S. as completely disadvantaged as it has been in the past, by having the 10% surcharge removed.

To this point, I think it is particularly unfortunate that Canada, which has a tax structure similar to ours, was caught in a line of fire that was essentially aimed at the trade distorting practices of others, and I would concur that they, as well as our Latin American neighbors to the South, and perhaps other developing countries, should be exempt.

But without an agreement from our major trading partners to work toward the equitable removal of structural disadvantages of whatever name, I regretfully come to the conclusion that even with the currency revaluations now being discussed, the United States may still find itself in a position where its trade balance will be inadequate to cope with the overall balance-of-payments problem.

WHEN ECONOMIC RULES NO LONGER APPLY

I have come to this conclusion with great concern, as one who has long maintained that international trade, on the broadest possible basis, and with the fewest possible restrictions, was the real economic hope for the world. I still believe this with a deep personal conviction and I will continue to fight for the removal of trade distorting and restricting practices wherever we find them, including right here at home.

But we have seen the old economic rules of the game no longer seem to apply. It was never envisioned that "the invisible hand" of classic economic theory would contain a wide variety of table-tilting practices. Until relative equilibrium and stability can be restored, until the unhappy results of border tax walls are swept away by the two-way flow of goods over as small and low an obstacle course as nations can agree on, it may be necessary to adopt a whole new approach to negotiating—substituting "deeds" for "theories and words".

Thank you for hearing me out. I have spoken today as one who has his own serious responsibilities to General Electric employees and share owners, and who feels very strongly about the very formidable barriers to free, fair trade that are being raised in the world today, and who believes that trade cannot long remain "free" unless it is also fair.

EXHIBIT A

SELECTED U.S. BALANCE OF PAYMENT FIGURES

[Billions of dollars]

	1964	1965	1966	1967	1968	1969	1970	6 months of 1971
Merchandise: [1]								
Exports (+)	25.5	26.4	29.4	30.7	33.6	36.5	42.0	21.7
Imports (−)	18.6	21.5	25.5	26.8	33.0	35.8	39.9	22.5
Merchandise trade balance	6.8	4.9	3.9	3.9	.6	.7	2.1	−.8
U.S. direct investment abroad: [2]								
Cumulative total	47.0	51.0	55.0	58.0	61.0	64.0	79.0	71.0
Annual addition	2.3	3.5	3.7	3.1	3.2	3.3	4.4	2.7
Annual net income	4.7	5.2	5.4	6.0	6.5	7.3	7.9	4.4

[1] Adjusted to balance of payments basis, excludes exports under U.S. military agency sales contracts and imports of U.S. military agencies.
[2] The annual net income is the annual return on the cumulative total direct investment abroad while the annual addition is the addition in each year to the cumulative total. During the period 1964-70 the total addition to direct investment abroad was $23,500,000,000, and the total net income was $42,900,000,000.

Source: U.S. Department of Commerce Survey of Current Business, June 1971 revised by September 1971.

EXHIBIT B

TABLE I.—CONSUMER PRICE INDICES 1964 (=100) TO 1970, NATIONAL CURRENCY

	United States	Canada	Japan	Italy	Germany	France	United Kingdom
1964	100	100	100	100	100	100	100
1965	102	103	107	104	103	103	105
1966	105	106	112	107	107	105	109
1967	108	110	117	111	109	108	112
1968	112	115	124	112	110	113	117
1969	118	120	130	115	113	120	123
1970	125	124	140	121	117	127	131

Source: International Monetary Fund, International Financial Statistics, September 1971.

TABLE II.—EXPORT PRICE INDICES 1964 (=100) TO 1970, U.S. DOLLARS

	United States	Canada	Japan	Italy	Germany	France	United Kingdom
1964	100	100	100	100	100	100	100
1965	103	102	100	101	102	101	103
1966	106	104	100	100	103	104	107
1967	109	108	100	101	102	103	106
1968	110	112	101	101	101	102	[1] 99
1969	114	115	104	104	104	105	103
1970	120	122	108	109	[2] 114	108	110

[1] United Kingdom devalued Nov. 18, 1967; France on Aug. 10, 1969.
[2] Germany revalued Oct. 26, 1969.

Source: International Monetary Fund, International Financial Statistics, September 1971.

TABLE III.—DIFFERENCE BETWEEN CONSUMER AND EXPORT PRICE INDEXES 1964 TO 1970, BASE 1964

[CPI in national currency minus EPI in U.S. dollars]

	United States	Canada	Japan	Italy	Germany	France	United Kingdom
1964	0	0	0	0	0	0	0
1965	1	1	7	3	0	2	2
1966	1	2	12	7	4	1	2
1967	1	2	17	10	7	5	6
1968	2	3	23	11	9	11	[1] 18
1969	4	5	26	11	9	15	20
1970	5	2	32	12	[2] 3	[1] 19	21

[1] United Kingdom devalued Nov. 18, 1967; France on Aug. 10, 1969.
[2] Germany revalued Oct. 26, 1969.

Source: International Monetary Fund, International Financial Statistics, September 1971.

EXHIBIT C

TABLE I.—INDICES OF OUTPUT PER MANHOUR 1964 (=100) TO 1970, NATIONAL CURRENCY

	United States	Canada	Japan	Italy	Germany	France	United Kingdom
1964	100	100	100	100	100	100	100
1965	104	104	104	112	107	106	103
1966	105	107	115	118	111	113	106
1967	105	[1] 108	131	123	118	119	109
1968	110	[1] 115	151	132	127	128	116
1969	113	[1] 119	[1] 173	138	133	137	118
1970 [1]	114	122	199	143	136	145	122

[1] Preliminary estimates or current data from other series.

Source: U.S. Bureau of Labor Statistics, Monthly Labor Review, August 1971.

TABLE II.—INDICES OF UNIT LABOR COSTS 1964 (=100) TO 1970, NATIONAL CURRENCY

	United States	Canada	Japan	Italy	Germany	France	United Kingdom
1964	100	100	100	100	100	100	100
1965	99	102	108	96	103	102	106
1966	102	107	107	94	108	[1] 101	114
1967	107	[1] 114	105	99	107	[1] 104	111
1968	109	[1] 116	107	98	106	[1] 110	114
1969	114	[1] 121	[1] 110	104	[1] 111	[1] 110	120
1970 [1]	120	129	112	118	126	116	133

[1] Preliminary estimates or current data from other series.

Source: U.S. Bureau of Labor Statistics, Monthly Labor Review, August 1971.

EXHIBIT D

COST RECOVERY ALLOWANCES FOR MACHINERY AND EQUIPMENT IN LEADING INDUSTRIAL COUNTRIES

	Aggregate cost recovery allowances (percentage of cost of asset)		
	1st taxable year	1st 3 taxable years	1st 7 taxable years
France	31.3	67.5	94.9
Italy	20.0	65.0	100.0
Japan	34.5	56.9	81.4
United Kingdom [1]	57.8	78.1	102.1
Western Germany	16.7	49.6	88.8
Average percentages	32.1	63.4	93.4
Canada	20.0	48.8	79.0
United States:			
Pre-1969 tax treatment	21.7	47.9	80.1
Post-1969 tax treatment	7.7	33.9	66.1
Task force proposal	10.2	50.1	88.0
ADR	14.0	44.0	76.0

[1] Does not reflect changes in United Kingdom as of October 1970.

Source: Report of the President's Task Force on Business Taxation. ADR figures supplied by NAM staff in conjunction with the U.S. Treasury.

EXHIBIT E

DOMESTIC INDIRECT TAX RATES

[In percent]

	France, tva tax	Germany, tva tax	United Kingdom, purchase tax	Japan, commodity tax
Television sets	33⅓	11	36⅔	
Large				20
Small				15
Automobiles	33⅓	11	36⅔	
High-class passenger				40
Regular passenger				30
Small passenger				15
Home appliances	23	11	36⅔	
Refrigerator—large				20
Refrigerator—small				15
Room coolers, washers				20
Fans				15
Machine tools	23	11	(1)	None

[1] Exempt.

Note: Italy has a cascading turnover tax of 4 percent on most sales at each change of hands except at retail, which is generally exempt.

EXHIBIT F

TYPE OF TAX AS A PERCENTAGE OF TOTAL CENTRAL GOVERNMENT TAX REVENUE 1968, EXCLUDING SOCIAL SECURITY CONTRIBUTIONS

	United States	Canada	Japan [1]	Italy	Germany	France	United Kingdom
Corporate income tax	28.2	19.8	21.7	N.A.	6.0	10.1	9.7
Individual income tax	58.5	[2] 42.1	36.4	N.A.	23.4	22.2	41.4
Total direct tax	86.7	61.9	58.1	32.1	29.4	32.3	51.1
Indirect tax	13.3	38.1	41.9	67.9	70.6	67.7	48.9

[1] The figures for Japan are general Government.
[2] Includes some social security contributions.

Source: United Nations, Yearbook of National Accounts Statistics, 1969, vol. 1.

THE PRAYER AMENDMENT

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. WRIGHT. Mr. Speaker, we of the House of Representatives have a most serious decision confronting us on next Monday, November 8, when we will vote on House Joint Resolution 191, the proposed constitutional amendment on public prayer. In keeping with the highest traditions of the House, it is fitting that we hear and consider all sides of this important question.

My congressional district is fortunate in the presence of a most eloquent spokesman on matters touching on religion in the person of Dr. James G. Harris, pastor of the University Baptist Church, Fort Worth, Tex. I invite the attention of the House to Dr. Harris' sermon, which he delivered from the pulpit on October 31, in which he sets out a most serious and knowledgeable discussion of the proposed amendment on prayer.

THE PRAYER AMENDMENT

(By Dr. James G. Harris)

On November 8, just one week from tomorrow, House Joint Resolution 191 will be introduced on the floor of Congress. It shall be subject to a vote without passing through the Judiciary Committee, where hearings could have cleared the air and where opponents to this bill would have had a chance to be heard in reasons for their vigorous opposition.

In 1964, three months were spent in hearings when a so-called Prayer Amendment, the Becker Amendment, was proposed. As a result of these hearings, the overwhelming evidence presented to the Committee was so convincing that the effort was abandoned. At that time, to avoid such a hearing, the so-called prayer lobbyists sought to get the necessary 218 signatures of Congressmen that would have made it possible to by-pass the Judiciary Committee and eliminate the hearings that are so necessary for a thorough study of a bill. Only 170 signatures could be obtained in 1964.

The champions of freedom won a great victory and we relaxed. But the other side did not relax. For seven years they have lobbied and worked. After these intervening years, a discharge petition was signed a few days ago by the required 218 congressmen, and within a matter of days this bill will be presented on the floor of the House. We who are concerned and alarmed have little time to turn the tide around. I bring this message to inform you of what I believe is a grave peril to our liberty and to share with you my own convictions.

In a press conference in Washington earlier this month, Congressman James Corman of California, an opponent of the bill, predicted that it would be defeated in the House. Congressman Emanuel Cellar, Chairman of the Judiciary Committee and long-time foe of this Amendment, sharply turned to Dr. Carl E. Bates, president of the Southern Baptist Convention, and said, "It will not be defeated unless religious groups do more to inform their people about the principles involved in this." This is my purpose for taking this valuable time to preach on this political and religious issue.

The Resolution reads as follows:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

If this effort succeeds, then the Bills of Rights of the Constitution will be amended for the first time in history. The Fort Worth Star Telegram, in an editorial in 1964, wrote: "The First Amendment has permitted religious freedom to thrive in the United States as in no other country past or present." The editorial continued, "It would take a very good amendment indeed to improve on that record."

And this proposed Amendment is not a good one. It would add nothing to the liberties we already enjoy. I believe it would actually weaken the Constitution that for nearly 200 years has given us such freedom.

The First Amendment to the Constitution says, "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

This so-called "Prayer Amendment" grows out of the basic misunderstanding and misinterpretation of decisions made by the Supreme Court in 1962 and 1963.

In 1962, the Court ruled against the compulsory reciting of a prayer composed by the State, on the part of the children in our public schools. The Court did not rule against prayer. They did not make God illegal. They ruled against agents of the State writing a prayer and prescribing that it should be read in a daily ritual in every public school in the State. There are no constitutional restrictions against voluntary prayer in the schools. What the court was saying was, "No government agent, no school Board, no school Superintendent, no school Principal, no school teacher has a right to tell a school child when to pray! where to pray! what to pray! Do you not agree with that principle?

The decision in 1963 decreed that no government agent could require Bible reading in the public schools. The Court said further that no public authority could require the recitation of the Lord's Prayer in public schools. The Constitution says Congress has no right to prohibit the free exercise of religion, and the Court upheld that proclamation. Compulsory prayer is not the free exercise of religion. Required Bible Reading is not the free exercise of religion. The recitation of the Christian prayer, called "The Lord's Prayer" by mandate by the State is not free exercise of religion.

Representative Fred Schwengel, a Baptist Congressman, addressed a Baptist group. He said, "We ought to be applauding the Supreme Court in these cases. We ought to hang our heads in shame that an atheist, Mrs. Madalyn Murray O'Hare, took this to the Supreme Court, when we Baptists should have."

We sympathize with the zealous desire of many misguided people who misunderstand the decisions of the Supreme Court. They sincerely believe that they are fighting to preserve the right of all persons to pray. They believe that this Amendment will restore prayer to its proper place and will re-introduce God to our public life. But if this Amendment becomes a part of our Constitution, I prophesy that they shall have actually weakened the practice of prayer, which they have sought to strengthen. Today we have a constitutional right to pray a non-denominational or a denominational prayer in public buildings or private buildings. This Amendment would specifically define the content of my prayers. When I pray before a football game in the stadium of the University of Texas or in the halls of Congress before a daily session of the House of Representatives, I must pray a non-denominational prayer. I have prayed the invocation in football stadiums of public schools. In 1958, I delivered the daily prayer in the hall of Congress. In each instance, I prayed a Christian prayer, without apology or shame or condemnation. If this Amendment passes, in the future I would be required to pray an innocuous, unoffending, nebulous, neutral petition that neither God nor man would listen to. I would have to submit it in advance to a government authority to determine if it was a non-denominational prayer, whatever that means. I could still preach a Christian sermon at a High School baccalaureate service, but I would have to present in advance the text of my prayer, so that all concerned would be assured that it was non-denominational.

If I understand my Bible, the prayer of a Christian is a prayer in Jesus' Name. I respect the prayer of my Jewish friend, of the Moslem, the Hindu, or the Buddhist. I respect their right to pray their prayer when they stand in a public meeting. I must reserve that same right.

What is a non-denominational prayer? Who determines if it is non-denominational? The State—through its officials and its courts! This would make the government a judge of theology and an administrator of religious practice. Would this increase our freedom, our constitutional right to the free exercise of our religion?

Who is capable of composing a non-denominational prayer? Who is capable of judging its content? After the 1964 struggle, Congressman Cellar said, "Our Committee was unable to devise language which it could recommend to the House that would not do violence to religious freedom now guaranteed by the First Amendment." There is no language that man can devise that would not weaken what our founding fathers wrote.

I deeply sympathize with the position of our Congressmen. To vote against this Amendment is to threaten their political survival. A United States Senator was defeated in Texas last year partly because of the accusation of his opponent that he was "against prayer," because he courageously opposed the Prayer Amendment in 1964. In the same way, fanatical people will accuse your Congressman of being "against God" if he opposes this Amendment. These men need our assurance that we shall stand by them if they are exploited and abused because of their stand for freedom. Let us convince them that there are more of us who will commend them than there are of those who would condemn them. They need to hear from us.

There is much less justification today for this effort to amend the Constitution than there was during the hysteria of 1964. The Court had just handed down two decisions that looked like they were headed toward total secularization. The threat of the Becker Amendment in 1964 could have caused our high Court to reverse its direction at the time. Not a single decision has been declared in these 8 ensuing years that would threaten the freedom of Voluntary prayer in public assemblies. Even if there had been a need for an Amendment in 1964, although I deny that there was, there is certainly no need for it today.

The trend of the present Supreme Court is actually in the opposite direction. President Nixon has appointed four strict "constructionists" to the Court. Two of these are seated on the bench and the other two are now under consideration for approval by the Senate. How tragic that in these days when there is less threat then ever to the free exercise of prayer in public life, we should consider tampering with this First Amendment that has stood for 200 years.

The Fort Worth Star Telegram recently wrote in an editorial, "Such an Amendment would open the doors for governmental intrusion into the religious affairs of the people." We would be saying, "Congress shall not interfere with the free exercise of religion except in the area of prayer in public assembly, where the government will dictate the kind of prayer and the content of the prayer that is delivered." After one exception has been attached to the First Amendment, what is to prevent other exceptions to the free exercise of religion in future years? Let us oppose any exception and preserve the Bill of Rights as it is.

The Southern Baptist Convention adopted unanimously a resolution last June opposing this Amendment. Are we against prayer? The Baptist General Convention of Texas adopted without dissent a resolution last week opposing this Amendment. Are we atheistic? The National Council of Churches, the United Methodist Church, the Presbyterians, the Lutherans have taken their stand against this bill. The only Catholic Priest in Congress is fighting against its passage. I do not know a Baptist State Editor who has not editorialized against it. I do not know a Seminary professor who supports it. Doesn't all of this tell us something?

Prayer is intensely personal, a very denominational exercise. The Constitution protects our right to keep it so. We need to heed the words of Kierkegard, "There is that which is more contrary to Christianity. . . . than any heresy, any schism. . . . and that is to play Christianity."

DALLAS NEWS CRITICIZES "TRIAL" OF FEDERAL BUREAU OF INVESTIGATION

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. WRIGHT. Mr. Speaker, a conference entitled "Inquiry into the Role of the FBI American Life" was held recently under the auspices of Princeton University.

The Dallas Morning News, on Tuesday, October 19, published an editorial regarding this conference. Believing that my colleagues would be interested in the viewpoint expressed by the News, I am placing excerpts from this editorial in the RECORD:

[From the Dallas (Tex.) Morning News, Tuesday, Oct. 19, 1971]

FBI ON "TRIAL"

The department of politics at Princeton University has asked J. Edgar Hoover to take part in its "Inquiry into the Role of the FBI in American Life." Hoover's 7-page response tells why the FBI chief declines to be a defendant at his own trial.

He can't see any gain, Hoover has written the inquiry people, in putting the FBI into the role of defendant even before the evidence is gathered.

Princeton probably didn't really hope to get Hoover but his appearance would have guaranteed a great "trial." The panel of lawyers, writers and scholars (where are the law-enforcement people?) is reported eager to hear what Hoover has to say in his own defense.

It reminds us of the trial of Faithful in "Pilgrim's Progress," where the judge says, "Thou runagate, heretic and traitor dost thou

XUM

hear what these honorable gentlemen have witnessed against them?"

Even so, says Hoover, he's confident of "acquittal" if the evidence is fully developed and made public. The public verdict then should be that the FBI is doing its lawful job as well as anybody could.

Sure—but who said anything about a public verdict? This trial, Mr. Hoover, doesn't go by the rules of evidence.

EXPLORATORY OPERATIONS FOR OIL ON THE CONTINENTAL SHELF OFF LONG ISLAND

HON. OTIS G. PIKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. PIKE. Mr. Speaker, early last summer newspaper articles revealed for the first time that oil companies were conducting exploratory operations for oil on the Continental Shelf off Long Island and other areas of the east coast of the United States of America. This news sent a shock wave of concern and disapproval through all of those who are sincerely interested in trying to preserve a modicum of pure water and of clean air and of unspoiled bays and beaches.

It appears that the State of New York on this issue is ambiguous, to say the least. The New York State Department of Environmenal Conservation has come out in opposition to the drilling; the New York State Public Service Commission has asked that it be speeded up and the Governor has maintained an aloof silence.

All of the assurances which the oil industry and the Department of the Interior give us to the effect that the techniques of oil drilling are much improved and can be operated with "a high degree of safety," that there is a "new safety attitude by industry" and that offshore drilling can be conducted with "a minimum future risk to our marine environment" have hollow sound to those who on an almost endless basis see photographs of oil wells going amok and pumping lethal quantities of destructive oil into the Santa Barbara Channel, into the Gulf of Mexico, and wherever such operations are allowed.

The benefit to be gained from drilling must indeed be weighed against the potential damage to our environment, but the language of the correspondence from the Department of the Interior indicates that within the Department, which has both the responsibility for protecting the environment and the responsibility for allowing or disallowing the drilling to proceed, the balance scale has always been tilted in favor of the oil industry.

We are told that there is an energy crisis, and that we will run out of fuel if the drilling is not allowed. At the same time that we are told this, the administration insists against the advice of the advisers which it has itself chosen that we must continue to restrict the import of oil through a quota system which has no other effect than to protect the American oil industry and to increase the price of petroleum products for all American consumers.

Today I received a letter from the Secretary of the Interior on this subject, which on its face appears to show a somewhat more balanced approach to the subject. The letter still ignores the basic conflict between the cry of energy shortage on the one hand and the restriction on energy imports on the other, but it does state that no decisions have been made on the sale of leases on the Outer Continental Shelf for drilling purposes, and that the decision in this regard will be made fairly and objectively. We hope so, but the track record is not encouraging.

In an effort to help my own constituents and others understand both the procedures and the pressures involved in the terribly vital decisions which will be made in this area, I insert in the RECORD at this point the correspondence which has taken place to this date between my office and the Department of the Interior:

JUNE 21, 1971.

CONGRESSIONAL LIAISON OFFICER,
Department of the Interior,
Washington, D.C.

DEAR SIR: I wish you would let me have a precise description of the authority of the Department of the Interior should oil be discovered in the offshore exploration off Long Island, New York, now under way.

I am particularly concerned about the possibility of pollution should the current exploration result in discovery and leasing.

Cordially,

OTIS G. PIKE.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 8, 1971.

HON. OTIS G. PIKE,
House of Representatives,
Washington, D.C.

DEAR MR. PIKE: Thank you for your letter requesting a description of the authority of the Department of the Interior should oil be discovered in offshore exploration off Long Island, New York.

The work to be conducted by oil companies along the Atlantic coast this year is for geophysical surveys. Such investigations help determine whether an area may contain structures favorable for hydrocarbon accumulations. However, oil and gas can be discovered only by drilling. Drilling for, and production of, oil and gas on submerged lands of the Outer Continental Shelf (OCS) may be conducted only under leases which have been issued in a Federal lease sale.

If industry shows sufficient interest in the Atlantic area to justify a general lease sale, a formal hearing would be held to consider the environmental impact that would result from leasing and development. The widest possible spectrum of views would be solicited prior to a final decision on sales.

The Outer Continental Shelf (OCS) Lands Act (P.L. 83-212) provides for the jurisdiction of the United States over the submerged lands of the OCS and authorizes the Secretary of the Interior to lease such lands for certain purposes.

Under provisions of Section 8 of the OCS Lands Act, the Secretary of the Interior is authorized to grant oil and gas leases to the highest responsive qualified bidder by competitive sealed bid procedures. Such leases are issued by the Bureau of Land Management pursuant to regulations in 43 CFR Part 3300. After issuances of leases, oil and gas operations are administered by the Department of the Interior through the Geological Survey. National operating regulations (30 CFR Part 250) are supplemented by Regional OCS Orders. For your information, we are enclosing a booklet containing the regulations pertaining to mineral leasing, operations and pipelines as contained in Title 30 and Title 43 CFR and the OCS Lands Act.

In August 1969, as a result of the Department's extensive review of all regulations and orders governing oil and gas operations on the Outer Continental Shelf (OCS), new, more stringent regulations were issued including clearer provisions on pollution control and clean-up liability.

Continuing review of OCS Orders has led to further changes. Revisions of Orders were effected to reduce the opportunity for human error and to increase requirements for safety equipment and procedures and for the prevention of pollution. Additional periodic revisions can be expected from time to time as improvements in oil and gas technology or as other circumstances may indicate the need for changes.

Experience gained under the more stringent regulations gives assurance that OCS operations can be conducted with a high adherence to the regulations. Compliance with the regulations is being checked by improved inspection capabilities and procedures. A standardized system has been adopted which is used by a team of Geological Survey inspectors in making a complete and accurate inspection of an operation. Inspection procedures also provide for testing protective devices periodically to confirm that they are in operating condition.

With the increase in our inspection force, the more rigid regulations, and a new safety attitude by industry toward offshore operations, we believe that orderly development of oil and gas resources can continue with minimum future risk to our marine environment.

Sincerely yours,

W. A. RADLINSKI,
Acting Director.

JULY 13, 1971.

MR. W. A. RADLINSKI,
Geological Survey, U.S. Department of the Interior, Washington, D.C.

DEAR MR. RADLINSKI: Thank you for your detailed letter of July 8.

In the event that the oil industry in the language of your letter "shows sufficient interest in the Atlantic area to justify a general lease sale" I would like to request right now that I be permitted to testify at the formal hearing which would be held.

Cordially,

OTIS G. PIKE.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 30, 1971.

HON. OTIS G. PIKE,
House of Representatives,
Washington, D.C.

DEAR MR. PIKE: Thank you for your letter of July 13 concerning possible leasing in the Outer Continental Shelf off the Atlantic Coast. Your testimony at the formal hearing would be most welcome.

The tentative 5-year lease sale schedule currently shows that the hearing will be in November 1972. This date is subject to change. Formal notice will be published in the *Federal Register* 2 or 3 months before the hearing. The notice will outline the procedure for requesting an appearance at the hearing.

Sincerely yours,

W. A. RADLINSKI,
Acting Director.

SEPTEMBER 23, 1971.

HON. ROGERS C. B. MORTON,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: I understand that currently the exploration which is proceeding for oil on the continental shelf off the coast of Long Island is being conducted under so-called exploration permits issued by the Department of the Interior.

In a letter dated July 8, 1971, executed by Mr. W. A. Radlinski, Acting Director of the Geological Survey, I was advised that the work currently being conducted by the oil companies was solely for geophysical surveys.

While it is obvious that the vast majority of the people on the east coast area are just as opposed to the granting of drilling permits to the oil companies as are the people in the vicinity of the Santa Barbara channel, it seems that either wittingly or unwittingly, the Department of the Interior may be following a route which will subject the east coast to the possibility of the same sort of ecological disasters which have already struck the other areas where offshore drilling is permitted. To be more specific a permit, as I understand it, is issued by your Department for exploration based on that permit. The oil companies invest large sums of money in exploration, they then, as a result of that permit and that exploration, discover an area where there is a "likelihood" that oil may be.

Now comes the time for the hearing based on which you as Secretary of the Interior will make the decision as to whether or not the environmental impact would result from leasing and development is such that leases should be made. At such a hearing the oil companies are going to say that based on the permit to explore they have in good faith invested many, many millions of dollars and that it would be unfair to them not to allow them to recover on their investment through drilling and development.

Accordingly, in order both to preserve the objectivity of the hearing and to preclude any unfair treatment to oil companies, I think that it should be made perfectly clear to them right now that any investment which is made by them in exploration for oil in this area is made solely at their own risk and will have no bearing whatsoever on the final determination which is made by you in this regard. To let them proceed to explore without public hearings and in essence, secretly, and then use the fact that they have done so as a reason why they should be allowed to drill in the future would seem to me to be a great perversion of both the intent of the law and the administrative process.

Of course, the whole problem could be avoided if you would simply cancel the permits under which they are now exploring.

Cordially,

OTIS G. PIKE.

DEPARTMENT OF THE INTERIOR,
Washington, D.C., October 28, 1971.

HON. OTIS G. PIKE,
House of Representatives,
Washington, D.C.

DEAR MR. PIKE: Your letter of September 23 discusses the geological and geophysical exploration permits granted for Outer Continental Shelf (OCS) areas in the Atlantic Ocean. You suggest that any outstanding permits either be canceled or it be made clear to the permittees that any investment by them in conducting such explorations is made solely at their own risk and will have no bearing on later determinations of whether to lease or not to lease.

Geophysical explorations have been conducted in the Atlantic OCS under permits issued by the Geological Survey every year since 1960. Enclosed for your information is a listing of the 89 permits issued to date showing the general area covered by each permit. These operations are necessary so that the oil and gas industry can nominate areas intelligently for oil and gas leasing if and when a decision is made to proceed with leasing in the Atlantic Ocean. Conversely, they are useful in providing information as a basis for excluding areas from consideration for leasing; for example, an industry representative has indicated disinterest in bidding on areas located within 30 miles of the Long Island shore line.

Parties conducting or participating in geophysical explorations on the OCS already are fully aware that the operations being conducted are without assurance that any of the tracts nominated will be offered for lease. Regulation 43 CFR 3301.4 and the provisions of the National Environmental Policy Act of 1969 are applicable in selecting tracts to be offered for competitive bidding. Consideration of the environmental impact for areas proposed for leasing, which has been mentioned in various news releases, was again emphasized in a Departmental news release of June 15, copy enclosed, announcing a tentative OCS leasing schedule through calendar year 1975.

The energy crisis is much greater today than it was in 1953 when we received the authorization from the Congress contained in Section 8 of the OCS Lands Act to proceed with leasing "in order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf." A procedure which would require public hearings and consideration of the environmental impact of leasing prior to permitting the fact-finding geological and geophysical explorations necessary to identify and "narrow-down" the areas for which leasing interest exists would only result in delaying the leasing process at the very time when the National interest dictates that OCS leasing be accelerated, as mentioned in the President's June 4 message on the Nation's energy needs.

The Department already has been criticized by the Chairman of the New York Public Service Commission and by certain other state utility commissions for East Coast states for not expediting an Atlantic OCS lease sale. The exclusion of further geophysical explorations in the Atlantic OCS at this time would result in a delay in the leasing process at any time in the future that the Department may decide that it is necessary to proceed with leasing in this area.

On the basis of applicable laws, regulations, news releases, and past experience, you may be assured that the parties involved in conducting OCS geological and geophysical explorations how that they are proceeding at their own riesk.

Sincerely yours,

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, D.C. November 4, 1971.

HON. OTIS G. PIKE,
U.S. House of Representatives,
Washington, D.C.

DEAR OTIS: I have your letter expressing concern over the prospect of future development of energy fuels (oil and gas) that might exist on the continental shelf off the east coast of our country.

At the outset may I say that the policy of the Department of the Interior is to comply fully with provisions of the National Environmental Policy Act before granting permits or offering lease sales which are prerequisite to exploration and development. This involves a thorough environmental impact study and a broad opportunity for input into the issue by interested groups and the public at large before final decisions are made. This policy is direct and well understood by all the working elements of this Department. It has no geographical boundaries.

By direction of the Congress expressed in the Outer Continental Shelf Lands Act and in response to the President's Clean Energy Message of June 4, 1971, this Department has a basic responsibility to the security of the Nation and the well being of its people to exercise an appropriate Government role in meeting the national energy demands.

This requires an understanding of the scope of our energy resources. It requires an orderly pattern of development and balance between the works of man and the environment. These requirements are fundamental to the policies under which this Department is being directed.

The economic, the social, and the military security of the Nation are inseparable from the development of a national energy policy and the long-range implementation of its programs.

We will continue to study, to learn, and to document and to communicate to the public the dimensions of our energy resources vis-a-vis what we now have proven as well as what we might discover.

We will continue to weigh our actions in the light of maintaining the dynamics of our economy on which is based the opportunity for future Americans and the relationship of their efforts with the rest of the world.

We will not neglect our obligations to the quality of the environment.

We will not exclude the public or any element of government—national or local—from being heard or making contributions to the decision-making process.

Alternatives will be carefully evaluated.

The life's blood of our civilization is the flow of energy. The life's blood of our economy is the flow of dollars. The body in which both occur is the environment. Irrevocable national erosion will occur when these sensitive relationships become disjointed—this we cannot afford.

Today I have wired the Governors of all the Atlantic Coast States asking them to participate in discussions in a frank exchange of information. No lease sales are contemplated at this time and through our discussions and exchange of information, I am confident that an appropriate course of action will be arrived at which will be in the best interest of all parties. I might emphasize that public participation will be an integral part of this process.

To assist your review of our Department's approach, I am enclosing copies of my November 4th telegram to the Governors of the Atlantic Coast States, November 4th press release, and June 15th press release.

With best regards.

Yours sincerely,

ROY MORTON,
Secretary of the Interior.

OFFICE OF THE SECRETARY
OF THE INTERIOR,
November 4, 1971.

DEAR CONGRESSMAN: In view of recent newspaper stories concerning exploratory oil drilling off the Atlantic coast, Secretary Morton wanted you to have the important attached documents which clarify the Interior Department's position.

Sincerely,

NICK L. LAIRD,
Assistant to the Secretary and Director of Congressional Liaison.

SECRETARY MORTON SAYS NO DECISION MADE OR NOW PLANNED TO LEASE ATLANTIC COAST OUTER CONTINENTAL SHELF OIL AND GAS

"No decision to conduct an Atlantic Outer Continental Shelf oil and gas lease sale has been made, nor is such a decision now planned," Secretary of the Interior Rogers C. B. Morton said today.

"Before any decision can be made, there must be a complete public disclosure and evaluation of scientific, environmental, economic and technological data obtained, and comments will be sought from all quarters," he added.

"We cannot now properly evaluate the potential of oil and gas seaward of the Atlantic States, nor the possible impact of potential development on the environment, because we lack sufficient information," he said. "We are

in the process of gathering that information and evaluating it."

In addition, the Secretary declared that any impression that drilling is or has been conducted on the United States Atlantic OCS is erroneous. No exploratory drilling has been allowed and, in any event, it could be permitted only after procedures required by the National Environmental Policy Act have been followed.

He said the question of who holds sovereign rights to the natural resources of the Atlantic Outer Continental Shelf is still in litigation between the United States and the Atlantic coastal States before the Supreme Court.

"Even if this were not so, however, we want and need the full thinking and information from the States involved before any final decisions are made," the Secretary said.

"I have today wired the Governors of all Atlantic Coast States asking them to participate in discussions and a frank exchange of information.

"Should there later be a decision that OCS exploration merits consideration, the requirements of the National Environmental Policy Act of 1969 and the Department's long-standing practices would require at least a year before that decision can be reached. Public participation will be an integral part of that process," the Secretary said.

These procedures would include a call for nominations, an evaluation of such nominations, a draft environmental impact statement, public comments, and the filing of a final environmental impact statement with the Council on Environmental Quality.

The Secretary on June 15 released a tentative schedule which indicated a sale of Atlantic Outer Continental Shelf resources could be held prior to 1976. He emphasized at the time that the schedule was flexible and that no decision to proceed would be made without public hearings and an opportunity for complete exchange of information with all public and private entities.

"We are now accelerating our information-gathering process," the Secretary said. "However, it is now quite obvious that we could not possibly take any action on exploratory drilling for a couple of years," he said.

The issue of sea bed jurisdiction is a paramount consideration, he noted.

"Consequently, no leasing procedures—no action toward such procedures, in fact—can be undertaken until the Supreme Court decides that boundary issue or the States and the Federal Government make interim arrangements for leasing pending the Supreme Court decision," he said.

Precedent for such arrangements exists in the agreement between the United States and the State of Louisiana, under which any sale proceeds are held in escrow pending final resolution of the jurisdictional boundary dispute.

Areas seaward of the U.S. Atlantic Coast have been under survey geologically and geophysically by the Department and by industry since 1960, but these have not involved deep drilling. Environmental implications now are being explored in more detail by Interior specialists.

A principal obligation of the Department is to make basic investigations on geological potential and environmental implications for all areas of the United States. Along the Atlantic Outer Continental Shelf these studies in process indicate to date a few separate areas that need additional detailed study before any evaluation of the merits of drilling can be made.

The area now under detailed study is known as the Baltimore Canyon Trough area, which exists as an isolated region 20 to 100 miles seaward of the States from New Jersey to North Carolina.

Similar studies will be required for other areas as a part of Interior's continuing evaluation of the Nation's total potential mineral resource development, in keeping with both the spirit and the letter of the National Environmental Policy Act and the Outer Continental Shelf Lands Act of 1953.

OFFICE OF THE SECRETARY

Following is a copy of the telegram signed by Secretary of the Interior Rogers C. B. Morton and sent Thursday afternoon, November 4, 1971, to the Governors of all 14 States bordering on the Atlantic Ocean:

You will recall that President Nixon, in his June 4 message to the Congress on the Nation's energy needs, directed the Department of the Interior to accelerate its program of analysing energy resource development in keeping with maximum environmental protection. In response to that directive I issued on June 15 a tentative schedule of oil and gas leasing on the Outer Continental Shelf. In that schedule the first Atlantic general sale is not defined by date or area except to show that it would be held prior to 1976.

Recent analyses of scientific and technical information available to specialists within the Department of the Interior suggests that certain target areas can now be defined which merit out attention for future exploratory drilling in search of new reserves. These areas are well offshore but nevertheless are in moderate depths of water that are within the capability of modern technology.

Because of the boundary dispute relating to seabed jurisdiction between Atlantic Coastal States and the Federal Government now under review by the U.S. Supreme Court I believe that it is proper and timely for this Department to inform each State entity of the status of our information and the implications of any future competitive lease sales to public disclosure as required under the National Environmental Policy Act of 1969.

Be assured that no lease sales are being contemplated at this time. Discussions, however, between us can lead to a fruitful understanding of the situation as it now exists. I would appreciate, therefore, your indication of willingness to attend a joint meeting in the near future for the purpose of exchanging information leading to an appropriate course of action for the future.

Under separate cover I am sending you Departmental news releases of June 15 and November 4 relating to this subject.

ROGERS C. B. MORTON,
Secretary of the Interior.

P.S.—Copies to Governors: Francis W. Sargent, Mass.; Thomas J. Meskill, Connecticut; Kenneth M. Curtis, Maine; Walter R. Peterson, New Hampshire; Frank Licht, Rhode Island; Nelson A. Rockefeller, New York; William T. Cahill, New Jersey; Russell W. Peterson, Delaware; Marvin Mandel, Maryland; Linwood Holton, Virginia; Robert W. Scott, North Carolina; John C. West, South Carolina; Jimmy N. Carter, Georgia; and Reubin Askew, Florida.

SECRETARY MORTON ANNOUNCES TENTATIVE LEASING SCHEDULE FOR OFFSHORE OIL AND GAS THROUGH CALENDAR YEAR 1975

Secretary of the Interior Rogers C. B. Morton Tuesday announced the availability of a new five-year accelerated schedule for oil and gas leasing on the Outer Continental Shelf, in response to President Nixon's June 4 message on the Nation's energy needs.

A key feature of the new schedule is that it indicates there will be a sale of leases off eastern Louisiana in December 1971. Earlier this sale had been tentatively set for the first quarter of 1972.

The tentative schedule calls for at least two major oil and gas lease sales each calendar year through 1975—chiefly in the Gulf of Mexico, but also including the Gulf of Alaska and the Atlantic Coast.

No Pacific Coast Outer Continental Shelf oil and gas lease sales are projected now.

Ample time is allotted for public hearings and for careful review of each proposal by the Council on Environmental Quality, the Secretary pointed out.

Secretary Morton noted that the Outer Continental Shelf has become increasingly important as a source of low-sulfur oil and of natural gas. The schedule, he said, has been developed so that the Executive Branch, Congress, industry and the public will have a clearer idea of what to expect in the years just ahead.

In line with the President's energy message, the accelerated schedule is designed to head off energy shortages, while allowing ample time for careful evaluation of the environmental impact of each proposed sale, Secretary Morton said.

The tentative schedule is subject to modification or elimination of any of the scheduled sales depending on environmental studies and alternative uses of the areas to be involved.

In addition to areas off Texas and Louisiana—where most activity has taken place to date—sales are tentatively scheduled off the coasts of Mississippi, Alabama and Florida during 1973.

The Gulf of Alaska and Atlantic Coast sales are tagged simply as "prior to 1976," and Secretary Morton promised that hearings would be held and the widest possible spectrum of views solicited prior to final decisions on sales in those two areas.

Copies of the tentative schedule are available from the Director, Bureau of Land Management, Department of the Interior, Washington, D. C. 20240; from the BLM Outer Continental Shelf Leasing Office in New Orleans, La.; or from the Regional Oil and Gas Supervisor, Geological Survey, Metairie, La.

SETTING THE RECORD STRAIGHT ON THE THREE SISTERS BRIDGE CASE

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. NELSEN. Mr. Speaker, U.S. Circuit Court Judge George MacKinnon has filed a separate opinion in the case of the District of Columbia Federation of Civic Association against Volpe. Judge MacKinnon dissented from the court opinion filed October 12, but a footnote to that opinion states that he consented to the immediate release of the majority opinion in the interests of expediting the matter and reserved his right to file a dissenting opinion on a subsequent date.

I commend to my colleagues the reading of Judge MacKinnon's presentation of his dissent and include its text at this point in my remarks:

[United States Court of Appeals for the District of Columbia Circuit]

No. 24,838, D.C. FEDERATION OF CIVIC ASSOCIATIONS, ET AL., APPELLANTS, V. JOHN A. VOLPE, SECRETARY OF TRANSPORTATION, ET AL.

No. 24,843, D.C. FEDERATION OF CIVIC ASSOCIATIONS, ET AL., V. JOHN A. VOLPE, SECRETARY OF TRANSPORTATION, APPELLANT, AND THE DISTRICT OF COLUMBIA, ET AL., WALTER J. HICKEL, SECRETARY OF INTERIOR, ET AL., APPELLANTS

MacKinnon, *Circuit Judge*, concurring in part and dissenting in part: From time immemorial the public interest has suffered

from various types of bottlenecks which injure the public in many ways. This case arises out of governmental efforts which seek to improve the highway transportation facilities of the Washington Metropolitan area by removing a number of highway bottlenecks. One of these is the traffic bottleneck in the vicinity of, and across the river from, Georgetown in Northwest Washington. There the increasing congestion on parkland highways, an antiquated street system and historic road patterns which are additionally confined within the adverse topographical features of the beginnings of the Potomac Gorge, combine with the necessity of bridging the Potomac River to cause great inconvenience to those attempting to enter or leave the District of Columbia by means of the existing streets and highways. The result is great inconvenience to thousands of highway users entering and leaving the capital and a substantial lengthening of many workers' day.

The governmental authorities responsible for dealing wtih this situation concluded that it is necessary to erect the Three Sisters Bridge across the Potomac River as one essential part of the overall highway improvement program proposed for the entire metropolitan area. The erection of this bridge is here opposed by a citizens group of the District of Columbia which does not seriously attack the basic merits of the overall program to improve highway traffic congestion but instead ground their opposition on an alleged failure to comply with certain procedural requirements imposed by statute which are applicable to the planning and construction of the project. In such matters, under our form of government with its separation of powers, the function of policy making is assigned to the Legislative and Executive Branches. Congress enacts the basic laws and these are carried out by (1) the Executive Department functioning principally through the Department of Transportation, headed by the Secretary of Transportation, a member of the President's Cabinet, Mr. Volpe, though other federal departments may perform isolated functions; and (2) by the District of Columbia acting through its Highway Department.

It should also be noted that the Constitution vests Congress with complete control over the entire area of the District of Columbia for all governmental purposes and insofar as legislation is concerned vests it with the combined powers of the federal and state governments. U.S. CONSTITUTION, art. I, § 8; *Kendall* v. *United States*, 12 Pet. 524, 618 (1838); *Stoutenburgh* v. *Hennick*, 129 U.S. 141, 147 (1889); *Shoemaker* v. *United States*, 147 U.S. 282, 300 (1893); *Atlantic Cleaners and Dyers* v. *United States*, 286 U.S. 424, 434–35 (1932); *O'Donoghue* v. *United States*, 289 U.S. 516, 539 (1933). The Constitution thus imposes a precise duty upon the members of Congress to look after the needs of the District of Columbia in addition to those of their individual district constituents. Members of Congress are also charged with guarding all the interests of the entire nation in the District of Columbia as the seat of our national government. Pursuant to this assignment of responsibilities, Congress and its members have taken cognizance of the need for transportation facilities in the District of Columbia and the surrounding metropolitan area. To meet the area's anticipated transportation needs it has authorized the appropriation of federal funds for the construction of a metropolitan subway system and has also authorized and directed that substantial additions be constructed to the thru-highways in the area. These additions include the erection of the Three Sisters Bridge.[1] In this connection it was the decision of Congress that the Subway construction and the additional highways (including the Three Sisters Bridge) would be built contemporaneously. This conclusion follows from the facts of the contemporaneous appropriations and the express congressional direction that work on the Three Sisters Bridge begin within thirty days after the congressional enactment (82 Stat. 815).

The remainder of this opinion deals with the very extraordinary majority opinion—extraordinary in that it effectively sets aside for one alleged reason or another *every* finding of the trial court that the Government had in any way complied with the statutes in question. In its own language:

As to the provisions with which the District Court found compliance, however, we have concluded that the statutory requirements were not satisfied. . . .

In this terse manner the extensive findings of the trial court are effectively negated. The discussion of the application of the separate statutes (Title 23, U.S. Code) which follows fully demonstrates the wide gulf between the majority and the practical trial judge who heard all the witnesses in an extensive 12-day hearing, received 1,025 pages of depositions and then thoroughly documented his findings in an opinion covering 40 printed pages. *D.C. Federation of Civic Associations* v. *Volpe*, 316 F. Supp. 754 (D.D.C. 1970).

SECTION 138—FEASIBLE AND PRUDENT ALTERNATIVES AND PLANNING

The majority opinion sets aside the determination of the trial court that the Secretary had complied with the requirements of section 138[2] largely because of an absence of formal findings and an administrative record in the Department of Transportation. The majority opinion asserts that all possible planning to minimize harm to the affected parkland and historic sites[3] could not have been carried out because the final design of the ramps and interchanges had not been completed when the Secretary approved the project. However, the lack of findings and the normal departmental administrative record is fully and satisfactorily explained by the fact that the Secretary personally made the necessary decisions and the Department file thus does not include the usual inter-office memoranda reflecting action by subordinates which is a feature of those projects when the Secretary does not personally exercise his statutory responsibility. After all, the statute places the duty upon the Secretary to make such determinations and his decision should not be set aside because of the absence of documents which are not necessary or normal when he personally exercises that responsibility. This Secretary of Transportation is not a figurehead. He has had extensive prior experience in highway programs. His background and record indicate that he is personally capable of making not only the ultimate decision on the bridge project but also many of the underlying minor, but basic, decisions.[4]

Further, I would not conclude that the Secretary failed to indulge in all possible planning to minimize harm to the park because his consideration of the amount of land to be taken by the ramps was based on the *preliminary plans* for the ramps. In this respect the opinion of the trial court states:

Secretary Volpe testified that he based his determination on the preliminary planning for the ramps and interchanges which had been done at that time. Although he concluded that the final design of the ramps was not complete, he pointed out that there were *very limited alternatives available*. He stated that before he approved the bridge project, he was satisfied, and the Department of Interior, which had jurisdiction over the parklands, was satisfied, that the designs which would be developed based on the preliminary plans would result in a minimum taking of parkland. [Emphasis added.]

D.C. Federation of Civic Associations v. *Volpe, supra*, 316 F. Supp. at 774–75. I construe this statement of the trial court as a finding that the Secretary took into consideration the amount of parkland that might be required under *all* the limited alternatives for the ramps and interchanges. Thus, the final selection of any ramp, etc., design would not present any problem that the Secretary has not already considered.

As to the suggestion of the majority that the use of the world "harm" in the statute confers authority upon the courts in this case, where only Government land is involved, to pass upon the "subtle calculations" inherent in determining the "aesthetic value" of this bridge, it is my view that Congress had more practical considerations in mind and did not thereby direct the rejection of projects which while they may be "pleasing" to the eye might by some personal standards be considered not to be "beautiful." *See* Webster's New International Dictionary, 2d ed.

The majority opinion further states that the Government can hardly maintain that there was no "feasible" alternative to the construction of the Three Sisters Bridge because this exemption under *Overton Park*[5] only applies if the Secretary finds that as a matter of "sound engineering" it would not be feasible to build the highway along any other route. To my mind this argument is not foreclosed to the Government in the least. The majority's comment may have been falsely premised on a belief that sound engineering referred only to structural features, but there is much more to highway engineering than the stability of the structural features that may be constructed. Certainly the location of present highways and bridges in the Washington area when combined with various topographical features, existing traffic flow patterns, and the fact that one objective of the Three Sisters Bridge project was doubtlessly intended to alleviate some of the traffic congestion presently existing on the highways within the parklands on both sides of the river in the vicinity of the Three Sisters Bridge, might compel the conclusion that as a matter of sound *highway* engineering the only feasible project that would correct the congestion would be to erect a bridge in the vicinity of the Three Sisters Islands.[6] I would thus not rule out the possibility that sound highway engineering would practically dictate a bridge at that location and that it would not be feasible to correct that traffic congestion by the construction or expansion of a bridge at any other location. The controlling engineering principles when applied to the facts here present may not produce such a conclusion but there is nothing in this record to indicate that such conclusion could not properly be dictated by the application of sound highway engineering principles.

The personal involvement of the Secretary in the decision also explains the alleged failure of the Department to process the matter through normal procedural channels in the Department. When a statute directs a Cabinet officer to make a decision, that decision should not be criticized or found to be faulty because he did not delegate the groundwork to subordinates and then rubber stamp their decision.

The majority opinion also states that Secretary Volpe did not consult with other planning agencies to coordinate efforts to minimize harm to the park and historic sites.

Majority opinion, page 11. This statement refers to something that is not required by the statute. It seems clear that the provision of section 138 requiring "all possible planning to minimize harm to such park . . . or historic site from such use,"[7] does not require that the Secretary of Transportation "*consult* with other planning agencies to

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Footnotes at end of article.

coordinate efforts to minimise harm to the park and historic sites."[9] (Emphasis added). The majority opinion while it does not state so exactly, seems to be trying, by such language, to give the National Capital Planning Commission a voice in the Secretary's decision by compelling the Secretary to "consult" with them. But the statute does not so provide. It requires only that the Secretary engage in all possible *planning* and not that he consult every group that may have an axe to grind—he *may* consult with such groups but there is no requirement that he do more than indulge in "all possible planning." Clearly consulting is something more than planning. The statute directs the Secretary to make the decision and he is not forced to share that decision with outside agencies under the guise of consulting. The statutory requirements are already cumbersome enough without having the majority try to invent new requirements.

As for air pollution, I find the trial court's finding that "air pollution was an overall consideration in this as well as all interstate highway projects"[9] to completely satisfy any requirement in this respect. Moreover, it seems obvious to me that the bridge would not *create* any air pollution, and that to the extent that it relieved highway congestion on the present highways in the parks it would *decrease* air pollution. In this respect, as in other instances, appellants and the majority are straining at gnats. Instead of sustaining appellants' vague generalised objections to the present plans, I would require the objectors to show precisely how some of the plans being considered by the Secretary failed to meet the statutory standard or that some other feasible plan would cause less harm.

It also seems to me that, in requiring approval by the Secretary of final engineering plans for all details before the project can proceed, the majority are giving an overly technical, legalistic and impractical interpretation to the statute. What the Act requires is that the Secretary "not approve any *program* or *project* . . . unless there is no feasible and prudent alternative . . . and all possible *planning* to minimise harm . . ." was indulged in. To my way of thinking this would permit the Secretary to approve a program or project which is described by general specifications and reasonably precise locations without having the final blueprints. Certainly as a practical matter there must be room for some preliminary approval prior to the preparation of blueprints because no government is going to spend the millions of dollars necessary to prepare the final drawings without some prior approval that the drawings are being prepared along lines acceptable to the approving authority. If it subsequently develops that the final plans for some phase of the project do not meet the statutory standards they may be attacked at that time. Alternatively, the preliminary plans could be attacked upon a showing that they did not meet statutory standards. But there is neither such showing here and I would not hold up projects, as the majority holds up this project, unless the objectors could demonstrate that substantial harm would result from the presently existing plans which would be alleviated by some other plan. Insofar as this affects the possible ramps and interchanges here it would be a relatively simple matter to consider all the "limited alternatives" and make a decision thereon. I would thus not remand for any purpose connected with section 138.

SECTION 134—COMPREHENSIVE TRANSPORTATION PLANNING PROCESS

This section requires the Secretary to cooperate with the states and not approve highway projects unless he finds them to be based on a continuing comprehensive transportation planning process carried on cooperatively by "states and local communities."[10]

In considering the requirements of this section the majority reverse the trial court by concluding that the Public Roads Division Engineer (Mr. Hall), to whom the Secretary delegated his responsibility under section 134, had improperly in turn delegated his responsibility to the Transportation Planning Board (TPB) of the Metropolitan Washington Council of Governments (COG), because, they allege, Mr. Hall believed that "TPB was the primary agency to which he should look in making his finding." But certainly the belief that TPB was "the primary agency" for such purposes does not constitute a delegation of his authority. The record thus does not support the majority's finding of improperly delegated authority.

Moreover, the TPB was the *only* agency in the area that did satisfy the requirement of the statute of a body carrying on a "continuing comprehensive transportation planning *process . . . cooperatively by states and local communities. . . .*" Also, as the trial court noted, the District of Columbia, through resolution of its Board of Commissioners on June 17, 1965, provided for the District's participation in the planning processes carried on by TPB.

What is really involved in the majority's opinion in this respect, as with its criticism under section 138 that Secretary Volpe did not *consult* with other planning agencies, is another backhanded attempt to elevate the National Capital Planning Commission (NCPC) to a point where it can obstruct the project for its own ends. However, the NCPC is "concerned with planning *solely* for the District of Columbia," and thus does not meet the requirement of the statute for a planning organization being carried on "cooperatively by states and local communities." In contrast, the TPB is a regional organization[11] and does satisfy the statute. It is thus my conclusion that the majority exceeded its authority on this appeal when it ruled, contrary to the facts, that Mr. Hall had delegated his authority. Similarly, the majority are acting contrary to the statute, if they are attempting to compel the Secretary to be governed by the views of the NCPC. I might add that the situation here is not novel in the United States. Comprehensive highway plans traditionally run into many local objections, some selfish and some meritorious. When such situations arise they can only be solved by a fair application of the law, which I do not consider here justifies the majority in indirectly suggesting an interpretation of the statute that would give appellants, through the narrow interests of the NCPC, a whip hand in the final decision.

A further example of the tenuous rationale of the majority in its reversal appears in its attempted characterization of the TPB approval of the Three Sisters Bridge as a "stale" approval.[12] The TPB formally approved the Three Sisters Bridge in December 1967 as "consistent with comprehensive planning in the region" and since that time, as the District Court found, "the TPB has continuously reviewed the transportation system for the area and . . . the approval of the Three Sisters Bridge has never been rescinded."[13] The Division Engineer of the Bureau of Public Roads (Mr. Hall) considered this approval of the bridge when he made his finding in August or September, 1969, that the project was "based on a continuing comprehensive transportation planning process carried on cooperatively by states and local communities."[14] On these admitted facts, I consider it to be a gross distortion of the record to characterize Mr. Hall as acting upon a "stale" approval, when the original TPB approval was within twenty months, and the area transportation system had been "continuously reviewed" by the TPB since then without any alteration in its approval of the bridge. It is also incorrect to call such approval "inapposite." And to require a "comprehensive plan" (which the court refers to, whatever that might mean) as applied to a project for a single bridge, as opposed to requiring that project to be consistent with "comprehensive *planning*," is to attempt to impose a requirement that is not imposed by the statute.

I thus concur in the trial court's finding that the requirements of section 134 were fully complied with and dissent from the contrary conclusion of the majority here.

SECTION 109(A)—THE SAFETY OF THE PROJECT

I concur in the trial court's conclusion to require further study of the structural feasibility of the bridge but dissent from that portion of the majority opinion which states that the Secretary "undertook no study of the [air pollution] problem." As previously stated the Secretary testified that "air pollution was an overall consideration *in this* as well as all interstate highway projects."[15]; thus I consider that the air pollution problem was properly considered and disposed of. I would further permit work to proceed upon the *excavation* for the piers because this work is in the nature of a preliminary test since pre-construction borings are not conclusive. Thus, according to the testimony there will always be some doubt as to the absolute feasibility of the location and plans until the excavation is completed for the piers. It is my view that given the approval of Congress, and the necessary available appropriations (both of which the project has), it is within the proper discretion of the Secretary to proceed to that extent.

SECTION 128—THE LOCATION HEARING

Since the record is devoid of any proof that the present location of the bridge and ramps would affect the public in any manner substantially different from the three locations (which spread cagied the present location) discussed at the 1964 hearing, I would concur in the findings of the trial court that the public hearing requirements were substantially complied with. I thus dissent from the statement by the majority that the trial court's opinion was not clear that a finding had actually been made. To me it is perfectly clear that the court so found when it ruled that the present location was "not a new location" within the meaning of section 6a(1) of the PPM. The finding by the trial court that "no private property will be taken for the bridge or its ramps and interchanges" is also relevant to the finding with respect to the location.

SECTION 317—THE MAP

This section requires that a map should be filed showing the portions of land which a department desires to appropriate. In this connection the majority opinion in footnote 61 refers to a letter of December 15, 1970 from the National Park Service and indicates that the plaintiffs may present this matter to the District Court for reconsideration of its ruling under Section 317. It seems clear, however, that the letter does not relate to any parkland but only to the "adverse impact (of traffic conditions) on the parkway (the highway)." It is thus my opinion that the letter would not have any relevance to any issue under section 317.

Congress, Representative Natcher and so-called political influence

In Part II of the majority opinion Judge Bazelon deals with the position of Congress and refers principally to some statements by Representative Natcher relating to the Three Sisters Bridge. The opinion infers that Representative Natcher by his acts was a party to forcing approval of the Three Sisters Bridge without regard to its merits, but the record does not so reflect. As the trial court found, Representative Natcher stated that he would do what he could to withhold appropriations for the construction of the District of Columbia rapid transit system "until the District complied with the 1968 Act" and "the freeway project gets under way beyond recall."[1] Representative Natcher was thus merely attempting to see that the laws enacted by Congress were carried out. The Three Sisters Bridge was just one of several freeway projects upon which Congress in 1968 had directed the District of Columbia to commence work.[2] It is not unusual or improper for Congress to withhold appropriations until its laws are complied with. In discussing the public position of Congress, as articulated by its laws and Representative Natcher, Judge Bazelon states:

[T]he impact of this [congressional] pressure is sufficient, standing alone, to invalidate the Secretary's action. Even if the Secretary had taken every formal step required by every applicable statutory provision, reversal would be required, in my opinion, because extraneous pressure intruded into the calculus of considerations on which the Secretary's decision was based. (Majority opinion, p. 24)

And further:

[T]he [trial] court determined as a matter of law that since the Secretary was not acting in a judicial or quasi-judicial capacity, his decision would be invalid only if based *solely* on these extraneous considerations [the influence emanating from Representative Natcher]. (Majority opinion, p. 25)

Judge Fahy does not agree that the trial court found that extraneous pressure had influenced the Secretary's decision and I find it impossible to read the findings and conclusions of the District Court as announcing that holding. In this respect the trial court's opinion states:

The mere fact that the Secretary was aware of the Congressional pressure to build the Three Sisters Bridge is not sufficient to invalidate his action in directing that the bridge be restored to the Interstate System. Since the issue in this suit is whether there has been compliance with Title 23 of the United States Code, *the political pressure exerted by members of Congress is relevant only as to whether it may have caused Secretary Volpe to act without considering the merits of the project as required by Title 23.* As will be discussed in connection with § 138, Mr. Volpe commenced an exhaustive study of the merits of the Three Sisters Bridge project soon after taking office, and did not come to a decision that the bridge was essential until the Summer of 1969. *The Court believes the Secretary's testimony that his decision was based on the merits of the project and not solely on extraneous political pressures.* It is true that Mr. Volpe was also interested in securing the release of the rapid transit appropriations, and that the approval of the bridge led to the release of those funds. *But the Court finds that the mere fact that the Secretary was aware of this pressure does not invalidate his decision that the Three Sisters Bridge is an important and necessary part of the Interstate Highway System.*

• • • • •

The plaintiffs contend that the Congressional pressure for the construction of the Three Sisters Bridge was of such a character that it can reasonably be inferred that it had *some influence*, conscious or unconscious, on the decision of the Secretary to redesignate the bridge as part of the Interstate System. From the evidence of the contemporaneous statements of Secretary Volpe, and his testimony in this case, there is no question that the pressure regarding the rapid transit appropriations was given some consideration at the time of the approval of the project in August, 1969. But the Court concludes that this does not invalidate the decision of the Secretary in this case. . . . The statute commits the decision to the Secretary's discretion. There is no requirement that he base his decision only on matters presented at a public hearing, but rather, *there is only the implied requirement that he base his decision on the merits of the project. In view of the Secretary's testimony that he made an exhaustive review of the merits of the project and based his decision on that study, this Court will not invalidate his decision.* The present case is further distinguishable from *Jewett* in that there the contacts with the Board were secret, while here the actions of Congressman Natcher and others are a matter of public record contained in official Congressional documents and speeches made on the floor of the House of Representatives. [Footnote omitted, emphasis added.]

D.C. Federation of Civic Associations v. *Volpe*, 316 F. Supp. 754, 765–766–767 (D.D.C. 1970).

It is submitted that any fair reading of the trial court's opinion cannot twist its language to support Judge Bazelon's conclusion that it held that the Secretary's decision would be invalid "*only* if based *solely* on these extraneous considerations." While the trial court found as a fact that the Secretary's decision was "based on the merits of the project and not solely on extraneous political pressures," this is only one of several fact findings; it is not the basis for the decision of the trial court and such factual finding is not the application of any rule of law. The trial court also found that "the mere fact that the Secretary was aware of this [congressional] pressure does not invalidate his decision. . . ." But most importantly, the controlling conclusions by the trial court recognized the "implied requirement that he [the Secretary] base his decision on the merits of the project" and that the Secretary had made an exhaustive review of the merits of the project *and based his decision on that study*, [and] this Court will not invalidate his decision. (Emphasis added).

It thus seems clear to me that the trial court (Chief Judge Sirica) thereby found that the Secretary had based his decision upon the merits of the project. I specifically concur in this conclusion of the trial court and disagree with Judge Bazelon's solitary conclusion with respect to this phase of the case. Judge Fahy also does not agree with Judge Bazelon that the trial court found that extraneous pressure had influenced the Secretary's decision. It is thus clear that as presently articulated in these opinions a majority of the judges on this panel do not require that new determinations "on the merits" be made because of the interjection of any, for want of a better name, political pressure.

Judge Bazelon's opinion also discusses the *relevance* of the position of Congress on the appropriations to the matter of the Three Sisters Bridge. Under *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 416 (1971), the Supreme Court indicated that "The court must consider whether the decision [on the use of parklands] was based on a consideration of the relevant factors." I find that the trial court made the proper finding when it determined after a lengthy trial that the Secretary based its decision on a "review of the merits of the project . . . [and] . . . that study." While the majority opinion states it is not holding that the bridge can never be built, if Judge Bazelon's individual view as to the position of Congress in this and other matters were to prevail, the result would come close to setting up legalistic standards which are practically impossible of compliance. Judge Bazelon's opinion would do that here by deciding, contrary to the finding of the trial judge, that because a member of the Cabinet had *knowledge* of the position of Congress on appropriations for subways and highways in the District of Columbia that his decision with respect to the merits of a highway project must necessarily have been improperly influenced by that information.

Actually any member of the Cabinet, worthy of his position would necessarily know the position of Congress on such matters. No person with the position and ability to make the decision with respect to the Three Sisters Bridge would be ignorant of the publicly expressed congressional position on such matters. What Judge Bazelon fails to consider is that there were congressional pressures both ways and that the trial judge after full consideration found as a fact that the Secretary based his decision on a study of the merits of the project. For an appellate court to reverse such conclusion on this appeal is to overstep its authority to determine whether the action of the Secretary was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." The Supreme Court has said that this court has no authority to set aside the Secretary's action on a finding that it was "not supported by substantial evidence" or unwarranted by the facts." *Citizens to Preserve Overton Park* v. *Volpe*, *supra*, 401 U.S. at 414 Likewise, the credibility of witnesses is a matter in which the trial judge is normally considered to have a particular province in actions tried upon the facts without a jury. *Fed. R. Civ. P.* 52(a).[3] Judge Bazelon's view of the matter would violate both of these rules.

Judge Bazelon also reflects an overly suspicious view with respect to the effect of so-called political pressures. An individual's attitude toward this type of question is closely related to his individual trust in human beings—whether he believes a human being can resist improper pressures. I do not find it unusual for a Cabinet member to be capable of resisting such pressures. Moreover, the law is that in the absence of evidence to the contrary (and there is no such evidence here) public officers are to be presumed to perform official acts in accordance with the law.[4] As I read Judge Bazelon's opinion, however, it is his individual view that such pressures are irresistible. In the face of such colossal distrust of Government officials, the mere existence of the vestiges of pressure becomes equivalent to the reality of duress. I find that conclusion to be unsupportable—and contrary to law.

The realities of this situation are that under the Constitution the Congress of the United States has a wider voice in the affairs of the District of Columbia than it does in the affairs of states or other cities. Pursuant to its constitutional mandate Congress does take a firm hand in matters affecting the District and that is precisely what this court found was lacking in the first case (1968) involving the District highway program. *D.C. Federation of Civic Associations, Inc.* v. *Airis*, 129 U.S. App. D.C. 125, 391 F. 2d 478 (1968). But no Congressman has any weight in such matters beyond his ability to speak for Congress and to the extent that he does speak for Congress he is only calling attention to the expressed will of Congress.

Congress has spoken in this matter. In Section 23 of the Highway Act of 1968,[5] it ordered the erection of the Three Sisters Bridge, not as a single project but as part of the broad highway improvement program for the Washington Metropolitan area. And Congress and those who speak for it have a continuing interest in seeing that the expressed will of Congress, as clearly enunciated in a statute signed by the President, be carried out.

Moreover, Congress has also declared that the relationship of the highway improvement program in any state, or the District of Columbia, be coordinated with plans for improvements in other affected forms of transportation (this would include subways) which are formulated with due consideration to their public effect on the future development of large urban areas. In this respect Title 23, § 134, provides as follows:

Footnotes at end of article.

§ 134. TRANSPORTATION PLANNING IN CERTAIN URBAN AREAS

It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in *the development of long-range highway plans and programs which are properly coordinated with plans for improvements in other affected forms of transportation* and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing *comprehensive* transportation planning process carried on cooperatively by States and local communities *in conformance with the objectives stated in this section*. Added Pub. L. 87–866, § 9(a), Oct. 23, 1962, 76 Stat. 1148. (Emphasis added.)

Thus, this congressional mandate applies to both the subway and to the highway program for the Washington Metropolitan area with which we are here concerned. To the extent that it provides that the Secretary shall not approve highway projects in large urban areas unless he finds such projects are based on a continuing *comprehensive* (i.e., rail and highways) transportation planning process in conformance with the objectives stated in Section 134, it is essential that the Secretary of Transportation in approving highway plans be concerned with the program to build subways in the District of Columbia. Indeed it would be impossible and contrary to law for any Secretary of Transportation to pass on any major highway project in the District of Columbia without being familiar with and considering its effect and relationship to the subway construction program. In carrying out this statutory duty the Secretary must determine, in this case with respect to the District of Columbia, that the proposed subway and highway plans will *combine* to produce "modes of transportation in a manner that will serve the States and local communities [here the Washington Metropolitan Area] efficiently and effectively." It is obvious, if the subway program were to proceed without the necessary highway construction, that the modes of transportation being built would not be efficient or effective. To this extent some joint consideration of subway and highway construction (including the Three Sisters Bridge) was a relevant matter and I do not find that the Secretary exceeded his authority by giving such matters more weight or consideration than was required by the statute.

In its discussion of "prudent alternatives" the majority opinion really attempts to define the problem as being one to determine whether a unique problem of extraordinary magnitude was posed by the potential loss of appropriations for the District subway. This is completely foreign to what section 138 is all about and does nothing more than indicate a preoccupation with the position of Congress. Actually when section 138 speaks of prudent alternatives it refers to alternatives to the use of parkland for the erection of the bridge at one location or another. The majority generally ignore the fact that the topographical features of the river with the high, steep banks of the Potomac Gorge, when coupled with the existing highways and parklands on both sides of the river, would cause the location of any other bridge that would meet the traffic congestion problem to affect existing parklands in a substantially similar manner to the Three Sisters project. The case is unique in those respects. It is obvious that the viable alternatives would affect parklands substantially to the same extent.

The majority also ignore the fact that the so-called parklands involved on the Virginia side of the river are all in the George Washington Memorial Parkway. Highways have always been an important part of this highway park. The George Washington Memorial Parkway was established by Congress (46 Stat. 482 et seq.) as a narrow elongated parkway along both banks of the Potomac River from Mt. Vernon and Fort Washington to the Great Falls of the Potomac. It parallels the Potomac River from Mt. Vernon to a point above the Great Falls on the Virginia side, except for the City of Alexandria, and from Fort Washington (in Maryland across from Mt. Vernon) to a similar point above the Great Falls on the Maryland side, except within the District of Columbia. One of the congressional purposes in establishing the parkway as a memorial was to provide for the construction of extensive highways within the dedicated areas. The legislation also sought to protect and preserve the natural scenery of the Potomac Gorge and the Great Falls of the Potomac, to preserve the historic Patowmack Canal and to acquire that portion of the Chesapeake and Ohio Canal below Point of Rocks (46 Stat. 482–83).

The fact that this park has to a substantial extent, and always has had extensive highways within its confines, makes it practically impossible for any proposed bridge in this area to be erected without affecting some of its lands. This results from the fact that much of the traffic congestion which the proposed bridge seeks to relieve is traffic over the automobile highways within the parkway itself.

It is thus submitted that (1) the restrictive alternatives occasioned by the topography and location of the parklands, and (2) the nature of the parkland here involved, established by congressional legislation with substantial highways within its confines as one of its principal purposes, make the proposed Three Sisters Bridge a unique problem. It should also be noted that this highway park was established by Congress and that Congress has power by a subsequent act to change it.

In its peroration to Part II the majority opinion attempts to disclaim certain obvious implications of its decision. However, in so doing, it merely emphasizes the partial and slanted view it takes of the facts. Thus it states they are not suggesting any impropriety in the acts of those who "strongly advocate the bridge"; then next imply that there is some question as to the authority of such persons to exert pressure on Secretary Volpe which resulted in placing the Secretary in such an extremely treacherous position; and then conclude by denying that they are suggesting that Secretary Volpe acted in bad faith or in deliberate disregard of his statutory responsibility. Finally, they set aside the Secretary's finding on grounds which the Secretary testified under oath did not exist and the finding of the trial court supported the Secretary's finding. The result reached by the majority opinion thus contradicts its disclaimers. So whether the majority are implying that the Secretary acted contrary to his statutory responsibilities or not, they end up at exactly the same place as though he had.

However, all of this buys time for the objectors and keeps alive the hope that a new Secretary or a new Council will succumb to pressure and disapprove the project. The majority opinion does not criticise pressure from the objectors and it does not fully state the history of the prior approvals and disapprovals of the project. Originally the Three Sisters Bridge was designated as part of the entire metropolitan freeway project. Nothing in this record indicates that this was not a decision of the engineering merits uninfluenced by any improper pressures. However, in the waning days of an outgoing Presidential Administration, a lame duck City Council of the District of Columbia on January 17, 1969, three days before a new administration was to take office, deleted the bridge from the Interstate Highway System at the request of the District government. The majority do not question the basis of this action, but only attack the reversal of this decision.[24] It may well be that they should question the background of that decision rather than what may well have been a rectification of a prior error or improper action.

PROCEDURE ON REMAND

In the conclusory paragraph of its opinion the majority suggests that the Secretary establish a *"full scale* administrative record which might dispel any doubts about the *true* basis of his action." When members of an appellate panel, for no reason more substantial than their own innate suspicion, elect to disbelieve the sworn testimony of a member of the Cabinet that his final decision was not influenced by outside factors, and also to circumvent the factual finding of the trial court to the same effect, in my opinion, it is not likely that a more extensive administrative record would cause them to believe him in the future. A court that has gone to the great extremes that this court has to reverse the trial court here can always find reasons satisfactory to it for avoiding practically any subjective decision required with respect to the bridge. It may well be that the only hope to carry out the expressed will of Congress lies with the Supreme Court.

To the extent that the majority opinion differs from the views hereinbefore set forth, I respectfully dissent and I concur in the remainder.

FOOTNOTES

[1] The proposed bridge lies almost completely in the District of Columbia since the Potomac River is entirely within the District. The bridge approaches on the south bank would be within the jurisdiction of Virginia.

[2] §138 requires a determination that there was "no feasible and prudent alternative to the use of such land" and that "the project includes all possible planning to minimize harm to such park . . . or historic site." 23 U.S.C. § 138.

[3] *Georgetown as an historic site.* The old Georgetown District was created within the District of Columbia by Chapter 964, approved September 22, 1950 (64 Stat. 906). Its west boundary was fixed at "Archbold Parkway from Reservoir Road to the Potomac River. . . ." The district so established would be slightly to the east of the presently prescribed location of the Three Sisters Bridge. If any of the ramps or interchanges were to come within said district, it is obvious from the maps that it would only touch a *de minimus* area at the southwest corner of the district which is devoid of buildings. Thus, the Three Sisters Bridge does not imperil the architecture in Georgetown. The old Georgetown District was established "to preserve and protect places and areas of historic interest, exterior architectural features and examples of the type of architecture used in the National Capital in its initial years . . ." (64 Stat. 904). To effectuate the intent of Congress the Act required the Commissioners of the District of Columbia before issuing any permit for the construction, alteration, reconstruction or razing or any *building* within the old Georgetown District, to refer the plans to the National Commission on Fine Arts for a report as to "the exterior architectural features, height, appearance, color and texture of the materials of exterior construction which is subject to public view from a public highway." The Commission was then required to report its recommendations as to whether the plans with respect to any building would preserve the historic value of said district and if not to suggest changes. Thus, while the Act referred to "places and areas" of historic interest, the operative features of the law were directed solely to buildings within the district and there was no showing made in this case that any buildings within the district would be affected by the Three Sisters Bridge or any of the ramps and interchanges that would be constructed under any plan. And as stated above, only a *de minimus* area at the southwest corner might be affected by the ramps and interchanges. The bridge itself would not touch the Old Georgetown District. Also the character of the so-called parkland on the north bank of the Potomac (the D.C. side) where the bridge abutments would be erected consists practically entirely of a railroad right-of-way, the Chesapeake and Ohio Canal and a public highway. Thus, any substantial interference with "green places" on the District of Columbia side of the river has not been demonstrated.

[4] Biographical data on Secretary of Transportation John A. Volpe indicates that he was born December 8, 1908, graduated from high school and following two years of night school majored in architectural construction at Wentworth Institute. He engaged in the construction business in Massachusetts from 1933 to 1943 when he volunteered for duty with the Civil Engineer Corps (Seabees) of the United States Navy. On his return to civilian life he held the rank of Lt. Commander and he then reopened his construction company. As the business grew, he set up offices in Washington, D.C. and Miami, Florida. He served as Commissioner of Public Works for the State of Massachusetts for four years beginning in 1953. In this position he undertook one of the largest highway construction programs in the history of Massachusetts. President Eisenhower named him as the first Federal Highway Administrator of the United States and he served in this position in 1956 and 1957 and thus became one of the architects of the $40 billion Interstate Highway Program initiated by the United States at that time. He is a member and past president of the Society of American Military Engineers and is also past president of the Associated General Contractors of America. He was also elected to three terms as Governor of Massachusetts. CONGRESSIONAL DIRECTORY, 92nd Cong., 1st Sess. 973 (1971).

[5] Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971).

[6] The so-called Three Sisters Islands consist of nothing more than three small rocks which project above the waters of the Potomac River. At low tide they are connected by a small sand bar.

[7] 23 U.S.C. § 138.

[8] Majority opinion, p. 11.

[9] D.C. Federation of Civic Associations v. Volpe, 316 F. Supp. 754, 775 (D.D.C. 1970).

[10] 23 U.S.C. § 134.

[11] D.C. Federation of Civic Associations v. Volpe, *supra* note 9, 316 F. Supp. at 795.

[12] See page 15 of majority opinion.

[13] 316 F. Supp. at 794.

[14] *Id.*

[15] 23 U.S.C. § 134.

[16] 316 F. Supp. at 775.

[17] *Id.* at 762.

[18] Pub. L. No. 90–495, 82 Stat. 815 (1968).

[19] FED. R. CIV. P. 52(a) provides:

(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41(b).

[20] United States v. Chemical Foundation, 272 U.S. 1, 14–15 (1926) states:

The presumption of regularity supports the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they have properly discharged their official duties. *Confiscation Cases*, 20 Wall. 92, 108; *United States* v. *Page*, 137 U.S. 673, 678–680; *United States* v. *Ntz*, 189 U.S. 199, 205.

Oestereich v. Selective Service Bd. No. 11, 393 U.S. 233, 241 (1968) (Harlan, concurring), is to the same effect.

[21] § 23 of the Federal-Aid Highway Act of 1968 provides:

SEC. 23. (a) Notwithstanding any other provision of law, or any court decision or administrative action to the contrary, the Secretary of Transportation and the government of the District of Columbia shall, in addition to those routes already under construction, construct all routes on the Interstate System within the District of Columbia as set forth in the document entitled "1968 Estimate of the Cost of Completion of the National System of Interstate and Defense Highways in the District of Columbia" submitted to Congress by the Secretary of Transportation with, and as a part of, "The 1968 Interstate System Cost Estimate" printed as House Document Numbered 199, Ninetieth Congress. Such construction shall be undertaken as soon as possible after the date of enactment of this Act, except as otherwise provided in this section, and shall be carried out in accordance with all applicable provisions of title 23 of the United States Code.

(b) Not later than 30 days after the date of enactment of this section the government of the District of Columbia shall commence work on the following projects:

(1) Three Sisters Bridge, I–266 (Section B1 to B2).

(2) Potomac River Freeway, I–266 (Section B2 to B4).

(3) Center Leg of the Inner Loop, I–95 (Section A6 to C4), terminating at New York Avenue.

(4) East Leg of the Inner Loop, I–295 (Section C1 to C4), terminating at Bladensburg Road.

(c) The government of the District of Columbia and the Secretary of Transportation shall study those projects on the Interstate System set forth in "The 1968 Interstate System Cost Estimate", House Document Numbered 199, Ninetieth Congress, within the District of Columbia which are not specified in subsection (b) and shall report to Congress not later than 18 months after the date of enactment of this section their recommendations with respect to such projects including any recommended alternative routes or plans, and if no such recommendations are submitted within such 18-month period then the Secretary of Transportation and the government of the District of Columbia shall construct such routes, as soon as possible thereafter, as required by subsection (a) of this section. (82 Stat. 827–8)

[22] If the present objectors were associated with the disapproval of the Three Sisters Bridge project in 1969 for reasons unrelated to its merits, it may be that they do not come into court with clean hands.

DO NOT RUSH INTO NEW AID BILL MESS

HON. JACK F. KEMP
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. KEMP. Mr. Speaker, I must say forthrightly that the good claimed for the foreign aid program is not supported by facts and for that reason I voted against the measure when it came before the House.

Until this administration came into power, we had been borrowing money from the American people to pay for commodities and services which were given free to foreign nations, and then borrowing dollars from foreign nations in order to make our balance-of-payments situation look better than it was.

Now, many foreign nations are again demanding our diminishing gold for the surplus dollars they hold, thus further depleting our limited gold stocks. In some countries, businesses will accept dollars only at a discount. This uncontrolled dissipation of our wealth is pricing us out of world markets. We may well finish this year with a true trade deficit of a billion dollars.

I think this provides us with a new opportunity to insist that the other free nations pick up their fare share of the defense burden we have carried virtually alone all these years. An excellent analysis of the foreign aid situation appears in the November 3, 1971, issue of the Buffalo Courier Express.

Mr. Speaker, I think it is important to call this to the attention of my colleagues and include the article at this point.

The article follows:

[From the Courier Express, Nov. 3, 1971]

DO NOT RUSH INTO NEW AID BILL MESS

Congress probably will—and perhaps it should—adopt some kind of interim foreign-aid program in the wake of the Senate's stunning reversal last Friday of the "Uncle Sucker" giveaway syndrome. However, since there still is $4.7-billion in unspent aid from previous bills, the Senate ought not to rush into any hasty, patched-up version based on now-outmoded concepts of the late 1940s.

What's needed is something more modestly designed to fit the 1970s— with a price tag far less than the $3-billion range set by President Nixon. While some critics of the Senate vote—including Mr. Nixon himself—were overquick to brand the Senate vote as "irresponsible," this was a knee-jerk reaction. The Senate, we believe, acted more from a sense of frustration after wrestling with the jumbled aid-bill parts, from knowledge of public impatience with the ever-mounting costs and ever-declining results of a boondoggle that had outlived its time. In this sense, the Senate was really asserting its responsibility to reject the executive's overcommitment to the idea that there has to be a paramilitary solution to every ill among the 42 client states.

Economic help ought not to be tied to purely American political and military goals in the 1970s. And the Senate should not buckle under to the type of response that came from Defense Secretary Laird who, in his terms of military strategy in Vietnam, offered stark proof of how this one-dimensional view persists, of how legitimate aid ideals have been twisted and pre-empted by military planners.

In recent years, the aid program, over-all, has been a failure, actually encouraging conditions it was supposed to alleviate in many places. The administration really brought the aid rejection upon itself. There was very little sense of responsibility in the "Bush-league" diplomacy at the U.N. when Washington crudely twisted the arms of client states to try to get them to vote as Washington wished, then petulantly threatened to cut off their aid after some of them either voted to admit Peking or abstained from voting. In effect, the administration conceded that it was using the aid to buy votes.

The aid-revision plan shelved last July by the House Foreign Affairs Committee contained a few good starting points for reform. Its main goal was a shift from unilateral to multinational funding, or distribution, of aid. And it called for the separation of economic aid from military aid. Yet other parts of the so-called Peterson plan, as submitted by Mr. Nixon, where objectionable—such as the five-year authorizations which would erase the yearly reviews.

It was indeed ironic that some senators, such as New York's James L. Buckley, R-C, tried hard to chop out the $140-million for U.N.-related relief work but said little about the billions voted through the years for client states such as Laos, Thailand, Greece, Spain and various regimes in South Vietnam: $2-billion for Spain; $1.5-billion for Laos; $3.6-billion for Greece; $1.5-billion for Thailand and $15.2-billion for Saigon—not counting the billions in the defense budget, of course.

Separation of the programs would enable the Senate to continue the present level of voluntary contributions—as contrasted with dues assessments—to such agencies as UNESCO while redesigning the whole aid concept. It is a matter of acting on the priority items, even if doing so in a piecemeal fashion. Above all, the Senate should avoid the old scenario, the farce, as Idaho Sen. Frank Church termed it, like the plague.

MINNEAPOLIS CLERGYMEN OPPOSE PRAYER AMENDMENT

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. FRASER. Mr. Speaker, a group of leading clergymen from Minneapolis recently contacted me to express opposition to the prayer amendment, House Joint Resolution 191. Their letter provides a cogent set of arguments for the defeat of this unwise and unnecessary legislation.

At this point, I would like to have the letter included in the RECORD:

NOVEMBER 5, 1971.

DEAR CONGRESSMAN FRASER: We the undersigned clergymen from the 5th Congressional District address ourselves to the matter of the proposed amendment to the U.S. Constitution, to allow for nondenominational prayer in the public school.

We believe that it would be unwise for this kind of legislation to pass Congress and become law for the following reasons:

We hold strongly to the distinction that has historically been maintained through the U.S. Constitution, namely, the separation of church and state. We believe God has created the civil authorities for the purpose of maintaining order in the world, and that God's Kingdom is the ultimate rule and authority over the Universe. The notion of "separation of church and state" is based on a sound principle that God's Kingdom (the Kingdom on the Right) should not exercise authority over the civil authorities, (the Kingdom on the Left). Nor should the Kingdom on the Left (civil government) exercise authority over the Kingdom on the Right, (the ecclesiastical order).

The proposed amendment opens the door for the civil authority to begin to prescribe prayer and leaves the opportunity for ultimate civil control over ecclesiastical matters. We believe this to be wrong. By the same token, we would believe that the intervention of ecclesiastical authority over the civil powers to be equally wrong.

We believe that the First Amendment to the Constitution adequately guarantees the freedom of worship and religion without establishing religion. We further believe that the supreme court decision concerning public prayer in the schools to adequately safeguard the distinction between the church and the state for the protection of both.

Finally, we do not believe that prayer can be "non denominational." Prayer is by its very nature sectarian and directed toward a specific supreme being that is named in the prayer. A prayer that is directed to an unnamed God is as offensive as regimenting all people to pray to a governmentally prescribed God.

For these reasons we support you in your opposition to this amendment to the Constitution and we encourage other members of the United States Congress to oppose H.J. Res. 191.

Sincerely,

Rev. Warren A. Sorteberg, Rev. James A. Anderson, Rev. David B. Olson, Rev. Paul Hallett, Rev. Elton W. Brown, Jr., Rev. John R. Hanson, Rev. Fred M. Miller, Rev. Stanley H. Conover, Rev. Thomas P. Hunstager, Rev. Bill Youngdahl, Rev. Louis W. Johnson, Rev. David L. Anderson, Rev. Bruce Buller, Rev. Peter Erickson, Rev. David Preus, Rev. Sheldon Torgerson.

THE U.N.'S MISTAKE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. CRANE. Mr. Speaker, one fact which should be made clear to the international community is that the shock and dismay existing in the United States over the admission of Communist China to the United Nations and the accompanying expulsion of the Government of Taiwan cuts across both party and philosophical lines. The overwhelming majority of Americans, Republicans and Democrats, liberals and conservatives, feel that the United Nations has turned its back upon its own Charter and its own principles. There are some in the Congress who advance the view that our relationship with the United Nations should not be altered as a result of its action in this matter. That view, it seems clear, is a minority view.

Many of those who urged the admission of Communist China to the United Nations find themselves as stunned by the expulsion of Taiwan as do those who opposed having the United Nations admit to membership a nation which has violated the Charter, been condemned for aggression in Korea, and has continued its policy of aggression abroad and repression at home.

In its editorial of October 27, 1971, the New York Times, a publication which supported Peking's admission, states that—

To have deprived another government in good standing of its representation, in deference to Communist China's demand, was quite another proposition; and the U.N.'s acquiescense in this demand—"to expel forthwith the representative of Chiang Kai-shek"—was in our view to place expediency far above principle.

The Times continues:

What the U.N. did was, in effect, to expel Taiwan in order to open the door to Communist China on her own terms. It seems to us that this was an unconscionable move, in no way justified by the . . . desirability that Peking participate in the work of the United Nations. On the contrary, expulsion of one government controlling only 14 million people in order to admit another controlling 700 million, more or less, seems to us to have been a callous act of appeasement of dubious morality.

In the face of the United Nations' retreat from the principles of its Charter, more and more Americans are reconsidering our own financial support of that organization. An editorial in the Washington Daily News comments that—

The China debate . . . has focussed attention on the fact that the United States pays for more than a third of U.N. activities. Why? There is no good reason. This country has far less than a third of the world's wealth, income, population, or resources.

The Daily News goes on to urge that Congress "carefully reconsider America's U.N. contribution" and also discusses the "incredible fiction" which gives the Soviet Union three votes while the United States possesses only one.

I share this editorial which appeared in the Washington Daily News of October 27, 1971, with my colleagues, and insert it into the RECORD at this time:

THE U.N.'s MISTAKE

In voting to expel Nationalist China, the United Nations has committed a grave error which will return to haunt it.

For the first time in its 26-year history, the world organization has taken the drastic step of ousting a member. It acted not because Taiwan perpetrated agression or some heinous crime against humanity, but to appease a great power—Communist China.

Taiwan was sacrificed because Peking demanded it as a price for entering the United Nations. Any organization that victimizes a small member to mollify a large applicant has, we submit, compromised its honor and perhaps its future.

As bad as what the General Assembly did was the way it did it. The membership overrode the sensible United States contention that expulsion was an "important question" requiring a two-thirds majority.

If throwing a state out of the international community is not an important question, what is?

Nationalist China was the victim Monday night of a shouting, unruly simple majority. In the future it might be the turn of Israel, Portugal, South Africa or some other small country on the hate list of the Communist, Afro-Asian and have-not bloc that dominates the General Assembly.

Fortunately, Taiwan is a tough-minded, self-reliant state that will survive the U.N. action. (Whether the weakened United Nations will itself survive is another question.) Taiwan also has a defense treaty with the United States. This remains valid and should deter Communist China from taking encouragement from the U.N. vote and trying to invade the Nationalist-held island.

To no one's surprise, many disgusted members of Congress are threatening to withhold funds from the United Nations. While we share their disgust over the China vote, we hope they will not abruptly withdraw support from the organization, which is deeply in debt and near bankruptcy.

Admittedly, the United Nations has not justified the high hopes placed in it at the close of World War II, but it is the only peacekeeping body we have. It is a useful place where countries can blow off steam (which sometimes averts war), read accommodations in the corridors, and get health and development aid. It can't be improved by killing it.

The China debate, however, has focused attention on the fact that the United States pays for more than a third of U.N. activities. Why? There is no good reason. This country has far less than a third of the world's wealth, income, population, or resources.

Congress should, we think, carefully reconsider America's U.N. contributions. Then it should whittle down our percentage—but gradually so as not to cripple the good work that is done by the organization.

And since "important questions" now can be decided by close votes—the key measure on Peking carried 59 to 55—isn't it time for fairness in the distribution of votes?

Under the incredible fiction that Byelorussia and the Ukraine are independent nations, the Soviet Union cast three votes. The General Assembly has ruled that there is only one China and Taiwan is part of it. Well, everybody knows there is only one Soviet Union, and Byelorussia and the Ukraine are part of it, with infinitely less independence than Taiwan. Why not expel them?

It will be interesting to see if the howling majority that ran the United Nations Monday night has the courage to apply its logic to Russia. We doubt it.

AWARD TO SUN OIL FOR ENVIRONMENTAL CONSERVATION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. COLLINS of Texas. Mr. Speaker, one industry in our country that has taken positive action in its concern about ecology is the petroleum industry. Petroleum Engineer has recognized Sun Oil as one of the pacesetters of environmental control development in the petroleum industry.

Sun Oil won first place in the environmental control awards program for its impressive program of soil and water conservation in drilling and production. We, in Texas, are tremendously proud that Sun Oil received this distinction for its water conservation programs in west Texas which made possible new fresh water reservoirs for several cities. We salute Sun Oil and the petroleum industry and look forward to recordbreaking achievements in protecting our environment in the coming years.

The statement of award presented to Sun Oil reads:

A Sun Oil Co./Colorado River Municipal Water District contract executed in 1968 opened the way for several big waterflood projects in Sun's Silver Area and made possible a new reservoir which supplies water to several major West Texas cities.

Sun contracted for 3 million gal/day water through a 52-mile pipeline from Lake J. B. Thomas. By obtaining a source of water for flood projects Sun could recover an estimated 35 million bbl from oil fields in Coke and Nolan Counties.

With one million gal/day brine intercepted on the Colorado River the CRMWD's stalled plans for a second major lake on the Colorado River could progress. The 488,760-acre-ft fresh water reservoir was also planned as a recreational spot, to become the 14th largest lake in Texas.

To meet Sun's deadline, company had to plan and build water treating plant and pump stations and 37 miles of distributive lines. CRMWD had to arrange financing, get rights-of-way easements, plan and lay 52 miles of 24-in. and then 18-in. pipe from Lake J.B. Thomas to the Sun water treating facility at Silver.

Sun leased land for the water treating plant, the site was cleared and leveled 30 days in advance of awarding the construction contract. Components of the water plant were ordered in advance to minimize construction delay.

Freese, Nichols and Endress engineering firm designed and supervised construction of water plant, and they also served as engineering consultant for CRMWD.

Sun also acquired right-of-way and planned distribution pipelines for Southwest Nena Lucia and Jameson Reed Units. Jameson Reed Unit acquired two pump stations, SW Nena Lucia Unit acquired three pump stations, 11 wells had to be deepened and converted from oil to water injection wells.

The steel cylinder pipe was laid in two spreads, one 24-in. pipe and the other 18-in., with Sun and CRMWD crews working toward each other. Entire pipe was laid in 63 days. On June 27, the water was officially tendered to Sun and two days later the treating of the water began and injection was started in the Jameson field.

A Lubbock, Tex., newspaper called it a 6-month miracle: "The two groups negotiated a multimillion-dollar deal, laid 90 miles of pipelines, secured the rights-of-way, built a water treatment plant, financed and delivered water from Lake Thomas in Scurry and Borden Counties . . . all in less than six months. Sun completed its end of the job only four hours before CRMWD completed its part."

THE LATE HONORABLE WINFIELD K. DENTON

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. MAHON. Mr. Speaker, I wish to join in paying tribute to the memory of Winfield K. Denton, a former Member from the State of Indiana. It was my privilege to be closely associated with Winfield Denton. We served together for many years on the Committee on Appropriations. During his tenure, Mr. Denton served on the Labor-Health, Education, and Welfare, Foreign Operations, and Interior and related agencies subcommittees, serving as chairman of the latter in the 89th Congress.

Winfield Denton was a dedicated American in the fullest sense. He was devoted to the people of his district and to the welfare of the Nation. He was beloved as a Member of the House, a respected and able member of the Committee on Appropriations.

When Mr. Denton left the House, he carried with him the good wishes of his colleagues here. He left a legislative record for which his surviving family and the people of Indiana can well be proud.

I join in words of sympathy to members of the family who survive.

CANCEL THE AMCHITKA TEST

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. BROOMFIELD. Mr. Speaker, despite numerous warnings, the hour for the Amchitka nuclear explosion some 6,000-feet below the earth is fast approaching. AEC assurances to the contrary, environmental experts have warned that there is indeed a possibility that this blast may have disastrous effects.

There is a chance, although we are told it is remote, that this action may trigger a series of tidal waves or earthquakes. In addition, radiation could escape from the site causing the pollution of the northern Pacific and its marine life.

Mr. Speaker, any one of these possibilities, no matter how remote, would be reason enough for us to pause and reflect on the decision to go ahead with this test. I am particularly disturbed that all of the facts have not been disclosed to the American public. For example, we only recently learned that one high level presidential adviser, Dr. Russell Train, voiced his opposition to this test.

In light of these persistent fears and doubts, I suggest that this explosion be delayed at least till further study can be made. The air should be cleared once and for all before any action is taken.

Furthermore, our allies such as Canada and Japan have expressed their opposition to the Amchitka test. They stand to lose the most should their worst fears become reality. Yet, these allies have no voice in making a decision which might cause untold damage to their countries.

The magnitude of the environmental crisis that our world faces requires international cooperation and understanding. To promote that goal, Mr. Speaker, I have joined with other Members in this body in proposing a worldwide study to combat pollution. This explosion can only serve to undercut and destroy that spirit.

I ask that the following article which appeared in the Philadelphia Inquirer which discusses the possible consequences of the Amchitka experiment be included in the RECORD.

The article follows:

[From the Philadelphia Inquirer, Sept. 14, 1971]

CANCEL THE AMCHITKA TEST

A pair of 6,000-foot-deep shafts, drilled into the barren surface of Alaska's Amchitka Island by the Atomic Energy Commission at a cost of $200 million, are empty today, waiting for America's biggest nuclear weapons test. We hope they will go unused.

A row has been going on for months among scientists, environmentalists, politicians and officials in and out of the White House over the test plan, which is code-named "Cannikin."

The code means, of course, little cup. Op-

position to the test is based on fear of the consequences if the Cannikin runneth over.

We are not persuaded to anything approaching certainty that the test would—as the most dire critics forecast—cause devastating earthquakes, engulfing tidal waves and spill into the air and sea such radioactive poisons as to damage man and extinguish Arctic life forms.

But faced with clearly irresolvable differences of opinions by learned and often passionate experts, we feel prudence demands the risk be avoided. The only way to do so is to cancel the test—a decision which must be made soon by President Nixon—until far greater certainty of safety can be presented.

Except in the eyes of the AEC and the nuclear arms professionals, it appears as well that there is reason to doubt the test's usefulness. The weapon which the AEC plans to detonate is in the five megaton class—250 times the explosive energy of the Hiroshima and Nagasaki bombs. It was designed as a warhead for the Spartan missile, a long-range defensive element of the Safeguard anti-missile system.

In the contexts of the Strategic Arms Limitations Tasks and Mr. Nixon's continuing reappraisal of the nation's nuclear arms policies, there is reasonable doubt that the Spartan will ever be armed for the purpose contemplated when Cannikin was planned. Both Canada and Japan are strongly opposed to the test, as are most of Alaska's public officials, including both its senators and its governor.

But more telling, we feel is the possibility—implicit in the unresolved debate—that events will not follow the AEC's assertion that the explosion will be lightly contained in its own cavern.

The AEC has a disturbing record on this point: 10 percent of the underground tests it has conducted at its Nevada test site have emitted radioactivity, yet the AEC had insisted in every case there would be none. Project Long Shot, detonated under Amchitka in 1965, was designed, the commission said, so no radioactivity would leak for hundreds of years, and then with gradualness and deterioration which would make it insignificant. Leaks began within a few months.

A vast array of estimates, positions and interpretations—many of them classified Top Secret—makes up the debate record so far. It is sprinkled with such phrases as "unlikely possibility," "very unlikely," and "even more unlikely."

All of it adds up to more likeliness than we like—or think America and mankind can afford.

THE LATE HONORABLE WINFIELD K. DENTON

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. ROONEY of New York. Mr. Speaker, I, too, was saddened to learn of the passing of the Honorable Winfield K. Denton whom I knew well over the eight terms that he was a Member of this body. We served together on the House Committee on Appropriations and I came to know him as a fine person and a man who never shirked responsibility. Winfield had a distinguished career as a lawyer and public servant in his home State of Indiana. He served as a fighter pilot in World War I and at the age of 46 reenlisted for World War II and was made a lieutenant colonel in the Adjutant General's Office. Winfield was a kindly, warm and devoted person. To his family I extend my deepest sympathy upon his passing.

WHITE HOUSE CONFERENCE ON THE INDUSTRIAL WORLD AHEAD: A LOOK AT BUSINESS IN 1990

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. GERALD R. FORD. Mr. Speaker, the Nation's business press was informed at a White House briefing recently about a major economic conference soon to take place: The White House Conference on the Industrial World Ahead: A Look at Business in 1990.

This significant event—the first business conference ever held by the White House on the future of American business—will take place at the Sheraton-Park Hotel in Washington for 3 days starting February 7. The Conference represents an innovative move toward preparing for the Nation's economic future.

For these and the following reasons, I wish to call attention to this most significant business conference that Commerce Secretary Maurice H. Stans and Labor Secretary James D. Hodgson will cochair.

In referring to recent economic growth, Secretary Stans states—

Along the way we've encountered a variety of difficulties which we have managed to overcome, as well as some opportunities which we may not have exploited fully. We are discovering that the potholes of inflation and unemployment, for example, require tandem efforts: decisive action to cope with immediate dislocations, as well as long-range planning to smooth out the road ahead.

While we can't exactly predict the future, we can prepare for it on the basis of reasonable assumptions and projections. The Nixon Administration is bringing some of the Nation's best thinkers and planners together to look not at today's economic problems but rather at how we can anticipate and plan the requirements of a Nation of 300,000,000 citizens 20 years hence.

President Nixon will address the conferees on the first day. Recently he stated:

I feel it is time for key leaders with an interest in our industrial society to take a long-range look and develop policies that will help shape that future.

To work out these policies, more than 1,500 representatives of business, labor, the professions, and Government are being invited so that they can apply their special talents and insights to an intensive study of future economic opportunities and problems.

Through frank discussions conducted by a series of panels and workshops, the conference aims at drawing up specific indicators such as where the country will stand relative to 1990 world markets, what jobs will be available for our labor force, and how our work and business environments will be altered.

The Conference Board of New York City will also prepare a chart book for conferees so that they will have a further insight into basic economic projections. Included in this book will be future population trends, the degree of rising per capita income, and the industrial composition of the United States as it may look in 20 years.

The conference emphasis, then, is on acting positively—in advance of the future. I believe this approach toward future opportunities and problems is most encouraging. I commend Secretary Stans for acting on his belief that business "should arrive in 1990 as more than a beleaguered and battered survivor of today's problems. It must be a strong sector in a strong economy in a strong nation."

FRANCHISING AND THE MARYLAND ECONOMY

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. GUDE. Mr. Speaker, in recent years franchising has assumed a major role in the American economy. It has added a valuable and stimulating element to the economic development of numerous areas. As franchising takes its place in the mainstream of American business many States, including Maryland, are studying possible legislative regulations of franchises. The Joint Economic Committee of the Maryland Legislative Council has recently held hearings on proposed regulatory legislation. I call the attention of my colleagues to the testimony of Mr. Bernard S. Browning, president of General Business Services, Inc., before that committee. Mr. Browning raises several excellent points which I believe should be carefully considered by all State legislatures that are considering regulation of the franchising industry:

FRANCHISING AND THE MARYLAND ECONOMY

Mr. Chairman and Gentlemen of the Joint Economic Committee: I am pleased to have the privilege of testifying before you about the proposed Maryland franchise law which could have far reaching implications and effects on the citizens of Maryland and the economy of our state.

Franchising represents the best of two worlds—the expertise, knowledge, and know-how of large national companies coupled with the incentive opportunity for building equity and the chance to operate a small business on your own. If properly handled it permits the individual to realize all the benefits of the free enterprise system while minimizing his risk of failure.

Any legislation that is not conducive to growth of franchising will inevitably force most of our major companies to establish company owned stores or outlets and siphon off those profits to the parent company rather than sharing them with their franchisees in Maryland.

Every responsible franchisor is proud of his trademark and reputation in the business community. For that reason every responsible franchisor will normally go to great extremes to avoid misunderstandings and problems with his franchisees. If he abuses his franchisees or takes advantage of them, he will soon find it very difficult to attract new franchisees.

PROFIT BY LITIGATION

The Franchisee, on the other hand, does not have a trademark to protect and may sometimes be tempted to take advantage of a situation if there is some immediate profit or gain to be made. I would sincerely hope this committee would be careful not to recommend any legislation whereby an individual could benefit or profit more by litigating than by working his franchise properly. The provision in Paragraph 47 of Treble Damages plus costs including reasonable attorney fees might under certain circumstances prove too great a temptation to resist. Determining what treble damages are could be more involved and more costly than the amount at stake. What is a reasonable attorney's fee could vary greatly between what was in the minds of the attorney and what might be possible to obtain.

Franchisors normally succeed when their franchisees succeed. The incentives and encouragement should always be for the franchisee to operate a successful outlet and not attempt to profit or benefit via the courts or under the sanction of punitive legislation.

I trust the members of this committee are thoroughly aware of implications and ramifications of their deliberations beyond the borders of Maryland. For example, our firm which operates in forty-eight states has a clause in its franchise agreements whereby the applicable law or interpreting of the contract is that of the state of Maryland. Passage of adverse legislation could conceivably affect the operations of our franchisees in the other forty-seven states.

In any line of endeavor there will always be unscrupulous individuals who will attempt to take advantage of the opportunity at hand. Passage of any legislation is unlikely to eliminate that small fringe element from our society. To pass legislation that might penalize the 98% of our populace who are "good guys" in order to catch the 2% who are "bad guys" does not appear to me to be the wisest approach.

However, we endorse wholeheartedly the concept of full disclosure as outlined in Parsgraph 40 of the proposed bill. Full disclosure, in our opinion, is not only good business, it also can eliminate and reduce the chances for many abuses.

I have been disturbed for some time at the pyramid operators and other "fast buck" artists who have seized the name *franchise* to cloak their operations with a certain degree of acceptability and respectability. Such pyramid operators do not offer a true franchise and the end result is a confused public. I would like to suggest that no one be permitted to use the word franchise in any offering to the public, who had not operated at least ten of the outlets which they propose to franchise for a period of three years. Franchising to me means knowledge and experience that can be transferred to the franchisee. People who offer a franchise without this kind of know-how do a disservice to the community and invariably create problems with a lot of unhappy franchisees. I would strongly recommend and hope you will seriously consider such a provision in any legislation reported out of this committee.

Our franchisees serve as business counselors to small business in the community, many of which are franchisees for other firms. Because of our peculiar position we have a unique vantage point. We are no doubt more sensitive and cognizant of the importance of franchising to the success of the small individual entrepreneur.

Quality control standards are vital to any successful franchising operation. The 180 day termination clause provided in Paragraph 43, would be grossly unfair, not only to the franchisor but to all the fellow franchisees. Within 180 days if I wanted to be a poor franchisee, I could ruin the reputation of a trademark in my community to the point that anyone would be unlikely to succeed again.

Also the termination for good cause is so vague that it will probably create more problems than it would solve. The words "reasonable" and "unreasonable" have varying meanings to different situations. For the protection of other Maryland citizens who may have franchises, the franchisor should have the opportunity to terminate on reasonably short notice providing he has given the franchisee the opportunity to correct the violations of which he is guilty. Violations can be clearly spelled out in the contract and every franchisor is aware of those critical factors which are important in their quality control procedures. If the franchisee deliberately violates one of the requirements on which he took the franchise he is penalizing every other franchise holder in the chain.

It should be pointed out to this committee that every responsible franchisor will attempt to keep his franchisee happy and not unreasonably terminate. Finding a replacement can be both time consuming and costly. It is far better for the franchisor too.

I thank you for the opportunity, gentlemen, to appear before you this evening and I offer to you the complete and wholehearted cooperation of our entire operation in helping you to develop proper and fair legislation that will protect the citizens of Maryland and will foster the growth of small business in the state of Maryland through franchising. I know that this committee is vitally concerned with the prosperity of our state and that of its individual citizens and will recommend legislation that will encourage small business and the growth of our economy. For that reason, I would strongly urge you not to recommend passage of the Bill known as the Franchise Practices Act in the form as written. I feel passage in its present form would be a great disservice to Maryland citizens and would create more problems than it would solve.

STATEMENT ON PROPOSED PRAYER AMENDMENT

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mrs. ABZUG. Mr. Speaker, one of the major goals of any democratic society is to provide the individual with the maximum amount of personal freedom to do, think, say, and write what he feels, so long as it does not infringe on the freedom of others. It is for this noble goal that Americans have struggled, fought, and died over the past 190 years. There were many times during these noble struggles when men of small mind or undemocratic character sought to limit our freedom or impose upon us their particular ideas or philosophies.

We have been fortunate thus far; we have been able to preserve most of the freedoms that our forefathers so wisely wrote into our Constitution. It has been a task that has required great determination and commitment to our basic principles.

Today we are once again required to rise up and speak out against those that seek to impose their ideas and beliefs upon us. This country started out as a haven for those that believed differently or did not believe at all. Are we now going to reject one of our oldest values? Are we going to give up an ideal that we have worked so hard to protect?

Prayers, of course, do not threaten our freedom; our freedom is threatened when government begins to think that it has the right to legislate in the area of beliefs. We must resist this temptation no matter how noble or righteous we think our beliefs are.

Have we learned nothing from the centuries of religious persecution?

Have we not yet learned to respect the beliefs of our fellow citizens?

Have we not learned to respect the wisdom of our Founding Fathers?

Thomas Jefferson once commented that religion is a matter which lies solely between a man and his God. These words are as valid today as they were the day he spoke them. The state cannot and should not become a medium through which God and man interact. Our Government exists to preserve our liberties and our safety, not to promote or influence our personal spiritual relationships, or lack of them.

This country has been one of the few in the world that has been free of religious persecution. We have seen the flourishing of a great variety of faiths. Our Constitution has served us well in this area. It should not be altered.

DELIBERATE DEATH OF MONGOLOID INFANT

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. HOGAN. Mr. Speaker, many of us were deeply shocked by the recent reports of the decision at Johns Hopkins Hospital to allow a mongoloid infant to die of starvation because his parents refused to authorize minor surgery which would have allowed him to eat. The child lived for 15 days, dying slowly of dehydration in a dark corner of the hospital. Such blatant disrespect for human life horrifies me. No human being should be denied the inalienable right to life by another human being, particularly for such flimsy reasons as "he might inconvenience parents" or "burden society."

The case of the mongoloid child is just one more example of the terrifying psychology which is creeping into the American way of life—largely, I think, as

a result of the push for abortion on demand. Abortion advocates are literally poisoning the respect of our citizens for the sanctity of life. To what lengths will we go to achieve an unburdened society?

My fears over the tragic direction of our national conscience were echoed eloquently in a series of letters concerning the death of the mongoloid child published in the Washington Post on October 23, 1971. Mr. Speaker, I insert these letters into the RECORD at this point.

[From the Washington Post, Oct. 23, 1971]

LETTERS TO THE EDITOR: ON THE DECISION TO ALLOW A MONGOLOID INFANT TO DIE

Why is it that it takes a panel of "experts" to decide a moral issue so clear cut as that presented to the symposium on the ethics(?) of modern medicine sponsored by the Joseph P. Kennedy, Jr. Foundation (Washington Post, Friday Oct. 15, 1971)?

The Reverend John Fletcher concluded the death by starvation of a mongoloid infant at Johns Hopkins was "primitive." Indeed! In an age of scientific wonders we surely must have a more merciful way to execute the unwanted. An injection of morphine would have gotten this child out of the way painlessly. Even electrocution or hanging, methods reserved for wayward adults would have been quicker. Perhaps because the adults have availed themselves of the "due process" denied this child, they are entitled to more humane methods of ending their lives.

The moral point, which nobody at Johns Hopkins seems to have understood, is that murder is immoral. It also happens to be illegal.

Mrs. Callahan, a psychologist, and Dr. Fox, a professor of sociology, said the parents shouldn't have made the decision. Mr. Auerbach, your reporter, wondered rhetorically who should have made it. The Reverend Fletcher doesn't know. Obviously, Dr. Bartholome, the pediatrician on the case, didn't know. If nobody knew then or knows now who had the right to make the decision, why was it made? Perhaps Mrs. Freund, Gustafson and Harrington "will," as your report noted, "tackle that ethical and moral dilemma at the symposium Saturday."

I wonder what Mother Theresa of Calcutta would say.

DENNIS M. KENNY.

FALLS CHURCH.

In regard to the story (Oct. 15) concerning the symposium on medical ethics, in which was related the case of a mongoloid infant allowed to starve to death, may I suggest to the doctors an alternative? If the life or death decision was made by the parents in such a case, why not release the infant from the hospital immediately? Rather than have hospital personnel have to watch a human being's *slow*, purposeful death, why not make the parents observe at home the unfolding consequences of their decision?

DOROTHY KOUT.

WASHINGTON.

Your article, "Doctors Ponder Ethics of Letting Mongoloid Die" evokes memories in me almost as painful as what I felt four years ago when I was told my baby was a mongoloid. Fortunately, my husband and I had no life and death decision to make, for our son was physically sound. But the anguish, bitterness and overwhelming despair of those early days have convinced me that no parents could possibly make a rational decision at a time like this—*nor should they have to.* Instead, there should be a mandatory law so that if through medical science the child can be made physically sound—then so be it—make him physically sound. This way, no one has to make a decision.

Having once been born he deserves his chance at life—and his parents deserve the chance to accept or reject him *after* they have had time to recover from the initial shock and come to know him. I say this with conviction because of knowing what it is to be afraid of your own baby—of not wanting to see him, to hold him—of wishing that somehow he and all the problems he represented would just disappear. I know too what it is to see that baby grow into a little boy whose spunk and determination, whose loving heart, has brought more joy and true sense of the meaning of life to me, to his father, to his brother and sisters, than the most beautiful, talented, brilliant child could even come close to.

Four years ago I could not have imagined the remotest possibility of ever saying these words. And for this very reason I believe—indeed—I *know* that a life and death decision concerning a mongoloid baby *should not* be up to the parents.

MARILYN TRAINER,
Maryland Chapter President, Mothers of Young Mongoloids.

SILVER SPRING.

When Americans have grown up enough to have the kind of compassion for each other that puts human priorities first, no parents of a mongoloid child would withhold permission for an operation that would save the child's life.

In the District of Columbia and other parts of our country, life is not easy for the family whose circle includes this kind of child. Proper attention and schooling is expensive and there is always the problem of "what will happen to our mongoloid child when we die?" The District of Columbia Children's Center, Forest Haven, at Laurel, Maryland, would have to be the answer in most cases. That understaffed, last to be funded institution, can be worse than death for some of its residents.

ROSALIE IADAROLA,
Member of the Board, District of Columbia Association for Retarded Children.

WASHINGTON.

Granted the difficulties of the case, the "ethical" ambiance surrounding the decision to allow a monogoloid infant to die in a Baltimore hospital is unspeakable. The moral anguish of the medical personnel involved is affecting, but inevitable. Behind their immersion in the legal considerations, one senses the omnipresent question of money: who will pay for an unauthorized operation? Will the parents sue if it is performed? What will be the subsequent fate of a child whose parents will not accept responsibility for him? So a reluctant decision, in which the child's right to live was apparently the last consideration, is made, and, in an institution devoted to the preservation of life, he is shoved into a dark corner to endure a protracted and unattended death. The parents are reluctant to "burden society" with the care of such a child; they are apparently blind to the spiritual burden such a crime adds to a society which is already carrying too many.

We are living in a society in which, increasingly, the most fundamentally human ethical response requires an act of heroism. The most morally sensitive among our citizens are forced to defy or override the law, to make imperative ethical decisions that place their personal careers in jeopardy or entail actual imprisonment. In such cases, law becomes a piece of aberrant and irrelevant machinery floating free of its base in the evolved value system of the people. It becomes an actual hindrance to ethical action. In this case the law was interpreted as an obstacle to the survival of a human being without blame and without redress. Cause of death: parental default and improvised bureaucratic fiat.

Dr. Bartholome calls for a "group of people sophisticated enough in law, ethics, sociology, and medicine to make this kind of decision." When these sophisticated people gather to consider the "ethical and moral dilemma involved," perhaps they can extricate themselves from its horns by recalling a few monosyllabic, unqualified imperatives: "Feed the hungry. Bring the needy and harborless into thy house. When thou shalt see one naked, cover him. And despise not thy own flesh." Simplistic? Yes. These imperatives are primary. The question of how they are to be carried out is vastly troublesome, sometimes profoundly disquieting, sometimes an occasion of personal jeopardy, but always secondary. As adequate a guide as is needed to the naked existential situation upon which a false dilemma was tragically imposed, they require no validation from a cumbersome theological and metaphysical construct. They require only a spontaneous and instinctive assent of the heart.

NANCY JARVIS.

WASHINGTON.

It was such a sad story—about the doctors pondering the ethics of letting the mongoloid baby die. There was no "question" as to the ethics: it certainly was not ethical for a hospital staff to stand by and let a baby starve to death.

But why will the courts not make a mongoloid baby a ward of the state? Had such action been taken, then the baby could have had the operation.

What is a mongoloid baby anyhow? It is a baby born with an imbalance of chromosomes resulting in mental retardation. And what is mental retardation other than that person cannot develop mentally at the level society considers normal? So? What about the physically retarded or handicapped? What about emotionally handicapped? Could they be a ward of the state? If not, would it be ethical for their parents to let them starve to death? Are all the children who are wards of the state perfect mentally, physically, and emotionally?

Someone said there is none so deaf as one who refuses to hear nor one so blind as one who refuses to see—and people who cannot see that a baby is entitled to life will not be enlightened by anything I have to say. Still, I had to write this letter—for I have a Mongoloid son. He's 9 years old and a delight to our family. He's mentally retarded—no doubt—but he's socially smarter than a lot of so-called brainy people.

JUNE S. HESSION.

OXON HILL.

There are a number of shocking aspects regarding the slow, starvation death of a mongoloid infant at Johns Hopkins University Hospital. What is perhaps most disturbing is that entire groups of people, individually and collectively committed to the saving of human life, would sit back without so much as a public peep and watch a helpless child gradually die.

The argument that doctors had no legal right to perform the operation without parental approval is superficial. Johns Hopkins, or any other of the doctors involved, could and should have sought immediate injunctive relief from a federal or state court to remove the parents from the position of deciding whether the operation could be performed. Alternatively, the court could have been asked to permit euthanasia. Either course would have been more rational, humane and merciful than the one adopted. Judicial relief might not have been forthcoming, but it should have been sought. Concededly, such a petition would have attempted to open new vistas in the law. But in my judgment new vistas must be opened if the existing laws allow this kind of situation to transpire.

RICHARD O. DUVALL.

GAITHERSBURG.

Fellow members of our most advanced species, homo sapiens (?); please let us make legal what is presently covertly practiced and condoned: euthanasia. I speak specifically of the babies with Downs syndrome who are "allowed" to die. Time and again, without publicity, and excluded from the constitutional guarantee of life, liberty and the pursuit of happiness, this death sentence is imposed by an irrevocable decision of the parents alone, but with the willing or unwilling complicity of the medical and legal professions.

If this form of euthanasia is to be practiced, let us, as human beings, devise a humane way to execute the unwanted mongoloid babies. Starvation is unpleasant and the responsibility for passing judgment from the parents. Let us give the responsibility for executing sentance only to those willing to participate in infanticide.

There is precedent for legal action. We have only to copy Adolf Hitler's program, "Helping Retarded Children Die." And logically, step by step, without a twinge of conscience the inclusion of other groups of defectives as removable burdens to society, would become desirable—painlessly humane actions as "the will of God" for removable—let us hope. We could mask our • • • those among us religiously inclined; or for the scientific, "cleansing the American genetic inheritance." Thus, we would shortly be revealed in our true glory: the completely civilized Master Race.

One does wonder into which category of "defectives" or "undesirables" each of us might eventually be placed. God, and Big Brother, help us all.

CELIA M. WYMAN,
Area Chairman,
Mothers of Young Mongoloids.

Alexandria.

I have personally worked with mentally retarded children and found how sweet and lovable they can be—just like any normal child (and as a fact, mongoloid children have been found to be more affectionate than normal children).

As it was stated in the article by the parents: "Why burden society with a Mongoloid child?" Why are they so worried about what society thinks of a mongoloid child in a family? As far as I see it, it's the ignorant in our society who have the problem of grasping and understanding problems like this.

Besides, it seems to me those parents are really saying: "Why burden ourselves with a mongoloid child?" Then concerning the statement: "Why not let God's will be done?" Do you suppose God wanted this child dead? No, I don't think He did.

STACEY PEPPERS.

Vienna.

INCREASING SUPPORT FOR PRAYER

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. HUNT. Mr. Speaker, our colleague, the Honorable CHALMERS P. WYLIE, the author of House Joint Resolution 191, has called to my attention the following list of telegrams which he received this morning in support of House Joint Resolution 191:

CHARLOTTE, N.C.,
November 4, 1971.

Hon. CHALMERS P. WYLIE,
Longworth House Office Building,
U.S. House of Representatives,
Washington, D.C.

HON. CHALMERS P. WYLIE: I am for the prayer amendment now before Congress—(the so-called Wylie amendment). I do not believe it jeopardizes the historical separation of church and state as some have alleged. I believe it is absolutely imperative that we keep church and state separate if we are to maintain our religious freedom.

The Government should never become the administrator of any particular religious practice.

Our greatest danger lies in the direction that secularism and atheism will have the unofficial religion of America.

I see no danger in the amendment—if I were a Congressman, I would vote for it. I believe that the overwhelming majority of the American people want prayer in the schools.

It is interesting to me that when we took prayer out of the schools, sex permissiveness—rebellion—drugs—and even crime came in.

BILLY GRAHAM.

SAN BERNARDINO, CALIF.

Hon. CHALMERS P. WYLIE,
Longworth Building,
Washington, D.C.:

Strongly support H.J. Resolution 191. Sending letter and messages to nine uncommitted. Letter follows.

BILL BRIGHT,
President, Campus Crusade for Christ International.

FAYETTEVILLE, ARK.

Congressman CHALMERS WYLIE,
Longworth Building,
Washington, D.C.:

Unqualified support for your H.J. Res. 191. It means the continuance of prayer, which is important to us all.

FRANK BROYLES,
Head Football Coach, Univ. of Ark. and President, Fellowship Christian Athletes.

LIMA, OHIO.

CHALMERS P. WYLIE,
Longworth House Office Building,
Washington, D.C.:

The Ladies Auxiliary to the Veterans of Foreign Wars give you our support. Keep the pledge of allegiance in the school and put the Lord's prayer back in school.

Yours truly,

GERTRUDE CONBEY,
Legislative Chairman.

ELMHURST, ILL.

Hon. CHARLES WYLIE,
Longworth Building,
Washington, D.C.:

The following members of the executive committee of the Conservative Congregational Christian Conference in session at Hinsdale, Illinois, support the constitutional amendment on voluntary prayer in public schools.

Rev. WAYNE J. HAMILTON,
President, Fluvanna Community Church, Greenhurst, N.Y.
Rev. RAYMOND BIDDLE,
Westville Congregational Christian Church, Beloit, Ohio.
Rev. ROBERT B. MCKITTRICK,
Grace Congregational Church, Milwaukee, Wis.
Rev. A. BARRY JONES,
University Avenue Congregational Church, St. Paul, Minn.
Rev. EDWARD A. WHITMAN,
Clifton Park Community Church, Clifton Park, N.Y.
Rev. SAMUEL T. HEMBERGER,
Missionary at Large, Elmhurst, Ill.

PITTSBURGH, PA.

Hon. CHALMERS WYLIE,
Longworth Building,
Washington, D.C.:

Would appreciate your support of H.J. Res. 191, prayer amendment to Constitution.

PAUL G. BENEDUM,
Treasurer, Fellowship of Christian Athletes.

HUNTINGTON, IND.

Congressman WYLIE,
Longworth Building,
Washington, D.C.:

As minister of the United Brethren in Christ Church we support your voluntary prayer amendment.

Thomas L. Brodbeck, Terrence Bakner, Barry Bryan, Harry Sparling, N. Mulles, Gary Ledbetter, Tom Stricker, James Sturegeon.

TOPEKA, KANS.

Congressman CHALMERS WYLIE,
Longworth Building,
Washington, D.C.:

As pastor Reformed Presbyterian Church I support voluntary prayer program.

D. H. ELLIOTT.

LANCASTER, PENN.

Representative CHALMERS P. WYLIE,
House Office Building,
Washington, D.C.:

This pastor favors prayer amendment. Keep working for it.

Rev. CHAS. LEIPHART.

WINONA LAKE, IND.

Congressman CHALMERS P. WYLIE,
Longworth Building,
Washington, D.C.:

We heartily endorse your voluntary prayer amendment and promote it.

BOARD OF BISHOPS, FREE METHODIST CHURCH OF NORTH AMERICA,
MYRON F. BOYD, *Chairman.*
MANASSAS, VA.

CHALMERS WYLIE,
U.S. House of Representatives,
Longworth House Office Building,
Washington, D.C.:

Concerning putting Bibles into public schools.

CHARLES BOT BOLTON.

MANASSAS, VA.

CHALMERS WYLIE,
House of Representatives,
Longworth Building,
Washington, D.C.:

You have our vote for Bible in all schools. Mr. and Mrs. William Eddins (and 18 teachers at Manassas Christian School).

ST. PAUL, MINN.

Congressman CHALMERS O. WYLIE,
Longworth House Office Building,
Washington, D.C.:

We are in full support of your bill on the prayer amendment. State legislatures should have opportunity to consider amendment and reflect sentiment of their constituents. As editors of Catholic newspaper with 50,000 nationwide circulation can assure you most of our readers support Wylie bill.

Do not be confused with alleged opposition of Catholic Church on this issue. Statement of opposition by United States Catholic conference was signed by five prelates (two of whom are at the Synod in Rome) who were sent the statement by mail.

The Wanderer, in a quick spot check with seven other prelates found that none of them had been consulted on the issue or were even aware such a statement was being considered.

As Catholics and citizens we resent the efforts by self-willed individuals to presume to imply to speak for us, or to influence pending legislation by less than candid means. We must ask: Who are these faceless people who are so determined to deny the American people an opportunity to be heard on an issue of such vital interest.

ALPHONSE J. MATT, SR.,
A. J. MATT, JR.,
Editors, The Wanderer.

UNIVERSITY OF ALABAMA.

Congressman WYLIE,
Longworth Building,
Washington, D.C.:

Support your H.J. Res. 191 on unequivocally.

Coach BRYANT,
University of Alabama.

SOUTH BERWICK, MAINE.

Representative CHALMERS WYLIE,
House of Representatives,
Office Building,
Washington, D.C.:

The Board of Directors of School Administration District #35, South Berwick, Maine, support H.J.R. 191 and urge your support at the House vote on Nov. 8, 1971.

GRAYSON HARTLEY,
Superintendent of Schools.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

CLEAR VIEW ON ELECTRIC RATES

HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 5, 1971

Mr. JONES of Alabama. Mr. Speaker, an unusually concise review of the complex and vexing problems which have resulted in staggering increases in the rates for electric power during the past couple of years has been presented in the Huntsville, Ala., Times of October 31, 1971.

Philip W. Smith, a writer for the Times, is to be commended for his examination and presentation of the fuel crisis which has been a factor in the increase in electric rates in the Tennessee Valley and throughout the Nation.

Much of the information was developed at regional hearings instituted by our distinguished colleagues, the Honorable JOE L. EVINS, chairman of the House Select Committee on Small Businesses and the Honorable NEAL SMITH, chairman of the Subcommittee on Small Business Problems. They are to be commended for undertaking the examination of this complicated problem.

Press reports of the testimony before this subcommittee confirm many of the findings which resulted from my personal and continuing examination into this problem.

Because of the importance of electric power to our society, each of us should be vitally concerned with the situation in this important industry. For this reason, I include the article by Mr. Smith at this point in my remarks, and I commend it to the attention of each of you.

The article follows:

BEHIND THE FUEL CRISIS

(By Philip W. Smith)

A massive new conglomerate with the potential to manipulate fuel supplies, slow technological development of alternate fuel supplies, and control fuel price levels has apparently emerged in the last four or five years.

Except for investigation by a single congressional subcommittee and some initial study by the Federal Trade Commission, the concentration of ownership of the nation's energy sources into a few hands apparently has gone virtually unchecked.

One result appears to have been the approximately 25 per cent increase in electric rates in the Tennessee Valley last October and the prediction last week by the chairman of the board of Tennessee Valley Authority that, "complex and interlocking processes are at work today which, if some forecasts are accurate, forewarn of most substantial basic energy cost increases in the years just ahead."

TVA power rates remained substantially unchanged for approximately 20 years until 1967. During the past four years, however, the rates have increased a total of 81.2 percent. Rates of other private power companies across the country have taken corresponding or higher increases.

There are many indications, but yet no concrete evidence, that the rate increases were caused by artificially created fuel shortages and artificially high fuel prices by a few large petroleum and coal companies.

Testimony before the House subcommittee on small business problems has revealed that the four largest coal companies account for a third of all coal production in the country. Further testimony has shown that major oil companies account for approximately 54 per cent of the U.S. refining capacity; 72 per cent of natural gas production and reserve ownership; 30 per cent of domestic coal reserves; over 20 per cent of domestic coal production capacity; over 50 per cent of uranium reserves; and over 25 per cent of uranium milling capacity.

It has not yet been established whether any provisions of the Sherman or Clayton anti-trust acts have been violated but a spokesman for the FTC said last week that, based on preliminary studies, he expects some recommendations for anti-trust action by FTC staff members to the commission by early next year.

As pointed out by a recent special section of the Vanderbilt Law Review, however, anti-trust action may do little to solve the problem. The disruption caused by divestiture actually might worsen the present fuel crisis, according to the law review.

The reasoning of this theory is that since the extraction, processing and refining of mineral resources often require large capital expenditures, small diversified units may be inefficient and American firms, split into smaller units, would be at a competitive disadvantage in dealing with international fuel producers.

"When a small, closely knit group of corporations controls resources as indispensable to the nation as basic fuels, the prospect of judicial relief in five to six years is, in effect, no relief at all," a group of Vanderbilt students who worked on the law review article pointed out to the subcommittee last week in Nashville.

"It has also been suggested that the agencies charged with enforcement of the anti-trust laws tend to move hesitantly against the economically and politically powerful petroleum industry," the students added.

Varying state and federal regulations appear to have lessened competition within the fuel industry and tend to concentrate the nation's basic resources into the hands of a few large corporations.

For example, regulations prohibiting the burning of high sulfur coal have detrimentally affected many small coal companies because they lack the financial resources to seek out or produce low-sulfur coal. No inexpensive desulfurization process has yet been devised.

Similarly, the Vanderbilt students call the Coal Mine Health and Safety Act, "regulatory tunnel-vision."

While this act has not lessened national coal production, it has lessened competition within the coal industry even more because many small mines closed rather than trying to meet the strict provisions of the act.

According to James R. Garvey, vice president of the National Coal Association, despite the serious competitive threat atomic energy poses to other energy sources, the federal government still spends only seven per cent as much on coal research as it does to promote and develop atomic energy.

It appears that the only solution to the so-called "energy crisis" is a major change in federal and state regulations and also in the way they are administered.

In some cases, conflicting federal and state regulations seem to be actually working against each other and many regulations are producing side effects which create the need for still more regulations which in turn produce even more side effects.

Someone at the national level is apparently going to be forced to formulate a "national energy policy" and decide how it is going to be administered.

TVA board chairman, Aubrey J. Wagner has also suggested that there needs to be a definition between fair profit and excessive profit in the fuel industry.

"Electricity is quite price-sensitive as we have learned in the region TVA services. We just could price it to a point where its tremendous and vital potential to upgrade the overall quality of human life will be denied," the chairman added.

There is no doubt that a portion of the increased cost of fuel, and therefore of electricity, has been caused by efforts to improve the environment and provide for safer working conditions for miners. No one who has testified before the sub-committee has denied that these price increases are justified and necessary.

No one has yet established that the coal, oil, natural gas and other energy companies have violated any laws by merging.

But these facts have been established.

While the United States has less than six per cent of the world's population, it consumes approximately 33 per cent of the world's energy.

In the past decade, electricity experienced a growth rate of over seven per cent, yet by 1970 that rate had increased to over nine per cent per year and it is predicted that the consumption of electricity will double every ten years.

The cost of electricity has increased more than 80 per cent during the past four years in Tennessee Valley and in similar proportions throughout the remainder of the country.

The average cost of coal purchased by TVA in 1971 was 53 per cent higher than the average cost in 1965. Considering new purchases only and not long-term contracts still in force, prices paid in 1971 rose to nearly double those paid for new coal purchased only a year to 18 months earlier.

This increase in cost has been, and apparently will continue to be, passed along by utilities to the consumer.

SENATE—*Monday, November 8, 1971*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father who has watched over us and brought us to this new week, accept the dedication of our souls, minds, and bodies in service to Thee and to our fellow man. Keep ever before us the holy vision of a better nation in a better world. Teach us how to serve Thee as ardently in daily duties as in the time of prayer. Be with all Members of this body and with those who in obscure places assist them. Help us all to exalt the spiritual values, to live a life of prayer, to strive for justice and peace, and in all our ways so to honor Thee that we may be a nation strong in the Lord and in the power of His might. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, November 5, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I have some unanimous-consent requests still to make, but yield at this time to the distinguished Senator from Mississippi (Mr. STENNIS).

The PRESIDENT pro tempore. In accordance with the previous order, the distinguished Senator from Mississippi (Mr. STENNIS) is now recognised for 15 minutes.

BUSING COMES HOME TO THE NORTH

Mr. STENNIS. Mr. President, over the past several years, I have been speaking from time to time on this floor regarding the dual standards of school desegregation that exist in our country. I have pointed out the destruction of effective school systems in the South, undertaken in the name of obliteration of de jure segregation, while racial isolation in schools continued in the North on a massive and increasing scale, and was left untouched because it was said to be de facto segregation. I have said that in many places in the North and West, this racial isolation is really de jure segregation because it originated in actual official actions of school boards and local governments, although sometimes subtle and disguised, in establishing school district lines, housing programs, and the like. I have also said that if and when the time should come that the citizens of the North and West should be required to accept the enforced racial balance that is imposed on southern schools, they would reject it out of hand, and would make their views known to Congress. I have expressed the hope and belief that this national hypocrisy will in due time give way to a single national policy; and that, because everyone will have to follow it, it will have to be moderate, practical, sensible, and aimed at the true purpose of schools, which is to educate children.

On February 18, 1970, the Senate by a vote of 56 to 31 passed an amendment which I had introduced to the Elementary and Secondary Education Act. It provided that it is the policy of the United States that guidelines and criteria shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation. The amendment was lost, in effect, in conference, by the changes made in it.

I offered the same amendment in 1971, this time to the emergency school aid bill. It passed the Senate on April 22. On November 4, the other body passed it, but deleted references to title VI of the Civil Rights Act of 1964 and the Elementary and Secondary Education Amendments of 1966, making it applicable only to the emergency school aid measure.

Mr. President, I mention these matters now because in recent weeks it has become clear that in a number of cities outside the South the matter of busing schoolchildren for racial balance has become an extraordinarily intense issue. This appears to be the case regardless of whether the busing is undertaken by local school boards on their own initiative or required by court order.

Let me review briefly what has occurred in some of these cities. I will begin with Detroit, because it is one of the more recent and more highly publicized cases where there has been a court finding of de jure segregation in schools.

In April of 1970, the Detroit School Board adopted a voluntary plan of partial high school desegregation, to be effective at the beginning of the 1970 fall semester. There were strong protests from white parents and some blacks. The Michigan State Legislature rescinded the plan, and subsequently the Detroit voters recalled and replaced four school board members who had supported the plan.

The NAACP sued in Federal district court. The case went twice to the court of appeals and ultimately was remanded to the district court for trial on the merits of the issue of segregation.

On September 27 of this year, the district court ruled that a de jure segregated public school system is in operation in Detroit.

The court said:

We find that both the State of Michigan and the Detroit Board of Education have committed acts which have been causal factors in the segregated condition of the public schools of the City of Detroit. As we assay the principles essential to a finding of *de jure* segregation, as outlined in rulings of the United States Supreme Court, they are:

1. The State, through its officers and agencies, and usually the school administration, must have taken some action or actions with a purpose of segregation.

2. This action or these actions must have created or aggravated segregation in the schools in question.

3. A current condition of segregation exists.

We find these tests to have been met in this case. We recognise that causation in the case before us is both several and comparative. The principal causes undeniably have been population movement and housing patterns, but state and local governmental actions, including school board actions have played a substantial role in promoting segregation. It is, the Court believes, unfortunate that we cannot deal with public school segregation on a no-fault basis, for if racial segregation in our public schools is an evil, then it should make no difference whether we classify it *de jure* or *de facto*.

On October 4, the court gave the State of Michigan 4 months to develop an integration plan involving both the city and

its suburbs, which are predominantly white. The Detroit Board of Education was given 60 days to present a plan to integrate the 320 schools within the city. The court has not yet decided what form the final integration ruling will take.

On October 25, protests caused absenteeism as high as 80 percent in Detroit elementary schools.

One Member of Congress from a northern State says:

That the courts have gone berserk in their orders is no longer a matter of debate. But the fact that they will destroy this nation's public school system is a matter of deep concern to all.

This usurpation of power by courts all over the nation will lead to the only logical alternative, a constitutional amendment prohibiting busing out of neighborhood schools against a child's or his parents' will.

Several Congressmen from Michigan have cosponsored legislation (H.R. 11312) which will act to postpone the effectiveness of a U.S. district court order requiring busing to achieve racial balance until all appeals to that order have been exhausted. This was passed in the other body on November 4, as an amendment to the Higher Education Act.

In Pontiac, Mich., empty schoolbuses were bombed on August 30 of this year. A citizens' group asked court delay of a busing order. School attendance the first day was 60 percent in elementary schools; 65 percent in a junior high school. Fighting between black and white students occurred at a junior high school on September 8. Picketing closed two General Motors plants, and protest marches occurred at schools. The U.S. district judge ordered U.S. marshals to investigate alleged police failure to halt disruption of busing. In the first 3 days of school, 48 people were arrested in antibusing violence and schoolyard violence. The Pontiac School Board said that parents who boycott schools would be subpenaed to juvenile court. On September 16, citizens staged a demonstration in support of the city's policemen, who are under attack for allegedly helping the antibusing parents. On October 25, school absenteeism averaged 32 percent in Pontiac. On October 26, the Supreme Court declined to hear the appeal of the Pontiac School Board against the court-ordered busing plan, thus leaving it in effect.

The Supreme Court has dodged the issue again, refusing to consider a case from the North. The Court has consistently declined to review the countless school cases from the North and West.

In San Francisco, only the school superintendent and the NAACP openly supported court-ordered busing. Schoolteachers demanded that the superintendent resign. Chinese and white parents held protest meetings. The mayor urged that there be no violence but said he encourages democratic dissent from the order. A local newspaper poll showed that those opposed to busing included 96 percent of the Asian population, 86 percent of the whites, 73 percent of the Spanish-speaking people, and 60 percent of the blacks. As school opened, elementary school absenteeism was 41 percent. Chinatown boycotted schools.

In Boston, of 396 white children reassigned to a black school for the purpose of achieving racial balance, only 124 appeared on opening day. Most parents took their children to the schools they attended the previous year, where they were refused registration. The Massachusetts House of Representatives voted to suspend the 6-year-old State law on racial imbalance, under which majority-black schools would lose State funds. On September 22, the Boston School Committee, which is the governing board of schools, abandoned the attempt to bus students to the one majority-black school, and let the students rejoin their old schools.

In Minneapolis, although the city's population has only 5 percent blacks and Indians, the board of education has taken a first cautious step toward desegregation by "pairing" two elementary schools only 1¼ miles apart. Even so, this very moderate effort was the major issue in the school board election during the summer, for two of seven seats on the board. The two losers had supported the pairing plan, and the two winners had vigorously opposed it. Parents who oppose the busing have filed suit against the pairing plan.

In Indianapolis, in August, the district court ruled that the Indianapolis school system had been practicing racial discrimination since 1954. The court also directed the Justice Department to file a motion challenging the right of suburban school districts to remain separate from the Indianapolis city system.

In Grand Rapids, Mich., the NAACP has filed suit against the board of education to integrate the city schools by busing to suburban schools. The court has added 11 suburban school districts as defendants. This case as yet has not been decided.

The situation in Denver, Las Vegas, and Los Angeles could also be discussed, but I think the cases I have cited are enough to indicate the spread of the problem across the North and West from California to the Middle West to New England, with three prominent cases in Michigan.

Going back to the Detroit case, it would be well to look again at the reasoning of the Court in finding that the segregation is de jure. The test applied for a determination of de jure segregation is very straightforward. There must be a current condition of segregation, and it must have been aggravated by a purposeful action by a State or local governmental agency or the school administration.

Mr. President, can it be said that most northern or western cities can pass this test? I submit that there is substantial doubt, to say the very least. Certainly HEW has supplied us with the answer to part of the test—whether there is a current condition of segregation—in the figures released last June 18 on the HEW second national survey of racial and ethnic enrollment in public schools. The figures compared the 1968–69 and 1970–71 school years. They showed steadily increasing segregation throughout the North, while it declined in the South. There can be no question that the segregation does currently exist.

Consequently, to prove de jure segregation in a Northern city, it need only be shown that there was some purposeful action, taken by a school board or other agency that aggravated the condition. In the Pontiac and Detroit cases, the court ruled that this action could be something as simple as the location of newly constructed schools.

The HEW national survey can give us an idea as to whether there have been a great many schools built in the North with the prior knowledge that they would be black-majority schools.

During the 2-year period covered by the HEW survey, school populations did not, of course, remain static. All areas gained in Negro school enrollment. The 32 Northern and Western States had an increase of 186,802 additional Negro students.

The survey also shows that of the 100 largest school districts in the country, in those that are in the 32 Northern and Western States, the percentages of black students enrolled in majority-black schools increased in every category: 50 to 100 percent, 80 to 100 percent, 90 to 100 percent, and even 100 percent Negro. Taking into account the physical increase of tens of thousands of black students, more schools had to be built. What kind of schools did the Northern and Western States build to accommodate these large numbers of additional black students? The increasing rate of segregation shows that they built a large number of schools in locations where it was certain they would be attended almost wholly by Negro students. Thus a condition of de jure segregation is shown.

The fact of the matter is that this segregation in the North and the West has been virtually ignored, while in the South a veritable army of investigators and attorneys have pounced on every school district, with a mass of requirements for the pairing of schools, closing of schools, extensive busing, and many other directives, all in the name of eliminating what they term de jure segregation. I have pointed out time and time again, backing my position with the facts and figures, showing that the same or worse segregation exists in the North and West, fully documenting the case.

I have cited the official figures of HEW which show that segregation now is even more widespread in the North than it is in the South. What has been done about it? The answer is: Practically nothing. Several years ago, in a hearing conducted by the Senate Appropriations HEW Subcommittee, I asked Mr. Leon Panetta, the then HEW expert on school desegregation, why more was not being done in the North. His response was that discrimination was much more difficult to prove in the North. That is an excuse but no real answer. Upon my insistence, and that of several other Senators, HEW did employ additional investigators and attorneys to deal with the situation in the North, but only a mere handful were employed. They have produced almost nothing to show for any effort on their part although they supposedly have been working at it for about 3 years.

When some facts are brought to light showing that there is actual racial discrimination or de jure segregation in a northern school, and a recommendation is made by HEW investigators for action, somehow the case seems to languish in one or another HEW office for months, without any action. In an address before the Senate last year, I mentioned a number of cases which had been recommended by HEW investigations for enforcement action, but after submission to the Office of the General Counsel, were never heard of again. As I understand it, of the investigations conducted by HEW and the Federal Government in the North, only two school districts have been actually charged with discrimination, these districts being Wichita, Kans., and Ferndale, Mich. There are reports that some 48 complaints have been made against school districts in the North, charging discrimination, but only eight of these have been reviewed by HEW, with no public report as to what action has been taken.

It is interesting to note that what few cases have reached the courts in the North and West, dealing with segregation in the public schools, are all the result of actions commenced by private plaintiffs. None of these cases have been initiated by the Federal Government. In view of the uproar which has occurred in Pontiac, Detroit, and other northern cities, including a few where action has only been "threatened," it is easy to understand why the Federal Government has not enforced the law in the North and West. They are afraid to do so. Officials of the Federal Government know that the parents of these children will not stand for such enforcement in the North and the West and will, when it is attempted, create such pressures upon their public officials that only a token enforcement, if even that, will be permitted. In Boston, for instance, an effort was made at the beginning of this school year to comply with the requirements of the law, and the public outcry was so great that the whole matter was postponed for a year. The Federal Government has taken no action whatsoever to correct this situation, and this is only one instance of many.

I have no desire to see any unpleasantness or interference with any school district in any part of the country. I think our public schools should be left alone, and permitted to perform the responsibility for which they were created; that is, to make available to all students a quality education and the best that can be afforded. Unfortunately, our public schools have been made the chopping block for social experiments in the field of race relations and our children have suffered the consequences.

All too many of our children, North and South, are being deprived of a real education or the true academic atmosphere which is so important to have in order that they may have every opportunity to learn. This is a tragic situation, and if some solution is not found soon, our Nation will suffer, as well as our children.

In the recent Detroit case, the Federal court found that de jure segregation existed and that remedial steps must be taken. It is obvious to me, based on the facts which I have and which I reported to the Senate over 2 years ago, that if de jure segregation exists in Detroit now, as the Federal court has determined, that it existed then, and no doubt in 1954, and before, when the case of Brown against Board of Education, and similar cases, was decided by the Supreme Court of the United States. It obviously also existed when the Civil Rights Act of 1964 was adopted by the Congress. The same statement applies to Pontiac, and hundreds more school districts in the North and West.

When the Congress adopted the Civil Rights Act of 1964, with its title IV and title VI, regarding public school desegregation and the cutoff of Federal funds to school districts not in compliance with the act, there was no provision exempting the North and the West from its application. That act applied nationwide. Why has it not been enforced by the Federal Government, except in the South? Soon after the passage of that act, every school district in the South was sent a notice, requiring it to submit a plan for desegregation. Once submitted, the plan was subjected to minute inspection by many HEW attorneys and investigators, and not approved until the orders and directives of HEW were incorporated into the plan. If the school district showed any reluctance, that school district was given notice that its Federal funds would be "deferred" pending a hearing, and those who held out for a hearing and ruling by the Secretary of Health, Education, and Welfare were ruled against in almost 100 percent of the cases.

In the North and West, however, the only form required by HEW from school districts was a mere statement that they were in compliance with the law. There was no investigation or followup. Now, it is apparent that many school districts in the North and West were not in compliance. Detroit was not in compliance, nor was Pontiac, Mich., nor were many hundreds of others.

The fact is that there was a cold, calculated decision on the part of officials of HEW and others in charge at that time, and since, to ignore the North and West and to array the full power and might of the Federal Government against the South. The Civil Rights Act was ignored with impunity in the North and West and only now are those school districts—not in compliance at the time the law was enacted—beginning to feel the impact.

Until now, those in the North and West have tried to say that the segregation practiced there was de facto—not the result of State or official action—and thus beyond the Civil Rights Act and the Supreme Court decisions. The result of my amendment to the two education bills would have been to eliminate the effect of this false distinction, and to require the uniform application of segregation policies throughout the Nation. To its everlasting credit, the Senate approved my amendment in overwhelming votes in 2 separate years, but the House of Representatives did not approve it in its original form. Last year, the amendment was changed beyond recognition in the House-Senate conference, and this year the House committee restricted its application only to the emergency school assistance bill, which is stripped of all the affirmative action provisions of the Civil Rights Act of 1964 and the Elementary and Secondary Education Act of 1965. This is the form in which the amendment passed in the other body last week.

But recent Federal court cases, as exemplified by the Detroit case, have shown that in a countless number of school districts in the North and West, there was no distinction in the first place. The segregation practiced in Detroit was de jure, and I pointed out as long as 3 years ago that in many school districts in the North and West, that was just the case.

In Detroit, and many countless other school districts, de jure segregation exists, and one must wonder why the attention of HEW has not been attracted to them over the years. These schools presumably should have been operating under an HEW-directed or approved plan, long before now.

The confusion, turmoil, and unhappiness among parents, children, and other citizens of Pontiac, Detroit, and other cities in the North and West was inevitable. Unfortunately, those in other parts of the Nation could not realize what the Supreme Court of the United States and the Congress had forced upon those in the South and what irreparable damage was being done to our schools and to our communities until they in the North and West could see and feel at least a small token of the same serious problem.

Fundamentally, there is no clause in the Constitution of the United States, actual or implied, which gives any court the power and authority to compel the busing of schoolchildren away from their own community or neighborhood schools to other schools in other communities and neighborhoods, solely for the purpose of creating some racial balance or ratio in either the school from which these students are transferred, or the school to which they are sent.

To the contrary, the whole spirit of our Government and the basic principles enunciated in our Constitution are just the opposite.

I repeat, there is no authority in the Constitution or any valid law enacted by the Congress, or any other legislative body, which authorizes the transfer or busing of schoolchildren away from their home community or their own neighborhood school against their will or their parents' will in the absence of some dire emergency, health situation, or other compelling reasons.

For all intents and purposes, our neighborhood schools in many areas have been virtually destroyed. Our public school system has been left in a shambles, making it almost impossible for our children to receive the quality education which they need and deserve and for which their parents pay dearly in taxes.

Mr. President, the Congress has attempted on various occasions to forbid the busing of children to create racial balance in the public schools. The Civil Rights Act of 1964 was so written as to forbid such busing. We were assured it

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would not take place. Nevertheless, it has been carried out in the South on a massive basis, and now it is a problem that is facing Northern parents and children as well. The way this busing has been done in the South, of course, was by claiming that such busing was required to comply with the Constitution, and that such busing was not to create racial balance. In the North and West, however, this provision of the Civil Rights Act was used as a haven or excuse for not requiring busing. Now, in the light of the Pontiac, Detroit, and other cases, finding that de jure segregation exists, busing has suddenly come home to the North.

From the events that took place in the other body the evening of November 4, it seems that there is no doubt that busing has indeed come home to the North. And I might add that the North is not pleased, and has proceeded with considerable haste to do something about it.

These are the actions taken by the other body, by amendment to the Higher Education Act, on November 4: They:

First. Provided for postponement of any U.S. district court order to force busing until the Supreme Court has had the opportunity to act on any appeal, by a vote of 235 to 125.

Second. Prohibited the use of funds from any HEW program for busing, by a vote of 233 to 124.

Third. Prohibited any officer of HEW or any other Federal agency from requiring expenditures of State or local funds for purposes for which Federal funds cannot be expended, by a vote of 231 to 126.

Fourth. Declined to permit use of Federal funds for busing in school districts that are under a court-ordered desegregation plan, by a vote of 146 to 216.

Fifth. Passed the Emergency School Aid Act, as an added title in the Higher Education Act, by a vote of 211 to 160, after adding a prohibition of use of the funds for busing and a section endorsing the neighborhood school concept.

These provisions will of course be subject to consideration in conference. They will, I am sure, receive the closest scrutiny. I will say at this time only that my efforts in the matter of school desegregation have been aimed at achieving a single set of rules, to be applied uniformly throughout the Nation. I believe firmly that every legislative action pertaining to busing or any other desegregation provision should meet that test.

One way the busing problem can be dealt with completely is, of course, by constitutional amendment. However, in the interim there is no reason why personnel of Federal departments should not be responsive to the will of Congress. The action in the other body last week represents a first step in this direction. The amendment which has been offered by the Senator from Georgia (Mr. GAMBRELL) to the Equal Employment Opportunities Act, embracing similar principles, would enjoin Federal departments, in particular HEW and Justice, from advocacy of busing by reason of color, in or out of court, in HEW plans, in withholding or granting of funds, or in other actions.

To enjoin Federal departments from advocacy of assignment of students to schools by reason of the color of their skins does not affect present or future court cases, nor prevent the filing of private suits. In the North and West, this is the route that has normally been followed in any case, since the Federal Government has not expressed any real interest in enforcing the present law in the North and West. There is no need to compound an already intolerable situation by having HEW or Justice promote more such cases—North, South, East, or West.

Another provision in the proposed amendment offered by the Senator from Georgia would require that HEW accept any court-ordered or court-approved plan as complete and sufficient. This requirement stands on its own merits. Certainly we need no fanatical bureaucrat embellishing court plans with additional impositions on citizens and school children.

There is still another way in which this whole problem may be solved. The Supreme Court of the United States does not have completely unlimited power but only possesses the power, authority, and jurisdiction extended to it under the provisions of the Constitution itself. That Constitution vests the judicial power of the United States in the Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

After enumerating a number of cases in which the Court shall exercise judicial power, article III, section 2, clause 2 provides:

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, *with such Exceptions and under such Regulations as the Congress shall make.* (Emphasis added.)

There is a well-recognized body of law making clear that the Congress of the United States has the authority to withhold or withdraw from the jurisdiction of the Supreme Court the judicial power to decide cases in certain categories. This procedure has been followed several times in the history of our Nation, and the Supreme Court has recognized in its decisions the power of the Congress to follow this course. It might well be that the present serious problems facing our public schools and especially those problems caused by busing our schoolchildren from one community to another can only be solved by legislation withdrawing from the power of the Court the jurisdiction to hear appeals and to consider such cases.

I am convinced that appropriate legislation can be drafted, within the framework of the Constitution, which will accomplish this purpose, and I think the Congress should give serious consideration to such legislation.

This entire problem is indeed a serious one, and I think the time has certainly come when our Nation must recognize that our public schools must be devoted to educating our children without the interference of Federal bureaucrats and the courts. Our public schools can only be operated on a sound academic basis by our local school boards and the public school officials and faculty which they employ to teach our students. Certainly, the chaos and turmoil which have been experienced in hundreds of school districts across the land must be stopped and our schools permitted to return to the role for which they were created—that of providing an educational opportunity for all of our children.

Mr. President, I ask unanimous consent that three newspaper articles on the Detroit school case be placed in the RECORD at the conclusion of my remarks. They are: An article in the New York Times on September 28, by Agis Salpukas; an article in the Washington Post of the same date, by Robert Popa; and one by Peter Milius, in the Washington Post of October 24; also, the editorial entitled "The Busing Dilemma" which appeared in the Washington Evening Star on October 29; and a copy of the decision of the U.S. District Court, Eastern District of Michigan, Civil Action No. 35257, in the Detroit school case, styled Ronald Bradley, et al., versus William G. Milliken, et al.

Mr. President, I believe the present circumstances throughout the school systems of our country constitute a challenge to the Supreme Court to rule on a desegregation case in a Northern school district. This is essential if some degree of order is to be brought out of the present chaos.

Second, the President of the United States, whoever he may be for the next 4 or 8 years, will have to deal on a regular basis with the busing problem, as one which is very much in the minds of all American parents. It would seem reasonable and proper therefore, that every presidential candidate should make his position known as to whether the United States should have a single uniform policy on the problem applied in every region of this Nation. It would seem proper that they be challenged to say whether or not they back the idea of school busing for racial balance regardless of the origin or cause of the segregation. I make such a challenge now and will repeat it from time to time.

The House and Senate will no doubt have to deal repeatedly with these problems in the future. It would seem to me proper and prudent that candidates for the House or Senate next year should express their views, so that the voice of the people can be clearly heard.

Mr. President, this busing dispute means the dislocation of children from their schools, unhappiness for the children and their families, lost time, lost money, and lost educational opportunities. I say only that the time had to come when the dispute would occur in the North, for its roots are in the same policies that have been enforced in the South for several years. The same kinds of court rulings, controversies, and upheavals that are beginning in Michigan and other States will spread through the North and West. The people are not going to like it. They have shown they do not like it in San Francisco, Pontiac, Boston, and elsewhere. There should be no need for any violence in showing their displeasure. It would be deplorable, and it is entirely unnecessary. These are areas of great political strength in our country, and they can make their voices heard, according to established democratic processes, as they did in the other body on November 4. I believe that when the full strength of their voices is heard, we are going to be on our way back to neighborhood schools and spending the money to make those schools the very best this country can afford.

Mr. President, I ask unanimous consent to have printed in the RECORD certain documents and newspaper editorials bearing on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 28, 1971]

U.S. JUDGE FINDS DETROIT GUILTY OF PLANNED SCHOOL SEGREGATION

(By Agis Salpukas)

DETROIT, September 27.—A Federal judge found today that Detroit's public school system had been deliberately segregated and he spread the blame to practically all of society.

Judge Stephen Roth put off any specific plans to integrate the schools until further hearings.

Detroit's schools are two-thirds black, and the judge left open the possibility of combining black city schools with white suburban schools through busing, a concept favored by attorneys of the National Association for the Advancement of Colored People.

National R. Jones, general counsel for the N.A.A.C.P., whose Detroit chapter initiated the suit, called the decision "of major significance of bringing about integration in the North."

The decision "shows that you can establish that school systems in the North are not creations of chance but are deliberate, that racial patterns are not happenstance but grow out of state action and are really the result of long history of acts of commission and omission," he said. Judge Roth said two factors had caused the segregation here: a segregated housing pattern and actions by state agencies or the Detroit Board of Education.

"Government actions and inactions at all levels, Federal, state and local, have combined with those of private organizations such as loaning institutions, real estate associations and brokerage firms" to cause housing segregation.

"For many years," the judge said in his ruling, "Federal housing administrators and the Veterans Administration openly advised and advocated maintenance of 'harmonious' neighborhoods, i.e. racially and economically harmonious. The conditions created continue."

BLAME FOR EVERYONE

"There is enough blame for everyone to share," he said, even for blacks who to some degree "like ethnic groups in the past, have tended to separate from the larger group and associate together."

But "state and local government actions have played a substantial role in promoting segregation" of the schools.

He noted that the State Legislature, until this session, would not pay for the transportation of pupils in the Detroit school system regardless of their poverty or distance from the school although it paid for the transportation of students in the generally white suburban and rural school districts.

He noted that the Legislature had also struck down a plan drawn by the city Board of Education last April that would have spread white pupils throughout the city's high schools.

EVIDENCE CITED

He cited the following evidence that the Detroit School Board had encouraged segregation:

The creation of "optional" school zones in changing neighborhoods, allowing pupils to choose between a mostly black or mostly white high school.

The busing of black pupils past or away from closer white schools to black schools and the absence of busing of whites into black schools.

The juggling of school district lines, which the judge said, encouraged segregated schools.

The board "admits at least one instance where it intentionally built and maintained a school and its attendant zone to contain black students," Judge Roth said.

The Detroit School Board was praised by the judge for its efforts "to advance the cause of quality education for all in terms of racial integration and human relations," particularly its effort at faculty integration.

Between 1960 and 1970, the board increased the percentage of black teachers from 23.3 to 42.1 and of black administrators from 4.5 to 37.8, he noted.

Last year, it held open 240 positions in schools with less than 25 per cent black teachers, rejecting white applicants until qualified black applicants could be found, he said.

Judge Roth noted that the board had worked to get black students into skilled trades jobs in industry, had brought about a substantial increase in the number of black students in manufacturing and construction trade apprentice classes and had been a leader in the pioneering of integrated textbooks.

PROPOSALS EXPECTED

At a hearing Oct. 4, both sides are expected to make their initial proposals for integrating the school system.

Louis Lucas, a lawyer for the N.A.A.C.P. Legal Defense and Educational Fund, Inc., who argued the case for the N.A.A.C.P. although the fund is not connected with that organization, said in an interview that any plans for integration would have to involve suburban districts.

He said one reason for involving suburban and city districts in a plan for integration would be to equalize the large differences in the amount spent for education.

In suburban districts, more than $1,000 a year may be spent per pupil for education, while in the Detroit city system about $650 a year is spent.

Mr. Lucas said that in some cases little busing would be needed since an all-black school near the border of the city could be merged with an all-white suburban school.

Mr. Jones said that busing should be put into the plan if necessary.

"We're not frightened of busing," he said. "It's not new to this country, and it's not new to this city."

The integration controversy in Detroit erupted more than a year ago when the Detroit School Board, without warning, juggled boundaries and ordered students to ride miles on city buses to achieve integration. In effect, this was an effort to spread whites into the black schools.

[From the Washington Post, Sept. 28, 1971]

DETROIT SCHOOL SEGREGATION DELIBERATE, U.S. JUDGE RULES

(By Robert Popa)

DETROIT, September 27.—A federal district judge ruled today that the state of Michigan and the Detroit public school system are guilty of deliberately maintaining segregated schools in the city and he said the federal courts must correct the situation.

But Judge Stephen J. Roth said he has not yet settled on an integration plan. He will discuss possibilities with lawyers on both sides next Monday.

The civil suit asking for relief from segregation was filed 13 months ago as a class action by a group of parents and the NAACP.

Roth said the defendants had circumvented integration by building small primary schools, shaping attendance zones in a way geared to maintain segregation, restricting busing funds and using busing to move some black pupils to other black schools rather than white ones.

While Detroit's population of 1½ million was 43 per cent black in the 1970 census, Detroit's public school enrollment of 285,000 is 65 per cent black.

The defendants in the suit are the Detroit Board of Education; the former superintendent of Detroit schools, Norman A. Drachler; Gov. William G. Milliken; Attorney General Frank J. Kelley; the State Board of Education, and John Porter, state superintendent of public instruction.

Roth said segregation in Detroit schools exists "de jure," which means "by law," and must be dealt with in the same way.

De jure segregation contrasts with de facto segregation, which usually develops as an outgrowth of housing patterns.

Roth said 11 of Detroit's schools this year have black enrollments exceeding 90 per cent while one has less than 10 per cent blacks.

Since 1959, the Detroit Board of Education has circumvented integration, he said, by constructing at least 13 small primary schools with capacities of 300 to 400 each.

"This practice negates opportunities to integrate, contains a black population and perpetuates and compounds school segregation," he said.

State officials are guilty of promoting segregation, Roth said, by refusing to provide funds for busing pupils in Detroit although they make money available for busing in many neighboring white suburban districts.

Roth also found the state guilty of promoting segregation by imposing limits on a school district's borrowing power and through the formula it uses for distributing support money to the schools.

Because wealthier suburban districts are able to spend much more tax money for each pupil while making less of a taxing effort, "systematic educational inequalities have been created and perpetuated," said the judge.

At the same time, Roth termed Detroit's assignment of teachers and administrators "superior" from the standpoint of integration. He promised not to interfere with it.

"Detroit's school system has a higher proportion of black administrators than any other city in the country," he said. "Detroit in 1970 was among the 20 largest Northern city school districts in percentage of blacks on the faculty."

Roth found that the Detroit Board of Education was guilty of segregation because it shaped attendance zones along north-south lines. More integration would have been drawn on an east-west basis, he said.

He added that the board is also perpetuating segregation by busing black pupils to less-crowded black schools rather than to predominantly white schools.

Although several points of the Detroit case have been contested and one was taken to the U.S. Circuit Court of Appeals, no one has yet raised the question of the NAACP's right to join the suit as a plaintiff.

After issuing his ruling, Roth said he has reservations about the NAACP's right to participate.

"There is a serious legal question as to whether they can bring this kind of suit," he said.

Still pending is an application by another group, The Citizens Committee for

Better Education (COBE), which also wants to join the plaintiffs in the suit.

COBE leaders would question integration in a three-county metropolitan area composed of Wayne, Oakland and Macomb counties. These three counties contain about half of Michigan's nearly 9 million residents.

If Roth accepts the application of the COBE, a complete upheaval of suburban school racial patterns could follow. Lawyers for the COBE contend that true integration cannot be achieved in Detroit alone because 65 per cent of the students there are black.

Louis R. Lucas, a lawyer on the NAACP's New York staff, said he was pleased by Roth's ruling. But he declined to describe the type of integration plan he will propose next week.

[From the Washington Post, Oct. 24, 1971]

RIGHTS ADVOCATES RETREAT IN MICHIGAN BUSING FUROR

(By Peter Milius)

H.R. 11312 is the kind of bill that Southerners have been introducing for years on school desegregation: a throwaway, offered up for home consumption rather than with any thought of serious consideration by the House.

Only two things make it remarkable.

The first is that it is a little milder than most bills of its genre. It would only delay the effective date of any busing order handed down by a lower federal court until all appeals had been exhausted.

The second is that it was not introduced by Southerners. The bill bears the names of seven members of the Michigan congressional delegation, two Republicans and five Democrats, certified Northern civil rights advocates and moderates all.

Mississippi's John Cornelius Stennis has been saying in the Senate for three years that Northerners would lose their enthusiasm for school desegregation the day that it reached their front doors. The current philosophical and political rout in Michigan suggests that the senator was right.

Three weeks ago, a federal district judge in Detroit warned that he may soon order integration of that city's majority-black school system with the white schools of the suburbs, a step that presumably would mean some busing. He gave the state government 120 days to come up with such an integration plan.

Earlier in the year, another U.S. district judge ordered crosstown busing to desegregate the schools of Pontiac. His decree took effect in September.

TURMOIL CREATED

The two court orders, one issued, the other only threatened, have created almost total turmoil in the tight Southeastern corner of the state, where both these cities are, and where more than a third of its people live, including most of its Democrats.

Standing-room-only antibusing meetings in school auditoriums have become almost nightly occurrences in the Detroit suburbs. Antibusing groups with acronymic names have been springing up like weeds.

Pontiac, where 10 empty school buses were damaged by dynamite before school opened, where there were white boycotting and picketing after school began, has its NAG, the National Action Group. In the Detroit suburbs there is now also SOC, Save Our Children; RAG, the Roseville Action Group; ROB, Residents Opposed to Busing.

"The Detroit newspapers haven't had anything else in them for two weeks," says Rep. William D. Ford, a Democrat whose district lies in Detroit's Wayne County suburbs.

"There'll be a notice in the paper and they'll turn out 1,500 or 2,000 people just bang," adds Rep. James G. O'Hara, another Democrat, who represents suburban Macomb County.

"You can't really exaggerate the amount of agitation there is out there," concludes an aide to the state's Democratic senator, Philip A. Hart.

The white uproar over just the prospect of busing has had exactly the political effect that John Stennis predicted it would. Here as in other states, the issue may well become a major factor in the 1972 elections.

"It is," Hart's aide notes wryly, "the kind of issue that's awfully hard on the black-working class Democratic coalition."

IF IT IS ONLY WAY

Hart, the most secure of the state's sitting Democrats—his present six-year term has five more years to run—has spoken out in favor of busing "when a constitutional guarantee can't be delivered any other way."

Antibusing groups are circulating petitions to recall him.

That state's other senator, Robert P. Griffin, Republican, a moderate on civil rights in the past, is up for reelection next year. The Democrats were confident they could beat him.

LESS CONFIDENT

He now is sponsoring a constitutional amendment that would bar all busing on racial grounds. The Democrats are no longer so confident.

"It's had a serious impact on the senatorial prospects," one strategist says.

"If the judge orders busing, it'll probably begin next September," says another: "It might as well be Election Day."

The white Democrats in the state's congressional delegation have so far gone Griffin's way rather than Hart's—and the two black Democrats, John Conyers Jr. and Charles C. Diggs Jr. of Detroit, have so far held their peace.

Privately, the white congressmen rail at Griffin. "What he did was an irresponsible political stunt," says one. They are not saying the same thing in public. "It's more than your political life is worth at the moment to even suggest you're not against busing," the same Democrat acknowledges.

O'Hara is a seven-term congressman, former chairman of the activist Democratic Study Group in the House, veteran of civil rights fights in the past. His record has rarely troubled his basically blue-collar constituents; he was reelected last year with 77 per cent of the vote.

THOUSANDS OF SIGNERS

Yet O'Hara in the last three weeks has been handed antibusing petitions that he says "must have had 50,000 to 100,000 names on them."

He has had 2,500 letters on the subject in the same period. "Three," he says, "were in favor of busing." The rest were against.

Many are simply form letters, the handiwork of RAG and ROB and the other groups, handed out at the nightly meetings. "It is with grave concern and special interest that this letter is sent to ask *your* position on busing of students," one begins.

"I need your help and support *now*. You will need my support in the *future*," reminds another.

Others are not mass-produced, nor "from people who write letters all the time," O'Hara says.

HOME OWNERS ALARMED

"We have lived in Knaser (a suburban town) for six months and put all our savings into our new house, says one of these, handwritten on a housewife's stationery. "Now, because of the busing situation, were are afraid . . . We are not against the Negro getting a good education, but feel he should work to obtain the right to live in a good school district, as we have done."

O'Hara has drafted a stock reply.

"In my opinion, court-ordered student busing programs go beyond the requirements of the Constitution and are wrong. The problems facing our schools and our society can best be solved by providing the funds necessary to assure quality education in our neighborhood schools . . . I . . . am prepared to do whatever is necessary by way of further legislation or a constitutional amendment to prevent the implementation of the (Detroit judge's) decision by cross-district busing. Thank you for sharing your views with me."

IS NOT ALONE

O'Hara is not alone. Ford tells inquiring constituents that "Mass busing is an unacceptable, ineffective and self-defeating means of attempting to provide equal educational opportunity."

O'Hara, Ford, Reps. Martha W. Griffiths, John D. Dingell and Lucien N. Nedzi are the five white Michigan Democrats in the House, and the five who cosponsored H.R. 11312.

"When it came to a vote, I don't think any one of them ever went wrong before," says a veteran civil rights lobbyist. He is less sure of the future.

The House Education and Labor Committee has reported out President Nixon's $1.5 billion school desegregation bill, a measure that would not compel desegregation, but finance it. O'Hara and Ford were the only two Democrats on the committee to dissent. They denounced the measure as the "Back Door School Bus Financing Bill of 1971."

Neither man is comfortable in his new position. They and others in their shoes are searching for a philosophical way out, as well as a political one.

O'Hara says his view is that, in urban areas, the courts should require no more than racially neutral neighborhood school networks. He knows the Supreme Court went beyond that point last April, in the decision requiring busing in at least Southern and perhaps many Northern cities as well. "I disagree," he says.

He acknowledges it is not a disagreement he has seen fit to express before.

"I do plead guilty to one thing," he says, "to maybe having been silent before the problem arrived at my doorstep.

"I didn't want to be associated with those segregation forever people. They aren't my kind."

[From the Evening Star, Oct. 29, 1971]

THE BUSING DILEMMA

Federal courts decisions on racial busing are accumulating this season like the autumn leaves. And this probably is just the beginning, because every school district has its peculiar circumstances which need to be interpreted. Local boards all over the country are awaiting clarification of their duties with regard to desegregation. Those responsibilities still are indistinct, despite the deluge of language that has issued from the Supreme Court on the subject.

So the district and appeals courts have a long, hard road ahead, as does the Supreme Court in overseeing what the lower judiciary is doing. The high court has tended to support or at least leave undisturbed the lower courts' busing solutions. To delve into all the details and differentials that are at issue would be like trying to unravel a mountain of spaghetti. Understandably, the justices are restricting their searching examinations to appealed cases that seem ready-made for the laying down of broad, definitive rules.

Such a case was the one emanating from Pontiac, Michigan. This litigation deserved a full hearing and a judgment by the Supreme Court. By declining to review a federal court order for extensive busing at Pontiac the high court allowed the decree to stand and left critical questions unanswered. It missed an excellent opportunity to deal with the boiling issue of busing to create racial balance in Northern schools. In sidestepping at this juncture, it assured that the technique developed in the Pontiac case will be applied elsewhere and added to the difficulty

of any modifications it might decide to sanction in the future.

This was, in fact, the first chance the court has had to rule on a new genre of Northern and Western cases that are moving up the appeals route. Last April it approved of busing as an acceptable implement to achieve desegregation in three Southern cities, where it is presumed that the dismantling of the old *de jure* (officially imposed) segregation system is still in progress. But suits in Northern cities now claim that school segregation, defended as being *de facto* (a consequence of residential patterns), actually is *de jure*—the result of official manipulation. For example, in Pontiac the officials were accused of failing to adjust school district lines so as to attain desegregation, and of building schools in areas that are all-black and all-white with the effect of perpetuating segregation.

Certainly the gerrymandering or freezing of attendance zones to avoid desegregation cannot be tolerated, but this conclusion suggests that busing isn't the only available expedient. Much can be achieved through rearrangement of zones. By no stretch of reasoning, however, should school boards be required to make racial balance their overriding consideration in building new schools.

The school boycott at Pontiac and the busing protest violence that has occurred there are indefensible, but apart from those repugnant spectacles are far-reaching questions of law that must be answered soon in the interest of educational stability. If that interest is to be served, we believe, the court must outline some practical limits on busing.

[U.S. District Court, Eastern District of Michigan, Southern Division]

RULING ON ISSUE OF SEGREGATION

Ronald Bradley, et al., plaintiffs, v. William G. Milliken, et al., Defendants, and Detroit Federation of Teachers, Local No. 231, American Federation of Teachers, AFL–CIO, Defendant-Intervenor, and Denise Magdowski, et al., Defendants-Intervenor, Civil Action No. 35257.

This action was commenced August 18, 1970, by plaintiffs, the Detroit Branch of the National Association for the Advancement of Colored People* and individual parents and students, on behalf of a class later defined by order of the Court dated February 16, 1971, to include "all school children of the City of Detroit and all Detroit resident parents who have children of school age." Defendants are the Board of Education of the City of Detroit, its members and its former superintendent of schools, Dr. Norman A. Drachler, the Governor, Attorney General, State Board of Education and State Superintendent of Public Instruction of the State of Michigan. In their complaint, plaintiffs attacked a statute of the State of Michigan known as Act 48 of the 1970 Legislature on the ground that it put the State of Michigan in the position of unconstitutionally interfering with the execution and operation of a voluntary plan of partial high school desegregation (known as the April 7, 1970 Plan) which had been adopted by the Detroit Board of Education to be effective beginning with the fall 1970 semester. Plaintiffs also alleged that the Detroit Public School System was and is segregated on the basis of race as a result of the official policies and actions of the defendants and their predecessors in office.

Additional parties have intervened in the litigation since it was commenced. The Detroit Federation of Teachers (DFT) which represents a majority of Detroit Public school teachers in collective bargaining negotiations with the defendant Board of Education, has intervened as a defendant, and a group of parents has intervened as defendants.

Initially the matter was tried on plaintiffs' motion for preliminary injunction to restrain the enforcement of Act 48 so as to permit the April 7 Plan to be implemented. On that issue, this Court ruled that plaintiffs were not entitled to a preliminary injunction since there had been no proof that Detroit has a segregated school system. The Court of Appeals found that the "implementation of the April 7 Plan was thwarted by State action in the form of the Act of the Legislature of Michigan," (433 F.2d 897, 902), and that such action could not be interposed to delay, obstruct or nullify steps lawfully taken for the purpose of protecting rights guaranteed by the Fourteenth Amendment.

The plaintiffs then sought to have this Court direct the defendant Detroit Board to implement the April 7 Plan by the start of the second semester (February, 1971) in order to remedy the deprivation of constitutional rights wrought by the unconstitutional statute. In response to an order of the Court, defendant Board suggested two other plans, along with the April 7 Plan, and noted priorities, with top priority assigned to the so-called "Magnet Plan." The Court acceded to the wishes of the Board and approved the Magnet Plan. Again, plaintiffs appealed but the appellate court refused to pass on the merits of the plan. Instead, the case was remanded with instructions to proceed immediately to a trial on the merits of plaintiffs' substantive allegations about the Detroit School System. 438 F.2d 945 (6th Cir. 1971).

Trial, limited to the issue of segregation, began April 6, 1971 and concluded on July 22, 1971, consuming 41 trial days, interspersed by several brief recesses necessitated by other demands upon the time of Court and counsel. Plaintiffs introduced substantial evidence in support of their contentions including expert and factual testimony, demonstrative exhibits and school board documents. At the close of plaintiffs' case, in chief, the Court ruled that they had presented a prima facie case of state imposed segregation in the Detroit Public Schools; accordingly, the Court enjoined (with certain exceptions) all further school construction in Detroit pending the outcome of the litigation.

The State defendants urged motions to dismiss as to them. These were denied by the Court.

At the close of proofs intervening parent defendants (Denise Magdowski, et al.) filed a motion to join, as parties 85 contiguous "suburban" school districts—all within the so-called Larger Detroit Metropolitan area. This motion was taken under advisement pending the determination of the issue of segregation.

It should be noted that, in accordance with earlier rulings of the Court, proofs submitted at previous hearings in the cause, were to be and are considered as part of the proofs of the hearing on the merits.

In considering the present racial complexion of the City of Detroit and its public school system we must first look to the past and view in perspective what has happened in the last half century. In 1920 Detroit was a predominantly white city—91%—and its population younger than in more recent times. By the year 1960 the largest segment of the city's white population was in the age range of 35 to 50 years, while its black population was younger and of childbearing age. The population of 0–15 years of age constituted 30% of the total population of which 60% were white and 40% were black. In 1970 the white population was principally aging—45 years—while the black population was younger and of childbearing age. Children bearing blacks equaled or exceeded the total white population. As older white families without children of school age leave the city they are replaced by younger black families with school age children, resulting in a doubling of enrollment in the local neighborhood school and a complete change in student population from white to black. As black inner city residents move out of the core city they "leap-frog" the residential areas nearest their former homes and move to areas recently occupied by whites.

The population of the City of Detroit reached its highest point in 1950 and has been declining by approximately 169,500 per decade since then. In 1950, the city population constituted 81% of the total population of the standard metropolitan area and in 1970 it was but 36% of the metropolitan area population. The suburban population has increased by 1,978,000 since 1940. There has been a steady out-migration of the Detroit population since 1940. Detroit today is principally a conglomerate of poor black and white plus the aged. Of the aged, 80% are white.

If the population trends evidenced in the federal decennial census for the years 1940 through 1970 continue, the total black population in the City of Detroit in 1980 will be approximately 840,000, or 53.8% of the total. The total population of the city in 1970 is 1,511,000 and, if past trends continue, will be 1,338,000 in 1980. In school year 1960–61, there were 285,512 students in the Detroit Public Schools of which 130,765 were black. In school year 1966–67, there were 297,085 students, of which 168,299 were black. In school year 1970–71 there were 289,743 students of which 184,194 were black. The percentage of black students in the Detroit Public Schools in 1975–76 will be 72.0%, in 1980–81 will be 80.7% and in 1992 it will be virtually 100% if the present trends continue. In 1960, the non-white population, ages 0 years to 19 years, was as follows:

[In percent]

0 to 4 years	42
5 to 9 years	36
10 to 14 years	28
15 to 19 years	18

In 1970 the non-white population, ages 0 years to 19 years, was as follows:

[In percent]

0 to 4 years	48
5 to 9 years	50
10 to 14 years	50
15 to 19 years	40

The black population as a percentage of the total population in the City of Detroit was:

[In percent]

(a) 1900	1.4
(b) 1910	1.2
(c) 1920	4.1
(d) 1930	7.7
(e) 1940	9.2
(f) 1950	16.2
(g) 1960	28.9
(h) 1970	43.9

The black population as a percentage of total student population of the Detroit Public Schools was as follows:

[In percent]

(a) 1961	45.8
(b) 1963	51.3
(c) 1964	53.0
(d) 1965	54.8
(e) 1966	56.7
(f) 1967	58.3
(g) 1968	59.4
(h) 1969	61.5
(i) 1970	63.8

For the years indicated the housing characteristics in the City of Detroit were as follows:

(a) 1960, total supply of housing units was 553,000.

*The standing of the NAACP as a proper party plaintiff was not contested by the original defendants and the Court expresses no opinion on the matter.

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(b) 1970, total supply of housing units was 530,770.

The percentage decline in the white students in the Detroit Public Schools during the period 1961–1970 (53.8% in 1960; 34.8% in 1970) has been greater than the percentage decline in the white population in the City of Detroit during the same period (70.8% in 1960; 55.21% in 1970), and correlatively, the percentage increase in black students in the Detroit Public Schools during the nine-year period 1961–1970 (45.8% in 1961; 63.8% in 1970) has been greater than the percentage increase in the black population of the City of Detroit during the ten-year period 1960–1970 (28.9% in 1960; 43.9% in 1970). In 1961 there were eight schools in the system without white pupils and 73 schools with no Negro pupils. In 1970 there were 30 schools with no white pupils and 11 schools with no Negro pupils, an increase in the number of schools without white pupils of 22 and a decrease in the number of schools without Negro pupils of 62 in this ten-year period. Between 1968 and 1970 Detroit experienced the largest increase in percentage of black students in the student population of any major northern school district. The percentage increase in Detroit was 4.7% as contrasted with—

[In percent]

New York	2.0
Los Angeles	1.5
Chicago	1.9
Philadelphia	1.7
Cleveland	1.7
Milwaukee	2.6
St. Louis	2.6
Columbus	1.4
Indianapolis	2.6
Denver	1.1
Boston	3.2
San Francisco	1.5
Seattle	2.4

In 1960, there were 266 schools in the Detroit School System. In 1970, there were 319 schools in the Detroit School System.

In the Western, Northwestern, Northern, Murray, Northeastern, Kettering, King and Southeastern high school service areas, the following conditions exist at a level significantly higher than the city average:

(a) Poverty in children.

(b) Family income below poverty level.

(c) Rate of homicides per population.

(d) Number of households headed by females.

(e) Infant mortality rate.

(f) Surviving infants with neurological defects.

(g) Tuberculosis cases per 1,000 population.

(h) High pupil turnover in schools.

The City of Detroit is a community generally divided by racial lines. Residential segregation within the city and throughout the larger metropolitan area is substantial, pervasive and of long standing. Black citizens are located in separate and distinct areas within the city and are not generally to be found in the suburbs. While the racially unrestricted choice of black persons and economic factors may have played some part in the development of this pattern of residential segregation, it is, in the main, the result of past and present practices and customs of racial discrimination, both public and private, which have and do restrict the housing opportunities of black people. On the record there can be no other finding.

Governmental actions and inaction at all levels, federal, state and local, have combined, with those of private organizations, such as loaning institutions and real estate associations and brokerage firms, to establish and to maintain the pattern of residential segregation throughout the Detroit metropolitan area. It is no answer to say that restricted practices grew gradually (as the black population in the area increased between 1920 and 1970), or that since 1948 racial restrictions on the ownership of real property have been removed. The policies pursued by both government and private persons and agencies have a continuing and present effect upon the complexion of the community—as we know, the choice of a residence is a relatively infrequent affair. For many years FHA and VA openly advised and advocated the maintenance of "harmonious" neighborhoods, i.e., racially and economically harmonious. The conditions created continue. While it would be unfair to charge the present defendants with what other governmental officers or agencies have done, it can be said that the actions or the failure to act by the responsible school authorities, both city and state, were linked to that of these other governmental units. When we speak of governmental action we should not view the different agencies as a collection of unrelated units. Perhaps the most that can be said is that all of them, including the school authorities, are, in part, responsible for the segregated condition which exists. And we note that just as there is an interaction between residential patterns and the racial composition of the schools, so there is a corresponding effect on the residential pattern by the racial composition of the schools.

Turning now to the specific and pertinent (for our purposes) history of the Detroit school system so far as it involves both the local school authorities and the State school authorities, we find the following:

During the decade beginning in 1950 the Board created and maintained optional attendance zones in neighborhoods undergoing racial transition and between high school attendance areas of opposite predominant racial compositions. In 1959 there were eight basic optional attendance areas affecting 21 schools. Optional attendance areas provided pupils living within certain elementary areas a choice of attendance at one of two high schools. In addition there was at least one optional area either created or existing in 1960 between two junior high schools of opposite predominant racial components. All of the high school optional areas, except two, were in neighborhoods undergoing racial transition (from white to black) during the 1950s. The two exceptions were: (1) the option between Southwestern (61.6% black in 1960) and Western (15.3% black); (2) the option between Denby (0% black) and Southeastern (30.9 black). With the exception of the Denby-Southeastern option (just noted) all of the options were between high schools of opposite predominant racial compositions. The Southwestern-Western and Denby-Southeastern optional areas are all white on the 1950, 1960 and 1970 census maps. Both Southwestern and Southeastern, however, had substantial white pupil populations, and the option allowed whites to escape integration. The natural, probable, foreseeable and actual effect of these optional zones was to allow white youngsters to escape identifiably "black" schools. There had also been an optional zone (eliminated between 1956 and 1959) created in "an attempt . . . to separate Jews and Gentiles within the system," the effect of which was that Jewish youngsters went to Mumford High School and Gentile youngsters went to Cooley. Although many of these optional areas had served their purpose by 1960 due to the fact that most of the areas had become predominantly black, one optional area (Southwestern-Western affecting Wilson Junior High graduates) continued until the present school year (and will continue to effect 11th and 12th grade white youngsters who elected to escape from predominantly black Southwestern to predominantly white Western High School). Mr. Henrickson, the Board's general fact witness, who was employed in 1959 to, *inter alia*, eliminate optional areas, noted in 1967 that: "In operation Western appears to be still the school to which white students escape from predominantly Negro surrounding schools." The effect of eliminating this optional area (which affected only 10th graders for the 1970–71 school year) was to decrease Southwestern from 86.7% black in 1969 to 74.3% black in 1970.

The Board, in the operation of its transportation to relieve overcrowding policy, has admittedly bused black pupils past or away from closer white schools with available space to black schools. This practice has continued in several instances in recent years despite the Board's avowed policy, adopted in 1967, to utilize transportation to increase integration.

With one exception (necessitated by the burning of a white school), defendant Board has never bused white children to predominantly black schools. The Board has not bused white pupils to black schools despite the enormous amount of space available in inner-city schools. There were 22,961 vacant seats in schools 90% or more black.

The Board has created and altered attendance zones, maintained and altered grade structures and created and altered feeder school patterns in a manner which has had the natural, probable and actual effect of continuing black and white pupils in racially segregated schools. The Board admits at least one instance where it purposefully and intentionally built and maintained a school and its attendance zone to contain black students. Throughout the last decade (and presently) school attendance zones of opposite racial compositions have been separated by north-south boundary lines, despite the Board's awareness (since at least 1962) that drawing boundary lines in an east-west direction would result in significant integration. The natural and actual effect of these acts and failures to act has been the creation and perpetuation of school segregation. There has never been a feeder pattern or zoning change which placed a predominantly white residential area into a predominantly black school zone or feeder pattern. Every school which was 90% or more black in 1960, and which is still in use today, remains 90% or more black. Whereas 65.8% of Detroit's black students attended 90% or more black schools in 1960, 74.9% of the black students attended 90% or more black schools during the 1970–71 school year.

The public schools operated by defendant Board are thus segregated on a racial basis. This racial segregation is in part the result of the discriminatory acts and omissions of defendant Board.

In 1966 the defendant State Board of Education and Michigan Civil Rights Commission issued a Joint Policy Statement on Equality of Educational Opportunity, requiring that

"Local school boards must consider the factor of racial balance along with other educational considerations in making decisions about selection of new school sites, expansion of present facilities . . . . Each of these situations presents an opportunity for integration."

Defendant State Board's "School Plant Planning Handbook" requires that

"Care in site location must be taken if a serious transportation problem exists or if housing patterns in an area would result in a school largely segregated on racial, ethnic, or socioeconomic lines."

The defendant City Board has paid little heed to these statements and guidelines. The State defendants have similarly failed to take any action to effectuate these policies. Exhibit NN reflects construction (new or additional) at 14 schools which opened for use in 1970–71; of these 14 schools, 11 opened over 90% black and one opened less than 10% black. School construction costing $9,223,000 is opening at Northwestern

High School which is 99.9% black, and new construction opens at Brooks Junior High, which is 1.5% black, at a cost of $2,500,000. The construction at Brooks Junior High plays a dual segregatory role; not only is the construction segregated, it will result in a feeder pattern change which will remove the last majority which school from the already almost all-black Mackenzie High School attendance area.

Since 1959 the Board has constructed at least 13 small primary schools with capacities of from 300 to 400 pupils. This practice negates opportunities to integrate, "contains" the black population and perpetuates and compounds school segregation.

The State and its agencies, in addition to their general responsibility for and supervision of public education, have acted directly to control and maintain the pattern of segregation in the Detroit schools. The State refused, until this session of the legislature, to provide authorization or funds for the transportation of pupils within Detroit regardless of their poverty or distance from the school to which they were assigned, while providing in many neighboring, mostly white, suburban districts the full range of state supported transportation. This and other financial limitations, such as those on bonding and the working of the state aid formula whereby suburban districts were able to make far larger per pupil expenditures despite less tax effort, have created and perpetuated systematic educational inequalities.

The State, exercising what Michigan courts have held to be is "plenary power" which includes power "to use a statutory scheme, to create, alter, reorganize or even dissolve a school district, despite any desire of the school district, its board, or the inhabitants thereof," acted to reorganize the school district of the City of Detroit.

The State acted through Act 48 to impede, delay and minimize racial integration in Detroit schools. The first sentence of Sec. 12 of the Act was directly related to the April 7, 1970 desegregation plan. The remainder of the section sought to prescribe for each school in the eight districts criterion of "free choice" (open enrollment) and "neighborhood schools" ("nearest school priority acceptance"), which had as their purpose and effect the maintenance of segregation.

In view of our findings of fact already noted we think it unnecessary to parse in detail the activities of the local board and the state authorities in the area of school construction and the furnishing of school facilities. It is our conclusion that these activities were in keeping, generally, with the discriminatory practices which advanced or perpetuated racial segregation in these schools.

It would be unfair for us not to recognize the many fine steps the Board has taken to advance the cause of quality education for all in terms of racial integration and human relations. The most obvious of these is in the field of faculty integration.

Plaintiffs urge the Court to consider allegedly discriminatory practices of the Board with respect to the hiring, assignment and transfer of teachers and school administrators during a period reaching back more than 15 years. The short answer to that must be that black teachers and school administrative personnel were not readily available in that period. The board and the intervening defendant union have followed a most advanced and exemplary course in adopting and carrying out what is called the "balanced staff concept"—which seeks to balance faculties in each school with respect to race, sex and experience, with primary emphasis on race. More particularly, we find:

1. With the exception of affirmative policies designed to achieve racial balance in instructional staff, no teacher in the Detroit Public Schools is hired, promoted or assigned to any school by reason of his race.

2. In 1956, the Detroit Board of Education adopted the rules and regulations of the Fair Employment Practices Act as its hiring and promotion policy and has adhered to this policy to date.

3. The Board has actively and affirmatively sought out and hired minority employees, particularly teachers and administrators, during the past decade.

4. Between 1960 and 1970, the Detroit Board of Education has increased black representation among its teachers from 23.3% to 42.1%, and among its administrators from 4.5% to 37.8%.

5. Detroit has a higher proportion of black administrators than any other city in the country.

6. Detroit ranked second to Cleveland in 1968 among the 20 largest northern city school districts in the percentage of blacks among the teaching faculty and in 1970 surpassed Cleveland by several percentage points.

7. The Detroit Board of Education currently employs black teachers in a greater percentage than the percentage of adult black persons in the City of Detroit.

8. Since 1967, more blacks than whites have been placed in high administrative posts with the Detroit Board of Education.

9. The allegation that the Board assigns black teachers to black schools is not supported by the record.

10. Teacher transfers are not granted in the Detroit Public Schools unless they conform with the balanced staff concept.

11. Between 1960 and 1970, the Detroit Board of Education reduced the percentage of schools without black faculty from 36.3% to 1.2%, and of the four schools currently without black faculty, three are specialized trade schools where minority faculty cannot easily be secured.

12. In 1968, of the 20 largest northern city school districts, Detroit ranked fourth in the percentage of schools having one or more black teachers and third in the percentage of schools having three or more black teachers.

13. In 1970, the Board held open 240 positions in schools with less than 25% black, rejecting white applicants for these positions until qualified black applicants could be found and assigned.

14. In recent years, the Board has come under pressure from large segments of the black community to assign male black administrators to predominantly black schools to serve as male role models for students, but such assignments have been made only where consistent with the balanced staff concept.

15. The numbers and percentages of black teachers in Detroit increased from 2,275 and 21.6%, respectively, in February, 1961, to 5,106 and 41.6%, respectively, in October, 1970.

16. The number of schools by percent black of staffs changed from October, 1963 to October, 1970 as follows:

Number of schools without black teachers—decreased from 41, to 4.

Number of schools with more than 0%, but less than 10% black teachers—decreased from 58, to 8.

Total number of schools with less than 10% black teachers—decreased from 99, to 12.

Number of schools with 50% or more black teachers—increased from 72, to 124.

17. The number of schools by percent black of staffs changed from October, 1969 to October, 1970, as follows:

Number of schools without black teachers—decreased from 6, to 4.

Number of schools with more than 0%, but less than 10% black teachers—decreased from 41, to 8.

Total number of schools with less than 10% black teachers—decreased from 47, to 12.

Number of schools with 50% or more black teachers—increased from 120, to 134.

18. The total number of transfers necessary to achieve a faculty racial quota in each school corresponding to the system-wide ratio, and ignoring all other elements is, as of 1970, 1,826.

19. If account is taken of other elements necessary to assure quality integrated education, including qualifications to teach the subject area and grade level, balance of experience, and balance of sex, and further account is taken of the uneven distribution of black teachers by subject taught and sex, the total number of transfers which would be necessary to achieve a faculty racial quota in each school corresponding to the system-wide ratio, if attainable at all, would be infinitely greater.

20. Balancing of staff by qualifications for subject, and grade level, then by race, experience and sex, is educationally desirable and important.

21. It is important for students to have a successful role model, especially black students in certain schools, and at certain grade levels.

22. A quota of racial balance for faculty in each school which is equivalent to the system-wide ratio and without more is educationally undesirable and arbitrary.

23. A severe teacher shortage in the 1950s and 1960s impeded integration-of-faculty opportunities.

24. Disadvantageous teaching conditions in Detroit in the 1960s—salaries, pupil mobility and transiency, class size, building conditions, distance from teacher residence, shortage of teacher substitutes, etc.—made teacher recruitment and placement difficult.

25. The Board did not segregate faculty by race, but rather attempted to fill vacancies with certified and qualified teachers who would take offered assignments.

26. Teacher seniority in the Detroit system, although measured by system-wide service, has been applied consistently to protect against involuntary transfers and "bumping" in given schools.

27. Involuntary transfers of teachers have occurred only because of unsatisfactory ratings or because of decrease of teacher services in a school, and then only in accordance with balanced staff concept.

28. There is no evidence in the record that Detroit teacher seniority rights had other than equitable purpose or effect.

29. Substantial racial integration of staff can be achieved, without disruption of seniority and stable teaching relationships, by application of the balanced staff concept to naturally occurring vacancies and increases and reductions of teacher services.

30. The Detroit Board of Education has entered into successive collective bargaining contracts with the Detroit Federation of Teachers, which contracts have included provisions promoting integration of staff and students.

The Detroit School Board has, in many other instances and in many other respects, undertaken to lessen the impact of the forces of segregation and attempted to advance the cause of integration. Perhaps the most obvious one was the adoption of the April 7 plan. Among other things, it has denied the use of its facilities to groups which practice racial discrimination; it does not permit the use of its facilities for discriminatory apprentice training programs; it has opposed state legislation which would have the effect of segregating the district; it has worked to place black students in craft positions in industry and the building trades; it has brought about a substantial increase in the percentage of black students in manufacturing and construction trade apprenticeship classes; it became the first public agency in Michigan to adopt and implement a policy requiring affirmative act of contractors with which it deals to insure equal employment opportunities in their work forces; it has been a leader in pioneering the use of

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multi-ethnic instructional material, and in so doing has had an impact on publishers specializing in producing school texts and instructional materials; and it has taken other noteworthy pioneering steps to advance relations between the white and black races.

In conclusion, however, we find that both the State of Michigan and the Detroit Board of Education have committed acts which have been causal factors in the segregated condition of the public schools of the City of Detroit. As we assay the principles essential to a finding of de jure segregation, as outlined in rulings of the United States Supreme Court, they are:

1. The State, through its officers and agencies, and usually, the school administration, must have taken some action or actions with a purpose of segregation.

2. This action or these actions must have created or aggravated segregation in the schools in question.

3. A current condition of segregation exists.

We find these tests to have been met in this case. We recognize that causation in the case before us is both several and comparative. The principal causes undeniably have been population movement and housing patterns, but state and local governmental actions, including school board actions, have played a substantial role in promoting segregation. It is, the Court believes, unfortunate that we cannot deal with public school segregation on a no-fault basis, for if racial segregation in our public schools is an evil, then it should make no difference whether we classify it de jure or de facto. Our objective, logically, it seems to us, should be to remedy a condition which we believe needs correction. In the most realistic sense, if fault or blame must be found it is that of the community as a whole, including, of course, the black components. We need not minimize the effect of the actions of federal, state and local governmental officers and agencies, and the actions of loaning institutions and real estate firms, in the establishment and maintenance of segregated residential patterns—which lead to school segregation—to observe that blacks, like ethnic groups in the past, have tended to separate from the larger group and associate together. The ghetto is at once both a place of confinement and a refuge. There is enough blame for everyone to share.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of the parties and the subject matter of this action under 28 U.S.C. 1331(a), 1343(3) and (4), 2201 and 2202; 42 U.S.C. 1983, 1988, and 2000d.

2. In considering the evidence and in applying legal standards it is not necessary that the Court find that the policies and practices, which it has found to be discriminatory, have as their motivating forces any evil intent or motive. *Keyes v. Sch. Dist. No. 1, Denver*, 383 F. Supp. 279. Motive, ill will and bad faith have long ago been rejected as a requirement to invoke the protection of the Fourteenth Amendment against racial discrimination. *Sims v. Georgia*, 389 U.S. 404, 407–8.

3. School districts are accountable for the natural, probable and foreseeable consequences of their policies and practices, and where racially identifiable schools are the result of such policies, the school authorities bear the burden of showing that such policies are based on educationally required, non-racial considerations. *Keyes v. Sch. Dist., supra*, and *Davis v. Sch. Dist. of Pontiac*, 309 F. Supp. 734, and 443 F.2d 573.

4. In determining whether a constitutional violation has occurred, proof that a pattern of racially segregated schools has existed for a considerable period of time amounts to a showing of racial classification by the state and its agencies, which must be justified by clear and convincing evidence. *State of Alabama v. U.S.*, 304 F. 2d 583.

5. The Board's practice of shaping school attendance zones on a north-south rather than an east-west orientation, with the result that zone boundaries conformed to racial residential dividing lines, violated the Fourteenth Amendment. *Northcross v. Bd. of Ed., Memphis*, 333 F. 2d 661.

6. Pupil racial segregation in the Detroit Public School System and the residential segregation resulting primarily from public and private racial discrimination are interdependent phenomena. The affirmative obligation of the defendant Board has been and is to adopt and implement pupil assignment practices and policies that compensate for and avoid incorporation into the school system the effects of residential racial segregation. The Board's building upon housing segregation violates the Fourteenth Amendment. *See, Davis v. Sch. Dist. of Pontiac, supra*, and authorities there noted.

7. The Board policy of selective optional attendance zones, to the extent that it facilitated the separation of pupils on the basis of race, was in violation of the Fourteenth Amendment. *Hobson v. Hansen*, 269 F. Supp. 401, *aff'd sub nom., Smuck v. Hobson*, 408 F. 2d 175

8. The practice of the Board of transporting black students from overcrowded black schools to other identifiably black schools, while passing closer identifiably white schools, which could have accepted these pupils, amounted to an act of segregation by the school authorities. *Spangler v. Pasadena City Bd. of Ed.*, 311 F. Supp. 501.

9. The manner in which the Board formulated and modified attendance zones for elementary schools had the natural and predictable effect of perpetuating racial segregation of students. Such conduct is an act of de jure discrimination in violation of the Fourteenth Amendment. *U.S. v. School District 151*, 286 F. Supp. 786; *Brewer v. City of Norfolk*, 397 F. 2d 37.

10. A school board may not, consistent with the Fourteenth Amendment, maintain segregated elementary schools or permit educational choices to be influenced by community sentiment or the wishes of a majority of voters. *Cooper v. Aaron*, 358 U.S. 1, 12–13, 15–16.

"A citizen's constitutional rights can hardly be infringed simply because a majority of the people choose that it be." Lucas v. 44th Gen'l Assembly of Colorado, 377 U.S. 713, 736–737.

11. Under the Constitution of the United States and the constitution and laws of the State of Michigan, the responsibility for providing educational opportunity to all children on constitutional terms is ultimately that of the state. *Turner v. Warren County Board of Education*, 313 F. Supp. 380; Art. VIII, §§ 1 and 2, Mich. Constitution; *Dasiewicz v. Bd. of Ed. of the City of Detroit*, 3 N.W. 2d 71.

12. That a state's form of government may delegate the power of daily administration of public schools to officials with less than statewide jurisdiction does not dispel the obligation of those who have broader control to use the authority they have consistently with the constitution. In such instances the constitutional obligation toward the individual school children is a shared one. *Bradley v. Sch. Bd., City of Richmond*, 51 F.R.D. 139, 143.

13. Leadership and general supervision over all public education is vested in the State Board of Education. Art. VIII, § 3, Mich. Constitution of 1963. The duties of the State Board and superintendent include, but are not limited to, specifying the number of hours necessary to constitute a school day; approval until 1972 of school sites; approval of school construction plans; accreditation of schools; approval of loans based on state aid funds; review of suspensions and expulsions of individual students for misconduct [Op. Atty. Gen., July 7, 1970, No. 4705]; authority over transportation routes and disbursement of transportation funds; teacher certification and the like. M.S.A. 15.1023(1). State law provides review procedures from actions of local or intermediate districts (see M.S.A. 15.3442), with authority in the State Board to ratify, reject, amend or modify the actions of these inferior state agencies. *See* M.S.A. 15.3467; 15.1919(61); 15.1919(65b); 15.2299(1); 15.1961; 15.2402; *Bridgehampton School District No. 2 Fractional of Carsonville, Mich. v. Supt. of Public Instruction*, 323 Mich. 613. In general, the state superintendent is given the duty "[t]o do all things necessary to promote the welfare of the public schools and public educational institutions and provide proper educational facilities for the youth of the state." M.S.A. 15.3252. See also M.S.A. 15.2299(57), providing in certain instances for reorganization of school districts.

14. State officials, including all of the defendants, are charged under the Michigan constitution with the duty of providing pupils an education without discrimination with respect to race. Art. VIII, § 2, Mich. Constitution of 1963. Art. I, § 2, of the constitution provides:

"No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriation legislation."

15. The State Department of Education has recently established an Equal Educational Opportunities section having responsibility to identify racially imbalanced school districts and develop desegregation plans. M.S.A. 15.3355 provides no *school* or department shall be kept for any person or persons on account of race or color.

16. The state further provides special funds to local districts for compensatory education which are administered on a per school basis under direct review of the State Board. All other state aid is subject to fiscal review and accounting by the state. M.S.A. 15.1919. See also M.S.A. 15.1919(65b), providing for special supplements to merged districts "for the purpose of bringing about uniformity of educational opportunity for all pupils of the district." The general consolidation law M.S.A. 15.3401 authorizes annexation for even noncontiguous school districts upon approval of the superintendent of public instruction and electors, as provided by law. Op. Atty. Gen., Feb. 5, 1964, No. 4193. Consolidation with respect to so-called "first class" districts, *i.e.*, Detroit, is generally treated as an annexation with the first class district being the surviving entity. The law provides procedures covering all necessary considerations. M.S.A. 15.3184, 15.3186.

17. Where a pattern of violation of constitutional rights is established the affirmative obligation under the Fourteenth Amendment is imposed on not only individual school districts, but upon the State defendants in this case. *Cooper v. Aaron*, 358, U.S. 1; *Griffin v. County School Board of Prince Edward County*, 337 U.S. 218; *U.S. v. State of Georgia*, Civ. No. 12973 (N.D. Ga., December 17, 1970), *rev'd on other grounds*, 428 F. 2d 377; *Godwin v. Johnston County Board of Education*, 301 F. Supp. 1337; *Lee v. Macon County Board of Education*, 267 F. Supp. 458 (M.D. Ala.), *aff'd sub nom., Wallace v. U.S.*, 389 U.S. 215; *Franklin v. Quitman County Board of Education*, 288 F. Supp. 509; *Smith v. North Carolina State Board of Education*, No. 15,072 (4th Cir., June 14, 1971).

The foregoing constitutes our findings of fact and conclusions of law on the issue of segregation in the public schools of the City of Detroit.

Having found a de jure segregated public school system in operation in the City of Detroit, our first step, in considering what judicial remedial steps must be taken, is the consideration of intervening parent defendants' motion to add as parties defendant a great number of Michigan school districts located out county in Wayne County, and in Macomb and Oakland Counties, on the principal premise or ground that effective relief cannot be achieved or ordered in their absence. Plaintiffs have opposed the motion to join the additional school districts, arguing that the presence of the State defendants is sufficient and all that is required, even if, in shaping a remedy, the affairs of these other districts will be affected.

In considering the motion to add the listed school districts we pause to note that the proposed action has to do with relief. Having determined that the circumstances of the case require judicial intervention and equitable relief, it would be improper for us to act on this motion until the other parties to the action have had an opportunity to submit their proposals for desegregation. Accordingly, we shall not rule on the motion to add parties at this time. Considered as a plan for desegregation the motion is lacking in specificity and is framed in the broadest general terms. The moving party may wish to amend its proposal and resubmit it as a comprehensive plan of desegregation.

In order that the further proceedings in this case may be conducted on a reasonable time schedule, and because the views of counsel respecting further proceedings cannot but be of assistance to them and to the Court, this cause will be set down for pretrial conference on the matter of relief. The conference will be held in our Courtroom in the City of Detroit at ten o'clock in the morning, October 4, 1971.

Dated: September 27, 1971.

STEPHEN J. ROTH,
U.S. District Judge.

PAPER PRESENTED BY MR. KENNETH J. BOUSQUET TO THE SOUTHEAST BASINS INTER-AGENCY COMMITTEE

Mr. STENNIS. Mr. President, on October 20, 1971, Mr. Kenneth Bousquet, who heads the staff of the Public Works Subcommittee of the Senate Appropriations Committee, presented an excellent paper at a meeting of the Southeast Basins Inter-Agency Committee, at Orlando, Fla.

I have received a letter from Mr. J. W. Woodruff, Jr., chairman of the Inter-Agency Committee, addressed to me in my capacity as the chairman of the Public Works Subcommittee. Mr. Woodruff praises Mr. Bousquet's paper for its timeliness and excellence in discussing compelling issues, and suggests that it be included in the CONGRESSIONAL RECORD.

I agree with Mr. Woodruff as to the merit of the paper, and the desirability of including it in the RECORD. I wish to take this opportunity, also to extend to Mr. Jim Woodruff my congratulations on his long and distinguished record as a leader in the water resources field in the South. He has given generously of his time taken from his own busy schedule in the business world to devote to civic endeavor on behalf of the public interest in water resource matters. The people of the South are much indebted to him for his valuable and effective work on their behalf.

I ask unanimous consent to have printed in the RECORD Mr. Woodruff's letter and the paper "Impending Crises in Public Works" by Mr. Kenneth J. Bousquet.

There being no objection, the letter and the paper were ordered to be printed in the RECORD as follows:

SOUTHEAST BASINS
INTER-AGENCY COMMITTEE,
Atlanta, Ga., Nov. 2, 1971.

Senator JOHN C. STENNIS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STENNIS: Enclosed is a copy of a paper presented October 20, 1971 by Mr. Kenneth Bousquet at a meeting of the Southeast Basins Inter-Agency Committee in Orlando.

His paper is so well-timed, comprehensive in coverage, and the "Impending Crises in Public Works", is such a compelling issue, that I respectfully urge you give consideration to including it in the Congressional Record with such prefatory statement as you deem appropriate.

Cordially,

J. W. WOODRUFF, Jr.,
Chairman.

IMPENDING CRISIS IN PUBLIC WORKS
(By Kenneth J. Bousquet)

I was very pleased when Mr. Woodruff asked me to participate in your meeting. The Southeast Basins Inter-Agency Committee is demonstrating the effectiveness of this type of organization in water resource planning. If other areas of the country were aware of just what you are doing, I believe more areas would seriously consider this type of organization in water resource planning. If other areas of the country were aware of just what you are doing, I believe more areas would seriously consider this type of organization before committing themselves to River Basin Commissions.

Water resource planning and development is a very challenging profession today, and there is every reason to believe it will become more so in the future.

When I joined the Committee staff twenty years ago, Senator A. Willis Robertson of Virginia was a member of the Committee. He had a saying which meant very little to me the first few times I heard it, but after awhile I started to appreciate its full meaning. Let me pass it on to you: "My father used to say, 'As time goes on, things tend to become more so.'" I certainly can vouch for that statement as it applies to water resource development in the past twenty years.

Water is one of our most essential commodities. I am afraid that most of the time the public in general views water with contemptuous indifference. It is only during periods of serious flooding or periods of short supply that its destructive force or its real value comes into sharp focus, depending on which phase of the water cycle the area happens to be experiencing at the time. Even then, the period of appreciation of the need for water resource management is relatively short.

The impending crisis in public works, as I see it, will be the result of a two-pronged offensive launched by the opponents, unwittingly supported by the proponents who are unwilling to become involved in the issues; who, by their silence, permit a small minority to exert their will on the country.

Today, the most effective weapon against water resource development is the extreme environmentalist. Accordingly, I will discuss the importance of water and the environment first.

Water should be examined like a vintage wine. It should be held out for all to view, examine, and enjoy. This is part of the role of our future water managers. It is no longer feasible for a technically competent engineer or planner to devise the best water management program for a river system without obtaining public participation and understanding of the problems facing the area, the array of possibilities, and the trade-offs involved.

I suppose water has different connotations to different people. To the housewife it is something which flows out of a faucet when she turns the handle. It is useful for cooking, and is something which keeps her family clean and healthy. To the farmer, depending on its occurrence or lack of occurrence, it means a crop or no crop—a reward for a year's toil, or economic disaster. To the shipper or user of bulk commodities it means the ability to compete in the market place. To the manufacturer it is an indispensable ingredient in his process; and to the chemist it is H_2O, a very effective solvent for many chemicals and compounds.

I believe at this point we must make some very basic decisions. Is it, or is it not, in the public interest to develop our water resources? Just how important is water to our continued economic development—in fact, to our very existence?

How long can we exist without air?
How long can we exist without water?
How long can we exist without food?

The answer to each of the previous questions leads to the conclusion reached by former President Lyndon Johnson when he signed the Colorado River Basin Act and stated that ". . . next to the air we breathe, water is our most precious resource." He continued by saying, "The next fact I would like you to consider is that we have the same amount of fresh water in the world today as we had 5,000 years ago, with a population explosion coupled with technological advances which have greatly increased the per capita consumption of water."

In January of 1970, President Nixon, in his State of the Union Message, said, "Between now and the year 2000 over one hundred million children will be born in the United States." There is increasing concern with population growth rates with increased emphasis on family planning and birth control information and devices. I have no doubt that we will slow down the rate by which our population has been increasing, but I do not see us achieving the zero population growth advocated by some of our planners. Even with a reduced rate of increase in population accompanied by the increase in per capita consumption of water, it will require an increased national effort in the total management of water—control, storage, release, desalination, cloud seeding, sewage treatment, and recycling. I do not see how we can meet the demands of the future unless all methods are used. Destructive flood waters must be conserved for beneficial use during dry periods.

The First National Assessment of our water resources, made by the Water Resources Council in 1968 clearly points to a water crisis in the not-too-distant future. I for one, believe that, if anything, the Council's estimate of our water needs is conservative and believe we should reassess our priorities and provide a greater share of the Federal budget to water resources.

Senator Ellender has devoted a major portion of his public service to conservation and development of land and water resources of our nation. He has frequently made the following statement:

"The benefits that result from completed projects are positive examples of increased national wealth created by such improvements. More startling proof exists in Europe and Asia, where the prosperity of the countries are directly proportional to the efforts expended on projects to conserve soil and water. My recent travels through those areas have convinced me that unless we protect our greatest resource, water, unless we keep it inland and do not let it flow to the sea unused, some day many parts of our great

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country may become as barren as the Gobi Desert, or as the lands which I have seen on my travels in old Persia. Our history books tell us that about 500 years before Christ, the entire area of Persia was capable of sustaining the livelihood of 115 million people. Now it adequately can care for less than 14 million."

GROWTH OF PUBLIC INVOLVEMENT IN DECISION MAKING

Years ago, when the Corps of Engineers received authorization for a survey, one of the first things the Corps did was to hold a public hearing to determine the desires of local interests. Then, after completion of the report, the Corps issued a notice advising local interests of its recommendations and indicated where the report could be examined. That notice also advised the local interests that they had 30 days in which to submit their views to the Board of Engineers for Rivers and Harbors and, if they desired, arrangements could be made for a public hearing before the Board in Washington, D.C. In connection with the authorization procedure, the Public Works Committees of the House of Representatives and the Senate held public hearings. That was the extent of public involvement in water resources planning.

Greater consideration of ecological and environmental factors began with the enactment of the Flood Control Act of 1964 which required coordination and consultation with respect to proposed surveys reports with affected Federal agencies and the Governors of affected States. Subsequently, the Fish and Wildlife Coordination Act of 1958 was passed which required the construction agencies to give additional consideration to the impact of a proposed project on fish and wildlife. Also during these years, the Corps developed the practice of holding at least one additional hearing prior to the formulation of their recommendations for the purpose of discussing the actual improvements under consideration. This permitted the public to express their views on specific projects prior to formulation of the recommendations. In addition, in the case of the Connecticut River comprehensive report, a Citizens' Coordinating Committee was appointed to review the report and recommendations of the reporting agency.

More recently, the Congress enacted the National Environmental Policy Act of 1969. Section 102 (2b) of that Act provides that all agencies of the Federal Government shall—

Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

In my judgment, the initial effect of this Act will not only delay construction of needed water resource projects but will encourage angry confrontations between conservation groups and planners. When the full economic impact of the programs advanced by the extremists is felt their financial contributions will show a marked decrease. Then the public will begin to realize the price it is being asked to pay in the name of environment and ecology. At that point, the public will demand that the conservationists also submit justifications and impact statements for the creation of wild or scenic rivers, parks and recreation areas, and identify the benefits forgone if their project is approved. At this point, I believe, the planners can have meaningful dialogues with the conservation interests—not just the government agencies, State and Federal, but with such organizations as the Sierra Club, the Audubon Society, and similar groups. They will then be able to sit down together, examine the problems, weigh the various solutions, and come up with better projects which have less effect on the values so dear to the conservationists. This, I believe, is the next major area for public involvement in the decision making process.

There will be those who will continue to oppose all types of improvements, but they will no longer have the financial, popular, or political support they now enjoy.

It is frequently stated or suggested that except for *man's* indiscreet actions our environment would remain essentially unchanged. This, of course, is far from the truth. Our ecology and environment underwent great changes before man set foot on this earth, and drastic changes had taken place before the time of recorded history.

Some of today's leaders in the field of conservation would have you believe this is a new awakening. They have forgotten Teddy Roosevelt and others who led the conservation fight at the turn of the century, or they assume that in spite of their efforts we are losing ground.

First of all, I would like to point out that Roosevelt made it clear that conservation includes development and is not limited to preservation. Second, I would point out that as a result of an active conservation program during the past seventy years today we have large game preserves; the population of certain endangered species is increasing; we have more parks and national recreation areas and historic shrines owned, managed, and preserved for the benefits of the public and for the future.

A great deal has been done, and admittedly, much more remains to be accomplished to fully protect our environment and ecology. Both development and preservation must be partners in a balanced program for the use of our land and water resources.

I am afraid that many groups and organizations profoundly concerned with our ecosystem and the environment consciously or unconsciously omit from their interpretations of the requirements of the Act a very pertinent portion of the Declaration of National Environmental Policy, to wit, "The Congress . . . , declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all *practicable* means and measures, including financial and technical assistance in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which *man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.*"

It is quite evident to me that the specific requirements set forth in that Act are intended to be interpreted in consonance with the declared policy of the Congress.

The first official sign that the Administration is aware of the effect unrestrained devotion to the environment will have on our economy, and the ability to raise the taxes necessary to carry on the social programs required to assist the disadvantaged, can be found in the President's Message to Congress on August 6, 1971 transmitting the second annual report of the Council on Environmental Quality. I quote as follows:

"We must recognize that the goal of a cleaner environment will not be achieved by rhetoric or moral dedication alone. It will not be cheap or easy and the costs will have to be borne by each citizen, consumer and taxpayer. How clean is clean enough can only be answered in terms of how much we are willing to pay and how soon we seek success. The effects of such decisions on our domestic economic concerns—jobs, prices, foreign competition—require explicit and rigorous analysis to permit us to maintain a healthy economy while we seek a healthy environment. It is essential that we have both. It is simplistic to seek ecological perfection at the cost of bankrupting the very tax-paying enterprises which must pay for the social advances the nations seeks.

"We must develop a realistic sense of what it will cost to achieve our national environmental goals and choose a specific level of goal with an understanding of its costs and benefits."

We are being subjected to a panic campaign with respect to our environment. Federal, State and local agencies are setting standards which are beyond our technological ability to meet within economical limits. Such standards will unnecessarily increase the cost of all items and products we manufacture or grow. With higher product costs we will find it difficult or impossible to compete in the foreign and domestic markets. The net result will be more unemployment and a further deterioration of our balance of payments position resulting in further pressure on the American dollar.

Let me cite just two examples of what I mean.

Air pollution is a serious problem, particularly in the large metropolitan areas. Drastic and costly steps must be taken to control the emissions from the smokestacks of industry and residences using fossil fuel. But, those standards must be within our technological and financial ability to meet.

For instance, to reduce air pollution in New York City to a level required by a municipal ordinance, the fuel bill would be increased by $500 million a year. On the other hand, 80 percent of the reduction in air pollution could be accomplished for ten percent of that cost. I am certain that more could be accomplished if that saving of 90 percent was applied to sewage treatment works for the City of New York.

If the same standards adopted by New York were applied to Chicago, Detroit, and Pittsburgh, there would not be enough low sulphur coal in this country to meet those standards. We would have to import the coal and that would add to our unfavorable balance of payments.

Last year, the Senate Committee on Appropriations, in its Report 91-1118, with respect to the Federal Water Pollution Control Administration, stated:

"The establishment of unrealistic standards, which are impracticable of enforcement, will adversely affect the program. Recently, the Department of the Interior recommended that water released into Lake Michigan, no matter from what source, could not be more than one degree over existing temperatures at the point of discharge. Certainly thermal pollution must be controlled but the committee is not aware of any evidence that we need such a drastic restriction on the temperature of water discharged into the Lake. In fact, quite the contrary. Recently, the Wall Street Journal, in reporting on the work of a group of scientists, stated, 'Thermal pollution may be bad, but the fish in nearby Par Pond in Aiken, S.C., don't seem to know it. In fact, scientists here say they are finding that the very thermal pollution that threatens fish in some bodies of water seems to make them grow faster and bigger in Par Pond.' Par Pond receives the water discharged by a nuclear plant. Similar studies by a scientist of the effect of increased temperatures in the Connecticut River indicated that temperature increases of up to 10 degrees seemed to benefit fish life in the river. While these studies are not conclusive, nor would they necessarily have general application, they do indicate the need for more scientific data prior to the establishment of drastic restraints on the discharge of heated water into a stream or lake. The collection of adequate data to support such proposed regulations is an absolute necessity.

"Additional studies of the effect of thermal pollution are required and are being undertaken. In fact, this budget includes $2.5 million in the Department of the Interior budget earmarked for the Tennessee Valley Authority to use for the construction of a research facility adjoining the Browns Ferry nuclear plant. The T.V.A. will take heated water under various conditions and subject some of the aquatic life of the reservoir to various rates of increase in water temperature in test channels. The purpose of the research is to obtain better scientific data than we now have on the effect of increased water temperature on marine life in order to assist in setting realistic standards for the discharge of heated water into lakes and streams.

"A restriction, such as the one suggested for Lake Michigan, if enforced, would require communities to provide ponds or cooling towers for the discharge of normal rainfall. In our fight to control pollution certainly the construction of waste treatment facilities for all communities should have priority over the building of structures to cool normal rainfall before discharging it into a lake or stream.

"Regardless of what facilities are eventually required for the control of all forms of water pollution, at this point in time consideration must be given to the cost effectiveness of the facilities we build now so that the greatest reduction in pollution can be achieved at the earliest possible date with the Federal funds which can be made available in the next few years."

The British Isles have been faced with the problem of air pollution for a long time. In fact, a proclamation on air pollution was issued as early as the year 1307.

The manner in which England is approaching this problem, I believe, is much more realistic than our policy of issuing rigid standards. Sir Stanley Brown, C.B.E., Chairman, Central Electricity Generating Board in the United Kingdom, in addressing the Edison Electric Institute Convention in Cleveland, Ohio, in June of 1971, pointed out that his "Board had a dual responsibility at law, and the onus for arriving at a proper balance between economic power and environmental protection lies firmly on us. Between the two extremes of 'the cheapest possible electricity' and 'conservation at any price,' lie a wide range of possible solutions, and the task of making the correct decisions rests in the first place with the Board, although of course our decisions are subject to examination by many interested bodies."

"Almost every human activity has some repercussions on the environment. It can be said that mankind's emergence as a dominant species on this planet and that which sets him apart from other animals has been his determination to change the environment to suit his needs. Pollution is, therefore, not just any change of the environment, but a gross abuse of it to the extent that man himself, and perhaps other species, suffer harm."

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"Before discussing individual pollution problems, it is perhaps worth considering briefly the standards of performance in pollution control. It is in this field that attitudes in Britain—of both industry and the regulatory bodies—differ so sharply from those elsewhere, that we sometimes seem to be the only one in the squad that is marching in step. In both air pollution and water pollution control, rigid universal numerical standards of control criteria are suspect in Britain because: firstly, they are too easy to impose arbitrarily without adequate justification on the factual information available; secondly, they are unlikely to be appropriate uniformly in all situations and at all times; thirdly, that once established they may subsequently be difficult to change when further information becomes available; and finally, that having satisfied the standards laid down, there is no incentive for anyone to do any better. Pollution control policy in Britain has, therefore, tended to follow other patterns of which the essential elements are:

"(a) that each pollution problem must be considered in its context;

"(b) that the standard set should be the best that for the time being is both technically and economically feasible and is acceptable to the community—to aim at theoretical perfection can be prohibitively expensive;

"(c) that standards should progressively improve."

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COOLING WATER

"As early as the Electricity Supply Act of 1919, the temperatures of cooling water discharges could be limited by law."

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"Considerable research has been undertaken by the Board's staff in an attempt to determine whether the waste heat in cooling water when discharged within conditions set by the Board themselves or prescribed by outside authorities has harmful effects on the environment of ecological systems concerned.

"For example, an extensive marine research project was undertaken in the Blackwater prior to and after the commissioning of the nuclear power station at Bradwell in 1962. Considerable opposition was voiced against the station and one particular fear expressed was that the heated discharge from the station would destroy the oyster industry centered on the estuary. This has not occurred. In fact, during the early months of 1963 the severe cold weather resulted in the destruction of most of the adult oysters but the lowest mortalities occurred nearest the station. Since then the industry has recovered despite the station discharge, which is regulated by the consent stipulation that it shall not exceed the inlet temperature by more than 15 degrees Fahrenheit. A recent survey of the fauna in 1970 carried out as a further ecological check has shown again no discernible effects of the station's discharge.

"Similar long-term ecological studies on a lake as a cooling pond at Trawsfynydd have also shown that the temperature rises resulting from the discharge of a heated effluent can be tolerated. Studies on many rivers support this conclusion, whether they are clean or polluted."

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"Because no harmful effects have been detected, and only minor changes found, we conclude that the assumption that heat is necessarily a pollutant is false. The probable explanation is to be found in the temperature changes occurring naturally within ecological systems through the diurnal and seasonal cycles, and some current research studies being undertaken both in marine and freshwater environments are into the temperature fluctuations which occur naturally. These have shown that animals on the shore experience large temperature fluctuations as the tide ebbs and floods, alternatively exposing them to and covering them from the sun's rays. Smaller fluctuations can occur in streams due to sudden rainfalls."

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CONCLUSION

"Provision of electrical energy at the increasing levels demanded by an advancing civilisation is not incompatible with avoidance of pollution and preservation of amenity. Its provision necessarily involves some changes in the total environment, but this is almost a definition of civilization and the changes are not necessarily unacceptable to an enlightened public even those with the highest standards, provided always that sufficient care is taken. Part of that care—possibly the more important and certainly a very laborious part—is meticulous consultation with other interested parties and a readiness to do as much as reasonably can be done to meet their views."

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I am sure that we are all aware of the efforts made to reduce phosphates in detergents, only to find that the Public Health Service now states that the substitutes are harmful to our health and has recommended a return to the use of phosphate detergents. This is just another example of our overreaction to a problem prior to achieving the necessary study and technology.

I believe that I should pause for a moment to be sure that I am not misunderstood. I am for pollution control. It is going to be costly. I am not saying we cannot afford it. Quite the contrary. We cannot afford not to do it. My point is, the job is so vast and so costly that at this particular juncture we must obtain the greatest possible reduction in air and water pollution for every dollar that can be poured into these programs.

PROJECT FORMULATION

The next major constraint in the order of importance to the future development of water resources is the establishment of policies and procedures for the analysis of potential projects.

This constraint has two main facets: (1) the interest or discount rate, and (2) the proper evaluation of all types of benefits.

The water resource program, including the flood control program of the Soil Conservation Service, is the only Federal program which is required to show economic justification prior to authorization and construction. Other programs are based on recognition of needs and arrays of possible solutions. The level of funding is based on subjective judgments or social considerations. Except for the constraints in the declaration of policy for Federal participation in works of improvement for flood control, there is no reason why the water resource program should require individual economic justification. This constraint in the Flood Control Act has been applied to all water resource objectives. This, in itself, is not necessarily bad inasmuch as it becomes an effective means of allocating Federal funds to economically sound projects.

The real difficulty comes in the complete disregard of a portion of that declaration of policy and a very restrictive interpretation of the benefits to be considered.

The declaration of policy reads in part as follows:

". . . that the Federal Government should improve or participate in the improvement of navigable waters or their tributaries, including watersheds thereof, for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, *and if the lives and social security of people are otherwise adversely affected.*"

I stress particularly the phrase "and if the lives and social security of people are otherwise adversely affected." Not only has the Office of Management and Budget, formerly the Bureau of the Budget, ordered Federal agencies to disregard this phrase, but it requires that projects must show economic justification based solely on National Efficiency.

This is a very narrow and unrealistic interpretation of the intent of the Congress. Certainly, the Federal government is not in business to make a profit. It did not develop the Arkansas River Basin for the primary purpose of increasing the national income

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account. The project was undertaken primarily to assist the economy of the region—hence, the regional benefits should be of far greater importance than national efficiency in judging the merits of a project. To the extent that a depressed section of the country receives assistance from the nation as a whole which permits the depressed area to become nearly self-sufficient, the economy of the nation as a whole has benefited.

The determination of the proper discount rate to be used in water resources, although technical, is a matter that should be carefully studied and discussed with local interests as a part of the Public involvement.

While I do not have a Ph. D. in economics, I am not inhibited, by that fact, from taking issue with some of the theories put forth by the academic profession. At this point let me throw in parenthetically that the academic economists are not always unanimous in their solutions to our current problems. For instance, three years ago when the President's Council of Economic Advisers recommended a tax increase other economists took the position that a tax increase at that point in our economy was exactly the wrong thing to do. With that off my chest, I would like to comment on the theory advanced by some economists for the use of the opportunity cost of money in evaluating water resource projects. This is not a uniform position inasmuch as some economists are advocating the social rate of time preference, but they are not the ones invited to testify before the Joint Economic Committee.

I have advocated the development of methods and techniques for more effective evaluation of the benefits of water resource projects. I have taken this position because I believe that water resource projects will produce sufficient benefits to justify their construction, using an interest rate which approximates the average rate paid by the government on its long-term investments.

I seriously doubt that all the economic theories which are applicable to private industry apply with equal validity to Federal, State, or local government agencies. However, if serious consideration is given to the opportunity cost of money, several other factors must be taken into account. The opportunity cost of money can be defined as a potential, but unrealized, rate of income than an investor has deliberately renounced by not making an investment in another alternative. The use of the opportunity cost of money for water resource projects has certain inherent drawbacks, the most significant of which is the element of risk. When you discuss 10 and 15 percent return on your money, you include investment opportunities with a degree of risk.

Private capital prudently places a portion of its resources in the so-called guaranteed investments such as preferred stocks, bonds, mortgages and other similar investment opportunities yielding smaller but safer and more assured returns.

If the risk were not proportional to the potential return capital could not be attracted from the private sector to stocks, bonds, mortgages, trusts and other similar investments providing substantially lower yields. In fact, if all private capital were reinvested in industrial plants which would themselves produce an annual return of 10 to 15 percent, the compound effect of such a policy would soon see such an over-production of plant capacity that the bankruptcy rate would approach the records set in the depression of the late twenties and early thirties.

Another important consideration, in weighing the merits of the opportunity rate of interest for government projects, is the social objective to be achieved. The government is not in business to make money or compete with private industry. Government should undertake these activities which private industry cannot or will not undertake, and to promote those conditions and climates which are conducive to the economic development of the nation or region. Our efforts in Appalachia would be a case in point. Many other examples can be cited.

For instance, in order to encourage rural electrification, the Congress determined that R.E.A. loans should be at two percent interest. In this case, no relationship exists between the actual rate of interest paid by the government on the money it borrows and the loans it makes to R.E.A.'s. Similarly, for reclamation projects, the cost allocated to the irrigators is repaid without interest over a period of 40 to 75 years, and represents a subsidy of 50 or more percent. The cost allocated to the irrigator is determined by his ability to pay rather than the value of the irrigation water, with the balance of the subsidy being paid from users of industrial and municipal water and from power revenues over a period of years. This has promoted the development of the West and has greatly increased the economic contribution of the West to the national account.

I am convinced, therefore, that the selection of an interest rate for a particular purpose involves social and other policy questions of such magnitude that they transcend more economic considerations. Since water resource development projects involve to a great extent the preservation of our land and water resources for the benefit of future generations, a case could be made for a social time preference criterion for the determination of an interest rate which might then be between two and six percent. I believe that once we have determined the social and policy objectives the economists can probably give us a fairly accurate rate of interest to apply in order to accomplish those objectives. For instance, if, from a policy standpoint, it was determined that we should consider the social time preference criterion, which takes into account a desirability of postponing current consumption expenditures in favor of future capital investment, the economists might recommend the use of an interest rate even below the rate which would prevail under the formula previously used—possibly as low as the two percent established by law for the R.E.A. loans.

All projects benefits, particularly those which contribute to the achievement of national objectives, should be included. For instance, the Agriculture Act of 1970 specifically sets out population redistribution as a national objective, and the HUD authorization Act includes the creation of new communities as a national objective. Regional benefits are the sole purpose of such programs as Appalachia, as was the TVA of the mid-thirties. While such national objectives are not absent from public works projects, they are ignored in project evaluation.

If we were to adopt an opportunity cost of capital criterion very few projects would be recommended. In the few cases where projects were approved the Federal agencies would design a vastly different project from what they are recommending today. The projects would, obviously, be much smaller and would not only fail to produce the overall benefits being realised by the projects recommended today, but would in many cases forever preempt the full development of the rapidly dwindling number of good dam sites.

The adoption of the opportunity cost of capital for public works projects would be a very shortsighted approach, particularly when you consider the long physical life of the works constructed rather than the arbitrary economic life chosen for the computation of a benefit-to-cost ratio. The effect of high interest rates becomes more pronounced as the period of the physical life of a project lengthens. This would result in a lack of proper consideration of the welfare of future generations. It should be apparent that such a criterion would provide no assurance that the present consumers will make adequate provision for unborn generations.

The problem of an appropriate interest rate for the purpose of evaluating water resource projects became a matter of immediate and urgent concern in January of 1968.

In his budget message to the Congress on January 29, 1968, the President stated, "The Water Resources Council is developing a more appropriate interest rate to be applied in formulating and evaluating water projects. The revised rate will be related to the average estimated current cost to the Treasury of long-term borrowing. It will be higher than the rate now in use for project evaluation. The new rate will be applied to future projects in order to assure the most effective use of Federal funds in the development of the Nation's water resources."

The formula then in use was based on the coupon rate of the interest-bearing marketable securities of the United States which, upon original issue, had terms to maturity of fifteen years or more. The new formula now in use is based on the average cost to the Treasury of long-term borrowing and will be based on the yield rate to the investor.

At the time the new formula was placed in effect, the Water Resources Council announced that they would proceed with the development of standards and criteria for evaluating project benefits. They appointed a Task Force for this purpose.

The Task Force completed its report in July of 1970. That report set up four basic accounts for project evaluation as follows:

A. *To enhance national economic development* by increasing the value of the Nation's output of goods and services and improving national economic efficiency.

B. *To enhance the quality of the environment* by the management, conservation, preservation, creation, restoration, or improvement of the quality of certain natural and cultural resources and ecological systems.

C. *To enhance social well-being* by the equitable distribution of real income, employment, and population, with special concern for the incidence of the consequences of a plan on affected persons or groups; by contributing to the security of life, health, and property; by providing educational, cultural, and recreational opportunities; and by contributing to national security.

D. *To enhance regional development* through increases in the value of a region's income, increases in employment, and improvements in its economic base, environment, social well-being, and other specified components of the regional objective.

"The definitions of objectives are believed to be theoretically sound and workable. The regional development objective includes other components in addition to regional income. Further, the Task Force believes that national economic development, as now defined, provides a more valid basis for evaluating national economic efficiency aspects of resource development than the national income concept used in the earlier report."

During the past year there were a series of negotiations between the Office of Management and Budget and the Water Resources Council which completely emasculated the Task Force report. The final draft eliminates social well-being as an objective; requires economic justification to be based on the national account only, unless there is a specific directive to include the regional account; adopts the principle of the opportunity cost of money but, as an interim measure, directs the use of a 7 percent discount rate for the next five years.

The modified report was set in type for publication in the *Federal Register* for September 8, but it was suddenly recalled.

I doubt if any water resource project purpose other than domestic water supply could be justified under the standards and criteria

approved by the Office of Management and Budget.

The discount rate plays a central role in benefit-cost analysis since it provides a mechanism for comparing benefits which occur in future years with the current cost of the proposed project.

In the economic analysis of a water resource project, an increase in the interest rate has a double-barrelled effect on the benefit-to-cost ratio. First, the cost side is affected. As the interest rate goes up, the interest charge on the borrowed money increases and, therefore, the annual charge increases. This, however, is a relatively minor effect compared to what happens on the benefit side when a substantial portion of the benefits increase over the life of the project.

In computing flood control benefits, for example, the Corps prepares a damage curve based on estimated damages from floods of certain magnitudes and on their probability of occurrence. The sum of all the estimated damages over the assumed economic life of the project is then averaged and reduced to a present worth by use of an appropriate interest or discount rate.

IMPACT OF INCREASED DISCOUNT RATES ON FUTURE BENEFITS

Benefit in 50th year of project life	Worth in 50th year	Present worth if discounted at—						
		3 percent	4.5 percent	6 percent	7 percent	8 percent	10 percent	15 percent
$100	$100	$22	$11	$5.40	$3.40	$2	$0.90	$0.09

If we are to use a more realistic interest rate in economic analysis, we should also use a more realistic evaluation of benefits. The Corps has been notoriously conservative in evaluating primary benefits and has never attempted to evaluate secondary or social and expansion benefits. It must be recognized that the Corps of Engineers is just as wrong when it underestimates the benefits of a proposed project as it would be if it overestimated the benefits.

Senator Proxmire, at one of the hearings on the discount rate, stated, "I think the difficulties, however, are that the benefits may very well have been underestimated for water projects, in which case I think we should do a better job of estimating the indirect as well as the direct benefits. Then you are in a position to make your evaluation."

This is precisely the position the Senate Subcommittee on Public Works of the Committee on Appropriations has taken for a number of years. Both in the hearings and reports, the Committee has urged the Corps of Engineers to continue its efforts to devise methods and criteria for evaluating secondary benefits which Senate Document No. 97, 87th Congress, 2d Session, recognizes as proper in the economic analyses.

During the hearings before the Joint Economic Committee, Senator Symington stated, "It would appear we get more benefit from water development than from some other aspects of the Federal budget." He then cited the following case:

"For example, in my state, we had a close question on a certain project when it came to cost-benefit ratio. As a result, we finally built a dam; and whereas nearly every rural county in Missouri has lost population and lost income, this particular group of counties, as a result of this dam, has had a tremendously increased economic gain, to the point where bank deposits are now over 300 percent more than they were a few years ago.

"This, of course, creates a much-needed additional tax base, not only for the State but for the Federal Government."

Senator Symington has put his finger on one of the real secondary benefits which the Corps does not take into account in its project evaluation.

Several interesting insights into the Corps' analysis of its projects has come to light during hearings before the Subcommittee. The Chairman asked the Corps about the amount of traffic that had developed on the project—Delaware River, Philadelphia-to-the-Sea. At the time of authorization the project had a stated benefit-to-cost ratio of 1.9 to 1, based on estimated commerce of 12,700,000 tons. However, the average commerce for the five-year period (1963–1966) was 18,900,000 tons, or nearly fifty percent greater than that assumed at the time of authorization.

In other cases, the procedures used to evaluate benefits are not predicated on a sound theoretical basis. For example, water quality benefits at the present time are computed on the basis of the least costly alternative with no attempt being made to measure the economic value to be realized from a cleaner river.

In the case of levee protection for flood control, the levee is built based on a project design flood of a certain magnitude but in the estimate of damages prevented they do not assume that the design flood will occur during the life of the project. It seems that if there is sufficient probability of a flood occurring to justify the design to protect against it, it is reasonable to assume that that flood would occur some time during the life of the project.

These are but a few of the examples where primary benefits were left on the table in computing the benefit-to-cost ratios. In addition, all of the secondary benefits were completely ignored. With increased pressure of other programs for the budget dollar we can no longer enjoy the luxury of understating the benefits of land and water resource projects.

WATER SUPPLY BENEFITS

The present method of evaluating water supply and water quality control benefits does not take credit for all the primary benefits. The current procedure is to assume the benefits are equal to the cost of the least costly alternative method of supplying the needed water. With the previous discount rate, in most cases the alternative is a single-purpose reservoir and the assumption is that such a single-purpose project always has a benefit-to-cost ratio of 1 to 1. This assumption has many basic omissions or shortcomings. With the use of a higher interest rate the benefits increase and other alternatives could appear to have an advantage over the single-purpose water supply reservoir.

For example, development of a series of wells, which could be installed in stages according to demand schedules, might well appear to have an economic advantage over the reservoir with a high initial capital investment because of the option available to defer expenditures. While this solution may be satisfactory for a small community, ever increasing areas of the country are finding that extensive withdrawals of ground waters which have accumulated over thousands of years are lowering the water table which necessitates continual deepening of the wells resulting in final exhaustion of the supply. Conversely, the development of a multiple-purpose reservoir stores destructive flood waters for subsequent release for the generation of power, low-flow augmentation for many purposes, including enhancement of fisheries and dilution of pollution and navigation, as well as specific reservation and withdrawals for water supply.

For an example of the effect that increased interest rates could have on the selection of the least costly alternative for water supply, let us consider the hypothetical case of a community that will have an increasing demand for municipal water supply increasing to 50 m.g.d. over a 50 period project life. To meet these demands over the 50-year period, local interests could implement any one of the three following alternatives:

1. By the construction of a single-purpose reservoir in project life year zero, sized to yield 50 m.g.d.

2. By construction of a single-purpose reservoir in project life year zero, sized to yield 20 m.g.d. but designed so that additional capacity could be provided during project life year 30 to yield a total of 50 m.g.d. Assume that extra costs for lands, wider base for the embankment; et ceters, would accrue in year zero at $5 million, and that it would cost (at today's prices) $8 million in year 30 to complete the project.

3. By installing a well system according to the demand schedule in increments of 10 m.g.d. in each of the years zero, 15, 30, 40 and 45.

For the first alternative, i.e., construction of a single-purpose reservoir sized to yield 50 m.g.d., the construction cost is assumed to be $17,650,000, with annual cost of operation and maintenance of $240,000.

For the second alternative, i.e., construction of a single-purpose reservoir sized to yield initially 20 m.g.d., but with provisions to permit raising the dam in project year 30 to yield 50 m.g.d., the construction cost is assumed to be $11,170,000 plus $5,000,000 for project lands, increased width of embankment, and other provisions, or a total initial cost of $16,170,000. The estimated cost of future raising (at today's prices) is $8,000,000. The annual cost of operation and maintenance would be $160,000 for the first 30 years and $240,000 thereafter.

For the alternative of installing wells of 10 m.g.d. capacity, each with a cost of $8,000,000 in the years zero, 15, 30, 40 and 45 and for the purposes of the economic evaluation, the assumption is made that the cost of installing the wells will increase over the next 45 years. The annual cost of maintenance and operation of each of the well fields is assumed to be in accordance with the following schedule:

Years and well field O&M $/year including pumping charges	
5–15	250,000
15–30	350,000
30–40	420,000
40–45	470,000
45–50	500,000

In order to proceed with the economic evaluation in accordance with procedures used in Public Works projects, all costs must be brought back to the same time base, project year zero, and "spread out" over the economic life of the project on an average annual equivalent basis. For the purpose of discounting future costs discount rates of 3, 4, 5 and 6 percent were used.

On the basis of this analysis, using a discount rate of 3 percent, the cheapest alternative is a single-purpose reservoir that would yield 50 m.g.d. and the benefit that would be credited to the water supply feature of a multiple-purpose reservoir would be $927,000 annually.

When the discount rate is raised to 4 percent, the cheapest alternative is a single-purpose reservoir built in two stages of development, and the benefit that would be credited to the water supply feature of a

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multiple-purpose reservoir that would yield 50 m.g.d. would be $1,042,000 annually.

At 5 percent interest, apparently the most economic alternative would be the installation of five wells, as needed, and the benefit which would be credited to the water supply feature of a multiple-purpose reservoir which would yield 50 m.g.d. would be $1,147,000 annually.

There are basic errors in this type of analysis. First, it is assumed that construction costs will remain constant; whereas, as a matter of fact, construction costs have been rising at the rate of 5 percent a year. This would indicate that the $8,000,000 required for the second stage construction in the 30th year may be as high as 430 percent of the current cost, or $34,560,000. If we assume that the rate of increase is reduced 50 percent, the cost would still be a little over twice the current cost. In other words, the cost of the two-stage development would be $16,170,000 initially, with a future cost in the range of $16,784,000 required in the year 30 for completion. On the other hand, the added cost for operating and maintaining the single-stage reservoir over the two-stage development project would be $80,000 per year. This figure properly discounted to its present worth value at a comparable 2½ percent would represent an equivalent capital outlay of $1,674,000. Thus, an equivalent saving of $3,154,400 today in construction and operation and maintenance costs could necessitate a future expenditure of $16,784,000 some thirty years hence.

The effects of inflation and increased earning power are assumed to be compensated for by saying we are considering constant dollars. Assuming that all should remain valid. In the case of a flood control project, for instance, increased construction costs are balanced by increased costs of repair or replacement of damaged facilities. Therefore, the benefit-to-cost ratio used at any point in time in making a decision as to the economic efficiency of a project should remain substantially unchanged since we are considering constant dollars. These constant dollars must fully reflect adequate allowances for increased earning power and inflation if the analysis is to be meaningful, because the investment is made with borrowed money at one point in time while the benefits are realized at another. I seriously doubt the adequacy of the allowances presently being made for this purpose. If adequate allowance is not made for the cost of repair and reconstruction of flood damaged areas which reflect future costs, the procedure for discounting future benefits will result in an understatement of those benefits.

In arguing against the Social Rate of Time Preference Theory, the Joint Economic Committee stated in part, ". . . The wisdom of imposing additional sacrifice on the current population (with a per capita income of $4,250) to increase the wealth of future citizens whose per capita income will be $10,000 in the year 2000 even without additional transfers is highly questionable." For an easily understood example, we could consider the purchase of a home some 20 years ago requiring a monthly payment of $105, at a time when the purchaser's income was $9,000 per year. Recognizing that this involved a decision to invest capital (the down payment) and that there are associated costs such as taxes, insurance, and maintenance and repairs, today the purchaser is still paying $105 a month out of a yearly income of $32,000. The burden of these obligations is much less now than at the time the purchase was made because current payments are being made out of more plentiful dollars.

A high discount or interest rate tends to result in the selection of low capital investments with high annual costs rather than those involving high capital investments and low annual costs. Thus, a high interest rate used in making the decision on the advisability of home ownership might have led to a decision to rent. We all know what has happened to rents during the last twenty years.

The same situation applies with respect to the well fields in our water supply example where, assuming an annual increase in the cost of construction of 2½ % over the next 45 years, the first costs in the years made without regard to the time value of money would be:

Year 1	$8,000,000
Year 15	11,584,000
Year 30	16,784,000
Year 40	21,480,000
Year 45	24,304,000
Total	82,152,000

Total expenditures made for operation and maintenance for the 50-year period would be:

(a) Reservoir—$240,000 times 50 years equals $12,000,000.

(b) Reservoir—$160,000 times 50 years equals $8,600,000.

Stage construction 80,000 times 20 years.

(c) Well Field—$250,000 times 15 equals $3,750,000; $350,000 times 15 equals $5,250,000; $420,000 times 10 equals $4,200,000; $470,000 times 5 equals $2,350,000; $500,000 times 5 equals $2,500,000; totals $18,050,000.

In this connection, it should be noted that from the 45th to the 50th year the annual cost of operation and maintenance of the well field would be $500,000 a year compared with an annual cost of $240,000 for operation and maintenance of the reservoir. After the 50-year period used for the economic analysis, assuming no substantial depletion of the ground water supply, either facility would continue to serve a useful purpose in meeting the water needs of the area, but the cost of operation and maintenance of the well field would continue at more than twice the cost of the reservoir. However, it must be realized that in many areas of the country we are experiencing an alarming drop in the water table which could easily result in either sinking deeper wells or abandoning the well fields some time during the assumed economic life of the project and resorting to an alternate supply of surface water.

The purpose of this exercise is to demonstrate the sensitivity of even a slight increase in interest rates in the selection of alternatives.

PUBLIC RELATIONS

'I imagine I enjoy a meeting of this type about as much as anyone present. At the same time, I believe I realize more than anyone else here that, to a great extent, our time and efforts are being wasted when water resource proponents talk to water resource proponents. We have to communicate with other groups, non-aligned organizations, and, the enemy, if you please.

I am convinced that many people have been taken in by propaganda of the extremists.

Today, if a speaker wants to gain the support of his audience, he is for the environment and for improving the quality of life. Immediately his listeners are with him with applause, or shouts of "Right on!" He has instant communications—he has closed the generation gap.

But has he, really?

Perhaps he and I have different sets of values—perhaps I have a different concept of what will improve my quality of life. For example, the speaker who was going to improve the quality of my life may have had in mind a system of wild and scenic rivers that he and his family could occasionally visit and enjoy; whereas, my quality of life would be improved if the floods of April and May were released in July and August to assure a harvest in September and October.

Any consideration of environmental factors naturally embraces air and water pollution controls. One source of air pollution results from the burning of fossil fuels to produce electricity which has relieved all of us of hard and boring tasks.

I believe it might be interesting if, when the gentlemen here return home, they greet their wives something like this. "Honey, I am going to improve your quality of living. I have a device which will reduce air and water pollution." No doubt such an announcement would be welcome—until you presented her with an old-fashioned washboard and a cake of Fels Naptha soap. The reply would probably be—"You are out of your ever-loving mind."

A somewhat similar reaction could be obtained by telling your teen-age son that he has convinced you of the need to protect the environment and improve his quality of living. With such an announcement, the son reacts with the thought—"Gosh, the old man is really with it, he digs what's happening today." So he says, "What are you going to do, Pop?" Obviously, your reply is—"Give me the keys to the car."

I would like to refer back to the example I cited with respect to the emission standards from the smokestacks in New York City. We want and need air pollution control. We can and must pay the cost of say $50 million a year for 80 percent reduction in the pollution. Neither New York nor the Nation can afford $450 million a year for a further reduction of 20 percent in the pollution. The financial burden of the final increment of air pollution control would force certain marginal businesses out of New York City, thereby increasing the unemployment rolls, decreasing the tax base, and increasing the tax burden on the remaining properties.

The people cannot and will not support idealistic but impractical air and water standards. Unfortunately, the public appeal for stiff standards is emotional and, until this lesson is brought home to the American people, both the public and the elected officials will continue their all-out support of the unrealistic standards being proposed for the protection of environmental and ecological values.

Concomitantly, I believe it is becoming clearly evident that the planners, both Federal and non-Federal, must find the best, and the most constructive, ways of keeping the economy moving. We must seek an accommodation. It is not a question of shall we have either industrial and economic development or shall we have a quality environment. We can have, and we must have, both. I submit that the wise application of technology will make it possible to have both.

Certainly, we are going to have to make the environment a full partner in future planning for resource development. We are going to have to have *all* the facts; we are going to have to *know* what the trade-offs are. Only then can we make the intelligent decisions that will be required for our continued growth.

The answer to these problems must be based on facts, an understanding of alternatives, and above all, a willingness on both sides to achieve an accommodation. I would like to close by quoting a portion of a letter from a 13-year-old boy:

"An active populace is the backbone of democracy, and a passive citizenry is on the road to internal destruction. The time is gone when one could say, 'But I'm only one person. I can't change anything.'"

Unless we seek the facts and become involved, a small very vocal faction will speak for all of us, not only on environmental matters but on many other problems facing the country.

Unless those of you here today, and similar other groups, are willing to get out and address yourselves to these problems before women's clubs, service organizations, and conservation groups, our meeting today may have been interesting but it will not be productive.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

DEATH OF SPESSARD L. HOLLAND, FORMER SENATOR FROM FLORIDA

Mr. MANSFIELD. Mr. President, I have received the following telegram from Mrs. Spessard Holland:

I am saddened to inform you and the Congress that my beloved husband and your former colleague, Spessard Lindsey Holland, died November 6. Services will be held at the First United Methodist Church, Bartow, Fla., at 4 p.m. Monday, November 8.

MARY HOLLAND.

Mr. President, may I say that the Senate has missed deeply the outstanding service of the distinguished former Senator from Florida, Spessard Holland, since his voluntary retirement and his return home.

His loss will be even more deeply felt, now that he has passed to his just reward.

Spessard Holland was a man of integrity, unstinting patriotism, and dedication to duty. He was a man who represented his State with great distinction, a man who was a U.S. Senator in the best meaning of that term.

To Mary Holland, to her family, and to the friends of our late colleague, Spessard Holland, I wish to extend, on behalf of the Senate, our deepest condolences and to say that Mrs. Mansfield and I hope and pray that his soul will rest in peace. He has earned his reward many times over.

Mr. SCOTT. Mr. President, I join with the distinguished majority leader in expressing our sadness at the passing of our recent and well beloved colleague, the former Senator from Florida, Spessard Holland.

He was a man whom we all honored and respected. We grieve with the family in this tragic loss.

Mr. President, I shall have more to say at a later time, and yield back the remainder of my time.

Mr. GURNEY. Mr. President, the State of Florida and we here in the U.S. Senate were profoundly saddened to learn this weekend of the death of a great former member of the Senate and a man whom I considered my personal friend, the Honorable Spessard L. Holland, formerly U.S. Senator from the State of Florida.

Senator Holland served at every level and in every branch of government, from county prosecutor, to judge, to a member of the State of Florida's Legislature, to Governor of the State of Florida, to U.S. Senator.

In every aspect of a lifetime of public service he served with distinction. Indeed, in every endeavor he undertook he served with distinction: whether it was his performance as a flyer during World War I, which resulted in his being awarded the Distinguished Service Cross by General Pershing; or whether it was his performance during his collegiate days when he was elected to Phi Beta Kappa for high scholastic achievement and recognized as a star athlete earning him many letters in varsity sports activities, and an offer to play big league professional baseball.

His long fascination and concern with the protection of Florida wildlife places future generations of Americans in his debt. While Governor of Florida, Spessard Holland established the game and fresh water fish commission which has done much in preserving Florida's environment on the State level.

He was the father of the Everglades National Park, responsible for its first acquisition by the State of Florida, then turning it over to the Federal Government for a national park.

He was a leader in the legislative process and best known for his authorship of the amendment which abolished the poll tax.

This good man, this man of quiet power, who carried his abilities, leadership, and power in the most courtly of manners is no longer with us, and all of us in Florida, and all of us in the Senate Chamber, and all of us in this country are the poorer for it.

We mourn his passing, but we rejoice in recognizing and honoring his splendid life of public service which gave so much to his State and Nation.

Our hearts go out to his wonderful wife, Mary, who was a most important part of his great life. They were indeed partners in public service in the finest tradition of American politics and government.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar, under "New Reports," will be stated.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE COAST GUARD

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard, which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc; and, without objection, the President will be immediately notified of the confirmation of these nominations.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

SUSPENSION OF DUTIES ON CERTAIN CLASSIFICATIONS OF YARN OF SILK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 419, H.R. 1680.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1680) to extend for an additional period the existing suspension of duties on certain classifications of yarn of silk.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-425), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 1680, as reported, is to continue for 2 years, until the close of November 7, 1973, the suspension of duties on certain classifications of spun silk yarn which is due to expire on November 7, 1971.

GENERAL STATEMENT

The duties on spun silk yarns have been suspended by various public laws since the original duty suspension was enacted by Public Law 86-235, approved on September 8, 1959. The suspension of the duties on spun silk yarns was last extended by Public Law 91-39 for a 3-year period from November 7, 1968, to November 7, 1971.

Spun silk yarns are of two principal types: Standard spun silk (schappe) yarn and silk noil (bourrette) yarn. Standard or schappe spun silk yarns for general textile use are manufactured from long parallelized silk fiber stock recovered from waste cocoons and silk filature waste and are used for making sewing thread, decorative stripings for fine worsteds, lacing cord for cartridge bags, and, in combination with other fibers, certain

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types of necktie fabrics, shirtings, dress, and suiting fabrics, upholstery, and drapery materials.

The silk noil type of yarn is made from shorter length, and hence cheaper, silk fiber stock than schappe and must be spun on wool-spinning machinery. The material used consists of silk noils discarded as byproducts in preparing silk waste for spinning in standard spun silk yarns.

The suspension of the duty was made in order to enable domestic producers of fine yarn fabrics to import fine silk yarns free of duty in order to make it more economical to produce fine yarn fabrics in competition with imported similar fabrics. The committee is advised that the same reasons which justified the original suspension of the duty justify the continuation of the suspension.

No objection to the continuation of the suspension of duty has been brought to the committee's attention.

EFFECT ON THE REVENUES OF THE BILL AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the effect on the revenues of this bill. The committee estimates that the extension of the existing suspension of duties on certain classifications of spun silk yarn provided by the bill will not result in any additional revenue loss or administrative costs.

In compliance with section 133 of the Legislative Reorganization Act of 1946 as amended, the following statement is made relative to the vote by the committee on reporting the bill. This bill was ordered favorably reported by the committee without objection. No rollcall vote was taken.

The committee is unanimous in recommending the enactment of this bill, as reported.

EIGHTH ANNIVERSARY OF ASSASSINATION OF PRESIDENT NGO DINH DIEM OF VIETNAM

Mr. MANSFIELD. Mr. President, 1 week ago last Monday marked the eighth anniversary of the assassination of the late President Ngo Dinh Diem of Vietnam.

With that tragedy began the troubles which have engulfed the United States in that part of the world.

I have long felt that this was the watershed, the tragedy, the assassination of this man who had done so much for his country, which had achieved a degree of stability it has not known since, nor had it known before, a man who could have kept the people of Vietnam together, who could set the stage in time, for the kind of Asian democracy which the people of that ill-fated land could well understand.

I am indeed sorry that this tragic event occurred, 8 years ago last Monday. I rise at this time again, as I have many times since that time, only to express my regret and my sadness over a man who had much in the way of accomplishment to his credit, a man who had much still to offer his country, a man whose regrettable death marked the opening of the floodgates of U.S. military involvement in Vietnam.

He has been missed these years. The South Vietnamese people are beginning now to recognize his true value and his great worth.

Mr. President, I did not want to let this occasion go unnoticed.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Virginia (Mr. BYRD) is now recognized for not to exceed 15 minutes.

AGREEMENT WITH JAPAN CONCERNING THE RYUKYU ISLANDS AND THE DAITO ISLANDS

Mr. BYRD of Virginia. Mr. President, tomorrow the Senate will be called upon to ratify or reject the proposed agreement for the reversion of Okinawa to the administrative control of Japan.

This proposed agreement would be a change in the terms of the Treaty of Peace of 1951 between Japan and the United States.

Under terms of the peace treaty, the United States has unrestricted use of military bases on Okinawa. The United States has invested hundreds of millions of dollars there—and the replacement cost would approach $3 billion.

Two years ago, when official discussion began concerning the proposed reversion of Okinawa, I sponsored legislation that called upon the President to submit any agreement changing the status of Okinawa to the Senate for advice and consent. This legislation was approved by the Senate, and now the question of ratification by the Senate must be decided.

After long consideration, I have concluded that I cannot support the agreement for reversion of Okinawa, which proposal would give Japan a veto over the use by the United States of its facilities on Okinawa.

It is not my intention to organize opposition to the agreement. I wish, however, to make my own views known.

I shall vote against the proposal, even if I be the only Senator to cast such a vote.

I am among those who believe that the United States has become overcommitted around the world. We have mutual defense agreements with 44 different nations.

More than 25 years after the end of World War II, the United States maintains 310,000 men in Europe, including the 2d Fleet in the Mediterranean; and in Southeast Asia and the West Pacific, the United States has 370,000 troops on duty.

I do not believe the United States can continue indefinitely to carry so heavy a military responsibility. It is essential that other nations make a greater contribution to their own security.

But, at the present time, our military commitments are a fact.

Among the areas in which we are most heavily committed is Asia. Not only is the United States engaged in a shooting war in Vietnam, but the Nation is also committed to the defense of South Korea, Taiwan, Japan, the Philippines, Australia, New Zealand, Pakistan, and Thailand.

We must view the Okinawa proposal within the framework of existing treaty obligations.

First, it must be understood that it is the 1951 Treaty of Peace between the United States and Japan which confers upon the United States the unrestricted use of military bases on the island of Okinawa.

The Treaty of Peace is entirely separate from the Mutual Security Treaty of 1960 between the two nations. The two agreements should not be confused.

Agreement by the United States to turn over administrative control of Okinawa to the Japanese is a change in the Treaty of Peace. It does not affect the Mutual Security Treaty.

The reversion of Okinawa to the control of Japan would involve surrender by the United States of its unrestricted use of the Okinawa bases. No one disputes that statement.

I think that in considering whether or not the reversion agreement should be approved, Members of the Senate should give careful consideration to the extensive defense commitments which we have in Asia.

We must bear in mind that all of our Asian commitments were undertaken on the assumption that unrestricted use of Okinawa would be available to the United States.

Can we afford to go on guaranteeing the defense of so many Asian nations, if we are to surrender an important part of our military capability in the Far East?

Besides our Security Treaty with Japan, we have commitments to 10 Asian nations under the Southeast Asia Treaty Organization Agreement of 1954.

The Sato government in Japan has assured the United States that it will cooperate in permitting this Nation to use Okinawa in order to fulfill our obligations. Those in the State Department who favor having Okinawa revert to Japan put great stress on this.

But once reversion is accomplished, the final decision on the use of Okinawa in each contingency will rest not with the United States, but with Japan—which may or may not be under the rule of the Sato government at the time. In fact, Sato very likely will be out of office in a matter of months.

In any case, the United States would be dependent on—if not at the mercy of—another nation in our operations from Okinawa.

I want to see our commitments in Asia reduced.

But no proposal has been made to reduce our commitments.

The only proposal is that we voluntarily give up the unrestricted right to use our greatest military base complex in the Far Pacific.

Japan is seeking, and would be getting, control over our military base. At the same time, Japan would have a pledge from the United States to guarantee the freedom and security of Japan.

To state it another way, the Japanese Government wants the United States to continue to guarantee the safety of Japan; to continue to guarantee the safety of Okinawa; to continue to spend hundreds of millions of dollars on Okinawa—$260 million last year. But it seeks to put restrictions on what the United States can do.

The activities of the United States constitute 42 percent of the economy of the island of Okinawa.

Japan wants a veto over any U.S. action affecting Okinawa. It specifically wants the right to deny to the United States the authority to store nuclear weapons on Okinawa and would require prior consultation before our military forces based there could be used.

In other words, the United States no longer would have unrestricted use of Okinawa.

Our role as the defender of the Far East has enabled Japan to avoid the burden of rearmament—only about 1 percent of her gross national product is spent on defense and thus concentrate on expanding and modernizing its domestic economy.

In defense matters, the Japanese have gotten a free ride. As a direct result, Japan's present gross national product ranks third in the world, behind only the United States and the Soviet Union.

While the peace treaty with Japan gives the United States unrestricted rights on Okinawa, the 1960 Mutual Security Treaty provides that our military forces based in Japan cannot be used without prior consultation with the Japanese Government.

Under the agreement which the Senate must soon vote on, Japan would have a similar right of consultation with regard to American forces on Okinawa.

Whether the United States should continue to guarantee the defense of Japan and the vast areas of the West Pacific and Southeast Asia is open to question.

But at the moment, the United States is committed to the defense of these regions. And it is only commonsense, in my view, that so long as these commitments continue in force, then it is only logical and responsible that this country retain the unrestricted use of its greatest base in the West Pacific; namely, Okinawa.

I agree that eventually Okinawa and Ryukyu Islands will revert to control of Japan. But I think it unwise to turn over such control at a time when the United States remains committed so deeply to the defense of Asia and the West Pacific.

It would be foolhardy, in my opinion, for the United States to continue its commitments to the defense of Asia and the West Pacific while at the same time giving up the unrestricted use of the military complex on Okinawa.

It is vitally important that public attention be focused on this issue of unrestricted use of our bases on Okinawa.

I speak as one who is not sympathetic to our deep involvement in Southeast Asia, one who from the beginning regarded it as an error of judgment to become involved in a ground war there.

I speak as one who questions the wisdom of our country's committing itself to mutual defense agreements with 44 different nations.

I speak as one who feels that we cannot logically be the world's policeman.

If by the act of granting Japan administrative control over Okinawa, the United States could insure a multinational defense structure in the Far East, with increased participation by Japan—if this action would relieve our country of a measure of its heavy international responsibilities—then, I would support a reversion of Okinawa to Japanese control.

But this is not the case.

Quite the contrary. Surrender of control over Okinawa would only make more difficult our role in the Pacific.

In fact, should the treaty for reversion of Okinawa be approved, then I believe the United States would be well advised to take steps to reduce its commitments in the Asian and Pacific areas.

Surely we cannot continue indefinitely to carry the chief burden for defense of Asia and the West Pacific while giving up the unrestricted use of our most strategic base.

In the long run, I believe we must reduce our Asian commitments.

When this has been done, then it would be proper to turn over Okinawa to the control of Japan.

But in the short run, the commitments of this Nation in the Asian and Pacific areas remain in force.

And so long as this is the case, I cannot support an agreement which sacrifices the unrestricted right of the United States to use its bases on the island of Okinawa.

DEATH OF FORMER SENATOR SPESSARD L. HOLLAND

Mr. BYRD of West Virginia. Mr. President, I am greatly distressed to learn of the death of a beloved former Member of the Senate, Spessard L. Holland, of Florida. I have a very deep spot in my heart for Senator Holland. I greatly enjoyed my close association with him during the time we served together in this body. He was, in my judgment, an outstanding Senator. I never met a more fair-minded individual, one more dedicated or more conscientious in serving the people than Spessard Holland. He has been missed in the Senate since he voluntarily retired at the beginning of this year. He will be missed not only by his former colleagues but also by his many friends as a result of his death yesterday.

PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order there will be a period of 30 minutes for the transaction of routine morning business, with statements limited to 3 minutes.

Is there morning business?

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

(The remarks of Mr. PROXMIRE when he introduced S. 2818 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON OVEROBLIGATION OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of Agriculture for "Forest Protection and Utilization", Forest Service, for the fiscal year 1972, had been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON FEDERAL CONTRIBUTIONS PROGRAM EQUIPMENT AND FACILITIES

A letter from the Director of Civil Defense, reporting, pursuant to law on Federal Contributions Program Equipment and Facilities, for the quarter ended September 30, 1971; to the Committee on Armed Services.

REPORT ON STATUS OF INTERCITY RAILROAD ACT OF 1971

A letter from the Acting Secretary of Transportation, transmitting, pursuant to law, a report on Status of Intercity Railroad Passenger Service, dated November 1971—with an accompanying report; to the Committee on Commerce.

PROPOSED TRANSPORTATION ASSISTANCE ACT OF 1971

A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to assist railroads in acquiring and utilizing rolling stock, to proscribe disproportionate taxation of certain interstate carriers' property by State or local governments, and for other purposes—with an accompanying paper; to the Committee on Commerce.

PROPOSED ADDITIONAL ASSISTANT SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize an additional Assistant Secretary of Commerce—with an accompanying paper; to the Committee on Commerce.

PROPOSED TRANSPORTATION REGULATORY MODERNIZATION ACT OF 1971

A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to amend the Interstate Commerce Act, as amended, and Acts amendatory and supplemental thereto to provide for increased reliance on competition in the establishment of carrier rates, charges and practices, to liberalise entry and exit in the several modes of surface transportation, and for other purposes—with accompanying papers; to the Committee on Commerce.

PROPOSED ADDITIONAL JUDGESHIPS

A letter from the Director, Administrative Office of the U.S. Courts, Washington, D.C., transmitting a draft of proposed legislation to authorise additional judgeships for the U.S. courts of appeals—with an accompany-

ing paper; to the Committee on the Judiciary.

PROPOSED AMENDMENT OF ACT RELATING TO SERVICE AS CHIEF JUDGE OF A U.S. DISTRICT COURT

A letter from the Director, Administrative Office of the U.S. Courts, Washington, D.C., transmitting a draft of proposed legislation to amend the act of August 6, 1958, 72 Stat. 497, relating to service as chief judge of a U.S. district court—with an accompanying paper; to the Committee on the Judiciary.

TEMPORARY ADMISSION OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders relating to the temporary admission of certain aliens—with accompanying papers; to the Committee on the Judiciary.

REPORT ON ADJUSTMENT OF STATUS OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on the adjustment of status of certain aliens—with accompanying papers; to the Committee on the Judiciary.

REPORTS ON DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on certain defector aliens—with accompanying papers; to the Committee on the Judiciary.

REPORT ON EDUCATION OF GIFTED AND TALENTED CHILDREN

A letter from the U.S. Commissioner of Education, transmitting, pursuant to law, a report on the education of gifted and talented children—with an accompanying report; to the Committee on Labor and Public Welfare.

PETITIONS AND MEMORIALS

Petitions and memorials were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of the Legislature of the State of Georgia; to the Committee on the Judiciary:

"A RESOLUTION

"Ratifying the amendment to the United States Constitution relative to 18 year old voting; and for other purposes.

"Whereas, the Ninety-Second Congress of the United States of America adopted a proposal to amend the Constitution of the United States of America as follows:

"'JOINT RESOLUTION

"'*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the Legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"' "ARTICLE

"' "Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

"' "Section 2. The Congress shall have the power to enforce this article by appropriate legislation."

"Now, therefore, be it resolved by the General Assembly of Georgia that the aforesaid amendment to the Constitution of the United States of America is hereby ratified.

"Be it further resolved that the Governor shall transmit a certified copy of this Resolution to the Administrator of General Services, Washington, D.C.; to the President of the United States Senate; to the Speaker of the United States House of Representatives; and to each member of the Georgia Congressional Delegation.

"BEN W. FORTSON, JR.,
"Secretary of State."

A resolution adopted by the American Woman's Society of Certified Public Accountants, Chicago, Ill., relating to equality of rights under the Constitution; to the Committee on the Judiciary.

The memorial of Lois Ballard, of Port Clinton, Ohio, remonstrating against legislation relating to "Parent Replacement Program"; to the Committee on Labor and Public Welfare.

A memorial from various citizens of the United States, remonstrating against legislation relating to "Parent Replacement Programs"; to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FONG (for Mr. MCGEE), from the Committee on Post Office and Civil Service, with amendments:

S. 2722. A bill relating to comparability adjustments in pay rates of Federal employees (Rept. No. 92-428).

By Mr. JORDAN of North Carolina, from the Committee on Agriculture and Forestry, without amendment:

S. 2672. A bill to permanently exempt potatoes for processing from marketing orders (Rept. No. 92-429).

By Mr. HARTKE, from the Committee on Veterans' Affairs, without amendment:

S. Res. 185. Resolution to provide additional funds for the Committee on Veterans' Affairs (Rept. No. 92-430); referred to the Committee on Rules and Administration.

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

S. 2819. An original bill to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes (Rept. No. 92-431), together with supplemental views.

S. 2820. An original bill to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes (Rept. No. 92-432), together with supplemental views.

A REPORT ENTITLED "MENTAL HEALTH CARE AND THE ELDERLY: SHORTCOMINGS IN PUBLIC POLICY"—REPORT OF SPECIAL COMMITTEE ON AGING (S. REPT. NO. 92-433)

Mr. CHURCH. Mr. President, I submit a report from the Senate Special Committee on Aging entitled "Mental Health Care and the Elderly: Shortcomings in Public Policy."

The PRESIDING OFFICER (Mr. TUNNEY). The report will be received and printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

William J. Bauer, of Illinois, to be a U.S. district judge for the northern district of Illinois;

Herbert J. Stern, of New Jersey, to be U.S. attorney for the district of New Jersey;

Thomas E. Ferrandina, of New York, to be U.S. marshal for the southern district of New York; and

James R. Thompson, Jr., of Illinois, to be U.S. attorney for the northern district of Illinois.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, or reported, read the first time and, by unanimous consent, the second time, and referred or placed on the calendar, as indicated:

By Mr. PROXMIRE (for himself, Mr. MCGOVERN, Mr. BAYH, Mr. CASE, Mr. MOSS, and Mr. RIBICOFF):

S. 2818. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the administration of the drug diethylstilbestrol (DES) to any animal intended for use as food, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. FULBRIGHT (from the Committee on Foreign Relations:)

S. 2819. An original bill to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes. Placed on the calendar.

S. 2820. An original bill to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes. Placed on the calendar.

By Mr. MOSS:

S. 2821. A bill to provide for a study by the Secretary of the Interior of methods of control of predatory animals and birds on the public lands of the United States. Referred to the Committee on Commerce.

By Mr. FONG:

S. 2822. A bill for the relief of Alberto Rodriguez. Referred to the Committee on the Judiciary.

By Mr. DOMINICK:

S. 2823. A bill to amend the Foreign Assistance Act of 1961. Referred to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself, Mr. MCGOVERN, Mr. CASE, Mr. MOSS, and Mr. RIBICOFF):

S. 2818. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the administration of the drug diethylstilbestrol—DES—to any animal intended for use as food, and for other purposes. Referred to the Committee on Labor and Public Welfare.

LEGISLATION TO BAN THE USE OF DIETHYLSTILBESTROL IN PRODUCTION OF ANIMALS FOR HUMAN CONSUMPTION

Mr. PROXMIRE. Mr. President, I am introducing legislation for myself and for Senators MCGOVERN, CASE, MOSS, and RIBICOFF to ban the use of diethylstilbestrol—DES—to artificially stimulate the growth of livestock destined for America's dinner tables. This controversial drug is a proven carcinogen, or cancer causing agent, yet it is currently used to promote weight gains in cattle and sheep slaughtered for human consumption. The only requirements imposed by the Department of Agriculture and the Food and Drug Administration are that dosage not exceed 20 milligrams per head per day and that dosage be discontinued 7 days—until recently, 48 hours—before slaughter. Despite these precautions, traces of DES continue to be found in beef and sheep livers. I am convinced that the only answer is an outright ban on the use of DES.

DES is a synthetic estrogen, a hormone that is used in cattle and sheep feed to increase body weight and lower feed requirements per unit of gain. It has been in use since 1954. However, this drug also can cause cancer when fed to mice in quantities as small as 6.25 parts per billion.

Cancer causing agents are particularly lethal because over time their cumulative effect can be devastating, while small doses initially seem to have little impact. Consequently, cases of cancer occurring today may reflect exposure to carcinogenic agents, such as DES, that first occurred 15 or more years ago. When we reflect that DES has been used to fatten livestock for only the last 15 years or so, it is obvious that the impact of its use may just be on the verge of surfacing.

The most significant study linking the ingestion of DES with cancer in human beings seems to bear this delayed reaction theory out. The study appeared in the New England Journal of Medicine in April of this year. It indicated that women taking DES in the late 1940's during pregnancy had children with an unusually high incidence of cancer of the vagina—a condition which did not become evident until the children were between 15 and 22 years of age.

In fact, the extreme danger of carcinogenic additives in our food supply was recognized by the Congress in the Delaney amendment (21 USC § 348(c)(3)(A)) which prohibits the use of food additives found to induce cancer in man or animal. How, then, can DES be used to fatten livestock? Because of a 1962 addition to our food and drug laws (21 USC 360b(d)(1)(H)) that permits the use of cancer causing additives in feeding animals if no residue is found after slaughter in any edible portion of the animal.

The question of whether the present use of DES complies with this law is about to receive a court test. Two citizens groups have brought suit against the Federal Government to halt the use of DES because, as evidence I am about to allude to makes clear, residues of DES are being found after slaughter and there is no reason to believe that the prescribed withdrawal period is being followed by livestock producers.

My bill is meant in no way to supersede the efforts of these citizens groups. Rather, it is a supplement to the court action. My hope is that the Congress will, in its wisdom, act quickly to prohibit the use of DES so that a long drawn-out court battle can be avoided.

Does DES leave a residue in livestock after it has been slaughtered for human consumption? Without doubt, the answer is yes. Both the Food and Drug Administration and the Department of Agriculture have tried to minimize the importance of the findings but tests administered by the Department of Agriculture have consistently turned up DES residues in the livers—twice in the muscle tissue—of slaughtered animals.

The latest tests were completed in September and announced a little over a week ago. They disclosed DES residues in two tissue samples substantially exceeding the 2 parts per billion minimum—in one case the residue level was 4.8 parts per billion and in the other 8 parts per billion. Earlier this year, residues of as high as 36.9 parts per billion in sheep and 15.4 parts per billion in cattle were found. This residue problem is not confined to a single state or region. Of the first 10 contaminated animals detected under the testing program this year, two were located in Minnesota, and the other eight were found in California, Ohio, Nebraska, Washington, Arizona, South Dakota, Illinois and Indiana.

It is worth noting that despite the fact that the 1962 law prohibits any residue of a carcinogenic agent in animals meant for human consumption, the present DES tests will only show results if there are at least 2 parts per billion of the drug present. Furthermore, the analysis required to detect growth-promoting hormones, such as DES, has been described as recently as 1970 in the Journal of the Association of Official Analytical Chemists as a regulatory control chemists' "nightmare." In fact, the tests thus far this year have failed to detect any residue smaller than 3.7 parts per billion—almost twice the two parts per billion standard.

It seems strange that the Food and Drug Administration's reaction to the continued presence of DES in liver samples was a decision to set the period for withdrawal of DES from livestock feed prior to slaughter at 7 days rather than the existing 48 hours. This is like attempting to stop speeding violations by decreasing the speed limit. If the 48-hour withdrawal period is not being followed, what reason do we have to think that a 7-day period will be honored? And if a 48-hour withdrawal period is inadequate, why did not the FDA move sooner?

In fact, the withdrawal program has been impossible to police. The Department of Agriculture has sharply increased the number of carcasses inspected this year. It plans to test 6,000 samples in 1971 as compared with 192 samples last year. Yet, this 6,000-sample cross section represents only one-fiftieth of 1 percent of the 30 million cattle slaughtered under Federal inspection. If we assume that half of the samples are taken from sheep, only one one-hundredth of 1 percent of federally inspected cattle are being tested.

The voluntary certification program, under which cattle producers were to agree to certify that their animals have been taken off DES 48 hours prior to slaughter—prior to promulgation of the 7-day rule—has been a distinct flop. In a letter to me dated August 31, the Department of Agriculture admitted as much in these words:

> The actual percentage of cattle producers using the Animal Drug Certification Program is not available. However, a recent survey conducted by our regional offices indicates in general that slaughter establishments in the Southeastern, Mid-Atlantic and Northeastern regions receive very little participation; those in the Central, Northern and North Central regions receive intermittent or limited participation; and those in the Southwestern and Western regions receive moderate participation in the voluntary certification program.

The failure of this voluntary program is amply attested to by the Department of Agriculture's October 12 announcement of the planned implementation of a mandatory certification program.

Mr. President, the DES control program has been marked by one failure after another followed by announcements of increased inspections, tougher withdrawal standards and mandatory controls. Another recent welcome anouncement was that steps were being taken by FDA to prosecute offending producers—the first time that the Federal government has decided to go into the courts to enforce the law. But all of this is too little and too late. The problem will continue to exist and we must face up to it as many other countries have done, including the two largest beef producing countries outside of the United States—Argentina and Australia—as well as the Common Market countries, by completely banning the use of DES in promoting the growth of livestock.

Last summer the Department of Agriculture put out a press release claiming that a ban on DES would cost the consumer an additional 3½ cents per pound of beef. However, there should be an intensive effort to explore alternative means of cutting the costs of producing wholesome—and I put the emphasis on the word "wholesome"—meat. For instance, the Department could consider the impact of giving a higher USDA designation to baby bull calves whose meat has not yet reached the degree of toughness that maturity brings. Certainly an extensive study of ways to introduce economical practices into the retailing of meat, an area in which progress has been very limited over the years, could bring substantial dividends in the form of reduced costs.

There is evidence that meat grown without the artificial aid of DES may be better meat. DES treated meat tends to be tougher according to many experts. It has less marbling, and it is this marbling that increases the grade of meat. Consequently, although the consumer might be paying more, he would in all likelihood be getting more.

In the last analysis, however, cheap beef or lamb is a very bad bargain indeed if it brings with it the threat of poor health. This is what my bill to ban DES is meant to avoid. It will provide the consumer with a bargain his dollars cannot now buy—the assurance that the beef and lamb he eats is uncontaminated by an artificial hormone.

By Mr. MOSS:

S. 2821. A bill to provide for a study by the Secretary of the Interior of methods of control of predatory animals and birds on the public lands of the United States. Referred to the Committee on Commerce.

PREDATOR CONTROL STUDY ACT OF 1971

Mr. MOSS. Mr. President, today I am introducing the Predator Control Study Act of 1971. I do this because I am convinced that much more research needs to be done on predators, on the environmental effects of the present programs, and on alternative methods of predator control.

Recently grave questions have arisen concerning the Department of the Interior's predator control programs. For one thing, it is contended that they are not working.

This belief seems to be borne out by a look at the recent reports of the Bureau of Sport Fisheries and Wildlife for my State of Utah. Over the last 5 years total predator control funds for Utah have increased more than 20 percent. So have predator losses. In fact, sheep losses in Utah were 33 percent higher, lamb losses 40 percent higher, and total value of livestock 39 percent higher in 1970 than 2 years before. Clearly, if present programs were effective this would not be happening.

There is other evidence that the programs are not working. In Utah, extensive areas are controlled for coyotes and bobcats. But they also have to be controlled for ground squirrels, mice, marmots, prairie dogs, pocket gophers, porcupines, rabbits, skunks, commensal rats, and field rats, who eat crops, destroy range, and damage structures.

These animals, of course, are the ones that would be controlled naturally by coyotes or bobcats. The effect of controlling large predators may be simply to increase the populations of smaller predators, who then in turn must be controlled. And when the small predators are controlled too successfully, the larger predators must go after sheep in search of food. A program that produces such irrational results ought surely to be reexamined.

But the issue goes much deeper than that. Recently serious questions have been raised concerning the effect of predator control on our wildlife population in general. The survival of large numbers of native animal species is being endangered by man's activities. Some of these are predators, some are not, but all are part of our national heritage. Not all of the losses can be attributed to predator control programs, but they undoubtedly play a part.

The most troubling, and the most publicized, evidence of this is the plight of the bald eagle, our national symbol. Certainly no species is more worthy of our careful protection than our national birds. But they have been shot and poisoned by the hundreds in the name of predator control. This slaughter is made all the more tragic and irrational by the fact that there are no reliable independent studies to show that eagles are a significant source of predation of livestock.

A final, and still more troublesome aspect of the programs, is the ultimate effect on human health and welfare. Thousands of tons of deadly poisons are spread over our land each year. What is their ultimate effect, as they are washed by rains into our rivers and streams, and into our water supply? Or as they are ingested by cattle and sheep, or incorporated into the tissues of plants that are later used for human food? Almost nothing is known about the long term effects of subtoxic doses of 1080, strychnine, and cyanide on human health.

Indeed, the whole field is characterized by lack of knowledge. Little is known about the habits and life cycles of predators themselves. Of course, this knowledge is essential to a coordinated, sensible, and environmentally sound method of predator control. But we simply do not have it.

The present programs are an outgrowth of our ignorance. They are not effective in controlling predators, and they are significantly altering the natural environment in ways we have yet to fully understand.

Because of these concerns, the Salt Lake Tribune, in an editorial on September 22, 1971, called for a comprehensive study on predator control. The editorial said in part:

> The controversy (over predator control) has raged ever since the first cattle moved onto the western ranges and the first band of sheep was set out to graze. Only now are the first faint serious objective, scientific efforts being made to enumerate the dollars and cents costs of predator attacks, as well as determine such things as predator food demands, their frequency of attacks or ultimately their role in the balance of nature. The whole matter of predators is cloaked in a kind of folk lore, that has become tantamount to the truth.

The editorial suggested that bills presently in Congress be amended to "provide for an overall look at the predator problem, if it truly exists, that should have been done years ago and ought to be started soon."

Today, I am asking the Congress to authorize a full study, to be conducted by the Department of the Interior, on the question of predator control. The Department has taken some commendable steps in the field recently, including the appointment of a task force to study the present programs. But the task force was given only 3 months to complete their study. The complexity of the field, the need for primary data and careful evaluation, require a more comprehensive study.

I think it is also important that such study have congressional authorization and funding. Besides assuring adequate resources, the passage of this bill would be a demonstration that Congress is actively concerned in this important problem. Furthermore, it would assure that Congress would have access to the full results of the study, which may well form the basis for future legislation.

At this point, I ask unanimous consent that the text of this bill and the editorial from the Salt Lake Tribune be printed in the RECORD.

There being no objection the material was ordered to be printed in the RECORD, as follows:

S. 2621

A bill to provide for a study by the Secretary of the Interior of methods of control of predatory animals and birds on the public lands of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Predator Control Study Act of 1971."

DEFINITIONS

SEC. 101. As used in this Act—

(1) the term "livestock" means cattle, sheep, swine, horses, mules, or goats;

(2) the term "poison" means any substance (liquid, solid, or gaseous) which by reason of an inherent deleterious property tends to destroy life or impair health; and

(3) the term "Secretary" means the Secretary of the Interior.

STUDY-AUTHORIZATION

SEC. 102. (a) The Secretary is directed to make a full and complete study to determine the need for predator control programs on the public lands of the United States. In conducting such study the Secretary shall consider, in addition to other matters he deems appropriate, the following—

(1) the cost of predator control to the Federal government, the efficiency of present programs, the value of livestock killed by predatory animals and birds, and the effects of predator control on the environment;

(2) the possible alternative methods of controlling the population of predatory animals and birds including the use of poison; controlled hunting, killing, and trapping; and biological controls;

(3) who should bear the cost of predator control programs;

(4) the long term dangers to human health and welfare from using poison in predator control; and

(5) the feasibility and desirability of establishing a permanent indemnification program for livestock lost to predators in lieu of a predator control program.

(b) The Secretary shall submit to the President and the Congress, within two years after the date of enactment of this Act, a report containing the results of the study directed by this title together with such recommendations as he deems appropriate.

ADVISORY COMMITTEE

SEC. 103. (a) The Secretary is authorized to establish an Advisory Committee (hereinafter referred to as the "Committee") composed of not more than five members. Persons appointed to the Committee shall have a recognized interest and expertise in the subject of predator control. It shall be the function of the Committee to aid and advise the Secretary in conducting the study authorized by this title. Members of the Committee shall be appointed so as to achieve maximum representation of groups representing a diversity of views on the question of predator control, including, but not limited to, representatives of livestock owners and conservation groups.

(b) The Committee may, for the purpose of conducting the study authorized by this title—

(1) hold such hearings, take such testimony, and sit and act at such times and places as it deems advisable. Any member may administer oaths or affirmations to witnesses appearing before the Committee;

(2) consult with any other department, agency, or instrumentality of the Federal government and any interested State or municipal agency and with any other person concerned with the control of predatory animals and birds;

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

SEC. 104. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[From the Salt Lake Tribune, Sept. 22, 1971]

BILL TO INCREASE EAGLE KILL PENALTIES POINTS TO NEED FOR PREDATOR STUDY

Nixon administration endorsement of legislation to stiffen penalties for the illegal killing of eagles is most welcome, but one wonders if the current concern over the plight of eagles isn't focusing on too narrow a segment of the whole matter of predator control.

The bill now under consideration by the House subcommittee on fisheries and wildlife conservation would impose $5,000 fines and one-year prison terms for first offenders and $10,000 fines and two-year prison terms for subsequent offenses. These are stiff penalties and would go far in deterring repetition of such wanton killing of eagles as took place in Wyoming and Colorado last fall.

But wholesale killing of predators is not confined to eagles. Many other predators, principally coyotes and cougars and to some extent bear, are also the targets of those who claim they suffer huge economic losses because of these animals. Wildlife conservationists doubt the claims and point to many instances where indiscriminate and unrestricted eradication of predators has resulted in ecological upsets as economically detrimental to cattlemen and woolgrowers as predator attacks.

This controversy has raged ever since the first cattle moved onto the western ranges and the first band of sheep was set out to graze. Only now are the first faint serious objective, scientific efforts being made to enumerate the dollars and cents costs of predator attacks as well as determine such things as predator food demands, their frequency of attacks or ultimately their role in the balance of nature. The whole matter of predators is cloaked in a kind of folk lore, that has become tantamount to the truth.

The House subcommittee considering Congressman John D. Dingell's, D-Mich., bill to strengthen eagle killing penalties would be doing an even greater service if it were to amend the Dingell bill to incorporate authorization of an exhaustive study of the whole matter of predator control aimed at answering such questions as:

Who pays for predator control? Is it solely the responsibility of the cattle and sheep raisers. Or must the sportsmen continue to support the program with part of their license fees, collected ostensibly for protecting and managing the wildlife resources?

What is the role of predators in the economics of cattle and sheep raising? Just how much dollar damage do predators really do to cattle and sheep crops?

If predator control is found to be necessary to assure continued economic health of the livestock industry, are killing and trapping the best ways to do it? Or are there nonlethal control methods available? If not, can they be developed and effectively, efficiently and safely applied?

The Dingell bill and a similar one in the Senate by Sen. Gale McGee, D-Wyo., are needed stopgaps to curtail the killing of eagles, but they should also provide for the over-all look at the predator problem, if it truly exists, that should have been done years ago and ought to be started soon.

By Mr. DOMINICK:

S. 2823. A bill to amend the Foreign Assistance Act of 1961. Referred to the Committee on Foreign Relations.

Mr. DOMINICK. Mr. President, I introduce for appropriate reference a bill to amend the provisions of the Foreign Assistance Act of 1961 dealing with prohibitions against furnishing assistance. Specifically, this amendment would strengthen the so-called Hickenlooper amendment, which essentially requires the President to suspend aid to any country which expropriates property owned by American citizens unless "appropriate steps" to pay full compensation are taken within a reasonable time.

Although the Hickenlooper amendment was intended to be a strong deterrent against confiscation of American-owned properties, I do not think it has been effective, primarily because of the substantial loophole the "appropriate steps" language creates. "Appropriate steps" is broad enough to include any token action by the expropriating government whether or not it indicates a real intent to pay adequate compensation. For that reason, the sanctions in the Hickenlooper amendment have been rarely invoked. In fact, while there have been at least 20 instances of expropriation of American-owned properties since it was adopted in 1962, to my knowledge, the Hickenlooper amendment has been invoked only once—against Ceylon in 1963. Many of these takeovers have been accomplished without any payment let alone "speedy compensation equivalent to the full value" of the property as required by Hickenlooper. I ask unanimous consent to have inserted at this point in the RECORD a chart prepared by my staff summarizing the expropriations of American-owned properties since 1962. The chart indicates the expropriating countries, the dates, the estimated value of the properties taken—where such figures are available, the status of the claims, and the amount of U.S. aid the expropriating countries have received since 1946.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EXPROPRIATIONS OF AMERICAN-OWNED PROPERTIES SINCE 1962

Country and date	Properties and estimated value (if known)	Status of claims[1]	Total foreign aid (1946–70) (millions)
Brazil: 1962	ITT ($10,000,000)	Settled	$3,974
Ceylon: 1962	Esso and Caltex gas stations ($4,000 000)	do	167.1
United Arab Republic: 1961–64	40 companies in various industries ($6,500,000)	Unsettled	912.2
Argentina: 1963	Petroleum contracts of 10 companies nullified	Settled	911.6
Algeria:			
1963	19 companies in various industries ($2,000,000)	Unsettled	
1967	Mobil, Esso, Sinclair Oil	do	180.4
1970	Phillips Petroleum Co	do	
Iraq: 1964	Procter & Gamble	do	
Haiti: 1964	Valentine Petroleum & Chemical Corp	Settled	
Syria: 1965	Mobil & Standard of New Jersey	Unsettled	101.9
Indonesia: 1965	U.S. Rubber, Goodyear Tire and Rubber	Settled	122.6
Peru:			60.6
1968	IPC (subsidiary of Standard of New Jersey) ($200,000,000)	Expropriated under Sukarno; restored under Suharto	1,338
1969	Cerro de Pasco Mining, W. R. Grace	Unsettled (Velasco deducted claims from "illegal profits" earned)	772.5
Zambia: 1969	Roan Selection Trust, Ltd., Mobil, Caltex, Standard Oil (California), Standard Oil of New Jersey	Unsettled do	40.9
Bolivia:			
1969	Gulf Oil	do	
1970	Gulf Oil	do	549.1
Southern Yemen: 1969	Shell, Mobil, Esso, Caltex	Settled	
Libya: 1970	Esso	Unsettled	
Chile: 1971	Kennecott, Anaconda, Cerro ($550,000,000), ITT[2] ($150,000,000) Bank of America	do do[3]	230 1,703

[1] "Settled" does not mean adequate compensation was paid for the expropriated properties.

[2] About $275,000,000 of ITT and copper investments covered by OPIC. OPIC has reserves of $170,000,000. Thus, American taxpayers may be asked to pick up the difference—$105,000,000.

[3] Allende announced claims will be deducted from "excess profits" earned.

Mr. DOMINICK. Mr. President, the "appropriate steps" loophole permitted Peru to avoid a suspension of aid in 1968, when it expropriated a subsidiary of Standard Oil of New Jersey and "deducted" its $200 million value from "illegal profits" it had earned there. Peru has received almost $800 million in U.S. aid since 1946. Recent actions by Chile are startingly similar. In accordance with proposals made during the election campaign, the Allende government is executing a program to nationalize American-owned properties there. It announced recently that claims for American-owned copper properties valued in excess of $600 million would be set off against $774 million in "excess profits" earned over the last 15 years. Chile has received about $1.7 billion in U.S. aid since 1946, and an additional $10.8 million is now in the pipeline. Although State Department officials have made some fairly tough comments, no action has been taken to suspend assistance to Chile. In fact, Allende stated recently on "Meet the Press" that his government had received no communication whatsoever from the United States regarding expropriation of the copper properties.

Mr. President, I ask unanimous consent to have printed at the conclusion of my remarks several excerpts from "Foreign Broadcast Information Service" reports of recent comments by Chilean

officials on the nationalization of American copper properties, and the Senate's rejection of the foreign aid bill. In addition to providing an interesting look at the hostile attitude toward the United States which has developed in spite of—or because of—the $1.7 billion in aid we have given them since 1946, these comments show that more expropriations of American-owned properties can be expected in Chile.

My amendment would tighten this loophole by requiring that, in order to avoid a suspension of aid, an expropriating country would have to enter an agreement within 6 months committing itself to pay full compensation for the property taken, and would have to carry out the agreement within a reasonable time. The agreement would outline specifically the procedure, as well as the timetable, to be followed in carrying it out. If an agreement were readied and the President found that satisfactory progress were not being made to carry it out, he would be required to suspend assistance until such progress were made.

This new requirement would limit to some extent the executive's discretion in determining whether to suspend aid to an expropriating country. I do not, however, feel it is too much to require a country receiving American tax dollars to enter an agreement commiting itself to pay for American property it has expropriated, as a condition to continuing to receive those dollars. The Senate recently adopted an amendment in this regard which would eliminate the executive's discretion entirely—by requiring a suspension of assistance immediately upon expropriation—Amendment No. 540 to H.R. 9910, the Foreign Aid bill, which was subsequently defeated.

The amendment I am offering is entirely consistent with U.S. policy with respect to expropriations. That policy, in simplified terms, is that the sovereignty of a nation carries with it the right to expropriate property owned by foreign citizens, provided the expropriation is carried out in accordance with international law, that is, first, the property must be taken for a public purpose; second, American citizens must not be discriminated against; and, third, just compensation must be paid promptly. This amendment is intended only to provide for fair treatment, consistent with international law, of American investments abroad. It should be kept in mind that any deterrent effect of this amendment on expropriations without payment of adequate compensation would benefit all American taxpayers, not just those who invest abroad. Many American investments abroad are insured against expropriation by the Overseas Private Investment Corp. Where unpaid claims arising from expropriation of insured property exceed OPIC's reserves, Congress may appropriate funds from the U.S. Treasury to pay the difference. For example, OPIC presently has reserves of about $170 million. About $275 million of the American investments recently expropriated by Chile are reportedly covered by OPIC. American taxpayers may therefore be asked to pick up the difference—$105 million.

In conclusion, Mr. President, I think recent events in Peru and Chile show that this bill merits our prompt consideration as a possible deterrent to similar actions by those and other countries in the future.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

ALLENDE DISCUSSES FOREIGN POLICY, COPPER SITUATION

SANTIAGO, CHILE, Octobre 28.—Speaking yesterday with Chuquicamata mine workers, President Salvador Allende emphasized that this government will inexorably carry out the nationalization of copper and other points of the program his government promised the voters.

Concerning the imperialist offensive against his administration on the nationalization of U.S. copper companies, Allende said that "we will relentlessly continue, under this constructional amendment, to fulfill the obligation of insuring for Chile what should have belonged to it many years ago, and regardless of where the threats come from, the Chilean people and the conscience of the Chilean people will be our best defense against foreign preasure."

EL SIGLO COMMENTS ON U.S. FOREIGN AID DECISION

SANTIAGO, CHILE, November 1.—The U.S. Senate decision to halt aid to underdeveloped countries lays bare the true nature of U.S. aid, which is nothing but a form of political pressure.

This statement is contained in today's editorial in the communist newspaper El Siglo. The editorial, headlined "Criminal Reprisal," says:

The U.S. Senate, in a decision which caused great surprise throughout the world, resolved to halt U.S. economic aid to developing countries. The measure was viewed everywhere as an action of reprisal against the majority of the nations that voted for China's entry into the United Nations and the consequent expulsion of Taiwan, the U.S. aircraft carrier in the China Sea.

As could be expected, reaction was not long in coming. The Vatican diplomatically stated with painful surprise—and the European press in general has pointed out—that the decision is a severe warning to small countries which rebel against U.S. impositions. For many it was also a two-edged measure akin to childish hysteria, which may heap on the United States the greatest dose of repudiation it has received in a long time.

In Lima, where the Group of 77 comprising developing nations from throughout the world is meeting, the repercussions were much more explosive and may be summarized in this statement by an African delegate: It is an irresponsible stand. For the Hindu delegates, the halt in aid will seriously harm the poor countries, especially their balance of payments, because of the sudden manner in which it was adopted. In the midst of alarm and indignation, the Group of 77 resolved to weld together the Asian, African, and Latin American blocs to adopt a forceful position vis-a-vis Washington's rebuff.

The 25-year-old foreign aid program, was not an act of good will or a gesture of solidarity by a huge power toward needy countries, it was simply a way to save face and create a generous image of the United States at a time when U.S. imperialism was ravaging small countries under its influence throughout the world. It was a demagogic way to give back a crumb in compensation for the barefaced and unscrupulous exploitation to which it subjected these countries, especially their basic wealth.

The vote to stop aid serves the aims of a very aggressive sector of imperialism to punish other countries not only for their position on the Chinese case but also for the overall awakening of these countries to claim their rights, demand their economic independence—and especially demand the right to own their basic wealth. This awakening has undoubtedly influenced the dignified, brave and patriotic attitude of the Chilean Government, which has set a magnificent example for developing countries of the just and irreproachably legal procedure to nationalize the great national wealth in foreign hands.

It is too optimistic of the U.S. Senate, of course, to believe that with this type of reprisal it is going to halt or weaken the movement of liberation underway everywhere in exploited countries, and which in Latin America in particular is increasingly more firmly and surprisingly manifest.

Moreover, the senate's decision lays bare the true nature of U.S. aid, which is nothing but a form of political pressure and something which imperialism may cut off at any moment and at will without caring at all for the consequences that this curtailment may bring to the small countries affected.

REACTION TO U.S. SENATE DECISIONS REPORTED: HICKENLOOPER AMENDMENT

SANTIAGO, CHILE, October 29.—Several Chilean congressmen commented on the U.S. Senate approval of an amendment to the Hickenlooper law which forces President Nixon to end all aid to a country until it has paid acceptable compensation to companies which have been expropriated.

Senator Rafael Tarud, of the government's Independent Popular Action Party, pointed out that "it presents a new situation in which the United States changes the rules of the game. We can also change them according to the nation's interests." Continuing, he said that in his opinion it definitely is a return to the U.S. big stick policy, and though it represents serious difficulties for countries affected by the amendment, such as Chile which has included this aid in its budget, it is no less true that this will create the unity of all Chileans in defense of our legitimate interests.

With regard to the Socialist Party's proposal to apply a moratorium on the foreign debt, Senator Tarud specified that the government will not take such a step without full approval of the parties in the Popular Unity coalition.

The Communist Party's Political Committee said this U.S. measure constitutes aggression by imperialism against the sovereign will of the people of Chile. In conclusion, the communists say they will not accept this measure.

FOREIGN AID PROGRAM

SANTIAGO, CHILE, October 31.—Foreign Minister Clodomiro Almeyda has described the U.S. Senate decision to end the U.S. foreign aid program as an incomprehensible and desperate gesture. The foreign minister made this statement on his return to Chile from Lima, Peru, where he participated in the meeting of the Group of 77.

When he was asked to discuss the attitude of the U.S. Senate majority, he added that it was a demonstration of confusion which, in the long run, will have negative results for the United States. The foreign minister was asked whether the nations represented at the Lima meeting had adopted any concrete resolution concerning the U.S. decision. He indicated that the deliberations were still in the initial stage, but that it was his impression that some decision on the matter would come out of it. "There is still much work ahead in Lima," he said, "but the atmosphere is right for an answer to the U.S. Senate." In any case, all of the ideas expressed make results in his area and in attaining the objectives sought promising.

Almeyda was also asked whether he knew about the rumors which have circulated in the United States concerning the possible application of the Hickenlooper amendment to Chile, following its copper nationalization. He said that this amendment in no way affects Chile because no project covered by the Hickenlooper amendment is being carried out here.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2709

At the request of Mr. HATFIELD, the Senator from Montana (Mr. MANSFIELD) and the Senator from Colorado (Mr. DOMINICK) were added as cosponsors of S. 2709, to permit American citizens to hold gold in the event of the removal of the requirement that gold reserves be held against currency in circulation.

ESTABLISHMENT WITHIN THE BUREAU OF THE CENSUS OF A NATIONAL VOTER REGISTRATION ADMINISTRATION—AMENDMENTS

AMENDMENTS NOS. 607 AND 608

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER submitted two amendments, intended to be proposed by him, to the bill (S. 2574) to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENT NO. 609

(Ordered to be printed and to lie on the table.)

Mr. ERVIN submitted an amendment, intended to be proposed by him, to the bill (S. 2515) to further promote equal employment opportunities for American workers.

AMENDMENT NO. 611

(Ordered to be printed and to lie on the table.)

Mr. DOMINICK. Mr. President, on behalf of myself, Mr. BAKER, Mr. BROCK, Mr. BUCKLEY, Mr. ERVIN, Mr. FANNIN, Mr. HOLLINGS, and Mr. TOWER, I introduce for printing and future appropriate consideration an amendment to S. 2515, the Equal Employment Opportunities Enforcement Act of 1971. Essentially, the amendment strikes all language vesting the Equal Employment Opportunity Commission with cease and desist powers and substitutes therefor language giving the EEOC power to bring employment discrimination disputes to Federal court for resolution.

The amendment does not affect present bill language which: first, improves the respondent's rights of due process by requiring a 10-day notification of the filing of a Commission charge and a 2-year limitation of back pay liability; second, provides procedures whereby approximately 10.1 million State and local government employees and 2.6 million civil service and postal workers can redress their employment discrimination grievances through Federal district courts; third, expands the coverage of Commission jurisdiction to those private employers of eight or more employees; fourth, does not limit aggrieved employes to only title VII remedies or limit class action; and fifth, transfers the Justice Department's "pattern and practice" suit jurisdiction and the Labor Department's Office of Federal Contract Compliance to the EEOC.

Mr. President, what this amendment would do is to guarantee the protection of both parties' rights through fair, effective, and expeditious Federal court machinery. It would avoid the legendary vicissitudes of presidentially appointed boards and vest adjudicatory power where it belongs—in impartial judges shielded from political winds by life tenure. Judges who render their decisions in a climate tempered by judicial reflection and supported by a historical judicial independence influenced only by stare decisis. This amendment permits the aggressive and active advocacy of equal employment opportunity so necessary at the investigatory and prosecutory levels, yet preserves the impartiality of the courts at the adjudicatory level.

Mr. President, effective protection of the rights of all parties also demands a speedy resolution of a dispute. A court approach, rather than a cease and desist procedure, better serves this goal. Only one step—a district court order that is immediately self-enforcing and backed by the court's contempt powers—is needed. A commission cease and desist order, on the other hand, must be brought to a court of appeals before it achieves similar sanction powers. Additionally, the judge who is enforcing his own orders rather than those of some commission will be more determined that such orders are obeyed.

The determination of how best to fulfill our national commitment to the elimination of all forms of employment discrimination must be determined by clear consideration of the alternatives. If the issue is examined objectively, I believe my colleagues will agree that a court approach provides the best and fairest machinery for providing hope for the future of all Americans.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 611

On page 33, after line 24, insert the following:

"SEC. 4. (a) Paragraph (6) of subsection (g) of section 706 of the Civil Rights Act of 1964 (78 Stat. 258; 42 U.S.C. 2000e-4) is amended to read as follows:

"'(6) to refer matters to the Attorney General with recommendations for intervention in a civil action brought by an aggrieved party under section 706, or for the institution of a civil action by the Attorney General under section 707, and to recommend institution of appellate proceedings in accordance with subsection (j) of this section, as redesignated by section 4(d) of the Equal Employment Opportunities Enforcement Act of 1971, when in the opinion of the Commission such proceedings would be in the public interest, and to advise, consult, and assist the Attorney General in such matters.'

"(b) Subsection (h) of section 705 of such Act is amended to read as follows:

"'(h) Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court, except that the Attorney General shall conduct all litigations to which the Commission is a party in the Supreme Court or in the courts of appeals of the United States pursuant to this title. All other litigation affecting the Commission, or to which it is a party, shall be conducted by the Commissioner.'"

On page 34, beginning with line 1, strike out through the end of the parenthetical in line 3 and insert in lieu thereof:

"(c) Subsections (a) through (e) of section 706 of such Act."

On page 38, beginning with line 7, strike all through line 7, page 50, and insert in lieu thereof the following:

"(f) If within thirty days after a charge is filed with the Commission or within thirty days after expiration of any period of reference under subsection (c) or (d), the Commission has been unable to obtain voluntary compliance with this Act, the Commission may bring a civil action against the respondent named in the charge. If the Commission fails to obtain voluntary compliance and fails or refuses to institute a civil action against the respondent named in the charge within one hundred and eighty days from date of the filing of the charge, a civil action may be brought after such failure or refusal within ninety days against the respondent named in the charge (1) by the person named in the charge as claiming to be aggrieved or (2) if such charge was filed by an officer or employee of the Commission, by any person whom the charge alleges was aggrieved by the alleged unlawful employment practice. Upon application by the complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action without the payment of fees, costs, or security. Upon timely application, the court may, in its discretion, permit the Attorney General to intervene in such civil action if he certifies that the case is of general public importance. Upon request, the court may, in its discretion, stay further proceedings for not more than sixty days pending the termination of State or local proceedings described in subsection (c) of this section or further efforts of the Commission to obtain voluntary compliance."

On page 50, beginning with line 8, strike all through line 19, and insert in lieu thereof the following:

"(d)(1) Subsections (f), (h), (i), (j), and (k) of section 706 of such Act, and all references thereto, are redesignated as subsections (h), (j), (k), (l), and (m), respectively.

"(2) Subsection (g) of such section 706 is redesignated as subsection (i), and a new subsection (g) is inserted as follows:

"'(g) Whenever a charge is filed with the Commission and the Commission concludes on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of this Act, the Commission may bring an action for appropriate temporary or preliminary relief pending final disposition of such charge. It shall be the duty of a court having jurisdiction over proceedings under this section to assign cases for hearing at the earliest practicable date and to cause such cases to be in every way expedited.'

"(e) Subsection (i) of section 706 of such Act, as redesignated by paragraph (2) of section 4(d) of this Act, is amended to read as follows:

"'(1) If the court finds that the respondent has engaged in or is engaging in an unlawful employment practice charged in the complaint, the court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate, which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the unlawful employment practice), or any other equitable relief as the court deems appropriate. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay otherwise allowable.'"

On page 56, beginning with line 7, strike all through line 19.

On page 56, line 20, strike out "Sec. 8" and insert in lieu thereof "Sec. 7".

On page 60, beginning with line 3, strike all through line 9, page 61.

On page 61, line 10, strike out "(h)" and insert in lieu thereof "(f)".

On page 61, line 13, strike out "Sec. 9" and insert in lieu thereof "Sec. 8".

On page 62, line 18, strike out "Sec. 11" and insert in lieu thereof "Sec. 10".

On page 65, line 21, strike out "(q)".

On page 65, strike out lines 23 and 24.

On page 65, line 25, strike out "(e)" and inert in lieu thereof "(d)".

On page 66, line 6, strike out "Sec. 12" and insert in lieu thereof "Sec. 11".

On page 66, line 14, strike out "Sec. 13" and insert in lieu thereof "Sec. 12".

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971—AMENDMENTS

AMENDMENT NO. 610

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment, intended to be proposed by him, to the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 612 THROUGH 614

(Ordered to be printed and to lie on the table.)

Mr. WILLIAMS. Mr. President, I submit today three amendments to H.R. 10947, a bill "to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes."

Essentially, my amendments would first, remove the limitations on deductibility of medical expenses, second, allow a deduction with certain limitations for the money paid by the taxpayer for transportation to and from his place of residence and place of employment, and third, amend the Internal Revenue Code to encourage the construction of housing facilities for agricultural workers by permitting the amortization over a 60-month period of the cost of constructing such facilities.

Mr. President, I know that everyone is anxious for early enactment of this legislation which has been designed to take meaningful action in response to the President's tardy but welcome call for a new national economic policy. The bill as it came from the House of Representatives provides for a renewal of the 7-percent investment tax credit, for a modification of the administration's accelerated depreciation program, for the removal of the 7-percent automobile excise tax, and for a speedup of personal income tax exemptions which were first enacted in the 1969 tax reform bill.

Yet, it is my feeling that more must be done to provide relief for the "little guy," the taxpayer who shoulders the largest burden in our revenue system. Persons with smaller incomes tend to pay a higher tax rate and they need additional relief, particularly in view of the experience of the past two years which has seen local property taxes sky-rocketing and additional tax burdens levied by the States.

While I do not feel that the Revenue Act of 1971 should be expanded to include an unlimited number of reform provisions, I do feel that the three amendments which I propose today will target relief where the need is critical.

ELIMINATION OF THE 3-PERCENT FLOOR ON MEDICAL EXPENSES AND THE 1-PERCENT FLOOR ON DRUG EXPENSES

We have all been talking during this past year of the health care crisis in America. We know that hospital costs have skyrocketed. We know of the financial disaster which confronts any individual who is stricken with serious illness, and we know that the President has established a special arm of his new Cost of Living Council designed to pay special attention to rising prices in the health services industry. Thus, the adoption of this amendment would benefit all taxpayers. Virtually all of the approximately 30 million taxable returns which are currently itemized would show tax reductions for medical expenses below the current 3-percent floor. In addition, the removal of the floor would provide incentive to itemize for an estimated 5 million taxpayers filing returns and now using the minimum standard deduction. Most of these returns will be filed by young couples who earn above $10,000 and who heretofore were unable to claim any medical deduction because they were unable to get in under the floor imposed by existing law.

While we in the Congress are currently debating the best way to make health care a right for every American, to make health care less expensive and more available, and to improve the quality of the delivery system, I feel strongly that we must at this time allow for the deduction of all medical and drug expenses. Perhaps when more comprehensive legislation is enacted, this action will be unnecessary; but for the present, we can brook no further delay.

COMMUTING EXPENSES

This proposal would allow a taxpayer to deduct the money he spends on transportation to and from work. The transportation deductions would be limited to the lower of $400 or 5 percent of the taxpayers' adjusted gross income. The deduction would further be limited to one 40-mile round trip per day.

The general rule is that commuting expenses back and forth from work are not deductible items. This rule, however, has its natural string of exceptions. Thus, if one drives his car to work in order to carry heavy or bulky tools the Internal Revenue Service may allow a deduction for such use if the car would not otherwise have been used. Some courts have been even more liberal and have allowed deductions where the car would have been used even if no tools would have been transported. The courts have made another exception to the commuting rule and permitted deductions if the taxpayer has to travel by car to a remote place of employment.

Mr. President, the days of walking to work are gone forever. People are spending more time and more money on transportation between home and job. Transit fares alone have tripled since 1948. I do not feel it is fair to require the millions of taxpayers who travel great distances to work each day to haul tools or live in remote places before they can claim a deduction for commuting expenses. Relief in this area is long overdue, and I think my amendment provides a fair and equitable formula.

FARM LABOR HOUSING

This amendment would permit any individual who constructs a certified housing facility for agricultural workers to claim a deduction with respect to amortization based on a 60-month period. In effect, this amendment will encourage those agricultural employers who use farm labor to provide desperately needed housing for their workers. In the 10 years during which I served as chairman of the Migratory Labor Subcommittee we saw time and again the horrid conditions facing the migrant farm laborer. If a migrant worker was fortunate enough to be provided housing by his employer, it was substandard at best and most often did not meet the standards of our worst urban slums. Yet, tragically and unconscionably we seem not to care at all about the conditions which they face as they move from far to farm. My amendment is designed to encourage a change in this condition—a change which is long overdue.

AMENDMENT NO. 621

(Ordered to be printed and to lie on the table.)

Mr. BAYH. Mr. President, on Wednesday the Senate will consider a series of tax proposals designed to stimulate the economy and get us on the high road to recovery from the Nixon recession. Unfortunately, the President's proposals and the House-passed bill are both inadequate and inequitable. First, they fall about four to six billion dollars short of the fiscal stimulus needed to spark a recovery and cut into the unemployment rate. Second, the package is heavily weighted in favor of permanent tax breaks to corporate America.

Therefore, I am today submiting an amendment to H.R. 10947 that would make the personal income tax cuts originally scheduled for January 1973—and moved to January 1972 by the House—effective January 1971. The time for a stimulus to consumer spending is now.

EXTENSION OF ECONOMIC STABILIZATION ACT OF 1970—AMENDMENTS

AMENDMENTS NOS. 615 THROUGH 630

(Ordered to be printed and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. STEVENSON. Mr. President, I am today submitting several amendments to S. 2712, a bill to extend and amend the Economic Stabilization Act of 1970.

The President has requested that Congress pass legislation which would provide him the authority to impose economic controls unprecedented except in time of war. Indeed, S. 2712 would allow the President, devoid of the scantiest congressional guidance, to exercise nearly total control over prices, wages, salaries, rents, interest rates and dividends. I fear that unless the Congress seizes this opportunity to provide guidance, clarification, and procedural safeguards, the President's proposal may turn out to be the economic equivalent of the Gulf of Tonkin resolution.

My first amendment would require that all members of any boards or commissions set up to administer economic controls must be confirmed by the Senate. Members of these bodies will possess tremendous power over the economic well-being of every American—far more power than members of independent regulatory agencies or assistant secretaries of the departments possess. Yet we require Senate confirmation for these offices. Indeed the Congress required Senate confirmation of all members of the tripartite wage stabilization board during the Korean war period. Why is it desirable to allow the President to bypass Congress totally now when it was not deemed necessary to do so during wartime?

Members of these bodies—regardless of whether they are drawn from labor, business or other sectors—will be making policy decisions for the entire society. They will be exercising a vastly important governmental function and I hope the Senate will not abandon its constitutional role of advice and consent in these circumstances.

Because it is imperative to move without delay from phase I to phase II, my amendment would allow members already appointed to the Price Commission and Pay Board to continue to serve with full legal authority on an interim basis. However, no member would be allowed to continue to serve if he were not confirmed by the Senate within 45 Senate workdays—allowing for the scheduled Senate recess—after passage of the act.

My second amendment would provide clearer congressional guidance for orders and regulations the President could issue under the authority of the Economic Stabilization Act.

First, it would eliminate the provision that prices, rents, wages, and salaries must be stabilized at levels not less than those prevailing on May 25, 1970. This date is a completely arbitrary reference point and one which in some cases might not provide the President with the legal authority to reduce the prices of a firm which has reaped windfall profits as a result of economic controls. S. 2712 provides that interest rates, corporate dividends, and similar transfers may be standardized at levels "consonant with orderly economic growth" and my amendment would apply the same standard to prices, rents, wages, and salaries. It would also specify that regulations must be fair and equitable, giving due consideration to levels prevailing on May 25, 1970—essentially the same language which was found constitutional during World War II.

Second, it would require rather than allow the President to issue orders for "such adjustments as may be necessary to prevent gross inequities."

Third, it would exempt from regulation under this act any worker earning "substandard" wages. The precise determination of what constitutes a substandard wage would be left to the President or bodies set up by him under the authority of this act. However, the amendment specifies that the definition shall not be below the official Government poverty line, and I personally hope that "substandard wage" would be defined to be above the poverty level.

Another amendment would eliminate section 213 which would have Congress ratify all "regulations, rules, orders, guidelines, interpretations, and circulars" promulgated during phase I. There are thousands of these rulings, some of which are now being tested in the courts, and a blanket congressional set of approval on all of them would be foolhardy. We simply have no way of knowing what we would be ratifying.

In its present form, S. 2712 contains a provision making the Administrative Procedure Act inapplicable to official actions taken during phase II. It is true that the stabilization legislation in effect during the Korean war also made the Administrative Procedure Act inapplicable, but that legislation established a detailed alternative mechanism to insure procedural fairness at every stage. Because this legislation fails to do that, it has been criticized by the American Bar Association, former OPA General Counsel David Ginsberg, and many others. I, therefore, also introduce an amendment making it clear that the Administrative Procedure Act is applicable. I ask unanimous consent that the American Bar Association's excellent testimony setting forth the reasons why the APA should be applicable be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MILTON M. CARROW, CHAIRMAN, SECTION OF ADMINISTRATIVE LAW OF THE AMERICAN BAR ASSOCIATION BEFORE THE SENATE BANKING, HOUSING AND URBAN AFFAIRS COMMITTEE, NOVEMBER 3, 1971

My name is Milton M. Carrow. I am a lawyer in New York City and chairman of the Section of Administrative Law of the American Bar Association. I have with me Franklin M. Schultz, the last retiring chairman of the Section, and Ben Fisher, the Section representative to the House of Delegates of the American Bar Association. We appear here as Section officers, and it is our understanding that this statement reflects the general policy of the American Bar Association.

Our interest in this bill centers about Section 207 which excludes the functions to be exercised thereunder from the operation of the Administrative Procedure Act. (5 U.S.C., Sec. 551 et seq.) We object to such exclusion (The bill does not exclude the operation of the public information provision of the Administrative Procedure Act, 5 U.S.C., Sec. 552, and we do not object to this.)

We recognize the importance of swift implementation of the rules and orders expected to be issued under this bill, but we believe such objections will not be effectively accomplished by excluding the operation of the Administrative Procedure Act.

The Administrative Procedure Act was enacted in 1946 after a long legislative history and after one of the most comprehensive underlying studies by an eminent committee of scholars. (Administrative Procedure Act, Legislative History, 1944-46, Senate Document No. 248, 79th Cong., 2nd Sess.; Report, Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess.) In view of the diversity of subjects covered it was carefully drafted to provide for exceptions and exemptions which then seemed appropriate and for emergency action where needed. Although there was some initial opposition, the agencies accommodated their procedures to its reasonable requirements, and I believe it fair to say it is now supported throughout the federal government. It might also be noted that because of changing circumstances serious consideration is being given by the Administrative Conference of the United States and our own Section, pursuant to resolutions adopted by the House of Delegates, to proposed amendments which would eliminate some of the exceptions and exemptions and make other improvements in the Administrative Procedure Act.

To exclude the application of the minimal procedural safeguards of the Administrative Procedure Act is to invite extended litigation challenging the validity of the many rules and orders which we anticipate will be issued. The bill itself provides that rules may be challenged in the courts which are "in excess of the agency's authority," or "arbitrary and capricious", and orders may be challenged where the facts are "not supported by substantial evidence". (Section 208(f)).

The bill does not require as would be required under the Administrative Procedure Act either the President or his designated agencies (The proposed Wage Board and Price Commission) to provide for notice or opportunity to be heard to those affected by the rules or orders. In our view this increases the probability that the agencies will not have considered all the pertinent facts and data prior to the issuance of the rules or orders. This in turn could have two proximate consequences: (1) a reason on the part of those affected to comply, and (2) a constantly increasing number of enforcement proceedings. (The bill provides that these proceedings be brought in the district courts of the United States (Section 208(a)) and the sanctions sought would be either criminal fines or civil penalties (Section 204). Also, injunction proceedings may be instituted against violators upon the request of an agency to the Attorney General. This may invite selective enforcement proceedings.)

Because there is not agency hearings process, the enforcement proceedings would be tried *de novo* in the district courts. In view of the many areas, industries and individuals affected, the district courts could be inundated with enforcement proceedings.

The bill itself reflects an ambivalence on this subject. On one hand it provides that agency rules may be set aside if they are ar-

bitrary and capricious, and that orders can be set aside if they are not supported by substantial evidence. Yet, no provision is made for any process whereby such infirmities can be avoided. On the other hand, the bill also recognizes the potential of increased caseloads by establishing on the appellate level only, a new court, the Temporary Emergency Court of Appeals, (Section 206(c)), but it ignores the far greater burden that may be thrust on the district courts.

The inequities and cumbersomeness of such developments could be serious. If a substantial number of final judgments are issued by the courts setting aside rules or orders, they would have to go back for reconsideration by the President and the agency involved. Changed rules and orders would have to be issued. During the litigation interval, which could be lengthy, the general public would be in a state of uncertainty, and the affected parties or industry would have been subject to onerous requirements.

It is hard to see how the public interest can be served in those circumstances. Initially, the public may be temporarily lulled into a belief that effective action has been taken, but if a significant number of judicial determinations set aside the rules and orders, there could be a serious breakdown of confidence. Here truly would be an example of haste makes waste.

As regards the rulemaking functions, it may be argued that notice of intended price or wage rules could induce an upward spiral prior to issuance. However, the Administrative Procedure Act specifically provides for such contingencies in its emergency rulemaking provisions, which a number of other federal agencies have effectively employed. (Section 553(b)(3)(B) provides that the rulemaking procedures do not apply "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest".)

In view of these considerations, we recommend that Section 207 be deleted from the bill, and that to the extent it is not inconsistent with specific provisions of the bill, the Administrative Procedure Act be made applicable to the exercise of the pertinent function.

Mr. STEVENSON. Mr. President, another amendment is designed to clarify and expand the rights of individuals to assure they have their day in court. On November 1, 1971, Assistant Attorney General Gray told the Senate Banking Committee that section 208(a) of S. 2712 does not eliminate the right of a defendant in a State court proceeding to raise as a defense the violation of this legislation or any order or rule issued thereunder. Mr. Gray also stated that S. 2712 intended to confer on aggrieved individuals the right to bring actions in the Federal district courts for declaratory relief, injunctive relief and damages. The amendment simply makes it clear that these rights do indeed, exist.

In addition, the amendment provides that persons intentionally overcharged on certain sale and rental transactions may recover attorney fees, court costs and treble damages with a minimum recovery of $100–$1,000 for damages. These provisions are quite similar to the rights of plaintiffs in antitrust cases and the rights which overcharged consumers enjoyed under the Defense Production Act of 1950. In view of the fact that the administration is not setting up an apparatus for full-scale government enforcement of price restrictions, the least we can do is give the consumer a fair opportunity to protect himself, and in the process to help enforce the law.

Mr. President, I ask unanimous consent that the text of my amendments be printed at this point in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 615

On page 2, line 6, insert the following: "(a)" immediately before "Section 203";

On page 2, line 20, insert before "to", ", by and with the advice and consent of the Senate.".

On page 3, after line 8, insert the following: "(b) Any persons serving on such boards, commissions, or similar entities prior to enactment of this act may continue to serve with full legal authority on an interim basis for a period extending through the end of the 45th calendar day in which the Senate is in session after enactment. At the expiration of this period, no person who has not received the advice and consent of the Senate may continue to serve as a member of any board, commission, or similar entity established under the authority of this act.

AMENDMENT No. 616

On page 2 strike out from line 7 through "growth" on line 13, and insert in lieu thereof:

"The President is authorized to issue such orders and regulations as he may deem appropriate, accompanied by a statement of reasons for such orders and regulations, to stabilize prices, rents, wages, salaries, interest rates, and corporate dividends and similar transfers at levels consonant with orderly economic growth and which are fair and equitable giving due consideration so far as possible to levels that were prevailing on May 25, 1970."

AMENDMENT No. 617

On page 2, line 3, strike all after the period through line 15 and insert in lieu thereof:

"Such orders and regulations shall provide for the making of such adjustments as may be necessary to prevent gross inequities. No such order or regulation shall apply to the wages or salary of an individual with substandard earnings, until such time as his earnings are no longer substandard. In no case shall 'substandard earnings' be interpreted to mean a wage or salary rate less than that which, on an annual basis, would yield an income less than the official government poverty line for a family of four. Appropriate adjustment shall be made in the case of workers employed part time or in seasonal occupations."

AMENDMENT No. 618

Strike out everything from line 20 on p. 13 through line 6 on page 14, and re-number subsequent sections accordingly.

AMENDMENT No. 619

(a) On page 5, strike lines 20–24 and insert in lieu thereof the following:

"The functions exercised under this title shall be subject to the Administrative Procedure Act, section 551, et seq., title 5, United States Code, except that the requirements of section 705 of that Act shall not be applicable to functions exercised under this title."

(b) On page 8, line 5, substitute a comma for the period and insert immediately thereafter the following:

"or is otherwise unlawful under the criteria set forth in section 706(2) of the Administrative Procedure Act, 5 U.S.C. 706(2)."

(c) On page 8, line 7, substitute "findings" for "facts".

AMENDMENT No. 620

SEC. 1. On page 6, line 7, substitute a semi-colon for the period and insert the following immediately thereafter: "provided that nothing in this paragraph or in paragraph (j) of this section shall affect the right of any person to interpose any defense (other than a defense based on the unconstitutionality of this Act or any action taken thereunder) in any judicial proceeding."

SEC. 2. On page 6, strike lines 8–11 and insert in lieu thereof the following:

"(b)(i) Persons with a cause of action arising out of this title or out of any order, regulation or other act issued under this title may, notwithstanding the amount in controversy, bring actions in the district courts of the United States for all appropriate relief, including declaratory judgments, injunctive relief (subject to the restrictions of this title), and damages.

(ii) In actions brought under subparagraph (i) of this paragraph against a renter of real or personal property or a seller of goods or services, any such seller or renter found to have overcharged any person shall be liable for reasonable attorney fees and costs, plus whichever of the following sums is greater: 1) an amount not more than three times the amount of the overcharge or overcharges upon which the action is based, as the court in its discretion may determine; or 2) not less than $100 or more than $1000, as the court in its discretion may determine. *Provided*, that in cases where the seller or renter establishes that the overcharge was not intentional and resulted from a *bona fide* error notwithstanding the maintenance of procedures reasonably adapted to the avoidance of such error, the liability of the seller or renter shall be limited to the amount of the overcharge.

(iii) For purposes of this paragraph, the word "overcharge" shall mean the amount by which the consideration for the rental of real or personal property or the sale of goods or services exceeds the applicable ceiling.

(iv) If the Attorney General brings an action under Section 205 of this Act in which restitution for overcharges is sought, all actions brought by private parties on the basis of the same overcharges (and pending in the district courts of the United States) shall be stayed or consolidated, as the court in which the Attorney General's action was brought may determine.

EDUCATION AMENDMENTS OF 1971—AMENDMENTS

AMENDMENTS NOS. 622 THROUGH 627

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself, Mr. ALLEN, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, Mr. BAKER, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, and Mr. TOWER) submitted six amendments, intended to be proposed by them, jointly, to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 475

At the request of Mr. PEARSON, the Senator from Delaware (Mr. BOGGS), the Senator from North Dakota (Mr. BURDICK), the Senator from Kansas (Mr. DOLE), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of Amendment No. 475, to the bill (H.R. 10947) to provide a job development investment credit to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

ADDITIONAL STATEMENTS

SPESSARD LINDSEY HOLLAND

Mr. ELLENDER. Mr. President, for many years I counted among my closest friends in the Senate Spessard Lindsey Holland. I always looked upon him as one of the Senate's most intelligent, dedicated, and steadfast Members.

Senator Holland was known as a friend of Florida, a friend of the South, and a friend of American agriculture. It was my pleasure and privilege to serve with him on two of the Senate's most important committees—the Committee on Agriculture and Forestry and the Committee on Appropriations. By close association with him and by work on a day-to-day basis, I came to admire Senator Holland and to appreciate the judgment of the people of Florida for sending him to represent them in Washington for so long a period.

Senator Holland first joined the Senate in September of 1946 and gave us the benefit of his wisdom and judgment until his decision to retire January 3, 1971. It was a wisdom and judgment amassed throughout a lifetime of public service to the people of his State and Nation. For that reason, I can give assurance that his opinions were valued highly by those of us privileged to serve with him, and he was known always as one of the Senate's most effective Members.

Seventy-nine years ago he was born in the small town of Bartow, Fla. During his career he served as a schoolteacher, practicing lawyer, prosecuting attorney, and county judge until his election in 1932 to the Florida State Senate. There he served two terms, leaving in 1940 to take a step up the ladder into the governorship of Florida. His record in the Florida legislature and as Governor is still remembered for his interest and effective work in Florida education.

This was an interest he maintained throughout his life, I might add, serving as trustee and on the governing bodies of several of the State's well-known institutions of higher learning.

In the U.S. Senate, Senator Holland rose to the position of ranking member of the Committee on Agriculture and Forestry, where it was my privilege to serve as chairman during much of his tenure. On the Appropriations Committee, he rose to the chairmanship of the subcommittee having a primary responsibility for agriculture programs and agriculture-related policies.

Throughout his service in these areas, his activities were marked by a consistent desire to serve the American farmer and the American consumer. I can state without qualification that he performed this task extremely well. Each year he sought to produce legislation in the Agriculture Committee and push forward policies through his position on appropriations that would inure to the benefit of agriculture and the Nation as a whole. I was able to join him in many of these efforts and I sincerely believe that the Nation is better off today for the work that he performed so well and so ably.

He and I worked together hand in hand for the protection and preservation of our two most important resources—land and water. I am certain that today he would be the first to admit that much remains to be done. It is my hope and desire, as well as ambition, to carry forward from where we left off.

Senator Holland also provided much of the spark and much of the leadership that assisted the National Aeronautics and Space Administration to begin and continue its work. He had an advanced insight into what this effort would mean for future generations. He foresaw the importance that this Nation's reaching out for the stars and planets would hold for us. I believe his judgment has again proved correct and his faith will be justified and amply vindicated in the years ahead.

I would like to close on that note. I believe that Spessard Holland was a man of the future, with his feet firmly planted in the present, and with the needs that must be met today to improve our people's way of life. The policies that he and I both believed in and worked for will go forward far beyond the present. There is an old saying that all anyone can work for in this world is to "leave the woodpile a little higher." The contributions of Senator Holland will leave our people much better prepared for the winter times ahead and better able to enjoy the spring times that surely follow.

I extend my condolences to his belowed wife, Mary. In her bereavement she should find much solace because her beloved husband shared the friendship and respect of thousands of Americans.

Mr. TALMADGE. Mr. President, I am saddened by the passing of my good friend Spessard Holland, the late distinguished Senator from Florida.

It was my pleasure to know and work with Senator Holland for some 30 years. Our warm association went back to the time when he was elected Governor of Florida, after a distinguished career in the State Senate.

We almost proudly claimed Spessard Holland as a Georgian. His father was born in Carroll County, Ga., and Senator Holland graduated magna cum laude from Emory College, at Oxford, Ga. He served as a trustee of Emory University in Atlanta. His first position after graduation from college was in Warrenton, Ga., as a schoolteacher. So Spessard Holland's roots went deep in Georgia. I am proud to count him as one of my warmest longtime friends, and many, many Georgians will long honor his memory.

It was my privilege, before his retirement from the Senate, to serve on the Committee on Agriculture and Forestry with Senator Holland for 14 years. He was one of the ablest Senators I have ever known, and one of the hardest working. He was on the floor of the Senate more than any other Member, except the leadership.

Senator Holland tirelessly dedicated himself to service to his Nation and the State of Florida. He distinguished himself in the Senate as a man of great courage and conviction on all legislative issues. His devotion to duty in the Senate over the years characterized him as a champion of the strength, security, and well-being of the United States and all its citizens. Senator Holland was a source of inspiration and leadership to us all.

I will dearly miss my good friend, and Mrs. Talmadge joins me in extending our deep, heartfelt sympathy to the late Senator's family.

COMMUNIST DOMINATION OF WORLD SOCIETY IS THE ULTIMATE GOAL

Mr. GOLDWATER. Mr. President, we hear in a good many speeches made around the country and read in not a few articles that communism has mellowed and that Communists no longer seek the domination of the entire world society. Naturally, we have the right to believe or not to believe it; and frankly, as an individual Senator or as an individual American, I have seen nothing in the activities of communism, whether it be Russian, Red Chinese, or whosoever, that there has been any dimunition in the idea that some day the revolutionary spur of communism will chase capitalism off the face of the globe.

Certainly a man who understands the Russians as well as any American alive today is the Honorable Foy Kohler, who has written an article, published in Ordnance for September–October 1971, which gets to this point in a succinct and understandable way. So that Senators may have the benefit of his words and wisdom, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COMMUNIST OBJECTIVE: DOMINATION OF THE ENTIRE WORLD SOCIETY IS THE ULTIMATE GOAL

(By Hon. Foy D. Kohler)

Having lived through the era when nobody ever read "Mein Kamp"—as they might have, and learned a good many lessons about Adolf Hitler's plans for the world from it—I always like to go back to the fundamentals and remind people that Soviet leaders, too, over the years, have not been at all reticent about their intentions, their objectives, their goals, and their concepts.

Back in 1918, Lenin himself laid down the basic proposition when he said: "We are living not merely in a state but in a system of states, and it is inconceivable that the Soviet Republic should continue to exist for a long period of time side by side with imperialist states. Ultimately, one or the other must conquer."

Shortly after Lenin's death in 1924, Stalin expanded the theme, saying:

"Lenin never regarded the Republic of the Soviets as an end in itself. To him, it was always a link needed to strengthen the chain of the revolutionary movement of the countries of the West and the East—a link needed to facilitate the victory of the working peoples of the whole world over capitalism."

Khrushchev picked up the refrain in his speech to the Supreme Soviet in 1967 when he said:

"We have retained the great revolutionary spirit, and we assure the comrades in the struggle for the cause of the working class that we shall always be true to the principles of Marxism-Leninism—to the principles of proletariat internationalism—and that we shall, in the future as in the past, consider ourselves as the vanguard which raised high the Leninist banner and, led by Lenin, has successfully carried this banner for the past forty years. We give assurances that we shall . . . confidently march toward the victory of Communism and shall persistently struggle for peace throughout the whole world."

Ten years later, speaking at the fiftieth anniversary of the Bolshevik Revolution in the Soviet Union (November 1967), the present Secretary General of the party, Brezhnev, was perhaps even more explicit than his predecessor.

"We must never forget," he said, "that the mission that falls to the Communist Party is the grandiose, complex mission of revolutionary transformation of the entire world society. The process of changing humanity from capitalism to socialism is a complex and varied process. In its path are hidden certain failures, temporary retreats, and even defeats for individual parts of the struggle.

"The Communist movement draws its lesson from this. Experience has shown that it is possible to defeat such a strong and perfidious opponent as imperialism only by confronting it with sober political calculations, coldbloodedness and tenacity, as well as decisiveness and selfless preparation for struggle. The Communists are confronting this opponent with a strategy that is supported by scientific analysis of the correlation of forces, both within countries and in the international arena. . . .

"The struggle for peace remains for us, even today, a task filled with profound class-revolutionary content, since to fight for peace means to isolate the most militant and aggressive circles of the imperialist bourgeoisie, to turn public opinion against them and wreck their anti-people plans."

I would like at this point to give a little lesson in how to read Communist literature and Communist pronouncements, with particular reference to the repeated use—especially by Khrushchev and Brezhnev—of the term "struggle for peace." The source of this lesson is Communist.

The April 1949 issue of the official journal of the French Communist Party, *Les Cahiers du Communisme* (The Notebooks of Communism), published a speech of Soviet Politburo Member and then Foreign Minister Molotov, in which at one point he referred to the "victory of peace." Since many members of the huge Communist Party in France were not too well up on Marxist doubletalk, the journal made the meaning clear by inserting in brackets after Molotov's phrase, "the victory of peace," the interpretative words, "that is to say, 'the victory of Communism'."

In recent years, there has been a lot of talk of "convergence" occurring between the Communist and capitalist pathways. It is true that, as the Soviet economy has grown more complex, it has been forced to adopt—or try to adapt, or steal—Western managerial methods and even some of the terms like "interest" and "investment" and so forth that are fundamentally repugnant to Marxism.

But there is no "convergence" in the sense that there is no change in the fundamental fact of state ownership of all the means of production.

There is even talk of dissent and dissatisfaction inside the Soviet Union. It is true that there has been a remarkable underground press; it is true that there have been defectors getting out to the West; it is true that there has been a ferment, stemming from the World War II contacts, from the accessibility of Soviet citizens to foreign radios, and a few things like that.

It is even true that Moscow has lost much of its control of the previously monolithic Communist world. Furthermore, it also is true that Communist ideology visibly is no longer the instrument of political power inside the Soviet Union.

What is the visible effect of all this? The effect is that the more the ideology declines in effectiveness as an instrument of political power, the more the leadership feels obliged to claim its own validity and to force its acceptance—even in startling ways—as we saw in the Soviet invasion of Czechoslovakia a couple of years ago and as we see today in the repression of dissidents inside the Soviet Union itself.

What is the explanation? It is this—and it is one that must always be kept in mind about the Soviet Union: This is a country run by a minority that has seized, and that maintains a monopoly of the political power. The Communist Party numbers only 5 per cent of the people of the Soviet Union.

One of the great philosophers of the last century in Russia, Alexander Herzen, predicted that a Communist revolution in Russia would be the aristocracy turned inside down. This is almost visibly true today, as is seen in the new ruling class, the new elite. But there's a difference, and the difference, and the difference resides in a very important word: legitimacy.

The Czars ruled Russia in the name of the accepted doctrine of the divine right of kings—and were regarded as legitimate rulers. In the Western democracies we have our constitutions, our freedom of choice by free elections, and these are the source of the legitimacy of our governments.

But those in the Kremlin today have to justify their minority rule of the majority in terms of Marxist-Leninist ideology, which is materialistic in concept, conspiratorial in nature, authoritarian in practice, and messianic in spirit, and which proclaims as a matter of historic inevitability that this system is destined to rule the world.

What are the international consequences of that claim? One thing is absolutely required by the theory: that there be a capitalistic, materialist opponent abroad, to vie with and to overthrow. There is no suitable candidate for this position except the United States of America. Thus, as long as the Communists are in power and must continue to justify their rule, this will be the case.

Another very important thing to keep in mind about this society is that it didn't start only 50 years ago. So much of what the Communist leaders say and do today is conditioned by the events, prejudices, and traditions of a long, turbulent Russian history.

For example, you can't live in the Soviet Union without realizing the profundity of the antipathy between Russians and Chinese. You come to realize—in fact, it's made very clear to you by their literature, their opera, their ballet, their history—that this goes back to the Mongol-Tartar invasion seven centuries ago. And the Mongol-Tartar occupiers of that country, the despoilers of Russian lands for the next three centuries—these are the Chinese.

There is a similar and valid fear of Germany as the result of World War II. But when the war came, do you think Stalin appealed to these people to defend Holy Russia, Mother Russia, in the names of Marx and Lenin? No. He appealed to them in terms of their own historic heroes: of Alexander Nevsky who threw back the Teutons in the thirteenth century; of Dmitri Donskoi who beat back the Tartars in the fourteenth century; of Minin and Pojarsky, who defeated the Poles in the sixteenth century; of Suvorov and Kutusov, who threw back Napoleon in the last century.

And what does this mean, in terms of how they see things, how they think and react? It means the Russian has a deep sense of the historical insecurity of this great open land mass on which he lives.

You have to realize that Russia is just a vast plain extending for 6,000 miles, with natural defenses only in the south and southeast. This accounts for a lot of their military and strategic thinking—for the "strategic retreat" policies and the "scorched-earth" policies they followed at the time of the Napoleonic invasion and again in the time of Hitler.

More than that, it has accounted for a centuries-old drive to expand their borders, to get a sense of security in depth, to make sure of an outlet and room for mansuvering in the warm seas.

This is what led the Czars to Siberia and central Asia; this is what led to the endless wars with the Turks and the taking over of the Crimea and the Black Sea; this is what led to Stalin's demand, after World War II, for parts of Iran and of the Turkish territories that control the straits.

Another peculiarity of the Russian mentality, as a result of their long experiences, is a sense that we don't really have—a sense of the relativity of power: you are stronger if your opponent is weaker. This is why they support in a meaningful way Communist "fifth columns" and Communist parties around the world, plus an assortment of "front" organisations. It also explains their attempts to sow discord in the West by cultivating one leader of a nation today, his successor tomorrow, and their proposals to get the United States out of foreign bases (while they remain secure in the European heartland).

Finally, the Russian sense of vulnerability also accounts for their defense-oriented thinking. The tremendous investment they've put into their fighter aircraft and wiring the country for radar is fantastic. They began building an ABM system, even though their first version was something less than perfect, at the time when Robert McNamara's Pentagon computers were saying that this was decidedly the wrong way to go about it.

Economic reality is another factor. Here is a country that is nearly three times the size of the United States. It is true that a lot of it is barren, and some of it is in the Arctic Circle, but for the most part it is only underpopulated and underdeveloped and has great need for capital—capital to invest—to develop.

Yet the Soviets try to rival us in their military and space programs, on which they spend nearly as much as we do.

They try to do this on a base that is less than half of ours—the 1969 estimates of Russia's gross national product were about $440 billion against our $890 billion. This equation is one reason why Khrushchev is out, and why some of his successors will be out.

But, with their controls, they are able to establish priorities in a way that we are able to do only in wartime. Their priority has always gone to the basic heavy industry that underlies defense—so that in steel and coal, for example, they are either equal to us or perhaps better, while gas and hydro power production are very high. In general, their economy is leaner and more muscular than ours.

They produce something over one-half the general industrial products that we do but only a third as much consumer goods. This means that, on the domestic scene, the leadership is subject to great pressures, as vested-interest groups have grown up, clamoring for their shares in the distribution of extremely limited resources. These vested-interest groups have grown more powerful in recent years, and this is one of the reasons why, for example, we have been able to get, first of all, a test-ban treaty; then, a ban on weapons in outer space; and, finally, the Strategic Arms Limitation Talks.

This economic reality is also one reason why the rising curve of war-materiel production in the Soviet Union is not going to continue to rise indefinitely; if you start the curve going up at a 45-degree angle, you get over the curve of the Soviet GNP. However, this is not to say that we should discount the Soviet threat.

The Soviets will have a mix of weapons that are calculated to match or—they hope—to outmatch us. Their overt military budget under Khrushchev ran at a level of about 13 billion rubles a year, and he was trying to hold it there.

The new Soviet leadership is much more military-oriented. Brezhnev himself, for example, was a political commissar with the armed forces during World War II. The current regime is beholden, furthermore, to the military forces for their cooperation in the ousting of Khrushchev.

Consequently, Russia's overt military expenditures have actually gone up to a level of about 18 or 19 billion rubles a year.

Actually, a recent analysis indicates that their total expenditures amount to 13 per cent of their GNP, as against ours at 8.7 per cent (roughly $59 billion for Russia versus $81 billion for us—and ours includes not only Defense, but NASA and AEC also).

If you take account of their lower personnel costs, etc., it means that despite all our spending on the Vietnam war, the Russians are certainly—in terms of their total effort—matching if not surpassing us.

The Cuban crisis was a great shock to the Kremlin. They learned that they can't bluff on the basis of potential—that they must have forces in being. The new leaders set out to correct the situation and to develop, not just the image of power with which Khrushchev was satisfied, but the reality of power.

When we were first sure about the Russian deployment of an ABM system, it fell to me in Decemmber 1966 to get Soviet Ambassador Dobrynin in for a talk, which led to the start of the SALT negotiations. I said, "How about talking about this, before we get into a brand-new spiral?" And he said, "What do you want to do, freeze us into a position of inferiority?"

Even so, within the Soviet leadership an economic manager like Kosygin saw that the idea had some meaning from their point of view. So they came back shortly afterward and said that they accepted in principle, provided the negotiations would apply to both offensive and defensive weapons. However, it was more than two years before we could get them to agree to a date to sit down and talk in Helsinki.

What happened in those two years? Obviously, they decided they would put on a crash program to get their ICBM level up. They were putting in SS–11's and S–9's rapidly, so that they could talk with us with what they considered a feeling of equality at least in that field.

The effort cost them something, because it is perfectly evident that in this period they were forced to cut down a certain amount on their capital investment in general industry. This is why I wouldn't suppose that their ICBM curve will go up as fast now as it has been going up the last couple of years.

There already are some indications that their next major effort is going into their over-all navy program—particularly submarines—Yankee-type subs to match our Polaris, and so on.

We also know that their ground forces are feeling neglected; they have said that we were developing conventional weapons and getting conventional experience in Vietnam of the kind they haven't had since World War II. So we know there are some pressures from that side.

We also know that the Soviet Air Force has put on some pressure for new equipment, since a good many of their bombers can be considered obsolescent. We have learned from the SALT negotiations that they are stil very much impressed by our Strategic Air Force, in spite of all their air defenses. They themselves—this is my own prognostication—now will go for a considerable bomber force.

In conclusion, I would like to comment on the military-diplomatic aspect. We have had the naive tradition in American history that if we get into a conflict we go for some unlimited military objective—unconditional surrender, complete victory, or the like. And then, having achieved this objective, what do we do? We immediately pull out the military, disband our forces, and leave the poor diplomats to pick up the pieces and clean up the mess.

A diplomat is no better than the forces behind him. I hope we will keep those forces strong, because while it may be the diplomat's job to extend the right hand, he wants to know that our left guard is up at the same time.

ETHNIC AND MINORITY STUDIES IN WISCONSIN

Mr. PROXMIRE. Mr. President, this past July, the Wisconsin State universities system established an Ethnic and Minority Studies Center headed by Prof. Norman Lederer. This center is one of the few in the United States which is devoted to a furthering of an awareness of the historical and cultural contributions of all ethnic and minority groups in Wisconsin and the Nation. Its purpose is to instill an understanding and pride in the many groups which have helped to form our country.

In a speech delivered to the WSU System Council of Academic Vice Presidents on October 4, Professor Lederer told of the origins and hopes of the center. It began, not as a reaction to the demands of any group, but out of a desire by the university system to allow people to become more aware of various cultural heritages. It is being designed to reach all students in the WSU system, not just the members of any particular group.

Mr. President, I ask unanimous consent that Professor Lederer's speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH DELIVERED BY NORMAN LEDERER

Gentlemen: The melting pot has not melted. Despite the assertions of generations of publicists and spokesmen for America's dominant white Anglo-Saxon Protestant culture, the United States has been and will continue to be a pluralistic society in which ethnic and minority peoples differ in their life styles from those of middle class America. As a matter of fact, the last ten years has seen what can be called an "ethnic renaissance." Following the thrust of the Blacks to assert their self-identity and culture, the Indians, Mexican-Americans, Puerto Ricans and those of immigrant stock have brought their cultural uniqueness and their accomplishments to the fore. There is pride in being Black, but there is also pride in being Chicano, Indian, Puerto Rican, Polish-, German-, and Chinese-American. Ethnic and minority groups are realising that there is virtue in being "different" and that there may very well be considerable merit in remaining somewhat nonengaged with a majority culture plagued with war, economic depression, crime and racism.

In July, as you all know, the Board of Regents of the Wisconsin State Universities system made known its commitment to the creation of a state-wide coordinated effort to further understanding of ethnic pluralism in the state of Wisconsin. The Regents resolution created an ethnic and minority center at WSU-Platteville having the purpose of establishing a pilot program which could be adapted in whole or part or adapted to fit local program needs, in the State University system. I am exceedingly fortunate in being associated with this new, exciting program.

The ethnic and minority studies center will be involved in the development and coordination of curricula of an ethnic minority nature on the various state campuses. It will act as a clearinghouse for statewide information concerning ethnic and minority studies and groups and as a catalyst for action in bringing into being new programs and new approaches in order to define and analyze America's and Wisconsin's ethnic and minority heritage. A statewide communications network will be established involving those on the various campuses concerned with ethnic and minority studies in which regular mailing and a newspetter will be used in an attempt to tie together the disparate strands dealing with cultural pluralism. There will be every effort made to involve memoers of ethnic and minority groups in the planning and implementation of this program. Students of an ethnic or minority background will, it is hoped, be trained as analysts of their group background, bringing to bear their special insights into their own cultural milieu.

This program is not, however, one designed "for" various ethnic and minority groups. It is not an attempt to segregate academically any students on the WSU campuses by providing courses which someone or another thinks those students want. The ethnic and minority studies center is concerned with *all* of the students in the WSU system in seeking to make available to them a wide variety of courses and approaches which will explain to them the positive contributions of American pluralism and the special uniqueness of ethnic groups on the American landscape.

In conclusion, it should be further stressed that this center is not a reaction to anything or anyone. It is the result of the dawning of the realization that America's strength and character is based to a considerable extent on the special contributions—the blood, sweat and tears, if you will—of millions of non-white, non-Anglo-Saxon, non-Protestant peoples in the American past and present. Their past and continued contributions must be recognized and understood by the Wisconsin State Universities system if it is to be truly a "People's University." This emphasis is not only an obligation; it is a privilege; it is a way of attempting to open channels of communication and understanding in a society ridden by alienation and polarization. It may very well be, gentlemen, part of the solution to the immense problem of whether or not this country will endure.

INEQUITY IN RURAL HOUSING

Mr. MCGOVERN. Mr. President, at a time when we are striving to improve conditions in rural America in order to reverse outmigration and redress population imbalance in this country, it is disturbing to note that the Department of Housing and Urban Development is not making allocations of its resources on an equitable basis among the several States.

XUM

Writing in the Journal of the American Institute of Planners, for September 1971, Associate Prof. George M. von Furstenberg of Indiana University, rightfully calls our attention to a disparity that exists in Federal programs for federally assisted rental housing projects.

He points out that the States of South Dakota, North Dakota, Idaho, Iowa, Kansas, Maine, Montana, Oklahoma, Utah, Vermont, West Virginia, Wisconsin, and Wyoming have not, on the basis of need, shared equitably in these programs.

Because I believe that his article will be of interest to Congress and to those who share our concern regarding rural housing, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DISTRIBUTION OF FEDERALLY ASSISTED RENTAL HOUSING

(By George M. von Furstenberg)

Major federally assisted rental housing programs fall into two classes. Public housing and rent supplement projects primarily serve *low-income* families, 50 percent of whom had total annual incomes of less than $3,000 in 1969–70. Families with median incomes of $5,000 to $6,000 are the intended beneficiaries of *moderate income* housing. This includes both the Section 221 (d) (3) below-market interest rate (BMIR) program, involving up to 100 percent mortgage financing at 3 percent interest, and the more recent Section 236 program, in which interest costs are lowered further to 1 percent. In spite of the differences in tenant incomes, it has been estimated that annual subsidies of between $600 and $900 per household are required under all programs.[1]

Although income redistribution has been identified as the primary objective of these heavily subsidized rental programs,[2] assisted housing services are supplied unevenly to different groups of eligible citizens. Interprogram differences in the demographic composition of tenants, for instance by age, race, or size of family, have been commented on elsewhere.[3] However, inequalities in the *geographic* coverage of each program, and of all programs combined, in relation to need, have received little attention.

It can be argued that in all housing markets containing a significant number of low-income families, at least some federally assisted rental housing should be supplied both to supplement the private market and to serve as a vehicle for income-transfer. It is insufficient to assume an objective of serving poor people throughout the nation without regard to location, since people generally do not migrate beyond local areas to take advantage of subsidized housing. The more that assisted housing is offered in one locality to the neglect of any other, the lower the marginal net benefits which may be expected. The program might reach well down the hierarchy of needs in one area, while, in another, even the most pressing needs go unanswered. Hence, spatial balance in the distribution of housing assistance is not only of political interest as a matter of regional equity in the federal system, but it may also involve important dimensions of program efficiency.

THE RECORD OF ASSISTED HOUSING PRODUCTION

As of September 30, 1969, just over 900,000 households were living in federally assisted rental housing under the main subsidized programs. Public housing, which goes back to 1937 but now includes projects acquired through leasing and Turnkey methods, accounted for 78 percent of the total, while the 3 percent BMIR mortgage-insurance program authorized in 1961 accounted for 18 percent. The newer rent supplement and Section 236 programs, dating from 1965 and 1968 respectively, each contributed around 2 percent of the total volume. Under the last two programs, rents to be charged to tenants are reduced to 25 percent of family income, but to no less than 30 percent of full-cost rent or costs remaining after mortgage financing at 1 percent interest.

The number of units occupied under each of these programs in the fifty states and the District of Columbia is shown in Table 1. While it is interesting to observe, for instance, that no rent supplement units at all had been provided in some states, this table of absolute numbers of units supplied is used mainly as an input for later comparisons with needs.

The provision of assisted housing units in relation to needs is given in Table 2. Since housing assistance is not strictly limited to low-income urban populations,[4] several definitions of eligibility are assumed. The corresponding fractions actually being reached in any state are established (columns 3 and 6 of Table 2) and then tested to determine how sensitive the ranking of states by relative service levels is to variations on the definition of the target group.

Footnotes at end of article.

TABLE 1.—FEDERALLY ASSISTED UNITS UNDER THE MAIN RENTAL HOUSING PROGRAMS: UNITS OCCUPIED AS OF SEPT. 30, 1969, BY STATES [1]

	Public housing	Rent supplements sec. 221(d)(3)MR	Sec. 221(d)(3) BMIR [2]	Sec. 236	Total
	(1)	(2)	(3)	(4)	(5)
Alabama	29,214	90	638		29,942
Arizona	3,468	86	615	70	4,239
Arkansas	7,789	528	644		8,961
California	40,883	895	13,064	2,541	57,383
Colorado	4,371	308	702		5,381
Connecticut	13,118	6	7,534		20,658
Delaware	1,909		253		2,162
Florida	22,007	2,159	1,760	470	26,396
Georgia	37,616	108	3,929	102	41,755
Idaho	336		32		368
Illinois	54,448		15,298	219	69,965
Indiana	8,479	70	8,475	2,453	19,477
Iowa	902	352	382	347	1,983
Kansas	1,778	550	2,505	149	4,982
Kentucky	15,516	12	1,099	573	17,200
Louisiana	19,521	726	2,159	62	22,468
Maine	657		471		1,128
Missouri	12,838	150	5,337	713	19,038
Massachusetts	25,403	772	13,146		39,321
Michigan	15,552	525	12,674	1,402	30,153
Minnesota	9,750	121	1,518	22	11,411
Mississippi	6,189	252	344		6,785
Missouri	12,053	118	5,689		17,860
Montana	1,007	60	73		1,140
Nebraska	5,497	40	844	120	6,501
Nevada	2,176	100	772		3,048
New Hampshire	1,970			150	2,120
New Jersey	38,138	309	5,911		44,358
New Mexico	2,070	645	694	140	3,549
New York	89,593	568	11,141	134	101,436
North Carolina	17,735	144	2,176	400	20,455
North Dakota	755		44		799
Ohio	30,280	1,098	3,952	1,106	36,436
Oklahoma	3,004	186	2,023	481	5,704
Oregon	4,313	304	536	92	5,245
Pennsylvania	51,730	131	3,652	238	55,751
Rhode Island	6,317	94	1,204	40	7,655
South Carolina	6,777	384	572	688	8,421
South Dakota	785	198	50		1,033
Tennessee	25,542	2,014	2,252	219	30,027
Texas	37,175	2,809	11,351	2,802	54,137
Utah	30	45			75
Vermont	330		336		666
Virginia	13,669	125	2,997	276	17,067
Washington	9,244	1,107	2,084	1,334	13,769
West Virginia	2,791				2,791
Wisconsin	6,448	163	1,007	104	7,722
Wyoming	55	60			115
Alaska	620		56		676
Hawaii	3,502		1,859	126	5,487
District of Columbia	10,321	66	3,399		13,786
Total	715,671	18,488	157,253	17,573	908,985

[1] The source for col. 1 was USHA Run 223.0, table 7, "Units Occupied by Tenants or Project Employees Required to Live in Public Housing as of Sept. 30, 1969." The distribution in col. 2 gives insured rent supplement projects with units under payment as of the same date. Units in projects with insurance in force as of Mar. 31, and Feb. 28, 1970, are given in cols. 3 and 4, respectively. Sources for cols. 2 through 4 were the "02" reports of HUD, specifically, 302, 2102, and 3602.

[2] BMIR signifies below-market interest rate financing at 3 percent in contrast to the rent supplement program under the same section which involves market rate (MR) insured mortgage financing.

TABLE 2.—THE DISTRIBUTION OF FEDERALLY ASSISTED RENTAL HOUSING IN RELATION TO THE NEEDS OF LOW-INCOME PERSONS OR FAMILIES, BY STATES

	Concentration of low-income males		Federally assisted rental units in relation to distribution of low-income males			Federally assisted rental units in relation to low-income urban families and unrelated individuals		
	Poverty index [1]	Concentration rank [2]	Percent assisted	Service index	Rank [3]	Percent assisted	Service index	Rank [3]
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Alabama	140	43.5	8.28	134	40.0	10.83	191	49.0
Arizona	87	12.5	3.92	64	22.0	3.58	64	17.0
Arkansas	174	50.0	3.54	58	17.5	5.93	105	33.0
California	79	7.0	5.09	83	29.0	3.47	61	15.0
Colorado	95	19.0	3.70	60	19.0	3.13	55	14.0
Connecticut	67	3.0	14.02	227	49.0	10.63	186	48.0
Delaware	78	6.0	7.14	114	36.5	7.29	126	38.0
Florida	100	23.0	5.71	92	31.0	3.99	70	18.0
Georgia	127	39.0	9.68	157	42.0	12.24	215	50.0
Idaho	111	26.0	.62	10	3.0	.87	15	3.0
Illinois	83	10.0	10.51	170	45.0	7.86	139	40.0
Indiana	91	14.5	5.78	93	33.0	5.52	97	29.0
Iowa	125	37.5	.78	13	4.0	.94	17	4.0
Kansas	116	30.0	2.54	41	14.0	2.79	50	12.5
Kentucky	149	47.0	4.89	79	27.0	8.31	147	42.0
Louisiana	117	31.5	7.01	114	36.5	6.87	121	36.0
Maine	133	40.0	1.19	19	5.0	1.44	24	5.0
Missouri	75	4.0	9.27	150	41.0	8.44	148	43.0
Massachusetts	87	12.5	11.33	183	47.0	7.44	132	39.0
Michigan	83	10.0	5.66	92	31.0	5.20	92	26.5
Minnesota	112	27.0	3.78	61	20.0	4.48	79	22.0
Mississippi	182	51.0	2.16	35	11.0	4.27	76	19.5
Missouri	122	36.0	4.32	70	24.0	4.32	76	19.5
Montana	121	34.5	1.88	32	10.0	2.43	45	8.5
Nebraska	125	37.5	4.91	80	28.0	6.02	107	34.0
Nevada	59	1.0	15.47	262	50.0	13.85	243	51.0
New Hampshire	92	16.5	4.41	70	24.0	4.39	77	21.0
New Jersey	65	2.0	13.04	211	48.0	8.65	153	44.0
New Mexico	104	24.5	4.73	76	26.0	5.27	93	28.0
New York	77	5.0	9.90	161	43.0	5.79	102	32.0
North Carolina	140	43.5	3.84	62	21.0	6.67	118	35.0
North Dakota	153	48.0	1.17	20	6.0	2.50	45	8.5
Ohio	82	8.0	5.66	92	31.0	4.66	82	23.0
Oklahoma	134	41.5	2.28	37	12.0	2.38	42	6.5
Oregon	99	21.5	3.55	58	17.5	3.52	62	16.0
Pennsylvania	91	14.5	7.10	115	38.0	5.57	98	30.0
Rhode Island	104	24.5	11.05	179	46.0	6.97	124	37.0
South Carolina	141	45.0	3.03	49	16.0	5.03	89	24.0
South Dakota	158	49.0	1.35	21	7.0	2.49	42	6.5
Tennessee	144	46.0	7.20	117	39.0	9.75	172	45.0
Texas	114	29.0	5.82	94	34.5	5.19	92	26.5
Utah	83	10.0	.12	2	1.0	.11	2	1.0
Vermont	118	33.0	1.73	27	9.0	2.72	47	10.0
Virginia	117	31.5	4.29	70	24.0	5.14	91	25.0
Washington	96	20.0	5.81	94	34.5	5.62	99	31.0
West Virginia	134	41.5	1.57	26	8.0	2.70	48	11.0
Wisconsin	99	21.5	2.52	41	14.0	2.81	50	12.5
Wyoming	113	28.0	.45	6	2.0	.55	8	2.0
Alaska	121	34.5	2.62	41	14.0	9.14	140	41.0
Hawaii	92	16.5	10.26	169	44.0	10.20	185	47.0
District of Columbia	93	18.0	25.30	408	51.0	10.21	180	46.0
Total average	100		6.17	100		5.66	100	

[1] The poverty concentration index is derived by dividing the fraction of all U.S. low-income males living in any State by that State's share of the national population, and multiplying by 100. An index number above 100 indicates above-average frequency of poverty.

[2] Ranked are 51 units, or the 50 States and the District of Columbia. The rankings are from lowest incidence of poverty (in col. 2) and lowest relative frequency of housing assistance (in cols. 5 and 8).

Column 4 of Table 2 presents indices of the provision of federally assisted rental units in relation to the 1959 interstate distribution of income-earning males at least fourteen years of age whose income was less than $2,000. Such males are regarded as potential household heads. For column 7, the number of families and unrelated individuals living in urban areas and having a total annual income of less than $4,000 in 1959 is used to define need base. In either case, the interpretation of the indices is simple. An index above 100 indicates relative oversupply of assisted rental units, while an index below 100 signifies undersupply in relation to the average frequency of housing assistance for all low-income population units nationwide. A number of 150, for instance, means that service levels in relation to needs were 50 percent higher in a particular state, than on the average for the nation, that is, a low-income household in that state is 50 percent more likely to receive housing assistance than the typical low-income U.S. household. In Maryland, for example, the number of assisted rental units was equal to 9.27 percent of the number of low-income males in that state, compared to 6.17 percent on the average for the nation. Dividing 9.27 percent by 6.17 perecnt and multiplying by 100 yields the service level index of 150.

The latest income distributions available in this detail are from the 1960 census, and some risk is involved in assuming that they have remained sufficiently constant over time to establish the need distributions relevant to the stock of assisted housing existing in 1969. Also, no adjustment is attempted for equivalence—the different incomes required by families of varying size and in different places to support a given standard of living.[3] Furthermore, the choice of appropriate income cutoffs is inevitably somewhat arbitrary, though it must be kept in mind that 1959 incomes of $4,000 would correspond to more than $5,500 in 1970, because of inflation alone.

Not surprisingly, a disproportionately large population of poor persons in any state also implies a disproportion of poor families. Little variation in the interstate distribution of low-income households is observed if the poverty threshold is varied in either direction. The coefficient of rank correlation between the order of states by the index of assisted housing provision in relation to low-income males (column 5 of Table 2) on the one hand, and in relation to poor urban families and unrelated individuals (column 8) on the other, for example, is 0.87 with standard error of 0.14. Hence, we do not believe that our results are overly sensitive to variations in definitions and concepts within the relevant range.

There are several reasons why "imbalance" as evidenced by the chosen criterion may be perfectly desirable. For instance, if the price of rental housing services relative to that of other "necessities" is unusually low in any particular area, the case for federal assistance and additions to supply is correspondingly weak. We doubt, however, that variations in excess demand are nearly as wide and policy-significant over areas as large as states, as they would be for individual locations. Intrastate variations are likely to be much greater than interstate variations, though differences in regional vacancy rates are substantial and tend to persist.[4]

It can also be argued that if the percentage of households with low incomes is exceptionally small in any state, filtering is much more likely to produce an adequate supply for them, since there is more housing to filter down and fewer low-income households to filter to. In addition, certain external costs imposed by the poor on each other and on the rest of society may be expected to increase more than in proportion to their population share in any area. Much current thinking on shrinking local tax bases, "tipping points," and the breakdown of municipal services and school systems depends on such notions.[7] Within HUD, the popularity of "open communities planning" and the fostering of social, economic, and racial mix reveals a similar conviction.

Accepting this premise, we postulated that the percentage of the low-income population served should be higher in relation to the average service ratio, the greater the share of poor persons in the total population of any state. This normative expectation was not upheld by the date: the coefficient of rank correlation between the orderings in columns 2 and 5 of Table 2 is significantly negative (−0.53), rather than positive. Doubling the percentage of low-income persons in a state does not cause the supply of assisted rental housing to double, let alone more than double as we had hoped. Instead, it appears to imply a significant reduction in the proportion of the poor supplied with assisted housing.[8] Our index of the provision of federal housing in relation to need is about halved as the low-income population share

Footnotes at end of article.

(the denominator) doubles. Recall that the service level index is derived by taking the ratio of the number of assisted rental units to the number of low-income households in any state, and then dividing by the equivalent ratio for the nation.

While there are wide and, as yet, unexplained variations, total population size, regardless of the extent of poverty, provides the best predictor of how federally assisted housing is allocated to states. Thus, most low-income states are undersupplied in relation to need while high-income states are oversupplied. For example, Connecticut and Nevada and the District of Columbia had the highest ratios of federally assisted rental units in relation to need (an average of twice the ratio experienced throughout the nation) and had relatively low concentrations of poor people. On the other hand, taking the mean of the service indices in columns 4 and 7, the frequency of housing assistance is found to be less than half of the national level in the states of Idaho, Iowa, Kansas, Maine, Montana, Oklahoma, the Dakotas, Utah, Vermont, West Virginia, Wisconsin, and Wyoming. Their average rank of 34 (out of 51) indicates that, on average, they have a relatively high concentration of low-income persons.

On the basis of total population irrespective of income, significant differences still remain when large regions, rather than states, are considered. The New England states (HUD Region 1, Boston), for instance, have a service level index of over 130, while Northern Mountain states (HUD Region 8, Denver) have an index of less than 40. The regions thus identified on the basis of population as experiencing relative oversupply or undersupply are similar to those identified on the basis of number of poor people.

POLICY CONSIDERATIONS

On the average for the nation, there are about six units of assisted rental housing available for every 100 low-income households. However, in states like Utah, Wyoming, and Idaho, there is only one-half unit per 100. By contrast, in Connecticut, Nevada, and the District of Columbia, at least twelve units per 100 households are available, or around twenty-five times as many as in the least supplied states. Hence, the probability of a low-income family receiving federal housing assistance varies drastically from state to state. In general, the richer the state, the more assisted housing units are provided for its (relatively fewer) low-income families, and the poorer the state, the fewer units provided.

In terms of regions, there appears to be a systematic undersupply in the West and an oversupply in relation to needs in the East.[6] The middle tier of states, from the Great Lakes to the Gulf, is about average. Regions also differ in their use of the various rental programs. There is a remarkable inverse relation between public housing and rent supplement units and the concentration of BMIR units in the North Central region. While public housing is heavily concentrated in the Northeast, the rent supplement program is primarily serving the South and the Southwest. Given these differences, changes in the relative importance of programs will affect the regional incidence of housing assistance benefits in a manner which should be anticipated in policy planning.

For reasons of both equity and efficiency, it seems imperative that the spatial distribution of housing assistance should more closely reflect the distribution of low-income families. The probability of a low-income family receiving housing assistance should not depend on where it lives. The distribution of substandard housing units may perhaps be used as a secondary criterion in funding, since its adoption would serve, in effect, to give added weight to heavy concentrations of low-income households. Since any adjustment in the existing housing stock—now seriously unbalanced in relation to needs—can be achieved only gradually, a long-term plan is required first to compensate for past "mistakes," and then to maintain a better balance between changing needs and long-lived stocks. On the part of HUD, this requires active management of the spatial distribution of the annual additions to supply, rather than passive reliance on application backlogs, past funding and performance, and "local interest."

FOOTNOTES

[1] Averaged over the life of the projects on the assumption that existing Section 221 (d)(3) projects will eventually be converted to Section 236 status. These estimates were prepared in 1970 under Sol Ackerman, until recently with the U.S. Department of Housing and Urban Development (HUD).

[2] In HUD's program memoranda, income redistribution has long been identified as the principal objective of the assisted programs, while the stated objective of those programs not involving major planned subsidies is to supplement the private market. See, William B. Ross, "A Proposed Methodology for Comparing Federally Assisted Housing Programs," *American Economic Review, Papers and Proceedings* (May 1967), pp. 91–100.

[3] See, for instance, Walter Smart, *et al.*, *The Large Poor Family—A Housing Gap*, Research Report No. 4 (Washington, D.C.: The National Commission on Urban Problems, 1968). Also, see the author's "The Impact of Rent Formulas and Eligibility Standards in Federally Assisted Housing on Families of Different Size," in Report of the President's Committee on Urban Housing, *Technical Studies*, Vol. 1: *Housing Needs and Federal Housing Programs* (Washington, D.C.: 1968), pp. 103–112.

[4] For instance, by 1970, 1,805 units of assisted housing were available for occupancy on Indian reservations in Region 8, while 1,260 units were available in Region 6. HUD Region 8 (Denver) includes Montana and the Dakotas, while Region 6 (Fort Worth) contains Oklahoma and New Mexico. "Indian Housing" is included in the respective program totals. Much of it is provided under Low-Rent Public Housing—Turnkey III.

[5] Some more attention is given to the problem in a longer paper, available upon request, on which this report is based.

[6] These differences seem to have narrowed in recent years. For instance, in 1964, rental vacancy rates in the Northeast, North Central, South, and West were 4.7 percent, 7.3 percent, 8.2 percent, and 10.5 percent, respectively. Corresponding estimates for 1970 are 2.5 percent, 5.4 percent, 6.6 percent, and 5.3 percent. It should be noted that differences in vacancy rates do not necessarily allow one to infer equivalent differences in excess supply, since normal (equilibrium) vacancy rates must be expected to be higher in regions with greater gross and net rates of population movement.

[7] Jay W. Forrester, *Urban Dynamics* (Cambridge, Mass.: MIT Press, 1969), especially pp. 65–101.

[8] This conclusion cannot be fully substantiated with rank correlation analysis alone. Rather, it is based on an ordinary least squares regression of the service level index (*SLI*) in column 4 on the poverty concentration index (*PCI*) in column 1 of Table 2. With the standard error in parentheses, the results were: $SLI = 240 - 1.339\ (0.335)\ PCI$, $r = -0.50$, F—Value=15, $S_e = 66$, $n = 51$. A distribution strictly in proportion to population implies that a one point increase in *PCI* reduces *SLI* by about the same amount. In fact, the absolute value of the coefficient of PCI is even greater than unity, though not significantly so.

[9] A longer paper, available on request from the author, discusses regional differences in more detail

THE REPUBLIC OF CHINA LEAVES THE UNITED NATIONS

Mr. GOLDWATER. Mr. President possibly the only element of dignity and decency in the recent debacle at the United Nations was when the representative of the Republic of China made the statement that his Government would no longer take part in the proceedings and left the hall.

The head of the Chinese delegation, Mr. S. K. Chow—who was, up until May of this year, the Ambassador to the United States—released a statement which I believe not only sums up the history of the Chinese Red aggressors, but also serves as a prophecy of what we may expect in days to come, now that the Reds have been invited in.

Mr. President, I ask unanimous consent that the statement made by Chow Shu-kai, Minister of Foreign Affairs for the Republic of China, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF HIS EXCELLENCY CHOW SHU-KAI

On behalf of the Government of the Republic of China, I wish to make the following solemn declaration:

The Republic of China—a participant in the Dumbarton Oaks talks, one of the four sponsoring Powers and the San Francisco Conference, a Charter member of the United Nations, a permanent member of the Security Council—has now decided to withdraw from the Organization which it helped establish.

For the establishment of the United Nations mankind has paid a terrible price. The price was the blood of millions of men and women who had lost their lives during the Second World War.

That unprecedented tragedy was brought about by statesmen who had been in a special position to shape the destiny of the world but whose political short-sightedness and lack of moral courage, whose preoccupation with what they had considered to be the interests of their respective countries of that time, whose timidity in the face of war threats, whose willingness to buy peace at any price, had made war inevitable. The League of Nations, deserted by those States who had brought it into being, was unable to act while time remained. The world thus drifted into disaster.

When Neville Chamberlain returned from Munich in 1938 he told the world that he had brought peace with honor. What he had in fact brought was not peace, still less honor, but the prelude to an unprecedented war. This lesson of history should never be forgotten.

During the Second World War more than ten million Chinese people lost their lives. The destruction of property was incalculable. It was due to the firm and farsighted leadership of President Chiang Kai-shek and the determination and indomitable courage of the Chinese people that the war in the Pacific was finally won. Magnanimous towards the defeated countries after the achievement of victory and desirous of bringing about lasting peace in the world, President Chiang worked hard for the establishment of the United Nations. It was not without reason that the Republic of China was specified in Article 23 of the Charter as a permanent member of the Security Council.

For twenty-six years the Republic of China has faithfully discharged its Charter obligations. It has played not a negligible part in the decolonization process. It has cooperated with other members of the United Nations in the economic, social, cultural, educational and health fields. No one can gainsay the fact that the Republic of China has been a loyal member of the Organization. To deny the Republic of China of its rightful position in the United Nations is to violate the Charter and negate the noble and sacred principles and purposes upon which the United Nations was founded.

Those who advocate the seating of the Chinese Communist regime base their argument on what they regard as realism. But the existence of the criminal Communist regime is one thing and the acceptance of that criminal regime as a member of the United Nations is quite another. The purpose of the United Nations is to suppress the crime of aggression and not to allow the aggressor to get away with impunity, still less to bow before force and thus forfeit its own *raison d'etre*.

The anti-Communist struggle of the Republic of China has a two-fold objective: on the one hand to protect the fundamental rights and freedom of the Chinese people and on the other to preserve the peace and security of the world as a whole. Today, although the Chinese mainland is under the occupation of a rebel regime, the Government of the Republic of China continues to exercise its sovereignty on Chinese soil, continues to struggle for the deliverance of the enslaved millions from Communist tyranny, and continues to work for the preservation of international peace and security. Those who press for the so-called "restoration of lawful rights" of the Communist regime in the United Nations is to deny the Government of the Republic of China of its right to liberate the enslaved Chinese people on the mainland, to allow the Communist regime to use the 700 million captive people as an instrument to threaten international peace and security, and thus to act as accomplices of aggression.

During the war years, the Chinese Communists, instead of fighting the enemy, used the opportunity to expand their own forces. At the end of World War II, they received huge quantities of captured Japanese arms and ammunition from the Soviet occupation forces in Manchuria. They were then ready to challenge the authority of the Central Government and eventually to occupy the whole of the Chinese mainland. In the twenty-two years since the establishment of the Communist regime, they have committed innumerable crimes against the Chinese people, the likes of which Chinese history has never known. Some of the most heinous ones are as follows:

1. The Communist regime has murdered over fifty million innocent people and confiscated all their properties. Under its tyrannical rule, the people have lost all their basic rights and fundamental freedoms: their dignity as human beings, their right to pursue happiness, even their freedom to cry and to be silent. The farmers have been reduced to serfs, workers to slaves, and traders to criminals.

2. It created the so-called Red Guards at the height of the so-called Great Cultural Revolution. The same Red Guards have now become targets of persecution. Those who have survived the struggles are being sent to the countryside for re-education through hard labor.

3. It has denied to the people their freedom of worship. Churches and mosques have either been destroyed or confiscated; both the clergy and the laity have been persecuted and imprisoned.

4. It has destroyed the Chinese family system. It has forced the separation of husbands and wives as well as their children. It has thus demolished the basis of Chinese culture and reduced human beings to the level of the inmates of a zoo. It has transformed the 700 million people of the mainland into instruments of aggression.

5. It has subjected the ethnic minorities to inhuman oppression. Tibetans and the Uighurs of Sinkiang now face the danger of extinction.

6. It participated in the aggression against the Republic of Korea and was branded in 1951 by the General Assembly as an aggressor.

7. Its aid to Hanoi has expanded and prolonged the war both in Vietnam and Laos. It has fomented unrest and "people's war" in many parts of Southeast Asia. It has, on the mainland of China, training centers for guerrilla warfare, with young men from various parts of the world being trained in subversive tactics for eventual use in their own countries. Its subversive activities have already been extended to the Middle East, Africa, North and Latin America.

8. It is one of the biggest suppliers of narcotics. The foreign exchange thus obtained has been used for subversive purposes in various countries.

9. The purposes of its education has been both chauvinistic and xenophobic, with the objective of militarising the whole population. It has publicly proclaimed that it would not hesitate to sacrifice one half of China's population in a nuclear war.

10. In its Party Constitution it has made anti-U.S. imperialism, anti-Soviet revisionism and anti-all reactionary forces the basis of its foreign policy. In other words, it intends to overthrow all those who refuse to adhere to Maoism. In has never concealed the fact that its present gestures of goodwill is part of the "enlarged and strengthened international united front of anti-imperialist struggle." If we are not short-memoried, we should remember that more than a decade ago Mao Tse-tung's slogans were "lean to the side of the Soviet Union" and "Five Principles of Peaceful Co-existence." The culmination of the "peaceful co-existence" period was the convening of the Bandung Conference. It did not take long for the Soviet Union to become an implacable enemy and the countries which participated in the Bandung Conference to become the targets of subversion and even armed attacks.

The Chinese Communist regime is oppressive at home and aggressive abroad. It has publicly proclaimed it intends to "thoroughly reform" the United Nations or else to establish a new one. Once it has been seated both in the General Assembly and on the Security Council, it will surely transform the United Nations into a Maoist front and a battlefield for international subversion. It will use the veto as an instrument for the protection of its subversive activities and for undermining the Western democracies. The United Nations would then be a center for the promotion of war and aggression.

The Communist regime is a rebel set-up. It is based on force and violence. It has never had the moral consent of the Chinese people. That it was an aggressor in Korea is still on the books of the United Nations. To have it replace the Republic of China as a member of the United Nations and as a permanent member of the Security Council is to have a murderer sit as judge in a criminal court. By so doing, the United Nations will spell its own doom.

There are those who think the participation of the Communist regime will enhance the prospect for peace. The idea is to subject the aggressive regime to the discipline of international public opinion. This is dangerous nonsense. It is like to tie a tiger with a straw rope.

The Republic of China cannot let the majestic headquarters of the United Nations become the place where justice and law yield place to lawlessness and injustice. It has therefore decided to withdraw from the Organisation of which it was one of the founders.

The responsibility for this state of affairs must be borne by those who have sacrificed the lofty principles of the Charter on the altar of expediency. They will have to answer to the judgment of history and posterity.

The Government of the Republic of China wishes to take this opportunity to express its profound appreciation of the support given to it by friendly governments during the past twenty-two years. It can assure them that it will continue to struggle for the realization of the purposes and principles enshrined in the Charter.

I wish to state once again that the Chinese Communist regime is the enemy of the Chinese people, the enemy of international peace. Internally, the power struggle goes on with unabated ferocity. It is a regime unsupported by the people. Its so-called Chief of State has long ago disappeared. It cannot possibly represent the 700 million people in the international community. It is illegal for the United Nations to let it occupy the seat of China.

To overthrow the rebel Communist regime and restore freedom to the Chinese people is the common objective of all Chinese. It is also the unshirkable responsibility of the Government of the Republic of China. The Government of the Republic of China, in order to realize the aspirations of the Chinese people, will struggle on until the Communist regime is overthrown. The admission of the Communist regime to the United Nations will in no way affect the determination of my Government to liberate the mainland.

The Republic of China is fighting for law and justice. It has done so many times before, often without allies and without outside aid. It is our firm conviction that right will eventually triumph over might and justice will sooner or later prevail over injustice.

KENNEDY ADDRESS ON CHINA

Mr. MCGOVERN. Mr. President, on last Friday, October 29, the Senator from Massachusetts (Mr. KENNEDY) delivered what I consider to be an immensely important address on U.S. relations with the People's Republic of China.

Since the United Nations General Assembly vote on seating the People's Republic of China, I have maintained that the only defeat involved was a rejection of the strategy adopted by the Nixon administration. As Senator KENNEDY pointed out:

Far from being an unmitigated defeat, the vote last Monday is full of hope for virtually everyone. It is full of hope for the U.N., which now becomes for the first time in more than twenty years an organization which is truly representative of all the major nations of the world.

It is full of hope for world peace, which cannot help but move ahead, as China begins to participate in the important councils of the world. And it is full of hope for the thrust of President Nixon's China policy, which is clearly looking to the future and to the development of broad relations with Peking on every front.

Our greatest need now is to abandon the bitterness and intemperance which has characterized the administration's response thus far, and then get on with the task of accepting the reality which most of the world has adopted before us. We must reject the counsel of the true isolationists, who would grasp the vote as cause for slashing American support for the United Nations, and catch hold of this opportunity to build a truly effective organ for world peace and justice.

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Mr. President, I ask unanimous consent that Senator KENNEDY's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR EDWARD M. KENNEDY—THIRD NATIONAL CONVOCATION: THE CHALLENGE OF BUILDING PEACE

I am honored to be here with you today and to have the opportunity to address this important, and, as it turns out, extremely timely internastional convocation on United States-China relations.

Rarely, I think, has a single China conference commanded so much attention in America and throughout the world, or attracted so many distinguished participants from this country and overseas.

Already, in the brief period since the Fund for Peace began this imaginative series of convocations on the challenge of building peace, these annual meetings have made important contributions to some of the most difficult issues of foreign policy facing America and the world community.

Last year's symposium, held in April 1970, was an important step in the development of improved relations between the United States and the Soviet Union. It was a welcome example of accommodation between our two nations, coming as it did at the especially difficult time of escalating American military involvement in Cambodia and escalating Soviet involvement in the Middle East.

Today, we meet at another difficult time, a time of rapid change in relations between the United States and China, a change accelerated by the sudden dramatic vote in the United Nations General Assembly last Monday evening to admit Peking and expel Taiwan.

By the accident of timing of the vote, we have a magnificent opportunity at this Convocation today to define the policies we shall need in the future, as we seek to dispel the confusion and emotion surrounding Monday's vote, and adjust ourselves to the new reality of Peking in its rightful place as a legitimate member of the United Nations and the world community.

In thinking about this address in recent weeks, I had hoped to come here today to speak about some of the long-run aspects of America's unfolding relations with the People's Republic of China.

I had hoped to discuss with you the difficult path America will have to chart in the months and years to come, if President Nixon's pending visit to Peking is to be a fixed star on the road to peace instead of a passing comet in an American election year.

I had hoped to deal briefly with the United Nations issue, and then turn to what I see as three of the deepest and most complex problems we now face with China—the establishment of diplomatic relations between the United States and Peking, the status of Taiwan, and the future of America's defense commitment to the Island.

But that was before the vote last Monday. In the wake of America's stunning defeat in the General Assembly on the issue of China's representation, a new and much more immediate issue has arisen—the danger that the rising tide of domestic passions unleashed in this country in many quarters in the aftermath of the vote will so impair the participation of the United States in the United Nations that the organization itself will cease to have an effective role in American foreign policy.

The pages of the Congressional Record this week fill me with distress. Senator after Senator, liberals and conservatives, Republicans and Democrats alike, rose to castigate the vote, in terms that left no doubt of their view that the United Nations had treated America badly and deserved a reduction in our support.

Congressman after Congressman spoke with special bitterness about nations who had eagerly pocketed American foreign aid and then opposed us on the vote. The distinguished leader of the President's own party in the Senate, renowned as a China scholar in his own right, ridiculed the small nations who opposed us in language entirely inappropriate to the Congress of the United States, and Vice President Agnew gave vent to his own special brand of right-wing rage.

The Senate of the United States last night had the good sense to defeat Senator Buckley's anti-U.N. amendment by a margin of nearly 2-1. I hope that any additional votes we have today on similar amendments likely to be offered by Senator Buckley and Senator Dominick will meet the same defeat.

The danger, I fear is that the rhetoric is only now beginning. Talk of reprisals fills the air. An unseemly search begins for the nations that "did us in." Unless responsible public officials and private citizens act swiftly to stem the tide, the passions will grow stronger. They will shake the very foundation of America's role in the organization which we helped to launch at San Francisco in 1945 and which, in spite of all its faults has become the world's best hope for the generation of peace we all desire.

Yet, forces have been loosed in America today that would turn the clock back fifty years in our struggle to bring the law of nations out of the jungle and into the sunlight of mutual and effective international cooperation. Not since the aftermath of World War I and Woodrow Wilson's long and losing struggle to bring America into the League of Nations has there been such a running tide of powerful conservative and isolationist opinion in this nation. And the controversy will grow worse so long as men of good will of every political persuasion in America continue to keep silent.

Tragically, the world now has the image of America as a giant in trouble thrashing about in all directions, condemning its friends, threatening retaliation, playing the role of the pitiful helpless giant we vowed we would never be.

In recent weeks, we have all become accustomed to the continuing appearances of President Nixon on television, as he announced good news in areas of foreign and domestic policy. We watched his effective and persuasive statement as he announced his dramatic trip to China. We watched the various statements on his important programs dealing with our economic crisis. We watched his recent effort to rally support for his Supreme Court nominations.

And yet he failed us this week when the need was greatest. Last Monday, a stunned America learned the outcome of the most important single vote in the entire twenty-five year history of the United Nations, a vote with profound significance for the peace of America and the world.

Why, it is fair to ask, why did President Nixon not take the obvious opportunity to go again before the nation to ease the shock, to explain the vote, and to call for understanding by our people?

Instead at first, he stood aloof. For a full day following the vote while the storm clouds gathered, every public inquiry was referred to the State Department. The President himself stayed silent. The leadership we needed was not there. Instead, the bitter initial reaction that set in began to grow worse. It was clear that a far greater effort than before would be needed to head it off.

And when, at last, the President's comments were reported, two days past the vote. his words were not the soothing call for understanding we hoped to hear, but a petty condemnation of the conduct of some nations on the floor of the General Assembly, because they reacted with too much "glee" at the announcement of their success.

And so, as in the case of his comment on the Calley trial, we had the spectacle of our President playing to the worst instincts in his party and the nation, pouring fresh fuel upon the fire, inciting further passions against the United Nations, abdicating his responsibility at the very time the need was clearest.

What a magnificent occasion he missed to demonstrate the wisdom, vision, and leadership that millions of Americans were seeking at this moment of doubt and confusion over the China question in American foreign policy, an issue which has plagued us since the end of World War II and which has always generated deep conflicting emotions in our people.

How easy it would have been to reassure us all about the real significance of the action by the General Assembly. How easy it would have been to emphasize that, regardless of the vote, America's historic deep commitment and friendship with Taiwan stood unimpaired. How easy it would have been to focus the attention of our people on all the new horizons opened to us by virtue of Peking's entry into the world community.

We know that the participation of Peking is essential if we are to make any real progress on all the great international issues of our time, especially in areas like nuclear arms control, disarmament, international economic affairs and world development, the international crisis in refugees, problems of pollution and poor health, poverty and disease.

We know that arms control agreements can never be completely adequate until they have the signature of China as a nuclear power.

We know that in East Bengal and other troubled areas, no permanent solution is possible so long as China remains an outcast in the world community.

Above all, we know that in Vietnam and the rest of Indochina, no permanent settlement for peace can be reached without Chinese participation and acceptance.

Instead, so far, the President has let the opportunity pass, and the consequences have been severe. Doesn't he realize that even his dramatic visit to Peking has been tarnished?

We see the damage all around us. Know-nothings in America give vent to tirades that would topple the foundation of the United Nations if they could.

Two decades of American financial assistance to every corner of the world are jeopardized as our entire foreign aid program hangs in the balance on the floor of the Senate of the United States.

Where is the vision we had in other days? Where are the voices of men like those who created the Marshall Plan and helped rebuild a scarred and frightened world in the aftermath of World War II? Where is the spirit of the leaders we used to have, who forged the bonds that brought America out of its isolation of the past, and gained us the respect of other nations as a giant with a difference, a giant with the compassion to use our power wisely, for the benefit of mankind everywhere?

All we see now is retaliation and retrenchment. And so, when men in high positions abdicate their true responsibility, it falls to others to fill the gap, and lead America back to the role we ought to play.

If any real and lasting good, therefore, is to come from this important convocation today, it should be to teach America the lesson that now we have a new and far deeper responsibility than ever before in the United Nations, if only we can find the restraint and understanding to meet the challenge.

Far from being an unmitigated defeat, the vote last Monday is full of hope for virtually everyone. It is full of hope for the U.N., which now becomes for the first time in more than twenty years an organization that is truly representative of all the major nations of the world.

It is full of hope for world peace, which

cannot help but move ahead, as China begins to participate in the important councils of the world. And, it is full of hope for the thrust of President Nixon's China policy, which is clearly looking to the future and to the development of broad relations with Peking on every front.

Equally important, the vote is not really a disaster or even a defeat of any devastating consequence for the people of Taiwan. It is certainly not the end of the world for Chiang Kai-Shek and his government. The deep and longstanding relations between the United States and Taiwan remain firm and undiminished. The growing economy of the Island remains strong and active.

Nor does the vote even mean the permanent end of representation in the United Nations for the people of Taiwan.

Inevitably, in the months and years to come, Taiwan and Mainland China will resolve their mutual hostilities and antagonisms.

I am confident that when that day arrives, the people of Taiwan will again be represented in the United Nations, in accord with whatever status the Island finally acquires.

And if, in some small way, the shock of this week's vote can contribute to that process of peaceful change and accommodation for Taiwan, then years from now, history may well record that the vote was not really a defeat at all for the people of Taiwan, but the first and most important step forward on the long and difficult and peaceful journey to a settlement of the status of that divided nation.

I would also like to discuss a number of additional observations about the recent vote. They help, I think to see the issue in its real perspective, free of the strong emotions that cloud it now.

First, to me, the overriding meaning of the vote is that, after 22 years of effort, the sand had finally run out of the American hourglass in our resistance to U.N. representation for the People's Republic of China. For a generation, the United States had pursued a rigid and backward policy of unrealistic diplomatic, political and economic isolation toward Peking. Finally, the irresistible logic of the reality of Mainland China and its 800 million people had become too strong to be denied.

Second, it helps, I think, to understand the vote, if we see the legal issue as so many other nations saw it—not as a question of the expulsion of a member state, but as a question of a change in the government of a nation that has undergone a civil war.

The membership of China as a sovereign nation in the General Assembly was never in any question, and the action is clearly not a precedent for the expulsion of any state. The only issue the Assembly really had to face was the question, who represents China, or, put a different way, who won China's civil war—Peking or Taiwan?

For more than two decades, the United States had pursued a policy that said Taiwan was China, and that Peking did not exist. We pursued a one China policy, but always, it was the wrong China.

Now, at last, when the old order has given way, we can hardly condemn the majority of nations who embraced a one China policy that has the right China.

It is significant that at the end of the debate, as it had repeatedly throughout the weeks of controversy, Taiwan itself refused to give up its claim to be the one China. It still maintained its right to speak for the hundreds of millions of Chinese on the Mainland.

In 1971, nearly a quarter of a century after the Nationalists had retreated from the Mainland to Taiwan, they still maintained the fiction that they governed all of China.

In that pretension lay the fundamental logical flaw of our dual representation position. The nations of the General Assembly were wise enough to spare the United Nations the prospect of seating two rival claimants in the China seat. In a very real sense, it was Taiwan itself that framed the issue, undercutting the American Rhetoric, and compelling the Assembly to choose between one China and the other—Peking or Taiwan, the right China or the wrong China—as the sole legitimate government of China. For 22 years, the answer had been Taiwan, and now it was time for Peking.

Even the most superficial reading of the debates on the floor of the General Assembly in the past two weeks demonstrates the grave doubts shared by many of our allies on the merits of the two China position we sought to put across.

For them, the American position offered the shadow of compromise, but not the substance. Call the roster of nations abstaining or voting against the American position, and you find the names of the overwhelming majority of our oldest and closest friends—nations like Britain, France, Norway, Sweden, Denmark, Belgium, the Netherlands, Austria, Italy, Canada, India and Ireland.

That's an impressive array of opposition by any standard, and they marshalled impressive arguments against the American position, arguments that are impossible to explain away on the basis of pique against America, special interests, or international power politics alone.

Rarely, however, has there been an issue in foreign policy in which the logic, reality, history and experience of the situation ran so deeply against the grain of the American people. We know that countless other governments have changed hands in other nations and have been accepted in the U.N. without bitterness or controversy. And yet, by reason of history, emotion, and a generation of petrified policy, China's civil war was different. However easy the answer may have seemed to many of our allies, it was not an easy answer for America, and it will be the task of scholars and public officials in the months and weeks to come to help America understand.

It also helps, I think, to emphasize that the U.N. vote was decided, as it should have been, by the will of a majority of the members of the General Assembly.

In the end, the so-called "important question" tactic, by which the United States sought to compel a two-thirds majority for the vote, came to naught, since most nations undoubtedly treated the procedural vote as a vote upon the merits.

If anything, the important question tactic probably contributed in a minor way to the outcome of the vote since for many nations, the tactic raised unpleasant memories of its annual use by the United States throughout the decade of the sixties to prevent representation for Peking.

As such, it had become a discredited device, akin to the filibuster rule in the United States Senate, whose only purpose was to frustrate the will of the majority.

The margin of the roll call vote itself was narrow—59-55, or, stated in percentage terms, 52%-48%. But if you weight the vote in accord with the populations of the nations voting, the margin becomes much wider—62% to 38% against the American position.

In other words, we lost the vote by a significantly larger margin when we look at the size of the nations voting against us. As we analyze our defeat in the days and weeks to come, it will be well to bear in mind that our greatest support tended to come from the smallest and weakest nations of the world, whereas the largest and most powerful nations tended to be against us.

The third point I would like to make is that, in spite of the admirable efforts of Ambassador Bush, it is impossible to say that the Administration's heart was really 100% in the fight to save Taiwan. Of course, in votes as close as the "important question" issue, it is impossible to single out one or another factor as the one that determined the result.

Inevitably, however, President Nixon's twin decisions to send Mr. Kissinger to Peking early in July and again six days before the U.N. vote were factors that must have weighed heavily in the vote of many nations. It is inconceivable that the President's decisions were reached lightly or without due regard for the risks they would entail for the U.N. vote.

We shall never know the full considerations that prompted the timing of the second Kissinger mission, at a juncture so absolutely critical for the U.N. issue. Perhaps the timing was a coincidence, and perhaps not. We shall probably never know whether this was a gesture exacted by Peking as the price of the President's coming visit, prompted in part as an antidote to the unfavorable publicity caused by the earlier reports of wide disturbances in China.

What we do know is that many nations might legitimately have felt that America had placed its first priority on our own bilateral accommodation with Peking, and that, at best, the issue of U.N. representation for Taiwan was a satellite concern. To put it a slightly different way, if Kissinger I was a shock to the credibility of America's commitment to keep Taiwan in the General Assembly, then Kissinger II delivered the coup de grace.

It seems, therefore, that President Nixon and his Administration have only themselves to blame for the outcome of the vote and the distressing passions that have now been aroused in the United States. The tragedy is that it never had to be this way.

It could all have been handled so very differently. Perhaps the Administration underestimated the strength of the conservative backlash that might ensue in a losing effort, when they allowed a football stadium atmosphere to surround the struggle over the U.N. resolution.

In a very real sense, Ambassador Bush was calling the signals in New York, but a different and louder signal was being called from Washington. Other nations saw it, and cast their votes accordingly. As a result, the passions and excitement aroused in the United States on the U.N. issue are a product more of our sporting spirit of identification with the underdog Taiwan, than of any realistic assessment of the issue or the true long-term interests of the United States and the world community. Carried away with our enthusiasm in the struggle, we ran with the ball in the wrong direction.

To me, the Administration's U.N. effort was doomed to failure from the beginning, because the price we would have had to pay for victory was too high. No one denies that in the intense lobbying of recent weeks, the United States has squandered enormous diplomatic capital among the nations of the world in the futile effort to hold back the tide of change. We shall never know the full price we had to pay to get the support of the 53 other nations who went down on the ship with the United States and Taiwan on the 'important question' vote. How deeply have we obligated ourselves to regimes whose policies we disapprove? What will be the cost in military and economic aid? What other promises have we made? How long will it take to heal the bruises we have left in nations like Italy and Mexico?

In some cases, at least, the price already seems clear. We know that on the vote last Monday, Greece, along with Luxembourg and Portugal, were the only NATO nations that took the American side. Ten other NATO nations were against us. Is it merely a coincidence that the same newspaper

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which brought the headlines on the U.N. vote also carried front page stories announcing that a $50 million aerospace plant in Greece would be built with American financial aid?

Or take Japan. A long line of news reports last summer amply documented the intense pressures against Japan to cosponsor the ill-starred American resolutions. The newest parliamentary crisis in Tokyo this week is but the latest fruit of all that pressure.

Japan was the only other major power in the world to cosponsor our resolutions. Now that the resolutions have failed, increasing local pressure in Japan is being brought against the Sato government, not only from opposition parties in Japan united on this issue, but also now from strong and influential leaders within Mr. Sato's own party.

We had already seen three previous American shocks this year that severely jolted Japan—the announcement last July of President Nixon's visit to Peking, the imposition last August of the 10% surcharge on foreign imports into the United States, both of which took place without consultation with Japan, and the American ultimatum this fall that led to the recent textile quota agreement.

It is easy to see, therefore, why our U.N. policy and our other actions have jeopardized our long-term interest in stable relations with Japan. It is easy to see the heavy price we have had to pay in terms of our relations with our most important Asian ally.

No one can contemplate the crisis of the Sato government with anything but apprehension. If the government should fall, it would introduce drastic new uncertainties in the Japanese scene, and lead to the first real period of governmental instability there in many years.

Surely, if, as virtually everyone conceded, the U.N. issue was sure to be lost in 1972, if not in 1971, it is legitimate to ask whether the potential turmoil in Japan and the further embarrassment of Japanese-American relations was a price we had to pay this year.

Even if we had won the 'important question' vote this week, even if we had succeeded in preserving Taiwan's seat, it would have been a pyrrhic victory. The virtually unanimous support for Peking's representation by the 130 members of the United Nations would have been an empty gesture in the face of Peking's clear refusal to accept dual representation as a condition of her membership.

We may regret that Peking chose to be so adamant on this point. We certainly regret the unnecessary harsh and unconscionable language in which the Albanian resolution was cast.

But we could not doubt the strength of Peking's opposition to dual representation, or the sincerity of her clear refusal to enter the U.N. on that basis.

From the beginning, even before they were introduced, there was never any doubt that Peking would refuse to accept the American resolutions. As Allen Whiting has persuasively shown, that position had been stated clearly and unequivocally by Chou En Lai, and there was no real doubt that Peking would ever acquiesce in a two China policy. In essence, the President chose a "no-win" policy on the U.N. issue, and it is not surprising that so many nations refused to go along.

In closing, let me return once more to the theme with which I began. It is long past time for the Administration to act to end the appalling vacuum of leadership it has allowed to develop in the aftermath of the vote.

America and the United Nations stand at a turning point in history that holds extremely important consequences for the peace of every American and every citizen of every nation of the world. Only the President has the true capacity to bring our divided nation together. Only the President has the capacity to extinguish the passions he has helped inflame. Only the President has the capacity to make America understand. The times cry out for his healing leadership, and I hope that all of you who are here today, from so many different areas of public and private life, will join me in a call for prompt and effective action.

My own view is clear. The United Nations is more important to America today than it has ever been. There is no justification, no justification whatever, for us to reduce our financial support for the U.N. or any of its supporting agencies in these difficult and turbulent days.

The United States is not even the largest per capita contributor to the budget of the United Nations. There are at least six other nations—Canada, the Netherlands, Sweden, Denmark, Norway, and even the tiny Maldive Islands, about whom so much was heard in connection with the vote in the General Assembly last Monday—whose per capita contributions to the U.N. budget in 1970 surpassed the contribution of the United States.

America is big enough to accept the U.N. vote, without stooping to any mean and petty retaliation against the organization we helped to found. The principle of retribution has no place in American policy toward the United Nations. If we allow our passions to go unchecked, if we yield to the base instincts now so widely reported in the press, if we lash out against the United Nations in our frustration about the vote, millions of innocent people throughout the world—especially the children—will suffer as their lifeline to decent health and welfare through U.N. programs is cut off. But it is America herself who will suffer most. It is our own people who will be the poorer.

The United Nations has now matured into a world organization with a life of its own, independent of the domination of any world power.

Some may regret the passing of the era in which the United Nations was the New York Annex of our State Department. Others may regret the complications Peking will bring to U.N. life.

But no one who believes in the principle of a community of nations can doubt that is now a stronger and more viable institution.

Perhaps America could have afforded to let the League of Nations go its separate way half a century ago, but we cannot do the same today. The simple fact is that America needs the United Nations more than the United Nations needs America. All our hopes for harmony, prosperity, and future peace hang in the U.N. balance. In a word, the U.N. is now a better investment for America than it has ever been before.

The real question we have to ask ourselves is whether America is great enough to accept defeat with grace, and join hands with other nations as their equals, not their masters. I am confident that we can answer that question wisely, but only if we have the sort of leadership that can teach us to see the issue clearly.

PARALLELS BETWEEN THE GENOCIDE CONVENTION AND THE FUR SEAL CONVENTION

Mr. PROXMIRE. Mr. President, on January 30, 1964, the Senate by a vote of 80 to 0 gave advice and consent to the ratification of the Interim Convention on Conservation of North Pacific Fur Seals. This is a multilateral treaty among the United States, Canada, Japan, and the Soviet Union. Except for its subject matter it is similar in certain aspects to the Genocide Convention. Both treaties establish a crime, define the crime, call for enacting legislation, and establish the procedures for arrest and trial. The powers conferred and the obligations entailed by both are similar.

Some of the provisions of the Genocide Convention which have caused concern to its opponents have been law in the United States through the Fur Seal Convention for 7 years. To the best of my knowledge no party to the Fur Seal Convention has ever abused that treaty. As I hope to show, its existence and success speak in favor of ratifying the Genocide Convention.

Many questions have been raised about the Genocide Convention. Does it take authority away from the States and give it to the Federal Government? Is there an unconstitutional delegation of power to an international body? Will the American people be denied the protection of the Constitution? A comparison of the Fur Seal Convention and the Genocide Convention will shed some light on these questions and assist us in answering them. Such a study will help us see that there are no risks but rather many benefits to our ratifying the Genocide Convention.

Mr. President, the purpose of the Genocide Convention is to protect people, including the American people, from the horrors of mass murder. It is my desire that the American people and people throughout the world be protected and allowed to prosper in peace. That is why I support the Genocide Convention. That is why I believe that the Senate should ratify it.

EIGHTH ANNUAL CONGRESSIONAL CUP INVITATIONAL DEBATE TOURNAMENT

Mr. SPARKMAN. Mr. President, as a trustee of the American University here in Washington, I am pleased to call attention to the Eighth Annual Congressional Cup Invitational Debate Tournament, to be held on the campus of the American University on March 18 and 19, 1972. I take great pride in the accomplishments of this great university. This debate tournament is another of the wonderful events that American University has throughout the year. Since its inception in 1964, the tournament has attracted some of the best collegiate debaters in the Nation to match minds in reasoned discourse on a topic of national import. This year, tournament officials hope to attract over 50 two-man varsity teams, who will debate on both sides of the national collegiate debate topic, "Resolved: That greater controls should be imposed on the gathering and utilization of information about U.S. citizens by Government agencies;" a topic of current national concern and an issue which may have great impact on our Nation's future.

The schedule of events at the tournament includes six preliminary rounds of debate, culminating in a final round between the top two teams. The first two rounds of the tournament will be paired on a regional dispersal system, pitting teams from widely separated parts of the country against each other in competition. The last four rounds will be power-paired, matching strong teams against strong and weak against weak, on the basis of their performance as the tournament progresses. The final round of the tournament, to determine the 1972 champion, will be between the two teams with the best records after six rounds, and may be judged by a panel of debate coaches and Members of Congress.

The winning team will be awarded possession of the 38-inch high rotating congressional cup complete with its traditional split of champagne, and will be able to display the cup at their school during the ensuing year. Previous winners of this trophy include Boston College, Massachusetts Institute of Technology, George Washington University, Rutgers University, Stanford University, University of Maryland, and the University of Richmond. In addition, this year's winner will be awarded a permanent trophy which it may display in its debate office. Second, third, fourth, and fifth place team awards will also be presented. The top five individual speakers will be given silver brandy snifters to indicate their accomplishments in the forensic art.

Overall, the Congressional Cup Invitational Debate Tournament seems to be a very worthwhile activity, allowing some of our country's top students an opportunity to meet and discuss a national problem in a constructive way, and I heartily endorse this means of self-expression.

INCREASING IMPORTANCE OF COMMUNITY COLLEGES

Mr. FANNIN. Mr. President, of all our concerns none is more important than our educational endeavors. We may question and debate what should constitute national priorities, but education would be included without serious dissent. If there is one subject which engages the daily attention of governments, governmental officials at all levels, parents, and many other citizens, it is the quality of our educational institutions. Our society, in short, has placed great emphasis on education believing it to be in our national interest to have a strong and viable educational system.

As a component of our educational endeavors the institutions of higher learning represent an example of how important we view education. No other nation surpasses our deep commitment to provide additional education to all its citizens beyond high school. And the opportunities to realize that commitment have been expanded in recent years and will, in all probability, continue to expand.

In 1957 we were spending $5.3 billion on higher education as compared to $18.6 billion at the end of 1968. Clearly, there was growth, not only in expenditures, but in increased enrollments, in physical plants, in programs and in curriculum. Yet, while we have relied on these customary measurements to demonstrate expansion in higher education, there was a movement to diversify and extend the programs of higher education to satisfy more special needs. The development of the junior or community college system was in direct response to such needs. The community college system according to a 1970 Carnegie Commission report could:

Offer more varied programs for a greater variety of students than any other segment of higher education. They provide a chance for many who are not fully committed in advance to a four-year college career to try out higher education without great risks of time or money. They appeal to students who are undecided about their future careers and unprepared to choose a field of specialization. And last, but by no means least, they provide an opportunity for continuing education to working adults seeking to upgrade their skills and training.

In further amplifications the Committee on Labor and Public Welfare in a report accompanying S. 659, the Education Amendments Act of 1971, noted that:

Community colleges are of particular appeal to students because of their proximity to those they are designed to serve, because of their flexible admission arrangements, and their strong counselling and advising services. They offer a greater number of programs for a wider variety of students and the curriculum of a community college grows out of the needs of society, the community it serves, and of the needs of its students. They have designed their course offerings to meet personnel requirements in such diverse fields as medicine, engineering, and social service. In addition, they provide new directions in urban education as well as offering promise in job preparation and cultural, academic, and remedial education.

The increasing importance of community colleges is attested to by rising enrollments—nearly a 400-percent increase between 1960–70. In fact, it is estimated that about half of the first year students enrolled in institutions of higher learning are attending junior colleges. In Arizona the enrollment growth rate in all institutions of higher learning has been 50 percent greater than that of the entire Nation and in the junior college system alone they have experienced a 116.2 percent increase in just 5 years. Nationally, the figure was 68.5 percent. In addition, the number of Arizona community colleges increased from 2 to 12 in the period between 1960–70 with two opening just last year. Indications are that two additional plants will be added before the decade is out.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD two tables showing the growth in community college enrollment.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

ENROLLMENT GROWTH IN INSTITUTIONS OF HIGHER LEARNING, ARIZONA AND THE UNITED STATES

	1965	1970	Percent change
In 4-year institutions:			
United States	4,103,000	5,116,000	+24.7
Arizona	51,809	68,791	+32.8
In junior colleges:			
United States	841,000	1,417,000	+68.5
Arizona	20,019	43,287	+116.2

Source: Statistical Abstract of the United States; Arizona Board of Regents; Arizona State Board of Directors for Junior Colleges; Registrar's Office, Grand Canyon College, Navajo Community College, Prescott College.

GROWTH OF JUNIOR COLLEGE ENROLLMENT IN ARIZONA

County	1965–66	1970–71	Percent change
Apache		512	
Cochise	1,215	1,767	+45.4
Graham	890	1,738	+95.1
Maricopa	16,244	28,827	+77.5
Pima		3,530	
Pinal		2,891	
Yavapai		1,006	
Yuma	1,670	3,018	+80.7
Total	20,019	43,287	+116.2

Source: Arizona State Board of Directors for Junior Colleges; Registrar's Office of Navajo Community College.

Mr. FANNIN. Mr. President, it is clear that the junior college system has emerged as a significant educational force—one which is contributing much to realizing our highest expectations for education.

As this emerging institution grew, changed, and expanded, problems became inevitable. The list is all too familiar:

The mounting pressures for more community colleges.

Inadequate funding for physical plants, curriculum innovation, community service efforts, and vocational education.

Sustaining the work and educational contributions of the community college would mean identifying other resources to provide financial assistance to these worthwhile institutions. Obviously, one resource would be the Federal education dollar, of which less than 6 percent of the Office of Education budget in fiscal year 1971 was allocated to junior colleges.

In recognition of this deficiency, Senator WILLIAMS, chairman of the Senate Labor and Public Welfare Committee proposed legislation to provide grants for:

Planning, establishing new community colleges, expanding present community colleges.

These grants would aid in expanding their enrollment capacities, establishing new campuses, and altering or modifying their educational programs; leasing facilities.

This commendable proposal was incorporated in S. 659, the Education Amendments of 1971, which was passed by the Senate on August 6 by a vote of 51 to 0.

I supported S. 659 because of the assistance it would provide to Arizona and its young energetic community college system. It is estimated that Arizona could receive, over a 3-year period, $1,205,104 in grants under the provisions for establishing and expanding community colleges.

These resources, coupled with imaginative and innovative financial administration at the local and State level will, I am sure, help to strengthen the community college system. It is a program worthy of our support.

Mr. President, knowing of the potential of this program and the opportunities it will afford the junior college system, I was distressed to learn that the

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House version of the Education Amendments Act of 1971—H.R. 7248—did not contain the comprehensive provisions as contained in the Senate bill. Instead, the House bill provides assistance only for planning. In my estimation, the comprehensiveness of the Senate proposal, which includes planning grants, is far more preferable.

My purpose today is to express once again my complete support for the Senate provisions and to urge the Senate-House conferees to accept the Senate proposal.

This is an important program as our system of education needs a strong community college system.

MORE ON QUALITY OF SCIENTIFIC PRESENTATIONS

Mr. HANSEN. Mr. President, a little more than a month ago, on October 1, with unanimous consent I had placed in the RECORD a news story from the front page of the Washington Post entitled "Colleagues Criticize Anti-ABM Scientists."

The story, reported by Michael Getler of the Post staff, stated:

Prominent scientists who led the attack 2 years ago against the Safeguard ABM project have now been criticized for the quality of their presentations before Congress and in the press during the ABM debate.

Mr. President, the writer was not referring to criticisms from politicians who supported the ABM, but to the findings of the seven-member Ad Hoc Committee on Professional Standards of the Operations Research Society of America.

Yesterday, November 7, the following banner headline was in the Washington Post: "H-Bomb Exploded; No Damage Noted." I know that there were many people in the United States who were relieved to read this headline over the story reporting the success of the safely conducted Amchitka nuclear test. All of us are familiar with the unfavorable publicity against the Nation's most credible nuclear scientists and the Atomic Energy Commission, which preceded the test.

The fact is that the wild allegations hurled at those conducting the test prior to the event were not based on fact; but such charges are misleading and upsetting to large segments of the American public. Such false accusations certainly do not inspire confidence in government. Therefore, it is somewhat gratifying that the people of the United States can determine from the results of the test how attempts were made by some to mislead them on the probable aftereffects of the test.

Mr. President, the Washington Post today has published a column by Joseph Alsop that discusses the importance of scientific accuracy and fairness. He makes the point that the security of the Nation relies heavily upon the quality of scientific data. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 8, 1971]

MISLEADING SCIENTISTS

The clamor surrounding the underground nuclear test at Amchitka is a very good reason for offering an extremely solemn warning. On such occasions, a great deal of the more leftwing "scientific" evidence must now be expected to be as crooked as a ram's horn.

Some attention has already been given to the so-called ORSA report that contains the proofs of the foregoing extremely grave statement. But no one has even begun to grasp the full seriousness of this solid, stolid, unimpeachably factual report. So it deserves re-examination.

ORSA, in brief, is the Operations Research Society of America, with a membership of about 8,000 scientists doing defense and industrial research and analysis. One of the society's stated original aims was to establish uniform standards and guidelines for this new and growing branch of research.

Hence, the society was interested when one of its members, Dr. Albert Wohlstetter of the University of Chicago, asked for a panel to judge the standards of research and analysis displayed in the bitter debate about the "Safeguard" antiballistic-missile system in the Senate in 1969. Essentially that meant a panel to judge between ABM supporters like Dr. Wohlstetter, and its chief scientific opponents, such as the new president of MIT, Dr. Jerome Wiesner, and Drs. George Rathjens and Stephen Weinberg.

The ABM opponents were invited to make any contribution they chose, and also to nominate a member of the proposed panel. They haughtily refused to have anything to do with the inquiry. And they added a wholly groundless charge that the inquiry "could well appear to the nation as an ugly resurgence" of McCarthyism—but they ducked using the actual word.

A six-man panel of industrial and academic scientists was none the less formed, under the leadership of Thomas E. Caywood, past president of ORSA. The panel included men who had opposed the ABM in 1969, as well as men who had been for it. At least one former panel member, Dr. Howard M. Berger, of Xerox, "still hasn't made up his mind."

The results were devastating. "Analyses" that were "often inappropriate, misleading, or factually in error"; failure to meet "elementary standards for proper presentation of results to permit verification"; failure to "distinguish properly between the roles of analyst and advocate"—these were the main phrases in the summary of findings.

Dr. Rathjens was held guilty of "specific abuses of professional standards" in the ABM debate. He was further condemned for selecting his material in a most peculiar manner, mostly by omitting "data (that) would have substantially weakened his case." Other highly partisan inaccuracies were also found in his ABM testimony and in his subsequent exchanges with Dr. Wohlstetter.

Drs. Wiesner and Weinberg were found to have "ascribed official validity" to calculations which had no such validity. They were further found to have made extremely nasty false charges against the chief scientist of the Defense Department, Dr. John S. Foster.

Drs. Wiesner, Rathjens and Weinberg were jointly held to have been guilty of "misuse of source material" in the study of the ABM in a critique of the Pentagon's ABM position that was circulated by Senator Edward Kennedy. The same "misuse" was also found in the work done for Senator Kennedy by Dr. Wiesner and ABM charges throughout the ORSA report.

Thus placed in the dock and found guilty and crooking the evidence and purposeful prevarication, the anti-ABM scientists finally condescended to notice ORSA more seriously. They issued a reply, admitting some mistakes, yet claiming they were right about what mattered. To this Dr. Rathjens added the charge that the neutral panel member, Dr. Herbert Berger, secretly harbored personal animus against himself.

To this charge, Dr. Berger has now replied, in effect, that Dr. Rathjens is again prevaricating, and again, Dr. Berger's evidence is solid, stolid and unimpeachably factual, like the ORSA report itself. No open-minded person can fail to read either report without concluding it is too true, both in detail and in broad outline.

It needs only to be added that the supposed "mistakes" proven in the report were at the very heart of the ABM debate. In sum, warning.

AFL–CIO COMMITTEE ON POLITICAL ACTION—SALARIES OVER $10,000

Mr. FANNIN. Mr. President, the AFL–CIO Committee on Political Education reported to the Clerk of the House of Representatives that it spent $969,328 in 1970.

This almost $1 million is a lot of money for COPE to spend on political activities during a year in which there is no presidential election. But this figure obviously does not really tell the full story.

The $969,328 reported to the Clerk of the House does not include the salaries of COPE officials. To ascertain the 1970 salaries of the top COPE workers, one must go to the Department of Labor.

A check of records at the Department of Labor reveals that higher echelon COPE officials were paid $443,862.95 in salaries and expenses for 1970.

Mr. President, I ask unanimous consent to have printed in the RECORD the list of COPE salaries over $10,000 as shown in reports filed with the Department of Labor.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

AFL–CIO COMMITTEE ON POLITICAL ACTION—SALARIES OVER $10,000

Director, C.O.P.E.: Alexander Barkan	$30,510.00	$9,583.98	$40,093.98
Deputy director, C.O.P.E.: Joseph Rourke	22,950.00	2,383.52	25,333.52
Assistant director, C.O.P.E.: John Perkins	18,234.00	11,026.48	29,260.48
National field director, C.O.P.E.: W. C. Young	16,676.40	12,737.44	29,413.84
Campaign director, C.O.P.E.: William Gilbert	16,225.00	5,584.19	21,809.19
C.O.P.E. area directors:			
Clemeal Dowler	15,574.00	10,177.93	25,751.93
Richard Fallow	17,172.50	8,072.25	25,244.75
Frank McGrath	17,122.50	8,288.67	25,411.17
Charles McMahon	15,361.50	9,137.20	24,498.70
Raymond Alvarez	15,814.80	6,529.51	22,344.31
Research director, C.O.P.E.: Mary Zon	19,791.00	2,730.32	22,521.32
Assistant research director, C.O.P.E.: Margaret Cronin	$15,366.50	.....	$15,366.50
Research employee, C.O.P.E.: Frances Kanin	10,786.20	.....	10,786.20
Publicity director, C.O.P.E.: Bernard Aibert	19,791.00	$2,353.54	22,144.54
Minorities representative, C.O.P.E.: Fannie Neal	17,685.00	11,123.05	28,808.05
Staff representative, C.O.P.E.: Walter Barkin	17,685.00	63.56	17,748.56
Field representative, C.O.P.E.: Severiano Marino	15,549.00	7,824.25	23,373.25
Accounting employee, C.O.P.E.: Margaret Laddbush	11,155.60	.....	11,155.60
Data processing director, C.O.P.E.: Walter Markham	19,791.00	3,005.06	22,796.06
Total			443,862.95

Mr. FANNIN. Mr. President, these COPE salaries are included in the reports that the AFL–CIO and all labor unions are required to file with the Department of Labor. I emphasize that this includes only salaries of more than $10,000. COPE workers earning less than that are not included in the reports. These salaries do not include legislative representatives which are political and perhaps should be considered with COPE.

Mr. President, these two sets of figures raise very serious questions.

If these 19 employees shown on the Labor Department report were working full time for COPE, why were their salaries not listed in the report filed with the Clerk of the House?

Even more important, just where are the funds coming from to pay the salaries of these 19 COPE officials and other COPE employees who earn less than $10,000 per year?

One can only assume that the salaries are coming from the AFL–CIO general fund. And the AFL–CIO general fund comes from the dues of the labor union members. Most of these dues are compulsory. Workers are forced to contribute if they want to work and support their families.

Mr. President, the unions are not living up to the letter or the spirit of our laws regulating the use of union dues and the reporting of funds used in political activities.

The reporting system is a sham.

Union members are being denied the right to know how their contributions to unions are being spent. Instead of spending less than $1 million as the COPE report to the Clerk of the House would indicate, the political arm of the AFL–CIO spent at least $1.5 million.

It is illegal to use involuntary union dues for political purposes, yet we have ample evidence that union bosses are ignoring the law. Union members are being forced to contribute funds that are used to support political candidates that they may oppose.

In addition to supplying millions of dollars for campaigning, union bosses are also misusing the other vast resources of their unions.

This is the most serious threat to our political system today. It must be corrected by the passage of effective legislation to stop the misuse of union money and resources for political purposes.

OKINAWA REVERSION TREATY

Mr. FULBRIGHT. Mr. President, at the recent hearings on the Okinawa Reversion Treaty, the junior Senator from California (Mr. TUNNEY) presented a comprehensive statement supporting the Treaty. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OKINAWA REVERSION TREATY

(By John V. Tunney)

Mr. Chairman, I am delighted to have this opportunity to testify today before the Senate Foreign Relations Committee on a subject which I consider to be of vital importance to the United States, the ratification of the treaty calling for the reversion of Okinawa to the Japanese.

We should be utterly clear that the decision of the Senate whether or not to ratify this treaty promptly will be a turning point in Japanese-American relations and will therefore be decisive with respect to our deepest national interests in the Far East during the 1970s and after. American-Japanese relations have had a tangled and at times a tragic history during this century, and there seems to me no more important task at this moment for us in the Far East than to treat our relations with Japan with the greatest care. We are undergoing vast changes in our policies toward Southeast Asia and the People's Republic of China. These changes are founded on an overdue recognition of political realities in that area of the world. It is essential that during these changes we remain firmly in touch with the ultimate reality facing American policy in the Far East: that we can and must maintain a firm alliance with Japan.

Since the impact of any decision to ratify or not to ratify this treaty will have so large an impact on Japanese-American relations, I will point out some of the central political, economic and military questions in our Japanese policy which the treaty raises. From these perspectives, we can talk plainly about Japanese-American relations generally; about the role of the reversion of Okinawa within those relations; and about the consequences of the proposed treaty for our deepest interests of national security.

I. JAPANESE-AMERICAN RELATIONS

First, then, I shall discuss our relations with Japan. Here we must remember above all that our relations with Japan are more important than our relations with any other Asian nation, including China. The administration has appeared to have lost sight of that fact in the past few months. Yet it is a fact that must not be forgotten.

The benefits of good relations with Japan are substantial, and they touch on vital elements of American policy. Japan and the United States are each the other's largest overseas trading partner with a total annual volume of over $8 billion dollars. Japan is the only Asian nation with the capacity to support substantially the economic and political development of smaller countries in Asia whose economic and political stability are vital goals of American policy. And American bases in Japan serve not only to strengthen the American deterrent against China and the Soviet Union but also to allow Japan to maintain a credible defense posture without developing an independent nuclear capability.

Hence, Mr. Chairman, it is evident that the dangers of a deterioration in relations between the United States and Japan are considerable. A trade war would be costly. It would not only affect our economic relations. It could also be expected to lead to political competition with Japan; competition which might cause Japan to distrust American military guarantees. Such a trade war could escalate into a determination by Japan that she needed a vast increased defense effort, that she could no longer rely upon the American nuclear umbrella.

While a deterioration in Japanese-American relations is hardly inevitable, Mr. Chairman, preventing it will require careful American attention and a major change in the manner with which we deal with the Japanese.

In the past several months, however, we have witnessed a classic example of how not to deal with Japan. The manner in which President Nixon advised the Japanese government of his August economic proposals reflected a callous disregard for the sensitivities of our Japanese friends. And President Nixon's failure to consult with Japan before announcing his visit to Peking is inexcusable—especially after the United States had been responsible for Japan's initial decision to recognize Taipei rather than Peking and had convinced Japan that U.S. policy toward China would be coordinated with Japan. It reflected an insensitive style of diplomacy that is inappropriate and unproductive.

Consequently, Mr. Chairman, I believe that a *new diplomacy* is necessary in the Far East. This diplomacy requires a recognition that American policy in the Far East affects Japanese interests as dramatically as it affects American interests.

This diplomacy requires a recognition that—if stability in Asia is to be maintained—the cooperation of four nations is critical. These four nations are the United States, Japan, the Soviet Union and the People's Republic of China.

This diplomacy requires a recognition that we have made a profound moral commitment to Japan; that we have dissuaded Japan from developing an independent nuclear deterrent; and that, consequently, in this quadrangle of four Asian super-powers, three of which possess nuclear weapons, the United States assumes the role of military and nuclear lynchpin between Japan, on the one hand, and Russia and China, on the other hand.

Accordingly, Mr. Chairman, this diplomacy requires a recognition that, to ignore our relationship with our Japanese ally is to ignore the security, stability, and peace of the Far East. It is deleterious to our own interests to take actions which jeopardize our relations with Japan and which threaten the stability of Asia.

Therefore, I believe that this new diplomacy requires that the United States should take no action which affects the security of the Far East without close consultation with Japan; should consult fully with Japan on all matters of vital interest to her; and, if possible, should move in those areas only in full agreement with Japan.

II. IMPACT OF OKINAWA REVERSION ON JAPANESE-AMERICAN RELATIONS

It is from within this general context of Japanese-American relations that the Okinawa reversion treaty must be viewed.

Within that context, the most outstanding fact that we must continuously remember is that the United States has always acknowledged Japan's residual sovereignty over Okinawa. On September 5, 1951, at the San Francisco Peace Treaty Conference, Ambassador John Foster Dulles first enunciated that doctrine, and Presidents Eisenhower, Kennedy, Johnson, and Nixon have reaffirmed it.

And still, more than a quarter of a century after the end of the Second World War, the United States continues to occupy the territory of Okinawa and an American General exercises executive authority over one million Japanese people. It is hardly startling that the Japanese people insist upon the termination of this inappropriate relationship.

The Agreement itself is hardly a one-sided document. It is the careful product of long negotiations and it involves compromise by both sides.

The United States has clearly compromised in voluntarily granting reversion of those islands which constitute Okinawa, the Ryukyu and Daito Islands, to Japan.

The Japanese have also compromised. They have granted the United States the continued use of military facilities in Okinawa; they have agreed to pay the United States $320 million to compensate us for costs we are expected to bear and for the transfer of assets to Japan; and they have agreed to a communique which linked the security of Japan to the security of Korea and Taiwan.

Mr. Chairman, Japan has also set forth, in a letter of June 17, 1971, from Minister of Foreign Affairs Aichi, important assurances to the American business community in Oki-

nawa. I trust that the Japanese government recognizes the importance of these assurances and will not allow them to be modified in a way which will be detrimental to American investment.

III. OKINAWA REVERSION AND AMERICAN NATIONAL SECURITY

As I mentioned earlier, important military consequences also attach to the ratification of the reversion treaty. The military consequences both of reversion and of refusal should be considered. If the reversion treaty is ratified, no one has seriously suggested that American security interests would be damaged. The support of the Joint Chiefs of Staffs for ratification should be sufficient proof that the reversion agreement is in America's security interest and does not threaten our ability to meet our commitments.

But, what are the military consequences of non-ratification? Those consequences could be devastating.

For, it must be recognized that the United States could not, in the 1970's or beyond, effectively use bases in Okinawa without Japan's consent—with or without the ratification of the treaty. The United States can effectively maintain an overseas base in any given country only so long as that country believes that it is in its interests to have a base there.

It makes no political or military sense to attempt to occupy a base in another sovereign nation against the will of that nation. Such a course of action would require force and would destroy amicable relations between the two countries.

Yet, such a posture would be necessary if we were to attempt to continue to occupy our bases in Okinawa in the absence of reversion. That posture would be untenable.

Furthermore, if we were to hold Okinawa against the wishes of Japan and also against the wishes of the Okinawan people, Japan could retaliate by abrogating the Mutual Security Treaty and expelling us from the home islands. That result would jeopardise our ability, not only to protect Japan, but to meet many of our other military commitments to Asia.

Mr. Chairman, we have nothing to gain—and much to lose—in the way of national security by retaining title to Okinawa.

IV. THE END OF THE POSTWAR ERA

One additional fact cuts through all the others and it is the final argument I wish to stress. Prime Minister Sato has stated that the reversion of Okinawa will mark the end of the postwar era in Japanese-American relations. He has argued that reversion will remove the last remaining tangible reminder of war between the United States and Japan.

Mr. Chairman, even if this belief is primarily psychological, even if we believe that the postwar era has already ended, it is well that both sides put that period to rest.

It is well that both sides remove from their relations all vestiges of the war; that they each determine that they are prepared to begin to develop a full partnership with each other; and that the prompt ratification of this treaty signal the inception of that postwar relationship.

We in the United States will welcome a full postwar relationship with Japan. We should encourage its inception. We should anticipate a fuller partnership in that period—not just politically and militarily, but economically as well. We should now expect Japan to increase her contribution to the economies of the developing countries.

While the American nuclear shield and military presence contributes to Japan's security, it also contributes to Japan's prosperity. The American defense umbrella has spared Japan considerable defense burdens.

It is in Japan's interest as well as ours to divert some of those into projects which will aid the less developed countries of Asia. For stability in Asia will contribute to maintaining the peace in Japan.

Consequently, Mr. Chairman, with the ratification of this treaty and the reversion of Okinawa, I believe that we should expect Japan to expand her economic contributions to the development of less developed Asian nations.

Mr. Chairman, for all of those reasons—and to indicate that the United States Senate attaches very high priority to our relations with Japan—I urge prompt reporting and ratification of the reversion treaty.

Thank you.

IMPORTS LINKED TO U.S. WOES

Mr. HANSEN. Mr. President, since the President announced his new economic plan, which included a 10-percent surtax on imports into the United States that are not under quota, there has been a great outcry from those who advocate free trade that the President's action will trigger an international trade war. The advocates of unfettered free trade predict dire consequences, including retaliation by the countries whose exports to the United States have been affected.

Mr. President, other things being equal, I also advocate free trade but other things are far from equal. The principal inequity against which U.S. industry must compete for, not only in the world market but for the U.S. market, as well, is the inequity of wage scales in other countries as compared with the United States.

In an article published by the Washington Post, on October 31, O. R. Strackbein, president of the Nationwide Committee on Import-Export Policy, summarized the problem of unchecked imports that prompted the President to impose the surtax.

It is gratifying, Mr. President, that since the imposition of the surtax, some of our trading partners have become more amenable to negotiated agreements on some reasonable limitations to a continuing flood of cheaply produced foreign products which were forcing the export of more and more U.S. jobs to cheap labor countries and the displacing of thousands of U.S. workers.

Mr. President, Mr. Strackbein in few words has put the issue of free trade versus fair trade in its proper perspective.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IMPORTS LINKED TO U.S. WOES

(By O. R. Strackbein)

(Mr. Strackbein is president of the nationwide Committee on Import-Export Policy which argues the case for protection of American industry.)

In recent years imports have become a challenge to our economy in a new and unforeseen posture. Ironically our domestic economy, unique in the world the past seventy-five years, is now being flailed from abroad by the very virtues that carried this country to world industrial leadership.

A brief review: This country "invented" mass production. The Sherman Anti-Trust Act of 1890 showed that we distrusted monopoly and upheld fair competition as the best means of carrying to the people the lower prices made possible by mass production. After the turn of the century we also saw the dependence of mass production on mass consumption. Henry Ford carried the torch by instituting the $5 per day wage. He saw clearly that without rising consumer purchasing power the virtues of mass production were doomed.

His product was the pioneer of what was to be a vast proliferation of goods of all varieties produced on the same principle as the automobile. The common denominator was an elastic demand, i.e., lower prices would attract more and more customers. Ford saw that the wish to buy was not enough. Cash was needed, and he saw the tens of millions of workers as a potentially rich market. China with her hundreds of millions is by far a lesser market than this country with one quarter her population. Why? Lower productivity and very low wages in China.

Following the success of the automobile which did strike the mass market, with Ford in the lead, other industries followed suit, centered on the nonessentials that were attractive and catered to ease and comfort, convenience, pleasure and prestige. The telephone, radio, household appliances, television, luxury apparel, phonographs, motor lawn mowers, cigarettes, carpets, and all else that we see about us in profusion, came tumbling off the production lines. Oddly enough we needed no import competition to drive for the mass market with ever lower prices. Hope of tapping the national market with its tens of millions of potential customers was the motivating force.

We filled the landscape; overfilled in some instances.

Then something happened. But first a look-back. After the Great Depression numerous legislative controls and regulations were adopted, moving away from the free play of market forces. Nearly all the cost factors were rendered inflexible or nearly so. 80% of the corporate cost of production, but wages could not be reduced. Competitively there was little room left for manauver, other than displacement of workers by more productive machinery.

Meantime we began in 1934 to reduce our tariff bringing it down by some 80% from the high of about 50% to 9% today on dutiable products.

After the war we helped the war-torn countries rebuild and infused their capital structure with modern machinery. They were willing customers and eager emulaters of our system outside of Russia. In two decades they were on our heels in point of productivity. They had "bought" our system but were laggard in accepting Ford's vision of mass purchasing power. While foreign wages rose proportionately more than ours, the wage gap continued wide. Higher wages in keeping with the higher productivity would have brought them a richer home market with less dependence on exports. This is a hard lesson to learn.

In order to meet this challenge our industries poured $75 billion into foreign investments, branch plants and joint ventures and also licensed use of our patents; i.e., they went to where the low wages are.

American industry soon found itself outsold both at home and abroad. Our exports fell into a deficit position not reflected by acceptive official trade statistics until recently. We continued to reduce the tariff. Today exports of machinery and transport equipment are 45% of our total exports, and this machinery continues to bolster the foreign competitive prowess.

Had Ford encountered the kind of import competition we face today, which soon makes a wallflower of our new products (such as radio and television sets) our system could not have been launched. Foreign producers could have beat him to the mass market that drew him on like a magnet and left him to one side. Had the other countries come along with us from 1900 on we could not now be in the position of being victimized by the virtues of the system we gave to the world; but they did not do so.

Now, if we are to get back to a growing economy we must restore the climate in which alone a system based on confidence in the future can endure. We cannot stand still, we cannot stagnate lest we fall and system with us. That is the choice.

The maladjustment is systemic, not merely functional. Therefore it is not negotiable. We must solve the problem ourselves. Otherwise full employment will continue rainbow fashion to elude us.

AUSTRALIANS AND NEW ZEALANDERS IN CAMBODIA

Mr. CASE. Mr. President, will Cambodia become another Vietnam? I certainly hope not, and I believe my view is shared by the overwhelming majority of the American people.

Unfortunately, we keep getting ominous signs of deja vu.

Most recently, there has been a flurry of press reports about possible Australian and New Zealand assistance to the Cambodian Government. This in itself should pose us no problem, for it is unquestionably the right of one Asian country to assist another.

Yet with memories of Vietnam still fresh in our minds, I cannot help but think of the revelations that came out several years after the fact of secret deals made with the Thai, Korean, and Filipino Governments for the United States literally to buy the use of their troops in Vietnam. Originally, the Congress and the American people were led to believe that concerned Asian countries were coming to the aid of a beleaguered Vietnam. Not until the Symington subcommittee report in 1969 did we learn that the United States was paying the bill and that in some cases foreign troops were receiving larger combat allowances from the U.S. Government than U.S. soldiers.

There is no evidence that similar financial arrangements were made with either the Australian or the New Zealand Governments in return for their support of the Vietnamese. Yet we did learn from the Pentagon papers that the primary impetus for Australian and New Zealand actions in Vietnam came from the United States.

Returning to the present, in a November 2 dispatch from Washington, Reuters reports that the United States, New Zealand and Australia have agreed to set up a training program for Cambodian forces in Vietnam. Reuters continues that Australian Prime Minister McMahon, then in Washington:

Said after a meeting with President Nixon that he did not know whether the Cambodians had asked for this type of assistance—an indication that the initiative came from the United States.

In an October 15 dispatch from Phnom Penh, AP reports that—

The U.S. Army plans to get around the Cooper-Church amendment's ban on American military men in Cambodia by hiring $200,000 worth of foreigners for non-combat work. American officials report. "They are people who can do under contract what we are forbidden to do," a U.S. source declared. Another source said they would be cheaper than American civilians.

And in the October 27 Auckland, New Zealand, Star:

The Nixon Administration has sounded out New Zealand and Australia on their willingness to send military advisers to Cambodia as part of an effort to assist the beleaguered Cambodian army in its fight against Communist troops. Political insiders on Capitol Hill . . . saw the Administration's move in the context of an effort to offset the potential effects of Congressional action to limit American involvement in the Cambodian conflict.

There would seem to be no question that the United States is involved in discussions to enlist the support of certain Asian countries in Cambodia. But the Congress and the American people should not have to get their information on such an important question through the newspapers.

On my part, I have been concerned about the possibility of a U.S. buildup by proxy in Cambodia. Thus, Senator SYMINGTON and I have submitted an amendment which would put an absolute ceiling on U.S. expenditures and personnel in Cambodia. This amendment is in no way intended to limit the President's flexibility in protecting American troops withdrawing from Vietnam. What I want to prevent is a long-term involvement in Cambodia itself—an involvement which could continue well beyond the time when all Americans are out of Vietnam.

Included in the Case-Symington amendment is a limitation of 50 third-country personnel who could be paid by the U.S. Government in Cambodia. This provision was upheld by a 52-to-35 Senate vote on October 28, so I am hopeful that our amendment will be included in any foreign aid legislation passed by the Senate. The Case-Symington limitation would of course not preclude other nations from acting independently of the United States to take action in support of Cambodia.

The United States must not repeat the mistake of backing into a war without the American people having any idea of what they are getting into.

Mr. President, I ask unanimous consent that certain newspaper articles pertaining to this matter be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From Associated Press, Oct. 15, 1971]

CAMBODIA

PHNOM PENH.—The U.S. Army plans to get around the Cooper-Church amendment's ban on American military men in Cambodia by hiring $200,000 worth of foreigners for non-combat work, American officials report.

"They are people who can do under contract what we are forbidden to do," a U.S. source declared. Another source said they would be cheaper than American civilians.

Cooper-Church, passed by Congress last year, bars American military advisers, training personnel and combat troops from Cambodian soil.

The sources said the foreigners, known in official circles as "third country nationals," would supplement the American military equipment team which is responsible for handing over arms and ammunition to the Cambodians but is forbidden to show the Cambodians how to use the equipment.

Headed by Brig. Gen. Theodore Mataxis, the team's current strength is 113 men, with 50 officers and enlisted men assigned to the Cambodian Capital and the rest in Saigon.

The Senate Foreign Relations Committee on Thursday voted to limit to 50 the number of foreigners hired in Cambodia. Most likely they will be Koreans, Nationalist Chinese, Australians or New Zealanders experienced in dealing with the American military in South Vietnam or Laos, where some have been engaged in hazardous undercover work for the Americans.

[From the Washington Post, Nov. 4, 1971]

REQUEST CAUSES ROW IN AUSTRALIA

(By Bruce Grant)

MELBOURNE.—The U.S. request for Australia to train Cambodian troops in South Vietnam has erupted into a political row here overshadowing Prime Minister William McMahon's visit to Washington.

The immediate cause of the furor was the revelation that although the request came through the U.S. embassy in Canberra, on Sept. 20, McMahon did not know about it when he left for the United States on Oct. 27.

A cabinet meeting was hurriedly called to authorise McMahon to discuss the subject with President Nixon when they met yesterday.

Under intensive questioning by the Labor Party opposition in Parliament, Defense Minister David Fairbairn revealed an administrative bungle that made front-page lead stories in this morning's newspapers.

CONTRADICTORY POSITION

Government spokesmen tried to suggest that the reason for the delay was that the request had been treated as a low-key affair, but they could not explain why, if this was the case McMahon regarded the request as a matter of such importance that the cabinet had to clear it for his talks with President Nixon.

But the question which played most on Australian minds, and the one that the government did not satisfactorily answer, was why the request came from the United States at all, rather than from Cambodia.

This question touched a sensitive nerve, for the central issue about Australia's military commitment to Vietnam is that although it was made formally at South Vietnam's request, its primary political purpose was thought to be to please the United States.

APPARENT MOTIVE

The Canberra Times noted that if Australia agreed to the request while McMahon was in Washington, it would appear to be doing so in deference to a great and powerful ally, not for the sake of the embattled Cambodians.

A motion of no confidence in Fairbairn, for incompetence, was defeated in Parliament, by a 56–51 vote along party lines.

The government had already announced that it was considering leaving a training team in South Vietnam after Australian ground forces leave by the end of this year. It had also offered to train Cambodian officers in Australia. The new request meant only that the Australian training team in South Vietnam would need to be slightly larger to handle Cambodians as well as South Vietnamese.

But a series of garbled news reports • • • were allowed by the government to remain uncorrected. McMahon uninformed on the issue and concerned about his visit to Washington, overreacted.

The result was a cabinet meeting in full publicity over a matter that would normally have been handled through diplomatic channels, two embarrassing days in Parliament for the government, and a revival of public suspicion about the roles of Australia and the United States in Indochina.

[From Reuters, Nov. 2, 1971]

WASHINGTON.—The United States, New Zealand and Australia have agreed in principle to set up a training programme for Cambodian forces in South Vietnam, Australian Prime Minister William McMahon said today.

Mr. McMahon said after a meeting with President Nixon that he did not know whether the Cambodians had asked for this type of assistance as indication that the initiative came from the United States.

Several U.S. Senators have expressed fears that the U.S. involvement in Cambodia is growing and could turn the country into another Vietnam.

Military observers said the Cambodian forces would presumably return to Cambodia to fight the North Vietnamese when they finished their training in South Vietnam.

Mr. McMahon, addressing a press conference on his talks in Washington, said U.S. naval forces would like to use bases in western Australia.

This matter came up during talks on the growth of the Soviet Navy in the Indian Ocean, Mr. McMahon said. He had been assured that the United States was watching the situation.

[From the New York Times, Nov. 2, 1971]

AUSTRALIA IS SAID TO PLAN TO AID IN TRAINING CAMBODIAN TROOPS

WASHINGTON.—Australia has agreed to provide instructors and facilities in South Vietnam for the training of several battalions of Cambodian troops, informed sources said today.

William McMahon, the Australian Prime Minister, who is visiting Washington, was reported to have discussed the arrangement today with President Nixon. The two leaders met for nearly two hours at the White House.

About 125 Australian instructors will reportedly train the Cambodian troops at Muidat, a jungle warfare training center near Saigon, as part of an allied effort to enlarge and equip the Cambodian Army.

The Australian instructors will remain behind after the departure of the 8,000 Australian troops currently serving in South Vietnam. Mr. McMahon announced in August that all Australian combat units would be home by Christmas.

The Cambodian armed forces now number approximately 180,000, according to American sources, compared with the 38,000-man force that was in existence in March, 1970, at the time of the overthrow of Prince Norodom Sihanouk as Chief of State. The goal for 1972 is 220,000 men.

A total of 60 battalions of Cambodians have been trained so far by the South Vietnamese in South Vietnam and have been equipped by the United States. Five other battalions have undergone training in Thailand and three others were given instruction by Central Intelligence Agency units in southern Laos last spring.

Charles W. Bray 3d, the State Department spokesman, confirmed today that the United States was discussing the possibility of assistance for the Cambodians, including the training of Cambodian troops. He said that no final decisions had been reached.

Mr. Bray said the discussions had preceded and were in no way related to the rejection of the foreign aid authorization bill by the Senate last week. Australia is expected to cover the expense of the training program herself.

PARLIAMENTARY EXCHANGE IN NEW ZEALAND PARLIAMENT, NOVEMBER 1, 1972

Hon. David Thomson (Minister of Defense) replied—I welcome the opportunity this question gives me to clarify New Zealand's position on aid to Cambodia. Press reports such as the one quoted do not attempt to cover the whole subject of aid to the Republic and leave a lopsided effect. The Republic, as Hon. Members know, has been the victim of Communist invasion for a decade. When the Republic's Foreign Minister, Mr. Koun Wick, visited New Zealand last February he referred publicly in appreciative terms to New Zealand aid undertakings and had discussions with Government on the Republic's needs. In response to the Republic's request New Zealand has to date sent medical and refugee accommodation aid and aid in military equipment. We are sending soon logistic support aid in the form of New Zealand made jet barges. We have indicated our readiness to look at the training in New Zealand of Khmer pilots, though the number we could handle is small, and have been examining the question of other training assistance sought by the Republic.

When I was in Vietnam earlier this year I explored with our own and allied representatives there the nature of this requirement. Since then there have been discussions at official levels between the allies on the subject.

It is clear from my study that any such assistance New Zealand might give should be of the instructional course type already being provided by our training teams in Vietnam. It is also clear to me that any offer the cabinet might authorise should be limited to training courses in New Zealand or Vietnam, with the approval of the government of the republic of Vietnam. This means there is no intention to station New Zealand servicemen in Cambodia.

[From the New Zealand Herald, Nov. 3, 1971]

ROW BREWING OVER "AID" TO CAMBODIA

The Government refused last night to deny continuing reports that New Zealand is to train Cambodian soldiers.

A New Zealand Press Association reporter in Washington yesterday quoted sources close to the Australian Prime Minister, Mr. McMahon, who is visiting America, as saying that Australia expects New Zealand to assign troops to help to train Cambodian soldiers sent to South Vietnam.

Mr. McMahon had discussions yesterday with the United States Secretary of Defense, Mr. Melvin Laird.

Sources close to Mr. McMahon indicated the Australian Cabinet was about to make a decision in Canberra on the assignment of an Australian military team to help Cambodian forces sent to a training camp in South Vietnam.

They expected that the decision, if not already made, would be in favour of the move.

This Australian involvement in training Cambodian military units would be undertaken in addition to the training of forces from the Southeast Asian nation in Australia, a commitment already announced, they said.

INSTRUCTORS

It is expected that the Australian training team will consist of about 120 men.

In United States military circles it is expected that New Zealand will probably decide to commit a number of military instructors to work alongside the Australian training team.

A suggestion has been raised that Wellington may also agree to accept a number of Cambodian Air Force pilots for special flight training in New Zealand.

Militarily, this appears less acceptable because of potential language difficulties and the vast difference of climatic and operational conditions between New Zealand and Cambodia.

Earlier in the day Mr. Laird said he would discuss in Vietnam this week the training of Cambodian forces by New Zealanders and Australians.

He declined to say whether he regarded the discussions between the United States, Australia and New Zealand on the training of Cambodian forces by Ansac troops more important because of the recent vote to end United States foreign military and economic aid.

INTENTIONS

In Wellington yesterday, writes a Herald staff reporter, the Leader of the Opposition, Mr. Kirk, assailed the Government over reports that New Zealand was to train Cambodian soldiers and its refusal to spell out its intentions.

The Minister of Defense, Mr. Thomson, again last night refused any comment on the Washington reports, until he replies to a question on the matter to be asked in the House of Representatives today by Mr. E. E. Isbey, Opposition MP for Grey Lynn.

Mr. Kirk said if Washington reports were true, "the Government of New Zealand has learned nothing in five bitter years in Vietnam."

"The Americans announced their intention to disengage and so did the New Zealand Government," he went on.

"It is abundantly clear from the election in South Vietnam and the dismissal of the elected assembly in Cambodia that the involvement now has nothing to do with democracy or practical reality.

"Such a step (the training of Cambodians) rather than improved relations will be another impediment to this objective."

He termed "highly unsatisfactory" the Government refusal to make any statement about the matter.

"It (the Government) is not entitled to conceal from the people of New Zealand its intentions in a matter so serious," Mr. Kirk said.

"Immediate steps should be taken by the Government to tell the people of New Zealand what it is doing.

"We know what it should not be doing and it is about time the minister and the Government stopped treating the public in such a cavalier fashion.

"China is seated at the United Nations and the Government is talking cheerfully about improving relationships, but apparently it intends to engage in activity that, if anything, can only make more difficult efforts to improve relationships."

A Canberra report yesterday said the Australian Defense Minister, Mr. Fairbairn, revealed that Mr. McMahon was not told of an American request for Australian advisers to train Cambodian and Laotian troops in South Vietnam until last week—almost one month after it was made.

MESSAGE

The Deputy Prime Minister, Mr. D. Anthony—acting Prime Minister in Mr. McMahon's absence in Washington—added that the Prime Minister did not hear about the request until after he left Australia to see President Nixon last Wednesday.

The two ministers made the revelations under heavy questioning in the House of Representatives (Lower House) from members of the Labour Opposition.

Mr. Anthony said he had discussed the American request with other ministers at a Cabinet meeting in Canberra and had passed on a message to Mr. McMahon in Washington. He expected the Prime Minister to comment on the request when he arrives home later this month.

[From the New Zealand Herald, Nov. 4, 1971]

CAMBODIA AID DETAILS OUTLINED

The Minister of Defence, Mr. Thomson, yesterday broke his silence on aid to Cambodia to announce that the Cabinet was considering the training of Cambodian pilots in New Zealand and Cambodian troops in Vietnam.

Mr. Thomson until yesterday had refused to comment on earlier reports from Washington that New Zealand was expected to help with the training of Cambodians.

His comments yesterday were in response to a parliamentary question by Mr. E. E. Isbey (Oppn—Grey Lynn). The minister made it clear that New Zealand had no intention of stationing troops in Cambodia.

He said that in response to Cambodia's request, New Zealand had to date sent medical and refugee accommodation aid and aid in military equipment.

"We are sending soon logistic support aid in the form of New Zealand-made jet barges," he said.

"We have indicated our readiness to look at the training in New Zealand of Khmer (Cambodian) pilots, though the number we can handle is small, and have been examining the question of other training assistance sought by the republic.

"When I was in Vietnam earlier this year I explored with our own and Allied representatives there the nature of this requirement," Mr. Thomson said.

NEW ZEALAND TEAMS

"Since then there have been discussions at official levels between the Allies on the subject.

"It is clear from my study that any such assistance New Zealand might give should be of the instructional course type already being provided by our training teams in Vietnam.

"It is also clear to me that any offer the Cabinet might authorise should be limited to training courses in New Zealand or Vietnam, with the approval of the Government of the Republic of Vietnam.

"This means there is no intention to station New Zealand servicemen in Cambodia."

To a supplementary question from Mr. Isbey, Mr. Thomson said the initiative came from Cambodia and not the United States, and the response was a New Zealand response.

The Leader of the Opposition, Mr. Kirk, then asked if any consideration had been given by Mr. Thomson or the Government to the possibility of "an entirely dangerous interpretation being placed on the Government's apparent willingness to train Cambodian servicemen now, when at the time there was a democratically elected Assembly in Cambodia such assistance was refused."

CONQUEST

"That Assembly has been discharged by the Government and no plans have been made for its re-election, but aid is offered," Mr. Kirk said.

Mr. Thomson said he had "no doubt that those around the world who seek the Communist conquest of Cambodia will do all they can to advance such a suggestion."

"I may say also that this Government would not recognise any derogation from the right of self-defence of any people, because of the nature of their government, whether democratic or dictatorial."

To a further question from Mr. Kirk, Mr. Thomson said he knew of no different attitude the New Zealand Government had taken to Cambodia.

From Singapore last night an NZPA staff correspondent reported that, if New Zealand agrees to help train Cambodian troops, they will probably be included in courses run for South Vietnamese forces at Chi Lang, in the Mekong delta of South Vietnam.

[From the New Zealand Herald, Nov. 5, 1971]

CAMBODIA ISSUE UNDER FIRE

A notice of motion criticising the way the Government had handled negotiations on training Cambodian troops was tabled in Parliament yesterday by the Opposition spokesman on defence, Mr. A. J. Faulkner (Oppn—Roskill).

The Herald parliamentary reporter says the motion reads, "That this House notes once again the double-talk of the National Government, and particularly the Minister of Defence (Mr. Thomson), relating to the proposed further military involvement in Cambodia and notes also, with extreme concern, the growing practice of this Parliament being informed of new foreign policy by way of statements made by the Prime Minister of Australia and the American Secretary of Defence and further desires to inform the Government that the Labour Party is totally opposed to any military involvement in Indo-China."

Earlier yesterday, the Press Association reports, Mr. Faulkner said:

"One would have thought that the Government had learnt its lesson by now, yet we find that it is actively and apparently favourably considering extending its military operations in Indo-China.

"We are told that the Australian Prime Minister and the American Secretary of Defence both expect New Zealand to participate in training schemes for Cambodian Army and Air Force personnel.

WOULD BE CRIMINAL

"Such assistance would in the present circumstances be criminal," Mr. Faulkner said. "It would provide aid to prop up a corrupt military dictatorship in Cambodia."

Mr. Faulkner said that if the Government wanted to help the people of Cambodia it should provide adequate educational, agricultural and medical aid.

CAMBODIA ASKED

Questioned in Wellington yesterday by a Herald staff reporter, Mr. Thomson said that the first approach to New Zealand for assistance with the training of Cambodian troops had come from Cambodia.

"It was by Koun Wick (the Foreign Minister) when he was here in February," the minister said.

Mr. Thomson had been asked to comment on a statement by the Australian Deputy Prime Minister, Mr. Anthony, that the request to Australia for training assistance had been made verbally by a United States Embassy official.

Meanwhile, in Seoul, it was reported that the South Korean expeditionary force in Vietnam is studying plans to send a 1500-man advisory group to Cambodia at the request of the Cambodian Government.

QUESTIONS ABOUT THE PRESIDENT'S PHASE II TAX BILL

Mr. BIBLE. Mr. President, on October 21, as chairman of the Small Business Committee, I introduced a small business amendment to President Nixon's tax bill, H.R. 10947, also known as the Revenue Act of 1971.[1] It is gratifying that the Committee on Finance approved the substance of this proposal on October 27 on the basis of initiatives by Senators RIBICOFF and CURTIS.[2] The small business community of 5¼ million firms will benefit from the Finance Committee's action and will undoubtedly appreciate this prompt and favorable consideration. I hope the full Senate and the House conferees will concur so that our amendment will be enacted into law.

However, if this bill and the remainder of the President's tax program are to be at all equitable to small business, a great deal more work must be done.

Of course, limited relief on used machinery and accelerating the phase out of the auto excise tax will help small firms and that is something to be thankful for. But, the total benefits to small business under this and other provisions probably mean no more than $500 million annually to small business. A closer look at the statistics on the revenue losses in the President's 1971 program leads me to the conclusion that the "big business" share of the benefits will be somewhere between $4.7 and $5.2 billion. To illustrate what I consider to be this disproportion, the following table itemizes the benefits of this year's Presidential tax proposals according to the best information available to me. I hasten to say that I would warmly welcome additional research to refine, or update, or correct any of these figures.

BIG BUSINESS BENEFITS OF PRESIDENT NIXON'S 1971 TAX PROPOSALS

	Permanent annual revenue loss [1] (in billions)	Approximate benefits to big business (in billions)	
		Amount	Percentage
H.R. 10947—Revenue Act of 1971:			
Increase minimum standard deduction	$1.090		
Investment tax credit	3.900	$2.106	[3] 54.0
Repeal of excise tax on automobiles and trucks	2.260	.125	(4)
DISC export profits	.500–1.0	.450–.900	[5] 90.0
Jan. 11, 1971, ADR depreciation proposal: Accelerated depreciation range system—less ¾ convention	3.6	1.980	[6] 55.0
Total	$11.350–$11.850	$4.661–$5.161	41.1–43.6

[1] From mid-1970's onward (excise tax benefit will be phased out completely in 1982).
[2] 1965 IRS statistics indicate that 53.6 percent of the investment tax credit of that year was claimed by 371 corporations, all with income of over $10,000,000.
[3] Based on Ways and Means Committee's data, an estimated $250,000,000 of excise taxes is paid by corporate businesses, and an additional $440,000,000 by noncorporate firms. For purposes of the table, an approximation was made on the basis of ⅝ the corporate total only. Since commercial vehicles such as trucks, busses, and trailers bear an excise tax of 10 percent (which is not scheduled to be reduced to 5 percent until 1977), and since large leasing firms acquire substantial numbers of these vehicles, this figure may be on the conservative side.
[4] Senator Albert Gore, a former member of the Senate Finance Committee, estimated that perhaps 90 percent of the DISC benefits would go to fewer than 125 corporations.
[5] The Nation's 103 largest corporations show more than 55 percent of the business property according to the "Fortune 500's annual survey.

I have tried to be careful and conservative in these estimates and, as I have said, would welcome improvements. But it does appear from this tabulation that a select few corporations, a circle perhaps of less than the proverbial "400," will retain upward two-fifths of the $11 billion in annual tax revenues lost when the 1971 act and depreciation guidelines are in full operation.

For about 4 years now, we have been viewing the internal revenue system from the small company viewpoint, and as a result have introduced a tax simplification and reform bill [6] designed to make the Code and its administration more equitable for small business, which accounts for 95 percent of the number of U.S. firms, more than 40 percent of all jobs, and an estimated 37 percent of the gross national product.

Against this background these figures, indicating that a tiny fraction—about 0.027 percent of American corporations

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Footnotes at end of article.

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or 0.0072 percent of the total business population—will receive 40 percent of the benefits, raise certain questions in my mind which I would like to see thoroughly discussed.

It is clear that the centerpiece of the Nixon administration's phase II economic program consists of the general provisions of this tax bill.[4] Together with the January 11 accelerated depreciation guidelines, they constitute the Nixon administration's tax program for 1971; and it is a very far-reaching set of proposals. The tax bill was also accompanied by emergency economic controls, which we all hope will be temporary.

However, the pending tax bill and administrative depreciation rules are intended to be permanent parts of the tax law. They constitute the major instrument of this administration for resolving our economic difficulties: inflation at 5 to 6 percent; unemployment hovering at about 6 percent; sluggish growth—a real growth rate of 2.9 percent annually in the third quarter of 1971; capacity utilization below 75 percent for a prolonged period; and the prospects of our first deficit in international trade since 1893.[5]

Thus, in my opinion the following questions may fairly be asked:

First. Is it inevitable that so large a part of the proposed tax benefits go to so small a fraction of our business population?

Are any of the existing tax alternatives (such as the small business tax simplification and reform bill, which would provide a more equitable distribution) worth consideration as better suited to combat inflation, stimulate employment, and promote economic growth and exports?

Second. What taxpayers are going to be required to make up the $11 billion a year in revenue losses?

Can we be informed as to the extent to which middle-income individuals and small businessmen will have to increase their proportion of the tax burden in order to make up this total? Will these figures show this revenue package amounts to a transfer of funds or a subsidy from middle-income taxpayers to rich ones?

Third. Is the allocation of benefits between large and small business an equitable one?

Is there a sound economic argument for concentrating 40 percent of the benefits of a tax bill of this size on less than 400 corporations at this time? Will this provide competitive advantages to the giant corporations; and if so, what effect will this have on mergers and concentration, price inflation and cost-cutting competition?

Fourth. Is this bill the most effective way to build up employment and counteract inflation?

What is the evidence that a tax program with this degree of concentration will stimulate employment and price reductions more than a bill with a greater percentage of the benefits for smaller and newer businesses which are in the innovation and growth bands of the economy? Is not phase II based on the premise that big business and big labor have become a cause of inflation by not allowing the free market to come into play, and does not this point to greater encouragement for medium-sized, small, and new business firms?

Fifth. Is giving a substantial tax break to existing exporters the best way to improve our trade balance?

Would it not make more sense to build up the exports of the 95 percent of U.S. firms which do not now export and to provide benefits—either through promotion and/or tax help to companies that increase their foreign sales? Would not $1 million a year spent on export promotion—which stresses customer contact, marketing, and good service—provide a more solid foundation for increasing our international trade?

From the small business viewpoint, this final title of the bill, the DISC export proposal, causes me extraordinary difficulties. I find that its text is 46 pages long, and the explanation in the Ways and Means Committee report runs to 37 pages.[6] Undoubtedly, there will be many additional pages of Treasury regulations before such an act can come into operation. It therefore seems to me that having a tax attorney read all this material and set up a DISC corporation will cost several thousand dollars, without taking account of the additional advice and bookkeeping which will be needed to remain in compliance.

One member of the House Ways and Means Committee characterized DISC as:

> . . . an extremely complicated tax proposal which had every likelihood of rewarding the large corporations presently engaged in exporting without increasing our exports or helping small business to increase exports.[7]

It also seems relevant that the Administration is engaged in attempting to bring about a major realinement in currencies and is negotiating for a reduction of non-tariff barriers by means of the 10 percent surcharge. These are measures that will, if successful, benefit our existing exporters. In the view of some observers, therefore, the DISC would give an additional exemption to these "windfall" profits.[8]

In view of these factors, I seriously question whether the DISC proposal, even as slightly modified by the Ways and Means Committee, is the best way of spending $1 billion a year to increase exports or whether there might be some better way to do this job.

Finally, I would ask in view of the heavy weighting of these total benefits in favor of large business—and the Senator from Wisconsin (Mr. NELSON) has done a very fine job in also relating these reductions to the personal income and social security taxes[9]—and whether major questions regarding national priorities have not been raised.

I certainly hope that these questions will be thoroughly discussed by the experts in the Finance Committee, and on the floor of the Senate, so that the Members of this body can become more fully informed as to the economic justification for these measures.

Because the significant changes in the tax structure, which I feel are involved, I believe the Senate is entitled to the presentation of a very strong case in favor of the policy alternatives proposed by the Nixon administration and to the analysis of this case by all who are concerned with the well-being of small businessmen and the national economy.

FOOTNOTES

[1] Amend. No. 481 to H.R. 10947. This proposes to eliminate the offset of new machinery purchases against the $65,000 of eligibility provided by the bill for the purchase of used machinery.

[2] "Senate Panel Approves Investment Tax Credit," by Frank C. Porter, *The Washington Post*, A1:3 at p. A8:1. Additionally, the Finance Committee amendment would reduce the $65,000 figure to $50,000, as it was in the prior law.

[3] Small Business Tax Simplification and Reform Acts of 1970 and 1971; S. 4039, 91st Cong.; and S. 1615 and H.R. 7692, 92nd Cong.

[4] See "Effects of Program on FY 1972 Budget," table presented in testimony by Secretary of Treasury, John B. Connally, hearings before the House Ways and Means Committee, Sept. 8, 1971, p. 7 at p. 17.

[5] For instance, see "Goals Eluding Nixon—'3d Quarter Economy Just Plain Dismal'" by Hobart Rowen, *The Washington Post*, Oct 28, 1971, p. A18:6.

[6] H. Rept. 92–533, Sept. 29, 1971, pp. 58–95.

[7] Dissenting views of Rep. Sam M. Gibbons to the report of the House Committee on Ways and Means to the Revenue Act of 1971, H. Rept. 92–533 at p. 108.

[8] See *The Washington* Post article entitled "DISC: Tax Windfall on Top of Trade Windfall," by Prof. Stanley S. Surry, Oct. 24, 1971, p. L1.

[9] "Revenue Act of 1971—Amendments," statement by Sen. Nelson in CONGRESSIONAL RECORD, vol. 117, pt. 29, p. 37907.

SKI AMERICA FIRST: WYOMING

Mr. HANSEN. Mr. President, the travel section of the Washington Post on Sunday, November 7, emphasized skiing in the United States and pointed out the many advantages of U.S. skiing over skiing in other lands.

The lead article, written by Ron Fett, was entitled "Ski America First: A Lift for Stateside Slopes." Mr. Fett noted that the most dramatic ski area in the United States is at Jackson, Wyo. I quote from his article:

> The U.S. ski area with the greatest vertical, 4,135 feet, is Jackson Hole in Wyoming. Located about 270 miles north of Salt Lake City, the "gentle giant" has a 2½-mile-long 63-passenger tramway and four chairlifts. The 100 miles of trails are topped by a vast ballroom of waist-deep powder.
>
> Teton Village at the base has six lodges and six condiminium buildings. Restaurants range from the continental Sojourner to the plebian Mangy Moose Saloon and Spaghetti Emporium. Additional eateries and beds are available in Jackson, 12 miles away. Austrian Olympic champion Pepi Steigler heads the ski school, which has a chairlift for its own use.
>
> To encourage January business, the Jackson Hole management offers visitors a reimbursement of 2 cents a mile for the one-way direct-line distance traveled from departure point to the area. A carload from Washington can have the gas paid for out and back. This season, a new express bus will connect with major flights into Salt Lake City.

Mr. President, I commend the author for his efforts to encourage Americans and visitors to America to ski in the United States. In addition to Wyoming's several ski areas in the vicinity of Jackson Hole, our State has outstanding ski areas in all sections, and I take this opportunity to urge Senators and their friends who have not skied Wyoming to consider a winter visit to Wyoming soon.

Some of the better-known ski areas in Wyoming are, in additon to Jackson Hole, which is 12 miles northwest of Jackson:

Teton Pass, 13 miles west of Jackson;

Snow King, at Jackson;

Pinedale, 10 miles northeast of Pinedale;

Grand Targhee, in Wyoming 12 miles east of Driggs, Idaho;

Sleeping Giant, 48 miles west of Cody;

Sinks Canyon, 14 miles southwest of Lander;

Eagle Rock, 11 miles east of Evanston;

Antelope Butte, 38 miles east of Greybull;

Meadowlark, midway between Greybull and Worland;

Hogadon, 11 miles south of Casper;

Medicine Bow, 36 miles west of Laramie;

Snowy Range, 23 miles southeast of Saratoga;

Happy Jack, 10 miles east of Laramie;

THE SPARTAN WARHEAD TEST AT AMCHITKA

Mr. BAKER. Mr. President, I want to express my great gratification at the apparent success of the Cannikin test at Amchitka Island on Saturday.

I fully supported the President's decision to proceed with the test in the face of some considerable and vocal opposition. The decision to "go" was a very important one, in my judgment, for reasons substantive and symbolic.

To begin with, the Spartan warhead is the heart of the safeguard ABM system. Although the United States had previously tested a smaller prototype. Cannikin was the first test of the actual warhead. Safeguard is of great importance for at least two reasons. First, it represents a major shift in U.S. strategic weaponry, away from total reliance on second-strike offensive capability toward a partial reliance on a defensive system that poses no active threat to any foreign populations. Second, Safeguard is a significant element in the promising strategic arms limitation talks that have been going on between the United States and the Soviet Union at Helsinki and Vienna. A successful test of the Spartan warhead reinforces the utility of the Safeguard system with respect to each of these functions.

The President's decision to proceed with Cannikin was also an important symbolic act. To many people, both at home and abroad, it may well have appeared in recent weeks and months that the Government of the United States had been paralyzed by antiwar and proenvironment sentiment. The successful testing of the Spartan warhead at Amchitka on November 6 should do much to dispel that misapprehension.

I do not mean to imply that the Government should go about taking actions that threaten the environment just to prove that it can. This is nonsense. But Cannikin underscores the fact that the cost-benefit equation contemplated by the National Environmental Policy Act of 1969 does, in fact, have two sides. NEPA does not say that the Government can take no action with negative environmental consequences. NEPA does say that potential damage to the environment must be taken into account in making an overall "balancing judgment" as to whether the action in question should be undertaken.

I wholeheartedly commend Dr. Schlesinger and other members of the Commission and its staff, particularly the technical personnel at the site, who did such a fine job in taking every possible precaution against untoward damage.

DENIAL OF INFORMATION TO CONGRESS

Mr. FULBRIGHT. Mr. President, Richard F. Kaufman, of the staff of the Joint Economic Committee, has written a most interesting article which was published in the Nation for November 1.

Mr. Kaufman discusses the ways in which Congress has been denied information about our increasing military involvement overseas—not by the usual device of failing to give Congress information, but by the device of hiding foreign assistance funds in the military budget.

For a Senate which is increasingly demanding knowledge before action, and is increasingly questioning the role of the military in the conduct of our foreign policy, this article is must reading.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DOUBLE-TALK BOOKKEEPING

(By Richard F. Kaufman)

Trying to see the costs of wars past, present and future through the federal budget is like looking through shattered glass. Although it is the government's official financial record, the budget is an unreliable guide to the costs of national security. It conceals large sums and puts forth misleading figures and deceptive narrative. Estimates of future spending are often understated, sometimes grossly. As used in the budget, the term "National Defense" is a misnomer and leads directly to a distorted view of the true level of expenditures devoted to military affairs.

One kind of budgetary distortion is the omission of programs that are intended, at least in part, for military purposes, but that are paid for outside the Department of Defense. Another kind is the mislabeling of funds within the official defense budget. For example, military assistance to other countries has for years been poor-mouthed as a once richly funded program that now, because of Congressional parsimony, barely keeps body and soul together. The budget and other official sources of information have created the impression that outlays for military aid steadily declined from a peak in the 1950s to practically starvation levels in the late 1960s and early 1970s. According to the Pentagon's annual report, "Military Assistance and Foreign Military Sales Facts," appropriations for military aid went down from $5.7 billion in 1952 to $850 million in 1970. The Commerce Department's monthly "Survey of Current Business" reflects a similar decline in military assistance in the balance of trade tables, where transfers under military grant programs are seen to have dropped to $613 million in 1970 (appropriations and actual transfers generally vary). Year after year, the budget's breakdown for National Defense contains a line item for "Military Assistance," and anyone examining it over the past decade or so would be bound to conclude that the program was growing smaller at the rate indicated by the reports of the Pentagon and Commerce Department.

But total outlays for military assistance, when added up correctly, have been rising, not falling, for the past six years. The money, arms and equipment now given away to foreign military establishments amount to several *billion* dollars annually, not a few hundred million. The budgetary sleight of hand which suggests the reverse has been accomplished primarily by fracturing the military aid program into a number of pieces, several of which have been conveniently allowed to disappear from public view. Before 1965, practically all military assistance was administered under the Military Assistance Program Act, known as MAP. To know the full scope and costs of military aid it was sufficient to examine MAP.

After 1965, however, MAP and "military assistance" came to have different meanings. In that first year of the buildup in Southeast Asia, it was decided to take South Vietnam out of MAP. Henceforth, military aid to Saigon would be handled as a part of the Pentagon's budget rather than as a part of the State Department's budget, where MAP was located. The explanation given for the change was that the funds required to help South Vietnam were, because of the war, so great that MAP's resources would be drained if it were required to supply them. The following year, the same reasoning was used to carve Laos and Thailand out of MAP. In retrospect, the justification given for moving around the military assistance accounts looks shaky. If greatly increased aid to Saigon was necessary, why didn't President Johnson say so, and request additional funds for MAP? Given the readiness of Congress to support the war in 1965 and 1966, MAP was no more in danger of being swamped by Indochina than was the defense budget. It would have been possible, in other words, to aid our allies in Southeast Asia without chopping up MAP.

The fact is that dismembering MAP had budgetary effects which would not have accompanied an overt enlargement of its program. When assistance to South Vietnam, Laos and Thailand was moved into the Pentagon, it disappeared from public view and Congressional scrutiny. The costs of this part of the program could no longer be seen in the figures for MAP, and under the defense budget label of "Support of other nations" their connection to the military assistance program was soon forgotten. The budget itself nowhere explains the origin of this item or relates it to military assistance.

Moreover, the change shifted jurisdiction over aid to the three nations from the Foreign Affairs to the Armed Services Committees of the House and Senate. From the administration's point of view, this was fortunate—legislative control went from the likes of William Fulbright and Wayne Morse to Richard Russell and Mendel Rivers. Thus transplanted, "Support of other nations" quickly sprouted from $100 million in 1964 to $2.3 billion in 1970. Leaving this item out when describing the size of the military assistance program was like weighing an elephant by placing only his trunk on the scale.

Several other parts of the military aid program lie hidden in the defense budget. Substantial amounts of excess materials and equipment are transferred annually from U.S. military stocks to foreign governments. Since these goods may have been in the inventory for several years before being declared excess, they are usually already paid for when transferred and do not show up as

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current outlays for military assistance. Nevertheless, the annual transfers represent hundreds of millions of dollars worth of property purchased with taxpayers' money. More than $10 billion in excess military materials and equipment is being made available under this portion of the aid program, none of which appears in the budget as military assistance, and the amount will probably grow larger as troops are withdrawn from Vietnam and other areas. It is intended to turn over to South Korea all the equipment of the 20,000 troops to be pulled out of that country. No budget, as now designed and presented, will ever itemize the costs of such giveaways.

Aside from budgetary legerdemain, other funny games have been played with such transfers. How many of the equipment is really "excess" to our military needs; how much is funneled through this conduit to avoid Congressional scrutiny and to circumvent the legal restrictions on outright grants? In 1970 a House appropriations subcommittee learned that the United States had given more than $150 million in "excess" weapons to Nationalist China. The weapons included fighter aircraft, cargo planes, howitzers, tanks and rifles. Among the aircraft were more than twenty F-104 Starfighters (the exact number is classified), a modern supersonic plane still being used by the Air Force. The revelation caused a mild uproar in Congress because the year before an effort had been made to tack $54 million onto the MAP appropriation for the express purpose of enabling Taiwan to buy a squadron of F-4 fighters. An amendment to this effect passed the House but was defeated in the Senate and not enacted. Thus when it became known a few months later that the Pentagon had made a gift of the Starfighters and other weapons out of "excess" stocks, a lot of Congressmen were understandably upset. The Administration said that the planes had been declared excess because of reductions in the defense program and that they would have been given to Taiwan even if the funds to purchase the F-4s had been appropriated. To the Representatives and Senators who had successfully opposed the F-4 maneuver it looked as though the Pentagon had mislabeled perfectly good weapons as "excess" to accomplish what the defeated F-4 amendment was intended to do—namely, to give a squadron of modern fighter aircraft to Nationalist China.

The classic example of concealment through mislabeling is the Food for Peace program. It was disclosed in January of this year that approximately $700 million of Food for Peace counterpart funds have been used over the past six years for military aid purposes. The Pentagon correctly argues that there is nothing illegal in this practice. The 1954 legislation that created Food for Peace authorized the use of counterpart funds for "common defense" in the recipient countries, and in 1966 MAP grants were made conditional on foreign governments entering into agreements with the United States allowing Food for Peace funds to be used in this way. The real issue, however, is one of accountability, not legality.

To expect the average taxpayer or member of Congress to be familiar with all the details of the constantly expanding body of law and administrative regulations governing federal agencies, or to penetrate beneath the surface of what the bureaucracy appears to be doing, would be like expecting the stockholders of a firm to be experts on corporate law, as well as certified public accountants. The corporation is supposed to disclose the salient facts about its financial status in the annual report, and the federal government has a much greater responsibility to disclose what it is doing with the taxpayers' money in the annual budget. The statement in that document that the Food for Peace program "combats hunger and malnutrition, promotes economic growth in developing nations, and develops and expands export markets for U.S. commodities," creates the false impression that the program is employed exclusively for what its name suggests. Even high government officials with direct responsibility for military aid have been unaware that the United States has *required* recipients of Food for Peace to use counterpart funds for "common defense." Senator Fulbright and Townsend Hoopes, former Defense Assistant Secretary for International Security Affairs, have candidly admitted their ignorance on this point. It is no wonder that Sen. William Proxmire, whose committee investigation first brought the facts to light, has labeled the project Food for Peace for War and called it a case of Orwellian double-think and a corruption of the English language.

Other much larger programs, ostensibly intended for economic development abroad, are also in reality forms of military assistance. Economic assistance for Vietnam, Laos and Thailand, listed in the budget as "Supporting assistance" (not to be confused with "Support of other nations"), finances police, pacification and resettlement activities. Subsumed in this category are outlays for "public safety" in various foreign countries. "Public safety" is a well-known euphemism for internal security and paramilitary programs which, by themselves, cost $529 million in 1970, almost as much as MAP.

Two further examples indicate the ingenuity with which the facts about military spending are obfuscated: Until 1970 the budget included a table and a brief discussion of "Estimated Special Support for Southeast Asia Operations," meaning the cost of the war. According to the last budget presented by the Johnson administration, outlays for the war rose from $103 million in 1965 to $28.8 billion in 1969. In June 1969, after the changing of the White House guard, the Pentagon supplied Congress with the same figures. Up to this point the Nixon Administration appeared to follow the policy of disclosing the war costs, if not the decisions about the war, and spokesmen for the new regime were in agreement with their predecessors on what those costs were.

But in 1970 the first budget prepared under Nixon included no figures for the costs of Vietnam and from that day to this the war costs have been censored out of the budget. The purging of the numbers has been explained as necessary to prevent tipping the government's hand on future troop withdrawals, an explanation that is hardly consistent with the calculated leaks of war-cost figures by government officials in various speeches and closed-door Congressional hearings. What is more peculiar is that the figures leaked since 1970 are much lower than the official ones given out earlier. Spokesmen for the Pentagon now assert only $21.5 billion was spent in Vietnam in 1969, compared to the $28.8 billion which both the last Johnson budget and the Nixon Administration had once affirmed as the amount spent that year. The last Johnson budget had estimated war spending at $24.9 billion for 1970. It is now maintained in extrabudgetary declarations that the actual costs were $17.4 billion.

What accounts for the discrepancies and the present refusal to disclose the costs formally in the budget? In an attempt to reconcile the two sets of figures, the Pentagon distinguishes between what it calls "full" and "incremental" Southeast Asia costs. Defense Comptroller Robert C. Moot stated in his testimony to the Senate Appropriations Committee last year that the full costs include amounts that would have been incurred in that part of the world even though there were no war, while the incremental costs are those that result directly from the war. The Johnson figures, according to this distinction, represented the full costs. The Nixon figures are the incremental costs and therefore somewhat lower.

The difficulty with this explanation is that war costs have always been described in the budget in incremental terms, although the word "incremental" was not used. Before the lid came down, they were listed year by year in tables separate from the rest of military outlays and referred to as "expenditures directly attributable to our effort in Vietnam" (The Budget for Fiscal Year 1969), "costs which are directly attributable to special efforts in that area and in excess of what might have been the defense budgets for the years shown in the absence of the Vietnam conflict" (The Budget for Fiscal Year 1968), and "special Vietnam costs" (The Budget for Fiscal Year 1967). In addition to the separate tables showing estimated war outlays, the National Defense tables for each of those years contained subtotals excluding the special costs for Vietnam. It is hard not to believe that the purpose of all this classification and differentiation of special costs was to distinguish the nonwar costs of defense from what is now known as the incremental costs of the war.

Taking the analysis one step further, it is interesting to note that the segregation of war from nonwar expenditures facilitated the rapid expansion of the defense budget from 1965 through 1969, while the scaling down of war costs now facilitates resistance of pressures to cut defense spending. By separating the two kinds of military spending, the Johnson administration was able to show that the "baseline" defense budget—the level of spending prior to the Vietnam buildup in 1965—had been kept more or less constant, and that the principal reason for increasing total military outlays was to support our efforts in Vietnam. It became particularly important to be able to show that baseline expenditures were not rising after passage of the Revenue and Expenditure Control Act of 1968. This Act, which placed a ceiling on federal spending, exempted the war in Vietnam. It thereby froze nonwar defense outlays—the baseline—and created an incentive to define as much of the defense budget as possible as war-related.

So long as war efforts intensified during the period of escalation, increases in total defense spending could be justified on the basis of the war. Once the policy shifted to de-escalation, however, severe pressures developed to cut the defense budget and employ the savings, termed "the peace dividend," for nonmilitary purposes. After 1969, in other words, it became advantageous to the military for war spending to be minimized. The incentive was now to define as much of the defense budget as possible as being not related to the war. The Pentagon's use of the incremental costs concept serves this purpose by shrinking the costs of the war and expanding the baseline. The effect is to reduce the potential savings from the phase down. Meanwhile, the possibility that a peace dividend will materialize grows more remote each year as the defense budget continues to hover at approximately the level attained during the height of the war.

The final example of how the true level of military spending is muddled involves the definition of defense. Many persons have observed that the category "National Defense" in the budget does not fully identify all expenditures that are in essence military or military-related. The Joint Economic Committee concludes in its current annual report that "the definition of national defense found in the budget is so restrictive that the outlay figures do not adequately reflect the true costs of national security." In part, no doubt, the inadequacy is due to bureaucratic inertia and obeisance to historical precedent. Budget formats tend to remain the same from one administration to another, although interesting changes do sometimes occur as when special tables were first inserted in the budget to show the costs of Vietnam and then taken out. In any event, whether through bad design or bad habit the tendency is toward gross understatement of what is actually spent.

The Joint Economic Committee's solution is to use the broader term National Security instead of National Defense and to list under it all military outlays, all programs that are clearly related to national security, and all those that appear to be intended for other purposes but which are either partly undertaken for national security or would not be undertaken but for the requirements of national security. Of course, the first improvement would be to insert in the National Security budget all the programs, such as military assistance in its entirety, that should be counted under the present narrow definition of dedense but are not. Beyond that are a variety of other activities and expenses that add more than $25 billion to total costs.

National Defense is at present composed of Pentagon outlays plus certain defense-related programs such as MAP, atomic energy, strategic stockpiles, the Selective Service System and emergency preparedness activities. These items added up to $80.3 billion in 1970. National Security, as conceived by the Joint Economic Committee, would include everything under National Defense and, in addition, the greater portion of interest on the national debt (created mostly to pay for past wars), the Veterans' program, the space program, the costs of the State Department, the Coast Guard, the U.S. Information Agency, the Arms Control and Disarmament Agency, the Renegotiation Board, the National Security Council, the maritime subsidy, most impacted areas school assistance, and part of the costs of highway and airport aid. These outlays would bring the "full" costs of defense 30 per cent above the official figures. National Security expenditures were $106 billion in 1969, and $107.7 billion in 1970.

Most ominous as a harbinger of future spending are the figures in the budget for Recommended Budget Authority. These figures tell what the Administration is requesting from Congress for the following year. The current request for National Defense in the official budget is for $80.2 for 1972, nearly $3 billion more than the outlays estimated for 1971. But recommended authority when tallied in the National Security Budget amounts to $111 billion.

The Administration insists, with some justification, that defense spending has been reduced in the past two years. The rollback, to use the phrase loosely, was accomplished more by inflation than by actual dollar reductions. When price increases are taken into account the size of the defense budget does shrink somewhat. Nevertheless a look at the national security budget shows that, even allowing for inflation, the full costs have gone down by a very small margin, if at all. The Administration's boast that it has achieved a dramatic shift in priorities and that it has successfully managed the transition from a wartime to a peacetime economy is not supported by the statistics or by recent developments in economic policy making. By any reckoning we are now spending for national security at wartime levels and it is not possible to have a peacetime economy and a wartime defense budget at the same time. The New Economic Policy, with its strong resemblance to wartime economic controls, should dispel any remaining doubts about the kind of system we live under.

BLACK HILLS SIOUX CLAIMS

Mr. McGOVERN. Mr. President, deep in the hearts of members of the Sioux Nation is the longstanding Black Hills claim identified as docket No. 74 in the Indian Claims Commission. The claim seeks compensation for the wrongful taking of the Black Hills of South Dakota and has been in litigation in one form or another since 1923.

At a recent press conference in Washington, David Long—Crazy Horse—the vice president of the Oglala Sioux Tribe of the Pine Ridge Reservation in my State, issued an eloquent statement regarding the claim and the feeble efforts of the Government to assume rightful responsibilities toward Indian people. I ask unanimous consent that Mr. Long's statement of September 27, 1971, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF DAVID LONG—CRAZY HORSE—VICE PRESIDENT OF THE OGLALA SIOUX TRIBE OF THE PINE RIDGE RESERVATION

My people, the Oglala Sioux, have waited a very long time to see justice done in this case. We first went to court in 1923 to get compensation for the lands taken from us by the United States in 1868. Together with the other Sioux tribes we lost 48 million acres of land at that time. We estimate the value of these lands at $62,000,000. A judgment in our favor in this case would not only help to correct this century-old injustice, it would provide us with funds which we could use to deal with the needs which we have today for better housing, jobs, and community development.

When the European peoples first came to the Western hemisphere, my ancestors greeted them in a friendly manner and helped them to survive when their food ran short and when the winters were cold. Your history is full of examples of friendly greetings which were given to the first white people who arrived on this continent. The troubles which later developed between the American Indians and the European peoples came about because, over and over again, the Europeans broke their word and violated the rights of the Indian inhabitants of this land.

After squeezing the Indian people of the United States into a tiny fraction of their original homeland and promising that these small reservation areas would be preserved as Indian country forever, the United States in the General Allotment Act set up a system under which thousands of acres of Indian land have passed into the hands of white men. This process is still going on on my Reservation, the Pine Ridge Reservation in South Dakota. Not only do the whites buy up reservation lands so that our reservation is getting smaller and smaller, but the Bureau of Indian Affairs leases our lands to prosperous whites. Instead, we believe that the Federal Government should assist the Oglala Sioux Tribe to develop the lands of the reservation for use by Indians. We have much valuable grazing land, which could be of even greater value to us if the Federal Government would help us in developing our water resources and improving the quality of our land.

During the past twenty five years the Federal Government has made grants all over the world to help various foreign peoples to develop their countries. We Oglala Sioux, however, have not been able to secure the funds we need to develop our own lands right here in the United States. The United States should recognize that Indian tribes are under-developed, too, and we should have a high priority for Federal assistance.

We also understand that proposals are now being considered to change the special tax status of our property. The tax exempt status of Indian lands was part of the bargain when Indian peoples sold vast areas of this country to the United States. The tax exemption is one of the ways in which the United States is paying us for what we were compelled to give up. I simply cannot believe that in this day, when the wrongs suffered by American Indians are becoming much more fully understood, the American people would go along with another breach of faith by the Federal Government to my people.

What we ask for now from the United States is a just decision in this case so that we will be compensated for the vast area which was once our homeland, and in addition, that there will be sensible and practical programs to assist us in making better lives for our people. These programs should include a vigorous Bureau of Indian Affairs, which will be a source of financial help and technical assistance to Indian tribes, but will not dampen our desire for improvement and discourage us by heavy handed colonialism. I am afraid that at the local level the Bureau has not yet adopted the forward looking policies which have been stated by the Bureau of Indian Affairs in Washington. Indian people want, and still need, the Bureau's assistance and protection, but it should be offered in a helpful spirit of cooperation.

In addition, we also need help for those of our people who cannot find jobs on our reservation. Our unemployment rate at Pine Ridge exceeds 34% of the work force. There simply are not enough job opportunities for our people at Pine Ridge. While we would like to see industry locate at Pine Ridge so that more jobs would be available there and we have had some success with industrialization through the expanding Pine Ridge Products plant, we also ask that the Bureau provide more assistance to hundreds of Oglala Sioux who annually go off the reservation to seek employment in cities across the country. There should be a comprehensive Federally-funded effort to meet the counseling, housing, training, and other needs of Indians forced into the mainstream of American life by the lack of jobs on the reservations. The present Bureau of Indian Affairs relocation program is simply not enough.

I am accompanied here to Washington by an official delegation from the Oglala Sioux Tribe, including Mr. Moses Two Bulls, Mr. Charles Under Baggage, Mr. Charles Red Cloud, Mr. Frank Short Horn and Mr. Frank Kills Enemy. They join with me in the wish that the United States at long last do justice to the Oglala Sioux and to all Indian Americans.

AMENDMENTS TO TAX RELIEF PROGRAM

Mr. MOSS. Mr. President, I should like to declare my cosponsorship of two amendments to the administration's tax relief program for 1971. I believe that, taken together, these amendments will go a long way toward creating a truly balanced tax relief package, one which recognizes the importance of stimulating consumer spending in our efforts to create more jobs.

The first of these would increase the 1971 personal income tax exemption from $650 to $750, thus giving an immediate boost to the overall economy.

I believe it is noteworthy that this new incentive to consumption will not be at the expense of any permanent loss to our Federal revenue base. The Tax Reform Act of 1969 already provides for the increased exemption at this level to take effect in January 1973. This amendment would simply take advantage of

this new fiscal stimulus at a time when our economy could certainly use it.

I am also supporting legislation to increase the 1971 low-income allowance from $1,050 to $1,300. This would be of special benefit to those families whose incomes are less than $10,000 a year. It would guarantee, moreover, that families living below the poverty level would not have to pay Federal income taxes.

It is generally believed that consumer spending is in great need of stimulation at the present time. With much of our Nation's productive potential lying idle—at least 6 percent of our labor force and more than 25 percent of our industrial capacity—there is an obvious necessity to encourage greater market demand for the products of American business. This legislation will address this problem. By putting more money in the hands of consumers, especially those hard-pressed families of low and moderate income, Congress can invigorate the entire economy. As people spend this extra money they will give new life to small businesses and depressed regions.

In addition to the other tax relief measures already contained in the administration's program, these new incentives to the consumer will constitute a major stimulus to a fuller use of our Nation's human and technical resources.

A TRIBUTE TO THE HUNGARIAN FREEDOM FIGHTERS

Mr. WILLIAMS. Mr. President, in 18 days at the end of October and the beginning of November 1956, the people of Hungary took up arms against domination by the Soviet Union and against their Communist form of government. The Hungarian revolution was, in one sense, a triumph of the human spirit in man's age-old struggle for individual freedom and dignity.

On October 23, 1956, masses of workers and students demonstrated and marched on the Parliament buildings in Budapest to present their demands for the withdrawal of Soviet troops from their homeland, the dismissal of Stalinists from positions of power, and for the introduction of more democratic methods of government. Imre Nagy, the man that the people demanded as premier in place of the Stalinist puppet, asked that Soviet troops be withdrawn from Hungary. The revolt spread and by the 30th of October, the Hungarian Air Force and Army had joined the insurgents. The goals of the freedom fighters were so infectious that Soviet troops in Budapest were seen fraternizing with their supposed "enemies." On October 31, Premier Nagy announced that the Kremlin had agreed to withdraw all troops from Hungary. He also declared that his country was going to withdraw from the Warsaw Pact and appealed to the United Nations and the great powers to guarantee Hungary's permanent neutrality. The Soviet Government went through the motions of negotiating the details of the removal of Russian troops from Hungary. But as was to be the case in Czechoslovakia 12 years later, the Russians struck while negotiations were still in progress. At dawn on the morning of November 4, 1956, large formations of Soviet tanks and infantry were sent into Hungary to crush the revolt against Soviet domination. Budapest and other provincial centers were attacked and the government of Imre Nagy was overthrown.

For 6 days the valiant freedom fighters tried to hold off the Red Army, but because of the overwhelming might of the Russians and because of the acts of the newly installed puppet government headed by Janos Kadar, the battle was lost. Yet, even after the streets of Budapest were lined with tanks and troops, the Hungarian people did not give up their resistance. On November 11, a general strike began in the capital, with all workers refusing to cooperate with their imposed government. On December 5, new mass demonstrations erupted and on December 11, one of the most complete general strikes in history paralyzed the entire country. But, in the end the sheer weight of Soviet military strength suppressed the revolution. Over 20,000 Hungarians had lost their lives. It was, indeed, a dark day in the history of freedom in the world.

But, while the revolt was underway, the border of Hungary with Austria was thrown open by members of the Hungarian Army. Thousands of refugees made their way to liberty. They arrived with little more than the clothes on their backs and soon Austrian facilities were swamped by their influx. It is estimated that over 100,000 Hungarians fled their homeland during the revolution. The Austrian Government appealed for help and the entire Western World responded with money, food, and medical supplies. But, the largest problem facing Austria was the resettlement of the new refugees. In response to this challenge, the United States offered to accept 42,000 refugees, and permanent permission to remain in this country was soon granted by Congress. An airlift was organized by the United States, Canada, and Great Britain to transport the refugees from Austria to new homes abroad.

For those refugees who came to the United States, the first point of contact with American soil was at Camp Kilmer, in my own State of New Jersey. This installation, through which so many American soldiers had passed during World War II on their way to fight for freedom and democracy in Europe, now became the chief reception and processing center for the Hungarian freedom fighters. From Camp Kilmer these newcomers spread out into other parts of the country, merging with the mainstream of American life.

Many of them chose to remain in New Jersey and today are active participants in the political, economic, and cultural life of my State. The gain to New Jersey because of the presence of these active, vital people has been beyond estimation. Thus, we observe this 15th anniversary of the Hungarian Revolution, let us hope that the people of Hungary will someday be able to enjoy the freedom and liberties now enjoyed by their countrymen who came to America in 1956, and at the same time, be thankful that they came to America to enrich our country.

NOMINATION OF WILLIAM REHNQUIST, OF ARIZONA, TO THE SUPREME COURT OF THE UNITED STATES

Mr. McCLELLAN. Mr. President, the Committee on the Judiciary is now holding hearings on the nominations of Mr. William Rehnquist, of Arizona, and Mr. Lewis Powell, Jr., of Virginia, to the Supreme Court. On the first day of the hearings I made some remarks and asked Mr. Rehnquist some questions. I should like to draw the attention of Senators and other readers of the RECORD to those remarks, questions, and Mr. Rehnquist's answers.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

REMARKS

Senator McCLELLAN. Mr. Chairman, I have a few questions, but I should like to ask the indulgence of the chair and my colleagues with me while I make a brief statement regarding these nominations, a statement that I want to go into the record in full. Following this statement, I will have some questions premised upon the views that I express here.

OPENING REMARKS ON SUPREME COURT NOMINATION HEARINGS OF SENATOR JOHN L. MCCLELLAN, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Thank you, Mr. Chairman.

A special genius of the American people has been a commitment to the rule of law, not of men, and a special focus of that commitment has always been on the Supreme Court of the United States. This Committee, and ultimately the Senate, fulfills, therefore, a sacred duty in advising and consenting to the nominations submitted by the President for the Nation's highest court.

In considering these pending nominations, three issues face the Committee, and will later face the Senate:

Do these nominees have personal integrity?

Do they possess professional competency?

Do they have an abiding fidelity to the Constitution?

No Senator has a duty to vote to confirm any nomination forwarded by the President that cannot pass muster under this threefold test. In my judgment, this is what this hearing is all about—not about the so-called "Warren Court," or the "Burger Court" or even the "Nixon Court." Those labels are the stuff of journalism, not constitutional law.

Since these nominations were announced, I have examined the public record of each of these men, and I shall undertake to listen through these hearings, without prejudgment. However, I would observe that I have found nothing in the public record of either man that raises any question whatsoever of lack of integrity or competency. I am convinced that any challenge on either of those grounds will utterly fail. Therefore, I shall be concerned about and shall direct my attention and inquiry principally to the question of their fidelity to the Constitution.

I think it can be said that there is room on the United States Supreme Court for liberals and conservatives, for Democrats and Republicans, for Northerners and Southerners, for Westerners and Easterners, for Blacks and Whites, and men and women—these and other similar factors neither qualify nor disqualify a nominee. After personal integrity and professional competence, what is most crucial, in my judgment, is the nominees fidelity to the Constitution—its text, its intention and understanding by its framers, and its development through precedent over the history of our Nation.

There have been a few unfortunate periods in our history when justices on the Supreme Court have taken too literally Chief Justice Hughes' aphorism that the Constitution is what the judges say it is and have attempted to rewrite our Nation's basic Charter according to their own personal philosophies, either conservative or liberal. In my opinion, our Nation has just passed and is still passing through such a period.

In recent years a majority of the Supreme Court—no doubt in good faith, but nonetheless in my opinion with mistaken judgment—began to impose new standards on the administration of criminal justice in the United States, on both the Federal and State levels. These decisions have not enforced, as some have suggested, the simple rule that law enforcement agents must "live up to the Constitution" in the administration of justice, a Constitution that establishes known and fundamental standards. If this was all that was involved, no one could legitimately complain. My voice, for one, would not have been raised. Instead, these cases have, to a significant degree, created and imposed on a helpless society new rights for the criminal defendant, and some of these new rights have been carved out of society's due measure of personal safety and protection from crime. Indeed, since 1960, in the criminal justice area alone, the Supreme Court has specifically overruled or explicitly rejected the reasoning of no less than 29 of its own precedents, often by the narrowest of 5–4 margins. The high water mark of this tendency to set aside precedent was in 1967, when the Court overturned no less than eleven prior decisions. 21 of the 29 decisions the Court overruled involved a change in constitutional doctrine—accomplished without invoking the prescribed processes for the adoption of a constitutional amendment. It is significant that 26 of these 29 decisions were handed down in favor of a criminal defendant, usually one conceded to be guilty on the facts. The pursuit by some jurists of abstract individual rights defined by ideology, not law, has thus threatened to alter the nature of the criminal trial from a test of the defendant's guilt or innocence into an inquiry into the propriety of the policeman's conduct.

In my judgment, these decisions, however well intentioned, have come at a most critical juncture of our Nation's history and have had an adverse impact on the administration of justice. Our system of criminal justice, State and Federal, is increasingly being rendered more impotent by such decisions in the face of an ever-rising tide of crime and disorder.

President Johnson's prestigious Crime Commission in 1967 began its monumental study of crime in the United States with these tragic words:

"There is much crime in America, more than ever is reported, far more than ever is solved, far too much for the health of the Nation. Every American knows that. Every American is, in a sense, a victim of crime. Violence and theft have not only injured, often irreparably, hundreds of thousands of citizens, but have directly affected everyone. Some people have been impelled to uproot themselves and find new homes. Some have been made afraid to use public streets and parks. Some have come to doubt the worth of a society in which so many people behave so badly. Some have become distrustful of the Government's ability, or even desire, to protect them. Some have lapsed into the attitude that criminal behavior is normal human behavior and consequently have become indifferent to it, or have adopted it as a good way to get ahead in life. Some have become suspicious of those they conceive to be responsible for crime: adolescents or Negroes or drug addicts or college students or demonstrators; policemen who fail to solve crimes; judges who pass lenient sentences or write decisions restricting the activities of the police; parole boards that release prisoners who resume their criminal activities."

Mr. Chairman, I am glad to know that one of the nominees, Mr. Powell, was a member of the President's Commission that voiced these sentiments.

It is for these reasons that I, for one, welcome these two distinguished nominations. Until it has been demonstrated otherwise, I shall assume that their appointment is not an attempt to put a "liberal" or a "conservative" on the Court, but to appoint men of the highest integrity and outstanding competency—men characterized by a deeply held fidelity, not to an abstract ideology of the left or the right, but to the Constitution itself. If we can return to fidelity to the Constitution, I believe our society will be both free and safe.

Mr. Chairman, with that preface, I would like to ask the nominee before us this morning some questions.

The CHAIRMAN. Proceed.

Senator McCLELLAN. Mr. Rehnquist, it is not my intention here to ask you to comment on specific litigation that might be before or might come before the court. But, I do wish to explore for the record, your understanding in a general way, of the role of the Court and the men who sit on it as the guardians of our Nation's basic charter.

Would you feel free, as a justice, to take the text of the Constitution—particularly in its broad phrases—"due process"—"unreasonable search and seizure"—and to read into it your personal philosophy, be it liberal or conservative?

Mr. REHNQUIST. I would not, Senator McClellan.

Senator McCLELLAN. If you felt honestly and deeply, in light of your own personal philosophy, that the intention of the framers of the Constitution was no longer being achieved through the specific legal devices they deliberately chose in drafting specific clauses, would you feel free, as a justice, to ignore these specific legal devices and give old clauses new readings to achieve a new, and in your judgment beneficial, result?

Mr. REHNQUIST. I do not believe I would Senator, I think that——

Senator McCLELLAN. Well, this goes to the heart of the matter. Would you be willing, as a judge, with the power you would have on the court, to disregard the intent of the framers of the Constitution to change it to achieve a result that you thought might be desirable for society?

Mr. REHNQUIST. No. I would not.

Senator McCLELLAN. If you felt honestly and deeply that a settled course of constitutional doctrine developed by precedent over the years was wrongly decided in terms of your own philosophy of what is good or bad for our society, would you feel free to override that precedent and chart a new course of constitutional doctrine? In other words, assume that for years and years the words of the Constitution in a given clause or section had been given a certain interpretation or construction. Now, if you felt that that interpretation or construction, though in keeping with the plain intent of the framers of the Constitution, was not getting the results that you felt were necessary for a modern day society, would you overrule that decision to bring about a change? Or instead would you feel that the Constitution should be amended by the processes prescribed by it?

Mr. REHNQUIST. I would not overrule a prior decision on the grounds that you suggest.

Senator McCLELLAN. In your judgment, what sort of respect is due precedent on constitutional questions by the Court? How much should you feel bound by the precedents the Courts has established?

Mr. REHNQUIST. I feel that great weight should be given to precedent. I think the Supreme Court has said many times that it is perhaps entitled to perhaps somewhat less weight in the field of constitutional law than it is in other areas of the law. But, nonetheless, I believe great weight should be given to it. I think that the fact that the Court was unanimous in handing down a precedent makes a precedent stronger than if a court was 5–4 in handing down the precedent. And I think the fact that a precedent has stood for a very long time, or has been re-examined by a succeeding number of judges gives it added weight.

Senator McCLELLAN. Should you be confirmed, to what degree would you feel free to implement on the Court your personal view of the role that the Court should play in adjusting the rights of society and the individual in the administration of justice?

Mr. REHNQUIST. None.

Senator McCLELLAN. Would you feel bound by the restraints of personal or logical consistency to follow the same legal or constitutional judgments on issues you considered either as a student, private practitioner, or in the Office of Legal Counsel?

Mr. REHNQUIST. No, I do not believe I would.

Senator McCLELLAN. Well, it occurs to me—and I have practiced a little law and observed a good many lawyers—that as a practitioner you are an advocate for a client as well as an officer of the Court. And I can well see that the views that one might express in a given case or on a given issue, when one becomes a judge with the power to make the determination, instead of arguing the case, after weighing the other side of the argument, might not conform to his judgment as a jurist. Could you conceive that to be true?

Mr. REHNQUIST. I not only can conceive it to be true, Senator McClellan, but I can recall at least one instance in which Justice Jackson, to whom I clerked, found as a Supreme Court Justice that he was obliged to disagree with something he had done as Attorney General. And I believe the same thing happened to Justice Clark.

Senator McCLELLAN. You mean after they became justices of the Court, they changed their views and decided differently on the questions they had previously considered or argued as advocates of a cause?

Mr. REHNQUIST. Yes.

Senator McCLELLAN. Would you hesitate to do that if you had been wrong?

Mr. REHNQUIST. I certainly would not.

Senator McCLELLAN. You would not let your prior position become the overriding influence in your decisionmaking, would you?

It has been remarked, "At the present time in this country there is more danger that criminals will escape justice than that they will be subjected to tyranny." Do you share this judgment that was expressed by Mr. Justice Holmes? (*Kepner* v. *United States* 195 U.S. 100, 134 [1904]).

Mr. REHNQUIST. I think I would want to know more of the factual situation, Senator, and an examination of the data that I simply have not been exposed to before, I could not categorically agree that there is more danger that criminals would be allowed to escape than that they would be subject to tyranny.

Senator McCLELLAN. Very well.

Let me read another quotation: "In interpreting the Bill of Rights, I willingly go as far as a liberal construction of the language takes me, but I simply cannot in good conscience give a meaning to words which they have never before been thought to have, and which they certainly do not have in common with ordinary usage. I will not distort the words of the (Fourth) amendment in order to 'keep the Constitution up to date,' or to bring it into harmony with the times: it was

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never meant that this Court have such power, which in effect would make us a continuously functioning constitutional convention."

That quote was from an Associate Justice of the Supreme Court. He then followed with this statement:

"With this decision the Court has completed, I hope, its rewriting of the Fourth Amendment."

This is what I am trying to ascertain from you. Do you share this philosophy? Would you be willing to give a new interpretation, never thought of or used heretofore, to change the impact of the Constitution and to decrease or to increase powers that existed or did not in the past under the Constitution, simply to try to do what they say—"to bring the Constitution up to date"?

Mr. REHNQUIST. No.

Senator MCCLELLAN. All right, I assume, then, that you agree generally with that philosophy that is expressed here?

Mr. REHNQUIST. Yes, I do. I do not know what particular case was quoted from, but I certainly—

Senator MCCLELLAN. The words are those of Mr. Justice Black in *Katz* v. *the United States* (389 U.S. 347, 373 [1967]).

Mr. REHNQUIST. I subscribe to the statement read unequivocally.

Senator MCCLELLAN. All right. The Justice further said "I think it would be more appropriate for the Court to leave this job of rewriting (the statute) to the Congress. Waiting for Congress to rewrite its laws, however, is too slow for the Court in this day of rapid creation of new judicial rules, many of which inevitably tend to make conviction of criminals more difficult."

Would you agree with what he said in *Katz* v. *United States* (389 U.S. 347, 373 [1967]).

Mr. REHNQUIST. I certainly agree that the Court should leave to the Congress the rewriting of statutes.

Senator MCCLELLAN. Well, this was the judicial philosophy of Mr. Justice Black, whom I believe Mr. Powell is to succeed.

One other now. Another Justice said, and I quote:

"I am bound to say that what has been done is not likely to promote respect either for the Court's adjudicatory process or for the stability of its decisions.

"I regret that I find so unwise in principle and so inexpedient in policy a decision motivated by the high purpose of increasing respect for constitutional rights. But, in the last analysis I think this Court can increase respect for the Constitution only if it rigidly respects the limitation which the Constitution places upon it, and respects as well the principles inherent in its own processes. In the present case I think we exceed both, and that our voice becomes only a voice of power, not of reason."

This is a quote of Mr. Justice Harlan, whom you are to succeed on the Court from *Mapp* v. *Ohio* (367 U.S. 643, 677, 686 [1961]).

What I am trying to ascertain, simply is this: there is one school of thought today that believes that the Supreme Court, whenever it feels that the Constitution as written or as it has been interpreted is not adequate to deal with the conditions that prevail in society today, ought to give it a different interpretation to get it into the mainstream, as some call it, of modern society. Do you believe that the Court or a justice, under the Constitution, has the power to do that or the duty to do it, under his oath?

Mr. REHNQUIST. Under my oath I believe it would have neither the power nor the duty.

Senator MCCLELLAN. Mr. Chairman, I do not want to take up all of the time this morning. I just wanted to lay this fundamental foundation. I am not one of those who believes the Court has legislative powers. I do not believe it should legislate. I do not believe that it should attempt to rewrite the Constitution. I thought Mr. Rehnquist shared those views, and I just wanted to bring that out.

I appreciate your answers, and I reserve the right to ask further questions.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Ervin.

THE LATE PRESIDENT NASSER OF EGYPT

Mr. FULBRIGHT. Mr. President, the Observer of October 4 contains a thoughtful and well prepared article about the late President Nasser, of Egypt, written by Mr. Robert Stephens.

I believe this analysis of President Nasser, a remarkable man, will be of interest to Senators. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Observer, Oct. 4, 1970]

NASSER

His verdict on King Farouk was: "History will sentence him to death." What will be history's verdict on Gamal Abdul Nasser? Robert Stephens sums up his achievements, failures, and contradictions

Nasser, who had a sense of humour, might have been wryly amused at some of the fulsome tributes paid to him after his death, especially in the West. For in his lifetime he was a man who evoked strong and conflicting feelings. To some he was a nationalist hero, but to others an inflated, war-mongering dictator.

While Nasser was first of all himself a complex and perhaps tragic human being with a subtle political mind, he was deeply influenced by the historical and cultural framework within which he operated. An Egyptian, a Muslim, and a self-proclaimed Arab, he was also essentially a revolutionary of the Third World. He was a product and animator of the same anti-colonial, anti-imperialist and modernising revolution that produced Nehru and Mao Tse-tung, Sukarno and Nkrumah, Castro and Ho Chi Minh.

To be born an Egyptian is to be the heir to 60 centuries of glory and of pain. To be a Muslim in the twentieth century is to be a member of a still-living faith and of a society which is passing through a deep spiritual crisis. To consider oneself an Arab is to feel part of a world civilisation, like that of China or India, which is struggling to reassert its identity and restore a legendary unity and vigour. To grow up a man of spirit and ambition in an Afro-Asian country in the first half of this century was to suffer from the humiliation of poverty, backwardness and political dependence, and to experience an irresistible urge to try to overcome it.

The convulsions caused by the Afro-Asian revolution have been severe and prolonged in the Middle East because they have coincided there with two other powerful conflicts: the confrontation of the United States and Russia in strategically important areas where European empires once dominated, and a unique and tragic clash between two emerging cultures, the Arab and the Jewish national revivals.

As an Egyptian, Nasser was a citizen of the oldest continuously organised and unified State in the world. But he was also the first native ruler of an independent Egypt since the Persian invaders destroyed the twenty-sixth and last Pharaonic dynasty in 525 BC.

He died when his greatest test of statesmanship in making peace or war was yet to come. The Six-Day War with Israel was a colossal blunder with disastrous consequences for the Arabs. Yet if Egypt's defeat by Israel had led to Nasser's fall he would have been remembered by most Arabs, even his enemies, not, as Hitler has been by most Germans, with shame, but as Frenchmen remembered Napoleon in Stendhal's day, with tragic pride.

CHANGES OF FORTUNE

The whole career of Gamal Abdul Nasser was marked by dramatic changes of fortune and his character was full of contradictions. On one side he was a man of determination and broad vision, a patient builder and organiser. He was very Egyptian in his down-to-earth practicality, his humour, his pride and easy magnanimity, his touch of Muslim fatalism. But he strangely combined passion and calculation. There was an emotional, impulsive side to him that under the sting of pride or the spur of ambition, made him capable of risking much of his patient work on a sudden gambler's throw.

He was both frank and secretive, a proclaimer of bold truths and capable of unblushing lies. He tried to involve the public in political action to a degree unprecedented in Egyptian and Arab history, but was haunted by conspiratorial obsessions and relied in the end on his personal authority. He had great private charm and a flair for judging popular sentiment, but lacked the common touch. He was not a great demagogue, except in moments of angry crisis when his passion and sardonic humour flashed to the surface: but his earnestness conveyed a certain massive power.

It was perhaps these very contradictions that created his appeal to the Egyptians and the Arab public. Even his greatest political mistakes did not basically affect his reputation as a man unselfishly dedicated in his public activity and modest and uncorrupted in his private life. But neither such respect nor patient, constructive work would alone have served Nasser's need to galvanise the Egyptians and the Arabs out of apathy and into revolutionary energy and greater self-reliance.

For this a certain display of daring and audacity was required, to stir the popular imagination and encourage the self-confidence needed to face the modern world. In doing so he risked disaster when the human and material resources at his disposal failed to match his ambitions or the tasks he was attempting. In his zig-zags between plodding reform and bursts of apparently reckless adventure, and the lurid language in which his propaganda machine expressed them, he also helped unwittingly to build up around himself and the Arabs an international image of untrustworthiness and violence.

But it was primarily on acts, not words, that Nasser built his Arab reputation: the economic and social reforms in Egypt, the Soviet arms deal in 1955, the nationalising of the Suez Canal Company, the building of the High Dam and the union with Syria in the United Arab Republic.

Although the union was destined to last for only three and a half years (1958–1961), it was an experiment that continues, despite its failure, to haunt the Arab consciousness. Apart from the liberation and development of Egypt herself, it was Nasser's most ambitious political venture. It illustrated perhaps his most valuable contribution to Egypt and the Arabs: his seriousness of purpose, his resistance to inertia and despair, the determination with which he was prepared to try to translate words into acts and dreams into decisions.

The failure of the merger underlined one of Nasser's weaknesses: his inability to share power. The Syrian Baathists, though often dangerously wrong-headed, also represented probably the most vital creative spark in the political life of Syria. Nasser failed to find a method of harnessing their energies. Similarly in Egypt he was for long unable to find a common language with part of the

intelligentsia who sympathised with his aims but criticised his methods.

Nasser's clash with the West was the result partly of his anti-imperialist drive and partly of Western policies. It was also, like his difficulties with Egyptian and Syrian intellectuals, a product of his world view, which was influenced by his erratic education and lack of first-hand knowledge of Western countries.

He was born on 15 January 1918 in Alexandria, where his father, a quiet man, was a post office clerk. For most of his life Nasser lived there and in Cairo, but his father's family came from the village of Beni Murr, in Upper Egypt.

Nasser was politically conscious from his schooldays in Alexandria and then in Cairo, and this was heightened when he went to the Military Academy. Here, and in the following years on garrison duty in Upper Egypt and in the Sudan, he met most of the young officers who were later to be his close associates in the military revolution of 1952. These were the roots of his Free Officers movement, a group of discontented, idealistic and intelligent young men, mostly drawn from the lower middle class, but who were in touch both with the growing educated middle class in the towns and with the peasants in the villages.

Their first concern was to end the British occupation and establish Egyptian independence. Their second was to do something about the appalling poverty, disease and ignorance in which most Egyptians lived.

After World War II the Free Officers movement was given impetus by the failure of King Farouk and the politicians to secure the withdrawal of British troops or to deal with corruption and poverty. The defeat of Egypt in the Palestine war of 1948—in which Nasser fought in a sector which held out until the end against Israel encirclement—further discredited the king.

Then came the 1952 coup, followed in 1956, by Nasser's election as the first President of the Egyptian Republic.

He had already begun to make his mark as an Arab and neutralist leader. He grasped, as no other Arab statesman had done before, the diplomatic bargaining power the Arabs could exert through their geographical position and their control of two-thirds of the world's oil reserves, provided they were united at least in their policies, if not in their political institutions. He had noted in his booklet, "The Philosophy of the Revolution,' the special position of Egypt as the largest Arab State, as a centre of Islam and as a part of Africa.

COOL NERVES OVER SUEZ

This analysis was to be denounced by Anthony Eden and Guy Mollet as a blueprint for empire-building and conquest, like Hitler's 'Mein Kampf.' (Nasser was later to comment ironically 'Why Hitler alone? Eisenhower has suggested that I am not only Hitler but Stalin as well! What they are frightened of really is the impact of the Afro-Asian revolution on their economic interests.')

With the nationalisation of the Canal and the Suez-Sinai War, he took on world importance. By cool nerves, great diplomatic skill and also a reasonable amount of luck, Nasser extracted from his military defeat a resounding political victory—he was now the dominant leader of the Arab world.

Syria's secession from the UAR was a severe blow to his prestige—he described it as 'one of the bitterest moments of my life'—but he characteristically bounced back by deepening his commitment to what he called 'Arab socialism,' linking it with the 'Arab Revolution.' His new doctrine was that effective Arab unity could only come about between 'liberated' countries—that is, countries that had not only rid themselves of foreign domination but also overthrown their 'feudalists and reactionaries' in a social revolution.

Within a year it had led him into a military intervention in the Yemen civil war which was to have disastrous consequences for Egypt.

Nasser later admitted that the intervention was a 'miscalculation. We never thought it would lead to what it did.' Not only did it lead to the pinning down of 70,000 Egyptian troops for five years and a steady drain on Egyptian finances. It also contributed to a worsening of Egypt's relations with the United States, because of Nasser's clash in the Yemen with Saudi Arabia, an American protégé. It also played its part in the events leading up to the 1967 war with Israel, for it encouraged America to step up the Middle East arms race by supplying, directly or indirectly, substantial quantities of tanks and planes to Israel as well as Saudi Arabia.

In the end he could claim that Egypt's sacrifices in the Yemen had not been entirely in vain. The Yemen Republic and revolution were undoubtedly saved by the Egyptian Army and consolidated with Egyptian civil aid.

To set against the heavy and tragic cost to the Yemen itself in lives and damage from Egyptian arms, including the poison gas bombing of royalist villages, there was the beginning of the emancipation of the greater part of the country from a political and social system of cruel backwardness. However crudely, Nasser in Arabia was on the right side of history.

In March 1965 his term as President was renewed for six years by a plebiscite, with one of those meaningless majorities of 99.999 per cent. He was then 48 and more than 12 years of power had left their mark.

When I met him a few months earlier, in July 1964, the physically powerful, ebullient young man of a first interview nine years before had been transformed into a calmer, slower figure, with a hint of almost physical frailty. All political passion was not yet spent and could suddenly animate his heavy face. His large brown eyes, strangely pale and dark at the same time, stared widely open, cool and curious, observant rather than penetrating, and with a hint of melancholy and irony. He was courteous but reserved, listened intently to questions and answered succinctly. He was relaxed, almost subdued, yet formidable. But he seemed a man seeking tranquility and a way out of endless problems rather than of a revolutionary eager to blaze new trails.

He continued then and later to live in the same unpretentious style, with a sharp division between his public and private life. His house at Manshiet el Bakr on the outskirts of Cairo was an expanded version of the suburban villa he had occupied as an army lieutenant-colonel.

He was happily married. His wife, Tahia, the daughter of a successful tea merchant of Persian origins, was rarely in the public eye, though she was not secluded in the old-fashioned Muslim way. She preferred to give most of her time to their three sons and two daughters, and recently, to two grandchildren. Nasser himself had no taste for social life or high living. He preferred plain Egyptian food and his friends with more sophisticated palates regarded it as a culinary penance to have to dine at the President's house: the menu seemed never to vary, nearly always the same dish of chicken, rice and vegetables, the Cairo middle-class equivalent of meat and two veg.

Nor had he any special interest in the arts or in intellectual society, though he read widely in politics and history. He enjoyed playing tennis and watching films. Apart from Hakim Amer, the ill-fated C-in-C who committed suicide after the 1967 war, and his other political associates, his closest friend was Mohammed Hassanein Heykal, the editor of the newspaper *Al Ahram* and later Minister of National Guidance. With Heykal he discussed broad political and social ideas. Heykal was also his Boswell, keeping a full diary of his daily activities and thoughts.

In 1967 many in the West and in Israel once again saw Nasser as Eden had seen him before the Suez war—a kind of Hitler, this time as the leader or instigator of a genocidal war of annihilation against the Jews of Israel. Whatever Nasser's motives for conflict with Israel, anti-semitism of the European kind was not among them. Nor did he speak, like other Arab leaders, of "driving the Jews into the sea."

Nasser's hostility to Israel rose primarily from three sources. First, there was the unshakeable conviction he shared with all Arabs that the Palestinian Arabs had suffered a grave injustice in their expulsion from the great part of their homeland. Second, there was the fact that Israel's control of the Negev introduced a land barrier between Egypt and the Arab States of Asia. Third, there was his fear that Israel was a serious danger to the Arab States, because she was expansionist and was, in his view, the product and instrument of external and hostile Powers greater than herself, the international Zionist movement and the Western imperialist Powers, principally the United States.

Nasser, then, was neither eager to rush into a war of reconquest that he knew the Arabs were still too weak to win, nor in a hurry to make a permanent settlement, except at the price of radical concessions from the Israelis.

Why did he appear to change his mind in May 1967 when he asked the United Nations Emergency Force to leave Sinai and opened the crisis which led to the Six-Day War?

His actions leading up to the war become more comprehensible, if not necessarily more excusable, if one realises the extent to which they were influenced by the general world picture that had been building up in his mind. This picture was of an American campaign to subdue the more radical leaders of the Third World and to break their links with Russia, a campaign in which he felt himself to be marked down, after Nkrumah and Sukarno, as a prime victim.

It was against this background that he reacted to what appeared to be a serious Israeli threat to invade Syria and bring down the left-wing Baathist Government in Damascus. The Syrian regime had become the patrons of Al Fatah, the new and militant Palestinian nationalist irredentist movement whose guerilla units had begun sabotage raids on Israel. Israeli reprisals against Syria had been heavy. Now threats by Israeli leaders of more drastic action coincided with reports received by Nasser from the Russians, the Syrians and his own intelligence of Israeli troop concentrations near the Syrian border.

There is no reason to doubt that he asked for the removal of UNEF from the Sinai border with Israel and instead massed Egyptian forces there in order to deter an expected Israeli attack on Syria.

But did he intend then to go further and close the Straits of Tiran to Israeli ships or to attack Israel himself? Nasser told me that he had not intended to close the Tiran Straits and wanted UNEF to move only from the Israel border. But the evidence as a whole suggests he was in two minds. When U thant decided that all UNEF must go or all stay, he felt he had no choice but to close the Straits.

In doing so he knew he was taking a great risk of war. Was he then preparing to goad the Israelis into attack or was he so dazzled by the armed strength he moved into Sinai that he thought he could now attack and win? Or was his purpose a display of brinkmanship leading to negotiation?

The most plausible explanation, in the light of the evidence so far available, is that

XUM

Nasser improvises this policy as the crisis developed, but that at no time did he intend to start the war himself. He believed that if he did so he could not win outright because, quite apart from Israeli strength, the United States would intervene on Israel's side. He could not count on the Russians to prevent an American intervention. The Russians told him that if he attacked first they would not help him. Nor would they help him even if Israel alone attacked Egypt. They would help only if the Americans supported Israel in such an attack or tried themselves to force the Straits of Tiran. The Russians warned Nasser off making war but were ready to back him in bargaining over the Tiran Straits.

Nasser was trying the same tactics that he believed Israel had used successfully against the Arabs, the *fait accompli*, to seize a position and then defend it. His calculation was mistaken on three counts. He believed that the Egyptian Army was strong enough to hold its ground against an Israeli offensive, at least long enough for international intervention to stop the fighting. He thought the U.S. would and could restrain the Israelis from attacking, though in the final days before the war this belief began to wane. Third, he failed to indicate clearly to the Israelis that he had no intention of attacking, but on the contrary allowed pressure for an offensive to build up in propaganda throughout the Arab countries. Like Premier Eshkol of Israel he was under pressure to strike the first blow as war seemed to be inevitable.

But the final decision of the Israel Government to attack Egypt may not have been simply to forestall an impending Arab offensive, but also because the next few days might have seen the beginning of a negotiation between Nasser and the US. Given the way American and British policy seemed to be drifting the neutral attitude of France and the hostility of Russia, a negotiation with Nasser while he was still in control of the Tiran Straits would doubtless have seemed to the Israeli leaders bound to end in political defeat for them.

For the Israeli leaders the choice must have seemed clear. They could seize an unexpected opportunity to strike a blow which would cripple Nasser's growing military forces—the only Arab forces they were seriously concerned about—for years to come, and reopen the Straits. Or they could accept the beginning of a change in the balance of power in which, at each stage, Israel would be in a weaker position to resist further concessions. If they were to be forced to fight some time it was better to fight now.

Both Nasser and the Israelis saw themselves as taking a desperate stand, like a long-tormented schoolboy finally turning and facing a bully. The fullness of the tragedy of the war that began on 5 June 1967 lies in the fact that two great peoples, who were both trying to escape from the humiliations inflicted by European society, were unable to help each other, but instead were thrown by historical fate at each other's throats.

For Nasser the defeat was far worse than that of 1956. As the bad news poured in, he came close to nervous and physical collapse, but he had enough strength and pride left to choose a painful course. He decided to accept full public responsibility for the defeat and to announce his resignation—the decision was not a mere stratagem.

On the evening of 9 June, Nasser spoke to the nation over radio and television. On the screen he appeared a broken man. His features were drawn and haggard, his voice half-choking and hesitant as he read the text of his resignation speech. Even before he had finished speaking, there has begun another of those dramatic reversals of fortune that have marked his career.

In the semi-blacked-out streets of Cairo, hundreds of thousands, some of the men still in pajamas and the women in nightgowns, came out of their houses weeping and shouting, 'Nasser, Nasser, don't leave us, we need you.' This was also the reaction all over the Arab world.

Nasser's decision to withdraw his resignation was received with an outburst of public joy. For Nasser it marked the beginning of a long and painful road back.

When he died, Egypt's main problem was still unsolved, the Israeli Army was still in Sinai and the Suez Canal closed. But otherwise, Nasser appeared to have achieved a remarkable recovery. Egypt was financially solvent (with aid from the Arab oil States) and able to defend herself, though defence costs were a crushing burden. The Egyptian armed forces had regained their pre-war strength, the industrialization of the country was expanding again and the High Dam was completed.

Among the Arab masses, Nasser's ascendancy, shaken by the June war, had been largely restored before his death.

His performance was measured more critically by the militant young, whose heroes were the Palestinian commandos, and by the educated class, who saw the causes of Arab defeat in technological and social backwardness and in their own exclusion from a share of power.

Nasser himself was prepared to make a peace settlement which would recognise Israel within her 1967 borders. Even after the growth of the Palestinian guerrila movement made this position more difficult to hold. Nasser believed that, provided such a peace included a fair settlement of the Palestinian refugee problem, the guerrillas would not prove a serious obstacle. But he doubted that the Israelis would ever withdraw except under military pressure.

Nasser held all the main sources of power in Egypt in his hands. After the 1967 war he was not only President, but also Prime Minister and head of the Supreme Executive Committee of the Arab Socialist Union, the only permitted political organisation. There was no one left around him of significant political stature. If there were ambitious young officers who were secretly plotting to oust him, as he himself had plotted to overthrow Farouk, no one yet knew about them. When asked by a French journalist whether such new would-be Nassers might not exist, Nasser is reported to have grinned and replied, "I hope so."

If Nasser's personal position still seemed strong, his political machine as a whole was tired and infected with moral decay. He was perhaps nearing the end of his creative period and Egypt needed new men to take over.

His death may now be followed by a period of confusion and possibly of conflict, between liberals wanting to return to a freer parliamentary system and left-wing radicals demanding a Yugoslav-type political regime. But there is also a reasonable prospect that one of his main legacies to Egypt will prove to be an enlarged middle class of educated, able and responsible men, capable of ensuring efficient government on a more democratic basis.

He was guilty of some brutalities. In Egypt there were dark blots like the political concentration camps in the desert where Communists, Muslim Brothers and others were sent. There were torture and spying by the political police; the censorship of the Press and radio, and the endless propaganda. Yet this repression under Nasser was less severe than under many other dictatorships, including some Egyptian and other Arab governments to which Western democracies had given their blessing. Outside Egypt there were the bombing, including gas bombing, of villages in the Yemen and the operation of secret intelligence agents. But among revolutions the Egyptian must be counted as one of the least bloody.

How far must Nasser's reputation be revised in the light of the 1967 defeat and its consequences?

Having at last freed Egyptian territory of foreign military occupation with the departure of the British in 1956, Nasser little more than 10 years later saw Israeli forces occupying the Sinai Peninsula and claiming to remain indefinitely in at least one corner of it, at Sharm-el-Sheikh. Having gained full control of the Suez Canal, he now saw it closed and useless and with one bank occupied by the Israelis. Having rejected a Western alliance and protection in the pursuit of complete independence and nonalignment, he now found himself relying on Russian diplomatic and military support. Having sought financial independence and economic aid without political strings, he was faced with a foreign indebtedness of £1,000 million and dependence on subsidies from Arab Governments, including his chief Arab opponent, Feisal of Saudi Arabia.

There are, however, grounds for arguing that these developments are of a transitory character and have not fundamentally reversed the changes that established Egyptian independence. The Israelis are unlikely to stay in Sinai for more than a few years longer, whether the issue is settled by peace or war. Even if they keep troops longer at Sharm-el-Sheikh, the political significance of their presence there would be far less than the presence of scores of thousands of British troops in the Canal Zone. The Russians have not yet been able to turn Egypt into a satellite; they have no combat troops in Egypt comparable with the former British forces and capable of enforcing their will as in Czechoslovakia.

What has Nasser's Arab Socialism meant to the average Egyptian? In a country with problems of poverty and overpopulation on the scale of Egypt, it is not to be expected that any Government, however virtuous or however efficient, could cure them or even substantially reduce them in less than 20 years. But it might be hoped that some of the worst abuses could be ended, and a start made along a constructive path. This at least Nasser can fairly claim to have done in many respects.

The High Dam and its power station were completed last July, the complementary electrification and land reclamation schemes are moving slowly ahead. So far the increase in agricultural production has been keeping just ahead of the increase in population; industry, on which the reduction of unemployment and an increased standard of living must primarily depend, has been expanding more rapidly. Since 1952 there has been a small increase in per capita national income and a more equal distribution of national wealth.

The benefits have been felt less in increased money incomes than in improved social services of more free schools, hospitals and clinics, some cheap housing and limited social insurance. Sixty per cent of Egyptians still live and work on the land. Those who gained most in earnings were the medium farmers and the one and a half million people who have benefited from the land reform.

But for the millions of landless and often unemployed agricultural labourers and their families there was little increase in earnings unless they were able to find work in the towns. Laws fixing minimum wages for agricultural labourers were almost unenforceable, but the labourers shared access to the expanded rural welfare schemes and education and health services.

A similar division occurred in the towns. The main beneficiaries were the factory workers and the middle class. More jobs were created, though there were still huge numbers of urban unemployed. A man with a job has greater security, usually better working conditions, more active protection of his interests through his trade union and representation on management councils. But the unemployed or only partly employed still live in the deepest poverty and often in the most appalling slum conditions.

Centuries of Ottoman and Mameluke rule ground deep into the Egyptian consciousness the idea that government and its local representatives were a positive evil, an exploiting bullying force.

Now, cautiously and still skeptically, the idea has grown to a certain extent that government may genuinely be on the side of the peasant and the worker and desirous of helping him, however limited that help may still be. Corruption, bullying and abuse of power, especially by petty officials, still exist but they are no longer taken to be the *purpose* of government.

Nasser's social and economic policies, especially land reform, the development of cooperatives, industrialisation and State planning have stimulated similar developments in other Arab countries.

Although many Western observers saw Nasser as an element of mischievous disturbance, he was in some ways a factor of continuity and stability. At a time when Arab Society was in danger of collapsing and leaving the field to the Communists, the reactionary fanaticism of the Muslim Brother, a narrowly nationalistic military fascism or chaos, Nasser, by providing continuous stable and progressive government in the biggest and most developed Arab State, helped to ensure that in most cases Arab society underwent change in a comparatively bloodless way. (The Yemen was the outstanding exception).

His career throws light not only on the development of Egyptian and Muslim society and on the evolution of the Arab political mind. It also reflects the experience and outlook of the Third World of under-privileged colonial man. In this experience the central driving force is the struggle for the recovery of human dignity and identity, an attempt to escape the humiliation bred of backwardness and weakness, to catch up against overwhelming odds.

This most vital force, which has fired men like Nasser, Ben-Gurion, Mao Tse-tung, Nehru and Nkrumah, was described by James Baldwin in explaining the desperation of American Negroes. They were, he wrote in his book, 'The Fire Next Time,' 'a people from whom everything has been taken away, including most crucially, the sense of their own worth. People cannot live without this sense: they will do anything to regain it.' Time and again, Nasser's speeches and actions were concerned with 'dignity,' with the struggle against national despair and the restoration of the Egyptian people's sense of their own worth after long centuries of humiliation, oppression and self-doubt.

'History will sentence him to death' was Nasser's valedictory comment on King Farouk. What will be history's verdict on Gamal Abdul Nasser?

So far he remains the most progressive Egyptian ruler of modern times and the most important statesman so far thrown up by the Arab renaissance. His role as a leader of the anti-colonial revolution, one of the great world political movements of the twentieth century, is likely to be of enduring interest to historians.

Nasser left his mark on nearly two decades of Egyptian, Arab and world history. In the tradition of the Pharaohs, the High Dam will be for centuries his physical memorial. But his influence will continue to be felt in Egypt and the Arab countries for years to come in the movement of ideas and the course of political, social and economic development which he stimulated and helped to create.

PARITY PURGE

Mr. McGOVERN. Mr. President, 1971 may well be remembered by American farmers as the year of the parity purge.

Not only have real prices fallen to the lowest levels since the great depression, but early this year the Nixon administration began tampering with the parity ratio itself, the legal barometer of the well being of agriculture.

In its monthly publication, Agricultural Prices, for October 15, 1971, the U.S. Department of Agriculture eliminated from its monthly report the parity figure for all farm commodities based on the 1910–14 base. The Nixon administration started the process when it substituted a 1967 base period in place of the 1910–14 base, thereby attempting to create the impression parity was 23 points above the figure required by law. This new figure was featured on large type on the front page of the monthly report. Concealed in small type on inside pages was the legally required figure.

The report for October 15, 1971, dropped the 1910–14 base figure entirely. It reported instead 1910–14 parity figures for individual commodities on an inside page.

According to the publication, the overall parity figure appears to be 69 percent, one point higher than the 68 percent of a month earlier. Parity has been this low only 3 years in the last 60 years. It is understandable that the administration would find it too embarrassing to report.

This nonreporting of the economy is not the special province of the U.S. Department of Agriculture. The Bureau of the Census has said it will redefine "farms" as those which sell more than $5,000 worth of products each year. The effect of this would be to eliminate about half of the farms in the United States from census reports. Such figures as "average farm sales" would rise dramatically. The distribution of Federal funds to States on the basis of rural population would be affected. Small farms would disappear from the census report.

The Bureau of Labor Statistics has suspended its monthly news briefings on the cost of living. The administration has also announced that it will no longer report unemployment in poverty neighborhoods. The word "poverty" has been dropped from Government economic reports.

Apparently the Nixon administration believes that economic hardship in rural areas and poverty everywhere will go away simply, because it refuses to acknowledge it.

LAW ENFORCEMENT SUPPORT FOR LEGISLATION TO CURB THE SALE OF "SATURDAY NIGHT SPECIAL" HANDGUNS

Mr. BAYH. Mr. President, the Subcommittee To Investigate Juvenile Delinquency has recently conducted extensive hearings on the role of the "Saturday Night Special" handgun in the crimes of violence which afflict every part of this Nation. We have learned that gun murders have doubled in the United States in the past 10 years. The .22-caliber handgun, such as the "Saturday Night Special," is now used in almost half of the handgun murders committed annually. These small, cheap guns have absolutely no sporting use. The "Saturday Night Special" is a crime gun, and its availability must be eliminated.

I have introduced a bill to prohibit the sale to the public of cheap handguns which do not meet minimum standards of barrel length, frame construction, and suitability for sporting purposes. My bill, S. 2507, extends the import standards embodied in the 1968 Gun Control Act to the domestic sale of handguns, thereby implementing the intent of Congress that these guns not be made available to the public.

There is widespread support for my bill among law enforcement officials who are faced every day with the destruction these guns cause when they are used by hardened criminals. The executive director of the International Association of Chiefs of Police has endorsed this legislation. The Fraternal Order of Police, representing over 140,000 policemen in the United States, supports my bill. The National District Attorneys Association, prosecuting attorneys, and individual chiefs of police throughout the country have appeared before us in support of S. 2507. These men, who are on the firing line in the battle to curb violent crime in our Nation, recognize the urgent need to prohibit the sale of cheap handguns to the public.

I ask unanimous consent that the statements of these law enforcement officials in suport of S. 2507 be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF JERRY V. WILSON, CHIEF OF POLICE

I wish to thank the members of this Subcommittee for inviting me to testify today in connection with proposed legislation which would amend section 922(b) of the Gun Control Act of 1968. As I understand it, the proposed Bill would, in essence, ban the domestic manufacture, assembly and transfer of inexpensive small calibre handguns, which do not meet certain predetermined standards. Under the 1968 Act, the importation of such weapons was prohibited if the weapon did not meet various manufacturing criteria, which the Secretary of the Treasury was authorized to promulgate by regulation. The regulations eventually published dealt with weight, frame construction, barrel length and other characteristics. The effect of the legislative scheme was to curtail the importation of the foreign "Saturday night special," or "suicide special," an easily obtainable, inexpensive lethal weapon which, because it could not meet the regulatory standards, had little redeeming sporting or defensive value to anyone.

The 1968 Act regulated importation of the completed, pre-assembled weapon. The legislation did not, however, deal with either the domestic manufacture or domestic assembly of the weapon from imported foreign components, apparently because at the time of the passage of the Act foreign manufacture and importation into this country of the completed weapon was the chief problem facing the Congress. Notwithstanding the 1968 statute, however, both domestic manufacture and, to a greater extent, assembly in this country of this type of weapon from parts manufactured elsewhere and imported into the United States, have remained a law enforcement problem.

At the present time, many of the "Saturday night specials" we encounter in our Department have been constructed almost entirely from components manufactured

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abroad. If these weapons were assembled outside the United States, their importation would be precluded by the 1968 Act. In order to skirt the provisions of the Act, however, the parts are now being imported and the weapon assembled here. The final result in many cases is a weapon which, except for a stamped indication of domestic "manufacture," is almost identical to its prohibited foreign brother.

My understanding of the proposed legislation is that it would prohibit the transfer of all such weapons, whether actually manufactured here or merely assembled here from foreign components, so long as the weapon did not meet the prescribed technical criteria. In this manner the loophole left by the 1968 law would effectively be closed. Because our information suggests that this type of low-quality, inaccurate and dangerous weapon has absolutely no redeeming value, we support enactment of the proposed Bill.

Specifically, "Saturday night specials," because of their poor construction and low quality, are extremely dangerous weapons, not only to intended targets and bystanders, but also to the user himself. They misfire, fire accidentally and backfire with some degree of regularity. They are notoriously inaccurate at even short distances.

Furthermore, the low-grade components used in these weapons, in addition to the fact that many of the parts are foreign-made at reduced labor costs, result in their mass production and extremely low retail prices. A reasonably safe American-made .22 caliber revolver retails in this country for over $50. Many of the "Saturday night specials" can be purchased here for between $10 and $20. Thus, the weapon is accessible to almost anyone who wants one at no more than a few dollars.

It is our impression, therefore, that the market is full of these inferior handguns, notwithstanding the intent of the Congress in 1968 to restrict their importation. Unfortunately, our impression is not based on Department-wide statistics. Firearms which come into our possession historically have not been classified in such a manner as to allow us to determine statistically whether or not the weapon is a Saturday-night special. We do know that of approximately 2500 firearms which we recovered in the first seven and one-half months of 1971, over 1,000 were either .22 caliber revolvers or .25 caliber automatic pistols. But we do not know the percentage of this figure which could be properly classifiable as falling within the category of the "Saturday night special," although we suspect that the percentage is quite high. Our suspicion is based on a survey of weapons recovered in the District's 157 homicides by firearms committed in fiscal year 1971. In connection with those cases, we recovered 83 firearms, of which some 37 (45%) we determined to be an inexpensive, low-grade, poorly made pistol. In some other cases, in which we did not recover the weapon, it appeared, from identification where possible of the recovered bullet, that the "Saturday night special" was the type of weapon used to perpetrate the crime.

The combination of ease of accessibility of this type of weapon and its dangerousness has filled our files with examples of stark tragedies. One particular case may be of interest. At approximately 3:30 A.M. on September 19, 1970, a Washington Post newsboy, age 14, left his home in Southwest Washington to pick up the newspapers he was to deliver that morning. Near his home he came upon a 1965 Ford convertible, with the top retracted. He opened the glove compartment and stole a cheap .22 caliber automatic, Italian-made pistol, which he placed in his belt. At about 5:00 he was joined by two friends, also Post delivery boys. One of the friends asked to see the weapon, and as it was being shown, it went off—quite accidentally—killing almost instantly the friend, age 12.

Naturally, the same tragedy might have occurred if the gun had been an expensive American-made .38 caliber revolver. But we believe that the chances of such an accident happening were enhanced by the fact that this type of a weapon is prone to accidental discharge and is readily available on the retail market for slightly more than pennies.

It should also be noted that the "Saturday night special" presents law enforcement problems in tracing and identifying such weapons when they are used to commit criminal offenses. Generally, the weapon is manufactured from soft, inexpensive metal. As a result, serial numbers are easily and sometimes completely erased by either filing or melting. And ballistics examination of such weapons, in order to determine if a fired bullet was discharged from a recovered weapon, is many times made impossible because the metal in the weapon is of such low quality that the characteristics of the barrel are altered every time the weapon is fired.

For these reasons, there seems to be no valid reason for the possession of this type of weapon by anyone. Under the existing and proposed legislation, the weapon by definition has no sporting value. Additionally, it provides, in our opinion, generally inadequate defensive protection to the user because of its inaccuracy and general unreliability. As the President's Commission on Law Enforcement and Administration of Justice pointed out in 1967, "It is appropriate to ban absolutely the sale of those weapons no citizen has a justifiable reason for owning."

Finally, I would like to suggest that the problem of the use of weapons in crime, and the resulting injury and loss of life, cannot entirely be controlled by legislation. In the District of Columbia, for example, we have had for many years statutes which, if properly utilized, should have provided a brake on the use of handguns in crime. I refer primarily to the carrying and possession of dangerous weapons sections of Title 22 of the District of Columbia Code (D.C. Code §§ 3204 and 3214). It should be obvious that a person will be less prone to use a handgun in street crime if he has a sufficient reason not to take the gun with him onto the street in the first place. Our carrying a dangerous weapon statute (D.C. Code § 22–3204) was designed at its inception to preclude the carrying of handguns on the street, outside the owner's home or place of business. If the statute were properly used, I have no doubt but that the incidence of use of such weapons on the street would be curtailed. And yet the preliminary results of a study which I have directed to be undertaken indicate that a person caught possessing a handgun outside his home or business in the District of Columbia has about a two out of three chance of not receiving a single day in jail. And even when imprisonment does result in such cases, that imprisonment is normally far less than that which is authorized by the existing statute.

I do not mean to suggest by this thought that we are seeking additional legislation with stiffer penalties for users of handguns. Quite the contrary. I am convinced that, in the area of dealing with individual offenders, we now have, for the most part, sufficient legislation. What we do not have, however, is the realization by other integral agencies in the criminal justice system, including prosecutive, judicial and corrections officials, that the unlawful possession of a firearm, in itself, is a crime of the first magnitude.

We must create a climate in this city and all urban areas in the country in which it is known by everyone, beyond any doubt, that carrying a handgun on the street is unlawful and will be dealt with surely and effectively by the criminal justice system.

THE NEED FOR STRONGER FEDERAL GUN CONTROL

(Statement of Patrick V. Murphy, police commissioner of the City of New York)

Mr. Chairman: I am pleased to be able to appear this morning to support Mayor Lindsay's call for stringent federal controls over the manufacture, shipment, sale and possession of handguns. In my opinion there are few more urgent domestic problems for Congress to address than the reduction in the senseless slaughter that our current national firearms policy permits, and indeed even encourages.

The Gun Control Act of 1968 was an encouraging first step in the direction of a national and humane policy toward firearms. But in the area of handgun regulation, that Act is seriously deficient and the bloody chaos surrounding the market in these lethal implements has only been slightly reduced.

I would like to use our experience in New York City as a grim example of the carnage wrought by the current lack of a realistic national program for domestic disarmament. I should emphasize, as the Mayor's remarks have indicated, New York's experience is by no means unique, but is perhaps a bit more frustrating since the effectiveness of our State's efforts to control handguns has been drastically sabotaged by inaction or half-hearted measures elsewhere in the country. At the conclusion of my testimony I will ask my Chief of Detectives to offer some valid illustrations of this sabotage.

I begin with the premise that very few people who now have access to handguns have a legitimate interest in possessing these weapons. Beyond the obvious need for law enforcement officers and the military to possess handguns, I can think of only a few other categories of citizens who should have this inherently dangerous privilege. Private security guards supplement the police service and, with proper character investigation and training, can generally be trusted to own and use handguns safely and prudently. Some businessmen and merchants who are especially vulnerable to attacks by criminals may have a legitimate self-defense interest in possessing a pistol. But beyond these groups, there is little reason why any other citizen should be allowed to possess or carry a pistol. Even the relatively small number of sportsmen who prefer the use of pistols to long guns may have to forsake this hobby in order to permit their neighbors to achieve a measure of safety that our current handgun policy denies them.

At the very least, sportsmen interested in pistol shooting should be expected to store their guns when not in use, with the local police agency. This safeguard function is one which the New York City Police Department would eagerly assume.

The plain fact is that there are too many handguns in circulation today, and instead of taking steps to dry up this flood, Congress has been content to let the torrent continue virtually unabated. And it is incontrovertible that these guns are a major factor in the reign of violent crime that causes so much fear for our citizens.

One of the most troublesome aspects of this problem is that the use of weapons, especially handguns, in the commission of crimes is increasing at a much faster rate than the overall crime rate. If the present incidence continues, illegal pistols and revolvers will be used in almost three times as many crimes this year as five years ago.

WEAPONS USED IN CRIMES (NEW YORK CITY)

	Handguns	Long guns
1971 (January–June)	16,152	510
1970	26,752	985
1969	20,980	729
1968	18,603	701
1967	12,445	631

Last year, for example, guns were used in about 11,500 assaults in New York City. In the first six months alone of this year, however, there were almost 8,000 assaults involving guns.

For murder, the ultimate crime of violence, the story is sadly the same. Studies by the Federal Bureau of Investigation and others have demonstrated that the percentage of gun murders varies directly according to the ease of access to firearms. In states and cities with strict controls, the percentage of gun-related murders is much lower than in other states where a readily available gun makes it more likely a holdup man will be armed or that a spouse will permanently settle a domestic quarrel before tempers cool. But the relatively easy access to guns outside of the states and cities with strong controls is now tending to equalize these percentages. Thus, in New York City between 1965 and 1970, while the number of homicides doubled, the number committed with firearms nearly quadrupled. Last year over half of the murders in New York involved the use of firearms, compared with barely one quarter of those in 1965. It is clear to me from figures like these that the increased availability of guns, notwithstanding our local controls, has had a tremendous impact on the number of murders in our City. Without the proliferation of guns, many of these murders would not have gone beyond the assault or robbery stage.

All of these crimes are committed by people who obtained these weapons illegally. In recent memory, none of the twenty thousand people licensed to carry weapons in New York City has used his gun to commit a crime.

The frightening ease with which criminals secure guns is especially critical for policemen. Ten times already this year I have had to witness the burial of one of my men, struck down in the line of duty by a killer. Nine of the ten were shot to death, and eight of the nine were murdered with illegal handguns. (The ninth was shot with his own revolver during a struggle.) One hundred and fourteen other New York City Policemen have been subjected to handgun assaults this year, some of them have been seriously injured, clinging tenuously to life at this very moment.

What kinds of guns are used? Some standard, high quality guns, others are the only slightly less lethal low-cost, low quality "Saturday Night Specials." These Saturday Night Specials, which the 1968 Gun Control Act sought to ban from importation, continue to be a major factor in crimes. Of the 8,792 illegal weapons seized by the New York City Police Department in 1970, 24% of them were classified by our Ballistics Section as of this type. In one recent sixteen month sampling, we were able to establish that such weapons, retailing for as little as five or ten dollars, were used in at least 36 murders, 68 robberies, and 117 felonious assaults. With me today I have brought an exhibit of some of these cheap but deadly weapons.

There is absolutely no legitimate reason to permit the importation, manufacture, or sale of these weapons, or their parts. They are sought only by people who have illicit motives, but who may have some difficulty securing a better gun. No policemen, no Army Officer, no security guard, no businessman or merchant, and no sportsman would purchase one of these weapons for any lawful purpose.

Yet the manufacture and availability of hundred of thousands of these weapons guarantees that they will fall into the hands of petty thugs who are just one bullet away from becoming murderers.

But Saturday Night Specials are only one part of the handgun problem, and by no means the most significant part. I strongly urge against limiting the focus of new federal legislation only to Saturday Night Specials. Most of the guns we seized are quality weapons manufactured by reputable foreign and domestic companies. They enter into illegal channels in one of two principal ways: either they are offered for sale in a state where there are inadequate controls over the persons who may legally purchase guns, or they are stolen, singly or in lots, from manufacturers, shippers, dealers, or owners who under current standards have a "legitimate" reason to possess them.

Sixty-five percent of the handguns we seized in New York City are traceable to sources outside the City. Most of the others are not traceable at all. Thus, even the combination of New York's relatively strict controls and the relatively ineffectual impact of the 1968 Federal legislation leaves our citizens at the mercy of the reckless policies of sister states, at the mercy of the carelessness of gun manufacturers, shippers and dealers, and at the mercy of Congress' refusal to act decisively on this national problem.

The issue as I see it is this: Is Congress willing to tolerate more of the slaughter that the present loose patchwork of federal and local laws facilitates? Or will Congress boldly exercise its responsibility to promote domestic peace, tranquillity, and security by enacting realistic federal gun control?

Realistic federal legislation must embrace at least these six features:

First, a complete prohibition against the importation, manufacture, sale, and ownership of Saturday Night Specials or parts for them. These weapons and their parts should be judged not by their size or caliber, but by their safety performance, and reliability. These "junk guns", which can be just as deadly as a high quality .38, have no place in American life.

Second. The Secretary of the Treasury, in consultation with the Secretary of Defense, should establish reasonable quotas for the importation and manufacture of all handguns. When so much of the market for handguns is illegal, it is foolhardy to leave production unregulated. We know that the supply of guns already far exceeds the legitimate demand. To continue to pour limitless numbers of additional pistols into the market only facilitates their appearance in the hands of robbers and killers.

Third. Tighter control over security must be established at every stage of the distribution of legal handguns, including the manufacturer, carrier, and dealer. A crate of guns is at least as deadly as a crate of dynamite. A whole series of federal regulatory schemes defines the conditions under which explosives can be made, transported, and stored. Theft of stocks of guns are a major source of the guns we find in the hands of criminals, and it is high time the federal government established strict and uniform controls over this deadly commerce.

Fourth. No private citizen should be allowed to purchase a handgun in this country until he has received a permit to do so. It is not enough to require that the applicant be of sufficient age and be demonstrably free of criminal record. These personal qualifications must be determined through fingerprinting and police investigation. But beyond this, any sensible permit system must insist on a persuasive demonstration of good cause to own a pistol. The good cause test should be defined to limit the privilege to the narrowest class of people who require pistols for self protection or legitimate employment.

Fifth. The place where a licensed firearm can be kept should be limited. Every year, thousands of murders, suicides, and accidental killings take place because handguns are within reach at home. In those instances where a person has legitimate cause to own a handgun, the gun should be kept securely locked at his place of business or at a police station, except when the firearm must actually be carried elsewhere.

Sixth. There must be national registration of every handgun. At present, under the 1968 Gun Control Act, the National Firearms Registration and Transfer Record lists essentially only machine guns and sawed-off shotguns and rifles. Effective implementation of any real federal control over handguns depends upon extension of this system to record every change in the ownership of a pistol or revolver. This control record should also receive prompt notification of any theft of handguns, since this information is vital to any follow up investigation.

Enactment of legislation along the lines Mayor Lindsay and I have proposed would, I am confident, save thousands of American lives every year, a saving of incalculable human misery that more than outweighs the possible disappointment to gun enthusiasts whose opposition has too long blocked this critical reform.

At this point in my testimony, I want to illustrate the ease with which New York's controls can be flouted and with which even the modest provisions of the Gun Control Act of 1968 can be circumvented. My Chief of Detectives, Albert A. Seedman, assigned two of his men to follow the approach a gangster would take to secure deadly weapons for use in New York City. These men, who are also here with me today, were terribly efficient in performing their mission.

With the Chairman's permission, I will ask Chief Seedman to introduce these men and to explain to the Subcommittee how easy it is in this country to buy a gun, that will be used to commit murder.

STATEMENT OF COMMISSIONER JOHN F. NICHOLS, DETROIT POLICE DEPARTMENT

Senator Bayh and Distinguished members of the Subcommittee:

It is a pleasure to have this opportunity to testify before this Subcommittee regarding my views of "Saturday Night Specials."

For the purposes of this presentation, I have defined "Specials" to be any small caliber pistol of extremely low quality. The guns are usually .22 or .25 caliber. In some cases, they are .32 or .38 caliber. In developing our data, we first considered all firearms of .22 and .25 caliber, and then eliminated all brands known to be of reasonable quality in metal content, safety features, and general operating construction. The remaining guns were considered "Saturday Night Specials."

We first determined what percentage of all our confiscated handguns have been "Saturday Night Specials." Beginning with 1968, those figures are as follows:

Year	Total	Saturday night specials	Percent of total
1968	4,569	1,642	35.9
1969	5,261	1,897	36.1
1970	6,971	2,304	33.1
1971 (August)	5,153	1,528	29.7
1971 (projected total)	7,728	2,292	29.7

In 1968, we confiscated over 4,500 handguns, and 35.9% were "Specials." In 1969, the number of confiscated handguns rose to almost 5,300 and the percentage of "Specials" rose only two tenths of one percent to 36.1. The number of confiscated handguns continued to rise in 1970, but the proportion of "Specials" declined to 33.1% of the total. Thus far in 1971, the percentage has dropped to 29.7. Since 1968, the total number of handguns confiscated by Detroit Police officers has increased by more than 65%, but the percentage of "Specials" confiscated has decreased by about 6%. I believe this decrease is the direct result of the Federal Firearms Act of 1968, which halted the importation of this class of handguns. However,

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if, as Senator Bayh has indicated, American manufacturers have picked up where the foreign gun makers were stopped, then it is certainly just a matter of time before our statistics will reveal a new trend.

Perhaps I should also point out that a significant period of time is required for the effect of events to reveal themselves in statistics of this type. Just as the 1968 halt on importation of "Saturday Night Specials" is being significantly revealed in 1970 and 1971 statistics, likewise the manufacture of such handguns by American gun makers will be increasingly revealed in later statistics. For the present, however, no one can deny the use of these handguns in the commission of crimes, but the exact extent, by type of crime, cannot be accurately determined. The statistics which I just cited for confiscated handguns include all handguns which were either possessed illegally or were used in the commission of an unlawful act. Since 30 to 35% of those guns were "Saturday Night Specials," it would probably be reasonable to assume that a significant portion of all homicides, robberies, and assaults committed with firearms, involved the "Specials." This premise is impossible to support statistically simply because many of these crimes are not solved by arrest, and even in those cases which are, the gun often remains unidentified.

For the past several years, the number of homicides in Detroit has increased significantly. Since 1968, however, the percentage of homicides committed with handguns has remained relatively constant at about 60%. The remaining 40% were committed with long guns, knives, and other means. Looking deeper into the homicide picture, the following data presents a telling story regarding homicides since 1963:

	Homicide total	Hand gun	Percent total	Long gun	Percent total	Knife	Percent total	Other	Percent total
Year:									
July 1971	305	184	60.3	51	16.7	33	10.8	37	12.1
1970	495	297	60.0	74	14.9	73	14.7	51	10.3
1969	439	268	61.0	61	13.9	65	14.8	45	10.3
1968	389	237	60.9	42	10.8	59	15.2	51	13.1
1967	281	127	45.2	42	14.9	60	21.4	52	18.5
1966	214	101	47.2	20	9.3	50	23.4	43	20.1
1965	188	68	36.2	18	9.6	61	32.4	41	21.8
1964	125	40	32.0	17	13.6	43	34.4	25	20.0
1963	125	51	40.8	8	6.4	44	35.2	22	17.6

You will note that the percentage of homicides with handguns increased steadily until 1968, at which time that figure leveled off, as I mentioned moments ago, at the 60% mark. The percentage of homicides with knives also showed a marked change over the same span of years, but in the opposite direction. The proportion of homicides with knives has decreased as the handgun figure has increased. What I'm saying, then, is simply this: In Detroit, we have more homicides than ever before, and almost all of the additional homicides are being committed with handguns.

The next question is what percentage of the homicides are committed with "Saturday Night Specials." Because of the number of cases in which the gun is never identified, an accurate determination is most difficult. Through July of this year, we have recorded 184 homicides with handguns. We have established that 20 of those deaths were by "Specials" and another 20 were committed with small caliber guns which were never identified but could have been the type in question. As I suggested earlier, it is possible that enough time has not passed to record the full effect of these handguns.

Ballistically, we have noted that the "Specials" are extremely inferior. Due to the low quality steel or machining in the barrels, the rifling leaves very poor land and groove marks which makes ballistic identification most difficult. If the firearm in question has been used to any extent (50 or 60 shots), the land and groove marks are so poor that identification by scientific means is virtually impossible.

In response to your specific question regarding the "Saturday Night Specials," they constitute a significant portion of illegally possessed and illegally used handguns. They may be the most widely used single class of guns in robberies, serious assaults, and other crimes, but there is no way to be sure unless every crime is solved and every gun is confiscated. I do believe, however, that were it not for the "Saturday Night Specials," many people killed, wounded, or robbed with those guns might have been spared.

Senators, your questions about "Saturday Night Specials" must also be viewed in the human dimension. "Specials" and handguns in general are designed to kill or cripple people. No one ever questions a criminal's intent when confronted with a handgun—the weapon has no other mission than to kill or cripple people.

Where are we, as Americans? Where are our values and priorities? We have controlled polio and walked safely on the moon. Gentlemen, we must now stop the wanton destruction of life which is made possible by a handgun—not only "Specials."

I apologize for appearing emotional—but Cop or not—I am a man with deep feelings about the value of human life. My emotions were clearly taxed last Tuesday when I buried my third policeman in just three weeks—not months or years—but weeks!

At the graveside, as my Superintendent of Police handed the folded flag to the dead officer's 3-year-old son, I thought again about the Pastor's words at the memorial services for the officer—"Patrolman Marshall did not lose his life—he gave it for a safer Detroit." The Pastor then, as he should have, looked at Mayor Gribbs, and at me, and said—"Now, what will the rest of us do to assure a safer city?"

Senators,—Patrolman Marshall's life was stopped, dead, by a bullet from a handgun. He had been off duty, observed a holdup in progress—then he put his life on the line in an attempt to stop the fleeing thieves. That handgun was a "Saturday Night Special"—a cheap .32 caliber Marshal-Brazilian pistol. Two weeks ago, Patrolman Ulysses Brown—another young, fine officer, was stopped, dead, by the bullet from another handgun.

There are endless stories of tragedy. I suggest that those of us who view ourselves as leaders, must begin to respond to our assigned responsibility to take corrective action to stop needless deaths, to control handguns.—My case examples are limited to homicides—handguns are also a key factor in tens of thousands of robberies, rapes, and assaults.

Dead—A husband: April, 1971—A man and his wife were in the bedroom of the wife's mother's home. The wife pulled a .22 caliber CDM pistol and shot her husband. The wife claimed that she had fired by accident.

Dead—A boy, 16 years old: March, 1971—A 16-year-old boy was visiting in an apartment in a building located a few blocks from his home. A man appeared in the hallway door as the boy left the apartment. The man fired two shots from a .22 caliber pistol—RG-23—and one of the shots struck the boy in the head and killed him.

Dead—A young man: January, 1971—Two young men were playing with a .22 caliber German Liberty revolver. One of the men was holding the gun and the other was waving a broomstick. The broomstick hit the gun causing it to discharge, fatally wounding the man holding the broom.

Dead—A friend: April, 1971—Two men were walking through an alley enroute to a beer store. One man produced a .22 caliber German RG-23 and began playing with it. The gun discharged and the second man was fatally wounded.

Dead—A boy, 17 years old: June, 1971—A 17-year-old boy handed a .22 caliber German Burgo to a 16-year-old girl, telling her that it had one bullet in it. The girl removed one bullet, then pointed the gun at the boy and fired. The youth died a few hours later in the hospital.

Dead—A 13-year-old: May, 1971—A 14-year-old was playing with a .22 caliber Gerstenberger. He pointed the gun at a playmate and pulled the trigger. The gun failed to discharge. He pointed it at another youngster and pulled the trigger again. This time, a 13-year-old was fatally wounded.

Dead—a 14-year-old boy: June, 1971—A mother was arguing with her 19-year-old son about his car. The son began to throw bricks and stones at his mother. The mother obtained a .22 caliber German Gecado side-load revolver from the house and fired several shots at her son. Her 14-year-old son ran in front of his brother and one of the shots struck him in the neck and proved fatal.

During the past three years, excluding fatalities, over 50 of my police officers have been shot—approximately 20% of these policemen were assaulted with firearms which may be classified as "Saturday Night Specials."

Senators,—most people will not drive a knife into a human—most people will not beat a human being to death—but discharging a pistol, any pistol, at someone else is so easy—so impersonal. Unfortunately, most people who fire a handgun at another human, have no idea of the horror that results in destroying a life. They seldom think beforehand about the irreversibility of the act of firing a handgun.

Senators,—the police need your help,—I appreciate the opportunity to meet with you today, to tell my story, and to answer your questions.

Thank you.

CITY OF CLEVELAND,
September 8, 1971.

Hon. BIRCH BAYH,
United States Senate,
Washington, D.C.

DEAR SENATOR BAYH: Lieutenant Ralph M. Joyce—in command of the Homicide Unit of the Cleveland Police Department, Cleveland, Ohio, will be available to appear before the Subcommittee To Investigate Juvenile Delinquency on September 14, 1971—Room 2228—New Senate Office Building—Washington, D.C. per your request.

The following information is respectfully submitted with reference to Testimony which Lieutenant Ralph M. Joyce will be prepared to deliver at this Hearing:

Statistics of Homicides which have been perpetrated in the City of Cleveland, Ohio, beginning January 1, 1971 to the present date, in which the use of Firearms have been attributed to these Violent Deaths.

The Cleveland Police Department—Homicide Unit—has been charged with the Investigation of (192) Homicides which have occurred under their jurisdiction. This total number of Homicides include those which have been Solved or have been Cleared by Arrests. Homicides which have been ruled Justifiable. Those that are presently under Investigation and listed as Unsolved.

Of the total number of Homicides (192). 152 of the Victims had met their demise in a violent manner, due to the use of some type of Firearm. 136 Homicides have been attributed to Hand Guns (Revolvers or Pistols). 11 Deaths resulted in the use of Shotguns. 5 Deaths were caused by the use of Rifles.

The availability in the purchasing of Inexpensive Small Caliber Hand Guns by Individuals which are being used to commit Crimes Against Persons, such as Homicides—Suicides—Shootings—Robberies—Aggravated Assaults is evident in the increase of these Crimes.

The lack of needed restrictions in the Law prior to 1968—made the mass importation of Cheap Foreign Made Guns into the United States a contributing factor.

With the Amending of Title 18.—United States Code—Public Law 90-618—90th Congress—1968 dealing with the importation of Foreign Made Weapons into the United States was a step in the right direction however, material replacement parts for weapons can be shipped into the States with little or no restrictions. These so called replacement parts are later completely assembled by various Firearms Companies and are available for sale.

These Foreign Made Guns are relatively inexpensive. For example, .22 Caliber Revolvers and Pistols range in Price from $26.00 to $44.00. The difference in price being the type of finish (Parkerized—Nickle Plated—Blue Steel) or a various type of grip on the weapon (Plastic—Wooden—Pearl).

Typical Foreign Hand Guns, such as the Rohm RG 14 may be purchased for $36.95—The Rohm RG 23 may be purchased for $39.95.

Other Foreign Make Hand guns of a larger Caliber, such as 32 and 38 Revolvers or Pistols are priced for sale from $59.00 to $89.00.

That any individual supposedly over the Age of twenty one (21) may go to a Federally Licensed Gun Dealer and purchase over the counter any type of Hand Gun, "No questions Asked".

The Individual who is desirous to purchase a Hand gun—need only to go to the Gun Dealer—pick out the weapon of His or Her choice. Then fill out a Federal Form 4473—Firearm Transaction Record—Sign the application sworn under Oath that He or She has never been convicted of a Felony Crime or sentenced other than a Traffic Misdemeanor—That He is not a Suspicious Person—Vagabond—Vagrant or Transient and that He is over the age of (21).

There is no Affidavit needed by the Individual, to Attest his Statement that He is not a Felon nor has been convicted of a State or Federal Law. No Police check is required of this Applicant—either Local-State or Federal. The only requirement is that the Individual produce a Valid State Drivers License or a Draft Card. Moreover to expedite this weapon purchase Gun Dealers have on hand a Notary Public on the premise who immediately attest the application of the Individual purchaser that He is telling the Truth as put forward in the application.

It is an opinion—due to facts as presented above—That an Individual who desires to purchase a Hand Gun for his personal use, To go to The Local Police Department—Fill out an application—explaining why He has use for a certain type of Hand Gun—That then a Police Record Check be made by the Police, Locally—State—Federal. Further that a Waiting or Cooling off period be also incorporated before an Affidavit to purchase a Weapon is issued.

It is too late, after an undesirable—purchases a Firearm without a Security—Record—Age—Check, to walk from the Store with a weapon and ammunition and then commit Personal Violence upon some unsuspecting Citizen or harm to Himself.

Statistical Records will be made available to the Members of this Subcommittee.

Respectfully,

RALPH N. JOYCE,
Lieutenant.

STATEMENT OF CLARENCE M. KELLEY, CHIEF OF POLICE, KANSAS CITY, MO., POLICE DEPARTMENT

As one who has been in law enforcement for over 30 years, it should come as no surprise to anyone that I am a proponent for some type of gun registration and/or control.

I fully realize that registration or control of sporting weapons such as rifles and shotguns is at best of questionable necessity and difficult of enforcement.

During these 30 years however and especially these last ten years, the number of persons who were killed or killed others with revolvers has at least made me aware of some need in this field for control.

Of the 254 homicides in Kansas City during the past two years, 201 were perpetrated with guns and of those 11 were with handguns that cost less than $20 to purchase. Over the years police officers have classified these handguns as Saturday night specials. The implication is probably clear but in order that there be no misunderstanding they are guns which are primarily used by persons during family fights, bar-room brawls and street arguments in order to settle their differences.

These weapons are cheaply made, have few if any safety factors and are usually made of relatively soft metal. Some cannot even withstand being dropped to the pavement without either cracking or breaking apart. It is therefore most unlikely that they will withstand the stress generated by the explosion of gunpowder contained in a cartridge case.

Then, too, they are a most likely weapon for the youngster who is bent on a career of crime but whose initial purse is too lean to afford the expenditure of the amount needed to buy a good weapon.

Most are secured with the thought in mind that if used it probably would be only for at most a cylinder-load of ammunition. Under no evaluation can they be considered as weapons of any accuracy nor conceivable use other than an illegal one.

The ease with which they can be purchased is another factor which makes them attractive to the purchaser. In a transaction involving one of the better weapons there is a greater chance that the purchase will be recorded than if it is a transaction involving only a few dollars.

Trafficking these guns among the law violator is one of comparative freedom of exchange inasmuch if the weapon is seized or lost, little investment loss is sustained. There is absolutely no pride in ownership such as that generated when a fine piece is purchased and therefore little reluctance to throw it away such as in a river after its illegal use. We find in police circles that if the crime is committed with a valuable and fine handgun there is a good chance that the owner will retain it and thereby enable investigative bodies a better chance to link the gun with the spent bullet.

There is also of course the fact that most of these guns are easily concealable, adding to their attractiveness for illegal activities.

I have no way to determine how many people were injured with this type of gun. However, of the 2,236 handguns received in our Property Room so far this year, 731 are of the variety mentioned before and have no possible other use than to kill or injure another human being. These guns cannot be used for sport, hunting, target practice and for self protection are often more dangerous to the user than the opposing party.

However, I do feel that some standards should be set out in this act rather than left to the Secretary. Such standards should be based on safety, accuracy, construction, and mechanical action rather than size only.

In 1968 and again in 1969 officers on the Kansas City, Missouri Police Department were killed by assailants with weapons that can only be described as a substandard. These officers were John Dacy and Ronald Yoakum. Neither had an opportunity to properly defend himself.

Thirteen of our officers were wounded by gunfire in the last ten years. Of these nine were shot with cheap, substandard weapons.

In December of 1967 a sporting goods company in Kansas City was burglarized over a weekend and approximately 2,200 weapons were taken. 1,858 of these were handguns and of these approximately 1,200 were of the variety most commonly called Saturday night specials.

I have brought three representative handguns with me to show this committee the type of weapon we are talking about. As you can see they are of the cheapest construction and certainly have no sport or target use. This is the type of gun that is almost always used in the perpetration of a robbery or in family conflict situations.

Our laws for many years have prohibited the carrying of concealed weapons but this has not reduced the improper use of carrying of these weapons. We make hundreds if not thousands of arrests each year for these violations but in my opinion we cannot effectively control this type of violation short of restricting the manufacture and import of at least the substandard type of gun. Due to its relative cheapness, this type of gun is also easily available to juveniles and minors who although they cannot purchase them legally seem to have easy access and very little compunction against using them in illegal activity.

There is no ideal solution of this problem, but I do want to go on record supporting your effort in attempting to lessen the tremendous damage and loss of life which these weapons and their owners cause each year.

FRATERNAL ORDER OF POLICE,
Cleveland, Ohio, September 14, 1971.

My name is Jack Stonebraker, Jr. I am National Legislative Committee Chairman for the Fraternal Order of Police, the oldest and largest of National police organizations. I am a full-time Police Officer, serving as such for the last 15 years, in the city of Muncie, Indiana. I come to Washington, D.C. bi-weekly to promote legislation beneficial to police officers nationally, and to the professionalization of law enforcement so we may enjoy the preservation of life, liberty, property, and the pursuit of happiness as these were granted by the Constitution and the Bill of Rights.

Mr. Chairman, thank you for affording me the privilege of presenting facts in behalf of the Amendments to the Gun Control Act of 1968, introduced by Senator Birch Bayh and his colleagues. I am most happy that the Committee is considering this legislation which would provide more stringent regulations governing the sale of fire arms not suitable for sporting purposes. I wish to state that we in professional law enforcement are not opposed to the true sportsman nor his weapons, provided their use remains within the confines of the code and the statutes. As professional law enforcement personnel, we feel primary concern and interest in providing the citizens

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with the protection of their lives, property and rights.

As this Committee knows, in 1968, Congress enacted Public Law No. 90-618—"Gun Control Act of 1968." This law, as passed by Congress, was for the purpose of providing support to federal, state and local law enforcement officials in their fight against crime and violence. This Act was passed with the intent of limiting the accessibility of the small calibre, inexpensive handguns, which prior to that time were largely imported from foreign manufacturers. The amendment as introduced would strengthen, we feel, the current statute, in that "domestically" manufactured weapons would be required to conform with safety standards and sales criteria.

Under ordinary circumstances the Policeman's life is not an enviable one. Within the past 2 or 3 years, the burdens laid upon law enforcement officials have been greatly increased. The danger which is present in even relatively common times has been compounded by a series of developments of which this Committee is well aware. The tremendous increase in violent demonstrations on and off the campuses has added to the perils with which the police officer is faced.

The crime rate increases steadily. In many cities the streets are not safe at night and there are areas where the passerby is not safe even in the daytime. Many businesses and industries in the larger cities are folding simply because they are burglarized and robbed so often. During the first 6 months of 1971 robberies were up 17%, aggravated assault—8%, and murders—11%. It is in these three categories of crime that guns are most commonly used.

Obviously, an orderly society is impossible without adequate and efficient policemen and statutes which are to be enforced.

The Fraternal Order of Police feels that a series of measures should be enacted by the Federal Government to make police work more attractive and safe. One of these measures is the Amendment to the Gun Control Act of 1968. I don't think I need to emphasize that all crime is, in reality, interstate in character.

In the commission of violent crimes we find that weapons—to wit: guns—are used between 65% and 70% of the times. The *Uniform Crime Report—Crime in the United States*, published annually by the Justice Department, indicates the tremendous percentage of increase in violent crimes and the use of weapons in the same. From 1960, to 1969, 561 law enforcement officers were killed in the line of duty and firearms were used in 96 percent of these incidents.

I need not point out to you that the death of a police officer is a financial burden upon the community as the funds invested in his training, etc. are lost completely and a replacement must be trained and schooled. Nor need I tell you that the overwhelming majority of policemen are family men. Nor do I need to emphasize that the death of a policeman or law-abiding citizen results in nearly every instance with the most serious consequences to his widow and children; to say nothing of the grief and sorrow they undergo. To quote F.B.I. Director, J. Edgar Hoover, "When a law enforcement officer dies at the hands of a killer, part of our system of law dies with him."

Permit me to quote the words of Detective Harry Koch, of the Maricopa County, Arizona, Sheriff's Office, who wrote: "A Part of America Died . . .

Somebody killed a policeman today
And a part of America died . . .
A piece of our country he swore to protect
Will be buried with him at his side.

The best that he walked was a battlefield, too,
Just as if he had gone off to war;
Though the flag of our nation won't fly at half-mast
To his name they will add a gold star.

The suspect who shot him will stand up in court
With counsel demanding his rights,
While a young, widowed mother must work for her kids
And spend many long, lonely nights.

Yes, somebody killed a policeman today . . .
Maybe in your town or mine,
While we slept in comfort behind our locked doors
A cop put his life on the line.

Now his ghost walks the beat on a dark city street,
And he stands at each new rookie's side;
He answered the call . . . of himself gave his all,
And a part of America died . . ."

We, in law enforcement, feel the restriction on the availability of inexpensive, small calibre handguns would be beneficial to law enforcement and society in general. I could cite example after example in which the small calibre, domestic handgun—the so-called "Saturday Night Special"—has been used in crimes of violence and the victims were honorable individuals living within the legal framework of society.

Reasons for the use of this type of weapons are obvious—the gun is inexpensive, easily obtained, easily concealed and it is lethal. The weapons are sold, with no questions asked, to non-residents, criminals, and immature juveniles.

Previous testimony before Committee hearings has called for the Gun Control Act to "prohibit the domestic production of these junk guns."

I believe that Congress must act—must act upon this Amendment without delay—before the incidents of criminal misuse of these guns reaches astronomical proportions.

I need not tell the members of this Committee that we are engaged in a war with crime, a war which we are losing. Adequate and efficient police forces are not the only necessity in the fight against crime. The Fraternal Order of Police feels that the whole field of criminal law must be intelligently and thoughtfully worked over so that the criminal may not spend months or years awaiting trial after committing lawless acts; meanwhile committing other crimes. Liberal judicial trends have a "demoralizing effect" on law enforcement. It is disconcerting to know that you have arrested a violent criminal and meet him coming down the street. We feel that the courts must face reality and realize what a cancer crime has come to be to the country as a whole.

First steps first—that is why we, on behalf of the Fraternal Order of Police and its National President John J. Harrington, urge the passage as quickly as possible of this amendment which would assist toward the objectives we all seek—a stable, orderly and prosperous society.

Gentlemen of the Congress, I sincerely appreciate the opportunity to appear before you and ask your most serious and sincere deliberations.

Thank you.

TESTIMONY BY WILLIAM L. CAHALAN, PROSECUTING ATTORNEY, COUNTY OF WAYNE, AND SECRETARY, NATIONAL DISTRICT ATTORNEYS' ASSOCIATION

Today I am here in two capacities: as Prosecuting Attorney of Wayne County, Detroit, Michigan and representing the National District Attorneys Association. In both capacities I urge the speedy adoption of this proposed legislation to prohibit the manufacture and sale of the cheap, poorly constructed handgun commonly referred to as the "Saturday night special".

Never in the history of this great country have we failed to meet a crisis head on. Whether it was a war, flood, famine, disease, or any other crisis we have dealt with it with every resource we could possibly use.

The wanton misuse of handguns throughout the United States today is a crisis. It has been a crisis for many years and is becoming more critical every day. For these and many other solid reasons this gun bill should be enacted into law as soon as possible.

The majority of the handguns confiscated by the Detroit Police Department are the so-called "Saturday night specials".

Experience and statistics show that many of the gunmen have used the "Saturday night specials" because they can get them through many illegal sources when it is impossible for them to buy a gun from a regularly licensed gun dealer.

These guns are poorly constructed and inexpensive which generally are more deadly than the well manufactured gun because they do not expel the bullet through the barrel in a true line. Rather, they are so poorly made the bullet tumbles out of the barrel of the gun and inflicts multiple wounds in the victim.

I do not want to in any way convey the impression that the cheap "Saturday night specials" are not all right because they do such a dirty job, and the well manufactured, expensive handguns are all right. I strongly oppose any handgun in the possession of anyone unlicensed to have and carry one.

All of us, citizens, legislators, prosecutors, judges and all members of the law enforcement agencies must recognize the gravity of the gun situation of this country, a real not imagined danger with every single handgun in our nation.

Every law enforcement agency in every corner of this country must pursue all avenues which will meet this crisis caused by the handguns head on.

Citizens particularly must recognize this critical situation. Without community support our laws are of little avail.

We must make clear to all our citizens that there is really no good reason to own a handgun but on the other hand there are many good reasons why no one outside of law enforcement should own one. The public must be made aware of the fact that the possession of a handgun affords him little if any protection against the robber, the burglar or any other wrongdoer. On the other hand the possession of a handgun will increase substantially the danger of being killed or killing, or being injured or injuring. The possession of a handgun is a major factor in the homicide rate between friends, relatives and acquaintances and the vast majority of homicides are committed by friends, relatives and acquaintances.

For those few who are not convinced of the danger of owning and possessing a handgun and have a legitimate reason to own and possess one, they must know the law and comply with it. Those of us in law enforcement must put forth the effort to make sure that they know the law. Those of us in law enforcement must make sure that if they do not comply with the law they shall be punished. In the past many people in law enforcement and members of the judiciary knowing that many usual law abiding citizens occasionally carry handguns in violation of the law for their own protection, have sometimes been tolerant of the infractions of the gun control laws. The crisis is too grave to continue to be tolerant.

Within the next two weeks in the Detroit-Wayne County area a Criminal Justice Coordinating Council will present a three-pronged program on gun control.

First, a public education program is being developed to alert the public to the dangers of owning and possessing a handgun in his home or on his person, and to the fact that handguns provide little protection, if any. The communication media is being asked to lend their support and knowhow in the hope of gaining total community support.

Second, during the public education program a moratorium will be provided during which citizens can turn in unwanted handguns or register and apply for a license for a handgun in those relatively few situations in which the possession of a handgun is wise and lawful.

Third, the Committee will recommend that jail sentences be imposed on any person convicted of a crime in which a firearm is used. It will also recommend a sentence more commensurate with the gravity of the problem when a person is convicted of violating the state gun control laws.

It will not be the intent of the Council to disarm law abiding citizens who qualify and show a real need to have a handgun. Rather it will be an effort to urge community support of effective gun control which will reduce the number of homicides and the number of violent crimes where handguns are involved.

All of us are willing to check our guns at the door if we are sure everyone else will do the same. The time has come to bring the full force of the law to bear to make sure that everyone checks his gun at the door.

I should like to take a minute to show you the reaction of Detroit's Police Commissioner John F. Nichols when one of his officers was shot and killed a few days ago by a $3.50 "Saturday night special" gun. (A film clip is to be shown at this particular stage of the testimony.)

Thank you.

STATEMENT BY JOSEPH P. BUSCH, DISTRICT ATTORNEY OF LOS ANGELES COUNTY

Mr. Chairman, members of the committee, it is an honor to appear here today.

You are addressing yourselves to one of the most difficult areas of law enforcement. As a professional prosecutor who has spent twenty years in law enforcement, I recognize clearly the problem with which you are grappling.

I have always maintained a conservative attitude toward gun control, recognizing all the problems attendant to firearms legislation.

It is also my belief that the only truly effective firearms legislation must come at the federal level. The experience of New York with its Sullivan Law, the experience of California with some of the strictest state laws in the nation indicate that a state by itself cannot control the abuse of firearms.

This is particularly true in the area that you are looking at today: the cheap .22 caliber weapons, the Saturday Night Specials.

Control of these guns must come at the federal level.

When I was invited to appear before this committee, I asked the State Bureau of Criminal Identification and Investigation to crank up its computer and give me information on the number of .22 caliber handguns now in California and the criminal acts in which they have been used.

I should explain that a record of every handgun sold over the counter in California goes to CII in Sacramento and is placed in a computer. Further information which comes to the attention of law enforcement concerning that weapon is also then placed in the computer.

When they began the computer run, CII estimated that perhaps 80,000 to 100,000 .22 caliber weapons were in the computer. After running ten percent of the file, they stopped and called me. From this ten percent run, they were able to project that there are now 1,400,000 .22 caliber handguns in California. The print-out on these guns would take six days and fill up twenty boxes, like the box I have here with me. This box represents five percent of the file.

This figure may place this situation in perspective, as far as California is concerned. When we discuss halting the sale of Saturday Night Specials, we are really discussing cutting off the sources of weapons which already number 1,400,000 in my state. That's one Saturday Night Special for about one out of every fourteen citizens in our state.

I can't see this as a real hardship on anyone except those companies which specialize in making these weapons.

To indicate to you the role that these guns play in the crime problem in California, let me give you these figures.

California law enforcement agencies annually destroy the guns seized by the police from criminals during the course of a year.

In July 1971, the Los Angeles Police Department, the Los Angeles Sheriff's Office and other police agencies in my county destroyed 3,742 handguns seized from criminals. Of these guns, 1,401 or 37 percent were Saturday Night Specials.

These weapons comprise about one-fourth of the total 5,000,000 handguns in California. (We're a well-armed state) Yet, in the City of Los Angeles, they comprise more than forty percent of the handguns used in crimes.

They are crime guns. Last year in the City of Los Angeles, 719 such guns were used in robberies. Up to August of this year, 483 robberies were committed with such weapons.

I am sure you know why they are used. They are cheap and they are easily concealable.

The samples which I have brought to you today come mainly from narcotics dealers. In the past few years, we have experienced a tremendous rise in violence in the illicit narcotics traffic in our state. It is rare that we arrest a narcotics trafficker who is not armed. And, they are frequently armed with the weapons we are discussing today.

A survey of three outlets for such weapons in Los Angeles show current sales running at twenty, forty, and sixty guns a month—guns which have no sporting purpose and are only good for shooting people.

A company in my county manufactures these short barrel .22 caliber weapons. We were not able to obtain production figures for you, however, since no local, state or federal agency maintains any records on the production of handguns in California. This is another area which the committee may want to inspect.

You may have seen similar weapons before, but I brought with me some .22 caliber weapons which have been seized by the police from criminals. Those on my left are foreign imports which are now barred by federal law from our country. Those on my right are American made and may be sold here. They are virtually identical.

It was this type of weapon—an Iver Johnson Cadet .22 caliber—which was used by Sirhan Sirhan to kill Senator Robert Kennedy in Los Angeles. Other .22 caliber weapons were used by the Manson family in two of their murders.

I mention these to you as two well known cases involving such guns. For each of these there are a hundred more that never receive notice. I have some pictures here of two of these other murders and I present them to you to illustate the havoc that these small weapons can wreak.

These two murders were committed in a three day period by an eighteen year old who is on Death Row in San Quentin. The first involved a hitch-hiker. The second involved an elderly part-time liquor store clerk.

These pictures really represent the basic reason that I am here and that I am supporting a ban on these weapons. Too many of these weapons are used in this type of crime.

I am aware that there is another proposal now being drafted to take other steps to control these weapons.

Since S. 2507 is currently the only bill before the Congress to halt the sale of short-barreled .22 caliber weapons, I heartily endorse S. 2507 as a most necessary measure to protect the citizens of our nation.

I do not see how legitimate concern over citizens' access to sporting firearms can be extended to cover the types of weapons which I have here.

Action to remove such weapons from the market seems to be completely consistent with federal actions in other areas to ban dangerous objects or substances from public sale.

Thank you for the opportunity to appear here today to express my opinion on this critical topic.

STATEMENT BY MR. QUINN TAMM

Mr. Chairman and Members of the Subcommittee:

My name is Quinn Tamm and I am the Executive Director of the International Association of Chiefs of Police.

I appreciate this opportunity to testify regarding Senate Bill 2507 and related matters on behalf of the police executives who constitute a major part of our 8500 members.

The International Association of Chiefs of Police has since its founding in 1893 been vitally concerned with the easy accessibility of firearms to the criminal. Shortly after the turn of the century—in 1908—IACP membership enacted a resolution calling for uniform laws governing the sale and use of dangerous and deadly weapons.

In 1922, a major resolution was adopted calling for more stringent regulations concerning the distribution of firearms and the licensing of sellers. It was recommended that individual owners be required to obtain permits.

In 1925, it was again observed that the carrying of small firearms by unauthorized persons constituted a menace to law abiding citizens in their persons and property and the request was made for more restrictive licensing procedures.

In 1937, IACP membership commented on the need for further Federal legislation with respect to pistols and revolvers and observed at that time that most of the murders and other crimes of violence and voluntary homicide were committed with handguns. It called for appropriate legislation to arrest traffic in and transportation of pistols and revolvers.

In 1966, a resolution was adopted urging additional Federal legislation designed to promote more effective gun control. Although most of the provisions of that resolution were included in the Omnibus Crime Control and Safe Streets Act of 1968, it has relevance to the deliberation of this Committee. For that reason I would like to read major portions of the resolution into the record.

"Whereas, there is in the United States a widespread traffic in firearms moving in or otherwise effecting interstate or foreign commerce, and the existing Federal controls over such traffic do not adequately enable the states to control the firearms traffic within their own borders through the exercise of their police power;"

"And recognizing, that the ease with which any person can acquire firearms (including criminals, juveniles without the knowledge or consent of their parents or guardians, narcotics addicts, mental defectives, armed groups who would supply the functions of duly constituted public authorities, and others whose possession of firearms is similarly contrary to the public interest) is a significant factor in the prevalence of lawlessness and violent crime in the United States;"

"That the possession and use of firearms by those engaged in crime and lawless activities aids in the carrying out of such activities and greatly magnifies the tragic and serious consequences thereof;"

"That the acquisition on a mail order basis of firearms by nonlicensed individuals, from

a place other than their state of residence, has materially tended to thwart the effectiveness of state laws and regulations, and local ordinances;"

"That the sale or other disposition of concealable weapons by importers, manufacturers, and dealers holding Federal licenses, to nonresidents of the state in which the licensee's place of business is located, has tended to make ineffective the laws, regulations, and ordinances in the several states and local jurisdictions regarding such firearms;"

"That the United States has become the dumping ground of the castoff surplus military weapons of other nations, and that such weapons, and the large volume of relatively inexpensive pistols and revolvers (largely worthless for sporting purposes), imported into the United States in recent years, have contributed greatly to lawlessness and to the Nation's law enforcement problems;"

"That there is a causal relationship between the easy availability of firearms and juvenile and youthful criminal behavior, and that firearms have been widely sold by Federally licensed importers and dealers to emotionally immature, or thrill-bent juveniles and minors prone to criminal behavior. . . ."

The provisions of the Omnibus Crime Control and Safe Streets Act of 1968 provided adequate controls over import and distribution and thus reduced possession of low quality handguns of foreign manufacture. It, however, does not provide adequate controls over the distribution of such handguns of domestic origin.

It is obvious from the resolutions I have cited that the nation's police officers have always had a great concern for the availability to the criminal of firearms.

Originally, this concern was born of police responsibility for preventing or investigating incidents in which firearms were illegally used.

More recently a new dimension has been added, for the police officer has himself been the frequent object of violence committed by the use of handguns.

On July 1, 1970, it had become obvious that assaults on police officers were becoming more frequent and that adequate data were not being collected on a structured basis regarding such assaults. Under a grant from the Law Enforcement Assistance Administration a Police Weapons Center was established within the IACP (I might parenthetically add that on April 30th of this year the grant from LEAA expired, application for its renewal was rejected and the IACP is now adequately financing its continuation).

As a part of the activities of the Police Weapons Center, we began to collect and disseminate specific and detailed information concerning assaults on police officers and resultant injuries and fatalities.

It should be of interest to this Committee that from July 1, 1970, through August 31, 1971, 119 American police officers were killed and 2,126 were injured by criminal assaults. It is also relevant to your deliberation that 78 of the 119 police officers killed were murdered with a handgun and that the injuries sustained by 301 of the 2,126 officers were inflicted with a handgun.

The conclusion is avoidable, I am convinced, that the ready accessibility of handguns constitutes a threat, both the citizen and more specifically to the police officer. While it would be of minor interest to a policeman assaulted with a handgun whether the weapon was of high or low quality, legislation designed to control the "trash weapon" or "Saturday night special" would reduce greatly the number of weapons available for illegal use.

I urge the Sub-Committee's favorable consideration of this Bill.

Again, I am honored and grateful to have had the opportunity to appear before this Committee.

If there are any questions, I should be happy to answer them.

THE ILLEGAL POSSESSION OF HANDGUNS IN THE DISTRICT OF COLUMBIA

Mr. BAYH. Mr. President, an excellent article written by Paul Valentine and published in the Washington Post of November 5, 1971, reports the final results of a Metropolitan Police Department study regarding the disposition of arrests for carrying a pistol without a license in violation of the misdemeanor portion of the District of Columbia Code. In testimony before the Subcommittee on Juvenile Delinquency on September 13, 1971, Geoffrey Alperin, general counsel to the Metropolitan Police Department, speaking on behalf of Chief Jerry V. Wilson, indicated that upon completion of the department's gun survey, it would be made available to the subcommittee. The completed survey has now been incorporated in the hearing record on "Saturday Night Special" handguns.

The survey found that 45 percent of the cases reviewed never reached a judge. Of the cases in which convictions were obtained, 66 percent resulted in simple fines, suspended sentences, or probation. In fact, a person arrested for carrying a pistol without a license has better than a five out of six chance of escaping any incarceration at all. But even more frightening is the fact that 379 people were arrested in just 3 months in Washington for carrying unlicensed pistols.

These findings distress me deeply. They show that there must be thousands of people walking the streets of Washington with concealed murder weapons. What is so alarming about the widespread illegal possession of these weapons is not just the crime of possession, but all the other crimes that such possession make possible—crimes like murder, manslaughter, armed robbery, rape, and assault with a deadly weapon.

The seriousness of the problem of illegal possession cannot be taken lightly, because of the close relation between possession and the commission of violent crime. The ready availability of handguns is one of the contributing factors to the high crime rate which plagues our Nation's Capital and every other city, town, and village in this country. As long as any thug or hoodlum can buy a "Saturday Night Special" for less than $10 and walk the streets with his cheap gun, every American must fear for his life, for his safety, and for his property.

I am deeply concerned that those responsible for administering the criminal justice system are not sufficiently aware of the seriousness of the threat posed to the safety of our citizens by the inadequate enforcement of existing gun control laws. I urge law enforcement officials and judges across the country to prosecute these offenders more diligently and to punish those who are convicted more severely. Until these criminals realize that they cannot escape with a mere fine or suspended sentence, they will continue to violate even those meager gun laws that now exist.

Even with improved enforcement, we will still be faced with thousands of gun-related crimes of violence each year. I am convinced that we must make greater efforts to reduce crime in this country by eliminating the availability of cheap handguns to the public. I have introduced legislation to prohibit the sale of "Saturday night specials," those cheap handguns which have no sporting purpose and which are used in the great majority of violent crimes throughout the United States. There is widespread support for my bill among law enforcement officials who are daily faced with the destruction these guns cause when they are used by ruthless, hardened criminals. I have heard testimony from scores of witnesses in hearings before the Subcommittee on Juvenile Delinquency that such legislation is urgently needed. I hope that my colleagues in the Congress will act quickly to adopt this vital measure so that we can get crime guns off our streets and out of the hands of criminals.

Mr. President, I ask unanimous consent that the firearms survey submitted to me by the District of Columbia Metropolitan Police Department and the article written by Mr. Valentine be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GOVERNMENT OF THE
DISTRICT OF COLUMBIA,
METROPOLITAN POLICE DEPARTMENT,
Washington, D.C., October 29, 1971.

LAWRENCE SPEISER, Esq.,
Staff Director and Chief Counsel, Senate Judiciary Subcommittee To Investigate Juvenile Delinquency, Washington, D.C.

DEAR MR. SPEISER: Pursuant to the Subcommittee's request, we have enclosed the final statistical results of our study of persons arrested for carrying a pistol without a license, in violation of the misdemeanor portion of District of Columbia Code, sec. 22-3204, during the months of July, August and September 1970.

The study originally contained 379 cases. However, included in that figure were 10 cases which were still pending as of October 22, 1971, and 8 cases for which the court or prosecutor's files could not be located. Thus, the figures and percentages which follow are based on a total of 361 cases, all of which have been rechecked and verified. As a result of the statistics disclosed by the study, indicated in the enclosure, we have reached the following conclusions:

1. Of the 361 verified cases reviewed in the study, only 54 persons (or 15%) were incarcerated for any length of time at all. It is therefore apparent that our preliminary estimate—that a person arrested for violation of the misdemeanor portion of the statute during those months had a two out of three chance of not receiving a single day in jail—was significantly understated. In fact, such a person had better than a five out of six chance of escaping any incarceration at all.

2. One hundred and sixty-two of the 361 cases (or 45%) never reached a judge, but were either not initiated ("no papered") or nolle prossed by the prosecutor. Many factors may be reflected in this statistic; for example, close questions of search and seizure, failure of civilian witnesses to appear when called, bargained pleas in other pending cases, problems of determining possession in multiple defendant cases, questionable prosecutorial discretionary decisions, and others. Nevertheless, the fact that 45% of such cases did not reach a judge is distressing.

3. Of the 199 cases which did reach the court, there were 157 convictions (79% of the cases actually disposed of by the court), either by plea of guilty or verdict of guilty after trial. The 42 cases not resulting in conviction included 17 dismissals by a judge and 25 acquittals. Thus, the conviction rate of those cases actually being decided in court seems satisfactory.

4. Of the 157 convictions, 103 (66% of the convictions) resulted in a sentence of a simple monetary fine, suspended sentence or probation. This extraordinary statistic may be the chief reason why carrying a pistol without a license is not viewed throughout the criminal justice system as a serious crime. The fact of the matter is that a person *actually convicted* (not merely arrested) under the misdemeanor portion of the statute during the months of the study had a two out of three chance of not receiving a single day in jail. As indicated above, when all arrests under the misdemeanor section of the statute are considered, the chances of not being imprisoned at all are better than five out of six.

We hope that this study will be of assistance to the Subcommittee in its work, and if we may be of further aid, please do not hesitate to advise.

Sincerely,

GEOFFREY M. ALPERIN,
General Counsel.

DISPOSITIONS OF CASES IN WHICH VIOLATION OF DISTRICT OF COLUMBIA CODE § 22-3204—MISDEMEANOR—WAS CHARGED DURING JULY, AUGUST, AND SEPTEMBER 1970

A. Total cases studied	379
Exclusions:	
1. Still pending as of 10/22/71	10
2. Court or prosecutor's files not located	8
Total	18
Total cases studied and verified	361
B. Dispositions—Cases disposed of without court action:	
1. No papered or nolled prossed by prosecutor	162
Cases disposed of by court action:	
1. Dismissed by court	17
2. Defendant acquitted	25
3. Defendant convicted	157
Total dispositions	361
C. Sentences of convicted defendants—imprisonment:	
1. Straight imprisonment	38
2. Fine or imprisonment (counted here as imprisonment)	16
Total imprisoned	54
No imprisonment:	
1. Fine only	11
2. Probation	92
Total not imprisoned	103

MANY CHARGED, FEW JAILED IN GUN CASES
(By Paul W. Valentine)

Nearly two-thirds of all persons convicted of carrying illegal handguns—many of them cheap "Saturday night specials" used in homicides and assaults here—do not go to jail for the offense, a metropolitan police survey suggests.

In a nutshell, the survey says: If a suspect is arrested, he stands a good chance of not going to court in the first place because the prosecutor will drop the case before trial time. But if he should be tried and convicted, he's more likely to be fined or receive probation than go behind bars.

"I think this shows that some judges and prosecutors just don't view CDW (carrying a dangerous weapon) as a serious offense," Geoffrey M. Alprin, police department general counsel, said yesterday.

He acknowledged that the U.S. attorney's office may drop some cases because of weak evidence supplied by police or "close questions" about the legality of police search and seizure practices.

The survey results, submitted this week on request to the Senate Judiciary Subcommittee to Investigate Juvenile Delinquency, come amid a rash of slayings in the city, most of them committed with handguns. There have been 236 homicides so far this year, surpassing last year's total of 230 and approaching the record high of 292 in 1969.

The police survey covers all suspects arrested on the charge of carrying an illegal or unlicensed pistol in Washington during the 92-day period from July 1 through Sept. 30, 1970.

A total of 379 persons were arrested during that period, an average of more than four arrests a day. Ten of 379 cases are still awaiting disposition and the files on eight more could not be located, leaving 361 verified cases, the survey reported.

Of that total, 162 (45 per cent) were dropped by prosecutors before any court action was taken. The remaining 199 went to trial. The vast majority of those, 157 (79 per cent) ended in convictions; 17 others were dismissed by the court and 25 resulted in acquittals.

Among the 157 suspects convicted, according to the survey, 54 were given prison sentences, while 92 were placed on probation and 11 were fined.

"This extraordinary statistic," wrote Alperin in an Oct. 29 letter to the subcommittee, "may be the chief reason why carrying a pistol without a license is not viewed throughout the criminal justice system as a serious crime."

At another point, he acknowledged the high number of cases dropped by the prosecutor's office at the pretrial stage.

"Many factors may be reflected in this statistic," he said, such as "close questions of search and seizure, failure of civilian witnesses to appear when called, bargained pleas in other pending cases, problems of determining possession in multiple defendant cases, questionable prosecutorial discretionary decisions and others."

Nevertheless, he added, "the fact that 45 per cent of such cases did not reach a judge is distressing."

The survey covered persons arrested only on the misdemeanor charge of carrying a dangerous weapon. The CDW charge becomes a felony if the arrested person is found to have a prior felony or narcotics conviction in his record. Alprin said this comprises a relatively small category of suspects and was not included in the survey.

Sen. Birch Bayh (D-Ind.), chairman of the Subcommittee, introduced a bill in September to ban the manufacture or sale of small, inexpensive handguns, called "Saturday night specials" by police. The guns are among the most common found in homicide, assault and CDW arrests here, police say.

The pistols are often of foreign origin and made of low grade materials, retailing for $5 to $20 in Washington compared to $50 or more for "safer" standard American makes, police say.

The Saturday night special is a "low quality, inaccurate and dangerous weapon (which) has absolutely no redeeming values," Police Chief Jerry V. Wilson testified Sept. 13 in support of Bayh's bill.

The measure would amend the 1968 Gun Control Act by prohibiting the sale or manufacture of handguns that do not meet certain quality standards in material, design and engineering precisions. The standards would permit the continued sale of most established American brand name sports pistols.

THE SENATE SHOULD TAKE A FIRST STEP TO MEET THE CRISIS OF DRUG ADDICTION

Mr. BAYH. Mr. President, in any listing of national priorities the insidious problems of drug addiction and drug abuse must rank near the top. In recent months much has been said regarding these critical matters, but to date little has been accomplished.

Today, I wish to commend Congressman EDWARDS and his colleagues in the House of Representatives who by vote of 354 to 0 passed H.R. 9293, amendments to the Narcotic Rehabilitation Act.

On June 24, 1971, I introduced with the Senator from Nebraska (Mr. HRUSKA) an identical measure, S. 2140. This bill would expand treatment under the Narcotic Addict Rehabilitation Act of 1966 to include methadone maintenance for narcotic addicts committed for hospitalization and aftercare.

The Narcotic Addict Rehabilitation Act was enacted by the 89th Congress in response to the narcotic problem in this Nation during the mid-1960's. The act embraces the view that narcotic addiction is a disease that should be treated rather than viewed as a matter for punitive penal action. Its declaration of purpose in favor of civil commitment for treatment, in lieu or prosecution or sentencing, was a legislative landmark—a turning point in the Federal approach to drug addiction.

The amendment to the act which the distinguished Senator from Nebraska and I introduced would expand the treatment modalities under this landmark program to include methadone maintenance. This would be accomplished by amending the definition of the word "treatment" wherever it appears in the act to include treatment which not only aims at terminating addiction, but also seeks to control addiction. Enactment of my bill would make available an additional component thereby enhancing the quality of the NARA program which currently includes detoxification, withdrawal and abstinence, therapeutic community programs, individual psychotherapy, counseling, vocational guidance, job training, and other essential supportive services.

There are no simple solutions to the epidemic of narcotic addiction that this Nation is experiencing. There are no panaceas—no magic wands. But when it comes to treatment for addicts, the least we should require is that a Federal program be truly comprehensive; namely, that it meets the needs of all addicts, including those who would benefit from methadone maintenance.

Although there has been no single satisfactory method developed for treating all narcotic addicts, methadone maintenance has been established as a relatively effective means of treatment for selected groups. It should be clear, however, that it is not a solution to every or even most forms of narcotic addiction.

Methadone is a narcotic similar to heroin and morphine. Methadone maintenance does substitute one form of addiction for another. Methadone may be abused. Therefore, under any circum-

stance, it should be rigidly controlled and its distribution limited to chronic addicts: those who have had primary addiction to heroin for a number of years; who have had previous failures with other modes of treatment; and who are willing to consent to long-term participation in a program. This is not a program for young people only marginally involved with narcotics or those addicts who succeed under the more traditional rehabilitation programs.

It is methadone blockage of the craving for heroin and the subsequent stabilization of the chronic addict which permits him to concentrate on rehabilitative efforts which other addicts may be able to pursue without maintenance. Perhaps for this group methadone may be the only feasible alternative. It is this proposition that I feel deserves considerable attention.

But methadone maintenance should not block or "smoke-screen" the effects of drug addiction on our society and the social conditions, such as racism, despair, and poverty, that spawn drug addiction. Methadone maintenance should not provide a "fix" for a complex social, political, medical, and psychological problem.

This amendment would establish methadone maintenance as a complement to other facets of treatment under NARA. Although its role should be a limited one, it could provide a useful tool in the arsenal of weapons in our fight against this pestilence—narcotic addiction.

Our colleagues in the House have acted expeditiously to assure that the full spectrum of addiction treatment is made available to those addicts who are subject to Federal control and jurisdiction. I urge Senators to follow the leadership of the House of Representatives in this matter and vote for passage of my bill, S. 2140.

CONFIRMATION OF SUPREME COURT NOMINATIONS

Mr. BAYH. Mr. President, on Friday I invited the attention of the Senate to a memorandum on the role of the Senate in the confirmation of nominations to the Supreme Court, which the Senator from California (Mr. TUNNEY) and I had received from three distinguished scholars at Stanford University. Unfortunately, that document was inadvertently omitted from Friday's RECORD. I ask unanimous consent that it be printed in today's RECORD, instead.

I take this opportunity to read once again the memorandum's conclusion.

First, it is the Senate's affirmative responsibility to examine a nominee's political and constitutional philosophy, and to confirm his nomination only if he has demonstrated a clear commitment to the fundamental values of our Constitution—the rule of law, the liberty of the individual, and the equality of all persons.

Second, the Senate should consider a nominee, not in isolation but in the context of the President's other nominations, past and promised; and that the Senate performs a proper constitutional role in preventing the Chief Executive from distorting the Court in his own image.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON THE ROLE OF THE SENATE IN CONSIDERING THE PRESIDENT'S NOMINEES FOR APPOINTMENT TO THE SUPREME COURT OF THE UNITED STATES

To: Senator Birch Bayh, and Senator John V. Tunney.

From: Paul Brest, Assistant Professor of Law, Stanford University; Thomas C. Grey, Assistant Professor of Law, Stanford University; Arnold M. Paul, formerly Professor of History, Michigan State University.

This Memorandum considers the proper scope of the Senate's inquiry into the political and constitutional philosophy of a nominee for appointment to the Supreme Court of the United States. Our conclusion, briefly, is that although a nominee's experience, legal ability, and personal integrity are necessary conditions for his confirmation to the Supreme Court, they are not—and they have never been considered—sufficient conditions. We believe:

First, it is the Senate's affirmative responsibility to examine a nominee's political and constitutional philosophy, and to confirm his nomination only if he has demonstrated a clear commitment to the fundamental values of our Constitution—the rule of the law, the liberty of the individual, and the equality of all persons.

Second, the Senate should consider a nominate, not in isolation, but in the context of the President's other nominations, past and promised and that the Senate performs a proper constitutional role in preventing the Chief Executive from distorting the Court in his own image.

We return to these conclusions and the analyses supporting them in Part III of this Memorandum. In Part I we examine the relevant history surrounding the adoption of Article II, section 2, clause 2 of the Constitution: "The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court. . . . " In Part II we survey the Senate's own precedents in exercising its constitutional responsibility of confirmation.

We have prepared this Memorandum during the week following October 21, 1971, for the purpose of addressing a principal issue raised by the President's Supreme Court nominations of that date. The Memorandum states as accurately and fairly as we can, within quite stringent limitations of time, our conclusions concerning the historical and constitutional role of the Senate in the appointment of Supreme Court Justices. In that sense, it *is* a memorandum, rather than a partisan brief. However, we are frank to say that, based upon the information we presently have regarding the views of one of the President's nominees, we personally would oppose his confirmation under the criteria developed herein.

Much of the research for this Memorandum was done by the following students at the Stanford Law School, to whom we are greatly indebted: Jeff Coleman, Susan Cooper, Ron Fujikawa, Mick Goldstein, Joan Gottschall, Mary O'Hara, Ron Oster, Ken Philpot, Mary Lou Randol, Robert Spanner, Dave Stegall, and Victor Vilaplana.

I. THE ORIGINAL HISTORY

The proceedings of the Constitutional Convention make clear that the Senate was intended to serve an active role in reviewing presidential nominations to the Supreme Court.

Debate over the method of appointment of Supreme Court Justices focused on two alternative schemes: appointment exclusively by the Senate and appointment exclusively by the Executive. The chief argument in support of Senate appointment was the unacceptability of the alternative. Allowing the Executive to appoint the Justices would vest it with excessive power; it would seem to be "leaning too much toward Monarchy."[1] Additionally, it was contended that the Senate, "being taken from all the States, would be best informed of the characters and most capable of making a fit choice."[2] [T]he judges ought to be diffused, which would be more likely to be attended to by the 2d branch, than by the Executive."[3] The Senate "would be composed of men nearly equal to the Executive and would of course have on the whole more wisdom. They would bring into their deliberations a more diffusive knowledge of characters. It would be less easy for candidates to intrigue with them, than with the Executive. . . ."[4]

Against the concern of an excessive concentration of power in the Executive, it was argued that "if the Executive can be safely trusted with the command of the army, there cannot surely be any reasonable ground of Jealousy in the present case,"[5] and that there was advantage in appointment "by a single, responsible person."[6] The argument that the Senate would have better knowledge of the candidates was countered by the assertion that "The Executive in the necessary intercourse with every part of the U.S. required by the nature of his administration, will or may have the best possible information."[7] And where those favoring appointment by the Senate argued that the Executive "will be more open to caresses & intrigues than the Senate,"[8] the opposition argued that the Senate was more subject to "intrigue, partiality, and concealment."[9]

These arguments were renewed each time the issue came before the Convention. The earliest proposal for selection of the Justices was incorporated in the Virginia Plan, introduced on May 29. The plan provided that members of the "National Judiciary . . . be chosen by the National Legislature."[10] As amended to vest the power of appointment in the Senate rather than the full legislature, this proposal was to remain in the working draft of the Constitution throughout much of the Convention and carry into the draft reported by the Committee on Detail.

The compromise embodied in Art. II, § 2, cl. 2 of the Constitution was first proposed by Alexander Hamilton on June 5.[11] However, one week later, acting as a committee of the whole, the Convention approved a motion that the Justices "be appointed by the second branch of the national legislature."[12]

On June 18, motions calling for Executive appointment of the Justices, and for Executive nomination subject to Senate approval, were both defeated, the latter by a tie vote.[13] The matter was put over. When it was taken up again three days later, the Convention again rejected (6 to 3) a proposal for Executive nomination subject to Senate approval, and voted by the same margin to retain "the clause as it now stands by which the Judges are to be appointed by the 2d branch."[14] This procedure was retained in the draft reported by the Committee on Detail on August 6.[15]

The matter came up again briefly on August 23 and 25 only to be postponed and referred to the Special Committee on Postponed Matters (or the Committee of Eleven).[16] It was between August 25 and September 4 that the final compromise was worked out: on September 4, the Committee reported the procedure presently embodied in the Constitution; and three days later the Convention adopted it, no one voting against.[17]

This last vote, as Professor Charles Black has written, "must have meant that those who wanted appointment by the Senate alone—and in some cases by the whole Congress—were satisfied that a compromise had been reached, and did not think the legislative part in the process had been reduced to the minimum. The whole process . . . suggests the very reverse of the idea that the Senate is to have a confined role."[18]

The ratification debates add little to what was said at the Philadelphia Convention on this question. However, the *Federalist* papers Nos. 76 and 77—even though written by Hamilton, who consistently favored a powerful Executive—indicate an active and independent role for the Senate. The Senate, he wrote in No. 76, would reject nominations where there are "special and strong reasons for the refusal." The Senate's power of review

". . . would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view of popularity. In addition to this, it would be an efficacious source of stability in the administration.

It will readily be comprehended, that a man who had himself the sole disposition of offices, would be governed much more by his private inclinations and interests, than when he was bound to submit the propriety of his choice to the discussion and determination of a different and independent body, and that body an entire branch of the legislature. The possibility of rejection would be a strong motive to care in proposing. The danger to his own reputation, and, in the case of an elective magistrate, to his political existence, from betraying a spirit of favoritism, or an unbecoming pursuit of popularity, to the observation of a body whose opinion would have great weight in forming that of the public, could not fail to operate as a barrier to the one and to the other. He would be both ashamed and afraid to bring forward, for the most distinguished or lucrative stations, candidates who had no other merit than that of coming from the same State to which he particularly belonged, or of being in some way or other personally allied to him, or of possessing the necessary insignificance and pliancy to render them the obsequious instruments of his pleasure."[19]

In Number 77, Hamilton responded to the argument that the Senate's power to refuse confirmation would give it an improper influence over the President:

"If by influencing the President be meant *restraining* him, this is precisely what must have been intended. And it has been shown that the restraint would be salutary. . . ."[20]

The Federalist thus supports the Convention debates in speaking strongly for the Senate's independent consideration of nominees for the Court. And, as Professor Black writes, there is no indication in these writings "that the Senators may not or ought not, in voting on a nominee, take into account anything that they, as serious and public-spirited men, think to bear on the wisdom of the appointment. . . . Is a Senator's belief that a nominee holds skewed and purblind views on social justice not a special and strong reason [to deny confirmation]? Is it not as special and strong as a Senator's belief that an appointment has been made from a view to popularity—a reason which by clear implication is to suffice as support for a negative vote?"[21]

II. SENATE PRECEDENT

In the following pages we outline and summarize the Senate's own precedents with respect to the confirmation of nominees to the Supreme Court. We divide this history into three periods: the nineteenth century; the first half of the twentieth century; and the past two decades.

Two general conclusions, which we amplify below, emerge from an examination of 170 years of Senate practice:

1. There has never been a time when a nominee's social and political viewpoints were not generally considered relevant to his suitability for appointment to the Supreme Court; and

2. Those Senators who have urged considering and have considered a nominee's substantive views come from no one political camp: they span the range from Whig to Democrat, Republican to Progressive, liberal to conservative.

A. The 19th century

During the nineteenth century, the Senate refused to confirm twenty-one nominees to the Supreme Court. With only several possible exceptions, Senate rejection of the nominees was grounded in the nominees' political views. What is most striking about the precedents of this period, compared to the twentieth century, is that the confirmation battles focused as much on the nominees' partisan political affiliations as on their constitutional philosophies—although these generally were more closely intertwined then than they are today. Many of those rejected on these grounds were men of unquestioned personal integrity and high legal qualifications.[1]

While John Rutledge's nomination for Chief Justice was pending before the Senate in 1795—

"Facts became known as to his political views which . . . aroused the most bitter and determined opposition to his appointment. The Jay Treaty had been ratified by the Senate on June 24, and owing to the violent revolt against its terms by the anti-British faction in this country, support of the treaty was regarded by Washington's adherents as the touchstone of true Federalism. When, therefore, towards the end of July on the arrival of Charleston newspapers at the North, the Federalists were informed that the new Chief Justice, on July 16, before receipt of his appointment, had delivered an address violently attacking the Jay Treaty, they were surprised and indignant. . . . The excited political situation was such that . . . rejection by the Senate was certain, and it was accomplished by a vote of ten to fourteen, as soon as that body convened.[2]

With the action on Rutledge, "The Senate thus established a precedent of inquiring into the political views and ideas of persons nominated for public office and of rejecting a nominee whose views do not correspond to those of the majority of the Senate."[3]

In 1811, the Senate rejected James Madison's nomination of *Alexander Wolcott* to the Supreme Court because of Senate opposition to Wolcott's vigorous enforcement of the Embargo and Non-intercourse Acts when he was Connecticut's collector of customs.[4] And in 1829, a Democratic Senate rejected John Quincy Adams' nomination of John J. Crittenden because he was too closely identified with Adams' Whig politics.[5]

In 1835, Andrew Jackson nominated his former Attorney-General and Secretary of the Treasury, *Roger Taney*, an Associate Justice. "For the past two years, a storm of partisan passion had raged over the removal of government deposits from the United States Bank, ordered by Jackson and carried out by Taney," and for this reason the Senate rejected the nomination.[6]

A year later, Taney was re-nominated for Chief Justice and, after a fierce political battle, was confirmed 29 to 15. The Whig opposition did not need to consider Taney's personal views; his party affiliation was a sufficient reason for their rejection of him. But those favoring confirmation urged the Senate to consider Taney's own constitutional philosophy on its merits:

". . . It was undoubtedly true that Jackson would consider only the appointment of a Democrat to fill the vacancy in the position of Chief Justice; and it was natural that he should desire a Democrat in sympathy with his constitutional views, just as President Adams had originally appointed Marshall as a strong Federalist. It by no means followed, as the Whigs seemed to assume, that no consideration should be given to the views of the appointee on the subject of politics, taking politics in its highest and philosophic sense as involving the theories of human rights and the principles of government. Political partisanship should of course be no qualification; but, as a leading paper in the South said: 'It would be indeed strange if, in selecting the members of so august a tribunal, no weight should be attached to the views entertained by its members of the Constitution, or their acquirements in the science of politics in its relations to the form of Government under which we live. We can imagine the horror with which the announcement would be received throughout the country of the elevation of a thorough Nullifier, however able and accomplished and learned, to the chief place in the interpretation of the Constitution. Yet the exclusion of a Nullifier would be the admission of a political, or it may in this sense be called, a party test, and it is one which the country will approve.' The Democratic papers, in fact, demanded that a man should be selected 'whose principles, profession and practice afford a sure guarantee that on all questions involving the power of the government, he will strictly adhere to the letter of the Constitution and faithfully abide by the stern dictates of popular opinion',—a man who would keep pace with the steady progress of publick liberty and popular reform.' "[7]

During the next two decades, nominees for the Supreme Court almost regularly encountered substantial political opposition from one or another quarter. Whigs and Democrats were evenly divided in the Senate, and the issue of states' rights vs. a nationalist philosophy infused much of the debates.

A vacancy on the Court in 1843 "gave rise to a prolonged contest between the Executive and the Senate. The bitter political feud between President Tyler and the Whigs was now at its height."[8] President Tyler nominated *John Spencer*, whom the Senate rejected in 1844. "While the rejection was placed upon high moral grounds, the fact was that it was due solely to Whig politics."[9] Tyler then nominated *Reuben Walworth*, and then, to fill another vacancy, *Edward King*. "The heated contest which had long prevailed between the President and the Whig Senate made it unlikely that his appointments would be confirmed,"[10] and the Senate refused to act on them during the session. Tyler withdrew the nominations and nominated *Samuel Nelson* and *John Read*. The former was confirmed; the Senate adjourned without acting on the latter's nomination.

President Polk nominated *George Woodward* in 1846. "He had become obnoxious, however, to certain elements of the party owing to alleged 'native American sentiments' [and was thought "somewhat radical in his views"]; and for this reason and owing to the opposition of Senator Cameron of Pennsylvania, the Senate rejected the nomination. . . ."[11]

Because of partisan opposition, President Fillmore was unsuccessful in filling the seat left vacant by Justice McKinley's death in 1852. The Senate postponed consideration, then adjourned, without considering either of his successive nominees.[12]

In 1858, President Buchanan nominated *Nathan Clifford* to the Court. "The moment . . . the nomination reached the Senate, it was subjected to the most venomous criticism by the radical anti-slavery men. . . . Nevertheless the Senate confirmed the appointment by the close vote of twenty-six to twenty-three."[13] However, a second Buchanan nominee, *Jeremiah Black* was also opposed by the anti-slavery forces and was rejected in 1861.

In 1869, the number of Justices on the Court was increased giving President Grant

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Footnotes at end of article.

a vacancy to fill. He nominated *Ebenezer Hoar*. The Senate refused confirmation:

"Some Senators believed that a lawyer from the South . . . should have been appointed; others were disgruntled over the nominees recommended by Hoar for Circuit Judges; to many Senators, Hoar's brusque manners had given great offense; other resented his opposition to the Johnson impeachment; others disliked his support of Civil Service Reform. He was supported by Senator Trumbull but opposed by Conkling, Edmunds, Carpenter, by the carpet-bag Senators from the South and by the Democrats. 'In the whole proceedings,' said the *Nation*, 'the Democrats alone can be justified or excused. To them, Judge Hoar is the principal representative of a system they believed to be unconstitutional and outrageous.' " [14]

President Hayes' judicial nominations met with strong Senate opposition. *John Marshall Harlan* was opposed, ironically, because of his one-time opposition to the Reconstruction Amendments.[15] Hayes' nomination of *Stanley Matthews* was pigeonholed by the Senate largely because of Matthews' identification with railroad interests.[16] Matthews, however, was renominated by Garfield, and after fierce political battle, he was confirmed by a margin of one vote.[17]

B. 1900–1950

The Senate debates during the twentieth century generally have a different tenor from those of the nineteenth century. For, as Joseph Norris points out, "the most significant contests over nominations to the Supreme Court since 1900 have occurred over broad political issues, in contradistinction to partisan considerations." [18]

Although opposition to Louis Brandeis, nominated in 1916 by President Wilson, was started in terms of alleged unethical conduct, its true source lay in his social and political views. "It is significant that the opponents of Brandeis elected to base their opposition on charges of this kind rather than state the real reason for their opposition; they regarded him as a dangerous radical. . . . Those who were in charge of the campaign in favor of Brandeis made no mention of his extraordinary record in opposing monopolistic practices; nor did they mention his progressive views, which they recognized would not enlist the support of the conservative Democrats on the Judiciary Committee. Both sides, for different reasons, thus sidestepped the real issues." [19]

Harlan Stone's confirmation was opposed in 1925, largely because of his supposed conservatism. However, the opposion was small, his defenders (which included Progressives) denied that he held those views, and he was confirmed by a large margin.[20] Opposition to *Charles Evans Hughes* in 1930 was stronger. Senator Norris conceded Hughes' extraordinary legal qualifications, but said he would place a man with his economic views and background on the Court.[21] LaFollette similarly "maintained that it was highly important to consider the economic and social philosophy of persons nominated to the Court." [22] And although Senator Borah "conceded that Hughes was a distinguished American of wide reputation, high standing, and acknowledged ability, . . . he said: 'I am only concerned with the proposition of placing upon the court as Chief Justice one whose views are known upon these vital and important questions . . . views which ought [not] to be incorporated in and made a permanent part of our legal and economic system.' " [23]

As Harris concludes:

"The opponents did not hope to defeat the appointment of Hughes, but rather to serve notice that they would scrutinize all appointments to major policy positions and would stand ready to fight the nomination of conservatives. The case is significant because emphasis was placed, not on the ability and qualifications of the nominee, which were conceded, but rather on his economic and political philosophy. Senators Norris, Borah, and LaFollette were right in insisting that this is an appropriate subject for the Senate to consider in passing upon a nominee for the Supreme Court, but they erred in the assumption that because Hughes had been an attorney for large corporations, he was necessarily committed to his clients' philosophy." [24]

In 1930, the Senate refused to confirm *John J. Parker* as a Supreme Court Justice. "The opposition to Parker was based on three contentions: (1) that he favored 'yellow-dog' contracts and was unfriendly to labor; (2) that he was opposed to Negro suffrage and participation in politics; and (3) that the appointment was dictated by political considerations." [25] There was no question as to Parker's legal ability. But "when we are passing on a judge, therefore, we not only ought to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of those qualifications—but we ought to know how he approaches these great questions of human liberty." [26]

Of President Roosevelt's nominees to the Supreme Court, only *Hugo Black* met with any serious opposition. Senator Black was opposed because of his strong support for the New Deal, the issue of his membership in the Ku Klux Klan surfacing significantly only after his confirmation. He was approved by a vote of 66–15.[27] *Felix Frankfurter* was confirmed without dissent, the Republican Senate leader taking the position that Frankfurter's qualifications were so extraordinary as not to call for political opposition.[28] Frankfurther himself, though refusing to testify as to his "personal views on controversial issues before the Court," urged the Judiciary Committee to scrutinize his record; "My attitude and outlook on relevant matters have been fully expressed over a period of years and are readily accessible." [29]

C. The recent experience

The Senate's action during the past two decades confirms and reinforces its historical tradition of scrutinizing the substantive views and constitutional philosophies of nominees to the Supreme Court. As both the public and the Senate have become more accustomed to the fact that a Justice's personal philosophy and views on issues of public policy do affect the way he decides cases, the depth and intensity of Senate concern with the views of candidates has increased. Three of the most recent nominations—those of Abe Fortas to be Chief Justice, and of Clement Haynsworth and G. Harrold Carswell to be Associate Justices—have been rejected by the Senate. In each of these cases, as well as in those where confirmation was given, the views and philosophies of the nominees have played a major and explicit role. Through the course of these controversies, only a handful of Senators have adhered consistently to the view that these factors should play little or no role in the Senate's exercise of its constitutional power of advice and consent.

1. The Eisenhower years

President Eisenhower's second nominee to the Court, John M. Harlan, underwent a searching examination before the Senate Judiciary Committee with respect to his views on such questions as world government versus American sovereignty, foreign treaties, federal-state relations, and other issues likely to be relevant to the decision of cases which would come before the Court.[30] Though no question was raised as to his competence or integrity, four members of the Judiciary Committee voted against recommending Harlan's confirmation, and eleven Senators ultimately voted against confirmation.[31]

William J. Brennan, the next Eisenhower nominee, was searchingly questioned on his views concerning Communism and the propriety and legality of legislative investigations of Communism.[32] And President Eisenhower's last nomination, that of Potter Stewart, was subjected to extended and searching examination and debate, virtually all of which focused on his constitutional views—in particular, his view that *Brown v. Board of Education* had been properly decided. Seventeen votes were cast against Stewart's confirmation.[33]

2. The Marshall nomination

The next Supreme Court nomination to meet opposition in the Senate was that of Thurgood Marshall in 1967. The nominee was questioned at length before the Judiciary Committee, both as to his general philosophy of constitutional interpretation and as to his views on particular issues of constitutional criminal procedure.[34] Members of the Committee asserted not only a right but a duty to discern his positions even on highly particularized issues which might later come before him as a Justice. The viewpoint of several Senators was perhaps best summarized by Senator Ervin:

"The Constitution provides in substance that the President has the power to appoint Supreme Court Justices by and with the advice and consent of the Senate. I believe that the duty which that provision of the Constitution imposes upon a Senator requires him to ascertain as far as he humanly can the constitutional philosophy of any nominee to the Supreme Court." [35]

When the Marshall nomination reached the floor, the substantial number of Senators who spoke against confirmation rested their case almost exclusively on his supposed activist bent. Thus, Senator Holland:

"My first reason for my position and my vote is that I regard Thurgood Marshall as a constitutional ultra-liberal and an activist . . ." [36]

Senator Stennis:

"(T)he nominee must be measured not only by the ordinary standards of merit, training, and experience, but his basic philosophy must be carefully examined." [37]

Senator Byrd of West Virginia:

"I simply cannot bring myself to vote for an individual to be a United States Supreme Court Justice who, by his past record so clearly stamps himself as one who will be an ally to the already top-heavy, ultraliberal and activist bloc on the Court." [38]

Senator Byrd's speech emphasized not only the nominee's own views, but stressed as an additional factor the effect they would have in shifting the balance of the Court as a whole. Senator Thurmond emphasized the latter point:

"This means that it will require the appointment of two additional conservative justices in order to change the tenor of future Supreme Court decisions." [39]

Of the numerous Senators who spoke in favor of Marshall's confirmation, most confined themselves to a defense of the nominee's record and achievements.[40] Others argued that his record of litigation aimed toward expanding the rights of black Americans was a positive factor.[41]

In the end, eleven Senators voted against confirmation, and several others were paired or announced against—all apparently because of opposition to the nominee's substantive views.[42]

3. The Fortas nomination

President Johnson's nomination of Abe Fortas to be Chief Justice of the United States in 1968 provoked the first of the major confirmation fights of recent times. There were, of course, issues involved other than the substantive views of the nominee: the partisan political issue of a "lame-duck" nomination, the propriety of Chief Justice Warren's "conditional resignation", the issue of "cronyism", and the related question of the nominee's role as confidential advisor to the President while sitting as an Associate Justice.

But at least as large as any of these loomed the issue of the nominee's substantive positions on constitutional issues ranging from obscenity to the scope of the privilege against self-incrimination. Our examination of the proceedings indicates that an overwhelming majority of those who addressed themselves to the question believed that the nominee's views and judicial philosophy were relevant to the question of his confirmation. Some 32 Senators, as best we could determine from the Index to the Congressional Record, spoke to the question of the nominee's political and constitutional views. Of those, 14 explicitly stated that those views were relevant and should be discussed. Another 12 discussed and analyzed the nominee's views in explaining their own votes, thus implying that they regarded this as a relevant and proper consideration. Three others stated that the nominee's "qualifications" were relevant to the question of confirmation, but made this point in opposing the consideration of partisan politics or the "lame-duck" issue; they did not imply that a nominee's substantive views on constitutional questions were not part of his "qualifications." Only three Senators, insofar as we could determine, argued that a nominee's constitutional philosophy was not a proper consideration for the Senate. (We have attached as Appendix A a specification of these findings, with references to the Congressional Record and the confirmation hearings before the Judiciary Committee.)

Space permits only a representative sample of statements by Senators to the effect that the nominee's views, philosophy and the substance of his past decisions are relevant to the question of confirmation. Senator Byrd of Virginia:

"The Senator's responsibility, as I see it, is to meet the issue head on, to deal squarely with the qualifications and the philosophy of the appointee. . . ." [43]

Senator Eastland:

"An examination and analysis of (the nominee's opinions and statements as an Associate Justice, and his public writings and statements, clearly demonstrate that his judicial philosophy disqualifies him for this high office." [44]

Senator Fannin: (Quoting Senator Borah from an earlier confirmation fight)

"They pass upon what we do. Therefore it is exceedingly important that we pass upon them before they decide upon these matters." [45]

(Senator Fannin made extensive use of a letter from Mr. William H. Rehnquist, arguing from history and policy that nominees' views were proper factors for the Senate to consider.) [46]

Senator Fong:

"(T)he Senate, in considering Presidential nominations to the Supreme Court, has never hesitated to take into account a wide variety of factors, including the nominee's ability and qualifications. His political views, his economic and social philosophy, his attitude on particular issues, or other matters." [47]

Senator Miller:

"What I am bringing into question is (the nominee's) judgment . . . Two people, equally sincere and equally convinced, can render opposite judgments on a question. One judgment may be good for the country, the other judgment may be bad for the country. . . . For too long, the Senate has rubberstamped nominations. . . . But a time comes when every Senator should search his conscience to see whether the exercise of the confirming power by the Senate is for the good of the country. . . ." [48]

Senator Thurmond:

"(I)t is my contention that the Supreme Court has assumed such a powerful role as a policymaker in the government that the Senate must necessarily be concerned with the views of the prospective Justices or Chief Justices as they relate to broad issues confronting the American people, and the role of the Court in dealing with these issues." [49]

4. The Haynsworth nomination

Like the Fortas controversy, the struggle leading to the rejection of President Nixon's nomination of Judge Clement Haynsworth to be an Associate Justice involved issues other than the substantive views of the nominee. In this case, the nominee's alleged ethical improprieties predominated in debate. But his substantive views on questions of labor law and race relations played a large subsidiary role.

Again, a substantial majority of those who addressed themselves to the question clearly felt that the nominee's views and philosophy were proper and relevant considerations. Here, however, a more significant minority did argue that these were not appropriate factors for the Senate to consider, although the members of this group generally felt that the President could properly take such considerations into account in making his nomination.

A rough count, which is doubtless incomplete, indicates that at least 23 Senators argued for the relevance of the nominee's views, either in the Judiciary Committee hearings or in the floor debates, while at least 12 Senators took the opposite position. (A list of the relevant statements, with citations, is attached as Appendix B.)

Among those who thought that the nominee's views were relevant, there was considerable variation in the approach taken to the evaluation of those views. Most Senators were content to conclude that the nominee's philosophy was a factor to be considered by the Senate. Some were more specific. Thus, Senator Case made clear that to him the nominee's views were the central consideration:

"How he approaches these great questions of human liberty—this for me is the essence of the issue in the pending nomination of Judge Haynsworth." [50]

Senator Muskie argued that the power of the Senate to consider the views of nominees must be as great as the power of the President to consider those same views in making the nomination:

"It is the prerogative of the President, of course, to try to shift the direction and the thrust of Court's opinions in this field by appointments to the Supreme Court. It is my prerogative and my responsibility to disagree with him when I believe, as I do, that such a change would not be in the best interests of the country." [51]

5. The Carswell nomination

The most recent major confirmation debate, which resulted in the rejection of the nomination of Judge G. Harrold Carswell to be an Associate Justice, focused heavily on the nominee's views concerning racial equality. A second issue emerged during the debate—the nominee's technical competence as a judge—but by far the greatest emphasis was placed on his expression of white supremacist views, his involvement in the transfer of a public golf course to a private segregated club, his alleged hostile treatment of black litigants and civil rights lawyers, and his consistently limited—and often reversed—view of the scope of the equal protection clause in civil rights cases.

In our relatively limited research into the floor debates concerning this nomination, we have found only one Senator—Senator Stevens—who argued unequivocally that Judge Carswell's view were irrelevant to the question of Senate confirmation.[52] Judge Carswell's supporters tended rather to dispute the facts brought forward by his opponents, and to dispute the inferences drawn from them, than to argue that proven personal racial prejudice was not a relevant consideration.

Again, the considerations which render a nominee's views relevant to the Senate's role in the appointment process were expressed in varying terms. Senator Kennedy of Massachusetts urged that:

"Surely, understanding of the times and sensitivity to the Nation's problems are factors we may and should take into account. And without doubt, we can consider what the impact of an appointment would be on our national fabric and our legal institutions." [53]

Senator Inouye took care to state as a separate and independent ground for his negative vote the nominee's "philosophy on one of the most critical issues facing our Nation today—civil rights." [54] and Senator Brooke—as had Senator Muskie in the Haynsworth controversy—urged that the Senate's authority and scope of consideration were coextensive with those of the President:

"The Senate bears no less responsibility than the President in the process of selecting members of the Supreme Court. . . . [Competent service on the bench] could not be sufficient [qualification] for a man who began his public career with a profound and far-reaching commitment to an anti-constitutional doctrine, a denial of the very pillar of our legal system, that all citizens are equal before the law." [55]

D. Summary

Writing in 1953, Joseph P. Harris summarized his detailed study of Senate precedent with the following paragraphs, which could describe as well the history of the ensuing two decades: [56]

"In making nominations to the Supreme Court, the President, as leader of his party, has necessarily taken political considerations into account, but they have been of a rather different type from those that are controlling in the appointment of judges to lower courts. Conservative Presidents have usually nominated conservatives to the Supreme Court, and liberal or progressive Presidents have similarly chosen persons favorable to their programs. There can be no valid criticism of this practice. The Senate, as well as the President, has given primary attention to the philosophy, outlook, attitude, and record of nominees to the Supreme Court with regard to social and economic problems of society. The contests that have taken place in the last fifty years over nominations to the Supreme Court have been concerned almost wholly with such issues, though not always openly so. Thus there was always strong opposition to Brandeis and Black because of their liberal views, although it was placed ostensibly on other grounds; the opposition to Stone, Parker, and Hughes was based on their reputation as conservatives. On the other hand, the nominations of Taft, a pronounced conservative, and Cardozo and Frankfurter, who were widely known for their liberal views, met with little opposition, because of the high public esteem in which these men were held.

"The opposition to Hughes and Parker in 1930 because of their supposed conservatism was denounced as an attack on the sanctity of the Court itself. Senators Norris and LaFollette replied that the Supreme Court has come to pass upon economic and social legislation and hence to decide upon governmental policies; the philosophy of persons nominated to the Court was therefore a pertinent consideration. In their study of *The Business of the Supreme Court*, Professors Frankfurter and Landis found that common law cases, which in 1875 amounted to 43 per cent, had dropped to 5 per cent by 1925. There were no cases under the 'due process' clause in 1875, but in 1925 there were 20; in 1875 there were no cases under the commerce clause, but in 1925 there were 29.

"Writing in 1930, Frankfurter strongly defended the action of the Senate in consider-

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Footnotes at end of article.

ing the philosophy and outlook of a nominee to the Supreme Court. 'The meaning of "due process,"' he stated, 'and the content of terms like "liberty" are not revealed by the Constitution. It is Justices who make the meaning. They read into the neutral language of the Constitution their own economic and social views. . . . . Let us face the fact that five Justices of the Supreme Court *are* molders of policy, rather than the impersonal vehicles of revealed truth.' In an often quoted statement, Chief Justice Hughes, when he was governor of New York, once said: 'We are under a Constitution, but the Constitution is what the judges say it is.'

"It is entirely appropriate for the Senate, as well as the President, to consider the social and economic philosophy of persons nominated to the Supreme Court. With the changed functions of the Court, considerations of this kind are more pertinent than the legal attainments and experience of nominees. In recent years few of the persons appointed to the Supreme Court have had experience as judges; for the most part they have been drawn from public life and have not been practicing attorneys at the time of their appointment."

III. ANALYSIS AND CONCLUSION

If the judicial process were a mechanical or even a scientific one, unaffected by matters of judgment and value, a nominee's law school honors, and perhaps his success as a practicing attorney, might be dispositive of the question of his competence to serve as a Justice of the Supreme Court. But few of those familiar with the process believe that it can or should be purely mechanical or scientific: and even those few will agree that it is unlikely to be so in practice. As Professor Charles Black has put it "a judge's judicial work is . . . influenced and formed by his whole lifeview, by his economic and political comprehensions, and by his sense sharp or vague, of where justice lies in respect of the great questions of his time." [1]

The notion that judges' values, philosophies and backgrounds play a part in determining how they decide cases, today widely accepted with respect to the judicial process as a whole, is most obviously true as applied to constitutional adjudication. Precisely because, in Chief Justice Marshall's words, our Constitution is a document "intended to endure for ages to come," many of its most important provisions speak in general terms only. As Mr. Justice Frankfurter said:

"The meaning of 'due process' and the content of terms like 'liberty' are not revealed by the Constitution. It is the Justices who make the meaning. They read into the neutral language of the Constitution their own economic and social views. . . . Let us face the fact that five justices of the Supreme Court are the moulders of policy rather than the impersonal vehicle of revealed truth." [2]

The sweeping and unreviewable power exercised by Supreme Court justices, along with their life tenure and virtual immunity from popular or legislative check, presents, as one of the present nominees, Mr. Rehnquist, has himself argued, "something of a paradox in a government supposed to be ultimately responsible to the electorate." [3] As Mr. Rehnquist has noted, our Constitution accepts this paradox for the sake of judicial independence, but also provides some popular check through the process of selecting Supreme Court Justices: "that is, the power of appointment by a President who is elected by the Nation as a whole, and confirmation by a Senate which is composed of two popularly elected members from each state." [4]

If the policy views and judicial philosophies of Justices play a large part in determining how they will decide cases, it seems difficult to argue that the President and the Senate should ignore these factors is the appointment process. Indeed it has long been accepted that the President may and indeed should take account of the individual views of those he nominates to the Court. President Nixon has made clear that he will appoint "strict constructionists" and "judicial conservatives" who will through their decisions "strengthen the hand of the peace forces" as against "the criminal forces in our society." [5] In taking the views of his nominees into account, President Nixon is following long Presidential tradition, dating at least from the administration of John Adams. Indeed Presidents have—as did President Nixon—made a campaign issue of the political and constitutional views of men they would appoint to the Supreme Court.

Given this presidential role, opponents of senatorial consideration of the views of nominees are, as Mr. Rehnquist again has argued, "reduced to contending . . . that even though the President . . . can and does consider the judicial philosophy of the appointee, the Senate when it debates confirmation may not consider it." [6] Neither the language of the Constitution, nor the history of its framing or its subsequent application, suggests such a restricted role for the Senate.

As Professor Black has said: "(H)e who lies under the obligation of making up his mind whether to advise and consent to a step considers the same things that go into the decision whether to take that step." [7] Of course, when a President appoints cabinet officers or ambassadors he is appointing his own men, his subordinates within the executive branch, and for that reason the Senate should and usually does give great deference to his decision. But a Justice of the Supreme Court is not "the President's man," but is meant to be independent, and powerfully independent for life. That is all the more reason to require maximum and maximally diverse scrutiny of all his qualifications, including views and philosophy, by a popularly elected Senate as well as a popularly elected President.

The question remains: what criteria should the Senate employ in judging these crucial aspects of a nominee's qualifications? The history of the confirmation process indicates that the Senate, and individual Senators, have answered this question in widely differing ways at different times. Nominees have been opposed and denied confirmation for reasons as partisan as their party affiliation and as trivial as their viewpoint on one or another narrow issue of the times.

One who accepts the relevance of a nominee's views to the question whether or not he should be confirmed need not go this far into partisanship and particularism. A confirmation issue is not one of party politics, but of the quality of our highest constitutional court, and we believe that the Senate's role must be determined in those terms. To that end, we propose two standards both of which should be invoked in any instance. One focuses on the individual nominee under consideration, the other on the nominee viewed in the context of the Executive's other nominations and appointments.

First, we believe that the Senate should consider whether a nominee for the Supreme Court has a clear and demonstrated commitment to basic constitutional values. The Supreme Court has the ultimate responsibility of protecting our constitutional system of government. Underlying this system are certain fundamental values, which however changing in scope and meaning for different historical periods, have remained paramount. Among the most basic of these are the rule of law, the protection of individual liberties against arbitrary governmental action, and the equality of man.

Reasonable men, committed to these values, will of course differ as to their scope and as to the proper means of implementing them. This suggests that a Senator should not vote against a nominee because of bare disagreement with him on one or two narrow issues. But where a Senator believes that a nominee's views, as revealed by his past and present statements and actions, depart fundamentally from what the Senator sees as basic constitutional values, it is his constitutional responsibility to vote against confirmation on that ground alone.

Such a standard is not susceptible of easy definition in the abstract. Formulations in particular situations may be more revealing. One clear and eloquent statement of the approach we urge, among many which could be quoted, was given by Senator Javits in explaining his vote against the confirmation of Judge Clement Haynsworth because of the Judge's record and views on the subject of racial equality:

"(H)is views on the application of the Constitution to this most critical constitutional question of our time are so consistently out of date, so consistently insensitive to the centuries-old injustice which we as a Nation have caused our black citizens to bear, that I could not support the introduction of Judge Haynsworth's judicial philosophy into the Nation's highest court." [8]

Second, we believe that the Senate should consider a nominee for the Supreme Court, not in isolation, but in the context of the President's other appointments, nominees, and stated intentions with respect to future nominations.

Senator Norris made this distinction in opposing the confirmation of Justice Stone to the Court during the 1920's, arguing that "if the nomination of Stone had stood alone, he would have entered no objection, but when he considered it in the light of several similar appointments he felt impelled to protest." [9] Several Senators who opposed the nomination of Thurgood Marshall made the same point, arguing that although the nominee was otherwise qualified, he would shift the balance of the Court too far in the "activist" direction. [10]

It is one thing to vote to confirm a particular candidate about whom one has doubts, giving the President the benefit of the doubt. It is quite another to confirm one candidate after another when each one presents the same doubts and when the Executive's past performance indicates that future nominees will be cast from the identical mold. The debates at the Constitutional Conventionist and *The Federalist* make clear that a basic function of the Senate's responsibility in this sphere is to prevent partisan, ideological packing of the Court by a President intent on remaking the Court in his own image.

In conclusion, we emphasize the position we urge is a relatively confined and restricted one. If history were taken as the sole guide, virtually no substantive ground, however particularistic or petty, could be ruled out as a basis for refusing confirmation. The Constitution, of course, places no restrictions on the factors which Senators can properly take into account. Thus, our formulation should be viewed as the *minimum* scope of Senate concern with the constitutional views of Court nominees that can be drawn from tradition and from what seem to us the relevant institutional considerations.

FOOTNOTES

Part I

[1] *Hunt & Scott*, the Debates in the Federal Convention of 1787 (1920), 57, 54.
[2] *Id.*, at 275.
[3] *Ibid.*
[4] *Id.*, at 276.
[5] *Id.*, at 302.
[6] *Id.*, at 56–57.
[7] *Id.*, at 302.
[8] *Ibid.*
[9] *Id.*, at 56, 301.
[10] *Id.*, at 25.
[11] 1 Farrand, the Records of the Federal Convention of 1787 (1911), 128.
[12] *Id.*, at 224.
[13] Hunt & Scott, *supra* n. 1, at 277.
[14] *Id.*, at 303.

[15] 2 Farrand, *supra* n. 11, at 182, 155, 169, 183.
[16] Hunt & Scott, *supra* n. 1, at 455, 464–65.
[17] 2 Farrand, *supra* n. 11, at 498, 539.
[18] Black, *A Note on Senatorial Consideration of Supreme Court Nominees*, 79 Yale L.J. 657, 661 (1970).
[19] The Federalist, No. 76 (Modern Library ed. 1937), at 494–95.
[20] *Id.*, No. 77, at 498.
[21] Black, *supra* n. 18, at 662.

Part II

[1] Joseph Harris, the Advice and Consent of the Senate, (1953), 303–05.
[2] 1 Charles Warren, the Supreme Court in United States History (1922), 129, 137.
[3] Harris, *supra* n. 1, at 42–43.
[4] 1 Warren, *supra* n. 2, at 412.
[5] *Id.*, at 702, et seq.
[6] *Id.*, at 786–800.
[7] 2 Warren, *supra* n. 2, at 5–6.
[8] *Id.*, at 107.
[9] *Id.*, at 112–13.
[10] *Id.*, at 116.
[11] *Id.*, at 147.
[12] *Id.*, at 242–45.
[13] *Id.*, at 322–23.
[14] *Id.*, at 503–04.
[15] 2 Friendman & Israel, the Justices of the Supreme Court (1969), p. 1284.
[16] 2 Warren, *supra* n. 2, at 622.
[17] *Ibid.*
[18] Harris, *supra* n. 1, at 305.
[19] *Id.*, at 105–06.
[20] *Id.*, at 117–19.
[21] *Id.*, at 125.
[22] *Id.*, at 126.
[23] *Id.*, at 126.
[24] *Id.*, at 127.
[25] *Id.*, at 128.
[26] *Id.*, at 130, quoting Senator Norris.
[27] *Id.*, at 305–06.
[28] *Id.*, at 309.
[29] *Id.*, at 310.
[30] Thorpe, *The Appearance of Supreme Court Nominees Before the Senate Judiciary Committee*, 16 Journal of Public Law 371, 384–85 (1969).
[31] *Ibid.*
[32] *Id.*, at 385–86.
[33] *Id.*, at 386.
[34] *Id.*, at 387–88, see generally *Hearings Before the Senate Judiciary Committee on the Nomination of Thurgood Marshall*, 90th Cong., 1st Sess., July 13, 14, 18, 19, and 24, 1967 [hereinafter cited as *Marshall Hearings*].
[35] *Marshall Hearings*, at 25.
[36] 113 Cong., Rec. 24635.
[37] *Id.*, at 24583.
[38] *Id.*, at 24655.
[39] *Id.*, at 16057.
[40] See *id.* at 24541 (Sen. Hart); *id.*, at 24645 (Sen. Tydings); *id.*, at 24646 (Sen. Yarborough); *id.*, at 24647 (Sen. Percy); *ibid.* (Sen. Kuchel).
[41] See *id*, at 24644 (Sen. Fong); *id.*, at 24646 (Sen. Kennedy of N.Y.).
[42] *Id.*, at 24656.
[43] 114 Cong. Rec. 26142.
[44] *Id.*, at 26764.
[45] *Id.*, at 26704.
[46] *Id.*, at 28755–56.
[47] *Id.*, at 28167.
[48] *Id.*, at 23489.
[49] *Hearings Before the Senate Judiciary Committee on Nominations of Abe Fortas and Homer Thornberry*, 90th Cong., 2d Sess., July 1968, at 180.
[50] 115 Cong. Rec. 35130.
[51] *Id.*, at 35368.
[52] 116 Cong. Rec. (daily ed.) S3410.
[53] *Id.*, at S4143.
[54] *Id.*, at S2077.
[55] *Id.*, at S2384.
[56] Joseph Harris, *supra* n. 1, at 312–313.

Part III

[1] Black, *A Note on Senatorial Considerations of Supreme Court Nominees*, 79 YALE L.J. 657, 58 (1970).
[2] Frankfurter, *The Supreme Court and the Public*, 83 FORUM 334 (1930).
[3] 114 Cong. Rec. 26756 (Speech of Sen. Fannin, based on a letter from Mr. William H. Rehnquist).
[4] *Ibid.*
[5] *New York Times*, October 22, 1971, p. 24, cols. 4–5.
[6] 114 Cong. Rec. 28756.
[7] Black, *supra* n. 1, at 658.
[8] 115 Cong. Rec. 34275.
[9] Joseph Harris, the Advice and Consent of the Senate (1953), 118.
[10] See pp. 19–20, *supra*.

APPENDIX A

(Statements of Senators Concerning Relevance of Nominee's Substantive Views—Fortas Hearings and Debates)

1. *Senators who argued directly that the views of the nominee are relevant:*
Senator Baker, 114 Cong. Rec. 28258 (1968).
Senator Byrd (Va.), 114 Cong. Rec. 26142–26143 (1968).
Senator Curtis, 114 Cong. Rec. 26148 (1968).
Senator Ervin, *Hearings on the Nomination of Abe Fortas and Homer Thornberry Before the Senate Comm. on the Judiciary*, 90th Cong., 2d Sess., at 107 (1968) [hereinafter cited as *1968 Hearings*].
Senator Fannin, 114 Cong. Rec. 26704–28705 (1968).
Senator Fong, 114 Cong. Rec. 28167 (1968).
Senator Gore, 114 Cong. Rec. 28780 (1968).
Senator Griffin, *1968 Hearings* at 44.
Senator Holland, 114 Cong. Rec. 26146 (1968).
Senator Hollings, 114 Cong. Rec. 28153 (1968).
Senator McClellan, 114 Cong. Rec. 26145 (1968).
Senator Miller, 114 Cong. Rec. 23489 (1968).
Senator Thurmond, *1968 Hearings* at 180.
Senator Williams (Del.), 114 Cong. Rec. 20910 (1968).

2. *Senators who debated the nominee's views:*
Senator Byrd (W. Va.), 114 Cong. Rec. 28785 (1968).
Senator Eastland, 114 Cong. Rec. 28785 (1968).
Senator Hart, *1968 Hearings* at 278.
Senator Javits, 114 Cong. Rec. 2868 (1968).
Senator Lausche, 114 Cong. Rec. 28928 (1968).
Senator McIntyre, 114 Cong. Rec. 20445–20446 (1968).
Senator Montoya, 114 Cong. Rec. 20143–20144 (1968).
Senator Murphy, 114 Cong. Rec. 28254 (1968).
Senator Proxmire, 114 Cong. Rec. 20142–20143 (1968).
Senator Smathers, 114 Cong. Rec. 19536–19538 (1968).
Senator Stennis, 114 Cong. Rec. 28748 (1968).
Senator Symington, 114 Cong. Rec. 19242–19243 (1968).

3. *Senators who argued that only the nominee's qualifications are relevant, as opposed to partisan political considerations:*
Senator Bayh, 114 Cong. Rec. 19902 (1968).
Senator Mansfield, 114 Cong. Rec. 28113 (1968).
Senator McIntyre, 114 Cong. Rec. 20445 (1968).

4. *Senators who argued that the nominee's views are not relevant:*
Senator McGee, 114 Cong. Rec. 19638 (1968).
Senator Randolph, 114 Cong. Rec. 19639 (1968).
Senator Tydings, 114 Cong. Rec. 28164 (1968).

APPENDIX B

(Statements of Senators Concerning Relevance of Nominee's Substantive Views—Haynsworth Hearings and Debates)

1. *Senators who argued directly that views of the nominee are relevant, or who debated the nominee's views:*
Senator Baker, 115 Cong. Rec. 34432 (1969).
Senator Bayh, 115 Cong. Rec. 35133 (1969).
Senator Byrd (Va.), 115 Cong. Rec. 30155–30156 (1969).
Senator Case, 115 Cong. Rec. 35130 (1969).
Senator Dole, 115 Cong. Rec. 35142 (1969).
Senator Eagleton, 115 Cong. Rec. 26212 (1969).
Senator Ervin, *Hearings on the Nomination of Clement Haynsworth Before the Senate Comm. on the Judiciay*, 91st Cong., 1st Sess., at 75 (1969) [hereinafter cited as *1969 Hearings*].
Senator Fannin, 115 Cong. Rec. 34606 (1969).
Senator Goodell, 115 Cong. Rec. 32676 (1969).
Senator Gurney, 115 Cong. Rec. 34439 (1969).
Senator Harris, 115 Cong. Rec. 35376 (1969).
Senator Hart, *1969 Hearings* at 463.
Senator Hollings, 115 Cong. Rec. 28877 (1969).
Senator Javits, 115 Cong. Rec. 34275 (1969).
Senator Kennedy, *1969 Hearings* at 327–328.
Senator McClellan, *1969 Hearings* at 167.
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2. *Senators who argued that the nominee's views are not relevant:*
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FREEDOM FROM HUNGER

Mr. McGOVERN. Mr. President, I wish to draw the attention of the Senate to an appropriate occasion for recognition of a unique American organization. Ten years ago, on November 15, the certificate of incorporation for the American Freedom From Hunger Foundation was signed.

Its growth and development over the past decade are a measure both of changing world conditions and of the continuing concern of Americans for the underprivileged and underfed, whether at home or abroad.

In its initial establishment, the foundation represented American response to the appeal of Binay R. Sen of India, then director general of the Food and Agriculture Organization, for a worldwide people-to-people campaign against hun-

ger, poverty, and underdevelopment. Mr. Sen's appeal won support of FAO member nations in 1959. The campaign became operative the following year, and in that same year the first meeting of a U.S. Freedom From Hunger Committee was held, leading eventually to the establishment of the American Freedom From Hunger Foundation, with headquarters here in Washington.

The foundation is one of more than 90 similar organizations around the world whose common efforts are coordinated through a small secretariat of FAO headquarters in Rome as components of the world freedom from hunger campaign. During the 10 years of its existence, the campaign raised funds for more than 400 self-help projects around the world. A recent independent study of these projects found that most were dynamic in nature and tended to become self-sufficient.

The activities of the American freedom from hunger campaign have expanded enormously in the past couple of years, primarily due to the interest shown by young people in a program called young world development which is operated under auspices of the foundation.

During the last 3 years, under the sponsorship of YWD, hundreds of "Walks for Development" were staged in communities across this Nation. I know that many Senators and Representatives have lent their names to sponsorship and that others have walked. These walks are not only practical means of fundraising to support self-help projects for the underprivileged, but they also have involved hundreds of thousands of young people in an appealing action-oriented program. Each walker solicits as many sponsors as possible at varying amounts per mile over a prescribed course which the walkers or "hunger hikers" follow on the day of the walk. The funds are collected on the basis of the number of miles each walker completes.

On the weekend of May 8–9, 1971, more than $5 million was raised through walks in the United States. These funds account for approximately 60 percent of the total raised in the 46 countries who participated in the International Walk for Development.

Of the funds raised, 42½ percent is earmarked for support of self-help development projects within the United States. Most of these development projects are located within the city or immediate region where the walk takes place. Another 42½ percent goes to the support of overseas projects in developing countries. These projects are identified and administered under the FAO freedom from hunger campaign or by other recognized voluntary agencies with overseas programs. The remaining 15 percent is retained by the American Freedom From Hunger Foundation to cover its educational programs and administrative costs.

The primary focus of the foundation's program is continuing public education on development issues. Of money raised, the most important aspect is not the amount but rather that these walks involved, in one way or another, as walkers or sponsors, hundreds of thousands of people from the private sector in the kind of assistance often regarded as solely a prerogative of public agencies. When this involvement is supplemented, as Young World Development is now striving to do, with educational materials and seminars relating to development issues, public understanding of those complex issues will surely be enhanced.

Ten years ago, when this program was starting, the emphasis was on the threat of famine in the developing world. At that time there was little public consciousness of any hunger which might exist within our own borders. Today, the foundation stresses the interrelated challenge of poverty within our national borders and throughout the developing world.

In 1963 the first World Food Congress was held here in Washington under auspices of the Food and Agricultural Organization, with the American Freedom From Hunger Foundation playing the host role. Concern about the long-range outcome of the world food population equation was deep, but reliable information was still scanty. One result of the conference was a request that the Food and Agriculture Organization undertake an indepth study of what the prospects were for meeting world food requirements over the next 20 years. The results of that study, published 2 years ago as the Indicative World Plan for Agricultural Development, have shown clearly what enormous effort is still required, by both public and private sectors, in industrial as well as developing countries, if there are to be even marginal improvements in existing dietary and nutritional levels. The immediate threat of widespread famine has been abated by the growing adoption of a number of developing nations of high-yielding varieties of rice and wheat, a movement which has been labeled, perhaps unfortunately, "the Green Revolution." What has become apparent in this past decade is that problems of food production cannot be solved within a technological vacuum. To diagnose them, to prescribe for them, is to touch inevitably on numerous interrelated issues, many of them sensitive; issues of cultural heritage, trade, education, unemployment, population, and social reform.

That is why the education component of the American Freedom From Hunger Foundation's program is so vitally important. Greater public awareness of the complexity of economic and social development is essential. It is significant, perhaps, that at the same time the Indicative World Plan for Agriculture Development was released, member nations of the Food and Agriculture Organization, at its biennial conference in 1969, unanimously voted to extend the freedom-from-hunger campaign through the next 10 years, the second development decade, as it is being called.

Thus the American Freedom From Hunger Foundation marks its 10th birthday at a critical juncture in development assistance history. Its work already merits recognition for its positive involvement of hundreds of thousands of young people in an era too often marked by negativism. It has achieved an unusual balance in focusing on needs of the disadvantaged at home, as well as abroad. Greater involvement of the private sector in the reshaping of our foreign assistance program will depend heavily on such initiatives as the foundation has undertaken so effectively. The foundation deserves the widest possible recognition for its achievements and support for its further endeavors.

LABOR SUBCOMMITTEE PENSION STUDY

Mr. WILLIAMS. Mr. President, in furtherance of its study of private pension plans the Subcommittee on Labor on November 7, 1971, released a second preliminary staff analysis based upon a survey of 764 private plans. This analysis disclosed that the median normal, early, and disability retirement benefits paid by private pension plans during 1969–70 were less than $100 a month and that even when coupled with the median social security retirement income were less than the $241 monthly minimum amount required to sustain a retired urban couple, as published by the Bureau of Labor Statistics. I believe that this preliminary study clearly points up the inadequacy of the retirement income received by the vast majority of pensioners.

Senators will recall that the Subcommittee on Labor, on March 31, 1971, released a preliminary staff analysis on benefits and forfeitures relating to 87 private pension plans. This analysis was made in conjunction with the subcommittee's continuing study of private pension plans which was authorized under Senate Resolution 35, 92d Congress, first session, agreed to March 1, 1971. The preliminary analysis was published in the CONGRESSIONAL RECORD of April 5, 1971, together with a description of the purpose and nature of the pension study. The analysis demonstrated that the number of employees in the 87 plans who did not receive benefits or vested rights since 1950 greatly exceeded those who did receive benefits or vested rights.

Additional staff analyses of various aspects of the private pension system, including a computerised analysis of all plans studied, are being prepared and will be published by the subcommittee.

I ask unanimous consent that the joint statement of Senator JAVITS and myself and the accompanying staff analysis be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY SENATORS WILLIAMS AND JAVITS

"This current staff analysis is based upon a study of 764 private pension plans submitted to the Subcommittee among the 1,500 pension and profit-sharing plans originally chosen from the plans on file with the United States Department of Labor with more than 25 participants and selected as a base for the Subcommittee pension study. The total participants in the 764 plans is about 11.6 million, and the assets held by these plans exceed $30.7 billion. The 34,000 retirement plans registered with the Department of Labor have more than 30 million participants and assets of $130 billion.

The current staff analysis indicates that more than 50% of the normal, early, and disability benefits being paid by private pension plans during 1969–1970 to retirees, regardless of date of retirement, were less than $100 a month.

The median monthly payment for normal retirement was $99 a month; for early retirement it was $72 a month; and for disability retirement it was less than $50 a month.

Eighty-seven percent of the plans analyzed covered less than 1,000 participants in each plan, and the median benefits paid by these plans were considerably less than the median benefits paid by plans with 1,000 or more participants each. For plans with less than 1,000 participants, the median monthly payment for normal retirement was $96, and the median payments for early and disability retirement were less than $50. In contrast, the monthly medians paid by plans with 1,000 or more participants for normal, early, and disability retirement, were $121, $99, and $79 respectively.

By way of comparative interest, information furnished by the Social Security Administration in Report No. 3, September, 1970, according to the latest available data, indicated that the median Social Security retirement benefit for a retired couple during 1967 was $129 a month.

When the median for normal retirement of $99 a month is added to the median Social Security retirement benefit of $129 a month, the total, $228 a month, is less than the $241 minimum monthly income required to sustain a retired urban couple, as reported by the Bureau of Labor Statistics in January, 1970.

The median annuity paid to retirees from private pension plans during 1969–1970 is very low. Even when coupled with median Social Security benefits, the total amount being paid to a retired couple is hardly sufficient for them to maintain a decent standard of living, particularly when considered in light of the inflationary costs today. Because increasing numbers of the Nation's work force are dependent on private pension plans, together with Social Security, to provide adequate retirement security, the low median annuities disclosed by this analysis demonstate a substantial need for strengthening the private pension system.

In this connection, we direct attention to the testimony of workers and employers at the hearings of the Subcommittee in July and October. There was testimony that, despite long years of service, employees had missed out on eligibility for pensions with prior employers even though they would qualify for a pension under the plan of their current employer. However, the amount of pension they would receive would be based solely on their period of service with their current employer, no credit being given for long years of prior service with other employers and under other plans during their working career.

We believe that this kind of experience may have some bearing on the low annuities received by those who have changed jobs during their working lifetimes, and we further believe that this factor deserves greater attention than has been the case up to now.

The Staff analysis also shows that 97% of the 764 plans reported providing some form of death benefits. The types of death benefits provided included joint and survivor and period certain options, guaranteed post-retirement death benefits and pre-retirement spouse's benefits and lump sum benefits.

The predominant form of death benefit provided was joint and survivor and period certain options. In this form of death benefit, the employee must elect to take the option and if he does so, he must accept a reduced pension. The less prevalent form of death benefits are provided automatically.

U.S. SENATE SUBCOMMITTEE ON LABOR, PRELIMINARY STAFF ANALYSIS—MONTHLY NORMAL, EARLY, AND DISABILITY RETIREMENT BENEFITS AND PREVALENCE OF DEATH BENEFIT PROVISIONS OF PRIVATE PENSION PLANS

INTRODUCTION

On March 1, 1971, Senate Resolution 35 directed the Senate Labor Subcommittee to continue its study of private pension plans in the United States, with special emphasis upon the need for protection of employees covered. This analysis is a part of the study being conducted by the Subcommittee under this mandate. It represents a preliminary analysis of normal, early retirement, disability, and death benefits provided for in 764 selected private pension plans during their latest reporting year, 1969–1970.

An earlier analysis of 87 pension plans was previously released by the Subcommittee on March 31, 1971. At that time, the purpose and scope of the questionnaire survey undertaken by the Subcommittee was explained in detail and to avoid repetition, there is attached a copy of said release. (Appendix I)

The current analysis represents data furnished by 764 private pension plans, each containing more than 25 participants, filed with the U.S. Department of Labor and reflecting a representative group of plans throughout the United States. It does not include profit-sharing plans and other types of plans which do not pay a monthly benefit.

FINDINGS

A. Average monthly benefits

1. The percentages of private pension plans, by size of plan, which paid less than $100 a month in average monthly normal, early, and disability retirement benefits are shown below.

SIZE OF PLAN (BY NUMBER OF PARTICIPANTS)

[In percent]

Benefits	All plans	Under 1,000	1,000 to 4,999	5,000 to 9,999	10,000 and over
Normal	51	53	43	33	32
Early	65	74	53	38	39
Disability	73	80	63	44	46

2. A summary of the median payments by all plans and by size of plan for normal, early, and disability benefits is presented below. The questionnaire circulated by the Subcommittee requested data concerning the average benefit paid to retirees. (The term "median benefit" as used in this study refers to the average monthly benefit paid by all plans represented by the analysis, "median" denoting the average amount separating the upper half from the lower half of the averages.) The summary shows that the median payments for all plans and all benefits, taken together, were less than $100 a month. It also shows that plans with less than 1,000 participants (about 87% of the plans) made the smallest payments.

SIZE OF PLAN (BY NUMBER OF PARTICIPANTS)

Benefits	All plans	Under 1,000	1,000 to 4,999	5,000 to 9,999	10,000 and over
Normal	$99	$96	$117	$140	$140
Early	72	(1)	96	123	129
Disability	(1)	(1)	74	110	110

[1] Less than $50.

Since the above rates are based on average amounts actually paid to retirees during the latest year preceding submission of the questionnaire (1969–1970) the lengths of time in retirement and increases in rates during the retirement periods would have affected the average amounts paid.

A further breakdown of the foregoing data is provided in Tables I, II, and III.

3. Since more than half of the private pension plans paid normal, early, and disability retirement benefits of less than $100 a month, the following data is presented for comparison purposes.

	Per month	Per year
Budget for a retired urban couple, 1969 (published by Bureau of Labor Statistics, release dated January 1970) (see app. II):		
Lower budget	$241	$2,902
Intermediate budget	349	4,192
Higher budget	551	6,616
Median OASDI benefits, 1967, for married couples (Rept. No. 3, private and public retirement pensions, September 1970, Social Security Administration) (see app. III)	129	1,557

B. Extent of death benefits

1. Of the 764 plans, 97 percent provided some form of death benefits. (See table IV).

2. A summary breakdown of the types of death benefits provided by all plans is shown below:

Benefit:	Percent
Optional forms	68
Post-retirement death benefit	22
Pre-retirement death benefit	10
Total	100

TABLE I.—NORMAL RETIREMENT BENEFITS[1] PERCENTAGE DISTRIBUTION OF PRIVATE PENSION PLANS BY AVERAGE MONTHLY BENEFITS PAID DURING LATEST PLAN REPORTING YEAR (1960-70), BY PARTICIPANT SIZE OF PLAN

[In percent]

Average monthly normal retirement benefits	Total	Size of plan: Under 1,000	1,000-4,999	5,000-9,999	10,000 and over
Less than $50	23	25	15	12	12
$ 50 to $ 99	28	28	28	21	20
$100 to $149	22	22	22	22	23
$150 to $199	11	10	13	20	15
$200 to $249	5	4	7	8	15
$250 to $299	3	3	7	8	8
$300 and over	8	8	8	9	7
Total	100	100	100	100	100
Percentage of plans in each group	100	87	11	1	1
Median payment[2] (dollars)	$99	$96	$117	$140	$140

[1] Includes only plans reporting information relative to average monthly normal benefits paid and size of plan. Approximately 11 percent of the 764 pension plans reviewed either had not paid any normal retirement benefits during the latest reporting year (1969–70) or did not report data as to amounts paid or size of plan.

[2] The median normal retirement payment for all plans with 1,000 or more participants is $121.

TABLE II.—EARLY RETIREMENT BENEFITS[1] PERCENTAGE DISTRIBUTION OF PRIVATE PENSION PLANS BY AVERAGE MONTHLY BENEFITS PAID DURING LATEST PLAN REPORTING YEAR (1969–70), BY PARTICIPANT SIZE OF PLAN

[In percent]

Average monthly early retirement benefits	Total	Size of plan: Under 1,000	1,000-4,999	5,000-9,999	10,000 and over
Less than $50	39	51	20	14	16
$50 to $99	26	23	33	24	23
100 to 149	18	12	28	27	20
150 to 199	8	6	7	14	19
200 to 249	3	2	5	8	10
250 to 299	2	2	3	6	5
300 and over	4	4	4	7	7
Total	100	100	100	100	100
Percentage of plans in each group	100	85	12	1	1
Median payment[2] (dollars)	$72	(*)	$97	$123	$129

Footnotes on following page.

[1] Includes only plans reporting information relative to average monthly early retirement benefits paid and size of plan. Approximately 27 percent of the 764 pension plans reviewed either did not provide for early retirement benefits, did not pay any early retirement benefits during the latest reporting year (1969–70), or did not report data as to amounts paid or size of plan.

[2] The median early retirement payment for all plans with 1,000 or more participants is $89.

[3] Less than $50.

TABLE III.—DISABILITY RETIREMENT BENEFITS,[1] PERCENTAGE DISTRIBUTION OF PRIVATE PENSION PLANS BY AVERAGE MONTHLY BENEFITS PAID DURING LATEST PLAN REPORTING YEAR (1969–70), BY PARTICIPANT SIZE OF PLAN

[In percent]

Average monthly disability retirement benefits	Total	Size of plan: Under 1,000	1,000–4,999	5,000–9,999	10,000 and over
Less than $50	54	64	39	24	26
$50 to $99	19	16	24	20	20
$100 to $149	15	12	21	32	24
$150 to $199	4	3	4	11	18
$200 to $249	5	3	8	9	7
$250 to $299	2	1	3	4	3
$300 and over	1	1	1	0	2
Total	100	100	100	100	100
Percentage of plans in each group	100	85	13	1	1
Median payment (dollars)[2]	(3)	(3)	$74	$110	$110

[1] Includes only plans reporting information relative to average monthly disability retirement benefits paid and size of plan. Approximately 37 percent of the 764 pension plans reviewed either did not provide for disability retirement benefits, did not pay any disability retirement benefits during the latest reporting year (1969–70) or did not report data as to amounts paid or size of plan.

[2] The median disability retirement payment for all plans with 1,000 or more participants is $79.

[3] Less than $50.

TABLE IV—PERCENTAGE DISTRIBUTION OF DEATH BENEFITS PROVIDED BY PRIVATE PENSION PLANS [4]

Types of death benefits:	Percent
Optional forms [1]	68
Post-retirement death benefit [2]	22
Pre-retirement death benefit [3]	10
	100

[4] Of the 764 pensions plans reviewed, 3 percent either did not provide for death benefits or did not report the various types of death benefits offered.

[1] Includes *joint and survivor option and period certain options.* The former provides that, upon its election by the participant, a reduced pension will be paid to the participant after his normal retirement date with all, or a specified portion of this reduces pension, continued to a surviving beneficiary (usually a spouse) for the remainder of his or her lifetime following the participant's death. The latter provides a lifetime pension at a reduced amount. If, however, the pensioner dies before the end of a specified time period, payments are continued in the same amount to his named beneficiary until the total number of "certain" payments have been made.

[2] Includes *guaranteed period benefits and lump sum death benefits.* In both cases, the benefit is paid automatically. In the former, it is paid for a specific period; in the latter, it is paid out in a lump sum.

[3] Includes *spouse's benefits and pre-retirement lump sum benefits.* The former consists of monthly income to the surviving spouse of a deceased worker and, in some cases, to dependent children if the surviving spouse has died, or remarried. The latter is usually a modest lump sum benefit paid in similar circumstances.

COMMITTEE ON LABOR AND PUBLIC WELFARE, SUBCOMMITTEE ON LABOR: STAFF ANALYSIS—PRELIMINARY DATA ON THE EXTENT OF BENEFITS AND FORFEITURES IN PRIVATE PENSION PLANS IN THE UNITED STATES

INTRODUCTION

One of the objectives of the U.S. Senate study into private pension plans is to determine the impact of private pension plans on participating employees. The study data of this analysis focuses upon the impact of those plans with no vesting or restrictive vesting provisions on employees with substantial periods of service who terminate their employment prior to qualifying for retirement benefits.

For the purpose of this analysis, "vesting" refers to the provision in the plan which gives to the employee a non-forfeitable right to share in the pension fund which covers him in the event of termination of his employment prior to retirement age. Although, in its literal sense, "vesting" has been sometimes construed to mean all types of non-forfeitable benefits, including normal, early or disability retirement benefits, for purposes of this report the term "vesting" is intended to mean that on termination of employment prior to retirement, the employee has a non-forfeitable right to obtain a deferred retirement benefit based upon both the employer's and employee's contribution to the pension fund.

The purpose of this limited study is to examine and compare the historical activity of certain pension plans in terms of benefits and forfeiture rates. These analyses reflect a statistical comparison of the covered participants as between those who ultimately received benefits and those who did not and is based solely on information supplied by plan administrators in response to the survey form. No projection of any kind is made based on this data.

SAMPLING APPROACH

The entire sample of private pension plans randomly selected for study by the Subcommittee in July of 1970 consisted of 1500 plans, representing a broad and diverse segment of the pension industry. Questionnaires (Pension Study: Form P–1) were mailed to the respondents (plan administrators) selected in July and August of 1970.

Out of the 1500 plans, over 1,000 have responded. Of those who have responded, many have so far either refused to respond in whole or in part, have asserted that they are unable to respond in whole or in part, or have provided data which appears questionable on its face in connection with Part III of the survey form—covering data on benefits and forfeitures. As a consequence, many returns will require additional clarification and completion.

Accordingly, for purposes of analysis, a sample was constructed of data from a preliminary group of plans that furnished complete answers to Part III. In addition, in order to create as homogeneous a sample as possible, plans established after 1950 and profit-sharing plans were excluded.

The sample consists of two sets of plans, distinguished by the nature of their vesting provisions. The first set consists of 51 plans with total assets of $10 billion, ranging in size from plans with over 100,000 active participants, to plans with under 100 participants.[1] In this set of plans, no vesting or vesting with 11 years of service or more is provided (with some plans having additional age requirement [2] as well).

Footnotes at end of article.

Industries in the sample are as follows:

Manufacturing	20
Communications	12
Finance	7
Oil	3
Gas	3
Wholesale & Retail	2
Insurance	1
Maritime	1
Construction	1
Services	1
Total	51

No attempt was made to break down these plans by other characteristics, however, the sample covers both single employer and multi-employer plans,[3] insured and non-insured plans, and plans covering hourly-rated, salaried and all employees. The first set of 51 plans also includes eight (8) "contributory" plans, *i.e.*, plans in which contributions are made by both the employer and the employees.[4]

The second set consists of 36 plans with assets of $6 billion, again representing a wide range in terms of participant coverage. The distinguishing characteristics of these plans are that they provide for vesting after ten years of service or less, regardless of age. Industries represented in this group are as follows:

Manufacturing	21
Oil	3
Gas	2
Utilities	1
Transportation	3
Publishing	2
Insurance	3
Construction	1
Total	36

Neither set of samples can as yet be assumed to be statistically representative of all industries in the survey.

This set also includes 14 contributory plans.[5]

It should be noted that many sets of forfeiture figures furnished by the plans in the sample were based on estimates, in which case a footnote explanation is contained within the appropriate table. These responses are tabulated exactly as reported.

ANALYSIS OF 51 PLANS WITH NO VESTING OR VESTING WITH 11 YEARS OF SERVICE OR MORE

Table 1 depicts the overall comparison of the number of participants who have obtained retirement benefits from the 51 plans [6] since 1950 with the number who have forfeited.[7]

Out of a sample covering a total of 6.9 million participants since 1950, 263,118 or 4 percent have received any kind of normal, early or deferred vested retirement benefit. 4.8 million or 70 percent, without regard to length of service, have left these plans since 1950 without benefits. In terms of the 5.2 million active participants who left the scope of these plans since 1950, the total percentage who forfeited, regardless of length of service, is 92 percent, while the percentage who received benefits is 5 percent.[8]

Of the 4.8 million who forfeited without benefits, close to 4.1 million or 85 percent had five years service or less (Subtable 1–A). The impact of these plans on longer service employees is reflected in Subtable 1–B. For every two employees who received a benefit, one employee with more than 15 years of service forfeited. For every one employee who received a benefit, one employee with more than ten years of service forfeited, nearly three employees with more than five years of service forfeited, while 16 employees with five years service or less forfeited.

Table 2 compares the number of participants who have received vested rights on termination of employment prior to retirement since 1950 with those who have forfeited. Less than one percent of the 6.9 million employees since 1950 who have participated in these plans and the 5.2 million active employees who have left the plans since 1950 have received such vested rights—the precise number is 21,498.

As Subtable 2–A shows, for every one participant who received such a vested right, 228 participants forfeited without regard to length of service. Of these participants, five forfeited with more than 15 years service, 13 forfeited with more than ten years service, 33 forfeited with more than five years and 186 forfeited with five years service or less.[9]

Table 3 provides the same comparisons as Table 2 except that it is limited to the experience of the last five years.

12,536 participants of 2.9 million participating in the last five years—or considerably less than one percent—have received vested rights on termination of employment prior to retirement. In terms of the 1.2 million active participants who have left the scope of these plans in the last five years, the percentage who received such vested rights is one percent.

By contrast, 991,111 participants, regardless of length of service, forfeited in the last five years. This constituted 34 percent of the 2.9 million participating in the last five years but 82 percent of all the active participants who left the scope of the plans.

As Subtable 3–A shows, the largest number of all of the participants who forfeited —835,589 or 84 percent—were in the category of participants with five years service or less. The forfeiture percentages by length of service for the remaining categories of participants are virtually similar to the corresponding forfeiture percentages for the last 20 years (See Subtable 1–A).

Subtable 3–B indicates that for every one participant in the last five years who received a vested right upon termination of employment prior to retirement, 70 participants forfeited without regard to length of service. Of these participants, two forfeited with more than 15 years service, five forfeited with more than ten years service, 12 forfeited with more than five years service, and 67 forfeited with five years service or less.[10]

ANALYSIS OF 36 PLANS WITH VESTING AFTER 10 YEARS OF SERVICE OR LESS

Table 4 depicts the overall comparison of the number of participants who have obtained retirement benefits from the 36 plans since 1950 with the number who have forfeited.

Out of a sample covering a total of 2.9 million participants since 1950, 242,510 or 8 percent have received a normal, early or deferred vested retirement benefit. 1.1 million or 38 percent, without regard to length of service, have left the 36 plans since 1950 without benefits. In terms of the 1.5 million who left the scope of these plans since 1950, the total percentage who forfeited, regardless of length of service is 73 percent, while those with benefits is 16 percent.[11]

Of the 1.1 million who forfeited without benefits, 897,797 or 80 percent had five years service or less (Subtable 4–A).

As indicated by Subtable 4–B, 24 employees received a benefit for every one employee with more than 15 years service who forfeited and seven received a benefit for every one employee with more than ten years of service who forfeited.[12] On the other hand, for every one employee that received a benefit, one employee with more than five years service forfeited and four employees with five years service or less forfeited.

Table 5 compares the number of participants who have received vested rights on termination of employment prior to retirement with those who have forfeited in the 36 plans. Of the 2.9 million who have participated in these plans since 1950, only 3 percent (91,517 participants) received vested rights. Of the 1.5 million active participants who left the scope of these plans since 1950, only 6 percent (91,517 participants) received such vested rights.

As Subtable 5–A shows, for every one participant who received such a vested right, 12 participants forfeited without regard to length of service. Of these participants, ten had five years service or less. On the other hand, nine participants received vested rights for every one that forfeited with more than 15 years service, and two received vested rights for every one that forfeited with more than ten years service. For every one participant that received a vested right, 2.5 forfeited with more than five years service.[13]

Of 1.8 million participating in the last five years, 38,037 participants, or 2 percent, have received vested rights on termination of employment prior to retirement. This number represents 9 percent of the active participants who have left the scope of the plan in the last five years—the highest percentage in this connection.

332,760 participants, regardless of length of service forfeited in the last five years. This constituted 18 percent of the 1.8 million participating in the last five years but 83 percent of the 400,000 active participants who left the scope of the plan in the last five years.

As Subtable 6–A shows, 267,583 or 80 percent of the total forfeitures had five years service or less while 65,177 or 20 percent had more than five years service. Subtable 6–B indicates that 60 employees received vested rights on termination of employment prior to retirement for every one employee who forfeited with more than 15 years of service. Of these participants, 26 employees received such vested rights for every one employee who forfeited with more than ten years service. Again, employees who forfeited with more than five years service outnumbered those who received such vested rights by two to one.[14]

A COMPARISON OF 51 PLANS WITH NO VESTING OR VESTING WITH 11 YEARS OF SERVICE OR MORE AND 36 PLANS WITH VESTING AFTER 10 YEARS OF SERVCE OR LESS

As Table 7 demonstrates, while only five percent of the active participants who left the scope of the plan since 1950 obtained benefits in the 51 plans with no vesting or later vesting. 16 percent of such participants obtained benefits in the 36 plans in the earlier vesting sample.

To some extent, this is attributable to the larger numbers of participants in the 36 plans who received deferred retirement benefits based on vested rights obtained when they terminated employment prior to retirement. Only .03 percent of participants who left the scope of the 51 plans obtained such benefits, while .7 percent in the 36 plans obtained such benefits.

The percentages of those who forfeited with more than five years of service is fairly equal in both sets of plans (see Subtable 7–A).

Subtable 7–B shows that in the 51 plans for every two employees with more than 15 years service who received benefits, one employee forfeited, compared with the 36 plans where 24 employees with more than 15 years service received benefits for every one who did not.

A consistent factor is that roughly the same high percentages—in the 80th percentile—forfeit with five years service or less. (see Subtable 7–A).

A comparison of those who have received vested rights on termination of employment prior to retirement is show by Table 8. Almost three times as many active participants left the 51 plans since 1950 as left the 36 plans, yet in the latter group, 91517 obtained such vested rights, while in the former group only 21,489 obtained such vested rights—a ratio of over four to one.

The experience of the five years is similar. Three times as many participants have received vested rights on termination of employment prior to retirement in the 36 plans as in the 51 plans, despite the fact that three times as many active participants left the 51 plans as left the 36 plans.

SUMMARY

The benefits, vested rights and forfeiture status of two discrete samples of private pension plans that completely answered Part III Pension Study: Form P–1 was examined. The first sample consisted of 51 plans that had no vesting provisions or vesting with 11 years of service or more. The second sample consisted of 36 plans with vesting after 10 years of service or less.

The principal preliminary results are:

(1) Four percent of the all participants since 1950 in the 51 no vesting or later vesting plans have received normal, early or deferred retirement benefits; eight percent of all participants in the 36 earlier vesting plans have received such benefits.

(2) Five percent of all active participants since 1950 who left the plans have received normal early or deferred retirement benefits; 16 percent of all active participants since 1950 who left the 36 plans have received such benefits.

(3) 70 percent of all participants since 1950 in the 51 plans have forfeited without qualifying for benefits; 38 percent in the 36 plans have forfeited without qualifying for benefits.

(4) 92 percent of all active participants since 1950 who left the 51 plans forfeited without qualifying for benefits; 73 percent of all active participants since 1950 who left the 36 plans forfeited without qualifying for benefits.

(5) Of the total forfeitures in the 51 plans since 1950, 85 percent were participants with five years service or less; of total forfeitures in the 36 plans since 1950, 80 percent were participants with five years service or less.

(6) In the 51 plans, for every two participants who has received a normal, early or deferred retirement benefit since 1950, one participant forfeited with more than 15 years service, for every one participant who received a benefit, one participant with more than ten years service forfeited, three participants with more than five years service forfeited, and 16 participants with five years service or less forfeited.

(7) In the 36 plans, for every one participant with more than 15 years service who forfeited since 1950, 24 participants received a normal, early or deferred retirement benefits; for every participant with more than 10 years service who forfeited, seven participants received such benefits; for every participant with more than five years service who forfeited, one participant received such a benefit; for every participant who received such a benefit, four employees with five years service or less forfeited.

FOOTNOTES

[1] "Participant" was defined by Form P–1 as "any employee or former employee of an employee or any member of an employee organization who is or may become eligible to receive a benefit or any type from any employee pension benefit plan or whose beneficiaries may be eligible to receive any such benefit and included preparticipants where contributions were being made on their behalf as well as persons still eligible to receive benefits whose service is temporarily interrupted."

[2] In addition to length of service requirements for vesting of benefits, many plans also require that a minimum age be attained, *e.g.*, 15 years service and age 45. For purposes of this analysis, only the service requirements were considered; the age factor has not yet been separately analyzed.

[1] "Multi-employer" referring in this context to a collectively bargained plan to which predominantly unaffiliated employers contribute.

[2] In tabulating forfeiture rates, "contributory" plans present somewhat of a problem because it is almost invariably the case that terminating employees who withdraw their contributions will forfeit vested rights in the employer's contributions despite having otherwise satisfied the age and service requirements for vesting. Where the plan specifically indicated that forfeitures were created by these circumstances rather than by failure to meet age or service requirements, the figures furnished were eliminated from tabulation. Otherwise, they were specifically included.

[3] See Footnote #4.

[4] For purposes of constructing this table, as well as the comparable tables for the sample of 36 plans, workers receiving disability retirement, death, and other forms of survivors benefits were excluded since receipt of benefits in these circumstances is not primarily conditioned on meeting age or service requirements. However, the total number of participants having received such benefits is provided in footnotes to the respective tables involved.

[7] The tables contained separate percentage calculations which indicate that there are participants still within the scope of the plan who may yet receive benefits.

[8] For explanation of variations in totals, see technical note on page 16.

[9] For explanation of variations in totals, see technical note on page 16.

[10] For explanation of variations in totals, see technical note on page 16.

[11] See technical note on page 16.

[12] Many plans in this particular sample reported no forfeitures for participants with more than 16 or 10 years of service. For those who did report such forfeitures, it is to be deduced that 10 year vesting or less was not applicable during the entire 20 year period reported.

[13] For explanation of variations in totals, see technical note on page 16.

[14] For explanation of variations in totals, see technical note on page 16.

THREE BUDGETS FOR AN URBAN RETIRED COUPLE—PRELIMINARY SPRING 1969 COST ESTIMATES

The Bureau of Labor Statistics has developed a set of budgets which describe a specified manner of living at three levels for an urban retired couple—husband age 65 or over and his wife. These budgets, described as Lower, Intermediate and Higher, were published in the November 1969 issue of the *Monthly Labor Review*. A report *Three Budgets for a Retired Couple in Urban Areas of the United States, 1967–68* (Bulletin 1570–6) will be released in 1970. *Preliminary* estimates of the budget costs in 39 metropolitan areas, 4 regional classes on nonmetropolitan areas, and urban U.S. are now available for spring 1969.

Consumption costs were derived by applying price changes between spring 1967 and spring 1969, reported in the Consumer Price Index, to the appropriate spring 1967 cost of each budget class of goods and services. Final estimates will utilize specific price data considered more appropriate to each budget level than is the Consumer Price Index. Since this index reflects prices paid for commodities and services purchased by urban wage earners and clerical workers generally, without regard to their family type and level of living, its use to update budgets for price change over time must be viewed as yielding preliminary estimates.

Other costs were also updated to 1969, but personal taxes (in the higher budget) were computed from tax rates in effect for 1968. Final detailed estimates based on the complete repricing of the budgets in spring 1969 will be published in mid-1970. Total budget costs for spring 1969 are available for the first time, but consumption costs were released by the Bureau in September 1969.

Copies of Bulletin 1570–6 will be for sale early in 1970 at the Bureau of Labor Statistics and the Superintendent of Documents, Washington, D.C. 20402. A press release which includes costs of the three budgets in all urban areas is available upon request.

TABLE 1.—ANNUAL COSTS OF A LOWER BUDGET FOR A RETIRED COUPLE,[1] SPRING 1969

Area	Total budget[2]	Cost of family consumption						
		Total	Food	Housing[3]	Transportation[4]	Clothing and personal care	Medical care	Other family consumption
Urban United States	$2,902	$2,777	$851	$1,010	$205	$240	$334	$137
Metropolitan areas[5]	2,975	2,847	880	1,069	185	244	341	148
Nonmetropolitan areas[6]	2,687	2,571	824	835	266	228	314	104
Northeast:								
Boston, Mass	3,011	2,881	902	1,186	62	239	341	151
Buffalo, N.Y	3,208	3,070	882	1,182	265	270	321	150
Hartford, Conn	3,304	3,162	919	1,214	268	257	349	155
Lancaster, Pa	2,948	2,821	894	986	229	240	330	142
New York-northeastern New Jersey	3,080	2,947	919	1,239	34	249	353	153
Philadelphia, Pa	2,872	2,748	919	1,048	58	234	340	149
Pittsburgh, Pa	2,921	2,795	873	954	249	244	319	156
Portland, Maine	2,983	2,855	842	1,036	231	251	330	165
Nonmetropolitan areas[6]	2,981	2,853	889	1,017	282	237	323	105
North Central:								
Cedar Rapids, Iowa	2,954	2,827	807	1,061	242	253	323	141
Champaign-Urbana, Ill	3,047	2,916	838	1,123	239	240	340	136
Chicago, Ill.-northwestern Indiana	2,906	2,781	884	1,109	60	250	335	143
Cincinnati, Ohio-Kentucky-Indiana	2,834	2,712	844	916	249	231	323	149
Cleveland, Ohio	3,155	3,019	851	1,158	261	255	340	154
Dayton, Ohio	2,949	2,822	840	1,035	237	242	321	147
Detroit, Mich	2,886	2,762	871	905	257	251	329	149
Green Bay, Wis	2,864	2,741	817	1,014	231	242	301	136
Indianapolis, Ind	3,071	2,939	849	1,152	246	239	304	148
Kansas City, Mo.-Kans	2,929	2,803	871	958	258	248	329	139
Milwaukee, Wis	3,040	2,909	836	1,113	244	246	329	141
Minneapolis-St. Paul, Minn	2,982	2,854	827	1,075	251	250	305	146
St. Louis, Mo.-Illinois	2,970	2,842	880	1,015	257	237	318	135
Wichita, Kans	2,923	2,797	843	1,014	242	242	320	136
Nonmetropolitan areas[6]	2,786	2,847	843	876	259	249	317	103
South:								
Atlanta, Ga	2,690	2,574	791	815	238	235	341	154
Austin, Tex	2,701	2,585	795	843	238	217	359	133
Baltimore, Md	2,837	2,715	801	941	260	237	328	148
Baton Rouge, La	2,646	2,532	807	759	259	230	335	142
Dallas, Tex	2,745	2,627	777	888	245	227	347	143
Durham, N.C	2,793	2,673	774	963	233	228	336	139
Houston, Tex	2,761	2,642	800	864	266	223	346	143
Nashville, Tenn	2,778	2,658	775	935	242	229	324	153
Orlando, Fla	2,806	2,685	757	995	234	221	331	147
Washington, D.C.-Maryland-Virginia	3,082	2,959	855	1,097	262	254	343	148
Nonmetropolitan areas[6]	2,524	2,415	788	742	264	208	309	104
West:								
Bakersfield, Calif	2,849	2,726	841	907	259	240	342	131
Denver, Colo	2,870	2,746	806	996	236	250	326	132
Los Angeles-Long Beach, Calif	3,069	2,937	841	1,063	258	246	381	148
San Diego, Calif	2,971	2,843	819	1,041	252	230	351	150
San Francisco-Oakland, Calif	3,224	3,085	880	1,148	280	269	354	154
Seattle-Everett, Wash	3,221	3,082	922	1,141	261	260	352	146
Honolulu, Hawaii	3,365	3,220	1,061	1,147	298	228	332	154
Nonmetropolitan areas[6]	2,877	2,753	864	935	277	251	317	109
Anchorage, Alaska	4,234	4,052	1,112	1,737	360	314	397	137

[1] A husband age 65 or over and his wife.

[2] The total cost of the budget includes an allowance for gifts and contributions, in addition to family consumption shown separately in the table.

[3] Housing includes shelter, household operation and house furnishings. The average costs of shelter are weighted by the following proportions: 40 percent for rental costs, 60 percent for homeowner costs.

[4] The average costs of automobile owners and nonowners were weighted by the following proportions of families: Boston, Chicago, New York, Philadelphia, 100 percent for nonowners; all other metropolitan areas, 45 percent for car owners, 55 percent for nonowners; nonmetropolitan areas, 55 percent for car owners, 45 percent for nonowners.

[5] For a detailed description see the 1967 edition of "Standard Metropolitan Statistical Areas," prepared by the Bureau of the Budget.

[6] Places with populations of 2,500 to 50,000.

Note: Because of rounding, sums of individual items may not equal totals.

TABLE 2.—ANNUAL COSTS OF AN INTERMEDIATE BUDGET FOR A RETIRED COUPLE,[1] SPRING 1969

Area	Total budget[2]	Cost of family consumption						
		Total	Food	Housing[3]	Transportation[4]	Clothing and personal care	Medical care	Other family consumption
Urban United States	$4,192	$3,940	$1,131	$1,433	$412	$396	$337	$231
Metropolitan areas[5]	4,355	4,093	1,150	1,539	409	403	344	248
Nonmetropolitan areas[6]	3,710	3,487	1,073	1,117	422	378	317	180
Northeast:								
Boston, Mass	4,643	4,364	1,235	1,742	403	389	343	252
Buffalo, N.Y	4,604	4,327	1,178	1,659	471	440	324	255
Hartford, Conn	4,740	4,455	1,270	1,685	479	413	351	257
Lancaster, Pa	4,293	4,035	1,233	1,407	427	387	333	248
New York-northeastern New Jersey	4,689	4,407	1,277	1,835	268	412	355	259
Philadelphia, Pa.-New Jersey	4,380	4,117	1,235	1,536	370	383	342	251
Pittsburgh, Pa	4,241	3,985	1,177	1,384	451	392	322	260
Portland, Maine	4,329	4,069	1,162	1,466	434	410	322	265
Nonmetropolitan areas[6]	4,128	3,880	1,199	1,343	439	394	326	179
North Central:								
Cedar Rapids, Iowa	4,286	4,028	1,041	1,562	439	412	327	247
Champaign-Urbana, Ill	4,390	4,126	1,103	1,611	434	393	343	242
Chicago, Ill.-northwestern Indiana	4,309	4,050	1,135	1,546	384	404	338	243
Cincinnati, Ohio-Kentucky-Indiana	4,111	3,964	1,101	1,380	447	379	327	250
Cleveland, Ohio	4,520	4,248	1,106	1,663	465	417	344	253
Dayton, Ohio	4,154	3,904	1,086	1,414	435	401	324	244
Detroit, Mich	4,194	3,942	1,149	1,349	461	404	331	248
Green Bay, Wis	4,126	3,878	1,054	1,468	429	393	304	238
Indianapolis, Ind	4,387	4,123	1,104	1,619	451	393	307	249
Kansas City, Mo.-Kansas	4,224	3,970	1,124	1,399	468	407	333	239
Milwaukee, Wis	4,386	4,122	1,103	1,613	439	398	331	238
Minneapolis-St. Paul, Minn	4,277	4,020	1,085	1,519	451	403	308	253
St. Louis, Mo.-Illinois	4,289	4,031	1,154	1,476	462	387	320	232
Wichita, Kans	4,166	3,915	1,074	1,435	455	396	322	233
Nonmetropolitan areas[6]	3,842	3,611	1,073	1,212	411	413	320	182
South:								
Atlanta, Ga	3,923	3,687	1,069	1,202	434	386	343	253
Austin, Tex	3,916	3,680	1,056	1,247	438	357	361	221
Baltimore, Md	4,106	3,859	1,079	1,348	461	395	330	246
Baton Rouge, La	3,823	3,593	1,083	1,102	470	367	338	233
Dallas, Tex	4,000	3,759	1,052	1,302	442	378	349	236
Durham, N.C	4,004	3,763	1,035	1,349	429	381	338	231
Houston, Tex	4,017	3,775	1,077	1,274	475	368	349	232
Nashville, Tenn	4,052	3,808	1,037	1,366	445	380	326	254
Orlando, Fla	4,011	3,770	1,010	1,378	434	367	334	247
Washington, D.C.-Maryland-Virginia	4,422	4,156	1,154	1,523	486	425	346	242
Nonmetropolitan areas[6]	3,484	3,274	1,037	979	424	344	312	178
West:								
Bakersfield, Calif	4,114	3,867	1,079	1,354	458	398	345	233
Denver, Colo	4,116	3,868	1,050	1,420	440	405	327	226
Los Angeles-Long Beach, Calif	4,374	4,111	1,095	1,519	458	406	385	248
San Diego, Calif	4,179	3,928	1,072	1,431	444	378	354	249
San Francisco-Oakland, Calif	4,607	4,330	1,152	1,633	490	439	358	258
Seattle-Everett, Wash	4,623	4,345	1,201	1,656	466	416	354	250
Honolulu, Hawaii	4,755	4,469	1,367	1,612	520	378	334	258
Nonmetropolitan areas[6]	3,912	3,677	1,099	1,231	427	417	319	184
Anchorage, Alaska	5,626	5,288	1,397	2,207	548	521	400	215

[1] A husband age 65 or over and his wife.

[2] The total cost of the budget includes an allowance for gifts and contributions, in addition to family consumption shown separately in the table.

[3] Housing includes shelter, household operation, and house furnishings. The average costs of shelter are weighted by the following proportions: 35 percent for rental costs, 65 percent for homeowner costs.

[4] The average costs of automobile owners and nonowners were weighted by the following proportions: New York, 25 percent for car owners, 75 percent for nonowners; Boston, Chicago, Philadelphia, 40 percent for car owners, 60 percent for nonowners; all other metropolitan areas, 60 percent for car owners, 40 percent for nonowners; nonmetropolitan areas, 68 percent for car owners, 32 percent for nonowners.

[5] For a detailed description see the 1967 edition of "Standard Metropolitan Statistical Areas," prepared by the Bureau of the Budget.

[6] Places with populations of 2,500 to 50,000.

Note: Because of rounding, sums of individual items may not equal totals.

TABLE 3.—ANNUAL COSTS OF A HIGHER BUDGET FOR A RETIRED COUPLE,[1] SPRING 1969

Area	Total budget[2]	Cost of family consumption							Personal taxes
		Total	Food	Housing[3]	Transportation[4]	Clothing and personal care	Medical care	Other family consumption	
Urban United States	$6,616	$5,811	$1,387	$2,247	$735	$608	$339	$495	$297
Metropolitan areas[5]	6,966	6,083	1,412	2,434	753	604	346	534	356
Nonmetropolitan areas[6]	5,569	5,004	1,314	1,689	683	622	319	377	119
Northeast:									
Boston, Mass	7,912	6,761	1,487	3,069	735	577	347	546	573
Buffalo, N.Y	7,299	6,331	1,420	2,583	798	649	327	554	422
Hartford, Conn	7,540	6,552	1,553	2,640	823	615	355	586	426
Lancaster, Pa	6,624	5,806	1,491	2,130	719	588	336	542	312
New York-Northeastern New Jersey	7,690	6,623	1,543	2,858	685	617	357	563	498
Philadelphia, Pa.-N.J	7,057	6,087	1,500	2,468	652	570	346	551	442
Pittsburgh, Pa	6,691	5,835	1,432	2,180	757	581	325	560	347
Portland, Maine	6,538	5,782	1,391	2,153	740	607	335	556	251
Nonmetropolitan areas[6]	6,230	5,532	1,467	2,022	705	622	329	387	212
North-central:									
Cedar Rapids, Iowa	6,882	5,969	1,294	2,428	783	631	329	524	373
Champaign-Urbana, Ill	6,859	6,035	1,371	2,402	786	628	345	521	300
Chicago, Ill.-northwestern Indiana	6,820	6,003	1,400	2,418	704	626	340	515	296
Cincinnati, Ohio-Ky. Ind	6,281	5,549	1,365	1,999	748	588	330	519	245
Cleveland, Ohio	6,981	6,095	1,354	2,460	772	645	346	518	358
Dayton, Ohio	6,626	5,807	1,386	2,286	720	623	328	514	312
Detroit, Mich	6,935	6,076	1,412	2,401	775	621	335	532	332
Green Bay, Wis	6,681	5,784	1,296	2,355	726	612	308	487	382
Indianapolis, Ind	6,855	6,007	1,363	2,420	765	608	311	534	337
Kansas City, Mo.-Kans	6,654	5,808	1,378	2,188	794	630	335	512	387
Milwaukee, Wis	6,863	5,919	1,374	2,353	737	615	334	506	429
Minneapolis-St. Paul, Minn	6,741	5,863	1,338	2,298	772	616	311	530	367
St. Louis, Mo.-Ill	6,548	5,755	1,436	2,107	804	600	323	485	290
Wichita, Kans	6,508	5,726	1,314	2,197	787	611	326	491	283
Nonmetropolitan areas[6]	5,729	5,126	1,314	1,779	664	665	324	380	148

Footnotes at end of table.

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TABLE 3.—ANNUAL COSTS OF A HIGHER BUDGET FOR A RETIRED COUPLE,[1] SPRING 1969—Continued

Area	Total budget[2]	Cost of family consumption							Personal taxes
		Total	Food	Housing[3]	Transportation[4]	Clothing and personal care	Medical care	Other family consumption	
South:									
Atlanta, Ga	$6,148	$5,474	$1,316	$1,968	$738	$593	$347	$512	$198
Austin, Tex	6,048	5,395	1,292	1,913	775	554	364	497	177
Baltimore, Md	6,569	5,777	1,353	2,191	772	595	333	533	258
Baton Rouge, La	6,177	5,428	1,388	1,799	820	564	340	517	271
Dallas, Tex	6,542	5,788	1,322	2,212	783	584	352	533	251
Durham, N.C	6,070	5,389	1,272	1,927	756	581	340	513	288
Houston, Tex	6,562	5,802	1,337	2,206	832	567	351	509	254
Nashville, Tenn	6,294	5,580	1,269	2,103	785	582	328	523	234
Orlando, Fla	6,188	5,490	1,257	2,043	762	563	336	529	186
Washington, D.C.-Md.-Va	6,967	6,088	1,417	2,361	779	654	349	528	351
Nonmetropolitan areas[5]	5,239	4,750	1,267	1,521	688	584	314	376	62
West:									
Bakersfield, Calif	6,488	5,743	1,328	2,137	827	588	348	515	243
Denver, Colo	6,538	5,772	1,347	2,266	738	595	331	495	262
Los Angeles-Long Beach, Calif	7,077	6,201	1,367	2,522	803	602	387	520	349
San Diego, Calif	6,676	5,892	1,328	2,349	779	560	359	517	271
San Francisco-Oakland, Calif	7,288	6,345	1,448	2,490	863	649	361	534	376
Seattle-Everett, Wash	7,049	6,179	1,485	2,396	805	616	357	520	336
Honolulu, Hawaii	7,858	6,700	1,721	2,615	897	558	337	572	504
Nonmetropolitan areas[5]	5,881	5,233	1,360	1,826	692	564	321	370	195
Anchorage, Alaska	8,589	7,246	1,722	3,056	852	798	405	413	730

[1] A husband age 65 or over and his wife.
[2] The total cost of the budget includes an allowance for gifts and contributions and life insurance, plus family consumption and personal taxes shown separately above.
[3] Housing includes shelter, household operation, house furnishings, and lodging out-of-home city. The average costs of shelter are weighted by the following proportions: 30 percent for rental costs, 70 percent for homeowner costs.
[4] The average costs of automobile owners and nonowners were weighted by the following proportions of families: Boston, Chicago, New York, Philadelphia, 75 percent for car owners, 25 percent for nonowners; all other metropolitan and nonmetropolitan areas, 100 percent for car owners.
[5] For detailed description see the 1967 edition of "Standard Metropolitan Statistical Areas," prepared by the Bureau of the Budget.
[6] Places with population of 2,500 to 50,000.

Note: Because of rounding, sums of individual items may not equal total.

APPENDIX III

[Extract from Report No. 3, Preliminary Findings from Social Security Survey of the Aged 1968, September 1970]

TABLE 3.—SIZE OF OASDHI BENEFITS FOR OASDHI BENEFICIARIES[1]: PERCENTAGE DISTRIBUTION OF AGED UNITS BY SIZE OF OASDHI INCOME, 1967

OASDHI income	All Units	Married couples	Nonmarried persons		
			Total	Men	Women
Number (in thousands):					
Total with OASDHI income	12,447	4,913	7,534	1,928	5,606
Reporting on OASDHI income	12,360	4,866	7,494	1,915	5,579
Percent of units	100	100	100	100	100
$1 to $499	5	3	6	3	7
$500 to $749	21	8	29	22	32
$750 to $999	18	10	22	17	24
$1,000 to $1,249	20	11	25	22	26
$1,250 to $1,499	13	14	13	26	9
$1,500 to $1,749	8	13	4	10	2
$1,750 to $1,999	5	12			
$2,000 to $2,249	7	17	(2)	(2)	
$2,250 to $2,449	3	9			
$2,500 or more	1	3			
Median OASDHI income	$1,091	$1,557	$906	$1,080	$859

[1] Excludes beneficiaries who received their first benefit in February 1967 or later, the transitionally insured, and special "age-72" beneficiaries.
[2] 0.5 percent or less.

THE SURCHARGE AND UNITED STATES-CANADIAN RELATIONS

Mr. CHURCH. Mr. President, so long as President Nixon's 10-percent surcharge is in effect, United States-Canadian relations will suffer. The economies of both countries are closely linked; and the surcharge is causing extraordinary stress to our northern neighbor. Canada's Ambassador to Washington, Hon. Marcel Cadieux, illustrated this in pointing out the results of a recent survey of 1,300 Canadian firms. The statistics "suggest that if the surcharge continues for a year, 150 different companies will be in danger of going under." According to the Ambassador, data indicate that 40,000 Canadians will lose their jobs in 3 months, 70,000 in 6 months, 90,000 in a year, a development that Canada can hardly afford with an unemployment rate already of 7.1 percent.

"Canadians feel," Ottawa's representative here said, that there is "no justification for the application of the surcharge to Canada."

Last month, Ambassador Cadieux outlined these stresses and strains in United States-Canadian relations in a speech to the Dallas Chamber of Commerce. I ask unanimous consent that his address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY MR. MARCEL CADIEUX, CANADIAN AMBASSADOR, DALLAS CHAMBER OF COMMERCE DINNER, DALLAS, TEX., OCT. 20, 1971

I was delighted to receive your gracious invitation to address you today.

When I was named Ambassador of Canada to the United States, I was charged with maintaining an alert interest in the welfare of official Washington.

Perhaps I can satisfy my curiosity now on a particular point.

Whatever happened to the Senators?

Are they really buried in Arlington?

This visit also allows me to fulfill a dream of my childhood—to meet the Texan on his native ground and, as one of your great sons who has now returned home often put it, to "press the flesh".

To the foreigner, Texas and the Texan represent a most romantic and distinctive America. You are a state and a people shaped by the challenge of a vast, rich land. A land of great difficulties and of great triumphs—of great industry and great energy. There are many points of similarity between your state and my country.

They are both—here in the latter half of the 20th Century—frontiers, frontiers of the spirit. I would suggest that your past accomplishments will look small only in contrast to those of your future. We in Canada have a future too—and a great one—but our immediate future is today of much concern to us all.

When I accepted your invitation it occurred to me that for the sake of novelty I might avoid that old cliche about the perpetual harmony existing between Canada and the United States. As it turned out the cliche is not particularly appropriate right now. This is a time of stress for Canada—it has been one since the new economic policy of the United States was announced by President Nixon on August 15.

The announcement of the import surcharge had a profound impact on Canada. The reason is obvious. We live in a world where the economies of nations, particularly the industrialized nations, depend on each other. Of all nations the economies of Canada and the United States are most closely linked—they pull on each other as does the gravity on the earth and the moon.

We are—in all the world—each other's best customers. You take 68 per cent of our exports. You provide 75 per cent of our imports. A fourth of all the goods that the United States sells abroad—it sells to Canada.

Many of our industries—farm machinery, automobiles, defence materials—are almost totally intermeshed. Firms based in the United States control half of Canada's industry and 90 per cent of its petro-chemical production and distribution.

These are extraordinary figures—of which I am afraid most Americans and a great many Canadians are unaware. There are other figures just as extraordinary. Thirty per cent of America's foreign investments are in Canada. The Canadian investment in the United States is—proportionately—even more. We are linked—like the Earth and the Moon—the economic gravity pulls in both directions—but the bigger body exerts the bigger pull and you are ten times as big as we are.

When we make an economic move it affects the United States; but when you make one it affects us ten times over. Let us consider the effect of the surcharge. Canada is a reliable source of essential materials—oil, gas, forest products, minerals. We export to many countries around the world—but more than two thirds of our exports go south, across the border.

The surcharge will not apply to all our exports but it will apply to fully a quarter of them. The quarter is—in the economic sense—a most important part of the whole. It includes the products of our labour intensive industries. The factories in which many of our men and women are employed. These industries account for two-and-a-quarter billion dollars in American sales. Eighty-five per cent of our exported finished Canadian goods goes to the United States. These sales have already been severely affected by the upward flotation of the Canadian dollar since the spring of 1970.

What can these manufacturers do to lessen the impact of the surcharge? The choice is limited. They can attempt to absorb the cost but their profits are already dangerously low. A recent—careful—survey of 1300 Canadian firms suggests that if the surcharge continues for a year, 150 different companies will be in danger of going under. Seventy-three firms said that they might be forced to relocate in the United States—an eventuality which I profoundly believe would be to the disadvantage of both countries.

The affected firms could attempt to pass the cost of the surcharge on to their customers—but this would hardly have a buoyant effect on sales. The indications are that these critical export sales would slump—by $400 million after three months—by $700 million in six months—by $900 million after a year.

And this would be the beginning of our difficulties—not the end. When sales go, jobs go.

The survey suggests that 40,000 jobs would be lost in three months, 70,000 in six, 90,000 in a year. 90,000—or 40,000—is a lot of jobs, particularly so in a country the size of Canada which already has an unemployment rate that is higher than that in the United States.

Unemployment is a reality—and a very grim one—particularly in some Canadian provinces. I have mentioned some similarities between Texas and Canada. I will mention another—we are each the heir of a rich, double cultural past. You are a blend of Spanish and English speaking nations. We are principally a blend of the French and the settlers from the British Isles. We are fortunate—your State and mine—for our lives are richer, our food is more varied, and our heritage is stronger because of the blend. But such blending is not always easy and as I'm sure you are aware we in Canada have felt the strains—particularly so a year ago this month in Quebec. In Quebec the unemployment rate is between nine and ten per cent. This severe economic fact makes the resolution of delicate issues involving the unity and identity of Canada much more difficult.

It is a distressing fact that one of the Provinces most severely affected by the surcharge is Quebec.

But this is a situation that we in Canada must handle ourselves. We cannot ask the United States to shape its economic policy to answer Canadian needs. The United States decided on a surcharge to answer its own economic needs. President Nixon has set forth—clearly—the reasons why.

Let us examine the reasons—not as they apply to other nations around the world but in terms of Canada and the United States.

The surcharge is designed to encourage United States trading partners to revalue their currencies in terms of the United States dollar—to allow their currencies to move up freely to more realistic levels.

Canada floated its dollar in May, 1970. It has long since moved up—by some seven per cent.

The surcharge is designed to encourage the lowering of tariffs and other barriers which discriminate against the United States. Canada has no tariff—or other trade barriers—which discriminate against the United States. Other nations—in Europe and Asia—do. Canada does not.

The surcharge is designed to encourage other nations to share more fully the burdens of international security and development.

Canada assumed its share of these responsibilities long, long ago—perhaps more than its share. It works with the United States and NATO, it keeps NATO forces in Europe. It aids developing nations and the aid is increasing substantially. In per capita and gross national product terms it compares favourably with that of the United States; and it is growing.

There have been, and no doubt are, sharp practice traders abroad in the world. They are not Canadians.

There are nations which have regarded the United States as an indulgent uncle from which much is demanded and nothing returned. Canada has never been one.

Since World War II Canadians have had the policy of reducing trade barriers and building our export production. We are traders. We have built up secondary industries, ones in which we have natural competitive advantages. We have built them to export. We have committed ourselves to free trade.

This policy has served Canada, and the United States, well. It was developed in conjunction with the United States.

We make a variety of goods and we make them well and we sell them at small profit margins. We buy in markets where the same attitudes prevail. We buy, overwhelmingly, from the United States. Three of every four dollars we spend abroad are spent in the United States.

To be frank, Canadians feel there seems no justification for the application of the surcharge to Canada.

We could not avoid it by conforming to the President's standards for we already conformed.

We tried, I assure you, friendly persuasion.

We pointed out the obvious:

That we were the United States' best customer and that we are better when we are prosperous. When we experienced economic difficulties last year our imports from the United States dropped by three per cent. This year, as things have improved a bit they have climbed back by 2.6 per cent.

Last year we had a current account deficit with the United States and we expect this year it will grow.

The United States is concerned with the outward flow of long-term capital. The Canadian government has urged the provinces, its municipalities and its corporations to restrict their borrowing and in recent months the capital flow from the United States has gone down.

I would like to make it clear that Canada supports fully the United States' broad efforts to bring about an equilibrium in its balance of payments and to rebuild confidence in the United States dollar as a world reserve currency.

We support fully President Nixon's efforts to end arbitrary restrictions on trade. We have been hurt by them too.

It is in the same spirit that we are against the surcharge.

We can live with it for a short time without having to make major readjustments to our trading structure. The Canadian government has introduced legislation to support employment in threatened industries, including those affected by the surcharge.

But this is a temporary measure. The long term threat is the basic one. Since the mid-Thirties we and many other nations have turned away from protectionism under the leadership of the United States. The basic question now raised is whether Canada can continue to depend on trading access to the United States on mutually acceptable terms—on terms negotiated and agreed to by the two governments. If we cannot, then we must reconsider our whole industrial and commercial policies.

Experience suggests that this is the time not to step backward to the restricted and protected ways of the past but forward—in the direction of freer markets of greater trade.

In this regard we are encouraged by President Nixon's statement, in his address to the joint session of Congress, on August 15 that: "To our friends abroad . . . I give this assurance; the United States always has been, and will continue to be, a forward-looking and trustworthy trading partner." And also by the President's statement on September 9 that: "We cannot remain a great nation if we build a permanent wall of tariffs and quotas around the United States. We cannot live behind a wall that shuts the rest of the world out."

World trade can be liberalised if the leading economic powers wish it to be liberalised. Canada will use every opportunity to promote free consultation and joint agreement among them.

I have earlier compared my country with both the Moon and with Texas. The comparisons have obvious limitations. The Moon is dead. Canada is enormously alive and growing. The comparison with Texas is, I believe a better one though not precise. We are in terms of the developing of our resources and our industrial potential where Texas was some generations ago. We have the achievements of Texas as models. We expect our own to be as great. We need, as you once needed, a fair shake, a fair chance to grow.

COST DATA FOR MAJOR WEAPONS SYSTEMS

Mr. PROXMIRE. Mr. President, I am today releasing a report made by the General Accounting Office at my request summarizing estimated cost data for 45 selected major weapons systems. The data were taken from the June 30, 1971, Selected Acquisition Reports—SAR's—prepared by the Department of Defense. At the close of my remarks, I will place in the RECORD the letter of the Comptroller General, Elmer Staats, forwarding the GAO letter and report.

The latest figures show absolutely no letup in the spiraling costs of weapons systems.

XUM

The problem of cost overruns appears to be growing worse.

I asked the General Accounting Office to provide me with summary data on 45 selected major weapons systems.

An analysis of that data shows a whopping $35.2 billion cost overrun on the programs reported on.

A year ago, the same 45 programs showed an overrun of $28.2 billion. Thus, in 1 year, the overruns themselves have increased by $7 billion or by 25 percent.

A further analysis of the data shows that the cost overruns on only nine of those programs amount to $15.5 billion.

In the past 12 months alone, these nine programs went up in costs by $3.1 billion.

The nine programs are the B–1 bomber, the F–111, Minuteman II, Minuteman III, Safeguard ABM, the SAM–D missile program, the main battle tank, the M–60 tank, and the TOW missile program.

The quantity of weapons being purchased in seven of the nine programs had been reduced. Reductions in quantity are almost always caused by increased costs.

In the cases of most of the weapons I have named, we know that the cost increases have been accompanied by poor technical performance, delayed deliveries, and general mismanagement and waste.

A table comparing the original planning estimates for each of the nine programs, adjusted for reductions in quantity, with current estimates to complete those programs follows in millions of dollars:

	Planning estimate (adjusted for quantity change)	Current estimate
1. Main battle tank (MBT–70)	$1,524.1	$2,219.7
2. TOW missile	122.0	714.6
3. M–60A1E2 tank	148.3	391.9
4. Safeguard ABM	5,815.0	6,184.0
5. SAM–D missile	3,125.4	3,921.8
6. B–1 bomber	8,920.7	11,122.6
7. F–111 aircraft	2,000.0	6,667.9
8. Minuteman II	3,018.1	4,744.6
9. Minuteman III	2,540.2	5,981.7
Total	26,417.8	41,948.8

In addition to the overruns that are now evident, there are a number of serious problems in other weapons whose dimensions are still hidden by statistical gimmicks and the fact that it is too early to evaluate the results of actual production.

This is especially true for Navy weapons systems.

For example, the Navy has recently had to reduce the number of ships to be purchased in four major shipbuilding programs. In each case, cost overruns and other problems led to the decision to reduce the quantity.

The ship programs are the DLG–938 nuclear guided missile frigate, the DD–963 destroyer, and the LHA landing assault vessel.

Drastic reductions in the number of units also had to be ordered in the cases of the Mark 48 torpedo and the F–14 aircraft programs, both of which have experienced astronomical cost overruns.

Evidence that the Pentagon is unable to efficiently and economically manage the billions of dollars entrusted to it for purchase of military hardware has become mountainous.

I ask unanimous consent that the letter and report be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., November 3, 1971.

Hon. WILLIAM PROXMIRE,
Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee, Congress of the United States.

DEAR MR. CHAIRMAN: Enclosed is the updated summary of estimated cost data, concerning the status of 45 selected major weapon systems included in both our report thereon dated March 18, 1971 (See Attachment I), and in the June 30, 1971, SARs. This information was obtained from the June 30, 1971, Selected Acquisition Reports (SARS) as released by the Department of Defense. We have made no audit or verification of the reported data.

In addition to the summary data, we have included a schedule of program cost data for each of the individual systems, included on the Selected Acquisition Reporting System as of June 30, 1971. (See attachment II)

As you know, we plan to review the June 30 SAR's in connection with the preparation of our Major Acquisition Reporting System report on the status of these and other weapon systems early in the next calendar year.

Sincerely yours,
ELMER B. STAATS,
Comptroller General of the United States.

SUMMARY OF ESTIMATED COST DATA AS OF JUNE 30, 1971

[Dollars in millions]

Number of systems	Planning estimate	Development estimate	Cost change: Quantity	Cost change: Other	Current estimate
Army (10)	$13,068.3	$12,757.2	($2,080.6)	$4,466.7	$15,143.3
Navy (24)	31,012.4	38,858.5	(780.2)	5,986.9	44,065.2
Air Force (11)	35,055.1	42,863.6	(4,871.8)	9,390.5	47,382.3
Total (45) as of June 30, 1971	79,155.8	94,479.3	(7,732.6)	19,844.1	106,590.8
Total (45) as of June 30, 1970	78,615.5	87,884.6	3,476.6	18,940.5	110,301.7
Difference June 30, 1970 to June 30, 1971	540.3	6,594.7	(11,209.2)	903.6	(3,710.9)

Note: The amounts indicated above for current estimate show a net decrease of $3,710,900,000 as compared to the similar total as of June 30, 1970, reflected in the GAO Report (B–163058, dated Mar. 18, 1971). This net decrease consists of an increase of $1,348,500,000 for the Army, a decrease of $7,484,600,000 for the Navy, and an increase of $2,425,200,000 for the Air Force.

The systems accounting for the major changes are as follows:

ARMY

Safeguard: Increase—$245.0 million.

Significant increases were primarily due to revision of previous estimates, historic inflation, added requirements, and stretch-out costs. These increases were partially offset by quantity reductions.

SAM–D: Increase—$508.3 million.

This increase is primarily due to revised cost estimates to update the constant dollar base from FY 1970 to FY 1971 and to reflect the "best estimates" of the amounts ultimately to be paid, specifically incorporating anticipated changes in future prices.

MBT–70: Increase $394.0 million.

This increase is primarily due to revised cost estimates to update the constant dollar base from FY 1970 to FY 1971 and to reflect the "best estimates" of the amounts ultimately to be paid, specifically incorporating anticipated changes in future prices.

Tow: Increase—$39.3 million.

This increase is primarily due to revised cost estimates to update the constant dollar base from FY 1970 to FY 1971 and to reflect the "best estimates" of the amounts ultimately to be paid, specifically incorporating anticipated changes in future prices.

M–60A1E2: Increase—$32.6 million.

This increase is primarily due to price escalation and incorporation of Shilleiagh equipment previously reported in Shilleiagh Sar.

NAVY

SSN–688: Increase—$2,545.2 million.

This increase is primarily due to an increase in the number of units to be procured and repricing a number of ships from FY 1972 to FY 1973 dollars.

DLGN–38: Decrease—$4,600.5 million.

This decrease is primarily due to a reduction in the number of units to be procured.

DD–963: Decrease—$1,461.4 million.

This decrease is primarily due to a reduction in the number of units to be procured.

Mark–48: Decrease—$1,518.2 million.

This decrease is primarily due to a reduction in the number of torpedoes to be procured and refinement of production costs, and decision to proceed with Mod 1 production and elimination of Mod O & 2 programs.

F–14: Decrease—$3,067.2 million.

This decrease is primarily due to a reduction in the number of units to be procured.

LHA: Decrease—$467.8 million.

This decrease is primarily due to a reduction in the number of units to be procured.

AIR FORCE

B–1: Increase—$1,014.8 million.

This increase is primarily due to escalation of procurement estimate from FY 1970 to Then Year Dollars.

F–111: Increase—$267.6 million.

This increase is primarily due to a program cost estimate reassessment reflecting results of an independent cost estimate completed in January 1971 and other developments such as the Norden Settlement.

Minuteman II: Increase—$278.2 million.

This increase is primarily due to an upgrading of the silo program.

Minuteman III: Increase—$346.5 million.

Program costs have increased primarily due to an upgrading of the silo program. This cost increase was offset by significant cost decreases related to reductions in missiles and related equipment.

SCHEDULE OF PROGRAM COST DATA APPEARING ON JUNE 30, 1971 SARS

[In millions]

System	Planning estimate	Development estimate	Cost change: Quantity	Cost change: Other	Current Estimate
Army:					
Cheyenne [1]	$125.9	$125.9	.....	$167.1	$293.0
Safeguard [2]	4,185.0	4,185.0	$830.0	1,169.0	6,184.0
Dragon	382.2	404.2	(232.7)	98.8	270.3
SAM–D	4,916.8	4,031.0	(1,791.4)	1,682.2	3,921.8
Lance	586.7	652.9	7.7	104.8	765.4
TOW	410.4	727.3	(282.4)	269.7	714.6
M–60 A1E2	162.1	205.6	(15.8)	202.1	391.9
MBT–70	2,126.5	2,100.9	(602.4)	721.2	2,219.7
Gama Goat	69.1	163.9	(5.5)	22.7	181.1
TacFIRE	123.6	160.5	11.9	29.1	201.5
Navy:					
SSN–688	1,658.0	5,747.5	902.5	174.9	6,824.9
DLGN–38 [2]	769.2	769.2	(70.2)	190.8	889.8
S–3A	1,763.8	2,891.1	.....	247.7	3,138.8
F–14	6,166.0	6,166.0	(1,111.5)	157.4	5,211.9
EA–6B	689.7	817.7	(50.7)	295.3	1,062.3
P–3C	1,294.2	1,294.2	971.1	83.5	2,348.8
A–7E	1,465.6	1,465.6	(70.5)	711.5	2,106.6
SQS–23	157.1	170.5	(82.7)	94.6	182.4
VAST 247	241.1	312.0	(180.7)	299.4	430.7
Phoenix	370.8	536.4	185.5	529.8	1,251.7
Condor	356.3	441.0	(137.7)	77.0	380.3
Poseidon [2]	4,568.7	4,568.7	(243.6)	729.5	5,054.6
Sparrow E	$1,215.8	$1,269.3	($710.4)	$4.8	$562.9
Sparrow F	151.5	707.7	135.4	403.7	1,246.8
Mark 48	720.5	1,294.8	290.8	653.4	2,239.0
LHA	1,380.3	1,380.3	(480.6)	60.3	960.0
CYAN 68/69	946.5	1,063.2	.....	170.6	1,233.8
DE–1052	1,285.1	1,259.7	.....	156.1	1,415.8
SSN–637 [2]	2,515.8	2,515.8	.....	433.0	2,948.8
SSN–685	100.8	151.7	.....	26.2	177.9
DLG Conv	698.8	698.8	.....	307.8	1,006.6
AMTRAC	324.4	328.5	(126.9)	.4	202.0
DD–963	1,784.4	2,581.2	.....	134.0	2,715.2
Aegis	388.0	427.6	.....	46.0	473.6
Air Force:					
B–1	8,954.5	11,218.8	(33.8)	(62.4)	11,122.6
F–15	6,039.1	7,355.2	.....	(46.5)	7,308.7
C–5A	3,423.0	3,413.2	(736.3)	1,878.3	4,555.2
F–111	4,686.6	5,505.5	(2,686.6)	3,849.0	6,667.9
FB–111	1,781.5	1,781.5	(1,043.3)	546.6	1,284.8
A–7D	1,379.1	1,379.1	(282.6)	280.7	1,377.2
AWACS	2,656.7	2,661.6	.....	(.3)	2,661.3
Maverick	257.9	383.4	(63.5)	54.3	374.2
SRAM	167.1	236.6	125.6	941.9	1,304.1
Minuteman II	3,014.1	4,254.9	4.0	485.7	4,744.6
Minuteman III	2,695.5	4,673.8	(155.3)	1,463.2	5,981.7

[1] The Cheyenne costs represents research and development costs only. These estimates do not include termination costs related to the canceled production contract.

[2] For those programs where the SAR's have shown only a development or a planning estimate, we have made both estimates the same to prevent distortion between the totals of these columns.

Note: For comparison purposes, the above 45 programs on the SAR at June 30, 1971, were also on the SAR at June 30, 1970. Subsequent to June 30, 1970, one program was completed and dropped from the SAR. Also, 6 programs were added to the SAR as of Dec. 31, 1970, Mar. 31, 1971, or June 30, 1971. These 7 programs are excluded from the schedule because comparable data is not available for June 30, 1970, of June 30, 1971.

UTAH SKIING: POWDER NEXT DOOR

Mr. MOSS. Mr. President, as we approach the winter ski season again our magazines, our air waves, and the general conversation of many of our citizens will be filled with opinions and facts as to where the best ski slopes are, how to get there, and what you will find when you do.

In the November 1971 issue of the American Way, eight ski areas in the vicinity of Salt Lake City are discussed and labeled as some of the finest and most easily reached skiing not only in the country but in the world.

The writer, Abby Rand, who lives in New York City and must travel 4 hours before reaching "minimally respectable ski territory," reports in prose filled with longing, and even some envy, how a Salt Laker can be skiing in "fabled powdered snow" some 20 to 40 minutes after he leaves his front door, and calls the eight areas "the most accessible top-rung ski areas" in the world.

I ask unanimous consent that the article, entitled "Utah's Skiing: Powder Next Door," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UTAH SKIING: POWDER NEXT DOOR

(By Abby Rand)

Name eight ski areas that have a full-scale symphony orchestra, trans-continental jet airport, professional ballet company and basketball team. Easy! Alta, Brighton, Gorgoza, Park City, Park City West, Solitude and Sundance and the eighth area, Snowbird, starts operating in November. At this point, reader, you are either (a) a skeptic and smell a rat or (b) a ski buff and smell Utah. The ski areas mentioned above are all high in the wilderness of the Wasatch Range. They are also on the outskirts of Salt Lake City and are America's—nay, the world's—most accessible top-rung ski areas.

I live in Manhattan. From my house, I must drive four hours before I can reach minimally respectable ski territory, southern Vermont. To get to Aspen, I would have to spend four hours flying to Denver then five hours praying a rental car through its paces, over two mountain passes to terrifying that I prefer shutting my eyes. Or, after a wait in Denver airport, I can overfly those passes in an hour, using scheduled small plane service.

If I am really itching to feel snow beneath my skis, I can go 1,972 miles from my house and be at Salt Lake City airport in about five hours. Then I simply walk outside and hail a cab. Twenty to forty minutes later, I am skiing Utah's fabled powder snow. Midwesterners and Californians, of course, get there even faster.

I learned this chunk of American geography not from Miss Fowler in fourth grade but from a Madison Avenue accountant executive. Howard goes to California to supervise TV commercials and inspect prospective programs. Mainly Howard goes between November and May, though the season officially begins in mid-December. Mainly he goes on Thursdays. He travels with his boots and parka tucked discretly in a carry-on bag. He never takes a nonstop flight. He gets off at Salt Lake City and hails a cab. Thursdays to Sundays, Howard skis. He is not cheating his agency. So many ad men are on to the trick that Howard picked up a $500,000 account while riding the Germania chairlift at Alta.

Once, I asked a Salt Lake housewife if she skied Alta often. "Not more than three times a week," she said. "I get too busy with Cub Scouts." How far in advance did she plan her trips? "Well, if I don't have Cub Scouts that day, I look out the window at breakfast. If it is sunny, I take off as soon as the beds are made."

Her statement reminded me of the corporate president who said that there was no use sponsoring a broadcast on Sunday afternoons because that is when everyone plays polo. What American skiers do on Sunday afternoons is start the long homeward trek from the place where they have been skiing—everyone, that is, except the Salt Lakers. They are home and they are spoiled rotten.

Detroit, Chicago, Buffalo skiers—can you imagine driving back home if you got to the ski area and found you brought the wrong ski poles? You wouldn't go back three hundred miles even if you have found you brought the wrong spouse. Can you imagine turning away from a 15,000 foot mountain covered with natural snow! Chances are, you can't imagine a 15,000 foot high mountain, much less one covered with genuine flakes that have fallen from the sky instead of being spewed from snowmaking guns.

The fact is that American skiing is based on a woeful series of inequities. This is a wide country. People are stacked on the edges. Mountains are scrunched in to the center, slightly to the left of the Mississippi River. There are miniature mountains up and around some of the population centers, but then there are also miniature golf courses. The one exception to this picture is the splotch of 800,000 people on the shore of the Great Salt Lake.

How the Census Bureau arrives at that figure is by counting the number of skis and dividing by two. You don't waste time asking Salt Lake citizens if they ski. You ask them if they skied last Sunday. The answer will be yes, providing last Sunday was at least partially sunny.

One of the few things ski experts agree on is that Alta has the finest skiing in North America and, possibly, the world. Like most mountains in Utah, it gets not feet of new snow, but yards of it. The snow is unusually light and fluffy, like powder. Powder snow is the type skiers like best, because they can float through it with dream-sequence grace. What exalts Alta above others is its magnificent treeless terrain, some of which is appealingly gentle but most of which is awesomely steep. To have skied Alta is to have played the Palace, or kibbitzed the Supreme Court. Yes, Alta has only five lodges, and a total of 490 beds.

How come? How come the ski areas of Utah are as depopulated as its deserts, except for those outpourings of locals on the sunnier weekends?

Let's turn time back to the thirties when Americans first decided it was pleasurable to ski down a precipice during blizzards. Salt Lake residents, who have plenty of precipices and blizzards, caught on early. To spend more time skiing and less time climbing to a point worth descending from, they chipped

XUM

in to finance mechanical lifts. The cagey looked for old mine facilities to incorporate into their town.

The cagiest looked up Little Cottonwood canyon to Alta, where an ore-bucket hoist remained. From the 1860s through the first quarter of this century, Alta was a silver mining town producing millions. At one point, it had 5,000 inhabitants. Then an avalanche and the price of silver descended, at approximately the same time. George Watson and his family stayed on. The skiers came. The Alta Ski Lifts Company was started by the local elite. Watson donated most of his surface rights to the U.S. Forest Service so that the land could be developed for skiing. From the start, Alta was a "shincracker." The first marked trails snaked through Collins Basin on down the sheer face of Rustler peak. The High Rustler track was the hangout of heroes who scraped close to the trees in order to get the freshest powder. They still do. High Rustler is only 3,200 feet long. Thank goodness! It is so steep—an average 23.3 degrees—that nobody's legs could take the strain for one yard more. True heroes save their leg power for the Baldy Chutes, which are narrower, steeper and can be reached only by climbing. No one can ski them without personal clearance by the Ski Patrol. The public was welcomed, to help pay the cost of preparing and grooming the miles of trails and lifts. In Salt Lake, being poor was having to ski Alta on weekends, with the hordes. Weeklong hordes were not wanted. The backers did not want to be in the tourist business. They wanted to ski. Other operators had similar philosophies. Many Utah residents were actually pleased that Colorado, not they, landed the 1976 Winter Olympics.

How Robert Redford came to build Sundance is that he and his Utah-reared wife chose the site for a mountain home, one that offered complete quiet—this despite the fact that the site was directly above a ski area known as Timp Haven. The proprietor, a devout Mormon, would not operate on Sunday. Saturdays were not very productive, either, because he kept misplacing the admission money and the tickets. Redford, who had recently learned to ski, could not bear to see such beautiful recreation space wasted. He went into the resort business while working on a film that had an inspirational title, "Butch Cassidy and the Sundance Kid." Building lots near the Sundance slopes now belong to luminaries like New York's Mayor John V. Lindsay and film director Arthur Penn. So far, Utah has not been tainted by this influx of show biz types. In fact, ecology-minded Redford has been appointed to Utah's Water Quality Board and serves as a volunteer spokesman for the state's environmental efforts. At Sundance, he pioneered the concept of the ski area tree bank. Anyone who cuts a tree to build a house or trail must plant a replacement. There is even a stately spruce growing in the middle of the base lodge restaurant. A folk songstress strolls around it serenading the Salt Lake club ladies who favor the Tree Room for birthday suppers and showers. Ironically, since the new money came, the snow has been scarce. Some day soon, scarcities will be circumvented by the building of lifts up in the vast high basin atop Mount Timpanogos.

In that respect, Sundance represents the new wave, regarding money as a means of active problem-solving which in turn brings more money. Utahans are beginning to adopt this point of view themselves. Old-timers might prefer taking their families to the simple slopes of Brighton and Solitude, each a canyon away from Alta, or, if they have very young children, to little Gorgoza. These are fine slopes, with few resort-like facilities—they are unnecessary for people whose homes are thirty minutes away.

Even die-hard sentimentalists realize that the state needs tourist money and the jobs that tourism creates. They know that their fellow skiers in other states are aching for a little more schussing space. Utah has magnificent recreation facilities and room for more. The residents are learning to accept the new style areas like Sundance or Park City and Park City West. The state is due for half a dozen more new ski areas before the end of 1970s. By mid-December, an area called Snowbird will erupt—"open" is too small a word for what is planned. It is one mile down-Canyon from Alta. Seemingly, it is springing fullgrown from the heads of Richard Bass, a Dallas oilman whose family has been identified with the development of Aspen and Vail in Colorado, and of Ted Johnson, who used to manage a lodge at Alta. Since 1965, Johnson has been identified with a passion to get Snowbird the where-withal to take wing. Its skiable terrain is potentially bigger than that of Alta. While Alta is famous for being steep, Johnson is banking on the fact that Snowbird is moderate enough to be loveable.

"I have always been afraid to ski Alta," confided a Chicagoan who for years had ducked invitations to come out and ski with Salt Lake friends. In somewhat hushed tones, he discussed the difficulty of skiing hip-deep in powder snow. Back home he was accustomed to scraping away on glare ice. "What saved face for me was hiring a helicopter to ski down from the top of Hidden Peak at Snowbird. The blooming powder was just as deep as the stuff at Alta; the difference was, the terrain was intermediate, not super-expert. I could cope with it as well as anybody in our party." (Skiing via helicopter is the newest wrinkle in Utah. With Snowbird's completion, however, Hidden Peak will be reachable by a 120-passenger tramway.)

From the summit, most skiers are going to find themselves being lured into Gad Valley. The management offers marked routes through the tree-dotted area, but the customers are invited to compose their own itineraries. Skier A, B and C start downhill together. A ventures into the untracked powder. B goes slaloming off through the trees. C stays on the track that has already been packed down by others, until the courage equals his envy and he tries to whoosh around in powder like A and B.

People-who-can-cope actually comprise the bulk of American skiers. Those who are not super-experts like to talk about challenge, but they heave a sigh of relief when they get on trails that resemble meadows rather than elevator shafts.

Snowbird is not a brandname thought up on Madison Avenue or in Hollywood. The ski area happens to be situated on the site of an old mine claim called Snowbird.

Mining and skiing keep criss-crossing here. Park City is the state's biggest lure for out-of-state skiers. Its slopes are less harrowing than those of Alta, which, as noted, many skiers secretly appreciate. Moreover, Park City boasts a genuine gingerbread mining town.

Oldtime miners are still to be seen sipping sodas in the drugstore or staring at the skiers sipping stronger stuff in the Gay Nineties' saloons. Note to outlanders: In Utah, stronger stuff is available with complete legality, but not by the drink—*that* is what is inside those ubiquitous brown paper bags. For generations, "Salt Lakers" have headed up Parley Canyon's to Park City when they felt in the mood for fun. Skiers agree. It is the only ski town in the world with two stripteasers-in-residence.

Until last year, the ski slopes were owned by United Park Mines. Now, the company is out of the tourist business. It owns the mineral rights to everything inside the mountain. Considerable silver ore remains under the slopes. These are the very deposits that created the inheritance of William Randolph Hearst. The new owner of the white gold on top of the slopes is the Royal Street Development Company, Inc., which has holdings in California and Louisiana. They have promised to sprinkle $100-million onto those slopes by 1981.

Significantly, the first lifts to be added by the new regime will open terrain that is mild without being soporific. Let Alta specialize in cliffs and avalanche slopes; Park City prefers to unreel white carpets, smooth and moderately tilted, like Payday, which happens to be one of the best night skiing slopes in America. Most city dwellers who have the opportunity to ski "under the lights" must settle for half-pint hills. Payday pays handsomely. It is more than a mile long. Now do you see why Salt Lake firms frequently run Help Wanted ads on eastern ski pages?

Park City West, just a few miles down the Canyon, is a smallish area with biggish potential. Its launchers are, as of this moment, still awaiting the signature of their prospective Prince Charming, a California insurance company. Since the start, serious Salt Lake skiers have had great respect for Park City West's steep runs, many of which are laid out on ridges, somewhat precariously. It is not that skiers fall off, but that the sun beats down on the ridges, eventually causing un-Utah-like ice.

Un-Utah-like developments are increasingly common in Utah these days. The Utah Travel Council, a government bureau, has mounted a tourist-napping campaign aimed at skiers, mountain climbers, fishermen, sightseers and other outdoor sportsmen. Snowmobile enthusiasts, for example, have a special network of trails reserved for them. Maintenance costs are paid via a $5 snowmobile registration fee. In effect, the state is keeping the noisy motorized sleds out of other sportsmen's hair, but it is the snowmobilers who are paying for the privilege of being ostracized. That would seem like good commercial thinking in any state! The UTC is also nagging the rest of the state into taking preventative measures against the avalanches that often close Alta off from the main highways.

The UTC has arranged complete itineraries but it is also urging visitors (skiers, particularly) to bunk in Salt Lake City, sample a different mountain each day and come back downtown each night for dinner and dancing—or dinner and a visit to the Mormon Tabernacle, followed by a visit to the country's first full-scale symphony orchestra to provide a little night music, apres-ski.

Salt Lake City Area Ski Directory

FREE BROCHURE

"Great Ski Resorts of the Rockies:" describes American Airlines ski tours.

Write: *Director Sales Promotion, American Airlines, 633 Third Avenue, New York, New York 10017.*

ALTA

Location: 26 miles southeast of Salt Lake City in Little Cottonwood Canyon. (State Highway #210.) Area Manager—Charles Morton. For information call (801) 649–9751 or write Charles Morton, Alta, Utah 84070.

Season: Mid-November into May.

Lifts and Tows: *Collins S-Chair:* 2,750 ft. long with 750 ft. vertical rise; *Wildcat D-Chair:* 4,250 ft. long with 1,250 ft. vertical rise; *Germania D-Chair:* 4,000 ft. long with 1,000 ft. vertical rise; *Albion D-Chair:* 5,200 ft. long with 650 ft. vertical rise; *Sugarloaf D-Chair;* 5,100 ft. long with 1,300 ft. vertical rise; *New D-Chair:* 4,000 ft. long with 730 ft. vertical rise.

Area Features: 30 expert runs. 9 intermediate runs and 4 novice runs. Powder skiing as well as machine-prepared intermediate runs and 4 novice runs. Excellent cross-country skiing. Three cross-country skiing shelters. 4- and 6-mile tours.

BRIGHTON

Location: 25 miles east of Salt Lake City in Big Cottonwood Canyon. Area Operators: Dean and Gilbert Jensen, Zane and Michael Doyle. Write 3535 Herms Drive, Salt Lake City, Utah. Phone (801) 277–5440 or 277–3963.

Season: Mid-November to Mid-May.

Lift and Tows: *Millicent S-Chair:* 4,200 ft. long with 1,300 ft. vertical rise; *Mary D-Chair:* 2,450 ft. long with 425 ft. vertical rise; *Majestic D-Chair:* 3,700 ft. long with 750 ft. vertical rise; *Sky Hook T-Bar:* 550 ft. long with 225 ft. vertical rise; *Evergreen D-Chair;* 2,800 ft. long with 660 ft. vertical rise.

Area Features: Unlimited runs, slopes and trails; machine-packed. Shelter and dining facilities located at the base of the lifts. Cross-country skiing and touring.

GORGOZA

Location: 3 miles east of Parley's Summit on Interstate 80 (13 miles east of Salt Lake City). Write P.O. Box 11277, Salt Lake City, Utah 84111. Phone (801) 359–5452.

Season: December 1 to March 15.

Lifts and Tows: Two *D-Chairs:* 1,200 ft. long with 300 ft. vertical rise. *T-Bar:* 2,100 ft. long with 300 ft. vertical rise. 1 free *Rope Tow.*

Area Features: Gradual and "sorta" steep. Perfect for intermediate and beginning skiers. Family dining. Tubing-sledding lift. World's longest toboggan chutes (1,100 feet with 600 feet to run-out).

PARK CITY RESORT

Location: 27 miles east of Salt Lake City, via Interstate 80. Area Manager: Woody Anderson. Write P.O. Box 919, Park City, Utah 84060. Phone (801) 521–2131 or 649–9681.

Season: Mid-November to May.

Lifts and Tows: *Gondola:* 2½ miles long with 2,300 ft. vertical rise. *Prospector D-Chair:* 6,600 ft. long with 1,000 ft. vertical rise. *Thaynes D-Chair:* 5,280 ft. long with 1,000 ft. vertical rise. Two *J-Bars,* each 1,200 ft. long with 100 ft. vertical rise.

Area Features: Over 35 miles and 37 separate runs. Night skiing. Unique mine train museum tour. Cafeteria at base also serves gourmet dinners. Nursery school. Summit House restaurant. Picturesque Park City offers the old Western mining town atmosphere.

PARK CITY WEST

Location: 24 miles east of Salt Lake City via Interstate 80. Don Redmon, Area Manager, Write P.O. Box 308, Park City, Utah 84060. Phone (801) 363–6413 or 649–9663.

Season: Thanksgiving to May.

Lifts and Tows: *Tomahawk D-Chair:* 5,000 ft. long with 1,400 ft. vertical rise; *Iron Horse D-Chair:* 6,640 ft. long with 1,800 vertical rise; *Short Swing D-Chair:* 3,400 ft. long with 950 ft. vertical rise; *Tumbleweed D-Chair:* 1,550 ft. long with 340 ft. vertical rise; 2 *Mitey-Mite* lifts & *Pathfinder* beginner's area lift.

Area Features: 30 miles of groomed slopes and trails; all are machine packed. Weekly NASTAR race complete with electric timing.

SNOW BASIN

Location: 19 miles east of Ogden on Utah Highway #39 in Ogden Canyon above Pineview Reservoir. Area Manager, Roy C. Newson. Write 4921 Kiwana Drive, Ogden, Utah. Phone (801) 392–9196.

Season: Late November through April 10.

Lifts and Tows: *Becker D-Chair:* 3,500 ft. long with 600 ft. vertical rise; *Wildcat D-Chair:* 5,200 ft. long with 1,355 ft. vertical rise; *Wildcat S-Chair:* 5,200 ft. long with 1,355 ft. vertical rise; *Porcupine D-Chair:* 4,300 ft. long with 1,100 ft. vertical rise; *Powder Puff T-Bar:* 1,900 ft. long with 180 ft. vertical rise.

Area Features: Skiing for the entire family with 32 designated runs. A day lodge, cafeteria at base.

SNOWBIRD

Location: In Alta area 31 miles southeast of Salt Lake International Airport. Write Ted Johnson, General Manager, Snowbird, Ltd., Alta, Utah 84070. Phone (801) 649–9822.

Season: Opens Dec. 11, 1971 into May.

Lifts and Tows: Aerial tramway: 8,395 ft. long with 2,900 ft. vertical rise; 3 double chairlifts; pony tow.

Area Features: Unlimited north facing runs with certain ones left untouched for deep-powder fans and with most regularly machine packed. Lodge and newly developed Village at base. Child care facilities.

SOLITUDE

Location: 23 miles east of Salt Lake City in Big Cottonwood Canyon. Phone (801) 355–6412.

Season: Mid-November to April.

Lifts and Tows: *Inspiration D-Chair:* 3,600 ft. long with 1,100 ft. vertical rise; *Powder Horn D-Chair:* 3,800 ft. long with 1,360 ft. vertical rise; *Moonbeam D-Chair:* 2,800 ft. long with 800 ft. vertical rise.

Area Features: One of the world's largest night skiing areas. Manicured slopes with unlimited runs and central lodge facilities.

SUNDANCE

Location: On Timpanogos Loop Highway (Utah Highway #80) in Provo Canyon. 12 miles northeast of Provo, Utah and 12 miles southwest of Heber, Utah. Write Edward Jones, Sundance, Inc., P.O. Box 837, Provo, Utah 84601. Phone (801) 374–8444.

Season: November 20 to April 1.

Lifts and Tows: 2 *Double Chairs:* 5,500 ft. long with 1,400 ft. vertical rise and 5,000 ft. long with 1,300 ft. vertical rise; *Poma Lift:* 2,600 ft. long with 700 ft. vertical rise; new 7,400 ft. long *Double Chair Lift* will be completed for the 1971–72 season.

Area Features: Open slopes—runs vary from novice through expert. Night skiing.

JUVENILE JUSTICE

Mr. PERCY. Mr. President, the issues of crime in the streets and effective law enforcement are tody more important than ever. The breakdown in our criminal justice system has never been more apparent than in recent weeks. Tragic situations like that at Attica State Prison force us to recognize that prisons do not rehabilitate; they simply confine. The entire judicial process from arrest to conviction is complicated by the inadequate numbers of personnel in law enforcement agencies and courts and by the interminable delays in court proceedings that exist in practically every judicial district in the country.

Our best hope of eventually controlling crime is, in my judgment, through increased efforts to help young delinquents and potential delinquents. If we are not successful in these efforts to assist youth to become constructive adults, I fear that we are likely to find them five or ten years from now still in our corrections system, involved in yet more serious crimes.

To help bring about this emphasis in juvenile justice, I have sponsored, with the support of 18 Senators, a bill to establish an Institute for Continuing Studies of Juvenile Justice. My colleague from Illinois, Representative TOM RAILSBACK, first initiated the legislation in the House and has recently been successful in having it reported favorably from the House Judiciary Committee. In an excellent article written for the September/October issue of Trial magazine, Representative RAILSBACK explains what the legislation will do.

I ask unanimous consent that the article, entitled "Less Than the Sum of Its Parts," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LESS THAN THE SUM OF ITS PARTS

(By Congressman THOMAS F. RAILSBACK)

No national problem is of greater concern to the individual American citizen than the incredible increase in crime and lawlessness which threatens our society. Violence to person and property may occur at anytime and anyplace and affect anyone. Crime is undermining the values of the country and fear of crime is destroying our stability as a nation and our personal sense of well-being.

Many have studied the problem and many have proposed programs and legislation to combat it. With few exceptions, objective analysis would conclude that we have made little progress in truly understanding the cause of crime or in devising effective means to control or eliminate it. Despite all efforts, the crime rate continues to rise at an unprecedented pace.

No aspect of the problem is at once more frightening and sad than the nature and extent to which young persons have become involved in crime. No one can deny the urgency of the situation. The statistics speak for themselves:

Juveniles commit about one-half of all offenses.

In the inner city 70% of the young people find themselves in trouble with the law.

The juvenile crime rate is rising more rapidly than the adult rate; in the sixties juvenile arrests increased 90%.

Recidivism of youthful offenders is staggering: almost 75% are re-arrested within five years.

The addition of such statistics to the overall crime rate is alone cause for great concern, but as tragic as this may seem, it is yet more serious when we consider that these figures represent only the beginning of a life at odds with society and, more than likely, a career in crime. What it means in human terms is the immeasurable loss to society of productive, integrated citizens and to the juvenile offender of a normal future.

It is clear that juvenile crime and delinquency are not under control and that the juvenile justice system is not accomplishing its objectives. We must recognize that the traditional means of employing more stringent law enforcement, appropriating additional funds, and enacting new legislation do not, in themselves, constitute an effective offensive against juvenile crime. Nor does the rhetoric which calls for eradication of those conditions that often cause and perpetuate juvenile crime.

Sincere and coordinated efforts at the community level and a reform of the juvenile court and correctional system are what is needed and, in some few instances, are underway.

But these efforts are not enough. We have given little attention to assessing and re-evaluating the failures of the whole system relating to the handling and treatment of juvenile offenders. There is a critical need to equip those individuals responsible for prevention and control of juvenile crime with the knowledge and perspective necessary to assure that the young person in trouble with the law will receive treatment designed to improve his chances for becoming a constructive and creative part of the community.

In an effort to meet this need, I, along with a bipartisan group of over 100 members of Congress—including Congressmen Abner Mikva and Edward Biester and Senators Charles Percy and Birch Bayh as principal sponsors—have introduced a bill to establish an Institute for Continuing Studies of Juvenile Justice.

The primary purposes of this legislation are threefold:

(1) to provide training programs and facilities for personnel involved in the prevention, control and treatment of juvenile crime and delinquency;

(2) to provide a coordinating center for the collection and dissemination of useful data on treatment and control of juvenile offenders and the juvenile justice system and;

(3) to prepare studies on juvenile justice including comparisons and analyses of state and federal laws and such model laws and recommendations which will be designed to promote an effective and efficient juvenile justice system.

The juvenile justice system, much like the correctional system, is characterized by an overlapping of jurisdictions, a diversity of philosophies, and a hodgepodge of organizational structures which have little contact with one another. The existing fragmentation of federal and state agencies and programs and the lack of coordination among them is probably the single greatest obstacle to the development of an effective juvenile justice system.

One can only agree with the observation that in its operation the juvenile justice system functions so that the total is less than the sum of its parts. Most state systems are made up of several interrelated parts, usually separately administrated at different levels of government. Consequently, no one body oversees the entire system and allocations of funds for program and personnel are generally uncoordinated.

There is the same lack of coordination and concerted effort at the federal level. Barbara McGarry, executive director of the American Parents Committee, commenting on the current status of juvenile delinquency programs conducted by the Departments of HEW, HUD, Labor and Justice, has stated:

"No single authority exists within any of these Departments solely to direct juvenile delinquency programs, or to coordinate one Department's programs with others, to avoid overlapping or duplication. Although very substantial sums of money are involved under each department's general heading of 'Juvenile delinquency programs,' . . . there is intense interdepartmental and even intradepartmental competition."

Thus, while recognizing that prevention and control of juvenile crime are primarily local in nature the Institute was conceived as an independent, national agency, nonpolitical in makeup, which would provide coordination and professional leadership and focus national attention on the problems of juvenile crime and justice.

The Institute would be under the supervision of a director appointed by the President for a four-year term and would have a professional teaching and research staff. The overall policy and operation would be set by an Advisory Commission composed of 21 members, including the director, five federal agency officials and 15 experts from the juvenile justice field (appointed by the President for four-year terms). These experts would include law enforcement officers, juvenile or family court judges, probation and correction personnel representatives from private organizations concerned with juvenile justice, and representatives from state juvenile agencies.

The training program which the Institute would operate is a matter of high priority. The juvenile justice system will not work unless it can provide the specialized treatment and rehabilitation needed to avert criminality in its incipiency. We have not done nearly enough to give the system the tools to do its job. It is not simply a matter of increased workload, but rather an increase in the system's responsibilities, which requires new and innovative techniques to be transmitted through training and education.

The advent of *Kent, Gault* and other Supreme Court decisions have enhanced the legal rights of juveniles. There is now need for further study of the *causes* of juvenile criminality and the psychological *effects* of incarcerating a 12- or 13-year-old boy until he reaches 21. These observations require more and better trained personnel.

To demonstrate the scope of the existing problem, I quote Daniel Resnick, American Civil Liberties Union.

"In many communities law enforcement officials have no special training in handling juvenile offenders, specialized juvenile squads do not exist, and juveniles are handled and processed in virtually the same way as adult offenders. Juvenile court judges themselves frequently lack the necessary training to deal effectively with youthful offenders. A recent study of the National Crime Commission reported that less than 10% of all juvenile court judges in the country were fulltime; three-quarters devoted less than one-quarter of their time to juvenile matters; a fifth were not members of the bar; a quarter had no law school training; a half had no undergraduate degree. . . .

"Other trained personnel are lacking throughout the juvenile justice system: About one-third of all fulltime juvenile court judges have no probation and social work staff regularly available to assist them. Between 80% and 90% of the judges have no psychologists or psychiatrists regularly available to their courts. Correctional facilities available to the juvenile judges are similarly deficient; there are not enough trained personnel."

Under the proposed legislation, the Institute would be authorized to develop short-term multidisciplinary training and education programs for persons involved in the juvenile justice system—law enforcement officers, judges, probation and correctional officers, psychiatrists and psychologists, social workers, members of the bar and others. Participants would be instructed in the latest methods of prevention, treatment and control and would receive the information they need to properly carry out their respective responsibilities.

Eventually, the Institute program could be expanded to assist in the development of state and regional seminars and workshops to reach directly the many persons working in the system at the local levels.

The second function of the Institute involves comprehensive and centralized data collection and processing. While there is great need for new research, there is even a *greater* need to find more effective ways of utilizing the studies and information presently available. The academic field, government and private organizations have all been involved to some extent in juvenile delinquency research and programs. A mass of material has been published relating to their work; yet we have no central means of collecting, processing and disbursing the information, data and experience that results from their diverse activities.

The Institute would correct this glaring deficiency by establishing a national "information bank" charged with the responsibility for gathering, coordinating, publishing and disseminating meaningful research and information to individuals, agencies, and organizations throughout the nation. It would not only serve as a clearinghouse but would also publish its own reports and abstracts based on what it determines to be the most useful incoming data.

The advantages of having a central information source are obvious. Too often the individual delinquent has suffered because his *state* received and processed fragmented information, or lacked—or even completely misunderstood—the resources and knowledge available only to a few. Judge Everett West of Indiana has expressed the opinion that "there are many million-dollar programs which offer solutions to juvenile problems that are not being used simply because we judges are not aware of their availability."

Increased knowledge and awareness of each others' activities would bring a higher level of cooperation and coordination between often isolated and fragmented agencies and programs. In addition, new techniques successfully innovated in many communities would be more readily brought to the attention of those in other areas of the country, where they could be adopted when suitable.

And most important, more complete and systematized information would aid in the search for a more adequate explanation of the causes of juvenile crime as well as in the development of solutions. We certainly need to learn a great deal more than we now know if we are to formulate successful policies and devise effective measures to combat these problems.

The third principal function of the Institute would be the preparation of studies designed to promote development of a more effective and efficient system of juvenile justice. It is not intended that the Institute be a research facility. The scope of the studies is to be limited to problems associated with the fragmentation and lack of coordination and planning in the system.

One aspect of this function which deserves particular note is the authorization to focus upon the difficulties created by variations among state laws which affect juvenile offenders. An example of the kind of problem the Institute might examine would be the right to a jury trial in juvenile cases. A recent survey found that 24 states expressly deny jury trials in juvenile proceedings, 14 states have no reference to jury trials in the statutory provisions affecting juvenile offenders, and a dozen states guarantee the right to a jury trial.

Taking a cue from the successful American Bar Association and American Law Institute projects, the Institute is directed to analyze the various statutory provisions, develop model laws and codes, and make appropriate recommendations. This function holds much promise for steps to clear the existing confusion and create a uniformity sorely needed in our juvenile justice system.

By updating inequitable laws, gathering and disseminating pertinent data and training the persons dealing with young offenders, we cannot help but improve our present system of juvenile justice. While an Institute for Continuing Studies of Juvenile Justice will not resolve the entire chain of complex problems associated with juvenile crime, it most assuredly should be one of the steps designed to change the juvenile justice system so that it may function in the best interest of society and the young people it is supposed to serve.

TRIBUTE TO "BEVO" HOWARD

Mr. THURMOND. Mr. President, the tragic death of Beverly E. "Bevo" Howard of Charleston, S.C., robbed the Palmetto State of one of its most outstanding citizens. In this same calamitous crash, the United States lost its finest precision acrobatic pilot. His fame and expertise was not limited to the geographical boundaries of our Nation, for he was regarded by his peers and competitors as the best acrobatic flyer in the world.

Bevo Howard's long record of aeronautical achievements and honors ended on Sunday, October 17, 1971, in Greenville, N.C., when his small biwinged Buecker Jungmeister crashed during the final stunt in what was to have been just another of many Howard air shows. Observers say the small craft must have struck a tree as it entered the final pass. The plane buried its nose in the ground some 400 yards from the runway.

Bevo Howard was president of Hawthorne Aviation located in Charleston, He was a pioneer in commercial aviation and flight training.

He was born August 11, 1914, in Bath, S.C., and was reared in Augusta, Ga. At the age of 16, he learned to fly and helped pay for flying lessons by making parachute jumps and selling airplane rides. He started flying in 1930 and soloed in 1931. Soon afterwards, he bought his first airplane—an OX–5 Waco–10—with money saved from a newspaper route. In 1932, he quit junior college in his freshman year to join the newly established Hawthorne Aviation at Charleston, S.C. starting as a line boy at $10 a week.

By 1936, at the age of 21, Howard had become president of Hawthorne. Between 1936 and 1938, he joined Eastern Airlines, becoming the youngest commercial airline pilot in the Nation. Seeing a bright future for commercial aviation and flight training, he laid the groundwork for Hawthorne's expansion. Between 1939 and 1943, Hawthorne conducted flight training for the College of Charleston, the Citadel, and the University of South Carolina.

In 1941, he received a contract to operate a primary flying school for the Army Air Force at Orangeburg, S.C., which was in operation until the end of World War II. During that time, some 6,000 combat pilots were trained, of whom more than 2,000 were French Air Force students. For his leadership, Howard was presented French Air Wings, the coveted French Medaille de L'Aeronautique and later the Ordre National de la Legion D'Honneur for his pilot training and accomplishments as an aerobatic flyer.

Howard was voted the 1943 "most outstanding young man of South Carolina" by the State junior chamber of commerce; and in January of 1950, the Moultrie, Ga., Jaycees honored him as the "boss of the year." He is listed in "Who's Who in the South and Southwest," also in "Outstanding Personalities of the South."

Two classes of Pakistan cadets were trained by Hawthorne at Jacksonville in 1948–52 and 1953. In January of 1951, Hawthorne was awarded a contract by the U.S. Air Force to operate a primary flying school at Spence Air Base, Moultrie, Ga. Approximately 10,000 pilots were trained in 10 years, with students from 32 countries being included.

A rare combination of pilot and businessman, Howard became interested in flying air show exhibitions back in 1933 and has flown here and abroad before millions of air show spectators and television viewers. He held six first place championships for precision aerobatic flying. In 1939–41 he won the National Light-plane Aerobatic Championship. He copped two honors in the International Aerobatic Championship for all classes in 1946–49 and placed second in 1948 and 1950.

Though his exhibition flying was just a hobby, he was once the highest paid air-show pilot in the country. Howard, in 1938, became the first flier to outside loop a light plane, performing the feat in a 37½-horsepower Piper Cub. Then, in 1942, he demonstrated to the U.S. Army the operational utility of light aircraft in modern warfare, artillery spotting, air rescue, and other purposes under combat conditions.

He was the first and only pilot to accomplish an inverted ribbon pickup hands off.

Hawthorne also operates an Army aviation maintenance program for helicopters and fixed wing aircraft at Fort Rucker, Ala. The home base is a civilian aircraft sales and service operation at the Municipal Airport, Charleston, S.C. Howard's company has seven operations in five States including a large shopping center constructed in an Atlanta suburb with 25 stores and shops, two large first-class mobile-home parks, an interstate trucking line in Hickory, N.C., and a Ford dealership in Summerville, S.C.

Howard was married and the father of five children. The family resides in Charleston, S.C.

His civic affairs and club affiliations included boards of C. & S. National Bank of Charleston, Charleston Trident Chamber of Commerce, United Community Services—he served as United Fund Campaign chairman, 1967, and raised $846,000—Charleston Junior Achievement, and Charleston YMCA—serving as president, 1968–70; advisory board of Rampart College in Santa Ana, Calif., and former trustee of the College of Charleston in Charleston, S.C. Other memberships included Charleston Exchange Club, Washington Aero Club, Grasshoppers, Caterpillar Club, Veteran Pilots' Association, OX–5 Club, American Helicopter Society, American Society of the French Legion of Honor, and Industrial Committee of 100. Howard was also a past two-term president of the Aeronautical Training Society, the National Aviation Trades Association, and the Moultrie, Ga., YMCA. In 1945 he was a charter member of the Air Power League and served as a member of the industry consulting committee of the National Advisory Committee for Aeronautics, 1945–46. He was also coauthor of a book entitled, "You Can Learn To Fly," published by Prentice-Hall.

Mr. President, the death of Bevo Howard not only robbed the world of a great man, it robbed me of a personal friend. I knew him for a long time, and I knew him to be a dedicated and conscientious man. He was totally devoted to the growth of aviation in this country, and he was privileged to see his profession grow from an infant to a fully developed participant in our Nation's commerce. His personal contribution played a large part in making this so.

To his wife, Arden, his mother, his five children, Mrs. Thurmond and I take this means to express our deepest sympathies and condolences.

There will never be another man like him.

Mr. President, the death of Bevo Howard was acknowledged by many newspapers and national publications. Some of these include an editorial entitled, "Bevo Howard," which appeared in the North Charleston Banner on October 20, 1971; an article dated October 19, 1971, by John W. Faust of the Times and Democrat of Orangeburg, S.C., entitled, "Orangeburg-ers Say U.S. Lost Best Aerobatic Flyer When 'Bevo' Died"; an article entitled "Bevo Howard: Extraordinary Man," written by William D. McDonald in the October 24 issue of The State of Columbia, S.C.; an article which appeared in the October 18 issue of the Charleston Evening Post, entitled, "'Bevo' Dies in Plane Crash"; an editorial from that same paper on October 19, bearing the title, "A Master Flyer," and an obituary; an article entitled, "Bevo Howard Dies in Crash at Air Show," which appeared in the News and Courier of Charleston, S.C., on October 18, 1971; an article from the Aiken Standard of Aiken, S.C., dated October 18, 1971, and entitled, "'Bevo' Howard Dies in Airplane Crash"; an editorial in the October 19 issue of the Aiken Standard entitled, "Beverly Howard"; an article from the Dothan Eagle, Dothan, Ala., entitled, "Bevo Howard Dies in Aiplane Crash"; an article entitled, "Rites for Stunt Pilot Beverly Howard Are Set Today in Charleston, S.C.," which appeared in the October 18 issue of the Atlanta Constitution, Atlanta, Ga.; an article from the October 22 publication of the Weekly Moultrie Observer, Moultrie, Ga., entitled, "Bevo Howard Dies in Crash"; two articles from the Columbia, S.C. State, of October 18, entitled, "Stunt Man Dies in Plane Crash," and "Bevo—Outstanding in Every Way"; an article entitled "Little Fuel Found in Howard Biplane," which appeared in the State on October 19, 1971, and an editorial which appeared in that same newspaper on October 22, 1971, entitled, "Dean and Ace of Aviation."

Mr. President, I ask unanimous consent that these articles and editorials be printed in the Record.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the North Charleston Banner, Oct. 20, 1971]

BEVO HOWARD

It is always hard to accept the death of a man and an institution such as Bevo Howard, hard because of the man himself and hard because of the style of life he subscribed to.

Beverly Howard, though we did not know him intimately, seemed to us to stand for rugged individualism and aggressive disregard for the mundane things in life. In a time when many men his age were busily counting the minutes, Bevo Howard was always ready to jump into that jaunty Buecker Jungmeister biplane and dash off somewhere for some stunt flying.

The biplane and the way Bevo flew it said more about him than we ever could. He belonged, it seems, to that special breed of man who fell in love with flight when it was still very much a novelty and still very much a day-to-day danger. He began at 15 in 1930, soloed at 17 and bought his first airplane, an old Waco 10, with money he earned on a paper route. He joined Hawthorne Aviation in Charleston in 1932 as a $10-per-week line boy and owned the company four years later. He taught hundreds of French and American youths how to make an airplane sing, and they would need that knowledge over the European and Pacific battlefields during World War II.

Later, Bevo Howard branched out into many fields of endeavor, but he never forgot and he never gave up his first love, staging it in the Jungmeister, thrilling audiences across the nation.

Early on, we think, an aerobatic pilot must stare death in the face and make his peace with it, and we prefer to think that Bevo had done that long before his untimely death Sunday during a benefit performance at Greenville, N.C.

While we mourn his passing, we somehow think it fitting that, when death came for Bevo Howard, it found him in the cockpit of that Buecher biplane, winging it again, thrilling an audience, doing what only he and a few other rare men could do so well.

[From the Times and Democrat, Orangeburg, S.C., Oct. 19, 1971]

ORANGEBURGERS SAY U.S. LOST BEST AEROBATIC FLYER WHEN "BEVO" DIED

(By John W. Faust)

The death of Beverly "Bevo" Howard Sunday during an air show at Greenville has cut suddenly the career of a man rated by his contemporaries as the best aerobatic flyer in the world.

Howard, well known to Orangeburg area residents, died as his Buecher Jungmeister bi-wing stunter evidently clipped the top of a tree as Howard made his approach on the field for the final stunt of his performance at an air show, the plane burying its nose in the ground some 400 yards from the runway.

"Bevo," said Vic Lebednik of Orangeburg, "was a real gentleman." C. B. Goodman, also of Orangeburg, said of Howard late Monday, "Bevo was the finest precision aerobatic pilot in this country and probably in the world.

Both men, along with 14 other Orangeburg area residents, were instructors for Howard at the Hawthorne School of Aeronautics at Orangeburg where over 6,000 men of two nations were trained in primary flight for their combat roles in World War II.

The school was located where the present Methodist Home for the Aged now stands. Howard opened it under contract with the U.S. government in October, 1941, and kept it in continuous operation until October, 1945.

"A lot of people's lives changed from the influence of Bevo," said Lebednik speaking of his former employer and friend through the years. "He wasn't really an extrovert, yet, he would do anything if he thought it helped somebody and if he thought it was for a good cause. A lot of people moved to Orangeburg back during the war to work at Hawthorne and stayed. And," he continued, "a lot of students found their wives from the people they met while they were stationed here."

Howard was internationally known for his skill in acrobatics. For years the sight of the German made stunt plane piloted by the Bath, S.C., native was a familiar sight in this country and abroad as the South Carolinian wove intricate patterns through the sky.

A resident of Charleston and president of Hawthorne Aviation, Howard retired from the active competitive field in 1959 and performed only on special occasions.

Goodman, long a friend of the former Orangeburg resident, said that Howard had told him many times he was going to retire permanently from any acrobatic flying. "But," said Goodman, "he never did. He loved flying and couldn't resist performing when urged by people he knew and respected."

Howard, according to Lebednik, "made his greatest contribution in the field of flying during World War II when he trained thousands of young men from France to fly. He provided pilots for the Free French Air Force and these men moved on to form the nucleus of the present airline, Air France . . . and many Hawthorne trained men are still piloting for that airline."

A tall man, Howard had the clear eyes of the airman. He began flying at the age of 15 and by age 21, was a pilot for Eastern Airlines, working for another famed airman, Capt. Eddie Rickenbacker.

"When I knew Bevo," said Goodman, "he was doing some barnstorming up in Hickory, N.C. You know, flying out of cow pastures and grass fields. He requested my assignment to Orangeburg from Randolph Field in Texas during the war, and after being an instructor here, I remained after the war."

What Bevo Howard contributed to aviation will never be accurately and concisely known. He joins the hundreds of other airmen who have met their demise in the very element in which they only became alive.

A poem written by John G. Magee Jr., an R.A.F. airman during World War II is a tribute to what Bevo Howard lived for and by:

"Oh, I have slipped the surly bonds of earth,
And danced the skies of laughter-silvered wings;
Sunward I've climbed and joined the tumbling mirth
Of sun-split clouds—and done a hundred things
You have not dreamed of—wheeled and soared and swung
High in the sunlit silence. Hov-ring there,
I've chased the shouting wind along and flung
My eager craft through footless halls of air.
Up, up the long delirious burning blue
I've topped the wind-swept heights with easy grace,
Where never lark, or even eagle, flew:
And, while with silent, lifting mind I've trod
The high untrespassed sanctity of space,
Put out my hand, and touched the face of God."

And, fittingly, as a reminder of the man who ended his days in the air machine in which he attained his greatest honors, the lane winding its way to the old quarters of the Hawthorne School of Aeronautics is lined with living, growing hawthorne trees, planted there when Bevo Howard made his home among his friends of Orangeburg.

RUSSELL RECALLS FRIENDSHIP—BEVO HOWARD: EXTRAORDINARY MAN

(By William D. McDonald)

"He swam three-quarters of a mile every morning and three-quarters of a mile every night. The day before he was killed, I swam 80 laps with him in a motel pool."

Columbia realtor Bob Russell was recalling his deep friendship with Beverly E. "Bevo" Howard, self-made multi-millionaire, civic leader and probably the world's best-known stunt pilot.

Howard, 57, was killed last Sunday in the crash of his 35-year-old Buecker Jungmeister biplane while performing in Greenville, N.C.

A reason for the deep friendship between Howard, a native of Bath (near North Augusta), and Russell, was their mutual love of aerobatics.

"I was flying in the show when Bevo crashed and had flown in 17 or so shows with him this year. This was my first full year in aerobatics, and Bevo was a tremendous help to me. He critiqued most of my shows when I was through," Russell said.

In discussing his friendship with Howard, Russell mentioned such attributes as "efficiency, modesty, physical conditioning,"—characteristics he said, which made Howard a successful man.

"He told me the story, for instance, about a visit to the doctor when he was 40. He was feeling tired all the time, and the doctor told him he was completely exhausted. Well, shortly afterwards, he discovered a book called "Eat Right and Stay Alive," by Adele Davis. He later told me, 'I wouldn't give $100,000 for having gotten that book.'

"The book recommended more of a protein diet than the average American gets—hearty breakfasts like steak and eggs. A breakfast, incidentally, that we both ate [illegible] day of the crash.

"I got a copy of the book, and it has completely changed my life, too. Instead of drinking four or five cups of coffee a day, I now drink milk every meal. It's the old theory of 'you are what you eat'."

Howard was such a nut on physical conditioning, Russell said, that he wouldn't hesitate to swim even if the temperature was near freezing.

"We were in Bennettsville last year and it was about 45 degrees outside. I dove in the motel pool, and I couldn't stand it. He dove in and didn't even change expressions. Well, I eased in and managed to dog paddle and breast stroke my way through the swim. Just as we were finishing, an old man walked up and asked me, 'How come you let that old fella do two laps to your one?' He was just a tremendous athlete, that was the reason."

Russell said that Howard, who held three aerobatic world championships and three international championships, was extremely philosophical in discussing the possibility of a fatal air crash.

"He was a deeply religious man, and he was totally prepared to die if his number came. And he was one of the most safety-conscious pilots I've ever known. He studied everything he could about air plane crashes and failures.

"He told me there were only two ways you can get it: contact with the ground or structural failure. He said he would take the responsibility for the ground, and his plant foreman would take care of the structural failure. It's ironical that his death was caused by neither, but by a tree in his blind spot."

The president of Hawthorne Flying Service in Charleston, Howard soloed in 1931 at 17 and bought his first airplane, a Waco-10, from proceeds of a newspaper route.

At age 21, Howard became the youngest airline pilot in the nation when he joined Eastern Airlines as a co-pilot.

Commercial flying, however, did not represent a challenge to the young pilot, and he quit Eastern a few years later to expand Hawthorne into commercial aviation and flight training.

"He told me he left Eastern because commercial flying was a boring, routine job like bus driving or truck driving. The reason aerobatics appealed to him was that it was the epitome of flying. It requires the utmost in concentration and precision.

Howard looked forward to the flying season each year, Russell said, because it was a pleasant diversion, a distraction from his multi-million dollar business empire.

"Generally, the shows paid him anywhere from $500 to $1,000, depending on where it was. Bevo was the highest paid aerobatics pilot in the United States for a couple of years.

"Actually," said Russell, recalling a recent air show, "you had to know Bevo to appreciate him. I have never met a man who had more savoir faire or public relations attitude. One of his specialties was remembering a person's name. He could remember more names, including the wife's name. And I've seen him sign autographs for two hours on end. And each autograph would have a personal note with it."

Howard's dogged spirit and persistency met a stern challenge in 1938, the year a tornado devastated part of Charleston.

Commissioned to fly news pictures of the damage from Charleston to Columbia, Howard was forced by bad weather to bail out of his airplane, a Waco biplane.

A few hours later, however, the undaunted flyer appeared at the newsroom of The State—film in hand. A news account of the ordeal, reported on the front page of The State the next day, read in part:

"Mr. Howard said he had been flying low to keep in sight of the ground because he had no instruments on his plane . . . for blind flying. The "ceiling" got so low just before he jumped, he explained, that he ran into clouds and lost sight of the ground.

"Afraid to descend further, he said, because he did not know how close to the ground the cloud "ceiling" was, he zoomed the plane sharply upwards, went into thicker clouds and jumped after he felt he had attained enough altitude to make a jump safely. He said the plane had already whipped out of control because he had no instruments to guide him once he lost sight of the ground."

Although flying was his first love, it was, by no means, Howard's sole preoccupation. His interests included, for instance, an auto dealership, mobile home parks and retail establishments in the Charleston area, a shopping center in Atlanta and an aviation maintenance program for helicopters at Ft. Sill, Okla.

Additionally, he was a trustee of two colleges—College of Charleston and Rampart College in Larkspur, Colo.—and served on the boards of the Citizens and Southern National Bank of South Carolina and the Charleston YMCA and Exchange Club.

"Fortunately," Russell said, "his businesses are so well set up that they will maintain themselves. He planned each day, believe me. I might call him, and he would say, 'I'm busy right now, but I can talk at 9:17.' He was that precise.

"He told me one time that his philosophy of life was developing other people, and he's certainly done an outstanding job of that."

Russell was asked if Howard's death, coupled with the death of at least seven or eight other aerobatics pilots this year, had dimmed his enthusiasm for stunt flying.

"Not really, I feel the same way about it that Bevo did. I love it. It's a part of my life. When my number's up, I'll go."

"BEVO" DIES IN PLANE CRASH

Beverly E. (Bevo) Howard died Sunday afternoon while doing what he loved and, as usually, doing for charity.

The self-made successful businessman, world-known aerobatic aviator and civil leader, was killed in the crash of his 35-year-old plane while performing in Greenville, N.C.

Howard was performing his customary, breath-taking aerial routine in his Buecker Jungmeister biplane for the benefit of the Greenville Boys Club. It was a routine he has staged many times over the nation and in Europe.

At the conclusion of the routine Sunday, as in other performances, he was to fly inverted 20 to 30 feet off the ground and clip a ribbon strung between two poles and held aloft by associates.

He missed the ribbon on the first try, climbed to right the plane and was making a left, banked turn when apparently, according to witnesses, the plane's right wing tip brushed a tree.

The plane crashed into a field. Bevo died still strapped in his seat. An estimated 2,000 horrified spectators witnessed the crash.

Howard's aerial routine was familiar to thousands as he performed here numerous times for charity drives, beginning in 1938.

He usually performed over the harbor and spectators lined Murray Boulevard and East Battery to see his precision turns, loops and rolls; his flying inverted with his hands dangling outside the cockpit, and his final ribbon-cutting act.

He performed for fund drives in numerous cities and towns in South Carolina, North Carolina and Georgia.

Yesterday made twice that death has struck the Howard family through air crashes. His younger brother, Charles L. Howard, died Sept. 6, 1939, when an aircraft he was in crashed on the Augusta Country Club.

The Federal Aviation Authority began an immediate investigation to determine if Sunday's crash was caused by the brush with the tree, or from other causes.

Two witnesses said they saw something fall from the plane as it was banking into the turn.

Mr. Howard was born at Bath, S.C., Aug. 11, 1914, and grew up in nearby Augusta, Ga., where he began flying lessons at 15. He paid for his early flight training by parachute jumping.

He soloed in 1931 at 17 and bought his first airplane, a Waco-10, from proceeds of a newspaper route. He attended a junior college and joined Hawthorne Flying Service here as a line boy.

At the end of four years he had become president and owner of Hawthorne. He joined Eastern Air Lines in 1936 as a co-pilot. He was 21 and the youngest airline pilot in the nation.

He left Eastern Airlines and in 1939 began to expand Hawthorne into commercial aviation and flight training.

With World War II underway, his company conducted flight training for the College of Charleston, The Citadel and the University of South Carolina, First in the Civilian Pilot Training and later the War Training Service.

His primary flying school at Orangeburg, by 1945, had trained some 6,000 pilots for war duties. These included 2,000 French air cadets. His was the last civilian contract flying school to close at the end of World War II.

Mr. Howard had a brush with death in September, 1938, when he was flying flim of destruction wrought in Charleston by tornadoes to Columbia. He was forced to parachute when his plane became disabled near Columbia.

He began air show flying in the early 1930s and held three world championships and three national championships. He was the star of air shows in this country, Canada and Europe.

He was honored for his training of the cadets by the French Government and also by the South Carolina Junior Chamber of Commerce.

His interests included an auto dealership, mobile home parks and retail establishments in the Charleston area. He owned a shopping center with 25 shops in an Atlanta suburb and an aviation maintenance program for helicopters at Fort Sill, Okla., among other interests.

He served on the board of the Citizens and Southern National Bank of South Carolina and board of the YMCA and the Charleston Exchange Club. He was a member of a number of aviation associations.

Mr. Howard was a holder of the French Legion of Honor. He was a member of the Charleston Trident Chamber of Commerce, the board of United Community Services, and was a director of Junior Achievement of Charleston.

He was a trustee of Rampart College, Larkspur, Colo., and the College of Charleston. He was a past president of the Charleston YMCA.

Among the many aeronautical organizations to which he belonged are the Grasshopper Club, the Caterpillar Club, the OX-FIVE Club, the American Helicopter Society and the Aeronautic Club of America.

He was president of the Aeronautical Training Society for two terms and headed the National Aviation Trades Assn. for two terms.

He was co-author of the book "You Can Learn to Fly" and was team captain of the American Aerobatic Team in Spain in 1964.

He was a member of the Carolina Yacht Club and the Country Club of Charleston.

Mr. Howard, who resided at 73 King St., was a son of Charles L. Howard and Mrs. Marian Scott Howard.

Funeral services will be held at 4:30 p.m. Tuesday at St. Philip's Episcopal Church. Burial directed by Stuhr's, will be in the churchyard.

Surviving are his mother of Charleston; his wife, Mrs. Arden Ball Howard, three daughters, Miss Arden Ball Howard of Atlanta, and Miss Langhorne Moultrie Howard, and Miss Amanda Scott Howard, both of Charleston; two sons, Beverly E. Howard Jr. of Austin, Tex., and John Ball Howard of Charleston, and two sisters, Mrs. Ferdinand Brickwedde of State College, Pa., and Mrs. W. H. Harvey of Washington, D.C.

A MASTER FLIER

During a career in aviation that spanned 42 years, Beverly E. Howard made two names for himself. One was as an able, energetic executive who built a flying service into a multi-million-dollar enterprise and whose interests ultimately extended to other business spheres. The other, which perhaps better exemplified the spirit of the man, was as one of the world's foremost aerobatic pilots.

Bevo Howard was a product of his time—and of a driving determination to achieve goals demanding disciplined mind and body. In the post Lindbergh era when the "Spirit of St. Louis" still held a fascination, the young Howard lived in a hillside house in Augusta overlooking an airfield. The field was a magnet. At 15 he was taking flying lessons. At 17 he had his license and a plane, which cost $100 and was paid for with profits from a newspaper route. At 18 he was a $10-a-week lineboy for the Hawthorne Flying Services in Charleston. At 22 he was president of Hawthorne, and also Eastern Airlines' youngest pilot.

His climb in business was sure and steady. Under his hand Hawthorne grew. During two wars it trained thousands of U.S. and Allied pilots under government contract. It expanded into five states, providing flight service and instruction, aircraft sales and maintenance.

Impressive as his general aviation accomplishments were, the rare skill Bevo Howard displayed in pursuit of his "hobby" was what caught the public imagination. For 38 years he was a professional aerobatic pilot. His mastery of what he himself regarded as an art thrilled millions at air shows at home and abroad. It gained for him national and international acclaim as the winner of six precision flying championships.

When he put his favorite Buecker Jungmeister biplane through a series of intricate maneuvers he conveyed always the impression of oneness between man and machine that derives only from love of flying. His routines reminded somehow of aviation's earlier days, when it was just pilot and plane up there defying nature's old laws. Yet he knew precisely at every split second what had been done, what was being done, what was to be done next. To spectators the rolls, the loops, the inverted flight spelled courage and daring. But Bevo Howard was no foolhardy barnstormer. He was a master flier.

His death Sunday in a crash while executing a familiar maneuver that was one of his trademarks has both shocked and saddened Aviation—and Charleston—will miss him.

SERVICES HELD TODAY FOR BEVERLY HOWARD

Funeral services for Beverly E. (Bevo) Howard of 73 King St., businessman, civic leader and internationally-known aerobatic flyer, were held today at St. Philip's Episcopal Church.

Burial, directed by Stuhr's, was in the churchyard.

Mr. Howard was killed instantly Sunday afternoon in the crash of his airplane while he was performing in a benefit air show for the Greenville, N.C., Boys Club at Greenville.

Mr. Howard had reached the climax of his breathtaking routine in which he was to cut a ribbon held some 30 feet off the ground between two poles with the rudder of his plane, a Buecker Jungmeister.

XUM

He missed the first pass and was circling after righting his plane for a second try when witnesses said a wing tip brushed a tree, throwing the plane out of control.

He crashed in an adjacent field while some 2,000 spectators watched. The 1967-model plane did not burn.

Federal Aviation Authorities Monday completed an investigation of the crash and the wreckage of the plane was sent to the Hawthorne Flying Service, of which Mr. Howard was chairman of the board, at the Municipal Airport here.

Results of the investigation have not yet been announced.

Mr. Howard, whose business interests are located in five states, was born Aug. 11, 1914, in Bath, a small town in Aiken County, a son of Charles L. Howard and Mrs. Marian Scott Howard.

He grew up in nearby Augusta, Ga. and developed his interest in aviation there. He had his first airplane ride when he was 15 and soloed at 17. Shortly thereafter, he bought his first airplane.

He cut short junior college attendance to join Hawthorne Flying Service in Charleston in 1932. By 1936 he was owner and president of the service.

He began aerobatic flying and since 1938 he has been witnessed by millions in this country and in Europe in flights to raise funds for charities and in competition.

He holds three national and three international aerobatic championships.

His business interests included aircraft sales and service, charter flights, an automobile agency, a shopping center near Atlanta and mobile home parks.

He was a member of numerous aviation organizations, was a director of the Citizens and Southern National Bank of South Carolina and was a past chairman of the Charleston United Fund drive.

He was active in YMCA work and the Charleston Exchange Club. He was a member of the Carolina Yacht Club and the Country Club of Charleston and was also active in a number of other civic organizations.

Surviving are his wife, three daughters, two sons and two sisters.

BEVO HOWARD DIES IN CRASH AT AIR SHOW

GREENVILLE, N.C.—Beverly E. (Bevo) Howard died Sunday in the crash of his 1937 Buecker Jungmeister biplane near the end of an air show at the Greenville Airport.

Howard, 57, flying third from the last act in the benefit performance for the Greenville Boys Club, was attempting his ribbon pickup while flying upside down. He had made a pass at the ribbon and missed. Righting the plane, he banked to the left to make a return pass and his wingtip apparently struck a treetop.

The plane crashed into a cornfield as more than 2,000 persons watched. Rescue workers reached the plane but Howard was dead, still strapped in his seat.

A Washington, N.C., newsman said as the plane was ready for the final pass, it suddenly lost altitude. He said he saw no smoke or fire as the plane crashed from an altitude of about 200 feet.

Two witnesses reported seeing something fall from the plane while it was in the banking turn. A National Guard Military Police outfit having drill at the field was called in to help cordon off the area and assist Federal Aviation Administration (FAA) investigators.

An FAA inspector on hand for the show said the plane would probably be reconstructed in an effort to determine whether it had malfunctioned.

Howard had completed a series of loops and rolls and the ribbon pickup was his last scheduled stunt. The crash occurred about 3:10 p.m. The last two events in the show were canceled.

Mr. Howard was born Aug. 11, 1914 in Bath. He grew up in Augusta, Ga., where he began flying at 15. He paid for early flying lessons by making parachute jumps and selling rides.

He soloed in 1931, at 17, and soon bought his first airplane, a Waco-10, with money he made on a newspaper route. In 1932, he ended a brief junior college career to join Hawthorne Flying Service in Charleston as a line boy at $10 a week.

Within four years, Howard had become president and owner of Hawthorne. From 1936 to 1938 he flew as a pilot for Eastern Airlines, the youngest commercial pilot in the transportation industry at 21. His business demanded more of his time and he left Eastern to begin, in 1939, an expansion into commercial aviation and flight training.

Between 1939 and 1943, his company conducted flight training for the College of Charleston, The Citadel and the University of South Carolina, first in the Civilian Pilot Training Program and later as the War Training Service.

In 1941, he contracted with the U.S. Army Air Force to operate a primary flying school at Orangeburg, where by 1945, the school had trained some 6,000 combat pilots, including 2,000 French Air Force cadets. His was the last civilian contract school to close at the end of the war.

He was honored by the French government, by the South Carolina Junior Chamber of Commerce and with a national air service citation for his work.

He began flying air shows exhibitions in 1933 and held six world championships for precision aerobatic flying. He flew in shows in the U.S. and Europe.

Howard's business interests sprawled across five states, with aircraft sales and service, flying service and flying instruction in Charleston, an auto dealership, mobile home parks and retail establishments in Charleston, a shopping center in an Atlanta suburb with 25 shops and stores, an aviation maintenance program for helicopters at Fort Sill, Okla. and others.

He had served on the board of C&S National Bank, the YMCA and Exchange Club. He was a member of numerous flying associations.

He was also a member of the French Legion of Honor, Charleston Chamber of Commerce, board of United Community Services and a director of Junior Achievement of Charleston. He served as a trustee of Rampart College, Larkspur, Col., and of the College of Charleston. He was a past president of the Charleston YMCA.

Surviving are his wife and five children.

"BEVO" HOWARD DIES IN AIRPLANE CRASH

An aviator since 1929 who was a stunt pilot for a traveling air show, Beverly "Bevo" Howard of Charleston, died Sunday when his plane crashed during a performance at Greenville.

A television newsman who photographed the accident said a wing of the single-engine biplane hit a tree. The aircraft hit the ground 400 yards from the airport runway, killing Howard instantly.

A Federal Aviation Administration investigation was begun immediately by officials who were at the air show to direct traffic above the field while it was in progress. The area of the crashed Buecker Jungmeister was roped off.

FAA officials said they were trying to determine if the crash were caused by the brush with the tree or something else.

Howard had just flown upside down over the field and turned over as he circled around to prepare for his final stunt. That was to have been another inverted pass that would have been climaxed when he caught a handkerchief with a hook on the aircraft's tail.

The native of Bath, first flew when he was 15. At age 21 he was an Eastern Airlines pilot.

He taught pilots during both World War II and the Korean War.

Howard owned Hawthorne Aviation of Charleston which sold business airplanes and serviced Army aircraft.

BEVERLY HOWARD

While most South Carolinians knew him as a stunt pilot, Beverly (Bevo) Howard, who died Sunday when his plane crashed in Greenville, N.C., was that and a lot more.

Behind the exciting facade of stunt pilot was a solid business man and a real pillar of his community.

Mr. Howard, a native of Bath, grew up in the Augusta area, having attended Richmond Academy. He came to Charleston at an early age, however, to make his place. He founded Hawthorne Aviation Service, which had its humble beginnings at Charleston Municipal Airport in the 1930s, when aviation was still in its relative infancy. He and his pilots were flying charter flights routinely to provide the only air link for cities that now have several commercial flights between them each day.

When World War II came along, Mr. Howard and his staff trained thousands of Americans for the Air Force, and a sizeable number of foreign pilots. When the Korean conflict came along, he again undertook the training mission. During World War II, he had established training centers at Orangeburg and at Moultrie, Ga. He branched out into real estate and development, and before he had reached his 35th birthday anniversary he was a millionaire.

After he moved his headquarters back to Charleston, Mr. Howard's Hawthorne Aviation Service kept up with the times and altered its role to expand in new directions. His company was a sales agency for small planes, and it serviced planes under a military contract in addition to continuing a charter business.

Mr. Howard was unsurpassed in his dedication to the American way of life. At 57, he was more physically fit than most men at 40. He kept himself on a rigidly disciplined physical fitness regimen which suggested the other standards he required of himself.

South Carolina has lost one of her most valued citizens.

BEVO HOWARD DIES IN AIRPLANE CRASH

Beverly (Bevo) Howard, 57, president of Hawthorne Aviation, and internationally honored as an acrobatic pilot, was killed during an air show at Greenville, N.C., yesterday.

An aviator since 1929, and at one time the youngest commercial airline pilot (Eastern) in the nation, Howard died when the wing of his Buecker Jungmeister biplane hit a 60-foot tree and the plane crashed.

The aircraft hit the ground 400 feet away.

A Federal Aviation Administration investigation is now under way. The probers said they are attempting to determine if the brush with the tree, or something else was responsible for the crash.

A Hawthorne employe here said, "The sun must have gotten in his eyes. He was too good a pilot to goof up."

Howard had just flown upside down over the field and turned over as he circled around to prepare for his final stunt. This would have been another inverted pass that would have climaxed when he caught a handkerchief with a hook on the aircraft's tail.

Hawthorne has a contract with the U.S. Army Aviation Test Board at Ft. Rucker. He has flown here a number of times in exhibitions.

A native of Bath, S.C., he was reared in Augusta, Ga., and was still a 15-year-old high school student when he learned to fly in 1929.

He helped pay for his flying lessons by making parachute jumps and selling airplane rides.

In 1932 he quit junior college to join the newly established Hawthorne Aviation at Charleston, S.C.

By 1936, he was president of the firm and he flew from 1936 to 1938 as an Eastern pilot.

He expanded Hawthorne by giving flight training at the College of Charleston, the Citadel, and the University of South Carolina.

In 1941 he received a contract for a primary flying school at Orangeburg, S.C. The school trained 6,000 combat pilots, 2,000 of them for the French Air Force.

The school was cited in 1945 for its safety record by the Air Force Training Command.

Howard had been the South Carolina Jaycees' Outstanding Young Man of the Year, and Boss of the Year in Moultrie, Ga.

He received several honors from the French, and also a national outstanding airport operation award.

He became interested in air shows in 1933 and had appeared in nearly every major air meet in the U.S. He had also flown in Germany and France.

In 1939–41, he was the international light plane acrobatic champion, and the open plane acrobatic titles in 1946, 1947 and 1949.

Hawthorne, in addition to its Ft. Bucker operations, has operated at Ft. Sill. Howard also had an aircraft sales and service firm in Charleston, an Atlanta shopping center, two large mobile home parks; and he was author of a book, "You Can Learn To Fly."

He belonged to a large number of civic, service and aviation oriented organizations.

Married, he was the father of five children.

Funeral services are tentatively set for St. Phillips Episcopal Church tomorrow. Time for the rites had not been determined.

The family has asked that flowers be omitted and suggest memorials be contributions to the American Cancer Society.

RITES FOR STUNT PILOT BEVERLY HOWARD ARE SET TODAY IN CHARLESTON, S.C.

Internationally known stunt pilot Beverly E. (Bevo) Howard, 57, died Sunday when his 1936 Buecker Jungmeister biplane struck the top of a 60-foot tree and crashed during a performance at Pitt-Greenville Airport in Greenville, N.C.

Services for the former Georgian will be at 4 p.m. Tuesday at St. Philips Episcopal Church in Charleston, S.C. Burial will be in the church cemetery. Mr. Howard, formerly of Moultrie, lived at 73 King St. in Charleston. Survivors include his widow, his mother, two sons, three daughters and two sisters.

Mr. Howard was six times national and international precision flying champion and in 1954 was awarded the Ribbon of Chevalier, National Order of the Legion of Honor by the French government for training French air cadets during World War II.

He was born in Bath, S.C. and learned to fly as a high school student in Augusta, Ga. He helped pay for his early flying lessons by making parachute jumps and selling airplane rides for other fliers. He bought his first airplane with money he saved from a newspaper route.

He was chairman of the board and principal stockholder in Hawthorne Aviation in Charleston. The firm has eight subsidiaries in five states including six non-aviation businesses. Two of those are in Georgia—Hawthorne Plaza Shopping Center in Mableton and Creditors Mercantile Inc., in Atlanta.

DURING ACROBATICS FLYING: BEVO HOWARD DIES IN CRASH

Beverly (Bevo) Howard, 57, who lived in Moultrie more than a decade while serving as president of Hawthorne School of Aeronautics in the operation of Spence Air Base as a pilot-training school, was killed Sunday at Greenville, N.C., when his acrobatic plane crashed during a performance at an air show.

Howard, a native of Bath, S.C., was recognized as one of the world's finest acrobatic fliers and he gave precision flying demonstrations at Spence to each graduating class. He and his Buecker Jungmeister plane, one of the few remaining of its type, were familiar sights at major air shows in the United States and Europe.

He and his family had been residing in Charleston, S.C., since the closing of Spence in 1961.

A television newsman who photographed the accident at the Greenville airport, said a wing of the single-engine biplane apparently hit a tree and the aircraft struck the ground some 400 feet from the runway, killing Howard instantly.

Federal Aviation Administration officials, who were at the show, roped off the area of the crash and started an immediate investigation to determine positively if the crash was caused by he brush with the tree or something else.

READY FOR RIBBON-CUT

Howard had just flown upside down over the field and had turned over as he circled the airport to prepare for his final stunt. That was to have been his celebrated inverted ribbon-cut and handkerchief pick-up with a hook on the tail of the aircraft.

Born on August 11, 1914 at Bath, S.C., Mr. Howard first flew at the age of 15. He went on to capture six national and international precision flying championships. The veteran business executive-airman and his famous red-and-white Buecker, a 1936-built German aircraft, performed at hundreds of air shows and air bases.

As early as 1936 he became owner-president of Hawthorne Aviation of Charleston, S.C., which sold airplanes and serviced Army aircraft. In 1941 he secured a contract to train pilots at Orangeburg, S.C., under the Hawthorne name. He was voted Outstanding Young Man of South Carolina in 1943, and in 1945 was presented the French Air Force Wings and Medaille de L'Aeronautique.

AWARDED SPENCE CONTRACT

Howard in 1951 was awarded to a contract to train Air Force pilots at Spence Air Base and Hawthorne operated the facilities here until 1961 when the Defense Department phased out Spence and a number of other bases.

Thirty-two different countries were represented in the pilot training programs supervised by Howard and Hawthorne. More than 30,000 pilots received training under him.

In addition to his international reputation in aviation and among fliers, Howard gave unstintingly of his time and talent to civic and religious affairs. He was a leader in the Chamber of Commerce, YMCA, Kiwanis Club, St. Johns Episcopal Church and other orgnaizations and groups while living here.

STUNT MAN DIES IN PLANE CRASH

GREENVILLE, N.C.—An aviator since 1929 who was a stunt pilot for a traveling air show, Beverly "Bevo" Howard of Charleston, S.C., died Sunday, when his plane crashed during a performance at Greenville.

A television newsman who photographed the accident said a wing of the single-engine biplane hit a tree. The aircraft hit the ground 400 yards from the airport runway, killing Howard instantly.

A Federal Aviation Administration investigation was begun immediately by officials who were at the air show to direct traffic above the field while it was in progress. The area of the crashed Buecker Jungmeister was roped off.

FAA officials said they were trying to determine if the crash were caused by the brush with the tree or something else.

Howard had just flown upside down over the field and turned over as he circled around to prepare for his final stunt. That was to have been another inverted pass that would have been climaxed when he caught a handkerchief with a hook on the aircraft's tail.

The native of Bath, S.C., first flew when he was 15. At age 21 he was an Eastern Airlines pilot.

He taught pilots during both World War II and the Korean War.

Howard owned Hawthorne Aviation of Charleston, S.C., which sold business airplanes and serviced Army aircraft.

Funeral services will be held at 4:30 p.m. tomorrow in St. Phillip Episcopal Church. Burial will be in the churchyard.

Memorials may be made to Charleston County Cancer Society.

Born in Bath, he was a son of Mrs. Marian Scott Howard and the late Charles L. Howard.

Surviving are his wife, Mrs. Arden Ball Howard; three daughters, Miss Arden Ball Howard of Atlanta, Ga., Miss Langhorne Moultrie Howard and Miss Amanda Scott Howard both of Charleston; two sons, Beverly E. Howard Jr., of Austin, Tex. and John Ball Howard of Charleston; his mother, Mrs. Marian Scott Howard of Charleston; two sisters, Mrs. Ferdinand Brickwedde of State College, Pa., and Mrs. H. W. Harvey of Washington, D.C.

BEVO—OUTSTANDING IN EVERY WAY

Friends of Beverly "Bevo" Howard, world-famous aerobatic pilot who crashed and died yesterday during a benefit show in Greenville, N.C., describe him as a "polished gentleman."

"He was outstanding in every way," D. D. Overton III of the Overton Container Corp. in Smithfield, N.C., said, "That benefit show was typical of everything that he did."

Overton said that the Smithsonian Institute had filed a written request for Howard's plane. "That speaks a lot for him right there, the fact that they would request his plane . . . in the league of people like Amelia Earhart and Charles Lindbergh.

He was probably the most well-known aviator South Carolina has ever turned out, Overton said.

Col. Johnson Hagood Jr. of the Wings and Wheels museum in Santee said of Howard, "in addition to being one of the most famous acrobatic pilots, he was a businessman and rare old-time gentleman from way back.

"He was a great help and inspiration to us here at Wings and Wheels. He encouraged us right from the start and helped in every way he could," he added.

He was completely known all over the world in aviation circles, Overton said, and was "honored by every aviation society there is.

"He was a very quiet, polished businessman. You wouldn't think of him as an acrobatic pilot. He was distinguished, handsome and athletic. He swam a mile every day."

Howard, who once said, "I knew I wanted to fly an airplane when I was 15 years old," joined Hawthorne Flying Service of Charleston as assistant manager in 1932 and owned it by 1938.

He was a pilot for Eastern airlines when he was 21, the youngest transport pilot in the nation at that time.

He was a civilian aviation instructor during World War II.

The 57-year-old Bath native was beginning his final stunt, the inverted ribbon pickup, during the Greenville benefit, when a wing of his biplane caught the top of an 80-foot tree and crashed.

Howard died as he lived, thrilling crowds for the benefit of others.

LITTLE FUEL FOUND IN HOWARD BIPLANE

CHARLESTON, S.C.—Investigators probing through the wreckage said today they found only a small quantity of fuel in the vintage biplane which carried world famous pilot

XUM

Bevo Howard to his death Sunday at a Greenville, N.C., air show.

Funeral services for Howard were scheduled this afternoon at St. Phillips Episcopal Church in Charleston.

Inspector Roger McPhetters of the Raleigh, N.C., office of the Federal Aviation Administration, said a small quantity of gas was found in the fuel lines and a ripped-open gas tank aboard the aircraft. Investigators are now looking into a possible engine malfunction.

McPhetters noted that the shutoff valve at the bottom of the tank was broken off, but declined to say if this might have caused fuel to leak out during aerial stunts Howard was performing.

The 1936 plane, used to train German pilots and brought to America aboard the German Zeppelin Hindenburg, was reportedly due to be placed in the Smithsonian Institute in Washington in several weeks. It was one of only a small number left in the country.

DEAN AND ACE OF AVIATION

Beverly (Bevo) Howard, 57, internationally famous acrobatic pilot who was killed in an accident while giving a benefit performance in North Carolina, was the dean and ace of South Carolina aviation.

He was no daredevil, but a flier keyed to utmost efficiency. Before every takeoff he personally inspected his plane to be sure of mechanical perfection. He knew his own capabilities.

Learning to fly at the age of 15, he was the nation's youngest transport pilot at 21, flying for Eastern Airlines. When 24, he became owner of a flying service that trained 6,000 pilots at Orangeburg in World War II, including 2,000 cadets of the French Air Force.

He was acclaimed all over the world as an aerial stunt man, but he never lost his modesty or humility. Quiet and unassuming, he was every inch a gentleman.

While completing a maneuver in an exhibition to raise funds for needy boys, his plane tipped a tree on the blind side and crashed. His death was a great loss to aviation and to his native state.

EVIDENCE DEMONSTRATES EFFECTIVENESS OF FREEZE ON PRICES

Mr. PERCY. Mr. President, as we near the end of the first phase of the wage-price freeze announced on August 15, it is appropriate to consider whether it has been effective. In spite of considerable apprehension that the price decisions of the millions of economic units that comprise the American economy could not be restrained even for a brief 3-month period, the evidence is that the freeze has been remarkably effective.

Prime evidence, of course, is in data on the wholesale price index released on November 4 for the month of October. The index on an unadjusted basis declined 0.1 percent between September and October. On a seasonally adjusted basis, the index increased 0.1 percent in October, largely due to increased prices of farm products and processed foods and feeds, which rose 1.4 percent. As representatives of the Labor Department's Bureau of Labor Statistics testified at a Joint Economic Committee hearing on Friday, November 5, only 8 percent of all prices checked by the Bureau's price monitoring system reflected increases. These were mainly in the area exempted from the freeze. Chief among these are farm prices, prices that normally fluctuate on a seasonal basis, and prices of imports, to which can be added, under the freeze, the cost of the temporary 10 percent import surcharge.

There is other evidence of the effect of the freeze. Last week the Office of Emergency Preparedness issued a report on complaints of violations of the freeze. As of October 31 complaints of alleged violations were 36,220, most of them price violations. Of this total, 18,296 were determined not to be violations, 7,134 resulted in informal compliance and there was compliance in 4,598 cases after investigation. Only 6,192 cases are unresolved. This, I submit, is such a slight fraction of the total of economic transactions of this country as to be virtually insignificant.

Another indication is the report of the Manhattan office of the Internal Revenue Service resulting from what it called "the largest and most comprehensive survey of prices made since the beginning of the price-wage freeze." Covering 50 stores and 550 items, the survey showed only two violations of the price freeze. According to the Wall Street Journal of November 5, there two increases were considered unintentional and were immediately rescinded.

Though some reports have indicated that consumers do not consider the freeze to have effectively held down prices, and though retailers have only in rare cases complied with the President's initial directive to list prefreeze prices so that consumers can know whether current prices have remained stable, there is indeed sufficient evidence to indicate that the freeze has been effective. As Donald Rumsfeld, Executive Director of the Cost of Living Council said yesterday on the Channel 9 television program Newsmakers, the freeze has been an outstanding success. I can only urge Americans to join together to make phase II wage and price guidelines equally as effective.

I ask unanimous consent to have printed in the RECORD the November 4 statement of the Bureau of Labor Statistics on the wholesale price index, and two articles from the Wall Street Journal of November 5.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

WHOLESALE PRICE INDEXES, OCTOBER 1971

The Wholesale Price Index of All Commodities declined one-tenth of one percent (0.1 percent) between September and October, the U.S. Department of Labor's Bureau of Labor Statistics announced today.

Industrial commodities showed no change.

Prices of farm products and processed foods and feeds also held steady on average, with a rise for farm products offsetting a decline for processed foods and feeds.

Consumer finished goods, an index closely comparable to the commodity component of the Consumer Price Index increased 0.2 percent.

Of the 15 major commodity groups measured by the Wholesale Price Index, 8 declined between September and October, 5 showed no change and 2 increased.

In October, the All Commodities Index was 114.4 (1967=100), 3.1 percent above a year earlier.

SEASONALLY ADJUSTED CHANGES

On a seasonally adjusted basis, the Wholesale Price Index increased 0.1 percent in October.

Industrial commodities were down 0.2 percent.

Farm products and processed foods and feeds rose 1.4 percent.

Consumer finished goods were up 0.6 percent on an adjusted basis, principally because of higher prices for food.

The October increase in the seasonally adjusted all-commodities index of 0.1 percent followed a decline of 0.4 percent in September. In this two-month period the WPI declined on average 0.2 percent per month. This compares with an average monthly rise of 0.4 percent during the six months from March through August, the period immediately preceding the stabilization action. The decrease over the 2-month period in the industrial commodities index averaged 0.2 percent per month in contrast to an average monthly rise of 0.5 percent in the March-August period. The index for consumer finished goods declined on average 0.1 percent in the September-October period compared with an average monthly increase of 0.3 percent in the six months preceding the freeze.

PRICE CHANGES FOR MATERIALS AND FINISHED GOODS (SEASONALLY ADJUSTED)

Among consumer finished goods, foods (seasonally adjusted), advanced 2.1 percent, offsetting the preceding month's decrease, chiefly reflecting price increases for fresh vegetables and fruits, dairy products and meats; foods were 3.3 percent higher than a year earlier. Consumer nonfood finished goods were down 0.3 percent over the month. Within this grouping nondurable finished goods declined 0.1 percent, largely as a result of lower gasoline prices. Consumer durables also dropped (by 0.5 percent) for the most part because passenger car prices did not increase by as much as usual for this time of year.

Lower seasonally adjusted prices for passenger cars as well as motor trucks were the predominant influence in the drop of 0.4 percent for producer finished goods. Processed (intermediate) materials, supplies and components (excluding foods and feeds) were down 0.2 percent. On the other hand crude materials for further processing (excluding foods, feeds and fibers) rose 0.3 percent.

PRICE CHANGES FOR COMMODITY GROUPS, NOT SEASONALLY ADJUSTED

The only major increase among industrial commodities in October was for passenger cars and motor trucks which usually rise in October. In September prices included in the index were entirely for old-model year vehicles on which rebates were offered in order to reduce inventories. However, in October prices used in the index were for new-model year vehicles on which as usual there were no rebates.

Prices of most other industrial commodities either moved lower or remained unchanged in October. The most important decline both percentage-wise and in terms of influence on the overall index was for lumber and wood products. The decrease was much steeper than that in September which had followed an 8-month period of almost continually rising prices. Softwood plywood and lumber showed the largest declines. Weakness also affected the fuels as prices dropped for gasoline, residual fuel and electric power. Decreases for nonferrous metals, iron and steel scrap, steel mill products and some fabricated metal products brought the metals index down. Chemicals and allied products were lower in price chiefly because of declines for inedible fats and oils and fertilizer materials. Textiles—most notably manmade fiber products—declined after showing considerable strength through the end of the summer. There were widespread decreases among rubber and plastic products. Nonmetallic mineral products registered the first decline since September 1966 chiefly because of price weakness for gypsum products.

Substantial increases for fresh and dried vegetables and hogs caused most of the rise in the farm products index; fresh fruit and raw cotton also were up in price, but eggs, live poultry, cattle, grains and oilseeds declined. The processed foods and feeds index dropped chiefly as a result of lower prices for manufactured animal feeds, processed poultry, fats and oils, sugar and confectionery and canned vegetables and juices; dairy products, meats and flavoring syrups were higher.

IMPACT OF WAGE-PRICE-RENT STABILIZATION ACTION

The 0.1 percent decline in the All Commodities Index between September and October is largely attributable to commodities subject to the provisions of the President's stabilization action. There was a net upward movement in October for raw agricultural products which are uncontrolled and imported items to which special regulations apply. Excluding these raw agricultural products and imports, the WPI shows a decline of 0.1 percent. The index for industrial commodities which was unchanged in October, reflects declines in controlled commodities which offset increases for some imported industrial commodities and domestic passenger cars and trucks. Domestic cars increased 1.6 percent over the month, a less than seasonal rise.

[From the Wall Street Journal, Nov. 5, 1971]

WHOLESALE PRICE LEVELS HELD FAIRLY STEADY IN OCTOBER, SECOND FULL MONTH OF FREEZE

WASHINGTON.—Wholesale prices held fairly steady in the second full month of the wage-price freeze.

On a seasonally adjusted basis, the wholesale price index rose 0.1% in October or at a 1.2% annual rate, and showed a 0.1% decline before adjustment, the Labor Department reported. The October results follow September's decline of 0.4% on an adjusted basis and 0.3% without adjustment.

The Nixon administration hailed the figures as showing that the price freeze is working. Charls E. Walker, Treasury Under Secretary, said the figures "provide encouraging evidence that the wage-price freeze is putting the brakes on inflation" and that there is widespread compliance with the freeze.

At 114.4% of the 1967 average, the closely watched price index stood 3.1% above the like month a year earlier on an unadjusted basis. In September the index was 114.5%, or 3.2% above a year earlier.

The seasonally adjusted increase was caused almost entirely by higher prices for foods that aren't covered by the freeze. Farm products, processed foods and feeds rose 1.4%. The index for consumer finished goods rose 0.6%, but this was primarily the result of a 2.1% boost in the cost of fresh vegetables, fruits, dairy products and meats that qualify as consumer finished goods. The higher food prices were a reversal from last month, when food prices fell sharply.

On an unadjusted basis, food and feed prices remained unchanged at 113% of the 1967 index. Consumer finished goods rose 0.2% on an unadjusted basis and consumer foods climbed 0.1%.

Important industrial commodities prices fell 0.3% on an adjusted basis, their sharpest decline in a decade. Mr. Walker noted these prices have declined for two consecutive months for the first time since 1962. He called this an important sign that the government is succeeding in its fight against the current type of inflation which he said is caused by rising costs rather than excessive demand.

On an unadjusted basis, the industrial commodities index was unchanged at 115% of the 1967 average. At a news briefing yesterday, government officials focused primarily on the unadjusted prices. Edgar B. Fiedler, deputy director of the Cost of Living Council, said it was "hard to know" the significance of seasonal adjustments during a freeze. For one thing, some wholesalers who normally lower prices on a seasonal basis may have kept their prices up this year because of the uncertainty caused by the freeze.

Of the 15 major commodity groups measured by the index, eight declined, five held steady and two increased. Both increases were "explainable," Mr. Walker said. One, raw agricultural products, wasn't covered by the freeze, and the other, transportation equipment, rose because the council allowed seasonal price increases on the 1972 car models.

Prices of several specific commodities rose but Mr. Walker said none of the increases appeared to violate the freeze. Mr. Fiedler said an investigation of some of the price increases disclosed by September's wholesale price study didn't show any widespread violations of the freeze, although two meat-packers rolled back price increases and some refunds were made on fishing rods.

However, Mr. Fiedler said, a recent survey of compliance with the council's directive that stores make price lists available showed that 913, or 35%, of the 2,500 stores sampled weren't complying. Most promised to have the information on hand by today.

[From the Wall Street Journal, Nov. 5, 1971]

IRS SLEUTHS ASSERT STORES DIDN'T FATTEN THEIR MEAT PRICES

NEW YORK.—Contrary to what many shoppers here believe, the government says, supermarkets aren't beefing up their meat prices.

In what was called "the largest and most comprehensive survey of prices made since the beginning of the price-wage freeze," the Internal Revenue Service's Manhattan Office reported a general compliance among retail meat dealers. IRS investigators compared store prices of specific cuts and grades of meat in the past week with the base price list in those stores for those meats.

The bureau's survey, which covered 50 stores in the New York metropolitan area and over 550 items, showed only two violations of the price freeze. The two items, found in two different locations, were 10–14 pound turkeys and shoulder lamb chops. IRS investigators found one store charging $1.59 a pound for shoulder lamb compared with the base price of $1.29, and another store charging 65 cents a pound for the turkeys, compared with the base price of 59 cents.

Base period prices were established during July 16 to Aug. 14. Under the freeze guidelines, meat retailers aren't allowed to charge more than the highest price charged during the base period for a particular grade and cut of meat. They may, however, charge less.

Elliott H. Gray, district director of the IRS' Manhattan office, called the two violations unintentional pricing errors. These prices were immediately rolled back at the IRS' request. The IRS found most other grades and cuts of meats below the base period prices.

A report published in the New York Times on Oct. 25 had indicated that leading retailers in New York City illegally increased the prices of seven out of 27 meat cuts, ranging from pork shoulder to porterhouse steak. The Office of Emergency Preparedness, which is responsible for overall supervision of the freeze operations in the field, asked the IRS to investigate the newspaper's charges. Mr. Gray said the investigation had "top priority," and the IRS had as many as 15 agents in the field at one time checking prices.

Mr. Gray cautioned consumers when comparing current prices of meat to base period price listings to note the difference in grades and cuts of meats. He urged consumers to report suspected violations immediately to the IRS. He said widespread publicity could give retailers time to roll back prices before the IRS could investigate charges.

Mr. Gray said The New York Times story was based on a general survey of the New York State Department of Agriculture and Markets retail price reports, and the reported prices were in a general range.

A MEDICAL VIEW OF VIETNAM

Mr. TUNNEY. Mr. President, one of my constituents, Mr. Ben F. Bufford, of Madera, has brought a depressing but important article to my attention. It appeared in the San Francisco Examiner magazine of October 25, 1971.

I ask unanimous consent that the article, which so poignantly describes the suffering in Vietnam, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIETNAM WAR'S SMALLEST VICTIMS

The following letter, which appeared in the September Bulletin of the San Francisco Medical Society, was written from Saigon by Dr. Mark Gorney, a San Francisco surgeon and member of the American Society of Plastic and Reconstructive Surgery.

At this distance, the sound and fury of argument about our Vietnamese misadventure (the most popular current theme in our hospital staff rooms) seem specious. If the term were not so wholly inappropriate, one could almost regard with wry amusement the spleen vented by hawks and doves in discussing the issues involved. What is seldom mentioned is the unbelievable toll paid, not by those who are fighting and dying, but by the hundreds of thousands of innocent people caught in the vortex, most particularly the children. The dimensions of this barbarous carnage can be measured by many standards, but by none as accurate and pathetic as a headcount of the youngest victims. Thus my answer to those who ask me "How was it?" can only be, "Go and see for yourself, because if I told you, you wouldn't believe me."

This is my second tour with Children's Medical Relief International. This organization has built in Saigon a modern 56-bed hospital dedicated exclusively to the teaching of plastic and reconstructive surgery and the treatment of pediatric casualties of the war and war related causes. We admit any child who needs help, no questions asked. I am sure we have as many beneficiaries of the "People's Struggle for Liberation" as from the Pax Americana. We remain assiduously non-political. We have so far admitted over 3000 children and perform 8 to 12 major operations daily. This is only a small fraction of the 50,000 to 100,000 children who have been "wasted," to use that lovely euphemism. With the war winding down and travel somewhat easier, our waiting list has grown to over 500, and the stream grows to a torrent. We are also seeing neglected or mismanaged cases, many almost beyond redemption.

LEGACY OF HORROR

Of all the possible exercises in reappraisal of the Vietnamese struggle, I truly believe that a quick tour around our wards would be the most effective. In almost every bed the legacy of horror makes striking counterpoint to the fatuous statements from the corridors of power in Saigon or Hanoi or Washington. I feel, in fact, that this brief tour should be mandatory for anyone in a decision-making position in this war. Time and space do not permit even the briefest abstract of the abysmal tragedy that accompanies every mutilated face, every empty eye socket, every gnarled stump of what was once a slender arm, and above all every pair of unblinking black eyes that stare out from behind a fright-mask of inch thick, purple keloid scar.

Scars flow, like corrugated lava which has frozen, welding chins to chests, arms to ribs, and doubling little hands completely back so that the top of the hand and the forearm are one, and what finger stumps remain point to the shoulder. That's what white phosphorus does. A Hollywood make-up wizard would be hard-pressed to match the small

brown bodies twisted into grotesque shapes, or the cavities where there used to be a nose or an eye, or the living skeletons with vast patches of festering rotting bare bone.

We are often asked how we retain our sanity in the midst of such horror. The answer is simple: We happen to be in a unique position. We can do something direct and positive to help. Certainly it beats making Molotov cocktails or lying down in front of traffic. Anyone who allows rage or revulsion to consume him loses his objectivity and thus his effectiveness. Beyond rage or revulsion, what? Wonder, I suppose. Incredulity, if you wish. Wonder how anyone can come out of this with anything other than a profound sense of cynicism. Wonder at the tenacity of human life. Disbelief at the depravity of man in general. Wonder and disbelief that we go on, and on . . . and on compounding the calamity out of some misguided sense of chivalry.

Often our visitors, even though tough military and journalistic type, have to stop and lower their heads between their knees. One of the sights that invariably "grabs" them is that of several grossly mutilated children laughing and playing games in wheelchairs. The answer is, of course, that to these kids the grotesque is their entire horizon, their common denominator. It is only in the cold light of the outside world that reality becomes apparent.

In ward five, bed four, there is an 11-year-old boy who lost his genitalia, suffers paraplegia, and wears a colostomy bag. He never smiles nor is he seen joining in the fun and games. It seems that he and two friends were swimming in a river when a marine threw a grenade at them. The other two were killed outright. The nurses ask him what he plans to do when he is discharged. Without hesitation he answers, "I am going to kill myself." I have little reason to doubt that he will.

There are changes in the streets of beautiful downtown Saigon. One has the distinct feeling that this meaningless tragedy is playing out its last scenes. Our military presence is vastly diminished. Our troopers no longer compete in the daily Monoxide Grand Prix along Dien Tien Hoang. The gagging stench along Pestilence Gulch and around Garbage Circle and the sound of chaos are once more purely Vietnamese. (This is the only city in the world where the prevailing sound overall is that of a 24-hour long continuous jailbreak.) The sun once more sinks slowly into the perma-fog, the helicopters no longer clatter over the rooftops, and the flashes on the night horizon are merely summer lightning.

BITTER SADNESS

All this provides the final touch of bitter sadness. It brings to mind the words of John Kery who asked a Congressional committee, "How do you ask the last man to die in Vietnam to give up his life for a mistake?" I would also ask how do you condone the slaughter of children for a mistake. Whether they die from a hand grenade tossed by a marine, or are mutilated by South Vietnamese troopers bent on revenge, or they were roasted by a Viet Cong phosphorus booby trap seems to make very little difference.

I guess what troubles me is that I can no longer remember what it was we set out to prove here. I guess I am puzzled by the fact that (in the recent elections) there was a Yellow Alert from the Embassy; all Americans stay indoors, and all military on full armed alert. Unfortunately it isn't only the Communists that we must guard against, but also the very people for whom so many Americans have died and died. I guess I am disturbed over the utter futility of this war.

How appropriate T. S. Eliot's words: "This is the way the world ends; not with a bang but a whimper."

STUDIES OF POLLUTION

Mr. KENNEDY. Mr. President, in recent years, all Members of Congress have become aware of the great problems of pollution. However, there is an aspect to this problem which has not received the attention and visibility that it merits. I make reference to the problem of internal pollution. Internal pollution comes about in either of two ways—from the additives and impurities in what we eat, drink, and breathe, and from the increasing number of drugs which are consumed every day by millions of persons for other than therapeutic reasons. Now at last an effort has been begun which hopefully will broaden our understanding of the growing problem of internal pollution. A small working group of eminent scientists has been formed to devise ways of identifying and cataloging the growing number of internal pollutants. Their job will be one of predicting contingencies and establishing priorities.

Mr. President, in order to bring to the attention of my colleagues a more detailed presentation of this effort, I wish to introduce in the RECORD three articles. The first is entitled "Scientists Urging 'Pollution' Study," written by Walter Sullivan. The second, also, from the New York Times, is entitled "The Other Pollution—Internal," written by Peter Beaconsfield, who is one of the scientists participating in this study. The third article, from the journal Experientia, is entitled "Suggestion for a Study on the Implications of Various Chemicals and Non-disease Specific Drugs."

I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

SCIENTISTS URGING "POLLUTION" STUDY—SEEK TO BAR BAD EFFECTS OF INGESTED SYNTHETIC MATTER

(By Walter Sullivan)

An international team of eight leading scientists has proposed forming a working party to develop a program that can spare mankind from the long-term effects of "internal pollution"—the ingestion of a great variety of synthetic substances.

Within the next decade, they said, if drug company predictions are fulfilled, virtually everyone in the developed countries will daily be taking at least one drug to avert fatigue, obesity, nervous stress, childbearing or something else.

Furthermore, the populations of such countries are eating more and more synthetic foods or food additives whose subtle effects on the body have not been adequately explored, they said.

Among the scientists who signed the appeal were Sir Julian Huxley, first director general of the United Nations Educational, Scientific and Cultural Organization, and Sir Randolph Peters, former president of the International Council of Scientific Unions.

NOBEL LAUREATES SIGN

Others included Dr. Jacques Monod, Nobel Prize winner in medicine who is the new director of the Pasteur Institute in Paris; Dr. Jacques Tréfouël, outgoing head of the institute, and Dr. Hugo Theorell, another Nobel Laureate in medicine, who is director of biochemistry at the Nobel Institute in Stockholm.

Also, Dr. Raymond Paul, who in 1969 became president of the French Chemical Society; Dr. Rebecca Rainsbury, assistant editor of the British Medical Journal, and Dr. Peter Beaconsfield of the Royal Free Hospital in London.

Dr. Beaconsfield, an American, is a specialist in the long-term effects of drugs upon various body tissues and cells. He earlier coined the term internal pollution and was instigator of this proposal for independent action by the scientific community.

FIND SURVIVAL IMPERILED

The proposal appeared in the June 15 issue of Experientia, a scientific journal published in Switzerland. The vast majority of drugs now being taken, said the article by the scientists, "are for nondisease-related purposes."

"Society has reached a stage of development where the stresses and strains produced by its own speed of technological advance are not only overtaking man's powers of adaptability—both physical and mental—but are endangering his very survival," the article said.

Many of these challenges to man's adaptability are man-made, scientists said. "Chemicals made by man for his economic enrichment and physical well-being are the primary offenders, because they are ubiquitous and being exploited to the limits of their possibilities."

The report said scientists already have sufficient knowledge to devise ways for identification of hazardous substances and for the production of innocuous substances.

The proposed working party would consist of a relatively small group of scientists with broad backgrounds and no loyalties that would subject them to outside pressure. The article invited the scientific community to propose to Dr. Beaconsfield or Dr. Tréfouël suggestions on how to attack the problem.

It argued that present methods for screening substances for safety "sprang originally from the necessity to evaluate drugs in relation to disease," with effectiveness a prime consideration.

Classical pharmacology continues to operate on this basis, the authors said, even though disease treatment is no longer the target for most such compounds. In view of the massive consumption of synthetic substances, they said that new methods of classification, rating and testing must be explored.

THE OTHER POLLUTION—INTERNAL—ADDITIVES AND DRUGS SWALLOWED CARELESSLY HARM HUMAN ANIMAL

(By Peter Beaconsfield)

LONDON.—The public has at last become conscious of the near-catastrophic proportion of the pollution problem. Few, however, are concerned as yet with the emerging reality of a comparable trend in our internal environment—our bodies.

Internal pollution is occurring in two ways: From the additives and impurities in much of what we eat, drink and breathe; even more disturbing, from the multiplicity of drugs consumed daily by many millions of Americans for other than strictly therapeutic reasons.

Our solution to coping with the stresses and frustrations of urban industrial society tends more and more toward dosing ourselves with one drug or another—largely encouraged and abetted by the advertising media. Pills are available for every contingency—to induce sleep or to prevent it; to reduce weight or build up muscle power; to achieve pregnancy or to avoid it; to ease pain; to relieve tension; to counteract depression; to calm the nerves.

How much permanent damage such indiscriminate imbibing may cause the human system in the long run is still a matter of speculation. If a parallel can be drawn from the present condition of the external environment, then the pending consequences are all too clear. There is already proof that pollutants are affecting the genetic mechanisms of some fish and insects: It would be folly to assume that similar changes might not be equally certain and irrevocable in the human species.

Even by conservative estimates, to redress the ravages to our natural habitat will be an extremely long and costly undertaking. On the other hand, with relatively simple and inexpensive efforts we can determine the extent to which the functions and adaptability of the human organism is being impaired and how these effects can be minimized.

Over prolonged periods, the equilibrium of the internal environment is patently vulnerable to the action and interaction of the state of drugs daily overextending its metabolic machinery. Yet the precise effects on the different body systems of most of the compounds currently being taken over the long term are still little, if, at all, understood.

Up to now, the safety of a drug has been considered relative to its value in assuaging disease, any undesirable side-effects being balanced off against its therapeutic efficacy and the length of time for which it is prescribed.

The safety standards now required for any drug include a supposed proven absence of potential to kill, to poison, to cause cancer, or to maim the unborn. In testing drugs whose use is not intended as medication, however, an additional category of information should be mandatory.

It is essential to establish not only the primary effect of a compound on the cells of the organ where its action is specific, i.e., on the target organ, but similar data is equally important with respect to all the vital organs of the body—liver, brain, kidneys, etc. Furthermore, we must be able to determine if repeated or long-term administration of a drug could so change the body's response to external stimuli and the remarkable adaptability of its protective mechanisms, as to alter entirely the established patterns of health and disease.

It may seem surprising to the point of incredulity that these aspects of drug safety have not been tackled. The truth is that many of the logical questions have not as yet even been asked.

Senate investigating committees, with the best of intentions, find themselves grappling with lengthy sessions of conflicting expert opinions. The F.D.A. responds alternately in undue haste or with agonizing circumspection. And the pharmaceutical manufacturers are obliged to send more and more "dear doctor" letters of caution to the dispensing physician. But none of this contributes in any way to a solution of the basic problem.

The care of the private citizen's ills is the concern of the medical profession. Protection of community health is the responsibility of the lawmakers. When the nation's health and that of the next generation is in jeopardy through lack of knowledge about the safety of products in free supply and increasing demand, the onus for instituting effective protective measures or at least the possibility of finding them, falls squarely on those who frequent the corridors of power.

The extent to which modern man's internal environment is being polluted is still limited and measurable. Correction and prevention would be a relatively simple undertaking. The longer we delay, the more complex and expensive it will be. In essence, it is a matter of of predicting the contingencies and establishing logical priorities. To attack the environmental problems around us with dedication and resolve will be self-defeating if we fail in our calculations to consider first and foremost the human animal.

SUGGESTION FOR A STUDY ON THE IMPLICATIONS OF VARIOUS CHEMICALS AND NONDISEASE SPECIFIC DRUGS[1]

If the present trend continues, within the next decade almost every person in the technologically developed countries will—according to the pharmaceutical industry—be on some type of daily drug regimen for the improvement or maintenance of his positive health. This habit is becoming modern Man's response to his over anxiety, over weight, over indulgence, and over population. In addition, it is inevitable that he will be consuming an ever increasing number of food additives and substitutes the use of which is the result, in large measure, of modern economic dictates concerning demand and supply, storage and distribution.

The problem of this continuous ingestion of synthetic products, their possible effects on Man, on his disease patterns, and on his physiological adaptability to the ever increasing demands of environmental change are beginning to be recognized. Environmental pollution's effect on the human organism, together with iatrogenesis[2,3] and the diseases of civilisation,[4] are among the monumental issues of our day, and they are also among the few that are capable of a solution within the framework of our economic possibilities. In sharp contrast to the difficulties of halting and correcting pollution of the external environment and the astronomical cost this will incur, preventing further internal pollution is not only relatively inexpensive but also feasible if cognisance of the problem is taken now. These are causes for concern not only to the specialist but also to the general biologist and all those having any responsibility for the physical and psychological well being of mankind.

SAFETY OF COMPOUNDS

Tests for most compounds taken by Man—irrelevant of their usage—sprang originally from the necessity to evaluate drugs in relation to disease. Therapeutic efficacy was the foremost consideration, and in the main, undesirable effects have been equated strictly with this factor. This disease-orientated fashion in testing still holds sway in classical pharmacology, despite the fact that we have now reached a stage in our attitude to health and wellbeing for which we demand aids to maintain and improve activity and appearance. The vast majority of compounds being consumed today are for non-disease related purposes and must, therefore, be considered in the context of health.

Society has reached a stage of development where the stresses and strains produced by its own speed of technological advance are not only overtaking Man's powers of adaptability—both physical and mental—but are endangering his very survival. The response of a living organism to the constantly changing environment has to be a continuous process of adaptation otherwise the inevitable consequence is breakdown into a disease state. In addition to the obvious danger from physical destruction there are an ever-increasing number of man-made forces that bend our adaptability to such an extent that selection soon will be no longer simply "natural," and mutations no longer unpredictable occurrences. Chemicals made by Man for his economic enrichment and physical well being are the primary offenders, because they are ubiquitous and being exploited to the limits of their possibilities. And yet these are the very forces which are to a large extent within the realm of the scientists' control in particular as we already have most of the knowledge needed to eliminate their dangers and substitute inoffensive ones in their stead. This is not a research project to be initiated, but conversion into practical terms of erudition already esoterically disseminated around many specialised laboratories.

In evaluating the safety of chemical compounds the purpose for which they were developed, once satisfactorily established, must be temporarily disregarded, and instead their effect on the rest of the body investigated—particularly at the cellular level in the vital organs. It is not only the final state of the compound in the body—its ultimate metabolism—that counts; but also, and in some instances even more importantly, the compound's effect on the body's ultrastructure, both functionally and architecturally.

To investigate the primary effect of any compound at the cell and tissue level in vital organs and determine whether any damage is caused by short or long term exposure to it does not require a whole new global battery of testing techniques, but rather an intelligent application of our existing technical knowledge. In various scientific disciplines not immediately related to pharmacology, such as tissue, cell, and molecular biology, biophysical and biochemical experimentation is routinely performed which, when suitably adapted, could give much of the information needed.

A certain number of the basic tests now done to evaluate compounds for use by Man will probably continue to be employed for a long time to come, but in addition there will have to be a second tier of testing[5,6] and this will depend on the type of compound and its formulation, the length of time it is to be taken for, and the reason for its use. Most of the knowledge to evolve testing on these lines we already have; it has simply to be transferred to a different context.

Introducing this kind of testing into traditional pharmacology will have a number of advantages. It will increase the safety of all compounds, improve their efficacy and make it possible to predict in advance with a high degree of accuracy the majority of side and deleterious effects. This in turn will make satisfactory clinical trials easier to design and the interpretation of the results more accurate.

Safety of compounds is a problem of our technological age, and its solution must come from our advanced technology and from those who can look at a 20th century problem with the methods and equipment of today and tomorrow. Application of the expertise of other scientific disciplines to the field of traditional pharmacology, starting with a new classification and going logically therefrom to a new testing procedure, is the obvious way to proceed. Thus, what is the next step?

THE RESPONSIBILITY

Somehow between the identification of a problem and its solution there lies a no-mans-land which no one is willing to be first

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[1] Comments and suggestions are welcomed and should be sent: In English to Prof. P. Beaconsfield, Royal Free Hospital, Liverpool Road, London N.1 (England), in French to Prof. J. Tréfouël, Institut Pasteur, Paris 15 (France).

[2] L. G. SEIDEL, G. F. THORNTON, J. W. SMITH and L. E. CLUFF, Bull. Johns Hopkins Hosp., 119, 299 (1966).

[3] S. SHAPIRO, D. SLONE, G. P. LEWIS and H. JICK, J. Am. Med. Ass. 216, 467 (1971).

[4] J. SÓS, T. GÁTI, L. CSALAY and I. DÉKI, *Pathology of Civilisation Diseases* (Akadémiai Kiadó, Budapest 1971).

[5] BEACONSFIELD, Annali Ist. sup. Sanita 5, 536 (1969).

[6] P. BEACONSFIELD, New Scient. 49, 600 (1971).

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to step across. In the domain of public health there are always areas of vacuum of responsibility, and these seem to occur particularly in the train of any innovation. Questions such as who should take the initial responsibility, who should incur the cost, where the venue should be, and under whose auspices should be the continuing work are disputed endlessly and unproductively; in fact, their very discussion seems to be an end in itself.

SUGGESTIONS FOR A SOLUTION

The purpose in setting out all the foregoing is to state a case, and then to see whether something can be done about formulating a new set of regulations for the safety of the various compounds we have been discussing.

To do this requires the setting up of a working party, which to accomplish its work completely and within a reasonable time framework should be as small as practicable: if the work of this group is to be meaningful and to the point the members should be men with a multidisciplinary orientation, having long laboratory or clinical experience, and of a broad and flexible intellect. Super specialists would serve best in a consultant capacity and the members of the working party would draw on such specialized knowledge as and when required. For a project of this importance the best brains available have to be harnessed, irrespective of their geographic origin, and they must not be in a position to be subjected to any sort of pressures.

OBJECTS OF THE WORKING PARTY

1. To define problem areas relating to long-term effects of various chemical compounds with regard to their different categories and usage.

2. To consider a new classification of such compounds. This would put medicinal and non-medicinal compounds into specific categories relating to their origin—synthetic or biological; the purpose for which they are used—prophylactic, therapeutic, or other; and the period for which they will be taken—short, limited, or relatively indefinite. There would have to be a clear differentiation between disease-related drugs, whether taken for short or long periods, and compounds related to the concept of better positive health.

3. To define new safety criteria leading to the adoption of values and measurements on the basis of which it would begin to be possible to state that certain effects are within "normal biochemical limits" or within "normal biophysical limits" in the same sense as at present physiological data are accepted and interpreted.

4. To clarify and decide the experimental profiles necessary to reflect the new dimensions relative to the effects of chemical compounds on the vital organs at the cellular level.

5. As much of the foregoing is still in the realm of limited knowledge, it would be desirable to identify and encourage active liaison and cooperation between workers in research centres already concerned with these types of study.

PROGRAM TIMING

All the objectives just mentioned fall broadly speaking into three phases of work.

The first phase would be to appraise present systems of compound classification, and make revised recommendations in this regard on the basis of the points outlined under section (2) on "objects of the Working Party". This leads logically to a consideration and selection of the crucial experimental profiles of the vital organs on which new safety criteria should be based.

The second phase would involve the setting up of studies to determine the primary effects of selected examples of various classes of compounds on the biological activity and function of different tissues, having appraised the techniques available to obtain such measurements and values. The results of these studies will provide some of the data essential for working out the basis of the new safety criteria discussed as part of the first phase.

The third phase would comprise an analysis and critical evaluation of all the data thus far obtained, their relevance to the objectives of the working party's study, and, on the basis of this, the formulation of recommendations to revise regulations pertaining to safety, particularly of chemicals and non-disease related compounds.

A programme carried through on the lines suggested above would be a first step in the protection of the public health, and a safeguard against the irreversibility of internal pollution. It would help the pharmaceutical industry, which presently feels some of the restraints imposed on it by government agencies to be useless and hampering, while in other fields industry would like more guidance and tighter controls. It would streamline production and research and allow for the introduction of more efficient safer products in a shorter period of time. Finally, it would provide guidelines for justifiably proposing changes in existing legislation.

FOREIGN AID: A STUDY IN ABSURD EXPECTATIONS

Mr. CHURCH. Mr. President, it is now clear that the Senate's defeat, on October 29, of the administration's foreign aid authorization bill has struck a deeply responsive chord in the American people.

This is reflected in the press, in letters which I know all Senators have received, and in personal contacts with constituents.

A heading in the Evening Star, over a column written by Carl T. Rowan, summed up well much of what is wrong with foreign aid—"A Study in Absurd Expectations."

And, writes Rowan in his column:

There never has been anything very altruistic or humanitarian about our foreign aid program. It has served largely to buttress the political and economic interests of the United States.

Mr. President, I ask unanimous consent to print several editorial columns on the subject of foreign aid in the RECORD, including the following:

"Senators Dream Big," a column by Mary McGrory in the Washington Evening Star of November 2, 1971.

"Pax Americana Tumbles Down," a column by Martin Nolan in the Boston Globe of November 2, 1971.

"Church's Farewell to Foreign Aid," a column by Stephen S. Rosenfeld in the Washington Post of November 5, 1971.

"Foreign Aid a Study in Absurd Expectations," a column by Carl T. Rowan in the Evening Star of November 5, 1971.

"Church's Foreign Aid Turnabout," a column by Milton Viorst in the Evening Star of November 4, 1971.

"The End of 'Welfare Imperialism'," a column by Clayton Fritchey in the Washington Post of November 6, 1971.

I also ask unanimous consent, Mr. President, to insert in the RECORD at this point, a commentary by Eric Sevareid which was broadcast on the CBS television network on November 1, 1971, and a second commentary by Edward P. Morgan, broadcast on the ABC network on November 5, 1971.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, Nov. 2, 1971]

FOREIGN POLICY POWER: SENATORS DREAM BIG

(By Mary McGrory)

Senators on the Foreign Relations Committee at last have a Presidential attention. They are anxious to tell him a few things.

For the first time since the Gulf of Tonkin resolution steamed through the Senate in August 1964, they feel they have made a difference in the conduct of the foreign policy. Killing the foreign aid bill was a shock tactic, but yesterday, at their first meeting since the death, they were conspicuously unrepentant.

The White House will press with all its might to get the Senate's foot out of the door, but the Foreign Relations Committeemen think they have a good chance to get all the way in.

They are dreaming big.

Chairman J. William Fulbright is suggesting that the administration cooperate with the committee in rewriting the foreign aid bill. What he really has in mind obviously is the rewriting of American foreign policy.

The "reordering of priorities," a phrase ceaselessly uttered in the past seven years, might actually get under way—if, of course, the Senators do not panic, as they have so often in the past, at the prospect that a powerful Executive will "pull the rug out" from under them as they make their stand.

Fulbright and his cohorts are hoping to give Uncle Sam a facelifting. He will be, if they have their way, feeding hungry children, rescuing refugees and teaching backward nations how to use tools.

It is a tall order, but they think their time has come.

They know Israel's critical military needs will be used as a stick to beat them back into line. They stand ready to extend the necessary military investment credits. But they want a country-by-country look at all other programs where billions of dollars in arms have been passed out to military dictatorships with a minimum of discussion and little information from the administration.

Their overriding preoccupation still is Vietnam. Sen. Frank Church, D-Idaho, emboldened by the startling victory of Friday, is planning to introduce the toughest anti-war amendment of a long history of such measures. He will demand total withdrawal, with none of the residual force the President hints may be necessary.

"We have cajoled and begged and compromised long enough," Church says.

Stunned detectives on Capitol Hill still are sifting the wreckage for clues as to what happened when the foreign aid bill met sudden death.

One of the culprits may be Richard Nixon. He seems to have sent out contradictory signals, just as he did on the U.N. vote which triggered the revolt of the right in the Senate.

He wanted the foreign aid bill—it contains $347 million for Cambodia, a matter dear to his heart—just as he wanted the retention of Taiwan. But last Wednesday he joined the "anti-glee club" that sprang up in the Senate after the U.N. vote; and some senators may have read that as a green light to vent their spleen against the U.N.

How else does one explain, for example, the presence in the Fulbright corner of the chairman of the Republican National Committee, Robert Dole of Kansas? Dole, who has flogged his colleagues—after the Carswell vote, for example—for "disloyalty," rather feebly explained that he has always voted against foreign aid.

Then there was the brutal statement delivered by Republican Leader Hugh Scott after a White House meeting last Thursday. Scott said that the President would veto a foreign aid bill that contained the Cooper-Church amendment.

Cooper-Church would have cut off all funds for Vietnam save those necessary to bring the boys home. Henry Kissinger told 30 senators, Cooper among them, that this would intolerably tie the President's hands.

"A fatal mistake," growled Sen. George D. Aiken of Vermont, dean of Republicans on the Foreign Relations Committee.

At the committee meeting yesterday, Scott was conciliatory, and explained to colleagues that sometimes a man must say what he is told to say. He expressed great interest in the doves' ideas about our future course in the world.

Fulbright thinks this is the brightest moment in 25 years for burying what he calls a "cold-war bill" and replacing it with the "anti-imperialist" stand he has been begging two presidents to adopt since 1965.

[From the Boston Globe, Nov. 2, 1971]

PAX AMERICANA TUMBLES DOWN

(By Martin F. Nolan)

WASHINGTON.—At 4 p.m. last Friday, the chief of President Nixon's crack congressional liaison team, Clark MacGregor, was leaving town to make a speech somewhere. Monday morning, after the Senate's defeat of the President's foreign aid bill, White House Press Secretary Ron Ziegler still didn't know where MacGregor was going, but added in a blue-eyed deadpan, "He's back now."

Last Friday, Sen. Robert J. Dole of Kansas, chairman of the Republican National Committee, was preparing to vote on the bill that the President described as the "absolutely vital" bulwark of bipartisan foreign policy. Had Dole consulted with the White House before the vote? "I don't know," Ziegler replied.

Friday night, Dole became one of the 41 perpetrators of what the President called "a highly irresponsible action."

There was "no indication," Ziegler pleaded, that the Senate would "suddenly and unilaterally dismantle" the foreign aid program. No indication? Not a quarter-century of Republican rollcalls against the program? Nor a recent presidential threat of a veto of the bill if it contained prohibitions against military aid to Cambodia?

How about the President's own action Aug. 15 in part of his new economics which "suddenly and unilaterally" chopped off foreign aid requests by 10 percent? Or the President's recent rage at the "undisguised glee" of UN delegates cheering a defeat for America's two-China policy? Did not Ziegler say that this "shocking spectacle . . . could also affect foreign aid allocations"? Ziegler was asked whether the President's anti-outburst might not evolve into a self-fulfilling prophecy, but dismissed the question quickly, in apparent ignorance of the phenomenon.

The foundations of foreign aid the shibboleth of Pax Americana, are crumbling. One of the leaders in the assault, Sen. Frank Church of Idaho titled his speech against the program "Farewell to Foreign Aid; a Liberal Takes Leave." That sounds like soap-opera stuff, but Church's first sentence evokes the atmosphere of weary sentiment that eroded the program as relentlessly as waves lapping sadly against a seawall.

"We stand in this year 1971," Church told his fellow Senators, "at the end of one decade of disillusion, with no good reason to believe that we are not now embarked upon another."

Disillusion is often a self-inflicted wound and therefore hard to diagnose. A wise observer of America, former Canadian Prime Minister Lester B. Pearson, perceived the inevitability of the Senate vote in 1969, saying "The priorities in the United States are guns, butter, outer space and then foreign aid. And the danger is that, when the (budget) cuts come, the foreign aid gets hurt most."

The crowning cliche of American public discourse in the past decade has been "reordering our priorities," ever since people argued about directing money out of automobile tailfins and into education. The Vietnam war certainly didn't slow down this sentiment, nor did the grandiose aims of "the Nixon doctrine" and other messianic visions. Could anyone think that the process of reordering would be any more neat or statesmanlike than the monstrously gerrybuilt arrangement that led to the current set of priorities?

Humpty-Dumpty has fallen and all the king's horses congressional liaison men and cries of "isolationism" will not put Pax Americana together again.

[From the Washington Post, Nov. 5, 1971]

MYRDAL'S HIS MAN—CHURCH'S FAREWELL TO FOREIGN AID

(By Stephen S. Rosenfeld)

Had the foreign aid bill passed, Senator Frank Church's major speech and his vote against it doubtless would have been widely publicized as a striking if ineffective challenge to the conventional liberal wisdom on America's proper place in the world. But the bill was defeated, thus stealing from Church his Don Quixote role and denying his ideas the attention they might otherwise have received. The ideas, however, shouldn't be lost. Here is a review of "Farewell to Foreign Aid: A Liberal Takes Leave," an address which he had brooded on for weeks before last Friday's vote.

He said in essence that poor countries are poor and are getting poorer not because of some flaw in the amounts or techniques of aid but because rich countries like the United States systematically use aid to increase relatively and absolutely their own affluence and power: to buy political influence, to combat communism, to enforce "stability," to ensure a favorable climate for American investments, and so on. Military aid does this, the Idaho Democrat said, and economic aid does it too.

In many places, Church said, the United States supports narrowly based regimes "whose very existence is the principal barrier in their countries to real economic development and social justice." Just as these goals cannot be imposed from outside, they will not be pursued from inside if those regimes stay in power. We should "come to terms" with these "conditions of our time": our social engineering has been irrelevant and disruptive, and the threat of communism in the third world is exaggerated and, in any case, beyond the lasting reach of our aid.

Development programs based on "reform" disguise the American quest for "stability" and distract the local people from "thoroughgoing social revolution . . . the necessary prelude for the development of much of the third world. There is nothing the United States can or should due to promote revolution—to do so indeed would violate the U.N. Charter and sound traditional standards of diplomacy. What we can and should do is to stop promoting counterrevolution."

And if aid we must, then let us route all development spending through the multilateral agencies, confine direct aid to technical assistance, stand by for disasters, and give the poor countries better terms of trade, concluded Church. • • •

What about all this? Does it chiefly express the frustrations of a particular senator who finds life in Washington a lot more complicated than life back home in Boise—so he now can casually and at a safe distance assign to homegrown revolution the catalytic role in development that assistance was formerly intended to fill? Or is there a core of hard-learned wisdom in his call to remove the inhibiting hand of American "aid" from countries which might then be forced or freed to find in themselves the resources for self-improvement? This last of course is the contention of the formidable Swede, Gunnar Myrdal, whom Church approvingly cites.

Well, it's not the kind of question that a passing observer would want to try answering definitively, nor the kind that permits a simple yes or no. It's apparent, though, that the Vietnam war has made many Americans more receptive to the Myrdal argument than they previously were and more receptive than its merits alone may justify. He is unquestionably an economist for this season, a figure of great stature whose prescriptions complement and rationalize the longings of many of us to play a less ardent role in the world. How reassuring to be told in effect, less is more.

It is one thing, however, to grant that past aid and trade patterns—and the political framework in which they were carried out—have failed to bring about satisfactory economic development and social justice. It is quite another to abandon these patterns without having in hand a reasonable prospect of replacing them with something better (assuming, which one cannot, there is agreement on what is better). Ending an aid program, as we saw last week, was a snap. Drawing a new program, as we've seen this week, is no snap at all. Creating better terms of trade for poor countries would be a murderous exercise so powerful are the domestic interests which support the present terms.

That is to say, the conventional liberal wisdom on aid had an attribute, the attribute of political support, which Church's perceptions, however acute, do not yet have. It is going to take some time to build for a program of stepping back and waiting for revolutions to pop, a consensus like the one that existed for the Alliance for Progress program of stepping in and trying to hustle along reforms. Not merely our lingering interventionist impulses but our abiding humanitarian instincts—such as Church himself has demonstrated in respect to Pakistan—will counsel a more active part.

Finally, what is wrong or exceptionable in having more on our minds in respect to the world's poor than *their* welfare? It seems to me too simple to say that unless we can truly serve the poor nations, we ought to stay away from them. Our natural and legitimate range of interests is far broader. Unapologetically, Mr. Nixon in his first foreign aid message checked off the "practical reasons" for our various forms of aid: to "help avert violence and upheaval that would be dangerous to peace," to "maintain a world in which we ourselves are more secure," to "develop our own potential markets overseas," and to aquire the "respect and friendship" of others.

These "practical reasons" are as valid now as they were two years or a week ago. The large and important service Congress is called on to perform is to assess the specific programs the President has recommended to satisfy them. Frank Church said an eloquent farewell to foreign aid last week but maybe he'll consider coming part way back.

[From the Washington Evening Star, Nov. 5, 1971]

FOREIGN AID A STUDY IN ABSURD EXPECTATIONS

(By Carl T. Rowan)

As Congress and the administration struggle to recover from the Senate's stunning wipeout of the foreign aid bill, it is time for the American public to face up to some realities:

The first is that there never has been anything very altruistic or humanitarian about our foreign aid program. It has served largely to buttress the political and economic interests of the United States.

Foreign economic aid got its aura of glamour when U.S. dollars helped to rebuild the European economic and military strength needed to prevent the Soviet Union from overwhelming our war-ravaged allies. It continued to feed on Washington notions that U.S. dollars and arms could frustrate Communist efforts to woo the new, weak nations of "the third world" whose leaders were presumed to be intoxicated on the wine of sudden freedom.

The closest Americans came to humanitarianism was an occasional observation that a world in which vast millions are hungry, sick, disgruntled is too dangerous a world to ignore.

So year after year Congress appropriated three or four billion dollars (Mr. Nixon asked for $3.5 billion in the measure just killed in the Senate), leaving Americans in the false belief that they generously were carrying the social burdens of the world.

The truth is that we set up rules where more than 90 percent of aid funds were spent in the United States, a tidy bonanza for some 4,000 U.S. firms and extra job insurance for their workers.

Because of this, and because of the requirement that at least half of the aid cargo must be carried in American ships, recipient countries were paying 15 percent more than would have been required to purchase the commodities elsewhere.

Much of the money went not to aid foreigners but to give American bureaucrats cushy jobs in foreign lands where they often are viewed as meddlers, as the new imperialists. Sen. Frank Church, D-Idaho, a liberal who just turned against foreign aid, points out that "we have twice as many American officials administering our aid program in Brazil today as the British had in India governing that country before independence."

Yet, the $3.5 billion "foreign aid bill" was only the beginning of the foreign aid mess. We have hidden about $2.5 billion a year in military aid in the Defense appropriation bill—much of this used to finance our sales of surplus arms that helped small countries to stay in conflict with neighbors, or arms that enabled oligarchic or dictatorial regimes to keep their people suppressed.

It is interesting to note that in killing the foreign aid bill Congress did not kill the Pentagon "aid" programs that the Senate Foreign Relations Committee says will cost this country $13 billion over the next five years.

The Senate action knocked out a $100 million U.S. grant to the United Nations development fund, some $23 million to help the U.N. assist 1.5 million Palestine refugees, some $13 million for the United Nations Children's Fund and other similar programs, but it did not put the ax to some of the military shenanigans that have soured so many liberals on "foreign aid."

Church explained pretty succinctly why the Senate acted so drastically when he said:

". . . foreign aid, in all its forms, is costing the United States approximately $10 billion a year. This country simply cannot afford to sustain such an outlay . . . especially when in terms of its stated objectives—the containment of communism, the promotion of economic development, and the advancement of freedom—the program is on the whole a proven failure . . ."

Congress surely will bounce back with a piecemeal mishmash that restores parts of the foreign aid package. But we will still have too many of the wrong programs, maintained for the wrong reasons.

We have learned a bitter lesson, at the cost of hundreds of thousands of casualties, that all our military might will not score even weak nations into doing our bidding. We now beg to learn the hard way that not even the poorest nation is so bereft of pride that it will sell its soul for a trifle of foreign aid.

Foreign aid has failed because our expectations were absurd. We assumed that woefully weak, disorganized countries could take a pittance from us and suddenly transform themselves into affluent democracies. But they must not become so strong, we made clear, that they would fail to show obeisance whenever Uncle Sam ordered it.

With that kind of negative, self-serving, conflict-fostering aid program that we have had, the Senate just might be right in concluding that while no program would be shameful, it might be less a blight on us than what we have tolerated.

[From the Washington Evening Star, Nov. 4, 1971]

CHURCH'S FOREIGN AID TURNABOUT

(By Milton Viorst)

In a remarkable speech in the Senate last week, Sen. Frank Church, D-Idaho, pointed out that 42 of the 74 United Nations members who stood against us on the China question were listed in the foreign aid bill as recipients of American funds.

But, unlike some of his more conservative colleagues, he did not propose to punish them for ingratitude. On the contrary, he saw their vote as evidence that we consider our foreign aid a far more munificent gesture than they do.

Then Church, for the first time in his Senate career, voted against the foreign aid bill and helped defeat it. He wasn't being miserly. He had, rather, concluded that our foreign aid program has long since ceased being of use to the developing countries—and probably was hurting them.

For Church, this was heretical—a rejection of the liberal tenet that foreign aid is enlightened, generous and important. Quite aptly, his speech was entitled: "Farewell to Foreign Aid: A Liberal Takes Leave." It was remarkable, because senators don't often repudiate positions held for 15 years.

Actually, Church has been going through the metamorphosis which led to the speech for some time. He's of the generation—like a lot of us, alas—who were seduced by the rhetoric of the Kennedy years which held that national virtue consisted of using our power for the propagation of freedom.

Church is convinced we were trapped by this rhetoric into the disaster in Vietnam. As a result, he's felt compelled to re-examine a whole range of foreign policy premises.

Church points out that John F. Kennedy's Alliance for Progress, which proposed to trade economic aid for domestic reform, was the only serious effort we ever made to strengthen democracy abroad.

"We failed," he said, "because we had neither the ability to impose reform from outside nor the will to pursue it from within. However much we may have wanted reform and development, we wanted stability, anti-communism and a favorable climate for investment more."

Church says that, idealistic as liberals have been in supporting foreign aid, the program has had these consequences:

Preference of military dictatorships in Greece, Pakistan, Brazil and elsewhere over democratic regimes that promise real reform but at the risk of some instability.

Financing of American export sales. American corporations receive 93 percent of nothing more than another hidden subsidy for American business.

Subsidies for the American merchant fleet. Our surplus food shipments, for which we lend poor countries the funds, actually cost an extra 15 percent because they must be carried in American bottoms.

Past foreign aid loans now cost many developing countries far more in interest than they receive in usable funds.

The bulk of foreign aid funds goes to making the world "a dumping ground for ships, tanks and planes." The Military Assistance Program is a "preposterous scandal."

Church quotes a Latin American economist who, looking back on the Alliance for Progress, said: "If that is what one decade of development does for us, spare us from another. Foreign aid has been used not to develop us but to achieve the political purposes of the donors, to smother us in debt, to buy up our most dynamic productive assets."

Church acknowledges that the Alliance has raised per capita income in Latin America—but the increase has been concentrated in the richest 20 percent of the population.

We have, Church says, "brought roads, transistor radios and Coca-Cola to the countryside . . . (but) distorted and inequitable development widens the gap between rich and poor."

Church insists he remains anxious to help other peoples improve their condition. He will support, he says, outright grants for technical assistance and lending through multilateral agencies like the World Bank and the Asian Bank. "But," he adds, "no longer will I endorse with my vote a foreign aid program which has been twisted into parody and farce."

Church concludes that for many countries, "radical revolution is the only real hope for development, and the single most helpful thing we can do is to leave them alone."

His confession could not have been easy for him to make. But that makes it more compelling—and more deserving of our most careful attention.

[From the Washington Post, Nov. 6, 1971]

THE END OF "WELFARE IMPERIALISM"

(By Clayton Fritchey)

Considering all that has happened in recent months, it is not surprising that many nations are beginning to believe that the signal from America is: Stop the world, the United States wants off. Actually, it doesn't want off—it just wants to change its perch.

Any significant change in America's world position is, of course, extremely important, but it should not be interpreted as a return to obsolete, primitive isolationism. The first order of business of the administration, therefore, is to make sure that the rest of the world understands what is really going on in the United States.

The abrupt junking of the foreign aid bill has naturally shocked our friends abroad, especially since it comes on the heels of a series of other sudden unilateral actions such as taking the dollar off gold, breaking the General Agreement on Tariffs and Trade and slapping on a 10 per cent surcharge on imports. The rest of the world can hardly be blamed for suspecting the United States is pulling up the drawbridge in a new retreat to Fortress America. Yet, despite appearances, that is not the case—at least not yet—for neither the White House nor the prevailing leadership in Congress want to return to isolationism.

The misunderstanding abroad is based not so much on what the United States has done, as how it was done, which is to say, crudely, arrogantly, without consultation or warning. Aside from these tactics being offensive, they have also been bewildering.

There is an urgent need for the United States to get back to international collaboration and co-operation, to negotiate the changes we desire and, above all, to make it clear that America's inclination to play a more modest, though active, role in the world does not mean we are going to turn our back on it.

A good place to begin is with foreign aid. For more than 20 years it has primarily served as an instrument of the cold war. Even former America Firsters supported it because it was used as a weapon against communism. In the present climate of detente, however, it is only natural that there should be a review of the old approach.

In the Senate Foreign Relations Committee, some of the most outward-looking members of both parties voted against the foreign aid bill, not because they are indifferent to world problems, but because, in the words of Chairman Fulbright, they feel the aid program has become a form of "welfare imperialism" by which the United States seeks to dominate other countries.

Over 55 per cent of the $3 billion bills, for instance, was not for economic aid, but military assistance, chiefly for military dictatorships favored by the administration. The huge sums earmarked for Cambodia, Greece, South Vietnam and Korea, cost the bill many votes. Like some of his colleagues, Sen. Fulbright sees the vote as "the beginning of a new era—a change of our basic foreign policy."

The change, in time, ought to lead to more effective, if not larger, aid. There is a growing consensus favoring the separation of military and economic assistance and another consensus favoring the channeling of most economic aid through such multilateral institutions as the United Nations and the World Bank, rather than directly.

The object, of course, is to tie our aid into the co-operative efforts of other advanced countries in fostering the growth of the less-developed nations. Many Americans will be surprised to learn that the United States in recent years has dropped from first to twelfth place among the major nations contributing to development programs.

President Nixon is understandably critical of the Senate for its abrupt scuttling of the aid program, but as his friend, George Aiken, the senior Republican senator, says, Mr. Nixon invited trouble by "over-lobbying" his bill and by threatening a veto if it was amended against his wishes. The President has found that two can play this game, for when the administration succeeded in beating down all the changes it opposed, the Senate then exercised its own veto power. Sen. Aiken's final word to the White House was: "Most legislation results from compromise if it is any good."

EXCERPTS FROM CBS EVENING NEWS WITH WALTER CRONKITE, NOVEMBER 1, 1971

SEVAREID. The Washington air is filled with cries of horror, Pennsylvania Avenue flowing with tears, crocodile and otherwise. All because the U.S. Senate killed the foreign aid bill on Friday, the bill the President's people had said that he would himself veto if it sharply limited spending in Indo-China.

The White House now warns that the Senate action jeopardizes American security, others that it would create vacuums that Russia will leap to fill. The Washington statement-writing industry, cry of horror department, is in sad need of new blood. The liberal-conservative coalition that killed the bill did so because painful experience has proved that real reform of the program is impossible. There are times when no other instrument except the meat axe will serve; a surgeon's scalpel has never yet cleared a jungle.

This country is not about to stop helping disaster victims, refugees, Israel or hungry children. But if the Senate bloc wins this fight, we will stop or diminish surplus arms shipments to some 50 nations, loan arrangements that get poor countries hopelessly in debt to us, that mostly help the already affluent in those countries and amount to taxpayers' subsidizing of selected American business firms. The Senate bloc also hopes to reduce an aid program bureaucracy that now uses more people to run the program in Brazil alone than the British used to run all of India before its independence.

It all goes back to World War II and the immediate postwar years. The approach got a new shot in the arm with President Kennedy and the academic intellectuals around him who thought we could renovate the societies of Latin America in ten short years.

The program has been endlessly tinkered with to no avail because many of its promises were simply wrong. One was that peace, democracy and material progress are not only good, each in itself, but somehow interdependent; another that American money, arms and advisers could produce the kind of governments we would like in alien societies and preserve them; another that the spreading gap between rich and poor countries would produce, not just human misery, which we must try to alleviate, but World War III.

There will be an aid bill, an aid program and an aid apparatus, but if they closely resemble what now exists, then we will have learned from experience that we are unable to learn from experience.

COMMENTARY BY EDWARD P. MORGAN

This is Edward P. Morgan, ABC News Washington, with the Shape of One Man's Opinion. A look at foreign aid in trouble after this word.

Perhaps you've heard the story of the man who claimed he could talk to mules. A farmer who had a particularly stubborn mule summoned the expert who came and and walked slowly around the beast, then picked up a two-by-four and smote the mule such a mighty blow between the eyes that the animal was knocked back on his haunches. "What in the world did you do that for?" demanded the indignant farmer. "I thought you said you could talk to mules." "True," the man said. "But first you have to get their attention."

Idaho's Senator Frank Church, a ranking Democrat on the Foreign Relations Committee, likes to use this story to illustrate how the Senate felt the only way it could command the Nixon administration's attention to the growing discontent over the way foreign aid was functioning was to kill the whole foreign aid bill which it did in a stunning action last Friday night.

The action brought an avalanche of White House wrath down on the heads of Church, his Republican colleague John Sherman Cooper of Kentucky and other senators who helped do in the $3½ billion bill. They were accused of readying the collapse of the South Vietnamese government. One of Washington's most respected pundits, Newsweek Columnist Stewart Alsop declared they were guilty, not only of national irresponsibility but "gross immorality."

Church refuses to be ruffled by these charges. He feels the Senate has struck a sensitive public nerve. Reportedly thousands of messages of approval have been accumulating in the Senate. Foreign embassies and foreign correspondents in Washington have requested more than 850 copies of Church's Senate speech before the vote, critical of foreign aid. At a party for Director Mike Nichols the other night (which presidential hopeful George McGovern also attended) three prominent Washington women marched up to Church, congratulated him on the outcome and demanded to know why *he* wasn't running for president.

But the senator, who still preserves a beaming boyish look despite his 47 years, 15 of them in the Senate, denies that political gain was the impetus of the Senate vote. "Marshall plan days are gone," he said in an interview. "It's past time to reexamine the whole foreign aid philosophy. Aid has been taken over by the corporate establishment. Companies can get insurance—underwritten by the U.S. taxpayer—to cover their investment in aid projects abroad but they can't get insurance to cover aid to the slums in American cities. Ninety-three per cent of foreign aid is spent, by law, with U.S. firms. This is *foreign* aid? And we are told we must prop up dictators to reinforce our national security against Communism." (unquote)

The UN vote to oust Nationalist China torpedoed the mistaken belief that "aid" could buy support for U.S. policies. Many senators were riled by the warning that President Nixon would veto the aid bill if it contained the Cooper-Church amendment for a ceiling on military aid to Indochina. "The administration doesn't really want to get out of Indochina," Church insists. But he expects the Senate to pass a compromise aid bill protecting technical assistance and related projects but cutting as much as a billion in military aid, while—he hopes—including a revised Cooper-Church amendment, no matter how much the White House mule balks.

This is Edward P. Morgan, ABC News, Washington, with the Shape of One Man's Opinion. . .

SCHOOL DESEGREGATION: A NORTHERN VIEW

Mr. HART. Mr. President, we have reached that point in history where northern Senators feel impelled to make lengthy speeches on school desegregation and related financial problems in their home States.

Many will see an irony in this, and perhaps justifiably so. From time to time, southerners have been understandably infuriated with northern smugness on racial questions.

Self-righteousness and condescension have not been rare commodities in the civil rights debates of the past decade and southern arguments that discrimination is not totally regional were often lost in the confusion of conflict.

In the South, there was school segregation and it was labeled "school segregation"—deliberate separation of black and white. In part, certainly, it was the label on the bottle that made the contents unpalatable.

In the North, there was school segregation but the mass conscience remained unoffended because it was labeled something else: An accident of geography, perhaps, or a "logical" arrangement of school sitings and boundaries.

School desegregation in the South resulted largely from court findings of "de jure" racial separation—that is, separation as a result of deliberate policy.

Now recently there have been "de jure" court findings in the North—based on different facts, to be sure, but nevertheless findings of separation by deliberate official policy.

When a structure of long standing has to be changed, as no southerner need be told, the adjustment is often a painful one. Well, it can be painful in whatever part of the Nation it is implemented.

Several separate, but related, actions in my State, Michigan, should be described at this point.

First, a Federal judge found intentional school segregation in Pontiac and accepted a plan, drawn up by school officials in that city, that provides for some busing. The Court of Appeals has affirmed that decision and the Supreme Court has refused to set it aside.

Later, on September 27, another Federal judge found that there was racial segregation in the Detroit schools as a

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result of public policy. That decision is being appealed.

That judge subsequently instructed that among desegregation plans to be submitted for consideration one should include both Detroit and the surrounding suburbs. But no plan yet has been adopted and no order for cross line busing has yet been given.

In Kalamazoo, a Federal court is hearing allegations that school board policies have perpetuated segregation there.

In Grand Rapids, a suit seeks a Federal court decision on whether "de jure" segregation exists there. An effort is pending to join neighboring school districts to that suit, but the court has not yet ruled on the attempt to amend the complaint.

Finally, the Governor and attorney general of Michigan have filed a court suit to test the constitutionality of financing public education through the real estate tax. They ask, in effect, that the Michigan Supreme Court concur in the California Supreme Court finding that all children in a State are entitled to equal educational opportunities regardless of whether their home communities are rich or poor in tax revenue.

Understandably, these actions have generated widespread concern and uncertainty. Bigotry may play a part in some of these reactions, but I think it can honestly be said that a majority of the fearful are genuinely worried about the welfare of their children and the quality of education these children receive.

Strong feelings have indeed given birth to dire predictions, exaggerated fears and to rumors as frightening as they are unfounded.

But I think that much of the storming uncertainty will fade as clearcut solutions are proposed and accepted and as we begin to find time to sort rumor from reality.

Calm reason and logic, so easily shredded by fear and tension, will reassert themselves once the thunder and lightening of early confusion subsides.

NEIGHBORHOOD SCHOOLS AND BUSING

To begin with, there is nothing more appealing, I know, than the concept of neighborhood schools. They tend to bind the community in common effort, they ease disciplinary problems, they hold down transportation costs and they give parents easier access to curriculum decisions.

Moreover, it is comforting to have your children close by and within your sphere of influence. That is a sound case and one is not a bigot if he holds it.

Nor should one be accused of bigotry if he is reluctant to have his child bused to a school where the education is the same as or worse than the one within walking distance.

These are valid concerns and no one can properly ignore them when considering workable alternatives.

It is also not irresponsible to oppose busing small children over unreasonable distances and it is not improper to voice concern about possible tensions in the new school.

THE OBLIGATIONS OF UNCONSTITUTIONAL SEGREGATION

But competing with these concerns are certain clear principles and obligations. One is overriding and it says that deliberate racial segregation in the schools is wrong. That has been the law since 1954 and the morality of it, I think, is well established.

Since that historic unanimous decision by the Warren Court in 1954, not one Supreme Court Justice has even dissented from the view that the schools must be desegregated if there is a finding of "de jure" segregation.

Moreover, when a wrong is discovered, a law-abiding nation has the obligation to correct it with all possible dispatch.

Many blacks are convinced that money follows whites—that black children do not get the same deal that whites do unless they are going to school with white children. And let us face it, there is about 100 years of history to back up that belief.

So what happens when a court finds that blacks are being segregated as deliberate policy as for example in Pontiac? There a Federal court decided that new schools were located in a way that would insure some to be black schools and others to be white.

Well, you either fix it or forget it. Of course, one remedy would be to build new schools at new sites so they would draw from both white and black neighborhoods. But that would be very costly to a school district and very time consuming.

In Pontiac, it was found that immediate relief from an unconstitutional condition could be afforded by buses. Busing was found in that case to be the only reasonable remedy available.

And if we outlaw the bus as a tool, what then? Do we not signal that we are content with enforced segregation and that we are not about to fix it? Do we not signal that we are content with that most dangerous of conditions, a continued splitting of black and white?

I was a member of the Eisenhower Commission on Violence, and that commission's unanimous warning nags at my mind. It told us that continued separation of the races is certainly one of the greatest dangers to our society.

Whatever tensions and inconveniences we may feel in the desegregation process now, they will be nothing to the tensions we will endure 20 years from now if we do little or nothing in the meantime.

One does not really have to be a prophet to see what will happen to us if black children grow up exposed only to one set of values and white children grow up exposed only to a totally different set.

It is no secret either that the children of the poor do much better in schools where most are middle class and have the middle-class notion that education is necessary and valuable.

If we can accomplish this cross-pollinization of ideas and values, then we will most certainly diminish the dangers that threaten us.

I agree with the courts that busing is the least desirable of all solutions and that bus rides must never be unreasonably long.

But when the courts found deliberate segregation in the South, I supported desegregation, even if it occasionally included busing. Now the issue has come home and the courts are finding deliberate school segregation in the North. My logic and my conscience do not allow me to switch positions.

THE FEDERAL RESPONSIBILITY

The Federal Government, it seems to me, must see that the quality of education nowhere deteriorates as a result of Federal court desegregation orders.

The major problem, of course, is going to be money. Buses are expensive and so is their operation. On occasions, communities will seek to achieve racial balance by more careful selection of school sites. If the most appropriate site is also a more expensive one, then clearly integration is imposing a financial burden.

In many cases, integration can only be achieved by spending more money. We must see that this money is not drained from those funds that a community would ordinarily provide for teaching salaries, books, equipment and classrooms.

Thus I would urge swift passage of the bill, as approved by the Senate, to provide $1.5 billion in Federal aid to desegregating districts. The local school district should be free to use that money for costs incurred from busing.

THE BURDENS OF DESEGREGATION

Whenever there is a burden associated with desegregation, it tends to fall on the working class.

Wealthy whites are usually well removed from the ghettos, housed among the lakes and hills of the distant suburbs and—unlike the family living on $10,000 a year and up to its ears in debt—they can exercise the option of private schools.

The white factory worker's child, too, is getting a substandard education compared to that really affluent suburb—and that is not fair either.

This, clearly, is one reason we can all hope for the success of the suit filed by Michigan's Governor and attorney general.

Why, after all, should good public schools be an accident of geography? Is it right that rich children go to good public schools while poor children go to inferior public schools? That makes upward mobility pretty tough.

Is it not better to hold that all children in a State deserve an equal chance at good public education, regardless of where they live or how much money their parents have?

Certainly, racial busing creates concern and anxiety but the Southern experience has shown time and again that concern and anxiety can be quickly eased by sound leadership and cooperation.

Yes, busing may be inconvenient, but how much more "inconvenient" will it be for our children tomorrow if we do not move today to heal the split which threatens the Nation today.

Undoubtedly, a child does not learn arithmetic while riding a bus and busing alone will not insure a quality education, but life will not be very good for the best

mathematician if indeed the country is at war with itself when he or she becomes an adult.

It seems to me that our best course now is to embark early on long range solutions to our school problems instead of preoccupying ourselves with the temporary ones.

Some of the most sane words I have heard on the subject were spoken a few weeks ago by another officeholder, and the name of the author may come as a surprise to many.

They are excellent words of advice for any locality, North or South. Very likely, the long-term welfare of a city such as Pontiac, Mich., now that the Supreme Court, in effect, has upheld the desegregation decision there, would be well served if the community heeded this guidance. And it goes like this:

Nobody really wants it (busing)—not you, not me, not the people, not the school boards, not even the courts.

Yet the law demands, and rightly so, that we put an end to segregation in our society. We must demonstrate good faith in doing that . . . we must stop inviting, by our own intransigence, devices which are repugnant to us. In this way and only in this way can we stop massive busing once and for all.

Only in this way can we put the divisive and self-defeating issue of race behind us once and for all. And only in this way can we re-direct our energies to our real quest—that of providing an equal opportunity for quality education to all of our children. If there is another answer, I have yet to hear it. Tolerance is the key and I hope all citizens will use it in the days ahead.

The Speaker was Reubin Askew, Governor of Florida. Excellent advice for Florida? Certainly. But excellent advice also for all of us in every State.

It is probably no accident that the Nation finds some of its best advice on racial relations now coming from the South.

Gov. Linwood Holton, of Virginia, raised the utterly reasonable question of whether busing really disturbs children as much as it does adults. And his suggestion was this:

Let's leave it to the kids. They are more flexible.

SHIPBUILDING PROCUREMENT

Mrs. SMITH. Mr. President, Clark Mollenhoff, an eminent and highly respected journalist, has written a revealing article on shipbuilding procurement. In view of his reputation and standing as an unrelenting seeker of truth and the revelation of truth to the American public, I think this piece is worthy of the attention of the Senate.

Therefore, I ask unanimous consent that Mr. Mollenhoff's article, entitled "The Navy's Great Blunder," published in the Boston Herald Traveler of October 22, 1971, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE NAVY'S GREAT BLUNDER

(By Clark Mollenhoff)

WASHINGTON.—The Navy is setting itself up for a scandal that some insiders say will be "a C-5A boondoggle and a TFX rolled into one."

The $2.5 billion contract involves construction of thirty DD-963 destroyers, awarded to the Ingalls shipbuilding division of Litton Industries in Pascagoula, Miss. in June of 1970.

The initial estimates in 1967 were $35 million for each ship. By 1969 the estimates had climbed to $68 million each, in 1970 to more than $83 million, and now estimates run more than $100 million each. And there is no reliable time schedule for delivery.

But, in addition to the problem of "cost overruns," other issues have emerged involving the quality of the products coming out of Litton's shipyards, and the whole question of whether it is wise to leave the future national security in the hands of too few ship builders.

Certainly, the Navy has had some hard choices to make from a standpoint of political power and clout in the Congress.

Because the Bath Iron Works in Maine was one of the competing firms, Sen. Margaret Chase Smith (Rep., Me.) has had an interest in the ship contract, and she has frankly said that one of her reasons for wanting the contract divided is that she wanted some of the destroyers to be built at the Bath Iron Works. Also, Sen. Edmund Muskie (Dem., Me.) has shown an interest for the same reason.

Although Mrs. Smith is the ranking Republican on the Senate Armed Services Committee, she was up against the power of the chairman of the Armed Services Committee, Sen. John Stennis (Dem., Miss.) and the influence of Roy Ash, president of Litton Industries, who has been serving as an advisor to President Nixon on Government reorganization.

At the time the DD-963 contract was before the Congress in 1970, Mrs. Smith raised some questions about the wisdom of one-source procurement and also the question of whether Litton could produce at the contract price and deliver on time.

Since then there have been some developments that have tended to corroborate Mrs. Smith's fears and support the challenges she has made.

The maritime commission has reported some serious problems with the time schedules on the Litton shipbuilding contracts, with the firm lagging more than a year behind on work for Farrell Lines and American President Lines.

One report to Mrs. Smith states: "The shell frames on the entire ship were not evenly lined up with the floor. The transverse bulkheads are out of line. Three weeks after the launching the entire superstructure sagged one-half inch and the shipyard had to go into the base of the ship and lift it to straighten up the vessel. Throughout the vessel patchwork prevails."

That report said the Farrell line appeared to be "very distressed not only about the delays, but the very poor quality of the ship with which they may be saddled."

Mrs. Smith has been critical of the frequent changes of personnel at Litton that left the firm with "no regular shipbuilders on hand, but only space experts."

"Not only has Litton been plagued by the lack of shipbuilding expertise in the management end, but a great number of workers are 'red necks' who are hardly skilled even in the art of welding let alone in intricacies of detailed shipbuilding," Mrs. Smith has quoted from the report from the maritime commission.

Such reports have taken some of the glow from the record of Litton Industries, but nothing has been more devastating than a House judiciary subcommittee report on the general operations of Litton Industries. The report said:

"Litton's image making has developed flamboyant sham into an art. Overstatement is a way of life . . . in the process of developing its image, Litton has utilized all the sophisticated accounting techniques and statistical gimmicks available. It is adept at concealment, misdirection and incomplete statement."

Such reports from a judiciary subcommittee that carried the responsibility of investigating to determine the actual contributions made by the big conglomerates, concluded that "a mystique has been generated in investor relations and corporate image making that serve to divert attention from products and efficiency to concepts, systems and the technologies of tomorrow."

Mrs. Smith has said that the record of the last year show "doubts about the credibility of Litton's ability to produce on time and at the contract price has significantly grown."

"I have received many reports of inefficiency on the part of Litton—and most of these reports have come from workers at the Litton shipyard in Pascagoula, Miss.," Mrs. Smith said.

The lady from Maine has not been impressed with the vigorous denials of these reports from the Navy, because she was disappointed a year ago with the Navy's lack of vigor of the investigation of the pre-award leaks of Bath's price that was an issue at the bidding on the destroyer contract.

At that time Rep. William Hathaway told Bath President James Goodrich of the pre-award leak of Bath's bid. "The Navy dragged its heels on my complaint," Mrs. Smith said, "and delayed its investigation and after much delay went to Rep. Hathaway to get him to identify his source on the leak of Bath's price."

Sen. Smith said Hathaway identified R. J. Farrington of Todd shipyards as the person who told him precisely the total price differential between Bath and Litton at a time that was significantly prior to the contract award.

"The Navy then went to Mr. Farrington and asked him where he got his information," Mrs. Smith said. "When he said he couldn't remember specifically, the Navy did not press him for a better recollection and did not press him for the identity of the persons so telling him."

"The Navy dropped the case, thus making a mockery of the law against such leaks of information," Mrs. Smith said.

A number of congressional committees as well as the GAO (General Accounting Office) are looking into the DD-963 destroyer contract, and it should be remembered that occasionally there is a thorough investigation of a military procurement and some of those involved in the final report writing do not come off well at later stages.

HALT IN SHIPMENT OF MILITARY SUPPLIES TO PAKISTAN

Mr. KENNEDY. Mr. President, the State Department has just confirmed to me this morning's news reports that the administration is halting the shipment of military supplies to Pakistan. I understand that this order involves the revocation of some $3,600,000 worth of outstanding shipping licenses—as well as some $10 million worth of potential licenses authorized by 24 "offer and acceptance contracts" negotiated by the Department of Defense with the Embassy of Pakistan after March 25. The order excludes, however, some $160,000 worth of items already cleared by customs in New York, and waiting for shipment to Pakistan. I also understand that the official estimate on the value of military supplies sent to Pakistan since late March approximates some $5 million.

Mr. President, I want to take this opportunity to commend the administra-

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tion for this positive step in our national policy toward South Asia. For nothing has symbolized more the heavy measure of support we have been giving to the military regime in Pakistan, than the continued shipment of American military supplies—and nothing has symbolized more the bankruptcy of our approach to the crisis in South Asia—carried out in the name of leverage—than the continuing repression in East Bengal and the flow of refugees into India.

But—even at this late stage—the action announced today by the Department of State is a welcome first step in what I hope will be a redirecting of our policy in South Asia. There are a number of other things our country should do, as well. Some of these additional steps were outlined in a report I issued last week. The report is based on my recent visit to the refugee areas in India, and hearings before the Subcommittee on Refugees, which I serve as chairman.

One of the more important steps which should be taken is for our Government to facilitate an immediate visit with Sheikh Mujibur Rahman by representatives of the International Committee of the Red Cross Mission in Pakistan. Such a visit falls within the expressed mandate of the mission's program currently underway in Pakistan and East Bengal. Positive information relating to the welfare and fate of Sheikh Mujib—and the many others held in detention—will contribute to a reduction of tension throughout the area. Sheikh Mujib's only crime was the winning of a free election sponsored by a military regime that later refused to abide by the election's mandate. Sheikh Mujib's symbolic leadership of political forces opposing the present government in Islamabad, makes his just treatment and personal safety a matter of greatest importance in any efforts to encourage and accomplish a political settlement between Islamabad and its Bengali opposition.

Second, our Government, in cooperation with others, should encourage current initiatives to include the tragedy of East Bengal in the debate of the Third Committeee of the United Nations General Assembly. America's representatives at the United Nations should participate in this debate, and actively support reporting to the floor of the General Assembly a resolution noting the tragedy in East Bengal, calling on all parties concerned to seek a political settlement, and calling on the international community to contribute generously for the relief of the millions of men, women, and children in need.

Simultaneously, our Government should support the efforts of the Secretary General in bringing to bear the peacekeeping machinery of the United Nations on the threat to peace posed by the actions of the Pakistan Army in East Bengal, and the resulting confrontation between India and Pakistan. In a definitive memorandum of July 20, the Secretary General sought the involvement of the Security Council, saying:

> The United Nations with its long experience in peace keeping and with its varied resources for conciliation and persuasion must and should now play a more forthright role in attempting both to mitigate the human tragedy which has already taken place and to avert the further deterioration of the situation.

The time is long overdue for our Government, in cooperation with others, to respond positively to the Secretary General's recommendation to activate the peacekeeping function of the United Nations. Over 3 months have passed since this appeal, and time is not on the side of peace in South Asia today.

Third—to emphasize the urgency of our Government's concern over the deteriorating situation in East Bengal and South Asia—the President should appoint a special representative to communicate with the President of Pakistan, and other parties in the area. Given the long friendship between the United States and Pakistan, and the very substantial diplomatic and material support we have given to Pakistan, our country has a unique opportunity for offering leadership to help encourage the attitudes needed for achieving a political settlement between Islamabad and its Bengali opposition, and for bringing peace and relief to a troubled area.

Finally, we must move through the legislative process—as soon as possible—reasonable appropriations for relief needs among the refugees in India and the famine-threatened people of East Bengal.

Mr. President, South Asia today is on the brink of war and even greater human tragedy. I share the view of many Americans that our Government's policy toward the area has borne a special responsibility in bringing about this situation; for our past policy has encouraged Pakistan intransigency and fed frustrations in India and East Bengal. Today's announcement by the Department of State must be followed up with additional steps to rescue our foreign policy from a course that has been disastrous both to our best traditions and interests in South Asia.

BLACK GETS DAV POST: PAUL C. WASHINGTON, WISCONSIN STATE COMMANDER, DISABLED AMERICAN VETERANS

Mr. PROXMIRE. Mr. President, a Madison, Wis., man has become the first black in the country to become a State commander of the Disabled American Veterans. He is Paul C. Washington.

As senior vice commander, Mr. Washington became State commander upon the death of Francis Awe, of Milwaukee. I offer my sympathy to the family and friends of Mr. Awe.

Wisconsin members of the DAV deserve praise for voting for a man such as Mr. Washington, based on his personal qualities. I believe it speaks well of the entire State of Wisconsin.

Mr. President, I ask unanimous consent that an article detailing Mr. Washington's career, published in the Madison Capital Times of November 2, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PAUL C. WASHINGTON BECOMES STATE DAV COMMANDER

(By Frank Custer)

A 37-year-old Madison native has become the first black in the nation to become a state department commander of the Disabled American Veterans.

He is Paul C. Washington, an Army ordnance veteran of the Korean War, who lives at 4902 School Rd.

Washington, who was senior vice commander of the state department, was elevated automatically to the post last week when the commander, Francis Awe, Milwaukee, died unexpectedly.

He is the first Korean war veteran to head a state DAV department in the United States. He is the youngest man ever to serve as a Wisconsin department commander.

The new commander is a city employe in charge of the night emergency calls at the Water Utility, where he has been employed six years. He also is a part time working special deputy, paid by the county. He has been assigned to the jail division the past two years and for a time was on duty in the juvenile detention quarters.

The DAV, organized in 1920, is made up of veterans who were wounded, gassed, injured, or disabled in this nation's wars.

Washington, who was commander of the Togstad-Glenn DAV chapter here and served as second district commander of the veterans' group, worked his way up through the various echelons of the state department. He is past president of the Madison Veterans Council.

He entered the service in 1953 and received his basic training at the Aberdeen, Md., Proving Grounds as on ordnance demolition technician.

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Following his training he was sent to Pusan, Korea, where he was assigned to duty as a military policeman at the prison stockade. His escorted military prisoners from Pusan to Japan. His brother, Dr. Joseph Washington, was the confinement officer at the stockade.

Later Washington was transferred to the demolition squad near Pusan. He was wounded when a land mine, triggered by one of three men with him, exploded. One soldier was killed. Washington suffered wounds in the right foot and leg, resulting in 50 per cent disability.

After recovery in hospitals in Korea and Tokyo, Japan, he was reassigned to duty as a motor pool driver at Seoul, Korea. He received his honorable discharge from the service in March, 1955.

Returning to civilian life here, he reentered Central High School, which he had left on induction, to complete his high school education. He was married shortly after his return here.

His wife, Shirley, is commander of the local auxiliary chapter.

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Washington is the son of the Rev. Joseph Washington, retired pastor of Mt. Zion Baptist Church. His brother, Dr. Joseph Washington, is with the University of Virginia; and a sister, Mrs. Lucille Davis, lives in Chicago. He is a nephew of Ald. Joseph Thompson, who recently was named president of the Water Utility Board.

He has six children, Joseph 15; Donald, 14; Larry, 12; Paulette, 9; Della, 8, and Paul Jr., who will be a year old Sunday.

Washington is a member of St. Peter's Catholic Church and of its usher committee and is on the board of Queen of Apostles High School. He is a past member of the Equal Opportunity Commission Police Community Relations committee, past member of the board of the Northeast Optimist Club, and former Boy Scout Troop 27 committeeman.

DEMOCRATIC SOLICITATIONS OF REPUBLICAN SENATORS

Mrs. SMITH. Mr. President, the chairman of the Democratic National Committee, Lawrence F. O'Brien, has a reputation for political genius, especially with respect to his imagination and timing. In his recent sortie into Maine, he demonstrated his superb sense of timing as he chose Halloween for his "trick or treat" dishing up of political hob goblins with his suggestion that President Nixon might seek to purge me from the U.S. Senate because of my independence.

Mr. O'Brien's credibility concerning Republicans is somewhat suspect, to put it mildly. But his lack of credibility is offset by what must be an intriguing sense of humor. In April of this year he sent me a form letter to 2121 Senate Office Building asking me for a contribution to the Democratic National Committee and concluding his appeal with "an early retirement for the Nixon-Agnew team depends on it."

Because of his impeccable accuracy on administrative matters, if not political matters, I could not really conclude that this was merely a staff error on mailing lists but rather that it was surely the product of his intriguing sense of humor. Since I could not give him a contribution, I felt that he at least deserved an answer.

So I wrote him on April 26, 1971:

> I have bad news for you—if, as you write, your goal is dependent upon a contribution from me, then the reelection of the Nixon-Agnew team is assured.
>
> At any rate, thank you for giving me a good laugh for the day. It equals the one that Senator McGovern gave me last Fall when he wrote me asking me to make a contribution to keep me from becoming Chairman of the Senate Armed Services Committee in seeking a contribution to help reelect a Democratic-controlled Senate.

Apparently Chairman O'Brien liked my answer so well that he very promptly sent me another form letter solicitation received on May 3, 1971, to which I responded on May 5, 1971, with:

> You are persistent. Apparently my letter of April 26, 1971 failed to convince you that I will not contribute to your efforts to defeat President Nixon next year in view of your latest form letter received on May, 3, 1971.
>
> Are you really trying to convert me or has someone programmed into your mailing list political propaganda instead of statistical facts?

But this year is by no means the first year that Mr. O'Brien has exhibited his sense of humor to me. Ten years ago when I urged President Kennedy to stop playing politics with defense contract announcements through Mr. O'Brien's White House congressional liaison scoops to the favored Democrats, Mr. O'Brien answered expressing regrets and promising an investigation of his own operations in the matter. The credibility gap of the O'Brien promise to investigate himself was apparent. Needless to say, he never kept his promise and never investigated himself. When the Nixon administration came in, Republican Senator John Williams stopped the defense political announcements with his amendment.

The record of these amusing Democratic solicitations this year is not limited to Mr. O'Brien's solicitations to me. They also include those two Democratic U.S. Senators who wrote my executive assistant, addressing their letter to him at my Senate Office, asking him to contribute funds to the effort to defeat me.

One wonders who will be next?

SICKLE CELL ANEMIA

Mr. KENNEDY. Mr. President, sickle cell anemia is beginning to receive the kind of attention needed to launch an effective program to combat this tragic disease.

Last summer the Senate accepted my amendment to the HEW appropriations bill for funds to treat sickle cell victims.

Last month, I joined with Senator TUNNEY and 29 other Senators to introduce legislation that will combat the ravaging effects of this disease among the children and adults of our Nation.

To obtain a broad range review of the requirements for research, treatment, education, rehabilitation and detection, I am scheduling hearings on that legislation, S. 2676, before the Senate Health Subcommittee for December 1 and 2. At that time it is expected that testimony will be received from physicians, parents, victims, and volunteer workers who know the full needs of those who must live with this malady.

Medical records show that in overwhelming numbers sickle cell anemia victims are black people. And, like most other things that only affect blacks, sickle cell anemia has been a neglected concern. Most victims who suffer from the chronic effects of this disease die before adulthood. Others are doomed to a life of excruciating pain and suffering. And carriers of the sickle trait, usually do not know it. But unwittingly, they may pass on the trait to their children, who can become afflicted with the sickness.

Thus, a full scale program to alert the public, and medical officials to the symptoms of sickle cell anemia is fully warranted.

Yesterday the District of Columbia City Council announced approval of a detection program for the city's schoolchildren. That program would require testing of all children entering the District of Columbia schools.

I am hopeful that the action of this Senate will produce resources needed to provide a full scale national attack on this disease. And I call upon all Members of this Senate to devote attention to items such as the one in today's Washington Post, that help to focus on the needs of this disease.

Mr. President, I request unanimous consent to place in the RECORD an article entitled "Sickle Cell Tests Backed for Pupils," published in the Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 3, 1971]

SICKLE CELL TESTS BACKED FOR PUPILS

The D.C. City Council gave preliminary approval yesterday to a regulation that would require every child entering schools in the city to be tested for sickle cell anemia, a hereditary blood disease that primarily afflicts blacks.

The proposed program drew criticism from Dr. Raymond L. Standard, director of the city's health services administration. He said that if the program is going to be limited it should concentrate on junior and senior high school students and children between 1 and 5 years of age.

Standard said his office was preparing a broad program to combat sickle cell anemia that would reach all blacks under 40 years of age at an initial first-year cost of about $1 million.

Dr. Henry Robinson, an orthopedic surgeon who is chairman of the Council's health and welfare committee, said the program that he recommended to the Council would cost about $60,000 the first year.

Standard said even a limited program should not be aimed at all schoolchildren nor limited simply to testing.

He said the group to reach first should be junior and senior high school students who will be marrying soon and having children. They should be advised of the effects of the disease on their children, he said.

According to Robinson, about 1,000 children in the District suffer from the disease. Its symptoms may include pallor, chronic ulcers on the ankles, or severe abdominal pain. An additional 45,000 children carry the sickle cell trait, an inherited disease so named because blood cells become sickle shaped.

The sickle cell anemia program was part of a regulation winning tentative Council approval that would require all school children in the District to be immunized against measles, polio, tetanus and diphtheria.

Robinson announced yesterday that he will soon recommend to the Council that mandatory smallpox vaccination for school children be abolished. Similar actions are being recommended in other areas following medical reports that the vaccinations are causing more harm than the disease, which has not been reported in the country in 22 years.

The Council yesterday also approved a regulation that permits the city to award a franchise to a private firm for placing and maintaining street litter baskets.

It also adopted a report of its landlord-tenant commission that calls for hiring of a mediator to resolve disputes and creation of a housing court to deal with more serious problems.

REDUCED BUS FARES FOR THE ELDERLY IN DISTRICT OF COLUMBIA

Mr. PERCY. Mr. President, I invite the attention of the Senate to an order issued last Wednesday morning by the Washington Metropolitan Area Transit Commission to extend for an additional 120 days the experimental program of reduced fares for senior citizens. For those of us who have spent much time with elderly citizens in an attempt to understand better their special needs and problems, and certainly for the elderly citizens themselves, this is indeed very good news.

When the Transit Commission appeared before our Appropriations Subcommittee last March to testify on its funding requests, I addressed some remarks in support of such a special fare program to George A. Avery, then serving as chairman of the Commission. He assured me that some action would be taken in the near future.

I was particularly gratified to learn that an experimental program was developed and went into effect on May 9 for a period of 90 days. Thereafter, the

experiment was continued for another 90 days, and yesterday's action will result in its running for a total of 300 days, until March 3, 1972.

As I understand it, this most recent order permits a 15-cent reduction in fare, during specified nonrush hours, on all regular route fares of at least 40 cents for anyone over 65 years of age. Whereas under the former orders, special registration was required of all persons desiring such passes, procedures have been simplified now to permit anyone holding a medicare card to travel under this program. It had come to my attention that in many cases the registration requirement was too burdensome for some to comply with and thereby foreclosed the opportunity to them. I commend the Commission for its responsiveness to this problem and for the simple solution adopted.

I am also encouraged to note that special efforts will be made to publicize this program in order to elicit the widest possible participation. For the first time, a structured mass media campaign will be undertaken to spread the word in a manner best calculated to reach these citizens.

Some reports indicate that there have been rather substantial revenue losses incurred by the D.C. Transit System, Inc., which are in part attributable to less than adequate participation in the program by those who are eligible. I should think that the increased and improved publicity effort would help to overcome these losses.

However, I would add one additional comment concerning the losses of revenue. I am frankly quite skeptical that these claims are accurate. I have seen no reports, for instance, indicating how much business has increased for D.C. Transit because of the reduced fares. I would think that those figures should be included in determining the overall cost of the program. My impression is that in determining the cost of this program, the number of discount rides has merely been multiplied by the 15 cents of lost revenue per ride. Such a figure would plainly be misleading. What additional costs have been incurred directly attributable to the senior fare program? Very little, I would presume.

The losses of revenue notwithstanding, this is precisely the sort of assistance that the elderly citizens need most, and it ought to be supplied for that reason alone. We have discovered in hearings before the Select Committee on the Aging that transportation takes an average of 9 cents out of every dollar in a senior citizen's budget. It is their third highest expenditure, exceeded only by housing and food costs.

More than 50 cities, including Chicago and New York, have adopted reduced fare plans. Most studies of these plans indicate that the number of elderly passengers has increased markedly. In New York it increased by 26.7 percent. In Chicago, though no conclusive analysis has been made, I am advised by the Chicago Transit Authority that the impact has been clearly noticeable, and it generally lightens the traffic load at peak periods and provides "plus" business, filling empty seats, in the nonrush period.

There seems to be every reason, therefore, to support not only this most recent extension of the experimental plan, but the adoption of a permanent program thereafter. I am confident that careful analysis of the data produced during this last leg of the experiment will support its inclusion in overall District of Columbia planning from then on, and I can assure the Transit Commission and the District of Columbia government that such an undertaking will not only continue to receive my support but that of the thousands of District residents affected directly and indirectly by it.

I commend the Transit Commission for its action and ask unanimous consent that the text of the order; the statement of Jeremiah C. Waterman, Chairman of the Washington Metropolitan Area Transit Commission; a list of the 50 cities who sponsor such reduced fare programs; and an assortment of articles on the Washington experimental program be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION, WASHINGTON, D.C.

(Order No. 1175)

Served November 3, 1971, Docket No. 237.

In the matter of establishment of reduced fares on D.C. Transit System, Inc., for senior citizens.

In Order No. 1052, the Commisson undertook the development of an "experimental program for the provision of reduced fares for senior citizens during non-rush hours" on bus routes of D.C. Transit System, Inc. (Transit).

This resulted in the issuance of Order No. 1120, wherein the Commission directed Transit to begin such an experiment on Sunday, May 9, 1971, for a period of ninety (90) days. The experiment consisted of a 15-cent reduction on all regular route fares of at least 40 cents for anyone 65 years of age or older, from 9:30 A.M. to 3:00 P.M., and from 7:00 P.M. to 3:00 A.M., Monday through Friday, and all day Sunday, upon presentation of a special identification card issued by Transit.

In addition, certain surveys and counts were ordered and the staff was directed to analyse and evaluate the ridership data after 45 days of experience and report its findings and recommendations to the Commission. Direct expenditures by Transit in connection with the experiment, not including reimbursement for any loss of farebox revenue, was authorized from the "Reserve for Commission-Ordered Projects" under the terms of Order No. 773.

The initial staff report concluded that the program was providing significant benefits for the elderly, and that the initial test period had been too short to provide a basis for full evaluation of the experiment. It further concluded that the losses being experienced by Transit were not so great that the experiment could not be continued for an additional period of time. It recommended that the additional time be used to gather additional data, improve publicity, and increase the number of registration locations.

Upon consideration of the staff report, the Commission issued Order No. 1158, continuing the experiment for an additional ninety (90) days, for a total of one hundred eighty (180) consecutive days, subject to further continuation by order of the Commission. That order also directed Transit to publicize the program with signs on the inside and outside of its buses, to conduct registration at its four division offices, and to continue the counts and surveys. The staff was directed to try to obtain increased publicity for the program through the mass media and to analyse and evaluate the ridership data and again report its findings and recommendations to the Commission.

The second staff report based on 135 days of experience recounted an increased publicity program including bus signs and newspaper, radio and television coverage. It pointed out increased senior citizen registration facilities, with the number of registrants going over 20,000 by the end of September.

Revised calculations in the second report indicated that the extent of revenue loss, originally estimated at $620 per weekday for the first 45 days of the experiment, should have been $430. Passenger data available in the second report based on 135 days experience indicate a net increase since the beginning of the program of 20 percent in senior citizens riding on a normal weekday. The latest available data now indicates a current rate of revenue loss per weekday of $560.

It was concluded in the staff report that the scope of the experiment might be expanded if Medicare cards, as well as the special identification cards, were accepted as valid senior citizen identification on the bus. The Commission recognises that without the registration requirement in the initial stages of the experiment, a valuable tool for statistical control and analysis of the results would have been lost. According to the staff report, however, registration has tapered off as identification cards accumulated in the possesion of a larger and larger percentage of those who could or would register for them. The Commission agrees with the staff's conclusion and believes that, to the extent the Medicare card may increase the number of senior citizens participating in the program, it should be accepted. However, the existing registration mechanism for special identification cards should be maintained for those persons who may not be eligible for the Medicare card.

The report concluded through statistical analysis and investigation that there was reason to question the accuracy of the ridership counts sufficient to warrant the collection of additional data before a fully accurate and final determination on the results of the program could be made. It recommended a further extension of the experiment for a period of at least 120 days to permit sufficient time to collect the necessary data. The Commission believes the 120 day extension is appropriate, particularly considering that a new factor in the experiment, the Medicare card, must be taken into account.

The staff report also concluded that additional senior citizen awareness and participation might be achieved through paid advertising in contrast to the public service announcement approach. The Commission believes that there are few, if any, existing senior citizen riders of Transit who are not now aware, at least, of the availability of the reduced fare, whether they choose to use it or not. Certainly there have been some senior citizens, not previously Transit's riders, who have heard of the program, have registered, and have made use of the reduced fare. Just as certainly, there are some senior citizens who, for one reason or another, have not even heard of the program. The Commission believes that a brief, but intensive, paid advertising effort to reach and attract these persons should be undertaken as early as it can be arranged in the 120 day extension period. Transit will be directed to undertake such a campaign, in consultation with the staff, and will be permitted to recover the cost of an approved advertising effort from the "Reserve for Commission-Ordered Projects".

Further, the staff noted that a number of senior-citizen-related organizations have been in contact with the Commission, and suggested that these groups be enlisted to assist in making the program a success. The Commission will ask the staff to undertake this effort immediately.

Much of the correspondence received about the program, both from concerned organizations and from individuals, requested a public hearing on the matter. The Commission is interested in receiving the views of interested persons, and will schedule an early hearing for this purpose.

Finally, the staff will be required to report its findings and recommendations based on 265 days of experience.

Therefore, it is ordered:

1. That the senior citizen reduced fare experiment on D.C. Transit System, Inc., which was established for ninety (90) days on Sunday, May 9, 1971, by Order No. 1129 and was continued for an additional ninety (90) days by Order No. 1158, be, and it is hereby, continued for an additional one hundred twenty (120) consecutive days, for a total of three hundred (300) days, through Friday, March 3, 1972, subject to further continuation by order of the Commission.

2. That a public hearing on this matter be, and it is hereby, scheduled for 10:30 A.M., Tuesday, November 23, 1971, in the City Council Chambers, Room 500, District Building, 14th and E Streets, N.W., Washington, D.C.

3. That any interested person desiring to be heard on this matter should appear at the hearing.

4. That D.C. Transit System, Inc., publish notice of the time and location of the public hearing, and subject matter thereof, in a newspaper of general circulation in the Metropolitan District at least once on or before Tuesday, November 9, 1971.

5. That D. C. Transit System, Inc., post notice of the time and location of the public hearing, and subject matter thereof, in each of its buses, on or before Tuesday, November 9, 1971.

6. That the staff analyze and evaluate the ridership data through January 28, 1972, and report its findings and recommendations to the Commission on or before February 17, 1972.

7. That on and after Thursday, November 4, 1971, either the special senior citizen identification card isued by D. C. Transit System, Inc., or the Medicare card issued by the Social Security Administration shall be accepted as valid identification for purposes of tendering an appropriate reduced fare.

8. That D. C. Transit System, Inc., make such counts, reports and surveys as the staff may require.

9. That D. C. Transit System, Inc., in consultation with the staff, undertake a paid advertising campaign designed to reach and attract additional senior citizen patronage.

10. That direct expenditures in connection with this experiment may continue to be reimbursed to D. C. Transit System, Inc., from the "Reserve for Commission-Ordered Projects" under the terms of Order No. 773, after submission to and approval by the Commission. Eligible expenditures may include costs involved in registering persons and issuing special identification cards, the extra costs incurred in analyzing data, and the costs involved in publicity programs, including the paid advertising campaign herein ordered. Eligible expenditures shall not include reimbursement for any revenue loss due to reduced fares or diversionary patronage losses.

By direction of the commission:

JEREMIAH C. WATERMAN,
Chairman.

STATEMENT OF JEREMIAH C. WATERMAN, CHAIRMAN, WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

We have today ordered a 120-day extension of the experimental program of reduced fares for senior citizens during non-rush hours on the bus routes of D.C. Transit. This will bring to a total of 10 months what was originally contemplated as a three-month experiment.

In addition, beginning today, November 3, it will no longer be necessary for holders of Medicare cards to register for the special identification card which has previously been required. Now the Medicare card will be also accepted as valid identification. However, the special identification card will still be available for persons who may not be eligible for Medicare.

In response to a number of requests, the Commission will hold a public hearing to receive the views of interested persons on the reduced fare program. The public hearing is scheduled for 10:30 a.m. on Tuesday, November 23, in the City Council Chambers, Room 500, at the District Building.

Also, in an effort to reach anyone who is still unaware of the program, we have asked D.C. Transit to undertake an additional publicity effort.

This extension has been ordered to improve the program as well as public awareness of it and to allow additional time for analysis of the results of the program.

We appreciate the many kind commendations and suggestions we have received about the program, and the hard work of the many public and private organizations who have assisted in the registration of senior citizens. We would also like to take this opportunity to thank the management of D.C. Transit, and the members of Division 689 of the Amalgamated Transit Union AFL-CIO for their cooperation in this experiment in providing this very valuable social service.

WHERE SENIORS RIDE FOR LESS

[In cents]

City	Regular fare	Senior fare [1]
California:		
Gardenia	25	20
Los Angeles	30	20
Oakland	25	10
San Diego	30	20
San Francisco	20	5
Santa Barbara	30	15
Ventura	20	10
Colorado: Pueblo	25	15
Connecticut:		
Hartford	30	20
Meriden	30	20
New Haven	30	20
Stamford	30	20
District of Columbia	40	25
Illinois:		
Chicago	40	20
Springfield	25	20
Indiana:		
South Bend	30	15
Fort Wayne	30	20
Iowa:		
Cedar Rapids	25	15
Davenport	30	20
Des Moines	35	25
Massachusetts:		
Boston	25	15
Worcester	30	15
Michigan:		
Ann Arbor	30	25
Dearborn	30	15
Detroit	30	15
Flint	35	25
Grand Rapids	25	20
Saginaw	30	25
Minnesota:		
Minneapolis	(3)	(3)
St. Paul	(3)	(3)
New Mexico: Albuquerque	30	20
New York:		
Binghamton	30	20
Merrick	23-55	11-27
New York	20	10
Ohio:		
Cleveland	35	20
Euclid	25	15
Lorain	30	(4)
Maple Heights	25-45	15-25
Toledo	35	20

City	Regular fare	Senior fare [1]
Pennsylvania:		
Erie	35	20
Philadelphia	30	20
Pittsburgh	35	20
Utah: Salt Lake City	30	(4)
Washington:		
Seattle	25	(5)
Tacoma	35	(5)
Texas: Dallas		

[1] Reduced fares usually apply during nonrush hour periods.
[2] Effective January 1972, free.
[3] Free.
[4] Unknown.
[5] $2 per month pass.

[From the Washington Post, Aug. 22, 1971]

MANY ELDERLY USE DISCOUNT BUS FARE

(By Jack Eisen)

Thousands of elderly low-income Washingtonians are taking advantage of cut-rate bus fares, but not in large enough numbers to assure that the experimental discount will be made permanent.

A recent study showed that qualified senior citizens now use the bus about 20 per cent more than they did before the discount fare went into effect in May, providing "significant benefits in the form of increased mobility" for many without automobiles.

The study showed that the typical user is a woman over 65 who lives in the District of Columbia, is unemployed and has a family income under $3,000. She uses the bus on weekdays to go shopping or visit a doctor, and on Sunday to go to church. Of all users, 71 per cent are women and 87 per cent live in the District.

The same study demonstrated that the increased bus usage must be more than doubled to keep the discount program from being a drain on the finances of the privately owned D.C. Transit System.

The Washington Metropolitan Area Transit Commission, which conducted the study, recently extended the discount fare program until Nov. 4 and launched an effort to spur its usage and assure its permanence.

The commission urged persons 65 and older to register for the special identification cards and to use them. Information on where and how to register is available from the commission at 382-4868.

When displayed to a bus driver during off-peak hours on weekdays and all day Sundays (not on Saturdays), the card grants a 15-cent discount from a regular District or Maryland fare. In the city, that cuts the regular adult fare from 40 to 25 cents.

On a typical weekday, D.C. Transit carries about 350,000 persons. By June 30, the cut-off date for the commission study, nearly 24,000 persons had registered for discount fare cards out of more than 120,000 estimated to be eligible.

Surveys and calculations showed that riding by senior citizens averaged 9,178 each weekday before the discount went into effect. This increased to 10,963 with the discount, an increase of 1,785 daily rides.

While more fares were collected, the report showed that the company's average revenue declined by $631 a day. To make this up would require 2,300 more discount rides by senior citizens, a goal the commission staff viewed as attainable.

Results to date have been achieved by "a relatively small cost," the study said.

During the experimental period, D.C. Transit is being permitted to pay the expense by dipping into a special fund established several years ago to rebate to riders an earlier fare found to be excessive.

At the end of the experimental period, however, the discount program would have to pay for itself or its cost would be absorbed by fares collected from other riders.

Senior citizen fares have been offered in several other American cities, but only by

publicly owned transit systems, many of which are subsidized out of taxes.

[From the Washington Post, Oct. 14, 1971]

SENIOR BUS RATES

Last Sunday's Post carried an article on Washington's senior citizens who use the bargain discount of 15 cents available to them on D.C. Transit bus routes within the city. And while it has been noted that this discount for the elderly during non-peak times has increased D.C. Transit patronage by an estimated 1,800 riders per day, it will likely be withdrawn since the company's overall revenue has declined in spite of this additional use.

It seems incredible that a program supposedly instituted to assist a small and needy portion of our population, who are forced to survive on almost unlivable pensions, must now forfeit this bit of relief because D.C. Transit shows no profit.

I would think that D.C. Transit would look to other methods to increase their revenues than to the group in our society which is overlooked continually in the day-to-day needs most of us take for granted.

MARY LOUISE FAUNCE.

[From the Washington Post, Oct. 22, 1971]

ELDERLY MAKE PLEA TO KEEP LOW FARE

(By Kirk Scharfenberg)

About 150 elderly Washington residents journeyed to the District Building yesterday to cheer demands by their leaders for a continuation and expansion of the D.C. Transit System's experimental program of reduced fares for persons over 65.

"We're not asking for charity," Sophia Rich, of the Washington Area Council of Senior Citizens, told her peers. "We are retired workers. In our productive years we helped to make this country what it is today.

"We are only asking to live in dignity."

The reduced fare program, ordered by the Washington Metropolitan Area Transit Commission in May, is scheduled to lapse Nov. 4.

During the experiment elderly persons who registered for the program have been able to ride buses for 25 cents—instead of the normal 40-cent fare—all day Sunday and between 9:30 a.m. and 3 p.m. and 7 p.m. and 3 a.m. Monday through Friday.

A spokesman for the transit commission said a decision is expected next week on whether to continue the program, which D.C. Transit says is unprofitable. About 27,500 elderly persons have registered for the reduced fares.

The commission has held no public hearings on the experimental program although the spokesman said yesterday the idea is being considered.

D.C. City Councilman Jerry * * * umptuous for the transit commission to make a decision about the reduced fare plan without a public hearing."

Alice Green, of the Sibley Plaza Senior Neighbors and Companions Advisory Council, said many of the plan's restrictions have cut down on its use.

"We have earned the 25-cent fare," she said. "Why should we have to get off the bus at 3 o'clock for 25-cents."

She said many persons attending health clinics cannot leave until after 3 p.m. and therefore are forced to pay the regular fare to get home.

Others, attending clinics at D.C. General Hospital, wait through the evening rush hour until they are eligible for the reduced fare, she said. "They're weary and worn out," she declared. "Yet they stay until 7 o'clock to pay the 25 cents."

Moore said one-half of the city's elderly residents have annual incomes below federally-established poverty lines.

"It is not that we weren't intelligent enough to save," said Mrs. Rich. "But the little bit we saved has dwindled to nothing because of inflation.

"We are not begging. We are asking for what is due to us."

BUS DISCOUNT AIDS ELDERLY, LOSES MONEY FOR D.C. TRANSIT

(By Jack Eisen)

One morning each week, Helen Curtis leaves the back door of her apartment house near the National Zoo, walks up the hill to Irving Street, climbs onto a bus on the H–2 crosstown line, flashes a pink card and pays her fare—25 cents.

An hour or so and two transfers later, Mrs. Curtis gets off the A–4 bus at D.C. Village at the city's southernmost tip.

The ride is one of the longest within the city that the D.C. Transit System offers, and the widowed 67-year-old Mrs. Curtis gets it for a bargain price 15 cents lower than most passengers pay.

She is one of about 27,500 senior citizens who have registered for special identification cards that, within restrictions, grant them the discount as part of an experimental program.

Mrs. Curtis' trip to D.C. Village, the city's home for the elderly, is to visit old friends and to meet new ones—to ease the loneliness of institutional life for them.

Like most senior citizen card holders, Mrs. Curtis depends almost totally on the bus to get around, just as she depended upon the streetcar to get to her job for 43 years at Bergmann's Laundry. A pensioner's slim pocketbook permits few cab rides, she observed.

"I use the bus for everything—for church, for meetings, for committees," Mrs. Curtis told a reporter a few days ago. "I go marketing, to the store, and every week to D.C. Village to visit. But I have to pay 40 cents, like everyone else, on the way back home—the card doesn't work after 3:30 in the afternoon."

Mrs. Curtis and a half dozen of her fellow residents at Harvard Towers, a National Capital Housing Authority facility for the elderly at 1845 Harvard St. NW, described their use of the discount cards in an informal group interview.

What worried all the women, and Walter A. Jones, transportation chairman of the Greater Washington Area Council of Senior Citizens who also attended, is that the bus discount program is scheduled to expire in November. They want it made permanent.

"We feel the bus company owes us this for the support we have given it for the 65 years before it decided we were senior citizens," said Jones, a 69-year-old retired pipefitter for the federal government.

D.C. Transit's problem is money. In the first six months of this year, the privately owned company continued running at a loss despite the basic 40-cent fare that went into effect in mid-1970.

Similar low-fare programs are in effect in numerous other cities, but most of them have publicly owned and subsidized transit systems.

While the discount for the elderly has increased D.C. Transit patronage by an estimated 1,800 riders daily, a study showed that total revenue has declined.

Harry W. Nice Jr., an administrative aide at the Washington Metropolitan Area Transit Commission, which ordered the discount experiment, said riding by senior citizens must increase dramatically in September and October or the program probably will be doomed.

He said prospective users may get information or registration by telephoning 382–4865.

If the discount ends, the women interviewed at Harvard Towers said they will have to curtail their travel around town, limiting it to essential trips, such as going to church or the doctor.

WANT USE LIBERALIZED

Instead of being ended, the women want the rules of the program liberalized.

"If we want to go somewhere on Saturday, a good marketing day, we have to pay the full fare," said Cora L. Williams, 73. "We try to take advantage of the cut rate."

"Whatever visiting I do, I do on the card," said Beatrice A. Morris, 70, the president of the Harvard Towers residents council.

A widow and a retired elevator operator for the government, Mrs. Morris said she uses the discount to visit her children's families when they can't drive over to pick her up.

Annie Walker, 65, said she is on a committee at the Tenth Street Baptist Church that is responsible for visiting sick parishioners. The lower fare permits more visits, she said.

With the discount, "I definitely use the bus more than I used to," she said.

Mrs. Curtis drew nods of agreement when she said the discount needs more advertising.

"The people," she said, "are just not clear as to what is going on. If they want more people to ride, more people have to know."

[From the Washington Star, Oct 22, 1971]

ELDERLY BUS RIDERS URGE EXTENSION OF LOW FARE

About 150 elderly Washington residents urged the Washington Metropolitan Area Transit Commission yesterday to extend and improve the program of cut-rate bus fares for the elderly.

The experimental program, which allows elderly riders to ride D.C. Transit Co. buses for 25 cents during off-peak hours and on Sundays, is scheduled to end Nov. 4 unless extended by the commission. The normal fare is 40 cents and D.C. Transit has maintained it is losing money on the program.

The Rev. Jerry A. Moore, chairman of the City Council's transportation committee, spoke on behalf of the senior citizens, who gathered at the District Building. Moore urged the commission to hold public hearings to give the elderly a chance to voice complaints about the program.

"For most senior citizens of the District, busses are the only means of transportation—to clinics, to recreation, to visit friends and families," Moore said. "Under these circumstances, it is presumptuous for the transit commission to make a decision about the reduced fare plan without a public hearing."

Among the shortcomings cited by elderly persons yesterday were that the 15-cent fare discount is insufficient, that registration procedures are too difficult and that not enough notice has been given to senior citizens that the program exists.

"There are plenty of us who ride, but if we can ride when we want to ride, not when Mr. Chalk (D.C. transit president O. Roy Chalk) tells us to ride," said Alice Green, of the Sibley Plaza Senior Neighbors and Companions Club.

The hours for the discount program are 9:30 a.m. to 3 p.m. and 7 p.m. to 3 a.m. except Saturdays and holidays. So far, about 27,500 senior citizens have registered for the special identity cards that qualify them for the discount fare.

Douglas N. Schneider Jr., executive director of the transit commission, said the experiment, which began in May, is being evaluated by the commission staff and that a recommendation to the three-member commission will be made "by the middle of next week."

He said the staff was giving "serious thought" to public hearings and may include the issue in its recommendations.

Schneider said he didn't know how much D.C. Transit is losing on the project "but I know there is some loss."

[From the Washington Post, Oct. 23, 1971]

TRANSIT FARE FOR ELDERLY IS EXTENDED

D.C. Transit System's experimental lower fare for the elderly was extended yesterday, but a company official said a government subsidy is needed if the program is to be made permanent.

Under a Washington Metropolitan Area Transit Commission order, the reduced fare—25 cents in the city for persons over 65 at specified times—was to expire Nov. 4 after a six-month trial.

In apparent response to pleas from senior citizen groups, Jeremiah C. Waterman, the commission's chairman, announced the extension for an indefinite period.

The commission will hold a public hearing prior to making a permanent decision, Waterman said. Details of the extension and the date of the hearing will be announced before Nov. 4, he added.

Samuel O. Hatfield, executive vice president of D.C. Transit, expressed sympathy with the plight of the older riders, but said the company is being squeezed by increased costs and reduced revenues.

"We're for it," Hatfield said, "but we think we have to be paid for it as we are by the District of Columbia for the reduced school fare. A reasonable extension period we could agree to without such a subsidy might be 30 days." This would run about $200,000 a year or more, he said.

BIRMINGHAM'S FESTIVAL OF ARTS

Mr. SPARKMAN. Mr. President, I want to take this opportunity to call attention to a great event that occurs in my State every year. I refer to the Festival of Arts, an annual spring event in Birmingham. For many years we have had this event each year. In fact, it is the world's oldest continuous arts festival.

This festival has as its purpose the promotion of local visual performance of arts and artists. In addition, however, the festival salutes the arts and culture of a different country each year. In this way, our people have had the pleasure of having Ambassadors and other representatives of many countries to attend the Festival of Arts.

In previous years, the festival has honored: Japan, France, Latin America, the Netherlands, Mexico, Belgium, Sweden, Scandinavia, Greece, Italy, Great Britain, and Spain.

In 1971, more than a quarter of a million people enjoyed the Festival of Arts' Salute to Spain, browsing among the citywide art exhibitions, applauding the dozens of plays and concerts, viewing the television features, touring the spectacular International Fair, hearing noted authors.

In March 1971, Birmingham was named "All America City" by the National League of Municipalities and Look magazine. Cited as one of the principal reasons for this honor was the city's flourishing Festival of Arts.

Countries to be saluted are selected and contacted more than a year in advance. For 1972 it was decided to salute the arts of the United States of America. Ambassador and Mrs. George Bush have already accepted the invitation to attend. It is hoped that many more officials and dignitaries of the United States will attend.

In 1973 the salute will be to France. We know that this friendly and colorful country will contribute much to the success of the festival. It is a great event. I am delighted to call your attention to it. I hope that many of my colleagues, their families, and friends may be able to come visit the Festival of Arts and see what a great international show it is.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

The PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated.

The assistant legislative clerk read as follows:

A bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. The bill is open to amendment.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I was unable to be on the floor on Friday, and I understand there was some discussion of this bill. I should like to make a brief statement about it today, as we begin its consideration, and hopefully this matter can be disposed of today in the Senate.

Mr. President, the Consumer Product Warranties and Federal Trade Commission Improvement Act of 1971 has been designed to provide necessary safeguards on the use of warranties, and to provide the Federal Trade Commission with the adequate enforcement tools necessary to deal with commerce in the 20th century.

"The bold print giveth, and the fine print taketh away." Thus, Mrs. Virginia Knauer characterized the problem confronting a consumer attempting to have a product repaired under warranty. David Swankin of Consumer's Union summarized the reasons frequently given for not honoring a warranty or guarantee as follows:

"The guarantee doesn't cover this particular part";

"We don't handle this manufacturer's repair work";

"We don't have the part";

"You'll have to pay for the labor";

"The company that made the guarantee is out of business."

And so forth. It goes on and on.

Additionally, we have seen that even when a seller engages in a practice that is clearly unlawful, the consumer has no effective remedy. As former Senator Tydings stated last year in consideration of this matter—

An individual in any State has the right of a common-law fraud action . . . a great many States now have, in addition . . . statutes in the State making it illegal to defraud the people. But there are no effective remedies.

The problem is providing some meaningful way to protect the consumer from fraud.

Consumers are frequently misled and confused by many of the warranties they receive in today's marketplace. The committee report explained this situation as follows:

For many years warranties have confused and misled American consumers. A warranty is a complicated legal document whose full essence lies buried in myriads of reported legal decisions and in complicated State codes of commercial law. The consumers' understanding of what a warranty on a particular product means to him may not always coincide with the legal meaning.

American consumers are entitled to clear, understandable warranties. President Nixon has stated that an American buyer—

Has the right to make an intelligent choice among products and services.

The buyer has the right to accurate information on which to make his free choice.

The buyer has the right to expect that his health and safety is taken into account by those who seek his patronage.

The buyer has the right to register his dissatisfaction, and have his complaint heard and weighed, when his interests are badly served.

The FTC report on automobile warranties and an administration task force on appliance warranties and service reported that warranty performance frequently did not achieve the reasonable expectations of consumers even after voluntary industry attempts to improve warranty programs. Consequently, adequate warranty performance has not resulted in enough competitive advantage, at least in the short run, for producers and suppliers to offer consumers satisfactory warranties without legislative assistance.

Current Federal regulation is insufficient to stimulate better warranty performance. Generally, the FTC can move against warranty abuses only if they constitute deceptive practices under section 5 of the Federal Trade Commission Act. Under this section, the FTC is limited to the time-consuming cease-and-desist procedure. At the most, this procedure can result in an order to discontinue the practice. What is needed is a faster, more effective way to deal with warranty abuses at the Federal level.

I would like to quote from the American Bar Association's report and recommendations from the section on antitrust law concerning several concepts which are embodied in title II of S. 986.

The committee recommends the adoption of Federal legislation—

Which can effectively utilize Federal Enforcement agencies; which will provide for swift and efficient relief to injured consumers harmed by significant abuses; which will obviate complex and protracted private proceedings; and which can be harmonized with existing and proposed statutory controls on the state level.

Machinery would be established within the framework of the Federal Trade Commission for the prompt and uncomplicated recovery of actual damages by consumers who are injured by such practices.

Mr. President, the need for this bill is urgent. We dangled the carrot before the consumer last year when we passed the warranty measure. Let us come through this time and send on to the House a strong and equitable consumer warranty bill which coupled with Federal Trade Commission improvements will do much to satisfy the growing consumer needs and demands in our consumer culture.

The Consumer Subcommittee spent many hours fashioning this legislation. We held several days of hearings last year on both the warranty title and the Federal Trade Commission Act improvements. We spent 4 additional days of hearings this year on the legislation.

The Consumer Subcommittee spent numerous hours reviewing the legislation in executive session. I believe there were six executive sessions of the Consumer Subcommittee at which time, I would like to add, the ranking minority member of the subcommittee, Senator COOK, contributed much to make this a better consumer protection measure.

Mr. President, S. 986 was reported without objection from the committee. Separate views on the legislation were filed by Senator MARLOW COOK.

S. 986 contains two titles. Title I of the bill sets forth disclosure and designation standards for written warranties on consumer products costing more than $5 each, defines Federal content standards for full warranties, and provides meaningful consumer remedies for the breach of written warranty and written service contract obligations. Title II of the bill improves the Federal Trade Commission's ability to deal with unfair consumers acts and practices "affecting" interstate commerce by providing the commission with the power to seek preliminary injunctions, to initiate actions in district court seeking specific redress for consumers injured by unfair or deceptive acts or practices, and to secure civil penalties for knowing violations of the Federal Trade Commission Act. In addition, title II specifies the way in which the Federal Trade Commission is to promulgate rules defining acts and practices which are unfair or deceptive to consumers.

It is the purpose of this bill to improve the consumer's position in the marketplace by making the Federal agency responsible for his economic well-being more effective and by delineating with specificity the duties which suppliers of consumer products assume when offering warranties or service contracts in writing on consumer products. In addition, it is the purpose of this bill to improve the consumer's position in the marketplace by enabling him to make more informed product choices and by making it economically feasible for him to pursue his own remedies when suppliers of consumer products breach their voluntarily assumed warranty or service contract obligations.

III. BRIEF DESCRIPTION

Title I of S. 986 requires the supplier of a consumer product costing more than $5, who chooses to warrant in writing that product, to clearly and conspicuously disclose the contents of that warranty and to designate the warranty as either a "full" warranty in compliance with Federal standards, or to designate the warranty using words which indicate the specific limitation. Title I would prohibit a supplier offering a warranty in writing from disclaiming his implied warranties. In other words, the present practice of using very limited express warranties to reduce consumer rights which would have been available but for the disclaimer of implied warranties is proscribed in title I of S. 986.

If a supplier fails to honor his warranty or service contract promises, the consumer can avail himself of certain specified remedies. If that supplier has provided a bona fide informal dispute settlement mechanism by which disputes between suppliers and consumers are to be resolved, then the consumer would have to utilize that informal dispute settlement mechanism before pursuing other avenues of redress. If a supplier does not have an informal dispute settlement mechanism for resolving consumer complaints, or if the consumer is not satisfied with the results obtained in any informal dispute settlement proceeding, the consumer can pursue his legal remedies in a court of competent jurisdiction, having afforded the supplier a reasonable opportunity to cure the breach. Such pursuit is made economically feasible by the provision in the bill which awards reasonable attorney fees—base upon actual time expended—and court costs to any successful consumer litigant. In addition to private consumer remedies, the bill provides that any violation of title I is a violation of the Federal Trade Commission Act and allows the Federal Trade Commission or the Attorney General to seek preliminary injunctions against persons violating such provisions.

Title II of S. 986 would authorize the Federal Trade Commission to seek a preliminary injunction or temporary restraining order against parties committing acts or practices which are unfair or deceptive to consumers. Title I would also authorize the Commission to assess civil penalties—up to $10,000 per violation—against those suppliers of consumer products who knowingly commit unfair or deceptive acts or practices in violation of section 5(a)(1) of the Federal Trade Commission Act. Such penalties could be compromised, mitigated, or settled if the Commission provided a public statement of its reasons for such action and the court approved the compromise, mitigation or settlement.

In order to redress consumer injury resulting from violations of the Federal Trade Commission Act, the Commission is authorized to initiate civil actions in the district court seeking reasonable and appropriate consumer redress. Such action could include such things as recission, reformation, refunding of money, or return of property, among others.

Title II of S. 986 expands the Federal Trade Commission's jurisdiction beyond activities "in" interstate commerce to those acts or practices "affecting" interstate commerce. And the Commission is authorized in title II to act through its own attorneys to seek civil penalties against persons knowingly violating the Federal Trade Commission Act or against those persons failing to comply with an order of the Commission.

Finally, title II of S. 986 authorizes the Commission to define with specificity through legislative rules those acts or practices which are unfair or deceptive to consumers and in violation of section 5(a)(1) of the Federal Trade Commission Act.

Mr. President, this bill, which has been under consideration in one form or another for years and which has been so carefully worked through by the committee and reported to the Senate, should be adopted, and promptly. I hope that the Senate will proceed to do so today.

Mr. President, the bill is open to amendment now; is that not correct?

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator from Utah is correct.

Mr. MOSS. Mr. President, I yield the floor.

AMENDMENT NO. 606

Mr. TUNNEY. Mr. President, I call up my amendment No. 606 and ask that it be stated. It is offered on behalf of myself and Senators CRANSTON, KENNEDY, and HARRIS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read as follows:

On page 41, strike out lines 16 through 22 and insert the following:

"(b) Labeling, disclosure, or other requirements of a State with respect to written warranties and performance thereunder, inconsistent with those set forth in section 102, 103, or 104 of this title or with rules and regulations of the Commission issued in accordance with the procedures set forth in section 109 of this title, or with guidelines of the Commission shall not be applicable to warranties complying therewith. However, if, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with the Federal Trade Commission Act, as amended) that any requirement of such State (other than a labeling or disclosure requirement) covering any transaction to which this title applies (1) affords protection to consumers greater than the requirements of this title and (2) does not unduly burden interstate commerce, then transactions complying with any such State requirement shall be exempt from the provisions of this title to the extent specified in such determination for as long as the State continues to administer and enforce effectively any such greater requirement.

Mr. TUNNEY. Mr. President, last Friday I explained the purpose of the amendment in detail. I was pleased, at that time, to have an indication from the chairman of the committee, the distinguished Senator from Washington (Mr. MAGNUSON), that he was willing to accept the amendment. We also had an indication from the Senator from Kentucky (Mr. COOK) that he felt that the amendment was appropriate and deserved to be accepted. Basically, the amendment sets up a procedure whereby the State law may continue in effect if it affords greater consumer protection in areas other than the labeling and disclosure of S. 986. Upon application of an appropriate State agency, the Federal Trade Commission can grant an exemption for a tougher State law if it determines, first, that the State law—and it has to be an adequately enforced State law—can provide tougher consumer protection and that it will not be an undue burden on interstate commerce.

It may be that only as to certain classes of transactions does the State law afford greater protection than S. 986. The amendment makes it clear that the Federal Trade Commission may grant an exemption for all transactions or for some classes of transactions.

The enactment of this amendment to S. 986 would make it clear that Congress does not intend to preclude the various States from remaining partners with the Federal Government in effective consumer warranty protection.

Mr. MAGNUSON. Mr. President, we discussed the Senator's amendment on Friday at some length. At that time I suggested that I wanted to confer with other members of the Committee on Commerce, particularly with those on the minority side, to determine whether the amendment would be agreeable to them. I have done so, and as far as I am concerned, I would be glad to accept the amendment. I think it adds to the bill and is a good amendment.

Mr. TUNNEY. I thank the Senator from Washington.

Mr. KENNEDY. Mr. President, I would like to voice my full support for the Consumer Product Warranties and Federal Trade Commission Improvement Act of 1971, of which I am a cosponsor. Both of the titles of this bill constitute important legislative efforts to afford greater Federal leadership in the consumer protection field.

Title I of S. 986, as explained in the Commerce Committee report, sets forth minimum disclosure standards for warranties on consumer products, defines minimum content standards for warranties, and provides consumer remedies for the breach of a warranty or service contract obligations.

Title II provides the Federal Trade Commission with the power to seek preliminary injunctions, to order specific consumer redress, and to seek civil penalties for intentional violations of the Federal Trade Commission Act or of Commission orders.

There is little doubt that one of the most troublesome problems facing the consuming public is the scope of protection and coverage of the warranty received on purchases made. Often the consumer sees a formal, official-looking certificate or statement titled "Guarantee" and immediately believes that the manufacturer thereby fully stands behind his product. It is only when the item breaks down or does not work properly from the start that the purchaser carefully reads the fine print, assuming that he kept the certificate or container, only to discover that the particular defect is not covered by the warranty, or that he must pay service and handling charges to get it repaired or adjusted, or that at best he must pay for returning the item to some distant factory where months may ensue before the manufacturer is ever heard from again.

The Consumer Federation of America has said that:

In no area is honesty more sorely lacking than with respect to warranties, to the detriment not only of the misled consumer, but equally to the reputable businessman who cannot compete with the dishonest guarantor.

Without imposing onerous burdens on the suppliers of consumer products, and without requiring any minimum quantum of warranty in any given case, the warranty provisions of S. 986, as outlined by the committee report, meet four basic needs:

(1) the need for consumer understanding, (2) the need for minimum warranty protection for consumers, (3) the need for assurance of warranty performance, and (4) the need for better product reliability.

I am sure that the American public will welcome this legislative effort to meet these important needs.

Mr. President, this bill also gives the Federal Trade Commission much-needed and long-awaited powers to allow it more effectively to protect the public against "unfair or deceptive acts or practices in commerce." Long considered the "sleeping lady of Pennsylvania Avenue," the FTC has in the past 2 years awakened to its consumer protection responsibilities. It now finds itself, however, often ready and willing—but lacking in adequate tools—to afford the public fullest protection against unfair and deceptive practices.

In an article that appeared earlier this year in the Georgetown Law Journal, I traced the awakening of the FTC and described some of its recent activities. I wrote:

For years the FTC seemed impracticable and immovable. From its inception in 1914, it always seemed to misplace it priorities, mire in trivia, deliberate unduly, and act ineffectively. But within weeks after an extensive inquiry by the Senate Subcommittee on Administrative Practice and Procedure and an extensive report by the ABA Committee, things began to happen: The Commission began to stir and flex its muscles.

First, the Commission began cleaning up its backlog, screening cases, setting time limits on investigations, revamping its public disclosure policies, and restricting ex parte communications on pending matters. Next came a reorganization, a shuffling of personnel, and an internal reordering of priorities. A suitable new agency—same name, but otherwise hardly recognizable—was born. On December 5, 1970, the Chairman of the Commission told a group of businessmen: "The Federal Trade Commission is alive and well, and getting more active and stronger every day."

Suddenly, the Commission and its activities were everywhere. Local consumer protection committees were initiated from San Francisco to New Orleans to Boston. More authority was delegated to the staff, and more staff was placed in field offices. The public was encouraged to participate in formulating orders. Campbell Soup, Coca-Cola, Amaco transmissions, Firestone Tires, Readers Digest—cornerstones of our modern affluent society—found themselves under the Commission's fire. If the Food and Drug Administration would not take affirmative action on cyclamates, the Commission would. If the Federal Communications Commission wasn't interested in the impact of television advertising on children, the FTC was. If no government agency would question price-setting in the oil industry, the Commission would. And if the Justice Department couldn't muster a serious concern over problems related to concentrated industries and conglomerate mergers, the Commission could.

For the first time in its history, the Commission has begun to move beyond its basically ineffective, and often disregarded, cease-and-desist orders against deceptive advertising. For example, the Commission is making efforts: (1) to order a promoter of a deceptive contest to award prizes to contestants as if the contest rules were most liberally construed; (2) to shift to advertisers the burden of proving that their advertisement is truthful, rather than requiring the Commission to affirmatively prove deception; (3) to remove from the market completely those products whose purposes are based on deceptive premises; and (4) to require disclosure in a product's future advertising of a Commission finding of deception in past advertising.

The FTC fully supports title II to S. 986 and urges its enactment as soon as possible. Administration witnesses also basically supported this title. So do the consumer and public interest groups. I am thus glad that Congress is responding so fully to the wishes of the consuming public, and I add my voice of support for this portion of the bill.

I believe that the Commerce Committee, under the able and distinguished leadership of Senator MAGNUSON, has done an outstanding job over the past few years to provide straight-forward, comprehensive legislative protection for the consuming public in many areas. I believe special recognition should, in addition, be given Senator Moss and Senator HART, the chairman and vice chairman of the Consumer Subcommittee, for their continuing efforts in behalf of this Nation's consumers. This legislation, and the many other significant and valuable consumer protection measures reported and being considered by their subcommittee, have spearheaded and will continue to spearhead the Federal Government's consumer protection activities.

Due consideration and recognition should be given to those States that have shown themselves leaders in the consumer protection field, and I am proud to count my State as groundbreaker in that regard. That is why I have joined with the distinguished Senator from California (Mr. TUNNEY) in cosponsoring an amendment to S. 986 that would allow State laws to prevail and prevent Federal preemption where State laws are stricter in their warranty protection for the public.

In this decade the exclusively intrastate consumer transaction is virtually nonexistent. Goods move across State lines—even if only from one State to a neighboring State. Manufacturers offer warranty services from their State to consumers in another State.

The end result, recognized in title I of S. 986, is that the Federal Government must set the minimum standards for consumer warranty protection. Congress has already done this in a number of areas, such as automobile safety, food and drug purity, and labeling of packages. The Federal Truth in Lending Act allows for the most creative and flexible State involvement under Federal stand-

ards: That act provides that States may enact their own truth-in-lending statutes and apply to the Federal Reserve Board for exemption from the Federal law. The standard of that law is that State statutes must be "substantially similar," which has been interpreted minimally to mean identical with the Federal statute.

States are free, however, to enact truth-in-lending laws more stringent than the Federal law. Massachusetts was granted an exemption from the Federal law and, in the regulation granting the exemption, the Federal Reserve Board recognized that the Massachusetts law is stronger than the Federal law in many respects. The General Court of Massachusetts was therefore not deterred from continuing its efforts at consumer protection by passage of a Federal law covering the same territory.

Massachusetts has indeed often enacted consumer protection laws that served as precursors for Federal legislative action. In hearings just last week on the Federal Fair Credit Billing Act, the chairman of the Senate Subcommittee on Financial Institutions gave Massachusetts special recognition. In a dialog with witnesses from the Commonwealth, Senator PROXMIRE indicated:

I understand that you are leading not only in truth in lending, but credit card liability and credit reporting now.

He observed that:

Massachusetts is really advanced on these things.

And predicted:

Some day we will beat you to something.

Mr. President, in at least some respects Massachusetts has again beat the Congress to enacting warranty protection measures. In 1970, the general court, under the sponsorship of the attorney general, established minimum warranty protection for all consumer goods and services sold within the Commonwealth. It amended the Commercial Code to provide that manufacturers cannot disclaim warranties of merchantability implied by law and cannot modify remedies for breach, including availability of consequential damages.

I might also mention that the bill that passed Congress last year to regulate credit reporting agencies was preceeded by a Massachusetts law on the subject, enacted in 1969.

Congress is still considering several bills requiring unit pricing; in 1970, Massachusetts enacted the first unit pricing bill in the United States.

And congressional action regulating the use of credit cards came a few years after Massachusetts enacted such a law.

Of course, the examples are legion and they are not restricted to the Commonwealth of Massachusetts. It thus becomes extremely important that Federal legislation recognize and respect State laws that go beyond the purviews of the Federal laws. Surely the objectives of protecting the public in the area of consumer product warranties are best served by congressional refusal to preempt stronger State laws. I therefore urge my colleagues to support this amendment, which would allow and encourage States to play a significant role in affording maximum protection to consumers.

In hearings a few weeks ago before a House subcommittee, Prof. William Willier of the National Consumer Law Center in Boston presented an excellent discussion of the need for warranty legislation. I ask unanimous consent that a portion of Professor Willier's testimony be included in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM STATEMENT OF PROF. WILLIAM F. WILLIER

Anyone who purchases a product has a right to expect, and we submit does expect, that it will do what it is supposed to do and be what it is supposed to be. These expectations are induced by those who offer the goods. Therefore, at the very least, for a Federal law to be effective it must do two things: first, it must guarantee that this expectation is in no way frustrated; second, it must guarantee that the consumer is afforded adequate rights and remedies to insure that the goods continue to be fit for their ordinary purpose for a reasonable length of time and that the consumer will be duly recompensed for any loss, economic or physical, he incurs. That there is a definite need for strong and effective Federal legislation concerning the quality of the vast number of consumer goods bought annually is self-evident.

* * * * *

Somewhere in the not too distant past the warranty of the quality of goods has virtually been stripped of its primary function—to provide meaningful protections for the consumer in the event of the purchase of faulty goods.

Today it appears that the warranty serves a twofold purpose: first, it is a disclaimer whereby the manufacturer and/or seller shields himself from possible liability for defective products, and second, the warranty is employed by manufacturers and sellers as an advertising gimmick to induce the purchase of their particular products. In neither case does the modern day warranty truly benefit the consumer.

It would appear that part of the reason behind less meaningful warranties from the consumer's standpoint has been less emphasis on quality control by the manufacturers and sellers of products. The burden and cost of quality control are shifted to the consumer and the effect of this on him is devastating. He stands less chance today of buying defect-free goods and has less protections afforded him to seek a remedy for any economic loss or physical injury resulting from the purchase of those defective goods. Thus, the end product of many purchases in today's market-place is inconvenience, frustration, economic loss and/or physical injury.

There are those who argue that it is a basic commercial right for buyer and seller to bargain freely for the warranty protection which is to accompany the sale of goods or services. Therefore, any law which would impost basic warranty protections to accompany a sale is violative of this basic contract right. And although in theory this may sound logical and appealing, it has no basis in the reality of the marketplace.

I would ask when was the last time anyone present freely bargained, or even had the opportunity to meaningfully do so, for the type of warranty they received. The great majority of warranties present in today's marketplace are "boiler plate", prepackaged warranties presented on a take it or leave it basis. Nor is it possible to shop around for better bargains in warranties because the principal differences distinguishing warranties is the language, not the substance. Competition in the area of warranties is almost non-existent. There are no real differences in automobile warranties. Nor in television warranties. The manufacturer through design or accident have decided what kind of a warranty will be offered. * * *

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (Mr. TUNNEY).

The amendment was agreed to.

AMENDMENT NO. 585

Mr. PASTORE. Mr. President, I call up amendment No. 585 and ask that it be stated. It is a very short amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 29, line 22, before the period insert a comma and the following: "except that the Commission may prescribe rules pursuant to section 553 of title 5, United States Code, that the term of a warranty or service contract shall be extended to correspond with any period during which the purchaser is deprived of the use of a product by reason of a defect or malfunction".

Mr. PASTORE. Mr. President, the Senator from Kentucky (Mr. COOK) has a modifying amendment, which is amendment No. 603. It is also a very short amendment. I am perfectly willing to accept it as a modification of my amendment.

The PRESIDING OFFICER. The modification will be stated.

The legislative clerk read as follows:

On page 1, line 5, following the word "period," insert the following: "in excess of a reasonable period (not less than ten days)."

Mr. PASTORE. Mr. President, every day American consumers endure the exasperating, the nerve-wracking business of trying to get timely repairs to their new products under warranty. And every day these consumers endure frustration.

The American family buys a new car—they need it, and they need it working.

They buy a new clock-radio—they need it, and they need it working.

Or a new refrigerator—they need it, and they need it working.

They have a warranty or a service contract, but getting the product repaired in a reasonable time is not easy.

Millions of Americans have gone through that scenario with auto dealers which begins with driving into the service department.

The service manager approaches, with his clipboard, and you tell him that the car is under warranty, but it is malfunctioning.

He takes some information from you including your telephone number, jots a few words for the mechanic, and listens to your plea for return of your car as soon as possible.

"We'll call you," he says, and so you make your way to work or home as best you can, and you wait.

Late in the afternoon, when you have not heard, you call, and someone says the car will be ready, and so you make your way back to the dealer.

There is the car, parked in the lot, with the work ticket still on it—but with the work not yet done.

You go to the service manager, and, when you find him, you also find out that they could not get to your car today. You go home as best you can and you hope that you will get your car tomorrow.

But you also hope that when you get your car back the work will be done—and done properly. Congressional hearings on auto-repair practices overflow with evidence showing that consumers are plagued with poorly performed repair work.

With other new products, the consumer often is told that a repair part is not available. He may wait weeks before he has the use of his purchase.

We recognize that this is a vast problem and so the pending bill, S. 986, establishes—as a minimum duty—the performance of a warranty's coverage "within a reasonable time."

In the disclosure requirements in section 102(a) we included among the items which the Commission may determine should be part of a written warranty, No. 9, which would require the warrantor to denote "the period of time within which, after notice of malfunction or defect, the warrantor will under normal circumstances repair, replace, or otherwise perform any obligations under the warranty."

The Senate should take further action in this area concerning the life of a warranty and a service contract. We should insure that warranties and service contracts are extended on a day-for-day basis, for each day that the purchaser is denied the use of the product because it is defective or malfunctioning.

The extension would not be granted, of course, if the warrantor, or the supplier of the service contract, makes an equivalent product available for the use of the purchaser.

No action we can take will bring about more realistic and true adherences to the warrantor's duty "to repair or replace any malfunctioning or defective warranted consumer product within a reasonable time," as this bill provides, than to extend the warranty or service contract for the days a consumer does not have the use of his product.

Reasonable time, as the committee points out, is hard to define. On page 16 of the report, the committee said:

The concept of "reasonable time" can not be precisely defined. Reasonable time will vary according to the customary time for repair of similar consumer products, the location of the consumer, the consumer's day-to-day needs for the product and other factors.

We also know, and we should accept, the fact that there is a human factor involved. If there are two cars up for repair, and one involves a profitable overhaul but the other involves a stubborn malfunction covered by a warranty, profit is very likely to come before principle.

Including warranty extension in S. 986 would remedy this problem because it carries with it the incentive to perform under the warranty in a professional manner.

The 6-week wait for parts, and the repeat trips to the dealer, the dispatching of repairmen to your home who are not competent to repair, will become less frequent.

The warranty and the service contract—to the consumer—is a guarantee of the use of a product—a guarantee of a minimum period of usefulness.

If the consumer gets a full 1-year warranty or service contract, he believes he is going to get at least a full year's use of the product fault free.

If the product is in the repair shop for 3 or 4 weeks, and if an equivalent product is not made available to him, he has lost its use for the period of time it is not in his possession.

Justice requires that his warranty or his service contract be extended. Justice demands that the warranty of the service contract cover an actual year of possession—not a mere calendar year.

When the consumer picks up the repaired toaster, or clock-radio, or when once again the family's food can safely be stored in the refrigerator or cooked on the stove, the consumer should be handed a new warranty, or a new service contract, which expires on a date that takes into account the number of days the consumer has been denied the use of the product.

We have a bill which meets several consumer needs.

This amendment would improve the bill by extending the term of warranties and service contracts.

This amendment would help also to restore something that badly needs restoring—the faith of the American consumer that government is capable of acting equitably—that American government can work and does work on behalf of the people.

My amendment is a very simple amendment. All that it does is to give authority to the Commission to formulate rules and regulations so that if a person is deprived of his property for a time because of a breach of warranty, that time shall be added to the term of the warranty itself. According to the amendment suggested as the modification, it would be for not less than 10 days.

I understand, Mr. President, that the Senator from Washington is willing to accept the amendment.

Mr. MAGNUSON. Mr. President as with the prior amendment, I think this is a good perfecting amendment. As far as I know, the committee is willing to accept it. The Senator from Kentucky is also willing to accept it. Therefore, I would like the matter to be put to a vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Rhode Island.

The amendment was agreed to.

ORDER OF BUSINESS

Mr. MAGNUSON. Mr. President, the bill, as I understand it, is open to further amendment.

The PRESIDING OFFICER. The Senator is correct. The bill is open to further amendment. Is there further amendment?

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, by referring to the RECORD on the debate held on this bill on Friday last I see that the Senator from Nebraska has raised one or two questions about the bill to which I would like to respond at this time.

On page 17702 of the RECORD of Friday, November 5, 1971, the Senator from Nebraska (Mr. HRUSKA) asked the Senator from Kentucky (Mr. COOK) whether the provisions of S. 3201 of last year bear very little or any resemblance to the provisions of title II of S. 986. The Senator from Kentucky replied that there was very little resemblance.

Title II of S. 986 is quite similar to title I of S. 3201. First, section 101 of S. 3201 is identical to sections 201 and 205 of title II of S. 986. Second, section 102 of S. 3201 is identical to section 201 of S. 986. Third, section 103 of S. 3201 is almost identical to section 203 of S. 986.

However, section 203 has been narrowed to allow the Federal Trade Commission to bring action only after a final cease and desist order has been issued. Section 103 of S. 3201 did not so limit the Commission's authority to seek specific consumer redress.

Fourth, the second part of section 103 of S. 3201 is substantially the same as section 202 of S. 986. Section 202, however, does not require the Commission to initiate civil actions—"may" has replaced "shall"—and does not require a public hearing if the Commission decides to compromise, litigate, or settle any civil penalty.

Fifth, section 104 of S. 3201 is substantially the same as section 204 of S. 986.

Sixth, section 105 of S. 3201 is similar to section 102 of S. 986. Both sections provide that rules promulgated by the Federal Trade Commission would have the force and effect of law. Both sections permit the Commission to limit any cross examination as to scope or subject matter. Both provide for preenforcement judiciary review based upon substantial evidence of the record. However, section 206 of S. 986 spells out in more detail the procedures to be followed by the Commission in promulgating "legislative" rules.

Seventh, title 2 of S. 986 contains two sections which were not included in S. 3201, title 1. These sections, however, are not controversial and relate only to the power of the Commission to issue writs of mandamus commanding persons to comply with the provisions of the Federal Trade Commission Act and authorizing the Commission to enforce its orders to submit information to the Commission.

Therefore, the 400-page hearing record that the Committee on the Judiciary compiled on S. 3201 in the 91st Congress indicates that the Judiciary Committee has already considered much of the subject matter of title II of S. 986. In addition, the Committee on Commerce has held 12 days of hearings to consider the subject matter of title II of S. 986. Is

it any wonder that there are some of us who look upon the request to send title II back to the Committee on the Judiciary as nothing but a delaying tactic to forestall the conferring of important powers on the Federal Trade Commission—powers that would enable the Federal Trade Commission to become a true protecter of the American consumer.

Mr. President, I would like to point out that a detailed comparison has been made by the Federal Trade Commission for the two sections we are talking about, those that were considered in the 91st Congress in S. 3201, and title II of S. 986, which is now before us in the bill which is pending. I ask unanimous consent that the comparison may be printed in the RECORD at this point.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

PREFATORY COMMENT

It is important to note that this comparison between S. 986, 92d Congress and S. 3201, 91st Congress, deals only with Title II of S. 986 and Title I of S. 3201, the counterpart title.

Title II ("Enforcement of Consumer Interests") of S. 3201 is omitted from S. 986 and, therefore, no comparison can be made. A brief summary of Title II of S. 3201, which follows, is here included, however, to indicate the breadth of scope of S. 3201 over S. 986:

Title II enumerates some sixteen "unfair consumer practices" and provides for the expansion of this category by trade regulation rules to be promulgated by the Federal Trade Commission as may be necessary from time to time. Among those included are "bait and switch," unnecessary or needlessly expensive repairs to appliances, deceptive "unconditional guarantees," bogus "free home trial" offers, offering as "new" goods which are not new, misrepresentations of standards or quality, deceptive "fire" or "close out" sales, fraudulent use of trademarks, failure to refund deposits or failure to deliver goods, overexaggerated "puffing," fraudulent substitution of goods materially different from those ordered, dishonest business opportunity schemes offered to consumers, offering but not furnishing free gifts, etc., to induce sales, deceptive referral selling, sales by coercion or harassment, etc.

Such unfair consumer practices would be declared unlawful and violations would be enforced by the Attorney General. Civil penalties to a maximum of $10,000 and criminal sanctions of fines up to $10,000 or imprisonment not to exceed one year are authorized. The Attorney General would be empowered to seek redress of consumer injuries by court orders which could include:

(1) cease and desist orders;
(2) damages to aggrieved consumers;
(3) refund of purchase price;
(4) restitution;
(5) repair or replacement of unsatisfactory goods;
(6) proper serving.
(7) reform or rescinding of transactions;
(8) public notification of court order; and
(9) civil penalty in addition to the foregoing.

Title II of S. 3201 also authorizes private consumer suits in the district courts based on practices which have been held unlawful in finally adjudicated cases brought by the Attorney General or the Federal Trade Commission where the transactions involve not more than $10.00. Judgment in favor of the Government enjoining such consumer practices would be prima facie evidence against the defendant in subsequent private actions based on the same acts. In cases involving more than $10.00, class action suits would be authorized provided the Federal Trade Commission had been given 90-days notice of the practices involved and the Federal Trade Commission and the Attorney General had both failed to commence an action. In the event that the Attorney General or the Federal Trade Commission should bring an action involving the same matter which is the subject of such a consumer class action, Title II would permit consolidation of the private class action with the Government action to eliminate multiplicity of actions based on the same practice.

S. 986 contains no provisions which are comparable to the foregoing, as it deals exclusively with amendments to the Federal Trade Commission Act and consumer product warranties.

COMPARISON BETWEEN TITLE II OF S. 986, 92D CONGRESS (FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971) AND TITLE I OF S. 3201, 91ST CONGRESS (CONSUMER PROTECTION ACT OF 1970)

S. 986, 92D CONGRESS	S. 3201, 91ST CONGRESS	COMMENTS
TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS	TITLE I—DECEPTIVE SALES AFFECTING COMMERCE	
	EXPANDED FEDERAL TRADE COMMISSION JURISDICTION	
SEC. 201. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "affecting commerce".	SEC. 101. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "affecting commerce".	Identical.
SEC. 202. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (6) thereof the following new paragraph: "(7) The Commission may initiate civil actions in the district courts of the United States against persons, partnerships, or corporations engaged in any act or practice which is unfair or deceptive to a consumer and is prohibited by subsection (a)(1) of this section with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair and deceptive and is prohibited by subsection (a)(1) of this section, to obtain a civil penalty of not more than $10,000 for each such violation. The Commission may compromise, mitigate, or settle any action for a civil penalty if such settlement is accompanied by a public statement of its reasons and approved by the court.	SEC. 103. • • • "(C) The Commission shall initiate civil actions in the district courts of the United States against persons, partnerships, or corporations knowingly engaged in any act or practice which is an unfair consumer practice under section 201 of the Consumer Protection Act of 1970 in addition to any other action ordered under this section, to obtain a civil penalty of not more than $10,000 for each such violation. In seeking such penalty, the Commission shall give consideration to the appropriateness of the penalty, to the size of the business of the person charged, to the gravity of the violation, and to the history of previous violations. The Commission may compromise, mitigate or settle any civil penalty if that action is accompanied by a public statement of its reasons following a public hearing at which interested parties may be heard."	These provisions differ in language but are comparable except that S. 3201 provides that the penalty of not more than $10,000 may be ordered in addition to damages, refund of purchase price, reformation or recession of contract, repair or replacement, servicing, and public notification of violation. S. 3201 requires a public hearing before the Commission may settle the penalty.
SEC. 203. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (7) as added by section 202 of this Act the following new paragraph: "(8) After an order of the Commission to cease and desist from engaging in acts or practices which are unfair or deceptive to consumers and proscribed by section 5(a)(1) of this Act has become final as provided in subsection (g) of this section, the Commission, by any of its attorneys designated by it for such purpose, may institute civil actions in the district courts of the United States to obtain such relief as the court shall find	CONSUMER REDRESS AND CIVIL PENALTIES SEC. 103. Section 5(a)(6) of the Federal Trade Commission Act (15 U.S.C. 45(a)(6) is amended by inserting "(A)" after the paragraph designation (6) therein, and by adding at the end thereof the following: "(B) The Commission is further empowered and directed to institute civil actions in the District Court of the United States against persons, partnerships, or corporations engaged in, or engaging in, any act or practice which is unfair or deceptive to a consumer and is prohibited by subsection (a)(1) of this section, to obtain such relief as the court shall find necessary to redress injury	S. 3201 would allow the Commission to institute district court action at any time to redress an injury to consumers, but S. 986 would authorize such action only after the Commission has issued a cease and desist order which has become final.

COMPARISON BETWEEN TITLE II OF S. 986, 92D CONGRESS (FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971) AND TITLE I OF S. 3201, 91ST CONGRESS (CONSUMER PROTECTION ACT OF 1970)—Continued

S. 986, 92D CONGRESS	S. 3201, 91ST CONGRESS	COMMENTS
necessary to redress injury to consumers caused by the acts or practices which were the subject of the cease and desist order, including but not limited to, recision or reformation of contracts, the refund of money or return of property, public notification of the violation, and the payment of damages." SEC. 204. Section 5(1) of the Federal Trade Commission Act (15 U.S.C. 4(1)) is amended by striking subsection (1) and inserting in lieu thereof the following new paragraph: "(1) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States or the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."	caused by such acts or practices to consumers, including, but not limited to, payment of damages, refund of money or return of property, restitution, reformation or recision of contracts, repair or replacement of goods, proper servicing, and public notification of violation. PENALTY FOR VIOLATION OF CEASE AND DESIST ORDER SEC. 104. Section 5(1) of the Federal Trade Commission Act (15 U.S.C. 45(1)) is amended to read as follows: "(1) Any person, partnership, or corporation who violates an order of the Commission to cease and desist, after such order has become final and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States or the Commission. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense."	These provisions of the two bills are the same except: (a) S. 986 specifically authorizes the Commission to institute penalty proceedings by its own attorneys in the name of the Commission. (b) S. 986 spells out the authority of the court which is only implied in S. 3201, to issue mandatory injunctions and other equitable relief to enforce the Commission's final orders.
SEC. 205. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or whose business affects commerce".		This provision removing the interstate commerce limitation on the Commission's investigative and reporting authority is merely included as a complement of section 201 of the bill—its omission from S. 3201 was probably a drafting oversight.
SEC. 206. Section 6(g) of the Federal Trade Commission Act (15 U.S.C. 46(g)) is amended by striking subsection (g) and inserting in lieu thereof the following: "(g) From time to time to classify corporations and to make rules and regulations for the purposes of carrying out the provisions of this Act. Such rules and regulations as are specifically provided for hereinafter shall be promulgated in the following manner and shall have the stated substantive force and effect: "(1) The Commission is authorized to issue procedural rules to carry out the provisions of this Act. Any such rule shall be promulgated in accordance with section 553 of title 5 of the United States Code and without regard to the exemption in subsection (b) thereof for rules of agency procedure or practice. "(2) The Commission is hereby authorized to issue legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this Act proscribes. "(1) When issuing legislative rules the Commission shall (a) issue an order of proposed rulemaking stating with particularity the reason for the rule; (b) allow interested persons at least thirty days to comment on the proposed rule in writing or at an agency hearing and make all such comments publicly available; (c) provide the Commission staff and other persons an opportunity to respond within a designated period of time to comments initially received and make such responses publicly available; (d) if on the basis of the record compiled in accordance with subparagraphs (a), (b), and (c) there is a disparity of views concerning material facts upon which the proposed rule is based, provide for an agency hearing in accordance with sections 556 and 557 of title 5 of the United States Code at which the Commission may permit cross-examination (limited as to scope or subject matter) by one or more parties as representatives of all parties having similar interests; (e) pro-	SEC. 105. Section 6(g) of the Federal Trade Commission Act (15 U.S.C. 46(g)) is amended to read as follows: "(g) From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act. Whenever it appears to the Commission to be in the public interest, the Commission shall promulgate trade regulation rules defining unfair or deceptive acts or practices in a manner sufficiently specific to reasonably inform affected parties of the acts or practices prohibited. Such rules shall be promulgated in accordance with section 553 of title 5, United States Code, after reasonable notice, an opportunity for interested persons to participate in the rulemaking through submission of written data, views, or arguments and, if requested, the Commission shall hold a hearing in which interested persons shall have reasonable opportunity to present the same orally in an appropriate manner. The Commission shall permit cross-examination, limited as to scope or subject matter, by one or more parties as representative of all parties having similar interests where it determines that the granting of such cross-examination is not inappropriate. The testimony in any such hearing shall be reduced to writing, shall be filed in the office of the Commission, and together with written submissions shall constitute the record. Such record shall be open to public inspection. After consideration of all relevant	While S. 3201 simply reenacts existing law which permits procedural rules to be promulgated informably under Sec. 553 of the Administrative Procedure Act, S. 986 states that procedural rules will be made under Sec. 553, but negates the portion of Sec. 553 which provides that notice of such rules need not be published in the Federal Register, nor need interested persons be given an opportunity to participate in rulemaking. S. 986 thus requires both such notice and the opportunity for participation by interested persons. S. 3201 calls for the informal procedures of Sec. 553 of the APA for substantive rulemaking. By contrast S. 986 requires the most formal rulemaking procedures including in most instances an agency hearing pursuant to Sections 556 and 557 of the APA, elaborate cross-examination, etc. for substantive rules which are designated as "legislative rules".

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COMPARISON BETWEEN TITLE II OF S. 986, 92D CONGRESS (FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971) AND TITLE I OF S. 3201, 91ST CONGRESS (CONSUMER PROTECTION ACT OF 1970)—Continued

S. 986, 92D CONGRESS	S. 3201, 91ST CONGRESS	COMMENTS
mulgate a final rule based on the record compiled in accordance with subparagraphs (b), (c), and, if applicable, subparagraph (d) of this paragraph. "(ii) Following the final promulgation by the Commission of any legislative rule that rule and a brief in its support based upon the Commission proceedings shall be referred to the House of Representatives and the Senate. If within sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than thirty calendar days to a day certain) from the date of referral the Senate or the House of Representatives by resolution do not disapprove the rule, it shall become effective. "(iii) Following the final promulgation by the Commission of any legislative rule, any interested person may, at any time prior to the tenth day after the expiration of the period for review as provided in subparagraph (ii) of this paragraph, file a petition for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Chairman of the Commission or the officer designated by him for that purpose. The Commission shall file in the court the record of the proceedings on which the Commission based its rule, as provided in section 2112 of title 28 of the United States Code. "(iv) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Commission in a hearing or in such other manner, and upon such terms and conditions, as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file any such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original determination, with the return of such additional evidence. Upon the filing of the petition, the court shall have jurisdiction to review the determination of the Commission in accordance with chapter 7 of title 5 of the United States Code, including that provision requiring the rule to be supported by substantial evidence on the basis of the entire record before the court (including any additional evidence adduced). "(v) Any legislative rule which has become final shall have prospective application only. "(vi) Nothing in this Act shall be deemed to foreclose judicial review of a legislative rule when the Commission issues a final order based upon such rule. "(3) Any person seeking judicial review of a rule may obtain such review in the United States Court of Appeals for the District of Columbia Circuit, or any circuit where such person resides or has his principal place of business."	matter presented upon such record, the Commission shall incorporate in any rule adopted a concise general statement of its basis and purpose. When any such trade regulation rule is promulgated and becomes final, a subsequent violation thereof shall constitute an unfair or deceptive act or practice in violation of section 5(a)(1) of this Act. Such rules and regulations shall be reviewable in the Court of Appeals for the District of Columbia in accordance with chapter 7 of title 5, United States Code. In addition the reviewing court shall hold unlawful and set aside agency action, findings, and conclusions found to be unsupported by substantial evidence upon the record as herein defined.	In addition to the formal rulemaking procedure required by S. 986, it calls for a "Reorganization Plan" type of procedure whereby substantive rules which have been finally promulgated are referred to the House and Senate where for 60 days they may be disapproved, and become effective if not disapproved. S. 3201 has no provision for congressional review. S. 986, but not S. 3201, permits petition for a judicial review of any legislative rule by "any interested person", such review to be made by one of the United States Circuit Courts of Appeal. S. 986 has no similar provision because its legislative rules are defined as acts or practices which are prohibited by Sec. 5(a)(1) of the FTC Act. Post-violation appeals of legislative rules would therefore be subject to the review procedures of Section 5(b) of the FTC Act.

COMPARISON BETWEEN TITLE II OF S. 986, 92D CONGRESS (FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971) AND TITLE I OF S. 3201, 91ST CONGRESS (CONSUMER PROTECTION ACT OF 1970)—Continued

S. 986, 92D CONGRESS	S. 3201, 91ST CONGRESS	COMMENTS
SEC. 207. Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by— (a) deleting the word "corporation" in the first sentence of the first unnumbered paragraph and inserting in lieu thereof the word "party". (b) inserting after the word "Commission" in the second sentence of the second unnumbered paragraph the phrase "acting through any of its attorneys designated by it for such purpose"; (c) deleting the fourth unnumbered paragraph and inserting in lieu thereof the following: "Upon application of the Attorney General of the United States or the Commission, acting through any of its attorneys designated by it for such purpose, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the Commission made in pursuance thereof."		This is a technical amendment made in S. 986 but not S. 3201 to insure that the Commission shall have right of access to documentary evidence of noncorporate as well as corporate parties. These two amendments to Sec. 9 of the FTC Act are necessary to carry out the overall concept of S. 986 that Commission attorneys should have direct access to the courts without reliance upon the Attorney General. No comparable provisions are contained in S. 3201.
SEC. 208. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by deleting the third unnumbered paragraph and inserting in lieu thereof the following: "If any corporation required by this part shall fail to do so within the time fixed by the Commission for listing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit brought by the United States or by the Commission, acting through any of its attorneys designated by it for such purpose, in the district where the corporation has its principal office in any district in which it shall do business."		This section too of S. 986 makes one of the amendments needed to give the Commission's attorneys direct access to the courts.
SEC. 209. Section 12 of the Federal Trade Commission Act (15 U.S.C. 52) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or having an effect upon commerce."		This is one of the several amendments needed to remove the interstate commerce restriction on the Commission's jurisdiction which was apparently omitted by oversight from S. 3201.
SEC. 210. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:	PRELIMINARY INJUNCTION SEC. 102. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53(a)) is amended by redesignating subsection (b) and all references thereto as subsection (c) and by inserting after subsection (a) thereof the following new subsection (b) as follows:	Except as will be explained, these provisions authorizing pendente lite restraints are the same. S. 986 specifically provides for restraining orders whereas S. 3201 does not. As the authority to grant preliminary injunctions implies discretion to grant restraining orders, there is no difference in practical effect. S. 986 contains a proviso which requires the court to set a time limit within which it will dissolve any temporary restraint which it orders in the event the Commission fails to file a complaint under § 5 of the FTC Act. S. 3201 has no such safeguard to prevent undue delay by the Commission in proceeding after the restraint order is issued.
"(b) Whenever the Commission has reason to believe— "(1) that any person, partnership, or corporation is engaged in, or is about to engage in, any act or practice which is unfair or deceptive to a consumer, and is prohibited by section 5, and "(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission made thereon has become final within the meaning of section 5, would be to the interest of the public—the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity: *Provided, however*, That if a complaint un-	"(b) Whenever the Commission has reason to believe— "(1) that any person, partnership, or corporation is engaged in, or is about to engage in, any act or practice which is unfair or deceptive to a consumer and is prohibited by section 5, and "(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint by the Commission or set aside by the court on review, or the order of the Commission made thereon has become final within the meaning of section 5, would be to the interest of the public—the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon proper showing a preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."	

COMPARISON BETWEEN TITLE II OF S. 986, 92D CONGRESS (FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971) AND TITLE I OF S. 3201, 91ST CONGRESS (CONSUMER PROTECTION ACT OF 1970)—Continued

S. 986, 92D CONGRESS	S. 3201, 91ST CONGRESS	COMMENTS
der section 5 is not filed within such period as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business.'		
SEC. 211. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.		S. 3201 omits this routine standards "separability" provision.
	STATE LAWS NOT AFFECTED SEC. 106. The amendments made by this title shall not affect the jurisdiction of any court or agency of any State or the application of the law of any State with respect to any matter over which the Federal Trade Commission has jurisdiction by reason of such amendment insofar as such jurisdiction or the application of such law does not conflict with the provisions of the Federal Trade Commission Act, regulations thereunder, or the exercise of any authority by the Commission under such Act.	S. 986 has no "preemption" provision. As the preemption provision of S. 3201 is simply a restatement of the Federal Supremacy Doctrine as set forth by the Supreme Court, the inclusion or omission of this section would have no legal consequences.

Mr. MOSS. Mr. President, there is one other matter I would like to speak about briefly at this time. It has to do again with the comparison of these two titles.

Mr. COOK. Mr. President, would the Senator yield?

Mr. MOSS. I yield.

Mr. COOK. Does the Senator have any information as to when the detailed comparison which has been submitted for the record was made by the Federal Trade Commission? I have asked the minority staff and they do not have any knowledge of it and they do not have a copy of it. I wonder when the comparison was made and whether it was made for the whole committee so that it will be available for the membership.

Mr. MOSS. I am advised by the staff that this request was sent to the Federal Trade Commission on Friday last and the comparison was just delivered this morning at approximately 10:30 a.m.

Mr. COOK. Are other copies available so that other members of the committee might have it at the earliest convenient time?

Mr. MOSS. Yes, indeed. I will see that copies are made available at once to the Senator and other Senators who would like to look at this comparison. That is certainly a reasonable request. We should have done it immediately but the material just came in.

The other matter to which I wish to call attention has to do with the statement that was made on Friday last by the Senator from Nebraska having to do with whether or not the Federal Trade Commission should be divided into a Federal Trade Practices Agency and a separate Federal Antitrust Board.

On page 46 of the hearing record on S. 986, I specifically referred to the Ash Council's proposal to separate the Federal Trade Commission into a Federal Trade Practices Agency and separate Federal Antitrust Board. Chairman Kirkpatrick responded to the report by saying that he believed that:

Having an antitrust and consumer protection law enforcement responsibility under one roof is important in the overall protection of the American consumer's interest.

I responded by saying:

Would your inclination to support the existing framework of the Commission with the added enforcement tools provided in this bill, enable you to carry out that function better than if the two agencies were created?

Mr. Kirkpatrick responded by saying "yes," and the Senate Commerce Committee accepted his recommendation for improving the Federal Trade Commission rather than dividing it into a Federal Trade Practices Agency and a separate Antitrust Board.

That is the reason for adding the additional tools that are provided in title II of the bill that is before us.

I wanted to point out the fact that, in response to the testimony of the Chairman of the Federal Trade Commission, the committee was persuaded that we ought to take this direction.

PRIVILEGE OF THE FLOOR

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee be allowed to have an extra member of the staff present on the floor during the debate of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 586

Mr. HRUSKA. Mr. President, I call up my amendment No. 586 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 24, strike out line 5 and insert in lieu thereof the following: "ranties and Consumer Remedies Study Act".

Beginning with line 20, page 42, strike out all of TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS to and including all of page 52, and in lieu thereof insert the following:

"TITLE II—CONSUMER REMEDIES STUDY

"SEC. 201. (a) The Director of the Office of Consumer Affairs, in consultation with and with the assistance of the Attorney General of the United States, is authorized to contract with the National Institute for Consumer Justice (hereafter referred to as the 'Institute'), a nonprofit corporation of the District of Columbia, to conduct a study or studies of means for improving the grievance-solving mechanisms and legal remedies of consumers, including, but not limited to the following:

"(1) methods of preventing consumer grievances from arising and of improving seller-buyer and debtor-creditor relationships;

"(2) existing and potential voluntary settlement procedures, including arbitration; and

"(3) the desirability of establishment of a nationwide system of small claims tribunals.

"(b) The Director of the Office of Consumer Affairs shall, within eighteen months of the enactment of this Act, submit a final report on such study or studies to the President and to Congress along with its recommendations, if any, for legislation.

"SEC. 202. (a) The Institute and each recipient of a contract from the Institute under this title shall keep such records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and other records as will facilitate an effective audit.

"(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any funds provided under this title as are pertinent to the disposition and use of such funds.

"SEC. 203. There is authorized to be appropriated $500,000 to carry out the provisions of this title.

"SEPARABILITY

"SEC. 204. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby."

The PRESIDING OFFICER. Does the Senator from Nebraska ask unanimous consent that the two amendments be considered en bloc?

Mr. HRUSKA. Mr. President, I did not know that there were two subjects in the amendment.

The PRESIDING OFFICER. There are two parts to the amendment.

Mr. HRUSKA. I do ask unanimous consent at this time that they be considered en bloc.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Nebraska? The Chair hears none, and it is so ordered.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. MAGNUSON. As I understand, the amendment strikes out all of title II; is that correct?

Mr. HRUSKA. That is a part of the amendment.

Mr. MAGNUSON. A part of the amendment; yes.

Mr. HRUSKA. The other part of the amendment, Mr. President, as the text clearly shows, is that a new title II would be inserted. That new title II would be entitled "Consumer Remedies Study."

Section 201 of that "Consumer Remedies Study" would read as follows:

(a) The Director of the Office of Consumer Affairs, in consultation with and with the assistance of the Attorney General of the United States, is authorized to contract with the National Institute for Consumer Justice (hereafter referred to as the 'Institute'), a nonprofit corporation of The District of Columbia, to conduct a study or studies of means for improving the grievance-solving mechanisms and legal remedies of consumers, including, but not limited to the following:

"(1) methods of preventing consumer grievances from arising and of improving seller-buyer and debtor-creditor relationships;

"(2) existing and potential voluntary settlement procedures, including arbitration; and

"(3) the desirability of establishment of a nationwide system of small claims tribunals.

"(b) The Director of the Office of Consumer Affairs shall, within eighteen months of the enactment of this Act, submit a final report on such study or studies to the President and to Congress along with its recommendations, if any, for legislation.

Section 202 of title II as proposed in the amendment reads as follows:

(a) The Institute and each recipient of a contract from the Institute under this title shall keep such records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and other records as will facilitate an effective audit.

(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any funds provided under this title as are pertinent to the disposition and use of such funds.

Section 203 reads:

There is authorized to be appropriated $500,000 to carry out the provisions of this title.

Section 204 is entitled "Separability," and reads as follows:

If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

So the answer to the question of the Senator from Washington is that a new title II would be inserted in place of the present title II which is in the bill as reported by the committee.

Mr. MAGNUSON. As I understand it, should the Senator's amendment not be adopted, that would not prejudice the right of anyone to introduce another title.

Mr. HRUSKA. That is correct. As a matter of fact, another amendment is pending——

Mr. MAGNUSON. For a title III.

Mr. HRUSKA (continuing). In which an effort is made to strike section 203 and to insert the text of the language I have just read in the bill as title III.

Mr. MAGNUSON. One other question to clarify this: Is there not a National Institute for Consumer Justice now in existence?

Mr. HRUSKA. There is, and it is a nonprofit corporation.

Mr. MAGNUSON. Appointed by the President?

Mr. HRUSKA. And it is resident in the District of Columbia. That is correct.

Mr. MAGNUSON. The next question: When the Senator refers to the Director of Consumer Affairs, we are talking about the Consumer Affairs Division in the White House. Is that correct?

Mr. HRUSKA. That is correct. That is my understanding.

Mr. MAGNUSON. Mrs. Knauer.

Mr. HRUSKA. She is the head of it. She is the Director of the Office of Consumer Affairs.

Mr. President, we all are aware of the too frequent facts of commercial life that consumers do not always get what they have paid for and that product guarantees are sometimes written in language that is hard to understand, and sometimes they are not exactly all they purport to be. Warranty obligations, furthermore, are disregarded; no means for implementing them are provided; with the result that they totally break down as a means of securing for the consumer the type of service and the type of quality for which he pays and which he expects to have delivered.

That is why I am pleased, in association with many Members of the Senate, that the Committee on Commerce has reported a bill, S. 986, which has title I, which deals with this subject in a number of worthwhile features that would be important studies toward solving some of these problems in the field of substantive law pertaining to warranties—warranties of all kinds, whether they be total or partial, express warranties or implied warranties.

Of course, that is what title I purports to do. It would set forth minimum disclosure standards for written warranties on consumer products costing more than $5 each. It would define Federal content standards for full warranties. It would provide consumer remedies for the breach of written warranty and written service contract obligations.

In title II, however, it seeks to expand and improve on the Federal Trade Commission's ability to deal with unfair consumer activity; and that is the title in the bill which, of course, will be discussed at length, because it is objectionable for reasons that I will detail very shortly.

Mr. President, I strongly support the goal of title I of S. 986. It is an area in which the Committee on Commerce has achieved a good deal of expertise. It is a subject matter which belongs in that committee. It is a subject matter that has received detailed study, much testimony, and much evidence as to justifying the provisions that find their way into title I of S. 986.

However, when we get to title II, we get into a different situation. There we get into a situation that, if title II is enacted as reported by the committee, many more problems would be created than would be solved. It has language that is extremely vague and does not define those acts or practices upon which recovery may be had when it comes to provisions of section 203, which creates legislatively a consumer class action in the courts.

Instead of having a definition of those acts and practices upon which recovery may be had, recovery would be based on the rather indefinite standards of acts or practices "unfair and deceptive to consumers." It does not establish any statute of limitations on actions based on those unfair or deceptive acts. It does not identify the real parties in interest who would be entitled to recover in such actions, and it does not specify how a final judgment would be apportioned. This provision fails to provide for the effect on judgments rendered by the Federal Trade Commission in private litigation where cases are brought after the Government's action.

These are a few of the objections which lie in the field of title II, and it is for that reason that this Senator has seen fit to submit and present and now expounds upon the amendment which would seek to strike title II and insert in its place the substance of a provision which would call for further study in this particular field, in an effort to find some means,

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other than the rather harsh and far-reaching impact that title II would otherwise have on the entire judiciary system, whereby the claims of consumers in the field of warranties and in the field of the Federal Trade Commission jurisdiction are based.

For many years, efforts have been made to enact various portions of title II as it has been reported by the committee. Starting back in 1914, when the original Federal Trade Commission Act was enacted, efforts were made, for example, to incorporate as one of the express powers for the Federal Trade Commission the authority to issue legislative or substantive rulemaking powers. That issue was debated very throughly and very extensively, I might add, in 1914. In a little while, I intend to go into some of the detail that was involved in this debate and in the consideration of that power. Efforts were made periodically since 1914 with respect to the rulemaking power on a substantive or legal basis. There was a period of approximately 50 years in which the Federal Trade Commission conceded, through its various memberships, that it did not have the power to legislatively make rules, to make rules of legislative equivalent. Two years ago, the issue was raised again. But it is noteworthy that in each instance, starting in 1914 and continuing to the present day, each of those efforts to vest the Federal Trade Commission with substantive or legislative rulemaking power has been rejected by Congress. It has been rejected by Congress deliberately. It was, nevertheless, in each instance, rejected by Congress firmly.

Mr. SCOTT. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. SCOTT. Without going into the merits of the bill itself or specific amendments, on some of which I have not been able to refresh myself, I feel that it would be desirable to refer the bill for a brief time to the Committee on the Judiciary, which customarily does handle matters relating, for example, to penalties, and rulemaking, and which handles a number of matters which are covered in the consumer-type legislation proposed. We are all in favor of adequate and effective consumer legislation, but I would like to see some oversight by the Committee on the Judiciary. I certainly commend the distinguished ranking Republican member of that committee, the Senator from Nebraska, for bringing up this question at this time.

Mr. HRUSKA. I thank the Senator from Pennsylvania. He would be interested in the proposition, which will also be gone into in some detail, that title I is self-contained and self-sufficient unto itself. It can be enacted. The process of getting it into operation can go forward as soon as the other body acts on it and works its will and then is signed into law by the President. In the meantime, we have title II embracing a subject which has been gone into extensively by the President's Commission on Reorganization of the Executive and by other study bodies. It involves and has a tremendous impact on the entire judiciary system. It is of such volume and has such a far-reaching impact on that system that there are fears and misgivings on the part of many that it would, in some respects, tend to immobilize or certainly impair its effectiveness and, hence, the reference in that part of the bill; namely, title II, to the Judiciary Committee, would be very much in order and the Senate as well and the other body would profit therefrom.

Mr. SCOTT. I thank the distinguished Senator from Nebraska very much. I can understand the many reasons for his position.

Mr. MOSS. Mr. President, will the Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. MOSS. In response to the suggestions raised by the minority leader just now, I want to point out that the bill was referred to the Judiciary Committee, which had it for 90 days this year, and that a similar bill that had most of the same provisions in it, on which I earlier placed in the RECORD some information as to comparability, was subject to hearings in the Judiciary Committee and over 400 pages of testimony are in existence; so that the matter has been considered extensively by the Judiciary Committee. I merely want to make that point clear.

Mr. HRUSKA. The Senator from Nebraska agrees completely with the Senator from Utah. The bill was referred on July 16, by agreement between the respective chairmen of the Commerce Committee and the Judiciary Committee, to the Committee on the Judiciary for a period of 90 days; but, what a hollow mockery that turned out to be. That was July 16, the last week or 10 days of a session in which all of us were busily engaged getting ready for the summer recess which began in early August, I believe, and lasted until September 8, after Labor Day.

Consider, then, that all that period of time can be eliminated from the so-called 90-day reference to the Committee on the Judiciary. Consider also the fact that the Committee on the Judiciary is a very busy committee. It was busy already, before we adjourned pursuant to plans well laid in advance and booked pretty solidly from time to time, as I shall show by introduction of an exhibit or reference to one, which will show how solidly the several subcommittees of the Judiciary Committee were tied up in committee from there on, not only through September and into October, but also for most of November.

It was beyond the capability of either the staff or the membership of the Judiciary Committee. Literally, they could not find time in which to be able to summon the witnesses and find a place and a room and the warm bodies of various members of the Judiciary Committee to assemble and there consider this far-reaching measure which would have such a big impact upon the country's judiciary system, which is the primary responsibility of the Judiciary Committee.

Let me suggest further, Mr. President, that we had the bill before us last year pertaining to class actions. Principally we held hearings on it for 5 days. We compiled a record of about 400 printed pages of testimony and evidence; yet, we still did not have enough time, due to the closing days of the session last year, to get into the subject or make our recommendations and our findings.

Now the Committee on Commerce has had time to consider this, but they did so on a leisurely scale. They reported the bill 7½ months after the first of the year of this calendar year. They considered it a very important measure, but they took that long a time to do it.

As to title I, they did a splendid job. I would most respectfully suggest that all they did on title II, so far as consumer class actions were concerned and the rulemaking power, was to create the source and the beginning of troubles myriad, serious, grave, and menacing.

So that we can readily say that reference has been made to the Judiciary Committee but it has not been effective and it has not been meaningful.

Mr. MOSS. Mr. President, if the Senator from Nebraska will yield further, what the Senator just said is true as to the time of reference which was made pursuant to a unanimous-consent agreement, so that the Commerce Committee agreed to permit the Judiciary Committee to have 90 days in which to conduct hearings or make any examination the committee wanted.

It is also true that 32 days happened to fall in the recess period, although many of us held hearings during that recess period. I know that would be true as to the Judiciary as well as to other committees, but there were 58 days remaining in which the committee had the bill. No hearing was held and, so far as I know, nothing was done on the bill and the time merely expired as a matter of fact.

Now the Senator from Nebraska points out that the Commerce Committee did take some time to look at the bill. That is true. I related for the RECORD earlier the number of days of hearings we had, the executive sessions, and the markup of the bill which consumed a good part of that time, also considering title II, which we are discussing now.

To my mind, but I think not in the mind of the Parliamentarian or anyone else, the jurisdiction lies in the Commerce Committee, but as a matter of comity and accommodation the Judiciary Committee was permitted to look into part of the bill it wanted to look at. Having had that time, and the matter now being here before us, and the necessity for moving on, I believe that the Judiciary Committee has had its opportunity to examine this title and we might as well proceed in the Senate to determine whether title II should remain in the bill. I am convinced, in order to have a truly effective bill, that we must have title II.

Mr. HRUSKA. The Senator from Utah simplifies the matter in an overly and easy fashion. Of course 90 days less the vacation period leaves 58 days. Apparently, it did not take into consideration the suggestions I made, that on July 16 this body was very well occupied and we were doing all kinds of things in preparation for the things we felt were necessary to be done to qualify us to earn the summer recess which we took during August. There was no possibility of getting any hearing scheduled at that time, nor even the possibility of arranging for witnesses.

I have already recounted that by the time the 90-day period was given, and it was extended by comity in the committee, and the chairman was very cooperative as to that time—a little bit stingy—the Committee on Commerce was well committed upon a reconvening of the Senate. Why would it be that a matter of this kind of importance would take 7½ months in the Committee on Commerce and then be given a period which would be less than 30 days for the Judiciary Committee to consider it when it is of such far-reaching importance? That does not seem to be very consistent.

I suggest that it has a lot of parallel to one of the facts. In title II, the Federal Trade Commission is authorized to issue legislative rules and give legislative rulemaking power. That is something that has been many time argued and often proposed, but always very firmly rejected by Congress in an effort to show that this is fair to Congress because when that rule, just before a copy of that rule applied by the Federal Trade Commission pursuant to all of the many provisions and lines of statutes found in section 206 is promulgated and before they can make it final, they must report it to the committees, to the House and to the Senate, and if the House or the Senate expresses displeasure with the rule thus proposed, then the rule will not become effective.

It sounds good on its face. It sounds fair and equitable. But it does not take anyone who has lived for very long in the Congress to realize that 60 days in the life of a busy Congress is not very long at all. In fact, that period of time is totally ineffective insofar as trying to direct the attention of the composition of any committee in either body to be directed upon a rule proposed by the Federal Trade Commission, let alone the scheduling of hearings, making of a study, making of recommendations and findings, arranging for its getting on the calendar and, at long last, getting to a place where we will debate the measure and then vote upon it.

It is totally ineffective, a point which I shall make in due time and illustrate. As a matter of fact, we are now considering in the field of court rules, rules promulgated by the Judicial Conference in which a similar period of time was given to Congress to enact. This time we are now considering in the Judiciary Committee an extension of this 60-day or 90-day period, whichever it is, a formula something like this, that if any such rule is submitted to the Congress any time before May 1 by the Judicial Conference, that Congress would have to the end of that calendar year, or to the end of the sine die adjournment of Congress for that year, in which to consider that rule and decide to approve or not to approve it.

This is in recognition of the proposition that a 60-day or a 90-day period is not enough in a Congress that is so busily engaged with so many things and that has succeeded in making itself a 12-month operation instead of the operation we had in the old days and in previous years. It is my hope that when that matter comes before the Senate, the Senate will be kindly toward it and enact it so that the other body can do likewise.

Now then, getting into the proposition of title II, title II is properly a subject for the Committee on the Judiciary, dealing as it does with adjective, procedural law and having a direct and massive impact upon the entire judiciary.

One reason is that the courts are already overburdened, as we know, with respect to those items. For example, criminal trials are given high priority in the judicial system. They are under the direction of the Judicial Conference, and under the rules of the court criminal cases are heard first. Yet, we have constantly a waiting period between the time a case is ready for trial in a criminal court and the time it goes to trial. The time necessary to get to trial ranges all the way from a year to 3 years, in a class of cases that enjoys and should have the highest priority in the trial of such cases.

Mr. President, I yield to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, relative to the remark made by the Senator from Utah with reference to the Parliamentarian, I want to suggest that in reading the original caption of the bill, I think it is easily discernible. But I would suggest that we are trying to make a comparison of the operations of Congress and the operations of the Judiciary Committee. When we get into title II, we get into a rather brand new field that I am not quite sure is in the jurisdiction of Congress at all. And I am convinced it is within the complete jurisdiction of the Judiciary Committee.

I point out that this will be the first agency in the Federal Government that will have the absolute authority to bring actions on its own, outside of the Department of Justice.

Now, there is one slight deviation in that, and that is that on an appeal of the ICC, the lawyers for the ICC have authority to go into court along with the attorneys for the Justice Department. However, here we have the situation where it is no longer necessary for the FTC to discuss causes of actions and discuss whether it is in order and whether they are in shape to discuss whether they really have a logical cause of action, just as the Justice Department brings an action for it on behalf of the Federal Trade Commission.

Second, we have also in title II, as the Senator from Nebraska well knows, now the expanded authority of the Federal Trade Commission which it would assume under title II, if passed, and we are extending to the Commission the right to hold its hearings under which it has then legislative rulemaking power and, as a result of that legislative rulemaking power, an absolute cause of action immediately within the Federal court system unless there is an appeal from that rule.

We have the language on page 46 from lines 14 through 19, reading:

> . . . there is a disparity of views concerning material facts upon which the proposed rule is based, provide for an agency hearing in accordance with sections 556 and 557 of title 5 of the United States Code at which the Commission may permit cross-examination (limited as to scope or to subject matter) by one or more parties as representatives of all parties having similar interests; . . .

This is not a matter that deals with commerce or is within the field of commerce. It deals with the judiciary. This is the way that the FTC shall arbitrarily rule, if it so desires, that when it has five or six or eight individuals or organizations that wish to testify on a given rulemaking procedure, and can just say: "Gentlemen, we are sorry that all of you lawyers cannot present your different viewpoints. We are going to allow one of you to testify before us on behalf of all of you."

I think that gets to be a direct denial of due process and also a direct denial of the right to cross examine.

I can only say that within the framework of title II are a couple of rather serious subject matters that I am not quite sure as to what they have to do with commerce other than being imposed by Congress, but they are subject to the will of the Committee on the Judiciary which, I think, is the point the Senator from Nebraska is making.

Mr. HRUSKA. I thank the Senator for his contribution. It is true that the subject matter of title II reported by the committee does belong in the Committee on the Judiciary and that not sufficient consideration has been given to it in the form in which it has been reported to the Senate.

The Senator from Kentucky well remembers and is familiar, no doubt, with the so-called Ash report, the report made by the Commission which was appointed by the President to revise and consider revision of the executive department. That report had findings particularly applicable to the Federal Trade Commission as well as other agencies. In addition, there was another study and report made, and that was by the American Bar Association committee headed by Mr. Kirkpatrick, a very notable character and personality in the field of law and the practice of law and jurisprudence in America. It was he who headed that committee. He is now on the Federal Trade Commission himself and probably, in some degree, because of the splendid showing he made in the study, analysis, and work of the committee on which he was so active.

Just to indicate the depth of the matter, to indicate the scope that is involved here, the American Bar Association made recommendations to aid the work of the Federal Trade Commission. They say that now they are carrying a very heavy load, that they are concerned with consumer complaints and deceptive practices, antitrust law in all of its aspects, they are concerned with investi-

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gating and hearings on complaints and in issuing cease and desist orders, and going on to the matter of prosecuting those cease and desist orders pursuant to present statute. They are charged with all those things. The American Bar Association report, the details of which I shall not give, in general stated this work is too monumentally large and vast in scope. The complaints and processing thereof, the unfair and deceptive practices that are charged, and the enforcement thereof, and their powers, their mechanics and procedures should be modernized, and so forth. Here we have coming out of the Committee on Commerce, notwithstanding this tremendous need for a fundamental revision, a rather summary and I must say troublesome proposal to get into the field of restructuring and theoretically changing the nature of the Federal Trade Commission. We have that coming from the Committee on Commerce and not the Committee on the Judiciary.

Mr. MOSS. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. MOSS. The Senator said the American Bar Association recommended dividing the functions of the Federal Trade Commission. Is the Senator referring to the Ash commission recommendation? I am not aware of any American Bar Association decision made on this matter.

Mr. HRUSKA. It was the Ash report that had the express finding and recommendation for splitting the function of the Federal Trade Commission, but the American Bar Association report did find that improvements in administration of the Federal Trade Commission should be made.

Mr. MOSS. But as a matter of fact, when the Chairman of the Federal Trade Commission responded to the questions in the hearings about whether or not there should be a revision as the Ash commission had recommended, he testified to the contrary—the American Bar Association supported the position of the Chairman of the Commission. So the opinion of the American Bar Association apparently would be contrary to the recommendation of the Ash commission.

Mr. HRUSKA. It may not necessarily have been contrary; it was different in some of its contexts and recommendations. But the point made by the Senator from Utah illustrates the position that this Senator is trying to explain.

Here is a subject on which there is a difference of opinion as to detail and approach. When Mr. Kirkpatrick appeared before the Committee on Commerce, it was not as a member of the American Bar Association Commission. He was there as the Chairman of the Federal Trade Commission. He had his views on that, perhaps. His individual views might be one thing, the American Bar Association report might be another, and his views as Chairman of that Commission would be still another.

The point suggested by the Senator from Utah just fortifies the position this Senator is trying to explain.

Mr. COOK. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. COOK. I hope to be able to clear up some of this argument. I am saying this is a matter of fact and really making inquiry of the Senator from Utah and his staff if they are aware of the position in the report of the American Bar Association and the study of the Federal Trade Commission made public February 15, 1969. I might suggest on that subject that these views expressed in this report are those of the commission to study the Federal Trade Commission. This report has not been considered by the Board of Governors of the American Bar Association and pending approval by that board cannot be considered the report by the association.

I wonder if the staff has any information that this was adopted in toto by the Board of Governors of the American Bar Association or if it still represents the attitude of the members of the Commission, including the dissenting views therein. I am making inquiry.

Mr. MOSS. So far as I know this never has been considered by the Board of Governors of the American Bar Association but was the position of the commission appointed to make the study. Also, the Antitrust Section of the American Bar recommended that hearing examiners determine specific relief.

Mr. COOK. What I am saying is that the report to the American Bar Association by then-counsel Mr. Kirkpatrick has not been published as an approved report of the Board of Governors of the American Bar Association.

Mr. MOSS. No, not to my knowledge.

Mr. HRUSKA. The Senator has the report in his hand. How many pages does it contain?

Mr. COOK. 119 pages.

Mr. HRUSKA. There are over 100 pages, therefore indicating on its face, coming from a committee of the American Bar Association, the depth to which they delved to get at the conclusions and the recommendations they made.

PRIVILEGE OF THE FLOOR

Mr. CASE. Mr. President, will the Senator yield for a unanimous-consent request without losing his right to the floor?

Mr. HRUSKA. Mr. President, I yield to the Senator from New Jersey for the purpose of making a unanimous-consent request.

Mr. CASE. Mr. President, I ask unanimous consent that a member of my staff, Gar Kaganowich, be permitted to remain on the floor at all times today except during record votes, whether I am here or not.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COOK. Mr. President, I would like to make the same request with respect to my staff man.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, if the Senator will yield, I would like to ask unanimous consent that the distinguished junior Senator from Kansas (Mr. DOLE) be made a consponsor of my amendment No. 470.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COOK. Mr. President, I would like to say to the Senator from Nebraska, if I may have that report for a minute, there is some rather interesting language in there, from the committee chaired by Mr. Kirkpatrick, that is absolutely contrary to some of the situations we find ourselves in now.

One conclusion I would like to read is on page 34, where it is stated:

> Nevertheless, it is our impression that there are too many instances of incompetence in the agency, particularly in senior staff positions.

Then, it states:

> We agree with the chairman of the FTC and others that Congress is partly responsible for the FTC's problems because of its practice of committing new legislative programs to the agency without commensurate increases in budget.

The reason I bring this up is that on page 41 of the report that is on the desk of each Senator, with respect to S. 986, under "cost" the committee estimates the cost of implementation of title I of S. 986 to be as follows:

An increase of $200,000 the first year, $200,000 the second year, and $150,000 the next year.

It then says apparently there will be no additional cost, as I read it, in the operation of title II—no additional cost to expand this act for its own lawyers anywhere in the country to go into court to bring these actions.

I might suggest that, conceivably, there may have been deleted from the report what I have been told on the increased costs of title II. These were the original cost estimates that were given to some members of the committee, but perhaps it is inadvertently not in the budget. So the first year under title II, the increased cost will be $725,000. The second year the increased cost will be $875,000. The third year it will be $1 million. The fourth year it will be $1.250 million. The fifth year it will be $1.4 million. All of these are increases. For title I the increase will be $150,000 the first year, $250,000 the second year, $300,000 the third year, $325, the fourth year, and $350,000 the fifth year.

In the report we have been given, unlike the $300,000 for the third year, it shows $150,000. The report shows $200,000 for each of the first 2 years.

Mr. Kirkpatrick, as chairman of the commission, in his report felt that we were giving to the Federal Trade Commission more authority but not giving it the resources to carry out that authority. But I am afraid that, if his staff made these estimates, or if they were inadvertently left out for what they did put in, they are falling into the same trap of what he felt was necessary to have a functional Federal Trade Commission when he was on the outside looking in—and that was that authority was given to the Federal Trade Commission, but, unfortunately, the funds provided were not commensurate with the authority.

I repeat, we have a situation in which it was told to me by the Federal Trade Commission—and perhaps it did not get into the report, and I do not know why—that the costs of title II would run anywhere from $725,000 the first year to $1,400,000 in the fifth year, all representing increases.

Mr. HRUSKA. What is the source of those estimates?

Mr. COOK. These estimates were obtained by me from sources within the Federal Trade Commission. I will be very frank. I was told that, if these figures were given as estimates here on the Hill and we utilized those figures, "we would be blown right out of the Hill" with regard to title II. If we are not going to be honest and we are not going to say what the real costs of title II will be, as well as not put them in the report, we will come to the conclusion that with title II, with the expanded jurisdiction of the Federal Trade Commission, no longer having the utilization of the Justice Department with regard to the commencement of actions, we had better be ready to have the Federal Trade Commission ask for a tremendous increase in the budget over what it is now receiving. Obviously, something has been left out of the report when it says there will be no increased cost under title II, because the only report of increases before the Senate is contained on page 41 of the report, which shows an increase in cost over the 3-year period under title I.

These are some of the problems we have in regard to the report and in regard to the American Bar Association Commission that specifically made clear that one of the unfortunate circumstances in the past has been that the Congress has given far too much legislative authority to the Federal Commission, but has not provided funds commensurate to the authority to see that the job is done, and therefore the Federal Trade Commission has been in a position where it has failed to act.

Mr. HRUSKA. I than the Senator for his contribution.

It was my intention to pursue the matter of the budget at a later time, but one of the mysterious parts of the whole suggestion, that the cost associated with the increased powers under title II might be in the neighborhood of $150,000 per year for the first 5 fiscal years, I would respectfully suggest is something that should be carefully canvassed.

Here is a commission that does not now have the authority to initiate, through its own attorneys, any of the tools that are mentioned in title II. They are getting into that now. They are in the matter of injunctions and in many other respects. As we go through the bill, we will find that many of the functions now exercised by the Attorney General's office and by the appropriate U.S. agencies are now being transferred, on an alternate, coextensive basis, to the Federal Trade Commission. For example, in section 203, in new subsection (1) of section 5, which is a pivotal section in the Federal Trade Commission Act, there is the idea that after an order has become final and it has been violated, the civil penalty for that violation is raised from $5,000 for each violation to $10,000 for each violation. Perhaps that is in order for a number of considerations but here is an item that bears on the matter of budget. Such a violator "shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States."

And here, Mr. President, is the new language:

> Or the Commission in its own name by any of its attorneys designated by it for such purpose.

We also have in the preceding section, the section that legislatively creates a consumer class action, language which will become part of subparagraph (7) of section 5:

> After an order of the Commission to cease and desist from engaging in acts or practices which are unfair or deceptive to consumers and proscribed by section 5(a)(1) of this Act has become final as provided in subsection (g) of this section, the Commission, by any of its attorneys designated by it for such purposes, may institute actions in the district courts of the United States to obtain such relief as the court shall find necessary to redress injury to consumers caused by the acts or practices which were the subject of the cease and desist order . . .

Then it goes on with this virtually unlimited grant of authority by way of penalties, including but not limited to, recision or reformation of contract, refund of money or return of property, public notification of the violation, and payment of damages.

All of that will be done in a consumer class action which will be conducted by any of the attorneys of the Federal Trade Commission designated for that purpose.

A little later we are going to get into the cost and durations of these consumer class actions. In one of the cases presently pending, money damages have been assessed and by settlement have been paid into a court of $100 million. There is testimony by Judge Murrah, who is head of the Judicial body, that it costs $300,000 just to give notice to the various parties which are party to the action. Each time notice must be given at a cost of $300,000. The attorneys, presumably, are working all this time, and I would doubt very much that under $50,000 is going to go very far, when we take into consideration not only the class action involved but all other actions in which the Federal Trade Commission will become directly involved, and the expense, with the very solid concept that Congress has adhered to up until this time, of having the law enforcement in charge of the Department of Justice, unless there is some very special occasion and special reason to dispense with the factors upon which that decision and that doctrine is based.

So, at a later time, perhaps, we can get into the matter of the budget. But I would venture to say that it will not be under $50,000 per year for the next 5 fiscal years, and that is certainly very, very open to close scrutiny, and in my judgment very inadequate if they are going to do a job.

Now, the answer of these commissions—and the chairman of the Committee on Commerce and I shared the privilege for a while, or each of us had his own privilege, to sit on the subcommittee that had to do with the subject of budgets for independent agencies, of which the Federal Trade Commission was one—was the complaint, and in large measure it was justified, that many more duties and much more work had been heaped upon the Federal Trade Commission, and they did not have ample budgets to do the job.

Time and again we took issue with them. We had explanations given, and there were more generous allocations made, more manpower furnished, and so on; and yet the same story is constantly told.

No agency can do a better job than the money and the manpower will permit, that part of the money and the manpower that will be appropriated for their use. I recall the very historic battle between the Federal Trade Commission and the Packers and Stockyards Administration, Mr. President, that came about some 10 years or so ago, when the Senator from New Mexico was still chairman of the Agriculture Committee. It was in 1958, 13 years ago, my staff informs me.

We found the position taken by many people advocated that the Federal Trade Commission get into the picture of consumerism, of guaranteeing to consumers a lot of things they ought to have in the meat industry. They took the position that the Packers and Stockyards Administration was not doing its job. That was an agency in the Department of Agriculture at that time, and it still is.

When we got to digging into the proposition, there was a reason why the Packers and Stockyards Act was not administered properly, thoroughly, comprehensively, and in satisfactory fashion; and that reason lay within the Halls of Congress—within the Halls, initially of the Appropriations Committee—and then the respective bills and the votes that were had thereon in the House of Representatives and the Senate.

They acted very well indeed for the budgets that were allowed them, but those budgets showed plainly that obviously Congress did not want the Packers and Stockyards Administration to have enough funds to get into various additional areas assigned to them by the statute.

I yield to the Senator from Kentucky.

Mr. COOK. In connection with the problem of which the Senator has spoken, I refer to the hearings record, where, on page 35, is a letter addressed to the Honorable FRANK E. MOSS, chairman, Subcommittee on Consumers, written by Paul Rand DIXON, who is a member of the Federal Trade Commission. I read from his letter:

> I am vitally concerned with the substantially increased burden which would be placed upon the staff by enlarging our jurisdiction to include local law violations. I realize that, as indicated in the Chairman's statement, we could use our discretion and not act as a giant neighborhood law office. However, should this amendment be adopted, it is obvious that with the increasing number and activity of consumer groups, our enlarged jurisdiction will be well known. Undoubtedly, pressure to act in each instance of an alleged law violation brought to our attention will increase. Certainly, we could not deny that we have the responsibility. I strongly believe that we should leave this responsibility with local governments and continue our programs of cooperation with those governments.

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Since the amendment would substantially increase our responsibility, I must add one further comment. It would indeed be tragic if our jurisdiction were expanded to practices "affecting" commerce without a concurrent increase in funds to enable us to assume the added responsibility. With our limited funds, I am convinced that we could not begin to reach even the most flagrant of those practices coming within our expanded authority.

The letter is signed by Mr. Paul Rand Dixon, Commissioner of the Federal Trade Commission.

Mr. HRUSKA. The rest of that paragraph, if the Senator from Kentucky will permit—and I know he left it out because he wants to conserve time—reads as follows——

Mr. COOK. I would be delighted to add it, if the Senator will permit me to do so.

Mr. HRUSKA. Will the Senator read the rest of it?

Mr. COOK. Yes.

Frankly, to provide the Commission with this authority without increased funds for enforcement is to hold out false hope to the consumer. There would be increasing pressure to act and no funds to perform. I strongly urge that, if this amendment is adopted, additional funds be immediately provided to enable the Commission to carry out its *full* responsibility.

That is why I am a little surprised to see in the report, a copy of which is on every Senator's desk, that the increased cost of all this expanded authority in title I is limited to $200,000 the first year, $200,000 the next, and $150,000 the third, and the increased cost of title II, with all of its commensurate lawsuits, attendant problems, and investigations, is shown as nothing.

Mr. HRUSKA. I thank the Senator for that contribution.

Getting back and reverting, Mr. President, to the situation of the Packers and Stockyards administration and the Federal Trade Commission, I do so because I think there is an analogy and a lesson to be learned from the factual situation and the manner in which that situation was handled. It is a matter of record, from hearings through several years, that there was a great lack of confidence in the fashion in which the Packers and Stockyards Act was being administered. From both sides of the aisle, concrete suggestions were made. I know that in the Subcommittee on Agriculture, which happens to be one of those on which I serve and was serving at that time, there were recommendations made and suggestions made, based upon the disclosures within the hearings themselves, as to what had to be done if confidence in the Packers and Stockyards administration was to be restored and the matter might go forward.

Eventually, the dispute between the respective jurisdictions of the Federal Trade Commission and the Packers and Stockyards administration was resolved, but one of the things that was the basis for that resolution was this: That there would be a revision, a revitalization, and a correction of many of the faulty procedures under the Packers and Stockyards Act; and if that were done, there would be a funding of those activities.

That meant that Congress would first have to be satisfied that the methods that were resorted to for the purpose of restoring confidence actually possessed merit. At that point, then, we could look for the increase of appropriations that would be necessary in order to have a good job done.

That was done. In this situation here, where we have a subject within the purview and the actual jurisdiction of the Judiciary Committee, centering, as it does, in adjective law and in statutes, in penalties, and in its impact upon the judiciary, and realining many of these things and enlarging the type of action that is taken insofar as the Federal Trade Commission is concerned, certainly, Mr. President, we should make every effort to reach a point where there is a consensus here that the provisions by which a satisfactory basis for the Federal Trade Commission revision and restructuring should be acceptable and would be considered workable.

But at that point we could go forward, confident in the idea that to the extent that the commission is in sympathy with that point of view, the activities would be funded, and in adequate degree.

Mr. President, getting back to the situation in the courts, we have high priority criminal cases now which are suffering tremendous delays. Justice delayed is justice denied—an old, hackneyed principle, but of course it is true. We have many efforts from many sources by which we are trying to improve that picture, and some progress is being made. Further progress is on its way. But superimposed upon the load that the Federal judiciary system now has are almost daily incursions upon the burdens of the judiciary.

Before we get to a characterization of these incursions, we ought to consider this: The Federal courts are courts of limited jurisdiction. They are created that way; they are designed that way. They are supposed to have—and they have had, in the main, traditionally and historically—limited jurisdiction; that jurisdiction which must necessarily be exercised by the Federal authorities and which the States cannot do, and then these additional assignments which come to it as we progress in our Nation's development in a rather more sophisticated and more complicated society than we originally had. Notwithstanding that, the Federal courts are courts of limited jurisdiction.

A prime proof of that is found in this fact: The total number of judges in the Federal system exceeds 400 by 6 or 8. That includes district judges, who are the trial judges; the appellate courts, which are the circuit courts of appeal; and the United States Supreme Court. Compared with or contrasted with judges on a State level—not the justices of the peace and the county courts—contrasted with the bench of the 50 States, on which we find a total in the range of 4,000 judges, that spells out very definitely and indisputably that the Federal courts not only are intended to function but also are functioning as courts of limited jurisdiction, and necessarily so, under our system of a federated republic of 50 States and therefore 50 jurisdictions in the field of jurisprudence and of the judiciary.

What is happening by way of incursions upon this Federal judiciary system? Last year, Chief Justice Burger spoke before the American Bar Association on this subject, and he commented upon the overburdening of the courts, on the fact that they were running behind in their work, that they were struggling valiantly, that efforts were made to streamline and to reduce the waiting time, and so forth. But he said, over and above this.

Third an entirely new kind of cases have been added because of new laws passed by Congress and decisions of the court.

Two recent statutes alone added thousands of cases relating to commitment of narcotics addicts and the mentally ill. These additions came when civil rights cases, voting cases, and prisoner petitions were expanding by the thousands. In 1940–1970, personal injury cases multiplied five times.

Petitions from State prisoners seeking Federal habeas corpus rose from 89—not 890, not 8,900, but 89 cases—to 12,000 cases.

This leaves us without the impact of such environmental cases as are coming along the way, these consumer cases, and almost every month Congress produces some sort of bill of one kind or another which adds to the jurisdiction and the workload and the responsibility of the Federal court system.

So the Chief Justice called attention to the fact that petitioners for State prisoners seeking Federal habeas corpus rose from 89 to 12,000. He continued in his speech:

Meanwhile, not a week passes without speeches in Congress and elsewhere and editorials demanding new laws to control pollution, for example, and new laws allowing class actions by consumers to protect the public from greedy and unscrupulous producers and sellers.

No one can quarrel with the needs nor can we forget that large numbers of people have been without protection which only lawyers and courts can give. The difficulty lies in our tendency to meet new and legitimate demands with new laws which are passed, without adequate consideration of the consequences in terms of case loads. Now we must make a choice of priority.

That was from Chief Justice Burger's speech in St. Louis on August 20, before the American Bar Association convention.

There is the background. There is the foundation for one of the troubles of title II when it expands again the number of cases that will be heard—first of all, not only commerce, but affecting commerce as well; second, in consumer class actions, which will rise rapidly in number, which are protracted, which are very complicated, and which will monopolize the time and resources of many of our courts.

We have, for the first time, the capacity sought to be invested in the Federal Trade Commission of bringing several types of actions by attorneys on their own staff or of their own designation, instead of having that syphoned through and properly processed by the Department of Justice, which is the department in which law enforcement resides inherently, and properly so, and for good reason.

We are going to find the situation one in which there will be this much added burden to the judiciary system. So we should take this into consideration.

The second part of my amendment, which is the pending business of this body, would have to do with one method whereby we could make some progress in finding a way to do what is necessary in the field of bringing to the consumers of this Nation and the purchasers of goods and services those things which they are entitled to have when things go wrong and they need a remedy in some judicial or quasi-judicial body. In addition to that, of course, we go into the matter of how to revise the Federal Trade Commission itself.

Mr. President, it seems to me that the better part of wisdom at this juncture—we have the time to do it, inasmuch as the other body has not taken much action in this particular field—would be to enact title I at this time and to defer action on title II. Title I is self-sufficient, in its own terms, to proceed with the vital and the highly important program for consumer protection, in the field of warranty and substantive law on warranties. It is entirely self-contained and self-sufficient. Its going into effect would not be impaired in the slightest by deferring action on title II until a later time and subject to proper processing by the proper committee. That was part of the administration's program. The administration's program was that there should be a separate consideration of the various subjects. Three bills were sent up to Congress. The first one was S. 1219, introduced last year, in March, to amend the FTC act. Then there was another bill, S. 1221, which calls for increased warranty protection—section 1222 calling for class actions and proposing various provisions in that field.

The point I make is that the plans and subjects were designed for individual attention, and they should be. There should not be an attempt to capitalize on the obvious popularity of a bill having to do with warranties and promising many things to consumers if they only support passage of one title and then append to that, in the same bill, a provision that has to do with an entirely disrelated one—disrelated because it has to do with proceedings whereby, in some instances, the recoveries may be had and remedies afforded to those who justly complain about malfunctioning warranties or defects in servicing, and so forth.

So the better part of wisdom would indicate that that is a better way to go about it in the long run, considering that the FTC has been the subject of extensive study and that all the alternatives, together with a meticulous examination of each, would give a chance to be heard and a decision to be made. That result would be brought about in several ways. One way is to find favor for the adoption of the amendment now pending. That amendment would strike title II, not because it is not necessary, not because it does not have merit, but because it should have further study and it should have, within its own framework, many amendments, even if the bill is gone forward with.

In due time, if good judgment should not prevail and the amendment is not approved, we can get into some of those. So that one way to approach it would be to delete title II at this time and put in that part of the bill which would become title II providing for this study commission to find out, among other things, if it would not be practical to create a small claims court for the purpose of processing this type of case in a way that would be more fair, more direct, and more productive of results than a consumer class action, which is not only unwieldy and expensive but which does not do the job so far as practical achievements are concerned.

Another way would be a motion to deal with this instant situation, to move that title II and its contents be referred to the Judiciary Committee for its consideration, hearings, discussion, and report; notwithstanding the abortive attempt to make a reference of the bill to the Judiciary Committee which was not effective and productive.

The third alternative, of course, is to go into the subject matter as best we can, part by part of title II, and see if we can revise it and amend it and put enough corrections in some of its more glaring respects where amendment is necessary, and see if we can turn out a better bill.

Mr. President, Congress should once again reject the legislative rulemaking authority which is sought by title II and section 206 in favor of the FTC. This pending bill seeks to authorize the Federal Trade Commission to "issue legislative rules defining with specificity facts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this act proscribes."

This language just quoted is found in section 206 of the bill. That section would strike present section 6(g) of 15 U.S.C. 46(g) and add a new subsection, (g), dealing with rules. Part of that section 406 deals with procedural rules, a sensible and a fine topic, one that is commendable and properly attuned to the needs of the day.

Then the second part, dealing with the legislative rules that the FTC would be authorized to issue, that is the pernicious part of the bill. Thus we find ourselves, Mr. President, in full cycle once more.

In 1914, when the original FTC Act was adopted, a very complete and detailed consideration was accorded the proposition as to whether the Commission should be granted substantive or legislative rulemaking power.

That concept was decidedly rejected. It was rejected deliberately and firmly. That position has been reiterated by Congress on several occasions since 1914, when efforts have been made to revive the issue in one form or another.

The rationale and policy of Congress, briefly stated, is that judgments as to what may or may not be in the best interests of consumers are keenly individual. They are subjective judgments. The phrase, "acts or practices which are unfair or deceptive to consumers" defies limitation, it defies definition. It can be characterized only in most general terms but its reaches are virtually infinite in terms of Federal legislation pursuant to the phraseology which we find in title II, section 206; hence, such judgment should be made in a body that is representative, one that is elected and, therefore, not only receptive to the many factors involved, the short-term and the long-term impact of a given rule or law or statute, but also a body which is responsible to those who are governed by the legislation which evolves.

The FTC, a group of five persons, is legislatively created. It is appointed by the President. Therefore, it is not a body such as should be making the type of judgment referred to. It is almost unthinkable that we would ask for the approval into law of legislative rules, Mr. President, that are based upon subjective judgments, and that we would entrust that very, very important and vital subject to the decision of as few as two men appointed for 7 years, responsible to no one and who cannot possibly possess attributes which are necessary in order to arrive at a decision which is subjective in nature, which will meet the test of being an acceptable and workable bill and one which will satisfy a nation of 208 million, every one of whom will be affected by that decision which will be made by the Federal Trade Commission.

It is a commission composed of five members. However, by its working rules, only three of them are required for a quorum. It is conceivable that only two of them can decide a matter and turn a rule into a statute having full force and effect of law with penalties and sanctions which are very substantial—$10,000 by way of such damages for each violation and, in some cases, each day of violation. $10,000 a day for a goodly number of days would be a very substantial penalty, in addition to some of the penalties made available under section 203 in the consumer class action bill, a legislative consumer class action bill.

Congress has historically taken a position in this regard that the Federal Trade Commission is not to be granted power to promulgate as law whatever it might feel would be good for the consumer. Congress has consistently felt that only the Congress is equipped and is so representative as to weigh what, in widely varying and often conflicting interests within a nation of over 200 million people, will be affected by such judgments and enactments. Only Congress should strike balances and weigh equities after weighing all questions and factors involved in this type of consumer legislation which seeks to define and enforce with specificity acts or practices which are unfair to consumers.

Only Congress should enact such statutes, Mr. President. As already noted, the pending bill authorizes the Federal Trade Commission to issue these legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this act proscribes.

Now, therefore, to get the full tenor of the extent of this grant of authority, we should consider the text of section 5(a)(1) of the Federal Trade Commission Act which is found in 15 U.S.C. at section 49. Subsection 1 reads as follows:

Unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce are declared unlawful.

That area would be added to the first area, to the express words of section 206,

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which I have just read in order to define the area in which the Federal Trade Commission may function to legislate.

What a concept of legislation. It is a total abdication of the legislative power which this Congress derives from the Constitution.

Article I, section 1 of the Constitution says that all legislative power shall be vested in the Congress. And there are instance of the delegation of that power. But they are instances limited in character and defined in such a way that Congress still essentially keeps control of the situation. Yet here we have an instance where an effort is made to abdicate our responsibility in a very, very wide field, the width and the breadth and the depth of which we will go into in a moment.

It is unprecedented that such a general grant of legislative rulemaking power be granted to any agency of the Federal Government validly.

An effort was made in the early thirties to do this. Many of us remember the blue eagle that used to be pasted in the doors and window of the shops and factories stating that they were sworn to defend the National Recovery Act.

We had a lot to do with it, but the Supreme Court said, in the field of poultry, of all things, that Congress cannot do that, that it cannot give such a broad delegation of power to individuals, presidential appointees, responsible to no one, that that very vital control is a constitutionally created legislative power which belongs in the Congress, and it is only when it is limited and when it is restricted that it will be found to be valid and within the constitutional limitations and in compliance with the Constitution.

So here we have an unprecedented effort to try to vest the Federal Trade Commission with that kind of legislative power. It just does not seem that it is at all the way to go about it in view of the past history of this Nation and our traditions as a Government that is run by a representative legislative body with coequal branches of the judicial and the executive.

Justice Cardozo had this to say in his concurring opinion in the Schechter decision, found at 295 U.S. Reports, at page 552:

> The delegated power of legislation which has found expression in this code is not canalized within banks that keep it from overflowing. It is unconfined and vagrant, if I may borrow my own words in an earlier opinion. Panama Ref. Co. v. Ryan, 293 U.S. 388, 440, ante, 446, 55 S. Ct. 241.
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> This court has held that delegation may be unlawful though the act to be performed is definite and single, if the necessity, time and occasion of performance have been left in the end to the discretion of the delegate. Panama Ref. Co. v. Ryan, supra. I thought that ruling went too far. I pointed out in an opinion that there had been "no grant to the Executive of any roving commission to inquire into evils and then, upon discovering them, do anything he pleases," 293 U.S. at p. 435.

Mr. President, that is the situation here. We are giving the Federal Trade Commission investigatory power. They are being given power to issue cease and desist orders and to hold hearings upon those orders.

They have the power to pursue cease and desist orders into court—the circuit court first, then the Supreme Court, skipping one court altogether, much to the detriment of litigation resulting therefrom. We are not only giving them all those powers, but we have been discussing the evils they can do. They can do anything they choose or anything they please with their power, which is exactly what took place in the Panama case and again in the Schechter case, the poultry case. I resume the quotation from the opinion of Mr. Justice Cardozo:

> Choice, though within limits, had been given him "as to the occasion, but none whatever as to the means." Ibid. Here, in the case before us, is an attempted delegation not confined to any single act nor to any class or group of acts identified or described by reference to a standard. Here in effect is a roving commission to inquire into evils and upon discovery correct them.
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> 552 I have said that there is no standard, definite or even approximate, to which legislation must conform. Let me make my meaning more precise. If codes of fair competition are codes eliminating "unfair" methods of competition ascertained upon inquiry to prevail in one industry or another, there is no unlawful delegation of legislative functions when the President is directed to inquire into such practices and denounce them when discovered. For many years a like power has been committed to the Federal Trade Commission with the approval of this court in a long series of decisions. Cf. Federal Trade Commission v. R. F. Keppel & Bros., 291 U.S. 304, 312, 78 L. ed. 814, 819, 54 S. Ct. 423; Federal Trade Commission v. Raladam Co. 283 U.S. 643, 648, 75 L. ed. 1324, 1329, 51 S. Ct. 587, 79 A.L.R. 1191; Federal Trade Commission v. Gratz, 253 U.S. 421, 64 L. ed. 993, 40 S. Ct. 572. Delegation in such circumstances is born of the necessities of the occasion. The industries of the country are too many and diverse to make it possible for Congress, in respect of matters such as these, to legislate directly with adequate appreciation of varying conditions. Nor is the substance of the power changed because the President may act at the instance of trade or industrial associations having special knowledge of the facts.
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> Their function is strictly advisory; it is the imprimatur of the President that begets the quality of law. Doty v. Love, 295 U.S. 64, ante, 1303, 55 S. Ct. 558, 96 A.L.R. 1438. When the task that is set before one is that of cleaning house, it is prudent as well as usual to take counsel of the dwellers.
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> But there is another conception of codes of fair competition, their significance and function, which leads to very different consequences, though it is one that is struggling now for recognition and acceptance. By this other conception a code is not to be restricted to the elimination of business practices that would be characterized by general acceptation as oppressive or unfair. It is to include whatever ordinances may be desirable or helpful for the well-being or prosperity of the industry [553] affected. In that view, the function of its adoption is not merely negative, but positive; the planning of improvements as well as the extirpation of abuses. What is fair, as thus conceived, is not something to be contrasted with what is unfair or fraudulent or tricky. The extension becomes as wide as the field of industrial regulation. If that conception shall prevail, anything that Congress may do within the limits of the commerce clause for the betterment of business may be done by the President upon the recommendation of a trade association by calling it a code. This is delegation running riot. No such plenitude of power is susceptible of transfer. The statute, however, aims at nothing less, as one may learn both from its terms and from the administrative practice under it. Nothing less is aimed at by the code now submitted to our scrutiny.
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> The code does not confine itself to the suppression of methods of competition that would be classified as unfair according to accepted business standards or accepted norms of ethics. It sets up a comprehensive body of rules to promote the welfare of the industry, if not the welfare of the nation, without reference to standards, ethical or commercial, that could be known or predicted in advance of its adoption. One of the new rules, the source of ten counts in the indictment, is aimed at an established practice, not unethical or oppressive—the practice of selective buying. Many others could be instanced as open to the same objection if the sections of the code were to be examined one by one. The process of dissection will not be traced in all its details. Enough at this time to state what it reveals. Even if the statute itself had fixed the meaning of fair competition by way of contrast with practices that are oppressive or unfair, the code outruns the bounds of the authority conferred. What is excessive is not sporadic or superficial. It is deepseated and pervasive.
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> [554] The licit and illicit sections are so combined and welded as to be incapable of severance without destructive mutilation.
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> But there is another objection, far reaching and incurable, aside from any defect of unlawful delegation.
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> If this code had been adopted by Congress itself, and not by the President on the advice of an industrial association, it would even then be void unless authority to adopt it is included in the grant of power "to regulate commerce with foreign nations and among the several States." United States Constitution, Art 1, § 8, cl. 3.
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> I find no authority in that grant for the regulation of wages and hours of labor in the intrastate transactions that make up the defendants' business. As to this feature of the case little can be added to the opinion of the court. There is a view of causation that would obliterate the distinction between what is national and what is local in the activities of commerce. Motion at the outer rim is communicated perceptibly, though minutely, to recording instruments at the centre. A society such as ours "is an elastic medium which transmits all tremors through its territory; the only question is of their size." Per Learned Hand, J., in the court below. The law is not indifferent to considerations of degree. Activities local in their immediacy do not become interstate and national because of distant repercussions. What is near and what is distant may at times be uncertain. Cf. Board of Trade v. Olsen, 262 U.S. 1, 67 L. ed. 839, 43 S. Ct. 470. There is no penumbra of uncertainty obscuring judgment here. To find immediacy or directness here is to find it almost everywhere. If centripetal forces are to be isolated to the exclusion of the forces that oppose and counteract them, there will be an end to our Federal system.
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> To take from this code the provisions as to wages and the hours of labor is to destroy it altogether. If a trade or an industry is so predominantly local as to be exempt [555] from regulation by the Congress in respect of matters such as these, there can be no "Code" for it at all. This clear from the provisions of § 7a of the act with its explicit disclosure of the statutory scheme. Wages and the hours of labor are essential features of the plan, its very bone and sinew. There is no opportunity in such circumstances for the severance of the infected parts in the hope of saving the remainder. A code collapses utterly with bone and sinew gone.
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> I am authorized to state that Mr. Justice Stone joins in his opinion.

Mr. President, here we have the language that the Federal Trade Commission shall issue legislative rules defining with specificity acts or practices which are unfair to consumers.

Then, we get to section 5 of the act which reads in similar fashion that unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce are declared unlawful.

So as Justice Cardozo pointed out way back in 1935, over one-third of a century ago, even if the statutes do fix the meaning of fair competition by way of contrast with practices that are oppressive or unfair, the code outruns the bounds of the authority conferred.

The code has followed this precedent since 1914. Although from time to time there were efforts made in the early history of the Federal Trade Commission Act to revive the idea so very firmly rejected by Congress that the FTC had no substantive rulemaking power, there finally became accepted that idea, and for almost one-half a century not even the Federal Trade Commission took the position they possessed that power. They worked on the idea they did not have that power.

Only in the last several years have voices been raised and there is litigation pending in the courts regarding aspects of this new abuse, namely legislative rulemaking power, and now we have an attempt to come right back into the arena with the same arguments and the brand of authority Congress turned down in 1914, and the rules and the reasons for rejecting it are the same now as they were 57 years ago.

The position of the Commission that it lacked substantive or legislative rulemaking power was consistently held until about 1961 or 1962, according to some authorities, and this also appears in the legislative history of the statutes enacted after the Federal Trade Commission Act that conferred on the commission in limited area substantive or legislative type rulemaking power. There are four such acts that have been enacted: The Wool Products Labeling Act, the Fur Products Labeling Act, the Fiber Products Identification Act, and, more recently, the Packaging and Labeling Act. In each instance there was a relatively new field. The context of the grant of legislative rulemaking power was such that it was contained in that narrow field and it was not given broad or general application and jurisdiction.

The Wool Products Labeling Act was the oldest of these. It was passed in 1940 with the active support of the Commission. The Commission supported such an important factor in the passage of the law and this fact was sometimes used to refute the argument by the bill's opponents that the Commission could handle the problem with its existing powers.

Congressman CASE stated it this way:

> The second argument is that the evils of false labeling are being curbed and gradually cured by the Federal Trade Commission. If that were so the Federal Trade Commission itself would not be on record in favor of the passage of the bill and the Federal Trade Commission did testify in favor of the bill. It testified that something like this was needed to put teeth into their recommendations to the trade. (86 Cong. Rec. 11320 (1940.))

In 1951 Congress passed the Fur Products Labeling Act, and in 1958 the Textile Products Labeling Identification Act. Both of these measures were also supported by the Federal Trade Commission. One reason the Commission desired these two laws was to provide it with jurisdiction over deceptive labeling and advertising at the local level. But equally important was that the Commission did not believe that it had the power affirmatively to require members of an industry to adopt practices not otherwise required by section 5.

Henry Miller, Assistant General Counsel for the Commission, testified in favor of the Fur Products Labeling Act as follows:

> Our trade practice rules do not require mandatory labeling unless we have felt that we have not the power to require them.

The citation for that statement is found in the hearings on H.R. 23211 before the Interstate and Foreign Commerce Committee of the House in the 82d Congress, which was in 1951.

Mr. Miller continues:

> Under the trade practice rules Mr. Gold, [a previous witness], said he is very much in favor of our making those rules do what is intended in this bill. That is all well and good, but if there is no legal authority to do it, neither Mr. Gold nor his clients can do it, nor can we. (Id. at 161.)

And then we get to hearings which are within the memory of most Members of this body, and that is the Fair Packaging and Labeling Act. The chairman of the committee, as recently as 1966, candidly recognized the difference between the type of power that the bill would confer and the power the Commission possesses under the Federal Trade Commission Act.

At one point, testifying before the House Interstate and Foreign Commerce Committee, he stated:

> So it (the procedure described under the Packaging and Labeling bill) would be quite a different procedure. Here it is very clearly rulemaking authority if these limited fields are granted. We have no ultimate rulemaking authority across the board on deceptive practices as such.

That is found in the hearings on H.R. 15440 before the House Interstate and Foreign Commerce Committee in 1966. The chairman also explained how the rulemaking powers under the Fair Packaging and Label Act would occur:

> Once a regulation was promulgated—
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> He said—
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> a violation would be a per se violation of section 5 of the Federal Trade Commission Act and what we would do is say, "You violated a regulation which was duly promulgated under this legislation."

Then would follow the judgment and the penalty, whatever it was.

So we have the situation leading to this conclusion: That, in sum, there can be no doubt, that the provisions of the Federal Trade Commission Act, read in their entirety, do not confer upon the commission substantive or legislative type rulemaking power. That conclusion is confirmed if provisions of the Federal Trade Commission Act are read together with the contrasting provisions of other statutes the Commission administers. The conclusion is further confirmed when one examines the legislative history of the Federal Trade Commission Act.

It would be well to consider what the Federal Trade Commission could legislate under the proposal authorizing it to issue legislative rules. In what areas could it become active? The extension of power, the authority, is broad. It says "authority to issue legislative rules with specificity to acts or practices which are unfair to consumers." And what is unfair to consumers? We could, of course, add to that language the language of section 5 itself, because the rest of the language is that, "Acts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this act proscribes."

When we get to section 5(a)(1) of the present act we have even more general language: "Unfair methods of competition in commerce or unfair or deceptive acts or practices in commerce declared unlawful."

This bill goes that one better. It says not only commerce, but matters affecting commerce or goods affecting commerce. That means everything. It is of universal application.

What are some of the areas that the Federal Trade Commission could get into if it were granted this very drastic power? It could get into the field of wage and price controls. Why not? Do not wages affect the consumer? When there is spiral after spiral of wages followed by or preceded by and interlarded with increases in prices, does that not impinge upon the well-being and happiness and progress of the consumer? It does indeed.

We can fulminate since August 15 that we are going to have a renewal in phase II of the President's program. We can fulminate all we want to. Later this week or next week we are going to take up some tax measures necessary, on a legislative basis, to implement the President's program. Some of them will be in the field of legislation that only Congress can act on. Yet some persons who advocate granting to the Federal Trade Commission power which would include this power so that this body of 5 appointees could, with their own rules, decide what should be done by way of prices and wages. I imagine that would raise quite a furor. Many people would make themselves immediately heard, vocally or otherwise. Nevertheless, it is within the power of the Commission.

Does not this type of example make the situation so pernicious? The idea, though, is to illustrate the length and breadth to which the Federal Trade Commission may go if this power is granted.

Another area is of great importance in my part of the country. I come from an agricultural part of the country, the big breadbasket and the meat locker of the Nation. We have a farm program that has been going on for many years now. Part of that farm program is based upon the idea that there should be a limitation of production so that there will not be such surpluses of agricultural products that the market will become so depressed that the agricultural industry, the raisers of wheat, feed grains, hogs, and cattle, will not get into an economic stricture which would make it impossible for those engaged in that industry

to continue their activities. The program involves setting aside a certain number of acres which will not be tilled and which will not produce agricultural goods.

Yet that program could well become grist in the mill for the Federal Trade Commission if it were armed with the authority which section 206 seeks to give it. Certainly it could be said it is unfair and it is bad for the consumers to be deprived of those products which could be grown on those unused acres "and we therefore make a rule that there shall be no laws that will forbid the use of acres."

So you see, Mr. President, it is not only in new fields that this power would enable the Federal Trade Commission to function; it could take existing laws and existing statutes and say, "These laws and these statutes are unfair." The Commission could say that featherbedding is unfair to the consumer "and therefore we are going to make a rule that featherbedding is unfair and it will be a violation per se if featherbedding is engaged in by labor unions or anyone else," and that will be the law of the land.

Why did not they think of this sooner? Look at all the trial and travail of 535 individuals being divided into committees, having hearings, calling witnesses, having executive sessions, and deciding, after considering all the factors in a complicated piece of legislation, on particular words and figures in reporting a bill.

Then it is debated here, and it is voted on. The other body goes through a similar process, we have a conference, and eventually the differences are ironed out and the bill goes to the White House; and there happens one of two events: Either the bill is signed or it is vetoed.

All of that folderol is disregarded in this modern way of instant legislation, Mr. President. All you have to do is follow the rather sketchy, inadequate, trouble-making provisions of rule 260, have the Federal Trade Commission pass a law-making rule, a legislative rule, and that becomes the law of the land.

Can it be challenged in the courts? Yes, it can be challenged in the courts. And what will the court hold? The court will hold, if the precedents which have been extant in this field for decades obtain, that whether a given course of conduct is fair or not is something which Congress has delegated to the members of the Federal Trade Commission to decide. They have decided it is unfair; there is nothing upon which to predicate an appeal, and that is the law of the land.

Is provision made for congressional review? Yes, there is provision for congressional review. After all the steps that are outlined in section 206 are more or less complied with, together with their outstanding feature of disregarding due process in the process of legislation, but after they are all completed and before the rule becomes final, it must be sent to Congress by the Federal Trade Commission, and Congress, in all of its majesty and in all of its leisurely course of dealing, will have 60 whole days, Mr. President, to consider whether it wants to disapprove of the rule.

Already we have discussed, earlier in the colloquy which transpired here, the impracticality and the lack of reality and realism in such a provision. Congress cannot gear itself up to take action on a matter of that kind, with its busy schedule and its many commitments, within the time that is allotted. There is no question about that. That type of congressional review has been tried in other instances—in the Reorganization Act, for example, and in other situations—and it is not practical whatsoever.

Mr. President, what are some of the other examples to which the Federal Trade Commission could repair for the purpose of establishing its newly derived, newly constituted authority?

The field of antitrust: Some years ago, in fact, some 8 or 9 years ago, or maybe a little more, before the Judiciary Committees of Congress, there was what in the Senate was known as S. 11, a bill that was introduced, as I remember, under the authorship of the late Senator Kefauver, and it had a number of cosponsors. The bill was actually passed in the House of Representatives in one session, though when it was proposed in the next session it was absolutely rejected.

What did it have to do with? It dealt with the Clayton Act, as amended by the Robinson-Patman Act. There the idea of cutting prices was forbidden, unless there was a defense of good-faith in meeting price cuts by others.

That was upheld by the Supreme Court. The thrust of the bill, S. 11, was to eliminate the defense of good-faith cutting of prices in order to meet price cuts which are made by others.

By that time, Mr. President, this litigation was some 16 or 17 years of age. It had started in Detroit back in 1940, as I remember, and it went through all the paces leisurely and thoroughly, and went to the Supreme Court. The Supreme Court sent it back after 5 or 6 or 7 years, and then another round of the same thing occurred and it went back up to the Supreme Court, and the Supreme Court sent it back again.

The net effect of that second Supreme Court decision was that this defense would stand, and that accounted for the introduction of this bill that has never followed into law, and properly so I say as one who became very familiar with the merits and the details of the proposal.

All of that would be thrust to one side. The Federal Trade Commission, as is any commission, is anxious to be possessed of powers, implements, and tools to go forward with its great humanitarian mission—and I do not say this in any sarcastic or downgrading way. Each one conceives of its mission as being important, and they have faith in the idea that if they could only have the tools and the implementation, they could make greater progress to serve the mission entrusted to them.

Under the circumstances of eliminating the defense of good faith price cutting in order to meet price cuts by others, by one competitor, would there be much doubt as to where they would go in the hands of a commission of five commissioners, appointed by the President and responsible, virtually, to no one? They could—I do not know if they would or not, but they could—say, "That good faith defense is nonexistent; from now on, it will not be a defense to say, 'I cut my prices because a competitor of mine cut his first, and I do that because I have to meet competition.'"

I am informed and it is my recollection that some of the commissioners did testify in favor of this. But whether they did or not, they have the capacity, Mr. President, under this act, if this authority is granted to them, to get into this phase of the Clayton Act, as amended by Robinson-Patman, or virtually any other phase of antitrust.

Why not? Every one of the decisions in the antitrust field does impinge, in one way or the other, more or less directly upon the well-being or the alleged well-being of consumers, wherever they are, and the allegation could be made that this practice or that practice, or this way of doing things or that law to do certain things, is unfair.

That decision made, compliance made with the very sketchy and unsatisfactory rules found in section 206, and a new statute would be born—a rule, to be sure, but a rule having the force and effect of law. And anyone violating it would per se be guilty, and would be subject to the penalties which would follow.

Included in those penalties, of course, would be the consumers' class action business, created legislatively, without reference to many, many factors that should be considered when a class action venue is laid. When a remedy of consumers' class action or any kind of class action is created, it would have to be done in a way that would fit into the general system of jurisprudence and into the judicial system of this country.

Now, there are some exceptions which it is said might not be affected. There is subsection (a) (1) (6), found in section 45, title 15 of the United States Code.

It deals with the general subject of section 5, "Declaration of unlawfulness," and then "Power to prohibit unfair practices."

Subparagraph (6) of that section reads as follows:

(6) The Commission is empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Federal Aviation Act of 1958, and persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, except as provided in section 406(b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce.

Section 206 in title II does not say that these exceptions will be made when it comes to the power of the Federal Trade Commission to engage in the authority to issue legislative rules. All it does is to refer to the first sentence of that paragraph, which reads:

Unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce are declared unlawful.

It is that which is a part of section 206, and it is that to which we must go to determine the purview of section 206. But even if it were to be extended, even if these exceptions found in subparagraph (6) are to be extended to limit rule-making power for which authority is sought in section (6), there would be

many areas in which there would be regulation by other bodies besides the Federal Trade Commission, in which the Federal Trade Commission would be authorized to pass rules and enact rules that would have the force and effect of law.

Why would it not apply to the Federal Power Commission? That is one of the exceptions. It would. Does power have any impact upon consumers in the sense of fairness or unfairness? I would think it does. I think everyone would agree that in the field of power, that would be true.

There is another field in which it would very likely find it very handy to have that power, and that is the field of advertising—in newspapers, in TV, in radio. Then we would not have any quarrel about the authority of the Federal Trade Commission to get into the field of legislating on ads for cigarettes or tobacco; because all that the Federal Trade Commission would have to do would be to say it is deceptive to advertise in this sort of way, that is the rule, and anyone who advertises in that sort of way is immediately guilty of a violation of the law and is subject to all the penalties contained therein. It is a per se violation, the mere fact of doing it. So that it would apply to advertising—TV and radio and newspapers.

Another field is the Food and Drug Administration. They have many rules. They have many laws that govern. Certainly, in food and drug and pharmaceuticals and all that goes with drugs and the Packaging and Labeling Act, all those subjects would be grist for the mill, for the Federal Trade Commission to come in and attempt to exercise its authority to issue legislative rules. Having done so, they would supersede any statute on the books, because they have the force and effect of law, and they would be the law, and a violation thereof would be a per se violation.

The same would be true in all merchandising fields, including franchises. We had extensive hearings on the $100 billion plus annual output of franchises. The Federal Trade Commission would make life simple.

It would make a decision that a certain part of franchising would be unfair or deceptive and therefore would not have to bother about hearings and about balancing the good and the merit that exists in franchises, and they would not have to bother with that which does not.

In the field of merchandising, what about the field of co-ops and the field of trading stamps and of contests and of credit? Banks are excluded by subsection (6), if that subsection applies. I do not think it does, in my reading; but even if it does, banks are excluded, but not credit.

As to brands, there is thinking on the Federal Trade Commission today that the use of brands and building up of goodwill is not for the benefit of the consumer, that it is unfair to the consumer, because he is there asked to pay, as a part of the merchandise he buys and uses, for an effort to build up goodwill, and that that is not necessarily reflected in the quality of the product.

So America would then be asked to forgo the tradition it has always had of favoring brands, when we say we want a Ford or when we say we want Del Monte or when we say we want a Camel rather than a True. But there are those who would say that brands are no good, that you should simply say "tomatoes with heavy syrup," "tomatoes with light syrup," or "tomatoes with no syrup," and put them in a plainly wrapped can marked "tomatoes." They would be either lumped or sliced, and that would be it. They feel that the customer would get a better bargain, because then he would be paying only for the merchandise and the labor and the material that goes into it and not all these goodwill programs and campaigns.

That gets back into the matter of advertising again. That is within the purview of the power that section 206 is seeking to authorize the Federal Trade Commission to issue these legislative rules.

We get into another field. What about patents and trademarks? Are patents unfair to users? We had that argument advanced and we battled on this floor, in 1962, an attempt to do away with patents in pharmaceuticals and to have compulsory cross-licensing under a formula spelled out in the bill. But where would the incentive have come from to pioneer or invent new pharmaceuticals, or to induce boards of directors to spend the money of stockholders for something new if they did not have enough advantage, at least to recover their capital or the moneys expended for them? The good judgment of the Senate prevailed, and that provision was stricken. I hope it will never be renewed. It was a derivative of patent law, which derives from a situation itself. Yet we had it before us. It was a provision to give the Federal Trade Commission the power to issue rules to say that patents are unfair to consumers; and having made that decision, they could promulgate it. They complied with the many provisions contained sketchily and, in some instances, harmfully in section 206; and when they reached the final point, they said that would be the law of the land.

In an instance like that, perhaps Congress would leap into action before the 60 days or the 90 days had expired, if the period were extended. Nevertheless, it is the law.

The same is true of copyrights and trademarks, not to forget the appliances installed on automobiles. We have a law which seeks to achieve for automobiles certain standards of cleanliness, such as the nonpollution of air. Under that law, a manufacturer, after a certain time, must have certain safety features installed on cars. The Federal Trade Commission could cut all of them and say, "It is unfair to the consumer if between the dashboard and the place where the driver sits behind the steering wheel there is no air bag"—which may or may not work; it may do the driver more harm than good. But that would be beside the point. The Federal Trade Commission would have decided that that is the procedure that must be followed; that it is unfair to the consumer not to provide the air bag; therefore, it must be installed. But who will pay for it? The consumer will have to pay for it. I have an idea that he might kick a little bit about it.

Even in the field of health, the current theory of health care would be under the Federal Trade Commission's jurisdiction. It is a service. It does affect consumers. Not only are there the automobile safety acts, but there are also the Inflammable Fabrics Act and the Mine Safety Act.

This may sound ludicrous. It may sound like an exaggerated laundry list of things that the Federal Trade Commission could get into. Yet it is the fact. We would be faced with just that in connection with the substantive power given to the Federal Trade Commission. There would be a traditional lack of due process or of the regular, traditional way of legislating. It is not in the nature of the business, as it is described and provided for in title II, section 206.

When it comes to the matter of the formulation of law, there is no requirement that there be a hearing. The Federal Trade Commission may order a hearing, but it does not have to. It can call witnesses; but if it does, it is a matter of grace, not of right; and when additional witnesses are called in response to a rule that is proposed tentatively and there are a large number of people who are examined, maybe from a certain industry or from a certain part of the country, and they present themselves, and the Commission says, "There are too many of you. We cannot be bothered with you. We will appoint one and he will speak for all of you and he will address himself only to certain, specified aspects of the rule and not the law." That is in the bill. There is no opportunity for anyone who is opposed to the bill to cross-examine witnesses who testified for the rule—not the bill, the rule—no opportunity to cross-examine. Here is an instance in which, unfortunately, a decision is not made on empirical fact or on objective standards but one made on the basis of the subjective judgments of five members, or if five members are not there, then on three, and the three would prevail if there are five there. They are subjective judgments.

There is no opportunity to cross-examine them and ask them, "Do you, in deciding whether a given practice is fair or unfair, take into consideration this, that, or the other thing, or certain statistics that bear upon the situation here or there and, if so, how do you evaluate it?"

That is part of the procedure given here.

Due process? There is no due process. It is a bureaucratic process. Bureaucracy has its place. We cannot run a government without it. In the main, the bureaus or the agencies are competent and dedicated people who want to do the best they can with the programs they are charged with by way of responsibility.

However, they are not in their element when it comes to passing legislation or the equivalent of legislation that will govern a nation of 208 million people. Unless it is restricted, as it was in the four exceptions which I have given, that is for Congress to do. We are elected. We

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are responsible to the people that we represent. We are receptive to their views. We are receptive to the cross currents of "for and against" in any given major proposal. We process it. We call people in and we get evidence and take testimony. We cross-examine witnesses, much as Mr. Powell is being cross-examined right now by some of my colleagues in the Judiciary Committee on the matter of whether he is competent and proper to serve on the Supreme Court of the United States. Nothing is sacrosanct from that business of asking questions by the elected representatives of the people, and it should not be restricted in that section. In the case of section 206, it is not only restricted but nonexistent.

So Congress should relegate unto itself and guard most jealously that kind of delegation of authority turned down flatly in the NRA case—the Schechter case. That is the only example where an effort was made on that broad basis, to delegate legislative power to an agency to a presidentially appointed agency, and the Supreme Court said, "No; you cannot do it. It is a violation of section 1 of article I of the Constitution. That power belongs to Congress."

In the fur case and in the fabric case and in the case on wool notwithstanding the fair packaging and labeling, there is a restricted and a limited use of the legislative rulemaking power. In each instance, of course, it will be subject to the committee that followed the bill in the first place and, nevertheless, it will be within that area which the Supreme Court has said is all right, is sufficiently restricted, is sufficiently surrounded by standards, and that it is acceptable.

But to hand to a single Federal agency a blank check, a book of blank checks, volumes of blank checks and say, "Here, write your own check. We will honor it, unless within 60 days we repudiate it," that is no congressional review of the matter because it is a totally impractical length of time in which to meet the situation.

Well, Mr. President, I have indicated, in the few remarks I have just made, some of the grounds on which we can form a firm foundation for an affirmative vote on the amendment that is before us and is the pending business.

It will be without violence to the idea of advancing the cause of well-being and the welfare of consumers and their protection. It will be without violence because the position of this Senator is that we should approve into law the provisions of title I having to do with the substantive law in the field of the law on warranties—long overdue as a matter of fact, and subject to possible changes as would be wrought by the other body in conference. The thrust of the bill is good, and it should go forward.

It seems to me the better part of wisdom is to go forward with that where our ground is sure, and defer action on title II where our ground is not sure, where we have not yet gone into the analysis and the prescriptions for those things necessary to remedy those ills in which the FTC as personally constituted is now afflicted

My hope is that we can engage here in some colloquy and a little dialog so that we can ask some of these questions and test them out; but, in the main, the suggestions I have made are documented—perhaps the sources of the documents are not relevant, but that is something for the Senate to decide. But, I have an idea that when the distinguished Senator from Kentucky (Mr. COOK) gets busy on his analysis of the legislative consumers class action, we will hear some further very applicable and relevant details on the "atrocities" which in some instances this type of tool will perpetrate, not because of lack of good faith on the part of the Committee on Commerce, because they want to do the right thing and they give every evidence of it, but because the inevitable result is in the fashion in which title II is drawn, which will mean that more problems and more evils will be created than will be solved.

Mr. President, I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 5060) to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

The message also announced that the House had passed a bill (H.R. 8293) to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 8293) to continue until the close of September 30, 1973, the International Coffee Agreement Act of 1968, was read twice by its title and referred to the Committee on Finance.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

The Senate continued with the consideration of the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

Mr. COOK. Mr. President, during the opening of debate on the pending measure (S. 986), the Senator from Nebraska discussed at some length the bill's creation in the Federal Trade Commission of a totally new and radical power to "issue legislative rules defining with specificity acts or practices which are unfair to consumers," and so forth.

Some of the remarks frankly are directed to remarks made by the chairman of the committee, the distinguished Senator from Washington, and I merely put them into the RECORD because I was concerned at the time he made them relative to the legislative rulemaking. The Senator from Washington caused me to research this to some extent, the extent to which it has been approved either judicially or otherwise. I merely want to get these points into the RECORD.

There was a rather broad statement that these things are acceptable when, in fact, they are not.

The Senator from Nebraska made out a clear case that to vest the Federal Trade Commission with power to legislate by such legislative rulemaking power was not only new for any regulatory body or Government agency to possess, but that it was dangerous.

It totally disregards "due process" in the enactment of such rules. Hearings are not required. There is no right to cross examination. There is no recourse to all of the usual proceedings attendant upon the enactment of statutes by Congress.

Such rulemaking power would result in rules having the force and effect of law, with severe and even harsh penalties. Such penalties would be up to $10,000 for each violation. As the chairman knows, I agreed and thought it was proper to increase the fine from $5,000 to $10,000.

Mr. President, I submit that the Senator from Nebraska made out a very well-documented and virtually conclusive case proving:

First, authority to issue such "legislative rules" as provided in section 206, is without valid precedent—it was tried in the 1930's in the NRA—National Recovery Act—statute. But the Supreme Court struck it down in the Schechter poultry case.

Second, that such power is radical and dangerous.

Third, that it would enable "legislation" on a very wide range of subjects to be enacted without due process but having full force and effect of law upon promulgation.

Mr. President, with all of the documentation furnished by the Senator from Nebraska, there appeared at the conclusion of his remarks a most unique, and difficult-to-believe statement by the Chairman of the Committee on Commerce—the Senator from Washington.

He cited language in the report—from page 26—describing and characterizing "legislative" rulemaking as distinguished from "interpretative" rulemaking. After quoting that language from the report, the chairman stated:

> So this (the phrase "legislative rule") is not new or radical; it is traditional as the administrative agencies themselves.

Mr. President, nowhere was there any citation of any instance where such legislative rulemaking power had ever been validly authorized by Congress to any commission or agency. No such citation could be made because there is no instance.

The chairman only made the proposition that "legislative rule" as a phrase is a traditional law characterization that the Supreme Court has recognized.

This proposition would not be disputed by Senator HRUSKA nor would I undertake to dispute it. Of course, it exists as a phrase and as a legal concept.

But, Mr. President, it has never been approved and authorized validly in any congressional enactment in favor of any commission or agency. Several proposals have been made in recent decades that this be done. Some of these proposals have been made for, or by, or on behalf of the Federal Trade Commission. But in each instance these proposals have been rejected by the Congress as being unsound and as being undesirable as national policy.

Hence, it is necessary to make the within remarks because the statement of the Senator from Washington quoted above cannot be permitted to stand without this challenge.

There are several instances of legislative rulemaking power being granted, but such power related to particular subjects, and was limited by them alone.

Professor Shapiro, 76 Harvard Law Review 921, 960 (1965) wrote:

> In several crucial areas of administration, no grant of authority to issue prescriptive regulations in the sense used here is to be found. Two noteworthy examples relate to the powers of the NLRB and FTC: with a few exceptions resulting to particular subjects (citing the Wool Products Labeling Act), neither agency has express authority to give content to the general statutory prohibitions by promulgating regulations requiring certain acts to be performed or declaring specific acts or practices to be unlawful.

The narrow and limited exceptions include Wool Products Labeling Acts, 15 U.S.C. 68d(a), 1940; Fur Products Labeling Act, 15 U.S.C. 69f(b), 1951; Textile Fibre Products Identification Act, 15 U.S.C. 70e(c), 1958; and Fair Packaging and Labeling Act, 15 U.S.C. 1454, 1966.

Gilbert Weil, at page 227, Senate Judiciary Committee 1970 Hearings on S. 3201:

> In sum, there can be no doubt that the provisions of the Federal Trade Commission Act, read in their entirety, do not confer upon the Commission substantive or legislative-type rule-making power. The conclusion is confirmed, if the provisions of the Federal Trade Commission Act are read together with contrasting provisions of other statutes the Commission administers. The conclusion is further confirmed when one examines the legislative history of the Federal Trade Commission Act.

It must not be allowed to stand as basis for implication or inference of the existence and the functioning of a legislative rulemaking power anywhere in the Federal Government. There is no such legislative rulemaking in operation in this field of Federal Government.

It is dangerous.

It would be a drastic mistake to venture into the area of an extensive and virtually unrestricted abdication by Congress of its legislative power derived from article I, section 1 of the Constitution of the United States.

Such delegation, moreover, would be to a legislatively created commission created by the President. It—the Federal Trade Commission—has only five members. With three as a required quorum, a vote of two Commissioners could conceivably engage in extensive legislative forays into a great variety of vital subjects of national import and immense significance.

Mr. President, in order to set the matter in full context, I set out the comments of the Senator from Washington, as appearing in the CONGRESSIONAL RECORD for November 5 on page S17703—They read as follows:

> Mr. President, I listened with great interest to the Senator from Nebraska. Unfortunately, I had to leave the Chamber for a few moments, but I wish to clarify the phrase he discussed at some length, the phrase "legislative rule." This is a traditional law characterization that the Supreme Court has recognized.

I refer to page 26 to the report on the bill which states:

> Paragraph (2) of subsection (g) of the Federal Trade Commission Act, as amended by section 206 of title II, would authorize the Commission to issue "legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this Act proscribes." The Committee chose to characterize these rules as "legislative" for three reasons: 1) the procedures prescribed resemble the procedures followed by Congress in formulating legislation; 2) the sales are to be reviewed by the Congress as well as the courts; and 3) the rules are to have the force and effect of law following their adoption as compared to rules which simply interpret a statute without having the force of law. There is precedent for such characterization. Professor Davis states that the strongest authority for the distinction between interpretative and legislative rules is the action and attitude of the Supreme Court, even in the absence of specific articulation of the distinction. Explicit recognition of the distinction is found in a few opinions of lower courts, in Congressional action, in administrative action, in reports or special studies of administrative law, and in remarks of leading commentators." (Davis, Administrative Law Treatise § 5.04 (1958))

So this is not new or radical; it is as traditional as the administrative agencies themselves.

That much is true.

But nowhere has such legislative rulemaking been authorized validly by Congress in express form.

To enact section 206 of the pending bill would indeed and in truth be "new and radical."

If adopted, it would be to the direct and heavy disadvantage of all concerned—the consumer, the general public, those in management and in labor who produce goods or render services for consumers, as well as direct and heavy disadvantage to the Government itself.

It would be dangerous.

It should be rejected.

Mr. COTTON. Mr. President, I wish to express my support for the amendment which has been offered by the distinguished Senator from Nebraska (Mr. HRUSKA) to strike all of title II of S. 986 and I wish to associate myself with the remarks which he has made in connection with this amendment.

Mr. President, there are many troublesome features associated with the provisions of title II of S. 986. Perhaps no one in this body can appreciate the sweeping impact of these provisions better than the Senator from Nebraska (Mr. HRUSKA), who is the senior Republican member of the Committee on the Judiciary, I, myself, have been troubled with various sections of this title. For example, I am concerned over the new authority which section 203 would seek to vest in the Federal Trade Commission to assume the role of "consumer advocate" and to seek redress in the courts on the behalf of consumers. I am equally concerned about the expansive rulemaking power proposed to be vested in the same Commission by virtue of the provisions of section 206. Accordingly, I consider the amendment offered by the distinguished Senator from Nebraska (Mr. HRUSKA) to be a most appropriate one. Quite frankly, I personally feel that we would be well advised to consider amendments to the Federal Trade Commission Act such as are being proposed in title II in a separate piece of legislation rather than "tacking it on" so as to ride on the back of the meritorious provisions of title I of S. 986 dealing with consumer product warranties.

Mr. President, it has been my constant observation and belief, laying aside all of the learned legal analysis and arguments of other Senators who have spoken on this matter, that as a practical matter we should be very careful in creating too many agencies with too much authority in the field of so-called "consumer-protection." After all, in the final analysis there is one vital interest common to all the consumers of this country and that is in the prices they must pay for goods, as well as the taxes to support such agencies and authority.

Now, I am proud of the record of our Committee on Commerce since, under the leadership of its distinguished chairman, the Senator from Washington (Mr. MAGNUSON), over the past several years it has blazed the trail in consumer protection, which has long been needed. But, at the same time, if we continue on this path too long and if we are too liberal in vesting authority in too many people, almost everything we would be doing beyond a certain point would only serve to increase costs to manufacturers and dealers of consumer goods with the burden of the expense ultimately to be borne by the consumer through higher prices. So I think there is a point where we have to move cautiously. We should make sure we are getting needed protection for the consumer at commensurate cost. Otherwise, we simply are putting a heavier burden on the consumer's back because, in the last analysis, the expense of enforcement; and the expense of the bureaucracy necessary to accomplish these things, when added to the manufacturer and the dealer, will reflect itself in what is being paid by the poor person at the end of the line—the American consumer.

Mr. President, therefore, I support the amendment proposed by the distinguished Senator from Nebraska (Mr. HRUSKA) to strike title II of S. 986 and urge my colleagues in the Senate to similarly support this meritorious amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MAGNUSON. Mr. President, I suggest the absence of a quorum, unless someone wishes to speak.

Mr. ALLOTT was recognized.

Mr. MAGNUSON. Mr. President, I withdraw the request for a quorum.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. ALLOTT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I will place in the RECORD certain statements in regard to some of the questions that were raised today and which were raised on Friday and about which we had colloquies. Those questions were also raised in the committee during many days of hearings.

The senior Senator from Nebraska and the junior Senator from Kentucky have expressed concern that the rulemaking authority described in section 206 of title II somewhere constitutes an unauthorized or questionable delegation of legislative authority. The full answer to their concern is that there exists not the slightest doubt as to the complete propriety of the rulemaking authority described in section 206.

Indeed, Congress has, on numerous occasions, granted legislative rulemaking authority to Federal agencies. Among others, such rulemaking authority has been granted to the Food and Drug Administration, the Department of Agriculture, the Department of the Treasury, the National Labor Relations Board, the Internal Revenue Service, the Interstate Commerce Commission, the Federal Power Commission, and the Federal Communications Commission.

The Federal Power Commission has been granted sweeping legislative rulemaking authority—15 U.S.C. 717 (1958) authorizes that Commission:

> To prescribe, issue, make, amend and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this act.

The Federal Power Commission's substantive, legislative, rulemaking authority was challenged and sustained by the U.S. Supreme Court in *Federal Power Commission* v. *Texaco, Inc.*, 377 U.S. 33 (1964). The Supreme Court there held that Commission rules limiting the type of price changing provisions which could be included in contracts of independent natural gas producers were permissible and had the force and effect of law.

The National Labor Relations Board has been authorized pursuant to the provisions of 15 U.S.C. 46(g) (1958):

> From time to time to make, amend, and rescind, in the manner prescribed by the Administrative Procedure Act, such rules and regulations as may be necessary to carry out the provisions of this act.

In *National Labor Relations Board* v. *Wyman-Gordon Co.*, 394 U.S. 759, the Supreme Court went to great lengths, not only to sustain the NLRB's substantive rulemaking authority under the Administrative Procedure Act, but to point out the need for rulemaking procedures in administrative agencies. Similarly, the Federal Communications Commission's legislative rulemaking authority, granted to it by Congress, was sustained by the Supreme Court in 1956 in *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192. On numerous occasions, Congress has granted to the Federal Trade Commission substantive rulemaking authority in connection with the Commission's duties under specific acts. Thus, the Commission has the authority to make legislative rules in connection with its duties and responsibilities under the Textile Fiber Products Identification Act, 15 U.S.C. 70e(c); the Wool Products Labeling Act, 15 U.S.C. 68(a); the Fur Products Labeling Act, 15 U.S.C. 69f(b); the Flammable Fabrics Act, 15 U.S.C. 1194(c); the Commission also has authority to promulgate quantity-limits rules under section 2a of the Clayton Act, 38 Stat. 730 (1964), as amended by the Robinson-Patman Price Discrimination Act, 15 U.S.C. 13(a).

Indeed, in title I of S. 986, now before us, Congress once again intends, in section 102(b), and in section 109, to confer upon the Commission substantive, legislative rulemaking authority for the purpose of enabling the Commission to carry out its responsibilities under title I.

The purpose of section 206 of title II is to clarify the Commission's rulemaking authority under section 5 of the Federal Trade Commission Act which prohibits unfair and deceptive acts and practices which injure consumers.

The authority sought to be conferred by section 206 is, if anything, less far-reaching than that which Congress has granted on countless other occasions, some of which I have already mentioned, to virtually every other department and agency of the Federal Government. To suggest that the authority granted under 206 is somehow new or novel to the federal system is to ignore countless previous grants of such authority to other departments and agencies, which authority has been deemed by the courts and commentators alike, not only as salutory, but as essential to the efficient administration of government. Professor Fuchs, in his important article entitled "Agency Development of Policy Through Rulemaking," which appeared in 59 Northwestern Law Review 781 (1964), makes it plain that the exercise of such rulemaking authority within the confines of the procedural safeguards contained in the Administrative Procedure Act represents a constitutionally sufficient procedure assuring interested and affected parties that their due process rights will be protected. The Federal judiciary, in numerous decisions, is in full accord with the views expressed by Professor Fuchs; and, as I understand the Senators from Nebraska and Kentucky, they do not claim that section 206 is in any respect unconstitutional.

Thus, the single question which is now before the Senate with respect to section 206 is whether we shall clarify the Federal Commission's rulemaking authority under section 5. That question presents no constitutional issues, no novel problems, but only a routine matter testing the genuineness of this Senate's desire to render assistance to the consumer.

I listened to the statement by the Senator from Nebraska and I have no objection to the way he analyzes the section. Legally I think what he said is correct. I disagree with his statement that some of these things should not happen. I want them to happen. We disagree on that, and the committee disagreed. The committee did not agree with the suggestion by those who oppose title II.

Mr. President, I suggest the absence of a quorum. I would like to have a rollcall vote on this amendment, and I would like to get a sufficient number of Senators present to ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. STEVENSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

The Senate continued with the consideration of the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

PRIVILEGE OF THE FLOOR

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Jack Lewis, assistant to Senator STONE, who has done a great deal of work on this bill, have the privilege of the floor during further discussion of the bill before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays on the Hruska amendment.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I understand the Senator from Colorado (Mr. ALLOTT) wants to speak on the amendment.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLOTT. Mr. President, I intend to concentrate on two major topics embraced by title II of S. 986, both of great concern: the delegation of substantive rulemaking powers to the FTC and the broad expansion of agency enforcement powers.

Before turning to title II of S. 986, I would like to note that the effort at accommodation and compromise between the contending positions is apparent from a comparison of the previous versions of this bill and the present one, as reported out by the Senate Commerce Committee on July 16 of this year. Even so, I must continue to oppose the broad delegation of power that this bill would give to the Federal Trade Commission to promulgate legislative rules. This is a central objection to the bill and I will enumerate and examine the reasons for these objections shortly.

The specific focus of my remarks does not permit broader treatment of all problem areas. In concentrating on section 206, I am not here addressing other provisions of S. 986, notably sections 202—civil actions by FTC for practices unfair or deceptive to a consumer—and 203—FTC actions in Federal courts for damages or other relief for injured consumers—which likewise present substantial problems—uncured in the face of laudable efforts toward resolution by the drafters in the latest version of the bill.

I propose to discuss only section 206 of title II. I envision as one of the most serious, long-run dangers of the section the conversion of the flexible, adaptable language of section 5 of the Federal Trade Commission Act into a rigid, detailed codification of unfair consumer practices. This would run directly counter to the successful experience of the Commission and the courts in functioning for many years under the broad language of section 5. In legislating the Federal Trade Commission Act, Congress deliberately and wisely chose the broad, general language of section 5 because it realized that a specific, detailed code of law could not be adapted to changing business practices. Because delineating section 5 through rulemaking proceedings is much easier administratively than through case-by-case adjudication, I am fearful that this section would result in the Commission promulgating a raft of rules to cover the entire scope of American business practices in the most detailed respects. Inflexible rules are not designed, in the nature of things, to deal with dynamic, changing industry practices. I am convinced that such rules would lead to unreasonable regulation as business practices emerge which were not envisioned at the time the rules were implemented. I submit that it is highly unlikely that the Commission would be able to make swift and responsive changes in rules to keep abreast of changing business practices.

Though the new version of this section provides some of the procedural safe guards missing from the provision, I remain unconvinced. First, there is the root problem of discerning precisely what kinds of rulemaking power the Commission would have after the enactment of this section. Section 206 specifically provides for two kinds of rules to be announced according to procedures prescribed by that section. These are the procedural rules and "legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers." To begin with, there is the question of definition. For it would seem that this section is not exclusive of the rulemaking power of the Commission. Indeed, the committee report so states:

> Nothing in Section 206 is intended to affect the past or present rule-making activities of the Federal Trade Commission (including Trade Regulation Rules); and future activities would only be affected to the extent specifically discussed in Section 206. Advisory Opinions and guides would not be considered [s]uch rules and regulations as are specifically provided for hereinafter. . . .

Are advisory opinions and guides the only types of "nonrules" not contemplated by section 206? What about substantive, interpretive rules?

Where, then, would we be, after the enactment of this section? How broad or narrow is the power delegated to the Commission under subsection (2), permitting the issuance of legislative rules? Would all acts or practices proscribed by section 5(a)(1) be considered to have a deceptive effect upon the ultimate consumer, thereby permitting the Commission to sweep the entire breadth of 5(a)(1) into a legislative rulemaking power? I cannot be certain of the answers to these questions from the language of S. 986 or from the committee report's analysis of the bill.

Under the provisions of subsection (2)(i) as explained by the committee report, the Commission need not grant the right of cross-examination. The only crack in the procedural door could occur when the Commission itself determines that there is a "disparity of views concerning material facts upon which the proposed rules is based," and permits a limited right of cross-examination. Granting the very serious due process deficiencies which could flow from FTC refusal to grant even limited cross-examination, if the Commission determines that there is not such a disparity of views, could that decision be appealed immediately to the Federal courts or would any "interested parties" be required to follow the specific review procedure provided for in the other subsections of section 206?

Even getting to the question of disparity of views concerning material facts might be burdensome in the extreme, given the procedure laid down by subsection (2)(i). Under the procedures there provided, the Commission has two opportunities to lay a foundation for the rule, while potential respondents have but one. The Commission must first "issue an order of proposed rulemaking stating with particularity the reason for the rule." During the next 30 days or more "interested persons" are to be permitted to comment on the proposed rule. Following that time, the Commission staff and "other persons" are to be permitted an opportunity "to respond." If these "other persons" do not include the "interested persons" in the second step of the procedure and if the responses are to be limited to the comments of the "interested persons" only, then the possibility of developing a disparity of views concerning material facts is significantly limited, for such a disparity may become apparent only after the responses from the Commission's staff and "other persons" have come in, at which time rebuttal or other further comments on these step two comments would presumably be impermissible. In short, the Commission may respond to initial comments in such a way as to minimize controversy over a proposed rule without affording persons or entities whose business affects commerce the opportunity to rebut.

This foreshortening of the process for developing disparity may simply lead to protracted court battles that could be otherwise avoided by providing for rebuttals from both sides of the question.

Under subsection (2)(ii), either House of Congress is given at least 60 days to disapprove of the rule. I submit that this will prove to be an extremely unwieldy procedure that proves the unwisdom of the entire section. This subsection was apparently added to dispel serious doubts about the constitutionality of the delegation. But what has resulted smacks more of an albatross than an anchor.

And, Mr. President, I want to say that I do not think anyone who is acquainted with the legislative procedures of the House of Representatives of the Senate, either jointly or as they operate separately, can contend for a moment that the opportunity for either House to respond unfavorably in the course of 60 days is a realistic form of control over this particular matter.

As a matter of fact, I do not recall at this moment, although I suppose it has happened, an instance where the Houses have responded in their own way to negate such acts. They are extremely rare, simply because of the legislative process. They are rare first of all because a resolution to do so has to be introduced; second, it has to be referred to a committee; and that is the committee, probably in all instances, or in this instance at least, which would have dealt with the matter in the first place.

Then there is the matter of getting hearings and getting proceedings going in the committee to make a determination of the matter. So, from a legislative standpoint, the institution of a resolution to negate an action taken by the Federal Trade Commission is an unrealistic one; and, in fact, I believe it is a deceptive one.

If every legislative rule must in turn be referred to Congress, then the appropriate committees of Congress must necessarily concern themselves with business they wished to avoid in the first place. Moreover, by putting the initial rulemaking, law-framing power in the hands of an agency rather than in the Congress, the normal political procedures such as ex parte lobby efforts that are entirely permissible when a bill is pending before the Congress become blunted, if not emasculated altogether.

Finally, with respect to this veto provision, the language does not take account of the possibility of a partial legislative veto or affirmative modification of a rule by Congress. Such action should surely be anticipated.

It should be clear that judicial review of legislative rules would not be de novo. Rather, as would be expected when a court reviews administrative action, the court must uphold the rule if it is "sup-

ported by substantial evidence on the basis of the entire record before the court." Although this is an important safeguard for the extreme case, it means as a practical matter that plaintiffs, for the most part, will be limited to arguing that the Commission's policy and interpretation of section 5(a)(1) are invalid.

Mr. President, this is a mighty poor recourse to our courts. It is a mighty poor appeal for the corporation or the individual who is affected. Though our Federal courts exercise independent judgment, they will nevertheless accord great deference to the views of the Commission, experienced as it is in matters of trade policy. Furthermore, the courts will be more hesitant to substitute their judgment for the Commission in matters of policy, where "legislative rules," as opposed to interpretive rules, are involved. We have considerable latitude to engage in speculation here as to whether the failure of Congress to veto a rule will constrain the courts to narrow their scope of review.

I repeat again that it is unacceptable that the court must uphold the rule if it is "supported by substantial evidence on the basis of the entire record before the court."

Mr. President, that is not a full appeal. It is not three-quarters of an appeal. It is not half an appeal. It is not even a quarter of an appeal.

Section 206 provides for a two-tiered system of judicial review. Not only may an "interested person" challenge the rule by bringing a suit in the nature of a declaratory judgment, but presumably he may also challenge the rule at a later time when he suddenly finds himself a Commission respondent. The new subsection (2)(vi) states that "nothing in this act shall be deemed to foreclose judicial review of a legislative rule when the Commission issues a final order based upon such rule."

However, as the Commission report points out—

> Section 206 contains a provision that assures that there would be no legislative prohibition against judicial review of rules when applied in Commission enforcement proceedings. Of course judicial review of rules previously reviewed may be restricted for judicial reasons—*e.g.* by the application of the doctrine of *"Stare decisis or res adjudicata."*

While theoretically a procedural safeguard, as a practical matter, this second tier of judicial review may be of limited utility. For, obviously, if a court of appeals for a certain circuit holds a rule valid under subsection (2)(iii), the question of the validity of the rule will be settled within that same circuit and may be accepted as precedent in other circuits as well. Thus, though a litigant may never have had a chance to contest the validity of the rule—judicial review is, after all, an expensive procedure, especially if you are unaware of the rule or do not believe the rule would ever be used against you—the respondent may be effectively barred from challenging the rule in court.

I also note that under section 202 the Commission may seek civil penalties in the Federal district courts, but by section 206(3), original judicial review of a legislative rule may be had only in the U.S. courts of appeals. Thus, section 206 appears to prohibit a defendant sued by the FTC under section 202 for a violation of a "legislative rule" from challenging the validity of the rule in Federal district court. This denial of review in the bill is inconsistent with the committee report, which clearly states that the invalidity of a rule is a defense in a civil penalty action brought in a Federal district court under section 202.

With no or only limited right to cross-examination, and faced with a ruling by a circuit court of appeals that the rule is valid, a respondent may find himself automatically liable under section 202 of the bill for a fine of $10,000 for each violation of a rule he never supposed would apply to him.

The problems that are still deeply inherent in section 206, despite the addition of some procedural safeguards, defy resolution. The opportunities for abuse in the sweeping delegation of rulemaking power embodied in section 206 are not in the public interest. Indeed, some of the well-intentioned efforts of the drafters to add procedural safeguards have only served to encumber the bill with new problems of interpretation which, in turn, present serious due process objections.

I submit that the effectiveness of the Federal Trade Commission to protect the interest of the consumer is assured by other proposals contained in this legislation, such as preliminary injunction powers; the power of the Commission to proceed on its own in the courts for violations of Commission orders; the power of the Commission to enforce its subpoenas; and the extension of agency jurisdiction to acts or practices "affecting commerce." Enactment of these other proposals, coupled with adequate appropriations, imaginative programs, and high caliber staff, will assure that the Federal Trade Commission can effectively fulfill its function as a protector of consumer interests.

Finally, experience with the Commission's trade regulation rulemaking power suggests the potential for abuse of the broad rulemaking power that would be delegated to the Commission.

Mr. President, at this point I should like to say a few words about my philosophy with respect to this bill.

I have pointed out that the review which is supposed to be apparent and present in section 206 is grossly inadequate—in fact, I think that parts of it are a charade. It is not that this Senator has any criticism of the FTC as such or of its individual members. The truth is that Congress, in its lack of infinite wisdom, has foisted up on the FTC, during the last 10 years particularly, every form of policing we could think of foisting upon them. These people, however, are human, just as we all are human.

I am glad that the distinguished chairman of the Commerce Committee is in the Chamber, because just 5 or 6 years ago, when he was chairman of the Independent Offices Subcommittee on Appropriations and I was the ranking minority member, in a rather detailed cross-examination of the FTC we found out some very startling facts. I think that all of us up to that time thought that when we filed an income tax statement with the IRS, it was confidential. Nothing could be further from the truth.

In a examination which was not aimed at this point, we found out that afternoon that the FTC had access to all the IRS returns—that does not just take in the big corporations of the country; that includes access to the returns of John Doe and Pete Smith and Mabel White and Suzy Jones—yes, Mr. President, if they wished it, to the tax returns of every man, woman, and child and every company and every partnership and every corporation in this country.

In order to effect the use of this, they actually had, if my recollection serves me correctly, approximately 30 employees of the Federal Trade Commission resident in the offices of the IRS, doing this sifting and analyzing and poking around.

So I think there is adequate reason here for looking at the broad powers vested in the FTC in this situation—not against them as individuals, no; but just recognizing that human beings are such that if Parkinson's law comes into effect—and it always does—they are going to expand the number of their employees, they are going to reach out for more power, and they are going to reach out with that power for more employees to support the ones who have not yet been replaced.

So I am very much concerned about this whole matter, particularly with the lack of real judicial appeal which appears in the limitation contained in section 206.

In recent years, the Commission has taken the position that it already possesses the power to issue trade regulation rules under the Federal Trade Commission Act with the same force and effect of law as "legislative rules" would have under S. 986. The Commission has not been as flexible as it should be in this regard. For example, a trade regulation rule covering games of chance in the food retailing and gasoline industry has been so stringently written and construed that games where all contestants are winners, or where game pieces are mixed by undeceptive alternative methods to the one method prescribed by the trade regulations rule, have been held to be deceptive and violative of the rule.

Significantly, the drafters of S. 986 carefully avoided the problem of broad rulemaking problems in title I. Title I, dealing with consumer product warranties, has carefully defined standards under which rules in the warranty field could be promulgated. The provisions there specify with particularity the areas with which the Commission's rulemaking power may deal, wholly unlike the limitless delegation of authority contained in section 206 of title II. Title I, therefore, offers a less objectionable approach to the delegation of substantive rulemaking power. This comports with the narrowly drawn delegations in other acts administered by the Federal Trade Commission—for instance, the Wool Products Labeling Act, other clothing identification acts, and the Fair Packaging and Labeling Act.

By drawing the lines and specifying in what areas rules may be promulgated, everyone—the consuming public, businessmen and the FTC itself—has some idea of just how far the agency may go.

I urge deletion of section 206. The Commission does not need this rulemaking power; it is overly broad and ill-defined; and the power is not clearly constrained by adequate administrative procedural safeguards. It would, moreover, unwisely reverse the studied, deliberate position of Congress for almost 60 years that the flexible language of section 5 of the Federal Trade Commission Act should be preserved to govern business misconduct in a world where the tempo of change is ever increasing.

The potentially omnipotent control over American industry that would be given to the Commission by the stated power to promulgate legislative rules under section 206, without adequate safeguards, presents a fatal defect in the present bill. This is regrettable in light of other worthwhile features of this legislation, such as expansion of the Commission's jurisdiction and the power to seek preliminary injunctions, that, coupled with a superior agency staff, adequate appropriations, and other considerations would very likely achieve the same objectives.

Mr. President, relative to this, I would like to comment that before allowing more consumer class action, and heaven knows we have a plethora of that now, before allowing additional agencies the right to go into district court, I submit to my colleagues in the Senate that we should act first upon a bill which I have introduced in the Senate, the Federal Judiciary Council bill, S. 1440, which is a bill to evaluate the effect that this congressional action and others like it will have on the Federal court system. I am deeply concerned with the vague language in the bill, particularly section 206, that we are in danger of further bogging down the Federal courts.

The old adage, "Justice delayed is justice denied," is as true here as it is in justice in the Supreme Court.

If we continue by our action—that is what we are doing here, in my opinion—to open the door wide not only to 100, but thousands, tens of thousands, and perhaps hundreds of thousands of vague and indefinite appeals to various people who may be interested parties, or who may be respondents, or who may just be the "other people" that the bill talks about, then I think we are in danger of bogging down the Federal courts. I do not think this is an insignificant consideration, in making a decision on the merits of the bill.

Mr. President, I suggest the absence of a quorum.

Thhe PRESIDING OFFICER (Mr. FANNIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMINGTON. In legislation considered today, the Senate focuses again on the rights of and protection for consumers.

One part of this two-pronged measure authorizes strong powers for the Federal Trade Commission in policing consumer frauds. The other section deals with and attempts to remedy a specific long standing problem in the marketplace—the gulf between what the buyer of a warranted product thinks he will receive and what service the supplier may be legally obligated to perform under a given warranty.

In fact, the Senate Commerce Committee reports that the warranty provisions contained in S. 986, the Consumer Product Warranties and Federal Trade Commission Improvement Act of 1971, are designed to meet four basic consumer needs:

First, the need for consumer understanding;

Second, the need for minimum warranty protection for consumers;

Third, the need for assurance of warranty performance; and

Fourth, the need for better product reliability.

To achieve those objectives, the legislation requires any supplier who warrants a product to fully disclose in simple and understandable language the terms of the warranty with respect to such items as to what the warrantor will do in the event of a defect or malfunction and at whose expense and for what period of time. The warrantor is required to state also what the purchaser must do and the expenses he must bear, along with an outline of the procedure the purchaser should take to obtain performance.

No supplier is required to provide a warranty; however, should a warrantor elect to incorporate the minimum standards prescribed by the legislation, then the guarantee is to be designated a "full warranty" so as to show that he is undertaking an obligation to repair or replace any malfunctioning or defective consumer product within a reasonable time and without charge. Suppliers who do not undertake to provide a full warranty are required to make plain that the warranty is a limited one.

Moreover, under terms of the act, warrantors are prevented from using limited express warranties to avoid the fictional warranties of fitness and merchantability that the law implies in order to protect in at least a minimal way a buyer of goods.

The legislation also affords the consumer a feasible means of remedying a breach of a written warranty by legal action in courts of competent jurisdiction for if he prevails the consumer is allowed to receive his costs and expenses, including attorney fees.

I believe the warranty provisions of the legislation the Senate considers today are particularly constructive and should be of benefit both to consumers and to conscionable and reliable manufacturers.

DEATH OF FORMER SENATOR HOLLAND

Mr. LONG. Mr. President, we are saddened at the news of the death Saturday of our beloved colleague, Spessard Holland, who retired from this body last year on the advice of his doctors.

Mercifully, Senator Holland passed away in his sleep. It is the peaceful death that all of us would have asked for such a fine man, who served here with us for 24 years.

Spessard Holland exemplified what we southerners like to regard as a true gentleman. No one ever questioned his honesty, courage, diligence to duty or his sincerity during his years of service here.

Mr. President, he acquired the reputation of a conservative in the best definition of the word—one who would preserve the better things of the existing order. His efforts here, to a considerable degree, helped save for this government its first fundamental—the right of the people to govern themselves.

Spessard Holland understood the right of self-government and fought to keep the Federal Government from stripping away from the States the powers vested to them.

The theory of judicial usurpation of the States' powers was repugnant to Spessard Holland, who believed that political sovereignty trickled up to the Federal Government through the cities and States and not down to the people from here.

As a result, Mr. President, Spessard Holland led the battle that restored to the States the submerged lands within their historic boundaries. This was more than an act to vest title to submerged lands. It was an act to restore sovereignty to the people of America.

From the day he arrived in this body in 1948, Spessard Holland fought for repeal of the poll tax through a constitutional amendment. The 24th amendment to the Constitution, adopted in 1964, will stand as a lasting tribute to Spessard Holland and his doggedness in fighting for principles dear to him.

Spessard Holland was known as the "father" of Everglades National Park in his native Florida, an idea that was born to him in his years of admiring the unusual nature of that primeval area.

He began to put together the park while serving as Governor of Florida in World War II and continued to support its expansion and improvement in his 24 years here.

Mr. President, it was Spessard Holland who persuaded his southern colleagues—including me—to join in bringing statehood to Alaska and Hawaii. He had the vision to see that this was a just status for our two newest States.

I offer my deepest sympathies to Spessard Holland's wife, Mary, in the loss of her partner in life for over a half century. We here in this body mourn the passing of a friend, a decorated World War I aviator who devoted 50 years of elected public service to the people of Florida and this country.

His memory will live with us.

ORDER FOR PRINTING OF TRIBUTES TO THE LATE SENATOR HOLLAND, OF FLORIDA, AS A SENATE DOCUMENT

Mr. MAGNUSON. Mr. President, I am sure that many Senators would like to

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express their deep grief over the death of our former colleague, Spessard Holland.

I ask unanimous consent that the record be kept open so that those of us who may wish to do so may make remarks about our departed colleague.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia subsequently said: Mr. President, a little earlier today the distinguished Senator from Washington (Mr. MAGNUSON) secured unanimous consent that the record be kept open so that Senators who may wish to do so may make remarks about our late distinguished colleague, Senator Spessard Holland.

I ask unanimous consent that the record be kept open for a period of 15 days, and that the tributes expressed be collected and printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FANNIN). The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

Allott	Cotton	Randolph
Baker	Fannin	Roth
Bible	Hruska	Saxbe
Brooke	Magnuson	Talmadge
Buckley	Mansfield	Young
Byrd, W. Va.	Moss	
Cook	Pastore	

The PRESIDING OFFICER (Mr. FANNIN). A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be directed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

[No. 293 Leg.]

Aiken	Goldwater	Nelson
Allen	Hansen	Packwood
Anderson	Hart	Pearson
Bayh	Hartke	Pell
Beall	Hatfield	Percy
Bennett	Hollings	Proxmire
Bentsen	Hughes	Schweiker
Boggs	Inouye	Scott
Burdick	Javits	Smith
Byrd, Va.	Jordan, N.C.	Sparkman
Cannon	Jordan, Idaho	Spong
Case	Kennedy	Stafford
Church	Long	Stennis
Cooper	Mathias	Stevens
Curtis	McClellan	Stevenson
Dominick	McGee	Symington
Eagleton	McGovern	Taft
Eastland	McIntyre	Thurmond
Ervin	Metcalf	Tower
Fong	Miller	Tunney
Fulbright	Mondale	Williams
Gambrell	Montoya	

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

Mr. SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The PRESIDING OFFICER. A quorum is present.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the distinguished Senator from New York yield to me, without losing his right to the floor?

Mr. BUCKLEY. I did not hear the Senator.

Mr. MANSFIELD. Would the distinguished Senator from New York yield to me, without losing his right to the floor? I understood he was about to offer an amendment.

Mr. BUCKLEY. I yield.

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, the joint leadership is doing all in its power to bring about an adjournment sine die, if possible, by the 1st of December. To achieve that objective, it is going to take the cooperation of all Senators collectively and every single Senator, in accommodating himself, not to the wishes of the leadership, but, may I say, to the wishes of the Senate as a whole.

It was announced by notice of Saturday, October 30, that on Wednesday last, November 3, what is now the pending business would be taken up. Every Senator was on notice on both sides.

On Wednesday, November 3, a whip notice was sent out which stated:

> The present plan is to take up S. 986, the Consumer Product Warranties bill, which had previously been scheduled for action on late yesterday—
>
> This was on Thursday—
>
> or early this morning, but which, upon the request of two of the Senators most interested, was not taken up.

I believe that the distinguished assistant minority leader, the Senator from Michigan (Mr. GRIFFIN), sent out a notice last week to the effect that this matter would be taken up today, and that record votes would be anticipated. The same statement was made by the distinguished assistant majority leader, the Senator from West Virginia (Mr. BYRD), and the Senate was therefore put on notice that there would be rollcall votes today.

Whether or not that resulted in 98 Senators being present I do not know. But they came here expecting votes. Now we find that what we have had is a lot of debate, with rumors to the effect that there will be a certain number of talks today and maybe no vote at all.

Well, that may be so. There may be no votes today. This bill will be set aside temporarily. But this bill will be taken up and disposed of before the Senate adjourns this year.

In this body, either you win or you lose. I have had my share of defeats. I have had a few victories. But you take them as they come, and you bow to the will of the majority. That is the way democracy is supposed to work. And while this is a deliberative body, it is supposed to be a democratic body as well.

So I would hope that all Members would keep in mind just what confronts the Senate.

UNANIMOUS-CONSENT AGREEMENT

The schedule for tomorrow is the Okinawa Treaty. At this time I ask unanimous consent that the agreement entered into relative to the tax bill being taken up on Wednesday be laid aside temporarily, and that one of the foreign aid authorization bills replace it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Following the foreign aid bill—either one, or perhaps both of them—the Senate will turn to the President's economic package. Also, it is my understanding that the phase 2 proposals will be reported out of the Committee on Banking and Currency late this week.

Then we have other matters. Among them are the Department of Defense, District of Columbia, and supplemental appropriation bills, all of which will be worked into the program from time to time. Then is other legislation of a vital nature and conference reports on various bills, and the two Supreme Court nominations, which will not be reported out, I believe, before next week, at the earliest, all remain to be completed.

So what the joint leadership would like to do would be to have the pending business disposed of, one way or the other. We would like to face up to the Okinawa Treaty, the foreign aid bills, the President's economic tax package, the President's phase 2 proposals, other critical legislation where possible and the Department of Defense, District of Columbia, and supplemental appropriation bills, together with conference reports, and the two Supreme Court nominations.

I do not know whether we can achieve the objective of adjourning by December 1; but I will tell the Senate one thing: The joint leadership cannot do it alone. If it is to be achieved, or even approximately achieved, it is going to take all the Senators on that side of the aisle and all the Senators on this side of the aisle, and it means Senators will have to accommodate themselves to the two Senators who have the least standing so far as power is concerned in this body—the Senator from Montana, now speaking, and the Senator from Pennsylvania (Mr. SCOTT), to whom Senators have given responsibility. The only way we can exercise any degree of responsibility is through your understanding and your cooperation and your accommodation.

That is all I have to say.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

The Senate continued with the consideration of the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

Mr. BUCKLEY. Mr. President, I would like to comment briefly on the pending business, S. 986, the Consumer Product Warranties and Federal Trade Commission Improvement Act of 1971.

Like many of my colleagues, I have mixed feelings about the bill before us. On the one hand, I believe that extant devices for the redress of consumer grievances need to be updated; on the other hand, I do not believe that a regulatory straitjacket ought to be imposed on American business. I believe it is both necessary and possible to protect the consumer without imposing excessive penalties upon the honest businessman. My great fear about the bill before us, a fear shared by a good many of my colleagues, is that in seeking to protect the consumer it would impose a remedy that may end up pumishing many for the sins of the few.

A balance ought to be struck between the legitimate claims of wronged consumers and the equally legitimate rights of business to engage in robust but honest competition. What many of us fear about the present bill is that it threatens to tip the balance too far to one side.

Mr. COTTON. Mr President, will the Senator yield?

Mr. BUCKLEY. I yield.

Mr. COTTON. Mr. President, the sound system is not a help to the Senate unless it works. I do not know what is wrong with it now. We just sent word up and asked that the volume be turned up higher. Sitting back here, we cannot hear what the Senator from New York (Mr. BUCKLEY) is saying. I think we are entitled to hear what he has to say.

Mr. BUCKLEY. Perhaps the Senator from New Hampshire should turn himself up. Would that help?

Mr. COTTON. It might. But, I think we should have the sound system high enough so that we can hear.

Mr. BUCKLEY. Shall I suspend while the mechanics go to work?

Mr. COTTON. I do not want to delay the Senator.

Mr. BUCKLEY. I will speak louder.

S. 986 has two titles, one dealing with disclosure standards for written warranties on consumer products; the other with the expansion of the power of the Federal Trade Commission to deal with consumer problems. It is in the latter title only that serious difficulties arise.

Title I, I believe, represents a significant improvement in the law of warranty protection, both in the substantive requirements that it imposes and in the procedural devices it establishes for the redress of grievances. In its substantive aspects, it comes to grips with the nature of written warranties by requiring suppliers to spell out in a reasonable way just exactly what it is that the consumer is getting—or not getting—when he sees that magic word "warranty"—followed by all the small print—attached to a product. Title I would require the supplier to state what the written warranty covers, or—what may be more important—what it does not cover; it would require him to spell out in ordinary, everyday English just who is covered by the warranty; and it would require him as well to specify the time limits, if any, on the warranty. Perhaps above all, title I provides the consumer for the first time with a reasonable, workable, and simple, and inexpensive procedure for the satisfaction of grievances arising from breach of written warranty.

I am happy to support title I in its present form. I think it will be welcomed by the American consumer—and as well by the honest businessman who is prepared to back up what he promises. All of us, I am sure, can recall more than a few instances of agonizing frustration with defective products. And there are few of us, I am sure, who have not muttered to ourselves, "There ought to be a law," when confronted by the necessity of having to translate the legalistic hieroglyphics in which so many written warranties are couched. I am a lawyer myself, but I must confess to being more than a little puzzled from time to time by the artful legalisms and subtle disclaimers found in all too many warranties. Unscrupulous businessmen have too often taken advantage of loopholes in the law, creating the impression that they would do thus-and-so in the event of product failure, when in fact they were actually undertaking—in legal terms—to do far less. And the beleaguered consumer, confronted by a defective product he thought was fully guaranteed, often has no place to turn. And even where some sort of legal redress is available, it is often prohibitively time-consuming and expensive. The committee report, I think, states it well:

> In the marketplace today many warranties which promote consumer understanding and honor the implied warranties are, nevertheless, unsatisfactory because the warrantor does not live up to the promises he has made. There is no practical way to enforce these warranties except through the courts—a process which is prohibitively expensive for most consumers. But economic sanction can be a very effective enforcement tool. If warrantors who did not perform as promised suffered direct economic detriment, they would have strong incentive to perform as promised. Therefore, there is a need to insure warrantor performance by monetarily penalizing the warrantor for nonperformance—and awarding that penalty to the consumer as compensation for his loss.
>
> One way to effectively meet this need is to provide reasonable attorney fees and court costs to successful consumer litigants, thus making consumer resort to the courts feasible.
>
> Such feasible court action would also encourage suppliers to develop workable informal dispute settlement procedures for the expeditious settlement of consumer complaints.

This last point, Mr. President, deserves special attention. One of the most promising features of title I, I think, is the encouragement given to private remedies. Section 110 of the bill provides, among other things:

> Congress hereby declares it to be its policy to encourage suppliers to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms.
>
> Such informal dispute settlement procedures should be created by suppliers in cooperation with independent and governmental entities pursuant to guidelines established by the Commission.
>
> If a supplier incorporates any such informal dispute settlement procedure in any written warranty or service contract, such procedure shall initially be used by any consumer to resolve any complaint arising under such warranty or service contract.

This provision, I believe, is an excellent example of how the private and public sectors can work together to achieve a common goal. The exhaustion of private remedies prior to the pursuit of public redress is, I believe, a sound principle of procedure—one that I wish were followed more widely in other areas of the law.

The existence of such a provision in title I seems to me to demonstrate the reasonable spirit which characterizes title I as a whole.

It is on balance a well-thought-out measure that will go a long way toward alleviating the just grievances of the consuming public. I am therefore happy to support it.

Title II of the bill—that section expanding the prosecutorial and legislative authority of the Federal Trade Commission—is quite another matter. I wish it were possible for me to support title II as it now stands, Mr. President, but unfortunately I cannot. Some aspects of title II, of course, are relatively noncontroversial and under other circumstances probably ought to be enacted.

It is for that reason that I believe that titles I and II ought to be treated as separate bills.

Among the reasonable provisions of title II are those which would extend the Commission's jurisdiction to unfair or deceptive acts "affecting" commerce; those which would authorize the Commission to seek temporary injunctions in cases involving unfair practices; and those which would empower the Commission to proceed through its own attorneys in such matters as subpena enforcement and civil penalty actions.

Two other provisions of title II, however, are of rather more serious import.

Taken together, they could convert the Federal Trade Commission into a virtually all-inclusive judge, jury, and prosecutor for consumer grievances in the United States. However much we may sympathize with the just grievances of the American consuming public, I think we would do well to proceed cautiously in devising remedies for their proper redress.

In particular, I think we would do well to take a long hard second look at the provisions of title II.

The first provision which concerns me, Mr. President, is section 203, which would authorize the Commission—after it has entered a final cease and desist order in any proceeding involving an act or practice which is unfair or deceptive to consumers—to initiate civil actions in court to secure redress for consumers injured by the act or practice. Redress which might be obtained would include, but not be limited to, recision or reformation of contracts, refund of money or return of property, public notification of violation, and the payment of damages.

This provision represents an improvement over the provision contained in the legislation as it was orginally introduced, which would have authorized the Commission itself to order consumer redress in its own administrative proceedings. Court procedures obviously provide a surer guarantee of due process than those conducted by administrative agencies.

But the reported provision does present the danger that punitive and exemplary, as well as compensatory, damages may be sought and assessed. While few would object to legislation empowering the Commission to seek court redress for consumers injured by established "deceptive practices" for the purpose of making them whole, there is little justification under the Federal Trade Commission Act for fashioning types of legal recovery which transcend this objective. Particularly where the act for which recovery is sought may not previously have been known to be unlawful. Redress, in short should be limited to compensating consumers for injury actually suffered as the result of known unfair practice. Provision for such remedies as exemplary or punitive damages could result in the creation of a fund which could be used for purposes having no relationship whatever to the extent or nature of the injury which might flow from the practice in question. The reward, if any, to consumers from this use might or might not confer any benefit upon those injured by the practice.

Additionally, prior to initiating any civil action for consumer redress, the Commission should ascertain if the supplier involved has in effect any plan providing for voluntary settlement of consumer complaints of the nature involved in the proposed suit. If so, and if the settlement program is fair and reasonable under standards to be established by the Commission, the agency should be required to pursue the satisfaction of claims under the terms of this program without resort to litigation. Since under these circumstances consumers can be made whole in an efficient and expeditious manner there would be no need to undertake a costly, time-consuming civil action to secure the same result. I think it worthy of note, Mr. President, that title I of the bill establishes just such a procedure for the violation of the warranty provisions. I think an even stronger case can be made for the inclusion of a similar provision here.

Finally, Commission suits under proposed section 203 would be in the nature of consumer class actions, with the FTC acting as representative of the class.

If redress for consumers is secured through this mechanism, by either action or approved settlement, there is no need to authorize private litigation relating to the same facts. As the Commerce Committee report on S. 3201, 91st Congress, second session, 1970, acknowledges, if the Government is the appropriate representative of a consumer class and if the Government has initiated action, private class actions should be precluded. Yet the act does nothing to foreclose such dual litigation.

The second section of title II which concerns me, Mr. President, is that provision which would amend section 6(g) of the FTC Act and authorize the Commission to promulgate trade regulation rules prohibiting certain practices as unfair or deceptive to consumers.

According to the Commerce Committee report, such trade regulation rules promulgated by FTC would have the force and effect of law.

In permitting the Commission to legislate without limitation throughout the "free" sector of the economy, Congress would be engaging in a virtually unprecedented delegation of its legislative authority which involves serious constitutional questions. Outside of the public utilities or licensed industries, or the narrow confines of fair packaging or labeling, Mr. President, I know of no parallel to the broad legislative authority here proposed to be delegated to a Federal agency. The legislative power here proposed to be given to the FTC would not be confined in any way by boundaries other than the broad prescription that the act or practice must be unfair or deceptive to consumers and prohibited by the FTC Act. It is well recognized that the Commission enjoys wide latitude under this statute to attack and prevent through trial-type adjudication innumerable types of business conduct, many of which have not been generally considered improper until challenged by the agency.

If trade regulation rules are to have the "force and effect of law," a respondent in an administrative enforcement proceeding based on an agency rule would be allowed only to prove that this conduct is not covered by the rule: he would be precluded from asserting that the rule does not describe a violation of law. With this power, the Commission would assume all the prerogatives of a minilegislature. Five commissioners, or as few as two acting in a quorum of three, could enact "laws" throughout the economy. Not only would business be bound by these rules, but violation would entail the imposition of substantial fines, as the Commerce Committee report declares that violation of a trade regulation rule would constitute a "knowing" violation of the FTC Act within the meaning of section 202 of the bill.

It is almost beyond question that Congress never intended the Commission to exercise legislative, as contrasted with interpretive, rulemaking power, and there is no reason why this power should be granted now. In fact, there are already numerous ways in which the Commission can announce its interpretations concerning commercial practices. These include guides, advisory opinions, and enforcement policies without resort to administrative legislation.

Even if the Commission were to be vested with authority to issue legislative-type rules, the procedures specified in S. 986 for the formulation of these rules are woefully inadequate to protect the rights of affected parties.

First, the availability of a public hearing would turn on whether the Commission determines that there is material dispute as to the facts on the basis of documents filed in a preliminary phase of the rulemaking proceeding.

More important, S. 986 would empower the Commission narrowly to limit cross-examination and possibly, according to the Commerce Committee report, to deny this right altogether.

This denial could be of critical importance, since the facts relied upon by the Commission in the course of any rulemaking hearing often include complex economic or technical data prepared by the Commission's own staff or by non-Government sources with a direct interest in the outcome of the proceeding.

Unless this testimony is subject to such full cross-examination as will test its validity, there is a substantial danger that Commission action will be based on unreliable and even distorted evidence.

Of course, the officer presiding at a rulemaking proceeding in which cross-examination is authorized possesses ample authority to prevent its use as a dilatory device.

Finally, the Commerce Committee report in particular threatens seriously to limit the scope of judicial review. Under the proposal, a trade regulation rule once issued by the Commission does not become effective until it has been referred to Congress for a period of 60 days and neither House has voted to disapprove the rule.

The Commerce Committee report would insinuate that the failure of one or the other House to reject a Commission rule entitles that rule to particular respect by a reviewing court.

Any realistic understanding of the byways of congressional procedures would properly forbid the creation of any such presumption.

Ordinarily, congressional silence is not taken as an indication of either approval or disapproval of administrative action.

With the press of ordinary legislative business, Congress cannot be expected to spend any time reviewing such rules except, perhaps, when there has been an egregious misuse of delegated legislative authority. The fact remains, however, that the provision in question will have the inevitable effect of giving the Commission's rules the force of law.

In conclusion, Mr. President, let me express my hope that nothing in my remarks will be interpreted as a criticism of the Federal Trade Commission. The Commission has performed many valuable services in the elimination of unfair and deceptive trade practices in the past, and I would hope that it will continue to perform a vital role in the future.

But to invest the Commission with the type of authority proposed in title II of this bill would, I believe, serve neither the public interest nor that of the consuming public.

I, therefore, strongly urge that the Hruska amendment be adopted.

QUORUM CALL

Mr. COOK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, the pending amendment is to strike title II of the bill providing for a revision and restructuring of the Federal Trade Commission and to put in its place a title which would call for a study commission to study restructuring the Federal Trade Commission, including the practicality of a system of small claims courts, if that would be indicated after inquiry, to take jurisdiction over consumer claims on warranties, thus enabling the judiciary system to escape that degree of impairment which would follow if we were to have title II as it exists now, together with a duplicate jurisdiction of the Federal Trade Commission and the Department of Justice in many areas, and particularly the creation of a legislative consumer class action.

There has been rumor around here that there is no doubt about the result of this vote; that nobody is going to vote against consumer legislation. That seems to me some of the rumor going around. A vote in favor of the Hruska amendment is not an anticonsumer vote. Such a vote will be in favor of the consumer in that it will allow title I dealing with substantive law on warranties to go into force and effect as of now. It would also take out of the bill what will prove to be a false and illusory basis in the form that exists now that they will get paid for broken warranties. Nothing could be further from the truth than that. Under title II of the bill it will impair their ability to make claims under any kind of Federal jurisdiction and there will not be a delivery—in fact, prospects of delivery of relief for violation of warranties or unfair or deceptive trade practices will be lesser.

It would seem the better part of wisdom to agree to the amendment, dispense with title II as it presently exists, put in title II that is being proposed, and then we can go on with the business at hand.

It was suggested a while ago that there may have been an idea that this bill, if it were debated long enough, would be set aside and not considered in this session. I do not think in the 17 years I have been in the Senate that this Senator has been considered a filibusterer. The Senator from New Hampshire and I happen to be celebrating an event today. Seventeen years ago at 12 o'clock noon the Senator from New Hampshire and I were sworn into the Senate. We are now 4½ hours into our 18th year of service in the Senate. I know we are still junior Members. I say that partly when I look at the chairman of the Committee on Commerce. We are willing to retain that junior status for a long time and we hope it will be that way for a long time. But there never has been a time when I have spoken on a matter for dilatory purposes alone, and I did not intend that that be done today.

In my judgment the granting and passage of title II into law is as important a measure as we have had in the domestic field this session. It would reverse and overturn a national policy determined by acts of Congress for over 57 years, to wit, denial to the Federal Trade Commission of the power to legislate—a high class, vast, extensive field in which they can legislate rules which will have the force in effective law. It is that important and I would think that from 11 o'clock until 4:30, with some interruptions, is not too great a length of time to devote to that purpose.

My mind goes back to the 50 days devoted in this Chamber not too long ago on a most leisurely scale to one measure—50 days and not 4½ hours. I regret more Senators have not engaged in this colloquy and discussion of the bill because in due time we are going to find ourselves right back where we are now trying to find out why we did not give greater resistance than we are giving it now.

There is another amendment coming up. It will be for the striking out of section 203, the consumer class action provision, if the Hruska amendment is rejected. Following that will be another amendment to strike section 206, because it gives rulemaking power virtually without limit by Congress, not in the field of consumer activity, but in the field of business generally, all business activities, because all these business activities have the basis for a conclusion by some one that they are unfair to someone in his interest. Following that are some technical amendments. One is not a technical amendment. One has to do with whether there will be due process in adopting these rules, whether there will be such a thing as a right to a hearing, whether there will be such a thing as a right to call witnesses to testify, and whether there will be such a thing as cross-examination, an opportunity for cross-examination during the hearings on the rules that will be on a tentative basis considered and made available to the public for their comment and for various interests in this measure; and additionally for full judicial review of the products of this rulemaking process.

These are not for the purpose of taking the time of the Senate but to call attention to the troubles and the dangers that will be spawned if present title II is enacted into law in its present form.

Mr. President, I yield the floor and as far as I am concerned, I am ready for a vote on the motion.

Mr. MAGNUSON. Mr. President, I, too, want to move this bill as fast as possible. I would be much more tolerant of many days of debate on this matter if it were not for the fact that we are getting close to what we hope will be a deadline. The majority leader pointed out other bills that will come along. After 4 years or more working on this kind of bill, the majority did not want to be in a position where we are shut out.

The Senator from Nebraska, the Senator from Colorado, and the Senator from New Hampshire have been very cooperative. I appreciate it.

I want to join in the Senator's celebration today of 17 years and 4½ hours of service in this body. When the Senator mentioned that he was still junior to some of the rest of us, may I suggest that, if I were to give the Senators a toast today, I would say that neither one of them was junior in his dedication to his duties and his job here.

Mr. HRUSKA. I thank the Senator.

The Senator mentioned the idea of spending 4 years on this bill.

I know of a Senator from the State of Tennessee, who was highly esteemed, the distinguished late Senator, Mr. Kefauver—"Estes the Bestest," we used to call him most affectionately—who for 10 years tried to get a bill passed in the form of S. 11, to negate the decision of the Supreme Court that under the Clayton Act, as amended by the Robinson-Patman Act, the act of lowering a price to meet a competitive's price was a good defense. After 10 years of trying, he failed to get that bill on the statute books at all.

Let me say to the Senator from Washington that if there is any way in which I can resist this procedure of granting legislative rulemaking power to the Federal Trade Commission, I will continue to do so. It might be 10 years, and those forces could ultimately prevail, but I feel that strongly about it. Nevertheless, on behalf of the Senator from New Hampshire and myself, I thank the Senator for his felicitation.

Mr. COTTON. Mr. President, if the Senator will yield, my name has been mentioned two or three times and I am not even in this alleged filibuster. But, first, I would like to thank the Senator for his kind remarks about the Senator from New Hampshire and the Senator from Nebraska celebrating today our 17th anniversary of service as Senators.

As the senior minority member of the Commerce Committee, let me say that the committee considered the bill very thoroughly, ably led by the distinguished chairman, who is always fair and considerate.

It so happens that the distinguished Senator from Kentucky (Mr. Cook) and I are a minority of two who shared to a great extent the views of the distinguished Senator from Nebraska.

Frankly, Mr. President, I feel that title I of the bill is of such importance and is such a boon to consumers that I do not like to see it jeopardized by a scrap on title II. This bill also must go to the House for its consideration.

However, I feel very strongly that if we now establish the precedent for the Federal Trade Commission and other quasi-judicial bodies in the Government

to recruit their own prosecuting attorneys, then what are now the duties of the Department of Justice will be spread all over every department and this Government is going to be in chaos.

For that reason, I am going to vote for the amendment of the distinguished Senator from Nebraska (Mr. HRUSKA). If that fails, I am going to support and vote for the amendment of the distinguished Senator from Kentucky (Mr. COOK). I do so perfectly aware of the fact that this bill came out of the Commerce Committee, as far as I know, with only two dissenting votes of the committee.

I do hope Senators will consider the advantage of taking out this controversial feature, which has the seeds of real mischief in the years to come, and will send a real bill to the House to get relief to the consumers rapidly.

I want to say to the chairman of the committee that, as far as I am concerned, with these few comments, and perhaps adding something in the RECORD on the amendment to be offered by the Senator from Kentucky (Mr. COOK), this is all the time I will take except to speak briefly on an amendment that I expect to offer, just before the bill is passed, which I think will be adopted unanimously.

Mr. MAGNUSON. Mr. President, I appreciate what the Senator has said. There was a difference of opinion in the committee about whether we should give protection when we grant this authority. Some of us think that we have provided ample protection procedures—due process, if you will—in the bill. There is a difference of opinion about that, and I respect that difference of opinion. I do not want to say any more about it. Some of us feel it is needed.

We followed the long study made by the present chairman of the commission, who was head of the American Bar Association study, and who set up these procedures. We followed the advice of Mr. Weinberger, who is now with the Office of Management and Budget, one of the able men in the administration, who urged this authority, and to which every member of the commission and other witnesses testified.

We felt, generally speaking, that the commission has been hampered for a long period of time in not being able to do the job it should do. After a cease and desist order, many of which the commission issues, there is no right to sue for a violation of that order, unless an individual suit were brought in a State court.

I do not think it is going to be a cause for cluttering up the calendars of the courts. We disagreed with that view. But if it should happen, if somebody is hurt, he should have the right to go to court. Perhaps we will need more judges. I do not know. I think that they are cluttered up now.

The Senator from Nebraska and I disagree as to whether this is the new process we would have, but we think we have selected correctly.

For years the argument has been going on about the Federal Trade Commission not having the authority it should have. We tried to fashion a bill. I, myself, had some doubts about the rulemaking authority, but I think the bill covers it very well. The administration sent a bill up to Congress which contained a part of the section the Senator is attempting to strike out, which provides for expanding jurisdiction in matters affecting interstate commerce. It permits the granting of authority to issue preliminary injunctions, which the administration has suggested.

I do not know how many times we have had the matter of preliminary injunctions in all kinds of bills, such as the truth-in-packaging bill, the labeling bill, and a score of other bills coming out of the committee. That authority has been recommended by pretty nearly everybody. Then we provided for an increase in the civil penalty.

I just feel that this is a step forward that has been needed for a long time. It is going to help protect the consumer and it is going to supplement title I. I do not think it will be abused in any way.

When the Senator said that all businesses might be affected, I agree that they might be affected if they did something wrong, but 98 percent of the businesses in this country believe in their warranties and want to carry them out. I shall take only a half a minute to say that I think most manufacturers that issue warranties believe in those warranties. They want to have a good product.

But when Mrs. Smith bought something and it did not work, there was no liaison and no dialog between the manufacturer and her. If she took it down to the store, the dealer would say, "You have to send it back to the factory." And the warranties were a little bit fuzzy; they are still fuzzy, and full of fine print. Some of them say, "You have got to pay all of the labor costs; we will just take care of the bolt that was out so the vacuum cleaner did not work," or something like that. By the time you pack it up and send it to the factory, your wife is on top of you to get a vacuum cleaner. That is what you usually do; you buy another one, hoping you will get something better.

I do not think any honest businessman in the United States is going to be hurt by this bill. So I strongly oppose the amendment for many reasons.

I am strongly opposed to the amendment striking title II. There are three noncontroversial provisions: First, expanding jurisdiction to matters affecting interstate commerce; second, granting authority to issue preliminary injunctions; and third, increasing the civil penalty from $5,000 to $10,000. These are supported by the administration as well as the Commerce Committee.

Votes on the two controversial features should be considered in separate amendments. We should not try to resolve the tough questions by ignoring them and killing the entire title.

Mr. COOK. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COOK. The Senator's remarks about the fact that someone has to pack up a vacuum cleaner and send it back have nothing to do with the argument relative to title II.

Mr. MAGNUSON. I did not say that. I said the bill provides this. I said the problem has been that there has never been any dialog between the manufacturer and the person who gets the product. The dealer says, "I cannot repair this." That is a part of title I.

Mr. COOK. Yes.

Mr. MAGNUSON. But I think title II supplements title I. The Senator from Kentucky disagrees with that, and so does the Senator from Nebraska.

I suggest that there are some arguments on both sides. But I think it will not help the bill, or our objectives, to knock out title II.

Mr. COOK. My only point is that the arguments the Senator is talking about relative to warranties have been spelled out, and he is satisfied with them, and certainly I am satisfied with them, in the language under title I. I did not want there to be any doubt about which section they applied to, and that the amendment presently before the Senate deals with title II, which is outside the scope of the warranty and guaranty provisions we worked on.

Mr. MAGNUSON. That is where we disagree.

Mr. COOK. All right.

Mr. MAGNUSON. Title II will better insure that products are reliable. That is what title II is for, to bolster what we should have done a long time ago.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. COOK. Mr. President, I do not want the record to show that somehow or other, by rejection of title II, we will be in a position that this is going to apply to the manufacturer, to see that he does something more than he is required to do under title I in regard to the warranty or guaranty he must give to the consuming public.

Title II deals with expanded authority of the Federal Trade Commission. It does not deal with the manufacturer in respect to what he must put into his warranty. It does not deal with the manufacturer, the distributor, or the dealer as to what their responsibilities are in regard to warranty, repair, price, or any of those things.

Title II says that if in fact the Federal Trade Commission brings an action, which it can bring now, but which it can bring under this bill for a trade practice, it can impose a liability of $10,000, where today it can be $5,000, and that it can impose a consumer class action.

This has nothing to do with the fact that his warranty or his guarantee must be in explicit and basic terms, as provided under title I. I would not want the record to show that somehow or other, title I is not a good piece of legislation and would be worthless without title II. We can debate that, but to say that the manufacturer, somehow or other, is under additional requirements and additional responsibility by reason of his warranty and guarantee than would be required if title I passes by reason of the rejection of title II, frankly, I could stand here and debate about all night long. Whether this bill is or is not finished today, I think it is important to make that distinction, and to understand it.

Mr. MAGNUSON. Mr. President, a warranty can be an example of an unfair practice, which title II would affect. That is the connection. We may disagree on this, but that is the way we see it.

Mr. HRUSKA. Mr. President, it has been suggested that nothing in this title is to be feared by the honest, reliable businessman. Testimony before the Committee on the Judiciary—and it was not, for some reason, developed, so far as I know, in the Commerce Committee—was directed to this point.

There are two aspects about a reliable businessman trying to do the right thing, who never tried to do anything overreaching in his life. In the first place, products which he may create could be found by a ruling of the Federal Trade Commission, almost ex post facto, to be violating the law, and that would be particularly true if the Federal Trade Commission can pass regulations with the force and effect of law.

Mr. COOK. That is what makes title I so important, and makes title II the subject of this debate. Title I says in specific statutory language what the guarantee should be, and what it should be composed of. It is in clear language for Congress, the manufacturer, and everyone in the United States to see.

The trouble with title II is that it gives broad legislative authority, over and above the statutory authority involved in title I. Title I is specific and clear; title II is nebulous and vague.

Mr. HRUSKA. But the bill is not limited to knowing, intentional behavior, or to dealing with fraud only. It also deals with the man who tries to deal, manufacture, and sell honestly, but he is caught in this proposition of something being held to be illegal or fraudulent or deceptive when that is not his intention at all.

The second aspect is the consumer class action. The dealer can be as honest as the day is long, plus an hour, and yet if he gets caught or is sued in a class action, he has no means of getting out except buying his way out or trying the case to the last remedy that is available to him, and there are problems within that area, with the lack of safeguards in it, which are much greater than any civil damage or any fine could be.

So it is not a matter of the honest dealer and the honest manufacturer not being affected, and that he should not fear. He should fear, Mr. President. He should fear more mightily because this will be a very, very unfair bill for him. He will be affected.

Mr. MAGNUSON. Mr. President, the act prescribes that he has got to knowingly do it, and for those, who are good, reliable businessmen it would not bother them. There would be no reason to bring them in. A judge would throw a class action like that out of court in 5 minutes.

Mr. HRUSKA. Mr. President, the history of class actions in this country does not bear out that contention.

Mr. COOK. I suggest that under section 203, there is no such language as "knowingly," and no limitation on the damages that can be assessed.

Mr. MOSS. Mr. President, there is a bill on class actions pending in the committee. This has nothing to do with class actions. It is not a class action bill.

Mr. HRUSKA. Mr. President, then I misunderstand section 203 of the bill. Its plain language says the Commission may institute an action on behalf of consumers, and that is a class action bill if there has ever been a definition of class action.

This comes as a complete surprise, but it is contended this is not a class action bill. There it is in section 203, and again in section 202, and I will leave that to the expert and the authority over here, the Senator from Kentucky. This is a class action bill, period.

Mr. COOK. Mr. President, if the Senator will yield, I am neither an expert nor an authority on it, but, Mr. President, if it can be said at the last minute, before a vote on an amendment, that this is not a class action bill, that there is a class action bill before the committee, then I really wonder what we marked up and what we spent all of our time in the executive session on, after marking up S. 986, in the committee. If the language in section 203 is not as clear as it can be that the Federal Trade Commission is substituted for and put in the place of the consuming public, once a cease-and-desist order has been issued, once the practice has been established, that then, after an order of the Commission to cease and desist from engaging in actions or practices which are unfair or deceptive to consumers and proscribed by section 5(a)(1) of this act has become final as provided in subsection (g) of this section, the Commission, by any of its attorneys designated by it for such purpose, may institute civil actions in the district courts of the United States to obtain such relief as the court shall find necessary to redress injury to consumers.

This is not to redress the Federal Trade Commission, unless somebody on the Federal Trade Commission bought the product. This is to secure damages to the consumers caused by the acts or practices which were the subject of the cease-and-desist order, including, but not limited to, recision or reformation of contracts, the refund of money or return of property, public notification of the violation, and the payment of damages.

Mr. President, I would only suggest that in the Pfizer case that was settled in 1968, it was done by private action, a class action under the statute. A recovery was made by a settlement of more than $100 million. Not a penny has been paid out of that settlement since it has been done, because they are arguing over who should get the money. No individual consumer is going to get a dime, because those who will get it will be large corporations and institutions which had records. A little gentleman or a lady who bought drugs at the hospital or at a drug store is not going to get a thing back. But now the drug company can get it back, so they can recover on this. They marked up the drug when they got it, and they had a higher price for it, and they can get it at both ends.

Under this proposal, the Federal Trade Commission is going to do all this for the benefit of the institutional customer, because the individual customer is not going to keep all the stubs of what he buys.

To say that this is not a class action and that this section does not deal with class actions is really to shock the conscience of the whole debate that has been going on since the bill was introduced and to shock the conscience of all the work that has been done in the executive committee in trying to propose this as a present dangerous practice to forward to the Federal Trade Commission. Frankly, I cannot understand the remark.

Mr. MOSS. Mr. President, there is no right of any consumer to form a class and bring an action under this bill, as the Senator so well explained in reading from the bill.

The Commission itself, the Federal Trade Commission, may bring an action, but it is not a class action. The Senator well knows, from having participated in the committee discussions at great length on a class action bill, where the consumers themselves get together and form a class and bring a suit—that is what you talk about in a class action. This is something entirely different.

I do not want to prolong the discussion. All we are talking about here is giving the Federal Trade Commission a right to go into court as the Federal Trade Commission. Some people may benefit from that, but it is not forming a class and going in to file a class action, in the first instance, in court. That is what I meant when I said it was not a class action bill.

I would like to vote, Mr. President.

Mr. HRUSKA. Mr. President, if the Senator from Utah would put that explanation in writing and be willing to reduce it in the form of an amendment to section 203, to say, to wit, that this does not authorize class actions, that it is not intended to create class actions nor any attributes thereof, that would be a happy circumstance, indeed, and I imagine that we would have ground upon which to temporize in that regard; and even I would go along with that section. I would certainly go along with it—I speak for no one else—if it is stated within the text of section 203 that it is not going to be the foundation for the creation of class action.

If the Senator from Utah wants to offer that kind of amendment, we would then have a good deal of this debate clarified. It would also then explain why much of the testimony given on this bill devoted to class actions was not necessary at all.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SCOTT (after having voted in the affirmative). On this vote I have a live pair with the Senator from Maryland (Mr. MATHIAS). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from

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Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), the Senator from Washington (Mr. JACKSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Minnesota (Mr. HUMPHREY) would each vote nay.

Mr. SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The pair of the Senator from Maryland (Mr. MATHIAS) has been previously announced.

The result was announced—yeas 24, nays 57, as follows:

[No. 294 Leg.]

YEAS—24

Allen	Curtis	Miller
Allott	Dominick	Saxbe
Baker	Eastland	Stennis
Bennett	Ervin	Taft
Buckley	Fannin	Talmadge
Byrd, Va.	Hansen	Thurmond
Cook	Hruska	Tower
Cotton	Jordan, Idaho	Young

NAYS—57

Aiken	Hartke	Nelson
Anderson	Hatfield	Packwood
Bayh	Hollings	Pastore
Beall	Hughes	Pearson
Bentsen	Inouye	Pell
Bible	Javits	Percy
Boggs	Jordan, N.C.	Proxmire
Brooke	Kennedy	Randolph
Burdick	Long	Roth
Byrd, W. Va.	Magnuson	Schweiker
Cannon	Mansfield	Smith
Case	McClellan	Sparkman
Church	McGee	Spong
Cooper	McGovern	Stafford
Eagleton	McIntyre	Stevens
Fong	Metcalf	Stevenson
Fulbright	Mondale	Symington
Gambrell	Montoya	Tunney
Hart	Moss	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Scott, for.

NOT VOTING—18

Bellmon	Goldwater	Jackson
Brock	Gravel	Mathias
Chiles	Griffin	Mundt
Cranston	Gurney	Muskie
Dole	Harris	Ribicoff
Ellender	Humphrey	Weicker

So Mr. HRUSKA's amendment (No. 586) was rejected.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AIRPORT AND AIRWAY DEVELOPMENT ACT—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes.

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. TUNNEY). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT (S. REPT. No. 434)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That section 12(h)(5) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712(h)(5)) is amended by striking out January 1, 1972" and inserting in lieu thereof "January 1, 1973".

SEC. 2. The first sentence of section 14(d) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(d)) is amended to read as follows: "The balance of the moneys available in the trust fund may be allocated for the necessary administrative expenses incident to the administration of programs for which funds are to be allocated as set forth in subsections (a), (b), and (c) of this section, and for research and development activities under section 312(c) (as it relates to safety in air navigation) of the Federal Aviation Act of 1958.".

SEC. 3. Section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by adding at the end thereof the following new subsection:

"(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—

"(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the trust fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in subsections (c) and (d) of this section, as amended.

"(2) Amounts equal to the minimum amounts authorized for each fiscal year by subsections (a) and (c) of this section shall remain available in the trust fund until appropriated for the purposes described in such subsections.

"(3) No amounts transferred to the trust fund by subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 (relating to aviation user taxes) may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (d).".

SEC. 4. (a) Paragraphs (8) and (11) of section 11 (49 U.S.C. 1711), subsection (b)(3) of section 13 (49 U.S.C. 1713), and subsection (b)(2) of section 15 (49 U.S.C. 1715) of the Airport and Airway Development Act of 1970 are each amended by inserting immediately after "Virgin Islands," wherever appearing therein the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(b) Paragraphs (1) and (2) of section 14(a) of such Act (49 U.S.C. 1714) are each amended by inserting after "Guam," the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(c) Subsection (c) of section 17 of such Act (49 U.S.C. 1717) is amended (1) by inserting immediately after "VIRGIN ISLANDS" in the heading of such subsection a comma and the following: "AMERICAN SAMOA, and THE TRUST TERRITORY OF THE PACIFIC ISLANDS", and (2) by inserting immediately after "Virgin Islands" in the text of such subsection a comma and the following: "American Samoa, or the Trust Territory of the Pacific Islands".

SEC. 5. (a) Section 51(b)(4) of the Airport and Airway Development Act of 1970 is amended by striking out "two-year period" and inserting in lieu thereof "three-year period".

(b) Subsection (b) of section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)), as added by section 51 of the Airport and Airway Development Act of 1970, is amended by striking out all after "transportation" in the third sentence thereof and inserting in lieu thereof a period and the following: "Unless the Administrator determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include but not be limited to terms, conditions, and limitations relating to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.".

SEC. 6. Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429) is amended by inserting "(including airport operating certificate)" immediately after "air navigation facility certificate".

And the Senate agree to the same.

HOWARD W. CANNON,
VANCE HARTKE,
PHILIP A. HART,
JAMES B. PEARSON,
HOWARD BAKER,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
JOHN JARMAN,
JOHN M. MURPHY,
BROCK ADAMS,
WILLIAM L. SPRINGER,
SAMUEL L. DEVINE,
JAMES HARVEY,
DAN KUYKENDALL,
JOHN D. DINGELL,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

SHORT TITLE

House bill

No comparable provision.

Senate amendment

Section 101 of the Senate amendment provided that the legislation could be cited as the "Airport and Airway Development and Revenue Acts Amendments of 1971".

Conference substitute

The conference substitute omits the short title provided by the Senate amendment.

REPORTING DATE OF AVIATION ADVISORY COMMISSION

House bill

The first section of the House bill extended the final reporting date of the Aviation Advisory Commission established under section 12(h) of the Airport and Airway Development Act of 1970 from January 1, 1972, to January 1, 1973.

Senate amendment

Section 103 of the Senate amendment extended the final reporting date of the Commission to July 1, 1972.

Conference substitute

The conference substitute is the same as the House bill.

ADMINISTRATION OF THE TRUST FUND

Airport and Airway Development Act of 1970

House bill

Section 2 of the House bill amended section 14(d) of the Airport and Airway Development Act of 1970 to permit rather than require the allocation of money in the Airport and Airway Trust Fund for administrative expenses incident to the administration of the airport development program and to the acquisition, establishment, and improvement of air navigation facilities. This section of the House bill also removed from existing law the authority to allocate money in the trust fund for the maintenance and operation of air navigation facilities.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill.

House bill

Section 3 of the House bill added a new subsection (e) to section 14 of the Airport and Airway Development Act of 1970, relating to the preservation of money in the trust fund and the priorities for expenditure of money in the trust fund.

Paragraph (1) of the new subsection (e) provided that, notwithstanding any other provision of law to the contrary, no money could be appropriated from the trust fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in subsections (c) and (d) of section 14 of the Airport and Airway Development Act of 1970. Subsection (c) of such section 14 refers to the acquisition, establishment, and improvement of air navigation facilities. Subsection (d) of such section 14 (as amended by the House bill and the conference substitute) refers to (1) administrative expenses incident to the administration of programs for airport development and for the acquisition, establishment, and improvement of air navigation facilities, and (2) research and development expenses under section 312(c) of the Federal Aviation Act of 1958, as it relates to safety in air navigation.

Paragraph (2) of the new subsection (e) provided that amounts equal to the minimum amounts authorized for each fiscal year for airport development ($280,000,000) and airway facilities ($250,000,000) must remain in the trust fund until appropriated for such purposes.

Paragraph (3) of the new subsection (e) provided that none of the user taxes transferred to the trust fund by section 208 of the Airport and Airway Revenue Act of 1970 could be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation except to the extent such administrative expenses were incident to the administration of the airport development program or the acquisition, establishment, and improvement of air navigation facilities.

Senate amendment

Section 101 of the Senate amendment also added a new subsection (e) to section 14 of the Airport and Airway Development Act of 1970, relating to the preservation of moneys in the trust fund and the priorities for expenditure of money in the trust fund.

Paragraph (1) of the new subsection (e) contained a provision identical to that contained in the House bill providing that amounts equal to the minimum amounts authorized for each fiscal year for airport development and for airway facilities must remain in the trust fund until appropriated for such purposes.

Paragraph (2) of the new subsection (e) provided that none of the user taxes transferred to the trust fund by section 208 of the Airport and Airway Revenue Act of 1970 could be appropriated for any fiscal year to carry out activities referred to in subsection (d) of section 14 of the Airport and Airway Development Act of 1970 (relating to administrative research and development, and maintenance and operating expenses) until the minimum amounts authorized for airport development and for airway facilities had been appropriated for that fiscal year.

Conference substitute

The conference substitute is the same as the House bill.

AIRPORT AND AIRWAY REVENUE ACT OF 1970

House bill

No comparable provision.

Senate amendment

Section 201 of the Senate amendment amended paragraph (1) of section 208(f) of the Airport and Airway Revenue Act of 1970 to eliminate language authorizing expenditures from the trust fund for specific purposes and revising the language to provide that the amounts in the trust fund would be available, as provided by appropriation Acts, for expenditures to meet obligations of the United States authorized under the Airport and Airway Development Act of 1970, thus incorporating by reference the priorities established under section 14 of the Airport and Airway Development Act of 1970.

Conference substitute

The conference substitute omits the Senate amendment to the Airport and Airway Revenue Act of 1970.

AMERICAN SAMOA AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

House bill

No comparable provision.

Senate amendment

Section 102 of the Senate amendment amends sections 11, 13, 14, 15, and 17 of the Airport and Airway Development Act of 1970 to permit American Samoa and the Trust Territory of the Pacific Islands to participate in the Federal grant-in-aid program for airport development provided for in that Act.

The amendments to section 11 provided that American Samoa and the Trust Territory of the Pacific Islands be included within the definitions of the terms "planning agency" and "public agency". Their inclusion within the definition of the term "planning agency" would make them eligible to receive grants of funds for airport system planning and airport master planning under section 13 of the Act. Their inclusion within the definition of the term "public agency" would permit them to submit applications for grants of funds for airport development projects under section 16 of the Act.

The amendment to section 13 provided that American Samoa and the Trust Territory of the Pacific Islands would be subject to the same limitation with respect to the allocation of funds for planning grants that applies with respect to the several States, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam. The limitation provides that not more than 7.5 per centum of the funds made available for planning grants for any fiscal year may be allocated to any one State.

The amendments to section 14 provides that the Secretary of Transportation could make grants for airport development projects in American Samoa and the Trust Territory of the Pacific Islands.

The amendments to section 15 provided that the discretionary fund would be available for making grants for approved projects for airport development in American Samoa and the Trust Territory of the Pacific Islands.

The amendments to section 17 provided that the United States share of allowable project costs of any approved project for airport development in American Samoa and the Trust Territory of the Pacific Islands could not exceed 75 per centum of the allowable project costs. This grants them the same preferential treatment accorded the Virgin Islands under that section. The United States share of allowable project costs is otherwise generally limited to 50 per centum.

Conference substitute

The conference substitute is the same as the Senate amendment.

AIRPORT CERTIFICATION REQUIREMENTS

House bill

No comparable provision.

Senate amendment

Section 104 of the Senate amendment amended section 51(b)(4) of the Airport and Airway Development Act of 1970 to postpone from May 21, 1972, to May 21, 1973, the effective date of the airport certification requirements added to the Federal Aviation Act of 1958 by section 51(b) of the Airport and Airway Development Act of 1970.

Section 104 of the Senate amendment also amended section 612(b) of the Federal Aviation Act of 1958, as added by section 51 of the Airport and Airway Development Act of 1970, to remove from such section 612(b) language requiring that each airport operating certificate contain terms, conditions, and limitations relating to the installation, operation, and maintenance of adequate air navigation facilities and to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.

Conference substitute

The conference substitute follows the Senate amendment insofar as it extends from May 21, 1972, to May 21, 1973, the effective date of the airport certification requirements.

The conference substitute also amends

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section 612(b) of the Federal Aviation Act of 1958 relating to the terms, conditions, and limitations required to be included in each airport operating certificate. The conference substitute does not remove from section 612 (b) all language relating to required terms, conditions, and limitations, but revises the language to provide that, unless the Administrator of the Federal Aviation Administration determines that it would be contrary to the public interest, each airport operating certificate must contain terms, conditions, and limitations relating to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.

House bill

No comparable provision.

Senate amendment

Section 105 of the Senate amendment amended section 609 of the Federal Aviation Act of 1958 to provide that the authority of the Secretary of Transportation to amend, suspend, modify, or revoke an air navigation facility certificate includes authority to amend, suspend, modify, or revoke an airport operating certificate.

Conference substitute

The conference substitute is the same as the Senate amendment.

HOWARD W. CANNON,
VANCE HARTKE,
PHILIP A. HART,
JAMES B. PEARSON,
HOWARD BAKER,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
JOHN JARMAN,
JOHN M. MURPHY,
BROCK ADAMS,
WILLIAM L. SPRINGER,
SAMUEL L. DEVINE,
JAMES HARVEY,
DAN KUYKENDALL,
JOHN D. DINGELL,
Managers on the Part of the House.

Mr. CANNON. Mr. President, the conferees have agreed to the conference report on the airport and airway trust fund. I move that the conference report be agreed to.

Mr. MAGNUSON. Mr. President, this is a very important bill which, because we have had so many matters to handle, has gone unnoticed. We all owe a debt of gratitude to the Subcommittee on Aviation headed by the distinguished Senator from Nevada (Mr. CANNON) which held hearings and got the bill moving. The conference report has now been agreed to by the conferees.

For the benefit of all Senators, we made the airport and airway fund a trust fund. Some people downtown had different ideas. The Senator from Nevada called their attention to the fact that when we say "trust fund," we mean trust fund.

Mr. CANNON. The Senator is correct. We have closed the barn door and locked it so that it will be a trust fund which was the purpose for which it was intended.

The PRESIDING OFFICER (Mr. TUNNEY). The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

PROGRAM

Mr. SCOTT. Mr. President, I rise to ask the distinguished majority leader if he can give us some insight as to the further procedures tonight and also comment on what the schedule looks like for later in the week.

I know the distinguished majority leader has in mind some of the problems which are facing us.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished Republican leader, it is hoped that it would be possible to finish the bill tonight. I understand that the distinguished Senator from Kentucky (Mr. COOK) has an amendment, that the distinguished Senator from Virginia (Mr. BROCK) has a substitute, that the distinguished Senator from Nebraska has another amendment, and that there may be others. If, perchance, we finish all amendments tonight and get to a third reading and our colleagues who have gone to Florida to attend the funeral of our late colleague, former Senator Spessard Holland, this afternoon, are not back tonight, the joint leadership would be willing to put off the final vote until 9:30 in the morning so that they would be protected.

Mr. SCOTT. Mr. President, the majority leader is correct. We have discussed this and agreed that we would like to have the vote tonight if our able colleagues are able to return in time from Florida. If not, we could vote in the morning.

I understand that a number of Senators will be away tomorrow night, and we have the Okinawa Reversion Treaty. Has the majority leader come to a conclusion as to when he would like to schedule that matter for a vote?

Mr. MANSFIELD. Yes. If possible—and no one can tell before the Senators go away on a very important engagement—those Senators who are going to be away can be absolutely certain that their rights will be fully protected. There will be no votes while they are away. If need be, we will try to complete the treaty tomorrow, and if they return too late, we will ask unanimous consent that the vote occur sometimes the next day, to make sure that all Senators are back from the vantage point to which they have gone.

Mr. SCOTT. I am glad the Senator said "vantage point." That makes it bipartisan.

I understand there will be no votes on Tuesday on the Okinawa Reversion Treaty in any event and we will try to set it at such hour, around the middle of the day on Wednesday to enable Senators to return from distant points.

Mr. MANSFIELD. That is right. If perchance we get to the conclusion before they leave we could get to a vote, but it looks like Wednesday and we will pick a time acceptable to those the greatest distance away.

Wednesday we will take up the humanitarian and economic aspects of foreign aid and hopefully following that will be the military aspects. Then, that will be followed by the tax package which was reported by the Committee on Finance today. In turn, it will be followed by the phase II package which will be reported later this week.

So we will have a full week and we will have them from now on.

Mr. SCOTT. So that Senators may be on notice, aside from Tuesday night I take it there is reasonable expectation of late sessions for the remainder of the week, and we have not excluded the possibility of a Saturday session.

Mr. MANSFIELD. There will be a Saturday session, and in response to the first part of the Senator's question, as the fellow said, "indubitably."

Mr. SCOTT. Indubitably. I thank the Senator.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. RANDOLPH. Can the distinguished majority leader help us by indicating, if possible, whether there will be rollcall votes on the one or more amendments to be considered today?

Mr. MANSFIELD. I assume there will be with very little question, and possibly two.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

The Senate continued with the consideration of the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

Mr. COOK. Mr. President, I call up my amendment No. 478.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. COOK. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 24, strike out line 5 and insert in lieu thereof the following: "ranties, Federal Trade Commission Improvements, and Consumer Remedies Study Act".

Beginning with line 18, page 43, strike out all of section 208 to and including line 10, page 44, and appropriately renumber succeeding sections.

On page 51, between lines 21 and 22, insert the following:

"TITLE III—CONSUMER REMEDIES STUDY

"SEC. 301. (a) The Director of the Office of Consumer Affairs, in consultation with and with the assistance of the Attorney General of the United States, is authorized to contract with the National Institute for Consumer Justice (hereafter referred to as the 'Institute'), a nonprofit corporation of the District of Columbia, to conduct a study of studies of means for improving the grievance-solving mechanisms and legal remedies of consumers, including but not limited to the following:

"(1) methods of preventing consumer grievances from arising and of improving seller-buyer and debtor-creditor relationships;

"(2) existing and potential voluntary settlement procedures, including arbitration; and

"(3) the desirability of establishment of a nationwide system of small claims tribunals.

"(b) The Director of the Office of Consumer Affairs shall, within eighteen months of the enactment of this Act, submit a final report on such study or studies to the President and to Congress along with its recommendations, if any, for legislation.

"SEC. 302. (a) The Institute and each recipient of a contract from the Institute under this title shall keep such records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any funds provided under this title as are pertinent to the disposition and use of such funds.

"SEC. 303. There is authorized to be appropriated $500,000 to carry out the provisions of this title."

On page 51, line 23, strike out "SEC. 211.", and insert in lieu thereof "SEC. 304.".

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, will the Senator from Kentucky yield once more?

Mr. COOK. I yield.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate go into executive session to consider four nominations reported by the Committee on the Judiciary this afternoon. This matter has been cleared on both sides.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider executive business.

U.S. DISTRICT JUDGE

The legislative clerk read the nomination of William J. Bauer, of Illinois, to be a U.S. district judge for the northern district of Illinois.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

U.S. ATTORNEY

The legislative clerk read the nomination of Herbert J. Stern, of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

The legislative clerk read the nomination of James R. Thompson, Jr., of Illinois, to be U.S. attorney for the northern district of Illinois for the term of 4 years.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

U.S. MARSHAL

The legislative clerk read the nomination of Thomas E. Ferrandina, of New York, to be U.S. marshal for the southern district of New York for the term of 4 years.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

Mr. MANSFIELD. Mr. President, I thank the Senator for his unfailing graciousness.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk; and

H.R. 5060. An act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

The enrolled bills were subsequently signed by the President pro tempore.

CONSUMER PRODUCT WARRANTIES AND FEDERAL TRADE COMMISSION IMPROVEMENTS ACT OF 1971

The Senate resumed the consideration of the bill (S. 986) to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

Mr. COOK. Mr. President, upon my assuming responsibility as ranking minority member of the Consumer Subcommittee of the Senate Committee on Commerce at the beginning of this session of the 92d Congress, I found there were a number of pieces of consumer legislation left over from the preceding Congress. One such bill was a bill to provide minimum disclosure standards for written consumer warranties. That bill, S. 3074 in the 91st Congress, passed the Senate without a dissenting vote on July 1, 1970, but was not acted upon by the House of Representatives during the last Congress. I supported that bill then and I support warranty legislation along the lines contained in title I of S. 986 now.

If S. 986 were limited to warranty legislation, as I would have preferred, we would not be involved in this debate at present. I believe it is safe to say that there remains virtually unanimous support for the type of legislation contained in title I of S. 986.

Unfortunately, when S. 3074 was reintroduced this session as S. 986, it was coupled with amendments to the Federal Trade Commission Act substantially expanding the powers of the Federal Trade Commission in the consumer area.

Those amendments make up title II of the bill, S. 986, which is presently under consideration. I intend to confine the remainder of my remarks to that title and the effect which my amendment, cosponsored by the distinguished ranking minority member of the Senate Committee on Commerce and the distinguished ranking minority member of the Senate Committee on the Judiciary, would have on the bill, S. 986.

Mr. President, I have characterized the amendments of the Federal Trade Commission Act, which would be affected by title II of this bill, as sweeping. Principal among them are amendments which would, if adopted—

First. Expand the jurisdiction of that Commission to include all acts or practices affecting interstate commerce and not just those in interstate commerce as at present;

Second. Give to the Federal Trade Commission, acting through its own attorneys, the power to seek preliminary injunctions;

Third. Double the penalty for violation of a Commission cease-and-desist order from $5,000 to $10,000.

Fourth. Authorize Commission attorneys in the field to bring actions seeking compliance with Commission-issued subpenas;

Fifth. Give the Commission a clear legislative mandate to engage in rulemaking;

Sixth. Authorize the Commission to bring actions seeking civil penalties against persons knowingly engaged in acts or practices which are unfair or deceptive to a consumer; and

Seventh. Authorize the Commission, acting through its own attorneys, following entry of a final cease and desist order to go into court for the purpose of obtaining redress for consumers alleged to have been injured by the unfair or deceptive act or practice which formed the basis for such order.

These amendments represent in effect a rewriting of the Federal Trade Commission Act and would, in my opinion, and the opinion of numerous and well respected FTC practitioners substantially change the character and mission of that agency in the consumer protection field. They were worthy of consideration on their own merit and should have been so considered, in my view.

A number of the amendments are desirable and necessary to assist the Commission to better perform its present mission. For example, the first three of the amendments, listed above were proposed by the administration in legislation sent up by it which was introduced

by request as S. 1219. The increased powers which would have been given the Commission under those amendments were considered sufficient by the administration for the time being.

While I am on the subject of the position of the administration with respect to this bill and the Federal Trade Commission, let me say, Mr. President, that I believe no one can justifiably question the dedication of this administration to revitalizing the Federal Trade Commission as a body for the protection of consumer interests. Not only has the administration proposed to substantially broaden the powers of this Commission as I have just indicated, but more significantly it has, when taking office, appointed a man to be Chairman of that agency who has brought it out from under the clouds of consumer, legal and business dissatisfaction which hung over the agency. Prior to the Nixon administration taking office cries for the abolition of the Commission were being heard from all quarters. Not only Ralph Nader but also the American Bar Association had undertaken studies of the Commission raising serious questions as to the efficiency of its continued existence. The decline of the Commission has been reversed in 3 short years under a Chairman appointed by President Nixon. Is the Nixon administration anti-FTC? Let the record speak for itself.

I personally was inclined to give the Commission somewhat broader powers than those recommended by the administration. For example, I believe the provision permitting more flexibility in enforcing FTC subpenas in the field is desirable. Likewise, I can see merit in permitting the FTC through its own attorneys to enforce its final cease-and-desist orders instead of requiring it to rely on the Department of Justice to do so as at present. These provisions taken together would, in my opinion, have given the Commission sufficient authority to perform its present mission effectively. The Chairman of the FTC, I might add, has confirmed to me in private discussions that only these provisions are necessary to do so although he regards other provisions in the bill to be desirable additions to the Commission's authority.

Regardless of the desirability of the amendments beyond those which I have already discussed, no one doubts that adoption of them will dramatically and radically alter the role of the Federal Trade Commission with respect to consumer protection. To date, the Commission has operated as a normal administrative agency in defining conduct which is unfair or deceptive and, therefore, proscribed by section 5(a) of the act.

The Commission's judgment that a particular practice is henceforth to be deemed a violation of section 5(a) and its order to cease and desist from that practice have had prospective application only, even as to the person against which the order is entered. Under section 202 and 203 of the proposed amendments to the Federal Trade Commission Act, the Commission would, for the first time, be authorized to go into court and seek civil penalties, damages, or other relief on behalf of consumers aggrieved, based on the conduct which may have been declared unlawful for the first time by entry of the Commission's final cease-and-desist order.

These amendments, I believe, will raise more problems than they will solve. This is particularly true of the amendment contained in section 203 of the bill which would authorize the Commission to bring actions in Federal courts on behalf of consumers alleged to have been injured by acts or practices concerning which it has obtained a final cease-and-desist order. I believe this provision is both untimely and ill-advised.

Among the more troublesome questions presented by enacting this section at this time are the following:

First. How will the Federal Trade Commission in its new role as parens patria for aggrieved consumers interface with other consumer agencies, the establishment of which is presently being considered. For example, the Product Safety Commission or Administration under S. 983 and S. 1797 presently pending before our committee and the Consumer Protection Agency under H.R. 10835, a House passed bill presently pending before the Senate Committee on Government Operations.

Second. Will the Federal Trade Commission be able to operate under this provision without a substantial increase in manpower and budget or will the provision simply hold out a promise to consumers which cannot be kept? If, as I believe, the Commission will be unable due to budgetary and manpower limitations to implement this provision, consumers will be more disillusioned than helped by its passage at this time. If, on the other hand, the Commission attempts to proceed with implementation of section 203 there are innumerable legal problems which may stand in the way of its becoming operable.

I might repeat again that in the report on the bill, S. 986, on page 41, in response to a request made of the Federal Trade Commission as to the increased costs, it is indicated that under title I the increased cost would be $200,000 for the first year, $200,000 for the second year, and $150,000 for the third year. Unfortunately, they gave no figures—if they did give figures, they do not appear in the report—on the cost of title II, so that no one understands what the increased costs of the Federal Trade Commission would be by reason of title II.

They did not ask for an additional sum of money. They apparently said it would not increase the cost, but I have estimates of the increased cost from the Federal Trade Commission which shows that if title II is enacted, it will cost $725,000 the first year, $875,000 the second year, $1 million the third year, $1,250,000 the fourth year, and $1,400,000 the fifth year.

Why these figures are not in the record, why these figures are not available, I do not know, but to subtantiate the fact that they are important, I would suggest that in the ABA report on the Federal Trade Commission—and I might suggest that the chairman of that body at that time was Mr. Miles Kirkpatrick, distinguished Chairman of the Federal Trade Commission—he said in the report:

> We agree with the Chairman of the Federal Trade Commission and others that Congress is partly responsible for the Federal Trade Commission's problems because of its practice of committing important new legislative programs to the agency without commensurate increases in budget.

Yet there is no anticipated increase in budget pursuant to the record of the Federal Trade Commission itself.

We also would like to make Senators aware of the fact that in a letter to the committee, dated March 11, 1971, on S. 986, Mr. Paul Rand Dixon, who is a Commissioner of the Federal Trade Commission, said:

> I am vitally concerned with the substantially increased burden which would be placed upon the staff by enlarging our jurisdiction to include local law violations.

I do not want to read it all, but it goes on:

> It would indeed be tragic if our jurisdiction were expanded to practices "affecting" commerce without a concurrent increase in funds to enable us to assume the added responsibility. With our limited funds, I am convinced that we could not begin to reach even the most flagrant of those practices coming within our expanded authority. Frankly, to provide the Commission with this authority without increased funds for enforcement is to hold out false hope to the consumer.

And yet it will be seen that in the report there is no—I say again "no"—language or information, and there is no testimony by the Federal Trade Commission, that title II, with its broad, sweeping powers under section 203, would increase the costs of the Federal Trade Commission. Yet we know that, with the increased authority to bring actions, with the increased authority to enforce the actions, with the increased authority for its lawyers to go into a field they have not gone into before, and with the authority to go into it anywhere in the United States, the cost is going to increase greatly.

Third. Is the term "unfair or deceptive act or practice" sufficiently well defined to make exercise of the authority contained in section 203 by the FTC constitutional and, even if it is constitutional, is it wise? I think not. Under existing law, the FTC has authority to issue cease and desist orders against "unfair or deceptive" acts or practices; these orders apply prospectively only. Of course, many types of conduct are well known to be "unfair or deceptive" as a result of prior FTC proceedings. However, the problem is that the FTC frequently breaks very new ground in these proceedings and finds that conduct is "unfair or deceptive" when the conduct had previously been widely regarded as proper. This has been one of the primary missions of the FTC—to give specific meaning to a very general statutory term and in doing so it could be far reaching in its decisions because the cease-and-desist order only operated to bar such conduct in the future. Under section 203 there is now a risk of potentially ruinous retroactive liability if the FTC breaks new ground in a cease-and-desist proceeding and finds that a course of conduct is "unfair or deceptive" when it previously had been generally thought to be proper.

Under this section the same conduct which forms the basis for the cease-and-desist order would be the base for the court action thereby subjecting the defendant to potentially ruinous liability without advance notice that the conduct in question is unfair or deceptive. Where such conduct is engaged in knowingly, the imposition of liability may be appropriate, however this is accomplished by section 202 of the bill. To be noted is the fact that the civil penalty provided under that section is limited to $10,000. Liability under this section whereby action may be brought even though the defendant has not knowingly engaged in an unfair or deceptive act or practice is limited only by the size of class of consumers which the Commission may allege to have been adversely affected and the value of the product.

There is no other way the language can be interpreted. Otherwise, what is the point of the Federal Trade Commission's bringing an action for civil damages on behalf of consumers, if it is not going to be because of the size of the group alleged to be consumers and alleged to have been damaged?

I may suggest that members of the Commerce Committee staff itself have indicated that this is not something they can very well find out, because on Thursday, November 4th, the Washington Star had a story the headline of which reads "FTC Charges Ads For Mouthwash Lie."

The article reads in part:

> A spokesman for the Senate Commerce Committee, which approved the bill, said even if the provision is enacted it would be difficult to get refunds for purchasers of a product such as Listerine, which has been marketed for years.

So it says in the article that they have no knowledge of how they would go about doing that, under those circumstances.

While on this subject, I must note that the section contains no provision for a determination of the consumers who are entitled to recover damages and no provisions indicating the manner in which the court is to administer such an action brought by the Commission.

Fourth. In view of the retroactive liability which would be associated with Commission cease-and-desist for the first time upon enactment of section 203, will not the courts reviewing such orders be less inclined to sustain orders breaking new ground in the area of defining unfair or deceptive practice. If so, and I believe it necessarily follows that they will, the Commission may be hamstrung in expanding the list of unfair and deceptive practices. This would be a most undesirable result from every point of view. I believe, Mr. President, it would be far preferable for the FTC to retain the flexibility it has enjoyed to date in expanding the frontiers of the law of unfair and deceptive practices and to place the function of consumer redress elsewhere.

Fifth. Additional legal problems which should be considered before a provision such as section 203 is enacted, but have not been, included the following:

There is no statute of limitations provision setting forth how far back the FTC may go to recover damages—that is, all consumers injured x years prior to the commencement of the FTC cease-and-desist action? All consumers injured from the date of commencement of the FTC cease-and-desist action? Or what?

There is no provision to cover the problem of a private damage action by a consumer—either individually or in a class action—commenced subsequent to the FTC section 203 action. Is such a private action banned by the doctrine of res judicata since the FTC section 203 action presumably is on behalf of all consumers? If so, should a consumer or group of consumers have the right to object to a proposed settlement of the FTC section 203 action since the settlement would be binding on them? Conversely, what if there is a consumer class action prior to the FTC section 203 damage action—are the persons in that action entitled to a second chance of recovery in the FTC section 203 proceeding?

The section ignores entirely the question of the effect the cease and desist order shall have in the subsequent section 203 damage action. Cease-and-desist orders are entered by the FTC after an FTC administrative hearing; if these hearings there is, of course, no right to a jury and court rules of evidence are not controlling. The question is—what weight should the cease-and-desist order have in the subsequent section 203 action. If it has res judicata effect it may violate the defendant's constitutional right of a trial by jury. Should it have prima facie effect? Should it have no effect, with the court conducting a complete trial de novo? The section totally ignores this question.

For all of these reasons I believe that enacting section 203 at this time would be unwise. It will impair the ability of the Commission to adequately perform its present functions and offer precious little if any relief for consumers.

Accordingly, my amendment to which I will now address my remarks, proposes, among other things, to eliminate that section. It also provides for a comprehensive study of consumer remedies which I believe to be both desirable and necessary.

Before I get to that point, Mr. President, I should like to go back to the hearings record just a moment, and ask, of all the testimony that was taken on S. 986, how much testimony is there that title II was absolutely necessary

Let me state it. It is from the Chairman of the Federal Trade Commission himself, Mr. Kirkpatrick, on page 36. What is his reason for wanting the additional sections, of which 203 is one? Says he:

> The Federal Trade Commission, as the agency which over the years has developed a special expertise in identifying fraudulent and deceptive practices and which always has had primary responsibility for dealing with such practices, should have a complete array of weapons and discretion to select the more appropriate sanction for use in a particular case.

I think Senators will find that all of the rest of the testimony in this record is opposed to section 203.

I would also point out that Mr. McLaren, in his testimony, on page 225, stated as follows:

> Since another bill submitted by the administration, the proposed Consumer Fraud Prevention Act, authorize private suits on behalf of those injured by an unfair or deceptive practice after the Commission has entered a final order against that practice, we tend to believe that administration of consumer remedies by the Commission is unnecessary and may detract from the Commission's overall enforcement effort.
>
> To give the Commission such powers would substantially alter the existing framework of the Federal Trade Commission Act. It would convert the Commission from a body whose orders are designed to operate prospectively into an instrument whose decisions are designed to redress injury and, in effect, to punish. It would effect this conversion without changing any of the procedures now governing the Commission's proceedings. If such a substantial revision of the Commission's purpose is to be made, we believe that it must be accompanied by a modification of the Commission's procedures to make them more like a court of law in order to protect the rights of parties appearing before the Commission.
>
> Moreover, to authorize the Commission to be represented in the courts by its own attorneys, rather than by the Justice Department, runs counter to the governmental policy that litigation in the court should be centralized in the Justice Department. It seems to us that this policy is important in order to assure that the United States and its agencies have an uniform policy with respect to positions asserted in the course of litigation; to secure objectivity in the filing and handling of cases; and to achieve and maintain better rapport with the courts.

Mr. McLaren proceeded to say:

> I am aware that Chairman Kirkpatrick testified that "delay between the time when a matter is sent to the Department . . . and the date it is filed has become a serious and vexing problem." We are not unaware that on occasion in the past this period of time has been longer than desirable. However, I have looked into that situation and I have reached certain conclusions. I found that time was often consumed in discussions between the Department and the Commission as to the soundness of a particular proposed case; as to whether the Commission had proposed a realistic penalty; as to whether the Commission's evidence supported the allegations proposed to be made in the complaint; and in settlement negotiations. Candidly, within the past year, Commission personnel have been doing a much better job, and the Department has, on its part, developed procedures which we believe will insure the speedy filing of sound Commission cases. We therefore oppose authorizing the Commission to be represented solely by its own attorneys in litigation.

I am gratified, Mr. President, that the distinguished junior Senator from the State of Virginia (Mr. STONG), the distinguished chairman both of our committee (Mr. MAGNUSON) and of the Consumer Subcommittee (Mr. Moss) share my view as to the desirability of a study of the sort that would be provided by the adoption of title III to the bill as proposed in my amendment. In view of their position, I do not believe there is any need, if there ever was, to defend the credentials of the body which would be authorized to undertake the study or of the value of their

report on the subject matter of consumer grievances and remedies some 18 months hence.

Nonetheless, they are prepared to move ahead with an amendment to radically restructure the role of the FTC. In the words of Assistant General McLaren in his testimony before the subcommittee:

> Section 203 would substantially alter the framework of the FTC Act . . . (and) would convert the commission from a body whose decisions are designed to operate prospectively into an instrument whose decisions are designed to redress injury and, in effect to punish.

This would be done in the absence of any demonstration that such a change in the role of the FTC is necessary or desirable. It would be done without any study as to how the FTC in its new role would fit into the overall framework of consumer protection at the Federal, State, and most important, local levels. To enact section 203 at this time would be an example of piecemeal legislation at its worst.

Mr. President, 18 months is not too long to wait to bring some coherence to legislation covering the area of consumer remedies. Even without section 203, the Commission will be given broad new powers which it should be given a chance to implement before embarking on a new and unchartered course. Eliminating the requirement that they attempt to do so at this time by eliminating section 203 is an attempt to expedite revitalization of the FTC, not retard it.

For all of these reasons, I urge all Members interested in the orderly revitalization of the FTC as a consumer protection agency to vote "No" on the Spong amendment, which would have the effect of reinstating section 203 of the bill, and to vote "Yes" on my amendment for its elimination.

The point I am trying to make is that it seems rather strange that one would be in favor of title III, to set up an agency to study, to set up an agency to develop the theory of a small claims court, and at the same time say, "Even though this study is going on, we want to give this broad, overall power to the Federal Trade Commission," and, consequently, probably never get around to seeing whether the real way to remedy the consumer in this country is to give him a private course of action.

I might suggest, in conclusion, that even Mr. Kirkpatrick, who is now Chairman of the Federal Trade Commission, as chairman of the special committee studying the Federal Trade Commission of the American Bar Association, said, on page 63:

> We recommend that private rights of action for damages and injunctive relief be created for and on behalf of consumers and other persons who are injured by deceptive practices which are violations of Section 5 of the FTC Act. This private right of recovery, particularly to the extent that it does not depend upon the utilization of FTC resources, would multiply the effectiveness of the enforcement mechanism and the seriousness of the sanction against violation.

Mr. President, I yield the floor.

Mr. HRUSKA. Mr. President, I rise in support of the amendment proposed by the Senator from Kentucky.

The amendment would strike section 203.

Section 203 authorizes the Commission, after issuance of a cease-and-desist order, to commence an action in Federal court "to redress injury to consumers caused by the acts or practices which were the subject of the cease-and-desist order." This section, in effect, is a class action provision with the Federal Trade Commission as the plaintiff suing on behalf of consumers for retroactive damage and other types of relief. Assuming that it is desirable to have these actions, the following specific issues are raised:

DAMAGES

The section does not specify in even the most rudimentary fashion how damages or other injury are to be proved or how awards are to be made to individual injured consumers. Does the section mean therefore that once liability has been determined, a court may simply create a money fund of unspecified proportions out of some ill-defined general damage assessment against a defendant, issue a press release inviting any consumer with a colorable claim of injury to collect from the fund, and turn the uncollected funds over to the Federal Trade Commission or the Treasury? Is it the intent to eliminate jury trial, if requested, on factual claims relating to damages? Should the court have a master to supervise damage claims? Or does the section mean that proof of specific injury is not required at all—that relief will be afforded at someone's fiat?

There is, for example, no requirement or suggestion in either the text of the section or the committee report that, when a section 203 class action has been filed, either the Commission or the court should issue notice to the consumers on whose behalf the Commission has brought the action. If neither the court nor the Commission knows which specific consumers are being represented in the action, neither one will be able, let alone be required, to assess the extent of each individual consumer's injury prior to levying a money judgment against a defendant.

The possibility of damage windfalls without proof of specific injury also suggests that section 203 may constitute the most extensive penalty provision ever devised. There is language in the committee report which states that the class action provision was designed not only to benefit consumers but also to enable the Commission to punish recalcitrant defendants with whatever sanctions the Commission or the court can devise.[1]

In view of the open-ended nature of this section, which conceivably authorizes both general and punitive damages without proof of individual injury and without any other clearly defined limitations, it is a mystery why the committee ever bothered to include in title II a special provision—section 202—authorizing the Commission to seek civil penalties for "knowing" violations of section 5 of the act and why any effort was made in section 204 of the bill to raise from $5,000 to $10,000 the civil penalty for violation of an outstanding cease and desist order. The potentially overwhelming impact of cumulative penalty sanctions was a prime topic of concern in the Judiciary Committee hearings last session on S. 3201. This pending bill and report not only totally ignore these concerns but add immeasurably to them by creating the possibility of unlimited liability in section 203.

UNDEFINED VIOLATIONS

Section 203 in no way specifies what violations of the Federal Trade Commission Act will subject a defendant to a section 203 class action. The lack of specificity is critically important. The Commission frequently pioneers new law in its cease and desist order proceedings. That, in fact, is traditionally its primary mission: To give evolving content to very general statutory terms. Section 203 thus creates a potential for unlimited liability for past conduct in situations where such conduct does not violate the law until the Commission, acting both as prosecutor and judge, decides to outlaw it. Jeopardy is not only unrelated to the law at the time an act is committed, but is not even remotely limited to acts otherwise known to be "deceptive." Yet the jeopardy may be far more serious than the penalties imposed for "knowing violations" under section 202.

MULTIPLE AND OVERLAPPING ACTIONS

As noted above, there is no requirement that notice be given to the consumers represented by the Commission, and no mechanism by which consumers can be required to "opt-in" or "opt-out" of the Commission action, and thus no means by which any members of the so-called class can be bound by the ultimate court decision. There is, moreover, nothing in the section to deal with multiple, overlapping and possibly successive class actions on behalf of the same consumers with respect to the same subject matter in both State and Federal courts. It is not even clear that a plaintiff who loses a private action on the same claims would be barred from a recovery under section 203.

As a result, a defendant may be forced to defend simultaneous or successive actions—whether brought as class or individual actions—involving the same subject matter and for the same beneficiaries if it wins the section 203 action brought by the Commission, if it wins the private suits, or if the Federal Trade Commission or private plaintiffs wish to improve their position even though the claims have yet to be litigated in plaintiffs' private actions.

Certainly no plaintiff is entitled to more than one day in court, and neither defendants nor the court system itself should be subjected to duplicative and wasteful litigation. Accordingly, section 203 suffers from the absence of a provision which binds consumers represented in the section 203 action, or stays Federal class actions and precludes the initiation of State court class actions involving the same or substantially the same relief as that sought in the section 203 action filed by the Commission.

SETTLEMENT

The section makes no provision whatsoever for settling consumer class claims out of court or for providing other reasonable settlement alternatives. Yet this is clearly desirable to avoid the problems of litigating thousands of claims—or millions—in a single proceeding. Indeed, in the guaranty and warranty provisions of title I, for example, there is a section encouraging the establishment of informal dispute settlement mechanisms and requiring "any purchaser" potentially injured by breach of warranty agreements to pursue such settlement mechanisms prior to bringing court action. It makes no sense to leave out a similar settlement[2] provision for title II, where the range of potential violations is so much broader and the potential burden on the courts so much greater than in title I.

DISTRICT COURT PROCEDURES

The section is silent as to the procedures the district court is to follow in determining the merits of the claim in the section 203 action and the relationship of that action to the cease and desist order and appellate review proceedings that precede it. The Commission cease and desist order may be viewed, for example, in one of four or five separate ways,[3] and any determination of the effect to be given that order must take into account the accompanying review proceeding by a court of appeals. Appellate review normally gives great, if not conclusive, weight to the Commission's expertise, a deference which is reasonable in some areas of the Commission's responsibility, but which may make no sense in the consumer fairness area where the Commission has no special expertise in dealing with the innumerable fact situations that can constitute fraud or misrepresentation.

If the district court in turn defers to the appellate ruling, the result in the end will have been dictated in effect by the Commission acting as legislator, prosecutor and judge. Equally significant, the respondent's ultimate liability will have been determined in proceedings that do not conform even to basic rules of evidence. It is also possible, of course, to eliminate appellate review of a cease-and-desist order where the Commission elects to bring a section 203 action and to constitute that action as a review de novo of all the liability issues presented. But whatever the solution, the question must be directly addressed.

STATUTE OF LIMITATIONS

The section in effect permits the Commission to reach back to award damages on a retroactive basis with respect to past behavior without any limit on how far back the Commission can reach, and whether or not the behavior was lawful at the time it occurred. It is highly unreasonable to permit the Commission to seek damages for a past practice while also having the ability to postpone determination of issues and let the damages add up. The issues go not only to the need to limit the jeopardy of defendants, but also to the ability to award effective consumer relief: for old violations, it may be impossible to locate or identify consumers potentially injured.

POTENTIAL ABUSE OF SECTION 203 BY COMMISSION

As currently drafted, section 203 can be used by the Commission as a powerful weapon to coerce defendants into accepting unreasonable consent decrees in order to avoid the harassment and abuse of a section 203 class action. The Commission should not have untrammeled authority to legislate, prosecute and judge a violation of law all at the same stroke, where the potential liability, whether for actual or punitive damages, is unlimited.

Mr. President, the amendment should be approved. Section 203 should be deleted.

Mr. President, I ask unanimous consent to have printed in the RECORD a part of the testimony by Milton Handler in the August and September meetings of 1970 on S. 3201. It is that portion of the testimony that begins with the first full paragraph on page 107, and continues through to the next to the last paragraph on page 110.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

PORTION OF TESTIMONY BY MILTON HANDLER

This brings me to what I believe is the most serious and troublesome aspect of this legislation—Title II's provisions for private damage remedies and class actions. With all due respect for the good intentions of the bill's sponsors, I must state that these sections of the bill proceed from false premises and reach a result which might well impose an impossible administrative burden upon the federal courts.

No one will disagree with the propriety of injunctive relief against fraudulent consumer practices at the behest of a government agency. But this legislation goes further and sets forth a comprehensive blueprint for an avalanche of suits in the federal courts by consumers seeking to recover money damages suffered as a result of unfair consumer practices as defined in Section 201(1).

The Commerce Committee in its Report (p. 2) quotes Mrs. Knauer as indicating that, according to the Food and Drug Administration's estimates, about $1-billion is spent annually on worthless or extravagantly misrepresented quack devices and drugs. She also is quoted as asserting that about $300-million is spent annually on worthless arthritis remedies. Assuming that its claims are legally provable, would it not be better for the Food and Drug Administration to utilize its ample powers to suppress this improper traffic rather than to encourage the millions of purchasers of these products to start a legion of penny ante law suits?

I should be the first to acknowledge the social desirability of banning the 15 business improprieties prohibited by Section 201. I, nonetheless, must ask whether these are the kind of derelictions that warrant all of the following consequences mandated by the bill:

1. The institution of administrative proceedings by the Federal Trade Commission.
2. An application by the Commission to the court for a preliminary injunction.
3. A plenary suit by the Commission under Section 103(b) for injunction, payment of damages, refund of money or return of property, restitution, reformation or recission, repair or replacement of goods, proper servicing and public notification of violation.
4. Suit by the Department of Justice under Section 205 for a variety of decretal provisions to which I have already adverted.
5. Suit by the Department of Justice for the recovery of civil penalties.
6. In certain cases the institution of criminal prosecution.
7. Private suits by aggrieved consumers for the redress of their own injury.
8. Class suits for the recovery of damages for the members of the class.

Are we not losing our cool, and are we not triggering off a train of consequences that are totally disproportionate to the type of wrongdoing that is involved? Does not ordinary common sense dictate a more balanced and rational approach? Is not the job at hand to attack the evil at the source rather than to provide for massive actions to recover damages which might not be provable?

The fundamental premise underlying the bill's damage provisions is that every species of consumer fraud invariably results in pecuniary harm for which a compensatory damage remedy should be made available. This premise, as appealing as it may be in the abstract, is demonstrably incorrect, as a brief look at some of the practices prohibited by Section 201(1) of the bill itself will demonstrate.

For example, Section 201(1)(A) would prohibit "offering goods or services intending not to sell them as offered." This, of course, is the familiar bait and switch, plainly an undesirable and improper sales technique, but rarely practiced on a national level. Indeed, this is purely a local practice indulged in by local merchants, and one might well ask why the municipalities and the states should not be principally responsible for its elimination. How is the victim of a bait and switch sale damaged in an amount capable of measurement in dollars and cents? To be sure, he may have bought something he never intended to purchase; but unless he was overcharged for the product he actually bought (which would be more than simply a bait and switch), it's hard to see how he was damaged at all.

Similarly, Section 201(1)(G) would prohibit false statements concerning price reductions—deceptive price advertising such as repeated "fire sales," close-outs and the like. Again, this local practice is plainly reprehensible, but it is difficult to see how the victim is pecuniarily damaged if the price he paid was commensurate with the value he actually received.

[1] The Report states that the "Committee's intent in giving these remedial powers [section 203]," was not only to "enable the Commission . . . to utilize the results of that [cease and desist order] investigation for the benefit of the damaged parties," but also to "reinforce the Commission's credibility in policing the marketplace by authorizing sanctions which could realistically be expected to inhibit unlawful business practices." (Sen. Comm. Rep., p. 24.)

[2] The efficacy of the guaranty and warranty settlement provision in Title I has been gratuitously emasculated by the Senate Commerce Committee Report, which states (at p. 20) that when class actions are involved, only the representatives of the class need pursue such informal settlement procedures. The Report thus amends the text of the bill to read "any *representative* purchaser" must have afforded the supplier an opportunity to settle a dispute. If the Judiciary Committee is to borrow a settlement provision from Title I for use in Title II, therefore, it must be careful to disavow the change made in the Title I provision by the Commerce Committee Report.

[3] The cease and desist order could be res judicata; it could have prima facie effect; it could simply shift the burden of going forward to the defendant, with the ultimate burden of proof still resting on the Commission; or finally, it might have no effect whatsoever, with the district court conducting a complete trial de novo on the question of both liability and damages.

Subsections (H) and (J) are also illustrative. They deal with the fraudulent use of well-known trademarks on the seller's goods. Here, as well, if the buyer was not actually overcharged, he may not have gotten what he expected, but pecuniary damage would be absent, or, at the very least, insusceptible of proof.

The point is a simple one. A practice may be improper and subject to injunctive relief against its repetition without necessarily giving rise to a provable damage claim. Yet this bill, as a practical matter, invites the consumer to seek damages willy-nilly in a federal court. Moreover, this error is compounded by providing for, and encouraging, class actions on behalf of allegedly injured consumers. It should be borne in mind that it is only after the trial of such a class action which may involve hundreds of thousands if not millions of consumers that the absence of damage will be judicially determined. In the meantime, the court will be burdened with a mammoth suit and the defendant confronted with the heavy expense of defending himself.

While I share the general concern for consumer rights, I believe that the common assumption that the class action is a God-given panacea for all consumer ills is not only profoundly mistaken but disregards the significant threats to fair judicial process inherent in this device. The purpose of class suits has traditionally been to allow the courts to deal with a multiplicity of claims in an economical manner by permitting the actual parties to a litigation also to represent the interests of persons who are not before the court but who occupy substantially the same legal positions with respect to the controversy in question. The reasons for caution in utilizing such a device are readily apparent. On the one hand, there is a danger to potential defendants, since a plaintiff with even a miniscule claim (or with no realistically provable claim at all) may increase the *in terrorem* effect of his action by invoking the claims of untold numbers of other persons; on the other hand, since absent claimants are, in effect, made to stand or fall with their purported representatives, it is essential that there be every assurance that their interests are in fact being adequately represented. In addition—as the courts have shown themselves to be acutely aware—the class action procedures can have the effect of instantly transforming a litigation into a gigantic burden on the court's resources beyond its capacity to manage or effectively control. This is particularly so in the consumer fraud context, where the individual plaintiff's claims are likely to be quite small.

It is gratifying that the Commerce Committee has provided that class actions under the bill will be subject to all of the procedural safeguards set forth in Rule 23 of the Federal Rules of Civil Procedure. It is important, however, to note that if the Rule is applied by the courts with careful attention to its requirements, it is possible that very few consumer class actions will be maintainable as such. For example, the Rule requires that the claim of the putative class representative be typical of those of the class. This homogeneity of claim may often be lacking in the consumer context. Similarly, Rule 23 requires the Court to determine the class action is manageable before it may be maintained.

How can a court conceivably process claims in the thousands and millions, particularly in light of the Seventh Amendment's jury trial requirements? The conclusion is virtually inescapable that the courts will have to reject many of these class suits as inappropriate under the provisions of Rule 23 itself. In such a circumstance, one may question the wisdom of arousing expectations which cannot, as a practical matter, be realized. And I am satisfied that those judges who uphold a class suit and then go through the harrowing experience of administering a multitude of small claims will call on Congress for legislative relief, supported by other litigants whose cases will be held up indefinitely.

The proposed class action procedure may also result in great inequity for the potential defendants in such suits. In considering the interests of such persons—which would include all of the businesses in America, both large and small, which produce for or sell to consumers—we should remember that we are talking about persons who, in the main, are not unscrupulous defrauders of the public. Many of the deceptive acts and practices which the Federal Trade Commission has dealt with in the past do not concern hard-core frauds. Whether or not the law has been violated is not always clear. To put a businessman to the expense of defending himself against a class suit may place him in a position where the costs of litigation by themselves can impose upon him a penalty completely disproportionate to the offense. Ultimately these costs like all costs of doing business, will be borne by the consumer.

The bill's class action provisions suffer from an even more fundamental defect. It is wrong to assume that every dollar of damage which may have been incurred must be compensated in a federal court without regard to the enormous administrative expense inherent in the process. In the first place, the cost of a broad class action cannot be underestimated. Not only is there the expense of providing notice to all class members and the cost of assembling the evidence; more significantly, the fact is that attorneys do not bring these cases as a public service. Our experience in the four years since amended Rule 23 became effective has shown that huge attorneys' fees have been awarded out of moneys paid to the class in settlement. Since it is reasonable to expect that most monetary claims will be relatively small, any recovery due to the consumer is likely to be largely eroded by the costs of litigation. Take *Gas Service Company* v. *Coburn*, recently before the Supreme Court, where the plaintiff's claim amounted to $7.81. Is it not likely that the administrative costs may well exceed the amount of the claim itself? In any event, how much of the $7.81 overcharge would remain for each consumer plaintiff after all costs have been deducted?

But the most harmful effect of large consumer class actions will be the burden they will invariably place on the federal judicial system. I want to underscore, at the risk of repetition, that, despite proper federal concern, consumer fraud remains essentially a local problem, and the wholesale transfer of local disputes to the already overworked federal courts violates the most fundemental precepts of our federalism. A large consumer class action, if tried, could put a federal court out of action for a long time and disqualify it from performing its other important duties.

If Congress feels that the public interest nevertheless requires that consumer damages, however small, be recoverable, it should face up to the problem and create a network of federal small claim courts and local legal aid or community assistance law offices to counsel consumers and bring these actions, all at governmental expense. In that event, there would be no heavy deductions from the amounts consumers would receive. Would it not be better to create new machinery to process consumer claims than to impair the vital operations of the federal judicial system?

The class action device has two purposes: one to deter wrongdoing and the second to compensate those who have suffered injury. So far as deterrence is concerned, aren't there better and more efficient ways of accomplishing this result? If the consumer councils which the President has recommended should be established, act as consumer Ombudsmen and process their complaints, and if prompt action by the Government is taken to halt deception, would we not achieve more than we would by overloading the courts with litigations they are unequipped to administer? As to compensation, should we not consider whether we are achieving anything for the consumer by putting him to a great deal of trouble in pressing his claim when most of the recovery will be eaten up by the costs of administration? In theory, everyone injured should be compensated, but doesn't theory have to yield to the practicalities of life? We don't advance the consumer cause by creating a vast and expensive bureaucracy to process claims at the consumer's expense, and putting into effect a procedure calculated essentially to enrich the bar.

There are other aspects of the bill's class action provisions which merit serious reconsideration. Section 205(c) in particular is most revealing of what the draftsmen of this legislation had in mind. That section expressly and candidly encourages the settlement of consumer class actions, apparently recognizing the *in terrorem* effect of such gargantuan litigation and the likelihood that many defendants would be forced to settle rather than risk bankrupcty in an effort to prove their innocence. And the bill goes on to impose upon defendants the enormous cost of communicating settlement offers to the class members. This, to me, is little more than the legitimation of legal blackmail which the Congress of the United States should not countenance.

Section 205(d) also illuminates the mistaken premises of this legislation. It provides that, whenever a consumer shall prevail in a class action, he shall recover costs and attorneys' fees in addition to damages, and that the costs "may be awarded from money damages which the defendant *owes* to members of the class who cannot be located with due diligence." How, one may ask, is the court to determine the dollar amount of damages suffered by unnamed persons, who assert no claims? Manifestly, the draftsmen of this section assumed that damages inevitably accrue from every consumer fraud and can be ascertained in the abstract without regard to the facts. The disregard for the defendant's right to due process of law is plain.

Section 205(d) goes on to provide that if a class action is found to have been frivolously brought, the court may award costs and attorneys' fees to the defendant. What we are not told is who is to be assessed for these sums. Is it the single consumer who claimed to represent the class? Is it his attorney? What happens if neither has the money to pay? May the courts require the filing of a bond for costs when such an action is brought?

Time does not permit me to deal with the chaos that will occur when both governmental and class actions are brought simultaneously and when consolidation or intervention is permitted. Senator Cook deals with this problem in his separate statement, which I endorse.

Mr. BAKER. Mr. President, I would like to give my unqualified support to Senator Cook's proposed title III amendment to S. 986, which would initiate a thoroughgoing consumer remedies study.

I have always been strongly in favor of affording realistic relief to injured consumers. Now that we have an excellent, concrete proposal before us, I feel very strongly that we should give it the attention it deserves. Despite the great publicity generated by the consumer movement, no one up until now has ever really tried to deal adequately with the fundamental issue of actually providing adequate and speedy relief to consumers who have suffered some sort of loss as a result of a shoddy product or service. Instead, we have been forced to consider only stopgap measures that make great headlines but little sense for the consumer who has actually been hurt. It is high time that we went back to fundamentals, and addressed ourselves to realistic solutions to consumer problems.

Section 203 of title II, which would be replaced by Senator Cook's proposal, is an excellent example of the kind of hastily conceived legislation that I mean. That section provides that the Federal Trade Commission will bring consumer redress actions on behalf of injured consumers. No thought has been given to the following problems:

How does a court, sitting in Washington, for example, hear the claim of a consumer residing in Kansas or Hawaii? Having made a decision, how does the Washington court make relief available to the Kansas or Hawaii resident? If the case involves millions of individual claims, how does a court reach a decision and dispense relief in a short enough period of time to make the relief meaningful? If a defendant businessman thinks the problem affects only a few products and purchasers and is willing to provide a refund or replacement to the complete satisfaction of those consumers, how is he to make them whole while the lawsuit hangs over his head? Or do those consumers have to wait years until the suit is concluded? If a consumer prefers to pursue his remedies in a nearby, local State court, or simply to go directly to the store where he bought a product, will he find his efforts frustrated because of some dim, distant and hazy lawsuit brought by an unfamiliar Federal agency? And if the consumer is unaware of the Commission lawsuit and therefore cannot obtain relief available in it, does he thereby forever lose his claim because of the essential requirement of fairness that a defendant not be subjected to endless suits regarding the same problem?

Many of these problems are inherent in massive types of litigation. Perhaps some day we must deal with problems this way. But this type of massive litigation is simply not designed to deal with localized consumer-related problems and we should not pretend that it is. I have no doubt that section 203 will result in numerous headlines that are highly complimentary to the Commission and highly embarrassing to defendants. But I am also convinced that the public—the actual consumers themselves—will be lost and forgotten in the shuffle. I do not see the housewife in Peoria, Ill., even hearing about, let alone benefiting from, these section 203 actions. All I see is another broken promise of consumer relief.

One fact which becomes clearer to me is our lack of knowledge about the problems we are really trying to solve. A new approach is necessary, one that will make relief available to a consumer speedily, effortlessly, and on the spot where that consumer lives and not where someone else has chosen for him to sue. This may involve a specialized system of small courts designed to deal solely with consumer claims, or it may involve the monitoring of a voluntary settlement procedure that puts a consumer in direct and fruitful contact with his seller. It may involve finding out and curing consumer complaints which do not ever get raised.

We do have a new approach in Senator Cook's proposal, which calls at the outset for a comprehensive study of the problem which curiously has never been made and which is woefully needed. This is the kind of proposal I have been waiting for to give my support. I feel too strongly about the consumer remedies problem to continue to lead on consumers without tackling the real questions head on. I feel too strongly to support anything less than a truly adequate measure. Senator Cook's title III amendment is just such a measure and I hope it will be adopted.

AMENDMENT NO. 551

Mr. SPONG. Mr. President, I call up my amendment in the nature of a substitute to amendment No. 478.

The PRESIDING OFFICER. Will the Senator identify the number.

Mr. SPONG. No. 561.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 1, beginning with line 4, strike out through line 6.

The PRESIDING OFFICER. The Senator has identified this as a substitute.

Mr. SPONG. Yes.

The PRESIDING OFFICER. In fact, it is a perfecting amendment to the pending amendment.

Mr. SPONG. That is correct.

Mr. President, Mr. Cook's amendment No. 478 has the admirable effect of authorizing a study of consumer remedies through the National Institute for Consumer Justice, a nonprofit corporation recently set up in Washington.

But amendment 478 removes important consumer protections which were unanimously supported by the Commerce Committee in the reported bill. In effect, section 203 of the act is stricken under amendment 478. As desirable as the study conducted by the National Institute would be, we cannot let a study result in a significant delay in providing those needed consumer remedies proposed in section 203.

Section 203 gives the Commission the power to seek without further administrative proceeding, following an order to cease and desist, remedial relief on behalf of consumers in an action initiated in district court. This provision would enable the Commission to more adequately protect consumers by affording them specific redress. At the present time cease and desist orders have prospective application only and afford no specific redress to those already injured.

As the committee report states:

It was, of course, not the intention of the Committee in granting new powers to the Commission to supplant private actions by consumers. The Committee's intent in giving these remedial powers was (1) to reinforce the Commission's credibility in policing the marketplace by authorizing sanctions which could realistically be expected to inhibit unlawful business practices and (2) to enable the Commission, where its investigation of an act or practice revealed damage to consumers, to utilize the results of that investigation for the benefit of the damaged parties.

The nature of the relief the Commission could obtain from the court on behalf of consumers would be limited only by the nature of the injury done and the remedial powers of the court. The enumeration of types of relief available are advisory only and would not limit the Commission in pleading or the court in acting to fashion other appropriate relief.

This section would not affect whatever power the Commission may have under section 5 to fashion relief in its initial cease-and-desist order, such as corrective advertising or any other remedy, which may be appropriate to terminate effectively unfair or deceptive acts or practices. Section 203 is applicable to those situations where the Commission acts to make specific consumers whole and not to general actions designed to dissipate the prior effects of unfair or deceptive acts or practices.

Let us look at an example of the need for this type of redress. In the Curtis case, following the termination of publication of the Saturday Evening Post, the Commission said there were at least two categories of restitution cases:

First, where a refund may be the only effective method of restoring the competitive status quo which was disrupted by the deceptive practices.

Second, where a seller's retention of its customers' money or property was an unfair practice in and of itself.

Look at the implications. The Commission stated that it was an unfair or deceptive practice to transfer magazine subscriptions to different magazines. The Commission found this a violation of the Federal Trade Commission Act, because many people did not want other magazine subscriptions; they either wanted their money back or the Saturday Evening Post. In effect, a cease-and-desist order would prevent Curtis Publishing from future attempts to transfer magazine subscriptions to other publications against the wishes of the subscribers, but they were going out of business. What good is prospective relief in this case? No good, other than to serve as a warning to other firms. Here is a perfect example of the need for the Commission to go into court to seek consumer redress for grievances which are caused by violations of the Federal Trade Commission Act.

The Commission is not going to try to obtain refunds for automobiles purchased as a result of unfair or deceptive advertising. No one purchases an automobile based only upon an advertisement. But there are cases, such as the Curtis Publishing case, and the Relaxicisor case in which deceptive practices resulted in consumers being out considerable amounts of money and the Commission being unable to seek restitution.

Some have said this would be the back door to consumer class actions, and Senator Cook and Senator Hruska persist in calling these class actions. Nonsense. the American Bar Association's antitrust section filed a report with the Commerce Committee last year. In that report, which is published on page 512 of serial 91-48, the ABA states:

The Committee recommends the adoption of federal legislation which can effectively utilize federal enforcement agencies; which will provide for swift and efficient relief

to injured consumers harmed by significant abuses; which will obviate complex and protracted private proceedings; and which can be harmonized with existing and proposed statutory controls on the state level.

Referring to the sort of trigger mechanism of Government action, the ABA goes on to say:

It has eliminated the provision for consumer class actions, and has substituted therefor a means by which injured consumers can obtain prompt relief upon successful termination of a government suit.

The ABA report also states:

Machinery thus would be established within the framework of the Federal Trade Commission for the prompt and uncomplicated recovery of actual damages by consumers who are injured by such practices.

Mr. President, I want to make it clear that it was my thought in introducing this amendment and, I believe the committee's intention in unanimously approving it, that it would be an infrequently used authority of the FTC. Only where there is a flagrant deception of consumers, and only in areas where rules and practices have been well established by the FTC would this power be used. It will serve, however, to lend credibility to the FTC's enforcement actions. We will no longer have businesses calculating as a risk of their operation that some clearly deceptive or fraudulent practice might be discontinued as a result of an FTC order, but discontinued only.

As I indicated earlier in my statement, I support that section of Senator Cook's amendment which would authorize a study of consumer remedies through the National Institute for Consumer Justice. I would suggest that most of the questions which now are asked about class actions can only be answered through experience. Section 203 as it appears in the bill will provide for experience on a very limited and controlled basis. It is my hope that the Institute will carefully review the operation of this section and practice and provide a report to the Congress together with its other suggested remedies for redressing consumer grievances.

Mr. President, in view of the support by the Commerce Committee for inclusion of section 203 providing for consumer remedies controlled by the Federal Trade Commission, in view of the ABA's endorsement of this approach, and in view of the administration's long stated desire to arrange for a trigger mechanism in the matter of class actions, I urge consideration and adoption of my amendment in the nature of a substitute for amendment 478, so that important rights are retained by the public, and important tools for policing the marketplace are controlled by a Federal agency which understands the practical aspects of commerce today.

Mr. President, I should like to close with a few observations. First, the Senate should be mindful of the fact that section 203, on which testimony was given and on which the hearings were held, would give the FTC the power to issue ancillary remedial orders on its own. Section 203 as amended by me in committee requires that the FTC go to court to obtain such an order. The bill on which the hearings were held contained a section which gave the FTC the power to issue cease-and-desist orders, but also in certain cases to go on and make the damage awards.

I am very happy that the Senator from Kentucky (Mr. COOK), in the very fine remarks he made, acknowledged that my approach was superior to what was originally in the bill. This is a limited step, in my judgment, and I see no inconsistency in being for the study. I am for the study. But some agency of the Federal Government dealing with this should be gaining experience with these problems. I am hopeful that section 203 as unanimously adopted by the committee will provide that experience. It will be helpful to us.

Second, the distinguished Senator from Kentucky (Mr. COOK), in his remarks last week and today—those that I heard—talked about the statute of limitations. The National Labor Relations Board acts under statutes similar to this and they have no statute of limitations.

The State of Washington has an act similar to this which authorizes the attorney general of the State of Washington to proceed. It has no statute of limitations.

I would be the first to concede and say to the Senator from Kentucky that I do not want anyone prejudiced by overdue action. Although there are State statutes dealing with this and the NLRB approach does not have a statute of limitations, I am perfectly willing to amend this bill and have a 2-year statute of limitations apply.

I believe that the Senate should be mindful that section 203 as written was an alternative approach to: First, the Federal Trade Commission's having complete power to issue cease-and-desist orders and then to award damages without any resort to judicial remedy; and second, to the incorporation in these proceedings of class action and we have plenty of class-action legislation before us. So, contrary to the opinion of some, this is not a large step. It is a modest step which should give us the experience we need to better determine the advisability of class action.

Several Senators addressed the Chair.

Mr. MOSS. Mr. President, will the Senator from Virginia yield?

The ACTING PRESIDENT pro tempore (Mr. METCALF). Does the Senator from Virginia yield to the Senator from Utah?

Mr. SPONG. I yield.

Mr. MOSS. Mr. President, I wish to commend the distinguished Senator from Virginia and point out, of course, that I have cosponsored the perfecting amendment that he now has before the Senate, and would like particularly to underline what the Senator has explained about his amendment—that, in fact, it is a modest step.

Earlier in the discussion before the Senate today, I made the statement that we were not talking, in title II, about a class-action bill. We had some discussion on that. What I had in mind has now been made clear by the discussion of the Senator from Virginia.

In the class-action bill before the committee, we had a great deal of discussion about using this mechanism to enable the consumer to seek redress when he had been damaged and when the amount involved was small, and, therefore, a class could be created in order to get redress.

The administration's proposal, contrary to the provisions of the class-action bill, was that there be a trigger mechanism first, that either the Commission seek action, or the court or the Department of Justice would do it, in order to establish that there was, indeed, a violation and then, that having been established, the class be able to be created and take advantage of it. In effect, this is what the amendment of the Senator from Virginia would do.

It says that the Federal Trade Commission having found that there is a deceptive or fraudulent practice of some sort and having issued a cease-and-desist order may go into court—not decide on its own—to establish that the damage has occurred by that action to a number of consumers and that, therefore, they will be able to receive a recovery.

So, that accords very closely with what the administration proposed in the other bill. I think it is a modest and reasonable effort. We have come to decision within the committee that makes good sense. Therefore, I believe this makes the bill sound and secure.

I certainly want to support the modified amendment. I believe also that we ought to have a part of the Cook amendment. I gladly support that part.

Mr. SPONG. Mr. President, I thank the Senator from Utah.

I would like to point out some little distinction between the administration's approach and this bill. I had reservations about class actions and about groups of people getting together, and about lawyers going out and creating business and soliciting class actions.

If I understood the administration's proposal, it allowed that, upon the successful conclusion of an action by the Federal Trade Commission or by the Department of Justice, individual class actions could take place. Federal action would trigger them. We do not have that personal right given under this section. That right is not given. The FTC under this section is given the responsibility for following through after the cease-and-desist order. If it thinks there has been a flagrant violation, it can follow through and bring an action for relief of the consumers.

Frankly, I was not prepared to support class action until we had more experience. However, if we adopt the amendment of the Senator from Kentucky as perfected by my amendment, we will have a study of these problems and have experience to go with it. Under present law, all that can happen if there is a flagrant violation is that a cease-and-desist order will be entered. That means that unscrupulous businesses—and I hope that there is not too much of it—can do business knowing that the worst that can happen to them is that they may be made to stop. There would be no

right of redress on the part of any consumer who has been injured as a result of flagrant violations or practices.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SPONG. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. SPONG. Mr. President, earlier in my remarks I expressed my willingness in answer to the inquiry from the Senator from Kentucky concerning the statute of limitations to amend the amendment which I have offered as a refinement of his amendment. Am I precluded from doing that now that the yeas and nays have been ordered?

The ACTING PRESIDENT pro tempore. The Senator needs unanimous consent to modify his amendment.

Mr. SPONG. Mr. President, in view of what has taken place here, I ask unanimous consent that I be allowed to amend the amendment that I have offered to the Cook amendment in order to provide for a 2-year statute of limitations.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COOK. Mr. President, reserving the right to object, I would like to see the proposed amendment, because under the present amendment of the Senator from Virginia, as a perfecting amendment it is merely an amendment that would delete from my amendment the deletion of section 203.

Mr. SPONG. I am prepared to submit it in writing at this time.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

Page 44, line 10, after the word "damages" add the following:

"No action may be brought by the Commission under this subsection more than 2 years after an order of the Commission upon which such action is based has become final."

Mr. COOK. Mr. President, again reserving the right to object, I am not sure what substance the language the amendment of the Senator from Virginia here has to his perfecting amendment, to mine, or any material change in my amendment.

This is an amendment which goes directly to the bill itself and not to my amendment, nor to his amendment as a perfecting amendment.

The ACTING PRESIDENT pro tempore. The Senator is completely correct. It is not a proper amendment to the amendment. It is an amendment to the bill and is not a modification.

Mr. COOK. Mr. President, may I suggest to the Senator from Virginia that I have no objection if he prepares it as a separate amendment. We can certainly take it up after we have completed action on the pending amendment.

Mr. SPONG. Mr. President, we can do that. I would prepare to offer it as an amendment. I yield the floor.

Mr. COOK. Mr. President, first of all, there is one thing that I think ought to be corrected in the remarks of the Senator from Virginia. Section 203 in its present language was not unanimously adopted by the committee. It was agreed to by the committee, and I must say it was rather with a sigh of relief, because in the bill as it was originally submitted to the committee by the distinguished chairman of the committee, who was its cosponsor, it provided that the Federal Trade Commission itself would assess damages and make a determination of what the damages were. So it came as rather a breath of fresh air when we got this far.

So, I have some problem with the word unanimous vote of the committee. But I will not argue the matter to any great extent.

The Senator from Virginia says that somehow or other section 203 will only be used by the Federal Power Commission if there is a flagrant violation, as he puts it. Where in that section does anyone find the phrase "flagrant violation."

It merely says that:

After an order of the Commission to cease and desist from engaging in acts or practices which are unfair or deceptive to consumers and proscribed by section 5(a)(1) of this Act has become final as provided in subsection (g) of this section. . . .

And that is by an informal hearing of the Federal Trade Commission.

There is no right of cross-examination within the determination of the part of the Federal Trade Commission as to whether there really will be a right of cross-examination. There is no effort toward due process. Once a cease-and-desist order is issued, they then take the cease-and-desist order and come into court and say—and I suggest that the distinguished Senator from North Carolina listen to the language—they go into any court and institute a civil action in the District Court of the United States to obtain such relief as the court shall find necessary to redress the injury to consumers from the acts or practices which were the subject of the cease-and-desist order, including, but not limited to, recision or reformation of contracts, the refund of money or return of property, public notification of the violation, and the payment of damages.

I ask my distinguished colleague from North Carolina, whom I consider to be one of the finest constitutional lawyers we have, when is a class action a class action? Is it when somebody who is an individual can bring action for himself in a group or if the Federal Trade Commission brings it on behalf of a class to accomplish the same thing?

The Senator from Virginia gave me a dissertation how he considered this could not be considered in any way as a class action. If he does not believe it to be a class action we do not need a 2-year statute of limitations. We are not going into that field, but we are going into the field where the FTC, not for itself but for individuals who constitute a class, will bring an action in court for the purpose of redressing the injury, reforming the contract, and securing damages for the benefit of the class.

If they do that, is the doctrine of res adjudicata applicable to others who wish to bring the action? Is the doctrine of estoppel available? If a class action is already in existence is he barred? Must he join, because this is not a class action?

What kind of animal is this? Under the rights of an individual today, for instance under rule XXII is he precluded from bringing it if the FTC brought one and settled the individual's damages for him and he did not want them settled on that basis?

Is the court going to say, "We are sorry. It has already been done and we are sorry you are not satisfied with the judgment rendered, but because the case has been established and damages awarded, here you are, whether you like it or not."

Is this what we are saying? Or are we saying he can double up, that the FTC can bring it for an aggrieved consumer, put $100 million in the bank and say, "Come and get it whoever is entitled to it." Then somebody else says, "I will get mine over there, and then come over and get what I can from you."

Is this the animal we create in section 203? If it is to represent a class of consumers, do we not have to say consumers? Do not consumers constitute a class? Are they in limbo? Are we to say, "You are not a class, but something"? I do not see how we can take this point of view as intelligent, objective people.

I can only say that here it is for whatever it is. It does not say "flagrant violation," and the Senator from Virginia repeated and repeated "flagrant violation." It does not say that anywhere in section 203. It says once it decides it has a cease-and-desist order—not based on trial, not based on a jury, not based on due process, not based on rules of evidence, not based on cross-examination—based on an agency hearing under 556 and 557 of the Administrative Procedure Act where that makes a determination as to who can testify and who cannot, and they make a determination what is and what is not to be heard as to whether a cease-and-desist order shall occur.

But once they decide—remember that during the course of this the Federal Trade Commission is the judge, jury, prosecutor, they are everything—they decided to have a hearing because their investigators decided to go look at the situation and their investigators testified what is wrong. The employees will testify to what they found. Are they going to turn their staff down and say they have not done a good job? Are they going to ruin the morale of their own department or come up with a cease-and-desist order, because the fellows did a good job? This is what we are talking about.

We are talking about taking the cease-and-desist order out of a five-man board that has been judge, jury, prosecutor, determiner of rules of procedure, and say that based on this they can go into a Federal court and bring this action for all of a class of people that they feel by reason of their own hearing and investigation and their own determination have been aggrieved and asked that determination of sums of money be awarded so somebody can split it up.

This is what we are talking about in section 203. This is what we are talking about when I sat here and listened that

this is not a class action and not a determination that will destroy the marketplace.

I can only say that I wish after this discussion the Senator would seriously consider my amendment and to that extent I hope the Senate will defeat the amendment of the Senator from Virginia.

Mr. President, I yield the floor.

Mr. SPONG. Mr. President, I think we should distinguish in this matter of class actions that a class is generally not preidentified as it would be under section 203 procedures.

I want to answer the inquiry of the Senator from Kentucky about res adjudicata. There is no individual right created or taken away under this bill. The question the Senator from Kentucky posed with regard to res adjudicata would imply that there is a private right of action based on a violation of the Federal Trade Commission Act. That is not so. I refer the Senator to the case of Holloway against Bristol Myers Corp., decided in the District Court for the District of Columbia on April 15, 1971, where the court held there was no private right of action created when 5(a)(1) of the Federal Trade Commission Act was violated. Therefore, any suit brought by a consumer individual would be based upon a cause of action distinct from that conferred in 203 and the doctrine of res adjudicata would have no application.

Mr. COOK. The right of action in a class is now allowed under rule 23. If right of action is brought under rule 23 and those standards have been met would you not find yourself in conflict if the same type action representing the grievance had been brought under the Federal Trade Commission, under 203, even if it were not a private right of recovery? We are talking about recovery of damages and whether they can occur twice or not at all if the Federal Trade Commission had taken action.

Mr. SPONG. The answer is no. I repeat, no private right is impaired by virtue of this section and this is a class action only to the extent we broaden the use of the word and say those represented by the Federal Trade Commission are a class. The Senator can call it that, but it is not the type of class action that is contemplated by class action legislation pending before this Congress and it is not the type of class action recommended by the administration. That involved a trigger device where only following a successful action by the Justice Department or by the Federal Trade Commission, could individuals come in.

Section 203 does only two things: First, it is a substitute for allowing the FTC to render final judgment in this matter; second, it is an alternative to individual class actions.

Mr. COOK. Mr. President, will the Senator yield?

Mr. SPONG. I yield.

Mr. COOK. What is the case to which the Senator referred?

Mr. SPONG. Holloway against Bristol Myers Corp.

Mr. COOK. In that case is it not a fact that the cause of action was brought in reliance on the cease-and-desist order? There was no prohibition in bringing the private action with the same question. Is this not correct?

Mr. SPONG. That is the whole point. There is no prohibition now.

Mr. ERVIN. Mr. President, if the Senator will yield, I have a little trouble following the Senator from Virginia. Most acts of deception now can be raised as a tort action under State law. Undoubtedly, many of the acts of deception which give rise to a tort action under State law would fall also within the category of acts and practices covered by a cease and desist order.

This clearly gives the Federal Trade Commission the power to bring a suit in a Federal court on behalf of all persons who have suffered injury on account of those acts and practices that are subject to the cease and desist order, and also subject to a right to bring actions under State law. It says the Federal Trade Commission can recover for injuries to consumers.

So the question comes up—and I think the Senator from Kentucky is on pretty solid ground—that they either have to have an estoppel by judgment or there is going to be a double recovery, one by the aggrieved party, the consumer and another by the Federal Trade Commission for the benefit of the consumer.

In other words, this is either going to take causes of action out of the control of the consumers and give to the Federal Trade Commission a monopoly of suing on those actions where there is a cease and desist order or it is going to allow the consumer to retain his own cause of action and recover for himself—one way or the other, and either one is a bad result.

Mr. SPONG. This proposal does not preclude an individual from pursuing any tort remedy he may have. I think the Senator is rightly concerned about a double recovery, but the doctrine of unjust enrichment would apply there. I do not believe, under this proposal, that a consumer who benefits from an action brought by the Federal Trade Commmission could also benefit from an individual action brought later. On the other hand, the individual is not precluded from proceeding in a State court under a tort remedy. If that leads to a successful conclusion, the Federal Trade Commission is not going to allow double recovery or unjust enrichment.

Mr. ERVIN. It says, on page 44, that the Commission can bring this suit to—

> Redress injury to consumers caused by the acts or practices which were the subject of the cease and desist order, including but not limited to. . . .

He can sue to rescind the contract that he might want rescinded. He can sue for a return of the money or property. He can sue for damages.

It seems to me this creates legal confusion. It certainly confuses the Senator from North Carolina as to how the Federal Trade Commission could bring these suits. I think if it is brought by the Federal Trade Commission it is one class action, clearly, and it either is going to be binding on the consumer who does not come in and make himself a party, or the person who does the wrong is in danger of being amerced twice for the same wrong.

Mr. SPONG. It would be in the discretion of the judge. I think the doctrine of unjust enrichment would apply. There is a similar case where the Attorney General can bring one of these suits, but if there has been an individual suit brought and a recovery there, the individual concerned would be precluded from unjust enrichment.

Mr. ERVIN. But what about where an action brought by the Federal Trade Commission is a cause of action that belongs to the individual who is not a party to that case? Is he barred from coming into court and seeking his own remedy?

Mr. SPONG. No; he is not barred.

Mr. ERVIN. I do not see how the Federal Trade Commission could recover for him and he not be barred. I think the legal situation here would be just as confused as the Senator from North Carolina is.

Mr. COOK. Mr. President, I do not really see how, if the Federal Trade Commission is brought and a judgment is rendered in a sum of money for an individual or individuals, representing a class, how one can say that someone who does not want to be a part of the class is not going to be barred. As a matter of fact, speaking of unjust enrichment, harassment is, I think, what one ought to consider now. We are saying that the Federal Trade Commission brings an action for itself and all consumers in the class, which I assume they will allege, and if they do not, then they receive a partial recovery, and if some one is injured it will say, "I am sorry that you have not been included in the class. You will have to bring suit yourself." Or, if he brings his own suit, he will be stopped from bringing his own suit. To the contrary of what the Senator from Virginia said to the Senator from North Carolina when he talks about the doctrine of unjust enrichment applying, what happens if the Federal Trade Commission gets a judgment that in no way will satisfy the class? What situation do we have then?

Mr. SPONG. The consumer does not have to take that. He has the option of proceeding in his own right and getting the remedy he wishes.

Mr. COOK. On what theory is that?

Mr. SPONG. Under general principles of law.

Mr. COOK. We have a class action where we have a judgment for the consumers as a class. Who do we say are in that class and who do we say are not?

Mr. SPONG. It is a different cause of action under which the individual is not precluded from proceeding. He does not have to accept that if he does not want to. He can proceed individually.

Mr. COOK. Let me give the Senator a situation and ask him what the answer would be. If an action is brought by the Federal Trade Commission and there are five similar actions brought around the different parts of the country, and the defendant moves that all the other

actions in the Federal courts in the United States be merged into one, the Senator would not think it would be a good action to consolidate those cases, based on the same facts and the same motion and the same attempt to recover?

Mr. SPONG. They are not the same remedy. We are not precluding any individual remedy.

Mr. COOK. If they are subject to money damages, it would be the same action and the same remedy.

Mr. SPONG. They are different causes of action. One flows from a violation of the Fair Trade Practices Act. The other action is under a contract or a tort action which the individual retains.

Mr. COOK. Suppose the court, at the request of the Federal Trade Commission, reforms the contract. Does the court reform the contract for some and not for the others?

Mr. SPONG. I say the courts cannot reform it to the detriment of an individual right of action. He either takes it or has the right to proceed as an individual.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

Mr. COOK. Mr. President, before the yeas and nays are taken, let me make this statement——

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered.

Mr. COOK. I would hope, if this amendment is agreed to—which I hope it is not—the language just expressed by the Senator from Virginia would in fact prevail, but I would suggest to my colleagues that we are allowing the Federal Trade Commission, for and on behalf of a class called consumers, in any court, to bring a case to reform a contract, secure remedies, secure redress, secure damages, and I do not see how they can go into court on a damage basis or on a reformation basis, have a fund paid to that court, and then when that fund is paid, tell all other individuals in the country who do not want to bring an action to say, "I do not care how much the defendant has paid in to the court. I want to bring an action of my own, and I am not bound by that."

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. ERVIN. Is it not true that under the supremacy clause of the Federal Constitution, a Federal statute, if it is valid constitutionally, supersedes the State laws that are inconsistent with it?

Mr. COOK. Yes.

Mr. ERVIN. It certainly would be inconsistent to have the Federal Trade Commission bring its action in behalf of consumers, and then allow a consumer to sue under State laws.

Mr. COTTON. Mr. President, I would like to commend the distinguished junior Senator from Kentucky (Mr. COOK) on his remarks concerning the bill, S. 986, and explaining the objective of amendment No. 478, which I have cosponsored. I wish to associate myself with the remarks of the junior Senator from Kentucky (Mr. COOK) in this regard.

Mr. President, at the outset I would like to personally commend the distinguished junior Senator from Kentucky (Mr. COOK) who has been serving in the capacity of the senior Republican member on the Consumer Subcommittee of our Committee on Commerce. His devotion to the discharge of his duties in this capacity has been exemplary. The legislation presently under consideration, S. 986, is a good case in point. Senator COOK was very much in evidence throughout all of the hearings on this measure and fully participated in those deliberations. As a matter of fact, much to his credit, upon reexamining the hearing record and considering it deficient in certain respects he, Senator COOK, came to me and counseled that we should exercise our right under section 114 of the Legislative Reorganization Act of 1970 to call witnesses selected by the minority to testify on this measure. We did so and the distinguished chairman of our full committee (Mr. MAGNUSON) graciously acceded to this request. In fact, on the second of these 2 days of requested hearings the distinguished junior Senator from Kentucky (Mr. COOK) presided. His dedication, therefore, to the proper discharge of his duties as the ranking Republican on the Consumer Subcommittee is to be highly commended.

Now, Mr. President, as has already been pointed out, if the provisions of the bill, S. 986, were limited solely to title I dealing with consumer product warranties, I, too, feel that there would be little necessity to debate this measure. Unfortunately, riding "piggyback" on these acceptable and even meritorious provisions there is a title II carrying the somewhat innocuous title of "Federal Trade Commission Improvements." But, improvements at whose expense?

Title II does provide substantial new authority for the Federal Trade Commission. Certainly, the more questionable expansion of this authority is to be found in section 203 of the bill which would permit the Commission "• • • by any of its attorneys designated by it • • •" to institute civil actions to obtain " • • • such relief as the court shall find necessary to redress injury to consumers caused by the acts or practices which were the subject of the cease-and-desist order • • •" In other words, what is being proposed is to launch the FTC into another role of consumer advocate compounding its present authority as policeman, prosecutor, and judge. Quite frankly, I and my colleagues who have joined in proposed amendment No. 478 (Senators HRUSKA and COOK) entertain grave personal reservations whether the record warrants placing this mantle of consumer advocate upon the Federal Trade Commission. As a matter of fact, I believe there is serious question whether anyone at this time has an effective solution for grievance-solving mechanisms and legal remedies for consumers, which accounts for our proposal to strike section 203 and to provide for a new title III which would be the vehicle for a study in the field of consumer remedies upon which the Congress could act with knowledge.

Mr. President, I, therefore, most strongly urge the amendment No. 478 be approved by the Senate and that amendment No. 561, to be proposed to No. 478, be defeated. Amendment No. 561 would place the cart before the horse. It would retain the proposed title III, providing for the study of consumer grievance mechanisms, and at the same time retain section 203 vesting new authority in the FTC at this time, before the work product of the proposed study is available.

Mr. President, I believe that a further word is in order concerning title II and its proposals to increase the authority of the Federal Trade Commission, especially with respect to the new rulemaking authority under section 206 and the legislative intent sought to be conferred upon certain of those provisions in the report of the Committee on Commerce accompanying S. 986—Report No. 92-269.

This provision greatly increases the delegated power of the Federal Trade Commission by authorizing it to promulgate legislative rules defining "with specificity" those acts or practices which it considers to be unfair or deceptive to consumers and in violation of section 5(a)(1) of the Federal Trade Commission Act.

Thus, it represents a significant departure from the traditional congressional delegation of legislative power to administrative agencies in which Congress itself has declared with particularity certain acts to be unlawful and has authorized administrative agencies to apply the law by determining in specific cases whether a particular act constitutes a violation. The rulemaking power of such regulatory agencies usually has been limited to those rules necessary to carry out the provisions of the act under which it operates. When so-called legislative rulemaking has been granted, the Congress has delineated with specificity the nature of the practices to be covered, witness in the case of the FTC, the Fur Products Labeling Act, the Wool Products Labeling Act, the Fair Packaging and Labeling Act, and for that matter, title I of S. 986 itself dealing with warranties.

I, for one, seriously question the wisdom of vesting the Federal Trade Commission with power to legislate under broad and somewhat vague congressional guidelines with respect to a wide range of practices effecting the entire economy. And, I would imagine that upon reflection many of my colleagues in the Senate would entertain similar reservations.

Certainly, at a minimum, any legislative rule promulgated by the Federal Trade Commission under section 206 of S. 986 should be subject to full-scale judicial scrutiny. This means that any such rule must be adopted on the basis of a record which is fully developed by thorough administrative procedures. It also means that the rule must pass judicial review both as to its conformance with the statutory standard and as to its support by substantial evidence on the administrative record as a whole.

Mr. President, S. 986 in section 206 does provide for judicial review on the basis of the substantial evidence test. This review may be obtained at either of two stages: first, immediately after the rule has become effective; and second, collaterally after an enforcement pro-

ceeding by the FTC based on the rule. In either instance, the reviewing court may set aside the rule if it is not supported by substantial evidence on the entire record. The rule also would be set aside, of course, if it purported to prohibit conduct which, as a matter of law, did not violate section 5(a)(1) of the FTC Act. It, therefore, appears that adequate and comprehensive review is provided for in S. 986.

Unfortunately, Mr. President, section 206 also provides for review of any legislative rule following its final promulgation by the Congress within a time certain. Certainly, this is appropriate in recognition of the delegation of legislative power to the FTC. The misfortune arises with respect to the issue to be raised as to the effect on the scope of judicial review caused by congressional inaction within the referral period provided for in proposed section 6(g)(2)(ii) of the FTC Act to be added by section 206. Certainly, the failure of the Congress to act affirmatively to disapprove a rule should be accorded no weight whatsoever by a reviewing court. Yet, exactly the opposite is mandated by the following language appearing in the report of the Commerce Committee accompanying S. 986:

> Of course any court reviewing such rule would take judicial notice of the act, *or lack thereof*, of Congress during its review of the rule on questions of policy. (Italics supplied) (Senate Report 92-269 at 27)

Mr. President, the Congress already is burdened with important and pressing issues commanding its attention. The failure of either the House of Representatives or the Senate of the United States to enact a resolution within the abbreviated time schedule for its review disapproving a rule of the FTC should not in any way be read as a manifestation of legislative intent. Such a procedure is far removed from affirmative approval by a vote on a disapproval resolution. For example, if certain Senators or Representatives were to decide that they had been provided with insufficient information to make a determination about the desirability of a rule proposed by the Federal Trade Commission, they probably would be precluded by lack of time from obtaining such additional information. Also, if they were to receive further information and they subsequently decided to object to the rule, it is doubtful that there would be sufficient time to inform their colleagues or to initiate the procedural machinery necessary for the passage of a resolution rejecting the rule.

Mr. President, what this report language directing a court to take jurisdictional notice of congressional inaction does is to establish legislative history adopting the dissenting opinion in the decision of the U.S. Supreme Court in the *Federal Trade Commission* v. *Dean Foods Co. et al.* (348 U.S. 597 (1966)). On the contrary, I strongly believe that such report language should be disregarded since as the majority reasoned in the aforementioned Supreme Court decision, congressional inaction has no relevance whatever in applying established principles of law.

Therefore, the language in the Commerce Committee report to the effect that a reviewing court would take judicial notice of congressional inaction during the referral period can only mean that the rule has become effective and is ripe for judicial review.

Mr. President, clarification also may be desirable with respect to the relationship between judicial review of a rule immediately after its promulgation, and judicial review of the rule after it has been applied in an enforcement proceeding. In commenting on section 206, the Commerce Committee report points out that there would be no legislative prohibition against judicial review of rules when applied in Commission enforcement proceedings. The report then explains as follows:

> Of course judicial review of rules previously reviewed may be restricted for judicial reasons—*e.g.*, by the application of the doctrine of *Stare decisis* or *res adjudicata*. (Senate Report 92-269 at 28).

The use of the term "stare decisis" in this context appears to be misleading. This term refers to the doctrine that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to future cases where the facts are substantially the same. The term is used in the context of adjudication of factual issues. But when the Federal Trade Commission promulgates a legislative rule, the rule will declare certain acts to be unlawful, and it will be based primarily on generalized comments. It will not refer to a particular set of facts which can be construed to consist of an unlawful act or practice. Thus, if a court does not set aside a legislative rule when it is challenged immediately after its promulgation, the decision would not bind a court which construes the same rule in the following enforcement proceeding involving a totally distinct set of facts.

Res judicata, on the other hand, refers to the rule that a final judgment or decree on the merits by a court is conclusive of the rights of the parties in all later suits in points and matters determined in the former suit. The question arises whether a person who challenges the rule immediately upon its promulgation would be precluded from again challenging the rule by appealing its application in an enforcement proceeding.

Although this legislation expressly prevents a legislative limitation of the scope of judicial review, in referring to the rule of res judicata, the Commerce Committee report apparently contemplates the possibility of foreclosure of the right to review the validity of the rule after it has been applied in an enforcement proceeding. The court best equipped to judge the fairness of the rule could thus be denied the opportunity to review it. It may be impossible for a court to determine initially how the rule will operate when applied prospectively to a particular set of facts as yet unknown. This information, on a case-by-case basis, would not be available for the benefit of a court reviewing the rule on an appeal taken immediately after its promulgation. Furthermore, the risk exists that the record on which the court would base its determination may be deficient.

In short, Mr. President, any application of the doctrines of res judicata and stare decisis to collateral review of a Commission rule would be strictly confined to the historic limits of those legal principles. They would seldom be applicable in the circumstances envisioned by this legislation.

In conclusion, Mr. President, I strongly support the adoption by the Senate of amendment No. 478 to S. 986 and, with equal vigor, oppose amendment No. 561 to it. I also sincerely hope that when the other body considers this measure, it will have the wisdom to either delete the rulemaking authority proposed to be vested in the Federal Trade Commission by section 206 or closely circumscribe such authority. At the very least, the legislative history accompanying any such provision should be accurate and clear so as to adequately protect the rights of all interested parties affected by it.

The ACTING PRESIDENT pro tempore (Mr. METCALF). The question is on agreeing to the amendment of the Senator from Virginia (Mr. SPONG) to the amendment offered by the Senator from Kentucky (Mr. COOK).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senators from Tennessee (Mr. BROCK and Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Tennessee (Mr. BAKER) and the Senator from Maryland (Mr. BEALL) would each vote "nay."

The result was announced—yeas 49, nays 30, as follows:

[No. 295 Leg.]

YEAS—49

Aiken	Hughes	Pastore
Bayh	Inouye	Pearson
Bentsen	Javits	Pell
Bible	Jordan, N.C.	Percy
Brooke	Kennedy	Proxmire
Burdick	Long	Randolph
Byrd, Va.	Magnuson	Schweiker
Byrd, W. Va.	Mansfield	Smith
Cannon	McGee	Spong
Case	McGovern	Stafford
Church	McIntyre	Stevens
Eagleton	Metcalf	Stevenson
Fulbright	Mondale	Symington
Gambrell	Montoya	Tunney
Hart	Moss	Williams
Hartke	Nelson	
Hollings	Packwood	

NAYS—30

Allen	Eastland	Roth
Allott	Ervin	Saxbe
Anderson	Fannin	Scott
Bennett	Fong	Sparkman
Boggs	Hansen	Stennis
Cook	Hatfield	Taft
Cooper	Hruska	Talmadge
Cotton	Jordan, Idaho	Thurmond
Curtis	McClellan	Tower
Dominick	Miller	Young

NOT VOTING—21

Baker	Dole	Humphrey
Beall	Ellender	Jackson
Bellmon	Goldwater	Mathias
Brock	Gravel	Mundt
Buckley	Griffin	Muskie
Chiles	Gurney	Ribicoff
Cranston	Harris	Weicker

So Mr. SPONG's amendment to Mr. COOK's amendment was agreed to.

Mr. SPONG. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, the Senator from Virginia (Mr. SPONG) has another amendment to offer.

Mr. SPONG. Mr. President, I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk proceeded to read as follows:

STATUTE OF LIMITATION AMENDMENT

Page 44, line 10, after the word "damages" add the following:

"No action may be brought by the Commission under this subsection more than 2 years after an order of the Commission upon which such action is based has become final."

The ACTING PRESIDENT pro tempore. The Chair would inquire of the Senator, is this another amendment to the Cook amendment?

Mr. SPONG. This is an amendment to the bill, offered pursuant to the ruling of the Chair at the time the Cook amendment and my substitute were being debated. I believe it is offered with the concurrence of the Senator from Kentucky (Mr. COOK). It provides for a 2-year statute of limitations. I hope it will be possible for the Senator from Washington to accept.

Mr. MAGNUSON. Mr. President, the amendment is a very fine one. We know what it does. We know what its effect will be and we will be happy to take it.

The ACTING PRESIDENT pro tempore. The Chair would inform the Senator from Virginia that we have to have a vote on the Cook amendment before the Senator can have his amendment voted on.

Mr. ALLOTT. Mr. President—Mr. President——

Mr. COOK. Mr. President, reserving the right to object, was not the amendment of the Senator from Virginia an amendment in the nature of a perfecting amendment to amendment No. 478 and that amendment carried; but is not amendment No. 478 still the pending business before the Senate?

Mr. SPONG. The Senator from Kentucky is correct. We have to vote on the amendment as now perfected. I therefore move that this amendment be temporarily laid aside——

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK) as amended.

The amendment, as amended, was agreed to.

The ACTING PRESIDENT pro tempore. Now the distinguished Senator from Virginia (Mr. SPONG) is recognized for his amendment.

Mr. SPONG. Mr. President, I move adoption of the amendment which would impose a 2-year statute of limitation.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

SEVERAL SENATORS. Third reading! Third reading!

Mr. SPARKMAN. Mr. President——

Mr. COTTON. Mr. President, I have an amendment which I think will be unanimously agreed to. I shall not take too much time on it. I send it to the desk and ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, reading of the amendment will be dispensed with; and, without objection, the full text of the amendment will be printed in the RECORD.

The text of the amendment is as follows:

On page 24 strike out lines 4–6 inclusive an insert in lieu thereof the following:

"That this Act may be cited as the 'Magnuson-Moss Act'."

Mr. COTTON. Mr. President, it has been my privilege to serve on the Committee on Commerce for 15 years. For the past 9 of those 15 years I have served as its ranking minority member. During all of those 15 years, I have served under the able leadership of the distinguished Senator from Washington (Mr. MAGNUSON).

The hour is such this evening that I shall not be able to say all I would like to say. It so happens that I am fated, on any of the committees on which I serve, to serve under the Senator from Washington. I serve on the Subcommittee on Labor and Health, Education and Welfare, and related agencies. The Senator from Washington is its chairman.

During my service on the Committee on Commerce, I have come to know the Senator from Washington well. I therefore can testify that while we disagree many times in principle, as we have disagreed today, no man has ever chaired a committee, in my opinion, who has been more fair or more reasonable.

The PRESIDING OFFICER (Mr. BURDICK). The Senator's amendment amends a section already amended, and therefore the Senator will need unanimous consent to consider his amendment.

Mr. COTTON. Mr. President, it amends the short title of the bill. I ask unanimous consent that I may offer the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, the purpose of my amendment is to have this bill referred to by the short title of the "Magnuson-Moss Act."

Mr. President, never, in my opinion, could there be a chairman of a committee more fair, more reasonable, or more considerate of all members of a committee on both sides than the distinguished Senator from Washington (Mr. MAGNUSON).

I believe that probably only the distinguished Senator from Rhode Island (Mr. PASTORE) has served on the Committee on Commerce longer than I. It came to my attention, not long ago, by a chance remark made by a member of the committee staff who said, "You know, Senator Magnuson has been here so many years and he has been chairman of this committee for so many years, yet no piece of consumer legislation bears his name."

Mr. President, the Senator from Washington, as chairman of the Committee on Commerce, has worked long and hard, particularly over the past several years on consumer legislation.

Even though personally I cannot go along with certain parts of this particular bill, S. 986, I believe I voice the feelings of every member of the committee when I say that we greatly admire and respect our distinguished chairman for his outstanding work on behalf of the consumers of America.

Therefore, I have taken the liberty, inspired by the chance remark I have previously referred to, to offer this amendment which merely provides that the short title of the bill shall be referred to as the "Magnuson-Moss Act."

Now, Mr. President, a New England Yankee always has an ace in the hole. Congressman Moss was the man who introduced the bill in the House. I understand that he is a distant relative of our esteemed colleague from Utah in the Senate (Mr. Moss), who is chairman of the Consumer Subcommittee. So, anyone who reads the title "Magnuson-Moss Act" may make up his own mind whether it refers to the distinguished Senator from Utah (Mr. Moss) or to Representative JOHN E. Moss of California in the House, who authorized the companion bill in that body.

But, there is one thing they will have no doubt about, and that is that this amendment is being offered by me on behalf of both sides of the Committee on Commerce as a mark of respect and ap-

preciation to a man who has led us so ably and well throughout the years.

Mr. MAGNUSON. Mr. President, may I be permitted to vote present on this vote?

Mr. ERVIN. Mr. President, I would agree to thanking the Senator from Utah and the Senator from Washington. However, I do submit that it is without precedent to name a bill after Senators, no matter how much they have labored in the vineyard of the Lord. I think it would be a very bad precedent to establish. We would have to name a bill after everyone before we got through.

I would suggest to the able Senator from New Hampshire that he has made a very eloquent speech and has paid great tribute to two Members of the Senate. However, I do not think the Senate ought to adopt the practice on any occasion of having a bill named after Senators. I, for one, am opposed to the amendment offered by the distinguished Senator from New Hampshire.

Mr. COTTON. Mr. President, I have great respect for the Senator from North Carolina. I also have great respect for his position for the reasons he has given. Now, I am told that North Carolina has a law which perhaps it would be a good thing for every State of the Union to have. North Carolina has a law that no highway, no river, no mountain, and no public facility in the State can be named after an individual until that individual has been dead 25 years. I think perhaps that would be a good test, because sometimes we hurriedly honor someone. Such, however, is not the case with respect to the amendment, which I have offered to honor our chairman.

Now, the Senator from North Carolina is always consistent and always factual. But, with all due respect for his views, if we name a bill after a man who has served as chairman of the Committee on Commerce for as many years as has the Senator from Washington, dealing with a subject that he has labored over untiringly on behalf of the American consumer, then I do not believe the country would fall to pieces.

Mr. SPARKMAN. Mr. President, will the Senator yield briefly?

Mr. COTTON. I yield.

Mr. SPARKMAN. Mr. President, I hesitate to challenge the distinguished Senator from North Carolina. If I remember correctly, the first year that the chairman of the committee and I were in Congress, in 1937, there was a Wage and Hour Act passed that was named the Black-Connery Act. I believe the Hospital Construction Act was named the Hill-Burton Act. I may be in error, but I believe there have been quite a number of other bills named after Members of the Congress. There was the Taft-Hartley Act, and the Wagner Act. There are many others.

Mr. COTTON. Mr. President, no doubt many of those names were applied to the bills by the press and by the public. I would not assert that all of these were officially named. However, I still see no great harm in it.

Mr. SPARKMAN. I am quite sure it was written into the bill I referred to as the Black-Connery Act.

Mr. COTTON. Mr. President, if a stand-pat conservative, hide-bound, moss-back Republican wants to honor a fine liberal Democrat who loves the people as the Senator from Washington does, who in the Senate is going to stop him?

Mr. ERVIN. Mr. President, I hesitate to say it, but I think the Senator from Alabama is very much in error. I looked at the Wagner Act the other day. It does not say anything in it about Wagner. If one looks at the law books, he finds it has a special classification giving the popular names the people named them rather than the names that Congress gives them.

I think the North Carolina practice that the distinguished Senator from New Hampshire mentions is a very good practice to follow.

I hope that the distinguished Senator from Washington will be here for far more than 25 years. In fact, I hope he lives to be at least 200 years old and attains his 200th year anniversary, and I hope that the Senator from New Hampshire and I are active pallbearers at his funeral.

Mr. MANSFIELD. Is there a motion before the Senate?

The PRESIDING OFFICER (Mr. ALLEN). The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I call up my amendment No. 605 and ask that it be stated.

Mr. MAGNUSON. Mr. President, would the Senator from Nebraska yield? The Senator from Alabama has an amendment which the committee is willing to accept.

Mr. HRUSKA. I would be happy to yield for that purpose. I do not propose to ask for a rollcall vote, but only a voice vote after not less than 2½ minutes and not more than 4 minutes of explanation.

Mr. MANSFIELD. Mr. President, would it meet with the approval of the Senate if the rollcall vote on final passage began at the hour of 7:30 and was extended beyond the usual 20 minutes in order to allow our colleagues who have attended the funeral of our late and beloved colleague, former Senator Holland of Florida, to be present in time to vote.

Mr. HRUSKA. It is agreeable with me.

Mr. MANSFIELD. Mr. President, I make that unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PASTORE. That is on final passage.

Mr. MANSFIELD. The Senator is correct. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 51 following line 21, add new section 211 and renumber subsequent section:

"SEC. 211. Nothing in this title shall be construed to give the Commission authority over the Federal National Mortgage Association, the National Corporation for Housing Partnerships or any financial institution which is subject to regulation by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration or the Federal Home Loan Bank Board against acts or practices unfair or deceptive to consumers."

Mr. SPARKMAN. Mr. President, our amendment to S. 986, to provide minimum disclosure standards for a written consumer product warranties against defect or malfunction; to define minimum Federal contents standards for such warranties; to amend the Federal Trade Commission Act in order to provide its consumer protection activities; and for other purposes would accomplish one desirable objective without interfering with the basic purposes of the legislation.

Our amendment would make it clear that federally insured and regulated financial institutions as well as Government-chartered corporations would not be included in the new authorities given by this legislation to the Federal Trade Commission.

Mr. President, on June 25, 1971, Senator BENNETT and I wrote to our distinguished colleague, the chairman of the Committee on Commerce, Senator MAGNUSON, in which we expressed concern to certain provisions of certain bills under the jurisdiction of his committee over certain persons, partnerships, or corporations that were already under federally regulated agencies.

On June 25, 1971, our distinguished colleague, Senator MAGNUSON, replied to us and I quote:

As for the bill S. 986, concerning warranties and amendments to the Federal Trade Commission Act, this measure was ordered reported June 15, 1971 by our Full Committee with amendments. A copy of Committee Print No. 6 of this bill is enclosed for your information. We do not feel that this bill as reported by our Committee raises any of the issues which are of concern to you, since it does not disturb the present exception for banks pursuant to section 5(a)(6) of the Federal Trade Commission Act.

However, in order to insure that this is the case, we have discussed the matter and instructed the staff of the Committee to include in the report appropriate language to the effect that this bill does not seek to increase the authority of the Federal Trade Commission under Section 5 of the Federal Trade Commission Act so as to empower the Federal Trade Commission to regulate activities not already authorized by it under this section of the Act.

Mr. President, Senator BENNETT and I are not sure that the language of the legislation or the language of the committee report, that is, report No. 92-269, is precisely clear on this point.

I have discussed this amendment with my colleague from Washington and he has indicated his willingness to accept the amendment.

Mr. MAGNUSON. Mr. President, the committee has looked the amendment over. I think it perfects the bill. The Senator is correct. The committee staff worked on it today. We are doing now what we intended to do.

Mr. SPARKMAN. The Senator is correct.

Mr. MAGNUSON. Mr. President, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. BURDICK. Mr. President, as the Senator knows, I represent a rural State with many small merchants. And they will not have a battery of lawyers to read the Federal Register every day. I am concerned as to whether or not one of these merchants might not, even though acting in good faith, suddenly be subjected to a civil penalty for the violation of some relatively obscure FTC rule. Is this kind of unfair surprise likely to arise under section 202 of the bill?

Can the distinguished Senator give me some assurances on the meaning of "actual knowledge or knowledge fairly implied on the basis of objective circumstances"?

Mr. MAGNUSON. Mr. President, in answer to your question let me first refer you to the report on S. 986. At page 24 the report says:

A violation of the Commission rule would in most cases constitute a violation with "knowledge fairly implied from objective circumstances."

But the report goes on to say that if a person against whom the action was brought can show why he should not have been expected to have knowledge of a particular rule, then that would constitute a defense to a civil fine. It is my understanding that if a person in a rural area could show that he had no reason to know that his actions were in violation of a trade commission rule, then he could defend against a civil action by the Commission for violation of that rule. I hope this is responsive to your question.

Mr. HRUSKA. Mr. President, during the course of debate on S. 986, references have been made to the Statement Supplement of Mr. Gilbert H. Weil on the legislative History of FTC's Lack of Authority To Issue Binding Trade Regulation Rules.

I ask unanimous consent that the statement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE FEDERAL TRADE COMMISSION LACKS THE AUTHORITY TO ISSUE BINDING TRADE REGULATION RULES

(By Gilbert H. Weil)

Section 105 of the bill reported as the "Consumer Protection Act of 1970" by the Senate Commerce Committee on August 14, 1970, would amend section 6(g) of the Federal Trade Commission Act to authorize the Commission to "promulgate trade regulation rules defining unfair or deceptive acts or practices . . ." Section 105 goes on to provide that:

"When any such trade regulation rule is promulgated and becomes final, a subsequent violation thereof shall constitute an unfair or deceptive act or practice in violation of section 5(a)(1) of this Act."

In addition, under Section 201 of the bill, violation of a trade regulation rule would constitute an "unfair consumer practice," the commission of which is declared unlawful in Section 202 and for which penalties are specified in Section 203 of the bill.

There can be no doubt, in other words, that the bill would grant the Commission the power to issue substantive or legislative-type rules—rules that will be binding in a subsequent adjudicative proceding, whether judicial or administrative. As stated in the Report of the Senate Commerce Committee (S. Rep. No. 91-1124, 91st Cong., 2d Sess. 10 (1970)):

"Violations of any such [trade regulation] rule is made a *per se* violation of Section 5 of the FTC Act."

Various supporters of the bill have argued that the grant of authority to the Commission to issue binding rules would not constitute a major or novel change in the Commission's power because, it has been contended, the Commission already has substantive or legislative-type rulemaking power. Accordingly, the argument continues, Section 105 would merely confirm preexisting authority and there is no basis for the concern that has been expressed as to the unprecedented and far-reaching nature of Section 105. For example, the importance of Section 105 was minimized by the Senate Commerce Committe as merely making "explicit the implicit authority of the Commission to promulgate substantive Trade Regulation Rules defining unfair or deceptive acts or practices." (S. Rep. 91-1124, *supra*, at 10.)

This Memorandum will show, however, that the Federal Trade Commission has neither explicit nor implicit power to issue binding Trade Regulation Rules and that, accordingly, Section 105 would constitute a major innovation whose importance must be recognized. As will be shown in detail below, the conclusion that the Commission lacks the power that Section 105 of the bill would grant is based on the following four considerations:

A. *The Commission's Past Interpretation*—For the first half-century of its existence, the Commission consistently and repeatedly acknowledged that it lacked the power to issue legislative-type rules. The Congress has accepted the Commission's disclaimer of authority, made as recently as 1966, in enacting statutes such as the Wool Products Labeling Act of 1940 and the Fair Packaging and Labeling Act of 1966 which grant such authority to the Commission in very limited areas.

B. *Statutory Language*—The provisions of the Federal Trade Commission Act cannot be read as conferring substantive or legislative-type rulemaking authority upon the Commission. Other statutes administered by the Commission demonstrate that where Congress has intended to grant such authority to the Commission, it has done so in specific and unmistakable terms, in wording which differs sharply from that contained in the Federal Trade Commission Act.

C. Legislative History.—The legislative history of the Federal Trade Commission Act shows clearly and convincingly that Congress had no intention of granting legislative rulemaking authority to the Commission. Congress repeatedly rejected proposals that would have given the Commission this power. In addition, the legislative history demonstrates that the rulemaking power given the Commission in Section 6(g) of the Act is limited to the promulgation of rules in connection with the Commission's power to classify corporations and is in no sense a broad grant of power to issue legislative-type rules.

D. Other Legal Authorities.—It has been the conclusion of disinterested students of administrative law that the Commission lacks the type of rulemaking authority that Section 105 would grant it. The cases, involving other agencies, on which reliance has been placed do not support the claim that the Commission has substantive rulemaking authority. These cases involve comprehensively regulated and licensed industries and rulemaking directly related to the grant or denial of licenses.

Each of these factors will be considered in turn.

A. The Commission's Past Interpretation.—For the first half-century of the Commission's existence, it conceded that it had no power to issue substantive or legislative-type rules. This concession is independently persuasive evidence that the current assertion of expansive Commission authority is unfounded.

One of the earliest recognitions by the Commission of its lack of substantive or legislative-type rulemaking power was its use of Trade Practice Submittals, a device that later gave way to the Trade Practice Conference Procedure. By 1919, the Commission had received numerous complaints of allegedly unfair practices occurring on an industry-wide basis. It said that to proceed against all members of the industry would be expensive and time consuming and to proceed against only a few would be unjust.

"It soon became, therefore, a matter of anxious consideration by the commission what means it could employ within the scope of its powers to aid in bringing about the abandonment of any unfair practices before it had made an investigation or determined whether in the interest of the public a complaint should issue. . . . The Commission's organic act made no provision for such contingencies, and it was apparent that whatever procedure was devised would have to conform to the limitations imposed by that act and be enforceable by the procedure there laid down." Federal Trade Commission, Trade Practice Submittals 1 (1925).

Under the procedure devised, the Trade Practice Submittal, members of an industry met under the guidance of the Commission and decided what they considered to be unfair methods of competition. The decisions of the industry were then submitted to the Commission. If the Commission approved, they were issued as rules with which the individual members could agree to comply. The effect of such rules was uncertain during the first few years. The report of one of the earliest of these conferences stated that—

"It was understood that the judgment of the industry, as expressed, should be for the guidance of the commission and should be regarded as, prima facie, law merchant for the industry." *Id.* at 7.

The report also stated that—

"Until testimony to the contrary is produced, however, the commission will regard as conclusive the judgment of the trade in declaring such practices to be in fact unfair." *Id.* at 9.

Ultimately, however, the Commission apparently determined that it did not have the power to declare such expressions of the industry as even "prima facie law merchant"—much less as a body of rules whose violation would constitute per se violations of the Act. The report of a later conference stated that—

"The expression of the industry as here given is advisory to the commission with respect to the issuance of a complaint, but upon a trial of the complaint the respondent will come in entirely without prejudice on the part of the commission and any practice which is challenged will be examined from the beginning." Trade Practice Submittals, p. 22 (1925).

When the Commission could not accept an industry determination that a certain practice was "fair," it would issue a statement that it disapproved of that particular practice and then "proceed in individual cases as they come before it on this basis, with due regard to the merits of any particular case." *Id.* at 37.

Not only does the general theory of the Trade Practice Conference procedure negate the notion that the Commission possesses substantive or legislative-type rulemaking power, but also individual Commissioners and members of the Commission staff, over the years, have recognized the lack of such power in public statements.

The report of the conference on Sheffield Silver-Plated Hollow Ware, held in 1922, contains a specific denial.

"It was explained to those who desired the commission to state and enforce a standard definition or meaning that the commission

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was without power to do this; that it could only look to see whether the terms actually in use were deceptive to the purchasing public." *Id.* at 36–37.

Similarly, the Commission in its annual report to Congress for 1922 denied it had power to issue substantive or legislative-type rules:

"One of the most common mistakes is to suppose that the commission can issue orders, rulings or regulations unconnected with any proceeding before it. . . . [T]he commission can not and will not function by any method not authorized in its organic act. . . ." 1922 FTC Ann. Rep. 36.

In 1926, in a statement before a conference of publishers of periodicals, Commission Chairman William E. Humphrey explained the powers of the Commission and the function of the conference in light of those powers as follows:

The commission receives its powers as to the suppression of unfair methods of competition from section 5 of the Federal Trade Commission act. That statute fixes what practices are lawful or unlawful. The commission has power to do neither. The authority of the commission is now just what Congress gave it, and it will remain exactly the same as it is until Congress changes it. . . .

"The purpose of this conference is not in any degree to establish a censorship over the press. It is not intended to place any additional burden whatever upon the publisher. It is not intended to tell the publisher what he shall or shall not publish. The law as it is now written tells him that. It is not intended to enlarge the jurisdiction of the commission. The commission does not desire in any way to increase its power. It could not do so even if such was its wish. The commission's sole desire is to stop practices that are now prohibited by law.

"Any plan adopted by this conference will be an expression only of the judgment conscience, and the purpose of those who adopt it. It can not make any practice lawful and it can not make any practice unlawful." Federal Trade Commission, Trade Practice Conferences 170–71 (1929).

Ten years later at the Trade Practice Conference for the Wool Industry, Mr. Henry Miller, then Assistant Director of Trade Practice Conferences for the Federal Trade Commission, repeated Mr. Humphrey's theme.

"[T]he Commission is not a law-making body, and in trade practice conferences we do not presume to make law. In the Group I rules we do undertake to catalogue what we consider to be legal requirements.

"Now, the retailer's responsibility is entirely one of law. We cannot make him more responsible than the law makes him, nor can we give him any dispensation or exemption from what the law requires." *Proceedings of the Trade Practice Conference for the Wool Industry*, 308 (March 16, 1938).[1]

In 1942, Mr. Henry Ward Beer, then Special Trial Counsel to the Commission, wrote in his book, *Federal Trade Law and Practice:*

"The only way that the lawfulness of a practice may be settled is by a formal proceeding and subsequent review by a Circuit Court of Appeals and perhaps by the Supreme Court." Beer, *Federal Trade Law and Practice* § 225 (1942).

The position of the Commission that it lacks substantive or legislative-type rulemaking power, consistently held until at least 1961 or 1962, also appears in the legislative histories of those statutes enacted after the Federal Trade Commission Act that do confer on the Commission, in limited areas, substantive or legislative type rulemaking power.

The Wool Products Labeling Act was passed in 1940 with the active support of the Commission. The Commission's support was an important factor in passage of the law, and this fact was used to refute the argument by the bill's opponents that the Commission could handle the problem with its existing powers. As stated by Congressman Case—

"The second argument . . . is that the evils of false labeling are being curbed and gradually cured by the Federal Trade Commission. If that were so the Federal Trade Commission itself would not be on record in favor of the passage of the bill and the Federal Trade Commission did testify in favor of the bill. It testified that something like this was needed to put teeth into their recommendations to the trade." 86 Con. Rec. 11320 (1940).

In 1951 Congress passed the Fur Products Labeling Act and in 1958 the Textile Fiber Products Identification Act. Both of these enactments were likewise supported by the Federal Trade Commission. One reason the Commission desired these two laws was to provide it with jurisdiction over deceptive labeling and advertising at the local level, but equally important was that the Commission did not believe that it had the power affirmatively to require members of an industry to adopt practices not otherwise required by Section 5. Henry Miller, Assistant General Counsel for the Commission, testified in favor of the Fur Products Labeling Act as follows:

"[O]ur trade practice rules do not require mandatory labeling because we have felt that we have not the power to require it." *Hearings on H.R. 2321 Before the House Committee on Interstate and Foreign Commerce*, 82d Cong., 1st Sess. 160 (1951).

Continuing, Mr. Miller testified:

"Under the trade practice rules Mr. Gold [a pervious witness] said he is very much in favor of our making those rules do what is intended in this bill. That is all well and good, but if there is no legal authority to do it, neither Mr. Gold nor his clients can do it, nor can we." *Id.* at 161.

At hearings on the proposed Fair Packaging and Labeling Act the Chairman of the Commission, as recently as 1966, candidly acknowledged the difference between the type of power that that bill would confer and the power of the Commission possessed under the Federal Trade Commission Act. At one point, testifying before the House Interstate and Foreign Commerce Committee, he stated:

"So it [the procedure prescribed under the packaging and labeling bill] would be quite a different procedure. Here it is very clearly rulemaking authority if these limited fields are granted. We have no ultimate rulemaking authority across the board on deceptive practices as such." *Hearings on H.R. 15440 before the House Interstate and Foreign Commerce Committee*, 89th Cong., 2d Sess. 990 (1966).

The Chairman also explained how the rulemaking power under the Fair Packaging and Labeling Act would operate. Once a regulation was promulgated, he said, a violation "would be a per se violation of section 5 [of the Federal Trade Commission Act] and all we would do is say, 'You violated the regulation which was duly promulgated under this legislation.'" *Id.* at 991. See also *id.* at 69–70, 184, 202, and *Hearings on S. 985 Before the Senate Commerce Committee*, 89th Cong., 1st Sess. 81, 84, 88–89 (1965).

The Chairman, in pleading the Commission's lack of substantive or legislative-type rulemaking power, was merely reflecting a position he had taken three years earlier in supporting the proposed fair packaging legislation (then S. 387). He testified on that occasion as follows:

"[W]hat is encompassed in S. 387 was basically in the four consumer acts that I referred to. This was a legislative grant by Congress, certainly in the four acts I referred to, to the Federal Trade Commission, operating under the mandate of the law and in accordance with the limits that are set there, to in effect promulate [sic] rules which have the effect of law. That is writing substantive law once it is done.

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"Now, I do not think we have the power to write substantive law down there unless you give us the power.

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"I don't ever want to be dragged up here and be told that I am down there writing laws. I just don't think that it would be a very good operation, myself.

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"Without S. 387 the answer is, I believe, we have no authority. I still read the Constitution now and then.

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"Senator, it has been argued that in section 6(g) of the Federal Trade Commission Act, the language appears that there—6(g) reads as follows:

" 'From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act.'

"Some have read that with the belief that perhaps we could do this. But I think—we never did at the Federal Trade Commission undertake this and I think the Congress obviously must have recognized it in 1940 when they passed the Wool Act, because if we could have done that, you did not have to pass the Wool Act.

"Now, frankly I just—we are called and we do have many—we are called quasi-legislative. Now, this would be a true example of quasi-legislative function if the Congress delegates under certain restrictions the right to promulgate regulations that have the substantive effect of law, that is, a bit of legislation, but I have never read that section within the meaning that they could do what Congress [sic] had to do. I think that it is the job of Congress; not ours.

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"I didn't say nor did I infer to anybody, I hope, that we have the right to pass laws down at the Federal Trade Commission. I think that is the responsibility of the Congress, not the Federal Trade Commission." *Hearings on S. 387 Before Senate Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary*, 88th Cong., 1st Sess. 281–82 (1963).

The Commission's representations, in the context of requests for new legislation, that it lacks the power to issue substantive or legislative-type rule except pursuant to specific statutory grant of such power have been consistently accepted by Congress. For example, the foreword to the Committee Report on the bill (H.R. 944) that later became the Textile Fiber Products Identification Act states:

"As to textile fiber products other than wool products there is no requirement in the Federal law for affirmative disclosure of the fiber content of such products in labeling and advertising . . ." H.R. Rep. No. 986, 85th Cong., 1st Sess. 2 (1957)

The Report adds:

"The Federal Trade Commission, through its trade practice conference procedure has promulgated rules with respect to the labeling and advertising . . . . These rules, as such, do not have the force and effect of law but are rather advisory interpretation. . . ." *Id.* at n. 1

A more recent indication of Congressional acceptance of the view that the Commission lacks substantive or legislative-type rulemaking power, and one of obviously special relevance here, can be found in the House Report on H.R. 15440, the fair packaging and labeling legislation. In a section comparing the provisions of the Federal Trade Commission Act with that provision of H.R. 15440 which would grant the Commission substantive or legislative-type rulemaking power with respect to the subject matter of that bill, the Committee stated:

"(Under sec. 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45) unfair methods of competition and unfair acts or practices in commerce are declared unlawful.)

"The Federal Trade Commission Act does not grant the Commission specific authority to issue such a regulation [prescribing standards for package labeling].

"Under the aforequoted sec. 5(a)(1) of the Federal Trade Commission Act, the Commission in a case-by-case proceeding against individual manufacturers may, where it has jurisdiction, require the disclosure of the information specified in this subsection, if the Commission finds that the failure to disclose affirmatively such information is deceptive or likely to be deceptive.

"The authority of the Commission to issue trade regulation rules, as the Commission did with reference to cigarette labeling and advertising, has never been passed on in the courts." H.R. Rep. No. 2076, 89th Cong., 2d Sess. 22 (1966). See also Truth In Packaging, Report of the Subcommittee on Antitrust and Monopoly of the Senate Judiciary Committee, 88th Cong., 2d Sess. 11–12 (1964).

B. STATUTORY LANGUAGE

Two provisions of the Federal Trade Commission Act, Section 5(a)(6) and Section 6(g), are sometimes cited by those urging that the Commission has the authority to issue substantive rules.

Section 5(a)(6) provides:

"The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, common carriers subject to the Acts to regulate commerce, air carriers and foreign air carriers subject to the Federal Aviation Act of 1958, and persons, partnerships, or corporations insofar as they are subject to the Packers and Stockyards Act, 1921, as amended, except as provided in section 406(b) of said Act, from using unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce."

This section cannot be read as more than a general description of Congress' purpose in establishing the Federal Trade Commission and a definition of its powers in terms of the industries subject to its jurisdiction. The section in no way implies the appropriateness of a Trade Regulation Rule proceeding, and there is no authority for finding in Section 5(a)(6) the expansive implication for the Commission's power that has been asserted.

When Congress means to grant substantive or legislative-type rulemaking power it does so in explicit terms,[2] and it has not done so in the Federal Trade Commission Act.

It certainly has not done so in Section 6(g), the other statutory provision upon which reliance has been placed. Section 6(g) empowers the Commission—

"From time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act."

Section 6 of the Federal Trade Commisson Act relates to the Commission's investigatory and information-gathering functions, not its enforcement functions. It is wholly unreasonable to read the phrase "rules and regulations" in a subsection dealing with a specific aspect of the Commission's investigatory powers—the classification of corporations for reporting purposes—as authorizing the promulgation of general substantive or legislative-type rules.

That neither Section 5(a)(6) nor Section 6(g), nor the two sections in combination, can be read as conferring substantive or legislative-type rulemaking power on the Commission is clear from contrasting those sections and the basic operative provision of the Act—Section 5(a)(1)—with the relevant provisions of other statutes administered by the Commission that clearly do confer substantive or legislative-type rulemaking power.

As already noted, no provision of the Federal Trade Commission Act makes any reference to the issuance of rules or regulations, except Section 6(g), which relates to the narrow and specific subject of classifying corporations for reporting purposes. In addition, while Section 5(a) of the Federal Trade Commission Act makes unlawful "unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce" it does *not* declare practices or conduct contrary to rules or regulations issued by the Commission unlawful.

In contrast, Section 6(a) of the Wool Products Labeling Act of 1939, 15 U.S.C. § 68d(a), specifically authorizes the Commission to make rules and regulations governing the manner and form of disclosing information required by the Act and for other purposes, and Section 3, 15 U.S.C. § 68a, specifically makes unlawful the sale of wool products that are labeled in violation of the substantive provisions of the Act *or the rules and regulations promulgated thereunder.*

Similarly, Section 8(b) of the Fur Products Labeling Act, enacted in 1951, U.S.C. § 69f(b), gives the Commission authority to issue rules with respect to the subject matter of that Act, and Section 3, 15 U.S.C. § 69a, makes unlawful the sale of products whose labeling does not conform to the requirements of the statute *or the rules and regulations prescribed under the statute.*

The provisions of Section 7(c) and Section 3 of the Textile Fiber Products Identification Act, enacted in 1958, 15 U.S.C. §§ 70e(c), 70a, follow the same form, as do the provisions of Section 5 and Section 3 of the Fair Packaging and Labeling Act, which became law in November 1966.

Section 5 of that Act, 15 U.S.C. § 1454, authorizes the Commission, within the field of its jurisdiction under the Act, to promulgate regulations when it determines, under the standards of the Act, that a need therefor exists. Section 3, 15 U.S.C. § 1452, makes it unlawful for any person to distribute or cause to be distributed in commerce any commodity whose packaging and labeling does not conform to the provisions of the Act *or the regulations promulgated under the Act.*

The Fair Packaging and Labeling Act is particularly relevant because it illustrates that, even today, when Congress intends to confer substantive or legislative-type rulemaking power on the Commission it makes its intention unmistakably clear. As we shall see in a subsequent section, the Fair Packaging and Labeling Act is also significant because its legislative history includes contemporary admissions by members of the Commission that it lacks general substantive or legislative-type rulemaking power. Earlier statements to this effect are found in the legislative histories of the other statutes discussed.[3]

In sum, there can be no doubt that the provisions of the Federal Trade Commission Act, read in their entirety, do not confer upon the Commission substantive or legislative-type rulemaking power. That conclusion is confirmed if the provisions of the Federal Trade Commission Act are read together with contrasting provisions of other statutes the Commission administers. The conclusion is further confirmed when one examines the legislative history of the Federal Trade Commission Act.[4]

C. THE LEGISLATIVE HISTORY OF THE FEDERAL TRADE COMMISSION ACT

The statute that created the Commission and that remains its basic charter was no run-of-the-mill act of Congress. It was a significant, innovative piece of legislation. Its precise terms were carefully considered and thoroughly debated. The history is therefore full enough to shed light on what Congress meant by what it finally enacted.

Insofar as the history of the Federal Trade Commission Act bears on the Commission's power to promulgate a substantive or legislative-type rule, its import is unmistakable. Congress repeatedly rejected proposals to supply what is lacking in the Act—a provision conferring substantive or legislative-type rule-making authority on the Commission. The rejection was deliberate. Faithfulness to the Congressional design demands that the agency not assume the power that was thus specifically withheld from it.

The first rule-making amendment was offered by Congressman Lafferty, a member of the House Interstate and Foreign Commerce Committee, which had reported a bill similar to the one that later passed the House That bill created a Commission only to investigate and gather information. See Federal Trade Commission bill, Comparative Print, S. Doc. No. 573, 63rd Cong., 2nd Sess. (1914). Congressman Lafferty filed a minority report in which he proposed to give the Commission enforcement powers as well. See H.R. No. 533, Part 3, 63rd Cong., 2nd Sess. 19–22 (1914).

The specific provisions he proposed included:

"Sec. 19. That unfair or oppressive competition and unfair trade practices in commerce among the several States and with foreign nations as hereinafter defined are hereby declared unlawful.

"Sec. 20. That the Commission is hereby empowered and directed to prevent all corporations or associations subject to the jurisdiction of said Commission from engaging in such unfair or oppressive competition or unfair trade practices.

"Sec. 21. That unfair or oppressive competition and unfair trade practices as used in this Act are hereby defined to include the following:

• • • • • •

(j) Any other methods involving unfair or oppressive competition or unfair trade practices, contrary to the provisions of this Act, or contrary to the provisions of any of the antitrust Acts now existing or which may hereinafter be enacted.

"Sec. 22. *That the Commission is empowered to make,* alter, or repeal *regulations further defining more particularly unfair trade practices* or unfair or oppressive competition made unlawful by this or any other Act." (Emphasis supplied.)

Sections 23 and 24 of the Lafferty amendment went on to provide that the Commission could find a corporation to be engaged in unfair competition and issue an order restraining the unfair competition which it could if necessary petition a United States district court to enforce.

The Lafferty amendment would also have left intact the provision in Section 8 of the original House bill that empowered the Commission to "from time to time makes rules and regulations and classifications of corporations for the purpose of carrying out the provisions of this Act." See H.R. Rep. No. 533, Part 3, 63rd Cong., 2nd Sess. 12 (1914).

The Lafferty amendment thus contained the basic statutory provisions that were eventually enacted, as well as a specific provision authorizing general substantive or legislative-type rule-making by the Commission. It included in Section 19 (taken together with Section 21(j)) the equivalent of what is now codified in Section 5(a)(1).

Section 20 was a close equivalent to the present Section 5(a)(6) and Sections 23 and 24 were the equivalent of the present Section 5(b). Section 8 of the original House bill as retained in the Lafferty amendment is the forerunner of the present Section 6(g). Included also in the Lafferty amendment was Section 22, a specific authorization to the Commission "to make, alter, or repeal regulations further defining more

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particularly unfair trade practices or unfair or oppressive competition."

This piece of history alone makes untenable any reliance on Sections 5(a)(6) and 6(g) as authority for the Commission's rule-making power. For when the predecessors to these provisions first appeared it was thought necessary that they should be accompanied by an explicit provision granting to the Commission rule-making authority. The House committee rejected Congressman Lafferty's proposal and reported the original bill granting only investigatory powers to the Commission.

Thus, the subsequent appearance of provisions similar to present Sections 5(a)(6) and 6(g) without the accompanying section explicitly granting to the Commission substantive or legislative-type rule-making power demonstrates both that Congress rejected the proposal that the Commission should be granted the power here asserted and that these other provisions cannot be interpreted to grant that authority.

When the House bill reached the floor (without the Lafferty amendments described above) there were a number of additional explicit indications that any grant of substantive or legislative-type rule-making authority to the Commission was unacceptable to Congress. During the debate on May 19, 1914, reference was made to another House bill, H.R. 1890, which would have provided:

"The Commission is hereby authorized and empowered to make and establish rules and regulations not in conflict with the Constitution and laws of the United States to aid in the administration and enforcement of the provisions of this act, and may, by such rules and regulations, prohibit any particular or specific act or acts, practice, method, system, policy, device, scheme, or contrivance that is contrary to any of the provisions of this act." 51 Cong. Rec. 8856 (1914).

No such provision became part of the Act.

Later in the debates Representative Morgan sought to replace Section 6 of the House bill with a provision that—

"The Commission is hereby authorized and empowered to make and establish rules and regulations not in conflict with the Constitution and laws of the United States to aid in the administration and enforcement of the provisions of this act, and may by such rules and regulations prohibit corporations subject to the provisions of section 9 of this act in conducting their business from engaging in any practice or from using any method or system, or from pursuing any policy or from resorting to any device, scheme, or contrivance that constitutes unfair competition or unjust discrimination as between competitors, individuals, or communities." 51 Cong. Rec. 9047 (1914).

The proposed amendment was then explained by its sponsor as follows:

"Mr. Chairman, under section 8, which says that the commission, from time to time, may make rules and regulations and classifications of corporations for the purpose of carrying out the provisions of this act—under that section the commission has very limited power to make rules and regulations, because under the provisions of the act the commission virtually has no power to enforce laws or to regulate the practices of corporations subject to the provisions of the bill. Now, the amendment which I have offered gives to the commission the power to make rules and regulations that would prohibit specifically the particular practices which constitute unfair competition or unfair discrimination. The amendment is drawn on the idea that some place along the line Congress will prohibit in general terms unfair competition and unfair discrimination. Then, of course, unfair competition or unjust discrimination would be unlawful. Then we give the commission power to make rules and regulations that would prohibit a specific practice that constitutes unfair competition. Now, then, gentlemen, we never will control the corporations of this country properly by simply prohibiting certain acts. I believe it is well enough where there is some conspicuous practice that is well known to be obnoxious and dangerous to the people to prohibit that, and perhaps at this session of Congress in all of our antitrust legislation we may prohibit one or two or three or four things; but then Congress adjourns. Business will comply with these prohibitions, will abstain from the few things we prohibit; but the next day, the next month, or the next year business concerns will invent other practices which are unfair and destructive of competition, which are dangerous to the people, and which enable the big corporations to go on in the same course as before.

"Therefore, the proper thing to do is to legislate in general terms, to comprehend and include all kinds of acts and practices which are objectionable. Then give this great commission, to be composed of men of the highest grade and character, the authority to make rules and regulations that will prohibit specific acts and practices coming within the general classes prohibited by the general terms of the act. I have had considerable experience in the administration of the public-land laws. The statute gives to the Secretary of the Interior the power to make rules and regulations to govern the disposition of the public lands, and the Supreme Court of the United States has held that the rules and regulations made by Secretary of the Interior, an executive officer, have the force and effect of law." 51 Cong. Rec. 9049–50 (1914).

Representative Morgan's amendment was rejected by a division vote. 51 Cong. Rec. 9050 (1914).

Yet another unsuccessful substantive or legislative-type rule-making proposal was put forward by Representative Dillon. He would have left Section 8 of the House bill intact but added to another section a provision that—

"[T]he commission is hereby empowered to make all necessary rules, regulations, orders, and decrees for the enforcement of the powers herein granted, and the rules, regulations, orders, and decrees of such commission in any such matters shall be binding and conclusive against all persons, firms, and corporations." 51 Cong. Rec. 9056 (1914).

Representative Dillon defended his proposal as follows:

"Give the commission power to enforce its rules, its regulations, and its decrees and the trade commission will be able to restore competition . . . The commission should be given the right to give standards of conduct in corporate affairs and to prepare a moral code in the conduct of corporate affairs . . . Congress has the power to enact rules for the regulation of future conduct, future rights, and future controversies. Give the trade commission the full power to make rules, regulations, and decrees and full power to enforce its mandates . . ." 51 Cong. Rec. 9057 (1914).

Once again, however, this time by voice vote, the amendment was rejected. *Ibid.*

The record thus shows clearly and unmistakably that the House was determined not to grant substantive or legislative-type rule-making authority to the commission. The Senate did not disturb this determination. The Senate added to the House bill provisions similar to those parts of the Lafferty amendment which are the forerunners of present Sections 5(a)(1), 5(a)(6), 5(b), and 6(g): it did not add, as the Lafferty amendment would have, any provision authorizing rule-making by the Commission.

The Senate bill provided:

"Sec. 5. That unfair competition in commerce is hereby declared unlawful.

"The commission shall have authority to prevent such unfair competition in commerce in the manner following, to wit:

"Whenever it shall have reason to believe that any person, partnership, or corporation is violating the provisions of this section it shall issue and serve upon the defendant a complaint stating its charges in that behalf and at the same time a notice of hearing upon a day and at a place therein fixed.

"The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint." See Federal Trade Commission Bill, Comparative Print, S. Doc. No. 573, 63rd Cong., 2nd Sess. (1914).

It will be noted that this provision explicitly restricted the Commission, in carrying out its mandate, to the complaint and cease and desist order procedure. It is clear, moreover, that the Senate Commerce Committee meant that the complaint and cease and desist order procedure should be exclusive. Its report states:

"One of the most important provisions of the bill is that which declares unfair competition in commerce to be unlawful, and empowers the commission to prevent corporations from using unfair methods of competition in commerce by orders issued after hearing, restraining, and prohibiting unfair methods of competition, which orders are enforceable in the courts."

S. Rep. No. 597, 63rd Cong., 2nd Sess. 13 (1914).

Similarly, Senator Newlands, when introducing the bill in the Senate, stated:

"We have added several provisions to the Senate bill which will enlarge the sphere of the trade commission's power and usefulness, among them the power after hearing, to prevent unfair competition by order enforceable in the courts, also to investigate and report upon foreign trade practices which interfere with the fair marketing of American products, and also to investigate and report upon combinations between foreign and American producers for the control of prices. These powers, in addition to those previously provided for in the Senate bill, covering investigation and report from such corporations as the trade commission may designate, publicity, aid to the courts and to the Attorney General in framing and enforcing decrees dissolving corporations, if wisely exercised, will make the trade commission as useful and effective in building up a system of administrative law regarding trade as the Interstate Commerce Commission has been in matters of transportation." 51 Cong. Rec. 10376 (1914).

Later Senator Newlands, during an extensive description of the bill, stated:

"One of the most important provisions of this bill, Mr. President, is that which relates to unfair competition. Unfair competition is made unlawful, and the commission is authorized, when any case of unfair practice or unfair method is brought to its attention, to summon the party charged and to have a hearing, and if it decides that the practice or method is unfair, to issue an order compelling its discontinuance, and if that order is not obeyed it can carry the matter into court and secure a judgment of the court compelling obedience to the commission's order." 51 Cong. Rec. 11084 (1914).

Thus, the Senate, while adding to the legislation under consideration provisions making the Commission an agency with enforcement powers and adding the forerunner of Section 5(a)(6), withheld substantive or legislative-type rule-making power from the Commission.

In conference the form of Section 5 was changed from the form in the Senate bill to read:

"Sec. 5. That unfair methods of competition in commerce are hereby declared unlawful.

"The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, and common carriers subject to the Act to regulate commerce, from using unfair methods of competition in commerce.

"Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, and if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint." See Federal Trade Commission Bill, Comparative Print, S. Doc. No. 573, 63rd Cong., 2nd Sess. (1914).

The later renumbering of Section 5 made by the conferees was an incidental result of the redrafting necessary to add the bank and common carrier exemption and the limitation upon the power of the Commission to proceed to those cases where it appeared that a proceeding would be "to the interest of the public." See pp. 32–33, 35, *infra*.

There is no discussion in either the Conference report, or in the debates, of the significance of this change. The House, both in committee and on the floor, had rejected provisions authorizing substantive or legislative-type rule-making. Before the Senate passed the bill, it had been assured that the Commission would not have that power. In these circumstances if it had been intended by the elimination of the words "in the manner following, it wit:" in Section 5 to broaden the Commission's powers to include such rule-making, such an intention would not have gone unmentioned.

Even with the changes made by the conferees Section 5 remained a single unitary provision without separate, designated subsections. This is in contrast to Section 6, where the intention was to make a series of separate grants of power, and the form employed was that of lettered subsections.

Although Section 5 today also contains separately lettered paragraphs that development came about some 38 years after the original passage of the statute and for reasons wholly unrelated to the question under consideration.[5] Thus the fact that the declaration of the unlawfulness of unfair competition and unfair and deceptive acts and practices and the provision for adjudicatory enforcement now appear in separately numbered paragraphs of Section 5 in no way supports an argument that Section 5(b) is merely one of alternative methods open to the Commission of implementing Section 5(a)(6).

In addition to the conferees' silence concerning the change in the form of Section 5, there is a passage in the House Conference Report that is consistent only with the proposition that the Commission's enforcement procedure was to be that prescribed in the Senate bill. Section 5 is summarized in the report as follows:

"Section 5 declares unfair methods of competition to be unlawful and empowers the commission, after hearing, to order the discontinuance of the use of such methods." H.R. Rept. No. 1142, 63rd Cong., 2nd Sess. 18 (1914).

This summary shows that the House conferees conceived of Section 5 as a self-contained unit, embodying both a grant of power and an exclusive procedure for exercising that power.

When the Conference bill reached the House floor, it was explained by Congressman Covington, a member of the Conference Committee, who was called "the author of the bill." 51 Cong. Rec. 14925 (1914). Congressman Covington dealt expressly with the nature of the powers that the bill granted the Commission:

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"The Federal trade commission will have no power to prescribe the methods of competition to be used in future. In issuing its orders it will not be exercising power of a legislative nature. . . .

"The function of the Federal trade commission will be to determine whether an existing method of competition is unfair, and, if it finds it to be unfair, to order the discontinuance of its use. In doing this it will exercise power of a judicial nature . . .

"For the reason stated, there is no analogy between the power of the Interstate Commerce Commission under the Hepburn Act and the power of the Federal trade commission in regard to unfair competition. There is, however, a perfect analogy between the former power of the Interstate Commerce Commission under the Cullom Act and the power of the Federal trade commission. Under the Cullom Act the Interstate Commerce Commission had the power only to determine whether an existing rate was unreasonable, and, if it is so found, to order the railroad to cease and desist from charging that rate. The Federal trade commission will have precisely similar power in regard to an existing method of competition," 51 Cong. Rec. 14932 (1914).

The same point was repeated by Congressman Stevens, also a member of the Conference Committee:

"Mr. SHERLEY. If the gentlemen will permit, the Federal trade commission differs from the Interstate Commerce Commission in that it has no affirmative power to say what shall be done in the future?

"Mr. STEVENS of Minnesota. Certainly.

"Mr. SHERLEY. In other words, it exercises in no sense a legislative function such as is exercised by the Interstate Commerce Commission?

"Mr. STEVENS of Minnesota. Yes. The gentleman is entirely right. We desired clearly to exclude that authority from the power of the Commission. We did not know as we could grant it anyway. But the time has not arrived to consider or discuss such a question." 51 Cong. Rec. 14938 (1914).

Congressman Covington also explained the provision, introduced by the conferees, whereby the Commission was to institute a proceeding only where it found that such a proceeding "would be to the interest of the public." He said:

"As the bill passed the Senate there was not, however, any limitation in section 5, relating to unfair competition, directing the trade commission to deal with cases only where a public interest is involved, so the conferees agreed to insert a provision that the commission shall act—'if it shall appear to the commission that a proceeding by it in respect thereof would be to the interest of the public.'

"That prevents the Commission from becoming a clearing house to settle the everyday quarrels of competitors, free from detriment to the public, which should be adjusted through the ordinary processes of the courts." 51 Cong. Rec. 14930 (1914).

This limiting language is so placed that, if the Commission indeed has authority to proceed against unfair methods of competition other than by an adjudicatory hearing looking to a cease and desist order, the limitation would not apply to its proceeding. It is clear from Congressman Covington's remarks that the Commission was not meant to have available to it modes of enforcement free from the "public interest" limitation.

Such were the provisions of the bill and such had been the explanation of them when the two houses adopted the Conference report and sent the bill to the President for his signature. See 51 Cong. Rec. 15190 (1914). Nothing in this history supports the view that Congress meant the Commission to have substantive or legislative-type rule-making power. Every relevant feature of the history is to the contrary.

There is one aspect of the legislative history that is touched upon in the foregoing chronology but warrants fuller development. That is the evolution of what is now Section 6(g) of the Act, one of the two sections which has been relied upon as conferring authority to the Commission to make binding rules.

The original House bill, as we have said, would have created an agency possessing solely investigatory and information-gathering powers. See Federal Trade Commission Bill, Comparative Print, S. Doc. No. 573, 63rd Cong., 2nd Sess. (1914). To this end, Section 3 of the House bill would have transferred to the Commission the "powers, authority, and duties of the Bureau of Corporations and of the Commissioner of Corporations." *Id.* at 5. What led to the proposal was the belief that these powers should be exercised by an independent commission, and that "the investigations conducted and the information acquired by the commission under the authority heretofore exercised by the Bureau of Corporations or the Commissioner of Corporations" should be "remove[d] entirely from the control of the President and the Secretary of Commerce. . . ." H.R. Rep. No. 533, 63rd Cong., 2nd Sess. 3 (1914).

Because there was thought to be a "serious question . . . whether regular annual reports from corporations engaged in interstate commerce could be required under the powers of the Bureau of Corporations," H.R. Rep. No. 533, *supra* at 3, Section 9 of the House bill was inserted specifically to deal with this question. Section 9 would have required "every corporation . . . which . . . has a capital of not less than $5,000,000" to furnish annual reports to the Commission. See Federal Trade Commission Bill, Comparative Print, S. Doc. No. 573, 63rd Cong., 2nd Sess. 14 (1914). The House recognized, however, that a smaller corporation could also have "an organization or financial condition or a system of practices that requires publicity to bring about lawful methods in its business" and, therefore, should also file annual reports.

At the same time, the requirement of submitting annual reports was also recognized to be a significant burden for smaller corporations. H.R. Rep. No. 533, *supra*, at 3–4. The solution was to require, in Section 9 of the House bill, annual reports not only from corporations with a capital in excess of $5,000,000, but also from "every corporation . . . having a less capital [which] belongs to a class of corporations which the commission may designate . . ." Comparative Print, *supra* p. 14. The specific power of the Commission to classify corporations was contained in Section 8 of the House bill, which provided:

"That the Commission may from time to time make rules and regulations and classifications of corporations for the purpose of carrying out the provisions of this Act." Comparative Print, *supra*, p. 15.

Section 6(g) of this statute ultimately enacted is worded almost identically:

"That the Commission shall . . . have power—. . . from time to time to classify corporations and to make rules and regulations for the purpose of carrying out the provisions of this Act." Comparative Print, *supra*, p. 10, 12.

The origin of Section 6(g) indicates that such rulemaking authority as is conferred by that section is limited to the promulgation of rules concerning corporate classifications for the purpose of requiring the submission of reports to the Commission. This limitation is confirmed by statements made on the floor of the House during the debate on the House bill. Congressman Covington summed up a discussion of the reporting requirements and the Commission's power, in Section 8, to "make rules and regulations and classifications of corporations," by saying:

"The Congress has itself fixed two broad classes [of corporations], those with more

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than $5,000,000 capital, which are arbitrarily required to file reports, and those with less than $5,000,000, which, under rules and regulations of the commission, may or may not report." 51 Cong. Rec. 8845 (1914).

He then referred to "the regulation classifying certain corporations from which reports must be filed . . ." *Ibid.*

The limited nature of the regulation power conferred by Section 8 of the House bill—now Section 6(g)—is unmistakably apparent from the debate on an amendment offered by Congressman Towner to authorize the Commission to require a uniform system of accounts by reporting corporations. 51 Cong. Rec. 9047 (1914). Congressman Stephens asked Congressman Towner—

"If he does not think that section 8 [now Section 6(g)] is sufficiently strong to permit the commission to make rules and regulations as to the manner in which the accounts shall be kept?" 51 Cong. Rec. 9048 (1914).

Representative Towner replied:

"No, I do not. I have examined section 8 carefully, and it is not within the power of the commission under the language of that section to make rules and regulations for the commission. That is not what is intended. It is only with regard to the classification of corporations for the purpose of carrying out provisions of the act. *The rules and regulations which the commission may make are limited to the classification.* The gentleman can at once see that that language could not possibly authorize an accounting necessary upon which to report the business. The rules and regulations are only with regard to the classification of corporations and can have no reference whatever to the requirements for reports.". *Ibid.* (Emphasis added.)

D. OTHER LEGAL AUTHORITIES

On the basis of the foregoing material, it has been the conclusion of law review commentators that the Commission lacks the authority to issue binding regulations. A 1964 Comment in the University of Pennsylvania Law Review aptly summarizes the issue:

"The Commission claims a clear mandate to issue the present order in the exercise of the power granted it by the Federal Trade Commission Act over trade practices, a term which by judicial definition encompasses advertising. But both the words and the history of the statute belie the Commission's contention." 113 U. Pa. L. Rev. 303, 304–05 (1964).

Two excerpts from an analysis in the Harvard Law Review are likewise of compelling relevance:

"In several crucial areas of administration, no grant of authority to issue prescriptive regulations in the sense used here is to be found. Two noteworthy examples relate to the powers of the NLRB and FTC: with a few exceptions relating to particular subjects [citing the Wool Products Labeling Act], neither agency has express authority to give content to the general statutory prohibitions by promulgating regulations requiring certain acts to be performed or declaring specific acts or practices to be unlawful." Shapiro, *The Choice of Rulemaking or Adjudication in the Development of Administrative Policy*, 78 Harv. L. Rev. 921, 960 (1965).

In his penetrating analysis of the Commission's lack of authority to issue substantive or legislative-type rules, Professor Shapiro continues:

"At least in the case of the FTC, the omission was not inadvertent. A proposal to give the FTC authority to issue regulations 'defining more particularly unfair trade practices or unfair or oppressive competition' was not adopted by the committee that recommended enactment of the Federal Trade Commission Act in 1914; similar proposals were rejected on the floor; and it was stressed during the debates that the Commission would 'not be exercising power of a legislative nature.'" *Ibid.*

To be sure, the Commission has had its defenders. A Department of Justice attorney, writing in the Cornell Law Quarterly, argues that the FTC has the power to issue substantive or legislative-type rules—rules, in his words, that "carry the force of law." Wegman, *Cigarettes and Health: A Legal Analysis*, 51 Cornell L.Q. 678, 741 (1966). This author reaches his conclusion, however, despite his own observation that "on its face" the legislative history makes clear that Congress intended the Commission to have no such powers.[6] *Id.* at 743.

Another law review article that, not surprisingly, takes the position that the Commission has the authority to issue trade regulation rules is Commissioner Elman's article in the Harvard Law Review urging the use of the Commission's trade regulation rule procedures in establishing industry-by-industry standards for anti-merger enforcement, Elman, *Rulemaking Procedures in the FTC's Enforcement of the Merger Law*, 78 Harv. L. Rev. 385 (1964). But in this article Commissioner Elman appears to view the trade regulation rule procedures, at least in the context of merger law, primarily as a fact-finding mechanism, and it is this conception that appears to be the basis for the dictum in Mr. Justice Goldberg's dissenting opinion in *Atlantic Refining Co. v. FTC*, 381 U.S. 357, 390–391 (1965), that the Commission in certain areas can proceed either through rule-making or adjudication.[7]

The cases on which primary reliance has been placed in support of the Commission's asserted rule-making authority are *National Broadcasting Co. v. United States*, 319 U.S. 190 (1943); *United States v. Storer Broadcasting Co.*, 351 U.S. 192 (1956); and *FPC v. Texaco, Inc.*, 377 U.S. 33 (1964).

Each of these decisions, however, involved regulated industries in which licenses were required to operate and statutes under which substantive or legislative-type rule-making was plainly authorized.

The *NBC* case involved the validity of regulations promulgated by the FCC defining certain prohibited arrangements between radio stations, or applicants for radio station licenses, and radio networks. The right of the Commission to issue rules was not challenged. Under Section 303(1) of the Communications Act of 1934, 47 U.S.C. § 303(1), the Commission had "authority to make special regulations applicable to radio stations engaged in chain broadcasting." Under Section 303(r) of the Act, 47 U.S.C. § 303(r), the Commission was authorized to "make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act."

The only question was whether the Commission's rule-making authority went to the communications policy issues that the regulations dealt with as well as technical and engineering aspects of radio licensing. The Court, relying on Section 303(g) of the Act, 47 U.S.C. § 303(g), which provided that the Commission should "generally encourage the larger and more effective use of radio in the public interest," determined that the Commission's substantive or legislative-type rule-making power did, under adequate Congressional standards, extend to the subject matter of the challenged regulations. As already suggested, however, there was no issue in the case as to whether rule-making power of the nature exercised had been conferred on the Commission. That it had been conferred was recognized by all parties.

The Storer case involved an asserted conflict between the provisions of the Communications Act requiring an evidentiary hearing prior to the denial of a license application and the exercise by the Commission of its recognized rule-making authority. The Commission had promulgated a regulation providing that it would not grant licenses to persons already owning a specified number of stations. The Court upheld the rule as a valid exercise of rule-making power. But the case does not stand for the proposition that the Commission had rule-making power—no one argued that it did not. The case merely furnishes an illustration of the circumstances in which an agency that has rule-making power can use that authority in the course of exercising licensing powers to decide an issue that, in the absence of the rule, might otherwise find its first articulation following a hearing on an individual application for license.

Both the facts and the Supreme Court's reasoning in the Texaco case are similar to Storer, though involving a different regulatory agency, the Federal Power Commission. The Commission had promulgated a rule, after notice and a hearing, that all applications for certificates of public convenience and necessity under Section 7 of the Natural Gas Act, 15 U.S.C. § 717f, should be rejected if they were supported by contracts containing certain price changing provisions. Thereafter, the Commission, despite the provisions of Section 7 that it should set applications "for hearing," denied certain applications without a hearing other than that granted in the rule-making proceeding because the contracts in question contained clauses prohibited by the rule. The Court upheld issuance of the rule as a valid exercise of rule-making power in this regulated industry subject to prior licensing. In the words of the Commission, the challenged exercise of the power was "rationally related" to the specific "regulatory objectives" of the Act. 377 U.S. at 42–43, n. 12.

Taken together, NBC, Storer and Texaco may all be said to stand for the proposition that rule-making has a special, judicially-recognized role in comprehensively regulated and licensed industries, in connection with the establishment of conditions or qualifications relating to the granting of licenses. But this principle clearly has no application to the present controversy. The Federal Trade Commission is not a regulatory and licensing agency, and manufacturers are not required to have licenses before selling or advertising their products in interstate commerce.

It is perhaps to be expected that Government lawyers and Federal Trade Commissioners, whether writing in the Federal Register or university law reviews, would generally align themselves with the Commission's new, expansive view of its authority. Again, however, it is relevant to remember that the Commission's current view represents a complete reversal of the position its members and representatves took during its first half century.

The views consistently taken by the Federal Trade Commission until 1961 or 1962 on the question of its power to issue substantive or legislative-type rules were wholly consistent with the views of students of administrative law outside the Commission. The House Select Committee on Small Business in its study "Antitrust Law Enforcement by the Federal Trade Commission and the Antitrust Division, Department of Justice—A Preliminary Report," while it apparently believed that it would be desirable to give the Federal Trade Commission rule-making power, made absolutely clear its understanding that the Commission did not in fact have such power. The consequence, in the words of the Committee, is that the Commission "is forced to clean up an industry-wide practice by a separate action against each individual violator." H.R. Rep. No. 2236, 81st Cong., 2d Sess, 29 (1951).

At another point in its report the Committee stated that the Commission's rule-making powers are "narrowly limited." *Id.* at 31. And after noting the specific and narrow grants of rule-making power in Section 2(a) of the Clayton Act, Section 6(g) of the Federal Trade Commission Act and the Wool Products Labeling Act, the report stated that "none of these laws seems to confer a general and coercive rule making power." *Id.* at 31.

The Committee then added:

"Certainly the Commission has never attempted to claim any general substantive rule-making power, and in respect to its trade practice rules is emphatic in its assertion that they do not have the force of law. They are interpretive and advisory, rather than coercive. No action is taken against a violator because he refuses to comply with the rule but solely because he violates the law." *Ibid.*

The House Select Committee's analysis of the Commission's power is identical to that advanced ten years earlier by the Attorney General's Committee on Administrative Procedure. The Attorney General's Committee stated:

". . . the Federal Trade Commission has power to lay down binding regulations only with respect to quantity discounts in the pricing of goods in a limited class of industries under the Robinson-Patman Act—a power which it has not yet exercised." Final Report of the Attorney General's Committee on Administrative Procedure 96, n. 18 (1941).[8]

Another student of the Federal Trade Commission who also concluded that the Commission lacked substantive or legislative-type rule-making power stated flatly that "the Federal Trade Commission has no rule-making power." Hart, "The Exercise of Rule-making Power," in Report of the President's Committee on Administrative Management 308, 332(1937).

Amplifying this conclusion, Hart states that the Commission "operates not by rule-making but solely by a quasi-judicial procedure which applies to a legislative abstraction in the issuance of cease-and-desist orders." *Ibid.*

FOOTNOTES

[1] Over the years there have been proposals to give Trade Practice Rules the force of law, see *e.g.*, Senator Nye's proposal, S. 2696, 72d Cong., 1st Sess. (1932), but of course no such proposal ever became law.

[2] For example, Section 3 of the Wool products Labeling Act, 15 U.S.C. § 68a, provides:

"The introduction . . . into commerce . . . of any wool product which is misbranded within the meaning of sections 68–68j of this title *or the rules and regulations hereunder*, is unlawful and shall be an unfair method of competition and an unfair and deceptive act or practice, in commerce under the Federal Trade Commission Act. . . ."

[3] See pages 10 *et. seq.*, *supra*.

[4] It might be observed, in passing, that in National Broadcasting Co. v. United States, 319 U.S. 190 (1943), one of the decisions which is relied upon in support of the Commission's authority, there were at least two statutory provisions specifically authorizing substantive regulations. In measuring what those specific grants of authority meant, Mr. Justice Frankfurter readily resorted to legislative history. 319 U.S. at 220–21.

[5] This separate numbering did not come into the Act until the 1962 McGuire amendments, 38 years after the Act's original passage, and appeared for reasons wholly unrelated to the question under discussion. The 1952 amendments embodied extensive additions to Section 5 and the addition of lettering no doubt was made simply for purposes of clarity because of the substantial physical expansion of the terms of the section.

[6] Having first concealed that the legislative history of the Act fails to support his ultimate conclusion on the power issue, Mr. Wegman then suggests that perhaps the legislative history is not so clear after all. His primary support of this latter suggestion, however, is the assertion that the rule-making provisions of what is now § 6(g) of the Act appeared late in the legislative history and not as part of the original provision relating to classification of corporations. As shown at pages 36–39, *supra*, however, this assertion is incorrect.

[7] The question before the Court in *Atlantic Refining Co. v. FTC* was the propriety of an order enjoining the use of certain selling arrangements by a major distributor of gasoline products on the eastern seaboard and one of the country's largest tire manufacturers. The Commission's order had been upheld by the Court of Appeals and the Supreme Court affirmed. Mr. Justice Goldberg dissented on the ground that the Commission had not set forth an adequate basis for its broad orders with sufficient clarity to permit appropriate review. No issue of administrative rule-making was involved in the case, and none was briefed.

[8] The Committee's Final Report was transmitted to Congress on January 24, 1941. At that time the Commission also had limited substantive or legislative-type rule-making power under the Wool Products Labeling Act, which was enacted in October 1940. Presumably the Final Report was actually completed well before the effective date of the Wool Labeling Act.

Footnotes at end of article.

AMENDMENT NO. 605

Mr. HRUSKA. Mr. President, I call up my amendment No. 605 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 46, line 18, strike out the following words: "at which the Commission may permit cross-examination (limited as to scope or subject matter) by one or more parties as representatives of all parties having similar interests".

Mr. HRUSKA. Mr. President, I rise to propose an amendment No. 605 to S. 986 that will require, in any rulemaking proceeding, the right to cross-examine commission witnesses to be mandatory. S. 986, as reported by the Senate Commerce Committee, does not follow the action taken in the previous Congress on S. 3201, a predecessor bill to S. 986.

To enunciate this point, Mr. President, I wish to refer to the hearings held before the Senate Commerce Committee on S. 986 where a colloquy took place between Senator FRANK E. MOSS, Senator MARLOW W. COOK, and the witness, Edward Dunkelberger. At page 105 of the printed hearings we find the following:

Senator Cook, I am very interested in your reference to Professor Handler's testimony before the Judiciary Committee. One of the points he made was that provisions for hearings are woefully inadequate. And yet, in S. 3201, when we got it to Judiciary, we had finally won the authority to put into the bill the item:

Commissioners shall permit cross-examination, limited as to scope or subject matter, by one or more parties as representative of all parties having similar interests where it determines that the granting of such cross-examination is not inappropriate.

In responding that procedures were woefully inadequate to develop a true record on its rulemaking authority, Mr. Dunkelberger said:

Yes, sir. This is an interesting point because much has been made of the fact that there were 8 days of hearings before the judiciary Committee last session on the rulemaking authority. I guess that is why Congress usually decides it is going to proceed on a committee basis and let each committee makes its own record on S. 3201, because after the Judiciary Committee made this record on S. 3201, we end up with a bill that is not improved in this regard, but is cut back in this regard. So that record has been totally ignored. As a matter of fact, you have gotten a reversal of the positions advocated by virtually every witness before the Judiciary Committee.

Mr. President, at a time when the Congress is considering bills to curtail the power of several Federal agencies; and at a time when the Congress is zealously protecting its delegation of legislative power in granting rulemaking authority to the Federal Trade Commission with the proviso that even greater precision be used in the procedures by which the FTC can conclude that fairness, procedural safeguards, and regulation in the best interest of the public be insured; we must be most careful in legislating in this area of rulemaking so that we will not be taking 10 steps backward. My amendment will assure that we will not be moving backwards if we provide mandatory right to cross-examination of commission witnesses, and hence, a record with complete facts upon which to found a regulation.

Mr. President, there are other key issues involved such as the unconstitutional delegation of legislative authority the possibility of ineffective Congressional and judicial review due to a record of incomplete facts, and the longtime point of view that Congress should reserve to itself the legislative rulemaking.

Let us keep in mind that delegation of our legislative power to a Federal agency or executive department is never given in one full swoop but it is given in small grains at a time. Mr. President, constant chipping away at a mighty oak tree, bit by bit will someday fell that mighty tree. We must assure ourselves that we do not permit this chipping away at our powers to legislate. Mr. Justice Cardozo said in the famous Schechter—NRA Blue Eagle case, in the 1930's,

This is legislative delegation in its most obnoxious form.

Let us not have history repeat itself in the form of S. 986 as now reported.

Mr. President, the amendment pertains to a situation where the Federal Trade Commission under its newly found legislative rulemaking power, which is equivalent to the Federal Trade Commission legislating instead of the Congress legislating, will reach a point where it will propose a rule.

Then, when there comes a time it is announced to the public and various interests are invited to express views, and it appears there is a disparity of facts on which the proposed rule is based, there is a provision here for an agency hearing in accordance with sections 556 and 557 of title V of the code. That provision is simply this: That the administrative procedure act will at that time take hold and will afford that degree of explanation of views for and against the bill in public hearings. They may be heard at that time.

But apparently the authors of the bill have so little confidence in the ability of the Federal Trade Commission to carry the day on that kind of basis; namely, a fair hearing, that these objectionable words were inserted. I shall read the words. The purpose of my amendment is to strike them. The language is:

If • • • there is a disparity of views concerning material facts upon which the proposed rule is based the Commission shall provide for agency hearings in accordance with sections 556 and 557 of title V of the Code.

Then, these words are put in:

at which the Commission may permit cross examination (limited as to scope or subject matter) by one or more parties as representatives of all parties having similar interests.

If a rule is proposed and 50 people come in or 12 people come in and they say they want to oppose it, the committee will say, "We will not let you cross-examine and we will call on one of your group to speak on behalf of all of you, and that is that."

We talk about due process a lot both in civil and criminal matters and we talk about fairness and the idea of having some day in court, but the language conveys an entire lack of confidence in the Federal Trade Commission being able to carry the day on the merits.

My only purpose in getting this stricken is to test the good faith of the Senate as to whether there is a minority right to due process which vests in those who have the right to speak up and be heard. It will be an indication by the Senate as to whether there will be that minimum right of due process.

Mr. COOK. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. COOK. Is it not true that with this language out and the fact that due process can prevail before the Commission that then, at least, if an order is issued and it has full force and effect of an issue that can be brought before the Federal courts, at least there can be a good basis for the record other than as the case would be with the language in there? The Commission has the right to limit witnesses, cross-examination, and to limit the number of people who can testify, and as a result of this limitation when they issue an order that order becomes a cause of action for which action can be brought in the Federal courts, not only civil action but also criminal action, for which a penalty of not to exceed $10,000 could be imposed.

Mr. HRUSKA. The Senator is correct. Not only limit the number of witnesses but the witnesses could be allowed to testify. They can limit the scope and the subject matter they will allow the witnesses to testify upon.

Mr. President, I am ready to vote.

Mr. MAGNUSON. Mr. President, I oppose the amendment.

The bill does not deny the right of cross-examination. It provides that when cross-examination is appropriate, the commission may limit that cross-examination to material facts in dispute. This is done to prevent abuse of cross-examination in rule-making proceedings.

The bill provides a further procedural safeguard. On judicial review the court can order the commission to take further testimony if the court feels that the record before it is insufficient.

Therefore, I oppose the amendment of the Senator from Nebraska and ask this body to support the committee.

Mr. President, I ask unanimous consent to have printed in the RECORD a paper entitled "Objection to Trial Methods for Resolving Nonfactual Issues."

There being no objection, the document was ordered to be printed in the RECORD, as follows:

OBJECTION TO TRIAL METHODS FOR RESOLVING NONFACTUAL ISSUES

"The outstanding example is a provision of the Food, Drug and Cosmetic Act of 1938, concerning the specification of standards of identity and related functions. The unfortunate result is that the Food and Drug Administration takes "evidence" from "witnesses" who "testify" on such questions as whether "golden" should be permitted as a synonym for "yellow" in the labelling of canned corn, whether "Evaporated Milk" and "Concentrated Milk" should be used as synonyms, ... At the hearings involving questions like these, any interested person may cross-examine any witness. Yet an observer has declared that the primary value of the hearing is that it gives the Administrator "the benefit of criticisms and suggestions from representatives of the industries which will be affected, and from spokesmen for the consuming public." The problems lend themselves far better to written and oral argument than to testimony, cross-examination, and a decision on a formal record. The hearings now held are "unwieldy and sometimes almost chaotic" and consume weeks and even months. Probably better results would be obtained, with less expense, through public meetings rather than trials. Unlimited cross-examination by adversaries seems as inappropriate in these cases as in an argument before an appellate court. . . ." (DAVIS S. 6.06)

Mr. COOPER. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. COOPER. This is a very complicated bill, and I have tried to follow the debate closely.

I think all of us are concerned with granting these large powers to a commission, legislative powers that can really cause difficult problems. I agree wholly with the Senator from Nebraska that we are not going to let an aggrieved party be deprived of his right to due process.

I think the amendment should be accepted.

Mr. HRUSKA. That is my belief.

One of the arguments advanced against elimination of this language is that we must prevent interminable delay.

Imagine legislating in a body of five men where as few as two of those men can legislate on behalf of Congress and then not give the people of this country a right to be heard except on a limited basis.

I say for shame that such a matter would be entertained and approved by this body.

Mr. COOK. Mr. President, I just heard an expression on the floor that there was objection to it for practical reasons. Would the Senator feel there is no practical reason to deny anybody due process?

Mr. HRUSKA. I know of no practical reason. It is followed in every other instance where in the procedures of Congress we have occasion to call upon the Administrative Procedure Act. Why should this be an exception? Is it because there is that lack of faith in the merits of the proposal to be proposed by the Federal Trade Commission? If so, here is a good chance to prove it.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the RECORD show that rule XII was waived with respect to the time on which the Senate will vote on final passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment offered by the Senator from Nebraska. All those in favor will signify by saying "aye." Those opposed will say "no."

It appears to the Chair that the ayes have it.

Mr. MOSS. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division is called for. All in favor of the amendment will please stand. The clerk will please count Senators standing.

Senators opposed will stand and be counted.

The amendment is agreed to.

Mr. ALLOTT and Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLOTT. I move to reconsider the vote by which the amendment was agreed to.

Mr. HRUSKA. I move to lay that motion on the table.

Mr. MAGNUSON. Did the Chair not recognize me?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ALLOTT. Mr. President——

Mr. MAGNUSON. Mr. President——

Mr. ALLOTT. Mr. President, a parliamentary inquiry. Mr. President.

Mr. MAGNUSON. I have the floor.

Mr. ALLOTT. Mr. President, Mr. President.

The PRESIDING OFFICER. The Chair recognized the Senator from Washington.

Mr. ALLOTT. The Senator from Colorado was recognized by the Chair. The Senator from Colorado was recognized. If there is any question I ask that the reporter's notes be read back to the Senate.

Mr. HRUSKA. The result was announced.

The PRESIDING OFFICER. The Chair had stated that the amendment was agreed to.

Mr. BYRD of West Virginia. Mr. President, the Senator from Washington was on his feet when the Chair stated the result.

Mr. ALLOTT. Also the Senator from Colorado was on his feet and was recognized.

The PRESIDING OFFICER. The Senator from Colorado is correct.

Mr. MAGNUSON. The Chair said he recognized the Senator from Washington.

The PRESIDING OFFICER. The Senator Colorado obtained recognition and made the motion to reconsider the vote.

Mr. BYRD of West Virginia. Mr. President——

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

Mr. MOSS. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. On the motion to table the motion to reconsider.

Mr. MANSFIELD. On the motion to reconsider.

Mr. HRUSKA. Mr. President, a motion was made to table.

The PRESIDING OFFICER. The question is on the motion to lay on the table the motion to reconsider.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the request for the yeas and nays on the motion to table?

There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

Mr. COOK. Mr. President, is the motion debatable?

Mr. ALLOTT. Mr. President, I have the floor. I was displaced once today. I am not going to be displaced twice.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order.

The rollcall was resumed and concluded.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent. I further announce that, if present and voting the Senator from Washington (Mr. JACKSON) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senators from Tennessee (Mr. BROCK and Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from Florida (Mr. GURNEY) is absent to attend the funeral of a friend.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 36, nays 38, as follows:

[No. 296 Leg.]

YEAS—36

Allen	Cotton	Fulbright
Allott	Curtis	Gambrell
Bennett	Dominick	Hansen
Boggs	Eastland	Hatfield
Byrd, Va.	Ervin	Hruska
Cook	Fannin	Jordan, N.C.
Cooper	Fong	Jordan, Idaho
McClellan	Schweiker	Taft
Miller	Scott	Talmadge
Packwood	Smith	Thurmond
Pearson	Stennis	Tower
Roth	Stevens	Young

NAYS—38

Aiken	Hughes	Pastore
Bayh	Inouye	Pell
Bentsen	Javits	Percy
Bible	Kennedy	Proxmire
Brooke	Long	Randolph
Burdick	Magnuson	Sparkman
Byrd, W. Va.	Mansfield	Spong
Cannon	McGee	Stafford
Case	McGovern	Stevenson
Church	Metcalf	Symington
Eagleton	Mondale	Tunney
Hartke	Moss	Williams
Hollings	Nelson	

NOT VOTING—26

Anderson	Ellender	Mathias
Baker	Goldwater	McIntyre
Beall	Gravel	Montoya
Bellmon	Griffin	Mundt
Brock	Gurney	Muskie
Buckley	Harris	Ribicoff
Chiles	Hart	Saxbe
Cranston	Humphrey	Weicker
Dole	Jackson	

So the motion to lay on the table the motion to reconsider was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Colorado to reconsider the vote by which the amendment of the Senator from Nebraska was agreed to.

Mr. MANSFIELD. I ask for the yeas and nays.

SEVERAL SENATORS. No! No!

Mr. ALLOTT. Let us have the yeas and nays, Mr. President.

The yeas and nays were not ordered.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. No petition to debate is permitted at this time.

Mr. ALLOTT. Mr. President, will the Presiding Officer recite to me the rule which provides that a motion to reconsider cannot be debated?

The PRESIDING OFFICER. Unanimous consent has been given that a vote will take place on the bill at 7:30. By precedent and custom in the Senate where a time has been set for final vote and amendments and other motions are offered with respect to the bill, they will not be debatable, in order that the vote can take place as near to the agreed time as possible.

So the question is on agreeing to the motion of the Senator from Colorado to reconsider the vote by which the Hruska amendment was agreed to.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLOTT. Mr. President, I rise for a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ALLOTT. Is it not true that although we have an agreement to vote at 7:30 on the final passage of this bill, two motions were pending at that time? One was a motion to reconsider and one was a motion to table the motion to reconsider. The motion to table the motion to reconsider is not debatable. The motion to reconsider is always debatable, and it cannot be thwarted by this——

The PRESIDING OFFICER. It was debatable up until 7:30, the Chair advises the Senator. Under the unanimous consent agreement, the vote was to take place at 7:30.

Mr. ALLOTT. Despite the ruling of the Chair, I appeal the ruling of the Chair to the Senate, and I ask for a rollcall vote.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. All those in favor of sustaining the ruling of the Chair will say "aye." All those opposed will say "no."

The ruling of the Chair is sustained.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLOTT. I rise for the purpose of asking for a rollcall vote. This is the first time I can remember in the history——

The PRESIDING OFFICER. The question has already been decided.

Mr. ALLOTT (continuing). Of the Senate that a Member of the Senate has been denied a rollcall. Now let us have it. I ask for a rollcall.

The PRESIDING OFFICER. The appeal has already been voted on.

Mr. HRUSKA. But no enunciation of the decision has been made.

The PRESIDING OFFICER. The Chair has announced the decision that the ruling of the Chair is sustained.

Mr. COOPER. Mr. President, a parliamentary inquiry.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Would it be in order at this time to accommodate the Senator by asking for the yeas and nays on the motion to reconsider?

Mr. ALLOTT. Yes. That is what I asked for.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

Mr. COOK. Mr. President, a parliamentary inquiry.

Mr. COOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kentucky (Mr. COOPER) is recognized.

Mr. COOPER. Is it not true that upon the question that has been raised by the Senator from Colorado there could be some limited discussion of the matter?

The PRESIDING OFFICER. Only by unanimous consent. Under the unanimous-consent agreement, there was to be a vote at 7:30, and we are getting farther afield as to that time.

Mr. COOPER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COOPER. The question is raised as to whether we had to vote at 7:30, and the Chair ruled that because the questions were before the Senate, they had to be disposed of. Is it correct that, having ruled in that manner, under the usual rules of attendance to a motion to reconsider, some limited debate should occur?

The PRESIDING OFFICER. The Chair

ruled that the motions before the Senate were debatable up until 7:30. No further debate and only votes were permitted after that time.

Mr. COOPER. I wish it were possible to discuss the substance of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado to reconsider the vote by which the Hruska amendment was agreed to.

On this question the yeas and nays have been ordered and the clerk will call the roll.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ALLOTT. Mr. President——

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AIKEN (when his name was called). No.

Mr. ALLOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ALLOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The rollcall is in progress. The Senator is out of order. The clerk will continue the rollcall.

Mr. ALLOTT. Mr. President, there has been no enunciated answer to a rollcall. I ask for a parliamentary inquiry.

The PRESIDING OFFICER. The Chair advises the Senator from Colorado that the Senator from Vermont has responded to his name.

The assistant legislative clerk resumed the call of the roll.

Mr. AIKEN. Mr. President, I voted nay, but a little more of this and I will change my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senators from Tennessee (Mr. BROCK and Mr BAKER), the Senator from Maryland (Mr BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 35, nays 43, as follows:

[No. 297 Leg.]

YEAS—35

Bayh	Hollings	Nelson
Benteen	Hughes	Pastore
Bible	Inouye	Pell
Brooke	Javits	Percy
Burdick	Kennedy	Proxmire
Byrd, W. Va.	Magnuson	Randolph
Cannon	Mansfield	Spong
Case	McGee	Stevenson
Chiles	McGovern	Symington
Church	Mondale	Tunney
Eagleton	Montoya	Williams
Hartke	Moss	

NAYS—43

Aiken	Fong	Roth
Allen	Fulbright	Schweiker
Allott	Gambrell	Scott
Bennett	Gurney	Smith
Boggs	Hansen	Sparkman
Byrd, Va.	Hatfield	Stafford
Cook	Hruska	Stennis
Cooper	Jordan, N.C.	Stevens
Cotton	Jordan, Idaho	Taft
Curtis	Long	Talmadge
Dominick	McClellan	Thurmond
Eastland	Metcalf	Tower
Ellender	Miller	Young
Ervin	Packwood	
Fannin	Pearson	

NOT VOTING—22

Anderson	Goldwater	McIntyre
Baker	Gravel	Mundt
Beall	Griffin	Muskie
Bellmon	Harris	Ribicoff
Brock	Hart	Saxbe
Buckley	Humphrey	Weicker
Cranston	Jackson	
Dole	Mathias	

So the motion to reconsider the vote on amendment No. 605 was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from California (Mr. CRANSTON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senators from Tennessee (Mr. BROCK and Mr. BAKER), the Senator from Maryland (Mr. BEALL), the Senator from New York (Mr. BUCKLEY), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Ohio (Mr. SAXBE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Tennessee (Mr. BAKER), and the Senator from Maryland (Mr. BEALL) would each vote "yea."

The result was announced—yeas 76, nays 2, as follows:

[No. 298 Leg.]

YEAS—76

Aiken	Fulbright	Pastore
Allen	Gambrell	Pearson
Allott	Gurney	Pell
Bayh	Hansen	Percy
Bennett	Hartke	Proxmire
Bentsen	Hatfield	Randolph
Bible	Hollings	Roth
Boggs	Hughes	Schweiker
Brooke	Inouye	Scott
Burdick	Javits	Smith
Byrd, Va.	Jordan, N.C.	Sparkman
Byrd, W. Va.	Jordan, Idaho	Spong
Cannon	Kennedy	Stafford
Case	Long	Stennis
Chiles	Magnuson	Stevens
Church	Mansfield	Stevenson
Cook	McClellan	Symington
Cooper	McGee	Taft
Cotton	McGovern	Talmadge
Curtis	Metcalf	Thurmond
Dominick	Miller	Tower
Eagleton	Mondale	Tunney
Eastland	Montoya	Williams
Ellender	Moss	Young
Fannin	Nelson	
Fong	Packwood	

NAYS—2

Ervin	Hruska

NOT VOTING—22

Anderson	Goldwater	McIntyre
Baker	Gravel	Mundt
Beall	Griffin	Muskie
Bellmon	Harris	Ribicoff
Brock	Hart	Saxbe
Buckley	Humphrey	Weicker
Cranston	Jackson	
Dole	Mathias	

So the bill (S. 986) was passed, as follows:

S. 986

An act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Magnuson-Moss Act".

TITLE I—CONSUMER PRODUCT WARRANTIES

DEFINITIONS

SEC. 101.—

(1) "Commission" means the Federal Trade Commission.

(2) The term "consumer product" means any tangible personal property, normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed. However, the provisions affecting consumer products in sections 102 and 103 of this title shall apply only to consumer products actually costing the purchaser more than $5 each.

(3) "Purchaser" or "consumer" means any person who is entitled by any warranty in writing or service contract in writing which is offered or given to enforce against the supplier the obligations of the warranty or service contract.

(4) "Reasonable and necessary maintenance" consists of those operations which the purchaser reasonably can be expected to perform or have performed to keep a consumer product operating in a predetermined manner and performing its intended function.

(5) The term "repair" may at the option of the warrantor include replacement with a new, identical or equivalent consumer product or component(s) thereof.

(6) The term "replacement" as used in section 104 of this title, in addition to furnishing a new, identical or equivalent consumer product (or component(s) thereof), shall include the refunding of the actual purchase price of the consumer product (1) if repair is not commercially practicable or (2) if the purchaser is willing to accept such refund in lieu of repair or replacement. In the event there is replacement of a consumer product, the replaced consumer product (free and clear of liens and encumbrances) shall be made available to the supplier.

(7) "Supplier" means any person (including any partnership corporation, or association) engaged in the business of making a consumer product or service contract available to consumers, either directly or indirectly. Occasional sales of consumer products by persons not regularly engaged in the business of making such products available shall not make such persons "suppliers" within the meaning of this title.

(8) "Warrantor" means any supplier or other party who gives a warranty in writing.

(9) The term "warranty" includes guaranty, and to warrant is to guarantee.

(10) "Warranty in writing" or "written warranty" means a warranty in writing against defect or malfunction of a consumer product.

(a) "Full warranty" means a warranty in writing against defect or malfunction of a consumer product which incorporates the Federal standards for warranty set forth in section 104 of this title.

(b) "Limited warranty" means any warranty in writing against defect or malfunction of a consumer product subject to the provisions of this title which does not incorporate the Federal standards for warranty set forth in section 104 of this title.

(11) A "warranty in writing against defect or malfunction of a consumer product" means:

(i) any written affirmation of fact or written promise made at the time of sale by a supplier to a purchaser which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect-free or will meet a specified level of performance over a specified period of time, or

(ii) any undertaking in writing to refund, repair, replace, or take other remedial action with respect to the sale of a consumer product in the event that the product fails to meet the specifications set forth in the undertaking,

which written affirmation, promise, or undertaking becomes part of the basis of the bargain between the supplier and the purchaser.

(12) the term "without charge" means that the warrantor(s) cannot assess the purchaser for any costs the warantor or his representatives incur in connection with the required repair or replacement of a consumer product warranted in writing. The term does not mean that the warrantor must necessarily compensate the purchaser for incidental expenses. However, if any incidental expenses are incurred because the repair or replacement is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the purchaser as a condition of security repair or replacement, then the purchaser shall be entitled to recover such reasonable incidental expenses in any action against the warrantor for breach of warranty under section 110(b) of this title.

DISCLOSURE REQUIREMENTS

SEC. 102. (a) In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products, any supplier warranting in writing a consumer product shall fully and conspicuously disclose in simple and readily understood language the terms and conditions of said warranty pursuant to any regulations issued by the Commission under procedures specified in section 109 of this title. Such regulations may require inclusion in the written warranty of information with respect to any of the following items among others:

(1) The clear identification of the name and address of the warrantor.

(2) Identity of the class or classes of persons to whom the warranty is extended.

(3) The products or parts covered.

(4) A statement of what the warrantor will do in the event of a defect or malfunction—at whose expense—and for what period of time.

(5) A statement of what the purchaser must do and expenses he must bear.

(6) Exceptions and exclusions from the terms of the warranty.

(7) The step-by-step procedure which the purchaser should take in order to obtain performance of any obligation under the warranty, including the identification of any class of persons authorized to perform the obligations set forth in the warranty.

(8) On what days and during what hours the warrantor will perform his obligations.

(9) The period of time within which, after notice of malfunction or defect, the warrantor will under normal circumstances repair, replace, or otherwise perform any obligations under the warranty.

(10) The availability of any informal dispute settlement procedure offered by the warrantor and a recital that the purchaser must resort to such procedure before pursuing any legal remedies in the courts.

(11) A recital that any purchaser who successfully pursues his legal remedies in court may recover the reasonable costs incurred, including reasonable attorneys' fees.

(b) The Commission is authorized to determine in accordance with section 109 of this title the manner and form in which information with respect to any written warranty shall be clearly and conspicuously presented or displayed when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing. Nothing in this title shall be deemed to authorise the Commission to prescribe the duration of warranties given or to require that a product or any of its components be warranted, except that the Commission may prescribe rules pursuant to section 553 of title 5. United States Code, that the term of a warranty or service contract shall be extended to correspond with any period in excess of a reasonable period (not less than ten days) during which the purchaser is deprived of the use of a product by reason of a defect or malfunction. Further, except as provided in section 104, nothing in this title shall be deemed to authorise the Commission to prescribe the scope or substance of written warranties.

DESIGNATION OF WARRANTIES

SEC. 103. (a) Any supplier warranting in writing a consumer product shall clearly and conspicuously designate such warranty as provided herein unless exempted from doing so by the Commission pursuant to section 109 of this title:

(1) If the written warranty incorporates the Federal standards for warranty set forth in section 104 of this title, then it shall be conspicuously designated as "full (statement of duration)" warranty, guaranty, or word of similar meaning. A warrantor issuing a written warranty in compliance with Federal standards shall also attempt in good faith to cause the disclosure of the duration of the warranty period measured either by time or by some relevant measure of usage such as mileage to the purchaser prior to the time of purchase through advertising, by providing point-of-sale materials, or by other reasonable means.

(2) If the written warranty does not incorporate the Federal standards for warranty set forth in section 104 of this title, then it shall be designated in such manner so as to indicate clearly and conspicuously the limited scope of the coverage afforded.

(b) Written statements or representations such as expressions of general policy concerning customer satisfaction which are not subject to any specific limitations shall not be deemed to be warranties in writing for purposes of section 102, 103, and 104 of this title but shall remain subject to the provisions of the Federal Trade Commission Act and section 110 of this title.

FEDERAL STANDARDS FOR WARRANTY

SEC. 104. (a) Any supplier warranting in writing a consumer product must undertake at a minimum the following duties in order to be deemed to have incorporated the Federal standards for warranty:

(1) to repair or replace any malfunctioning or defective warranted consumer product;

(2) within a reasonable time; and

(3) without charge.

In fulfilling the above duties the warrantor shall not impose any duty other than notification upon any purchaser as a condition of securing repair or replacement of any malfunctioning or defective consumer product unless the warrantor can demonstrate that such a duty is reasonable. In a determination by a court or the Commission of whether or not any such additional duty or duties are reasonable, the magnitude of the economic burden necessarily imposed upon the warrantor (including costs passed on to the purchaser) shall be weighed against the magnitude of the burdens of inconvenience and expense necessarily imposed upon the purchaser.

(b) The above duties extend from the warrantor to the purchaser.

(c) The performance of the duties enumerated in subsection (a) of this section shall not be required of the warrantor if he can show that damage while in the possession of the purchaser or unreasonable use (including failure to provide reasonable and necessary maintenance) caused any warranted consumer product to malfunction or become defective.

FULL AND LIMITED WARRANTING OF A CONSUMER PRODUCT

SEC. 105. Nothing in this title shall prohibit the selling of a consumer product which has both full and limited warranties if such warranties are clearly and conspicuously differentiated.

SERVICE CONTRACTS

SEC. 106. Nothing in this title shall be construed to prevent a supplier from selling a service contract to the purchaser in addition to or in lieu of a warranty in writing if such contract fully and conspicuously discloses in simple and readily understood language the terms and conditions. The Commission is authorized to determine in accordance with section 109 of this title the manner and form in which the terms and conditions of service

contracts shall be clearly and conspicuously disclosed.

DESIGNATION OF REPRESENTATIVES

SEC. 107. Nothing in this title shall be construed to prevent any warrantor from making any reasonable and equitable arrangements for representatives to perform duties under a written warranty: *Provided*, That no such arrangements shall relieve the warrantor of his direct responsibilities to the purchaser or necessarily make the representative a cowarrantor.

LIMITATION ON DISCLAIMER OF IMPLIED WARRANTIES

SEC. 108. (a) There shall be no express disclaimer of implied warranties to a purchaser if any warranty in writing or service contract in writing of a consumer product is made by a supplier to a purchaser.

(b) For purposes of this title, implied warranties may be limited only as to duration and only to the duration of a warranty in writing of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

FEDERAL TRADE COMMISSION

SEC. 109. In addition to the authority given in sections 102 and 106 of this title pertaining to disclosure, the Commission is authorized to establish rules pursuant to section 553, title 5, United States Code, upon a public record after an opportunity for an agency hearing structured so as to proceed as expeditiously as practicable, to determine when a warranty in writing does not have to be designated in accordance with section 103 of this title; to define in detail the disclosure requirements in paragraph (2) of subsection (a) of section 103; and to define in detail the duties set forth in subsection (a) of section 104 of this title and their applicability to warrantors of different categories of consumer products with "full" warranties.

PRIVATE REMEDIES

SEC. 110. (a) Congress hereby declares it to be its policy to encourage suppliers to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms. Such informal dispute settlement procedures should be created by suppliers in cooperation with independent and governmental entities pursuant to guidelines established by the Commission. If a supplier incorporates any such informal dispute settlement procedure in any written warranty or service contract, such dispute procedure shall initially be used by any consumer to resolve any complaint arising under such warranty or service contract. The bona fide operation of any such dispute procedure shall be subject to review by the Commission on its own initiative or upon written complaint filed by any injured party.

(b) Any purchaser damaged by the failure of a supplier to comply with any obligations assumed under a written warranty or service contract in writing subject to this title may bring suit for breach of such warranty or service contract in an appropriate district court of the United States subject to the jurisdictional requirements of section 1331, title 28, United States Code, and any purchaser damaged by the failure of a supplier to comply with any obligations assumed under an express or implied warranty or service contract subject to this title may bring suit in any State or District of Columbia court of competent jurisdiction: *Provided*, That prior to commencing any legal proceeding for breach of warranty or service contract, any purchaser must have afforded the supplier a reasonable opportunity to cure the breach including the utilization of any informal dispute settlement mechanisms established pursuant to subsection (a) of this section. Nothing in this subsection shall be construed to change in any way the jurisdictional prerequisites or venue requirements of any State.

(c) Any purchaser who shall finally prevail in any suit or proceeding for breach of an express or implied warranty or service contract obligation brought under section (b) of this section shall be allowed by the court of competent jurisdiction to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by such purchaser for or in connection with the institution and prosecution of such suit or proceeding unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

(d) (1) For the purposes of this section, an "express warranty" is created as follows:

(A) Any affirmation of fact or promise made by a supplier to the purchaser which relates to a consumer product or service and becomes part of the basis of the bargain creates an express warranty that the consumer product or service shall conform to the affirmation or promise.

(B) Any description of a consumer product which is made part of the bargain creates an express warranty that the consumer product shall conform to the description.

(C) Any sample or model which is made part of the basis of the bargain creates an express warranty that the consumer product shall conform to the sample or model.

It is not necessary to the creation of an express warranty that the supplier use formal words such as "warranty" or "guaranty" or that he have a specific intention to make a warranty, but an affirmation merely of the value of the consumer product or service or a statement purporting to be merely the supplier's opinion or commendation of the consumer product or service does not create a warranty.

(2) Only the supplier actually making an affirmation of fact or promise, a description, or providing a sample or model shall be deemed to have created an express warranty under this section and any rights arising thereunder may only be enforced against such supplier and no other supplier.

GOVERNMENT ENFORCEMENT

SEC. 111. (a) It shall be unlawful and a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 56(a)(1)) for any person (including any partnership, corporation, or association) subject to the provisions of this title to fail to comply with any requirement imposed on such person by or pursuant to this title or to violate any prohibition contained in this title.

(b) (1) The district courts of the United States shall have jurisdiction to restrain violations of this title in an action by the Attorney General or by the Commission by any of its attorneys designated by it for such purpose. Upon a proper showing, and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity: *Provided, however*, That if a complaint is not filed within such period as may be specified by the court after the issuance of the restraining order or preliminary injunction, the order or injunction may, upon motion, be dissolved. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2) Civil Investigative Demands.

(i) Whenever the Attorney General has reason to believe that any person under investigation may be in possession, custody, or control of any documentary material, relevant to any violation of this title, he may, prior to the institution of a proceeding under this section cause to be served upon such person, a civil investigative demand requiring such person to produce the documentary material for examination.

(ii) Each such demand shall—

(1) state the nature of the conduct alleged to constitute the violation of this title which is under investigation;

(2) describe the class or classes of documentary material to be produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(4) identify the custodian to whom such material shall be furnished.

(iii) No demand shall—

(1) contain any requirement which would be held unreasonable if contained in a subpena duces tecum issued by a court of the United States in a proceeding brought under this section; or

(2) require the production of any documentary evidence, which would be privileged from disclosure if demanded by a subpena duces tecum issued by a court of the United States in any proceeding under this section.

(iv) Any such demand may be served at any place within the territorial jurisdiction of any court of the United States.

(v) Service of any such demand or of any petition filed under subparagraph (vii) of this section may be made upon a person, partnership, corporation, association, or other legal entity by—

(1) delivering a duly executed copy thereof to such person or to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, partnership, corporation, association, or entity;

(2) delivering a duly executed copy thereof to the principal office or place of business of the person, partnership, corporation, association or entity to be served; or

(3) depositing such copy in the United States mails, by registered or certified mail duly addressed to such person, partnership, corporation, association, or entity at its principal office or place of business.

(vi) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(vii) The provisions of sections 4 and 5 of the Antitrust Civil Process Act (15 U.S.C. 1313, 1314) shall apply to custodians of material produced pursuant to any demand and to judicial proceedings for the enforcement of any such demand made pursuant to this section: *Provided, however*, That documents and other information obtained pursuant to any civil investigative demand issued hereunder and in the possession of the Department of Justice may be made available to duly authorized representatives of the Commission for the purpose of investigations and proceedings under this title and under the Federal Trade Commission Act subject to the limitations upon use and disclosure contained in section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313).

SAVING PROVISION

SEC. 112. Nothing contained in this title shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any statute defined therein as an Antitrust Act.

SCOPE

SEC. 113. (a) The provisions of this title and the powers granted hereunder to the Commission and Attorney General shall extend to all sales of consumer products and service contracts affecting interstate commerce.

(b) Labeling, disclosure, or other requirements of a State with respect to written warranties and performance thereunder, inconsistent with those set forth in sections 102 103, or 104 of this title or with rules and regulations of the Commission issued in accordance with the procedures set forth in section 109 of this title, or with guidelines of the Commission shall not be applicable to warranties complying therewith. However, if, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with the Federal Trade Commission Act, as amended) that any requirement of such State (other than a labeling or disclosure requirement) covering any transaction to which this title applies (1) affords protection to consumers greater than the requirements of this title and (2) does not unduly burden interstate commerce, then transactions complying with any such State requirement shall be exempt from the provisions of this title to the extent specified in such determination for as long as the State continues to administer and enforce effectively any such greater requirement.

(c) Nothing in this title shall be construed to supersede any provision of State law regarding consequential damages for injury to the person.

EFFECTIVE DATE

SEC. 114. (a) Except for the limitations in subsection (b) of this section, this title shall take effect six months after the date of its enactment but shall not apply to consumer products manufactured prior to such effective date.

(b) Those requirements in this title which cannot be reasonably met without the promulgation of rules by the Commission shall take effect six months after the final publication of such rules: *Provided*, That the Commission, for good cause shown, may provide designated classes of suppliers up to an additional six months to bring their written warranties into compliance with rules promulgated pursuant to this title.

(c) The Commission shall promulgate initial rules for initial implementation of this title including guidelines for establishment of informal dispute settlement procedures pursuant to section 110(a) as soon as possible after enactment but in no event later than one year after the date of enactment.

TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS

SEC. 201. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "affecting commerce".

SEC. 202. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (6) thereof the following new paragraph:

"(7) The Commission may initiate civil actions in the district courts of the United States against persons, partnerships, or corporations engaged in any act or practice which is unfair or deceptive to a consumer and is prohibited by subsection (a)(1) of this section with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair and deceptive and is prohibited by subsection (a)(1) of this section, to obtain a civil penalty of not more than $10,000 for each violation. The Commission may compromise, mitigate, or settle any action for a civil penalty if such settlement is accompanied by a public statement of its reasons and approved by the court.

SEC. 203. Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by inserting after paragraph (7) as added by section 202 of this Act the following new paragraph:

"(8) After an order of the Commission to cease and desist from engaging in acts or practices which are unfair or deceptive to consumers and proscribed by section 5(a)(1) of this Act has become final as provided in subsection (g) of this section, the Commission, by any of its attorneys designated by it for such purpose, may institute civil actions in the district courts of the United States to obtain such relief as the court shall find necessary to redress injury to consumers caused by the acts or practices which were the subject of the cease and desist order, including but not limited to, recision or reformation of contracts, the refund of money or return of property, public notification of the violation, and the payment of damages. No action may be brought by the Commission under this subsection more than two years after an order of the Commission upon which such action is based has become final."

SEC. 204. Section 5(l) of the Federal Trade Commission Act (15 U.S.C. 4(l)) is amended by striking subsection (l) and inserting in lieu thereof the following new paragraph:

"(l) Any person, partnership, or corporation who violates an order of the Commission after it has become final, and while such order is in effect, shall forfeit and pay to the United States a civil penalty of not more than $10,000 for each violation, which shall accrue to the United States and may be recovered in a civil action brought by the United States or the Commission in its own name by any of its attorneys designated by it for such purpose. Each separate violation of such an order shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey a final order of the Commission each day of continuance of such failure or neglect shall be deemed a separate offense. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate in the enforcement of such final orders of the Commission."

SEC. 205. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or whose business affects commerce".

SEC. 206. Section 6(g) of the Federal Trade Commission Act (15 U.S.C. 46(g)) is amended by striking subsection (g) and inserting in lieu thereof the following:

"(g) From time to time to classify corporations and to make rules and regulations for the purposes of carrying out the provisions of this Act. Such rules and regulations as are specifically provided for hereinafter shall be promulgated in the following manner and shall have the stated substantive force and effect:

"(1) The Commission is authorized to issue procedural rules to carry out the provisions of this Act. Any such rule shall be promulgated in accordance with section 553 of title 5 of the United States Code and without regard to the exemption in subsection (b) thereof for rules of agency procedure or practice.

"(2) The Commission is hereby authorized to issue legislative rules defining with specificity acts or practices which are unfair or deceptive to consumers and which section 5(a)(1) of this Act proscribes.

"(i) When issuing legislative rules the Commission shall (a) issue an order of proposed rulemaking stating with particularity the reason for the rule; (b) allow interested persons at least thirty days to comment on the proposed rule in writing or at an agency hearing and make all such comments publicly available; (c) provide the Commission staff and other persons an opportunity to respond within a designated period of time to comments initially received and make such responses publicly available; (d) if on the basis of the record compiled in accordance with subparagraphs (a), (b), and (c) there is a disparity of views concerning material facts upon which the proposed rule is based, provide for an agency hearing in accordance with sections 556 and 557 of title 5 of the United States Code; (e) promulagte a final rule based on the record compiled in accordance with subparagraphs (b), (c), and, if applicable, subparagraph (d) of this paragraph.

"(ii) Following the final promulgation by the Commission of any legislative rule that rule and a brief in its support based upon the Commission proceedings shall be referred to the House of Representatives and the Senate. If within sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than thirty calendar days to a day certain) from the date of referral the Senate or the House of Representatives by resolution do not disapprove the rule, it shall become effective.

"(iii) Following the final promulgation by the Commission of any legislative rule, any interested person may, at any time prior to the tenth day after the expiration of the period for review as provided in subparagraph (ii) of this paragraph, file a petition for a judicial review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Chairman of the Commission or the officer designated by him for that purpose. The Commission shall file in the court the record of the proceedings on which the Commission based its rule as provided in section 2112 of title 28 of the United States Code.

"(iv) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Commission, the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Commission in a hearing or in such other manner, and upon such terms and conditions, as to the court may seem proper. The Commission may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file any such modified or new findings, and its recommendation, if any, for the modification or setting aside of its original determination, with the return of such additional evidence. Upon the filing of the petition the court shall have jurisdiction to review the determination of the Commission in accordance with chapter 7 of title 5 of the United States Code, including that provision requiring the rule to be supported by substantial evidence on the basis of the entire record before the court (including any additional evidence adduced).

"(v) Any legislative rule which has become final shall have prospective application only.

"(vi) Nothing in this Act shall be deemed to foreclose judicial review of a legislative rule when the Commission issues a final order based upon such rule.

"(3) Any person seeking judicial review of a rule may obtain such review in the United States Court of Appeals for the District of Columbia Circuit, or any circuit where such person resides or has his principal place of business."

SEC. 207. Section 9 of the Federal Trade Commission Act (15 U.S.C. 49) is amended by—

(a) deleting the word "corporation" in the first sentence of the first unnumbered paragraph and inserting in lieu thereof the word "party".

(b) inserting after the word "Commission" in the second sentence of the second unnumbered paragraph the phrase "acting through any of its attorneys designated by it for such purpose";

(c) deleting the fourth unnumbered paragraph and inserting in lieu thereof the following:

"Upon application of the Attorney General of the United States or the Commission, acting through any of its attorneys designated by it for such purpose, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of this Act or any order of the Commission made in pursuance thereof."

SEC. 208. Section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended by deleting the third unnumbered paragraph and inserting in lieu thereof the following:

"If any corporation required by this Act to file any annual or special report shall fail to do so within the time fixed by the Commission for filing the same, and such failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States and shall be recoverable in a civil suit brought by the United States or by the Commission, acting through any of its attorneys designated by it for such purpose, in the district where the corporation has its principal office or in any district in which it shall do business."

SEC. 209. Section 12 of the Federal Trade Commission Act (15 U.S.C. 52) is amended by striking out the words "in commerce" wherever they appear and inserting in lieu thereof "in or having an effect upon commerce."

SEC. 210. Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended by redesignating "(b)" as "(c)" and inserting the following new subsection:

"(b) Whenever the Commission has reason to believe—

"(1) that any person, partnership, or corporation is engaged in, or is about to engage in, any act or practice which is unfair or deceptive to a consumer, and is prohibited by section 5, and

"(2) that the enjoining thereof pending the issuance of a complaint by the Commission under section 5, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission made thereon has become final within the meaning of section 5, would be to the interest of the public—

the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity: *Provided, however*, That if a complaint under section 5 is not filed within such period as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business."

SEC. 211. Nothing in this title shall be construed to give the Commission authority over the Federal National Mortgage Association, the National Corporation for Housing Partnerships or any financial institution which is subject to regulation by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration or the Federal Home Loan Bank Board against acts or practices unfair or deceptive to consumers.

TITLE III—CONSUMER REMEDIES STUDY

SEC. 301. (a) The Director of the Office of Consumer Affairs, in consultation with and with the assistance of the Attorney General of the United States, is authorized to contract with the National Institute for Consumer Justice (hereafter referred to as the "Institute"), a nonprofit corporation of the District of Columbia, to conduct a study or studies of means for improving the grievance-solving mechanisms and legal remedies of consumers, including but not limited to the following:

(1) methods of preventing consumer grievances from arising and of improving seller-buyer and debtor-creditor relationships;

(2) existing and potential voluntary settlement procedures, including arbitration; and

(3) the desirability of establishment of a nationwide system of small claims tribunals.

(b) The Director of the Office of Consumer Affairs shall, within eighteen months of the enactment of this Act, submit a final report on such study or studies to the President and to Congress along with its recommendations, if any, for legislation.

SEC. 302. (a) The Institute and each recipient of a contract from the Institute under this title shall keep such records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any funds provided under this title as are pertinent to the disposition and use of such funds.

SEC. 303. There is authorized to be appropriated $500,000 to carry out the provisions of this title.

SEPARABILITY

SEC. 304. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

The title was amended so as to read:

A bill to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD of Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, if any common bond ties all Americans together, it is the fact that we are all consumers. While a lot of attention has been focused on the need for more consumer protection—every consumer has some legitimate complaints—little action has been taken. In the past few days, however, the Senate has shown a strong interest in consumer protection by passing two highly significant measures.

High on the list of consumer gripes has been the fragility of automobiles and the high cost of automobile repair. A 3-year study of automobile repair problems recently completed by Senator HART's Antitrust and Monopoly Subcommittee revealed that we car owners have every reason to complain. That study indicated that Americans spend about $25 to $30 billion annually repairing their cars—$8 to $10 billion of which is charged for work that is unnecessary, improperly performed, or never done at all.

More than that, much of this expense could be eliminated if the automobile manufacturers were willing to make structural and design improvements which would allow cars to withstand minor collisions without damage.

Experience has shown, however, that they will not do so on their own initiative.

Tests show, for example, that several current model cars suffer $200 damage when driven into a solid barrier at only 5 miles per hour. Yet Members of the Senate saw a demonstration in which a current model car equipped with a special bumper suffered no damage at all in a crash at twice that speed. Clearly this is an area ripe for reform.

With this information before me, I enthusiastically supported the Motor Vehicle Information and Cost Savings Act when it passed the Senate last week. If approved by the House and signed by the President, it will save car owners literally billions of dollars in repairs each year.

The Secretary of Transportation has previously been charged with the responsibility for setting minimum safety standards for cars. This bill gives him the additional task of setting standards to insure "property loss reduction" in case of minor crashes. The result should be lower repair costs, lower insurance rates, and hopefully an awakening on the part of automobile manufacturers to their own responsibility in this area.

Significantly, this is the first bill to provide criminal penalties for automobile manufacturers who knowingly violate standards. And any car owner who suffers economic loss, because his car failed to meet these standards can sue the manufacturer to recover not only his losses, but his court costs, as well.

I am pleased that the Senate voted against an administration-supported amendment to strike this standards provision from the bill and that only four dissenting votes were cast when the bill finally passed.

No less significant is the bill we have just passed today, the Consumer Product Warranties and Federal Trade Commission Improvements Act. Here again we have undertaken to reform a particularly troublesome area for consumers, that of product warranties. Hopefully, it will pass into law and spare consumers the familiar frustration of being done in by the fine print.

The bill strikes an admirable balance between the right of business to be free of undue harassment and the right of the consumer to know precisely what the terms of his purchase are. The supplier does not have to warrant his products—but if he chooses to, he has to make perfectly clear what the terms and conditions of that warranty are. If he wants the competitive advantage of a "full warranty" label, he must agree to repair or replace defective products within a reasonable time and without charge.

I am especially pleased that the Senate voted to close one glaring loophole for avoiding responsibility for defects. At one time or another everyone has been chagrined to find that a warranty has been issued "in lieu of any implied warranty of merchantability or fitness and of any other obligation on the part of the seller." In other words, the consumer would have been better off with no warranty at all. If this bill is signed into law, there will be no more disclaimers of this kind allowed.

We have also voted to make the Federal Trade Commission more than a hand-slapping agency. Today the FTC has nothing more than cease-and-desist authority, clearly inadequate in the face of unfair and deceptive practices by manufacturers and suppliers. Under the bill we have approved, however, the FTC is given not only the power to issue injunctions to insure that these practices are stopped immediately, but also the power to take manufacturers to court on behalf of aggrieved consumers if they choose to do so.

This bill by no means undercuts the need for either the independent consumer agency or the class action bill, both of which I support. It is an indication, however, that the Senate is willing to move toward a stronger consumer voice both in the bureaucracy and in the courts.

REVENUE ACT OF 1971—AMENDMENT

AMENDMENT NO. 626

(Ordered to be printed and to lie on the table.)

Mr. MAGNUSON. Mr. President, today, I am submitting an amendment to H.R. 10947 and ask that it lie on the table. I also ask unanimous consent for the text of the amendment to be printed in full at this point. The amendment is introduced on behalf of myself, Senator RIBICOFF, Senator JACKSON, Senator MCGOVERN, Senator KENNEDY, Senator BAYH, Senator MUSKIE, Senator WILLIAMS, Senator HUMPHREY, Senator WEICKER, Senator STEVENS, Senator METCALF, Senator GRAVEL, Senator BROOKE, Senator TUNNEY, Senator NELSON, and others. I intend to submit a complete list of cosponsors when I call up this amendment for floor action.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 626

At the end of the table of contents of the bill, insert the following:

TITLE VIII—EMERGENCY UNEMPLOYMENT COMPENSATION

Sec. 801. Short title.
Sec. 802. Federal-State agreements.
Sec. 803. Payments to States having agreements for the payment of emergency compensation.
Sec. 804. Financing provisions.
Sec. 805. Definitions.

At the end of the bill, add the following new title:

TITLE VIII—EMERGENCY UNEMPLOYMENT COMPENSATION

SHORT TITLE

SEC. 801. This title may be cited as the "Emergency Unemployment Compensation Act of 1971".

FEDERAL-STATE AGREEMENTS

SEC. 802. (a) Any State, the State unemployment compensation law of which is approved by the Secretary of Labor (hereinafter in this title referred to as the "Secretary under Section 3304 of the Internal Revenue Code of 1954, which desires to do so, may enter into and participate in an agreement with the Secretary under this title, if such State law contains (as of the date such agreement is entered into) a requirement that extended compensation be payable thereunder as provided by the Federal-State Extended Unemployment Compensation Act of 1970. Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of emergency compensation—

(1) to individuals who—

(A) (i) have exhausted all rights to regular compensation under the State law;

(ii) have exhausted all rights to extended compensation, or are not entitled thereto, because of the ending of their eligibility period for extended compensation, in such State;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of the Virgin Islands or Canada;

(2) for any week of unemployment which begins in—

(A) an emergency extended benefit period (as defined in subsection (c) (3)); and

(B) the individual's period of eligibility (as defined in section 805 (b)).

(c) (1) For purposes of subsection (b) (1) (A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(2) For purposes of subsection (b) (1) (B), an individual shall be deemed to have exhausted his rights to extended compensation under a State law when no payments of extended compensation under a State law can be made under such law because such individual has received all the extended compensation available to him from his extended compensation account (as established under State law in accordance with section 202 (b) (1) of the Federal-State Extended Unemployment Compensation Act of 1970).

(3) (A) (i) For purposes of subsection (b) (2) (A), in the case of any State, an emergency extended benefit period—

(I) shall begin with the third week after a week for which there is a State "emergency on" indicator; and

(II) shall end with the third week after the first week for which there is a State "emergency off" indicator.

(ii) In the case of any State, no emergency extended benefit period shall last for a period of less than 26 consecutive weeks.

(iii) When a determination has been made that an emergency extended benefit period is beginning or ending with respect to any State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(B) (i) For purposes of subparagraph (A), there is a State "emergency on" indicator for a week if—

"(I) the rate of unemployment (as determined under subparagraph (C)) in the State for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 7.5 per centum; and

"(II) there (a) is a State or National "on" indicator for such week (as determined under subsections (d) and (e) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970), or (b) there is neither a State or National "on" indicator for such week (as so determined), but (1) within the 52-week period ending with such week there has been a State or National "on" indicator for a week (as so determined), and (2) there would be a State "on" indicator for such week except for the provisions of section 203 (e) (1) (A) of the Federal-State Extended Unemployment Compensation Act of 1970.

(ii) For purposes of subparagraph (A), there is a State "emergency off" indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of unemployment (as determined under subparagraph (C)) is less than 7.5 per centum.

(C) (i) For purposes of subparagraph (B), the term "rate of unemployment" means—

(I) the rate of insured employment (as determined under section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970, plus

(II) the 13-week exhaustion rate (as determined under clause (ii)).

(iii) The "13-week exhaustion rate" shall be equal to—

(I) 25 percent of the sum of the exhaustions, during the most recent 12 calendar months ending before the week with respect to which such rate is computed, of regular compensation under the State law, divided by

(II) the average monthly covered employment (as that term is used in section 203 (f) of the Federal-State Extended Unemployment Act of 1970) of the State with respect to the 13-week period referred to in subparagraph (B) (ii).

(d) For purposes of any agreement under this title—

(1) the amount of the emergency compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law; and

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall (except where inconsistent with the provisions of this title or regulations of the Secretary promulgated to carry out this title) apply to claims for emergency compensation and the payment thereof.

(e) (1) Any agreement under this title with a State shall provide that the State will establish, for each eligible individual who files an application for emergency compensation, an emergency compensation account.

(2) The amount established in such account for any individual shall be equal to the lesser of—

(A) 100 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202 (b) (1) (C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

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(f) No emergency compensation shall be payable to any individual under an agreement entered into under this title for any week prior to the week following the week in which such agreement is entered into, or if later, the first week beginning more than 30 days after the date of enactment of this Act.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY COMPENSATION

SEC. 803. (a) (1) There shall be paid to each State which has entered into an agreement under this title an amount equal to—

(A) 100 per centum of the emergency compensation paid prior to July 1, 1973, to individuals by the State pursuant to such agreement; and

(B) 80 per centum of the emergency compensation paid after June 30, 1973, to individuals by the State pursuant to such agreement.

(b) No payment shall be made to any State under this section in respect of compensation for which the State is entitled to reimbursement under the provisions of any Federal law other than this title.

(c) Sums payable to any State by reason of such State's having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 804. (a) (1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this title.

(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payment to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(b) Section 3301 of the Internal Revenue Code of 1954 is amended—

(1) by inserting "(except as otherwise provided in the succeeding sentence)" immediately after "equal"; and

(2) by adding at the end thereof the following new sentence: "In applying the preceding sentence for the calendar year 1972 and the calendar year 1973, the rate of tax shall, in lieu of 3.2 percent, be 3.275 percent."

(c) The first sentence of section 905(b)(1) of the Social Security Act is amended by striking out "and in the case of any month after March 1972, to one-tenth," and inserting in lieu thereof "in the case of any month after March 1972 and before April 1974, to seven twenty-thirds, and in the case of any month after March 1974, to one-tenth,".

(d) Section 901(c)(1)(B) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (iv);

(2) by striking out the period at the end of clause (v) and inserting in lieu thereof "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) an agreement entered into under the Emergency Unemployment Compensation Act of 1971.".

DEFINITIONS

SEC. 805. For purposes of this title—

(a) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970;

(b) the term "period of eligibility" means, in the case of any individual, the weeks in his benefit year which begin in an extended benefit period or an emergency extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period or in such emergency extended benefit period; and

(c) the term "extended benefit period" shall have the meaning assigned to such term under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

Mr. MAGNUSON. Mr. President, recently, the chairman of the Senate Finance Committee asked me to testify on the substance of S. 2321, the Emergency Unemployment Compensation Act of 1971, during the committee's deliberation on H.R. 10947. In that testimony, I informed the committee that, if action were not taken to include S. 2321 as an amendment when the committee marked up H.R. 10947, that I would be compelled to offer a floor amendment. The committee voted not to consider amendments dealing with "unemployment compensation," because of its desire to report a "clean" bill. I do not take this action as a rejection of the merits of my proposal, but I do feel compelled to offer the substance of S. 2321 as an amendment to H.R. 10947.

This amendment is quite simple; let me outline briefly its basic provisions:

All States that have enacted an extended unemployment compensation law pursuant to the Federal-State extended unemployment compensation agreement would be eligible to participate in the program. Individuals who have exhausted, under State law, both their regular and all extended Federal and State unemployment compensation benefits would be eligible;

An unemployment rate of 7.5 percent—insured employed—plus exhaustions—would trigger the emergency benefits in participating States;

The Federal Government would pay 100 percent of the emergency compensation paid by the State prior to July 1, 1973, and 80 percent of the compensation after June 30, 1973. This would allow the States a period of time to enact a matching requirement of 20 percent in order to maintain their eligibility.

In order to finance this amendment, section 3301 of the Internal Revenue Code of 1954 would be amended to increase the rate of tax from 3.2 to 3.275 percent in calendar year 1972 and 1973.

I think it is particularly fitting that we amend the Revenue Act of 1971 in order to provide emergency benefits to the workers who have suffered the most from past economic policies. It is certainly proper to give industry certain tax incentives but, in my judgment, we also have a duty to aid those who have lost their jobs and live in States where the rate of unemployment is the highest and where the prospects for finding a new job are the lowest. The Revenue Act of 1971 provides business with nearly $8 billion in tax incentives; this is proper if Congress also acts to aid individuals hurt by the recent recession. My amendment will cost only $338 million and will provide badly needed emergency relief to many workers who need and deserve assistance at this time. This is a responsible amendment in that a revenue raising provision has been added that will completely cover the cost of this proposal.

I want to thank my distinguished friend and colleague, the chairman of the Finance Committee, Senator LONG, for his assistance to me in this effort.

Mr. President, I ask unanimous consent that several documents be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR WARREN G. MAGNUSON BEFORE THE SENATE FINANCE COMMITTEE

Mr. Chairman, I appreciate the opportunity to testify before the Senate Finance Committee on the need for enactment of an Emergency Unemployment Compensation Act. I realize that the Committee must act quickly on H.R. 10947, the Revenue Act of 1971, because of its enormous economic significance to the entire Nation. I will comment briefly on a further amendment to the Revenue Act, suggested by Senator Jackson and me dealing with regulated companies that generate or supply electricity. First, let me discuss the question of unemployment compensation.

Mr. Chairman, I am concerned because of the Committee's schedule that the hearings on the Revenue Act may present the only opportunity this year for the Finance Committee to consider the need for an Emergency Unemployment Compensation Act. Your distinguished Chairman has asked me this morning to present my case to the Committee so that you can consider this matter before reporting the Revenue Act to the Senate floor. Chairman Long realizes the significance of this measure to the State of Washington and knows how strongly I feel about the need for such an emergency measure.

As the Committee knows, Senator Jackson and I introduced S. 2321, the Emergency Unemployment Compensation Act of 1971, on July 21, 1971. This bill was introduced because of the critical situation facing 1,784,332 working Americans who exhausted all unemployment benefits during F.Y. 1971. Several hundred thousand more workers have exhausted all their benefits since July 1, 1971, the end of F.Y. 71. This number compares with 954,191 workers who exhausted all benefits during F.Y. 1970. Mr. Chairman, this represents an increase of almost ninety percent and comes at a time when the rate of unemployment, six percent, makes the prospect very bleak for unemployed workers to find new jobs.

In the State of Washington, now experiencing the Nation's highest rate of unemployment (except for Alaska) at 13 percent, 99,564 workers exhausted all benefits during F.Y. 71 as compared with 16,413 during F.Y. 70. That is over a 500 percent increase in one year. On October 2nd, 1971, the State of Washington's emergency extended benefits program ended because the expiration date set in the original act had been reached; another 10,000 workers were cut-off from benefits on that date.

Mr. Chairman, Washington State will exhaust its entire Unemployment Compensation Trust Fund next March unless something is done by the Federal Government; this fund totaled 322 million dollars only two years ago. I have talked with the responsible officials in Washington State and they agree that a Federal Emergency Extended Unemployment Act like I have offered presents the best short-run solution.

Let me take this opportunity to briefly outline the major provisions of S. 2321.

All states that have enacted an extended compensation law pursuant to the Federal-State Extended Unemployment Compensation agreement are eligible for this emergency measure. Individuals are eligible who have exhausted, under State law, both their regular and all extended federal and state employment compensation benefits;

An unemployment rate of 7.5 percent (insured unemployed plus exhaustions) would trigger the emergency benefits in participating states;

The Federal Government shall pay 100 per centum of the emergency compensation paid by the State prior to July 1, 1973 and 80 per centum of the compensation after June 30, 1973. This allows the States a period of time to enact a matching requirement of 20 per centum in order to maintain their eligibility;

A tax increase of .75 percent from employers will be levied to finance the "Emergency Unemployment Compensation Act of 1971"; an increase from 3.2 per cent to 3.275 per cent.

Mr. Chairman, I must emphasize to the Committee that Washington State is suffering a regional depression. The churches in Seattle feed 8,000 hungry people a week. 12,000 hungry citizens are turned away because there simply is not enough donated food available. The Department of Agriculture will not allow surplus commodities to be distributed to these people because Washington State has an existing food stamp program. Agriculture officials callously state that these hungry people have an "income maintenance" problem that cannot be solved by giving them free food.

This policy certainly will not help those in need who have exhausted all unemployment compensation benefits and are employable; these people do not qualify for welfare benefits in Washington State.

Mr. Chairman, I urge the Senate Finance Committee to consider adding an Emergency Extended Compensation Act to the bill presently being considered. I believe that it will provide a relief measure to those hardest hit by recent economic policies. Some economists have criticized the proposed economic incentives as being too heavily weighted in favor of business. Adding an Emergency Extended Compensation Amendment would certainly help to balance these incentives and at the same time provide additional purchasing power to several hundred thousand workers. Mr. Chairman, I urge the Committee to adopt this measure which would bring immediate assistance to workers who have already exhausted all unemployment benefits, live in states with the highest rate of unemployment and face the bleakest prospects for finding a job.

ES-213 REPORT CLAIMS AND PAYMENTS ACTIVITIES—STATE UI, NUMBER OF FINAL PAYMENTS FOR ALL UNEMPLOYMENT—PERIOD ENDING JUNE 1971

	Cumulative to date			12 month cumulative		
	Calendar year			Fiscal year		
	Current 1971	Year ago 1970	Percent change, year ago	Current 1971	Year ago 1970	Percent change, year ago
Alabama	12,599	8,110	55.4	23,421	14,283	64.0
Alaska	2,595	1,457	78.1	4,063	2,258	79.9
Arizona	5,551	2,304	100.0	9,351	3,975	100.0
Arkansas	8,525	6,067	40.5	14,743	9,467	55.6
California	195,103	105,715	84.6	326,773	173,794	88.0
Colorado	2,762	1,802	53.3	4,805	2,782	72.7
Connecticut	22,639	10,750	100.0	[1] 39,622	18,614	100.0
Delaware	2,409	1,383	74.2	3,918	2,293	70.9
District of Columbia	2,801	1,663	68.4	5,061	2,991	69.2
Florida	18,774	10,107	85.8	38,670	22,925	68.7
Georgia	15,123	8,668	74.5	27,619	14,972	84.5
Hawaii	3,671	1,496	100.0	6,056	2,663	100.0
Idaho	3,564	3,193	11.6	5,575	4,457	25.1
Illinois	49,893	26,167	90.7	84,762	42,921	97.5
Indiana	29,523	17,327	70.4	48,055	25,469	88.7
Iowa	10,933	6,573	66.3	17,513	9,819	79.4
Kansas	11,093	4,974	100.0	20,367	8,162	100.0
Kentucky	9,576	7,723	24.0	16,705	12,411	34.4
Louisiana	16,635	13,853	20.1	32,059	24,284	32.0
Maine	8,763	4,713	85.9	13,479	7,393	82.3
Maryland	11,311	5,550	100.0	19,599	9,414	100.0
Massachusetts	45,781	18,352	100.0	76,173	35,094	100.0
Michigan	64,303	35,272	82.3	105,046	52,343	100.0
Minnesota	23,777	11,221	100.0	35,836	15,092	100.0
Mississippi	4,856	3,539	37.2	8,509	5,790	47.0
Missouri	20,013	11,317	76.8	33,580	17,501	91.9
Montana	3,055	2,530	20.8	5,015	3,755	33.6
Nebraska	4,418	2,435	81.4	6,991	3,617	93.3
Nevada	4,138	2,376	74.0	6,935	3,805	82.1
New Hampshire	1,162	125	100.0	1,665	158	100.0
New Jersey	23,129	32,377	−28.6	[1] 53,346	57,834	−7.8
New Mexico	2,807	1,628	72.4	5,295	2,772	91.0
New York	96,334	43,857	100.0	163,605	80,852	100.0
North Carolina	12,186	7,923	53.8	21,422	12,709	68.6
North Dakota	1,191	795	49.8	1,608	1,075	49.6
Ohio	33,248	11,788	100.0	53,231	18,094	100.0
Oklahoma	10,626	5,039	100.0	18,173	8,893	100.0
Oregon	12,167	7,114	71.0	21,866	10,703	100.0
Pennsylvania	33,135	16,426	100.0	64,316	29,449	100.0
Rhode Island	10,099	4,831	100.0	16,921	8,457	100.0
South Carolina	10,486	6,659	57.5	17,736	11,616	52.7
South Dakota	1,189	901	32.0	1,894	1,246	52.0
Tennessee	20,232	12,318	64.2	35,320	21,173	66.8
Texas	30,641	14,931	100.0	51,540	24,346	100.0
Utah	4,274	3,457	23.6	7,024	5,432	29.3
Vermont	2,217	598	100.0	3,384	1,096	100.0
Virginia	6,700	4,567	46.7	11,184	7,034	59.0
Washington	54,294	14,359	100.0	99,564	16,413	100.0
West Virginia	3,516	2,862	22.9	7,035	5,208	35.1
Wisconsin	16,638	9,008	84.7	25,444	12,876	97.9
Wyoming	648	460	40.9	916	686	33.5
Puerto Rico	20,616	21,528	−4.2	38,272	39,849	−4.0
Do	5,862	5,570	5.2	22,979	23,862	−3.7
Do	26,478	27,098	−2.3	61,251	63,717	−3.9
Virgin Islands	0	0	.0	0	0	.0
U.S. total [2]	1,026,724	560,690	83.1	[1] 1,761,353	930,323	89.3
U.S. total [3]	1,032,586	566,260	82.4	[1] 1,784,332	954,191	87.0

[1] Preliminary total 1,797,061.
[2] Payment for unemployed under regular State program excluding data for sugarcane workers.
[3] Sugarcane workers only.

ES-213 REPORT CLAIMS AND PAYMENTS ACTIVITIES STATE UI, NUMBER OF FINAL PAYMENTS FOR ALL UNEMPLOYMENT, PERIOD ENDING AUGUST 1971

State	Current period				Year ago period				Percent change from month ago	Percent change from year ago
	June 1971	July 1971	August 1971	June–August 1971	June 1970	July 1970	August 1970	June–August 1970		
Alabama	1,980	2,068	2,039	6,087	1,644	1,898	1,726	5,268	−1.4	15.5
Alaska	507	331	328	1,166	254	204	194	652	−.9	78.8
Arizona	868	725	787	2,380	477	480	515	1,472	8.6	61.7
Arkansas	1,308	1,299	1,050	3,657	1,073	1,326	868	3,267	−19.2	11.9
California	36,423	23,965	29,681	90,069	22,305	15,969	20,950	59,224	23.9	52.1
Colorado	427	466	402	1,295	288	325	343	956	−13.7	35.5
Connecticut	0	0	0	0	2,058	2,793	2,235	7,086	.0	−100.0
Delaware	448	487	407	1,342	290	168	382	840	−16.4	59.8
District of Columbia	581	535	460	1,576	332	365	328	1,025	−14.0	53.8
Florida	3,623	4,008	3,716	11,347	2,604	2,945	2,835	3,384	−7.3	31.1
Georgia	2,503	2,795	2,192	7,490	1,764	2,407	1,798	5,969	−21.6	21.9
Hawaii	661	789	816	2,266	234	373	323	930	3.4	100.0
Idaho	561	402	313	1,276	421	440	244	1,105	−22.1	28.3
Illinois	9,052	8,594	8,572	26,218	5,524	5,661	5,747	16,932	−.3	48.2
Indiana	5,641	3,347	3,183	12,171	3,495	3,822	2,747	10,064	−4.9	15.9
Iowa	1,815	1,506	1,402	4,723	1,158	1,331	979	3,468	−6.9	43.2
Kansas	1,581	2,043	1,531	5,155	1,143	1,477	1,603	4,223	−25.1	−4.5
Kentucky	1,582	1,767	1,867	5,216	1,686	1,377	1,439	4,502	5.7	29.7
Louisiana	2,695	3,008	2,625	8,326	2,277	2,822	2,740	7,839	−12.7	−4.2
Maine	1,473	1,246	1,213	3,932	718	773	678	2,169	−2.6	78.9
Maryland	1,989	2,420	2,114	6,523	1,152	1,674	1,108	3,934	−12.6	90.8
Massachusetts	10,086	7,700	8,062	25,843	3,720	4,194	4,422	12,336	4.7	82.3
Michigan	9,831	7,895	8,896	26,622	7,108	6,536	6,278	19,922	12.7	41.7
Minnesota	3,785	2,724	2,532	9,041	2,102	1,871	1,684	5,657	−7.0	59.4
Mississippi	781	783	758	2,332	772	821	697	2,290	−4.4	8.8
Missouri	3,176	3,615	2,818	9,609	2,623	2,335	2,051	7,009	−22.0	37.4
Montana	510	395	359	1,264	433	447	287	1,167	−9.1	25.1
Nebraska	606	623	508	1,737	416	496	373	1,285	−18.5	36.2
Nevada	818	753	638	2,209	410	460	439	1,309	−15.3	45.3
New Hampshire	6	0	0	6	1	2	2	5	0	−100.0
New Jersey	0	0	0	0	4,831	5,181	4,359	14,371	0	−100.0

ES-213 REPORT CLAIMS AND PAYMENTS ACTIVITIES STATE UI, NUMBER OF FINAL PAYMENTS FOR ALL UNEMPLOYMENT, PERIOD ENDING AUGUST 1971—Continued

State	Current period				Year ago period				Percent change from month ago	Percent change from year ago
	June 1971	July 1971	August 1971	June–August 1971	June 1970	July 1970	August 1970	June–August 1970		
New Mexico	444	434	449	1,327	314	401	352	1,067	3.5	27.6
New York	18,137	20,398	18,965	57,500	8,684	10,227	9,419	28,330	−7.0	100.0
North Carolina	2,463	2,457	2,139	7,059	1,766	1,828	1,636	5,230	−12.9	30.7
North Dakota	240	134	167	541	154	60	66	280	24.6	100.0
Ohio	6,800	6,247	5,584	18,631	3,071	3,293	3,161	9,525	−10.6	76.7
Oklahoma	1,970	1,815	1,650	5,435	909	1,038	1,012	2,959	−9.1	83.0
Oregon	2,003	1,308	1,595	4,906	1,467	1,728	1,442	4,637	22.3	10.7
Pennsylvania	7,712	6,962	7,761	22,435	3,246	3,602	3,884	10,732	11.5	99.8
Rhode Island	1,673	1,727	0	3,400	819	1,091	930	2,840	−100.0	−100.0
South Carolina	1,491	1,772	1,664	4,927	1,212	51	1,532	2,795	−6.1	8.9
South Dakota	94	141	95	330	108	123	101	332	−32.6	−5.9
Tennessee	3,278	2,947	2,546	8,771	2,624	2,776	2,511	7,861	−13.6	1.4
Texas	4,973	4,981	4,682	14,636	2,745	3,515	3,228	9,488	−6.0	45.0
Utah	591	556	530	1,677	517	484	405	1,406	−4.7	30.9
Vermont	521	449	399	1,369	139	178	183	500	−11.1	100.0
Virginia	1,261	1,303	990	3,554	824	1,122	892	2,838	−24.0	11.0
Washington	8,616	8,624	8,154	25,394	896	3,717	5,217	9,830	−5.4	56.3
West Virginia	572	702	532	1,806	583	746	642	1,971	−10.0	−1.6
Wisconsin	2,494	2,219	1,904	6,617	1,420	1,288	1,062	3,770	−14.2	79.3
Wyoming	93	62	53	208	65	59	24	148	−14.5	100.0
Puerto Rico	3,520	3,343	4,163	11,026	3,639	3,628	3,284	10,551	24.5	26.8
Do	36	73	17	126	22	62	1	85	−76.7	100.0
Do	3,556	3,416	4,180	11,152	3,661	3,690	3,285	10,636	22.4	27.2
Virgin Islands	0	0	0	0	0	0	0	0	0	0
U.S. total/2	[1] 174,263	[2] 154,876	[3] 153,393	482,532	108,515	111,878	111,699	332,092	−1.0	37.3
U.S. total/2	174,299	154,949	153,410	482,658	108,537	111,940	111,170	332,177	−1.0	37.3

[1] June excludes Connecticut and New Jersey.
[2] July excludes Connecticut, New Hampshire, and New Jersey.
[3] September excludes Connecticut, New Hampshire, New Jersey, and Rhode Island.

Note: The 1st Puerto Rico and U.S. totals include data under regular State program excluding data for sugarcane workers. 2d totals for Puerto Rico present data for sugarcane workers only. 2d U.S. totals include Puerto Rico data for both regular State and sugarcane worker programs. 3d set of data for Puerto Rico includes both regular State program and sugarcane workers.

Source: Prepared for U.I.S., division of determinations and hearings.

ADDITIONAL REPORT OF A COMMITTEE

The following additional report of a committee was submitted:

By Mr. MOSS for Mr. HART. From the Committee on Commerce.

S. 2824. An original bill to regulate interstate commerce by amending the Federal Food, Drug, and Cosmetic Act to provide for the inspection of facilities used in the harvesting and processing of fish and fishery products for commercial purposes, for the inspection of fish and fisheries products, and for cooperation with the states in the regulation of intrastate commerce with respect to State fish inspection programs, and for other purposes (S. Rep. No. 92-435) together with minority views. Placed on the calendar.

FEDERAL DEFICITS, 1963 TO 1972

Mr. BYRD of Virginia. Mr. President, during the 10-year period from fiscal year 1963 through fiscal year 1972, the Government has run a Federal funds deficit of $151 billion.

The significant part about these figures, aside from the astonishing total, is that more than one-half of this tremendous deficit has occurred in the last 3 fiscal years, including the fiscal year we are now in.

I have prepared two fiscal tables, one showing the U.S. gold holdings, total reserve assets, and liquid liabilities to foreigners, and the other showing deficits in Federal funds and interest on the national debt, 1963 to 1972, inclusive.

I ask unanimous consent that these tables be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FISCAL TABLES (OCTOBER 1971)

TABLE 1.—U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS, AND LIQUID LIABILITIES TO FOREIGNERS (SELECTED PERIODS)

[In billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
1957	22.8	24.8	15.8
1970	10.7	14.5	43.3
August 1971	10.1	12.1	[1] 46.0

[1] Estimated figure.

Source: U.S. Treasury Department.

TABLE 2.—DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1963 TO 1972 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Deficit (−)	Debt interest
1963	83.6	90.1	−6.5	10.0
1964	87.2	95.8	−8.6	10.7
1965	90.9	94.8	−3.9	11.4
1966	101.4	106.5	−5.1	12.1
1967	111.8	126.8	−15.0	13.5
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1970	143.2	156.3	−13.1	19.3
1971	133.6	163.8	−30.2	20.8
1972[1]	143.0	178.0	−35.0	21.2
10-year total	1,152.7	1,304.0	151.3	150.2

[1] Estimated figures.

Source: Office of Management and Budget, except 1972 estimates.

EXTENSION OF TIME IN WHICH TO FILE COMMITTEE REPORTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Committee on Commerce have until midnight tonight to file certain committee reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9:45 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR RECOGNITION OF SENATORS, TRANSACTION OF ROUTINE BUSINESS, AND EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that after the recognition of the two leaders tomorrow, the distinguished Senator from California (Mr. TUNNEY) be recognized for not to exceed 15 minutes, and that he be followed by the distinguished Senator from Virginia (Mr. SPONG) for not to exceed 15 minutes, at the conclusion of which time there be a period for the transaction of routine morning business for not to exceed 15 minutes; with a 3-minute limitation on statements made therein, that following which the Senate go into executive session, and that at that time the chair lay before the Senate Executive Calendar No. 11, Executive J, 92d Congress, first session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 9 A.M. ON WEDNESDAY, NOVEMBER 10, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 9 a.m. on Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR HARRIS ON WEDNESDAY

Mr. BYRD of West Virginia. I ask unanimous consent that following the recognition of the two leaders on Wednesday, the distinguished senior Senator from Oklahoma (Mr. HARRIS) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will meet at 9:45 a.m.

After the two leaders have been recognized, Senator TUNNEY and Senator SPONG will be recognized, each for not to exceed 15 minutes and in that order, following which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with a 3-minute limitation on statements, at the conclusion of which the Senate will go into executive session and the Chair will lay before the Senate Executive J, 92d Congress, first session, the so-called Okinawa Treaty.

Debate is expected to be concluded on that treaty tomorrow.

ADJOURNMENT UNTIL 9:45 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9:45 a.m. tomorrow.

The motion was agreed to; and (at 8 o'clock and 45 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, November 9, 1971, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate November 8, 1971:

U.S. REPRESENTATIVE ON THE COUNCIL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

Mrs. Betty Crites Dillon, of Indiana, the representative of the United States of America on the Council of the International Civil Aviation Organization, to serve on the Council with the rank of Minister.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenants

Abram Y. Bryson, Jr.
Warren K. Taguchi

CONFIRMATIONS

Executive nominations confirmed by the Senate November 8, 1971:

IN THE COAST GUARD

The nominations beginning Herbert H. Mulvany, to be captain, and ending David C. Jeffrey, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 28, 1971.

U.S. DISTRICT COURTS

William J. Bauer, of Illinois, to be a U.S. district judge for the northern district of Illinois.

U.S. ATTORNEYS

James R. Thompson, Jr., of Illinois, to be U.S. attorney for the northern district of Illinois for the term of 4 years.

Herbert J. Stern, of New Jersey, to be U.S. attorney for the district of New Jersey for the term of 4 years.

U.S. MARSHAL

Thomas E. Ferrandina, of New York, to be U.S. marshall for the southern district of New York for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Monday, November 8, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Lord teach us to pray, and He said unto them, *When you pray, say, Our Father.*—Luke 11: 1,2.

With the coming of another week, our Father, we pause at the altar of prayer, founded by our fathers, that we may be strengthened with might by Thy spirit to face the tasks of these hours with faith and hope and love. We rejoice and our hearts take courage when we consider our faith in freedom and we pray that now and always we may have freedom to have faith and to pray as we desire.

Bless our President, our Speaker, Members of Congress, and all who labor with them. Gird them with cheerful courage and inspiring insight that they may highly resolve that this white-domed Capitol may be the symbol not only of material might but of reality in religion proclaiming to all men the moral and spiritual resources upon which our freedoms rest and without which they disintegrate and disappear.

Unite our Nation in freedom and with good will that we may open the gates to a better life for our people and for all mankind. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

PRAYER AMENDMENT

Mr. WYLIE. Mr. Speaker, pursuant to clause 4, rule XXVII, I call up motion No. 1 to discharge the Committee on the Judiciary from the further consideration of House Joint Resolution 191, a proposed amendment to the Constitution of the United States relative to the offering of prayer in public buildings.

The SPEAKER. Did the gentleman sign the motion?

Mr. WYLIE. Yes, Mr. Speaker, I signed the motion.

The SPEAKER. The gentleman from Ohio calls up a motion to discharge the Committee on the Judiciary from the further consideration of the joint resolution (H.J. Res. 191) which the Clerk will report by title.

The Clerk read the title of the joint resolution.

CALL OF THE HOUSE

Mrs. ABZUG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 364]

Alexander	Edwards, La.	Obey
Ashley	Erlenborn	Pelly
Barrett	Foley	Pickle
Belcher	Ford,	Pryor, Ark.
Bell	William D.	Roe
Bevill	Grasso	Roy
Blaggi	Gray	Ruppe
Brasco	Green, Oreg.	Scheuer
Broomfield	Green, Pa.	Skubitz
Caffery	Gubser	Stanton,
Camp	Gude	J. William
Chappell	Halpern	Stanton,
Clark	Harvey	James V.
Clay	Hawkins	Steele
Cotter	Helstoski	Steiger, Wis.
Crane	Hull	Stephens
Davis, Wis.	Lloyd	Stokes
Dent	Long, La.	Stuckey
Diggs	McMillan	Tiernan
Dorn	Minshall	Vigorito
Dowdy	Mosher	Wilson, Bob
Dulski	Nichols	

The SPEAKER. On this rollcall 365 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amend-

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ment a bill of the House of the following title:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1483) entitled "An act to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. MCGOVERN, Mr. ALLEN, Mr. MILLER, and Mr. BELLMON to be the conferees on the part of the Senate.

PRAYER AMENDMENT

The SPEAKER. Under the rule, the gentleman from Ohio (Mr. WYLIE) will be recognized for 10 minutes, and the gentleman from New York (Mr. CELLER) will be recognized for 10 minutes.

The Chair now recognizes the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, on June 25, 1962, the Supreme Court of the United States decided Engel against Vitale which, for all practical purposes, voided school prayer. At least that is what most people in the United States felt. The banner headline in the Columbus Dispatch on that day said "Supreme Court Voids School Prayer."

The actual holding of the Court in *Engel* v. *Vitale*, 370 U.S. 421 (1962), was that the prohibition of the first amendment respecting the establishment of a religion, which was made applicable to the States by the 14th amendment, made unconstitutional the saying of a prayer even though denominationally neutral and pupils who wish to do so may remain silent or be excused from the room while the prayer is being recited, if that prayer was composed and required by a State board of regents.

That decision, I submit, was wrong as a matter of constitutional law in that it placed the atheist and believer in a supreme deity in the same category in applying the first amendment. And, as later events proved, it voided what most people thought was a constitutional practice for 171 years. Some constitutional lawyers and others felt that the decision was correct in that it held only that a prayer prescribed by the State was unconstitutional. I might add that the prayer in that case was composed by a Jewish rabbi, a Catholic priest, and a Protestant minister. That prayer was "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country."

The people who felt that the Supreme Court had wrongly decided did not have to wait long before their fears were verified. In Abington against Schempp, the Supreme Court struck down laws in Pennsylvania and Maryland providing for classroom Bible reading without comment, again because the practice was provided for by a State law.

It was about this time that the Judiciary Committee commenced hearings following the filing of a discharge petition by former Congressman Frank Becker which had received 186 signatures. The Judiciary Committee staff which conducted a study on this issue pointed to the Stein against Oshinsky case which had just been decided by a trial court in New York and upheld the right of children to recite voluntarily two simple children's prayers, one of which was "Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything."

The staff study in 1964 said that it might be well to consider whether to wait further clarification by the Supreme Court before acting on these proposals to amend the Constitution because of the decision in the Stein case. A short time later, however, the U.S. Court of Appeals held the practice unconstitutional, even though the prayers were found to be student initiated.

Two years later, the DeKalb case was decided in Illinois. Again, the trial court held that a schoolteacher could ask her students to recite a prayer prior to their morning milk and cookies. Again, it was the same prayer as was mentioned in the Stein case, "Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything."

After the Stein case, the teacher, Mrs. Watne, left out the word "God," thinking this would comply with the holding of the Stein case. Again, the Federal Court of Appeals for Illinois reversed the decision and said a teacher could not require children in her class to recite prayers prior to their morning snack—a prayer, however innocuous and however much social value it might have in teaching "good manners" and "gratitude," to use Mrs. Watne's words, is unconstitutional in this setting.

A more recent example of the legal principle formulated in Engel, carried to its logical extreme, came after the board of education of Netcong, N.J., authorized the superintendent of schools to provide "a period of free exercise of religion" for students who wished to participate in a voluntary prayer. It was decided the students could arrive early and gather in the gymnasium. A voluntary student reader was selected on a first come-first serve basis to read the remarks of the Chaplain from the CONGRESSIONAL RECORD. To make a long story short, the Supreme Court of New Jersey held that this was an unconstitutional practice, in violation of the establishment clause of the first amendment, and certiorari was denied by the Supreme Court of the United States. This is the ludicrous extreme to which we have arrived about this matter of prayer in public schools, and that is why we need House Joint Resolution 191 to clarify the situation.

Mr. Speaker, I respectfully urge you to support the discharge motion; to vote the motion for immediate consideration; to support the previous question; and to vote for the amendment.

The SPEAKER. The Chair recognizes the gentleman from New York (Mr. CELLER).

Mr. CELLER. Mr. Speaker, I rise in opposition to the motion to discharge the Judiciary Committee.

In 1964 the committee held extensive hearings on 35 different forms of the so-called prayer resolutions, some quite similar to the one now pending before this House. These hearings, which extended over a 3-month period, were deemed to be of such importance that they were held before all the 35 members of the full committee, sitting en banc.

Over 200 witnesses were heard from all walks of life: Congressmen, professors, theologians, educators, constitutional law experts, church leaders, and concerned citizens. In printed form the hearings comprise three volumes totaling 2,774 pages and constituted the most exhaustive and comprehensive investigation ever made of the subject. Copies of these hearings have been distributed to all Members in recent weeks.

The various groups and organizations who opposed the prayer amendments in 1964, today, 7 years later, still are of the same mind. Nearly all the major religious denominations, over 38 of them—Methodist, Catholic, Baptist, Presbyterian, Episcopalian, United Church of Christ, Quaker, and major Jewish groups—oppose House Joint Resolution 191. Three hundred and forty-three law professors and constitutional lawyers have signed a statement in opposition. Thirty presidents of theological seminaries, and deans of divinity schools are in opposition. Leading educators oppose it, for instance, Francis Keppel, former U.S. Commissioner of Education, and Harvey B. Scribner, chancellor of New York City public schools. All of these people are thoughtful members of our national community with highly regarded reputations. They are sincerely concerned at the danger of tampering with the first amendment. Additionally, thousands of concerned citizens have communicated to me and to all of you, I am sure, their opposition to this amendment.

The 1964 hearings convinced me, and, I believe, also convinced the other members of the committee, at that time, that appropriate language could not be devised without doing violence to the first amendment and our freedom of religion which we all so dearly cherish.

Mr. Speaker, if 35 distinguished lawyers, after hundred of hours of testimony could not write acceptable language, how can this House, in a scant 1 hour of debate do so?

Let us take House Joint Resolution 191 and examine it briefly. What does "lawfully assembled" mean? What about "supported in whole or in part through the expenditure of public funds?" To what degree "in part?" And, of course, "nondenominational." Does anyone, or can anyone, know what this means?

Let us remember that this is a constitutional amendment we are writing.

If the committee system has any merit at all its merit is manifest where, as here, we deal with the Constitution of the United States. Amendment of the Constitution, can never be undertaken lightly. Each word must be weighed with precision for all possible meanings and implications, taken in conjunction with all other words used and in conjunction with already existing constitutional law. This calls for an understanding and knowledge not only of case law but also of the history of the law and its philosophy.

In short, the addition of a single word may give an entire sentence a meaning not readily apparent and perhaps not wholly intended. We must always go back to the original fashioning of the text. Obviously, Mr. Speaker, the floor of the House is not the place to write constitutional amendments and I urge all my colleagues to vote against discharging the committee.

The SPEAKER. Does the chairman desire to yield time at this time?

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, the question is: Shall the House Judiciary Committee be discharged of its functions and shall the House thereafter proceed to amend the Constitution of the United States, the first amendment to the Constitution of the United States, after 1 hour of controlled debate? To that question there is but one responsible answer, and that is "No," it should not.

The sponsors of this amendment say that its purpose is to authorize but not to require nondenominational or perhaps voluntary prayer in public schools. The sponsors say that its purpose is to overturn the result of Engel against Vitale. In that case Members will recall that the school board prescribed the text of the prayer to be recited in class.

How many Members wish to grant Government the right to prescribe the text of a prayer to be recited before young and impressionable children assembled in public schools? That is to concede an enormous power to Government, a power that Government does not now possess.

Of course, Government can be fair. Government can be benevolent. But it has not always been so. Government has been bigoted. Government has been intolerant in the past. This is not the time to gamble about the future attitude of Government. Freedom can only be assured if Government stays out of the business of authorizing prayers in public schools.

Many harbor the mistaken belief that the Supreme Court has outlawed prayers in public schools. It has not. Individuals if they wish may now engage singly or in groups in prayer in public schools or other public buildings without violating the Constitution, subject only to a very few limitations. The religious exercises obviously must not interfere with school's secular activities; the activity must not be sponsored by, or appear to be sponsored by, the governing body; and the activity must be truly voluntary.

That is the law now and that is the law which the amendment seeks to change.

Any change involving Government in the business of religion is not a change for the better.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, there has been some word stretching in recent days, particularly by the liberal press. We are being told the Supreme Court's ruling on prayer does not necessarily mean a ban on prayer and on the teaching of religion in the schools. Whatever the wording, that is what the ruling did. It put a stop to prayer in the schools.

From the same sources, and some that are more reliable, you are being warned against damage to freedom of speech and to the first amendment. It occurs to me there is such a thing as too much freedom of speech. The same Court which stopped prayer in the schools has said the news media can lie about you with absolute immunity. It has said a Communist-oriented newspaper can publish any secrets it can buy or steal without regard to the danger to national security. Crime is rampant, and the people look at rulings of the Court which make it almost impossible to convict criminals but disregard the rights of the law abiding. Permissiveness has become the order of the day. It is not a wholesome situation.

This is the freedom of speech you are being asked to protect when you uphold the Supreme Court decision against prayer. If you are one of those who plan to vote against the prayer amendment today, I want to be around to hear you explain to your constituents your vote against prayer to God and for the Court.

The rank and file of Americans know the importance of, appreciate, and want religion in their lives and in the schools.

No less a person than George Washington said in his Farewell Address:

Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

He also said:

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports.

I think it appropriate now on this date to realize how much religion also is needed in and out of the schools. Regardless of how you frame it, the effects of the Court's ruling has been to kill prayer in the schools. This is not good for a nation which always has accepted religion as one of its foundation stones.

That is why I rise in full support to the constitutional amendment which will restore for millions of America's youth now and in the future the unchallenged right to prayer in the schools. In reality it is said that we have come to this. For nearly 200 years there was no question of this right. Certainly the framers of the Constitution had no such prohibition in mind when they set down the words which have guided this Nation for so long.

But because of the efforts of atheists, the question did come before the Supreme Court and, rightly or wrongly, the Court's ruling has had the effect of killing prayer in the schools. It is ironical that despite this situation, the Court itself, as well as the House and Senate, open each day with a prayer.

Now we have come to the time to restore through amendment that right which many of us believe was taken from our children wrongfully. Let us pass this amendment forthwith and send it to the States for ratification.

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. BOGGS).

Mr. BOGGS. Mr. Speaker, I think it is significant that among the 218 distinguished Members of this body who originally signed the discharge petition, a number of them have expressed to me very grave misgivings about having done so—not that they are against prayer or that I am against prayer, or that anyone who may vote in the negative here today is against prayer, but because they find, as the gentleman from California (Mr. WIGGINS) pointed out so ably here a moment ago, that we are indeed tampering, with 1 hour of debate, with our Bill of Rights.

It took us a long time to get a Bill of Rights. It comes after many years of struggle. Yet the Bill of Rights was essential to the ratification of the Constitution.

The men who wrote our Constitution were painfully aware of the need for the separation of church and state. History afforded them many examples of what can happen when the state meddles in religious issues or when the church becomes involved in secular matters. Virginia and Massachusetts had both been the scene of religious persecution. In Virginia, the persecution of Baptist ministers had led Thomas Jefferson to draft the Virginia Statute of Religious Freedom, which provides, in part:

That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or goods . . . or otherwise suffer . . . on account of his religious opinions or belief.

The solution of our forefathers to the problem of church and state was to establish an inviolable principle of separation. The principle emerges in both article VI and in the first clause of the first amendment of our Bill of Rights.

Throughout our history, we have sought to expand, rather than qualify, the rights, privileges, and immunities guaranteed under the Bill of Rights. Today, we are asked to qualify for the first time a first amendment freedom and to depart from the time-honored principle of separation of church and state.

Mr. Speaker, I recognize the value of prayer and appreciate the motives of those who are proposing this amendment.

Unfortunately, I believe, the amendment poses dangers far outweighing its virtues.

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Speaker, if the opportunity presents itself subsequently, would the gentleman from Louisiana vote to expand the time for debate?

Mr. BOGGS. Mr. Speaker, at this time I do not believe I would. No, I think the

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issue is understood. These words we have before us are the ones that the 218 Members who signed the petition, considered long and hard before signing. The whole idea of tinkering with the Bill of Rights to the Constitution of the United States, after all the blood it required to get that Bill of Rights, is something we should think long and hard about.

I am impressed with the comments of the religious leaders, who are in opposition, just read by the distinguished chairman, the gentleman from New York.

Mr. Speaker, the amendment is opposed by most of the major religious bodies in the United States. These groups include: The U.S. Catholic Conference—the national action agency of the Roman Catholic bishops—the United Presbyterian Church, the Presbyterian Church in the United States, the Lutheran Church-Missouri Synod, the American Lutheran Church, the Luthern Church in America, the National Council of Churches, the Southern Baptist Convention, the American Baptist Convention, the Unitarian Universalist Association, the United Church of Christ, the Church of the Brethren, the United Methodist Church, the Protestant Episcopal Church, the Mennonite Central Committee, and the joint advisory committee of the Synagogue Council of America, and the National Jewish Relations Advisory Council, which includes all of the major Jewish secular and religious bodies.

If the Protestant congregations, the Jewish congregations, and the Catholic congregations are opposed, I do not believe, in the matter of prayer, which involves the most sacred thing in all these congregations, that we should presume to put our will ahead of all these expressions that we have had.

Their opposition must be considered along with, of course, the opposition of very distinguished constitutional lawyers and law school deans from all over the country.

So I hope, Mr. Speaker, we will think about this at great length; that we will recognize the fact that the Judiciary Committee heard countless witnesses just a few days ago; that this is not an issue that can be resolved in this fashion. I hope the proposal to amend the first amendment and the Constitution of the United States will be voted down.

The SPEAKER. The gentleman from Ohio has 4 minutes remaining.

Mr. WYLIE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I very deeply respect the sincerity of those who oppose this action today, and their opposition in some cases gives me some trepidation. And yet I simply cannot embrace their apprehensions nor agree with their conclusions.

If, as some declare, this constitutional amendment would merely reinforce what the courts have held, then clearly it does no harm. And if it serves to clarify and thus dispel the clouds of confusion that have surrounded this subject in the wake of the Supreme Court ruling of 1962 and subsequent rulings, then it does some good.

The great problem is that nobody can be absolutely certain as to just how far those rulings go.

The late Mr. Justice Black, speaking for the Court in 1962, referred repeatedly to the use of an official prayer. His opinion, carefully read, would seem not to outlaw prayer but merely to prohibit any State from writing an official prayer and requiring it to be said in the public schools. With that I would have no quarrel whatever.

But Justice Douglas, in a concurring opinion, went much further. His statement could be interpreted to mean that we cannot have prayers of any sort in public schools. That conclusion, of course, would disrupt longstanding practices in almost every State of the Union.

The resulting confusion has, in fact, profoundly disrupted tradition. School boards and local administrators in many areas, uncertain of the Court's meaning and fearful of possible judicial reprisals, have ordered the discontinuance of any public prayers.

Not only in our schools but in every institution of our public life has the tradition of prayer been sanctified.

When the Constitutional Convention was deadlocked, Benjamin Franklin asked his fellow delegates to pause in their deliberations and offer prayer for divine guidance.

The Congress, as all of us know, begins its daily sessions with prayer in both House and Senate.

The Supreme Court itself, since the days of John Marshall, has opened each day's deliberations with the supplication, "God, save the United States and this Honorable Court."

Our very coinage carries the words, "In God We Trust."

The President takes his oath of office with his hand upon the Holy Bible.

The oaths taken by naturalized citizens, by public officials, and by witnesses in our courts, end with the words, "So help me God."

The recognition and supplication of deity is thus inherent in almost every phase of our public life.

Apparently speaking of these practices, Justice Douglas expressed his opinion that "it is an unconstitutional undertaking whatever form it takes." I think Justice Douglas is wrong in his interpretation of the Constitution. So, I believe, do most of my colleagues. So, I earnestly hope and trust, do most of his colleagues on the Supreme Court.

To make sure that we protect the rights of children to have voluntary prayers in their schools, this amendment merely would forbid the prohibition of such prayers. It would not require prayer. It would merely permit it.

Like most of you, I am a product of the public schools. During my days as a student, there was a practice of permitting one student each morning to lead the group in a brief devotional of his own composition. I think it was an excellent practice and an enriching experience. I cannot believe that it did any harm to anyone.

This question goes to the very heart of one of the most fundamental of our national doctrines—the separation of church and state as guaranteed in the first amendment to the Constitution.

One of my colleagues once facetiously remarked that he not only believes in the separation of church and state, but practices it. "Since I have been in Congress, I have not been to church," he quipped. That, of course, is not what is meant by the doctrine of separation. The first amendment directs that:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

What this means is that Congress and State legislatures are prohibited from establishing a state church. In other words, so far as Government is concerned, there is to be no single "official" church or creed.

There is to be no religious examination as a prerequisite for citizenship, for voting, or for holding office. Protestant, Catholic, Jew, Hindu, Moslem, Buddist, atheist—are all equally entitled under the law to their individual beliefs and to the equal protection of our laws.

The first amendment did not mean, however, that there is to be no religion, or no religious prayer or expression in public places.

Jefferson and Madison fought for freedom of religion, not for prohibition of religion.

Lincoln spoke of "this Nation under God."

The very first sentence in our Declaration of Independence speaks of "Nature's God." The last sentence asserts "a firm reliance on the protection of Divine Providence." So our charter document begins and ends. And upon this, our Nation was founded.

While we must forever respect and assiduously protect the rights of all who disagree and must never require the minority to embrace the opinion of the majority, the fact remains that this Nation in solemn truth does believe in God. While the majority must respect the rights of the minority, the minority must also respect the rights of the majority.

If you and I should move to France, we might have conscientious objections to speaking the French language; but we certainly could not expect Frenchmen to stop speaking French just to accommodate our consciences.

And neither should those who do not want any prayers or supplication of deity in our schools or other public places expect the great majority of us to abandon these long-established practices simply to accommodate them. For a belief in God was the view of the universe upon which as a matter of historical fact this Nation was founded.

Many dedicated churchmen oppose this amendment. I have read their statements and respect their opinions. But I am more greatly impressed by the simple words of the Carpenter of Galilee who said:

Suffer the little children to come unto me, and forbid them not, for of such is the Kingdom of Heaven.

When our forefathers had little for which to be thankful—except that they were alive and the fields had yielded harvest for the winter—they proclaimed a day of public thanksgiving.

Perhaps we, with many times more for which to be thankful, should follow their example.

This amendment seems to me fully consistent with the finest traditions of American public life.

It seems consonant with the wishes and desires of most of our people.

It seems harmonious with the doctrine of separation as most of us have understood it.

For these reasons, I shall support it.

The SPEAKER. All time has expired.

The question is on the motion offered by the gentleman from Ohio (Mr. WYLIE) to discharge the Committee on the Judiciary from the further consideration of House Joint Resolution 191.

The question was taken; and the Speaker announced that the Chair was in doubt.

Mr. FLYNT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 242, nays 157, not voting 32, as follows:

[Roll No. 365]

YEAS—242

Abbitt	Eshleman	McKinney
Abernethy	Evins, Tenn.	Macdonald, Mass.
Addabbo	Fisher	Mahon
Andrews, Ala.	Flood	Mann
Andrews, N. Dak.	Flowers	Martin
Archer	Flynt	Mathias, Calif.
Arends	Ford, Gerald R.	Mathis, Ga.
Ashbrook	Fountain	Melcher
Baker	Frey	Metcalfe
Baring	Fuqua	Michel
Bennett	Galifianakis	Miller, Ohio
Bergland	Garmatz	Mills, Md.
Betts	Gaydos	Mizell
Biaggi	Gettys	Moliohan
Blackburn	Giaimo	Monagan
Blanton	Goldwater	Montgomery
Bow	Goodling	Morgan
Bray	Grasso	Murphy, Ill.
Brinkley	Gross	Murphy, N.Y.
Broomfield	Grover	Myers
Brotzman	Hagan	Natcher
Brown, Ohio	Haley	Nelsen
Broyhill, N.C.	Hall	O'Konski
Broyhill, Va.	Hammer-schmidt	O'Neill
Buchanan	Hanley	Perkins
Burke, Fla.	Haraha	Pettis
Burke, Mass.	Hastings	Pike
Burleson, Tex.	Hays	Pirnie
Byrne, Pa.	Hébert	Poage
Byrnes, Wis.	Hechler, W. Va.	Powell
Byron	Heckler, Mass.	Price, Ill.
Cabell	Heinz	Price, Tex.
Camp	Henderson	Pucinski
Carney	Hicks, Mass.	Purcell
Carter	Hicks, Wash.	Quie
Casey, Tex.	Hillis	Quillen
Cederberg	Hogan	Railsback
Chamberlain	Horton	Randall
Chappell	Hosmer	Rarick
Clancy	Howard	Rhodes
Clark	Hunt	Riegle
Clausen, Don H.	Ichord	Roberts
Clawson, Del	Jacobs	Robinson, Va.
Cleveland	Jarman	Roe
Collier	Johnson, Pa.	Rogers
Collins, Tex.	Jonas	Roncalio
Colmer	Jones, N.C.	Rooney, Pa.
Conte	Jones, Tenn.	Rostenkowski
Cotter	Kazen	Rousselot
Coughlin	Keating	Runnels
Daniel, Va.	Kee	Ruppe
Davis, S.C.	Kemp	Ruth
Davis, Wis.	King	St Germain
de la Garza	Kuykendall	Sandman
Delaney	Kyl	Sarbanes
Denholm	Kyros	Saylor
Dennis	Landgrebe	Scherle
Devine	Latta	Scheuer
Dickinson	Lennon	Schmitz
Donohue	Lent	Schneebeli
Downing	Link	Scott
Dulski	Lujan	Sebelius
Duncan	McClure	Shipley
Dwyer	McCollister	Shoup
Edmondson	McDade	Shriver
Edwards, Ala.	McDonald, Mich.	Sikes
Esch	McEwen	Slack
		Smith, Calif.
		Snyder
		Spence
		Springer
		Staggers
		Steed
		Steele
		Steiger, Ariz.
		Stratton
		Stubblefield
		Stuckey
		Sullivan
		Taylor
		Teague, Calif.
		Teague, Tex.
		Terry
		Thompson, Ga.
		Thomson, Wis.
		Thone
		Vander Jagt
		Veysey
		Waggonner
		Wampler
		Whalley
		White
		Whitehurst
		Whitten
		Widnall
		Williams
		Winn
		Wright
		Wyatt
		Wydler
		Wylie
		Wyman
		Yatron
		Young, Fla.
		Young, Tex.
		Zablocki
		Zion
		Zwach

NAYS—157

Abourezk	Ford, William D.	Moorhead
Absug	Forsythe	Morse
Adams	Fraser	Mosher
Alexander	Frelinghuysen	Moss
Anderson, Calif.	Frenzel	Nedzi
Anderson, Ill.	Fulton, Tenn.	Nix
Anderson, Tenn.	Gallagher	Obey
Annunzio	Gibbons	O'Hara
Ashley	Gonzalez	Passman
Aspin	Green, Pa.	Patman
Aspinall	Griffin	Patten
Badillo	Griffiths	Pepper
Begich	Gude	Peyser
Biester	Hamilton	Podell
Bingham	Hanna	Poff
Blatnik	Hansen, Idaho	Preyer, N.C.
Boggs	Hansen, Wash.	Rangel
Boland	Harrington	Rees
Bolling	Hathaway	Reid, N.Y.
Brademas	Hawkins	Reuss
Brasco	Helstoski	Robison, N.Y.
Brooks	Holifield	Rodino
Brown, Mich.	Hungate	Rooney, N.Y.
Burlison, Mo.	Hutchinson	Rosenthal
Burton	Johnson, Calif.	Roush
Carey, N.Y.	Jones, Ala.	Roy
Celler	Karth	Roybal
Chisholm	Kastenmeier	Ryan
Clay	Keith	Satterfield
Collins, Ill.	Kluczynski	Schwengel
Conable	Koch	Selberling
Conyers	Landrum	Sisk
Corman	Leggett	Smith, Iowa
Culver	Long, Md.	Smith, N.Y.
Daniels, N.J.	McClory	Stanton, James V.
Danielson	McCloskey	Steiger, Wis.
Davis, Ga.	McCormack	Stephens
Dellenback	McCulloch	Stokes
Dellums	McFall	Symington
Dingell	McKay	Talcott
Dorn	McKevitt	Thompson, N.J.
Dow	Madden	Udall
Drinan	Mailliard	Ullman
du Pont	Matsunaga	Van Deerlin
Eckhardt	Mayne	Vanik
Edwards, Calif.	Mazzoli	Waldie
Eilberg	Meeds	Whalen
Evans, Colo.	Mikva	Wiggins
Fascell	Miller, Calif.	Wilson, Charles H.
Findley	Mills, Ark.	Wolff
Fish	Minish	Yates
Foley	Mink	
	Mitchell	

NOT VOTING—32

Barrett	Erlenborn	Nichols
Belcher	Gray	Pelly
Bell	Green, Oreg.	Pickle
Bevill	Gubser	Pryor, Ark.
Caffery	Halpern	Skubitz
Crane	Harvey	Stanton, J. William
Dent	Hull	Tiernan
Derwinski	Lloyd	Vigorito
Diggs	Long, La.	Ware
Dowdy	McMillan	Wilson, Bob
Edwards, La.	Minshall	

So the motion to discharge the Committee on the Judiciary from the further consideration of House Joint Resolution 191 was agreed to.

The Clerk announced the following pairs:

On this vote:

Mr. Bevill for, with Mr. Caffery against.
Mr. Bob Wilson for, with Mr. Pickle against.
Mr. Hull for, with Mr. Diggs against.
Mr. Skubitz for, with Mr. Pryor of Arkansas against.
Mrs. Green of Oregon for, with Mr. Pelly against.
Mr. Nichols for, with Mr. Erlenborn against.

Until further notice:

Mr. Barrett with Mr. Ware.
Mr. McMillan with Mr. Belcher.
Mr. Dowdy with Mr. Derwinski.
Mr. Tiernan with Mr. Bell.
Mr. Vigorito with Mr. Minshall.
Mr. Gray with Mr. Crane.
Mr. Dent with Mr. Harvey.
Mr. Lloyd with Mr. Gubser.
Mr. J. William Stanton with Mr. Halpern.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Speaker, pursuant to the provisions of clause 4, rule XXVII, I move that the House now proceed to the immediate consideration of House Joint Resolution 191.

The SPEAKER. The Clerk will report the joint resolution.

The Clerk read the joint resolution as follows:

H.J. Res. 191

Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. WYLIE).

The motion was agreed to.

The SPEAKER. The gentleman from Ohio (Mr. WYLIE) is recognized for 1 hour.

Mr. ABERNETHY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Does the gentleman from Ohio yield for a parliamentary inquiry?

Mr. WYLIE. Mr. Speaker, is it on my time?

The SPEAKER. It is; and the gentleman will lose the floor unless he states the purpose for which he yields.

Mr. WYLIE. Mr. Speaker, I cannot yield.

The SPEAKER. The gentleman from Ohio is recognized for 1 hour.

Mr. WYLIE. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. DEL CLAWSON) for debate.

Mr. DEL CLAWSON. Mr. Speaker, a great Senator with more than a little of legislative experience and constitutional interpretation searched for a way to correct the misunderstanding, misconception, and misconstruction of the Supreme Court decision that has led us to this unfortunate situation. Senator Dirksen finally resolved that only a constitutional

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amendment could achieve this purpose. His death denied him that goal. But he never once suggested that his proposal altered the first amendment, and it does not.

It will not, and I repeat for emphasis, will not allow any agency of Government having law or rulemaking authority to make any law respecting an "establishment of religion."

It will not sanction a governmental entity formulating the language of a required official prayer, nor require that same be recited by any group of citizens.

It does not deal with nor speak to an "establishment of religion" based on the fact situation in the Engel case.

It speaks only to the free exercise issue.

Some will argue that anyone can still pray in tax-supported buildings, including schools, notwithstanding the "school prayer cases" based on the "establishment clause." The fact remains, however, that the establishment theory has been carried to its logical extreme by inferior courts and the Supreme Court has refused to correct the situation.

Today almost any group recognition of a supreme being in a public school is ipso facto held by the courts to be an "establishment of religion" if a school or other government official in any manner whatsoever acquiesces in the practice, or the use of publicly owned property is involved. This, the American people believe, is a serious misapplication of the sound constitutional doctrine of separation of church and state.

The religious evil the drafters of the Bill of Rights sought to prevent was the "establishment" of an official state church with a clergy as salaried civil servants, with doctrinal dogma approved by the legislature and with property purchased and owned for ecclasiastical purposes by the state. It was to prevent a single sect from becoming preeminent that moved the Founding Fathers to incorporate the "establishment clause" into the first amendment. It is unjust to mingle religious influence with civil government, whereby one religious society is fostered and another prescribed in its spiritual privileges, and the individual rights of its members as citizens denied. However, the very word "religion" in the first amendment for constitutional purposes presupposes that a belief in God was the denominator common to all religions. The "establishment clause" to my knowledge was never contemplated by the founders to compel neutrality by the state among theistic religions, atheism and agnostism. Even more removed from the intent of the founders would be a governmental hostility toward religion that would foster agnosticism and atheism over a belief in God, based on an extenuated theory of the "establishment clause."

House Joint Resolution 191 speaks to "the rights of persons" to participate in prayer in tax supported buildings. This right may be on an individual or group basis. By the widest stretch of the imagination or of legal construction such an exercise could not constitute an "establishment of religion." For a court to hold that the aforementioned practice "constitutes an establishment" would be to warp the obvious meaning of the joint resolution's language and thwart the intent of Congress.

Let us not fall into the trap of, in Biblical terms, being "blind guides, which strain at a gnat and swallow a camel," or fit the description of being a people that "draweth high unto me with their mouth and honoureth me with their lips; but their heart is far from me," and "in vain they do worship me, teaching for doctrines the commandments of men."

Let us reaffirm to the people of this Nation and to the world that expression of faith inscribed above the Speaker's podium, "In God We Trust."

Mr. WYLIE. Mr. Speaker, I yield 2 minutes for purposes of debate only to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I rise in support of House Joint Resolution 191. And I join my colleagues in commending the gentleman from Ohio (Mr. WYLIE) for his untiring efforts to bring this resolution to the floor. Each Member can now be recorded on this most important issue.

I would like to discuss the practical politics of the proposed prayer resolution. Most polls across the country show that from 80 to 85 percent of the people support prayer in public schools and that they want the Congress to pass this resolution. A recent poll conducted by the gentleman from Pennsylvania (Mr. WHALLEY) showed that 94 percent of the people in his congressional district support the prayer amendment.

Most Americans are not interested in the arguments about whether or not the prayer amendment will change the bill of Rights or weaken the Constitution. What the American people are interested in is that the Supreme Court has restricted prayer in public schools and they do not like it one bit. If the people want voluntary prayer in the public schools and we represent the people, then I think we should approve this resolution.

Let us lay our cards on the table. A vote for the proposed constitutional amendment is going to be a lot easier to explain back home than a vote against it. I know that if I vote against the resolution today, my opponent next year will make me do a lot of explaining.

I know of no case where prayer in public schools has hurt anyone—mentally, physically, or emotionaly. In spite of a last minute flurry of activity by a few church leaders against the resolution. I still believe that the people we represent want this measure adopted by a substantial vote. It is up to us to give them what they want.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. COLLINS) for the purpose of debate only.

Mr. COLLINS of Texas. Mr. Speaker, the prayer amendment is essential to provide the individual freedoms that were guaranteed to us by the Constitution.

It is has been vaguely stated by some opposition that the Supreme Court ruling does not prohibit prayer in schools. Case after case has come up since then and the courts rule against religious observance in schools. Reading of any Bible verses went out. Now even religious meditations are out. Let me quote the latest case in a UPI news bulletin from last month on Massachusetts.

> The Supreme Court declined Tuesday to review a Massachusetts school prayer case in which a town school committee dened the Court's 1963 ban by voting to allow voluntary classroom prayer.
>
> The state's highest court held the prayer plan to be unconstitutional and the Supreme Court refused to disturb that decision.
>
> On Aug. 21, 1969, the Leyden, Mass. school passed a resolution providing that a 5-minute period be set aside before each school day to allow voluntary prayer among students and teachers.
>
> In response to an injunction sought by State Education Commissioner Neil V. Sullivan, a superior court judge ruled March 31, 1970, that the Leyden resolution was valid insofar as it applied to students but unconstitutional as to teacher participation.
>
> The entire school prayer plan, however, was struck down as unconstitutional by the State Supreme Court March 2, 1971.
>
> The Leyden committee appealed that decision to the U.S. Supreme Court.

We have all heard of the fine school spirit of children at the turn of this century. Children had respect for their parents, they admired their teachers. No one used drugs. So I got a set of the books that were used. Those were the days of the "McGuffey Readers." They taught children moral lessons to build character. Let me quote from lesson 67 in "McGuffey's Fourth Reader." They took extracts from the Sermon on the Mount and quoted directly from the Bible.

> Blessed are they which do hunger and thirst for righteousness for they shall be filled. Blessed are the merciful for they shall obtain mercy.
>
> Blessed are ye when men shall revile you, and persecute you and shall say all manner of evil against you falsely, for my sake. Rejoice and be exceedingly glad; for great is your reward in heaven.

Decisions become more and more oppressive of religion. The case from DeKalb, Ill., went up to the U.S. circuit court and the Supreme Court's refusal to review gave it affirmation. Because God could not be mentioned under prior cases, the poem simply said "you". But the court said you indirectly referred to God and that must also go. Here is the poem that kindergarten students were denied the right to use. This was their word of thanks before a snack. "We thank you for the flowers so sweet, We thank you for the food we eat, We thank you for the birds that sing, We thank you for everything."

When little children 6 years old are prohibited from saying "Thank you for the birds that sing, thank you for everything" this country needs to restore freedom of speech.

Children go to school and are taught what is right and what is wrong. Now the courts have forced the schools to prohibit prayer in schools as being wrong. There is no justification for courts to be against the first amendment which guaranteed individuals "Religion or prohibiting the free exercise thereof."

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. KEATING) for the purpose of debate only.

Mr. KEATING. Mr. Speaker, today the House has for consideration an amendment to the U.S. Constitution. Amending the Constitution is action which should not be taken lightly and should only be a last-resort approach to lawmaking. In 180 years, for that reason, the Constitution has been amended only 16 times. The time has come again.

The problem before us today was created by a Supreme Court ruling in 1962. Prior to that time it had been held that the first amendment's prohibition of an establishment of religion merely committed the Federal Government to a role of neutrality among the various faiths, that the Government will not take sides. It was never intended for the Federal Government to side with non-religion as opposed to religion which was the logical result of that decision.

While every constitutional amendment must be carefully considered—the issue of school prayer and prayer in public buildings has been avoided too long.

Today the House faces squarely this issue. To vote up or down—aye or nay—the proposed constitutional amendment.

No one can be heard to say this issue has not been adequately discussed both in public and private forums. The House Judiciary Committee held very extensive hearings on the subject. Some Members may not come to the same conclusions as myself—but no one can state that this matter has not been the subject of many hearings and public debate and has been practically talked to death.

Therefore any effort to refer this back to committee can only be construed as an effort to avoid the issue and a failure to meet our responsibility to vote directly on that issue and one of the most important of our times.

Every public opinion poll on this subject clearly shows the will of the American people is contrary to the ruling of the Supreme Court in the Engle case.

It undercuts the traditions of this Nation. In 1784, for example, 3 years before the Constitution was framed. Congress declared in the ordinance creating the Northwest Territory:

> Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be encouraged.

The historical tradition of this country is rich with our acknowledgement of God and our dependence on a Supreme Being. "In God We Trust" appears on almost every official symbol of our Nation. Our pledge of allegiance states that we are "one nation under God".

Each session of Congress begins with a prayer to the Almighty. Our President takes office by swearing his allegiance to this country in the name of God.

How can we participate in this action every day and then say that it is unconstitutional for our children to do the same thing in school.

The above are facts. To deny our religious heritage, to deny our religious tradition, to deny that for most Americans God is a reality, is to create a world of nonreligion, a world of antireligion, and a world of falsity in our public schools.

The prayer the Supreme Court held unconstitutional in 1962 read:

> Almighty God we acknowledge our dependence upon Thee and beg Thy blessings upon us, our parents, our teachers, and our country.

According to the Court this prayer violated the first amendment which prohibits the establishment of religion. I fully support religious freedom for every citizen but I disagree with the conclusion of the Court.

I believe nondenominational prayer should be constitutional and for this reason I am prepared to support the school prayer amendment. Two-thirds of both the House and the Senate and three-fourths of the States must approve this amendment before it becomes part of the Constitution.

I hope my colleagues will join with me today and vote for the amendment.

Mr. BOW. Mr. Speaker, will the gentleman yield?

Mr. KEATING. I yield to the gentleman from Ohio.

Mr. BOW. I should like to say that I have heard it said here today that certain congregations are against this amendment.

The SPEAKER. The time of the gentleman from Ohio has expired.

Mr. WYLIE. Mr. Speaker, I yield 30 additional seconds to the gentleman from Ohio.

Mr. KEATING. I yield further to the gentleman from Ohio.

Mr. BOW. Mr. Speaker, if I may continue, I should just like to say that as a member of the Presbyterian Church I think our congregations are for it. It may be the leaders of the church that have been sending these letters out are against it, but I think if there was a poll taken of the members of the congregation you would find they support the amendment.

Mr. KEATING. I thank the gentleman for his comments.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. STEIGER), for purposes of debate.

Mr. STEIGER of Arizona. Mr. Speaker, I, like the rest of you, have received from many members of the clergy letters of concern about this particular amendment, including the rabbi of my mother and father. I would like to point out to you that it was another rabbi who advised me of the fact of the state of Israel having a state religion taught in the public schools has not impinged, in his opinion, upon the freedom of that state, not that he was indicating that he was endorsing a state religion here. My chief concern is for the opinion expressed by the majority leader and the distinguished chairman of the Committee on the Judiciary, who said we should abandon our responsibility as Members of the Congress and accept the will of the Court, because it is the law of the land, and accept the will of a few clergymen who have expressed this opinion, and ignore our constitutional requirement to represent the people who have sent us here.

The SPEAKER. The time of the gentleman from Arizona has expired.

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT), for the purpose of debate.

Mr. SCOTT. Mr. Speaker, all of us will agree to the seriousness of the matter under consideration. But since we have received so much misinformation about the prayer amendment, let me reread the pertinent part of the resolution:

> Section 1. Nothing contained in this constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

You will note it does not grant any affirmative right but merely says that no one shall be denied the right to participate in prayer.

My mail, until recently, was almost entirely in favor of the amendment but opposition has now been generated by organized groups. Their activities remind me of a passage from Matthew to the Pharisees which says:

> Ye blind guides, which strain at a gnat, and swallow a camel.

I would like to share some short excerpts from constituents regarding the resolution:

> First. It is inconceivable that anyone would think that the framers of our constitution intended to prohibit the right of citizens to petition the Lord.
>
> Second. Many children would never have an opportunity to pray or read the Bible if it were not available in school.
>
> Third. It is my view that to deny a child this very critical aspect of his development during a significant portion of his growth is to do a serious disservice to the young person, as well as to the society in which we must live.

To be sure of the feeling within my district, a poll was taken of each home in which the question was asked:

> Should the Constitution be amended to permit voluntary prayer and Bible reading in schools?

The response from more than 30,000 homes was: Yes, 78 percent; No, 17 percent, and no opinion, 5 percent. The present resolution does not include any provision for Bible reading but let me read one of the prayers that has been forbidden to be taught in a kindergarten class:

> We thank you for the flowers so sweet; we thank you for the food we eat; we thank you for the birds that sing; we thank you for everything.

An Illinois court said that this was a State-composed prayer because it was taught kindergarten children by their teacher. *Despain* v. *DeKalb County Community School Dist*, 384 F. 2d 836 certiorari denied 390 U.S. 906. I submit that the kindergarten teacher is more like a mother than a State agent and it seems unreasonable not to permit her to teach children a simple prayer like this.

Mr. Speaker, this has always been a religious Nation. The Founding Fathers were only concerned that there not be a State church. Citizens today want the Constitution amended so that they and their children will have freedom to pray if they choose. Frankly, I wonder if the removal of prayer from our schools has not been a contributing factor to the rise of disorder and permissiveness among young people. We do not want to "strain at a gnat" in this instance but to do what

is right. I urge that the resolution be adopted.

Mr. WYLIE. Mr. Speaker, I yield one-half minute to the gentleman from Texas (Mr. WHITE) for purposes of debate only.

Mr. WHITE. Mr. Speaker, I want to thank the gentleman from Ohio for this time.

Mr. Speaker, in the short time I have, I wish to advise the House that if the previous question is voted down, I will endeavor to change the word "nondenominational" to "voluntary."

Most Members and most of America favor voluntary prayer in public buildings, but the word "nondenominational" is almost impossible to define and is a limiting phrase rather than an expanding phrase.

For example, to say nondenominational prayer in public buildings shall not be abridged nor denied could be construed to outlaw denominational prayer in public buildings, such as with denominational chaplains in the armed services, prayers in Congress and even voluntary denominational prayers at school functions, including private schools receiving public money.

I urge the House to vote down the previous question so we can change the problem word "nondenominational" to "voluntary," and thus make this amendment acceptable to a number of Members, including myself, and do no violence to our present religious freedoms.

Mr. WYLIE. Mr. Speaker, I yield 1½ minutes to the gentleman from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. Speaker, I rise in support of House Joint Resolution 191.

Mr. Speaker, one of the most precious gifts we can give our children is that of respect for the views of others, even though their views may differ from our own.

We do not, however, want to confuse tolerance with compromise and restrain the assumption of deep convictions.

Our young people must recognize there are strong differences in religious and political positions. They must also learn to respect the views of others and this must be taught.

I cannot concede for one moment a position which will accommodate the atheistic point of view in our American society. We are, indeed, one Nation under God and it is proper to pay homage to Almighty God in every facet of life.

We should in no way attempt to impose on others our personal commitments to our God in situations supported totally or in part by our tax dollars. The public schools, however, are dedicated to acknowledging the whole man and educating the whole man. Every man is both a physical and a spiritual being. In my judgment, all prayer is a public acknowledgement that we are spiritual beings and that we have a spiritual Father.

All children would profit from the exercise of nondenominational prayer in our public schools, recognizing that there are vast differences in our spiritual commitments which must be fully appreciated and respected.

We are now considering an amendment to our Constitution which does nothing more than clarify the establishment clause of the first amendment.

Every technical and legal question which is raised on this proposed amendment can be advanced with regard to the first amendment, if it is so desired. I am not impressed by the maze of technicalities which have been brought into question. I am concerned about the spiritual climate of this Nation. It is wholesome, healthy, and proper for God's blessing to be invoked on any gathering of American people, and more so, where our young people are assembled in a situation to formulate attitudes for life.

Mr. WYLIE. Mr. Speaker, at this point in the debate, I would like to yield for purposes of debate only 30 minutes to the gentleman from New York (Mr. CELLER).

Mr. CELLER. Mr. Speaker, I yield myself 4 minutes.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Does the gentleman from Ohio yield for a parliamentary inquiry?

Mr. WYLIE. Mr. Speaker, I have yielded for purposes of debate only 30 minutes to the gentleman from New York (Mr. CELLER).

Mr. GERALD R. FORD. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. CELLER. Mr. Speaker, I yield to the gentleman.

The SPEAKER. The gentleman will state the parliamentary inquiry.

Mr. GERALD R. FORD. Mr. Speaker, if the gentleman from New York (Mr. CELLER) yields, he can only yield for purposes of debate; is that not correct?

The SPEAKER. That is the understanding of the Chair.

Mr. GERALD R. FORD. I thank the gentleman for yielding.

Mr. McCULLOCH. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. McCULLOCH. Mr. Speaker, House Joint Resolution 191 is not good law. It is not good theology. The force of law is not necessary to call forth meaningful, voluntary prayer. It is only necessary to constrain people to pray who do not want to pray. If you and I know that, do you not think God knows that, too?

Mr. Speaker, the first amendment needs no amendment. The protection it accords religious liberty cannot be improved upon. It guarantees to every citizen the right to the free exercise of religion. In furtherance of that object the framers of the Bill of Rights wisely added a further protection: That Government should keep out of religion.

It was obvious to them as it is to me that the right to the free exercise of religion means less the more that Government exerts its influence over religion. And that was in the era of small Government. How much truer is their judgment today in the era of big Government.

The growth of Government takes its price. This harsh fact many are reluctant to face. When the first amendment was written, the school prayer issue was not a problem. For schooling was generally obtained in private institutions, and many of those had a religious affiliation.

But during the 19th century the people of this country decided to supplant the private school as the principal educator with the governmental school. Whereas the members of various denominations formerly sent their children to particular denominational schools, it then become possible to send them to public schools attended by many denominations. Those schools were not and today are not nondenominational. They are, in fact, multidenominational.

History tells better than I the chasmic difference between those two concepts. In the 19th century, some State prescribed "nondenominational" religious exercises for public schools. Since "nondenominational" was then construed to mean "Protestant," schoolchildren professing different beliefs, frankly, were persecuted. Some were punished for not participating. Sharp divisions were produced in communities. In 1869 this led the Cincinnati School Board to ban prayers in its schools in order to put an end to religious strife in the community: Practice proved first amendment theory correct.

School administrators have generally considered their function educational and not religious. The pressure for school prayers has always placed them in the center of the storm. It is no wonder that when, in 1962 and 1963, the Supreme Court held that public schools could not compose or conduct religious exercises, many administrators hoped that these decisions meant much more—that they were required to forbid school prayers. For if that were the case, the educators would be free to teach secular disciplines and avoid divisive religious controversy.

In *Stein* v. *Oshinsky*, 348 F. 2d 999 (1965) the school authorities did just that—they forbade religious exercises during class hours. Such a rule obviously did not violate the establishment clause. But did it not violate the free exercise clause? No, said the second circuit. The court noted the improbability that kindergarten students were praying without teacher supervision and encouragement. But it decided the case on the more general ground that the right to the free exercise of religion, like the right of free speech, is not so absolute that anyone can decide to utter a prayer whenever and wherever he pleases. The school authorities, like other agencies of government, have a right to impose order so that they can perform their function.

The U.S. Supreme Court denied certiorari. As every lawyer knows, that is not an affirmance. Stein is not the law of the land. Some have criticized the case for "having gone too far." It has been suggested that the Supreme Court should have granted certiorari and reversed.

Stein is not some miscarriage of justice but the hallmark of commonsense. Judge Friendly who wrote the unanimous opinion is a sound and respected jurist. If Stein had been decided to the contrary, it would have given the radicals of this country the absolute power to bring the governmental process to a halt. It would have placed the right to pray anywhere and anytime above the right and duty of government to preserve order. It would have allowed radicals to occupy public buildings, and their prayers would have protected them from arrest.

The individual's right to pray voluntarily is guaranteed by the first amendment but is not placed above the purpose of the entire Constitution, and that is the creation of orderly government. If the intention of House Joint Resolution 191 is to overrule Stein, as I infer from the debate, then I am constrained to vote against the resolution and in favor of order in government.

I do not believe that our Government should act as our priest, minister, or rabbi. I do not believe that our Government should write prayers or conduct religious devotions. That the first amendment wisely forbids.

I favor voluntary prayers at a reasonable time and place. That the first amendment guarantees.

There is no need to change. It is particularly true with regard to writing constitutional law that when it is not necessary to change, it is necessary not to change.

The impetus for this resolution arises out of mistaken notions of law and prayer. Prayer, to be meaningful, must be a sincere statement of one's beliefs and must be truly voluntary. The kind of prayer that would be said under the resolution would not be meaningful. The nondenominational limitation precludes a sincere statement of personal beliefs. The subtly coercive nature of the classroom prayer exercise precludes truly voluntary prayer. Since force of law is totally unnecessary to cause voluntary prayers to be said, the resolution must be intended to cause some people to pray who really do not want to pray.

This is the crux of the resolution. For prayers forced from unwilling hearts are being merchandised as a remedy for juvenile delinquency.

But it cannot be both ways. If the plan is to transform bad boys and girls by exposing them to prayer, the plan clearly calls for something other than truly voluntary prayer. But if only truly voluntary prayers are authorized by the resolution, nothing is changed and no amendment is necessary.

I sympathize with the sincere hope of the American people for a moral regeneration of society. But morality cannot be legislated. The task is not that easy. I wish it were. Congress cannot accomplish the task which can only be performed by family and church.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield to the distinguished Speaker.

Mr. ALBERT. I want to subscribe to the remarks just made by the distinguished gentleman from Ohio. Any voluntary prayer, any nondenominational prayer, is not theology. Any interference by any official at any level is a violation of freedom of religion. I am not prepared to let the meddling hand of government at any level in any degree be placed on any man's altar. This resolution should be defeated.

Mr. CELLER. Mr. Speaker, when such church groups as the American Baptist Convention, the U.S. Catholic Conference, the National Catholic Agency of the Roman Catholic Bishops, the Church of the Brethren, the Executive Council of the Episcopal Church, the National Council of the Churches of Christ, the Lutheran Church, the Joint Advisory Committee of the Synagogue Council of America, the National Jewish Community Relations Advisory Council, the United Church of Christ, the United Presbyterian Church in the United States, the American Ethical Union, the American Humanist Association, and the Religious Society of Friends vigorously oppose the enactment of House Joint Resolution 191, should not we Members of Congress take serious note of such objection? When the American Federation of Teachers, when 326 eminent constitutional lawyers from over 60 law schools voice their objection to the enactment of House Joint Resolution 191 as an erosion of the Bill of Rights, should not we Members of Congress take pause before plunging into waters swirling with such crosscurrents?

There are over 200 different religious sects in the United States. More than 80 have over 50,000 members each. The Members of this House belong to some 25 of these sects. It is impossible to devise a meaningful prayer which would be nondenominational or nonsectarian so that it would not invade some basic tenet of religious practice. Some religious groups kneel; some do not. Some groups pray with covered heads; some do not. Some groups consider all public oral prayer as theologically objectionable; some religious groups object to the omission of the name of Jesus Christ.

What, then, is a nondenominational prayer which would not constitute an interference with the exercise of genuine religion? Religion, be it remembered, is by its very nature personal and denominational. It is an outreach of one's soul to the Creator.

In *McCollum* v. *Board of Education*, 333 U.S. 227, Justice Frankfurter made the point that noncompulsory prayer, however it is worded, is compulsory to schoolchildren. He said:

> The law of imitation operates, and nonconformity is not an outstanding characteristic of children. The result is obviously pressure upon children.

A long line of decisions must bring us inexorably to the conclusion that the heavy hand of the state must not be placed upon the personal fibres of religion.

Religion should not be the business of the State. The Supreme Court in its decisions, in fact and in truth, protected the independence and the integrity of religion. In a statement of opposition, a number of national religious organizations and leaders said:

> The major faiths themselves have never been able to achieve consensus on a definition of prayer, much less a definition of 'nondenominational' prayer. *We deny* that any elected body or governmental authority has the right to determine either the *place* or the *content* of prayer, as is implied in the proposed constitutional prayer amendment. To authorize government to intervene in the sacred privilege of prayer, long enshrined in the character and tradition of our nation, is to make of government a judge of theology. If such a proposed amendment should become a part of the Constitution of the United States, a new religion of 'nondenominationalism' would in a measure become established which could destroy the integrity of both Church and State.

This is not one or another man's individual opinion. The weight of authority in opposition cannot be ignored. The wall of separation between church and state as required by our first amendment to the Constitution must be maintained lest we do injury both to religion and to freedom of conscience.

Mr. Speaker, I place in the RECORD at this point a variety of thoughtful comments I have receiving in opposition to the proposed amendment from noted educators, constitutional authorities and clergymen:

NEW YORK, N.Y.
November 3, 1971.

Hon. EMANUEL CELLER,
Chairman, U.S. House of Representatives, Committee on the Judiciary, Washington, D.C.

DEAR MR. CELLER: You asked for my "advice and experience as to its effect on the public schools and their administration if H.J. Res. 191 should be ratified."

I can foresee little advantage and many disadvantages to public education if the amendment is ratified. There is little reason, on the basis of educational studies, to believe that non-denominational prayer at the opening of the school day, or even throughout the day, would result in serious study of ethical and moral values, or in the establishment of desirable habits of social and individual behaviour. Yet these are the results, I presume, which are sought in the proposed amendment.

There are, on the other hand, solid arguments from history and current experience to oppose such a basic change in our national life. There is no record of agreement by the religious faiths on a definition of nondenominational, to say nothing of agreement on a non-denominational prayer. Yet in practice the amendment would place the public school authorities in the position of having to police the language of a prayer with no criteria for doing so. The result would be divisive in local communities and would probably end in the entanglement of the state in religious affairs against which our history warns us so urgently.

The public schools, and the rest of our society, rely upon the free exercise of religious activities as an essential foundation of our national welfare. To encourage the schools to interfere with these activities will aid neither education nor religion. Indeed it may end in holding up to derision the very act of prayer which the amendment seeks to honor and support.

Sincerely yours,

FRANCIS KEPPEL.

BOARD OF EDUCATION
OF THE CITY OF NEW YORK,
Brooklyn, N.Y., November 4, 1971.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN CELLER: I am writing in response to your letter of October 18, in which you asked for comments pertaining to H.J. Resolution 191.

If the intent or effect of the resolution is to authorize prayer in the public schools of this country, I would urge the Congress not to adopt the resolution. This issue has already

been resolved by the Supreme Court of the United States. To revise the issue would serve no useful purpose.

Attendance in the schools is not a matter of choice, but is required by law. To permit prayer in school is, therefore, in essence requiring prayer for many students. This clearly, in my judgment, is an undesirable requirement. The argument that some prayer is "non-denominational" and thus permissible is a specious contention. The overriding factor is not whether the prayer is Protestant, Catholic, Jewish or otherwise, but the propriety of any kind of prayer in public schools whose consumers are compelled to attend. In short, to pray or not to pray is a fundamental right which should not be tampered with by the government. If the supporters of this resolution intend to promote prayer, they would accomplish more in the long run, I believe, by vigilantly keeping the government out of the issue of prayer, rather than trying to legislate for it.

Sincerely,

HARVEY B. SCRIBNER,
Chancellor.

UPA URGES VOTE "NO" ON PRAYER AMENDMENT

The United Parents Associations urges Congress to reject H.J. Res. 191 (Prayer Amendment) and protect the right of individual religious belief.

Your NO vote will be a vote to keep the sanctity of prayer and is for the preservation of religion in our country.

Passage of this amendment would be confusing, divisive and a serious abridgement of the individual rights guaranteed by the first amendment. School children would be particularly vulnerable to pressure contrary to their religious teachings.

The United Parents Associations is the largest federation of Parent Associations and Parent-Teacher Associations in New York City, representing over 450,000 parents of children in the public schools.

BLANCHE LEWIS,
President, United Parents Associations.

STATEMENT OF OPPOSITION TO PRAYER AMENDMENT

We, the undersigned, are presidents of theological seminaries and deans of divinity schools who urge you to *oppose* the "prayer" amendment, H.J. Res. 191. Though its proponents doubtless mean well, they can do great harm to religion and freedom of religion in this country through this amendment, which, to use the words of the Jesuit weekly *America*, is an "ill-written, mischievious and misconceived proposal."

The institutions which we serve are devoted to theological education in the Judeo-Christian tradition, open to religion in all its forms, and involved at every level with a pluralistic society. Our institutions have flourished under the First Amendment of the Constitution and would be threatened by the proposed amendment to it.

We understand prayer to be the personal or corporate expression of belief by believers and belief is specific. There is no such thing as general faith. Prayer is the expression of a believer's (or body of believers) specific understanding of what is ultimately real, and of his relationship to it. It would be beyond the ability of any one of us to write a pluralistic prayer, and unthinkable for the state to recommend its use, even in the most optional way. It could not be prayed with integrity either by the believers or the unbelievers. It could only become a "pro forma" exercise and thus do violence to the individual conscience.

This is not to say that we oppose the objective study of religion as part of the educational process. Indeed, we recommend the reading of the Holy Bible and other religious literature, the discussion of religious values, the posing of religious questions as a necessary part of academic instruction vital to any understanding of the human situation. But study is different in character from prayer, and we urge members of Congress to recognize this distinction and to oppose any efforts to modify, enlarge, diminish, clarify or improve the First Amendment to the Constitution.

J. Brooke Mosley, President, Union Teological Seminary, New York.

Colin Williams, Dean, Divinity School, Yale University, New Haven.

Christopher F. Mooney, S.J., President, Woodstock College, New York.

George W. Webber, President, New York Theological Seminary, New York.

Edward R. Harris, Dean, Philadelphia Divinity School, Philadelphia.

Walter Harrelson, Dean, Divinity School of Vanderbilt University, Nashville, Tennessee.

Frederick Wentz, President, Hamma School of Theology, Wittenberg University, Springfield, Ohio.

Thadeus F. Zielinski, Prime Bishop, Howard University School of Religion, Washington, D.C.

Joseph M. Kitagawa, Dean, University of Chicago Divinity School, Chicago.

Thomas C. Campbell, Dean, Episcopal Theological School, Cambridge.

Louis J. Putz, C.S.C., Rector, Moreau Seminary, University of Notre Dame, Indiana.

John H. Tietjen, President, Concordia Seminary, St. Louis.

W. B. Blakemore, Dean, Disciples Divinity House, University of Chicago.

Michael Allen, Dean, Berkeley Divinity School, Yale University, New Haven.

Marshal L. Scott, President, McCormick Theological Seminary, Chicago.

David J. Draewell, President, Gerald L. Borchert, Dean, North American Baptist Seminary, Sioux Falls, South Dakota.

Don W. Holter, President, St. Paul School of Theology, Methodist, Kansas City, Missouri.

Merlyn W. Northfelt, President, Garrett Theological Seminary, Evanston, Illinois.

John L. Knight, President, Wesley Theological Seminary, Washington, D.C.

Albert C. Winn, President, Louisville Presbyterian Theological Seminary, Louisville, Kentucky.

James D. Glasse, President, Lancaster Theological Seminary, Lancaster, Pennsylvania.

Walter G. Muelder, Dean, Boston University School of Theology, Boston.

Fred W. Meuser, President, Evangelical Luthern Theological Seminary, Columbus, Ohio.

W. Sibley Towner, Dean, Dubuque Theological Seminary, Dubuque, Iowa.

Ira Eisenstein, President, Reconstructionist Rabbinical College, Philadelphia.

Joseph D. Quillian, Jr., Dean, Perkins School of Theology, Dallas.

Roy Pearson, President, Andover Newton Theological School, Newton Center, Mass.

Beauford A. Norris, President, Christian Theological Seminary, Indianapolis

J. Bruce Behney, Acting President, United Theological Seminary, Dayton, Ohio.

INDUSTRIAL UNION DEPARTMENT, AFL–CIO,
Washington, D.C., November 4, 1971.

DEAR CONGRESSMAN: This is a plea to Congress that it not meddle with the Bill of Rights. These amendments are the building blocks which sustain our pluralistic society. It is this belief in the virtue and verity of the Bill of Rights which leads us to urge you to vote against the Prayer Amendment (H.J. Res. 191).

Among the most treasured heritages we possess is that of religious freedom. Since the inception of our country, we have retained this right to its fullest. It has been working. It remains unquestioned even in these troubled times. Since this is the undeniable fact why tamper with the Constitution which has so steadfastly guaranteed and made possible this freedom?

We are impressed that all the major religious denominations join in opposition to H.J. Res. 191. They recognize that the task of sustaining the religious spirit in America is deeply individual and essentially private; that it cannot be nurtured by government edict, government preparation of "non-denominational" prayers, by government intervention in the religious lives of children. They realize that the Supreme Court decisions in this area leave religion where it rightly belongs, in the home and our religious institutions, the responsibility of parents and members of the clergy. We subscribe to the sentiment expressed in a recent editorial in a religious publication which noted:

"This amendment is hardly the way to promote a revival of true religion . . . genuine piety is fostered not by government . . . but by families and individuals who practice reverence and obedience to Him in all their activities and associations."

Finally, a point of great consequence . . . there has never been a revision of the Bill of Rights in the long history of the Constitution. And for sound reason—the Bill of Rights has worked effectively for the people. To start the process of tinkering with these basic amendments would be to embark on a gravely dangerous adventure. It would encourage the alteration of the Bill of Rights every time a Supreme Court decision did not meet with overwhelming favor. And this would indeed be calamitous.

In short, we ask your support of the Bill of Rights and respectfully suggest that you will best serve the American hope by voting against H.J. Res. 191.

Sincerely,

I. W. ABEL,
President.

[From the Los Angeles (Calif.) Times, Oct. 31, 1971]

ON SCHOOL PRAYER—A THREAT TO RELIGION

(By Philip B. Kurland)

Certainly the American people can, by constitutional processes, choose to allow compulsory prayer ceremonies in their public schools. That is what the proponents of the constitutional amendment now pending in the House of Representatives are seeking to accomplish.

But before the American people or their representatives make that choice, they ought to be informed of the issues so that the choice may be a reasoned one and not simply a matter of emotional response to irresponsible rhetoric. The question is not whether we "restore God to the classroom."

The proposed amendment, House of Representatives Joint Resolution 191, is itself short if not clear. It reads: "Nothing contained in this Constitution shall abridge the rights of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

While the language is vague, its apparent purpose is to permit schools to impose a requirement of prayer ceremonies on students, although it could be interpreted to allow students who dared to do so to remove themselves from the company of their fellows while such school exercises took place. There is also a negative pregnant in the proposed language that could expand the present constitutional inhibition. Should the amendment become law, *denominational* prayers in legislative halls and executive mansions would become at least constitutionally suspect.

The reason for the existent constitutional rule that now prevents such school ceremonies was stated by Mr. Justice Frankfurter in his opinion in McCollum v. Board of Education.

"The secular public school did not imply indifference to the basic role of religion in the life of the people, nor the rejection of religious education as a means of fostering it. The claims of religion were not minimized by refusing to make the public schools agencies for their assertion. The nonsectarian or secular public school was the means of reconciling freedom in general with religious freedom. The sharp confinement of the public schools to secular education was a recognition of the need of a democratic society to educate its children, insofar as the State undertook to do so, in an atmosphere free from pressures in a realm in which pressures are most resisted and where conflicts are most easily and bitterly engendered. Designed to serve as perhaps the most powerful agency for promoting cohesion among a heterogeneous democratic people, the public school must be kept scrupulously free from entanglement in the strife of sects. The preservation of the community from divisive conflicts, of Government from irreconcilable pressures by religious groups, of religion from censorship and coercion however subtly exercised, requires strict confinement of the State to instruction other than religious, leaving to the individual's church and home, indoctrination in the faith of his choice."

But, say the supporters of the proposed amendment, these defects implicit in the utilization of the public academy for instilling religious faiths are not relevant to the proposed amendment. First, they say, because there is no coercion on the public school student authorized by the amendment. Second, they say, because the only prayers authorized are "nondenominational" prayers, thereby eliminating fear of sectarian conflict.

Neither answer is accurate. There is coercion and there is an invitation to sectarian strife. For we must remember that if public education is free it is also compulsory except that students may attend private schools, most of which, at the elementary and high school level, are religiously controlled.

The coercion may be more subtle than physical compulsion to be present during the engagement in these exercises. As the same justice pointed out in the same case:

"That a child is offered an alternative may reduce the constraint; it does not eliminate the operation of influence by the school in matters sacred to conscience and outside the school's domain. The law of imitation operates, and non-conformity is not an outstanding characteristic of children . . ."

That there will be sectarian strife is almost as readily assured. What is a "nondenominational prayer"? Who will frame it? What religions can accommodate their teachings to it? As the American Council on Education noted some years ago: "The notion of a common core suggests a watering down of the several faiths to the point where common essentials appear. This might easily lead to a new sect—a public school sect—which would take its place alongside the existing faiths and compete with them." De we want a state religion? No one reading today's newspaper headlines should think so.

At least some leaders of some of the churches recognize the dangers and deplore the possibilities of "nondenominational prayer." In 1962, Father Gustave Weigel, a learned Catholic student of the problem, pointed out: "The moral code held by each separate religious community can reductively be unified, but the consistent particular believer wants no such reduction."

And the official magazine of the United Presbyterian Church said at the same time: "If you have faith-in-general, you have no faith to speak of Faith has to be something-in-particular. A nondenomination prayer is doomed to be limited and circumscribed. If prayer started soaring, it starts to be controversial, which is the one thing a nondenominational prayer dares not to be."

The Supreme Court, in the Vitale case, which the proposed amendment seeks to overturn said: "It is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

Are the American people, who have already turned over control of so much of their activities to government, prepared to reject this precept about the proper role of government in specifying religious activities? Thoughtful evaluation rather than visceral action suggests that the Vitale rule is one of the bulwarks of America's freedom from the ills that continue to plague those countries where "toleration" rather than "freedom" is the guide to government action in the field of religion.

If, as has been suggested, the churches are losing their holds on the minds and hearts of young Americans, they will not be succored by rote recitations of "nondenominational" prayers which can reflect neither the words nor the spirit nor the teachings of any religion. "Nondenominational" prayer will not "restore God" to the classroom; it mill degrade religion not exalt it.

If this is what the American people want, but only then, they should support the proposed amendment. If they have any notion of the real meaning of religious belief and our history of developing religious freedom, they will recognize the proposed amendment as antireligious, not pro-religous.

At best, the proposed amendment invites state-imposed religious dogma and religious strife; at worst, it assures them.

CATHOLIC CONFERENCE OPPOSES "PRAYER AMENDMENT"

WASHINGTON.—The U.S. Catholic Conference has gone on record in opposition to the so-called school prayer amendment, which is currently before the House of Representatives.

The Conference's position was announced by Bishop Joseph L. Bernadin, U.S.C.C. General Secretary, who said:

"I wish to emphasize that the Conference is not opposed to the concept of prayer in public buildings nor unconcerned about the vitally important matter of meeting the religious needs of children who attend public schools.

"Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer."

The text of the proposed constitutional amendment, on which the House is expected to vote November 8, states:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building supported in whole or in part through the expenditure of public funds to participate in nondenominational prayer."

Bishop Bernadin said:

"The subtle implication of the amendment, therefore, is that 'denominational' prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation.

"Moreover," Bishop Bernadin continued, "the amendment cannot be justified as a 'school prayer' amendment. The amendment does not say anything about state sponsorship of prayer in public schools as part of the regular school day. Yet this was the very thing the Supreme Court found unconstitutional in the school prayer cases."

"Passage of the amendment," he added, "might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved."

THE FIRST PRESBYTERIAN CHURCH
Scottsburg, Ind., November 4, 1971.

EMANUEL CELLER,
Chairman, House Judicial Committee, House of Representatives, Washington, D.C.

DEAR MR. CELLER: It is my hope that the House of Representatives will reject the Prayer Amendment proposal.

In our pluralistic society I believe it is better not to have scheduled group prayer on a regular basis in public school classes.

If prayer is sincere, its expression aloud also has elements of indoctrination or it is meaningless ritual and in the classroom should be omitted for either reason!

The public schools should not be used by religious people to "reach the unreached." Our churches and families have their own ways of expressing worship and should in our own way fulfill the God-given responsibilities.

It would be my hope that generally teachers are persons of religious faith who participate in the worship and activities of their own group, and that they evidence and encourage in their students due regard for the beliefs of others.

Sincerely,

WILLIAM H. HEILMAN.

SOUTH METRO BAPTIST ASSOCIATION,
Jonesboro, Ga., November 3, 1971.

Representative EMANUEL CELLER,
Chairman, House Judiciary Committee,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CELLER: In the Atlanta (Ga.) Constitution this morning, I learned of your leadership in connection with the proposed "prayer amendment". It seems to me that the statement from the law school deans and professors is extremely significant.

I have made serious effort to look at the contents and ramifications of this proposed "prayer amendment". In my judgment it is dangerous. I believe that it will multiply our problems. What is a nondenominational prayer? Who would write them? Who would approve or disapprove them? I have genuine fear for any move that puts the Government in religious matters. These things should be left to the various religious groups.

The "prayer amendment" would weaken the First Amendment. This, in my judgment would not be wise. Religious training and practice belong to the homes and the religious groups. I sincerely hope that these responsibilities are not turned over to the Government through the schools on any level.

With appreciation and best wishes,

Cordially yours,

L. S. WILLIAMS.

Mr. CELLER. Mr. Speaker, I quote from an editorial in the Catholic Times of October 10, 1971:

The bill in question had remained in committee because no one could resolve the question, "What does a non-denominational prayer look like?" The answer is, of course, no one knows, because it is impossible to

compose a prayer that is not denominational.

If this amendment is proposed congressionally and ratified so that someone or some group is authorized to compose an accepted set of "non-denominational prayers," it could provide one of the biggest controversies this country has ever witnessed. It would bring up the question of the civil government meddling in the affairs of religion. The official recognition of certain prayer formulas would also carry the connotation of establishing a kind of religion.

At this point, I want to read to this body the statement filed by 326 eminent constitutional authorities:

OUR MOST PRECIOUS HERITAGE

Our Bill of Rights is America's most precious heritage. For a century and three-quarters it has spread the mantle of protection over persons of all faiths and creeds, political, cultural, and religious.

Under our system, special responsibility for the interpretation and application of the Bill of Rights rests with the Supreme Court. In discharging this responsibility the Court has from time to time handed down decisions which have aroused considerable controversy. Some of the decisions have been subjected to strong criticism and even condemnation. There have, no doubt, been decisions which have been deemed by a majority of the American people, at least in their immediate reaction, to have been unwise, either in the conclusion reached by the Court or in the manner by which that conclusion was reached.

It may be that the Court's 1962 and 1963 decisions against state-sponsored prayer and devotional Bible reading in the public schools belong in this category. If so, it is much too early to judge whether it will be the popular judgment or the Court's that will be vindicated by time. But whichever the case, we are convinced that it would be far wiser for our nation to accept the decisions than to amend the Bill of Rights in order to nullify them.

We recognize that the Constitution provides for its own amendment, and that no provision of it, including the Bill of Rights, is immune to repeal or alteration at the will of the people expressed through the medium of constitutional amendment. Yet, it is relevant to recall in this respect the concluding paragraph of Thomas Jefferson's great Virginia statute for Establishing Religious Freedom:

And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural "right."

American liberties have been secure in large measure because they have been guaranteed by a Bill of Rights which the American people have until now deemed practically unamendable. If now, for the first time, an amendment to "narrow its operation" is adopted, a precedent will have been established which may prove too easy to follow when other controversial decisions interpreting the Bill of Rights are handed down. In the past, the Court has construed the provisions against infringement of the free exercise of religion and of speech and assembly, or securing the privilege against self-incrimination, or requiring fair trial procedures, in a manner deemed by many at the time to be unduly restrictive of the proper powers of government. It is certain that it will do so again in the future. If the first clause of the Bill of Rights, forbidding laws respecting an establishment of religion, should prove so easily susceptible to impairment by amendment, none of the succeeding clauses will be secure.

A grave responsibility rests upon the Congress in taking this "first experiment on our liberties." Whatever disagreements some may have with the *Bible-Prayer* decisions, we believe strongly that they do not justify this experiment. Accordingly, we urge that Congress approve no measures to amend the first amendment in order to overrule these decisions.

The growing awareness of the American people has resulted in my receiving communications from all parts of the country expressing opposition to the enactment of House Joint Resolution 191. I am sure that this has been the experience of all my colleagues. Religious conviction is passionate, not pallid.

It is my fervent hope that the apparent simplicity of the language of House Joint Resolution 191 will not lull us into overlooking the depths into which we can sink should this resolution be adopted.

Mr. REID of New York. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from New York (Mr. REID).

Mr. REID of New York. Mr. Speaker, is not the fundamental question here the total separation of church and state, and would not even voluntary prayer involve the state in the sponsoring of a religious exercise by its providing classroom space and designating a period during official school hours for prayer?

Mr. CELLER. There is no question about it, because a prayer would have to be superimposed, authored from above, and that means a principal or a superintendent or board of education or a Governor of a State, and that means the state interfering with religion, interfering with prayer, and legislating prayer.

Mr. REID of New York. And this would be the first time we tampered with the Bill of Rights and attempted to break down the total separation of church and state?

Mr. CELLER. The gentleman is correct.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Speaker, I come to this well with a heavy heart and with deep concern. I reflected that concern every day since the discharge petition had enough signatures to come to the floor. I think I do not submit my credentials about my faith, my belief in prayer, and the Bible and God. The record is pretty clear.

Let me, using the words of the author of this amendment, point out the danger. Fortunately the gentleman from Florida asked some pertinent questions and penetrating questions of the gentleman from Ohio. Let me just quote briefly to show how dangerous the adoption of the amendment would be. The first question was addressed to the gentleman from Ohio (Mr. WYLIE) the author, and reads:

Who is to determine what is a denominational prayer?

Mr. Speaker, we of the opposition could not state our position more clearly than the gentleman from Ohio has stated. Listen to the answer. He said:

The local school board authorities will determine what the denominational prayer should be, and if the school board abuses their authority, the matter would be subject to judicial review.

Mr. Speaker, I ask when in all the history of America, since the approval of the Bill of Rights, has it been the position and business of government to determine the content of prayer for people anywhere?

Finally, Mr. Speaker, a religious experience to be acceptable to God and to be worthy of the name must be a completely voluntary response to God. The powers of government in whatever form it may take, limited or unlimited, must not be used in an attempt to force people to be religious. History records that people do not respond to compassion for religion by the State. The whole question must be left to the power of the Holy Spirit, the persuasion of love, and the dynamics of personal responsibility.

Mr. Speaker, I would have my colleagues reflect on history, on the contributions of Jefferson and Madison and Washington. Consider our religious heritage of freedom of religion, under which the church in America has become great—greater than any of our pioneers had a right to expect.

Mr. Speaker, ever since the sponsor of House Joint Resolution 191 received a majority necessary for discharge of the committee, I have had a concern about the effect this amendment would have on one of the great bulwarks of freedom—the freedom of religion, the freedom of conscience, and religious liberty. This concern is reflected daily in the CONGRESSIONAL RECORD since that time.

Mr. Speaker, it appears to me, and I have the support of the most competent legal minds I can find, that the adoption of this amendment would, indeed, do violence, if not repeal, the first amendment of the Bill of Rights. Indeed, it is my feeling that if certain judicial decisions that are possible were made, it could very well effect adversely another part of the first amendment and this is one that deals with freedom of speech. Mr. Speaker, no one, I believe, can successfully challenge my dedication to, appreciation of, and convictions on religion. I am a professing Christian. All my life I have attended, worked with, and contributed to the Baptist denomination. I have also worked with, through ecumenical movements, the programs of all other churches. My father taught me to respect all other denominations and to seek no converts from other religions, but seek only to convert those who apparently have no religion.

In this area, that is Congress, I am a member of the prayer group that meets every Thursday morning. I have never missed a meeting when I was in town except for once when I was ill and I have the evidence because I have taken notes at every meeting. This is where we have, in my opinion, religion at its best for among our members, we have found every major and minor faith in America including one regular attender who was a Buddhist. It is a wonderful example we set here with this voluntary prayer group that meets in the Capitol every Thursday morning when Congress is in session.

Never a week goes by, Mr. Speaker, but I am found at some moments several different times in the prayer room. I believe in prayer, I pray daily in my home and at work. I have collected 17 of what I think are the most meaningful and needed prayers and carry them with me daily. Now, whether I make it to Heaven may be questioned, but no one can successfully, I repeat, challenge my feelings for and about religion.

Mr. Speaker, the best argument against the amendment comes from the author of the amendment, the Honorable CHALMERS WYLIE of Ohio, in his House Joint Resolution 191. It is clearly revealed in his response to 23 questions propounded by the distinguished Congressman from Florida (Mr. GIBBONS).

In this series of questions, it becomes crystal clear what the author intends. He said that some Government authority would tell us what to pray, in what manner—aloud or silently—and where to pray. Let me just dwell briefly on a few of the questions and, Mr. Speaker, I have dealt with them in some detail on November 4 and they may be read and seen in the CONGRESSIONAL RECORD of that day beginning on page 39383.

Let me just call attention to a few of these questions to show how dangerous the adoption of this amendment would be. The first question addressed to Congressman WYLIE, the author, reads:

Who is to determine what is a nondenominational prayer?

Mr. Speaker, we of the opposition could not state our position more clearly than the gentleman from Ohio has stated. Listen to the answer. He said that:

The local school board authorities will determine what the nondenominational prayer should be and that if the school abuses their authority, the matter would be subject to judicial review.

Now, Mr. Speaker, I ask when in all the history of America and since the approval of the Bill of Rights has it been the position of government to determine the content of the prayer of the people?

Mr. Speaker, we now go to the fourth question. The question is "May it be given outloud or silently?" Again, we see the strong arm of governmental authority in prayer when we read the answer from the gentleman from Ohio. He said:

The manner of praying should be left to the judgment of the local school authorities.

I have always been led to think and I believe that it is to be the religious needs of the school pupils that are being provided for by the amendment. Now we are told that the school board will decide and so it comes out that they would not be allowed to pray according to their own wishes, but according to the wishes of the local school authorities.

Mr. Speaker, I commend the reading of the questions and answers, all 23 of them, by every Member who must vote on this very important amendment and when I cite to you the response to the seventh question, it should shake the thinking and the complacency of every Member of this House and every citizen of America. It is the seventh question asked by Mr. Gibbons:

Would your amendment allow police or judicial action to prohibit a prayer in a public building because it did not meet the interpretation of being a nondenominational prayer.

"Of course," answers the prayer amendment sponsor and my response, Mr. Speaker: Shades of the Dark Ages, I would never have imagined that in our land of the free we would ever be faced with this judicial or police authority to determine the contents of our prayers. Mr. Speaker, for the sake of our children, for the sake of voluntary prayers, for the sake of what is best for all religions, yes indeed, for God's sake, let us defeat this perverse prayer amendment and continue our protection against governmental intrusion into our prayer life and for further evidence, I recall for you the 15th question:

Would you please define prayer as used in your resolution. Is it to be silent? oral? or in unison? To whom is it to be addressed? God? Jesus? Our Father? May it end with the words, In Jesus name we pray. Amen?

Here again Mr. WYLIE clearly indicates governmental authority in drafting the content and format of the prayer. His answer reads:

The content and format of the prayer would be determined by the people and appropriate authorities.

Mr. Speaker, one of the things that bothers me in this amendment is its reference to prayer in any public building which is supported in whole or in part by the expenditure of public funds. The promoters of this amendment are saying "this is for prayer in schools," but even a close glance at the amendment shows that it has no broader scope than to prescribe and proscribe worship in the public schools. The amendment does not even mention public schools, but impresses within its scope nondenominational prayer within all public buildings throughout this Nation. The words "lawfully assembled" in the proposed amendment would give purpose to every thoughtful citizen this yoking of "State-approved nondenominational worship" with the qualifications that it be conducted in a "lawful assembly" has omnibus overtones to those who believe that there cannot be any such thing as "unlawful assembly" for those who come together to worship God. Of course, the amendment applies only to persons lawfully assembled in any "public building." But what is a "public building"?

Mr. Speaker, the amendment goes on to define it as one "which is supported in whole or in part through the expenditure of public funds." Now I ask, Are church buildings "public buildings"? They are so classified in the building codes and safety and fire regulations of most cities and States. The churches certainly are supported in part by public funds in that they are given tax exemptions and free public services such as fire and police protection which is essential to their function. The Wylie amendment may place, and some would say does place, in dire jeopardy the freedom and independence of all churches in America since it applies only "nondenominational" worship may lawfully be offered in "public buildings" in this country. Mr. Speaker, under the definition given in this amendment, church buildings are "public buildings."

Mr. Speaker, a brief time like this does not allow adequate time for debate on all the implications of this amendment. There are some side effects that worry me. These side effects will bring about great divisions in our communities. I see the prospect of school board members refusing to run for school boards because they do not want to make the decision of what is a "nondenominational prayer" or contesting each other on who can write the best "nondenominational prayer."

Here are a few other side effects:

First. It denies the principle of voluntarism in religion by restricting the kind of prayers people can participate in and by giving the Government authority to determine the content of the prayers that people can voluntarily pray in public buildings.

Second. It introduces a religious divisiveness into the life of the Nation that could result in serious national disunity along religious lines. The religious groups themselves have never been able to achieve a consensus on a definition of prayer, much less "nondenominational" prayer. Some arm of Government will now have to make that determination, if the amendment becomes part of the Constitution.

Third. The amendment creates a situation for school administrators that will be difficult or impossible to resolve in many cases.

Fourth. The new principles of constitutional law put into the Constitution by this amendment will affect future actions of Government relating to religious practices—judicial, legislative, and executive—in ways that cannot now be predicted.

Fifth. The amendment could affect the religious practices in any building that is built in whole or in part by public funds—a school, a hospital, a day care center, nursing home, a children's home, and so forth. The limits of nondenominationalism could be imposed in all such buildings.

Sixth. The amendment authorizes by constitutional law a perverted form of nebulous religion—nondenominational prayer.

An equally incisive analysis was presented by the American Jewish Congress:

All guarantees of freedom would be endangered by any move to tamper with the Bill of Rights.

This proposal has been before the United States Congress for a number of years. The fact that it has not been adopted is almost certainly attributable to the broad recognition by the American people that the guarantees of the Bill of Rights, and particularly those of the first amendment, are not and should not be subject to amendment.

Once the principle is established that the Bill of Rights can be amended, the way will be open to other limitations of basic liberties such as freedom of speech, press and assembly.

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The Constitution does not prevent any individual from praying as he chooses. But as interpreted by the Supreme Court it does restrict—and should restrict—government dictation of or participation in prayer.

The effect of the amendment would be to trivialise religion and destroy the function of prayer as a sacred communication.

On the other hand, any effort to give public prayers real meaning would divide the population along religious lines. Diversity of religious belief is necessarily reflected in diversity of belief in the matter of prayer.

Any prayer that truly represents the theology of one religious sect will necessarily conflict with other theologies.

Mr. Speaker, support for the opposition has grown steadily and surely. Whatever the outcome here, this amendment will not become a part of the Constitution for I have confidence in the American people. They will see the dangers and those who are its most enthusiastic supporters will lose heart and change their minds for the people will have freedom of religion and freedom of conscience and will insist on religious liberty.

Mr. Speaker, the fight for religious freedom began really in Virginia. The fight for religious freedom in the Virginia Legislature was a long one, a hard one, and a bitter one. Eventually, by 1784, all favoritism laws had been repealed and most of Jefferson's original draft of the "Act Establishing Religious Freedom" had been adopted. In the preface to the bill, Jefferson sets forth his arguments for religious liberty: First, compulsion makes people not Christians, but hypocrites. Second, no man is competent to judge the religion of another. Third, religion does not need the support of a government to enable it to overcome error. Fourth, it was not God's plan to force man into obedience. Fifth, a religion of love, not a religion of force, should prevail.

Mr. Speaker, a religious experience to be acceptable to God and to be worthy of the name must be a completely voluntary response to God.

The powers of government in whatever form it may take—limited or unlimited—must not be used in an attempt to force people to be religious. History records that people do not respond to compulsion for religion by the state.

This whole question must be left to the power of the Holy Spirit, the persuasion of love, and the dynamics of personal responsibility.

Mr. Speaker, I would have my colleagues reflect on history and consider the religious heritage of freedom of religion under whichever church, no matter how small, has an opportunity to be and to be heard. Let us protect this cherished religious liberty and religious freedom. The lesson of history, my colleagues, cries for a "No" answer to this amendment in whatever form.

I plead with my colleagues, I beg of you to consider our history.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, while I speak in strong opposition today to the Wylie amendment I am fully aware of the deep concern which millions of Americans have concerning the absence of religious instruction in the public schools of this country. Changing the Bill of Rights, however, is not in my judgment any solution to the problems observed by those who feel that a deeper religious element should be present in our public schools. For these sincere persons there are two constitutional ways by which their objectives can be carried out. All children in America can participate in released-time or dismissed-time religious education off the premises of the public school. This arrangement was declared constitutional by the Supreme Court in 1952. All schools, furthermore, have the right, as declared by the Supreme Court when it outlawed Bible reading and sectarian prayers, to teach about religion in an objective impartial way.

I am opposed to House Joint Resolution 191 for three fundamental reasons:

First. There is no satisfaction definition of the term "nondenominational." Even if, furthermore, the particular term "nondenominational" is omitted from the proposed amendment to the Bill of Rights any prayer sought to be justified under the first amendment of the Constitution must in the nature of things be nonsectarian or "subdenominational" or "sub-Christian." The very concept of prayer seems inevitably to include a theistic element. It is precisely because of this element that any prayer must be deemed to reflect the theology of a particular group and is consequently denominational or sectarian.

I oppose the Wylie amendment because it invents a new type of prayer. The prayer to be sanctioned by House Joint Resolution 191 is apparently some form of State-composed or at least State-endorsed supplication to God.

If there is anything that the first amendment was designed to prevent it is the Government in America assuming or asserting anything with regard to religious or theological orthodoxy.

Today for the first time in all of American history the proponents of this incomprehensible amendment want to alter the first amendment so that apparently American citizens may participate in the recitation of some governmentally "nondenominational" prayer. I can think of no greater assault by the State upon the church.

Second. Those who vote for the Wylie amendment today will be voting against the eloquently stated opinion of virtually all of the churches and synagogues in America. If all or some of the churches and synagogues were asking the Congress to authorize some form of prayer in the public schools I would hope that we would remind the churches and synagogues that the first amendment states categorically that "Congress shall make no law respecting the establishment of religion." But when all of the religious bodies in America urge us today not to approve the Wylie amendment by what strange logic do we think that we can or should defy all of the religious organizations of this Nation?

It is most significant that for the first time in all of American history the American Catholic bishops, speaking through the U.S. Catholic Conference, have spoken out on this subject. The bishops have emphatically and categorically opposed the enactment of the Wylie amendment and the alteration of the Bill of Rights.

If some or all of the public school educators in America were asking the Congress to authorize some form of prayer in which schoolchildren could participate I would be opposed to the Congress acting on such a request. Educators in America are, however, opposed to the Wylie amendment. How then can this House pose as the national self-appointed school board of the country and arrogantly authorize a prayer not sought for, but indeed rejected by the educators of this country?

The Members of this House who must concede that the religious and educational leaders of this country do not want this amendment allege that the parents of some 40 million schoolchildren want an opportunity when their children can pray. There is no evidence for this allegation present before this body today. Indeed, even if we did have some evidence along this line gathered by a committee of this Congress I would be even more reluctant to amend the Bill of Rights in order to assist those parents who desire to have their Government inculcate the piety which these parents are apparently unable or unwilling to give to their own children in their homes and in their churches.

Even if, however, millions of parents were begging the Congress to alter the first amendment so some form of prayer could be allowed in the public schools I would hope that we would resist this outcry and urge these people to seek their remedy not by changing the Constitution but by seeking to persuade a majority of the members of the U.S. Supreme Court that the Nation's highest tribunal wrongly decided this issue in 1962 and in 1963. When we have before us here today virtually no evidence of any widespread desire on the part of parents to have their children participate in some form of prayer in the public schools how can we assume that this body, with no committee report and no hearings, can emerge from a very short debate with a formula which supposedly will resolve the problem which we have not understood and satisfy the parents from whom we have not heard?

Third. There is one overwhelming reason why some Members of this House feel that they must vote for the Wylie amendment today. That reason is fear of the political consequences of a vote which opponents in a forthcoming election could allege to be a vote against God, against piety and against morality.

I have talked with a large number of the Members of this House. One Member told me categorically that he expects to vote for the Wylie amendment because he does not want to bother explaining to constituents and others for the next several months why he voted "against prayer."

Members of this House and of the U.S. Senate have seen a vote against the Dirksen amendment and against the Becker amendment used by political opponents presumably to their advantage.

The vote today, however, is different from a vote on either of those proposed amendments. Those amendments sought directly to reverse the decisions of the U.S. Supreme Court and to allow openly sectarian prayers in the public school. Today's proposal does not seek to restore true religion to the public school. Today's amendment seeks to create an ersatz religion. Today's proposal in short suggests that the Government in the person of the teacher, the school board or the courts move in upon our public schools by certifying or approving that a particular prayer is indeed "nondenominational." A vote against the Wylie amendment by a person who voted for the Becker amendment is entirely consistent. The Wylie amendment is actually a proposal to outlaw all sectarian or denominational religion from the public schools forever. Even worse, however, the Wylie amendment states that the public schools, while outlawing all real religious exercises now engaged in by Americans, must invent, import, and establish some novel religious exercise not taken from any one individual denomination but gathered from all religions into a composite prayer unacceptable to the members of all denominations but acceptable to the Government which has sanctioned the practice.

I have talked with some Members of this House who say that they feel that the people of America should have the opportunity to decide whether prayer should be offered in schools. If there were any substantial evidence that people all over the country felt strongly enough about the necessity of prayer in public schools that they desire to amend the Bill of Rights to achieve such an objective, the contention that the people have a right to decide would have some merit. But is there any evidence whatsoever that there is any ground swell of opinion suggesting that any significant number of people desire for the first time in American history to alter the Bill of Rights to permit the recitation of nondenominational prayers in public places?

There is no ground swell of opinion for this amendment as there clearly was for the reduction of the age at which people can vote or for the amendment recently passed by this House to extend equal rights to men and women.

It is significant to note, furthermore, that if this House and the U.S. Senate passed the resolution before us today by a two-thirds vote it will not be the people of America who will make the further decisions but the legislatures of three-fourths of the States. In all candor the Members of these legislatures will be threatened, as I am afraid some Members of this House are today threatened, not by a majority, not by a well-informed and rational lobby, but by a tiny minority of shrill persons who have sought to intimidate me as they have sought to intimidate every Member of this House.

By reason of my profession I would be inclined to be sympathetic to any measure which would enhance religious freedom and maximize its exercise. But I have never had the slightest hesitation in being opposed to the Wylie amendment. It will not enhance the free exercise of religion nor will it do anything to advance religion. Indeed I think it can be enormously detrimental to the substance and spirit of religion in America. It would be detrimental because the amendment before this House today would for the first time in all of American history commence the creation of State composed and State endorsed prayers. I will not elaborate on the disastrous consequence of the adoption of the Wylie amendment but I am more and more persuaded that it would be the intrusion by the State into the affairs of religious bodies in a way unprecedented in America.

The Wylie amendment cannot be made acceptable by the alteration of any words or by the insertion of the term "voluntary." Regardless of the phrasing used the inevitable and inexorable thrust of the Wylie amendment is the creation of a new religion in America—a religion unknown to the churches and synagogues and people of this country.

The adoption of the Wylie amendment would be a major disaster. I implore you to vote it down.

Mr. WYLIE. Mr. Speaker, I yield to the gentleman from California (Mr. SCHMITZ).

(Mr. SCHMITZ asked and was given permission to revise and extend his remarks immediately after the remarks of the gentleman from Massachusetts (Mr. DRINAN).)

Mr. SCHMITZ. Mr. Speaker, the reason I wanted my remarks included after those of the gentleman from Massachusetts (Mr. DRINAN) is that his comments led many of you to believe that the approximately 200 Catholic bishops of the United States have come out in opposition to the amendment to permit public prayer in public schools. When this position attributed to the bishops appeared in the press, being a Catholic layman, I called the U.S. Catholic Conference office to find out how many bishops were consulted on this question. Mr. James Robinson, who is in charge of government liaison at this office, told me at least a half dozen times in answer to different questions that Bishop Bernardine who is the general secretary, was authorized to speak on behalf of the bishops.

I said, "How many bishops did you consult?"

Finally, after long questioning, he admitted he did not know. I then called Bishop Bernardine's secretary and she said, "Five—the members of the Executive Committee." I could give you the names of them.

The following telegram sent to Congressman WYLIE November 4 by the editor of the national Catholic newspaper the Wanderer should help set the record straight:

We are in full support of your bill on the prayer amendment. State legislators should have opportunity to consider amendment and reflect sentiment of their constituents. As editors of catholic newspapers with 50,000 nationwide circulation can assure you most of our readers support Wylie bill.

Do not be confused with alleged opposition of catholic church on this issue. Statement of opposition by U.S. Catholic Conference was signed by five prelates (two of whom are at the synod in Rome) who were sent the statement by mail. The Wanderer, in a quick spot check with seven other prelates found that none of them had been consulted on the issue or were even aware such a statement was being considered.

As Catholics and citizens we resent the efforts by self-willed individuals to presume to imply to speak for us or to influence pending legislation by less than candid means. We must ask: who are these faceless people who are so determined to deny the American people an opportunity to be heard on an issue of such vital interest?

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Members know my views on this matter, and I shall not belabor the point, but I believe I should comment on some matters which seem to be concerning the membership.

One is that this measure is said to be desired by an overwhelming majority of the American people. I do not question that statistic, but we are not talking here about the rights of majorities at all; rather, we are talking about the rights of one person. That is what the first amendment is all about. That is what the Bill of Rights is all about—to protect an individual against the coercive power of Government, to protect the unpopular minority from the will of the majority.

It has been said, however, that if these prayers are truly voluntary somehow the individual right will be protected. But what is "voluntary" and what is not will be a question of fact to be determined by the trier of fact.

I believe some of these questions might well be asked as bearing on the issue of "voluntary":

Was the prayer exercise conducted by a teacher? What is the age of the participants? Was it conducted in a classroom? Was it conducted during the regular class hours or otherwise? Were the "volunteers" told they could assemble or were they told they could leave? Did the school authorities or the teachers express approval of those participating in the prayer? Was attendance kept or not? If not, did the teacher otherwise know who participated and who did not? Was the prayer exercise offered as a part of the school routine or was it left to student initiative during free time, such as study period or recess? These are important facts.

Parents of young children know something about the difficulty of making young children of impressionable ages participate voluntarily in Sunday school exercises, for example. We know in wholly sectarian activities young people seldom volunteer. It takes parental coercion to make them do what we think they should do.

In this case, Mr. Speaker, it is the

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Government acting as parent and telling the young people of America that we—that is, we the majority—know what is good for you and we are going to prescribe a prayer that will not hurt you a bit.

Such is not the function of Government, Mr. Speaker.

In the debate over House Joint Resolution 191 altogether too little attention has been paid to the meaning of its operative words. Indeed, critics have ably demonstrated their confusion with the language. But in the event that the language does become the law of the land, some guideposts will be needed.

It has been said that nondenominational prayers do not exist. If the term is understood to mean that there is a religious belief common to all religions, then such prayers do not exist. But obviously a nullity is not intended. Since there is no belief common to all religious sects, a narrower meaning must be inferred. In narrowing the term we must take cognizance of the fact that the term has gradually been employed in the context of the school prayer issue in order to decrease cause for divisive religious controversy. Thus a too narrow focus would defeat the intention of the supporters of the resolution insofar as it would increase the risk of controversy. Of course, controversy can never be eliminated entirely, because there are people who object to prayer per se. But that is well understood by the supporters of the resolution.

What is meant by "nondenominational" is neither "common to all" denominations nor "common to a few." Rather the term is meant to embrace the largest possible common ground of religious belief without stretching so far as to become merely a mental concept incapable of translation into reality. If this is accepted as the meaning, what we arrive at is a belief common to as many denominations as possible, for example, a belief in God.

This interpretation does not do violence to the term "nondenominational" and does reflect what the resolution's supporters intend.

Next, is this prayer, which only recognizes the existence of God, to be voluntary or compulsory? Opponents have argued that "voluntary" prayers would be impossible in situations where the Government was involved. The better the point is made, however, the clearer it must be that the proponents have some lesser form of "voluntary" in mind.

What is intended, in answer to the question, is that the prayers shall be voluntary except insofar as Government involvement is thought to be coercive. I believe that the proponents want the prayers to be as voluntary as would be possible in a situation of Government involvement in religion. Thus what is intended is that Government be authorized to offer a free choice to pray or not to pray. While opponents may find a contradiction between the Government's offer and the person's freedom to choose, this is precisely the point; the proponents are basically seeking to impose new definitions on first amendment terms. Yes, the proponents favor "voluntary prayer" but a new kind of voluntary prayer.

The proponents wish to modify the establishment clause as it is now construed so that Government might offer the opportunity for the free exercise of religion. The proponents also wish to reject the suggestion that an offer by the Government is, in itself, an infringement of the free exercise clause.

I assume that no further modifications are intended. Once the argument that government involvement precludes voluntariness is eliminated as a matter of law, we are left on an uncharted sea as to what is voluntary prayer.

I would envision that the question of voluntariness would be one for the trier of fact since, as I indicated, the resolution rejects arguments that provide an answer as a matter of law. The trier of fact would judge the total situation weighing various factors.

Was the prayer exercise conducted by teacher or students? Was it conducted in the classroom or elsewhere? Was it conducted during regular class hours or otherwise? Were the "volunteers" told they could assemble or were those objecting told they could leave? Did school authorities or the teacher express approval of those participating in the prayer? Was attendance kept? If not, did the teacher otherwise know who participated and who did not? Was the prayer exercise offered as part of the school routine or was it left to student initiative during free time, such as study periods or recess?

Such factors, no one of them necessarily determinative, will be taken into account by the trier of fact in judging whether the total impact of the circumstances on the student was coercive or not.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. I join with many of my colleagues in opposing House Joint Resolution 191. It is completely clear that this proposal to amend the Bill of Rights has originated in the minds of sincere and well-intentioned, religiously motivated citizens of this country, and I respect them for their sincerity. However, I do not support their thesis that this amendment is either necessary or desirable. Every Member of Congress is aware of the fact that when emotional issues such as this arise, particularly when they involve religious questions, it is easier to yield to the pressure of a small crusading band of zealots than it is to oppose them with calm and rational arguments. There are some instances when Members of Congress might be excused for allowing themselves and their vote to be given over to expediency, but not, I believe, on an issue of such profound importance as this.

Today our Nation is divided and torn in many ways. Certainly we do not wish to intensify and aggravate the divisions and hostilities that plague us, but if Congress were to pass this resolution, we would be doing exactly that. We would be injecting into our society what would certainly become a searing religious controversy, and for no constructive purpose. If we refer this proposed amendment to our Bill of Rights to the legislatures of the 50 States for ratification, every single member of every State legislature would be subjected to even more intense, unreasoned and emotional pressures than we have experienced, from perfectly well-intentioned persons who neither understand the constitutional protections we now enjoy, nor the mischief they would be creating.

The record of reasoned opposition to House Joint Resolution 191 is overwhelming. It includes virtually all the major religious organizations in America, most constitutional lawyers, and most educators. This is not surprising.

First. The proposed amendment is completely unnecessary because voluntary prayers—denominational or nondenominational—are presently permitted under our Constitution and the rulings of the Supreme Court.

Second. The proposed amendment is vague and ambiguous. Simple as it may seem on the surface, it is loaded with expressions which would unquestionably lead to endless litigation in the subject area where there is now a fairly clear legal picture.

Third. It would put the Government into the business of setting religious criteria and determining what, if anything, is a nondenominational prayer.

Fourth. It completely ignores all the religions and all the religious beliefs in this country that do not accept as part of their religious experience the stylized method of prayer and the assumptions involved in these prayers that are taken for granted by the sponsors of this amendment.

For these reasons and many others, any objective, rational consideration of this proposed amendment to our Bill of Rights by those who truly wish to protect our religious freedom should lead to its rejection.

To my many friends who believe that public recitation of a nondenominational prayer each day by anyone will make this world a better place in which to live, let me quote from Jesus of Nazareth, as related from St. Matthew in the King James version of the Bible:

> And when thou prayest, thou shalt not be as the hypocrites are: for they love to pray standing in the synagogues and in the corners of the streets, that they may be seen of men. Verily I say unto you, They have their reward.
>
> But thou, when thou prayest, enter into thy closet, and when thou has shut thy door, pray to thy Father which is in secret; and thy Father which seeth in secret shall reward thee openly.
>
> But when ye pray, use not vain repetition, as the heathen do: for they think that they shall be heard for their much speaking.
>
> Be not ye therefore like unto them: for your Father knoweth what things ye have need of, before ye ask him.

Mr. Speaker, prayer is a personal thing, and should be taught and practiced in the home, in the church, and in the Sunday school, but it can be experienced anywhere today, in this free land of ours, protected by the first amendment to the Constitution. Voluntary prayers, denominational or nondenominational, may, under our Constitution, be offered in any building, public or private; by any group, lawfully or unlawfully assembled. But the most important thing is that prayer should be a personal experience. Prayer is not a ritualistic rite imposed upon children, which they can escape only at the cost of social ostracism. Prayer can be a mother preparing a meal for her family, a father walking with his children, a nurse sitting up with a sick child, a farmer tilling his land, a stonemason, yes, and a Congressman, dedicated to doing his best.

Let us stand up now with the good sense and courage that we have always revered in the great men who have come before us—who have provided us with the heritage under which we worship freely today. Let us reject this resolution, however well intentioned it may be. Let us protect our religion from State control. Let us protect every single one of our children from any suggestion of religious tyranny over their minds. Let us protect our society from any more unnecessary religious controversy and strife. Mr. Speaker, the first article of the Bill of Rights states:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .

Nothing could be more clear. It means exactly what it says. Any step away from this standard is a step away from religious freedom. Let us protect the Bill of Rights under which all of our religious freedoms flourish. I urge you to vote "No" on House Joint Resolution 191.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Utah (Mr. McKAY).

Mr. McKAY. Mr. Speaker, I have had some concern, as has everyone else, about the religious nature of this country and its moral fiber and its family background. However, the longer I live and the more I am exposed to it, the more I am convinced that you cannot legislate morality or religion. You build it in the home and church, and when the home and church breaks down, then you are in trouble. Propping it up in any school will never change that or turn it around.

My faith is my private business; the history of my people suggests to me that I do not want government tampering with my faith, as has been the history of my people. I do not want to give them that chance.

I also believe that the Constitution is an inspired document. If those men who formulated the Bill of Rights, were inspired, then I do not think that has changed now.

I oppose the amendment.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Mrs. GRIFFITHS).

Mrs. GRIFFITHS. Mr. Speaker, I oppose this amendment.

I oppose the Government telling me how to pray. I would like to remind those here that if this amendment should pass, you will find that in the small towns of America, where they know what is happening in the schools, that those parents and those children will come to hate this amendment. They will oppose it. You will create endless schisms and endless trouble.

Mr. Speaker, I hope that this amendment is soundly defeated.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I oppose the so-called prayer amendment, not because I have the less faith in religion as a guiding light for the people but because I have the less faith in Government. I believe, like James Madison, that religion is too personal, too sacred, too holy, to permit its "unhallowed perversion" by a civil magistrate.

This amendment, if it means anything at all, misconceives the purpose of the Bill of Rights and purports to put into the Bill of Rights, which is a document protecting the people from interference by Government, a delegation of authority to determine what kind of prayer persons may engage in in schools and publicly supported institutions. Under the amendment they may "participate in nondenominational prayer."

Of course, it is true that today, under the controlling Supreme Court decisions, "persons lawfully assembled" anywhere are not denied the right to participate in prayer, denominational or otherwise. Therefore, the amendment technically construed diminishes rather than enlarges an individual's right to worship, if he desires to, in a public place.

The mischief of the amendment arises from its predictable public effect. Since it has not been supported as an abridgement of the right to pray in school, but rather as an enlargement of authority to prescribe prayer, it will undoubtedly be construed to have this effect and to give to school officials the authority to impose their particular brand of orthodoxy upon children in the schools.

Certainly, the Bill of Rights was never intended to give more power to Government. The proposed amendment is in direct contradiction of the primary purpose of that great document. The first 10 amendments were added to the articles of the Constitution at the urging of Jefferson and Madison and others who believed in protecting rights of individuals even against their own representative government. This is quite different from the purpose of the articles of the Constitution. A delegation of authority to prescribe religious forms, had it been intended, would have been in the body of the Constitution which delineates and balances the structure of Government and provides the means by which the people may act corporately through representative processes. It happily does not include any process or authority to prescribe religious forms, delegate clerical authority, or tamper in any way with the thoughts and beliefs of the individual. And it certainly does not provide even limited delegation of authority to school administrators to determine what kind of prayer a young person shall have the right to engage in in a "building which is supported in whole or in part through the expenditure of public funds."

Young people are required to go to school. In this captive assembly a governmentally approved form of prayer would become a part of the function of the school, thus of the Government. Not only is such an exercise of power not a part of the structure of Government provided for in the body of the Constitution, but it is expressly prohibited in the first amendment which provides that Congress may not make any "law respecting an establishment of religion, or prohibiting the free exercise thereof."

Thus, the proposed amendment is revealed as an awkward attempt to alter basic law stemming from an utter lack of sensitivity as to our constitutional structure. If the purpose of the amendment were desirable, the way to accomplish this would be to set up some kind of structure in the body of the Constitution authorizing a limited "state religion"—may God forbid.

But it is utterly inappropriate to attempt to do this by placing another negative statement in the amendments to the Constitution, which purport to extend the rights of individuals. Such proposed amendment, as we have said, is, in fact, intended to limit those rights by prescribing the kind of prayer that may be engaged in and by implying that some administrative authority may determine what is "nondenominational prayer" and impose a religious ritual as a part of the school program.

The Bill of Rights guarantees rights of people, not as a corporate body, but as individuals entitled to be respected as individuals. Under it, they are entitled, in matters purely personal to them, to be let alone, to go their own way.

History has proved that affording this protection against even the powers of a republican form of government is an act of great wisdom; for government, being at best representative but never perfectly democratic and humane, cannot be trusted to tamper with the private life, thoughts, and religion of its citizens.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. My colleagues, one thing has disturbed me greatly about this amendment, and it is this: This amendment would erode the fundamental separation, that constitutional separation, between church and state.

I fail to understand how anyone in this Chamber can dispute this fact. This erosion would be the result of passing the Wylie amendment. The separation of church and state was the precise objective that the framers of the Constitution, who themselves had been discriminated against and persecuted in matters of religion by the state, sought to avoid.

I ask a question of those supporters of a nondenominational prayer: Who in this body can frame a voluntary nondenominational prayer? What principal,

local school board, or Governor could do this? It would be easier for us to resolve that ontological question which asks how many angels can alight on the head of a pin. I therefore argue that there is no such thing as a nondenominational prayer—and that our course has been charted for us by the framers of the Constitution. I urge all my colleagues to vote against House Joint Resolution 191.

Mr. CELLER. Mr. Speaker, I yield one-half minute to the gentleman from Iowa (Mr. MAYNE).

Mr. MAYNE. Mr. Speaker, the Bill of Rights has protected basic American freedoms for 180 years. The first of those freedoms guaranteed in the first 10 words of the first amendment, is freedom from any government establishment of religion. Our Founding Fathers wisely determined to separate church from State absolutely and to permit no governmental dictation, guidance or even suggestion in the field of religion which of course includes prayer.

The proposed constitutional amendment on which we vote today would qualify and becloud the protections of the first amendment which has served us well since the founding of this Republic. Can any one doubt that constitutional sanction of so-called nondenominational prayer would lead to governmental determination of which prayer was proper and which was not? This is the very danger which the framers of the Bill of Rights warned against, and labored to avoid. The terrible persecutions of religion by government which afflicted Europe in the 17th and 18th centuries were still very fresh in their minds.

Mr. Speaker, it is perhaps understandable that with so much additional lapse of time, we become less mindful of the lessons of history, and forget how many of our ancestors have come to these shores fleeing such persecution. Is it not also obvious that if we start tinkering with the very first 10 words of the Bill of Rights today, those who disagree with others of its safeguards will be encouraged to offer similar amendments, which could well lead to a general erosion of this basic document of freedom?

Mr. Speaker, I say let us remember the wise counsel of Madison and Jefferson and stand by the Bill of Rights. Let us vote down this well intentioned but dangerous amendment.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. PASSMAN).

Mr. PASSMAN. Mr. Speaker, I rise in opposition to House Joint Resolution 191.

I signed the discharge petition before you so as to bring this matter before the House for clarification, not modification of the Constitution. For many years it has been popular to condemn the Supreme Court. In fact, it is still popular, and in many instances quite proper, but I believe the Court's decisions on prayer were proper.

Mr. Speaker, here is what we find in article I of the amendment to the Constitution:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

The Court opinion affirmed this clause. They said no law means no law.

Mr. Speaker, my correspondence is running 200 to 1 against House Joint Resolution 191. It is coming from laymen, lawyers, scholars, clergymen, and religious leaders. These people have a lot better understanding of the Constitution and the impact of the proposed resolution, if adopted, than most Members realize. When you say to these great church leaders that they are being misled, they say the facts are just the opposite, that it is Members of Congress who are being misled, and I believe they are correct.

One of the greatest constitutional lawyers in America, Hon. Henry C. Clausen, of California, has studied the proposed amendment and the Court's opinions in great detail. He is so thoroughly convinced that House Joint Resolution 191 should be defeated that he published one of the most factual and convincing statements on the subject matter ever published. It was carried in the New Age magazine. It would be difficult for any Member to vote for House Joint Resolution 191 if he read the statement by this great constitutional lawyer. This informative statement will be made a part of my remarks so that all Members can read his conclusions.

Mr. Speaker, let us keep in mind that there are three sides to most issues, your side, my side, and the right side. Should we not now move away from technicalities and resolve this matter on the right side by voting this amendment down and not tamper further with the Constitution which clearly intended the complete separation of church and state.

In all probability, if we let the camel get his nose under the tent, the tent will finally topple.

Let us also remember that the Supreme Court did not take prayer out of our schools, it precluded only governmentally enforced prayer. This issue was dead for many, many years. Reviving it would not appear to serve any useful purpose.

Mr. Speaker, I stated in a May 1, 1964, press release:

The Constitutional guarantee of religious freedom in the United States, which is coupled with the fundamental concept of the separation of Church and State, would be "dangerously undermined, if not actually destroyed," by adoption of the Becker "school-prayer" proposal, now pending in Congress, to amend the first article of the "Bill of Rights," in the opinion of Louisiana's Congressman Otto E. Passman.

He said today that the Supreme Court's recent "school-prayer" rulings had been widely misunderstood, contending that the decisions "did not, in any manner, prohibit voluntary prayer in public schools, but that, instead, they upheld America's basic safeguard to religious freedom, as guaranteed by the First Amendment to the Constitution."

He said the decisions "serve to protect religion from the crippling hand of government by upholding the doctrine of the separation of Church and State."

"Simply and briefly stated," he added, "the Court declared that no governmental authority may prescribe prayers, or readings from any of the versions of Scriptures, or any other sort of religious observance for children in public schools. It did not prohibit any of these practices on a voluntary basis."

Congressman Passman continued with this comment:

"There have been so many questionable and objectionable decisions handed down by the U.S. Supreme Court during recent years that many, if not most, of our citizens are reluctant to accept any of the Court's decisions as being in the public interest and in accord with the intent and purposes of the Constitution as it was written. I, too, deplore many of the Court's decisions, but if I should at this time remain silent, and thereby decline to give factual information to the public, with respect to the proposed Becker Amendment and prayer in our public schools, then such inaction on my part would be a profound disservice to my constituency. Therefore, I am compelled to speak up, outlining the facts as they are, not as they are imagined.

"The First Amendment to the Constitution of the United States of America states that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .' And, if we want to preserve our American way of life, we must let the First Amendment stand as it is.

"The recent school-prayer decisions of the Supreme Court have been widely misunderstood, and many of our people—most of them doubtless holding deep convictions—believe that these decisions prohibit prayer and Bible reading in our public schools; in fact, however, they do nothing of the kind.

"I say that the teachers in our schools may pray in any manner that they wish, and so may the pupils. Classes may be opened with prayer, and the Bible may be read in schoolrooms, so long as these actions are voluntary on the part of those engaging in them and they are not following a fixed, or prescribed, prayer or Scripture made mandatory by some governing body or official or agent of government, either local, state or Federal.

"There are some 200 different religious faiths, denominations, sects and creeds in this country of ours. So, if a law is passed or the Constitution is amended prescribing prayer in public schools, then what prayer would be used? What religion would be taught in the schools? Judaism, Catholicism or Protestantism of the Christian faith, Shintoism, Mohammedanism, or some other? If the teacher is, for example, of the Jewish faith, would he, or she, be compelled to recite a Protestant or Catholic prayer of the Christian faith?

"Once the door is cracked, and the protection afforded by the separation of Church and State, which is guaranteed by the First Amendment, is molested, the fact of religious freedom would no longer be with us; the separation of Church and State would have ceased, and, as only one illustration, public funds could be demanded for all parochial schools, regardless of their faith or denomination.

"I know of nothing that is more healing, uplifting, helpful and satisfying than prayer. But, each individual should be permitted to pray and worship in his own way, according to his own understanding and faith, and not be required to recite a fixed prayer not of his own faith, which has been made mandatory, or prescribed, by some governing authority."

BEWARE THE BOOMERANG

Congress soon will be asked to pass and submit to the states for ratification an amendment to the Constitution permitting "nondenominational" prayers in public schools.

That raises these critical questions: Who is going to say what is a "nondenominational" prayer? What authority, governmental or private, will determine the place and content of such prayers? Who will be the super spokesman? How will the prayer be enforced? What provisions of our Constitution will the amendment discard? Will the amendment, in effect, rewrite the Bill of Rights?

These are insoluble and contentious questions in a country of diverse religious creeds. Any attempt at answering them would entangle the Government disastrously in a conflict where there should be peace among pluralism. That is why many church organizations oppose the amendment, especially since they feel our Bill of Rights and its First Amendment as presently written adequately protect religious liberty, and that tinkering with the language would intrude the Government wrongfully into the religious arena.

It will be recalled that the United States Supreme Court case of *Engel* v. *Vitale* in 1962 struck down as a violation of our Constitution a practice of New York that forced its public school children to recite this daily "prescribed" prayer:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our Country."

There then swept across the Nation in some quarters an emotional and psychological wave criticizing the Court. This cast up upon the shores of Washington several proposed amendments. It was erroneously assumed that the Court was against God. But all that the Court barred was the *enforced* recitation of a state-composed prayer. Any child then or now may pray in a public school *voluntarily*. The vice of the New York practice was the State compulsion. That is the opposite of American voluntaryism.

It is no official concern of the state whether a child prays or is trained in religious values. That is for the parents, the home, the churches or, if desired, religious schools.

Before deciding to amend the Constitution, we should take a deep breath. Like matrimony, it is something that should not be done lightly. We should understand first what will be the full impact upon our future lives. It is not something with which to "tinker." I am reminded of the popular verse of some years ago that ran:

"I thank my God the sun and moon
Are both stuck up so high
That no presumptuous hand can stretch
And pluck them from the sky.
"If they were not, I do believe
That some reforming ass
Would recommend to take them down
And light the world with gas!"

The present attempt to amend our Constitution so as to permit the so-called "nondenominational" prayers should be firmly rejected. It would invade our present fundamental Constitutional rights and basic freedoms rather than confer an additional one. It would impair the integrity of our hard-won guarantee of religious liberty. It would tinker with the solid base of interpretive case decisions that have given life and substance to the means by which our Founding Fathers set out to preserve peace and harmony among our people. Such a deviation as now proposed, however slight and however well meant, would be exploited by religious zealots. It would be the foot in the door, the camel's nose in the tent, sure to result in further and eventual fatal intrusions.

May I suggest that *as an individual* you make your voice heard. Tell your views to your elected representatives. Your help can be decisive.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, despite the brief time to hear oral arguments today on this important issue, I am indebted to the gentleman from Ohio, (Mr. WYLIE), as well as the opponents of this proposed amendment for making available through the RECORD a very comprehensive review of the arguments that can be made on both sides of their propositions. I have examined them carefully and the RECORD of last Thursday with Mr. WYLIE's questions and answers plus other extensive material was especially helpful. The gentleman from Ohio, far from being disingenuous, has very frankly described the purpose of his amendment. It is to require local school authorities to determine what is a nondenominational prayer, subject to judicial review. The outpouring of communications from denominations both large and small makes it abundantly clear that there is no agreement within the religious community on this vital matter. Ecumenism, notwithstanding our pluralistic religious heritage makes it inevitable that there would be enormous diversity of opinion on this question. Therefore, it is more than idle speculation to assume that before we have fleshed out the meaning of these two words in 40,000 school districts across the land we face almost endless controversy of the most divisive sort. I cannot believe that all of this will contribute significantly to a religious renaissance or revival in our land. Long before the crusades and the religious wars of the middle ages, matters of faith and doctrine had proved capable of precipitating the most bitter kind of strife. I hesitate indeed at the prospect of plunging our already beleaguered schools into the conflict-producing area of theological disputation.

The issue is not whether it would be desirable to reverse the tide of secularism in our land and enhance the influence of religion on American life. Clearly this is a most desirable objective. The issue is do we wish to reverse the decision in which Justice Black—now revered by almost everyone as the foremost defender of the Bill of Rights in the long history of the Court—said:

The constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by the government.

I have paid some attention to the history of religious revivals in this country. And even though it is true that the Scriptures tell us that a little child shall lead them, I am unaware of any instance where a revival has begun in the classroom of a public school because of a State-sponsored religious exercise. They have occurred spontaneously on certain college campuses where students have voluntarily engaged in sustained sessions of intercessory prayer. The constitutional bar against State-ordered devotional religious exercises does not require the son of Mrs. Ben Ruhlin, the indefatigable lady from Ohio, to "park God outside the classroom." A firm belief in a transcendental God recognizes no such barrier. I am convinced that if we as parents will by our own faith and example indoctrinate our children with a firm, vibrant and living faith in God that we can reclaim our heritage as a nation who believes in the words of the preamble to our Constitution that it is our Creator who has endowed us with those inalienable rights so fundamental to our liberty.

GENERAL LEAVE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the subject of this resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The Chair will advise the gentleman from New York that gentleman has 5 minutes remaining.

Mr. CELLER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CORMAN).

Mr. STEPHENS. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Georgia (Mr. STEPHENS).

Mr. STEPHENS. Mr. Speaker, this proposed amendment to the Constitution has the effect of trying to define freedom of religion as contained in the first amendment to the Constitution. This amendment is part of that great American inheritance, the Bill of Rights, adopted in 1791.

It reads, in part:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

Many times when a law is passed, it is necessary to show the full intent of the legislative body by defining words and terminology employed in the act. When the intent is so defined, it almost always operates to restrict the meaning of the law. This is exactly what the proposed amendment would do. It seeks to spell out certain exceptions to the words of the first amendment. Freedom of religion, like the other freedoms in the first amendment such as freedom of speech, freedom of the press, the right of the people peaceably to assemble, and the right to petition the Government for redress of grievances, will only be effective when they are not restricted.

If we seek to define freedom of religion, we will also find emotions engendered for defining freedom of the press, freedom of speech, and the other rights which we have.

To illustrate the dangers in being too detailed, I give this experience. Before coming to Congress, I was general counsel for the Georgia Press Association. While serving in that capacity, I was one of the attorneys who represented the association when it opposed rules that had been announced by one of the judges of a superior court. In his rules of court, he defined what would be considered contempt of court by press photographers and newspapermen, saying specifically that no witness, attorney, nor spectator attending his court could be photo-

graphed in the courtroom, court corridors, the courthouses, or on the sidewalk, adjacent to the courthouse.

The chief complaint made by the newspaper editors was that this group of rules abridged the freedom of the press. The objection actually was that the judge was defining freedom of the press too narrowly. They did not believe that there should be this definition because it restricted the language of the Constitution. There is no difference in this proposal involved in restricting the freedom of religion by adding a definition.

The Supreme Court of the United States, in all its decisions on prayer, has said only one basic thing:

No governmental authority shall make laws or rules requiring a specific prayer or directing religious exercises in a school supported by public funds.

I feel, too, that people who have written to me do not fully understand that this is what the decisions say. If they understood this, they would certainly agree with me that we do not want to be told by anyone, except by our religious leaders, how to pray, when to pray and if we do pray, what we will say.

Reflection upon this will show the reason why. If such power in Government were legal, then it would be possible for and order to be issued requiring that only the Old Testament be used or only the New Testament be read, or an order issued that Buddism be taught, or that some godless and pagan religious philosophy be read. Surely, this is not what is desired!

I do not wish anyone anywhere to think by these statements that I am opposed to having prayer in public schools. I am not. But, I am opposed to having any form of government tell me and my children that we do not have freedom to worship God according to the dictates of our own consciences and without any governmental direction.

I have been asked how prayer can be carried on in our public schools as a result of the decisions by the Supreme Court. The answer to this important question constitutes a challenge to all ministers and parents. In 1964 when this question came up before, I proposed a plan which requires no legislation. The plan I proposed to the National Congress of Parents and Teachers and to the Georgia Parents and Teachers Association and which I propose again to every local parent and teacher association in Georgia and in the United States is as follows:

The Supreme Court has said that no governmental agency may require or direct religious exercise in a public school. However, the Supreme Court has not said, and I do not believe will ever say, that worship cannot be carried on by private groups on a voluntary basis in a public school. I ask that the Parent and Teacher Associations, by resolution, at every level, request school authorities to establish during every school day a period of "free time." No mention in such resolution shall be made that this "free time" will be used for religious purposes. However, during the period of "free time" the grade mothers, mothers, dad-presidents, the schoolteachers, the ministers and Sunday school teachers, and many other devoted Christians, could hold a Bible reading for children in the classroom and allow the children voluntarily to attend on their "free time". There is no governmental action in this method of bringing prayer back to the school and it does not contradict any of the decisions of the Supreme Court. It will fit in with the tradition of service requiring Christians to make a sacrifice because it will take an effort on the part of the mothers, fathers, and ministers to staff such an undertaking. If such a great challenge is not met then it is apparent that we are asking the schools to take over. We would be throwing religious instruction into the public school system and not keeping it in the churches where it belongs. The Supreme Court in a decision about 90 years ago said this:

> True Christianity asks no aid from the sword of civil authority. It began without the sword, and wherever it has taken the sword it has perished by the sword. To depend on civil authority for its enforcement is to acknowledge its own weakness, which it can never afford to do. It is able to fight its own battles. Its weapons are moral and spiritual. Armed with these, and these alone, it is not afraid nor "ashamed" to be compared with other religions, and to withstand them singlehanded. And the very reason why it is not so afraid or "ashamed" is, that it is not the "power of man" but "the power of God" on which it depends. True Christianity never shields itself behind majorities. A form of religion that cannot live under equal and impartial laws ought to die, and sooner or later must die.

No legislation of any kind with this constructive proposal will be necessary. There will be no need to confuse the people of America with definitions which restrict the freedom of religion rather than enlarge it. We will keep America as the land where people have the wonderful exercise of complete freedom of religion which, among many other reasons, was a chief one for settlement of this country.

When I am sick, I consult a doctor. If I need drugs, I buy from a druggist. If I need building plans, I advise with an architect. If I have a legal problem, I hire a lawyer. And, so, in religious matters, I should give great weight to professionals in the realm of theology.

The issue before the Congress now is a legal one and a religious one. What do the experts say? The American Bar Association has opposed any change in the First Amendment. The leaders of the Southern Baptist Church, the Methodist Church, the Presbyterian Church, the Christian Church, the Episcopal Church, and the Jewish synagogues all oppose any change in the freedom of religion clause of the Constitution. If history is consulted, you will discover that these entities have always been in the forefront of the fight for preservation of the separation of church and state. I do not believe we will go wrong if we follow their guidance in opposing the Becker amendment and the many other proposals which would do serious damage to the freedom of religion. Let the PTA, as a non-Government organization, pick up the challenge offered and bring religious exercises to the schools on a voluntary basis and hold inviolate the principles of our inheritance.

I know that the people who have written to me are perfectly devoted Christians and completely sincere in their concern. I hope my comments will also be considered in the same spirit of Christian forbearance. They are expressed with the same sincere feelings of what is the best for Christians as are the feelings of those who advocate the changes in the Bill of Rights.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Speaker, almost 200 years ago, the citizens of our country adopted the Bill of Rights in the form of the first 10 amendments to our Federal Constitution. The purpose of the Bill of Rights was to safeguard to all of the people certain basic and inalienable rights which were considered to be conferred upon man by God, and were never to be surrendered to any government.

The importance given to freedom of religion by our forefathers is demonstrated by the fact that this is the very first subject dealt with in the first amendment. The first amendment says:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

This language, written by God-fearing men has well served to preserve the religious freedom of our citizens of widely differing faiths.

The proposed amendment reads as follows:

> Nothing contained in this Constitution shall abridge the *rights* of persons lawfully assembled in *any public building* which is *supported in whole or in part through the expenditure of public funds*, to participate in non-denominational prayer.

Who has the infinite wisdom required to devise a nondenominational prayer which would not be harmful to the free exercise of religion by various Christian faiths, Catholics, Jews, Buddhists, Moslems, and others who attend schools and use publicly supported buildings?

Clergymen tell me that such a prayer can never be devised. Constitutional lawyers say that governmental authority would be required to devise or approve such a prayer and that the courts would be required to rule whether a certain prayer is truly nondenominational.

This aspect of the amendment has the effect of injecting government into the exercise of religion. It tends to destroy the existing neutrality of government toward religion. The Supreme Court decisions which prompted the amendent in no way prevent people from praying, but simply prohibits the government from participating in religious activity and from becoming involved in an individual's free choice. I notice that the amendment does not contain the word "voluntary" which leaves open the questions as to whether a child can be coerced to pray.

As the son of a minister, I am certainly aware of the value of religious training. I can truthfully say, however, that the most enduring religious and ethical principles in my own life were obtained in my home and in my church, and not in the public schools. My children have often expressed the same opinion.

For the above reasons I will vote—not against prayer—but against government interference in the exercise of religious freedom.

Personally speaking, I deeply believe in the function and efficacy of prayer. I will vote against the so-called prayer amendment because I believe that the constitutional provision against government interference in the exercise of religious freedom is basic to free performance of all religious acts in all faiths.

Mr. Speaker, I oppose as a matter of conscience, based on deep personal conviction House Joint Resolution 191, the so called prayer amendment.

I cannot vote to authorize any entity of government, Federal, State or local the right to prescribe on my 15 grandchildren when they shall pray, how they shall pray, where they shall pray or the formulation by word or ritual of the type of prayer they shall use in their prayer to their Creator.

Mr. LANDRUM. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Georgia.

Mr. LANDRUM. Mr. Speaker, I wish to say that I wholeheartedly endorse the eloquent statement made by our distinguished Speaker (Mr. ALBERT) earlier in this debate, and the remarks of the gentleman from California (Mr. HOLIFIELD) immediately preceding me.

Mr. Speaker, I am not prepared to leave a decision on how I pray, when I pray, how my children and grandchildren shall pray, and when, to any agency nor to any agent of government. This amendment will, in my judgment, result in interminable legal proceedings to determine what is nondenominational, what is or is not voluntary and will be in direct violation of the first clause of the first amendment to the Constitution, which says:

> Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

There is no law now prohibiting prayer. The prohibition is against a goverment agent, or agency saying when, how, and what kind of prayer shall be allowed. And I am afraid an amendment such as this one proposed today would result in destruction of our constitutional safeguard vital to religious freedom.

Mr. WOLFF. Mr. Speaker, will the gentleman yield;

Mr. CORMAN. I yield to the gentleman from New York.

Mr. WOLFF. Mr. Speaker, I oppose the Wylie amendment and hope to God in the best interest of this Nation that this resolution is voted down.

Mr. Speaker, shortly we will vote on House Joint Resolution 191, which declares that:

> Nothing contained in the Constitution shall abridge the right of persons lawfully assembled, in any public buildings which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

Because of the great controversy that has raged over this issue now, and in the past, I wish to take this opportunity to declare my views on this important resolution.

Mr. Speaker, I am not opposed to the recitation of prayers in public schools. Nor do I object to the teaching about and discussion of religion in our public schools. I believe that children should be given the opportunity for silent meditation in the classroom and should not be deprived of knowledge concerning religion and prayer simply because they attend institutions supported by public funds. In fact, even the Farmers Almanac declares that:

> Prayer should never be taken out of the public school. That's the only way a lot of us get through.

Well, that may be true, but I would also point out that children are presently denied none of these privileges, and in fact are free to pray in school without penalty.

Today, though, we are faced with a measure that, if passed, would deny our children this freedom to pray to God. House Joint Resolution 191, the so-called prayer amendment is exactly that—so-called. For instead of guaranteeing religious freedom, this resolution would lead to the atheistic abrogation of one of the most important concepts this country has known. Never before has our Nation acted to rescind or limit a right that has been insured through the Constitution. Never in our history has the American people desired to diminish the scope of our Bill of Rights, and I cannot believe that the American people wish that to happen here today. This amendment would require, not permit, our children to pray in a certain way in school, and in no way can I reconcile the preservation of religious freedom with the setting of a required government-dictated prayer.

The careful preservation of all the individual rights and freedoms that are embodied in the Bill of Rights are what set our Nation apart from the totalitarian regimes of the world. The late Justice Hugo Black, in ruling against the use of government-dictated prayers in the schools declared:

> One of the greatest dangers to the freedom of the individual to worship in his own way lay in the government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services.

One of the unique features of our Constitution is that it protects the rights of the individual. If we were to enact this amendment, we would in effect be declaring our indifference to constitutional protection of the rights of the individual, for what would be the safeguard to insure a government prayer that was acceptable to all.

Again speaking for the Court in its landmark decision of 1963, Justice Black said:

> In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.

I think all would agree that there is no room in a democracy such as ours for state prayers or a state religion. Yet I fear this is exactly what would result from the kind of secular, political control of prayer this amendment would generate. The prospect that our children would be forced to pray to the state rather than to God is, I am afraid, a very real one, for who is to decide what is acceptable for our children to recite as prayer, and, more important, what criteria will determine what is nondenominational? In a sense, that which is nondenominational is also nonreligious actually atheistic. It follows, then that in order for a prayer to be acceptable under the vague terms of this amendment, it would have to delete any mention of those great values and traditions that are the cornerstone of all the world's great religions, and that are central to the lives of those of us who claim to be devout in any sense.

Mr. Speaker, to recite bland, innocuous prayers is meaningless, but what is worse, to be required to speak such words is dangerous to democracy. It is significant, I think, that virtually all major religious groups in this country oppose this amendment. These leaders—and I would like to include at the close of my remarks a list of the many religious and lay groups who have contacted me to oppose this amendment—recognize the grave danger of associating matters of religion with secular affairs, especially when such indiscriminate control as this amendment proposes would be available to the Government.

I would like to quote the views of just a few from the many letters I have received:

This is from a statement by the Baptist Joint Committee on Public Affairs which includes all major Baptist groups in this country.

> It is our opinion that the proposed amendment is offered in view of a misinterpretation of the so-called "prayer and Bible reading" decisions of the Supreme Court in 1962 and 1963, which properly prohibited government intrusion into the religious activity of school children. At no time has the Supreme Court prohibited voluntary prayer but has only ruled against governmentally prescribed prayer and governmentally sponsored religious exercises.

From a statement by a group of Long Island clergymen:

> The Amendment, if passed, may contribute to the increase of religiosity, but it can only undermine faith. We are threatened not by the secularization of our schools so much as by the secularization of our religion.

United Parents Associations of New York City:

> School children would be particularly to vulnerable pressure contrary to their religious teachings.

XUM

U.S. Catholic Conference:

Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer.

National Council of the Churches of Christ:

We oppose the so-called "prayer" amendment because it would limit meaningful prayer and demean religion . . .

National Council of Jewish Women:

The proposed amendment introduces a divisive element into our society and would create no end of confusion and conflict on the definition of what is "non-denominational prayer."

United Presbyterian Church:

There is no prohibition today against our children praying in school *as the spirit moves them.* Nor is there any prohibition against teachers teaching objectively about our country's religious heritage . . . We would oppose such prohibition if attempted. But we equally oppose nondenominational prayers authored, in effect, by those who are agents of the state.

The original case that led to the Supreme Court's much maligned ruling occurred in my home State of New York nearly 10 years ago over the use of the New York State Regents' prayer in the public schools. However, when the Court forbade the use of the regents prayer, under the terms of the first and 14th amendments—Engel against Vitale—and the following year reiterated this decision in a similar ruling—Abington School District against Schempp—the Court in no way prohibited voluntary prayer in the public schools. Rather, the Supreme Court was explicit in pointing out that it was only ruling against governmentally required recitation of an officially composed prayer. In urging my colleagues to join me in rejecting House Joint Resolution 191, as an ill-conceived and dangerous measure, I would again cite Justice Black in his majority opinion banning the use of prescribed, proscribed prayer:

The first amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support, or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office.

I pray to God that in the best interest of this Nation, this resolution is voted down.

Following is a list opposing the amendment:

The Rev. Murray S. Blackadar, First Presbyterian Church, Levittown, N.Y.

Rabbi Joel C. Dobin, Sinai Reform Temple, Bay Shore, N.Y.

Rabbi Donald N. Gluckman, Community Reform Temple, Westbury, N.Y.

The Rev. J. Harold Hadley, D.D., North Shore Unitarian Society, Plandome, N.Y.

Rabbi Bernard Kligfeld, Temple Emanu-El, Long Beach, N.Y.

The Rev. John E. Carrington, District Superintendent, United Methodist Church, Rockville Centre, N.Y.

The Rev. Carleton Fisher, D.D., South Nassau Unitarian Church, Freeport, N.Y.

Rabbi Mark A. Golub, Temple Sinai, Roslyn Heights, N.Y.

The Rev. Robert T. Hollett, Rector Christ Episcopal Church, Oyster Bay, N.Y.

The Rev. Norman W. Minard, Grace Presbyterian Church, Selden, N.Y.

The Rev. Irving R. Murray, D.D., Unitarian Universalist Church of Central Nassau, Garden City, N.Y.

Rabbi Robert Raab, The Suburban Temple, Wantaugh, N.Y.

Rabbi Martin S. Rozenberg, The Community Synagogue, Sands Point, N.Y.

Rabbi Alan Mayor Sokobin, Temple B'nai Israel, Elmont, N.Y.

Dr. Samuel Teitelbaum, Rabbi Commack, N.Y.

Rabbi Lloyd Tannenbaum, Kehillath Shalom Synagogue, Cold Spring Harbor, N.Y.

The Rev. Marvin R. Willard, United Methodist Church, Roslyn, N.Y.

Rabbi Norman Kahan, Temple Sinai, Roslyn Heights, N.Y.

The Rev. Robert H. Platman, Chairman, Commission on Christian and Jewish Relations Episcopal Diocese of Long Island.

Rabbi Harold I. Saperstein, Temple Emanu-El, Lynbrook, N.Y.

The Rev. Ralph Stutzman, Unitarian Universalist Fellowship, Huntington, N.Y.

The Rev. Louis H. Temme, Christ Episcopal Church, Oyster Bay, N.Y.

The Rev. Robert A. Wieman, First Presbyterian Church, Levittown, N.Y.

J. Brooke Mosley, President, Union Theological Seminary, N.Y.

Colin Williams, Dean, Divinity School, Yale University, New Haven.

Christopher F. Mooney, S.J., Pres., Woodstock College, N.Y.

George W. Webber, President, New York Theological Seminary, N.Y.

Edward B. Harris, Dean, Philadelphia Divinity School, Philadelphia.

Walter Harrelson, Dean, Divinity School of Vanderbilt University, Nashville, Tenn.

Frederick Wentz, President, Hamma School of Theology, Wittenberg University, Springfield, Ohio.

Thadeus F. Zielinski, Prime Bishop, Howard University School of Religion, Washington, D.C.

Joseph M. Kitagawa, Dean, University of Chicago Divinity School, Chicago, Ill.

Thomas C. Campbell, Dean, Episcopal Theological School, Cambridge.

Louis J. Putz, C.S.C., Rector, Moreau Seminary, University of Notre Dame, Indiana.

John H. Tietjen, President, Concordia Seminary, St. Louis.

W. B. Blakemore, Dean, Disciples Divinity House, University of Chicago, Chicago.

Michael Allen, Dean, Berkeley Divinity School, Yale University, New Haven.

Marshal L. Scott, President, McCormick Theological Seminary, Chicago.

David J. Draewell, President, and Gerald L. Borchert, Dean, North American Baptist Seminary, Sioux Falls, S.D.

Don W. Holter, President, St. Paul School of Theology, Methodist, Kansas City, Mo.

Merlyn W. Northfelt, President, Garrett Theological Seminary, Evanston, Ill.

John L. Knight, President, Wesley Theological Seminary, Washington, D.C.

Albert C. Winn, President, Louisville Presbyterian Theological Seminary, Louisville, Ky.

James D. Glasse, President, Lancaster Theological Seminary, Lancaster, Pa.

Walter G. Muelder, Dean, Boston University School of Theology, Boston, Mass.

Fred W. Meuser, President, Evangelican Lutheran Theological Seminary, Columbus, Ohio.

W. Sibley Towner, Dean, Dubuque Theological Seminary, Dubuque, Iowa.

Ira Eisenstein, President, Reconstructionist Rabbinical College, Philadelphia, Pa.

Joseph D. Quillian, Jr., Dean, Perkins School of Theology, Dallas, Texas.

Roy Pearson, President, Andover Newton Theological School, Newton Center, Mass.

Beauford A. Norris, President, Christian Theological Seminary, Indianapolis, Ind.

J. Bruce Behney, Acting President, United Theological Seminary, Dayton, Ohio.

American Civil Liberties Union, Washington, D.C.

Industrial Union Department, AFL–CIO, Washington, D.C.

United Parents Association of New York City.

United States Catholic Conference.

Board of Directors of the Buddhist Churches of America, San Francisco, Calif., and the Hompa Hongangi Mission of Hawaii, Honolulu, Hawaii.

National Council of the Churches of Christ, Wash., D.C.

National Council of Jewish Women, Inc., New York.

The United Presbyterian Church, Philadelphia, Pa.

Executive Council of the United Church of Christ, Council for Christian Social Action, Wash., D.C.

The United Methodist Church, Board of Christian Social Concerns, Wash., D.C.

Baptist Convention of New York, Syracuse, N.Y.

The Church Council of the American Lutheran Church, Minneapolis, Minnesota.

Committee for Public Education and Religious Liberty, New York, N.Y.

Law School of Harvard University, Cambridge, Mass.

Mr. DOW. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. DOW. Mr. Speaker, I rise in opposition to this amendment.

PRAYER AMENDMENT OPPOSED

There has been no change in the Bill of Rights since it was added to the Constitution 180 years ago.

The first words of the first amendment in the Bill of Rights are these:

Congress shall make no law respecting an establishment of religion. . . .

Our Government and our great religions have existed very well together under this principle of separating church and State.

The prayer amendment is aimed to permit nondenominational prayer in our public schools. If passed, I think it would create great antagonisms in many communities over what is nondenominational. Minority religious groups would object that majority groups were prescribing prayers of a particular denomination. Many children would be forced by group pressure to go along whether they want to or not. Some children would be fought over in battles between nonconforming parents and school authorities. I am not in favor of compulsory prayer.

The prayer amendment is another of the never-ending efforts compelling conformity and forcing minorities to go through motions and display symbols to show that they are just like everyone else. This is regimentation, not democracy. It is not what our forefathers fought for.

The job of teaching religion is one that properly belongs to parents, the clergy and leaders of religious organizations. This duty should not devolve upon the public school system. The doors of our churches and temples are always open to those who want to go in. Government has invaded too many aspects of our lives already; there is no need to give Government the power to tell our children what, when, where, and how to pray.

I am happy to note that the governing bodies of the United Methodist Church, the Episcopal Church, Lutheran Church Conventions, the United Presbyterian Church, the Southern Baptist Convention, the United Church of Christ, the American Baptist Convention, the Synagogue Council of America, the National Jewish Community Relations Advisory Council and many Catholic leaders have gone on public record against a prayer amendment to the Constitution.

Mr. CAREY of New York. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. CAREY of New York. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this amendment.

I think my colleague in the well will agree that this debate proves one thing. That is: that maybe some good theologians make good Congressmen, but it is quite certain from the debate here today that Congressmen do not make good theologians. We should leave theology where it is—protected by the first amendment and the Bill of Rights. We should pray, all of us, that prayer will remain immune from politics, and I see too much political pressure evident on this issue. The Bill of Rights, is, in my opinion, a great prayer for the dignity of the human person in this Nation under God. The Declaration of Independence is, in the words of G. K. Chesterton a recitation of the American creed. These documents comprise our great charter of religious freedom. I am free to pray in this House or in any public place. My children are free to receive religious education and to pray in the school they attend, public or private. Nothing in this amendment gives me or my children anything which I did not receive from my Creator or my Constitution.

Mr. BURTON. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. BURTON. Mr. Speaker, I rise in opposition to the resolution and would like to associate myself fully with the remarks that the distinguished Speaker of the House of Representatives made earlier today.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. SISK. Mr. Speaker, I rise in opposition to this amendment as I believe it would be a most tragic mistake for the House to pass such an amendment.

Mr. HATHAWAY. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. HATHAWAY. Mr. Speaker, I rise in opposition to the resolution.

I shall vote against the proposed school prayer amendment, not because I am antireligious or antiprayer, but because I am concerned about the future of religious freedom and religious values in this Nation should this amendment be approved.

The proposal represents a well-meaning effort to nullify the decisions of the Supreme Court holding that the first amendment does not permit State-sponsored prayer in the public schools. It is prompted by a desire to "put God back in the schools." I do not disparage the sincere efforts of those who seek to extend the influence of religion in our society, but I believe that the prayer amendment is not the proper vehicle.

I think it is important to emphasize that the real issue is one of official sponsorship of prayer. that the constitutional prohibition is on official prayers in the public schools. There is no such prohibition on voluntary prayer. The Supreme Court decisions in no way infringe upon individual, personal, and voluntary prayer in America. Only regimented prayers, prayers composed or dictated by public officials to be parroted by schoolchildren, have been struck down. Indeed, I think it is safe to assume that God is still in our schools, that a majority of our schoolchildren do participate in voluntary prayer nearly every day, algebra and chemistry probably encouraging the most fervent supplications.

The Supreme Court decisions regarding school prayer and Bible reading were not the first or only ones to encounter opposition and a resultant effort to reverse the decisions through constitutional amendment. In some cases, such as that involving the Dred Scott decision, a constitutional amendment was adopted. However, never in our history as a nation have the people approved an amendment that would restrict the Bill of Rights or any Supreme Court interpretation of the Bill of Rights.

The first amendment, as well as the other articles of the Bill of Rights, are concerned with certain individual, personal rights. The purpose of the Bill of Rights was to remove these fundamental rights from the vicissitudes of political controversy, to place them beyond the reach of majorities and elected officials. Should House Joint Resolution 191 be adopted, it would be the first time the guarantees of the Bill of Rights have been watered down by amendment. This would set a precedent which may result in the dilution of other basic rights so that we may one day have restrictions placed on our freedom of speech, our freedom to assemble, on our right to a trial by jury; we may be subjected to excessive bail, cruel and unusual punishment, and perhaps even have a citizen required to testify against himself.

Approval of the school prayer amendment will make the Bill of Rights more easily susceptible to impairment by amendment, and will encourage amending the Constitution to overrule every Supreme Court decision that does not receive immediate, universal approval. In considering the amendment before us today, I believe we would do well to heed James Madison's warning that "it is proper to take alarm at the first experiment on our liberties."

The first amendment that guaranteed freedom of religion requires that the government be absolutely neutral in matters of religion. Our country was initially settled as a haven for those persecuted because of their religious beliefs. In fact, government prescribed prayer, as authorized by the British Parliament in the Book of Common Prayer, was the very issue which prompted the Pilgrims to establish their colonly in Massachusetts. Ironically, some of the very groups which had opposed the established church in England proceeded to establish their own churches in the colonies and to impose their own religious beliefs and dogmas upon religious minorities living in their areas. It was because of this history of repressive action in the name of piety that the freedom of religion clause was included in the Bill of Rights.

Should the school prayer amendment be adopted, we would witness the spectacle of school boards and legislatures—instruments of government—fighting bitterly over this or that prayer. New elections and new officials would bring new prayer disputes. The majority that this year may applaud formal prayers in their schools may just as well 10 years from now authorize the recitation of an atheist creed.

Not only does the amendment propel the governmental officials into the business of authorizing and or approving prayers, it also invites endless rounds of emotional litigation in the courts over what is or is not a "non-denominational" prayer. Moreover, once the amendment were adopted and agencies of the state were engaged in making religious determinations, that is prescribing prayers, there would be a serious danger that, the principle of governmental action or involvement in religious matters having been accepted, the way would be opened for suppression of religion by governmental action. If government is evoked to aid religon today, it may by the same authority and with equal legitimacy suppress it tomorrow. Whenever the state has control in any degree over religious life, the way is opened for the denial of religious freedom and for the persecution of those who do not adhere to the officially approved forms of faith.

The proposed amendment speaks rather cavalierly of a "nondenominational" prayer, but no such prayer has yet been devised. There are at least 80 different religious sects in the United States, each with more than 50,000 adherents. Not only has it been impossible for the major faiths to agree on what constitutes "nondenominational" prayer, the problem is complicated by the fact that many churches, such as the Quakers and the Church of Christ, do not believe in ceremonial prayers formulated by one person to be repeated in unison by others. Yet, presumably, this is the kind of school prayer authorized in the amendment, and would be offensive to these denominations.

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Although prompted by a desire to be inoffensive, it seems to me that striving for a least-common-denominator prayer demeans it, and reduces prayer to a "to whom it may concern" context. As depicted in a recent cartoon, the Lord's Prayer, reduced to this context, might read:

Our something-or-other, who art in somewhere-or-other, hallowed be thy what-cha-ma-callit.

An extreme example, perhaps, but thought provoking.

The nondenominationalism prescribed in the amendment may very well result in meaningless petitions. Nothing could be better designed to alienate our children from commitment to a vigorous faith than being required to mouth meaningless prayers in the classroom. A tiny plastering of State-approved religious ceremonialism in the public school will do little, if anything, to foster religious attitudes.

Instead, children, as they become aware of the religious differences of our people, should be encouraged to develop a respect for religious freedom. This, it seems to me, can best be accomplished through making them understand the true character of the public school's neutrality: that it stems not from a hostility to religion but from a respect for it and the concept of individual responsibility in matters of religion.

Of course, there is nothing in the Constitution that prohibits the study and discussion of religious matters, including the Bible, in public schools. There is nothing that prohibits public schoolteachers from calling attention to the religious dimensions of various subjects, including the study of the Bible as literature, and the various religious themes inherent in the arts, philosophy, history, and other disciplines, and I feel such study would be valuable—much more valuable than a vague, pointless recitation of a nondenominational prayer.

Reciting prayer in unison in a classroom would be a psychologically coercive exercise. One need not be a psychologist to recognize that subtle forms of coercion may force a child to join his classmates and teacher in the recitation of a prayer which violates his private beliefs. Nonconformity is not an outstanding characteristic of young children.

For members of religious groups which find the prescribed prayer offensive, and for atheist or agnostic children, a major shortcoming of having prayers in schools is that they are separated from the other children. While adults can more easily tolerate such separatism, children should not be subjected to such a feeling. Rather than inculcating a feeling of separatism, it is my view that the school and school experiences should be a training ground for habits of community.

In addition, daily school prayers may be a constant reminder to nonparticipating children of the conflict between home and school, and might well be a disruptive element which would weaken the moral influence of parent and teacher alike. Moreover, to subject children of minority religions or minority beliefs to the inevitable coercion and social stigma of being the "odd-ball," the outsider, is contrary to the spirit of the first amendment and other amendments designed to protect minority rights.

This country has a tradition of pluralism. We have grown as a Nation because of the ideas and contributions of minorities and those who at one time were considered nonconformist. The guarantees written into the Bill of Rights, particularly those of the first amendment regarding freedom of speech, freedom of the press, the freedom to peaceably assemble, and the freedom to petition the government, are there because the founders of this Nation realized that state intimidation is stifling. We need only look at the totalitarian states of the 20th century to realize the truth of this assumption. We must protect the rights of those who are different, for to do otherwise is to invite a staleness, a stagnation, in our national life. Diversity is what this country is all about.

It is my view that we should protect the rights of the minority, while at the same time have a more meaningful religious exercise, by providing, as some schools already do, a few moments of silent meditation in the school day. This practice respects the voluntarism and pluralism that has long characterized religion in America.

In conclusion, Mr. Speaker, I would like to say that I am unreservedly in favor of prayer, but I consider prayer a personal communication between man and his Supreme Being. I, therefore, believe it should be appropriately centered in the home, the church, the synagogue, and in the soul.

I, therefore, urge my colleagues to reject the Wylie amendment.

Mr. MILLS of Arkansas. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. MILLS of Arkansas. Mr. Speaker, I rise in opposition to the resolution.

Mr. Speaker, the following is an editorial from one of my State's papers, the Arkansas Democrat:

STATE PRAYER AMENDMENT

The continuing school prayer controversy is basically a matter of individualism versus insecurity.

The individual, the person who is secure within himself, has no problem. He knows that nothing prohibits his praying any time and any place he wants to—at home, at work, at play, at school, even at church. All that the original Supreme Court prayer ruling prohibited was the institutional, group prayer that public school students were forced to take part in. Unfortunately, some silly interpretations have been made of this decision, leading to such ridiculous rules as prohibiting the studying of the Bible, etc. But since schools are a government institution, classroom religious activity clearly is a violation of the constitutional principle of separation of church and state.

The only person who should even want such rituals is the person who is too insecure to pray as an individual and needs the encouragement of the group. For such a person, it probably is not even a prayer, because the term implies some sincerity, and sincerity or even attention is seldom present in group rituals, whether they be prayers, pledges of allegiance or recitation exercises. The more likely effect of forced rituals is boredom or even disgust with the subject matter force fed.

It does the country no service that the school prayer enthusiasts, some of them no doubt with the best of motives, have pressured Congress into considering a constitutional amendment specifically to make institutional "prayers" constitutional. Our lawmakers have more important things to do than help with this attempt to dismantle the Constitution.

Dismantling is just what this amounts to. Nothing is clearer or more essential to our form of government than the separation of church and state. Religious freedom, which includes the freedom not to practice religion, is the very first item mentioned in the Bill of Rights, and for good reason. The founding fathers knew that no tyranny is more dangerous than the tyranny of those who would force their religion on others.

A majority of the members of the House have signed a petition to force the amendment out of the judiciary committee. It is scheduled for a vote in the House Nov. 8. It must be approved by two-thirds of both houses and ratified by three fourths of the state legislatures to become law. We urge our senators and representatives to vote against it.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. GIBBONS. Mr. Speaker, I rise in opposition to this amendment in its present form.

Mr. Speaker, I call the attention of the Members of the House to my remarks contained in the RECORD of November 2 on page 38694 in which the gentleman from Ohio (Mr. WYLIE) responded to certain questions of mine about his amendment.

If there can be any doubt as to how you should vote, I suggest that you examine the gentleman's responses to my questions.

Mr. GALLAGHER. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. GALLAGHER. Mr. Speaker, I associate myself with the remarks made by the distinguished Speaker of the House of Representatives and the distinguished gentleman from New York (Mr. CELLER).

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. SCHEUER. Mr. Speaker, I rise in opposition to the amendment and associate myself with the remarks made by the distinguished Speaker of the House earlier.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. PEPPER. Mr. Speaker, I join my distinguished colleagues in expressing opposition to this amendment.

Prayer is a personal expression and the heavy hand of the State must not be laid upon it.

Mr. CORMAN. Mr. Speaker, in the 1 minute remaining I would like to remind my colleagues that all Members have permission to revise and extend their remarks and conclude my restating how important it is that we do not act in any way which would jeopardize our freedom of religion as it is preserved by the first amendment.

Contrary to the beliefs of many supporters of the Wylie amendment, there is no one at any level of our governmental process that has the right to curb or interfere with an individual's right to pray.

At issue today is the question of whether or not we are going to tamper with the Bill of Rights and for the first time in our Nation's history allow the government to involve itself in our religious life.

Enactment of the Wylie amendment would permit public school teachers, acting as representatives of the government, to lead our schoolchildren in the recitation of organized prayer.

I am opposing the Wylie amendment today because I am in opposition to giving any representative of the government authority to exert control over the religious beliefs and practices of our children—beliefs and practices that have historically been very personal and outside the realm of governmental participation.

What is at issue today is not the wording of the amendment, for any change in the establishment clause would allow government interference with religion. More important is whether or not we can in good conscience allow the government to infringe on an individual's right which was specifically protected by the framers of our Constitution and which has been preserved throughout the 200-year history of our country. To permit the government to involve itself in our religious life, I think, would be tragic.

If the proponents of the prayer amendment are successful in providing for teachers to conduct organized prayer in our public schools, the next logical step would be to give these same teachers the authority to tell children how to pray and the authority to explain to our children exactly what prayer means. Enactment of this amendment could easily be the first step down a road toward government control of religious activities.

I urge my colleagues to reflect on the very personal nature of an individual's religious beliefs and vote to preserve religious freedom as it is guaranteed by the first amendment by voting in opposition to the school prayer amendment.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman.

Mr. FINDLEY. Mr. Speaker, although I signed the discharge petition, I want it known that I am impressed with the case made against this resolution and intend to vote "no."

Mr. WYLIE. Mr. Speaker, how much time remains?

The SPEAKER. The gentleman has 15 minutes remaining.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. WAGGONNER) for purposes of debate only.

Mr. WAGGONNER. Mr. Speaker and my colleagues of the House of Representatives, I have no delusions about what is going to happen here today.

The issue before us has been confused and misunderstood by many well-meaning people, all with the same purpose in mind of wanting to preserve religious freedom in our country. The debate here today proves that point.

People keep saying that they do not want and are in fact tired of too much government interference in the affairs of their daily lives; and the Supreme Court has been no exception.

We have not met here today to amend the Constitution. Congress alone cannot amend it. Recall; article V of the Constitution provides that, and I quote:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution . . . which . . . shall be valid to all intents and purposes, as part of the Constitution when ratified by the legislatures of three fourths of the several states, or by conventions in their fourths thereof . . .

If the resolution before the House is adopted, and I do not feel at this point that it will be, it would be the responsibility of the people acting through their various State legislatures to approve or reject this proposed amendment.

I am not an attorney, and in a way I am thankful for that today, because I feel I can view this question with more objectivity than I could if I were an attorney.

I have arrived at my decision with as much thought and consideration and prayer as any man in the House. I have talked to many people from every walk of life and most of the people are confused. Different people often see the same subject in a different light. However, and this is important, the one thing on which everyone has agreed is they all want to protect and preserve the right to pray.

This is not a matter that can be entirely resolved from a legal point of view. There is another facet to this question of even greater importance, and that is the moral consideration. My decision in this regard is dictated in part by the legal aspect and in part by the moral one. It is for me a matter of conscience. For the life of me, I cannot see how this proposed amendment can in any way damage or weaken the Bill of Rights by our attempts here to clarify this matter. If I thought for 1 minute our efforts here today would weaken the Bill of Rights, I would be the first to offer opposition. The Constitution itself provides for amendments; every amendment since the first 10 has been for the purpose of resolving some particular problem. In the final analysis, I cannot in good conscience base my decision on some of the bogey issues which have been raised or on the fear of what some judge might say.

My purpose for being here today is to attempt to strengthen the first amendment, freedom of religion—which I feel has been trampled on by the Supreme Court—and I am going to do what I believe will best serve the cause of religious freedom and the living God. My interest is in doing God's will, He who I consider to be the only real Judge; and not conform to what some few judges here on earth would want. The greatest freedom we enjoy and which has to be protected at all costs is that freedom which was paid for on Calvary's Cross. I believe that the cause of the living God is best served by passing this proposed amendment.

I have read every piece of correspondence on this subject which I have received, for and against this proposed amendment, and I have given this subject my very prayerful consideratiton.

The word "nondenominational" will be removed from the proposed amendment; and I can find nothing more wrong with it.

We owe to the American people the right to choose whether or not they want to amend the Constitution further in order to preserve religious freedom. They will be given that right to choose if we pass this resolution.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. HUNT) for purposes of debate.

Mr. HUNT. Mr. Speaker, we have before us today a measure of vital moral importance to the Nation and, more particularly, to our children. The depth of controversy over the so-called prayer amendment is only one measure of its significance; but its true import lies in the fact that it represents a value: the value of a spiritual heritage whose continued vitality would be jeopardized should this amendment be rejected.

More and more we witness a strengthening of the secularistic tensions within our society. There is no question in my mind that the U.S. Supreme Court's prayer decisions have contributed significantly to the devaluation of religious values accompanied by a commensurate infusion of temporal values devoid of any spiritual consistency. In fact, U.S. Supreme Court Associate Justice Potter Stewart observed in Abington School District against Schempp:

It might also be argued that parents who want their children exposed to religious influences can adequately fulfill that wish off school property and outside school time. With all its surface persuasiveness, however, this argument seriously misconceives the basic constitutional justification for permitting the exercises at issue in these cases. For a compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are to be truly neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as a realization of state neutrality, but rather as the establishment of a religion of secularism, or at least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.

A recent issue of a national news magazine contained a survey of one of

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the Nation's major religions in decline. The observations made there with respect to dwindling church attendance, diminishing reliance upon spiritual rituals, and just plain loss of faith, might well be the mirrored reflections of all other major religions.

It will be asked what connection there is between these observations and the prayer amendment. I can think of no better answer to that than the very enlightened thoughts of the world Jewish leader, the Lubavitcher Rabbi, Rabbi Menachem Mendel Schneerson, who declares that he is reinforced in his "conviction of the vital need that the children in public schools should be allowed to begin their day at school with the recitation of a nondenominational prayer, acknowledging the existence of a Creator and Master of the universe, and our dependence upon Him." And he goes on to say that—

> This acknowledgement is absolutely necessary in order to impress upon the minds of our growing-up generation that the world in which they live is not a jungle where brute force, cunning and unbridled passion rule supreme, but that it has a Master Who is not an abstraction • • • that this Supreme Being takes a personal interest in the affairs of each and every individual, and to Him everyone is accountable for one's daily conduct.

He then observes that—

> Juvenile delinquency, the tragic symptom of the disillusionment, insecurity and confusion of the young generation, has not abated; rather the reverse is the case.

As to the correction of such delinquency, Rabbi Schneerson puts the issue in perspective. He says:

> At first glance this seems to be the essential function of a house of prayer and of the spiritual leaders.
>
> However, anyone who does not wish to delude himself about the facts of house of prayer attendance, both in regard to the number of worshippers and the frequency of their visits, and so forth, must admit that shifting the responsibility to the house of prayer will not correct the situation . . . Children have to be "trained" from their earliest youth to be constantly aware of "the Eye that seeth and the Ear that heareth." We cannot leave it to the law enforcing agencies to be the keepers of the ethics and morals of our young generation.

Mr. Speaker, I believe we are already bearing witness to a captive audience—our school children—which, contrary to having to fear the establishment of any religion in the spiritual sense or an infringement on their religious beliefs, is gradually becoming indoctrinated in a belief that religion, in terms of being nothing more than faith in a Supreme Being, is somehow the faithless propaganda of the adult world. I feel confident that the constitutional guarantee of a right to participate in prayer in public buildings will go a long way toward reversing this trend and will give substance to our cherished religious heritage.

Mr. Speaker, everyone is against voluntary prayers in our schools except the American people.

Let the people speak on this subject through this amendment.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky (Mr. CARTER) for purposes of debate.

Mr. CARTER. Mr. Speaker, the first amendment of the Constitution reads:

> The Congress shall make no law respecting the establishment of religion nor prohibiting the free exercise thereof.

For 173 years prayers were said in every school in our land if they wanted the prayers to be said.

The Government will in no way establish a form of prayer. That is beyond the realm of possibility.

Most opponents of the present resolution read only the first clause saying "The Congress shall make no law respecting the establishment of religion, but the words 'nor prohibiting the free exercise thereof' are overlooked."

Nondenominational prayer is free exercise of religion.

The Lord's Prayer: "Our Father who art in heaven, hallowed be Thy name; Thy kingdom come; Thy will be done, on earth as it is in heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil; for Thine is the kingdom, the power and the glory, forever. Amen."

To me this is a nondenominational prayer. How could it offend a Christian, a Jew, a Moslem, a Brahmin, or a Buddhist. Yet, since the 1962 decision of our Supreme Court, this prayer has not been given legally in the schools in the United States.

Nondenominational prayer in our schools will in no way alter the first amendment, for the "free exercise" clause permits it—the Supreme Court decision notwithstanding.

Let us today "walk uprightly, work righteousness, and speak the truth in our hearts."

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. MIZELL) for purposes of debate.

Mr. MIZELL. Mr. Speaker, I yield briefly to the gentleman from Georgia (Mr. THOMPSON).

Mr. THOMPSON of Georgia. Mr. Speaker, the Supreme Court has already tampered with the Constitution of the United States and the first amendment. Let us set it straight for the people by adopting this amendment. If one looks at the effect of the Federal Court decisions relating to the first amendment, he must conclude that it is proper to engage in reading dirty books in school, allowing the showing of pornographic pictures in school, but it is not allowable to have prayer in school.

Mr. Speaker, if we look back on the moral attitude of the students before the Supreme Court decision, which had the effect of outlawing prayer, and compare it with the attitude as it exists today, we can only conclude that with the Court-ordered removal of the students' the right to pray to God in school that drugs, crime, and filthy books have all increased on the school campus. In short, the moral fiber of our school students has been eroded. We need to put God back into the lives of students and this amendment will help to do that.

Mr. Speaker, there are those who want to take "In God we trust" off our dollar bill, to remove "One nation under God" from our pledge to the flag, and to stop the Congress from opening with a prayer. These same people favor the defeat of this amendment which would overrule the Supreme Court and lower courts.

Mr. Speaker, I want the schoolchildren to have the same chance to pray as we do in the Congress and hope that this amendment will pass.

Mr. MIZELL. Mr. Speaker, I believe the issue before us today is the most important piece of legislation that has come before this House in the time that I have had the privilege to serve.

In Psalm 55, David said:

> As for me, I will call upon God, and the Lord shall save me. Evening, and morning, and at noon will I pray, and He shall hear my voice.

I hope this afternoon that we will approach the subject of prayer with the sincerity and the reverence that this subject deserves.

Mr. Speaker, I would like to take my time to discuss from a layman's viewpoint what I see as the key issue before us today. I am sure there will be many hypothetical questions raised about what this amendment will or will not do, but to me the issue is crystal clear.

If you are opposed to voluntary participation in prayer in public facilities, then you oppose this amendment. If you favor permitting voluntary participation in prayer in public facilities, then you support this amendment.

I favor the individual's freedom to voluntarily participate in prayer. Therefore, I am going to vote for this amendment.

To those who say that this amendment is not needed, I would say to you that in my humble opinion we have several court decisions that make it imperative that this resolution be passed here today and that it become law as soon as possible.

I would like to call the attention of my colleagues to two of these court decisions.

In Leyden, Mass., the local school board passed a resolution providing for 5-minute period to be set aside before each schoolday to allow voluntary prayer among students and teachers.

In Netcong, N.J., the students were permitted by the local school board to assemble before school in the gymnasium and participate in the Chaplain's prayer from the CONGRESSIONAL RECORD, followed by a period of meditation.

Both of these plans were struck down, by the Supreme Courts of Massachusetts and New Jersey, respectively, and the U.S. Supreme Court refused to disturb either decision.

For those who still say the amendment is not needed to preserve the right of individuals to participate in prayer in public buildings, I suggest that you ask the students in Leyden, Mass., and Netcong, N.J., if their rights have been denied.

These are only two examples. In every case that has come before the court dealing with the subject of prayer, regardless of the circumstances, the court has denied that right as being unconstitutional.

And I predict that if this amendment is defeated, then every case in the future that is brought before the courts dealing with prayer, regardless of how voluntary the exercise might be, will be struck down.

Mr. Speaker, I do not believe Government should force acts of worship. This I would oppose, just as firmly as I support the right of American children to participate in prayer if they desire to do so.

A tremendous price has been paid by each generation down through the years for this freedom, and the cost has been far too high to be forfeited now.

Today, after 196 years of independence and religious freedom, I do not believe the 92d Congress wants to go on record by voting against this amendment, thus saying to the Nation and the world that the free exercise of religion will no longer be guaranteed to the citizens of "the land of the free." God forbid that this right ever be denied.

The opportunity is ours today to take a positive position. Rather than voting to restrict religious freedom, we can act to strengthen it by passing this amendment, and by passing it reaffirming the right to free exercise of religion granted to us under the Constitution.

But that is more than an opportunity. Passing this amendment is our duty, as representatives of the people, as executors of their will, as guardians of their precious freedoms.

I strongly urge my colleagues to see their duty as I have seen it, and vote with me for passage of this amendment.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. DEVINE) for purposes of debate.

Mr. DEVINE. Mr. Speaker, it is still up there, right above the Speaker's head. It says, "In God we Trust." I do not know how long. I understand the Civil Liberties Union lawyers' next target is to remove, "Under God" from the Pledge of Allegiance.

If given the opportunity, it is my understanding, the gentleman from Alabama (Mr. BUCHANAN) will offer an amendment to the Wylie resolution that would strike the word "nondenominational" and substitute in lieu thereof "voluntary." That should solve the problem for some of those who have been spooked by the lobbying tactics of the so-called church leaders and church groups.

Mr. Speaker, I resent those who have been impugning the motives of the gentleman from Ohio (Mr. WYLIE) as indicated by some people, because I know of no more sincere person than the gentleman from Ohio.

I know of no more sincere man in the House of Representatives than the author of this Wylie amendment. He had the courage to bring this before the House.

You know, I know, and God knows it would not have been before us had it not been for his courage in presenting the discharge petition, because this issue has been before the Judiciary Committee for many years.

The lobbying tactics, I think, are wrong. The church leaders, in my opinion, are generals without armies because, if you will poll the members of the congregations, they overwhelmingly favor prayer in public schools.

The Supreme Court decision was such that the public has been confused about this. The public says:

> Well, you can read dirty books, but you cannot say prayers in public schools.

Do not be misled by the traditional separation of church and state arguments. The same clergymen who trumpet this cry are the first in line with hat in hand, seeking Federal Government money for all types of church-related matters.

The public is entitled to the opportunity to make a decision on this issue. The safeguards are already provided—two-thirds of the House have to agree, two-thirds of the Senate, and then it goes out across the Nation and three-quarters of the legislative bodies have to decide.

Are you afraid to let them speak? That is the issue involved. I urge the House to vote favorably on this Wylie amendment in order that the people may have an opportunity to speak.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Missouri.

Mr. ICHORD. I am sure all Members who have spoken against this amendment will concur in the substitution of the word "voluntary" for "nondemoninational."

I rise to speak in support of the prayer amendment which is now before the House of Representatives. It seems a little strange to be speaking in favor of prayer. This would tend to give the impression that there are some in this House opposed to prayer. Most likely this is not the case. Rather the question is whether or not voluntary prayers may be offered in the public schools of this country.

Mr. Speaker, this country and our form of government were founded by men with a strong reliance upon the providence and sovereignty of Almighty God. In the very first words of the Declaration of Independence the justification for our form of government is found in the structure of God's creation. Man has a God-given right to be free. The Pledge of Allegiance states simply that we are one Nation "under God." Our currency tells every citizen and all foreign visitors "In God We Trust."

The first amendment to the Constitution of the United States guarantees us freedom "of" religion. This amendment prohibits the Government from establishing any form of State religion. The first amendment is a basic part of our heritage and is an essential element of the freedom we cherish in this country. However, the first amendment does not guarantee freedom "from" religion. It does not state that we are an irreligious or ungodly Nation.

Prayer is as much a part of our heritage as freedom itself. When the Pilgrims first landed at Plymouth Rock in 1620, they paused to pray. As a matter of fact prayer is a universal element of all religions and one of the most natural acts of man. The tiny baby learns to pray on his mother's lap and the last utterance of the believer is most frequently a prayer. For over 300 years after the Pilgrims settled in this country prayer was used in the schools of this Nation to open school activities, to begin classes and student assemblies, football games, and many other activities. When the court forbids children to say voluntary prayers in school they are being denied, as Justice Stewart stated:

> The opportunity of sharing in the spiritual heritage of our Nation.

Children are not always able to say the most elaborate or liturgically correct prayers but I have always felt that the Almighty God heard their prayers in a very special way. In 1965, a group of students asked their principal if they could have a voluntary prayer period of their own to say together the simple prayer:

> Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you, God, for everything.

The principal refused, because he felt that this would violate the Supreme Court decisions. The parents brought a suit to prevent the principal from forbidding these children from praying at their own initiation. In Stein against Oshinsky the court decided:

> The constitutional rights to free exercise of religion and to freedom of speech do not require a State to permit "student-initiated" prayers in public schools; the Court of Appeals would direct judgment dismissing the complaint.

The Supreme Court denied certiorari allowing the decision of the court of appeals to stand.

Three years later a kindergarten teacher attempted to leave the word "God" out of the prayer in order to comply with the Stein decision. Her children wished to say:

> Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing—thank you for everything.

In DeSpain against Dekalb a Federal court of appeals held that the teacher could not have the children recite this ancient prayer with the word "God" omitted, because everyone knows what "you" means and the "intent is to offer thanks to God." Once again the Supreme Court denied certiorari leaving the decision of the Federal court of appeals to stand.

Courts refused to allow school children in Netcong, N.J., to read prayers each morning that had been used a few days before to open congressional sessions; in Long Island, N.Y., where the reverent singing of a verse of "America" in the public classroom was declared a violation of the Constitution. Some principals have even discontinued the use of the Pledge of Allegiance to the Flag, because they fear that the "under God" phrase might violate the court rulings.

Mr. Speaker, it appears to me that

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there is great confusion throughout the country as to the intent of the constitutional amendment we consider today as well as its effect. The opponents are using every argument conceivable to defeat it. Some say it does nothing; others say it will permit the authorities to establish nondenominational religion. Such an interpretation, in my opinion, is not logical. Certainly that is not the intent. The intent is to make clear that schoolchildren do have the right to participate in voluntary prayer. The decisions which I have cited above definitely show that the courts are not making this interpretation.

Mr. Speaker, the time has come to settle the controversy. The Constitution never intended to forbid the recitation of voluntary prayers in public schools. This amendment will establish that principle once and for all. The people are overwhelmingly in favor of this amendment as all the polls show. This is a nation under God whether all of the people like it or not.

Mrs. ABZUG. Mr. Speaker, if we vote today to approve this resolution, we will have gone a long way toward the Orwellian Superstate. In 5 or 10 years, those who now seek to impose public prayer by constitutional amendment may by the same amendment be forced to recite paeons to the state, or as one scholar suggested, a prayer to the President." Even those who could pray to this President might find themselves unable to pray to the next one.

It has happened before, many times in other countries. One of our Nation's greatest strengths is that it has withstood repeated attacks on the first amendment guarantee forbidding any establishment of religions; this resolution is another such attack.

Not just prescience but experience compelled the Founding Fathers to make this the first right of the Bill of Rights. Government-prescribed prayer was the basic issue which led to the founding of the Pilgrim colony of Massachusetts, and then, sadly, to the establishment of a different church and prayers as official, so that religious persecution started again.

Institutionalized prayers may seem a long way from persecution; but to the child who is a Jew, Buddhist, Moslem, Adventist, or nonbeliever, refusal to conform can lead to subtle and not-so-subtle persecution. Absenting oneself under the voluntary provisions suggested would doubtless provoke the taunts of schoolmates and the disapproval of authorities.

And what of teachers who do not wish to participate in public devotionals? Would acceptance of the State-approved prayer become another form of loyalty oath, a condition of employment?

Most students and teachers would choose to mumble the words and go through the ritual—thus defiling the very meaning of religion and deepening the cynicism we deplore in today's youth. Already they question the sincerity of our beliefs when compared with our actions; they are turned away from true religious values by canned formulas.

If we would persuade them of our values, let us act to end war and injustice. So long as the thunder of our Asian bombing rings in their ears, they will not hear or heed any prayer written for them by a group of nondenominational politicians.

Nothing is more intensely personal than the way in which we revere life, or worship God, or in whatever way, express our oneness. And the very diversity of our ways is a major strength. Yet this diversity would be rendered suspect under the proposed amendment; and suspicion soon would lead to hostility. The one thing we do not need in our schools, in our cities, in our raw and hurting land, is increased hostility.

Already we are witnessing bitter division over school integration and busing; over different life styles and subcultures. In some areas we have seen the raising of swastikas and the burning of synagogues. In other countries, fierce religious wars rage. Let us not start here a struggle among different groups to become the one official religion, banning all others.

Advocates of this amendment demand free public prayer as though public prayer were not free now. This is misrepresenting the Supreme Court decisions of 1962 and 1963 in an attempt to overthrow those decisions. Anyone can pray in any place at any time; teachers can teach, and students study religion as such. What is prohibited is the imposition of any one group's religious expression upon others.

The Supreme Court decisions in Engel and Abington held that the first amendment prohibited public schools from establishing religion, and that the required saying of prayers constituted an establishment of religion. By the same standard, Bible reading is the right of anyone at any time, but it must not be forced upon others. And since the public schools are supported by taxpayers of all beliefs, and of no beliefs, these schools may not be used for the advancement of any one belief.

We must remember that the Supreme Court decisions dealt with the power of governments, not the right of persons, whereas the proposed amendment deals with the right of persons. In my view, it clearly invades privacy and infringes upon the basic right of belief or nonbelief.

We are fortunate that the delicate balance between church and State has been maintained through these years.

The Wylie prayer amendment threatens this delicate balance. Its implementation would do psychological damage to members of all religious groups; by inflaming conflicts between them, it would intensify hostilities; it would render meaningless the true spiritual content of all religions, and would offend the sensibilities of the very persons it aims to reach, the young.

The deceptively simple resolution before us puts those who oppose it in the position of appearing to vote against God. Rather than conform to this simplistic view, it is our duty to vote no—explaining to those constituents who disagree that in so doing we protect their most precious freedom, that of personal belief, and of expression of that belief in the personal, private fashion of their choice.

Mr. GAYDOS. Mr. Speaker, I rise in support of House Joint Resolution 191, to permit voluntary participation in prayer in public schools. To oppose this proposed amendment to the Constitution on constitutional grounds would not only be misleading, but would stretch the imagination to the breaking point. The amendment before us today simply allows local school boards or other authorities administering the functions of local schools the right to decide whether or not voluntary prayer will be permitted in their jurisdiction.

The first amendment to the Constitution states:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

There are millions of public school students who are being denied the right of free exercise of religion as a result of the Supreme Court decision.

Over the past several months, I have conducted an in-depth poll of my constituents in an effort to determine their thoughts concerning the issue facing us today. Strongly in favor of returning prayer to public schools were 94 percent. This amendment in no way establishes a religion. It does not say that a local school authority must institute some form of prayer. I again emphasize, it merely allows them the right to reflect the wishes of the people within their jurisdiction.

There are those who would argue that a separation of church and State must be rigidly maintained. I am in complete concurrence with these views; but, I also submit that in no way does this amendment violate the separation principle. Certainly no more so than the opening prayer at the beginning of each session of the House and Senate or the phrase "One Nation Under God" in the Pledge of Allegiance; or the motto "In God We Trust" on our national currency.

Our Nation is deeply rooted in the principle of the freedom of religious expression and the passage of this resolution will assure that the people of this great Nation will continue to have the right to worship whomever, wherever, and whenever they desire according to the dictates of their own conscience.

It is my fervent hope that this resolution will receive overwhelming approval by this body.

Mr. JAMES V. STANTON. Mr. Speaker, I join the extensive opposition to House Joint Resolution 191, the proposed constitutional amendment aimed at authorizing so-called nondenominational prayers in the public schools and other public buildings. I have given close attention to arguments on both sides of this issue and, while I do not challenge the sincerity and good intentions of the proponents, I do doubt the wisdom of their proposal.

I find myself persuaded, for example, by the statement of the U.S. Catholic Conference, the organization of the Catholic bishops of this country. The conference has warned that House Joint Resolution 191 constitutes "a threat to the existing legality of denominational prayer." The reasoning is that the proposal mentions only nondenominational prayer and, as Bishop Joseph L. Bernardin, General Secretary of the Conference, points out:

The subtle implication of the amendment, therefore, is that "denominational" prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation.

Bishop Bernardin continued:

Passage of the amendment might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved.

I have been greatly influenced as well, Mr. Speaker, in this position I have taken, by a detailed and learned analysis submitted to me by Dr. Anthony J. Iezzi, Associate Professor of Philosophy and Government at St. John College in Cleveland, Ohio.

Dr. Iezzi wrote:

Few realize the almost impossible task of designing such prayer and devotional services so that they will be 'nondenominational.' Past history has demonstrated that the problem gets into the politics of school board membership in terms of which candidate would favor which kind of prayer. This is precisely what the religion clauses of the First Amendment were designed to avoid. Religion was never to become a matter of partisan politics. Approving this amendment would in fact produce such a situation.

Dr. Iezzi also found much to criticize in "a prayer so neutralized to please everyone that it offends the true believer in its blandness."

Mr. Speaker, the voluminous mail I have received on this subject came to me predominantly from persons and organizations unalterably opposed to House Joint Resolution 191. Among these organizations were virtually all the major ones representing the Protestants, Catholics, and Jews of our country. When so many people of strong religious faith line up almost entirely on one side of a given issue—which is, after all, a religious, as well as a constitutional issue—I find that I must stand with them.

Mr. COTTER. Mr. Speaker, as with most Members I have given much attention to the issue of school prayer. My mail has been heavy from both supporters and opponents of this resolution. I have studied and restudied the issue carefully, keeping in mind our Nation's religious heritage and its relationship to the first amendment.

After the most careful study I decided to vote against the Wylie resolution and have informed many of my constituents of my reasons. For the benefit of my colleagues I will reiterate these reasons.

While I understand, and have sympathy for the idea of prayer as a valuable addition to the development of children, I believe that the amendment which especially allows nondenominational prayer raises more serious questions than it answers.

The most perplex question is: Who will compose the nondenominational prayer? Organized religions, to my knowledge, have never agreed on the acceptability of a nondenominational prayer. Therefore, the burden of constructing such a prayer will fall to the State officials, most probably school officials. I do not believe that government employees have the right to dictate the content of prayer, even the nondenominational content of a voluntary prayer.

Second, contrary to many implied assertions, the prohibition of a State-written prayer does not deprive the child of the right to pray. Traditionally, and I believe correctly, the family and the church or synagogue, have been the primary institutions concerned with religious education, including prayer. For those parents and children who desire additional religious education, private religious schools, or weekend religious classes are available.

Therefore, I do not believe that this constitutional amendment would serve the laudable goal of making religion an important part of the child's life. This can only be done by specific instruction, complemented, of course, by example and action that exceed anything permitted under this proposed amendment.

Wholly apart from these specific reasons is my concern over tampering with the Bill of Rights. Our Founding Fathers and our subsequent history have successfully precluded any attempt to have Government intrusion in the area of religion. This is not to say that our Government has been against religion, only that we as Americans, thanks to our Constitution and our actions, have determined that the Government has no right to establish a state religion or even an official state prayer.

I believe that the first amendment freedoms together form the bedrock of our unique system of government. They are what separates this Nation from so many others in this troubled world, that no matter what else the Government may do, even when sanctioned by a majority of its people, we the citizens of this country are free to speak, to petition our Government, to assemble peaceably, and to communicate our ideas to one another.

For these reasons, Mr. Speaker, I urge my colleagues to vote against the Wylie resolution.

Mr. STEIGER of Wisconsin. Mr. Speaker, the vote on House Joint Resolution 191, the so-called prayer amendment, is one of the most difficult votes the Congress has faced in recent memory. This proposed amendment to the first amendment of the Constitution states:

Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

I deeply sympathize with the many sincere Americans who support this amendment. As a parent, facing the complex task of raising a child in a world that seems to be growing increasingly amoral, I know that it is natural to seek all means of support for the job of attempting to pass on to our children our own deeply felt standards of morality, ethics and religion. Unfortunately, study has convinced me that the prayer amendment will do little to help us accomplish our purpose. In fact, it may have far more potential for harm than for good.

The amendment was offered in response to Supreme Court decisions regarding prayer in the schools. Support for it in many cases, I fear, originates from a misunderstanding of just what the Court forbade. The Court did not prohibit schoolchildren from praying in school. It did prohibit state composed and governmentally required prayers.

The Court did ban prescribed prayers and prescribed Bible reading in the public schools. The Bible and religion may be taught in public schools, however, when presented objectively as part of the regular educational program. In fact, then, the Court has not forbidden prayer in public facilities. Voluntary prayer is already permissible in all public places. The courts have only ruled against Government sponsorship of, subsidy of, and involvement in prayer and worship services on the grounds that it violates the first and 14th amendment prohibitions against lawmaking by Congress or the States "respecting the establishment of a religion."

Now the question arises, "In what possible way could an amendment simply permitting nondenominational prayer be of any harm?" To begin with, there is the problem of defining "nondenominational" prayer. Is there such a thing? In light of our great religious diversity, it seems highly unlikely that a prayer acceptable to all religions as well as to all those who subscribe to no religious belief could be formed. Even assuming such a prayer could be composed, who would judge it? Clearly, at least by indirection, the prayer amendment would put local, State, and Federal governments in the position of ruling on the suitability of such prayer. Various religious groups have spoken out strongly against the amendment on this point. The three major American Lutheran churches, the United Presbyterian Church, the Executive Council of the Episcopal Church, the Baptist Joint Committee on Public Affairs, National Catholic Conference, the American Jewish Congress and a host of other religious groups and leaders have issued statements protesting that the amendment would open the doors for governmental intrusion into the religious affairs of the people.

As questions and challenges arise to nondenominational prayers used across this country, a patchwork of rulings from governments and courts could develop. Past history has shown that in matters of devotional issues, those which reflect the views of the religious majority in the community win the support of school board and local officials. Should this situation arise, we could be faced with the support of majority religious beliefs at the expense of minority creeds. As a matter of fact, Wisconsin has had a history of this very problem. In the latter decades of the 1800's, religious strife resulted from the desire of the majority in some school districts to exercise their form of worship in the schools. The Wisconsin constitutional provisions found in article I, section 18 and article 10, section 3, were

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interpreted by our State supreme court to forbid sectarian instruction or acts of worship in public schools. The case was brought by Catholic parents who objected to having their children subjected to the reading of the King James version of the Bible. The court held that reading Bible passages was sectarian instruction and an act of worship. Thus, we in Wisconsin should feel a special concern about possible implications of the amendment.

Various religious and civic leaders have expressed another related objection. Not only could nondenominational prayer open the way for Government intrusion into religious affairs, it could, in fact, lead to the establishment of a common denominator type of religion. The Board of Social Concerns of the Lutheran Church in America, in a letter urging ministers to encourage opposition to the amendment, quotes from a joint statement by three Lutheran church body presidents, and representatives of six U.S. Protestant denominations in opposition to amending the Bill of Rights:

> Assuming such a prayer could be composed. . . . A nondenominational consensus prayer could only serve to reduce religion to its least common denominator, to neutralize it and finally to create what might be called a nonsectarian public school religion. We do not believe that even the proponents of the Wylie amendment wish such a result.

Finally, the amendment embraces all public buildings. Does this mean that any tax supported building could come under the jurisdiction of authorities faced with ruling on the suitability of prayers? The implication would seem to be that only suitable nondenominational prayers are acceptable in public buildings. The specter of such problems as tax assisted but denominationally church-run hospitals, nursing homes, and similar institutions possibly having to comply with some such standards is disturbing.

Mr. Speaker, while this statement was written before the Buchanan amendment was offered, debated and adopted I am still persuaded the amendment should not be adopted.

I believe that substituting "voluntary" for nondenominational is an improvement and would necessitate some modifications in my statement. But the change also raises questions—for example, are denominational prayers now to be proper and, if so, who is to determine which denomination and how will minority creeds be protected?

My fear that a majority would impose its will on the minority is not lessened by the "voluntary" language of the amendment nor is my concern that government as represented by a school board or other body will continue to play a role in prescribing a belief.

Thus, Mr. Speaker, based on my belief that the Wylie amendment as amended can only lead to unnecessary divisiveness and may, in fact, pose a grave threat to the free exercise of religious beliefs, long a cherished American right, I will not support the amendment.

Mr. LEGGETT. Mr. Speaker, many people apparently believe that prayer in public schools is presently prohibited. The belief is in error. The first amendment to the Constitution of the United States reads in part—

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Thus, any restrictions on the right of citizens to pray is expressly forbidden. Any child may pray at any time, in school or out, and he may study religion as an academic subject. This is the meaning of the free exercise section of the above quote.

But while the first amendment rules out any restriction of religion, it also rules out Government participation in religion. This is the meaning of "Congress shall make no law respecting an establishment of religion." Thus the Government is prohibited from maintaining a building or an institution, such as a public school, which is used for religious purposes.

So while a child may exercise his individual right to pray while he happens to be in a school, the school may not institute prayer as an official or formal activity. It is this latter prohibition that the school prayer amendment seeks to change.

I do not feel it should be changed, and I shall vote against the amendment.

Our Founding Fathers framed the first amendment with a firm determination that church and state should be absolutely separate. They intended that the United States would be a Nation in which everyone would be free to practice his religion without government interference, and they felt that the only way to be sure there would be no interference was to keep government out of religion entirely.

In my view they were correct.

I do not doubt the sincerity of those who support the prayer amendment, but let us just think about its effect. It would provide a unique opportunity for prayer, but for whom? For those children who do not attend church, whose families do not say a prayer at breakfast or before sending the child to school, and for those children whose religious beliefs are not strong enough to motivate them to spontaneous prayer while in school.

Does this description apply to the supporters of the amendment? Surely, it cannot. Surely, those whose devotion to prayer is so great that they would mount this major lobbying campaign are sufficiently religious to give their children strong religious training at home. Rather, this amendment must be directed at the children of families who do not support the amendment.

In short, we have one group of Americans trying to impose a religious practice on the children of other Americans. This is exactly what the first amendment was designed to prevent, and it is exactly why this proposed amendment should be voted down.

Mr. HUTCHINSON. Mr. Speaker, soon after it was announced that 218 Members had signed a petition to discharge the Committee on the Judiciary from further consideration of House Joint Resolution 191, the proposed school prayer amendment, this Member polled the people in his congressional district. The text of the school prayer amendment was set forth without comment and delivered to all postal patrons in the Fourth Congressional District of Michigan, with a ballot to express favor or opposition to the proposal. The ballot was arranged to permit a man, his wife, and other voters in the household to vote separately.

The response was unusually heavy as polls go. As of this morning, ballots have been returned by 35,540. Of these 33,164 are in favor and 2,376 are opposed. Out of respect to popular sentiment so overwhelming, I shall vote for House Joint Resolution 191.

I may add, Mr. Speaker, that the letters received from my congressional district on the subject, well thought out and deeply sincere on both sides of the issue, are much closer together in numbers than the poll generally, but they, too, number more in the affirmative than in the negative.

But before casting my vote, I express my strong personal reservations about the wording of the proposal now before the House. I submit Mr. Speaker, the rules of the House ought not permit the consideration of proposed constitutional amendments through the route of a discharge petition. Changes in the fundamental law of the land ought to have the most searching inquiry. They ought to be mandatorily subject to procedures which would require public hearing on the exact proposal, to be thoroughly worked out in committee, to be extensively debated on the House floor, and to be open to floor amendment.

Except for debate on a single floor amendment, the proposal before us has not been subjected to any of these testing, perfecting, and challenging procedures. It stands before us without committee consideration, without public hearing, without benefit of committee report, and with little opportunity for debate on the floor.

But it will do something to the Bill of Rights. It will amend the freedom of religion clauses of the first amendment. For the first time in our history, it proposes to make a change in the Bill of Rights, the most cherished part of our Constitution. Its proponents, on the other hand, argue with deepest sincerity that the school prayer decisions of the U.S. Supreme Court made the change in the Bill of Rights and this proposal seeks only to restore the first amendment to its historic usage. During the first 170 years of the first amendment, neither the establishment nor free exercise of religion clauses were construed to outlaw prayer and Bible reading in any public assembly, so long as participation was voluntary. That included the public schools. A respectful toleration for the religious beliefs of others, the practice of the Golden Rule, was a practical standard to which there was general adherence.

Then came the Supreme Court decisions in Engel against Vitale—1962—and the Schempp and Murray cases—1963. The 1962 decision struck down a State formulated prayer which was being used in New York schools. The 1963 cases construed religious exercises in the public schools consisting of a recitation of the Lord's Prayer and Bible readings as violative of the establishment clause of the first amendment.

The proposed constitutional amendment which the House is now so briefly considering would not restore Bible reading. Its wording is limited to prayer. In my opinion the House improved the language when it substituted voluntary prayer for nondenominational prayer as the original proposal had it. But I foresee litigation surrounding the words.

It seems ironic that those who think the Supreme Court's prayer decisions favored atheists over believers should find a solution through resort to a constitutional amendment which must itself be interpreted by the Supreme Court. In addition to the existing establishment and free exercise of religion clauses of the first amendment, the Court will have new words to interpret, to give meaning to. The Court may not only have to determine what voluntary prayer is. It will have to determine what is a public building within the scope of the Constitution. The public building must be supported by public funds. What does the word support mean? Must the support be direct, by the appropriation of public funds, or would indirect benefit be sufficient? What are public funds? The Court would also be called upon to define the word participate.

In the process of adding flesh to the bare words of the constitutional provision, the Court will act case by case. The Court will not undertake to do it all at once, as would be the situation if the Congress were writing a law, but will find meanings necessary only to the decision of the case before it. The process will take years, during which time there will be much uncertainty as to the scope of the amendment, much litigation in the courts, all to determine just what is meant by participation in nondenominational prayer in public buildings supported by public funds.

The first amendment says that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. Under the proposed amendment we consider today Congress may still make no law; but the Court can, and must through its interpretation of the meaning of the proposal. It might be argued that the necessary and proper clause of the original Constitution as found in article I, section 8, might give Congress the power to clarify by statute the meaning of the words and to enunciate a national policy. I think not. This proposal significantly does not include the usual section found in recent Constitutional amendments giving Congress power to enforce it by appropriate legislation. The first amendment still prohibits the Congress from making any law on the subject. Thus, almost uniquely, here will be a Constitutional provision about which Congress may not state national policy. Only the Supreme Court, the agency of Government which in the minds of proponents made the original mistake in the school prayer decisions, will be able to make national policy under this amendment.

I was impressed by the respectable percentage of people who returned the poll and indicated they favored the amendment but who nevertheless criticised its wording. Many undertook to reword it, most frequently to make it clear that only voluntary participation was intended. The people of the Fourth District of Michigan, though overwhelmingly in favor of the purpose of the proposal, are not wedded to its present wording.

When the school prayer issue was before us in the 88th Congress, this Member introduced a proposal which he quite naturally believes would be a better wording than the one now before us. His proposal, House Joint Resolution 897—88th Congress—read as follows:

> State Laws permitting the offering of prayer and scriptural readings within the public schools, if participation therein is voluntary, shall not be construed as laws respecting the establishment of religion.

Because this Member thinks the discharge petition route is so inappropriate in the case of constitutional amendments, he did not sign the discharge petition, and he did not vote here today to discharge the Judiciary Committee of which he is a member. But in deference to the sentiments of his constituency so overwhelming he will vote to send the proposal to the Senate and at such time as the Senate Judiciary Committee may hold hearings on it he will urge its careful redrafting.

Mr. GOODLING. Mr. Speaker, I rise in strong support of House Joint Resolution 191, legislation designed to amend the U.S. Constitution to permit prayers to be conducted in public schools and other public institutions.

I have introduced to the current Congress, as I have to two previous Congresses, legislation of this nature. I have also signed the discharge petition responsible for bringing the prayer bill to this floor for consideration.

In my congressional experience, I do not know one piece of legislation that has prompted the steady flow of correspondence that has been occasioned by this prayer bill. A large majority of this correspondence, possibly 93 percent, has been in favor of prayer legislation, echoing the sentiments of citizens from all walks of society. This is consistent with a recent nationwide poll taken on this subject.

This legislation recognizes the fundamental truth that our Nation has a religious background that is deep and broad. The Mayflower Compact was written in November of 1620, beginning with this prayer:

> In the name of God . . . we, having undertaken for the glory of God, do by these presents solemnly and mutually in the presence of God, and of one another, covenant and combine ourselves together into a civil body politic.

The kneeling figure of George Washington, through the bitter winter at Valley Forge, is a prominent and proud part of this country's religious background. It was Lincoln who said that he had been driven to his knees many times, for he had no place else to go. During the Constitutional Convention and in the course of the Revolutionary and Civil Wars, the leaders of America sought divine guidance through those uncertain days of our early American history.

While this legislation undeniably has strong support from a broad sector of the American public, there are some who object to the measure on the grounds that it violates the principle of separation of church and state implicit in the language of the first amendment of the Constitution which says:

> Congress shall make no law respecting an establishment of religion.

By an odd coincidence, a majority of these objectors are clergymen, but strangely enough they are silent about the language of the first amendment that immediately follows the previous language of the first amendment that immediately follows the previous language and says that where religion is concerned:

> Congress shall make no law . . . prohibiting the free exercise thereof.

In brief, this separation of church and state principle establishes that there shall be no Government-sponsored religion or religious exercises, and I, along with the other sponsors of this prayer legislation, ardently support this concept. We stand in firm opposition to the imposition by the Federal Government of any religious doctrine on any part of our citizenry.

The legislation that is now before this House of Representatives does not violate this principle, for it provides that nothing in the Constitution shall abridge the right of persons lawfully assembled to participate in nondenominational prayer; that is, prayer which is nonsectarian in nature.

Nondenominational prayer cannot, by its nature, be offensive to Protestants, Jews, or Catholics, for its appeal is to a superior being in general and not in particular.

I have heard ministers, priests, and rabbis present prayers in public institutions which while impressive and moving, could not be considered denominational or inconsistent with the separation of church and state doctrine.

Both this House and our counterpart regularly open with a prayer as a prelude to our deliberations on complicated issues of the day. Should our schools, which are engaged in the serious task of preparing our youths of today to become informed and responsible citizens of tomorrow, be denied a similar privilege?

I strongly urge that the House of Representatives give a resounding vote of approval to House Joint Resolution 191.

Mr. JACOBS. Mr. Speaker, had I the opportunity I would offer this amendment:

> On page 2, line 1, after the word "to", strike "participate in nondenominational prayer" and insert "observe a moment of silence, each in his own way."

This, I think, is the solution to the problem we face and this solution would be fair to everyone. I can not quite say that for the language before us.

Mr. SCHERLE. Mr. Speaker, on an issue as personal as prayer, one can only speak from personal experience. It has been my experience—and I know it has been shared by millions of others—that prayer is the most normal and natural act a human being can perform. Prayer brings peace and tranquillity in the midst of difficulty and frustration. It encourages humility, a quality we all need to

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foster in ourselves. A hundred times a day we can take a surcease from the hectic round of activities to call on God for guidance in our problems and—I do not mean this in an irreverent sense—it is a "pause that refreshes."

Who would deny to your young men in military service the comfort that such a habit of mind can bring? And where better to develop the habit of prayer than in our schools where children are supposed to learn the best attitudes we can teach? There is no greater resource we can give our children than the resource of prayer. When they are young they do not really know how often and how desperately they may need it, but when they are young is the best time to teach them its value. Abraham Lincoln once said that he was frequently driven to his knees in prayer because he had nowhere else to go.

The Supreme Court would prevent us from passing on this priceless solace to our children in school. I heartily disagree with the Court's interpretation and I know that many of my colleagues here today do, too. My compliments to the many Members of this House—Members of all faiths—who were courageous enough to sign the discharge in the face of 8 years of intransigence on the part of the Judiciary Committee. My particular gratitude goes to the Honorable CHALMERS WYLIE who introduced this amendment on our behalf and on behalf of all the future generations of schoolchildren who hopefully will benefit in ways we cannot even foresee from the action we take here today.

Mr. LENT. Mr. Speaker, I rise in support of the proposal. For over 170 years, the compatibility of prayer in the public schools and the first amendment to the U.S. Constitution was never questioned. For all but a minute portion of this Nation's history, children have been permitted to observe their religious convictions when and where they chose.

Now we are being told by some that to restore the freedom of children to observe their religious convictions when and where they choose, we are somehow muddling the Bill of Rights to the Constitution.

I do not adhere to that argument. The sentiment of my Fifth Congressional District constituents has been overwhelmingly in support of this proposal, Mr. Speaker, and I will reflect their views in voting on this measure.

In concluding my remarks, I would like to take this opportunity to salute one of my predecessors, the man whose efforts first brought this important proposal to national attention. That gentleman, Mr. Speaker, is the Honorable Frank J. Becker, a former colleague of many of you, who is with us today. Frank Becker's efforts on the matter we address today began in this body 8 years ago, and it is fitting that he should be here today to witness their culmination. Mr. Becker served the Fifth Congressional District of New York, and the Nation, well, and I salute him here, Mr. Speaker.

Mr. ROSENTHAL. Mr. Speaker, I am proud today to stand in the memory and footsteps of our Founding Fathers for the principle of religious freedom.

The first immigrants to the shores of our country, were driven in good part to escape from religious persecution. As this country took shape and the great foundational documents were drawn; the Declaration of Independence, the Constitution of the United States, these memories burned brightly. With infinite care and inspired wisdom, they determined to prevent the kinds of persecution to which they had been subjected in the past.

From this heritage then, was the Bill of Rights conceived and forged. The Bill of Rights, the cornerstone of our freedom and liberties has been defended by some and ignored by most. Now, in the form of the Wylie prayer amendment we have the first concerted attack on our Bill of Rights. This is the first constitutional amendment to propose a restriction to the Bill of Rights. Other constitutional amendments have expanded individual rights, this amendment dilutes the establishment clause of the first amendment and may erode seriously the religious liberty now guaranteed by the free exercise clause. This revision could well be the unsettling precedent for rewriting or changing other of our historical freedoms.

We are, because of, not in spite of, our religious freedom, a nation of diverse religious creeds. There is presently no state religion, no accepted religion. No one religion is preferred over any other. The protection of the first amendment has remained to this day adequate. But tinkering may beget more tinkering. What the Government can protect, it can also take away. If the Government can intrude in what until now has been a deeply personal experience, it may well decide to shape it, force it, perhaps to limit it. To attempt to answer the unanswerable and insoluble questions, which could turn a mere diversity of religions into a division of religions. The debate now raging over this proposed constitutional amendment and the division among religious groups and leaders suggests at least the massive problem that will arise over any proposal concerning the proper relationship of church and state.

Rather than provide any kind of solution to the problem which the proponents of this amendment raise, in my view only larger questions are left.

Religious authorities cannot agree on nondenominational prayer so there is little reason to believe that State, local, or school board officials could do so.

The word "voluntary" is not included in the amendment, so it is possible that the amendment will require participation in school prayer.

The amendment is just not well drafted. Disagreements are sure to arise as to what "nondenominational" means—this will spawn and increase the litigation.

The Wylie resolution purports to authorize nondenominational prayer in public schools. Assuming such a prayer could be composed, which is doubtful, and disregarding the question of who composed it, the word "nondenominational" is by its very nature antithetical to religion. Religion is by nature intensely personal and denominational. A nondenominational prayer could only serve to reduce religion to its least common denominator, to neutralize it, and finally to create what might be called nonsectarian public school religion. I do not believe that even the proponents of the Wylie amendment wish such a result.

This legislation would allow some groups or individuals to force their religious beliefs on others and this, I feel, is un-American and frightening. Our forefathers acted wisely when they wrote the Constitution to protect the religious freedom of all people.

Religious freedom to be effective must be unfettered, separated from the state. It must carry with it a complete voluntariness, a complete freedom of choice. Freedom to worship as the individual chooses, when the individual chooses, whom the individual chooses, and just as importantly, if the individual chooses.

Thomas Jefferson equated freedom of religion with his principle of freedom of the mind. His opposition to tyranny in all its forms was repeatedly voiced. In writing his Virginia Statute of Religious Freedom he said:

> Almighty God hath created the mind free . . . No man shall be compelled to frequent or support any religious worship or ministry or shall otherwise suffer on account of his religious opinions or benefits, but all men shall be free to profess and by argument to maintain, their opinion in matters of religion. I know but one code of morality for men whether acting singly or collectively.

To this I say, Amen.

Mr. BROYHILL of North Carolina. Mr. Speaker, I support the proposed constitutional amendment to provide for voluntary, nondenominational prayer in public schools and I have advocated its passage for the 9 years I have served in the House of Representatives.

This amendment has recently been subject to a great deal of criticism from national religious leaders, among others. However, several polls have shown that the rank and file members of these religious groups strongly support the prayer amendment and oppose the views expressed for their organizations.

Many opponents of the amendment contend that the Supreme Court decisions do not prohibit voluntary prayer in public schools and that this amendment would work against this practice rather than clarify the issue. However, in looking at the practical effect of the Supreme Court rulings, we can see that it has effectively ended all religious observances in the public school systems.

In discussing this issue, many people have said that we should not tamper with the Bill of Rights by passing this amendment. In the more than 180 years since the Bill of Rights was written, it is only very recently that the first amendment has been interpreted as banning all voluntary participation in prayer in public schools.

I feel that this amendment would work to clarify the constitutional intent of religious freedom in this country—the freedom to participate as well as not to participate in school prayer.

Mr. DENNIS. Mr. Speaker, the vote on the so-called Wylie or "school prayer amendment" presents a difficult problem, so far as I am concerned, because I dislike unnecessarily amending the Constitution—and, particularly, tampering with the Bill of Rights—on the one hand; and on the other hand I object to what seem to me to have been overrefined and unduly doctrinaire interpretations of the first amendment on the part of the Supreme Court, which have operated to needlessly frustrate and deny the heartfelt sentiments and aspirations of a large majority of our people. These aspirations, in my judgment, are entirely within the mainstream of our American practices and traditions, and the Supreme Court, by a few of its latter day decisions, has artificially and unnecessarily created the problem which we face today, and which, with a little more practical approach on the part of the Court, need never have arisen.

Said Mr. Justice Douglas in a well-known passage in the opinion of the Court in *Zorach* v. *Clawson*, 343 U.S. 306 at 313 (1951):

> We are a religious people whose institutions presuppose a Supreme Being.

He stated:

> The first amendment does not say that in every and all respects there shall be a separation of Church and State, 343 U.S. at 312. When the State encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs it follows the best of our traditions, for it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religions over those who do believe . . . But we find no Constitutional requirement which makes it necessary for government to be hostile to religion, 343 U.S. at 314.

Mr. Justice Jackson, in his concurring opinion in *McCollum* v. *Board of Education*, 333 U.S. 203 at 232, et seq., after pointing out that the "released time" plan which was at issue in that case involved neither compulsion of the person nor the taking of property for religious purposes, and that the Court was, in effect, being asked "to tell the local Board of Education what it must do," observed that "nearly everything in our culture worth transmitting * * * is saturated with religious influences," and he warned against allowing "zeal for our own ideas of what is good in public instruction to induce us to accept the role of a superboard of education for every school district in the Nation," 333 U.S. at 237.

James Madison is known as the father of the Constitution, and, as a Member of the House of Representatives in the First Congress, he introduced the Bill of Rights, which included the original draft of what is now the first amendment. This first draft read as follows:

> The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

Later in the legislative process the proposed amendment was changed to read as follows:

> No religion shall be established by law, nor shall the equal rights of conscience be infringed.

And Madison, in debate, stated that the meaning of the amendment was that:

> Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship in any manner contrary to their conscience.

The foregoing comes to us from the author of the first amendment, and I submit that it is difficult and strained indeed to draw, either from the words of these original proposals, or from Mr. Madison's explanation, anything which suggests that there cannot be a voluntary participation in prayer as part of the program in a public school. On the contrary he condemns the establishment of a national religion, the abridgement of civil rights on account of religious belief, and the compelling of worship contrary to conscience. On this last heading—the only one, it would seem—which might even conceivably approach our problem—the words of Mr. Justice Jackson in *McCollum* v. *Board of Education*, 333 U.S. at 233, are apt and applicable:

> It may be doubted whether the Constitution which, of course, protects the right to dissent, can be construed also to protect one from the embarrassment which always attends nonconformity.

Thomas Jefferson was, as he stated with justifiable pride in the inscription on his tombstone, "Author of the American Declaration of Independence; of the Virginia Statute for religious freedom; and founder of the University of Virginia", yet Mr. Justice Reed, in his dissenting opinion in the McCollum case, points out that Jefferson himself suggested and approved a system whereby religious schools might be established "on the confines of" or "within, or adjacent to, the precincts of the University" at which—according to regulations adopted—"the Students of the university will be free and expected to attend religious worship at the establishment of their respective sects." Noting Jefferson's often quoted phrase regarding "a wall of separation between Church and State", and contrasting it with this practical approach to the relations of religion and education, Justice Reed remarked that "A rule of law should not be drawn from a figure of speech", 333 U.S. at 245–247.

As has been pointed out repeatedly in the various opinions in the several school prayer cases the intimate, accommodating, and cooperative relationship between government and religion, in traditional American practice, in many phases of American life, are familiar to us all, and are, in truth, legion. Among these may be mentioned prayers by House and Senate Chaplains at the opening of congressional sessions; Chaplains—Protestant, Catholic, and Jewish—in the Armed Forces; the phrase "under God" in the Pledge of Allegiance; "In God we trust" on our coinage; compulsory chapel attendance at West Point and Annapolis; and the words of the Court Crier, ". . . God save the United States, and this Honorable Court", which are prescribed at the opening of each session of the Supreme Court. Mr. Justice Douglas, at the beginning of his concurring opinion in *Engel* v. *Vitale*, 370 U.S. 421 (1962, appends, as a footnote, an impressive list of instances in which, as he puts it, "our System at the Federal and State levels is presently honeycombed with such financing"—that is, government financing of religion or of religious exercise. It was, no doubt, considerations such as these which led Mr. Justice Douglas to admit in this same opinion that:

> I cannot say that to authorize this prayer is to establish a religion in the strictly historic meaning of those words. A religion is not established in the usual sense merely by letting those who chose to do so say the prayer that the public school teacher leads.

And which led Mr. Justice Reed, dissenting McCollum, 333 U.S. at 256, to say:

> This is an instance where, for me, the history of past practices is determinative of the meaning of a constitutional clause.

Considerations of this sort, presumably, led Mr. Justice Stewart, dissenting in Engel against Vitale, to say that "the Court has misapplied a great constitutional principle," and that to deny the New York schoolchildren the right to join in reciting prayer "is to deny them the opportunity of sharing in the spiritual heritage of our Nation."

Mr. Justice Stewart points out in his dissenting opinion in School District of Abington Township, Pa. against Schempp, 374 U.S. 203 (1962), that historically the establishment clause was probably primarily an attempt to insure that Congress not only could not establish a national church, but also would be unable to interfere with established State churches which were then existing; and he touches on the fact, which is noted also by Prof. Paul G. Kauper of the law school of the University of Michigan, in his book, "Religion and the Constitution," that it is not altogether clear by what rationale the first amendment's "establishment clause"—as distinct from the "free exercise clause"—was ever, by way of the 14th amendment, applied to the governments of the several States. On this last point Prof. Kauper observes, at p. 55 of his book, that:

> It was easily understandable that the religious liberty secured by the free exercise clause would be regarded as a fundamental right protected by the Fourteenth Amendment. But . . . it still remains for the court to demonstrate in what respect a person is deprived of life, liberty, or property without due process of law because of the violation of the establishment limitation.

Mr. Justice Stewart points out further, in this opinion, that the "establishment clause," as interpreted by the majority of the Court, may well conflict with "a substantial free exercise claim on the part of those who affirmatively desire to have their children's school day open with the reading of passages from the Bible." In this connection Mr. Justice Stewart observed that:

> A compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secu-

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larism, or at the least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.

Despite all the foregoing, the majority of the Court in the Engel and Schempp decisions—as is shown, perhaps, most clearly in Mr. Justice Brennan's concuring opinion in Schempp—appears to take the position that the views of Madison and Jefferson as to the meaning of the establishment clause of the first amendment, the evils to which the Founding Fathers intended that amendment to be addressed, and the traditional and customary practices of Americans in this field, are all largely irrelevant to the meaning and application of the amendment today, which meaning is to be determined, rather, by the ideas which, to the members of the Court majority, appear to be currently socially desirable.

Thus, Mr. Justice Brennan, speaking of Jefferson and Madison, says:

I doubt that their view, even if perfectly clear one way or the other, would supply a dispositive answer to the question presented by these cases.

He says, further, speaking of the framers of the Constitution:

I have no doubt that, in their preoccupation with the imminent question of established churches, they gave no distinct consideration to the particular question whether the clause also forbade devotional exercises in public institutions.

And then, citing the profound social and religious changes since their day, he says:

Practices which may have been objectionable to no one in the time of Jefferson and Madison may today be *highly offensive to many persons.*

And that—

Whatever Jefferson and Madison would have thought of Bible reading or the recital of the Lord's Prayer in what few public schools existed in their day, our use of the history of their time must limit itself to broad purposes.

Mr. Justice Brennan seems to be saying, or very close to saying, that if a practice—such as prayers or Bible reading in the schools—is objectionable or offensive to him, and to others, today, this, ipso facto, makes the practice unconstitutional, regardless of the original meaning, purpose, or intent of those who originally drew the constitutional provision.

This, it seems to me, is the basic defect of such decisions as Engel against Vitale and Abington School District against Schempp; and it is small wonder that Professor Kauper observes, with professional restraint, at page 91 of Religion and the Constitution, that:

It requires a very broad interpretation of the establishment clause to say that these public school exercises amount to an establishment of religion.

and further, at page 57:

One can hardly avoid the conclusion that the Supreme Court is using the due process clause as a convenient tool to impose upon the state a conception of national policy which it regards as peculiarly appropriate to present conditions.

Dire predictions are made if this amendment is adopted. It is said that this is the first weakening of the Bill of Rights, that it will end the historic separation of church and state, that it will lead to religious strife and divisiveness.

I believe that these fears are exaggerated. It must be remembered that this amendment does nothing more than provide that nothing contained in the Constitution "shall abridge the right of persons lawfully assembled in any public building . . . to participate in nondenominational prayer." Thus, while it would presumably make permissible the practices condemned in Engel and in Schempp, it very clearly does nothing at all to legalize the establishment of any sort of a national religion, to create any religious test for the exercise of the franchise or the holding of public office, to infringe the full and equal rights of conscience, or to compel men to worship in any manner contrary to their conscience—the evils toward which, as we have seen, the first amendment was basically aimed. I, myself, would prefer that the amendment contain the word "voluntary", instead of or as well as "nondenominational", so that it would read "the right to participate in voluntary and nondenominational prayer". Unfortunately, under the discharge procedure no amendment on the floor is possible—except under unusual parliamentary procedure—and therefore this improvement must probably be sought, if the amendment is passed in the House, when it reaches the other body. I am of the opinion, however, in the light of the uniform decisions of the Court and the history behind the first amendment, that any reasonable interpretation of the Wylie amendment, even as it stands, would necessarily hold that the prayers legalized by its provisions would have to be voluntary, and that nothing in the amendment could be construed as authorizing any sort of compulsion, a thing which would, indeed, run contrary to the true and basic meaning of the first amendment.

If this amendment is adopted, then, nothing will have changed except that the several States of the Union will be authorized, if they so desire, to provide for the holding of noncompulsory and nondenominational prayers as a part of the program of their public schools. This does not shock me, it is desired by at least 80 percent of the people by every popular poll, including my own in the 10th District of Indiana, and it comports with my understanding of the true and original purpose and intent of the first amendment—as noted above—and as American practice has understood and interpreted it from the line of James Madison, and before, until the modern age of Engel against Vitale. Since the issue has arisen and is here to be decided, I am constrained to agree with Mr. Justice Reed that this background history and past practice must prevail over the legalistic refinements and the doctrinaire approach of modern day "liberal" judicial thought, which would here, as in other areas, bend the meaning of the Constitution to its own view of modern social good.

Therefore, Mr. Speaker, I vote "aye" on the Wylie amendment.

Mr. KASTENMEIER. Mr. Speaker, the House will soon be called upon to vote on the proposed constitutional amendment, House Joint Resolution 191, to authorize prayer in schools and other public buildings, thus amending the scope of the provision of the first amendment to the U.S. Constitution which declares that—

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

I urge my colleagues to oppose House Joint Resolution 191, for were the Constitution amended, as recommended, the proponents of House Joint Resolution 191 would gain the very dubious distinction of having helped bring about for the very first time a reduction of the protection of the Bill of Rights as authoritatively interpreted under our system.

As a member of the House Judiciary Committee, I participated in the extensive hearings the Judiciary Committee held on the school prayer issue in 1964. These deliberations followed the 1962 U.S. Supreme Court decision in Engel against Vitale and the 1963 High Court decisions in Abington Township, Pa., against Schempp and Murray against Curlett, in which school religious programs supervised by Government were outlawed as violating the freedom of religion guaranteed by the first amendment. It was generally thought that the committee would report out a constitutional amendment on school prayer. But, many of the committee members who were disposed at the outset of the 1964 hearings to support some form of a school prayer amendment became aware of the problems involved in such a proposal. For example, it was impossible to determine who should prescribe what prayers and Scriptures were to be recited and read. We also heard from a number of respected and widely represented members of the clergy who strongly opposed the prayer amendment on the basis of separation of church and state. Upon mature reflection, the committee reached the decision that such a constitutional amendment could not be written without doing violence to the first amendment. Committee members who early supported the school prayer concept joined in this consensus. Now, this issue has been revived.

In my own State of Wisconsin, the school prayer question has not been raised in over 80 years. Article I, section 18 of the 1848 Wisconsin constitution states that—

The right of every man to worship Almighty God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry, against his consent; nor shall any control of, or interference with, the rights of conscience be permitted, or any preference be given by law to any religious establishments or modes of worship; nor shall any money be drawn from the treasury for the benefit of religious societies, or religious or theological seminaries.

In 1890, this provision of the Wisconsin constitution was tested in the Wisconsin State Supreme Court in a suit brought by Catholic parents who objected to having their children being subjected to

Protestant prayers. The Wisconsin Supreme Court, in Weiss against District Board, reasserted the State constitutional ban on devotional Bible reading in public schools. This section of Wisconsin's constitution was further reaffirmed by the 1962 and 1963 U.S. Supreme Court decisions. I do not know what the practice was in Ohio where the drive for the school prayer amendment, led by an Akron housewife and our colleague from that State (Mr. WYLIE) originated. For Wisconsin, however, the amending of the Constitution to permit school prayer would have an unsettling effect.

Mr. Speaker, this Nation has stood for the principle that religion is a matter entirely between the believer and God, to be sustained by such voluntary associations and religious organizations as the citizens may choose, but not to be either promoted or opposed in any way by the agencies of government. The proposed amendment would introduce an utterly impossible chaotic situation, unless a State agency were authorized to determine what prayers and Scriptures were to be recited and read. The State would then become the official agency for a preferred form of religion. History, however, is replete with evidences that whenever the State has control in any degree over religious life, the way is opened for the denial of religious freedom and for the persecution of those who do not adhere to the officially approved forms of faith.

The fullest realization of true religious liberty requires that Government neither engage in nor compel religious practices, that it effect no favortism among sects, or between religion and nonreligion. The attitude of the State toward religion must be one of neutrality.

The late Justice Hugo Black, in delivering the Court's decision in the 1962 Engel case, wrote:

The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office. Under that Amendment's prohibition against governmental establishment of religion, as reinforced by the provisions of the Fourteenth Amendment, government in this country, be it state or federal, is without power to prescribe by law any particular form of prayer. . . . It is neither sacreligious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers. . . .

Mr. Speaker, for the sake of our precious heritage of religious liberty and for preserving intact that priceless bulwark of freedom for all Americans, the first amendment, I, therefore, urge my colleagues to vote against the proposed constitutional amendment.

Mr. ROBINSON of Virginia. Mr. Speaker, in reading and considering the substantial correspondence which has come to my office in recent months in regard to the resolution now before us, I have been struck by the fact that, while the governing bodies of various churches have taken positions against the prayer amendment, the rank-and-file members of most churches seem to be strongly in favor of permitting voluntary prayer to be part of the school day.

That we have the resolution under debate today, Mr. Speaker, can be attributed to the grounds well of public indignation at the suggestion, implicit in the Supreme Court decision, that there is something improper in the overt recognition of a supreme being during school hours, or that the Founding Fathers intended that schools be conducted in a spiritually sterile atmosphere.

I have in mind the many spontaneous efforts which sprang up around the Nation to rally support for an appropriate clarifying amendment—a measure which should not have been necessary under any reasonable interpretation of the intent of the framers of the Bill of Rights, as reflected by the history of the time.

Helpful background information was distributed, for example, by the Citizens for Public Prayer and other volunteer groups.

In the small community of Scottsville, Va., in the Seventh Virginia Congressional District, which I have the honor to represent, Mr. A. Warren Walton undertook a one-man letter-writing campaign. He wrote more than 1,000 letters to newspapers in the 50 States, urging citizens to make their support of the prayer amendment known to Members of Congress.

Last week, Mr. Walton took 3 days off from his employment to come to Washington to join other citizens in visiting offices of Members of this House to urge support for the resolution.

Mr. Walton is typical, I believe, of the millions of citizens who see nothing wrong—and a great deal right—in the practice of opening a school day with a brief recognition of a Supreme Being, assuming that no student is required to participate, and no special status is given to the liturgy, tenets or clergy of a particular denomination.

He made this comment:

I have children in the public schools, and while I don't believe in forcing everyone to pray, I do believe children should be able to start the school day with a prayer if they want to.

Except through his statements as set down in writing, we cannot explore the mind of James Madison of Virginia, one of the authors of the first amendment, but I believe an examination of his recorded views make plain that he would not have been in disagreement with Mr. Walton.

When Mr. Madison introduced in this House the original proposal leading to the religious freedom provision of the first amendment, it read as follows:

The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed. (Annals of Congress, I, 434).

The Annals report (Ibid., 730):

Mr. Madison said, he apprehended the meaning of the words to be, that Congress should not establish a religion, and enforce the legal observation of it by law, nor compel men to worship God in any manner contrary to their conscience.

I agree with Mr. Madison; I agree with the first amendment as finally enacted and ratified—and I agree with Mr. Walton of Scottsville, Va.

I do not believe the resolution now before us should have been necessary, but the Supreme Court has made it necessary to reaffirm the otherwise obvious intent of the Founding Fathers.

Those who have expressed to me in correspondence their apprehension about the proposed amendment occasionally have challenged me to identify, or put forward, "a nondenominational prayer."

As one of the cosponsors of the amendment resolution, I certainly do not support the idea of an officially sanctioned prayer.

The intent of the amendment, in my view—and I believe the other sponsors of the measure concur—is not to require the promulgation of an "official" prayer for use in public schools or other public buildings.

The intent is to the contrary—and, I believe, it is consistent with the original intent of Mr. Madison—to preclude the sanction of a particular mode of worship.

"Nondenominational prayer"—as distinguished from "a nondenominational prayer"—can be ecumenical in character.

The recognition of a Supreme Being has been expressed with depth of feeling and great beauty in the prayers of many faiths and in their Scriptures.

Surely, as in the prayers which open the deliberations of this House, and which are offered, on occasion by guest chaplains of many persuasions, the dominance of a particular creed can be avoided without resort to secular prayer draftsmen.

Mr. Speaker, I support the resolution.

Mr. HANLEY. Mr. Speaker, several months ago, I signed a petition discharging the House Judiciary Committee from further consideration of House Joint Resolution 191, the so-called prayer amendment. I did so because I felt the House had a moral obligation to meet this issue headon.

When I came into the Chamber today, I was fully prepared to vote against the resolution. I was deeply concerned over two elementary aspects of the resolution. My first misgiving was over the fact that the word "voluntary" did not appear anywhere in the language of the resolution and that this would have led to coercion of students to participate in a State-authored, State-directed prayer or religious observation. My second concern was over the fact that the resolution provided for nondenominational prayer. I, for one, do not know what a nondenominational prayer is and I doubt seriously whether or not anyone else does.

I had prepared a very strong speech in opposition to the resolution's passage, and I was ready to back up that speech with my vote.

But then, Mr. Speaker, the House adopted the perfecting language of the amendment offered by the distinguished gentleman from Alabama (Mr. BUCHANAN) and the entire issue was substantively changed.

The Buchanan amendment strikes the word "nondenominational" and inserts instead "voluntary prayer or meditation."

I am convinced now, Mr. Speaker, that the safeguards against Government encroachment into the arena of religious activity which were written into the first amendment, are intact, and that the Government is not empowered under this resolution to go into the religion business.

Mr. MICHEL. Mr. Speaker, I was one of those signing the discharge petition to bring this very simple prayer amendment to the Constitution out on the floor of the House for a vote. I fully recognize that it is a controversial issue and could be debated for an extended period of time.

I am going to vote for the resolution, knowing that it will require a two-thirds vote in both bodies of the Congress and will have to be ratified by three-fourths of the States before it can even become operative, but I do believe the people ought to be given an opportunity to speak on the subject through their State legislatures and conceivably by public referendum in the various States and localities.

This whole subject matter was brought to the fore when the U.S. Supreme Court in the case of Engel against Vitale said that it was unconstitutional for a State or local community to prescribe prayers in public schools.

First, may I say that I agree wholeheartedly. The Court was right in that decision, for who are we as public officials to prescribe any kind of prayer for children in our public schools. I do think, however, that in more recent decisions of several lower courts on the subject of prayers in public places, their reasoning has been absolutely absurd and borders on the ridiculous. As an example of this, the case has been cited in New Jersey recently in which the students of the Netcong High School wanted to meet for 5 minutes prior to the formal opening of school for a purely voluntary meeting, in which a student volunteer reader assigned by the principal on a first-come, first-serve basis, would read the prayer said the day before by the Chaplain of the U.S. House of Representatives. The school board okayed this procedure, but it was later found by the courts to be unconstitutional.

Whenever I have been asked as to whether or not it is permissible to have any kind of prayer in a public schoolroom or reading of Biblical passages, I have always advised the teachers to go ahead and do whatever they liked so long as whatever was done was not mandatory and was purely voluntary on the part of the children. In my opinion, the greatest textbook of all time is still the Bible. I also happen to feel, however, that the primary responsibility for religious education or instruction resides with the parents or guardians of our youngsters, and their respective places of worship.

I should say further that I personally am in a distinct minority in the Congress so far as being identified religiously. I am the only Member identified with the Apostolic Christian Church, a very fundamentalist denomination. At one time there was a Member identified as a Hindu, but he has since gone on to his reward, so I know what it is like to be in the minority.

Frankly, I do not consider this prayer amendment as critical an issue as some of the more emotional people expressing themselves on the subject would have us believe. And I certainly would be the last to have the State infringe in any way upon my religious beliefs. I will be frank to say that I do feel as a country we have been blessed since the days of the founding of the Republic in no small measure because from our very beginning we have acknowledged a Supreme Being, and have from the very beginning and still to this day begin our deliberations in the Congress and in many public places with a prayer.

Just a few days ago we all received a letter signed by a number of our colleagues in both the House and Senate inviting us to the next national prayer breakfast at which the President and Mrs. Nixon will be honored guests. Members of the Cabinet and Supreme Court are included and usually attend. The invitation says:

> The purpose of this event is to bring the nation's official family together to ask God's guidance.

Now, is it not a little inconsistent to acknowledge the worth and desirability of prayer in such formal fashion but then strike down as unconstitutional voluntary prayers of a very informal nondescript type that may be said in a building supported in whole or in part by public funds.

While the lawyers and religious leaders may debate endlessly what nondenominational prayers really are, I do not think that choice of adjective should serve as a bar to the enactment of the resolution, although I would much prefer the language of the publicized Dirksen amendment authored by the late beloved Senator and minority leader. He was the original champion of this amendment.

Mr. Speaker, some of us may or may not have been taught how to pray. Our supplications differ each according to his own conscience, beliefs and teachings, but that is not important. What is important here is not the content or form of what prayers might be said voluntarily in public buildings including our public schools but whether one is required or coerced involuntarily to participate or conform to something prescribed by the State.

There is a marked difference and all we seek to do is preserve the voluntary nature of prayer consistent with all the safeguards of the first amendment to the Constitution.

Mrs. HANSEN of Washington. Mr. Speaker, I would like to take this opportunity to join many of my distinguished colleagues who have expressed the gravest of doubts regarding the prayer amendment soon to be considered by the House of Representatives. At the outset I should mention that this is only one of many occasions I have felt the responsibility to express these doubts. Throughout my years as a State legislator and as a Member of the U.S. Congress, well-intentioned, sincerely religious people have forced the emergence of this issue. In 1963 and 1964 the Supreme Court gave legal emphasis to my argument. However, there is again increased pressure on the U.S. Congress to reverse the decisions of Engel against Vitale and Abington School District against Schemp and to assume the responsibility for interpreting the basic provisions of that document upon which is based our most delicate social and political organization.

It has become increasingly evident to me that the overwhelming majority of concerned Americans, regardless of their religious preferences, have come to the realization that a resolution such as House Joint Resolution 191, no matter how pure the motivation which led to its introduction and the discharge of the House Judiciary Committee, constitutes a real danger to the integrity of the Constitution and to the basic religious freedom it provides us.

The complete separation of religious activities and civic duties has been elementary to the concept of freedom in our democracy. The strength of this conviction is apparent as early as the introduction of Thomas Jefferson's bill for establishing religious freedom, passed by the Virginia Assembly.

> We, the General Assembly, do enact that no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or beliefs: but that all men shall be free to profess, and by argument to maintain, their opinions in the matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civic capacities.

This was codified into the first amendment of our Constitution as:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

Clearly, the essence of the no-establishment clause was that there would be no "official" civic religion to which all loyal citizens must pay at least lipservice. Our Founding Fathers were well aware that governmental involvement in religion was, even with good intentions, an insidious step to religious controversy, religious divisiveness, and ultimately, religious repression.

Mr. Speaker, Members of the House, I believe the Supreme Court has envisioned very clearly the ramifications of the "nondenominational prayer" amendment. They did not put God out of our public institutions. They did not express hostility toward His Worship. They did not advocate an atheistic society in which to raise our children. They simply stated that:

> State composed and governmentally required prayers are a violation of the Constitution.

And:

> In this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by government.

The Supreme Court has never prohibited truly voluntary prayer. To the contrary, the Supreme Court has on

many occasions taken note of the religious heritage of this country, and it has always sought to preserve that heritage.

Our Founding Fathers, from their own bitter experience, and our own Supreme Court, aware of the politics that resulted in that bitterness, realized with great clarity that construction of the first amendment to provide for "nondenominational prayer" would require the authorship of an agent of the State and require recitation in our public schools, hospitals, homes for the aged, and other public buildings. In insuring that all participants pray in unison, we would have to allow a governmental agent to impose his own personal determination of what constitutes a "proper" prayer on all of those who are forced to recite it. Thus, the very rights which this amendment is to enhance are, in fact, restricted.

Before I support this resolution I must be shown a prayer which will recite the strong religious convictions of the Catholic, the Jew, the Protestant, the Buddhist, the Moslem, and every sincere religious sect, as well as the atheists. There is no such prayer. If I am wrong, then I give this august body the entire month of December to compose and unanimously adopt such a prayer. Then let us amend the Constitution. Then let us vote on having the child who wishes to attend public school, the elderly person trapped in a nursing home, the crippled in a public hospital, to temporarily lay aside the freedom they now enjoy to pray to their own God, in their own manner, and impose upon them some watered-down version of worship, lacking in religious conviction and possibly adverse to their personal beliefs.

It is a fact that virtually all religious groups, including the National Council of Churches, the U.S. Catholic Conference, the American Baptist Convention, the Southern Baptist Convention, and the Joint Advisory Committee of the Synagogue Council of America and the National Jewish Community Relations Advisory Council, oppose the amendment. They oppose it because they realized that the Government's choice of a particular form and substance of "acceptable prayer completely undermines the establishment clause of the first amendment and jeopardizes each individual's ability to worship in his own way. They do not wish to risk religious strife and to subject children of minority religions to the inevitable coercion and social stigma for the dubious benefits of prayer in school. They do not believe that such prayer is a substitute for religion in the homes and churches. They do not wish to chance the erosion of our Constitution for an ill-fated attempt to instill religious attitudes in children who do not receive them at home, by the enforcement of a bland "nondenominational" prayer.

The Washington State Constitution in article I, section II, states:

> Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace and safety of the state. No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment.

The article then goes on to state that:

> No religious qualification shall be required for any public office or employment, nor shall any person be incompetent as a witness or juror, in consequence of his opinion on matters of religion, nor be questioned in any court of justice touching his religious belief to affect the weight of his testimony.

It would seem to me that in this declaration there is the same guarantee for a schoolchild as there is for a public official.

Again, article IX, section IV of our State constitution says:

> All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.

Earlier, the preamble to article IX, section I stated:

> It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.

Therefore, it seems to me that any abridgement of article I of the Bill of Rights at the same time nullifies or abrogates the Washington State constitution.

I shall not support the prayer amendment. I shall not support it because I consider it contrary to my oath of office wherein I swore to uphold the Constitution of the United States.

The erosion of the Bill of Rights to me could become one of the most disastrous actions of America. A little erosion here and a little erosion there will eliminate democracy and freedom as we know it. Too many countries have gone down this road. Let us keep America strong and free under her Constitution.

I have no apologies for my stand on behalf of my Constitution to which I took allegiance. Many Americans have died to preserve our Constitution. I can at least speak in its defense.

Mr. BADILLO. Mr. Speaker, very shortly Members of this body will be called upon to vote on House Joint Resolution 191, the so-called prayer amendment. This legislation would amend the Constitution to permit the recitation, voluntarily, of nondenominational prayer in our public schools.

At first glance this proposal appears to be deceptively uncontroversial. Who wants to go on record as opposing prayer, and what politician or other public figure wants to be remembered for opposing the voluntary recitation of it? Surely, a great deal of good and no harm must come from youngsters' starting the day by acknowledging the supremacy of God and returning thanks to Him for the many blessings they have received.

Unfortunately, the issue is not as simple as it appears. Presently the first amendment guarantees the right of each individual to worship God in the manner of his choosing and safeguards his right to determine what part the exercise of religion will have in his life and the life of his children. The amendment we are considering would encroach on these rights and, by doing so, would engender divisiveness in our Nation.

The prayer sanctioned by the amendment is described as nondenominational. The problem is, who will determine whether a particular prayer does or does not conform to this requirement. Will the evaluation be left up to the school boards or will it be delegated to the attorneys general of the States? Is there a reasonable likelihood that either of these alternatives, or any other elected or appointed bodies can satisfy parents from widely differing religious backgrounds? I think not. The chances are overwhelming that individuals confronted with the text of the prayers will detect in it either a favoring or slighting of their religious beliefs. Their opinions will be known to their children who in turn will consider their classmates with favor or dislike, depending on their participation in and enthusiasm for this "voluntary" devotion.

Mr. Speaker, the Founding Fathers, having suffered from religious persecution and having come to this land in search of a sanctuary of freedom of belief, established the safeguard of the first amendment to assure that the intolerance and bigotry which blighted their lives will not threaten the freedom of their descendants. Our nation has grown and prospered under the safeguards of the first amendment. I am certain that no Member of this body wants to retard that growth or engender national divisiveness. I ask my colleagues, therefore, to think long and hard before voting in favor of this amendment.

Mr. CLANCY. Mr. Speaker, I rise in support of this resolution for a constitutional amendment.

This amendment would not join church and state where they are now separate. This would do no more in the schools than we now do in the House of Representatives. We open each day with a prayer in the Capitol. We should not deny that privilege, or that right, to our children.

This amendment does not require children to say a prayer. It does not force teachers to impose prayers on students. Shuch prayers as would be said would be voluntary and would not indoctrinate our youth.

I urge my colleagues to vote for this resolution because we stamp our coins with the words, "In God We Trust," and we have inserted the words, ". . . under God," into the Allegiance to the Flag.

Let me remind the House that the first amendment starts off, "Congress shall make no law respecting an establishment of religion."

But it immediately adds six words which many people overlook, "or prohibiting the free exercise thereof."

For too long, our children have been denied the free exercise thereof in public schools. This amendment is needed to reinforce the wisdom of our forefathers as set forth nearly 200 years ago in the U.S. Constitution.

Mr. LANDGREBE. Mr. Speaker, there are two points concerning the Wylie amendment on school prayer which I believe should be made as we consider the vote here today.

First, we need to look beyond legalisms and technicalities and examine the entire fabric of our Nation's traditions. This is and always has been a nation under God. The document that led to the very establishment of this Nation, the Declaration of Independence, clearly shows a divine origin for our country's independence:

They are endowed by their Creator with certain inalienable rights.

Every session of this House and the other body begins with a prayer, in which we acknowledge our dependence upon the Supreme Being. Those who ask the fatuous question, "What is non-denominational prayer?" need look no further than the first page of any copy of the RECORD.

Our coins contain the motto: "In God We Trust." Our pledge of allegiance includes the phrase: "Under God." Practically our whole panoply of recognized patriotic songs include the idea of our subservience to God.

Legalisms notwithstanding, Mr. Speaker, this is clearly a nation under God, and it is folly to construe our Constitution otherwise.

The point has been made that the Supreme Court in 1963 never really outlawed prayer in public schools. I hope this is true. But the fact remains that the court ruling, rightly or wrongly, has been consistently applied to mean that school prayer is forbidden. Rightly or wrongly, public school prayer has been nearly nonexistent for the past 8 years.

What has happened in those 8 years? Crime, especially juvenile crime, has risen at a most alarming rate. Eight years ago, drug abuse in schools was almost unheard of; today it is an epidemic. Our Nation's entire moral fabric has been rotting away—as evidenced by the hardcore pornographic filth that now flourishes on our newsstands and in our theaters. This may be coincidence, but I don't believe so.

History is full of examples of how civilizations have perished as the people turned away from their established moral values. The example is repeated again and again in the Old Testament of the Bible. As long as the people remained close to God, the Nation prospered. When they fell away, they were conquered by the heathen. Is this going to be the ultimate fate of the greatest Nation in world history? Unless we quickly return to a dependence upon the Almighty, no matter by what name we choose to call Him, the historic precedent is clear.

Let us, the Members of the U.S. House of Representatives, at this moment, speak loud and clear. Let us tell the entire world that we believe that America is yet a nation under God, and in that great and wonderful God we still place our trust.

Following our affirmative action on this constitutional amendment the final decision will rest with the legislatures of the several States. I thank you.

Mr. FUQUA. Mr. Speaker, the matter which we discuss today is not taken lightly. I support the passage of this constitutional amendment to protect the basic rights of the American people and not to take away the rights of any man.

Today we have adopted an amendment which rewords this amendment to say that voluntary prayer in public buildings shall be permitted under the Constitution of the United States. This is much preferable to the word nondenominational and had my support.

However, the basic question here is whether the American people will be allowed to express devotion to Deity in public buildings.

The history of this Nation is that we are most tolerant of our fellow man and his or her basic beliefs. Freedom of religion is a basic and fundamental right and I will fight against the establishment of a State religion.

What we have seen happen as a result of the Court decision is a feeling that all prayer is banned.

Thus, the citizen who wants to voluntarily offer a prayer is prevented from doing so. We do not propose that anyone be forced to pray in any set fashion, nor do we believe that there should be prayers written by the State.

In the Supreme Court decision it was ruled that a specific prayer written by the State was not constitutional.

There should, however, not be a prohibition against the American people saying a prayer in public buildings.

The House of Representatives opens its sessions with prayer. The Senate opens its sessions with prayer. The Supreme Court opens it sessions with prayer.

Do not we all three meet in public buildings?

In meeting in the Capitol and the Supreme Court Building, we gather in two of the three most important public buildings in our land.

Before the Court decision was rendered, there was no State religion—there was no established religion.

I am opposed to prayers being forced upon any person.

But to deny schoolchildren the right to offer voluntary prayers to Deity violates a basic and fundamental right—their freedom of religion.

The agnostic and the atheist should be tolerant of those who believe in God. In a society such as ours, we are a blending of cultures and beliefs. It is basic that we tolerate the rights of others and those who want to recite a voluntary prayer should have a right to do so.

It is not a basic and fundamental infringement of the rights of those who do not wish to participate to give to those who want this privilege to allow such simple observance.

Opponents of this legislation have blown their arguments far out of proportion. Every effort has been made by many of us to see that there is no infringement of basic liberties.

There are those in the Congress who disagree with me and there are many Americans who take an opposite view. I respect the rights of those who disagree.

My sincere conviction is that Americans are being denied a right which should be theirs and I strongly urge the adoption of this proposal by the House of Representatives.

Mr. EDWARDS of California. Mr. Speaker, as a member of the Committee on the Judiciary, I remember vividly the lengthy hearings, running over a period of 3 months in 1964, on a wide variety of resolutions proposed by Members of the House which were addressed to the Supreme Court's school prayer decisions. The committee sat en banc in order that all of the Members would have the benefit of the testimony and the thinking of religious leaders, constitutional lawyers, educators, and interested citizens and groups.

After studying the many proposals before it, the committee was unable to find language which it could recommend to the House.

Shortly after the committee hearings, which were widely reported in the press, former President Eisenhower reached a similar conclusion. On July 4, 1964, the New York Times quoted his views as follows:

General Eisenhower said he was opposed to the constitutional amendment on prayer in the public schools. He said religion should be taught in the schools, not as creed, but to show how great religions had influenced the course of civilization.

"But when you talk about prayer," he said, "this is in the nature of a personal communication and its use in public schools violates the First Amendment to the Constitution.

Far from being swept under the rug, therefore, as some contend, the Committee on the Judiciary has given careful and intensive consideration to every conceivable point of view on the problem of school prayers. When we undertake to amend the Bill of Rights we are embarking on a very grave venture indeed, fraught with unforeseen consequences, for generations to come. Any language the Congress might choose to recommend to the States, if ratified, will be part of our fundamental law, and will be difficult indeed to change if its consequences prove untoward.

I find the language of House Joint Resolution 191 difficult to understand. Although its sponsors term it a "school prayer" amendment, nowhere does it refer to public schools as did Senator Dirksen's amendment which was rejected by the Senate in 1966.

Indeed, I cannot tell from its language whether House Joint Resolution 191 does or does not overturn the Supreme Court school prayer decisions so as to authorize state-composed prayers—struck down in the Engel case or state-required prayer—invalidated in the Schempp case.

It is curious, moreover, that House Joint Resolution 191 seems to be addressed to the free exercise clause of the first amendment rather than the establishment clause on which the Supreme Court's school prayer decisions were based.

These anomalies have been forcefully underscored by Prof. Charles L. Black, Jr., of the Yale Law School in a letter which appeared in the Washington Post November 3, 1971. As Professor Black points out:

The astounding thing about this text is that it addresses itself only by indirection, if at all, to the problem which actually interests its sponsors, and which actually concerned the Supreme Court in the cases it is designed to overrule or weaken—the problem of official prayer in the public schools. The question in the school prayer cases was not whether people might sometimes lawfully pray in buildings supported in whole or in part by public funds. The question was whether children not so much "lawfully assembled" in public buildings as *coerced* into assembling in public buildings by the truancy laws, could lawfully be forced either to pray, or to stand silent during a prayer conducted in their coerced presence, or to be sent into the hall or in some other way marked as deviants, with all that means to a child. Of this proposed amendment as it stands, therefore, one of two things must be true. Either it does not touch the practice of school prayer at all (in which case it is a triviality, addressing itself to peripheral problems which interest no one) or it will be held to overrule the school prayer cases, without doing so in candid language that addresses itself fairly to the problem of official coercion, or shaming, operating upon children in connection with religious matters. If the first of these things is true then it is preposterous to go through the constitutional amendment process to achieve so trivial a result. If the second should turn out to be true, then a real outrage will have been committed, because a coercion of children in religious concerns, or a pressure upon them in regard to such concerns, will turn out to have been made permissible, by language which does not in any way make clear this drastic purpose.

It is a paradox indeed that a proposed amendment to the Bill of Rights which is ostensibly designed to broaden the free exercise of religion is in fact calculated to impose coerced religiosity by little children assembled by force of law under the supervision of public employees in a public building. It was just such an establishment of religion—or more accurately a public display of religiosity—which James Madison and his colleagues sought to prevent.

As Representative Daniel Carrol of Maryland remarked during the debate on the Bill of Rights during the First Congress:

The rights of conscience are, in their nature, of peculiar delicacy and will little bear the gentlest touch of governmental hand.

True to the intent of the framers of the Bill of Rights Mr. Justice Black in the Engel case held:

• • • it is no part of the business of government to compose official prayers for any group of the American people to recite as part of a religious program carried on by government.

It is ironic, indeed, that with the tributes to Mr. Justice Black still reverberating throughout the Nation, that this House is now being asked to overturn one of his landmark decisions.

I implore my colleagues to vote against this well-intentioned by ill-advised proposal to tamper with the Bill of Rights.

Mr. Speaker, I ask leave to extend my remarks to include eloquent witness to the guarantee of religious liberty now embodied in the Bill of Rights by the Reverend Edward O. Miller, Rector of St. George's Episcopal Church in New York City on behalf of the American Civil Liberties Union before the Committee on the Judiciary in 1964. Reverend Miller's testimony was as follows:

NO CONSTITUTIONAL AMENDMENT TO ALLOW PRAYERS IN PUBLIC SCHOOLS

(By the Reverend Edward O. Miller)

You cannot kill God by a Supreme Court decision. Nor can I believe that, in the controversy surrounding the Supreme Court's decision of *Engel* v. *Vitale*, affecting my own State of New York, the only thing holding the spiritual fabric of our nation together is a little twenty-two-word sub-Christian prayer.

I share the opinion expressed by President Kennedy in his press conference on June 27, 1962:

"We have in this case a . . . remedy, and that is to pray ourselves, and I would think that it would be a welcome reminder to every American family that we can pray a good deal more at home and attend our churches with a good deal more fidelity, and we can make the true meaning of prayer much more important to the lives of all our children."

Are we prepared to admit that our American community and home life, as well as our church structures—all the influences that bear on the lives of our children outside our public schools and other public institutions—are so weak that we cannot depend on them to inculcate religious values, inspire prayer, and instill all that is uplifting in the scriptures? Have we come to the point in America where our churches and synagogues appear so weak that legislators have to say: If it is to be done at all, the school boards will have to do it?

As an ordained minister I submit to you that amendments permitting prayers in the public schools contain great potential harm.

First, to our American way of doing things—the brave American experiment. Our forefathers in 1791 took the risk of organizing a new government without a civic religion. This was daring: it had never been done before. There were many who thought it could not possibly succeed. Then, as now, there was widespread belief that a common religious practice was necessary to hold society together and undergird public morality.

Have we now reached a point in our nation's history where we admit that this brave American experiment has been a failure? Are we prepared, by endorsing these amendments, to give up and return to the arrangement that prevailed before? Shall we reinstate, in an amendment to our Constitution, a civic religion to which all good citizens would be expected to subscribe?

Through most of mankind's history it has been assumed that civic responsibility and religious adherence are inseparable, and that there are certain religious truths to which all honorable citizens will subscribe. Historically this monolithic cast of civic religion was broken by the Protestant Reformation, and in its place many territorial religions sprang up. The Peace of Augsburg in 1555 determined that a civic religion would be chosen by each prince for the people of his principality. *Cuius regio, eius religio* was a formula of mercy at the time, for it meant that dissidents could emigrate to a more friendly land rather than face a grimmer fate at home. This improved arrangement—*religious territorialism*—was a great advance over the single state religion of the Constantinian era which preceded it.

NO CIVIC RELIGION

Our forefathers who fashioned the Constitution took a radical step beyond religious territorialism by providing that the civic responsibility of the citizen should be entirely divorced from his religious beliefs and affiliations. This was first clearly enunciated by a legislative body when the Virginia Assembly enacted Jefferson's *Bill for Establishing Religious Freedom*, which contains this historic formula:

"We, the General Assembly, do enact that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or beliefs: but that all men shall be free to profess, and by argument to maintain, their opinions in the matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civic capacities."

This brave experiment was codified in the First Amendment to the Constitution: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . . ." The essence of the "no-establishment" clause was that *there would be no "official" civic religion to which all loyal citizens must pay at least lip service.* A lesser part of this provision was the guarantee that no church or ecclesiastical hierarchy would be supported by taxation, but this guarantee was subordinate to, and implementive of, the protection against religious qualifications for citizenship.

Just as primitive and pagan rites and symbols persist in higher religions for centuries, so vestiges of the establishment pattern of European Christendom persisted in America for many decades after the beginning of our noble experiment. There were theistic qualifications on the oath of office in many states. Protestant practices continued to be part of civic ceremonies and institutions, although they were repugnant to some citizens of Roman Catholic, Jewish, or other persuasions.

For more than a century, our national climate did not permit much effective protest. During the nineteenth century, Roman Catholic parents repeatedly took to court the use of the King James version of the Bible in the public schools, and as a result of some of these protests Catholic children were beaten and whipped in school, Catholic priests were tarred and feathered, and churches were burned and their members subjected to violence. In 1854 John Bapst, a Jesuit missionary among the Indians, was tarred and feathered and ridden out of Ellsworth, Maine, on a rail, for opposing a town regulation requiring the children to read the King James version of the Bible in school. Within the Roman Catholic Church there was perhaps no more stalwart opponent of religious exercises in public schools than Archbishop John Hughes of the Roman Catholic Archdiocese of New York. Throughout the 1840's and '50's he fought strenuously against all religious practices in the public schools of New York City.

Needless to say, when the Supreme Court declared in recent years that the hallowed vestiges of the Protestant culture-cult would have to be removed from the civic institutions that belonged equally to non-Protestants, the Protestant establishment was shocked. They interpreted the removal of their insignia of hegemony from the public schools as an insult to God—which is how we often construe a threat or slight to ourselves. Since Roman Catholics have inherited the community hegemony in many places, they reacted to the attack by non-Christians upon the community religious cult as an attack upon themselves. Cardinal Spellman was "shocked and frightened."

So it was that when the Supreme Court asserted the implications of the First Amendment—which had been present all along, seeking only the occasion to emerge into actuality—the cry arose from the threatened "establishment" of the old Protestant (and new Catholic) hegemony: Let us have done with this radicalism! Let us go back to the way things were before the Supreme Court made this strange and impious ruling! Let us go back to the civic religion, the culture-cult which binds society together—justifies the way things are—keeps the newcomer skeptic and alien in his place—and proclaims our dominance over "our" nation.

The proposed constitutional amendment would retract the last bold step forward from territorialism in religion. It would return to the time of reliance upon adherence to civic religion, only now the territory would not be the domain of the local prince but the public school district or the classroom. The prince would no longer determine the form and content of the civic religion. The new ruler of our day would be the majority, acting through its official

agents: the school board, the principal, and the public school teacher.

TWO MAJOR DANGERS

Two dangers are obvious. The first is the danger of divisive sectarianism between one religious group and another, with a strong pattern of Mormon practices provided for school districts in Utah, Roman Catholic sacramentalism in Boston and New York City, and Black Muslim rites in Harlem and South Chicago. The second danger in this ecumenical age is to have vague, thin, pointless religion-in-general everywhere—the undemanding, "nonsectarian" religion that offends no one, makes no demands, and moves no one. It will be futile for purposes of motivating conduct or determining character, as it has always been in every society where it has been tried—a recent example being pre-Nazi Germany—but it will suffice as a civic cult to which and through which all loyal citizens must daily demonstrate their allegiance as a condition of enjoying the full benefits of citizenship.

This would be a regression to Constantinianism, if not to the emperor-cult of pagan Rome, when a single attenuated religion was the universal test of civic belonging. And even worse, it reduces the American spiritual heritage from a cosmopolitan to a local culture. As Robert Bierstedt, chairman of the Department of Sociology and Anthropology at New York University, has put it:

"In local as opposed to cosmopolitan cultures everyone is religious, everyone is a Christian, and with minor but growing exceptions, everyone is Protestant. One is reminded of primitive peoples throughout the world who are unable to comprehend the concept of people unlike themselves, who use the same word for themselves that they use for all mankind. One is similarly reminded of Warren Austin, ex-Senator and ex-Ambassador to the United Nations, who quite unconsciously proved the point by remarking that the Arabs and Jews should settle their conflicts in accordance with Christian principles."

Proponents state that the purpose of the amendments is to secure "free exercise of religion"—"like we had before June 25, 1962," as Mr. Becker puts it. Yet this "free exercise" is of a peculiar kind. It is not the freedom of all children to pray and read the Scripture of their choice with others of like mind in church or home, for we have that now. It is not the freedom of each child to pray to God or read his Bible in any place and in any time of need, for we have that now. The freedom the amendments would provide is in the public school, and it is oral and collective, so that all the children who may happen to be assigned to the same class must participate together in this "free exercise," or be silent while their classmates participate, or ask to be excused from the room—to emigrate temporarily.

In order for this "free exercise" of religion to be effective, the praying of the children who find themselves together in this class by operation of the compulsory education laws, must be coordinated. They must begin at the same time and recite the same prayer, or the result is cacophony. And who is to coordinate their "free exercise" if not the same authority which brought them there—the public school authority, acting through its school board, superintendent, principal, and teachers? Through this agency the children will be quieted at a given moment, it will be announced what they are now to do, and a common form of prayer will be specified—whether by the teacher, a majority of students, or one student chosen in rotation or at random. It is the authority of the teacher which coordinates the "free exercise" of this kind of religious activity, and the teacher has very little "free exercise" to decide whether or not to coordinate it if the principal or school board so requires.

This collective religious activity in a public institution whose members are present, in the ultimate analysis by force of law, is a reversion to territorialism—the imposition of religious forms upon a whole people by the governing authority, whether prince or school principal or majority of the populace. For members of the minority, who are no less citizens because their faith is different, the result is not merely a moment or two of inconvenience but an impairment of equal citizenship. For to the extent that the "free exercise" of religion by the majority is repeated, obstentatious, and collective in a public institution, to that extent the minority are less participants in, proprietors of, that public institution. Their citizenship has been diminished to the very degree that their fellow citizens' of the majority has been increased.

From the minimal form, the Becker and other amendments would permit an infinite range of exceptions to the brave American experiment, not the least of which would be the "religious test" which might be written into oaths of office, marriage licenses, driver's licenses, voter registration forms (all of them "public . . . documents"), etc. There is nothing in the Becker bill which would prohibit a governor from prescribing hour-long Pentecostal worship services to begin each day in each department of the executive. Nor is there anything in it which would prevent the Government Printing Office in Washington from publishing spiritualist tracts. It is an open-ended document, permitting almost anything that was once eschewed by the First Amendment. And there would be no part of the Constitution which could prevail against it: *"Nothing* in this Constitution . . ." the Becker proposal says.

THE HEAVY HAND OF THE STATE

A further danger inherent in the proposed amendments is that they serve neither God nor religion. The heavy hand of the state on religion is inevitably deadening, for the state and religion have two very different purposes. Religion must be free to speak with an independent voice, and must never become denatured by striving for least-common-denominator prayer.

Religion can never be strong if the state persists in pretending that finer people can be created in schools through formal, innocuous, vapid religious services led by people to whom they do not have deep religious meaning. Public statements by proponents of these amendments seem to assume that "prayer is prayer" and the content does not matter. They seem unable to realize that, for a great many citizens, the content of prayer is its essence: they do not wish their children to engage in degrading prayer whose content is vague or innocuous.

It is a challenge to the imagination to hear proponents of the Becker bill maintaining that there is not a word in it which would authorize any government agency to choose, write, or prescribe a prayer. One conjures up the vision of The Prayer Which Nobody Chooses: it springs sponstaneously from nowhere.

There are strong undertones in the proposed amendments that masquerade as proreligious, though dangerously anti-religious. The state is to be empowered to use religion in the schools as a cure-all for juvenile delinquency. Prayer becomes caricatured and distorted when it is used as a gimmick to achieve secular, disciplinary ends. In the *Billard case* (*Billard v. Board of Education*, 69 Kan. 53, 55–58, 76 P. 422, 423, 1904), the teacher, whose use of the Lord's Prayer and the Twenty-Third Psalm was before the court, testified that the exercise served disciplinary rather than spiritual purposes:

"It is necessary to have some general exercise after the children come in from the playground to prepare them for their work. You need some exercise to quiet them down."

Mr. Justice Brennan has pointed out (in Part IV, Section A, of his concurring opinion in the *Schempp* decision) that the Pennsylvania Superintendent of Public Instruction, testifying by deposition in the *Schempp* case, offered his view that daily Bible reading "places upon the children or those hearing the reading of this, and the atmosphere which goes on in the reading . . . one of the last vestiges of moral value that we have left in our school system." The exercise thus affords, the Superintendent concluded, "a strong contradiction to the materialistic trends of our time."

Baltimore's Superintendent of Schools expressed a similar view of the practices challenged in the *Murray* case, to the effect that "the acknowledgement of the existence of God as symbolized in the opening exercises establishes a discipline tone which tends to cause each individual pupil to constrain his overt acts and consequently to conform to accepted standards of behavior during his attendance at school." Mr. Justice Brennan has pointed out that *"Torcaso* and the *Sunday Law Cases* forbid the use of religious means to achieve secular ends where non-religious means will suffice."

History is full of examples of these attempts to employ religious practices for secular ends. Carl Sandburg records in his monumental *Abraham Lincoln* (Volume 3, page 369):

"The piety of the House and Senate chaplains, and the curious reference of one of them to the President's habits, were the topic of a Noah Brooks news letter April 9, 1864. Chaplain Channing of the House 'gave the Lord a graphic description of the Statue of Liberty on the Capitol dome in his prayer one morning,' wrote Brooks. The House chaplain however had not offended any of his audience as had the Senate chaplain, Senator Saulsbury of Delaware offering this for passage:

"*Resolved*, That the Chaplain of the Senate be respectfully requested hereafter to pray to and supplicate Almighty God in our behalf, and not to lecture Him, inform Him what to do, or state to Him, under the pretense of prayer, his (the said Chaplain's) opinion in reference to His duty as the Almighty; and that the said Chaplain be further requested, as aforesaid, not, under the form of prayer, to lecture the Senate in relation to questions before the body."

The ultimate in harnessing prayer for secular ends was achieved in 1949 when Dr. Torrance Phelps offered the following prayer for the California State Assembly:

"O God, upon this day, when taxes were levied on the colonists that precipitated the Revolution, we pray that Congress may beware of taxing our country into exhaustion.

"Taxes of wasteful duplication, of inefficient agencies; taxes of pork-barrel maneuvering and handouts by political log-rollers who think the public exchequer is bottomless.

"Taxes that eat up the investing capacity and decrease the surplus devoted to charitable and character-building institutions that mould the foundations of democracy.

"May the people learn the peril of spending more than they earn, the peril of a nation spending beyond its resources, and the peril of that rosy optimism that "Eldorado" is around the corner.

"May the people remember that a sound nation cannot spend its way into Utopia. Amen."

Prayer is not asking God for something. As Kierkegaard has put it:

"Prayer is not founded in the truth when God hears that concerning which one prays to him; it is founded in the truth when he who prays continues to pray until he is himself the one who hears what God wants."

How can this kind of prayer be legislated? St. Jerome said:

"Choose for thyself some fit place where as unto a haven thou mayest take thyself out of the great storm and tempest of thy cares and there appease with tranquil solitude the noise of outward troubles. Let there be prayer and study of the Divine Word, and meditation on eternal things."

This is true prayer. The word "prayer" stems from the Latin "prex"—an entreaty—held by the favor and at the pleasure of another. From "prayer" comes "precarious." Prayer is precarious—if misused, it can turn children away from God, and from religion too.

The Supreme Court's decisions do not forbid children to pray. Protestants have never insisted that it is necessary or desirable that prayer be collective, formal, or oral to be heard by God. Rather, as Justice Black's opinion expressed it in one of the great statements of our day:

"The first amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support, or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office."

THE NATURE OF PRAYER

The nub of this issue before us today is the nature of prayer. When prayer becomes coercive and forced, it is not prayer. The formulators of the First Amendment were not indifferent to religion. The principle of separation of church and state was not worked out solely for the purpose of keeping one denomination out of the hair of another, as present critics of the Supreme Court seem to imply—to neutralize religious controversy.

Basically the First Amendment was adopted because the Founding Fathers believed that religion flourishes best where it is the responsibility of the church and the home—that religion thrives where it is voluntary and not dependent on the coercive power of the state.

At the time our Constitution was being formulated, delegates in church assemblies of the Baptists in Rhode Island and New Jersey, and in the Presbytery of West Chester, Pennsylvania, were insisting that only religious activity which is voluntary is really significant: that under duress or coercion, religion is not significant for the individual in the sight of God.

Jesus said: *Beware of practicing your piety before men in order to be seen by them . . .* (Matthew 6:1). What begins as a spontaneous and sincere outpouring of devotion—if routinely and casually repeated, imposed upon those who do not share the experience of devotion—can become pious hypocrisy and arrogant display, using God's name in vain. There are many who find in this and similar scriptural references a continual warning that our transactions with the Most High must be inward, sincere, wholehearted, intense, reverent, voluntary. Routine, formalized, scheduled, public "official" prayer is the opposite of this.

In the provisions for Bible reading in the schools, the issue of censorship must inevitably raise its ugly head. Not all of the Bible is edifying. Innumerable passages outdo *Fanny Hill* in minute descriptions of murder, jealousy, revenge, rape, adultery, fornication, illicit love, sodomy, homosexuality. What will prevent a teacher from inadvertently choosing one of these many passages? (See Genesis 19:30–38; Genesis 34; Leviticus 18:22; Leviticus 20:12–13; Numbers 5:11–31; Deuteronomy 23:17–18; Judges 19:22–26; I Samuel 2:22–25; Proverbs 6:23–32; Proverbs 7; Jeremiah 3:1–9; Ezekiel 23:1–10; Hosea 4:11–14; Amos 2:1–8). Shall democracy relish children's shrieks of vindictive glee over what God is invoked to perform on the wicked man in Psalm 109 and other psalms equally imprecatory? Suppose an atheistic teacher, wishing to hit back at the school board for forcing her to read the Bible, selects one of those passages deliberately. Who is to select? To which person's subjective judgment will this great power of censorship be delegated? Suppose a clergyman in a school district protests that the "right" prayers are not chosen. Is it preposterous to imagine that candidates for school boards might conceivably run for office on the basis of protecting or rejecting a Bible story?

It is possible to transmit the spiritual meaning and significance of the Bible without some interpretation? In the home, and in the church and synagogue, Bible stories can be interpreted; the child can talk back and ask questions. Public school teachers should not be selected for their interpretation of or familiarity with the Bible. Mark Twain used to say that the things he could not understand about the Bible gave him very little trouble. It was the things he could understand that gave him all the trouble he was looking for.

Just at a time when in my own community on the East Side of New York, amiability and mutual trust have been created among religious leaders of all faiths, are we to inject the strongly divisive question of what scriptures or what prayers are to be used in our local public schools?

There are in America today 65 million Protestants, 44 million Roman Catholics, and more than 5½ million Jews. Of a total United States population of 190 million, almost 115 million Americans profess belief in God. And a legislative body is asked to make it possible for the government to help us preserve our powerful faith!

Instead of circumventing the Supreme Court's decision, should not our churches and synagogues gird themselves to measure up to it by preparing a bold advance to help families pray at home, to show parents how to lead children in prayer before they go to school in the morning, to share such vital, contagious, honest faith that religion cannot perish from the nation?

We are not nearly as religious a nation as we ought to be. But are we ready to say that the insights of our Founding Fathers are wrong, and that we are less good than citizens of lands in which the state actively supports religion? Observe Spain and Italy (Roman Catholic), Greece (Orthodox), Sweden (Protestant). In every one of these countries with state religions, the schools do everything the Church wants them to do in religious nurture and exercise. Do we find these other nations any less secular or more godly than our own? There is no evidence of superb vitality in the spirit of religion among these people because the state helps them with their practice of it. With the schools supporting religion fully, the suicide rate in Sweden is among the highest in the world.

RELIGIOSITY OR RELIGION?

Do we want religiosity or religion? Surface piety or commitment? Outward slogans and symbols, or a deep inner response? An Englishman has remarked, in commenting on prayer in public schools:

"This kind of routine formality I think serves as an inoculation against really getting religion. If people think that religion consists of certain salutes and gestures, then they hand to the government the task of taking over when it is hard to get them to accept the fact that religion is a way of life and a commitment. Any Communist traitor can give the salute to the flag, and it doesn't mean a thing to him—unless it is in a context that makes it of real symbolic significance."

Unless God is worshipped "in spirit and in truth," and prayer is honest and sincere, it profiteth nothing. Prayer, Bishop Brent used to say, is "loving our neighbors on our knees," not asking God's blessings on ourselves.

Meaningful prayer and scripture meditation take place effectively only within a context, in an atmosphere—not as classroom routine along with the salute to the flag. Leading children in prayer requires the creation of a response within human hearts, and government has neither the facilities nor the right to attempt this. This is why it is wrong to have prayers in a public school even when Jews, Protestants, and Catholics may agree on the least-common-denominator prayer and passage of scripture to be used.

Leaders who have wisely insisted that we must rely on church and home—and not on government—in matters of religion, now lash out against the Supreme Court's reasoning. Leaders who have consistently demanded that government stay out of business, now proclaim that without government's backing, the God of Abraham and of Jesus may be destroyed. Since when does religion run to the government to save God?

Christianity was once almost wrecked when the Roman Emperor Constantine gave it official sanction and made it respectable. Soren Kierkegaard said of any kind of Christianity that looks to government for aid: "If it wishes the help of government, it betrays the fact that it is not the Christianity of the New Testament." (*The Attack Upon "Christendom,"* Princeton, 1944)

Piety in its early form meant pity. "Thou art a merciful God—and of a great pietie." The pious are expected to show pity—compassion, understanding—for those who do not share their religious attitudes and beliefs. It is of the essence of religion that it protect the rights of the non-religious.

Judaism and Christianity have both survived active hostility of governments, and do not now require the protection or intervention of government to sustain them. In fact, they have been weakest in just those societies where the state has undertaken to sponsor and promote religious activities in public institutions.

The threat is not the secularization of our schools but the secularization of our religion.

Mr. Speaker, I also ask leave to extend my remarks to include a recent letter from Bishop J. Brooke Mosley, president of Union Theological Seminary, in opposition to House Joint Resolution 191. Bishop Mosley's letter and his statement of opposition to House Joint Resolution 191 are as follows:

UNION THEOLOGICAL SEMINARY,
New York, N.Y., November 1, 1971.

DEAR FRIENDS, It is reported that The Prayer Amendment will soon be before you for vote.

As leaders of religious institutions, we want you to know that many of us are emphatically opposed to this amendment for the reasons indicated on the enclosed statement.

We ask you, please, to read the statement and urge you to vote against the amendment. And we wish also to express our appreciation for your ministry in Washington on our behalf.

Gratefully,

J. BROOKE MOSLEY.

STATEMENT OF OPPOSITION TO PRAYER AMENDMENT

We, the undersigned, are presidents of theological seminaries and deans of divinity schools who urge you to oppose the "prayer" amendment, H.J. Res. 191. Though its proponents doubtless mean well, they can do great harm to religion and freedom of religion in this country through this amendment, which, to use the words of the Jesuit weekly *America*, is an "ill-written, mischievous and misconceived proposal."

The institutions which we serve are devoted to theological education in the Judeo-

Christian tradition, open to religion in all its forms, and involved at every level with a pluralistic society. Our institutions have flourished under the First Amendment of the Constitution and would be threatened by the proposed amendment to it.

We understand prayer to be the personal or corporate expression of belief by believers and belief is specific. There is no such thing as general faith. Prayer is the expression of a believer's (or body of believers') specific understanding of what is ultimately real, and of his relationship to it. It would be beyond the ability of any one of us to write a pluralistic prayer, and unthinkable for the state to recommend its use, even in the most optional way. It could not be prayed with integrity either by the believers or the unbelievers. It could only become a "pro forma" exercise and thus do violence to the individual conscience.

This is not to say that we oppose the objective study of religion as part of the educational process. Indeed, we recommend the reading of the Holy Bible and other religious literature, the discussion of religious values, the posing of religious questions as a necessary part of academic instruction vital to any understanding of the human situation. But study is different in character from prayer, and we urge the members of Congress to recognize this distinction and to oppose any efforts to modify, enlarge, diminish, clarify or improve the First Amendment to the Constitution.

J. BROOKE MOSLEY,
President, Union Theological Seminary, New York.
COLIN WILLIAMS,
Dean, Divinity School, Yale University, New Haven.
CHRISTOPHER F. MOONEY, S.J.,
President, Woodstock College, New York.
GEORGE W. WEBBER,
President, New York Theological Seminary, New York.
EDWARD R. HARRIS,
Dean, Philadelphia Divinity School, Philadelphia.

Mr. SCHEUER. Mr. Speaker, today the House is considering the controversial issue of prayer in public buildings. The proponents of House Joint Resolution 191 claim that it will protect religious freedom and promote morality in our society. Any measure which claims to have such worthy effects is very hard to resist. However, I am convinced that the Wylie prayer amendment cannot accomplish these noble goals, so I must vote against it.

First, it is dangerous. By seeking to amend the first amendment for the first time in history, it would establish the hazardous precedent of entangling the state in church affairs. Church and state are, and must remain, independent institutions in our society. Any measure which invades this autonomy must be defeated. By allowing the state to dictate religious formulations and by encouraging the state to foster religious participation, House Joint Resolution 191 threatens to destroy one of our basic constitutional principles. For that reason, it must not be enacted.

Second, it is ambiguous since the wording of the amendment is explicitly inexplicit.

Nothing contained in this constitution shall abridge the right of persons lawfully assembled in any building, which is supported in whole or in part by the expenditure of public funds, to participate in nondenominational prayer.

What is nondenominational prayer? Since the resolution gives no explicit definition, it will require interpretation by the courts, further entangling church and state. Also the composition of nondenominational prayer reduces prayer to its lowest common denominator and compromises it to empty formulations.

Which Government officials will compose the prayer? I wonder if our children will have to learn a new prayer every time a new legislature is elected or a new school board or a new judge. The end result of the involvement of Federal, State, and local governments in the composition of prayer will be the secularization of prayer, which is demeaning to an individual's religious faith.

Third, the Wylie amendment is unnecessary. The right to pray voluntary has never been challenged; it is an unshakable right which Americans have always had. So the amendment is protecting a right which is already guaranteed, and is thus completely unnecessary.

Fourth, the Wylie amendment is counterproductive. It will lessen religious freedom, not broaden it. It will result in the coercion of individuals and the violation of individual rights. If the amendment is adopted, the Government will be forcing prayer on a captive audience, and many children will feel pressured to participate, even if they would prefer not to or do not understand in what they are participating. We must not allow this type of coercion to become an accepted precedent in our public schools.

Finally, the Wylie amendment is ineffective. The hoped for beneficial effect of the prayer amendment on public morality is dubious. Nothing could be better designed to alienate children from commitment to religious faith and values than being forced to recite bland words in a classroom. There could be no better way to dilute religious faith than to compromise it into nondenominational prayer. If we adopt this amendment, we will not have done so for morality in the name of God, but rather for political expendiency.

I do not mean to disparage the sincere efforts of people who seek to increase the influence of religion in our society. But this is not the right vehicle. Prayer belongs in the home, the church, the soul, but it is not something which should be legislated into public policy or public places.

Mr. RYAN. Mr. Speaker, House Joint Resolution 191 proposes an amendment to the Constitution which is commonly called the school prayer amendment.

It provides:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

This amendment originated as a response to decisions of the Supreme Court concerning prayer in the public schools. Until 1962 many public schools opened the day with a classroom prayer, which was often required or authorized by State law. Then the Supreme Court in *Engel* v. *Vitale* (370 U.S. 421) struck down this practice, on the grounds that the first amendment prohibits a State from composing prayers to be used in its public schools. In 1963, the Supreme Court decided *Abington School District* v. *Schempp*, (374 U.S. 203) holding that State laws which required classroom devotions based on the Lord's Prayer and which authorized reading from the Bible as a religious exercise in school was unconstitutional.

The Supreme Court's rationale in both Engel and Schempp was that the constitutional separation between church and state can only be protected if the government remains neutral in the area of religion. In both these cases, the Court was careful to point out that the decision did not prohibit the objective study of the Bible or of religion. The Court also stressed that these decisions did not affect previous decisions which allowed students to be released from school in order to receive religious instruction off the premises.

The Engel and Schempp cases stirred a great deal of controversy. Indeed, the day after Engel was decided several resolutions were introduced in Congress to amend the Constitution in order to permit State-sponsored school prayer such as that struck down by the Court.

In response to the resolutions introduced in Congress, the House Judiciary Committee conducted 3 months of hearings on the proposed prayer amendments during the spring of 1964. During these hearings leading constitutional lawyers and religious leaders of almost every faith opposed the proposed amendments, and after extensive deliberations the committee could not find any language which it could recommend to the House.

The Senate Subcommittee on Constitutional Amendments held hearings on similar proposals in 1966 and also failed to report out a prayer amendment. Also in 1966 the Senate voted against a prayer amendment offered by Senator Dirksen.

And now the House Judiciary Committee has been discharged of House Joint Resolution 191, and the issue confronts the House. The proposed amendment would overturn the Supreme Court decisions which held state sponsored prayer violative of the first amendment prohibititon that:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

It would limit, for the first time in our history, the application of the Bill of Rights. Every amendment to the Constitution which has dealt with the Bill of Rights—the 13th, 14th, 15th, 17th, 19th, 23d, 24th, and the 26th—has expanded rather than restricted these precious freedoms.

Having suffered religious persecution, the Founding Fathers propounded the first amendment to prevent the occurrence of religious persecution in this country and to protect religious freedom.

To inject government into religion is frought with dangerous consequences. Under the amendment government would ineluctably become involved in the definition of religion. Government officials,

at some level, will have to define what a "nondenominational" prayer is. And that will engender endless controversy, for it is nondefinable. There is a wide variety of religious sects in this country. As the Supreme Court recognized in *Torcaso* v. *Watkins* (367 U.S. 488) there are over 60 different religious sects in this country with more than 50,000 adherents, which qualify as a religion within the proper construction of the first amendment. Among these are polytheistic sects such as Hinduism, a religious faith recognized in this country as early as Madison's writings on religious toleration. Included also are nontheistic faiths.

As Prof. William Van Alystyne, of the Duke University Law School, pointed out in a letter dated October 4, 1971, to Chairman CELLER, it is simply not possible—even if it were desirable—to compose a prayer which is really "nondenominational."

For example, the mere reference to a God is disrespectful and incompatible with both nontheistic denominations and polytheistic denominations. Any prayer acknowledging the immanence of a living God, or one responsive to prayer itself is disrespectful of tenets of Deism, a religion adhered to by some of the Founding Fathers who helped draft and adopt the first amendment.

However, whether the proposed amendment refers to "nondenominational prayer" or to voluntary prayer or meditation, the constitutional issue is the same. The amendment would breach the wall separating church and state, which our Founding Fathers wisely constructed, and launch the Government upon the uncharted course of defining the outer limits of prayer and religion.

In summation, the proposed school-prayer amendment is ill-advised, ill-drafted, and inimical to our fundamental freedoms. I hope the House will have the courage to defeat it now and not pass this basic issue on to the 50 State legislatures, thus embroiling their members in emotional controversy.

Mr. BOLAND. Mr. Speaker, the constitutional amendment sought in House Joint Resolution 191 would breed many nettlesome problems—problems that might ultimately threaten religious liberty itself. I want to make it plain, at the outset, that I am not challenging the motives of those who support House Joint Resolution 191. Like them, I believe religion is a vital part of American life. Like them, I believe our tradition of religious freedom should not yield to any assault.

I am equally convinced, however, that the constitutional amendment now before us would erode that tradition. Indeed, the constitutional provisions now safeguarding religious liberty would be seriously compromised.

Virtually every major religious body in the United States shares this view—the United States Catholic Conference—the national action agency of the Roman Catholic Bishops—the United Presbyterian Church, the Presbyterian Church in the United States, the Lutheran Chuch-Missouri Synod, the American Lutheran Church, the Lutheran Church in America, the National Council of Churches, the Southern Baptist Convention, the American Baptist Convention, the Unitarian Universalist Association, the United Church of Christ, the Church of the Brethren, the United Methodist Church, the Protestant Episcopal Church, the Mennonite Central Committee, and the Joint Advisory Committee of the Synagogue Council of America, and the National Jewish Relations Advisory Council, which includes all of the major Jewish secular and religious bodies.

The amendment is also opposed by the AFL–CIO Industrial Union Department, the Friends Committee on National Legislation, and the American Civil Liberties Union.

Just briefly, Mr. Speaker, let us examine the Supreme Court's ruling in the 1962 Engel against Vitale case—a ruling still embattled after nearly a decade. What exactly did the Court say? Contrary to widespread opinion, the Court most emphatically did not ban prayer in the public schools. Any school child can still exercise his religious rights. In fact, he can pray throughout the school day—at his desk before schoolwork begins, while walking between classes, during scores of opportunities offered him from early morning to late afternoon. What the Court did rule is that political authorities—school boards, for example, or school commissioners—could not compose prayers and demand that school children recite them verbatim during formal observances.

No one should have the power to tell children just how they will pray and just what words they will utter when doing so. The first amendment plainly and explicitly forbids any practice even remotely akin to this, prohibiting any law "respecting an establishment of religion." A prayer written by a Seventh Day Adventist might leave a Catholic aghast, just as a prayer written by a Catholic might offend a Jew.

Widely misinterpreted, the Supreme Court ruling was greeted by outrage. Hundreds of proposed constitutional amendments, all seeking to restore prayer exercises to the public schools, have been introduced in the Congress over the past decade. The House Judiciary Committee, yielding to demands from throughout the United States, plunged into the issue in 1964. It held 3 months of exhaustive hearings, soliciting the opinions of constitutional experts and religious leaders. The testimony was nearly unanimous: virtually all of them objected to the proposed amendments. The Senate's Subcommittee on Constitutional Amendments encountered the same kind of opposition.

House Joint Resolution 191 reached the floor today through discharge petition, a parliamentary device that takes the bill away from the committee that normally holds jurisdiction over the legislation. Here is the resolution's text:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer.

The text—astonishingly—says nothing about voluntary prayer. Indeed, it hardly event hints at voluntary prayer. The wording is so vague and so muddled that House Joint Resolution 191 might be interpreted, with some justification, as investing school boards with the same kind of summary powers the Supreme Court stripped from them in 1962. It ignores the right not to pray in public schools.

Even if the prayers sanctioned by House Joint Resolution 191 are wholly voluntary, religious liberty would still be in jeopardy. What about schoolchildren who are agnostic, or freethinkers, or "humanists"—or those who simply object to the idea of parroting what the resolution describes as nondenominational prayers. Advocates of formal school prayer say that these students, should they want to exercise their right, can—well, leave. Young boys and girls confronted with such a dilemma would be humiliated—or embarrassed, at the very least—every day of the school year. Many would be shunned by their classmates and scorned as "oddballs." Is this religious freedom?

House Joint Resolution 191 would threaten religious freedom if just one child—yes, just one—is bullied or intimidated by it. The elementary rights of American citizens are not set up or swept away by majority vote. Indeed, the Constitution's Bill of Rights was written to shield minority groups against what de Toqueville called the "tyranny of the majority." If the rights of a freethinker or a Buddhist or a Seventh Day Adventist are diluted, then your rights and my rights are diluted, too.

The text raises still another question, Mr. Speaker: Just what is nondenominational prayer? The world's most schooled and skilled theologicians cannot agree on a definition of prayer itself, let alone nondenominational prayer.

Who is to compose such a prayer? Any effort at composition would give rise to endless squabbling and nitpicking. Even if such a prayer could be written, it would be so bland and so meaningless that it would stick in our throats.

I ask my colleagues to envision themselves in the role of a religious minority. Let us assume that America's three major faiths—Protestant, Catholic, and Jewish—are tiny minorities dwarfed by another faith such as, say, Shintoism. Let us assume, still further, that members of this dominant Shinto sect compose a prayer and stipulate that your children must dutifully and docilely recite it each schoolday. Would you consider this religious freedom? Would you consider it religious freedom even if the prayer is nondenominational—that is, vague enough to avoid quarrelsome disputes among Shinto sects but still alien to you?

The answer, I think, is obvious.

House Joint Resolution 191 would establish a chilling precedent—redrafting the Bill of Rights for the first time in this Nation's history, and bringing Government into religious affairs that are properly our own.

Mr. VANIK. Mr. Speaker, as we consider House Joint Resolution 191, the so-called prayer-in-school constitutional amendment, I have grave misgivings about the parliamentary procedures which prohibit and restrain the individ-

ual legislator from amending or developing an effective amendment on this issue of prayer. The House of Representatives is asked today to approve or disapprove the language of an amendment to our 180 year old Bill of Rights, without any substantive right to modify or clarify the language. Under the procedure, the author of the amendment (Mr. WYLIE), of Ohio, has the sole and exclusive power to permit an amendment to his proposal. Never has so much power on such an important issue been vested in an individual Member of the Congress of the United States.

I believe in the power and goodness of prayer. I constantly urge my family and my fellow citizens to participate in prayer—but I do not believe that prayer can be ordered by government authority into the daily lives of our citizens.

Prayer is a personal, private, and individual matter. Today's amendment would set the stage for prayer by compulsion. Prayer by compulsion would destroy freedom of religion by compelling children to recite a government-approved prayer.

The movements which developed in support of this constitutional amendment is based, largely, on a misunderstanding of the Supreme Court's decisions in the area of prayer in school. The Court never for an instant said that people could not pray when and where they wanted to. If a child wants to pray before the start of a school day, he most certainly can. What is prohibited is the compulsory participation in government-designed prayer. In decisions in the school prayer cases, the Court expressly reaffirmed its earlier holding that we are a religious people whose institutions presuppose a "Supreme Being." The Court directly supported objective teaching about religion and the study of the Bible, both Old and New Testaments, and other world religions. The Court indicated that its decisions in no way affect the availability of chaplains in our armed services, legislatures, and prisons. They did not affect references to God in oaths of office and of witnesses, on coins and public buildings, in our National Anthem, and the Declaration of Independence.

We definitely are a religious people. But each person's religion is a matter between him and his God, a matter to be decided by each individual. Government must not interfere, in any way, with this most important and most sacred and personal of all individual acts.

This land was settled largely by imigrants who came seeking religious freedom and escape from the dominant and to them objectionable state religion of their homeland. All too often these early settlers established their own dominant religion in the new colonies which they founded. This led, in the period 1607 to 1776, to religious intoleration in the New England colonies, Maryland, Pennsylvania, and Virginia. There was persecution, arrest, and punishment because of religious differences and beliefs.

Therefore, in an effort to preserve individual liberty and end religious controversy, the people of the individual States demanded a Bill of Rights, including the first amendment, as a condition for approving the Constitution establishing the new Nation. Since 1790, we have added other amendments to the Constitution which expanded the rights and liberties of the people. The one exception, the prohibition amendment, was repealed after 13 unsuccessful years. Thus it can truly be said that the history of American democracy has been the gradual realization, too fast for some and too slow for others, of the full implications of the Declaration of Independence, that:

> All men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

And certainly then and certainly now religious liberty is one, if not the most important, of all unalienable rights. Yet the amendment before us today, for the first time in the Nation's history, curtails the liberties protected by our Bill of Rights.

The language of the Buchanan—Alabama—amendment to the Wylie amendment—the only amendment permitted by Mr. WYLIE, of Ohio—strikes out the words "nondenominational prayer" and inserts the words "voluntary prayer or meditation." This amendment to the prayer amendment confuses the issue by striking the word "nondenominational." Does the House of Representatives now intend such prayers to be denominational? Shall these prayers be Baptist in Baptist areas, Catholic in Catholic communities, Jewish in Jewish communities? What about minorities in these areas? Must they stand aside as separate and apart from those involved in the special prayer of the community?

Even if the content of school prayer can be resolved, can prayer be made voluntary in a place where attendance is required? A schoolchild of tender years is seldom capable of making a voluntary decision to pray or not to pray. Should we ask or expect a child of one faith to step aside from his friends and peer group when the prayer being recited is alien to him? However high the motives, should we undertake a classroom procedure which separates and divides the members of the peer group? Should the prayers which unite us in the church of our choice be permitted to divide us in our schools? How much more division can our society endure?

Citizens of this Nation are marshaled on each side of this issue. It is opposed by most religious groups, including the following:

United Presbyterian Church.
Presbyterian Church in the United States.
American Lutheran Church.
Lutheran Church in America.
National Council of Churches.
Southern Baptist Convention.
American Baptist Convention.
United Church of Christ.
Church of the Brethren.
United Methodist Church.
Protestant Episcopal Church.
United Methodist Church.
Mennonite Central Committee.
Friends Committee on National Legislation.
Joint Advisory Committee of the Synagogue Council of America and the National Jewish Relations Advisory Council, which includes all of the major Jewish secular and religious bodies.
United States Catholic Conference of Bishops.

I have received hundreds of letters on each side of this issue. I cannot decide this issue by "weighing the mail." As a legislator, I must come to a judgment which must be made in my own mind and conscience.

I do not agree with some of the lower court decisions on the prayer issue. They are likely to be corrected by further clarifying decisions of the Supreme Court.

The first amendment to the Constitution is over 180 years old. I do not believe it should be tampered with under a parliamentary procedure which gives the 435 Members of the House of Representatives no opportunity to participate in the construction or clarification of the language in this effort to change the fundamental law of the land.

I expect to vote against the prayer amendment to the Constitution. Prayer is a personal, private, and individual matter. The amendment would set the stage for prayer by compulsion. Prayer by compulsion would destroy freedom of religion by compelling children to recite a government-approved prayer.

Mr. DANIELS of New Jersey. Mr. Speaker, I rise in opposition to House Joint Resolution 191. In doing so I want to make it clear that I believe very deeply in the power of faith and religion. It is because of that belief that I oppose the amendment before us today.

I object to House Joint Resolution 191 on the grounds that this amendment does nothing to cure the defects of earlier prayer cases which dealt, not with the permissibility of prayer, but with the question of writing, sponsorship, and coercion of such prayers by State and school officials.

House Joint Resolution 191, as far as providing what many of our constituents desire, is a sham. Furthermore a nondenominational prayer written by government representatives—assuming it is possible to write one—has little to do with and would dilute any religious observance into a banal and meaningless recitation; it would create divisiveness within the community and would create more problems than it might solve.

I think it is obvious that the issue before this House today is not whether people should be allowed to pray in a public place. Indeed religious leaders and legal scholars agree that the Supreme Court's decisions do not preclude such prayer. Rather, by voting on House Joint Resolution 191, we are asked to resolve today whether children shall be required to take part in an exclusively nondenominational school prayer which in all likelihood will be written by State and school officials.

Many responsible parents, concerned that their children's denominational religious training not be interfered with, may object to their children taking part in a nondenominational religious exercise. Many children, therefore, will be instructed by their parents, priest, pastor, minister or rabbi to remain silent while their friends are taking part in a religious exercise totally foreign to their own religious training.

As someone who has spent a great deal of time as chairman of the Select Subcommittee on Education, as a parent and grandparent, I understand the grave problems we face in educating children. They are very impressionable and much care must be taken to prevent placing them in situations which may be confusing and disruptive of religious teaching they receive in their homes and churches.

The response, suggested by some of my colleagues, that the prayer provided for by House Journal Resolution 191 is voluntary seems not to be relevant. If a prayer is sanctioned and administered by school officials, the State suprintendent of education, or the Governor, I do not believe that a child can make the legal distinction that a prayer might be "voluntary."

Even if the prayer were to take place outside the child's home classroom, his absence from any of the official prayer services or the services of the majority faith is sure to be noticed by his classmates. No longer will he be one of them, but someone isolated and different. Children do not crave such distinction. They seek and need the approval of their peers and classmates.

This choice, whether to conform to the instructions of parents and clergy or to friends and classmates is a terrible one for a child and unnecessary.

The entire history of school prayers is filled with the experiences of children who faced teachers and officials eager to press upon them their own particular brand of religion. A well-renown legal scholar in a study of the issue documented some of the experiences as follows:

> By no means untypical were the experiences of Father John Bapst who was tarred and feathered because he urged Catholic children not to participate in Bible reading in the public schools of Ellsworth, Maine; or of 11-year-old Tom Wall in Boston who was beaten with a rod by his teacher for a half-hour until he finally yielded and participated in Bible reading; or of the hundred or more Catholic children who were expelled from the public schools in Boston for the same reason; or of the Indiana Catholic girl who was kept in school after dismissal day after day as punishment for refusal to participate in "nondenominational" reading from the King James Bible; or of the many thousands of Jewish children all over the United States who sat silently but with great mental anguish while the teacher read from the New Testament the account of the crucifixion of Jesus by the Jews.
>
> The experience of Catholic and Jewish children, as well as of children of other minority faiths and of no faith, show too how unrealistic is the claim that participation is or can be entirely voluntary. Few children of elementary school age have the courage or foolhardiness to isolate themselves and face the disapproval of their teachers and classmates by not participating in a prayer service which has the sanction of school authorities.
>
> Some state courts recognized reality and held that there is not and cannot be "nondenominational" or "nonsectarian" Bible reading or prayer, and that truly voluntary participation is similarly impossible. Unfortunately, these were a minority, and it was the Supreme Court's decision in Engel and Schempp that brought an end to this sad chapter in American history. It would be unfortunate if it were reopened by adoption of H.J. Res. 191.

Whether the prayer is voluntary or not, the amendment requires that it be nondenominational. I have thought about this for some time and frankly do not understand what this term means as regards prayer. What kind of prayer is it that makes no reference to any one belief or even to God? I have consulted with a number of religious leaders and they too expressed confusion. The problem is not a new one and has been put before the leaders of several national religious organizations whose function it is to pass upon these questions. In a reply agreed to by Catholic leaders and signed by leaders of organizations representing Protestants and Jews they said:

> The major faiths themselves have never been able to achieve consensus on a definition of prayer, much less a definition of "nondenomination" prayer. . . . "If such a proposed amendment should become a part of the Constitution of the United States, a new religion of "nondenominationalism" would in a measure become established which could destroy the integrity of both church and state.

If religious leaders cannot agree upon an acceptable nondenominational prayer after many years of earnest attempts, it seems unlikely that school officials, lacking any training in religious doctrine, will honestly be able to do so.

There is a grave danger, moreover, that these officials faced with a vocal minority or even a majority, will bow to the pressures of political expediency and devise what only in their own opinion is nondenominational prayer and acceptable only to whomever in the community can speak the loudest and make the most trouble for school officials. The result will be what it has been in the past, community turmoil, anger, divisiveness, and the destruction of longtime friendships among decent and sincere people of different faiths.

Even if it were possible to write an acceptable nondenominational prayer, I have grave problems with such prayer from a religious standpoint. I believe very deeply in the power of religion and faith. I also know that not only is it important what people believe, it is equally important how they reach that belief. The form of their faith is as crucial as its substance.

Indeed, as a religious person I find it difficult to imagine as meaningful, a prayer which by law could not make any reference to my faith, to the faith of my non-Catholic and non-Christian friends, nor even to God as any of us see Him. Surely such a prayer can only begin "to whom it may concern" and continue with similar sterility. Such a prayer can only dilute the faith of children who are asked, whether voluntarily or under coercion, to take part.

The type of prayer which would be permissible under the phrasing of the amendment would daily destroy all distinction among different religions. Catholic, Protestant, and Jewish parents and clergy who spend great time and effort instructing their charges in their respective faith and to develop through that a faith a moral code, will find themselves competing with a nondiscript, State-authorized, State-sanctioned government religion reinforced daily in the public schools. I find this prospect both insidious and subversive to the faith in which I have been brought up, in which I have instructed my own children, and in which my own grandchildren are being instructed.

I agree wholeheartedly with the U.S. Catholic Conference in the belief that parents and the church and synagogue are the proper repository of religious faith; that nondenominational State school prayers will only dilute that faith into a meaningless recitation as trivial as a kindergarten rhyme.

Mr. GRAY. Mr. Speaker, I rise in support of House Joint Resolution 191. Our forefathers came to this country in order to be able to worship their God at the free dictates of their own conscience. America has grown out of the wilderness over the years to become the greatest country in the world, in great part due to its religious heritage. Millions of Americans were distressed and inconsolable when the Supreme Court ruled that prayers could not be offered in the schools throughout the land. I proudly signed the discharge petition to bring the prayer amendment to the floor of the House of Representatives today because I felt that this matter is of vital importance if we are to survive as a free and democratic society. There are many good friends in my district who will argue that the proposed Constitutional amendment before us today will be cumbersome and will only confuse the issue. I respectfully take exception to this viewpoint because, Mr. Speaker, the proceedings in this very Chamber are opened each day by prayer.

I have witnessed during my 17 years ministers from all faiths and all religious beliefs take part in the opening prayer of Congress. State legislatures throughout the land, and every conceivable function where people are gathered together open the program with a nondenominational invocation and benediction. Why, then, one would ask, would we be opposed to allowing schoolchildren to have this same love and respect for their Maker as adults? This is particularly true since the so-called nondenomination prayer has been stricken by an amendment changing the word to "voluntary" from "nondenominational." This simply means that a school principal would be allowed to open school with a voluntary prayer without interference from the courts. This is very simple, sensible, and nondiscriminatory. How could anyone deny such a privilege to those who seek it?

Mr. Speaker, I am happy to state that America's No. 1 evangelist, Dr. Billy Graham, has come out strongly in favor of the proposed amendment. In a telegram Dr. Graham states:

> I do not believe the Constitutional Amendment jeopardizes the historical separation of church and state as some have alleged. Our greatest danger lies in the direction that secularism and atheism will have the unofficial religion of America. I see no danger in the Amendment. If I were a Congressman I would vote for it. I believe that the overwhelming majority of the American people want prayer in the schools.

Mr. Speaker, I realize this is a highly emotional issue with many people; however, I would remind my friends that we have but one God. If we would forget the

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extraneous issues and allow everyone, everywhere, young and old alike, the privilege of prayer, the end result is bound to be beneficial.

Mr. Speaker, this is all this resolution does; no Government control; no wedding of church and state—but merely places our Government on record as favoring voluntary prayer, if sought. If we are to pass on to our children and generations yet unborn the legacy of our forefathers, we can do no less than to support the proposed constitutional amendment now before us. I plan to vote for it and strongly urge my colleagues to help pass this historic legislation.

Thank you.

Mr. HOGAN. Mr. Speaker, the place and value of prayer as the means to deeper fellowship with a Supreme Being is universally acknowledged.

However, today, as never before, that sense of fellowship, that wellspring of hope, that acknowledgement of dependence on a Supreme Being, are endangered by those who would lightly disregard the precious religious heritage and foundation of our American way of life. We have seen in recent years that prayer has been gradually pushed aside, ousted from its traditional place in our national life, and with it the influence of organized religion throughout our society has lessened and our national morality has been in rapid decline.

This is what motivated me to cosponsor this constitutional amendment and to sign the discharge petition which brings it to the floor today.

Allowing voluntary prayer in schools is only one aspect of the problem. There are efforts to eradicate all allusions to God from our public life—preventing astronauts from praying in outer space; eliminating the prayers which, since the Republic was founded, have opened sessions of the House and Senate; prohibiting prayers before sporting events at our stadium here in Washington; denying the use of the Sylvan Theater at the Washington Monument for Easter Sunrise services; eliminating the creche from the Christmas display at the Monument Grounds and from our public buildings; discontinuing the inclusion of chaplains from our military services; abolishing the invocation from our Presidential inaugurations; removing "In God We Trust" from our coins and from behind your chair in this Chamber, Mr. Speaker; and, eliminating references to God from our oaths. All of these are predictable extensions from the position of those who oppose this amendment.

Prayer is a vital part of that spirit which sustains our national life and always has been. Nevertheless, there are some who believe that adoption of the constitutional amendment which we are considering today would somehow break down the barriers between church and State. This is far from true.

I have always been a staunch advocate of the separation of church and State, and if I felt that the amendment before us today jeopardized this separation in any way, I would oppose it. But I believe that this amendment poses no such danger. It is obvious that it was not the intent of our Founding Fathers to prohibit prayer in our schools and other public buildings. "In God We Trust" has always been our guiding motto. All of the writings and debates of the Founding Fathers are imbued with a belief in God.

This amendment would merely allow students to join together in voluntary prayer. It would not require any child to participate nor could any school require participation.

A brief review of our Nation's history will demonstrate that until the Supreme Court decisions of the early 1960's public schoolchildren traditionally engaged in public prayer during the school day. As it stands now, public school students are not permitted to join together in organized prayer. They are denied that opportunity because of several U.S. Supreme Court interpretations of the Constitution's Establishment of Religion clause extending it to prohibit prayer in schools and by the extension of that.

In the 1962 Supreme Court case, *Engel v. Vitale*, 370 U.S. 421 (1962), the majority held that—

> State officials may not compose an official state prayer and require that it be recited in the public schools of the state at the beginning of each day—even if the prayer is denominationally neutral and pupils who wish to do so may remain silent or be excused from the room while the prayer is being recited.

In his dissent in the Engel case, Mr. Justice Stewart noted that the Court could not hold that New York "interfered with the free exercise or anybody's religion," but he concluded that—

> to deny the wish of school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation.

This is precisely the point which I would like to make in supporting this amendment before us today. Some opponents of House Joint Resolution 191 claim that this amendment would allow no more than what is presently condoned in public schools. This may be true in some areas of the country, but the fact remains that lower courts in most States have extended the Engel decision to the point where public schoolchildren are denied the right to pray. A New Jersey case illustrates my point. In that case students voluntarily gathered together in the morning hours before the start of the school day to read the remarks of the chaplains of the House or Senate from the CONGRESSIONAL RECORD. This student-run program interfered in no way with anyone's rights and it was not conducted during regular school hours. Nevertheless, these prayers were held to constitute an "establishment of religion," and in violation of the Establishment Clause of the first amendment. This was the result of the New Jersey Supreme Court's decision in *State Board of Education* v. *the Board of Education of Netcong*, 270 A. 2d 412 (1970). The U.S. Supreme Court denied certiorari in this case which is tantamount to affirmation.

Mr. Speaker, does it not seem incredible that we allow Judges, Senators, Congressmen and Presidents to join in prayer, but prohibit schoolchildren from doing so.

Is not it paradoxical and sad as well that the church leaders who have launched such a massive campaign against this proposed constitutional amendment to permit school prayer have not launched a similar attack on the pornography, drugs, and antireligious propaganda to which our children are subjected in our schools. Are they more opposed to prayer in school than they are to pornography in our schools? I intend to reject the lobbying of these misguided church leaders who do not speak for their flocks. They do not speak for my constituents, 71 percent of whom indicated their support for this amendment.

It is also paradoxical that some of these same churchmen who are expressing their concern over the effect this constitutional amendment would have on the separation of church and state see no such danger in giving Federal money to church-related schools and in fact some of them were here at the Capitol lobbying for it last week.

The discrepancies and the public confusion over this issue have made it necessary to offer the clarification which this proposed constitutional amendment intends. This is why I can not buy the argument of the opponents of this resolution that this amendment would alter the Bill of Rights for the first time in the Nation's history. Let us not forget that the very purpose of the constitutional amendment process is to clarify the basic fundamental rights as they wree conceived by our Founding Fathers so many years ago.

And, Mr. Speaker, it appears that no clarifying amendment would be more in line with the original intent of our Founding Fathers than this one. When the first amendment clause, "Congress shall make no law respecting an establishment of religion, was penned, I sincerely doubt that our constitutional writers anticipated that voluntary, nondenominational prayer would be barred from our public schools by the ruling of the highest court in our land.

Mr. Speaker, for 171 years public school children engaged in public prayer in schools. School prayer did not pose any threat at that time and it would not pose one now. In fact, Mr. Speaker, I would venture to say that some of the other practices currently condoned, or at least tolerated, in our public schools pose more of a threat than the voluntary prayer envisioned by this amendment.

I suspect that most Americans would agree that respect for others, respect for the law which defines our relationships to other, and respect for a Supreme Being, are all intermingled, and that they are in decline today.

I urge my colleagues to support House Joint Resolution 191.

Mr. BROYHILL of Virginia. Mr. Speaker, I rise in support of House Joint Resolution 191, to propose an amendment to the Constitution of the United States which will permit any group of persons, including our children in school, to participate in nondenominational prayer in public buildings.

When the U.S. Supreme Court handed down a 6-to-1 ruling on June 25, 1962, that the reading of a prescribed official prayer in New York public schools constituted "an establishment of religion" under the first amendment of the Constitution, it became apparent that the case which led to that ruling was to be but the first of many assaults on our religious heritage. Shortly after the decision I joined a number of my colleagues in sponsoring a proposed constitutional amendment which would have permitted voluntary prayer by children in schools. The legislation was referred to the Committee on the Judiciary and was still awaiting committee action when a second Supreme Court ruling, on June 17, 1963, held that reading of the Bible and recitation of the Lord's Prayer in classrooms was unconstitutional.

Public outrage of gigantic proportions arose following the 1963 decision, and the original amendment which I and some of my colleagues had offered the previous year was expanded to include offering, reading from, or listening to prayers or biblical scriptures, as well as making reference to belief in, reliance upon, or invoking the aid of God or a Supreme Being in any governmental or public document, proceeding, activity, ceremony, school, institution, or place, or upon any coinage, currency, or obligation of the United States. By the end of the first session of the 88th Congress, 111 Members of the House had introduced resolutions substantially consistent with ours, but no action was taken by the Committee on the Judiciary until 167 House Members had signed a petition to discharge the committee from one that was cosponsored by 58 House Members and it appeared that a majority would sign the petition soon. Then, after 22 months of urging the chairman announced public hearings for the following April.

Hearings were held by the Committee on the Judiciary from April 22 through June 3, 1964. However, at the conclusion of the hearings no further action was taken by the committee and the 88th Congress adjourned without taking action on the school prayer issue.

On February 24, 1965, I filed a discharge petition in the House, and urged my House colleagues to join me in forcing the resolution to the floor for action. I called attention of my colleagues to a recent poll conducted by Lou Harris which indicated that well over two-thirds of our Nation's citizens would like their children to have the right to participate in prayers in public schools on a voluntary basis. I said:

> I have supreme faith in the American people to determine what they feel is correct for them and what is incorrect. The amendment process is the most democratic procedure to see that they are no longer thwarted in the exercise of this prerogative.

I expressed regret then, as I do now, at having to resort to a discharge petition as a means to permit the House of Representatives and the American people to determine what is best for them. But after 11 years there can be no question that the Committee on the Judiciary does not intend to act on the school prayer question no matter how many Members of this House or how many of the American people want them to do so. Clearly it is now time for Congress to act, to adopt the proposed amendment which will prevent the complete removal of all signs of religion from our national life.

Opponents of the proposed amendment cite historical material attempting to prove that the founders of our country intended to erect a barrier between the church and state to keep the two forever separate and apart. But as Mr. Justice Stewart noted in his dissenting opinion in the 1962 case:

> What is relevant to the issue here is not the history of an established church in sixteenth century England or in eighteenth century American, but the history of the religious traditions of our people, reflected in countless practices of the institutions and officials of our government.

He wrote:

> At the opening of each day's Session of this Court we stand, while one of our officials invokes the protection of God. Since the days of John Marshall our Crier has said, "God save the United States and this Honorable Court." Both the Senate and House of Representatives open their daily Sessions with prayer. Each of our Presidents, from George Washington to John F. Kennedy, has upon assuming his Office asked the protection and help of God.

I am convinced that ratification of the amendment we are considering today will not in any way diminish the prohibition in the first amendment to establishing an official religion. I am also convinced that it will recognize and continue for our children and theirs the spiritual traditions which made this the greatest Nation on earth. When under rather intensive questioning during the 1964 hearings I said I was willing to take a chance on what it would do, the committee chairman chided me, and a member of his committee responded as follows:

> Mr. Chairman, before Mr. Broyhill goes, I would just like to make an observation. The chairman somewhat chided you for your statement that you would take a chance. If I remember correctly, one of the Founding Fathers referred to the Constitution itself as a noble experiment. So they took a chance, and I think you are not in bad company.

I have received a massive number of letters on the proposed amendment. I have been impressed by the strong feelings expressed on both sides of the question. Many valid points have been made, especially by spokesmen for organized religion, about the difficulty of defining a nondenominational prayer as well as about guarantees of separation of church and state. But perhaps the most convincing arguments of all are those I have received from teachers who have lived through the decade since the Supreme Court decisions. One teacher cites 15 years of public school teaching as convincing her that the denial of what in many cases was her pupils only exposure to the idea of a Supreme Being was far greater in consequence to the moral fiber of our country than the threat to religious freedom seen by the leaders of her church group. Another, who taught in schools in New York at the time of the 1962 decision, described the unbelievably rapid and almost total breakdown of discipline in the schools which began with the prayer decision and ended in the chaotic conditions existing in New York City schools today.

Mr. Speaker, in citing the first amendment, the opponents of this resolution quote—

> Congress shall make no law respecting an establishment of religion.

But often fail to continue—

> or prohibiting the free exercise thereof.

Our children need and deserve the right to learn this Nation's spiritual traditions if they are to understand how and why it is the greatest Nation on earth. To deny them the right to pray in the schools we insist they attend is unconscionable. House Joint Resolution 191 will restore to them that right, and I urge its adoption.

Mr. DON H. CLAUSEN. Mr. Speaker, two great themes are found throughout the entire history of the American people. The fact that they have been sustained has been the bulwark for the development of our great democracy.

The first of these themes is the strength of prayer to the individual and to society. Rare indeed is the individual who has never found in prayer a sense of solace in a time of trial, or a feeling of exhilaration from a time of spiritual growth, or an emotional stability in troubled times.

For some of us, prayer is an everyday part of our lives. For others, it is more irregular but equally important. For everyone, however, the blessings of prayer are essential and valuable.

The other great theme is the continuing, successful effort to insure religious liberty by erecting a solid wall between church and state.

The first colonists who settled on these shores did so in flight from oppressive established religions in the old world. So ingrained in the American consciousness was the need to separate religious exercises from the influence of Government that the Bill of Rights contains a clause that prohibits the Congress, without exception, from approving laws that would in any way restrict the free exercise of religion or sanction one religious group at the expense of any other.

Since the 1962 Supreme Court decision in Engel against Vitale, there has been much said regarding the loss of religious freedom and the loss of God in our institutions. In far too many cases the Supreme Courts' decision was taken to mean "all school prayer is unconstitutional," and all devotionals were taken out of the public schools. However, in reviewing the Court's action in this matter, I am convinced that it was not their intent to totally divorce God from temporal institutions or in any way lessen His importance in any aspect of our daily lives. But, regrettably, the results of the decision caused many to believe that God has no place in public buildings and schools, and school administrators were prohibiting all forms of devotion and prayer. In the midst of this, confusion and misunderstanding has reigned, and the victim has been religious excercise and freedom.

What I perceive as the main purpose of House Joint Resolution 191, was to clarify the rights of people to voluntarily participate in prayer in public institutions. At the same time, however, it became apparent that this clarifying amendment to the Constitution, might in the end, and in reality, serve as the instrument that would restrict our religious liberty.

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The Supreme Court, in this widely misunderstood decision, ruled that State officials may not compose an official State prayer and require that it be recited. This decision was a reaffirmation of the American tradition of religious liberty.

The Court did not, as many believe, support the view at the same time that the State could prevent prayers in school. Today, with the addition of the Buchanan amendment to the proposed constitutional amendment regarding prayer in public buildings, the Congress can clarify the Supreme Court's position by making certain that voluntary prayer and meditation can be conducted in our schools.

It is clear now that the prayer amendment, as originally drafted with the language "nondenominational", could have permitted governmentally prescribed prayers to be used in our schools. I would have had to oppose that legislation to insure that the writing or sanctioning of officially prescribed prayers would not become a reality.

However, the Buchanan amendment provides the solution to the question in its emphasis on the individual in providing him the opportunity, if he wishes it, to enjoy religious participation in public buildings. I can and shall support the the constitutional amendment with the provision of the gentleman from Alabama permitting voluntary prayer and meditation.

To further express my views on this subject, Mr. Speaker, I shall close my remarks by quoting my own personal statement on religious liberty which I set forth shortly after first being elected to Congress:

I Believe in religious liberty, and hold that this God-given right is exercised at its best when there is separation between church and state.

I Believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights, and to rule in civil things; and that in this realm it is entitled to the respectful and willing obedience of all.

I Believe in the individual's natural and inalienable right to freedom of conscience: to worship or not to worship; to profess, to practice, and to promulgate his religious beliefs, or to change them according to his conscience or opinions, holding that these are the essence of religious liberty; but that in the exercise of this right, he should respect the equivalent right of others.

I Believe that all legislation and other governmental acts which unite church and state are subversive of human rights, potentially persecuting in character, and opposed to the best interests of church and state; and therefore, that it is not within the province of human government to enact such legislation or perform such acts.

I Believe it is our duty to use every lawful and honorable means to prevent the enactment of legislation which tends to unite church and state, and to oppose every movement toward such union, that all may enjoy the inestimable blessings of religious liberty.

I Believe that these liberties are embraced in the Golden Rule, which teaches that a man should do to others as he would have others do to him.

Mr. DORN. Mr. Speaker, one of the most inspiring pictures in existence is that of George Washington on his knees at Valley Forge. Benjamin Franklin's call for prayer at the Constitutional Convention in Philadelphia undoubtedly contributed to the final success of the Convention and the adoption of our Constitution. Abraham Lincoln and Robert E. Lee were often in prayer imploring divine guidance and "Thy will be done."

Dwight Eisenhower began his inaugural address with a prayer on the East Front of the Capitol.

Every single school I have visited this fall had prayer and Bible reading. Mr. Speaker, I believe in prayer. My father was an ordained Baptist minister who led in family worship. America today in these great crises needs to humble itself and ask for divine wisdom and understanding. We are indeed a "Nation Under God." "In God We Trust" is indelibly stamped into the soul, fiber and heart of America.

America was largely founded by men and women seeking a land where they might worship God in freedom and according to the dictates of the individual conscience. They came to escape persecution, the divine right of kings and the decrees of a church-controlled state. My own forebears left Germany because of religious persecution and came to the free world. America grew strong and free under the first amendment to the Constitution guaranteeing freedom of religion. Churches sprang up throughout our land free from local, State, or Federal Government domination and control. Religious institutions flourished.

Mr. Speaker, I now greatly fear that if this prayer amendment is adopted we could again see the stark specter of Government interference in religious worship. This is really an attempt to amend the Bill of Rights, so sacred to every American. We must not legislate out of emotionalism and hysteria. We must not experiment and tamper with the Bill of Rights, which has been the guardian of individual liberty and freedom of religion.

Mr. Speaker, I have campaigned for prayer in our public schools. I have introduced legislation to amend the Constitution, providing for prayer in our schools but today, after prayerful reflection, I now believe this is no time and this is no place to rewrite or amend the Bill of Rights. Should we now amend our Constitution calling for voluntary prayer, who will administer a voluntary prayer? Who will write a voluntary prayer? Who will set the stage, the time, and the occasion for voluntary prayer? Who could coerce children into voluntary prayer?

We may with this amendment be unwittingly inviting more Government or school board interference in the free exercise of religion. When we are dependent on a system for virtually every action it might become expedient to volunteer certain prescribed favors in return for the favors of the system.

When strongly urged to volunteer for a mission it may become easier to volunteer than to decline. A soldier may find it more convenient to volunteer than to face the consequences of refusing to volunteer.

As this debate reaches a climax it is difficult for me to find two attorneys or two ministers or two laymen who agree on what this amendment will do to the Bill of Rights; or what it would really means concerning prayer in our schools. Many are more confused by the debate than before it began.

Jesus Christ did not go to Rome seeking legislation and Roman decrees. Nor did He go to Pilate the Roman Governor asking for help to spread the Gospel. Had He done so the Christian movement would have then and there been tied to the whim, vacillation, and change of government. His movement would have collapsed with Rome. His Kingdom was founded on love and the worth and dignity of the individual and today millions worship at His feet.

The church will die if it depends on the cold arm of government to sustain it. It will die if it depends on legislation and constitutional amendments such as this one. The church will grow only so long as it is separated from government and wins the heart of the individual. The religious individual of any faith must not look to government to subsidize and bolster his religion. We need more religious men and women in government. We need less government in religion.

Render unto Caesar the things that are Caesar's and unto God the things that are God's.

Mr. RARICK. Mr. Speaker, fear has been repeatedly expressed that House Joint Resolution 191 amends the first amendment establishment prohibition and free exercise clause. The first amendment, under the original intent of the Founding Fathers, never applied to the States or the people until the U.S. Constitution was amended by the 14th amendment in 1865. And not then until 100 years later when the Supreme Court decided that the 14th amendment extended the first amendment as a prohibition to the States.

The prayer amendment we are considering today does not amend the first amendment. To the contrary, it strengthens and clarifies the first amendment and limits judicial extension of the 14th amendment by telling our good friends on the Federal bench that the first amendment means what it says:

Congress shall make no law . . . or prohibiting the free exercise thereof.

This House Joint Resolution 191 does by providing that nothing in the Constitution shall abridge the right of persons to participate in voluntary prayer.

The first amendment is unaffected. If it were otherwise, I would oppose House Joint Resolution 191. It is the judicial interpretation by court expansionism of the 14th amendment that will be affected by adoption of House Joint Resolution 191.

When all the smoke, the countercharges, and the hysteria of the moment have subsided, there is but one issue before us. Are children to be allowed to participate in voluntary prayer in public schools? A vote for the amendment is for voluntary prayer in schools. A negative vote is a vote to continue the officious intermeddling of the Federal court in the freedom of prayer in school.

The American people find it unbelievable that the Federal judges have ruled that Communists can work in defense plants. They find it equally incredible that we Members of this body permit the same Federal judges to curtail prayer for our children in school.

I am satisfied that Mr. BUCHANAN'S amendment to substitute the word "voluntary" for "nondenominational" strengthens the intent as well as the thrust of the prayer amendment. I support it enthusiastically and intend to cast my people's vote in favor of the bill as amended.

Mr. RANDALL. Mr. Speaker, I rise in support of House Joint Resolution 191 confirming that I was one of the 218 Members who signed the discharge petition which made it possible to bring this resolution to the floor of the House. On a rollcall vote earlier this afternoon, I voted to discharge the Judiciary Committee from further consideration of this resolution. I intend to vote for the resolution as amended on final passage.

It is worthwhile to recall that this resolution was introduced way back on January 22, 1971. Just like it happened before the Judiciary Committee omitted, neglected, failed, and even refused to hold hearings. Little by little, the discharge petition filed by our good friend, the gentleman from Ohio (Mr. WYLIE) gained momentum until finally it reached the summit of success when it had the necessary 218 signatures. Today every Member will have the right to be for or against prayer in our public schools. It is a day some of us have long awaited.

In anticipation of this vote today, I asked my staff to go through our old files all the way back to correspondence we received following the Engle against Vitale decision in 1962. I was privileged and quite proud to join in the Becker discharge petition about 7 years ago which, as some may recall, forced the commencement of hearings before the House Judiciary Committee in 1964. Because of this debate, I took the time to review our replies to the correspondence from our constituents in the summer and fall of 1964. At that time I stated:

It is my opinion such a resolution affirms our principles without lessening the Constitutional freedom guaranteed to us in the First Amendment.

What was true then is equally true today.

Who can forget the words of Mr. Justice Stewart who wrote the dissenting opinion in Engel against Vitale? He could not be persuaded that prayer in our schools violated the establishment clause in the Constitution. Mr. Speaker, every single thought expressed by Justice Stewart in 1962 has just as much truth and application to House Joint Resolution 191 as it did when he wrote his dissenting opinion in June of 1962. At that time, Justice Stewart said:

I think the court has misapplied a great Constitutional principle. I cannot see how "official religion" is established by letting those who want to say a prayer say it. On the contrary, I think to deny the wish of those school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our nation.

Mr. Justice Stewart went on to point out that each day's session of the U.S. Supreme Court was opened since the days of John Marshall by the court crier who steps forward to say:

God save the United States and this Honorable Court.

At every inauguration of every President of the United States, the new President, upon assuming his office, has asked the protection and help of God. Both the Senate and House of Representatives open their daily sessions with prayer. Referring once again to the dissenting opinion of Mr. Justice Stewart, he summed up the religious traditions of the people of our Nation as reflected in the countless practices of our institutions and the officials of our Government in quoting a single sentence from Zorach against Clawson, a U.S. Supreme Court case which was decided in 1952, as follows:

We are a religious people whose institutions presuppose a Supreme Being.

At the expense of being repetitive, just about all of the things that were said in the debate on the Becker amendment which led to the Judiciary Committee hearings in 1964, and the thoughts expressed by Mr. Justice Stewart in his famous dissent in the case of Engle against Vitale in 1962 are every bit as true and every bit as applicable to the debate today as they were 9 years ago and 7 years ago, respectively.

Mr. Speaker, it has been suggested that most of the polls show that between 92 to 94 percent of the people in this country favor the principle of voluntary prayer in our public schools. But that popularity, taken alone is not a sufficient reason to support this resolution. It has also been pointed out that for one to oppose this resolution is to be put upon the defensive which will require endless explanations for those who voted against this resolution. Once again such is not a sufficient reason, taken alone, to support this resolution.

My reason for supporting House Joint Resolution 191 is not because I think it is the popular course to take. Our mail has been mostly in opposition to this resolution. My support for this prayer amendment is for the same reason as my support of the Becker amendment years ago. I signed this discharge petition as a way to force this matter to an issue today, because I believe we should restore the right of our young Americans to participate in individual voluntary prayer in our public schools. I support this resolution, moreover, because I believe the vast majority of Americans want to preserve the unimpaired right for their children to engage in prayer to a Supreme Being.

Now, Mr. Speaker, I think we all agree that the Government should never become the administrator of any particular religious practice. I believe that it is imperative that we keep church and state separate if we are to maintain our religious freedom. But who can convincingly argue that House Joint Resolution 191 jeopardizes the historical separation of church and state as some have alleged? If there ever was any difficulty or problem in the minds of those Members who found it difficult to define nondenominational prayer, they have been relieved of that problem upon the adoption of the amendment offered by the gentleman from Alabama, by striking the word, "nondenominational" and inserting in its place the word "voluntary" and after the word "prayer" adding the words "or meditation."

The time has certainly come for the confusion created by the case of Engle against Vitale to be cleared up. In Stein against Oshinsky the Court had a public opportunity to clarify the entire question but failed to do so. You remember the prayer involved in the Stein case—

Thank you for the world so sweet, thank you for the food we eat, thank you for the birds that sing, thank you, God, for everything.

How, oh how, can a prayer of that kind in any way affect the historical separation of church and state as some would have us believe? This resolution today is a reasonable way to decide this matter once and for all. Surely the Constitution provides freedom "of" religion, not freedom "from" religion. If we continue to forbid our little children to say voluntary prayers in school, then certainly they are being denied, as Mr. Justice Stewart emphasized 9 years ago—

the opportunity of sharing in the spiritual heritage of our nation.

Oh some few may have experienced some difficulty in the definition of the word "nondenomination." I know that leaders, some of the leaders in my own church—the Methodist Church—have mentioned some of the difficulties involved notwithstanding it is clear to me that the advantages of this proposed constitutional amendment far outweighs the disadvantages.

I intend to support this resolution leading to the prayer amendment because I am convinced this is a nation under God. On our coinage we have "In God We Trust." In the Pledge of Allegiance to the Flag we have the words, "Under God." Every day both bodies of the Congress are opened with prayer.

Of course I shall be disappointed but not greatly surprised if this amendment does not receive the required two-thirds vote. If that happens, it will be because the religious groups in this country are divided over this amendment. But I hope that none of those who oppose this resolution will take comfort or joy if their views in opposition prevail. Our Nation would have been much better if some of the Supreme Court cases which denied prayer in our schools had never been decided. But we can never undo those decisions except by action like we are attempting today.

As we near the end of this long struggle to submit an amendment to the Constitution, I am sure many Members are wondering where, oh where are those thousands of letters in support for such an amendment that we all received back in the days of the Becker discharge petition? We should know in our own hearts and minds that our country has not lost interest in prayer simply because the volume of correspondence which we receive is lower than in former

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years. Maybe some of those persons have reached the conclusion that the task to restore prayer to our schools maybe insurmountable until such time as the Supreme Court can be changed.

For those who oppose this amendment, let it be noted that by proposing this amendment we are only making it possible for the States to decide this issue one way or the other. That means that any action today will have to be followed by the process of ratification. Then it will really be the people who decide whether this amendment to the Constitution shall be ratified or rejected.

Mr. Speaker, it was my privilege within the last few days to have been handed a copy of a telegram from Billy Graham to the gentleman from Ohio (Mr. WYLIE) the author of House Joint Resolution 191. Billy Graham in that telegram said,

> Our greatest danger lies in the direction that secularism and atheism may become the unofficial religion of America.

As to House Joint Resolution 191, he went on to say—

> I see no danger in the amendment. . . . If I were a Congressman, I would vote for it. I believe the overwhelming majority of the American people want prayer in the schools.

As a final thought in the telegram to Mr. WYLIE, Billy Graham closed by saying—

> It is interesting to me that when we took prayer out of the schools, sex, permissiveness, rebellion, drugs and even crime came in.

As my own conclusion to these remarks on this prayer amendment, let me say that whatever the outcome of this vote, we should all be thankful that each of us can say to ourselves a silent prayer, that ultimately may God's will will be done.

Mr. VEYSEY. Mr. Speaker, we have heard Member after Member today state, quite correctly, that the first amendment of the Constitution provides—

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .

And Congress has made no such law. But Government, in another way, has prohibited the free exercise of religion. The Supreme Court in at least two decisions followed by a number of ill-advised inferior court decisions has created an atmosphere in which all prayer and all exercises which touch on the religious have become taboo in our schools and in other public places.

The amendment before us strikes at this confusion, which is not the doing of the Congress but rather of the courts. It detracts in no way from the right of any individual in his practice of his religion or in his right not to practice any religion. Prior to 1962, in the 171 years of this Nation, there was no problem in this area. Now it appears essential that Congress act to protect the individual's right to his own religious views and practices. The proposed constitutional amendment, as amended, says:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds to participate in voluntary prayer or mediation.

Perhaps the amendment could be stated more succinctly; perhaps it could be stated more elegantly. But its import is unmistakable. By its adoption in this Congress this resolution says:

> Let the people express their view on the matter. If three-fourths of the states approve, it will become part of the Constitution.

It says further:

> The people believe that the right to voluntary prayer should not be banned by the courts, by the Congress, or by the Constitution.

I support House Joint Resolution 191 and urge its passage to make clear that the Congress is not and has not been in the position of interfering between the individual and his duty.

Mr. RIEGLE. Mr. Speaker, I strongly believe in the power of prayer and the value and appropriateness of religious and spiritual practice.

It is significant that the very first amendment to the U.S. Constitution expressly guarantees both the free exercise of religious practice and an express prohibition against the Congress ever making laws that would establish any State-sponsored religious practice.

This constitutional provision was wisely written and has served the country well. Perhaps more than any other factor, it has preserved and protected the broad and rich diversity of religious practice throughout our society.

All manners and forms of free religious expression are constitutionally protected—just as the freedom to choose no religion is similarly protected.

In my district today, dozens of different churches and religions flourish. None are allowed to trespass against the others, nor can they be trespassed against. We have enoromus religious diversity in our community and I believe this is a source of great strength—for our own area and for the country.

We also have, in our district, thriving and healthy private schools which provide various kinds of religious instruction. They, too, are a source of strength and good to our community.

It is altogether proper that we should find these things to be so. For our country was founded to provide freedom for those who had suffered religious persecution in other lands. It was the hope and dream of our forefathers that we could establish a society where religious practice—the freedom to worship and pray—would be absolutely protected as a personal right. And the government, at all levels, would be expressly forbidden to intrude on this precious individual right.

Thus, each one of us, as free citizens of America, can choose our own form and manner of religious belief and activity. We are free to pray to our own God in our own way—and we are free from having other gods imposed upon us. This is a precious and pure individual right which the Government must never disturb.

I personally believe in God. Yet, I know other Americans whose God is different than mine. I practice my beliefs in my way—others practice their beliefs in their way. I will not surrender my religious freedom to the State—now or ever. And I resist, with every ounce of strength I have, if any of my fellow citizens are likewise pressured to surrender their religious freedom, however different their religious practices may be from mine.

This then brings us to the present moment where we face a momentous question. It is one that is fundamental to the very heart and soul of the American Constitution.

It is not a question of whether prayer can take place in schools, because the first amendment to the Constitution expressly protects the personal free exercise of religion in schools and every other place. Any individual student who wishes to pray in school—or elsewhere—is free to do so as long as his actions do not infringe on the rights of others. As individuals, we are free today to pray in our schools. I know because I did so myself only this week at Powers High School in Flint. Before being introduced to speak at a school assembly, I engaged in a moment of private prayer. I do not relate this fact to draw attention to my own beliefs, but rather to show that we can, and do, pray in our schools now. And this freedom will continue as long as the first amendment to the Constitution is left undisturbed.

The "prayer amendment" now before the House is well intentioned. And while I disagree with the constitutional amendment process the proponents of this legislation have chosen, I deeply respect their right to offer it for consideration. That is why I voted to discharge this amendment from the Judiciary Committee—so that it could be considered and resolved by the House of Representatives itself. And I will resist any other attempts to "bottle up" consideration of the matter. It is an important matter and it deserves careful consideration.

The basic purpose of the Amendment's sponsors, I believe, is to stimulate a spiritual and moral resurgence in our country. I can support that goal, but I am deeply troubled about the means they are suggesting. For what they seek to do is prescribe a prayer that would become group practice in our public educational institutions.

Our first question must be, What prayer? Who will write it? Exactly what will it say? What wording can be devised that will suit Protestants, Catholics, Jews, Buddhists, Moslems, agnostics, and others? And what of those who practice a personal set of moral values somewhat different than any established sect?

If such a prayer can be devised, what is the student to do who finds that his own private beliefs, or those of his parents, are different than the group prayer? Is that student required to leave the room? Will that student later be given time to recite his prayer aloud if he so wishes?

These are not easy and simple questions. In fact, they are impossible questions and, however unwittingly, they do violence to the religious freedoms guaranteed in the first amendment.

And I must raise another matter of grave concern to me. If we are to sponsor group prayer in our schools, what level of government is to be given the authority to regulate this new Government-sponsored religious practice?

Is the Federal Government to be given this power? Are the States? Will local school boards undertake to prescribe the exact nature of this religious practice?

Well I for one hope—and, yes pray—that no level of government in this country will ever be given any authority whatsoever to intrude in the religious life of our country.

No governmental bureaucrat, no matter how well-intentioned, should ever intrude upon the freedom of religious practice in these United States—a freedom that so many have fought and died to preserve these last 196 years.

In Communist China today we find a system where a brand of state authorized "religion"—if we may call it that—is practiced in the schools. Each student is given a book called the teachings of Chairman Mao, and these ideas are forced into each child. Some might say that this can never happen in the United States. I fervently hope that kind of thing never happens in America. But if we put the foot of government in the door today, with this innocent appearing prayer amendment, what will happen next? If, in some future election in the United States, the victor were to insist that his views be incorporated in school prayers, what protection would we have?

We do need in America a moral resurgence—and an important part of it can come from our various religious faiths and institutions. So let us protect and defend their diversity and freedom. Let us encourage our people to search their souls on the great moral and spiritual questions and then act according to their own individual conscience.

In times as troubled as these, I believe we can find greater understanding, tolerance, and brotherhood in our diverse religious institutions across America. But I fear that if we move the church into the public classroom, in the form of a nondenominational prayer, we undercut the great strength of our religious institutions—the separate and different denominations—each strong and beautiful in its own right.

So today I must vote to protect our religious freedom and religious diversity in America. I must vote to keep the bureaucratic hand of government out of the spiritual practice and religious activity in our country. I must vote to protect the right of each student to freely engage in his or her own private voluntary prayer—without interference or hinderance of any kind.

I do this because of my love for our religious freedom. I do so because the first amendment of the Constitution is an absolute guarantee of religious freedom—and it must be protected. And I do so after long and prayerful thought.

Mr. MAYNE. Mr. Speaker, the Bill of Rights has protected basic American freedoms for 180 years. The first of those freedoms guaranteed in the first 10 words of the first amendment is freedom from any government establishment of religion. Our Founding Fathers wisely determined to separate church from state absolutely and to permit no governmental dictation, guidance or even suggestion in the field of religion which of course includes prayer.

The proposed constitutional amendment on which we vote today would qualify and becloud the protections of the first amendment which has served us well since the founding of this Republic. Can any one doubt that constitutional sanction of so-called nondenominational prayer would lead to governmental determination of which prayer was proper and which was not? This is the very danger which the framers of the Bill of Rights warned against, and labored to avoid. The terrible prosecutions of religion by government which afflicted Europe in the 17th and 18th centuries were still very fresh in their minds.

Mr. Speaker, it is perhaps understandable that with so much additional lapse of time, we become less mindful of the lessons of history, and forget how many of our ancestors have come to these shores fleeing such persecution. It is not also obvious that if we start tinkering with the very first 10 words of the Bill of Rights today, those who disagree with others of its safeguards will be encouraged to offer similar amendments, which could well lead to a general erosion of this basic document of freedom?

Mr. Speaker, I say let us remember the wise counsel of Madison and Jefferson and stand by the Bill of Rights. Let us vote down this well intentioned but dangerous amendment.

Let us be especially mindful of the following words of Thomas Jefferson in the concluding paragraph of his great Virginia statute for establishing religious freedom:

> And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore, to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right.

Our forefathers insisted upon adoption of the first amendment to the Constitution because they knew the lessons of history. They were well aware of the experience of the bitter English civil wars of the 1640's, when the central issue was religion. At that time in England church and state were virtually indistinguishable, and religion was inextricably involved in government. The King and the Episcopal nobility and gentry were determined that all worship should be in their pattern, while Parliament and the Roundhead gentry and merchants were equally dogmatic and intolerant.

A third concept was thrust into this conflict by profoundly religious but intensely independent Puritans who advocated complete toleration and who opposed any establishment of religion. They believed in gathered churches in which each congregation freely chose its own manner of worship and its own minister. They maintained that only by creating a wall separating church and state could each be strong and secure. They believed in God-given, inalienable rights, among them freedom of conscience.

Unable to find religious freedom in England, many of them left and came to the New World. A century or so later, their descendants in establishing a government of their own insisted that the complete separation of church and state be guaranteed as the very first item in the Bill of Rights.

These first 10 amendments to the Federal Constitution have been our greatest heritage since 1791. As Erwin N. Griswold, the dean of Harvard Law School, stated in a letter to House Judiciary Committee Chairman CELLER during the 1964 hearings on proposals for a prayer amendment, in a reference to the Bill of Rights:

> Despite changes and developments in interpretation, they can be said, I think, to be the center and core of our governmental syatem, the most distinctively American contribution to the art and science of self-government. Here, in a relatively few words, are the basic propositions of good government in a free society. These have come to us from our fathers. They have been preserved through times of stress and peril. In a very real sense, our generation are trustees of these provisions, for generations yet to come.

In continuing his argument against any amendments to the Bill of Rights, Dean Griswold said:

> In a very real sense, too, the greatest safeguard against the eventual loss or frittering away of these precious guarantees of individual liberty is to keep them as they are. If we start to tinker with them, and to amend them here, and amend them there, we will soon find good reasons for restricting this liberty, or narrowing that safeguard, and will eventually wake up to find we have lost the essential safeguards which these amendments can and should protect. Once amendments are adopted to any part of the Bill of Rights, the floodgates may be opened. At the very best, we will have lost the great force of the Bill of Rights provisions, now expressed in simple, general terms. At the worst, once we start down the road to constitutional amendment in this area, we may lose most of the substance of protections which are now ours through the first 10 amendments.

House Joint Resolution 191 would amend the Constitution by adding the following article:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

I have no doubts regarding the great sincerity of the many proponents of this proposed amendment.

Genuinely concerned about what they view as increasing secularism in our public schools and institutions, they believe this trend is at least partly responsible for the crime, violence, and other frictions within our society that trouble us all. They are also convinced that the decisions of the Supreme Court are primarily responsible for this secularism and for removing prayer and the Bible from our public schools.

They fear future Supreme Court decisions which may delete any mention of God or of religion in our Pledge of Allegiance, anthems, oaths of office, cur-

rency or Great Seal and end any and all religious observances in or on public, tax-supported properties, eliminate the chaplains of the prisons, hospitals, the armed services, and the Congress. They contend that House Joint Resolution 191 would only restore the status quo as it existed before the Supreme Court decisions, and restore the first amendment as originally drafted.

These beliefs and convictions are understandable when we consider the considerable misinformation regarding the Supreme Court decisions that was generated and widely publicized in tracts in the early 1960's.

Among these are *Engel* v. *Vitale* (370 U.S. 421), handed down on June 25, 1962, and *Abingdon School District* v. *Schempp* (374 U.S. 203) decided June 17, 1963. In the Engel case, the court held the establishment clause of the first amendment forbids a State to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on a program of governmentally sponsored religious activity in its public school system. The prayer at issue, composed by the New York State Board of Regents, said:

Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country.

Upon the recommendation of the New York State Board of Regents, a local school board had directed that the prayer be recited aloud at the opening of every school day.

The majority opinion by Mr. Justice Black stated:

The First Amendment was added to the Constitution to stand as a guarantee that neither the power nor the prestige of the Federal Government would be used to control, support or influence the kinds of prayer the American people can say—that the people's religions must not be subjected to the pressures of government for change each time a new political administration is elected to office. Under that Amendment's prohibition against governmental establishment of religion, as reinforced by the provisions of the Fourteenth Amendment, government in this country, be it state or federal, is without power to prescribe by law any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity.

There can be no doubt that New York's state prayer program officially establishes the religious beliefs embodied in the Regent's prayer. The respondents' argument to the contrary, which is largely based upon the contention that the Regent's prayer is "non-denominational" and the fact that the program, as modified and approved by state courts, does not require all pupils to recite the prayer but permits those who wish to do so to remain silent or be excused from the room, ignores the essential nature of the program's constitutional defects. Neither the fact that the prayer may be denominationally neutral, nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment Clause, as it might from the Free Exercise Clause, of the First Amendment, both of which are operative against the States by virtue of the Fourteenth Amendment . . .

The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce non-observing individuals or not. This is not to say, of course, that laws officially prescribing a particular form of religion do not involve coercion of such individuals. When the power, prestige and financial support of government is placed behind a particular religious belief, the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain. But the purposes underlying the Establishment Clause go much further than that. Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion. The history of governmentally established religion . . . showed that whenever government had allied with one particular form of religion, the inevitable result had been that it incurred the hatred, disrespect and even contempt of those who held contrary beliefs. That same history showed that many people had lost their respect for any religion that had relied upon the support of government to spread its faith. The Establishment Clause thus stands as one expression of principle on the part of the Founders of our Constitution that religion is too personal, to sacred, too holy, to permit its "unhallowed perversion by a civil magistrate."

Engel v. *Vitale*, 370 U.S. 421, 432; this last quote by Justice Black was from "Memorial and Remonstrance against Religious Assessments," II Writings of Madison, at 187.

Justice Black then again cited Madison's writings in stating:

Another purpose of the Establishment Clause rested upon an awareness of the historical fact that governmentally established religions and religious persecutions go hand in hand . . . It was in large part to get completely away from this sort of systematic religious persecution that the Founders brought into being our Nation, our Constitution, and our Bill of Rights with its prohibition against any governmental establishment of religion. The New York laws officially prescribing the Regent's prayer are inconsistent with both the purposes of the Establishment Clause and with the Establishment Clause itself.

Mr. Justice Black then rebutted the argument that applying the Constitution in such a way as to prohibit State law respecting an establishment of religious services in public schools indicates hostility toward religion or toward prayer. He pointed out that—

Men left the cross-currents of officially established state religions and religious persecution in Europe and came to this country filled with the hope that they could find a place in which they could pray when they pleased to the God of their faith in the language they chose.

The Justice gave as an example Roger Williams, one of the earliest exponents of the doctrine of separation of church and State. He pointed out that Williams believed separation was necessary in order to protect the church from the danger of destruction which he thought inevitably flowed from control by even the best-intentioned civil authorities, and that Williams thought it was no part of the business or competence of a civil magistrate to interfere in religious matters. Justice Black pointed out that—

"It was such men of this same faith in the power of prayer" who led the fight for adoption of our Constitution and of the Bill of Rights; and that "these men knew that the First Amendment, which tried to put an end to governmental control of religion and of prayer, was not written to destroy either," but that it was written "to quiet well-justified fears which nearly all felt arising out of an awareness that governments of the past had shackled men's tongues to make them speak only the religious thoughts that government wanted them to speak and to pray only to the God that government wanted them to pray to. It is neither sacrilegious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those people choose to look to for religious guidance. (*Engel* v. *Vitale*, at 421)

At least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day. Any child shall be excused from such Bible reading, or attending such Bible reading, upon the written request of his parent or guardian.

In the Abington Senior High School, the Bible reading or reading of Jewish Holy Scriptures was followed in the daily opening exercises by unison recitation of the Lord's Prayer. The Supreme Court held that both the exercise and the law requiring them violated the establishment clause of the first amendment. The majority opinion by Mr. Justice Clark reemphasized the first amendment's requirement that the Government maintain strict neutrality, quoting Judge Alphonso Taft—Superior Court of Cincinnati, February 1879—unreported opinion published in "The Bible in the Common Schools," Cincinnati: Robert Clarke & Co., 1870—who stated the ideal of the American people as to religious freedom is one of "absolute equality before the law of all religious opinions and sects, the government is neutral, and while protecting all, it prefers none, and it disparages none."

Justice Clark stated:

The wholesome "neutrality" of which this Court's cases speak thus stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious functions or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenents of one or all orthodoxies. This the Establishment Clause prohibits. And a further reason for neutrality is found in the Free Exercise clause, which recognizes the value of religious training, teaching and observance and, more particularly, the right of every person to freely choose his own course with reference thereto, free of any compulsion from the state.

Justice Clark rejected the argument that unless religious exercises are permitted a "religion of secularism" is established in the schools. He agreed that the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion, thus "preferring those who believe in no religion over those who do believe."—*Zorach* v. *Clauson*, 343 U.S. at 314. He found that the religious exercises in the Schempp and Curlett cases were required by the State and thus violated "the command of the first amendment that the Government maintain

strict neutrality, neither aiding nor opposing religion."

Justice Clark also rejected the argument that the Court's concept of neutrality, which prohibited a State from requiring a religious "exercise even with the consent of the majority of those affected, collides with the majority's right to free exercise of religion. While the free exercise clause clearly prohibits the use of State action to deny the rights of free exercise to anyone, it has never meant that a majority could use the machinery of the State to practice its beliefs.

Neither the Vitale nor Schempp case forbids any reference to God or religion in our schools or public institutions as some proponents of the prayer amendment now claim. In Vitale, the majority opinion states the first amendment requires that "each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those people choose to look to for religious guidance," and adds this footnote:

There is of course nothing in the decision reached here that is inconsistent with the fact that school children and others are officially encouraged to express love for our country by reciting historical documents such as the Declaration of Independence which contain references to the Deity or by singing officially espoused anthems which include the composer's professions of faith in a Supreme Being, or with the fact that there are many manifestations in our public life or belief in God. Such patriotic or ceremonial occasions bear no true resemblance to the unquestioned religious exercise that the State of New York has sponsored this instance. (*Engel* v. *Vitale*, 370 U.S. 421, 435 n. 21.)

The majority opinion in the Schempp case reinforced this view by stating:

It is true that religion has been closely identified with our history and government. As we said in *Engel* v. *Vitale*, 370 U.S. 421, 434 (1962).

"The history of men is inseparable from the history of religion. And . . . since the beginning of that history many people have devoutly believed that 'More things are wrought by prayer than this world dreams of.'"

In *Zorach* v. *Clausen* (343 U.S. 306, 313 (1952), we gave specific recognition to the proposition that:

(W)e are a religious people whose institutions presuppose a Supreme Being. . . . (Schempp, at 212.)

The fact that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself. This background is evidenced today in our public life through the continuance in our oaths of office from the Presidency to the Alderman of the final supplication "So help me God." Likewise each House of the Congress provides through its Chaplain an opening prayer, and the sessions of this Court are declared open by the crier in a short ceremony, the final phrase of which invokes the grace of God. Again, there are such manifestations in our military forces, where those of our citizens who are under the restrictions of military service wish to engage in voluntary worship . . . It can be truly said, therefore, that today, as in the beginning, our national life reflects a religious people who, in the words of Madison, are "earnestly praying, as . . . duty bound, that the Supreme Lawgiver of the Universe . . . guide them into every measure which may be worthy of his . . . choosing. . . ." Memorial and Remonstrance Against Religious Assessments, quoted in *Everson* v. *Board of Education*, 330 U.S. 1, 71–72 (1947). (Appendix to dissenting opinion of Rutledge, J.) (*Schempp*, at 213.)

The Schempp decision makes clear at page 225 that it in no sense has the effect of establishing a "religion of secularism" as follows:

In addition, it might well be said that one's education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as a part of a secular program of education, may not be effected consistent with the First Amendment.

However, the proponents of the prayer amendment seemingly give much less weight to the majority opinions than to the concurring opinions of Mr. Justice Douglas in the Vitale and Schempp cases. Apparently their reaction to his reasoning and their fear that his rationale might at some time be shared by the majority of the Court have provided the impetus for their drive to amend the Bill of Rights.

It is true that in his concurring opinion in *Engel* v. *Vitale* (370 U.S. 432), Mr. Justice Douglas alone expressed the view that any financing by the government at any level of a religious exercise would be an unconstitutional undertaking. He questioned the constitutionality of: chaplains for the armed services and for the Congress; religious services at Federal hospitals and prisons; compulsory chapel at the service academies; use of the Bible in administering oaths; issuance of religious proclamations by the President; veterans using the "G.I." educational assistance at denominational schools; providing school lunch benefits to students at private schools; providing Federal assistance for nonpublic hospitals; use of the slogan "In God We Trust" on currency; placing the words "under God" in the Pledge of Allegiance; tax exemptions and postal privileges for religious organizations; income tax and gift-estate tax deductions for contributions to religious organizations; opening the Supreme Court with the Marshall's utterance "God save the United States and this honorable court"; and community purchases of Christmas trees or decorations with tax moneys. Justice Douglas indicated his belief that each of these would be unconstitutional.

However, there has been no indication that any of the other Justices share these views of Mr. Justice Douglas. The Court's decisions since these two landmark decisions have not justified any fear that Justice Douglas' absolutist views may become the views of the majority of the Court. In fact, on November 23, 1964, the Court denied certiorari in the case of Lewis against Allen, thus leaving standing a New York Court of Appeals decision upholding a State requirement that public schools conduct ceremonies using the Pledge of Allegiance. (14 N.Y. 2d 867.)

All that the Court barred in *Engel* v. *Vitale* (370 U.S. 421) was Statc action to compose and prescribe a prayer to be recited daily at the opening of its public schools. *Abington School District* v. *Schempp* (374 U.S. 203) forbids a State or city to require the Bible to be read and the Lord's Prayer to be recited each day at the opening of its public schools.

It is Mr. Justice Douglas alone who has challenged the longstanding manifest actions in our public life of belief in God. The majority opinions and other concurring opinions in Vitale and Schempp and the decisions in subsequent cases disclaim any such challenge.

The Court majority has not prohibited voluntary praying by children in public schools "as the spirit moves them." There is no prohibition against teachers teaching this Nation's rich religious heritage, no prohibition against the Bible being used in connection with studies of history or literature, or of religious art being studied in art classes or religious music being sung or played in music classes. "God" has not been removed from our schools and other public institutions.

It is thus clear that the proposed amendment can be justified only on the questionable basis that it is essential to individual liberties and in the national interest to allow the State to prescribe and control religious exercises in the public schools, despite the prohibitions of the first amendment.

The historic neutrality of government toward religion stated in the "no establishment-free exercise" clauses of the first amendment have kept our national public life free from sectarian controversy. It has permitted the fullest latitude for the voluntary progression and practice of religious freedom. The proposed amendment's enactment might well mark the end of a period of relative religious peace, and signal a scramble for State approval by the various religious denominations, creating dissension and generating controversy.

Furthermore, the proposed amendment, if held to nullify the results of Vitale and Schempp, would seriously abridge the constitutional "free exercise" of religion, a fundamental personal right implicit in the concept of ordered liberty, civic equality, and personal dignity, and essential to our pluralistic and democratic society.

Mr. Speaker, for all the reasons stated, I urge my colleagues to vote against this well-meaning but misguided and dangerous proposal for constitutional amendment.

Mr. GRIFFIN. Mr. Speaker, I have given prayerful consideration to the proposed amendment to our Constitution before the House today.

I believe in prayer. I believe there is power in prayer. I believe God in Heaven hears the prayers of people who pray sincerely.

Because of my strong belief in the power of prayer, I have attempted to approach this subject from the standpoints of law, logic, and reason, rather than from religious conviction alone.

I have given a great deal of thought to

the proposition of why, when, where, and how people pray.

The amendment reads:

Nothing in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

This amendment dictates when, where, and how people pray.

The maxim of law, "Expressio unius est exclusio alterius" applied to all statutory and constitutional law.

Simply stated it means—What is not authorized is prohibited.

Mr. Speaker, I have concluded that the amendment would limit prayers in public buildings to "nondenominational" prayers.

The amendment before us would authorize nondenominational prayer in public buildings. As it does not specifically authorize denominational prayer, under the maxim, denominational prayer would be prohibited, in my opinion.

How will this amendment work in our daily life? Let me give a few examples.

Now, your pastor can offer any type of prayer at your bedside while you are in a public hospital. If this amendment passes, your pastor probably could only offer a "nondenominational" prayer.

Religious services, including prayer, are held in many public buildings including school buildings, courthouses, gymnasiums, football stadiums. In predominantly Christian communities, would prayer in the name of Jesus be allowed? If Jesus is mentioned, it would be denominational prayer.

Now, prayers are offered at school assembly periods, commencement exercises, and other functions meeting in school buildings. This amendment would prohibit any prayer which mentions God, Christ, Jehovah, or Mohammed. To do so would make it denominational.

On many college campuses there are religious organizations such as the Baptist Student Union, the Elder Statesmen, the Wesley Foundation, YMCA, and YWCA, all dedicated to the purpose of promoting Christian fellowship, implementing a spiritual ministry, and being a living witness to Christ as Lord. Prayer is a vital part of the life of these spiritual missions. If this amendment passes, they can only offer a rote, routine, meaningless composition of words on campus because it is publicly owned. There is no restriction now on their religious group meetings.

Denomination is defined in Webster's Abridged as "a religious organization uniting in a single legal and administrative body a number of local congregations."

Nondenominational must be defined as "not having a denominational character."

Since denominational characterizes a religious group, "nondenominational" would be without religion or a matter "nonreligious."

Prayer is usually defined as "a reverent petition made to a deity or other object of worship" and, thus, a religious act.

Therefore, in my opinion, there is no such thing as a nondenominational prayer. A group of words can be labeled "nondenominational." But, if it is "nondenominational," it is not prayer.

Why impose an alien, unknown, impersonal, nonreligious, meaningless prayer on anyone—much less school children?

Denominational prayer can be offered in school buildings now—as long as participation is voluntary. Teachers, because they are part of government, cannot compel attendance at prayer sessions, but parents can. This is as it should be.

What if the majority of a school board is composed of Black Muslims, and they write a "nondenominational" prayer which is forced on your child in school? Is that religious freedom? I think not.

Prayer is holy.

Prayer is sacred.

Prayer is personal.

A "nondenominational" prayer cannot meet these conditions.

The language in this proposal might well be called an "antireligious" constitutional amendment. It sanctions nonreligious prayer in schools and other public places. It prohibits sacred, holy, and personal prayer. It would negate our right to pray our own prayers.

Would the Supreme Court construe and extend the definition of public buildings to all publicly owned facilities? If so, the airways would come within the purview of the amendment. It would follow, then, that religious broadcasts over radio and television would be unconstitutional.

Would the Chaplain of the House of Representatives be prohibited from praying to God?

We obviously need a spiritual revival in America. We need more prayer. But the answer is not in a government-written prayer.

There should be more prayer in the home. There should be more church attendance by parents accompanying their children.

Prayer written and required by public officials should not be the substitute for prayer in the home and church.

America was settled by people seeking relief from government dictation and domination of religion. That relief is in the first amendment. We must maintain that heritage of religious freedom.

Because of the foregoing reasons, I must oppose this effort to tamper with freedom of religious thought and belief, because it authorizes the government to compel how, when and where people pray. I oppose House Joint Resolution 191, as introduced.

Mr. Speaker, one of the most illuminating editorials on this subject was in the October 28 issue of Capital Baptist. It follows:

LORD TEACH US TO PRAY

The disciples first made the request. Since then it has been the hunger of the man's soul that has cried out making the same request.

We have found prayer real because we have been a free people to offer our prayer to God in a manner that suits our need. That day is dangerously close to being gone in America.

There are those who are cutting away at that First Amendment of the Constitution that guarantees each of us religious freedom. It is being done in the context of wanting to make it possible for children to pray in the public school. Even after these many years they still will not hear correctly the decision of the Supreme Court. We will say it one more time—the Court ruled that it is not the proper function of government to tell people what to pray or even that they ought to pray.

Does it make sense to you for you to go to the local school board and say, "School Board, teach us now what we are to pray?"

The proposed amendment to the Constitution does just that. In most instances the local school boards will be the ones who will have to approve what children can pray and cannot pray. Did you ever think you would see that day in America?

Now take the process one step farther. School boards will, of course, turn to the so-called religious leaders in the community and say to them that they write the prayers—remember though that it has to be a nondenominational prayer. Will we not hold a religious census to see which denomination is to have the greatest influence writing the prayer. What if it turns out that the Black Muslims are the greatest in number and they determine that the prayers for all will be offered to their God? What will you do then? How would you like to see community after community across the land become divided over what the children will pray.

The proposed amendment doesn't just stop with public schools, but gets into this whole realm of public building and legal assembly.

What could well happen if the amendment becomes a part of the Constitution is that every Baptist institution or any institution of any other denomination that has received public funds can have their whole religious emphasis thrown out. Did you realize that with this proposed amendment a Baptist minister in a Baptist hospital can be forced to pray a nondenominational prayer—that a Catholic priest, a Jewish rabbi can be forced to do the same thing. Ridiculous! It certainly is, but this is the way we are going right now.

It's time for us to wake up. The greatest danger to religious freedom in many decades is right on top of us.

Mr. TALCOTT. Mr. Speaker, my time is limited, so my points will be abridged.

I wish this prayer amendment had not been called up—it is unnecessarily dividing sincere and devoted men who have a common cause. I trust that after the vote we will be able to reconcile our differences and reunite in our quest for religion and religious freedom.

I wish that this proposed amendment had not been called up by the "discharge" procedure—because when we discharged the Committee on the Judiciary we dismissed our best legal talent. As usually occurs in such instances, the lay draftsmanship is admittedly defective. Yet, the discharge procedure precludes satisfactory consideration of amendments. We need the best legal talent and collective judgment available, particularly when proposing to amend the Constitution. We handicap ourselves and impair the legislation when we resort to the "discharge procedure."

More importantly, however, we should deliberate this amendment with a clear perspective; and, as professional legislators, we should set aside the feverish emotionalism which this issue has generated by proponents and opponents alike.

I believe in God—a vital God. I believe in prayer and I pray. I am proud of and grateful for our unique religious heritage and the important part religion has played in the development of our

Nation and our society. I want to preserve this for myself and all other citizens of our pluralistic Nation.

I believe our Constitution, together with the original Bill of Rights, is an inspired document. It is truly the handiwork of God working through man. We should be exceedingly chary and thoughtful when we tamper with it.

I am convinced that I now have the right to pray however I wish, whenever I wish and wherever I wish so long as I do not interfere with others. I am convinced that I can pray in public buildings, including schools. I believe all students and faculty can do so also. I believe this is an inalienable right which the Constitution, the first amendment and most of the courts still guarantee.

The first amendment declares:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . .

So I am satisfied that the separation of church and state, the clear prohibition of the establishment of religion, the freedom of religious expression and the right to voluntary prayer are guaranteed by our Constitution. The whole problem and controversy developed due to inaccurate reporting and a misrepresentation by the secular news media of the Engle against Vitale decision of the Supreme Court of 1962. The decision was widely reported as "banning prayer in public schools." This was an incorrect, even false, interpretation. However, the erroneous reports were believed by many school officials, students, parents, and church leaders and at least two lower courts. This misunderstanding grew and festered because it was difficult for a few religious writers and lawyers, let alone students and laymen, to rebutt, refute or clarify the widely publicized, yet incorrect, secular interpretation of the Supreme Court decision.

It was easy in those days to assume that the Supreme Court decision was bad. The media was generally unqualified to interpret and report an event of deep religious significance. A significant portion of the misreporting of the holding of the Supreme Court was a deliberate effort to polarize and divide the religious segment of our society which had always been a bulwark of the establishment. There was also a conscious effort to demean the Court by pitting churches and solid religious citizens against the Court. All of this is regrettable.

Perhaps several fringe benefits of this current controversy, and the related debate raging in and out of the Congress, will be the clarification of the Court's decisions, a new understanding of our precious right to pray voluntarily, and an appreciation of the vigilance necessary to safeguard our many freedoms of religious expression.

We should remember, correctly, that the U.S Supreme Court in the case of Engel against Vitale in 1962, held that a "prayer" prescribed by the board of regents which schoolchildren were required to recite daily in class was a violation of our Constitution.

The Court was not against God, religion or prayer. The Court did not ban prayer in school or elsewhere. The Court simply banned mandatory participation in officially prescribed classroom "prayers."

Official mandatory "prayers" for students violate the first amendment as well as offend the concept of prayer as a personal, voluntary, intimate communication with one's God. A "prayer" composed by a school board could be coercive, embarrassing or meaningless to most students—all of which vitiates genuine prayer. The Supreme Court was right in this case. The Supreme Court has not prohibited prayer in schools.

There is confusion about what the Supreme Court has said and what it has not said:

The Court did not take "In God We Trust" off our currency. It did not take "under God" out of the Pledge of Allegiance. It did not remove chaplains from the armed services. It did not prohibit use of the Bible as part of courses in comparative religion or literature. It did not forbid occasional prayers or Bible-reading by teachers and pupils on a voluntary, nonofficial basis. And obviously it did not outlaw silent prayers or acts of devotion by anyone at any time or place, public or private.

As a lawyer I do not believe any such decisions will follow. As a Congressman I would oppose them if they were rendered. The issues now before us are entirely separate.

Many proponents of the "nondenominational prayer resolution" admit the correctness of the Supreme Court decision, but, nevertheless, advocate enactment of the amendment to clarify the misunderstandings which have developed concerning it. I suggest that there are much better ways in which to inform or educate interested citizens concerning the right of voluntary prayer in school than by an ambiguous or coercive amendment of the Constitution. The "amendment effort" should have been an "educational effort."

Some proponents admit that legally and constitutionally the "nondenominational" resolution is not necessary and probably could not be implemented—but that the popular political pressures are so strong "for prayer in the schools" that they would prefer to vote for the amendment than to explain why they did not.

Some fear that their "no" vote on the resolution would be incorrectly construed as a vote against prayer, and, therefore, afortiori, against church, religion and morality—even God. This rationale is, of course, outrageous. I have heard of no Member of this Congress who is against voluntary prayer.

Not only do I not want school or Government officials to concoct what they believe to be a nondenominational prayer for school use, I do not even want the clergy to compose a denominational prayer for me or students to recite by rote. Students and I should have the right to pray our own prayers without the mandate of any other person.

Prayer for me, and for students, ought to be a personal, intimate, and genuine communication with God. A "nondenominational" petition composed or edited by a governmental official or committee would vitiate the essence of prayer. The Government should not establish a prayer any more than it should establish a religion. Prayer must be a voluntary, free expression—even though expressed in a public building by students or faculty. But nondenominational is not voluntary and voluntary is not mentioned in the resolution. It appears that nondenominational was intentionally used to enable Government to sanction, censor, or somehow limit prayers, particularly of children, in public buildings. This would degrade prayer, limit our freedom of religious expression, and allow unacceptable control of prayer and religion by the Government. Nondenominational prayers would do more to degrade, rather than exalt, religion and a true religious experience.

Government should not establish religion or supervise the composition of prayer. Neither should Government limit or restrict religion nor dilute or homogenize prayer.

No one can compose a nondenominational prayer. No one can tell us now what a nondenominational prayer looks like.

The first amendment not only prohibits the establishment of religion; it protects the free exercise of religion. Neither the prohibition nor the protection should be vitiated or diluted. The Government should neither establish a prayer—denominational or nondenominational—nor limit a prayer to an official prayer. The proposed nondenominational resolution does both and, therefore, to a degree, vitiates both clauses of the first amendment that have served us so well for so long. The nondenominational resolution invades and limits our present constitutional rights rather than expands or confers additional rights.

The organized church is in trouble today. I am concerned, even worried, about the degradation of our moral standards and the decline in religion. But when the parent and church fails, government should not always try to fill the void especially when it has no expertise and is so pluralistic and denominational that it is unable to concoct a "nondenominational" or "corporate" prayer.

If a prayer is nondenominational, or satisfactorily corporate or universal to meet the definition of the word, it is certain to be so bland or meaningless that it will deprive the child of a genuine religious experience and lull the child, parent, church and community into a false belief that the child is being exposed to a beneficial experience.

Unfortunately the public believes the courts have prohibited even voluntary prayer in schools. The district court of New Jersey in the Netcong case actually held that voluntary prayer by the students was unconstitutional under the Engle against Vitale case. The lower court is probably wrong, but its decision has added to the confusion.

I believe that the House was correct in amending the original Wylie resolution. The "nondenominational" phrase was stricken and "voluntary prayer and meditation" was inserted in its place. With this change the resolution satisfies my objections.

It is difficult for me to object to prayer

in public buildings which is entirely voluntary. Some fear voluntary prayers by students; I do not.

If children cannot pray voluntarily in school buildings then no one else could participate in prayers in public buildings.

Actually the amended resolution is not likely to pass by the necessary two-thirds vote to give the state legislatures an opportunity to vote on this issue. But the vote will serve as a "sense of the Congress resolution" that the House of Representatives approves of preserving the right of voluntary prayer and meditation in schools like it has been for 171 years.

While I opposed the original form of the "nondenominational" resolution, I support the "voluntary prayer and meditation" resolution as amended.

Mr. MONAGAN. Mr. Speaker, I support the resolution which proposes an amendment to the Constitution to make prayer permissible in public buildings.

The majority of my constituents who have communicated with me have supported the resolution by a margin of over 100 to 1 and I believe that democratic procedure requires that it be submitted to the States in the form of a national referendum.

The resolution simply makes it permissible to offer prayer in a public building without reprisal based upon constitutional claims.

This is a custom which has prevailed since the beginning of the Republic and it is worthy of formal sanction. It is difficult to understand the opposition to a modest acknowledgment of omnipotence as one sets about his daily tasks.

It is obvious that the ultimate acceptance of this amendment will not bring about the destruction of the Republic, nor will it speed millions or even thousands down the trail to salvation. After all, we have a daily prayer in both Houses of the Congress without perceptible effect upon the Members, either for good or for ill. Nevertheless, the termination of a longstanding custom seems to me to have been unnecessary.

I felt that the Supreme Court in its prayer cases overemphasized the menace to human liberties and miscalculated the threat of an establishment of religion. In short, this did not appear to be the type of invasion of rights against which the protection of the Constitution was erected.

It should be emphasized that the adoption today of this resolution would not amend the Constitution, nor would it compel any group to institute or conduct prayers of any type or denomination. It proposes to place before the legislatures of the 50 States the question as to whether longstanding customs in our public life should not be validated if it is the wish of the people to continue them. I believe that we should follow this procedure.

Mr. PEYSER. Mr. Speaker, I have been deeply concerned over the proposed "prayer amendment." I have spent many hours reading, thinking, and praying for guidance in reaching a decision on this matter. I signed the discharge petition to bring this matter to the floor of the House of Representatives in order that it could be debated publicly and not remain locked up in committee. I personally see no reason that a group of young people cannot gather together voluntarily in a school or any public building and pray together or discuss religious thoughts they may have—nor do I see anything in the Constitution of the United States that prohibits this kind of action. I guarantee that if any attempts are made to limit the freedom to pray in my congressional district, I will personally join the fight to make it possible for people to gather together for this purpose.

However, I feel, as do the leaders of every organized religion who I have been in contact with who represent the overwhelming majority of the people in my district, that we do not want the State to dictate the type of prayers that we and our children must say.

I have long been active in the Episcopal Church as a vestryman and as superintendent of the church school. I have talked with people of the Catholic, Protestant, Jewish faiths, and people of other persuasions and have found very few who want their children to be exposed to a State prayer. This type of action is similar to the steps taken by the Communist Party in the Soviet Union to control the innermost lives of their people and particularly their children.

It is for these reasons, coupled with a love for this great country of ours and a love of the freedom which our Constitution and particularly the Bill of Rights have given all of us, that I have voted against this misleading amendment.

Mr. BRASCO. Mr. Speaker, we have before us an amendment that would allow prayer of one sort or another in a series of public institutions. It would affect in particular our public schools.

Prayer is an integral, vital portion of my own personal life, and I want to emphasize that if this were simply a decision for or against prayer, my vote would be an easy one to cast. I was one of those Member who signed the discharge petition that allowed this measure to be brought here to the floor of the House so it could be voted on. It was my feeling then and is my feeling now that we should air it and vote it up or down on its merits.

After careful consideration, I shall oppose the amendment for a variety of reasons. The wording of the amendment appears to be very simple in that it would allow voluntary prayer in public institutions. However, let's take a closer look.

Think for a moment about what the word "voluntary" means to a small child in any school in the Nation. Does that child ever have a choice? Never. If any activity is termed "voluntary," the child must participate. The social pressure from his peers and adults monitoring that activity will eventually require his participation. So it is easy to see that if "voluntary" prayer is legalized in public schools, it will be mandatory in fact.

Next we come to the question of what kind of prayer it would be. No matter how we seek to evade such an appellation, in some way or another the prayer will have to be denominational in some manner. Although some might optimistically hope to devise a nondenominational prayer, this would inevitably offend me or several or even many of the various religious denominations that make up America's religious community. In truth, it is absolutely impossible to devise a prayer that would be suitable in terms of conscience to all the hundreds of diverse religious groups in the Nation.

Who would devise such a prayer? Will it be the local, county, State or other board of education? Will it be the Board of Regents? Will it be the Governor? Where do the religous leaders come in? Do they come in at all? Surely people whose children will be uttering the words will want their religious leaders to aid in devising the wording.

What happens in some area of the Nation or State if one group is predominant in numbers and seeks to impose its version of a prayer upon the minority who would find it unsatisfactory? However well intentioned this amendment is, it is the beginning of an invasion of the privacy of prayer, which properly takes place in the home and house of worship.

We cannot legislate morality. In the process we would do violence to the sacred principles enshrined in our Bill of Rights, which so far in our history has protected all of us in enjoyment of religious and other freedoms.

America is composed today of thousands of various groups of citizens whose origins are mainly in the old world of Europe. It is well to point out that these groups more often than not spent the better part of a thousand years in that old world tearing one another to pieces, usually in the name of religious practice. This has never, however, transpired here. Why? Because Government has never favored one religious group over another. All have been equal, free to set up their houses of worship as they saw fit. Religious freedom has flourished and no one has been able to go to the National Government and demand favoritism for one prayer at the expense of any other prayer. Enactment of this amendment would set the stage for just that.

The Founding Fathers of this Nation knew well what favoritism has done in the old world, which was precisely why they deliberately sought to evade its repitition in the Constitution. The wall of separation between church and State was their favored creation and it has worked well.

If we create a particular prayer for the schools, we set a precedent, allowing government to intervene at some future date to set up any prayer of its choice—not just in public schools. It could intervene in private schools or in the house of worship themselves.

And if freedom of religion could be tampered with, what about freedom of speech, privilege against self-incrimination and requirements for a fair trial? Dare we set a price upon inalienable rights?

Because we have religious and cultural pluralism in America we have survived and grown strong. If we give in on this today, we shall break down the barriers that have sheltered us and turned our diversity into an asset.

Religion belongs in the home and house of worship. Recitation of any prayer will not do any good at all if previous training has not taken hold in a child. Prayer in the schoolroom will divide it into different religious groups, each vying for preeminence. The courts would bulge with lawsuits brought by outraged parents.

I have sought a variety of advice from leaders of all religious denominations. Bishop Joseph L. Bernardin, for one, of the U.S. Catholic Conference, which is on record in opposition to this amendment, states the case succinctly. He said:

> I wish to emphasize that the conference is not opposed to the concept of prayer in public buildings nor unconcerned about the vitally important matter of meeting the religious needs of children who attend public schools. Our opposition to this amendment is based on the conviction that it would accomplish nothing on behalf of the goals it purports to serve and would represent a threat to the existing legality of denominational prayer . . .
>
> The subtle implication of the admendment, therefore, is that . . . prayer in public buildings is unconstitutional. This is contrary to present law. Denominational prayers are used in many public ceremonies, and in many parts of the country public buildings are rented by churches for denominational services. The proposed amendment could only serve to threaten the existing practice and worsen the present situation.
>
> Moreover, the amendment cannot be justified as a "school prayer" amendment. The amendment does not say anything about state sponsorship of prayer in public schools as part of the regular school day. Yet this was the very thing the Supreme Court found unconstitutional in the School Prayer cases.
>
> Passage of the amendment might lead many to think that something serious has been done about the problem of religious education of public school children. In fact, nothing of any moment would have been achieved.

I am certain that everyone involved in this issue has acted in good faith. I wish to assure all those I have the honor to represent that my vote represents a vote for religious liberty and for prayer. The government has its hand into enough areas already. Let us insure that it will stay out of our individual religious faiths and houses of worship. I do not wish to see any interference at any future time on the part of Government in my religious life or that of any American. For that reason, we must prevent Government from getting its foot in the door. Let America remain free in a religious sense for all, secure in the timeless guarantees of the Bill of Rights. That, after all, is what it is all about, is not it?

Mr. QUIE. Mr. Speaker, I strongly oppose House Joint Resolution 191, proposing to amend the Constitution of the United States with respect to the offering of prayer in public buildings as it is presently written. Undoubtedly, some clarification will be necessary to determine the exact meaning of "assembled," "public buildings," and "public funds," but this is not, in my estimation, insurmountable.

My strong opposition to the amendment is over the word nondenominational. I believe prayer is a person's communication with God and if it means anything, he ought to pray as he has learned to do so, not in some manner which a majority of the people in his community, the State, or the Court has determined to be "nondenominational."

To give you an idea to the contrary, most people would think that the prayer, "God is great, God is good, and we thank Him for our food, Amen," would be nondenominational; however, if one is of the Islam religion, he would, in praying such a prayer, use the wording, "Allah is good, Allah is great, and we thank Him for our food, Amen."

Many people would think such a prayer is certainly denominational. I pray as a Christian in a way that would surely be determined denominational and so do my children. If a constitutional amendment is going to protect the rights of people to pray, it certainly ought to protect their right to pray as they believe.

I do not see where a nondenominational prayer would do much good other than in the way that any other recitation would affect students.

The Supreme Court has held that required prayer or prescribed prayer in public school is prohibited by the Constitution. I agree, and feel that official or governmental prescribing of prayer would be unwise.

From the American Law Division of the Library of Congress, I obtained this information:

> Taking the *Engel* and *Abington* cases together, they proclaim that a state or its instrumentality cannot institutionalize or sanction any form of religious exercise in the public schools, notwithstanding the fact that students might have the option to refrain from participating.

I disagree with the lower courts which have consistently held that formal action by school authorities in providing for a prayer program in public schools, even though voluntary, cannot be constitutionally justified on the basis that students are not coerced into attending the program.

The American Law Division also indicates what Engel and Abington did not decide: first, they did not determine whether a religious exercise resulting from a spontaneous expression on the part of the students, without any overt encouragement from the State, would violate the establishment clause, and second; they did not affect the right of school districts to hold nonreligious activity on the school premises. The study of the Bible as literature in the public schools, for example, would be untouched by the establishment clause.

During this debate, no one seems to have a clear idea of what "nondenominational" prayer really is and those who attempt to explain it do not find much agreement among our colleagues. If this constitutional amendment were adopted, who is to determine what is nondenominational and what version of the prayer will be used. If one presupposes that the constitutional amendment would reverse all Supreme Court decisions, then, of course, the State would prescribe nondenominational prayer and that would surely be offensive to me and I think to most of you. Surely, the word "nondenominational" in all its connotations would lead to a political divisiveness over prayer that was sought to be prevented by our Founding Fathers and it certainly would not be satisfactory to any organized religious group.

I understand that an amendment will probably be offered to strike the word "nondenominational" and insert in lieu thereof "voluntary." This I would strongly support.

Mrs. GRASSO. Mr. Speaker, I favor prayer. It is, to me, strength and comfort—an important part of my daily life.

I believe that each person must be guaranteed the right to pray to the God of his choice and in the way he chooses. It is because I believe in prayer that I oppose House Joint Resolution 191 in its original form and as revised by amendment.

House Joint Resolution 191 in its final version after too limited debate provided:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer or meditation.

This proposed constitutional amendment, despite its apparent dilution, presents a threat to the very religious liberties it professes to preserve. Its wording is still open to a variety of misconceptions and possible misinterpretations, as indicated in the too brief debate in the House today.

The supporters of House Joint Resolution 191 claim that separation of church and state would not be violated by the enactment of this amendment. Yet, it would still be the responsibility of legislatures, school boards, and courts to define the format of voluntary prayer, despite all protestations to the contrary.

Supporters claim there would be no coercion against those who do not want to participate in this so-called voluntary prayer. However, noncoercion may take subtle form in this hastily conceived and insufficiently developed substitute.

Clearly, legitimate questions can be raised about the language of this amendment—about what is vague and left unsaid by this crucial undefined phrase.

What is a so-called voluntary prayer? Can a prayer be voluntary with respect to all the religions people in our Nation practice? After all, over 80 religious sects in this country have more than 50,000 members each. Prayer that one group considers to be acceptable might well run counter to the religion and ethics of another.

I believe that passage of House Joint Resolution 191 as now amended could result in significant restrictions on the religious freedom guaranteed by the Constitution.

My objection to the original amendment was that, by specifically allowing so-called nondenominational prayer in public buildings, House Joint Resolution 191 could have had the effect of precluding denominational prayer where it is now permitted in public buildings. At the present time we have in many parts of the country, and in my own State of Connecticut, denominational prayer and services in public places which this amendment could have jeopardized. For this amendment did not explicitly guarantee denominational prayer in public places where it is now allowed.

In many areas of the country, certain religious groups lack their own facilities for meetings. Under present law, they can

legally use or rent public facilities for services. By guaranteeing so-called nondenominational prayer alone, House Joint Resolution 191 could have prevented this action in the future.

The drafting of legislation with regard to the exercise of religious freedom and the basic rights of our Constitution deserve the most careful and thoughtful consideration. It is regrettable that in a matter of this importance the vote was determined by haphazard legislation written on the floor of the House without full consideration of acceptable alternatives.

Mr. PREYER of North Carolina. Mr. Speaker, this is one of the hardest decisions I have had to face in Congress. I strongly believe in our American religious heritage and believe no education is complete unless this heritage is a part of it. I profoundly sympathize with the desire of the sponsors of this amendment to do something to strengthen the moral and spiritual underpinnings of this country in an increasingly permissive society.

Why, then, should we not all support an amendment which has so worthy an aim? Why, the average citizen might wonder, are so many people who revere religion—like the Southern and American Baptist Conventions, the Lutheran Church, and the United Methodist Church—so strongly against it? All of us want to promote public morality and the study of religion and the Bible in our schools.

One reason these religious groups are against the prayer amendment is the fear that it will lead to political disputes on religious matters. By placing the responsibility on an arm of government, the local school board, to determine what kind of prayer should be used and what not, we invite religious strife. What would happen in a local school board election, for example, where a community is sharply divided along religious lines? And religious strife will continue to be fueled by cases before Federal courts to determine whether a particular prayer is "nondenominational" or "voluntary." Such disputes will be demeaning to religion rather than revitalizing.

Another reason that deeply religious people are against it is the fear that the strict separation of church and state in this country will be endangered. A firm principle in our Constitution is that no official, high or low, can prescribe what shall be orthodox in religion. Religious faith is a private and personal matter, and no one—including school board officials—shall tell us how to practice it.

No arm of government shall tell us how to pray. It is not a question of lack of faith in religion as a guiding star in our national life but of lack of faith in government to tell us how to practice religion. Government does not belong in this private, personal, and spiritual realm.

Finally, many of us are concerned that the adoption of this amendment would be the first time that our Bill of Rights has ever been amended and narrowed in its operation. The Bill of Rights is the one unique American contribution to the art of government. It is the engine and driving force of our government. To begin to amend the Bill of Rights will establish a precedent which may prove too easy to follow in the future. To pass this amendment would be to take a first experiment with our liberties, a grave responsibility. Certainly it would be most unwise to tamper with the Bill of Rights for the first time in our history simply to clarify the misunderstandings about the meaning of the Court's prayer decision. Passing a meaningless amendment which only spells out existing law would be a dangerous gesture.

Few issues have so confused the American people or their representatives.

This is not a vote on whether voluntary prayer or Bible reading is allowed in our schools. Existing rulings allow both.

This is not a vote on whether people may voluntarily pray in public places. They may already and they do, as most of us who attend public meetings know.

This is a vote on whether government may tell you what kind of prayer to pray and the language of this amendment would restrict far more than any court decision. For instance, some of the proposed language would forbid the mention of Jesus Christ in public prayer.

A vote against this amendment is not a vote against religion but is done out of devotion to our Constitutional heritage which includes the guarantee of total religious freedom.

No man should tell another that he cannot pray—anywhere; but no man should tell another how to pray—ever.

Mr. HAMILTON. Mr. Speaker, I oppose the prayer amendment for several reasons:

First. Hasty procedure:

The House of Representatives should not amend the Bill of Rights for the first time in the Nation's history with no consideration of the amendment by a committee and with only a scanty 2 hours of debate. This amendment has protected religious liberty and basic religious freedoms for 2 centuries. It should not be amended without profound and deliberate consideration.

Second. Unclear meaning:

The meaning of the amendment is not clear. Although I am not entirely happy with the Supreme Court's decisions of 1962 and 1963 against State-sponsored prayer and devotional Bible reading in public schools, I believe it is wiser for our Nation to accept the decisions than approve a vague and imprecise amendment. We should not approve an amendment to the Bill of Rights unless we are very certain what the amendment means.

The proposed amendment raises many questions, among them: what is "nondenominational" prayer? Who determines whether a specific prayer is nondenominational? How does the amendment change present law? If the amendment is adopted, can a denomination prayer be given in a public place?

The purpose of the proposed amendment is also vague. The law today permits a person to participate in prayer, denominational or nondenominational, in a public place, but it does not permit governmental officials, including teachers, to sponsor a prayer.

The proposed amendment does not deal with the question of who sponsors the prayer, which was the question in the Supreme Court cases. It may be that the amendment changes nothing, although the primary sponsors of the amendment claim that it would permit nondenominational prayer in the schools. The point is that the proposed amendment does not directly deal with the law as expressed in the Court prayer cases, and its impact is uncertain.

As Americans, we are already guaranteed the right to participate in prayer, nondenominational or denominational, in buildings, public or private, and whether or not lawfully assembled. These rights are guaranteed to us by the first amendment. By permitting only a certain kind of prayer, the proposed amendment might actually lessen our religious liberty rather than broaden it.

Third. Amendment erodes separation of church and state:

The amendment would erode the fundamental separation between church and state and would lead to political disputes on religious matters. This was one of the basic problems that the Founding Fathers sought to avoid. The proposed amendment would subject prayer to Government sponsorship and regulation.

The sponsors of the amendment acknowledge that whether a particular prayer is "nondenominational" must be determined initially by school boards and finally by a court. Religious authorities have been unable to agree on the definition of prayer, let alone the definition of "nondenominational" prayer. If they cannot, there is little reason to believe that school boards or State officials could. The power to decide what prayer is to be used could cause sharp divisions within our educational systems, as different groups would contend to have their prayer approved by the school authorities.

Any prayer would show favoritism to some group and I can imagine religious groups lobbying local officials to have their nondenominational prayer chosen as the one to be used in a local school.

This amendment could become a first step toward government involvement in religion.

Fourth, Impressive opposition:

I am impressed that a broad spectrum of religious groups, educators and constitutional authorities oppose the prayer amendment.

Most of the major religious bodies in the United States oppose it, including:

The United Methodist Church.
The Protestant-Episcopal Church.
The United Presbyterian Church.
The Lutheran Church.
Missouri Synod.
The American Lutheran Church.
The Lutheran Church in America.
The National Council of Churches.
The Southern Baptist Convention.
The American Baptist Convention.
The United Church of Christ.
The Church of the Brethren.
The Joint Advisory Committee of the Synagogue Council of America and the National Jewish Relations Advisory Council (which include all the major Jewish secular and religious bodies).
The United States Catholic Conference (the national action agency of Roman Catholic bishops).

A long list of 343 lawyers, constitutional law professors, and law school deans from 60 schools of law have opposed the amendment.

Fifth. Amendment might weaken religion:

The amendment might weaken, not strengthen, religion. Even assuming that a nondenominational prayer can be composed, and disregarding the question of who should compose it, I wonder whether it is possible to have a "nondenominational" prayer. By its very nature, religion is intensely personal and denominational. If a nondenominational prayer can be found, it will reduce religion to the lowest common denominator, and I am afraid it will not be a very effective religion. The proponents of the amendment argue that prayer in the schools will promote public morality, honesty, and decency. I question the effect of such nondenominational school prayer in public morality. The real places to bring religious influences to an individual are the home and the church, not the public school.

Sixth. Substitute language does not solve problems:

During the debate on the amendment, the word "voluntary" was substituted for the term "nondenominational" in the language of the measure. Although the change improved the amendment, it did not remove the basic objections. The sudden change in language also suggests how hastily the proponents of the amendment acted. The Congress ought not to alter language that has stood 200 years of testing within a few minutes and during heated debate on the floor of the House.

The impact of the new language remained unclear. What is "voluntary" prayer? Who decides whether a specific prayer is voluntary? How does it change present law?

While supporters of the new language argued that no school official could compose or prescribe a prayer, it was never stated just what the meaning and impact of the word "voluntary" was, and how this amendment would work. The supporters rejected an attempt to alter the language to read that no school official could draft the prayer that would be used, raising doubt about the role of school officials in sponsoring voluntary prayer.

Some supervision and coordination by the teacher, or other public official, would be involved under the amendment, and it would constitute sponsorship of religion by the State. The mere fact that a classroom is furnished and a prayer period is designated make clear that the State sponsors the activity and raises serious constitutional questions of separation of church and State. Truly voluntary prayer, without the "compulsion" of children in school under the supervision of teachers, is already permitted. The sponsors want prayer under the controlled circumstances of the school.

Moreover, the amendment is unnecessary since voluntary prayers that are the private prayers of an individual or group prayers of students not meeting under government sponsorship are already permitted.

There are other obstacles to the use of the word "voluntary," including:

First. Striking the word "nondenominational" from the amendment and substituting "voluntary" means that any voluntary prayer could be denominational, thus allowing the public school to become the forum for denominational instruction and prayer.

Second. No prayer can really be voluntary when school attendance is compulsory and when pressure from schoolfriends makes it hard for a child to refuse to participate.

Third. Under the changed amendment the same opportunity is present for a majority to impose their will upon a minority.

The Constitution permits every American to choose his form of worship and prohibits any religious exercise composed or imposed by the government. We should not tamper with these vital rights after only 2 hours of debate, when the proponents of change decide midway in the debate to alter their own language, and when no proponent really attempted to spell out what was meant by the word "voluntary."

For an uncertain gain—the recitation by school children of nondenominational or voluntary prayers by rote—the risks are great of disrupting freedom to worship or not, as a person chooses, and upsetting the separation of church and state.

THE LAW TODAY

Much of the support for the amendment arises because of the failure to understand the status of the law today.

The law today, without the amendment, does not bar prayer and Bible reading from the public classroom. It does not prohibit school children from praying in school. It does not ban voluntary prayers if they are private prayers of an individual or group prayers of students meeting on their own time and of their own volition. But, if the prayers are part of an official classroom exercise, conducted by a teacher, they are not permitted.

It does prohibit government from writing their prayers and sponsoring their devotions. The law does not put God out of the school or out of public life in America. It does not eliminate all religious expressions from public life.

The law today allows the use of the Bible and the study of it for literary and historic qualities, the study of religion and its role in advancing civilization, instruction in comparative religion, recitation of historic materials containing references to God, singing patriotic hymns, and references to God in mottos and in ceremonial occasions.

CONCLUSION

Finally, I want to make clear my appreciation of the motivations of those who favor this amendment. They are good, devout people, and many of them are my good friends. It gives me no joy to oppose an amendment they fervently support. I share many feelings with them, including a concern about the need for strong religious and moral principles in the life of this Nation. With them, I believe that the people need these principles to make this Nation work, and without them, ordered liberty has no chance and free government cannot survive. But I do not believe these concerns are met by the proposed constitutional amendment. A perfunctory exercise in the classroom is not the substance of religion or morality, and the adoption of an imprecise, hastily considered amendment with great potential for mischief is not the path toward a strengthening of religious and moral life of the Nation.

Mr. THOMPSON of New Jersey. Mr. Speaker, I oppose House Joint Resolution 191, the so-called school prayer amendment. This amendment would drastically alter the substance of the religious freedom guaranteed by the first amendment to our Constitution, an amendment which has served us well for 180 years, and which was intended to prevent a repetition of the bitter experiences of our Founding Fathers with State-sponsored religion. In our consideration of this serious issue we should heed the warning of James Madison, author of the first amendment, who wrote:

It is proper to take alarm at the first experiment on our liberties . . .

For one, I am alarmed at the experiment proposed by House Joint Resolution 191, and I will state some of my reasons.

Initially, it would be well for all of us here to ask what this resolution is intended to do. We have all heard proponents of the resolution assert that its passage will "put religion back into the public schools." I say that religion does not belong in the public schools, but in our churches. We also hear supporters claim this resolution will stimulate religion. But this claim is contradicted by the position of our Nation's major religious organizations and denominations, which oppose this resolution.

But House Joint Resolution 191 is not merely a well-intentioned measure which does not achieve a desirable end. It is a dangerous proposal which will require active Government intrusion into religious doctrines and practices.

The resolution purports to protect the right of lawfully assembled persons in public buildings to participate in "nondenominational prayer." We are not told what constitutes "prayer," much less what constitutes "nondenominational" prayer. By using these terms, the resolution will require Government action which will be an insult to those who believe that religion is too personal and sacred a subject to permit any Government intrusion into its substance. By validating only "nondenominational" prayer the resolution will entail decisions by State officials as to whether a given prayer is or is not "nondenominational." This will likely mean that some arm of Government will attempt to compose a suitable "nondenominational" prayer for use in the schools. I will frankly say I never expected to be in an apparent minority in my firm conviction that it is no business of the Government to compose or pass upon the propriety of a prayer which American citizens will be required to recite as part of a religious program sponsored by the State in its

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schools. The purpose of the first amendment's guarantees of religious freedom was to prohibit such Government interference and control over the religious life of our citizens.

Mr. Speaker, some say it is smart politics to be for prayer. But to be for prayer does not mean that one must be for this resolution. Meaningful religious experiences and training must originate with the individual, his home, and his church. In my view, it borders on the hypocritical to suggest that a child's rote recitation of a prayer composed or approved by a Government official promotes religion.

I will refuse to vote to grant to the State the right to exercise any control over the religion of our citizens. I ask my colleagues to join me in voting against House Joint Resolution 191.

Mr. SYMINGTON. Mr. Speaker, for the first 59 minutes of this "controlled" debate we wrestled with the ambiguities inherent in the concept of "nondenominational" prayer. It must have been 59 minutes usefully spent because it caused the proponents of that language, who had brought to the floor ironclad pledges to support it, to abandon it, rather lightly I thought, in favor of a quite different proposal "voluntary prayer and meditation."

The some 400 or more of us present were then allocated another 60 full minutes to exchange views on the consequences of adopting the substitute. One or two additional and possibly meritorious amendments to the Bills of Rights were openly suggested during the course of that hour. These and other sudden inspirations were busily inscribed on scratch paper and handed around for comment. Not that a mighty and enduring amendment to the Constitution cannot first appear on scratch paper or a last minute marginal note, but some degree of reflection and conversation throughout the country should precede its being chiselled into the marble of our organic law.

The House in a display of self-discipline did confine its attention to the two major alternatives before it, the original and the annotated version. Defending the former—"nondenominational"—my friend the gentleman from Ohio (Mr. WYLIE) had already offered clerical reassurance about its likely construction. He had done so by invoking the guidance of a rabbi—CONGRESSIONAL RECORD 38667, November 1, 1971—who said it would allow for mention of our "Creator and Master of the Universe," a Baptist clergyman—CONGRESSIONAL RECORD 38635, November 1, 1971—who said it would permit mention of "Our Lord," meaning "Jesus Christ," and his own institution—CONGRESSIONAL RECORD 38694, November 2, 1971—that differing religions could—

> Take turns in offering a prayer of their respective religions. Considering the matter in its totality, the overall character of such a policy would be nondenominational.

Members who saw no inconsistency in the above interpretations were understandably reluctant to consider abandoning "nondenominational" in favor of the late entry, "voluntary prayer and meditation." Yet the latter prevailed. Why? Perhaps some were relieved to be able to express lingering doubts as to the precise meaning of "nondenominational"; others may have deemed "voluntary prayer and meditation" either "harmless" or a mere restatement of the law as it already exists. Yet while the precise interpretation of "voluntary" prayer is already in a state of dynamic tension between school prayer experiments and high court rulings, there would seem to be no need to beg the question specifically anew in the Constitution itself. We merely enter the same maze, and would find ourselves either back at the beginning or at the one exit provided, the doors of the Supreme Court. With "nondenominational" all beginnings would have merged in an inevitable mass march to those doors. Some not too distant day that Court would be asked to resolve the bickering between school boards, lower courts, parents, and dissident citizenry by affirming the constitutionality of some national prayer, good for all occasions. It would seem paradoxical to oppose letting the Court decide whether we may pray and then seek its guidance on how we can pray.

I hope and expect to see proper decisions made by the courts, and the Nation's schools and school authorities which will lead to the restoration of prayer in the schools, not only voluntary, but even denominational if desired and properly separated. If one's inhibitions should ever be at a minimum it is in expressing one's faith and addressing one's God. Yet "nondenominational" prayer implies compromise. Self restraint in the expression of the deepest convictions we are capable of having would seem a strange result of the application of first amendment principles. As the Supreme Court said in *Tinker* v. *Community School District*, 398 U.S. 503 (1968):

> First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost 50 years.

The Supreme Court has never ruled participation on school grounds in truly voluntary prayer of any kind to be unconstitutional. It will not rule it so. And bearing in mind Holmes' dictum that the life of the law has not been logic but experience, reasonable approaches along these lines should be tried, tested, and rejected with all appeals exhausted before resort to the amendment process is warranted.

Only a few such tests have been made, most notably the case of *Board of Education of Netcong et al.* v. *State Board of Education et al.*, 57 N.J. 172, 270A 2d 412 (1970), certiorari denied 401 U.S. 1013 (1971). In this case prayer readings from the CONGRESSIONAL RECORD by students voluntarily gathered in the school gym before the start of the school day were struck down by the New Jersey Supreme Court as being in violation of the first amendment. Certain factors, including vituperative references in an amicus brief to Justices of the U.S. Supreme Court may have led a majority of the latter to vote to deny certiorari. Justices White and Stewart, however, voted to grant it, this in 1970, since which time three new and possibly more curious Justices will have donned the robe. In the meantime "Netcong" is not the law of the land.

I concur with the gentleman from Alabama, my friend, Mr. BUCHANAN, in the hope that all the Nation's courts, including the highest, will look with greater favor on the efforts of the American people to provide our children with appropriate opportunities to pray in the public schools. True, prayer is personal, but properly and sensitively provided for, communal religious observances can and should have the effect of softening daily antagonisms, strengthening individual commitments to excellence, and building a sense of respect for one's fellow man, goals which are not incompatible with the learning requirements of growing children and certainly not per se constitutionally denied them in school or any other place.

The public schools may not, in fact, prevent children from engaging in peaceful protest—Tinker against Community School District, supra. It would be unseemly to have to justify joint prayer in the name of protest. I would call upon the Nation's educators, school authorities, and constitutional lawyers to come with a plan, not a prayer, by which American children could participate in school in religious observances of their parents' and ultimately their own choice, or refrain from doing so without compulsion or the obloquy that can attach to nonparticipation. I think "Netcong" came close. Let us keep trying. We could have the answer long before a ratification process may have run its course. In that way we would not have to sacrifice the freedom of today's children for tomorrow's.

Mr. WYLIE. Mr. Speaker, how much time do I have remaining?

The SPEAKER. The gentleman from Ohio has 4 minutes remaining.

Mr. WYLIE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, we have come to the culmination of 9 years of effort by Mr. and Mrs. Average American to bring this issue to the floor of the House for a vote. On no other issue has there been as much continuing interest and constant effort. The amendment has been attacked on the grounds that it would alter the first amendment to the Bill of Rights for the first time in our history, but 16 amendments have been added to the Constitution since the Bill of Rights. And we would not be here today were it not for the 14th amendment which certainly changed the thrust of the first amendment as the Court said in the Engel case—the case which has brought us here. But change through the Constitution was contemplated and a procedure was provided for the people to have their way, if a basic right was being taken away.

This measure does not force anybody to do anything. All it does is allow children to use school buildings for voluntary prayer. That is the simple matter of the thing.

We have heard about the ministers

and the priests who oppose this resolution. I have a list of many more who are in favor of it. The most recent poll on this issue shows that up to 92.5 percent of the American people have said, "Yes, we want this kind of an amendment."

People came to the United States from England to escape the religious preeminence of the Church of England. But the Founding Fathers had not been here very long when they started establishing their own State churches in Maryland, Virginia, North and South Carolina, and Georgia—and, thus, the reason for the first amendment. It was not contemplated that atheism would be given preeminence as a religion so that a religion which had as its foundation a belief in God would be prostrated—in any forum—public school or otherwise.

I can recall as a child in elementary school, the teacher opened the day's activities with a prayer to the Supreme Deity and a pledge of allegiance to the American flag. There was something reassuring about that, and I think we need to return to this foundation stone of our democracy. There is something ludicrous about the recognition of the Supreme Deity when we open Congress, when we open the Supreme Court, when we provide chaplains for men in the Armed Forces, and then say that recognition of a Supreme Deity shall not be permitted in our public schools.

We have an opportunity right now, in this the people's House, to allow the people to speak—to debate this issue in the legislative halls of the 50 States. This is the kind of safety valve provided for in the Constitution and, because of the confusion and frustration, such a debate could be meaningful.

We have a motto above our clock—"In God We Trust." It is time we returned to an unapologetic recognition of that basic principle in the public schools of our Nation.

I urge Members to vote for passage of House Joint Resolution 191.

The SPEAKER. The time yielded by the gentleman from Ohio has expired.

Mr. WYLIE. Mr. Speaker, I yield to the gentleman from Alabama (Mr. BUCHANAN) for the purpose of offering an amendment.

Mr. BUCHANAN. Mr. Speaker, I have an amendment at the desk.

The SPEAKER. Does the gentleman realize he will lose control of the time?

Mr. WYLIE. The gentleman realizes he loses control of the time. I do yield to the gentleman from Alabama for the purpose of offering an amendment.

The SPEAKER. The gentleman has yielded the floor.

MOTION OFFERED BY MR. CELLER

Mr. CELLER. Mr. Speaker, I move the previous question on House Joint Resolution 191.

The SPEAKER. The motion is completely and highly privileged and is in order.

PARLIAMENTARY INQUIRY

Mr. GERALD R. FORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GERALD R. FORD. Mr. Speaker, if the previous question is voted down, does that permit the offering of an amendment by the gentleman from Alabama (Mr. BUCHANAN)?

The SPEAKER. If it is voted down, any proper motion can be made.

The question is on the motion offered by the gentleman from New York (Mr. CELLER).

The motion was rejected.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BUCHANAN: Page 2, lines 1 and 2, strike out the word "nondenominational" and insert in lieu thereof the word "voluntary"; and on page 2, line 2, strike out the period and add the words "or meditation."

The SPEAKER. The gentleman from Alabama is recognized for 1 hour on his amendment.

Mr. BUCHANAN. Mr. Speaker, I yield myself whatever time I may consume.

Mr. Speaker, I regret that the hour has come when the people's branch of the Federal Government must speak out in a clear and impelling voice on a constitutional question of the greatest moment.

I regret it, I say, because I regret that series of decisions, first of the Supreme Court itself and then, based upon it, of the lower courts and of the school administrations which have become more and more restrictive of religious liberty on the part of the schoolchildren in this country, and which, in my judgment, have served to violate the free exercise clause of the first amendment to the Constitution rather than to fulfill it.

I regret that the great Committee on the Judiciary, for which I have the highest respect, has had to be discharged from consideration of the resolution before us that the House might at long last bring this matter to the floor and vote on it.

Mr. Speaker, it is not my intention nor my purpose that the state should determine religious matters in this Republic or that the state should prescribe prayer, but it is my purpose to so amend the resolution before you that we can answer the primary defects which have constituted the thrust of the argument against it and that the House may seek to defend the religious liberty of the people.

Now, why do I ask you here today to support this amendment and then to support the amended resolution?

Mr. Speaker, in the first place it is a mistaken view of American history to assume that this Government and this Republic has ever been neutral in the matter of religion.

Oh, it is certainly true that our Founding Fathers sought to erect in the first amendment a wall of separation between church and state, a union which they sought to avoid forever in this Republic. They had suffered, had our Founding Fathers, from the excesses which occur when the church controls the state or when there is an organic relationship between church and State.

They desired no holy Roman Empire or Church of England or any other state church. Mr. Speaker, Baptist ministers in the Colony of Virginia, for example, had during the colonial period and prior to the Revolutionary War, been beaten, imprisoned, and run out of town for proclaiming in that colony their own faith and their own dissent.

Those Pilgrim fathers who had come to this continent, crossing an uncharted ocean and settling in the New World seeking a place to live, to work, and to worship in freedom themselves set up state churches in their colonies, and proceeded to cut off the voice of dissent and to punish dissenters. It was precisely because of this right to dissent so often violated and free expression so often denied that our Founding Fathers sought to eliminate, to preclude this deplorable condition in this Republic. They sought to make certain that there would be no particular religious favoritism to any particular religious sect and no state church established in America.

But, I am submitting to you that those same people who founded this Republic were, in overwhelming majority, deeply religious people. When we or the courts place restrictions on the free exercise and free expression of religious faith, we then discriminate against those who believe and elevate atheism above theism and nonreligion above religion. In so doing, we are out of step with the reality and the substance of American history.

Mr. Speaker, in the Declaration of Independence itself there are four references to the deity: "The laws of nature and of nature's God," that "all men are created equal, that they are endowed by their creator with certain inalienable rights," and "appealing to the supreme judge of the world of the rectitude of our intentions," and "a firm reliance on the protection of divine providence." These are the four references in the Declaration of Independence to deity.

Mr. CELLER. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I shall yield to the gentleman from New York in a few moments substantial time, if the gentleman desires it, when I have completed my statement.

Mr. CELLER. That is the purpose for which I ask the gentleman to yield.

Mr. BUCHANAN. George Washington at the Constitutional Convention said:

> Let us raise a standard to which the wise and honest can repair. The event is in the hand of God.

Benjamin Franklin in calling for a Constitutional Convention prayer said:

> I have lived a long time and the longer I live, the more convincing proofs I see of this truth . . . That God governs in the affairs of men. And if a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid?

As Mr. Justice Stewart pointed out in his dissenting opinion, each President from George Washington forward has, upon assuming office, asked for the help and protection of God.

For example, as did Washington, Adams, and Jefferson before him, and as have all Presidents through Mr. Nixon after him, on March 4, 1809, President James Madison, often referred to as the father of the first amendment, upon assuming the office of President, spoke of "the guardianship and guidance of that almighty being whose power regulates the destiny of nations, whose blessings

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have been so conspicuously dispensed to this rising Republic, and to whom we are bound to address our devout gratitude for the past as well as our fervent supplications and best hopes for the future."

In the preamble of each State constitution there is a statement regarding the faith in God of the people of their State in forming the Constitution.

Taken from the outset, as indicated a moment ago with regard to chaplains in the Continental Army, there has been a military chaplaincy throughout the history of this Nation.

There is in this House the practice, as there always has been in the life of the House and of the Senate, of opening our sessions with prayer.

There is a Prayer Room in this Capitol Building.

Each week, voluntarily, members of the House prayer breakfast and Senate prayer breakfast groups meet in this public building to voluntarily pray and have a devotional service together.

And, inscribed upon this wall, as has been heretofore mentioned, there are the words "In God We Trust."

Mr. Speaker, what we seek to do today is to underline the fact that while we will not show favoritism for one sect against another sect, we are in the mainstream of American history in believing this is and must be a nation under God. While we do not seek a state-prescribed prayer—and it is my judgment that the language of my amendment would preclude such a state-required prayer—nevertheless it is our position in the people's branch of the Government to come down firmly in support of this Nation under God, not against God, not neutral on God, but one nation under God, as we state in our pledge of allegiance to the flag.

Mr. EDMONDSON. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Oklahoma for purposes of debate only.

Mr. EDMONDSON. Mr. Speaker, I thank the gentleman for yielding. I will support his amendment. I believe his amendment does improve the amendment that is before us, and with the adoption of the amendment I believe most Members of the House will have no difficulty in supporting the amendment.

The gentleman has just said that he believes that the substitution of the word "voluntary" will make it unlikely that any kind of Government or State dictation would be present in connection with the prayer said. Would the gentleman be willing to accept an additional amendment to his language which would provide specifically that:

Nothing in this article shall be construed to enable or empower any public official or governmental authority to direct or prescribe the form, content, or scheduling of such prayer.

Mr. BUCHANAN. I will say to the gentleman from Oklahoma that in my judgment that language is unnecessary because it is implied in the language of the amendment itself. But if the gentleman will withhold further on this question, as the debate continues I hope this will be clarified.

Mr. EDMONDSON. I thank the gentleman for yielding.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Georgia (Mr. FLYNT), for purposes of debate only.

Mr. FLYNT. Mr. Speaker, in 1962 many Americans, including a majority of this body and myself, learned with shocked disbelief that the U.S. Supreme Court had declared the participation in organized prayer conducted in public schools to be unconstitutional and in violation of the first amendment of the U.S. Constitution. Headlines appeared on many newspapers to the general effect that: "Supreme Court Outlaws Prayer." Many segments of the news media carried the story based on the initial reports without ever reading or publishing the significant language in the opinion itself.

It was unfortunate that the facts in that landmark case, *Engel* v. *Vitale*, 370 U.S. 421 (1962), led the Court to the conclusion it reached. This is an example of the proverb that hard cases make bad law. While I personally can find nothing objectionable in the language of the prayer in the Engel case, it was unfortunate that the State of New York had officially prescribed any specific language in this particular prayer. The language contained in the majority opinion as it dealt with this particular case and this specific prayer was bad enough. The obiter dicta contained in the majority opinion went far beyond the facts in the case and in effect indicated that henceforth any prayer, regardless of its language, would be unconstitutional if conducted in schools, classrooms, or any public building.

A year later, in *Abington* v. *Schempp* 324 U.S. 203 (1963), the Supreme Court reaffirmed its prior decision in Engel against Vitale and used even stronger language prohibiting prayer, which serves as the basis for a long line of lower Federal court and State appellate court decisions in the years which have followed.

Public opinion following these two decisions became increasingly hostile to what was viewed by many people as an encroachment on the essential religious character of the American people. Many people, including me, thought that the courts had gone much too far, and they and I subscribe to the language of the dissenting opinion written by Mr. Justice Stewart which reads:

To deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation.

Mr. Justice Stewart further stated:

The basic constitutional justification for permitting the exercise at issue in these cases (is that) a compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state created disadvantage.

At this point, Mr. Speaker, let me read the exact wording of the prayer which the Supreme Court struck down in Engel against Vitale—supra—which is popularly referred to as the New York Regents Prayer—NYRP—case:

Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our country.

It is well to point out that this language was composed by a committee appointed by the board of regents, which committee consisted of a Jewish rabbi, a Roman Catholic priest, and a Protestant minister. Surely, they never dreamed that this language would offend the religious or other sensitivities of any human being; certainly it could not offend the sensitivities of any person who believes in a Supreme Being, or anyone who shares directly or indirectly in the religious heritage of this country.

Thereafter, it became very clear that the trend of the Supreme Court and of the lower courts, following the Engel and Abington decisions, would eventually result in efforts to abridge and prohibit the right of individuals and groups to pray publicly and perhaps privately, aloud and perhaps silently. About this time I and many of my colleagues realized that the only way to reverse the legal effect of these cases was by a constitutional amendment. Accordingly, I, and many other Members in the House of Representatives and the U.S. Senate, introduced—and, in succeeding Congresses, reintroduced—joint resolutions proposing an amendment to the Constitution for the express purpose of overruling the Supreme Court decisions in the Engel and Abington cases, and simultaneously to overrule lower court decisions which were based on those two Supreme Court cases.

Mr. Speaker, I signed the discharge petition presented by the gentleman from Ohio (Mr. WYLIE). Earlier today I voted to discharge the Judiciary Committee from the further consideration of House Joint Resolution 191. I strongly support it and shall vote for it.

Quite frankly and naturally, I prefer the language of the joint resolution which I introduced and which bears the number House Joint Resolution 73. I include at this point the text and language of House Joint Resolution 73:

H.J. RES. 73

Joint resolution proposing an amendment to the Constitution of the United States to permit voluntary participation in prayer in public schools

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Nothing contained in this Constitution shall prohibit the authority administering any school, school system, educational institution, or other public building supported in whole or in part through the expenditure of public funds from providing for or permitting the voluntary participation by students or others in prayer. Nothing contained in this article shall authorize any such authority to prescribe the form or content of any prayer.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

I prefer this language but I am not going to let a matter of semantics influence me to vote against the only resolution on which we have a chance to vote.

The debate today on this question is manifestly heated and controversial. It may be an accurate statement to say that it is the most controversial debate on the most controversial piece of legislation thus far in the 92d Congress. Even though the time allowed for debate is very limited, it appears to me to be one of the most controversial debates during my service in this body.

Mr. Speaker, I have very strong convictions on this subject. I have felt very strongly about it ever since I first read the news accounts and later the text of Engel against Vitale. As I thoroughly studied the language of the Engel case and as I later read and studied similar cases, these original strong feelings became intensified. I feel more strongly in support of this proposed amendment to the Constitution today than I have at any time since the decision in the Engel case was handed down in 1962.

During the 9 years which have intervened, I have probably discussed this line of decisions and the proposed remedy to these decisions with more people and in more places than any other single legislative proposal. My correspondence file on this subject goes back at least 9 years and there are expressions of support and of opposition to the proposed amendment from literally thousands of people, laymen and clergymen alike.

Most of the letters which I have received in opposition to the proposed Constitutional amendment indicated that the writer believes that the Supreme Court and other courts have outlawed only those prayers which are composed and conducted by governmental authorities and by employees of State and local governments. Many have expressed opposition solely because of the choice of the word "nondenominational" which appears in the language of House Joint Resolution 191. As I stated earlier, I now repeat that while I prefer the substantive language of my own joint resolution, I support House Joint Resolution 191 because I think the intent is the same. I hope that the amendment offered by the gentleman from Alabama (Mr. BUCHANAN) will be adopted and that the adoption of this amendment will remove some of the objections which have been raised to House Joint Resolution 191. I am not committed to my own language, and I will support the resolution before us regardless of the outcome of the vote on the Buchanan amendment.

Mr. Speaker, I can see nothing in any of this language which in any way violates either the letter or the spirit of the establishment clause of the first amendment. This language which I support in no way does violence to the principle of religious freedom or the principle of total separation of church and state. On the contrary, I think it guarantees freedom of religion which has already been abridged and encroached upon by the decisions in the Engel and Abington cases and in decisions of lower courts which are based on these two decisions.

I do not believe that the language which I support today could ever be construed as seeking to establish a religion by legislative action or to deny the right of freedom of religion to any person. All that we seek to do and all that the language of this proposed amendment says is that Americans, single or in unison with each other, in public or in private, may express their belief in a Supreme Being, invoke the blessing of Almighty God and reverently thank Him for the blessings which He has bestowed upon us.

Mr. Speaker, there are many cases in the Supreme Court and in the lower State and Federal courts to which I could refer and quote from at length. Without quoting the language from all these decisions I will simply refer to them by name and citation:

1. *Engel* v. *Vitale*, 370 U.S. 421 (1962).
2. *Abington School District* v. *Schempp*, 374 U.S. 203 (1963).
3. *Stein* v. *Oshinsky*, 348 F. 2d 999 (1965) cert. den. 383 U.S. 957 (1965).
4. *Hunt* v. *Board of Education of County of Kanawha*, 321 F. Supp. 1263 (S.D.W. Va., 1971).
5. *Chamberlin* v. *Dade County Board of Public Information*, 171 So. 2d 535 (1965).
6. *Sills* v. *Hawthorne Board of Education*, 200 A. 2d 617 (Superior Ct. of New Jersey, 1963), aff'd 200 A. 2d 615 (1964).
7. *Adams* v. *Engelking*, 232 F. Supp. 666 (S.D. Idaho, 1964).
8. *Johns* v. *Allen*, 231 F. Supp. 852 (D. Del., 1964).
9. *Opinion of the Justices*, 228 A. 2d. 161 (1967).
10. *DeSpain* v. *DeKalb County School District*, 364 F. 2d 636 (1967), cert. den. 390 U.S. 906 (1968).
11. *Reed* v. *Van Hoven*, 237 F. Supp. 48 (W.D. Mich., 1965).
12. *American Civil Liberties Union* v. *Albert Gallatin Area School District*, 307 F. Supp. 637 (W.D. Pa. 1969), aff'd 438 F. 2d 1194 (3rd Cir., 1971).
13. *State Board of Education* v. *Board of Education of Netcong, New Jersey*, 108 N.J. Super. 564, 262 A. 2d 21 (1970), aff'd 270 A. 2d 413 (1970), cert. den. 39 L.W. 3437 (April 6, 1971).
14. *Sullivan* v. *School Committee of the Town of Leyden*, Mass. Super. Ct., Suffolk County, No. 91101 Eq. (March 31, 1970), reversed 267 N.E. 2d 226 (1971), cert. den. 40 L.W. 3164 (October 12, 1971).

Mr. FLYNT. Mr. Speaker, one of the most interesting treatments of this subject entitled "Let us Pray—An Amendment to the Constitution" written by Charles E. Rice, associate professor, Fordham University School of Law appeared in the Catholic Lawyer, Summer 1964. He says, and I quote:

Given the proclivity of the current members of the Supreme Court to adhere tenaciously to their own abstractions (which in religious cases have generally been born in gratuitous and self-generated *obiter dicta* in the Court's own opinion), and given the sweeping character of those reigning abstractions, *we may fairly expect the manifestations of our religious heritage in public life to be eliminated, singly but inexorably, by judicial decree.* (Emphasis supplied) only a constitutional amendment can be counted upon to check the trend, for the notion of judicial self-restraint seems to have fallen out of favor among the majority of the Court.

Mr. Speaker, for these and other reasons I support House Joint Resolution 191 and will so vote.

Mr. BUCHANAN. Mr. Speaker, I yield for purposes of debate only to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, I want to associate myself with the remarks of the distinguished gentleman in the well and thank him for offering this amendment.

I believe those who spoke out so eloquently against the position of the gentleman from Ohio (Mr. WYLIE) can now support his constitutional amendment, if the amendment is adopted.

I would point out to the gentleman from Alabama that I am not concerned about the narrow holding of Engel versus Vitale. But I am concerned about the dictum contained in Engel versus Vitale which has apparently caused all of the difficulty among the lower courts.

The language in that case is this, and I wish to draw this to the attention of the Members of the House.

I quote from the language of the dictum in the case of Engel versus Vitale, which has caused all of the trouble in the lower courts:

Neither the fact that the prayer may be denominationally neutral nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitation of the establishment clause.

It is that dictum which has caused the lower Federal courts to actually interfere with freedom of religion. No person can read the lower court decisions without being concerned about interference with religion on the part of government. The first amendment certainly needs to be clarified.

Mr. Speaker, I commend the gentleman in the well and I support his amendment wholeheartedly.

Mr. BUCHANAN. Mr. Speaker, I thank the gentleman for his contribution.

Mr. CELLER. Mr. Speaker, if the gentleman will yield, is it the gentleman's intention to yield a portion of his time so that opposition to his amendment can be heard?

Mr. BUCHANAN. It is my purpose to yield to the distinguished gentleman to discuss at length his feeling on this matter for a long period of time, but not at this moment.

Mr. Speaker, I yield to the gentleman from Texas (Mr. WHITE) for purposes of debate only.

Mr. WHITE. Mr. Speaker, I appreciate the opportunity to speak in behalf of this amendment.

I think it is imperative to change the word "nondenominational" to "voluntary" because it is difficult if not impossible to define nondenominational. It means different things to Christians, Jews, Mohammedans, and Buddhists, all of whom are in this country.

It would depend on which religious groups would gain control of the school boards, if we adopt the language presently in the resolution. Religions and denominations would be fighting over this definition, and we would have religious disharmony.

Mr. Speaker, if you say in this amendment that the right cannot be abridged to nondenominational prayer in public buildings, then very like it

can be interpreted that you cannot have a denominational prayer in a public building. This would affect the Armed Forces chaplains rendering religious services in public or military buildings.

If you say the right to nondenominational prayer cannot be abridged, then denominational prayer in the Congress might be attacked. In fact, you might even have problems about invocations and benedictions at Presidential inaugurations. Public schools could not have baccalaureate services in public buildings and private schools supported partially by public funds could not have denominational prayers even if they were denominational schools.

I had an experience just this weekend in which I spoke to a number of teachers, leaders, superintendents, and principals from throughout my entire district. I posed the question to them concerning this particular resolution and amendment as proposed.

Sixty-five percent favored the resolution and 35 percent did not favor the resolution. But when I suggested the possibility of changing the word "nondenominational" to "voluntary"—100 percent favored this change.

This is what most of America wants. They want voluntary prayer in their schools. They do not want confused language, such as the word "nondenominational" will afford.

Mr. BUCHANAN. Mr. Speaker, I will yield to my colleagues as best I can; and at this time I yield for purposes of debate only, if he seeks such recognition, to the distinguished dean of the House, the chairman of the Committee on the Judiciary, the gentleman from New York (Mr. CELLER) 15 minutes.

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I want to congratulate the distinguished gentleman who just spoke in offering the amendment, he is about to do in less than an hour what it took the First Congress of the United States in 1789 some 11 days of debate on the floor plus some 60 days of hearings in the committee to do. I refer to the First Congress treating with the problems of the first amendment. Obviously, we are a much smarter Congress. We can do it in 1 hour.

But I wonder whether we really can or not: when one talks about the word "voluntary," it appears to be an obviously simple word. When the gentleman from Alabama talked about the Prayer Breakfasts, those are voluntary—I have been there. I must confess I have missed more than I have been to, but I have been present more than most Members of the House or take the prayer in the House at noon—I understand that today there were some 30 Members present, a new high, for usually it is about 15 or 20—that is voluntary.

But is it voluntary when you talk about the child who must be in school because of compulsory attendance law and must stand there in silent prayer or not praying as he or she wishes. What about a pupil at the age of 6 or 7, and everyone knows what great discretion and judgment they have at that age—is that the same kind of "voluntary" action that you speak of when you talk about the House prayer, or the House Prayer Breakfast?

Take the word "meditation." I confess that when I first went to look up the word, I thought it meant silent prayer. But, ladies and gentlemen, it does not mean silent prayer. It means lots of things, but there is no connotation of silent prayer. Obviously, it is some other kind of exercise other than prayer. Does that mean that when we include meditation, we exclude chanting, we exclude reading, we exclude worshop? Does that mean we exclude all the other myriad synonyms and counterparts of praying or meditation?

Finally, Mr. Speaker, let me ask this: If this is to be something other than nondenominational—because the legislative history will be very clear that we have struck out "nondenominational"—the only thing that I know that is other than nondenominational is denominational, and we are then back in that same box that religious scholars and constitutional lawyers have pointed to for years: Whose denomination is going to choose the prayer?

Mr. CELLER. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I take this time for the purpose of asking a question of the gentleman from Alabama, who is the author of the amendment. I would like to set a scene and ask the gentleman how a prayer situation might occur. The scene might be in any public school built with public funds. There are children present, and there is a desire on their part to pray. Under the gentleman's amendment, what prayer would they say?

Mr. BUCHANAN. The prayer under my amendment would be voluntary, as to the nature of the prayer and as to who participated in the prayer. That is the reason for the verbiage "voluntary prayer," not "voluntarily in prayer," but voluntary prayer.

Mr. RHODES. In other words, it would not be a prayer prescribed by the State, by the principal of the school, by the teacher, or by any outside authority?

Mr. BUCHANAN. Absolutely not. That is not my intention.

Mr. RHODES. Would it then be a prayer which would come from the body, a group of students?

Mr. BUCHANAN. It is voluntary prayer, voluntarily participated in.

Mr. RHODES. If one of the students did not desire to pray, then would the group lose the identity of voluntarism? In other words, is it necessary for all students present to desire to pray——

Mr. BUCHANAN. It is not my intention to impose the predilections of one child upon the entire class of children or those of the entire class of children upon the one child.

Mr. RHODES. Mr. Speaker, in my hometown children are praying in school. They always have prayed in school and I assume they probably always will. The child himself who is in charge of the assembly is the one who prays, he prays what is in his heart without prescription or influence from anyone. There is no prescription of prayer, and there has been no question raised as to whether or not this is proper.

I probably will vote for the amendment offered by the gentleman from Alabama, because I think the word "voluntary" is much more meaningful than the word "nondenominational," and less subject to misinterpretation and mischief. I suggest the possibility—in fact, the probability—that as far as my own examination of these cases is concerned, if we pass this amendment, as it is sought to be amended by the gentleman, I think we will be restating the law of the land as it now is. It should be evident in any fair reading of the case of Engel against Vitale, that it allows voluntary prayer by students who are praying in accordance with their own consciences in the manner described by the gentleman from Alabama, without coercion or prescription from any one. I am at a loss to know how the lower courts can construe the Supreme Court's meaning in any other way.

Mr. THOMPSON of Georgia. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Georgia.

Mr. THOMPSON of Georgia. Mr. Speaker, is the gentleman familiar with the case involving Massachusetts court decision which stated that no part of a school may be set aside for voluntary prayer and the Supreme Court, in effect, affirmed this by refusing to hear the appeal?

Mr. RHODES. I am, and I am also familiar with the decisions of the Illinois State Court in the De Kalb County case. I believe the lower courts were wrong in both instances, and I hope the Supreme Court in the near future will set this very straight.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. GALLAGHER).

Mr. GALLAGHER. Mr. Speaker, since I do not have the floor to offer an amendment under the House rules, I would ask the gentleman from Alabama if he would accept my proposal as part of his amendment. If he could, then I and many of my colleagues could in good conscience support the proposal to allow prayer in our public schools.

I feel that my thought may well give us a way to act constructively without doing damage to either the Constitution or to what I would regard as the necessity most Americans find to have prayer a part of our Nation's public life.

My amendment would provide for silent prayer or meditation and would eliminate the word "voluntary." For we must ask ourselves who is going to volunteer the prayer in which some children will join and some may abstain. The real problem with "voluntary" is that it requires a positive act of abstention by the child, while providing a moment of silent prayer or meditation at the start of each school day makes the decision solely internal; that is, one restricted to the conscience of the individual with no visible manifestation of his decision.

My proposal would require no prescribed prayer and would totally eliminate the stigma of nonconformity. It neither subtly compels or overtly denies the child the right to pray in his own way. It escapes the difficulty of the word "nondenominational," because many people feel strongly about their own denomination.

Here again, we can return the power to the people in a responsible and constructive way. The manner in which a prayer can be offered will be the manner the child has been trained to do so by his parents or his church. Those who do not wish to acknowledge the Creator may meditate, think about their homework, or even silently praise Madlyn Murray O'Hare, who started much of the reason for this discussion in the first place. Perhaps the last frontier for privacy in this Nation is inside the individual's head; here we can allow that sacred area to remain sanctified and if praise of God is sincerely expressed or sincerely denied, we will run no risk of having public authorities intrude on private places of the spirit.

Finally, Mr. Speaker, the decision not to participate would require no formal action by the child. He cannot be coerced into participating in actions repugnant to him, nor does he run the risk of being labeled an "odd-ball" because his parents or his church have a different way of expressing their devotions. He stands silently at the moment of meditation; indistinguishable from his classmates, subjected to no instant coercion or later abuse.

I believe my thought offers a way out of the cruel dilemma we must face here in the House today and perhaps even more important, it will not divide people and their children on the grounds of the manner in which they pray.

I would hope that the gentlemen would accept this suggestion.

Mr. CELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker—

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof . . .

These words of the first amendment to the Constitution have stood for 180 years as a mighty barricade against the religious oppression and strife that have torn apart other countries.

Anyone proposing to change the principles embodied in our Nation's charter of freedom bears a heavy burden. Yet, today, the House of Representatives has been asked to vote on just such a proposal.

The vehicle for this attack on the Bill of Rights is House Joint Resolution 191, introduced by Congressman CHALMERS WYLIE, Ohio. Many persons have been led to believe that all this amendment would do is "reaffirm" the right to pray in our public schools. If this were the case, I would support the amendment. I support the right of students to pray together in school, if the prayer is truly voluntary. But I oppose compulsory school prayer.

The Wylie amendment would actually forbid truly voluntary prayer, for voluntary prayer necessarily reflects the particular faith of each individual, and the Wylie amendment forbids all but "nondenominational prayer." Under the Wylie amendment, students could not pray any prayer they want to, because they might pray a "denominational prayer."

The CONGRESSIONAL RECORD is already full of statements submitted on behalf of many of the leading national church organizations opposing the Wylie amendment. In the 14th District of Ohio, the Central Board of the Council of Churches of Greater Akron, representing most of the Protestant churches in the Akron metropolitan area, have adopted a very carefully thought-out and superbly expressed statement on prayer in the public schools. Among other things, the statement points out that—

To facilitate, assign, or stipulate . . . religious exercises as integral parts of the public school program is to infringe upon the distinctive beliefs of religious persons as well as on the rights of the irreligious.

What is the occasion for this unprecedented assault on the Bill of Rights? The Supreme Court has not held that the first amendment prohibits voluntary prayer in public schools. What it has prohibited is the official government sponsorship of prayers in school or the offering of prayers under circumstances that may lead to the coercion of those who do not desire to participate.

In Abington School District against Schempp, Justice Potter Stewart dissented from the Supreme Court's decision, saying:

A compulsory educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. (374 U.S., p. 313)

In an effort to meet the issue raised by Justice Stewart and to clarify the effect of the first amendment as it applies to the use of public buildings for purely voluntary prayer, I have introduced a proposed constitutional amendment which would authorize voluntary participation in prayer in public buildings when such prayer is not part of and does not occur in the course of activities for which such building is primarily used.

After many efforts at drafting a suitable amendment, I am conscious of the great difficulties and dangers in such an effort. However, my resolution will be referred to the Judiciary Committee, where it will undergo the kind of searching scrutiny that is essential to produce sound legislation.

Now, however, without any time for the House or the country to reflect on its implications, we have the Buchanan amendment to the Wylie amendment, substituting the word "voluntary" for the word "nondenominational." It might seem to be a simple way of clarifying and improving the Wylie amendment. Unfortunately, the problems of drafting a constitutional amendment cannot be disposed of in such an offhand manner.

Mr. Speaker, I would like to quote from the dissenting opinion of Justice Potter Stewart in Abington School District against Schempp, in which he was concerned with the possibility of coercion even with the kind of excusal that the gentleman who preceded me just mentioned:

Certain types of exercises would present situations in which no possibility of coercion on the part of secular officials could be claimed to exist. Thus, if such exercises were held either before or after the official school day . . . it could hardly be contended that the exercises did anything more than to provide an opportunity for the voluntary expression of religious belief.

There is nothing in the proposed Buchanan amendment that would permit this kind of careful safeguard against any compulsion or coercion.

I tried to draft and finally submitted an amendment to permit voluntary prayer. It took me weeks of thought and consultation and study. It cannot be done "off the cuff" on the spur of the moment. This is not the way to revise the Constitution of the United States after 1 minute of time was remaining for debate. The country and this House ought to have the opportunity, I submit, to consider the implications of this kind of amendment.

I assure you, gentlemen, the implications are very great. The mere substitution of the word "voluntary" does not explain what is meant by voluntary, what circumstances and conditions you are going to put down to protect children from coercion.

Justice Stewart himself, in the passage I read from his dissent, pointed out the importance of carefully working out the conditions and limitations under which school children could be subjected to prayer in school buildings. I submit this is not the way to be amending the Constitution. We would deserve the reproach of all the people of this country if, after only 1 hour of debate, we tried to do what it took the Founding Fathers many weeks to do.

We should oppose both the Buchanan amendment and the Wylie amendment.

I will oppose the Wylie amendment and the Wylie amendment as amended by the Buchanan amendment. Both are in my opinion, dangerously misguided efforts to do that which the Founding Fathers wisely rejected; that is, giving the state the right and responsibility for propagating religion. The propagation of religious faith must remain the responsibility of individual adherents and their religious organization. To bring government in on their side can only lead to oppression, conflict, and disaster.

The text of my proposed amendment, contained in House Joint Resolution 953, follows:

HOUSE JOINT RESOLUTION 953

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which will be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE ——

"SECTION 1. Nothing contained in this Constitution shall abridge the right of any person, while present in any building, the construction or operation of which is supported in whole or in part through the expenditure of public funds, to participate in religious prayer when all participation therein is voluntary and such prayer is not part of and

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does not occur in the course of the activities for which such building is primarily used. For purposes of this article, participation of a person under the age of eighteen shall be deemed voluntary if done with the knowledge and consent of his or her parent or legal guardian.

"Sec. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Washington, Mr. MEEDS.

Mr. MEEDS. Mr. Speaker, succumbing to temptation has been a human failing since Eve encountered the serpent. Today the House will consider a bill that is very, very hard to resist. I will vote against it.

House Joint Resolution 191 would change our Bill of Rights for the first time in history. It centers on the highly controversial question of prayer in the public schools. The measure reads as follows:

Nothing contained in this constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

The bill would nullify the Supreme Court decisions of the early 1960's on prayer and Bible readings in class. These decisions have been misunderstood. The rulings did not infringe on the freedom of religion; they merely said that government and its officials cannot require prayer or religious exercises.

Neither the decisions of the Supreme Court nor House Joint Resolution 191 have any effect on Washington State. Article I, section 11 of our State constitution specifies that—

No public money or property shall be appropriated for or applied to any religious worship, exercise, or instruction.

Passing the proposed amendment to the U.S. Constitution would not change our law that forbids reciting prayer in class.

The issues involved in House Joint Resolution 191 are monumental. They go to the heart of our American system and challenge the entire rationale of the Bill of Rights. The first amendment that projects religious freedom was written by men who had seen and deplored the terrible persecutions in Europe and the establishment of mandatory faiths. The Founding Fathers created a wall between church and state.

The first amendment requires Government to be absolutely neutral in religion. Government cannot favor one faith and disparage another; it cannot force men to adhere to beliefs; it cannot infringe on religion nor transgress the conscience of any citizen.

House Joint Resolution 191 permits prayer that is "nondenominational." Yet 38 national religious groups have issued a statement saying that no one can agree on the definition of "nondenominational." These groups strongly oppose the amendment. Included are the United Methodist Church, the Episcopal Church, various Baptist faiths, the United Presbyterian Church, and the Lutheran Church of America.

Unlike Senator Dirksen's bill of 5 years ago, nothing in House Joint Resolution 191 forbids Government from drawing up and requiring a specific prayer. And, even though "voluntary" is doubtful in practice, the amendment does not contain even this protection.

Should Congress adopt the amendment, we would witness the spectacle of school boards and legislatures across the land fighting bitterly over this or that prayer. New elections and new officials would bring new prayer disputes. As Judge Stacy of the North Carolina Supreme Court once wrote:

Men contend more furiously over the road to heaven, which they cannot see, than over their visible walks of life.

Unwise, unnecessary, unhealthy, that is my view of House Joint Resolution 191. Prayer is a personal communication between man and his Supreme Being prayer is private. It belongs in the church, in the home, in the soul. Prayer has no place in the realm of public policy.

Mr. MEEDS. Mr. Speaker and Members of the House, I submit that this amendment is more mischievous than the original resolution. By striking the word "nondenominational" the legislative history will now be that denominational voluntary prayer will be allowed

I submit that school boards in certain instances under this language are going to construct denominational prayer which can be participated in or not by children because of the use of the word "voluntary."

As the previous speaker pointed out, young children will be forced, in effect, to stand in a corner with a dunce hat if they do not participate in the prayer.

The worst part of it is that striking the word "nondenominational" opens it up for denominational prayer. This is precisely what the constitutional prohibition is aimed at.

The SPEAKER. The gentleman from New York has 4 minutes remaining from the time yielded by the gentleman from Alabama.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. SCHWENGEL).

Mr. SCHWENGEL. Mr. Speaker, this amendment is a mischievous one. Who is going to determine the "voluntary" part? What does the "voluntary" part mean?

According to the author of the original amendment, the school board is. This confuses the whole question. This makes it worse.

And then you are going to put in the word "meditation," for prayer or meditation. The gentleman who spoke previously put his finger on it. It is going to become a denominational prayer. Then we will really be in trouble.

Mr. MIZELL. Mr. Speaker, will the gentleman yield?

Mr. SCHWENGEL. No; I have only a minute to speak. I want to talk the rest of the minute.

The opposition has, apparently, 15 minutes of the hour. How unfair. How unfortunate. We are trying to legislate here on the House floor on this important question, to amend the Constitution of the United States. I call on Members to reflect on our history and our heritage, and the work put in by our forefathers. They would not buy this.

Mr. CELLER. Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, on the floor of the House now we are asked to substitute new words with new meanings, with their own nuances, added to the original resolution, without benefit of any exploration, without benefit of the vigorous arguments pro and con which have gone on in recent weeks.

Now we are being asked to play fast and loose with the Constitution of the United States. We are asked to interject the word "voluntary" and to interject the word "meditation" into the pending resolution.

What, in the context of this legislation, is voluntary? Is the choice made by the child voluntary when he selects between a prayer composed by a school board or other authority and a prayer that is a part of his parents' creed? Is the child's choice voluntary when he asks to be excused from (to him) an often alien prayer before the accusing eyes of his schoolmates?

Meditation. Who orders the meditation? For what duration? Some authority must coordinate. If it does, it interferes with prayer; it interferes with religion; it is equivalent to State interference, which is abhorrent and should be abhorrent to all of us.

For those who say "What harm can it do?" I can only say that it robs prayer of its meaning. If our Government were theocratic in form, with but a single official State religion, then a prescribed prayer by authority of the state church would be understood, but, fortunately, in this democracy of ours, freedom of creed and conscience and our religious liberty are guaranteed.

Frankly, these words will cause a dwindling of prayer: in Harlem, N.Y., it will be one type of prayer; in Salt Lake City it will be another; in some parts of the ghettos in Brooklyn, N.Y., whence I come, it will become a Jewish prayer; in certain sections, maybe in Boston or elsewhere, it will become a Catholic prayer; and in other places it may become a Protestant prayer. Let us not fool ourselves: These words can mean a great many things, depending upon who is in authority and who has the power; and who has the power can make these words mean anything that they please.

The SPEAKER. The time of the gentleman has expired.

Mr. BUCHANAN. Mr. Speaker, for purposes of debate I yield the gentleman 3 additional minutes.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. DRINAN. Mr. Speaker, I want to associate myself with the remarks of the distinguished dean of the House and say very categorically that this amendment is much more insidious than the original proposal.

This amendment deletes "nondenominational." "Voluntary" is substituted for it. But "voluntary" is not the opposition of "denominational." We must assume, therefore, that every sectarian

prayer or meditation and prayer, which are not really different, is now authorized under the amendment. There is much more reason to oppose the amendment than the original proposal.

Mr. CELLER. Mr. Speaker, I yield to the gentleman from New York (Mr. REID).

Mr. REID of New York. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the bedrock principle upon which the first amendment was founded is the total separation of church and state and the complete noninvolvement of the state in religious exercise.

The proposed amendment to the Constitution now before us does violence to this fundamental principle, because it necessarily involves the state in the sponsorship of a religious exercise. This is true whether the language reads "nondenominational prayer" or "voluntary prayer or meditation." In either case, the state would be involved in the writing of a prayer, the furnishing of classroom space, the designation of a period for prayer during official school hours, or similar activities by which the state gives positive sanction and encouragement to a religious exercise. This would constitute a definite break in the wall of separation between church and state that should and must be maintained.

Moreover, to say that because the prayer would be voluntary and no child would be compelled to participate is to ignore the fact of peer pressure which will inevitably influence a youngster. If a majority of students chose to participate in a voluntary prayer exercise, there would surely be great pressure on the minority to conform. As the Supreme Court of Wisconsin said in the case of Weiss against District Board in 1890:

When . . . a small minority of the pupils in the public school is excluded for any cause from a stated school exercise, particularly when such a cause is apparent hostility to the Bible which a majority of the other students have been taught to revere, from that moment the excluded pupil loses caste with his fellows, and is liable to be regarded with aversion and subjected to reproach and insult.

For a school to sponsor a period of voluntary prayer during official school hours and using school facilities would be, in effect, to subject a child to this kind of compulsion. This is something a state should not be permitted to do.

Not only is the proposed constitutional amendment unwise for the reasons just stated, but it is a dangerous precedent for future erosions of the protections which the first amendment was designed to guarantee. Those who favor this amendment should recognize that it places a foot in the door and makes it easier to justify further alterations of the Constitution when some group dislikes a particular Supreme Court decision. The Bill of Rights is a lasting document, and it should not be changed on an ad hoc basis in response to isolated rulings of the courts. Needless to say, those who today favor amending the Constitution may well oppose its being amended in the future on some other issue, yet their action today would make future amendment easier because of the precedent that would be established. Likewise, if we today allow the Government's foot to be inserted in the door of the church, we could well be unwittingly paving the way for even greater and more threatening intrusions by the Government into religious affairs.

We are a religious nation. I believe that more prayer in our homes and in our churches would help our society. But Government sponsorship of prayer would not help prayer, which in my view is a personal and an individual experience. We all know that Government is good at some things and bad at some things. Prayer, in my view, would be better left to the family in the privacy of their homes and in the churches.

Accordingly, I urge the defeat of Mr. BUCHANAN'S amendment and of the original amendment of Mr. WYLIE on the grounds that, in the words of the distinguished Prof. Philip D. Kurland:

At best, the proposed amendment invites state-imposed religious dogma and religious strife; at worst, it assures them.

Mr. CELLER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, it has been asserted that the proposed amendment is to be wholly voluntary in its application and would be so interpreted by those in charge of tax-supported public buildings.

This assertion cannot withstand commonsense scrutiny.

At the outset, it must be conceded that the "public buildings" here involved are primarily intended to be public schools. This is widely regarded as the school prayer amendment and, if ratified, it will be so applied. That it reaches public schools is essential to the sponsors of the amendment. For example, if the proposal were amended so as to apply to all public buildings other than schools, the support for this amendment would rapidly evaporate.

Since it is obviously aimed at the public schools, we should concede with candor that the amendment is aimed primarily at young and impressionable children who are compelled by State law to assemble there. One should question the voluntary nature of a child's judgment. If the proposal before us were limited to young adults in attendance at secondary and college level institutions, surely support for this amendment would likewise wane.

Finally, we should admit that wholly voluntary prayer in schools does not serve the purpose of the sponsors of the amendment. For example, if prayers were restricted to Saturday morning, for instance, a time when attendance at school is not normally compelled and thus participation would be more apt to be voluntary, the sponsors would lose interest in the amendment.

Moreover, let us be frank to admit that to "participate in nondenominational prayer" is intended to mean that a prayer shall be conducted for the participants by a teacher. Again, if the proposal were amended so as to be limited to silent, self-conducted prayer or meditation, it would rapidly lose its appeal. Many a devout parent has reason to be suspect of truly voluntary prayer. They know how difficult it often is to get their children to attend Sunday school "voluntarily" or to reflect upon man and his relationship to God without a measure of parental coercion.

True voluntary prayer is contrary to the purpose and objective of this amendment. No amount of rationalization can disguise the central purpose of the amendment: to enlist the aid and assistance of the Government in order to expose young and impressionable minds to a religious experience because in the view of the majority they will profit from that experience.

To give realistic meaning to the word "voluntary" would deny to Government and its agents the power to select the content or form of the prayer and power to conduct the prayer once selected. Properly interpreted, "voluntary" would so remove the prayer in time and space from the place where children must be as to obliterate the hint of official sanction or peer pressure because of nonparticipation. In short, the purpose and objective of the amendment's backers would be utterly frustrated and this painful legislative exercise reduced to a nullity.

But whether a prayer is genuinely voluntary or not, does not reach the establishment question.

If the debate surrounding this proposal means anything at all, it stands for the proposition that the establishment clause is to be modified to remove the neutral position of Government between those who profess a religious belief and those who do not; and to place Government solidly on the side of theistic religious belief. This is a substantial departure from the current trend and has implications far beyond sectarian exercises in schools.

The impact of the amendment upon the establishment clause raises fundamental questions concerning the proper relationship between church and state. Many would doubtless support legal recognition and encouragement of our Judea-Christian heritage, even at the expense of minor nontheistic beliefs or a relatively few agnostics. Others would deplore the implicit limitation on personal freedom which is involved when Government becomes a partisan in religious exercises.

Given the choice which confronts us, I urge that we act so as to persevere on our present course and that the wall between church and state remain intact. The change proposed extracts an enormous price in loss of freedom for the uncertain benefit of young children reciting by rote an empty, nondenominational prayer, whether voluntary or not.

Mr. BOLLING. Mr. Speaker, will the gentleman from Alabama yield?

Mr. BUCHANAN. Not at this point.

Mr. Speaker, how much time do I have remaining?

The SPEAKER. The gentleman from Alabama has 25 minutes remaining.

Mr. BUCHANAN. Mr. Speaker, for the purpose of debate only I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, the gentleman from Arizona (Mr. RHODES) pointed out the fact that prayers are being said

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in high schools in Arizona at the present time, and prayers are being said in the schools of Columbus, Ohio, at the present time. It is only because no one has objected.

This issue was raised in the Netcong case in New Jersey where students met before school took up in the morning, as I pointed out, and read the prayer of the chaplain from the CONGRESSIONAL RECORD. The Supreme Court of New Jersey held that was an unconstitutional practice based on the Engel case.

Mr. Speaker, the gentleman from Ohio (Mr. SEIBERLING) referred to Justice Stewart and he said some words about Justice Stewart. With reference to Justice Stewart's dissenting views he said:

> With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an "official religion" is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these schoolchildren to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation.

Mr. Speaker, I know that many of you are not happy with the word "nondenominational." I have discussed this matter with most of you, and it is my considered judgment that this resolution has a better chance of passage, excluding the word "nondenominational."

Mr. Speaker, based upon the communications I have received from church leaders, I feel that the rejection of House Joint Resolution 191 by this House would have a far more serious impact on this Nation than the Supreme Court decision in 1962.

Mr. Speaker, for these reasons I am respectfully urging the Members of this body to vote for the amendment and then vote for House Joint Resolution 191, as amended.

Mr. BUCHANAN. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BOLLING) for the purpose of debate only.

Mr. BOLLING. I thank the gentleman from Alabama.

Mr. Speaker, it is absolutely inconceivable to me that the House of Representatives will adopt an amendment to an amendment setting in order an amendment to the Constitution in a matter of a few minutes debate.

I happen to believe very strongly that the Wylie amendment should be defeated, but it clearly has the merit of having been around long enough for everyone to look at it.

I must respectfully submit that I cannot conceive of a worse disaster than the United States of America and its people knowing that the process of amending the Bill of Rights was initiated by the House of Representatives in a debate of less than an hour.

Mr. BUCHANAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. EDMONDSON) for the purpose of debate only.

Mr. EDMONDSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, personally, support the amendment which has been offered by the gentleman from Alabama to change the word "nondenominational" to "voluntary" and to add the words "or meditation." I believe it strengthens and improves the amendment.

I do not think we need to be apologetic or ashamed of the fact that we undertake to improve upon the language, when this matter is debated carefully on the floor of the House. I think we have had a careful and a thoughtful debate of this up to this point.

I am concerned personally about the fact that there apparently still could be some question about the role of the Government because the gentleman from New York (Mr. CELLER) and the gentleman from Washington (Mr. MEEDS) have both expressed the fear and the apprehension that school boards might be entering the picture to decide what was going to be done in the way of prayer. I repeat again my plea to the author of this amendment to accept additional language which would provide:

> Nothing in this article shall be construed to enable or empower any public official or governmental authority to direct or prescribe the form, content, or scheduling of such prayer.

I wonder if the gentleman after some further thought on this question could now state his more thoughtful conclusion about this additional language.

Mr. BUCHANAN. I will say to the gentleman that it is my conviction and it is my intention that the purpose of his language is served by the present amendment. And I do not entertain any idea or any other interpretation of the amendment as offered, and as I hope it will be voted upon.

Mr. EDMONDSON. Does the gentleman feel that the use of the phrase "voluntary prayer or meditation" precludes any role by a school board or a school official in connection with the prayer said?

Mr. BUCHANAN. That is my intention.

Mr. EDMONDSON. And this would also preclude any State official or any other official?

Mr. BUCHANAN. Yes, that is my intention.

Mr. EDMONDSON. I thank the gentleman.

Mr. BUCHANAN. Mr. Speaker, for the purpose of debate only, I yield 5 minutes to the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Speaker, I support the proposed constitutional amendment which would permit nondenominational and/or voluntary prayer in our public schools, and urge the adoption of House Joint Resolution 191. There are three reasons why I endorse the amendment: The Supreme Court erred in its interpretation of the first amendment as it applies to prayer in school, the Congress has a constitutional responsibility to give the people an opportunity to decide this specific issue, and the proposed amendment deserves approval on its merits.

We mean no disrespect to the Supreme Court when we disagree with its decisions in the New York case—Engel against Vitale—decided on June 25, 1962, and the Pennsylvania and Maryland cases—Abington Township against Schempp, and Murray against Curlett—decided on June 17, 1963. I hold the Court in highest esteem. I am proud of our Federal judiciary, but no judge and no court is infallible. Eminent jurists and scholars of the law do disagree on many legal issues and constitutional questions.

Seven Supreme Court Justices participated in the New York case. Five agreed with the majority opinion; one wrote a concurring opinion, and Justice Potter Stewart dissented. Nine Justices took part in the Pennsylvania and Maryland cases. Four joined in the majority views; there were two separate concurring opinions and a third concurring opinion by two Justices, with Justice Potter Stewart again dissenting.

I have always believed that the opinions of Justice Potter Stewart are sound in their interpretation of the first amendment and express a public policy which can and should be endorsed.

Justice Stewart stated in the New York case:

> The Court says that in permitting school children to say this simple prayer, the New York authorities have established "an official religion." I cannot see how an "official religion" is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish to these children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our nation.

It is interesting to note that Justice Douglas agreed with Justice Stewart in the New York case when he said:

> At the same time I cannot say that to authorize this prayer is to establish a religion in the strictly historic meaning of those words. A religion is not established in the usual sense by letting those who choose to do so say the prayer that the public school teacher leads.

That from Justice William O. Douglas, and I think his words bear noting today as we vote on this amendment. I must add, however, that Justice Douglas found the use of prayer unconstitutional on different grounds.

The proposed amendment before us today is not compulsory. No one is required to participate in any prayer in a public school. The prayer, if said, will be nondenominational and voluntary. The Supreme Court erred in holding such prayer unconstitutional and we must help correct the error. Again let me quote from Justice Stewart's dissenting opinion in the Maryland-Pennsylvania cases:

> In the absence of coercion upon those who do not wish to participate—because they hold less strong beliefs, other beliefs, or no beliefs at all—such provisions cannot, in my view, be held to represent the type of support of religion barred by the Establishment Clause.

I agree with Justice Stewart that the Supreme Court should not have found unconstitutional prayer and similar religious exercises in the public schools. He was right when he wrote in the Maryland-Pennsylvania cases:

> The choice involved, however, is one for each community and its school board, and not for this Court. For, as I have said, religious exercises are not constitutionally invalid if they simply reflect differences which exist in the society from which the school draws its people. They become constitutionally invalid only if administration places the sanction of secular authority behind one or more particular religious or irregular beliefs.

In my judgment, Justice Stewart is correct and the prevailing opinion of the Court on prayer should be set aside through constitutional amendment.

The proposed constitutional amendment before us today adopts the Stewart doctrine. It would permit prayer in the schools with the local authorities deciding whether and how the prayer should be conducted. It adopts the principles set forth in Justice Stewart's concluding paragraph in the Maryland-Pennsylvania cases where he said:

> What our Constitution indispensably protects is the freedom of each of us, be he Jew or Agnostic, Christian or Atheist, Buddhist or Freethinker, to believe or disbelieve, to worship or not worship, to pray or keep silent, according to his own conscience, uncoerced and unrestrained by government. It is conceivable that these school boards, or even all school boards, might eventually find it impossible to administer a system of religious exercises during school hours in such a way as to meet this Constitutional standard—in such a way as to completely to free from any kind of official coercion those who do not affirmatively want to participate. But I think we must not assume that school boards so lack the qualities of inventiveness and good will as to make impossible the achievement of that goal.

Mr. Speaker, whether we think the Supreme Court erred or not, I believe we have not only the right but also the duty to permit the people to decide this question. It is well to remind ourselves that in any consideration of a constitutional question by the courts, the judges are doing more than simply interpreting the words of the Constitution; they are expressing in their decisions public policy. Because this is true and because the fathers of the Constitution set up a system of checks and balances, provision was made in the Constitution to override decisions of the Supreme Court in a legal and constitutional manner.

In its wisdom the Court has so interpreted the first amendment to the Constitution as to bar the use of prayer in the public schools. We in the Congress have the responsibility of examining that interpretation and expression of public policy to determine whether it should stand or be overruled. This is in the best traditions of the American way wherein sovereignty rests with the people.

We have heard often that "The Constitution is what the Supreme Court says it is." But the Constitution belongs to the American people and not to the Supreme Court. When there is overwhelming opposition to a significant Supreme Court decision, the Congress owes it to the American people to examine that decision and to give the people an opportunity to pass on its merits. This we must do today.

Since 1962 and 1963 all of us have received hundreds of letters and petitions in opposition to the Court's decision. Members of Congress have introduced scores of resolutions on the issue. The legislature of my State of Michigan in 1964 adopted a resolution respectfully requesting the Congress to propose an amendment to the Constitution of the United States or to call a convention to add to the Constitution an article providing that "the free exercise of religion shall include the right to offer prayers in public schools."

There is great public interest in this subject. There is a demand for overruling the Court's decision. I think we should submit this proposal to the people so that through the established process, the people may exercise their sovereign right to mold constitutional law.

We are told that we should not tamper with the first amendment. I submit that the Supreme Court has tampered with the first amendment and that we must help undo the damage done by the Court. From 1791 until 1962, the first amendment did not bar prayer in the public school. In 1962 the Supreme Court ruled otherwise. What we are asked to do in House Joint Resolution 191 is to restore to the American people a right they had under the first amendment from 1791 to 1962, a right taken from them in 1962 by the Supreme Court.

Those of us who believe in the sovereignty of the people should have no hesitancy in submitting to them a proposed constitutional amendment on a significant issue in which there is great public interest. We trust the people; they have elected us. By what logic can we deny them the opportunity to decide this issue?

Mr. Speaker, I believe in the third place that this proposed constitutional amendment deserves approval on its merits. I have referred to the fact that religion is closely identified with our history and government. May I emphasize that this amendment will only authorize to be done in the schools what we do in this House at the opening of each daily session.

In a time when there is general concern over the state of morality and ethics in our country, we ought to promote those policies which uplift and inspire. The Supreme Court agrees that:

> We are a religious people whose institutions presuppose a Supreme Being" (343 U.S. 306, 313). Our Constitution should encourage, not discourage that concept. Justice Arthur Goldberg in his concurring opinion in the Pennsylvania-Maryland cases recognized the importance of this when he wrote, "It is said, and I agree, that the attitude of the state toward religion must be one of neutrality. But untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that non-interference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it.

To insist that the Constitution prohibits prayer in school destroys the "neutrality" of government in this sphere. Again may I endorse what Justice Potter Stewart wrote in the Pennsylvania-Maryland cases:

> A compulsory state education system so structures a child's life that if religious exercises are held to be impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secularism, or at the least, as government support of the beliefs of those who think that religious exercises should be conducted only in private.

The constitutional amendment proposed here today does not establish a religion but it does permit the free exercise thereof. The amendment would make the Federal Government truly neutral with respect to religion. Furthermore, the adoption of this amendment will confirm the American people's determination to emphasize the place of religion and the spiritual in the life of our Nation.

Mr. Speaker, I urge approval of House Joint Resolution 191 and the proposed constitutional amendment to permit nondenominational and/or voluntary prayer in the public schools.

Mr. BUCHANAN. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. YOUNG) for purposes of debate only.

Mr. YOUNG of Florida. Mr. Speaker, in the debate this afternoon opponents of the prayer amendment have spoken eloquently in their opposition but I fear that much of their debate could polarize religions and could even set one against the other.

From their arguments you might be convinced that something awful would happen to you if you were exposed to the prayers of another denomination. Mr. Speaker, it has been my privilege to attend many programs of denomination and religions other than my own and I can report today that I have suffered no ill effects of such exposure. My children have also enjoyed similar exposure and they too have suffered no adversity. So I say that arguments that would pit one religion against another even unintentionally are ill advised.

Mr. Speaker, I hope that arguments of that devisive nature would be set aside—I hope that this Congress will respond to the will of the vast majority of Americans—I hope that this Congress will this day approve the prayer amendment so that our children will once more know that their Government is still "One Nation Under God."

Mr. BUCHANAN. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. GALLAGHER) for purposes of debate only.

Mr. GALLAGHER. Mr. Speaker, I might say that the United Nations these days do not agree on very much, but they do agree to begin each session of the General Assembly with a minute of silent prayer or meditation—unanimously. Therefore, I would hope that we could follow that precedent which works so well.

In this way we who wish to pray would be allowed to do so in the privacy of our mind at a time designated for such a silent prayer or period of meditation. I cannot support the gentleman's amendment as it stands but I and many of my colleagues would support the amendment if it were changed to a minute of silent prayer or meditation each day.

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Mr. BUCHANAN. Mr. Speaker, I yield, for purposes of debate only, 2 minutes to the gentleman from North Carolina (Mr. LENNON).

Mr. LENNON. Mr. Speaker, let us turn back to the year 1962. What was the moral attitude of the young people prior to 1962? Permissiveness? Sex? Pornography? What has happened since 1962? Anything is worthy of change that would better the conditions and make them better than what they are today and better the attitude of our young people.

I do not believe that any fairminded, knowledgeable person today would say that the attitude of young America today is greater than it was prior to the decision in 1962.

Now what has happened in my State? There are 153 school boards. Each one of those 153 school boards have that many different attorneys representing them. The dictum and the opinion in the 1962 decision has led two-thirds of those lawyers to advise those school boards that voluntary prayer even is not permitted in schools.

Nothing could be worse than the conditions today. I prayerfully hope that we will adopt the amendment and then the resolution and then let the legislatures, that are the most direct representatives of all the people, three-fourths of the sovereign States, resolve this question.

But let us do our duty here today and pass this resolution.

Mr. BUCHANAN. Mr. Speaker, I yield myself 2 minutes.

The SPEAKER. The gentleman from Alabama is recognized.

GENERAL LEAVE

Mr. BUCHANAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on this subject.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. TERRY. Mr. Speaker, before us this week is a proposed constitutional amendment which I believe few of us 10 years ago would have thought necessary. But in two separate decisions, *Engel* v. *Vitale*, 370 U.S. 321, and Abington School District against Schempp, the Supreme Court of the United States prohibited the saying of a nondenominational prayer during the normal course of school activities.

Those decisions shocked millions of Americans and since the time of their enforcement, efforts have been made to amend the Constitution to permit such prayer.

I think it is important that we examine what we are attempting to do through House Joint Resolution 191 by our esteemed and courageous colleague, Mr. WYLIE.

Our Nation was founded with religion and a belief in a Supreme Being an integral part of the first colonies. Through the difficult years of colonialization, some attempts were made to establish religions in various parts of the colonies.

Because these attempts violated intentions of most citizens of the 13 colonies, a prohibition against an established church was incorporated in our Constitution.

The wording of the first amendment, referred to frequently in numerous court decisions as the establishment clause is clear:

Congress shall make no law respecting an establishment of religion.

The idea that government at any level would attempt to require a particular religious doctrine as a part of their curriculum is alien to the sweep of history of the United States. The eloquence of James Madison reflected the attitudes of our Nation in its infancy when he wrote that religion is too personal, too sacred, too holy, to permit its "unhallowed perversion" by a civil magistrate.

Madison's concern is applicable to our discussion today. The opponents of the proposed amendment to our Constitution are critical, because of potential dangers of interweaving the role of church and state. It should be stated clearly and unequivocally, that the supporters of this amendment do not seek to tie government to church, legislator to cleric.

Instead, we seek merely an opportunity for those who wish to pause in a moment's meditation, to communicate with their God in the manner which they desire.

In the historic Vitale decision, it was made clear that no compulsion existed in New York State schools for any student, faculty or staff member to participate in the regents prayer. Surely this same standard will be applied if the amendment permitting nondenominational prayer is passed, first by the Congress and then by three-fourths of the State legislatures.

The winds of change which at times have blown with hurricane force in recent years, frequently threaten to so dilute our Nation's heritage as to render this country helpless and totally lacking a sense of direction.

The amendment to permit nondenominational prayers in our schools can help end this dilution of national direction. Every man, woman, and child in this country has the freedom to choose their form of religion or to choose none at all. There is nothing in the amendment which will abridge that right. There is nothing in our national history which should prevent our declaration of support for the right to pray as one sees fit.

Mr. WYMAN. Mr. Speaker, I rise in support of the amendment of the gentleman from Alabama. It meaningfully improves the context of the resolution of the gentleman from Ohio (Mr. WYLIE).

At stake here is a tremendous concern of this Nation—the exposure of its youth to prayer on an optional basis in the schools of our land. No longer is there a question of denominational prayer—although, frankly, this would not disturb me since each child has the protected right of nonparticipation. Actually it should make no difference whether a prayer is the simple one to Almighty God composed by the New York Board of Regents, or a Catholic prayer or a Jewish prayer, or anything else. The point is that we must and should remain humble before a Supreme Being. It is wise to encourage our young people to believe in a Supreme Being—from whatever perspective.

On June 18, 1963, immediately following the Supreme Court's decision misinterpreting the enjoinders of the Constitution's first amendment to deny even voluntary prayer in the public schools, I protested on the floor of this House that we are a nation under God and that the legal technicalities of the Court's decision reflected a new cynicism that before the Great Dispenser of Infinite Justice seem to me to be asking for trouble.

I also said then that—

The real question in determining the eventual success or failure of democracy in the world is not whether God is on our side but whether we are on God's side. The pattern of these decisions does not help us to be on God's side.

The constitutional amendment being proposed here today will help strengthen the moral and spiritual fiber of America at a time when it needs it badly. Let us resolve to expose our young people to voluntary prayer or meditation. Regrettably this option is too often unavailable to them elsewhere.

America needs this amendment at this hour. Our children need it. The Court decision to which this amendment is addressed took America backwards. Let us be on with the important business of presenting to the several State legislatures the option to undo this misfortune that casts an unwarranted and tragic shadow across the basic faith in God that remains the mainstay of the American way of life.

Congress, which is a representative body, owes it to the American people who overwhelmingly support this amendment, to declare its intent as recognizing, respecting, and thanking Him who has given us all that we have, by amending the Constitution to insure our right to participate in prayer on a voluntary basis in public places.

I urge the adoption of the pending amendment.

Mr. HATHAWAY. Mr. Speaker, I rise in opposition to the Buchanan amendment, primarily because of the difficulties of interpretation I can foresee, both as to its meaning and scope.

If the purpose of the Buchanan amendment is to allow voluntary, personal, silent prayer or meditation in the public schools, the amendment is unnecessary and superfluous since such acts are not in violation of the Supreme Court decisions of 1962 and 1963. A child may pray in school so long as he does not interfere with the rights of others in doing so. Indeed, any prohibition on such voluntary prayers would be contrary to the free exercise clause of the first amendment.

If, on the other hand, the intent of the amendment is to authorize the recitation, albeit on a voluntary basis, of prayers which have the sponsorship of school authorities or State or local officials, then the Buchanan amendment is even more mischievous than the original Wylie amendment. Since it substitutes "voluntary" for "nondenominational," the Buchanan amendment, in effect, sanctions the recitation of denominational prayers reflecting the peculiar faith and denominational orientation of those who author the prayer. Approving this amendment may therefore authorize utilizing public agencies to indoctrinate students in the tenets of whatever faith the power structure of the local community decided it wanted.

Moreover, as I stated earlier, and as many others have noted, with the young the pressure to conform or suffer the pain of being branded an "outsider" is not appreciably lessened by making participation "voluntary." Prayers which have the sanction of school authorities are not really "voluntary," for few children of elementary or secondary school age have the courage or foolhardiness to isolate themselves and face the disapproval of their teachers and classmates through nonparticipation.

In sum, Mr. Speaker, the right to pray is not really the issue before us today. That right is not and cannot be granted by the Government or denied by the Government. What is at issue is the right to be free from coercion in matters of religion and prayer, and that freedom will not be enhanced—and may be endangered—by adoption of the Wylie amendment as amended by the Buchanan amendment.

Mr. CELLER. Mr. Speaker, I strongly oppose House Joint Resolution 191, proposing to amend the Constitution of the United States with respect to the offering of prayer in public buildings as it is presently written. Undoubtedly, some clarification will be necessary to determine the exact meaning of "assembled," "public buildings," and "public funds," but this is not, in my estimation, insurmountable.

My strong opposition to the amendment is over the word "nondenominational." I believe prayer is a person's communication with God and if it means anything, he ought to pray as he has learned to do so, not in some manner which a majority of the people in his community, the State, or the court has determined to be "nondenominational."

To give you an idea of the controversy, most people would think that the prayer, "God is great, God is good, and we thank Him for our food, Amen." would be nondenominational; however, if one is of the Islam religion, he would, in praying such a prayer, use the wording, "Allah is good, Allah is great, and we thank Him for our food, Amen."

Many people would think such a prayer is certainly denominational. I pray as a Christian in a way that would surely be determined denominational and so do my children. If a constitutional amendment is going to protect the rights of people to pray, it certainly ought to protect their right to pray as they believe.

I do not see where a nondenominational prayer would do much good other than in the way that any other recitation would effect students.

The Supreme Court has held that required prayer or prescribed prayer in public school is prohibited by the Constitution. I agree, and feel that official or governmental prescribing of prayer would be unwise.

From the American Law Division of the Library of Congress, I obtained this information: "Taking the Engel and Abington cases together, they proclaim that a State or its instrumentality cannot institutionalize or sanction any form of religious exercise in the public schools, notwithstanding the fact that students might have the option to refrain from participating."

I disagree with the lower courts which have consistently held that formal action by school authorities in providing for a prayer program in public schools, even though voluntary, cannot be constitutionally justified on the basis that students are not coerced into attending the program.

The American Law Division also indicates what Engel and Abington did not decide: First. "They did not determine whether a religious exercise resulting from a spontaneous expression on the part of the students, without any overt encouragement from the State, would violate the establishment clause, and second. "They did not affect the right of school districts to hold nonreligious activity on the school premises. The study of the Bible as literature in the public schools, for example, would be untouched by the establishment clause."

During this debate, no one seems to have a clear idea of what "nondenominational" prayer really is and those who attempt to explain it do not find much agreement amongst our colleagues. If this constitutional amendment were adopted, who is to determine what is nondenominational and what version of the prayer will be used. If one presupposes that the constitutional amendment would reverse all of Supreme Court decisions, then, of course, the State would prescribe nondenominational prayer and that would surely be offensive to me and I think to most of you. Surely, the word "nondenominational" in all its connotations would lead to a political divisiveness over prayer that was sought to be prevented by our Founding Fathers and it certainly would not be satisfactory to any organized religious group.

I understand that an amendment will probably be offered to strike the word "nondenominational" and insert in lieu thereof "voluntary." This I would strongly support.

Mr. LATTA. Mr. Speaker, I arise in support of the amendment to insert the word "voluntary" in lieu of the word "nondenominational" which appears on page 2 just prior to the word "prayer." Some people opposing the passage of House Joint Resolution 191, the joint resolution proposing to amend the Constitution of the United States with respect to the offering of prayer in public buildings, have maintained that it would be difficult to determine what a "nondenominational" prayer was in most cases and that the use of the word might be interpreted to mean that a denomenational prayer was legal or illegal depending on whichever way the opposition cared to argue. I used the word "voluntary" in the prayer resolution, House Joint Resolution 705, which I introduced during the 88th Congress and since I avoided this opposition, I now support the amendment in order to avoid it now.

Much has already been said on this subject today, and I do not wish to restate my position on this subject other than to say, that the longer the courts continue to speak on this subject, the more convinced I am that we must act. Most people opposing prayer in our schools seem to be hung up on the 1962 case which declared a State composed and imposed prayer was unconstitutional by virtue of the "establishment clause" of the first amendment. They fail to recite the later cases which have gone much further than this particular case, which, incidentally, I agree with. The State—through the school authorities—should not be composing prayers and requiring children of all faiths to say those prayers.

Let us look at just a couple of these later cases. The Supreme Court refused to review—and thus let stand—a U.S. Court of Appeals case entitled DeSpain against DeKalb County Community School District in the Seventh Circuit, Illinois, in which the word "God" was eliminated from the words being said. The words being repeated by a kindergarten were:

We thank you for the flowers so sweet;
We thank you for the food we eat;
We thank you for the birds that sing;
We thank you for everything.

The Court held that this constituted a prayer and its compulsory recitation came within the provisions of the first amendment.

The case which really points up the need for this amendment more than any other is the State Board of Education against Board of Education of Netcong, N.J. This was an action by State officers seeking declaratory judgment and injunctive relief with respect to a program of a local board of education for "period of free exercise of religion" in public schools. This program provided for a period in the school gymnasium prior to opening of school, in which students desiring to do so could listen to and participate in the reading of the "remarks" made by the Chaplains of the House and Senate as taken from the CONGRESSIONAL RECORD. Court held this to be an establishment of religion and unconstitutional.

In Stein against Oshinky, U.S. Court of Appeals, 2d Circuit—N.Y.—with Supreme Court refusing to review, it was held that students desiring to hold their own preschool session for prayers could not do so. This case came into the courts when the parents of the children sued the school for refusing to permit these students to exercise their freedom of religion. The Court said that the constitutional right to free exercise of religion and to freedom of speech do not require a State to permit "student-initiated" prayers in public schools.

Mr. Speaker, these cases indicate how far the courts have gone in denying the free exercise of religion to our youth. We should not be denying the youth of America the right to voluntarily practice their religion any more than we should be forcing religion on those who do not wish to receive its blessings. We need to return

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to the free exercise of religion and the passage of this resolution is the only way open to us.

Mr. BUCHANAN. I yield for the purpose of a question or debate only to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I rise to ask a question of the sponsor of the amendment, the gentleman from Alabama (Mr. BUCHANAN): As I understand the amendment, it would strike out the word "nondenominational" in the proposed amendment and insert in place thereof the word "voluntary," and then add, "or meditation."

Awhile ago the gentleman from Oklahoma (Mr. EDMONDSON) asked the gentleman from Alabama a question in which he suggested that you accept a proposal to your amendment as a clarifying amendment and, as I understand it, you rejected his proposal. I wish to read Mr. EDMONDSON's proposed amendment:

Page 2, line 2, immediately after "prayer." insert the following new sentence: "Nothing in this article shall be construed to enable or empower any public official or governmental authority to direct or prescribe the form, content, or scheduling of such prayer."

As I recall, the gentleman said that he rejected that language, because he felt it was not necessary. He then responded by saying that this would not give to any State official or any local official any power to do any of these things in prescribing form, content, or scheduling of such prayer.

Does the gentleman's proposal give to any Federal court, the Supreme Court, or to any Federal official, the power to prescribe the form, content, or scheduling of such prayer, the voluntary prayer that the gentleman has talked about?

Mr. BUCHANAN. It does not, and this is firmly not my intention. In my judgment the language of my amendment precludes that.

Mr. GIBBONS. I thank the gentleman.

Mr. BUCHANAN. Mr. Speaker, for purposes of debate only, I yield to the gentleman from Arizona (Mr. STEIGER) 1 minute.

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

Mr. Speaker, I would most respectfully like to point out that we seem to be in the rather unique position of stumbling over trees while we are trying to pick up toothpicks. We have heard a great deal about the dangers of peer pressure on impressionable young people in connection with prayer in the schools. If you really believe that the child is going to be subject to that kind of jeopardy if we pass this language, I suggest that you are in the wrong arena, because the kind of peer pressure on most of our children in the public schools today cries out desperately for the peer pressure that calls for prayer. It is not sophistry; it is pure baloney to say that it is peer pressure that concerns you. If it is the form or the manner in which we are doing this that concerns you, then you are really doing the young people a great disservice. I thank the gentleman for yielding.

Mr. BUCHANAN. Mr. Speaker, I yield 1 minute to the distinguished chairman of the House Rules Committee, the gentleman from Mississippi (Mr. COLMER).

The SPEAKER. The gentleman from Mississippi is recognized.

Mr. COLMER. I thank the gentleman for yielding to me.

Mr. Speaker, I asked for this time merely to submit a question to him and, incidentally, to the House. So far as I know, since the inception of this body, it has been opened each day with prayer. The other body has also been opened each day by prayer. If we, the high judges here today, passing on this highly spiritual matter, decide in our wisdom we are going to deny to other assemblages of American citizens throughout the country the right to have prayer, then does it not logically follow that we should abandon the practice that we have historically used in opening this assemblage with prayer?

Mr. BUCHANAN. Mr. Speaker, I yield myself 1 minute.

The SPEAKER. The gentleman from Alabama is recognized.

Mr. BUCHANAN. Mr. Speaker, the distinguished chairman of the House Rules Committee is precisely correct. I interrupted my own remarks in the midst thereof in order to extend to other Members the courtesy of yielding. The gentleman has touched upon a point that I would have desired to reach. What he has said is precisely the case.

We are here exercising rights and prerogatives which have been denied our children. Were the same restrictions imposed upon this body which, on the basis of the original Supreme Court decision, lower court decisions, and decisions of school boards and school administrators, have been imposed upon the school children in the United States, we would not stand still for one moment for those restrictions being imposed upon the House or upon the military service of this country either. The gentleman has made a telling point.

I yield 1 minute for the purpose of debate only to the gentleman from Minnesota (Mr. QUIE).

The SPEAKER. The gentleman from Minnesota is recognized for 1 minute.

Mr. QUIE. Mr. Speaker, if I understand the amendment and the answer of the gentleman from Alabama, it is that a school board could not prescribe a prayer, but by the same token they could not prohibit students from praying. The student or principal or teacher could not prescribe a prayer, but could not be prohibited from praying if they wanted to, and they, in turn, could not prohibit a student from praying. That is my understanding of voluntary prayer.

I disagree with the position taken by the minority leader that this amendment would reverse the previous Supreme Court decisions and that they should be reversed. As I said earlier, I believe that it is wrong for the State to prescribe prayer or even to require that people engage in prayer.

To give you an example of a couple of lower division court cases that I think would not have been made had this amendment permitting voluntary prayers been a part of the constitution are: Hunt versus the Board of Education of the County of Kanawha. In that case, six students in a high school in Kanawha County brought suit to enjoin the board of eduction from prohibiting them from meeting voluntarily on the premises of the school before classes began for the purpose of engaging in group prayer.

Another would have been—the State Board of Education against the Board of Education of Netcong, N.J. The Netcong School in Netcong, N.J., instituted a daily period for free exercise of religion at which time a pupil volunteer read from the CONGRESSIONAL RECORD the remarks of the chaplain of either the United States Senate or House of Representatives. This period was conducted on a voluntary basis each day at 5 minutes before 8 o'clock in the high school gymnasium and pupils who did not wish to participate in the program were permitted to either enter the building and go to their homerooms or postpone their arrival at school until the conclusion of the program.

In both those two cases, I believe that permission of voluntary prayers would have permitted those two practices.

I was very strongly opposed to the constitutional amendment that carried the word "nondenominational." If my children attend public school, and they do, I believe my children should not be denied the right to pray as they believe, and the Wylie amendment would not have protected that right for them since it only permits "nondenominational" prayers. But they are protected under the amendment offered by the gentleman from Alabama. I believe of all the language that has been proposed through the years so far, this is the most ideal for a constitutional change, and it will enable the people to practice their religion as they see fit without coercion.

Mr. BUCHANAN. Mr. Speaker, I yield for purposes of debate only to the gentleman from Illinois, a distinguished member of the committee.

Mr. DENNIS. Mr. Speaker, if the resolution offered by the gentleman from Alabama is adopted, the resolution will read:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer or meditation.

The thing that strikes me about that rather simple language which the gentleman has rather thoroughly explained is that it is a strange thing to consider that the Constitution should ever have been considered to prevent anything of that kind, but because the courts by overdoctrinaire and overrefined interpretations of the first amendment—which were never intended by James Madison, if we go back to the congressional debates—have put us in the position where voluntary prayer as a part of the program in the public schools have not been allowed.

The gentleman's amendment is our only recourse.

Mr. POFF. Mr. Speaker, if the resolution remains in its present form, I shall vote against it. If the amendment to delete the word "nondenominational" and substitute the word "voluntary" or "voluntarily" is adopted, I shall vote for the resolution.

The religious freedom clause of the first amendment embraces two subclauses. The free exercise clause makes the individual secure in his right to exercise his religious convictions freely. The antiestablishment clause makes the people at large secure against the establishment of a state religion.

Apparently, the original language of House Joint Resolution 191 is intended somehow to broaden or strengthen the free exercise clause. However, either by intent or by accident, it would narrow or weaken the antiestablishment clause.

The antiestablishment clause prohibits any laws which "aid one religion, aid all religions, or prefer one religion over another." Thus, it forbids the establishment of atheistic state religion. It forbids the establishment of an atheistic "religion." It forbids the establishment of an agnostic "religion." It forbids the establishment of a denominational religion. And it forbids the establishment of a nondenominational religion.

To the extent that House Joint Resolution 191 validates the religion of nondenominationalism, it shrinks the antiestablishment clause and offends the principle of separation of church and State. This is the chief flaw in the original resolution.

In large part, the flaw is repaired by deleting the word "nondenominational" and substituting the word "voluntary" or "voluntarily," the repair is enough to justify a vote for the resolution. But the repair is an improvement only and not a perfection. Other language in the resolution remains obscure, imprecise and begging refinement.

The House vote is only the first of many steps in the constitutional amendment journey. The parliamentary realities in the House make further refinement here impracticable and perfection impossible; but the parliamentary disciples of the other body are more flexible. There, further improvement can be accomplished, and in the conference between the two bodies, hopefully perfection can be achieved.

It is with this hope in mind that I will support the amendment to the resolution and when the amendment is accepted, the resolution itself, imperfect as it may be.

Mr. BUCHANAN. Mr. Speaker, I yield myself 3 minutes, and I cannot yield further, and I regret that I say to my colleagues again.

Mr. Speaker, at the outset of the hour, I indicated the position of this Government historically has never been neutral on the subject of religion. Our forefathers only sought to preclude a state church in America, but this country was founded as a nation under God, and I call upon this House today by passage of this amendment and resolution to make that stand in this present hour of American history. But here I do not rest my case.

The second reason I would ask the Members to vote for my amendment and the amended prayer resolution is that this is the people's House of Government. "Here, sir, the people govern." And the people, in 80 or 90 percent majority, have requested and urged us to take this stand.

If the resolution before us should secure the necessary two-thirds vote in the House, it must run the gauntlet of the Senate as well. Should it receive approval there, this debate could continue in the 50-State capitals across the land. There, the people could also make their influence felt and more fully participate in this great decision. But this can only be the case if we here defend their rights by passing a prayer amendment.

We are the people's only voice in the Federal level of Government. They have no representation in the Federal judiciary. In the executive, out of several million, there are only two who are elected and they not directly by the people.

This is the people's House in which the people's voice should be heard and their influence felt. Here the notion of government of the people, by the people, and for the people should become reality. Here, sir, the people should govern. But here I do not rest my case.

Mr. Speaker, I make and rest my case on the ground that religious liberty has been denied in the public schools in America in our time. The issue is that among those unalienable rights of which our forefathers spoke in the Declaration of Independence—life, liberty, and the pursuit of happiness—the most precious liberty and right of all is being violated. I call upon this House to take a stand for religious liberty itself in the passage of the prayer amendment. Let our voice be heard loud and clear that there shall be no limitations upon the free exercise of religious faith for any person of any age anywhere in these United States. Let us announce to the Nation and to history that the free exercise clause of the first amendment to the Constitution is here restored and the religious liberty of the people declared inviolate, both now and forever, so help us God.

Mr. Speaker, I move the previous question on the amendment and the joint resolution to final passage.

The SPEAKER. The question is on ordering the previous question.

The previous question was ordered.

PARLIAMENTARY INQUIRY

Mr. SCHWENGEL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The previous question has been ordered. What is the purpose of the gentleman's inquiry?

Mr. SCHWENGEL. To determine whether or not the opposition has any chance of having a further voice, because the opposition had 15 minutes out of the hour. Is there any chance, under the rules, for further debate?

The SPEAKER. The response of the Chair is that this has been under the control of the House. The House voted down the previous question, and the time was given to the gentleman who offered the amendment.

The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MCCULLOCH

Mr. MCCULLOCH. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the joint resolution?

Mr. MCCULLOCH. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MCCULLOCH moves to recommit the joint resolution (H.J. Res. 191) to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. GERALD R. FORD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 240, nays 163, not voting 27, as follows:

[Roll No. 366]

YEAS—240

Abbitt	Dwyer	McClure
Abernethy	Edmondson	McCollister
Addabbo	Edwards, Ala.	McDade
Alexander	Esch	McDonald, Mich.
Andrews, Ala.	Eshleman	McEwen
Andrews, N. Dak.	Fish	McKevitt
Archer	Fisher	McKinney
Arends	Flood	Mahon
Ashbrook	Flowers	Mann
Baker	Flynt	Martin
Baring	Ford, Gerald R.	Mathias, Calif.
Bennett	Forsythe	Mathis, Ga.
Betts	Fountain	Melcher
Blackburn	Frey	Michel
Blanton	Fuqua	Miller, Ohio
Bow	Galifianakis	Mills, Md.
Bray	Garmatz	Minshall
Brinkley	Gaydos	Mizell
Broomfield	Gettys	Mollohan
Brotzman	Giaimo	Monagan
Brown, Mich.	Gibbons	Montgomery
Brown, Ohio	Goldwater	Morgan
Broyhill, N.C.	Goodling	Murphy, Ill.
Broyhill, Va.	Gray	Murphy, N.Y.
Buchanan	Gross	Myers
Burke, Fla.	Grover	Natcher
Burke, Mass.	Hagan	Nelsen
Burleson, Tex.	Haley	O'Konski
Byrne, Pa.	Hall	Perkins
Byrnes, Wis.	Hammer-schmidt	Pettis
Byron	Hanley	Pike
Camp	Harsha	Pirnie
Carney	Hastings	Poage
Carter	Hays	Poff
Casey, Tex.	Hébert	Powell
Cederberg	Hechler, W. Va.	Price, Ill.
Chamberlain	Heckler, Mass.	Price, Tex.
Chappell	Henderson	Pucinski
Clancy	Hicks, Mass.	Purcell
Clark	Hicks, Wash.	Quie
Clausen, Don H.	Hillis	Quillen
Clawson, Del	Hogan	Randall
Cleveland	Hoemer	Rarick
Collier	Hunt	Rhodes
Collins, Tex.	Hutchinson	Roberts
Colmer	Ichord	Robinson, Va.
Conable	Jarman	Roe
Conte	Johnson, Pa.	Rogers
Coughlin	Jonas	Roncalio
Daniel, Va.	Jones, N.C.	Rooney, Pa.
Davis, S.C.	Jones, Tenn.	Rostenkowski
Davis, Wis.	Kazen	Roush
de la Garza	Keating	Rousselot
Delaney	Kee	Runnels
Dennis	Kemp	Ruppe
Dent	King	Ruth
Derwinski	Kuykendall	Sandman
Devine	Kyl	Sarbanes
Dickinson	Landgrebe	Saylor
Donohue	Latta	Scherle
Downing	Lennon	Schmitz
Dulski	Lent	Schneebeli
Duncan	Lujan	Scott
du Pont	McClory	Sebelius

XUM

Shipley	Talcott	Widnall
Shoup	Taylor	Williams
Shriver	Teague, Calif.	Winn
Sikes	Teague, Tex.	Wolff
Sisk	Terry	Wright
Smith, Calif.	Thompson, Ga.	Wyatt
Smith, N.Y.	Thomson, Wis.	Wydler
Snyder	Thone	Wylie
Spence	Vander Jagt	Wyman
Springer	Veysey	Yatron
Staggers	Waggonner	Young, Fla.
Steele	Wampler	Young, Tex.
Steiger, Ariz.	Ware	Zablocki
Stratton	Whalley	Zion
Stubblefield	White	Zwach
Stuckey	Whitehurst	
Sullivan	Whitten	

NAYS—163

Abourezk	Fraser	Moorhead
Abzug	Frelinghuysen	Morse
Adams	Frenzel	Mosher
Anderson, Calif.	Fulton, Tenn.	Moss
Anderson, Ill.	Gallagher	Nedzi
Anderson, Tenn.	Gonzalez	Nix
Annunzio	Grasso	Obey
Ashley	Green, Pa.	O'Hara
Aspin	Griffin	O'Neill
Aspinall	Griffiths	Passman
Badillo	Gude	Patman
Begich	Hamilton	Patten
Bergland	Hanna	Pepper
Biaggi	Hansen, Idaho	Peyser
Biester	Hansen, Wash.	Podell
Bingham	Harrington	Preyer, N.C.
Blatnik	Hathaway	Railsback
Boggs	Hawkins	Rangel
Boland	Heinz	Rees
Bolling	Helstoski	Reid, N.Y.
Brademas	Hollifield	Reuss
Brasco	Horton	Riegle
Brooks	Howard	Robison, N.Y.
Burlison, Mo.	Hungate	Rodino
Burton	Jacobs	Rooney, N.Y.
Cabell	Johnson, Calif.	Rosenthal
Carey, N.Y.	Jones, Ala.	Roy
Celler	Karth	Roybal
Chisholm	Kastenmeier	Ryan
Clay	Keith	St Germain
Collins, Ill.	Kluczynski	Satterfield
Conyers	Koch	Scheuer
Corman	Kyros	Schwengel
Cotter	Landrum	Sebelius
Culver	Leggett	Sisk
Daniels, N.J.	Link	Smith, Iowa
Danielson	Long, Md.	Stanton, James V.
Davis, Ga.	McCloskey	Steed
Dellenback	McCormack	Steiger, Wis.
Dellums	McCulloch	Stephens
Denholm	McFall	Stokes
Dingell	McKay	Symington
Dorn	Macdonald, Mass.	Thompson, N
Dow	Madden	Tiernan
Drinan	Mailliard	Udall
Eckhardt	Matsunaga	Ullman
Edwards, Calif.	Mayne	Van Deerlin
Eilberg	Mazzoli	Vanik
Evans, Colo.	Meeds	Waldie
Evins, Tenn.	Metcalfe	Whalen
Fascell	Mikva	Wiggins
Findley	Miller, Calif.	Wilson, Charles H.
Foley	Mills, Ark.	Yates
Ford, William D.	Minish	
	Mink	
	Mitchell	

NOT VOTING—27

Barrett	Erlenborn	Pelly
Belcher	Green, Oreg.	Pickle
Bell	Gubser	Pryor, Ark.
Bevill	Halpern	Skubitz
Caffery	Harvey	Stanton, J. William
Crane	Hull	Vigorito
Derwinski	Lloyd	Wilson, Bob
Diggs	Long, La.	
Dowdy	McMillan	
Edwards, La.	Nichols	

So (two-thirds not having voted in favor thereof) the joint resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hull and Mr. Dowdy for, with Mr. Caffery against.

Mr. Bevill and Mr. Nichols for, with Mr. Diggs against.

Mr. Bob Wilson and Mr. Skubitz for, with Mr. Pelly against.

Until further notice:

Mrs. Green of Oregon with Mr. Belcher.
Mr. Pickle with Mr. Lloyd.
Mr. McMillan with Mr. Derwinski.
Mr. Barrett with Mr. Gubser.
Mr. Vigorito with Mr. Harvey.
Mr. Pryor of Arkansas with Mr. Erlenborn.
Mr. Crane with Mr. Bell.
Mr. J. William Stanton with Mr. Halpern.

Mr. FISHER changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7072, AIRPORT AND AIRWAY TRUST FUND AMENDMENTS

Mr. STAGGERS submitted the following conference report and statement on the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 92-634)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That section 12(h)(5) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1712(m)(5)) is amended by striking out "January 1, 1972" and inserting in lieu thereof "January 1, 1973".

SEC. 2. The first sentence of section 14(d) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(d)) is amended to read as follows: "The balance of the moneys available in the trust fund may be allocated for the necessary administrative expenses incident to the administration of programs for which funds are to be allocated as set forth in subsections (a), (b), and (c) of this section, and for research and development activities under section 312(c) (as it relates to safety in air navigation) of the Federal Aviation Act of 1958.".

SEC. 3. Section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by adding at the end thereof the following new subsection:

"(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—

"(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the trust fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in subsections (c) and (d) of this section, as amended.

"(2) Amounts equal to the minimum amounts authorized for each fiscal year by subsections (a) and (c) of this section shall remain available in the trust fund until appropriated for the purposes described in such subsections.

"(3) No amounts transferred to the trust fund by subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 (relating to aviation user taxes) may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (d).".

SEC. 4. (a) Paragraphs (8) and (11) of section 11 (49 U.S.C. 1711), subsection (b) (2) of section 13 (49 U.S.C. 1713), and subsection (b) (2) of section 15 (49 U.S.C. 1715) of the Airport and Airway Development Act of 1970 are each amended by inserting immediately after "Virgin Islands," wherever appearing therein the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(b) Paragraphs (1) and (2) of section 14 (a) of such Act (49 U.S.C. 1714) are each amended by inserting after "Guam," the following: "American Samoa, the Trust Territory of the Pacific Islands,".

(c) Subsection (c) of section 17 of such Act (49 U.S.C. 1717) is amended (1) by inserting immediately after "VIRGIN ISLANDS" in the heading of such subsection a comma and the following: "AMERICAN SAMOA, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS", and (2) by inserting immediately after "Virgin Islands" in the text of such subsection a comma and the following: "American Samoa, or the Trust Territory of the Pacific Islands".

SEC. 5. (a) Section 51(b)(4) of the Airport and Airway Development Act of 1970 is amended by striking out "two-year period" and inserting in lieu thereof "three-year period".

(b) Subsection (b) of section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1422 (b), as added by section 51 of the Airport and Airway Development Act of 1970, is amended by striking out all after "transportation" in the third sentence thereof and inserting in lieu thereof a period and the following: "Unless the Administrator determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include but not be limited to terms, conditions, and limitations relating to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.".

SEC. 6. Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429) is amended by inserting "(including airport operating certificate)" immediately after "air navigation facility certificate".

And the Senate agree to the same.

HARLEY O. STAGGERS,
JOHN JARMAN,
JOHN D. DINGELL,
JOHN M. MURPHY,
BROCK ADAMS,
WILLIAM L. SPRINGER,
SAMUEL L. DEVINE,
JAMES HARVEY,
DAN KUYKENDALL,
Managers on the Part of the House.

HOWARD W. CANNON,
VANCE HARTKE,
PHILIP A. HART,
JAMES B. PEARSON,
HOWARD BAKER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7072) to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate, with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement.

SHORT TITLE

House bill

No comparable provision.

Senate amendment

Section 101 of the Senate amendment provided that the legislation could be cited as the "Airport and Airway Development and Revenue Acts Amendments of 1971".

Conference substitute

The conference substitute omits the short title provided by the Senate amendment.

REPORTING DATE OF AVIATION ADVISORY COMMISSION

House bill

The first section of the House bill extended the final reporting date of the Aviation Advisory Commission established under section 12(h) of the Airport and Airway Development Act of 1970 from January 1, 1972, to January 1, 1973.

Senate amendment

Section 103 of the Senate amendment extended the final reporting date of the Commission to July 1, 1972.

Conference substitute

The conference substitute is the same as the House bill.

ADMINISTRATION OF THE TRUST FUND

Airport and Airway Development Act of 1970

House bill

Section 2 of the House bill amended section 14(d) of the Airport and Airway Development Act of 1970 to permit rather than require the allocation of money in the Airport and Airway Trust Fund for administrative expenses incident to the administration of the airport development program and to the acquisition, establishment, and improvement of air navigation facilities. This section of the House bill also removed from existing law the authority to allocate money in the trust fund for the maintenance and operation of air navigation facilities.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute is the same as the House bill.

House bill

Section 3 of the House bill added a new subsection (e) to section 14 of the Airport and Airway Development Act of 1970, relating to the preservation of money in the trust fund and the priorities for expenditure of money in the trust fund.

Paragraph (1) of the new subsection (e) provided that, notwithstanding any other provision of law to the contrary, no money could be appropriated from the trust fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in subsections (c) and (d) of section 14 of the Airport and Airway Development Act of 1970. Subsection (c) of such section 14 refers to the acquisition, establishment, and improvement of air navigation facilities. Subsection (d) of such section 14 (as amended by the House bill and the conference substitute) refers to (1) administrative expenses incident to the administration of programs for airport development and for the acquisition, establishment, and improvement of air navigation facilities, and (2) research and development expenses under section 312 (c) of the Federal Aviation Act of 1958, as it relates to safety in air navigation.

Paragraph (2) of the new subsection (e) provided that amounts equal to the minimum amounts authorized for each fiscal year for airport development ($280,000,000) and airway facilities ($250,000,000) must remain in the trust fund until appropriated for such purposes.

Paragraph (3) of the new subsection (e) provided that none of the user taxes transferred to the trust fund by section 208 of the Airport and Airway Revenue Act of 1970 could be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation except to the extent such administrative expenses were incident to the administration of the airport development program or the acquisition, establishment, and improvement of air navigation facilities.

Senate amendment

Section 101 of the Senate amendment also added a new subsection (e) to section 14 of the Airport and Airway Development Act of 1970, relating to the preservation of money in the trust fund and the priorities for expenditure of money in the trust fund.

Paragraph (1) of the new subsection (e) contained a provision identical to that contained in the House bill providing that amounts equal to the minimum amounts authorized for each fiscal year for airport development and for airway facilities must remain in the trust fund until appropriated for such purposes.

Paragraph (2) of the new subsection (e) provided that none of the user taxes transferred to the trust fund by section 208 of the Airport and Airway Revenue Act of 1970 could be appropriated for any fiscal year to carry out activities referred to in subsection (d) of section 14 of the Airport and Airway Development Act of 1970 (relating to administrative, research and development, and maintenance and operating expenses) until the minimum amounts authorized for airport development and for airway facilities had been appropriated for that fiscal year.

Conference substitute

The conference substitute is the same as the House bill.

AIRPORT AND AIRWAY REVENUE ACT OF 1970

House bill

No comparable provision.

Senate amendment

Section 201 of the Senate amendment amended paragraph (1) of section 208(f) of the Airport and Airway Revenue Act of 1970 to eliminate language authorizing expenditures from the trust fund for specific purposes and revising the language to provide that the amounts in the trust fund would be available, as provided by appropriation Acts, for expenditures to meet obligations of the United States authorized under the Airport and Airway Development Act of 1970, thus incorporating by reference the priorities established under section 14 of the Airport and Airway Development Act of 1970.

Conference substitute

The conference substitute omits the Senate amendment to the Airport and Airway Revenue Act of 1970.

AMERICAN SAMOA AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

House bill

No comparable provision.

Senate amendment

Section 102 of the Senate amendment amends sections 11, 13, 14, 15, and 17 of the Airport and Airway Development Act of 1970 to permit American Samoa and the Trust Territory of the Pacific Islands to participate in the Federal grant-in-aid program for airport development provided for in that Act.

The amendments to section 11 provided that American Samoa and the Trust Territory of the Pacific Islands be included within the definitions of the terms "planning agency" and "public agency". Their inclusion within the definition of the term "planning agency" would make them eligible to receive grants of funds for airport system planning and airport master planning under section 13 of the Act. Their inclusion within the definition of the term "public agency" would permit them to submit applications for grants of funds for airport development projects under section 16 of the Act.

The amendment to section 13 provided that American Samoa and the Trust Territory of the Pacific Islands would be subject to the same limitation with respect to the allocation of funds for planning grants that applies with respect to the several States, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam. The limitation provides that not more than 7.5 per centum of the funds made available for planning grants for any fiscal year may be allocated to any one State.

The amendments to section 14 provided that the Secretary of Transportation could make grants for airport development projects in American Samoa and the Trust Territory of the Pacific Islands.

The amendments to section 15 provided that the discretionary fund would be available for making grants for approved projects for airport development in American Samoa and the Trust Territory of the Pacific Islands.

The amendments to section 17 provided that the United States share of allowable project costs of any approved project for airport development in American Samoa and the Trust Territory of the Pacific Islands could not exceed 75 per centum of the allowable project costs. This grants them the same preferential treatment accorded the Virgin Islands under that section. The United States share of allowable project costs is otherwise generally limited to 50 per centum.

Conference substitute

The conference substitute is the same as the Senate amendment.

AIRPORT CERTIFICATION REQUIREMENTS

House bill

No comparable provision.

Senate amendment

Section 104 of the Senate amendment amended section 51(b)(4) of the Airport and Airway Development Act of 1970 to postpone from May 21, 1972, to May 21, 1973, the effective date of the airport certification requirements added to the Federal Aviation Act of 1958 by section 51(b) of the Airport and Airway Development Act of 1970.

Section 104 of the Senate amendment also amended section 612(b) of the Federal Aviation Act of 1958, as added by section 51 of the Airport and Airway Development Act of 1970, to remove from such section 612(b) language requiring that each airport operating certificate contain terms, conditions, and limitations relating to the installation, operation, and maintenance of adequate air navigation facilities and to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.

Conference substitute

The conference substitute follows the Senate amendment insofar as it extends from May 21, 1972, to May 21, 1973, the effective date of the airport certification requirements.

The conference substitute also amends section 612(b) of the Federal Aviation Act of 1958 relating to the terms, conditions, and limitations required to be included in each

airport operating certificate. The conference substitute does not remove from section 612 (b) all language relating to required terms, conditions, and limitations, but revises the language to provide that, unless the Administrator of the Federal Aviation Administration determines that it would be contrary to the public interest, each airport operating certificate must contain terms, conditions, and limitations relating to the operation and maintenance of adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any portion of the airport used for the landing, takeoff, or surface maneuvering of aircraft.

House bill

No comparable provision.

Senate amendment

Section 105 of the Senate amendment amended section 609 of the Federal Aviation Act of 1958 to provide that the authority of the Secretary of Transportation to amend, suspend, modify, or revoke an air navigation facility certificate includes authority to amend, suspend, modify, or revoke an airport operating certificate.

Conference substitute

The conference substitute is the same as the Senate amendment.

HARLEY O. STAGGERS,
JOHN JARMAN,
JOHN D. DINGELL,
JOHN M. MURPHY,
BROCK ADAMS,
WILLIAM L. SPRINGER,
SAMUEL L. DEVINE,
JAMES HARVEY,
DAN KUYKENDALL,
Managers on the Part of the House.

HOWARD W. CANNON,
VANCE HARTKE,
PHILIP A. HART,
JAMES B. PEARSON,
HOWARD BAKER,
Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON S. 659, HIGHER EDUCATION ACT OF 1971

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act—creating a National Foundation for Postsecondary Education and a National Institute of Education—the Elementary and Secondary Education Act of 1965, Public Law 874, 81st Congress, and related acts, and for other purposes, with a House amendment thereto, insist on the House amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. WAGGONNER. Mr. Speaker, reserving the right to object, I would like to ask the distinguished gentleman from Kentucky (Mr. PERKINS), if his proposal now with respect to the Higher Education bill refers to the same Higher Education bill which the House passed last Thursday, to which was attached the new title, the Pucinski amendment, title XXI?

Mr. PERKINS. That is correct.

Mr. WAGGONNER. I would further like to ask the gentleman if his statement to the House that we insist in conference when we go to conference on the House language is a statement on his part that he and the other conferees are going to defend the entire bill as it finally passed the House with all its language, which includes the busing amendments, beginning with the Broomfield amendment, and the Ashbrook amendment as amended by the Green of Oregon amendment, and the Pucinski amendment, which is, of course, all of title XXI?

Mr. PERKINS. Let me state to my distinguished colleagues that it will be my purpose to support the House adopted provisions. However, I am sure the gentleman realizes that in any conference of this magnitude there may have to be some give and take because of the importance of the higher education bill to the institutions of the country and to the students involved throughout America.

Mr. WAGGONNER. The gentleman is right. Always there is the question of give and take, but I think the expression from this House was so overwhelming that it would be folly on the part of the gentleman from Kentucky to believe he could give on this language. I would simply like to say if at some point in time the gentleman believes this is necessary, would he come back to the House for instructions?

Mr. PERKINS. Let me say to my distinguished colleague, I will always report the true facts to any individual who asks me concerning the conference, just like I reported to the gentleman from Louisiana when he asked me last week when I intended to request a conference with the Senate. I will certainly keep the gentleman informed on any occasion he asks me about any of the controversies existing in the conference.

Mr. WAGGONNER. I thank the gentleman.

Mr. Speaker, before I withdraw my reservation I would simply like to say if this language is not held intact there will be an effort to recommit the conference report with instructions.

Mr. Speaker, I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? The Chair hears none, and appoints the following conferees:

Mr. PERKINS, Mrs. GREEN of Oregon, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. PUCINSKI, Mr. DANIELS of New Jersey, Mr. BRADEMAS, Mr. HAWKINS, Mr. SCHEUER, Mr. MEEDS, Mr. BURTON, Mr. MAZZOLI, Mr. QUIE, Mr. BELL, Mr. REID of New York, Mr. ERLENBORN, Mr. DELLENBACK, Mr. ESCH, Mr. STEIGER of Wisconsin, and Mr. HANSEN of Idaho.

FORMER SENATOR SPESSARD L. HOLLAND OF FLORIDA

The SPEAKER. The Chair recognizes the gentleman from Florida (Mr. SIKES) to announce the death of a distinguished Member of Congress.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members have 5 days in which they may extend their remarks on the life, character and service of the late Honorable Spessard L. Holland of Florida.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SIKES. Mr. Speaker, it is my sad duty to announce to the Members of the House the death of one of Florida's greatest leaders and one of its most beloved citizens, former Senator Spessard L. Holland of Bartow. Senator Holland died in his sleep late Saturday following a relaxed afternoon with family and friends. His passing was not unexpected. He had given up his seat in the Senate because of an increasingly serious heart condition which made it unwise for him to remain in public life. Nevertheless, Florida and the Nation have suffered a great loss. He was acclaimed as Florida's greatest living statesman and a man whose leadership and sage counsel will be sorely missed by the Nation to which he has contributed so very much. It was my high privilege to work closely with him through many years, beginning when he and I saw service together in the Florida Legislature. He was Florida's Governor during my early service in the Congress and he came here as United States Senator in 1946.

I think it can be said Spessard Holland will never really leave those of us who knew and loved him. This gentle man from Polk County, Fla., gave of himself far above and beyond duty for each of his 79 years on an earth he helped shape and make better for his fellow men.

Spessard Holland was, in every sense, a man without peer. He agonized for his Nation in war having seen the horrors of combat as an observer with the Army Air Service in World War I. He met danger with bravery and a grateful Nation awarded him the Distinguished Cross for his military exploits.

He distinguished himself as a prosecuting attorney in his native county, later serving as county judge, as a State Senator and then assuming the high office of Governor of Florida in 1941.

Elected to the U.S. Senate in 1946, Spessard Holland remained in this work for 24 years, departing only last January after announcing that his health would no longer permit him to serve his country with the energy which he displayed so many years.

Even in retirement, Spessard Holland was not idle. He continued to make himself available to his friends, providing when asked, wisdom and clarity of insight drawn from his role as a shaper of history and a man deeply concerned for mankind.

His personal dedication also set him apart from others.

His entire life revolved around his lovely and devoted wife, Mary, and she was almost constantly at his side, never complaining that the great mind which made Spessard Holland such a valued man was so occupied with affairs of national and international importance.

Spessard Holland showed a particular dedication in his associations with all those he served, whether as an elected representative of the people or as an adviser to the great and near great of America. He also was a deeply religious man and his dedication to his faith was shown in his constant support of his chosen church.

Those who stood proudly in his shadow, as many of us did, knew that here, in Spessard Holland, was a brave yet gentle man, humble yet great, scholarly yet completely at home with the uneducated, an associate of the leaders of his age yet never too busy or too elevated to reach out to help all who needed him.

If this complicated, yet very simple man had a personal credo, it must have been to do what was right for all men everywhere.

Certainly he did just that for his State and his Nation, and he did it all with love for his fellow man. This I believe, was the foundation for his greatness.

Senator Holland was 79. He is survived by his wife; two sons, S. Lindsey Holland, Jr., and William B. Holland; and two daughters, Mrs. Mary Groover Lewis and Mrs. Ivanhoe Holland Craney; and 15 grandchildren.

Mrs. Sikes and I extend our deep and earnest sympathies to the bereaved. We, too, have lost someone near and dear to us. Our association with Spessard and Mary Holland goes back through many happy years.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to my distinguished colleague from Florida.

Mr. HALEY. Mr. Speaker, this is a sad day for all Floridians because we have lost our most distinguished citizen, Spessard L. Holland. It is particularly a sad day for me because I have lost a dear friend of more than 40 years. We were friends in every sense. Mrs. Haley and I shared many warm experiences with Mary and Spessard Holland during that lifetime of friendship.

Florida has had many native sons who were outstanding in public service, many who have brought great honor to our State, but none has ever outshone Spessard Holland with his quiet dignity and the quality and degree of his service. He was proficient in every task he undertook. He was sound in his judgment. He was effective in his service as a county prosecutor, as a county judge, and as a State senator. History will judge him to have been one of the best Governors Florida ever had. Few States have been in such stable condition as Florida was at the close of the Holland administration. It was during this time that he was instrumental in persuading the Federal Government to establish the Everglades National Park, preserving for all Americans the tropical wilderness of the unique Everglades.

During the quarter of a century that Spessard Holland served in the U.S. Senate, his accomplishments were many. He considered his greatest achievement the abolishment of the poll tax. Prior to coming to Washington he was the leader in the successful fight to abolish the poll tax in Florida. As a U.S. Senator he continued to fight the practice of requiring the voters to pay a tax as a qualification to vote in a Federal election. Thus, in 1962, he became the father of the 24th amendment to the U.S. Constitution by which the poll tax was abolished.

In the 25 years he served in the Senate, he became a great power and he used that power for what he considered to be best for all the people of our Nation. He was respected by all who served with him. He added strength to any cause he espoused. He was esteemed also as a worthy adversary.

He served our Nation also in time of war. He was decorated for valor as a result of his courageous efforts as a flying ace in World War I when he was one of the small, brave band of men of the original Army Air Corps.

Mrs. Haley and I share the grief of his family and we mourn their loss. We extend our heartfelt sympathy to his loyal and devoted wife, Mary, to their sons, Lindsey and William, and their daughters, Mary Groover and Ivanhoe.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I yield to my distinguished colleague from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I thank my distinguished dean and colleague for yielding to me.

I want to associate myself with the lament which the gentleman has uttered on the passing of our former beloved colleague, Senator Spessard L. Holland. I had the honor of serving 5 years in the other body with Senator Holland, and I have known him for 35 or 40 years on the basis of very warm friendship.

In 1940 my then colleague in the other body and I recommended him for a high position in Florida, but he told us he had already committed himself to run for the office of governor and preferred to go ahead with that. He could have had many other honors, but he did not choose to accept.

He had a great record in the military service of his country, gaining the distinction of earning the Distinguished Service Cross in World War I.

He was a man of unusual success in politics because of his character, his competence, and his dedication to public duty. Starting with the position of prosecuting attorney in his county of Polk and as county judge and going up through the legislature to Governor of the State of Florida and for four terms in the U.S. Senate, he distinguished himself in public office.

All through his career he exemplified honor and was the symbol of integrity. He was a man who had great personal charm and beauty of spirit. The State of Florida and our country are indeed poorer that this great and good man has passed on.

My wife and I join in extending our deepest sympathy to the bereaved.

Mr. SIKES. Mr. Speaker, I yield to my distinguished friend and colleague from Florida (Mr. GIBBONS).

Mr. GIBBONS. I thank my colleague for yielding to me.

Mr. Speaker, I have known Spessard Lindsey Holland for just about since I was born. He was a distinguished scholar and statesman and soldier. He was also a distinguished family man.

He contributed a great deal to the State of Florida and to his own community of Bartow in Polk County, Fla., and even more than that to this United States.

He was a vigorous man all of his life. I had an opportunity to be with him just 2 weeks ago. I was happy to see him then alert, alive, and very energetic, as he had always been while he was here in the U.S. Congress.

I join with the other Members of the House in mourning his passing.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, the people of the United States and the State of Florida have lost one of the country's most distinguished statesmen. The death of Senator Spessard L. Holland marks the end of a long career devoted to public service.

The Senator's 50 years of illustrious public service began as county judge in Bartow, Fla., and spanned the governorship of our State and 24 years in the U.S. Senate. His service was exemplified by his great courage, his deep convictions, and his sincere sympathy for the problems of others. Spessard consistently responded with encouragement and assistance to any plea from his constituents, his colleagues, or other friends for aid.

The quality which Senator Holland thought most important in Government, and that which more than any other characterised his service, was integrity. His actions throughout his governmental service were always marked by their unquestionable honesty, and keen sense of justice.

The benchmarks of Senator Holland's talent will remain in history. There are many, but two are particularly outstanding: His leadership in the movement which abolished the discriminatory poll tax, and his role in the Tidelands case.

It was a unique experience and an invaluable one to serve with the Senator in the Florida delegation. His skill as a legislator and his knowledge of government were unsurpassed, and his judgment unfailingly accurate. His guidance and assistance throughout my congressional career, both personally and in congressional matters, were invaluable. Spessard's death is a great personal loss for me.

Mrs. Fascell and I share the grief of his lovely wife Mary and his family, and we extend our deepest sympathy.

Mr. SIKES. Mr. Speaker, I yield to the distinguished gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I thank my colleague for yielding.

I wish to join with him and the others here in paying tribute to Senator Spessard Holland.

His record of public service to the people of Florida and the people of America earned him the love, admiration, and respect of all the people of Florida. Their feeling toward him had no party line.

Like Mr. GIBBONS, the gentleman from Florida, I had the privilege 2 weeks ago of sitting by his side while we had lunch in the University of Florida homecoming celebration.

I can say to you that even at that late point in his life his concern was for the people of America and what was good for our great Nation.

I am sure that every American, had they had the opportunity to know him as we have, would mourn his passing.

Mr. SIKES. Mr. Speaker, I yield to the

distinguished chairman of the Committee on Appropriations (Mr. MAHON).

Mr. MAHON. Mr. Speaker, the gentleman from Florida, Spessard L. Holland, was a distinguished American. He made a great contribution to his State and to the Nation. I am pleased to join with others in paying tribute of the memory of this distinguished American and in extending sympathy to those of his family who survive.

Through the years I worked closely with Senator Holland on appropriation bills. He was broad gauged and farseeing. He had an abiding love of country and he manifested that love in the legislative record which he wrote during his long and outstanding career in the United States Congress.

Mr. SIKES. Mr. Speaker, I yield to the gentleman from Florida (Mr. BURKE).

Mr. BURKE of Florida. Mr. Speaker, I thank my distinguished colleague for yielding to me.

I have known Senator Spessard L. Holland since 1949. And I have known how he felt on various issues. He has been a strong conservative voice in the U.S. Senate. He was an outstanding leader long before he got into politics, having won the Distinguished Service Cross in World War I.

He has not only been a great American, but he served as the Governor of the great State of Florida with great distinction. He served well in all capacities of life. He was a strong conservative. He was one of the few Governors of my State who left it with a surplus rather than a deficit.

Mr. Speaker, I feel indeed sorry that the Senator has passed away. Age, of course, will take us all, but I think Spessard Holland left something to the people of the State of Florida beside a name that the people will cherish. He worked for the poor as well as the rich. He was, in my opinion, and as history will show, one of our country's greatest statesmen and certainly one of the greatest that ever was produced by the State of Florida.

Mr. Speaker, I extend my most sincere and heartfelt sympathy to his widow and to his family.

Mr. SIKES. I thank the gentleman for those kind remarks.

Mr. SISK. Mr. Speaker, will the gentleman yield?

Mr. SIKES. I am glad to yield to the distinguished gentleman from California.

Mr. SISK. I thank my colleague for yielding to me.

Mr. Speaker, I wish to join with my colleagues from Florida and other Members of the House in mourning the passing of a great American.

I particularly take this time, Mr. Speaker, to compliment the life and works and efforts made by the very able and distinguished Senator from Florida. I say this, because we in California have many times referred to Senator Holland as the third Senator from California. This is not meant to in any way take away from the people of the State of Florida the many contributions which he made to that great State, but to indicate the fact that we in California have so deeply appreciated the great work that Senator Holland has performed as a good soldier in the ranks.

Mr. Speaker, I join in mourning his passing. He was indeed a personal friend of mine. I appreciate the opportunity I had to know him and to work with him.

On behalf of my wife and I, I join with my other colleagues in expressing our deepest sympathy to his family.

Mr. ROGERS. Mr. Speaker, the State of Florida and our Nation have lost a dedicated American with the passing of former U.S. Senator Spessard L. Holland who died at his home of a heart attack on Saturday, November 6, at the age of 79.

Spessard L. Holland gave over a half-century of his life to public service, as a prosecutor, judge, State representative, Governor, and U.S. Senator. He was a premier statesman, always mindful of the public trust given to him and dedicated to his job, his constituents, and the preservation of the American ideals we so often take for granted.

Spessard L. Holland was a dedicated conservationist when the word "ecology" was not a household word. His initial and continuing efforts were responsible for the creation, and later expansion, of the Everglades National Park, a unique combination of flora and fauna in the southwest portion of the State of Florida.

Spessard L. Holland was an advocate of agriculture, having been raised in a rural environment. He was mindful of the worth of the soil, its products, and its future capacity to meet the needs of the American people.

But, above all, Spessard L. Holland was an American, dedicated to the strength and independence of this great Nation of ours, and a defender of her in times of despair and challenge, at home and aboard. He has been missed in the U.S. Senate since his retirement at the end of the 91st Congress, and he will be missed now, more than ever, because we have lost his wisdom, his knowledge, and his guidance.

My mother and father were close friends of Spessard and Mary Holland, particularly during the days when my father served in the House of Representatives while Spessard was in the U.S. Senate.

My mother, my wife, Becky, and I extend to Spessard's beloved wife, Mary, and to their children, Lindsey, Mary Groover, Billy Ben, and Ivanhoe, our deepest condolences at his passing, but we trust they will, as we do, take deep satisfaction at his full life of dedicated public service.

Mr. CHAPPELL. Mr. Speaker, this week, America lost a great statesman, Senator Spessard Holland. Reaching back over the span of half a century, a neighborhood, a county, a State, and finally a nation and indeed the world, was beneficiary of the tireless work of this illustrious servant of the people. Today we all pay tribute to him and for his contributions to the Nation.

Though he retired from office last year, Senator Holland carried the burden of leadership on with him into retirement. Always he exhibited those traits that cause people to turn to him for the guidance, the stability, and the hope that a people need so often.

Mr. Speaker, our hearts and our compassion reach out to his beloved Mary who stood side-by-side with him in his long years of service to this Nation. How greatly will our Senator be missed as America continues to wrestle with the many problems the Nation faces, but we know that his accomplishments, his abilities, his gracious attitude, and his dreams for America will live on and on as an inspiration to those who follow.

As we honor the life and contributions of this great man today, let us all, Mr. Speaker, determine more than ever to live up to his ideals and work harder than ever to accomplish his dreams.

Mr. FUQUA. Mr. Speaker, an era has ended.

Spessard Lindsey Holland passed away quietly in his sleep this weekend and this afternoon, the greatest statesman in the history of my State will be laid to rest.

No tribute could adequately express my personal admiration for Senator Holland and I feel I speak for Floridians everywhere in saying this "was indeed our finest."

Born 79 years ago in Bartow, Fla., he served with distinction in our armed services in France in World War I, before being elected prosecuting attorney, county judge, and State Senator for two terms.

His career of public service in office was to cover nearly half a century. Even today, many years since he served in the Florida Senate, what he did and what he stood for there serves as a high water mark. It was part of his life that whatever he did, he did well, and whatever he attempted, integrity was the most important ingredient.

He was elected our Governor and served during the critical World War II period and again his administration set new standards.

Florida turned to him again in nominating him to the U.S. Senate in 1946. Gov. Millard Caldwell appointed him to succeed the late Charles O. Andrews in that position on September 25 of that year.

It is this period for which Senator Holland will be most remembered. President Johnson once called him one of the six most powerful Senators. He was that and more.

Senator Holland was not a headline seeker—rather he was a workhorse. It was Spessard Holland that men in the Senate turned to for advice and counsel, for they knew that one thing mattered more to him than anything else—that was personal integrity.

I could not recount the times that I have gone to Senator Holland for advice. He was never too busy to try to help all who came to him, no matter what their station in life.

Today as his funeral is held, I cannot be with the family. This saddens me deeply.

A critical vote is coming up on the floor of the House. If Senator Holland were here, he would say that I should "tend to my duty" in representing the people he served so ably and well.

To his wife, Mary, and his family, I extend my deepest sympathy.

The flag of Florida flies at half mast in memory of its most distinguished citizen. The hearts of all Floridians are filled with sorrow at his passing—but in a sense of tremendous pride that he was able to serve us for so long—and so well.

"Well done, thou good and faithful servant."

You will be deeply missed by those you leave behind.

Mr. WHITTEN. Mr. Speaker, I concur with my colleagues in expressing my sincere sorrow at the passing of the late Senator Spessard Holland.

It was my privilege to serve with him on the Appropriations Committee, he in the Senate. During this period we served on many conferences.

Mr. Speaker, I have never known a man of finer character, greater integrity, able, studious, and fine.

I shall always treasure my association with Senator Holland, whose influence on those around, on the Senate and House and for the good of the Nation—will last on and on.

Mr. BENNETT. Mr. Speaker, this country has never lost a greater statesman than the late Senator Spessard Holland; and I have never lost a truer friend.

The Senator, the son of a Confederate soldier, was a man of courage in Congress, as he was a hero on the battlefields of Europe in World War I, when he was awarded the Distinguished Service Cross. As Governor of Florida, and later as Senator here, he displayed the finest traits of manly character and leadership. Moreover, he was a man of compassion, which he showed in his legislative achievements and in his daily relationships with others.

His greatness will long live after him in the inspiration that he gave to those who knew him and of him. I am sure that we all join here today in sending to his lovely Mary and their fine children our deepest sympathy and our affectionate love.

Mr. FREY. Mr. Speaker, this Nation has lost a great American with the passing of Senator Spessard L. Holland. Florida has lost its most outstanding public official since it became a State.

Senator Holland was in every sense a gentleman. There never was any question of his integrity, his dedication or his deep belief in working to make this country better. Much has been and will be written about his legislative accomplishments. This is indeed fit and proper. But what helped distinguished Senator Holland from many other people is the fact that he would always do a little more, go a little farther, and be available to help whenever needed. This became especially apparent when I was elected to the 91st Congress. The Senator and his office went out of their way time and time again to help me out. In areas of importance to my district or to Florida, the Senator would be in there fighting, not giving mere lipservice.

It is extremely difficult to put into words my feeling and, I think, that of the people of Florida for the Senator. There is no question he was revered, respected, and loved. I am glad that these sentiments were conveyed to him during his lifetime. I know that I had the opportunity personally to do so and took full advantage of it. We extend our sorrow, sympathies, and prayers to the Senator's wife and family. While Senator Holland is no longer with us, the things he believed in and stood for will never die.

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER. This is District of Columbia Day. The Chair recognizes the gentleman from Missouri (Mr. HUNGATE).

INCORPORATE GOLD STAR WIVES OF AMERICA

Mr. HUNGATE. Mr. Speaker, I call upon the bill (H.R. 10677) to incorporate in the District of Columbia the Gold Star Wives of America, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. BRINKLEY. Mr. Speaker, reserving the right to object, I would like to ask a question of the gentleman from Missouri.

Under this procedure, is it true that the vote will occur immediately?

Mr. HUNGATE. Mr. Speaker, if the gentleman will yield, if recognized I propose to move to strike the requisite number of words, receive 5 minutes, and proceed in that fashion to explain the bill.

Mr. BRINKLEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10677

A bill to incorporate in the District of Columbia the Gold Star Wives of America

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-named persons, to wit:

Mrs. Geraldine B. Chittick, 254 South Young Street, Frankfort, Indiana 46041;

Mrs. Franc F. Gray, 5019 South 13th Avenue, Minneapolis, Minnesota 55417;

Mrs. Mary E. Hunter, 244 Birch Street, Hapeville, Georgia 30054;

Mrs. Bernice E. Dodge, 4431 West Colorado Avenue, Denver, Colorado 80219;

Mrs. Larue Yessen, 1099 East 51st Avenue, Brooklyn, New York 11234;

Mrs. Edith V. Knowles, 420 Society Avenue, Albany, Georgia 31702;

Mrs. Virginia Montoya, 404 South Oneida Way, Denver, Colorado 80222;

Mrs. Joy Dove, 4224 Chowen Avenue South, Minneapolis, Minnesota 55410;

Mrs. Eleanor Powell, 4687 Pueblo Drive Southwest, Atlanta, Georgia 30331;

Mrs. Mary Naughton, 4 Warren Drive, Denbigh, Newport News, Virginia 23602;

Mrs. Rosemary M. Gilead, 1608 North Utah Street, Arlington, Virginia 22207;

Mrs. Pauline T. Bartach, 9 East Narberth Terrace, Collingswood, New Jersey 08108;

Mrs. Maryellen McDonough, 1903 Summerdale Avenue, Chicago, Illinois 60640;

Mrs. Darlene McDonald, 842 North Karlov Avenue, Chicago, Illinois 60651;

Mrs. Eugenia Condell, 68 Belmont Drive, Little Rock, Arkansas 72204;

Mrs. Crystal Thrash, 222 Clermont Street, Saint Paul, Minnesota 55106;

Mrs. Eva Anderson, 4528 Bryant Avenue South, Minneapolis, Minnesota 55409;

Mrs. Etta Troisi, 133 Heath Street, Sommerville, Massachusetts 02145;

Mrs. Jo Troutt, Route Numbered 1, Old Rutledge Pike, Mascot, Tennessee 37806;

Mrs. Mickey Lovell, 862 Pontiac Street, Denver, Colorado 80220; and

Mrs. Stella Burket, 1025 Jamaica Court, Aurora, Colorado 80010;

and their successors, are hereby created and declared to be a body corporate of the District of Columbia by the name of Gold Star Wives of America (hereinafter referred to as the corporation), and by such name shall be known and have perpetual succession and the powers and limitations contained in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. A majority of the persons named in the first section of this Act is authorized to complete the organization of the corporation by the election of officers and employees, the adoption of a constitution and bylaws, not inconsistent with this Act, and the doing of such other acts as may be necessary for such purpose.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be—

(1) to assist in upholding the Constitution and laws of the United States of America, and to inculcate a sense of individual obligation to the community, State, and Nation;

(2) to honor the memory of those who made the supreme sacrifice in the service of our country;

(3) to safeguard and transmit to posterity the principles of justice, freedom, and democracy for which members of our armed services fought and died;

(4) to provide the benefits of a happy, healthful, and wholesome life to minor children of persons who died in the service of our country;

(5) to promote activities and interests designed to foster among its members the proper mental attitude to face the future with courage; and

(6) to aid, whenever necessary, widows and children of persons who died in the service of our country.

CORPORATE POWERS

SEC. 4. The corporation shall power—

(1) to sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) to adopt, alter, and use a corporate seal;

(3) to choose such officers, directors, trustees, managers, agents, and employees as the business of the corporation may require;

(4) to adopt, amend, and alter a constitution and bylaws, not inconsistent with the laws of the United States or any State in which the corporation is to operate, for the management of its property and the regulation of its affairs;

(5) to contract and be contracted with;

(6) to charge and collect membership dues, subscription fees, and receive contributions or grants of money or property to be devoted to the carrying out of its purposes;

(7) to take and hold by lease, gift, purchase, grant, devise, bequest, or otherwise any property, real or personal, necessary for attaining the objects and carrying into effect the purposes of the corporation, subject to applicable provisions of law in any State (A) governing the amount or kind of real and personal property which may be held by, or (B) otherwise limiting or controlling the ownership of real or personal property by a corporation operating in such State;

(8) to transfer, encumber, and convey real or personal property;

(9) to borrow money for the purposes of the corporation, issue bonds therefor, and secure the same by mortgage, subject to all applicable provisions of Federal or State law;

(10) to adopt, alter, use, and display such emblems, seals, and badges as it may determine; and

(11) to do any and all acts and things necessary and proper to carry out the objects and purposes of the corporation and, for such purpose, the corporation shall also have, in addition to the foregoing in this section and subsection, the rights, powers, duties, and liabilities of the existing corporation referred to in section 17 as far as they are not modified or superseded by this Act.

PRINCIPAL OFFICE; SCOPE OF ACTIVITIES; DISTRICT OF COLUMBIA AGENT

SEC. 5. (a) The principal office of the corporation shall be located in Frankfort, Indiana, or in such other place as may later be determined by the board of directors, but the activities of the corporation shall not be confined to that place and may be conducted throughout the various States and possessions of the United States.

(b) The corporation shall maintain at all times in the District of Columbia a designated agent authorized to accept service of process for the corporation, and notice to or service upon such agent, or mailed to the business address of such agent, shall be deemed notice to or service upon the corporation.

MEMBERSHIP; VOTING RIGHTS

SEC. 6. (a) Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be determined as the constitution and bylaws of the corporation may provide.

(b) Each member of the corporation, other than honorary and associate members, shall have the right to vote in accordance with the constitution and bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 7. (a) Upon enactment of this Act the membership of the initial board of directors of the corporation shall consist of the following persons—

Mrs. Joy Dove, chairman, 4224 Chowen Avenue South, Minneapolis, Minnesota 55410.

Mrs. Jane Payne, secretary, 2929 Emory Street, Columbus, Georgia 31903.

Mrs. Stella Burket, 1025 Jamaica Court, Aurora, Colorado 80010.

Mrs. Christine Kinnard, 303 Santa Clara Drive, Vista, California 92083.

Mrs. Jean Eastman, 1112 Rosemary Lane, Ozark, Alabama 36360.

Mrs. Mary Ondrey, Post Office Box 101, Eatontown, New Jersey 07724.

Mrs. Maryellen McDonough, 1903 Summerdale Avenue, Chicago, Illinois 60640.

Mrs. Geraldine Chittick, Post Office Box 306, Frankfort, Indiana 46041.

Mrs. Mickey Lovell, 862 Pontiac Street, Denver, Colorado 80220.

Mrs. Lavone Tuesting, 5325 Beard Avenue South, Minneapolis, Minnesota 55410.

Mrs. Betty Keaton, 1407 Merchants, Leesville, Louisiana 71446.

Mrs. Karen Sintic, 2244 West Taylor Street, Chicago, Illinois 60612.

Mrs. Mary Gallota, 117 Pine Street, Lowell, Massachusetts 01851.

Mrs. Lorraine Patterson, 320 Penwood Road, Silver Spring, Maryland 20901.

Mrs. Carrie Young, 1001 North Compton, Apartment 1502, Saint Louis, Missouri 63106.

Mrs. Pauline Bartsch, 9 East Narberth Terrace, Collingswood, New Jersey 08108.

(b) Thereafter, the board of directors of the corporation shall consist of such number (not less than fifteen), shall be selected in such manner (including the filling of vacancies), and shall serve for such term as may be prescribed in the constitution and bylaws of the corporation.

(c) The board of directors shall be the governing board of the corporation and shall, during the intervals between corporation meetings, be responsible for the general policies and program of the corporation. The board shall be responsible for all finance.

OFFICERS; ELECTIONS OF OFFICERS

SEC. 8. (a) The officers of the corporation shall be a chairman of the board of directors, a president, a vice president, and a secretary-treasurer. The duties of the officers shall be as prescribed in the constitution and bylaws of the corporation.

(b) Officers shall be elected annually at the annual meeting of the corporation.

USE OF INCOME; LOANS TO OFFICERS, DIRECTORS, OR EMPLOYEES

SEC. 9. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director, or be distributable to any such person otherwise than upon dissolution or final liquidation of the corporation as provided in section 15 of this Act. Nothing in this subsection, however, shall be construed to prevent the payment of compensation to officers of the corporation in amounts approved by the executive committee of the corporation.

(b) The corporation shall not make loans to its officers, directors, or employees. Any director who votes for or assents to the making of a loan to an officer, director, or employee of the corporation, and any officer who participates in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

NONPOLITICAL NATURE OF CORPORATION

SEC. 10. The corporation, and its officers, directors, and duly appointed agents as such, shall not contribute to or otherwise support or assist any political party or candidate for office.

LIABILITY FOR ACTS OF OFFICERS AND AGENTS

SEC. 11. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

PROHIBITION AGAINST ISSUANCE OF STOCK OR PAYMENT OF DIVIDENDS

SEC. 12. The corporation shall have no power to issue any shares of stock nor to declare nor pay any dividends.

BOOKS AND RECORDS; INSPECTION

SEC. 13. The corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors, and committees having any of the authority of the board of directors; and it shall also keep at its principal office a record of the names and addresses of its members entitled to vote. All books and records of the corporation may be inspected by any member entitled to vote, or his agent or attorney, for any proper purpose, at any reasonable time.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 14. (a) The accounts of the corporation shall be audited annually, in accordance with generally accepted auditing standards, by independent certified public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of the corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audit; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(b) A report of such audit shall be submitted to the Congress not later than six months following the close of the fiscal year for which the audit was made. The report shall set forth the scope of the audit and shall include such statements as are necessary to present fairly the corporation's assets and liabilities, surplus or deficit with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the corporation's income and expenses during the year including the results of any trading, manufacturing, publishing, or other commercial-type endeavor carried on by the corporation, together with the independent auditor's opinion of those statements. The reports shall not be printed as a public document.

LIQUIDATION

SEC. 15. Upon final dissolution or liquidation of the corporation, and after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets of the corporation may be distributed in accordance with the determination of the board of directors of the corporation and in compliance with the constitution and bylaws of the corporation and all Federal and State laws applicable thereto.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to the use of the name Gold Star Wives of America. The corporation shall have the exclusive and sole right to use, or to allow or refuse the use of, such emblems, seals, and badges as have heretofore been used by the corporation referred to in section 17 in carrying out its program. Nothing in this Act shall interfere or conflict with established or vested rights.

TRANSFER OF ASSETS

SEC. 17. The corporation may acquire the assets of the Gold Star Wives of America, Incorporated, chartered as a nonprofit organization in the State of New York, upon discharging or satisfactorily providing for the payment and discharge of all of the liability of such corporation and upon complying with all laws of the State of New York applicable thereto.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 18. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Mr. HUNGATE. Mr. Speaker, I move to strike the last word.

The SPEAKER. The gentleman from Missouri is recognized for 5 minutes.

GENERAL LEAVE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks on the subject of this legislation.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. HUNGATE. Mr. Speaker, the purpose of the bill, H.R. 10677, is to grant a Federal charter to the Gold Star Wives of America.

NATURE OF THE ORGANIZATION

Gold Star Wives of America is a national organization established in the wake of World War II by the widows of members of the Armed Forces who died while in the service of our country, either in combat or of a service-connected disability. The organization was chartered in the State of New Jersey on December 5, 1955, and its objects and purposes are as follows:

First. To assist in upholding the Constitution and laws of the United States of America, and to inculcate a sense of individual obligation to the community, State, and Nation.

Second. To honor the memory of those who made the supreme sacrifice in the service of our country.

Third. To safeguard and transmit to posterity the principles of justice, freedom, and democracy for which members of our armed services fought and died.

Fourth. To provide the benefits of a happy, healthful, and wholesome life to minor children of persons who died in the service of our country.

Fifth. To promote activities and interests designed to foster among its members the proper mental attitude to face the future with courage.

Sixth. To aid, when necessary, the widows and children of persons who died in the service of our country.

Seventh. To do any and all things necessary and incidental to carry out the general purposes and objects of this organization.

SCOPE OF THE ORGANIZATION

Activities and membership of the Gold Star Wives of America are nationwide, with members in nearly all States and active chapters in half of the States. As a result of the Vietnam conflict, the scope of the opportunities to be of service to those with whom the members had a common bond increased tremendously. Membership grew rapidly throughout the country, and the number of chapters doubled in a short time, as hundreds of new widows turned to Gold Star Wives of America for assistance with their financial and emotional problems.

The present membership of this organization, by States, is as follows:

COUNT OF GOLD STAR WIVES BY STATES

Alabama	100
Alaska	1
Arizona	20
Arkansas	17
California	197
Colorado	109
Connecticut	19
Delaware	6
District of Columbia	6
Florida	82
Georgia	220
Hawaii	14
Idaho	7
Illinois	85
Indiana	58
Iowa	17
Kansas	46
Kentucky	34
Louisiana	44
Maine	6
Maryland	49
Massachusetts	75
Michigan	83
Minnesota	61
Mississippi	20
Missouri	55
Montana	7
Nebraska	16
Nevada	6
New Hampshire	10
New Jersey	105
New Mexico	8
New York	126
North Carolina	95
North Dakota	2
Ohio	89
Oklahoma	56
Oregon	19
Pennsylvania	108
Rhode Island	4
South Carolina	37
South Dakota	7
Tennessee	33
Texas	152
Utah	16
Vermont	3
Virginia	99
Washington	30
West Virginia	16
Wisconsin	19
Wyoming	3
Comm. of Puerto Rico	4
*Australia	1
*France	1
*Germany	1
Total	2,504

WORK OF THE ORGANIZATION

Your committee is advised that Gold Star Wives of America is deeply involved, to a greater degree than any other organization, in the vital service of immediate and personal counseling and assistance to service widows at the time of the bereavement. This service consists not only of advice and help in connection with these widows' newly created financial and other practical problems, but also of invaluable emotional and psychological support which could be offered only by those who have suffered the same loss.

In addition to this highly personal service, Gold Star Wives of America also participates in many more general activities as well. For example, in 1969 this organization presented the 52 State markers for the Medal of Honor Groves at Valley Forge, Pa.; in 1970, at its national convention in Minneapolis, Gold Star Wives of America presented the Fort Snelling Veterans' Administration Hospital with a sound-slide projector at a cost of about $1,000; and in 1971, at their national convention in San Diego, this fine organization presented the veterans hospital in that city with a check for $500 to be used in their new facility.

A summary of the activities of Gold Star Wives of America during the year ending May 31, 1971, is the following:

SYNOPSIS OF ACTIVITIES FOR GOLD STAR WIVES OF AMERICA, INC., FISCAL YEAR 1971

(Generally nationwide activities unless otherwise noted)

Participation with other National Service Organizations: Lowell, Mass., Veterans Council; Disabled Veterans of America; American Legion POW–MIA Prayer Sunday, Burlington County, N.J.; DAV Ceremonies, Marine Corps Services, New York State; Brentwood VFW, Pittsburgh, Pa. area; Loyalty Day Celebrations with VFW and American Legion; American War Dads Parade, Topeka, Kans.; and Veterans Administration Volunteer Services.

Volunteer work with: Poverty Program Day Camp, Burlington, N.J.; Patterson Army Hospital, N.J.; New York Veterans Hospital, New York City; USO; Red Cross; YMCA; Army Community Service Volunteers; Cerebral Palsy; March of Dimes; Muscular Dystrophy; Walson Army Hospital, Fort Dix, N.J.; Womack Army Hospital, Fort Bragg, N.C.; Blood Bank, Fort Rucker, Ala.; Hines Veterans Hospital, Chicago, Ill.; Fort Snelling VA Hospital, Minneapolis, Minn.; Multiple Sclerosis; Cancer Fund Drive; Oklahoma City VA Hospital, Topeka, Kans.; and Salvation Army, Denver, Colo.

Donations: Cards, letters, gifts to men in Vietnam; Clothing to orphanages; To needy: Food, furniture, cash; Aided families at Thanksgiving and Christmas, Ft. Rucker, Ala.; Aided two rest homes, Toledo, Ohio; Hope Retarded School, Denver, Colo.; First Creek Retarded School, Denver, Colo.; Clothes to Oklahoma Indians, Denver, Colo.; "Highway of Flags," Denver, Colo.; Aided three families, Denver, Colo.; Aided a Mexican Orphanage, Denver, Colo.; Educational TV, Denver, Colo.; and Bowled with wheelchair patients, Minneapolis, Minn.

NEED FOR LEGISLATION

Your committee is advised that Gold Star Wives of America has repeatedly been hindered and prevented from giving assistance to the young widows who desperately need the help that could have been available to them through this organization, solely because of their lack of a Federal charter. Efforts to make Gold Star Wives of America known through survivor assistance officers at military installations have been refused on the basis that they are not recognized as a reputable organization, while in other instances, contacts at military bases have resulted in inquiries being made of the Department of Defense as to the reliability of Gold Star Wives of America. Officials of the Veterans Administration, we are advised, have suggested that a Federal charter should be priority legislation for Gold Star Wives of America, as a means of establishing the status and integrity of this relatively young organization. The organization could thus acquire the respect and stature which come only to those organizations who are so recognized by the Congress.

CONCLUSIONS

Your committee believes that the accomplishments of Gold Star Wives of America are comparable with those of various veterans' organizations which have been granted Federal charters, and that this organization does provide in many respects a unique service which is not available from any other organization. Furthermore, for several years Gold Star Wives of America has been participating actively in the Annual Women's Forum on National Security, which is composed of 16 women's organizations, most of which have received Federal charters.

This committee believes that Gold Star Wives of America more than meets the specific standards set up as prerequisites to national charters, and that to deny them such incorporation would be discriminatory. We urge the enactment of this proposed legislation, therefore, in order to aid these patriotic women, who have themselves lost husbands in the defense of our country, the better to assist others in similar circumstances.

A public hearing on this measure was conducted on October 18, 1971. No opposition was expressed to the enactment of this proposed legislation.

Mr. NELSEN. Mr. Speaker, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend my colleagues, the gentleman from New Jersey (Mr. FORSYTHE), and the gentleman from Georgia (Mr. BARNARD), who are two of the leading authors of this bill. If the gentlemen have any desire to make any comments at this point, or if they wish to insert remarks in the RECORD, I believe that we should accommo-

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date them in whatever they may desire to do.

Mr. HUNGATE. Mr. Speaker, I would state that I will be very pleased to yield to the gentleman from New Jersey (Mr. FORSYTHE). The committee was very appreciative to the gentleman for calling this very important legislation, which has been long needed, to our attention.

Mr. FORSYTHE. Mr. Speaker, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for yielding, and I rise to support this bill. I think it is a very important bill.

Mr. Speaker, today we are considering H.R. 10677, granting a charter to the Gold Star Wives of America.

This is an organization of wives whose husbands have died in the uniform of our country. They are organized to help women who find themselves newly cast in the same plight.

H.R. 10677 incorporates the Gold Star Wives in the District of Columbia. It does more, however. It will lend to this worthy organization the recognition by Congress that it needs to be of assistance to the widows of our servicemen.

Our military installations are naturally extremely careful about just whom they cooperate with in cases involving new widows of deceased servicemen. And well they should be careful.

With congressional recognition, then, the Gold Star Wives will be in a solid position to provide the assistance that they want to offer.

Gold Star Wives cooperate with other veterans' organizations and Gold Star volunteers are involved in many charitable community activities.

They work with veterans hospitals, do volunteer work in military hospitals, and assist the USO and the Red Cross. They work with community drives such as the March of Dimes and multiple sclerosis and cancer fund.

They send cards, letters, and gifts to men in Vietnam. They collect clothing for orphanages and assist needy families.

However, their primary purpose is to help the widow of the serviceman by helping her understand what benefits are available, and by offering understanding and reassurance.

Listen to the words of Mrs. Patricia Barbee, a member of the Gold Star Wives from my district in New Jersey:

One dreary evening in November, 1968, I realized that my husband was never returning. On that particular night I wanted to die. I had no one to speak to so I called Mrs. Bartsch (the member of the Gold Star Wives who had contacted her) and cried on her shoulders. Only another widow in my situation could appreciate how I felt that night. From her I did not get the usual, "Don't worry, you're young and you'll find another husband," that I've heard from people whose mates are living.

Because of her kind words and our national newsletters and correspondence from others I pulled out of my depressed state. I learned that my widow's dependent ID card that I received was not only good for the commissary and exchanges, but still good for medical attention in military and public service health clinics and theater . . ."

Gold Star Wives of America has become a part of me. I have been helped emotionally and psychologically.

Gentlemen, Mrs. Barbee is representative of all too many young women all across our country. I think we should help Gold Star Wives lend them a helping hand.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Georgia (Mr. BRINKLEY), who has worked hard for this bill.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding, and I rise in support also of this legislation.

Earlier this year I was joined by the gentleman from Georgia (Mr. MATHIS), and many of our other colleagues, in support of identical legislation. In this regard I would like to direct a question, if I could, to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, I will be pleased to respond to the gentleman's question.

Mr. BRINKLEY. Mr. Speaker, my question is this: Would the scope of the charter which would be granted to the Gold Star Wives under this bill be anything less than it would otherwise have been under legislation which would have emanated and would have been passed upon by the Committee on the Judiciary?

Mr. HUNGATE. In reply to the gentleman from Georgia (Mr. BRINKLEY), who has helped write this legislation, may I state that I am not certain that there is any difference. The difference, if any, was not called to the attention of our committee, I will state that, and there was no intention on the part of the committee to grant them a charter that would be any less than any other federally chartered organization.

Mr. BRINKLEY. If the gentleman will yield further, I would like to address this question to the author of the bill, the gentleman from New Jersey, (Mr. FORSYTHE) as to whether or not the scope of this charter would be any less than any other federally chartered group?

Mr. FORSYTHE. If the gentleman will yield as I understand, it will not, and we researched this very carefully to be sure that this was so.

Mr. BRINKLEY. I thank the gentleman.

Mr. HUNGATE. Mr. Speaker, I thank the gentleman from Georgia and our other colleagues for their contributions.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1483, FARM CREDIT ACT, 1971

Mr. POAGE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1483) to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes, with a House amendment thereto, insist on the House amendment, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. POAGE, MCMILLAN, JONES of Tennessee, BELCHER, and TEAGUE of California.

CHANCERY ACT AMENDMENTS

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 11490) to regulate the location of chanceries and other business offices of foreign governments in the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 11490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Act entitled "An Act providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and the uses of land in the District of Columbia, and for other purposes", approved June 20, 1938 (D.C. Code, sec. 5-418), is amended—

(1) by inserting "or subsection (e)" immediately before "of this section" in subsection (c); and

(2) by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following new subsection:

"(e)(1) If two or more foreign governments lawfully use for chancery purposes at least two lots within one side of a block of a street in a district or zone of the District of Columbia restricted in accordance with this Act to use for residential purposes, then any foreign government may construct, alter, repair, convert, or occupy a building for chancery purposes on any adjoining lot which is on the same side of the block as such lot if the Board of Zoning Adjustment makes the findings described in paragraphs (1), (3), and (4) of subsection (d) with respect to such building.

"(2) If one foreign government lawfully uses for chancery purposes one lot within one side of a block of a street containing five or less lots of record on the date of enactment of this subsection, then any foreign government may construct, alter, repair, convert, or occupy a building for chancery purposes on any other lot which is on the same side of the block as such lot if the Board of Zoning Adjustment makes the findings described in paragraphs (1), (3), and (4) of subsection (d) with respect to such building."

(Mr. STUCKEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. STUCKEY. Mr. Speaker, the purpose of the bill, H.R. 11490, is to amend the act of October 13, 1964 (78 Stat. 1091; D.C. Code sec. 5-418(a)) as amended, to regulate the location of chanceries and other business offices of foreign governments in the District of Columbia so as to provide a formula under which real property fronting on one side of a given block, in which block frontage there are two or more chanceries of foreign governments lawfully located, may be used for chancery purposes if the site adjoins a chancery or where the block contains five or less lots on a side and a chancery is lawfully located on one lot then other real property on the same side of the block may be used for chancery purposes.

The original bill as introduced, H.R. 5672, was limited to the last above situation and directed toward land use of a very short block on Massachusetts Avenue between 34th Place and 35 Street NW., in which block the Sudanese Chancery is located. During hearings on the bill, testimony was presented by the District of Columbia Government indicating the impossibility of approving the land use requested because of limitations of the 1964 amendments but suggesting that legislation similar to H.R. 8656 of the 91st Congress, with modifications reaching the type of situation described above, would be a reasonable method of preserving the substance of existing limitations on chancery locations but permitting compatible use of additional property where chancery uses were established.

The pending bill, H.R. 11490, is designed to combine H.R. 5672 and the proposal of the previous Congress—favorably reported and approved by the House, House Report No. 91-848. The language of the bill incorporates the concept of zoning law that land uses which are similar and compatible are properly allowable in the same neighborhoods. The history of the problem in the District indicates the origin of the difficulty where in a neighborhood numerous chanceries are now located but additional ones are not permitted.

BACKGROUND

Foreign governments were permitted to locate their chanceries, prior to 1957, in areas zoned for any land use except for industrial purposes. Following a review of zoning regulations, the Commissioners in the District of Columbia in 1957 adopted new regulations relating to zoning in the District of Columbia. At that time the use of land for chancery purposes was found to be a business use and therefore not compatible with residential uses. Thus, limitations for the first time were established relating to location of new chanceries in residential areas.

The Chancery Act of 1964 provided the first statutory limitations on land use which relate to the location of chanceries in the District of Columbia. While not affecting any lawful existing use of real property for chancery purposes or any lawful agreement for use of residential land for such purposes, the Chancery Act of 1964 restricted the location of new chanceries to those areas zoned for medium density and high density apartment development, special purpose use, and commercial uses. Prior to that act and since existing lawful chancery uses have been located predominantly in residential areas.

During the hearings and studies which preceded the enactment of the Chancery Act of 1964, your committee gave consideration to the establishment of an area for development of a chancery enclave. The governments of foreign nations showed little interest in such a proposal, and State Department representatives expressed strong disapproval of the idea. However, since the enactment of the Chancery Act of 1964, at least two actions have been taken toward the establishment of such an enclave with little acceptance of this concept by foreign governments.

While the Chancery Act of 1964 had the desired effect of preventing the proliferation of new business uses into residential areas within the District of Columbia, it also produced numerous hardship situations and contradictions which have been the subject of further legislative action by the Congress. The act has already been amended several times. One contradictory result, of which the subject of the pending bill is an example, is that, although there are specific areas which are zoned residential and which may be substantially devoted to chancery uses. The remaining residential properties in such areas must be continued in residential category and may not be used for the same purpose as that which is predominant in the surrounding land and structures. This result is in sharp variance with the principles and purposes of zoning.

LIMITED APPLICATION

The terms of the pending bill, as amended, are in general harmony with the purposes of the Chancery Act of 1964. That act, as proposed to be amended by the pending bill, would still prohibit the location of chanceries in areas where no chancery uses exist unless the land is zoned for use for at least medium-density highrise apartment development.

The bill, as amended, would remove from existing law the service contradiction which may exist under its provisions. This may be illustrated by noting that there are existing residential areas in the District of Columbia where, within a single block, the predominant or almost exclusive use of land is for chancery purposes. Under present law, despite such commercial use, the area is still zoned as single-family residential. One or two properties, not used for chancery purposes, may not be granted highrise or commercial zoning to accommodate the property to chancery use since such zoning would constitute spot zoning which is generally subject to legal attack. Additionally, such spot zoning could open the way to highrise apartment or commercial development which may be neither necessary nor desirable for the particular area and would alter the low-density residential character of the neighborhood. The terms of the bill would make possible the use of some residential property in city block areas where chancery usages are already established, without the necessity of altering the residential zoning category applying to the land use in such city block.

HARDSHIP

Since the great majority of foreign government chanceries are located in residential areas, and predominately in single-family-dwelling residential areas, the owners of residential property in those blocks, where chancery uses are already established, find themselves deprived of the normal freedom of the use of the property. Chanceries are commonly located in large residences without substantial alteration of the structures. Thus the residential appearance of the neighborhood is preserved. Owners of such large residences in city blocks where chancery uses exist, commonly find it difficult or impossible to rent such large dwellings for residential use. Since alternate uses for real property are extremely limited in areas zoned for single-family-dwelling use, the owners of such property may find it impossible to rent or sell such property for residential use. The bill, as amended, would relieve this situation by permitting the use of such properties for chancery purposes where two or more chancery uses are already lawfully in use along one side of a block frontage or, in the case of a short block of 5 lots, or less, there is one established lawful chancery use on one side of the block frontage. In the case of the usual city block, the additional usage would be adjacent to one of the established uses. It should be noted that in either case, the same limitations stated in existing law concerning height, bulk, parking and compatibility must be met if the chancery use is to be approved.

COMMITTEE HEARINGS

The concepts involved in the pending bill, H.R. 11490, were the subject of public hearings before your committee in connection with H.R. 5672 of this Congress and H.R. 8656 of the 91st Congress. Information was submitted to your committee concerning the interest of the governments of the Congo and Peru to purchase certain property for use for chancery purposes. In both cases, applications had been filed under zoning laws of the District with the result that the requests were denied. Approval of such a zoning change would have been spot zoning and subject to attack by court action and would have permitted high-rise-medium-density apartment, high-density apartment, or commercial use in an area zoned for single family dwelling residential use. Such a use would have been much more damaging to the character of the community than the use of property subject to the requirements that maintain compatible uses in the neighborhood.

It may be observed in this connection that there are only about 135 foreign governments involved in the matter of location of chanceries. Many of these have essentially permanent locations, and relatively few of the remainder would be making temporary or permanent location for a chancery in any given year.

The bill as amended would continue to provide the protections of the Chancery Act of 1964 to all residential areas of the District of Columbia where no chanceries are lawfully located. It would give flexibility by providing possible locations for chancery uses in those block areas where chanceries are already located without providing any change in zoning which could open the way to highrise apartment or commercial development. Large residences located in the midst of chanceries which are not desirable for residential use or similar purposes but desirable for chancery use might be so used.

COST OF THE LEGISLATION

Every foreign government which has in the District of Columbia accredited rep-

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resentatives for diplomatic purposes is entitled to establish a location for an embassy and a chancery, and such property is exempt from the imposition of real property taxes. The real property tax exemption for any nation may vary according to the value of the property on which the chancery is located. Since the language of the bill is general and several locations may become subjects of interest, no precise estimate of the difference between the value of any present tax exemption and an exemption which might accrue under the bill can be made. In any event, the net difference in tax receipts to the District would range between a plus or minus of a few thousand dollars.

Mr. GROSS. Mr. Speaker, I move to strike out the last word.

Mr. Speaker, I would like to ask the gentleman what prompts this legislation? It has all the appearances of being designed for a special purpose of some kind.

Mr. STUCKEY. The problem that arose was that the zoning board of the District of Columbia did not feel that it was within their power to approve this zoning.

The zoning board, as well as the owner of the property, were both at the hearings. They sat down together and tried to work out a resolution of this problem. They both came back to us and said they felt that under the existing laws, this problem could not be resolved. Both of them are in accord on the bill we have here.

Mr. GROSS. Is this legislation not designed for some particular purpose to take care of someone or a particular embassy?

Mr. STUCKEY. It is a general bill and would apply to all those meeting the requirements.

Mr. GROSS. I do not doubt that it is a general bill, but is it not here mostly for one particular case?

Mr. STUCKEY. The property happens to exist in this particular instance, that is correct.

Mr. GROSS. What is the embassy or the chancery? What country is involved that requires this legislation?

Mr. STUCKEY. The country, I believe, is Peru in this instance and I think Sudan is also one of the countries.

Mr. GROSS. Does this give them any extraordinary privilege of any kind?

Mr. STUCKEY. If the gentleman has a minute, let me read briefly what this legislation does.

The bill was favorably reported to the House by the District Committee and is the same in substance and effect to similar legislation that was approved by the House in the 91st Congress, which was already passed one time.

That legislation provided that where there are 2 or more lots used for chancery purposes on one side of a block, a lot adjacent to such existing chanceries might be used by a foreign government for chancery purposes. Combined with that provision is a new provision, limited to very short blocks containing 5 or less lots, which harmonizes with the other part of the bill. In the case of the short block, if there are 5 lots or less on one side of a block and one chancery is located there, that any other lot may be used for similar purposes.

Mr. GROSS. I have read that language in the report. In the 91st Congress I believe we approved legislation dealing with chanceries. Was that legislation insufficient to take care of this situation? Or is the gentleman aware of what was passed in the 91st Congress?

Mr. STUCKEY. The Senate did not act on the bill. It was passed through the House.

Mr. GROSS. Oh, the Senate did not act on that legislation and it expired at the end of the 91st Congress; is that correct?

Mr. STUCKEY. That is correct.

Mr. GROSS. Is this the same legislation that was called up at that time?

Mr. STUCKEY. Virtually the same.

Mr. GROSS. I thank the gentleman from Georgia for his explanation.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I am glad to yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman's yielding. I would like to ask a proponent of the bill if there has been any coordination as to the end results of chanceries that under this revision of the Chanceries Act might be side by each in the same block? It would seem to me that that would be a proper place for coordination by the Committee on the District of Columbia with either our Department of State, which, by the way, opposed the Chancery Act of 1964, according to the committee's own report, or the Department of Defense, as to possible subversion intent or counterintelligence by and/or in those chanceries.

Mr. HALL. Mr. Speaker, I move to strike the last word.

The SPEAKER. The gentleman from Missouri is recognized.

Mr. HALL. Mr. Speaker, does the gentleman from Georgia handling the bill have any information as to whether this necessary staff action of jurisdiction has taken place or not?

Mr. STUCKEY. As I understand, the State Department has never supported it.

Mr. HALL. I am sorry, I did not hear the gentleman. The State Department has not what?

Mr. STUCKEY. Has not supported—is the gentleman speaking of enclaves?

Mr. HALL. I am speaking of H.R. 11490, the bill before us, in view of the fact that the committee's own report says the Department of State expressed strong disapproval of the idea before. That is two-thirds the way down on page 2.

Mr. STUCKEY. The State Department did not offer any testimony for or against the bill. As I said earlier, it was really general legislation and in relation to all the other homes in the residential areas that would fall within this requirement.

Mr. HALL. That is pretty obvious, Mr. Speaker. There are no departmental reports in the report. Still the report says they did oppose the action previously. I just do not believe that we ought to pass by unanimous consent or a straight vote, without any great amount of debate, legislation where we sit as the zoning board in the Congress for the District of Columbia to allow use in any given block of chanceries for that purpose, regardless of their locus, when they might be juxtaposed or placed, the lots, side by each. This just is not good procedure. If the Department of Defense and the Department of State have not been coordinated with, I think this bill should be placed in abeyance or defeated today.

Mr. STUCKEY. The State Department has no objection to the bill.

Mr. HALL. Where does it say that in the report?

Mr. STUCKEY. The staff advises they had no objection.

Mr. HALL. I presume the staff are the gentleman who wrote the report itself from which I quote. It states—

> The governments of foreign nations showed little interest in such a proposal, and State Department representatives expressed strong disapproval of the idea. However, since the enactment of the Chancery Act of 1964, at least two actions have been taken toward the establishment of such an enclave with little acceptance of this concept by foreign governments.

Mr. STUCKEY. They are opposed to enclaves, but they are not opposed to the bill itself.

Mr. HALL. That is what I have been fishing for all the time.

On the other hand, are they in favor of it?

Mr. STUCKEY. I do not know whether they are in favor of it. I said simply the State Department was not opposing the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHARITABLE TRUSTS

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 11489) to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill as follows:

H.R. 11489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 21 of the District of Columbia Code is amended by adding the following new chapter:

"Chapter 18.—CHARITABLE AND SPLIT-INTEREST TRUSTS

"Sec.
"21–1801. Charitable and split-interest trusts.

"§ 21–1801. Charitable and split-interest trusts

"(a) Notwithstanding any provision to the contrary in the governing instrument or under any law applicable to the District of Columbia (except as provided in subsection (e) of this section), the governing instrument of any trust which is treated during a particular year as a private foundation described in section 509 of the Internal Revenue Code of 1954 (including any nonexempt charitable trust described in section 4947(a)(1) of the Code which is treated as a private foundation) and the governing instrument of any nonexempt split-interest trust described in section 4947(a)(2) of the Code (but only to the extent that section 508(e) of the Code is applicable to such nonexempt split-interest trust) shall be deemed during such particular year to contain all of the following provisions:

"(1) The trust shall not engage in any act of self-dealing which is taxable under section 4941 of the Code.

"(2) The trust shall make distributions at such time and in such manner as not to subject it to tax under section 4942 of the Code.

"(3) The trust shall not retain any excess business holdings which would subject it to tax under section 4943 of the Code.

"(4) The trust shall not make any investments which would subject it to tax under section 4944 of the Code.

"(5) The trust shall not make any taxable expenditures which would subject it to tax under section 4945 of the Code.

With respect to any such trust created prior to January 1, 1970, subsection (a) shall apply to taxable years beginning on or after January 1, 1972.

"(b) Notwithstanding any provision to the contrary in the governing instrument, the trustee or trustees of any trust described in subsection (a), other than a trust described in section 4947(a)(2) of the Code, may, without application to any court, amend the governing instrument expressly to include the provisions required by section 508(e) of the Code by executing a written amendment to the trust and delivering a copy thereof, by certified mail, to each named beneficiary, if any.

"(c) Notwithstanding any provision to the contrary in the governing instrument, the trustee or trustees of any trust described in section 4947(a)(2) of the Code to which subsection (a) is applicable may, after obtaining the written consent of the creator of such trust if than living and competent to give such consent, and without application to any court, amend the governing instrument expressly to include the provisions required by section 508(e) of the Code by executing a written amendment to the trust and delivering a copy thereof by certified mail, to each named beneficiary, if any.

"(d) Notwithstanding any provision to the contrary in the governing instrument, the trustee or trustees of any trust described in section 4947(a)(2) of the Code to which subsection (a) is applicable, with the consent of each beneficiary named in such governing instrument, may, without application to any court, amend the governing instrument to conform to the provisions of section 664 of the Code by executing a written amendment to the trust for such purpose. Consent shall not be required as to individual named beneficiaries not living at the time of the amendment. In the case of any individual beneficiary not competent to give consent, the consent of a guardian, appointed by a court of competent jurisdiction, shall be treated as consent of the beneficiary. In the case of any amendment to a trust created by will, such amendment may, if provided in the amendment, be deemed to apply as of the date of death of the testator.

"(e) The provisions of subsection (a) shall not apply to any trust to the extent that a court of competent jurisdiction shall determine that such application would be contrary to the terms of the governing instrument and that such instrument may not properly be amended to conform with subsection (a).

"(f) For purposes of this section, the term 'trust' includes (1) any trust created by will of a resident of the District of Columbia admitted to probate in the District of Columbia, (2) any trust created by a resident of the District of Columbia and executed in the District of Columbia, (3) any trust of which the trustee or a co-trustee is a bank or trust company doing business in the District of Columbia, (4) any trust of which a majority of the trustees are resident in the District of Columbia, (5) any trust of real property located in the District of Columbia, and (6) any trust the governing instrument of which provides that it is governed by the laws of the District of Columbia.

"(g) For the purposes of this section, the term 'Code' means the Internal Revenue Code of 1954."

Sec. 2. (a) Notwithstanding any provision to the contrary in the governing instrument or under any law applicable to the District of Columbia (except as provided in subsection (c) of this section), the governing instrument of any corporation organized under the laws of the District of Columbia, or under any Act of Congress applicable to the District of Columbia, which is treated during a particular year as a private foundation described in section 509 of the Internal Revenue Code of 1954 shall be deemed during such particular year to contain the following provisions:

(1) The corporation shall not engage in any act of self-dealing which is taxable under section 4941 of the Code.

(2) The corporation shall make distributions at such time and in such manner as not to subject it to tax under section 4942 of the Code.

(3) The corporation shall not retain any excess business holdings which would subject it to tax under section 4943 of the Code.

(4) The corporation shall not make any investments which would subject it to tax under section 4944 of the Code.

(5) The corporation shall not make any taxable expenditures which would subject it to tax under section 4945 of the Code.

With respect to any such corporation organized prior to January 1, 1970, subsection (a) shall apply to taxable years beginning on or after January 1, 1972.

(b) The governing instrument of any corporation described in subsection (a) may be amended, in the manner provided by law for amendment of such governing instrument, expressly to include the provisions required by section 508(e) of the Code.

(c) The provisions of subsection (a) shall not apply to any corporation to the extent that its governing instrument is amended in the manner provided by law for amendment of such governing instrument, expressly to exclude the application of subsection (a).

(d) For purposes of this section, the term "corporation" includes an association (other than an association treated as a trust described in section 1901 of title 21 of the District of Columbia Code).

(e) For the purposes of this section, the term "Code" means the Internal Revenue Code of 1954.

Sec. 3. Except as otherwise provided in this Act, or in the amendments made by this Act, the provisions of this Act shall first apply with respect to taxable years of trusts and corporations beginning on or after January 1, 1970.

Sec. 4. The table of chapters for title 21 of the District of Columbia Code is amended by inserting after the item relating to chapter 17 the following:

"18. Charitable and split-interest trusts."

With the following committee amendments:

On page 2, line 5, strike out "(d)" and insert in lieu thereof "(e)".

On page 5, line 24, insert immediately after "Columbia" the following: ", or under any Act of Congress applicable to the District of Columbia,".

The committee amendments were agreed to.

Mr. STUCKEY. Mr. Speaker, the purpose of H.R. 11489, as amended, is to facilitate the amendment of the governing instruments of certain charitable and split-interest trusts, and certain corporations which are subject to the jurisdiction of the District of Columbia and which are treated as "private foundations" for Federal tax purposes, in order to conform to the requirements of Section 508 of the Federal Internal Revenue Code, as added by the Tax Reform Act of 1969, Public Law 91–172.

This is accomplished in H.R. 11489 by amending title I of the District of Columbia Code to add a new chapter relating to charitable and split-interest trusts, which provides, in effect, that certain provisions required by the Internal Revenue Code are deemed to be included in the governing instruments of the corporations in question.

Time is of the essence with respect to the proposed legislation, because if the same is not enacted into law prior to January 1, 1972, most, if not all, trusts in the District of Columbia with charitable beneficiaries and some charitable corporations will each be required to institute separate court proceedings to amend their individual charters to include the required provisions.

Enactment of this legislation, therefore, before January 1, 1972, will free the courts from burdensome litigation and will protect assets donated for charitable purposes, and thereby will carry out the intent of Congress in the Tax Reform Act to insure that the funds of entities granted tax benefits are totally devoted to charitable purposes.

As of August 24, 1971, the legislatures of at least 35 States have enacted legislation intended to comply with the requirements of the Federal Internal Revenue Code in question. Both Maryland and Virginia have enacted such legislation as have the other States as follows:

States which have enacted similar legislation to conform governing instruments of charitable trusts and corporations to requirements tax reform act of 1969 are as follows:

Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New

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York, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina.

Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin.

INTERNAL REVENUE CODE AND TAX REFORM ACT REQUIREMENT

Section 509(a) of the Internal Revenue Code of 1954 contains a definition of "private foundations," which covers the broad range of trusts and corporations which are organized and operated for religious, charitable, literary, and educational purposes.

Section 508(d)(e) of the Internal Revenue Code, amended by the Tax Reform Act of 1969—Public Law 91-172—provides that certain charitable trusts and corporations, which are treated as "private foundations" will lose their right to full deduction for charitable contributions, as well as their exemption from Federal income tax, unless their governing instruments—that is, corporate charter or trust indenture include by December 31, 1971, certain limitations on their activities. The governing instruments of trusts created and corporations organized after 1969 must contain the required provisions upon their creation or organization.

"Necessary governing provisions would, in effect, require the charitable trusts or corporations to distribute income for its tax-exempt purposes on a reasonably current basis, and to refrain from certain actions which the Congress has deemed inconsistent with tax-exempt status, namely, engaging in "self-dealing" transactions, retaining excess business holdings, making investments which jeopardize tax-exempt purposes, and expending funds for improper expenditures, lobbying, and other prescribed activities.

Following the enactment of the Tax Reform Act of 1969, the Internal Revenue Service published temporary regulation No. 13.8—35 Federal Regulation 7300, dated May 9, 1970—which recognizes as the equivalent of an actual amendment of a governing instrument of a charitable trust or corporation, the enactment of a statute which either treats the required provisions as being contained in the trust's or corporation's governing instruments, or specifically requires the trust or corporation to distribute its income and prohibits it from engaging in the prescribed actions described above.

The necessity of enabling legislation by Congress to cover charitable trusts and corporations is required by the Federal Tax Reform Act of 1969.

LEGISLATION TO COVER BEQUESTS TO SHRINER'S HOSPITALS FOR CRIPPLED CHILDREN

The original legislation (H.R. 9172) introduced and referred to our committee, to facilitate the amendment of governing instruments of certain charitable trusts and certain corporations in the District of Columbia, was subsequently amended by H.R. 10790 which included a provision which would enable all the beneficiaries of a split-interest trust, in concert with the trustees, to amend the trust instrument in order to conform it to the requirements of section 664 of the Internal Revenue Code. The purpose of the amendment in H.R. 10790, not contained in H.R. 9172, is to permit the trustee and all parties in interest to an unqualified trust to amend its instrument to contain all the rules and limitations of said section 664, without resort to judicial proceedings. This facilitates obtaining the charitable deduction for the grantor or testator, subject, of course, to the effective date rules of applicable Internal Revenue Code and Regulations. The amendment was motivated on behalf of Shriners Hospitals for Crippled Children, a large charitable organization operating 22 charitable hospitals throughout the United States, Canada and Mexico, entirely supported by charity of Shriners and their endowment funds.

Our committee was advised in testimony presented at the hearing on this proposed legislation, that approximately 100 wills per month are received in the various Shriner offices, which contain bequests and devises of property to them. Some of these testimentary dispositions include what are called charitable remainder trusts, with an income interest going to a relative of the decedent, and then remainder going to Shriners Hospitals.

The Subcommittee on Public Health, Welfare, Housing, and Youth Affairs considered both foregoing bills and approved the provisions of both, and H.R. 11489, as reported, represents the total package. In this connection, the enactment of the proposed amendments to D.C. Code, title 21-1801(d), in H.R. 11489 would avoid the litigation referred to because its authorizes the trustee and the beneficiaries to amend the testimentary trust without resort to court action, and thereby enables the trust to obtain the Federal charitable contribution deduction.

Unless the provisions included in this legislation were adopted, to permit the trustee and all interested beneficiaries among themselves to conform the trusts instruments to existing law, the trustees or executors of the estates in question would have to conform the testimentary disposition in the same manner but however through the necessity of filing actions in a court of law requiring judicial reformation of the testimentary disposition or will.

What the amendment proposed does is to assist public charities in general to facilitate the transition from an unqualified remainder trust to a qualified trust and obtain additional funds for public charity.

As an example, suppose a District of Columbia resident executed a will on June 14, 1971 and died July 4, 1971. In his will he created a charitable remainder trust which provides that all the income from his trust shall be paid to his wife until her death, and upon her death the corpus (i.e., remainder) is paid over to Shriners Hospitals. Because the testator failed to create a qualified trust described in section 664 of the Internal Revenue Code, he is not entitled to an estate tax deduction for the present value of the charitable remainder. To be eligible for a deduction under present Treasury Department regulations, the trustee, the decedent's wife, and Shriners Hospitals would have to obtain counsel who would file an action in D.C. Superior Court asking that the court amend the instrument to conform the testamentary trust to the requirements of section 664 of the Internal Revenue Code and applicable regulations.

Section 21-1801(d) is a new provision affecting District of Columbia charitable remainder trusts. Its purpose is to facilitate amendment of the governing instruments, without resort to judicial proceedings, to obtain Federal tax benefits not originally available to the donor when the trust was created. If a donor currently wishes to obtain a Federal income, estate or gift tax deduction upon the creation of a charitable remainder trust, with one or more private income beneficiaries and a remainder interest in a charitable organization, the trust instrument must conform to 26 United States Code section 664 and regulations thereunder, enacted as part of the Tax Reform Act of 1969, Public Law 81-172 (83 Stat. 487). If the trust instrument does not conform to these requirements, no Federal tax deduction is available and charities can lose, in effect, the amounts which must be paid to the Government in taxes. A long line of Federal court decisions—including the District of Columbia Circuit—have held that amendments to existing instruments, or judicial reformation of completed transactions, cannot alter the Federal tax implications of the matter in issue. *Emerson Institute* v. *United States*, 356 F. 2d 824 (1966). The Federal tax implications normally are based on the instrument as originally written during the tax years in issue and not on a subsequent reformation. Recognizing that the effective date provisions of 26 United States Code section 664 were partly retroactive, and recognizing further that these new provisions placed a premium on extremely sophisticated tax planning, and expert draftsmanship, the Treasury Department proposed regulations (35 Fed. Reg. 12467, August 5, 1970, and 36 Fed. Reg. 18667, September 18, 1971) which contained transitional rules permitting amendments to defective instruments thereby allowing donors—or their estates—to claim Federal tax deductions otherwise unavailable because the original instrument failed to conform to 26 United States Code section 664.

Proposed section 21-1801(d) of the bill permits District of Columbia trusts to be amended to conform to the requirements of 26 U.S.C., 664 and to obtain the Federal tax advantages allowed by the Treasury Department regulations, subject to any effective date provisions of an applicable Federal tax statute or regulation. At present, the committee is not aware of any District of Columbia judicial decision which deals with the problem of amendment, modification, or reformation of the governing instrument of a charitable remainder trust. Enactment of section 21-1801(d) will do two things: First it will alleviate any uncertainty that all interested parties to a charitable remainder trust, acting together, are entitled to reform or modify the instrument for the above described purpose. Second, it will eliminate needless, time consuming and expensive litigation which would otherwise occur had these persons sought the same result through judicial reformation or modification of the governing instrument. If the trustee and all beneficiaries cannot agree among themselves, they cannot, of course, amend the instrument in the method permitted by this section. The fact that parties in interest to a charitable remainder trust are not required to seek judicial reformation does not mean they cannot do so should they desire judicial review or modification or, for example, construction of terms in the original instrument which affect substantive rights not directly connected to the requirements of 26 U.S.C., 664.

EFFECT OF LEGISLATION

H.R. 11489, if enacted, will allow hundreds of charitable organizations in the District of Columbia to comply with the provisions of the 1969 Tax Reform Act, without the expense and court congestion which would follow if the governing instrument of each such charity had to be presented before your committee at its hearings on this proposed legislation, the city banks estimated that approximately 400 separate actions (in trusts which they administer) would have to be prepared and filed before December 31, 1971, if this legislation is not enacted. No estimate was furnished this committee as to what trusts might be similarly affected which do not have banks as trustees. In any event, numerous law suits would burden the court dockets in the District of Columbia and delay trials of other more important civil and criminal matters.

In addition, the charities would be forced to incur legal fees and court costs which would reduce the amount of funds distributable for charitable purposes in the District of Columbia. In the case of relatively small charitable trusts, the legal fees for such litigations may well exhaust one year's income or more, which otherwise would be used for charitable purposes. The beneficiaries of many of the trusts involved are local institutions such as The Children's Hospital, the Red Cross, Georgetown University, George Washington University, American University, Howard University, Catholic University, and many other similar charitable and educational institutions, as well as religious organizations and affiliates in the District of Columbia.

The necessity of H.R. 11489 arises from the fact that it is not sufficient for a charitable corporation or trust to operate in compliance with the Federal Tax Reform Act of 1969. The tax exemption enjoyed by such corporations or trusts will be denied them unless their governing instruments specifically require such compliance. Most charitable corporations, and some trusts where the grantor is living and the instrument so permits, would be able to amend their by-laws, or governing instruments, to comply with the provisions of the Tax Reform Act. However, without H.R. 11489, the only recourse that would be open to the trustees of charitable trusts, where the grantors are deceased, and those charitable corporations whose governing instruments do not permit amendment, would be to seek equitable relief in the courts to permit the conforming amendments. All this would be obviated by the provisions of H.R. 11489.

HEARING

A full hearing was held on this proposed legislation by the Subcommittee on Public Health, Welfare, Housing and Youth Affairs, on October 6, 1971. At that time witnesses on behalf of the Bar Association of the District of Columbia, the D.C. Bankers Association, and the American Bar Association appeared in support of the legislation. No opposition was expressed to this legislation.

By letter the District government interposes no objection to enactment of the legislation.

The Treasury Department has given its advisory opinion that this legislation satisfies the requirements of section 508 (a) of the Internal Revenue Code of 1954 and the Tax Reform Act of 1969.

ARENT, FOX KINTNER, PLOTKIN & KAHN,
Washington, D.C., October 12, 1971.

Hon. W. S. STUCKEY,
Chairman, Subcommittee on Health, Welfare, Housing and Youth Affairs, Committee on the District of Columbia, U.S. House of Representatives, Washington, D.C.

DEAR MR. STUCKEY: There seemed to be a lack of clarity over what could be accomplished by enactment of proposed Title 21-1801(d) of H.R. 10790. Let me suggest this example: Suppose a District of Columbia resident executed a will on June 14, 1971 and died July 4, 1971. In his will he created a charitable remainder trust which provides that all the income from the trust shall be paid to his wife until her death, and upon her death the corpus (i.e., remainder) is paid over to Shriners Hospitals. Because the testator failed to create a qualified trust described in section 664 of the Internal Revenue Code, he is not entitled to an estate tax deduction for the present value of the charitable remainder. To be eligible for a deduction under present Treasury Department regulations, the trustee, the decedent's wife, and Shriners Hospitals would have to obtain counsel who would file an action in D.C. Superior Court asking that the court amend the instrument to conform the testamentary trust to the requirements of section 664 of the Internal Revenue Code and applicable regulations. Enactment of proposed Title 21-1801(d) of H.R. 10790 would avoid the litigation since it authorizes the trustee and the beneficiaries to amend the testamentary trust without resort to court action and thereby obtain the federal estate tax deduction (subject to the effective date rules).

The following background information may be helpful to put this example in context. For a number of different reasons, there are times when a charitable trust or corporation cannot carry out its purposes and, accordingly, must seek court assistance to formulate new or related purposes for the general benefit of the public. Like most jurisdictions, the District of Columbia courts apply the common law rules of the "cy pres" doctrine to assure that a charitable trust or corporation fulfills its general charitable purposes. In this connection, if charitable purposes would be frustrated or thwarted, the courts in the exercise of equity jurisdiction, may reform governing instruments of charitable trust for this purpose. Under the Tax Reform Act of 1969, the Congress altered the charitable deduction and exemption treatment of certain partially charitable trusts to require their governing instrument to contain particular limitations and mechanical rules for the pay-out of income to private beneficiaries and to assure preservation of corpus to public charities. Internal Revenue Code Sec. 664, creating the requirement of charitable remainder annuity trusts or charitable remainder unitrusts, was effective for inter vivos trusts created on or after August 1, 1969, and for testamentary trusts created on or after January 1, 1970.

Under ordinary circumstances, a charitable remainder trust which was improperly drafted after the effective date of section 664 would cost the donor a charitable deduction for his gift or bequest and, in the case of the testamentary dispositions, reduce the amount of funds eventually available to public charities, such as Shriners Hospitals for Crippled Children.

The Treasury Department recently promulgated regulations which, subject to certain effective date rules, permit unqualified charitable remainder trusts to be amended to conform their instruments to the Internal Revenue Code rules. The amendment to conform the charitable remainder trust to a qualified (and deductible) type of trust may be done without resort to judicial proceedings if the instrument permits it. If the instrument does not permit amendment or, in the case of trusts created under wills, the ordinary course to pursue would be to have the executors or trustees file court actions, with the consent of the beneficiaries and seek the necessary conforming amendment through court action.

In order to conserve the assets held in an unqualified charitable remainder trust, and foreclose any question on the legal rules which govern amendments to testamentary and other unamendable trust instruments, proposed D. C. Code Title 21-1801(d) of H.R. 10790 permits the trustee and all parties in interest to the unqualified trust to amend its instrument to contain all the rules and limitations of section 664 of the Internal Revenue Code without resort to judicial proceedings; this facilitates obtaining the charitable deduction for the grantor or testator, subject, of course, to the effective date rules of applicable Internal Revenue Code and regulations. By permitting all parties in interest to amend the instruments for this purpose, District of Columbia court dockets will be kept clear of amendatory litigation and the trusts (and the public charitable beneficiaries) will avoid costly legal fees which would have been incurred were a judicial proceeding required.

The Congress will accomplish the same purpose when enacting the foregoing provision as it will when it enacts the private foundation provisions set forth in H.R. 9172. In both instances, there is the elimination of the necessity of incurring substantial legal fees to conduct the court proceedings and the court dockets of the District of Columbia would not be burdened with this type of litigation.

As you can see by the enclosed letter for the Treasury Department, if our proposed Title 21-1801(d) were enacted, eliminating the necessity of a judicial proceeding to amend the partially charitable trust's instrument, an amendment agreed to by all parties in interest (e.g., trustee, income beneficiary and charitable remainderman) would entitle the donor or estate to a federal charitable contribution deduction.

I hope this letter clarifies the questions raised during the Subcommittee's October 6, hearing.

Very truly yours,

WILLIAM J. LEHRFELD.

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., October 8, 1971.

DEAR MR. CURTIN: Thank you for your letter of October 7, 1971, with respect to the proposed regulations under section 664 of the Code.

This will confirm your understanding that the amendment contemplated by section 1.644–1(g)(3)(ii) of the proposed regulations is intended to include any method of amendment which is effective to amend an irrevocable trust under local law, whether accomplished by judicial proceedings, binding agreement, or otherwise.

Sincerely yours,

JOHN S. NOLAN,
Deputy Assistant Secretary.

Mr. SMITH of New York. Mr. Speaker, I rise in support of H.R. 11489, which I introduced, to facilitate the amendment of certain charitable and split-interest trusts in the District of Columbia, in order to conform to the requirements of the Internal Revenue Code and the Tax Reform Act of 1969.

This legislation was requested by the Bar Association of the District of Columbia, and the Bankers Association of the District of Columbia, and supported also by the American Bar Association.

My original bill (H.R. 9172) was amended by the committee, which I heartily support, to benefit trusts created for the benefit of Shriners Hospitals for Crippled Children, a large charitable organization operating 22 charitable hospitals throughout the United States, Canada, and Mexico, which are entirely supported by charity of the Shriners and their endowment funds. As so amended and reported, H.R. 11489 has the approval of the Treasury Department which has rendered an advisory opinion that this legislation satisfies the requirements of the Federal Tax Reform Act of 1969.

Legislation similar to this bill has been adopted by 35 other States.

The Tax Reform Act of 1969 (Public Law 91–172) made a number of changes with respect to the treatment for tax purposes of private foundations and other charitable corporations and trusts. Among those changes is a requirement that charitable trust and corporations include in their governing instruments certain provisions specified in the 1969 Act, including provisions that the trust or corporation will distribute its income for "exempt" purposes on a reasonably current basis and will refrain from certain actions such as engaging in "self-dealing" transactions, retaining excess business holdings, making investments which jeopardize exempt purposes, and expending funds for lobbying. The Tax Reform Act specifies that charitable trusts and corporations must alter their governing instruments in the prescribed manner by December 31, 1971, or lose their right to full deductions for charitable distributions or their exemption from the Federal income tax.

Subsequent to the enactment of the Tax Reform Act of 1969, the Internal Revenue Service published a Temporary Regulation declaring that the requirements for the governing instruments of charitable trusts and corporations could be met through the enactment of a statute which provides that such governing instruments are deemed to contain all of the provisions required by the Tax Reform Act of 1969. H.R. 11489 would make such a declaration with respect to trusts in the District of Columbia. Absent the enactment of the bill, many charitable trusts and corporations operating in the District would find it necessary to institute separate court proceedings to amend their individual governing instruments in conformity with the requirements of the 1969 Act. In addition to eliminating the need for numerous legal actions, enactment of H.R. 11489 would prevent any confusion with respect to legitimacy, from a tax standpoint, of the activities of charitable trusts and corporations operating in the District of Columbia.

The provisions of H.R. 11489 would apply to those trusts (a) created by will of a resident of the District and admitted to probate in the District; (b) created by a resident of the District and executed in the District; (c) of which the trustee or a co-trustee is a bank or trust company doing business in the District; (d) of which a majority of the trustees are resident in the District; (e) involving real property located in the District; or (f) the governing instrument of which provides that it is governed by the laws of the District of Columbia. The bill also applies to any corporation organized under the laws of the District of Columbia which is treated as a private foundation under the Internal Revenue Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INTERSTATE COMPACT ON MENTAL HEALTH

Mr. STUCKEY. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 10344) to authorize the District of Columbia to enter into the Interstate Compact on Mental Health, and ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 10344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interstate Compact on Mental Health Act".

SEC. 2. The Commissioner of the District of Columbia is hereby authorized to enter into and execute on behalf of the District of Columbia an agreement with any State or States legally joining therein in the form substantially as follows:

"THE INTERSTATE COMPACT ON MENTAL HEALTH

"ARTICLE I—PURPOSE AND FINDINGS

"The party states find that the proper and expeditious treatment of the mentally ill and mentally deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and society as a whole. Further, the party states find that the necessity of and desirability for furnishing such care and treatment bears no primary relation to the residence or citizenship of the patient but that, on the contrary, the controlling factors of community safety and humanitarianism require that facilities and services be made available for all who are in need of them. Consequently, it is the purpose of this compact and of the party states to provide the necessary legal basis for the institutionalization or other appropriate care and treatment of the mentally ill and mentally deficient under a system that recognizes the paramount importance of patient welfare and to establish the responsibilities of the party states in terms of such welfare.

"ARTICLE II—DEFINITIONS

"As used in this compact:

"(a) 'Sending state' shall mean a party state from which a patient is transported pursuant to the provisions of the compact or from which it is contemplated that a patient may be so sent.

"(b) 'Receiving state' shall mean a party state to which a patient is transported pursuant to the provisions of the compact or to which it is contemplated that a patient may be so sent.

"(c) 'Institution' shall mean any hospital or other facility maintained by a party state or political subdivision thereof for the care and treatment of mental illness or mental deficiency, and shall include Saint Elizabeth's Hospital in the District of Columbia.

"(d) 'Patient' shall mean any person subject to or eligible as determined by the laws of the sending state, for institutionalization or other care, treatment, or supervision pursuant to the provisions of this compact.

"(e) 'After-care' shall mean care, treatment and services provided a patient, as defined herein, on convalescent status or conditional release.

"(f) 'Mental illness' shall mean mental disease to such extent that a person so afflicted requires care and treatment for his own welfare, or the welfare of others, or of the community.

"(g) 'Mental deficiency' shall mean mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

"(h) 'State' shall mean any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"ARTICLE III—ELIGIBILITY AND PLACEMENT OF PATIENTS

"(a) Whenever a person physically present in any party state shall be in need of institutionalization by reason of mental illness or mental deficiency, he shall be eligible for care and treatment in an institution in that state irrespective of his residence, settlement or citizenship qualifications.

"(b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient may be transferred to an institution in another state whenever there are factors based upon clinical determinations indicating that the care and treatment of said patient would be facilitated or improved thereby. Any such institutionalization may be for the entire period of care and treatment or for any portion or portions thereof. The factors referred to in this paragraph shall include the patient's full record with due regard for the location of the patient's family, character of the illness and probable duration thereof, and such other factors as shall be considered appropriate.

"(c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b) of this article unless the sending state has given advance notice of its intention to send the patient; furnished all available medical and other pertinent records concerning the patient; given the qualified medical or other appropriate clinical authorities of the receiving state an opportunity to examine the patient if said authorities so wish; and unless the receiving state shall agree to accept the patient.

"(d) In the event that the laws of the receiving state establish a system of priorities for the admission of patients, an interstate patient under this compact shall receive the same priority as a local patient and shall be taken in the same order and at the same time that he would be taken if he were a local patient.

"(e) Pursuant to this compact, the determination as to the suitable place of institutionalization for a patient may be reviewed at any time and such further transfer of the patient may be made as seems likely to be in the best interest of the patient.

"ARTICLE IV—AFTER-CARE OR SUPERVISION IN THE RECEIVING STATE

"(a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall be determined that the patient should receive after-care or supervision, such care or supervision may be provided in a receiving state. If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state shall have reason to believe that after-care in another state would be in the best interest of the patient and would not jeopardize the public safety, they shall request the appropriate authorities in the receiving state to investigate the desirability of affording the patient such after-care in said receiving state, and such investigation shall be made with all reasonable speed. The request for investigation shall be accompanied by complete information concerning the patient's intended place of residence and the identity of the person in whose charge it is proposed to place the patient, the complete medical history of the patient, and such other documents as may be pertinent.

"(b) If the medical or other appropriate clinical authorities having responsibility for the care and treatment of the patient in the sending state and the appropriate authorities in the receiving state find that the best interest of the patient would be served thereby, and if the public safety would not be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

"(c) In supervising, treating, or caring for a patient on after-care pursuant to the terms of this article, a receiving state shall employ the same standards of visitation, examination, care, and treatment that it employs for similar local patients.

"ARTICLE V—ESCAPE OF DANGEROUS OR POTENTIALLY DANGEROUS PATIENTS

"Whenever a dangerous or potentially dangerous patient escapes from an institution in any party state, that state shall promptly notify all appropriate authorities within and without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee. Immediately upon the apprehension and identification of any such dangerous or potentially dangerous patient, he shall be detained in the state where found pending disposition in accordance with law.

"ARTICLE VI—TRANSPORTING PATIENTS THROUGH PARTY STATES

"The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the patient, shall be permitted to transport any patient being moved pursuant to this compact through any and all states party to this compact, without interference.

"ARTICLE VII—PAYMENT OF COSTS

"(a) No person shall be deemed a patient of more than one institution at any given time. Completion of transfer of any patient to an institution in a receiving state shall have the effect of making the person a patient of the institution in the receiving state.

"(b) The sending state shall pay all costs of and incidental to the transportation of any patient pursuant to this compact, but any two or more party states may, by making a specific agreement for that purpose, arrange for a different allocation of costs as among themselves.

"(c) No provision of this compact shall be construed to alter or affect any internal relationships among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

"(d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to any provision of this compact.

"(e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between a party state and a non-party state relating to institutionalization, care or treatment of the mentally ill or mentally deficient, or any statutory authority pursuant to which such agreements may be made.

"ARTICLE VIII—GUARDIANS

"(a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or in respect of any patient for which he may serve, except that where the transfer of any patient to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian, any court of competent jurisdiction in the receiving state may make such supplemental or substitute appointment and the court which appointed the previous guardian shall upon being duly advised of the new appointment, and upon the satisfactory completion of such accounting and other acts as such court may by law require, relieve the previous guardian of power and responsibility to whatever extent shall be appropriate in the circumstances; provided, however, that in the case of any patient having settlement in the sending state, the court of competent jurisdiction in the sending state shall have the sole discretion to relieve a guardian appointed by it or continue his power and responsibility, whichever it shall deem advisable. The court in the receiving state may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in the sending state in lieu of making a supplemental or substitute appointment.

"(b) The term 'guardian' as used in paragraph (a) of this article shall include any guardian, trustee, legal committee, conservator, or other person or agency however denominated who is charged by law with power to act for or responsibility for the person or property of a patient.

"ARTICLE IX—INAPPLICABILITY OF COMPACT TO PERSONS SUBJECT TO PENAL SENTENCE; POLICY AGAINST PLACEMENT OF PATIENTS IN PRISONS OR JAILS

"(a) No provision of this compact except Article V shall apply to any person institutionalized while under sentence in a penal or correctional institution or while subject to trial on a criminal charge, or whose institutionalization is due to the commission of an offense for which, in the absence of mental illness or mental deficiency, said person would be subject to incarceration in a penal or correctional institution.

"(b) To every extent possible, it shall be the policy of states party to this compact that no patient shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition, be taken to a suitable institutional facility for mental illness or mental deficiency.

"ARTICLE X—COMPACT ADMINISTRATORS

"(a) Each party state shall appoint a 'compact administrator' who, on behalf of his state, shall act as general coordinator of activities under the compact in his state and who shall receive copies of all reports, correspondence, and other documents relating to any patient processed under the compact by his state either in the capacity of sending or receiving state. The compact administrator or his duly designated representative shall be the official with whom other party states shall deal in any matter relating to the compact or any patient processed thereunder.

"(b) The compact administrators of the respective party states shall have power to promulgate reasonable rules and regulations to carry out more effectively the terms and provisions of this compact.

"ARTICLE XI—SUPPLEMENTARY AGREEMENTS

"The duly constituted administrative authorities of any two or more party states may enter into supplementary agreements for the provision of any service or facility or for the maintenance of any institution on a joint or cooperative basis whenever the states concerned shall find that such agreements will improve services, facilities, or institutional care and treatment in the fields of mental illness or mental deficiency. No such supplementary agreement shall be construed so as to relieve any party state of any obligation which it otherwise would have under other provisions of this compact.

"ARTICLE XII—EFFECTIVE DATE OF COMPACT

"This compact shall enter into full force and effect as to any state when enacted by it into law and such state shall thereafter be a party thereto with any and all states legally joining therein.

"ARTICLE XIII—WITHDRAWAL FROM COMPACT

"(a) A state party to this compact may withdraw therefrom by enacting a statute repealing the same. Such withdrawal shall take effect one year after notice thereof has been communicated officially and in writing to the governors and compact administrators of all other party states. However, the withdrawal of any state shall not change the status of any patient who has been sent to said state or sent out of said state pursuant to the provisions of this compact.

"(b) Withdrawal from any agreement permitted by Article XII(b) as to costs or from any supplementary agreement made pursuant to Article XI shall be in accordance with the terms of such agreement.

"ARTICLE XIV—CONSTRUCTION AND SEVERABILITY

"This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state

party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

SEC. 3. Pursuant to this compact, the Commissioner of the District of Columbia is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of party States, shall have power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of the District of Columbia in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by the District thereunder.

SEC. 4. The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of party States pursuant to articles VII and XI of the compact. In the event that such supplementary agreements shall require or contemplate the use of any institution or facility of the District of Columbia or require or contemplate the provision of any service by the District of Columbia, no such agreement shall have force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

SEC. 5. The compact administrator, subject to the approval of the Commissioner or his designated agent, may make or arrange for any payments necessary to discharge any financial obligations imposed upon the District of Columbia by the compact or by any supplementary agreement entered into thereunder.

SEC. 6. The compact administrator is hereby directed to consult with the immediate family of any proposed transferee and, in the case of a proposed transferee from an institution in the District of Columbia to an institution in a party State to take no final action without approval of the Superior Court of the District of Columbia.

SEC. 7. Duly authorized copies of this Act shall, upon its approval, be transmitted by the Commissioner or his designated agent to the Governor of each State, the Attorney General and the Administrator of General Services of the United States, and the Council of State Governments.

Mr. LINK. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of H.R. 10344, a bill to permit the District of Columbia to join the Interstate Compact on Mental Health. This measure was introduced by the distinguished gentleman from Missouri (Mr. HUNGATE) and myself.

This act is straightforward and has four purposes. First, it guarantees that any person found to be mentally ill or mentally deficient within a member State will receive care and treatment in that State regardless of the patient's legal residence. Second, it permits the transfer of a mentally ill patient to an institution in another State when such a transfer is found to be in the best interests of the patient. Third, it provides for interstate cooperation with regard to aftercare, and supervision of patients on convalescent status or conditional release. Fourth, it permits the establishment of supplementary agreements between two or more party States for the furnishing of care and treatment of patients on a cooperative basis.

Mr. Speaker, one of my constituents, Mrs. R. W. Wheeler of Bismarck, N. Dak. has been instrumental in improving the treatment and care of the mentally ill. Mrs. Wheeler is a member of the board of directors of the National Association for Mental Health, immediate past president of the North Dakota Mental Health Association, chairman of the board of directors of the Mental Health and Retardation Center in Bismarck, N. Dak., and chairman of the Dakota Mental Health and Mental Retardation Foundation.

In her statement testifying in support of this legislation, she gave a concise explanation of the interstate compact. She noted that:

The Compact enables the transfer of patients between member states on the basis of their clinical needs, instead of their legal residence. It allows a patient to be transferred from his state of residence to another state if his case history, condition, and prognosis are such that care and treatment elsewhere would be more effective. Experience shows that the Compact does not create a problem of great movement of patients or an increase in requests for transfers. There has been no increased cost to any state as a result of their involvement in the Interstate Compact and no state has been overloaded with out-of-state patients.

Mrs. Wheeler goes on to note:

The Mental Health Compact is a cooperative state program that serves the best interest of the patients, their families, and the states themselves.

Since I introduced this legislation, Mr. Speaker, I have received several letters supporting H.R. 10344. The director of the North Dakota Division of Mental Health and Retardation, Dr. Hubert A. Carbone, wrote:

This is indeed a worthwhile cause. The Interstate Compact has proved a boon to many patients and their families.

Mr. Speaker, the compact permits a patient to be hospitalized close to his relatives and friends, who are concerned about him and who will visit him during his hospital stay. The compact, in short, recognizes the increased mobility of Americans, and makes it possible for mental health treatment that takes this mobility into consideration.

To date, Mr. Speaker, 42 States are members of this mental health compact.

I urge support of H.R. 10344.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. LINK. I yield to the gentleman from Missouri.

Mr. HUNGATE. I appreciate the gentleman's yielding. I should like to join in the remarks of the gentleman from North Dakota, as I am a cosponsor of the measure, and I should like to express my support and also my thanks for his leadership in this important field.

Mr. STUCKEY. Mr. Speaker, the purpose of the bill, H.R. 10344, is to authorize the District of Columbia to enter into the Interstate Compact on Mental Health.

The functions of this compact are, first, to guarantee that any person found to be mentally ill or mentally deficient within a member State will receive care and treatment in that State regardless of the patient's legal residence.

Second, it permits the transfer of a mentally ill patient to an institution in another State when such a transfer is found to be in the best interests of the patient.

Third, it provides for interstate cooperation with regard to aftercare, and supervision of patients on convalescent status or conditional release.

Finally, it permits the establishment of supplementary agreements between two or more party States for the furnishing of care and treatment of patients on a cooperative basis. The compact does not apply to the criminally insane or to individuals subject to proceedings on criminal charges.

BACKGROUND

In 1955 the interstate compact developed out of a meeting of a group of psychiatrists, legislators, lawyers, and administrators from Connecticut, New Jersey, New York, and Pennsylvania who met to discuss the possibility of establishing reciprocal arrangements by which each State would agree to accept patients transferred from an institution in another State. Later that year the 10-State Northeast State Governments Conference on Mental Health created the Interstate Compact on Mental Health to facilitate interstate transfer of mentally ill or mentally retarded patients. The compact would make it possible to transfer patients between member States on the basis of their clinical needs instead of their legal residence.

Later that year Connecticut ratified the compact, and New York, Massachusetts, and New Jersey soon joined. Today 33 States are members of the Interstate Compact on Mental Health. The Council of State Governments, through its Interstate Clearing House on Mental Health, is continuing to stimulate interest in the compact and encourage its adoption. Its goal is to have every one of the 50 States participate.

The compact insures interstate cooperation to meet the welfare and clinical needs of mental patients. In contrast to the archaic practices that prevailed for many years in this country, the 33 compact States can provide hospital care, treatment, rehabilitation, and aftercare services to patients regardless of their place of residence or citizenship. Only a patient's medical and psychiatric needs determine where he will be hospitalized or where he will receive aftercare.

A major means of reducing hospital stay and increasing the number of patients returning to productive community life is to create for each patient a total environment, both in the hospital and in the community. The compact permits a patient to be hospitalized close to the relatives and friends who are concerned about him and who will visit him during his hospital stay. The opportunity the patient has to visit the homes of nearby relatives and friends can also hasten his recovery.

STATE ENACTMENTS

The problem which this legislation is designed to remedy has been recognized throughout the United States. There are presently 42 States which are members of the interstate compact. The member States of this compact, have not found that membership in the compact creates problems in the way of any great increase in requests to transfer patients. Nor does membership increase the cost of treatment for any member State. Your committee finds that the provisions of the bill are reasonably comparable to legislation enacted in the States. The States which have joined the interstate compact as of October 1971 are as follows:

Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

HEARING

At a hearing before your Subcommittee on Public Health, Welfare, Housing, and Youth Affairs on November 3, 1971, testimony and statements were received from representatives of organizations whose members were interested in the legislation. There was no opposition to the bill expressed at the hearing.

The report of the Commissioners for the District of Columbia on H.R. 10344 was representated by representatives of the office of the Corporation Counsel and Department of Human Resources for the District of Columbia who indicated that the Commissioner had no objections to the legislation.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUCKEY. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the District bills considered today.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1971

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 626 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 626

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 626 provides an open rule with 2 hours of general debate for consideration of H.R. 10729, the Federal Environmental Pesticide Control Act of 1971.

H.R. 10729 amends the present law for the purpose of providing more comprehensive regulation and control over the manufacture, distribution and use of pesticides.

Basically, all pesticides would be classified into two groups—"General Use" and "Restricted Use"—and the pesticides must be registered. If a pesticide is registered for restricted use only there are recordkeeping requirements as to who buys it, and so forth, so that sales can be followed up.

There would be two groups of applicators—"Commercial" and "Private"—most of whom would be farmers—and they must be licensed.

Civil and criminal penalties are provided for violations.

The program would be administered by the Environmental Protection Administration and should give us much better control over and protection from pesticides than we have had heretofore.

Mr. Speaker, I urge the adoption of the rule in order that the bill may be considered.

Mr. GROSS. Will the gentleman yield to me?

Mr. SISK. I will be glad to yield to my good friend from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

I wish to commend the gentleman and the Committee on Rules for bringing out one rule which is wide open, with no inhibitions and no prohibitions of any kind. I cannot remember when the Committee on Rules has passed out a rule as free of restrictions as this one, and I cannot pass the opportunity to commend the committee for just once giving the House a wide-open rule.

Mr. SISK. Let me say that I am most appreciative, and I know the committee is, of the gentleman's commendation, because I recognize from time to time we are criticized by him.

As the gentleman says, this is a completely wide-open rule waiving all points of order, and the House, I am sure, will work its will on this piece of legislation.

I now yield to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the purpose of Federal Environmental Pesticide Control Act of 1971 is to amend existing law—which is primarily a registration and labeling law—into a comprehensive regulatory statute for the control of both the manufacturing and use of pesticides under the recently created Environmental Protection Agency.

There are currently more than 60,000 products made from some 900 chemical compounds which are required to be registered under our present law. Over 1,000,000,000 pounds of registered pesticides were produced in the United States in 1970, and sales totaled some $870,000,000.

Products which are classified as pesticides and subject to registration under current law include all farm pesticides and herbicides, industrial products, sterilizing and disinfecting products, home cleaning products and lawn and garden insecticides and herbicides. All segments of the Nation use these products.

Current law—the Federal Insecticide, Rodenticide, and Fungicide Act—is a registration and labeling law. The proposed changes would redirect its thrust by providing for regulation through the Environmental Protection Agency of both the manufacture of pesticides and their use by individuals as well as commercial applicators. H.R. 10729 requires the registration of pesticide-producing firms. This registration will be in one of two categories, "general use" and "restricted use." A product registered in the general use category will be subject to labeling requirements, as now. All products or compounds in the restricted use category will have additional terms and conditions surrounding their use. Any application of such products must be certified by the Environmental Protection Agency. Such certification or licensing requires proof of knowledge in the application of dangerous chemical compounds.

All manufacturers of pesticides must accompany an application for registration of a particular compound with information concerning its effects on plants and animals, the production process and other pertinent information. Such information must be kept current and any adverse findings must be reported. To insure compliance the Environmental Protection Agency has authority to inspect the books and records which the act requires to be kept by all manufacturers.

The Environmental Protection Agency has wide powers. It may issue public warnings, seek court injunctions to stop

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distribution and/or use, seize dangerous pesticides, impose civil penalties and bring criminal charges in appropriate cases.

The agency is also given authority, with respect to seizures of dangerous compounds, of indemnifying the owner for the value of the products seized.

Finally, judicial review of the agencies administrative decisions is provided. However, such review is limited in that only those "persons adversely affected" may complain. This would seemingly preclude persons not directly involved from seeking court action.

Criminal penalties are provided. A fine of $25,000 may be levied against any person other than private users of pesticides for failure to comply with the certification requirements or for the misuse of any pesticide. Private individuals may be fined up to $1,000 upon conviction. Civil penalties may be assessed by the Agency and range up to $5,000 per violation.

The committee report provides a cost estimate covering fiscal years 1973–1977 of $178,100,000.

The bill is supported by the administration as evidenced by a letter from the Environmental Protection Agency. An open rule, 2 hours of debate has been requested.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. Dow).

Mr. DOW. Mr. Speaker, I have no objection to the rule.

As a member of the committee, I am deeply concerned with this bill, because I think pesticides are a tremendous problem in this country. They are probably a blessing as well as a problem. The difficulty is to balance the two.

I took note of the remarks of the gentleman from Iowa that this rule permits wide open debate. I am taking full advantage of that. I am one member of the committee who has some disagreement with the bill as drawn. I will in general debate explain my position and the amendments to be offered.

I can generalize by saying that these amendments pretty much relate to my belief that the manufacturing industry is being favored in this bill and that the bill has been drawn to provide snares and pitfalls to bar the administrator of the Environmental Protection Agency from policing the bill in the manner in which it should be, considering the seriousness of the problem and the dangers that some pesticides present.

Therefore, I will have no objection to the rule whatsoever and look forward to the fact that we do have a wide open rule.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. POAGE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 10729, with Mr. HUNGATE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. POAGE) will be recognized for 1 hour, and the gentleman from California (Mr. TEAGUE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas.

Mr. POAGE. Mr. Chairman, we on the Agricultural Committee bring before the House today a bill of far-reaching importance, one affecting every citizen in the Nation.

It is entitled the "Federal Environmental Pesticide Control Act of 1971," and it entails a complete revision and updating of the Federal Insecticide, Fungicide, and Rodenticide Act of 1947, sometimes called FIFRA. In view of the amazing developments in this area since the end of World War II, the committee feels that this basic law needs a thorough overhauling.

Fundamentally, the legislation we have reported changes FIFRA from a labeling to a regulatory program. For the first time, the Government is given controls over the manufacture, distribution and use of pesticides. Heretofore, the act has largely been restricted to enforcement of regulations requiring that labels on pesticides set forth the ingredients and instructions as to use.

The bill we have approved is a compromise—compromise legislation which is the product of many months of study and thought by the committee. First, we had several weeks of public hearings during which any one and every one interested in the legislation was given an opportunity to testify. Then followed a period of weeks in which the committee hammered out the bill you have before you today. Before it reached this form it went through three separate committee print versions, each of which was circulated among all interested parties for their comment.

The witnesses who came before the committee included the very top authorities throughout the country in the fields of science, agriculture and conservation—the last group including ecologists and environmentalists. I might point out that among these recognized experts there often were sharp differences of opinion. We had some testify that pesticides had caused the loss of birds and fish in particular instances, but we had equally authoritative witnesses emphatically testify that there was no positive proof that pesticides had caused these deaths. We on the committee do not claim that we know.

Without in any way trying to minimize the seriousness of these cases, I might say that in practically all instances where there was found to be an association between the use of pesticides and discoveries of dead birds and fish, the trouble apparently stemmed from misuse or misapplication of the pesticides.

I want to emphasize that our committee is as interested as anyone in conservation of wildlife. Certainly farmers and ranchers, living closer to nature than the rest of our society, should be and are in the forefront of the battle for a better earth. We believe that in this pending bill the Environmental Protection Agency is given the authority, which it does not now have, to enforce regulations which should prevent a recurrence of these incidents where improper application of pesticides caused harm to the ecology.

Among our witnesses was EPA Administrator William D. Ruckelshaus, representing the public interests. The EPA will administer the new law. We had Agriculture Department officials, including scientists from the Agricultural Research Service who testified that a complete ban on pesticides would at least triple the cost of food and lower its quality. Your tomatoes and lettuce and other produce likely would be mottled, and when you bit into an apple you would almost certainly find a worm.

We had farm organization spokesmen testify as to the necessity for continued use of pesticides and fertilizers if they are to meet the requirements of an expanding population for food and fiber. Chemical company spokesmen told of their continuing research for new pesticides which will achieve the results which are wanted and which are less hazardous to the environment.

Incidentally, I would like to quote here from a statement made earlier this year by Dr. Norman Bourloug, the Nobel Prize winner who developed the Mexican wheat strain which has increased yields per acre and alleviated hunger in much of the world.

This Nobel Prize winner said:

> Today everybody talks about the environment.

He briefly reviewed his own work in the field of ecology, then added:

> I'm horrified by what I read and listen to on the radio and television about some of the theories of the purists—who are suddenly going to shut off the use of chemical products that we need to continue the improvement of our agricultural production, and I say it broadly—fertilizers and pesticides. Sometimes we have had accidents with pesticides, but think of the good they have done. Without them where would our agricultural production be today?
>
> We need common sense mixed with these things. But common sense seems to, all too often, go out the window.

Those are the words of a scientist whose standing cannot be questioned.

At this point let me briefly outline the major provisions in this legislation:

First. It establishes a coordinated Federal-State administrative system to carry out the new program. The States are given prime responsibility for the certification and supervision of pesticide applicators. The Federal Government sets the program standards the States must meet. The new legislation authories the Federal law to preempt State and local laws in regard to all labeling and packaging requirements. However, the States may completely ban the use within their boundaries of restricted pesticides if they want to take such action.

Second. Under this bill, the National Academy of Sciences can be called upon by the EPA to render opinions on relevant scientific issues that arise in the hearing process. The applicant for a license may request the opinion of the Academy.

Third. Pesticides will be grouped into two categories—those for "general use" and those for "restricted use." The latter can be applied only by or under the direct supervision of licensed pesticide applicators.

Fourth. There will be two types of pesticide applicators—commercial and private. The bulk of the private applicators are expected to be farmers. The commercial will include not only agricultural but industrial and commercial types such as termite exterminators working at residences within cities.

Fifth. The EPA administrator may issue experimental permits for the safe testing of new compounds. He is given powers to examine books and records, and take samples of pesticides in the possession of persons covered by the act. The EPA is given enforcement powers to, first, issue warnings, second, bring court injunctions, third, seize pesticides or devices, fourth, impose civil penalties, and, fifth, bring criminal charges when such action is warranted.

Sixth. Indemnities must be paid by the EPA when the use of a legally produced product is suddenly banned, and the holder of such product may at his option turn such condemned pesticides over to the EPA for disposition.

Seventh. Judicial review of administrative actions is guaranteed.

Eighth. The EPA is given authority to do expanded research and monitoring in order to find new and better methods and materials for controlling pests.

In submitting this bill, the committee is well aware of the fact that it does not entirely please everyone or anyone. There is no partisan division in the committee. Those in opposition base their stands on widely differing viewpoints. Some thought it was too restrictive and some thought it did not go far enough. We carefully weighed all the arguments. Amendments like those which may be offered here on the floor were considered by the committee and rejected.

In summary, may I reiterate that this bill is the product of long days and weeks of study. It represents the view of a majority of both parties on this committee. We feel it is a good bill and can be enacted into law. It will be a long advance in the regulation of toxic pesticides and at the same time should not hamstring the efforts of our producers to meet the needs of the people. It balances the good against the harm inherent in these aids to agriculture. I hope the measure will be approved as reported by the committee.

Mr. TEAGUE of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I too support this bill. I think it is a remarkably good piece of work in my opinion on the part of the Committee on Agriculture by coming up with a well balanced piece of proposed legislation.

The chemical companies are not entirely happy with it, and every farmer is not entirely happy with it, and some of the environmentalists are somewhat unhappy, but as a whole I believe we compromised the varying points of view in a very satisfactory way.

I would like to take this time to commend our committee staff, I think in this case principally Mr. Hyde Murray, for having put together such a very clear committee report. There is no purpose in my reading that report into the RECORD, but to those of you who are interested in more details I would suggest that you can get most of them in the first five or six pages of the committee report.

I did not know that I was going to be handling this bill today. The gentleman from Oklahoma, (Mr. BELCHER), had expected to, but unfortunately he is out of town at the moment. So I request that any Members who are present who have technical questions should direct them to the gentleman from Texas (Mr. POAGE), or to our expert on this side of the aisle, the gentleman from Iowa (Mr. KYL).

Mr. POAGE. Mr. Chairman, I yield 20 minutes to the gentleman from New York (Mr. Dow).

Mr. DOW. Mr. Chairman, this is a quotation from the Washington Post of October 26:

> A heavy concentration of the toxic pesticide dieldrin has been pinpointed by the Patuxent Wildlife Research Center as the probable cause of death of a bald eagle found last year along the Potomac River. . . .

In this day of profound concern for our environment, our anxiety over mercury in fish, DDT in our birds and our bodies and phosphates in our water, protection of the people from economic poisons is a grave problem.

In passing the bill H.R. 10729 today we have a solemn responsibility to deal properly with the use of pesticides, which are sometimes referred to as economic poisons.

The committee's bill and none of my amendments designate or touch on specific poisons. These are left unnamed. The bill is one setting forth the administrative and legal procedures by which Federal oversight is maintained over the sale and use of pesticides so that our people are protected.

Virtually all of my amendments seek to remove from the committee bill the bias that has been woven into it, a bias to favor manufacturers and dealers in pesticides. The bias is evidenced by a series of legal snares set in the bill to hamper, if not actually block, the Administrator of the Environmental Protection Agency as he goes about his task of registering, suspending and approving economic poisons for use as pesticides.

I feel that the bill, H.R. 10729, before us this afternoon is substantially weaker than the present law—the Federal Insecticide, Fungicide, and Rodenticide Act—commonly referred to as FIFRA: and must be amended in several key sections. To describe the problem in another way, the bill takes good aim, it does get the target into focus but, regrettably, it falls short of the mark.

The Dow substitute, so-called, strikes out language which was added in the committee and includes only two areas where I have changed the wording of the bill that came originally from the EPA. All of the amendments I have put in this package affect the administration of the bill and judicial requirements and interpretations. There is nothing in these limited amendments which relate to the user or would directly affect the farmer. The amendments are designed to:

First. Preserve to the States the authority to further restrict the use of general use pesticides. Several States have stricter laws which would be gutted.

Second. Continue the present application of law which allows individual States and persons adversely affected to challenge the Administrator's orders. The committee bill limits court challenges to manufacturers and bars individual States, organizations and others of the public who might be vitally concerned.

Third. Strike language permitting pesticide manufacturers application for registration, a section that is more restrictive than present law. My bill adds language requiring disclosure of data which tends to prove a substantial environmental effect or lack of effect. The committee bill omits this requirement and, consequently, requires the Administrator, believe it or not, to assume the burden of proof in any denial of a pesticide application.

Fourth. Preserve the essentiality doctrine used by the Administrator to review registration of pesticides. The policy properly considers the need for the pesticide in the Agency analysis.

Fifth. Strike the section requiring the Federal examiner hearing pesticide suspension cases to submit all relevant questions of scientific fact to a scientific committee. The provision bottles up questions, delays procedure, and excludes the public. It was not in the original administration bill, H.R. 4152.

I want to state, as clearly as I can, that I am not interested in altering the committee language to change use on the farm or to change in any ways the committee procedures creating the machinery for pesticide applicators. I share the committee's concern for the farmer and I am not in the least interested in shutting off the use of chemical products which are needed for agricultural production.

My difficulties with the bill are with the administrative sections, the changes in procedure, and the changes in judicial review. I am joined in this view by a solid phalanx of national organizations which have gone to great lengths to advocate amendment at the points I have described.

These organizations are: Environmental Action, Friends of the Earth, Izaak Walton League, National Audubon Society, National Wildlife Federation,

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Sierra Club, Sport Fishing Institute, Wilderness Society, Wildlife Management Institute, and International Association of Game, Fish and Conservation Commissioners.

I believe that the real question here is whether the changes in H.R. 10729 create a reasonable and effective law. With my limited amendments the bill should be supported.

The EPA supported and fought for most of the amendments I have incorporated in the Dow substitute.

I do want to commend the chairman on his very fair method of operating in the committee. All of us know of the several divergent forces at work when the bill was being written. The report, 92–511, acknowledges this on page 4 when it states:

> This bill is in part a result of the growing awareness of possible undesirable effects of pesticides and a realization of the necessity of considering these disadvantages along with the beneficial effects realized through protection of public health and enhancement of agricultural productivity.

The manufacturers have effectively carried the day on the bill as it is written.

To begin with, the data which is to be submitted in support of registration under the committee bill is subject to control by the applicant himself. He has the power to decide what parts of that data should be unavailable to the Administrator, when that official considers any other application for registration, and to the public. This language is seriously limiting on the Administrator and has been generally referred to as the featherbedding section. It has the effect of making a pesticide registration the equivalent of a patent. It can be argued also that it places the EPA in a restraint of trade action in conjunction with the manufacturer and in violation of the Freedom of Information Act outside the bounds of patent production.

The authority withheld from the States to further restrict the use of general use pesticides is another section in the bill which benefits pesticide manufacturers rather than the States, users, or consumers. Reading from the committee report on page 16 says in explaining this section of State authority that:

> The Committee also intends for the Federal law to preempt the States from restricting or licensing any "general use" pesticide.

I feel that this is a critical section of the bill to amend. Not only would the bill gut State laws such as we have in New York, or those which I understand obtain in other States as, for example, Michigan, Wisconsin, and Massachusetts, but the bill fails to recognize the importance of differing local conditions such as soil, climate, crops, and pest populations.

The narrowing of judicial review discriminates against States and other persons who seek to challenge the Administrator's orders. The original bill proposed by the Administration, H.R. 4152, used the classic words "any person adversely affected" when it designated those parties who would have standing to obtain review of the Administrator's order. In the committee these words were changed to "following a public hearing, any party at interest." I have stricken the new language and reverted back to the original wording. The change in the wording by the committee bill is clearly an attempt to narrow the scope of review to manufacturers applying for registration and to preclude the intervention of outside parties and even the individual States who have every reason to establish that they are adversely affected.

Arguments have been offered which would lead the layman to believe that the "any party at interest" language is not as narrow as it seems. The reason is based on the general concept of the public interest; I cannot accept this interpretation. Clearly, the precedents on the distinction between these phrases is clear. Standing would be granted to any person adversely affected if the burden could be carried to prove the adverse effect, *Environmental Defense Fund* v. *Hardin*, 428 F. 2d 1093. There are no precedents to give flexibility to the term "any party at interest." Litigation has already dealt directly with the interpretation. The intent of the committee is clear, to narrow the field of those who can challenge the manufacturer, particularly when it is noted that the words are further limited to action after a public hearing which may be sought by the applicant only.

Another section which favors the manufacturer is the change from present EPA doctrine which uses "essentiality" as a criteria when the registration of a pesticide is considered by the Agency. The present policy prescribes that when reregistration is required for persistent pesticides, argument must be included to show the need for the chemical's use. This policy is valid and it should not be eliminated if the EPA is to be charged with providing some balance in this area. The policy incorporates the caution that scientific documentation is needed in reviewing the uses of a specific group of chemicals. I can only read these words found in the committee bill to say that caution is unwarranted and that persistent pesticides do not merit special consideration with regard to use. My amendment would strike the "lack of essentiality" language from the bill. What shall EPA do when a suspect poison is offered to perform the same job as a less harmful one already serving the purpose? Shall the EPA play dead and ignore the essentiality?

Proceeding to still another issue, the section on scientific review is a compromise of the original requirements in FIFRA. It provides for the National Academy of Sciences to set up a scientific committee to rule on all relevant questions of scientific fact. This procedure was not in the recent new administration bill since the Administrator had the view that he more properly should be charged with the responsibility for the public hearing.

I have eliminated the section of scientific review to strengthen the hand of the Administrator. Neither the National Academy of Sciences or the Administrator sought this section. I feel that the public hearing should be conducted by the Administrator.

The hearing language in the committee bill requires that all relevant questions of scientific fact be referred to the scientific committee. This in effect subverts the public hearing process and further weakens the public's ability to participate by referring questions away from the hearing examiner. The examiner is nowhere barred from seeking scientific advice whenever it is needed.

I turn now to a very important section of the committee bill which I believe is a significant change from present law. In order to qualify a pesticide for registration it requires only a statement of—

First, the name and address;

Second, the name of the pesticide;

Third, a complete copy of the labeling, statement of all claims, directions for use;

Fourth, if requested—and I emphasize—a full description of tests;

Fifth, the complete formula; and

Sixth, a request that the pesticide be classified for general or restricted use. This procedure fails to sustain the burden of proof which should rest fully on the applicant to prove that the pesticide will perform without substantial adverse effect on the environment.

The consequent placement of this responsibility on the Administrator under section 3(c)(5), the approval mechanism on page 19 of the bill, gives the EPA the burden of finding that the product sought to be registered is environmentally unsound. The shoe should be on the other foot. The responsibility for the protection of our environment is as much a burden of the manufacturer as it is a function of the EPA.

Until proper requirements are spelled out in the registration process the burden will not rest on both parties as it must when such a critical factor as our environmental health is at stake.

It should be required in this section that all data which tends to prove a substantial adverse effect on the environment or a lack of any such effect should be submitted by the applicant. The onus should rest on the manufacturer, not be shifted to the Administrator. Because there is no requirement that such data be submitted by the manufacturer at the time of registration, I feel that the section is very weak and that the burden has indeed been shifted.

Here I am only seeking to do for pesticide applicants what is already required under food and drug legislation. Under Title 21 of the U.S. Code, Sec. 355(6), new drug applicants must file "full reports of investigations which has been made to show whether or not such drug is safe for use and whether such drug is effective in use." In the same title, sec. 346(d), petitions filed by the applicant seeking a tolerance for pesticides or requesting an exemption must include full reports of investigations on the safety and on the results of tests on the residues. I feel that a similar requirement for pesticide applicants is axiomatic.

There is every reason to require the full disclosure of data on the proposed pesticide at the time of registration in order to give the Administrator of the EPA complete information on which to base his decisions.

The Dow substitute is only aimed at those critical provisions I feel must be altered if the bill is to have the requisite teeth to be an improvement over present law instead of a retreat. United States production of pesticides and related products last year was 1,034 million pounds. Sales in that year were 881 million pounds, valued at $870 million. This is a tremendous production and demonstrates the very great need for full power to regulate and to disclose information. Pesticide use is on a slight decline, partly because of the generally increased knowledge of some of the effects which usage has on humans, on crops and on the environment. It is reported that about half of U.S. pesticide production was insecticides, among them chlorinated hydrocarbons like DDT, dieldrin, Mirex, organophosphates, carbamates, botanicals, and inorganics like lead arsenate.

The trend is toward using less persistent but more toxic pesticide according to the Environmental Quality Second Annual Report, August 1971. These changes require strong legislation designed to require the fullest participation of the manufacturers in the registration process and the public in the area of public hearings and judicial review. I believe my amendments recognize the basic failings of the bill and provide the House with an opportunity to pass a bill containing stronger language which would be a substantial improvement over FIFRA, and to perform a critical service for our Nation.

Mr. Chairman, I yield back the balance of my time.

Mr. POAGE Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, in this brief period I would like to give some background of this legislation so that it might appear in the RECORD today. Before I do so, I want to absolutely and totally deny that this committee or the individual speaking, or the Chairman of the committee or anybody else exhibited any bias favoring the manufacturer of chemicals in the consideration of this language. I do not know how this committee or any committee could have operated more openly, more fairly, more considerately than they did on this piece of legislation.

This is what the committee has tried to do Mr. Chairman, we do not bring this legislation here permitting some regulated use of pesticides because we hate worms. We bring it to you because we like the people of the United States like to eat apples without worms. They want good products and they want them at a price they can pay. We recognized when we started to write this legislation that all chemicals involved some danger, and that there are relatively safe ways of using those chemicals. This is, after all, a matter of science. We tend to forget that ecological and environmental matters are matters of science. Science does not seek to compromise. What we seek to do in this bill is to provide legal language for our statutes which will permit science to find the truth insofar as the environment is concerned and so far as the health of our people is concerned.

The Chairman mentioned that this bill is in the way of a compromise. I would rather not use the word "compromise" because of the kind of misinterpretations that might be placed on it. The gentleman from New York perhaps suggested one of those connotations. This is a bill which seeks not compromise, but which seeks to give science the time and the tools to seek the truth and the time for us to seek some alternatives to present controls of insect population. This is a balanced thing. It is not a compromise For example, in one of the matters mentioned by the gentleman from New York we have to give this consideration. It costs $12 to $14 million to perfect, synthesize and test any single pesticide product on the market.

If we make it impossible or totally inadvisable in an economic sense for any manufacturer to do the research which is necessary to find the alternatives, then we have killed the goose that lays the golden egg.

So when we try to preserve a climate in which these manufacturers, who have done most of the research and almost all the research in the past, can operate, we are not operating for the benefit of the manufacturers, but for the benefit of citizens all over this world who stand to profit by the new discoveries and new tests which these manufacturers come forward with in the future.

It is essential that we do try to find some language which will permit the use of chemicals until we find alternate chemicals.

I am indebted to the National Geographic Society for this statement of fact, and it is a very significant statement. That organization says that one-third of all the products being grown or those which have been harvested all over the world are today destroyed by insects of various kinds. That is one-third of all the production and the storage of that which is produced, which is destroyed by insects.

The Department of Agriculture did some figuring for us. They estimate if we did not use herbicides—and this is the other side of this operation—to maintain current agricultural production, farmers would have to expand an additional $209 million to produce the same as we are producing. They would have an added cost of $4.64 per acre treated.

We would have to have 20 million more man-hours to produce the same crops we are producing in the United States and we would have to bring new land into production.

Here is where we get the environmental elements into conflict. Those of us who lived through the Dust Bowl days, when we put into production land which never should have been put into production, know it was one of the really serious environmental factors of all our national life, and if we had to put all this additional land into production to get the same kind of production we get today, we would have an environmental loss.

We go one step further with this consideration. If we did not use these chemicals—the fungicides, the herbicides, the pesticides—then the cost to the consumer overall would go up dramatically.

So when we say that, as we were not considering the benefit of the manufacturers in seeking new products for control here, so we are not considering the benefit of the farm only when we talk about pesticides and herbicides, but we are also talking about the benefit to the consumers who will be ultimately paying for that which is produced.

I feel these amendments which have been offered by the gentleman from New York are either a case of misconstruing the committee bill or oversimplifying it, and certainly I say again I do not want the implication to stand to any degree that this committee or any Member thereof attempted to produce a bill which was in favor of the chemical manufacturers and to some degree detrimental to the people of the United States otherwise.

Mr. Chairman, here are some basic background facts. About 900,000 species of insects have been classified. The insect population at any given time is probably a billion billion. They have been here for probably 370 million years—100 million years before the earliest mammals. Because insects have jointed, articulated limbs, they are classified technically in the phylum Arthropoda and thus are related to crustaceans—crabs and lobsters—to centipedes and millipedes. Insects have an external skeleton—a body divided into head, thorax, and abdomen—and normally have six legs.

Of interest here is the insect's acute sense of smell. It has been proved that the male silkworm moth can detect the female's sex attractant at 6.8 miles.

About one-tenth of 1 percent of all insect species are considered harmful to man. Man and insect compete for food. The desert locust, in a very brief period, will accumulate about a million individuals in a medium-size swarm. Since this insect consumes its own weight of vegetation daily, a medium swarm consumes 3,000 tons of food a day. The largest swarm recorded was an 1899 Red Sea invasion. It covered an area of 2,000 square miles and the insects weighed 450,000 tons. Lest you think this is an exaggeration, 1,300 tons of locust eggs were collected, weighed and destroyed on the island of Cyprus. In one summer in Ethiopia, 107,000 tons of cereal crops were consumed by locusts.

INSECT CONTROL

Diversionary tactics have been utilized by primitive and modern civilizations, such tactics including erecting of screens, digging fire trenches, and the use of noise, as well as flooding and baiting. Some civilizations eat the locusts. Locusts are consumed whole, or as flour. Insects can increase rapidly. The Japanese beetle does not cause much harm in its native habitat. A few of the insects came to the United States in 1917 accidentally. The next year it had spread to 3 square miles. The following year 6 square miles, and the following 48 square miles. By that time it was too widespread to be controlled. They became so widespread that use of poisons is impossible. Biologi-

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cal controls were attempted. Every known natural competitor was imported. However, the Japanese beetle thrives in the United States and its enemies do not.

We have produced insect-resistant crops with some notable success as well as some frustrating failures.

Simple sanitation and the cleaning up of rubbish is an aid to control. Some physical means of control have been developed—again with some success. The yellow "bugilites" are an example. More sophisticated means involve use of ultraviolet lights.

One of the most widely heralded controls is sterilization by gamma rays, particularly on the screw-worm and, to a lesser degree, with pink boll-worms. This process has been greatly oversimplified. Dr. Morton Grosser reports the staggering logistics of irradiation:

In California, twin-engined planes cover 125,000 acres of the San Joaquin Valley eight times a month from April to November; in the Southwest program, 150 million male screwworm flies must be raised, sterilized, and released every week.

Chemicals offer the most common control, with insecticides divided most commonly into stomach poisons and contact poisons.

You are familiar wtih the old paris green—arsenic trioxide and copper acetate—and also arsenious oxide, calcium arsenate, lead arsenate, sodium arsenate, and fluorine compound. Contact insecticides are of several varieties:

First. Natural organics such as nicotine, pyrethrum and rotenone.

Second. Inorganics—such as sulfur and lime.

Third. Oils—like kerosene.

Fourth. Fumigants—very dangerous chemical insecticides—which are usually more toxic to man than to insects.

Dichloropropane and dichloropropene—soil fumigants.

Hydrogen cyanide, methyl bromide, naphthalene, and paradichlorobenzene—the latter two, types of "mothballs."

Fifth. Repellents—such as creosote.

Sixth. And the one we are most concerned with in this bill—synthetic organic insecticides, with an output of $750 million a year.

Organo phosphates; for example: malathion, parathion, demeton, tetraethyl, pyrophosphate, diazinon, dichlorvos, ronnel, and dicapthon.

Hydrochlorinated carbons; examples: benzene hexachloride, lindane, aldrin, chlordane, dieldrin, endrin, heptachlor, toxaphene.

About 350 million pounds of pesticides are sold annually in the United States. Production in agriculture reportedly increased by 25 percent because of their use and, of course, in some cases complete crop losses are prevented.

Sex attractants are getting serious study, with limited success to date. The newest technique getting significant research is hormonal control. Because this application is fascinating, I quote from the report by Dr. Grosser as follows:

In 1920 the Polish biologist, Stefan Kopec, decided to investigate insect metamorphosis. In one experiment he tied a thin cord tightly around the middle of a Porthetria caterpillar. The caterpillar continued to function, but while its head section molted and pupated normally, its hind end remained an unaltered caterpillar. Kopec reasoned that the ligature had prevented the transmission of something from the front end of the caterpillar to the rear, thus blocking normal development. In a series of microsurgical experiments during which he excised and later reimplanted the caterpillar's minute brain, Kopec proved that his hypothesis was correct. He identified the blocked substance as a brain-controlled hormone, a substance secreted by the ductless glands in the anterior part of the catepillar and transmitted through the bloodstream to control the functioning of cells distributed throughout the animal.

Following Kopec's work, Soichi Fukuda, a Japanese biologist, discovered a second hormone, also secreted in the caterpillar's anterior end. Fukuda found that if this hormone was absent the larvae neither molted nor pupated. He named it ecdysone or molting-hormone, after the Greek ekdysis: an escape.

What proved to be the last member of an interacting trio of hormones was detected by V. B. Wigglesworth, a distinguished physiologist working at Cambridge University. The third hormone was present during all immature larval stages, but absent when the insect pupated and metamorphosed into an adult. Wigglesworth traced the hormone to the corpora allata, two tiny glands located near the insect's brain; it was named the juvenile hormone. . . .

Once the natural substance had been analyzed, laboratories began to try developing synthetic hormones. The first stages of this work have shown exceptional promise. The substance must be developed for each insect. The process has the obvious advantage of great specificity. I believe scientists are well agreed that it will take some time to achieve a full-scale commercial application of these apparently nontoxic hormonal insect controls. (The word hormone has its root in a Greek word, meaning to stir up or set in motion. A hormone is a specific organic product of living cells that, transported by body fluids, produces a specific effect on the activity of cells remote from its point of origin, exerting a stimulatory or excitatory effect on a cellular activity.

Mr. Chairman, I include with my remarks here an excerpt from the Evening Star, Wednesday, November 3, 1971:

FLAWED PESTICIDE BILL

SIR, It has been my observation that The Star does not "go off the deep end" very often. But, in my opinion, that's where you went in your editorial "Flawed Pesticide Bill."

The bill reported by the House Agriculture Committee with solid bipartisan support and the endorsement of the administration is a strong and effective bill.

Certainly the administrator of the Environmental Protection Agency would not have written us that "I believe that all will agree that the sweeping and highly desirable new authorities of the bill will permit a great advance in our efforts to protect health and the environment" if the bill showed "only a token concern for environmental protection" as your editorial suggested.

This bill was developed after extensive public hearings and very thorough committee consideration. During this entire process the views of the environmental community were solicited, heard, debated and in many instances adopted. In several of the points you raised these views were not embraced for what the committee felt were good reasons.

While the limits of time and space do not permit as thorough a rebuttal of the views you have reflected as will be the case during the debate in the House of Representatives, I would like to make it clear that our bill does give states the authority to regulate more strictly (or for that matter to prohibit outright) any "restricted use" (more dangerous) pesticide.

The bill also leaves unchanged any "burden of proof" that chemical companies must meet to satisfy EPA that a new pesticide is both safe and useful.

The committee has recommended limited indemnification for the loss sustained by owners of pesticides registered by the government as being proper and then later banned by the government as being a hasard. We think common justice calls for reimbursement to those persons, such as housewives, farmers and small businesses as well as manufacturers, who acquired or produced these materials in good faith.

In regard to the availability of information, this provision was drafted with the explicit intention of preventing the original research of one company from being pirated by another company. Without such safeguard a company would be reluctant to invest hundreds of thousands or millions of dollars in research to find new and better pesticides, only to have this costly data made available to a competitive company.

Also, the committee bill clearly recognizes the need for an expanded effort to find alternative methods of control. It provides the authority to move as rapidly as possible to an integrated system of biological, cultural, genetic and improved chemical controls.

In summary, H.R. 10729 is not a "farmer's bill." It is not a "manufacturer's bill." Neither is it an "environmentalist's bill." It is rather a mixture of each, a composite of all, and the manifestation of a sincere effort by the Committee on Agriculture to meet the need for reasoned progress in this important area of public concern.

W. R. POAGE,
Chairman, House Committee on Agriculture.

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from New York.

Mr. DOW. Mr. Chairman, in the gentleman's presentation, it seemed to me, he suggested either one of two alternatives, either an extensive use of pesticides or the absence of pesticides. I should like to make it clear to the gentleman that in the amendments I offer, there is no thought that pestcides should be abolished, and I think to pose this as a completely black-and-white situation is possibly misleading.

I am very much in favor of the use of pesticides. The one theme of the amendments I will offer will be to oversee the use of pesticides in a manner that will not be in favor of any group but will be prompt, effective, and in the interest of the farmer and producers as well as the consuming public.

Mr. KYL. Mr. Chairman, if the gentleman had been listening carefully, he would have heard me say that we recognized in the beginning that all chemicals involve some danger, that there are relatively safe ways of using them, and what the committee had to do was to find some means of permitting science to function, while at the same time trying to develop the alternative controls.

Mr. TEAGUE of California. Mr. Chairman, I yield myself such time as I may consume.

Briefly, Mr. Chairman, I am indebted to the gentleman from Iowa (Mr. KYL) and I am sure the gentleman from Texas (Mr. POAGE) and other members of the committee also are, for pointing out that this is truly a balanced bill. It is not weighted in any way in favor of the manufacturing chemical companies.

I am one of the ranking members of the committee, and I honestly do not recall ever even being contacted by a chemical company. I do not know how any committee could possibly have worked more fairly and impartially in producing the results we did.

Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. POAGE. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 10729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Environmental Pesticide Control Act of 1971".

Mr. POAGE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. BOGGS) having assumed the chair, Mr. HUNGATE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes, had come to no resolution thereon.

EVENTUAL CLEANUP OF THE POTOMAC RIVER

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, officials representing Maryland, Virginia, and the District of Columbia have finally agreed upon an interim treatment program for the Blue Plains facility and on the temporary closing of the Georgetown Gap.

This is a significant step forward to the eventual cleanup of the Potomac, and the parties to this agreement are to be congratulated for their diligence in pursuing this matter through the long, arduous, and often frustrating period of negotiation.

The chairman of the State Water Control Board in Virginia, Mr. Norman Cole, was particularly instrumental in bringing about this accord. Mr. Cole possesses an acute technical knowledge and understanding of the water pollution problem, and combines this with energetic leadership that makes his efforts politically effective.

The new environmental chief in the District of Columbia also deserves our commendation for the active and innovative role he has played since he took over his current position. Mr. Alexander is an able and personable man, with solid experience, who has earned the respect of all who have dealt with him.

The important first step has been taken. It will be an expensive undertaking much of which will be borne by residents of my district. I think the realization has now been firmly established, however, that this is a cost which must be borne.

The interim agreement is hopefully an indication that regional cooperation and planning can now be successfully undertaken in the Washington metropolitan area. We must do more of it, however, not only in the water and sewage area, but also in the area of solid waste management.

When men of good will and good intentions determine that a certain goal will serve the public interest parochial political concerns can be set aside to attain it. I look forward to the day when this will no longer be an occasion of special note in the District of Columbia area.

TRIBUTE TO MRS. LUCRETIA GRADY

(Mr. MILLER of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and to include extraneous matter.)

Mr. MILLER of California. Mr. Speaker, recently, Mayor Joseph Alioto of San Francisco, paid tribute to Mrs. Lucretia Grady as a "first-class San Franciscan" and presented her with his Award of Merit in the form of a gold charm bracelet in recognition for her many years of faithful and devoted service to the city and the people of California.

Lucretia Grady is a lovable, irrepressible person, who will always bring happiness wherever she goes, and as a native-born son of San Francisco, I naturally have a great affection for that city, and am happy to call Mrs. Grady my friend.

The award ceremony was attended by many outstanding citizens of San Francisco and the Consuls of Iran, India, and Greece, where Mrs. Grady's late husband, Henry F. Grady, served as American Ambassador, after having rendered great service to his native State. Mrs. Grady served as Democratic National Committeewoman from California and seconded the nomination of Franklin Delano Roosevelt at the 1932 convention in Chicago.

As part of my remarks, I am including excerpts from news stories of Mrs. Grady's award, which appeared in the San Francisco Examiner and San Francisco Chronicle:

[From the San Francisco Examiner, Aug. 21, 1971]

MRS. LUCRETIA GRADY

Earlier in the day, the Mayor presented his Award of Merit—in the form of an 18 karat gold charm bracelet to Lucretia (Mrs. Henry) Grady for being "a first-class San Franciscan." For many years, the petite, snappy and apparently ageless Lucretia has been a Frontliner in the fields of civic betterment, politics, music and art. Her late husband served as U.S. Ambassador to Greece, India and Iran and it was Lucretia who seconded the nomination of Franklin Roosevelt at the 1936 Democratic convention.

Many of her friends were at the City Hall ceremony, including Mrs. Walter Haas, Mrs. Nion Tucker, Supervisors Mailliard, Tamaras and Boas, the George Killions, Mrs. Julia Porter, William Malone, Supreme Court Justice and Mrs. Stanley Mosk, the Vernon Kaufmans, Postmaster Lim P. Lee and the Consuls of Iran, India and Greece.

[From the San Francisco Chronicle, Aug. 20, 1971]

THE CITY HONORS MRS. GRADY

Mayor Joseph L. Alioto presented an award of merit yesterday to Lucretia Grady in recognition of her contribution to San Francisco through many volunteer activities in the fields of music, civic betterment and politics.

The presentation was made to Mrs. Grady in the mayor's office before an audience of about 40 dignitaries, including the counsuls general of Greece, India and Iran—countries where her late husband, Henry F. Grady, served as American ambassador.

An actress in her youth, Mrs. Grady became involved with politics and served as Democratic National Committeewoman for California. In the 1932 convention in Chicago, she seconded the nomination of Franklin Delano Roosevelt.

HIGHWAY CONSTRUCTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Bow) is recognized for 60 minutes.

Mr. BOW. Mr. Speaker, our colleague, the gentleman from Kentucky (Mr. NATCHER) has been subjected to a great deal of unwarranted criticism and abuse because of his efforts to carry out the will of the Congress with regard to future highway construction in the District of Columbia, the construction of the Metro system, and the Three Sisters Bridge.

Mr. NATCHER deserves commendation rather than criticism, for he has made many efforts to resolve the difficulties so that we could continue, as the Congress has mandated, with a balanced program of subway, highway, and bridge construction in the District.

I consider it highly unfortunate that a majority in the U.S. Court of Appeals recently negated all the progress that has been made by Mr. NATCHER, Secretary Volpe, and the District goverment, in a decision that establishes an entirely new set of administrative hurdles to be overcome before any construction may proceed. I wish to include at this point in my remarks an excellent editorial summation of the situation from the Washington Evening Star, followed by the distinguished and learned dissenting opinion to which the editorial refers, the dissent of Circuit Judge George E. MacKinnon.

The Star editorial follows:

"THE ONLY HOPE"

Judge George E. MacKinnon's newly filed dissent in the U.S. Court of Appeals to the Bazelon-Fahy ruling—which last month tossed a host of arbitrary new legal impediments in the path of the District's Three Sisters Bridge project—was well worth the wait. It is no wonder, furthermore, that the dissent was delayed.

The asserted purpose of the majority ruling was to set forth certain administrative conditions which Transportation Secretary Volpe must meet to support his approval of the bridge project before its construction may resume.

As concocted by Judges Bazelon and Fahy, however, those conditions ranged so far and so deeply into political as well as legal issues that the mere act of physical compliance

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poses staggering problems. And the far more important thrust of Judge MacKinnon's blistering dissent is to question whether in fact Volpe's replies—no matter how responsive—would ever persuade the majority that the bridge specifically ordered by Congress could proceed.

Thus, in dissecting findings with which he disagrees, MacKinnon accuses his colleagues—and Bazelon in particular—of "gross distortions," and "straining at gnats" to "invent new requirements," of a "partial and slanted view of the facts," of an "overly technical, legalistic and impractical interpretation" of the law, of electing to disbelieve Volpe's testimony "for no more substantial reason than their own innate suspicion."

Confronted with that record, MacKinnon doubts "that a more extensive administrative record would cause them to believe him (Volpe) in the future." The dissent concludes: "A court that has gone to the great extremes that this court has . . . can always find reasons satisfactory to it for avoiding practically any subjective decision required with respect to the bridge. It may well be that the only hope to carry out the expressed will of Congress lies with the Supreme Court."

That is a harsh indictment, but one with which, in this instance, we fully agree.

Since the Bazelon-Fahy edict came down October 12, Volpe and District officials have been flopping around like fish in a bucket, while the bridge, not to mention the District's subway funds, remains in limbo. The question of an appeal to the Supreme Court, reportedly under study, should be resolved immediately, in the direction suggested by MacKinnon.

The following is Judge MacKinnon's dissent:

MacKinnon, *Circuit Judge*, concurring in part and dissenting in part: From time immemorial the public interest has suffered from various types of bottlenecks which injure the public in many ways. This case arises out of governmental efforts which seek to improve the highway transportation facilities of the Washington Metropolitan area by removing a number of highway bottlenecks. One of these is the traffic bottleneck in the vicinity of, and across the river from, Georgetown in Northwest Washington. There the increasing congestion on parkland highways, an antiquated street system and historic road patterns which are additionally confined within the adverse topographical features of the beginnings of the Potomac Gorge, combine with the necessity of bridging the Potomac River to cause great inconvenience to those attempting to enter or leave the District of Columbia by means of the existing streets and highways. The result is great inconvenience to thousands of highway users entering and leaving the capital and a substantial lengthening of many workers' day.

The governmental authorities responsible for dealing with this situation concluded that it is necessary to erect the Three Sisters Bridge across the Potomac River as one essential part of the overall highway improvement program proposed for the entire metropolitan area. The erection of this bridge is here opposed by a citizens group of the District of Columbia which does not seriously attack the basic merits of the overall program to improve highway traffic congestion but instead ground their opposition on an alleged failure to comply with certain procedural requirements imposed by statute which are applicable to the planning and construction of the project. In such matters, under our form of government with its separation of powers, the function of policy making is assigned to the Legislative and Executive Branches. Congress enacts the basic laws and these are carried out by (1) the Executive Department functioning principally through the Department of Transportation, headed by the Secretary of Transportation, a member of the President's Cabinet, Mr. Volpe, though other federal departments may perform isolated functions; and (2) by the District of Columbia acting through its Highway Department.

It should also be noted that the Constitution vests Congress with complete control over the entire area of the District of Columbia for all governmental purposes and insofar as legislation is concerned vests it with the combined powers of the federal and state governments. U.S. CONSTITUTION, art. I, § 8; *Kendall* v. *United States*, 12 Pet. 524, 618 (1838); *Stoutenburgh* v. *Hennick*, 129 U.S. 141, 147 (1889); *Shoemaker* v. *United States*, 147 U.S. 282, 300 (1893); *Atlantic Cleaners and Dyers* v. *United States*, 286 U.S. 424, 434–35 (1932); *O'Donoghue* v. *United States*, 289 U.S. 516, 539 (1933). The Constitution thus imposes a precise duty upon the members of Congress to look after the needs of the District of Columbia in addition to those of their individual district constituents. Members of Congress are also charged with guarding all the interests of the entire nation in the District of Columbia as the seat of our national government. Pursuant to this assignment of responsibilities, Congress and its members have taken cognizance of the need for transportation facilities in the District of Columbia and the surrounding metropolitan area. To meet the area's anticipated transportation needs it has authorized the appropriation of federal funds for the construction of a metropolitan subway system and has also authorized and directed that substantial additions be constructed to the thru-highways in the area. These additions include the erection of the Three Sisters Bridge.[1] In this connection it was the decision of Congress that the subway construction and the additional highways (including the Three Sisters Bridge) would be built contemporaneously. This conclusion follows from the facts of the contemporaneous appropriatons and the express congressional direction that work on the Three Sisters Bridge begin within thirty days after the congressional enactment (82 Stat. 815).

The remainder of this opinion deals with the very extraordinary majority opinion—extraordinary in that it effectively sets aside for one alleged reason or another *every* finding of the trial court that the Government had in any way complied with the statutes in question. In its own language:

"As to the provisions with which the District Court found compliance, however, we have concluded that the statutory requirements were not satisfied."

Majority opinion, page 3.

In this terse manner the extensive findings of the trial court are effectively negated. The discussion of the application of the separate statutes (Title 23, U.S. Code) which follows fully demonstrates the wide gulf between the majority and the practical trial judge who heard all the witnesses in an extensive 12-day hearing, received 1,025 pages of depositions and then thoroughly documented his findings in an opinion covering 40 printed pages. *D.C. Federation of Civic Associations* v. *Volpe*, 316 F. Supp. 754 (D.D.C. 1970).

SECTION 138—FEASIBLE AND PRUDENT ALTERNATIVES AND PLANNING

The majority opinion sets aside the determination of the trial court that the Secretary had complied with the requirements of section 138[2] largely because of an absence of formal findings and an administrative record in the Department of Transportation. The majority opinion asserts that all possible planning to minimize harm to the affected parkland and historic sites[3] could not have been carried out because the final design of the ramps and interchanges had not been completed when the Secretary approved the project. However, the lack of findings and the normal departmental administrative record is fully and satisfactorily explained by the fact that the Secretary personally made the necessary decisions and the Department file thus does not include the usual interoffice memoranda reflecting action by subordinates which is a feature of those projects when the Secretary does not personally exercise his statutory responsibility. After all, the statute places the duty upon the Secretary to make such determinations and his decision should not be set aside because of the absence of documents which are not necessary or normal when he personally exercises that responsibility. This Secretary of Transportation is not a figurehead. He has had extensive prior experience in highway programs. His background and record indicate that he is personally capable of making not only the ultimate decision on the bridge project but also many of the underlying minor, but basic, decisions.[4]

Further, I would not conclude that the Secretary failed to indulge in all possible planning to minimize harm to the park because his consideration of the amount of land to be taken by the ramps was based on the *preliminary plans* for the ramps. In this respect the opinion of the trial court states:

"Secretary Volpe testified that he based his determination on the preliminary planning for the ramps and interchanges which had been done at that time. Although he conceded that the final design of the ramps was not complete, he pointed out that there were *very limited alternatives available*. He stated that before he approved the bridge project, he was satisfied, and the Department of Interior, which had jurisdiction over the parklands, was satisfied, that the designs which would be developed based on the preliminary plans would result in a minimum taking of parkland." [Emphasis added.]

D.C. Federation of Civic Associations v. *Volpe, supra*, 316 F. Supp. at 774–75. I construe this statement of the trial court as a finding that the Secretary took into consideration the amount of park land that might be required under *all* the limited alternatives for the ramps and interchanges. Thus, the final selection of any ramp, etc., design would not present any problem that the Secretary has not already considered.

As to the suggestion of the majority that the use of the word "harm" in the statute confers authority upon the courts in this case, where only Government land is involved, to pass upon the "subtle calculations" inherent in determining the "aesthetic value" of this bridge, it is my view that Congress had more practical considerations in mind and did not thereby direct the rejection of projects which while they may be "pleasing" to the eye might by some personal standards be considered not to be "beautiful." *See* Webster's New International Dictionary, 2d ed.

The majority opinion further states that the Government can hardly maintain that there was no "feasible" alternative to the construction of the Three Sisters Bridge because this exemption under *Overton Park*[5] only applies if the Secretary finds that as a matter of "sound engineering" it would not be feasible to build the highway along any other route. To my mind this argument is not foreclosed to the Government in the least. The majority's comment may have been falsely premised on a belief that sound engineering referred only to structural features, but there is much more to highway engineering than the stability of the structural features that may be constructed. Certainly the location of present highways and

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bridges in the Washington area when combined with various topographical features, existing traffic flow patterns, and the fact that one objective of the Three Sisters Bridge project was doubtlessly intended to alleviate some of the traffic congestion presently existing on the highways within the parklands on both sides of the river in the vicinity of the Three Sisters Bridge, might compel the conclusion that as a matter of sound *highway* engineering the only feasible project that would correct the congestion would be to erect a bridge in the vicinity of the Three Sisters Islands.[6] I would thus not rule out the possibility that sound highway engineering would practically dictate a bridge at that location and that it would not be feasible to correct that traffic congestion by the construction or expansion of a bridge at any other location. The controlling engineering principles when applied to the facts here present may not produce such a conclusion but there is nothing in this record to indicate that such conclusion could not properly be dictated by the application of sound highway engineering principles.

The personal involvement of the Secretary in the decision also explains the alleged failure of the Department to process the matter through normal procedural channels in the Department. When a statute directs a Cabinet officer to make a decision, that decision should not be criticized or found to be faulty because he did not delegate the groundwork to subordinates and then rubber stamp their decision.

The majority opinion also states that:

"Secretary Volpe did not consult with other planning agencies to coordinate efforts to minimize harm to the park and historic sites."

Majority opinion, page 11. This statement refers to something that is not required by the statute. It seems clear that the provision of section 138 requiring "all possible planning to minimize harm to such park . . . or historic site from such use"[7] does not require that the Secretary of Transportation "*consult* with other planning agencies to coordinate efforts to minimize harm to the park and historic sites."[8] (Emphasis added). The majority opinion while it does not state so exactly, seems to be trying, by such language, to give the National Capital Planning Commission a voice in the Secretary's decision by compelling the Secretary to "consult" with them. But the statute does not so provide. It requires only that the Secretary engage in all possible *planning* and not that he consult every group that may have an axe to grind—he *may* consult with such groups but there is no requirement that he do more than indulge in "all possible planning." Clearly consulting is something more than planning. The statute directs the Secretary to make the decision and he is not forced to share that decision with outside agencies under the guise of consulting. The statutory requirements are already cumbersome enough without having the majority try to invent new requirements.

As for air pollution, I find the trial court's finding that "air pollution was an overall consideration in this as well as all interstate highway projects"[9] to completely satisfy any requirement in this respect. Moreover, it seems obvious to me that the bridge would not *create* any air pollution, and that to the extent that it relieved highway congestion on the present highways in the parks it would *decrease* air pollution. In this respect, as in other instances, appellants and the majority are straining at gnats. Instead of sustaining appellants' vague generalized objections to the present plans, I would require the objectors to show precisely how some of the plans being considered by the Secretary failed to meet the statutory standard or that some other feasible plan would cause less harm.

It also seems to me that, in requiring approval by the Secretary of final engineering plans for all details before the project can proceed, the majority are giving an overly technical, legalistic and impractical interpretation to the statute. What the Act requires is that the Secretary "not approve any *program* or *project* . . . unless there is no feasible and prudent alternative . . . and all possible *planning* to minimize harm . . ." was indulged in. To my way of thinking this would permit the Secretary to approve a program or project which is described by general specifications and reasonably precise locations without having the final blueprints. Certainly as a practical matter there must be room for some preliminary approval prior to the preparation of blueprints because no government is going to spend the millions of dollars necessary to prepare the final drawings without some prior approval that the drawings are being prepared along lines acceptable to the approving authority. If it subsequently develops that the final plans for some phase of the project do not meet the statutory standards they may be attacked at that time. Alternatively, the preliminary plans could be attacked upon a showing that they did not meet statutory standards. But there is neither such showing here and I would not hold up projects, as the majority holds up this project, unless the objectors could demonstrate that substantial harm would result from the presently existing plans which would be alleviated by some other plan. Insofar as this affects the possible ramps and interchanges here it would be a relatively simple matter to consider all the "limited alternatives" and make a decision thereon. I would thus not remand for any purpose connected with section 138.

SECTION 134—COMPREHENSIVE TRANSPORTATION PLANNING PROCESS

This section requires the Secretary to cooperate with the states and not approve highway projects unless he finds them to be based on a continuing comprehensive transportation planning process carried on cooperatively by "states and local communities."[10]

In considering the requirements of this section the majority reverse the trial court by concluding that the Public Roads Division Engineer (Mr. Hall), to whom the Secretary delegated his responsibility under section 134, had improperly in turn delegated his responsibility to the Transportation Planning Board (TPB) of the Metropolitan Washington Council of Governments (COG), because, they allege, Mr. Hall believed that "TPB was the primary agency to which he should look in making his finding." But certainly the belief that TPB was "the primary agency" for such purposes does not constitute a delegation of his authority. The record thus does not support the majority's finding of improperly delegated authority.

Moreover, the TPB was the *only* agency in the area that did satisfy the requirement of the statute of a body carrying on a "continuing comprehensive transportation planning *process* . . . *cooperatively by states and local communities*. . . ." Also, as the trial court noted, the District of Columbia, through resolution of its Board of Commissioners on June 17, 1965, provided for the District's participation in the planning processes carried on by TPB.

What is really involved in the majority's opinion in this respect, as with its criticism under section 138 that Secretary Volpe did not *consult* with other planning agencies, is another backhanded attempt to elevate the National Capital Planning Commission (NCPC) to a point where it can obstruct the project for its own ends. However, the NCPC is "concerned with planning *solely* for the District of Columbia," and thus does not meet the requirement of the statute for a planning organization being carried on "cooperatively by states and local communities." In contrast, the TPB is a regional organization[11] and does satisfy the statute. It is thus my conclusion that the majority exceeded its authority on this appeal when it ruled, contrary to the facts, that Mr. Hall had delegated his authority. Similarly, the majority are acting contrary to the statute, if they are attempting to compel the Secretary to be governed by the views of the NCPC. I might add that the situation here is not novel in the United States. Comprehensive highway plans traditionally run into many local objections, some selfish and some meritorious. When such situations arise they can only be solved by a fair application of the law, which I do not consider here justifies the majority in indirectly suggesting an interpretation of the statute that would give appellants, through the narrow interests of the NCPC, a whip hand in the final decision.

A further example of the tenuous rationale of the majority in its reversal appears in its attempted characterization of the TPB approval of the Three Sisters Bridge as a "stale" approval.[12] The TPB formally approved the Three Sisters Bridge in December 1967 as "consistent with comprehensive planning in the region" and since that time, as the District Court found, "the TPB has continuously reviewed the transportation system for the area and . . . the approval of the Three Sisters Bridge has never been rescinded."[13] The Division Engineer of the Bureau of Public Roads (Mr. Hall) considered this approval of the bridge when he made his finding in August or September, 1969, that the project was "based on a continuing comprehensive transportation planning process carried on cooperatively by states and local communities."[14] On these admitted facts, I consider it to be a gross distortion of the record to characterize Mr. Hall as acting upon a "stale" approval, when the original TPB approval was within twenty months, and the area transportation system had been "continuously reviewed" by the TPB since then without any alteration in its approval of the bridge. It is also incorrect to call such approval "inapposite." And to require a "comprehensive *plan*" (which the court refers to, whatever that might mean as applied to a project for a single bridge), as opposed to requiring that project to be consistent with "comprehensive *planning*," is to attempt to impose a requirement that is not imposed by the statute.[15]

I thus concur in the trial court's finding that the requirements of section 134 were fully complied with and dissent from the contrary conclusion of the majority here.

SECTION 109(a)—THE SAFETY OF THE PROJECT

I concur in the trial court's conclusion to require further study of the structural feasibility of the bridge but dissent from that portion of the majority opinion which states that the Secretary "undertook no study of the [air pollution] problem." As previously stated the Secretary testified that "air pollution was an overall consideration *in this* as well as all interstate highway projects"[16]; thus I consider that the air pollution problem was properly considered and disposed of. I would further permit work to proceed upon the *excavation* for the piers because this work is in the nature of a preliminary test since preconstruction borings are not conclusive. Thus, according to the testimony there will always be some doubt as to the absolute feasibility of the location and plans until the excavation is completed for the piers. It is my view that given the approval of Congress, and the necessary available appropriations (both of which the project has),

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it is within the proper discretion of the Secretary to proceed to that extent.

SECTION 128—THE LOCATION HEARING

Since the record is devoid of any proof that the present location of the bridge and ramps would affect the public in any manner substantially different from the three locations (which spread eagled the present location) discussed at the 1964 hearing. I would concur in the findings of the trial court that the public hearing requirements were substantially complied with. I thus dissent from the statement by the majority that the trial court's opinion was not clear that a finding had actually been made. To me it is perfectly clear that the court so found when it ruled that the present location was "not a new location" within the meaning of section 6a(1) of the PPM. The finding by the trial court that "no private property will be taken for the bridge or its ramps and interchanges" is also relevant to the finding with respect to the location.

SECTION 317—THE MAP

This section requires that a map should be filed showing the portion of land which a department desires to appropriate. In this connection the majority opinion in footnote 61 refers to a letter of December 15, 1970 from the National Park Service and indicates that the plaintiffs may present this matter to the District Court for reconsideration of its ruling under Section 317. It seems clear, however, that the letter does not relate to any parkland but only to the "adverse impact (of traffic conditions) on the parkway (the highway)." It is thus may opinion that the letter would not have any relevance to any issue under section 317.

CONGRESS, REPRESENTATIVE NATCHER AND SO-CALLED POLITICAL INFLUENCE

In Part II of the majority opinion Judge Bazelon deals with the position of Congress and refers principally to some statements by Representative Natcher relating to the Three Sisters Bridge. The opinion infers that Representative Natcher by his acts was a party to forcing approval of the Three Sister Bridge without regard to its merits, but the record does not so reflect. As the trial court found, Representative Natcher stated that he would do what he could to withhold appropriations for the construction of the District of Columbia rapid transit system "until the District complied with the 1968 Act" and "the freeway project gets under way beyond recall." [17] Representative Natcher was thus merely attempting to see that the laws enacted by Congress were carried out. The Three Sisters Bridge was just one of several freeway projects upon which Congress in 1968 had directed the District of Columbia to commence work.[18] It is not unusual or improper for Congress to withhold appropriations until its laws are complied with. In discussing the public position of Congress, as articulated by its laws and Representative Natcher, Judge Bazelon states:

[T]he impact of this [congressional] pressure is sufficient, standing alone, to invalidate the Secretary's action. Even if the Secretary had taken every formal step required by every applicable statutory provision, reversal would be required, in my opinion, because extraneous pressure intruded into the calculus of considerations on which the Secretary's decision was based." (Majority opinion, p. 24)

And further:

"[T]he [trial] court determined as a matter of law that since the Secretary was not acting in a judicial or quasi-judicial capacity, his decision would be invalid only if based *solely* on these extraneous considerations [the influence emanating from Representative Natcher]." (Majority opinion, p. 25)

Judge Fahy does not agree that the trial court found that extraneous pressure had influenced the Secretary's decision and I find it impossible to read the findings and conclusions of the District Court as announcing that holding. In this respect the trial court's opinion states:

The mere fact that the Secretary was aware of the Congressional pressure to build the Three Sisters Bridge is not sufficient to invalidate his action in directing that the bridge be restored to the Interstate System. Since the issue in this suit is whether there has been compliance with Title 23 of the United States Code, *the political pressure exerted by members of Congress is relevant only as to whether it may have caused Secretary Volpe to act without considering the merits of the project as required by Title 23.* As will be discussed in connection with § 138, Mr. Volpe commenced an exhaustive study of the merits of the Three Sisters Bridge project soon after taking office, and did not come to a decision that the bridge was essential until the Summer of 1969. *The Court believes the Secretary's testimony that his decision was based on the merits of the project and not solely on extraneous political pressures.* It is true that Mr. Volpe was also interested in securing the release of the rapid transit appropriations, and that the approval of the bridge led to the release of those funds. *But the Court finds that the mere fact that the Secretary was aware of this pressure does not invalidate his decision that the Three Sisters Bridge is an important and necessary part of the Interstate Highway System.*

* * * * * *

The plaintiffs contend that the Congressional pressure for the contruction of the Three Sisters Bridge was of such a character that it can reasonably be inferred that it had *some influence*, conscious or unconscious, on the decision of the Secretary to redesignate the bridge as part of the Interstate System. From the evidence of the contemporaneous statements of Secretary Volpe, and his testimony in this case, there is no question that the pressure regarding the rapid transit appropriations was given some consideration at the time of the approval of the project in August, 1969. But the Court concludes that this does not invalidate the decision of the Secretary in this case. . . . The statute commits the decision to the Secretary's discretion. There is no requirement that he base his decision only on matters presented at a public hearing, but rather, *there is only the implied requirement that he base his decision on the merits of the project. In view of the Secretary's testimony that he made an exhaustive review of the merits of the project and based his decision on that study, this Court will not invalidate his decision.* The present case is further distinguishable from *Jarrott* in that there the contacts with the Board were secret, while here the actions of Congressman Natcher and others are a matter of public record contained in official Congressional documents and speeches made on the floor of the House of Representatives. [Footnote omitted, italic added.]

D.C. Federation of Civic Associations v. *Volpe*, 316 F. Supp. 754, 765–766–767 (D.D.C. 1970).

It is submitted that any fair reading of the trial court's opinion cannot twist its language to support Judge Bazelon's conclusion that it held that the Secretary's decision would be invalid *"only* if based *solely* on these extraneous considerations." While the trial court found as a fact that the Secretary's decision was "based on the merits of the project and not solely on extraneous political pressures," this is only one of several fact findings; it is not the basis for the decision of the trial court and such factual finding is not the application of any rule of law. The trial court also found that "the mere fact that the Secretary was aware of this [congressional] pressure does not invalidate his decision . . . ." But most importantly, the controlling conclusions by the trial court recognised the "implied requirement that he [the Secretary] base his decision on the merits of the project" and that the Secretary had made an exhaustive review of the merits of the project *and based his decision on that study*, [and] this Court will not invalidate his decision. (Emphasis added).

It thus seems clear to me that the trial court (Chief Judge Sirica) thereby found that the Secretary had based his decision upon the merits of the project. I specifically concur in this conclusion of the trial court and disagree with Judge Bazelon's solitary conclusion with respect to this phase of the case. Judge Fahy also does not agree with Judge Baselon that the trial court found that extraneous pressure had influenced the Secretary's decision. It is thus clear that as presently articulated in these opinions a majority of the judges on this panel do not require that new determinations "on the merits" be made because of the interjection of any, for want of a better name, political pressure.

Judge Bazelon's opinion also discusses the *relevance* of the position of Congress on the appropriations to the matter of the Three Sisters Bridge. Under *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 416 (1971), the Supreme Court indicated that "The court must consider whether the decision [on the use of parklands] was based on a consideration of the relevant factors." I find that the trial court made the proper finding when it determined after a lengthy trial that the Secretary based his decision on a "review of the merits of the project . . . [and] . . . that study." While the majority opinion states it is not holding that the bridge can never be built, if Judge Bazelon's individual view as to the position of Congress in this and other matters were to prevail, the result would come close to setting up legalistic standards which are practically impossible of compliance. Judge Bazelon's opinion would do that here by deciding, contrary to the finding of the trial judge, that because a member of the Cabinet had *knowledge* of the position of Congress on appropriations for subways and highways in the District of Columbia that his decision with respect to the merits of a highway project must necessarily have been improperly influenced by that information.

Actually any member of the Cabinet, worthy of his position would necessarily know the position of Congress on such matters. No person with the position and ability to make the decision with respect to the Three Sisters Bridge would be ignorant of the publicly expressed congressional position on such matters. What Judge Bazelon fails to consider is that there were congressional pressures both ways and that the trial judge after full consideration found as a fact that the Secretary based his decision on a study of the merits of the project. For an appellate court to reverse such conclusion on this appeal is to overstep its authority to determine whether the action of the Secretary was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." The Supreme Court has said that this court has no authority to set aside the Secretary's action on a finding that it was "not supported by substantial evidence" or "unwarranted by the facts." *Citizens to Preserve Overton Park* v. *Volpe*, *supra*, 401 U.S. at 414. Likewise, the credibility of witnesses is a matter in which the trial judge is normally considered to have a particular province in actions tried upon the facts without a jury. FED. R. CIV. P. 52(a).[19] Judge Bazelon's view of the matter would violate both of these rules.

Judge Bazelon also reflects an overly suspicious view with respect to the effect of so-called political pressures. An individual's attitude toward this type of question is closely related to his individual trust in

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human beings—whether he believes a human being can resist improper pressures. I do not find it unusual for a Cabinet member to be capable of resisting such pressures. Moreover the law is that in the absence of evidence to the contrary (and there is no such evidence here) public officers are to be presumed to perform official acts in accordance with the law.[20] As I read Judge Bazelon's opinion, however, it is his individual view that such pressures are irresistible. In the face of such colossal distrust of Government officials, the mere existence of the vestiges of pressure becomes equivalent to the reality of duress. I find that conclusion to be unsupportable—and contrary to law.

The realities of this situation are that under the Constitution the Congress of the United States has a wider voice in the affairs of the District of Columbia than it does in the affairs of states or other cities. Pursuant to its constitutional mandate Congress does take a firm hand in matters affecting the District and that is precisely what this court found was lacking in the first case (1968) involving the District highway program. *D.C. Federation of Civic Associations, Inc.* v. *Atris*, 129 U.S. App. D.C. 125, 391 F. 2d 478 (1968). But no Congressman has any weight in such matters beyond his ability to speak for Congress and to the extent that he does speak for Congress he is only calling attention to the expressed will of Congress.

Congress has spoken in this matter. In Section 23 of the Highway Act of 1968 [21] it ordered the erection of the Three Sisters Bridge, not as a single project but as part of the broad highway improvement program for the Washington Metropolitan area. And Congress and those who speak for it have a continuing interest in seeing that the expressed will of Congress, as clearly enunciated in a statute signed by the President, be carried out.

Moreover, Congress has also declared that the relationship of the highway improvement program in any state, or the District of Columbia, be coordinated with plans for improvemen's in other affected forms of transportation (this would include subways) which are formulated with due consideration to their public effect on the future development of large urban areas. In this respect Title 23, §134, provides as follows:

§ 134. Transportation planning in certain urban areas.

It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in *the development of long-range highway plans and programs which are properly coordinated with plans for improvement in other affected forms of transportation* and which are formulated with due consideration to their probable effect on the future development of urban areas of more than fifty thousand population. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing *comprehensive* transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section. Added Pub. L. 87–866, § 9(a), Oct. 23, 1962, 76 Stat. 1148. (Emphasis added).

Thus, this congressional mandate applies to both the subway and to the highway program for the Washington Metropolitan area with which we are here concerned. To the extent that it provides that the Secretary shall not approve highway projects in large urban areas unless he finds such projects are based on a continuing *comprehensive* (*i.e.*, rail and highways) transportation planning process in conformance with the objectives stated in Section 134, it is essential that the Secretary of Transportation in approving highway plans be concerned with the program to build subways in the District of Columbia. Indeed it would be impossible and contrary to law for any Secretary of Transportation to pass on any major highway project in the District of Columbia without being familiar with and considering its effect and relationship to the subway construction program. In carrying out this statutory duty the Secretary must determine, in this case with respect to the District of Columbia, that the proposed subway and highway plans will *combine* to produce "modes of transportation in a manner that will serve the States and local communities [here the Washington Metropolitan Area] efficiently and effectively." It is obvious, if the subway program were to proceed without the necessary highway construction, that the modes of transportation being built would not be efficient or effective. To this extent some joint consideration of subway and highway construction (including the Three Sisters Bridge) was a relevant matter and I do not find that the Secretary exceeded his authority by giving such matters more weight or consideration than was required by the statute.

In its discussion of "prudent alternatives" the majority opinion really attempts to define the problem as being one to determine whether a unique problem of extraordinary magnitude was posed by the potential loss of appropriations for the District subway. This is completely foreign to what section 138 is all about and does nothing more than indicate a preoccupation with the position of Congress.

Actually when section 138 speaks of prudent alternatives it refers to alternatives to the use of parkland for the erection of the bridge at one location or another. The majority generally ignore the fact that the topographical features of the river with the high, steep banks of the Potomac Gorge, when coupled with the existing highways and parklands on both sides of the river, would cause the location of any other bridge that would meet the traffic congestion problem to affect existing parklands in a substantially similar manner to the Three Sisters project. The case is unique in those respects. It is obvious that the viable alternatives would affect parklands substantially to the same extent.

The majority also ignore the fact that the so-called parklands involved on the Virginia side of the river are all in the George Washington Memorial *Parkway*. Highways have always been an important part of this highway park. The George Washington Memorial Parkway was established by Congress (46 Stat. 482 *et seq.*) as a narrow elongated parkway along both banks of the Potomac River from Mt. Vernon and Fort Washington to the Great Falls of the Potomac. It parallels the Potomac River from Mt. Vernon to a point above the Great Falls on the Virginia side, except for the City of Alexandria, and from Fort Washington (in Maryland across from Mt. Vernon) to a similar point above the Great Falls on the Maryland side, except within the District of Columbia. One of the congressional purposes in establishing the parkway as a memorial was to provide for the construction of extensive highways within the dedicated area. The legislation also sought to protect and preserve the natural scenery of the Potomac Gorge and the Great Falls of the Potomac, to preserve the historic Patowmack Canal and to acquire that portion of the Chesapeake and Ohio Canal below Point of Rocks (46 Stat. 482–83).

The fact that this park has to a substantial extent, and always has had extensive highways within its confines, makes it practically impossible for any proposed bridge in this area to be erected without affecting some of its lands. This results from the fact that much of the traffic congestion which the proposed bridge seeks to relieve is traffic over the automobile highways within the parkway itself.

It is thus submitted that (1) the restrictive alternatives occasioned by the topography and location of the parklands, and (2) the nature of the parkland here involved, established by congressional legislation with substantial highways within its confines as one of its principal purposes, make the proposed Three Sisters Bridge a unique problem. It should also be noted that this highway park was established by Congress and that Congress has power by a subsequent act to change it.

In its peroration to Part II the majority opinion attempts to disclaim certain obvious implications of its decision. However, in so doing, it merely emphasizes the partial and slanted view it takes of the facts. Thus it states they are not suggesting any impropriety in the acts of those who "strongly advocate the bridge"; then next imply that there is some question as to the authority of such persons to exert pressure on Secretary Volpe which resulted in placing the Secretary in such an extremely treacherous position; and then conclude by denying that they are suggesting that Secretary Volpe acted in bad faith or in deliberate disregard of his statutory responsibility. Finally, they set aside the Secretary's finding on grounds which the Secretary testified under oath did not exist and the finding of the trial court supported the Secretary's finding. The results reached by the majority opinion thus contradicts its disclaimers. So whether the majority are implying that the Secretary acted contrary to his statutory responsibilities or not, they end up at exactly the same places as though he had.

However, all of this buys time for the objectors and keeps alive the hope that a new Secretary or a new Council will succumb to pressure and disapprove the project. The majority opinion does not criticize pressure from the objectors and it does not fully state the history of the prior approvals and disapprovals of the project. Originally the Three Sisters Bridge was designated as part of the entire metropolitan freeway project. Nothing in this record indicates that this was not a decision on the engineering merits uninfluenced by any improper pressures. However, in the waning days of an outgoing Presidential Administration, a lame duck City Council of the District of Columbia on January 17, 1969, three days before a new administration was to take office, deleted the bridge from the Interstate Highway System at the request of the District government. The majority do not question the basis of this action, but only attack the reversal of this decision.[22] It may well be that they should question the background of that decision rather than what may well have been a rectification of a prior error or improper action.

PROCEDURE ON REMAND

In the conclusory paragraph of its opinion the majority suggests that the Secretary establish a *"full scale* administrative record which might dispel any doubts about the *true* basis of his action." When members of an appellate panel, for no reason more substantial than their own innate suspicion, elect to disbelieve the sworn testimony of a member of the Cabinet that his final decision was not influenced by outside factors, and also to circumvent the factual finding of the trial court to the same effect, in my opinion, it is not likely that a more extensive administrative record would cause them to believe him in the future. A court that has gone to the great extremes that this court has to reverse the trial court here can always find reasons satisfactory to it for avoid-

Footnotes at end of article.

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ing practically any subjective decision required with respect to the bridge. It may well be that the only hope to carry out the expressed will of Congress lies with the Supreme Court.

To the extent that the majority opinion differs from the views hereinbefore set forth, I respectfully dissent and I concur in the remainder.

FOOTNOTES

[1] The proposed bridge lies almost completely in the District of Columbia since the Potomac River is entirely within the District. The bridge approaches on the south bank would be within the jurisdiction of Virginia.

[2] § 138 requires a determination that there was "no feasible and prudent alternative to the use of such land" and that "the project includes all possible planning to minimize harm to such park . . . or historic site." 23 U.S.C. § 138.

[3] *Georgetown as an historic site.* The Old Georgetown District was created within the District of Columbia by Chapter 964, approved September 22, 1950 (64 Stat. 903). Its west boundary was fixed at "Archbold Parkway from Reservoir Road to the Potomac River. . . ." The district so established would be slightly to the east of the presently prescribed location of the Three Sisters Bridge. If any of the ramps or interchanges were to come within said district, it is obvious from the maps that it would only touch a *de minimus* area at the southwest corner of the district which is devoid of buildings. Thus, the Three Sisters Bridge does not imperil the architecture in Georgetown. The Old Georgetown District was established "to preserve and protect places and areas of historic interest, exterior architectural features and examples of the type of architecture used in the National Capital in its initial years. . . ." (64 Stat. 904). To effectuate the intent of Congress the Act required the Commissioners of the District of Columbia before issuing any permit for the construction, alteration, reconstruction or razing of any *building* within the Old Georgetown District, to refer the plans to the National Commission on Fine Arts for a report as to "the exterior architectural features, height, appearance, color and texture of the materials of exterior construction which is subject to public view from a public highway." The Commission was then required to report its recommendations as to whether the plans with respect to any building would preserve the historic value of said district and if not to suggest changes. Thus, while the Act referred to "places and areas" of historic interest the operative features of the law were directed solely to buildings within the district and there was no showing made in this case that any buildings within the district would be affected by the Three Sisters Bridge or any of the ramps and interchanges that would be constructed under any plan. And as stated above, only a *de minimus* area at the southwest corner might be affected by the ramps and interchanges. The bridge itself would not touch the Old Georgetown District.

Also the character of the so-called parkland on the north bank of the Potomac (the D.C. side) where the bridge abutments would be erected consists practically entirely of a railroad right-of-way, the Chesapeake and Ohio Canal and a public highway. Thus, any substantial interference with "green places" on the District of Columbia side of the river has not been demonstrated.

[4] Biographical data on Secretary of Transportation John A. Volpe indicates that he was born December 8, 1908, graduated from high school and following two years of night school majored in architectural construction at Wentworth Institute. He engaged in the construction business in Massachusetts from 1933 to 1943 when he volunteered for duty with the Civil Engineer Corps (Seabees) of the United States Navy. On his return to civilian life he held the rank of Lt. Commander and he then reopened his construction company. As the business grew, he set up offices in Washington, D.C. and Miami, Florida. He served as Commissioner of Public Works for the State of Massachusetts for four years beginning in 1953. In this position he undertook one of the largest highway construction programs in the history of Massachusetts. President Eisenhower named him as the first Federal Highway Administrator of the United States and he served in this position in 1956 and 1957 and thus became one of the architects of the $40 billion Interstate Highway Program initiated by the United States at that time. He is a member and past president of the Society of American Military Engineers and is also past president of the Associated General Contractors of America. He was also elected to three terms as Governor of Massachusetts. CONGRESSIONAL DIRECTORY, 92nd Cong., 1st Sess. 973 (1971).

[5] Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971).

[6] The so-called Three Sisters Islands consist of nothing more than three small rocks which project above the waters of the Potomac River. At low tide they are connected by a small sand bar.

[7] 23 U.S.C. § 138.

[8] Majority opinion, p. 11.

[9] D.C. Federation of Civic Associations v. Volpe, 316 F. Supp. 754, 775 (D.D.C. 1970).

[10] 23 U.S.C. § 134.

[11] D.C. Federation of Civil Associations v. Volpe, *supra*, note 9, 316 F. Supp. at 795.

[12] See page 15 of majority opinion.

[13] 316 F. Supp. at 794.

[14] *Id.*

[15] 23 U.S.C. § 134.

[16] 316 F. Supp. at 775.

[17] *Id.* at 762.

[18] Pub. L. No. 90–495, 82 Stat. 815 (1968).

[19] FED. R. CIV. P. 52(a) provides:

"(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rule 41(b)."

[20] United States v. Chemical Foundation, 272 U.S. 1, 14–15 (1926) states:

"The presumption of regularity supports the official acts of public officers and, in the absence of clear evidence to the contrary, courts presume that they have properly discharged their official duties. *Confiscation Cases*, 20 Wall. 92, 108; *United States* v. *Page*, 137 U.S. 673, 678–680; *United States* v. *Nix*, 189 U.S. 199, 205."

Oestereich v. Selective Service Bd. No. 11, 393 U.S. 233, 241 (1968) (Harlan, concurring), is to the same effect.

[21] § 23 of the Federal-Aid Highway Act of 1968 provides:

"SEC. 23. (a) Notwithstanding any other provision of law, or any court decision or administrative action to the contrary the Secretary of Transportation and the government of the District of Columbia shall, in addition to those routes already under construction, construct all routes on the Interstate System within the District of Columbia as set forth in the document entitled '1968 Estimate of the Cost of Completion of the National System of Interstate and Defense Highways in the District of Columbia' submitted to Congress by the Secretary of Transportation with, and as a part of, 'The 1968 Interstate System Cost Estimate' printed as House Document Numbered 199, Ninetieth Congress. Such construction shall be undertaken as soon as possible after the date of enactment of this Act, except as otherwise provided in this section, and shall be carried out in accordance with all applicable provisions of title 23 of the United States Code.

"(b) Not later than 30 days after the date of enactment of this section the government of the District of Columbia shall commence work on the following projects:

"(1) Three Sisters Bridge, I–266 (Section B1 to B2).

"(2) Potomac River Freeway, I–266 (Section B2 to B4).

"(3) Center Leg of the Inner Loop, I–95 (Section A6 to C4), terminating at New York Avenue.

"(4) East Leg of the Inner Loop, I–295 (Section C1 to C4), terminating at Bladensburg Road.

"(c) The government of the District of Columbia and the Secretary of Transportation shall study those projects on the Interstate System set forth in 'The 1968 Interstate System Cost Estimate", House Document Numbered 199, Ninetieth Congress, within the District of Columbia which are not specified in subsection (b) and shall report to Congress not later than 18 months after the date of enactment of this section their recommendations with respect to such projects including any recommended alternative routes or plans, and if no such recommendations are submitted within such 18-month period then the Secretary of Transportation and the government of the District of Columbia shall construct such routes, as soon as possible thereafter, as required by subsection (a) of this section." (82 Stat. 827–8)

[22] If the present objectors were associated with the disapproval of the Three Sisters Bridge project in 1969 for reasons unrelated to its merits, it may be that they do not come into court with clean hands.

AMCHITKA TEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HOSMER), is recognized for 30 minutes.

Mr. HOSMER. Mr. Speaker, I have requested special order time today to make a report on the Cannikin test conducted on the island of Amchitka in the Aleutian Chain, 1,400 miles east of Anchorage, Alaska, at 5 p.m., e.s.t., Saturday, November 6, 1971. I was present there, along with Representative HANSEN of Idaho, as Joint Committee on Atomic Energy observers.

First let me state that the test was successful and it was conducted with complete safety by a dedicated and highly professional test team for whom I have the greatest respect and highest confidence. That team met the challenge of the demands placed on them to finish final preparations for the test on November 5, 1971, under the most miserable weather conditions—rain driven by cold winds steady throughout the day at 70 miles an hour and gusting to over 90. Their actions reaffirmed the values, traditions, and sense of duty which have consistently marked the American commitment and sustained this Nation so magnificently for nearly 2 centuries. The men and women involved rightly deserve our gratitude and respect.

The test is vitally concerned with the security of our Nation. It means that a weapon will be available for this Nation which will enable it to build a symmetrical ABM system, thus stabilizing the situation between the two superpowers so that mutual deterrence will continue and not be dissipated. This Nation is in a position of strength in its efforts to have a SALT treaty and to have some arms control limitations.

There have been warnings from a minority that Cannikin would be a tragedy for our Nation because of the environmental risks. First, there was the contention that the test would trigger a large natural earthquake. The fact is that the Richter scale reading of 7.0 was substantially identical to the reading of 6.99 predicted by the AEC. The earth movement 23 miles away from ground zero was medium for a few seconds. The ground motion was felt clearly by almost all residents at Adak, almost 200 miles to the east, and by some of the residents at Shemya, particularly those in wooden buildings where ground motion effects are magnified. Many minor aftershocks were recorded during the first 15 minutes after detonation. Thereafter the number began decreasing and have continued at a decreased rate. The minor aftershocks appear to be in the vicinity of the Cannikin site.

There were those that predicted that the test would unleash a tsunami which would carry its destructive force as far as Hawaii, Japan, and the west coast of the United States. There was no tsunami and the tsunami warning net was closed 25 minutes after the test. There were those who contended that radioactive gases could be emitted which would contaminate marine and eventually human life. There were no radioactive releases from the test. The possibility of such releases are constantly and carefully monitored.

In summary the test has been conducted in a most carefully planned and deliberate manner with complete safety always the objective. This Nation has a new weapon available for its defensive arsenal. There has been no earthquake; no tsunami and no radioactive material released.

There are also those who contended that the test would irreparably harm the wildlife on the island. As of 4:30 p.m. e.s.t., November 7, the test personnel who, after carefully patrolling the beaches and the island terrain, reported the following environmental impact:

First. One small lake near ground zero had been drained apparently because of a crack which had developed in the lake bottom. There are literally thousands of small lakes on the island.

Second. The oceanside cliffs along the Bering Sea side nearest the Cannikin site suffered some rockslides which were within the general predicted range.

Third. All sea otters observed were fine and well with the exception of one which was injured apparently by a falling rock.

Fourth. Test personnel beach walkers have found a few dead birds along the beach, but the cause of the deaths is not known.

Mr. Speaker, I am proud that the will of the majority of the Congress, the courts, and the American people have prevailed so that the groundless concerns of prophets of doom have not weakened this Nation's security. There follows the statements of the AEC Chairman, myself, and Representative HANSEN made immediately following the test from its control center:

REMARKS BY CHAIRMAN JAMES SCHLESINGER FOLLOWING CANNIKIN

All preliminary indications suggest that the Cannikin test has been conducted both successfully and safely. We had fairly significant ground motion here in the Control Room, but the sensation was just about what we had expected, something like the feeling of being temporarily in a stable cable car. The room rocked back and forth just a bit. Our technical people are beginning to analyze the data, and they indicate that they are pleased with the early reports and the instrument readouts.

The tentative indications are that the effects apparently were well within the range of projections. So our confidence in the safe conduct of this important test has been amply justified.

Cannikin has been a proof test of the warhead for the Spartan missile, a weapon which is part of the Safeguard ABM and is intended to strengthen the U.S. deterrent posture. This proof test permits us to introduce the Spartan warhead into the inventory while minimizing the likelihood of a defective warhead. I believe at this point that the final results of Cannikin will permit the AEC to certify the Spartan warhead for introduction into the stockpile within the appropriate deployment schedule.

We are all proud of the talented and dedicated people of the Atomic Energy Commission's Test Organization. We are also proud of the performance of the DOD people who have been engaged in this exercise and the personnel of other Government agencies. They have done an outstanding job under the direction of the Test Director, Bob Thalgott.

The circumstances yesterday were somewhat difficult. We had wind gusts up to 90 miles an hour, but despite these adverse weather conditions, we were able to button up, and the operation was completed precisely on schedule.

Also present with me here in the Control Room are two members of the Joint Congressional Committee on Atomic Energy, Craig Hosmer of California and Orval Hansen of Idaho. Perhaps Congressman Hosmer and then Congressman Hansen would be willing to say a few words. Both of them have been strong supporters of the President's ABM program, and over the years have given substantial support to the Atomic Energy Commission.

We are honored to have you with us here today, Congressman Hosmer.

REMARKS BY REPRESENTATIVE CRAIG HOSMER FROM AMCHITKA, NOVEMBER 6, 1971

This is Craig Hosmer, and I also extend my congratulations to the hundreds of scientists, engineers and technicians who have safely delivered this technical triumph.

But beyond that I think the event demonstrates that the majority still rules in our country.

The President certified the Cannikin experiment as a defense requirement and a majority of the Congress and a majority of the people have supported it.

Even the Supreme Court stepped in to stop a highly vocal minority from paralyzing this ABM proof test.

Americans can now be satisfied that their Government still will move when it should move and that the U.S. can still look after its national security when it ought to do so.

REMARKS BY REPRESENTATIVE ORVAL HANSEN FROM AMCHITKA, NOVEMBER 6, 1971

Thank you very much, Mr. Chairman. I want to say how pleased I am at what appears to be the successful execution of the test which is an important step in development of the Safeguard defensive system and may be an important step in the country's quest for peace and its desire to avoid war.

As a member of the Joint Committee on Atomic Energy I have for some time followed the careful preparations that have preceded this test, this being my second visit to Amchitka. The fact that I am here for the test is indication of my own confidence in the careful planning and in the safety with which the test was conducted.

I think it's proper to note at this point in the operation how the dedicated men, and some women who were part of the team, contributed to the success of the operation. During the time that I have been here I've seen them working very long hours and with great determination and with great skill. I think they have proved this effort contributed materially to the success of the mission.

ADDITIONAL REMARKS BY CHAIRMAN SCHLESINGER

We have now had a report from Palmer Observatory which indicated a reading of 7.0 on the Richter scale, just as predicted. So it is indicated that we had a full yield test. At the present time I am looking at the board which indicates that all of our radiation activity monitoring stations are reporting in that there has been not even a trace of radioactive release to this point. We are past the 12 minute mark.

DEVELOPMENT OF NEW TRANSIT TECHNOLOGIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 10 minutes.

Mr. FRENZEL. Mr. Speaker, I would like to invite the attention of the House to an excellent article in the Minneapolis Tribune by Peter Vanderpoel concerning the urgent need for the Federal Government to finance the development of new transit technologies.

As the article points out we are pouring over $6 billion annually into road construction while starving our meager transit research and development programs. Simply improving our traditional bus and rapid rail systems will not entice the urban dweller out of his car and into public transit. People have shown over and over again that they would rather stay with their automobiles, congestion and all, than be herded into large buses or commuter cars.

Even urgrading these traditional types of transit to airline standards of comfort will not do the job. To use the airline analogy, it would be like the Boeing 707 trying to compete with the Lear jet if the private jet was as cheap to ride as the commercial airliner and if it was available on demand. The scheduled airlines would soon be out of business and the skys would be filled with private jets.

Well, our cities are today plagued by the automobile, which is an on-demand

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type transportation with considerable creature comforts. A souped-up bus or commuter car just would not compete. We should be looking instead to the rapid development of new technologies already waiting in the wings. These technologies can provide people-pleasing, pollution and congestion free, public transit. Prominent among these new technologies are so-called personal rapid transit systems. They are new, different, and as yet not fully tested. Only the Federal Government has the resources to complete this development process, yet we continue to drag our feet as if there were really any other viable alternatives.

It is time we raise our sights and begin to think in terms of a NASA-type program for ground transportation which will immediately benefit the 7 out of 10 Americans currently living in our urban areas.

At this point in the RECORD, I will insert the article by Mr. Vanderpoel together with a letter to the editor which I wrote in response:

[From the Minneapolis Tribune, Sept. 21, 1971]

MASS TRANSIT LAGS AS HIGHWAYS GROW

(By Peter Vanderpoel)

PITTSBURGH.—"When the American people, through their Congress, voted a little while ago . . . for a $26-billion (interstate) highway program, the most charitable thing to assume is that they hadn't the faintest idea of what they were doing," Lewis Mumford wrote in "The Highway and the City" in 1956. "Within the next 15 years, they will doubtless find out."

Mumford was quite right. What the people and Congress did, among other things, was give the already-troubled urban mass transit industry a competitor of awesome proportions and assure that (despite the subsequent expenditure of billions of dollars on urban freeways) cities would continue to be choked with traffic.

The results of the interstate program, together with the creation—also in 1965—of the federal highway trust fund (dedicated solely to road-building), were referred to by nearly every one of a long list of speakers at the fifth International Conference on Urban Transportation here this month.

Decaying public transportation . . . rising fares . . . opposition to freeways . . . no money for transit . . . "unbalanced" transportation investments by the federal government . . . rising auto registrations. It could have been the first such conference, in 1966. Depressing talk, for transit enthusiasts, punctuated occasionally by descriptions of successful rail systems abroad (London, Tokyo) and of Buck-Rogersish dreams: magnetic, air-cushion trains traveling at supersonic speeds.

Only the federal government's spokesmen, it seemed, were cheerful. Vice-President Agnew said, in all apparent sincerity: "The most important change that has come about in this country is the need for better public transportation in our cities—a growing awareness that . . . subways and rapid surface transit are as essential to the health and growth of all our metropolitan areas as they have been to New York and Chicago."

Exactly 24 hours later, Walter Burke, secretary-treasurer of the United Steelworkers of America, said: "Why can't we get the federal government, our national leaders, to give mass transit priority attention and action? One uncontestable answer is that public pressure for public needs does not match economic pressures for private needs."

John Volpe, U.S. secretary of transportation, advised some 1,200 convention delegates that the need is for "action—stop talking and start digging."

But E. D. Brockett, Gulf Oil Corp., board chairman, said, "The only remedy for our sick (urban) transit systems is a large dose of money." And, before Baltimore—to name just one city—could take Volpe's advice, it would need approval of its request for $425 million in federal funds, which would leave only $50 million in the present federal capital-grants budget for the remainder of the nation.

"Too often public officials and community leaders cling to yesterday's transportation systems while attempting to provide mobility for urban people," said Carlos Villareal, head of the federal Urban Mass Transit Administration.

The problem, of course, is that there's not much to buy except "yesterday's transportation systems"—buses and trains. Dr. J. Herbert Holloman, provost of Massachusetts Institute of Technology, pointed out that federal research and development efforts on mass transit are "minuscule." About $50 million a year, or "as much as we spend in a week on space programs."

The prospects for urban transit are not uniformly gloomy. The pace of federal spending has accelerated somewhat in the past few years. Voters in a few cities soon may approve expenditures for new bus and/or rail systems. Three private companies are developing transit systems which, if not radical departures, are at least attractive, fast and—for some cities, anyway—efficient. But the main problem, for the foreseeable future, will be competition with the car.

Which brings one back to Mumford, the freeways and the dedicated highway trust fund. (Since 1956, incidentally, the price of that $26-billion interstate system has risen to more than $60 billion—a cost over-run that makes some defense contractors look efficient.)

About $6.3 billion was spent on U.S. street and highway construction in 1970. Of this, $4.1 billion came from highway-user taxes (on gas, tires, etc.) levied by the federal government and states (many of which, like Minnesota, also have dedicated trust funds). The money is raised automatically—no referendums requiring that taxes for more roads be "sold" to an increasingly tax-conscious public, although this is almost inevitably required to raise state and local mass-transit money. And the highway money is spent automatically—no review by state or federal lawmakers, who might decide to spend it some other way.

It's a classic closed circle—highway traffic generates tax revenue which must be used to build more roads, which attract more cars, which generate more revenue, which must build more roads . . .

F. C. Turner, an engineer and highway enthusiast elevated to the policy-making position of federal highway administrator by the Nixon administration, told the American Public Works Association in Washington last month that highways in cities "simply are irreplaceable—because there is nothing with which to replace them. And there will not be in our lifetime."

So long as the nation spends $6.3 billion a year on roads, and state and federal policymakers hold out a five-year, $3.1 billion mass-transit program as a marvelous achievement, Turner will be right. When that 10-to-1 ratio in favor of roads is combined with the locked-in approach of the highway trust fund, mass transit really hasn't a chance to compete.

"It is totally illogical," said convention speaker Alvin Rice, a vice-president of the Bank of America, "for the highway trust fund—and for state gasoline taxes—not to help finance urban transportation. Vehicle-related tax monies should help finance congestion-reducing mass transit."

Is anyone in Congress—or the Minnesota Legislature—listening?

HOUSE OF REPRESENTATIVES,
Washington D.C., October 6, 1971.

MR. PETER VANDERPOEL,
Minneapolis Tribune,
Minneapolis, Minn.

DEAR MR. VANDERPOEL: In your excellent article of September 21st, entitled, "Mass Transit Lags as Highways Grow," you ask if any elected officials are listening to those urging accelerated mass transit developments. I suppose the honest answer is that very few are. But, those of us who have been listening have not been hearing very much. Politicians react predictably to public indifference. They do nothing.

Since 1960, Congress has spent $43 billion on the space program, $978 million on the cancelled SST, and only $97 million on transit research and development. Obviously our priorities are all wrong. We have starved urban transit development which could materially improve the quality of life of 70% of all Americans, while pouring over $6 billion per year into highways.

Until public opinion has been effectively mobilized, elected officials will not seek solutions to the transportation crisis. We will continue to be hooked on highway construction programs which generate added congestion and greater devotion to the automobile. Our highway construction programs are wonderful but they do monopolize transportation funds and dictate patterns of living.

The inviolability of highway trust funds has kept them secure from transit uses. Consequently, transit development has had to rely on the shaky funding of annual appropriations in deficit years. Perhaps the time has come for us to consider using at least a part of the gasoline tax revenues for the construction of mass transit systems. President Nixon's special Transportation Revenue Sharing Plan, although not likely to be enacted this session, is the first serious proposal of this nature.

Obviously, it is time for the Federal Government to shift from baby steps to quantum jumps in urban mass transit. A few of us in Congress have repeatedly urged the Administration to raise its sights in funding requests for transit R & D.

This year Congress appropriated $65 million for transit development, almost twice as much as for any previous year, but still a woefully inadequate sum. There is reason to believe that the Administration intends to increase substantially its spending on transit R & D in the near future. Its about time!

New technologies are available, but unproved. Most promising of these are the so-called personal rapid transit (PRT) systems. But to move from present, obsolescent, technologies into PRT will require a Federal commitment roughly equivalent to that which launched the space program ten years ago. In this case, however, the payoff to the public will be immediate and obvious.

Yet it remains true that no level of government will push for transit development until the public demands improvements. No one can predict when the limits of public outrage will be reached, but awareness is building. The University of Minnesota is hosting the first National Conference on Personal Rapid Transit, November 1st-3rd. Hopefully this conference will serve to increase citizen interest.

In addition, recent proposals to turn our own Highway 12 into a 10 lane monstrosity has caused an unprecendent wave of indignation from residents of Golden Valley and surrounding areas. This, as yet localized, outrage has helped to generate interest in finding new urban transportation systems.

Urban Mass Transit is today the most underdeveloped mode of transportation. It will stay that way until public impatience forces Washington, St. Paul, and local governments into more aggressive transit development attitudes.

Best regards,

BILL FRENZEL,
Member of Congress.

IN SUPPORT OF PRAYER AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, I voted for the resolution to amend the Constitution with respect to the offering of prayer in public buildings. I recognize that on this issue, like most issues, there are people of goodwill and sincere beliefs on both sides. My decision to vote for the amendment was not predicated on a desire to allow the State to dictate prayer or prescribe prayers for our children nor was it designed to weaken the historical separation of church and state, which, to my mind, has helped guarantee freedom of religion in this country for 200 years.

On the contrary, mine was a vote to return to the first amendment as practiced in this country from 1791 until 1962 when it was overturned by the Engle against Vitale case and the confusion started.

Another reason for my vote was the recognition that Congress was not, in fact, amending the Constitution; in passing this amendment, Congress would have sent it to the States to allow the people to decide whether or not they, in fact, wanted this constitutional amendment.

I greatly regret that this issue had to be decided in the way in which it was. And while I had many questions as to all the ramifications of this resolution, in the final analysis, my mind was made up by several recent decisions which have prohibited the free exercise of religion as guaranteed by the Bill of Rights.

Just this past October, the Supreme Court declined to review a Massachusetts school prayer case in which a town school committee defied the Court's 1963 ban by voting to allow voluntary classroom prayer. The State's highest court held the prayer plan to be unconstitutional and the Supreme Court refused to disturb that decision.

In an earlier Massachusetts case, a school committee passed a resolution providing that a 5-minute period be set aside before each school day to allow voluntary prayer among students and teachers. A superior court judge ruled that the resolution was valid insofar as it applied to students but unconstitutional as to teacher participation. The entire school prayer plan, however, was struck down as unconstitutional by the State supreme court.

Last year a New Jersey school board contended that the daily reading in its local high school was constitutional because students and teachers attended on a voluntary basis and the State did not select the prayer to be said. A superior court judge ruled the program in violation of the first amendment's ban on Goverment establishment of religion. The New Jersey Supreme Court affirmed the judgment unanimously. And these are only a few of the examples of cases decided in recent years—all upholding one of the Warren court's most controversial rulings.

However, the Bill of Rights provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

It is my understanding that by this first amendment to the Constitution our Founding Fathers were not constitutionally prohibiting the exercise of religion, yet they would not permit Congress to establish a particular religion. Furthermore, I have found no precedent in the 186 years prior to the Court's decision of any willingness on behalf of the Supreme Court to allow this country to recognize a state religion. In other words, there is no precedent for fear.

At this point, I am inserting in the RECORD two of the best articles yet to come to my attention on this issue in support of this amendment. They are by Father Howes, associate professor and chairman of city and regional planning at Catholic University, Washington, D.C. and the Lubavitcher Rabbi, Rabbi Menachem Mendel Schneerson. Also included is the language of the resolution to amend the Constitution with respect to prayer in public buildings:

[From NCEA Bulletin, Feb. 1968]

CHALLENGE TO THE DEMOCRACY: PUBLIC REVERENCE

(By Rev. Robert G. Howes)

When the U.S. Supreme Court interprets the First Amendment of the Federal Constitution in a manner which radically contradicts the consistent practice of the majority of the states, it does no singular, minimal thing. Whatever the particular practice, that interpretation immediately becomes a precedent affecting the whole future of religion in our public life. As such it must deeply concern not only whose practice is denied but also those who are involved in any way with religion as subject to and supportive of public policy.

On June 25, 1962, the Supreme Court interpreted the First Amendment as barring the following prayer:

Almighty God, we acknowledge our dependence upon Thee and we ask Thy blessings upon us, our parents, our teachers, and our country.

The prayer had been composed by a committee of religious leaders. It was made available by the State of New York for an entirely voluntary recitation by pupils and teachers in its public schools. Justice Stewart, in dissent, noted:

The Court has misapplied a great constitutional principle . . . What is relevant to the issue here is not the history of an established church in 16th century England or in 18th century America, but the history of the religious traditions of our people, reflected in countless practices of the institutions and officials of our government.

On June 17, 1963, the Supreme Court widened this interpretation to ban the Lord's Prayer and Bible reading in the public schools of Maryland and Pennsylvania. Once again, no teacher had been required to lead prayer, no pupil to join in reciting it. Specific provision was made for abstention on the part of those who did not wish to participate. There are many pleasant phrases in the two majority decisions. Most of them are collateral remarks, *obiter dicta*, that is remarks incidental to the real deciding reason. One could, and some did, assemble such remarks and claim that the court had done nothing more serious than to rule out a residual unfairness, leaving public religion itself wholly intact.

There are, however, other *obiter dicta* which are less sanguine. For instance, in the first decision Justice Douglas enumerates various instances of government accommodation to religion. Bishop James Pike, appearing before a Senate committee in 1962, called such reasonable accommodation "the great American middle way." Justice Douglas says "our system at the federal and state levels is presently honeycombed" with accommodation. "Nevertheless," he continues, "I think it is an unconstitutional undertaking whatever form it takes." In fact, the deed of the decisions, what the then Harvard Law School Dean Erwin Griswold called "the absolute and . . . extreme" reasoning of the court, is dangerously basic. Henry P. Van Dusen, then President of Union Theological Seminary, wrote:

The corollary in both law and logic of the Supreme Court's recent interdictions is inescapable, prohibition of the affirmative recognition and collaboration by government at all levels with all organs of religion in all relationships and circumstances.[1]

Fordham University Law School Professor Charles E. Rice said:

The school prayer decisions, if followed, predictably will have the effect of raising agnosticism to the rank of the official public religion of the United States. The Court has now cast aside the historical affirmation by government in this country of the essential truth of theism, has embarked upon a search for neutrality, a search incapable of success, and has substituted agnosticism for the theistic affirmation to which a small minority has objected so strongly. And for its action the Court can point to no durable justification beyond its own inflated rhetoric and a tortured historical interpretation.[2]

The *Boston Pilot* editorialised:

ALL PUBLIC LIFE AFFECTED

The Supreme Court in the Lord's Prayer and Bible ruling has continued along a path unhappily familiar to all from its earlier decisions. The same tedious arguments emphasizing the establishment of religion clause are brought forth to support a position which turns its back on the total American tradition and outlaws the present practices of 39 states . . . Let us suppose that the Lord's Prayer and the Bible are excluded from the American public schools for precisely the reasons given by the Supreme Court. What is the next step? Clearly, all other expression of religion in public life must now be deleted . . .[3]

To suggest that pleasant phrases en route to decision can override the deed of the decisions themselves is to ignore the heart of the matter. That heart clearly is the equation by the Supreme Court of "establishment" with public reverence, whether free or not, whether institutional and sectarian or not. Even to question such an equation, the court said in its second decision, is "of value only as academic exercises!" The situation is, in short, as it was a century ago when Abraham Lincoln commented on the Dred Scott decision:

When all the words, the collateral matter was cleared away from it, all the chaff was fanned out of it, it was a bare absurdity. . . . The Dred Scott decision covers the whole ground, and while it occupies it, there is no room for the shadow of a starved pigeon to occupy the same ground.[4]

Footnotes at end of article.

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Five years have passed since the first prayer ban. In those years, several significant things have happened.

(1) Literally hundreds of bills were introduced in both the House and Senate calling for a clarifying amendment to restore the First Amendment to its pre-ban interpretation and to forestall a further widening of the court's logic. There were 117 such bills on the House side alone in the spring of 1964. Senate Joint Resolution Number 1 of the 90th Congress was signed by 42 senators of both parties. It proposed a restorative constitutional amendment which would read:

Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

(2) Catholic response to the prayer bans was openly mixed, though there is no possible doubt that Catholics were in great numbers part of the massive proamendment majority across the nation. The National Council of Catholic Youth officially recorded itself as opposed to the prayer bans and called upon all of its local units to work for reversal. Otherwise, where Catholic apathy and even support of the decisions showed itself, it has been suggested that an underlying cause was self-interest:

It may be that some of it is motivated by the thought that if public education can be completely secularized (so that, as it has been said, "religion" in such quarters becomes "a dirty word"), then there will be an increased public demand for sectarian education which can combine religion with general education. This could then be an argument in favor of parochial schools, and as public schools decline, the argument for public support of parochial schools can be advanced in one guise or another.[1]

I hope this estimate is inaccurate. I fear it may be, in at least a partial sense, accurate. Our bishops wrote once that "religion is our chief national asset," and as such what happened to it anywhere at law must affect it everywhere. I am afraid some of us have simply failed to make the vital connection between what occurred in the prayer ban decisions and those aspects of the First Amendment which preoccupy us more immediately. Too many Catholics have simply failed to appreciate that any fundamental interpretation of the First Amendment by the Supreme Court must over a period of time operate in all areas of religion and public policy, including the area of government aid to nonpublic schools under religious auspices.

(3) Eleven of the 13 justices who passed on the New York prayer issue prior to its arrival at the Supreme Court ruled it constitutional. The attorney general of 19 states submitted a "friend of the court" brief to the Supreme Court, prior to the first decision, which said in part:

Our founding fathers, together with the great and God-fearing leaders of the last century and a half, would be profoundly shocked were they to have been told in their day that in this year of our Lord . . . a voluntary nondenominational acknowledgment of a Supreme Being and a petition for His blessings recited by American children in their classrooms is being seriously attacked as a violation of the Constitution of the United States.[2]

It was clear from Congressional reaction that a massive mail concurring with such judgments was hitting Capitol Hill. "King-size" was how Senator Dirksen described it. Resolutions endorsing what came to be called the Peoples Amendment for Public Prayer came from the National Conference of Governors, the National Conference of Mayors, legislatures of several states, the National Jaycees, the Veterans of Foreign Wars, the American Legion, and from such men as Billy Graham, Cardinal Cushing, the late Cardinal Spellman and Bishop Fulton Sheen. Sampling after sampling confirmed the will of the nation. The Gallup Poll in September 1963 recorded a three-to-one majority for reversing the court in its prayer decisions. In October 1964 the Harris Poll put the figure at 82 percent for amendment. Congressional home district polls backed the national sampling. Again and again there was no subject on which more of a congressman's constituents were united than on the need for a prayer amendment, and no subject in which "don't knows" ran lower, or majorities ran consistently higher. At each hearing on prayer amendment proposals, thousands of proamendment petitions were presented. About 40,000 petitions were introduced on the very first day of the House hearings (1964) by Congressman Fallon of Maryland. To the Senate hearings (1966), we introduced in behalf of amendment 35,000 petitions from Pennsylvania, 30,000 from New York and 50,000 from the Midwest. In the spring of 1967 Good Housekeeping magazine came up again with an 80-plus percentage for amendment.

(4) Despite all this, not one single normal floor vote has been held in five-and-a-half years in either house of Congress on even the technicality of proposing a prayer amendment to the nation. And hearings in this critical matter were forced in the House Judiciary Committee only after a discharge petition to bypass Chairman Emanuel Celler, who was bitterly negative, had nearly succeeded.

(5) In the wake of the prayer ban decisions, things have not stood still. A number of trends have developed. Two are of major importance. First, a trend toward a kind of fearful indecision on the part of public authority. School boards everywhere were from the start anxiously uncertain about whether and how religion was to survive in the public classroom. In some instances, boards have defied the court, but this is, patently, no solution to the problem. In a few instances, boards have tried to substitute various procedures, such as God sandwiches between Thoreau and Ben Franklin for morning assembly reading. These instances, however, remain so rare that each one is the subject of national notice. In most cases the net result has been one of the following: (a) to rule religion out entirely; (b) to emasculate religion before it is permitted in the school, thus reducing it to the merest art, history or literature; (c) to decide any particular question involving religion in the classroom in favor of parents who might conceivably object to it along lines indicated in the prayer ban record. Secondly, there has been a trend toward enlargement of the prayer ban to affect other practices of public reverence. Courts and some attorneys general have relied on prayer ban decisions to strike down kindergarten prayers and such substitutes as the singing of patriotic anthems. In the fall of 1966 the Supreme Court relied significantly on the decisions to knock out aid for church-related colleges in Maryland.

Meanwhile, it was again and again made clear by such opponents of religion in public life as Madalyn Murray O'Haire that the prayer ban would be used as a launching pad for further attacks on all surviving instances of public reverence. It is, of course, impossible, to predict with precision just how far the court will go toward accommodating these attacks, but its defenses against them must be seriously weakened by the majority reasoning in the prayer ban cases.

Of course, at the very base of the prayer amendment issue stands the issue of parental rights. There is no question that God belongs in the homes and the churches of America. There is no question that a serious re-examination of His presence there is imperative. But religion is not strengthened at the hearth and the sectarian altar by denying it entry to the public classroom. Religion is not strengthened in the heads and hearts of American youth by wiping it off their lips precisely where most of them prepare for citizenship in a reverent society. What is rather indicated is a joint activity, carefully respectful of the right of dissent, which involves church, home and school. In its 1951 Statement of Belief which recommended school prayer, the New York State Board of Regents said:

We believe that thus the school will fulfill its high function of supplementing the training of the home, even intensifying in the child that love for God, for parents and for home which is the mark of true character training and the sure guarantee of a country's welfare.

In its *Decree on Education* Vatican II underlined how the principle of subsidiarity applies in public education:

The Church gives high praise to those civil authorities and civil societies that show regard for the pluralistic character of modern society and take into account the right of religious liberty, by helping families in such a way that in all schools the education of their children can be carried out according to the moral and religious convictions of each family.

It is suggested by those who oppose a prayer amendment that the court banned only "prescribed" prayer and that other types of religious presence in the public classroom stand unaffected, indeed encouraged. There is at the very base of the court's decisions a fatal, secularizing equation. Once this equation has been repealed, there is certainly place for reexamination of the entire gamut of that presence. Various approaches to religion as a force for morality and civic strength can and should be tested. Citizens for Public Prayer fully support such testing, but at the right time. So long as the prayer ban remains, however, there can be no compromise. Generally, those who ask substitutes for the brotherhood of prayer call for a moment of silent meditation, classes in comparative religion or the rendition of God strictly in paintings, dates and poetry. Each substitution has its weakness. Collectively, they are totally inadequate to the need of the situation.

Let's take meditation first. It is most significant that the same day the Massachusetts legislature sanctioned meditation in the public schools of the state it petitioned Congress in support of a prayer amendment. A quiet God is better than no God. But a quiet God cannot provide that experience in pluralism which a spoken God encourages. One great advantage of the brotherhood of prayer consists, precisely, in the fact that through it children from various religious backgrounds are taught that although they go freely to their separate churches and synagogues over the weekend, still they can freely find and pronounce together common words of uniting reverence each day during the week. Besides, meditation is extremely difficult even for adults. To suppose that grade school youngsters can meditate properly is a delusion.

As for classes in comparative religion, it may be that once the prayer ban is repealed we can move along these lines. But such classes will require teachers who have the wisdom of Solomon, and are objective enough to relate one religion to another without bias. And should these teachers fail even slightly, offended parents will rise to challenge them in the courts, just as parents who objected to the earlier prayer did.

In regard to religion as art, history and literature, it is true that under these aspects it belongs in many classes, so that children of a reverent people may review their inheritance. But what a tragedy it would be if God could come into school only as a footnote in classes otherwise preoccupied and

Footnotes at end of article.

minus any factor of reverence whatsoever! Religion is more than dates and pretty pictures and nice phrases. Religion is reverence. Any proposal which drains it of its prayerful blood is anemic to start with. In short, none of the suggested substitutes is, at least in its present state of refinement, adequate. None would in any way remove the tragic precedent of the two prayer ban decisions. Finally, the closer any one of them came to being a real collective reverence, the more likely it is that it would be challenged and struck down by courts under the compulsion of prayer ban logic.

MAJORITY-MINORITY PROBLEM

There is another item in the prayer amendment debate which must be pondered. This is the item of majority-minority relationships in a democracy. It has two facets. The first is: How should society accommodate in its practices a majority will against which there is marshaled a loud minority will? The second is: In the public classroom how should the dissent from prayer and the desire for prayer be handled with justice all around?

In regard to the first question, it must at the outset be agreed that 50 percent plus one does not of itself make a thing right. Democracy must never be a matter of a bull-headed majority tyrannising over a cowed minority. Neither must it ever be an oligarchy in which a miniscule elite, somehow wiser, forces its preference on an unwilling majority. This latter state becomes what *The Boston Pilot* has called a "tyranny of the few." One thing is clear: As in all such controversial situations, a dissenting minority must be assured to the maximum reasonable extent its right of silence and abstention. To permit a minority's preference to dominate public practice, however, thus denying to an overwhelming majority its will, is an intolerable travesty of democracy. In this case, a strong argument can be mounted in support of the traditional, pre-ban interpretation of the First Amendment. Even Justice Brennan, siding with the majority in the second prayer ban decision, concedes that its factual position is far from conclusive:

On our precise problem, the historical record is at best ambiguous, and statements can readily be found to support either side of the proposition.

But even if the court's reading of the history and the semantics were accurate, the case for a clarifying amendment would still stand. No people in a free society are required to be prisoners of words which, in that hypothesis, do not say what the people wish them to say and do not permit practices which the people overwhelmingly wish to provide for themselves and for their children. As in the flag salute situation what is required of a wise judiciary is not a decision rendering the majority silent before an intolerant minority but one that allows the greatest prudential accommodation for dissent while the majority will prevail. The second facet of majority-minority relationships here can be expressed in a question: Is school prayer an unconscionable intrusion on the rights of the dissenting child and his parents? It must be repeated that in the three prayer ban states, school prayer has been entirely voluntary for both teacher and pupil. Tolerance is, and must continue to be, a two-way street. So long as he is respected in his right to be different, the dissenting child must learn to respect the right of the majority of his fellow students who wish to pray together. Dean Griswold's treatment of this critical matter is excellent:

Must all refrain because one does not wish to join? . . . No compulsion is put upon him (i.e. the dissenting child). He need not participate. But he, too, has the opportunity to be tolerant. He allows the majority of the group to follow their own tradition, perhaps coming to understand and respect what they feel is significant to them. Is not this a useful and valuable and educational and, indeed, a spiritual experience for the children of what I have called the minority group?[7]

A related question is often posed. Whose prayer? The answer is simple. Once the civil right of public reverence is restored in the public school, the American people again will select, with a minimum of mistakes and a maximum of good common sense a reasonably nondenominational prayer. To suppose that any group of Americans with a sectarian majority would be so callous of its neighbors as to insist on a sectarian prayer in their public schools is to fly in the face of the great bulk of American experience. But even should, in rare instances, such a prayer be proposed, recourse for remedy would still be open with the courts. What is clearly urgent in this entire issue of majority-minority rights is a reasonable pluralism, the kind of adjustment and prudential accommodation which mature men make with their neighbors in any complex matter in which a common decision is required. With such a responsible pluralism, the solution to difficulties such as wording a proper amendment and coming up with consensus prayers is easy. Without it, we become quickly a jungle of selfish predatory religious groups, careless of neighbors and haggling over every approach to that harmony which has so long been the major motif of our people.

A few words of prayer by children in a public place will not alone change the world. The brotherhood of prayer remains an important part of an important pattern. Clearly, however, much more than this is at stake in the fight to write a Peoples Amendment for Public Prayer. The whole matter of a reasonable and, reasoned pluralism is involved here. So is the survival intact of all practices of public reverence. So is every other controversial aspect of church-state relationship. So, finally, is the very workability of the democracy itself. It is simply incredible that there are still Catholics concerned with democracy, education and pluralism who cannot, or will not, understand these things. John Donne wrote that "no man is an island." It can be said with equal force that no decision of the U.S. Supreme Court fundamentally interpreting the First Amendment against the expressed will of the nation is an island—a minimal, a singular thing. Remedial action now, loud and long, is emphatically indicated. Seldom has the alternative to such action been put more strongly than by Father Joseph Costanzo, S.J., professor of historical jurisprudence at Fordham University.[8]

American believers are losing by default. They have taken their spiritual heritage for granted. They have allowed a creeping gradualism of secularism, under one specious pretext or another, to take over their public schools. A vociferous and highly organized pressure group is exercising its own form of indirect coercive pressure upon the American community.

FOOTNOTES

[1] The New York Times, *July 7, 1963.*

[2] The Supreme Court and Public Prayer (*New York, 1964*), *p. 21.*

[3] *June 21, 1963,* The Boston Pilot *is the official publication of the Catholic Archdiocese of Boston.*

[4] *Columbus, Ohio, Sept. 16, 1859; Galesburg, Ill., Oct. 13, 1858.*

[5] *Griswold, Erwin N.* Utah Law Review, *Vol. 8, No. 3 (Summer 1963).*

[6] *United States Supreme Court, October term 1961,* Document No. 468.

[7] *Op. cit.*

[8] This Nation Under God (*New York, 1964*), *pp. 131–32.*

EXCERPTS OF A LETTER BY THE LUBAVITCHER RABBI, RABBI MENACHEM MENDEL SCHNEERSON

On the contrary, if there could have been any change at all (in my views), it was to reinforce my conviction of the vital need that the children in the public schools should be allowed to begin their day at school with the recitation of a *non-denominational* prayer, acknowledging the existence of a Creator and Master of the Universe, and our dependence upon Him. In my opinion, this acknowledgment is absolutely necessary in order to impress upon the minds of our growing-up generation that the world in which they live is not a jungle, where brute force, cunning and unbridled passion rule supreme, but that it has a Master Who is not an abstraction, but a personal G-d; that this Supreme Being takes a "personal interest: in the affairs of each and every individual, and to Him everyone is accountable for one's daily conduct".

Juvenile delinquency, the tragic symptom of the disillusionment, insecurity and confusion of the young generation, has not abated; rather the reverse is the case. Obviously, it is hard to believe that the police and law-enforcing agencies will succeed in deterring delinquency and crime, not to mention completely eliminating them at the root, even if there were enough police officers to keep an eye on every recalcitrant child. Besides, this would not be the right way to remedy the situation. The remedy lies in removing the cause, not in merely treating the symptoms. It will not suffice to tell the juvenile delinquent that crime does not pay, and that he will eventually land in jail (if he is not smart enough). Nor will he be particularly impressed if he is admonished that lawbreaking is an offense against society. It is necessary to engrave upon the child's mind the idea that any wrongdoing is an offense against the Divine authority and order.

At first glance this seems to be the essential function of a house of prayer and of the spiritual leaders. However, anyone who does not wish to delude himself about the facts of house of prayer attendance, both in regard to the number of worshippers and the frequency of their visits, etc., etc., must admit that shifting the responsibility to the house of prayer will not correct the situation. Nor can we wait until the house of prayer will attain its fitting place in our society, and in the life of our youth in particular, for the young generation will not wait with its growing-up process.

Children have to be "trained" from their earliest youth to be constantly aware of "the Eye that seeth and the Ear that heareth". We cannot leave it to the law-enforcing agencies to be the keepers of the ethics and morals of our young generation. The boy or girl who has embarked upon a course of truancy will not be intimidated by the policeman, teacher or parent, whom he or she thinks fair game to "outsmart". Furthermore, the crux of the problem lies in the success or failure of bringing up the children to an awareness of a Supreme Authority, Who is not only to be feared, but also loved. Under existing conditions in this country, a daily prayer in the public schools is for a vast number of boys and girls the only opportunity of cultivating such an awareness.

On the other hand, as I have emphasized on more than one occasion, only a strictly non-denominational prayer, and no other, should be introduced into the public schools. Any denominational prayer or religious exercise in the public schools must be resolutely opposed on various grounds, including also the fact that this would create divisiveness and ill-feeling. Likewise must Bible reading in the public schools be resolutely opposed for various reasons, including the obvious reason that the reading of Koran and the New Testament will arouse dissention and strife. Moreover, the essential objective is a religious expression that would cultivate reverence and love for G-d, and this can best be accomplished by prayer, while Bible reading is not so important in this instance.

1. It has been argued that the child at-

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tending public school is in the category of a "captive", since his refusal to participate in a prayer would "stigmatize" him. His participation would therefore be involuntary and an encroachment on his freedom.

In my opinion, the notion of "captivity" as applied in this case should lead to a conclusion which is quite the reverse, for the following reasons:

The child attending public school knows that his attendance is compulsory, because his parents and the government consider his education of the utmost importance. Together with this comes the recognition that what is really important and essential to his education is taken care of in the school. The child's instinctive feeling and inference from this is that anything that is not included in the school curriculum is of secondary importance if, indeed, of any importance at all. Hence, if religion (prayer) is excluded from the school, the child would inevitably regard it in the same category as an extra foreign language, or dancing, or music lessons, which are not required by the school but are left to the parents' free choice, and which the child, not illogically, considers a burden or even a nuisance. In other words, the present system of the public school education is such that it impresses upon the pupil the belief that everything connected with religion, such as knowledge of G-d's existence, etc., is of little consequence, or of no importance whatever.

It will neither interest nor impress the child if he were told that the exclusion of prayer from the school is due to the principle of the separation of State and Church, or to a constitutional technicality. These reasons or explanations, even if they be actually conveyed to the child from time to time will not nearly impress him as much as the plain fact itself, which reasserts itself each and every day, that nothing can be very important to his education if it is not included in the school program. Such a situation can only reinforce the child's attitude of indifference, or even disdain, to any religious beliefs.

The above would be true even in the case of a child who comes from a religious home and background. How much more so in the case of children whose parents and homes are not permeated with the religious spirit, or where religion is something which is practiced once a week, on the day of rest, or only on holidays and special occasions. This, after all, is the kind of home from which the vast majority of the public school children come, inasmuch as the truly religious parents make every sacrifice in order to provide their children with the religious education and environment of a parochial school.

2. To oppose non-denominational prayer "on constitutional grounds" is, in my opinion, altogether a misunderstanding or misrepresentation of the problem.

The issue is: Whether a non-denominational prayer wherewith to inaugurate the school day is, or is not, in the best interests of the children. If the answer is "yes", then obviously it should be made constitutional, for there can be no difference of opinion as to the fact that the Constitution has been created to serve the people, not vice versa.

It may be pertinent to add here that the approach that the Constitution of the U.S.A. must not be touched or amended under any circumstances, is in itself a flagrant violation of the letter and spirit of the Constitution, which has its own built-in machinery for future amendments that may be required in the public interest; machinery which has been used in the past to incorporate into the Constitution a number of amendments.

3. It is argued that the principle of separation of Church and State is the only safeguard for freedom of religion, equal rights for minorities, etc.

Without going into the question whether there actually exists a strict separation between State and Church in this country (for there are undeniable facts to the contrary, e.g. the institution of Chaplaincy in the armed forces; the opening of Congress with a prayer; the motto "In G-d we trust" on American currency, the emphasis on Divine Providence in the Declaration of Independence; etc., etc.), I submit that the validity of the argument is contingent upon the question who is behind this principle, and how is it to be interpreted and applied? Suffice it to cite an illustration from the representative States now in existence, in one of which the said principle is in full operational force, while in the other it is not. In the first, as the daily press reports, there is a calculated war on religion and religious practices, with the suppression of all religious freedom, etc. Incidentally (and perhaps it is quite relevant to our discussion), it all started there with a ban on religious instruction to young children. In other countries, for example England, there is no separation of Church and State, there is religious instruction in the public schools, yet you find there complete religious freedom for all religious denominations.

4. Some argue further that the principle of separation of State and Church must be maintained at all costs, in order to prevent a resurgence of religious persecution so prevalent in the Middle Ages, when an established state-religion denied equal or any, rights to other religions, etc.

The fallacy of this argument should be quite obvious. By way of illustration: Suppose a person was ill at one time and doctors prescribed certain medication and treatment. Suppose that years later the same person became ill again, but with an entirely different, in fact quite contrary, malady. Would it be reasonable to recommend the same medication and treatment as formerly?

In Medieval times the world suffered from an "excess" of religious zeal and intolerance. In our day the world is suffering from an excessive indifference to religion, or even from a growing materialism and atheism. Even where religion is practiced, it often lacks depth and inspiration. (The subject is too painful to discuss in detail). Thus, if separation of Church and State was necessary, it is not at all the answer to the problems of our contemporary youth. Besides, the preservation of the principle is not at stake here, and the introduction of a non-denominational prayer in the public school will not endanger it in the least. Moreover a special clause to this effect can be included in the amendment.

5. It has also been argued that if a non-denominational prayer were permitted and left to the discretion of every school board in the country, this practice would lead to abuse.

I do not consider this a valid argument. Firstly, we are talking here about a strictly non-denominational prayer, and agreement should not be difficult on this point. Nor could there be room for any undercover abuse, since prayer would be recited openly in the school. Besides, a proviso could be made which would require the unanimous approval by the representatives of religious denominations before the particular non-denominational prayer is introduced into the school. Moreover, there is no need to compose new non-denominational prayers, as there are already such.

6. The argument that a short non-denominational prayer would have no effect on the child reciting it, could not be considered as a serious argument by anyone who has knowledge or experience in child education. On the contrary, the fact that prayer will be recited in the school and classroom, and day after day, will inevitably become an integral part of the child's thinking and is bound to be a factor which could be further cultivated to the child's advantage in terms of spiritual and psychological development.

Summarizing the above-said, my standpoint indicates the following course:

(a) All efforts, petitions, etc., should be brought to bear towards the introduction of a constitutional amendment which would permit the recitation of a strictly non-denominational prayer in all public schools.

(b) At the same time it should be clearly emphasized that any other kind of prayer or religious exercise, including Bible reading, is not desirable in the public schools because of the friction and divisiveness which such a practice would inevitably entail. It would surely be detrimental to introduce an amendment which would do just that.

(c) I am gratified to see that there are representatives in Congress who expressed their support for an amendment that would permit a non-denominational prayer in the public schools, while opposing sectarian prayer and Bible reading.

(d) The whole controversy as to the constitutionality of such a non-denominational prayer is of little, if any consequence to the problem itself. The crucial problem is how to build the ethical and moral fibre of the young generation which is educated in the public school system: Is the American child to grow up under an educational system which excludes all mention of the Divine Name, so that he (or she) will inevitably regard the world around him (or her) as a Godless jungle; or is he (or she) to be encouraged to think that there is a Supreme Being, the Creator and Master of the World. Who ordains justice and liberty for all, and Who is the source of true blessing.

Certainly a non-denominational prayer in the public schools will not, in itself, provide an adequate basis for the right and complete world-outlook, but it is an indispensable first step in this direction, considering the state of our society as it is at present, and as it is likely to remain for quite a long time, insofar as it can be judged from the prevailing conditions and factors.

H.J. Res. 191

Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"Article —

"Section 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer.

"Sec. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States within seven years from the date of its submission to the States by the Congress.

THE CORNELL AIR WAR STUDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Aspin) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, the Center of International Studies of Cornell University today released a report that reveals that, despite President Nixon's Vietnamization policy, the air war over Indochina continues at a terribly destructive pace.

Unlike the Pentagon papers, which are a discussion of policy and debate within an administration, the Cornell air war study is an inventory and collection of all the relevant data related to the air war over Indochina. The report is a clear and scholarly analysis of the air war. In order to maintain their scholarly objectivity the Cornell professors have stuck to the facts. But, Mr. Speaker, the facts are shocking.

The report indicates that each year the United States drops as many bombs on Indochina as were dropped during the entire Second World War in all theaters. According to the study, by the end of this year, the Nixon administration will have dropped more bombs on Indochina than the two previous administrations combined. The Nixon administration has dropped as many bombs over Indochina in 3 years as the Johnson administration did in 4.

I

The Cornell air war study, besides placing the blame for the bulk of the bombing on the Nixon administration, also reached a series of general conclusions that I wish to call to the attention of my colleagues.

First and most important, is the failure of the massive and often indiscriminate use of air power to achieve our military and political goals in Indochina. The use of massive air power in fighting a guerrilla war is inefficient and results in a tremendous loss of civilian lives. It has not affected the will of the North Vietnamese and Vietcong to fight. The air war has cost this country $25 billion and has resulted in an estimated $50 billion of damage in Indochina. The capital intensive mode of warfare as employed by the United States is a mismatched technological giant unable to counter the activity of determined guerrillas.

The second general conclusion that the Cornell air war study has reached is that America's basic policy in Indochina remains unchanged. Our goal is to retain a friendly regime in South Vietnam. With the Vietnamization program the focus of our war effort has shifted from the ground to 5,000 feet above Indochina. Despite the clear-cut failure of American airpower in the past, the United States has become more and more dependent on the use of airpower.

The United States, according to the report, has closed out its options. If there is a major offensive on the part of the Vietcong or the North Vietnamese, the Cornell group says that the United States will only be able to counter the Communist offensive with a massive re-escalation of the air war.

The net result of our use of massive air power is a political situation in Indochina where three nations—South Vietnam, Laos, and Cambodia—are almost totally dependent on the United States for political, military, and economic support.

II

The Cornell air war study also indicates that the present administration has pursued a policy of deception in its conduct of the air war. The report elucidates three examples of the administration's deceptive public relations policy. First, the administration, while it claimed that it was conducting reconnaissance flights, actually dropped 200,000 tons of bombs on Laos. Second, the administration denied that there were B-52 raids over Laos that were actually occurring. Third, the administration refused to acknowledge that the United States was flying close support for Cambodian troops in 1970.

In addition to past deceptions, the group of nine professors who authored the report, also indicated that the administration has attempted to downplay the intensity of the air war. With occasional troop withdrawals the American people are lulled into the belief that the war is grinding down. The air war is not grinding down, as indicated by the Cornell report. Rather deescalation has occurred very gradually in the whole of Indochina and the air war has actually recently escalated in Laos and Cambodia.

III

The air war study investigated in detail the air war over North Vietnam. The report indicated that North Vietnam suffered $500 million of damage in the air war. The total gross national product of that country is only $2 billion. The air war resulted in 100,000 casualties, 80 percent of whom were civilians. Yet despite these massive attacks, the Cornell report reveals that American bombing did not impair the ability of the North Vietnamese to conduct the war. If anything, the heavy bombing bolstered the morale of the soldiers and people of North Vietnam.

The report also charges that between 75 and 90 percent of the air raids over North Vietnam were "armed reconnaissance." In an armed reconnaissance raid, pilots are not given any prebriefed targets. Rather, they seek "targets of opportunity" to attack. The report concludes that this type of bombing results in a useless loss of life and property. It is very difficult indeed to choose appropriate military targets flying hundreds of miles an hour.

The report further charges that the number of "protective reaction raids" has been steadily increasing in the last few months. The attacks, according to one member of the group, are conducted whenever the North Vietnamese or Vietcong mass troops. On November 2, a U.S. Navy jet ventured 105 miles inside Vietnam to attack a battery that had fired missiles at his plane that was over Laos. It was the 70th raid into North Vietnam this year.

IV

The study also deals in detail with the air war over South Vietnam. A total of 3.6 million tons of bombs have been dropped on South Vietnam. In 1971 alone, the report estimated, that 200,000 tons of bombs will fall on South Vietnam. This 1971 pace over South Vietnam equals the worst year of the air war over North Vietnam. Yet, as the report points out, we are supposed to be defending South Vietnam.

The air war in South Vietnam has resulted in an estimated 1 million casualties and 325,000 deaths. A 30-year supply of hardwood timber has been destroyed and one-third of the forest areas have been defoliated.

The study also reveals that only 5 to 8 percent of the air raids conducted have been for the direct support of American or allied troops. This is the type of raid that can assist American units in a combat situation.

As the Vietnamization program continues and the South Vietnamese take over more of the air war, the United States has concentrated its efforts on saturation bombing with B-52 stratofortresses. The typical B-52 raid consists of six planes that, in a matter of seconds, drops 300,000 pounds of explosives leveling an area equivalent to 200 city blocks. To be more graphic, Mr. Speaker, according to the authors of the report, a B-52 raid would level an area reaching from the Capitol to the Lincoln Memorial, in 10 seconds.

V

No major deescalation of the air war has occurred over Laos or Cambodia. The major escalation of the bombing over Laos commenced in 1969 and in Cambodia in 1970.

The bombing of northern Laos alone in 1969, was as intense as the bombing over North Vietnam as its peak. When the bombing was halted over North Vietnam the American planes began to attack targets over Laos at a rate that equalled the sorti raid over North Vietnam. Despite all of our efforts in Laos, today the Path Lao controls more territory than ever before.

Although there has been a scaling down of bombing in all of Indochina, the escalation in Cambodia that began in 1970 continues unabated. The bulk of our air attacks in that country are considered harassment and interdiction with occasional close support raids.

VI

Mr. Speaker, a serious reading of this carefully prepared report is to me an indictment of the policy of this administration. American air power has failed, yet we rely on it more than ever before. Despite our past failures, our goal of a friendly regime in Saigon has not altered. This report summarizes the facts of an air war that continues at an awful pace with unnecessary human suffering. I enthusiastically recommend it to my colleagues for their careful study.

CONGRESSMAN JOSEPH P. ADDABBO REPORTS ON 92D CONGRESS, FIRST SESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Addabbo) is recognized for 30 minutes.

Mr. ADDABBO. Mr. Speaker, each year year since first being elected to the House of Representatives in 1960 I have summarized the activities of the Congress, reprinted it from the Congressional Record at my expense and mailed it to my constituents. I hope that this report will be informative and will encourage my constituents to send me their views on the important issues facing the Congress and the Nation.

In addition to my annual report to the 7th Congressional District, I also mail a questionnaire to each household. A questionnaire will again be sent early next year. The responses which I receive following these mailings help me in representing the people who live in my district and in deciding how to vote on var-

ious measures in the House of Representatives.

While Congress may not finally adjourn until Christmas this year, I can report on the following major areas of legislative activity during 1971.

FOREIGN POLICY

Unfortunately the top item in the field of foreign policy remains our role in Vietnam and Indochina. As the war continues the Congress has become more responsive to the frustrations and concerns of the American people over prolonged involvement of U.S. troops. I have joined with an ever increasing number of House Members in sponsoring, supporting and voting for amendments and resolutions requiring the withdrawal of all U.S. forces—both combat and advisory—within 6 months conditioned upon release of U.S. prisoners of war—the Mansfield amendment. I will continue to support similar steps to encourage and persuade the President to move more quickly in connection with the phased withdrawal of our forces from all Indochina.

The Middle East remains a serious threat to world peace and any change in the balance of military power in that region is of great concern to our Nation. I have sponsored a number of bills calling for action by the President to maintain military arms strengths in the Middle East and urging the President to act favorably on requests by Israel for shipment of F-4 jet aircraft needed by that nation in defense of its borders.

If the dangers of new wars are to be controlled we must improve communications with other world powers, particularly the Soviet Union and China. For these reasons I support the actions of the administration in this area. While I was shocked and in complete disagreement with the action of the United Nations in rejecting our two China policy I believe we must work harder to change the nature of the U.N. and bring about a reassessment of its potential as a peace keeping force. I would also suggest greater efforts to encourage the United Nations to define basic human rights under international law such as the freedom to leave a nation—a freedom now denied the Jews living in the Soviet Union.

THE ECONOMY

The severity of the economic situation was finally recognized by the President in August when he announced the 90-day wage-price freeze which has now been replaced by the phase II program of economic controls. Many Members of the Congress had called for economic controls a year before that first reaction by the administration but there are differences in approach which still concern me.

I had proposed an across-the-board tax cut of 5 percent, giving business and individual taxpayers identical relief but the administration's tax proposals do not contain significant consumer tax reductions. In addition, I favor much more activity in the area of job development through public works programs and public works programs and public service employment. This is particularly important in light of the large numbers of returning Vietnam veterans as well as the reductions in defense spending. We still need an economic plan to assure an orderly conversion from a wartime to a peacetime economy. The Congress will be watching this situation very closely during the months ahead.

ENVIRONMENTAL LEGISLATION

The Gateway National Recreation Area legislation which I have sponsored for the past several years continues to gain strength in the Congress. Passed by the Senate this year I am hopeful that the House will act favorably in 1972 making this master plan for the protection of more than 20,000 acres of land and water a reality. The unique recreational resources of Jamacia Bay will be included in this legislation to preserve the area at the entrance to New York Harbor.

I have included an amendment in my bill to prohibit airport expansion in the federally protected area in order to stop once and for all proposals to extend runways at Kennedy International Airport. This must be a bill with clear and meaningful environmental guidelines so that the ecological balance of this area will not be disturbed.

In 1971 I also called for new Federal efforts to reduce aircraft noise by supporting legislation to require retrofit program on existing aircraft, I have called for the resignation of the head of the Federal Aviation Administration because of the failure of the FAA to use its powers to regulate aircraft noise and pollution. The 1968 Aircraft Noise Abatement Act which I sponsored gives adequate power to the FAA but administration of that law has been slow and anything but vigorous. I am particularly pleased to report that any amendment to the Transportation Department's appropriation bill requiring that $4.5 million be earmarked for aircraft noise and pollution research was passed by the Congress. I will continue to prod the FAA and call for new efforts along these lines.

APPROPRIATION COMMITTEE

As a member of the House Appropriations Committee I have been able to voice my feelings about the need to redirect Federal revenues to areas of high priority. I have consistently supported increased appropriations for spending in the areas of education, health, job development and those domestic programs designated to attack the root causes of social unrest and poverty. A table showing House action on various appropriation bills is printed below.

EDUCATION

The Higher Education Act of 1971 passed by the House would assist the Nation's colleges and universities meet their increasing costs while at the same time broadening loan programs for students. I supported this legislation because of my conviction that we must make a real effort to provide every student with full educational opportunity regardless of financial ability to pay for the ever-escalating costs of that education. In addition, I favor the passage of some form of tax credit based upon income for the costs of college tuition.

VOTING AGE REDUCTION

Early in 1971 the Congress made history by passing a proposed amendment to the Constitution, since ratified by three-fourths of the States, lowering the voting age for all elections to 18. Approximately 11 million young people have now been given the right to participate in our election process and we must now encourage them to exercise that franchise.

HEALTH

A number of important health measures were passed by Congress including legislation to induce medical schools to graduate additional physicians and to increase the number of doctors, nurses and other health professionals practicing in rural and other shortage areas. A bill to provide for a concentrated attack on cancer is now being drafted by a House Committee following Senate adoption of similar legislation.

The subject of a national health insurance system for all Americans is now being considered by the House Ways and Means Committee and a House vote on this issue is expected next year. I will support legislation to help finance the high cost of health care and to assure that no American will have to fear the catastrophic costs of prolonged illness.

DRUG ABUSE

The problem of drug abuse throughout our Nation has reached crisis proportions and the Congress must and I believe will take positive steps to mobilize the education, research, and treatment resources to deal with this threat to our society. A special program to broaden eligibility for drug treatment programs for returning Vietnam veterans has been passed by the House and I believe more will be done to help our communities meet the needs of those who are addicted.

As a member of the Defense Appropriations Subcommittee I was able to conduct hearings on this most urgent problem. I have also sponsored and supported legislation to attack the drug problem at the source by curbing foreign aid to those countries which do not cooperate with us in stopping the illegal distribution and importing of heroin and other hard drugs. We must make a firm commitment to use every available weapon against the persons who are involved in drug traffic and we must act very quickly.

OIL PRICES

During this year I have called for several new programs to reduce the rising prices of oil and bring relief to our small businessmen and homeowners who must meet those rising costs. Among those proposals were the elimination of the present oil import quota system and the creation of a national defense petroleum reserve to assure adequate oil production capacity at home. Most recently I asked the President's Price Commission under phase II of the Economic Control program to investigate increased oil prices and to consider ordering a rollback in those prices raised during the price freeze period.

SUBCOMMITTEE CHAIRMAN

It was a high honor to be appointed a subcommittee chairman on the House Select Committee on Small Business earlier this year. I am very proud of my appointment and believe I can better meet the needs of my constituents in this new position.

As subcommittee chairman I was able to hold hearings this year on a number of problems facing our small businesses. In addition, I again sponsored a special procurement conference in Jamaica to acquaint our local businessmen with opportunities to bid on Federal contracts and on projects subcontracted by Federal Government prime contractors. Previous conferences have resulted in several million dollars in additional awards being made to our Seventh Congressional District. The Jamaica Chamber of Commerce cosponsored the conference and a number of Federal officials participated in the meeting.

MY WASHINGTON AND NEW YORK OFFICES

During my six terms as the Representative of the Seventh Congressional District, I have tried to make myself available to constituents who have problems involving Federal departments and agencies. In addition to my continuous weekend appearances in my district at meetings and functions of various civic, fraternal, veterans and religious organizations, I maintain a full-time district office, and my Washington office is always ready to assist my constituents.

Please write or call me at room 2440 Rayburn House Office Building, Washington, D.C., 20515 or at 96-11 101st Avenue, Ozone Park, N.Y., 11416.

ACTIONS ON BUDGET ESTIMATES OF NEW BUDGET (OBLIGATIONAL) AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 92D CONG., 1ST SESS., AS OF OCT. 27, 1971

[Does not include any back-door" type budget or spending authority in legislative bills; or any permanent (Federal or trust) authority, under earlier or "permanent" law,[1] without further or annual action by the Congress]

Bill and fiscal year	House actions			Senate actions			(+) or (−), latest action compared with budget requests
	Budget requests considered	Reported by committee	Approved by House	Budget requests considered	Approved by Senate	Enacted	
A. Bills for fiscal 1972:							
1. Education (H.R. 7016)	$5,068,343,000	$4,769,508,000	$4,800,088,000	$5,153,186,000	$5,615,198,000	$5,146,311,000	[2] −$6,875,000
2. Legislative (H.R. 8825)	455,744,595	449,739,605	448,899,605	535,349,607	532,297,749	529,309,479	−6,039,858
3. Agriculture—Environmental and Consumer Protection (H.R. 9270)	12,104,813,850	12,080,596,050	12,423,896,050	12,104,813,850	13,621,677,050	13,276,900,000	+1,172,086,200
4. State — Justice — Commerce — Judiciary (H.R. 9272)	4,204,997,000	4,036,898,000	[3] 3,684,183,000	4,216,802,000	4,089,083,000	4,007,116,000	−149,686,000
5. Treasury—Postal Service—General Government (H.R. 9271)	4,780,576,000	4,487,289,000	4,487,676,190	4,809,216,000	4,752,789,690	4,528,986,690	−280,229,310
6. Interior (H.R. 9417)	2,164,596,035	2,159,508,035	2,159,508,035	2,194,594,035	2,226,023,035	2,223,980,035	+29,386,000
7. HUD—Space—Science—Veterans (H.R. 9382)	17,457,017,000	18,108,203,000	18,115,203,000	17,457,017,000	18,698,518,000	18,339,738,000	[4] +882,721,000
8. Transportation (H.R. 9667)	[5] 3,007,550,997	2,732,189,997	[6] 2,733,369,997	2,860,327,997	[5] 2,958,929,997	2,905,310,997	+44,983,000
Fiscal year 1972 amounts only	(2,833,229,997)	(2,557,868,997)	[6] (2,559,048,997)	(2,686,006,997)	[6] (2,784,608,997)	(2,730,989,997)	(+44,983,000)
9. Labor—HEW (H.R. 10061)	19,942,996,000	20,264,746,000	20,361,247,000	20,123,637,000	21,018,317,000	20,704,662,000	+581,025,000
10. Public Works—AEC (H.R 10090)	4,615,945,000	4,576,148,000	4,576,173,000	4,616,082,000	4,716,922,000	4,675,125,000	+59,043,000
11. Military construction (H.R. 11481)	2,129,805,000	2,012,446,000	2,012,446,000				−117,359,000
12. Emergency Employment Assistance (H.J. Res. 833)	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	1,000,000,000	
13. Summer feeding programs for children (H.J. Res. 744)			17,000,000		17,000,000	17,000,000	+17,000,000
14. Federal unemployment benefits and allowances (H.J. Res. 915)	270,500,000	270,500,000	270,500,000	270,500,000	270,500,000	270,500,000	
Total, bills for fiscal 1972	17,202,857,477	76,947,751,687	77,091,189,877	75,341,525,489	79,526,975,521	77,684,939,521	[7] +2,226,055,032
B. Bills for fiscal 1971:							
1. Supplemental, Department of Labor (H.J. Res. 465)	50,675,000	50,675,000	50,675,000	50,675,000	50,675,000	50,675,000	
2. Continuing resolution (Transportation) (H.J. Res. 468)	(*)	(*)	[8] −55,000,000	(*)	[8] −55,000,000	[8] −55,000,000	[8] −55,000,000
3. Urgent Supplemental (H.J. Res. 567)	1,042,294,000	1,037,872,000	1,037,872,000	1,042,294,000	1,037,872,000	1,037,872,000	−4,422,000
4. 2d Supplemental (H.R. 8190)	[9] 7,746,078,149	[9] 6,881,152,545	[9] 6,889,152,545	[9] 7,879,740,077	[9] 7,285,468,973	[9] 7,028,195,973	−851,544,104
Total, bills for fiscal 1971	8,839,047,149	7,969,699,545	7,922,699,545	8,972,709,077	8,319,015,973	8,061,742,973	−910,966,014
C. Total for the session	86,041,904,626	84,917,451,232	85,013,889,422	84,314,234,566	87,845,991,494	85,746,628,494	+1,315,088,928

[1] The Budget for 1972, as submitted Jan. 29, tentatively estimated total new budget authority for 1972 at $267,437,000,000 gross ($248,965,000,000 net of some $18,472,000,000 interfund and intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget summary purposes only). Of this total, an estimated $97,646,000,000 does not require current action by Congress; it involves so-called permanent appropriations such as interest, various trust funds, etc. already provided for in various basic laws. The remainder, $169,491,000,000 is for consideration at this session (mostly in the appropriation bills). About $17,200,000,000 of the $165,500,000,000 was shown in the January budget as being "for later transmittal" for new or expanded legislation, pay increases, and contingencies, and about $38,114,000,000 of the remainder requires legislative reauthorization through various annual authorization bills or where the authorization expires periodically

[2] As passed by both House and Senate, the Education appropriation bill did not include $400,000,000 requested in the budget for purchase of student loan notes from colleges and universities, contingent upon legislative authority not yet enacted. If the $400,000,000 is excluded from all of the figures shown, the amount n the House approved bill is in effect a net increase of $131,745,000 over the budget requests considered by the House; the Senate approved bill on the same basis as $362,732,000 over the budget requests considered by the Senate; and the enacted bill on the same basis is $393,125,000 over the budget requests considered.

[3] There was $1,000,000,000 in the budget as a proposed supplemental for special revenue sharing, or one-half year funding in certain housing and urban development programs. Taking into account that $250,000,000 of that amount was for the HUD-Space-Science-Veterans bill, the House bill is $191,814,000 below the budget requests; the Senate bill is $391,501,000 above the requests; and the enacted figure is $32,721,000 above the requests. Taking into account the remaining $150,000,000 of the proposed supplemental which was for the Agriculture-Environmental and Consumer Protection bill, the House bill is $169,082,200 above the budget requests; the Senate bill is $1,366,863,200 above the requests; and the enacted figure is $1,022,086,200 above the requests.

[4] Excludes $352,715,000 because all maritime programs and one judiciary item were struck by House floor points of order.

[5] Includes $235,000,000 related to prior decision to terminate the SST (which, however, was revised downward in budget requests considered by Senate).

[6] House bill does not include $248,000,000 floor addition to "Federal Payment to Airport and Airway Trust Fund" since, technically, it is not new budget authority until appropriated out of the trust fund. Senate bill adds another $219,800,000 to this "Federal payment" account; conference report adds $239,000,000 to the budget for this "Federal payment."

[7] Considering footnotes [2] and [3] ($400,000,000 for the purchase of student loan notes from colleges, and universities and $1,000,000,000 for the proposed supplemental for special revenue sharing), the House bills are $711,667,000 below the budget requests; the Senate bills are $3,585,450,032 above the requests; and the enacted figure is $1,743,414,032 above the requests.

[8] The budget requests for fiscal 1971, as reflected in the 1971 transportation appropriation bill considered by the Congress during the 2d session, 91st Congress of, $2,553,816,437, were reduced by $85,681,832 by actions of Congress during the 2d session, 91st Congress. The amount carried in the fiscal 1972 budget for the 1971 transportation appropriation bill reflected such reductions. It is estimated that congressional action at the current session on 1971 appropriations for the Department of Transportation (killing the SST in H.J. Res. 468) further reduced the amount available for fiscal 1971 by $55,000,000.

[9] Includes advance appropriations of $100,000,000 for 1972 for cancer research.

Prepared October 27, 1971, in the House Committee on Appropriations.

SUPREME COURT NOMINEE POWELL AND BERRIGANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. ANDERSON) is recognized for 20 minutes.

Mr. ANDERSON of Tennessee. Mr. Speaker, this past Wednesday the New York Times reprinted an article by Supreme Court nominee, Lewis F. Powell, under the caption, "America Is Not a Repressive Society." This article, I understand, was written for the August 1 edition of The Times Dispatch of Richmond and was further distributed as part of the October FBI Law Enforcement Bulletin.

Mr. Powell professes considerable dedication to fact by saying, "But the truth rarely overtakes falsehood—especially when the latter is disseminated by prestigious newspapers"—not only dedication to fact, but heroic dedication to the Vice President's most ardent cause.

As long as we are dedicating ourselves to truth, we might as well go the full course.

In the article, Mr. Powell states,

The Berrigans, one of whom stands convicted of destroying draft records, are charged with plots to bomb and kidnap.

The facts are that not one Berrigan, but two, both Daniel and Philip, stand convicted of destroying draft records and are now serving sentences at Danbury, Conn.; and not two Berrigans, but one, Philip, is a defendant in the so-called Harrisburg conspiracy case. Daniel Berrigan has never been a defendant in this case, except by proclamation of FBI Director Hoover last November.

In the original indictment handed

down last January, Daniel Berrigan was not charged, rather he was named a "co-conspirator." In the subsequent indictment handed down last spring, Father Daniel Berrigan was dropped completely out of the case. Supreme Court nominee Powell deserves to have this matter clarified for him. Thus, I include in the RECORD a copy of a letter written by Father Daniel Berigan to Mr. J. Edgar Hoover, which accomplishes that better than I can.

DANBURY, CONN.,
May 16, 1971.

DEAR MR. HOOVER: The removal of my name from the Federal indictments in the Harrisburg case affords me the opportunity to address you. Such an opportunity could not be said to exist while I lay under the jeopardy of the law, as announced by yourself last November. So I hasten to write you while I enjoy the status of a disinterested party.

I ask you to recall, lest the above sound ironic, the "progress" of my case. According to your November announcement I was a ringleader in a spectacular plot. Then at a later date, I was shunted to the outer circle of guilt; my status was reduced to that of "unindicted conspirator". Finally I was purged of that nebulous criminality. I was declared, out of court, not so much an innocent person, as a non-person, with respect to this case.

But this letter, with all respect, concerns yourself as well as me. You are much in the news these days. In a sense, and with no intemperate irony, it seems that our roles have been strangely reversed. A year ago I was the object of a purposeful manhunt by your agents. The hunt was concluded successfully; I was delivered into custody. Now, the national media, political officeholders, even certain highly placed agents of your household, declare or imply that your public usefulness has ended. The defense offered by your superiors and colleagues is tepid; your removal from office is regarded in many circles as an event urgently required, as some say, "for the welfare of the Bureau"; or others, "for the welfare of the nation".

Thus our present situation, yours and mine. It may be fitting before I continue, to outline what I do *not* intend to discuss in this letter.

1) I will not needle or prod you in a spirit of revenge. Indeed I have a serious quarrel with your misuse of authority, your intemperate and illegal "revelations" of last November. But, luckily, for me, your accusations have not stood. Their untruth is evident, and I am content.

2) Neither does this letter announce a suit against you for defamation of character. Such an action holds no appeal for me. My honor depends on no settlement from you.

3) Nor do I wish to enter into your motives of last November, or of any other occasion. Whether vindictiveness, pique or outraged ego have governed your attitudes toward myself and others (many of them respected public figures) is not mine to conclude. In the final analysis this matter rests between your conscience and God.

When these matters are put aside, I believe the ground is cleared for fruitful discussion. I would like to believe that the spirit of nonviolence may govern your pen and mine. Further, that this same spirit may create its own ground rules and style: no hidden plays, no invisible writing, no subtle or sweet revenge.

Rather, fidelity on both sides to the saying of St. Ignatius, "That the truth might appear." A truth that neither of us is in possession of, but that might be granted us because each is open to its demands.

Perhaps, in this spirit, we can (in a manner of speaking) destroy those "files" which opponents are tempted to accumulate against one another. Let us keep no memory bank of one another's delicts or sins. I would like simply to share with you certain experiences, views of life, impressions of America and of American prisons. I would like to reflect on your role and mine in society, on conscience, on religious tradition, on war and peace, on crime and punishment. On these subjects and whatever others you may wish to pursue.

A persistent suggestion was made to me during the past days, that I should urge you in this letter, to resign from office as soon as may be convenient. I rejected this counsel with only small hesitation; it seemed to me both inappropriate in principle and dubious in value. By what right should I intervene in such a matter, especially when I am convinced that your replacement would offer no solution to the problems which bedevil us? Indeed if 51% of Americans believe that you should be replaced in office, it is not because they object in principle to spies, provocateurs, defamation of character, or trials through public media. It would be difficult to discover indeed whether Americans judged you had gone too far, or not far enough, in these matters.

It is of small interest to me therefore whether you choose to continue in office or not. In such offices as yours, replacements are at hand; qualities of inflexibility, sternness, moral conformity, so permeate the national character as to throw up, with regularity, men who will do honor to such offices.

What the nature of that office has become under your guiding genius, continues to intrigue many. It even offers me a kind of chilling comfort to reflect that being a prisoner in America today in a way of anticipating the America of, say, 1984. You and others are even now creating that America. In prison, our civil and human rights are curtailed or suspended. Our mail is censored, public speech is cut off, access to family and friends is restricted, dissent summarily (some would say brutally) dealt with. We prisoners are in fact (I am a veritable Quixote in pursuit of positive thinking) the subject of an important paramedical experiment. We today, America tomorrow! Authorities are persuaded that the amputation of human rights is of benefit to delinquents; so they proceed to put saw and ax to the body social. Better a healthy basket case than a sound troublemaker! Or again, if a delinquent is rehabilitated by cutting back his manhood, can not society be reformed by a like radical surgery? Crutches and prosthetics will then be no embarrassment to anyone; a gimp will join a limping society. Dissent will be a dim memory of early heroes and their happenings, but America will have created her final revolution against all revolution, including her own.

I do believe this process is already underway. By, say 1984, the ineffable benefits of my present existence ought to be available by law, to all Americans. That is to say, their social intercourse will be monitored, their speech tapped, their access to family and friends controlled, their urges toward dissent summarily (some would say brutally) dealt with.

Undoubtedly a larger talent is required to get such machinery in motion, than to fall under its gears. Not talent alone, but organization, moneys, charrismatic purpose, morality. My congratulations. You can at present point to all sorts of evidence that the machine is in motion and functioning to satisfaction. One has only to think of the army of trained agents (many of them religiously afire), of access to Congress, to the President, to the media. As for me, I have fallen under your gears. I am officially reduced to silence and can address you only under the legal fiction of a court action. I am moreover smeared with the large brush you wielded last November. Alas for me, no American brush cleans quite so well as it dirties—a fact well known to yourself. Removal of charges does not leave one untarred. The mark you traced against my name remains a "yes, but . . ." a question mark. Bravo for you.

I am thus a specific instance of a general trend, an American trend for which credit within measure must be given to you. Let me try to define the trend.. It moves our country in a single direction toward the death of freedom, which is to say the death of man as we have known him and nurtured him, the death of America. Of the reality of this trend, I am one example, that of criminal, of its success. You are an articulate witness.

But let us be exact. Large as your role has been in creating the first stages of the New America, still your part has about it a certain necessary modesty. One must admit if you had not been available to the America of our century, American genius would have created someone like you. Not so skillful or single-minded perhaps, not gifted with that longevity which has enabled you for so many years to be warden and spokesman for the conscience, the fears, and hopes of a turbulent and tortured nation.

You are, not, in other words, to be confused with the direction America has chosen. But you have sensed the direction, have legitimatized it, bestowed on it the sacrosanct name of law and order, won for it the blessing of the churches. The nation called you, and you responded—with nearly heroic constancy. Political troublemakers, the angry and disenchanted, the clairvoyant and deviant—these you unmasked, punished, put away.

By such crusades, so the reasoning went, Americans might become at length the people they so fervently longed to be—a people of innocence, of conscience, of benevolence.

One would not be so blind as to deny your crusades in peculiarly American terms have produced "results". You were able to announce, year after year, a rising tide of crime, and to confront it. You and the Bureau stood at the open end of a stinking cornucopia, as the "criminals" poured out. You were empowered not only to seize on them and bring them to justice, but to help America define their crimes as well. Crimes against the sound dollar, against General Motors, against laissez faire, against national security, against NATO and SEATO, against war, against racism. The crime, in many instances, of defining or aiding or abetting or conspiring toward a vision of man that was in conflict with yours, and therefore in conflict with America. And therefore criminal.

You have grown in that effort, and I am in prison, and we are not yet the people we long to become. In fact, you and I for vastly different reasons, might agree somberly that America is further than ever from realizing that vision. The people are distempered, ridden with fear, distrustful of one another, itchy to take and to inflict blows. Their faces reassure neither themselves nor the world; God fearing and bellicose, spartan and self-indulgent, puritanical and prurient. Alas, some would claim that the immaculate purity of the goal is all but lost in the welter of impure means. Among which means some would suggest must be numbered Vietnam, Kent State, informers, misuse of grand juries.

This impurity besetting the nation and besetting its soul is, let me confess, the clue to my peculiar pride. I believe that the means and the goal must be one. So, in America, in 1971, I had rather be a prisoner on my own terms, than a President on yours.

This summer I will have completed a year of my prison term. I will appear before a parole board to give evidence of my rehabilitation. I should like you to be the first to know that I am indeed rehabilitated. This year I have counseled and befriended young prisoners, helped conduct classes in such books as "St. Matthews Gospel", Gandhi's "Autobiography", "Gulliver's Travels", Erikson's "Young Luther". I have worked in the prison dental clinic, meditated on my crime and punishment, celebrated mass; in every way I know I have lived according to the best urgings of my soul. Thus my 50th year has come and gone in the urgent effort to habilitate my life to the tempo and hope of humanity.

I have no hope at all that this program will be found satisfactory to my keepers. In every likelihood, I will be informed that my prison term is to be extended to the maximum. The decision I accept in advance; it is predictable, and in the logic of present day America, right and just. I have not, after all, murdered children under military orders, nor tortured prisoners nor napalmed women, nor laid waste a foreign culture.

My crime in comparison with such incidents of war is plenary; I have burned papers instead of children. Let us rejoice that justice can distinguish criminal priests from military heroes.

You will pardon me if a vexing question sticks in my mind. It concerns you. You have publicly accused me of plotting crimes against humans and property; your accusation denied me a hearing or a trial. How, I ask myself, does American justice apply in your case?

The answer is a simple one. Justice does not apply. The bold assurance with which you spoke against me is proof that you gathered nine points of the law to yourself. Your conduct of November last declared more forcibly than words the truth of the matter; there exist summits of authority at which the law is irrelevant. And indeed your assumption is correct. Our judge conceded as much during the Catonsville trial. He granted that no American President could be summoned to his court on charges of waging a war in violation of the Constitution. You stand, evidently, in the aura of that same exalted immunity.

Still, I think, in the errant way of a prisoner, such an arrangement should not go unchallenged. The law of the land must apply in principle to every citizen; otherwise the law is void in principle, and guilt becomes a matter of the spleen or caprice of those in power. No; if a priest is answerable before the law, so must a President be, or the chief of the F.B.I.

Therefore, it occurs to me that you are guilty of a serious offense against the law and that I should invite you to undergo a period of rehabilitation, even as I am undergoing it. My reflections proceed carefully, and I hope with compassion. You are an old man, aged as several prisoners here, who languish and mourn at Danbury, while health and spirit fail them. I would not have you condemned to the fate to which you (and others) have consigned them—not even in my own mind.

Other alternatives occurred to me. Perhaps you should be invited to pass a period of time living among black Americans. You held their martyred leader, Martin King, in peculiar regard. Perhaps the spirit of his people, their courage and patience, the poverty in which the majority of them live and die, their faith in man's goodness, might revive your soul. Perhaps they could be persuaded to receive you into their midst for a time, as one more white man in search of a soul. You might be brought to tears and a change of heart. Among these people, steeped in the wisdom of suffering, such things are held possible. You could share their buffets and humiliation as they seek justice in our courts, or healing in public hospitals, or survival on public welfare. The teeth of rodents, the cries of hungry children, might pierce the tranquil armor of your isolation and open you to the realities of life as experienced by so many today.

A like plan might be workable among our Spanish peoples, concerning whom you have vented certain feelings of late. Or among peoples of Appalachia or the slums of Brooklyn or Chicago.

But then I thought in near despair, who am I to choose for you, or for the peoples of poverty, the form of your soul's rebuilding? The people must choose; you must choose for yourself. No man can easily enter, as a friend or disciple, among those he has stigmatized. Nor can I choose, for you, so to enter. It might even happen that such despair, such anguish (as well as such invincible love and long sufferance and courage) as is the daily portion and resource of these people, would break you in pieces, as it nearly breaks me, each day I live among them in prison.

No, in the cold daylight of America, it is clear that my reflections are nearly hopeless. I cannot choose for you, or for the people the form of your healing.

Still, perhaps my words have not been entirely without point. I have insisted, and continue to insist, that you stand under the law, in spite of all. You stand there, as I stand there. The government has obligingly set the term and condition of my punishment. If I refuse to apply the same harsh word to you, or to "punish" you even in my thoughts, it is because I continue to take seriously one truth—that no man can be punished into manhood. Neither you nor I nor the prisoners in domestic Tombs nor those in foreign Tiger Cages. No, if some men, suffering the rigor of the law, choose to become men, which is to say if they perservere in nonviolence toward the keepers of tombs and tigers, it is not because punishment or cages, or tombs, are tools of human change.

Such men are reborn because they choose to punish no one, to work no violence in return for violence. Thus, they choose, when manhood is defaced by official violence, by war, by law and order masking lawlessness and disorder—they choose to love. In that choice, you are included. In that choice I venture to say, you will be saved.

For both of us, and for many others as well, whatever their circumstances of power or powerlessness, one question remains. It takes many forms; it is one. How shall we become men? How shall we live with other men? How shall we so live that no man need die—whether of hunger, of violence, of vengeance, of despair, of the accumulated burdens of life, its injustice and poverty pressing him into the earth before his time? What law shall we keep so that no life be lost in the keeping? And inevitably, when is violation of the laws a vindication of human life?

In court, in prison, at prayer, I have come on only the most tentative answers to these questions. I can only say to you, I have come on the questions.

But I have never heard, that in almost 50 years of voluminous public utterance, you have framed a single such question. You have summoned Americans to many a crusade—against violators of law, against delinquents and deviants. But have you ever given thought to the victims, to the poor, to those who seek a life worthy of human beings, to those whose "criminality" is a great cry against injustice, against the law inequably applied, against institutional disorder?

This letter is a long one. I hope it proves neither burdensome nor accusative. I hope through it to offer you thoughts which are of more profit to you than the encomia of those who praise thoughtlessly.

My father who died at 90, would say a late wisdom is better than no wisdom at all. I pray for you, as for myself, that better wisdom.

Sincerely.

DANIEL BERRIGAN, S.J.

SCOTLAND NECK, N.C.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 20 minutes.

Mr. FOUNTAIN. Mr. Speaker, Scotland Neck, N.C., is a thriving, progessive North Carolina town, despite what NBC–TV may have said to the contrary during a 1-hour program on August 27, 1971.

Scotland Neck, N.C., is a wonderful place in which to live and work and play, and I am proud and honored to represent this fine community and its people in the Congress of the United States.

On Wednesday, November 3, 1971, the Scotland Neck Commonwealth, of which Eric W. Rodgers is editor, devoted an entire edition to a correction of the misinformation and erroneous impression conveyed by NBC–TC, and to telling of the truth "about the real Scotland Neck, which apparently NBC–TV deliberately overlooked or made no effort to discover.

I would like to bring several articles from this edition to the attention of my colleagues, and all others who may have seen and heard the NBC–TV program in question.

They are as follows:

READ THE TRUTH

Several weeks ago there appeared on a national television broadcast by National Broadcasting Company a program which was very disparaging to Scotland Neck. The program attempted to give a picture of conditions in some sections of the South, and centered in part on Scotland Neck and vicinity. It referred to Scotland Neck as a dying community, and went on to give alleged facts to back up the conclusion. Some of these statements were half-statements, to say the least. The bad was emphasized and the good was overlooked. It put Scotland Neck in a very bad light insofar as the viewing public was concerned.

It was decided by the management of the Scotland Neck Commonwealth that a rebuttal to the statements that were made and the conclusions which were drawn was in order. This edition of the newspaper in our answer to the largely unjustified and unfair picture of this community which was given. Merchants, private citizens, public officials and organizations have joined wholeheartedly in this effort to tell the truth about the REAL Scotland Neck.

No this community is not dying, neither is it discouraged because there have been in recent years some unfavorable events brought about by mechanization of the farms. We have accepted these events as part of the ups and downs of history. One does not expect over a long period of years that every economic event will be favorable, nor is one downhearted whenever everything does not occur according to an optimistic plan. But all of us do expect that when the bad is reported in vivid phrases and deceptive photographs, the good also will be reported at the same time. This was what the television broadcast did not do, and in thus failing to report all the facts the television promoters were recreant to the trust reposed in them to deal fairly with all in matters affecting the activities and lives of others.

We will not attempt to summarise this edition in a single editorial. There is so much that is good about Scotland Neck that we urge all our readers to read this edition carefully. Here they will find the truth.

NBC PEACOCK LAYS EGG IN BLACKBIRD NEST

(By Lew Gregory)

Why Scotland Neck was selected for the story is anybody's guess, but many people have said it was because of the national publicity surrounding the millions of blackbirds which annually roost in the woods west of town. As if the birds were not problem enough, the town recently experienced another type of invasion.

On August 27, 1971 NBC News presented a one hour "documentary" entitled "Leaving Home Blues". The purpose of the show was to dramatize the plight of rural youth who are unable to find employment upon graduation from high school and must migrate to urban areas to get a job. Scotland Neck was one of the two towns chosen to represent the problem. The people of Scotland Neck resent the manner in which the story was researched and reported. This issue of the Commonwealth is dedicated to a rebuttal to NBC News' claims that Scotland Neck is a dying town.

Generally, people in Scotland Neck were angry at what was unanimously considered biased reporting. The one shot of Main Street was barely recognizable and gave the appearance of a fairly adequate set for an old western movie. There was not one shot of a relatively new home, not one picture of a church, not one glimpse of a prosperous looking business.

Few people interviewed by the Commonwealth denied Scotland Neck has problems. Everyone we interviewed agreed that Scotland Neck's problems are minor in comparison to neighboring communities and the general situation nationally.

The Scotland Neck Industrial Development Team is a group of businessmen who have volunteered their time to tell the Scotland Neck story to industries which might consider locating here. They have donated many hundreds of man hours and travelled many miles promoting this town. They have not been without success. In recent years Fulflex of Carolina and Paul Bruce Co. have both built plants and both are thriving and expanding. Fulflex is advertising in this issue of the Commonwealth for personnel to man an expansion program and Joseph McCauley, Manager of Paul Bruce Co., told this reporter that his company has hired over one hundred people since he came here less than six months ago.

The "Dying town" label patted on the town of Scotland Neck would probably have been accepted as an example of the usual opinion of city dwellers for their less suave and sophisticated counterparts who live in the small towns. There was talk about the show, but it gradually died down. Then it was learned that Senator Stevenson of Illinois, the Chairman of the House Committee on Rural Migration, had submitted the entire text of "Leaving Home Blues" to be printed into the Congressional Record of September 10. This was the last straw. Civic pride reared its head and the people stepped foreward to defend their town's name. No one claimed that NBC News had said anything untrue, but everyone agreed that half truths distorted the story and the result was as if there had been little desire for all the facts.

The facts are that Scotland Neck has experienced steady growth for many years. The town budget for the 1970–1971 year was almost double that of the 1946–1965 figure. Property values and tax levies have risen steadily each year since 1965. Since 1965 Scotland Neck has spent $765,391.66 on capital expenditures with only one federal grant of $38,700 which went toward a new sewer plant. In 1968 bonds totaling $151,365.26 were issued and this indebtedness has been reduced to $105,000 which represents the total debt of the community. There is a $40,000 reserve fund to go toward construction of a new Municipal Building in the near future. All this with a tax rate of $1.30 per hundred valuation which rate has remained constant for ten years. Voter registration is up from a 1965 figure of 997 to 1329 in 1970. These are not the symptoms of a dying town. In fact a March 24, 1971 article in this newspaper stated that Scotland Neck had more money on hand ($346,560.00) than any town in Halifax, Gates, Hertford, Bertie, or Northampton Counties, and this included towns such as Ahoskie which is many times the size of Scotland Neck.

The above figures were all available to the NBC News team which made the assumption that Scotland Neck was dying. The "Newsmen" made no effort to obtain them. They did not contact the Town Clerk, either bank or the Building & Loan, and did not have the courtesy to talk with Mayor Harrison. It appears to many that they came to Scotland Neck with their answers already written down and didn't take the time to ask the questions. When a reporter from this newspaper courteously requested a brief interview with the director he was asked to return in 30 minutes. He was back in 20 minutes and waited 45. Finally he was ushered out of the building and the door closed behind him. After seeing the television results of their work, the reporter said he understood why they were reluctant to discuss their intentions.

While the distorted image of Scotland Neck has been broadcast across the country and accepted by many as accurate, the citizens of this town do not feel it has done them any major damage. They have no illusions about this small town being of any great national importance, and feel that most of those who viewed the program have already forgotten the names of the towns mentioned.

Two things do concern them. First, a group of disheveled, discourteous visitors came to our town, and made what appears to be a deliberate attempt to tell a distorted story about us. Second, and perhaps more important, if this is an example of the accuracy with which our national news media present their findings then this nation is in serious trouble.

It is time those responsible for forming the opinions of the masses search their consciences and accept fully the tremendous responsibility to which they have been entrusted. Perhaps our most precious liberty is that of being truly and fully informed. The practices we have mentioned here are a serious threat to that liberty.

Biased Reporting at Its Worst

(By Lew Gregory)

On August 27, NBC News presented a one-hour "Documentary" entitled "Leaving Home Blues." The subject was rural migration in America and about half of the program was devoted to NBC's contention that Scotland Neck is dying because all of its youth are leaving town and going up "North."

To anyone not familiar with the facts, the program would leave no doubt that Scotland Neck is a hick town without a single home or church or business worth photographing and those who do not immediately pack up and migrate somewhere—anywhere—are simply not facing the facts of life. According to NBC News, Scotland Neck is dead.

We protest this hasty conclusion which we contend was reached before the news team arrived in town. We say they had their minds made up because no member of the news team contacted our mayor, either banker, the town clerk or any of the local agencies which could give factual data about the condition of the town.

We realize that their primary mission was to dramatize the flight of certain young people from rural areas to urban centers. We make no denial of this, but we protest the omission from the film those students who said they were not leaving. We protest the statement that Scotland Neck is a dying town.

We protest the absence of pictures showing anything good about our town. Not one decent home, not one church, not one stable business.

We protest that NBC stated, but buried, the fact that 56 per cent of the graduates were actually going home. They had been living here with their grandparents.

We protest that our town has been held up before the nation as an indigent welfare recipient, unable to care for its own.

We do not deny our problems. No town or city regardless of size is without them.

But we demand the right to speak out in defense of our town. Our citizens, both black and white, have been insulted by a group of newsmen who were so disheveled and unkempt that one banker refused to cash their travelers checks until they produced positive identification.

The people they insulated may live in a small town, but they are the kind who are the real heartbeat of America. Scotland Neck is weathering the mechanical revolution of agriculture. Scotland Neck is weathering the racial revolution with stable, level headed citizens, both black and white, working together without a single race riot in our history. It has not been easy for either side in these issues, but this town has stood for almost 300 years and its roots go deep. Blacks and whites together love this town and together they will see that it does not die.

In a survey of local businesses every reply we have received has said they had experienced a steady increase in business and had confidence in the future of Scotland Neck.

Branch Banking and Trust Company has averaged a seven percent increase each year for the past five years and is presently constructing a new building to support an anticipated 10 percent annual increase over the next five years.

Fulflex of Carolina, our largest industry, is presently advertising for men to staff a 20 percent expansion program.

The Scotland Neck Development Commission has been actively soliciting new industry and expects to announce favorable results very soon.

If these are signs of a dying town, then the whole world is sick.

Anyone who reports the news will occasionally miss a fact or misinterpret an action. But for a team from one of the major national networks to base their entire story on interviews with students and new teachers without even trying to contact the town officials is frightening.

We say we have a free press. It is just possible that the Russian peasant is more accurately informed than we are. Chances are his underground is reliable.

Street Talk

(By Lew Gregory)

It's fun to get into a project when everything goes just as you hoped it would. We just had that experience.

It all started when we decided to write a rebuttal to the slipshod crew from NBC News who put on the supposedly factual show called "Leaving Home Blues." We sent out questionnaires to many of the businesses here in town to see if they were contacted for any information and what their opinions were of the business and labor situation here.

The responses were so consistent in saying that Scotland Neck had been done a gross injustice and unanimous in the feeling that the truth had been distorted that we saw the possibility to use this as a rallying point for our town. Hence, this special "Staying Home Joys" issue.

The merchants of Scotland Neck have put themselves on record here as being glad to do business in this town. They are consistent in the feeling that, while we undeniably have problems, business, in general, is better each year, and they are glad to be a part of the Scotland Neck business community.

We are printing several hundred extra copies of this issue and will give them, without charge, to the Scotland Neck Development Commission to show to prospective industries. It is generally agreed that statements from those of us who make our living here should be impressive to someone considering this as a location for an industrial plant.

If this effort is successful in helping to bring one new industry to Scotland Neck it will have been more than worth the time and trouble which went into it. Every business in town will feel the difference brought about by an influx of new families and fuller employment for those already living here.

The response from the merchants has been practically unanimous. We said, in an editorial written several weeks ago but printed in this issue, that those of us in this town have roots which go deep. We had no idea how deep. This town is far from dead. Sure, it's a small rural community, and not very impressive to urban dwellers accustomed to skyscrapers, smog in their lungs, and grit in their eyes, but we serve fair warning to those who would distort the truth to malign us. There is a solid foundation under this quiet little town of Scotland Neck and even NBC News isn't big enough to grab this tiger by the tail.

As long as this spirit lasts, we will have our quiet little town. We will have a place we can be proud to call home.

Businessmen React to "Leaving Home Blues"

In order to poll the opinions of businessmen and merchants in Scotland Neck the Commonwealth sent out questionnaires asking what they felt of the accuracy of the story told by "Leaving Home Blues." The responses were consistent in their disagreement with the conclusions drawn by NBC News.

100% of those answering said they had not been contacted for any comment on the Scotland labor or school situation. One of those answering was Bob Winfield, Chairman of the Scotland Neck School Board. He commented ". . . I assume they didn't want true facts."

Other questions and the responses follow:

What trend has your business taken during the past ten years? 20% answered "Slight increase" and 80% said "Steady increase."

What is your outlook for the future of Scotland Neck? Pessimistic 0, Not encouraging 0, Fair 7%, Moderately good 62%, and Excellent 31%.

Are you planning an expansion in your business within the next two years? Yes, 56%, No, 31%, and 13% had just completed expansion programs.

When you have a job vacancy do you have difficulty filling it? Yes 57%, No 43%. Those answering yes all said they had difficulty finding qualified labor.

75% of those answering said they had seen Leaving Home Blues. They all said they believed it to be biased, and 66% said it "Grossly misrepresented the facts."

Interesting conclusions, can be drawn from some of these replys.

In the "Blues", Stuart Wooten, Principal of Scotland Neck High School stated that his school offered industrial arts training such as bricklaying, but the men could not find work in Scotland Neck. In answers to the questionnaires A. C. House, Jr. builder said he has difficulty filling vacancies because no qualified labor was available. W. L. Clark, builder, said he was not expanding because "No labor available." American Homes and Realty Co. mentioned the shortage of bricklayers and having to wait for men to come from out of town to do this work.

Walter Anderson of Fulflex said that only a very small percentage of the graduates from Scotland Neck High School apply to his company for work. Extra publicity given his company by the "Blues" probably has something to do with the fact that twelve members of the 1971 graduating class are now on his payroll. Most of them had not applied prior to the show.

A statement by an automobile dealer sums up the feelings of many of the business community. "NBC should be made to pay for this misrepresentation, it hurts."

Registered Voters

Registered voters have increased one third in the past five years. Some people may be moving away, but some are staying in Scotland Neck.

In 1965 there were 997 voters registered in Scotland Neck township and in 1970 the figure had risen to 1329.

Town Budget

If town budgets are any indication of the financial health of a community then Scotland Neck is about twice as healthy as it was six years ago.

The 1964–'65 budget was $399,950.00 compared to the 1970–'71 budget of almost twice as much $710,317.15.

The budget does not include an item marked "Funeral, town of Scotland Neck."

Capital Expenditures Increase

Total expenditures by the town of Scotland Neck have been on the rise in recent years.

Capital expenditures are investments in the future. A dying town has little use for such planning.

1965	$40,915.27
1966	80,879.49
1967	282,973.15
1968	96,735.25
1969	145,879.68
1970	166,008.79

Specifically money went toward the following major items:

New water plant	$187,152.16
New sewer plant	138,404.00
Sewer additions	112,000.00
Street improvements	251,316.30
Building reserve	40,000.00

Property Valuation

Property valuation and tax levies in Scotland Neck have increased at a steady pace during the past seven years for which figures were checked.

Year, Property value, and Tax levy:

1965, $4,391,994.00, $57,490.61.
1966, $4,544,781.00, $59,471.15.
1967, $4,778,476.00, $62,521.14.
1968, $4,864,696.00, $63,621.74.
1969, $4,969,828.00, $64,969.55.
1970, $5,089,080.00, $66,463.44.
1971, $5,291,745.00, $69,123.51.

CLARIFYING TERM "CHILD" UNDER RETIREMENT LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 10 minutes.

Mr. DULSKI. Mr. Speaker, at the request of the U.S. Civil Service Commission, submitted to you by letter of November 2, 1971, I am today introducing legislation to clarify and expand the definition of the term "child" in the civil service retirement law.

Chairman Hampton has outlined the background and basis for the proposed legislation in his letter which I include as a part of my remarks:

WASHINGTON, D.C.,
November 2, 1971.

Hon. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: The Commission submits for the consideration of the Congress, and recommends prompt favorable action on, the attached legislative proposal. The proposal would expand the definition of the term "child" in the Civil Service Retirement law (5 U.S.C. 8341) for survivor annuity purposes to include as an adopted child one who has met the conditions described below.

The current definition of a child in the retirement law in effect, provides that an adopted child is legally adopted only when the decree of adoption has become final. The purpose of the proposed legislation is to provide that the child shall be considered legally adopted in each case where (a) a petition for adoption had been filed, (b) the child was residing in the home of the individual, and (c) the final decree of adoption was subsequently granted to the deceased's surviving spouse.

Despite the fact that the prospective adoptive parent has assumed full parental responsibility for the child, an adopted child is not recognized for the purposes of survivor annuity benefits under the Civil Service Retirement law unless the final decree of adoption was issued before the death of the employee. On the other hand, a stepchild who lives with a Fedral employee in a regular parent-child relationship is immediately recognized for survivor benefits. It appears reasonable to assume that the parent-child relationship is at least as strong in the case of a child where adoption proceedings have been undertaken.

Similar legislation has been enacted for the purpose of Social Security, Railroad Retirement and Veterans Administration benefits. Section 216(e) of the Social Security Act reads, in pertinent part, as follows:

"A person shall be deemed, as of the date of death of an individual, to be the legally adopted child of such individual if such person was at the time of such individual's death living in such individual's household and was legally adopted by such individual's surviving spouse after such individual's death but only if (A) proceedings for the adoption of the child had been instituted by such individual before his death . . ."

The Railroad Retirement Act (Section 228 e(1)(1)) provides that the definition of a "child" is the same as that in the Social Security Act.

Section 101(4) of title 38, United States Code includes in the definition of "child", for purposes of Veterans Administration benefits, the following:

"A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until the decree is rescinded: *Provided*, that the child remains in the custody of the adopting parent or parents during the interlocutory period."

The Commission believes this legislation is necessary to provide equitable relief to the deceased's surviving spouse in the relatively rare case where a Federal employee had initiated adoption proceedings, died before the adoption could become final, and his widow did finally adopt the child.

Inasmuch as the number of children to be affected by this proposal cannot be determined, it is not possible to estimate the additional cost of this proposal to the Civil Service Retirement and Disability Fund. However, because such cases rarely occur, the cost will be relatively negligible.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to submission of this draft bill to Congress.

A similar letter is being sent to the President of the Senate.

By direction of the Commission:

Sincerely yours,
ROBERT HAMPTON,
chairman,
U.S. Civil Service Commission.

KEYSTONES FOR WESTERN SECURITY: CONTINUED U.S. SOVEREIGNTY OVER CANAL ZONE AND MAJOR MODERNIZATION OF PANAMA CANAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, in many addresses and public statements in and out of the Congress over a period of years, I have stressed that continued sovereign control by the United States over the Canal Zone and the major modernization of the existing Panama Canal are keystones in the arch of Western security. Momentous events since 1956, including two closures of the Suez Canal, the Communist takeover of Cuba, the election of a Red leader as President of Chile, and the expulsion of Nationalist China from the United Nations, coupled with the admission of Red China to that body, have fully justified my position.

At its annual meeting on October 16, 1971, in the well-known Cosmos Club in the Nation's capital city, the Panama Canal Society of Washington, D.C. in a most timely program of outstanding quality that was illustrated with slides, stressed the strategic principle that the Panama Canal is crucial for hemispheric defense.

The officers of the society are Capt. Miles P. DuVal, Jr., U.S. Navy, retired, eminent historian of the Panama Canal and authority on interoceanic canal problems, president, who presided; Maj. Gen. Charles Holle, U.S. Army, retired, former engineer of maintenance of the Panama Canal, vice president; and Prof. Richard B. O'Keeffe, George Mason College, University of Virginia, and consultant on interoceanic canal problems for the American Legion, secretary and treasurer.

The meeting honored the builders, operators and defenders of the Panama Canal and recognized the 101st birthday—August 15, 1971—of the Honorable Maurice H. Thatcher, sole surviving member of the Isthmian Canal Commission that supervised construction of the great tropical waterway.

The audience was distinguished and included such personages as Mrs. Pierre Gaillard, daughter-in-law of Col. David D. Gaillard after whom Culebra Cut was renamed as Gaillard Cut; Maj. Gen. Thomas A. Lane, U.S. Army, retired, formerly on Army engineering duty in the Canal Zone, and Mrs. Lane; Lt. Gen. Walter P. Leber, U.S. Army, recent Governor of the Canal Zone, and Mrs. Leber; John F. Stevens III of Baltimore, former railroad official, grandson of former Chief Engineer John F. Stevens of the Isthmian Canal Commission (1905–07), and Mrs. Stevens; Brig Gen. Herbert D. Vogel U.S. Army, retired, former Lieutenant Governor of the Canal Zone, and Mrs. Vogel; and Mrs. Allene Gorgas Wrightson, daughter of Maj. Gen. William C. Gorgas, the great Isthmian sanitarian whose work (1904–14) made the construction of the canal possible.

The program included an impressive musical prelude and the national anthem by the U.S. Army Field Band, Soldiers of Song, with Sp. Avery B. Todd as conductor; "America" beautifully sung by Jacqueline Newman, soprano from Baltimore; an invocation by Rev. Joseph T. Durkin, S.J., professor of history, Georgetown University; the Pledge of Allegiance led by John M. Kane, assistant director, National Security Foreign Relations, American Legion; and special recognition of the few remaining senior members of the society who had served on the Isthmus during the construction of the canal, among whom was Stephen Latchford, a former president of the society.

An usual feature of the program was the exhibition of preserved specimens of the poisonous yellow-bellied Pacific sea snake and the Pacific crown-of-thorns starfish that scientists fear would infest the Atlantic in event of the construction of a new canal of sea level design.

It is interesting indeed that 3 days after the meeting the New York Times on October 19, 1971, published a page 1 biased and inaccurate newsstory in effect supporting the State Department's objectives of bringing about the surrender of U.S. sovereignty over the Canal Zone to Panama and propagandizing the old idea of constructing a sea level canal. The New York Times newsstory was followed by a spate of newsstories and editorials in various parts of the United States that were grossly inadequate and misleading. As the principal addresses refute the major points of the propaganda deluge the October 16 program was most timely and should be read by every objective editor, reporter or other publicist.

In order to make the entire program available to all Members of the Congress and officials of the executive branch, I quote its principal parts as follows:

PROGRAM OF ANNUAL MEETING OF THE PANAMA CANAL SOCIETY OF WASHINGTON, D.C.

INVOCATION BY THE REVEREND JOSEPH T. DURKIN, S.J.

Almighty Father, infinitely wise and loving toward us Your sons and daughters on this little earth that is so dear to us, we ask this favor: that as the men we honor today built for the unifying of two oceans, we may have the wisdom and courage to build for the unifying in peace of the nations of mankind. Moreover, may the brilliant engineering achievement that we today commemorate make us realize another truth—that science and techology, so long as they are guided by the aim of benefiting and not oppressing human beings, are among the most precious powers that Your omnipotence and love have placed in men's hands. In the words of the moving poem of Ford Lewis Battles, may me ". . . say with power 'Not ended; let us ever build. . . .'"

We humbly and with great confidence ask you, O Heavenly Father, to bless us all and to bless and protect our dear country.

PROLOGUE

(By Captain Miles P. DuVal, Jr.)

Fellow Members of the Panama Canal Society, Distinguished Guests, Ladies and Gentlemen: On August 15, 1970, the 56th anniversary of the opening of the Panama Canal, our society paid its highest tribute to one of its most distinguished members on the occasion of his 100th birthday—Governor Maurice H. Thatcher. More than any other person now living he symbolizes the great effort of the American people in the construction of the Panama Canal and its subsequent operation and defense, all of whom we honor today.

Because of the historic value of last year's program, Senator Strom Thurmond of South Carolina quoted the entire proceedings in an address to the Senate in the CONGRESSIONAL RECORD of September 9, 1970. Thus, it has been made available for his historians and scholars in the principal libraries of the world.

In the course of his long and illustrious career, Governor Thatcher preserved his correspondence of historic and research value; assembled press clippings on his life and achievements and useful miscellany in impressive scrapbooks; gathered an unusual array of honors, pictures, and trophies; and assembled a private library of classical character. Together with valuable manuscripts of his own postical compositions, they form a collection of unusual reference quality.

Among his most recent honors were his election by the Gorgas Memorial Institute of Tropical and Preventive Medicine as its Honorary Life President and the dedication to him of the recently published definitive history of the Institute and the Gorgas Memorial Laboratory.

During the past year all of these items have been placed in a special room in the magnificent Temple of the Scottish Rite Masons, Southern Jurisdiction, at 1733 16th St., NW, in Washington, D.C., which bears the name of the Thatcher Collection. This well organized material will undoubtedly become a source for future researchers into the Governor's life and attainments, including much of value concerning the Panama Canal, the U.S. Congress, the National Park System, the story of the Pilgrims, and the Gorgas Institute.

Governor Thatcher's 101st birthday occurred on Sunday, August 15, 1971, and was passed in comparative quiet. This program, therefore, includes recognition of the one who for so long has devoted his life to his State and Nation and has already become a great tradition as benefactor of Kentucky and the Isthmus—Governor Thatcher, who will introduce our first speaker.

REMARKS OF GOVERNOR THATCHER INTRODUCING SENATOR THURMOND

Mr. President, Old Timers, Members of the Society, and Guests:

First, as one who cooperated in the creation of this Society, many years ago, and assisted in the preparation of its recently adopted Constitution under the reorganization, I am indeed grateful for the continued vitality of the Society, and wish to indicate my deep appreciation of the honor accorded to me in this program, especially the choice of myself for this very pleasant task I am now to perform.

I trust that this organization will continue to go forward with increasing vigor. To you, Captain Duval, our most earnest gratitude is due.

Having served on the Isthmus during peak construction of the Panama Canal, I have long cherished a warm affection for the people of Panama and the Canal Zone; and I included, among my Isthmian friends, all the leaders of the November 3, 1903 Revolution, except Panama's first President, Dr. Amador, who died before I first arrived on the Isthmus.

They were men of the highest patriotism and character, who were heroic in what they did, and were loyally supported by the Panamaians.

From the moment of my arrival, I fully realized the vast significance of the Panama Canal. My experience there has always been a source of great inspiration, and I have also been most grateful for my identification with the greatest industrial enterprise of history. My Isthmian interest has continued ever since. I have ever welcomed any opportunity for serving the Canal, its officers and employees and the Panamanian people.

On this occasion, it is not my purpose to discuss the present complex condition of affairs as to the Canal and the Canal Zone. The able and distinguished speakers will give special emphasis to the question of increased capacity of the Canal.

In past years, our Society has had many brilliant programs; but none, perhaps, superior to that for today. Our speakers are very able men of independent thought. Thus, I feel highly honored to be called upon to introduce our first speaker, whose career in the governments of his State and Nation, has been one of great distinction.

When our Country entered World War II, he volunteered for service the same day—such was his patriotic reaction—and became a paratrooper and participated in combat operations in the European and Pacific sectors. He won many decorations, including the Purple Heart, for being wounded in action.

After the war, he was elected Governor of South Carolina in 1947, was an independent candidate for President of the United States in 1948, and was elected to the United States Senate in 1954—as a write-in candidate—a striking example of his popularity.

He was reelected in 1960 and 1966. In the Senate, he has been outstanding in his courage and independence on all public questions.

One of the consequences of his war experience was an increased appreciation of the vital importance of the Panama Canal. Thus, when the future of the Canal became a subject of national concern a few years ago, he assumed leadership in the Senate and became one of the outstanding Canal authorities in the Congress.

I have the honor and privilege of now presenting to you this outstanding fellow American and my friend, the able and fearless Senior Senator from South Carolina, Strom Thurmond, who will have as his subject: "The Great Isthmian Challenge: Major Modernization of the Panama Canal."

ADDRESS BY SENATOR STROM THURMOND (R–SC): GREAT ISTHMIAN CHALLENGE: MAJOR MODERNIZATION OF THE PANAMA CANAL

Mr. President, Members of the Panama Canal Society of Washington, D.C., distinguished guests, ladies and gentlemen:

As one who has studied Isthmian history, I appreciate the magnitude of the problems that were involved in the acquisition of the Canal Zone and the construction, maintenance, operation, sanitation, and defense of our great trans-Isthmian waterway.

In reading the Constitution of your society, I note that this body was organized in 1936 by certain builders of the Panama Canal. Its main purposes are as follows: The support of the Constitution of the United States; the retention by the United States of its Constitutionally acquired sovereign rights, its ownership; and its power and authority over the Panama Canal as well as its protective frame of the Canal Zone. These rights are indispensably necessary for the security and welfare of the United States, Panama, the Western Hemisphere, all free nations, and world shipping. These are most praiseworthy and absolutely necessary objectives.

This history of the Panama Canal is a record of crises starting under the leadership of Ferdinand de Lesseps, builder of the Suez Canal, at the Paris Congress of 1879 of the great French effort for its construction. The towering genius in that assembly was Adolphe Godin de Lepinay, a French civil engineer, who in simple terms outlined the plan for the Canal that in its main features was eventually adopted by the United States.

Today, the Canal is in the midst of an another decisive turning point that combines not only a struggle over site, but also debate over the question of type. The consideration of these matters is greatly complicated by unfounded demagogic assaults against the United States and its sovereignty over the Canal Zone and the Canal.

The interoceanic canal situation became critical in the 1950's. It was at this time that Congressman Daniel J. Flood of Pennsylvania, in a remarkable series of addresses on Isthmian Canal policy questions in and out of Congress, undertook to clarify the principal issues. Since that time he has established himself as one of the key experts in the field, and I wish to pay tribute to him for his great work.

The result was focusing national and international attention on two vital questions: (1) Continued United States Sovereignty over the Canal Zone, and (2) The major modernization of the existing Panama Canal.

As to the supremely important question of United States sovereignty over the Canal Zone, we should remember that this territory is Constitutionally acquired domain of the United States with exclusive and positively essential sovereign rights, power and authority granted to us in perpetuity by Panama. For this grant Panama was paid by the United States. In addition to securing the grant of sovereignty over the Zone territory, the United States also obtained title to all privately owned land and property in the Zone by purchase from individual property owners, making it the most costly territorial acquisition in the history of our country. Moreover, the title of the United States to the Panama Canal was also recognized by Colombia, the sovereign of the Isthmus before the Panama Revolution of 1903.

As an artery of marine transportation, the Panama Canal enterprise became, and still is, a part of the coastline of the United States. As such its exclusive control by the United States is just as necessary for national defense as the control of the Chesapeake Bay or New York Harbor. Efficiently serving interoceanic commerce of all nations on terms of equality with tolls that are just and equitable, it has won the admiration of the world.

Now we'll show you a series of slides of the Panama Canal from one end to the other without explanation. (Pause for 18 slides)

In 1967, after three years of diplomatic discussions, the Presidents of the United States and Panama announced the completion of negotiation of three new Canal treaties. As the negotiations grew to a close, I was alarmed by reports of the forthcoming treaties and applied myself to a close study of the situation and the Canal problem. It was at this time that I became convinced that continued U.S. control depended upon maintaining our sovereignty in the Canal Zone and modernizing the present works.

The proposed treaties were negotiated by Robert B. Anderson, who was the Chief Negotiator for the U.S. Frankly, I was amazed when I actually obtained copies of the treaties and published them in the Congressional Record. Those treaties would have surrendered U.S. sovereignty control and ownership of the Canal Zone and the Panama Canal, as well as any new canal built by our taxpayers. The treaties provided for a nationalization by Panama of the Zone territory and for internationalization of the Canal itself under a bi-national canal authority. In the background, but not in the public discussions, was the objective of ultimate control of the Panama Canal through a multi-national agency, perhaps under the authority of the U.N.

Such treaties were totally unacceptable according to the thinking of scores of U.S. Representatives and U.S. Senators. The reaction, both in the U.S. and Panama, was so hostile that those treaties were never signed and never submitted to the Senate.

It is discouraging, therefore, to see that negotiations are once again underway with Panama, even though the present Government is a revolutionary regime with little prospect of stability and with no procedures for ratifying a new treaty. More discouraging still is the fact that the State Department openly acknowledges that the basis for negotiation is the surrender of U.S. sovereignty and the giving up of our jurisdiction throughout most of the Zone. Indeed, the main point of negotiation is still to be the issue of duration of the new treaty. That is to say, how long before we give up all of our rights completely?

In my judgment, it is a semantic trick to maintain that the U.S. can keep control of the Canal and the capability to defend it if ever we give up our sovereign rights. The duration of a treaty is not the key issue when the treaty itself gives up our basic rights. Such a surrender document would last too long if it lasted only one day. I believe that if a new treaty is necessary—and I am not yet convinced of that—then at a minimum we must maintain our sovereignty in the Zone, with the physical control which that implies; and we must maintain U.S. citizens in the policy-making and strategic areas of the Canal operation. It is a fallacy to believe that we can control the Canal or keep our obligation to keep the Canal running if we allow foreign nationals to be in substantial control of the decision-making and highly technical posts connected with the operation of the Canal.

It is possible that certain disagreements and irritations can be solved through negotiations with the Republic of Panama, but we can never agree to a treaty which does not allow us to have the physical and actual capability of keeping the Canal secure. It is for this reason that the sovereignty of the Canal Zone is the key issue which must never be compromised.

Before taking up the question of Panama Canal modernization, I wish to mention the recent report of the Atlantic-Pacific Interoceanic Canal Study Commission under Public Law 88–609, approved September 22, 1964, of which Mr. Anderson was also the head. This voluminous report, consisting of a main report and 5 annexes in one thick volume and 17 appendices in six additional volumes, with a total of more than 2,500 pages, required more than five years to prepare and burdened our taxpayers with an expense of over $21 million. It was submitted to the President on December 1, 1970, and has been widely distributed, but no official action has thus far been taken thereon.

The report recommends the construction of a so-called sea level canal about 10 miles west of the existing canal, wholly on Panamanian territory, at an *initially* estimated cost of $2,880,000,000. This figure does not include the costs of the right-of-way in which to build the canal or of the inevitable huge indemnity that would be required by Panama. Besides, this recommendation hinges upon the surrender to Panama by the United States without the slightest reimbursement of its treaty-based sovereignty over the U.S. owned Canal Zone and its important and valuable installations. Such surrender to any realistic person is unthinkable.

The total net investment of the taxpayers of our country in the present canal, including the costs of construction and defense from 1904 through June 30, 1968, was more than $5 billion. Moreover, some of the leading advocates of the sea level proposal have admitted publicly that the purpose of a sea level project is to secure better treaty relationships with Panama. They have even said that if unable to secure such relationships, a sea level canal is not justified and may never be constructed; and that, in any event, it is not economically warranted.

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As to relations with Panama, the project recommended by the Anderson commission would require a new treaty with that country and thus open a Pandora's box of trouble.

Another aspect to the sea level proposal is the ecological problem. Recognized scientists who have studied Isthmian biota (fauna and flora) overwhelmingly oppose it on the ground that it might produce a biological catastrophe affecting the food supply of the countries in the Isthmian region. This danger might also include the infestation of the Atlantic Ocean with the poisonous yellow bellied Pacific Sea Snake and the Crown of Thorns Starfish now nonexistent in the Atlantic Ocean. A later speaker will discuss this important subject.

For these, and many other reasons, the level project is being vigorously opposed by many competent, independent and objective canal experts.

The second main point that I shall discuss is the major modernization of the existing Panama Canal. Authorized by the Congress in 1939 prior to the outbreak of World War II in accordance with treaty provisions, work started in 1940 is what is known as the Third Locks Project, but it was suspended in May, 1942, because of more urgent war needs. More than $76 million was expended, mostly on lock site excavations at Gatun and Miraflores, but none at Pedro Miguel, which is fortunate.

Experience during the war enabled more thorough studies in the Panama Canal organization of the subject from the operational and navigational standpoints. Out of these studies there was developed what is known as the Terminal Lake-Third Locks Plan, which has attracted national and international attention, especially by users of the canal.

This plan would eliminate the Pedro Miguel Locks, abandon present Miraflores Locks, consolidate all Pacific Locks just south of Miraflores, raise the summit level of Gatun Lake and its extension through Gaillard Cut a few feet, and create a summit terminal lake in the Pacific end of the Canal. This plan would make possible uninterrupted navigation from the Atlantic Locks to the Pacific Locks.

The plan also would enable the maximum utilization of all work that has thus far been accomplished since 1914, including the enlargement of Gaillard Cut and other channel improvements completed on August 15, 1970, at a cost of some $95 million. When the last is added to the $76 million already spent on the original Third Locks Project, the total expended toward the major modernization of the existing canal is more than $17 million, all of which would be lost to our taxpayers if the proposed new sea level canal were constructed.

There are several vitally important points about the Terminal Lake proposal: Its construction is authorized under existing treaty provisions; it does not require the negotiation of a new one or further indemnification; it protects against biological catastrophe; it avoids the danger of disastrous slides; and it can be constructed at relatively low cost—only a fraction of that of any sea level undertaking. These are major considerations and cannot be ignored. Moreover, such modernization would fully preserve the economic interests of the Panamanian people.

Another consideration is this: The Constitution of the United States vests the power to dispose of territory and other property of the United States in the Congress and not in the treaty-making power consisting of the President and the Senate. The negotiators of the 1967 proposed canal treaties ignored this Constitutional provision (which was observed in the 1955 treaty calling for the transfer of valuable railroad property to Panama), and continue to ignore it in the current negotiations. The House of Representatives is jealously guarding its prerogatives, and is alert to the indicated Constitutional requirement, as we can see by the large number of Panama Canal sovereignty resolutions that have been introduced in the House opposing any surrender at Panama. The Canal Zone and Canal are a territorial possession and property of the United States and so they must remain until the Congress decrees otherwise.

More than 30 years have passed since the authorization of the suspended Third Locks Project. The original plan has been improved in the light of experience in World War II. The Panama Canal is in nowise obsolete but it is approaching capacity saturation. The needed additional capacity and operational improvements can be secured through the simple and relatively inexpensive expedients of constructing wholly within the Canal Zone additional and adequately larger locks and providing additional water for lockages and maintenance of channel depths.

The situation on the Isthmus represents great challenges to the United States and its leaders. The only reasonable course for our government to follow is the continued maintenance of our sovereignty over the Canal Zone and the major modernization of the present canal under existing treaties embodying the principles of the Terminal Lake solution. To bring this about, Representative Flood and I have introduced identical measures in the House and Senate, which would authorize completion of construction of the Third Locks Project adapted to include the principles of the Terminal Lake design.

This program will benefit Panama and the entire Western Hemisphere as well as the United States and world shipping. It will terminate the long conflict and confusion of concepts known as the "battle of the levels" and enable the engineering planners to concentrate on securing the best canal for the transit of vessels at the least cost and without treaty complications.

If the Panama Canal is to remain in continued operation and grow in efficiency, then it must remain under the control and sovereignty of the United States. The Terminal Lake Third Locks Plan will give us the necessary modernization, so it is up to Congress to see that the United States maintains the necessary control.

To assist in these matters, I urge you to write your Senators and Representatives in support of these two bills—S. 734 and H.R. 712.

REMARKS OF MAJOR GENERAL HOLLE INTRODUCING CONGRESSMAN FLOOD

Mr. President, Ladies and Gentlemen: As a former official of the Panama Canal, I have followed closely over many years various developments concerning Isthmian policy matters, particularly the parts played by Members of the Congress. Among them our second speaker has proved himself one of the most outstanding leaders in the history of our great tropical waterway.

His career is truly distinguished and he has had responsible positions in the Government of Pennsylvania and important assignments in the Congress, where he is now serving his 12th term.

His Congressional service included membership on the Committee on Foreign Affairs in which he specialized on Latin America and currently on the Committee on Appropriations with the most responsible assignments as a member of the Subcommittee on Defense and as Chairman of the Subcommittee for the Departments of Labor, Health, Education and Welfare and the Office of Economic Opportunity.

Among his notable achievements in the Congress was his leadership as Vice Chairman of a Special Committee that investigated the mass murder of thousands of Polish army officers by the Soviet during World War II; also his brilliant leadership on Isthmian Canal Policy Questions.

He is not only one of the most able, independent, and courageous Members of the Congress as it now exists but, in all truth, one of the most able, independent and courageous Members that has ever served in the Congress. His contributions have been historic.

I now present Congressman Daniel J. Flood of Pennsylvania, who will make further remarks on Panama Canal modernization.

REMARKS ON PANAMA CANAL MODERNIZATION BY HON. DANIEL J. FLOOD

Mr. President, Members of the Panama Canal Society of Washington, D.C., and Friends: The address that you have just heard is superb and most timely. In comprehensive yet simple terms it recognizes and summarizes the crucial elements in an immensely complicated subject. There is little that I can add to its ably developed points except one word: amen.

As many of you may know, I have made many addresses both in and out of the Congress concerning canal problems. Among the questions that I am frequently asked is this, How did you become so much interested in Panama Canal matters? The answer is brief.

During my boyhood in Wilkes-Barre, Pennsylvania, former President Theodore Roosevelt used to be an occasional house guest at my home. He spent many hours telling me about the Panama Canal and some of the difficulties that he faced in launching the vast project. One of his most telling points was the absolute necessity for an American canal under United States control. That great man became my youthful ideal and in consequence I have devoted a lifetime of study to the canal subject, which has included many visits in all the Central American countries and Cuba, numerous consultations with various canal experts in and out of government service, transits of the canal on board vessels, and viewing the adjacent terrain from a helicopter. When all the angles in the question of increased transit facilities, including defense, economics and marine ecology, are realistically evaluated, there is only one solution—the major modernization of the existing Panama Canal according to the time tested terminal Lake-Third Locks proposal.

Especially interesting to me in Senator Thurmond's address was what he terms a possible confrontation between the governments of the United States and Panama. Because the Canal Zone sovereignty question is basic, I wish to elaborate somewhat, for Panamanian politicians are continually contending that Panama's geographical location is its greatest natural resource and that it should be exploited by that country for increased benefits from canal sources.

While it is true that the geographical location of Panama is strategic, this fact is also the greatest weakness of that small and defenseless country. Because of its position, the Isthmus of Panama has been an objective for plundering attacks since the Age of Discovery; and it probably always will be. In fact, predatory powers now seek to drive the United States from the Isthmus. History has repeatedly shown that only a strong free country can be entrusted with the control and operation of any interoceanic waterway as has been strikingly illustrated in the case of the Suez Canal.

In 1903, following Panamanian independence, the United States was the first nation to recognize the new government and, most appropriately, France, the country that started the construction of the Canal, was the second.

In the Treaty of November 18, 1903, the United States assumed the responsibility of guaranteeing Panamanian independence. Although that guaranty was revoked in the 1936 Treaty at the request of Panama, history also shows that the Isthmus can remain free only as long as the United States retains its sovereignty over the Canal Zone. The day we leave the Isthmus, the Panama Canal would become another Suez Canal and Panama another Cuba under complete Soviet domination.

In the exercise of their grave responsibilities on the Isthmus, the United States and its people have never been enemies of Panama but have always wished that country and its people the greatest possible independence and prosperity.

During recent years our situation as regards the Canal has suffered grievously because our Executive officials have constantly sought to appease unrealistic demands of Panama under the Panamanian claim of the national dignity of the fatherland and the like but have failed to point out the defects of these demands. The actual situation to be met is whether the United States or the U.S.S.R. should own and operate the canal. As to the consequences of Soviet Control, the cruel fate of Hungary, Cuba, Czechoslovakia and other satellite countries under communist domination should be compared with our own enlightened treatment of the Philippines and Puerto Rico.

It has often been said that Panama is a land of endemic revolution. Unable to retain its constitutional government since 1968, it has had a provisional revolutionary government of increasingly leftist composition with full suspension of the Panama National Assembly and other rights of a free and independent people, including freedom of the press.

Though this provisional government repudiated the proposed 1967 canal treaties, it did succeed in bringing about a resumption of negotiations for new canal treaties. The same United States official who headed the negotiations for the discredited 1967 treaties and was also chairman of the recent sea level canal studies, is again our chief negotiator for the current negotiations that would eliminate United States sovereignty as regards the Canal Zone. Who can predict what government will be in power the day after arriving at any new agreement? Even if ratified by the United States, such agreement might be nullified by a succeeding government in Panama. Certainly the security of the United States, Panama, and the Western Hemisphere is not a matter with which to trifle.

When the sovereignty question is reaffirmed the way will be open for our government to undertake the major modernization of the existing Panama Canal as provided in pending legislation. Unless the present cloud of confusion over sovereignty of the Canal Zone is lifted the people of our country will never permit their tax money to be expended on a project that they will not control but that would be subject to expropriation as was the Suez Canal.

No matter what the treaty making power of our government, consisting of the President and the Senate, may do in this connection, the assurance can be given that the House of Representatives will never consent to the surrender of either the Canal Zone or Canal.

As regards the perpetuity clauses in the 1903 Treaty that certain present generation Panamanian politicians and Spanish language newspapers in Panama so strongly condemn, there are some angles that need clarification and emphasis. The grant in that treaty was not a lease as many superficial writers assert but an act of a sovereign government that conferred on the United States full sovereign powers over a definite area in perpetuity for the specific purpose of the construction of the Panama Canal and its perpetual maintenance, operation, sanitation and protection. Most significantly, this grant of sovereignty to the United States was to the entire exclusion of the exercise by Panama by any such sovereign rights, power or authority. In addition to the grant for which Panama was paid, the purchase by the United States of all land and property in the Zone mentioned by Senator Thurmond further strengthened our legal position on the Isthmus making our country the owner in fee as well as the political sovereign of the Zone territory.

As regard the previously mentioned perpetuity clauses, Panamanian detracters never mention the important facts that they apply with equal force to the United States as well as to Panama and that there is thus provided throughout the future the perpetual protection that Panama must have to endure as an independent nation. Under those clauses the United States is obligated to operate the Canal in perpetuity, which fact, as previously indicated, serves as a guaranty of perpetual independence and economic well being of Panama. These are great advantages that should not be ignored or minimized by Panama, for they have enabled that country to attain one of the highest per capita incomes in all of Latin America, with Canal Zone sources in 1969 having spent some $161,000,000 in Panama, which included the salaries of about 16,000 Panamanian employees; and these expenditures are increasing. In addition, there have been gifts and loans to Panama for educational purposes and such projects as the Darien Highway and other beneficial undertakings, among them the Thatcher Ferry Bridge. No doubt there will be more in the future as Panama develops.

As Senator Thurmond so aptly stated, the Panama Canal is in another grave crisis. Upon its outcome will depend not only the vital questions of sovereignty over the Canal Zone and the form of canal modernization but as well as the security of the entire Western Hemisphere, which is now under communist revolutionary attack. One of the openly proclaimed objectives of communist power has been wresting control of the Panama Canal from the United States through the process of nationalization by Panama or internationalization. The Congress is alert to these dangers as shown by recent actions in the House opposing the transfer of any United States sovereign rights, jurisdiction, territory or property on the Isthmus to any other sovereign nation or any international organization.

Of the two proposals for surrender, that for internationalizing the Panama Canal is more sinister. It has a long history dating back to a 1917 declaration by John Reed, a notorious American communist, who now lies buried with high Soviet honors in Red Square by the Kremlin Wall.

It is uniquely fitting to state that the danger of internationalization was promptly recognized by the dynamic American statesman who had played a key role in the acquisition of the Canal Zone and in the construction of the Panama Canal. On December 2, 1918, soon after the Bolshevik Revolution in Russia, he wrote: "The Panama Canal must not be internationalised. It is our canal; we built it, we fortified it, and we will protect it, and we will not permit our enemies to use it in war. In time of peace, all nations shall use it alike but in time of war our interests at once becomes dominant."

Those words of that great American apply with even greater force today. They are the words of Theodore Roosevelt.

REMARKS OF VICE ADMIRAL SETTLE INTRODUCING DR. BRIGGS

Mr. President, Ladies and Gentlemen: For many years it has been known that certain forms of marine life have moved from one ocean to the other through the fresh water Panama Canal, but these migrations have not been in sufficient volume to cause serious concern on the part of biologists. The proposal for constructing a sea level channal across the Isthmus has introduced new angles to the problem causing great anxiety on the part of many respected scientists because of the ecological hazards involved in such salt water channel.

Our third speaker, one of the nation's leading authorities on marine biology, has made extensive studies of the environmental changes that would follow the opening of a salt water channel across the Isthmus. As a consequence he has published authoritative articles in scientific magazines and lectured extensively in an effort to alert the nation to what he considers poses a conservation problem of enormous magnitude that would be caused by the construction of a canal of sea level design.

It is my privilege to present Dr. John C. Briggs, Professor of Biology, University of South Florida at Tampa, who will speak on the vital subject of the "Ecological Dangers of a Sea-Level Canal."

ECOLOGICAL DANGERS OF A SEA-LEVEL PANAMA CANAL

(By John C. Briggs)

In December, 1970, the Atlantic-Pacific Interoceanic Canal Commission presented its final report and recommendations to President Nixon. Copies of this voluminous (seven volumes) report became available to the public in May, 1971. In the report, the Commission stated that, so far as they had been able to determine on the basis of limited studies, linking the oceans at sea-level would not endanger the commercial or sport fish on either side of the Isthmus. The Commission also reached the conclusion that the potential for transfer of harmful biota and hybridization or displacement of species in both oceans exists but the risks involved appear to be acceptable. Unfortunately, these statements not only have no scientific basis but are inconsistent with the findings of a National Academy of Science Committee which examined the ecological implications of the proposed canal. In essence, the Committee warned that "great danger" could result and that if the canal had to be built elaborate precautions would be necessary to prevent migrations by marine animals.

The tropical marine waters of the Americas are divided by the New World Land Barrier, of which the Isthmus of Panama is a part, into two major segments, the Western Atlantic and the Eastern Pacific. This separation has existed since the latest Pliocene or the earliest Pleistocene—approximately three million years. During this time, sufficient evolutionary change has taken place so that the great majority of the animal populations on each side have become distinct from one another; that is, they have developed into separate species.

The marine faunas on either side of Central America are not only exceedingly rich, in terms of the diverasity of species, but are relatively poorly known. At this time, one can only make a very rough guess as to the total number of species that are involved. The Western Atlantic portion appears to have the richest fauna. It has been estimated that the western Caribbean alone supports about 600 species of shallow water fishes and about 7800 species of invertebrates.

On the Eastern Pacific side, the Gulf of Panama and its adjacent waters are probably inhabited by about 400 fish species and about 5200 invertebrate species. In considering the possible effects of a sea-level canal upon this rich marine life, it is important to note that most of the fishes are, at least at some stage in their life cycle, highly mobile. Furthermore, 80–85 percent of the tropical, benthic invertebrates possess pelagic larval stages that are capable of moving, or can be transported by surface currents, for con-

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siderable distances. This means that a continuous, saltwater passage across Panama would present a migratory route that could be utilized by the majority of animal species on each side. What would be the consequences of such migrations?

As the distributional patterns of many animal species have become better known, an important zoogeographic principle has emerged. It is probably this principle that, in large part, determines the relationships of the major zoogeographic regions of the world. It may be stated as follows: Wherever two regions are separated by a barrier that is partially passable, the region with the richest (most diverse) fauna will donate species to the region with the lesser fauna but will accept few or no species in return. This principle appears to operate just as effectively in the marine environment as it does on land.

Although it would be a mistake to make a detailed prediction about the effects of a sea-level Panama Canal entirely on the basis of our experience with the Suez Canal, the latter passage, which was opened in 1869, clearly demonstrates the operation of the principle stated above. To this date, no less than 30 species of Red Sea fishes and 110 species of invertebrates have succeeded in migrating through the Sues Canal to establish themselves in the eastern Mediterranean. But, with the single exception of one fish species that is especially adapted to live in high salinity lagoons, no Mediterranean animals have been able to successfully invade the Red Sea. The Red Sea, a part of the great Indo-West Pacific Region, possesses, a considerably richer fauna than the Mediterranean.

The fact that relatively few Red Sea species have invaded the Mediterranean in somewhat over 100 years can be explained by the existence, for most of that time, of salinity and temperature barriers that severely restricted migration through the Sues Canal. In the case of the proposed Panama sea-level canal, no such barriers are anticipated so that rapid and numerous migrations may be expected.

Before making a prediction for Panama, one needs to consider a second zoogeographic (and ecological) principle that appears to be generally applicable. Along most mainland shorelines, as in most mainland terrestrial areas, each major habitat is probably supporting its maximum number of species; that is, the species diversity has become attuned to the local environment so that ecological saturation has been achieved. In such situations, the introduction of additional species can only temporarily increase the diversity and, over a period of time, the number of species present can be expected to drop back to its original level. This means that a species that has been introduced or has migrated into a new area may either survive in its new home by eliminating a species already there (its ecological equivalent) or it may meet so much resistance by the native species that it will be unable to establish itself.

In the advent of a sea-level canal across Panama, we may expect that, over the years, several thousand Atlantic species of shallow water, marine animals will succeed in reaching the Eastern Pacific and vice versa. Since these thousands of species that would be coming into contact for the first time are, for the most part, distinct from one another, we may expect that they would tend to enter into competition rather than hybridizing. Considering that the tropical Western Atlantic has a richer fauna than the Eastern Pacific, it can be predicted, in accordance with the two principles stated above, that (1) the Atlantic species would prove to be the better competitors and (2) they would eventually eliminate their Eastern Pacific relatives.

It is the prospect of a huge and irrevocable loss of perhaps thousands of species native to the Eastern Pacific that constitutes the major biological problem presented by the Panama sea-level canal. In contrast, the fauna of the Western Atlantic may remain relatively little affected. However, there do exist in the Eastern Pacific a number of marine animals that originally came from the Indo-West Pacific, the largest and most diverse of all the tropical Regions. Among them are such animals as the poisonous seasnake, *Pelamis platurus*, and the crown-of-thorns starfish, *Acanthaster planci*. It is expected that these animals would be capable of migrating through a salt-water canal and, once having gained access to the Atlantic, would establish themselves in that ocean.

Although it is very difficult for the biologist to accurately predict the results of invasion by a given animal species, many cases are known where the invader has undergone enormous population increases. The probability of such a population explosion by an introduced species appears to be greatly increased in areas where there are no native species occupying similar niches. At present, there are no seasnakes in the Atlantic so the fish species there have not had to cope with this kind of predator. In a like manner, the coral species, that have built up the extensive coral reefs that are found from Florida to Brazil, have not been exposed to the actions of a voracious coral predator such as the crown-of-thorns starfish.

A small-scale example of what may happen when a new kind of predator gains access to a virgin area was provided by the sea lamprey, *Petromyzon marinus*, when it migrated through the Welland Canal to reach the western Great Lakes. The lamprey underwent a rapid population increase and decimated the native lake trout and whitefish populations. The damage to the commercial fisheries for the latter two species amounted to several million dollars and the United States and Canada had to spend additional millions in order to bring the lamprey under control.

There is no other place in the world where a single engineering project would be likely to have such drastic biological effects. Once a unique animal species disappears from the face of the earth it is gone forever and no amount of recrimination can replace it. Do we owe it to ourselves and our posterity to preserve as much of our natural heritage as possible? If so, let us consider very carefully the biological, as well as the economic, diplomatic, and national defense consequences of building a sea-level canal.

The following words, written by a distinguished biologist named George Gaylord Simpson, seem to be suitable for this occasion: "It is the capacity to predict the outcome of our own actions that makes us responsible for them and that therefore makes ethical judgment of them both possible and necessary."

CONCLUDING REMARKS BY CAPTAIN DUVAL

Members of the Society and Guests: You have just heard notable addresses by outstanding authorities on their respective subjects. If and when published, they will add materially to the cumulating literature on the matters discussed.

On behalf of this society, I express the fullest appreciation to our distinguished speakers and all others who contributed toward today's program, including those responsible for the musical prelude.

Our next annual meeting in 1972 will likely be in honor of John F. Stevens who served as Chief Engineer of the Isthmian Canal Commission during the designing period of the construction of the Panama Canal, 1905–1970. His great contributions were the development of the plan that was adopted by the President and the Congress and bringing the project to the point where its success was a certainty; thereby winning great fame as the basic architect of the canal.

To sponsor the election of Stevens to the Hall of Fame for Great Americans there has been formed the John F. Stevens Hall of Fame Committee of New York of distinguished membership, with Governor Thatcher as an honorary chairman. The next election for this great honor will be in 1973.

General Goethals, Stevens' successor as Chairman and Chief Engineer of the Isthmian Canal Commission, long after Stevens left the Isthmus, described the Panama Canal as Stevens' "greatest monument." The story of his work on the Isthmus was recently told by David G. McCullough in a major article in the June 1971 issue of *American Heritage* under this rare title, "A Man, a Plan, a Canal, Panama!"

Again and again, I thank you for your interest, presence and support.

DR. CLAUDE L. FLY

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, on September 23, 1971, I had the good fortune of being a dinner guest of Dr. Claude L. Fly, of Fort Collins, Colo., at the dinner meeting of the American Society of Agricultural Consultants held here in Washington. It was, of course, an occasion where the officers and interested members of this group met with their ladies at an evening meeting relative to the problems of the society, but more or less for the purpose of conviviality and listening to and paying honor to one of their members who had been called upon to give to his work and his country more than is usual in the line of duty.

Dr. Claude Fly is a resident of my congressional district. He is a distinguished and recognized leader in his profession. I secured from him permission to place his remarks of the evening in the RECORD. In giving me this permission, he stated as follows:

It must be kept in mind, however, that I am not an expert on South America. Much of the data given in my talk came through those sources opposed to U.S. programs in South America because they explained feelings leading to my kidnapping. We have many good and productive programs going along smoothly which should not be discredited."

The address, however, is, in my opinion, very valuable and should be made a part of those records which provide information not only for the Members of Congress, but for others who are interested in our relations with the peoples of Central and South America. A personal experience such as that had by Dr. Fly can, if received in the proper perspective, help us in our evaluating of important international affairs.

I am glad to recommend to my colleagues the reading of the interesting and thought-provoking remarks of this fine American citizen who was working not on the governmental level, but close to Government circles of Uruguay and the United States.

TALK GIVEN BEFORE THE AMERICAN SOCIETY OF AGRICULTURAL CONSULTANTS, WASHINGTON, D.C., SEPT. 23, 1971

(By Dr. Claude L. Fly, Fort Collins, Colo.)

Mr. Chairman, Members of the Society and Guests: Those of you who have read the September issue of Readers Digest know that one year ago at this time I was a prisoner of a rebel group in Uruguay.

About 9:30, the morning of August 7 last year, five roughly dressed Uruguayans burst into my small office on the outskirts of Montevideo. All five drew pistols. They grabbed my arms, shoved me down the hall to an old battered pickup, blindfolded me, tied my hands and feet, pulled a long jute bag over my head, threw me into the pickup and drove away.

Thus began for me 206 days of "Hell" . . . terror, loneliness, physical suffering and the constant threat of death as I was held in a dank sub-basement inside a wire cage. Having no contact with the outside world . . . no radio, newspapers or even a watch, and no sight of daylight . . . I lost all reckoning as though suspended in time and space. Under these circumstances I began the fight of my life to maintain sanity and to keep my strength. I set tasks of reading, writing, exercising and praying on as regular a schedule as I could devise.

Gradually this paid off in released tensions and in freedom from harassment. Offers were made to the Government for my release. At first they offered Dan Mitrione, Aloysio Gomide (Brazilian Consulate) and myself for exchange for Tupamaro prisoners in the huge Government prison . . . but got nowhere. (Now most of them escaped as you no doubt have read). Later they offered my release if news media would publish a proclamation. The GOU threatened to close all media if they complied. International Red Cross tried to negotiate my release but were blocked by the GOU and stupidity of the Tupamaros who robbed a large jewelry store on the day before the press had agreed to print the article.

On February 22, 1971, I suffered a severe coronary. For seven days the Tupamaros brought their doctors into the cell and treated me inside the steel wire cage. On the eighth day, they battered a hole in the stone-mortar wall, took me out onto a stretcher and arranged to have me carried to the Hospital Britanica in a Volkswagen micro-bus. On March 26 I was flown home and have since been recuperating. More details of the 206 days you will read in the Readers Digest Article so I will not dwell on these. Only when reaching home, did I learn of the great out-pouring of prayers, sympathy and offers of help from all over the world. Your prayers answered through the benevolent Grace of Almighty God have made it possible for me to be here tonight. And thanks again for Geoffrey Jackson's release last week.

Many times I have asked myself the question, "Why Did This Happen To Me, Why Me?" These questions rang through my head then and are still only partially answered. I learned some answers through books and data brought to me in the prison by the Tupamaros and much since returning to the States. Some of the apparent basic causes or reasons for such revolutionary actions in Latin America I shall pass on to you for what they may be worth.

First off, we encounter wide contrasts between the northern and southern hemispheres of the American Continent. Here in the States our worries are more often directed toward the superficialities of our, comparatively, luxurious living. We worry about golf grounds, green belts, parks and swimming pools to accommodate our growing population and increasing hours of leisure. Some environmental ecologists dream of man living in complete harmony with all nature in a government supported "Garden of Eden". Health programs are being advocated that would provide full hospital-medical-doctor care for all with the burden to be carried by the government. Endless maneuvers and discussions stress insuring that in every walk of life and for every race, creed or sex there shall be equal representation, equal privileges and comparable income, sometimes without due regard to qualifications or ability. Now who can say that these might be good and worthy goals of the richest country in the world with the highest technological development and highest standards of living?

But what of our neighbors to the south? Some 205,000,000 people live in the Caribbean, Central and South American area composed of 21 small to large nations. The per capita annual income ranges from 70–300 dollars and 16 countries have less than $500 per capita compared to our more than $3500. It is estimated that 90% of the people in Peru and 50% of the people in Dominican Republic are in dire poverty. In 18 countries, 90% of the farmers are crowded onto 10% of the land while 10% (wealthy hacendados) live luxuriously on 90% of the land. Nearly half the population scrabble for existence on these small uneconomic parcels of land. Mining, another chief source of income often pays pitifully low wages; reported to have been as low as 17 cents/day in Paraguay.

It is said that industry is controlled by ruling oligarchies or by foreign big business interests such as the United Fruit Company. Only recently, as in Chile, Peru and Bolivia, have the countries begun to wake up and gain control of their own natural resources. Production is low and sporadic. With 30% more people and several times more land, the output per person is only 1/12 that of the United States.

Inflation has been rampant! Using 1953 as a base with an index of 100, an international survey indicates USA as 117 in 1965, Europe as 127–215, Mexico as 176, and other South American countries as 123–4,469! In Brazil, 20 bolsas of coffee would buy a Ford car in 1935 but in 1969 it required 200 bolsas to buy a Ford. Uruguay had only 0.3% increase in Gross National Product in 1965 but an 88% increase in the cost of living. Uruguay has devalued its currency at least six times and Brazil 12 times. Salaries were frozen in Uruguay but the costs of food and other necessities doubled.

These are only some of the problems. The Latin Americans are being robbed by their own rulers. Since World War II, it is estimated that about 25 billion dollars have been sent abroad. Past leaders, it is reported, have absconded with huge sums: Peron of Argentina—$700 M.; Batista of Cuba—$350 M.; Jiminez of Brazil—$250 M.; and Aleman of Mexico—$800 M. It is estimated that the 1.5 billion dollars are stolen annually from the public funds. This is 50% more than the Alliance for Progress felt they needed to assure development and progress in Latin America. Thus if the peoples of these nations could stop the thieving by their own rulers and could have control of their own natural resources, they could promote development and achieve economic stability without gifts and loans of huge sums from USA and International Agencies.

As a result of long-time, mis-directed economic and social programs, education is at the lowest level imaginable: 2.7% have completed grade school, 0.4% high school and only 0.1% have entered colleges and universities. Some countries have 50–60% illiteracy (70% in Dominican Republic). The average schooling is reported to be less than 2 years in L.A. as a whole.

Health conditions are worse than our most squalid ghettos and backwoods. Except for Uruguay and Argentina, there are over 3000 people for every doctor (the range is 1900–9800). Life expectancies range from 29 to 58 years and is below 50 years in 16 countries. Compare this to a doctor for every 780 people in the USA and a life expectancy of over 66 years.

Now you are asking yourselves . . . but what has this to do with me and my experience . . . Where is the USA involved? "We hate your country for what it has done to South America", my guards hissed. Then they brought me data to show that in Dominican Republic, 50% of the GNP was controlled by U.S. interests. We were giving $300,000 per year military aid to Haiti and from 1961–65 pumped $30 M. into this little country to maintain Duvalier's bloody dictatorship. In Venezuela, USA oil interests controlled 90% of the GNP and invested capital. In 1961, USA Big Business invested $500 M. and took home $770 M. USA profit-taking in L.A. countries had been on the order of 100–250% compared to 35% for Europe and 17% for Great Britain.

The United Fruit Company has dominated both business and politics in past history in Guatemala, Honduras, Costa Rica and Panama and to some extent in Ecuador and Colombia through its banana monopolies. External debts have sharply risen in Latin America countries because the values of raw goods sold have decreased on world markets while imported manufactured goods have sharply risen in prices. The USA is accused of spending over 30 M. dollars in military aid to these countries . . . much of which is used by the oligarchies and military dictatorships to maintain the masses of people under control.

A letter was mysteriously passed to me while I was leaving the Hospital Britanica and returning home. The writer had signed a false name to avoid possible police retribution. Let me quote from this letter:

"I am not a Communist or Tupamaro . . . but a Catholic, a citizen with a clear feeling of patriotism . . . . . I understand your feelings (for) I, personally, have been deprived of liberty twice . . . You people should know more with respect to the political regimes under which we Latin Americans live, and how these abject regimes are stimulated and reinforced by the USA . . . . I could give you great details of the North American intervention in Guatemala . . their favor of the insatiable dynasty of Samoza of Nicuaragua, their support of the crafty Trujillo of Dominican Republic . . . and participation in the 1964 Coup in Brazil.

What would you think and how would you react if a Colossus, superior to your country in men, wealth, weapons and economic resources, would invade your land to protect their own interests . . . and replace presidents . . . without concurrence of your own people?

"Our dictatorship has already assassinated three students, one city worker and three modest citizens . . . several Tupamaros who were wounded were left to bleed to death . . . Uruguay lives under a permanent stage of siege . . . freedom of press no longer exists . . . half-dozen newspapers and three weeklies have been closed in the last 3½ years . . . dictator Pacheco has repeatedly failed to recognise resolutions of parliament and has come to menacing their dissolution. Judicial power has also been usurped . . . hundreds are imprisoned for political reasons. (NOTE: NEARLY 150 (men and women) Tupamaros have escaped from the Uruguayan Penitentiary in the last few weeks) . . . let it be known that the police and the army use the weapons and equipment your country has given them against our own people . . . even womens' protest groups have been put down by clubs and gas of North American origin.

". . . the causes of (revolutions) have been very deep and painful. . . . It is not a form of delinquency . . . our revolutionist thirsts for justice and the (recognition) of deep human values. (Our) revolution proposes to put an end to inequalities and injustices.

"Your prosperity is nourished in our sweat, blood and tears. . . . Your trusts grow like giant vampires feeding on the blood of millions of Latin Americans . . . immoral government men take advantage . . . to sell our people . . . to fill their pockets. . . . Uruguay's present government is surely the most corrupt . . . in all history . . . this panorama of corruption (NOTE: HE GAVE MANY EXAMPLES) is the (result) of those who

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have (the power) and intend with desperation to perpetuate themselves.

"You have been an involuntary victim (and) ought to know these things . . . tell your citizens the Uruguayans will not give up . . . that (they) struggle resolutely. I hope that you understand us . . . that your bitter experience enriches your spirit and enlightens your mind". (end quote)

NOTE: Words in parentheses inserted for clarity.

This impassioned appeal, typically Latin American, was not read by me until I had recuperated somewhat at Fort Collins. By this time I had read up on much of the current happenings and knew that many of these accusations were now of past history.

For Latin American Governments *are changing;* and so are the fortunes of American investors! The September Newsweek notes that the Cerro Mateso nickel deposits of Colombia must now pay more to the country and ownership revert to it in 25 years; Anaconda and Kennecott copper companies' Chilean holdings have been nationalized and International Telephone and Telegraph is dickering for compensation for its 150 M. dollar investment. The Andean Agreement signed by Chile-Ecuador-Peru-Colombio-Bolivia stipulates that any foreign Company must be prepared to turn over its investment in 15–20 years; even such investments as banking, insurance, utilities and communication media are being nationalized.

These movements result from the resentment of the past behaviour of U.S. firms, who behaved as though they were exempt from local laws and taxation and whose history includes alleged manhandling of host governments through bribery, economic coercion and, occasionally, military intervention.

Many U.S. companies are pulling out . . . in Argentina in the last eight months, says Newsweek, over 400 M. dollars of planned investments have been cancelled or postponed. Some companies are accepting management contracts for fixed fees or profit-sharing. Under these new situations, companies must pick and choose carefully as to country and contract . . . they will find it harder to make that "buck". Investment in Latin America will remain a challenge and an opportunity however, to those who heed the warning and prepare to give as they take. Let me add, specialists will continue to find work opportunities there but must be more alert to these changing situations.

On returning to the states, I was amazed to find that I was not the only consulting Agronomist having trouble . . . not only Agronomists but Engineers, Chemists and a host of others in the technological and scientific fields. In our modern world, where science and technology have developed wealth and production capabilities beyond our greatest dreams, there has now arisen public resurgence against this formerly, highly respected sphere of activity. We are being blamed for all the ills and inequities of our social, economic and political life. Continuation of Science and Technology as pacemakers for modern society is being challenged by sociological and political elements led by non-technologists who hold little sympathy for our past performance.

Editor Hallowes of Sigma Xi (summer edition) writes, ". . . highly visible concerns of Society . . . environment, housing, medical care, Vietnam War (others) have placed Science and Technology in direct competition with these areas for its share of the budget appropriations. . . ." Dr. Venable, former President of the Institute of Chemists, speaks of difficulty as chemists become prominent among the recently unemployed. Dr. Koch, Director of the Institute of Physics, states that 1970 was a catastrophic year in the employment history of physicists. Hallowes further states, ". . . unemployed scientists and engineers, the financial plight of some colleges and universities, the difficulties of placing graduates . . . are manifestations of the troubled state of the Science and Technology Community—ironic that (these) which produced such meritorious products in profusion should now fall on hard times."

The summer issue of Farm Technology states, "The recent revenue-sharing program proposed by the President almost eliminated the Extension Service." His new proposal of four comprehensive Government agencies would split USDA four ways. Hanson in Crops and Soils for August–September says, ". . . concern over environmental quality has brought us to the point (that) strict controls may be placed on agricultural chemicals . . . (even though) responsible agriculturists agree that . . . suitable alternatives will come only with considerable effort and time." He says there are literally thousands of fungi-caused diseases, plant-damaging types of nematodes, insects and weed pests . . . (all of which could be enemies of our agriculture) which could be released to run rampant should there continue, as described by Dr. Richard Kenyon . . . "the disturbing growth of the superficial idea that to halt scientific research and technology will . . . bring back what we recall from dreams of the past as a simple, lovely world (and) make Society better than it ever was". The Associate Editor of ASAE Journal wrote recently, "If pest control is ecologically integrated (presumably by non-technical environmentalists) who assumes responsibility for integrating test programs . . . and for over-seeing the approved usage of chemicals? . . . and one might add for compensating farmers for loss of crops and livestock, and the economy for serious drops in food and fiber production if this movement gets out of hand?

Why all this criticism of the Agricultural Specialist and his fellow scientists. R. J. Kenard, The Chemist, Aug. '71, says, "The professional has more than adequately met all tenants of professionalism except . . . that of social responsibility." Dr. Kenyon stated, ". . . One can see quite large social costs as a result of not taking the steps we might in effective application of technology because of highly emotional attitudes building barriers against Science and Technology. To all these complaints I say we Agricultural Consultants are not doing a complete job if we turn our back on public opinion; we need to carry deeper understanding to them and gain a deeper sense of the public's attitudes toward Society's problems."

Dr. Harold Meyers, U. of Arizona, said last year at Tucson, "If there ever was a time when aggressive and respected agricultural leadership was needed on the national scene and on a world-wide basis, it is today." Dr. Wm. F. Hueg said at this same meeting . . . "changes that Congress will make over the last third of this century will lead to changes in agricultural production and environmental quality . . . who can better influence such decisions than those who have the disciplines of science?" Who can better guide pollution control and improvement of our environment than those who have the scientific knowledge and technology to understand what is involved and to lay down a reasonable course of action? We must assume, therefore, greater roles as citizens in helping influence these decisions. As a professional Society and as individual Agricultural Consultants we must be prepared to take an active and oftentimes changing role to meet the challenges of the *seventies.*

May I add that the challenge is just beginning in the seventies! It will accelerate as we approach the year 2000, only 30 years from now, when, UNFAO insists, we must be able to produce at least 2½ times our present level in order to feed 6.5 billions of people instead of our present 3.8 billion. Our USA surplus of 25–30 million acres of agricultural land will disappear as urbanization, recreation, wildlife, industrialization and transport needs eat up 52 million acres as projected by some forecasters. Add to this the estimate of Council on Environmental Quality that environmental controls will cost 105 billions of dollars by 1975 and you will begin to see the coming conflicts between the so-called environmentalists and the agricultural technologists and other specialists. This Conference has this problem as its theme. Dr. Frank Viets of ARS estimated that we can add to our present productivity the equivalent of 20 million acres by full application of sound technology. Even this will leave us still scrambling for another 30 million acres of good agricultural land by the year 2000 if all these forecasts have validity. I ask you, will planned land use become a public policy in which we as Agricultural Consultants, together with Institutions of Scientists, will have a voice and influence . . . or will agriculture be left with reserves of good usable land? All agriculturally oriented organizations and specialists must rise to this challenge.

At this annual meeting of the American Society of Agricultural Consultants, I have suggested to your Executive Secretary and will recommend at the business session tomorrow, the establishing of a standing committee on Pollution and Environmental Control to coordinate the activities of this Society with other agricultural groups and the U.S. Department of Agriculture on these important aspects of our modern age, as well as to establish guidelines helpful to the individual Agricultural Consultant participating in these fields.

While I was imprisoned by the Tupamaro rebels, I had plenty of time to do some personal introspection and deep thinking on Life's Problems. I wrote, while there, an article on Freedom vs Security and will close by passing on to you a couple of basic points from these thoughts:

I. First and foremost, it came to my mind as I sat in that humid cell, that all people have *right* to sufficient *food, shelter,* and *clothing* to prevent physical suffering and stress . . . and more if opportunity is available.

II. All people *should,* by right of human values, *have Freedom*—freedom to worship, freedom of speech (including freedom from coercion of communication media); freedom of education, freedom to move about and to choose or develop one's own vocation; and generally, to direct one's own life . . . provided, however, that the *exercise* of these freedoms be *circumscribed* by and consistent with concurrent responsibilities to give others the same or equal rights of freedom, either by mutual consent or under Law.

The multiplicity of problems, of conflicting interest, jealousies and hatred which must be overcome to achieve these basic rights for the peoples of the world are so overwhelming as to create a feeling of helplessness. I sent my little essay on Freedom vs Security to some very old friends of mine . . . one a veteran of World War I . . . and asked for their opinions. The old veteran wrote . . . "you will see that the necessity of a force of humans to see that it (The program to achieve the two basic desires of Freedom and Security) is carried out, makes it subject to failure." The older I get, he went on, "the more I believe in the old saying, 'There ain't nuthin' wrong with the world . . . it's just the danged fool people in it'."

Somehow I cannot share this gloomy pessimism. In the cell in Montevideo I had written:

"Certain attributes of man's behavior can be appealed to and influences toward achievement of a world community where peoples and nations can work together for the common good of all:—

1. We all want these basic necessities of life and the freedoms; we want better opportunities for our children . . . and we do *not want war.*

2. We all want to belong, to feel needed and wanted, and we all have an urge to accomplish something.

"What greater glory than that these mighty energies and forces latent within us be directed toward achieving peace with justice, and world-wide relief from suffering and want."

And so, in my own life, I plan, as God is willing, to continue sharing my own technical knowledge and experience with peoples of these under-developed and developing countries, and using my professional capabilities to make life better for those who employ my services.

Ideas which I had and recorded in my prison cell on Freedom vs Security are not presented as a panacea for all that ails this old world . . but hopefully some may strike a chord of interest and sympathy. Many books have been and can be written on these two subjects—or one can condense their meaning into a few words as Christ did 2000 years ago when he said, "Thou shalt love the Lord with all thy heart, mind and soul; and love thy neighbor as thyself."

AMENDMENTS TO H.R. 9212

(Mr. HECHLER of West Virginia asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HECHLER of West Virginia. Mr. Speaker, there follows the text of two amendments which I propose to offer to H.R. 9212, the black lung amendments bill scheduled for November 9.

The first amendment would empower the Social Security Administration to award benefits which are now awarded in increased amount for dependents, in such a way that they would be paid either to the dependents themselves directly or in such a manner as to be in the best interest of the dependent. The benefits are paid by a graduated scale in accordance with the number of dependents, but in some cases the dependent or dependents are not actually living with the main recipient of the benefits, or for some other reason it would be beneficial to pay these increased benefits to a different person. This amendment will not increase the total amount paid in benefits.

The second amendment is a commonsense approach to measuring whether a widow is eligible for benefits in cases where there are no available medical records to establish the cause of death.

Page 1, line 3, insert "(1)" after "That (a)".

Page 2, after line 14, insert the following new paragraph:

Section 412(a) of such act is further amended by adding at the end thereof the following new paragraph:

(5) If an individual's benefits would be increased under clause (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this clause, if otherwise valid under this title, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

Page 7, after line 11, insert the following new subsection—and redesignate the succeeding subsection accordingly:

(f) The third sentence of section 413(b) of such Act is amended by inserting before the period at the end thereof the following: ": *Provided,* That where a deceased miner had been employed in a mine for ten or more years and there are no available medical records that reasonably establish the cause of death, determination as to entitlement of his widow shall take account of information obtained from any persons who had a close relationship to him during his life".

REUBIN ASKEW—CHAMPION OF TAX EQUITY

(Mr. FASCELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous material.)

Mr. FASCELL. Mr. Speaker, a truly significant election took place in my home State of Florida last Tuesday, November 2, 1971. With only one issue on the statewide ballot, the Florida electorate in a surprisingly large turnout, gave resounding approval to a constitutional amendment proposed by our Governor, Reubin O'D. Askew, authorizing a 5-percent tax on corporate profits. The significance of the outcome of this election is multifaceted. It shows what can be achieved by a dedicated and conscientious public official despite strong opposition from some of the wealthiest and most powerful forces in the State; it buttresses the respect and confidence of the people in their State government and its officials; and it brings with it a new day for the individual taxpayer in Florida—one in which tax justice and equity is more a reality than a promise.

During Reubin Askew's campaign for the governorship of Florida the one pledge he repeated to all persons within earshot was that he would fight for the enactment of a corporate profits tax and thus obviate the necessity of increasing the burdensome and often regressive taxes on individuals in Florida.

A promise to fight for the enactment of a tax is rarely a politically popular venture. In the case of Governor Askew's mission to keep his promise to the people the battle became extremely difficult by virtue of the massive and well-financed opposition of those who stood to "suffer" the imposition of minimal tax burdens.

The people saw through the distortions and misstatements of the opponents of the Governor's proposal. Their support of the corporate tax amendment represents a resounding vote of confidence in the administration of Governor Askew.

The list of accomplishments of the Askew administration is rapidly growing. The legacy of the previous administration in Florida is one that no public administrator would relish inheriting. What Governor Askew has done, and what the Florida electorate apparently endorses, is to bring to the Governor's office of Florida a new tone and quality of leadership which places the public interest as the first and only consideration in the determination of public policy. It is a refreshing and heartening change which has done much to rekindle the respect and trust of the people of Florida in their State government.

CHICAGO TRIBUNE PUTS THE BUSING CONTROVERSY INTO PROPER PERSPECTIVE

(Mr. PUCINSKI asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PUCINSKI. Mr. Speaker, the Chicago Tribune, in an excellent editorial which appeared in this morning's editions, has performed a notable public service by putting into proper persective the votes which were cast in this Chamber early Friday morning on the controversial question of busing.

The Chicago Tribune editorial follows:

THE VOTES AGAINST BUSING

By decisive votes of 235 to 125, 233 to 124, and 231 to 126, the House of Representatives added to a pending bill riders taking the federal government out of the business of busing students to achieve school integration. The approved measures not only prohibit use of federal money for that purpose but also restrain federal officials from making such busing by states or districts a condition of receiving federal grants. As Elliot L. Richardson, secretary of health, education, and welfare, said, "The House was expressing an attitude."

In fact, the House was expressing several attitudes. One attitude, no doubt, was unworthy racial prejudice in general and a yearning for racially segregated schools in particular. But no one should think that that was the only attitude expressed. There are good reasons, entirely free from racial animus, for wanting to minimise moving school pupils about the landscape.

Busing is tremendously expensive in terms of money, time, and energy—all of which can be better used than by making premature commuters out of school children. As long ago as July 31, 1969, Rep. Edith Green [D., Ore.], in a notable speech in the House, questioned busing as an effective means to good ends. Speaking as a legislator who had "voted for every civil rights act that has been before this House," Mrs. Green said: "Emphasis on integration and housing unaccompanied by a demand for academic excellence is worthless. This is what we ought to be concerned about—the quality of the programs." She deprecated "placing the major responsibility for integration on one institution," the public schools, and suggested that busing between black and white neighborhoods can discourage rather than promote integrated housing. Events since 1969 have done much to confirm what Mrs. Green said.

In the old dual school systems of the Deep South, the contrast between schools for whites and schools for blacks was often extreme. Some busing there no doubt was required to give black pupils access to adequately funded schools. Inequitable contrasts between schools exist in the North, too, even if they have been less deliberate and less emphatic than in the South. But a strong, unprejudiced case can be and has been made, by President Nixon and others, against calling on the schools and their pupils, bus drivers, and teachers to undertake the whole job of preventing calamitous racial isolation in this country.

XUM

The House approved appropriating $1.5 billion to help schools desegregate. With or without busing, applicants for grants will be active. The bill in question, sponsored by Illinois Rep. Roman Pucinski, speaks of many undertakings—programs and projects and personnel to counsel, guide, teach, organise extracurricular and community efforts for the sake of reducing racial segregation and isolation. Part of the intent is to discourage the flight to the suburbs by strengthening city schools.

Once the $1.5 billion appropriation, which is for several years, goes into action [if it does], Illinois will be getting $70 million a year, and Chicago $42 million of that. With busing eliminated, all of this money will be available for improving the quality of education. We hope the money will be well spent. It could be.

But the basic message of the antibusing votes is that Congress has turned away from the idea that the schools can be expected to be the sole agency for increasing racial integration in American society. The schools never should have been burdened with this expectation, and it is good that they are being relieved of it.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

The average meat caloric consumption per day for the U.S. citizen is 237 calories as compared to 4 calories per day for citizens of Ceylon and only 8 for the Republic of Korea.

AGE LIMIT ON PILOTS

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, the Air Line Pilots Association, International, having a membership of about 40,000 airline crew members, employed by more than 45 common carriers, has been very deeply concerned about the action of the Federal Aviation Authority, by section 121.383(c) of the Federal Aviation Regulations, forbidding any person from serving as a pilot on an airplane engaged in certificated air transport service once that person has reached his 60th birthday. I share the protest of the Air Line Pilots Association, International, against this unjustified action of the FAA. I supported in the Congress Public Law 90–202, enacted in 1967 as the Age Discrimination in Employment Act of 1967. It was the intent of this act to forbid discrimination in employment on account of age alone. The obvious reason for such a policy being enacted by the Congress was that no longer is age a criterion of an individual's qualification for employment. Some men are old at 30, others are young at 65. One's qualification to act as a pilot on a certificated air line should be his mental and physical qualifications to perform the duties of such employment, assuming, of course, that he is a person of proper attitude and character. All that I have heard leads me to believe that the FAA enacted this ruling without justifiable and adequate medical support. At long last, a hearing has been afforded the Air Line Pilots Association, International, and others interested where there was presented medical testimony showing the error of the 60-year-old rule action of the FAA.

I appeared before the FAA panel on this matter on October 19 and strenuously urged that the qualification of pilots not be restricted to their calendar age but that they be selected and retained in service on the basis of their qualifications, regardless of age.

As more and more of our older people are surviving into older citizenship it is a matter of national importance that we do not shut the doors of employment opportunity, because of one's chronological age. That is the tyranny of the calendar and of prejudice and not a principle of fairness in employment.

Mr. Speaker, on October 19 the very able president of the Air Line Pilots Association, International, John J. O'Donnell, submitted an excellent statement against the 60-year-old rule at the hearing afforded by the FAA in the FAA Building here in Washington. I commend Mr. O'Donnell's able statement to my colleagues and to my fellow citizens, and Mr. Speaker, that it be incorporated in the RECORD immediately following my remarks:

STATEMENT BY PRESIDENT O'DONNELL

My name is John J. O'Donnell and I am President of the Air Line Pilots Association, International. The Association's membership consists of about 40,000 airline crew members, employed by more than 45 common carriers. Almost all of the nation's airline pilots are represented, in collective bargaining and in safety matters, by the Association.

Through a Home Office Engineering and Air Safety Department staffed by professional and full-time aeronautical engineers and air safety specialists, the Association maintains an active and continuous program designed to improve the safety of the nation's airline operations. In addition, through a network of many local councils, the Association monitors local safety conditions throughout the country and participates in many investigations, hearings and other procedures aimed at this vital objective. The Association's role in air safety, from the design and manufacture of new equipment to the analysis and study of safety hazards in accident cases, is widely and consistently acknowledged throughout the industry.

My purpose in appearing before you today is to seek the revocation of the Age 60 rule. Section 121.383(c) of the Federal Aviation Regulations presently forbids any person from serving as a pilot on an airplane engaged in certificated air transport service once that person has reached his 60th birthday. In the Association's view, this rule cannot be justified by logic or experience, violates important considerations of public policy, and bears no reasonable relationship to the legitimate needs of air safety.

I would begin my critique of the Age 60 rule by exploring the origin of the rule in some greater detail than the record so far has compiled. The Rule's history really begins in October 1958, when the American Airlines Pilots' System Board of Adjustment, acting in its designated capacity under the Railway Labor Act, interpreted the negotiated pilot agreement on that airline as prohibiting a rule of compulsory retirement at age 60. The airline's rule was accordingly nullified. Later, another arbitration panel on Western Air Lines reached a similar result: in July 1959, the panel vacated that carrier's mandatory age 60 retirement rule, concluding that—

"There is no testimonial basis and no fact of life of which we could be expected to take a kind of 'judicial notice' that supports the view that it is unsafe to let a pilot perform after the age of 60."

The FAA Administrator at that time, General Quesada, proposed, in June 1959, new government regulations which would terminate the employment of airline pilots at age 60 and prohibit their transition from piston to turbine aircraft at age 55. Although the Association pointedly urged the FAA to conduct full evidentiary hearings on the proposed regulations, FAA issued the Age 60 regulation (now FAR Section 121.383(c)) on December 1, 1959, without an evidentiary hearing.

It is significant to note, however, that a hearing was conducted on the age 55 transition proposal, and that, on the basis of the evidence presented at that hearing, FAA withdrew this proposal as unnecessary. In the Association's view, FAA's failure to conduct a timely hearing on the proposed Age 60 rule has led the agency into a costly and wasteful series of errors. About 1,000 airline pilots have been involuntarily retired from airline service since 1960, although their current FAA required physical and proficiency examinations showed them to be competent, qualified and in faultless physical condition.

Other witnesses for the Association will explain, in greater detail, the waste of human resources and the frustration which this mandatory retirement rule has bred. At this point, however, I would emphasize only two facts for your consideration. First, the airlines themselves have estimated that it costs approximately $200,000 to replace each one of these individuals in the left-hand seat of an airplane.

Second, the rule which imposes this burden has never been exposed to the scrutiny of an evidentiary hearing, despite our frequent requests. While FAA has offered to hear our comments, the rule itself is not subject to the kind of rigorous examination which only a trial-type hearing can provide.

The Association does not believe that today's proceedings will provide an appropriate forum for consideration of the real issues involved. Until agency officials or representatives themselves come forward to present the medical, scientific and statistical basis for a cut-off at Age 60, and until this scientific basis can be exposed to the light of open and public inquiry and the tests of robust scientific debate, the Association will continue to view the agency's position as resting largely on myth.

The fact is that FAA has never offered any medical or scientific data supporting compulsory retirement at age 60 for air line pilots. A federally funded study of this subject was conducted at Georgetown University under FAA auspices, but the study was terminated without any published findings, and the data still remains unprocessed.

We have our own evidence and our views about the aging of airline pilots and the effect of aging on air safety. Although some of the medical experts in this area will testify before you later, I would highlight some aspects of their findings immediately. They show, contrary to the myth upon which the FAA regulation is based, that the Age 60 cut-off is unsupported by scientific or medical evidence.

A 1969 thesis issued by the Aviation Medicine Research Laboratory of Ohio State University concluded that the possibility of sudden incapacitation among airline pilots at age 55 and above was substantially less than the possibility of such an occurrence between ages 40 and 55.[1]

In 1958, a report on the "Pensacola Study", involving tests of 1,066 Naval student pilots with a follow-up examination 12 years later, showed "a disease rate less than one-half that expected for a group of comparable age in civilian life."[2]

In 1968, a study of 206 autopsied military pilots with varying degrees of coronary atherosclerosis demonstrated that age and amount of flying time were not related to the severity of this condition in the studied pilots. The author of the study considered that—

"Aviation accidents attributable to coronary artery disease have always generated undue publicity and alarm . . . Drastic elimination of older aircrew will not significantly reduce aviation accidents."[3]

Based upon careful and lengthy studies, Dr. Jacek Szafran, one of the leading experts in the field of pilot aging has concluded that—

"At least in this particular profession, age per se could not necessarily be equated with decline nor should it be considered a sufficient reason for retirement."[4]

The Association is pleased that Dr. Safran has consented to appear in these proceedings and give testimony himself.

The Agency's own personnel, when they conducted research into the subject, found support for our views, not the agency's. Thus, a study by representatives of FAA and Johns Hopkins concluded as follows:

"An analysis of the accident record of older general aviation pilots (over sixty) for 1965 reveals that this age group has an accident record essentially comparable, and in some cases superior, to that of the younger pilot group."[5]

Finally, we respectfully direct your attention to the fact that a basic premise for the Age 60 rule is plainly false. As the medical testimony we will present today makes clear, FAA was wrong in 1959, and remains wrong today, in stating that there is a sudden increase in the incidence of sudden incapacitation at age 60 or higher due to heart attack or stroke. Careful review of the record should convince FAA that this statement cannot be squared with the real facts of life. Once this erroneous myth is destroyed, the whole notion of mandatory retirement at Age 60 should disappear along with it.

Moreover, the Age 60 rule deprives this country of an important resource which would otherwise be available to improve the safety of air carrier operations. Whether it is called "judgment," "finesse", or "experience", pilots know that there is an advantage or talent which is accumulated by pilots over the years. In our view, this positive aspect of the aging process contributes significantly to air safety. It need not and should not be wasted.

There are other reasons, apart from the very practical ones indicated by the foregoing, for revoking the Age 60 rule. Not only does the rule compel a serious waste of human resources, without any compensating benefits to air safety, but, in addition, it stands as a solitary and flagrant exception to articulated public policy.

In December 1967, Congress approved a new civil rights measure entitled "Age Discrimination in Employment Act of 1967" (P.L. 90–202). After finding that ". . . the setting of arbitrary age limits regardless of potential job performance has become common practice . . .", Congress asserted that it was the "purpose of this Act . . . to prohibit arbitrary age discrimination in employment." The Act became effective on June 15, 1968.

Accordingly, it is now the policy of this nation generally to preclude discrimination in employment based upon age. As Senator Harrison A. Williams, Chairman of the Senate's Special Committee on Aging, explained in January 1968, ". . . that age and age alone is the factor by which we should judge a man's suitability for work roles [is] . . . a misconception that should, by now, have thoroughly been discredited . . ."

Later that same year, however, the Secretary of Labor and the Secretary of Transportation issued statements characterizing the FAA age 60 limitation as a "bona fide occupational qualification" for airline pilots, and therefore not violative of the new Congressional enactment. Neither of these administrative statements were issued in the context of formal proceedings, hearings, or other opportunities for the presentation of relevant evidence.

It is understandable, of course, that cabinet members and courts would want to defer to the expert judgment of the FAA in matters of air safety. We can appreciate the reluctance of the federal courts—to whom we turned for relief when the Age 60 rule was implemented—and Secretaries of Transportation and Labor, to grapple with the technical and complex issues of aging and safety on their merits. But it remains a source of continuing frustration and concern that this agency itself, to whom all others defer, still remains unwilling to open the way for thorough and scientific inquiry.

Furthermore, until that is done, we remain convinced that airline pilots are needless victims of an unlawful and unreasoned policy.

[1] "An Epidemiologic Study of In-Flight Airline Pilot Incapacitation", Kulak, Linton Luther, M.D., Aviation Medicine Research Laboratory of the Department of Preventive Medicine, Ohio State University, 1969.

[2] Graybill, Ashton, et al., "A Twelve-Year Follow-Up Study of 1,056 U.S. Naval Fliers", 112 *The Military Surgeon*, No. 5, p. 323–332 (May 1953).

[3] Scheinman, H. Z., "Coronary Atherosclerosis in Military Pilots: Relationship to Flying and Aviation Accidents", *Aerospace Medicine*, 39: 1348–51, Dec. 1968.

[4] Szafran, J., "Psychological Studies of Aging in Pilots", 40 *Aerospace Medicine*, No. 5, May 1970, pp. 543–553.

[5] Mohler, Stanley R., et al, "Aircraft Accidents by Older Persons,". 40 *Aerospace Medicine*, May 1969, pp. 554–556.

NARCOTIC ADDICTION TREATMENT

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, this week the House passed H.R. 8389. This is an important piece of legislation, and vital to this country's war against narcotic addiction.

The Federal Government has for several years had a program for treating narcotics addicts incarcerated in Federal penitentiaries. However, we all know that the great majority of addicts convicted of crimes are convicted in State courts and are sentenced to State penal facilities. Yet the State penal institutions have been woefully unprepared to deal with the problems of treating and working with these individuals.

H.R. 8389 will provide for Federal assistance to State correctional facilities that must deal with inmates addicted to narcotics. State planning agencies requesting corrections funds from the Law Enforcement Assistance Administration will be required to provide arrangements for the development and operation of narcotics treatment programs in both corrections facilities and indeed during probation and parole. The Administrator of LEAA will retain authority to issue regulations concerning standards for these programs. Thus there will be a modicum of centralization and standardization achieved through the program.

Mr. Speaker, the Select Committee on Crime, which I have the honor of chairing, has dwelt long and hard on the issue of narcotics addiction and treatment heretofore. In addition, we have had the opportunity to survey many correctional institutions, both juvenile and adult, to see their problems and understand their needs. Based upon this experience, I am convinced that H.R. 8389 was a necessary bill and an important bill, and I am heartened and delighted that the House of Representatives passed it overwhelmingly.

HIALEAH'S SISTER CITY PROGRAM

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I wish to draw the attention of my colleagues to the recent activities of the Hialeah-Managua sister city program, as described in the report that follows:

The citizens of the city of Hialeah, in my district, and the sister city committee are to be commended for their efforts to make the town affiliation program the solid success it is.

I offer my congratulations and continued good wishes to all who have contributed to this worthy effort in Hialeah and in Managua, Nicaragua.

The report follows:

One of the most successful Town Affiliation Programs for a city in the United States was recently commended in Hialeah, Florida, the second largest city in Dade County, Florida, and the seventh largest in the State. The highest presentation by the City of Hialeah—its Award of Honor—was made to the Hialeah-Managua Sister City Committee for distinguished and exemplary service within the Town Affiliation Program.

This year has been a high point in the history of the Hialeah-Managua Sister City Committee which is ably served by Philip J. Donohue as President, and Raymond Schultz as Vice President.

Early this year, when disaster struck the City of Leon, Nicaragua, which is near Managua, the help of the Sister City Committee was immediate and resourceful. A volcano, "Cerro Negro", erupted in February causing extensive damage in a 30-mile radius. At that time, Mrs. Mary Barrer, a past president of the Hialeah-Managua Sister City Committee, was in Managua for another international project. Through the efforts of the Managua Committee and the Republic of Nicaragua Airline Lanica, the Hialeah Committee reacted swiftly, amassing clothing and canned goods throughout the city by utilizing fire stations and schools as collection points. Civil and fraternal organizations provided assistance after an appeal, made on local radio and television stations, by Mr. Donohue and Hialeah City Council Vice President Victor Wilde.

In a matter of days, more than 12 tons of food and clothing and an additional one-ton of medical supplies was arranged for the victims of the dreaded volcano.

XUM

The medical supplies were donated by the Reform World Relief Committee through the strong intercession of Mr. Schultz and Committee Member James Tuinstra.

Hialeah Mayor Charles A. Whitecare appealed directly to the business people of Hialeah requesting financial assistance and the result was that extensive medical supplies, with a retail value of more than $200,000 were sent to the new community in Nicaragua of Nueva Guina, which was established for the victims of the volcano.

The cultural aspect of the Hialeah-Managua Sister City Program was explained in detail in April on a two-part, radio program broadcast throughout the South Florida area by station WHMI. The program helped to explain the history of Nicaragua, its climate, industry, agriculture, customs and people. Leading the discussion were Mayor Whitecare and Nicaraguan Consul General Louis de-Bayle. Such information projects, with resulting publicity, have resulted in a sincere and great understanding of this worthy international program by the more than 100,000 residents of Hialeah.

Direct participation by the Sister City Committee has helped in the successful staging of the annual Angel Derby, a Latin American competition for more than 100 women pilots. Also, the largest and most successful visit of Hialeah officials, civic leaders, businessmen and residents to Managua was made over the Fourth of July Weekend with deep-roots being instilled for the international good-will between the United States and Nicaragua. While there, Committee President Donohue and committee member Roger Currier presented from the Father Lawrence J. Flynn Council of the Knights of Columbus of Hialeah, a gold chalice to the tubercular hospital in Leon. The chalice is a permanent reminder to the patients at the hospital, not only of their religious faith, but also of the good-will of Americans toward Nicaragua.

In August, the first annual International Sister City Baseball Tournament for 13–15 year old boys was held in Managua and other Nicaraguan cities. The tournament, which was seen by capacity crowds day and night, was arranged through the corporation of the National Federation of Baseball in Nicaragua, Lanica Airlines, the Hialeah-Managua Sister City Committee, the Hialeah Athletic Association and the City of Hialeah. Hialeah happened to be victorious in the tournament but its real value was its People to People contact with the American boys staying with families in Managua. Life-long friendships were engendered.

We are told that the high point of the tournament came following the victory of the Hialeah Athletic Association team over the boys representing Masaya. Committee Vice President Raymond Schultz earlier had presented an American Flag to be flown over Somoza Stadium in Managua.

While we here in the United States lament desecration of our beloved flag, the players of the losing Nicaraguan team held the American Flag on high, proudly marching around the baseball stadium, twice, to the cheers of the 3,500 fans. It must have been a wonderful sight!

In September, the efforts of the Hialeah-Managua Sister City Committee were recognized nationally at the Town Affiliation Annual Convention here in Washington when Mayor Whitecare and Committee President Donohue were chosen to serve on the Select Task Force Committee of the nation-wide Committee. During the convention, Mayor Whitecare presented to Nicaraguan Ambassador Guillermo Sevilla Sacasa four distinctive plaques depicting our American Heritage.

The over-all understanding of these United States in the schools of Managua was abetted with the dispatch by the Hialeah Committee to Nicaragua of 60 beautiful posters illustrating 50 of our United States for the benefit of the Maria's and Julio's in the Managua school system.

Such sincere, unselfish work as that of the Hialeah Managua Sister City Committee is certainly commendable on our part and should be encouraged in everyway.

FROM SAN JUAN HILL TO THE VIETNAM JUNGLES

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I would like to draw the attention of my colleagues to a recent speech by Dr. Manolo Reyes, Latin American news editor of Miami television station WTVJ, to the Veterans of Foreign Wars, aboard a U.S. Coast Guard cutter in Miami on Veterans Day. His words regarding Cuban-American friendship were appropriate for this occasion and his thoughts express the respect and admiration which is mutually enjoyed.

The speech follows:

SPEECH TO THE VETERANS OF FOREIGN WARS ABOARD A COAST GUARD CUTTER, MIAMI, FLA., VETERANS DAY—OCTOBER 26, 1971

(By Manolo Reyes)

My words to you today can be entitled "From San Juan Hill to The Vietnam Jungles."

In the first international conflicts of the United States in 1898—the Spanish-Cuban-American War—Cuban and American soldiers fought together for the freedom of Cuba. Even now in the current international conflict the United States is facing—the Vietnam War—Cuban and American soldiers are fighting together so freedom can shine over that part of the world.

From that first conflict to now, we have been together. And it will be in the future as it is now—always together in the defense of freedom.

The essential meaning of the words that I am speaking to you now . . . above the sea and under the sky . . . comes from an open heart that deeply believes in the traditional friendship of our two nations.

And this is why we are here today. To render a tribute of respect and admiration to all the dead and living Veterans of the United States.

Today we single out one example of supreme sacrifice that has been shown by our veterans of previous wars—the four Chaplains who lost their lives on the U.S.S. Dorchester. It did not matter to them that they were of different denominations; it did not matter that they did not know the names of the soldiers they gave their life jackets to.

They gave their lives to God so that others could live in freedom. They did this because they loved. They did not think first of themselves—they thought only of the salvation of others. That is love. Love is the most powerful weapon possible for fighting those who would hate. Freedom was never born of hate. He who hates is a slave. He who loves is a free man. And the love for others, as the love for ones country, demands sacrifices.

So, as they died for the love of God, their country and their fellow man . . . so do thousands of other Veterans die for freedom . . . because they loved.

Today we remember them . . . and we honor all of them. We feel respect, admiration and gratefulness for their sacrifices because our two nations—Cuba and the United States—have been and will always be friends.

Seventy-three years ago, our Cuban and American ancestors joined together in the Spanish-Cuban-American war in San Juan Hill. Now more than 10,000 Cubans have gone to Vietnam to fight side-by-side with their American friends. Some died. Some were wounded.

Some who returned to us are here today for the first time in this ceremony. Represented here today are members of the newly formed Post of Veterans of Foreign Wars, Cuban-American "Jose-Marti" unit. Many of these men are veterans also of the Bay of Pigs expedition.

This is why I say that Americans and Cubans have been fighting together from "San Juan Hill to the Vietnam Jungles".

And, interpreting the feelings of my compatriots here with us today, I know I can talk for them and I reaffirm this day our friendship . . . honoring your dead and our's in the cause of freedom. And I hope and pray for the day when we will have a similar ceremony—in Cuban waters—always together in the defense of freedom.

On behalf of the Cuban people, I salute all the Veterans of the United States.

LEAVES OF ABSENCE

By unanimous consent, leaves of absence were granted as follows:

Mr. JOHNSON of California (at the request of Mr. BOGGS), for Thursday, November 4, and Friday, November 5, on account of official business.

Mr. BARRETT (at the request of Mr. BYRNE of Pennsylvania), for Monday, November 8, 1971, on account of illness.

Mr. MCMILLAN (at the request of Mr. BOGGS), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCOLLISTER) and to revise and extend their remarks and include extraneous matter:)

Mr. BOW, for 1 hour, today.

Mr. HOSMER, for 30 minutes, today.

Mr. FRENKEL, for 10 minutes, today.

Mr. SPENCE, for 1 hour, on Tuesday, November 9.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. DENHOLM) and to revise and extend their remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

Mr. ASPIN, for 10 minutes, today.

Mr. ADDABBO, for 30 minutes, today.

Mr. ANDERSON of Tennessee, for 20 minutes, today.

Mr. FOUNTAIN, for 20 minutes, today.

Mr. DULSKI, for 10 minutes, today.

Mr. FLOOD, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. MITCHELL and to include extraneous matter.

Mr. MILLER of California in five instances and to include extraneous matter.

Mr. PEPPER in five instances, and to include extraneous material.

Mr. KYL, to include extraneous matter with his remarks made today in the Committee of the Whole on H.R. 10729.

(The following Members (at the request of Mr. MCCOLLISTER) and to include extraneous material:)

Mr. WINN.

Mr. ESCH.

Mr. BAKER in two instances.

Mr. DEVINE.

Mr. WYMAN in three instances.

Mr. GOODLING.

Mr. HOSMER in three instances.

Mr. SCHWENGEL in three instances.

Mr. ROBINSON of Virginia.

Mr. FRENKEL.

Mr. DELLENBACK.

Mr. PEYSER.

Mr. MORSE in two instances.

Mr. DUNCAN.

Mr. MCCLORY.

Mr. PRICE of Texas.

Mr. STEIGER of Wisconsin.

Mr. REID of New York.

Mr. FREY.

Mr. SCHMITZ.

Mr. MAILLIARD in two instances.

Mr. BURKE of Florida in two instances.

Mr. ASHBROOK in three instances.

(The following Members (at the request of Mr. DENHOLM), and to include extraneous matter:)

Mr. GONZALEZ in two instances.

Mr. RARICK in three instances.

Mrs. SULLIVAN in two instances.

Mr. WILLIAM D. FORD.

Mr. DOW in two instances.

Mr. EILBERG in two instances.

Mr. HAGAN in two instances.

Mr. ROGERS in five instances.

Mr. TEAGUE of Texas in eight instances.

Mr. DANIELSON.

Mr. O'NEILL in two instances.

Mr. BADILLO in two instances.

Mr. PICKLE in five instances.

Mr. JONES of Tennessee.

Mr. MAZZOLI.

Mr. DORN.

Mr. JOHNSON of California.

Mr. RODINO.

Mr. KLUCZYNSKI in two instances.

Mr. SARBANES in five instances.

Mr. HAMILTON in two instances.

Mr. CHAPPELL in two instances.

Mr. RYAN in three instances.

Mr. DINGELL.

Mr. MITCHELL in five instances.

Mr. OBEY in four instances.

Mr. JACOBS.

Mr. SCHEUER.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk.

H.R. 5060. An act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 41 minutes p.m.), the House adjourned until tomorrow, Tuesday, November 9, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1265. A letter from the Director of Civil Defense, Department of the Army, transmitting a report of the Federal contributions program—equipment and facilities, for the quarter ended September 30, 1971, pursuant to section 201(i) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

1266. A letter from the Commissioner of Education, Department of Health, Education, and Welfare, transmitting a status report on education of gifted and talented children, pursuant to section 806 of Public Law 91-230; to the Committee on Education and Labor.

1267. A letter from the Acting Secretary of Transportation, transmitting a report on the status of intercity railroad passenger service, pursuant to Public Law 91-518; to the Committee on Interstate and Foreign Commerce.

1268. A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to assist railroads in acquiring and utilizing rolling stock, to proscribe disproportionate taxation of certain interstate carriers' property by State or local governments and for other purposes; to the Committee on Interstate and Foreign Commerce.

1269. A letter from the Acting Secretary of Transportation, transmitting a draft of proposed legislation to amend the Interstate Commerce Act, as amended, and acts amendatory and supplemental thereto to provide for increased reliance on competition in the establishment of carrier rates, charges, and practices, to liberalize entry and exit in the several modes of surface transportation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

1270. A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend the act of August 6, 1958, 72 Stat. 497, relating to service as chief judge of a U.S. district court; to the Committee on the Judiciary.

1271. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders entered in the cases of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act; to the Committee on the Judiciary.

1272. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting copies of orders adjusting the status of certain aliens to lawful permanent residents under section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act; to the Committee on the Judiciary.

1273. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize an additional Assistant Secretary of Commerce; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 9789.—A bill to amend the Investment Company Act of 1940, as amended (Rept. No. 92-623). Referred to the House Calendar.

Mr. STAGGERS: Committee of conference. Conference report on H.R. 7072. (Rept. No. 92-624). Ordered to be printed.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 7577. A bill to amend section 3306 of the Internal Revenue Code of 1954 (Rept. No. 92-625). Referred to the Committee on the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FLOWERS: Committee on the Judiciary. H.R. 2394. A bill for the relief of Antonio Benavides (Rept. No. 92-619). Referred to the Committee of the Whole House.

Mr. EILBERG: Committee on the Judiciary. H.R. 2703. A bill for the relief of Mrs. Concepcion Garcia Balauro (Rept. No. 92-620). Referred to the Committee of the Whole House.

Mr. RODINO: Committee on the Judiciary. Senate Concurrent Resolution 35. Concurrent resolution favoring the suspension of deportation of certain aliens; with amendments (Rept. No. 92-621). Referred to the Committee on the Whole House.

Mr. MAYNE: Committee on the Judiciary. H.R. 2714. A bill for the relief of Mrs. Kayo N. Carvell; with an amendment (Rept. No. 92-622). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM (for himself, Mr. ASPIN, Mr. HUNGATE, Mr. MAZZOLI, Mr. YATRON, and Mr. REMPEL):

H.R. 11611. A bill to amend the Fair Packaging and Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business and the packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. BROYHILL of Virginia (for himself, Mr. SHOUP, Mr. LUJAN, Mr. DELLENBACK, Mr. SWACH, Mr. TERRY, and Mr. DICKINSON):

H.R. 11612. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. HILLIS:

H.R. 11613. A bill to change the name of the Indiana Dunes National Lakeshore to the Cole Porter National Lakeshore; to the Committee on Interior and Insular Affairs.

XUM

By Mr. HELSTOSKI:

H.R. 11614. A bill to provide for the issuance of a commemorative postage stamp in honor of the 75th anniversary of the founding of the Parent-Teacher Association; to the Committee on Post Office and Civil Service.

H.R. 11615. A bill to amend title 38 of the United States Code to increase the maximum burial and funeral expense payment for a veteran to $400 and to provide an additional allowance of not to exceed $250 for the purchase of a burial plot; to the Committee on Veterans' Affairs.

By Mr. KOCH (for himself and Mr. BIAGGI):

H.R. 11616. A bill to amend the Urban Mass Transportation Act of 1964 to authorize certain emergency grants to assure adequate rapid transit and commuter railroad service in urban areas, and for other purposes; to the Committee on Banking and Currency.

By Mr. McCOLLISTER:

H.R. 11617. A bill to provide for a reduction in the salaries of certain officers and employees of the Federal Government; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H.R. 11618. A bill to order the construction of a Veterans' Administration hospital in the southern area of New Jersey; to the Committee on Veterans' Affairs.

By Mr. TAYLOR:

H.R. 11619. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 11620. A bill for the relief of certain cities, counties, and government agencies of the State of Florida to compensate them for costs in connection with a "red tide" occurrence; to the Committee on the Judiciary.

By Mr. DULSKI:

H.R. 11621. A bill to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CARTER:

H.R. 11622. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. DULSKI (for himself, Mr. WALDIE, and Mr. HILLIS):

H.R. 11623. A bill to amend chapter 83 of title 5, United States Code, relating to adopted child; to the Committee on Post Office and Civil Service.

By Mr. HERBERT (for himself and Mr. ARENDS (by request)):

H.R. 11624. A bill to amend the Military Construction Authorization Act, 1970, to authorize additional funds for the conduct of an international aeronautical exposition; to the Committee on Armed Services.

By Mr. KYROS:

H.R. 11625. A bill to insure adequate health care to children suffering from major illness, to insure adequate care to all infants born in low-income families, and to insure adequate maternal care to all women in low-income families; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 11626. A bill to amend the National Flood Insurance Act of 1968 to increase flood insurance coverage of certain properties, to authorize the acquisition of certain properties, and for other purposes; to the Committee on Banking and Currency.

By Mr. STAGGERS (for himself, Mr. MOSS, Mr. ECKHARDT, Mr. CARNEY, and Mr. DINGELL):

H.R. 11627. A bill to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STUCKEY (for himself, Mr. MCMILLAN (by request), Mr. DELLUMS, Mr. DIGGS, Mr. O'KONSKI, Mr. MCKINNEY, Mr. MIKVA, Mr. MADDEN, Mr. CARTER, Mr. FAUNTROY, Mr. ROY, Mr. GUDE, Mr. NELSEN, Mr. CONTE, Mr. GIAIMO, Mr. STAGGERS, Mr. PREYER of North Carolina, Mr. BROYHILL of Virginia, Mr. FRASER, Mr. ROGERS, Mr. LINK, Mr. SPRINGER, and Mr. FUQUA):

H.R. 11628. A bill to authorize grants and loan guarantees for construction or modernization of hospitals and other medical facilities in the District of Columbia; to the Committee on the District of Columbia.

By Mr. PETTIS:

H. Con. Res. 448. Concurrent resolution to express the sense of Congress that the U.S. Bureau of Reclamation should accelerate its investigations of geothermal resources as a potential major new source of fresh water supplies for the Western United States; to the Committee on Interior and Insular Affairs.

By Mr. GUBSER:

H. Res. 695. Resolution expressing the sense of the House of Representatives with respect to a complete accounting of all American prisoners of war in Southeast Asia; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

260. By the SPEAKER: Memorial of the House of Representatives of the State of Illinois, relative to the denial by the Civil Aeronautics Board of an application to provide for direct flights from Chicago to Israel; to the Committee on Interstate and Foreign Commerce.

261. Also, memorial of the Legislature of the State of Georgia, ratifying the amendment to the Constitution of the United States extending the right to vote to citizens 18 years of age and older; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of Ohio:

H.R. 11629. A bill for the relief of Cpl. Bobby R. Mullins; to the Committee on the Judiciary.

By Mr. PATTEN:

H.R. 11630. A bill for the relief of Salvador Pancorbo; to the Committee on the Judiciary.

By Mr. UDALL:

H.R. 11631. A bill for the relief of Robert Gibbons; to the Committee on the Judiciary.

By Mr. WIDNALL:

H.R. 11632. A bill for the relief of Vincent J. Sindone; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

152. By the SPEAKER: Petition of Eric Havens et al., Marion, Ill., relative to redress of grievances; to the Committee of the Judiciary.

153. Also petition of the Vermont State Labor Council, AFL-CIO, relative to the national health security bill; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

BOYS' CLUB OF SAN GABRIEL VALLEY DESERVES PRAISE

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. DANIELSON. Mr. Speaker, the Boys' Club of San Gabriel Valley, which services part of my congressional district, is holding its annual meeting and awards dinner this Thursday, November 11. I will not be able to attend, but the event brought to mind the fine work that this active organization has been doing.

During this past summer this boys' club has taken advantage of two Federal programs, as described in the following statement. The civic leaders who are active in the club operation, as well as the staff members, are to be commended. The statement follows:

BOYS' CLUB OF SAN GABRIEL VALLEY SPECIAL LUNCH AND DINNER PROGRAM FOR BOYS—1971

This summer marked the second year that the Boys' Club of San Gabriel Valley participated with the California State Department of Education in providing hot and nutritious lunches and dinners for its members during the summer vacation period. This program was established by the United States Department of Agriculture in order to provide nutritional meals for children living in low-income areas and to help safeguard the health and well-being of our youth.

The Boys' Club agreed to prepare and serve meals of a type, quality and quantity sufficient to meet U.S.D.A. requirements. The State Department of Education served as a technical resource and the disbursing agency. The Boys' Club was reimbursed 30¢ for each meal served. In addition, the Boys' Club became eligible to utilize U.S.D.A. surplus foods and to receive periodic visits and consultation nutrition specialists.

The Boys' Club agreed to provide no-cost food service for all boys regardless of race, color, or national origin and to serve meals which met at least the minimum U.S.D.A. requirements:

1. Protein Rich Foods—Meat, cheese, eggs—Minimum 2 oz.
2. Fruits and Vegetables—¾ cup—At least two dishes.
3. Enriched Bread—one serving.
4. Butter or Fortified Margarine—1 teaspoon.
5. Whole fresh milk—one-half pint.

Through direct cooperation with the Work Experience Office of the El Monte Union High School District, the Boys' Club was able to utilize the services of the Neighborhood Youth Corps in the preparation and serving of the meals. One fine young girl, a college student, served as the cook while two other N.Y.C. workers assisted in the preparation, serving, and clean-up. There was no cost to the Boys' Club for the N.Y.C. workers who did receive a school grade and a salary through the Work Experience Program.

The food service program did not seriously interfere with the normal operations of the Boys' Club. The meals were served on the patio area which keep food out of the Clubhouse and off of the carpets. There was no discrimination against non-Boys' Club members in any way. After each meal the tables and chairs were put away and the whole area was swept and hosed off. The regular Boys' Club program continued as usual inside the Club for those boys who had eaten at home or elsewhere or who were not hungry.

As was the case in 1970, there was very little evidence of wasted food. Boys were given the opportunity to take as much (or as little) as they wished with provision being that they should eat everything they take. Ample second helpings were always available which encouraged the boy to take moderate helpings on the first go-round.

Many different menus were developed using recipes supplied by U.S.D.A. Whenever possible two or more protein-rich main dishes were offered in addition to a variety of fruits and vegetables. We felt it was better to afford the boys choices rather than limiting the menu to only one selection. Often different vegetables were offered in order to expand the boys' eating "vocabulary". The favorite foods, not surprisingly, were tacos, baked ham, fish filets, roast turkey, hot dogs and watermelon. Pinto beans, lentels, and chili beans were served frequently because they are protein-rich foods and popular with the boys.

During the course of the program, the general conduct and behavior of the boys was markedly improved. Quarrels were reduced. A general feeling of happiness, well-being and cooperation occurred. Often boys volunteered to help serve and clean-up. These offers of service were always accepted because learning to help others is one of the important citizenship goals of the Boys' Club.

During the program, a total of 7,675 meals were served: 3,260 lunches and 4,415 dinners. The program lasted for 63 serving-days.

The fair-market value of the program, which included the value of the N.Y.C. labor, the value of the donated food and supplies, and the cost of the food, amounted $4,511.11 or about 59¢ per meal.

The gross-cost which was the amount actually spent before reimbursement was $2,432.11 or about 32¢ per meal. The amount which was reimbursable was $2,224.50.

The net cost to the Boys' Club was $207.61 or about 2.7¢ per meal (during 1970 the cost was about 7.6¢ per meal).

It is the considered opinion of the Board of Directors that this program is one of the very best programs which the Boys' Club is able to provide the youth of our community. It does so much good for so many needy boys. It is typical of the health and social services which the Boys' Club provides. Being able to meet the needs of the community in cooperation with local, state and federal agencies, the Boys' Club proves its worth.

BIG MEN IN SMALL TOWNS

HON. ROBERT T. STAFFORD

OF VERMONT

IN THE SENATE OF THE UNITED STATES

Monday, November 8, 1971

Mr. STAFFORD. Mr. President, following the election of one of my constituents in Rutland County as an executive vice president of the National League of Postmasters at its convention in Portland, Oreg., the Granville Sentinel, weekly newspaper which circulates in a section of the Green Mountain State, published an editorial entitled, "Small Towns Produce Big Men." We are proud of our "big men" in Vermont's "small towns." The editor of the Sentinel, M. H. Manchester, knows big towns like Washington and small towns like West Pawlet. For many years he lived here in this Capital City and served as the distinguished editor of the Reserve Officers magazine.

I ask unanimous consent that a short editorial by Publisher Manchester be printed in the EXTENSIONS of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SMALL TOWNS PRODUCE BIG MEN

This newspaper salutes Alton A. Ellis, West Pawlet, upon the occasion of his overwhelming election as executive vice-president of the oldest and largest association in its professional field, the 15,000-member National League of Postmasters.

The choice by his peers to the highest office has four reasons for praise. First, it recognizes the responsible service of a man who takes both his profession and his citizenship as a trust. Second, it brings to the national level a man who has demonstrated that he knows how first-class to run a post office which gives service to consumers and to the community. Third, this election gives to the country a sound and experienced man so greatly needed at this time of transition in the postal institution. Fourth, and probably most important of all, it recognizes that tucked away in little hamlets like West Pawlet (population 690) there are people of such stature that they are worthy of the confidence of their professional associates.

And so, Postmaster Ellis, the Sentinel congratulates the National League of Postmasters on the wisdom of its choice; congratulates you on this deserved appreciation of your work; and congratulates West Pawlet on the historical record now in postal history: Small towns produce big men!

NEW OPTIMISM FOR ECONOMY

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. DEVINE. Mr. Speaker, favorable public reaction to President Nixon's new economic program continues to rise and I predict that it will be recorded as a major highlight of his administration.

Typical of the national reaction is a recent report by the Chamber of Commerce of the United States which said:

American businessmen are increasingly optimistic about the economy and overwhelmingly in support of the program.

The chamber report said that:

Seventy-eight percent of the businessmen responding to the third quarter business confidence index are optimistic about the economy and 97 percent support his 90-day wage-price freeze.

The index was conducted during the middle month of Mr. Nixon's 90-day phase 1 program. It also showed, the chamber reported, that:

Eighty percent of the 12,050 businessmen responding believed, if some form of controls is to be continued after November 13, that such controls should be mandatory. Sixty-six percent said the controls should be applied across the board.

It is interesting to note that 73 percent of the business firms represented in the poll have 100 or fewer employes. Another telling point in the new index is that in the second quarter only 42 percent were optimistic and 30 percent were neutral or had no opinion about the economy.

I call your attention to the chamber's findings as another sure indication that the administration is on the right track toward ending inflation and paving the way for new prosperity in a peacetime economy.

The report follows:

NEW OPTIMISM FOR ECONOMY, SUPPORT FOR PRESIDENT'S ECONOMIC PROGRAM EXPRESSED IN CHAMBER POLL

WASHINGTON.—American businessmen are overwhelmingly in support of President Nixon's New Economic Program and are increasingly optimistic about the economy, the Chamber of Commerce of the United States said today.

Seventy-eight percent of the businessmen responding to the National Chamber's third quarter *Business Confidence Index* were optimistic about the economy and 97 percent supported President Nixon's 90-day wage-price freeze.

This compares with 42 percent who were optimistic and 30 percent who were neutral or had no opinion about the economy in the second quarter.

The *Index*, conducted during the middle month of President Nixon's 90-day Phase I Program also showed 80 percent of the 12,050 businesses responding believed if some form of controls is to be continued after Nov. 13, such controls should be mandatory. Sixty-six percent said the controls should be applied across the board.

The 12,050 respondents represent 28 percent of the National Chamber federation's members. Seventy-three percent of the business firms represented in the poll have 100 or fewer employees.

Fifty-two percent of the businessmen said they believe that other nations will retaliate against U.S. exports if the 10% tax on imports is continued, and 71 percent said the federal deficit for fiscal 1972 should be reduced by holding down federal expenditures.

Ninety-eight percent said labor unions should be subject to anti-trust laws.

THE LEGALITY OF SAVING A HUMAN LIFE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. PEPPER. Mr. Speaker, I would like to bring a current problem existing today to the attention of this body, that of "the legality of saving a human life." Recently a newborn mongoloid baby was left to die in its crib, while a simple operation could have been performed to save the infant's life. Doctors said they could not operate without the parent's permission, they had no legal right. According to Dr. William Bartholome, senior assistant resident in pediatrics at Johns Hopkins Hospital,

similar life and death decisions are made at least twice a week.

It is sad that such a decision was made in this baby's case, because mongoloid children can lead healthy, happy, productive lives according to doctors. This is not the principal problem brought about by this misfortunate state though. The question remains whether society has the right to stand by idly and let a living being die, one that could have been given the chance to live.

Doctors say that they suffer through this kind of decision often. They are calling for a group of people sophisticated enough in medicine, sociology, ethics, and law, to lend some guidance in determining how this problem can be settled.

I believe that Congress should begin to take measures, as it has done in situations in the past, in answering a troubling question affecting our society. In all probability, while you are listening to this statement another human life is being left to die, another human life that could be saved if we do not stand in its way to live.

CHURCH ORGANIZATION HAVING DEFEATED PRAYER NOW LOBBIES FOR UNITED NATIONS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1791

Mr. RARICK. Mr. Speaker, one thing is certain about the lobbying activities of some national church organizations—they are consistent. Not content with the defeat of a bill offering a constitutional amendment to guarantee the right of individuals in public buildings to engage in voluntary prayer, they have now taken to lobbying for continued U.S. financial support for the United Nations at the present level. The United States now furnishes 39 percent of the funds for financing United Nations budget, yet we have only one vote; while Soviet Russia, which actually is in arrears in its obligation to this international organization, has three votes—their own, the vote of the Ukraine, and the vote of Byelorussia.

Certainly the churches which opposed voluntary prayer in public buildings can feel consistent in supporting the United Nations. This international Communist debating society does not open its meetings with a prayer for Divine guidance. Even the U.S. Congress, which in its "wisdom" voted against guaranteeing the right of little schoolchildren to engage in voluntary prayer, does that. How can an organization that does not dedicate its activities to God, asking for Divine guidance and acknowledging a Supreme Being, be an instrument of peace?

The United Presbyterian Church of America has actually gone so far as to write to the President, urging him to exert pressure to maintain the current level of financing to the United Nations as "a primary international structure for maintaining peace and understanding among nations of the world." Unfortunately, the United Presbyterian Church has forgotten that the only proven effect of the United Nations organization is war—the Korean and the Vietnam war are both conducted under United Nations guidelines. Both wars have cost America dearly in the lives of American men. Both continue to act as a drain on American men, money, and materials.

In both instances, American men have fought and died uselessly as the pawns of internationalists in the United Nations and their dear American friends. In neither of these wars were Americans allowed to consider victory as an alternative. Victory over communism is morally wrong. Communist appeasement in the name of "peaceful coexistence" and the pressures in the U.N. are the causes for losing both wars.

How could any religious organization consider the United Nations "a primary international structure for maintaining peace" when it has, in fact, been the primary organization responsible for the two wars that have effectively polarized the American society to the point where Members of Congress are, at the request of national church organizations, actually going on record as opposing the right of American citizens gathered in public buildings to engage in voluntary prayer—a right guaranteed them by the first amendment?

Those Americans who are interested in peace American style have an answer. Once 218 Congressmen have signed discharge petition number 10, the House will vote passage of H.R. 2632, a bill "to revoke and rescind United States participation in the U.N."

I insert a letter addressed to the President supporting continued U.S. financial support of the United Nations in the RECORD at this point:

THE UNITED PRESBYTERIAN CHURCH IN THE UNITED STATES OF AMERICA, PHILADELPHIA, PA., *October 29, 1971.*

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The General Assembly of the United Presbyterian Church in the U.S.A. has repeatedly affirmed support of the United Nations as a primary international structure for maintaining peace and understanding among the nations of the world.

At this critical turn in the history of the United Nations, it would be tragic indeed if financial support of its budget by the United States of America were reduced as a result of pique occasioned by the adverse vote on the position regarding representation of China presented by our Ambassador. Such a reduction would inevitably be seen as a falling away of this country's commitment to the ideals symbolized by the United Nations. It would not only hinder the total operation of the world body, but it would convey the strong impression that our contribution of resources is offered to buy the support of other nations.

I urge you to reaffirm support of the United Nations by the United States of America at this time, and to convey to the Congress the opposition of your administration to present efforts to reduce support of the budget of the United Nations.

Sincerely yours,

WILLIAM P. THOMPSON,
Stated Clerk.

REV. SAMUEL W. SHANE,
Associate Stated Clerk.

OTTO K. FINKBEINER,
Assistant Stated Clerk.

REV. ROBERT F. STEVENSON,
Assistant Stated Clerk.

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FIRST SESSION

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NOVEMBER 9, 1971 TO NOVEMBER 15, 1971

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United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 92d CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Tuesday, November 9, 1971*

The House met at 12 o'clock noon.

Rev. Sears F. Riepma, retired, Christ Church Parish, Springfield, Mo., offered the following prayer:

O Thou Infinite and Solemn Spirit before whom the nations rise and pass away, Thou art the Lord of Hosts, Thou art the King of Glory and yet Thou dost listen to the simple prayer of an humble child and not a sparrow falls to the ground but Thou art present at its burial.

Men of old trusted in Thee. To their children the world over of whatever race or class be Thou a pillar of cloud by day lest its garish lights blind them and a pillar of fire by night lest darkness overcome them and they are sore afraid.

Grant to Thy servants in this Chamber of debate, resolution, and decisionmaking a hopeful and quiet mind that they may see clearly, plan spaciously, and execute courageously.

To us citizens of this land grant an increased will to do justly, to love mercy, and to walk humbly with God.

To that end we pray as the fisherfolk of the yesteryears, "Help us, O God, for our boats are too small and Thine ocean is so large." Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7072) entitled "An act to amend the Airport and Airway Development Act of 1970 to further clarify the intent of Congress as to priorities for airway modernization and airport development, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 986. An act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

REV. DR. SEARS F. RIEPMA, GUEST CHAPLAIN FOR TODAY

The SPEAKER. The Chair recognizes the gentleman from Missouri (Mr. HALL).

Mr. HALL. Mr. Speaker, we are indeed indebted to you and to our Chaplain for the arrangements which brings us our Chaplain of the Day, Rev. Dr. Sears F. Riepma, retired, of the Christ Episcopal Church, in my hometown.

In spite of our actions of yesterday and this Nation's judiciary, he will never address a prayer or supplication "To Whom It May Concern."

Mr. Speaker, he is a personal friend. He is a onetime patient, the pastor emeritus of all "sky pilots" of Missouri, as well as an adviser to those in government. He is an indestructible nonagenarian, the father of a lady lawyer in New York, of a fashion expert and magazine publisher in Richmond, and a lady colonel in the Air Force stationed at Eglin Air Force Base; and a son—Siert—whom most of us know as president of the National Margarine Association, in this city.

Mr. Speaker, the worth of his supplication is apparent to all. But in addition to this, Mr. Speaker, he is a great father, a wonderful family man, and an outstanding community citizen who is still dynamic and outgiving in filling parish pulpits and civic gatherings all over the United States. Our last personal contact was at the combined church-public Easter noonday services in a Springfield theater.

We welcome him to these Chambers today.

DR. THOR HEYERDAHL TESTIFIES BEFORE HOUSE PUBLIC WORKS COMMITTEE ON CONDITION OF OUR OCEANS

(Mr. RONCALIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO. Mr. Speaker, I have just come to the floor of the House today from a meeting of the House Public Works Committee at which the noted anthropologist, Dr. Thor Heyerdahl delivered a very sobering warning to all men of all nations on the conditions of the oceans today.

The oceans, being mankind's first source of oxygen, are in danger of ultimate destruction. I know of nothing more important to man than the contents of Dr. Heyerdahl's remarks today and I ask unanimous consent, Mr. Speaker, that they may be included in the appendix of the RECORD.

The SPEAKER. Is there objection to the request from the gentleman from Wyoming?

There was no objection.

MAN RIDES BIKE FROM UNIVERSITY TO CAST BALLOT

(Mr. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MYERS. Mr. Speaker, much has been said about the newly franchised 18-year-old voters. There apparently was much apathy among the 18- to 21-year-olds this year as many did not vote. One young man from Indiana did take this privilege seriously as the enclosed article from the Commercial-News reports. Riding a bicycle more than 50 miles to cast his first ballot displays the kind of dedication to the importance of voting that is refreshing and welcome.

I am especially proud of this young man because he is my nephew.

The article follows:

MAN RIDES BIKE FROM UNIVERSITY TO CAST BALLOT

COVINGTON, IND.—Joe Omahen, 19, of Covington, considered his new voting privilege so important that he took to his bicycle and rode all the way home from Indiana State University to cast his first ballot in the city elections.

Omahen, a sophomore, majoring in art at Indiana State, covered the 50-mile distance in approximately 5 hours, leaving early Friday morning. He voted absentee on Saturday.

Omahen is the son of Mr. and Mrs. Harold Hanley of Covington and also is the nephew of Indiana Seventh District Congressman John Myers.

Omahen hitched a ride back to school on Sunday evening, as his bike was not in condition for the ride back.

PROVIDING FUNDS FOR COMPUTER SERVICES FOR THE HOUSE OF REPRESENTATIVES

Mr. THOMPSON of New Jersey. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 601 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 601

Resolved, That during the Ninety-second Congress, the Committee on House Administration is authorized to incur such expenses (not in excess of $1,500,000) as the committee considers advisable to provide for maintenance and improvement of ongoing computer

services for the House of Representatives and for the investigation of additional computer services for the House of Representatives, including expenditures for the employment of technical, clerical, and other assistants, for the procurement of services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)), and for the procurement of equipment by contract or otherwise. Such expenses shall be paid out of the contingent fund of the House on vouchers authorized and approved by such committee, and signed by the chairman thereof. Not to exceed $1,000,000 of the total amount provided by this resolution may be used to procure the temporary or intermittent services of individual consultants or organizations thereof pursuant to section 202(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(1)); but this monetary limitation on the procurement of such services shall not prevent the use of such funds for any other authorized purpose.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditures in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 3. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. THOMPSON of New Jersey (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HALL. Mr. Speaker, reserving the right to object, does the gentleman from New Jersey intend to take time after unanimous consent is given in order to explain the resolution, and its purpose?

Mr. THOMPSON of New Jersey. Mr. Speaker, if the gentleman will yield, I will say to my friend, the gentleman from Missouri, that I do.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMITTEE AMENDMENT

The SPEAKER. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 4, strike out "$1,000,000" and insert "$200,000".

The committee amendment was agreed to.

Mr. THOMPSON of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 601, which was reported unanimously out of the Committee on House Administration, comes to the floor after long and careful consideration by the Committee on House Administration and by its subcommittees namely, the subcommittee chaired by our distinguished colleague, the gentleman from Pennsylvania (Mr. DENT), and the Subcommittee on Accounts, which I have the honor to chair.

This resolution provides funds in the amount of $1,500,000 to the Committee on House Administration in support of computer activities for the House of Representatives during the final 15 months of the 92d Congress.

Heretofore, Mr. Speaker, computer operations of the House were handled by the Data Processing Office of the Clerk principally in support of several clerical tasks entrusted to his direction. Without being critical of the Clerk or his operations, because he, in my judgment, has done a splendid job, the Committee on House Administration decided some time ago to hire staff to study the computer system and to implement additional developments on it.

Dr. Frank Ryan has come aboard the committee staff, and with the assistance of the Stanford Research Institute and other groups, has done a comprehensive study.

I might point out, Mr. Speaker, that the $1.5 million represents only approximately $770,000 more than is currently being spent. The computer which we have available to the House of Representatives is one which has a much greater capacity than is now being used. The House of Representatives is so far behind in modernizing itself with respect to the use of computers that really it is almost an embarrassment. In contrast, most departments of the Federal Government already spend large sums on computers and staff people to operate them.

For instance, House Resolution 601 provides enough money for the House of Representatives to continue renting only one computer and employing the necessary staff to operate it.

I might point out that AID has four computers. The Veterans' Administration has 41 computers and, believe it or not, the Department of Defense has 2,668 computers.

Our computer already handles the House payroll, the Member's allowance report, the Clerk's semiannual report, the office equipment inventory, and the vote history system. Our projections include inventories for the House restaurants so that we can continue to supervise them. Our projections also include computer services for data retrieval and legislative information of various sorts, for mailing lists, for bill status information, and a number of other important uses.

The capability of the computer which we have now is, as I said, much greater than now being used. We estimate that the effective use of the computer which we now have is only 10 percent approximately of its capacity. It is a 360–50 IBM computer. The House is renting it and associated hardware such as magnetic disc storage units currently for $22,000 a month; in other words, about $700 a day. Yet, the computer is being used to only 10 percent of its capacity.

The committee determined that it is in the interest of the institution and of the Members that our present computer be used more effectively. We have a highly sophisticated, well-trained staff available and I am certain that within a very short time all of us would benefit infinitely by the passage of this resolution and subsequent action.

Mr. Speaker, I yield to the distinguished gentleman from Alabama (Mr. DICKINSON) for purposes of debate only.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding. I appreciate it very much. Mr. Speaker, I would like to emphasize what the distinguished gentleman from New Jersey has said.

It was said in the committee that none of us has the expertise, training, and background to be able to say that this is what we should do or this is what we should not do when we get into the highly technical field of computers. For this reason, we have assembled as good a professional staff as we possibly could. We have Dr. Ryan and a very competent staff and this is what they have recommended as to how we can get the most for our dollar.

At some point we have to travel on faith and we have to take the advice of our experts whom we have hired to assist us in this field.

As the gentleman just pointed out, we have an obligation to legislate and we are asking to have one computer to assist us here in the House for data retrieval in order to give us the background information and so forth to enable us to pass on legislation setting up the entire spectrum of Government. If you compare our obligations in the House to other areas of Government and look at what we are trying to do and are responsible for, you can really see the need of this bill. We create AID, we fund it, we have oversight, but AID for instance, has four computers that they have already on the line and are using. The Veterans' Administration has 41 computers. Yet, we must oversee and appropriate for the Veterans' Administration.

The Department of Defense has 2,688 computers and we, in turn, must make the decisions as to what the Department of Defense is going to do and what they are going to spend. We must provide for this.

So I think, Mr. Speaker, in all fairness we will be doing ourselves here in the House a disservice if we do not get somewhat modern and if we do not keep abreast of the technology that is available to us. I certainly do support this and I think we in the House are going to fall short of what we should be doing if we do not pass this resolution.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. I was really astounded, as I know the gentleman was, by the extent to which the Department of Defense has and uses computers. I might point out that the salaries alone for the operation of those computers total $715 million.

Mr. DICKINSON. What the gentleman has pointed out is impressive when we consider that we are asking for only $1.5 million to enable the House to oversee every department of the Government. Without belaboring the point, the record is clear that the equipment is needed, it is justified, and if we do not get it I think we are selling ourselves short.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman's yielding. I wish to associate myself with his remarks and those of my colleague from Alabama, and compliment the Committee on House Administration for bringing this resolution to the floor as speedily as they have; and with as good a report as they have accompanying the resolution, which is in keeping with the Reorganization Act of 1970. I am in strong support of this first long step toward modernizing the House of Representatives. I thank the gentleman.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. THOMPSON of New Jersey. I thank the gentleman, and I yield to the distinguished chairman of the Committee on House Administration, the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. I thank the gentleman. I just want to say that one of the things that has come to my attention in the last couple of days is the fact that the Sergeant at Arms wants some kind of computerized machine with which to do his bookkeeping, and we have found in a preliminary exploration that the machine we now have will do this job. It is a matter of providing a system so it can have simultaneous terminals running instead of the system we have now, which can have only one terminal run at a time, which makes the computer fairly ineffective.

I have instructed the staff to get on a crash basis and get this thing in line with the computer which we are already renting and already paying a pretty healthy sum for and which, as the gentleman from New Jersey has so rightly pointed out, is only being operated usefully about 10 percent of the time.

Mr. THOMPSON of New Jersey. I thank the gentleman.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on the resolution just agreed to, and to include extraneous material.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PHOTOGRAPHIC DISPLAY ON CANCER RESEARCH AND TREATMENT

(Mr. DULSKI asked and was given permission to revise and extend his remarks at this point in the RECORD.)

Mr. DULSKI. Mr. Speaker, in room 210 of the Cannon Building, we have arranged a photographic display on cancer research. Very shortly we will be voting for the cancer research legislation. The exhibit that we now have in room 210 has been assembled at my request by the staff of Roswell Park Memorial Institute, Buffalo, N.Y., which, founded in 1898, is the oldest and one of the largest cancer institutes in the world.

I hope that all Members will have an opportunity to visit this exhibit.

Dr. Gerald P. Murphy, the institute director, and other officials will be there to give guidance or answer any questions that anybody cares to ask.

DISMISSING THE ELECTION CONTEST IN THE 38TH CONGRESSIONAL DISTRICT OF THE STATE OF CALIFORNIA

Mr. ABBITT. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 507 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 507

Resolved, That the election contest of David A. Tunno, contestant, against Victor V. Veysey, contestee, Thirty-eighth Congressional District of the State of California, be dismissed.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 8629, COMPREHENSIVE HEALTH MANPOWER TRAINING ACT OF 1971

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 8629) to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 19, 1971.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference agreement on H.R. 8629, providing increased manpower for the health professions.

This bill passed the House by an overwhelming vote on July 1, and passed the Senate similarly on July 14 of this year. The bill was sent to conference on July 19, and the conferees met several times prior to the August recess in an attempt to reach an agreement, but the differences between the two Houses were too large for us to reach agreement prior to the recess.

Immediately upon returning from the recess, the conferees met again at every available opportunity, and we now present to the House a report filed by all the conferees, which in my opinion is a better bill than originally passed by either body.

The House originally passed a 3-year bill with authorizations totaling $2,764,600,000. The Senate bill was a 5-year program but over the first 3 years of that authorized $3,354,700,000.

The conferees substitute is a 3-year bill authorizing a total of $2,890 million for the program set forth in the bill.

All existing programs are continued and expanded. The program of grants for construction of teaching facilities is expanded to include health research facilities, as well as teaching facilities, and also authorizes a new program of loan guarantees and interest subsidies.

Existing law authorizes capitation grants, which have averaged a little over $500 per student per year. The capitation grant program is revised very substantially, to provide more realistic higher levels of support, with bonuses for schools which graduate students early, and for schools which increase enrollment above certain minimum amounts. The program of special project grants for medical schools in financial distress is continued and broadened, and a new program of health manpower education initiative awards is added to the legislation.

Startup assistance is provided for new schools of medicine as well as assistance to accredited 2-year schools which propose to convert to schools of 3 or 4 years which grant the M.D. degree.

The existing program of loans and of scholarships to students is continued and expanded, with programs for students studying abroad, and a special scholarship program is established for residents of certain low-income areas.

Loan forgiveness features designed to encourage students to practice in shortage areas are strengthened and expanded, and the Emergency Health Personnel Act machinery is beefed up to provide more physicians for rural areas and having a shortage of health professionals.

The program provides for grants for support of training, traineeships, and fellowships in family medicine, as well as a program of grants for support of postgraduate training for physicians and dentists in specialties where there is a very short supply. The bill also authorizes grants for computer technology programs, and grants to encourage full utilization of educational talent for the health professions.

Mr. Speaker, the conference with the Senate was a long and difficult one, but

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as I said before, in my opinion we have brought to the House a better bill than passed either of the two bodies.

I urge the adoption of the conference report.

Mr. KYROS. Mr. Speaker, would the gentleman yield for a question?

Mr. STAGGERS. I yield.

Mr. KYROS. There is considerable interest in Maine in the possible establishment of a medical school, or a facility for training health personnel. I would like to clarify the intent of the proposed new section 772(b) of the Health Manpower Act, which authorizes the making of grants and contracts for the planning, development, or establishment of special projects, which can include training programs for health personnel, and programs for cooperative interdisciplinary training.

I wonder if it is intended that a grant may be made under section 772 for the planning of special training programs to be conducted in Maine, or in any other State, under this section?

Mr. STAGGERS. Yes, if the applicant is a medical school.

Mr. KYROS. Section 774(a) of the proposed new law permits the Secretary to make grants or contracts for projects to encourage the establishment or maintenance of programs, to alleviate shortages of health personnel through training such personnel in facilities located in areas designated by the Secretary. Would the gentleman agree with me that this section would authorize grants or contracts to an organization such as a local regional medical program, or other health or educational entity, to plan for the establishment of a medical school or other facility for training health personnel in Maine or any other area having a shortage of health personnel?

Mr. STAGGERS. Yes.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Florida, the chairman of the subcommittee.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to urge the adoption of the report of the committee of conference on the differing versions of H.R. 8629, the Health Manpower Training Act of 1971, as passed by the House and the Senate. By far, the major provisions of the House bill were maintained.

Mr. Speaker, this measure extends for 3 years the legislation which expired on June 30, 1971. H.R. 8629 originally was passed by the House on July 1 and the Senate-amended version was passed by that body on July 15. Since that time, the House and Senate conferees met in 10 lengthy sessions in arriving at this conference reported measure. Because this legislation authorizes support which is so vital to health professions schools, it is urgent that the House take swift action in adopting the provisions of the conference report.

I am pleased to note that a large number of the provisions of this bill are from the original House bill and this report was agreed to by the Senate on October 19, 1971. This measure would give programs of aid to schools of medicine, dentistry, osteopathy, veterinary medicine, optometry, podiatry, and pharmacy, and their students, totaling $2.9 billion over a 3-year period.

While the conferees may have disagreed on certain methods and approaches to health professions education, they concur in recognizing these schools as a national resource which can only respond to the Nation's critical need for more and new types of health personnel if the Federal Government offers them predictable, stable, and increased support.

This conference-reported bill is aimed at every facet of health professions education. It offers grants for producing new kinds and levels of health care personnel through basic awards to the institution and special project grants for new or innovative approaches to the delivery of health care.

Every effort is made in this bill to encourage health professionals to work in underserved areas, one of the major health problems in the Nation. Scholarships, loan forgiveness, and efforts to attract people from shortage areas are all part of the planned effort to help distribute our health professionals to the areas where they are needed most.

The system of capitation grants to schools, based on their enrollment, is a much more equitable basis of meeting the needs of schools and the incentives for increasing enrollment.

Shortening the curriculum and the mandatory enrollment increases are all part of the plan which has as its goal the elimination of massive shortages of health manpower by the end of this decade.

This measure is the end result of extensive hearings by the Public Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee. The authorization levels in this measure were proposed after careful deliberation and computations using present and projected enrollment figures for future years based on the required enrollment increases called for in the measure adopted by the conference committee. If the planned effort to meet the health manpower needs of the country and to eliminate the critical shortage which we presently face, which was envisioned during the drafting of this legislation is to succeed, then it will require funding at the levels set forth in this measure.

Mr. Speaker, this bill is vital to the health of this Nation. Partial funding will not do. Partial funding means partial good health. The spotlight is today on the Office of Management and Budget and the Congress is waiting. We have heard initial reports that OMB plans to recommend funding of this bill and the Nurse Training Act at a level of 50 percent or less. I can tell the accountants at OMB right now that in my judgment the responsibility of determining the amount of Federal support of the health needs of this Nation is the responsibility of the Congress and I do not feel that the Congress will stand idly by while OMB manipulates and undercuts this country's health programs. Our Subcommittee on Public Health and Environment has spent months in developing a plan to erase the health personnel shortage in this country by 1978. This plan is based on full funding and we on the subcommittee plan to fight for full funding, and for full health of our citizens.

Mr. Speaker, I urge the adoption of the conference report.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I urge adoption of the conference report. The only thing I would like to point out is when this bill passed the House some time ago, the total appropriation was $2.76 billion, and the Senate bill was for $3.35 billion, and as a result of the conference, we have $2.89 billion, which is much closer to the House bill than to the Senate bill.

Mr. Speaker, I, therefore, urge adoption of the conference report.

Mr. TIERNAN. Mr. Speaker, I rise in support today of the conference report on H.R. 8629, the Comprehensive Health Manpower Training Act of 1971. This landmark legislation is a product of long and detailed hearings in both Chambers and lengthy and arduous conferences as well. I believe that a special word of praise and thanks should go to our colleagues, the distinguished gentleman from West Virginia (Chairman STAGGERS), the distinguished gentleman from Florida (Mr. ROGERS) and the distinguished gentleman from Illinois (Mr. SPRINGER). Along with Senators KENNEDY, PELL, and JAVITS, our colleagues were able to produce a historic piece of legislation. They have labored diligently and purposefully, and we all stand in debt to their perserverance and resolution.

I would like to single out for note, the exceptional work of my congressional colleague from Rhode Island, the junior Senator, Mr. PELL. Senator PELL, chairman of the Senate Subcommitte on Education and a legislator for far-reaching vision and perception, is responsible for establishing a new financial assistance program for the education of medical students. Under his proposal, adopted in the Senate and agreed to in conference, 2-year schools of basic medical science will now be eligible for grants equal to $50,000 per student enrolled in its first third-year class. The effect of Senator PELL's plan is to encourage the expansion of these limited facilities into full-fledged 4-year medical schools at a time when they are sorely needed.

Hopefully, the State of Rhode Island will now realize its first medical school. Fortunately, Brown University in Providence, R.I., will be a beneficiary of this legislation if it chooses to expand its present 2-year basic medical science school. The need is great not only for the prospective students, but for the well-being of the Rhode Island community as a whole. With a medical school in our midst, Rhode Island will begin to realize its salutary effect, specifically in the higher quality of medical research, technology, and application that is the experience of other medical school communities.

Finally, this act will now enable us to meet, somewhat, the urgent and critical need of additional professional health personnel. I urge adoption of the conference report.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. KYL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 367]

Alexander	Edwards, La.	Moss
Barrett	Frelinghuysen	Murphy, N.Y.
Bevill	Gallifianakis	Nedzi
Blatnik	Gallagher	Patman
Broomfield	Gray	Pelly
Buchanan	Gubser	Purcell
Caffery	Halpern	Railsback
Celler	Hays	Scheuer
Clark	Hébert	Schwengel
Clawson, Del	Landgrebe	Stanton,
Clay	Lloyd	J. William
Collins, Tex.	Long, La.	Steed
Conyers	McCloskey	Vigorito
Crane	McFall	Whitten
Derwinski	McKinney	Wilson, Bob
Diggs	McMillan	Wright
Dingell	Macdonald,	
Dowdy	Mass.	
Drinan	Metcalfe	

The SPEAKER. On this rollcall 378 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORTS

Mr. COLMER. Mr. Speaker, I ask unanimous consent that the committee on Rules may have until midnight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 8630, NURSE TRAINING ACT OF 1971

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (H.R. 8630) to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 19, 1971.)

Mr. STAGGERS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I rise in support of the conference report on H.R. 8630, a bill providing support for programs designed to increase the supply of nurses in the United States.

The bill passed the House July 1, the Senate July 14, and was sent to conference on July 19.

We conferred with the Senate on health manpower legislation for a considerable period of time before beginning our consideration of this bill. It was necessary to do so, because many of the issues of philosophy as between the two Houses were reflected in each bill, and we needed to resolve these differences first. Once we had completed action on the health manpower bill, the conferees went quite speedily on this bill, since we followed through consistently in this bill in the areas in which decisions had been made earlier. As passed by the House, H.R. 8629 established a 3-year program to increase the supply of nursing manpower at a total cost of $710 million. The Senate amendment provided a 3-year program, authorizing $1,113.5 million. The conference substitute is a 3-year program, authorizing $855.5 million.

The bill provides a continuation of all existing programs of assistance to schools of nursing, together with a new program of startup grants for schools of nursing; a guaranteed loan with interest subsidies program for construction assistance, and revised authority for capitation grants to schools of nursing. The first two of these programs are new, and for all practical purposes the program of capitation grants is new, since notwithstanding the authority in existing law to have such a program, appropriations have never been requested in amounts sufficient to fund this program.

The conference agreement authorizes $120 million in matching grants to aid in the construction of teaching facilities for the training of nurses, along with the loan guarantees program I had mentioned.

The existing program of project grants is broadened to include a number of new authorities which experience has shown to be desirable, and authorizes a continuation of the existing program of grants for schools in financial distress.

The existing program of traineeships for advanced study is continued at a total authorization of $66 million, and the existing programs of loans and scholarships to students are continued and broadened, with additional loan for forgiveness features authorized for nurses who practice in areas having a shortage of nursing manpower.

Mr. Speaker, all the conferees signed the conference report, and we are in agreement that this is an excellent bill and one that should be passed speedily. I urge the adoption of the conference report.

Mr. SPRINGER. Mr. Speaker, I think if the Members will go through this item by item, they will find the authorization in this report is a good compromise with the recommendation of the Senate. We originally started out with $710 million in our bill, and the Senate had $1,113,000,000 in its bill. We arrived at a compromise figure of $855.5 million for the 3-year program. The compromises to a great extent follow those compromises in the Health Manpower Act which we agreed to a few moments ago.

The many compromises all along the line tend to follow the House figures rather than the Senate figures, so we think we did get a good settlement.

The main issue in this bill probably was the size of the capitation grants to be given to nursing schools. The House provided for $200 per student. The Senate provided $550 per student. Naturally the conference was limited to a figure of $550, and we did agree on $250 per student, which is very close to the original House figure. There are added amounts for bonus payments of $100 per student for any class which accomplishes extraordinary expansion over and above that required to qualify for capitation payments.

I believe one of the most important features of this bill is that at the present time we have roughly 700,000 nurses in the country and we will increase this number to more than a million 10 years from now, by roughly 1980.

Nurses, like doctors, are encouraged to practice in shortage areas and to increase their skills and ability to train others.

These six features I believe are distinct. Each one of them is an improvement over the present.

It is a substantial amount of money which we are authorizing, but in view of the testimony we had in the subcommittee I believe this amount of money is deserved and it is needed if we want to increase the number of nurses by roughly a quarter million in the next 10 years.

It appeared to me all this was in the public interest, and for this reason I believe the conference report ought to be approved.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, I urge approval of this conference report. As stated, it does follow basically the House position.

Mr. Speaker, nurses are among our Nation's most valuable resources. Any casual student of the financing of nursing edu-

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cation over the past few years will readily agree that in terms of Federal support, nurses have been at the bottom of the heap. This legislation is designed to correct this inequity and to supply our country with an adequate number of trained nurses by the end of this decade. This is a goal shared in by our subcommittee, the full Committee on Interstate and Foreign Commerce, the House of Representatives, and the other body when we passed our differing versions of H.R. 8630. By passing this legislation this goal can be achieved.

Mr. Speaker, in many ways the Nurse Training Act of 1971 tracks the Health Manpower Act. It provides for special project grants, financial distress grants, institutional support by means of a capitation formula, grants for the establishment of new nurse training programs, traineeships for advanced training, scholarship grants, and other innovative features. Each of these features is essential if our country is to achieve an adequate supply of highly skilled nurses.

Mr. Speaker, what I stated to this body earlier in connection with the necessity of full funding for the health manpower bill holds true with respect to this bill. If we are to fulfill the promises this legislation holds for our nurses and for the good health of this Nation, the Office of Management and Budget must present a request for proper funding in line with the authorizations in this bill.

One point of clarification I would like to make is in the capitation grants section of the Nurse Training Act. The bonus to schools preparing pediatric nurse practitioners, nurse midwives, or family health nurses is meant to be for educational programs in schools of nursing that provide broad preparation leading to baccalaureate as well as to advanced degrees for specialization.

Mr. Speaker, I believe this is a good report. It will significantly advance the cause of good health in this Nation by insuring a more adequate supply of trained nurses. I urge its adoption.

Mr. STAGGERS. Mr. Speaker, I should like to take this opportunity publicly to thank the Subcommittee on Public Health and Environment for the great work it has been doing in this House. The members have been working every week since we have been in session, constantly, and have turned out, I believe, tremendous legislation on behalf of the individual and the national health. I want to extend my thanks to them and also the able and hard-working staff members, who have rendered invaluable service.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the two conference reports considered today.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

FEDERAL ENVIRONMENTAL PESTICIDE CONTROL ACT OF 1971

Mr. POAGE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 10729, with Mr. HUNGATE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday, the Clerk had read through the first section, ending on page 1, line 4 of the bill.

The Clerk will read.

The Clerk read as follows:

AMENDMENTS TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SECTION 2. The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) is amended to read as follows:

"SEC. 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'.

"(b) TABLE OF CONTENTS.—

"SECTION 1. Short title and table of contents.
"(a) Short title.
"(b) Table of contents.
"SEC. 2. Definitions.
"(a) Active ingredient.
"(b) Administrator.
"(c) Adulterated.
"(d) Animal.
"(e) Certified pesticide applicator, etc.
"(1) Certified pesticide applicator.
"(2) Private pesticide applicator.
"(3) Commercial pesticide applicator.
"(f) Defoliant.
"(g) Desiccant.
"(h) Device.
"(i) District court.
"(j) Environment.
"(k) Fungus.
"(l) Imminent hazard.
"(m) Inert ingredient.
"(n) Ingredient statement.
"(o) Insect.
"(p) Label and labeling.
"(1) Label.
"(2) Labeling.
"(q) Misbranded.
"(r) Nematode.
"(s) Person.
"(t) Pest.
"(u) Pesticide.
"(v) Plant regulator.
"(w) Producer and produce.
"(x) Protect health and the environment.
"(y) Registrant.
"(z) Registration.
"(aa) State.
"(bb) Substantial adverse effects on the environment.
"(cc) Weed.
"SEC. 3. Registration of pesticides.
"(a) Requirement.
"(b) Exemptions.
"(c) Procedure for registration.
"(1) Statement required.
"(2) Data in support of registration.
"(3) Time for acting with respect to application.
"(4) Notice of application.
"(5) Approval of registration.
"(6) Denial of registration.
"(d) Classification of pesticides.
"(1) Classification for general use, restricted use, or both.
"(2) Change in classification.
"(e) Products with same formulation and claims.
"(f) Miscellaneous.
"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"SEC. 4. Use of restricted use pesticide; certified applicators.
"(a) Certification procedure.
"(1) Federal certification.
"(2) State certification.
"(b) State plans.
"SEC. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"SEC. 6. Administrative review; suspension.
"(a) Cancellation after five years.
"(1) Procedure.
"(2) Information.
"(b) Cancellation and change in classification.
"(c) Suspension.
"(1) Order.
"(2) Duration of order.
"(3) Judicial review.
"(d) Public hearings and scientific review.
"(e) Judicial review.
"SEC. 7. Registration of establishments.
"(a) Requirement.
"(b) Registration.
"(c) Information required.
"(d) Confidential records and information.
"SEC. 8. Books and records.
"(a) Requirement.
"(b) Inspection.
"SEC. 9. Inspection of establishments, etc.
"(a) In general.
"(b) Warrants.
"(c) Enforcement.
"(1) Certification of facts to Attorney General.
"(2) Notice not required.
"(3) Warning notices.
"SEC. 10. Protection of trade secrets, etc.
"(a) In general.
"(b) Disclosure.
"SEC. 11. Standards applicable to pesticide applicators.
"(a) In general.
"(b) Separate standards.
"SEC. 12. Unlawful acts.
"(a) In general.
"(b) Exemptions.
"SEC. 13. Stop sale, use, removal, and seizure.
"(a) Stop sale, etc., orders.
"(b) Seizure.
"(c) Disposition after condemnation.
"(d) Court costs, etc.
"SEC. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private pesticide applicator.
"(3) Hearing.
"(4) References to Attorney General.
"(b) Criminal penalties.
"(1) In general.
"(2) Private pesticide applicator.
"(3) Disclosure of information.

"(4) Act of officers, agents, etc.
"SEC. 15. Indemnities.
"(a) Requirement.
"(b) Amount of payment.
"(1) In general.
"(2) Special rule.
"SEC. 16. Administrative procedure; judicial review.
"(a) Application of Administrative Procedure Act.
"(b) Judicial review.
"(c) Jurisdiction of district courts.
"(d) Notice of judgments.
"SEC. 17. Imports and exports.
"(a) Pesticides and devices intended for export.
"(b) Cancellation notices furnished to foreign governments.
"(c) Importation of pesticides and devices.
"(d) Cooperation in international efforts.
"(e) Regulations.
"SEC. 18. Exemption of Federal agencies.
"SEC. 19. Disposal and transportation.
"(a) Procedures.
"(b) Advice to Secretary of Transportation.
"SEC. 20. Research and monitoring.
"(a) Research.
"(b) National monitoring plan.
"(c) Monitoring.
"SEC. 21. Solicitation of public comments.
"SEC. 22. Delegation and cooperation.
"SEC. 23. State cooperation, aid, and training.
"SEC. 24. Authority of States and political subdivisions.
"(a) Cooperative agreements.
"(b) Contracts for training.
"SEC. 25. Authority of Administrator.
"(a) Regulations.
"(b) Exemption of pesticides.
"(c) Other authority.
"SEC. 26. Severability.
"SEC. 27. Authorization for appropriation.

"SEC. 2. DEFINITIONS.

"For purposes of this Act—

"(a) ACTIVE INGREDIENT.—The term 'active ingredient' means—

"(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

"(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

"(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

"(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

"(b) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(c) ADULTERATED.—The term 'adulterated' applies to any pesticide if:

"(1) its strength or purity falls below the professed standard or quality as expressed on its labeling under which it is sold;

"(2) any substance has been substituted wholly or in part for the pesticide; or

"(3) any valuable constituent of the pesticide has been wholly or in part abstracted.

"(d) ANIMAL.—The term 'animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

"(e) CERTIFIED PESTICIDE APPLICATOR, ETC.—

"(1) CERTIFIED PESTICIDE APPLICATOR.—The term 'certified pesticide applicator' means any individual who is certified under section 4 as authorized to use or supervise the use of any pesticide which is classified for restricted use.

"(2) PRIVATE PESTICIDE APPLICATOR.—The term 'private pesticide applicator' means a certified pesticide applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

"(3) COMMERCIAL PESTICIDE APPLICATOR.—The term 'commercial pesticide applicator' means a certified pesticide applicator (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

"(f) DEFOLIANT.—The term 'defoliant' means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

"(g) DESICCANT.—The term 'desiccant' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"(h) DEVICE.—The term 'device' means any instrument or contrivance (other than a firearm) which (1) is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other micro-organism on or in living man or other living animals), and (2) is within a class of devices in respect of which the Administrator has made the determination referred to in section 25(c)(4).

"(i) DISTRICT COURT.—The term 'district court' means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

"(j) ENVIRONMENT.—The term 'environment' includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"(k) FUNGUS.—The term 'fungus' means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

"(l) IMMINENT HAZARD.—The term 'imminent hazard' means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would likely result in substantial adverse effects on the environment.

"(m) INERT INGREDIENT.—The term 'inert ingredient' means an ingredient which is not active.

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement which contains—

"(1) the name of each active ingredient in the pesticide;

"(2) if all the uses of the pesticide are classified for general use, then either—

"(i) the total percentage of all inert ingredients, and of all active ingredients, in the pesticide; or

"(ii) the percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and if all the uses of the pesticide are not classified for general use, then the information required under (ii); and

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elemental arsenic.

"(o) INSECT.—The term 'insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

"(p) LABEL AND LABELING.—

"(1) LABEL.—The term 'label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

"(2) LABELING.—The term 'labeling' means all labels and all other written, printed, or graphic matter—

"(A) accompanying the pesticide or device at any time; or

"(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"(q) MISBRANDED.—

"(1) A pesticide or device subject to this Act is misbranded if—

"(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

"(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 25(c)(3);

"(C) it is an imitation of, or is offered for sale under the name of, another pesticide or device;

"(D) its labeling does not bear the registration number assigned under section 7 to each establishment in which it was produced;

"(E) any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(F) if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment; or

"(G) if the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment.

"(2) A pesticide is misbranded if—

"(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this subparagraph if:

"(i) the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

"(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

"(B) the labeling does not contain a statement of the use classification under which the product is registered;

"(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

"(i) the name and address of the producer, registrant, or person for whom produced;

"(ii) the name, brand, or trademark under which the pesticide is sold;

"(iii) the net weight or measure of the content: *Provided*, That the Administrator may permit reasonable variations; and

"(iv) when required by regulation of the Administrator to effectuate the purposes of this Act, the registration number assigned to the pesticide under this Act, and the use classification; and

"(D) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this Act—

"(i) the skull and crossbones;

"(ii) the word 'poison' prominently in red on a background of distinctly contrasting color; and

"(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

"(r) NEMATODE.—The term 'nematode' means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sacklike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

"(s) PERSON.—The term 'person' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

"(t) PEST.—The term 'pest' means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plan or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c)(1).

"(u) PESTICIDE.—The term 'pesticide' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.".

"(v) PLANT REGULATOR.—The term 'plant regulator' means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

"(w) PRODUCER AND PRODUCE.—The term 'producer' means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term 'produce' means to manufacture, prepare, compound, propagate, or process any pesticide or device.

"(x) PROTECT HEALTH AND THE ENVIRONMENT.—The terms 'protect health and the environment' and 'protection of health and the environment' means protection against any injury to man and protection against any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(y) REGISTRANT.—The term 'registrant' means a person who has registered any pesticide pursuant to the provisions of this Act.

"(z) REGISTRATION.—The term 'registration' includes reregistration.

"(aa) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

"(bb) SUBSTANTIAL ADVERSE EFFECTS ON THE ENVIRONMENT.—The term 'substantial adverse effects on the environment' means any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(cc) WEED.—The term 'weed' means any plant which grows where not wanted.

"SEC. 3. REGISTRATION OF PESTICIDES.

"(a) REQUIREMENT.—Except as otherwise provided by this Act, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator.

"(b) EXEMPTIONS.—A pesticide which is not registered with the Administrator may be transferred if—

"(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

"(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

"(c) PROCEDURE FOR REGISTRATION.—

"(1) STATEMENT REQUIRED.—Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide;

"(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

"(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration;

"(E) the complete formula of the pesticide; and

"(F) a request that the pesticide be classified for general use, for restricted use, or for both.

"(2) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information he shall permit sufficient time for applicants to obtain such additional information. Except as provided by subsection (c)(1)(D) of this section and section 10, within 30 days after the Administrator registers a pesticide under this Act he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of his determination that it does not comply with the provisions of the Act in accordance with paragraph (6).

"(4) NOTICE OF APPLICATION.—The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

"(5) APPROVAL OF REGISTRATION.—The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed under subsection (d)—

"(A) its composition is such as to warrant the proposed claims for it;

"(B) its labeling and other material required to be submitted comply with the requirements of this Act; and

"(C) it will perform its intended function without substantial adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide.

"(6) DENIAL OF REGISTRATION.—If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, he shall notify the applicant for registration of his determination and of his reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator will refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, he shall notify the applicant of his decision and of his reasons (including the factual basis) therefor. Upon such notification, the applicant for registration shall have the same remedies as provided for the registrant in section 6.

"(d) CLASSIFICATION OF PESTICIDES.—

"(1) CLASSIFICATION FOR GENERAL USE, RESTRICTED USE, OR BOTH.—

"(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use, provided that if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, he shall classify it for both general use and restricted use. If some of the uses of the pesticide are classified for general use and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses.

"(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, will not cause substantial adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies for general use.

"(C) If the Administration determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, may cause, without additional regulatory restrictions, substantial adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use.

(i) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination

that its acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified pesticide applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause substantial adverse effect on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified pesticide applicator, or subject to such other restrictions as the Administrator may determine.

"(2) CHANGE IN CLASSIFICATION.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent substantial adverse effects on the environment, he shall notify the registrant of such pesticide of such determination at least 30 days before making the change and shall publish the proposed change in the Federal Register.

"(e) PRODUCTS WITH SAME FORMULATION AND CLAIMS.—Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added by supplemental statements.

"(f) MISCELLANEOUS.—

"(1) EFFECT OF CHANGE OF LABELING OR FORMULATION.—If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this Act.

"(2) REGISTRATION NOT A DEFENSE.—In no event shall registration of an article be construed as a defense for the commission of any offense under this Act.

"(3) AUTHORITY TO CONSULT OTHER FEDERAL AGENCIES.—In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

"SEC. 4. USE OF RESTRICTED USE PESTICIDE; CERTIFIED APPLICATORS.

"(a) CERTIFICATION PROCEDURE.—

"(1) FEDERAL CERTIFICATION.—Subject to paragraph (2), the Administrator shall prescribe standards for the certification of pesticide applicators. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by such individual's certification.

"(2) STATE CERTIFICATION.—If any State, at any time, desires to certify pesticide applicators, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—

"(A) designates a State agency as the agency responsible for administering the plan throughout the State;

"(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

"(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

"(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

"(E) contains satisfactory assurances that State standards for the certification of pesticide applicators conform with those standards prescribed by the Administrator under paragraph (1).

"(b) STATE PLANS.—If the Administrator rejects a plan submitted under this paragraph, he shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under this paragraph, then such State shall certify pesticide applicators with respect to such State.

"SEC. 5. EXPERIMENTAL USE PERMITS.

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

"(b) TEMPORARY TOLERANCE LEVEL.—If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

"(c) USE UNDER PERMIT.—Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

"(d) STUDIES.—When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause substantial adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 3.

"(e) REVOCATION.—The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid substantial adverse effects on the environment.

"SEC. 6. ADMINISTRATIVE REVIEW; SUSPENSION

"(a) CANCELLATION AFTER FIVE YEARS.—

"(1) PROCEDURE.—The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five-year period thereafter) unless the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect.

"(2) INFORMATION.—If at any time after the registration of a pesticide the registrant has additional factual information regarding substantial adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION.—If the Administrator determines that registration of a pesticide should be canceled or that the classification of a pesticide should be changed, he shall notify the registrant of such notice, the registrant may, within 30 days (A) registration or change the classification and of his reasons (including the factual basis) therefor in writing. Upon receipt of such notice, the registrant may, within 30 days (A) make the necessary corrections and so notify the Administrator, or (B) file objections and request a public hearing. If the registrant does not take any such action, the notice shall, at the end of 30 days from its receipt by the registrant, constitute a final order of cancellation or change in classification. If the registrant files objections and requests a public hearing, the order of cancellation or change in classification may only be issued after completion of such proceeding.

"(c) SUSPENSION.—

"(1) ORDER.—If the Administrator determines that such action is necessary to prevent an imminent hazard during the time required for cancellation proceedings, he may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless at the same time the Administrator issues notices of his intention to cancel the registration of the pesticide. Any remedy elected by the registrant under section 6(a) shall be held as expeditiously as possible.

"(2) DURATION OF ORDER.—Any suspension order shall remain in effect only until 90 days after the completion of the administrative remedies provided for under section 6(a) or until the Administrator issues his final order either canceling or denying cancellation of the registration, whichever is sooner.

"(3) JUDICIAL REVIEW.—Any order of suspension shall be subject to immediate review in any actions by the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. This action may be maintained simultaneously with any administrative review proceeding under section 6.

"(d) SCIENTIFIC REVIEW.—Whenever application for registration is refused or a registration is cancelled or suspended, the registrant within 30 days after service of notice of such action may file a petition requesting that the matter

"(d) PUBLIC HEARING AND SCIENTIFIC REVIEW.—In the event a hearing is requested pursuant to subsection (a) or (d) or determined upon by the Administrator pursuant to subsection (d), such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpena to compel testimony from any person. Upon the request of any party or when in the hearing officer's judgment it is necessary or desirable, the hearing officer shall refer to a Committee of the National Academy of Sciences all relevant questions of scientific fact arising in the course of the public hearing. The Committee of the National Academy of Sciences shall report in writing to the officer within 60 days on these questions of sicentific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to Committees of the Academy and to provide such other scientific advisory services as may be required by the Administrator for carrying out the purposes of this Act. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civic Procedure in making any order for the protection of the witness and shall order the payment of reasonable fees and expenses as a condition to requiring his testimony. On contest, the subpena may be enforced by an appropriate United States District Court in accordance with the principles stated herein

and the Administrative Procedure Act. As soon as practicable after completion of the hearing but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before him and issue an order either revoking his notice of intention issued pursuant to this section, or shall issue an order either cancelling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

"(e) JUDICIAL REVIEW.—Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 16.

"SEC. 7. REGISTRATION OF ESTABLISHMENTS.

"(a) REQUIREMENT.—No person shall produce any pesticide or device subject to this Act in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

"(b) REGISTRATION.—Whenever the Administrator receives an application under subsection (a), he shall register the establishment and assign it an establishment number.

"(c) INFORMATION REQUIRED.—

"(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and devices—

"(A) which he is currently producing;

"(B) which he has produced during the past year; and

"(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

"(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 13, inform him of the name and address of any recipient of any pesticide produced in any registered establishment which he operates.

"(d) CONFIDENTIAL RECORDS AND INFORMATION.—Any information submitted to the Administrator pursuant to subsection (c) shall be considered confidential and shall be subject to the provisions of section 10.

"SEC. 8. BOOKS AND RECORDS.

"(a) REQUIREMENT.—The Administrator may prescribe regulations requiring producers to maintain such records with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this Act. No records required under this subsection shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"(b) INSPECTION.—For the purposes of enforcing the provisions of this Act, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this Act, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or devices. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"SEC. 9. INSPECTION OF ESTABLISHMENTS, ETC.

"(a) IN GENERAL.—For purposes of enforcing the provisions of this Act, officers or employees duly designated by the Administrator are authorized—

"(1) to enter, at reasonable times, any establishment; and

"(2) to inspect and obtain samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices.

Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

"(b) WARRANTS.—For purposes of enforcing the provisions of this Act and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this Act have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purpose of this section;

"(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any illegal pesticide or device found in the establishment and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

"(3) the seizure of any pesticide or device which is in violation of this Act.

"(c) ENFORCEMENT.—

"(1) CERTIFICATION OF FACTS TO ATTORNEY GENERAL.—The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this Act. If it shall appear from any such examination that they fail to comply with the requirements of this Act, the Administrator shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this Act have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 16, when the Administrator determines that such action will be sufficient to effectuate the purposes of this Act.

"(2) NOTICE NOT REQUIRED.—The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institution of any proceeding by the Attorney General.

"(3) WARNING NOTICES.—Nothing in this Act shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

"SEC. 10. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.

"(a) IN GENERAL.—In submitting data required by this Act, the applicant may (1) clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information, and (2) submit such marked material separately from other material required to be submitted under this Act.

"(b) DISCLOSURE.—Notwithstanding any other provision of this Act, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that when necessary to carry out the provisions of this Act, information relating to formulas of products acquired by authorization of this Act may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

"SEC. 11. STANDARDS APPLICABLE TO PESTICIDE APPLICATORS.

"(a) IN GENERAL.—No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private pesticide applicator to maintain any records or file any reports or other documents.

"(b) SEPARATE STANDARDS.—When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

"SEC. 12. UNLAWFUL ACTS.

"(a) IN GENERAL.—

"(1) Except as provided by subsection (b), it shall be unlawful for any person in any State to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—

"(A) any pesticide which is not registered under section 3;

"(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 3;

"(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 3;

"(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 25(c)(5);

"(E) any pesticide which is adulterated or misbranded; or

"(F) any device which is misbranded.

"(2) It shall be unlawful for any person—

"(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this Act;

"(B) to refuse to keep any records required pursuant to section 8, or to refuse to allow the inspection of any records or establishment pursuant to section 8 or 9, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 9;

"(C) to give a guaranty or understanding provided for in subsection (b) which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) may give a guaranty to the same effect, which guaranty shall contain, in addition to his own name and address, the name and address of the person residing in the United States from whom he received the guaranty or undertaking;

"(D) to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this Act which is confidential under this Act;

"(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this Act for restricted use without giving the classification of the product assigned to it under section 3;

"(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 3(d) and any regulations thereunder;

"(G) to use any registered pesticide in a manner inconsistent with its labeling;

"(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

"(I) to violate any order issued under section 13;

"(J) to violate any suspension order issued under section 6;

"(K) to violate any cancellation of registration of a pesticide under section 6;

"(L) who is a producer to violate any of the provisions of section 7;

"(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 7, any records required to be maintained pursuant to section 8, any report filed under this Act, or any information marked as confidential and submitted to the Administrator under any provision of this Act;

"(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this Act; or

"(O) to add any substance to, or take any substance from any pesticide in a manner that may defeat the purpose of this Act.

"(b) EXEMPTIONS.—The penalties provided for a violation of paragraph (1) of subsection (a) shall not apply to—

"(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provision of this Act;

"(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

"(3) any public official while engaged in the performance of his official duties;

"(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

"(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

"SEC. 13. STOP SALE, USE, REMOVAL AND SEIZURE.

"(a) STOP SALE, ETC., ORDERS.—Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this Act, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide or device has been canceled by a final order or has been suspended, the Administrator may issue a written or printed 'stop sale, use, or removal' order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

"(b) SEIZURE.—Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

"(1) in the case of a pesticide—

"(A) it is adulterated or misbranded;

"(B) it is not registered pursuant to the provisions of section 3;

"(C) its labeling fails to bear the information required by this Act;

"(D) it is not colored or discolored and such coloring or discoloring is required under this Act; or

"(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

"(2) in the case of a device, it is misbranded; or

"(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this Act and as directed by the labeling, it nevertheless causes substantial adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

"(c) DISPOSITION AFTER CONDEMNATION.—If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this Act or the laws of the jurisdiction in which it is sold: *Provided*, That upon the payments of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws of any State in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(d) COURT COSTS, ETC.—When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

"SEC. 14. PENALTIES.

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $5,000 for each offense.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense.

"(3) HEARING.—No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation.

"(4) REFERENCES TO ATTORNEY GENERAL.—In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

"(b) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than $25,000, or imprisoned for not more than one year, or both.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than $1,000, or imprisoned for not more than 30 days, or both.

"(3) DISCLOSURE OF INFORMATION.—Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than $10,000, or imprisoned for not more than three years, or both.

"(4) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

"SEC. 15. INDEMNITIES

"(a) REQUIREMENT.—If—

"(1) the Administrator notifies a registrant that he has suspended the registration

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of a pesticide because such action is necessary to prevent an imminent hazard;

"(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard; and

"(3) any person who owned any quantity of such pesticide immediately before the notice to the registrant under paragraph (1) suffered losses by reason of suspension or cancellation of the registration,

the Administrator shall make an indemnity payment to such person.

"(b) AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—The amount of the indemnity payment under subsection (a) to any person shall be determined on the basis of the cost of the pesticide owned by such person immediately before the notice to the registrant referred to in subsection (a)(1); except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by such person immediately before the notice referred to in subsection (a)(1).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of such pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this subsection, proper adjustment shall be made for any pesticide used or otherwise disposed of by such owner.

"SEC. 16. ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW.

"(a) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.—Except as provided by subsection (b), subchapter II of chapter 5 of title 5 of the United States Code (sec. 551 and following, relating to administrative procedure), and chapter 7 of title 5 of the United States Code (sec. 701 and following, relating to judicial review) apply in respect of rules, rule making, orders, adjudication, licensing, sanctions, agency proceedings, and agency actions (as such terms are used in subchapter II of chapter 5 and in chapter 7 of title 5 of the United States Code).

"(b) JUDICIAL REVIEW.—In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any party at interest may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.

"(c) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act.

"(d) NOTICE OF JUDGMENTS.—The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

"SEC. 17. IMPORTS AND EXPORTS

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a cancellation of the registration of a pesticide becomes effective, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies.

"(c) IMPORTATION OF PESTICIDES AND DEVICES.—The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon his request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this Act, or is otherwise injurious to health or the environment, the pesticide or device may be refused delivery to the consignee and shall cause the destruction of any pestclide or device refused delivery which shall not be exported by the consignee within 90 days form the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond: *And provided further*, That all charges for storage, cartage, and labor on pesticide or device which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

"(e) REGULATIONS.—The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of this section.

"SEC. 18. EXEMPTION OF FEDERAL AGENCIES.

"The President by executive order may exempt any Federal Agency from any provision or all provisions of this Act if he determines that emergency conditions exist which require such exemption.

"SEC. 19. DISPOSAL AND TRANSPORTATION.

"(a) PROCEDURES.—The Administrator shall, after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide.

"(b) ADVICE TO SECRETARY OF TRANSPORTATION.—The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his function relating to the transportation of hazardous materials under the Department of Transportation Act (49 U.S.C. 1657), the Transportation of Explosives Act (18 U.S.C. 831–835), the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472 H), and the Hazardous Cargo Act (46 U.S.C. 170, 375, 416).

"SEC. 20. RESEARCH AND MONITORING.

"(a) RESEARCH.—The Administrator shall undertake research, including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this Act, and he shall give priority to research to develop biologically integrated alternatives for pest control. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

"(b) NATIONAL MONITORING PLAN.—The Administrator shall formulate and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

"SEC. 21. SOLICITATION OF PUBLIC COMMENTS.

"In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this Act, the Administrator may, at his discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as he deems proper.

"SEC. 22. DELEGATION AND COOPERATION.

"(a) DELEGATION.—All authority vested in the Administrator by virtue of the provisions of this Act may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

"(b) COOPERATION.—The Administrator shall cooperate with the Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof in carrying out the provisions of this Act, and in securing uniformity of regulations.

"SEC. 23. STATE COOPERATION, AID, AND TRAINING.

"(a) COOPERATIVE AGREEMENTS.—The Administrator is authorized to enter into cooperative agreements with States—

"(1) to delegate to any State the authority to cooperate in the enforcement of the Act through the use of its personnel or facilities, to train personnel of the State to cooperate in the enforcement of this Act, and to assist States in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist State agencies in developing and administering State programs for training and certification of pesticide applicators consistent with the standards which he prescribes.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator is authorized to enter into contracts with Federal or State agencies for the purpose of encouraging the training of certified pesticide applicators.

"SEC. 24. AUTHORITY OF STATES.

"(a) A State may regulate the sale or use of any pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act or restrict by license or permit the use of a pesticide registered for general use;

"(b) such State shall not impose or continue in effect any requirements for labeling and packaging in addition to or different from those required pursuant to this Act; and

"(c) a State may assist the Administrator in the registration of pesticides formulated for intrastate distribution to meet specific local needs if that State is certified by the Administrator as capable of exercising adequate control.

"SEC. 25. AUTHORITY OF ADMINISTRATOR.

"(a) REGULATIONS.—The Administrator is authorized to prescribe regulations to carry out the provisions of this Act. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

"(b) EXEMPTION OF PESTICIDES.—The Administrator may exempt from the requirements of this Act by regulation any pesticide which he determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.

"(c) OTHER AUTHORITY.—The Administrator, after notice and opportunity for hearing, is authorized—

"(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other microorganisms on or in living man or other living animals) which is injurious to health or the environment;

"(2) to determine any pesticide which contains any substance or subetances in quantities highly toxic to man;

"(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91–601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act;

"(4) to specify that any class of devices shall be subject to this Act if he determines that the application of this Act in respect of such class is necessary to effectuate the purposes of this Act;

"(5) to prescribe regulations requiring any pesticide to be colored or discolored if he determines that such requirement is feasible and is necessary for the protection of health and the environment; and

"(6) to determine and establish suitable names to be used in the ingredient statement.

"SEC. 26. SEVERABILITY

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

"SEC. 27. AUTHORIZATION FOR APPROPRIATIONS

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year ending June 30, 1972, June 30, 1973, and June 30, 1974. The amounts authorized to be appropriated for any fiscal year ending after June 30, 1974, shall be the sums hereafter provided by law."

Mr. POAGE. Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment in the nature of a substitute for section 2.

The Clerk read as follows:

Amendment offered by Mr. Dow: Page 1, strike out line 7 and all that follows down through line 20 on page 58, and insert in lieu thereof the following:

SEC. 2. The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) is amended to read as follows:

"SEC. 1. SHORT TITLE AND TABLE OF CONTENTS

"(a) Short Title.—This Act may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'.

'Federal Insecticide, Fungicide, and Rodenticide Act'.

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.
"(a) Short title.
"(b) Table of contents.
"Sec. 2. Definitions.
"(a) Active ingredient.
"(b) Administrator.
"(c) Adulterated.
"(d) Animal.
"(e) Certified pesticide applicator, etc.
"(1) Certified pesticide applicator.
"(2) Private pesticide applicator.
"(3) Commercial pesticide applicator.
"(f) Defoliant.
"(g) Desiccant.
"(h) Device.
"(i) District court.
"(j) Environment.
"(k) Fungus.
"(l) Imminent hazard.
"(m) Inert ingredient.
"(n) Ingredient statement.
"(o) Insect.
"(p) Label and labeling.
"(1) Label.
"(2) Labeling.
"(q) Misbranded.
"(r) Nematode.
"(s) Person.
"(t) Pest.
"(u) Pesticide.
"(v) Plant regulator.
"(w) Producer and produce.
"(x) Protect health and the environment.
"(y) Registrant.
"(z) Registration.
"(aa) State.
"(bb) Substantial adverse effects on the environment.
"(cc) Weed.
"Sec. 3. Registration of pesticides.
"(a) Requirement.
"(b) Exemptions.
"(c) Procedure for registration.
"(1) Statement required.
"(2) Data in support of registration.
"(3) Time for acting with respect to application.
"(4) Notice of application.
"(5) Approval of registration.
"(6) Denial of registration.
"(d) Classification of pesticides.
"(1) Classification for general use, restricted use, or both.
"(2) Change in classification.
"(e) Products with same formulation and claims.
"(f) Miscellaneous.
"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"Sec. 4. Use of restricted use pesticide; certified applicators.
"(a) Certification procedure.
"(1) Federal certification.
"(2) State certification.
"(b) State plans.
"Sec. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"Sec. 6. Administrative review; suspension.
"(a) Cancellation after five years.
"(1) Procedure.
"(2) Information.
"(b) Cancellation and change in classification.
"(c) Suspension.
"(1) Order.
"(2) Duration of order.
"(d) Public hearings.
"(e) Judicial review.
"Sec. 7. Registration of establishments.
"(a) Requirement.
"(b) Registration.
"(c) Information required.
"(d) Confidential records and information.
"Sec. 8. Books and records.
"(a) Requirement.
"(b) Inspection.
"Sec. 9. Inspection of establishments, etc.
"(a) In general.
"(b) Warrants.
"(c) Enforcement.
"(1) Certification of facts to Attorney General.
"(2) Notice not required.
"(3) Warning notices.
"Sec. 10. Protection of trade secrets, etc.
"(a) In general.
"(b) Disclosure.
"Sec. 11. Standards applicable to pesticide applicators.
"(a) In general.
"(b) Separate standards.
"Sec. 12. Unlawful acts.
"(a) In general.
"(b) Exemptions.
"Sec. 13. Stop sale, use, removal, and seizure.
"(a) Stop sale, etc., orders.
"(b) Seizure.
"(c) Disposition after condemnation.
"(d) Court costs, etc.
"Sec. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private pesticide applicator.
"(3) Hearing.
"(4) References to Attorney General.
"(b) Criminal penalties.
"(1) In general.
"(2) Private pesticide applicator.
"(3) Disclosure of information.
"(4) Act of officers, agents, etc.
"Sec. 15. Indemnities.
"(a) Requirement.
"(b) Amount of payment.
"(1) In general.
"(2) Special rule.
"Sec. 16. Administrative procedure; judicial review.
"(a) Application of Administrative Procedure Act.
"(b) Judicial review.
"(c) Jurisdiction of district courts.
"(d) Notice of judgments.
"Sec. 17. Imports and exports.
"(a) Pesticides and devices intended for export.
"(b) Cancellation notices furnished to foreign governments.

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"(c) Importation of pesticides and devices.
"(d) Cooperation in international efforts.
"(e) Regulations.
"Sec. 18. Exemption of Federal agencies.
"Sec. 19. Disposal and transportation.
"(a) Procedures.
"(b) Advice to Secretary of Transportation.
"Sec. 20. Research and monitoring.
"(a) Research.
"(b) National monitoring plan.
"(c) Monitoring.
"Sec. 21. Solicitation of public comments.
"Sec. 22. Delegation and cooperation.
"Sec. 23. State cooperation, aid, and training.
"Sec. 24. Authority of States and political subdivisions.
"(a) Cooperative agreements.
"(b) Contracts for training.
"Sec. 25. Authority of Administrator.
"(a) Regulations.
"(b) Exemption of pesticides.
"(c) Other authority.
"Sec. 26. Severability.
"Sec. 27. Authorization for appropriations.

"SEC. 2. DEFINITIONS

"For purposes of this Act—

"(a) ACTIVE INGREDIENT.—The term 'active ingredient' means—

"(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

"(2) in the case of a plant regulator, an ingredient which through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

"(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

"(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

"(b) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(c) ADULTERATED.—The term 'adulterated' applies to any pesticide if:

"(1) its strength of purity falls below the professed standard or quality as expressed on its labeling under which it is sold;

"(2) any substance has been substituted wholly or in part for the pesticide; or

"(3) any valuable constituent of the pesticide has been wholly or in part abstracted.

"(d) ANIMAL.—The term 'animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

"(e) CERTIFIED PESTICIDE APPLICATOR, ETC.—

"(1) CERTIFIED PESTICIDE APPLICATOR.—The term 'certified pesticide applicator' means any individual who is certified under section 4 as authorized to use or supervise the use of any pesticide which is classified for restricted use.

"(2) PRIVATE PESTICIDE APPLICATOR.—The term 'private pesticide applicator' means a certified pesticide applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

"(3) COMMERCIAL PESTICIDE APPLICATOR.—The term 'commercial pesticide applicator' means a certified pesticide applicator (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

"(f) DEFOLIANT.—The term 'defoliant' means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

"(g) DESICCANT.—The term 'desiccant' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"(h) DEVICE.—The term 'device' means any instrument or contrivance (other than a firearm) which (1) is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other micro-organism on or in living man or other living animals), and (2) is within a class of devices in respect of which the Administrator has made the determination referred to in section 25(c)(4).

"(i) DISTRICT COURT.—The term 'district court' means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

"(j) ENVIRONMENT.—The term 'environment' includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"(k) FUNGUS.—The term 'fungus' means any non-chlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

"(l) IMMINENT HAZARD.—The term 'imminent hazard' means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would likely result in substantial adverse effects on the environment.

"(m) INERT INGREDIENT.—The term "inert ingredient' means an ingredient which is not active.

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement which contains—

"(1) the name of each active ingredient in the pesticide;

"(2) if all the uses of the pesticide are classified for general use, then either—

"(i) the total percentage of all inert ingredients, and of all active ingredients, in the pesticide; or

"(ii) the percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and if all the uses of the pesticide are not classified for general use, then the information required under (ii); and

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elemental arsenic.

"(o) INSECT.—The term 'insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

"(p) LABEL AND LABELING.—

"(1) LABEL.—The term 'label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

"(2) LABELING.—The term 'labeling' means all labels and all other written, printed, or graphic matter—

"(A) accompanying the pesticide or device at any time; or

"(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"(q) MISBRANDED.—

"(1) A pesticide or device subject to this Act is misbranded if—

"(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

"(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 25(e)(3);

"(C) it is an imitation of, or is offered for sale under the name of, another pesticide or device;

"(D) its labeling does not bear the registration number assigned under section 7 to each establishment in which it was produced;

"(E) any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(F) if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment; or

"(G) if the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment.

"(2) A pesticide is misbranded if—

"(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this subparagraph if:

"(i) the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

"(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

"(B) the labeling does not contain a statement of the use classification under which the product is registered;

"(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

"(i) the name and address of the producer, registrant, or person for whom produced;

"(ii) the name, brand, or trademark under which the pesticide is sold;

"(iii) the net weight or measure of the content: *Provided*, That the Administrator may permit reasonable variations; and

"(iv) when required by regulation of the Administrator to effectuate the purposes of this Act, the registration number assigned to the pesticide under this Act, and the use classification; and

"(B) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this Act—

"(i) the skull and crossbones;

"(ii) the word 'poison' prominently in red on a background of distinctly contrasting color; and

"(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

"(r) NEMATODE.—The term 'nematode' means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sacklike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

"(s) PERSON.—The term 'person' means any individual partnership, association, corporation, or any organized group of persons whether incorporated or not.

"(t) PEST.—The term 'pest' means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c)(1).

"(u) PESTICIDE.—The term 'pesticide' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

"(v) PLANT REGULATOR.—The term 'plant regulator' means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, race elements, nutritional chemicals, plan inoculants, and soil amendments.

"(w) PRODUCER AND PRODUCE.—The term 'producer' means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term 'produce' means to manufacture, prepare, compound, propagate, or process any pesticide or device.

"(x) PROTECT HEALTH AND THE ENVIRONMENT.—The terms 'protect health and the environment' and 'protection of health and the environment' means protection against any injury to man and protection against any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(y) REGISTRANT.—The term 'registrant' means a person who has registered any pesticide pursuant to the provisions of this Act.

"(z) REGISTRATION.—The term 'registration' includes reregistration.

"(aa) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

"(bb) SUBSTANTIAL ADVERSE EFFECTS ON THE ENVIRONMENT.—The term 'substantial adverse effects on the environment' means any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(cc) WEED.—The term 'weed' means any plant which grows where not wanted.

"SEC. 3. REGISTRATION OF PESTICIDES.

"(a) REQUIREMENT.—Except as otherwise provided by this Act, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator.

"(b) EXEMPTIONS.—A pesticide which is not registered with the Administrator may be transferred if—

"(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

"(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

"(c) PROCEDURE FOR REGISTRATION.—

"(1) STATEMENT REQUIRED.—Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide;

"(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

"(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based;

"(E) the complete formula of the pesticide;

"(F) a request that the pesticide be classified for general use, for restricted use, or for both; and

"(G) any data in the possession, custody, or control of the applicant which may tend to indicate any substantial adverse effects on the environment, or lack of any such effects, which may be caused by such pesticide when used for any intended use.

"(2) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information he shall permit sufficient time for applicants to obtain such additional information. Except as provided by subsection (c)(1)(D) of this section and section 10, within 30 days after the Administrator registers a pesticide under this Act he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of his determination that it does not comply with the provisions of the Act in accordance with paragraph (6).

"(4) NOTICE OF APPLICATION.—The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

"(5) APPROVAL OF REGISTRATION.—The Administrator shall register a pesticide if he determines that when considered with any restrictions imposed under subsection (d)—

"(A) its composition is such as to warrant the proposed claims for it;

"(B) its labeling and other material required to be submitted comply with the requirements of this Act; and

"(C) it will perform its intended function without substantial adverse effects on the environment.

"(6) DENIAL OF REGISTRATION.—If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, he shall notify the applicant for registration of his determination and of his reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator will refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, he shall notify the applicant of his decision and of his reasons (including the factual basis) therefore. Upon such notification, the applicant for registration shall have the same remedies as provided for the registrant in section 6.

"(d) CLASSIFICATION OF PESTICIDES.—

"(1) CLASSIFICATION FOR GENERAL USE, RESTRICTED USE, OR BOTH.—

"(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use: *Provided*, That if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, he shall classify it for both general use and restricted use. If some of the uses of the pesticide are classified for general use and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses.

"(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, will not cause substantial adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies for general use.

"(C) If the Adminstrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses of which it is registered, or for one or more of such uses, may cause, without additional regulatory restrictions, substantial adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use.

"(i) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified pesticide applicator.

"(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause substantial adverse effect on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified pesticide applicator, or subject to such other restrictions as the Administrator may determine.

"(2) CHANGES IN CLASSIFICATION.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent substantial adverse effects on the environment, he shall notify the registrant of such pesticide of such determination at least 30 days before making the change and shall publish the proposed change in the Federal Register.

"(e) PRODUCTS WITH SAME FORMULATION AND CLAIMS.—Products which have the same formulation, are manufactured by the same

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person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added by supplemental statements.

"(f) MISCELLANEOUS.—

"(1) EFFECT OF CHANGE OF LABELING OR FORMULATION.—If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this Act.

"(2) REGISTRATION NOT A DEFENSE.—In no event shall registration of an article be construed as a defense for the commission of any offense under this Act.

"(3) AUTHORITY TO CONSULT OTHER FEDERAL AGENCIES.—In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

"SEC. 4. USE OF RESTRICTED USE PESTICIDE; CERTIFIED APPLICATORS

"(a) CERTIFICATION PROCEDURE.—

"(1) FEDERAL CERTIFICATION.—Subject to paragraph (2), the Administrator shall prescribe standards for the certification of pesticide applicators. Such standards shall provide that, to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by such individual's certification.

"(2) STATE CERTIFICATION.—If any State, at any time, desires to certify pesticide applicators, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—

"(A) designates a State agency as the agency responsible for administering the plan throughout the State;

"(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

"(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

"(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

"(E) contains satisfactory assurances that State standards for the certification of pesticide applicators conform with those standards prescribed by the Administrator under paragraph (1).

"(b) STATE PLANS.—If the Administrator rejects a plan submitted under this paragraph, he shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under this paragraph, then such State shall certify pesticide applicators with respect to such State.

"SEC. 5. EXPERIMENTAL USE PERMITS

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

"(b) TEMPORARY TOLERANCE LEVEL.—If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

"(c) USE UNDER PERMIT.—Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

"(d) STUDIES.—When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause substantial adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 3.

"(e) REVOCATION.—The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid substantial adverse effects on the environment.

"SEC. 6. ADMINISTRATIVE REVIEW; SUSPENSION

"(a) CANCELLATION AFTER FIVE YEARS.—

"(1) PROCEDURE.—The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date if its registration (or at the end of any five-year period thereafter) unless the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect.

"(2) INFORMATION.—If at any time after the registration of a pesticide the registrant has additional factual information regarding substantial adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION.—If the Administrator determines that registration of a pesticide should be canceled or that the classification of a pesticide should be changed, he shall notify the registrant of his intention and of whether he intends to cancel the registration or change the classification and of his reasons (including the factual basis) therefor in writing. Upon receipt of such notice, the registrant may, within 30 days (A) make the necessary corrections and so notify the Administrator, or (B) file objections and request a public hearing. If the registrant does not take any such action, the notice shall, at the end of 30 days from its receipt by the registrant, constitute a final order of cancellation or change in classification. If the registrant files objections and requests a public hearing, the order of cancellation or change in classification may only be issued after completion of such proceeding.

"(c) SUSPENSION.—

"(1) ORDER.—If the Administrator determines that such action is necessary to prevent an imminent hazard during the time required for cancellation proceedings, he may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless at the same time the Administrator issues notices of his intention to cancel the registration of the pesticide. Any remedy elected by the registrant under section 6(a) shall be held as expeditiously as possible.

"(2) DURATION OF ORDER.—Any suspension order shall remain in effect only until 90 days after the completion of the administrative remedies provided for under section 6(a) or until the Administrator issues his final order either canceling or denying cancellation of the registration, whichever is sooner.

"(d) PUBLIC HEARINGS.—In the event a hearing is requested pursuant to subsection (a) or (b) or determined upon by the Administrator pursuant to subsection (d), such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpena to compel testimony from any person. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness and shall order the payment of reasonable fees and expenses as a condition to requiring his testimony. On contest, the subpena may be enforced by an appropriate United States District Court in accordance with the principles stated herein and the Administrative Procedure Act. As soon as practicable after completion of the hearing but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before him and issue an order either revoking his notice of intention issued pursuant to this section, or shall issue an order either canceling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

"(e) JUDICIAL REVIEW.—Final orders of the Administrator under this section shall be subject to judicial review pursuant to section 16.

"SEC. 7. REGISTRATION OF ESTABLISHMENTS

"(a) REQUIREMENT.—No person shall produce any pesticide or device subject to this Act in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

"(b) REGISTRATION.—Whenever the Administrator receives an application under subsection (a), he shall register the establishment and assign it an establishment number.

"(c) INFORMATION REQUIRED.—

"(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and devices—

"(A) which he is currently producing;

"(B) which he has produced during the past year; and

"(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

"(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 13, inform him of the name and address of any recipient of any pesticide produced in any registered establishment which he operates.

"(d) CONFIDENTIAL RECORDS AND INFORMATION.—Any information submitted to the Administrator pursuant to subsection (c) shall be considered confidential and shall be subject to the provisions of section 10.

"SEC. 8. BOOKS AND RECORDS

"(a) REQUIREMENT.—The Administrator may prescribe regulations requiring producers to maintain such records with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this Act. No records required under this subsection

shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"(b) INSPECTION.—For the purposes of enforcing the provisions of this Act, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this Act, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or devices. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"SEC. 9. INSPECTIONS OF ESTABLISHMENTS, ETC.

(a) IN GENERAL.—For purposes of enforcing the provisions of this Act, officers or employees duly designated by the Administrator are authorized—

"(1) to enter, at reasonable times, any establishment; and

"(2) to inspect and obtain samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices.

Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

"(b) WARRANTS.—For purposes of enforcing the provisions of this Act and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this Act have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purpose of this section;

"(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any illegal pesticide or device found in the establishment and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

"(3) the seizure of any pesticide or device which is in violation of this Act.

"(c) ENFORCEMENT.—

"(1) CERTIFICATION OF FACTS TO ATTORNEY GENERAL.—The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this Act. If it shall appear from any such examination that they fail to comply with the requirements of this Act, the Administrator shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this Act have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 16, when the Administrator determines that such action will be sufficient to effectuate the purposes of this Act.

"(2) NOTICE NOT REQUIRED.—The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institutions of any proceeding by the Attorney General.

"(3) WARNING NOTICES.—Nothing in this Act shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

"SEC. 10. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

"(a) IN GENERAL.—In submitting data required by this Act, the applicant may (1) clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information, and (2) submit such marked material separately from other material required to be submitted under this Act.

"(b) DISCLOSURE.—Notwithstanding any other provision of this Act, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this Act, information relating to formulas of products acquired by authorization of this Act may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

"SEC. 11. STANDARDS APPLICABLE TO PESTICIDE APPLICATORS

"(a) IN GENERAL.—No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private pesticide applicator to maintain any records or file any reports or other documents.

"(b) SEPARATE STANDARDS.—When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

"SEC. 12. UNLAWFUL ACTS

"(a) IN GENERAL.—

"(1) Except as provided by subsection (b), it shall be unlawful for any person in any State to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—

"(A) any pesticide which is not registered under section 3;

"(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 3;

"(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its compcaition as described in the statement required in connection with its registration under section 3;

"(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 25(c)(5);

"(E) any pesticide which is adulterated or misbranded; or

"(F) any device which is misbranded.

"(2) It shall be unlawful for any person—

"(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this Act;

"(B) to refuse to keep any records required pursuant to section 8, or to refuse to allow the inspection of any records or establishment pursuant to section 8 or 9, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 9;

"(C) to give a guaranty or undertaking provided for in subsection (b) which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) may give a guaranty to the same effect, which guaranty shall contain, in addition to his own name and address, the name and address of the person residing in the United States from whom he received the guaranty or undertaking;

"(D) to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this Act which is confidential under this Act;

"(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this Act for restricted use without giving the classification of the product assigned to it under section 3;

"(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 3(d) and any regulations thereunder;

"(G) to use any registered pesticide in a manner inconsistent with its labeling;

"(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

"(I) to violate any order issued under section 13;

"(J) to violate any suspension order issued under section 6;

"(K) to violate any cancellation of registration of a pesticide under section 6;

"(L) who is a producer to violate any of the provisions of section 7;

"(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 7, any records required to be maintained pursuant to section 8, any report filed under this Act, or any information marked as confidential and submitted to the Administrator under any provision of this Act;

"(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this Act; or

"(O) to add any substance to, or take any substance from any pesticide in a manner that may defeat the purpose of this Act.

"(b) EXEMPTIONS.—The penalties provided for a violation of paragraph (1) of subsection (a) shall not apply to—

"(1) any person who establishes a guaranty signed by, and containing the name and

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address of, the registrant or person residing in the United States from whom he purchased and received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provision of this Act;

"(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

"(3) any public official while engaged in the performance of his official duties;

"(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

"(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties from which the user does not expect to receive any benefit in pest control from its use.

"SEC. 13. STOP SALE, USE, REMOVAL AND SEIZURE.

"(a) STOP SALE, ETC., ORDERS.—Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this Act, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide or device has been canceled by a final order or has been suspended, the Administrator may issue a written or printed 'stop sale, use, or removal' order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use or remove the pesticide or device described in the order except in accordance with the provisions of the order.

"(b) SEIZURE.—Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

"(1) in the case of a pesticide—

"(A) it is adulterated or misbranded;

"(B) it is not registered pursuant to the provisions of section 3;

"(C) its labeling fails to bear the information required by this Act;

"(D) it is not colored or discolored and such coloring or discoloring is required under this Act; or

"(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

"(2) in the case of a device, it is misbranded; or

"(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this Act and as directed by the labeling, it nevertheless causes substantial adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

"(c) DISPOSITION AFTER CONDEMNATION.—If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this Act or the laws of the jurisdiction in which it is sold: *Provided*, That upon the payments of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws of any State in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(d) COURT COSTS, ETC.—When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

"SEC. 14. PENALTIES

"(a) CIVIL PENALTIES

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $5,000 for each offense.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense.

"(3) HEARING.—No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation.

"(4) REFERENCES TO ATTORNEY GENERAL.—In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

"(b) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than $25,000, or imprisoned for not more than one year, or both.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than $1,000, or imprisoned for not more than 30 days, or both.

"(3) DISCLOSURE OF INFORMATION.—Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than $10,000, or imprisoned for not more than three years, or both.

"(4) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

"SEC. 15. INDEMNITIES.

"(a) REQUIREMENT.—If—

"(1) the Administrator notifies a registrant that he has suspended the registration of a pesticide because such action is necessary to prevent an imminent hazard;

"(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard; and

"(3) any person who owned any quantity of such pesticide immediately before the notice to the registrant under paragraph (1) suffered losses by reason of suspension or cancellation of the registration,

the Administrator shall make an indemnity payment to such person.

"(b) AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—The amount of the indemnity payment under subsection (a) to any person shall be determined on the basis of the cost of the pesticide owned by such person immediately before the notice to the registrant referred to in subsection (a)(1); except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by such person immediately before the notice referred to in subsection (a)(1).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of such pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this subsection, proper adjustment shall be made for any pesticide used or otherwise disposed of by such owner.

"SEC. 16. ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW.

"(a) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.—Except as provided by subsection (b), subchapter II of chapter 5 of title 5 of the United States Code (sec. 551 and following, relating to administrative procedure) and chapter 7 of title 5 of the United States Code (sec. 701 and following, relating to judicial review) apply in respect of rules, rule making, orders, adjudication, licensing, sanctions, agency proceedings, and agency actions (as such terms are used in subchapter II of chapter 5 and in chapter 7 of title 5 of the United States Code).

"(b) JUDICIAL REVIEW.—In the case of actual controversy as to the validity of any order issued by the Administrator, any person adversely affected may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The Court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.

"(c) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this Act.

"(d) NOTICE OF JUDGMENTS.—The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

"SEC. 17. IMPORTS AND EXPORTS

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a cancellation of the registration of a pesticide becomes effective, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies.

"(c) IMPORTATION OF PESTICIDES AND DEVICES.—The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon his request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this Act, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter or execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond: *And provided further*, That all charges for storage, cartage, and labor on pesticide or device which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

"(e) REGULATIONS.—The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of this section.

"SEC. 18. EXEMPTION OF FEDERAL AGENCIES

"The President by executive order may exempt any Federal Agency from any provision or all provisions of this Act if he determines that emergency conditions exist which require such exemption.

"SEC. 19. DISPOSAL AND TRANSPORTATION

"(a) PROCEDURES.—The Administrator shall after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide.

"(b) ADVICE TO SECRETARY OF TRANSPORTATION.—The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his functions relating to the transportation of hazardous materials under the Department of Transportation Act (49 U.S.C. 1657), the Transportation of Explosives Act (18 U.S.C. 831–835), the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472 H), and the Hazardous Cargo Act (46 U.S.C. 170, 375, 416).

"SEC. 20. RESEARCH AND MONITORING.

"(a) RESEARCH.—The Administrator shall undertake research, including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this Act, and he shall give priority to research to develop biologically integrated alternatives for pest control. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

"(b) NATIONAL MONITORING PLAN.—The Administrator shall formulate and periodically revise, in cooperation with other Federal State, or local agencies, a national plan for monitoring pesticides.

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

"SEC. 21. SOLICITATION OF PUBLIC COMMENTS.

"In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this Act, the Administrator may, at his discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as he deems proper.

"SEC. 22. DELEGATION AND COOPERATION.

"(a) DELEGATION.—All authority vested in the Administrator by virtue of the provisions of this Act may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

"(b) COOPERATION.—The Administrator shall cooperate with the Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof, in carrying out the provisions of this Act, and in securing uniformity of regulations.

"SEC. 23. STATE COOPERATION, AID, AND TRAINING

"(a) COOPERATIVE AGREEMENT.—The Administrator is authorized to enter into cooperative agreements with States—

"(1) to delegate to any State the authority to cooperate in the enforcement of the Act through the use of its personnel or facilities, to train personnel of the State to cooperate in the enforcement of this Act, and to assist States in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist State agencies in developing and administering State programs for training and certification of pesticide applicators consistent with the standards which he prescribes.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator is authorized to enter into contracts with Federal or State agencies for the purpose of encouraging the training of certified pesticide applicators.

"SEC. 24. AUTHORITY OF STATES

"(a) A State may regulate the sale or use of any pesticide or device in the State, but only if and to the extent the regulations does not permit any sale or use prohibited by this Act;

"(b) Such State shall not impose or continue in effect any requirements for labeling and packaging in addition to or different from those required pursuant to this Act; and

"(c) A State may assist the Administrator in the registration of pesticides formulated for intrastate distribution to meet specific local needs if that State is certified by the Administrator as capable of exercising adequate controls.

"SEC. 25. AUTHORITY OF ADMINISTRATOR

"(a) REGULATIONS.—The Administrator is authorized to prescribe regulations to carry out the provisions of this Act. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

"(b) EXEMPTION OF PESTICIDES.—The Administrator may exempt from the requirements of this Act by regulation any pesticide which he determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.

"(c) OTHER AUTHORITY.—The Administrator, after notice and opportunity for hearing is authorized—

"(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms on or in living man or other living animals) which is injurious to health or the environment;

"(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

"(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91–601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act;

"(4) to specify that any class of devices shall be subject to this Act if he determines that the application of this Act in respect of such class is necessary to effectuate the purposes of this Act;

"(5) to prescribe regulations requiring any pesticide to be colored or discolored if he determines that such requirement is feasible and is necessary for the protection of health and the environment; and

"(6) to determine and establish suitable names to be used in the ingredient statement.

"SEC. 26. SEVERABILITY

"If any provision of this Act or the application thereof to any person or circum-

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stance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

"SEC. 27. AUTHORIZATION FOR APPROPRIATIONS

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year ending June 30, 1972, June 30, 1973, and June 30, 1974. The amounts authorized to be appropriated for any fiscal year ending after June 30, 1974, shall be the sums hereafter provided by law."

Mr. DOW (during the reading). Mr. Chairman, I have sent copies of the amendment to the desk. I ask unanimous consent that the amendment be considered as read and printed in the RECORD, inasmuch as I have made copies available.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. DOW. Mr. Chairman, I offer an amendment to the bill H.R. 1072 seeking to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

For the convenience of Members this substitute embodies six individual amendments that I am convinced we must adopt in order to perfect this pesticide legislation. It should be easier to perfect the bill by one amendment than by six put individually to this House. In the general debate of this bill before us, I covered the essentials of all the amendments I believe to be necessary. These have the support of at least seven of the national organizations and the International Association of Game, Fish, and Conservation Commissioners which are dedicated to preserving our environment and preventing the excesses in usage of pesticides that becomes more alarming all the time.

For the benefit of those Members who did not hear the general debate, I will summarize the six component amendments that make my substitute different from, and I believe preferable to, the committee bill:

First. The first amendment, on page 17, would strike language permitting pesticide manufacturers to restrict the use of data submitted in support of an application for registration—a procedure that is more restrictive than present law. The objectionable provision would require, in effect, that the environmental protection agency join with manufacturers in restrictive trade and in violation of the Freedom of Information Act outside the bounds of patent protection.

Second. My second amendment, on page 17, adds language requiring the manufacturer to disclose data which tends to prove an environmental effect of lack of effect. The committee bill omits such requirement and leaves the Administrator, believe it or not, to assume the burden of proof in any denial of pesticide application.

Third. The third amendment, on page 19, strikes out a clause new in the committee bill which makes any lack of essentiality irrelevant for denying registration to a pesticide. Heretofore, the Administrator of the Environmental Protection Agency has developed a doctrine of essentiality, that is, the need for the pesticide in the Agency analysis of applications for registrations. My amendment restores this instrument to his use.

Fourth. The fourth amendment, on page 28, would strike the section requiring the Federal examiner hearing pesticide cases to submit questions of scientific fact to a scientific committee. The provision bottles up questions, delays procedures, excludes the public and was not in the original Administration proposal.

Fifth. My fifth amendment, page 49, would continue the present application of law which allows persons adversely affected to challenge the Administrator's orders in the U.S. Court of Appeals. The new committee bill limits court challenge to manufacturers, and bars States which wish to intervene and other groups who might be vitally concerned. The National Governors Conference has been particularly concerned because this section restricts State intervention.

Sixth. My sixth amendment, page 56, is one that has enlisted support from a number of commissioners of conservation in a number of States. It would strike from the committee bill the new proviso that would bar a State from restricting in its own way the use of pesticides registered for general use. This would gut the laws of such States where such laws are stricter than the Federal registration. I can see no good purpose served by preventing States from running their own affairs in a tidy fashion where they deem it essential.

Accordingly, Mr. Chairman, the Members have an opportunity in supporting this comprehensive amendment to strike from the bill all those legal snares and pitfalls that would trap the Administrator of the Environmental Protection Agency and tie his hands as regards regulation in the public interest. I urge the passage of my amendment as a substitute for the bill.

Mr. HELSTOSKI. Mr. Chairman, I shall address myself to the preemption of State authority authorized by lines 5 and 6 of section 24 of the bill before us this afternoon. In my opinion, this section constitutes a crippling blow to pesticide control programs underway in a number of States, including my own, New Jersey.

The language of these lines "or restrict by license or permit the use of a pesticide registered for general use" sounds harmless enough until we examine its impact on existing State laws. We would also do well to consider this language in the context of the evolution of this legislation from a strong proposal to the weak, watered-down bill before us today.

Under H.R. 10729, in the words of the committee report, "State authority to change Federal labelling and packaging is completely preempted." Also, pesticides classified for "general use" by the Environmental Protection Agency are presumed by the committee bill to be safe and States are prohibited from regulating them more strictly than the Federal Government does.

Mr. Chairman, no one knows which pesticides will be classified by the EPA for "general use" or for "restricted use" or for both. Additionally, the definition upon which such classification is based—"substantial adverse effects on the environment"—is vague and weak. Thus, States may find that a pesticide which EPA classifies for "general use" actually requires stricter regulation. But, under this bill, the States will have their hands tied and may go no further in pesticide regulation that the EPA allows.

On the basis of the Federal Government's past performance in pesticide regulation, many people are skeptical of how tough EPA will be in drawing up its restricted list. In addition, the possibility of dual classification fuzzes the meaning and purpose of the two categories. As noted by the Agricultural Extension Service entomologist at North Carolina State University:

> Enforcement of any restrictions on users will be difficult at best, but enforcement of a dual classification at the user level in my opinion will be impossible.

Richard J. Sullivan, commissioner of the New Jersey Department of Environmental Protection, commented:

> Pesticides are to be classified as "restricted use" under this bill only if they are acutely toxic or if they may cause substantial adverse effects on the environment. We simply are not always aware of the vast dangers which can be caused by pesticides over the long term, and thus many dangerous substances may be included in the general use category of registration since a clear case of substantial immediate environmental damage will not be apparent. For over 25 years states have restricted such general use pesticides. These restrictions are important because varying crop, soil, or climatic conditions can affect the severity of the environmental impact of pesticides.

Another crucial problem with the preemption of State authority in section 24 is the specific reference to licenses and permits, which the States are forbidden to use on "general use" pesticides.

As a matter of fact, a great many States do use a permit system to control pesticides. According to the National Association of State Departments of Agriculture, 23 States have already taken steps to develop lists of restricted pesticides and to allow their use by permit only.[1]

For example, New York State has 15,000 outstanding permits issued to major users of pesticides. New York totally bans several pesticides and sharply restricts some 60 others which are considered to be highly toxic or potential environmental contaminants, according to Henry Diamond, commissioner of the New York Department of Environmental Conservation.

The preemption of State authority in section 24 seems to be clearly aimed at the heart of these strong State programs.

If one examines the history of this bill as it moved through markup in committee, it seems apparent that this gutting of strong State programs is intentional.

[1] Testimony in House Ag. Committee hearing, page 480, by Dr. Charles P. Ellington, Director, Maryland State Board of Agriculture, representing the NASDA.

Initially, the administration proposed in H.R. 4152 a system of classifying pesticides into three categories in order to control their use. Simply stated, the three categories were:

First. General use—for those pesticides which can be used safely by following the label;

Second. Restricted use—those which required some special precautions and could only be applied by an "approved pesticide applicator," who could be anyone who could pass a State test established in cooperation with EPA;

Third. Use by permit only—this would be for pesticides highly dangerous—toxic—to people or hazardous to the environment. These could only be used with written approval of an "approved pest management consultant" who would be a highly qualified specialist. This category would be akin to a prescription system.

During the House hearings, some users and manufacturers objected strongly to the "use by permit" category, and during markup this category was promptly dropped by the committee.

Having thus prevented EPA from setting up a use by permit system, the committee ultimately limited the States' right to do so in section 24. The specific preemption in lines 5 and 6 did not appear in the legislation until the committee reported out the clean bill, H.R. 10729. This preemption had not been in the administration's proposal and, in fact, the administration testified strongly in favor of retention of State authority. During the House committee hearings, John Quarles, General Counsel and Assistant Administrator for Standards and Enforcement of EPA, said:

> I would like to emphasize that the States have played a major role in pesticides regulation. To date, 48 states have programs covering the registration and/or use of pesticides. We wish to encourage and not supplant these efforts by providing that States may prohibit the use of a particular pesticide within their jurisdiction even if the pesticide is registered under the Federal authority. States are not precluded from imposing stricter standards or added requirements, but they may not permit any sale or use of a pesticide which is prohibited under the authority of this Act.

Apparently in order to insure that EPA and the States would not use another method of establishing permit systems, the committee report states:

> The legislation grants no authority for a third classification nor does it grant any authority to the Administrator to establish by regulation or agreement with a state the position or similar function of a licensed or approved pest management consultant.

By forbidding the States to have pest management consultants, who are the people who give out permits, the committee has further threatened the whole permit concept.

If the language of section 24 of this bill is adopted, then passage of H.R. 10729 will represent a step backward in pesticide regulation for many States. It will punish States which have had the wisdom and courage to set up their own pesticide regulatory programs.

Already, State officials from New Jersey, New York, Massachusetts, Connecticut, California, Utah, Missouri, Michigan, Colorado, and Minnesota have expressed opposition to the preemption of State authority authorized by section 24. Officials from other jurisdictions may have done so as well, and, doubtless, many more would do so if all States had the opportunity to review and comment on this language.

Mr. Chairman, lines 5 and 6 of section 24 of this bill must be deleted.

Under unanimous consent I include at this point in the RECORD, several letters and a telegram relevant to section 24.

STATE OF NEW YORK, DEPARTMENT OF ENVIRONMENTAL CONSERVATION,

Albany, September 30, 1971.

DEAR CONGRESSMAN DOW: It has come to my attention that the House Committee on Agriculture has completed deliberations on HR 10729 (a bill to amend the Federal Insecticide, Fungicide and Rodenticide Act, by Mr. Poage). Indications are that the bill will be reported out in the very near future.

We generally agree with the intent of the legislation and are particularly encouraged by the prospect that it holds out for eventual federal funding to assist in our pesticide control program. However, there is one provision of the bill which could gut the outstanding work New York State is accomplishing to restrict pesticides within the states. Section 24 will undercut our existing, effective pesticide program and preclude needed local authority for all states. I therefore urge HR 10729 be amended to delete Section 24.

In the 1970 session of the Legislature, Governor Rockefeller signed a bill which gave the Department of Environmental Conservation the authority to ban completely or restrict the use of pesticides in New York State. Under this authority the Department held hearings in the fall of 1970 and, following those hearings, promulgated a series of regulations which prohibit entirely the use of such devastating environmental contaminants as DDT, Endrin and BHC. It also restricts sharply the use of some 60 other pesticides which are considered to be highly toxic or potential environmental contaminants.

Our restricted pesticide program now has 15,000 outstanding permits issued to major uses of pesticides. We have found that generally the agricultural and chemical industries are in favor of this program and have cooperated fully since its inception on January 1 of this year.

I believe that Congressional action, which would destroy this outstanding program and replace it with a federal program which might be unsuited to the needs of New York State, would be most unfortunate and an environmental step backwards.

Sincerely,

HENRY L. DIAMOND,
Commissioner.

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
Trenton, October 7, 1971.

Hon. HENRY HELSTOSKI,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HELSTOSKI: On September 25 the House Agriculture Committee reported out a bill, HR 10729 which provides for Federal regulation of pesticides. While I have not completely reviewed the bill, one section of it seems to me to be particularly ill-conceived and in need of amendment.

The section I refer to is Section 24 on page 56 of the bill. When the Committee was considering the bill, it accepted an amendment which authorizes the States to regulate the sale or use of any pesticide or device within the State if such State regulation does not permit a sale or use prohibited by the act. The same amendment also forbids the state to "restrict by license or permit the use of a pesticide registered for general use."

Pesticides are to be classified as "restricted use" under this bill only if they are acutely toxic or if they may cause substantial adverse effects on the environment. We simply are not always aware of the vast dangers which can be caused by pesticides over the long term, and thus many dangerous substances may be included in the general use category of registration since a clear case of substantial immediate environmental damage will not be apparent. For over 25 years states have restricted such general use pesticides. These restrictions are important because varying crop, soil, or climatic conditions can affect the severity of the environmental impact of pesticides.

If this bill is passed as presently drafted it will cripple New Jersey's pesticide regulations, and not allow any state to draw up regulations which fit its own particular needs. I therefore strongly urge that you work to amend HR 10729 by deleting line 5 following the word "act" and all of line 6 on page 56 in Section 24. If so amended the State of New Jersey can continue to exercise the controls needed over pesticides.

Very truly yours,

RICHARD J. SULLIVAN,
Commissioner.

TELEGRAM FROM DANIEL W. LUFKIN TO ALL CONNECTICUT CONGRESSMEN:

As Connecticut Commissioner of Environmental Protection I request your vigorous opposition to HR 10729 because it removes from Connecticut and other States the power to regulate pesticides more stringently than the Federal Government. The States have primary responsibility for the health of their citizens, and the environmental impact of pest control methods strikes the local community. The States must have the power to have their own standards on pesticides whether or not they exceed the Federal standards. Another objectionable feature is the shifting of the burden of proof to the environmental protection agency to prove "substantial" environmental effects from pesticide use. This is exactly opposite to the way it should be. The manufacturer and user should have the burden to prove the contrary. States fighting to protect their environment should not be undercut by laws such as this.

Mr. HARRINGTON. Mr. Chairman, the scientific community, environmental groups, consumer groups, and the general public vividly realize the great need for revision of existing law in the areas of strengthening controls on the uses and users of pesticides. So too must Congress. I, therefore, rise in support of the substitute legislation introduced by Congressman Dow.

It must be acknowledged that the wise use of pesticides have benefited the farmer and the Nation as a whole. It has been estimated, for instance, that without pesticides farmers would suffer a total yearly crop loss of $20 billion. Additionally, by controlling insect caused diseases such as malaria and typhus, millions of lives have been saved. Intelligent pesticide use has benefited man. However, evidence has proven that there is a drastic decrease in our ability to control the use of pesticides and that the proliferation and increased use of pesticides has resulted in undesirable effects on human health. In 1970 the production of pesti-

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cides in the United States totaled 1.03 million pounds. Currently 60,000 chemical products are registered with the Federal Government.

Such extensive use of pesticides with weak controls and potential hazardous effects has caused widespread concern. According to the National Product Safety Commission, 75,000 acute pesticide poisonings occur each year. Eight hundred to 1,000 people die each year and another 80,000 to 90,000 people are injured from pesticide poisonings according to the Food and Drug Administration. DDT presents long-term hazards to the environment. It remains in the air, in the soil, and in the water for 50 years. DDT thus enters the food chain, accumulates in human tissue and has the potential to cause liver damage or possibly even cancer. Because of exposure to pesticides, many species of wildlife are endangered.

In the report by the Committee on Agriculture the need for new control measures and procedures was noted:

> Pesticides are valuable to our naton's agricultural production . . . but it is essential to the public health and welfare that they be regulated closely to prevent adverse effects on human life and the environment.

The committee bill, in its attempt to prevent these adverse effects, rewrites the Federal Insecticide, Fungicide, and Rodenticide Act of 1947 which regulates the labeling and sale—but not the use of pesticides in interstate commerce. However, the committee bill fails to provide the sufficient controls or the "close" regulation which it promised to do and announced as its goal. Without such controls we will continue to endanger both human life and the total environment.

The committee bill, in attempting to be a composite of a farmer's bill, a manufacturer's bill, and an environmentalist's bill, becomes in effect, nobody's bill. The primary value that must be given priority is the health of all of the American people, both now and for the future. A substitute bill, H.R. 11169, offered by Representative JOHN G. DOW, reflects this concern for health.

There are several serious weaknesses in H.R. 10729 concerning, first, registration of a pesticide, second, administration and scientific review, third, judicial review, and fourth, the authority of the States. Congressman Dow's substitute bill seeks to correct these failings.

One of the weaknesses of the committee bill concerns the provisions for registration of pesticides. In the committee bill the applicant is given power to classify information—section 3(c)(1)(D)—page 17. The Dow substitute would correct this by striking the data restriction language. Thus the burden of proof is not shifted to the Administrator. The Dow substitute also requires that data in the possession of the applicant which would indicate a substantial adverse effect on the environment or the lack of such an effect should be available to the Administrator of the Environmental Protection Agency. Thus the Administrator would have sufficient information on which to base his decisions.

A second major weakness of H.R. 10729 is under section 6, administrative review, (c)(3) and (d), scientific review. In the past the referral of questions of a scientific nature has been used as a delaying tactic. It could continue to serve that purpose. However, the Dow substitute eliminates the section on scientific review, thus strengthening the power of the Administrator. The Administrator may seek outside advice for a public hearing when and if he feels this essential need. Delaying manipulations are thus eliminated in the Dow substitute.

A third weakness of the committee bill concerns the sections on judicial review. The committee bill would prevent public-interest law firms and environmental and consumer groups from bringing suits to ban dangerous pesticides and herbicides. The Dow substitutes would put back into the judicial review section on page 49 the words "any person adversely affected" which appeared in the original administration bill, H.R. 4152.

A fourth weakness of the committee bill concerns the authority of the States under section 24(a) page 56. States which have stricter requirements than Federal regulations are prohibited from enforcing anything stricter than the Federal regulations for general use pesticides. New York, Michigan, and Wisconsin, among other States, have effective State pesticide programs that could be jeopardized. The Dow substitute changes this to permit States to further regulate general use pesticides.

Four failings of the committee bill have been discussed—although other additional weakenesses exist. These failings are of such magnitude so as to nullify the progress that has been made to protect the health and indeed the survival of the human being. Congressman Dow's substitute bill seeks to correct the failings of the committee bill. It clearly places the value of health and survival of all of us on a top priority level.

I recently signed a letter urging Members of Congress to be present on the floor, to vote for the Dow substitute bill.

I reiterate that statement. We owe the consumer, the farmer, and the American public a decent pesticide control bill. Mr. Dow's bill gives us the opportunity to pay that debt.

Mrs. ABZUG. Mr. Chairman, H.R. 10729 is entitled the "Federal Environmental Pesticide Control Act," but this label is a false one, for it neither controls pesticides nor protects the environment. It should be called the "Federal Pesticide Promotion Act." The act by any name makes no contribution to protecting us from the hazards of pesticide misuse. In fact, it increases the risk of pesticide poisoning. Some of its provisions set environmental protection back at least 10 years.

The pending bill effectively prohibits citizen input into environmental decisionmaking. It limits standing to challenge a decision on pesticide licensing to those whose economic interests are directly affected by the decision, that is, the pesticide manufacturer. The law presently in effect, allows parties "adversely affected" to challenge the validity of pesticide registration. This standing requirement has been interpreted by the courts as allowing challenge and input by environmental groups. Some major pesticide protection victories in the last decade—including Wellford against Ruckelshaus, Environmental Defense Fund against Ruckelshaus, and EDF against Hardin—have come in lawsuits initiated by environmental groups and other citizens concerned about their health. The pending bill would halt all such input, leaving the Administrator with no point of view but that of industry. It would be inexcusable, in this day of increasing danger from pesticides, for us to narrow the standing criteria.

The bill prohibits the Administrator, when deciding whether to register a pesticide, from consulting toxicity data he has received in connection with the registration of other pesticides. In making a decision on a subject as important as entrance of a pesticide into our environment, he may not even use all the scientific information in his file cabinet. He would be limited to the data that the pesticide manufacturer submits to him, plus whatever data, of a general nature, he happens to have at hand. Existing law, on the other hand, allows the Administrator to use whatever data he has or can obtain. This is indisputably better for the public health, and I could not support a bill which would do what this one does.

The pending bill would put the burden of disallowing a pesticide registration on the Administrator, if he determined that a pesticide was unsafe. That is, he would have to make a determination that the pesticide had a substantial adverse effect on the environment before he could refuse registration. The standard of "substantial adverse effect" is a heavy burden to meet. The burden of proof on this issue should rest not with the Administrator, whose aim is to protect the public, but with the manufacturer, whose aim is to make a pecuniary profit. Under present law, the manufacturer bears the burden of proof. He must show that he has a product that can be used safely within the limits of the instructions on the label. The pending bill would require the administrator to prove nonsafety and I cannot endorse it in that form.

The pending bill prohibits the Administrator from using the criterion of "essentiality" in determining whether a pesticide should be registered. The doctrine of "essentiality" means that the Administrator may consider whether the pesticide is essential—that is, whether other, less toxic pesticides are already available to perform the same function—in determining registration. The essentiality standard has been one of the major victories won by environmentalists' lawsuits. It is crucial in deciding whether or not the environment and the public are to have yet another pesticide. Without the essentiality doctrine, the sole criterion will be the persuasiveness of the pesticide manufacturer in marketing it to the farmer. This, too, is unacceptable.

The bill before us commands the Administrator to keep data relating to toxicity of pesticide products secret until after the decision on registration is made. It also grants the pesticide industry the right to decide what data will or will not ultimately be available, since it lets the industry decide which portion of its data is to remain secret. The result is that even when the Administrator releases the toxicity data—he cannot release data which the registrant has determined should be secret. Existing law does not give the manufacturer the right to determine what the public should know, but that places that decision under the terms of the Freedom of Information Act. Until recently, some toxicity data has been secreted under the trade secrets exception, that act, but recently, the Environmental Protection Agency has determined that toxicity data does fall within this exception, and that it will be available to the public as an aid in poison protection. The bill before us would overrule that wise decision, and bind the Administrator to shield toxicity data from the public eye on a permanent basis.

The pending bill sets up a balancing test when temporary suspension of a harmful pesticide is considered. The administrator would have to balance the potential injury to the public against the potential benefit. Such a test may be acceptable in a leisurely, full-dress consideration, but not in an emergency.

Further, the bill would indemnify manufacturers whose pesticide is removed from the market because it is unsafe. Do we indemnify a bank robber if we catch him and take away his ill-gotten loot? If not, then why should we indemnify a manufacturer when we catch him with his ill-gotten "loot"?

In all these cases, the pending bill is regressive. It denies protections which the public now enjoys. The public deserves better than this.

We need stronger legislation, not weaker.

We need an administrative procedure which is fully open to public scrutiny and which operates with sufficient speed to protect the public against newly-discovered dangers.

We need legislation which does not give unbridled discretion to the administrator, making him constantly vulnerable to the army of industry lobbyists who infest the halls of Government agencies.

We need legislation which assures the public that it is not the guinea pig in safety experiments for pesticides.

We need a standard for removing dangerous pesticides from the market which protects the public while scientific data is being reviewed in the agency.

We need a category of pesticide use which allows use by license only, as the original administration bill prescribed.

We need stringent qualifications for pesticide applicators.

We will get none of these things with this bill. This bill encourages thoughtless pesticide use. It is riddled with lowered standards, wider discretion, and gaping loopholes.

Pesticides are poisons. They are designed to kill living things. They require the utmost care at all levels, lest they kill the wrong things.

In 1970, the production of pesticides totalled over 1 million pounds. The National Product Safety Commission estimates that there were 75,000 acute pesticide poisonings in that year. The Food and Drug Administration estimates that 800 to 1,000 people die every year from pesticide poisoning and that 80,000 to 90,000 are injured by pesticides, not to mention injuries to wildlife populations and to domestic animals.

Pesticides are useful to man only when they are applied with utmost caution. The bill discourages such application. It promotes the expansion of pesticide use by those who seek short-run gain—the chemical companies who sell pesticides. The bill seeks to obscure the dangers of poisons, minimizing the need for care and judiciousness in their use. We are dealing here with poisons, and this bill increases our chance of being poisoned.

I support the Dow substitute. It erases the clause which would preempt stronger state pesticide legislation. It speeds up agency action by erasing immediate, interim appeal to the district court and automatic appeal to the National Academy of Sciences. It changes the standing requirement for initiating judicial review of agency registration decisions to parties adversely affected, which would allow people other than chemical companies to go into court. It would allow the administrator to use all data in his files when he makes safety decisions.

This substitute makes some contribution toward protecting the public, the farmer, the farmworker, and the consumer, from misuse of economic poisons. I urge its adoption.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in strong support of the amendment in the form of a substitute offered by the gentleman from New York (Mr. DOW). This amendment is a much needed attempt to rectify some of the many faults present in the bill reported by the Agriculture Committee.

As the committee bill presently stands, the Environmental Protection Agency would be virtually powerless to carry out its task of regulating the manufacture, distribution and use of pesticides. For, as drafted by the committee, H.R. 10729 would be no better than the old Federal Insecticide, Fungicide, and Rodenticide Act. In fact, it would provide even weaker protection of the environment and the public than does the present law, while strengthening the hands of the makers and users of harmful chemical poisons.

When we consider that under the present system of controls, it is estimated that 800 to 1,000 people died each year and 10 times that number are acutely poisoned from intake of chemical pesticides, we must strive for more stringent regulations of these potentially harmful products and not accept weaker conditions as provided for in the current bill.

Provisions incorporated in the committee bill such as "no State could impose stricter regulations than those approved at the Federal level" and "the burden of proof of the safety of a chemical falls on the Government, rather than on the company promoting the product" are just two examples of how this bill would in fact promote less control of pesticides rather than the stricter supervision that is needed.

With the Dow amendment, however, this bill could serve a valuable purpose of strengthening what is now a weak and easily avoided statute. It is agreed by most that the bill's effect on the individual small farmer would not differ if the Dow amendment was accepted. Major effects of the Dow amendment would fall upon the manufacturers of the chemical pesticides. It would make them prove that a new product is safe and useful before it is allowed on the market for public consumption. This is not, in my opinion, too great a burden for the chemical manufacturers to bear in light of the alarming increase in chemical-related poisonings in recent years.

I shall, Mr. Chairman, support the Dow amendment as a constructive alternative to the committee bill and hope that my colleagues will do likewise.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of the amendments offered by the gentleman from New York (Mr. DOW).

The committee bill does not correct the current situation regarding the use and control of pesticides. Instead, the bill, as reported by the Agriculture Committee, restricts the authority of the Environmental Protection Agency. In addition, and most objectionable to me, the committee bill severely restricts the authority of the States to take the necessary action to protect its local environment.

The Dow substitute would correct the deficiencies in the committee bill by, first, placing the protection of the environment as a priority coequal to the production of food and fiber and, second, the substitute would permit the States to set higher standards for pesticides than those set by the Environmental Protection Agency.

Often, we witness a Federal law superseding a State law. In California, we are all too familiar with Federal laws and practices that invalidate our State laws—laws designed to meet the special needs of the community.

The Federal Government—the Government of all the States—must consider the problems of Cold Bay, Alaska, or Summit Point, W. Va. In doing so, the Federal Government must enact a law which is acceptable to the people in Alaska as well as West Virginia.

In many instances, the law which would eliminate say—a pollution problem in Los Angeles—might be too stringent for the people in Alaska, a State which may not have our complex problems. Thus, in order to reach a compromise, the Federal laws, in some instances, have not met the requirements of those of us from States such as California.

Instead, Federal laws, such as the Clean Air Act of 1970, have invalidated certain provisions of California's more restrictive laws. In those cases, we have fought to preserve our stronger local laws.

Mr. Chairman, the Federal law must establish a floor. That is to say, California and Alaska must meet certain minimum Federal standards, but if the situation exists, the State and local governments may enact more stringent requirements.

At this point, Mr. Chairman, I would

like to insert a telegram that I received from Mr. Ray Arnett, the director of the California Fish and Game Department:

The Calif. Dept. of Agriculture is opposed to wording in H.R. 10729 under section 24 (a), p. 56 of committee bill which would prevent the State from adopting more restrictive measures than those adopted by the Administrator of EPA as "pesticides classified for general use". Since the Dept. of Fish and Game depends on the regulatory authority of the State Dept. of Agriculture for quick action to control and alleviate pesticide problems involving significant conflicts between pesticides and fish and wildlife, we strongly support the retention of the State's rights concept as recommended by the Calif. Dept. of Agriculture and as reflected in the alternative amendments of Rep. Dow's proposed H.R. 11169.

In 1970, production of pesticides in the United States totaled over 1 billion pounds. The National Product Safety Commission estimates that 75,000 acute pesticide poisonings occur each year. The Food and Drug Administration estimates that 800 to 1,000 people die each year from pesticide poisons.

We know that some persistent pesticides have taken their toll among such wildlife as eagles, pelicans, and falcons.

We know that most of the world's production of DDT ends up in the ocean where it has contaminated fish and, as a result, the FDA has removed those fish from the market.

Mr. Chairman, I favor the substitute amendments which would, first, allow the EPA to stringently control the use of pesticides and, second, allow the more stringent State laws, which are designed to meet the local needs, to remain in effect.

Mr. WOLFF. Mr. Chairman, I rise today in support of an amendment to H.R. 10729, the Federal Environmental Pesticide Control Act of 1971, which is being offered by my distinguished New York colleague (Mr. Dow). I urge my colleagues in the House to give careful consideration to the merits of this amendment and to join with me in supporting this measure.

H.R. 10729, as reported from committee, substantially weakens the straightforward provisions of the present law without offering adequate safeguards in return. For example, the bill will preempt the setting of stronger requirements and safeguards by the individual States. I point to my own State of New York as a case in point.

In addition, the Pesticide Act as it now stands would require the Administrator of the Environmental Protection Agency to prove that a pesticide product is environmentally unsound. The burden of proof to demonstrate that the pesticide will not adversely affect the environment, I think, rightfully belongs with the manufacturer. The amendment before us today would make this necessary change.

This amendment would also remove from the present bill some of the procedural obstacles that could prevent the Environmental Protection Agency from acting most effectively in the public interest, and it would remove the requirement that indemnities be paid to manufacturers, thus encouraging more careful and thorough product research before a compound is placed on the market.

I think none of us would dispute the importance and the need for careful regulation of pesticides. Time and again we are told of the dangers inherent in these poisons when used improperly. In a larger sense, we are likewise concerned with any substance that has the potential to alter the basic structure of the ecology, and as we hear of wild animals being poisoned to death, of insects growing immune to the effects of the chemicals we use to protect our crops, and of accumulations of the various substances in the human body, we cannot help but wonder what long-term effects these pesticides might have on the environment.

Therefore, I again urge my colleagues to give careful consideration to the provisions contained in this amendment, provisions which would only strengthen and in no way diminish the effectiveness of this legislation, and to join in support of this substitute measure.

Substitute amendment offered by Mr. KYL for the amendment in the nature of a substitute offered by Mr. Dow.

Mr. KYL. Mr. Chairman, I offer a substitute amendment for the amendment offered by the gentleman from New York (Mr. Dow).

The Clerk read as follows:

Substitute amendment offered by Mr. KYL for the amendment offered by Mr. Dow: In lieu of the matter proposed in the amendment insert the following:

AMENDMENTS TO FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SEC. 2. The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.) is amended to read as follows:

"SEC. 1. SHORT TITLE AND TABLE OF CONTENTS

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Insecticide, Fungicide, and Rodenticide Act'.

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.
"(a) Short title.
"(b) Table of contents.
"Sec. 2. Definitions.
"(a) Active ingredient.
"(b) Administrator.
"(c) Adulterated.
"(d) Animal.
"(e) Certified pesticide applicator, etc.
"(1) Certified pesticide applicator.
"(2) Private pesticide applicator.
"(3) Commercial pesticide applicator.
"(f) Defoliant.
"(g) Desiccant.
"(h) Device.
"(i) District court.
"(j) Environment.
"(k) Fungus.
"(l) Imminent hazard.
"(m) Inert ingredient.
"(n) Ingredient statement.
"(o) Insect.
"(p) Label and labeling.
"(1) Label.
"(2) Labeling.
"(q) Misbranded.
"(r) Nematode.
"(s) Person.
"(t) Pest.
"(u) Pesticide.
"(v) Plant regulator.
"(w) Producer and produce.
"(x) Protect health and the environment.
"(y) Registrant.
"(z) Registration.
"(aa) State.
"(bb) Substantial adverse effects on the environment.
"(cc) Weed.
"Sec. 3. Registration of pesticides.
"(a) Requirement.
"(b) Exemptions.
"(c) Procedure for registration.
"(1) Statement required.
"(2) Data in support of registration.
"(3) Time for acting with respect to application.
"(4) Notice of application.
"(5) Approval of registration.
"(6) Denial of registration.
"(d) Classification of pesticides.
"(1) Classification for general use, restricted use, or both.
"(2) Change in classification.
"(e) Products with same formulation and claims.
"(f) Miscellaneous.
"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"Sec. 4. Use of restricted use pesticide; certified applicators.
"(a) Certification procedure.
"(1) Federal certification.
"(2) State certification.
"(b) State plans.
"Sec. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"Sec. 6. Administrative review; suspension.
"(a) Cancellation after five years.
"(1) Procedure.
"(2) Information.
"(b) Cancellation and change in classification.
"(c) Suspension.
"(1) Order.
"(2) Duration of order.
"(3) Judicial review.
"(d) Public hearings and scientific review.
"(e) Judicial review.
"Sec. 7. Registration of establishments.
"(a) Requirement.
"(b) Registration.
"(c) Information required.
"(d) Confidential records and information.
"Sec. 8. Books and records.
"(a) Requirement.
"(b) Inspection.
"Sec. 9. Inspection of establishments, etc.
"(a) In general.
"(b) Warrants.
"(c) Enforcement.
"(1) Certification of facts to Attorney General.
"(2) Notice not required.
"(3) Warning notices.
"Sec. 10. Protection of trade secrets, etc.
"(a) In general.
"(b) Disclosure.
"Sec. 11. Standards applicable to pesticide applicators.
"(a) In general.
"(b) Separate standards.
"Sec. 12. Unlawful acts.
"(a) In general.
"(b) Exemptions.
"Sec. 13. Stop sale, use, removal, and seizure.
"(a) Stop sale, etc., orders.
"(b) Seizure.
"(c) Disposition after condemnation.
"(d) Court costs, etc.
"Sec. 14. Penalties.
"(a) Civil penalties.
"(1) In general.
"(2) Private pesticide applicator.
"(3) Hearing.
"(4) References to Attorney General.
"(b) Criminal penalties.
"(1) In general.
"(2) Private pesticide applicator.
"(3) Disclosure of information.
"(4) Act of officers, agents, etc.
"Sec. 15. Indemnities.
"(a) Requirement.
"(b) Amount of payment.
"(1) In general.
"(2) Special rule.
"Sec. 16. Administrative procedure; judicial review.
"(a) Application of Administrative Procedure Act.
"(b) Judicial reviews.
"(c) Jurisdiction of district courts.
"(d) Notice of judgments.
"Sec. 17. Imports and exports.
"(a) Pesticides and devices intended for export.
"(b) Cancellation notices furnished to foreign governments.
"(c) Importation of pesticides and devices.
"(d) Cooperation in international efforts.
"(e) Regulations.
"Sec. 18. Exemption of Federal agencies.
"Sec. 19. Disposal and transportation.
"(a) Procedures.
"(b) Advice to Secretary of Transportation.
"Sec. 20. Research and monitoring.
"(a) Research.
"(b) National monitoring plan.
"(c) Monitoring.
"Sec. 21. Solicitation of public comments.
"Sec. 22. Delegation and cooperation.
"Sec. 23. State cooperation, aid, and training.
"Sec. 24. Authority of States and political subdivisions.
"(a) Cooperative agreements.
"(b) Contracts for training.
"Sec. 25. Authority of Administrator.
"(a) Regulations.
"(b) Exemption of pesticides.
"(c) Other authority.
"Sec. 26. Severability.
"Sec. 27. Authorization for appropriations.

"SEC. 2. DEFINITIONS

"For purposes of this Act—

"(a) ACTIVE INGREDIENT.—The term 'active ingredient' means—

"(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate any pest;

"(2) in the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the product thereof;

"(3) in the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

"(4) in the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

"(b) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(c) ADULTERATED.—The term 'adulterated' applies to any pesticide if:

"(1) its strength or purity falls below the professed standard or quality as expressed on its labeling under which it is sold;

"(2) Any substance has been substituted wholly or in part for the pesticide; or

"(3) any valuable constituent of the pesticide has been wholly or in part abstracted.

"(d) ANIMAL.—The term 'animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.

"(e) CERTIFIED PESTICIDE APPLICATOR, ETC.—

"(1) CERTIFIED PESTICIDE APPLICATOR.—The term 'certified pesticide applicator' means any individual who is certified under section 4 as authorized to use or supervise the use of any pesticide which is classified for restricted use.

"(2) PRIVATE PESTICIDE APPLICATOR.—The term 'private pesticide applicator' means a certified pesticide applicator who uses or supervises the use of any pesticide which is classified for restricted use for purposes of producing any agricultural commodity on property owned or rented by him or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on the property of another person.

"(3) COMMERCIAL PESTICIDE APPLICATOR.—The term 'commercial pesticide applicator' means a certified pesticide applicator (whether or not he is a private pesticide applicator with respect to some uses) who uses or supervises the use of any pesticide which is classified for restricted use for any purpose or on any property other than as provided by paragraph (2).

"(f) DEFOLIANT.—The term 'defoliant' means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

"(g) DESICCANT.—The term 'desiccant' means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"(h) DEVICE.—The term 'device' means any instrument or contrivance (other than a firearm) which (1) is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other micro-organisms on or in living man or other living animals), and (2) is within a class of devices in respect of which the Administrator has made the determination referred to in section 25(c)(4).

"(i) DISTRICT COURT.—The term 'district court' means a United States district court, the District Court of Guam, the District Court of the Virgin Islands, and the highest court of American Samoa.

"(j) ENVIRONMENT.—The term 'environment' includes water, air, land, and all plants and man and other animals living therein, and the interrelationships which exist among these.

"(k) FUNGUS.—The term 'fungus' means any nonchlorophyll-bearing thallophyte (that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts), as for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living man or other animals and those on or in processed food, beverages, or pharmaceuticals.

"(l) IMMINENT HAZARD.—The term 'imminent hazard' means a situation which exists when the continued use of a pesticide during the time required for cancellation proceeding would likely result in substantial adverse effects on the environment.

"(m) INERT INGREDIENT.—The term 'inert ingredient' means an ingredient which is not active.

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement which contains—

"(1) the name of each active ingredient in the pesticide;

"(2) if all the uses of the pesticide are classified for general use, then either—

"(i) the total percentage of all inert ingredients, and of all active ingredients, in the pesticide; or

"(ii) the percentage of each active ingredient, and the total percentage of all inert ingredients, in the pesticide; and if all the uses of the pesticide are not classified for general use, then the information required under (ii); and

"(3) if the pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elemental arsenic.

"(o) INSECT.—The term 'insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

"(p) LABEL AND LABELING.—

"(1) LABEL.—The term 'label' means the written, printed, or graphic matter on, or attached to, the pesticide, or device or any of its containers or wrappers.

"(2) LABELING.—The term 'labeling' means all labels and all other written, printed, or graphic matter—

"(A) accompanying the pesticide or device at any time; or

"(B) to which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of the Environmental Protection Agency, the United States Departments of Agriculture and Interior, the Department of Health, Education, and Welfare, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law to conduct research in the field of pesticides.

"(q) MISBRANDED.—

"(1) A pesticide or device subject to this Act is misbranded if—

"(A) its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

"(B) it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 25(c)(3);

"(C) it is an imitation of, or is offered for sale under the name of, another pesticide or device;

"(D) its labeling does not bear the registration number assigned under section 7 to each establishment in which it was produced;

"(E) any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

"(F) if the labeling accompanying it does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment; or

"(G) if the label does not contain a warning or caution statement which may be necessary and if complied with, together with any requirements imposed under section 3(d) of this Act, is adequate to protect health and the environment.

"(2) A pesticide is misbranded if—

"(A) the label does not bear an ingredient statement on that part of the immediate container (and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package) which is presented or displayed under customary conditions of purchase, except that a pesticide is not misbranded under this subparagraph if:

"(i) the size or form of the immediate container, or the outside container or wrapper of the retail package, makes it impracticable to place the ingredient statement on the part which is presented or displayed under customary conditions of purchase; and

"(ii) the ingredient statement appears prominently on another part of the immediate container, or outside container or wrapper, permitted by the Administrator;

"(B) the labeling does not contain a statement of the use classification under which the product is registered;

"(C) there is not affixed to its container, and to the outside container or wrapper of the retail package, if there be one, through which the required information on the immediate container cannot be clearly read, a label bearing—

"(i) the name and address of the producer, registrant, or person for whom produced;

"(ii) the name, brand, or trademark under which the pesticide is sold;

'(iii) the net weight or measure of the content: *Provided*, That the Administrator may permit reasonable variations; and

"(iv) when required by regulation of the Administrator to effectuate the purposes of this Act, the registration number assigned to the pesticide under this Act, and the use classification; and

"(D) the pesticide contains any substance or substances in quantities highly toxic to man, unless the label shall bear, in addition to any other matter required by this Act—

"(i) the skull and crossbones;

"(ii) the word 'poison' prominently in red on a background of distinctly contrasting color; and

"(iii) a statement of a practical treatment (first aid or otherwise) in case of poisoning by the pesticide.

"(r) NEMATODE.—The term 'nematode' means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sacklike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

"(s) PERSON.—The term 'person' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

"(t) PEST.—The term 'pest' means (1) any insect, rodent, nematode, fungus, weed, or (2) any other form of terrestrial or aquatic plant or animal life of virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which the Administrator declares to be a pest under section 25(c)(1).

"(u) PESTICIDE.—The term 'pesticide' means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.".

"(v) PLANT REGULATOR.—The term 'plant regulator' means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plan inoculants, and soil amendments.

"(w) PRODUCER AND PRODUCE.—The term 'producer' means the person who manufactures, prepares, compounds, propagates, or processes any pesticide or device. The term 'produce' means to manufacture, prepare, compound, propagate, or process any pesticide or device.

"(x) PROTECT HEALTH AND THE ENVIRONMENT.—The terms 'protect health and the environment' and 'protection of health and the environment' means protection against any injury to man and protection against any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(y) REGISTRANT.—The term 'registrant' means a person who has registered any pesticide pursuant to the provisions of this Act.

"(z) REGISTRATION.—The term 'registration' includes reregistration.

"(aa) STATE.—The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

"(bb) SUBSTANTIAL ADVERSE EFFECTS ON THE ENVIRONMENT.—The term 'substantial adverse effects on the environment' means any injury to man or any substantial adverse effects on environmental values, taking into account the public interest, including benefits from the use of the pesticide.

"(cc) WEED.—The term 'weed' means any plant which grows where not wanted.

"SEC. 3. REGISTRATION OF PESTICIDES

"(a) REQUIREMENT.—Except as otherwise provided by this Act, no person in any State may distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person any pesticide which is not registered with the Administrator.

"(b) EXEMPTIONS.—A pesticide which is not registered with the Administrator may be transferred if—

"(1) the transfer is from one registered establishment to another registered establishment operated by the same producer solely for packaging at the second establishment or for use as a constituent part of another pesticide produced at the second establishment; or

"(2) the transfer is pursuant to and in accordance with the requirements of an experimental use permit.

"(c) PROCEDURE FOR REGISTRATION.—

"(1) STATEMENT REQUIRED.—Each applicant for registration of a pesticide shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide;

"(C) a complete copy of the labeling of the pesticide, a statement of all claims to be made for it, and any directions for its use;

"(D) if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration;

"(E) the complete formula of the pesticide; and

"(F) a request that the pesticide be classified for general use, for restricted use, or for both.

"(2) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which will be required to support the registration of a pesticide and shall revise such guidelines from time to time. If thereafter he requires any additional kind of information he shall permit sufficient time for applicants to obtain such additional information. Except as provided by subsection (c)(1)(D) of this section and section 10, within 30 days after the Administrator registers a pesticide under this Act he shall make available to the public the data called for in the registration statement together with such other scientific information as he deems relevant to his decision.

(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—The Administrator shall review the data after receipt of the application and shall, as expeditiously as possible, either register the pesticide in accordance with paragraph (5), or notify the applicant of his determination that it does not comply with the provisions of the Act in accordance with paragraph (6).

"(4) NOTICE OF APPLICATION.—The Administrator shall publish in the Federal Register, promptly after receipt of the statement and other data required pursuant to paragraphs (1) and (2), a notice of each application for registration of any pesticide if it contains any new active ingredient or if it would entail a changed use pattern. The notice shall provide for a period of 30 days in which any Federal agency or any other interested person may comment.

"(5) APPROVAL OF REGISTRATION.—The Administrator shall register a pesticide if he determines that, when considered with any restrictions imposed under subsection (d)—

"(A) its composition is such as to warrant the proposed claims for it;

"(B) its labeling and other material required to be submitted comply with the requirements of this Act; and

"(C) it will perform its intended function without substantial adverse effects on the environment.

The Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide.

"(6) DENIAL OF REGISTRATION.—If the Administrator determines that the requirements of paragraph (5) for registration are not satisfied, he shall notify the applicant for registration of his determination and of his reasons (including the factual basis) therefor, and that, unless the applicant corrects the conditions and notifies the Administrator thereof during the 30-day period beginning with the day after the date on which the applicant receives the notice, the Administrator will refuse to register the pesticide. Whenever the Administrator refuses to register a pesticide, he shall notify the applicant of his decision and of his reasons (including the factual basis) therefor. Upon such notification, the applicant for registration shall have the same remedies as provided for the registrant in section 6.

"(d) CLASSIFICATION OF PESTICIDES.—

"(1) CLASSIFICATION FOR GENERAL USE, RESTRICTED USE, OR BOTH.—

"(A) As a part of the registration of a pesticide the Administrator shall classify it as being for general use or for restricted use, provided that if the Administrator determines that some of the uses for which the pesticide is registered should be for general use and that other uses for which it is registered should be for restricted use, he shall classify it for both general use and restricted use. If some of the uses of the pesticide are classified for general use and other uses are classified for restricted use, the directions relating to its general uses shall be clearly separated and distinguished from those directions relating to its restricted uses.

"(B) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, will not cause substantial adverse effects on the environment, he will classify the pesticide, or the particular use or uses of the pesticide to which the determination applies for general use.

"(C) If the Administrator determines that the pesticide, when applied in accordance with its directions for use, warnings and cautions and for the uses for which it is registered, or for one or more of such uses, may cause, without additional regulatory restrictions, substantial adverse effects on the environment, including injury to the applicator, he shall classify the pesticide, or the particular use or uses to which the determination applies, for restricted use.

(i) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its acute dermal or inhalation toxicity of the pesticide presents a hazard to the applicator or other persons, the pesticide shall be applied for any use to which the restricted classification applies only by or under the direct supervision of a certified pesticide applicator.

(ii) If the Administrator classifies a pesticide, or one or more uses of such pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause substantial adverse effect on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified pesticide applicator, or subject to such other restrictions as the Administrator may determine.

"(2) CHANGE IN CLASSIFICATION.—If the Administrator determines that a change in the classification of any use of a pesticide from general use to restricted use is necessary to prevent substantial adverse effects on the environment, he shall notify the registrant of such pesticide of such determination at least 30 days before making the change and shall publish the proposed change in the Federal Register.

"(e) PRODUCTS WITH SAME FORMULATION AND CLAIMS.—Products which have the same formulation, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same pesticide may be registered as a single pesticide; and additional names and labels shall be added by supplemental statements.

"(f) MISCELLANEOUS.—

"(1) EFFECT OF CHANGE OF LABELING OR FORMULATION.—If the labeling or formulation for a pesticide is changed, the registration shall be amended to reflect such change if the Administrator determines that the change will not violate any provision of this Act.

"(2) REGISTRATION NOT A DEFENSE.—In no event shall registration of an article be construed as a defense for the commission of any offense under this Act.

"(3) AUTHORITY TO CONSULT OTHER FEDERAL AGENCIES.—In connection with consideration of any registration or application for registration under this section, the Administrator may consult with any other Federal agency.

"SEC. 4. USE OF RESTRICTED USE PESTICIDE; CERTIFIED APPLICATORS.

"(a) CERTIFICATION PROCEDURE.—

"(1) FEDERAL CERTIFICATION.—Subject to paragraph (2), the Administrator shall prescribe standards for the certification of pesticide applicators. Such standards shall provide that to be certified, an individual must be determined to be competent with respect to the use and handling of pesticides, or of the use and handling of the pesticide or class of pesticides covered by such individual's certification.

"(2) STATE CERTIFICATION.—If any State, at any time, desires to certify pesticide applicators, the Governor of such State shall submit a State plan for such purpose. The Administrator shall approve the plan submitted by any State, or any modification thereof, if such plan in his judgment—

"(A) designates a State agency as the agency responsible for administering the plan throughout the State;

"(B) contains satisfactory assurances that such agency has or will have the legal authority and qualified personnel necessary to carry out the plan;

"(C) gives satisfactory assurances that the State will devote adequate funds to the administration of the plan;

"(D) provides that the State agency will make such reports to the Administrator in such form and containing such information as the Administrator may from time to time require; and

"(E) contains satisfactory assurances that State standards for the certification of pesticide applicators conform with those standards prescribed by the Administrator under paragraph (1).

"(b) STATE PLANS.—If the Administrator rejects a plan submitted under this paragraph, he shall afford the State submitting the plan due notice and opportunity for hearing before so doing. If the Administrator approves a plan submitted under this paragraph, then such State shall certify pesticide applicators with respect to such State.

"SEC. 5. EXPERIMENTAL USE PERMITS.

"(a) ISSUANCE.—Any person may apply to the Administrator for an experimental use permit for a pesticide. The Administrator may issue an experimental use permit if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 3. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

"(b) TEMPORARY TOLERANCE LEVEL.—If the Administrator determines that the use of a pesticide may reasonably be expected to result in any residue on or in food or feed, he may establish a temporary tolerance level for the residue of the pesticide before issuing the experimental use permit.

"(c) USE UNDER PERMIT.—Use of a pesticide under an experimental use permit shall be under the supervision of the Administrator, and shall be subject to such terms and conditions and be for such period of time as the Administrator may prescribe in the permit.

"(d) STUDIES.—When any experimental use permit is issued for a pesticide containing any chemical or combination of chemicals which has not been included in any previously registered pesticide, the Administrator may specify that studies be conducted to detect whether the use of the pesticide under the permit may cause substantial adverse effects on the environment. All results of such studies shall be reported to the Administrator before such pesticide may be registered under section 3.

"(e) REVOCATION.—The Administrator may revoke any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid substantial adverse effects on the environment.

"SEC. 6. ADMINISTRATIVE REVIEW; SUSPENSION

"(a) CANCELLATION AFTER FIVE YEARS.—

"(1) PROCEDURE.—The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five-year period thereafter) unless the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect.

"(2) INFORMATION.—If at any time after the registration of a pesticide the registrant has additional factual information regarding substantial adverse effects on the environment of the pesticide, he shall submit such information to the Administrator.

"(b) CANCELLATION AND CHANGE IN CLASSIFICATION.—If the Administrator determines that registration of a pesticide should be canceled or that the classification of a pesticide should be changed, he shall notify the registrant of such notice, the registrant may, within 30 days (A) registration or change the classification and of his reasons (including the factual basis) therefor in writing. Upon receipt of such notice, the registrant may, within 30 days (A) make the necessary corrections and so notify the Administrator, or (B) file objections and request a public hearing. If the registrant does not take any such action, the notice shall, at the end of 30 days from its receipt by the registrant, constitute a final order of cancellation or change in classification. If the registrant files objections and requests a public hearing, the order of cancellation or change in classification may only be issued after completion of such proceeding.

"(c) SUSPENSION.—

"(1) ORDER.—If the Administrator determines that such action is necessary to prevent an imminent hazard during the time required for cancellation proceedings, he may, by order, suspend the registration of the pesticide immediately. No order of suspension may be issued unless at the same time the Administrator issues notice of his intention to cancel the registration of the pesticide. Any remedy elected by the registrant under section 6(a) shall be held as expeditiously as possible.

"(2) DURATION OF ORDER.—Any suspension order shall remain in effect only until 90 days after the completion of the administrative remedies provided for under section 6 (a) or until the Administrator issues his final order either canceling or denying cancellation of the registration, whichever is sooner.

"(3) JUDICIAL REVIEW.—Any order of suspension shall be subject to immediate review in all actions by the registrant in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capicious or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law. This action may be maintained simultaneously with any administrative review proceeding under section 6.

"(d) PUBLIC HEARINGS AND SCIENTIFIC REVIEW.—In the event a hearing is requested pursuant to subsection (a) or (d) or determined upon by the Administrator pursuant to subsection (d), such hearing shall be held after due notice for the purpose of receiving evidence relevant and material to the issues raised by the objections filed by the applicant or other interested parties, or to the issues stated by the Administrator, if the hearing is called by the Administrator rather than by the filing of objections. Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Hearing Examiner shall issue a subpena to compel testimony from any person. Upon the request of any party or when in the hearing officer's judgment it is necessary or desirable, the hearing officer shall refer to a Committee of the National Academy of Sciences all relevant questions of scienific fact arising in the course of the public hearing. The Committee of the National Academy of Sciences shall report in writing to the officer within 60 days on these questions of scientific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to Committees of the Academy and to provide such other scientific advisory services as may be required by the Administrator for carrying out the purposes of this Act. The Hearing Examiner shall be guided by the principles of the Federal Rules of Civil Procedure in making any order for the protection of the witness and shall order the payment of reasonable fees and expenses as a condition to requiring his testimony. On contest, the subpena may be enforced by an appropriate United States District Court in accordance with the principles stated herein and the Administrative Procedure Act. As soon as practicable after completion of the hearing but not later than 90 days thereafter, the Administrator shall evaluate the data and reports before him and issue an order either revoking his notice of intention issued pursuant to this section, or shall issue an order either canceling the registration, changing the classification, denying the registration, or requiring modification of the labeling or packaging of the article. Such order shall be based only on substantial evidence of record of such hearing and shall set forth detailed findings of fact upon which the order is based.

"(e) JUDICIAL REVIEW.—Final orders of the

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Administrator under this section shall be subject to judicial review pursuant to section 16.

"SEC. 7. REGISTRATION OF ESTABLISHMENTS.

"(a) REQUIREMENT.—No person shall produce any pesticide or device subject to this Act in any State unless the establishment in which it is produced is registered with the Administrator. The application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such establishment.

"(b) REGISTRATION.—Whenever the Administrator receives an application under subsection (a), he shall register the establishment and assign it an establishment number.

"(c) INFORMATION REQUIRED.—

"(1) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after it is registered of the types and amounts of pesticides and devices—

"(A) which he is currently producing;

"(B) which he has produced during the past year; and

"(C) which he has sold or distributed during the past year.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe.

"(2) Any such producer shall, upon the request of the Administrator for the purpose of issuing a stop sale order pursuant to section 13, inform him of the name and address of any recipient of any pesticide produced in any registered establishment which he operates.

"(d) CONFIDENTIAL RECORDS AND INFORMATION.—Any information submitted to the Administrator pursuant to subsection (c) shall be considered confidential and shall be subject to the provisions of section 10.

"SEC. 8. BOOKS AND RECORDS.

"(a) REQUIREMENT.—The Administrator may prescribe regulations requiring producers to maintain such records with respect to their operations and the pesticides and devices produced as he determines are necessary for the effective enforcement of this Act. No records required under this subsection shall extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"(b) INSPECTION.—For the purposes of enforcing the provisions of this Act, any producer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery any pesticide or device subject to this Act, shall, upon request of any officer or employee of the Environmental Protection Agency or of any State or political subdivision, duly designated by the Administrator, furnish or permit such person at all reasonable times to have access to, and to copy: (1) all records showing the delivery, movement, or holding of such pesticide or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; or (2) in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or devices. Any inspection with respect to any records and information referred to in this subsection shall not extend to financial data, sales data other than shipment data, pricing data, personnel data, and research data (other than data relating to registered pesticides or to a pesticide for which an application for registration has been filed).

"SEC. 9. INSPECTION OF ESTABLISHMENTS, ETC.

"(a) IN GENERAL.—For purposes of enforcing the provisions of this Act, officers or employees duly designated by the Administrator are authorized—

"(1) to enter, at reasonable times, any establishment; and

"(2) to inspect and obtain samples of any pesticides or devices, packaged, labeled, and released for shipment, and samples of any containers or labeling for such pesticides or devices.

Before undertaking such inspection, the officers or employees must present to the owner, operator, or agent in charge of the establishment, appropriate credentials and a written statement as to the reason for the inspection, including a statement as to whether a violation of the law is suspected. If no violation is suspected, an alternate and sufficient reason shall be given in writing. Each such inspection shall be commenced and completed with reasonable promptness. If the officer or employee obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the samples obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained. If an analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge.

"(b) WARRANTS.—For purposes of enforcing the provisions of this Act and upon a showing to an officer or court of competent jurisdiction that there is reason to believe that the provisions of this Act have been violated, officers or employees duly designated by the Administrator are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purpose of this section;

"(2) inspection and reproduction of all records showing the quantity, date of shipment, and the name of consignor and consignee of any illegal pesticide or device found in the establishment and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the pesticide or device; and

"(3) the seizure of any pesticide or device which is in violation of this Act.

"(c) ENFORCEMENT.—

"(1) CERTIFICATION OF FACTS TO ATTORNEY GENERAL.—The examination of pesticides or devices shall be made in the Environmental Protection Agency or elsewhere as the Administrator may designate for the purpose of determining from such examinations whether they comply with the requirements of this Act. If it shall appear from any such examination that they fail to comply with the requirements of this Act, the Administrator shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Administrator it appears that the provisions of this Act have been violated by such person, then the Administrator shall certify the facts to the Attorney General, with a copy of the results of the analysis or the examination of such pesticide for the institution of a criminal proceeding pursuant to section 16, when the Administrator determines that such action will be sufficient to effectuate the purposes of this Act.

"(2) NOTICE NOT REQUIRED.—The notice of contemplated proceedings and opportunity to present views set forth in this subsection are not prerequisites to the institution of any proceeding by the Attorney General.

"(3) WARNING NOTICES.—Nothing in this Act shall be construed as requiring the Administrator to institute proceedings for prosecution of minor violations of this Act whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

"SEC. 10. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.

"(a) IN GENERAL.—In submitting this data required by this Act, the applicant may (1) clearly mark any portions thereof which in his opinion are trade secrets or commercial or financial information, and (2) submit such marked material separately from other material required to be submitted under this Act.

"(b) DISCLOSURE.—Notwithstanding any other provision of this Act, the Administrator shall not make public information which in his judgment contains or relates to trade secrets or commercial or financial information obtained from a person and privileged or confidential, except that, when necessary to carry out the provisions of this Act, information relating to formulas of products acquired by authorization of this Act may be revealed to any Federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the Administrator.

"SEC. 11. STANDARDS APPLICABLE TO PESTICIDE APPLICATORS.

"(a) IN GENERAL.—No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private pesticide applicator to maintain any records or file any reports or other documents.

"(b) SEPARATE STANDARDS.—When establishing or approving standards for licensing or certification, the Administrator shall establish separate standards for commercial and private applicators.

"SEC. 12. UNLAWFUL ACTS.

"(a) IN GENERAL.—

"(1) Except as provided by subsection (b), it shall be unlawful for any person in any State to distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—

"(A) any pesticide which is not registered under section 3;

"(B) any registered pesticide if any claims made for it as a part of its distribution or sale substantially differ from any claims made for it as a part of the statement required in connection with its registration under section 3;

"(C) any registered pesticide the composition of which differs at the time of its distribution or sale from its composition as described in the statement required in connection with its registration under section 3;

"(D) any pesticide which has not been colored or discolored pursuant to the provisions of section 25(c)(5);

"(E) any pesticide which is adulterated or misbranded; or

"(F) any device which is misbranded.

"(2) It shall be unlawful for any person—

"(A) to detach, alter, deface, or destroy, in whole or in part, any labeling required under this Act;

"(B) to refuse to keep any records required pursuant to section, or to refuse to allow the inspection of any records or establishment pursuant to section 8 or 9, or to refuse to allow an officer or employee of the Environmental Protection Agency to take a sample of any pesticide pursuant to section 9;

"(C) to give a guaranty or undertaking provided for in subsection (b) which is false in any particular, except that a person who receives and relies upon a guaranty authorized under subsection (b) may give a guaranty to the same effect, which guaranty shall contain, in addition to his own name and address, the name and address of the person residing in the United States from whom he received the guaranty or undertaking;

"(D) to use for his own advantage or to reveal, other than to the Administrator, or officials or employees of the Environmental Protection Agency or other Federal executive agencies, or to the courts, or to physicians, pharmacists, and other qualified persons, needing such information for the performance of their duties, in accordance with such directions as the Administrator may prescribe, any information acquired by authority of this Act which is confidential under this Act;

"(E) who is a registrant, wholesaler, dealer, retailer, or other distributor to advertise a product registered under this Act for restricted use without giving the classification of the product assigned to it under section 3;

"(F) to make available for use, or to use, any registered pesticide classified for restricted use for some or all purposes other than in accordance with section 3(d) and any regulations thereunder;

"(G) to use any registered pesticide in a manner inconsistent with its labeling;

"(H) to use any pesticide which is under an experimental use permit contrary to the provisions of such permit;

"(I) to violate any order issued under section 13;

"(J) to violate any suspension order issued under section 6;

"(K) to violate any cancellation of registration of a pesticide under section 6;

"(L) who is a producer to violate any of the provisions of section 7;

"(M) to knowingly falsify all or part of any application for registration, application for experimental use permit, any information submitted to the Administrator pursuant to section 7, any records required to be maintained pursuant to section 8, any report filed under this Act, or any information marked as confidential and submitted to the Administrator under any provision of this Act;

"(N) who is a registrant, wholesaler, dealer, retailer, or other distributor to fail to file reports required by this Act; or

"(O) to add any substance to, or take any substance from any pesticide in a manner that may defeat the purpose of this Act.

"(b) EXEMPTIONS.—The penalties provided for a violation of paragraph (1) of subsection (a) shall not apply to—

"(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the pesticide in the same unbroken package, to the effect that the pesticide was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of this Act, and in such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provision of this Act;

"(2) any carrier while lawfully shipping, transporting, or delivering for shipment any pesticide or device, if such carrier upon request of any officer or employee duly designated by the Administrator shall permit such officer or employee to copy all of its records concerning such pesticide or device;

"(3) any public official while engaged in the performance of his official duties;

"(4) any person using or possessing any pesticide as provided by an experimental use permit in effect with respect to such pesticide and such use or possession; or

"(5) any person who ships a substance or mixture of substances being put through tests in which the purpose is only to determine its value for pesticide purposes or to determine its toxicity or other properties and from which the user does not expect to receive any benefit in pest control from its use.

"SEC. 13. STOP SALE, USE, REMOVAL AND SEIZURE.

"(a) STOP SALE, ETC., ORDERS.—Whenever any pesticide or device is found by the Administrator in any State and there is reason to believe on the basis of inspection or tests that such pesticide or device is in violation of any of the provisions of this Act, or that such pesticide or device has been or is intended to be distributed or sold in violation of any such provisions, or when the registration of the pesticide or device has been canceled by a final order or has been suspended, the Administrator may issue a written or printed 'stop sale, use, or removal' order to any person who owns, controls, or has custody of such pesticide or device, and after receipt of such order no person shall sell, use, or remove the pesticide or device described in the order except in accordance with the provisions of the order.

"(b) SEIZURE.—Any pesticide or device that is being transported or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in any State, or that is imported from a foreign country, shall be liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if—

"(1) in the case of a pesticide—

"(A) it is adulterated or misbranded;

"(B) it is not registered pursuant to the provisions of section 3;

"(C) its labeling fails to bear the information required by this Act;

"(D) it is not colored or discolored and such coloring or discoloring is required under this Act; or

"(E) any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration;

"(2) in the case of a device, it is misbranded; or

"(3) in the case of a pesticide or device, when used in accordance with the requirements imposed under this Act and as directed by the labeling, it nevertheless causes substantial adverse effects on the environment. In the case of a plant regulator, defoliant, or desiccant, used in accordance with the label claims and recommendations, physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when such effects are the purpose for which the plant regulator, defoliant, or desiccant was applied.

"(c) DISPOSITION AFTER CONDEMNATION.—If the pesticide or device is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the court costs, shall be paid into the Treasury of the United States, but the pesticide or device shall not be sold contrary to the provisions of this Act or the laws of the jurisdiction in which it is sold: *Provided*, That upon the payments of the costs of the condemnation proceedings and the execution and delivery of a good and sufficient bond conditioned that the pesticide or device shall not be sold or otherwise disposed of contrary to the provisions of the Act or the laws of any State in which sold, the court may direct that such pesticide or device be delivered to the owner thereof. The proceedings of such condemnation cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

"(d) COURT COSTS, ETC.—When a decree of condemnation is entered against the pesticide or device, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the pesticide or device.

"SEC. 14. PENALTIES.

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of this Act may be assessed a civil penalty by the Administrator of not more than $5,000 for each offense.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who violates any provision of this Act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation, may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense.

"(3) HEARING.—No civil penalty shall be assessed unless the person charged shall have been given notice and opportunity for a hearing on such charge in the county, parish, or incorporated city of the residence of the person charged. In determining the amount of the penalty the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation.

"(4) REFERENCES TO ATTORNEY GENERAL.—In case of inability to collect such civil penalty or failure of any person to pay all, or such portion of such civil penalty as the Administrator may determine, the Administrator shall refer the matter to the Attorney General, who shall recover such amount by action in the appropriate United States district court.

"(b) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any registrant, commercial pesticide applicator, wholesaler, dealer, retailer, or other distributor who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than $25,000, or imprisoned for not more than one year, or both.

"(2) PRIVATE PESTICIDE APPLICATOR.—Any private pesticide applicator who knowingly violates any provision of this Act shall be guilty of a misdemeanor and shall on conviction be fined not more than $1,000, or imprisoned for not more than 30 days, or both.

"(3) DISCLOSURE OF INFORMATION.—Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 8, shall be fined not more than $10,000, or imprisoned for not more than three years, or both.

"(4) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.

"SEC. 15. INDEMNITIES.

"(a) REQUIREMENT.—If—

"(1) the Administrator notifies a registrant that he has suspended the registration of a pesticide because such action is necessary to prevent an imminent hazard;

"(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard; and

"(3) any person who owned any quantity of such pesticide immediately before the notice to the registrant under paragraph (1) suffered losses by reason of suspension or cancellation of the registration,

the Administrator shall make an indemnity payment to such person.

"(b) AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—The amount of the indemnity payment under subsection (a) to any person shall be determined on the basis

of the cost of the pesticide owned by such person immediately before the notice to the registrant referred to in subsection (a)(1); except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by such person immediately before the notice referred to in subsection (a)(1).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of such pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this subsection, proper adjustment shall be made for any pesticide used or otherwise disposed of by such owner.

"SEC. 16. ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW.

"(a) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.—Except as provided by subsection (b), subchapter II of chapter 5 of title 5 of the United States Code (sec. 551 and following, relating to administrative procedure) and chapter 7 of title 5 of the United States Code (sec. 701 and following, relating to judicial review) apply in respect of rules, rule making, orders, adjudication, licensing, sanctions, agency proceedings, and agency actions (as such terms are used in subchapter II of chapter 5 and in chapter 7 of title 5 of the United States Code).

"(b) JUDICIAL REVIEW.—In the case of actual controversy as to the validity of any order issued by the Administrator following a public hearing, any party at interest may obtain judicial review by filing in the United States court of appeals for the circuit wherein such person resides or has a place of business, within 60 days after the entry of such order, a petition praying that the order be set aside in whole or in part. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administrator or any officer designated by him for that purpose, and thereupon the Administrator shall file in the court the record of the proceedings on which he based his order, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have exclusive jurisdiction to affirm or set aside the order complained of in whole or in part. The court shall consider all evidence of record. The order of the Administrator shall be sustained if it is supported by substantial evidence when considered on the record as a whole. The judgment of the court affirming or setting aside, in whole or in part, any order under this section shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. The commencement of proceedings under this section shall not, unless specifically ordered by the court to the contrary, operate as a stay of an order. The court shall advance on the docket and expedite the disposition of all cases filed therein pursuant to this section.

"(c) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this Act.

"(d) NOTICE OF JUDGMENTS.—The Administrator shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of this Act.

"SEC. 17. IMPORTS AND EXPORTS

"(a) PESTICIDES AND DEVICES INTENDED FOR EXPORT.—Notwithstanding any other provision of this Act, no pesticide or device shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENT.—Whenever a cancellation of the registration of a pesticide becomes effective, the Administrator shall transmit through the State Department copies of each notice of cancellation of a registration of a pesticide to the governments of other countries and to appropriate international agencies.

"(c) IMPORTATION OF PESTICIDES AND DEVICES.—The Secretary of the Treasury shall notify the Administrator of the arrival of pesticides and devices and shall deliver to the Administrator, upon his request, samples of pesticides or devices which are being imported into the United States, giving notice to the owner or consignee, who may appear before the Administrator and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the provisions set forth in this Act, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any pesticide or device refused delivery which shall not be exported by the consignee within 90 days from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such pesticide or device pending examination and decision in the matter on execution of bond for the amount of the full invoice value of such pesticide or device, together with the duty thereon, and on refusal to return such pesticide or device for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of said bond: *And provided further*, That all charges for storage, cartage, and labor on pesticide or device which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator shall, in cooperation with the Department of State and any other appropriate Federal agency, participate and cooperate in any international efforts to develop improved pesticide research and regulations.

"(e) REGULATIONS.—The Secretary of the Treasury, in consultation with the Administrator, shall prescribe regulations for the enforcement of this section.

"SEC. 18. EXEMPTION OF FEDERAL AGENCIES.

"The President by executive order may exempt any Federal agencies from any provision or all provisions of this Act if he determines that emergency conditions exist which require such exemption.

"SEC. 19. DISPOSAL AND TRANSPORTATION.

"(a) PROCEDURES.—The Administrator shall, after consultation with other interested Federal agencies, establish procedures and regulations for the disposal or storage of packages and containers of pesticides and for disposal or storage of excess amounts of such pesticides, and accept at convenient locations for safe disposal a pesticide the registration of which is canceled under section 6(c) if requested by the owner of the pesticide.

"(b) ADVICE TO SECRETARY OF TRANSPORTATION.—The Administrator shall provide advice and assistance to the Secretary of Transportation with respect to his functions relating to the transportation of hazardous materials under the Department of Transportation Act (49 U.S.C. 1657), the Transportation of Explosives Act (18 U.S.C. 831–835), the Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472H), and the Hazardous Cargo Act (46 U.S.C. 170, 375, 416).

"SEC. 20. RESEARCH AND MONITORING

"(a) RESEARCH.—The Administrator shall undertake research, including research by grant or contract with other Federal agencies, universities, or others as may be necessary to carry out the purposes of this Act, and he shall give priority to research to develop biologically integrated alternatives for pest control. The Administrator shall also take care to insure that such research does not duplicate research being undertaken by any other Federal agency.

"(b) NATIONAL MONITORING PLAN.—The Administrator shall formulate and periodically revise, in cooperation with other Federal, State, or local agencies, a national plan for monitoring pesticides.

"(c) MONITORING.—The Administrator shall undertake such monitoring activities, including but not limited to monitoring in air, soil, water, man, plants, and animals, as may be necessary for the implementation of this Act and of the national pesticide monitoring plan. Such activities shall be carried out in cooperation with other Federal, State, and local agencies.

"SEC. 21. SOLICITATION OF PUBLIC COMMENTS

"In addition to any other authority relating to public hearings and solicitation of views, in connection with the suspension or cancellation of a pesticide registration or any other actions authorized under this Act, the Administrator may, at his discretion, solicit the views of all interested persons, either orally or in writing, and seek such advice from scientists, farmers, farm organizations, and other qualified persons as he deems proper.

"SEC. 22. DELEGATION AND COOPERATION

"(a) DELEGATION.—All authority vested in the Administrator by virtue of the provisions of this Act may with like force and effect be executed by such employees of the Environmental Protection Agency as the Administrator may designate for the purpose.

"(b) COOPERATION.—The Administrator shall cooperate with the Department of Agriculture, any other Federal agency, and any appropriate agency of any State or any political subdivision thereof, in carrying out the provisions of this Act, and in securing uniformity of regulations.

"SEC. 23. STATE COOPERATION, AID, AND TRAINING

"(a) COOPERATIVE AGREEMENTS.—The Administrator is authorized to enter into cooperative agreements with States—

"(1) to delegate to any State the authority to cooperate in the enforcement of the Act through the use of its personnel or facilities, to train personnel of the State to cooperate in the enforcement of this Act, and to assist States in implementing cooperative enforcement programs through grants-in-aid; and

"(2) to assist State agencies in developing and administering State programs for training and certification of pesticide applicators consistent with the standards which he prescribes.

"(b) CONTRACTS FOR TRAINING.—In addition, the Administrator is authorized to enter into contracts with Federal or State agencies for the purpose of encouraging the training of certified pesticide applicators.

"SEC. 24. AUTHORITY OF STATES

"(a) A State may regulate the sale or use of any pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this Act;

"(b) such State shall not impose or continue in effect any requirements for labeling and packaging in addition to or different from those required pursuant to this Act; and

"(c) a State may assist the Administrator in the registration of pesticides formulated for intrastate distribution to meet specific local needs if that State is certified by the Administrator as capable of exercising adequate controls.

"SEC. 25. AUTHORITY OF ADMINISTRATOR

"(a) REGULATIONS.—The Administrator is authorized to prescribe regulations to carry out the provisions of this Act. Such regulations shall take into account the difference in concept and usage between various classes of pesticides.

"(b) EXEMPTION OF PESTICIDES.—The Administrator may exempt from the requirements of this Act by regulation any pesticide which he determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.

"(c) OTHER AUTHORITY.—The Administrator, after notice and opportunity for hearing, is authorized—

"(1) to declare a pest any form of plant or animal life (other than man and other than bacteria, virus, and other micro-organisms on or in living man or other living animals) which is injurious to health or the environment;

"(2) to determine any pesticide which contains any substance or substances in quantities highly toxic to man;

"(3) to establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Public Law 91–601)) with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act;

"(4) to specify that any class of devices shall be subject to this Act if he determines that the application of this Act in respect of such class is necessary to effectuate the purposes of this Act;

"(5) to prescribe regulations requiring any pesticide to be colored or discolored if he determines that such requirement is feasible and is necessary for the protection of health and the environment; and

"(6) to determine and establish suitable names to be used in the ingredient statement.

"SEC. 26. SEVERABILITY

"If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

"SEC. 27. AUTHORIZATION FOR APPROPRIATIONS

"There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for each fiscal year ending June 30, 1972, June 30, 1973, and June 30, 1974. The amounts authorized to be appropriated for any fiscal year ending after June 30, 1974, shall be the sums hereafter provided by law."

Mr. KYL (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. KYL. Mr. Chairman, the substitute amendment which I have offered does one thing. It makes one change in the committee bill. That change regards an item on which I am sure most of you have been receiving a considerable number of communications.

Mr. Chairman, under this bill all pesticides are classified as general use or restrictive chemicals. The committee thought that those which were classified for general use, the Federal Government should preempt because, after all, these are relatively safe chemicals. However, a big problem does not exist in that category.

I think most members of the committee agreed that it really does not make that much difference to accept that one amendment to give the States the right to add some restrictions on general use pesticides, and that is fine. We will accept that one amendment.

But, Mr. Chairman, I want to go back a little bit. I have been in Congress for only 6 terms, but I can say with honesty that I do not recall any instance in which any committee of this House has given more studious, more serious or more complete attention than was given to this bill by the Committee on Agriculture.

We began working on this bill in February. We held exhaustive hearings. We studied and analyzed the reports and journals, analyzed research, and developed an acquaintance with chlorinated hydrocarbons, organophosphorous synthesis, with the dichlorophenory acetic acids, esters and salts

We studied the buildup of residues in the lipides of fish, and examined the alleged carbonic enzyme anhydrase in raptors and the opposite effect in gallinaceous birds. We studied chemical effects on fucoids.

We looked at the possibilities for alternate controls such as utilization of sex attractants, and hormonal control as well as the gamma treatment.

We labored 6 months and we brought forth a bill, a fresh new committee print, and even then we went back for further review because the Environmental Protection Agency wanted one provision added and the State Department wanted one subtracted, and we did those two things. Then, the committee said that this is a good bill. The Environmental Protection Agency said this is a good bill and the administration said this is a good bill, and I believe that the House will concur that this is a good bill by accepting this one amendment on State regulation of general use pesticides and then turn back the others because this is actually a balanced piece of legislation.

Mr. Chairman, this balance was difficult to obtain. We add a pinch here and take a little away there and the first thing you know we have a bill which has lost the balance which is so essential to this kind of regulatory system. We will accept this one amendment which appears critical to a number of us and which gives the State the right to further restriot the general use pesticides but with the rest of the amendments we cannot agree.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. KYL. Yes, I yield to the gentleman from California.

Mr. TEAGUE of California. If I understand correctly what the gentleman is doing by his substitute is in a different form accepting a proposal similar to what is known as the "Foley amendment" or the "States rights amendment" which would give each and any State which wishes to do so to prescribe more rigid requirements than those laid down by the Federal Government.

Mr. KYL. That is correct.

Mr. TEAGUE of California. It has my full support, and I heartily recommend it to my colleagues.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, of course I cannot speak for the committee as a whole because obviously this matter has come up without any chance of having been discussed by the full committee, but speaking for myself, and I am sure for some of my colleagues on the committee, I would suggest that it seems apparent that this amendment does achieve that which most of the Members would like to achieve. Certainly no harm can come from its adoption. Therefore, as far as I am concerned, I would accept the amendment.

Mr. DOW. Mr. Chairman, will the gentleman yield so that I may interrogate him?

Mr. KYL. I will yield to the gentleman from New York.

Mr. DOW. In other words, let me say that the amendment would go to one of the six amendments that I offered, namely, to enlarge the ability of the States to regulate pesticides of general use in their own area?

Mr. KYL. That is correct.

Mr. DOW. The other five amendments that I detailed in my amendment, or in my substitute, rather, are left out. I then inquire of the gentleman from Iowa are you paying no regard to this concept that I have explained which would give the administrator——

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent, Mr. KYL was allowed to proceed for 3 additional minutes.)

Mr. KYL. I yield further to the gentleman from New York.

Mr. DOW. In other words, your substitute would ignore the point that I have been making; namely, that the bill contains too many snares and pitfalls for the Administrator to properly administrate the bill, and to do so in an efficient and easy manner?

Mr. KYL. If the gentleman will permit me to respond to that, the committee labored on this bill for 6 months. We do not believe—that is, the general membership of this committee does not believe—there are snares and pitfalls. The EPA has approved this bill. The administration has approved this bill. The committee has given overwhelming support to this bill.

In one of his amendment the gentleman says, for instance, that the Administrator of the EPA has the burden of determining whether a pesticide should be used or not. We do not know how he can

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interpret the language of the bill in this respect because he strains the language beyond belief. It places the responsibility for whether a pesticide is safe for use on the Administrator. It does not place any burden on the Administrator to prove the pesticide is safe for use. The Administrator has the determination as to whether a pesticide is safe or not. I do not know how the language in the bill could be made more strong. Certainly when we have labored as long as we did on this bill, and when we have reached unanimity of opinion and when we have reached the balance that we have in this legislation, we do not want to destroy the whole piece of legislation by adding something that some Member might want to put in clause 1 on page 10 of the bill.

This is a good bill. The committee approved the bill. The administration approved the bill, and the bill ought to be adopted in the form that it is with the exception of this one amendment which my provision makes clear.

Mr. MIZELL. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from North Carolina.

Mr. MIZELL. Mr. Chairman, I thank the gentleman from Iowa for yielding. Also I want to congratulate the gentleman for offering this amendment. Within this legislation there is a Federal-State partnership. I see no reason why a State should not have the right to regulate insecticides. The substitute amendment offered by the gentleman in the well, Mr. KYL, would preserve this authority for the States and make it a better bill.

So, Mr. Chairman, I urge the adoption of the substitute amendment offered by the gentleman from Iowa (Mr. KYL).

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

Mr. GOODLING. Mr. Chairman, I rise in support of the Kyl amendment and in opposition to the Dow amendment.

For the information of the Members, I was responsible for inserting in the committee bill, the section which Mr. KYL now proposes to delete. I still think it is a good section, put in there more or less to protect farmers.

In the interest of harmony, and this entire bill is built around harmony, I have agreed that this section should come out.

In accord with what Mr. KYL said—in 23 years of legislative service, I have never seen a bill, any bill, in any House that has been given as much consideration as this particular bill. It is definitely a compromise bill. There is no individual, no organization, no chemical company, no conservation group and no Commission or board in the Federal Government that receives everything it wanted in this bill, but all are pretty well agreed that this is now a good compromise bill.

I think I can assure the Members of this House, if we accept the Dow amendments, we will have absolutely no bill and then we will have nothing but mass confusion. I support the Kyl amendment and urge the House to vote in favor of the Kyl amendment and vote down the amendments offered by the gentleman from New York (Mr. Dow).

Mr. OBEY. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 368]

Alexander	Erlenborn	O'Hara
Anderson, Tenn.	Ford, William D.	Patman
Archer	Fraser	Pelly
Ashley	Frelinghuysen	Pepper
Barrett	Gallagher	Pettis
Belcher	Gray	Railsback
Bevill	Griffiths	Rees
Blanton	Gubser	Reid, N.Y.
Boggs	Gude	Riegle
Brotzman	Halpern	Rodino
Brown, Mich.	Hébert	Ruppe
Buchanan	Horton	Scheuer
Carey, N.Y.	Keith	Schwengel
Celler	Landgrebe	Selberling
Clark	Lloyd	Smith, Calif.
Clawson, Del	Long, La.	Smith, N.Y.
Clay	McCloskey	Stanton, J. William
Collins, Tex.	McDade	Steed
Colmer	McEwen	Steele
Conyers	McFall	Symington
Crane	McKinney	Teague, Tex.
Dellenback	Metcalfe	Thompson, N.J.
Derwinski	Mollohan	Vigorito
Diggs	Monagan	Whitten
Dingell	Morse	Wilson, Bob
Dowdy	Mosher	Wilson, Charles H.
Dulski	Moss	
Eckhardt	Nedzi	
Edwards, La.	Nelsen	

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. HUNGATE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 10729, and finding itself without a quorum, he had directed the roll to be called, when 346 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

AMENDMENT OFFERED BY MR. EVANS OF COLORADO TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. EVANS of Colorado. Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Iowa (Mr. KYL).

The Clerk read as follows:

Amendment offered by Mr. EVANS of Colorado to the substitute amendment offered by Mr. KYL: Page 47, strike out line 13 and all that follows thereafter through page 48, line 17.

Mr. EVANS of Colorado. Mr. Chairman and Members of the Committee, the indemnity section of the Federal Environmental Pesticide Control Act should be stricken from the bill.

If this section becomes law the U.S. Government will be insuring all manufacturers, wholesalers, retailers, and users of hazardous pesticide products against any loss suffered because a particular pesticide product has been found to constitute an imminent danger to the public or to the environment.

Permission to sell and use a pesticide product should mean only that the particular product has passed the minimum safety requirements set by the Government. Such permission to sell and use pesticides, however, should not amount to a blanket endorsement of the product or a guarantee to the manufacturer or user of its safety in the future.

If this sound public policy of mere permissive manufacture and use is to be substituted by a policy of complete insurance to all against loss, as is contemplated in the indemnity section of this bill, I believe we should now take a frank look at the consequences.

First. Manufacturers will lose a powerful incentive to test thoroughly in the first instance and will have no reason to continue testing once a product is cleared for the market. Why? Because Uncle Sam will pay for all loss the manufacturer may suffer if further tests disclose the product constitutes an imminent hazard.

Second. As the indemnity section is written producers will gain the profits while the risk of loss is underwritten by the Government. This is certainly not in keeping with the free enterprise system.

Third. The money for indemnities will come out of EPA's budget. Therefore, the reluctance to declare a product an "imminent hazard" will be increased a thousandfold as indemnities in certain circumstances could account for millions of dollars that would have to be added to EPA's budget.

Fourth. Indemnities in this bill are to be paid even if the Government was not at fault or in error in certifying the product initially or negligent in stating a product is an "imminent hazard."

Fifth. This indemnity section would constitute precedence for amending other laws for the purpose of extending this principle of full insurance to all manufacturers of drugs, food additives, cosmetics, flammable fabrics, toys, and so forth—and this list will inevitably be extended in the future as the Government increasingly requires regulation of hazardous products to protect the environment and the consumer.

Sixth. The unlimited scope of the indemnity section of this bill is unprecedented. Congressman FOLEY in his minority report to this bill underscored this point when he stated:

I do not believe that it is wise to undertake so broad and far reaching a policy of indemnity for the imposition of government prohibitions on hazardous substances. I find it particularly difficult to support this section of the bill when the committee rejected what seemed to me to be an imminently reasonable limitation on the amount of pesticides or devices indemnity might be claimed; namely, no more than a twelve month supply.

There may be limited circumstances where Government negligence or error would require the paying of an indemnity, but this is no warrant for the general and open-ended indemnity provision contained in this bill. This section will cost the taxpayers millions of dollars, while in fact leading to less safety for the public and environment. Therefore it must be rejected.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I yield to the distinguished chairman.

Mr. POAGE. Mr. Chairman, can the gentleman give us the authority for the statement that this will cost the public millions of dollars? What estimates have you got? What are your figures?

Mr. EVANS of Colorado. We have seen in the last several months products that have been taken from the market in the United States that have been manufactured by various manufacturers. There have been estimates in the newspapers which I cannot vouch for, but which have been emanating from the manufacturers themselves on the cost of withdrawing this product or others and it runs into the hundreds of thousands of dollars.

Mr. POAGE. Can the gentleman name one single pesticide that has been suspended within the last 9 months?

Mr. EVANS of Colorado. No, sir.

Mr. POAGE. I do not think there has been one.

Mr. EVANS of Colorado. No, sir; but looking into the future, and that is what we are doing when we are talking about a policy that is as important as this, we have to understand what the taxpayers are going to be liable for.

We have heard about the recent Stokely case where the Government said that there may have been botulism and required the recall of thousands of cans of beans.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(Mr. EVANS of Colorado asked and was given permission to proceed for 2 additional minutes.)

Mr. EVANS of Colorado. Mr. Chairman, as I understand the situation, the Government declared that there was botulism in a certain batch of, I believe it was, green beans of the Stokely Co. At the request of the Government, Stokely withdrew, I think it was, in excess of 50,000 of these cans or cases. Shortly thereafter the Government admitted that it had not found botulism.

This is a perfect example, I believe, of where the Government is liable and should be liable, and the company can, and I think they should recover, because the Government itself made a mistake. But that is an entirely different situation than what we are talking about here. Pesticides that may be used but which are later found to constitute an imminent danger to persons and to the environment in the situation now before us. I think the distinction can be clearly made. For these reasons I think the section should be stricken from the bill.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Colorado. I am happy to yield to the gentleman from Indiana.

Mr. MYERS. The gentleman mentioned the Stokely-Van Camp Co. and the botulism threat. The broadcast news media covered the impending threat, it will be recalled, quite extensively. I know I heard it announced a number of times, that a certain brand or a certain number of their output had been recalled. I wonder how many consumers in this country destroyed all of their canned beans only to find out later by reading the newspapers that it was unnecessary to do so. Does the gentleman know how much time was devoted by the news media to announce that the recall had been canceled? Is the gentleman familiar with that at all?

Mr. EVANS of Colorado. No.

Mr. MYERS. I never heard that the recall of all this material had been canceled until I read it in the newspaper in the last 2 or 3 days.

Mr. EVANS of Colorado. The point which the gentleman has made is illustrative of how, when the Government has been negligent, the damage can be hard to estimate because it goes far beyond the wholesaler who has a certain supply on hand.

Of course, none of us can be held responsible for the news media. I would hope there would be greater emphasis on correcting such mistakes.

Mr. TEAGUE of California. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. TEAGUE of California. I shall try not to take the 5 minutes. But I think this ought to be put in perspective. We are talking about authorizing indemnification for a manufacturer or a dealer or a farmer who has purchased or has manufactured a pesticide after that pesticide had been authorized and certified by the Federal Government as being safe. I can well imagine one of Mr. SISK's large growers up in the San Joaquin Valley of California having $50,000 or $100,000 invested in a pesticide in his warehouse. He is not negligent. The Government has said itself it is a perfectly safe chemical to use. He has invested his money in it.

I can imagine dealers throughout the country with hundreds of thousands or even millions of dollars invested in pesticides which are in their storehouses. Then the Government comes along and changes its mind. It says, "No, this is not safe"—after perfectly good-faith action by the manufacturer, the dealer, or the farmer.

It seems to me under those circumstances certainly the innocent party should be indemnified.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. PRICE of Illinois. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. PRICE of Illinois. Mr. Chairman, the pesticide bill reported out by the House Agriculture Committee—H.R. 10729—is out of step with the times. It fails to reflect the deep concern of the American people over the vast quantities of chemicals being poured into the environment every year and the tragic effects of these chemicals. It fails to establish procedures that will properly control the use of pesticides.

It is clear that in the past our Government has not had adequate regulations concerning pesticides to protect health and the environment. But I regret to say that H.R. 10729 does not help the situation. In fact, a number of provisions in the bill, such as the preemption of States' authority and the limitations on judicial review, are a step backward from present law.

We must face up to the fact that tough regulations are needed to protect not only public health and the environment, but also the farmer. The committee's bill bends over backward to protect the manufacturers' data, to the point where competition is restrained, which will result in higher prices for pesticides for the farmer.

The whole concept of the administration's original proposal has been altered and watered down. Their bill would have classified pesticides in three categories: "general use"—for safe products that anyone could use; "restricted use"—for products that had some risk and could only be applied by a "licensed pesticide applicator" who would be licensed by the State; "use by permit only—for the very dangerous products which are toxic to humans or severely damaging to the environment. This would have been a prescription type system.

Unfortunately, the committee chose to throw out this "permit" category, thereby weakening the entire concept. Further, the bill allows pesticides to be registered as both general use and restricted use, and as a final blow to the entire concept and workability, the bill forbids the States from continuing their own permit systems. Although the bill says that it is illegal to use a pesticide for a purpose for which it is not registered, as long as dangerous chemicals are available they can be misused and there will be accidents.

We must not forget that we are talking about highly dangerous substances. For example, according to Russell Train, Chairman of the Council on Environmental Quality, last year pesticides were involved in the death of an estimated 200 people in the United States.

There is no exact data on nonlethal poisonings due to pesticides, but in 1969, the latest year for which figures are available, the Poison Control Center in the Food and Drug Administration reported 5,747 cases of accidental ingestion or poisoning due to pesticides. The Center estimates that this probably represents only 10 to 15 percent of the cases which actually occur.

The toxic effects of pesticides on wildlife have also been widely documented.

Therefore, in our efforts to rewrite a major Federal statute we should be responsive to the needs of the public. By adopting the amendments which Mr. Dow is offering we can meet our obligations. I urge my colleagues to vote for the amendments.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, the Federal Environmental Pesticide Control Act of 1971, which we are considering today, has been called regulatory legislation to protect the environment. In reality, the act creates loopholes for those who manufacture and use pesticides. It

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fails to make more stringent qualifications for registration. If this bill is passed in its present form, it would be a severe setback for those who are concerned for our environment and the health of our citizens.

There are three serious defects in this bill which will seriously hinder effective regulation of these dangerous chemicals.

First, it excludes the public from the decisionmaking process of pesticide registration and permits. In the past 10 years, the strong support for the public interest in this area has consistently been expressed by environmental and consumer groups in public hearings. This bill, however, would leave the registration process for pesticides solely up to the chemical manufacturer—who has an obvious economic interest—and the Environmental Protection Agency, who has to act as both the public defender and the judge of the entire proceeding. The general public would be denied any opportunity to make an input into registration decisions. I can only see this as a step backward in environmental responsibility.

Second, this bill lowers the standards for protection of public health and the environment and places more emphasis on economic analysis and impact. When we place economic factors ahead of the health hazard factors for people, our priorities need serious reevaluation. In the bill, the Administrator is tempted to favor certain economic benefits to the companies, rather than dealing with indefinite health hazards. Thus pressure is put on the Administrator to register certain pesticides despite speculation about long-range health hazards and damage to the environment that could be caused by the widespread use of that chemical.

Third, and this is the most blatantly regressive feature of the bill, it shifts the "burden of proof" concerning safety, from the manufacturer to the Environmental Protection Agency. Under this bill, the Administrator of the Environmental Protection Agency has the duty and the burden of finding out if every chemical that the industry is using is environmentally unsound. With the current production of nearly 60,000 pesticide products and derivatives, this is an unfeasible and ineffective provision.

The bill in its present form is an emaciated piece of legislation that will have little effect in controlling the registration of pesticides. H.R. 10729 substantially weakens strong clear-cut approaches incorporated in the laws of many States.

I would like to see pesticides treated in the same way as prescription drugs, which are controlled over the counter. This bill fails to set up any mechanisms for registration and use, relying on a loosely drawn procedure for licensing applicators, and in effect abolishes existing procedures on the State level.

I support my colleague from New York (Mr. Dow) in his amendment to H.R. 10729 to strengthen this bill.

This amendment will preserve the authority of the States to further restrict the general use of pesticides.

In this amendment, the language of the bill would be changed on the restriction of data submitted in support of an application for registration. This provision would place the "burden of proof" back onto the chemical manufacturers. The amendment would require complete disclosure of data which tends to prove a substantial environmental effect or lack of effect of a pesticide. This is the only way the technological burden of this problem of registration of pesticides could be reasonably accomplished. In this same area, the amendment also would allow consumer and environmental groups to challenge an Administrator's orders or an application for registration.

Many of the pesticides now used are not essential to the agricultural or industrial output of our Nation. The substitute measure would be a major step forward by permitting the Environmental Protection Agency to deny registration of a pesticide on the grounds that its use is not essential.

Unless this bill is strengthened to control the needless use of these environmental poisons, I will have to oppose it.

We have poisoned the land. We have poisoned the water. We are destroying the oceans of the world with runoff pesticides. Soon, unless we bring rational controls to this problem, we will poison ourselves.

Mr. FOLEY. Mr. Chairman, I rise in support of the Evans amendment. I cannot support the indemnity section of the bill as reported. The committee bill requires full indemnity by the Government to all manufacturers, wholesale and retail distributors as well as to farmers and other private users of pesticides whenever a registration is suspended or canceled. The committee refused to accept any limitations on the Government's indemnity obligation. An eminently reasonable amendment was offered in the committee to limit the indemnity obligation to a level no greater than the value of the holder's normal supply—in no case more than a 12-month supply. The committee rejected even this modest limitation so that the bill as reported would indemnify the holder of a canceled pesticide for any amount of stock he might have on hand.

Actually, I believe the danger of economic loss from wasted stocks is grossly exaggerated. First, there is little likelihood that cancellations or suspensions would be numerous or sudden. The rigorous registration process itself will minimize cancellations. Moreover, the time required, even in those limited cases, to conclude administrative action would be more than sufficient to make the risk of economic damage from unused stocks very remote, indeed. The farmer or private user does not typically retain large, long-term stocks of pesticides. Such stocks would probably long be exhausted by the time cancellation was concluded. For the same reasons, I also frankly doubt the gravity of the risk to distributors or even manufacturers.

In any event, the real risk posed by suspension or cancellation to a manufacturer is surely not primarily the supposed unusable inventory of the product. Is it not the loss of the investment in the more important areas of research, promotion, market development, and all the related interests that a company has in product identification and acceptance? I would be surprised if indemnification of the stocks on hand would be that meaningful in most forseeable cases.

Why then should we be concerned with the indemnity provision? If the risk of loss is not great why worry about the cost of indemnity? It is not the dollar cost of this provision that worries me. I believe it is a matter of grave concern because its adoption would establish a precedent that is bound to be confusing and troublesome in all those areas in which the Government acts to protect the public health and safety. Food products, cosmetics, drugs, fabrics, toys, automobiles, mechanical devices, aircraft, ships—there is hardly a category of products sold or used in commerce over which the Government does not assume important jurisdiction where there is the need to protect the public health of safety. The means by which the Government extends its protection vary from the moderate and temporary to the punitive and permanent. In extreme cases plants can be closed, products seized, property destroyed—all without compensation.

The committee bill introduces a new and startling principle, that acting in a similar area of jurisdiction to that of food and drug regulation, the Government must automatically and without limit pay indemnity. Negligence or even fault on the part of the manufacturer would not excuse the Government's obligation to pay.

The Government can only buy and buy and buy the products it declares unfit to sell. In the worst cases it may prosecute the manufacturer but at the same time it must indemnify him.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. POAGE. Mr. Chairman, the language on page 47, section 15, part II of the bill, reads—and this is one of the requirements before anybody can get any indemnity:

"(2) the registration of the pesticide is canceled as a result of a final determination that the use of such pesticide will create an imminent hazard;

That is for the protection of the public and not of the manufacturer.

Mr. FOLEY. But I suggest to the chairman that the committee bill would establish in its indemnity provisions a remarkable and dangerous precedent—the precedent that, when the Government acts with the highest responsibility to protect the public health and safety, it must indemnify those adversely affected, even when they are negligent or at fault.

If there are cases of severe hardship or compelling equity based on misconduct or fault by the Government or other special circumstances which would appear to need indemnity, Congress is fully competent to make those special judgments or authorize judicial remedy. Bills can be introduced to indemnify, as in the case of bottlers, canners, users of cyclamates, and others.

Mr. COLLIER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. COLLIER. Can the gentleman explain, if we are supposed to handle it individually, then why do we have so much difficulty with arranging for passage of individual bills retrospectively?

Mr. FOLEY. I would say if we have difficulty in passing single case indemnification bills, it is probably because the Members may have doubts about a bill's merits and if that is true how can we turn around today and pass a prospective general indemnification that covers unknown situations and obligations.

If individual indemnification bills are difficult to pass when we know all the facts and circumstances, I should think it would be unthinkable that we approve so unrestrained and uncertain an indemnification proposal as that before us today.

The Agriculture Committee was obviously well intended but the consequence of following the committee in this instance will be a result seriously adverse to the formulation of any intelligent and equitable policy in the critical area of public health and safety.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, we have to deal with this bill as it is brought to us on the floor today. They are the ones who will be giving this indemnification. It is a matter of principle. I would be very concerned about an extension of this principle in the case of drugs. Many drugs are lawfully on the market that may be found to be harmful in the future. If we are talking about indemnifying drug companies, for instance, in the case of thalidomide, it would have been necessary to indemnify producers of that drug after it was found to be harmful to health.

Mr. FOLEY. Exactly. If we are to be consistent with the principle established in the committee bill we will be led down not one but many twisted paths in an attempt to reconcile pesticide indemnity policy with the radically different procedures used to protect the public in other areas of commerce. At the very minimum, we should set aside the indemnity provisions of this bill for further consideration until we have had a chance to review its application to this entire area of Government policy, responsibility and procedure in some intelligent and consistent way. If in this most sensitive and critical area of Government policy, namely the safety and health of our citizens and the protection of our natural environment, we establish a questionable, dangerous, and confusing precedent such as the committee indemnity section would do, I believe we have undone any benefit that the early enactment of this bill might provide with its early positive features. The adoption of the Evans amendment and several offered by Mr. Dow are key corrections necessary if this legislation is to be a step forward and not a step backward.

Mr. KYL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Evans amendment.

Mr. Chairman, all this indemnification provision in this bill says is that if the Government, having approved a product for use and having approved it for distribution and having approved the manufacture, if that same Government then on a day certain says, "Thou shalt not any further use this product which we said was all right to use," then the individual who owns some of this product shall be indemnified. It is through the action of the Government in the interest of the public we are protecting, and this Government says we should take that product off the market, there should be indemnification.

Now, there is more involved than that. Actually, under normal circumstances, in the majority of times, the Department undoubtedly would say, "We are investigating product X. Do not manufacture any more of this because we are thinking of taking it off the market. We will approve its use to a certain period, and then we will stop its use."

But we still are not getting to the real heart of the discussion. This bill is not designed to protect manufacturers of chemicals. This bill is not designed to protect farmers. It is designed to protect consumers and the enviromnent.

Why do we say we should idemnify manufacturers or users of those pesticides if taken off the market? This is why. It costs from $4 million to $12 million to synthesize any new pesticide for use. That is $4 million to $12 million.

If a company on which we have to rely for the development of alternative controls for insects has spent $4 million to $12 million, risks losing not only its investment but all of its manufacture, what company in good sense is going to try to develop any new product?

We have tried all kinds of alternatives to chemical uses. We have now all kinds of chemical uses, like chlordane, lindane, methoxychlor, dieldrin, aldrin, toxaphene, and dozens of others.

We do not like those methods as a permanent solution to the control of insects, so this Government is experimenting with alternate controls. Our colleges are experimenting. Our Ag experiment station is working.

But what entity has put the most money into this reesarch? It is the private economy. I know of one laboratory which has spent millions of dollars trying to develop a hormonal control of insects. The control would work only on one specific insect. It would have great specificity. It will not kill any bug you do not want to kill.

Fourteen companies already have stopped putting any money into alternate controls for insects because of the fear of having the product removed from the market, because they might get caught in an untenable situation. They cannot justify that kind of research to their stockholders.

There has to be some provision in this bill which will keep from killing the goose that has to lay the egg of alternative controls. We do not have them. It is the private companies that are going to have to develop them.

Whether this indemnification becomes a bad thing or a good thing depends entirely on how the administration uses it, and Congress certainly has oversight over it.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. KYL. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. I thank the gentleman for yielding. I think the discussion is certainly on the point and brings into better light the very point I am trying to direct attention to; that is, the precedent we are starting here.

The gentleman talks about an expenditure of $4 million plus for just one product. This could be a fact, surely, but the situation points up what could be applied one hundred times over in the drug industry, where millions and millions of dollars of private enterprise money are spent already in the search for better drugs for Americans. We have not offered this indemnification to them. If we offer it to the pesticide companies, how can we refuse to offer it to the drug companies?

Mr. KYL. The gentleman asks a question to which I shall gladly respond.

When this Government, in the interest of the public generally, takes an action which costs certain individuals money I do not believe it is conscionable not to pay them, any more than it would be conscionable to take a man's property from him for a road or a dam or anything else without compensation. If for the public good the Government takes an action which injures someone there should be a matter of recourse on the part of that individual to recoup the loss which was made possible by the Government action in the interest of the public.

Mr. EVANS of Colorado. I concur.

Mr. KYL. That is not a precedent. We have done that since the beginning.

Mr. EVANS of Colorado. The gentleman says "When the Government takes an action that results in an injury to someone," and I agree with that.

Mr. GOODLING. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me first say that I trust the applegrowers in the State of Washington were tuned in during the last 10 minutes.

I would like to put this matter in its proper perspective. I happen to know something about fruitgrowing. More than any other branch of farming, probably. When I want to spray tomorrow, I do not wait until this afternoon to buy my insecticide. Most of the insecticides are bought early in the spring and are there in the packinghouse ready to be used when necessary.

I want to say this further—and Mr. KYL has already brought this out—that companies spend millions and millions of dollars to put these pesticides on the market. Not a single one is ever put on the market unless it is first thoroughly tested. I am certain that practically every experiment station in the entire United States does exactly what we do at our experiment station at Arendtsville. Every new pesticide which has to do with fruitgrowing is thoroughly tested by the

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people in the Department of Agriculture at the Penn State University. That is done all over the country, not only my people at Arendtsville. Every experiment station gets it. It is thoroughly tested before a request to register goes to EPA. When my fruitgrowers in Pennsylvania and the fruitgrowers in the State of Washington and in every other State buy a pesticide they buy it in good faith. They know that it has been tested probably by their own experiment station and that it has also been cleared by the Federal Government.

If overnight, as has been said, the Federal Government decides that it is a bad pesticide, then who is responsible for that? If we continue to do this sort of thing, sooner or later the chemical companies are simply not going to experiment. As a result, we will have no pesticides.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. Yes. I yield to the gentleman.

Mr. DICKINSON. I would like to ask a question of the gentleman in the well. I am usually in accord with him on every piece of legislation that comes along, but I am confused in this, because we probably have interference on this issue.

Is it your contention that none of the pesticides that have been used in the past were ones that were approved initially but somewhere down the line it was found that they had effects that were not anticipated and were withdrawn from the market? This is a fact, and it has happened in the past, has it not?

Mr. GOODLING. If that does occur, then the Federal Government should be responsible for that loss if the Federal Government cleared it originally.

Mr. DICKINSON. This is not predicated on negligence, as I understand it. If some side effect or injury occurs through a buildup in the system through the use of these materials, such as in the case of DDT, for instance, do you think then that the Federal Government should be in the position of absolutely insuring every effect of a product when it puts its stamp of approval on it even though it cannot be anticipated at the time the Government approves it that this will happen?

Mr. GOODLING. I am not willing to admit that everything the Federal Government does is right in the first place. I am thinking primarily of things of this nature. The latest thing that I think of is the cyclamates coming into the picture. Practically overnight the Food and Drug Administration said that you can no longer use cyclamates. In a warehouse in my own congressional district in Pennsylvania a California company had $2 or $3 million worth of canned fruit. To the best of my knowledge, it is still standing there. That fruit was packed in good faith. The right was given by the Food and Drug Administration. I am asking you, is that particular company responsible for something it did in good faith? I do not think so.

Mr. DICKINSON. I think to carry it to its logical conclusion, then, that you are going to make the Federal Government the absolute insurer of all the food that goes on the store shelves.

If it turns out that some product is possibly dangerous, is the Federal Government going to idemnify every manufacturer? I do not know how far they are going to carry this. However, it seems to me we are going to the extreme on this particular issue.

Mr. GOODLING. I want to carry this one step further.

The gentleman from Iowa (Mr. KYL) talked about biological control. In the State of Washington they have been working on biological controls for codling moths for a good many years. They are still using pesticides. They are going to continue to use them. Probably, biological controls will come into the picture, but they are not in it now very successfully.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment which has been offered by the gentleman from Colorado (Mr. EVANS).

I think it is important that it be made clear just what we are facing here today.

This bill as it came from the committee would prohibit States from enacting stricter regulations for general use pesticides than the Federal Government may eventually provide. That provision is shortsighted and dangerous and unnecessary. The amendment which has been offered by the gentleman from Iowa (Mr. KYL) takes care of that problem.

However, Mr. Chairman, there are a good many other problems to which the Kyl amendment does not address itself but to which the Dow amendment does.

The Kyl amendment, for instances, does not require the manufacturer to prove that his product will not have a substantial adverse effect on the environment. Instead, it places the burden of proof on the Federal Government. Clearly, this puts the monkey on the wrong back.

There is no reason whatsoever to treat chemical manufacturers any differently than drug manufacturers who under the food and drug law must file information to show beyond a reasonable doubt that their drug is safe for public use. Yet, if the amendment of the gentleman from Colorado is not adopted we will be setting up that precise dichotomy. We will be giving it both ways to pesticide manufacturers. What we will be saying, in effect, if this amendment does not pass is the manufacturer will be given an overwhelming advantage in the question of whether or not its pesticide should be approved. Yet, afterward, if new evidence comes to light, in spite of the efforts of the pesticide manufacturers, which shows that that chemical is dangerous, the chemical manufacturer would still be reimbursed for his trouble and expense.

What this means is that the chemical manufacturer will be able to lobby the Environmental Protection Agency like crazy. It will be able to get its chemical registered. Yet, later on, if new evidence comes to light that the chemical is not acceptable, it will still be paid for their trouble. I think that is wrong.

Mr. Chairman, there are a great many other problems that I think we ought to understand. Under this bill and under the Kyl amendment only those attempting to register pesticides would be able to obtain court review or a decision to register or not to register a pesticide. No such opportunity would be available to those trying to stop registration.

I think in considering the amendment of the gentleman from Colorado we ought to keep that in mind.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Iowa.

Mr. KYL. The gentleman is forgetting, when he talks about the registration of pesticides, the fact that we have laws already on the books. The burden of proof remains with the applicant as under the law with reference to insecticides, fungicides, and rodenticides. The applicant must substantiate the claims of the pesticide and otherwise support the registration. The burden of proof is under the present law and under this proposed legislation it would be the same.

Where is the language that changes that law, may I ask the gentleman?

Mr. OBEY. That is not the way I read the bill.

Mr. KYL. Mr. Chairman, if the gentleman will yield further, the gentleman has not read the law. There is other law besides this act.

Mr. OBEY. I think I have read the law. However, Mr. Chairman, before my time expires, I want to make this statement. There seems to be an understanding around here that the pesticide law somehow will protect the farmer. That just is not so.

I represent some 30,000 farmers in my congressional district which is as rural a district as you will find in the State of Wisconsin. Yet, my farmers know that if we do not provide some kind of reasonable control over pesticides now, the day will come when reason will be out the window and the curtain will be wrung down on all pesticides, good or bad.

I think my farmers are smart enough to know that that is not in their interest. I suggest to you that the amendment being offered by the gentleman from Colorado (Mr. EVANS) is in the interest of the farmers and in the interest of the public. If you do not adopt the amendment what you will do is eliminate any possibility of any economic incentive to insure that whatever pesticides are registered are going to be safe for the public. I think you ought to adopt the amendment offered by the gentleman from Colorado (Mr. EVANS).

Mr. POAGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it has been the ambition of man since the earliest days to find some ways to get a free lunch. There is no such thing. Somebody has to pay the bill. Now, uncertainty adds to the bill.

If there is a probability that a substantial portion of these pesticides will be found dangerous or unfit for use, and if

that uncertainty is large, it will add substantially to the cost. I do not think it is as large as the gentleman from Colorado thought that it was, because the gentleman could not point and I could not point to any instance this year where there has been any pesticide, the registration of which has been canceled. Therefore, I cannot believe that this thing is going to cost the millions of dollars per year that have been ascribed to it. Also I think the gentleman from Colorado clearly suggested that the only way to know about the future is to judge by the past. Yet neither he nor I can tell you of any such cancellation in the recent past. I do not think there have been any this year, nor do I think that they occur regularly, so I think the amount here involved will be rather small.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, may I ask the distinguished chairman if it is not true that in the last several years several pesticides have been withdrawn from the market?

Mr. POAGE. Over a period of years there have been several pesticides that have been withdrawn, but they have not run into the magnitude suggested by the gentleman.

I think that many of the speakers have recognized that this legislation does not of itself involve many millions of dollars a year, and, therefore, they have succeeded in dragging in the red herring of what somebody else's program was going to cost, what we are going to have to pay to the drug manufacturers or to somebody else.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, then subject to the statement made by the gentleman may I ask why the committee felt it was so important to put indemnification in if it has not been a problem?

Mr. POAGE. Because it is important, and tremendously important to the farmer who has only a few thousand dollars involved. For instance, say he has $1,000 invested in pesticides. Then the U.S. Government tells him that he cannot use them when the time comes. And if his ability to feed his family depends on the use of that chemical—it becomes tremendously important regardless of the fact that no great amount of money is involved.

The gentleman seems to be concerned only about the manufacturers, whereas the committee was concerned equally with the man who had bought that product and who was relying upon it as a means of making a livelihood for his family in the next year. Likewise we are concerned with the merchant who has stocked the commodity.

As the gentleman from Pennsylvania so well pointed out, pesticides are something that are purchased early in the year. Actually, about one-third of the total of all of the pesticides in use at any one time is in private ownership, and by private ownership I mean the farmers' ownership.

So at least one-third of the total loss that would be sustained where a pesticide is found to be injurious to the environment would fall not upon the Dow Chemical Co., but would fall upon the farmers all over this country. That is why we are so concerned about these smaller items, because it does not take but a few hundred dollars out of that poor fellow's pocket to break him completely. That is why the committee and I are concerned even though there may not be hundreds of millions of dollars involved.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. The facts are that that person did not buy that pesticide until his Government had assured him that it was safe to use.

Mr. POAGE. That is exactly right. There is no indemnity provided under the terms of this bill for any pesticide except those that have been licensed by the U.S. Government as being something that could be used without danger to man or to his environment.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. EVANS of Colorado. Then the principle that you are enunciating here for the protection of the farmer—and I am not against farmers because I have a healthy rural section in my district—is one which would extend to every single person who buys any drug which sometime later on is stricken from the GRAS list as being detrimental to the health of human beings.

Mr. POAGE. I would not confine payments to drugs or to pesticides. But this bill relates only to pesticides. We have gone somewhat far from my discussion. When we started I wanted to call attention to the fact that someone must pay for uncertainty.

What I am trying to say is that those Members of this House who do not want to pay for the mistakes of our Government are following the philosophy that you can have a free lunch and you can have all of these environmental advantages. I am not trying to find fault with them—if I had we would not have brought this bill out.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(Mr. POAGE asked and was given permission to proceed for 5 additional minutes.)

Mr. POAGE. I started out here to point out that what some Members are trying to do is to get a free ride—a free lunch. You cannot have all of these environmental advantages without somebody paying the bill. They cost—they cost lots of money. I am not suggesting that we should not spend the money. I am suggesting that we should take a good look to determine whether the advantages are greater than the costs. I am suggesting there is a cost. Just to make it real plain, I bought a Chevrolet automobile not long ago. It has some straps up here that I have never unbuckled. But I paid for those straps. That was in the cost of the car.

General Motors and Ford are able to pass these costs on to the consumers—and that is where they go—the purchasers of these automobiles pay for all these safety devices whether they use them or do not use them. But somebody has to pay for these safety devices whether they are used or whether they are not used. In the case of an automobile, it is presumed that if I do not use these shoulder straps that is largely my trouble. In the case of a pesticide, it is presumed that if a wrong pesticide is used that can involve not only the user but it can involve society as a whole. It is to protect society and not the producer that we have brought this bill in. The producer does not need this bill. It is not for his protection—it is for the protection of all society. We believe that is sound or we would not have brought the bill in. We think it is sound to protect society, but we know there is a cost and somebody has to pay that cost and that cost is either going to be paid by the farmers of eastern Colorado or central Texas or somewhere else—or it is going to be paid by society at large—the same society for whose benefit those regulations are imposed—those, in all kindness, on whom you want to impose the burden. The burden is there, and all of your wishes cannot escape the fact that there is a cost involved. We are not trying to shirk the cost. We are simply raising the question of who should pay the cost. The ones for whose protection the cost was levied or somebody who is not involved.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman.

Mr. EVANS of Colorado. I would agree with the gentleman from Texas, the distinguished chairman of the committee—if it was correct, as he alleged a moment ago, that his bill provided for the paying for governmental mistakes. But the committee's bill does not so provide. The committee bill, as it stands provides that the Government is the insurer of any loss—mistake or no—is not that correct?

Mr. POAGE. No, you are not correct.

Mr. EVANS of Colorado. Then show me where in the bill it provides that indemnity occurs only where the Government is at fault.

Mr. POAGE. No, you are not correct—let me answer.

If the gentleman will take his seat, I will answer his questions, but only one at a time.

Mr. EVANS of Colorado. I had just one.

Mr. POAGE. The gentleman asked me if we are not trying to become the insurer. No, we are not trying to become an insurer. We are merely providing that when the U.S. Government acts contrary to its previous decision, whether we call that previous decision a mistake or not, that the Government should pay. It might be a mistake in light of later information. The Government acts the best it can with the information available and decides that a certain pesticide is not harmful to anyone and licenses the use of that pesticide, and in effect says, "This is all right; with the information we now have we think this is good for everybody."

It may be a mistake or a matter of additional information—the mistake may

have been a result of lack of information, or a mistake in issuing this license a year or 6 years ago. The committee did not want to tie the hands of the Government and say, "You cannot protect the public now." So we say, "You can cancel this registration now, even though you have been approving this item for 5 years. The Government did think it was all right, we now think it is wrong." To that extent the Government must have made a mistake. Whether it was a mistake that could have been avoided or whether it was an unavoidable mistake makes no difference. The Government erred—possibly because it did not have adequate information—but the Government erred in every instance where we authorize indemnity. The question is, Who should be liable for injury? The one who erred, even though it was unintentional, or the one who had nothing to do with it and had no power over it? Where in private law——

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. POAGE. Just a second. The gentleman asked me a question and I want to answer it. If the gentleman will sit down, I will answer it.

Mr. Chairman, I wonder who has the floor?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. POAGE. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. EVANS of Colorado. Mr. Chairman, reserving the right to object, I am anxious to get the chairman's answer. I believe he is being given ample time. I would just hope that if he gets this additional time he will yield to some of us who have questions.

Mr. POAGE. The gentleman asks two complicated questions that take a long time to answer.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. COLLIER. Mr. Chairman, reserving the right to object, I merely wish to make this observation because I think it has to be made. The gentleman from Colorado, in drawing a parallel to drugs and pharmaceuticals in terms of pesticides held by a farmer is just not a logical parallel, for the obvious reason that what is involved in one instance is the serious economic problem which the farmer who has a stock would face as compared to an individual holding some drug or pharmaceutical. I contend it is not a logical parallel in terms of what we are really trying to get at in the indemnity provision of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Texas for 5 additional minutes.

Mr. TEAGUE of California. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from California.

Mr. TEAGUE of California. Some reference has been made to the fact that we are really providing insurance. If so, it is only in a limited and far-fetched way. We have provided in the bill indemnity for persons suffering losses resulting from a suspension or cancellation of the registration. It has nothing to do with losses they might have suffered because of any damage done by the pesticides through food and fiber to their neighbors or someone down the street.

Furthermore, the amount of indemnity is limited to the amount based on the cost of the pesticide owned by such person immediately before the notice of suspension, except that in no event shall it exceed the fair market value of the pesticide as of that date.

Mr. POAGE. I thank the gentleman. I would come back to the proposition that when we say we are not going to be responsible for the errors of the Government, we must then say that in this whole idea of trying to improve the environment, trying to protect the ecology, all the costs must fall upon those who happen to be in the area at the time. I do not think any of us agree that is sound. I think we all agree that this problem of protecting the environment is something in which the whole of the citizenship of the United States is involved, and the whole of the citizenship of the United States should pay the bill.

I repeat, somebody has to pay the bill. This committee suggests that it should be those for whose benefit the provision is placed in the bill, and that benefit falls to all of the American citizens. We are simply trying to be fair about this thing and say that everybody who gets the benefit should pay the bill. We do not believe that a few struggling wheat farmers, with their grasshopper problems and drought, ought to have to pay the bill. We do not believe that a few dairymen whose milk happened to get poisoned with some kind of pesticide should pay the losses. On the contrary, this committee brought out and passed some years ago legislation to take care of those dairymen, and now I am much surprised to see their spokesmen appear before this Congress and suggest that since they got theirs, nobody else should get anything. We are trying to treat everybody alike and say that they all share in paying for that from which they all benefit.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, the point has been made that a farmer in good faith, using a pesticide certified good for use by the Federal Government, finds the Federal Government reverses itself, and that farmer should not have to pay for that, and I agree, but I think my friend, the gentleman from Colorado, is bringing up another point, which is that we want the regulatory bodies of the Federal Government to be extremely careful when they issue this registration in the first place.

The idea occurs to me that if this indemnity clause is in the bill, then the bureaucrats will be more careful with what they certify is OK in the first place, so they do not end up with egg on their faces if they have to withdraw the registration later on, if they find that perhaps there is something poisonous.

Perhaps they will be making doubly sure in the first place, and this will serve the farmer and his economic situation and needs and also the citizen and his concern about the environment.

Mr. POAGE. The committee would agree with that. The gentleman is correct.

Mr. EVANS of Colorado. Mr. Chairman, if the gentleman will yield further, I will say in response that the fellow who has the responsibility to decide to certify has to make the decision to withdraw. That is something else. If we compound that decision with the problem of what it will cost to make that decision, this may discourage him from finding that a certain pesticide should be withdrawn.

Mr. ANDREWS of North Dakota. The fellow who makes the decision to withdraw is the fellow who makes the decision to register in the first place.

Mr. EVANS of Colorado. We have talked about the responsibility of the Government, and I think it is true the Government has a responsibility, but I do not want us to back away from the responsibility of the manufacturer, and I think, if we strike this indemnity section, we call to the attention of the manufacturer that he has responsibility.

Mr. POAGE. The gentleman overlooks the fact that the cost must be passed on to someone, either the public or the producer. Since the public benefits, I think they should pay.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. POAGE. I yield to the gentleman from New York.

Mr. RYAN. Mr. Chairman, the gentleman from North Dakota suggested that one of the objectives of the indemnity clause is to require the Government to exercise greater care in registering pesticides. If so, then that is a strong argument for the Dow amendments which would eliminate the bills' restriction on the use of research data without the applicant's permission and require the submission of any data in the control of the applicant which may tend to indicate any substantial adverse effects on the environment. The doctrine of essentiality should also be continued, as provided in the Dow amendments. I would suggest also that the burden should be on the manufacturer in the first place to establish that the pesticide would not have an adverse environmental effect.

Mr. BERGLAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I seek recognition to direct a question to the distinguished chairman of our committee, the gentleman from Texas (Mr. POAGE).

Mr. Chairman, in the summer of last year an unknown quantity of a very devastating chemical, known as Dieldrin, was dumped down a drain and into a stream in my hometown, and killed all the fish for a 15-mile reach down river.

With the passage of an indemnity provision, is it likely that if one of these devastating chemicals were suspended by the Government, because it proved to be harmful to mankind or the environment, and an indemnity were offered, that in all probability the dealer or the farmer would bring that chemical back to a point designated by the EPA to be disposed of in a safe and harmless fashion, rather than to dump it down the river in an irresponsible fashion to do great damage to Americans?

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. BERGLAND. I yield to the gentleman from Texas.

Mr. POAGE. I believe the gentleman's question answers itself. If a man can figure—I believe most farmers can figure, and know most chemical companies can figure—and knows it is going to cost him extra money to dump these condemned products, of course he is not going to dump them. He is going to accept the indemnity, and the commodity will be delivered to the Environmental Agency under the terms of this bill and society will be protected.

Of course, if we are not going to pay an indemnity, if we are going to try to get that loss out of the farmer's hide, he is likely to dump it in any creek he can find.

Mr. BERGLAND. I thank the chairman very much for his explanation.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. BERGLAND. I yield to the gentleman from Iowa.

Mr. KYL. I thank the gentleman for yielding.

The gentleman from New York (Mr. DOW), the gentleman from Wisconsin (Mr. OBEY), and the gentleman from New York (Mr. RYAN) have three times now made the flat statement that the burden of proof in the registration is with the administrator rather than with the manufacturer. This bill we present today is an amendment to current law. We do not change that law. The burden of proof is on the manufacturer. I defy any of these people to show us any language in this bill which changes that law.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. BERGLAND. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I just want to make one observation. When a dealer dumps a pesticide down the drain he is not following directions. If he does not follow directions printed plainly on the label he is not entitled to any indemnity but is subject to a fine.

Mr. ABERNETHY. Mr. Chairman, I move to strike the requisite number of words.

Members of the Committee, those who manufacture the chemicals used today in our households and in American agriculture are good, sensible business people. They have no desire to put on the market a chemical that will kill somebody or injure the health of our citizens.

A few months ago a group from our committee visited the Shell Chemical Co., Research Laboratory in Modesto, Calif. Shell is expending multiplied thousands of dollars at this magnificent research center for the purpose of coming up with chemicals that, at a fair profit to them, will benefit the consumers of this Nation, not the dealers but the consumers. That is the object of their business.

After a few years when they have reached the point where they think a chemical will be safe and good for the public, they apply to the Federal Government for the purpose of registering that chemical and for the purpose of gaining the privilege to market same.

As the gentleman from Iowa (Mr. KYL) just said, the burden is upon the chemical company to prove to the satisfaction of our Government that the chemical is safe; that it can be used in a manner that will benefit mankind or benefit the animal life or bird life or any other form of life it is designed to benefit and not to their damage.

If those who are serving in Government determine that the product is in the best interests of the public and that the burden has been met, then they grant a license authorizing the distribution of the product.

After this chemical has been registered and its use authorized, and it is later determined that it might be or is dangerous, the Government then moves in and orders it taken off the market.

The Government in ordering these people to take their product off the market says, "You have a certain amount on hand, and you will be reimbursed for it." Why should they not be reimbursed? Were they not in lawful possession of it? Did they not manufacture it in a lawful manner? Did they not manufacture it in keeping with the laws of the Nation under which they live? Why should the Government take it away from them and require them to lose their investment even though the Government had theretofore authorized its use? Such would be very unfair.

Did you ever own a piece of land and have the Government come along and condemn a part of it for a public road? If you did, then you know that the Government pays for it. You were in lawful possession of the land. The Government is not obliged, under our system at least, to take the land away from you without just compensation.

If you are in lawful possession of a chemical that my chairman and my friend from Iowa (Mr. KYL) just described to you and the Government requires you to destroy it, then you should be compensated for it.

A further point that my chairman made is this: why does the Government say it is taking it away from you? It is taken, or you are ordered to destroy it, for the benefit of the 200 million people who live in this country. It is for their benefit that it is taken off of the market. It is not taken off for the purpose of doing injury to the investor or to the manufacturer or to the farmer. It is done to perform a service to the consumer and the general public.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ABERNETHY was allowed to proceed for 1 additional minute.)

Mr. ABERNETHY. It is done to perform a service to mankind. In performing a service to mankind our Government has not yet, I hope, reached the low level where it will do serious damage to one who has invested his money in something which his Government has heretofore said he might safely manufacture and market, or use.

Mr. EVANS of Colorado. Will the gentleman yield for a brief observation?

Mr. ABERNETHY. Yes. I am happy to yield to the gentleman.

Mr. EVANS of Colorado. One thing which is overlooked by you and the chairman of the committee and others who oppose my amendment is the fact, where a pesticide is withdrawn, that there has been a mistake made by two people, the manufacturer and the agency.

Mr. ABERNETHY. I will answer. If you are going to put it on that basis, you will completely stop all research in this field.

Do you think that the Shell Chemical Co. in California will continue the operation of that expensive and worthwhile research facility if we put this amendment on their back? With all deference, this amendment would force all companies to discontinue further research and the consumer and the public would be the losers.

I trust the amendment will be defeated.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

(By unanimous consent, Mr. ABERNETHY was allowed to proceed for 1 additional minute.)

Mr. ABERNETHY. Mr. Chairman, I have great respect for my friend, the gentleman from Colorado (Mr. EVANS). I can understand his concern. I am going to be frank with you and say that his point also concerned me when we had the bill in committee. It finally got through to me that full compensation should be made for chemicals ordered destroyed under Government order.

Mr. DOW. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleague from Iowa (Mr. KYL) made a point that we have not convinced the House in regard to the burden of proof; but where they have placed the burden of proof it lies with the Administrator more than it does with the applicant for registration.

I would like to refer the gentleman to page 17 of the bill, and we will just run over it quickly. It lists the data that the applicant is required to file as follows:

The name and address of the applicant.
The name of the pesticide.
A complete copy of the labeling.
A full description of the tests made.

And note the following:

except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration.

Here you see there is a limitation on the ability of the Administrator to handle this situation which does not appear in the present law.

The applicant must also present a complete formula of the pesticide and request that the pesticide be classified for general use, for restricted use, or for both.

But, Mr. Chairman, there is nothing in the bill to require the applicant to meet other needs such as the essentiality of the pesticide or the danger that it might pose.

I propose later on to offer an amendment that will go to these points. I will have one amendment on the essentiality of the pesticide and another one to require the applicant to disclose any adverse effects which may be present in the pesticide insofar as he knows.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. DOW. Yes, I yield to the gentleman from Iowa.

Mr. KYL. Now, the gentleman has again quoted from page 17 of this bill that portion which reads as follows:

except that data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application for registration.

This has nothing to do with the burden of proof. When a company goes before the Administrator he has to present his whole detailed proof that the product should be certified and registered. All this says is if JOHN KYL goes before the Administrator, having spent a half million dollars to prepare his case, then JOHN Dow cannot go before that same Administrator with another product to be registered and use the material which the first party submitted in support of his registration. That is all.

Mr. DOW. It would be beneficial and helpful when Mr. Dow, the second applicant, comes before the Administrator that the proof of the data supplied by the first applicant would be used. This would contribute to the analysis of the product and to the merits of the product and it would certainly ease the burden on the Administrator to prove adverse effects from the pesticide and it would make it infinitely easier more or less to shift the burden.

I think the gentleman from Iowa has ignored the point I just made; namely, that there should be in the bill another clause which would require the applicant to indicate any substantial adverse effects on the environment, or lack of such effects which may be caused by such pesticides when used for any intended use. This will be presented in a later amendment, and it amplifies the proviso here, and I think it supports my claim that the burden of proof upon the applicant is not sufficient.

The CHAIRMAN. The time of the gentleman has expired.

MOTION OFFERED BY MR. POAGE

Mr. POAGE. Mr. Chairman, we have been discussing other matters than those pertinent to the bill. I believe that all of the Members have discussed this amendment sufficiently, and for that reason, if there are no requests for further discussion, I move that all debate on the Dow substitute and all substitutes and amendments thereto close.

PARLIAMENTARY INQUIRY

Mr. DOW. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DOW. Mr. Chairman, the distinguished chairman knows there are several amendments pending here to the substitute amendment offered by the gentleman from Iowa (Mr. KYL). Now, will the motion of the gentleman from Texas foreclose introduction of further amendments to the Kyl substitute?

The CHAIRMAN (Mr. HUNGATE). The Chair will state in response to the inquiry of the gentleman from New York (Mr. Dow) that, if the motion of the gentleman from Texas is agreed to, it will not foreclose the introduction of additional amendments, but they will not be debatable.

Mr. DOW. Mr. Chairman, I object.

The CHAIRMAN. The Chair would ask the gentleman from Texas (Mr. POAGE) whether the gentleman is making a motion or whether the gentleman is asking for unanimous consent?

Mr. POAGE. Mr. Chairman, I move that all debate do now close on the Kyl substitute, and all amendments and substitutes thereto.

PARLIAMENTARY INQUIRY

Mr. DOW. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DOW. Mr. Chairman, may I have assurances that this does not foreclose the introduction and the debate upon subsequent amendments?

The CHAIRMAN. The Chair will state in response to the parliamentary inquiry of the gentleman from New York that the motion will not foreclose the introduction of amendments, but it would preclude further debate.

The Chair will ask the gentleman from Texas if the gentleman is moving to conclude all debate at the present time.

Mr. POAGE. Mr. Chairman, my motion was to close debate at the present time, because there seemed to be no one who indicated a desire that he wanted to speak further, but if there are those who want to speak further then I would change my motion—

Mr. DOW. Mr. Chairman, will the gentleman yield?

Mr. POAGE. Certainly I will yield to the gentleman from New York.

Mr. DOW. Mr. Chairman, we have other amendments here, and at the desk, and there is a desire to debate these amendments. Therefore I would certainly strenuously object to any attempt to foreclose debate on those subsequent amendments.

Mr. POAGE. Mr. Chairman, in the hope that we may get to an agreement here, I ask unanimous consent that all debate on the amendment offered by the gentleman from Colorado (Mr. EVANS) and all amendments thereto do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. EVANS) to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and the Chairman announced that the Chair was in doubt.

Mr. EVANS of Colorado. Mr. Chairman, I demand tellers.

Tellers were refused.

Mr. EVANS of Colorado. Mr. Chairman, on that I demand a division.

Mr. GERALD R. FORD. Mr. Chairman, I object. The gentleman did not ask for the division timely.

The CHAIRMAN. The Chair has not announced the result of the vote, and the gentleman from Colorado (Mr. EVANS) can demand a division.

The question was taken; and on a division (demanded by Mr. EVANS of Colorado) there were—ayes 28, noes 65.

So the amendment to the substitute amendment was rejected.

Mr. EVANS of Colorado. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. That parliamentary procedure is not in order in Committee of the Whole.

AMENDMENT OFFERED BY MR. BINGHAM TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. BINGHAM. Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Iowa (Mr. KYL).

The Clerk read as follows:

Amendment offered by Mr. BINGHAM to the substitute amendment offered by Mr. KYL: On page 47, line 21, strike out "person" and insert "user".

Mr. BINGHAM. Mr. Chairman, if I may have the attention of the chairman of the committee, I would appreciate it.

I have listened attentively to the debate on the amendment offered by the gentleman from Colorado (Mr. EVANS) and it seemed to me that the principal opposition, at least the opposition to that amendment that was most persuasive, was the case made for the farmer who had bought pesticides and who had them in stock and then found that he could not use them because they had been ruled out.

So I have offered this very simple amendment which would protect the farmer but which would not go beyond that.

Mr. Chairman, I do not want to pursue the matter and I do not want to debate it extensively. This amendment would at least meet the argument that the farmer needs protection. The amendment simply substitutes for the word "person" in line 21, on page 47, the word "user".

In other words, any user who owns any quantity of such pesticide would be identified. That, it seems to me, would go a long way toward meeting the objections raised in the Evans amendment.

Mr. RYAN. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from New York.

Mr. RYAN. Mr. Chairman, I commend the gentleman on his amendment. I think it is most useful and is consistent with the law which now indemnifies producers of milk, if milk is taken off the market because of contamination by a registered chemical, to which the chairman referred. The amendment limits indemnification to farmers. It does not blanket in manufacturers who should have the burden themselves of establishing that the product will not adversely affect the environment and should assume the risk.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. KYL. Mr. Chairman, I do not know if the gentleman realizes what he does here.

The original provisions of this act covered more than just the ultimate user of the pesticide. For instance, suppose you have a dealer in your community who has a pesticide which is registered and for which he has paid. He, in turn, intended to sell it to a user who would be eliminated by your substitution of the word "user". It also would not then cover the person who had manufactured the product or who warehoused the product.

Actually, what your amendment does, of course, is to eliminate the main purpose of the amendment which is to provide some incentive for trying to find maximum alternate controls.

I certainly could not accept the amendment at all.

Mr. BINGHAM. I would point out to the gentleman that the case was very eloquently made here by the gentleman from Pennsylvania and the gentleman from Mississippi, I believe, that it was the farmer who was the person who most needed protection because the farmer might go out of business if he lost large amounts invested in pesticides thinking at the time that they were perfectly all right to use and then finding that they are not.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman.

Mr. ANDREWS of North Dakota. Mr. Chairman, the farmer has to go not only to his stock, but the farmer has to go to the stocks held in the farming community by a dealer. The thrust of the gentleman's amendment, I am afraid, would be to discourage the local dealer from maintaining stocks of pesticides or herbicides where the farmer could get them when he needed them. So I think the gentleman's amendment would do damage to the farmer by virtue of not encouraging the chemical to be stocked in the area.

Mr. BINGHAM. The case that has been made now for the protection of the dealer was not made earlier. I was trying to meet the appealing case, calling for the protection of the farmer. I yield back the remainder of my time.

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. POAGE. This is just some of the same stuff, just an effort to escape responsibility for a change in judgment on the part of the Government. I think that if you take the property of the National City Bank, you owe the National City Bank the value of that property, just the same as if you take the property of BOB POAGE, or somebody who has even less property than he. I think we owe an obligation to do right by every citizen of the United States, regardless of his economic status. I cannot believe that it is moral to take the property of the Dow Chemical Co. and immoral to take the property of JOHN Dow. I think that it is clear that this is just an attempt to try to have the Government destroy values without paying for them. It does not make any difference whose hands the property is.

Mr. BRASCO. Mr. Chairman, will the gentleman yield for a question?

Mr. POAGE. I yield the floor.

Mr. BRASCO. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. BRASCO. I want to ask a question of the chairman of the committee (Mr. POAGE). I have served on the committee and I know the gentleman today in his approach is trying to present an argument which is fair and equitable, and it does seem fair and equitable. But he confines it to products that are used in the farming area.

I am wondering whether or not the gentleman supports the theory on a broader basis. Very simply, it is this: In my district in New York there was a small company that employed about 75 to 100 people that had been in business making foods for the last 50 years.

Some months ago the Pure Food and Drug Administration reversed itself on the question of cyclamates that the company was using in their food products. The ban caused the company to take its products off the market causing substantial loss so that they are now in such bad financial condition that they are on the verge of bankruptcy.

I understand what the gentleman is trying to do, but I am wondering whether or not this equity that he is holding forth to people who use pesticides that are first sponsored by the Government as being safe and then recalled would be applied in a broader fashion to people I have described.

Mr. POAGE. Mr. Chairman, will the gentleman yield?

Mr. BRASCO. I yield to the gentleman from Texas.

Mr. POAGE. I am sorry I did not make myself clear. I attempted to. I think we have to pay the cost. I think the Government should pay the cost when the Government is responsible. If the gentleman will offer an amendment to the Food and Drug Act to reimburse or to pay for such losses as he described, I will support it.

Mr. BRASCO. That is what I wanted to know.

Mr. POAGE. Absolutely. I believe in going across the board, and when the Government is responsible for the loss, the Government should pay the bill. The Agriculture Committee does not have jurisdiction over the matters the gentleman is describing. We are trying to treat everybody alike.

Mr. BRASCO. I understand that. I wanted to get the gentleman's opinion on it.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Iowa is recognized.

Mr. SMITH of Iowa. The gentleman from New York has just indicated that this bill applies only to farmers. I think that idea should be dispelled at this point. As I understand it, this bill applies to a lot of chemicals that are under the housewife's kitchen sink at the present time. If after this bill passes—and I am not speaking in opposition to the bill—a Member happens to carry a couple cockroaches home in his pocket from the House restaurant, they are free to multiply in a crack in the Member's house until one of three things happens: Either he burns the house down, or he secures an applicator's license and applies chemicals now available, or else he hires some commercial exterminator company to spray the cracks. Homeowners will no longer be permitted to use some of the chemicals they are now using to keep cockroaches out of their houses.

We should be aware of what we are doing here. Everybody who applies chemicals which are toxic enough to be called "restricted," would have to have an applicator's license. Perhaps some of these chemicals should not be in general use but the provisions of this bill are not of concern just to farmers. This bill applies to the housewife who has a green thumb or to the housewife who is just trying to keep her house clean. It applies to everybody who uses these chemicals.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, I am glad the gentleman makes this comment, because obviously those who are offering these amendments do not understand what is involved. When we talk about pesticides general use and fungicides we are talking about moth balls and chlorox and germicidal floor waxes, the material used in air conditioners to keep the algae content down and so forth.

This bill is not written to protect farmers or manufacturers. It is written to protect the consumers and the environment—in other words, the public.

Mr. SMITH of Iowa. But somehow the people have gotten the idea that the only people who use these chemicals are the farmers. It is not so.

XUM

Mr. KYL. And when the farmers use them, it is not because they hate the worms, but because the consumers like to eat apples without worms.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BINGHAM), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL) for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. DOW).

The amendment to the substitute amendment was rejected.

AMENDMENT OFFERED BY MR. RARICK TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. RARICK. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. RARICK to the substitute amendment offered by Mr. KYL: Redesignate paragraph (e) as (f) and add a new section (e) as follows:

"(e) IMPORTATION OF AGRICULTURAL PRODUCTS.—Notwithstanding any other provision of law, whenever the use of any pesticide in connection with the producing, processing, or handling of any agricultural commodity is prohibited or limited under any Federal statute, the President shall prohibit importation of such commodity from any country if he determines that—

"(1) such country does not have at least equal restrictions with respect to the use of such pesticide, and

"(2) such commodity is produced in substantial quantities in the continental United States.

The provisions (including penalties and forfeitures) of section 545 of title 18, United States Code, shall apply in enforcing the provisions of this subsection. The President may prescribe rules and regulations to carry out the purposes of this subsection, including but not limited to, provisions for the deferral of the effective date thereof with respect to particular pesticides or agricultural commodities for not more than three years.

Mr. RARICK. Mr. Chairman, this amendment was considered in the Agriculture Committee. In fact, I take no pride in authorship since the amendment is the chairman's language and was in the original bill until deleted by pressures and influences from outside our committee.

What the amendment proposes is simply to remove the threat of another of the double standards so common in our country today; that is to remove a double standard from American agriculture by applying the provisions of the pesticide control bill to agricultural imports by extending some degree of control over foreign farmers as well as those American farmers who can be expected to escape pesticide banning and regulations by moving their food and fiber producing capabilities from our country to foreign nations.

The bill as it now exists provides that the agricultural sector of our country can be handicapped by being banned from the use of some pesticides or limited in the use of restrictive pesticides, regulations which will have a distinct impact on the food-producing ability of our country as well as food prices and supply.

Yet these same bans and restrictions, as the bill now stands, do not extend to agricultural imports from foreign countries. As the bill presently stands: If we ban or restrict pesticide use only in American agriculture, the chemical companies are still allowed to sell the same banned and prohibited pesticides to foreign countries to be used in food-growing production, which same food can be imported to the United States bearing the banned pesticides prohibited from use in our country.

I feel if we are going to place American agriculture under bans on pesticides or restricted use of chemicals, fairness demands that we apply the same treatment to imported farm commodities, goods, and foodstuffs coming into this country.

If we authorize pesticide bans and controls over U.S. agriculture in the name of safeguarding our environment, only to allow these same pesticides to be brought in on our foodstuffs can it not be said we are defeating the purpose of the bill before us by creating a loophole to the advantage of foreign agriculture?

Those members of the Committee on Agriculture will recall the history behind the deletion of this proposed amendment from the bill. The committee was promised that if this section were removed, it would be later brought up as a separate bill. My feelings are that if we are going to vote pesticide controls on U.S. agriculture today the place for extension of the law to foreign agricultural imports is in the same bill. If there are fears we cannot pass a pesticide bill today which does not discriminate against U.S. farmers, then we are not going to be able to pass a separate bill to protect U.S. consumers from foreign imports tomorrow.

To those who answer all fears of where the bill is going, because of assurances from Mr. Ruckelshaus, the head of EPA, I can but suggest that there is nothing as unassured these days as politics. Next year the seat of Director of the Environmental Protection Agency could well be Mr. Ramsey Clark, or perhaps Ralph Nader, or a militant environmentalist. What is not put in the law today to safeguard our farmers and consumers may have less support in another year.

It is only fair and reasonable that we abolish dual standard by applying the same laws to the foreign imports of food and agricultural commodities that we expect our farmers to operate under in order to protect the environment of the American people.

I recommend that the amendment be adopted.

Mr. POAGE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment, if in the form of a bill, would be a good bill. It is word for word what I introduced. I believe I originated the idea, as the gentleman from Louisiana suggested. I offered it separately. Later I offered it as a part of this bill.

The administration bitterly opposes this amendment, just as I am sure the previous administration opposed the idea. In fact, every State Department seems to oppose everything that would require foreigners take some action that would be comparable to the action we require of our own citizens. What the State Department always believes is that we must give some special treatment to foreigners. It still believes that, and made it rather plain that if we are going to have a pesticide bill we are not going to have this provision in here.

Perhaps they did not convince others that that would be the case. They did convince me. They convinced me that if we want a bill we must keep this provision out. Most Members have been complaining we were not going far enough, rather than we were going too far, but we are trying to pass a bill. We are trying to do the thing we believe the American people want done, to pass a bill that will give some control over these pesticides and still allow some reasonable use of them.

I am convinced that if you put this amendment on this bill, this good provision—and I say it is a good provision and I think it is a sound and a fair provision—but if you put it on here, then I do not think you will have any bill and you will not have achieved anything at all toward helping either the American farmer or the American consumer.

The farmer will get no assurance of the right to use pesticides—no matter how badly they are needed.

So it is with the environmentalists. When they get all of nothing, they will still have exactly nothing if you put this on here, and we all still wind up with nothing.

I think it would be a whole lot better to take something. You have legislation here that will give some reasonable degree of protection to everybody concerned. That is the reason why I am opposing what I think it is a good, sound provision.

Separate and apart from this legislation I am for it. I want the gentleman to know it and I want the State Department to know it. But this is just not the place to put it. I have not noticed any one of those who felt they wanted this kind of a bill coming in here urging this amendment. They do not come in and urge it because they know what it will do to the bill.

Mr. KYL. Will the gentleman yield?

Mr. POAGE. Yes. I yield to the gentleman from Iowa.

Mr. KYL. I want to commend the chairman for the action he is taking here. This is his bill. He wants this bill passed. And yet, because his interest is in getting a good pesticide bill passed, he puts his own feelings in the background and says that the amendment should not be adopted and that we should get on with passing the bill.

Mr. POAGE. I thank the gentleman.

Mr. SISK. Will the gentleman yield to me?

Mr. POAGE. Yes, I yield to the gentleman.

Mr. SISK. I, too, want to commend the chairman.

I want to say that I am a strong supporter of his bill. I believe in the legislation he proposed and which is now proposed by the gentleman from Louisiana. However, I also agree with the chairman's present position that, unfortunately, apparently we cannot pass a good pesticides regulatory bill with this on it. Therefore, I go along with the chairman, although somewhat reluctantly, to oppose this amendment.

I thank the gentleman for yielding.

Mr. TEAGUE of California. Will the gentleman yield to me?

Mr. POAGE. Yes. I yield to the gentleman.

Mr. TEAGUE of California. I, too, support the position that the chairman has taken. In a case where we have any doubt or any question, here is a letter which came from the Assistant Secretary, Mr. Palmby, within the last 2 weeks. He says:

Our opposition is based on the fact that this provision will have a serious impact on our agricultural exports and thus work hardships on our farmers.

Well, that is arguable, but, in any event, I offer that as evidence so that there may be no misunderstanding on the Republican side that this suggestion or this proposed amendment is very much opposed by the administration and, in my opinion, it would undoubtedly work out to a veto of the bill.

Mr. GROSS. Will the gentleman yield?

Mr. POAGE. I yield to the gentleman from Iowa.

Mr. GROSS. I have listened attentively, but I have not yet heard, except for the Department of Agriculture, who is opposed to this amendment. Is it somebody above and beyond the Department of Agriculture?

Mr. POAGE. I am sorry the gentleman did not hear my statement. The State Department is opposed to it.

Mr. GROSS. I would expect the State Department to be opposed to it.

Mr. POAGE. Well, then you have heard who is opposed to it.

Mr. GROSS. I expected the striped pants crowd would. Do they want to import food under circumstances where local producers and distributors are not permitted to sell it to people in this country?

Mr. POAGE. I cannot tell the gentleman the thinking of the State Department, but I think I know something of the practicalities of passing this bill, and I do not think that you can pass the bill if you put this amendment on it.

Mr. GROSS. Will the State Department veto it, or who will?

Mr. POAGE. The President of the United States.

Mr. GROSS. The President of the United States?

Mr. POAGE. That is Mr. Nixon.

I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. I thank the chairman for yielding to me.

It is my feeling that this provision, instead of eliminating a double standard, would actually establish one because other countries do not require that our country have the same pesticide control laws that they do. I think that would be the effect of this amendment. And yet, that is the effect of this amendment.

I would like to cite the commodity of corn as an example and how this might affect our market. About 90 percent of all overseas sales of corn go to countries that would be adversely affected by this amendment. They might not strike back, but there is that possibility.

Mr. MELCHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take the full 5 minutes of my time, but I must tell you, and the Members of the House, that I very much regret that this section was removed from the bill.

I shall vote for the amendment which has been offered by the gentleman from Louisiana (Mr. RARICK) to replace the section in the bill.

Congress, rightly, should take the leadership in these matters that have to do with the protection of the health of our consumers. We should not kowtow to the feelings and beliefs of the State Department, or the Department of Agriculture, or anyone else, when we see a serious need to protect the human health of the people of this country. The quality standards which we now have as pertain to the effect on the health of the people should apply to the imported foreign food that we purchase and bring into this country. The standards and requirements on the imported food and that food which we produce here in our country as supplied by our domestic producers should be one and the same. There should not be a double standard. I have offered for the advice of the Members of the House additional views covering this subject. It is printed in the report and, rather than taking the time to discuss it in more detail, I trust everyone who is interested in it has already read it, and if you have not read it and are still interested, I hope you will take the time to do so now.

Those views are as follows:

ADDITIONAL VIEWS OF CONGRESSMAN JOHN MELCHER

H.R. 10729, the Federal Insecticide Act of 1971, fails to close a loophole where chemicals on imported foodstuffs are used that may have harmful effects on consumers. We depend on domestic food producers, or livestock, not to use chemicals on their products that science has found to be injurious to the health of consumers. H.R. 10729 continues this requirement for domestic producers, but fails to apply the same safeguard to food products that are imported into the U.S.

With the everwidening use of chemicals in food production, there is increasing need to protect the wholesomeness of dairy, fruit, vegetable, cereal, or meat products by avoiding application of chemicals that would leave residues injurious to health. It is fraudulent to tolerate a double standard between imported and domestic food supplies. Chemical pesticides or herbicides banned for use on domestic food products because their residue would be injurious to consumers, should not be allowed on imported foodstuffs. In most cases, there is no way for the consumer to know which products are imported and which are of domestic origin. But in neither case should we take the chance with the health of our consuming public.

Testimony before the Committee from Food and Drug Administration officials, outlining surveillance for harmful residues was not reassuring. The testing of chemicial residues on ready-to-eat meats, poultry, and fish was haphazard and raised doubts as to any effective control on residues, on imported foods. As a result, the Committee approved a section in the bill requiring producers of imported foods to follow the same procedures as we do in this country to avoid contamination with toxic chemicals. (A copy of this section follows my views.) The State Department objected saying it would interfere with good relations with countries that export foods to us. The Department of Agriculture objected, stating it would interfere with agricultural trade. The Environmental Protection Agency, in sympathy with these two Cabinet Departments, also objected. But obviously the health of our consumers should be paramount to the speculation conjured by the two Departments which have little basis for their arguments. Their pale objections based on anemic judgments should not be allowed to jeopardize the health of American consumers. Exporting countries are interested in the health of their own consumers as well as the health of their customers abroad; and when our scientists determine that a chemical leaves a harmful residue in foodstuffs, this fact should be noted and observed by all countries. It is of mutual beneficial interest which is on a level higher than mundane trade policy or profits.

Nevertheless, the pressure applied by the Administration through the State Department and the Department of Agriculture caused the deletion from the bill of what I believe to be a very important section to apply the same standards to imported food products that we apply to domestic supplies.

The argument is made that consumers have adequate protection through the surveillance of the Food and Drug Administration and the Department of Agriculture. That is not the case. Very little sampling is done. I am including at the end of my views tables provided by the Food and Drug Administration and by the Department of Agriculture. Examination of their tables prompts the following conclusions:

(1) In the case of meat, fish and poultry, residues for only 13 pesticide compounds in a very few samples are examined. These are pesticides available in this country, but banned for use in production of these foods or allowed only with strict limitations found to be safe.

(2) The incidence percent and the average parts per million are greater in the imported food samples than from the domestic products. Improvement in the presence and amounts of residues found in domestic food products as compared to imported food products in the years 1967, 1968 and 1969 was much better on the domestic side as compared to the imported products. This argues strongly for the banning or limiting uses of the objectionable pesticides as has been done in the U.S. for our domestic producers with a like extension to all producers in other countries who wish to sell products in this country.

(3) Residue sampling is decreasing. The bulwark of consumer protection continues to be reliance on producer compliance not to use banned or limited use chemicals. Even if sampling were increased a hundredfold, it would still only be spot checks which without compliance by producers on banned chemicals offer little assurance to consumers that an adequate job was being done to guard against harmful residues.

(4) There was very little sampling done in 1970, and rejections of shipments of im-

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ported meat because of residues in excess of tolerance levels only totaled 28 for the year. However, imports showed the incidence of benzene hexachloride, DDT, dieldrin, and heptachlor epoxide residues are all on the increase indicating a much more extensive use by the producers of the countries of the imported meat. These chemicals are all banned or require strict limitations on use for livestock in this country.

The only valid conclusion in the face of these facts is that H.R. 10729 can only assure consumers adequate protection from harmful residues from pesticides or herbicides when every means is taken to prevent the use of these chemicals on food products consumed by our people. Not to apply these same standards based on scientific evaluations to imported foods may give us, as our State and Agriculture Departments have implied, an open door trade policy, but it is an open door invitation to abuse imported food supplies inviting residues that may harm the health of untold numbers of our people. There can be no justification in taking that chance. Decisions to limit chemicals used by our domestic producers are not decisions lightly made but are made after long and careful study and evaluation. The results should not be ignored by any producers anywhere in the world. Their health and our health is at stake. If the House does not include a section such as Section 17(e) in the Committee print or similar protection, H.R. 10729 has a serious, damaging flaw.

JOHN MELCHER,
Member of Congress.

(Committee Print No. 3, dated July 13, 1971, was used by the committee in the preparation of H.R. 10729. Section 17(e) of Committee Print No. 3 is as follows:)

"(e) IMPORTATION OF AGRICULTURAL PRODUCTS.—Notwithstanding any other provision of law, whenever the use of any pesticide in connection with the producing, processing, or handling of any agricultural commodity is prohibited or limited under any Federal statute, the President shall prohibit importation of such commodity from any country if he determines that—

"(1) such country does not have at least equal restrictions with respect to the use of such pesticide, and

"(2) such commodity is produced in substantial quantities in the continental United States.

The provisions (including penalties and forfeitures) of section 545 of title 18, United States Code, shall apply in enforcing the provisions of this subsection. The President may prescribe rules and regulations to carry out the purpose of this subsection, including but not limited to, provisions for the deferral of the effective date thereof with respect to particular pesticides or agricultural commodities for not more than three years.

PESTICIDE RESIDUES IN MEATS (FAT BASIS), FISCAL YEARS 1965-69 (BEEF, PORK, ETC.)

[Total diet samples—ready-to-eat food, meat, fish, and poultry (roast beef, ground beef, pork chops, chicken, fish fillets, eggs, frankfurters, etc.)]

Specific compound	Domestic samples, 12,146		Import samples,[1] 3,674		Total diet samples (meat, fish, and poultry), 134 composites	
	Incidence percent	Average p.p.m.	Incidence percent	Average p.p.m.	Incidence percent	Average p.p.m
DDT[2]	75.4	0.33	83.9	0.41	88.1	0.182
DDE[2]					92.5	.168
TDE[2]					80.6	.092
Dieldrin	31.3	.05	46.7	.10	61.9	.026
Heptachlor epoxide[3]	[4] 21.6	.02	10.2	.01	53.7	.016
Heptachlor[3]	9.6	.01	1.1	(5)	3.0	(5)
Lindane	6.6	.01	12.4	.01	19.4	.006
BHC	[7] 20.2	.02	[7] 63.2	.15	50.0	.018
Aldrin	.1	(5)	[7] 1.4	(5)	.7	(5)
Endrin	.4	(5)	1.0	(5)	1.5	(5)
Methoxychlor	1.8	.01	.6	(5)		
Toxaphene	1.4	.01	.1	(5)	1.5	.004
MCP	[8] 11.8	.02	[4] 45.1	.10	.7	(5)

[1] Import samples for fiscal years 1967, 1968, and 1969 only.
[2] DDT includes DDE and TDE.
[3] Heptachlor includes heptachlor epoxide except fiscal year 1967 (domestic samples only).
[4] Fiscal year 1967 only, 3,098 domestic samples, 1,901 import samples.
[5] Less than 0.005 p.p.m.
[6] Less than 0.001 p.p.m.
[7] Fiscal year 1968 and 1969 only, 4,012 domestic samples and 1,733 import samples.
[8] Fiscal year 1965, 1966, and 1967 only, 8,134 domestic samples.

Source: Food and Drug Administration.

NUMBER OF SAMPLES

Range (parts per million)	Domestic						Imported			
	1965	1966	1967	1968	1969	Total	1967	1968	1969	Total
Methyl chlorophenoxy acetic acid (MCP):										
None found	3,200	1,614	2,357	0	0	7,171	1,044	0	0	1,044
Trace to 0.10	51	134	621	0	0	806	564	0	0	564
0.11 to 0.50	1	35	90	0	0	126	214	0	0	214
0.51 to 1.00	0	1	15	0	0	16	52	0	0	52
1.01 to 1.50	0	0	6	0	0	6	14	0	0	14
1.51 to 2.00	0	0	2	0	0	2	5	0	0	5
2.01 to 3.00	0	0	3	0	0	3	3	0	0	3
Above 3.00	0	0	4	0	0	4	5	0	0	5
Total	3,252	1,784	3,098	0	0	8,134	1,901	0	0	1,901

Range PPM	Domestic						Imported		
	1965	1966	1967	1968	1969	Total	1968	1969	Total
Aldrin:									
None found	3,252	1,783	3,098	2,709	1,298	2,140	1,264	484	1,748
Trace to 0.10	0	0	0	3	1	4	9	13	22
0.11 to 0.50	0	0	0	1	0	1	1	2	3
0.51 to 1.00	0	1	0	0	0	1	0	0	0
1.01 to 1.50	0	0	0	0	0	0	0	0	0
1.51 to 2.00	0	0	0	0	0	0	0	0	0
2.01 to 3.00	0	0	0	0	0	0	0	0	0
Above 3.00	0	0	0	0	0	0	0	0	0
Total	3,252	1,784	3,098	2,713	1,299	2,146	1,274	499	1,773
Benzene hexachloride (BHC):									
None found				2,070	1,130	3,200	446	206	652
Trace to 0.10				576	146	722	370	178	548
0.11 to 0.50				49	17	66	382	98	480
0.51 to 1.00				10	3	13	60	14	74
1.01 to 1.50				4	1	5	11	3	14
1.51 to 2.00				2	0	2	0	0	0
2.01 to 3.00				2	1	3	2	0	2
Above 3.00				0	1	1	3	0	3
Total				2,713	1,299	4,012	1,274	499	1,773

Range PPM	Domestic						Imported			
	1965	1966	1967	1968	1969	Total	1967	1968	1969	Total
DDT:										
None found	1,148	568	644	472	161	2,993	300	216	76	592
Trace to 0.10	1,245	513	925	728	383	3,794	522	365	129	1,016
0.11 to 0.50	435	386	1,106	1,080	572	3,579	638	499	201	1,338
0.51 to 1.00	203	129	241	253	103	929	236	113	45	394
1.01 to 1.50	67	59	76	60	43	305	78	30	24	132
1.51 to 2.00	70	38	25	34	13	180	39	22	6	67
2.01 to 3.00	41	42	38	37	20	178	50	16	6	72
Above 3.00	43	49	43	40	4	179	38	13	12	63
Total	3,252	1,784	3,098	2,713	1,299	12,416	1,901	1,274	499	3,674
Dieldrin:										
None found	3,220	1,713	1,054	1,561	798	8,346	1,017	636	304	1,957
Trace to 0.10	30	50	827	963	434	2,304	481	267	139	887
0.11 to 0.50	2	20	1,186	181	63	1,452	366	326	52	744
0.51 to 1.00	0	0	13	6	3	22	29	38	4	71
1.01 to 1.50	0	1	4	1	0	6	3	4	0	7
1.51 to 2.00	0	0	8	1	1	10	3	3	0	6
2.01 to 3.00	0	0	2	0	0	2	0	0	0	0
Above 3.00	0	0	4	0	0	4	2	0	0	2
Total	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Endrin:										
None found	3,248	1,782	3,096	2,692	1,279	12,097	1,886	1,271	481	3,638
Trace to 0.10	2	0	1	17	20	40	8	3	17	28
0.11 to 0.50	2	2	1	4	0	9	6	0	1	7
0.51 to 1.00	0	0	0	0	0	0	1	0	0	1
1.01 to 1.50	0	0	0	0	0	0	0	0	0	0
1.51 to 2.00	0	0	0	0	0	0	0	0	0	0
2.01 to 3.00	0	0	0	0	0	0	0	0	0	0
Above 3.00	0	0	0	0	0	0	0	0	0	0
Total	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Heptachlor:										
None found	3,241	1,709	3,020	1,970	1,044	10,984	1,896	1,243	494	3,633
Trace to 0.10	11	50	64	628	213	676	5	13	2	20
0.11 to 0.50	0	25	4	109	42	180	0	18	3	21
0.51 to 1.00	0	0	0	5	0	5	0	0	0	0
1.01 to 1.50	0	0	0	1	0	1	0	0	0	0
1.51 to 2.00	0	0	0	0	0	0	0	0	0	0
2.01 to 3.00	0	0	0	0	0	0	0	0	0	0
Above 3.00	0	0	0	0	0	0	0	0	0	0
Total	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Lindane:										
None found	3,202	1,680	2,831	2,462	1,171	11,346	1,747	1,091	382	3,220
Trace to 0.10	26	56	217	202	106	607	116	144	104	364
0.11 to 0.50	15	34	40	43	22	154	29	38	13	80
0.51 to 1.00	6	6	5	5	0	22	4	1	0	5
1.01 to 1.50	1	3	4	1	0	9	4	0	0	4
1.51 to 2.00	0	2	1	0	0	3	1	0	0	1
2.01 to 3.00	2	3	0	0	0	5	0	0	0	0
Above 3.00	0	0	0	0	0	0	0	0	0	0
Total	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Toxaphene:										
None found	3,104	1,773	3,093	2,709	1,298	11,977	1,899	1,274	499	3,672
Trace to 0.10	56	3	0	0	0	60	0	0	0	0
0.11 to 0.50	45	4	2	0	0	51	0	0	0	0
0.51 to 1.00	23	3	1	0	0	27	0	0	0	0
1.01 to 1.50	5	0	0	0	0	5	0	0	0	0
1.51 to 2.00	12	1	0	0	0	13	0	0	0	0
2.01 to 3.00	4	0	2	1	0	7	0	0	0	0
Above 3.00	3	0	0	3	0	6	2	0	0	2
Total	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674
Heptachlor epoxide:										
None found			2,429	0	0	2,429	1,714	1,161	426	3,301
Trace to 0.10			600	0	0	600	161	94	60	315
0.11 to 0.50			60	0	0	60	26	19	13	58
0.51 to 1.00			3	0	0	3	0	0	0	0
1.01 to 1.50			2	0	0	2	0	0	0	0
1.51 to 2.00			0	0	0	0	0	0	0	0
2.01 to 3.00			2	0	0	2	0	0	0	0
Above 3.00			2	0	0	2	0	0	0	0
Total			3,098	0	0	3,098	1,901	1,274	499	3,674
Methoxychlor:										
None found	3,157	1,780	3,076	2,658	1,260	11,931	1,888	1,271	492	3,651
Trace to 0.10	46	1	8	6	16	77	8	1	3	12
0.11 to 0.50	21	1	9	38	23	92	3	0	3	6
0.51 to 1.00	19	0	4	10	0	33	1	2	1	4
1.01 to 1.50	4	0	0	0	0	4	1	0	0	1
1.51 to 2.00	3	2	0	0	0	5	0	0	0	0
2.01 to 3.00	2	0	1	0	0	3	0	0	0	0
Above 3.00	0	0	0	1	0	1	0	0	0	0
Total	3,252	1,784	3,098	2,713	1,299	12,146	1,901	1,274	499	3,674

Source: Food and Drug Administration.

PESTICIDE RESIDUES IN IMPORTED MEATS, CALENDAR YEARS 1967-70 (BEEF, PORK, SWINE, SHEEP)

[Number of samples]

Range (parts per million)	1967	1968	1969	1970
DDT				
Total samples analyzed	1,928	1,414	1,033	995
None found	112	23	18	26
0.01 to 0.10	413	266	299	333
0.11 to 0.50	534	498	438	453
0.51 to 1	196	116	95	85
1.01 to 1.50	86	32	36	14
1.51 to 2	51	20	9	2
2.01 to 2.50	27	9	2	4
2.51 to 3	19	10	5	5
3.01 to 3.50	13	2	3	3
3.51 to 4	5	5	4	1
4.01 to 4.50	6		5	
4.51 to 5	1	2	1	
5.01 to 6	6		3	1
6.01 to 7	3		1	
7.01 to 8		1	2	
8.01 to 10			2	2
10 to 15	2			
15 and over	1		1	
Total positives	363	961	906	903
Violations of total positives	7	1	7	2
Total samples in violation	302	377	107	77
DIELDRIN				
Total samples analyzed	1,928	1,414	1,033	995
None found	112	23	18	26
0.01 to 0.10	467	334	411	592
0.11 to 0.50	370	414	95	42
0.51 to 1	29	39	5	
1.01 to 1.50	2	4		
1.51 to 2	3	2		
2.01 to 2.50				
2.51 to 3				
3.01 to 3.50	1			
3.51 to 4				
4.01 to 4.50	1			
4.51 to 5				
5.01 to 6				
6.01 to 7				
7.01 to 8				
8.01 to 10				
10.0 to 15				
15.0 and over				
Total positives	873	793	511	634
Violations of total positives	174	193	11	21
Total samples in violation	302	377	107	77

Range (parts per million)	1967	1968	1969	1970
BENZENE HEXACHLORIDE				
Total samples analyzed	1,928	1,414	1,033	995
None found	112	23	18	26
0.01 to 0.10	540	508	435	523
0.11 to 0.50	290	423	188	200
0.51 to 1	50	77	15	4
1.01 to 1.50	15	12	4	1
1.51 to 2	6	2	1	
2.01 to 2.50	4	2	1	
2.51 to 3	1	2		
3.01 to 3.50	1	1		
3.51 to 4	1	1		
4.01 to 4.50				
4.51 to 5	1			
5.01 to 6				
6.01 to 7	2			
7.01 to 8				
8.01 to 10		1		
10.0 to 15				
15.0 and over				
Total positives	911	1,029	644	728
Violations of total positives	173	263	64	68
Total samples in violation	302	377	107	77
HEPTACHLOR EPOXIDE				
Total samples analyzed	1,928	1,414	1,033	995
None found	112	23	18	26
0.01 to 0.10	137	127	121	203
0.11 to 0.50	26	29	28	26
0.51 to 1			1	
1.01 to 1.50				
1.51 to 2				
2.01 to 2.50				1
2.51 to 3				
3.01 to 3.50				
3.51 to 4				
4.01 to 4.50				
4.51 to 5				
5.01 to 6				
6.01 to 7				
7.01 to 8				
8.01 to 10				
10.0 to 15				
15.0 and over	1	1		
Total positives	164	157	150	230
Violations of total positives	5	2	8	2
Total samples in violation	302	377	107	77

Source: U.S. Department of Agriculture.

Mr. DENHOLM. Mr. Chairman, will the gentleman yield?

Mr. MELCHER. I yield to the gentleman.

Mr. DENHOLM. Mr. Chairman, I associate myself with the remarks of the gentleman from Montana and I join in support of the amendment.

I believe that the existing provision of the proposed legislation imposes an obligation on the people of this country that it does not impose on the foreign producers that deliver and trade in our domestic market. Therefore, I join with the gentleman in support of the amendment.

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, speaking of a double standard, I would call the attention of the members of the Committee to the exemption which the bill grants for exports in section 17, page 50, where there appears the following language:

> Notwithstanding any other provision of this Act, no pesticide or device shall be deemed in violation of this Act when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

Mr. Chairman, when the bill does not require pesticides manufactured for export to be registered and to meet the requirements imposed upon pesticides in our own domestic market, then I ask how can we justify barring the importation of farm commodities which may have been treated abroad with the very substance which has been exported from the United States and is not subject to the bill?

Our concern for health and environmental protection should extend beyond our own shores, and the exemption for exports should be stricken.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. RARICK) to the substitute amendment offered by the gentleman from Iowa (Mr. KYL) for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. RARICK) there were—ayes 36, noes 43.

Mr. RARICK. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment to the substitute amendment was rejected.

Mr. POAGE. Mr. Chairman, again I wonder if we cannot agree upon a time limitation. I note that the Members are getting impatient, and we seemed to be voting down most of these amendments, so I wonder if we might agree that all debate and all amendments to the Dow amendment in the nature of a substitute and the Kyl substitute amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN. Is the gentleman from Texas making a unanimous-consent request?

Mr. POAGE. I am, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DOW. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. POAGE

Mr. POAGE. Mr. Chairman, I move that all debate on the Dow amendment in the nature of a substitute, the Kyl substitute amendment, and all amendments thereto close in 20 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas (Mr. POAGE).

The motion was agreed to.

Mr. DOW. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

PARLIAMENTARY INQUIRY

Mr. DOW. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DOW. Mr. Chairman, if there is a rollcall will this come out of the time limitation?

The CHAIRMAN. The Chair will state in response to the inquiry of the gentleman from New York (Mr. Dow) that the motion that was agreed to, that was offered by the gentleman from Texas (Mr. POAGE) was for 20 minutes of debate, and the Chair will advise the gentleman from New York that there will be 20 minutes allotted for debate.

Mr. DOW. I thank the Chairman.

The CHAIRMAN. One hundred twenty-six Members are present, a quorum.

AMENDMENT OFFERED BY MR. KASTENMEIER TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. KASTENMEIER. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

> Amendment offered by Mr. KASTENMEIER to KYL: On page 17, strike out all that comes after "based" on line 12, strike out lines 13 through 15, and strike out all that precedes the semicolon on line 16.

Mr. KASTENMEIER. Mr. Chairman, if my understanding of committee bill section 3, subparagraph (c)(1)(D) is correct, this provision effectively subverts existing patent laws by extending indefinitely through the registration requirements the rights of exclusive production of a pesticide material. I am aware, of course, that the bill does not intrude directly into existing patent law, but its infringement is effectively accomplished by proposed changes in registration procedures.

Let me explain the situation more fully.

Under existing patent law, an inventor is rewarded for ingenuity and effort by being granted exclusive rights over reproduction of the invention. This protection affords financial returns to the inventor beyond those that would ordinarily accrue in a fully competitive market situation. However, that exclusive reproduction protection is granted for a period of only 17 years. The basic value judgment here is that while an inventor should be financially rewarded for his ingenuity, at some point this special benefit must cease and the competitive forces of a free and open market allowed to operate to bring the invention to users at the lowest possible cost. This reflects the constitutional requirement that patents shall be "for limited times."

In this bill, we have language which I believe would give an unlimited right of exclusive protection for patentable pesticides beyond the usual 17-year period. Section 3 of the bill covers the registration of pesticides and section 3(c) provides procedures for registration, and subparagraph 3(c)(1) specifies the statement required of an applicant. Subparagraph 3(c)(1)(D) provides that if requested by the Administrator, a full description of the tests made and the results upon which the claims are based must be included. This seems clear. Now reading further on page 17, line 12 of the bill, it provides further as an exception that "data submitted in support of an application shall not, without permission of the applicant, be considered by the Administrator in support of any other application or registration."

This exception, narrowly interpreted, could mean that the original developer of the patented and registered pesticide could foreclose the use of similar test data even after the patent has expired by any later registration.

However, even with a broader interpretation of the language, allowing a later submission of original and separate scientific data demonstrating the efficacy and safety of a registered pesticide material, there are strong economic forces which will prevent such later submissions for registrations. The scientific data required to support an application for registration of a pesticide material are extremely costly to generate. Without the patent protection enjoyed by the original application, it is unlikely that a secondary applicant for registration of the same material would undertake the costly research effort required. Therefore, even with the more generous interpretation of the language in this provision, the patent holder and registrant of a pesticide can effectively prevent market entry of new producers of that pesticide by simply refusing to give permission to the Administrator to use the scientific data already available in registering subsequent applications. With no time limit, this provision could very effectively operate to make the original registrant of a patentable pesticide material the only registrant. The subversion of the statutory 17-year patent protection limit is obvious.

Existing patent laws offer ample protection and financial reward to the developers of new pesticide materials, and I am strongly opposed to language in the committee bill which offers such developers further protection by establishing registration procedures giving exclusive rights of manufacture beyond the 17-year patent law limit.

The CHAIRMAN. Does any Member care to be heard on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER)?

Mr. KYL. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Iowa (Mr. KYL) is recognized.

Mr. KYL. Mr. Chairman, the gentleman from Wisconsin and others have tried to make something appear which does not appear, in seeking to amend this provision of the act.

This is what the bill says in effect.

The Government has the right to require any information it wants. All information must be given to the Government so the Government can make a decision.

But if manufacturer "A" asks to register a chemical and another manufacturer, manufacturer "B," comes in and wants to register its own chemical then "B" cannot use the information developed by the first applicant.

The Government gets all the information it needs and the public gets all the information it needs. All the committee language does is to prevent one industry from pirating another industry's secrets. That is all it does.

The CHAIRMAN. Does any Member wish to be heard on the Kastenmeier amendment? If not, the question is on the amendment offered by the gentleman from Wisconsin (Mr. KASTENMEIER), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The amendment to the substitute amendment was rejected.

AMENDMENT OFFERED BY MR. DOW TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment to the substitute amendment offered by the gentleman from Iowa (Mr. KYL).

The Clerk read as follows:

> Amendment offered by Mr. Dow to the substitute amendment offered by Mr. KYL: Page 19, strike out lines 12 and 13.

(By unanimous consent, Mr. RYAN yielded his time to Mr. Dow.)

The CHAIRMAN. The gentleman from New York (Mr. Dow) is recognized.

Mr. DOW. Mr. Chairman, the essentiality of a pesticide is, of course, highly important to establish in this day when every economic poison is suspect. Yet section 3(c)(5), page 19, lines 12 and 13 of the committee's bill, says that the "Administrator shall not make any lack of essentiality a criterion for denying registration of any pesticide."

In order to evaluate the impact of this provision, some definition of "essentiality" is a prerequisite. The word itself is part of an administrative procedure used in several agencies and departments, including the EPA, the Departments of Interior, Agriculture, and Health, Education, and Welfare. The policy is used when dealing with certain chemicals that have systematically proven to be persistent in the environment. To date, these chemicals have included benzene, hexachloride, chlordane, lindane, strobane-T, toxaphene, and compounds containing lead and arsenic. The policy prescribes that proposals from manuafcturers for uses of these persistent pesticide chemicals include arguments to show the need for the chemicals in use. This need becomes a part of the benefit-cost analysis in whether to permit certain uses of the persistent chemicals.

For an example of its use, authorization for the use of DDT by agencies of the U.N. in the control of malaria would take into consideration arguments relating to the persistence of the chemical as well as consideration of the arguments that DDT is the singularly most effective chemical for fighting malaria on a large scale. This latter argument amounts to an "essentiality" argument.

The problem of duplicate chemicals enter here, and my amendment is not intended to limit them. However, if a poison is proposed for a need already met by an earlier and less harmless chemical, then the lack of essentiality of the new chemical certainly suggests that it should not be approved.

My amendment would eliminate the

XUM

waiver of essentiality from the bill. The substitute is a response to an established need. To specifically eliminate need is an arbitrary effort in favor of chemical manufacturers. It ties the hands of agency administrators who have established a workable and important doctrine.

The CHAIRMAN. Does any Member desire to be heard on the amendment?

Mr. McCLURE. Mr. Chairman, I wish recognition.

The CHAIRMAN. The Chair recognizes the gentleman from Idaho.

Mr. McCLURE. Mr. Chairman, I yield to the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, in the first place, the Environmental Protection Agency already has what it calls an essential use doctrine in connection with restricted use pesticides. It in effect does what the gentleman wants to be done, but in a logical fashion. Therefore, this amendment is unnecessary. Furthermore, if we apply this doctrine economywide, the Federal Government would say, "We have a Ford automobile; therefore we do not need a Chevrolet, a Plymouth, a Dodge, or a Chrysler." We could say that in relation to any field in which there is more than one product in competition. We already have what the gentleman desires. To carry it further would make it ludicrous.

Mr. Chairman, the amendment should not be adopted.

The CHAIRMAN. Does any other Member wish to be heard on the amendment? If not, question is on the amendment offered by the gentleman from New York (Mr. Dow), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. DOW. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. DOW. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Dow, KYL, POAGE, and TEAGUE of California.

The Committee divided, and the tellers reported that there were—ayes 152, noes 221, not voting 58, as follows:

[Roll No. 369]

[Recorded Teller Vote]

AYES—152

Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Begich
Bennett
Biaggi
Biester
Bingham
Boland
Bolling
Brademas
Brasco
Brown, Ohio
Buchanan
Burke, Mass.
Burton
Byrne, Pa.
Carey, N.Y.
Carney
Celler
Chisholm
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Culver
Daniels, N.J.
Danielson
Delaney
Dellums
Dingell
Donohue
Dow
Drinan
Dulski
du Pont
Eckhardt
Edwards, Calif.
Eilberg
Fascell
Fish
Flood
Foley
Ford, William D.
Fraser
Frey
Fulton, Tenn.
Gallagher
Gaydos
Giaimo
Gibbons
Goldwater
Gonzalez
Grasso
Green, Pa.
Griffiths
Gude
Hamilton
Hanna
Hansen, Wash.
Harrington
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Howard
Jacobs
Karth
Kastenmeier
Kemp
Kluczynski
Koch
Kyros
Lent
Long, Md.
McCormack
McDade
McKay
Macdonald, Mass.
Madden
Mazzoli
Meeds
Mikva
Miller, Calif.
Minish
Mink
Mitchell
Monagan
Moorhead
Morse
Mosher
Moss
Murphy, Ill.
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Patten
Pike
Podell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Rangel
Rees
Reid, N.Y.
Reuss
Riegle
Rodino
Roe
Roncalio
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Ryan
St Germain
Sarbanes
Saylor
Scheuer
Selberling
Snyder
Stanton, James V.
Steele
Stokes
Sullivan
Symington
Thompson, N.J.
Tiernan
Udall
Van Deerlin
Vanik
Waldie
Whalen
Wolff
Yates

NOES—221

Abbitt
Abernethy
Albert
Anderson, Ill.
Anderson, Tenn.
Andrews, Ala.
Andrews, N. Dak.
Archer
Ashbrook
Aspinall
Baker
Baring
Belcher
Bell
Bergland
Betts
Blanton
Blatnik
Boggs
Bow
Bray
Brinkley
Brooks
Broomfield
Brotzman
Broyhill, N.C.
Broyhill, Va.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Byron
Cabell
Caffery
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Clark
Clausen, Don H.
Cleveland
Colmer
Conable
Daniel, Va.
Davis, Ga.
Davis, S.C.
de la Garza
Dellenback
Denholm
Dennis
Dent
Dorn
Downing
Duncan
Edmondson
Edwards, Ala.
Erlenborn
Esch
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frelinghuysen
Frenzel
Fuqua
Gallifianakis
Gettys
Goodling
Gray
Green, Oreg.
Griffin
Gross
Grover
Hagan
Haley
Hall
Hammer-schmidt
Hanley
Hansen, Idaho
Harsha
Harvey
Henderson
Hillis
Hogan
Holifield
Hosmer
Hull
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Kazen
Keating
Keith
King
Kyl
Landrum
Latta
Leggett
Lennon
Link
Lujan
McClure
McCollister
McCulloch
McDonald, Mich.
McEwen
McKevitt
McMillan
Mahon
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Matsunaga
Mayne
Meicher
Miller, Ohio
Mills, Md.
Mizell
Mollohan
Montgomery
Morgan
Murphy, N.Y.
Myers
Natcher
Nelsen
Nichols
Passman
Pepper
Perkins
Pettis
Peyser
Pickle
Pirnie
Poage
Poff
Powell
Price, Tex.
Quie
Quillen
Randall
Rarick
Rhodes
Roberts
Robison, Va.
Robison, N.Y.
Rogers
Rooney, N.Y.
Rousselot
Roy
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shipley
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Steed
Steiger, Ariz.
Steiger, Wis.
Stephens
Stratton
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Ullman
Vander Jagt
Veysey
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Yatron
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—58

Alexander
Arends
Barrett
Bevill
Blackburn
Brown, Mich.
Burke, Fla.
Chappell
Clancy
Clawson, Del
Clay
Collier
Collins, Tex.
Conyers
Crane
Davis, Wis.
Derwinski
Devine
Dickinson
Diggs
Dowdy
Dwyer
Edwards, La.
Garmatz
Gubser
Halpern
Hastings
Hébert
Heckler, Mass.
Horton
Jones, Ala.
Kee
Kuykendall
Landgrebe
Lloyd
Long, La.
McClory
McCloskey
McFall
McKinney
Mailliard
Metcalfe
Michel
Mills, Ark.
Minshall
Patman
Pelly
Purcell
Railsback
Schwengel
Smith, Calif.
Springer
Stanton, J. William
Teague, Tex.
Vigorito
Whitten
Wilson, Bob
Wilson, Charles H.

So the amendment to the substitute amendment was rejected.

Mr. NIX. Mr. Chairman, on this vote I voted "no." I wish to be recorded as having voted "aye."

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

AMENDMENT OFFERED BY MR. DOW TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment to the substitute amendment offered by Mr. KYL.

The Clerk read as follows:

Amendment offered by Mr. Dow to the substitute amendment offered by Mr. KYL:

On page 49, line 7, strike out "following a public hearing, any party at interest" and insert in lieu thereof ", any person adversely affected", and on page 28, strike out lines 11 through 19.

(By unanimous consent, Mr. BINGHAM yielded his time to Mr. Dow).

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Dow).

Mr. DOW. Mr. Chairman, this amendment as it applies to page 49 goes to the question of those who may take the Administrator of the Environmental Protection Agency to court.

In the committee the original bill granted that right to any person adversely affected could take the Administrator to court. But in the committee they changed these words to read, "Following a public hearing any party at interest."

Mr. Chairman, "any party at interest" is a very definite restriction. It means that only the manufacturer can take the Administrator to court.

My amendment would revert to the original language reading that "any person adversely affected." That might be a State, if you please, it might be a State that wanted to do it. It would also include all those organizations which are concerned with the condition of our environment and the public good.

Certainly, Mr. Chairman, we ought to revert to that wording.

The CHAIRMAN. Are there any other Members on the list who wish to speak to this amendment?

Mr. CARNEY. Mr. Chairman, I wish to address the Committee on this amendment.

The CHAIRMAN. The gentleman's name is not on the list.

Are there any Members on the list who wish to be heard on this amendment?

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

(By unanimous consent Mr. GOODLING yielded his time to Mr. KYL.)

Mr. KYL. Mr. Chairman, the amendment which is offered here really changes nothing because in the final analysis the Court will decide the question of the designation of "party at interest" as compared to the designation "person adversely affected." Our language does not narrow the scope of judicial review nor does it limit review to registrants, applicants for registration, on the Environmental Protection Agency. This question has been definitely decided by Court decisions establishing a broad concept of standing as in the cases of *Association of Data Processing Service Organizations* v. *Camp*, 397 U.S. 150 (1970) and *Barlow* v. *Collins* 397 U.S. 159 (1970), and National Automatic Laundry and Cleaning Council against Shultz.

Mr. Chairman, the amendment should not be adopted because all it does is confuse the issue.

The CHAIRMAN. Are there any other Members whose names are on the list who wish to be heard on this amendment?

If not, the question is on the amendment offered by the gentleman from New York (Mr. Dow) to the substitute amendment offered by the gentleman from Iowa (Mr. KYL) for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. Dow) there were—ayes 64, noes 125.

TELLER VOTE WITH CLERKS

Mr. DOW. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. DOW. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. Dow, KYL, POAGE, and TEAGUE of California.

The Committee divided, and the tellers reported that there were—ayes 167, noes 209, not voting 55, as follows:

[Roll No. 370]

[Recorded Teller Vote]

AYES—167

Abourezk
Abzug
Adams
Addabbo
Anderson, Calif.
Annunzio
Ashley
Aspin
Badillo
Begich
Bennett
Biester
Bingham
Blatnik
Boland
Bolling
Brademas
Brasco
Broomfield
Brown, Mich.
Buchanan
Burke, Mass.
Burton
Byrne, Pa.
Byron
Carey, N.Y.
Carney
Celler
Chisholm
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Culver
Daniels, N.J.
Danielson
Dellenback
Dellums
Dent
Dingell
Donohue
Dow
Drinan
Dulski
Dwyer
Eckhardt
Edwards, Calif.
Eilberg
Erlenborn
Esch
Fascell
Fish
Flood
Foley
Ford, William D.
Fraser
Frelinghuysen
Frenzel
Gallifianakis
Gallagher
Gaydos
Giaimo
Gonzalez
Grasso
Green, Pa.
Griffiths
Gude
Hamilton
Hanley
Hanna
Hansen, Wash.
Harrington
Harvey
Hathaway
Hawkins
Hays
Hechler, W. Va.
Heinz
Helstoski
Hicks, Mass.
Hicks, Wash.
Howard
Jacobs
Karth
Kastenmeier
Kazen
Kee
Keith
Kemp
King
Kluczynski
Koch
Kyros
Kyl
Lent
Link
Long, Md.
Lujan
McCormack
McDade
Macdonald, Mass.
Madden
Matsunaga
Meeds
Mikva
Minish
Mink
Mitchell
Moorhead
Morse
Mosher
Moss
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nix
Obey
O'Hara
O'Konski
O'Neill
Patten
Perkins
Pickle
Pike
Podell
Preyer, N.C.
Price, Ill.
Pryor, Ark.
Pucinski
Quie
Rangel
Rees
Reid, N.Y.
Reuss
Riegle
Robison, N.Y.
Rodino
Roe
Roncallo
Rooney, Pa.
Rosenthal
Rostenkowski
Roush
Roybal
Ryan
St Germain
Sarbanes
Saylor
Scheuer
Seiberling
Shipley
Snyder
Stanton, James V.
Steele
Steiger, Wis.
Stokes
Stratton
Sullivan
Symington
Thompson, N.J.
Tiernan
Udall
Van Deerlin
Vander Jagt
Vanik
Waldie
Whalen
Wolff
Yates
Yatron

NOES—209

Abbitt
Abernethy
Albert
Anderson, Ill.
Andrews, Ala.
Andrews, N. Dak.
Archer
Ashbrook
Aspinall
Baring
Belcher
Bell
Bergland
Betts
Biaggi
Blanton
Boggs
Bow
Bray
Brinkley
Brooks
Brotzman
Brown, Ohio
Broyhill, Va.
Burleson, Tex.
Burlison, Mo.
Byrnes, Wis.
Cabell
Caffery
Camp
Carter
Casey, Tex.
Cederberg
Chamberlain
Chappell
Clark
Clausen, Don H.
Cleveland
Conable
Daniel, Va.
Davis, Ga.
Davis, S.C.
Davis, Wis.
de la Garza
Denholm
Dennis
Devine
Dickinson
Dorn
Downing
Duncan
Edmondson
Edwards, Ala.
Eshleman
Evans, Colo.
Evins, Tenn.
Findley
Fisher
Flowers
Flynt
Ford, Gerald R.
Forsythe
Fountain
Frey
Fulton, Tenn.
Fuqua
Garmatz
Gettys
Gibbons
Goldwater
Goodling
Gray
Green, Oreg.
Griffin
Gross
Grover
Hagan
Haley
Hall
Hammer-schmidt
Hansen, Idaho
Harsha
Henderson
Hillis
Hogan
Holifield
Hosmer
Hull
Hungate
Hunt
Hutchinson
Ichord
Jarman
Johnson, Calif.
Johnson, Pa.
Jonas
Jones, N.C.
Jones, Tenn.
Kemp
King
Kyl
Landrum
Latta
Leggett
Lennon
McClure
McCollister
McCulloch
McDonald, Mich.
McEwen
McKay
McKevitt
McMillan
Mahon
Mailliard
Mann
Martin
Mathias, Calif.
Mathis, Ga.
Mayne
Mazzoli
Meicher
Miller, Ohio
Mills, Md.
Mizell
Mollohan
Monagan
Montgomery
Morgan
Myers
Natcher
Nelsen
Nichols
Passman
Pepper
Pettis
Peyser
Pirnie
Poage
Poff
Powell
Price, Tex.
Quillen
Randall
Rarick
Rhodes
Roberts
Robinson, Va.
Rogers
Rooney, N.Y.
Rousselot
Roy
Runnels
Ruppe
Ruth
Sandman
Satterfield
Scherle
Schmitz
Schneebeli
Scott
Sebelius
Shoup
Shriver
Sikes
Sisk
Skubitz
Slack
Smith, Calif.
Smith, Iowa
Smith, N.Y.
Spence
Staggers
Steed
Steiger, Ariz.
Stephens
Stubblefield
Stuckey
Talcott
Taylor
Teague, Calif.
Terry
Thompson, Ga.
Thomson, Wis.
Thone
Ullman
Veysey
Waggonner
Wampler
Ware
Whalley
White
Whitehurst
Widnall
Wiggins
Williams
Winn
Wright
Wyatt
Wydler
Wylie
Wyman
Young, Fla.
Young, Tex.
Zablocki
Zion
Zwach

NOT VOTING—55

Alexander
Anderson, Tenn.
Arends
Baker
Barrett
Bevill
Blackburn
Broyhill, N.C.
Burke, Fla.
Clancy
Clawson, Del
Clay
Collier
Collins, Tex.
Colmer
Conyers
Crane
Delaney
Derwinski
Diggs
Dowdy
Edwards, La.
Gubser
Halpern
Hastings
Hébert
Heckler, Mass.
Horton
Jones, Ala.
Kuykendall
Landgrebe
Lloyd
Long, La.
McClory
McCloskey
McClure
McFall
McKinney
Metcalfe
Michel
Miller, Calif.
Mills, Ark.
Minshall
Patman
Pelly
Purcell
Railsback
Schwengel
Springer
Stanton, J. William
Teague, Tex.
Vigorito
Whitten
Wilson, Bob
Wilson, Charles H.

So the amendment to the substitute amendment was rejected.

Mr. McMILLAN. Mr. Chairman, I ask unanimous consent that I may change my vote from "yea" to "nay."

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AMENDMENT OFFERED BY MR. DOW TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. Dow to the substitute amendment offered by Mr. KYL: Page 28, line 24, strike out "and scientific review", and page 29, line 10, strike out "Upon", strike out lines 11 through 23, and strike out all that precedes the period on line 24.

Mr. DOW. Mr. Chairman, this amendment would strike out the privilege given in the committee bill to any manufacturer, party to a hearing, on suspension of his product to request referral of the issue to a scientific committee.

This is an example of the manner in which a party to an EPA hearing can complicate and divert the proceedings.

At a point in the testimony before the House Committee on Agriculture, the EPA addressed itself to this point, and to the point that a committee of the National Academy of Sciences—NAS—shall conduct this scientific review. Said EPA:

We strongly believe that such mandatory committee should not be included in the regulatory process on pesticides which the Administrator has the responsibility to administer. We believe our testimony and other statements submitted to the Committee provide strong support for not having a mandatory advisory committee.

The NAS has stated that statutory functions required of it as in FIFRA might tend to erode its independent advisory relation-

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ship to Federal Agencies as granted to it in the original Federal charter to the Academy. The NAS has further stated that it believes that participation by the NAS in the regulatory process of controlling the use of pesticides is an inappropriate assignment of a governmental role to a private organization. At the same time, the NAS strongly indicates its willingness to provide scientific assistance and advice to the Administrator of EPA and to assist informally in the provision of appropriate agency advisory committees.

As we have indicated, we strongly oppose any type of mandatory advisory committee in the pesticides regulatory process.

I might add that there is nothing in the legislation to prevent EPA from asking for such scientific aid as it may desire, from any quarter.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. TEAGUE).

Mr. TEAGUE of California. Mr. Chairman, I rise in opposition to the amendment. I cannot understand the purpose of this amendment which is designed to knock out the provision which was inserted at the insistence of the EPA. What it provides is that a committee of the National Academy of Sciences shall report in writing regarding the matter at issue. It does not preclude the use of any other scientific persons within the United States. It is designed to bring about a more fair and scientific judgment on the application pending.

Mr. KYL. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of California. I yield to the gentleman from Iowa.

Mr. KYL. Mr. Chairman, I emphasize this is the language the Environmental Protection Agency wanted in the bill, and the committee came back into special session to include it at the insistence of EPA.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Dow), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The amendment to the substitute amendment was rejected.

AMENDMENT OFFERED BY MR. ECKHARDT TO THE SUBSTITUTE AMENDMENT OFFERED BY MR. KYL FOR THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DOW

Mr. ECKHARDT. Mr. Chairman, I offer an amendment to the substitute amendment offered by Mr. KYL.

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT to the substitute amendment offered by Mr. KYL: Page 47, line 21, immediately after "person" insert unless the producer shows that the adverse environmental effects which caused the suspension of the registration were not known and could not with reasonable research or investigation have been known to the producer. If such facts were known, or should have been known to the producer, the United States shall be subrogated to the rights of any purchaser to whom a payment has been made against the producer.

Mr. ECKHARDT. Mr. Chairman, I would like to have the Members listen to what I have to say. Under the bill as presently drawn, there is an absolute guarantee to the producer of the pesticide that he will not lose money once the United States registers that pesticide. All this amendment says is that the producer cannot recover from the United States for the value of that pesticide in his own hands if he knew or with reasonable research could be expected to have known that the pesticide and a detrimental environmental effect such as to cause it to be withdrawn. It does not deny to the farmer complete recovery where the United States prevents his using pesticides in his hands, and it does not deny to the producer the right to recover from the U.S. Government the value of the pesticide if the producer is innocent, that is, if the producer did not know the environmental effects and could not with reasonable diligence have found out.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. SEIBERLING yielded his time to Mr. ECKHARDT.)

Mr. ECKHARDT. Mr. Chairman, I submit if we do not pass this amendment we are guaranteeing to the producer an absolute governmental guarantee of no loss of funds. It is as if, for instance, the manufacturer of castor oil for infants advertises that it will stop constipation and makes a medicine that induces fatal infant diarrhea, and the medicine in his hands is then paid for by the United States because it is banned for its bad side effects.

We do not guarantee such reparation to anybody else, and I submit we should not guarantee it with regard to environmentally harmful pesticides.

Mr. ABERNETHY. Mr. Chairman, I will take 30 seconds of my time.

This is a rehash of the Evans of Colorado amendment we voted on a few minutes ago. These chemicals are not manufactured except under supervision of the Federal Government and only after the Federal Government has issued an authorization so to do. The amendment ought to be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT), to the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. ECKHARDT) there were—ayes 82, noes 130.

TELLER VOTE WITH CLERKS

Mr. ECKHARDT. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ECKHARDT. Mr. Chairman, I demand tellers with clerks.

Tellers with clerk were ordered and the Chairman appointed as tellers Messers. ECKHARDT, KYL, TEAGUE of California, and SEIBERLING.

The Committee divided, and the tellers reported that there were—ayes 168, noes 203, not voting 60, as follows:

[Roll No. 371]

[Recorded Teller Vote]

AYES—168

Abourezk	Frenzel	Obey
Abzug	Fulton, Tenn.	O'Hara
Adams	Gallifianakis	O'Konski
Anderson, Calif.	Gallagher	O'Neill
Annunzio	Gaydos	Patten
Ashley	Giaimo	Pickle
Aspin	Gibbons	Pike
Badillo	Gonzalez	Podell
Begich	Grasso	Preyer, N.C.
Bennett	Green, Pa.	Price, Ill.
Biester	Griffiths	Pryor, Ark.
Bingham	Gude	Pucinski
Blanton	Hamilton	Rangel
Boland	Hanna	Rees
Bolling	Harrington	Reid, N.Y.
Brademas	Haraha	Reuss
Brasco	Hathaway	Riegle
Buchanan	Hawkins	Robison, N.Y.
Burke, Mass.	Hays	Rodino
Burton	Hechler, W. Va.	Rogers
Byrne, Pa.	Heinz	Roncalio
Carney	Helstoski	Rosenthal
Celler	Hicks, Mass.	Rostenkowski
Chisholm	Howard	Rouah
Clark	Jacobs	Roybal
Clausen, Don H.	Karth	Runnels
Cleveland	Kastenmeier	Ruppe
Collins, Ill.	Kasen	Ryan
Conte	Keating	St Germain
Corman	Kluczynski	Sarbanes
Cotter	Koch	Saylor
Coughlin	Kyros	Scheuer
Culver	Lent	Seiberling
Daniels, N.J.	Long, Md.	Shriver
Danielson	Lujan	Snyder
Dellenback	McCormack	Stanton, James V.
Dellums	McEwen	Steele
Denholm	Madden	Stokes
Dent	Mailliard	Symington
Dingell	Matsunaga	Thompson, N.J.
Donohue	Mazzoli	Tiernan
Dow	Meeds	Udall
Drinan	Metcalfe	Van Deerlin
Dulski	Mikva	Vander Jagt
du Pont	Miller, Calif.	Vanik
Dwyer	Minish	Waldie
Eckhardt	Minshall	Whalen
Edwards, Calif.	Mollohan	White
Eilberg	Monagan	Wilson, Charles H.
Evans, Colo.	Moorhead	Wolff
Fascell	Morgan	Wright
Fish	Morse	Wydler
Foley	Moss	Yates
Ford, William D.	Murphy, Ill.	Yatron
Fraser	Murphy, N.Y.	Young, Fla.
	Nedzi	
	Nix	

NOES—203

Abbitt	Chappell	Griffin
Abernethy	Colmer	Gross
Addabbo	Daniel, Va.	Grover
Anderson, Ill.	Davis, Ga.	Hagan
Andrews, Ala.	Davis, S.C.	Haley
Andrews, N. Dak.	Davis, Wis.	Hall
Archer	de la Garza	Hammer-schmidt
Ashbrook	Delaney	Hanley
Aspinall	Dennis	Hansen, Idaho
Belcher	Devine	Harvey
Bell	Dickinson	Hastings
Bergland	Dorn	Henderson
Betts	Downing	Hicks, Wash.
Biaggi	Duncan	Hillis
Boggs	Edmondson	Hogan
Bow	Edwards, Ala.	Holifield
Bray	Erlenborn	Hosmer
Brinkley	Esch	Hull
Broomfield	Eshleman	Hungate
Brotzman	Evins, Tenn.	Hunt
Brown, Mich.	Findley	Hutchinson
Brown, Ohio	Fisher	Ichord
Broyhill, Va.	Flood	Jarman
Burleson, Tex.	Flowers	Johnson, Calif.
Burlison, Mo.	Flynt	Johnson, Pa.
Byrnes, Wis.	Forsythe	Jonas
Byron	Fountain	Jones, N.C.
Cabell	Frelinghuysen	Jones, Tenn.
Caffery	Frey	Kee
Camp	Fuqua	Keith
Carey, N.Y.	Garmatz	King
Carter	Gettys	Kyl
Casey, Tex.	Goldwater	Landrum
Cederberg	Goodling	Latta
Chamberlain	Gray	Leggett
	Green, Oreg.	

Lennon	Poff	Steed
McClure	Powell	Steiger, Ariz.
McCollister	Price, Tex.	Steiger, Wis.
McCulloch	Quie	Stephens
McDade	Quillen	Stratton
McDonald, Mich.	Randall	Stubblefield
McKay	Rarick	Sullivan
McKevitt	Rhodes	Talcott
McMillan	Roberts	Taylor
Mahon	Robinson, Va.	Teague, Calif.
Mann	Roe	Terry
Martin	Rooney, N.Y.	Thompson, Ga.
Mathias, Calif.	Rousselot	Thomson, Wis.
Mathis, Ga.	Roy	Thone
Mayne	Ruth	Ullman
Meicher	Sandman	Veysey
Miller, Ohio	Satterfield	Waggonner
Mills, Md.	Scherle	Wampler
Mizell	Schmitz	Ware
Montgomery	Schneebeli	Whalley
Mosher	Scott	Whitehurst
Myers	Sebelius	Widnall
Natcher	Shipley	Wiggins
Nelsen	Shoup	Williams
Nichols	Sikes	Winn
Passman	Sisk	Wyatt
Pepper	Skubitz	Wylie
Perkins	Slack	Wyman
Pettis	Smith, Calif.	Young, Tex.
Peyser	Smith, Iowa	Zablocki
Pirnie	Smith, N.Y.	Zion
Poage	Spence	Zwach
	Staggers	

NOT VOTING—60

Alexander	Derwinski	McKinney
Anderson, Tenn.	Diggs	Macdonald, Mass.
Arends	Dowdy	Michel
Baker	Edwards, La.	Mills, Ark.
Baring	Ford, Gerald R.	Mitchell
Barrett	Gubser	Patman
Bevill	Halpern	Pelly
Blackburn	Hansen, Wash.	Purcell
Blatnik	Hébert	Railsback
Brooks	Heckler, Mass.	Rooney, Pa.
Broyhill, N.C.	Horton	Schwengel
Burke, Fla.	Jones, Ala.	Springer
Clancy	Kemp	Stanton, J. William
Clawson, Del	Kuykendall	Stuckey
Clay	Landgrebe	Teague, Tex.
Collier	Link	Vigorito
Collins, Tex.	Lloyd	Whitten
Conable	Long, La.	Wilson, Bob
Conyers	McClory	
Crane	McCloskey	
	McFall	

So the amendment to the substitute amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. SCHMITZ).

(By unanimous consent, Mr. SCHMITZ yielded his time to Mr. KYL.)

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, I thank the gentleman from California for yielding me his time, and I take this time to acquaint the House with the vote which will occur on my amendment.

We have now disposed of the other items which were included in the original amendment, and therefore what remains is the substance of my amendment, and that is the amendment on which most Members were most concerned.

Under the bill, pesticides are classified as general- or restricted-use pesticides. In the case of general-use pesticides in the bill, we had preempted the States from acting beyond the Federal law.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from North Dakota (Mr. ANDREWS).

(By unanimous consent, Mr. ANDREWS of North Dakota yielded his time to Mr. KYL.)

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. KYL).

Mr. KYL. Mr. Chairman, I thank the gentleman for yielding me his time.

My amendment does give to the States the right to impose more strict regulations than are included in the Federal law. I know that this is in accordance with the wishes of most of the Members of the House.

Again I thank the gentlemen for yielding me their time.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. POAGE).

Mr. POAGE. Mr. Chairman, I just want to take this time to make it perfectly clear that the really effective vote is the vote that we are about to take on the Kyl substitute to the Dow amendment. If the Kyl substitute is adopted, as I hope it will be, that will in effect be the passage of the bill. I do not believe there is anything else controversial about it. So I am going to urge the Members of the House to support the Kyl substitute.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Iowa (Mr. KYL), for the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. Dow) there were—ayes 167, noes 56.

So the substitute amendment was agreed to.

The CHAIRMAN. The question recurs on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. Dow), as amended.

The question was taken; and on a division (demanded by Mr. Dow) there were—ayes 189, noes 41.

So the amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AMENDMENTS TO OTHER ACTS

SEC. 3. The following Acts are amended by striking out the terms "economic poisons" and "an economic poison" wherever they appear and inserting in lieu thereof "pesticides" and "a pesticide" respectively:

(1) The Federal Hazardous Substances Act, as amended (15 U.S.C. 1261 et seq.);

(2) The Poison Prevention Packaging Act, as amended (15 U.S.C. 1471 et seq.); and

(3) The Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301 et seq.).

EFFECTIVE DATES OF PROVISIONS OF ACT

SEC. 4. (a) Except as otherwise provided in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, and as otherwise provided by this section, the amendments made by this Act shall take effect at the close of the date of the enactment of this Act, provided if regulations are necessary for the implementation of any provision that becomes effective on the date of enactment, such regulations shall be promulgated and shall become effective within 90 days from the date of enactment of this Act.

(b) The provisions of the Federal Insecticide, Fungicide, and Rodenticide Act and the regulations thereunder as such existed prior to the enactment of this Act shall remain in effect until superceded by the amendments made by this Act and regulations thereunder: *Provided*, That all provisions made by these amendments and all regulations thereunder shall be effective within four years after the enactment of this Act.

(c) (1) Two years after the enactment of this Act the Administrator shall have promulgated regulations providing for the registration and classification of pesticides under the provisions of this Act and thereafter shall register all new applications under such provisions.

(2) After two years but within four years after the enactment of this Act the Administrator shall register and reclassify pesticides registered under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act prior to the effective date of the regulations promulgated under subsection (c) (1).

(3) Any requirements that a pesticide be registered for use only by a certified pesticide applicator shall not be effective until four years from the date of enactment of this Act.

(4) A period of four years from date of enactment shall be provided for certification of pesticide applicators.

(A) One year after the enactment of this Act the Administrator shall have prescribed the standards for the certification of pesticide applicators.

(B) Within three years after the enactment of this Act each State desiring to certify pesticide applicators shall submit a State plan to the Administrator for the purpose provided by section 4(b).

(C) As promptly as possible but in no event more than one year after submission of a State plan, the Administrator shall approve the State plan or disapprove it and indicate the reasons for disapproval. Consideration of plans resubmitted by States shall be expedited.

(5) One year after the enactment of this Act the Administrator shall have promulgated and shall make effective regulations relating to the registration of establishments, permits for experimental use, and the keeping of books and records under the provisions of this Act.

(d) No person shall be subject to any criminal or civil penalty imposed by the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by this Act, for any act (or failure to act) occurring before the expiration of 60 days after final regulations (relating to such penalty) under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, are published in the Federal Register.

(e) For purposes of determining any criminal or civil penalty or liability to any third person in respect of any act or omission occurring before the expiration of the periods referred to in this section, the Federal Insecticide, Fungicide, and Rodenticide Act shall be treated as continuing in effect as if this Act had not been enacted.

Mr. SEBELIUS. Mr. Chairman, I appreciate this opportunity to discuss H.R. 10729, the Environmental Pesticide Control Act of 1971.

At the outset, I would like to emphasize that this legislation is the compromise product of environmentalists, farm groups, State and Federal officials, the chemical industry, and the public. It is a sincere effort by the Committee on Agriculture to approach this issue on the basis of reason and sound judgment, rather than emotion and sensationalism. The committee has the responsibility to protect the interests of the farmers, the consumer, and the environment.

In hearings before our committee, some witnesses proposed a virtual ban on all agricultural chemicals. However, without pesticides to control disease-spreading insects and other defoliating pests, food supplies could be substantially reduced, both in quantity and quality, and food costs could soar as much as 300 percent.

Without pesticides, our annual harvest of grains such as corn and rise, and fruits and vegetables would be reduced an estimated 20 to 30 percent. Commercial fertilizers add an estimated 20 percent to crop production.

I would like to briefly mention two points. First, I want to emphasize the committee's intent in section 11:

> No regulations prescribed by the Administrator for carrying out the provisions of this Act shall require any private pesticide applicator to maintain any records or file any reports or other documents.

Too many times a well-intentioned Congress has passed restrictive and regulatory legislation which has resulted in unrealistic and burdensome demands on the individual citizen.

Worse, regulations without regard to local situations and subject to enforcement and penalty have created situations where the effect of a well-intentioned law created more problems than the problem it was enacted to solve. Put in another way, realistic pesticide control will not come about by placing unnecessary recordkeeping requirements and restrictions on the farmer or individual citizen.

Second, I want to express the resolve of the committee in the establishment of standards for licensing or certifying private applicators. Prior experience and expertise must be given every consideration and requirements for the licensing or certification of new applicants must be reduced to an absolute minimum. In this environmental effort, let us recognize the farmer has been a pioneer in soil stewardship and we should utilize his practical experience and common sense, rather than create unrealistic and unnecessary restrictions.

I feel that H.R. 10729 with these qualifications is a reasonable approach for controlling the harmful effects of essential pesticides without destroying the benefits. I am hopeful that the administration of this legislation will allow us to protect our environment while balancing the necessary and lawful use of pesticides to satisfy farmer and consumer interests.

Mr. McKINNEY. Mr. Chairman, with the publication of Rachel Carson's book, "Silent Spring" and the subsequent scientific verification of the dangers of indiscriminate pesticide use, it would have seemed incumbent upon Congress to develop an effective Pesticide Control Act. H.R. 10729, in my judgment, fails to meet the criteria which such a program demands. My opposition to this bill rests in four areas.

First, by preempting individual States from enacting tougher regulations on "general use" pesticides, this bill negates the excellent initiatives displayed by States like New York. Section 24 of H.R. 10729, by posting overall Federal standards, fails to recognize that particular needs created by local conditions such as climate, pest population, and population density are best handled by State and local agencies.

Second, the committee bill by classifying pesticides in two categories, "general use" and "restricted use" eliminates a third category proposed by the Nixon administration, "use by permit only," which would have established more effective control over the use of especially dangerous pesticides.

Third, a major change effected by H.R. 10729 is the shifting of the burden of proof. Under current Federal Insecticide, Fungicide, and Rodenticide Act regulations, the manufacturer has the duty to prove that his product meets EPA standards. If H.R. 10729 becomes law, just the reverse will occur. The EPA will have the burden of finding out if the product is environmentally unsound. Such a shift in my judgment is inconsistent with reasonable Federal regulatory practices and is wholly unacceptable.

Fourth, under H.R. 10729 the Administrator of the Environmental Protection Agency is required to indemnify registrants whose registrations are suspended or canceled because of action taken to prevent imminent hasards. The amount of payment is not limited in time and is based on the cost of the pesticide before it was removed from the market. While I recognise that a manufacturer in good faith can produce and market a product which might later prove harmful, I fail to understand how the Agriculture Committee wrote an open-ended indemnity clause into H.R. 10729. A much sounder approach would have placed a time limitation on any indemnities.

The Dow amendment to H.R. 10729 displays a far more suitable approach to pesticide control and has my support.

Mr. RARICK. Mr. Chairman, I did not vote to favorably report the pesticide control bill when it left the committee. Nothing transpiring since has changed my views that the provisions of H.R. 10729 delegates such overwhelming powers to the office of the Administrator of the Environmental Protection Agency that if arbitrarily applied they would constitute a threat to the food producing ability of the American people. Perhaps typical of the power and control herein being given to the Environmental Protection Agency was a problem discussed by the mainland sugarcane producers today at lunch. They feel that this same Environmental Protection Agency may ban all open field burning, including cane burning under the Federal Clean Air Act. Such a ruling would so greatly handicap the farmer in harvesting his cane by increased labor costs that the U.S. cane farmer would be put out of business. The result would be the creation of a monopoly in the hands of foreign sugar producers. I do not disagree with the announced purpose of this legislation, "to protect the public health and welfare and the environment through the improved regulation of pesticides."

My opposition rather goes to the unnecessary creation of another Federal bureaucracy and increased centralization of governmental control over the food and fiber needed to feed and clothe the American people. No one can explain the full thrust of the powers herein granted and no one should doubt that EPA would be given the potential for absolute control of food production in the United States. Control of food by a powerful centralized government has long been considered a threat to the people because he who has the power to control the food can most effectively control the people. Nowhere in the purpose of this bill is the farmer or the food requirements of the American people protected or given any consideration. The entire purpose of the bill is for control of the farmers and protection of ecologists.

Today's farmer already faces tremendous odds—not in supplying our people with an abundance of food stuffs; he has done a superb job in this field—but rather in staying in business, making a profit while using the most advanced machinery and agricultural chemicals that science can devise. The farmer's principal battle centers around the labor shortage—not that labor does not exist, but that people will not work at farmer's wages or they feel that farm labor is beneath their status. In the absence of farm labor our food production has been maintained through the use of increased mechanization and agricultural chemicals, pesticides, herbicides, and defoliates. Only in this way has American agriculture been able to keep the supermarket shelves stocked and our food storehouses full. We are one of the few countries in the world able to feed its own people and have enough left over to sell, if not give, to the socialist countries where governmental interference has denied the farmers the incentive or the ability to feed their own people.

Perhaps this is the cause of the problem we face from the emotional hysteria of the ecologists and environmentalists who do not seek a reasonable balance between continuing our food production capabilities and any dangers to our environment. Some seek immediate solutions by bans and prohibitions because they have never known what it is to go to the grocery store or the supermarket and find the shelves bare or not offering multiple choices of food from which to select. In the United States we have raised several generations of city dwellers who are so accustomed to an abundance of readily available food that they take for granted that the supply is limitless and that the grocers produce the food in the back room.

H.R. 10729 if passed today may well become a law. If so, it will remain a law until the trials and tribulations of future generations repeal it. Passage of this law certainly gives the Agency something to grow on in the way of guidelines and the usual bureaucratic expansion. In extreme hands, the position of Administrator of EPA could be arbitrarily used to all but tie the hands of American farmers and, in the name of curbing pollution and preserving ecology, produce a food shortage; or, under severe leadership, a famine in the United States. Under such conditions the slogans of some environmentalists clamoring for population control and living room would be rapidly brought into focus. Those of us who sat in on the extended hearings given this bill should remember the calloused disregard expressed by some scientists toward the human population which they felt was the problem anyway.

The present Director of EPA is personally known to some and there appears little fear of misuse of his authority. But nothing is as susceptible to change as politics itself, and I wonder if the lack of present unconcern would continue under a new administration when a Ralph Nader or perhaps a Ramsey Clark or some other militant environmentalist were named Director. This bill grants such extensive powers that theoretically the director of EPA could stop the majority of the American people from taking a bath if he suddenly decided that fluoridated water was harmful and banned its use.

Enactment of the pesticide control bill can only result in further collectivization of American agriculture. The small farmer being denied the use of some agricultural chemicals and facing the additional expense of restricted chemicals can not be expected to operate at a loss. They can be expected to be taken over by bigger farmers doing business on a large scale operation.

Consider, for example, that section 14 under penalties states that any private pesticide applicator who violates any provision of this act subsequent to receiving a written warning from the Administrator or following a citation for a prior violation may be assessed a civil penalty by the Administrator of not more than $1,000 for each offense. This is a civil penalty assessed by the Administrator—not by a judge or a court—and this is in addition to the penalty of a $1,000 and/or 30 days in jail under the criminal section.

Another astounding provision of this bill is the complete exclusion of imported foreign agricultural products from the effects of the Pesticide Control Act. In other words, pesticides and chemicals banned from use or given restricted use in the United States, will continue to be manufactured here and exported to foreign nations whose farmers, including Americans who have transferred their farming operations to foreign soil, can use the banned and restricted pesticides on agricultural commodities and then import the food into the United States for our domestic markets. What a double standard this establishes, to give foreign farmers even an additional advantage over the American farmer.

One need not be a genius to reasonably conclude that the long-range effect of this bill will be to deagriculturalize the United States and make our people dependent upon foreign imports for food.

Those on the floor will recall that I had earlier offered an amendment to the bill which would have provided for applying the same pesticide control standards to foreign agricultural imports as those under which U.S. farmers would be expected to operate. Tragically for our farmers and consumers, the amendment failed and this double standard of discrimination against U.S. farmers remains. This, despite the deniable fact that if imported foreign agricultural products have been treated with banned chemicals, any residue could be expected to constitute the same threat to our environment as would have been experienced by domestically grown food using the same chemicals.

I find no quarrel with the announced intent of the bill, but I do question the necessity of creating a new powerful bureaucracy and the tremendous authority which would here be made law.

Like the overwhelming number of our farmers, I am a conservationist and was one long before this bill was envisioned or many of our ecologists found it profitable to worry about the dangers civilized man has inflicted on nature. But, I feel any solution can only come through balance—reasoned discipline and intelligent limitations. I am firmly convinced that the American people have the intelligence and the ability to control every ecological threat on the local and State level by use of the laws now on the books. In the final analysis, people, and not laws, will conserve the environment. Most people are pollution conscious today, and they are entitled to a chance to solve their problems with reason and moderation rather than being forced to submit to more controls under a centralized bureaucrat.

I cannot support the bill merely to satisfy someone else's commitments, nor am I satisfied that passage of this bill is progress merely because it creates another gigantic bureaucracy to be turned loose over the lives and liberties of the American people.

Time will prove my reservations on this bill justified, and my opposition to another Federal control bill as well founded. I must cast my people's vote against the bill.

Mr. HANNA. Mr. Chairman, on June 18, 1970, I addressed the House on H.R. 10729 seaweed, the natural fertilizer. I pointed out that seaweed, a natural product of the sea, merits increased attention and use because of its nonpollutant qualities. I am, therefore, particularly pleased to note the language in the committee report on page 15, item 6, entitled "Seaweed and Other Organic Materials." I commend the great Agriculture Committee for giving its careful attention to this matter, and I sincerely trust that the Administrator of the EPA will carry out the clear legislative intent expressed in the report.

Mr. MIZELL. Mr. Chairman, I rise at this time to add my support for the Environmental Pesticide Control Act now being considered.

This bill is the product of months of investigation by the Committee on Agriculture, on which I am privileged to serve, and I believe it provides a thorough, far-reaching and effective system for the control of the manufacture, distribution, and use of pesticides.

While providing for the protection of our environment, the bill also recognizes the need for farmers and ranchers to provide the public with safe, reasonably priced foods and fiber, and the necessity for protecting public health against pests of all kinds.

The key provisions of this bill are:

The establishment of a coordinated Federal-State administrative system to control the application of pesticides, with the Federal Government setting nationwide program standards and the States certifying and supervising pesticide applications;

Expanded research and monitoring to find new and better methods and materials for controlling pests; and

Revision of administrative procedures for pesticide registration, cancellation, or suspension.

The Environmental Pesticide Control Act represents a major advance in the protection of our environment while balancing the necessary and lawful use of pesticides for agricultural needs, public health, and animal disease control.

Considering the complicated nature of this legislation, I believe a good job has been done in striking that balance. We have tried at every step to protect the small farmer from unrealistic regulations or cumbersome paperwork, and I believe we have been as successful as possible under these circumstances.

The farmer is more interested in preserving a quality environment than most people realize. His family eats the food he grows, and he can certainly be counted on to adhere to the responsible controls this legislation provides.

It is the purpose and the promise of this bill to insure a continuing good food supply while protecting our environment, and I urge my colleagues to join with me in voting for this valuable legislation.

Mr. POAGE (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DOW. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. DOW. Mr. Chairman, I am not going to take any time. I am delighted to have a vote of confidence from across the aisle. I will say this, that for my part I am going to vote against this bill because it is not adequate. It is no better than the present law as it stands. Therefore, I advise all of my colleagues to vote against it. There may be a motion to recommit, and I would certainly vote in favor of such a motion.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. HUNGATE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes, pursuant to House Resolution 626, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Speaker, I offer a motion to recommit.

XUM

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CONTE. In its present form I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONTE moves to recommit the bill H.R. 10729 to the Committee on Agriculture.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. DOW. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count.

Two hundred forty-nine Members are present, a quorum.

So the motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. KYL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 289, nays 90, not voting 51, as follows:

[Roll No. 372]

YEAS—289

Abbitt	Daniel, Va.	Hall
Abernethy	Daniels, N.J.	Hamilton
Addabbo	Davis, Ga.	Hammer-schmidt
Anderson, Ill.	Davis, S.C.	Hanley
Anderson, Tenn.	Davis, Wis.	Hanna
Andrews, Ala.	de la Garza	Hansen, Idaho
Andrews, N. Dak.	Delaney	Hansen, Wash.
Annunzio	Dellenback	Harsha
Archer	Dennis	Harvey
Ashbrook	Devine	Hastings
Aspinall	Dickinson	Hathaway
Baring	Dorn	Hays
Belcher	Downing	Heinz
Bell	Duncan	Henderson
Bennett	du Pont	Hicks, Mass.
Bergland	Dwyer	Hicks, Wash.
Betts	Edmondson	Hillis
Biester	Edwards, Ala.	Hogan
Blanton	Eilberg	Holifield
Blatnik	Erlenborn	Hosmer
Boggs	Esch	Hull
Bow	Eshleman	Hungate
Brasco	Evans, Colo.	Hunt
Bray	Evins, Tenn.	Hutchinson
Brooks	Fascell	Ichord
Broomfield	Findley	Jacobs
Brotzman	Fish	Jarman
Brown, Mich.	Fisher	Johnson, Calif.
Brown, Ohio	Flood	Johnson, Pa.
Broyhill, Va.	Flowers	Jonas
Buchanan	Flynt	Jones, N.C.
Burleson, Tex.	Forsythe	Jones, Tenn.
Burlison, Mo.	Fountain	Kazen
Byrne, Pa.	Frelinghuysen	Keating
Byrnes, Wis.	Frenzel	Kee
Byron	Frey	Keith
Cabell	Fulton, Tenn.	King
Caffery	Fuqua	Kluczynski
Camp	Galifianakis	Kyl
Carney	Gallagher	Kyros
Carter	Garmatz	Landrum
Casey, Tex.	Gaydos	Latta
Cederberg	Gettys	Leggett
Celler	Gibbons	Lennon
Chamberlain	Goldwater	Lent
Chappell	Gonzalez	Long, Md.
Clark	Goodling	Lujan
Clausen, Don H.	Gray	McClure
Cleveland	Green, Oreg.	McCollister
Collins, Ill.	Griffin	McCulloch
Colmer	Griffiths	McDade
Cotter	Gross	McDonald, Mich.
Coughlin	Grover	McEwen
	Hagan	McKay
	Haley	
McKevitt	Preyer, N.C.	Stanton, James V.
McMillan	Price, Ill.	Steed
Macdonald, Mass.	Price, Tex.	Steiger, Ariz.
Madden	Pryor, Ark.	Steiger, Wis.
Mahon	Pucinski	Stephens
Mailliard	Quie	Stratton
Mann	Quillen	Stubblefield
Martin	Randall	Sullivan
Mathias, Calif.	Rhodes	Symington
Matsunaga	Roberts	Talcott
Mayne	Robinson, Va.	Taylor
Mazzoli	Robison, N.Y.	Teague, Calif.
Miller, Calif.	Rogers	Terry
Miller, Ohio	Roncallo	Thompson, Ga.
Mills, Md.	Rooney, N.Y.	Thomson, Wis.
Mizell	Rooney, Pa.	Thone
Mollohan	Rostenkowski	Ullman
Monagan	Roush	Vander Jagt
Montgomery	Rousselot	Veysey
Morgan	Roy	Waggonner
Mosher	Ruppe	Wampler
Murphy, Ill.	Ruth	Ware
Murphy, N.Y.	Sandman	Whalen
Myers	Satterfield	Whalley
Natcher	Saylor	White
Nelsen	Scherle	Whitehurst
Nichols	Schmitz	Widnall
Nix	Schneebeli	Wiggins
O'Konski	Scott	Williams
O'Neill	Sebelius	Winn
Passman	Shipley	Wright
Patten	Shoup	Wyatt
Pepper	Shriver	Wydler
Perkins	Sikes	Wylie
Pettis	Sisk	Wyman
Peyser	Skubitz	Yatron
Pickle	Slack	Young, Fla.
Pike	Smith, Calif.	Young, Tex.
Pirnie	Smith, Iowa	Zablocki
Poage	Smith, N.Y.	Zion
Poff	Snyder	Zwach
Powell	Spence	
	Staggers	

NAYS—90

Abourezk	Eckhardt	Obey
Abzug	Edwards, Calif.	O'Hara
Adams	Foley	Podell
Anderson, Calif.	Ford, William D.	Rangel
Ashley	Fraser	Rarick
Aspin	Giaimo	Rees
Badillo	Grasso	Reid, N.Y.
Begich	Green, Pa.	Reuss
Biaggi	Gude	Riegle
Bingham	Harrington	Rodino
Boland	Hawkins	Roe
Bolling	Hechler, W. Va.	Rosenthal
Brademas	Heltoski	Boybal
Brinkley	Howard	Runnels
Burke, Mass.	Karth	Ryan
Burton	Kastenmeier	St Germain
Carey, N.Y.	Koch	Sarbanes
Chisholm	McCormack	Scheuer
Clay	Mathis, Ga.	Seiberling
Conte	Meeds	Steele
Corman	Melcher	Stokes
Culver	Metcalfe	Thompson, N.J.
Danielson	Mikva	Tiernan
Dellums	Minish	Udall
Denholm	Mink	Van Deerlin
Dingell	Mitchell	Vanik
Donohue	Moorhead	Waldie
Dow	Morse	Wilson, Charles H.
Drinan	Moss	Wolff
Dulski	Nedzi	Yates

NOT VOTING—51

Alexander	Edwards, La.	Michel
Arends	Ford, Gerald R.	Mills, Ark.
Baker	Gubser	Minshall
Barrett	Halpern	Patman
Bevill	Hébert	Pelly
Blackburn	Heckler, Mass.	Purcell
Broyhill, N.C.	Horton	Railsback
Burke, Fla.	Jones, Ala.	Schwengel
Clancy	Kemp	Springer
Clawson, Del	Kuykendall	Stanton, J. William
Collier	Landgrebe	Stuckey
Collins, Tex.	Link	Teague, Tex.
Conable	Lloyd	Vigorito
Conyers	Long, La.	Whitten
Crane	McClory	Wilson, Bob
Derwinski	McCloskey	
Diggs	McFall	
Dowdy	McKinney	

So the bill was passed

The Clerk announced the following pairs:

Mr. Hébert with Mr. Gerald R. Ford.
Mr. Barrett with Mr. Diggs.
Mr. Vigorito with Mr. Conyers.
Mr. Dowdy with Mr. Baker.
Mr. McFall with Mr. Michel.
Mr. Purcell with Mr. Pelly.
Mr. Whitten with Mr. Springer.
Mr. Teague of Texas with Mr. Horton.
Mr. Stuckey with Mr. Collins of Texas.
Mr. Jones of Alabama with Mr. Clancy.
Mr. Bevill with Mr. Gubser.
Mr. Alexander with Mr. Railsback.
Mr. Link with Mr. Clawson.
Mr. Mills of Arkansas, with Mr. Arends.
Mr. Patman with Mr. Bob Wilson.
Mrs. Heckler of Massachusetts with Mr. Minshall.
Mr. Broyhill of North Carolina with Mr. Lloyd.
Mr. Crane with Mr. Kemp.
Mr. Kuykendall with Mr. McClory.
Mr. McKinney with Mr. J. William Stanton.
Mr. Landgrebe with Mr. Blackburn.
Mr. Derwinski with Mr. Halpern.
Mr. McCloskey with Mr. Burke of Florida.
Mr. Collier with Mr. Conable.

Mr. ASHLEY changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the legislation and the amendments thereto that we have just considered.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2559. An act to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans.

PROVIDING FOR CONSIDERATION OF H.R. 9212, BLACK LUNG BENEFITS

Mr. BOLLING. Mr. Speaker, I call up House Resolution 658 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 658

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and

the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Missouri is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. SMITH). Pending that I yield myself such time as I may consume.

Mr. Speaker, the bill that would be made in order by this 1-hour open rule is controversial. I know of no great controversy over the rule.

Mr. Speaker, I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. Mr. Speaker, I strongly support this resolution, and also express the hope that the bill will receive overwhelming support in the House. The bill will furnish much-needed clarification of certain provisions of the Federal Coal Mine Health and Safety Act which cover benefits for pneumoconiosis. Even so, there are other improvements which are needed in the bill and when the occasion arises I intend to offer two amendments to the committee bill, as follows:

AMENDMENT A TO H.R. 9212, AS REPORTED, OFFERED BY MR. HECHLER OF WEST VIRGINIA

Page 1, line 3, insert "(1)" after "That (a)".

Page 2, after line 14, insert the following new paragraph:

(2) Section 412(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) If an individual's benefits would be increased under clause (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this clause, if otherwise valid under this title, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment."

AMENDMENT B TO H.R. 9212, AS REPORTED, OFFERED BY MR. HECHLER OF WEST VIRGINIA

Page 7, after line 11, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(f) The third sentence of section 413(b) of such Act is amended by inserting before the period at the end thereof the following: ": *Provided*, That where a deceased miner had been employed in a mine for ten or more years and there are no available medical records that reasonably establish the cause of death, determination as to entitlement of his widow shall take account of information obtained from any persons who had a close relationship to him during his life".

Mr. Speaker, I also include a table which indicates the status of black lung applications and payments through October 22, 1971:

BLACK LUNG STATISTICS (CUMULATED TO OCT. 22, 1971)

	National	Kentucky	Pennsylvania	West Virginia	4th Congressional District
Claims filed	331,203	35,994	104,780	62,937	10,390
Claims processed	309,377	33,525	98,774	58,811	9,709
Claims paid	151,948	10,734	67,643	26,486	2,999
Miners	84,238	6,154	36,551	16,137	1,971
Widows	67,710	4,580	31,092	10,349	1,028
Additionel dependents paid	88,263	9,132	30,033	21,414	2,996
Total beneficiaries paid (miners, widows and dependents)	231,812	19,338	93,068	46,695	5,895
Total monthly payment amount [1]	$26,864	$1,987	$11,326	$5,042	$584
Total cumulative payment amount [1]	$437,137	$33,567	$190,620	$85,413	$10,436
Denials	157,429	22,791	31,131	32,325	6,710
Miners	120,559	18,968	20,578	26,096	5,432
Widows	36,870	3,823	10,553	6,229	1,278
Percentage figures:					
Claims allowed:					
Miners	39.5	23.4	62.1	37	26.7
Widows	65	54.8	75	62.7	44.6
Overall	48.1	31.3	67.6	44.2	30.9
Claims denied:					
Miners	60.5	76.6	37.9	63	73.3
Widows	35	45.2	25	37.3	55.4
Overall	51.9	68.8	32.4	55.8	69.1

[1] Rounded to nearest thousandth.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, House Resolution 658 does provide an open rule with 1 hour of consideration of the bill H.R. 9212. As I understand it, the purpose of the bill is to extend to a new class of beneficiaries—orphans whose father died of pneumoconiosis—the Federal cash benefits payments provide for by the Federal Coal Mine Health and Safety Act. Further, the bill provides that no cash-benefit recipient under the act shall have his social security payments reduced because of his receipt of such benefits, and prohibits the use of chest X-rays as the sole basis for a denial of claim for disability due to pneumoconiosis. Finally, the bill postpones for a 2-year period, until 1975, the time when the States and mine operators will be required to assume the responsibility for future cash benefit payments under the program created by the act.

The bill extends for 2 years the existing program for payment of black lung benefits by the Federal Government. Under the act, in 1973 and thereafter, the burden of making payments to disabled miners and their dependents was to be borne by the States and mine operators. Most States are not moving quickly enough to have their own programs operational by the end of next year. The bill postpones until 1975 this responsibility.

Cost estimates for the 5-year period 1972–77 are as follows:

Payments to orphans	$5,500,000
Payment of claims now denied solely on X-ray evidence	50,000,000
Extend Federal payment responsibility	646,000,000
Total	701,500,000

No departmental letters are contained in the report. I understand the administration opposes the bill, except for the provisions making orphans eligible for benefits.

Mr. QUIE and six other members have filed minority views. They support the benefits for orphans but oppose the remainder of the bill.

As stated by the gentleman from Missouri, I know of no objection to the rule, though there is some objection to the bill itself.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ERLENBORN).

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. ERLENBORN. Mr. Speaker, I do not oppose this rule. I am happy that the bill is now out on the floor under a rule where amendments will be in order, rather than the procedure that was attempted before to try to pass it under suspension of the rules where amendments are not in order.

As the gentleman from California has stated, a portion of this bill is not opposed by this administration. The Department of Health, Education, and Welfare, Social Security Administration, has made it clear that they support the principle of the extension of benefits to the so-called double orphans. However, as far as eliminating the use of the X-ray as a diagnostic tool in the denial of claims, the administration does oppose this provision. I have put matters in the record concerning this in the past.

The administration opposes the elimination of the social security disability offset because such action would treat one group of workers receiving industrial disease compensation differently from all other workers under social security disability who are receiving industrial or workmen's compensation benefits. In addition, the extension of the obligations of the Federal Government for an additional 2 years is objected to by the administration.

General debate will show that this has nothing to do with resolving those claims that have been filed and are unresolved at this point, but merely will extend as a full-time obligation of the Federal Government such claims as may be filed within the next 2 years rather than putting the burden on the States and the coal mine operators, as was contemplated in the original passage of the act.

Mr. Speaker, I have received a letter today from Robert M. Ball, Commissioner of Social Security, in which he again expresses the opposition of the Social Security Administration, backed by HEW, which I will place in the RECORD.

XUM

The letter follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
SOCIAL SECURITY ADMINISTRATION,
Washington, D.C., November 8, 1971.

Hon. JOHN N. ERLENBORN,
House of Representatives,
Washington, D.C.

DEAR MR. ERLENBORN: You have asked for the comments of the Social Security Administration on certain statements that have been made concerning H.R. 9212 and the administration of the black lung benefit program.

The point has been made that a miner whose social security disability benefits are reduced because of simultaneous entitlement to black lung benefits may get less than he would otherwise receive in social security benefits alone. There were a few cases where the rounding of the figures in the computation process resulted in a reduction of few cents in total income. This has been corrected so that, as a result of eligibility to black lung benefits, no one gets less in combined benefits than he previously received.

Actually, this provision for reducing social security benefits when the combined benefits exceed 80 percent of the individual's usual earnings has resulted in a reduction in social security benefits in less than 5 percent of the cases where black lung benefits are paid. Moreover, H.R. 1, which passed the House of Representatives some time ago and is now pending before the Senate Finance Committee, contains a provision that would liberalize this rule so that the combined benefits could be somewhat higher than they are under present law. This liberalization would apply also to the black lung cases.

There is considerable doubt whether it is desirable to have an offset apply to all other social security disability beneficiaries who receive workmen's compensation payments from a State or Federal program, but not have it apply to social security disability beneficiaries who receive payments under the black lung program, particularly since H.R. 9212 does not continue this exemption when the payment of claims for black lung becomes the responsibility of the States and the mine operators.

You have also asked for the Social Security Administration's reaction to the provision of H.R. 9212 which prohibits the denial of black lung benefits solely on the basis of a negative x-ray. Dr. DuVal has written you a letter on this point which reflects the position being followed by the Social Security Administration. It is quite clear that the overwhelming consensus of expert medical opinion is that there is no medically-acceptable means other than x-ray (except lung biopsy in very unusual cases) for diagnosing coal worker's pneumoconiosis in the living miner.

If the agency is prohibited by H.R. 9212 from denying claims on the basis of a negative x-ray, there would be no sound medical way to tell which miners have breathing trouble due to black lung and which have similar trouble arising from some other lung condition. Numbers of people in every part of the country have breathing trouble due to emphysema, chronic bronchitis, or other respiratory disorders not peculiar to coal miners.

To pay black lung benefits on the basis of such non-occupational diseases would be altogether inconsistent with the expressed purpose of the law. At least of equal importance, it would be inequitable to provide the special payments to miners on the basis of non-occupational kinds of impairment—payments over and above social security disability benefits—when no such additional payments would be available to the great many nonminers suffering from similar problems.

Paying the black lung benefits on this non-occupational disease basis would give benefits to about 35,000 additional claimants. The estimated first-year cost is $182 million, and the total over the next 6 years could run to more than $800 million.

Let me repeat again that the Administration fully supports those provisions of H.R. 9212 which would extend benefits of the program to 2,000 orphaned children, the so-called double orphans.

Sincerely yours,

ROBERT M. BALL,
Commissioner of Social Security.

Mr. DENT. Mr. Speaker, the following statement answers quite adequately the arguments of the gentleman from Illinois:

THE CHILDREN'S HOSPITAL
MEDICAL CENTER,
Boston, Mass., September 24, 1971.

Representative JOHN H. DENT,
House Office Building,
Washington, D.C.

DEAR SIR: I have recently seen a copy of HR9213 and of Report No. 92-460 concerning proposed amendments to the Federal Coal Mine Health and Safety Act of 1969.

The extension of benefits to "double orphans" of fathers who died with pneumoconiosis can only be applauded. The extension of the period during which federal benefits will be given also deserves support.

I write with particular reference to the medical criteria for determining the presence of pneumoconiosis. As the enclosed article indicates, this issue has been of some concern to me and to a number of other doctors.

As testimony led your committee to conclude, the use of rigid xray criteria to determine pulmonary disability in coal miners cannot be supported medically, and has prevented large numbers of disabled miners from receiving benefits to which Congress felt they were entitled by virtue of decades of hard work in the mines.

Accordingly, Section 4 of HR9212, barring the denial of benefits solely on the basis of a chest roentgenogram, deserves full support, and the Committee deserves credit for bringing this important reform before the whole Congress.

There is a further problem with the administration of the 1969 law, however, which HR9212, as reported out by the Committee, will not rectify.

Many miners and former miners have disabling pulmonary impairment which cannot properly be called "coal-dust pneumoconiosis." They are presently being denied benefits under the same thrifty but narrow interpretation of the law which gave rise to the x-ray requirement. These hundreds and thousands of men are too short of breath to get about, let alone work, but they will still be turned down for federal benefits, even if HR9212 is enacted, unless Congress spells out that it intends this legislation to benefit *all* miners with work-related pulmonary impairment, not just those with the more spectacular "black-lung" pneumoconiosis. This is not just a medical word game, nor is it as complicated as it seems at first.

Many physicians who have cared for and studied coal miners have found them susceptible to a *variety* of lung conditions which a single term like "pneumoconiosis" does not encompass. Some of these have been recognized for decades, like silicosis; others, like difficulty in moving oxygen from the lungs to the bloodstream, have only been described more recently. They are not so uniquely related to coal-mining as is the characteristic "black-lung," proverbially (and often literally) full of coal dust, but they occur in coal miners in proportion to the years they spend underground, and so are a work-related condition. Their causes, too, involve other factors besides coal dust, like silica dust from sand, and harmful gases from cable and motor fires; these affect the miners' lungs in ways still to be precisely defined. Medical science still has many unanswered questions in this area.

One former miner, who grew short of breath just standing and talking and who has been denied black lung benefits, expressed his own bewilderment in terms many doctors would agree with, when he told me, "I don't know where it came from, but I know what I've got."

The point is simply that many such breathless men are presently incapacitated by pulmonary insufficiency which is just as disabling and just as related to their exposure underground as is the specific entity coal-dust pneumoconiosis, but they will still be excluded from benefits under HR9212 unless Congress instructs those administering the law to include them.

I prepared the enclosed review of this topic as background for a group of doctors who traveled to Beckley, West Virginia, two weeks ago to examine such men. The group released the enclosed statement. The names of the members of the group are attached. Rather than try to establish a list of specific diseases for which miners should be compensated, the group avoided that morass and concluded that benefits should reflect how much a man is impaired, not what diagnosis we can fit him into. Otherwise, he (and his family) would be paying for the incompleteness of our knowledge. What we *do* know now, without further study, is that many men are too short of breath to work after decades in the mines; medical advice hardly seems necessary to decide that they deserve benefits.

The Black Lung program, we feel, will remain both medically unjustified and cruel and arbitrary to the nation's miners until it makes benefits go to men according to how limited their lungs are, and not according to the presence of that one of the several kinds of pulmonary impairment which miners acquire underground which we decide is the "right" one.

Yours truly,

GORDON HARPER, M.D.

Mr. PERKINS. Mr. Speaker, debate on H.R. 9212, the black lung benefits bill amending the Federal Coal Mine Health and Safety Act of 1969, provides for the payment of benefits to so-called double orphans—the orphans of a miner who has died of pneumoconiosis, whose spouse has pre-deceased him or has died after establishing her entitlement to benefits. When both the miner and his spouse have died, dependent surviving children are not presently entitled to benefits. This is in spite of the fact that the act permits augmented benefits to the miner or his widow for the support of such dependent children.

Section 2 of the act provides that the black lung benefits program shall not be considered a workmen's compensation law or plan for purposes "of the disability insurance provisions of the Social Security Act."

If there is anything that was established in the legislative history of the Coal Mine Health and Safety Act, it was that we did not intend the black lung benefits program to be a workmen's compensation program.

Section 3 of the bill extends for 2 years the existing program for payment of black lung benefits. Under the act, the program responsibility is to be shifted from the Federal Government to the States and mine operators in 1973. No State at this point has modified their workmen's compensation law to provide adequate coverage for pneumoconiosis. Several have bills pending in their legislature but it is evident that the vast majority will not have time to legislate on this problem.

Section 4 of the bill prohibits the use of chest X-rays as the sole basis for denial of claims under the act. This is apparently necessary to clarify the congressional intent with respect to the determination of total disability due to pneumoconiosis. This act was passed and expressly intended by the Congress to be liberally and generously interpreted. The administration has not so interpreted it, and it is necessary for the Congress again to act.

To show you the extent of the default of the Social Security Administration, I am inserting in my remarks a copy of a letter from Dr. Roy Neal Calhoun of Hopkinsville, Ky., which he directed to FRANK A. STUBBLEFIELD, our colleague. It shows the utterly heartless and unconscionable extremes to which the administration has gone to deny benefits to black lung sufferers. I am inserting also in the RECORD an article by Dr. Donald L. Rasmussen, the director of the Pulmonary Laboratory of the Beckley Appalachian Regional Hospital in West Virginia entitled "Breathlessness of Appalachian Coal Miners." My colleagues will be able to learn about black lung, about its rehabilitating character, and about the difficulty of diagnosis which motivated the Congress to leave flexibility to those who were to interpret the law and administer it in the hope that they could use that flexibility to the benefit of the black lung sufferer.

The letter follows:

OCTOBER 9, 1971.

Hon. FRANK A. STUBBLEFIELD,
House of Representatives,
Washington, D.C.

DEAR FRANK ALBERT: I called you yesterday about Wesley Fox of Mortons Gap, Kentucky. We discussed the fact that I recently prepared his application, which in essence is a first-appeal application, for "Black Lung" benefits. Mr. Fox's Social Security number is 400-09-4440. In my opinion, Mr. Fox certainly has chronic lung disease that was caused by his occupation as a coal miner for 51 years. Recently, every application that we have sent to the Social Security Administration for Black Lung Benefits has been turned down. I believe that I can explain to you why this is true, and this is certainly not fair, and if this procedure is going to continue, I think that Congress should repeal the Coal Miners Health and Safety Act that was passed in 1969.

Mr. Fox is 73 years old. He worked underground in the coal mines for 51 years, and at the present time, he is practically dead with chronic lung disease. By chronic lung disease, I mean asthma, emphysema, pulmonary fibrosis, atelectasis, bronchiectasis, and pneumoconiosis. The Social Security Administration, however, refuses to grant these people their pneumoconiosis benefits unless they have drastic reduction of their pulmonary function and typical findings of pneumoconiosis on the chest x-ray. This is perfectly ridiculous and insulting to anyone who has seen and worked with these patients.

Your not being a doctor, let me explain some of the terms that we are using. *Pneumoconiosis* means scarring of the lungs because impurities which could not be excreted or coughed out while the applicant was working in the coal mines, and scar tissue was laid down by the body around this foreign particle. The lung further goes on to try to compensate for this injury, and it tries to compensate by enlargement of the chest. Instead of improving itself, it damages the pulmonary system by forming *emphysema*, which in lay terms means that the small cavities of the lung that you breathe with have been replaced by scar tissue and large cavities which cannot exchange oxygen well. The patient will get air into these cavities, and it does not get out quickly, and a small surface is exposed to the air which he inhales. Consequently, the patient cannot obtain enough oxygen in order to continue doing work other than very light work.

Charles Howell of Dawson Springs, Kentucky, whose Social Security number is 401-14-9031 A, was turned down twice for his Black Lung Benefits while he was alive. He died on my service here at Jennie Stuart Hospital recently, and at autopsy, the patient was found to have pneumoconiosis.

Finis Johnson of St. Charles, Kentucky, had been turned down twice by the Social Security Administration for Black Lung Benefits. By doing an open lung biopsy, it was found that the patient had pneumoconiosis, and then the Social Security Administration grudgingly gave him his benefits. His Social Security number is 406-30-8447.

Now we are being faced with a large number of applicants who have worked "at the face of the coal," who have been cutters and pinners, and worked in the mines years before there was any control of the dust particles. Only common sense dictates that these patients have breathed in particles of sand, limestone rock, carbon, which is the main element of coal, and this has produced silicosts, pneumoconiosis with its scarring, decreased ability to exchange air, and of course, making the patient "a sitting duck" for recurrent lung infections.

These people, to describe them more fully, have a barrel-shaped chest, which is nature's way of trying to increase their breathing capacity. They have widened ribs; whereas, a man like you can expand his chest approximately three inches with inspiration, these poor individuals do well to go anywhere from 1½" to ½". Therefore, they literally are "gasping for breath." They are forever developing pneumonia, attacks of asthma. They develop heart disease as a result of the increased resistance, where the heart has to pump blood through the lungs, and they develop *bronchiectasis*, which is a complete change and distortion of the bronchi in the lungs, which fills with mucous, pus, and other materials that are infected and cause the individual to be a *"pulmonary cripple."*

The Social Security Administration refuses to accept the clinical impression of the patient's family physician; they refuse to accept anything except drastic reduction of pulmonary functions and pneumoconiosis on the chest X-ray, or autopsy findings, or biopsy findings. This prevents thousands of people from obtaining their benefits which are justly due them. I have several patients who have such poor pulmonary functions that they cannot undergo open lung biopsy because they would die with pneumonia from such a minor procedure. The people in the Social Security Administration know this, and consequently they feel safe in rejecting these individuals, knowing that their physician will not jeopardize their lives in order to obtain their benefits. Therefore, we, the practicing physicians, and the patients are forced to wait until he dies and get an autopsy.

It is my opinion and the opinion of numerous other physicians that the "Black Lung Law" of the Social Security Administration should be repealed unless Congress takes a new look at it and changes some of the methods of its administration and allow the benefits that are due the patient to reach the patient who qualifies for the benefits.

At the present time, it is only keeping a horde of bureaucrats on the payroll, and only a few individuals are receiving any benefits. Of course, the people who are administering this program can furnish you all kinds of statistics showing how many people they have processed and how many people who have gained benefits after processing, and how they are so short of help that they cannot possibly process these applicants' benefits any faster.

Your being an old Western Kentucky boy, remember the saying in our area: "Figures don't lie, but liars do figure."

In summary, I believe Congress should intervene in the Black Lung situation. Applicants have scarred lungs, decreased breathing capacity, foreign bodies infiltrated into their lungs that precipitated this decreased breathing capacity, but this cannot be proven until the patient dies because of the rigid standards the Social Security Administration has placed upon the applicant and the medical profession. If this cannot be changed or modified, the law should be abolished, because no one except those who have open lung biopsies, autopsies at death, and only a very few who happen to be lucky enough to show pneumonconiosis on their chest X-rays and marked decreased pulmonary function studies, can obtain these benefits.

It would be only reasonable and appropriate to evaluate the history and physical of the individual who is applying; to evaluate the pulmonary function studies, or breathing studies, which gives the figures on what per cent of normal a patient can still breathe, and the chest x-ray interpretation with comments from the physician should be instituted in place of the rigid standards that are now enforced.

Mr. Fox, who I have mentioned previously, has chronic lung disease, only one kidney, and it has a stone and cyst on it, diverticulosis of the colon, arteriosclerotic heart disease, and he is grossly underweight and extremely frail. An open-lung biopsy, in my opinion, would cause this patient to develop pneumonia and die. If it is necessary to die in order to obtain Black Lung benefits, the tax payers should be relieved of this unreasonable burden.

I am asking you to intervene with the Social Security Administration for Mr. Fox. I will be in contact with you about others. The present program and the rejection of the applicants is not in keeping with the purpose of the act passed by Congress in 1969, and something has to be done.

Your consideration of this is highly appreciated, and I hope that you will talk to your friends in Congress who will activate some type of movement that will bring sense and stability out of chaos.

We look forward to seeing you the next time you are at home and Congress is in recess. We appreciate all that you have done for us in the past.

Sincerely and gratefully yours,

NEAL CALHOUN, M.D.

[From Appalachia Medicine, September, 1969]

BREATHLESSNESS IN SOUTHERN APPALACHIAN COAL MINERS

(By Donald L. Rasmussen, M.D.)

Most authorities on occupational respiratory diseases believe disabling pulmonary impairment among bituminous coal workers is limited to cases of complicated pneumoconiosis ("Progressive Massive Fibrosis or PMF") or to those miners who develop chronic, nonspecific, obstructive, bronchopulmonary disease. In either case, significant obstructive ventilatory insufficiency is felt to be a major factor leading to disabling symptoms. The simple nodular forms of coal workers pneumoconiosis are thought to be responsible for dyspnea only rarely. Simple pneumoconiosis is considered significant only as a precursor to PMF, by many. Our experience in performing physiologic studies in 4,087 bituminous miners from southern West Virginia and adjacent areas of Virginia and Kentucky, leads us to differ in some respects with these conclusions.

BACKGROUND

Since our observations began in 1962 and 1963, we have regularly encountered miners who complained of effort dyspnea of varying degrees, whose roentgenograms revealed only

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minimal abnormalities and whose ventilatory capacities were normal. In the majority of such cases, no evidence for non-pulmonary causes of dyspnea could be found. It seemed unlikely that anxiety or other functional causes could be responsible for the symptoms in the majority. For these reasons, we endeavored to evaluate more thoroughly additional parameters of respiratory function. In addition to the routine pulmonary function testing (ventilatory capacity) and lung volume determinations, we have investigated the mixing of inspired gas, the mechanical properties of the lung, alveolar gas exchange, blood gases, diffusion and the response to exercise. The complete studies have been performed on all patients referred for evaluation, regardless of roentgen findings, severity of complaints, ventilatory capacity or reasons for referral.

SUBJECTS

The more than 4,000 miners evaluated in this laboratory were referred mainly from southern West Virginia, eastern Kentucky and southwestern Virginia. Approximately 10 per cent denied effort dyspnea. Some of these were referred because of the incidental finding of pneumoconiosis on a chest roentgenogram alarmed the patient or his physician. A few subjects sought medical evidence of good health in an effort to obtain re-employment in the mines, since this had been denied them because of X-ray abnormalities. Other asymptomatic men were curious about the status of their lungs. Many men with minimal effort dyspnea were referred for the same reasons.

More than one-half were referred in connection with claims for disability or compensation benefits.

Slightly more than 60% were currently employed in the mining industry. Almost all were ambulatory out-patients.

One outstanding characteristic of the entire group was the high level of cooperation shown.

The subjects studied are not a representative sample of miners in this region. They have, however, provided us with the opportunity to observe a wide range of symptomatology of all degrees of severity.

OBSERVATIONS

Roentgenographic evidence of definite pneumoconiosis was present in four-fifths of the subjects. Abnormally increased linear markings ("nonspecific fibrosis") were noted in most of the remaining cases. Complicated pneumoconiosis (PMF) was noted in fewer than 10%.

Ventilatory insufficiency was detected in fewer than 45% of the total patients studied. In no more than one-fourth of these could the ventilatory abnormalities be classified as severe. It should be noted, however, that many physicians and agencies refrained from patients with obvious severe obstructive disease.

We have consistently observed a lack of correlation between ventilatory function and x-ray categories of pneumoconiosis.

While abnormalities of gas exchange, on the average, are slightly greater in men with advanced x-ray categories, severe gas exchange impairment may occur in the presence of only minimal roentgen abnormalities.

Among those men who denied effort dyspnea, impaired oxygen transfer, slight hypoxia and reduced diffusing capacities were noted in nearly one-half. Ventilatory function and response to moderate to moderately heavy exercise were usually normal, however. We consider these findings evidence of preclinical pulmonary insufficiency. Serial studies have yet been too few for conclusions, but we suggest that evidence of impaired oxygen transfer may be the earliest detectable physiologic abnormality in our miners.

In those patients who complain of moderate to severe dyspnea in the presence of normal ventilatory function, impaired oxygen transfer and increased dead space ventilation are almost always more marked than in the asymptomatic group. Inappropriately increased ventilatory response to exercise is almost invariably noted as well. There is a poor correlation between oxygen tension values per se and dyspnea or exercise intolerance. The hyperventilation is often sufficient to maintain oxygen tension at only minimally to moderately reduced levels. Alveolar-arterial oxygen tension gradients are significantly abnormal, however. The degree of hyperventilation is variable, and no doubt affected by conditions other than pulmonary disease. Apprehension, lack of familiarity with exercise apparatus, poor physical conditioning, and possibly musculoskeletal abnormalities may contribute to the increased ventilatory response. Efforts to reduce or eliminate some of these extraneous factors often result in a considerable reduction in ventilation in our subjects. This is invariably followed by a decline in arterial oxygen tension, not infrequently to very low levels.

Somewhat greater impairment in oxygen transfer is observed in those subjects with impaired ventilatory capacity. There is, however, a poor correlation between the degree of impairment in oxygen transfer and ventilatory dysfunction.

Significant physiologic abnormality can be demonstrated in the majority of our miners who complain of effort dyspnea. Tests of ventilatory capacity alone fail to detect abnormalities in many of our subjects. The poor correlation between functional impairment and x-ray category leads us to conclude, that while the roentgenogram is an essential part of the evaluation of each case, it is of little value in determining the degree of incapacity. It is of interest, however, that the roentgenogram is abnormal in almost all of our impaired subjects. In those subjects who are severely disabled, but whose roentgenograms fail to reveal diffuse abnormalities, obstructive bronchopulmonary disease is usually present.

We regard the respiratory diseases of coal miners as falling into two major categories. One is characterized predominantly by obstructive airway disease, indistinguishable from the chronic nonspecific obstructive respiratory disease which affects many men and women in all areas. At the opposite end of the spectrum are those patients without ventilatory insufficiency, but who exhibit impaired oxygen transfer, increased dead space ventilation and inappropriately increased ventilation with exercise. Encountered between these major groups are cases showing varying degrees of ventilatory disturbances plus impairment in gas exchange. Most often increased dead space ventilation and impaired oxygen transfer are out of proportion to the degree of ventilatory impairment.

In serial studies of a limited number of cases, we have noted the appearance of mild obstructive ventilatory impairment in cases originally presenting with disturbances in gas exchange only. We have no information to indicate the ultimate course of these patients, however.

DISCUSSION

Our data does not allow us to predict the incidence of respiratory impairment in coal miners in this region, nor does it allow us to predict the relative predominance of primary gas exchange versus ventilatory impairment. Judging by the constant flow of cases with significant symptoms, the incidence of respiratory impairment in general must be very high.

The question of etiology cannot be answered from our data. However, the average age and years of employment among our impaired subjects are about five years lower among face workers in mechanized mining operations than all other workers. In addition, those miners who smoke show greater impairment than nonsmokers. This distinction is very clear with regard to impairment of oxygen transfer even in those subjects with normal ventilatory functions. There can be no doubt that cigarette smoking is very deleterious to men who engage in coal mining.

That our observations do not support some of the generally held concepts regarding pulmonary impairment among coal workers is obvious from the above. Others have also taken exception to these conclusions, pointing out that neither roentgen findings nor tests of ventilatory capacity alone are adequate for assessment of disability among coal workers. Impairment in oxygen transfer and impaired diffusion have been reported by a number of European observers among patients with only simple forms of pneumoconiosis of coal workers.

This single definitive study, from which most authorities derive the presently held concepts, is that of Gilson and Hugh-Jones. This monograph is a classic in terms of the physiologic investigations performed. There is a grave and readily recognized error in sample selection, however, which throws serious doubt as to the validity of the conclusion of these authors regarding the relationship between X-ray abnormality and impaired function. The cases selected for study were obtained from two entirely different populations. Those subjects with no pneumoconiosis and those with simple pneumoconiosis were drawn from the largely non-symptomatic miners activity working. Their subjects with complicated pneumoconiosis (PMF), on the other hand, were selected from men attending a clinic and from men hospitalized because of respiratory symptoms. It is not surprising that their cases of PMF resembled patients with chronic bronchitis. Their failure to encounter significantly impaired men from the active working force may have been the result of selective removal of symptomatic men from the mining industry.

It is recognized that many miners with simple pneumoconiosis may continue working for years before symptoms occur or abnormalities of function can be detected. The time of earliest x-ray appearance of diffuse abnormality is unknown in our miners. In our very limited experience with miners whose x-ray were diagnostic of pneumoconiosis 15 to 25 years earlier, we have not been impressed with a marked change in x-ray corresponding to the onset or progression of symptoms.

Efforts to reduce dust levels in European coal mines contrasted sharply with the situation in coal mines of Southern Appalachia. We believe this factor, along with the failure to examine our miners at intervals, can largely account for any difference in functional capacities between European and American miners.

There is no reason to conclude that coal miners are less subject to nonspecific obstructive respiratory diseases than are other segments of the population. Whether occupational exposure in the mines causes or aggravates these conditions is unsettled. It is not unreasonable to presume that both are true. It must be concluded, however, that other mechanisms are operational in the causation of impairment in gas exchange.

We have previously suggested that the peri-arterial pigment mantles around the smallest muscular arteries of our miners may be responsible for the impaired function which we observe. Further evidence for this concept has recently been reported by Naeye, Laqueur and Wells. They have demonstrated significant pathologic changes in small muscular arteries in cases of uncomplicated, simple, coal workers pneumoconiosis. The lesions are localized to the segments surrounded by pigment mantles. These lesions are believed capable of causing the physiologic disturbances in our miners. The physiologic findings in our breathless miners are very similar to those reported by Nadel and others in dyspneic patients with pulmonary vascular lesions.

SUMMARY

Studies of more than 4,000 bituminous coal miners in the laboratory lead us to conclude that disabling pulmonary insufficiency is common among bituminous coal miners. Chronic nonspecific obstructive bronchopulmonary disease, similar to that seen in the general population, is encountered frequently. Breathlessness is also often associated with abnormalities of oxygen transfer, increased dead space ventilation, and inappropriately increased ventilation with exercise, in the absence of reduced ventilatory capacity. We believe the latter disturbances may be the result of primary vascular damage.

There is a poor correlation between roentgen categories of pneumoconiosis and functional loss. Disabling impairment is a frequent finding in miners with only minimal x-ray abnormalities. Roentgenographic abnormalities may exist for many years in working miners before symptoms or abnormal function tests are manifest. Impaired oxygen transfer may be demonstrated in some miners, prior to the onset of symptoms.

Definite abnormalities of function can usually be detected in dyspneic miners providing appropriate methods of study are employed.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE PRINCETON CONFERENCE ON THE FEDERAL BUREAU OF INVESTIGATION

The SPEAKER pro tempore (Mr. KEE). Under a previous order of the House, the gentleman from New Jersey (Mr. HUNT) is recognized for 60 minutes.

GENERAL LEAVE

Mr. HUNT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks and include extraneous matter on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUNT. Mr. Speaker, the much publicized conference on the role of the Federal Bureau of Investigation in American life, announced last spring during the height of the spleen-venting charges against the FBI, drew some 50 plus radical lawyers, journalists, scholars and former Justice Department staff members to the Princeton University campus on October 29 and 30.

Cosponsored by the New York-based Committee for Public Justice and Princeton's Woodrow Wilson School of Public and International Affairs, the 2-day anti-FBI conference was billed as a "nonpartisan, scholarly effort to understand the structure of the FBI and its powers and role in American society." Among the organizers who represented the committee for public justice, it was indicated that the committee was formed about a year ago as an organization of private citizens concerned that the Nation "had entered a period of political repression," and was reported that the conference was held at Princeton University "in an atmosphere removed from the pressure of politics." Despite the oft-repeated use of the words "scholarly," "serious," and "objective," it was evident from the character of the participants and the nature of their presentation that the FBI was to be dismembered and discredited as an effective and efficient law enforcement agency. In the fact of this obvious bias, there was no choice but for FBI Director J. Edgar Hoover to decline the invitation for an FBI representative to "strongly defend the Bureau and its role." In the words of the Director:

We are declining in view of our serious doubt that any worthwhile purpose could be served by an FBI representative attending an inquiry casting him in the role of defendant before even the first fact is brought out, and condemned by the "judges" before trial begins.

The three conference chairmen presiding over the conference sessions were Dr. W. Duane Lockard, chairman of Princeton's Department of Politics, and two members of the Executive Council of the Committee for Public Justice, Dean Burke Marshall, deputy dean of the Yale University Law School, and Prof. Norman Dorsen, professor of law at the New York University Law School. All of these men are characterized by their leftist politics. For example, showing his predilection for new left "scholarship," Professor Lockard had his two daughters go to Cuba with the admittedly pro-Communist, radical venceremos brigade. He was the "guy with the idea" for the conference. Burke Marshall, on the other hand, was a liberal pawn of the Kennedy administration and Norman Dorsen is the general counsel for the "anything goes" American Civil Liberties Union.

The credentials of these men, which do nothing to inspire confidence as to their objective abilities, are overshadowed, however, by the actual participants who prepared papers for presentation to the conference who were rewarded by the handsome sum of $1,000 each.

Among them was Frank Donner, a New York lawyer, who professed to be a professional in the use of informers. Donner has defended numerous Communist party functionaries tried for violations of the Smith Act of 1940 and, in 1956, he invoked the fifth amendment against self-incrimination 33 times when questioned regarding his past Communist affiliations or whether he knew certain people as Communists.

Robert Sherrill was reported in the press as having given "a semi-hysterical account of J. Edgar Hoover" in his presentation on "the Selling of the FBI." Among the list of Sherrill's credentials is his position as the Washington editor of the Nation and original editor of Mayday, a magazine self described as "dedicated to revolutionary journalism" and described by the New York Times as "a four-page weekly tabloid oriented toward muckraking and radical politics." Sherrill also distinguished himself as the author of unflattering biographies of President Johnson—"the accidental President"—and Vice President Humphrey—"the drug store liberal".

The credibility of Fred Cook, who prepared a paper on the FBI and organized crime might be judged in light of Cook's past as a reporter for the New York World-Telegram and Sun when he was discharged for fabricating a newsstory with respect to the alleged corruption of a New York City official.

Vern Countryman, now a professor of law at Harvard University, has a past which reflects upon his ability to be objective and detached from a political approach to the issues. A past member of the National Lawyers Guild, cited by the former House Un-American Activities Committee and the Senate Internal Security Subcommittee as a Communist front. Countryman once urged clemency for Ethel and Julius Rosenberg, convicted and executed Soviet spies. He has also been an official of the national committee to abolish the House Un-American Activities Committee, now known as the House Internal Security Committee, and has been active in behalf of the Angela Davis legal defense fund.

The FBI as a Political Police was prepared by none other than "Izzy" Stone, also publisher of his own independent and radical newsletter. Stone has frequently criticized moves to curb subversive activities in the United States and has been active in movements to abolish the former House Committee on Un-American Activities.

Among the so-called "Insiders", former FBI agent, William Turner prepared a paper on An Insider's View of the FBI. Turner, still bitter about his dismissal from the FBI on the grounds that he lacked the truthfulness, accuracy, and responsibility required of an FBI agent, can hardly be looked to as a fountain of truth. He might have been vindicated had the courts ordered his reinstatement, but after a long legal battle, the U.S. Supreme Court refused to hear his case after his dismissal had been affirmed by the Court of Appeals for the District of Columbia.

I could go on and on citing the credentials of the conference participants, but as reflected by this sampling, it would only serve to fortify my view that the conference could scarcely approach this sensitive subject, controversial as it is, with the scholarly, serious, or objective nonpartisan interest claimed by its organizers. In fact, of the 55 participants, only two were admitted to be in defense of the FBI. In short, there was no balance; the conference was a flop in terms of putting the powers and role of the FBI in American life in perspective. I would caution, however, that the record being built by these subscribers to the radical politics of the new left is devisive; it is designed to undermine public confidence in the finest law enforcement agency in this country, and it can be counted on to be used time and time again by radical sympathisers in the hope that the repetition of the fiction will eventually come to

be recognized as the truth. In essence, it is the purpose of this special order today to put this conference in its proper perspective so that the rantings and ravings of the committee for public justice that can be expected to continue will not be the only basis upon which our citizens can make their own independent judgment.

Mr. Speaker, there is yet another aspect of this conference that is deserving of mention: namely, student reaction. Undergraduates for a Stable America—U.S.A.—is an organization of responsible Princeton University undergraduates dedicated to protecting and maintaining an atmosphere of academic freedom and academic balance at Princeton. Viewing the FBI conference as a "biased condemnation of the bureau under the guise of nonpartisan, objective scholarship," the U.S.A. group expressed its deep concern that "Princeton is doing an injustice to its prestigious name and the scholarly pursuit of truth by cosponsoring such a biased convocation."

As if to add insult to injury, the conference was apparently well financed and at least partially subsidized by the taxpayers in the form of income tax deductions. From the October 30 issue of the Washington Post, I quote verbatim:

Authors of the 13 individual papers that form the basis for the conference were paid $1,000 each. They are also included among the 55 participants who were paid travel and living expenses for the meeting.

One organizer said:

The total budget for the conference is $30,000, two-thirds of which was donated by an anonymous New York couple. He said their $20,000 donation was tax deductible because it went to Princeton but was earmarked for conference expenses. The balance of the funding came from two $5,000 grants by the Field and New World foundations, New York-based groups which usually fund liberal study groups.

Mr. Speaker, while ostensibly a scholarly effort to study the powers and role of the FBI in American society, it is evident from the nature of the materials presented that their authors intended to castigate the FBI and its Director. Perhaps the real purpose served by the conference, however, was to alert people to the increasingly sophisticated nature of divisive elements within our society which purport to speak for the general public. The voice of such dissident, radical groups has been heard, to be sure, but it would be a mistake to let it be the only one.

Mr. DEVINE. Mr. Speaker, I want to express to my colleague from New Jersey my appreciation for his having taken this special order to discuss the Princeton conference on the FBI.

I am deeply concerned about this conference because of the irresponsible attacks on the FBI and its Director, J. Edgar Hoover, which occurred there. I am even more concerned, however, because this conference represented an attack, not merely on the FBI as it presently exists and operates, but, more fundamentally, an attack on the right of a nation to have a surveillance organization of this type at all.

As Frank G. Carrington, executive director of Americans for Effective Law Enforcement and one of the two observers present who were FBI defenders, put it, the conference was—

an attack on the country's right to have intelligence on subversives . . . We felt that a country has a right and a duty to protect its citizens from people who want to tear down the fabric of society.

I agree with Mr. Carrington as regards both the thrust of this conference and his observation on why we cannot permit such a concept to gain general currency.

A thread of opposition to FBI surveillance of dissident groups ran through the dissertations of the generally left-wing, FBI-hating participants. All were clearly politically motivated. Witness the following examples: Prof. Thomas I. Emerson of Yale Law School was quoted as saying the FBI's "political warfare against dissident groups raises the specter of a police state."

Prof. Frank Donner, also of Yale Law School, reportedly said that political informers used by the FBI are "intended as a restraint on free expression, as a curb on movements for change."

He continued:

It can hardly be denied that the self-censorship which it (surveillance by informers) stimulates is far more damaging than many expressed statutory or administrative restraints.

Former FBI Agent Robert Wall charged that:

Anyone who would say something against the Vietnam war had to be watched and watched closely. The chilling effect was very real.

Yet such criticism was plainly politically motivated. Most of the participants would not have agreed that this sort of surveillance carried the same onus when directed against such elements as the Ku Klux Klan.

Indeed, John Doar, former Assistant Attorney General for Civil Rights during the Kennedy administration, was described as expressing the strong feeling that the use of informants was necessary in protecting civil rights workers and combating organized crime.

Perhaps he was aware that it was FBI informants who enable the FBI to capture the bombers of the Birmingham church where several small children were killed and informers who led law enforcement officials to the murderers of civil rights workers in Mississippi.

The long history of FBI monitoring of the Klan and its individual members, in their private lives as well as in their organization activities, has never led to public outcries of repression, or police state, or the chilling effects of surveillance.

But in the eyes of the participants in this conference, when the same methods are applied against radicals of the left—the S.D.S., Weathermen, Black Panthers and the like—whose violent acts and divisive activities threaten our peace and liberty, and play into the hands of our external Communist enemies, they suddenly become evil, repressive, and chilling.

What these people seek is not an impartial agency devoted to ferreting out crime and subversion, evenhandedly, wherever it exists, but an agency with political blind spots which will fight organized crime, protect civil rights workers, and ignore the protestors and demonstrators of the left while ruthlessly repressing the Ku Klux Klan, the Minute Men, or anyone else who gets in the way of their kind of progress.

The irony of this position is that, while the right is accused of a warped love of country, the destructiveness of the radical left grows out of a warped hatred for America and her institutions. Thus, if they do wreak havoc in the country and help to create conditions that enemies—particularly those of a Communist bent—may exploit, still the right would never overtly encourage a foreign enemy and, indeed, can be expected to consistently oppose our foreign enemies.

The radical left, on the other hand not only wreaks havoc within the country, but since the advent of the Communist conspiracy, often deliberately cooperates with foreign subversive elements.

Anyone not predisposed to a radical political position knows that a free society has an inherent right to protect itself against those enemies, whether foreign or domestic, who seek by violent or illegal means to change or destroy that society.

Professor Donner provides an example of the way in which participants ingeniously tried to cloud the real issue when he suggested that:

Thoughtful Americans must begin to ask themselves whether 'national security . . . really requires that we corrupt and bribe our youths, blacks, professors, students and others to betray friends and associates; whether there is no other way to defend ourselves . . . than to institutionalize the surveillance of non-violent protest activity.

Such a statement requires us to accept the undocumented assertion that FBI informers are bribed and corrupted individuals or that the betrayals to which he refers are worse than the betrayals of our society in which the betrayed are themselves engaged. It further requires acceptance of an implied premise—that nonviolent protest activity bears no relationship to violent protest and that the two forms can be successfully and universally distinguished in advance. Such a premise is obviously false.

Perhaps the most frightening assertion of the concept that the country has no right to an FBI came from Harvard Prof. Vern Countryman who argued that the FBI "should be confined to the enforcing of criminal statutes" and abandon its work of compiling intelligence dossiers that deal with political organizations. Asked by Mr. Carrington if he would rather have people killed in a bombing than have a bureau informant in a political group, Countryman reportedly answered:

There are worse things than having some persons killed—for example having a whole society intimidated.

"Talk about people who don't value human life," commented Carrington of Professor Countryman's reply. And I agree. When a university professor can subordinate human life to a constitutional abstraction which is premised on the false idea that our whole society is intimidated, we are in real danger. He is, in my opinion, walking evidence of the need for the work the FBI is doing.

Mr. WAGGONNER. Mr. Speaker, the FBI as an organization and its Director were the objects of biased scrutiny by the self-appointed citizen participants at the recent Princeton Conference. It is safe to say, however, that the great majority of Americans do not share the paranoiac concerns of these leftwing vigilantes. To the contrary, our society is the more secure from erosion from within because of the efficiency and effectiveness with which the FBI has carried out its responsibilities mandated by the Congress and supervised by the U.S. Attorney General. Even the U.S. Supreme Court under Chief Justice Warren, during the period of the Court's liberal extension of the protections accorded individual liberties, recognized the exemplary record compiled by the FBI in its law enforcement activities. Speaking for the majority in the now famous case of Miranda against Arizona, 1966, the Chief Justice reflected upon the role of the FBI and the safeguards its agents were required to observe to protect the rights of criminal suspects.

Mr. Speaker, I include at this point in the RECORD the pertinent excerpt from Miranda decision:

MIRANDA AGAINST ARIZONA

Over the years the Federal Bureau of Investigation has compiled an exemplary record of effective law enforcement while advising any suspect or arrested person, at the outset of an interview, that he is not required to make a statement, that any statement may be used against him in court, that the individual may obtain the services of an attorney of his own choice and, more recently, that he has a right to free counsel if he is unable to pay.[4] A letter received from the Solicitor General in response to a question from the Bench makes it clear that the present pattern of warnings and respect for the rights of the individual followed as a practice by the FBI is consistent with the procedure which we delineate today. It states:

"At the oral argument of the above cause, Mr. Justice Fortas asked whether I could provide certain information as to the practices followed by the Federal Bureau of Investigation. I have directed these questions to the attention of the Director of the Federal Bureau of Investigation and am submitting herewith a statement of the questions and of the answers which we have received.

"'(1) When an individual is interviewed by agents of the Bureau, what warning is given to him?

"'The standard warning long given by Special Agents of the FBI to both suspects and persons under arrest is that the person has a right to say nothing and a right to counsel, and that any statement he does make may be used against him in court. Examples of this warning are to be found in the *Westover* case at 342 F. 2d 684 (1965), and *Jackson* v. *U.S.*, 337 F. 2d 136 (1964), cert. den. 380 U.S. 935.

"'After passage of the Criminal Justice Act of 1964, which provides free counsel for Federal defendants unable to pay, we added to our instructions to Special Agents the requirement that any person who is under arrest for an offense under FBI jurisdiction, or whose arrest is contemplated following the interview, must also be advised of his right to free counsel if he is unable to pay, and the fact that such counsel will be assigned by the Judge. At the same time, we broadened the right to counsel warning to read counsel of his own choice, or anyone else with whom he might wish to speak.

"'(2) When is the warning given?

"'The FBI warning is given to a suspect at the very outset of the interview, as shown in the *Westover* case, cited above. The warning may be given to a person arrested as soon as practicable after the arrest, as shown in the *Jackson* case, also cited above, and in *U.S.* v. *Konigsberg*, 336 F. 2d 844 (1964), cert. den. 379 U.S. 933, but in any event it must precede the interview with the person for a confession or admission of his own guilt.

"'(3) What is the Bureau's practice in the event that (a) the individual requests counsel and (b) counsel appears?

"'When the person who has been warned of his right to counsel decides that he wishes to consult with counsel before making a statement, the interview is terminated at that point, *Shultz* v. *U.S.*, 351 F.2d 287 (1965). It may be continued, however, as to all matters *other* than the person's own guilt or innocence. If he is indecisive in his request for counsel, there may be some question on whether he did or did not waive counsel. Situations of this kind must necessarily be left to the judgment of the interviewing Agent. For example, in *Hiram* v. *U.S.*, 354 F.2d 4 (1965), the Agent's conclusion that the person arrested had waived his right to counsel was upheld by the courts.

"'A person being interviewed and desiring to consult counsel by telephone must be permitted to do so, as shown in *Caldwell* v. *U.S.*, 351 F.2d 459 (1965). When counsel appears in person, he is permitted to confer with his client in private.

"'(4) What is the Bureau's practice if the individual requests counsel, but cannot afford to retain an attorney?

"'If any person being interviewed after warning of counsel decides that he wishes to consult with counsel before proceeding further the interview is terminated, as shown above. FBI Agents do not pass judgment on the ability of the person to pay for counsel. They do, however, advise those who have been arrested for an offense under FBI jurisdiction, or whose arrest is contemplated following the interview, of a right to free counsel *if* they are unable to pay, and the availability of such counsel from the Judge.'"

The practice of the FBI can readily be emulated by state and local enforcement agencies. The argument that the FBI deals with different crimes than are dealt with by state authorities does not mitigate the significance of the FBI experience.

Mr. HOGAN. Mr. Speaker, when the Committee for Public Justice gathered in Princeton, N.J., 2 weeks ago they did so amid the public utterances that their only purpose was to review objectively through "a scholarly effort • • • the structure of the FBI and its powers and role in American society." This assertion of scholarship and objectivity was made several times.

About the only way one could consider this "investigation" reasonable scholarship and objectivity is by believing what the committee said and ignoring what it did. I should like to address myself to one of the papers presented, that given of Prof. Thomas Emerson of the Harvard Law School. Having been an FBI agent myself and knowing first-hand how zealous the FBI is in protecting the rights of citizens, I was particularly interested in this paper, the title of which was, "The Federal Bureau of Investigation and the Bill of Rights." To say that the title is misleading is an understatement. It is misleading because, hidden in the cloak of scholarship and academic inquiry is an exercise in illogic and a rather straightforward "hatchet job." Professor Emerson poses the question: To what degree has the FBI affected the openness of society, particularly its system for the free exchange of ideas?

The professor announced that his evidence consists of two items—the famous Judith Coplon spy trial of 1949 and the records stolen from the Media, Pa., office of the FBI. Now, one should pause right here. Do you mean the professor is announcing that he is going to undertake a rather complex investigation of the FBI and its relationship to our society on the basis of those two items? That, Mr. Speaker is what the professor did, and did admittingly.

But that should not come as much of a surprise because in reading and analyzing the Emerson paper, one quickly comes to the conclusion that evidence plays very little role in the academic method of Professor Emerson. His style is assertion, his criteria for truth or falsity is his own beliefs. What it comes down to is that Professor Emerson is using his academic title to give his unsupported opinions undeserved credibility. All that can be said is that it is not scholarship—no matter how many times the Committee for Public Justice calls it scholarship.

The thesis of Professor Emerson is more intriguing than the lack of academic method. The professor sees the FBI as primarily a political organ, shaped by the rule and ideology of the Director, J. Edgar Hoover. He contends that the FBI has been shaped by the Director's view of the world and his ability to scare everybody to death. By and large this ideology—Hoover's—Emerson claims, "has consisted of a primitive anti-Communism, a messianic dedication to the 'American way of life', a hard-nosed view of law and order, and similar features." He continues—

The concept of "loyalty" and "subversive activities," as developed by the Bureau, carry it very far in the direction of viewing all militant or radical dissent as a threat to the national security.

The professor uses the proposition as proof to support the following conclusion—

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[4] In 1952, J. Edgar Hoover, Director of the Federal Bureau of Investigation, stated:

"Law enforcement, however, in defeating the criminal, must maintain inviolate the historic liberties of the individual. To turn back the criminal, yet, by so doing, destroying the dignity of the individual, would be a hollow victory.

"We can have the Constitution, the best laws in the land, and the most honest reviews by courts—but unless the law enforcement profession is steeped in the democratic tradition, maintains the highest in ethics, and makes its work a career of honor, civil liberties will continually—and without end—be violated. . . . The best protection of civil liberties is an alert, intelligent and honest law enforcement agency. There can be no alternative.

". . . Special Agents are taught that any suspect or arrested person, at the outset of an interview, must be advised that he is not required to make a statement and that any statement given can be used against him in court. Moreover, the individual must be informed that, if he desires, he may obtain the services of an attorney of his own choice."

Hoover, Civil Liberties and Law Enforcement: The Role of the FBI, 37 Iowa L. Rev. 175, 177–182 (1952).

The FBI conceives of itself as an instrument to prevent social change in America.

It should be noted how the professor has taken a proposition regarding radicals and militants to come up with a totally different conclusion regarding the objectives of the FBI. Absolutely no evidence was offered.

After concluding that Alice-in-Wonderland journey through the world of logic, the professor turns his attention to the role the FBI plays in collecting data. Emerson charges, in indignant terms, that the FBI has been busy collecting data "that could conceivably be relevant to national security." Also, that the Bureau is a "general guardian of the national security." If I understand the professor correctly he is somewhat upset that: first, the FBI does what he says it does and second, does it for the stated reason. The professor is apparently quite confused.

What, pray tell, is wrong with the FBI's collecting data which could be helpful to protecting the national security? That happens to be one of the FBI's responsibilities.

The Emerson charge makes sense only if the individual doing the charging does not accept any idea of need for national security precautions. This, Mr. Speaker, is the key to understanding Professor Emerson. Any activity which is premised on the notion that society, through its government, can organize to frustrate and stop those subversive to its continued existence is, in Emerson's view not appropriate.

Approximately halfway through the 53-page paper, Professor Emerson introduces the Bill of Rights into the discussion, although it will be remembered that the title of his paper indicated that this was going to be the main topic. Regarding "constitutional limits on political surveillance," Emerson begins with the statement:

There can be little doubt that the operations of the Federal Bureau of Investigation, in their present form, infringe upon rights guaranteed by the first amendment.

The only supportive statement to justify this claim is: "The details could be spelled out at length." However, Emerson does not bother with such details. Apparently, the world is supposed to accept his word for it because he is a Harvard law professor.

This is again the recurring problem. In drawing the picture of the FBI as a monster, Emerson has done the job with the use of unsupported charges and unevidenced assertions. This I might add is typical of charges leveled against the FBI.

Mr. Speaker, it is all rather sad that some in our midst find it necessary to try to build within the consciousness of America fear of an institution which was created in their interests and whose record has been unblemished. Men like Professor Emerson should be repudiated because their "scholarship" is not scholarship at all, it really is pretense.

Mr. Speaker, one of the things that amazes me in these tirades against the FBI is that for the FBI to have done all the terrible things attributed to it, it would have been necessary to have had the concurrence and collusion of numerous Presidents and Attorneys General of both parties, and the thousands of employees who work for the FBI. To think that all of these Americans would stand by and silently witness the things these carping critics claim the FBI has done, is absurd. Unsubstantiated charges ought to be dismissed outright even when the purveyor of the hogwash is a college professor.

Mr. COLMER. Mr. Speaker, recently the Federal Bureau of Investigation has been under attack, generally from those optimists in our society who are conveniently blind to the need of the Nation for protection from domestic foes. Behind their rose-tinted lenses, every face seems friendly, every intention innocent. They are sure that if we only opened our hearts the world would love us in return. Unfortunately they ignore some hard facts. One of those facts is that there is a real need for the job the FBI is doing.

The critics of our intelligence and investigative offices berate those offices for creating wrong impressions and hard feelings. Yet what do these critics themselves do? They frame their criticisms in insulting language. Their complaints are aimed at the emotions of their audience. They indulge royally in the same faults they condemn.

Mr. Robert Sherrill is an example of this. This former editor of Nation magazine read a paper at a recent Committee for Public Justice meeting in Princeton, N.J. This was supposed to be an intelligent, thoughtful critique of the FBI. But it devoted itself entirely to personal attacks on J. Edgar Hoover and Efrem Zimbalist, Jr., the star of the television series, "The FBI."

Not only does he insult those two men; Mr. Sherrill insulted generations of Americans who, in the 1930's and 1940's were thrilled by the exploits of the national investigative agency and admired it for its role in defending the country. Really, Sherrill says they were bored by the depression and then scared by the war. During the 1930's, life was dull and their sympathies were really with the courageous gangsters who dared express their individuality. In the 1940's we were anxious, and willing to believe anything, so we transferred our frustration to imaginary foes. "And then came the 1950's" writes Mr. Sherrill. "Some of us let down our guard—we were willing to tolerate the dangerous radicals in our midst, excusing their perfidious ideologies in the name of Freedom of Speech. Not J. Edgar Hoover." Not the American people, either, Mr. Sherrill, though you might like to think so. Most people know that, just because a country has managed to survive 20 years of subversion does not mean it will survive another 20, or even another 10.

Mr. Sherrill charges that it is only the personality of J. Edgar Hoover that keeps the television series "The FBI" on the air. I disagree. The American television audience are the ones who keep the shows on the air. A show would not make money without a base of popular support. And if the show becomes financially unsuccessful, it goes off the air. Maybe it is no masterpiece of art. But it is a good TV show. It is exciting and it is interesting. And the good guys usually win, and that is nice for a change especially when you watch it to relax and enjoy yourself.

So these are the substance of Mr. Sherrill's criticisms—personal insult, disparagement of the Nation's citizen, invalid complaints. Arguments like this do not show up any glaring faults of the Bureau—they merely betray the author's own illogical, sentimental, poorly thought-out liberal prejudices.

Fortunately, Mr. Speaker, I believe, as I am sure most of my colleagues believe, that Mr. Sherrill is not representative. He does not speak for the people of our great country. He speaks as a frustrated quasi-intellectual who needs something to complain about. The American people do have things to complain about, real things, like the economic difficulties and the decline of morality and the popularization of negative values in our society. We worry about things like this because only we can solve problems like this. But we worry too, because we have to worry, about foreign enemies and their domestic sympathizers and agitators. We have seen them fomenting internal dissension and disruption, creating hatred and bitterness. We know that such things exist and that something must be done about them if order is to be preserved.

Unlike Mr. Sherrill, who is so comfortably insulated in his intellectual fog the American people see reality. They know, as most of us here know, that absolutes are unrealistic. And, unlike over-educated, discontented liberals, they are willing to settle for what is better than nothing.

A little more sense of reality borrowed from our constituents might fit nicely in this Chamber, gentlemen. Yes, perfection is nice. But until the end of the world and the return to Eden, we are not going to have it. As long as America is America we are going to be hounded by people and nations who hate us and who will do everything they can to bring us down. We might as well adjust ourselves to that reality. We do not need to be obsessed by it; we need to recognize its existence and act accordingly. We can recognize, too, that perfection should not be ignored. We should work toward the balancing of all elements in the spirit of compromise between reality and perfection for which this Government is justly famous. And in the process of adjusting, let us be sure we protect our Nation's interest and existence.

Mr. Speaker, in reply to the reckless unjust criticism of Mr. J. Edgar Hoover, permit me to say in conclusion that I just happen to be one of those ordinary commonplace Americans who is grateful to the FBI and the years of dedicated, unselfish devotion and contribution of Mr. Hoover for perpetuating this Republic.

Mr. DICKINSON. Mr. Speaker, the last weekend in October was the occasion of a gathering at Princeton University of what was billed as a "scholarly effort to understand the structure of the FBI and its powers and role in American society." Such a scheme is certainly in accord with academic freedom as we now understand it, but a number of questions immediately come to mind: How scholarly, indeed, was the meeting? Was it really unbiased?

Supposedly, the conference was sponsored by the Committee for Public Justice—a group whose leaders include such prominent, convinced leftists as Robert Silvers, formerly a national councilman of the National Conference for New Politics; Norman Dorson, general counsel of the American Civil Liberties Union, and Ramsey Clark—all of whose sympathies are notoriously hostile to the Federal Bureau of Investigation.

This meeting, ostensibly, was called to clear up some issues about the FBI. And perhaps it did. The left orthodoxy has now spoken; the line of approach will undergo only slight modifications from here on. The conference says it was going to provide an opportunity for congressional evaluation of the Bureau—but there is an annual evaluation of the Bureau by Congress, when appropriations are considered.

But an examination of the leaders of the conference, and of the participants makes quite clear that the purpose of the conference was nothing so objective or scholarly as pretended. As Alice Widener, the publisher of U.S.A. magazine has said:

Obviously it is a move by a leftist coalition among Democrats to try to stick the Nixon administration with an unfounded charge of using the FBI to create "political repression" in our Nation.

Political repression after all, is getting to be quite a rallying cry these days, among those revolutionaries whose persecution complexes find satisfaction in the efforts of decent society to maintain itself.

The rest of Alice Widener's article is worth reading, and, in my estimation, quite valuable. I would ask unanimous consent that it be inserted in the RECORD at this time.

PROFESSOR WITH A STICKY IDEA

(By Alice Widener)

NEW YORK CITY.—It isn't at all surprising that Professor W. Duane Lockard, Chairman, Department of Politics, Princeton University, told the press, "I was the guy with the idea" for the upcoming Conference on the FBI to be sponsored jointly at Princeton, October 29–30, by the Woodrow Wilson School and the ultra-liberal Committee for Public Justice.

Both of Prof. Lockard's daughters, Leslie Katherine and Janet Frances went to Cuba with the pro-Communist, radical New Leftist Venceremos Brigade; Leslie in December 1969, and Janet from March to May, 1971. Of course it may be that Prof. Lockard disapproves of his daughters' radical activities. But his sanction of the so-called "scholars" and "experts" invited to submit papers on the FBI shows his definite predilection for New Left "scholarship."

Among the papers scheduled to be presented at the Princeton kangaroo court hearing on the FBI are "Political Uses of the FBI" by longtime radical Leftist I. F. Stone; "Informers" by Frank Donner, notoriously pro-Communist New York lawyer who has taken the Fifth Amendment about his Communist Party activities again and again during Congressional investigations; "Selling of the FBI" by Robert Sherrill, writer for the radical Nation magazine and an editor of "Mayday," which described itself as dedicated to revolutionary guerrilla journalism. Another "scholar" scheduled to present an "Insider's View" of the FBI is William Turner. A special FBI agent for ten years, Turner was dismissed from the FBI in 1961 for "lack of truthfulness" among other charges. He sought reinstatement through the Civil Service Commission and lost; he took his case through the U.S. courts all the way to the Supreme Court and lost.

That gives you an idea, dear readers, of the kind of objective political scholarship concerning the FBI that will be offered at Princeton this month.

The co-sponsor of the Conference on the FBI is the Committee for Public Justice formed in November 1970 by prominent ultra-liberal and radical Democrats alleging that our nation has entered "a period of political repression" under the Nixon Administration. On April 28, 1971, the Washington, D.C. Evening Star reported that spokesmen for the Committee for Public Justice held a press conference to announce that the "private group" would meet at Princeton to conduct "a scholarly serious study of the FBI." They chose the university as a meeting place, they said, because the conference would be held "in an atmosphere removed from the pressures of politics."

But politics, in my opinion, is exactly what the conference is all about—ultra-liberal and Democratic New Left politics mixed with pro-Communist politics.

Two of the leading spokesmen for the Committee for Public Justice are Burke Marshall and Roger Wilkins, both former Kennedy Administration aides. On the Committee's executive council are radical Leftists such as Lillian Hellman, playwright; Robert B. Silvers, formerly on the national council of the notorious and discredited National Conference for New Politics in 1967; Norman Dorsen, general counsel of the "anything goes" American Civil Liberties Union. The politically ambitious left-leaning Democrat former U.S. Attorney General Ramsey Clark is on the Committee's executive council. The Committee's membership list is star-studded with radiclibs such as Leonard Bernstein, musician who raised funds for the Black Panthers; G. Van Woodward, a Socialist Scholar; Ronnie Dugger and Martin Peretz, both former members of the executive board of the Communist-collaborating National Conference for New Politics in 1967.

What really is the underlying motive for the Conference on the FBI at Princeton this month?

Obviously it is a move by a Leftist coalition among Democrats to try to stick the Nixon Administration with an unfounded charge of using the FBI to create "political repression" in our nation. In my judgment, the phony charge won't stick. Neither regular Democrats nor the vast majority of Americans will go along with it. They know the FBI never has and does not now play party politics. We also know the FBI is justly world famous for its efficiency, integrity and decency.

Prof. Lockard of Princeton will soon find out he has a sticky idea that won't stick.

Mr. PETTIS. Mr. Speaker, during this curious conference on the FBI, which my colleagues have been discussing a colloquy took place which, I believe, is indicative of the absolutist antilaw-enforcement views which permeated the affair.

On the morning of the second day of the conference, Prof. Vern Countryman of the Harvard Law School, an official of the National Committee To Abolish the House Un-American Activities Committee and a member of the National Lawyers' Guild, presented a paper dealing with the "History of the FBI." This was, however, Vern Countryman's eyeview of the history of the FBI, somewhat less than objective, virulently critical of the Bureau and of Mr. Hoover, and condemnatory of the intelligence gathering activities of the Bureau. Professor Countryman may consider himself quite familiar with the intelligence gathering of the FBI through his activities in the Angela Davis Legal Defense Fund.

At the conclusion of Professor Countryman's paper, Mr. Frank Carrington, the executive director of Americans for Effective Law Enforcement, Inc., who was one of the very few people present at the conference who spoke in favor of the FBI and of the law-enforcement position, pointed out to Mr. Countryman that the recent bombing of school buses had been solved by the FBI because they had infiltrated the Klan with an undercover agent.

The following conversation then took place:

COUNTRYMAN. Well, my judgment would be that if the only way to detect that bombing is to have the FBI infiltrating political organizations, I would rather the bombing go undetected.

CARRINGTON. No matter whether somebody was killed?

COUNTRYMAN. Yes. Yes, there are worse things than having people killed. When you have got the entire population intimidated, that may be worse. We put some limits on law-enforcement in the interests of preserving a free and open society or at least we try to, and every time we do that—things like the privilege against self-incrimination things like the Fourth Amendment—every time we do that, that involves a judgment that even though some crimes and some crimes involving the loss of life will go undetected, it is better in the long run to have a society where there is some protection from police surveillance.

CARRINGTON. I'm not really sure that the family of Robert Fassnacht, who was blown up at Wisconsin, or the families of the kids that were killed in the Birmingham church bombing would agree with that.

COUNTRYMAN. I'm sure that the families of the victims would not agree in any of the instances that I've mentioned but I don't believe that most of us would say that for that reason we should repeal the fourth and fifth amendments.

Mr. Speaker, I am amazed at the position taken by a professor at one of this Nation's leading law schools that the value of human life is so insignificant that it must be subordinated to his notions of constitutional abstractions. That is a heartless position, yet no one at the Committee for Social Justice Conference except Mr. Carrington made a real challenge of Professor Countryman on this point. I believe that this absolutist view typifies a great deal of the anti-FBI and antilaw-enforcement bias of the conference. It certainly destroys, in my opinion, what little credibility the conference had.

THE INCIPIENT CONFERENCE ON THE FBI AT PRINCETON

The SPEAKER pro tempore (Mr. KEE). Under a previous order of the House the gentleman from South Carolina (Mr. SPENCE) is recognized for 60 minutes.

Mr. SPENCE. Mr. Speaker, on October 28 I placed in the RECORD a column by William F. Buckley, Jr., reporting on the incipient conference on the FBI to be held at Princeton, which was billed as

an "inquiry into the role of the Bureau in American life." Mr. Buckley vividly described the background of various members of the executive council of the so-called Committee for Public Justice, principal sponsor of the conference.

One look at that executive council and the list of participants lined up for the conference convinced me it was designed and intended as a further effort to undermine the credibility and effectiveness of the FBI. The vast majority of them were clearly longtime, vocal FBI foes, extreme liberals, or former agents and informers who left the Bureau under some sort of cloud; people like Ramsey Clark, Lillian Hellman, Fred Cook, I. F. Stone, Shirley MacLaine, Arthur Schlesinger, Jr., Jules Feiffer, Frank Donner.

On the basis of eyewitness reports and the taped transcript of the proceedings, I am convinced, too, that charges and insinuations of the most irresponsible sort were made against the FBI and its Director in the course of the conference.

Naturally, therefore, I was puzzled by the press coverage of the event when it actually occurred. The general press reaction might best be summarized in the words of columnist Joseph Kraft:

Nobody can say with confidence what emerged from the conference in the end. But plainly the FBI was discussed in a normal way—not as some outlandish fiend.

That, of course, is not an accurate description of much that was said at the conference. The transcript and the remarks of many of my colleagues who have preceded me make this clear. Still, it is a fairly accurate description of the remarks on which most of the press chose to concentrate.

Indeed, if the newspaper reports of what happened at Princeton really represented the tone and content of the meeting, it might almost be considered a corroboration of the excellence of the Bureau and its performance.

Listen to some of the press accounts of the conference:

From Jeremiah O'Leary of the Washington Evening *Star*—". . . John Elliff, of the Brandeis University faculty suggested the main problem with the FBI is that it had gone 50 years without a public accounting . . . • • •

"'If fault is to be found, it would not be sought in the bureau and in its director but in . . . attorneys general, presidents and Congresses who have given power and responsibility to the FBI but who have failed to give it guidance, direction and control.' • • •

"He said one of FBI Director J. Edgar Hoover's greatest achievements has been establishment of an objective politically neutral system for processing intelligence data."

One need not agree with this liberal professor to admit that this is a relatively mild criticism.

Or again from O'Leary, regarding the paper by Victor Navasky, an FBI foe and Robert Kennedy apologist, and Nat Lewin, on FBI electronic surveillance:

They said the FBI in many areas has been commendably ahead of the rest of the nation's law enforcement establishment in respecting the rights of American citizens.

And

Their joint presentation suggested it is not Hoover or the FBI the nation has to worry about but the system by which the government decides who is to be tapped or bugged.

Would not you think avowed critics could do better than that?

Or we find this from Alex Michelini in the New York Daily News writing of Vincent Broderick, former New York City Police Commissioner who criticized the statements of several self-styled former FBI informants who appeared as panelists:

Broderick . . . condemned the statements of the onetime informers. "It seriously impairs the credibility and validity of the conference," Broderick declared. "I have no way of knowing whether the charges are true or false."

One of the informers, David Sannes, had charged without substantiation that he was ordered by an FBI agent to murder a member of a radical group he had infiltrated. No wonder Broderick felt they impaired the credibility of the conference.

And again from Michelini, writing in the New York Sunday News of Broderick's criticizing the FBI for, of all things, not doing enough:

Broderick chided the FBI for refusing at times to cooperate with local police. "You got to drag them in kicking and screaming," said Broderick, who added that one of the reasons for the resistance was the limitations of the bureau's law enforcement powers.

To what purpose does one criticize in on breath and destroy the basis for the criticism in the next?

From Joseph Kraft in the Washington Post, we had this:

Anybody interested in the cooling national temperature should examine the conference on the FBI, which took place here in Princeton last weekend. For what shaped up as an exercise in radical chic attack turned out to have a story line a good deal less predictable than the Efrem Zimbalist show.

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At one point, what had started as a congress of militant oppositionism was warned by John Doar (former Assistant Attorney General for civil rights in the Kennedy Administration) not to attack the FBI simply because "we feel more comfortable criticizing bureaucracy than criticizing ourselves."

In short, the press dwelt on the statements of the most moderate spokesmen at the conference and those statements quoted were, as often as not, constructively critical if not downright laudatory of the FBI.

Even where radical criticism was quoted it was frequently placed in a context which made it clear that it was ludicrous or blatantly political. For example, from Charles Krause writing in the Washington Post:

The participants in the conference questioned whether all surveillance should be ended or only that concerned with political dissent. There was a strong feeling, expressed by John Doar • • • that the use of informants was necessary in protecting civil rights workers and combating organized crime.

The implication is that surveillance becomes justified if used against organizations like the Ku Klux Klan or the American Nazi Party but not if used against those on the radical left like the SDS or the Black Panthers—a blatantly political point of view.

Robert M. Smith, writing in the New York Times, quoted Prof. Thomas I. Emerson of Yale Law School:

He (Emerson) suggested that the bureau be enjoined from actions like photographing peaceful demonstration in "compiling political dossiers on people not charged with a crime or reasonably suspected of a violation of the law."

But Smith went on to quote the following exchange between Richard Wright, one of the two defenders of the FBI present at the conference, and Professor Emerson:

Richard Wright, the associate executive director of Americans for Effective Law Enforcement, said he thought 'the FBI has a basic duty to make sure the radicals don't get away with intimidating the rest of us' and asked if surveillance of some political groups was not justified if they were involved in violence.

Professor Emerson conceded that this was 'the key question' and said it would be 'a major step forward if we could draw that line' between general intelligence-gathering and legitimate surveillance.

Here we have an admission that the critics really had no answers to the hard questions they found it so easy to raise.

Another particularly noticeable factor was the mass media's failure to give any coverage to the student reaction to the conference. When a handful of students disagrees with the "establishment," the media is quick to seek them out and present their case to the people.

In this case, a group of Princeton students, styling themselves Undergraduates for a Stable America—USA—mounted a campuswide campaign using the university radio station and the Daily Princetonian to call attention to the inherent bias of the conference sponsors and participants.

They said that—

Princeton is doing an injustice to its prestigious name and the scholarly pursuit of truth by co-sponsoring such a biased convocation.

Much work and research went into the effort to present facts as to the nature of the conference. Yet the press gave no indication that one iota of student opposition to the conference existed.

It would be an easy matter to continue with quotes in this vein. But the point is made. With critics like these, who needs friends? When you stack the deck and cannot provide a basically sympathetic press any more to report than did these critics, it seems clear that the FBI must be doing something right.

Unfortunately, this is a dangerous conclusion. Perhaps to the credit of the press, it did not dignify many of the wild and irresponsible things said at the conference by giving them wide publication. Most reporters concentrated on the normal criticism rather than the outlandish.

But the danger is that this organization and its participants will achieve credibility in the eyes of the public by virtue of the very fact that the extreme and incredible statements were not reported.

Prior to the conference Stephen Gillers, director of the committee for Public Justice characterized his group as serving as an "early warning system" for what its members thought was political repression in America. And Doubleday Co. of New York plans to produce a book from the conference, based on the individual papers and panel discussions presented there.

Clearly, we have not heard the last of this "potshoting" from the left. But we are in danger of its future activities and pronouncements being received with undue attention, simply because of the things that were not reported about the conference proceedings.

That is why I am glad to join with my colleague from New Jersey in providing time today to explore behind the facade of this kangaroo court on public justice.

TAX BREAK FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. FINDLEY) is recognized for 5 minutes.

Mr. FINDLEY. Mr. Speaker, today I am introducing a bill to give senior citizens of limited income a Federal income tax credit to offset State and local taxes they pay on their home property.

Those whose annual income is under $6,500 would be eligible, whether they own their own house or not. If they rent, the portion of rent which covers taxes will be computed. If their Federal income tax is $300 or less, they will be eligible for a payment from the U.S. Treasury instead of a tax credit.

The maximum tax credit, or payment, would be $300.

Early this year an elderly man I have known most of my life wrote these touching words to me:

I worked hard all my life until I retired a few years ago. I've never been on relief. I've always been a taxpayer. Over the years my wife and I scrimped and saved to pay off the mortgage on our house. It's clear of debt but real estate taxes are getting so high, and our retirement income buying so much less each year, that we simply can't afford to stay in the house that has been so much a part of our lives. Can't something be done for us and others like us?

As I reflected on his letter, it struck me that this couple, and hundreds of thousands of others throughout the Nation face an agonizing decision in their twilight years. For them, the principal invest of a lifetime is their home. It is more than an investment in dollars. Its rooms and grounds hold cherished memories of marriage, children, the moments both sad and happy which make up family life.

Old age is difficult enough in familiar surroundings. It can be unbearable for people torn from these surroundings by the rising burden of real estate taxes.

The man who wrote to me must have wondered if the years of scrimping and saving to pay off the mortgage on his house were really worthwhile. Were he and his wife any better off, really, than some other couples who have been on public welfare in one form or another most of their lives?

The facts are that two-thirds of those persons over 65 own their own homes.

Yet many are being forced to sell their homes and move to small, cramped, unfamiliar quarters because they cannot afford to pay high State and local property taxes. Others must liquidate precious retirement assets to pay property taxes—assets which should be used sparingly only to provide for the necessities of old age.

Unlike the Federal income tax, property taxes are not related to the income of the person taxed, but rather to the value of this property. That value has been achieved only through years of making mortgage payments.

In recent years, property taxes have increased phenomenally. In many areas they have doubled in the last decade, and in some places they have gone up even more. The largest single bite of the property tax dollar goes for education, which no thoughtful citizen would begrudge. Nevertheless, it is an ironic fact that senior citizens probably benefit least from improved educational facilities and doubtless are sorely tempted to vote against badly needed local school bond issues if the only result for them will be increased property taxes.

The bill which I am introducing would give each person over 65, whose annual income is under $6,500, a Federal income tax credit of up to $300 for State and local property taxes. Where the person does not own his home, but is renting, the bill provides a tax credit equal to 25 percent of the annual rent paid, up to $300. If a person's income is so low that no income taxes are due the Federal Government, my bill provides for a payment from the U.S. Treasury equal to the amount of property taxes paid, up to $300.

Until now, Federal tax relief for property taxes paid to State and local governments has been largely ineffective. There is, of course, a Federal tax deduction for such taxes available to anyone who itemizes his deductions, regardless of his age.

Most senior citizens, however, do not itemize their deductions and therefore lose any benefit from that provision of the law. There is no similar provision for those older Americans who rent their residence, although they certainly pay property taxes each month as a part of their rent.

There are more than 1 million citizens over 65 years of age in Illinois. Most of them have worked hard for their entire lives. For many, their most satisfying investment of time and money has been their home.

It is a cynical government taxing policy which forces them to abandon the house of their dreams just as they reach the age of retirement—the age when they will spend the most hours of the day in their home.

I urge the Congress to grant older Americans the tax break contained in this bill. I hope hearings will be scheduled at an early date and that this bill will be passed by the 91st Congress.

Text of bill follows:

H.R. 11640

A bill to allow a credit against Federal income tax or payment from the United States Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 40 as 41, and by inserting after section 39 the following new section:

"SEC. 40. RESIDENTIAL REAL PROPERTY TAXES OR EQUIVALENT RENT PAID BY INDIVIDUALS WHO HAVE ATTAINED AGE 65

"(a) GENERAL RULE.—In the case of an individual who has attained the age of 65 before the close of the taxable year, there shall be allowed as a credit against the tax imposed by this chapter the amount of real property taxes paid by him during the taxable year which were imposed by a State or political subdivision thereof on property owned and used by him as his principal residence, or the amount of rent constituting such taxes, as defined in subsection (c)(6). To the extent that the tax imposed by this chapter is less than such real property taxes, said individual shall be allowed a payment from the United States Treasury equal to the difference between the amount of the tax credit allowed and the amount of such real property taxes paid.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—The total tax credit and payment from the Treasury under subsection (a) for any taxable year shall not exceed $300 ($150, in the case of a married individual filing a separate return).

"(2) ADJUSTED GROSS INCOME OVER $6,500.—The credit otherwise allowable under subsection (a) for any taxable year (determined with the application of paragraph (1)) shall be reduced by an amount equal to the amount by which the taxpayer's adjusted gross income for the taxable year exceeds $6,500 ($3,250, in the case of a married individual filing a separate return).

"(3) JOINT OWNERSHIP.—In the case of property owned and used by two or more individuals (other than a husband and wife) as their principal residence, the limitations, provided by paragraphs (1) and (2) shall, under regulations prescribed by the Secretary or his delegate, be applied collectively to such individuals.

"(4) APPLICATION WITH OTHER CREDITS.—The credit under subsection (a) for any taxable year shall not exceed the tax imposed by this chapter reduced by the credits allowable under sections 33, 35, 37, and 38 for the taxable year.

"(c) SPECIAL RULES.—

"(1) HUSBAND AND WIFE.—In the case of a husband and wife who file a single return jointly under section 6013, the age requirement contained in subsection (a) shall, with respect to property owned jointly and used by them as their principal residence, be treated as satisfied if either spouse has attained the age of 65 before the close of the taxable year.

"(2) PROPERTY USED IN PART AS PRINCIPAL RESIDENCE.—In the case of property only a portion of which is used by the taxpayer as his principal residence, there shall be taken into account, for purposes of subsection (a), so much of the real property taxes paid by him on such property as is determined, under regulations prescribed by the Secretary or his delegate, to be attributable to the portion of such property so used by him. For purposes of this paragraph, in the case of a principal residence located on a farm, so much of the land comprising such farm as does not exceed 40 acres shall be treated as a part of such residence.

"(3) COOPERATIVE HOUSING.—For purposes of subsection (a), an individual who is a tenant-stockholder in a cooperative housing corporation (as defined in section 216(b))—

"(A) shall be treated as owning the house or apartment which he is entitled to occupy by reason of his ownership of stock in such corporation, and

"(B) shall be treated as having paid real property taxes during the taxable year equal to the portion of the deduction allowable to him under section 216(a) which represents such taxes paid or accrued by such corporation.

"(4) CHANGE OF PRINCIPAL RESIDENCE.—If during a taxable year a taxpayer changes his principal residence, subsection (a) shall apply only to that portion of the real property taxes or rent paid by him with respect to each such principal residence as is properly allocable to the period during which it is used by him as his principal residence.

"(5) SALE OR PURCHASE OF PRINCIPAL RESIDENCE.—If during a taxable year a taxpayer sells or purchases property used by him as his principal residence, subsection (a) shall apply only to the portion of the real property taxes with respect to such property as is treated as imposed on him under section 164(d), and, for purposes of subsection (a), the taxpayer shall be treated as having paid such taxes as are treated as paid by him under such section.

"(6) RENT CONSTITUTING PROPERTY TAXES.—The term 'rent constituting property taxes' means an amount equal to 25 percent of the rent paid during a taxable year by a taxpayer for the right to occupy his dwelling during that year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as a part of the rental agreement.

"(d) ADJUSTMENT FOR REFUNDS.—

"(1) IN GENERAL.—The amount of real property taxes paid by an individual during any taxable year shall be reduced by the amount of any refund of such taxes, whether or not received during the taxable year.

"(2) INTEREST.—In the case of an underpayment of the tax imposed by this chapter for a taxable year resulting from the application of paragraph (1), no interest shall be assessed or collected on such underpayment if the amount thereof is paid within 60 days after the taxpayer receives the refund of real property taxes which caused such underpayment.

"(e) DEDUCTION NOT AFFECTED.—The credit allowed by subsection (a) shall not affect the deduction under section 164 for State and local real property taxes."

(b) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 40. Residential real property taxes or equivalent rent paid by individuals who have attained age 65.
"Sec. 41. Overpayments of Tax"

(c) The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

REPRESENTATIVE MIZELL PROPOSES RURAL ECONOMIC DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from North Carolina (Mr. MIZELL) is recognized for 30 minutes.

Mr. MIZELL. Mr. Speaker, I rise at this time to introduce what I consider to be the most important and most comprehensive legislation I have sponsored during my tenure as a Member of this House.

The legislation to which I refer is the Rural Economic Development Act, a bill that holds the promise of revitalizing the whole of rural America, promoting the cooperation of Federal, State, and local governments, and enhancing the quality of life for all Americans.

The measure I am introducing today is the product of months of careful consideration and study of the problems and potentials facing rural America today, and of additional months of research to determine the best methods of solving those problems and realizing those potentials.

I first announced my intention of introducing this legislation in a speech I delivered in North Carolina last February. Since that time, I have consulted with State and local government officials, regional development specialists, various officials within the administration, several learned and distinguished colleagues in the Congress, and with others outside the sphere of government whose cooperation has helped immeasurably in the preparation of this legislation.

It is significant that this spirit of cooperation which was so essential in drafting this legislation is also the single most important component in the execution of this legislation's stated purposes.

Those purposes are as follows:

To create a partnership between the United States and the several States for the development of rural America's resources and capacities in transportation, industrial growth, education, housing, health, environmental protection, and planning;

To establish a Rural Development Commission, employing the principle of that partnership, to be composed of one Federal member, to be designated as the Federal Cochairman, appointed by the President by and with the advice and consent of the Senate, and one member from each of the several States. The State member shall be the Governor of that State, or his designee, or such other person as may be provided by the law of the State which he represents. The State members of the commission shall elect a cochairman from among their members;

To develop, on a continuing basis, comprehensive and coordinated plans and programs for rural development, and establish priorities thereunder;

To conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of rural America, and in cooperation with Federal, State, and local agencies, sponsor demonstration projects designed to foster rural economic development and growth;

To review and study, in cooperation with the agency involved, Federal, State, and local public and private rural economic development programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in rural America;

To encourgae the formation of local rural development districts;

To encourage private investment in industrial, commercial, and recreational projects;

To serve as a focal point and coordinating unit for rural programs;

To provide a forum for consideration of problems of rural America and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences; and, above all,

That the efforts herein undertaken shall be, to the fullest and most conscious extent possible, made in the pursuance of attaining more balanced population growth and economic growth throughout the Nation, and encouraging full cooperation in these efforts between urban and rural governments, as well as between the Federal Government, the several States and their local government subsidiaries.

I believe these stated purposes offer a general outline of ways in which we can reach a quite specific goal—the restoration of rural America as a region of vitality, opportunity, and progress.

The portrait of much of rural America today presents a strikingly different picture. It is a portrait painted in desolation and despair and lack of opportunity. Too often, Government has tried to cover that portrait with a piecemeal quilt of Federal assistance, but there are gaping holes in this approach, and the shameful plight of much of rural America shows through as a national disgrace.

There is a serious shortage of jobs and housing and industry in rural America, and in general, the level of education and health in rural America is far below the national plane.

The Nation has come to realize the inseparability of the problems of the cities and the plight of many rural citizens. We cannot afford to have prosperity in much of the land while large numbers of Americans go without the sound shelter, good schools and medical care, and job opportunities that a rising national income can provide.

The ultimate costs of such neglect far outweigh the investments in housing, education, health, manpower training and other needs essential to decent life and to both urban and rural development.

It has been estimated that there is a 10-to-1 ratio between the cost of remedial and welfare programs required to help rural-oriented citizens live in large cities, and the cost of developing rural areas to the point that young people do not have to migrate to the cities to find jobs and new lives.

We know that millions of people now live in despair in the burned-out hearts of America's cities, because fate and this Nation's lack of vision—not their own choice—have separated them from the rural setting that was their heritage and would gladly have been their future, had opportunity presented itself.

The legislation I am proposing would help to strike a healthy balance between urban and rural growth, while providing the services and facilities that rural America so badly needs.

The specific areas of concern I have identified in this legislation are mentioned, not merely as fields in which progress is desired, but as components of a definite and organized plan for rural development.

The first of these components is the improvement of rural transportation systems. No development program can succeed until we open isolated areas to trade routes. This is the first enticement for industries to locate in underdeveloped areas, and because this is true, road construction should be one of the highest priorities in any development program.

Until the transportation problem in rural America is at least partially cured, there can be little hope of achieving full social and economic development in the region. The new roads will get products to markets, people to jobs, children to schools, and families to hospitals.

That first step in renovating rural America is closely followed by a second: industrial development. Bringing industry into an area should be a top priority in the rural development scheme, since it has been proven time and time again that a new industry can serve as a revitalizing force for communities that have become little more than ghost towns.

New industry in a rural area can provide the job opportunities that young people are seeking, the opportunities that have been too hard to find in rural America. I believe, and I think my colleagues would agree, that despite all the promises of adventure leaving home can hold, most of our young people would much rather live among their families and friends than migrate to a cold, unfriendly city in search of a career.

Industrial development of all kinds is essential to the expansion of the rural economy, and it is a very important second step because it can provide a basis for every other element in a rural development program.

The third step is education, or more specifically, vocational education. Mastering a skill is perhaps the most underrated route there is to earning a sizable income. As American industry becomes more technical and specialized, the need for skilled labor will continue to grow, and skilled laborers will continue to make good money.

Vocational education, for young and older citizens alike, is an excellent means of learning a valuable trade. In fact, it is probably the best kind of manpower training there is. The cost is relatively low, but the dividends can be very high.

The fourth step in my rural development plan is housing. Once the roads are built, the industries have located and the people are trained, the steady exodus of our young people from their homes to some distant "promised land" will begin to reverse itself, and we will have to have places for them to stay.

A growing rural population necessitates concern for the last three components of my rural development plan—adequate health facilities, environmental protection and intelligent land use planning.

A healthy population is essential to rural development for obvious reasons. To insure the good health of the rural population, Federal, State and local Governments must work together to provide the facilities and manpower needed to maintain a high level of health care, from home health services to the most specialized surgical needs.

Environmental protection is just as important as any other element in this rural development plan. Today, the Nation must look to rural America to see even a remnant of the glories that nature showered on our land. We are proud that so many of these glories abound in our region, and that pride will make the citizens of rural areas the jealous guardians of what remains of nature's beauty.

The growth of industry in rural America does not have to mean that the region will suffer the same fate that pollution has brought upon our urban neighbors. Federal laws now in effect severely limit the amount of pollution an industry can inflict upon a community. These laws were not on the books during America's first industrial revolution, and we are now paying the awful price of environmental neglect.

But we have the laws now, and more importantly, we in rural America have time. Time to plan, time to build adequate water and sewage treatment plants, time to make an area grow up the way we want it to, rather than having the outcome forced upon us.

Those of you who are familiar with the Congress' economic development efforts of the past will recognize in my program a great similarity with the Appalachian Regional Commission, both in structure and in purpose.

But the Rural Development Commission I am proposing would sponsor a much broader program than the one the Appalachian Commission has so successfully pursued.

I have taken the proven ability of the regional approach to get things done, and applied the same principles to this more comprehensive legislation.

One of the most important elements of that approach, and one that has met with great success under the Appalachian program, is the provision of supplemental assistance funds that would help local governments participate to a far greater extent in the Federal grant-in-aid programs than their fiscal capabilities currently permit.

In order to enable the States and local rural communities, including rural development districts, to take maximum advantage of all the Federal grant-in-aid programs for which they are eligible, the Rural Development Commission would be authorized to make grants of funds to be used as supplemental matching shares required under the categorical aid concept.

As I mentioned earlier, this practice has proven highly successful under the Appalachian Commission, and I am confident it could reap even greater rewards for rural Americans under the Rural Development Commission.

This is true in part because of the broader scope and greater funding level I am proposing, but more important, it is because, unlike the Appalachian Commission, the RDC would be free to appropriate all its funds under this supplemental grant program, if that were the desire of the State and local officials involved.

It is important to stress the role that State and local governments and planning agencies will play in the program I am proposing.

All projects will be initiated at the local level, where the need and the means of meeting that need can best be identified. These projects will be submitted to the State, which must give its approval through the Governor before projects are included in an overall State rural development plan. The purpose of this plan is to establish priority ratings for the various projects, and provide coordination and general direction for rural development efforts within that State.

Development plans will then be submitted to the commission at large, and only here does the Federal Government enter the picture. The commission, with the Federal and State repersentatives I mentioned earlier, will be responsible for final approval of projects, making sure that the nature of the project is within the spirit of this act and promotes general rural development.

Projects will not be strictly limited to "rural" areas, as those areas are defined in the bill. Assistance can be provided to small communities which serve more rural areas, or even to standard metropolitan statistical areas if a rural development district finds such assistance appropriate and necessary.

Projects of this nature could include airport improvements, expansion of a hospital serving rural patients, et cetera. But the principle thrust of the program will be to revitalize and enhance the quality of life in rural areas, not in the cities.

The Rural Development Commission, while working toward the same goals as the Appalachian Commission and other economic development and rural programs, would neither replace nor incorporate nor abolish any of them. It would be a completely new Government entity, utilizing completely new funds.

I have often said that the last thing the Federal Government needs is another bureaucratic agency. But, as I have noted, this is not a bureaucratic agency in the traditional sense, since it relies so heavily on local initiative and State cooperation and since its professional staff could be held to an absolute minimum.

But it is important that we in the Federal Government establish a new structure solely dedicated to solving rural problems on a comprehensive basis.

Completely new funds will be required, obviously because no other funds will be channeled into this program through incorporation, but more importantly, to provide the financial base that will insure significant and meaningful improvement in rural life.

The funding level I have initially proposed for authorization to the RDC is $1 billion. Estimates of how much the job of fully developing rural America will eventually cost have been, and will remain, subjects for extended speculation and matters of opinion.

I have chosen the $1 billion figure because I feel it represents an adequate base for beginning this massive effort and will provide for a significant improvement in the financial situations of State and local governments throughout rural America.

As most of my colleagues know, I have not been one who favors great expenditure of the public funds. I have exercised such careful scrutiny over such expenditures, in fact, that last year I was awarded a "Watchdog of the Treasury" award from a reputable national organization.

So it is not lightly or extravagantly that I propose such a relatively high funding level. My proposal stems from a profound sense of what is needed in rural America, and from the knowledge of the record of the Appalachian Regional Commission, which has proven that funds allocated under this type of pro-

gram can be wisely and effectively and efficiently spent.

I am estimating that this program will take a minimum of 5 years to succeed, and I am asking for an initial 5-year authorization.

I introduce this legislation today in the sincere and fervent hope that it will be considered as soon as possible in the appropriate committee, that the committee's deliberation will be thorough but swift, and that the legislation may be brought to the floor and enacted before the 92d Congress adjourns.

I call for the support of my colleagues from both sides of the aisle, and I look forward to working with them toward the final enactment of this vital legislation.

The text of the bill follows:

H.R. 11678

A bill to create a partnership between the United States and the several States for the development of rural America's transportation, industrial growth, education, health, housing, environmental protection, and planning resources and capacity

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Economic Development Act of 1971".

SEC. 2. (a) There is established the Rural Development Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of one Federal member (hereinafter referred to as the "Federal Cochairman") appointed by the President by and with the advice and consent of the Senate, and one member from each of the several States. The Federal Cochairman shall be one of the two Cochairmen of the Commission. Each State member may be the Governor, or his designee, or such other person as may be provided by the law of the State which he represents. The State members of the Commission shall elect a Cochairman from among their number.

(b) Except as provided in section 5, decisions by the Commission shall require the affirmative vote of the Federal Cochairman and of a majority of the State members (exclusive of members representing States delinquent under section 5). In matters coming before the Commission, the Federal Cochairman shall, to the extent practicable, consult with the Federal departments and agencies having an interest in the subject matter.

(c) The Federal Cochairman shall be compensated by the Federal Government at level II of the Federal Executive Salary Schedule of section 5313 of title 5, United States Code, and he may appoint such staff and at such salaries as will enable him effectively to carry out his responsibilities under this Act. Each State member shall be compensated by the State which he represents at the rate established by the law of such State.

SEC. 3. In carrying out the purposes of this Act, the Commission shall—

(1) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities thereunder, giving due consideration to other Federal, State, and local planning for rural America;

(2) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of rural America, and, in cooperation with Federal, State, and local agencies, sponsor demonstration projects designed to foster rural economic development and growth;

(3) review and study, in cooperation with the agency involved, Federal, State, and local public and private rural economic development programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in rural America;

(4) encourage the formation of rural development districts.

(5) encourage private investment in industrial, commercial, and recreational projects;

(6) serve as a focal point and coordinating unit for rural programs;

(7) provide a forum for consideration of problems of rural America and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences; and

(8) encourage more balanced population and economic growth throughout the Nation, and encourage full cooperation between urban and rural governmental authorities, and between the Federal, State, and local governments.

SEC. 4. The Commission may, from time to time, make recommendations to the President and to the State Governors and appropriate local officials with respect to the expenditure of funds by Federal, State, and local departments and agencies in rural America in the fields of housing, environmental protection, education, health, transportation, industrial development, and planning.

SEC. 5. (a) For the period ending on June 30 of the second full Federal fiscal year following the date of enactment of this Act, the administrative expenses of the Commission shall be paid by the Federal Government. Thereafter, such expenses shall be paid equally by the Federal Government and the States. The share to be paid by each State shall be determined by the Commission. The Federal Cochairman shall not participate or vote in such determination. No assistance authorized by this Act shall be furnished to any State or to any political subdivision or any resident of any State, nor shall the State member of the Commission participate or vote in any determination by the Commission while such State is delinquent in payment of its share of such expenses.

(b) Not to exceed 2.5 percent of the funds authorized in section 18 of this Act shall be available to carry out this section.

SEC. 6. To carry out its duties under this Act, the Commission is authorized to—

(1) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions.

(2) appoint and fix the compensation of an executive director and such other personnel as may be necessary to enable the Commission to carry out its functions, except that such compensation of any individual on the staff shall not exceed the minimum scheduled rate for grade GS–18 of section 5332 of title 5, United States Code. No member, alternate, officer, or employee of the Commission, other than the Federal Cochairman of the Commission, his staff, and Federal employees detailed to the Commission under paragraph (3) shall be deemed a Federal employee for any purpose.

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail to temporary duty with a Commission such personnel within his administrative jurisdiction as the Commission may need for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(4) arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency.

(5) make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel. The Civil Service Commission of the United States is authorized to contract with the Commission for continued coverage of Commission employees, who at date of Commission employment are Federal employees, in the retirement program and other employee benefit programs of the Federal Government.

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible.

(7) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation.

(8) take such other actions and incur such other expenses as may be necessary or appropriate.

SEC. 7. In order to obtain information needed to carry out its duties, the Commission shall—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a Cochairman of the Commission, or any member of the Commission designated by the Commission for the purpose, being hereby authorized to administer oaths when it is determined by the Commission that testimony shall be taken or evidence received under oath;

(2) arrange for the head of any Federal, State, or local department or agency (who is hereby so authorized to the extent not otherwise prohibited by law) to furnish to the Commission such information as may be available to or procurable by such department or agency; and

(3) keep accurate and complete records of its doings and transactions which shall be made available for public inspection, and for the purpose of audit and examination by the Comptroller General or his duly authorized representatives.

SEC. 8. (a) Except as permitted by subsection (b) hereof, no State member or alternate and no officer or employee of the Commission shall participate personally and substantially as member, alternate, officer, or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization (other than a State or political subdivision thereof) in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest. Any person who shall violate the provisions of this subsection shall be fined not more than $10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply if the State member, alternate, officer, or employee first advises the Commission of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by the Commission that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Commission may expect from such State member, alternate, officer, or employee.

(c) No State member or alternate shall receive any salary, or any contribution to or supplementation of salary for his services on the Commission from any source other than his State. No person detailed to serve the Commission under authority of paragraph (4) of section 6 shall receive any salary or any contribution to or supplementation of salary for his services on the Commission from any source other than the State, local, or intergovernmental department or agency from which he was detailed or from the Commission. Any person who shall violate the provisions of this subsection shall be fined not more than $5,000, or imprisoned not more than one year, or both.

(d) Notwithstanding any other subsection of this section, the Federal Cochairman of the Commission, his staff, and any Federal officers or employees detailed to duty with it pursuant to paragraph (3) of section 6 shall not be subject to any such subsection but shall remain subject to sections 202 through 209 of title 18, United States Code.

(e) The Commission may, in its discretion, declare void and rescind any contract, loan, or grant of or by the Commission in relation to which it finds that there has been a violation of subsection (a) or (c) of this section, or any of the provisions of sections 202 through 209, title 18, United States Code.

SEC. 9. In order to enable the States, and rural people and local rural communities, including local rural development districts, to take maximum advantage of all the Federal grant-in-aid programs for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, whether or not such programs are authorized on, before, or after the date of the enactment of this Act, the Commission may make grants, within the allocations to each State under section 18 of this Act, of funds appropriated to carry out this Act to the States and local rural communities, including rural development districts, to be used as such required matching share. Funds granted under this section shall be considered eligible to be such matching share by the department, agency, or other instrumentality of the Federal grant-in-aid program involved.

SEC. 10. No State and no political subdivision of any State shall be eligible to receive assistance under this Act unless the aggregate expenditures of State funds, exclusive of Federal funds, for the benefit of the area within the State eligible for such assistance are maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this Act. In computing the average level of expenditure for its last two fiscal years, a State's past expenditure for participation in the National System of Interstate and Defense Highways shall not be included. The Commission may substitute a lesser requirement when it finds that a substantial population decrease in the portion of a State eligible for assistance under this Act would not justify a State expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure, within an individual program, has been disproportionate to the present need for that portion of the State which is eligible for assistance under this Act.

SEC. 11. Nothing contained in this Act shall be interpreted as requiring any State to engage in or accept any program under this Act without its consent.

SEC. 12. (a) In developing recommendations on the programs and projects to be given assistance under this Act and in establishing within those recommendations a priority ranking of the requests for assistance presented to the Commission, the Commission shall follow procedures that will insure consideration of the following factors:

(1) the relationship of the project or class of projects to overall rural economic development including its location in an area determined by the State to have a significant potential for growth;

(2) the population and area to be served by the project or class of projects including the relative per capita income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities thereof which seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects which may be in competition for the same funds; and

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project.

(b) No financial asistance shall be authorized under this Act to be used (1) in relocating any establishment or establishments from one area to another; (2) to finance the cost of industrial plants, commercial facilities, machinery, working capital, or other industrial facilities or to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors; (3) to finance the cost of facilities for the generation, transmission, or distribution of electric energy; or (4) to finance the cost of facilities for the production, transmission, or distribution of gas (natural, manufactured, or mixed).

SEC. 13. For the purposes of this Act, a "rural development district" shall be an entity composed of counties or similar political subdivisions each one of which has either a population density of less than one hundred persons per square mile or is not included in a standard metropolitan statistical area as defined in section 17(d) of this Act. Each such rural development district shall be certified to the Commission either by the Governor of the State in which such entity is located, or by the State officer designated by the appropriate State law to make such certification, as having a charter or authority that includes the economic development of counties within such rural development district. No entity shall be certified as a rural development district for the purposes of this Act unless it is one of the following:

(1) a nonprofit incorporated body organized or chartered under the law of the State in which it is located;

(2) a nonprofit agency or instrumentality of a State or local government; or

(3) a nonprofit association or combination of such bodies, agencies, and instrumentalities.

SEC. 14. An application for a grant or for any other assistance for a program or project under this Act shall be made only by a rural development district, or a political subdivision which is not within a rural development district but which, in the judgment of the State member, is of a distinctly rural, and not suburban, character. Each such application shall be made through the State member of the Commission representing such applicant, and such State member shall evaluate such application for approval. Only applications for programs and projects which are approved by a State member as meeting the requirements for assistance under the Act shall be approved for assistance by a Commission.

SEC. 15. Not later than six months after the close of each fiscal year, the Commission shall prescribe and submit to the Governor of each State and to the President, for transmittal to the Congress, a report on the activities carried out under this Act during such year.

SEC. 16. (a) The Commission is authorized to make grants to entities within a State which is eligible under section 14 of this Act to make applications for grants or other assistance under this Act, up to the amount allocated to such State under section 18 of this Act, in order to fund projects which are—

(1) consistent with the rural economic development plans of that State and of the rural development district, if any, by which application for such grants was made; and

(2) aimed at rural problems in one or more of the following areas: transportation, industrial growth, education, health, housing, environmental protection, and planning resources and capacity.

No more than 5 percent of each State's allocation shall be used for projects originating from entities other than rural development districts within such State.

(b) The Commission may make grants to any rural development district, out of any portion of that rural development district's State's allocation under section 18 of this Act, for administrative expenses of such rural development district which arise from its responsibilities and activities under this Act, but in no event shall the total of such grants to the rural development districts of any one State during any one fiscal year exceed 2.5 percent of such State's allocation for that year.

(c) It shall be the responsibility of the Commission to see that all projects funded under the provisions of this Act are for the benefit of rural, as distinguished from urban and suburban, areas, whether or not such projects are geographically centered in such rural areas.

SEC. 17. (a) The amounts provided from appropriations for the purposes of this Act for any fiscal year shall be allocated by the Commission among the States in accordance with their entitlement as determined by subsections (b) and (c) of this section.

(b) One per centum of the amount required to be allocated under subsection (a) shall be divided among the States in equal proportion.

(c) Each State shall be entitled to a portion of the remainder of the amount required to be allocated under subsection (a), which portion shall be determined as follows:

(1) each State shall be entitled to receive an amount equal to 50 per centum of such remainder multiplied by a fraction the numerator of which is the rural population of such State at the most recent point in time for which appropriate statistics are available and the denominator of which is the sum of the rural populations of all States at the same point in time;

(2) each State shall be entitled to receive an amount equal to 25 per centum of such remainder multiplied by a fraction the numerator of which is the average of per capita incomes of all the States at the most recent point in time for which appropriate statistics are available less the rural per capita income of such State at the same point in time, such difference to be multiplied by the rural population of such State at the same point in time, and the denominator of which is the sum of such positive differences for each State multiplied by that State's rural population; except that, if the rural per capita income of a State is greater than the average of per capita incomes of all States, the differences above shall be considered zero; and

(3) each State shall be entitled to receive an amount equal to 25 per centum of such remainder multiplied by a fraction the numerator of which is the percentage change in population of all the States less the percentage change in rural population of such State, such difference to be multiplied by the rural population of such State during

the most recent and appropriate time period of which statistics are available, and the denominator of which is the sum of such positive differences for each State multiplied by that State's rural population; except that, if the percentage rate of change of rural population of a State during such period is greater than the percentage rate of change of the populations of all States during the same period, the differences stated above shall be considered zero.

(d) For the purposes of this section—

(1) the term "rural population" means the total resident population, as defined and used by the United States Bureau of the Census, of any county or similar political subdivision which either has a population density of less than one hundred persons per square mile or is not included within a standard metropolitan statistical area;

(2) the term "rural per capita income" means the average personal income of the rural population of a State;

(3) the term "fiscal year" means the fiscal year of the Government of the United States;

(4) the term "standard metropolitan statistical area" is used as that term is used and defined by the Office of Management and Budget; and

(5) the term "personal income" is used as that term is used and defined by the Office of Business Economics of the Department of Commerce.

(e) All computations and determinations by the Commission under this section shall be final and conclusive.

SEC. 18. For the first fiscal year after the date of the enactment of this Act there is authorized to be appropriated the sum of $1,000,000,000. There are thereafter authorized to be appropriated such sums as shall be necessary to carry out the purposes of this Act.

SEC. 19. This Act shall cease to be in effect five years after the date of its enactment

State-by-State authorization under Rural Economic Development Act

Alabama	$33,419,929
Alaska	2,193,549
Arizona	8,528,740
Arkansas	25,000,185
California	30,263,456
Colorado	9,382,084
Connecticut	3,767,582
Delaware	1,514,765
Florida	22,896,579
Georgia	35,236,998
Hawaii	1,990,610
Idaho	8,554,920
Illinois	31,569,873
Indiana	23,041,922
Iowa	30,286,187
Kansas	21,382,635
Kentucky	36,624,075
Louisiana	24,021,254
Maine	11,785,067
Maryland	5,098,871
Massachusetts	5,988,871
Michigan	22,310,688
Minnesota	31,254,947
Mississippi	36,544,886
Missouri	30,179,786
Montana	9,507,260
Nebraska	14,064,372
Nevada	3,445,122
New Hampshire	5,037,964
New Jersey	14,221,395
New Mexico	11,972,382
New York	26,415,060
North Carolina	49,988,535
North Dakota	10,866,343
Ohio	32,966,077
Oklahoma	23,988,725
Oregon	10,579,170
Pennsylvania	40,026,216
Rhode Island	1,331,160
South Carolina	27,818,662
South Dakota	10,521,808
Tennessee	31,186,531
Texas	53,998,917
Utah	4,595,083
Vermont	4,045,254
Virginia	20,056,585
Washington	10,733,609
West Virginia	26,896,299
Wisconsin	23,966,160
Wyoming	4,907,341

RESOLUTION CALLING FOR THE EXPULSION OF BYELORUSSIA AND THE UKRAINE FROM THE UNITED NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BURKE) is recognized for 20 minutes.

Mr. BURKE of Florida. Mr. Speaker, the Congress and the people of America have been deeply distressed by the expulsion of Nationalist China from the United Nations. Official and popular support for the United Nations has fallen in the wake of the ouster of Taiwan.

This world body has not been subjected to widespread public scrutiny in many years, but now the eyes of the entire world are focused on it. The eyes of most Americans look in anger and disillusionment at the U.N.'s failure to recognize the reality of two Chinas. As a body that supposedly represents all the nations on earth, the U.N. has shown itself to be a petty group of self-serving diplomats more interested in self-aggrandizement than in world peace and harmony. Americans are shocked and dismayed.

The United States has been the primary backer of the U.N. since its inception, paying at the present time 31.52 percent of the regular U.N. budget. Still, despite our heavy contribution, the U.N. is virtually in a state of financial collapse. This is because a lot of members either do not pay their dues at all or are far behind in their annual assessments—the Soviet bloc nations owe $118 million. Then, too, two-thirds of the votes in the General Assembly belong to countries together paying only 4½ percent of the regular U.N. budget which, to me, is a gross inequity.

Various ways to ease this imbalance have been proposed: Weighted voting, coalitions on particular issues, establishment of nonvoting associate status for members who do not pay much, a new Assembly rule that the total vote from which majorities are made include abstentions—this rule would have saved Taiwan—and so on.

All in all, I believe that the responsible course now is to try to change the high feelings generated by the China vote into support for rational voting procedures and reform of the finances of the U.N.

The legislation I am introducing today involves correcting an inequity in the voting strength of the U.S.S.R. that has existed since the United Nations was established in 1945. This legislation is a sense of Congress resolution that would urge the President, acting through our Ambassador to the U.N., to "take such steps as may be necessary to bring before the General Assembly the question of the legitimacy of the Byelorussian S.S.R., and the Ukrainian S.S.R. membership in the United Nations, and seek their expulsion."

Byelorussia and the Ukraine are two of the 16 republics that make up the U.S.S.R. They relate to the U.S.S.R. roughly in the same way that Florida and California relate to the United States. If carried to its logical conclusion Russia would have 16 votes under this system—as they originally sought—and the United States would have 48—as President Roosevelt jokingly pointed out during the early discussion of the subject.

In October 1945, at the time of the founding of the United Nations, the U.S.S.R. was accorded three votes and the United States was accorded only one. Byelorussian S.S.R. and the Ukrainian S.S.R. came in with a "separate and equal" vote with the U.S.S.R.'s.

Byelorussia is the westernmost portion of the U.S.S.R. and is bounded on the west by Poland. It is 200 miles west of Moscow. South of Byelorussia is the Ukraine. It is bounded on the west by Czechoslovakia, Hungary, Rumania and on the south by the Black Sea. On a map of the U.S.S.R., they take up a small but populous segment of the European portion of Russia.

The Ukraine and Byelorussia were conquered by the Tsars over five centuries ago. The only chance the people of the Ukraine and Byelorussia ever had for independence came prior to the Bolshevik revolution, when it appeared for a brief period that a democratic form of government might succeed. These hopes were shattered when the Red Army took complete command of former Tsarist Russia.

Lenin, on taking office, prepared a constitution which purportedly gave supreme power to a legislature, but in truth gave all real power over the provinces, including the Ukraine and Byelorussia, to the Central Politburo located in the Soviet capital. The provinces adopted the Russian Constitution as their own, and by 1920 were completely absorbed as part of the Union of Soviet Socialist Republics. The Ukraine suffered the most during those years, as Bolshevik leaders sensing the strong nationalist feeling for independence, crushed Ukraine with great brutality.

The Soviet Union claims to have formed a true federation, but once again, it is a matter of Communist semantics. According to western definitions, a federation is where local governments run local affairs, while the central government makes treaties with other countries and provides for national defense and exercises power over matters that affect the country as a whole. But, according to the Soviet view a federation is a dictatorship of the proletariat run by the Communist Party from Moscow.

Despite this obvious fact, the Soviets persuaded our war-weary political leaders in 1944 and 1945 it was recognized that the Ukraine and Byelorussia were separate states, perhaps in the same sense as India and several other members of the British Commonwealth were states, then, and as such, deserved a separate vote in the United Nations.

Twenty-six years have passed since then. All of the British Commonwealth nations have gained independence, and become full-fledged members of the United Nations in their own right. The Ukraine and Byelorussia, on the contrary, have become more and more an integral part of the U.S.S.R. They have never been allowed to carry on their own sovereign foreign relations, nor have they any semblance of a nation-state which is the criteria for acceptance into the U.N. for all other members. Yet, they are still allowed to vote as independent countries. This is wrong, especially in view of the recent U.N. exhibit on the China issue wherein Byelorussia and the Ukraine voted for the expulsion of Nationalist China. Any body of nations that expels from its membership an independent nation like Nationalist China, which has defended its borders from intruders for more than 25 years, and at the same time countenances the retention of Byelorussia and the Ukraine as full-fledged members with an equal vote is practicing the most gross form of hypocrisy. Now is the time to start making the U.N. a truly representative body. This is one instance where reform is necessary.

Since Byelorussia and the Ukraine, like Nationalist China, were charter members of the U.N., they too can be expelled by the same method as was used to eliminate the Nationalist Chinese. To this end I have written the Secretary of State, Mr. William P. Rogers, asking that he initiate action to implement the expulsion of Byelorussia and the Ukraine from the U.N.

I am glad to see that 53 of my colleagues in the House have cosponsored this resolution. We need another 165 to give it a meaningful voice, and I would appreciate the cooperation of our Members on this. Surely, their constituents are both aware of this inequality in voting representation in the United Nations, and are seeking some recourse. I believe this resolution may offer that.

If the U.N. is to be a meaningful and useful body of world states, it must have integrity. It must deal justly with all the nations of the world. There must be no repetition of the Nationalist China outrage, and we must begin working now to insure this.

I include herewith the resolution and my letter to Secretary of State William P. Rogers, together with a list of my colleagues who have cosponsored my resolution:

RESOLUTION

Whereas the Charter of the United Nations specifies that the Organization shall be composed of "states", and

Whereas the Byelorussian S.S.R. and the Ukrainian S.S.R. are not "states" incorporating sovereignty and independence, the criteria for all other nation-states in the United Nations; and

Whereas the above noted "Republics" have not established, nor maintained separate, sovereign diplomatic relations with any other sovereign state since 1920: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President, acting through the United States delegation to the United Nations, should take such steps as may be necessary to bring before the General Assembly of the United Nations the question of the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations and seek their expulsion.

COSPONSORS OF U.N. RESOLUTION TO ELIMINATE BYELORUSSIAN S.S.R. AND UKRAINIAN S.S.R.

Watkins M. Abbitt (Va.), Mark Andrews (N. Dak.), Bill Archer (Tex.), Tom Bevill (Ala.), Ben B. Blackburn (Ga.), Jack Brinkley (Ga.), John Buchanan (Ala.), Del Clawson (Calif.), James M. Collins (Tex.), R. Lawrence Coughlin (Pa.).

Philip M. Crane (Ill.), Edward J. Derwinski (Ill.), John D. Dingell (Mich.), John Dowdy (Tex.), Thaddeus J. Dulski (N.Y.), O. C. Fisher (Tex.), Walter Flowers (Ala.), John J. Flynt (Ga.), Don Fuqua (Fla.), George A. Goodling (Pa.).

Edith Green (Oreg.), Charles H. Griffin (Miss.), James A. Haley (Fla.), Craig Hosmer (Calif.), Edward Hutchinson (Mich.), Jack F. Kemp (N.Y.), Carleton King (N.Y.), Dan Kuykendall (Tenn.), Earl F. Landgrebe (Ind.), Clarence D. Long (Md.).

Dawson Mathis (Ga.), Robert H. Michel (Ill.), Joseph G. Minish (N.J.), Wilmer Mizell (N.C.), Bertram Podell (N.Y.), Robert Price (Tex.), William J. Randall (Mo.), John R. Rarick (La.), Fernand St Germain (R.I.), John P. Saylor (Pa.).

William J. Scherle (Iowa), John G. Schmitz (Calif.), Robert L. F. Sikes (Fla.), M. G. (Gene) Snyder (Ky.), Robert H. Steele (Conn.), Robert O. Tiernan (R.I.), Victor Veysey (Calif.), William G. Whitehurst (Va.), Lawrence G. Williams (Pa.), Larry Winn, Jr. (Kans.), Gus Yatron (Pa.), C. W. (Bill) Young (Fla.), Roger H. Zion (Ind.).

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 27, 1971.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: I share your public statement of concern by the explusion of the Republic of China from the United Nations and demand that efforts be exerted to correct some of the gross inequities which exist today in the United Nation's Membership.

1. The United States initiate a move to immediately expel Byelorussia and the Ukraine, integral entities of the Soviet Union, each of which has held General Assembly votes for these past many years.

2. Review and possibly expel member nations guilty of repeated violations of the United Nations Charter, including lack of dues payments to the organization, and

3. Reduce the American contribution to the World Body in line with the populations of other nations such as Red China, Russia and India.

I think the people of the United States were willing to accept the admission of Red China to the United Nations, but not at the price of expelling the Taiwan Government.

I feel strongly that the gross inequities of this Body, such as allowing participating members to fall behind on their payments and arbitrarily imposing economic sanctions—such as the restrictions on the purchase of Rhodesian goods—should be examined and brought to light immediately.

I feel that the cost of maintaining the United Nations should not be borne exclusively by American taxpayers, especially since the United Nations has, in my opinion, failed in its original purpose as a Body to preserve peace. It has descended to the role of a debating society of international representatives who espouse the virtues of world communism.

With best wishes.

Sincerely,

J. HERBERT BURKE,
Member of Congress.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. America produces more coal—including lignite—than the Soviet Union, almost one-third more iron ore, almost twice the aluminum ore, almost three times the copper, two-thirds more lead, two times the zinc, and almost five times the petroleum.

AGENCY FOR INTERNATIONAL DEVELOPMENT FISCAL YEAR 1971 EXPENDITURES BY CITY AND STATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SHRIVER) is recognized for 5 minutes.

Mr. SHRIVER. Mr. Speaker, tomorrow, the House will consider House Joint Resolution 946, the continuing appropriations for fiscal year 1972. Included in this resolution are funds for the Agency for International Development.

For the interest of all Members, I request permission to insert into the RECORD at this point several tables which show AID's expenditures during fiscal 1971 for commodities and technical contracts. The tables follow:

AID-financed commodities—fiscal year 1971 dollar value by state of production

Alabama	$16,305,583
Alaska	3,524,513
Arizona	343,778
Arkansas	4,954,181
California	80,506,540
Colorado	3,755,199
Connecticut	10,985,821
Delaware	11,583,213
District of Columbia	531,404
Florida	6,963,013
Georgia	10,267,543
Hawaii	92,750
Idaho	56,824
Illinois	73,541,642
Indiana	13,760,296
Iowa	4,902,240
Kansas	724,410
Kentucky	5,306,139
Louisiana	22,260,826
Maine	203,679
Maryland	20,572,073
Massachusetts	12,054,228
Michigan	50,791,742
Minnesota	6,278,615
Mississippi	6,728,432
Missouri	7,715,066
Nebraska	1,558,041
Nevada	211,067
New Hampshire	726,671
New Jersey	51,783,490
New Mexico	839,566
New York	178,829,271
North Carolina	9,668,882
North Dakota	1,454
Ohio	46,644,037
Oklahoma	3,524,695
Oregon	6,493,725
Pennsylvania	77,081,159
Rhode Island	2,245,999
South Carolina	6,751,559
South Dakota	91,359
Tennessee	8,350,951

AID-financing commodities—fiscal year 1971 dollar value by state of production—Con.

Texas	$54,930,416
Utah	463,145
Vermont	844,396
Virginia	10,162,141
Washington	32,072,205
West Virginia	5,817,772
Wisconsin	24,768,247
Wyoming	32,040
Total	900,560,243

Ten cities receiving highest dollar value for orders of AID-financed commodities—fiscal year 1971

1. New York, N.Y.	$144,810,186
2. Detroit, Mich.	33,457,232
3. Peoria, Ill.	24,560,615
4. Houston, Tex.	23,596,083
5. Tacoma, Wash.	18,784,586
6. Chicago, Ill.	16,289,847
7. Sparrows Point, Md.	12,875,916
8. Stockton, Calif.	11,691,187
9. Milwaukee, Wis.	11,531,249
10. Pittsburgh, Pa.	9,599,716

Technical service contracts

(In effect as of December 31, 1970)

Total value: $679,282,565.
Total value in U.S.: $642,038,186.
Total foreign: $37,244,379.

Top 20 states in value of contracts:

New York	$190,009,364
District of Columbia	123,457,255
Massachusetts	50,589,568
California	49,965,733
Illinois	28,865,769

Technical service contracts—Continued

Washington	$21,214,658
Ohio	18,199,534
North Carolina	17,340,451
Texas	15,291,605
Michigan	14,421,422
Wyoming	11,341,990
Colorado	10,485,230
Wisconsin	9,782,822
Kansas	8,352,018
Indiana	7,549,020
Pennsylvania	6,524,551
Maryland	5,000,365
Hawaii	4,494,416
West Virginia	4,108,827
Utah	3,807,921

AID technical service contracts

Top 15 Cities in value of contracts:

New York, N.Y.	$183,146,086
Washington, D.C.	126,833,966
Newton, Mass.	22,072,037
Seattle, Wash.	21,029,218
Los Angeles, Calif.	19,186,175
College Station, Tex.	12,198,686
Chicago, Ill.	11,693,662
Columbus, Ohio	10,772,417
Raleigh, N.C.	9,723,512
Urbana, Ill.	9,376,869
Boston, Mass.	8,233,128
Manhattan, Kans.	8,154,476
San Francisco, Calif.	8,077,260
Fort Collins, Colo.	7,613,864
Chapel Hill, N.C.	7,087,704

AID technical service contracts

Top 20 Institutions in value of contracts:

Air America, Mc.	$83,324,200
American University of Beirut	61,176,819
Columbia University	24,575,326
African-American Institute	23,388,613
Education Development Center	22,072,037
MWK International, Ltd., Gibbs & Hill, Inc., Fischbach & Moore	20,847,198
Continental Air Services, Inc.	16,247,000
Texas A&M	12,198,686
The Population Council, Inc.	10,946,655
North Carolina State University	9,706,512
University of Illinois	9,376,869
Kansas State University	$8,154,476
International Executive Corps	8,132,622
Colorado State University	7,613,844
American Institute for Free Labor Development	7,593,606
The Asian Foundation	7,218,440
Battelle Memorial Institute	7,039,281
University of North Carolina	7,037,704
American OBT Federation	6,299,666
The Pathfinder Fund	6,174,500

PLOT AGAINST THE CHILDREN

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from New York (Mrs. ABZUG) is recognized for 10 minutes.

Mrs. ABZUG. Mr. Speaker, the movement for federally subsidized high quality comprehensive child care programs that would make it possible for welfare mothers and low- and middle-income women to hold jobs is in serious jeopardy

Existing as well as hoped for programs are threatened by moves by the Nixon administration and New York Governor Rockefeller to restrict child care services to the very poor and to make welfare mothers a source of cheap, forced labor.

Instead of recognizing that child care facilities are a necessity for working mothers, of whom there are now more than 12 million in our Nation, the Nixon-Rockefeller moves would place the welfare stigma on child care programs, segregate them, and undermine standards.

Several recent developments make this objective clear.

The Nixon administration is threatening to veto the child development bill, now in a Senate-House conference, unless it limits aid to families with less than an annual income of $4,300 and gives priority to welfare mothers.

The Senate-approved bill would provide free child care for families with less than $6,900 annual income, the Bureau of Labor Statistics figure for a minimum adequate standard of living for an urban family. The figure varies in different parts of the country. This was the same standard proposed in the Abzug-Chisholm child care bill and in the bill voted out by the House Education and Labor Committee, but pared down by the House to $4,300.

The House-Senate conferees have agreed on a compromise figure of $5,250—or 75 percent of the BLS minimum figure—only to be informed by Health, Education, and Welfare Secretary Elliot Richardson that this will produce a veto from the White House.

Left out in the cold by this approach will be millions of working women who are neither very poor nor very rich.

About 6 million children of preschool age have working mothers, yet there are only about 700,000 day care slots available in child care centers with Government funding. As a result, in our Nation, which prides itself on being the most advanced in the world, millions of children are "latch key" children with no adult supervision or are victims of haphazard arrangements under which they are left with friends, neighbors or relatives. Only a small number of working women can afford expensive private day care centers or the luxury of hiring a maid or housekeeper. Many have no choice but to scrimp on food, clothing or other necessities to pay for child care.

Does it make sense for the Nixon administration to attack welfare mothers as loafers, as the President has repeatedly done, and at the same time deny child care facilities to women who earn very modest salaries—and that is what most women earn—or insist that they will have to pay fees for such services.

The administration's "for welfare mothers only" child care approach is also evident in the House-approved welfare bill under which a welfare mother could get day care for her children only by taking a job, but only a very low paying job.

The same trend is evident in New York where Governor Rockefeller's department of social services has eliminated the State's 10-percent quota of child care places for families earning above $7,500 and raised child care fees for families who are not on welfare or who do not meet the very low income eligibility standards of medicaid. Again, the irony of this approach is that it penalizes women who are working and makes it so costly for them to hold jobs that they may decide their only alternative is to join the welfare rolls.

Governor Rockefeller's latest assault on child care is his proposed public service work opportunity project, which appears to have been approved by HEW. Under this plan, welfare mothers would be forced to work at government jobs to qualify for welfare benefits; their children would be sent to child-care centers. Since existing centers are already filled to capacity, presumably their children would either displace children from nonwelfare families or would get priority over children of working mothers on waiting lists. Welfare mothers who cannot leave their homes to work would be required to care in their own homes for children of employed welfare mothers.

The Citizens Committee for Children of New York, Inc., has aptly described this plan as "a plot against the children." Its implications are truly horrifying. In an analysis of this Rockefeller plan, Prof. Elizabeth Wickenden, an authority on welfare programs, warns that there are no provisions for the quality of child care that would be available in these welfare mother homes. She points out:

> The "Public Service Work Opporunity Project" says nothing about home licensing, selection of "provider" mothers, or about supportive services. Do we really intend to allow (require) any woman who does not wish to go out to work, no matter what her background and circumstances, to look after another's children? Do we really intend to other AFDC (Aid for Depending Children) mothers who go to work to leave their children with unknown, unsupervised "caretakers"?
>
> Who would decide whether a 40-year-old AFDC mother (now defined as employable) who lives with three children, ages 6 to 10, in a rat-infested, firetrap hovel on a fourth floor walkup with shared toilet facilities, should be required to provide home care?
>
> . . . For any mother hit by these new rules it can only add insult to injury to be told that they are instituted because "our welfare system must become a symbol of hope rather than a reservoir of despair."

Governor Rockefeller's public service work opportunity project has already been denounced by welfare groups and organized labor as a forced labor scheme. Instead of providing people on welfare with the dignity of paying jobs, the State would turn them into indentured servants and require them to "earn" their welfare benefits by working at jobs that compete with workers who have been hired under normal procedures. This is unsatisfactory from every point of view.

Those people on welfare who are able to work are entitled to jobs that pay wages and provide other benefits. They should not be used to compete with or replace workers, most of whom are covered by union contracts.

The Rockefeller scheme is a threat to the security of government workers. It exploits and humiliates people on welfare. If they can work, they should be given an opportunity to work under the same conditions of employment that other working people enjoy. If they cannot work, they should receive help that allows them to retain their dignity as human beings.

The Nixon-Rockefeller moves to transform child care facilities into an adjunct of the despised welfare system must be defeated. In New York City and around the country a broad coalition of women's groups, child care, welfare, community, and political organizations has been developing broad support for the forward-looking concepts of the Senate-approved child development bill.

I have been pleased to work closely with these groups, and I hope that the Congress as a whole will recognize that the time has arrived for this Nation to have a comprehensive child care program open to all families that require such care. This is a necessity for the millions of women who are wage earners. It is necessity for single-parent families, whether they are men or women. It is a necessity for the many women who want to return to school or to work. I hope, too, that the Senate-House conferees will agree on the proposed $2 billion authorization for child care, which would provide high-quality care for about 2 million children. That is, in fact, a minimal figure. We should do more. We must not do less.

PERSONAL ANNOUNCEMENT

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, on Wednesday, November 3, 1971, I was absent from the floor from 12 noon until 2 p.m. while filming an interview by NBC television to be shown in my district relative to legislation pending before the Congress.

Two rollcall votes were taken during that time, both related to the bill, H.R. 2, to establish a Uniformed Services University of the Health Sciences—or, what has been called a "West Point for doctors."

I support this plan and would have voted yea on final passage of the bill on roll No. 343, which passed with a vote of yeas 351, nays 31.

On roll No. 342, an amendment which proposed to strike out the requirement that the university be established within 25 miles of the District of Columbia, I would have voted yea. I feel that this would be an opportunity to encourage the decentralization of Federal facilities to assist in providing employment and development in an area where it is needed more. That proposed amendment was not agreed to by a vote of ayes 148, and nays 215.

ISRAEL'S REQUEST FOR PHANTOM JETS

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 10 minutes.

Mr. ST GERMAIN. Mr. Speaker, I am concerned about the steady erosion of U.S. Mideast policy in recent months. Once again, the administration is putting pressures on the wrong party in the Arab-Israel conflict.

Early this year, after the Jarring mission reached a deadend because of Egypt's insistence on prior Israeli commitment to total withdrawal, the Nixon administration undertook an initiative to bring about an interim Suez Canal agreement. Now, although the obvious advantage—indeed, the raison d'être—of an interim rather than an overall settlement is that it would provide a means of defusing the tension without requiring the parties to agree on the final extent of Israeli withdrawal, the Suez talks themselves are deadlocked primarily on the same sticking point as the Jarring talks: Egypt refuses to accept partial withdrawal unless it is in the context of a timetable for total withdrawal. And the Egyptians further demand that their military forces be permitted to cross the reopened canal to replace departing Israeli troops in the Sinai.

While all the demands and the threats to go to war if they are not met come from Egypt, all the concessions have come from Israel. The very fact that Israel is willing to go along with an interim settlement is a concession of major proportions, a retreat from her long-held and perfectly understandable position of no withdrawal without peace. Israel has agreed to give up a major defense line in return for Egyptian good will or, more precisely, for American expectations of Egyptian good will. It is the Soviet Union and Egypt, not the United States or Israel, which stand to gain militarily and economically from the reopening of the Suez Canal. Yet the insatiable Soviet-Egyptian combine is trying to turn what is in effect a something-for-nothing Israeli offer into an everything-for-nothing proposition.

For some inexplicable reason the Nixon administration ignores the Israeli concessions and heeds only the Egyptian demands. The administration now insists that Israel settle for a limited cease-fire, that Israel agree to a "compromise" on Egypt's demand for a troop crossing; and that the interim agreement, which was originally presented as a separate one, entail Israeli commitments on specific points of a final settlement, including complete withdrawal from Sinai.

It is sadly ironic that the United States has placed itself at loggerheads with Israel over how far Israel must go to get Egypt and the Soviet Union to agree to a settlement which is to their advantage in the first place. And it is appalling that the administration's ill-advised pressure campaign extends to depriving Israel of the Phantom jets she so urgently needs in face of the threat posed by the Soviet fortification of Egypt with men, missiles, and planes.

By withholding planes from Israel in order to wrest further concessions from her the administration is penalizing her for the significant concessions she has already made, increasing the risks she has already agreed to take, and encouraging the Egyptians in their resistance to making any concessions at all.

The Russians and Egyptians are no doubt as emboldened by the U.S. hesitation to provide Israel with the Phantoms as they are amused by the frantic U.S. diplomatic efforts to open the canal for them. For their part, they solidified their military alliance with a treaty in June. And last month, when Egyptian President Anwar Sadat visited Moscow, the Soviets publicly promised to take "measures aimed at further strengthening the military might of Egypt."

Many Members of Congress, including myself, deeply concerned by this state of affairs, have cosponsored resolutions expressing alarm at the ever-increasing Soviet military involvement in Egypt and urging the administration to reply affirmatively "without further delay" to Israel's request for Phantom jets. The resolutions also note the fact that it is the official policy of the United States, as often stated by President Nixon himself, that the balance of power between Israel and the Arab States must be maintained if war is to be deterred. It is imperative that the President take immediate action consistent with this policy.

PANAMA CANAL: "GENERAL TORRIJOS DEMANDS OPPORTUNIST'S SHAKEDOWN"

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. HALL. Mr. Speaker, on October 11, 1971, following a major campaign of propaganda against the United States there was a massive demonstration of Panamanians in the 5th of May Plaza, in Panama City close to the boundary of the United States owned Canal Zone territory, Brig. Gen. Omar Torrijos, commander of the National Guard of Panama, was the principal speaker. He proved himself a provocative demagog threatening to invade the Canal Zone at the head of 6,000 rifles as the means of establishing Panamanian sovereignty over the zone in the event of failure of the current treaty negotiations.

Fortunately, our authorities, warned of the danger of violence, were fully prepared to meet whatever situation that

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might have arisen, and the demonstration took place without incident.

As all who have studied the Isthmus situation know, Panama is a small weak and unstable country. Its independence depends solely upon the United States remaining in the Canal Zone, which has often served as a haven of refuge for Panamanian leaders seeking to escape assassination. During a revolt against General Torrijos when he visited Mexico, his wife did flee to the Canal Zone for safety, but he never mentioned this fact. Should he be overthrown, he would no doubt be among the first to flee there for protection despite the fact that he has been endeavoring to terminate U.S. sovereignty over the zone.

While the main news media of the United States has not been reporting developments on the Isthmus in an objective manner, small papers in various parts of the Nation are doing so; and, I shall quote a column from a Florida paper, the Sun-Sentinel, that foresees the dangers at Panama in a realistic manner.

Mr. Speaker, I would stress that under no circumstances should Canal Zone sovereignty be surrendered to Panama, or any other nation or agency. Certainly, the time has come for this body to adopt, without further delay, the pending Panama Canal sovereignty resolutions.

The indicated column follows:

[From the (Pompano Beach, Fla.) Sun-Sentinel, Oct. 13, 1971]

GEN. TORRIJOS' DEMANDS OPPORTUNIST'S SHAKEDOWN

(By Budd W. Boyer)

The Republic of Panama, through its strongman dictator Gen. Omar Torrijos, is the latest in what is getting to be a tiresome line of two-bit agitators trying to tweak the nose of Uncle Sam.

In the standard fashion of those who rule by abolition of individual rights, General Torrijos waved the banner of freedom at the United States in demanding that it prove its status as a "true leader of freedom," by handing complete control of the Canal Zone over to him and his junta.

Since 1964, the United States has been actively negotiating with Panama on the matter of a new treaty to replace one made in 1903 and revised to Panama's advantage in 1955.

Just for the record, it might be well to review the general aspects of how Panama came into being as a republic, and the basis for the treaty on which the United States controls the disputed Canal Zone.

Panama was part of the revolt against Spanish domination made by Central America in 1821. The little country joined with Colombia, and then spent the next 82 years trying to extricate itself from this union. In 1903, it finally succeeded with backing by the United States.

Rights to the 10-mile-wide Canal Zone were granted to the United States for a payment of $10 million and an annual fee that was set at the time at $250,000. This was increased to $430,000 in 1933 to more than $1.9 million when the treaty was revised in 1955.

Territorially speaking, Panama has 29,208 square miles. Most of this area is unoccupied. The population is about 1.5 million, of which more than one-fourth is centered in the two cities of Colon and Panama City. The Canal Zone accounts for only 500 square miles of the country.

The economy of Panama is directly responsive to American markets with bananas (58 per cent), refined petroleum (19 per cent) and shrimps (10 per cent) the leading exports. The United States received 70 per cent of the exports and the Canal Zone five per cent according to the most recently available figures.

It seems clear that General Torrijos has one thing uppermost in mind in his demand that control of the Canal and the Canal Zone be handed over to the government of Panama, which not so incidentally is in fact himself, and that is the financial power it represents.

The junta long since suspended legislative power guaranteed in the Constitution of Panama, and is setting machinery in motion for drafting a new constitution that will decide the "type of government to rule the country."

Just for openers, the muscleman of Panama has directed implementation of a new labor code in January that will set up a labor court for rural areas, collective bargaining and compulsory union dues to be deducted by employers. Guess who will control the union treasury?

During his diatribe of threat and bluster, General Torrijos talked of sending the country's National Guard, some 6,000 members who are trained, equipped and financed by the United States, to seize the Canal Zone if talks now under way fail. But since even he must realize the ludicrous nature of such a threat, he slipped an obvious pitch to the doves of Washington into the speech. This came when he referred to ". . . mercenaries who want to convert this into a Vietnam."

General Torrijos is no more than a common hood in the American vernacular, and he should be treated in the same way a second-rate shakedown artist would be handled in this country. We saw what happened when another of his ilk gained control of the Suez Canal, and our representatives had better take a hard fast look at what this blackmailer is attempting.

Until or unless we get another canal, the one through Panama is of substantial importance to our security and to the economic well-being of ourselves and other nations of the world. Under no circumstances should it be entrusted to the whims of a military opportunist, who has extended his blackmail to the point of trying to use the two-China issue in the United Nations as a bargaining point. As with Cuba, the odds are good that the next major flag to fly over the Panama Canal if we give it up, will be the one bearing the hammer and sickle.

THE FARMERS HOME ADMINISTRATION'S VALUABLE SERVICE IN RURAL AREAS

(Mr. HANSEN of Idaho asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HANSEN of Idaho. Mr. Speaker, no State could be more concerned with the problems of rural communities than our State of Idaho. Some 70 percent of our land area is in farms, ranches, and forests, and all but 10 of the towns and cities qualify as rural within terms of the National Housing Act.

According to the forecasts of many economists and sociologists of the past decade—those who have predicted that the family farm and rural town are doomed to disappear in the United States—most of Idaho should be sinking back into its primeval state of emptiness and wilderness.

But on the contrary, Idaho is gaining in people, in industry, and in the development of its agriculture.

The explanation lies primarily in the energy and resourcefulness of our people—their will to preserve their way of life in the smaller town and open country.

However, they need, and they have found, important new sources of support for community enterprise in some agencies of Government, and especially in programs of the Farmers Home Administration.

This credit agency of the Department of Agriculture has the right kind of organization for effective service to rural people, that is, a system of local offices in the rural counties of every State. It has been given the responsibility to deliver financial resources into rural areas for a wide variety of development purposes. These programs emphasize opportunity for the family-size farm and ranch to prosper, for better rural housing, and for modernization of community water and waste disposal systems.

Farmers home services totaled more than $47 million in the State, of which $30 million was realized in our Second Congressional District, during the fiscal year 1971 just past. Nearly 1,000 farms in our district found $13 million of essential credit available through Farmers home. More than 1,000 new homes, representing $15 million of housing credit, have been produced for rural families of low- and moderate-income since July of last year. A score of projects for community and farm water and sewer systems and similar improvements also were funded last year in our district.

The value of the rural FHA has been demonstrated many times over in the rural counties of Idaho. One example is found in the recent history of Teton County. This is one of the smallest and most rural counties of eastern Idaho. It lies in a high, picturesque valley bordered on the east by Wyoming and the Teton Mountains, and on the other sides by gentler mountains.

In the mid-1960's, Teton County's agriculture, the economic mainstay of the area, was fading because of a short growing season, lack of variety in cash crops, and inadequate irrigation. Other water problems and lack of waste disposal facilities plagued the area and held back community development. Young people were deserting the county. Its towns were in the downhill slide.

Action against the multitude of problems began with the local people's decision that they would first deal with farm irrigation. Enlisting advice and financial support from the Department of Agriculture, they set about to equip underirrigated farms with gravity-flow sprinkler systems which would prevent loss of water from evaporation and percolation, fulfill the need for water for most crops, and be adequate even in the drier years.

Eight such systems have been installed, serving more than 100 farms in Teton County, and several others are planned. Costs that must be borne by the local people are financed through long-term loans from the Farmers Home Administration to associations of farm families who benefit. The loans are repaid from proceeds of water service.

In Teton's newly irrigated areas, farmers who would have been forced off the land have more than doubled their production with little change in equipment and labor. They are now prosperous enough to stay in Teton County and contribute to the rising economy of their home communities. Even the maintenance of irrigation systems is a new source of employment.

Irrigation water supply will be increased by improvement of Trail Creek watershed through a $3 million project of the small watershed program overseen by the U.S. Soil Conservation Service. Here again, Farmers Home provides a vital ingredient—loans totaling $967,800 since 1969 to meet local costs of completing this project by 1972.

While agriculture has always been the main economic support of Teton County, recreation also is on the rise as a major resource. A fine natural site for a winter sports resort in Targhee National Forest, 12 miles from the county seat town of Driggs, has been developed by a nonprofit association of Teton County citizens after it was passed over for years by outside private developers. After 2 years of operation this popular Grand Targhee Sports Center has stimulated new motels, new businesses and new employment. This new central attraction for tourist trade in Teton County was made possible by Farmers Home loans to the community association.

The sum total of progress in Teton County is reflected both in statistics and the upswing of activity and living standards evident in its towns and farmlands.

Driggs has a modern sewer system financed through Farmers Home and has built a new hospital and an enlarged and improved county airport. Victor is developing water and sewer systems through the FHA community facilities program. Some three dozen new homes have been financed through Farmers Home rural housing credit. Tetonia has improved its city park. Two fine campgrounds for tourists and sportsmen have been built on the Teton River. Farmers Home has helped potato farmers of the county establish a new cooperative center for marketing their seed potatoes.

In statistics, sales tax revenues were up 34 percent from 1969 to 1970. Land values are up 50 percent since 1966. Local bank deposits rose $1.5 million over a 2-year period. Employment is up, outmigration checked, the tax base greater, living standards improved.

Teton County still has problems to solve and higher goals to attain, but its climate has changed from stagnation and decline to healthy, progressive growth.

We have seen how often the name of Farmers Home recurs in this record of progress in Teton County. This testifies to the unique effectiveness of the Farmers Home Administration as an instrument of rural progress, and the able leadership provided by my good friend, its national Administrator, James V. Smith, and our State director for Idaho, Donald L. Winder.

PERSONAL EXPLANATION

(Mr. CARNEY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. CARNEY. Mr. Speaker, last Thursday and Friday, November 4 and 5, I was absent from the House on official business for the Veterans' Affairs Committee, of which I am a member. Had I been here, I would have voted for final passage of H.R. 7248, the Higher Education Act of 1971.

PERSONAL ANNOUNCEMENT

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on Thursday, November 4, at 6 p.m., I had to leave the floor to go to New York where I was scheduled to meet with constituents at a town hall meeting on crime I was sponsoring. I, therefore, was absent when some o. the amendments were offered to H.R. 7248, the Higher Education Act. I supported H.R. 7248 and had I been present, I would have voted "yea" on final passage.

HESSEN SOCIAL DEMOCRATIC PARTY IN WEST GERMANY CALLS FOR A REPUDIATION OF THE DEFENSE PARTNERSHIP WITH THE UNITED STATES

(Mr. WAGGONNER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, it has come to my attention this week that the Social Democrats in West Germany are taking the next logical step in the implementation of the Brandt government's policy in Eastern Europe. A news report of the recent meeting of the Hessen Social Democratic Party in West Germany announced the Hessen party's demand for the adoption by the Social Democratic Party at the national party meeting to be held later this month, of a resolution which, in effect, calls for a complete repudiation of the defense partnership with the United States.

Specifically, the suggested resolution demands the following:

First. Reduction in defense expenditures of the Federal Government in Germany.

Second. Complete cessation of offset payments to the United States for the stationing of U.S. troops in West Germany.

Third. Utilization of the funds obtained by these reductions for cultural and other developments in West Germany.

Surley, the Hessen party must realize the disastrous effects such a position, if taken, would have on the security of Europe at a time when the Soviet Union is engaged in a massive arms buildup. I shudder to think what could happen if such a policy were adopted. However, aside from the dangers inherent in pursuing such a policy of appeasement, I personally resent the unprecedented vituperation and slander leveled against the United States by the Hessen party. At its meeting, the Hessen party stated that—

The United States keeps its troops in the Federal Republic of Germany not for the defense of the population but and only for the defense of its own interest as a world power.

And that "the United States supports fascists regimes in Greece, Spain, and Portugal" and thus "helps the suppression of Greek and Spanish nations as well as the exploitation of the third world." Of course, none of these statements or the inferences made in them could be further from the truth, and the Hessen party should know as much.

The Hessen party is convinced that "only by the decisive reduction in armament expenditures can the new German peace policy become credible."

In continuation of their "peace policies," they have also demanded the creation of a commission for a strategy of disarmament. This commission would prepare plans for the 1973 political campaign and for the strategic forces of West Germany with the view toward reducing the armaments and the size of the German Armed Forces. These plans of the Social Democrats appear to coincide with Brandt's Ostpolitik. Unfortunately, they also appear aimed at reducing American influences in Western Europe and potentially enhancing the Soviet position there.

I hope that Chancellor Brandt will renounce the irresponsible statements made by members of his own party and reassure the West in a clear-cut statement that he wants to prevent the further disintegration of Western defense policies in the center of Europe. Such a statement by Brandt would go a long way in advancing the cause of real peace in the world.

H.R. 9212 BLACK LUNG BENEFITS

(Mr. KEE asked and was given permission to extend his remarks at this point in the RECORD and to include extaneous matter.)

Mr. KEE. Mr. Speaker, when H.R. 9212, was brought up under suspension of the rules on October 18, 1971, I rose on the floor of the House and strongly urged my colleagues to support it. When the roll was called, I voted for its passage. The vote was 227 ayes and 124 nays. Under the parliamentary rules a two-thirds majority was required, therefore, the bill failed of passage by seven votes.

Once again it will be before the House for consideration. This time the Rules Committee has recommended an open rule with 1 hour of debate. Once again I strongly urge my colleagues to support this badly needed legislation.

In my remarks on October 18, 1971, I stated as the Representatives from the largest coal producing congressional district in the United States I had felt for some time that some of the provisions of the Federal Coal Mine Health and Safety Act of 1969 needed clarification to make it more equitable. In my judgment, H.R. 9212 does correct some of the inequities that we have found in this act.

I supported enthusiastically the Federal Coal Mine Health and Safety Act of 1969, which is now Public Law 91-173. I had long been an advocate of legislation to give the disabled miner relief from the rigors of his hazardous employment and it was for this reason that

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I introduced H.R. 9850, the very first bill introduced in the Congress for those suffering from black lung, and their families.

We have since learned that the black lung disease benefit program as established by title IV, does not always give the coal miners with this disease the benefits to which they are entitled. In some instances it is found that this injustice is caused by placing too much emphasis on X-rays. It seems to me that to deny claims for black lung benefits solely on an X-ray examination was never intended by the Congress, and it is a most unfortunate situation insofar as justice is concerned to the coal miners in this country.

At the time I testified during the hearings on this legislation in May 1971, I stated that in my own State of West Virginia, there were claims filed amounting to 58,300. According to the latest black lung statistics that figure has now risen to 59,234. About 32,981 of these claims were made in my district. Claims paid for the entire State of West Virginia are 24,491. The claims paid in my district amount to 14,501.

On the other hand, the statistics show that there were 15,513 denials. I have no way of knowing whether or not all of these denials would be approved, but I do state that under this new legislation which prohibits the use of chest X-rays as the sole basis for denial of claims, I am reasonably sure that quite a few of them would.

Likewise, a third of the black lung benefit claims which have been turned down to date have been disallowed, because the miner was not totally disabled. In fact, what the Federal Government is saying to these miners is that they do not qualify because they are not totally dead. I have contended from the very beginning that the requirements for determining "total disability" should be made more realistic. It seems to me that any miner who is rendered incapable of performing his usual mining job should be considered "disabled" under the Federal black lung compensation provision. I feel that this bill recognizes this phase.

I am also pleased that under this legislation the Federal Coal Mine Health and Safety Act will be amended to extend black lung benefits to orphans whose fathers died of pneumoconiosis; that the existing black lung program shall not be considered a workmen's compensation law or plan for purposes of the disability insurance provisions of the Social Security Act; and, that the existing program for payment of black lung benefits will be extended for 2 years.

With these thoughts in mind, and on behalf of the deserving coal miners, I strongly endorse the passage of this bill, which will rectify some of the inequities that have arisen over the past 2 years.

I am glad to have had a part in developing this legislation.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. GOODLING (at the request of Mr. GERALD R. FORD) from 6 p.m. today through November 17 on account of official business.

Mr. BARRETT (at the request of Mr. GREEN of Pennsylvania) for Tuesday, November 9, and Wednesday, November 10, on account of illness.

Mr. LINK for November 9 to November 20 on account of official business as a member of House Agriculture Committee.

Mr. PATMAN (at the request of Mr. O'NEILL) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCCOLLISTER) to address the House and to revise and extend their remarks and include extraneous matter:)

Mr. FINDLEY for 5 minutes today.
Mr. MIZELL for 30 minutes today.
Mr. BURKE of Florida for 20 minutes today.
Mr. MILLER of Ohio for 5 minutes today.
Mr. SHRIVER for 5 minutes today.

(The following Members (at the request of Mr. ANNUNZIO) and to revise and extend their remarks and include extraneous matter:)

Mrs. ABZUG for 10 minutes today.
Mr. GONZALEZ for 10 minutes today.
Mr. DANIELSON for 5 minutes today.
Mr. ST GERMAIN for 10 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MCCOLLISTER) and to include extraneous matter:)

Mr. FREY.
Mr. SPRINGER.
Mr. RHODES in five instances.
Mr. MCCLORY.
Mr. FINDLEY.
Mr. BRAY in three instances.
Mr. SEBELIUS in two instances.
Mr. MCKINNEY.
Mr. REID of New York.
Mr. ZWACH in two instances.
Mr. WYMAN in two instances.
Mr. HOSMER.
Mr. COLLIER in three instances.
Mr. BROYHILL of Virginia.
Mr. BROOMFIELD.
Mr. VEYSEY.
Mr. CRANE in five instances.
Mr. SCHERLE in 10 instances.
Mr. KEITH.

(The following Members (at the request of Mr. ANNUNZIO) and to include extraneous matter:)

Mr. BEGICH in five instances.
Mr. LINK.
Mr. SLACK in two instances.
Mr. EILBERG in three instances.
Mr. WOLFF in two instances.
Mr. HAGAN in three instances.
Mr. ROGERS in five instances.
Mr. RARICK in three instances.
Mr. BRASCO.
Mr. SCHEUER in two instances.
Mr. CARNEY.
Mr. RANGEL.
Mr. ABOUREZK in five instances.
Mr. UDALL in six instances.
Mrs. GRIFFITHS in two instances.
Mr. MILLER of California in five instances.
Mr. JOHNSON of California in two instances.
Mr. RYAN in three instances.
Mr. RONCALIO in six instances.
Mr. JACOBS.
Mr. BINGHAM in four instances.
Mr. MURPHY of Illinois in two instances.
Mr. ROE in two instances.
Mr. EDWARDS of California.
Mr. BURTON.
Mr. FOUNTAIN.
Mr. HELSTOSKI.
Mr. WAGGONNER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 986. An act to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes; to the Committee on Interstate and Foreign Commerce.

S. 2559. An act to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans; to the Committee on Agriculture.

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 8629. An act to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes.

H.R. 8630. An act to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1680. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk.

H.R. 5060. An act to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft.

ADJOURNMENT

Mr. ANNUNZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 10, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1274. A letter from the General Sales Manager, Export Marketing Service, Department of Agriculture, transmitting a report of agreements signed providing for foreign currencies during September and October 1971, pursuant to Public Law 85–128; to the Committee on Agriculture.

1275. A letter from the Assistant Secretary of the Interior, transmitting 11 projects selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms, under section 200(a) of the Water Resources Research Act of 1964, pursuant to section 200(b) of the act; to the Committee on Interior and Insular Affairs.

1276. A letter from the President, National Railroad Passenger Corp., transmitting an audit of the financial statements of the Corporation as of June 30, 1971, pursuant to section 605 of the Rail Passenger Service Act of 1970; to the Committee on Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ABBITT: Committee on House Administration. House Resolution 507. Resolution dismissing the election contest in the 38th Congressional District of the State of California (Rept. No. 92–626). Ordered to be printed.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 950. A bill to designate a Veterans' Administration hospital in Bedford, Mass. as the Edith Nourse Rogers Memorial Veterans' Hospital; with amendments (Rept. No. 92–627). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 9096. A bill to amend chapter 19 of title 38 of the United States Code, to extend coverage under servicemen's group life insurance to cadets and midshipmen at the service academies of the Armed Forces; with amendments (Rept. No. 92–628). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 9097. A bill to define the terms "widow", "widower", "child", and "parent" for servicemen's group life insurance purposes (Rept. No. 92–629). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 11220. A bill to designate the Veterans' Administration hospital in San Antonio, Tex., as the Audie L. Murphy Memorial Veterans' Hospital; with amendments (Rept. No. 92–630). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 11334. A bill to amend title 38 of the United States Code to provide that dividends may be used to purchase additional paid-up national service life insurance; with amendments (Rept. No. 92–631). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 11335. A bill to amend section 704 of title 38, United States Code, to permit the conversion or exchange of national service life insurance policies to insurance on a modified life plan with reduction at age 70 (Rept. No. 92–632). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 489. A bill to approve an order of the Secretary of the Interior canceling irrigation charges against non-Indian-owned lands under the Modoc Point unit of the Klamath Indian irrigation project, Oregon (Rept. No. 92–633). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 2185. A bill to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians (Rept. No. 92–634). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 3337. A bill to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes; with amendments (Rept. No. 92–635). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 5068. A bill to authorize grants for the Navajo Community College, and for other purposes; with amendments (Rept. No. 92–636). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 6291. A bill to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets No. 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes; with amendments (Rept. 92–637). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7701. A bill to amend the act of August 9, 1955, to authorize longer term leases of Indian lands located outside the boundaries of Indian reservations in New Mexico; with an amendment (Rept. 92–638). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 7742. A bill to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket No. 332–A, and for other purposes; with amendments (Rept. No. 92–639). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 8381. A bill to authorize the purchase, sale, and exchange of certain lands on the Kalispel Indian Reservation, and for other purposes; with amendments (Rept. No. 92–640). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALEY: Committee on Interior and Insular Affairs. H.R. 10352. A bill to provide for the disposition of judgment funds on deposit to the credit of the pueblo of Laguna in Indian Claims Commission, docket No. 227, and for other purposes; with amendments (Rept. No. 92–641). Referred to the Committee of the Whole House on the State of the Union.

Mr. COLMER: Committee on Rules. House Resolution 696. Resolution providing for consideration of the conference report on H.R. 8687 (Rept. 92–642). Referred to the House Calendar.

Mr. MATSUNAGA: Committee on Rules. House Resolution 697. Resolution providing for the consideration of H.R. 11589. A bill to authorize the foreign sale of certain passenger vessels (Rept. No. 92–643). Referred to the House Calendar.

Mr. YOUNG of Texas: Committee on Rules. House Resolution 698. Resolution providing for the consideration of H.R. 11341. (Rept. No. 92–644). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 699. Resolution providing for the consideration of S. 18. An act to amend the United States Information and Educational Exchange Act of 1948 to provide assistance to Radio Free Europe and Radio Liberty (Rept. No. 92–645). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. S. 389. An act for the relief of Stephen Lance Pender, Patricia Jenifer Pender, and Denese Gene Pender (Rept. No. 92–646). Referred to the Committee of the Whole House.

Mr. RODINO: Committee on the Judiciary. S. 559. An act for the relief of Albina Lucio Z. Maniucu (Rept. No. 92–647). Referred to the Committee of the Whole House.

Mr. RODINO: Committee on the Judiciary. S. 829. An act for the relief of Chen-Pai Miao (Rept. No. 92–648). Referred to the Committee of the Whole House.

Mr. MCKEVITT: Committee on the Judiciary. H.R. 2792. A bill for the relief of Juanita Savedia Varela; with amendments (Rept. No. 92–649). Referred to the Committee of the Whole House.

Mr. SEIBERLING: Committee on the Judiciary. H.R. 3093. A bill for the relief of Mrs. Crescencia Lyra Serna and her minor children, Maria Minde Fe Serna, Sally Garoza Serna, Gonzalo Garoza Serna, and James Garoza Serna (Rept. No. 92–650). Referred to the Committee of the Whole House.

Mr. DENNIS: Committee on the Judiciary. H.R. 4319. A bill for the relief of Josephine Dumpit; with amendments (Rept. No. 92–651). Referred to the Committee of the Whole House.

Mr. MAYNE: Committee on the Judiciary. H.R. 5179. A bill for the relief of Soo Yong Kwak; with an amendment (Rept. No. 92–652). Referred to the Committee of the Whole House.

Mr. FLOWERS: Committee on the Judiciary. H.R. 6506. A bill for the relief of Mrs. Hind Nicholas Chaber, Georgette Hanna Chaber, Jeanette Hanna Chaber, and Violette Hanna Chaber; with amendments (Rept. No. 92–653). Referred to the Committee of the Whole House.

Mr. DENNIS: Committee on the Judiciary. H.R. 6912. A bill for the relief of William Lucas (also known as Vasilios Loukatis) (Rept. No. 92–654). Referred to the Committee of the Whole House.

Mr. RODINO: Committee on the Judiciary. H.R. 7316. A bill for the relief of Mrs. Norma McLeish; with an amendment (Rept. No. 92–655). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABBITT:

H.R. 11633. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans; to the Committee on Agriculture.

By Mrs. ABZUG:

H.R. 11634. A bill to amend the Economic Stabilization Act of 1970 to permit the maintenance of wages and salaries at levels

contracted for prior to August 15, 1971; to the Committee on Banking and Currency.

H.R. 11635. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BADILLO:

H.R. 11636. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BEGICH:

H.R. 11637. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI (for himself, Mr. PEYSER, Mr. ADDABBO, Mr. BRASCO, Mr. MURPHY of New York, Mr. RODINO, Mr. DENT, Mr. VIGORITO, Mr. MARSALIS, Mr. MOLLOHAN, Mr. BURTON, Mr. ROSENTHAL, Mr. HATHAWAY, Mr. YATRON, Mr. NEDZI, Mr. SARBANES, Mr. HELSTOSKI, Mr. WOLFF, Mr. PEPPER, Mr. RYAN, Mr. PRICE of Illinois, Mr. HORTON, Mr. MIKVA, Mr. FRASER, and Mr. HANSEN of Idaho):

H.R. 11638. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of a man of science, Enrico Fermi; to the Committee on Post Office and Civil Service.

By Mr. BIAGGI (for himself, Mr. PEYSER, Mr. SCHEUER, Mr. DINGELL, Mr. KEMP, Mrs. ABZUG, Mr. CLARK, Mr. RHODES, Mr. BADILLO, Mr. FORSYTHE, Mr. MCCORMACK, Mr. MURPHY of Illinois, Mr. PIKE, Mr. BIESTER, Mr. MATSUNAGA, Mr. ASPIN, Mr. DONOHUE, Mr. TERRY, Mr. ANDERSON of Illinois, Mr. ANNUNZIO, Mr. HARRINGTON, Mrs. GRASSO, and Mrs. HICKS of Massachusetts):

H.R. 11639. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of a man of science, Enrico Fermi; to the Committee on Post Office and Civil Service.

By Mr. FINDLEY:

H.R. 11640. A bill to allow a credit against Federal income tax or payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

By Mr. FOLEY:

H.R. 11641. A bill to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans; to the Committee on Agriculture.

By Mr. HELSTOSKI:

H.R. 11642. A bill to amend the National Flood Insurance Act of 1968 to increase flood insurance coverage of certain properties, to authorize the acquisition of certain properties, and for other purposes; to the Committee on Banking and Currency.

By Mr. MATHIS of Georgia:

H.R. 11643. A bill to amend the Agricultural Adjustment Act of 1938 to authorize the sale, lease, and transfer of Flue-cured tobacco acreage-poundage marketing quotas between farms in the same State; to the Committee on Agriculture.

By Mr. MOLLOHAN:

H.R. 11644. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 11645. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. REID of New York:

H.R. 11646. A bill to ban the usage of diethylstilbestrol (DES) as a growth promotant; to the Committee on Interstate and Foreign Commerce.

By Mr. ROBERTS:

H.R. 11647. A bill to modify the project at Lavon Reservoir, Tex.; to the Committee on Public Works.

By Mr. ROSENTHAL:

H.R. 11648. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RYAN:

H.R. 11649. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STRATTON:

H.R. 11650. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. TEAGUE of Texas (for himself, Mr. BARING, Mr. CARNEY, Mr. DANIELSON, Mr. DORN, Mr. DULSKI, Mr. EDWARDS of California, Mrs. GRASSO, Mr. HALEY, Mr. HAMMERSCHMIDT, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, Mr. HILLIS, Mr. MONTGOMERY, Mr. PUCINSKI, Mr. ROBERTS, Mr. SATTERFIELD, Mr. SAYLOR, Mr. SCOTT, Mr. TEAGUE of California, Mr. WINN, Mr. WOLFF, Mr. WYLIE, and Mr. ZWACH):

H.R. 11651. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 11652. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Florida (for himself, Mr. GIBBONS, and Mr. HALEY):

H.R. 11653. A bill for the relief of certain cities, counties, and government agencies of the State of Florida to compensate them for costs in connection with a "red tide" occurrence; to the Committee on the Judiciary.

By Mr. ABOUREZK (for himself, Mr. LINK, Mr. DENHOLM, Mr. KASTENMEIER, Mr. MIKVA, Mr. OBEY, Mr. ANDREWS of North Dakota, Mr. BURLISON of Missouri, Mr. BURTON, Mr. HELSTOSKI, and Mr. O'KONSKI):

H. R. 11654. A bill to amend section 9 and 11 of the Clayton Act, as amended, to provide for the continuance of the family farm and to prevent monopoly, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 11655. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BRAY:

H.R. 11656. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. BROYHILL of Virginia:

H.R. 11657. A bill to provide incentives for establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. DELLUMS:

H.R. 11658. A bill to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 11659. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

H.R. 11660. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11661. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11662. A bill to increase the contribution of Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. FORSYTHE (for himself, Mrs. ABZUG, Mr. ADDABBO, Mr. DELLUMS, Mr. DENT, Mr. ESCH, Mr. GARMATZ, Mrs. GREEN of Oregon, Mr. HARRINGTON, Mrs. HECKLER of Massachusetts, Mrs. HICKS of Massachusetts, Mr. HUNGATE, Mr. MAYNE, Mr. ROUSH, Mr. STOKES, Mr. WILLIAMS, Mr. YATRON, and Mr. DENHOLM):

H.R. 11663. A bill to amend the Self-Employment Contributions Act of 1954 to provide that an election to be exempt from coverage under the old-age, survivors, and disability insurance program, made by a minister, a member of a religious order, or a Christian Science practitioner, may be revoked at any time; to the Committee on Ways and Means.

By Mr. HATHAWAY (for himself and Mr. STEIGER of Wisconsin):

H.R. 11664. A bill to amend the Consolidated Farmers Home Administration Act of 1961; to the Committee on Agriculture.

By Mr. HÉBERT (for himself and Mr. ARENDS) (by request):

H.R. 11665. A bill to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for the period required for hospitalization and rehabilitation after termination of missing status; to the Committee on Armed Services.

By Mr. MATSUNAGA:

H.R. 11666. A bill to extend the Consolidated Farmers Home Administration Act of 1961, as amended, to American Samoa; to the Committee on Agriculture.

H.R. 11667. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. NIX (for himself, Mr. BARRETT, Mr. BYRNE of Pennsylvania, Mr. ELLBERG, and Mr. GREEN of Pennsylvania):

H.R. 11668. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PEPPER:

H.R. 11669. A bill to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 11670. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

H.R. 11671. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11672. A bill to increase the contribution of the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. ROONEY of Pennsylvania:

H.R. 11673. A bill to amend the Postal Reorganization Act of 1970, title 39, U.S.C., to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H.R. 11674. A bill to restore and maintain a healthy transportation system, to provide financial assistance, to improve competitive equity among surface transportation modes, to improve the process of Government regulation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 11675. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. JAMES V. STANTON:

H.R. 11676. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11677. A bill to provide death benefits to survivors of certain public safey and law-enforcement personnel, and public officials concerned with the administration of criminal justice and corrections, and for other purposes; to the Committee on Ways and Means.

By Mr. MIZELL:

H.R. 11678. A bill to create a partnership between the United States and the several States for the development of rural America's transportation, industrial growth, education, health, housing, environmental protection, and planning resources and capacity; to the Committee on Agriculture.

By Mr. FINDLEY:

H.J. Res. 954. Joint resolution authorizing the President to proclaim the second full week in October each year as "National Legal Secretaries' Court Observance Week"; to the Committee on the Judiciary.

By Mr. WYMAN:

H.J. Res. 955. Joint resolution proposing an amendment to the Constitution of the United States with respect to participation in silent prayer or meditation in public schools; to the Committee on the Judiciary.

By Mr. BURKE of Florida (for himself, Mr. ABBITT, Mr. ANDREWS of North Dakota, Mr. ARCHER, Mr. BEVILL, Mr. BLACKBURN, Mr. BRINKLEY, Mr. BUCHANAN, Mr. DEL CLAWSON, Mr. COLLINS of Texas, Mr. COUGHLIN, Mr. CRANE, Mr. DERWINSKI, Mr. DINGELL, Mr. DOWDY, Mr. DULSKI, Mr. FISHER, Mr. FLOWERS, Mr. FLYNT, Mr. FUQUA, Mr. GOODLING, Mrs. GREEN of Oregon, Mr. GRIFFIN, Mr. HALEY, and Mr. HOSMER):

H. Con. Res. 449. Concurrent resolution expressing the sense of the House of Representatives objecting to the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations; to the Committee on Foreign Affairs.

By Mr. BURKE of Florida (for himself, Mr. HUTCHINSON, Mr. KEMP, Mr. KING, Mr. KUYKENDALL, Mr. LANDGREBE, Mr. LONG, of Maryland, Mr. MATHIS of Georgia, Mr. MICHEL, Mr. MINISH, Mr. MIZELL, Mr. PODELL, Mr. PRICE of Texas, Mr. RANDALL, Mr. RARICK, Mr. ST GERMAIN, Mr. SAYLOR, Mr. SCHERLE, Mr. SCHMITZ, Mr. SIKES, Mr. SNYDER, Mr. STEELE, Mr. TIERNAN, Mr. VEYSEY, and Mr. WHITEHURST):

H. Con. Res. 450. Concurrent resolution expressing the sense of the House of Representatives objecting to the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations; to the Committee on Foreign Affairs.

By Mr. BURKE of Florida (for himself, Mr. WILLIAMS, Mr. WINN, Mr. YATRON, Mr. YOUNG of Florida, and Mr. ZION):

H. Con. Res. 451. Concurrent resolution expressing the sense of the House of Representatives objecting to the eligibility of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic for membership in the United Nations; to the Committee on Foreign Affairs.

By Mr. RANGEL (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BIAGGI, Mr. BLACKBURN, Mr. BRASCO, Mr. BRINKLEY, Mr. BURKE of Florida, Mrs. CHISOLM, Mr. CLAY, Mr. COLLIER, Mr. COLLINS of Illinois, Mr. DENHOLM, Mr. DERWINSKI, Mr. DIGGS, Mr. EILBERG, Mr. FORSYTHE, Mr. GUDE, Mr. HALPERN, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, Mr. HORTON, Mr. HOSMER, and Mr. KUYKENDALL):

H. Con. Res. 452. Concurrent resolution expressing the sense of Congress that there should be a boycott in the United States of French-made products until the President determines France has taken successful steps to halt the processing of heroin an its exportation to the United States; to the Committee on Ways and Means.

By Mr. RANGEL (for himself, Mr. LEGGETT, Mr. MATSUNAGA, Mr. MITCALFE, Mr. MINISH, Mr. PUCINSKI, Mr. ROSENTHAL, Mr. ROY, Mr. SCHWENGEL, Mr. STOKES, Mr. WAGGONNER, and Mr. YATRON):

H. Con. Res. 453. Concurrent resolution expressing the sense of Congress that there should be a boycott in the United States of French-made products until the President determines France has taken successful steps to halt the processing of heroin and its exportation to the United States; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia (by request):

H.R. 11679. A bill for the relief of Robert Harris; to the Committee on the Judiciary.

By Mr. DOWNING:

H.R. 11680. A bill for the relief of Samuel E. Weinberg; to the Committee on the Judiciary.

SENATE—*Tuesday, November 9, 1971*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, Thou searcher of men's hearts, guide of the Nation's destiny, help us to draw near to Thee in sincerity and truth. Strengthen us moment by moment that we may live above the common levels of life in that higher realm of righteousness which exalts a nation. When the way is hard and the decision difficult, may we, with patience and in prayer, perceive what is Thy will and do it. When the day is long and wearisome, the hours tense and tiring, keep the minds and spirits of Thy servants here alert and strong. Guard us against all flippancy and irreverance in the sacred things of life. Hear the imperfect prayers which our lips frame and those deeper unuttered prayers of our hearts and answer them, not according to our wills, but in accord with Thy higher will and purpose for all mankind. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, November 8, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 420 and 421, in that order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

XUM

INSURED EMERGENCY LOANS

The bill (S. 2559) to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consolidated Farmers Home Administration Act of 1961 is amended by adding at the end of subtitle C a new section as follows:

"SEC. 328. Loans meeting the requirements of this subtitle and any amendatory or supplementary Act may be insured, or made to be sold and insured, in accordance with and subject to sections 306 and 309 and the last sentence of section 307 of this title."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-426), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXPLANATION

This bill authorizes the Secretary of Agriculture to make insured emergency loans of the type now authorized to be made as direct loans under subtitle C of the Consolidated Farmers Home Administration Act of 1961. This would assure that funds would always be available for these loans from the Agricultural Credit Insurance Fund provided for by section 309 of the Consolidated Farmers Home Administration Act of 1961 and from private investors. At present these loans can be made only from the Emergency Credit Revolving Fund provided for by sections 326 and 327 of that act, which must be replenished from time to time by appropriation, and which may be inadequately funded at the time an emergency arises.

COST ESTIMATE

In accordance with section 252 of the Legislative Reorganization Act of 1970 of committee estimates the costs which would be incurred in carrying out the bill at about $800,000 for the current fiscal year and about $875,000 for each of the 5 fiscal years following the current fiscal year. This estimate is based on the estimate contained in the attached letter from the Acting Secretary of Agriculture which shows a cost of about ⅝ percent on a loan volume of $140 million for fiscal 1972. The ⅝ percent represents the estimated difference between the cost of direct Treasury borrowings to provide funds for the Emergency Credit Revolving Fund and the cost of funds raised by the sale of FHA insured notes under the insured loan program. The Department advises informally that the $140 million figure represents a full year's loan program.

About $9.2 million worth of loans have already been made from the Emergency Credit Revolving Fund this year, and it is probable that additional loans will be made from that fund before the pending bill is enacted and becomes operative. Consequently the committee estimate is based on something less than a loan volume of $130 million for fiscal 1972, and is based on a loan volume of $140 million for subsequent years.

Emergency loans under subtitle C, pursuant to section 234 of the Disaster Relief Act of 1970, bear interest at rates below the cost of the funds to the Government. Since this cost is already borne by the Federal Government, it would not represent an additional cost incurred in carrying out the pending bill.

INCREASING AUTHORIZATION FOR INTERNATIONAL PEACE GARDEN

The bill (S. 588) to increase the authorization for the appropriation of funds to complete the International Peace Garden, North Dakota, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to authorize an appropriation to complete the International Peace Garden, North Dakota", approved October 25, 1949 (63 Stat. 888), as amended, is amended by striking out "$400,000" and by inserting in lieu thereof "$1,454,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-427), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 588 is to increase the authorization for the appropriation of funds to complete the International Peace Garden, North Dakota.

The increase in authorization, amounting to $1,045,000, would be in fulfillment of the Federal Government's responsibility with respect to the cost of completion of the garden. This cost is being shared by the State of North Dakota and the Government of Canada.

BACKGROUND

The International Peace Garden commemorates what now been more than 150 years of peace and friendship between the United States and Canada. The overall area is approximately 2,340 acres. Eighty acres in each country are part of the formal garden which is bisected by the international boundary line; the remaining acreage makes up the surrounding informal woodland park. This informal park includes picnic areas, campgrounds, administrative buildings and an amphitheater. The entire area is administered by International Peace Garden, Inc., for the State of North Dakota and the Province of Manitoba.

This development has been financed by the U.S. Government, by the State of North Dakota, the Province of Manitoba, Canada, and the Government of the Dominion of Canada. In addition to the joint efforts of these governments, many private groups have also contributed both money and monuments to the International Peace Garden. It is one of the most beautiful areas in the United States. The fine relationship and cooperation which exists on the Board of Directors of the International Peace Garden is indicative of the relationships which exist between the citizens of our two countries.

INCREASED USE BY PUBLIC

As with all of our parks and recreation areas, public use and enjoyment of the International Peace Garden is increasing annually. In 1969, during the period of May to September, when the garden is open and has tour guides available, 66,000 motor vehicles entered the garden. During the same period this year, some 90,000 vehicles, including 140 buses, entered the garden. The National Park Service advises the committee that a factor of 3.5 persons per car could be applied to these figures to obtain an estimate of the number of visitors to the garden. This would be 231,000 in 1969 and 315,000 in 1970. Without question, the number of visitors to this beautiful spot will continue to increase in future years.

COST

Under the approved plan, Federal funds will be used to defray one-half of the cost to complete the formal area, with the remainder of the cost of the formal area and the entire cost of the informal area to be by other non-Federal sources.

At the hearing held last year by the committee, the Department of the Interior testified that the U.S. share of the cost of the peace tower, which is a central feature of the project, was estimated to be approximately $500,000. The cost to the United States for the remainder of the formal area is estimated to be approximately $554,000, which would increase the appropriation limitation of $400,000 in the existing law by $1,054,000. The Interior Department testified that this additional amount will be all that is necessary to complete the project.

COMMITTEE RECOMMENDATION

Committee action in recommending enactment of S. 588 was unanimous. S. 588 is identical to S. 233 of the 91st Congress as it was amended by the committee and passed by the Senate.

The PRESIDENT pro tempore. Does the assistant Republican leader (Mr. GRIFFIN) wish to be recognized? If not, the Senator from California (Mr. TUNNEY) is recognized, under the previous order, for not to exceed 15 minutes.

THE OKINAWA REVERSION TREATY

Mr. TUNNEY. Mr. President, I have already testified before the Foreign Relations Committee on the importance of the Okinawa Reversion Treaty, but I believe that the urgency of the need for ratification requires me to expand upon those remarks.

Mr. President, America's political, military, and economic interests require the U.S. Senate to ratify promptly the Okinawa Reversion Treaty.

World War II has been over for more than a quarter of a century. Yet, the United States continues to occupy the territory of Okinawa, and an American general exercises executive authority over 1 million Japanese people.

That occupation is the last vestige of a wartime relationship. It continues to affect detrimentally the relations between two close friends—the United States and Japan.

We cannot allow that relationship to continue to suffer because of Okinawa, because to do so would produce continued deterioration in the political and economic relationships between our two countries. That result is hardly necessary, especially since there is no sound military reason for our retaining Okinawa. The fact that the Joint Chiefs of Staff have recommended ratification should be sufficient evidence that the reversion agreement is in America's security interest and does not threaten our ability to meet our commitments.

Although the reversion of Okinawa will have no adverse military consequences for us, the retention of Okinawa might threaten our military position in the Far East. The United States can effectively maintain an overseas base in Japan only so long as Japan herself perceives our presence to be in her own interests. It makes no political or military sense to attempt to occupy a base in another sovereign nation against the will of that nation. Such a course of action would require force and would destroy amicable relations between the two countries.

Yet, such a posture would be necessary if we were to attempt to continue to occupy our bases in Okinawa in the absence of reversion. That posture, Mr. President, would be untenable.

It is particularly important for the Senate to ratify promptly the reversion treaty in light of the deleterious manner with which President Nixon has treated our Japanese friends in the past several months. In that period of time, this Nation has witnessed a classic example of how not to deal with Japan. First of all, there was a callous disregard for our Japanese friends when the President failed to consult with Japan prior to announcing his trip to Peking, and then there was another failure to consult with the Japanese prior to the time of announcing the new economic policy on August 15. This is the sort of insensitive style of diplomacy that is inappropriate and counterproductive.

Consequently, Mr. President, I believe that a new diplomacy is necessary in the Far East. This diplomacy requires a recognition that American policy in the Far East affects Japanese interests as dramatically as it affects American interests.

This diplomacy requires a recognition that—if stability in Asia is to be maintained—the cooperation of four nations is absolutely essential. These four nations are the United States, Japan, the Soviet Union, and the People's Republic of China.

This diplomacy requires a recognition that we have made a profound moral commitment to Japan; that we have dissuaded Japan from developing an independent nuclear deterrent; and that, consequently, in the quadrangle of four Asian superpowers, three of which possess nuclear weapons, the United States assumes the role of military and nuclear linchpin between Japan, on the one hand, and Russia and China, on the other hand.

Accordingly, Mr. President, this diplomacy requires a recognition that to ignore our relationship with our Japanese ally is to ignore the security, stability, and peace of the Far East. It is deleterious to our own interests to take actions which jeopardize our relations with Japan and which threaten the stability of Asia.

Therefore, I believe that this new diplomacy requires that the United States should take no action which affects the security of the Far East without close consultation with Japan; that the United States should consult fully with Japan on all matters of vital interest to her; and that, if possible, the United States should move in those areas only in full agreement with Japan.

That policy, Mr. President, would demand that the Senate promptly ratify the reversion treaty and that both sides begin anew to put forever to rest the postwar area.

This new diplomacy of ours also suggests a new diplomacy for Japan. Japan must recognize that America's military protection contributes not only to Japan's security but also to her prosperity. Accordingly, the Japanese should divert a greater proportion of their resources to the development of Asia and should become a more active partner of ours in the growth as well as the security of Asia.

Japan contributes a very small portion, relatively speaking, of her gross national product to defense. There is no reason at all why Japan should not make at least a 2-percent contribution of her GNP—in the neighborhood of $5 billion—eventually to the economic development of the underdeveloped countries of that area of the world.

It is in Japan's interest as well as ours to divert some of her resources into aid for developing nations; for stability in Asia will contribute to maintaining the peace in Japan, and will enable Japan to continue to have a very limited allocation of resources to defense. In my opinion, Japan has an opportunity to play a unique role in Asia. It could be known as a nation of development and a nation of peace, a nation which does not feel that it is necessary to become engaged in the arms race, but a nation which feels that, instead of becoming so involved in the arms race, it will continue to devote a considerable amount of its resources to peace and to economic and social development.

Thus, Mr. President, this new diplomacy should be inaugurated both by the United States and by Japan—a new diplomacy which will contribute to political stability and to military security.

That diplomacy should begin with the prompt ratification of the Okinawa reversion treaty. It should be expanded by Japan's increased economic assistance to the developing nations of Asia. It should be nurtured by the closest of consultations between the United States and Japan on matters of mutual interest. And it should be maintained by both the United States and Japan continuously exercising the greatest care when dealing with matters which concern the other.

Mr. President, this diplomacy—and sound international policy—requires that the Senate promptly ratify Okinawa Reversion Treaty.

One further thought: It seems to me very important that Japan treat American business on Okinawa fairly and that the Aichi letter, which indicated that there would be fair treatment of American business, should be lived up to.

There is some concern in the American business community that perhaps once this treaty is ratified, American business will not be treated fairly by Japan. It is my sincere hope that during the course of the debate on this treaty, other Senators besides myself will point out the fact that they feel it is of critical importance that, once this treaty is ratified, American business interests be given the same kind of even-handed treatment that the Senate and the United States will have given to Japan by the ratification of this treaty.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. SPONG) is recognized for not to exceed 15 minutes.

NEEDED: MORE ATTENTION TO CANADA

Mr. SPONG. Mr. President, to the north of our country lies a nation of 20 million people.

We share almost a 4,000-mile border with that nation.

It is by far our largest trading partner in the world.

It is, therefore, particularly tragic and ironic to see relations with that country deteriorating and to hear the Prime Minister, in a nationwide television address, tell his people of us:

I don't think that they know much or care much really about Canada.

This, however, is what has happened. And, unfortunately, there is some basis for this feeling.

Today, in our State Department, we have five Assistant Secretaries: for African Affairs, East Asian and Pacific Affairs, European Affairs, Inter-American Affairs, and Near Eastern and South Asian Affairs.

There is a country director for Canada, under the Assistant Secretary for European Affairs.

The country to the north of us, the country with which we have more trade than we have with the Common Market countries and Britain combined does not apparently rate an Assistant Secretary.

I believe this is questionable policy and I am making inquiries to the administration and Department of State concerning it.

It is, also, I believe, unfortunate that most of our colleges and universities, in their political science and government classes, have paid little attention to Canada.

Only about 10 institutions in our country, including Duke, Harvard, and Michigan State University, offer Canadian studies.

The result is that among both laymen and professionals there really is a lack of understanding of the Canadian Government or an appreciation for the problems it faces.

We might have continued along our current path, ignoring State Department organization and emphasis.

We might need not be concerned over the paucity of academic attention to our northern neighbor, were it not for the fact that the imposition of the 10-percent import surtax has brought the differences between the United States and Canada into focus.

In 1970, Canadian-United States trade totaled some $20 billion, compared, for

example, with $15 billion with the Common Market countries and $4.7 billion with Great Britain.

Canadian exports to the United States amounted to $11.1 billion, in comparison to Japanese exports of $5.9 billion.

Canadian imports from the United States totaled more than the combined British and Japanese imports from the United States.

Furthermore, 65 to 70 percent of all Canadian exports are sent to our country.

Canada's exports represent 20 percent of her gross national product, exports to the United States represent about 13 percent.

This contrasts, for example, with the 5 percent of GNP which U.S. goods shipped to all other nations comprise.

Of the $11.1 billion in Canadian exports to the United States, about one-fourth, or between $2.5 and $3 billion, will be affected by the surtax.

Another $300 million to $1 billion in equipment exports to the United States will be affected by the tax credit.

In view of this, it appears that some of the concern over the effect of the economic measures on Japan and Western Europe has been misplaced, that greater attention might be given to the repercussions in Canada, which with a 7.1 percent unemployment is having its own financial problems.

I have been to Canada on several occasions, both in connection with NATO meetings and with the United States-Canadian interparliamentary meetings.

I am aware of the Canadian sensitivity to our insensitivity to their problems and needs.

I cannot picture a world in which relations between our two nations are not the best we can make them.

Yet, that is the situation which is developing under the existing circumstances.

During a recent trip to Ottawa, I was questioned about the surcharge.

At that time, I, along with the distinguished Senator from Alabama (Mr. SPARKMAN) and others, reminded the Canadians that they had resorted to similar actions in the past.

In addition, they have pursued a number of foreign policies which could be interpreted as contrary to the best interests of our country.

As a sovereign nation, that, of course, was their right.

As a neighbor, we reacted in these situations with considerable maturity and restraint.

Now I hope we will continue to act in such a manner.

As a sovereign nation, we, of course, have the right to take actions to protect our economy.

Recently, we have had no choice but to move to resecure the dollar.

We might have, however, been more sensitive to the Canadian problems, especially at a time when their economic difficulties, too, are not small.

We might have sought more discussion of policy differences, such as those over the Amchitka test.

Absent this, we could at least have been more aware of the problems, internally and externally, of our neighbor to the North.

There are actions that our Nation must sometimes take, regardless of extenuating circumstances.

There are reasons and excuses for that.

But there is little reason or excuse for a continuing blindness to the situation north of our border.

Continuation of a course of blindness could, I believe, be both dangerous and detrimental to our Nation.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 15 minutes, with statements therein limited to 3 minutes.

Is there morning business?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

OUR FEDERAL FUNDS DEFICIT KEEPS INCREASING

Mr. BYRD of Virginia. Mr. President, the Joint Committee on Internal Revenue Taxation estimates that the Federal funds deficit for the current fiscal year will be $35 billion.

That is a smashing deficit.

It comes on the heels of a $30 billion deficit for the fiscal year which ended this past June.

Thus, Mr. President, the Government is faced with a back-to-back deficit in 2 years of $65 billion.

This is a matter that should be of major concern to the Senate and Congress as a whole.

QUORUM CALL

Mr. BYRD of Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, how much time remains for the conduct of morning business?

The PRESIDENT pro tempore. Nine minutes remain.

Mr. MANSFIELD. Mr. President, is there further morning business?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 1483) to further provide for the farmer-owned cooperative system of making credit available to farmers and ranchers and their cooperatives, for rural residences, and to associations and other entities upon which farming operations are dependent, to provide for an adequate and flexible flow of money into rural areas, and to modernize and consolidate existing farm credit law to meet current and future rural credit needs, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. POAGE, Mr. MCMILLAN, Mr. JONES of Tennessee, Mr. BELCHER, and Mr. TEAGUE of California were appointed managers on the part of the House at the conference.

TRIBUTES TO VICE PRESIDENT AGNEW ON HIS 53D BIRTHDAY ANNIVERSARY

Mr. ALLEN. Mr. President, today marks the 53d birthday anniversary of the distinguished Vice President of the United States, the President of the U.S. Senate. As the junior Senator from Alabama, I should like to extend congratulations and felicitations to the distinguished Vice President on this, his birthday, and to commend him as a great American, to commend him for having the courage of his convictions, to commend him for his rugged individualism, to commend him for his unswerving loyalty to the President, to commend him for his self-abnegation, to commend him for his patriotism, and to commend him for his dedication to America and to the principles that have made this country the great Nation that it is.

Mr. President, the Vice President of the United States is immensely popular in the State of Alabama. He adds strength to the National Government. He gives the National Government identity as a conservative force in this Nation. And certainly there has been a great absence of conservatism in the direction in which the United States is proceeding.

Mr. President, it is to be hoped that the Vice President of the United States will continue in office as long as he desires, because he is a great American, he is a credit to the administration, and he is a credit to the United States of America.

So on this occasion I should like, on behalf of the people of Alabama, to pay tribute to the Vice President of the United States, the Honorable SPIRO T. AGNEW.

The PRESIDING OFFICER. Is there further morning business?

Mr. GRIFFIN. Mr. President, I wish to extend to the Vice President not only a happy birthday today but the hope that he will have many more happy birthdays in the future.

The Vice President is a very able and distinguished American, one who is loved throughout the country, in all the States of the Union. He has proved himself to be a very articulate spokesman of the party with which he is affiliated, which happens to be my party. He has done an outstanding job, I think, in sharpening the issues and providing the country in many respects with a perspective that needs to be presented.

I also think today, on his birthday, of his wonderful and lovely wife Judy, who is a great asset to the Vice President and who is loved and admired by all who know her. He has a wonderful family.

I think that not only the Senate but also the whole country can be very proud of the fact that we have Vice President AGNEW serving us in the capacity in which he is serving.

I join in extending hearty best wishes and congratulations to him on this, his birthday.

The PRESIDENT pro tempore. Is there further morning business?

EXTENSION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be extended for not to exceed 4 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTES TO VICE PRESIDENT AGNEW ON HIS 53D BIRTHDAY ANNIVERSARY

Mr. MANSFIELD. Mr. President, I wish to join my colleagues in their bipartisan congratulations of the Vice President of the United States on his birthday. I wish to him and his wife Judy and to his entire family the best of everything in the years ahead.

I speak at this time only because the Vice President's name has been brought up; and I do so in relation to an article entitled "Inside the White House 1971," published in Look magazine sometime last month.

In that article the Vice President is very frank in some of the comments he makes. I commend him for his frankness, but I think the record should be set straight.

The Vice President was interviewed by Allen Drury, and this is what he said in response to a question:

I went up to the Senate my first day here, all full of idealism and sentiment, I had spent five or six sessions with the parliamentarian trying to learn the rules of the Senate; I knew the senators by name and I knew their faces; I was prepared to go in there and do a job as the President's representative in the Senate. I even prepared a little four-minute talk to express my pleasure at being there on the first day. When the session opened, the majority leader spoke in a perfunctory way for about a minute to welcome me to the Senate and this was followed by the minority leader doing the same thing.

After that the majority leader said "Mr. President, I move that the Vice President be given two minutes to reply." I was then faced with cutting down a prepared four-minute speech to two minutes, which was awkward in itself. It was like a slap in the face.

Mr. President, I said I wanted to clear the record. May I say that if the Vice President, who did do a lot of his homework on parliamentary matters, in getting to know the Senators and in getting to know the Senate, had indicated in any way, shape, or form to the minority or majority leaders that he would have liked to speak for 4 minutes, he would have been given that opportunity, because we welcomed him with open arms. He did apply himself to his new job, and it was a difficult one for him, coming from the governorship of Maryland.

Our remarks were not perfunctory but were heartfelt because we wanted to make him feel at home, and I am sorry he looked upon the greetings which we extended in our capacity, speaking for both sides, as perfunctory; and I am sorry that when he thought we were extending a privilege to the Vice President to speak for 2 minutes, not knowing that he wanted to speak at all, that he took it the way he did. So I hope the record would be straight.

May I say we have missed the Vice President as our Presiding Officer. He belongs as much to the Senate as he does to the executive branch. I personally would like to see him here more often because I appreciate his personality, his diligence, and his interest, and I would like to see him become a part of the Senate, so far as a Vice President can.

So I am somewhat disturbed, and I am sure the whole Senate shares my feelings, because nothing was further from the thoughts of the joint leaders than to be courteous, than to be generous, than to give recognition, and to do what we could to make the Vice President feel at home.

There is a good deal of merit in this candid article entitled "Inside the White House 1971," written by Allen Drury. There are certain segments I would like to call to the Senate's attention before my time expires. For example, here are some statements by Daniel Patrick Moynihan, a Democrat who worked for a Republican President for a number of months and who did, I think, an outstanding job. He said in the article—and I will quote only excerpts:

To me, it is vital to the way our democracy operates that you respect the office and the institutions of the country.

Further on, he said:

Perhaps the fundamental issue of our time is the erosion of the authority of our American institutions.

Quoting again, he said:

The danger is, however, that if the authority of institutions is eroded enough, it may be succeeded by a power society in which democratic rights and freedoms will ultimately disappear.

I agree with those remarks. I have a great respect for the office of the Presidency regardless of who occupies it. I have great respect for the Office of the Vice Presidency.

In order that this candid, frank commentary by a well-known political writer may be brought to the attention of the Senate, as it has to probably 20 million or 30 million Americans, I ask unanimous consent that the article in toto be printed in the RECORD at this point.

May I say before the President pro tempore renders his decision that if there is any apology forthcoming for the treatment of the Vice President by the joint leadership, the joint leadership desires to apologize, because, I repeat, we had nothing but good thoughts. What we did, we did in good heart; we wanted to make the Vice President feel at home. We hope he will be, and and we would like to see him once in a while so that he can exercise his most important duties as President of the Senate.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INSIDE THE WHITE HOUSE, 1971

(By Allen Drury)

Sometimes, if you approach the White House at dusk, you hear a strange screeching sound that seems to be coming from all around you. Startled, you think for a moment that it may be the starlings, which have for so long been the curse of Washington, come to roost in the giant trees. Then you realize the sound is coming from loudspeakers set high in the branches, repeating over and over the high, agonised distress cry of the ubiquitous birds, its purpose to drive away any that might be tempted to tarry here. The strange sound goes on, shrieking over and over again into the cold, misty, luminous evening. Let the imagination run and you are back to the crows cawing ominously over the Capitol in Rome, the Harpies, the Witch of Endor and other dark, foreboding things. The sound goes on and on, frantic, beseeching, agonised, protesting, over and over and over, above the haunted, harried house and all who live and work within it.

Power in a President's house has many faces, many voices. Some candidly for quotation, some candidly for quotation but not for attribution, tell the story of an Administration seeking answers to questions never ending:

Dwight Chapin, the President's appointments secretary, is 30, dark-eyed, dark-haired, rosy-cheeked, good-looking, earnest, intent; he gives the impression that he has so many things on his mind that he simply can't relax for a moment. This is probably true.

"We're responsible for the general scheduling of the President's time and also the daily schedule. I also act as advance man, or send out members of my staff as advance men, when the President is traveling. In addition, I participate with Herb Klein and various public affairs officers at a regular Saturday meeting in which we take up things that might help the President in dealing with the public and decide whether they are worth his taking the time to do them. We are already considering what we want to do on television and radio next year; we are also considering how we want to involve the First Family in the holiday season next year. This year's schedule was already locked up a long time ago. This group is involved, in other words, in the whole merchandising part of the operation.

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"The President averages about 12 appointments a day. He also does a lot of telephoning. It's all on the same sheet, a log which is kept by our office and his secretary's office.

"The President says he really works two days in one. He comes to work between eight and eight-fifteen and usually works steadily until 2 p.m. Then after a lunch break, he resumes at three-thirty and works until seven. Then frequently he will return to the office after dinner and work until 10 or 11 p.m.

"Of course, he can do this because, unlike the ordinary businessman, he has everything scheduled for him. He doesn't have to stop and decide whom he's going to telephone or see because his secretary knows already who it will be, or maybe someone has been told to call in at a given time. Bob Haldeman is my boss, and we try to see that whatever the President puts his time on will be worth doing.

"When we get a request for an appointment, we staff it out by sending a memo to the President and to others concerned describing what is to be covered in the appointment, who favors the appointment and who opposes it. That way we make sure his time is not wasted. He has recently established what we call an 'open hour' once a week, during which eight or ten people may see him for as much as five or ten minutes apiece. In addition, we have the 'congressional half hour' once or twice a month in which congressmen who want to talk to him personally can make an appointment for five or ten minutes.

"The President has a real warmth about him. He's very considerate of others. To my knowledge he has never once yelled or gotten boisterous. He also is very quick to think of things to make people happy. For instance, the other day I went in and saw two Rose Bowl tickets [for the Stanford-Ohio State game] lying on his desk. I said, 'Ian't there somebody we could give those to who would appreciate them? Somebody, for instance, who was born in Ohio but grew up in California?' He thought for just a minute and then he said, 'You go find some wife of a prisoner of war who was born in Ohio and grew up in California and I bet she'd like to have them.' So we did find one and the letter has gone out. I don't know whether she'll like them or not, but at least we're starting it through the mill."

"One thing that annoys me a little with the staff," says the President's longtime campaign associate Murray Chotiner, "is that all they release of the President's schedule each day are the formal things, greeting visiting firemen or the medal-giving ceremony in the Rose Garden. There are about three of these, maybe less, each day. This goes right in the paper alongside Congress, with maybe 25 committees at work in the House and another 20 in the Senate. It makes him look almost frivolous compared to Congress. I wonder what the tourists must think who come here and know only his ceremonial schedule that they read in the papers."

Daniel Patrick Moynihan has gone back to his former love, teaching at Harvard, but he maintains his quiet ties with the President. In the White House, he was the principal agitator for the Nixon welfare plan, the idea of guaranteed income, the idea of reducing public hysteria in the approach to social problems. Flamboyant, voluble, well-spoken, decent, he believes he sees in the President a man as good hearted as himself and says so with a forceful and unabashed vigor which brings much criticism from those who were friends of his when he worked for the Kennedy and Johnson administrations. He doesn't care, maintaining his position with a zest that would do credit to a Harry Truman in his younger days.

"Perhaps the principal thing that has struck me during my time here has been the way in which the Presidency has been devalued, degraded and even insulted. There has been a steady decline in respect for it, and this shows itself in many ways. For instance, there was that girl today who got an award from the President and then told him she didn't believe he was sincere in trying to get out of Vietnam. To me, it's vital to the way our democracy operates that you respect the office and the institutions of the country.

"I had another example coming back from a speech last night. A young man on the plane recognized me and asked if he could make a 'citizen's complaint.' I said, 'Are you a citizen?' He said he was and then proceeded with the usual comments about the war, the minorities and so on. Among other things, he said that he had read somewhere that some friend of the President had called him 'Dick' before he took office but since he became President has called him 'Mr. President.' This young fellow said this indicated to him that the President was an egomaniac surrounded by some sort of Oriental court. I tried to point out that George Washington made the decision that he was not to be addressed as 'Your Majesty' but simply as 'Mr. President,' and that this has been one of the fundamental features of our democracy ever since. But I could see that he was not really convinced and that's typical of the attitude a lot of these kids have toward our institutions. They're just plain ignorant of history, of respect, of fundamental knowledge and common sense.

"Perhaps the fundamental issue of our time is the erosion of the authority of our American institutions. Authority relations are consensual, power relations are based on force. If we had a power society and somebody challenged the President, he could say, 'Off with your head!' But in a society resting on the authority of institutions by consent, this can't be done. The danger is, however, that if the authority of institutions is eroded enough, it may be succeeded by a power society in which democratic rights and freedoms will ultimately disappear.

"Another aspect of the erosion of the Presidency, it seems to me, can be found in the way in which it is subjected to political attack and the President's purposes thwarted for partisan reasons.

"The President's political task is made extra difficult because he represents a group which is not fashionable or popular with the major elements of the media. The silent majority is silent because it has nothing to say. It has no popular intellectuals speaking for it, it represents no major cultural breakthroughs, and so everything it says is ridiculed and put down.

"I do think the President has claimed the country substantially. When he came into the White House after a bitter campaign, we were handed forms whereby the President could call out the National Guard to handle riots. He could just fill in the date and the name of the city. That's how bad things were at that point. His inaugural was the first in which Federal troops were brought into Washington in fear of disturbances. It was really something, it gave you an eerie feeling to see troop carriers and tanks roll in here alongside the Executive Office Building, where a command post was set up. Every major presidential aide had a phone connected directly to riot control headquarters of the District of Columbia police. Two years later, no National Guard is mobilized anywhere, no troops are in Washington, we no longer have our riot phones, and as a matter of fact, we have a lot more law and order in the country now than when we walked in two years ago.

"The President is very calm about personal attacks and urges us to be too. This can be a weakness, however, because he and the people around him just assume automatically that the press is going to attack things they proposed, so they don't defend them—they don't seek even the modest support which I believe they could get if they weren't so sure they were going to be attacked. Admittedly the major elements have been and usually are very unfair. But I still think the Administration could get more support than it does get if it had a different approach and a different feeling toward the press than it does have.

"One area, of course, in which there has been great unfairness is the area of his commitment to helping the Negroes. This Administration has been more serious on the Negro than any in history. It has carried through on a rising projection of laws and directives aiding the Negro. I think there is a very genuine compassion on his part—'I was poor, I know what it's like, it's lousy'—yet they have managed to label him anti-Negro.

"He has had the least generous press of anyone I have ever known in the White House. It has been one long presumption of malfeasance, sinister intent, trickery and double-dealing.

"The Vietnam war is killing the American Presidency. [Henry] Kissinger is extraordinarily brilliant, but he is stuck, and the President is stuck, with the end result of other people's mistakes. Personally, I think we should get out of Vietnam even faster than we are, because the stakes involved in world affairs now are so high. I'm a pessimist—I think we really may blow ourselves up. The man you're writing about can literally push the button and destroy the world. And so, of course, can the others on the other side."

Former Eisenhower Administration official, Washington veteran, longtime Nixon friend: "How is Nixon doing? I think he is doing very poorly. He's afraid to be tough and ruthless on issues where a President has got to be tough and ruthless, and where the country would applaud him if he were. He is afraid he will live up to the press attacks about his ruthlessness, but that is exactly what is needed. They have him buffaloed so he doesn't do what he should do to provide strong leadership. I find this very disturbing."

Nixon intimate No. 1: "As of now"—that favorite politician's phrase—"there is no strong dump-Agnew movement. But a lot will depend on how the Vice President conducts himself as we come into the homestretch before the convention. He has a lot going for him, but there is a razor-thin line between a voice which points out things that a lot of people agree with and a voice that becomes strident by talking too much. Of course, the Vice President also has going for him the President's vivid memories of the sort of treatment he received when he was Vice President. There was a dump-Nixon movement in those days, remember." Nixon intimate No. 2: "There are four reasons against a dump-Agnew movement. The first is that the possibility is raised in columns and news stories out of an obvious, and to the President, offensive, hope that it will occur. The second is that even the hope is premature, because Presidents make that kind of decision in the spring of an election year, or maybe in the summer just before, or even during, the convention. Thirdly, I know of no disposition on the part of the President's staff or advisers to do such a thing. And fourth, Mr. Agnew has a rather devoted following among some elements of the Republican party, and an attempt to get rid of him could have quite interesting results. Having talked to him many times, I know that he is very philosophical and is not worried about it. I really think he would be happy either way—and after all, what else can a Vice President do?"

None of which means, of course, that these two suave gentlemen would not gladly and eagerly assist in the political execution of Spiro T. Agnew if their boss asked them to; or that their boss, bound by the imperatives of Presidents, which are sometimes less subject to conscience and friendship than those of ordinary men, might not perfectly calmly and logically decide to order such a thing at the coming national convention. An Agnew aide sums up the perils of being No. 2, an office in which you do not necessarily, if you wish to retain it, try harder:

"We have received excellent cooperation from the White House staff, partly, I think, because the President is so wholeheartedly for Agnew. However, I think that if they got the word, or if they felt he was a detriment to the President, they would ax him in a minute.

"One interesting episode occurred when the Vice President was speaking to The Associated Press Managing Editors' convention in Honolulu recently. He had about a page and a half in which he specifically named people like the New York Times, Newsweek, Time, Look and Life, NBC, ABC and CBS as those he meant when he talked about the Eastern press establishment. This caused great excitement in the White House staff. They were horrified that he would name these people.

"His point of view was that he wanted to say specifically whom he was criticizing, and not make it just the press in general. However, there was great upset about this in the staff, and they took it to Nixon. He overruled Agnew and asked him to take it out of the speech, which he did.

"I don't really understand this attitude of the President or of some of the White House staff in this, because the way I look at it, these people are your enemies for life. They are not going to change, there is nothing to be gained by appeasing them, and you might just as well sail into them with everything you have. However, the President is apparently still trying to make some points with people who are bitterly critical of him and are never going to change. That could be a factor in what he does about the Vice President next time. . . . It could be a factor."

Sitting quietly in their Sheraton-Park apartment with Mrs. Agnew after a relaxed and intimate family dinner, the storm center of all these battles, pressures and controversies speaks quietly and shrewdly about himself and the perils of his country as he sees them.

QUESTION. What do you think of the Vice Presidency as an office now that you have been in it for a while?

"I think it's the most flexible office in the Government"—sudden laugh. "Certainly it has given me, I think, more opportunity than any other Vice President—to do things in the Government. I didn't really want to get so far away from the Senate, where constitutionally I'm president of the Senate and presiding officer, but it's worked out that way.

"I went up to the Senate my first day here, all full of idealism and sentiment. I had spent five or six sessions with the parliamentarian trying to learn the rules of the Senate; I knew the senators by name and I knew their faces; I was prepared to go in there and do a job as the President's representative in the Senate. I even prepared a little four-minute talk to express my pleasure at being there on the first day. When the session opened, the majority leader spoke in a perfunctory way for about a minute to welcome me to the Senate and this was followed by the minority leader doing the same thing.

"After that the majority leader said, 'Mr. President, I move that the Vice President be given two minutes to reply.' I was then faced with cutting down a prepared four-minute speech to two minutes, which was awkward in itself. It was like a slap in the face.

"However, I tried hard to get to know the senators and to work with them in those first months. Then, unfortunately, the President was called away to Europe at the time of the ABM fight. I was given the job of helping to get that legislation through. When it got to a vote, I went up to Len Jordan [Republican, Idaho] during the vote and just said casually, 'Len, how are you going to vote?' He drew himself up, stared at me accusingly, and said, 'You can't tell me how to vote! You can't twist my arm!' Within a minute he was off the floor calling in the press for a press conference, saying that I was going around the Senate twisting arms.

"It seemed to go on from there after that. And so, after trying for a while to get along with the Senate, I decided I would go down to the other end of Pennsylvania Avenue and try playing the Executive game.

"Down here, the President has found many things for me to do, and on the whole I have been much happier working here with him in the Executive Branch. I still go up to the Senate and preside. And when I preside, I make very sure I impose the rules, and if somebody is talking too long I gavel him down, and if somebody does something he shouldn't do, why, I gavel him down and force him to obey the rules. I've decided that if that's the way they want me to be, that's the way I will be.

"However, I find up there, as I do in the Executive Branch, that I have no real power. It's a damned peculiar position to be in, to have authority and a title and responsibility with no real power to do anything. I think this is the hardest adjustment for a man to make, both coming to the Vice Presidency and coming to the Senate. He has been, as many of us were, a governor, say, in an administrative position, and suddenly he finds he can't do anything effectively. It's a strange sort of limbo, particularly for Vice President. In the early days I used to say to myself, 'Now, tomorrow I'm going to do so and so' . . . and then I would stop and think, 'You aren't going to do anything, you don't have the power.'

"I find the Senate very exclusive and withdrawn into itself . . . almost an arrogance in the club feeling up there. It makes it difficult to deal with them, even in the rather remote fashion that I now do. And yet, you know"—dreamily—"the Senate might not be such a bad place to be, someday. . . .

"I am very much disturbed by the trend of American policy under which, prodded on by the press and the liberals, we are steadily withdrawing from commitments around the world. It is not so much that this reduces our power militarily to a dangerous level as it is that it erodes the faith other nations have that we are strong enough to do something should a crisis arise. When I went to Asia, I found that they said, "You can't do anything, really, if a pinch comes, because you are withdrawing.'

"In the same way, when we sometimes appear to be retreating before the Soviets in some other areas, this erodes the world's confidence that the United States will really do what it says it will do. Frankly, it scares me."

QUESTION. Then how do you explain why the President appears to be withdrawing our power around the world?

"He's in a hell of a position. He has the press and the media and the liberals and the academic community and all the rest after him all the time. He is forced to take that into account. No one who doesn't sit in the cathird seat can really understand his problem. It is all very well for people to criticize, but until you are there, you don't know the pressures he must operate under.

"I find these fellows on the Hill very disturbing, particularly the attitude of the Senate Foreign Relations Committee. Of course, Fulbright is going to get away free. Events will never catch up with him. He'll be dead by the time the results of what he advocates afflict this country. We're talking now about our grandchildren, or at least about the next generation. Then is when the blow will come from the Soviets. By that time, we will be so weak that we will not be able to respond unless we are willing to launch a massive retaliation that could blow up the world. They have been extremely clever in never forcing a crisis. Their method is to work around us and weaken us on every side without forcing a confrontation. Again I say that scares me, because these fellows in the Senate and in the House who oppose our foreign policy are doing things to this country which cannot possibly be reversed unless we start soon to do them. They will soon be irreversible.

"There is an almost masochistic desire on the part of the liberal community to surrender and to back away from any confrontation with Russia—for us to be twice as fair in dealing with them as with anybody else, twice as long-suffering, twice as permissive as we are with anyone else. I find this almost impossible to understand, but I know it exists among many in the liberal community.

"I wish there were some way to create a conservative newspaper in New York and also a conservative television and radio network. It is very hard to get people who have the money to cooperate with one another. It is an example of the difficulty of getting people on the conservative side to organize to combat this intensive liberal drive all the time on the other side.

"I really love foreign policy. I have thoroughly enjoyed my trips abroad and I am looking forward to making more. It is getting now so that they stop by to see me when they come through here. I spent an hour today with King Hussein, whom I had met before. The first time is a formal visit, the second time they get more relaxed, and about the third time they really begin to talk to you. You can begin to understand the signals in their diplomatic language. You know their situation and you know what they are saying. I find it very interesting and I'm glad the President has seen fit to give me this kind of responsibility.

"I'm standing the gaff pretty well. I keep in good shape, and they aren't getting to me. When I first began the '68 campaign, there was a terrific drive to destroy me as a candidate, and at first I took it very seriously. For a little while I thought, 'Well, I've got all those marbles out there. Am I going to be able to keep control of them?' But the President was a tower of strength to me in that situation. 'Ignore them, they're going to be after you all the time anyway. It's a political campaign and there isn't much we can do to stop it, so just say to hell with them and just keep right on doing what you're doing.' And presently I realized when I read the attacks that they were so extreme and exaggerated that they simply were ridiculous. They simply did not make sense. Once I understood that, I got to the point where I could shrug them off and then they didn't bother me any more. Now I'm just going to go ahead and do what I want to do.

"But I do find that one has to be very specific in one's comments, because if not, the press immediately shreds away all the qualifications that you put in. For instance, I said originally that those who *encouraged* the student riots were 'effete snobs.' Within two or three days it had become, in the press, not the people who had *encouraged* the students, but the students themselves. Then presently it became *all* students. Then presently it became *all youth*. And that is the way it goes.

"People asked me why I attacked Kingman Brewster of Yale and I said, 'Well, if I don't make it specific, within a week I will be accused of having attacked *all* college presidents instead of just one college president.' This is a very dangerous thing that the press does, and they do it all the time."

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Mrs. Agnew, when asked how she thinks her husband is standing it: "I think he's doing all right. He manages to keep himself in good shape and seems to be in reasonably good spirits. We've learned to roll with the punches and we don't let it bother us any more."

He seems genuinely unconcerned about his political future. He seems to be really, completely philosophical about whether he stays on the ticket in '72 or leaves it. At one point when we were discussing the Vice Presidency I said humorously, "Anyway, you're stuck with it."

He raised a finger with a sudden smile.

"Not forever," he said quickly. "Not forever."

Former high Nixon staffer, amicably resigned, still friendly and concerned: "There seems to be a reluctance in the White House to come to grips with certain problems, both of personnel and of policy. Consequently, a lot of people are still hanging on who are diametrically opposed to the Nixon program and they simply can't seem to get up the guts to get rid of them. Bob Halderman and John Ehrlichman have gotten too far too fast. They have not really been tested in getting where they are. They don't have the experience. They don't really have the backbone about various things. Also, there seems to be a reluctance on Nixon's part really to go after some of these people who are obstructing him. It is a curious thing, which extends also, it seems to me, to foreign policy and what seems to be a reluctance, sometimes, to come to firm grips with the challenges that face him as President from the Russians and elsewhere around the world."

Tricia Nixon talks about her parents—and the press: "How do I regard the press? Well, I think they're a necessary evil—no, I won't say that, because they aren't really evil. They have their job to do and I suppose that without them the public would not be informed, and in a way a President could not really do what he wants to do because he couldn't get public opinion behind him. However, I do think that sometimes the questions in the press conference are not so much questions as they are an indictment. I don't think that is so good. . . .

"How do I regard my parents? I suppose that's the most impossible question for any child to answer. I am glad they are my parents. I love them. They've been very understanding and patient with both Julie and me. They've always been there when it counted. It's true my mother has always said she felt guilty because they had to be away so often when my father was Vice President, when we were growing up. But in a way that's contributed to our independence too.

"If there was ever a disciplinarian in the family—and there never was very much of a one—it was my mother. My father is a real soft touch, from letting the dogs come to the table and feeding them when my mother doesn't want him to, to everything else. He has always been there to give advice but he has always wanted to be asked. He has felt that we were on our own, in a sense—that we should be on our own. . . .

"As for how my father is standing the Presidency . . . if he didn't have the conviction that he was contributing something to the country, and the feeling that he can accomplish something for all Americans, I think that it would be almost too great for him to bear—I suppose too great for any President to bear, because they all must have felt that. . . ."

H. R. "Bob" Haldeman, chief executive officer of the White House, is in his forties, crewcut, with deep-set dark eyes; youthful-looking, trim, frank, straight-talking, obviously intelligent and efficient. He received me in his comfortable office, done in Williamsburg style with dark green paint and heavy drapes. A fire burned in the grate. (Outside the window we could hear King Timahoe, the Nixons' Irish setter, barking as I heard him barking on many occasions during these interviews. He does not like being confined and seems to be ever hopeful that someone will come out and let him run. Haldeman says the Nixons quite frequently let him run on the south lawn and he is constantly reminding them of it.)

"You ask what I do. It's a monumental problem to tell you because I don't exactly know. A little bit of everything, I suppose. My function is basically to be a sort of commander in chief of the White House, basically the administrative manager of the office of the President.

"The President needs one person he can turn to quickly to cover anything he wants to cover. I, of course, will turn to someone else down the staff, but it saves him having to take the time to determine who to send things to and who to contract. He makes wads of little notes to himself about things and I am the beneficiary of that. I send his requests and desires out through the staff and make sure that someone reports back to him as soon as possible with the answer or the result.

"I keep myself free I am always available to the President so that any time he wants to turn a problem over to me he can do so and I can arrange for somebody to work on it as quickly as possible. He is an amazing guy to work with—has a great sensitivity not to interfere with other people's feelings. He is very considerate of the staff—very demanding of results and expects that things be done right, but he is very thoughtful about the people who work for him. Of course, he has so much stuff under way that he has to keep putting it out just to stay abreast of it. He can't afford to slow down for a minute.

"We started out trying to keep political coloration as much as possible out of policy and hiring matters. However, we realize that these things make for variety in decision-making, and so within reasonable limits we have tried to keep a spread of opinion on the staff, so that no one is to the left of the President at his most liberal or to the right of the President at his most conservative. In a staff such as the speech-writing staff, someone like Ray Price could be categorized as 'liberal,' someone like Bill Safire could be categorized as being in the middle, and Pat Buchanan could be categorized as being on the right.

"This type of spread is not accidental. The President goes on the theory that a person's philosophy can be contributive to the ideas around here, that there has to be a counter-balancing, that you don't want people thought of as 'house conservatives' or 'house Jews' or 'house blacks'—but you do need that type of person in each of those areas in order to contribute ideas to the Administration.

"Ehrlichman, Kissinger and I do our best to make sure that all points of views are placed before the President. We do act as a screen, because there is a real danger of some advocate of an idea rushing in to the President or some other decision-maker, if the person is allowed to do so, and actually managing to convince them in a burst of emotion or argument. We try to make sure that all arguments are presented calmly and fairly across the board.

"I'm aware that there has been criticism in Congress that relations have been bad but I don't think Congress is supposed to work with the White House—it is a different organization, and under the Constitution I don't think we should expect agreement. I feel that we have developed a situation in which the President is too much responsible for developing initiatives for Congress, and consequently it has become too much a measure of his Presidency whether his initiatives succeed in Congress or not.

"We find that Nixon is measured by a totally different standard in the press, the academic community and elsewhere than either Johnson or Kennedy was measured. We are told that if he gets something through it doesn't mean anything, because it should have gone through anyway. But if he fails in getting something through, then this is a big mark against him. I don't think there is much we can do about this. I often find it fascinating to ponder by what standards Nixon is going to be judged by history when all the partisan battles we face now are over.

"We are trying to get our case over to the country. Our getting it over has a direct relation to our ability to govern. We hope that things will be understood by some intelligent and effective segment of the population because this is necessary to govern. If this is not perceived by them, then it becomes very difficult.

"However, we don't intend to lie down just because the general run of analysts don't like what we do. I think we have had a pretty darned good two years, in terms of where we were when we came in and where we are now. Nixon is now fighting, in the Family Assistance Plan, for the most far-reaching piece of social legislation perhaps any President has ever proposed. He says we don't know how it will work, but we do know that if we don't try it, we may never know if it will work or not. We are almost at the point in welfare where some change is better than no change and where a change has to be made. . . .

"Has the President changed in office? He may be more no-nonsense than before, but the thing that has impressed me is apparently a great inner feeling of self-confidence in the job. He likes being President. He moved right in and he obviously enjoys it now. There are times, of course, when he gets fed up with petty annoyances, and he works and worries hard over the big decisions. But he likes stepping up to decisions, particularly hard ones. Occasionally, being human, he will get annoyed with the way things are going. But usually he manages to conceal this and to keep going himself in a calm and effective manner."

The press (columnist, male, veteran, long-time friend of the President): "I am very puzzled by Nixon. He does things that an experienced politician wouldn't do. It seems to me that there's almost a feeling that he just isn't interested somehow, almost as though he doesn't want to run again. I can't believe this, but look at some of the things he's done. The Carswell nomination—Carswell's a nice little guy, but he has no more business on the Supreme Court than I do. Firing Wally Hickel from the Interior Department—the only man in the Cabinet who has any kind of reputation for being a conservationist—and then appointing Rogers Morton, who has no interest in it, when the Democrats are making hay over the conservation issue. Some of the things he has done in foreign policy also seem very puzzling to me.

"I'm disappointed because I like Nixon, I want him to succeed, and I think it is vital to the country that he do so. And yet I feel in a sense that he is letting down his country and his party because there's just this curious lack of political smartness about doing things it seems obviously necessary to do—things that a smart politician would not overlook if he were really on top of the job. . . . I find many things the President does very puzzling these days. It just doesn't seem to hang together, somehow."

He was running very late: our interview had originally been set for 4 p.m., then been delayed until 4:15. I was accompanied from the EOB to the West Wing by Herb Klein and Jeb Magruder, Herb's top assistant. The President was closeted with Dr. Arthur Burns, chairman of the Federal Reserve Board. Time passed. His receptionist, Steve Bull, became more and more apologetic, knowing that the President had a reception for members of Congress over at the Mansion at 5 p.m. At approximately 4:45, the buzzer sounded and I was taken into the Oval Office. The huge room is now almost devoid of furniture except for the President's massive desk and a few chairs and sofas along the walls. "The first thing I'm going to do," he told me soon after his election in 1968, "is take those damned television sets out of the Oval Office." He has done so.

The windows were opened to the cool winter evening and the curtains billowed out from time to time with the wind. Photographs were taken for the first couple of minutes while we chatted about innocuous things. Then the photographer and the others left. He leaned his head in his hands, rubbed his eyes, stayed that way for a moment. But when he looked up he did not look tired, and that was the only time during our talk that he gave any sign of being tired. Mostly he looked, and talked, and appeared to be, entirely relaxed, comfortable and as though he did not have a care in the world. It was perhaps the single most impressive thing about him at that moment. Tiredness and strain are easy to spot: they were not present here this particular late afternoon.

We began with his suggestion that I submit questions in writing and that he take occasion when at Camp David or San Clemente or Key Biscayne to dictate extended answers into his tape recorder. After that, he suggested, I might want to come back and question further on certain points. He said that if he could go to the tape recorder first he would be able to be more relaxed, frame his answers more intelligently and contribute more substantially to what he hoped would be "a thoughtful and worthwhile book."

I told him this would be fine with me, and then expected him to boot me out, since congressmen and their ladies were gathering at the Mansion and the clock was moving on. Instead he sat back and chatted for half an hour, ranging from the press, on which he has some definite and occasionally acrid ideas, to the nature of the questions I wanted to ask.

I said that some of them might be critical in nature, but that I didn't intend to offer hookers: I would simply be seeking answers to some of the opinions I was running into around town.

"Don't worry about that for a minute," he said. "Give me any hookers you want. Be the devil's advocate, make them just as tough as you like. After all, it's my job to answer these criticisms, and if you simply ask me bland questions without any bite to them—'Mr. President, what did you do to save the world today?'—the interview won't add up to very much. I'd prefer to have you make them tough whenever you feel it is justified."

I ask him if he wished to impose any restriction that his answers be paraphrased rather than quoted directly and he said no, he would be perfectly willing to turn them over to me and let me use them in direct quotes as I pleased—with the exception that on some extra-sensitive subjects it might perhaps be wise to paraphrase. In that case he would do it himself, dictating, "It is known that the President believes—" or, "The President is understood to feel—" or some such protective, if easily detected, formula.

He was very curious as to whether I was getting sufficient cooperation from the staff and suggested that I be sure and talk to such people as the chef and others on the domestic staff as well as the professional and political staffs. He said both Julie and Tricia would be good sources about White House operations, as both were very thoughtful and perceptive young ladies.

"You should try to talk to a lot of people and not just these gray men around here"—and from his tone it was impossible to determine whether he meant the description as it stood or was dryly mimicking the press attacks upon them.

I said I would.

Aside from a couple of minor items, I did not ask him anything particularly vital, since he had suggested written questions and I intended to ask them in that form; but I was impressed with how fluently and easily he did talk about things. Earlier in the day I had received intimations that various people on the staff were very concerned that I might be going to ask his opinion of other political leaders and they did not want me to do so.

"You won't ask him about Muskie and Kennedy, will you?" asked one earnest staffer with a real anxiety, as though this were an unsuspecting innocent who could be trapped instead of a 58-year-old political veteran perfectly capable of taking care of himself. Even if I had, I am sure he would have responded directly or sidestepped gracefully. Top men are almost always more relaxed about themselves than their staffs are, and this seems particularly true of the President of the United States.

After a pleasant and comfortable half hour, already 15 minutes late for the congressional reception, but not really seeming to mind so very much, he rose and started toward the door: "Now I have to go and shake hands with four hundred congressmen."

Confused a little by the Oval Office's several hidden doors and thinking he was showing me out, I followed him, for he gave no formal farewell but simply moved along still talking. In a moment, we found ourselves outside in the arcade along the Rose Garden and I realized he was on his way to the Mansion. I asked directions to Steve Bull's office, he told me, I said, "Good night, Mr. President," and turned back into the empty office. He waved and walked away, all by himself in the chill winter night: a suddenly lonely and touching moment.

Back in the hallway outside Steve Bull's office, I found some consternation on the part of Steve and the Secret Service. "Where is he? Is he gone? Has he left for the Mansion? Is he by himself?"

This was apparently against all the rules. It was hard to escape the feeling that he had taken one of those small, secret delights known only to Presidents, in going off, thus unescorted and unannounced, to where he wanted to go.

Intimate comments from one in a position to know:

The President is "usually inhibited by strangers," but once he gets used to someone on the staff, "it is very comfortable, and he hardly pays any attention to the routine work we do for him around here. . . .

"I find this job a very strange one and this house a very strange place to work. I expect a good many of us do too, because actually, here we are and many of us have a lot of talent, many much more than I do, and yet we are all geared to simply helping one man get through his day. Many of us may sit around doing little chicken things such as I do most of the time, and yet you have to figure that you're helping the President and that is what makes it worthwhile, I guess. There are so many small details that have to be handled and they get split up in so many different hands that a lot of us find ourselves sort of spinning our wheels and not accomplishing a great deal in any sense of personal satisfaction or achievement. I guess in the long run it will all add up, but sometimes you wonder what the purpose is, and what you're doing here. . . .

"Sometimes he is under strain, and when he is, he shows it in ways that those of us around him can tell. On the whole, however, he remains very calm. One thing that struck me about him when I first came here is that he is quite profane. This startled me when I first heard him speaking but I've gotten used to it now.

"Most of the good ideas that originate here come from him. He does take much staff advice, but usually the ideas are his own. When he does something, it will be on the basis of his own thoughts and those of many others on the staff. The opinion really flows in from the staff. He solicits the staff's advice on every point. Sometimes he is overruled by the staff—which means that when the weight of evidence or the weight of argument is against him, he will sometimes yield to the advice. Then if the staff is wrong, he will not say anything in particular, but he will let us know by his manner or his way of saying things to us what he thinks of us for having given wrong advice.

"He does not like to bawl people out and he gets upset when he has done something or said something harsh to us. I remember that on a couple of occasions when he has chewed me out, which I deserved, he has never apologized for temper the next day but he has done some little extra, thoughtful thing, which is his way of saying that he is sorry for the argument and hopes that it will not happen again.

"I have been struck here at how easy going some people are in replying to his requests. Of course, many of them have been with him for many years and maybe that's why: they know he's not going to fire them, and he knows them and knows he will keep on depending on them as he has in the past. However, I have heard him say many times, 'I want this or that on my desk by eight o'clock tomorrow morning'. Well, it isn't on the desk by eight o'clock the next morning and frequently it isn't there for several days. Except for a couple of very conscientious people around here, there is a rather slow method of replying to the President's requests. However, as I say, they know he is not going to fire them, so he just grits his teeth and goes along with it."

The press (male, veteran, many years' experience covering Presidents, longtime friend of Nixon): "Nixon is like all Presidents—he can be brutal about people sometimes. Maybe it's the Merlin complex or something, but he thinks he can use you for something and then go away for three years and when he comes back you're supposed to be standing there waiting and still be just as much of a friend as you were before. He expects you to maintain your loyalty to him regardless of whether he's shown any loyalty or interest in you in the meantime. They all do it, it's a funny thing. . . . I've talked to him several times and I've generally found him so serene and untroubled that I sometimes wonder a little whether he really knows what's going on, or what could hit him if things go wrong. I think he does, but I really wonder sometimes. . . . They give you this picture of everybody loving everybody else on the White House staff, and it's probably truer in this Administration than in any other I've known in four decades. But when you get up near the top, there's a lot of jockeying for position behind the scenes. I don't think it's erupted into any real feuds like we've had in some Administrations—yet—but there are frictions there, though they try to hide them. You can't avoid it when people are human beings—and these, although they seem a little bland and faceless sometimes, are human beings. There's this great desire to get near the President, to be the one who's always seeing the great man—they can't help it. If they can't do it, they pretend it. I remember the other day, X started to say to me, 'When I saw the President the other day—' I interrupted, 'Now, X, don't give me that crap. When did you actually see the President last? He grinned a bit sheepishly and said, 'Well, actually, it was about six months ago.' But to hear him tell it, and to read how the press tells it, you'd think he was in there every other day. Among those who really are, there's a lot of competition for the great man's smile. I think it amuses him. He's an intelligent man. I think he rather enjoys it, like all Presidents. They're really all sons of bitches, in some ways. They enjoy being President and they secretly enjoy what the Presidency does to other people."

He is back in private law practice now, but Murray Chotiner is never far from the Nixon White House. A political associate since the President's early days in public life, he looks exactly what he is—a political associate. There is about him the aspect and the air of one who has handled many campaigns, made many deals, attacked and been attacked by many enemies, entered and survived many battles. Against the youthful earnestness, brisk efficiency and glittering good looks of many of the Nixon crew, he stands out like some battled, experienced old badger, claws extended and always at the ready. He is giving behind-the-scenes advice on how to run the reelection campaign in '72, and if he has his way, it will obviously be a rough one.

"You ask me what the issues will be in '72. The war should be in excellent shape. The boys are coming home, the Vietnamization program is moving forward. If we go on as we are now doing to wind it down, the public is going to realize that the President did have a plan to end the war, and that he has succeeded.

"The economy, of course, also is a big issue, but as present signs magnify themselves and prove out, the interest rate is going to go down, inflation is going to drop and the stock market is going to go up. Housing starts are increasing, the auto industry is gearing up for a better year. The unemployed are going to go back to work and there will be a noticeable upswing. By '72 we should either have good times in which people can see that he is cleaning up the mess that he inherited, or really bad times, in which case there wouldn't be any hope for him. But I am sure that we will be having good times.

"He also has cooled off the temper of the campuses and the streets and I really don't see how you're going to beat him. What are they going to run on if they don't have an issue? If you don't have one, you're dead. If there is nothing to complain about, they're going to have nothing to go on. About all they can do is say that they can do what we're doing, only better than Nixon. But that is hardly a real issue or a real campaign.

"The Democrats have a real disadvantage because there is nothing they can really advocate. They had the Government since 1960 and all the crises and errors that we have had occurred in their administrations. So it is very hard for them to complain about what has been going on. Also, they don't have any outstanding personality. There is no one to get a glint in the eye of the public. They just can't get a glint in the public's eye. Ted Kennedy gets a rather bloodshot look—because everybody knows about him. Muskie is not exciting. The same thing applies to Birch Bayh. McGovern doesn't turn anyone on at all. Proxmire is a lot better but still not very good. Jackson won't get moving, he's too opposed by some of his own people on ideological grounds. If we get any kind of team at all on our side, we'll be all right.

"I think Agnew should be on the ticket. The Republicans can lose an election if they sit on their hands. Agnew is one who will get them off their hands and get them working. He represents what a lot of people have been thinking and I don't think the President is unfriendly to him at all. The President remembers that there was a movement in 1956 to remove him from the ticket. He has a good memory and is a sensitive person and he sympathizes with the Vice President now in these publicized efforts to get rid of him. I don't think that these people who are writing that the President wants to get rid of Agnew have checked with the White House, because I don't think that is true. There are a great many Republicans who might even vote against Nixon if Agnew were dumped from the ticket.

"I think the President is amazing in his self-control. I have seen him over the years when he has been uptight about things, but somehow he has learned over the years to control and subdue his emotions. After losing the Presidency in '60 and the governorship of California in '62, he seems to have become completely relaxed. That seemed to settle something inside him.

"It's amazing to me how a man like President Nixon, with all the problems he has and with his past history of political defeats, can sit back with his feet on the desk, so to speak, and be as relaxed as he is. But now he doesn't have to shoot from the hip—he doesn't have to make snap decisions.

"The White House staff operates efficiently. I think sometimes they are a little overprotective, but as far as his being isolated, that's malarkey and a lot of baloney. I don't see any isolation. I think people who want to get answers can get them either from him or from Bob Haldeman. And when he wants to see any of us he can. So I don't think there is any real isolation."

The President's press secretary, Ronald Ziegler, is 32, efficient, effective—and nice when it suits him, which it often does not. It did not suit him to be pleasant to photographer Fred Maroon, and after treating him to a series of broken appointments, false starts and occasionally downright, blatant obstruction of what he referred to sarcastically as "this commercial project," he decided not to be pleasant to me. I had an appointment with him one dark winter afternoon and waited for 55 minutes without even the courtesy of a secretary's hello, after which I picked up my marbles and went home and did not try to see him again. Next morning, after I had mentioned to others on the premises that I now thought I had found out all I needed to know about the character of Ron Ziegler, he called with loud apologies and a long tale beginning "Jesus, I just didn't know you were out there, Al." I told him not to worry, these things will happen. I was told by his colleagues later that indeed they do, and often to people who come to him in good faith for the help he is theoretically supposed to provide on projects basically friendly to the President.

But—those magic words in this or any other White House—"the President likes him." So he stays. And, of course, he does have his troubles. And on the whole he handles them well, under often extreme and deliberate provocation. A sampling of excerpts from the press briefings he holds morning and afternoon on almost every working day gives some of the flavor of the White House press corps and his own flavor:

Tuesday, January 5, 1971, morning—

QUESTION. "Can you give us a rundown on what happened at the Cabinet meeting?"

ZIEGLER. "The Cabinet meeting lasted for an hour and a half. When the President walked into the Cabinet meeting he received a standing ovation, I think marking the Cabinet's approval of how well the President did last night in the conversation [with four television commentators]. Then before the President could get into any topic of discussion, they generally went around the room to express their views as to how the President covered the many areas he covered last night. . . ."

QUESTION. "Did anyone at the Cabinet table say that the President's answer to any questions were lousy?"

ZIEGLER. "No. They didn't."

QUESTION. "Is that the first time the President has received a standing ovation in a Cabinet meeting, Ron?"

ZIEGLER. "No. He has after other—[Laughter]—are you going to ask me about what went on in the Cabinet meeting and then chuckle among yourselves, or do you want to know? The President has received standing ovations in Cabinet meetings following addresses that he has given on television. I have recalled the Cambodian speech and also others that he has given on family assistance, when he introduced the Family Assistance Plan and other speeches that he has given no nationwide television explaining United States policy in South Vietnam. . . ."

Tuesday, February 2, 1971, morning—

QUESTION. "Can you say whether the President had any contact with Souvanna Phouma [Prince Souvanna Phouma, Prime Minister of Laos] in thet past several days?"

ZIEGLER. "No, I wouldn't take that question. . . ."

QUESTION. "Why won't you taken Helen's question, Ron?"

ZIEGLER. "I just am not prepared to do that."

QUESTION. "When do you expect the news blackout in Southeast Asia to be lifted, Mr. Ziegler?"

ZIEGLER. "I have no comment on that."

QUESTION. "Ron, when the American and South Vietnamese troops entered Cambodia last April, the Administration said this was not an invasion because it was done with the assent of the government of Cambodia. Would that definition apply also to Laos, since the head of the government says they have not approved any entry of foreign troops?"

ZIEGLER. I am not prepared to take hypothetical questions such as you put forth and will have no comment on it. . . ."

Wednesday, February 3, 1971, morning—

QUESTION. "Ron, there is an AFP [the French news agency] report which is dateline Quang Tri which says, 'Thousands of military trucks moved bumper to bumper along two highways. Along the sides of the roads, troops with full field packs and arms were also moving in uninterrupted columns. Hundreds of helicopters passed overhead, airports throughout the northern provinces were buzzing with activity.'

"Is that story true?"

ZIEGLER. "As you know, Dan, we don't address [that subject] from the White House and it would be inappropriate for us to talk about details of movements of forces. So, I can't answer your question."

QUESTION. "Could you explain to us why we have to learn from the French and the Japanese what—this question was asked in good spirit—what American soldiers are doing?"

ZIEGLER. "You have read a portion of a report to me, Dan. It related to movement of forces. I assume you were referring to what forces? You didn't say, the portion that you read."

QUESTION. "I don't know whose forces. If they aren't ours, I would be interested in that as well."

ZIEGLER. "That goes to the thrust of my point. Anything regarding movement of forces within South Vietnam, United States forces, would, of course, come from MACV [Military Assistance Command, Vietnam] or come from Saigon. . . ."

QUESTION. "Ron, do you mean to say that if there is an entry into Laos, that this would be merely details of movements of forces that the White House would not address?"

ZIEGLER. "I don't think he raised that point in his question. You raised Laos and I assume—"

QUESTION. "That is right, but you were asked several times in the last couple of days for information about possible entry into Laos and you have referred us to the Defense Department in essentially, the same way."

ZIEGLER. "I have no information to give you from here this morning. I think all of you are aware of the fact that correspondents on the scene and in South Vietnam are being regularly briefed under the basis which you are familiar with. I have no information to give you."

QUESTION. "Have you had the opportunity to discuss your views on the value of an [information] embargo that applies only to one kind of correspondent in situations like this?"

ZIEGLER. "No, I haven't."

QUESTION. "Do you have any views on that?"

ZIEGLER. "None to express here at this time."

QUESTION. "Do you think that is a fair situation."

ZIEGLER. "I have no comment on that."

QUESTION. "Ron, this is a question that you were asked yesterday. I would like to ask it again. Has President Nixon been in touch with Prince Souvanna Phouma?"

ZIEGLER. "Gentlemen, I am just not prepared to get into any discussion regarding Indochina with you at this time."

QUESTION. "Do you plan to coordinate any activity in Laos with a successful landing [by Apollo 14] on the moon? . . ."

ZIEGLER. "Let me just go on Deep Background with you for a moment. In the questions that have come, both from several of you this morning, you have drawn certain assumptions and so forth. I obviously can't address those. But I would caution you as to some of those assumptions. . . ."

QUESTION. "Deep Background means what, Ron?"

ZIEGLER. "Administration officials indicated some of these assumptions. . . ."

QUESTION. "Ron, going back on Deep Background, you said that you have drawn certain assumptions and cautioned us against those assumptions. Are you referring to the assumptions based on foreign press reports that there have been entries of South Vietnamese troops in Laos?"

ZIEGLER. "You will have to determine, without my assistance, what assumptions I was referring to."

QUESTION. "Back on the Deep Background remark, it seems a little silly to me that you won't define the assumptions we are supposed to have made. Why won't you do that? It seems nonsense."

ZIEGLER. "I didn't mean it to be, as you say, nonsensical. I was referring to the premises put forth in some of the questions which were remembered from previous stories, Pete I wasn't relating it to a question that some here asked on their own"

QUESTION. "Would you consider this question, Ron: Because of the confusion and the embargo and silence and everything, which is a very distorted ball of wax, is there anything on a positive note that you can tell us with that in mind?"

ZIEGLER. "I could probably give you some positive answers to some questions, but I can't bring one to mind yet."

QUESTION. "I am asking you whether you can tell us, it is a constructive question."

ZIEGLER. "I really have no information to provide you."

Wednesday, ebruary 3, 1971, afternoon—

QUESTION. "Does the President feel this operation is going well?" [*Laughter*]

ZIEGLER. "I would not comment on that."

And so on—and on—every morning and every afternoon of almost every working day—issue after issue—crisis after crisis—for as long as the Administration stays in power and the press continue to pry and the press secretary to defend.

Earnest young staffer, forehead creased with worry: "We literally have to fight for everything we get from the media. The day we stop fighting, we won't get elected. It's a sad fact, but it's a hard, cruel world. It's very hard to get press and TV to treat us objectively, let alone give us a plug."

He is young, shrewd, sharp: more knowledgeable and more philosophical than most who fit that description—and they are many—around the White House; able to sit back and appraise the operation with the candor and objectivity that the operation needs.

"Probably 1970 is the best thing that could have happened to us, because if we had won that election we would have sailed into '72 thinking that everything we were doing was right, while ignoring various problems in the country and various weaknesses in our own approach.

"The fiasco of the President's God awful final speech on election eve came down basically to the fact that when it is originally taped in Phoenix there was no thought of its being replayed, so it wasn't lighted or recorded or photographed very well. The staff was warned of the poor nature of the tape, but it was finally decided to go ahead and use it anyway, because there was a great time pressure involved—or so it was thought. NBC had agreed to set aside 15 minutes in their L.A. studios that night if the President wanted it, but the President had an engagement in Riverside.

"So after lots of conferring it was decided by one or two top members of the staff that the Riverside engagement had to take precedence. So the lousy Phoenix tape was used, and you know the effect it made alongside Muskie's calm and statesmanlike address for the Democrats.

"I doubt if the matter was ever brought up to the President when the decision was made, so I don't think he can be blamed for it. And while disappointed in the result, I don't believe he has punished anyone who was concerned, and has not even reprimanded them very strongly.

"This indicated, I think, a real weakness of ours, which is that we are so dedicated to getting him where he is supposed to be on time that we are not flexible enough to take advantage of the opportunities that arise, or to do the things we should do to put him and the Administration in the best possible light. This really is one of our problems, but I think we are getting better and I think you are going to see some major changes in that area before too long."

The "Plans Committee" meets every Saturday morning and it is, as Dwight Chapin had told me, the public relations council of the White House—the image factory. It is held in Herb Klein's office, and he asked that the specifics of its discussions be off the record except in limited paraphrase. The committee works from a formal agenda which it sometimes adheres to and sometimes does not. Its debates range from solemn to profane as it struggles with the problem of how best to present more favorably an Administration that nine-tenths of the White House press corps is absolutely and adamantly determined to present in a harsh, suspicious and hostile light.

On this day the first item on the agenda was a memo from Bob Haldeman—signed with a large and imperial "H"—requesting the consensus on possible presidential participation in a satellite conversation with Prime Minister Heath. The consensus was that this would be great if it could be tied to a major event, otherwise it would look contrived and phony.

Second item was a request by the Canadian photographer Karsh to take pictures of the President. Decision was deferred.

Third item was requests from various magazines for information on the President's reading habits. It was agreed that this must be handled with great care, because if the President were disclosed to read anything even remotely frivolous, somebody would be sure to pick it up and make it the basis for snide criticism that would be used against him forever after.

Fourth item was the possibility of the President appearing on various types of informal television shows other than straight press conferences or talks. This too was considered a matter for further study.

Next came a discussion of the proper time for airing the President's State of the Union Message to Congress in January. Should it be at noon, Washington time, the traditional hour? Or should it be in the evening, when it would reach the widest possible television audience, a practice increasingly followed by occupants of the White House? The discussion grew heated as the traditionalists battled the let's-make-the-most-of-it group. Finally someone remarked with some disgust that he thought the idea was to strengthen the President's image and help him get reelected, and he didn't see why in hell it was so important what Congress said about his timing. It was the President's right to go up there when he pleased and talk when he wanted to. It was finally decided to place all the options before the President.

(In the event, he talked in the evening in prime time, which is exactly what all astute Presidents since the advent of television have done and will continue to do.)

Sixth item on the agenda was "how to counter the theme that the President is heartless and cold," and the discussion very quickly got down to a specific: the recent episode in which a little black poster girl had been turned away without having her picture taken with the President, an incident that had brought in its wake great and probably abiding rancor in the Negro community. Those who deplored the incident's effect on the President's image were explosive and blasphemous in their criticism of the way it had been handled. Those who were responsible said crisply that the President was working on a speech and it was decided it was best not to bother him: "It was a judgment. (It was admitted, however, that it was a judgment the President had known nothing at all about until the media went into full cry that night. It had not even been brought to his attention at the time.) Those who were responsible said defensively that the President can't see everybody who comes in. Those who objected said he had damned well better take half an hour, if necessary, to be photographed with a little black poster girl—especially since just a few days later he had been photographed with a little white poster boy. Those who were responsible said well, anyway, the little girl and her parents were going to be invited to a Sunday worship service in a couple of weeks, and maybe he could be photographed with her then. Those who criticized said that of course an apology could be made after an incident like that, but if it were made weeks after the event, "Nobody will hear, nobody will know and nobody will give a damn." Those who were responsible reiterated in a tone that showed they were not to be budged: "It was a judgment." And that ended that.

The discussion began at nine-thirty and ran to twelve-twenty. It was laced throughout, on every topic, with the Administration's obsession with the media—understandable, but in its way as crippling as the media's obsession with the Administration.

There were several in the meeting who remarked with considerable asperity that criticisms could not be evaded or avoided, that they would come even without fair grounds for them, that they were part of the burden this Administration carried and so to hell with it—let the President do what he thought best and stop worrying. But the dominant mood was a fretful obsession which, translated into action down the staff, successfully seem to thwart any presidential action or reaction that might be based on the simple justice of a situation, or the simple response to it that he might make it he were given the option that really counts most in the image of a President—the option to be human.

"I have known Richard Nixon for 20 years," he says thoughtfully, from his vantage point as one of the most independent, and most likable, men on the Hill," and I like him very much. I think he has done a good job in foreign affairs.

"In domestic policy I am damned if I know where he is driving.

"A year ago he said the Federal Government had to balance the budget. Now he

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submits a budget which will be very badly out of balance. LBJ's unbalanced budgets became a major cause of the inflation we have now. I don't see how Nixon thinks he can unbalance the budget and control the inflation.

"It appears the President has changed direction radically.

"I still think the most important thing is to put the Government's financial house in order. I don't think the Government in the long run can continue to operate at a deficit. Sooner or later somebody has got to pay. I am afraid this new budget is strictly politics. It is such a sudden change from just a year ago. It just doesn't make sense to me, what he is attempting to do now. I think he has reversed his field completely, and I am afraid it is for political reasons.

"I don't think the President is going to have much success with revenue sharing, and there are great problems involved in the reorganization of the Cabinet. There again, he has offered us only a broad outline with no details, and it is difficult to understand what he is driving at.

"I have to confess this whole change baffles me."

Dick Kleindienst, deputy attorney general, is in his mid-forties; large, round face, large blue eyes that can stare at one blankly but are usually full of considerable humor and life; very strong, very determined, a tough man. If he could get past the Senate, he might conceivably be head of the FBI someday.

"In a sense, I am executive officer for the department under the Attorney General. I see that the policies of the President and the Attorney General are effectuated by the 17 divisions of the department.

"In the area of civil disturbances, the President traditionally delegates to the Attorney General rather than the Secretary of Defense the responsibility of recommending when Federal troops should be used and how they should be used to quell civil disturbances, both in the District of Columbia and in the states. We have a pretty complete operation now, and I am, you might say, in a sense chief of staff of that operation.

"We haven't had the problems in that area that the Democrats had, such things as Watts, Detroit, Washington, Newark. Logically they would occur in a Democratic Administration and logically they should not occur under our Administration, because the Democrats are obligated for a lot of their political support to the black groups which vote overwhelmingly for them, and therefore they hesitate about putting things in order when these groups create disturbances. We don't have that kind of relation and therefore we are able to respond more promptly and more efficiently without hanging back because of political considerations.

"When one of these situations has arisen, it has caused a great outcry from the black leadership because of the pressure on the Democratic President not to do much about it at the start for fear he will be charged with 'repression' and 'attack on black rights.' This has usually been accompanied by the threat that, "if you do take strong measures, we'll go back to our people and suggest that the Democrats are as bad as the Republicans and they might as well vote Republican.' Ramsey Clark, the last Democratic Attorney General, under Johnson, was particularly susceptible to this kind of pressure—as susceptible to pressure as anyone has ever been in the United States Government.

"Our approach is based on plans, intelligence, quick response. We have people in place, we serve notice that disturbances are not going to be permitted to get out of hand and if they do get out of hand they're going to be stopped right now. The whole atmosphere on that changed at once on Inauguration Day, 1969. I was down here within a couple of minutes after the swearing in of President Nixon and I immediately put plans into operation to control any possible disturbances at Inauguration or after. There could have been disturbances on the first anniversary of the death of Martin Luther King and they did not occur. There could have been violent disturbances at the time of Cambodia and they did not occur. This is because we advised people in advance that preparation of Federal troops was being undertaken, and we said to them in effect, 'You can speak, but beyond that, when you get into violence we are going to stop it right now.'

"They can't threaten us because they vote against us anyway.

"At the same time, we have cooperated in every possible way with all these dissenting groups, working with them to determine how they can march, what units will be on hand to control violence and what elements in their own ranks can be depended upon to help us control violence. Our purpose is to make it easier for them, not more difficult, and the fact that we have made it easier is proved by the record and it is one reason why riots and disturbances have not come back. [This was pre-Mayday '71.] We've used a reasonable, evenhanded approach.

"On the race issue as it involves these disturbances and law and order in the country, whether we get credit or not I firmly believe that we turned the corner to end the demonstrations. I think we have gained credibility in winding down the war, revising the draft and providing opportunity for young blacks to make their way economically.

"In the areas of street crime and general city crime, 23 cities of a hundred thousand or more have been having a steady decrease in crime in the last two years. Statistics generally over the country have seemed to be going up a bit, but our statistics here in D.C., which is kind of a pilot project on what can occur, show that crime can be controlled and is being controlled.

"As for political crime such as assassination and kidnapping, in terms of numbers and impact, the effect on society is minuscule. It's only important as it is dramatic.

"Organized crime is another area where in motive power, determination and organization, more is being done by this Administration than was ever done before.

"As far as fighting crime, if you use traditional techniques, you're going to get no place. A gangster or criminal who is brought to the stand can always intimidate or buy other witnesses and just subvert the judicial process.

"Congress provided that we could go to electronic surveillance, which Ramsey Clark again refused to use before passage of the bill, and announced he would not use if the bill became law. This was an open invitation to them to know that the Government was not going to do anything. We have straightened out that situation too. The Attorney General has authorized 250 electronic surveillances. This has brought the indictment in 16 months of between five hundred and six hundred major criminals.

"The court order which covers electronic usages requires that the Attorney General must state specifically what the need is, must specify what is going to be used. The court then grants authority for a given number of days. If you are not able to get what you want in that time, then you can go back and get the time extended. Upon indictment, all the evidence secured by wiretapping and other electronic means is immediately made available to the defendant and his attorney so that they know what is going to be used against them.

"I predict that in a reasonably short time, the narcotics problem will be stabilized and then reduced down to a normal irritant, rather than the major one that it is now. Congress has given every dollar we have asked for in this area. A great deal of this is due to the personal confidence that Congress has in John Mitchell and in this department. Congress has given us all the money we asked, clean across the board.

"Given a few years when the full impact of these revisions and these new programs and planning and all this money can be felt all across the land, there's going to be a strong resultant effect on the statistics of crime.

"These civil libertarian bastards complain about what we are doing, but the fact remains that we are clearing up many of these problems.

"In all of these areas you have to do it with vigor and determination and honest people who don't care for the political consequences but go ahead and fight crime. You can't do it with weak, opportunistic, chicken-hearted bastards."

He is in his mid-thirties, dark, stocky, round faced, soft-spoken; a former White House staff member who left because of a gradual disillusionment with the way the political aids of the operation was being run, particularly in the area of press and congressional relations.

"I am really disturbed by the general inflexibility of the staff and its unwillingness to allow the President to deal with Congress in a spontaneous fashion . . . although, of course, if the impetus for this kind of approach doesn't come from the top, then maybe one shouldn't blame the people down the line too much.

"I feel the President could do a great deal with a few corny gestures toward members of Congress—that is, what people who don't understand the human nature of politics might consider corny. Sometimes a quick handshake, or a call about some personal matter, or a joke about some problem in a man's district or state can really make a member feel good toward the President. I think he should do more of this, particularly with his own Republicans. After all, as somebody has said, 'You want to keep your own troops turned on.' I don't think the President has succeeded in doing this.

"In the same fashion, I find quite disturbing the attitude of the President and the top staff toward the press corps. Even if they are bastards who are constantly looking for excuses to attack the Administration, still I think they could be mollified a bit by personal contact. I feel that the President is basically shy about this, having been hurt so often by the press, but even so, he should be able to overcome this to some extent and be a little more cordial toward them. The attitude is reflected all through the staff, particularly in the press office. It makes things more difficult than they need to be for the Administration, in my opinion.

"At the same time, of course, I will concede that the press is so hostile that the Administration has simply got to be right on everything. It can't afford, for instance, to have a phony witness in the Berrigan case. It can't afford any personal or economic scandal on the part of any member of the Administration, for the simple reason that the press tolerance which is accorded to Democrats simply does not exist toward Nixon. Now, I know Ed Muskie, for instance: he's a man of somewhat limited grasp and somewhat limited intelligence, who is frequently banal, indecisive, short-tempered and generally inconsiderate with the press. But somehow there is a built-in tolerance toward Democratic candidates which prevents the press from letting these things really get out to the public with the sort of consistent hammering they devote to Nixon's shortcomings. They are so anxious to find an alternative to Nixon that they will build up almost anyone and give him all the benefit of the breaks in the process.

About ten days before I was scheduled to leave town I began asking the staff to find out what had become of the President's answers to my questions. Margita White reported that she was telephoning various people about it. Days passed without an answer.

Two days before my departure she said she thought she was making progress: Alex Butterfield was going to be seeing the President, and had agreed to ask. The next day she called back: the President said he was very sorry, he had been too busy to answer as fully as he would like, he was working on it, he hoped I would understand, it would be along by mail in due course. I said fine, no hurry.

Apparently the lengthy delay in finding this out was caused by the fact that everybody assumed that he had already given the answers to someone. The universal question then became: Who's to blame? And if I am, how can I find a suitable excuse? When someone finally got to a direct man with a direct question he got a direct answer and the mystery was solved in half a minute.

In this, as in all administrations, a straight line, in the White House, is sometimes not the shortest distance between two points. Staffs become very timid about treating a President as though he were a reasonable man. Which is not a good thing; for them, for him, or for the country.

The press (bull session with old friends): "He is the most complex man who has ever been in the White House. He doesn't have any intimate friends. Nobody is close to him. He should have at least somebody, but all he seems to have is Bebe Rebozo.

"He definitely tries to get away from the press. The anti-press feeling permeates the whole Administration. He is the first President to duck out of parties early to avoid the press. He deliberately avoids us. He wants to stay away from us." When I pointed out that the press, after all, had been extremely harsh with him over the years, this was conceded. "But the majority of publishers are Republican."

"And the majority of reporters are Democrats and 'liberals.'" Reluctantly this was conceded, too. "But—Nixon has no sense of style. No grace. He is always escaping from us. Why is he always escaping?"

I saw him for the second time in San Clemente, on March 30, 1971. The SST had been defeated in the Senate; in Laos, the unhappy invasion had surged in and limped back. It was a typical overcast Southern California day, the sun trying vainly to break through the persistent light clouds. Off in the distance the cold Pacific curled in upon the shore. In the corridors and offices there was an air of quiet, the pace obviously slower, more relaxed, more comfortable than it is in Washington.

The President looked tanned and rested. He apologized for not having taped answers to my questions as he had promised, but explained that he had been rather busy: it was obvious from his comments throughout that he had studied them very closely before deciding on what the staff likes to call his "one-to-one" method. I showed him my newspaper horoscope for the day: "Consulting with bigwigs opens the door to greater opportunity now but don't try to criticize them in any way." He laughed and said, "Oh no! Oh, no! Don't worry about that!" He played with a single silver cuff link the entire hour and a half that we talked, but otherwise seemed as calm as ever, and as convinced that the course he had chosen was right.

We began, as my written questions had begun, with the Presidency itself. It had held for him, he supposed, "fewer surprises than it does for most. I had been Vice President for eight years, I knew what a President could do and couldn't do. The main thing I had learned was that Presidents come and go, but the bureaucracy goes on forever. I knew that no President who is not in tune with the mood and the ideological bent of the bureaucracy can bend it to his program without a great deal of difficulty and hard work. I also knew how difficult it is to deal with Congress, particularly with both houses in control of the other party, and no such bipartisanship as Eisenhower was fortunate enough to have when Lyndon Johnson was majority leader of the Senate. That bipartisanship is so fragmented now that it practically no longer exists. Mike Mansfield is a responsible majority leader now, very responsible in his disagreement about Southeast Asia—but he does disagree, and in fact disagreed with Johnson and with Kennedy too on that subject.

"So now it has crumbled away and now we have partisanship—or perhaps not so much partisanship as what you might call a new isolationism, in which the old internationalists and interventionists, who supported World War II, the Korean War, the Alliance for Progress and the rest of the war and postwar programs, are now turning away and trying to turn America inward again.

"They are concentrating now on America's internal problems, the alienation of groups and generations, the economy and all those things which our so-called "intellectual elite'—self-appointed and self-described—have made their top priorities.

"We now have what could be termed basically a new 'America First' doctrine, not in the sense of 'look to America's defenses and forget the rest of the world,' but in the sense of 'forget the rest of the world and concentrate on our own domestic problems and social commitments.'

"But I don't feel frustrated or disillusioned—I really don't. I went in with my eyes wide open. I knew Congress was against us, I knew we were in a period of great domestic torment, I knew we had Vietnam to face and many social problems. Essentially, of course, those problems would be here whatever happened internationally, and they will continue to be with us long after Vietnam ends. But I want to make sure Vietnam ends in such a way that it does not leave us with disenchantment, bitterness, even greater alienation of one group from another. If it ends that way, it will not end, in a sense—it will go on to plague us for many, many years to come.

"I think we are at one of the great watersheds of American history—where America, having acquired world leadership really without consciously seeking it or wanting it, having met that role as best she could since World War II, is now determining whether she will continue to play the part of a leader in world affairs or would prefer to abdicate her responsibility and let it go. If she does, freedom and democracy will go, we all will go. I am convinced that what has happened in Laos will prove in the long run to be as sound as Cambodia. After all, what really matters is what actually happens, not what instant analysts have to say about it. They jump to conclusions, and then a few weeks or months later, they prove to be wrong. Cambodia was an enormous success, and yet you go back and look up what our friends in the press and television were saying about it at the time it ended, and you'll see they weren't about to concede it was any success.

"You have to be quite fatalistic about these things. After all"—with a sudden sharp, direct look—"I know more than they do or you do about it. I know what has happened to the enemy. I know he has taken enormous losses. I know how the South Vietnamese as a whole really behaved, in spite of what three or four units may have done. They proved they could hack it. Everybody ought to wait awhile and see how Laos affects our continuing withdrawal. The enemy will not be able to launch another offensive this summer. He will not be able to interfere with the timetable for the ending of our involvement.

"I know when American involvement will end, though I can't state it, because to do so would be to give up certain tactical advantages, and also to remove whatever chance—little, not big—may remain to have meaningful negotiations in Paris.

"I think we're going to make it, in this situation—I think withdrawal is going to work, Vietnamization is going to work—not in the sense that 'Vietnamization' would mean the withdrawing of all of the American presence, but in the basic sense of South Vietnam being able to handle its own affairs. In the sense of 17 million people having a chance to decide their own destiny and their own future, which is what we will have achieved for them with our help and our sacrifice.

"If we can do this, it will be one of the major achievements of this nation in all its long history—to keep a Communist enemy from conquering our friends, to give a nation the right to live as it wants to live.

"If we fail in that, and if South Vietnam goes Communist in spite of all we've done, then Communism will indeed be the wave of the future in Asia. But I don't think it is, and I don't think that is what will happen. . . .

"Critical to all of this is the way the Vietnam war ends. If it ends in a way that can be interpreted as an American defeat—a retreat, a bugout—inevitably those in the world who are inclined to use force to gain their aggressive or imperialistic ends will be encouraged to do so. And all our friends will be in disarray. The world will say, 'Look at Vietnam. If the United States could not be counted on there, where can she be counted on?' The way to avoid more Vietnams is to be sure that this Vietnam ends in a way that will not dismay our friends and encourage future aggressors. . .

"The press?" His expression changed, became earnest, stubborn, close to contemptuous. "I probably follow the press more closely and am less affected by it than by other Presidents. I have a very cool detachment about it. I read it basically to find out what other people are reading, so that I'll know what is being given the country and what I have to deal with when I talk to the country and try to influence people for my programs. And of course I read it also because sometimes there will be a very thoughtful article on some subject that is enlightening and of value to me. Presidents are like other people: they don't know everything, it's good to get another point of view on something. Providing, that is, that it's a matter of substance and not just something somebody has dreamed up because he doesn't like Nixon or wants to make points with his own boss or bureaucracy, who don't like Nixon.

"I'm not like Lyndon as regards the press—we're two different people. The press was like a magnet to him. He'd read every single thing that was critical, he'd watch the news on TV all the time, and then he'd get mad. I never get mad. I expect I have one of the most hostile and unfair presses that any President has ever had, but I've developed a philosophical attitude about it. I developed it early. I have won all my political battles with 80 to 90 percent of the press against me. How have I done it? I ignored the press and went to the people.

"I have never called a publisher, never called an editor, never called a reporter, on the carpet. I don't care. And you know?—a grim but rather pleased expression—that's what makes 'em mad. That's what infuriates 'em. I just don't care. I just don't raise the roof with 'em. And that gets 'em.

"Anyway, that isn't my style. I don't stomp around. I don't believe in public displays of anger. I don't raise hell. I'm never rough on the staff about things just for the sake of being tough, or making an effect. But they know how I feel. The things we've faced in this Administration have taken a lot of hard decisions and I've had to be firm about things, but I've been firm—I haven't shouted about it. There are some people, you know, they think the way to be a big man is to shout and stomp and raise hell—and then

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nothing ever really happens. I'm not like that, with the staff or with the press.

"I never shoot blanks.

"I respect the individual members of the press—some of them, particularly the older ones—who have some standards of objectivity and fairness. And the individual competence of many of the younger ones, I respect that too, though nowadays they don't care about fairness, it's the 'in' thing to forget objectivity and let your prejudices show. You can see it in my press conferences all the time. You read the Kennedy press conferences and see how soft and gentle they were with him, and then you read mine. I never get any easy questions—and I don't want any. I am quite aware that ideologically the Washington press corps doesn't agree with me. I expect it. I think the people can judge for themselves when they watch one of my press conferences. It's all there.

"I can tell you this,"—and his eyes narrowed, he swung his chair around and stared out across the distant gray Pacific—"as long as I am in this office the press will never irritate me, never affect me, never push me to any move I don't think is wise. . . ."

What kind of a country would he like America to be when he leaves the Presidency? What would he like history to say Richard Nixon had done for America? His face sobered, he fell silent, stared again out the window at the restless ocean, turned back, spoke slowly and thoughtfully, repeating, refining, rephrasing

"What kind of country?

"I would like first to get this war ended in a way that Americans can look back upon not ashamed, not frustrated, not angry, but with a pride that in spite of our difficulties we have been totally unselfish—that we have enabled 17 million people to choose their own destiny, and in so doing have preserved and strengthened the chance for peace in the Pacific basin, and probably the world.

"I would like to leave with a new relationship between the U.S. and the U.S.S.R. It will be intensely competitive, of course. We are different peoples with a different history and we want different things—but I believe we are at the critical point where we can finally decide that we must have a live-and-let-live relationship I think we are making some progress in that direction. I hope we may have achieved it when I leave. I would like to leave some structure on which at least the beginnings of genuine world peace can be built.

"Domestically, this nation is never going to be wholly at one. But I would hope that we can reduce the tensions, reduce the demonstrations, reduce the dissent—not the constructive dissent that is the yeast of a free society, but the destructive dissent that wants only to tear down the system.

"I want everybody in this country to recognize that our system provides for peaceful change—to get people to work within the system and find better methods to make the system work.

"You said something in your questions about how could I, a basically conservative President, propose such 'liberal' things as revenue sharing and the Family Assistance Plan. That isn't 'liberal.' It's common sense. I believe revenue sharing is one way to make the system work better, because it means decentralization of government—and I think decentralization of government is the key. The modern twentieth-century liberal is for big government. He likes concentration of power—he like power. I don't go with him in that. I hope to give more people a chance to participate in the action—to believe that what they do counts. I want to restore as much as we can the concept that this country has grown great by adhering to the principle of shared responsibility and peaceful change.

"I would like to make some progress in restoring some sense of understanding and of pride in this country and in its greatness—get away from this idea that America's foreign policy is rotten, its domestic policies are rotten, the whole damned thing is rotten. I know that because of slavery, black Americans have not had an equal chance; I know that there are many injustices in other areas. But we are working, we are trying, we are making progress. I know these things can be changed, and in a peaceable and constructive way, through the system we have. When you look at the United States with all its pockmarks, you realize that, nonetheless, a person born in this country has more freedom and more genuine opportunity than a person born in any other country.

"I would like to leave a renewed conviction in America that the system does work, that democratic government is better than the alternatives, that reforms can be made through peaceful change, I would like to leave reestablished the idea that in this system things can be achieved and made better. In foreign policy, the greatest contribution a President could make would be to leave a world in which the United States is at peace with every nation—and has the strength and the will to guarantee that peace.

"In a sense"—hitting the desk firmly with his hand—"it's all right here in this room—right here in this chair. Whoever is President of the United States, and what he does, is going to determine the kind of world we have. His leadership must be strong—and firm—and, we hope, wise.

"But more than that. He must be supported by the belief and the conviction and the faith of the American people, in themselves and in their country. That's why I want to restore some sense of balance, of perspective, of understanding and pride in America's role in the world, and in her institutions.

"This is a noble country in many ways, and somehow we must restore the feeling that we should take pride in it—that we should believe in its system and its policies and its future.

"The important thing is not our capacity to do things—we have that. The important thing is our will. It is not going to be there unless we restore to Americans more faith in themselves and their country.

"The problem now is the American spirit. This is a crisis of the spirit that we face. The most important thing of all is to restore the American spirit.

"That is what I would like to do before I leave this office."

On that day the headlines were full of post-Laotian backbiting, of Lieutenant Calley and My Lai, and of Leonid Bezhnev, calling with a fine, stern, moral righteousness for world peace, in the city whose leaders have done, are doing and will continue to do, more than any other members of the planet to destroy it.

The sky was still gray, the sea cold, the air chilly when I left. From the doorway, King Timahoe wagged amicably one last time, and at the gates, the guards smiled, saluted and waved me through to the roaring freeway and the hastening world.

Mr. PACKWOOD. Mr. President, it is with great pleasure that I ask to associate myself with the nonpartisan remarks made this morning by the distinguished assistant minority leader (Mr. GRIFFIN) and the distinguished Senator from Alabama (Mr. ALLEN) on the occasion of the birthday of the President of the Senate and the Vice President of the United States, SPIRO T. AGNEW.

This Senator would like to extend his congratulations to the Vice President and his family on the occasion of his 53d birthday.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Opportunity For Savings in Providing War Risk Insurance For Contractor Property and Employees," Department of Defense, Department of State, Department of Commerce, dated November 9 1971 (with an accompanying report); to the Committee on Government Operations.

REPORT ON PROJECTS SELECTED FOR FUNDING THROUGH GRANTS WITH EDUCATIONAL INSTITUTIONS

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report on projects selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

S. 2574. A bill to amend title 13, United States Code, to establish within the Bureau of the Census a National Voter Registration Administration for the purpose of administering a voter registration program through the mail (Rept. No. 92-436), together with minority views.

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 10947. An act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes (Rept. No. 92-437), together with additional views.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PEARSON:

S. 2825. A bill to amend chapter 19 of title 38, United States Code, to authorize the issuance of National Service Life Insurance to veterans of the Vietnam era. Referred to the Committee on Veterans' Affairs.

By Mr. SCOTT:

S. 2826. A bill for the relief of Susan A. Quillin. Referred to the Committee on the Judiciary.

By Mr. SAXBE:

S. 2827. A bill to amend the Public Health Service Act to provide assistance for improving health services and to alleviate shortages and maldistribution of personnel and facilities, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. NELSON (for himself, Mr. McGOVERN, Mr. BURDICK, Mr. MONDALE, and Mr. HUGHES):

S. 2828. A bill to amend sections 9 and 11 of the Clayton Act, as amended, to provide for the continuance of the family farm and to prevent monopoly and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BAYH (for himself and Mr. COOK):

S. 2829. A bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes. Referred to the Committee on the Judiciary by unanimous consent.

By Mr. HUMPHREY:

S. 2830. A bill for the relief of Mr. Ponnambalam Suddiah. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. YOUNG, Mr. McGOVERN, Mr. MONDALE, and Mr. HARTKE):

S.J. Res. 172. A joint resolution to provide emergency measures to improve farm income. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PEARSON:

S. 2825. A bill to amend chapter 19 of title 38, United States Code, to authorize the issuance of national service life insurance to veterans of the Vietnam era. Referred to the Committee on Veterans' Affairs.

VIETNAM VETERANS LIFE INSURANCE ACT

Mr. PEARSON. Mr. President, I introduce today for appropriate reference the Vietnam Veterans Life Insurance Act. Quite simply, this bill would provide a $10,000 life insurance policy, administered by the Government at greatly reduced rates, to any Vietnam era veteran who can meet certain minimal qualifications.

Those of us who participated in wars previous to the Vietnam conflict will recall that one of the benefits available to us upon separation from active duty was a Government-administered life insurance policy. The impressive response to this program has been attributed to the low premium rates, evidenced by the 4.5 million veterans who continue to take advantage of this most worthwhile aspect of the G.I. Bill.

In 1951, Congress discontinued this program, and replaced it with a Serviceman's Indemnity policy, providing individuals on active duty with a policy payable upon death to his dependents in monthly installments. In 1965, serviceman's group life insurance—SGLI—was instituted, which gave a $10,000 policy to members of the armed services, a figure later increased to $15,000. Then, as now, veterans had 120 days from their date of discharge to exercise the option of converting that policy to one administered by any of approximately 600 private insurance companies approved by the Veterans' Administration, without having to take a physical examination.

Mr. President, that today's veterans have not been included in this extremely beneficial program in an oversight I would like to see corrected. For it is becoming increasingly apparent that the nearly 5 million veterans of the Vietnam era have become one of the most neglected products of the Indochina conflict. Having honorably served his country in an increasingly unpopular cause, the recently discharged veteran has returned home to a society which is now just beginning to understand his problems and his needs.

In this regard, I am gratified to note that some of my colleagues have offered legislation to provide educational and health benefits equal to those received by veterans in World War II and the Korean conflict. I am also gratified that Congress approved legislation, which I cosponsored, to authorize the Administrator to sell at prices reasonable under prevailing mortgage conditions, direct loans made to veterans.

I have also cosponsored legislation increasing unemployment insurance to Vietnam returnees unable to find jobs. Justification for this proposal should be clear in view of the fact that available statistics place the total number of unemployed Vietnam-era veterans at approximately 270,000. In my native State of Kansas, unemployment among returning veterans has increased some 130 percent in a little over 1½ years.

Confronted with this very serious problem, few recently discharged veterans feel that they can spare the expense of purchasing insurance protection, a situation which works undue hardship both upon themselves and their dependents. The legislation I introduce today is designed to help these individuals purchase adequate coverage. If enacted, this bill would extend the insurance benefits of national service life insurance policies to all veterans of the Vietnam era, retroactive to August 1, 1964, the officially declared date marking the beginning of the Vietnam era.

National service life insurance coverage is issued to all participants in military service to the United States. It is a Government-administered agency and the price level and payment of premiums is set by this agency and no other. Maximum coverage is set at $10,000 per carrier and issued in multiples of $500, with a minimum coverage of $1,000.

There are eight separate plans in this coverage, ranging from short-term and long-term convertible policies to full policy endowments at various ages. Mr. President, I ask unanimous consent that a list outlining these programs be inserted at this point in my remarks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PLANS FOR RH INSURANCE (ADMINISTERED BY NSLI)

a. 5-Year Level Premium Term.
b. Modified Life.
c. Ordinary Life.
d. 30-Payment Life.
e. 20-Payment Life.
f. 20-Year Endowment.*
g. Endowment at age 60.*
h. Endowment at age 65.*

Mr. PEARSON. Mr. President, the basis for this plan, Policy RH, was drawn from present NSLI coverage available only to service-disabled veterans, and amended so as to make it applicable to all veterans being released from the service, with the retroactive date in effect. It is a nonparticipating policy, effective only after release from service, with a grace period of 120 days from the release date during which time application may be made without requirement of a physical examination. Any time after this period, certification of good health, contingent upon any further requirements stated by the Administrator, would be necessary.

This Government coverage is offered as an alternative to the SGLI policy available to all members of the Armed Services. As I mentioned earlier in my remarks, current law allows the recipient to convert this coverage to a private policy anytime within the 120 days subsequent to his release from active duty without taking a physical examination. But in so doing, he incurs the necessary higher cost and rate of payments charged by all carriers. My bill would retain this provision and allow the veteran to acquire both plans, if he so desired.

Mr. President, an additional advantage of my proposal is that with the exception of initiating costs, little additional funding would be necessary. With the number of policies currently in effect, the VA is spending only $3.28 per policy each year, principally on administrative functions. Premiums provide the balance of the needed income. I have been assured that with additional participation, this figure would not appreciably increase.

Mr. President, I believe that the provisions outlined in my bill are sound and point to the need for providing equal benefits to all veterans of all wars. Enactment of this legislation would also, in my judgment, assist in a very real way those veterans who are struggling to finish school or begin their civilian careers and who cannot afford to provide adequate insurance protection for their dependents. In a time of serious unemployment and economic distress, helping these individuals now would dramatically demonstrate to both veterans and the Nation that the Federal Government stands solidly behind them in their efforts to develop their civilian talents. Based on their record thus far, I believe that my proposal and others designed to help Vietnam era veterans are a solid investment in this Nation's future.

By Mr. SAXBE:

S. 2827. A bill to amend the Public Health Service Act to provide assistance for improving health services and to alleviate shortages and maldistribution of personnel and facilities, and for other purposes. Referred to the Committee on Labor and Public Affairs.

MEDICAL RESOURCES DEVELOPMENT ACT

Mr. SAXBE. Mr. President, at a time when the health care debate has reached a peak and when a national health insurance program seems a certainty, I would like to introduce legislation designed to improve and expand the present health care system in order to meet the demands of the future.

In the past our medical system has developed in a laissez-faire manner. The great stress has been on scientific expertise and specialties, with the resultant overbuilding of some specialties and the continuing decline of general practitioners. The once-familiar GP is fast disappearing from the scene and with him, the primary care that every family needs. American doctors are the best trained technological physicians in the world, but paradoxically, Americans do not receive optimal medical care. Why? Because of the basic lack of organization, a "no system."

It is important now to reverse this

trend and to put some organization into our fragmented system. We should move away from the costly fee-for-service, solo medical practice and toward a prepaid comprehensive group practice with emphasis on preventive, rather than acute care. We should establish ambulatory care centers which can provide a full range of health services on an outpatient basis, especially in the underserved areas of the rural and urban poor. We must better organize and redistribute existing resources with an eye to reduction in costs and more effective delivery. In short, we must now try new and innovative ways of providing health care, and not remain chained to an outdated and inefficient delivery system.

There is a health care crisis—recognized and acknowledged by the President of the United States and the medical profession itself. It is a crisis precipitated largely by the skyrocketing medical costs which have become staggering, not only to the poor, but even to the more affluent sectors of our society. The health industry is the fastest growing segment of our economy, representing 6.9 percent of our gross national product. In the past fiscal year, $67 billion was spent on health care, $25 billion of which was public expenditure. And it is estimated that by 1974, the total costs will be $105 billion, with $38 billion on the public sector. When we talk about spending $25 and $38 billion of our taxpayers' dollars, we can no longer remain passive, leaving full and final control solely in the hands of health-care providers. It is essential that we now insure that our Government dollars are well spent—that the system is operating as efficiently as possible in providing high quality care.

The health care crisis has brought on a heated debate, and scores of proposals have been advanced as the ultimate solution to the problems. One thing is certain: there is going to be a national health insurance plan of some sort, enacted in the near future. My wish is that we prepare now for the programs of the future. My plea is that we do not commit another "medicare-medicaid" fiasco which just poured more Government billions into an already overburdened system. National health insurance alone—just pure coverage—would only make matters worse unless it would provide for sensible allocation of medical resources in relation to medical needs. If we increase the purchasing power without increasing and redistributing the supply, it will only add to existing inflation. I recommend that we begin now to shore up the system for the demands of the future health insurance programs. I recommend that we act now to protect our $25 billion investment in health care.

For this reason, I am introducing a bill entitled, "Medical Resources Development Act." It is patterned after a section of the Health Security Act, and is designed to improve and expand the health care delivery system. It authorizes the Secretary of Health, Education, and Welfare to initiate an innovative program for the next 5 years, to strengthen the Nation's health resources. The program would be carried out in the following way:

First, by expanding the health planning process throughout the United States with an emphasis on preparing for increased demand.

Second, by providing financial and technical assistance in alleviating shortages and maldistribution of health personnel and facilities.

Third, by improving the organization of health services to increase effective delivery and cost control.

Mr. President, I ask unanimous consent that the text of the bill and a summary of its content be printed in the RECORD.

There being no objection, the summary and bill were ordered to be printed in the RECORD, as follows:

MEDICAL RESOURCES DEVELOPMENT ACT

I

Purpose: To launch an innovative program to strengthen the nation's health resources—improve services, enhance organization of health-care delivery systems, and alleviate shortages of personnel and facilities, in order to meet the rising demand and future needs of our health care system.

II

Authority: The Secretary of Health, Education and Welfare is authorized to spend such sums as may be necessary for the next five years, to carry out the purposes of this act through a program of grants and contracts.

III

Planning: The Secretary directs state and regional planning agencies to initiate a plan to prepare for new demands of future national health programs, with special attention to medically underserved areas. Planning agencies will identify acute shortages or maldistribution of medical manpower and facilities; and the serious deficiencies in the organization and delivery of health services.

IV

Health Care Services: To provide help, both financial and technical, for the creation or the enlargement of organizations providing comprehensive care to ambulatory patients—either organizations with a prepaid enrollment like HMO's, or other organizations that provide comprehensive care like Health Care Corporations or Academic Health Centers, with varying financial arrangements. Grants will be available for start-up costs and the deficit costs for the first 5 years of operation.

V

Manpower: To establish a program for the recruitment and training of professional and non-professional personnel to alleviate the health manpower shortages and to staff ambulatory-care centers. Special emphasis will be placed on (A) the development of new kinds of health personnel—physician assistants, specialty nurses, health educators, etc.—to assist in providing health services; (B) the development of health personnel for urban and rural poverty areas. Education and training to be carried out through contracts or grants to appropriate institutions.

VI

Improvement Grants: This section authorizes special improvement grants to any public or nonprofit institution or agency to establish improved coordination and linkages with other providers of health services. Grants for improvement of comprehensive care organizations in areas such as information retrieval systems, special equipment for mass screening or other diagnostic procedures.

S. 2827

A bill to amend the Public Health Service Act to provide assistance for improving health services and to alleviate shortages and maldistribution of personnel and facilities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Medical Resources Development Act of 1971".

SEC. 2. (a) Section 1 of the Public Health Service Act is amended by striking out "Titles I to X" and inserting in lieu thereof "Titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act (42 U.S.C., ch. 6A) is further amended by adding after title X the following new title:

"TITLE XI—ASSISTANCE TO DEVELOP COMPREHENSIVE HEALTH-CARE ORGANIZATIONS, TO IMPROVE HEALTH SYSTEMS, AND TO INCREASE THE SUPPLY OF ALL HEALTH-CARE PERSONNEL

"PURPOSE

"SEC. 1101. The purpose of this title is to inaugurate a program to strengthen the nation's resources of health personnel and facilities and its system of delivering health services, in order to meet the present and future rising demand for health care and to that end—

"(a) to expand and intensify the health planning process throughout the United States, with primary emphasis on identifying acute shortages and deficiencies in the delivery of health services, and

"(b) to provide financial and other assistance (1) in alleviating shortages and maldistributions of health personnel, (2) in establishing ambulatory care centers in order to increase the supply of services, and (3) in improving the organization of health services in order to increase their effective delivery.

"PLANNING

"SEC. 1102. (a) In consultation with State comprehensive health planning agencies approved under section 314(a) of the Public Health Service Act, and with regional medical programs and other health planning agencies, the Secretary shall promote, support, and as necessary, conduct within the Department of Health, Education, and Welfare, an intensified and continuous process of health service planning for the purpose of improving the supply and distribution of health personnel and facilities and the organization of health services, in order to meet the future demands of new health programs. The planning shall proceed primarily on a State-by-State basis, but without excluding more particularized planning for portions of States or for metropolitan or interstate areas.

"(b) The planning process shall give first consideration to identification of the most acute shortages and maldistributions of health personnel and facilities, and the most serious deficiencies in the organization for delivery of health services; and to determining means for the speedy alleviation of these shortcomings.

"(c) The Secretary may make grants to appropriate State agencies to carry out the purposes of this section.

"PRIORITIES

"SEC. 1103. (a) In providing assistance under this title, the Secretary shall give priority to improving and expanding the available resources for services to ambulatory patients which are furnished as part of coordinated systems of comprehensive care. To this end the Secretary shall encourage and assist in (1) the development of prepaid comprehensive health service organizations defined in section 1107(a); (2) the development or expansion of other qualified health service systems defined in section 1107(b) which would furnish services to persons in urban or rural areas who lack ready access to such services; (3) the recruitment and training of professional, sub-professional, and personnel to staff such organizations, including the development of new kinds of health personnel to assist in the furnishing of comprehensive health services.

"(b) In administering financial assistance under this title, the Secretary shall be guided so far as possible by findings and recommendations of appropriate health planning agencies described in section 1102.

"ORGANIZATIONS FOR THE CARE OF AMBULATORY PATIENTS

"SEC. 1104. (a) The Secretary is authorized to assist, in accordance with this section, the establishment, expansion, and operation of (1) comprehensive health service organizations defined in section 1107(a) of this title; and (2) other qualified health service systems defined in section 1107(b) of this title, which furnish or will furnish care to ambulatory patients.

"(b) The Secretary is authorized to make grants (1) to any public or nonprofit agency or organization (whether or not it is a provider of health services), for not more than 90 per centum of the cost (excluding costs of construction) of planning, developing, and establishing an organization or agency described in subsection (a) of this section; (2) to an existing organization or agency described in subsection (a), for not more than 80 per centum of the cost (excluding costs of construction) of planning and developing an enlargement of the scope of its services or an expansion of its resources to enable it to serve more enrollees or clientele; or (3) in exceptional cases to grantees under (1) or (2) of this subsection, for as much as 100 per centum of the cost (as described in (1) or (2)), when the Secretary, after taking all relevant factors into consideration, finds that local funding is not possible and that the purposes of this title would be served by such grant. In addition to grants under this subsection, or in lieu of such grants, the Secretary is authorized to provide technical assistance for the foregoing purposes.

"(c) The Secretary is authorized to contract with an organization or agency which is described in subsection (a) of this section and which has been either newly established or substantially enlarged, to pay all or a part of any operating deficits, for not more than five years. Any such contract shall condition payments upon the contractor's making all reasonable effort to avoid or minimize operating deficits and making reasonable progress toward becoming self-supporting.

"RECRUITMENT, EDUCATION, AND TRAINING OF PERSONNEL

"SEC. 1105. (a) In consultation with State comprehensive health planning agencies, and with regional medical programs, the Secretary shall establish schedules of priority for the recruitment, education, and training of personnel to meet the most urgent needs of the rising demand for health care.

"(b) The Secretary is authorized to provide, to physicians and medical students, training for the general or family practice of medicine and training in any other medical specialty in which the Secretary finds that there is, for the purposes of this title, a critical shortage of qualified practitioners.

"(c) The Secretary shall provide education or training for those classes of health personnel (professional, subprofessional, or nonprofessional) for whom he finds the greatest need, if other Federal financial assistance is not available for such education or training; and if other assistance is available but the Secretary deems it inadequate to meet the current or future needs of the nation, he may provide such education or training pending action by the Congress to provide such additional assistance as is required adequately to meet such needs.

"(d) The training of personnel authorized by this section includes the development of new kinds of health personnel to assist in the furnishing of comprehensive health services, and also includes the training of persons to provide education for personal health maintenance, and the training of persons to provide liaison between the residents of an area and the health organizations and personnel serving them. The Secretary may make grants to public or other nonprofit health agencies, institutions, or organizations to a part or all of the cost of testing the utility of new kinds of health personnel.

"(e) Education and training under this section shall be provided by the Secretary through contracts with appropriate educational institutions or such other institutions, agencies, or organizations as he finds qualified for this purpose. The Secretary may provide directly, or through the contractor for the payment of stipends to students or trainees in amounts not exceeding the stipends payable under comparable Federal education or training programs.

"(f) The Secretary shall undertake to recruit and train professional practitioners who will agree to practice, in urban or rural areas of acute shortage, in comprehensive health service organizations referred to in section 1107(a) or in agencies, organizations, or centers referred to in section 1107(b). A practitioner who agrees to engage in such practice for at least five years may be paid a stipend of an amount which the Secretary deems to be appropriate to supplement his professional earnings, and in an exceptional case the Secretary may make a commitment to compensate a practitioner for a period after the first five years of professional practice when necessary to assure the availability of professional services in such an area of acute shortage.

"SPECIAL IMPROVEMENT GRANTS

"SEC. 1106. (a) The Secretary is authorized to make grants to public or other nonprofit health agencies, institutions, and organizations to pay part or all of the cost of establishing improved coordination and linkages among institutional services, among non-institutional services, and between services of the two kinds.

"(b) The Secretary is authorized to make grants to organizations, agencies, and centers described in section 1107 to pay part or all of the cost of installation of improved utilization review, budget, statistical, or records and information retrieval systems, including the acquisition of equipment therefor, or to pay part or all of the cost of acquisition and installation of diagnostic or therapeutic equipment.

"DEFINITIONS

"SEC. 1107. For the purposes of this title—

"(a) the term 'comprehensive health service system' means a system providing health care to an identified population, living in or near a specified service area and enrolled as members in the organization, through arrangements which embody prepaid group practice (or other definitive arrangements which the Secretary finds will provide to enrollees the benefits of prepaid group practice) so as to: (1) provide comprehensive health services, (2) assure continuity of care and the ready referral and transfer of patients where medically appropriate, and (3) to the extent practicable and consistent with good medical practice, employ allied health personnel in the furnishing of services; and

"(b) the term 'other qualified health service systems' includes (1) public or other nonprofit agencies or organizations (including hospitals) which furnish a full range of comprehensive health services to ambulatory patients; or (2) public or nonprofit centers (including satellite centers established by hospitals, professional foundations sponsored by city, county, or State medical societies, or any organization approved by the Secretary) which (A) furnish, as a minimum, the services of two or more physicians engaged in general or family practice, the services of nurses and supporting personnel, and basic laboratory services, which the Secretary finds sufficient for the primary medical care of a substantial population living in the vicinity of the center, and (B) have arrangements with other providers of services which the Secretary finds assure to the population served by the center, all the components of comprehensive health care.

"APPROPRIATIONS

"SEC. 1108. There are authorized to be appropriated for the fiscal year ending June 30, 1972, and for each of the four fiscal years thereafter, such sums as may be necessary to carry out the purposes of his title."

By Mr. NELSON (for himself, Mr. MCGOVERN, Mr. BURDICK, Mr. MONDALE, and Mr. HUGHES):

S. 2828. A bill to amend sections 9 and 11 of the Clayton Act, as amended, to provide for the continuance of the family farm and to prevent monopoly and for other purposes. Referred to the Committee on the Judiciary.

THE FAMILY FARM ACT OF 1972

Mr. NELSON. Mr. President, I am introducing, for appropriate reference, the Family Farm Act of 1972. This legislation will declare, and put into effect, a national policy to provide for the continuance—and enhancement—of the family farm.

It is with a sense of special urgency that this legislation is introduced. Because of what is taking place in agriculture today, and what has been taking place with increasing tempo in rural America for the past 20 years, managers of large corporations and conglomerates have descended on agriculture. From their carpeted offices far from the land they control, and armed with favorable depreciation rates on machinery and equipment, tax writeoffs and long-term capital gains advantages, these managers can manipulate losses on the farm into profits for the absentee investors and still expand land holdings. The Internal Revenue Service tells us that of the 17,578 corporations reporting farming as their principal business in 1965, only 9,244 reported a profit for tax purposes. Of their gross receipts of $4.3 billion, only $199 million was considered taxable income—a mere 4.5-percent tax rate. For the family farmer who remains on the land, the losses remain a loss. And with the artificial market created by the corporation, the losses to the resident farmer have become greater and more frequent.

Combined with other incentives for bigness, the family farmer has found himself in an unfair competitive position. That there has been a large-scale exodus from the farm to the city has been amply documented, discussed, debated—and grieved. Since 1950, more

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than 15 million Americans have left the farm in hopes of salvaging a livelihood in the great metropolitan centers.

For many, however, the promise of security in the city proved a delusion. Even those who were successful in the transition only left others without work. Overcrowding, unemployment, soaring relief rolls—tension and frustration.

The opening pages of the 1967 President's National Advisory Commission on Rural Poverty reports:

> The urban riots during 1967 had their roots in considerable part in rural poverty.

The McCone commission report on the Watts riot in Los Angeles and the Kerner report on civil disorders reinforced that report.

Rural out-migration is not a problem confined to the rural areas. It is a national problem—and a critical one—that affects every economic and social sector.

The displacement of rural Americans did not manifest itself in sagging economies and poverty in the cities alone. Seven percent of this country's people live on farms, while 16 percent of the poor in America live on farms and 32 percent of the poor in America are rural nonfarmers.

But the economic, social and cultural consequences of the trend to big corporate farms is more insidious than the cold statistics of poverty.

Such businesses as implement dealers, hardware stores, lumber yards and feed stores must have a good number of prosperous farmer-customers to stay in business. The number of farm families in a trade area also is an important factor because of its direct effect on such businesses as grocery stores, drug stores, newspapers and filling stations.

It is also easy to see the effect a sharp cutback in farm family numbers would have on obtaining, or retaining, such professionals as doctors, dentists, pharmacists, and lawyers.

Experience shows, in areas where corporations have moved in, that one of the first moves made by farm managers is to tear down farmbuildings to cut real estate taxes. Then they truck in seed, fertilizer and other inputs purchased direct from manufacturers to avoid buying locally at retail, they import migrant farm laborers on an intermittent basis to cut labor costs, and they bypass the local farm supply and marketing cooperatives.

The surviving farmers and small town merchants are left to pay the social costs.

Probably the best existing study of this problem was published in 1946—"Small Business and the Community Effects of Scale of Farm Operations," December, 1946, Senate Committee on Small Business.

Although 25 years old, this study probably reflects, better than anything published before or since, the kind of problem that is involved.

The study, by Walter Goldschmidt, involved the social organization of two towns in California in land areas of equal productivity. The only difference in the two communities was in the type of agriculture in the areas they served.

Arvin, Calif., served a corporate farming area worked predominantly by hired labor. It was a town of honky-tonks, poor housing, a few weak service clubs, shaky businesses, a single elementary school, and one playground loaned by a local industry.

Dinuba, Calif., served an area of family farms. It was a town of attractive residential streets, permanent churches, three parks, three elementary schools and a high school, strong service clubs, lodges and veterans organizations, furniture and household furnishings stores, implement dealers, and hardware and clothing stores.

The town serving the family farm area had twice as many business establishments, nearly twice as much annual trade—$4.4 million versus $2.5 million for Arvin—and three times the volume of trade in household supplies and building materials and equipment.

Goldschmidt's summary of findings added:

> The investigation disclosed other vast differences in the economic and social life of the two communities and affords strong support for the belief that small farms provide the basis for a richer community life and greater sum of those values for which America stands, than do industrialized farms of the usual type.

The social and cultural consequences of the trend to big corporate farms is easily recognized. The rural towns suffer a population loss that is in almost direct proportion to the loss of farm families from the community.

Churches, schools, and other social service groups wither and disappear for lack of people to use their services and for inability to hold the type of community leaders needed to make them effective.

The Goldschmidt study of the California towns provides some data in the people-oriented aspect, too, of differences between communities in trade areas with family farms and those with corporate farms.

More than one-half of the breadwinners in the small farm community are independent businessmen, persons in white-collar employment or farmers; in the corporate farm community the proportion is less than one-fifth.

Less than one-third of the breadwinners in the small farm community are agricultural wage laborers—characteristically landless and with low and insecure income—while the proportion of persons in this position in the corporation farm community is about two-thirds.

Schools are more plentiful and offer broader services in the small farm community.

The small farm community has more than twice the number of organizations for civic improvement and social recreation than its corporation farm counterpart.

Provision for public recreation centers, Boy Scout troops, and similar facilities for enrichment of people is much greater in the small farm community.

The small town community supports two newspapers, each with many times the news space carried in the single paper of the corporate farm community.

Facilities for making decisions on community welfare through local popular elections are available to people in the small farm community while the corporate farm community's decisions are made through a county government setup.

Goldschmidt's study sums up the relationships and what they mean in this way:

> The small farm community is a population of middle-class persons with a high degree of stability in income and tenure, and a strong economic and social interest in their community. Differences in wealth among them are not great and the people generally associate together in those organizations which serve the community.
>
> Where farms are large, on the other hand, the population consists of relatively few persons with economic stability, and of large numbers whose only tie to the community is their uncertain and relatively low-income job. Differences in wealth are great among members of this community and social contacts between them are rare.
>
> Indeed, even the operators of large scale farms are frequently absentees; and if they do live in Arvin, they as often seek their recreation in the nearby city. Their interest in the social life of the community is hardly greater than that of the laborer whose tenure is transitory.
>
> Even the businessmen of the large farm community frequently express their own feelings of impermanence; and their financial investment in the community, kept usually at a minimum, reflects the same view.
>
> Attitudes such as these are not conducive to stability and the rich kind of rural community life which is properly associated with the traditional family farm.

All that was 25 years ago. Yet, the invasion of agriculture by large, absentee corporate interests continues unabated. All of which is aided by the U.S. Department of Agriculture which often finances research with taxpayer dollars that is aimed at ways to make farms bigger, rather than ways to make small farms sustain families who can compete economically in dignity and reasonable living standards.

Nick Kotz, in his recent excellent series in the Washington Post, emphasizes this point. He tells us that the Department apparently would rather finance development of a new, tough strawberry that can be harvested by machine than a strawberry that tastes better or is more nutritious. This is the same department, according to Mr. Kotz, that has given little or no comfort and aid to a small, new cooperative organized by former migrant laborers to get into the strawberry cultivation business themselves.

But the mere entry of corporations into agriculture has not been enough, especially for the conglomerates that have honed their managerial prowess into widely diversified interests that control a broad spectrum of agriculturally-related businesses.

They buy seed from one of their own subsidiaries to plant in machinery manufactured by another to plant on the land owned by another to be tendered by laborers with pesticides, fertilizers, and machinery manufactured by still others within the same corporate structure. The produce is shipped in trucks owned by yet another subsidiary, packed in cartons manufactured by another and marketed by still another.

Now, some conglomerates reportedly are beginning to enter the restaurant and supermarket business to complete the vertical chain from seed to supermarket.

Mr. President, not long ago the proud products of rural America were good food and fiber, free men and women, and healthy children with happy futures on the land cared by their fathers and forefathers. There were exceptions, of course. But the ideal and in large measure the attainment were there: to raise all those products on the American land—the food, the fiber and the strong, free people.

Tragic changes have occurred, and there are many and complex causes for this tragedy which is still building and even accelerating.

But the largest cause, I think, is the development of public policies that have equated goodness with bigness, quality with size. These policies have led to the emergence of giant corporations as the dominant force in manufacturing. Dominance of the few at the expense of the many who have been unable to compete against the preferential treatment this country accords big money. Unless the policies are dramatically reevaluated and changed, they will lead to like dominance of agriculture.

The Family Farm Act of 1972 provides the Congress with the means to preserve free, private enterprise, to protect small business and prevent insidious monopolistic tendencies in agriculture.

Mr. President, I ask unanimous consent that the Family Farm Act of 1972 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2828

A bill to amend Sections 9 and 11 of the Clayton Act, as amended, to provide for the continuance of the family farm and to prevent monopoly and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that Sec. 9 of the Clayton Act (38 Stat. 730; 15 USCA, Sec. 12) is amended by adding the following:

"FINDINGS AND PURPOSES

"SEC. 9. (a) The Congress finds that it is desirable to preserve free, private enterprise, to protect small business and prevent monopoly, and to protect opportunity for family farmers in interstate commerce, as well as to protect consumers. Vertical integration of the agricultural industry by the processing, distributing and retailing industries and conglomerate businesses has created situations of unfair, monopolistic competition for the family farmer. This situation has contributed to the decline of rural populations and the consequent crowding of metropolitan centers. It has resulted in a noticeable decline in competition in some phases of agricultural production and threatens others. It is the national policy to restore competition to the agricultural industry and to provide for the continuance of the family farm.

"(b) This Act shall be known as the Family Farm Act of 1972.

"(c) No person, partnership, corporation, trust or conglomerate business entity engaged in non-farming business in or affecting commerce and owning or controlling assets amounting to more than $3,000,000, or owning or controlling stock or other share of capital in one or more business entities in commerce with a total value of $1,000,000 or more, such as those corporations engaged in the meat or poultry packing business or the wholesaling or retailing of red meat, poultry or livestock products, including dairy products; or engaged in the processing, purchasing, selling or handling of grain or other field crops, including fruits, vegetables, pulses, or animal feeds; or engaged in the production, sale or distribution of agricultural chemicals and fertilizers or petroleum products; or engaged in the manufacture, sale or distribution of farm supplies, including machinery, buildings, fencing or other equipment; or engaged in the business of insurance banking, money lending or extension of real estate or production credit or selling goods to or providing services to farmers; or engaging in other similar business activities or in buying agricultural products except farmer-owned and controlled cooperatives, corporations and associations which meet the conditions of the Capper-Volstead Act (42 Stat. 388) shall directly or indirectly engage in farming or production of agricultural products, or control, or attempt to control, agricultural production through the ownership or leasing of land for agricultural purposes or by contracts with others or by integration, merger or any other means of acquisition or control; provided that the foregoing prohibition shall not apply in the case of any one or more of the following:

"(1) charitable institutions which engage in agricultural production for other than income purposes as part of their charitable function;

"(2) education institutions engaged in research as part of academic and extension activities; and

"(3) non-profit institutions engaged in agricultural production solely for purposes of research.

"(d) Every person, partnership, corporation trust or conglomerate business entity subject to the prohibitions of Section 9(c) of this Act that is lawfully engaged in agricultural production or controls agricultural production prior to the enactment of this Act shall be required to devist all holdings, assets and other interests in such production within five years after enactment of this Act.

"(e) Nothing in any provision of this Act shall be construed to prevent any creditor, legatee, beneficiary, or interstate successor subject to Section 9(c) of this Act from lawfully acquiring pursuant to forfeiture or laws of succession land or other means of agricultural production provided that they shall divest themselves of such property within two years of acquisition.

"(f) Section 11 of the Clayton Act (38 Stat. 730) is hereby amended to include Section 9 within the enforcement provisions of Section 11."

By Mr. BAYH (for himself and Mr. COOK):

S. 2829. A bill to strengthen interstate reporting and interstate services for parents of runaway children; to conduct research on the size of the runaway youth population; for the establishment, maintenance, and operation of temporary housing and counseling services for transient youth, and for other purposes. Referred to the Committee on the Judiciary by unanimous consent.

THE RUNAWAY YOUTH ACT

Mr. BAYH. Mr. President, I introduce with the Senator from Kentucky (Mr. COOK) the Runaway Youth Act. As members of the Subcommittee to Investigate Juvenile Delinquency, we have become increasingly concerned with the problem of children who leave home without parental permission. Our bill is designed to deal with that problem—a problem which is not well known to the Nation but which every year touches the lives of 1 million families. That is the best estimate of how many children under the age of 18 run away each year.

The problem of runaways is another problem of our cities. A recent study in Minneapolis showed that several thousand children ran away in 1969. Every year 10,000 young people run away from homes in the Washington area. And, it is now an accepted part of the urban scene to see hundreds of young street people in the hip areas of most of our major cities. Many of these children are away from home without permission.

These children have for the most part committed no crime, although in most jurisdictions the very act of running away may be sufficient to result in detention as a juvenile delinquent. They are more of a danger to themselves than to society. On the street away from parental supervision and direction, these children are vulnerable. Although statistical records are not kept, it appears that many of these children live in the suburbs and are white. In our cities, such youngsters—most of whom are under 16—are easy marks for the pusher, the hustler, or the street thug.

Many runaways are picked up by the police and eventually returned home. However, the vast majority never have any contact with the police and eventually come home on their own. The problem is that return by the police or voluntary return when street life becomes too hard usually solves nothing. The problems of home, of school and of growing up which caused the child to run away in the first place are still there. What these children need are effective community services which can help them and their families resolve the underlying problems.

Although insufficient, there are a few underfunded, understaffed, but highly effective halfway houses in several of our large cities. They get the kids off the street before they are physically harmed. They contact the parents and give counseling to the child so that he may better understand some of the problems that caused him to run away. The counselors in these houses bridge the gap between parent and child in an effort to make the return home as untraumatic as possible. Though limited by lack of funds and staff, these programs occasionally offer followup counseling to child and family to help resolve the family or personal problems which caused the run initially.

These houses are the models for which I consider the most important part of my program to deal with runaway youth. They were brought to my attention as part of a Runaway Youth Act introduced by Congressman KEATING. However, they were only a relatively small part of his bill, since most of the money was authorized to be spent by the Law Enforcement Assistance Administration to buy Teletype and other police communications equipment. I believe what we need to deal with the problems of youth are hard programs, not hardware. Runaway houses staffed with concerned, competent, and dedicated counselors are vital in developing a solution to the problem of runaway youth.

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Such houses, placed in the communities where runaways tend to congregate, can be an effective means of voluntarily getting kids off the street and back to their homes. They should be equipped to give temporary shelter, intensive short-term counseling, and should be capable of calling on the medical and psychological services of the local community when needed. Most importantly, they should be capable of providing followup counseling. While the fragmented statistics now available show that a substantial minority of runaways travel great distances, the majority still tend to run from surrounding suburbs into our major cities. This group of children could be effectively served by a trained staff capable of traveling back to the suburbs to counsel the families of runaways or to suggest more highly specialized psychological or psychiatric help.

The problem of runaways is part of the larger problem of juvenile delinquency with which I have long been concerned. My experience has taught me two things: first, the younger we identify and begin to aid the potential delinquent, the greater the likelihood that he will respond favorably; and, second, contact with the present juvenile justice system is more likely to be damaging than helpful for the majority of youngsters.

The Runaway Youth Act takes account of both these factors. Today's runaway may be tomorrow's delinquent. If we can aid him while he is young and before he has been in serious trouble, future delinquency may be avoided. My bill attempts to provide a useful alternative to the juvenile justice system. By keeping these youngsters out of the system, we may be able to insure that they will be more effectively helped. The system will also be less overburdened and more able to deal with really serious offenders.

Mr. President, these are the hopes I have for the success of the Runaway Youth Act. If we act now some of the senseless tragedy which befalls many of our Nation's families can be more effectively dealt with or avoided altogether. My bill would achieve this by doing two things:

First, the Secretary of Health, Education, and Welfare is authorized to fund a major halfway house program in areas where runaways tend to congregate. Unlike the traditional halfway houses, these runaway houses would be designed to shelter youngsters for a short length of time and not on a permanent basis. Their purpose would be to remove runaways from the street and to give them the counseling needed to allow them to return home voluntarily. Professional medical and psychological help would be available from the community on an as-needed basis.

Most importantly, these houses would be equipped to do field counseling for the children and their families after the runaways have returned home. This could prove an effective means of reaching the underlying problems that caused the run in the first place. If field counseling were not appropriate, information on where to seek more comprehensive professional help could be supplied. In short, these houses would serve as a highly specialized alternative to the traditional law enforcement or juvenile justice method of dealing with runaways.

Ten million dollars would be authorized each year for this purpose. While this sum does not appear large in comparison to the size of the problem, it should make a significant impact. Runaway houses, because their residential care is of short duration, can handle large numbers of children at a low cost. I estimate that a runaway house with a maximum capacity of 20 children could serve 1,000 children a year on an annual operating budget of $50,000. This is based upon the actual operating experience of the runaway house here in Washington. If we assume that the average capital cost of such a house would be $150,000, then my bill could finance the purchase and operation of 100 runaway houses that could serve 100,000 runaway children each year.

Second, the Secretary of Health, Education, and Welfare would be authorized to finance research to develop national statistics on the runaway youth population. While many officials are aware of the problem, there has been very little research done on who runs away, where they run to, how long they stay, and related questions. Such information is vitally necessary to gain a better, more comprehensive understanding of the problem. For this purpose, my bill authorizes $500,000 and requires the Secretary to report to Congress by June 30, 1973.

Mr. President, as the means of rapid travel continue to improve, the problems of runaway children and their families will grow more serious. I hope that Senators will give speedy consideration to my bill so that we can begin to deal more sensibly with the problem of runaway youth. I ask unanimous consent that the text of the bill and the summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Runaway Youth Act."

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress hereby finds that—

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

(2) that the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) that many of these young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

(4) that the anxieties and fears of parents whose children have run away from home can best be alleviated by effective interstate reporting services and the earliest possible contact with their children;

(5) that the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities; and

(6) that in view of the interstate nature of the problem, it is the responsibility of the Federal government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure.

TITLE I

SEC. 101. The Secretary of Health, Education, and Welfare is authorized to make grants and to provide technical assistance to localities and nonprofit private agencies in accordance with the provisions of this title beginning July 1, 1972, and ending June 30, 1975. Grants under this title should be made for the purpose of developing local facilities to deal primarily with the immediate needs of runaways in a manner which, wherever possible, is outside the law enforcement structure and juvenile justice system. The size of such grants should be determined by the number of runaway children in the community and the existing availability of services. Among applicants priority should be given to private organizations or institutions who have had past experience in dealing with runaways.

SEC. 102. (a) To be eligible for assistance under this title, an applicant must propose to establish, strengthen, or fund an existing or proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without the specific permission of their parents or guardians.

(b) In order to qualify, an applicant must submit a plan to the Secretary of Health, Education, and Welfare meeting the following requirements and including the following information. Each house:

(1) shall be located in an area which is demonstrably frequented by or easily reachable by runaway children;

(2) shall have a maximum capacity of no more than 20 children, with a ratio of staff to children of sufficient proportion to insure adequate supervision and treatment;

(3) shall develop an adequate plan for contacting the child's parents and insuring his safe return according to the best interests of the child;

(4) shall develop an adequate plan for insuring proper relations with law enforcement personnel, and the return of runaways from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway children and their parents within a 25-mile radius of the House;

(6) shall keep adequate statistical records profiling the children and parents which it serves;

(7) shall submit annual reports to the Secretary of Health, Education and Welfare detailing how the House has been able to meet the goals of its plans and reporting the statistical summaries required in Sec. 102(b)(6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary of Health, Education and Welfare; and

(9) shall supply such other information as the Secretary of Health, Education and Welfare deems necessary.

SEC. 103. An application by a State, locality, or non-profit private agency for a grant under this title may be approved by the Secretary only if it is consistent with the applicable provisions of this title and meets the requirements set forth in section 102.

SEC. 104. Nothing in this title shall be construed to deny grants to non-profit private agencies which are fully controlled by private boards or persons but which in other ways meet the requirements of this title and agree to be legally responsible for the operation of the runaway house. Nothing in this title shall give the Federal Government and its agencies control over the staffing and personnel decisions of facilities receiving Federal funds, except as the staffs of such facilities must meet the standards under this title.

SEC. 105. The Secretary of Health, Education, and Welfare shall annually report to Congress on the status and accomplishments of the runaway houses which were funded with particular attention to:

(1) their effectiveness in alleviating the problems of runaway youth;

(2) their effectiveness in insuring an early return to the children's homes and in encouraging the resolution of intrafamily problems through counseling and other services;

(3) their effectiveness in reducing drug abuse and undesirable conditions existing in areas which runaway youth frequent; and

(4) their effectiveness in strengthening family relationships and encouraging stable living situations for children.

SEC. 106. As used in this title, the term "State" shall include Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

SEC. 107. (a) The Federal share for the construction of new facilities under this title shall be no more than 50 per centum. The Federal share for the acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum.

(b) The Secretary of Health, Education, and Welfare shall pay to each applicant which has an application approved 90 per centum of the cost of such applications.

(c) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on accont of overpayments or underpayments.

(d) There is authorized to be appropriated for each of the fiscal years 1973, 1974, and 1975 not to exceed $10,000,000 to carry out this title.

TITLE II

SEC. 201. The Secretary of Health, Education and Welfare shall gather information and carry out a comprehensive statistical survey defining the major characteristics of the runaway youth population and determining the areas of the country most affected. Such survey shall include, but not be limited to, the age, sex, socio-economic background of runaway children, the places from which and to which children run, and the relationship between running away and other illegal behavior. The Secretary shall report to Congress not later than June 30, 1973.

SEC. 202. There is authorized to be appropriated a sum not to exceed $500,000 to carry out this title.

SUMMARY OF THE RUNAWAY YOUTH ACT

Title I authorizes the Secretary of Health, Education, and Welfare to make grants to establish local institutions to deal primarily with runaways outside the traditional law enforcement, juvenile justice system.

Section 101 requires that grants be made on the basis of the number of runaways in the community and the present availability of services for runaways. Additionally, it requires that priority be given to private organizations who have had experience dealing with runaways.

Section 102 establishes the requirements which runaway houses must meet to be eligible to receive grants. These include: (1) location in an area frequented or reachable by runaways; (2) a maximum capacity of no more than 20; and (3) the development of adequate plans to insure proper contact with the police, safe return of the runaway, and adequate after-care counseling. Additionally, each proposed grantee must keep statistical surveys of their clients and report them annually to the Secretary. This is intended to aid in the research financed through title II.

Section 103 requires that a plan meet the requirements of Section 102 before it may be approved by the Secretary.

Section 104 insures that the Federal government will have no direct control over the staffing of the runaway houses.

Section 105 requires the Secretary to report annually to Congress on the effectiveness of runaway houses.

Section 106 includes Puerto Rico, the District of Columbia, Guam, and the Virgin Islands in the term "State".

Section 107 authorizes $10,000,000 for fiscal years 1973, 1974, and 1975. Additionally, it requires that the Federal share of the cost of constructing such houses be no more than 50 percent. The Federal share of the cost of renovating existing structures, providing counseling services and staff training, and general operating expenses is established at 90 percent.

Title II authorized the Secretary of Health, Education and Welfare to conduct research on all aspects of the runaway problem. It authorizes $500,000 to be spent for this purpose and requires the Secretary to report to Congress no later than June 30, 1973.

Mr. COOK. Mr. President, it is with great pleasure that I join with my distinguished colleague from Indiana, Senator BAYH, in introducing the Runaway Youth Act of 1971, a bill designed to insure adequate temporary shelter and adult counsel to the increasing number of youths who feel pressured at one time or another during adolescence into running away from home.

Growing up in today's world is a demanding and confusing experience. Pressures from home, school, family and friends quite often come into conflict with one another. Learning to resolve these pressures is just another aspect of the gradual process of growing up.

But growing up is not easy. Growing up involves much trial and error. We forget that our young people require our patience and understanding in working through even their most ordinary sorts of problems.

All of us have felt the need, when pressures mount, simply to get away. For most of us this involves little more than retreat to another room or a brisk walk around the block. We have learned to cope with our problems on our own. For many of our young people, however, the solution is not so simple. And quite often, in confusion, an adolescent will leave home.

Running away is a juvenile offense and, as such, falls under the jurisdiction of our criminal justice system. But running away is not a criminal offense, it is simply a crime of status. As the Senator from Indiana so aptly pointed out, the runaway is more a danger to himself than he is to society. He is in need of our help and understanding, not criminal detention.

This bill is intended to promote reasonable and useful alternatives to existing juvenile justice facilities. It encourages the establishment of emergency shelters for truant youths, temporary homes where young people are urged to work through their personal problems, to counsel, and to contact their friends and talk with their peers and with adult family. Such homes would bridge the gap between the child, his family and his community which our law enforcement system is unable to fill. It would approach the root causes of delinquent behavior rather than just their manifestations.

In my own State of Kentucky some 7 percent or 1,565 of the juvenile arrests recorded in the 1970 Kentucky uniform crime reports represent runaways. And these figures shed little light on the total number of youth leaving home for brief periods who go unreported. The vast majority of reported arrests involved children between the ages of 13 and 16 who left home for no more than a day or two and who remained within their home county. The need, then, is temporary and local, but nonetheless urgent and important.

The adolescent with a behavioral or an emotional problem is often seeking attention and help through his delinquent behavior. I believe we owe our children this time and support, both in the home and in the community. As ranking minority member of the Senate Subcommittee to Investigate Juvenile Delinquency and the father of five. I am deeply concerned with the problems of today's youth. I am convinced that this legislation is one step toward a more socially responsible and workable approach to juvenile delinquency.

By Mr. HUMPHREY (for himself, Mr. YOUNG, Mr. MCGOVERN, Mr. MONDALE, and Mr. HARTKE):

S.J. Res. 172. A joint resolution to provide emergency measures to improve farm income. Referred to the Committee on Agriculture and Forestry.

FARMERS INCOME IMPROVEMENT ACT OF 1971

Mr. HUMPHREY. Mr. President, I am today introducing a resolution to provide emergency measures to improve farm income both in 1971 and in 1972. Last year wheat and feed grain producers were asked to increase their production to meet expected utilization demands for the current marketing year. The so-called set-aside program provided for these crops, resulting in substantial overproduction of both commodities.

Now unless something is done before the end of this session of Congress, producers of these commodities may not be around next year to see if the 1972 programs work better than those in 1971. Prices paid by wheat and feed grain farmers for production supplies, interest, taxes, and farm wage rates are 6 percent higher this year while the prices they receive for their products are down substantially from what they were last year. A year ago the U.S. average farm price of wheat was $1.43 per bushel. Today it is $1.30—and much less at most country points throughout the wheat regions of the country. Last year, the U.S. average farm price of corn was $1.34 per bushel.

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Today it is $1 per bushel—and again, much less at most country points throughout the Midwest.

Mr. President, the resolution I am introducing today would accomplish basically three things:

First. It would establish a base acreage program for the 1972 feed grain crop,

Second. It would establish an additional voluntary acreage diversion program for the 1972 wheat program, and

Third. It would raise the loan levels for both the 1971 crops of wheat and feed grains by 25 percent.

Because of the inadequacy of the current and announced administration programs for 1972, I introduced earlier, S. 2729, a bill to authorize a strategic storable agricultural food commodity reserve, to be made up of up to 30 million tons of feed grains, 300 million bushels of wheat, 100 million bushels of soybeans and dairy and poultry products at levels determined by the Secretary of Agriculture. Enactment of this bill, supplemented by the enactment of the resolution I am introducing today, would bring both immediate and long-term income relief to wheat and feed grains producers. Taken together, these proposals would not involve extra costs for the Government, yet would increase the farm value of the 1971 and 1972 grain crops about $1.5 billion each year or a total of $33 billion for both years.

Mr. President, the 1971 set-aside programs for wheat and feed grains clearly demonstrated the failure of this approach in keeping production in line with utilization demands. Yet, Secretary Hardin has announced that he intends to once again rely upon the acreage set-aside program approach for the 1972 crops of wheat and feed grains. They are expected to be the most costly programs to date and will likely do nothing to reduce carryover of stocks created this year. In fact, there is a good chance that they will result in adding further to the carryover stocks again next year.

The need for a return to the base acreage system for feed grains and the need for the establishment of an additional acreage diversion program for wheat is clearly evident. Therefore, we should move to these programs for the 1972 crops of feed grains and wheat respectively supplemented by enactment of S. 2729, or similar legislation to remove the carryover stocks created as a result of the 1971 set-aside programs.

I invite the other Members of the Senate to join me as cosponsors of this resolution as well as S. 2729, my strategic reserve bill. I hope that the Senate can take early action on these measures. The future economic well being of our Nation's wheat and feed grains producers depends upon it.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2467

At the request of Mr. HOLLINGS, the Senator from Kentucky (Mr. COOK) was added as a cosponsor of S. 2467, a bill to amend the Natural Gas Act.

SENATE JOINT RESOLUTION 67

At the request of Mr. HART, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of Senate Joint Resolution 67, to authorize the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week."

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 629

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. TUNNEY, Mr. KENNEDY, Mr. PERCY, Mr. MCGEE, Mr. CASE, and Mr. HUMPHREY) submitted amendments, intended to be proposed by them, jointly, to the bill (S. 2820) to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

REGULATION OF DUMPING OF CERTAIN MATERIALS—AMENDMENTS

AMENDMENT NO. 630

(Ordered to be printed, and referred to the Committees on Commerce and Public Welfare, jointly.)

Mr. NELSON submitted amendments, intended to be proposed by him, to the bill (H.R. 9727) to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 631

(Ordered to be printed and to lie on the table.)

Mr. STENNIS. Mr. President, I will discuss the amendment which I am now submitting in more detail later in this debate. For the moment, I would like to say, however, that this amendment proposes modest increases in the military aid and supporting assistance programs of the foreign aid bill.

Concerning military aid, the amendment increases the authorization to a total of $452 million. This is the level of assistance which was included in the bill as it was finally defeated on the Senate floor. In other words, my amendment would raise military assistance from $350 million to $452 million, the level which would have been authorized after the Church amendment on the floor of the Senate—and, as you all know, the Church amendment was the second of two 20 percent cuts in this authorization. The level I am proposing is well below the $705 million requested by the administration, below the $705 million authorized by the House, and below the $565 million originally proposed by the Foreign Relations Committee.

On supporting assistance, my amendment proposes a total of $566 million. This is an increase from the $350 million proposed most recently by the Foreign Relations Committee, but it is below the $715 million authorized by the House and below the $614 million which would have been authorized by the Senate bill as it was rejected on the floor. It marks a reduction of approximately 8 percent below the figure in the former Senate bill. All of the above figures exclude $85 million in supporting assistance for Israel which is listed in a separate category of the bill.

I offer this amendment—to increase military assistance to the level in the Church amendment and to increase supporting assistance to a level 8 percent below that in the earlier Senate bill—because I believe that although prudent cuts in the foreign aid program and a redirection of the program were called for this year, the reductions proposed in the current Senate bill are unreasonable. It is simply impossible, Mr. President, to reduce programs by about 50 percent in a single year in view of the funds which have already been spent under a continuing resolution for more than one-third of that fiscal year. Cuts of this magnitude and suddenness are not examples of responsible legislating. As I shall discuss later, the bill as reported would seriously undermine our efforts to permit the countries of Southeast Asia to become self-sufficient, in terms both of defending themselves and of maintaining viable economies. In a word the cuts in the new bill simply go too far.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 576 THROUGH 581

At the request of Mr. ERVIN, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of amendments Nos. 576, 577, 578, 579, 580, and 581, to the bill (S. 2515) to further promote equal employment opportunities for American workers.

AMENDMENTS NOS. 622 THROUGH 627

At the request of Mr. ERVIN, the Senator from Utah (Mr. BENNETT) was added as a cosponsor of amendments Nos. 622, 623, 624, 625, 626, and 627, to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963 and related acts, and for other purposes.

NOTICE OF HEARING ON 10-YEAR RECORD OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. METCALF. Mr. President, a joint hearing to evaluate the 10-year record of the Advisory Commission on Intergovernmental Relations and to assess its future role is scheduled to be held on November 16, room 2154 of the Rayburn House Office Building, beginning at 10 a.m. The hearing will be conducted before the Senate and House Subcommittees on Intergovernmental Relations.

Persons interested in testifying or submitting statements for the record should contact the chief clerk of the Senate subcommittee, Mrs. Lucinda T. Dennis—telephone: 225-4718.

ADDITIONAL STATEMENTS

DEDICATION OF PERCIVAL STERN HALL, TULANE UNIVERSITY—ADDRESS BY DR. D. W. McELROY, DIRECTOR, NATIONAL SCIENCE FOUNDATION

Mr. ELLENDER. Mr. President, Dr. W. D. McElroy, Director of the National Science Foundation, was in New Orleans recently to dedicate Percival Stern Hall, a new science building on the campus of Tulane University. The new complex represents an investment of nearly $7 million and it houses the departments of biology, chemistry, physics, and psychology.

The National Science Foundation's recognition of Tulane as a center of scientific thought and research is evidenced by the fact that the university was the recipient of a $3,685,000 science development award in 1966 and was again honored with a supplemental award of $1,035,000 in May of this year.

With this kind of support from the Federal level and with the interest that has for many years been manifested by the institution's president, Dr. Herbert Longenecker, and its administration, alumni, and friends, I am certain that we can look to Tulane for continued leadership in what has become a world so dependent on science and research.

Dr. McElroy's remarks at the dedication ceremony for the new Tulane facility stressed that scientists must make clear the dynamic relationship between basic research and social progress. His thesis about the role of modern science and the necessity of impressing upon the common man the impact of science on his daily life is both interesting and thought provoking. I invite the attention of my fellow Senators to these remarks, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY W. D. MCELROY DIRECTOR, NATIONAL SCIENCE FOUNDATION DEDICATION OF PERCIVAL STERN HALL, TULANE UNIVERSITY, OCTOBER 8, 1971

SCIENCE AND MAN'S FUTURE

Members of the Tulane Board, Dr. Longenecker and other administrative officers of the University, members of the faculty, students, and alumni . . . and friends of Tulane . . . .

A visiting speaker is sometimes guilty of exaggeration when he describes in his opening remarks his happiness at being invited to some particular function. I can assure you, however, that today this expression of pleasure on my part is genuine.

Few things can be more rewarding for the Director of the National Science Foundation than to be able to take part in the dedication of a magnificent center for the sciences—especially when the Foundation was so intimately involved for so long in its development.

This is a magnificent building being dedicated today—

Spacious enough to enable the University to bring together under one roof its Departments of Biology, Chemistry, Physics and Psychology.

Arranged and equipped to provide ideal conditions for the mature and the neophyte scientist to work together in their pursuits of knowledge.

As magnificent as this structure is, I would like to believe that what Tulane is doing here today is not simply dedicating a building, but rededicating, or *reinforcing* a dedication to an idea, to a commitment, to a search for knowledge for the betterment of man.

I think "reinforcing" is the better term, because Tulane's long-term commitment is the reason this building stands here today.

And it is the reason, too, why I am here today.

For obviously I am here because of my position with NSF and because NSF clearly recognized Tulane's commitment. In May, 1966, NSF granted Tulane a $3,685,000 University Science Development Award. In May of this year, it granted the University a supplemental development award of $1,035,000.

A commitment of $4.7 million by NSF, I think you will agree, constitutes very clear reinforcement of Tulane's commitment.

These grants were not made as the result of application for funds to build new structures—though the major portion of Tulane's were used for construction and equipment—but rather to support a carefully considered academic program.

This and similar grants were made, rather, to institutions which already had relatively strong science programs and which demonstrated in their proposals that they could, with some assistance, develop into—and continue as—centers of high scientific quality. In Tulane's case, both grants included funds for your excellent Department of Mathematics, as well as for the four departments to be housed here.

This structure, then, is only the physical manifestation of Tulane's determination to be in the forefront and of NSF's recognition that it believes the University is capable of achieving its announced goals in the sciences.

This new science facility is the product of many forces and people working together.

This structure is a particular testimony to the critical importance of private gifts in the life of a private university. Without the great generosity of Percival Stern, of corporations, of private foundations, of alumni, and of a large number of Tulane's friends, this building would have never become a reality.

And while the financial assistance of so many was so vital, we cannot forget those individuals here at Tulane who worked diligently to improve the scientific capability of the University.

The first name that comes to mind is that of the late Joe Morris who, as a Tulane faculty member and administrative officer, served for years as a member of the National Science Board.

The second—and one more intimately involved with this particular building and with Tulane's recent scientific advance—is that of the late Fred Cagle. As the University's Coordinator of Research and later its Vice-president for Planning and Development, he nurtured and prepared Tulane's proposal to NSF for this award.

Dr. Longenecker's leadership and the support of the Tulane Board of Administrators are especially noteworthy in that they, thought faced with economic problems, decided to develop and strengthen Tulane's graduate science programs—a decision which, although costly, has proven to be a wise one when one considers how effective these programs have become. In terms of a recent rating by the American Council on Education, positive progress has been achieved within a specific period of time by each department covered by the award.

Because this building is also a symbol of how Tulane has communicated its needs and hopes to others, today it seems most appropriate to consider the topic of public understanding of science.

Let me outline some recent history to offer a historical perspective on the problem of interpreting science to the public. Before World War II, there was little incentive for the average citizen and scientist to communicate. But, as you know, the war precipitated a rapid rise in our national investment in science, which was later accelerated by the launching of Sputnik. Public interest in science rose concurrently with the increased investment. Today, thanks to this heightened level of public interest and investment, the United States is preeminent in scientific productivity and achievement. But it is increasingly clear, however, that interest and understanding do not necessarily go hand in hand.

The climate of public opinion has changed perceptibly since the mid-1960's, and one clear result of this change has been a greater need for people to understand where science is headed and what this will mean to them. The American citizen, living now in a post-industrial society, is increasingly aware of the impact of science and technology on the kind of world he lives in and the quality of his life. He feels change without completely understanding it. And yet seemingly he has little choice but to assimilate and tie it to his present problems and future aspirations. And to a few individuals, science is the tyranny of the modern age—more pervasive, more restrictive, and less human than political tyranny.

In his particular way, Ogden Nash perhaps anticipated these doubts in a long poem attacking progress—in which he noted in part:

"Somebody, bored with rural scenery,
Went to work and invented machinery,
While a couple of other mental giants
Got together
And thought up Science."

In addition to individual anxieties about science, there are governmental concerns, too. Because the Federal Government is the major financial supporter of scientific research, the size of the science budget and its relation to national goals has become a matter of growing Executive and Legislative inquiry.

It is my belief that the scientific community today is faced with a major new challenge: to justify scientific expenditures as a means for society to overcome some of its vexing problems. The key to an enlightened response to this challenge is deeper public understanding and greater public involvement in science policy issues.

Just as basic scientific research is the foundation of our technological strength, so an informed electorate is the foundation of our system of government. And most of us are now aware that a scientifically-knowledgeable electorate is increasingly critical to the future support of research.

The level of scientific literacy that served well just a few years ago no longer meets today's requirements. When science was remote, when its consequences in the form of new technology were assumed to be uniformly beneficial, a comparatively low level of scientific literacy was adequate. Now, such fields as ecology, genetics, and systems theory are tied to everyday problems and issues, and fairly sophisticated scientific literacy is called for in coping with such matters. But what should this higher level of scientific literacy provide?

—First, the new literacy should provide the citizen with an overview of science and a feel for the essential continuity of scientific change. When scientific ideas can be related to previous ideas and to related scientific facts and principles, science can be viewed as an evolutionary development rather

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than as a series of unpredictable and threatening bolts from the blue.

—Second, the new literacy should provide the citizen with an understanding about the scientist as a human being. How scientists think and work, the way in which the mosaic of science is pieced together, and what values scientists accept are important to an understanding of the scientific process.

Third, the new literacy should provide the citizen with help in assessing and using scientific information and thus absorbing it into the social fabric. When scientific experts disagree, the man in the street may tune them out. As long as the content of the dispute is purely scientific fact, it is the affair of the scientific community. But social concerns are involved when value judgments with scientific components—not simply questions of fact—are at stake. How clean is clean? How safe is safe? These are not purely scientific questions. Scientists may be able to tell us what the danger to organisms is as a result of different levels of radiation. But the decision as to an acceptable level of risk is a public decision, made by government. The layman needs help in sorting out fact from interpretation, and truth from cant.

In our effort to achieve a greater public understanding of science, what is the principal message that we want to carry to the citizens of this country? We live in a pragmatic age, an era in which people want to see results. Even the idealism of our young people is strongly interlaced with pragmatism.

So our most meaningful message is utility—the utility of science. Though in the past most scientists have never questioned the pursuit of new knowledge for its own sake, this philosophy is now open to question by the general public and by many scientists themselves. We must make clear the dynamic relationship between basic research and social progress. As a biologist, let me draw on some examples from my own discipline.

For the scientist, it is an article of faith that wherever good biology is practiced—or taught—benefits will accrue to society. It is an article of faith, but the past—over and over again—has proved that faith to be justified. In biological research, of course, social utility most often means medical progress. Examples of basic research in biology that have led to improvements in medical treatment are abundant. Let me cite just a few from the broad sweep of biological research. Because the examples are well-known to the biologists and medical scientists in the audience, I will not dwell on the details.

First, vaccines to prevent poliomyelitis were made possible because of the extensive fundamental research in virology and in developing tissue culture techniques.

Studies in nucleic acid metabolism have advanced to the stage where the development of immuno-suppressants for successful implantation of organs and tissues seems likely.

Research into the metabolism of biogenic amines in the brain—epenephrine and the catechol amines—have led to the synthesis of many valuable drugs now used for the treatment of mental illnesses.

Fundamental research into the physiological and biochemical changes that occur in diabetes has vastly improved therapy in diabetic acidosis.

Finally, to note a very recent example: The discovery that iodoxuridine inhibits the reproduction of viruses containing DNA has led to successful trials of that compound as treatment for viral infections of the eye, and it may prove effective in treatment of other viral diseases, such as viral meningitis and smallpox.

I do not mean, by these examples, to give undue credit to biology. It is well to remember that many different fields of research have contributed to the revolution taking place in medical science during the past two decades.

I am highly optimistic that we can make our message of science's utility better understood to most citizens. Despite those latter-day Luddites who would negate science and its accomplishments, I view wisely-utilized science as man's principal tool of survival in an ever more complex and heavily-populated world.

And because science—and its derivative technology—is so vital to our future, those who work in this and similar buildings accept a special responsibility to examine the purpose and the results of their labors, a responsibility which, if fulfilled, will better enable man to live in harmony and peace with his fellow-man and his environment.

For permitting me to be a part of this important day in Tulane history, I thank you.

HOUSE VOTE ON SCHOOL PRAYER AMENDMENT

Mr. SCHWEIKER. Mr. President, I was deeply disappointed to learn of the vote Monday in which the House defeated House Joint Resolution 191, the constitutional amendment to allow prayer in public schools.

Because of the vast number of Americans who support the school prayer amendment, particularly in Pennsylvania, I think we in the Senate should revive the bill and bring it to a vote.

The amendment simply allows brief observances of nondenominational prayer or meditation in public schools. It does not violate the first amendment language prohibiting an establishment of religion.

Many government meetings and functions are begun with prayer. Chaplains and representatives of organized religions participate in many governmental activities. And in none of these examples is the first amendment violated.

Our Nation was first settled in the name of religious freedom and diversity. The prayer amendment is being urged by the people of the country in the same spirit of religious freedom.

A nondenominational prayer can be an important part of the overall educational climate to those communities that desire it. It does not teach any one religion, but can help instill a sense of respect for forces greater than the individual, whether these forces are considered to be religious or social.

I am deeply concerned with the moral degeneration in society today. Respect for other persons, respect for individual integrity, and respect for our institutions has diminished. I disagree with the Supreme Court decisions barring any prayer observances in our schools. My mail, and my travels throughout Pennsylvania, convince me that the majority of Pennsylvanians also disagree with these opinions. Therefore, it is proper for us to amend the Constitution to restore the rights of prayer to our citizens, and I urge swift action and eventual approval of the amendment by the Senate.

CONSUMER NEWSWEEK

Mr. MOSS. Mr. President, a new publication with important consumer information is now available. Published by Consumer News, Inc., and a successor to the biweekly U.S. Consumer, Consumer Newsweek is a newsletter, filled with Washington-type information useful for consumers and consumer organizations throughout the country.

The publisher of Consumer Newsweek is Arthur Rowse, formerly staff director of the President's Committee on Consumer Interests; the editor is Thomas De Baggio, a veteran reporter; and the director of syndicated services is Howard Frazier, past president of the Consumer Federation of America.

The October 18 issue contains a feature story concerning the Federal Trade Commission's advertising impact hearings which began on October 20 and will continue through November. The gist of the story is that the Commission hearings will be dominated with advertising industry presentations. I realize that industry participation will be the keystone of successful hearings for the Commission; however, the inference that strong pressures were put on the agency, documented in a confidential report, certainly does add some intrigue to the Commission's hearings.

The Consumer Subcommittee of the Committee on Commerce, which is considering several advertising bills, looks forward to the conclusions and inferences which can be drawn from the hearings upon their completion. We will try to build our legislation using the Commission's efforts as a platform from which to further investigate.

I recommend Consumer Newsweek to the Senate, and ask unanimous consent that the article, entitled "FTC Ad Hearings Tailored to Industry Wishes," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FTC AD HEARINGS TAILORED TO INDUSTRY WISHES

Madison Avenue is set to dominate the Federal Trade Commission hearings on advertising's impact beginning here on Wednesday (Oct. 20). Elaborate industry planning and many advance contacts with FTC officials have wrung concessions unprecedented for such affairs.

A confidential report circulated among industry leaders reveals that strong pressures were put on the agency, resulting in an unusually heavy schedule of industry spokesmen, timing designed to offset critics for headline purposes, and auxiliary hoopla that threaten to turn the whole affair into little more than a government-sanctioned commercial for the advertising business.

The secret memo discloses that the principal industry planning was done by a joint committee of officials from the Association of National Advertisers and the American Association of Advertising Agencies. *A nationwide public relations and advertising campaign has been planned to coincide with industry testimony.*

Admen got the FTC to allot 4½ days of hearings to what the industry calls a "first class" pitch. This is more than one-fourth of the total scheduled time. "Rebuttal" testimony by industry spokesmen has also been arranged to match critical comments in time for news deadlines, according to an article in Advertising Age, a trade publication.

In addition, FTC reportedly agreed to rule out any discussion of advertising's influence on industrial concentration, a burning issue at the agency and elsewhere. Agency staff aides had suggested the expanded topic but were overruled by higher officials.

To the admen's delight, the FTC has decided to focus on getting "empirical information." FTC Chairman Miles Kirkpatrick told a Senate committee Oct. 4 that he was already willing to conclude "that in many instances, scientifically sound information does not yet exist and must await further research."

In recent months, the industry has become deeply worried over the increasingly tough stance of the FTC. Their main concerns are the FTC demands for documentation of questionable claims and orders that false statements be corrected in future advertisements.

Admen fear the possibility of further industry-wide regulation. In his confidential memo, ANA President Peter W. Allport emphasizes this theme . . . He deplores what he sees as an FTC staff view "that advertising's only economic and social justification is to provide 'information' from which consumers can make 'rational purchasing decision.'" Industry leaders obviously see the hearings as a vehicle to improve government and public understanding of advertising.

Also worrying admen is growing evidence of a sharp decline in advertising credibility. A survey reported in the Harvard Business Review indicated that two-thirds of U.S. executives do not feel ads present a true picture of products and services.

Recent formation of National Advertising Review Board, a self-policing scheme, was in response to growing criticism and demands for industry action.

The first of 24 industry witnesses before the FTC will be C. W. Cook, chairman of General Foods Corp., itself a recent target of an FTC complaint of deceptive advertising. Other industry spokesmen will be John Crichton, president of the American Association of Advertising Agencies; Andrew Heiskell, board chairman of Time Inc.; Herbert E. Krugman, public opinion research manager for General Electric Co., and Norman Cousins, editor of the Saturday Review.

In another response to industry requests, the FTC has agreed to sit through them as a full commission *with at least three commissioners always present.* Ordinarily for such hearings, the job of presiding is delegated to a staff official such as a department head.

All but one hearing will begin at 10 a.m. in FTC room 532, with extra rooms held for public and press overflow . . . Dates are Oct. 20, 21, 22, 26, 28, 29, Nov. 1, 4, 5, 8, 10, 11, 12, 15 and 17. The morning session on Oct. 22 will be at 3620 S. 27th Street, Arlington, Va.

DOCUMENTATION OF AUTO CLAIMS MADE PUBLIC

Automakers have responded to an FTC demand for substantiation of advertising claims with 1,171 pages of documents . . . *They are available for public inspection* in room 551 of the FTC building here.

Here again, FTC officials have soft-pedaled agency action with Chairman Kirkpatrick assuring manufacturers that the demand for substantiation *"is not intended to cast any doubt upon the continued propriety of 'puffing' in advertising."*

Documentation of claims by makers of air conditioners and electric razors are now coming in to the FTC and will also be opened up to the public. On Oct. 14, the agency said it had made the same demands to television set manufacturers.

CONFIRMATION OF SUPREME COURT NOMINATIONS

Mr. BAYH. Mr. President, Hon. Nicholas de B. Katzenbach, the distinguished former Attorney General and Assistant Secretary of State, wrote a perceptive article entitled "The Roles of the Executive and Legislative Branches in Judicial Appointments," which was published in the New York Law Journal of November 3, 1971. I commend the article to the Senate, for soon we shall all be confronted with the question whether to advise and consent to President Nixon's latest nominations, namely, of Lewis Powell and William Rehnquist.

Mr. Katzenbach explores the different role the Senate plays as a practical matter when Supreme Court, rather than lower court, nominees are presented. He also asturely points out that—

Whatever kind of legal constructionist or reconstructionist a justice is, he cannot avoid the political consequences of profound political questions.

For this reason, the personal and political philosophy of the nominee is of utmost importance to the Senate. This is especially true, as Mr. Katzenbach points out, when the President himself challenges "the Senate to give or refuse its advice or consent to his judicial philosophy as he sees it embodied in his nominations."

Mr. President, I ask unanimous consent that the article by Mr. Katzenbach be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ROLES OF EXECUTIVE AND LEGISLATIVE BRANCHES IN JUDICIAL APPOINTMENTS

(By Nicholas de B. Katzenbach)

Section 2 of Article II of the Constitution provides that the President "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . . Judges of the Supreme Court . . . and all other officers of the United States," including federal judges. There can be no question from the language of the Constitution, or the history of Article II, that the power of the President to "nominate" is absolute and unfettered. He only needs the "Advice and Consent" of the Senate to "appoint." But he cannot "appoint" without it.

Alexander Hamilton stated ("Federalist Papers," Beard ed. 1948, No. 66, p. 282) that:

"It will be the office of the President to *nominate*, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of *choice* on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves *choose*—they can only ratify or reject the choice of the President."

POLITICAL FACTORS

Nobody, I believe, argues with that reading of the Constitution. That the nominating and appointing power was placed in the President was explained by Hamilton on the ground that the President was less likely to have political debts, personal attachments or trading inclinations which might result in bad appointments.

But, as Mr. Justice Byron White once remarked, it is difficult to take the politics out of politics. Political considerations did indeed crop up when the first Senate rejected President Washington's nomination of Benjamin Fishbourn to be the naval officer for the Port of Savannah as a courtesy to the two Senators from Georgia who had a nominee of their own. Thereupon, President Washington nominated the Senators' candidate who was promptly confirmed.

"Senatorial courtesy" has been with us ever since, to the frustration of many Presidents and probably to the occasional and perhaps considerable detriment of professional quality. Despite the clear language of the Constitution, Senators of the same party as the President do in fact "nominate" officers of the United States who serve in their own state—judges, U.S. Attorneys, Marshals, Postmasters (until recently)—and it is the President who gives his "Advice and Consent" by formalizing the nomination.

HISTORICAL POINT

I make this historical point because I regard it as important to understanding how the judicial appointment process really works. I would like to describe that process as it has operated in recent years and, I believe, operates today.

Where there is a Senator of the same party as the President it is he who in fact nominates federal District Court judges in his state. (If there are two Senators of the same party, they will either jointly make their recommendation, or will have worked out the particular nomination among themselves—whose "turn" it is.) The President, through the Attorney General or his deputy, may make suggestions to the Senator, and he will try to get as many names of acceptable appointees as he can so that his choice and role is enlarged.

Sometimes he succeeds; more often the Senator knows exactly who it is he wants. The President can refuse to nominate that person and his reasons may be sufficiently persuasive to elicit another "nomination." If they are not, a statemate ordinarly ensues and the post remains vacant. If the vacancy endures, the Senator is put under some pressure from local lawyers and perhaps local politicians. He is also a pretty irritated fellow.

As President Polk observed in his diary:

FLY INTO PASSION

Indeed many members of Congress assume that they have the right to make appointments, particularly in their own states, and they often . . . fly into a passion when their wishes are not gratified. . . ." That is also my experience.

Now the President can, of course, submit his own nominee. If the Senator is opposed, he can defeat that nomination by invoking senatorial courtesy. Indeed, the nomination hearing will likely never take place since the Senator will not submit his no objection "blue slip" and neither the chairman of the Judiciary Committee nor its members will have a hearing without it. If the nominee is one who, for political reasons, the Senator cannot afford to oppose, the President will prevail. The political cost will be considerable; not one angry Senator, but many; he has broken the traditional rules on which all Senators in a non-partisan fashion agree. And serious problems on future nominations. Confrontation politics is seldom good politics—or good government—from the Presidential perspective.

All Senators are interested in preserving this system. Because they are interested in the process—not the nominee—they rarely exercise any independent judgment in the confirmation process. The nominee's sins or lack of qualifications have to be extraordinarily grievous (perhaps a known racist background) to defeat confirmation. Senators must feel that their vote for confirmation will not politically embarrass *them* at home, and this virtually never occurs. Who judges in Arkansas is not important to the citizens of Massachusetts.

Where there is no senator of the President's party, the President has a relatively free hand. He will probably consult political leaders of the state involved—efforts of the House to substitute for the Senate have never succeeded—and the President exercises a pretty free judgment in his own, or his party's interest.

POLITICS A FACTOR

Senators may or may not feel that they have a stake in the quality of the federal judiciary; some do and some don't. Political considerations are often overriding, just as the Founding Fathers feared. The President (in part freed from political considerations precisely because the political mileage on such appointments is claimed by the senator) has an interest in the professional qual-

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ifications of the federal judiciary, and the Attorney General has an interest in the respect of his peer group, the organized Bar, who are occasionally useful for other purposes.

Out of these concerns, an alliance with the American Bar Association was entered into under President Eisenhower and followed by his successors in office whereby a special committee was formed to determine the professional qualifications of Judicial candidates. That committee was enjoined to act only on names submitted by the Attorney General and no one else; to initiate no recommendations individually or collectively to the Attorney General or anyone else; to be rigorously nonpolitical; to operate secretly and to keep in strict confidence its investigation; to pass only on the professional qualifications of the candidate; and to reveal their judgment only to the Attorney General unless the candidate was in fact nominated by the President.

I have not always agreed with conclusions of the ABA committee but I have every reason to believe it has strictly adhered to its defined role to the best of its ability. (There have been very few "leaks" to the press, despite the usual temptations.) The gentlemen appointed to it are distinguished lawyers well above partisan politics and the politics of local Bar associations. They believe, as I do, that the Bar has a stake in fostering professional competence and I have no doubt that the quality of the federal district Bench and courts of appeal has been improved as a result of their efforts.

The purpose of this alliance between the Attorney General and the ABA was, of course, to strengthen the hand of the President in securing professional qualified appointees to the Bench, primarily to the District Court. When—and only when—the President submits a nomination, the committee publicly informs the chairman of the Senate Judiciary Committee whether or not the candidate is "qualified," "well qualified," "exceptionally well qualified"—or not qualified." But the system does not really depend upon this public statement; it gives the Attorney General an objective reason for refusing to recommend a nomination to the President. If the President nominates a candidate who is 'not qualified" it is he who pays a political price as much as the senator. The more he publicly commits himself to the ABA process, the more stake he can plausibly claim in refusing to go along with an "unqualified" candidate.

A NEW FACTOR

The point, of course, is not the political power of the ABA. The Senate has little hesitation in confirming unqualified candidates. (Judge Morrissey is no exception; his difficulties stemmed from his lack of candor, not hiz lack of qualifications.) The point is that the President has introduced a new factor into the system which gives him an apparent political stake in the appointment of professionally competent judges—a fact senators do not welcome but cannot influence. Senatorial courtesy remains as potent as ever—but at a higher level of professional competence.

What is true of District Court judges is also, but less acutely, true of Circuit Court judges. It is less acute because a Circuit Court covers more than a single state, and so the President has a little more maneuvering room in making his nomination. The nomination may come from any one of from three to six states, and he can to a degree conquer and divide the politically relevant senators. He does not have to nominate the Mississippi senator's choice if the senator for Florida or Texas has a better candidate. More often than not the appropriate senators wish to promote "their" District Court judge to the Circuit Court, thus giving them a double (or, if their District Court candidate is the U.S. Attorney, a triple) parley. This essentially political process is thought of as a merit "promotion."

The President may or may not have much freedom of action. He is constrained by the fact that the courts of appeal should have some "Balance" geographically in the eyes of the Bar and the Senators, who feel—often by mutual agreement—that it is a particular state's "seat" on any given occasion. But these practices are sufficiently imprecise to permit the President some leeway—and even more "bluff"—and his freedom is increased by the fact that it is very nearly as impossible for a senator to find a sitting District Court Judge "personally obnoxious" as it is for the ABA to find him "not qualified." Within a pretty narrow field of choice, the President, not the senator, can "nominate."

CONFIRMATION SURE

Normally—almost without exception—the President's nomination will, as in the case of the District Court, be uncritically confirmed. The Senate's focus of attention remains upon the process, not the candidate. The senator from whose state the candidate comes will not object, and the senators who thought the "nomination" was theirs have no customary standing to object. Once again all senators have a stake in preserving the prerogatives of senatorial courtesy, but rarely does it arise. Again, they have little political stake in terms of their constituency.

Now let us come to the Supreme Court of the United States, and let us approach it in the same essentially political terms. No senator feels that in any sense whatsoever is this "his" nomination. If he makes suggestions to the President he does so deferentially and without claim of right. At long last the Constitution does operate. The President has a free hand to "nominate"; the Senate has no institutional stake in its own political processes other than that prescribed in the Constitution, to either give or deny its "advice and consent." It can, without destroying any senatorial or presidential prerogative, do so totally on the merits of the candidate, although members of the President's party will feel the normal pressures to support him. The ABA feels it has a role to pass on the candidate's "professional qualifications." Perhaps it should, but the President whose hand is at long last freed no longer cares much about the ABA he was, after all, in fact tying the hands of the senators before, not his own. It is now a new ball game.

COMPETENCE IMPORTANT

It is, of course, important that the justices of the Supreme Court be professionally competent. But as President Nixon has said professional competence is not a sufficient qualification. As a nation we are concerned, as the President candidly acknowledges, with other considerations. And the reason we are is that the Supreme Court in our political system cannot and does not play a neutral political role. It claims—and nobody challenges—a role as the ultimate voice in interpreting the Constitution. It cannot, even if it would, avoid making decisions with extraordinary political consequences.

To take only one example, the *Brown* case: The Supreme Court was faced with the issue of whether or not racially segregated schooling was constitutional. However, it had decided that case—with whatever professional competence or scholarship—the result was unavoidably profoundly political. Whatever kind of legal constructionist or reconstructionist a justice is, he cannot avoid the political consequences of profound political questions. Another example: The apportionment cases. Can one say that how the Congress and the state legislatures are apportioned for election purposes does not have political consequences, whether or not the court invokes a Constitutional standard? One can say this is none of the court's business: political consequence "A," or it is: political consequence "B." But there is no such thing as political neutrality.

NIXON POSITION

President Nixon deserves more credit than he is likely to receive—or even want—in candidly recognizing this political function and challenging the Senate to give or refuse its advice or consent to his judicial philosophy as he sees it embodied in his nominations. He recognizes, as should the Senate, that qualities in addition to professional competence are what is important. He has made his nominations squarely on those grounds. He seeks the advice and consent of the Senate squarely on those grounds. By nominating clearly professionally able lawyers he has wisely avoided questions of "professional competence"—the role of the ABA is thus irrelevant.

(Were there a question, it would, of course, be relevant. But we are not trying to put a floor under professional standards as the President quite properly is in appointments to lower courts where the issue is both relevant and material. We are talking about the Supreme Court of the United States, where professional qualification is a necessary but not sufficient condition.) He seeks endorsement of his nominees on the basis not of professional competence, but of judicial philosophy.

My point is simple. Neither the Senate nor the ABA should be confused about their function. The ABA should not be offended that its committee was not consulted. Any President (or Attorney General) who has doubts as to the professional qualifications of a nominee for the Supreme Court of the United States is not for real. He knows. He does not need the ABA to tell him—or any senator. Nor does the Senate. Of course, the ABA should give its opinion. But that opinion will not be decisive; nor should it.

PRESIDENTIAL CHOICE

In the case of a Supreme Court appointment the Senate—each senator—should give or refuse to give advice and consent. No senator has a political stake in patronage or senatorial prerogative. There is nothing in reason or logic or history or precedent—or the Constitution—which requires him to vote yea or nea. He is not protecting his office or his institution. He is joining with the President—or not joining—in the choice of a member of an equal and coordinate branch of government. He must accept the fact that this—and other—choices are those of the President, not the Senate. Is this nominee better than a hypothetical and confirmable next one? But—unlike most other appointments—that is the only constraint upon each senator's judgment.

I think the President is to be congratulated on making so clear the basis for his nominations. I hope the Senate will meet in good faith and good conscience its constitutional obligation as the Founding Fathers intended. Because senators have moulded the Constitution more to their liking in the appointment of lower court judges is no reason to give the President a free hand where the Supreme Court is concerned. The Constitution is clear in both circumstances. But there is no constitutional or political reason why any senator must accept the President's judgment. Whether he chooses to give or not give his advice and consent is his decision—and he is answerable only to his conscience and constituents who may have views.

One final point. Supreme Court nominees are usually men of obvious professional capacity and intelligent distinction, whatever their judicial or political philosophy. A single appointment by a President is unlikely to affect the institution for any considerable period of time, obviously since the court thrives on diversity of view and approach. When a President by chance is able to make several appointments this fact is no longer present, and the possibility of changing the institution for many years beyond the President's term of office is raised. In such circumstances the Senate's obligation to advice and consent is no mere formality, but a judgment or crucial importance to the judicial branch of government.

HUMAN GUINEA PIGS

Mr. McINTYRE. Mr. President, we are all deeply concerned about cancer. And we are actively committed to searching for ways to combat it. But I feel we are overlooking a large source of the problem: drugs on the market which have been inadequately screened for cancer-producing potential.

I invite the attention of Senators to an excellent article entitled "The Guinea Pigs," published in the Washington Post of October 24. Written by Morton Mintz and Tim O'Brien, the article takes a hard look at drug testing on humans and finds the situation appalling.

In numerous cases, they say, cancer has developed in animals after tests have been made on humans. For this alarming development, the article blames Food and Drug Administration regulations and the drug companies.

According to FDA regulations, the article states, a new drug may be administered to humans for up to 2 weeks as soon as 2 weeks of animals testing have been completed. Further animal testing extends the time allowed for testing the drug on humans. Mr. Mintz and Mr. O'Brien charge in their article that this has led to animal testing being conducted "on the side as a facade" while serious testing on humans continues.

The damage this can cause is obvious. While it is true that proof a drug being cancer-producing is hard to obtain, due to the time needed for conclusive evidence, 2 weeks of animal testing hardly seems adequate. In light of our fight against cancer, this laxness is shocking.

The drug protection bill S. 2812 I have cosponsored with the distinguished Senator from Wisconsin (Mr. NELSON) attempts to rectify this situation. The bill contains a provision prohibiting testing on humans until the Food and Drug Administration affirmatively approves it.

Because I believe that Senators will be interested in this excellent article, as well as in the short case history of a drug which accompanied it, I ask unanimous consent that both articles be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

THE GUINEA PIGS—NOBODY KNOWS IF DRUGS TESTED ON HUMANS WILL CAUSE CANCER

(By Morton Mintz and Tim O'Brien)

Pharmaceutical manufacturers are testing potent new medicines in thousands of humans every year even before they complete experiments designed to show if the same chemicals may cause cancer in laboratory animals.

In numerous cases, cancer has developed in animals after tests. The Food and Drug Administration has publicly disclosed only one such case, that of MK-665 compound—an experimental birth control pill given to more than 400 women and belatedly reported in January, 1966, to have caused cancer in the breasts of beagles.

All told, more than 1,000 chemical substances, out of some 20,000 in our environment, have been shown to be carcinogenic—cancer-producing—in animals. And several individual chemicals or mixtures among them have also been conclusively to produce cancer in men.

Many cancer specialists apply a rule of thumb: If a chemical is reliably and definitely carcinogenic in one or two species of animal, it is very likely to be similarly active in other species—including humans.

But proof that a substance produces cancer in humans is hard to obtain. This is because such a substance takes approximately 10 years—and sometimes as much as 30 years—to bring a human cancer to the point of development where it can be detected.

Bladder cancer, for instance may be present for 20 or even 30 years before it is detected. Thus we will not know for a long, long time whether cyclamates, the synthetic sweeteners found in 1969 to be causing bladder cancer in rats, also cause it in humans.

Most always, companies experimenting in humans while animal tests are still under way are complying fully with FDA's regulations. The FDA's General Guidelines for Animal Toxicity Studies require a company starting human testing to notify the agency that it is doing so, but neither to have first completed animal testing nor first to have obtained approval before moving to humans.

The regulations permit a drug that has been used in animals for two weeks to be administered to humans, sick or well, for up to two weeks (the regulations do not apply to estrogen, progestogen and the oral contraceptives, which in every case contain these synthetic hormones).

After four weeks' use in animals, the rules permit an experimental drug to be used in humans, sick or well, for up to three months; and after a medicine has been tried in two species of animals for three months, a manufacturer is free to give it to humans for an unlimited period of time.

What all of this adds up to, one disillusioned FDA scientist told a reporter, is that "the drug companies, with the collaboration and collusion of the FDA, are really doing their experimentation, with new drugs on humans while simultaneously carrying on limited and minimal animal studies on the side as a facade. That is it, pure and simple."

NINE-TENTHS OF CANCERS

In the view of leading scientists, no amount of a subetance that is carcinogenic in animals should be presumed safe in humans. Last January, for example, Dr. David Rall of the National Institute of Environmental Health Sciences said that it is "essentially impossible to suggest a safe dose in humans of a chemical that is carcinogenic in animals."

That view is consistent with the 1958 legislation, sponsored by Rep. James J. Delaney (D-N.Y.), which forbids the use of any food additive that has been demonstrated to cause cancer in either animals or man.

And that view is consistent, too, with an appeal made last winter by the Surgeon General of the Public Health Service, Dr. Jesse L. Steinfeld. Calling for controls on production of all known carcinogens that man has introduced into the environment, he said exceptions should be limited to substances offering "a well-defined health benefit" that "outweighs their risk."

Chemicals cause the great bulk of cancers in man; viruses and radiation together cause possibly only 10 per cent of them.

Chemical carcinogens have been shown to act by inhalation (cigarette smoking alone is blamed for most of the 68,000 deaths a year from cancers of the respiratory system), by ingestion (the foods, beverages, drugs, additives and other chemicals we take in are believed responsible for possibly most of the 45,000 fatal cancers in the intestinal tract), by surface contact with the skin and mucous tissues, and occasionally by injection or implantation.

The risks and the difficulty of control are illustrated in a hypothetical example offered by Dr. Umberto Saffiotti, an associate scientific director of the National Cancer Institute, in testimony last April before the Senate Subcommittee on Executive Reorganization and Government Research.

Suppose, he said, that thalidomide, instead of producing deformities which were obvious at birth, had produced a form of cancer which would not become manifest until adulthood.

"The lethal effects of the drug would probably still be undetected, women would possibly still be taking it during their pregnancy, and a large number of people would have been born with a built-in sentence to early death by cancer," he said.

While a chemically induced cancer escapes detection for possibly two decades or longer, it can be administered "under the false appearances of harmlessness," Dr. Saffiotti warned.

"If the effect is then detected and properly attributed to the specific chemical, and this is then removed from the environment, the cancers it induced will continue to appear for the next 20 to 30 years," he testified.

POTENTIALLY PREVENTABLE

Rather than seeing all of this as a cause of despair, Saffiotti expresses a view held by many cancer experts: "The majority of human cancers are potentially preventable."

The work of preventing cancer, he has suggested, can be sensibly concentrated on the "maybe just a few dozen" new environmental chemicals that, on testing, will be shown to be carcinogenic in humans.

In most cases, Saffiotti told the Senate Subcommittee, pursuit of such proof requires "extremely complex and lengthy epidemiological studies."

And in some cases, he continued, such proof actually may be "impossible to obtain . . . because of the complexity of controls that would be needed for a satisfactory demonstration."

The birth-control pills illustrate the problem. The steroid substances they contain have caused cancer in five species of laboratory animals. Millions of women, in an uncontrolled mass experiment, take them daily (and more millions have taken them and given them up, for one or another reason).

Yet controlled studies to determine if the pills do—or do not—cause, say, breast cancer have not been done. Such studies would have to enlist tens of thousands of women for approximately a decade.

In 1969, the FDA's expert outside advisers on contraception issued a report saying that "the major unsolved question" about the pill is their relation to the induction of cancer. Consequently—nine years after the FDA pronounced the pioneer pill safe and let it go on sale—the advisers were pleading that well designed studies be initiated "to elucidate or eliminate" the relation between such products and cancer of the breast and uterus.

For Dr. Saffiotti, among other experts concerned with the whole range of cancer problems, the "only prudent course of action at the present state of knowledge is to assume that chemicals which are carcinogenic in animals could also be such in man, although the direct demonstration in man is lacking."

Another prudent course, emphasized by scientists including Sir John Eccles of the State University of New York, is to exploit our ever greater proficiency in conducting animal carcinogenicity tests meaningful to man.

"... there will be progressively less necessity for human experimentation," Eccles said. "We must plan to minimize human experimentation and maximum animal experimentation, and we must define quite rigorously the conditions under which human experimentation can be carried out."

This was one of the major goals of the Kefauver-Harris amendments to the drug laws, which Congress, suddenly motivated by the thalidomide episode, enacted in 1962,

in hopes of averting any future drug catastrophes.

With this mandate, the FDA, in January, 1963, adopted implementing regulations. Their high purpose, as expressed by the Department of Health, Education, and Welfare, was "to eliminate all unnecessary risk to the public that may attend the development of new drugs and to impose only necessary restrictions on the conduct of investigational drug research."

For about three years, so far as the public and most of the medical profession were aware, the regulations were working well.

THE MK–665 CASE

But in early 1966, serious doubts surfaced. First came the case of MK–665 compound, the experimental birth control pill, that led then FDA Commissioner James L. Goddard to make the one and only agency announcement that an investigational drug used in human beings had caused cancer in animals.

On Jan. 21, 1966, Merck & Co. had notified the FDA of the finding of breast cancer in beagles that were sacrificed after receiving large doses of MK–665 compound for 12 months.

An "alarming finding," William W. Goodrich, then FDA's general counsel, called this in hearings on the case held by the House Intergovernmental Relations subcommittee in March, 1966. And, he testified, such a finding must, under the regulations, be reported to the agency "immediately."

Merck scientists had sacrificed the dogs on July 30, 1965, but did not make microscopic examinations of tissue sections until four months later—a precedent of sorts for the Triflocin case detailed in the accompanying article.

Explaining the delay, the firm said the findings from another group of dogs sacrificed in February, 1965, had been negative, and that the tissues from the July group had become available during an inconvenient period, vacation time.

If reasons of this sort can immunize a company from the requirement to report "alarming findings" at once, W. Donald Gray, then a subcommittee investigator, told Goodrich, "a company could do animal studies and not make final tissue examinations and reports for years."

The FDA did refer the case to the Justice Department for a possible criminal prosecution, but the department declined to act.

In November, 1965, while the July tissues still were awaiting evaluation, Merck had notified the FDA that it was beginning large-scale testing in women.

The notification—legally, an application to be exempted from the requirements that any drug in interstate commerce be demonstrated to be safe and effective—cited the negative February results of six months' testing. The July results, covering a full year, not having been analyzed, were ignored.

On Dec. 9, 1965, however, the July tissues were analyzed and cancer was found. Merck "should have reported the results . . . immediately," but, instead, was "getting in touch with their consultants," Goodrich testified.

Not until 43 days later did the company notify the FDA. "That was a violation," the counsel told the subcommittee. Merck said it had acted "responsibly and as promptly as warranted." Soon after receiving the notification, then Commissioner Goddard announced the cancer finding at a press conference.

Merck said it had halted testing in 340 women who had been receiving the experimental birth control pills from authorized medical investigators, and in 127 others who had been getting MK–665 from two other investigators who had not been cleared by Merck.

THE NEEDED REFORMS

At the time, the FDA said Merck had initiated a program of followups for the 340 women who had gotten MK–665 through proper channels.

But in replying to a recent inquiry, the FDA said that while no adverse effects in the users had been found, Merck had "lost track of many of the women." In addition, some of the follow-up tests were "inconclusive" because the women took other oral contraceptives abandoning MK–665, the spokesman said. He added that the whole matter has been referred to an FDA advisory committee.

In a follow-up of its own, the FDA ordered manufacturers of all of the marketed oral contraceptives to undertake studies of up to seven years' duration in monkeys, the species closest to man, as well as in dogs. Each of the pills contain synthetic estrogen, which, under certain conditions, can be carcinogenic.

Yet the FDA has demanded no counterpart of the monkey-beagle tests for numerous non-hormonal medicines, many of which have not been shown to provide a therapeutic advance that outweighs their hazards.

The House subcommittee also investigated the case of DMSO, an industrial solvent built by almost hysterical publicity into a "wonder drug" useful for most any affliction from arthritis to headaches. One of the distressing revelations was that several drug firms had failed to report adverse (though non-cancerous) reactions in animals, and that the FDA had failed to enforce its own experimental drug rules.

The subcommittee hearings, led by Chairman L. H. Fountain (D-N.C.), prodded the FDA to make some improvements in its investigational drug regulations, but fundamental deficiencies nonetheless went uncorrected.

The needed reforms are, in some areas, obvious: tougher regulations to implement the law, and tougher enforcement of those regulations; more congressional oversight of the FDA, and the use of substitutes for carcinogens (which is often possible), or the outright abandonment of such chemicals unless there are truly compelling justifications to use them.

A larger question arises from the legislation approved by the Senate to create a Conquest of Cancer Agency, finance it generously, and have it report directly to the President—an idea to which Mr. Nixon and the American Cancer Society attach importance.

The question is, can the conquest be achieved so long as the FDA does not routinely require that drugs be adequately screened for cancer-producing potential, and so long as it permits drugs that are carcinogenic in animals to be administered to humans?

TRIFLOCIN: CASE HISTORY OF A DRUG

(By Morton Mintz and Tim O'Brien)

In February, 1968, Lederle Laboratories, the pharmaceutical division of American Cyanamid Co., began experimenting with a medicine that rids the body of excess fluids.

Such products are called diuretics. Approximately two dozen of them long have been available to physicians.

Lederle says that Triflocin held promise of offering special advantages over rival products.

At the Food and Drug Administration, however, some scientists say that the diuretic market is saturated. "We need another diuretic like a hole in the head," one FDA scientist said.

Initially, Lederle administered Triflocin to rats and dogs. Some time after that—both the company and the FDA are vague about precisely when—medical investigators working with Lederle began administering Triflocin to human beings here and abroad.

The number of patients is uncertain. The FDA says it was "about 205," but Lederle says it was 253. The FDA says that "at least 63 non-Americans" got Triflocin; Lederle says that "98 foreign humans" were involved in the Triflocin studies.

The date when human beings began to take Triflocin has not been disclosed, but FDA regulations for "INDs"—investigational new drugs—permit clinical trials to begin after animals have received them for two weeks.

In September, 1969, some of the first rats given Triflocin were killed and autopsies performed.

In the urinary bladders of some of the rats, the FDA said, Lederle found "abnormalities." The company, replying to written questions from The Washington Post, said that it detected no cancerous tumors at that time, but neither it nor the FDA disclosed exactly what the "abnormalities" were.

According to the account Lederle gave the newspaper, the next important development came when dogs given Triflocin experienced kidney effects "unrelated to cancer." On the basis of these findings, the letter said, Lederle on Jan. 22, 1970, instructed Triflocin investigators to discontinue human trials.

The FDA made no mention of the January development and, indeed, there are signs it did not know of it.

After the rat studies disclosed unspecified "abnormalities" the obvious next step was to examine the animal tissues under a microscope to find out if the "abnormalities" were cancers. This process takes two weeks to a month, according to FDA scientists.

But the microscopic examination actually were not completed for seven months, and during this time Triflocin was being administered to human beings. The possibility that the "abnormalities" were cancers not having been excluded, the delay was "inexcusable," one FDA scientist said.

The precise date Lederle gave the FDA for completion of the microscopic examinations was April 15, 1970. At that time, Lederle said, four out of 13 rats had developed cancer 18 months after being treated with Triflocin; seven out of 12 got the disease after 22 months. In all, 11 out of 24 became cancerous. None of the control rats—those not given the drug—developed cancer.

Lederle reported these findings to the FDA not by phone or with some other sign of urgency, but in a letter dated April 27, 1970, or 12 days later.

"During routine evaluation of slides from our chronic toxicity study in rats, we discovered changes in the urinary bladder which appear to be drug related," Lederle told Dr. Henry E. Simmons, director of the FDA's Bureau of Drugs.

Because the "changes" were cancers, "We immediately discontinued clinical studies and requested return of all outstanding drug supplies," the Lederle letter said.

The statement that "we immediately discontinued human trials" did not seem to suggest that these trials were going on in only two human beings. Yet, Lederle, in its subsequent letter to The Washington Post, said that all but two persons "had been off Triflocin for several months," as a consequence of the January, 1970, dog kidney findings "which were unrelated to cancer."

In dealing with the finding of bladder cancer in rats, Lederle proceeded differently with its eight foreign investigators than with its 10 domestic Triflocin investigators, the FDA said.

"Copies of letters to the domestic investigators, dated June 18, 1970, identified the adverse finding as papillary carcinoma," the agency said. "Foreign investigators, however, were advised in letters dated April 27, 1970, of ". . . lesions with occasional malignant degeneration."

Asked for an explanation of the April-to-June delay in notifying American investigators, Lederle said that the June 18 letter "transmitted further detailed reports of the rat bladder cancer findings . . . as a follow-up to prior notification" of these physicians "by letter and/or visit."

Between September, 1969, when the "abnormalities were found in the test rats, and late April, 1970, when this finding was reported to the FDA, "about 205" or 253 persons—depending on whether the agency's count of Lederle's is correct—had taken Triflocin.

The conflicting statistics raise questions as to how the FDA can monitor the human subjects' reaction to Triflocin if uncertainty exists about precisely how many persons got it.

Asked how many of the human subjects were informed of the suspected toxicity of Triflocin—information which would encourage them to undergo regular examinations—the FDA said the number was "indeterminable."

The FDA made "specific recommendations" to Lederle as to procedures that would be appropriate in following up the effects the drug may have had on patients, Dr. Simmons said.

But Lederle officials "rejected some of the recommendations, stating that they would consult a 'panel' for advice," the FDA officials reported.

Lederle, in its reply to The Washington Post's inquiries, said nothing about having rejected some of the follow-up procedures recommended by the FDA. Instead, the company said its recommendations were "communicated to investigators" who conducted clinical trials with Triflocin.

The Lederle panel—said by the company to be made up of scientists from an unidentified but "outstanding" medical school—concluded that Triflocin patients "are at little risk of developing bladder tumors," because the amount of the diuretic given and the duration of exposure to it "are not at all comparable to the animal dosages or durations."

The panel concluded that "no follow-up is necessary for those individuals who received the drug for less than two weeks."

The FDA disagreed, saying that all persons who got Triflocin should be followed up. And until the company panel made its recommendations, Lederle had undertaken to inform its investigators of its discussions with the FDA and had supplied them with patient follow-up sheets listing specific tests to be made.

The Triflocin case first came forcibly to the attention of FDA Commissioner Charles C. Edwards thanks to Dr. John O. Nestor, an agency medical officer and pediatric cardiologist.

Nestor told Dr. Edwards of a situation he considered "scandalous": Animals treated with an unnamed experimental drug (later publicly identified as Triflocin by a drug trade paper) had developed cancer after human testing had begun. He also questioned the adequacy of the FDA guidelines for experimental drugs, as well as the adequacy of follow-up on persons exposed to such medicines.

Nestor used the "Critical Pathway," an administrative channel specially created by the Commissioner to enable FDA personnel to slash red tape and bring urgent situations directly and promptly to his attention.

Edwards replied two months later. He implicitly recognized that drugs were being tested in humans before adequate animal studies were completed and evaluated, but said no policy changes by FDA were required. The letter mentioned neither Lederle nor Triflocin.

PROPOSED STUDY OF TERMINATION OF NATIONAL EMERGENCIES

Mr. JAVITS. Mr. President, my good friend the distinguished senior Senator from Maryland (Mr. MATHIAS) on May 17, submitted Senate Concurrent Resolution 27, of which I am pleased to be a cosponsor. It provides for a commission to study the effects of terminating the state of national emergency declared by President Truman in 1950.

On Saturday, October 30, the Baltimore Sun published an excellent editorial concerning Senator MATHIAS' resolution. I commend this editorial to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

OPTIONAL CONGRESS

In 1933 Congress passed a law allowing Presidents to assume broad wartime powers even in peacetime if a national emergency existed. It was left up to the President to decide if a national emergency existed—and one has ever since. First the depression, then World War II, then the Korean war were used as excuses for declaring national emergencies. The "emergency" caused by the Korean war still exists, and many presidential decisions and activities are lawful only because that emergency has not been officially ended.

Senator Charles Mathias is leading an attempt to try to change this state of affairs. As he says, the existence of such unchecked presidential powers makes Congress optional. It makes constitutional rights of Americans optional, too. For instance without consulting Congress, the President can keep men in the Army beyond the terms of their enlistments or detail them to the governments of other countries. He can also act unhindered in dealing with private property, suspending leases, control credit, etc.

Mathias wants a congressional study of the present national emergency and recommendations regarding the termination of it. Something of that sort ought to be done, at the very least. Upon investigation, Congress might decide to do more, for instance write into law some sort of time limit on emergencies requiring Presidents to get approval from Congress for any extensions.

OUR MIRACLE BABIES

Mr. MOSS. Mr. President, I invite the attention of Senators to an article published in the National Observer of November 13. It tells the story of the Intermountain Newborn Intensive Care Unit at the University of Utah Medical Center in Salt Lake City, Utah. This facility is one of 25 centers across the country specializing in neonatal care—that is, caring for infants through the first 28 days of life.

The article tells how "hopeless babies," babies that would otherwise die, are saved through the work of intermountain unit. It tells of the dedication of the men and women at the center, and of the dramatic effectiveness of the facility in saving the lives of young infants and reducing infant mortality in the intermountain area. In fact, despite the special problems of medical practice in the wide-open spaces of our country, the intermountain area now has one of the lowest infant mortality rates in the Nation.

I have visited the newborn intensive care unit and have observed the dedication of these men and women. I commend the concept of these centers. Truly, we must expand the network so that there will be facilities like this one to serve every area of our country.

I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OUR MIRACLE BABIES

(By Nelson Wadsworth)

We cinched our seat belts tighter as our chartered twin-engine plane bumped through a storm and headed north to Montana. Three hours away, in a hospital in Helena, an infant lay near death.

His heartbeat was irregular and he was having trouble breathing. His best hope now was an unusual type of intensive care available in Salt Lake City. So Dr. George Murillo and nurse Christine Knight would bring him back in the portable incubator wedged next to our knees in the narrow cabin.

I had come along on this special flight to witness the way that sick babies from throughout the West are rushed to Salt Lake City for a kind of lifesaving process that is being established in other cities across the country.

Dr. Murillo and Miss Knight work at the Intermountain Newborn Intensive Care Unit here at University Hospital. It is one of a growing number of such centers where specially trained physicians and nurses use newly miniaturized intensive-care equipment to save the lives of infants who once would have been regarded as hopelessly ill.

The specialists, called neonatologists, concentrate on infants' illnesses in the neonatal period, the first 28 days of life. Though there is at least one neonatology center in almost every major American city, only about 25 centers are as thoroughly equipped and staffed as the one here in Salt Lake City.

Many of the better intensive-care units for infants are at medical teaching and research institutions and in cities such as New York, Philadelphia, Washington, D.C., and Los Angeles. The Intermountain center here is the only one of its scope between Denver and San Francisco.

The facility's neonatal specialists are aided by "foster grandmothers' who provide the motherly, rocking-chair kind of care that helps an infant thrive. A follow-up clinic monitors the progress of infants made well enough to go home. And the center has formed a network of ambulances, helicopters, and airplanes that can be chartered quickly to rush sick infants here from almost anywhere within five Rocky Mountain states.

Some sick infants get well because they are brought here quickly, hours after their birth. And some do not survive. The baby boy we carried back from Helena suffered cardiac arrest six times during the flight to Salt Lake City that night. In the ambulance from the airport to the intensive-care center, he died.

Yet there is no dispute that every attempt is worth it. Three out of four of the critically ill infants brought to the 22-crib pediatrics nursery live to become what the doctors and nurses call "our miracle babies." In the first nine months of this year, 193 sick infants were admitted to the center and 147 eventually went home healthy.

THREE "MIRACLE BABIES"

Consider Daryl Lytle of St. George, a small southern Utah community. Daryl's was a breech birth, 12 weeks premature. He weighed just two pounds, three ounces, and had trouble breathing. He stopped breathing altogether when he was 4 days old, but doctors and nurses revived him. In later attacks his breathing again stopped; his weight fell below two pounds.

It became evident that Daryl would die without intensive care. An airplane rushed him to the center here, and the doctor and nurse aboard had to restore his breathing several times during the flight. Once at the center he was placed on a respirator and hooked up to an electronic vital-signs monitor. Whenever he stopped breathing an alarm summoned nurses. They had to help him breathe for 10 of every 30 minutes for several days.

Gradually Daryl recovered. After two months at the center he was well enough to be taken home. His father, Stanley Lytle, a

home builder who is starting a furniture business in St. George, expects the hospital bill to be about $10,000. "You bet it was worth it," says Mrs. Lytle. "Our baby never would have made it without those people in Salt Lake City."

Mr. and Mrs. John Daniel Dusek of Pocatello, Idaho, say the same. Their son John Charles, born two weeks prematurely, seemed normal for two hours. Then he developed the bluish color symptomatic of hyaline membrane disease and showed signs of respiratory failure. An air ambulance flew him to Salt Lake City. After 36 hours on the respirator he began to improve gradually. Several days later he was home again, out of danger.

SAVING "HOPELESS" BABIES

The center's files include case after case in which scaled-down models of instruments used to treat critically ill adults have provided the margin of life for sick babies. But sometimes an infant is saved mainly by the neonatologists' special skills.

David J. Grant, Jr., was born with his intestines protruding from a hole in his abdominal wall. He was rushed here from Idaho Falls, Idaho, for surgery and intensive care. "They performed a miracle," says his mother, whose husband is in the Navy. "I understand that most of the babies born with this condition die."

"The infants we work with are those who would have had no hope for survival a few years ago," Dr. August L. Jung, who founded the center in 1968 and is one of the nation's few specialists in neonatology. "They are so critically ill that everyone else has given up on them."

An intensive-care unit usually produces a decline in the region's infant-death rate as physicians learn about the center's special care and begin referring more of their most seriously ill infants in their first hours of life.

"There can be no question about the fact that our center is cutting down the infant mortality rate in this area," adds Dr. Jung, the center's director. "At a small hospital in the western part of the Salt Lake Valley, which regularly sends us its sick babies, the death rate has been cut in half since the center started." The hospital had 20 infant deaths for every 1,000 live births several years ago, slightly below the national average. It now has only 10 deaths per 1,000 births.

Last year the nationwide mortality rate for babies under a year old fell to its lowest level ever—an estimated 19.8 deaths for every 1,000 live births, down from 20.7 in 1969. Yet to many health authorities the figure remains disappointingly high. The United States still ranks below at least a dozen other industrialized nations in preventing infant deaths.

Even though the infant-mortality rate declined 4.3 per cent in 1970 below 1969's record low, nearly 74,000 babies died in the United States last year. It is estimated that 40 per cent of the 25,000 who die after their first week of life die from preventable illnesses.

SOME ILL BEFORE BIRTH

A major factor in infant deaths is regional disparities in "delivery" of health care. The infant-death rate in some Southern States is almost twice as high as it is in some Northern states. And the rate of deaths among babies born to blacks and to Indians in the United States is nearly twice as high as it is for white infants.

Presumably, the wider availability of medical care in other countries contributes to their better infant-mortality rates. And infant-death statistics may not be exactly comparable among some nations because of varying reporting procedures and definitions of live birth.

Yet for some infants, even the fastest and best of medicine in the first hours of life is too late. Many infants who die after they are a week old are victims of congenital problems. That factor may underlie many of the mysterious and sudden "crib deaths" that account for about 10 per cent of all infant deaths. And in one study there was evidence that 70 per cent of infants who died in their first few days of life had been suffering their fatal illnesses for more than a week before they were born.

In a report of a conference of national experts on infant mortality, sponsored by the National Institute of Child Health and Human Development, the imminent problem was summed up: "The critical issue is no longer whether we can salvage another 35,000 live infants each year. We do not want simply survivorship with lifelong handicaps. We need to direct the greatest force of our research and our program efforts toward the factors that encourage the intact survival of wellborn infants."

TREATING HIGH-RISK PREGNANCIES

In short, the next step in lowering the infant-death rate may have to come from saving those who have to be diagnosed—perhaps even cured—before they are born if they are to be cured at all. Neonatal medicine is focusing more of its concentration on the critical hours just before, during, and following birth. Here at the Utah newborn-care center there is hope for establishing a unit for treating the problems of a fetus in a high-risk pregnancy.

The chance of death is greater in a person's first year of life than at any time until he is past 65, but the risk is not spread evenly. Two out of every three infants who die in their first year of life die in the first week. The key factors in those deaths generally are prematurity and low birth weight.

Here in the Intermountain area, which includes Utah, a state with one of the nation's lowest infant-death rates, nearly 2 per cent of all newborn children require intensive care, says Dr. Jung, and at least 75 per cent of them can be saved.

At the core of the treatment is specialized equipment, long used for adults and only lately made small enough for use on infants' tiny bodies.

Babies are placed on the equipment with sensors attached to the skin and a catheter fastened to the umbilical artery. Doctors liken the catheter to the umbilical cord, which links the fetus to the placenta during pregnancy.

The umbilical catheter is a tiny, hollow tube that is passed through the infant's umbilical artery into the aorta, the body's main artery. In normal births the umbilical artery closes after a few days. But pediatricians have discovered that it can be opened again by such a catheter. The catheter draws blood from the baby without puncturing veins, which are almost impossible to locate in newborns. Tests of the blood determine oxygen requirements for the child.

HEARTBREAK AND REWARDS

The equipment monitors blood pressure, blood gases, blood sugar, and the amount of oxygen in the blood. Maintenance of proper oxygen flow is essential: Too much oxygen can cause blindness, insufficient oxygen can cause brain damage. When trouble develops in any of the isolettes, alarms sound, bringing doctors and nurses to give immediate attention.

One of the most important kinds of care for the sick babies comes from the specially trained nursing staff, and from the foster grandmothers hired to rock, comfort, and feed sick babies.

"The nurses do get emotionally involved with the infants and their parents," says Dr. Robert W. Allen, chief pediatric resident on Dr. Jung's team. "It is pretty difficult to live with these babies to breathe every breath with them, to pull them through, and then not feel bad when one expires. The nurses cry openly when this happens.

"You never know about these little people," says Dr. Allen. "Some are here one minute and gone the next. Others are so sick you wonder why they are still alive, yet they stubbornly cling to life. Some babies just give up and others have a great tenacity to live.

"Even though there is a greater challenge here than in any field of medicine and you sometimes have to work around the clock to keep one of them alive," Dr. Allen adds, "it is very satisfying to know that helping one of these tiny people over a rough spot is probably helping someone to 80 or more years of a healthful, useful life. It's just not the same with a sick adult."

A CASE HISTORY

Among those who came to the follow-up clinic is Jane Kay Ballard, almost 3, daughter of Mr. and Mrs. Roger Ballard of Granger, Utah. Shortly after birth, Jane developed hyaline membrane disease in her lungs, a disease that results in thousands of infant deaths every year. She spent the first days of her life on pure oxygen and on a respirator at the newborn-care center and was not able to go home until she was nearly 2 months old.

The Ballards, who have three other children, say Jane is regarded as "exceptionally smart" by testing doctors at the clinic. "That's the real reward from this kind of work," says Dr. Allen, "when you see kids like little Janie Ballard running around here like any other normal 3-year-old girl. We are forever shaking our heads that these children could have been so sick."

The center recently was expanded with the help of a $30,000 grant from the state and two Federal grants totaling $140,000 from the Department of Health, Education, and Welfare.

But finances continue to be a problem. Dr. Jung worries about the costs of parents, even though the room rate of $80 per day is probably among the lowest in the country for intensive care.

Some insurance companies pay most of the charges, Dr. Jung continues, but others will not pay for long-term infant care. One child remained in an isolette here for nine months, and then died. The parents had run up a bill in excess of $40,000.

According to Dr. Jung, the center's biggest problem is paying for transportation costs. Since sick children are transferred in everything from ambulances to helicopters, the charges often are high. A commercial helicopter, for example, costs about $225 per hour. "Yet transportation is important to us," Dr. Jung explains. "If we can get these children here quickly, we can save many more lives."

Dr. Jung first became interested in neonatology while he was in the Army. At a hospital in Georgia he noted that a premature baby died because there was no equipment to save its life. Later, while at the University of Utah in 1967, he received a fellowship to work at a newborn-intensive-care center in Denver. He returned to Utah in 1968 and established the newborn center in Salt Lake City, the first in the Intermountain West. Working with private contributions, he began to organize the team.

REFERRALS SOUGHT

Dr. Jung says the next step is to start an education program to set up satellite centers in the larger cities and to persuade small rural hospitals to refer sick babies to the intensive-care center. As a first step, a pilot course was held at the center last summer to train nurses from outlying areas to care for critically ill infants. Infants like Cathleen Vail of Bennion, Utah.

She was brought here after she was born 2½ months premature. She went home when she gained over five pounds. Says Mrs. Vail: "We know that without the people at the center, we would not have our little daughter."

PROPOSED CATV COMPROMISE

Mr. BAKER. Mr. President, last week Clay T. Whitehead, Director of the Office of Telecommunications Policy, presented a possible compromise of the issues raised by the FCC proposed CATV rules to representatives of copyright owners, the National Association of Broadcasters. Because of the widespread interest in this proposal and the importance to our national communications policy of resolving this controversy, I ask unanimous consent that articles about the proposal, published in Broadcasting and TV Digest this week, and the text of the proposal be printed in the RECORD.

NAB, NCTA, MST BOARDS TO MEET ON CABLE PLAN

"If there's ever to be a settlement of the telecasters' and cablemen's positions on CATV, this just has to be the week. They won't get another chance." This was view of govt. official Nov. 5 after feverish week of activity centering around OTP Dir. Clay T. Whitehead's proposed compromise—which has endorsement of FCC Chmn. Burch. We gave you essentials of proposal week ago (Vol. 11:44 p1), full text is printed on p. 5.

NCTA Board meets Nov. 10 on Whitehead plan in Washington; NAB same day in New Orleans; MST Nov. 11 in Atlanta. Whitehead has asked all parties to accept or reject compromise by 6 p.m., Nov. 11—and there was guarded optimism that "everybody just might buy enough of it that we can deal," according to govt. official. Another added:

"Copyright? they'll go for it. Cable operators are getting 90% of the FCC's Aug. plan [Vol. 11:32 p3]. If they don't take this, they'll prove once and for all that they are rather greedy individuals . . . If the broadcasters don't accept, then they aren't going to get any help either. TV just won't get a better deal than this."

"We're hopeful," said a broadcast executive who favors acceptance. "I'd say the chances of us going for it are better than 50–50. This is a result of an awful lot of give & take and much pressure from government . . . It's not what we would have written, but it represents a legitimate compromise." Major stumbling blocks to TV acceptance: "The limited exclusivity in 51–100 markets [and] we'd like more restrictions on where distant signals could originate."

Our discussions with cable people at Cal. CATV Assn. convention (see p. 4) last week who were familiar with OTP's pitch produced about a 50–50 guess that cable industry would accept it, albeit very reluctantly. We're also told there's a pretty good chance that, if NCTA as a whole doesn't buy the package, some major system operator will. NCTA Chmn. John Gwin introduced some startling statistics, through NCTA staffer Don Andersson, showing devastating effect exclusivity could have on cable under some conditions. NCTA found, for example, that in Charlotte, N.C., if a CATV had to protect local stations against imports from independents in Atlanta & Hickory, it could import only about 30 min. of programming daily. In Fort Wayne, system would have to black out WGN–TV Chicago 8½ hours, Mon.–Fri., 7 hours Sat., 2 hours Sun. It would have to protect against WTTV Indianapolis 5 hours weekdays, 7 hours Sat., 5 hours Sun. in Clarksburg, W. Va., however, protection against WTTG Washington would run only 2 hours weekdays, one hour Sat., one hour Sun. (Said CATV Bureau Chief Sol Schieldhouse, wryly of Andersson's charts: "Atrocity pictures.") Another major stumbling block to cable agreement, we're told, is requirement that all parties to compromise join "to seek early copyright legislation" which would write into law exclusivity provisions. MST—and probably NAB—on other hand, is uncompromising on insisting that this be kept in.

We received strikingly similar predictions from 2 prominent lawyers who represent both cable & TV clients. Said one: "Copyright, I'd bet 10–1 they'll accept. In the cable industry, there's a better than 50–50 chance they'll go for it. I'd say the broadcasters are a toss-up. My own feelings is that the NAB will want to do it, and the MST will scream like murder." Lawyer No. 2: "Copyright will accept the plan, in essence . . . Very likely, the cable people will go for it . . . As for the broadcasters, I just wouldn't predict what they'll do because they are so divided within their own ranks. If I were advising them, I'd tell them to accept it because if they don't they'll get something worse."

Some MST members reportedly were lobbying on Hill against Whitehead proposal within hours after it was presented Nov. 5 to NAB representatives—Pres. Wasilewski, MST Pres. Jack Harris, MST Dir. & NAB TV Chmn. A. Louis Read. At NAB Exec. Committee meeting previous day, MST Dir. Bill Walbridge spoke against compromise, expressed opinion that NAB is likely to lose many members if it approves compromise. He was disputed by Read, who along with Harris, is expected to back proposal.

"MST is very badly split," one member who favors compromise told us. "But if we reject it in Atlanta a day after NAB & NCTA both accept it, we will put ourselves in an impossible position. I just can't see that happening, despite the claims of some that we'd be 'selling out.'"

HEAT'S ON CABLES FOR COMPROMISE: WHITEHEAD, RESUMING MEDIATION WITH BURCH'S ASSENT, MEETS ALL THREE DISPUTANTS—WITH CATV IN THE MIDDLE

The pressure has been building for weeks. The time for decision has arrived. And it is the 25-member board of the National Cable Television Association that is being looked to—by the administration and by members of Congress—to break the impasse over the FCC's proposed CATV rules.

Clay T. (Tom) Whitehead, director of the Office of Telecommunications Policy, on Tuesday (Nov. 2) handed John Gwin, NCTA board chairman, a proposed compromise that has been endorsed by FCC Chairman Dean Burch. To Mr. Gwin, it was "not all beauty," but he circulated it among his board members and will discuss it with them in a special meeting in Washington on Wednesday.

It is on the reaction of the NCTA board that the fate of this third effort at compromise—Mr. Whitehead tried once before, as did Mr. Burch—hangs, according to OTP officials. Mr. Whitehead met on Monday with representatives of the copyright owners and on Friday with spokesmen for the broadcasters. But it is the NCTA that OTP is concerned about. "If cable doesn't buy the plan," an official said, "there is no point in going forward."

The proposed compromise would:

Leave the commission's distant-signal proposals untouched but would tame the "wild-card" provision, under which CATV systems could import a signal from any market, by adding an antileapfrogging regulation.

Provide exclusively protection for nonnetwork programing in markets 1-100, though more in the top-50 markets, and reduce from same-day to simultaneous the time of exclusivity protection given network programs.

Raise the standard for determining whether an out-of-market independent station is local.

Pave the way for congressional action on copyright legislation by committing the parties to the dispute to support of separate copyright legislation. The proposal outlined would establish copyright liability for all CATV except existing systems with fewer than 3,500 subscribers and would grant compulsory licenses for local and distant signals authorized under the commission's initial package.

Afford radio a measure of protection; a CATV system that imported a distant radio signal would, on request, be required to carry the signals of all local AM or FM stations.

Grandfather existing systems as to present rules regarding signal carriage. Generally, this would permit systems to expand currently offered service through their franchised areas.

NCTA officials have yet to comment on the proposal in any detail. But Mr. Gwin last week said "there are some things in the proposed agreement we have to take a long look at." And in an appearance on Thursday at the fall convention of the California Community Television Association, in Coronado, he seemed pessimistic about the chances for compromise. He said he was uncertain as to the outcome of the "battle."

But he made it clear that, in his view, the broadcasters were adamant on four points—the number of distant signals cable operators could import, restrictions on leapfrogging, stringent regulations on service from overlapping markets, and insistence on exclusive protection. These are among the points the National Association of Broadcasters, in a letter to Chairman Burch last month, said are essential to any compromise (BROADCASTING, Oct. 25). Mr. Gwin warned that "it will be impossible for cable to grow" if the cable industry gives too much on those four points. Distant signals, he said were the single most important issue; the others "are just vehicles to erode our right to use distant signals."

The proposed compromise would not reduce the number of distant signals CATV systems could import. But it does favor broadcasters, to a degree, at least, on the other points, Mr. Gwin says most concern them.

CATV systems, under the compromise, would still be entitled—indeed required—to provide minimum service of three network and three independent signals in the top-50 markets; three network and two independent signals in markets 51-100, and, three network and one independent signals in the smallest markets. A system would import distant signals if it could not fill out its minimum quota with local stations.

Out-of-market network stations would still be considered local if they had a 3% share of audience and a net weekly circulation of 25%. Independents, however, would have to do a little better under the compromise plan than under the commission proposal to be considered local—2% share of audience and 5% net weekly circulation, instead of 1% and 5%.

In addition, systems in the top-100 markets would still be able to import two distant signals, regardless of local availabilities, as under the commission's plan. However, where the commission would have permitted the system to import one of the signals from any market, the compromise does not allow that freedom if the signals are to be imported from the top-25 markets. The system would be limited to the two closest such markets. However, a system would not be required, as under the commission's plan, to select a UHF signal as one of its two bonus picks. And the wild-card spirit, at least, would survive in an exception: When a system blacked out programming from a distant, top-25 market station it normally carries, it could substitute any distant signal without restriction.

The exclusivity provision would be expected to impede CATV growth in the major markets, since it would prohibit cable systems from carrying any syndicated material for one year after its first appearance in any market and then for the life of the contract under which it is sold to a local station. In markets 51–100, various nonnetwork material would be protected for varying lengths of time, up to two years.

Whatever the virtues of the plan, it is clear that NCTA is under considerable pressure to accept it. For a collapse of the talks would shift the locus of the controversy to Congress,

particularly the Senate, an event that officials in Congress and the White House have been trying to avoid since July, when Mr. Whitehead made his initial effort to bring the contending parties into agreement (BROADCASTING, July 26).

CATV is a highly charged political issue in Congress, where both the NAB and the NCTA have been vigorously lining up support for their respective sides. Senator John O. Pastore (D-R.I.), chairman of the Senate Communications Subcommittee, who has asked OTP for its comments on the commission's proposed rules, is said to have been inundated recently with mail from senators urging on him the position of one side or the other. And it would be in that atmosphere that he would be expected to hold hearings if the talks fail.

Indeed, various sources say that Mr. Whitehead might make hearings virtually unavoidable, if the compromise effort fails, by writing a letter sharply critical of the commission plan. (He is scheduled to deliver his views on the commission's plan by next week.)

This would probably not be difficult for him, since he is said to feel the commission, since he is said to feel the commission should not in any case proceed without policy guidance from Congress. He is chairman of a high-level administration committee that is preparing policy recommendations—presumably including legislative proposals—for President Nixon.

If an agreement is reached, however, he would not be expected to torpedo it—although he would probably make no secret of his feelings as to where policy should be set.

The possibility that the failure of the Whitehead mission could result in Senate hearings has been pointed out to Mr. Gwin as a reason for accepting the compromise. For hearings could, as one Hill source put it last week, "muddy the waters" and possibly result in a delay in the adoption of the commission's rules. The commission's present timetable calls for a completion of the rulemaking proceeding by March 1. And it is the broadcasters who would be expected to benefit most from delay.

In addition, Mr. Whitehead is understood to have made it clear to Mr. Gwin that the compromise agreement has "wide support" within government—including Congress and FCC Chairman Burch. And Mr. Burch has been the cable industry's brightest hope in Washington.

What may be another element in the pressure being applied to NCTA is the circulation being given views attributed to Mr. Whitehead by those around him. Mr. Whitehead, normally low key in his approach, is said to feel that the proposed compromise is not only "fair and equitable" but that "if cable turns it down, it would be a flagrant disregard for public policy and a demonstration of greed."

"The same goes for broadcasters," a source said. But OTP officials appear confident that broadcasters will accept the proposal if NCTA does. And this is based on more than the view that the proposal meets some of their objections. It is assumed that broadcasters would not deliberately frustrate an important government official who has initiated a movement to restructure—in a manner many find generally appealing—the regulation of broadcasting.

Mr. Whitehead met Friday with Vincent Wasilewski, president of NAB; A. Louis Read (WDSU-TV New Orleans), chairman of NAB's television board, and Jack Harris (KPRC-TV Houston), chairman of an NAB committee that had attempted to negotiate with CATV and copyright interests. They had met with Mr. Burch in his effort last month to bring the sides together—and earlier with Mr. Whitehead in his first effort.

In spite of the pressure, Mr. Gwin last week was talking bravely. "We're not about to crack under pressure," he said. "We've had our backs to the wall in the past, and come out in style."

He said that the commissions letter of intent represents NCTA's position, as it has since August. He also indicated what might be NCTA's reason for hope it could withstand the pressure, if it decides on that course. Mr. Burch, he noted, "is not opposed to arrangement, but he never said that, in the absence of an agreement, he would not go ahead with the commission's plans."

The effort at persuading NCTA to accept the Whitehead compromise was even being made last week at Coronado. Sol Schildhause, chief of the FCC Cable TV Bureau and regarded by cable operators generally as sympathetic to their cause, made a direct and strong appeal for compromise.

He acknowledged that "it's no secret that we're dealing down in our negotiations." But he said acceptance of compromise would establish a firm and secure starting place for cable. "Stability is essential," he said.

The uncertainties generated by the negotiations in Washington dominated every discussion at the convention of the largest state CATV association. And Henry R. Goldstein, president of the association, captured that mood in his keynote address, at the ornate Del Coronado hotel, across the bay from San Diego. The cable industry, he said, is on the brink—but on the brink of what, he confessed, he did not know.

PROPOSED COMPROMISE

Local Signals: Local signals defined as proposed by the FCC, except that the significant viewing standard to be applied to "out-of-market" independent stations in overlapping market situations would be a viewing hour share of at least 2% and a net weekly circulation of at least 5%.

Distant Signals: No change from what the FCC has proposed.

Exclusivity for Non-Network Programming (against distant signals only): A series shall be treated as a unit for all exclusivity purposes

The burden will be upon the copyright owner or upon the broadcaster to notify cable systems of the right to protection in these circumstances.

A. Markets 1–50: A 12-month pre-sale period running from the date when a program in syndication is first sold any place in the U.S., plus run-of-contract exclusivity where exclusivity is written into the contract between the station and the program supplier (existing contracts will be presumed to be exclusive).

B. Markets 51–100: For syndicated programming which has had no previous non-network broadcast showing in the market, the following contractual exclusivity will be allowed:

(1) For off-network series, commencing with first showing until first run completed, but no longer than one year.

(2) For first-run syndicated series, commencing with first showing and for two years thereafter.

(3) For feature films and first-run, non-series syndicated programs, commencing with availability date and for two years thereafter.

(4) For other programming, commencing with purchase and until day after first run, but no longer than one year.

Provided, however, that no exclusivity protection would be afforded against a program imported by a cable system during prime time unless the local station is running or will run that program during prime time.

Existing contracts will be presumed to be exclusive. No pre-clearance in these markets.

C. Smaller Markets: No change in the FCC proposals.

Exclusivity for Network Programming: The same-day exclusivity now provided for network programming would be reduced to simultaneous exclusivity (with special relief for time-zone problems) to be provided in all markets.

Leapfrogging: A. For each of the first two signals imported, no restriction on point of origin, except that if it is taken from the top-25 markets it must be from one of the two closest such markets. Whenever a CATV system must black out programming from a distant top-25 market station whose signal it normally carries, it may substitute any distant signal without restriction.

B. For the third signal, the UHF priority, as set forth in the FCC's letter of August 5, 1971, p. 16.

Copyright Legislation: A. All parties would agree to support separate CATV copyright legislation as described below, and to seek its early passage.

B. Liability to copyright, including the obligation to respect valid exclusivity agreements, will be established for all CATV carriage of all radio and television broadcast signals except carriage by independently owned systems now in existence with fewer than 3500 subscribers. As against distant signals importable under the FCC's initial package, no greater exclusivity may be contracted for than the Commission may allow.

C. Compulsory licenses would be granted for all local signals as defined by the FCC, and additionally for those distant signals defined and authorized under the FCC's initial package and those signals grandfathered when the initial package goes into effect. The FCC would retain the power to authorize additional distant signals for CATV carriage; there would, however, be no compulsory license granted with respect to such signals, nor would the FCC be able to limit the scope of exclusivity agreements as applied to such signals beyond the limits applicable to over-the-air showings.

D. Unless a schedule of fees covering the compulsory licenses or some other payment mechanism can be agreed upon between the copyright owners and the CATV owners in time for inclusion in the new copyright statute, the legislation would simply provide for compulsory arbitration failing private agreement on copyright fees.

E. Broadcasters, as well as copyright owners, would have the right to enforce exclusivity rules through court actions for injunction and monetary relief.

Radio Carriage: When a CATV system carries a signal from an AM or FM radio station licensed to a community beyond a 35-mile radius of the system, it must, on request, carry the signals of all local AM or FM stations, respectively.

Grandfathering: The new requirements as to signals which may be carried are applicable only to new systems. Existing CATV systems are "grandfathered." They can thus freely expand currently offered service throughout their presently franchised areas with one exception: In the top 100 markets, if the system expands beyond discrete areas specified in FCC orders (e.g., the San Diego situation), operations in the new portions must comply with the new requirements.

Grandfathering exempts from future obligation to respect copyright exclusivity agreements, but does not exempt from future liability for copyright payments.

ACCOMPLISHMENTS OF PRESIDENT JOHN F. KENNEDY

Mr. PELL. Mr. President, there are fashions and fads in the world of political science and analysis, and we appear now to be in a period when it is fashionable to denigrate the accomplishments of President John F. Kennedy.

I think, however, we would do well to remember that the idealism, the sparkle, and the inspirational leadership that President Kennedy gave our Nation prepared the soil for the great flowering of positive legislation in the 1960's, after his death.

The landmark legislation of that period, achieved by a partnership of Congress and President Johnson, had its genesis in the days of Camelot. This was innovative legislation, now accepted as a vital part of the effort to improve the quality of life of our people—health and education legislation, arts and humanities programs, and civil rights legislation.

Most important, let us remember that President Kennedy never permitted the Armed Forces of the United States to be used in an aggressive operation. Instead, when he saw violence escalate, as at the Bay of Pigs, he acknowledged error and withdrew support rather than commit the United States to a draining and possibly disastrous policy.

In the Cuban missile crisis, he sought to conciliate, to find peaceful solutions, to avoid embarrassing our foes; and he tried to hold out the palm of peace to our foes rather than to precipitate the world conflict that could have then occurred.

William Shannon recently wrote for the New York Times a sensitive appraisal of President Kennedy's record. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 19, 1971]

J. F. K. IN RETROSPECT

(By William V. Shannon)

WASHINGTON, October 18.—Every day of the year under rainy skies or sunshine, ordinary Americans and visitors from overseas come by the hundreds to a hillside in Arlington to visit the grave of John F. Kennedy.

But among the intellectuals, it is open season on Kennedy. The old men of the Establishment and the young men of the new revisionism agree that his reputation as a President is much inflated. Dean Acheson before his death tells a British interviewer that Kennedy was out of his depth in the White House. In an interview with Ronald Steel the other day, Walter Lippmann agrees with Acheson. Columnist Garry Wills writes of his pleasure that at last the country is becoming "disenthralled" with the Kennedy myth.

In books and critical journals and newspaper interviews, the downgrading of Kennedy proceeds. This indictment deserves examination.

Kennedy, it is said, set the pattern for the kind of foreign policy carried out by Lyndon Johnson with all its disastrous divisive consequences here at home. Furthermore, it was the Kennedy appointees—Rusk, McNamara, the Bundys—who carried out that foreign policy. More broadly speaking, Kennedy's soaring rhetoric and ambitious policies intensified the globalism, the image of America as the world's policeman and social worker, which is so out of fashion today.

A passage is often cited from Kennedy's inaugural address: "Let every nation know, whether it wishes us well or ill, that we shall pay any price, oppose any foe to assure the survival and the success of liberty."

But who is to say that John Kennedy would have deemed a major land war in South Vietnam necessary "to assure the survival of liberty"? Lyndon Johnson made that decision in 1965 some fifteen months after Kennedy was in his grave.

Nobody forced Johnson to make that decision. He entered office convinced that Vietnam was worth fighting for and he acted on his own convictions. It is absurd to picture him in foreign affairs as the ignorant puppet of his dead predecessor's policies. When it suited him, Johnson changed them. Immediately upon taking office, for example, he placed Thomas Mann in charge of both the Alliance for Progress program and of all Latin-American affairs and rapidly changed the tone and direction of Kennedy policies in the hemisphere.

But what about Rusk, McNamara, the Bundys? In assuming that Kennedy would have followed their Vietnam advise as Johnson did, critics conveniently forget that at his death, Kennedy was disenchanted with Rusk whom he planned to replace after the 1964 election. More important, they ignore the departure of the two men who were Kennedy's most trusted counselors in foreign as well as domestic affairs—Robert Kennedy and Theodore Sorensen.

Kennedy had planned to visit Japan and Russia in the spring of 1964. He had major initiatives in foreign policy in mind for his second term. Precisely because he was a globalist, he would probably not have become overcommitted in one small corner of Southeast Asia.

Yet what Kennedy would have done in Vietnam if he had lived, no man can say. What can be said, however, is that if he had intervened massively and found the war going badly, he would not have dug his heels into wet concrete and stood fast while his party and his country blew up around him. Kennedy was much too sensitive to the currents of opinion to have stayed inflexible for so long.

The only time Kennedy used force was at the Bay of Pigs. When the raid miscarried, he chose the embarrassment of withdrawal rather than try to cover his mistake with air strikes and Marine Corps reinforcements. Throughout his Administration, whether he was dealing with Congress or Khrushchev, with Southern racist Governors or steel company executives, Kennedy followed a consistent pattern of trying to narrow differences, to conciliate rather than confront, to seek face-saving compromises.

When he was alive, liberals criticized him because he was not aggressive enough in fighting his adversaries in Congress. Cold warriors criticized him for selling wheat to Russia, for not bombing the Russian missile bases in Cuba, for making an unenforceable settlement in Laos in 1962, for taking too big a risk in signing the Nuclear Test Ban Treaty. They recognized him for what he was—a peacemaker.

Kennedy was an intellectually gifted man and the most skillful national politician of his day. He had his weaknesses and made his mistakes, but when death cut him off, he was on his way toward becoming a great man and a great President. The crowds who wind their way to his grave site are not mistaken in their admiration. They are wiser than his latter-day critics and their judgment will outlast today's disparagement.

AFL–CIO COMMITTEE ON POLITICAL ACTION—SALARIES OVER $10,000

Mr. FANNIN. Mr. President, the AFL–CIO Committee on Political Education reported to the Clerk of the House of Representatives that it spent $969,328 in 1970.

This almost $1 million is a lot of money for COPE to spend on political activities during a year in which there is no presidential election. But this figure obviously does not really tell the full story.

The $969,328 reported to the Clerk of the House does not include the salaries of COPE officials. To ascertain the 1970 salaries of the top COPE workers, one must go to the Department of Labor.

A check of records at the Department of Labor reveals that higher echelon COPE officials were paid $443,862.95 in salaries and expenses for 1970.

Mr. President, I ask unanimous consent to have printed in the RECORD the list of COPE salaries over $10,000 as shown in reports filed with the Department of Labor.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

	Salary	Expenses	Total
Director, C.O.P.E.: Alexander Barkan	$30,510.00	$9,583.98	$40,093.98
Deputy director, C.O.P.E.: Jospeh Rourke	22,950.00	2,383.52	25,333.52
Assistant director, C.O.P.E.: John Perkins	18,234.00	11,026.48	29,260.48
National field director, C.O.P.E.: W. C. Young	16,676.40	12,737.44	29,413.84
Campaign director, C.O.P.E.: William Gilbert	16,225.00	5,584.19	21,809.19
C.O.P.E. area directors:			
Clement Dowler	15,574.00	10,177.93	25,751.93
Richard Fallow	17,172.50	8,072.25	25,244.75
Frank McGrath	17,122.50	8,288.67	25,411.17
Charles McMahon	15,361.50	9,137.20	24,498.70
Raymond Alvarez	15,814.80	6,529.51	22,344.31
Research director, C.O.P.E.: Mary Zon	19,791.00	2,730.32	22,521.32
Assistant research director, C.O.P.E.: Margaret Cronin	$15,366.50		$15,366.50
Research employee, C.O.P.E.: Frances Kanin	10,786.20		10,786.20
Publicity director, C.O.P.E.: Bernard Albert	19,791.00	$2,353.54	22,144.54
Minorities representative, C.O.P.E.: Fannie Neal	17,685.00	11,123.05	28,808.05
Staff representative, C.O.P.E.: Walter Barthlin	17,685.00	63.56	17,748.56
Field representative, C.O.P.E.: Severiano Merino	15,549.00	7,824.25	23,373.25
Accounting employee, C.O.P.E.: Margaret Laddbush	11,155.60		11,155.60
Data processing director, C.O.P.E.: Walter Markham	19,791.00	3,005.06	22,796.06
Total			443,862.95

Mr. FANNIN. Mr. President, these COPE salaries are included in the reports that the AFL–CIO and all labor unions are required to file with the Department of Labor. I emphasize that this includes only salaries of more than $10,000. COPE workers earning less than that are not included in the reports. These salaries do not include legislative representatives which are political and perhaps should be considered with COPE.

Mr. President, these two sets of figures raise very serious questions.

If these 19 employees shown on the Labor Department reports were working full time for COPE, why were their salaries not listed in the report filed with the Clerk of the House?

Even more important, just where are the funds coming from to pay the salaries of these 19 COPE officials and other COPE employees who earn less than $10,000 per year?

One can only assume that the salaries

are coming from the AFL–CIO general fund. And the AFL–CIO general fund comes from the dues of the labor union members. Most of these dues are compulsory. Workers are forced to contribute if they want to work and support their families.

Mr. President, the unions are not living up to the letter or the spirit of our laws regulating the use of union dues and the reporting of funds used in political activities.

The reporting system is a sham.

Union members are being denied the right to know how their contributions to unions are being spent. Instead of spending less than $1 million as the COPE report to the Clerk of the House would indicate, the political arm of the AFL–CIO spent at least $1.5 million.

It is illegal to use involuntary union dues for political purposes, yet we have ample evidence that union bosses are ignoring the law. Union members are being forced to contribute funds that are used to support political candidates that they may oppose.

In addition to supplying millions of dollars for campaigning, union bosses are also misusing the other vast resources of their unions.

This is the most serious threat to our political system today. It must be corrected by the passage of effective legislation to stop the misuse of union money and resources for political purposes.

EMERGENCY SCHOOL ASSISTANCE PROGRAMS

Mr. GRIFFIN. Mr. President, on behalf of the distinguished Senator from Tennessee (Mr. BROCK), who is necessarily absent, I ask unanimous consent to have printed in the RECORD a statement by him on the subject of emergency school assistance programs and items related thereto.

There being no objection, the statement and other items were ordered to be printed in the RECORD, as follows:

EMERGENCY SCHOOL ASSISTANCE PROGRAMS

(Statement by Senator BROCK)

Mr. BROCK. Mr. President, I am concerned, as are my fellow Tennesseans, over proposed programs, applications for which have been made under the Emergency School Assistance Program. Some of these programs would seem not to be the kinds of activities calculated to contribute to the well being of the communities for which they are designed. For this reason I have written Secretary Richardson to request that funding be delayed until full investigation can be made. I ask a letter addressed to Secretary Richardson, as well as the series of articles to which the letter refers, written by Grady Gallant and published recently in the Nashville Banner be printed in the RECORD.

U.S. SENATE,
Washington, D.C., November 5, 1971.

HON. ELLIOT RICHARDSON,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I am much disturbed over reports of projected programs with a cost of $1.8 millions of dollars for the State of Tennessee ostensibly with the objective of easing the process of integration. I refer to a summary of a series of articles on this matter by Grady Gallant in the *Nashville Banner*, which I am sending you under separate cover.

Particularly disturbing is the possibility that these programs are proposed to be funded *outside* regular community channels. I cannot urge too strongly that this not be allowed. It is imperative that any such programs be approved by the school board as well as the governing body of the urban community involved. Only by so doing can we avoid what at best could be mischievous results and at worst tragic consequences for children and our community.

Since I am most familiar with the Chattanooga scene, I cite as one example a proposed privately operated program for Chattanooga which would spend $372,970 ($320,080 of which would be used for salaries). This program is vigorously opposed by our local government.

Even before court ordered desegregation of schools, Chattanooga desegregated peacefully. I was privileged to know the inside story since my father worked tirelessly (without pay) to achieve the results of which we were so proud. I attempted to help as well. The entire community, each person in his own way, contributed to this effort (without pay).

It may be that this new program has some justification, but I can be excused if I have serious reservations. I certainly feel the people of Chattanooga have earned a right to say through their locally elected representatives whether they believe this will contribute to the peace and tranquility of the community or otherwise. At this point, they do not support it.

In short, it is my considered opinion that most of these activities might well better be carried on under local volunteer organizations, but in no case should they be funded without local approval or over local objections. Perhaps these are not as bad as they sound. I don't know, but I do urge you withhold funding until we find out.

I would be most grateful for your consideration of the above.

Very truly yours.

BILL BROCK.

[From the Nashville Banner, Oct 19, 1971]

BUSING, SOCIAL ADJUSTMENT PROJECTS TO COST $1.8 MILLION

(By Grady Gallant)

Eleven new "social adjustment" projects to attune public school children to massive busing and other "life experiences" encountered in the modern school environment are in the works for Tennessee at a cost to the federal government of $1,829,067.35.

Of this sum, the project budgets show that $1,230,795.40 would be dissipated in salaries for those laboring in the 11 adjustment projects, many of whom are open advocates of busing.

Travel expenses for these workers would eat up another $92,160.

Total cost for salaries and travel of the project workers is $1,322,955.40.

This leaves only $506,111.95 for child adjustment and to attune them to sociological development.

The budgets show that most of this $506,-111.95 would be devoured by telephone bills, office rental and equipment.

Applications to implement the adjustment programs under the Emergency School Assistance Program (ESAP) have been sent to Gov. Winfield Dunn.

He approved seven of the proposals. The other four were neither approved nor disapproved by the governor. The Department of Health, Education, and Welfare, which administers ESAP, will now approve or disapprove them.

A spokesman in the Governor's office said that Dunn relies on recommendations from the various communities involved as to what action he should take on these projects.

The spokesman said it was his personal belief that HEW will fund all 11 of the projects.

The projects present a community social problem and outline a plan designed to solve or reduce it.

For example, Memphis Community Education Project (MCEP) discloses that it is "a non-profit, tax-exempt, free-standing corporation of community-minded persons who are attempting to effectively improve the social conditions of Memphis and Shelby County."

To this end it has "four main foci of activity—housing, health, education and law."

"We have focused on these activities, not to provide separate service systems, but to help the black society become a true human community with the ability to relate to the white community as peers and, therefore, bring about the sine qua non (essential) condition for true friendship and a stable society."

To accomplish this and other things, MCEP needs $413,410 in federal funds under ESAP of which $251,100 will go for salaries and $37,800 for travel expenses.

The list of projects includes three to be conducted in Nashville:

1. Concerned Citizens for Improved Schools, 1922 Church Street, Second Floor Rear, requesting $259,626.35.

2. University Council for Educational Administration, 29 West Woodruff Avenue, with offices in Columbus, Ohio, requesting $78,741.

3. The Social Action Committee of Christians and Jews, Inc., 6401 Harding Road, requesting $60,000.

The Concerned Citizens for Improved Schools states it has "functioned successfully and uniquely for the last two and a half years as a bi-racial group dedicated to affirmative community involvement toward ending all vestiges of a dual school system and the results of its accumulative patterns of discrimination."

The organization was "spontaneously created" in March 1969. Concerns in regard to "application of criteria for zoning the proposed attendance area for a newly created junior high school" and "racial isolation of all pupils in the Nashville-Davidson County schools" were the spurs which caused spontaneous organization of the group, according to the funding application.

Mrs. Kitty Smith, wife of Dr. William O. Smith of Nashville, is project director for Concerned Citizens. Dr. Joseph Yeakel, general secretary of the board of evangelism of the United Methodist Church is listed as the authorized representative of Concerned Citizens, not to be confused with Concerned Parents Association, Inc.

The University Council for Educational Administration under Dr. Jack Culbertson, Columbus, Ohio, proposes to "develop and test a simulation program for urban administrators, particularly as related to education and race," according to Dr. Elbert Brooks, Metro school director, in a letter endorsing the project.

The proposed program "promises much in relation to the development of reality-oriented materials for the upgrading of in-service training, professional growth and development opportunities for practicing administrators, and for the training of new administrators," he observed in a letter to Culbertson dated Sept. 21, 1971.

The project proposes to help school leaders in Nashville "deal effectively with desegregation problems," Culbertson says.

The Social Action Committee of Christians and Jews, 6401 Harding Road, proposes to establish two early-morning, free child care centers to help take care of children of working mothers between the time when the mothers must go to work and the children must leave to go to schools opening at 10 a.m.

Charles B. Myers, an assistant professor of history and social science education at George Peabody College for Teachers, is the project contact person with HEW.

All 11 projects plan to spend their funds in a year or less.

The organizations requesting ESAP funds and their cities are:

1. Concerned Citizens for Improved Schools, 1922 Church Street, Second Floor Rear, Nashville. Request: $259,626.35.

2. University Council for Educational Administration, 29 West Woodruff St., Columbus, Ohio. Request: $78,741 for work in Nashville.

3. The Social Action Committee for Christians and Jews, Inc., 6401 Harding Road, Nashville. Request: $60,000.

4. The Unity Group Fund, Inc., 1348 Grove Street, Chattanooga Request: $372,970.

5. Memphis Education Project, Inc., 740 Court, Memphis. Request: $413,410.

6. Memphis Urban League, 546 Beale Street, Memphis. Request: $236,242.

7. Community Youth Playhouse, Inc., 1185 South Bellevue, Memphis. Request: $51,580.

8. Memphis Panel of American Women, 5503 Gwynne Road, Memphis. Request: $19,971.

9. Williamson County Citizens for Human Dignity, P.O. Box 423, Franklin, Tenn. Request: $58,203.

10. The Civic Action Council of Jackson, P.O. Box 3002, Jackson, Tenn. Request: $89,725.

11. The General Board of Christian Education, Christian Methodist Episcopal Church, 1474 Humber Street, Memphis. This organization requested a total of $814,176, but proposes spending $178,599 on a Chattanooga, Tenn., project, with the remainder being spent in cities of states other than Tennessee.

The other communities included in the proposal are Tupelo, Miss.; Phenix City, Ala.; Savannah and Chatham County, Ga.; and Morehouse Parish, La.

FEDERAL GRANT OF $259,626 SOUGHT FOR BUSING PROPAGANDA CAMPAIGN

(By Grady Gallant)

An intensive propaganda campaign using a "mobile van," week-end retreats, mass indoctrinational meeting and other devices is planned by Concerned Citizens for Improved Schools to attune public school children and their parents to "a new way of life" here.

To mount this "determined and creative campaign against negativism," the organization has applied for $259,626.35 in federal funds, of which $208,294.40 would be drained into employe salaries, services and benefits.

The mass media assault against "white ghetto mentalities" and for "integrating the desegregated schools" would include $60,000-worth of monthly television specials and $25,000-worth of billboards, radio and television spot announcements, all to be paid for from taxpayers' money.

Workshop consultants would be brought in at $100-a-day and a "media consultant" would be hired at $100-a-day for 96 days, for a total expenditure of $9,600 for about 19 weeks of work, if he works a five-day week.

A community newsletter to be distributed monthly as planned will cost $3,600 for circulation of its 5,000 copies. A monthly newsletter aimed at students would be circulated to 30,000 of them at an annual cost of $8,400.

Students texts and handbooks would cost $380 and students' workshop proceedings will dissipate, if the plan is approved, another $1,250. The parents' workshop proceedings would cost another $500, and telephone and postage costs are forecast to be $3,275 for the year.

Application for the more than a quarter million dollars in federal tax money was made through the Emergency School Assistance Program (ESAP: Pronounced E-SAP).

ESAP is administered by the Department of Health, Education and Welfare. Funds are given to groups and organizations which wish to help in the busing and integration of public school children.

Concerned Citizens for Improved Schools (CCIS) has existed for 2½ years. It is a bi-racial group "dedicated to affirmative community involvement toward ending all vestiges of a dual school system and the results of its accumulative patterns of discrimination," the organization notes in its request for tax refunds.

It was "spontaneously created," according to a description of its origin in the project application. Its membership is 75 per cent white, and includes some open advocates of busing.

Following spontaneous creation, the group became active in promotion of "community action for social change."

With its help, Clergy United for School Integration (CUIE), College and University Professors United for Integrated Education (CUPUIE) and (White) Nashvillians for Integrated Education were organized.

The application has cleared Gov. Winfield Dunn's desk, without his approval or veto, and has been sent on to federal officials.

"Invited members of CCIS testified on behalf of the plaintiff in the case finally adjudicated before (U.S. District) Judge L. Clure Morton (Kelley vs. Board of Education)," it is noted by the tax funds applicant.

Last June, ESAP gave $39,581 for CCIS to form what it called Volunteers in Action (VIA), an activity which involves 26 high school students who "inform the students, their own peers, about the indispensability and justice of school integration."

In explaining the need for expansion and continuation of the VIA program, CCIS notes that the "tense atmosphere" resulting from the busing issue of the recent race for mayor and "the transfer of senior students" from schools from which they would have been graduated "will make it somewhat difficult to secure understanding and acceptance of an integrated, unitary school system."

Being the "main beneficiaries of the opportunities for quality integrated education" the students "must be reached on a one-to-one basis and must have the opportunity for input to diffuse the tensions and create more genuine interaction within their own schools."

Reaching students on a one-to-one basis with Volunteers in Action in expensive. In the second application for federal tax money in less than a year, CCIS wants $48,000 to pay 80 such volunteers $600 annually. A week-end retreat for 50 volunteer trainees will cost another $1,300. And a two-week training program for 50 VIAs at $5 a week will cost still another $500, according to CCIS figures.

"In an out-of-school atmosphere where students will feel free to express their ideas candidly and honestly, we will use the workshop format for a two-day (week-end) discussion (just as soon as possible . . . within 30 days) on racism led by experts in the field, from several frameworks of reference," the application for federal tax money states.

"We will reach for an attendance of 600 or at least 30 students from 20 high schools.

"The curriculum would include information on how to distinguish between individual prejudice and institutional racism; racism as it manifests itself in America, as well as European and Latin American history documents; other serious literature; information on ghetto life and culture (black); about black in a white society; about white ghetto mentalities and how our society has caused and perpetuated racist patterns, etc.," the proposal states.

Volunteers in Action use such methods in achieving objectives as developing materials to "establish rapport with their own peer group," participating as speakers bureau panels and "dialogue groups" and "low key mobilising of students who are supportive of integration and those who believe in affirmative involvement in projects."

They also implement "buddy systems within the school in order to diffuse tensions and establish (long range) more genuine relationships among all the students."

The volunteers also serve as "communications links" in the Urban League sponsored Unitary School System Assistance Center Rumor Control Center (USSACRCC).

Under its plan for intensive propaganda activities for busing and elimination of the neighborhood school, there would be a project director paid $14,000 annually who would be assisted by an associate director making $10,000 annually. 'A "media specialist" would be paid $10,000.

A part-time "community organizer would receive $6,000 based on an annual salary of $12,000, should he be fulltime.

An administrative assistant would be paid $7,000 annually, a secretary would get $6,000 and a clerk typist would receive $4,800.

Staff travel expenses are set at $1,200 annually.

State-wide delegates to a workshop on Parents Organization—50 delegates—would cost $7,500.

CCIS has budgeted $5,000 for rental of four offices for a year, $600 for workshop site rental for two days and $450 for the weekend retreat site for VIA trainees.

The group also proposes to buy $8,276-worth of equipment such as a 16-mm projector ($353), an electrostatic copier ($1,345), a Polaroid camera and case ($280), projection table ($52.95), record player ($50) and mailing meter ($96). To lease and operate the mobile van for the community organizing teams will cost $4,000.

Another $2,100 would be spent for office equipment for three offices at $700 for each office. The organization now has only one office.

Five hundred dollars will be paid to contract services of an auditor.

The bi-racial advisory committee of Concerned Citizens for Improved Schools are listed in the request for tax money from HEW as Dr. Thomas Ogletree, 3212 West End; Mrs. W. A. O'Leary, 5334 Overton Road; Mrs. Carol C. O'Neill, 1809 Morena Street; Inman Otey, 905 Lischey Ave.; Mrs. Rice Pierce, 5013 Stillwood Drive; Mrs. Prince Rivers, 1803 Morena St.; Dr. J. Tarleton, 1714 Windover Drive; Dr. Eugene Teselle, 2007 Linden; Donna Vaughn, 1818 Beech Ave.

Mrs. Elmer West, 3515 Granny White Pike; William White Jr., 1107 Kellow St.; Mrs. E. L. Whitmore, 3613 Batavia; Dr. Joseph Yeakel, 1014 Woodmont Boulevard; Steve Barefirld, 540 Richman Drive; the Rev. William Barnes, 1503 16th Ave. S.

Don Beisswenger, 235 Lauderdale Road; Mrs. David A. Bergmark, 922 17th Ave. North; Mike Bonnell, 4510 Granny White Pike; Isaac Crosby, 920 Marengo Lane; James Curry, 1003 Battlefield Drive; Mrs. Leslie A. Falk, 1417 Clairmont Place; Mrs. John M. Frase, 1015 Noelton Lane.

Dan Graves, 802 Elmington Ave.; Nancy Holloman, 815 Ramsey; Julius Jones, 3906 Kings Lane; Amy Kurland, 1805 Kingsbury Drive; Theodore Lewis, 1400 Acklen Ave.; Joyce A. Long, 1409 Chester Ave.

Mrs. Johnella Martin, 1704 Villa Place; Warner L. McCreary, 1820A Delta Ave.; and Mrs. Richard M. Morin, 812 Clematis Drive.

Thursday's article will report project plans of other Nashville groups.

EDUCATORS SEEK FUNDS FOR ADJUSTMENT, TOO

(By Grady Gallant)

Not only is adjustment necessary for parents and public school children involved in massive busing under the order of U.S. District Court Judge L. C. Morton, school administrators also feel acute adjustment needs as they face problems thrust upon them by radical school changes.

Tax money for sociological adjustment is obtained by various private groups and organizations wishing to help with public school children from the Emergency School Assistance Program (ESAP) of the Department of Health, Education and Welfare.

XUM

One of three ESAP project proposals for Nashville now pending before HEW has been submitted for funding by the University Council for Educational Administration, with offices located at 29 West Woodruff Ave., Columbus, Ohio. Jack A. Culbertson is executive director of this organization.

With the help of several staff members of Nashville Metro school system, "who have been involved in its development at all stages," Culbertson has come up with a proposal to develop and test a simulation program for urban administrators, "particularly as related to education and race."

GAVE ENDORSEMENT

In a letter to Dr. Culbertson dated Sept. 21, 1971, Dr. Elbert Brooks, director of Nashville schools, noted his endorsement of the proposal.

Dr. Brooks then wrote that this project "promises much in relation to the development of reality-oriented materials for the upgrading of in-service training, professional growth and development opportunities for practicing administrators, and for the training of new administrators."

In plain language, the program intends to develop simulated (or imitation) situations and problems of the kind actually being experienced by school administrators and other leaders in Nashville.

Once these situations and problems are developed, they would be used in a series of workshops to illustrate incidents happening in the schools. Workshop participants would then discuss how they would handle such "problems of desegregation."

"The problems which have major implications for training will be selected, classified and related to significant administrative functions central to the Emergency School Assistance Program (that is: developing community programs; giving leadership to special curriculum revision programs; undertaking special comprehensive planning, and so forth)," the project outline reveals.

TO COST $78,741

The creation of these artificial situations and problems in order to learn how to deal with the real things happening daily in the public schools will cost $78,741, according to the project request for federal tax funds.

Salaries, consultants, travel back and forth between consultants, honoraria for directors and personnel benefits dissipate more than $28,400 of the sum sought.

The heavy cost of administration of such a simple program as the one projected by the University Council for Educational Administration is reflected in employe salaries budgeted in the proposal to be paid by federal taxpayers:

"Director (1–5 time, 12 months at $36,000 annually), $7,200.

"Assistant director (1–3 time, 12 months at $14,000 annually), $4,700.

"Assistant (1–3 time, 12 months at $10,800 annually), $3,600.

Assistant (1–4 time, 12 months at $11,200 annually), $2,800.

"Secretary (1–2 time, 12 months at $6,000 annually), $3,000.

This is a total of $21,300 for five part-time workers.

In addition to this, they are budgeted to cost an additional $3,606 for such personnel benefits as retirement, disability and hospital insurance—plus travel and per diem to Nashville and Columbus, Ohio, in the amount of $3,500.

Added to their total of $21,300 in salaries, the additional expenses just cited bring their cost up to $28,406.

They plan to use only $1,000 worth of office supplies and materials, however.

These workers would require the services of "consultants" to "plan, design and block-out simulation materials." This consultant service will cost $3,500.

NEXT IN COST

The next most expensive item on the budget for this simulation program is the $11,250 required for the filming "of six critical incidents."

Three one-week workshops, which include "per diem for 75 participants, honoraria for directors, plus travel and other expenses," whatever these "other expenses" might be—for they are not specified—costs $8,000.

"Creation of 30 in-basket items" will drain off $2,000. An "in-basket item" is described by a school official as written material describing a problem or situation which is placed "in the basket" on an administrator's desk.

The administrator then removes it, reads it and gives his comment as to how he would have handled the problem described.

Production of 12 "audiotaped simulations" would cost $2,750, and another $5,000 is requested to produce "six problem-centered group exercises."

To plan and produce "support content" would cost $3,000, and another $3,000 tax dollars would be spent to "develop instructors manual, evaluation procedures and related materials."

Production of written materials and negatives for workshop use would require expenditure of $5,000 more.

INDIRECT COSTS

A mystery "indirect costs," which are not itemized, are given under "other costs" as $5,833. This heavy expenditure—more than that required for consultants to block-out and design simulation materials ($3,000) and for creation of 30 inbasket items ($2,000)—is just explained as being 8 per cent of $72,908.

The $72,908 figure is the cost of the project until 8 per cent (8% of $72,908) or $5,833, is added to it.

When $5,833 is added to $72,908, you get $78,741, which is the figure given as the total cost of the project.

The funds are scheduled to be spent and the project completed in a year.

The proposal gives 11 stages through which the project would advance to its completion. Events "associated with desegregation" will first be monitored to "identify major problems encountered by school administrators," if the project receives the funds.

Instructional objectives then would be decided and the simulated situations to be developed would be determined. Backgrounds facts needed for the simulations will be gathered and the simulated situations and problems will be developed, under the proposal.

TRIED OUT

The materials would then be tried out "with selected personnel" from Metro schools. The materials would be revised, plans would be completed for the workshops and materials would be packaged for use.

By Sept. 1, 1972, the project is designed to "conduct comprehensive continuing education programs" involving Metro school personnel and "community."

"An analysis of evaluation data" will follow "by Sept. 30, 1972," and by "Oct. 30, 1972, development of recommendations for refining the materials and for extending their use to other urban settings" will be done.

This appears to mean that the products of this year-long effort will be shown in other cities.

In its appeal for tax funds, the University Council for Educational Administration claims it has had "substantial experience in the development of simulated situations and other types of materials during the last 10 years."

MADE AVAILABLE

"It is estimated," the group states, "the during this period more than 30,000 practicing school administrators have experienced one or more of the 24 different simulations now made available for use for continuing education purposes.

"A number of professors have expressed an interest in developing the projected simulations bearing upon desegregation and equal learning opportunities.

"Since the University Council for Educational Administration is made up of 59 major universities, it is able to draw upon a wide range of training resources, not only in materials development, but also in the planning and implementation of workshops," the organization states.

FIRST GRANT

Local school officials say that this project was initially part of the $9,096,864.72 Metro school 1971–72 ESAP grant proposal. It, along with other proposals, was denied, and of the total sum sought only $1,418,368 was approved.

It has been resubmitted through the University Council for Educational Administration in a second try for the money.

The proposal lists the Biracial Advisory Committee of the Metro School System of the Emergency School Assistance Program here. This committee, unlike in other project proposals, is a committee which is a part of the Metro school system and functions as a committee in other Metro projects.

The committee membership is given as follows; along with the name of the organization which appointed them to the committee:

Mrs. Zenoch G. Adams, 1024 Kellow St., Metro PTA Council; Dr. Charles E. Kimbrough, 2600 Walker Lane, NAACP; Frank Bailey, 1116 Eighth Ave. South, ESEA, Title 1, Advisory Committee; Mrs. James P. Carter, 1000 Gale Lane, League of Women Voters; Dr. Roy Clark, 2130 West End Ave., Ministerial Association; Mrs. Beverly Bass, 1314 Fifth Ave. North, Model Cities Agency; Phil Eakes, 2609 Crump Drive, Inter-High Council; Dr. Dana Swick, Box 514, Peabody College.

Lloyd H. Griffin, 401 Union St., Nashville Area Chamber of Commerce; Mrs. Alexander Heard, 211 Deer Park Drive, Council of Community Services; Robert Horton, 107 Metro Court House, Metro Government (Mayor's office); Julius Jacobs, 105 Leake Ave., Metro Action Commission.

Ted Martin, 1710 Hayes St., Metropolitan-Nashville Education Association; C. E. McGruder, 908 32nd Ave., North Nashville Citizens Coordinating Committee; Dr. Nicholas Sieviking, 300 Oxford House, Urban Observatory; William Stifler, 614 Lynnwood Blvd., Committee for Unitary School Plan; Dr. G. J. Tarleton Jr., 1714 Windover Drive; and Dr. M. D. Williams, Tennessee State University, Nashville Urban League.

LEAGUE PLANS FORUMS, PAPER WITH U.S. FUNDS

(By Grady Gallant)

A request for federal tax money to start "forums" for "extreme and polarized views" concerning a unitary school system, to "work with" sociology and American history classes in Metro high schools, and to publish a biweekly newsletter for high school students has been made by the Nashville Urban League Unitary School System Assistance Center.

The request for $94,136 in public money has been made through the Emergency School Assistance Program (ESAP), which is administered by the U.S. Department of Health, Education and Welfare.

It brings to four the number of private groups and organizations in Nashville seeking ESAP funds to help with the problems created by the massive busing order of U.S. District Court Judge L. C. Morton. There are now 12 proposals seeking ESAP grants of more than $1.8 million in tax funds for Tennessee private groups.

Unitary School System Assistance Center (USSAC) is located at 1922 Church St.

Under the section of its proposal entitled "Attitude Change Through Participation," the Unitary School System Assistance Center outlines a plan to place its members in the classroom "to help the teacher set up and run this program through helping the teacher devise his curriculum and through participating in the classroom itself."

The Center proposes to "work with sociology and American history classes in the Metropolitan high schools to formulate classroom situations in which students would examine the sociology and history of race relations in the U.S."

The proposal goes on to state that:

"This thurst for new race relations study in the schools would be set up as a system of consultation in which USSAC staff members would visit a high school teacher and talk to them (sic), informally, about the need for these type studies as a part of the teacher's yearly curriculum.

"Although the ESAP proposal of the Metropolitan school board contains plans for researching multi-ethnic textbooks and for classroom adjustment," the Unitary School System Assistance Center observes, "it is felt this proposed program is more directly attuned to the current needs of Nashville high school students as it is specifically designed to use a variety of existing resource materials and to involve the students in the determination of the directions the program will take in the classroom."

In addition to taking part in running American history and sociology classes, the Center members wish to bring "the message of equity and brotherhood" into the community and the schools "through presenting an entertainment which imparts a message through what it verbalizes and the spirit which it symbolizes."

To accomplish this adjustment, the Unitary School System Assistance Center proposes to use tax funds for "a sing-out group."

"A sing-out group composed of black and white students visiting areas of tension within the Nashville community and its high schools could serve to ease hostility and provide a link of cooperation between reluctant persons and-or groups," the proposal observes.

The Center's proposal for tax funds claims "a newsletter would fill a communication need among those students involved in the desegregation process in Nashville and act as a valuable aid to changing modes of discriminatory thought."

To solve this problem and "meet this need," the USSAC proposal seeks to publish a biweekly newsletter financed by the federal government which would be "distributed to the students of Nashville's high schools.

"This newsletter would contain information about the concept of the unitary school system at work in Nashville, and parables, essays, and histories relevant to race relations in the U.S. The material published would be partly written by Unitary School System Assistance Center and partly solicited from high school students."

Concerning the need it sees for a forum "for the most 'extreme' and/or polarized points of view emanating from public and private debate concerning implementation of a unitary school system, the Center says such forums would "allow these diverse points of view to be expressed in a manner allowing for orderly opinion and idea sharing among attending groups."

There could possibly be trouble, however, the proposal states.

"The emotional factors involved in this type of meeting may initially lead to periods of disruption, but with further communication on the level of this forum a meaningful appreciation of different persuasions could be initiated and sustained," the project proposal claims.

The individual group would not only contribute "its shared opinions to the while, but would obtain an awareness of the diversity of the urban and suburban community, and come to know each other as human beings rather than stereotypes."

The forums would function "as vehicles of information at the community level and at the high school level," it was noted.

"The method of exchange between the groups would follow the same pattern in either dichotomy but the community forums will be discussions between members of organized groups, whereas the high school forums would be an exchange between the students through either existing school group or individual students," the Center's proposal states.

Employe salaries, services and benefits would cost $43,500 under this proposal, including $6,000 for fringe benefits for the five employes.

A full-time "assistant director" would be employed by the Center at $10,000 annually; a full-time "educator specialist" at $11,000 annually, a music teacher full-time at $5,000 annually, a typist and layout employe at $5,500 and a secretary at $6,000.

In addition, "administrative overhead" could cost $17,478.

The "newsletter and advertising" cost is given in the proposal as $3,000. Resource material would cost $5,000 and "pupil expense" would be $14,400.

"Pupil expense" is not detailed.

FOR 200 STUDENTS: $60,000 CHILD CARE FUNDS ARE REQUESTED

(By Grady Gallant)

The Social Action Committee of Christians and Jews, Inc., 6401 Harding Road, has requested $60,000 in federal tax funds under the Emergency School Assistance Program (ESAP) to establish two "early morning, free child care centers" here.

These centers, which would be located at Howard United Church of Christ, Buchanan at 28th Ave. North, and at the Fifteenth Avenue Church of Christ, 2127 Fifteenth Avenue North, would "help care for children of working mothers." Each would be designed to accommodate 100 children.

The children would be cared for between the time the mothers must leave home for work and when the children must leave for schools which open as late as 10 a.m. under Federal Judge L. Clure Morton's massive busing order.

During this time, the children will be served "a simple but nourishing breakfast: juice, milk, rolls, cereal" and will participate in "creative activity," study or reading, as well as indoor or outdoor play.

The program is planned for the period beginning Oct. 15, 1971 and ending June 15, 1972, eight months. However, the budget shows pay scales figured on a 9-month basis.

HEAVY COST

As in other ESAP proposals, this one reflects the heavy cost of operating any project involving children under the project planning of ESAP fund seekers.

Only $12,837, which is budgeted under "other costs," would be required for the "children's meals, insurance, etc."

On the other hand, employe salaries, services and benefits consume $37,901, or more than half, of the money requested.

A full-time executive director for the early morning centers will cost $7,500. His pay for the nine months is based on an annual salary of $10,000.

A typist-clerk (annual scale of $6,000) would get $4,500. There would be four food specialists (on an annual rate of $3,650 each) who would get $2,730 each for a total cost of $10,920.

There would be four "program specialists" at a cost of $2,730 each for the nine months, or a total of $10,920.

Personnel fringe benefits would require an additional $4,061.

The 36,000 "nourishing breakfasts" would cost only 36 cents each for a total of $11,520.

EQUIPMENT COSTS

To operate the office of the early morning day care centers would require such equipment as secretary desk and chair ($198), IBM Selectric typewriter ($456), file cabinet ($55), executive desk and chair ($275) and two storage cabinets at $100 each ($200).

There would also be purchased two television sets at $150 each ($300), two record players at $50 each ($100), two 16-mm projectors at $353 each ($706), and two recorder casettes at $46 each ($92).

Program materials for the children would be less expensive than the office equipment. Two hundred units at a unit charge of $3.75 would cost the taxpayers $750—or only $19 more than the combined cost of the IBM typewriter and the executive desk and chair.

These program materials include:

"Indoor play supplies, games, blocks, puzzles, construction toys, etc." at $1.50 per child.

"Outdoor play supplies: includes balls, ropes, etc." at 25 cents per child.

"Enrichment program supplies: Includes books, records, art and creative supplies, etc." at $2 per child.

The unit costs total $3.75 per child.

Travel would cost $900 and office supplies would cost $250. Postage and stationery are budgeted at $250 and telephones would cost $500.

Rental for the facilities located in the two churches would cost $2,400.

Equipment rental is given as $1,080 and contracted services would cost $1,500.

"Other expenditures," a mystery item in all ESAP project proposal budget projections, would require $367.

INNER CITY

The proposal notes that the two church buildings selected for the centers are "within the inner-city, largely black community served, under the desegregation plan, by three elementary (grades 1 to 4) schools, Westmeade, Parmer and H. G. Hill, all located in the general West Nashville suburban, white, area."

The center locations are easily accessible from all parts of the neighborhood served and "will serve as pick-up points for the buses taking the children to their assigned schools (details are being worked out by a member of the SACCJ and Mr. Carlisle Beasley, Metro transportation director."

The centers are also accessible "for suburban parents from the three elementary school areas driving to work in mid-town (being not far from 40)."

The proposal states that "a number of such parents expressed interest in using the service, no matter where it was located."

Personnel employed at the centers "will be selected on the basis of the qualifications required by the State Department of Public Welfare licensing standards," the proposal states.

ALSO VOLUNTEERS

A minimum of six volunteers per day would also serve in each center. These will be recruited by members of Social Action Committee of Christians and Jews, Inc. through the social action committees of their churches. These churches include The Temple and West End Synagogues, St. Henry's and St. Ann's Catholic Churches, St. David's and St. George's Episcopal Churches, West End, Belmont and Edgehill United Methodist Churches, Brookmeade and Howard United Church of Christ-Congregational, Fifteenth Avenue Church of Christ and the Society of Friends. Volunteers would also be sought in the neighborhood.

Among those listed in the proposal as SACCJ members "having experience in the field of education or in that of race relations" are:

Mrs. Zensch G. (Bettye) Adams, member of

XUM

Metro School Board ESAP advisory committee and co-chairman of Metro Council of PTA.

Larry S. Crist, associate professor at Vanderbilt University and member of the board of advisors of Fisk University Afro-American Research Center ESAP program.

The Rev. Charles N. Fulton III, associate priest at St. George's Episcopal Church and past director of an interracial camp program at Poughkeepsie, N.Y.

Attorney John Gannon, chairman of the Industrial Advisory Council, Nashville Opportunities Industrialization Center.

Rabbi Randall M. Falk, rabbi of The Temple and chairman of Metro Human Relations Commission. He is also listed as a member of Tennessee State University ESAP program.

The Rev. Wilson Q. Welch Jr., associate professor of religion and philosophy at Fisk University, member of the board of advisers of Afro-American Research Center's ESAP program.

Listed as members of the advisory committee of the proposed ESAP project are:

Mrs. Bettye Adams, 1024 Kellow St., who is also listed on the bi-racial committee on the University Council for Educational Administration ESAP project described in Thursday's article.

Mrs. E. J. Miller, 118 Taggart Ave.; Robert Moore, Box 834, Fisk University; Charles B. Myers, 1050 Percy Warner Boulevard; the Rev. Wilson Q. Welch Jr., 3959 King's Lane; John S. Gannon, 216 Jackson Boulevard; and Rabbi Falk, 1209 Canterbury Drive.

Eyes Total Integration: Chattanooga Unity Group Seeks $372,970 Funding

(By Grady Gallant)

The Unity Group Fund, Inc., Chattanooga, has applied for $372,970 in federal tax funds "for counseling, negotiating and other activities" in the field of school integration and community race relations.

Almost all of the money requested—$320,080 of the total $372,970—will be used in payment of salaries, employe benefits and travel. Travel and per diem would cost $21,600 under the plan. Salaries and employe benefits would cost $290,480.

Application for tax money has been made to the Emergency School Assistance Program (ESAP), which is administered by the U.S. Department of Health, Education and Welfare. It is one of 12 such proposals by private groups and organization in Tennessee. The four applications by Nashville groups were reported last week in the Nashville Banner.

Headquarters of The Unity Group Fund, Inc., is in the office of the pastor of Second Missionary Baptist Church, the Rev. Paul A. McDaniel.

NONPOLITICAL

The Rev. Mr. McDaniel said The Unity Group Fund, Inc., is a "non-political" organization and that he is "acting chairman."

The Unity Group Fund, Inc., according to the EASP proposal, grew out of The Unity Group, which was organized in the fall of 1970.

The primary purpose of The Unity Group, which was active politically, was "to get black representation on the City Commission of Chattanooga."

John P. Franklin, a Negro, was elected to the commission and assumed the post of commissioner of health, education and welfare last April.

"Being successful in this venture," the ESAP proposal for tax money states, "the group decided to continue its existence and broaden its concerns to include housing, education and inter-group relations.

"The Unity Group is composed of leaders of civic, civil rights, religious, social and political groups of the black community and other interested citizens."

BALANCED COMMITTEE

The proposal lists three white persons and five Negroes on the bi-racial committee, with "two additional white members" still to be selected.

On the bi-racial committee are James Williams, 5326 Dorsey St., (chairman of 19th Ward, 1st Precinct in Chattanooga) representing The Informers Club of Alton Park; Irvin Overton, 2712 Glenwood Parkway, (campaign manager for the successful Negro city commission candidate) John Franklin, representing Unity Group.

Richard J. Ramsey, 3124 Rose Terrace, chairman of the Clearinghouse on Public Education; Ben Miller, 2009 Kirby Ave., representing the Community Action Program.

Miss Willie L. McClendon, 4804 Oakland Ave., representing Action Coordinating Council; Mrs. B. T. Cromble, 2419 East 3rd St., representing the Orchard Knob-Glenwood Area Advisory Council.

Robert E. Brown, 424-B Gillespie Road, representing the NAACP; and William Harris, 514 Biltmore Drive, president of the Chattanooga Chapter of the Tennessee Council on Human Relations. He is also pastor of Fairview Presbyterian Church, 913 East 9th St.

MESSAGE QUOTED

In a message accompanying the proposal entitled "Reactions to the ESAP Proposal Submitted by the Unity Group," The Rev. Mr. Harris writes:

"The people who oppose desegregation of the schools have much more ready access to the mass media than is the case in most communities. This makes it doubly hard for the school board and staff to act responsibly in this regard.

"The problem is so significant that the public relations component of the proposal should be expanded from a mere line in the budget into one of the major thrusts of the proposal.

"After all," the minister writes, "the purpose of the proposal is to change public opinions and attitudes in order that desegregation may be carried out in a smooth and orderly manner. Any proposal having this purpose would be silly not to pay greater attention to the mass media.

"This component of the proposal should be expanded by at least 600 per cent, including a fulltime staff person and plans for specific use of FCC (Federal Communications Commission) public service time and press releases."

TO COST $4,500

Public relations, "TV, radio, newspaper" is listed under "Other Cost" in the proposal as to cost $4,500.

The Unity Fund Group, Inc., outlines numerous activities mainly consisting of identifying people and recording information about them and their problems, holding meetings, making talks and getting medical and legal aid for students.

"The possibility of an outbreak of violence will haunt the (school) system for several months to come. To meet this problem, the proposal for ESAP tax money plans to get cooperation of medical personnel "in the event that a school altercation would result in injury to any student" and to "provide medical services needed in the event that an injured student was not covered by accident insurance and/or his family was not able to cover the cost of medical treatment."

It is also planned to provide cost of ambulance service to students requiring it as the result "of school altercations."

In addition, it is proposed that cooperation of legal "personnel" be obtained "in the event that any student was accused of violating civil law."

The group proposes to work with school officials "in identifying low achievers" and to work to have an out-of-school tutorial program for them. A "special out-of-school counseling service to chronic problem students in cooperation with parents and teachers" would be provided.

The group also wants to help find students part-time work and to bring students and families "into contact with those community resources that can provide food, clothing and shelter on an emergency basis."

A bi-racial speakers' bureau is planned "to present the status of school integration at any period through the school year."

With the $372,970 in tax funds, the group proposes to "identify those in-school youth leaders who are dedicated to working within the system," as well as "identify those out-of-school youth leaders who are protagonistic of the system."

"The out-of-school leaders will work with the hard core drop-outs, the isolationists who feel integration is a racial injustice."

Employe salaries, services and benefits are broken down on the proposed budget as $12,000 annually for the director and $8,000 for his assistant director. Two clerk-typists at $4,000 annually would cost $8,000. Fringe benefits for these employes would be $4,080.

There would be seven "coordinators" at $750 a month for 10 months, or a total of $52,500.

Twenty-five "community workers" at $500 a month for 10 months would cost a total of $125,000; 11 more community workers (designated as Community Workers II) at $500 would total $55,000. Fringe benefits for these workers would require an additional expense of $27,900.

Travel and per diem figured in the proposed budget at 1,200 miles at 9 cents a mile for 20 workers for 10 months equals a $2,000 expense.

An interesting budget item is "inter-com system in motor vehicles" at a cost of $3,000. A second interesting budget item is "6 typewriters at $500 for a total of $1,000" (sic).

A calculator at the cost of $500 and a mimeograph machine at $500, as well as two "conference tables" at $100 each are budgeted.

The ever needed consultants, who are so often listed in ESAP proposals, have not been forgotten here, though they work cheaper than some, being budgeted at $25 a day, rather than the usual $100 daily. In any case, there are six of these on the proposed budget at $25 for a total of $150.

An expensive budget item, requiring $10,000 in tax funds, are "medical expenses at $100 per student times 100 students."

Legal fees at $10 per student for 100 students come out to the same $10,000 cost.

"Janitorial service at $100 per month times 12 months for $1,000" total appears to be $200 short of the amount of tax money needed to keep the office clean.

"Up Keep Contracts" cost $150 under the proposal of this group for ESAP funds.

"Release time payment and supportive pay for parents for 200 days at $20 a day" adds up to $4,000 under the proposal. Utilities at $100 a month for 12 months will cost $1,200.

Rental of a "portable loud speaker" at $5 daily for 120 days costs $600, whether it is needed or not.

Office space is to cost $200 a month for a year for a total of $2,400. Three desks at $100 each cost $300 and the 85 folding chairs budgeted cost $450.

The group plans to lease four station wagons at $150 a month for 10 months for a total of $6,000.

Memphis Group Asking $413,410

(By Grady Gallant)

Memphis Education Project, Inc. (MCEP), 740 Court, Memphis, has requested $413,410 in Emergency School Assistance Program Funds (ESAP) for a double project which proposes an ombudsman system for the city and further funding of the existing Parents Action Corporation for Education (PACE) set-up.

Memphis Education Project, Inc., lists the same address as the University Interfaith Center, a building located on the University of Tennessee campus at Memphis.

The University Interfaith Center was built on university property by private funds subscribed in the city.

A Roman Catholic Priest, Robert Dempsey, a chaplain at the University Interfaith Center, served as MCEP director until a few weeks ago, according to an education official.

The priest, however, resigned that post, though he is still active in MCEP affairs. There is no MCEP director at this time.

ATTORNEY LISTED

An attorney, Phillip E. Kuhn of the Memphis law firm of Finley, Stein, Kuhn and Sisson, is listed on the project proposal as the official representative of the group to ESAP. He is also listed as chairman of MCEP board of directors.

Asked whom to contact concerning activities of MCEP, both Kuhn and the Catholic priest said either of them would be the one to talk with.

In the introduction to "A Comprehensive Plan of National Significance to Accomplish and Maintain an Integrated School System in Memphis," the project proposal states:

The only way to end segregated education in Memphis is simply to end it.

Education programs "should not be imposed on the Black community but evolved out of it," the plan proposal goes on. "This can be accomplished by a process of rational and systemic coooperation of the Neighborhood Education Ombudsman, the Minority Consumer Agency and the L.E.A. (Local Education Agency). This process should end the duality of Memphis education and move the city closer to stability and harmony.

QUICK WAY

The proposal for tax money says "the ombudsman plan is simply a way to quickly and effectively raise the black community's ability to dialogue (sic) to the level of the School Board and simultaneously lower their frustrations and consequent hostile feelings."

The "Ombudsman Plan" envisions 13 ombudsman units at a cost of $23,220 a unit—or a total cost of $303,860 in tax money.

Each unit would have an ombudsman at $8,000 annually and a secretary for him at an additional cost of $5,500, for a total of $13,500. Social security payments would bring the cost for the two up to $15,120.

Travel would be necessary and mileage at 10 cents a mile times 150 miles a month for 12 months would cost $1,800 for each of the 13 units.

Office space, according to the project plan, would cost $3,000, including utilities. Office equipment per unit would be $700, office supplies, $1,000; printing, $500; telephone $300 and desk top supplies, $100.

Postage for each of the 13 units would cost $200 and fiscal controls for each unit another $500. In addition, fiscal control over the entire grant would cost $2,000.

It would all add up to $303,860 for the ombudsman plan.

The Parents Action Corporation for Education (PACE) budget would total $109,550.

It would include a director for $8,500 annually, a deputy director for $7,500, plus a staff of seven persons.

These include, according to the proposal for tax funds, a research and development person at $7,500, two community educator and race relations trainees at $7,500 each—a total of $15,000. There would be three community liaison persons at $7,500 each for a total of $22,500 annually, and a secretary at $6,500 annually. This totals $67,500. Social security payments for them brings the total to $75,600.

Consultant fees, a heavy expense in most ESAP projects would cost $5,000 in this one. Fiscal controls could cost $1,000.

Office space would cost $4,000 annually, plus $3,600 for utilities. Office equipment would cost $600 and printing would drain off $2,000. Office supplies would cost $1,000 and telephones would cost $1,400 annually. Postage would be $500 for the year and desk top supplies would be $450.

Mileage at 10 cents a mile times 1,500 miles a month times 12 months times 8 persons adds up to a cost of $14,400-worth of riding around.

Non-personnel costs would come to a total of $27,950.

MCEP, a group called Mid Town Action, Legal Defense Fund and "community leaders brought PACE into existence in order to help end segregation in the schools and upgrade the level of education for all," according to the proposal seeking federal tax money from ESAP.

Growth to this point has been rapid. However, if potential effectiveness is judged by what must be accomplished, then this volunteer participation must be effectively focused by paid professional staff. With paid professional staff, minority educational needs can be discovered and described from a minority viewpoint.

NEW METHODOLOGIES

New investigative methodologies can be evolved to do on going and in depth studies. Such mechanisms as IQ, reading and aptitude tests designed by and for whites can be redesigned for blacks.

"The graded school system evolved from white cultural circumstances, can be altered for children with ghetto backgrounds," the proposal for federal tax money claims.

Church Asks $814,176 U.S. Desegregation Aid

(By Grady Gallant)

The General Board of Christian Education of the Christian Methodist Episcopal Church, 1474 Humber St., Memphis has requested $814,176 in federal tax funds from the Emergency School Assistance Program (ESAP) of which $178,599 would be spent in Chattanooga.

The remainder of the money to be used "to aid in the desegregation process" would be expended in Tupelo, Miss.; Phenix City, Ala.; Savannah, Ga.; and Bastrop, La.

The three objectives of the ESAP proposal are to "assist in acquiring public support of the desegregation plan in each community . . . to ensure operationalizing of the desegregation plans with the least amount of conflict and disruption . . . and to gain support of and actively involve students, parents and other members of the community in interracial activities whereby a quality education for all students can be assured."

As can be seen from the amount of money requested, this sort of thing is expensive for the taxpayers, especially in outlays for salaries and travel expenses of those laboring in the ESAP vineyards.

The project for Chattanooga would require that $134,363 of the $178,599 sought in tax funds be dissipated in salaries and travel costs.

Personnel working for the Chattanooga project would get a total of $129,143 during the year in salaries and employee benefits—social security, hospitalization and workmen's compensation.

Travel costs would be $5,220 for them. Local travel alone is figured at 2,100 miles per month at 10 cents a mile, for a total of $2,500 for the year.

AIR AND GROUND

Training conferences in Memphis for the Chattanooga project director-coordinator, community worker and five youth workers would cost in "air and ground" travel a total of $1,900—and per diem would add another $650. The project director would have to return to Memphis for a "compilation session" at a cost of $75 for "air and ground" travel and $25 per diem, for a total of $100.

"The program for Chattanooga would entail activities of students and youth. The aims of these activities are to ease present and potential conflict between students and youth as a result of the desegregation plan, and to provide opportunities for students and youth to participate in meaningful activities whose purposes are beneficial to the entire community."

To this end, the program would operate in seven areas of Chattanooga with an activity "designed for each area."

In the East Lake area of Chattanooga, "students will seek to involve the entire area in meaningful activities." Such activities will include "student-family and student-administration forums, debates, panel discussions, etc."

Door-to-door canvassing would identify parents, according to the project proposal, who have both "pro and anti-feelings toward the plan; ministers will be contacted to lend their support, to encourage their youth and to offer their facilities for group meetings. Area social and political organizations will be contacted in a like manner."

For the Alton Park, St. Elmo and Brainerd-Shepherd area "an interracial student club is proposed." This club will solicit membership from both black and white students with proportionate representation where possible.

The club will "sponsor forums, panel discussions, debates and seminars dealing with subjects related to race. It will have social affairs such as dances, outings, retreats, etc. (at least once per month) to ensure active participation and interest by the students."

"Occupational counseling and guidance" is proposed for the Riverside and North Chattanooga area. Students in the area who have become drop-outs would be found and given "guidance and counseling" in depth. There would be speeches, forums, discussions, movies and slides presented to those attending the meetings.

Plans for the West Side and Central City area of Chattanooga, a "predominately black area," is proposed a "tutorial clinic to which students who are inadequately prepared, academically, can be recommended or who can select to come for remedial and compensatory classes."

In the Avondale-Bustown area there "is proposed an information center for disseminating positive information concerning the desegregation plan and of those groups participating in the plan. Grievances will be investigated and opportunities for correcting the grievances will be offered."

Under this activity, a "rumor control" center will be established.

In the East Chattanooga-Boone Hysinger area a "program of leadership development" is planned. This activity would provide "training in interracial relations to those formal and informal leaders on the campuses whereby they can become instrumental in breaking down the walls of segregation within the school."

To this end, there will be interracial social events, forums, discussions "and the like." There would also be pre-school breakfasts, a "buddy system," "interest groups," "school social affairs" and "role playing."

Other than these area activities, there would be "citywide activities to aid in solving the overall problem found in Chattanooga."

These will include "a student newspaper published once a month . . . operated by and for students." Each area would have an advisory committee and each area would provide two persons to serve on the city-wide youth advisory committee, which would, with the adult advisory committee, give "directions to the entire program."

Fifty-three persons would be on the project payroll drawing a total of $116,345 in salaries for the year, plus $12,798 in employe benefits.

The project director would get $12,000 annually. Seven coordinators—who would be under 25 years of age—would get $3 an hour for 12 months, working 75 per cent of the time, for a total of $32,760.

Fifteen community workers under 25 years of age would get $2 an hour for 10 months

working 75 per cent of the time for a cost of $36,900.

Eight community workers under the age of 25 years would get $2 an hour for 10 months for work 20 per cent of the time for a total of $5,248. Fourteen youth workers, all under age 25 would receive $1.65 an hour for 10 months for work 20 per cent of the time for a total cost of $7,577.

An "administrative assistant" would get $6,500 annually for full time work, two clerk typists would be paid $5,000 each annually for a total of $10,000 and a janitor would get $2,000 annually for working halftime.

Four "teacher-counselors" would receive $5 an hour for 10 months for working 20 per cent of the time for a total of $3,860.

A "main office" would have to be rented at $400 monthly for 12 months at a total cost of $4,800. Seven branch offices would be necessary at $100 monthly each for a total of $8,400. In addition, four meeting places would be rented at $25 monthly each for a total cost of $1,200.

This would all total $14,400.

Office supplies and materials would cost a total of $8,400. Equipment rental would cost $8,139, including rental of one school bus and its upkeep and operation at $4,800 for the year, or $400 a month.

A total of $2,990-worth of equipment would be purchased including projectors, cameras, tape recorders, folding chairs and file cabinets.

"Consultant fees ($100 a day for 20 days)" would cost $2,000.

There would be $8,300 "other costs," such as student-parent events ($1,600), students breakfasts ($600), "social events, outings, dances, etc." ($1,200), student newspaper publication ($2,400) and educational materials—books, films, slides, magazines, pamphlets and other items—$2,000.

The Chattanooga committee membership is listed in the project proposal as: The Rev. William M. Harris, 913 East 9th St.; Raymond Taylor, 406 Glenwood Drive; Mrs. Charlene Kilpatrick, 510 Kilmer St.

Walter C. Tate, 848½ East 5th St.; James E. Baldwin, 1723-A Wilcox Boulevard; and The Rev. H. R. Delaney, 757 Vine St.

PRIVATE FRANKLIN, JACKSON GROUPS ALSO HAVE REQUESTED ESAP FUNDS

(By Grady Gallant)

Private organizations in both Franklin and Jackson have applied for tax funds from the Emergency School Assistance Program (ESAP) to help achieve integration in these two cities.

Applications by the Williamson County Citizens for Human Dignity, P.O. Box 423, Franklin, and the Civic Action Council of Jackson, P.O. Box 3002, Jackson, are among the 12 ESAP requests filed recently in Tennessee.

Williamson County Citizens for Human Dignity wants $58,203 of which $33,028 would be used for salaries and travel costs.

The Civic Action Council of Jackson requests $89,725 in tax money of which $70,425 would be consumed in salaries and travel expenses.

The Williamson County Citizens for Human Dignity states in its project introduction that "at the outset, the rationale for the program must be clear, since the proposed effort will have two goals: i.e., the 'real goal' and the 'publically (sic) stated goal.'"

"The black and white communities in Williamson County suffer severely from lack of communication and cooperation, especially in the area of black-white relations," the proposal notes.

The recent court order to desegregate the Franklin County School System has not improved the situation, but has "intensified" it.

"Thus, the real and only goal of the proposed program is to improve the dialogue between these two groups and thereby enable the individual members of the community, both black and white, to rid themselves of destructive attitudes that are largely based on lack of understanding, which rob from everyone the opportunity to his full potential as a person," the proposal observes.

The proposal states that the two groups cannot have "a meaningful dialogue" so long as the subject is limited "to black-white problems."

"Instead, the proposed approach is to attack the problem more obliquely by focusing attention on a problem both groups have and must deal with, and by organizing a community program to solve it."

The "stated goal" chosen for the program is to "reduce or help eliminate the problem of high school 'drop outs.'"

Desegregation can be expected to increase the number of drop outs in Williamson County, the proposal states. This is because:

"1. The relatively small percentage (15%) of black students causes a strong dilution of black focus, a loss of black contact and a loss of identity of the black student.

"2. White teachers are, or are perceived to be less tolerant of black 'anti-social behavior.'

"3. All the extra stresses created in the process of desegregation, such as busing, learning to deal with whites, and adjusting to a new environment, push the potential drop-out closer to the time when he cannot conduct himself in a manner acceptable to that the school supervision requires.

"4. In some cases, white students who leave the public schools to avoid desegregation may later try to return, but with inferior private school training, may find themselves as drop-outs."

A study of the drop-out problem in Williamson County shows that "in line with national trends, the great majority of those leaving the school system are actually 'push-outs'—students who, because of their unacceptable behavior, have been forced out," the proposal claims.

The proposed program to deal with the drop-out problem, and through it the desegregation-integration problem, is to use "a specially trained social worker" and also involve the community through "a Big Brother type of program emphasizing supportive, one-to-one relationships between potential problem children and concerned individuals. A recreation program during the summer is also planned."

The summer program, from June 14 to Aug. 13, 1972, involves music, drama, art, swimming, tennis, badminton, volleyball, softball, dancing and group games.

The recreation program would cost $10,000, or about $5,000 a month.

The entire program, beginning Nov. 1, 1971, and ending Oct. 31, 1972, would require a "coordinator" at $12,000 for the year.

The social worker would also cost $12,000. A clerical assistant would cost $5,000.

Contributions toward the retirement of the coordinator and social worker would cost $720 for their one year of work. Social security payments for the coordinator and clerical worker would amount to $1,506.

Travel and per diem, a costly item in ESAP proposals, would be $25 a month for the coordinator, "plus two appropriate conferences at $300 each," which would amount to a total outlay of $600. The social worker would get the same amount, another $900.

Thus, the salaries and travel amount to a total of $33,028.

"Facilities for the housing of the coordinator, social worker and drop-out program at $200 a month for 12 months" would total $5,400 in tax money. Electricity, water, gas and telephone would add another $2,500, for a total of $6,550.

Office equipment—typewriters, adding machine, filing cabinet, ditto machine and two desk and chair sets—would cost $2,000.

Office supplies, "drop-out program supplies for the recreation program would cost $2,500.

To evaluate what had happened, a consultant would be employed at a cost of $1,000.

A workshop would be necessary. It would involve 25 teachers times $15 times 3 days, or a total of $1,125.

A certified Public Accountant to keep up with all this would cost $2,000, compared to auditor's fees listed in other ESAP proposals of $500.

The advisory committee is listed on the proposal as Bobby Greathouse, College Grove, Tenn.; Lillian Hamilton, Rt. 4 Dabney Drive, Franklin; Emily McCarty, 2101 Crestmoor Rd., Nashville; Mrs. Robert Mitchell, Rt. 3, Brentwood, Tenn.; Robert Murdic, Rt. 4 Dabney, Franklin; John Pope, Rt. 4 Hardison Drive, Franklin.

Mrs. Floyd Sandlin, Sandlin Drug Co., Franklin; William Smith, no address given; Jimmy Hastings, Wilson Pike, Franklin; and Mrs. Arron Smith, Peytonville Road, Franklin.

In its request for $89, 725 in ESAP tax funds, The Civic Action Council of Jackson claims it has two objectives: to give direct assistance to students whose academic work "and other activities" have suffered "because of school desegregation," and to "facilitate a change in the attitude of the community toward integration and thereby aid the students who live in two separate worlds even though they attend classes together."

These objectives will be "pursued through a series of activities, each aimed at a specific of the over-all problem related to desegregation of the Jackson High and junior high schools."

The organization proposes to conduct a survey of drop out problems and determine the drop-out rate. If desegregation has caused an increase in this, "an experiment program would be developed" to involve recent drop-outs "in a non-graded educational situation away from the school buildings."

A "Youth Theater Program" is planned for students to develop their talents "in an integrated context after school hours."

A monthly newsletter to keep the community informed as to what "is really happening in the schools" is planned "to facilitate a positive change of attitudes toward integrated education."

There would also be workshops on school integration problems for "faculty, administrators and parents upon request."

"The Jackson City School System received ESAP funds last year and have been refunded this year. No private or public non-profit organization in the Jackson area has received ESAP funds," the proposals points out.

To carry the heavy burden of this program requires four directors, two secretaries, and consultants. They are:

Director (one-fourth time at $20,000 for 12 months), $5,000; Director of Communications (full time), $14,000; Director of Youth Theater and related interest groups (full time), $14,000; Director of Drop-out Survey and Follow-up (full time), $14,000; Secretarial services (two fulltime secretaries at $5,000 each), $10,000; Consultants and speakers for all components of the program, $2,500.

This adds up to a total of $59,500. Fringe benefits of 15 per cent cost $8,925, making a grand total of $68,425 for these leaders.

The monthly newsletter to every resident of Jackson for 12 months would cost $12,500. Advertisement of the program and brochures would cost $2,000. Office rent would be $2,-400. Regular mailing costs would require $400, the telephone would cost $500 and "expendable supplies" would cost $1,500. This totals $9,300.

Staff travel expenses are listed at $2,000.

And that takes up the proposal request of $89,725 in tax money.

No bi-racial committee was included. Paul F. Blankenship, P.O. Box 3002, Jackson, is given as the authorized representative of the group.

"Since we heard about the possibility of applying for these funds less than a week ago, there has not been sufficient time for organizations to respond to our invitation to select a member," the proposal states.

"The following are individuals who have not been confirmed by their organizations as of yet, but are willing to serve: John A. Werthing, 94 Labelle St., Jackson and The Rev. Fred Bean, 15 Harmony, Jackson.

The group also states it plans to hire Dr. Wesley McClure, assistant to the president of Lane College in Jackson, as director of the project on a one-fourth time basis.

THREE SMALL MEMPHIS GROUPS SEEK ESAP AID FUNDS

(By Grady Gallant)

A self-described "shoestring" operation, advised by an Office of Education official of the Department of Health, Education and Welfare to apply for Emergency School Assistance Program (ESAP) funds, is among three private Memphis groups to ask for a total of $317,793 in federal tax money to help establish "total integration" of the races.

The funds are spent by private groups to help in community adjustment to problems created by masive busing of public school children and the establishment of a unitary school system.

The three Memphis groups are:

1. Memphis Urban League, 546 Beale St., seeking $236,242 in tax money.

2. Community Youth Playhouse, Inc., 1185 South Bellevue, which asks for $61,580 for "role-playing."

3. Memphis Panel of American Women, with a headquarter address in a private home at 5503 Gwynne Road, and self-described as a "shoestring" operation, seeking $19,971 for bi-racial panel programs.

The Memphis Panel of American Women, asking for $19,971 in tax money from ESAP, plans to spend $7,080 on salaries and travel.

This entire activity consists of conducting bi-racial adult group panel discussion before students, participation in human relations seminars, attending meetings, training volunteers to hold panel discussion and "subscribing to appropriate journals and newsletters and local black newspapers."

To do all this would require a director on half-time at a cost of $3,500 and a half-time secretary at a cost of $1,800. Their employe benefits would cost $530, for a total of $5,830.

"Travel and per diem for staff (local and non-local)" would cost $600. Travel for panelists would cost another $600.

Rental of office space and a conference room would cost $1,600. A telephone at $25 a month for 12 months would cost $300. A Code-A-Phone would require expenditure of another $720.

Desks, chairs, typewriter, dictating and transcribing equipment, including the Code-A-Phone, would total $2,450.

"Human relation training" would require $4,800 and "auditing" would cost $800, for a total of $5,100. Educational materials, books and subscriptions would drain away $700. "Handouts, news media advertising and pamphlets would cost $850.

"Lodging and food for panelist training" would expend $940. This would be lodging and food for 44 persons at $10 per couple per night for two nights at $440. Coffeebreaks would be held four times at an expenditure of $12 a coffeebreak.

Breakfasts would be the cheapest meal at at $1.35 each for the 44 persons, a total of $119. Lunch would cost $1.45 each, or $127 and dinner would be $2.35 each, or a total of $207.

In an attached letter to Preston Torrence, director of ESAP in Atlanta, Ga., the Memphis Panel of American Women states:

"Dear Mr. Torrence:

"The idea of applying for this grant was conceived just days ago when I met Mr. James Lockhart from your Washington Office at our LEA Adult Advisory Committee of which I currently serve representing the Memphis Panel of American Women.

"He urged that we apply for this grant even though I explained the 'shoestring' operation under which we have previously functioned.

"Locally we are not incorporated and our attorney had advised not to bother with getting a tax exempt status since we handled such small amounts of money to spend in the state. Any contribution that anyone wanted to deduct from federal income tax was sent to our national office in Kansas City. Nationally we are incorporated and each local chapter in good standing is chartered yearly. The federal tax exempt number for the National Panel of American Women, Inc., is ST L-EO-64-140.

For three years now we have merely maintained a bank account and a home style set of books that I carry to every meeting so that any interested member might examine them.

"We have never dealt with more than a few hundred dollars locally.

"As of yesterday, I have engaged the services of an attorney to set into motion our local incorporation and state tax exempt status. Also, a CPA (certified public accountant) has our books and will set up a functional set of books to be kept by a qualified bookkeeper. Statements of assurances will be forwarded immediately."

No date or signature is shown on the copy of the letter to Torrence accompanying the ESAP proposal for funds by this group.

However, Mrs. Jocelyn Dan Wurzburg, 5503 Gwynne Road, the same address as given for the Memphis Panel of American Women, is listed on the proposal as the authorized representative of that organization with ESAP.

The Memphis Urban League in its request for a grant of $236,242 proposes to spend $134,446 for salaries and travel and travel expenses.

The major objectives of its plan would be to "operate eight centers in the Memphis School District's defined area known as the Central Area; to serve both black and white communities through integrated staff; to demonstrate ways in which the polarization of school and community can be diminished; to disseminate information regarding the school desegregation process; and to train students, parents and community members for leadership roles in implementing the desegregation process."

"Parent involvement activity" will be to "involve parents in meaningful relationships designed to stimulate dialogue between them concerning their children's education."

The results of this proposal would be to "involve 3,200 families in dialogue with one another, increase the leadership skills of 32 parents, aid the Memphis School District in becoming a unitary system, and disseminate positive information of the desegregation progress to the residents of Memphis."

Such results are not achieved cheaply and without highly paid staff members who must travel and confer. For example:

The "parent involvement" plan would require one project director at $12,000 annually; one program coordinator at $10,000 a year; 16 full time community workers at $5,000 each annually for a total cost of $80,000.

In addition, there would be three student aides hired for 20 per cent of the time at $2 an hour for a total cost of $2,496. A bookkeeper full time would cost $7,500 annually, and one secretary would cost $6,000 annually.

This adds up to $118,096. In addition, fringe benefits for these people—social security, hospitalization, workmen's compensation—would cost an additional $12,990.

Local travel would cost 10 cents a mile times 1,800 miles a month times 12 months, or a total of $2,160. Per diem charges for conferences would add another $1,200.

Program consultants, evidently a necessary item in all ESAP proposals, would be $50 a day for 100 days, or $5,000.

"Training consultants at Lemoyne-Owen College" would cost $8,000.

There would be a "main office" at $150 a month as well as a "branch office at $8 times 100 times 12," which the proposal states would cost a total of $9,600. Office supplies would cost $4,240. Printing and duplication being the most expensive item at $2,500.

Equipment rental would cost $2,724, including nine desks at a total cost of $1,080, nine chairs at $540, two typewriters at $384, a duplicating machine at $240 a year and one calculator to add up to $480 a year.

Nine work tables would be bought for $450, then there would be a tape recorder ($150), 45 folding chairs ($180), a 16-mm camera ($780) and a movie screen ($50).,

Under "other costs" there is listed "baby-sitter service" at $3 times 64 persons times 12 meetings, or $2,304.

"Transportation to meetings of parents" would cost $2 times 64 times 12 meetings, or a total of $1,536.

Those attending the meetings they have been transported to would be paid "64 persons times 15 times 18 meetings", or $17,280. Evidently there will be six meetings for which there will be neither transportation nor babysitter service.

Telephones would cost $5,460.

An "induct cost" of 22.8 per cent would require $43,862. All this adds up to the $236,242 Memphis Urban League needs for its proposed program.

Community Youth Playhouse, seeking $61,580 in ESAP tax funds, plans to spend $44,400 for salaries and $3,480 for travel.

"Purpose of the project is to employ the technique of role-playing as an effective means of exploring, identifying and hopefully altering attitudinal difficulties between the black and white races so as to aid in accomplishing smooth and realistic desegregation of the Memphis School System."

To do this, the group proposes to "involve parents and other adults" in the "total preparation and presentation" of plays "dealing with race relations."

In these plays will be demonstrated "the nature and results of race prejudice."

Another objective is to "increase parental involvement in the efforts of the school system to bring about a smooth transition from a totally segregated school system to a total and realistically desegregated school system."

The proposal notes that the "Black Knights, Inc." chose drama "as the technique to deal with attitudinal differences" between the races, and as the result of Black Knight activities, Community Youth Playhouse, Inc., came into being.

This proposal would require a director at $7,200, a technical director at $6,000, a public relations director at $8,400, three coordinators at a total cost of $18,000 and a secretary at $4,800 annually.

"Administration and accounting" would cost a flat $5,000, with no detailed breakdown as to how this would be spent.

A sound system and lights would cost $1,100. "Production allowances" would cost $4,000, with no itemization given in the proposal.

Rental of space would cost $2400, telephone would cost $600, and gas, lights and water would also cost $600.

Car allowance for the public relations agent would cost $480, and the allowance for all the directors and coordinators would cost $1,800.

Rental of trucks would come to $1,200.

U.S. WORLD OBLIGATIONS

Mr. JAVITS. Mr. President, for some time I have been concerned about a

growing attitude in the United States to cut back on many of our legal obligations throughout the world. It is essential that we recognize the changing U.S. role in the world but it is still necessary in our own security to support international organizations and increased economic cooperation with other countries in the world.

Such a view is expressed in an editorial published in today's New York Times which deplores the failure to pay assessments to the ILO, the attempts to reduce the level of the United States regular U.N. assessment, the resumption of imports of chrome from Rhodesia and the 10-percent import surcharge. These are the areas where the U.S. role should not be diminishing and I believe the New York Times is correct in its assessment that the credibility and the moral basis of the U.S. role in the world could be undermined by the net effect of these actions.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 9, 1971]

UNITED STATES AND WORLD LAW

The American role as world policeman has been a subject of debate since the large-scale escalation of the Vietnam war. The issue has been whether it was the responsibility of the United States to oppose aggression everywhere and to take it upon itself to uphold the rule of law in the world. Few challenged the theoretical desirability of upholding international law.

Now, however, a new phenomenon seems to be beginning to characterize American behavior in the world: disregard for the law. Apparently without being clearly aware of it, the Nixon Administration, supported by a bipartisan bloc in the Congress, is increasingly ignoring this country's moral or legal obligations outside its borders. The United States, which has frequently taken the lead in challenging treaty violations of other countries, is in danger of becoming a lawbreaker itself.

The move under way in Congress to cut back payment of the United States' regular United Nations assessment, as well as its voluntary contributions, is a case in point. Secretary of State Rogers has opposed retaliation against the United Nations for the expulsion of Taiwan, but he and President Nixon have in effect endorsed a reduction in American contributions. A unilateral reduction in the regular assessment would be a violation of the U.N. Charter. But even a negotiated reduction, if made as an expression of pocketbook pressure, would violate the spirit of the American commitment to the U.N.

Policy disagreements have already put the United States in violation of its legal obligation to the International Labor Organization. With the earlier support of A.F.L.–C.I.O. president George Meany, who has now reversed himself, Representative John Rooney of Brooklyn and his House Appropriations subcommittee are blocking payment of half the 1970 and all of the 1971 I.L.O. assessments on the United States. The State Department has protested and the White House has warned that the United States is "in default" and is violating binding legal obligations. But President Nixon has failed to bring to bear the kind of pressure that would permit the United States to practice the law-abiding behavior it preaches.

A new threat of treaty-breaking lies in the Senate move, just approved by the Congressional conference, to require the United States to resume imports of chrome from Rhodesia in violation of the economic sanctions against Rhodesia voted by the United Nations Security Council with American support. This would mean a violation of the U.N. Charter unless President Nixon takes advantage of a loophole pointed out by Prof. Stephen Schwebel of Johns Hopkins University. Mr. Nixon could win time to turn Congress around by halting imports of chrome from the Soviet Union as well as Rhodesia, releasing chrome instead from the nation's defense stockpiles, a three-year supply.

Most potentially dangerous of all the American treaty-breaking moves, however, is the 10 per cent import surcharge imposed by President Nixon Aug. 15 in violation of American obligations under the GATT treaty. The economic and psychological damage done by Treasury Secretary Connally's vague, outsized demands for worldwide concessions in return for eliminating the surcharge has dominated attention, along with the threat of a worldwide recession. But the legal violation on top of the pressure tactics now threatens to deprive the United States of the world agreement it needs to correct its payments imbalance without a trade war.

American credibility and the whole moral basis of the American role in the world could be undermined unless the country returns to the rule of law it has sought for so long to establish and uphold.

THE UNITED NATIONS AND THE CHINESE VOTE

Mr. SYMINGTON. Mr. President, since the vote which resulted in the expulsion of Taiwan from the United Nations, a great many people have expressed interest in just what contributed to that vote against the position of the United States.

One of the more informed people about the United Nations sent me an analysis of this development which I believe would be of interest to Members of the Senate; therefore, I ask unanimous consent that the analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS

For the first time in UN history, the U.S. suffered a humiliating defeat on an issue to which it had committed its full power and prestige.

The U.S. plan for "two Chinas" in the UN might have been muscled through the General Assembly during the 1970 or 1969 session, but by the 1971 session it was impossible to even put together a majority for the "important question" concept. It is even doubtful if the U.S. could have carried its position if the "important question" resolution had been successful, in view of the final vote on the Albanian resolution—76 in favor to 35 against, with 17 abstentions.

As one analyzes the voting pattern for the Albanian resolution the loss of the traditional allies of the U.S. is shocking (copy attached). All of the NATO countries, as well as Western Europe voted for the Albanian resolution except Greece, Luxembourg and Spain who abstained. The only major Latin American countries voting against the Albanian resolution were Brazil, Venezuela, Bolivia, Paraguay and Uruguay; the Central American countries voting against were Dominican Republic, El Salvador, Guatemala, Haiti and Honduras. Abstaining were Argentina, Barbados, Colombia, Jamaica and Panama.

Looking at the African vote one notes that most of the mini-states, plus the Central African Republic, Democratic Republic of the Congo, the Ivory Coast and Liberia, joined the U.S. in voting against the Albanian Resolution. The remaining big states voted against the U.S.

The U.S. was more successful in attracting support among the important Asian powers, Japan, Australia, New Zealand, and the Philippines. However, Thailand and Indonesia abstained.

When one analyzes the voting pattern on the "important question" resolution (copy attached) one finds the same pattern—the desertion of the U.S. traditional allies (even though the vote was closer, 55 in favor to 59 against). Here one does find two NATO countries, Greece and Portugal, voting with the U.S. and Spain with Western Europe.

The outcome was not surprising in view of the tenor of the comments and reactions of many delegates as expressed in the delegates' lounge, receptions and in casual conversations. In fact one could sense an increasing resentment as the time to vote approached. Many delegates from the smaller countries felt that they were being unduly pressured to satisfy U.S. domestic political requirements.

The most often expressed source of resentment flowed from the fact that the U.S. provided the impetus for the rush to admit the People's Republic of China, starting with the President's dramatic announcement of July 15 that Kissinger had visited China to prepare his visit. It was pointed out that the President advised the world that he would be going to China "to seek the normalization of relations" with a regime—in the view of five different administrations, including his own—that compelled Americans to fight and die in Korea and Vietnam. It is apparent that this announcement had a major impact on a vast range of foreign and domestic issues in most countries that were participating in the UN debate. The U.S. position in the UN lost additional credibility when Kissinger's second visit to Peking was announced at the same time that the U.S. delegation was trying to round up votes. To exacerbate the credibility of the U.S. delegation, Kissinger's four-day visit was extended to six days and he was still in Peking when the UN voted, persuading some wavering delegations that the U.S. was not really serious in its campaign to save Taiwan's seat.

It must also be remembered that following the President's July 15 announcement, there was a rush by many countries to establish diplomatic relations with Peking—each of whom cast their ballots for Peking. The Peking government was also very busy, i.e., offering to buy fish meal from Peru; additional rubber from Malaysia, etc. Another important factor was Peking's declared position that she would not occupy China's seat as long as Taiwan was in the UN.

In addition to the foregoing, one sensed in talking to members of delegations of U.S. traditional allies such as Canada, members of NATO and Latin America, that other deep-seated resentments were a factor. There were repeated references to the refusal of the administration to consult on important issues such as the sudden announcement of the new China policy; the administration's policy on Greece and Pakistan; the 10% surcharge, etc.

ASSEMBLY PLENARY—TAKE 32

The "important question" draft resolution (document A/L.632) was then put to the vote by roll-call.

Mr. Bush (United States) asked for the floor on a point of order, but the roll-call had already begun.

The draft resolution was rejected by a vote of 55 in favor to 59 against, with 15 abstentions.

The result of the roll-call vote was as follows:

IN FAVOUR

Argentina, Australia, Bahrain, Barbados, Bolivia, Brazil, Central African Republic, Chad, China, Colombia, Costa Rica, Dahomey, Democratic Republic of the Congo, Dominican Republic, El Salvador, Fiji, Gabon, Gambia, Ghana, Greece, Guatemala, Haiti, Honduras, Indonesia, Israel, Ivory Coast, Jamaica, Japan, Jordan, Khmer Republic, Lebanon, Lesotho, Liberia, Luxembourg, Madagascar, Malawi, Mauritius, Mexico, New Zealand, Nicaragua, Niger, Panama, Paraguay, Philippines, Portugal, Rwanda, Saudi Arabia, South Africa, Spain, Swaziland, Thailand, United States, Upper Volta, Uruguay, Venezuela.

AGAINST

Afghanistan, Albania, Algeria, Bhutan, Bulgaria, Burma, Burundi, Byelorussia, Cameron, Canada, Ceylon, Chile, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, France, Guinea, Guyana, Hungary, Iceland, India, Iraq, Ireland, Kenya, Kuwait, Libyan Arab Republic, Malaysia, Mali, Mauritania, Mongolia, Nepal, Nigeria, Norway, Pakistan, People's Democratic Republic of Yemen, People's Republic of Congo, Peru, Poland, Romania, Sierra Leone, Singapore, Somalia, Sudan, Sweden, Syrian Arab Republic, Trinidad and Tobago, Uganda, Ukraine, USSR, United Kingdom, United Republic of Tanzania, Yemen, Yugoslavia, Zambia.

ABSTAINING

Austria, Belgium, Botswana, Cyprus, Iran, Italy, Laos, Malta, Morocco, Netherlands, Qatar, Senegal, Togo, Tunisia, Turkey.

ABSENT

Maldives, Oman.

After the vote, there was rhythmic clapping by delegations which had voted against the draft resolution.

ASSEMBLY PLENARY—TAKE 41

The President said the draft resolution contained in document A/L.630 would now be put to the vote by roll-call.

The draft resolution co-sponsored by Albania and others was adopted by a vote of 76 in favour to 35 against, with 17 abstentions.

The President said that the Government of the People's Republic of China would be notified accordingly.

The results of the roll-call were as follows:

IN FAVOUR

Afghanistan, Albania, Algeria, Austria, Belgium, Bhutan, Botswana, Bulgaria, Burma, Burundi, Byelorussia, Cameroon, Canada, Ceylon, Chile, Cuba, Czechoslovakia, Denmark, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, France, Ghana, Guinea, Guyana, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Kenya, Kuwait, Laos, Libyan Arab Republic, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, Nigeria, Norway, Pakistan, People's Democratic Republic of Yemen, People's Republic of Congo, Peru, Poland, Portugal, Romania, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, Sudan, Sweden, Syrian Arab Republic Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, USSR, United Kingdom, United Republic of Tanzania, Yemen, Yugoslavia, Zambia.

AGAINST

Australia, Bolivia, Brazil, Central African Republic, Chad, Costa Rica, Dahomey, Democratic Republic of the Congo, Dominican Republic, El Salvador, Gabon, Gambia, Guatemala, Haiti, Honduras, Ivory Coast, Japan, Khmer Republic, Lesotho, Liberia, Madagascar, Malawi, Malta, New Zealand, Nicaragua, Niger, Paraguay, Philippines, Saudi Arabia, South Africa, Swaziland, United States, Upper Volta, Uruguay, Venezuela.

ABSTAINING

Argentina, Bahrain, Barbados, Colombia, Cyprus, Fiji, Greece, Indonesia, Jamaica, Jordan, Lebanon, Luxembourg, Mauritius, Panama, Qatar, Spain, Thailand.

ABSENT

Maldives Oman.

CANNIKIN TEST ON AMCHITKA

Mr. BENNETT. Mr. President, I should like to comment on the Cannikin test conducted on Amchitka by the Atomic Energy Commission over the weekend.

From all reports I have received the test was successful, and it was conducted with complete safety by a skilled and highly dedicated team of scientists.

Despite all the controversy over this test, one thing remained clear, and that was that the test was vital for the security of our Nation. It means a weapon will be available for this Nation which will enable it to build a symmetrical ABM system. This will serve to guarantee that the United States will be able to negotiate from a position of strength rather than one of weakness. I believe this test will do much to stabilize the situation between ourselves and the Soviet Union at the SALT talks and encourage additional efforts toward arms control.

I think it would also be appropriate to mention the fact that virtually none of the calamities predicted by opponents of the test have materialized thus far.

First there was the contention that the test would trigger a large natural earthquake. The fact is that the Richter scale reading 7 was substantially identical to the reading of 6.99 predicted by the AEC. There were aftershocks, most being recorded within the first 15 minutes after detonation; after that the number began decreasing and have continued at a decreased rate.

There were also those who predicted the test would unleash a massive tidal wave, often referred to as a "tsunami," which would carry as far as Hawaii, Japan, and the west coast of the United States. There was no tidal wave, and the tidal wave warning was closed 25 minutes after the test. There were also those who contended that radioactive gases could be emitted which would contaminate marine and eventually human life. There were no radioactive releases from the test. The possibility of such releases is constantly being monitored, but I think we can be assured no radioactive materials will be released into the atmosphere during future months.

In summary, the test has been conducted in a most carefully planned and deliberate manner with complete safety always the prime objective. This Nation has a new weapon available for its defensive arsenal. There has been no earthquake; no tidal wave and no radioactive material released.

There were some who contended that the test would irreparably harm the wildlife on the island. As of 4:30 p.m. eastern standard time, November 7, the test personnel, after carefully patrolling the test area, reported that there had been virtually no harmful effects to any of the wildlife.

Mr. President, I am proud that the will of Congress, the courts, and the American people have prevailed, so that the groundless concerns of the prophets of doom have not weakened the Nation's security.

REQUIREMENT FOR SMALL BUSINESSES TO MAKE WATER POLLUTION IMPROVEMENTS

Mr. SPARKMAN. Mr. President, on November 2, in the course of approving the Federal Water Pollution Control Act Amendments of 1971, the Senate also adopted amendment 442, which will allow many small business firms affected by the strict new standards of this bill to make the required improvements and thus remain in business.

The amendment would add a new subsection under section 7 of the Small Business Act which would authorize the Small Business Administration to make long-term—up to 30 years—and low-interest loans—now approximately 5¾ percent—to small companies who will be forced to augment or improve their plant or facilities—including preprocessing equipment and interceptor sewers—under the new law. The Senate directed in the amendment that the SBA consult with the Environmental Protection Agency and, within 6 months of the bill's enactment, publish guidelines and regulations so that these funds will be available promptly enough to meet the time requirements for improvements that are duly established.

The loans will be available to firms defined as "small business" under the Small Business Amendments Act of 1953 as amended. An amount of $800 million was authorized to be added for the loan fund available for such economic disaster loans.

I am gratified at the Senate's passage of this legislation, particularly since I helped to write and was the principal cosponsor of the bills in 1968 and 1969 which laid the foundation for amendment 442. It has been my pleasure to work with the Senator from Nevada (Mr. BIBLE), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Maine (Mr. MUSKIE), whose cooperative efforts made it possible for the Senate to act in this manner. I want to commend all who played a part in incorporating this small business amendment in the bill.

EFFECTS OF PENDING POLLUTION CONTROL LEGISLATION

The impact of the new water pollution control law in my own State of Alabama will be significant. This is so for three reasons; first, the 1971 Water Pollution Control Amendments constitute landmark legislation; second, Alabama has one of the most extensive waterway systems in the country; and third, the overwhelming majority of business firms in Alabama are small business.

To explain further: First, the legislation just passed by the Senate adopts the national policy that the discharge of pollution of any kind be completely eliminated by 1985; and that the interim goal of sufficient water quality for fish, wildlife, and recreation be achieved by 1981. Although there were Federal pollution

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statutes passed in 1899 and 1948, and major steps forward in 1965 and 1966, the 1971 legislation promises to set the definitive standards in this field, and to give us the prospect that these standards will be enforced for the benefit of all the citizens of the Nation.

Clearly, we have much work to do if these deadlines are to be met. The Committee on Public Works, which deliberated these matters for the past 2 years, mentions—in Senate Report 92-414—a need for $14 billion in grants to States and cities for construction of sewage treatment plants over the next 5 years.

Second, as these new standards are applied, they will fall upon those States and sections of the country where our water resources are concentrated. My own State of Alabama is fortunate in this respect. We have over 1,700 miles of navigable or potentially navigable waterways, as well as lakes and streams which are immensely valuable for commerce and for recreation. There will thus be much activity in our part of the country.

ALABAMA A SMALL BUSINESS STATE

Third, more than 97 percent of the firms in my State on which information is available employ less than 100 people. About 95 percent of Alabama businesses have sales of less than $1 million. I have a table which indicates the relative size of Alabama businesses by employment, sales volume, and net worth, and ask unanimous consent that it be printed in the RECORD. These figures show that the great majority of companies in Alabama, by number, are small business, and on the basis of national estimates, would supply about 40 percent of the jobs in the State.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPARKMAN. These small firms should be given a fair chance of making the improvements that will be called for, and thus maintaining a share in the future. Often, small business cannot borrow money as readily as their larger competitors who may be able to go into the bond market, or the stock market, or commercial paper market to obtain long-term funds. Our amendment No. 442 will allow these smaller firms to borrow the needed capital and pay it back to the Treasury, with interest, over a long enough term so that the earnings of the business may be sufficient to cover the payments.

Accordingly, this small business amendment can be of great value. I certainly hope there will be early action by the House of Representatives so that Congress can finish its work on this important legislation. I think it would be regrettable if there were inordinate delay or obstacles to hinder the pollution control bill from becoming the law of the land.

It is also my hope that when the Senate-House conference takes place, the small business amendment will be accepted. I will be doing all that I can to bring about this result so that Alabama small business firms and smaller communities can share in the progress of our Nation and the expanding business of the Southeast.

EXHIBIT 1.—BUSINESS PROFILE FOR THE STATE OF ALABAMA

Industry group (SIC)	By employment								By sales volume								By net worth							
	Under 10	10 to 19	20 to 49	50 to 99	100 to 499	500 to 999	Over 1,000	N/A	Under $100M	$100M to $500M	$500M to $1MM	$1MM to $10MM	Over $10MM	N/A	Under $50M	$50M to $200M	$200M to $500M	$500M to $1MM	Over $1MM	N/A
01-09: Agriculture, forestries and fisheries	336	81	34	12	3	0	0	86	225	149	25	22	2	86	8	14	6	2	1	478
10-14: Mining	69	43	42	7	2	0	0	43	23	51	12	7	0	61	24	24	9	2	3	92
15-17: Contract construction	2,064	459	286	85	61	2	2	328	1,157	1,067	173	176	8	633	516	545	125	39	23	1,966
19-39: Manufacturing	1,353	512	536	285	421	60	36	435	806	807	275	355	40	561	981	573	214	72	97	907
40-49: Transportation, communications, and public utilities	566	172	135	38	24	3	3	241	333	249	64	61	11	250	291	181	48	15	37	396
50: Wholesale trade	2,178	464	270	55	34	0	1	520	681	1,076	341	416	23	511	19	26	19	7	4	2,973
52-59: Retail trade	15,790	1,301	558	99	44	3	3	2,645	10,691	4,556	565	382	33	3,206	60	69	23	6	3	19,270
60-69: Finance, insurance and real estate	229	33	15	11	6	1	2	73	39	86	15	17	6	164	4	5	2	0	1	315
70-89: Business services	2,481	291	127	39	24	2	3	445	2,140	479	45	19	3	572	20	10	4	0	1	3,223
State total	25,072	3,355	2,003	631	621	71	50	4,832	16,095	8,521	1,515	1,456	126	6,048	1,923	1,447	450	143	170	29,628

Source: Dun & Bradstreet, Inc., 1971.

FOREIGN AID

Mr. KENNEDY. Mr. President, as we begin the debate on a revised foreign aid bill, I would urge upon the Senate a moment of reflection on the role of the United States in world affairs.

While we seek to emphasize our commitment to law and our moral commitment to assist nations in their development, others are questioning our sincerity.

Our recent actions, as today's editorial in the New York Times emphasize, contradict our assertions.

The pressure to punish the United Nations, the holdup in payments to the International Labor Organization, the 10-percent surcharge and the possible violation of the United Nations sanctions against Rhodesia—all of these represent an unsettling new image for this country.

I would add to the list of questionable actions, the trend evident in many of the votes on the foreign aid bill last week. Thus, the decision to raise interest rates on all development loans comes in the wake of unanimous opinion against such a step expressed by the underdeveloped nations of the world as well as by international development economists. Effectively, we would be saying to the world, "We are offering you reduced assistance and we are setting the price for that money at a rate we know that many of you cannot afford."

Not only are we already 12th on a list of 16 industrialized nations in the amount of money we provided for development assistance, but we would become virtually the only nation which does not provide for concessionary lending. The Pearson Commission on International Development noted that the average U.S. loan rate had increased to 3.5 percent by 1968 while the worldwide rate was 3.3 percent. Now we would be totally turning our backs on the capabilities of the developing nations by pushing our development assistance to 6 percent or more.

All of these facts point up a disturbing trend in this country to react to the actions of other nations by withdrawing into a shell.

I hope that we will recall the words of President Kennedy:

Our job, in its largest sense, is to create a partnership between the northern and southern halves of the world, to which all free nations can contribute, in which each free nation must assume a responsibility proportional to its means.

That responsibility still exists, and it is in our interests and the interests of world peace for us to meet it.

Mr. President, I ask unanimous consent that the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UNITED STATES AND WORLD LAW

The American role as world policeman has been a subject of debate since the large-scale escalation of the Vietnam war. The issue has been whether it was the responsibility of the United States to oppose aggression everywhere and to take it upon itself to uphold the rule of law in the world. Few challenged the theoretical desirability of upholding international law.

Now, however, a new phenomenon seems to be beginning to characterize American behavior in the world: disregard for the law. Apparently without being clearly aware of it, the Nixon Administration, supported by a bipartisan bloc in the Congress is increasingly ignoring this country's moral or legal obligations outside its borders. The United States, which has frequently taken the lead in challenging treaty violations of other countries, is in danger of becoming a lawbreaker itself.

The move under way in Congress to cut back payment of the United States' regular United Nations assessment, as well as its voluntary contribution, is a case in point. Secretary of State Rogers has opposed retaliation against the United Nations for the expulsion of Taiwan, but he and President Nixon have in effect endorsed a reduction in American contributions. A unilateral reduction in the regular assessment would be a violation of the U.N. Charter. But even a negotiated reduction, if made as an expression of pocketbook pressure, would violate the spirit of the American commitment to the U.N.

Policy disagreements have already put the United States in violation of its legal obligation to the International Labor Organization. With the earlier support of A.F.L.-C.I.O. president George Meany, who has now reversed himself, Representative John Rooney of Brooklyn and his House Appropriations subcommittee are blocking payment of half the 1970 and all of the 1971 I.L.O. assessments on the United States. The State Department has protested and the White House has warned that the United States is "in default" and is violating legal binding obligations. But President Nixon has failed to bring to bear the kind of pressure that would permit the United States to practice the law-abiding behavior it preaches.

A new threat of treaty-breaking lies in the Senate move, just approved by the Congressional conference, to require the United States to resume imports of chrome from Rhodesia in violation of the economic sanctions against Rhodesia voted by the United Nations Security Council with American support. This would mean a violation of the U.N. Charter unless President Nixon takes advantage of a loophole pointed out by Prof. Stephen Schwebel of Johns Hopkins University. Mr. Nixon could win time to turn Congress around by halting imports of chrome from the Soviet Union as well as Rhodesia, releasing chrome instead from the nation's defense stockpiles, a three-year supply.

Most potentially dangerous of all the American treaty-breaking moves, however, is the 10 per cent import surcharge imposed by President Nixon Aug. 15 in violation of American obligations under the GATT treaty. The economic and psychological damage done by Treasury Secretary Connally's vague, outsized demands for worldwide concessions in return for eliminating the surcharge has dominated attention, along with the threat of a worldwide recession. But the legal violation on top of the pressure tactics now threatens to deprive the United States of the world agreement it needs to correct its payments imbalance without a trade war.

American credibility and the whole moral basis of the American role in the world could be undermined unless the country returns to the rule of law it has sought for so long to establish and uphold.

PERSONNEL POLICIES OF THE DEPARTMENT OF STATE

Mr. MILLER. Mr. President, last Friday's Des Moines Register contains an excellent article by the Register's Washington Bureau, setting forth the charges of discriminatory practices being aired before the Foreign Relations Committee in connection with the pending nomination of Howard Mace, former director of personnel for the Department, to be Ambassador to Sierra Leone.

Also, the November 15 issue of Time contains, on page 20, an article covering some of the criticisms of personnel policies and actions within the State Department.

All of this points up the need for action by the Foreign Relations Committee on the bill—S. 2662—introduced by the Senator from Utah (Mr. Moss) and myself, to establish a fair and equitable grievance procedure within the Department for our 3,000 Foreign Service officers. We do not wish to deprive the Department of the power of "selection out" in order to maintain loyalty and efficiency. But such a drastic personnel action should be limited by equally drastic protective procedures for the officers concerned.

I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Des Moines Register, Nov. 8, 1971]

DELAYS ACTION ON ENVOY POST

WASHINGTON, D.C.—The Senate Foreign Relations Committee last week passed over President Nixon's nomination of Howard Mace as ambassador to Sierra Leone pending completion of an investigation of charges that he gave false and inaccurate testimony before the Senate Committee.

Indications are that Chairman J. William Fulbright (Dem., Ark.) conaiders the charges to be of considerable importance.

Mace, former director of personnel for the State Department, was nominated by President Nixon as ambassador to Sierra Leone in July on the recommendation of deputy undersecretary of state William P. Macomber. They had worked together at the State Department for more than 12 years.

The State Department and White House have been told that the Mace nomination probably will die in the Foreign Relations Committee unless it is withdrawn by President Nixon.

There are charges that under Mace's direction the State Department personnel division has engaged in manipulation of rating boards, engaged in forgery and other falsification of personnel records, and permitted perjury in State Department and Civil Service Commission grievance hearings to go unchallenged.

In the Mace hearings, Macomber, who is in charge of State Department administration, has been forced to admit that a large number of cases resulted in injustices, but he has argued that Mace should not be held accountable for the faults in the system.

But critics say a review of four of the most publicized cases indicate some allegations of direct responsibility for Mace as well as Macomber:

Allison Palmer, a 30-year-old foreign service officer reportedly was discriminated against because of her sex. Now, Mace admits sex discrimination exists on assignments, but denies that he had any role in the illegal discrimination found by an Equal Employment Opportunities (EEO) board. The recommendations of that EEO board was held out of the file by Mace despite a specific recommendation that it be made a part of the file.

Miss Palmer says the story Mace told the Senate Foreign Relations Committee is untrue on a number of points. She said Mace had an active role in discrimination against her, and that she had personal conversations with him in connection with his decision to refuse to sign the findings of the EEO recommendations, and the refusal to make those recommendations part of her file.

John Hemenway, a 46-year-old honor graduate of Annapolis and a Rhodes scholar, currently is involved in the only State Department grievance hearing permitted by Mace to challenge the decision to fire Hemenway. Hemenway contends that Mace gave untruthful and inaccurate testimony in connection with the handling of his case.

He charges Mace acted illegally to remove two members of the three-man panel that had indicated a willingness to permit Hemenway to call State Department witnesses over the objection of Mace's office.

Stephen Koczak, a 54-year-old former foreign service officer now employed by the American Federation of Government Employees, was denied a grievance hearing, but was subject to a special panel made secret to former Secretary of State Dean Rusk. Koczak was barred from having an open hearing, cross examining witnesses, or even communicating with other State Department employes during the hearing.

A letter he wrote to the panel pointing out some of the discrepancies in his file was not entered into the official record. Mace reportedly has continued to refuse Koczak access to his hearing record and reportedly has permitted forged and postdated documents to be made a part of his record.

Charles W. Thomas, 47-year-old foreign service officer, killed himself last April as a result of his frustration in seeking a hearing. He had no promotion in eight years and was refused a hearing by Mace despite admissions that a highly laudatory report by an inspector general was misfiled under another Charles Thomas.

This report recommended immediate promotion for Thomas and assignment to the National War College, in line with the opinions of two ambassadors under whom Thomas had served.

The Thomas case has raised the greatest number of problems for Mace and raises some of the most serious questions about the inconsistency of the rulings that have been revealed in the personnel division while Mace and Macomber have been in charge.

Action on Mace's nomination to the ambassadorial post will await an investigation by the Senate Foreign Relations Committee.

[From Time magazine, Nov. 15, 1971]

THE STATE DEPARTMENT—UNDIPLOMATIC REFORMS

Charles W. Thomas was a desperate man. A lawyer and a career diplomat, Thomas, 45, had been "selected out" of the Foreign Service. Reason: he had not been promoted from the Class 4 level to Class 3 within the mandatory eight years. He was dismissed with only one year's salary and $323 a month (money he had himself put into a retirement fund) to support a wife and two children. In nearly three dispiriting years Thomas endured nearly 2,000 job rejection letters; he was "too old" or "too qualified," and anyway, he had been fired by the State Department. Finally on an April afternoon in Washington, Charles Thomas took up a gun and shot himself to death.

There is a Kafkaesque cast to the Thomas tragedy. Try as he might, Thomas could not get his day in court to determine whether his selection-out was based on the fact that he had received poor performance ratings or that the State Department had somehow failed to consider his highly favorable ratings. In fact, it was the latter. Thomas had carved a distinguished career in posts such as Tangier, Port-au-Prince and Mexico City, where he became a specialist in Mexican radical politics. Indeed, he had high marks from his superiors and colleagues alike; the ex-

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plicit blemish on his record was an observation by a Mexico City superior that Thomas did not exercise proper "control" over his secretary.

In contrast, a laudatory report from the Foreign Service Inspector, Ambassador Robert McClintock, was accidentally misfiled under the name of another Charles W. Thomas, then Consul General in Antwerp. The report was eventually logged into its proper place, two days after Thomas had been turned down by the promotion board. The board deemed it too much bother to reopen the case.

FANG AND CLAW

The Thomas affair is certainly the most shocking to occur within the labyrinth of Foggy Bottom personnel practices, but it is by no means the only one of its kind. Willard Brown, a Class 2 officer, discovered after his selection-out that the State Department had lost all of his personnel records and that consequently his name had not been considered for promotion for several years. Nor are good men being passed over just for clerical errors. The selection process in the department has traditionally been the last word in Darwinistic elitism. McClintock, although a highly regarded professional, had a reputation for sending overly favorable reports on many officers. With little negative to go on, promotion boards used the tiniest criticisms as justification for passing over a candidate. Hence Thomas' dismissal.

There are 3,000 field officers and aides serving in the Foreign Service, and around 100 are weeded out every year. Two hundred more resign annually. The process follows a fundamental Government pattern. Every man is rated at least once a year by his superior, who then passes his reports on to a departmental review officer, who in turn presents his recommendations to the reviewing boards. While no one in the department argues that incompetents should not be winnowed out, the feeling is that the rating system has deteriorated into an endless round of pettifoggeries and petty jealousies, where too frequently the men who do not play up to their superiors' vanities wind up on the short end.

This fang-and-claw attitude has prompted a thorough reappraisal of the State Department's personnel system. Rather belatedly, Deputy Under Secretary William Macomber Jr., the department's top administrative officer, called in Thomas' widow Cynthia and offered her virtually any job she wanted. More broadly, the selection-out rules have been changed to prevent the flagrant injustice in the systems. Now an officer who achieves Class 5 cannot be fired until he has reached age 50 or served 20 years. This way, at least, he is entitled to requirement pay.

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Further, the State Department has set up new, formidably titled Interim Grievance Procedures, the first major amendment to the Foreign Service Act since it was passed in 1946. These procedures are to last until employee-management relations are reformed under a plan projected by President Nixon. However, many officers are scornful of Macomber's new measures, since they stipulate that an employee must first take up his grievance with his superior—against whom the grievance is usually brought in the first place—and can only appeal to a board picked by the department. Says one legal official at State: "I don't care if a grievance panel is headed by Charles Evans Hughes or Jesus Christ, it still remains an in-house procedure without any chance of outside appeal."

Help is forthcoming from the outside. The Senate Foreign Relations Committee last week refused to report the confirmation of Howard P. Mace, 55, as U.S. Ambassador to Sierra Leone, which is tantamount to defeat of his nomination. As director of personnel for four years, Mace was the source of much of the department's interior turbulence. He was known behind his back as the "executioner," the man primarily responsible for the selecting-out process. Officers also noted that under his aegis men with high diplomatic potential were often bypassed for plush jobs in favor of men little experienced in diplomacy from his department. Congress is also taking more direct measures. There are two bills pending before Congress that would overhaul and codify the grievance system.

Concerned DOS officers are seizing their own initiative. A group has banded together to launch a class action against the Secretary of State; to raise money for this expensive exercise, they have instituted the Charles W. Thomas Fund. One junior officer invoked a more primitive grievance procedure. Furious over what he considered an unfair performance rating, he stopped his superior in a corridor of the State Department and cut loose a smacking right cross to the nose.

Mr. President, according to the congressional grapevine, today is the 53d birthday of Vice President AGNEW. I am sure I speak for all of us when I wish him a very happy birthday and many more to come.

In the ecumenical spirit, I trust that the TV networks, the New York Times and the Washington Post will join in the wish for many happy returns.

OKINAWA REVERSION TREATY

Mr. KENNEDY. Mr. President, just as the recent U.N. vote to admit mainland China to the United Nations 2 weeks ago symbolizes the beginning of a new era of U.S. relations in Asia, so the Senate vote on the Okinawa Reversion Treaty symbolizes the long overdue end of the bitter passions of the World War II era. Rarely, I think has the juxtaposition of two major events so clearly dramatized the current position of the United States at a major crossroads in our foreign policy.

Perhaps the strongest initial reaction by many Americans to the treaty is the new reminder that today, in 1971, this small island of Japan is still under American occupation. A generation of young Okinawans has now grown to maturity with their land still relegated to the status of occupied territory. Long after the United States made its peace with Japan, we have clung unconscionably to this relic of war.

A more lasting reaction to the treaty however, must be the awareness that, however much symbolic significance it may have, its practical impact is likely to be quite marginal. Under the terms of the treaty, the United States is retaining so many military bases and facilities on the island that a number of experts are calling it a treaty of retention, not a treaty of reversion.

Surely, it is not news to any of us who has followed the period of confrontation and negotiation over Okinawa in recent years that the treaty is the result of a hard bargain driven by the United States on Japan—a document barely acceptable from the Japanese view, and almost entirely satisfactory from the U.S. view. It is no surprise, therefore, that the terms of the treaty—especially the retention of American bases, but also the continuation of the Voice of America relay station and the failure of the treaty to deal specifically with the question of nuclear weapons—have generated massive criticism in Japan. It is no surprise that Chobyo Yara, the leader of the reversion movement on Okinawa and the popularly elected local chief executive on the island, refused to attend the signing ceremony for the treaty. It is no surprise that for Premier Sato, the debate over the treaty has been another in the long line of ordeals arising out of deteriorating Japanese-American relations in recent months, including the announcement of President Nixon's trip to Peking and his imposition of the 10 percent import surcharge—both without prior consultation with Japan—the strong pressure on Japan to cosponsor our two-China resolutions in the United Nations, and our recent heavy-handed ultimatum to Japan on textile exports. We know how much a strong and friendly and peaceful Japan means to the long-term best interests of America and the world community. It is long past time for these insults to halt, and for the American foreign policy to abandon the new arrogance we have shown toward Japan in recent months.

One other point needs to be made. It is unfortunate that a veil of secrecy hangs over the question of the transfer of nuclear weapons from Okinawa. The recurring rumors that the present treaty may become the occasion for the shift of such weapons to Taiwan has never been completely dispelled. There is perhaps no single step we can take that would more seriouly jeopardize our newly emerging relations with mainland China than to allow the Okinawa Treaty to become the excuse for such a transfer. I urge the President to dispel these persistent rumors categorically, and to calm the fears that will exist as long as the issue remains shrouded in secrecy.

Tomorrow, with the vote on the Okinawa Treaty, the Senate has the opportunity to pledge its strong support for a progressive and effective future alliance with Japan. In spite of the controversy that surrounds it, the treaty is a minimum but essential step forward toward the generation of peace the President and all of us desire in Asia and the world. I urge the Senate to give its overwhelming approval for ratification.

GROWING SUPPORT FOR BALANCED NATIONAL GROWTH IN THE UNITED STATES

Mr. HUMPHREY. Mr. President, the goal of trying to bring about a more balanced national growth pattern in this country is of prime concern to the Rural Development Subcommittee of which I am privileged to serve as chairman. The development and revitalization to our Nation's rural areas and smaller communities can play a key role in achieving that objective. Our larger cities and metropolitan centers are saturated today with people, problems and pollution of all kinds. The cost of providing the basic social services that people living in these population centers need continues to skyrocket upward on a per capita basis while their general quality continues to deteriorate.

In the course of the hearings conducted by our Rural Development Subcommittee this year it has become increasingly apparent that more and more people in this Nation want more aggressive action taken at all levels of government to achieve a more balanced growth pattern in the United States. Further evidence of this appeared on October 31, 1971, in the Denver Post. Mr. Richard D. Lamm and Michael Strang authored an excellent article in that edition of the Post about the need to redirect the growth that is occurring along the front range of the Rocky Mountains in Colorado to other less populated regions of the State. And, in that same edition of the Post, Mr. Lewis Gordy Smith had an article about new towns for Colorado's future residents.

I commend both of these articles to the attention of my Senate colleagues. I also would like to call to their attention another small news story which appeared in the Washington Post about Boulder, Colo., citizens' approval of a city council proposal to conduct a study to determine an optimum population level for the Boulder Valley, while holding the city's population growth below the rate of the 1960's. The city of Boulder's population, which now is about 700,000, doubled during the 1960's. Although an amendment to the city charter of Boulder to establish an absolute ceiling on the city's population level was defeated, the November 2 vote on it was reasonably close.

Mr. President, I would like to ask for unanimous consent to insert these three articles into the RECORD and I wish to urge the Members of the Senate to take whatever time is required to review them carefully. The country is ready for some action on this subject of balanced growth and I can assure my colleagues here in the Senate and the people of this country that I am prepared to do whatever I can to take whatever action is needed in this regard.

There being no objection, the material was ordered to be printed in the Record, as follows:

NEED TO REDIRECT GROWTH FROM FRONT RANGE TO SPARSELY POPULATED AREAS

(By Richard D. Lamm and Michael Strang)

In Colorado, the Denver metropolitan area counties of Adams, Arapahoe, Boulder, Denver, Douglas and Jefferson have average per capita incomes of $3,129. The corresponding figure for the rest of the state is $2,152. Conejos and Costilla counties in southern Colorado have average per capita incomes of $929.74 and $701.79, respectively.

Without immediate forceful action there is no hope that either trend will be reversed. Current efforts, such as the attempt to direct the "Sell Colorado" program to the benefit of the rural parts of the state, however praiseworthy, are plainly inadequate to deal with the problem.

Gov. John A. Love, testifying to the Subcommittee on Rural Development of the United States Senate Agriculture and Forestry Committee on April 29, 1971, stated:

"The traditional American ethic that bigger is better seems to have run its course. It is increasingly apparent that tremendous concentrations of people create economic problems, social problems, psychological problems and perhaps even biological problems. It seems clear to me that the states and the federal government need to devise policies of population disperal."

Historic, traditional "solutions" to urban sprawl and rural stagnation promise little more in the future than they have in the past. As a matter of fact, some such "solutions" are suspected of causing the problem to get worse.

Four such "solutions" are:

1—The creation of jobs by busing the unemployed to the suburbs, or by making the government itself, as a last resort, the employer.

2—Providing training programs to increase the skills of the lowest income group.

3—Offering financial aid to the depressed city, as by federal subsidy.

4—The construction of low-cost housing.

Prof. Jay Forrester of the Sloan School of Management, Massachusetts Institute of Technology (MIT), is one expert who finds no merit in these steps. Writing in *Technology Review*, he concludes that they range from ineffective to outright harmful to the economic health of the cities themselves and to the low-income population of the cities as well.

Faced with such badly distributed growth, we feel Colorado should develop an alternative plan for the future; a plan which discourages and limits growth along the Front Range and directs that growth to those parts of the state which need and want additional population.

This program will need more than lofty intentions. It will require statewide agreement, *plus* the land use controls needed to make it work. If we do nothing, we have a policy which inevitably will lead to the fulfillment of predictions which show one massive metropolitan area from Cheyenne, Wyo., to Pueblo, Colo., with most of the rest of Colorado empty of both people and hope.

Building an agreement to limit growth in the Denver Metropolitan area will be the first difficulty. Population growth and economic growth have always seemed interrelated.

However, some economists contend that economic growth can well continue and perhaps even grow faster with a stable population. General Electric Company's center for advanced studies at Santa Barbara, Calif., recently produced a study which concludes that if population growth levels off by about the year 2050, per capita income of the average U.S. resident will be considerably higher than if the population growth continues. This study indicates that a leveled-off economy does not necessarily follow a leveled-off population.

Still, more people do mean higher per capita costs of government. The Advisory Commission on Intergovernmental Relations issued a report Sept. 16, 1970, entitled Size Can Make a Difference. It shows that beyond a certain population (250,000) economies are dissipated and services cost more per capita to provide. These figures show why planners have been saying "The faster we run, the behinder we get." Economists call these increased per capita costs "diseconomies of scale." Taxpayers call them "higher taxes."

This rise in cost is seen for virtually every municipal service. R. J. Smeed, a traffic systems analyst, has shown that the more commuters a town has, the more highways per capita it must build. Where there are 10,000 commuters in a town, they require eight square feet of roadway per person; 100,000 commuters require 28 square feet per person, and 1 million commuters require 97 square feet of roadway per person. Smeed thus shows that a 100-fold increase in population requires not a 100-fold increase in roadway, but a 1,200-fold increase.

A Ford Foundation study, which produced the table below, shows how crime rates increase as population rises:

Population size of cities in 1960	Number of crimes per 100,000 per year			
	Murder	Rape	Robbery	Assault
Over 250,000	6.8	15.2	117.6	154.1
100,000 to 250,000	5.6	7.6	56.5	83.3
50,000 to 100,000	3.3	5.5	36.6	58.9
25,000 to 50,000	2.9	4.7	22.6	39.9
10,000 to 25,000	2.4	4.0	15.7	35.2
Under 10,000	2.7	3.3	12.8	28.9

There is evidence that concentrating people also increases their susceptibility to disease, even non-communicable disease. For instance, California has shown its most crowded counties have the highest emphysema death rates.

We thus see that public needs rise faster than public revenues. Growth may, in some or many cases, be counter-productive, that is, as you grow you pay more and more and more. It appears, judging by these studies, that the Denver metropolitan area is beyond economies on most costs of government—police protection, power, water, waste disposal, fuel and highways.

Boulder, Colo., 30 miles northwest of Denver, has about 70,000 population. A group of citizens made a study which proves to them that beyond a population of 100,000 growth will be counter-productive in per capita water expenditures, bonded debt, in sewer expenditures and fire and police expenditures.

(Boulder chapter of Zero Population Growth has succeeded in getting enough signatures on petitions to get a proposal on the November 1971 ballot to limit population growth in the city to 100,000.)

However impressive the argument is for limiting Denver's growth, there is another factor working against Colorado's Front Range growing into another Los Angeles.

We simply do not have the water in Colorado to become another California.

Colorado is semi-arid. We have available in Colorado 16 million acre feet of surface water, of which 12 million is the Colorado River system. Compare this to 45 million acre feet that flows past St. Louis in the Mississippi and 172 million acre feet delivered by the Columbia. Colorado's entire yearly water supply would flow past a given point in the lower Amazon in a few hours.

We do not even get to keep all our water. Colorado retains only 35 per cent of the water in the Colorado River system. Eighteen other states get their water from rivers that rise in Colorado and have rights to that water superior to Colorado's. All this water—ours and theirs—is allocated either by interstate compact or Supreme Court decision. We must face the fact that the West's water supply is limited and we must begin to make policy decisions on how we want our water to be distributed and used.

It takes three acre feet in most of Colorado to irrigate one acre of land. That three acre feet of water (967,000 gallons) can support approximately 10 people. We thus have a choice: We can continue our balanced economy of which agriculture is an important part, or we can devote more of that water supply to municipal and industrial use. Denver uses 225.5 gallons of water a day per capita. Felix Sparks, head of the Colorado Water Conservation Board, estimates that we could possibly support 5 to 10 million people—if we would pay the price of drying up agriculture and using all our water for municipal and industrial purposes.

"Much of the water being used today in

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Colorado cities was originally decreed for agricultural purposes," says Sparks. "It was either condemned or purchased by the cities. Virtually all future municipal increases in water usage will come about at the expense of the agricultural economy. Agriculture is a major business in Colorado and accounts for a very significant portion of the state's economy. When we speak therefore of supporting a much larger urban population, we must realize that we will be slowly destroying an agricultural and rural society in favor of an industrial and urban society. This process, while it appears to be economically desirable at this time, must eventually face a point of diminishing returns, and perhaps an undesirable change in our way of life."

The headlong withdrawal of agricultural lands for residential purposes flies in the teeth of our knowledge that within a matter of decades it is likely that there will not be enough food to feed the world population.

Thus we cannot afford to continue the conversion of agricultural water to municipal and industrial water. The amount of water used in agriculture is too often overlooked. The production of one pound of wheat, for instance, uses 300 to 500 pounds of water; one pound of milk requires 10,000 pounds of water; and one pound of meat requires between 20,000 and 50,000 pounds of water. To retain agriculture we must start now to plan an eventual halt of the conversion of agricultural water to municipal and industrial water. This will require us to come to grips with the ultimate number of people we can support in Colorado and still retain our balanced economy.

Similarly, water limitations force choices on where we want growth to continue in Colorado. We can substantially reduce the water available to the Western Slope—that part of Colorado lying west of the Continental Divide. If we do, we reduce the Western Slope potential. We can bring large additional quantities of water in the Denver area or we can leave the water where it is to be available to the people in areas which need both water and growth.

The Denver Water Board has long range projections of a threefold increase in its service area by 2008. Other areas along the Front Range, if allowed to "develop," will multiply this demand a hundredfold. The Front Range can become a giant metropolitan sponge, drying up both agriculture and economic activity in other geographic areas of the state.

The diversion of water away from its natural origin and drainage disrupts ecological balance at both ends of the diversion. It affects trout streams and fish and wildlife in general at the point of origin and causes massive sewage and drainage expense at the point of delivery. This affects our amenities and recreational resources. One-third of Colorado's streams have been—to use the highly descriptive word used by the Department of Game, Fish and Parks—"dewatered." More important, this diversion is awesomely expensive. The Denver Water Board estimates a need for $800 million in additional projects to meet demand by 2000.

There is, thus, a mutually beneficial relationship between the Front Range (particularly Denver), which is finding growth counter-productive, and the remainder of the state, which needs growth.

To accomplish this we'll need a massive redirection of policy. Discussing a similar policy nationwide the National Goals Research staff reported:

"The choice of no change in public policy would run the high risk of bringing about the kind of future in which the communities of both urban and rural America would further deteriorate. It means that hundreds of American towns will continue to lose young people and economic opportunity; and that the large metropolitan areas, already burdened with social and fiscal problems and characterized by fragmentation of governmental responsibility, may reach a size at which they will become socially intolerable, politically unmanageable and economically inefficient."

Once a community consensus is formed to direct growth in Colorado, the laws, inducements, zoning, and other tools will emerge. However unprecedented, people can accomplish what they agree upon. The Colorado Environmental Commission last session proposed legislation which would have set a maximum metropolitan size at 1.5 million and established a distance between a metropolitan area and new cities of at least 35 miles. Skeptics scoffed, but in the absence of a state population dispersal policy with teeth in it, we will never solve either urban sprawl or rural decay. Strong land use controls, aggressive acquisition of open space, and strong zoning are indispensable to such a policy.

In addition to seeking to correct the maldistribution of growth, we must seek ways to halt population growth altogether. Limitless growth is not in the best interest of any Colorado citizen. Yet without immediate action that growth is on its way. A recent Field Research Poll of California found nearly one-third of California's residents disillusioned with overcrowding and pollution, and that they would like to leave California. If they did, their first choice for a new home was Oregon, followed by Colorado. This would not be in Colorado's interest.

The Ford Foundation, in a study of urban sprawl in the San Francisco Bay area, found that taxwise it would be cheaper to leave the area surrounding the Bay Area cities in open space. Similar studies in other locations confirm that development can often be more costly to taxpayers than leaving open space undeveloped. The summary of the Ford Foundation report states:

"How will our generation be judged by those living in the Bay Area in 1990? Will we be remembered as the generation with the vision and foresight to preserve our natural heritage, or will we be remembered as the generation whose "do nothing" attitude permitted urban sprawl to engulf the environment?"

Colorado has similar choices. We suggest action, remembering the words of Aristotle:

"Exprience shows that a very populous city can rarely, if ever, be well governed. . . . To the size of states there is a limit, as there is to other things, plants, animals, implements; for none of these retain their natural power when they are too large or too small."

[From the Denver Post, Oct. 31, 1971]

NEW TOWNS FOR COLORADO'S NEW RESIDENTS

(By Lewis Gordy Smith)

There is a growing and timely awareness that Colorado must move rapidly on long range planning to accommodate the state's expected population increase over the next 30 years. The increase can be absorbed without undue environmental stress to the land, or to present inhabitants—if we act in time.

Colorado State Senator John R. Bermingham, R–Denver, in his perceptive article, "Where Should We Put the People?" (Denver Post, Perspective, Sept. 26, 1971), raised the question whether the anticipated growth should continue to be haphazard concentrated in the Denver metropolitan area, as it will be without a planned alternative; or whether the state should legislative "controls" to divert growth to other parts of the state. He suggested the greatest increase will likely occur along the Front Range, and that to carry its proportionate share, the area would have to accommodate some 1,800,000 additional persons over the next 30 years.

The desired dispersion of anticipated future growth is likely to be achieved more advantageously by planning newly built or rebuilt small communities away from the Denver metropolitan area, employing modern city-design measures which make them attractive to people, than through legislative controls which would seek to place physical limits on the peripheral expansion of Denver. The new development sites would be determined on the basis of what we know about locating towns with respect to natural terrain, regional water supplies, the nature of the soil, the prospects for systematic control of water quality on a regional basis, and the possibility of adequate disposal of waterborne wastes.

From a standpoint of preserving the quality of water at its source, and for other environmental reasons, most of us can agree that it is best to minimize future development within the mountainous headwater areas. We should instead look to the open valleys of the West Slope and to the flatter, more adaptable areas on the East Slope. As a matter of principle, our mountainous areas should be looked upon increasingly as recreational sanctuaries where people visit but do not, in great numbers, live continuously.

With the foregoing in mind, I would like to suggest a concept for the systematic regional planning of new communities within that part of the East Slope which might be called the plains section of the South Platte River. It includes the valley region between Denver and the northern part of the East Slope where agriculturally-developed land begins to give way to drier, little-used rangeland, and thence down the Platte Valley to the Colorado-Nebraska border. This concept is advanced as an alternative to the "haphazard sprawl and poorly-planned subdivisions" to which Bermingham alluded. A similar concept may also hold for the Arkansas Basin downstream from Pueblo.

Accepting Bermingham's estimate that within the next 30 years the Front-Range might have to absorb an additional 1,800,000 persons; and, accepting a widely-held consensus that a town of about 50,000 persons makes a good target figure for well-balanced, low-pressured community living, this would mean about 36 new communities, assuming the Denver metropolitan area ceased to expand. Allowing that Denver will continue to expand, howsoever hopefully at a slower rate, we still could see a need for 25 to 30 new towns. (When the term "New City" is used hereafter, it also implies the redevelopment of some smaller old towns.)

As a matter of principle for future new city design, we should think in terms of organically structured communities, taking our cue from the highly successful town of Tapiola, Finland, built in 1952 near Helsinki. Its form was utilized in the design of Columbia, Md., situated between Washington, D.C., and Baltimore, Md. Columbia is now one of the most widely acclaimed new towns in America.

This organic structure employs the neighborhood-village-town configuration. The neighborhood unit, of fixed size, has the necessary schools and convenience stores at its center to minimize travel distances involved in the daily rounds of elementary schooling and fetching the family groceries. The neighborhoods are clustered around a village center containing a higher order of civic and business facilities, in proportion to the number of neighborhoods. The villages are, in turn, clustered around a town center where an even higher order of cultural, civic and administrative facilities are provided.

This same system could be extended to have centers for clusters of towns in a sort of satellite or galaxy fashion, but always maintaining the basic neighborhood of fixed, readily identifiable boundaries, and with green or open spaces intertwined among the various units in the town systems. Industry would have its zoned place off to one side, with access to intercity transportation.

Monotony among the towns would be avoided through the use of diversified architecture. Yet a certain harmony of architecture within a neighborhood would be sought. Forsaking the ubiquitous rectangular street grid system, layouts of towns would vary according to the topography of the site, which should be the guiding consideration in the effort to minimise the cuts and fills for streets. Good traffic circulation, designed to meet all future needs of the city, would provide the skeleton on which a town is built. To speed construction in the initial stages of a new town, the residences might consist largely of mobile and/or factory-built houses. These in time might be replaced with more permanent homes, or new housing forms which would take advantage of the revolutionary technological practices which are being introduced into the building industry today.

The various units of the towns would have zoned control against lateral expansion. Part of the control would be the inviolate green or open spaces between units, whether these spaces be parks or farmland. Greenery would also be prominently featured within the neighborhoods. Once a town had been populated to its designed size, that would be it: no further expansion! Rather, another town would be started in another location with open spaces between, and in accordance with a long range regional plan. The goal would be to retain the human scale within the cities by making them organically efficient, and at the same time beautiful, attractive gardens of life which would be sought by business and the people who would work and live there.

We are talking about new cities with their own economic base, mostly of light industry but some agricultural processing.

Here are some of the factors which should influence the location of new cities or the selection of older ones for rebuilding:

The sites should be on high ground within the rolling topography of the valley region, primarily for vista, good drainage and good air flow, and from the standpoint of consuming only that agricultural land which is now less attractive for irrigation.

They should be located with respect to natural streams so that water could be supplied from underground stores within the alluvium forming the stream bed, thus minimizing the treatment required.

The sites should be located fairly well down from the head of the drainage on the various tributaries of the South Platte River so that holding dams might be constructed upstream from the sites. The purpose of these dams would be primarily to retard the run-off of a storm and to recharge the ground water upstream from the town water intake. A corollary water development would be the complete treatment of the town's sewage so that its water effluent might be used either for ponds within the town, for possible re-use within the distribution system, or for returning to the stream in as pollution-free a state as is technically possible. The sludge, or solid portion of the sewage, could be rendered odorless and used agriculturally as a soil conditioner.

There has been some discussion about cleaning up Denver's sewage water to the point where it could be recycled within its own distribution system. Rather than encouraging further growth in the Denver area by such re-use, it would appear wiser to clean the water for further use in new communities downstream, avoiding the pump-back costs, and encouraging the growth elsewhere.

Chatfield Dam, upon completion, will hold back Plum Creek and South Platte flood waters above Denver, and the trapped flood waters will be released gradually within the capacity of the channel through Denver. It might prove beneficial, under a regional plan for new communities downstream, to construct another holding reservoir on the South Platte downstream from Denver in order to conserve the flood waters for use in the region.

Some contemporary "environmentalists" have questioned the wisdom of undertaking new water supply development in certain instances, claiming it to be part of a vicious "water development-economic growth-more water development-more economic growth cycle."

With respect to specific large, overbuilt, high density areas, where there is growing concern about the quality of living, their wariness is plausible. This should not, however, lead them to condemn all water supply development proposals, particularly regional ones with objectives of population dispersion. The latter can become the very means by which we break out of the old cycle; long range water supply planning and incremental development can become one of the main factors influencing the patterns of population growth within newer, more desirable regional configurations.

What the environmentalists should be saying is that the time has come when it is more in the nation's interest to supply new water to potentially habitable areas than it is to bring more water into already overpopulated regions.

Regional water augmentation and management form the deciding issue whether the whole western half of the nation will ever support its proportionate share of the nation's people. There are vast expanses of land in the West which have been passed over because of lack of water.

Some western environmentalists have questioned the wisdom of making more land in the West habitable through water development. They also have questioned the wisdom of watering lawns and shrubbery in western cities, calling this a waste and abuse as if they were wholly unaware of the environmental satisfactions derived from that practice.

They seem to forget that the growing of trees, bushes, and lawns improves the quality of air through the process of photosynthesis; that lawn watering has a cooling effect on summer temperatures; that it prevents wind and water erosion of the soil; that it provides an opportunity for healthful exercise in maintaining the greenery; and that it provides a special psychological uplift which comes from seeing and tending growing things—if only just for beauty.

Environmentalists should support what might be called "environmental irrigation"—the backbone of attractive western cities like Denver. They should recognize that the benefits which accrue in social wellbeing far outweigh the disruptions of natural situations caused by the building of reservoirs and delivery systems to enable better conservation of highly seasonal water flows and to permit more uniform distribution throughout the year.

Moreover, multi-year dry cycles occur, and we need to prepare for them by means of holdover storage. The fact of recurring droughts, combined with population expansion, should impel the whole nation to broader regional studies of water management where the basic objective would be to effect better population accommodation through dispersion into more attractive living and work opportunities.

What is needed in Colorado is an overall regional study for new city siting, water treatment and re-use, water availability and ground water storage capabilities of the alluvium of the Platte River and its various tributaries.

Studies already have shown that there is enough South Platte surface water now flowing past Fort Morgan to justify building the proposed Narrows Dam for irrigation. In lieu of building Narrows Reservoir, if it should come to that, the same amount of water might be conserved and used upstream for new city growth under a higher priority and as a more important use. Under large scale water re-use arrangements the restraining factor to population growth will not be so much the amount of water available but the quality of the water for successive users.

Included in the regional studies also would be consideration of transportation systems, possibly involving rapid transit to Denver or to some new new-town center within the basin. A new regional airfield, central to all of the new towns, might be part of a transportation plan.

An entirely new appreciation and understanding of the basic function of urban land also are required if we are to overcome the "freedom" to build toward congestion and ugliness. Edward Higbee in his book, "A Question of Priorities," states that we should no longer treat urban land as personal "property" as does the farmer who depends upon land for production and security. Rather, he says, urban land should be regarded for its civic function in supporting institutions, with long term management performed by powerful public land utilities which would lease the land for an approved use but not "sell" to individual developers. In this way land would not be frozen into private ownerships so as to preclude large scale redevelopment in later years.

Higbee points out that under the present system, functional urban land use with new rational space allocation becomes impossible because urban land values increase as population density increases. He states further that this is the reason why it is cheaper and easier in the long run to turn to new urbanized land and build whole new cities than try to redevelop core areas of older cities.

The Irvine communities development in southern California is a case in point where the urbanized land has ceased to become a *commodity* and has become a *function* instead. It can be used under approved planning but it cannot be bought or sold.

These land and water control issues, including water rights, are such to test the souls and guts of our state legislators. Our future success in regional planning for population accommodation hinges on our legislative capacity.

VOTERS OPPOSE POPULATION CEILING IN COLORADO CITY

BOULDER, COLO.—Voters here decided against a 100,000 population ceiling, but approved a resolution to slow Boulder's growth rate.

The proposed charter amendment to clamp a ceiling on Boulder's population, supported by the local Zero Population Growth organization, lost 12,156 to 8,605 in yesterday's voting.

Approved by a 16,364–6,171 vote was a city council proposal calling for a study to determine an optimum population level for the Boulder Valley while holding the city's population growth below the rate of the 1960s. Boulder's population, now about 70,000 doubled in the 1960s.

A proposal to limit the height of new buildings to 55 feet also was successful, 11,577 to 10,273.

ENABLING LEGISLATION FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, one of the articles of the Genocide Convention which is objected to is article V which states:

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide . . .

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The argument is made that the Senate does not have the authority to bind Congress to have to enact subsequent legislation. It is argued that this would be an unprecedented and unwarranted concentration of power in one branch of Congress.

Mr. President, the Interim Convention on Conservation of North Pacific Fur Seals, which was approved by the Senate on August 8, 1957, by a vote of 86 to 0, is similar in many respects to the Genocide Convention, and it can shed some light for us on this issue. Article X of the Fur Seal Convention says:

Each Party agrees to enact and enforce such legislation as may be necessary to guarantee the observance of this Convention and to make effective its provisions with appropriate penalties for violation thereof.

The obligations entailed upon the United States under each convention is identical. In enacting the Fur Seal Act of 1966, 16 U.S.C. 1151–1159, the United States fulfilled its obligation under the Fur Seal Convention. This act establishes the procedure for taking seals. At no time during the debate in either House or the Senate was any objection expressed that this legislation was being forced on the Congress.

Thus we can see, Mr. President, that it is not unusual for the United States to be party to a treaty that obliges us to enact subsequent enabling legislation. This objection to article V of the Genocide Convention is not well taken. I urge the Senate to ratify the Genocide Convention as soon as possible.

PRISON REFORM IN CALIFORNIA

Mr. HUMPHREY. Mr. President, the distinguished majority leader of the California Assembly, Walter Karabian, has written an extremely interesting article in the University of California's Black Law Journal. Entitled "California's Prison System: We Must Bring It Into the 20th Century," the article explores the current need for close scrutiny of our State and Federal prison systems which are badly in need of reform.

Assemblyman Karabian is concerned with the basic question of the effect of the length of a prison inmate's stay on the rates of recidivism and the cost to the State. He examines in detail what seem to be serious flaws in the parole system and rehabilitation system of a State which operates the largest penal system in the Nation and which is regarded by experts as one of the most advanced in providing rehabilitation services to its inmates. However, California's prison system is, in the majority leader's words, "critically close to failure" and "in dire need of rehabilitation."

The questions that Assemblyman Karabian raises are significant ones. I would like to recommend that Senators read this article carefully. Mr. President, I ask unanimous consent that Assemblyman Walter Karabian's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CALIFORNIA'S PRISON SYSTEM: WE MUST BRING IT INTO THE 20TH CENTURY

(By Walter Karabian)

California operates the largest penal system in the nation, and the best. Yet, if you were to enter this progressive system as a misfit in 1971, you would be virtually certain to emerge in 1975 not only less able to function on the outside, but much more defeated and dangerous than you were when you entered.

The California correctional system, praised by no less a penal authority than Karl Menninger as "far out in the lead among the states, with excellent programs of work, education, vocational training, medical services, group counseling, and other rehabilitative activities,"[1] is critically close to failure. If it does indeed represent the optimum to be found in the 50 states, one despairs to imagine what conditions are like in the other 49.

Anyone remotely connected with criminal justice in California will tell you that the system itself is in dire need of rehabilitation. The only question is how—and how quickly—this can be done. Can we solve the problems besetting our criminal and correctional procedures with money, more trained personnel, a more humane and far-sighted treatment program for the men in our prisons? Of course we can. But given the temper and priorities of the times, these resources are not likely to be forthcoming. Yet, from a purely pragmatic point of view, much can be done by simply beefing up existing programs and putting into practice inexpensive but highly promising ideas for penal reform.

There are nearly 30,000 felony offenders in California's prisons. Roughly half this number are non-white. The prototypal inmate is young, undereducated and was chronically unemployed on the outside. His life experiences have been predominantly negative. His self-image is low, his sensitivity to injustice high. He is vulnerable at every point and he knows it.

From this man and his counterparts behind bars, one hears an almost unanimous litany of trouble. Facilities are 50 percent overcrowded. To survive at all, he must endure a pitiless assault on the last vestiges of his identity and individuality: homosexual rape, hours of idleness, inadequate or nonexistent medical and psychiatric care, smouldering racial tensions often fired to flashpoint by untrained and openly hostile guards, bad food, filth—the list is long. But, as degrading as these conditions are, the overwhelming concern of this man is the unyielding and mindless nature of the bureaucracy that manipulates his life, not only while he is in custody, but after he has been released on parole.

For him, the twin symbols of this bureaucracy are the indeterminate sentence and a wholly deficient rehabilitation program.

California pioneered the adoption of the indeterminate sentence, whereby a felony offender is remanded to prison for "the time prescribed by law" rather than a time certain. The Legislature sets minimum and maximum terms for each offense. As conceived by early reformers the indeterminate sentence was basic to rehabilitation and early release, providing the flexibility necessary for weeding out of the prison population those persons who, but for the time certain of their commitment, could be leading useful lives on the outside. In theory, at least, it transfers the sentencing function from the courts to the professional prison staff, persons trained to observe the inmate at close range and make a judgment as to his fitness for parole not on the basis of his crime, but on the circumstances surrounding it and the subsequent "modification of anti-social behavior" he demonstrates in prison. It allows the "rehabilitated" inmate to be released sooner than would be possible under a fixed sentence.

In practice, however, prison administrators have found the indeterminate sentence to be a formidable disciplinary weapon, a weapon against which there is virtually no defense. As applied today, the indeterminate sentence assures much longer sentences than would be imposed by the courts for all but the most docile inmates. It comes down hardest, of course, on "trouble-makers," a group variously described as religious and political nonconformists, ethnic "leaders," psychotics, "writ-writers" in pursuit of due process, and behavioral deviants, depending upon the bias of the decisionmaker. "From the vindictive guard who sets out to build a record against some individual, to the parole board, the indeterminate sentence grants Corrections the power to play God with the lives of inmates."[2]

That prison officials should seek discretion over sentencing is not surprising. They are, after all, saddled with the job of managing the prisons, and "from the official's point of view a first requisite is effective influence over inmate conduct. So long as inmates desire freedom, restrictions on freedom—threatened or actual—will provide a possible strategy for control, for effective influence; and the Correctional Establishment as a whole is premised on the desire of inmates for freedom."[3]

In fact, of course, the actual length of an individual's sentence is determined by the Adult Authority, a nine-member board consisting of the Director of the Department of Corrections and eight gubernatorial appointees. While the Penal Code states that members should "have a varied and sympathetic interest in corrections, sociology, law, law enforcement, and education,"[4] the present board is made up primarily of former policemen, prosecutors, FBI and Corrections personnel. This body serves as the parole board, charged to "determine and re-examine" the length of time a man must serve. It has the power to make a judicial determination of sentence, to retract that determination and refix sentence, to grant parole and to revoke parole, and its decisions are rarely subject to review or appeal.

Dividing into two-member panels, assisted by case-hearing representatives, the Adult Authority renders 30,000 to 40,000 determinations yearly. The inevitable result of this crushing caseload is that an inmate's hearing before the Adult Authority, the outcome of which will determine whether or not to fix sentence and grant parole,[5] generally lasts a scant 10 minutes. And these 10 minutes are not exclusively his—while one member listens to the proceedings, the other is reading the dossier on the next inmate.

The panel's decision is based on information to be found in the prisoner's file,[6] a collection of material, little of it sworn, consisting of whatever the authorities know about the man: comments of the trial judge and the prosecutor, the probation officer's report, psychiatric evaluation, reports by guards of "deviant" behavior (which can run the spectrum from refusal to eat breakfast to attempted suicide)[7] and disciplinary infractions. While the guards and other prison personnel are encouraged to familiarize themselves with the prisoner's folder, the prisoner is at no time permitted to see it. Further, if parole is denied, the prisoner is not entitled to know why it is denied, nor is his attorney. No transcript is made of the hearing; family members, the press and legal counsel are all excluded from the proceedings.

Should an inmate's case for parole survive an examination of his folder, it remains vulnerable to the whims and biases of the parole panel. Lacking any guidelines of an official nature, California's parole policy is subjective rather than scientific. Inmates find that as the parole panels rotate, so do the indicia of "rehabilitation."[8]

Thus, determination of sentence parole is almost totally discretionary, and its arbitrary exercise has resulted in abuses of every kind. Examples abound of parole denials in clear violation of constitutional guarantees.

The result of the indeterminate sentence has been that the median time served in prison has risen dramatically in the past decade. In 1960, the median time served in California was 24 months; by 1968 it had risen to 36 months, an increase of 50 percent in eight years, and it continues to rise.[9] Yet, the 1970 report of the Assembly Select Committee on the Administration of Justice confirms what modern criminologists have been saying for years, that the character of convicted felons does not alter appreciably from one year to the next, that "persons committed to prison in 1960 . . . were essentially the same type of person as those committed for a similar offense in 1968."

The man committed to prison today is no more dangerous, hostile or menacing to society than the felon committed last year or the year before. There is, therefore, no logic to justify the increase in time served. It should be noted that the reluctance of the Adult Authority to release men from custody has not reduced California's increasing crime rate.

Longer sentences are costly to the State;[10] but far worse, they do not result in good behavior after release. On the contrary, persons serving longer terms are less likely to readjust on the outside than those serving short terms.

In fact, studies show that persons serving longer terms recidivate at a rate 10 percent higher than short termers.

In effect, California's parole policy acerbates the problems it was designed to solve. It operates as a mindless, moving conveyor belt upon which our felons are tossed with total disregard for the human pileup at the other end.

The cost to the individual in prison, however, is beyond measure. He does not know how much time he will serve until the end of his sentence, since his sentence is not fixed until that time. If parole is denied he has no recourse. The meting out of an indeterminate sentence amounts to summary injustice to him, a major source of anger, resentment, bitterness and defeat. Psychologically, he faces more uncertainty than most in our society. He cannot plan or prepare for the future. He is in every way the pawn of a swollen bureaucracy. It is no wonder that a crisis in our prisons is upon us.

The legislation I introduced in the 1971 Session of the Legislature will buy time, time to devise and expedite criminals and correctional procedures to reduce permanently our prison population, an essential first step to long-range penal reform. It includes a measure that would require parole of most prisoners at the completion of the minimum sentence.[11] Under this proposal, the Adult Authority would continue to determine sentence length, but a felon would serve only the legal minimum behind bars, and the balance on parole. Further, if parole were denied, the burden of proof would rest with the parole board, and grounds for denial would be reduced to clearly discernible facts relating to the nature of the original crime and the prisoners' history of excessive criminality or violence. This proposal also reduces to five the members of the Adult Authority and specifies that, in addition to the Director of Corrections, they shall consist of an experienced criminal attorney, a behavioral scientist, a person trained in the education of disadvantaged persons, and a law enforcement administrator, all "with substantial records of achievement."

A second measure[12] provides that the Adult Authority officially "show cause" whenever the automatic parole is denied by submitting a written report of each denial which meets specifications to be determined by the Bureau of Criminal Statistics.

This proposal would bring our parole policy under critical scrutiny and eliminate irregularities inherent in any purely arbitrary exercise of authority.

An equally important component of this legislative package seeks to put some economic bone and tissue on the Department of Correction's rehabilitative arm, California Correctional Industries.[13] Established to provide "training in work habits and work skills to the inmates as a means of improving employment opportunities after release" and "prevent idleness," this program is self-supporting and even modestly profitable. Yet, the entire program employs barely 10 percent of the State's prison population.

According to a recent estimate, there is at least a nine-month waiting period to get into Industries. And, for the fortunate few who make it, many of the jobs are sadly ill-suited to prepare them for life on the outside. At Soledad prison, for instance, where more than half of the 2,787 inmates will be returned to the urban centers, only 400 are working. Of the 400, nearly half work in dairy and hog ranch programs. At Folsom, about 150 inmates of the 600 employed are learning to make license plates, a skill which cannot be utilized outside prison.

In addition, many jobs being done on prison equipment by inmates are automated on the outside; thus, men train for obsolete work. But to automate in prison would further reduce the number of jobs in Correctional Industries, so inmates continue to do busy work on outdated equipment for an outrageously low pay scale that ranges from two cents to 16 cents an hour.

Finally, prison-made goods are often inferior to those manufactured in private industry. Recently, the State requested clothing manufacturers to submit, along with their bid, assessments as to the durability of their shorts, T-shirts and denims. These estimates revealed that the quality of prison-made clothing was so low and frequency of replacement so high that the State paid 12 percent more because it used Correctional Industries clothing.

Since the Correctional Industries program must be self-supporting, and the productivity per inmate is as little as one-sixth of that of a worker in private industry, the profit margin is slim indeed. At that, where private industry might use a portion of its profits to expand operations or purchase new equipment, much of the Correctional Industries are turned over to the States' General Fund.

Recently the textile mill at San Quentin was closed; so was the cannery at Folsom. Yet, the most innovative proposal in last year's Correctional Industries report, was for a "vast plan for providing several new laundries consistent with the long-range needs of Mental Hygiene."

Corrections officials are not unaware of the deficiencies of the Industries program. They know that there are too few jobs. But, they also know that inmate participation in other rehabilitative programs, such as vocational training and academic courses, is also woefully inadequate. These efforts, well-intended though they are, are failing. They reach only a fraction of the State's inmates. They occupy less than four hours a day of the prisoners they reach.

The inadequacy of Correctional Industries reflects both political pressure and economic reality. Within the 103 million dollar prison budget, there is no allocation for the subsidy of this program. (Only five cents of every prison dollar is now spent on rehabilitation.) Even if the economy were stronger and funds available, it is unlikely that the non-voting prison population would receive them.

To make matters worse, private industry has generally opposed measures which might increase Industries' production or place Industries on a more competitive footing—this in spite of the fact that the total Industries output comprises only 0.1 percent of total manufacturing and wholesale sales in California.

As it is, prison-made products may be sold only to tax-supported agencies, and total production is limited by law. Yet, when Folsom sought to reduce losses in its metal-stamping industries by expanding to metal desks, private industry lobbied against it so vigorously that it succeeded in limiting the sale of those desks to State offices only. Similarly, fear of competition has prompted organized labor to lobby against efforts to develop prison industry.

The legislation I have proposed would neutralize the conflict between Correctional Industries and private industry. It would expand employment and training opportunities for inmates by providing financial incentives to private industries to expand their operations to include the State's prisons. Among these incentives are tax deductions to participating firms for a percentage of the training costs and wages of inmates; payment by the State of a portion of inmate wages for a fixed period of time while training; and a provision entitling a participating firm to a 10 percent price preference over out-of-state businesses on purchases made by the State.[14]

Participating firms would be required to hire their inmate employees upon their release if their performance while in prison had been satisfactory.

Products and profits from a participating firm's prison branch would, of course, belong to the firm, but inmates would be included within any labor contract between the private firm and its other employees. Inmates would also be entitled to join unions as dues-paying members.

Inmates in the program would reimburse the State from their earnings for the reasonable cost of their confinement. The balance of an inmate's earnings would be applied to pay any personal debt or other obligations, the remainder to be held in trust in a savings account until the inmate is released.

This plan would create a productive environment within the prisons. It would revitalize the concept of rehabilitation by providing inmates with realistic training for work on the outside, a marketable skill, the capability of providing for his family while he is confined, and money in the bank when he is released.

Nearly 80 percent of California's convicts go to prison for non-violent crimes. Before their prison experience, they are not unlike their counterparts on the outside. But, once in prison, dehumanizing pressures rapidly corrode any ties that remain with the outside, to the end that most convicts re-enter civilian life full of rage and bitterness toward the system that locked them up.

If we can begin to stimulate in the men inside the walls the rhythm and routine of life and work on the outside,[15] we might be able to restore some semblance of balance and reason to life inside. At the very least, the system will cease to destroy men as inexorably as it does now.

Currently, there are nearly 100 bills pending in the California Legislature, touching almost every aspect of prison reform. But in the final analysis, the most enlightened measures can only bring cosmetic relief to a system which has simply grown too large to be adequately or intelligently administered.

We are, as I have said, buying the time

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necessary to achieve fundamental prison reform. A basic requisite to that reform is a reduction in the prison population.

Ironically, while there is little disagreement among penal experts that prisons fail as a means of punishment or as instruments with which to change criminal behavior, prison overcrowding, rather than humanitarian concern, emerges as the most compelling liberalizing force in the correctional field.

Nationwide, new programs are being developed to relieve the crush of prison population by the treatment and control of offenders in the community rather than in prison. (In Los Angeles County, 2,000 probation officers supervise 61,300 adults and juveniles in the community, and the results, in terms of recidivism, have been impressive.)[20] In addition to release under supervision, reformers are advocating—and trying—weekend leaves, work-release programs, outside classes and halfway houses as alternatives to simple incarceration.

In my view, however, a permanent reduction in prison population can only come about through a careful redefinition of the criminal law to exclude offenses against private morality and taste. Assuming the essential function of the criminal law to be the protection of our persons and property, the American tradition of using it also to regulate the moral conduct of the individual citizen is a major cause of prison overpopulation. Worse, this "overreach" of the criminal law has so overloaded our entire criminal justice system, that it is wholly defective as a means of protecting us against those activities which are the proper concern of the criminal law—crimes of violence, serious depredations of property, and the exploitation of the defenseless and the young.

Judges, corrections officers and policemen agree that they could serve with far greater efficiency if the system were relieved of that class of offense known as "victimless crime," offenses such as prostitution, abortion, homosexuality, drunkenness, vagrancy, gambling and drug use. According to the President's Commission on Law Enforcement and the Administration of Justice, these offenses account for fully half of the six million nontraffic arrests of adults per year in the United States. Because these crimes lack victims, that is complainants who seek the protection of the criminal law, there is growing sentiment among the experts that they are not the legitimate concern of the criminal law.

In his excellent book on the control of crime, Norval Morris states, "In this country we have . . . a long tradition of using (the criminal law) as an instrument for coercing men to virtue. It is a singularly inept instrument for that purpose. It is also an unduly costly one, both in terms of harm done and in terms of the neglect of the proper tasks of law enforcement."[21]

Most of our legislation concerning narcotics, gambling and sexual behavior is based on the erroneous assumption that the criminal law has the capacity to alter human proclivities. Yet, there is no evidence that the incursion of the criminal law into the spheres of social welfare and private morality has brought about the Millenium. We do not drink less alcohol or take less drugs, nor are we sexually more strait-laced by dint of criminal sanction.[22]

As a case in point, examine what happened in California after the Legislature had imposed a mandatory sentence of one to 10 years in prison for the possession of marijuana. In 1961, the Legislature removed the sentence of 0-12 months in county jail as an optional penalty for possession, and imposed the stiffer sentence. At the same time, it also increased penalties for sale and for offenders with prior convictions.

Did these sanctions limit the sale or possession of marijuana? On the contrary. In 1961, the year the sanctions were imposed, there were 3,500 arrests for marijuana offenses. By 1966 this figure had increased to 18,000, a rise of 400 percent.

By 1970, 42 percent of *all* felony arrests in California were drug arrests.

Statistics relating to arrests and convictions for other "victimless" crimes seem to support the proposition that criminal sanctions serve almost no deterrent purpose. In fact, the overreach of the law contributes to the crime problem. We have only to remember that the "Noble Experiment" of 1913 spawned more than the romantic era of bathtub gin and speakeasies. It also helped to finance the largest criminal industry in the modern world.

I am not unmindful of the fact that a review of the criminal law raises many legal and administrative issues; there are legitimate objections to the repeal of certain criminal statutes. My point is that inevitably we will have to undertake such a review as an alternative to the penal approach, which is both wasteful and futile. As Myrl Alexander, director of the Federal Bureau of Prisons noted, "We all recognize that the traditional institutions of the past haven't produced the desired results . . . imprisonment is failure."[23]

Our resources in manpower and money are by no means infinite. We have a clear responsibility to apprehend and confine the dangerous offender, and to rehabilitate him when possible. We cannot hope to succeed in even this limited pursuit if we remain wedded to a concept of criminal law which does not distinguish between the felon who steals property and endangers lives, and the nonviolent offender who violates private codes of social conduct. Imprisonment is not the answer to the national problems such an offender creates or the social displacements which spawn his behavior. We can no longer afford to pay the heavy concomitant costs of perpetuating a system which fails to come to grips with this reality.

FOOTNOTES

[1] At a recent news conference, however, following his address before a NAACP Legal Defense Fund seminar in Los Angeles, Menninger referred to all American prison systems as a "shambles—beastly, unworkable and expensive." Their sole effect, he said, is "to degrade and humiliate people and rob them of their human dignity." *Los Angeles Times*, May 23, 1971.

[2] Jessica Mitford, "Kind and Usual Punishment in California," *The Atlantic Monthly*, May, 1971.

[3] Sheldon Menninger, *Strategies of Control*, University of California, Center for the Study of Law and Society, 1968.

[4] California Penal Code, Section 5705.

[5] The Adult Authority is under no legal obligation to set the sentence and generally does not do so until it is ready to grant parole.

[6] There is no procedural guarantee that the parole board will review all the facts concerning an individual case: "At present, a counselor spends from five to 15 minutes with the inmate in evaluating his 'progress' of the previous year. (Inmates) wonder, what kind of an accurate evaluation even a qualified person could make in that length of time?" Institute for the Study of Crime and Delinquency. (45) p. 78.

[7] The Caucus of Black Elected Officials of the California State Legislature, in its 1970 report on conditions at Soledad, made the following recommendations: "We strongly urge that accusations of improper behavior brought against inmates for minor offenses—like refusal to shave when no mirror is available—*be excluded from an inmate's permanent dossier and that no indication of such accusations reach the eyes of the Adult Authority* (emphasis theirs). Black Caucus Report, "Treatment of Prisoners at California Training Facility at Soledad Central," The California Legislature, p. 11, 1970.

[8] "... the time an individual spends in prison seems to depend on three factors: (1) The values and feelings of individual parole board members. (2) The 'mood' of the public. (3) Institution population pressures." California Legislature, Assembly Criminal Procedure Committee, *Deterrent Effects of Criminal Sanctions*, p. 40, May, 1968.

[9] See Adult Authority Manual of Statistics for 1945 through 1966, March, 1967, Table 1, and *Analysis of the Budget Bill, 1969-70*, p. 131.

[10] According to the California Assembly Office of Research, the institutional cost per year of maintaining an inmate is $3,012. As we have noted, the average sentence is 36 months, which raises this figure to $9,036, per commitment episode. (These figures represent the saving to the State per inmate if the institution were closed.)

More compelling, since 30 percent of this population returns to prison within two years, the cost of an average "unsuccessful" commitment episode, based upon a return to prison for 18 months on a technical violation, is more than $13,000. The average cost for those returned to prison from parole with a new felony conviction is more than $18,000. Such offenders usually spend 36 months in prison before being re-paroled.

[11] Assembly Bill 2064. A similar provision is included in Assembly Bill 483, introduced by Assemblyman Leo J. Ryan.

[12] Assembly Bill 2816.

[13] Assembly Bill 2062.

[14] By judicial determination, the California Preference Law, Section 4330, which entitled California firms to a five percent price preference over out-of-state businesses, was declared unconstitutional in 1970 (53 Ops. Atty. Gen. 72, 2/11/70), but contracts entered into by the State of California prior to this ruling are legal and binding on all the parties to the contract.

[15] Another proposal in this legislative package, AB 2063, would provide facilities to enable inmates to spend two-day visits, at least three times a year, with those persons who have been approved on the inmate's visitation or correspondence list. The inhuman sexual deprivation endured by prison inmates has produced a prison environment where homosexual rape is commonplace; in addition, prolonged separation has resulted in the destruction of the marriages of countless convicts.

[16] "Justice on Trial," *Newsweek*, March 8, 1971.

[17] Morris, Norval and Gordon Hawkins, *The Honest Politician's Guide to Crime Control*, Page 5.

[18] There is some evidence that the extensive use of criminal sanctions may actually *decrease* the public safety. A recent study by Herbert Packer concluded, in a chapter on drug use, abortion, gambling, alcoholism and "white-collar" crime, that, "It is by no means clear that we can persuade the public to view conduct as wrongful by making it criminal. Law, even criminal law, simply is not that potent a weapon for social control. Our experience with the use of the criminal sanction during the Prohibition period suggests that the reverse is true . . . There is indeed some reason to fear that sensitivity toward the criminal sanction has decreased as the formal apparatus of the criminal law has been called on to deal with a wide variety of morally neutral conduct . . ." Packer, Herbert L., *The Limits of the Criminal Sanction*, page 359, 1968.

[19] *Los Angeles Times*, November 17, 1968.

CONCLUSION OF MORNING BUSINESS—EXECUTIVE SESSION

The PRESIDENT pro tempore. Under the previous order the period for the transaction of routine morning business is now concluded, and the Senate will go into executive session.

The Senate proceeded to consider executive business.

AGREEMENT WITH JAPAN CONCERNING THE RYUKYU ISLANDS AND THE DAITO ISLANDS

The PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate Executive J, 92d Congress, first session.

The Senate, as in Committee of the Whole, proceeded to consider Executive J, 92d Congress, first session, the agreement with Japan concerning the Ryukyu Islands and the Daito Islands, which was read the second time as follows:

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND JAPAN CONCERNING THE RYUKYU ISLANDS AND THE DAITO ISLANDS

The United States of America and Japan,

Noting that the President of the United States of America and the Prime Minister of Japan reviewed together on November 19, 20, and 21, 1969 the status of the Ryukyu Islands and the Daito Islands, referred to as "Okinawa" in the Joint Communique between the President and the Prime Minister issued on November 21, 1969, and agreed that the Government of the United States of America and the Government of Japan should enter immediately into consultations regarding the specific arrangements for accomplishing the early reversion of these islands to Japan;

Noting that the two Governments have conducted such consultations and have reaffirmed that the reversion of these islands to Japan be carried out on the basis of the said Joint Communique;

Considering that the United States of America desires, with respect to the Ryukyu Islands and the Daito Islands, to relinquish in favor of Japan all rights and interests under Article 3 of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951, and thereby to have relinquished all its rights and interests in all territories under the said Article; and

Considering further that Japan is willing to assume full responsibility and authority for the exercise of all powers of administration, legislation and jurisdiction over the territory and inhabitants of the Ryukyu Islands and the Daito Islands;

Therefore, have agreed as follows:

ARTICLE I

1. With respect to the Ryukyu Islands and the Daito Islands, as defined in paragraph 2 below, the United States of America relinquishes in favor of Japan all rights and interests under Article 3 of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951, effective as of the date of entry into force of this Agreement. Japan, as of such date, assumes full responsibility and authority for the exercise of all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of the said islands.

2. For the purpose of this Agreement, the term "the Ryukyu Islands and the Daito Islands" means all the territories and their territorial waters with respect to which the right to exercise all and any powers of administration, legislation and jurisdiction was accorded to the United States of America under Article 3 of the Treaty of Peace with Japan other than those with respect to which such right has already been returned to Japan in accordance with the Agreement concerning the Amami Islands and the Agreement concerning Nanpo Shoto and Other Islands signed between the United States of America and Japan, respectively on December 24, 1953 and April 5, 1968.

ARTICLE II

It is confirmed that treaties, conventions and other agreements concluded between the United States of America and Japan, including, but without limitation, the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed at Washington on January 19, 1960, and its related arrangements and the Treaty of Friendship, Commerce and Navigation between the United States of America and Japan signed at Tokyo on April 2, 1953, become applicable to the Ryukyu Islands and the Daito Islands as of the date of entry into force of this Agreement.

ARTICLE III

1. Japan will grant the United States of America on the date of entry into force of this Agreement the use of facilities and areas in the Ryukyu Islands and the Daito Islands in accordance with the Treaty of Mutual Cooperation and Security between the United States of America and Japan signed at Washington on January 19, 1960 and its related arrangements.

2. In the application of Article IV of the Agreement under Article VI of the Treaty of Mutual Cooperation and Security between the United States of America and Japan, regarding Facilities and Areas and the Status of United States Armed Forces in Japan signed on January 19, 1960, to the facilities and areas the use of which will be granted in accordance with paragraph 1 above to the United States of America on the date of entry into force of this Agreement, it is understood that the phrase "the condition in which they were at the time they became available to the United States armed forces" in paragraph 1 of the said Article IV refers to the condition in which the facilities and areas first came into the use of the United States armed forces and that the term "improvements" in paragraph 2 of the said Article includes those made prior to the date of entry into force of this Agreement.

ARTICLE IV

1. Japan waives all claims of Japan and its nationals against the United States of America and its nationals and against the local authorities of the Ryukyu Islands and the Daito Islands, arising from the presence, operations or actions of forces or authorities of the United States of America in these islands, or from the presence, operations or actions of forces or authorities of the United States of America having had any effect upon these islands, prior to the date of entry into force of this Agreement.

2. The waiver in paragraph 1 above does not, however, include claims of Japanese nationals specifically recognized in the laws of the United States of America or the local laws of these islands applicable during the period of United States administration of these islands. The Government of the United States of America is authorized to maintain its duly empowered officials in the Ryukyu Islands and the Daito Islands in order to deal with and settle such claims on and after the date of entry into force of this Agreement in accordance with the procedures to be established in consultation with the Government of Japan.

3. The Government of the United States of America will make ex gratia contributions for restoration of lands to the nationals of Japan whose lands in the Ryukyu Islands and the Daito Islands were damaged prior to July 1, 1950, while placed under the use of United States authorities, and were released from their use after June 30, 1961 and before the date of entry into force of this Agreement. Such contributions will be made in an equitable manner in relation to the payments made under High Commissioner Ordinance Number 60 of 1967 to claims for damages done prior to July 1, 1950 to the lands released prior to July 1, 1961.

4. Japan recognizes the validity of all acts and omissions done during the period of United States administration of the Ryukyu Islands and the Daito Islands under or in consequence of directives of the United States or local authorities, or authorized by existing law during that period, and will take no action subjecting United States nationals or the residents of these islands to civil or criminal liability arising out of such acts or omissions.

ARTICLE V

1. Japan recognizes the validity of, and will continue in full force and effect, final judgments in civil cases rendered by any court in the Ryukyu Islands and the Daito Islands prior to the date of entry into force of this Agreement, provided that such recognition or continuation would not be contrary to public policy.

2. Without in any way adversely affecting the substantive rights and positions of the litigants concerned, Japan will assume jurisdiction over and continue to judgment and execution any civil cases pending as of the date of entry into force of this Agreement in any court in the Ryukyu Islands and the Daito Islands.

3. Without in any way adversely affecting the substantive rights of the accused or suspect concerned, Japan will assume jurisdiction over, and may continue or institute proceedings with respect to, any criminal cases with which any court in the Ryukyu Islands and the Daito Islands is seized as of the date of entry into force of this Agreement or would have been seized had the proceedings been instituted prior to such date.

4. Japan may continue the execution of any final judgments rendered in criminal cases by any court in the Ryukyu Islands and the Daito Islands.

ARTICLE VI

1. The properties of the Ryukyu Electric Power Corporation, the Ryukyu Domestic Water Corporation and the Ryukyu Development Loan Corporation shall be transferred to the Government of Japan on the date of entry into force of this Agreement, and the rights and obligations of the said Corporations shall be assumed by the Government of Japan on that date in conformity with the laws and regulations of Japan.

2. All other properties of the Government of the United States of America, existing in the Ryukyu Islands and the Daito Islands as of the date of entry into force of this Agreement and located outside the facilities and areas provided on that date in accordance with Article III of this Agreement, shall be transferred to the Government of Japan on that date, except for those that are located on the lands returned to the landowners concerned before the date of entry into force of this Agreement and for those the title to which will be retained by the Government of the United States of America after that date with the consent of the Government of Japan.

3. Such lands in the Ryukyu Islands and the Daito Islands reclaimed by the Government of the United States of America and such other reclaimed lands acquired by it in these islands as are held by the Government of the United States of America as of the date of entry into force of this Agreement become the property of the Government of Japan on that date.

4. The United States of America is not obliged to compensate Japan or its nationals for any alteration made prior to the date of entry into force of this Agreement to the lands upon which the properties transferred

to the Government of Japan under paragraphs 1 and 2 above are located.

ARTICLE VII

Considering, inter alia, that United States assets are being transferred to the Government of Japan under Article VI of this Agreement, that the Government of the United States of America is carrying out the return of the Ryukyu Islands and the Daito Islands to Japan in a manner consistent with the policy of the Government of Japan as specified in paragraph 8 of the Joint Communique of November 21, 1969, and that the Government of the United States of America will bear extra costs, particularly in the area of employment after reversion, the Government of Japan will pay to the Government of the United States of America in United States dollars a total amount of three hundred and twenty million United States dollars (U.S. $320,000,000) over a period of five years from the date of entry into force of this Agreement. Of the said amount, the Government of Japan will pay one hundred million United States dollars (U.S. $100,000,000) within one week after the date of entry into force of this Agreement and the remainder in four equal annual installments in June of each calendar year subsequent to the year in which this Agreement enters into force.

ARTICLE VIII

The Government of Japan consents to the continued operation by the Government of the United States of America of the Voice of America relay station on Okinawa Island for a period of five years from the date of entry into force of this Agreement in accordance with the arrangements to be concluded between the two Governments. The two Governments shall enter into consultation two years after the date of entry into force of this Agreement on future operation of the Voice of America on Okinawa Island.

ARTICLE IX

This Agreement shall be ratified and the instruments of ratification shall be exchanged at Tokyo. This Agreement shall enter into force two months after the date of exchange of the instruments of ratification.

In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Washington and Tokyo, this seventeenth day of June, 1971, in duplicate in the English and Japanese languages, both equally authentic.

For the United States of America:
WILLIAM P. ROGERS.
For Japan:
KIICHI AICHI.

Mr. MANSFIELD. Mr. President, in view of the fact that a number of Senators will be missing from the Chamber later today and in view of the statement made by the majority leader to the Senate on yesterday, I ask unanimous consent that the vote on ratification occur at the hour of 3 o'clock tomorrow, without any debate at that time.

The PRESIDENT pro tempore. Does the Senator ask that rule XII be waived?

Mr. MANSFIELD. That is correct.

The PRESIDENT pro tempore. Without objection, rule XII is waived, and, without objection, the vote will take place tomorrow at 3 p.m.

Mr. MANSFIELD. The purpose of this is to be as accommodating as possible to Senators on both sides of the aisle and hopefully to obtain as large a representation of the Senate as is feasible at that time. It is hoped in the meantime we will dispose of the debate and discussion of the measure, and get to final reading so that tomorrow there will be no further debate but only the vote itself.

If we get through at a reasonable time this afternoon in the consideration and the debate of the treaty which is now the pending business, it is the intention of the joint leadership at that time to lay before the Senate one of the foreign aid bills and at least get their consideration underway.

Mr. BYRD of West Virginia. Mr. President, just for the sake of the record, unless there be a precedent created, does rule XII require, in paragraph 3, a mandatory call of a quorum prior to the setting of a time or date for a final vote on ratification of a treaty? It is my understanding that it applies only to the final passage of a bill or joint resolution.

The PRESIDENT pro tempore. The Senator is correct.

Mr. BYRD of West Virginia. I thank the Chair.

Mr. MANSFIELD. Therefore, the previous request will be vitiated.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The business before the Senate is the Okinawa Treaty.

Mr. FULBRIGHT. Mr. President, I support Senate advice and consent to ratification of the agreement with Japan concerning the Ryukyu Islands and the Daito Islands, which provides for the reversion of rights of administration over Okinawa to Japan. This treaty will fulfill a promise made by every administration, Democratic and Republican alike, since 1951. More than 25 years after World War II, it will formally terminate the American occupation of Japan. This treaty represents the logical conclusion of American policy following the occupation which has been designed to encourage the emergence of an economically strong and politically stable Japan.

That policy has succeeded well and the result has been two decades of mutually satisfactory and productive relations between our countries. With the world's most dynamic economy, Japan has become the world's third largest economic power, and, after Canada, the largest customer of the United States. In 1970 U.S. exports to Japan were valued at $4.7 billion, almost twice as much as our next largest market, Germany. Japan is also the largest importer of U.S. agricultural products. And in the decade ending in 1970, U.S. exports to Japan expanded by 247 percent, making Japan our fastest growing market.

The rapid growth of trade and the expansion of our two competitive economies have naturally produced tensions, some of great significance. Nevertheless, Japan has recently taken a number of steps to alleviate these tensions. It has reduced import quotas illegal under GATT from a 1969 level of 122 to the current level of 40. It has also increased the amount of permissible imports under existing quotas and has stated its intention of reducing various tariffs. In addition, Japan has concluded a four-stage liberalization program covering foreign investment which, while not completely satisfactory from the point of view of U.S. business, still opens the door to 5 percent investments in most industries. In addition to limiting textile exports, Japan has implemented restraints on 73 categories of goods, covering approximately 25 percent of its exports to the United States, including iron and steel. On October 15 the President announced a further agreement to limit manmade and wool textile exports, providing for a growth rate of Japanese textile exports of 5 percent per year for a 3-year period—slightly higher than the growth rate of the U.S. market but well below the growth rate of nearly 70 percent achieved earlier by Japanese textile exports. Although imported synthetic textiles account for less than 2 percent of the total U.S. consumption, this agreement will provide a benefit to the U.S. textile industry and the U.S. balance of payments. Finally, and possibly most important of all, steps have been initiated which will ultimately lead to a more realistically valued yen.

This summary of adjustments made by Japan in its economic relationship with the United States illustrates, I believe, an approach to economic issues which is dedicated to the preservation of the fundamental community of interests between the United States and Japan. It reflects an ability of both sides to make adjustments on the many inevitable economic issues in the interest of the more fundamental political alliance between the two countries.

It is the maintenance of this basic political relationship on which, I believe, we must focus attention today. In the midst of great flux in U.S. foreign policy, it is easy to lose sight of the more durable, and more important, aspects of our policy. For example, the President's proposed trip to Peking and the seating of the People's Republic of China in the United Nations are radical changes which are not any the less welcome for being long overdue. The President's policy of normalization of relations with the People's Republic of China is an objective which the Senate has endorsed. At the same time, the necessity of preserving a viable relationship with Japan must not be overlooked in the process. President Nixon has stated:

A close and friendly relationship between Japan and the United States is vital to building the peaceful and progressive world both of us want for all mankind. The problems involved in strengthening the fabric of peace in Asia and the Pacific will undoubtedly be challenging. But if Japan and the United States go separate ways, then this task would be incomparably more difficult. Whatever differences may arise between our nations on specific policy questions, it is essential that the basic nature of our relationship remain close and cordial.

Because of the economic importance of Japan and its enormous potential in the context of East Asia, the United States cannot afford to pursue policies without consideration of their implications for Japan. The prime immediate objective in East Asia is the maintenance of a viable, friendly relationship with that country. An indispensable step in the realization of this objective is the expeditious reversion of Okinawa to Japan.

Of course, it is impossible to predict the results of the changes in U.S. policy in Asia, such as the new attitude toward China and the diminishing war in Southeast Asia. As Deputy Secretary of Defense David Packard stated before the Foreign Relations Committee:

We are going through a period of substantial change. . . .

And that involves substantial change in relation to a friendly country like Japan. Our President, in opening the door to the People's Republic of China, is taking a new step. I don't think we can assess at this time the level or the length of time that our military presence will be required there.

While there inevitably may be considerable uncertainty over the next few years, the Department of Defense and the Joint Chiefs of Staff have made unequivocally clear that the Okinawa Reversion Treaty will not adversely affect present U.S. security interests in Asia. Secretary Packard informed the Foreign Relations Committee:

The Joint Chiefs of Staff have been consulted fully during the Okinawan negotiations and have participated fully in these negotiations. Admiral Moorer, the Chairman of the Joint Chiefs of Staff, who is away from Washington today, asked me to assure you that the Joint Chiefs of Staff support the agreement and urge your favorable consideration of it.

Indeed, there is considerable doubt that the United States could maintain its base structure at the level proposed if the treaty were not ratified. Political pressure has been severe both in Japan and on Okinawa in favor of reversion, which has been promised in principle by the United States for two decades. The elected chief executive on Okinawa and the local legislature are uniformly dedicated to reversion. The consequence of failing to ratify the treaty would not only affect the ability of the United States, as a practical matter to operate its bases there, but it could also set off an unpredictable chain of events causing fundamental damage to United States-Japan relations.

In reporting this treaty, the Foreign Relations Committee has made clear that it does not imply approval of the existing level of U.S. troops and bases on Okinawa for the indefinite future. The U.S. military presence on Okinawa, as well as in other areas of Asia, has been largely directed at a presumed threat from China. As the situation in Asia changes, particularly in response to the President's initiative, we must constantly reassess the continued need for this military presence. The changes are already evident. North and South Korea have taken tentative steps toward resuming talks with each other. The Philippines and Thailand are reassessing their attitude toward China in view of the U.S. initiative. And, of course Japan itself is moving rapidly toward a new basis for its governmental relations with Peking. It is too early to foresee all the steps which may be taken. Nevertheless, it should be noted that, in addition to the 50,000 troops maintained on Okinawa, we keep 30,000 in Japan, 43,000 in Korea, 18,000 in the Philippines, 32,000 in Thailand, and 9,000 in Taiwan. As a new set of relationships emerges in Asia, we must be prepared to develop a new set of priorities. One of the first items to be questioned should be the necessity of this pervasive U.S. military presence.

Finally, Mr. President, a word should be added concerning nuclear weapons. The treaty contemplates that after reversion the United States will not be permitted to store nuclear weapons in Okinawa. This is a matter of great concern to Japan and, while security classifications preclude any discussion of these matters in open session, I point to the Foreign Relations Committee's approval, noted in the committee report, of this effect of the treaty.

In conclusion, let me reiterate the fundamental importance of this treaty to future United States-Japan relations. The treaty embodies a settlement of the last political issue beween the two countries growing out of World War II. It places our relationship for the future on a basis of true equality and opens the door for the continuation of our political alliance on the basis of mutual interest and respect. By consenting to the ratification of this treaty, the Senate will responsibly discharge its constitutional role in this area and will demonstrate to the world the depth of the U.S. commitment to continued close relations with Japan.

Mr. President, I think the report of the committee is very thorough; but the distinguished Senator from Louisiana has suggested that perhaps I should invite attention to certain financial aspects of the hearings, simply to highlight it for the benefit of those who may not have an opportunity to study the transcript.

It is estimated that there will be an annual budgetary saving to the United States of $65 million. That is, under the treaty, after the reversion takes place, these are the estimated costs we have been paying which will be saved by the United States: $20 million for the cost of administering civil administration, $10 million for land rental cost, and $35 million for the cost of local defense. This makes a total of $65 million annual U.S. budgetary savings, or a total of $325 million over a 5-year period.

There will be additional labor costs, however, of $23 million the first year, plus $20 million additional severance pay obligation, after the reversion. This is the cost that we will incur because of the necessity to pay the wage scale which prevails in Japan. The gap between labor costs in Japan and on Okinawa has been closing and is expected to close by 1977–78. Hence, the $23 million annual increase will not recur in that amount.

So to summarize that aspect, we will save $65 million a year, and there will be additional costs for different purposes of not more than $23 million a year, the difference being a net saving to the budget of the United States.

The treaty provides for a payment of $320 million over a period of 5 years. $175 million of this amount covers the civil assets, such as the public utilities and highways which the United States built and which are being turned over to the Japanese. The remaining $145 million covers a variety of things, including the cost of increased labor costs, relocating facilities, and other items, the specifics of which are available in classified material in the committee file. This makes a total of $320 million.

It might be interesting to invite attention to the economic aid to Okinawa which we have given since 1947. This amount is estimated at $408,722,605, plus $8,705,415 of Public Law 480 loans during fiscal 1963–1967, and a loan of $10,247,000 for a powerplant in fiscal 1963. The U.S. estimated economic aid in fiscal 1972 would be $11,265,000. Since fiscal 1960 Japan has contributed economic aid of $338,189,559, plus loans of $98,061,000.

The estimated value, at investment, of the facilities retained and surrendered might be of interest to the Senate. Under the treaty, we have retained some 70,000 acres, with a value estimated at $610 million. Under the treaty, we have released 13,000 acres, at an estimated value of $56 million.

Mr. President, if there are any questions, we will be glad to respond to them; but I think the information that is necessary is contained in the hearings transcript and the report. The treaty is relatively simple and it seems inevitable.

I believe the administration has done a very creditable job in negotiating this treaty. I again compliment the Secretary of State and the President for submitting this reversion document in the form of a treaty instead of agreeing to it as an executive agreement. This is a hopeful sign of better relations—and more respect, I should say—by the executive branch for the Senate; and I am very much encouraged that this will be a precedent to be followed in the future.

I yield the floor.

Mr. AIKEN. Mr. President, the chairman of the Foreign Relations Committee has described the situation accurately.

This treaty was signed nearly 5 months ago. As a member of the committee, I do not recall having received any communication in opposition to its being approved by the Senate.

The committee held hearings last month. To the best of my recollection, we had no requests from anyone asking to appear at the hearing in opposition to the treaty.

As the chairman has pointed out, perhaps the large savings in costs to the United States, which will be one effect of approving the treaty, will strike many Americans favorably at this time.

Let me reiterate that, having had no indication of opposition to the treaty—and the committee had no requests, so far as I know, to be heard in opposition—the committee voted unanimously

to approve the treaty. The Senate should approve this treaty without further delay.

That is all I have to say.

The PRESIDING OFFICER (Mr. ALLEN). At this time, if there be no objection, Executive J, 92d Congress, first session, will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which will be read for the information of the Senate.

The legislative clerk read as follows:

Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement between the United States of America and Japan concerning the Ryukyu Islands and the Daito Islands, signed at Washington and Tokyo on June 17, 1971 (Ex. J, 92–1).

The PRESIDING OFFICER. The Senator from Delaware (Mr. ROTH) is now recognized.

Mr. ROTH. Mr. President, I rise in support of ratification of the Okinawa Treaty. There are many sound reasons why it makes good sense to return Okinawa to Japan, but none is more important than the basic fact that future peace in the Far East and our best interests depend upon an era of close cooperation between the United States and Japan.

I am a strong supporter of the new initiatives taken by the President in the area of foreign policy. These new initiatives—the Nixon doctrine, SALT and the promised mutual balance reduction talks, the visits to Moscow, and especially to Peking—have given the American people cause to hope that perhaps we are entering a period of bona fide negotiations and moving away from an era of continuous confrontation. The possibility of renewed friendship with the great mass of Chinese people has created considerable interest here in America. Yet, as important as that possibility is, I think it crucial that the United States—Congress as well as the people—recognize that China does not represent an alternative to United States-Japan cooperation but that our national interests depend in large measure on strengthening and expanding the bonds of friendship and cooperation between the United States and Japan. China has neither the economic strength to play the dominant role that Japan shall enjoy in the Far East nor should we be overly optimistic at the beginning as to the concrete measures that shall result from improved relations with Peking.

I spoke of the friendship and cooperation that have characterized relations between Japan and the United States in recent years. I would like to discuss this relationship more fully. What I have to say is neither original nor unsaid. In fact, much of it has been better said by Far Eastern experts, such as Frank Gibney, George W. Ball, and Edwin O. Reischauer; nevertheless, I believe it to be important that it be said on the Senate floor.

His Excellency, Nobuhiko Ushiba, Ambassador of Japan to the United States, in a memorable address at Georgetown University on July 9, 1971, correctly pointed out that the postwar period of world politics is at an end; that the United States and Japan are now at a crossroad in their relations with one another and with the world as a whole. With this, I agree. The question is, in which direction shall we turn and that, in turn, largely depends upon the will of the Japanese and the American people.

As Ambassador Ushiba pointed out in his address, this crossroad is both an opportunity and a danger, depending upon the intelligence with which we face the future, shedding—as we say—many of the cliches of the past. We run the danger of going our separate and independent ways. That could result not only in instability in the Far East, but in the proliferation of world nuclear powers. I believe both Japan and the United States shall gain through genuine cooperation and can only lose if we permit current difference to part our ways.

History is often said to be a lesson for the future. This is certainly true in the case of United States-Japanese relations. Once before, our countries had the choice of working together or going alone. Tragically, the latter course was chosen.

United States-Japanese relations began with the arrival of Admiral Perry's "black ships" in 1853, which were met by a militia at Kurihama bearing matchlocks and pikes. It was the exposure of Japan to western culture and technology begun by Perry's visit which moved Japan rapidly towards the Meiji Restoration, a period which brought not only an awareness of the world of the 19th century, but developed the political, military and social institutions with which to participate with the West as a partner. All of this was accomplished in 75 years. The unfortunate misunderstandings between the United States and Japan which led to World War II closed an era of warm relations between the two countries and ended the thrust of Japan toward a position of world leadership.

The growth of Japan from 250 years of peaceful isolation during the Feudal Tokogawa period to a modern, Western nation occurred with wrenching rapidity and moved Japan into a world which was truly a diplomatic jungle with European powers bent on the acquisition and colonization of Asian territories. The weapons and technology of the industrial revolution were used to intimidate and subvert the less developed and weaker Asian countries.

By selectively westernizing the Japanese military, political, economic and social cultures, Japan by the turn of century fielded a military establishment which was able to defeat decisively the Russian Baltic fleet, to defeat China, to participate with the western powers in the suppression of the Boxer Rebellion, and to conclude a naval alliance with Great Britain.

During the four decades prior to 1895, when Japan defeated China, the United States viewed Japan as a "willing student," capable of assimilating modern Western ways, and took the role of a "benevolent teacher." Japan viewed the United States as the most friendly of the Western powers with little or no colonial intentions.

The 10 years from 1895 to 1905 marked a period of transition between the United States and Japan. The United States acquired the Philippines and the Hawaiian Islands in 1898, declared an "open door" policy on China in 1899, and promoted a peace treaty between Russia and Japan in 1905. Thus, both nations emerged simultaneous as "Pacific powers" with substantial military, economic, and political interests involved. From 1905 the relations between the two countries assumed a competitive status. The United States began to view Japan as a rival for the newly developing China markets, as Japan pursued a policy of economic expansion in southern Manchuria. This uneasiness was intensified by the U.S. realization that Japan had the military capability to defeat a Western navy, such as Russia, and could possibly challenge U.S. supremacy in the Pacific. Japan, on the other hand, had achieved with its victory over Russia, the goal which it had pursued since Perry had "opened" Japan 50 years earlier—equal status with Western powers.

Much has been written concerning the seeds of hostility which resulted in the fateful decision of Japan to attack the United States. In retrospect it now seems clear that both countries were guilty of gross miscalculation and of a misunderstanding of each other's aims and purposes.

The catastrophic defeat of Japan in World War II thrust it back into a position of uncertainty, fear, and insecurity where it had to depend upon the United States to assist it to become, once again, an important member of the family of nations.

Following World War II, Japan reassumed the role of a willing and capable student of the United States, and painfully began the task of rebuilding its shattered economy. The vast effort of the United States to rebuild markets and industry in those areas of the world ravaged by war created an environment for Japan and other nations free of the picketed protectionist walls of the 1930's and of the Western colonialism which dominated the later part of the 19th century. By the end of the occupation by U.S. forces in 1952, Japan aided by U.S. material, financial, and technological assistance, was beginning to compete in world markets.

During the postwar period, and as a result of the traumatic shock of defeat, Japan had withdrawn constitutionally and psychologically from participation in international affairs; indeed it showed no desire to participate in any way in the affairs of the world or, for that matter, of Asia. Foremost in the minds of the Japanese people was economic recovery. "Increase production" was the slogan of the fifties. The racehorse characteristic of the Japanese economy in the sixties is well known. In gross national product it ranks second only to the United States in the free world, and may overtake Russia by 1980. Indeed, some projections show Japan exceeding the United States in gross national product by the year 2000.

The United States has also encouraged Japan to rebuild its modest military establishment under a liberal interpretation of the postwar "peace" constitution, which restricted Japan to nonnuclear "self-defense forces." Today, there is a fundamental repugnance among the Japanese people toward the concept of a strong military force. They appear at this time to be unalterably opposed to a nuclear capability, apparently satisfied to depend upon the U.S. deterrent as long as it remains credible. However, some Japanese commentators feel this antimilitary feeling is dying out and foresee the rearming of Japan as a logical extension of its economic growth and of the Nixon doctrine.

In any event, United States-Japanese relations are at a transition point, as they were 70 years ago. Then the transition resulted in a period of strain characterized by misunderstanding and culminating in conflict. Relations are strained again today, both by world events and by economic collision. It is tragic that economic events have combined with international developments to strain our traditional ties of friendship, but such are the facts of this changing world.

Our Nation is no longer the world economic colossus of the 1950's and 1960's. It has found it necessary to adopt strong measures to stave off economic disaster. Because of past liberal trade policies, competition from abroad, in particular from Japan, has made serious inroads into the American market. These inroads have contributed to unemployment and have aggravated other economic difficulties. This has given rise to adverse criticism of Japan within the United States, especially in light of Japan's failure to liberalize its trade and investment policies on a rapid enough scale.

Conversely, the U.S. steps—steps which I support—to strengthen its domestic economy and its balance-of-payments position, have created shock-waves in the Japanese economy. These, in turn, have understandably created concern about the United States.

It would indeed be tragic if the strong competition developing between our two economies should cause irreconcilable rifts in the relations of our two nations. Yet, realistically, this could happen if ways and means are not found to establish a balanced trade relationship. Certainly, the two countries with the greatest economies in the Free World should be capable of finding means of developing fair trade measures. I think there is too little recognition both in Japan and the United States that our economies are in large measure interdependent. In any event, I should warn my Japanese friends that failure to develop promptly fair trade measures will only result, in my judgment, in an increase in protectionist sentiment in America. I recognize that many of our monetary and trade problems require multilateral action.

Beyond the realm of economics, changing international relationships have also led to uncertainty and uneasiness between our two nations. Through the Nixon doctrine, the United States seeks to lower its profile in the Far East. As we lighten our burden, many of us hope that Japan, with its economic strength, will assume a greater share of the responsibility for the development and stability of the Far East. The Japanese are concerned because they do not understand precisely what the Nixon doctrine means. They are uncertain concerning both our intentions and the credibility of our defense umbrella.

Other events have greatly stirred international waters, especially the Nixon visit to China. The new China policy, announced without prior consultation with Japan, has caused the Japanese people to question the closeness of our ties.

I personally support both the new economic policy and the new China policy. But coming as they did, unanticipated and one upon the other, they have particularly contributed to instability in the relations between Japan and the United States.

The question is where do we go from here. There are conceivably several routes Japan may go, if she should decide to reevaluate her close ties with America. Some commentators fear Japan may scrap its peace constitution, abrogate its mutual security pact with the United States and enter full blown into an arms race to provide herself with the military capability to protect her economic growth. Senator GOLDWATER, for example, has predicted on the Senate floor that Japan is destined to become one of the world's greatest military powers within the next two to three decades. Clearly, she has the potential to do so and only needs a threat to her economic security to provide the impetus. Others foresee her moving away from the United States to some kind of accommodation with China or even with Russia; or in the alternative turning back into herself, renouncing, as in the Tokagawa period, any role in the development of Asia and relying on a strong defensive military force and economic protectionism to protect her way of life.

I have no crystal ball and no means of foreseeing the future. I do believe, however, that it is of the greatest importance to both nations and to world peace that we continue along the road of cooperation. This is true because not only do our security interests largely coincide with those of Japan, but indeed our economic interests are largely interdependent. Failure to cooperate can only create an instability in Asia that would enhance the possibility of armed conflict there and would help bring about economic warfare or protectionism between the world's greatest trading areas. The road of cooperation will not be easy, as our national interests are not always coexistensive. Both sides—the United States and Japan—will have to proceed with greater skill and sensitivity than has characterized past dealings. The relationship of the future will have to be that of full partners, neither party taking the other for granted. As I have stated, Japan is today economically a super power. She will have a major voice in world events, especially in Asia. It is doubtful that any other Asian power will have the economic viability during this century to influence Asian developments to the extent that Japan can.

I believe the United States should look upon this dynamic country as an ally and not as a rival. We must reverse the recent trend that abets those in Japan who do not favor a close relationship with the United States. Prime Minister Sato has demonstrated by his actions that he believes the best interests of his nation are served by close relations with the United States. He supported the United States on Taiwan in the United Nations even though it was at the risk of great personal loss of prestige and public support. The Senate can help strengthen our basic relationship by ratifying the Okinawan Treaty, which is in large measure the product of Prime Minister Sato's diplomacy.

There are, in addition, a number of steps that should be taken by our two countries to help ensure an era of close alliance and cooperation.

First, we should recognize and acknowledge the dominant role which Japan will play in the drama of the Pacific and its continued importance to the United States as an ally. Prof. Edwin O. Reischauer has written of the "triangular" relationship between the United States-Japan and China:

> The Key relationship in East Asia once again is that between China and Japan; the crucial issue is how it affects relations between the United States and Japan, the number one and number three economic powers in the world, whose hitherto close cooperation suddenly seems threatened by a number of serious problems.

Second, we should take steps to restore the confidence of the Japanese people and the Japanese Government that, in the pursuit of a detente with the "other leg of the triangle"—Sino-United States relations—the more important leg—United States-Japanese relations—will not be neglected, but strengthened. Several means are available to illustrate that this is a firm commitment.

First. The President should visit Japan if at all possible prior to his trip to China; at least he should consult Japan with regard to his intentions. His visit with the Emperor in Alaska was a step in the right direction. Further invitations to Premier Sato and the Emperor to visit the continental United States give continuity to a good start.

Second. The United States should maintain close consultation with Japan on its foreign and economic policies for Asia. This should be especially so in matters concerned with Taiwan and Korea and with foreign aid to those countries.

Third. The United States should move to help Japan and the world recognize that Japan is not only an Asian power, but a power with considerable impact on other nations of the world. We should recognize that Japan qualifies for a seat on the Security Council of the United Nations, support her candidacy, and in so doing encourage her to participate more fully in the commonwealth of the free world.

Fourth. Procedures and a structure should be instituted to allow for productive bilateral economic cooperation. No other step could create greater good-will in America for Japan than prompt Japanese action to bring our trade into bal-

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ance. As I proposed during my recent visit to Japan, I would establish a joint committee to establish sound trade relations. On the negative side, I would hope such a committee could avoid or minimise trade conflicts before they develop into political disputes. On the positive side, a primary purpose of the committee should be to find areas where trade could be expanded to our mutual benefit. As part of this program, the committee could seek areas for both the public and private sectors of America and Japan to cooperate in the sound development of the underdeveloped nations of Asia. Finally, many of our monetary and trade problems are multilateral in scope. A part of the trade problem—both Japan and the United States—is caused by the European discriminatory provisions against Japanese products. We should work together in seeking multilateral solutions.

Fifth. Perhaps most importantly the United States and Japan should recognize that many of the differences in the past have been caused by differences in culture and language barriers. Consequently, there needs to be an expanded program of cultural and student exchanges to permit better understandings among our peoples.

Mr. President, in closing I want to reemphasize that I believe the United States and Japan are on the threshold of a new relationship. The direction this new relationship takes depends to a large part upon the wisdom displayed by our two Governments. We can, as we did once before, move apart to a period of uncertainty and even hostility, or we can move together as two nations who despite different cultural origins, today share a common belief—representative government and private enterprise; who have the ability, working together, of helping bring about stability in the Pacific and bringing other undeveloped countries into the 20th century. Cooperation can be the keynote to peace in the Far East. We will take the first step toward a sound relationship by ratifying the Okinawan Treaty today.

Mr. MANSFIELD. Mr. President, I wish to express my wholehearted support and approval of Executive J, 92d Congress, the agreement with Japan concerning the Ryukyu Islands and the Daito Islands.

Well over a century ago, an American naval officer, Commodore Perry, arrived at the port of Shimoda with a number of vessels which, I believe, the Japanese referred to as the black ships. I am going on my memory. I have not had a chance to do any research or reading on this matter.

Sometime during the latter part of the last century, the Japanese acquired full dominative control from China of what was then known as the Loo Choo Islands, now known as the Ryukyu Islands, that comprise the prefecture of Okinawa.

About 20 years ago, a treaty of peace was signed between this country and Japan, and at that time one of the American delegates, John Foster Dulles, and others indicated that Okinawa was in the residual sovereignty of the Empire of Japan.

That has been emphasized and reiterated by every President since then. It is over a quarter of a century since the end of the Second World War, and during that period of time Japan, like us, has had its ups and downs.

The Japanese accepted the so-called MacArthur constitution which called for a greatly reduced military force. Notwithstanding the Japanese adherence to that particular clause in that particular constitution, there are those among us today who seem to think that the Japanese should rearm to a greater degree than they have. But I would emphasize the fact that this was a constitution drawn up for and by General MacArthur which the Japanese adopted. As a result Japan has a very small home defense force at the present time, comprising about 250,000 troops, a small navy, and a small air force.

This was one factor, I believe, in making it possible for Japan to devote its energies to economic development, so much so that Japan today ranks third, if not second, among the industrial powers of the world.

Japan has had excellent relations with this Nation since the end of the Second World War. It would be my hope that the United States and Japan would remain friends not only in the decades ahead, but also in the centuries to come.

The Japanese Government and people have received some shocks in recent months from the policies of this Nation. The imposition of the 10-percent surcharge was one. The textile agreement, which was worked out finally, was another. The detonation on Amchitka Island in the Aleutians last Saturday or Sunday was still another. During all of this period, however, the Government of Japan remained steadfast in the friendship, even going so far as to join in a major way in the policy of the administration in trying to bring about not only the admission of Peking into the United Nations, but also the retention of Taiwan as well. The Japanese Government went all the way in support of the position of this country in the U.N. on the question of the admission of Peking and the retention of the Government of China on Taiwan.

The close Japan-United States relationship covers a long time in this day and age, but a short time in the pages of history. It is, I think, to the credit of President Nixon that he met with the Japanese to work out the treaty which is now pending before the Senate. It is a further fulfillment of what has been this Government's position, that the sovereignty of the Ryukyu Islands was residual in Japan. It is a mark, I think, of the growing awareness of each country of the needs of the other. It is a mark of a continued partnership. It is a mark of a continued friendship.

I would hope, there would again be a full return to the traditional friendship between our two peoples and our two Governments which began a century ago. I would hope that this treaty would be approved overwhelmingly and I would express the hope that in the not too distant future we would go the rest of the way.

Mr. CASE. Mr. President, I supported the Okinawa reversion treaty in committee and I shall vote in favor of it tomorrow. The admirable report—and I can say that without reservation because I did not draft it—which our committee submitted on this matter, covers all important and salient points.

I rise only to express what was the unanimous feeling of the committee of our satisfaction that there was no effort to dispose of this matter by executive agreement which would not have required Senate approval. The correct course was taken here. I commend the administration for proceeding in this fashion, and I express the hope, that submission to the Senate will become the guiding rule and normal procedure in all matters of substance in regard to agreements with other countries.

The Senate has a clear constitutional responsibility to pass on agreements with other countries, but in recent years the Senate has often been ignored. This Senate responsibility to give its advice and consent to international agreements must again be recognized, as the administration has done in this case.

Mr. BYRD of Virginia. Mr. President, I think it is important that there be a close cooperation and friendship between the United States and Japan. I agree with practically all of the remarks made by the distinguished majority leader except the conclusion that he draws.

I agree also that the Ryukyus and Okinawa should eventually revert to Japan. I question, however, the timing of the proposed treaty on which the Senate will vote tomorrow.

Okinawa was given to the United States by the Treaty of Peace of 1951.

The United States since that time has had unrestricted right to use this great military base complex in the Pacific as it feels best. The United States now has great commitments throughout the Far Pacific.

We are obligated by treaty to defend and guarantee the security of a large number of nations in that area. When these commitments were made they were made on the assumption that the United States would have the unrestricted right to the use of our military bases on Okinawa.

As I mentioned earlier, this unrestricted right to use Okinawa was obtained by the United States under the Treaty of Peace between the United States and Japan in 1951. Now, the proposed change in the Treaty of Peace, the pending business before the Senate, would give Japan a veto power, a veto as to the use of U.S. military forces on Okinawa. The United States would no longer have the unrestricted right to use this base.

As I mentioned earlier, I feel that eventually the Ryukyus and Okinawa should revert to Japan but I question whether that should be done so long as we have the tremendous commitments which the United States does now have in the Far Pacific.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. BYRD of Virginia. I am glad to yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I would like to ask my distinguished colleague from Virginia if what he is saying in his judgment would handicap our forces in discharging their responsibilities under the treaty commitments we have with different nations in Southeast Asia—this requirement that we must have prior consultations under the terms of the Mutual Security Treaty. Will that handicap, in the Senator's judgment, our discharging our responsibilities we have to other nations around the world?

Mr. BYRD of Virginia. Mr. President, I say to the distinguished Senator from Wyoming that in my judgment it will handicap the United States in carrying out its commitments in that area. Those who favor ratification of the proposed agreement or treaty with Japan lay great stress on the fact that the government of Premier Sato has made known its desire to cooperate with the United States and has indicated it will keep to a minimum any restrictions which might be put upon that base.

But, Mr. President, none of us know when the government of Premier Sato may no longer be the Government of Japan. As a matter of fact, my information is it will not be so very long before there will be a new Premier in Japan.

So my belief is, in answer to the question of the distinguished Senator from Wyoming, that it will put the United States at the mercy, so to speak, of another nation in carrying out the responsibilities which this country has assumed toward many other countries in the Far Pacific.

The Senator mentioned prior consultation. All of us remember so well the *Pueblo* incident. Adm. Frank L. Johnson, who was senior naval officer in command in Japan at that time, gave as one of the reasons why the United States did not send aircraft to the aid of the *Pueblo* was that it would have required prior consultation with the Japanese Government. Those aircraft were based on Japan—not Okinawa but Japan.

Under the mutual security arrangement of 1960 between Japan and the United States, prior consultation must be sought in regard to certain use of aircraft from Japan itself. At the present time there is no requirement for prior consultation insofar as the use of aircraft from Okinawa is concerned; but once this new agreement is ratified, then Okinawa becomes the same as Japan in that it would require prior consultation before our forces could be used in certain matters of a military nature in that area.

Mr. HANSEN. Mr. President, if the distinguished Senator from Virginia would yield further, I would like to ask him if it is not a fact that the United States is committed to the defense not only of Japan but of South Korea, Taiwan, the Philippines, Australia, New Zealand, Pakistan, and Thailand.

Mr. BYRD of Virginia. Yes; almost that whole area in that part of the world.

Mr. HANSEN. Is it not a fact that military strategists are in general agreement that the presence of our nuclear weapons in that part of the world constitutes a pretty effective umbrella that contributes much to the defense of those nations insofar as our commitments are concerned?

Mr. BYRD of Virginia. Yes. I believe that certainly is the prevailing view, and I think an accurate one.

Mr. HANSEN. I am wondering how, if nuclear weapons are withdrawn from Okinawa, we will maintain an adequate nuclear umbrella for disarmed Japan.

Mr. BYRD of Virginia. I am frank to say I do not know the answer to that question. I assume that such weapons would need to be stored somewhere else in that area of the world. Where that would be, I am not in a position to say, but most certainly, the change in the status of Okinawa will have an effect on the nuclear umbrella which the Senator from Wyoming mentions.

Mr. HANSEN. Does my distinguished colleague know if Japan has ratified the treaty dealing with the nonproliferation of nuclear weapons?

Mr. BYRD of Virginia. My understanding is that Japan has not ratified such treaty.

Mr. HANSEN. I do not know whether my distinguished colleague would care to speculate as to the reasons why Japan has not ratified that treaty. If he has opinions he would care to state, I would be much interested.

Mr. BYRD of Virginia. I would not care to speculate. I would hope—and I have hoped before this—that Japan would ratify the nonproliferation treaty. I supported that treaty in the Senate. I think it is a very desirable one. I would not want to speculate as to why Japan has not ratified it.

Mr. HANSEN. I know we have all been concerned about the imbalance of payments that the United States has had over the last several years. As members of the Senate Finance Committee, I think it can be said that the Senator from Virginia and I supported generally those efforts taken by the administration in order to bring the balance-of-payments picture into a nearer balance so that the United States will not have a continuing outflow of money.

In that regard, I understand that we have invested over $2 billion in military facilities in Okinawa, and that, under the terms of this treaty, Japan would be buying those installations for around $320 million. Is that the information the Senator from Virginia has?

Mr. BYRD of Virginia. The $320 million is the understanding the Senator from Virginia has as to the amount that Japan would be paying. As to the exact amount which the United States has put into Okinawa in the way of dollars, I am not certain of the $2 billion figure. In seeking to pin the figure down, I have received varying answers. But I would guess that it is not too far off and probably it is rather accurate.

I might say that, whatever the figure is, the replacement value would be substantially higher—perhaps two to three or four times as much as whatever the original amount might have been.

Mr. HANSEN. I think there is some confusion today, as nearly as I can gather. We have the 1951 peace treaty with Japan, and then we have another treaty or agreement that we entered into in 1960. Am I right about that?

Mr. BYRD of Virginia. The Senator from Wyoming is correct. There are two separate treaties, one a treaty of peace, ratified in 1951, and the other the mutual security agreement, entered into in 1960; but they are two entirely separate arrangements.

Mr. HANSEN. I would like to ask my distinguished colleague if there is anything in the terms of the 1951 peace treaty which requires us to return Okinawa to the Japanese.

Mr. BYRD of Virginia. Nothing whatsoever. The United States was given the unrestricted use of Okinawa under that treaty.

There is nothing in the treaty itself that in any way requires the United States to give up what was obtained by that treaty of peace. I want to say, however, as I mentioned earlier, that I feel eventually the Ryukyus and Okinawa should revert to Japan, and I would favor that at some subsequent time. But I am doubtful as to the wisdom of doing it now so long as we have these vast commitments which our Nation does have.

Now that we are giving up the right to use Okinawa, at the same time we are not lessening our commitments. I would like to see us have far fewer commitments throughout the world, and fewer commitments throughout the Far Pacific, for that matter. But this treaty does nothing about our commitments.

Mr. HANSEN. As I recall, the Senator made that point when he spoke yesterday. The Senator said then:

> I agree that eventually Okinawa and Ryukyu Islands will revert to control of Japan. But I think it unwise to turn over such control at a time when the United States remains committed so deeply to the defense of Asia and the West Pacific.

As I recall further, the Senator from Virginia pointed out that about 1 percent of Japan's gross national product now goes into its defense budget, underscoring the point that the Senator has just now made—that the responsibility of defense should be shared and borne more equitably by the nations which are benefiting from it, looking forward to the time when we can share these burdens more equitably with our friends in Southeast Asia—and most certainly Japan is a very strong and a very good friend there—so that our obligations thereby will be proportionately less.

I understand the Senator to say that that would be a more appropriate time to take the action which is now contemplated.

Mr. BYRD of Virginia. Yes, that is the way it appears to me. What we are doing now is continuing our commitments but reducing our ability to meet those commitments—as a matter of fact, not only reducing the ability to meet the commitments but making the ability to meet the commitments contingent on another nation.

Japan, as the Senator from Wyoming has mentioned, is a splendid friend. We want to maintain that close friendship and close spirit of cooperation.

But I doubt the wisdom of any country putting itself in the position of being dependent on another country for the abil-

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ity to carry out commitments which presumably this country intends to keep.

Mr. HANSEN. Mr. President, I ask one final question. As I understand the Senator from Virginia, he makes the point that despite the assurances given by Prime Minister Sato, like all persons in the political arena, the time may come when he does not speak with the full backing of Japan to the degree that characterizes his present position.

My question is: Must we not rely upon what our treaty commitments are, on the terms of the various treaties that we have entered into with Japan, for guidance as to our future activity and the extent of that activity, rather than depend upon the assurances of someone in an elective office?

Mr. BYRD of Virginia. Yes, that is the more reliable course, it seems to me. All of us in political life in a democracy know how quickly a political life can be shortened. I like to feel that in these great matters—and this is a great matter—we have something a little more durable to rely on. I think a treaty is far more durable than would be the political life of any individual, however able and fine that individual might be.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Virginia. He is a member, as well all know, of the Armed Services Committee. I appreciate the response that he has made to my questions. I would just like to observe that, underscoring the thrust of our response to the question of the approval of the treaty, I think it must be noted that we have commitments in Europe; and how well and how faithfully we discharge our responsibilities to our Asian friends, I think, will be studied closley by our European friends. If we keep and discharge fully and faithfully all of those responsibilities to nations in Southeast Asia, I should think that the European countries, the NATO countries, would have far greater reason to believe completely in the assurances that we have given them, and that I suspect we will continue to give them, insofar as our support to them goes in case they, too, might have trouble.

I thank my colleague.

Mr. BYRD of Virginia. I think the Senator from Wyoming is quite right, and I am grateful for his participation in this discussion.

Mr. President, I hope that time will prove the Senator from Virginia in error in casting his vote, as he intends to do tomorrow, in opposition to this new treaty. I fear, however, that it is likely to prove him correct.

I prefer to be proved in error. It is not pleasant to be casting one of the lone votes in the Senate against this matter of our treaty with our friend Japan. But I have not persuaded myself that it is logical to have these great, vast commitments that we do have, and then to voluntarily give up the unrestricted right to the greatest military base complex in the Far Pacific.

I ask unanimous consent, Mr. President, that extracts from the report on the hearing before the Joint Committee on Atomic Energy, Congress of the United States, 92d Congress, first session, on the Naval nuclear propulsion program, of testimony of Vice Adm. H. G. Rickover on March 10, 1971, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD of Virginia. Mr. President, the gist of this testimony—and this goes back to March—is that Japan prevented American naval vessels from using certain port facilities in Japan. They had the right to do that. I point out to the Senate, however, that this right to prevent American naval vessels from using Japanese ports, which right they have always had, will now extend to the Island of Okinawa. Just to read one sentence from Admiral Rickover's testimony:

> On one occasion, the Navy was asked to postpone for several weeks the entry into port of a submarine returning from an arduous patrol, for the convenience of the Japanese monitoring boat and its crew.

As I say, the gist of Admiral Rickover's testimony is that the Japanese have, for various reasons of their own, prevented U.S. military vessels from using their ports, or have delayed them from using the ports, or suspended their right for certain periods of time to use the ports. The same condition can exist with respect to the facilities on Okinawa, if the Senate ratifies the agreement which will be voted on by the Senate tomorrow.

Mr. President, my only purpose in rising today is to make my own position clear on this matter. I conclude by asserting, as I did at the beginning of my remarks, that I feel it is very important that there be a continuation of friendship and cooperation between our two great countries, the United States and Japan. Japan is a fine ally. I think that all of us appreciate the support which Japan gave to the United States on the crucial vote in the United Nations 2 weeks ago. I hope that as the years go by, this friendship and cooperation will survive and be strengthened.

EXHIBIT 1

JAPANESE MONITORING OF U.S. NUCLEAR WARSHIPS

(Extracts from Report on the Hearing before the Joint Committee on Atomic Energy, Congress of the United States, 92d Congress, 1st Session on Naval Nuclear Propulsion Program, Testimony of Vice Adm. H. G. Rickover, March 10, 1971)

In classified testimony, Admiral Rickover covered in detail the problems which the Navy has experienced as a result of false "contamination" allegations raised against U.S. nuclear-powered warships in Japan, and described the extreme measures being applied by the Japanese authorities to these ships at U.S. naval bases in Japan. Some of these measures appear to go well beyond what is reasonable and proper for their stated purpose. They have resulted in the loss of essential U.S. base facilities in Japan to our nuclear warships for extended periods of time, and have caused other interferences to the operations of these important ships. This situation has been allowed to develop despite the overwhelming evidence of the safety of these ships, and the truly remarkable record Admiral Rickover has achieved in the control of radioactive waste.

Although very little of Admiral Rickover's testimony on this subject involves military security information, the departments of State and Defense have requested that the full text not be published at the time in the interest of negotiations now in progress to secure satisfactory access by U.S. nuclear-powered warships to essential U.S. base facilities in Japan on a stable and realistic basis. While complying with this request, the committee regards the situation described by Admiral Rickover as unwarranted and inconsistent with good relations. If the problem cannot be resolved in the current negotiations, or if U.S. nuclear-powered warships should again be subjected to sensationalized false charges in Japan, the committee feels all the facts of the situation should be made available to the public as a matter bearing on the relationship between the United States and Japan. The Joint Committee has asked Admiral Rickover to keep the committee advised of further developments relative to this problem.

NAVAL NUCLEAR PROGRAM HAS OUTSTANDING RECORD IN PROTECTING ENVIRONMENT

Representative HOLIFIELD. I want to say that I have had an opportunity to review this report briefly, and I feel Admiral Rickover and his people deserve a great deal of credit for this effort. That Admiral Rickover has been able to take a program as big and complex as the Navy's nuclear fleet—some 100 operating reactors—and all of their support facilities, shipyards, and so forth, and operate them without affecting the environment is a truly remarkable achievement. It is particularly remarkable since the procedures and controls he uses were not installed as an afterthought, in response to laws or political pressures. They have been built into the program since its inception because of Admiral Rickover's own personal concern for the environment we live in.

FALSE CONTAMINATION INCIDENT IN JAPAN

Senator BAKER. What happened in the big flap over contamination in Japan?

Admiral RICKOVER. I believe you are referring to the incident which occurred in May 1968, in which it was alledged that one of our nuclear submarines had contaminated Sasebo Harbor by releasing radioactivity. However, there was never any contamination; that was a phony issue. The investigation conducted at that time by the Navy and the AEC showed conclusively that the allegation was without foundation, that the submarine had not released any radioactivity. In fact, the reactor had been shut down for 4 days.

Representative PRICE. As I recall, the problem appeared to be more or less inherent in the kind of monitoring system used by the Japanese. I would also be interested in learning how this matter was resolved, and whether there are currently any problems in this aspect of our nuclear submarine visits to Japan.

CONTINUING PROBLEMS WITH JAPANESE MONITORING SYSTEM

Admiral RICKOVER. It has not been resolved, sir; we are still having serious difficulties in Japan. Although our nuclear warships visiting Japan have adhered scrupulously to our safety assurances, and no levels of radioactivity have ever been observed which could be considered significant from the standpoint of public safety, the Japanese monitoring system has grown progressively more [deleted]. Since the political crisis generated at Sasebo in 1968, which, as I have said, was in no way attributable to our nuclear-powered warships, the monitoring system employed by the Japanese has created a continuing atmosphere of suspicion and fear surrounding these visits. Because of this, the Navy in 1968 and 1969 had to suspend nuclear warship visits to our naval bases in Japan for periods totaling 11 months, and has experienced numerous other disruptions of essential Navy work to facilitate pointless investigations of irrelevant and untraceable electronic phenomena. Since early 1970, we have been deprived altogether of the use of the U.S. Naval Base at Sasebo for these ships, and have lost access to all facilities at Yokosuka except one drydock. [Deleted.]

I am deeply concerned that another Sasebo-type incident could occur at any time, creating more sensational allegations against our nuclear ships [deleted.]

UNREASONABLE CONDITIONS IMPOSED ON U.S. SUBMARINES

I would emphasize here that I do not challenge the right of the Japanese Government to monitor our nuclear-powered warships or impose conditions on their entry into their ports. They have the right, in fact, to keep them out altogether. This is true of any warships, however they may be propelled.

But let us bear in mind that the context in which U.S. nuclear-powered warships visit Japan is that of a cooperative defense relationship between our Governments in which the United States has undertaken to defend Japan in certain circumstances, and the Japanese in turn have agreed to grant us certain base rights in Japan. They have specifically consented to the use of these bases by our nuclear-powered warships. In practice, however, the Japanese Government has imposed onerous, unnecessary, and unreasonable conditions on these visits at an administrative level [deleted.]

It is not as if Japan were a backward nation, imposing these unreasonable restrictions out of ignorance or superstition. They are highly sophisticated in the atomic energy field, and are, in fact, building a nuclear-powered ship of their own. They understand perfectly [deleted] that there is no technical justification for the onerous conditions being imposed on our nuclear warships. What they are doing, however, is building up false fears and anxieties regarding nuclear power in the minds of their own public, as a political expedient. These fears will not be easily overcome in future years. [Deleted.]

This is an involved and complicated issue, sir, but it is one on which I believe this committee should be fully informed, for I feel it could potentially do us great harm. With your permission, I will provide a complete report on this for the record.

Representative PRICE. We would be very much interested in having that in the record.

WATER-COOLED REACTORS RELEASE MINIMUM RADIOACTIVITY

Senator BAKER. Mr. Chairman, may I ask one more question in that connection? This really was behind my question a minute ago about whether there was any new or radical type powerplant in the offing.

As you know, there is this concern of the environmentalists who want us to stop building reactors and stop the breeder program and wait until we get controlled thermonuclear fusion. I don't advocate this for a second. I think it is very shortsighted and as unrealistic as the Japanese episode was unrealistic. It is important, I think, from the standpoint of public relations as well as from the standpoint of efficiency to make sure we not only have new techniques but that we advertise them well and carry our point.

Admiral RICKOVER. There are no reactors that I can envisage which are capable of producing less radioactivity into the environment than water-cooled reactors. The issue then becomes how well you operate and maintain them and the care you take of radioactive emissions. What I told you about the 110 naval reactors shows that it can be done.

With your permission, sir, I will include greater details on the Japanese episode.

Representative PRICE. Please include it in the record.

(The information referred to follows:)

SASEBO INCIDENT A NONINCIDENT

Admiral RICKOVER. I believe it is important that the members of this committee be aware of this situation, not only because of its effects on the nuclear Navy, but also because this is precisely the sort of thing which undermines public confidence in and acceptance of nuclear power, both in the United States and abroad.

To see this issue in perspective, you must bear in mind that the so-called incident at Sasebo in 1968 was, in fact, a nonincident, consisting entirely of a brief series of spurious low-level readings registered on radioactivity monitoring instruments operated by Japanese Government personnel in a small boat about 100 yards from the U.S. nuclear-powered submarine moored in the harbor. These readings were transitory in nature; they were not reproducible even 10 minutes after the peak reading was recorded. No contamination existed; no radioactivity was ever found, nor was cobalt-60 detectable in the harbor bottom sediment, as it would have been if reactor plant effluent from the submarine had been the cause of the readings.

NUMEROUS CONDITIONS COULD CAUSE READINGS

A U.S. Navy repair ship was located between the submarine in question and the monitoring boat when the peak readings were registered, masking the submarine from the monitoring instruments completely. The repair ship was operating a number of welding machines in open doors in a direct, unobstructed line with the position of peak readings, and several other U.S. Navy ships were operating radar and other electronic gear in the vicinity. Any of these, or any combination of them, could easily have caused the slight instrument aberrations recorded by the Japanese monitoring boat. Such electronic interference to radioactivity monitoring instruments is a common phenomenon.

I would also note that the readings themselves were so low as to be inconsequential from the standpoint of public safety. Even if one assumes that the abnormal readings were, in fact, caused by radioactivity—and I emphasize there was no evidence whatever that this was the case—the radiation levels and radioactivity concentrations would have been about 1,000 times less than those considered acceptable for the general public by such authorities as the International Commission on Radiological Protection.

UNITED STATES DEMONSTRATES SUBMARINE NOT RESPONSIBLE

The U.S. Government went to great trouble and expense to demonstrate to the Japanese Government and public that the submarine had not caused the instrument aberration. At the request of the Japanese Prime Minister, three of my senior people were immediately sent to Japan to investigate the incident and attempt to find the cause of the readings. In addition, a legally constituted joint AEC-Navy examining board was dispatched to conduct an independent audit of the submarine. These groups, on the basis of official records, logs, and personal interviews with personnel of both the submarine and the facilities which supported it during its stay in Sasebo, established beyond doubt that the ship's reactor had in fact been shut down for some 96 hours prior to the recording of the abnormal readings, and that the ship had not discharged any radioactivity of any kind to either the harbor or the surrounding atmosphere. In short, they established that the U.S. submarine in question was in no way to blame for the small aberration which comprised this incident. The ship had scrupulously complied with all the assurances we had given the Japanese Government, as have all other U.S. nuclear-powered warships in Japan, both before and since.

JAPANESE GOVERNMENT IGNORES FACTS

However, the Japanese Government did not accept the evidence, but proceeded as if the investigation had shown the submarine to be at fault. They greatly intensified their atmospheric monitoring during visits by U.S. nuclear-powered warships and asked us to give them additional assurances with respect to the discharge of effluent. These actions inevitably conveyed to the Japanese public the impression that the ships were dangerous, and that our assurances were questionable.

INCIDENT DISRUPTS USE OF VITAL BASES

Access by nuclear-powered warships to our naval bases in Japan was interrupted for over 7 months while the Japanese installed additional air monitoring equipment. After visits were resumed, in December 1968, it soon became apparent that transitory, low-level aberrant readings of the type that occurred at Sasebo were frequently being caused by interference from nearby U.S. Navy electronic equipment entirely unrelated to our nuclear propulsion plants. We repeatedly urged that the Japanese authorities disregard these phenomena, since they are virtually impossible to trace, and are so small as to be negligible in any case. However, they adopted the policy of attempting to track down the cause of each of these small aberrations, and undertook progressively elaborate measures in these attempts.

JAPANESE MAKE UNREASONABLE DEMANDS

In April 1969, the Japanese Foreign Minister submitted a list of equipment which they asked the Navy not to use while nuclear-powered warships were in port, in order to reduce interference to their monitoring instruments. This list included radar, radiography and X-ray machinery, and other radiating equipment. This, in effect, would have closed down a large portion of these naval bases, interrupting essential work for no purpose except to facilitate the investigation of trivial electronic phenomena. For obvious reasons, the Navy did not accede to these requests; however, the fact that such measures were seriously suggested by the Japanese Government demonstrates how far these monitoring policies had departed from reality. On one occasion, the Navy was asked to postpone for several weeks the entry into port of a submarine returning from an arduous patrol, for the convenience of the Japanese monitoring boat and its crew. [Deleted.]

I will keep the Joint Committee informed of further developments in this matter.

Mr. BYRD of Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded

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The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair, with the understanding that the recess not go beyond 12:30 p.m. today.

The motion was agreed to, and (at 12:04 p.m.) the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 12:30 p.m. when called to order by the Presiding Officer (Mr. BYRD of West Virginia).

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act (creating a National Foundation for Post-secondary Education and a National Institute of Education), the Elementary and Secondary Education Act of 1965, Public Law 874, Eighty-first Congress and related acts, and for other purposes, with an amendment, in which it requested the concurrence of the Senate; that the House insisted upon its amendment, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PERKINS, Mrs. GREEN of Oregon, Mr. THOMPSON of New Jersey, Mr. DENT, Mr. PUCINSKI, Mr. DANIELS of New Jersey, Mr. BRADEMAS, Mr. HAWKINS, Mr. SCHEUER Mr. MEEDS, Mr. BURTON, Mr. MAZZOLI, Mr. QUIE, Mr. BELL, Mr. REID of New York, Mr. ERLENBORN, Mr. DELLENBACK, Mr. ESCH, Mr. STEIGER of Wisconsin, and Mr. HANSEN of Idaho were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 10344. An act to authorize the District of Columbia to enter into the Interstate Compact on Mental Health;

H.R. 10677. An act to incorporate in the District of Columbia the Gold Star Wives of America;

H.R. 11489. An act to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969; and

H.R. 11490. An act to regulate the location of chanceries and other business offices of foreign governments in the District of Columbia.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 10344. An act to authorize the District of Columbia to enter into the Interstate Compact on Mental Health;

H.R. 10677. An act to incorporate in the District of Columbia the Gold Star Wives of America; to the Committee on the Judiciary;

H.R. 11489. An act to facilitate the amendment of the governing instruments of certain charitable trusts and corporations subject to the jurisdiction of the District of Columbia, in order to conform to the requirements of section 508 and section 664 of the Internal Revenue Code of 1954, as added by the Tax Reform Act of 1969; and

H.R. 11490. An act to regulate the location of chanceries and other business offices of foreign governments in the District of Columbia.

AGREEMENT WITH JAPAN CONCERNING THE RYUKYU ISLANDS AND THE DAITO ISLANDS

The Senate, in executive session continued with the consideration of Executive J—92d Congress, first session—the agreement between the United States of America and Japan concerning the Ryukyu Islands and the Daito Islands.

Mr. PERCY. Mr. President, on June 17, 1971, the United States and Japan signed an historic treaty providing for the reversion of the Ryukyu Islands to Japan. This agreement lays the foundation for a new Japanese-American relationship which can benefit both Asia and the entire world.

The Senate, in determining whether or not to ratify the treaty, must bear in mind that U.S. control over Okinawa and the Ryukyus arose out of a situation far different from that which exists today. In 1945, when the United States assumed formal control of the islands, Japan was defeated and under American occupation. By the time the Korean war broke out, the American occupation of Japan was nearing an end; but because of the Korean war and the emergence of Communist China as an ally of the Soviet Union, Okinawa had become important to the United States as its major military base in the Far East. So American administration of the Ryukyus was continued and was formalized in the 1951 Treaty of Peace with Japan. By the time of the peace treaty, Japan had only just begun to reestablish itself as a viable political and economic entity. Given Japan's weakness and the presumed dangers in the area, the United States concluded that it could not afford to give up control over the Ryukyus at that time.

Nevertheless, the United States never intended to keep the islands permanently. While the peace treaty admitted the possibility of transforming the islands into a United Nations trust territory, John Foster Dulles, chief U.S. delegate at the peace conference, pointed out in a letter to the Government of India on August 25, 1951, that Japan still possessed sovereignty over the islands and that the Government of India was presumptuous in believing "that future arrangements regarding the Ryukyu and Bonin Islands, the terms of which are not yet formulated, will hereafter 'be a source of dissatisfaction to large sections of the Japanese people.'" Dulles was suggesting eventual reversion of the islands to Japanese control.

Subsequent administrations gave firmer commitments that the United States would one day return the Ryukyus to Japan. President Eisenhower's joint communique with Japanese Prime Minister Kishi of June 21, 1957, declared that "Japan possessed residual sovereignty over these islands," but that the United States would continue to administer them "so long as the conditions of threat and tension exist in the Far East."

The first explicit statement of American intent to return administrative rights to Japan came from President Kennedy. He said on March 19, 1962:

> I recognize the Ryukyus to be a part of the Japanese homeland and look forward to the day when the security interests of the free world will permit their restoration to full Japanese sovereignty.

President Johnson reaffirmed that position. A joint communique issued by the President and Japanese Prime Minister Sato on November 16, 1967, stated that—

> The President and the Prime Minister agreed that the two Governments should keep under joint and continuous review the status of the Ryukyu Islands, guided by the aim of returning administrative rights over these islands to Japan. . . .

President Nixon has moved boldly to fulfill these past pledges. In November 1969, the President and Prime Minister Sato agreed to enter into negotiations with a view toward reversion of the Ryukyus in 1972. The treaty of June 17 is the culmination of his efforts.

The reversion treaty stems from new circumstances which differ vastly from those of 20 years ago. By agreeing to return the Ryukyus to Japan, the United States recognizes that Japan can no longer be dealt with as a client State. As the world's third greatest industrial power with a gross national product that may overtake the Soviet Union's by the end of this century, Japan will exercise an important influence throughout Asia and the world in the years ahead. The United States must now seek a new relationship with Japan based on a mutuality of interests and operating on the principle of equality between the two Nations.

Elimination of the vestiges of World War II is an essential first step in forging a new Japanese-American partnership. The return of Okinawa and the other Ryukyus to Japan will demonstrate to the Japanese people that the United States seeks such a relationship in good faith.

If the Senate should fail to ratify this treaty, it will have to bear a heavy responsibility for future events. I have no doubt that rejection of the treaty would so damage our relations with Japan that the moderate government of Prime Minister Sato would fall and be replaced by anti-American elements of the Japanese left at the next parliamentary elections which must be held no later than December 1973. If these elements should gain power in Japan, we could expect a sharp shift in Japanese foreign policy away from cooperation with the United States.

Moreover, we could also expect serious problems with the 800,000 residents of Okinawa. All major political parties on Okinawa favor reversion to Japanese control. On occasion, violent demonstrations against the occupation have occurred. If the Senate rejects this treaty, we could expect increased violence on Okinawa and an upsurge in hostility toward American military personnel. We should ask ourselves now whether we would want to confront the antagonism of 800,000 Okinawans who wish to be reunited with Japan. In such a situation we would appear as a colonial power suppressing the legitimate aspirations of the Okinawan people. In such a situation our military bases on Okinawa would become targets of militant elements and lose their effectiveness.

I have felt so strongly about this situation and about our relations with Japan that, I think approximately 2½ years ago, while in Japan, I went to a conference in Shimoda, a conference of 50 or 60 Japanese legislators and ministers, and spent 3 days talking with them, together with such Americans as Edwin Reischauer, our former and very able Ambassador to Japan, and General Lampert.

It was perfectly clear in conversation with those Japanese, most of whom have a very strong desire to have good ties with the United States, that any kind of precipitate action which looked as though we were not fulfilling the implied commitments we had made over a period of years would have very grave consequences.

On that same trip I also went to Okinawa. I was rather surprised to learn that during the past, I would say, 2½ years, the commanding general in Okinawa had a recollection that I was the only Member of the Senate, besides the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), who had stopped in Okinawa. I spent a number of overnights in Okinawa and visited members of the Naha City Council and its committees. I visited the mayor. I personally visited, by helicopter, the entire island area, and then drove in many parts of it.

It would be absolutely inconceivable to me that we could in any way attempt to maintain the degree of security necessary for our forces, as well as for our equipment, if we were in the midst of 800,000 hostile people.

We have not made a special provision for the security of our aircraft or helicopters. The planes are generally parked in very close proximity to the roadways that run through Okinawa. The goodwill of the Okinawans is absolutely essential—a large number of whom are employed by us on the island—in maintaining the missions that are carried out in Okinawa.

So I feel this treaty is not only a practical realization of conditions as they now exist, but also is the fulfillment of the moral commitment that has been made by several Presidents of the United States in the past and which now President Nixon is fulfilling.

Finally, we must remember that the primary purpose of our Okinawa bases has been to support our policies in Asia. If United States-Japanese relations deteriorate because of failure to resolve the reversion question, our entire Asian policy will be in serious jeopardy. Without Japan's cooperation, it is going to be increasingly difficult for the United States to achieve its objectives in the Far East. With a hostile Japan, it will be impossible.

The government of Prime Minister Sato seeks to sustain the Japanese-American alliance. The Prime Minister has indicated time and time again that he does not wish to see U.S. bases on Okinawa reduced to the point of ineffectiveness. The treaty permits the United States to retain its bases subject to the provisions of the United States-Japanese Security Treaty. There is good reason to believe that ratification of the treaty will not rob them of their usefulness. As I have tried to point out, the greater danger to the bases may lie in refusing to ratify the treaty.

It is wrong to consider the return of Okinawa to Japan as a setback for the United States. Actually it is the culmination of a successful policy this country has followed since the end of the Second World War. When we began the occupation of Japan in 1945, we set out to turn the talents and energies of the Japanese people toward the reconstruction of their country. We succeeded. We also sought to establish a stable and workable democratic system of government in Japan. We succeeded in this, too. Japan has become one of the world's most dynamic democracies.

Now it is time to end our occupation of an island group that has belonged to Japan for a century and is populated by Japanese-speaking people who consider themselves part of the Japanese nation. By doing so, we will show the world that two of the world's great democracies can solve their problems in a spirit of good will.

There has been talk of linking the treaty with some of the economic problems we have with Japan. I will not downplay these problems, for they are serious. Japanese imports in some cases have hurt U.S. domestic industries, and the U.S. trade deficit of over $2 billion annually with Japan places a severe strain on our balance of payments. We should continue to negotiate the economic problems, but it would be a mistake to withhold ratification with some kind of economic blackmail in mind. Any such tactic could produce a backlash in Japan which would jeopardize prospects for any agreement on the economic issues.

In recent months we have shocked Japan politically with the surprise announcement of the Kissinger trip to Peking; we have shocked Japan economically with the surprise imposition of the 10-percent border tax; and we have shocked Japan emotionally with the nuclear test at Amchitka.

Rejection of the reversion treaty could be the straw to break the back of the Japanese-American alliance. Ratification of the treaty is clearly in our national interest.

Mr. President, I have considered myself, over a period of many years, one of the stanchest supporters of a freer trade policy and of a full alliance between the United States and Japan. I have been critical of certain actions taken by Japan, or the lack of certain actions by that government. I feel that friends can be critical of each other. But certainly, I speak today with strong feeling and with the deep belief that this is not only in the national interest of the United States, but also certainly in the interest of Japan, and in the interest of Japanese-American relations in the future.

I, therefore, trust that the Senate will overwhelmingly vote "yea" on the vote tomorrow on the Okinawa Reversion Treaty.

Mr. JAVITS. Mr. President, I know of few things which we will be doing here, notwithstanding the fact that other things will be surrounded by storm and fury, which can be more important to the future of mankind and the peace of the world than the ratification of the Okinawa Treaty as recommended by the Committee on Foreign Relations, of which I have the honor to be a member.

I have been in Japan a number of times. I am considered to be rather close to developments between the United States and Japan, and I feel it my duty to lay before the Senate the points which I think are critically important with respect to this treaty, and why I regard this moment as a true watershed in the relationships between the United States and Japan.

First, the most important political issue in Japan today is the return of Okinawa to Japanese administration. The successful negotiation of the agreement on the reversion of Okinawa is one of the major postwar accomplishments of U.S. diplomacy in Asia. It is also an accomplishment of overriding political significance to the Liberal Democratic Party of the Government of Japan. In many respects, the basic policy of the LDP government—Premier Sato's government—in aligning itself in close cooperation with the United States, in both security and economic affairs, was crucially related to the peaceful reversion of Okinawa to Japan through cooperative negotiation.

In the eyes of the Japanese voters the success of the Okinawa reversion treaty determines whether this policy was successful or not. I am confident that the success of this policy will be demonstrated in the vote tomorrow, ratifying this agreement to return Okinawa to Japan in a generous and statesmanlike way.

It is critically important to the United States, in my judgment, that that policy succeed. I do not believe it an exaggeration to say that failure to implement the United States-Japan agreement on the return of Okinawa—because of Senate failure to ratify the implementing treaty, or any other reason—would have the most profound consequences in Japan. I think it could bring about a rupture in United States-Japanese relations which might prove too deep for reconciliation over any short period of time.

The basic premise of the Nixon doctrine, and the underlying U.S. strategy for peace, security, and progress in Asia—which rest on the assumption of a close and cooperative United States-Japan re-

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lationship—could be nullified. A new government of quite different orientation—perhaps left-neutralist, perhaps right-wing nationalist—could come to power on the heels of any collapse of the agreement on Okinawa reversion.

Accordingly, in my judgment, the Senate's handling of the Okinawa Reversion Treaty will be a major test of our statesmanship and sense of responsibility respecting U.S. foreign policy and the security interests of both the United States and Japan.

Mr. President, I believe it critically important to point out that the real issue at stake is this: Surely, there are still differences with Japan, though we have settled, and I think satisfactorily, one of our very major differences, in respect to "manmade" textiles, in the well-starred and auspicious "manmade" textile agreement. But we still have a tremendous area of difficulty in respect to currency realinement.

To some it might seem an easy temptation, Mr. President, to hold the Okinawa Treaty hostage for some agreement on the realinement of currency. I know of nothing more likely to be counterproductive in terms of achieving that objective or of our relations with Japan and the people of Asia than any such action as that—to wit, holding the Okinawa Treaty hostage to other problems which we have with Japan. There was this danger in the absence of a textile agreement.

Mr. President, we have seen two faces of Japan in the last 40 years. We have seen a Japan which threatened the world. This was the ugly menacing face of extreme nationalism and militarism of the 1930's and the 1940's, a memory burned deeply into the psyche of the 750 million inhabitants of China, the other peoples of Asia and the people of the United States and Europe as well.

Then we have seen Japan's peaceful and democratic face of the 1950's, the 1960's, and now the 1970's. This is one of those great historic transformations which seem at times almost miraculous. The close United States-Japan tie of the past two decades has been a vital factor in this transformation. I believe that a continuing close United States-Japan tie is a precondition to the security of Asia and the world. It is critically important that Japan remain dedicated to peaceful productivity, with the tremendous dynamism which Japan has shown within the last two decades. We feel this competition, of course, but we certainly welcome this kind of competition rather than military or nationalistic competition.

The prime task in Asia in the 1970's will be the productive channeling of Japan's economic "miracle" and productivity. This amazing thrust represents and expresses an extraordinary national drive, discipline, capacity for organization, and irrepressible determination to excel and to enjoy a place in the sun.

Mr. President, we talk often now about what will be done with mainland China, and we must realize that, though Taiwan is going to be a difficult issue and nonproliferation of nuclear arms is going to be a difficult issue—and there will be other issues, including Vietnam and Indochina, in which we will find it difficult to agree with mainland China—in my judgment, the overriding issue of all is Japan. I can foresee a genuine community of interest between China and the United States with respect to Japan's role in Asia based on quite a different approach. A major challenge for the United States and industrialized Europe is to devise means for a mutually agreeable channeling and absorption of Japan's fantastic productive capacity. Clearly, the upper limits of absorption of Japanese exports into the U.S. economy have been reached—and Europe is not anxious to increase its role as a trading partner for Japan. On the other hand, China's economy is hungry for credits and industrial imports—as are the economies of most other Asian nations, including even Australia and New Zealand.

The ingredients are present for a grand concert in Asia, in which China could play a leading role—for the purpose of channeling and absorbing the great thrust and productive capacity of Japan's ever-growing economy for the benefit of the development of Asia. There lies a true community of interests. And, it does not mean excluding Western Europe or the United States—or self-help by a dynamic and developing Asia, it means only a theater for Japanese effort.

The other direction—that of isolating Japan and thwarting Japan's capacity and determination to excel—is the route best calculated in my judgment to bring about the very results which Peking—and Washington—have the greatest interest in preventing. A Japan which is isolated and thwarted is a Japan more likely to become vengeful and militantly nationalistic. Such a seething and rootless Japan could turn to the path of militarism, which it followed so disastrously in the 1930's and 1940's. This time a militaristic Japan would be equipped with a nuclear capacity.

So the ingredients are present for a grand concert in Asia in which the United States, mainland China, and Japan could all play very leading roles, and which could be of tremendous benefit to all mankind.

Mr. President, a word about the outstanding problem we still have with Japan, and that is the revaluation of the Japanese yen. The revaluation to date has not yet been adequate. So far, the float—or what is called the dirty float—of the Japanese yen has brought it under the 10-percent range in relation to the U.S. dollar. However, Japan has indicated that it is willing to revalue its yen up to 12½ percent if the 10-percent import surcharge of the United States is lifted. If we add this revaluation of 12½ percent to some devaluation of the dollar in terms of a change in the gold parity—which I favored and which I joined Representative Royce, of Wisconsin, to bring about by congressional action and which I believe the Congress would favor—this would effectively realine the yen to the dollar in a range in excess of 15 percent. If that is coupled over the long term with the action of the International Monetary Fund in going to wider bands, from 1 to 3 percent in respect of the relationship between currencies, then the revaluation will come into the very realistic level which ought to be highly acceptable to the United States and to our trade position with Japan which remains very much to Japan's advantage. This would clear the way for the early lifting of the import surcharge before this becomes imbedded in concrete doing great harm to our economic relations with the free world and jeopardizing international flows of trade and investment.

In addition, it is very noteworthy that Japan has agreed to approximately double its military procurement from the United States. This has been running about $100 million a year for the past 5 years. The Japanese hope to increase it to $200 million a year or $1 billion over 5 years, and this is a very good figure.

Finally, Mr. President, Japan was with the United States all the way on the two-China policy in the U.N. The fruit of this for the Sato government has been very bitter; and we hope that the fruit of the ratification of the Okinawa Treaty, plus the new sense of cooperation in the development of Asia about which I have spoken, will be a sweet fruit for the Sato government, and will make up for some of the difficulties it has encountered in respect of following our lead on the China policy in the United Nations.

Mr. President, in my judgment, relations between the United States and Japan have reached a psychological watershed of great importance. The style of relationship forged during the postwar occupation and reconstruction days is obviously obsolescent. Japan has emerged as the second strongest economic power of the free world. That is a new reality which we are accommodating in the tone of our relationship, in its nature, and in the agreements which we are beginning to reach—as, for example in the manmade textile agreement and now in respect of the reversion of Okinawa.

The United States must not be diverted in terms of its domestic troubles, in view of our tragic experience in Vietnam, from the overriding importance of stability and peace in Asia. So, while we require both tact and hardheadedness in equal measure, if there is to be the kind of creative United States-Japan partnership in concert with other multinational efforts which I have described, and which is indicated by the wonderful way in which this treaty was negotiated, we could inaugurate an era of unprecedented growth, prosperity, and peace in all of Asia.

Mr. President, this treaty has a remarkable quality about it which is evident in its very text and texture. It is obviously the product of a close, cooperative, collaboration between friends of mutual good will and common purpose. It is pervaded by an atmosphere of mutual understanding, and considerateness for the varying interests of the two sides. It is prudent and businesslike in its substance as well as its style. In many respects, it could be cited as a model for the successful conduct of affairs between two great and friendly nations.

It is all the more remarkable in this regard when we remember that it deals with an issue which derives from the heat of fierce battle and deep antagonism less than three decades ago—World War II and the bloody struggle on Okinawa itself. The Okinawa Treaty is evidence of, and a tribute to, the capacity of men to bury the hatreds of the past and forge a new and cooperative future together.

The negotiators on both sides are to be commended for their skill and their success. In this regard, I am especially proud of the key role played by Minister Richard L. Sneider of the U.S. Embassy in Tokyo. Mr. Sneider is one of our most skilled and experienced diplomats in Asia. He was the prime negotiator on the U.S. side. Mr. Sneider is a New Yorker and I want the record of the Senate debate to make note of the credit he deserves in this historic matter.

On our side, it is important that we give Japan every feeling that it is not going to be crowded, thwarted, or restricted in its drive for a place in the sun through economic growth. Japan needs a place—and is entitled to a place—commensurate with the extraordinary vitality, ingenuity, and creativity of her people. If Japan is not made to feel that the developed world is prepared to accept an honorable and leading role for Japan, achieved through peaceful, nonmilitary means, Japan could again turn to the path of militant nationalism and seek its place in the sun through nuclear armament.

On Japan's side, I feel, as an American, that it will be necessary for it to develop great tact and statesmanship in its drive for commercial ascendency. Resistance has grown strongly, in both the developed and undeveloped worlds, to what often seems to others to be the aggressive, almost single-minded Japanese pursuit of profit and commercial advantage. Japan can and should do a great deal itself to avoid creating the external conditions of reactive stifling which could in turn rechannel Japanese energies into negative patterns.

In short, Mr. President, I regard the Okinawa Treaty ratification as a most auspicious landmark on a long and difficult road, a good deal of which we have already travelled, in which both we and Japan—and now mainland China—may, by this means, be encouraged to play the great role in the future development of what is the center of world attention as a continent today—Asia.

Asia's history in this century has not been happy. On the contrary, we have experienced World War II, the Korean war and now the great tragedy of Vietnam.

Out of tragedy has often emerged a golden day for the world.

I hope very much that Senators may recognize, as they vote to ratify the Okinawa treaty—as I hope and trust they will, and as there is every indication they will—that we are all part of a historic process which has the capacity for putting the continent of Asia on a road of development and peace which can be the gratification, not the ending, of all mankind.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess subject to the call of the Chair, with the understanding that the recess not extend beyond 1:45 p.m. today.

The motion was agreed to, and at 1:20 p.m. the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 1:44 p.m., when called to order by the Presiding Officer (Mr. INOUYE).

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN MILITARY, ECONOMIC, AND HUMANITARIAN ASSISTANCE AUTHORIZATIONS, 1972—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, as in legislative session, I make the following unanimous consent requests, at the direction and with the approval of the distinguished majority leader, after having consulted with the distinguished minority leader, the distinguished assistant Republican leader, the distinguished Senator from Mississippi (Mr. STENNIS), and other Senators who are known to be interested in certain amendments. The requests are as follows:

I ask unanimous consent that with respect to both S. 2819 and S. 2820, the two foreign aid measures, time for debate on each of the measures be limited to 6 hours, the time to be equally divided between and controlled by the distinguished manager of the bill and the distinguished minority leader or his designee; that time on any amendment thereto be limited to 1 hour, with the exception of an amendment by the Senator from New York (Mr. JAVITS) to S. 2820, the so-called concessional amendment, in connection with which there be 2 hours; provided further, that if the distinguished Senator from Mississippi (Mr. STENNIS) should decide to offer an amendment to S. 2819, time on that amendment be limited to 4 hours; the time on any amendment to be equally divided between the mover of the amendment and the distinguished manager of the bill; provided further, that if the manager of the bill supports such amendment, time in opposition thereto then be under the control of the minority leader or his designee; provided further, Mr. President, that Senators in control of the time on the bill may yield therefrom to any Senator on any amendment, motion, or appeal, with the exception of nondebatable motions; ordered further, that time on any amendment in the second degree, any motion or appeal, with the exception of nondebatable motions, be limited to 30 minutes, the time to be equally divided in each case between the mover of such amendment, motion, or appeal, and the manager of the bill; and in the event that the manager of the bill supports such amendment, motion, or appeal, the time in opposition thereto be under the control of the distinguished Republican leader or his designee; provided further, Mr. President, that amendments not germane may be in order; and provided that any rollcall votes on any amendments not occur prior to the vote on the treaty which is scheduled to occur at 3 p.m. tomorrow.

Mr. SCOTT. Mr. President, I accept and agree to the unanimous-consent request which has been taken up with the members of my party at a policy session now in progress.

While I personally would prefer the rule of germaneness, this requires unanimous-consent request, and therefore, in order to obtain unanimous consent we have had to include the provision on nongermane amendments being offered. I express the hope that they will not; but, in any event, I accept the unanimous-consent request and thank the assistant majority leader.

Mr. BYRD of West Virginia. I thank the distinguished Republican leader.

Mr. JAVITS. If I may interject, just to be sure, we have taken care of amendments to amendments, have we not?

Mr. BYRD of West Virginia. Yes.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER (Mr. INOUYE). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I thank the Chair. I also thank the distinguished Senator from Mississippi (Mr. STENNIS) for his patience and his courtesy in waiting. I also thank the distinguished Republican leader and all other Senators.

It is the understanding of the joint leadership that when debate on the treaty has come to an end this afternoon, the Senate will then proceed to the consideration of the first of the two foreign aid measures. By the first, I mean S. 2820.

Mr. President, I ask unanimous consent that time on that bill not begin running today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The unanimous-consent agreement reads as follows:

Ordered, That commencing Wednesday, November 10, 1971, during the further consideration of the bills, S. 2819, a bill to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes, and S. 2820, a bill to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes, debate on any amendment (except an amendment to be

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offered by the Senator from New York (Mr. Javits) to S. 2820 on which there shall be 2 hours, and an amendment to S. 2819 if offered by the Senator from Mississippi (Mr. Stennis) on which there shall be 4 hours) shall be limited to 1 hour to be equally divided and controlled by the mover of the amendment and the manager of the bill. *Provided*, That debate on any amendment to an amendment (an amendment in the second degree), motions or appeals (except non-debatable motions) shall be limited to 30 minutes to be equally divided and controlled between the mover of any such amendment or motion or appeal and the manager of the bill. *Provided further*, That in the event that the manager of the bill is in favor of the amendment, motion or appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

Ordered further, That on the question of final passage of the two bills, there shall be 6 hours of debate on each, to be equally divided and controlled, respectively, by the manager of the bill and the Minority Leader or his designee: *Provided*, That the manager of the bill or the Minority Leader, from the time under their control on the passage of said bills, may allot additional time to any Senator during the consideration of any amendment, motion (except non-debatable motions) or appeals.

Ordered further, That no vote occur on either bill, amendment, motion or appeal relative thereto until after the vote on Executive J at 3:00 p.m. on November 10, 1971.

AGREEMENT WITH JAPAN CONCERNING THE RYUKYU ISLANDS AND THE DAITO ISLANDS

The Senate, in executive session, continued with the consideration of Executive J (92d Congress, 1st session), the agreement between the United States of America and Japan concerning the Ryukyu Islands and the Daito Islands.

Mr. STENNIS. Mr. President, what is the pending matter now before the Senate?

The PRESIDING OFFICER. The pending matter before the Senate is the proposed agreement between the United States of America and Japan concerning the Ryukyu Islands and the Daito Islands.

Mr. STENNIS. I thank the Chair.

Mr. President, as I understand it, this matter has been agreed to for a vote tomorrow afternoon at 3 o'clock. As I have to be away tomorrow afternoon, regrettably, I have tried to rush preparation of this statement so that I might make it this afternoon.

Preliminary, let me say that each member of the Committee on Armed Services has understood, as I announced last week, that we would not try to have a formal report on the treaty. We did want to develop the evidence and particularly take testimony relating to the military phases of the treaty; but I said we would not try to have a formal report. I have had this course of action in mind all the while. I did not want to delay the treaty, as the Committee on Foreign Relations has the primary responsibility. Then, when the treaty was reported, I wanted it to come to debate soon—even last Friday.

I appreciate the leadership's agreeing to put it over until we could have our hearings which, by the way, were quite profitable. I think a valuable record has been made.

Now, Mr. President, the Armed Services Committee has held hearings in executive session on the pending treaty. We did not ask that it be referred to us formally, as I have said, but we wanted to discharge our responsibilities to the Senate. We inquired especially into the military implications of transferring control of Okinawa to Japan and how this relates—as provided under the treaty—to our future problems.

Reversion is, of course, a highly important question for the United States and Japan. It is a difficult matter for any Senator—to pass on, I emphasize that—especially for a Senator who has the responsibility as chairman of the Armed Services Committee.

Our committee heard from General Westmoreland, who is the Army Chief of Staff and spoke for the Joint Chiefs of Staff, Admiral Moorer, the Chairman of the Joint Chiefs, being out of the country. We also heard the High Commissioner of Okinawa, Lt. Gen. James B. Lampert. We also questioned Mr. V. Alexis Johnson, the Under Secretary of State for Political Affairs, along with other experts on the treaty. We of course had our own general knowledge of the treaty. Some of us had special knowledge of it when it was announced by the executive department. I have concluded, Mr. President, that while there are military implications for the United States, the fundamental question here is one of sovereignty.

For 25 years we have had unlimited use of Okinawa bases under treaty provisions—that is, our treaty with Japan—following World War II.

I believe that our administration there has been even-handed, but it is, nevertheless, a fact that the High Commissioner has had the power to veto any bill of the local government, to annul any law, or to remove any official. In short, we have had broad powers on Okinawa while Japan has had the unquestioned residual sovereignty there.

This goes to the point that when we have a military base which is not on our own sovereign territory, but on the sovereign territory or the semisovereign territory of another nation, we just have to deal with that nation about it. That is all. It is not like having a base on your own soil.

I questioned General Westmoreland very closely with respect to the views of the Joint Chiefs of Staff on the reversion treaty. He said that, putting political considerations aside, he would prefer the status quo on Okinawa. But he felt that we would realize more under the treaty than without it, when all things are considered. In other words he felt, and he said—the Joint Chiefs concluded, that they would prefer the status quo now, putting political considerations aside, but that when those elements were considered, they really thought that over the years they would get more out of Okinawa under the treaty than without it.

That was a very significant statement to me. I am not following anyone blindly. However, when considered with my ideas concerning sovereign powers, that was a very influential point with me.

General Westmoreland recognized that failure to ratify the treaty would create an unfavorable political climate in Japan. He said that reversion under the treaty would be a plus for relations between the United States and Japan as Japan takes on new responsibility in the Western Pacific.

We have to remember, too, that we have other bases on what we would ordinarily say is the mainland. However, in this case they are on the main islands of Japan. For this question not only involves bases on Okinawa, but also involves the whole relationship with respect to all of those bases in Japan.

In this connection, General Westmoreland told our committee:

> The Joint Chiefs of Staff understand and accept the judgment that political considerations in this case outweigh the partial loss of military flexibility entailed in reversion. We will find other ways to get the job done so as to minimize any loss of capability.

That was in his formal statement. I have been quoting him in his answers to my questions, and that is where we get down closer to the nub of things.

It is important to understand that, within the terms of our mutual security treaty with Japan, the Japanese self-defense forces will be strengthened to assume the primary defense role for Okinawa. I believe this is as it should be.

That means that the local government, as well as the self-defense for Okinawa itself, will now be the responsibility of Japan.

I think it is entirely proper that Japan assume an increasing responsibility for security and stability in Asia and in Asian waters. I believe that unless Japan does assume a role, both with money and manpower, the prospects for peace and economic growth in the area are grim indeed.

That is what I believe. In fact, I believe that Japan's aid and manpower are necessary for the operation of free nations in the Pacific.

Senators should understand that, while we will retain base rights and most of our bases in Okinawa, we will lose some of our military flexibility when Okinawa becomes a part of Japan.

There is no question about Okinawa having belonged to Japan before the war. There is no question about our being there now under the retained power that we kept when that was over. The island has been under the charge of the United States, so far as its administration was concerned, under a high commissioner, who is a military officer of our Armed Forces.

As I have said, while we would retain base rights under the treaty, we would lose some of our military flexibility if Okinawa becomes part of Japan.

We will not be able to make major additions to the U.S. forces there without consulting the Japanese Government. We will not be able to mount combat operations—air strikes, for example—from the bases on Okinawa without prior consultation.

Mr. President, finally, we will not be able to store nuclear weapons in Okinawa without approval, if we should wish to do so.

Generally, however, we will have the continued use of the Okinawa bases for staging of forces and for logistic purposes.

In one important respect we will be better off both in Okinawa and Japan when the Japanese assert their full sovereignty in Okinawa. A high ranking Pentagon official told me recently that our overall position will be improved if the Japanese Government is responsible for handling disorder and unrest on Okinawa rather than having this responsibility of our own military forces.

Developing further the use of Okinawa, as it will continue under the treaty; if we should fly from Okinawa to bases in South Korea, as an intermediate landing point, we would not have to have any consultation. This is the way I understand it. If we have marines on Okinawa that we want to use, they would probably be embarked on a ship which would cruise for a time and then put the marines ashore. That would be permitted, as I understand the explanations. That is the ordinary way an amphibious force is handled. But, as I have said, everything that might come up cannot be pinpointed exactly.

I understand why we keep the bases there. We are going to have tremendous use for them and, while their use will be limited from what it is now, Okinawa will be very powerful in the Pacific area, beyond question, and will have tremendous uses.

I believe continuing Okinawa under these conditions would be better than letting the situation fall apart altogether as I believe it would do in 3 to 5 years.

Senators should understand that while our base rights are continued by the treaty, there is no guarantee that they will always be continued. In our hearings in the Committee on Armed Services we discussed this aspect of the reversion question. Twenty-five years after the United States gained control of Okinawa, it is surely not possible to say what situation will prevail 25 years hence.

Without trying to delve into the politics of another nation, it is certainly fair to say that there has still been anti-American sentiment in Japan among the minority parties. If that sentiment should, at some future date, change the attitude of the Japanese Government, we might be forced to take our Okinawa bases and those in the home islands to some other locations.

I think that is a highly significant fact. I am convinced we cannot sail on and on forever on these Okinawa bases with free and unlimited use under the High Commissioner as we have for the last 25 years.

The President, in particular, convinced me of this. I was impressed with a statement he made, in the course of a briefing months ago, with reference to what we are up against in our future operations there. I find the same sentiment echoed by the military witnesses, and others.

I say again, for emphasis, that we make a mistake if we think we have a choice between continuing as we are and continuing under reversion or the treaty. I do not think there is a chance for us to continue as we are for but a few more years. Therefore, it is better to establish this new relationship, and better to put our position more in line with those who have the responsibility of power in Japan—in other words, the Government, the administration in office.

I emphasize again that I will not be greatly surprised if, in the future, we are asked to provide alternative sites elsewhere in the Pacific for some of the activities which are to continue on Okinawa under the terms of the treaty.

The security of Japan is only a portion of the U.S. commitment in that part of the world. As Senators know, we have troops in South Korea and close ties to Taiwan, the Philippines, Australia, and other nations. Unless these commitments are somehow reduced, they might have to be discharged from bases other than those in Japan and on Okinawa, and the Senate should understand that.

On balance, however, I am persuaded that we should recognize Japan's sovereignty and approve the reversion treaty. I hope that this will serve to continue an era of cooperation with Japan and that the contingencies that I have mentioned need not materialize. In any event, however, I think the interests of the United States are best served by approval of the treaty. This is my considered judgment based on the facts now existing and likely to exist in the future. When a nation has a military base beyond its own sovereignty, that nation has to deal with the nation which has sovereign power at the site of the base. In this instance it is Japan.

A good deal has been said about storage of nuclear weapons. I am not going into any detailed discussion of that. There is time to take whatever steps are necessary with respect to nuclear weapons, wherever the problem arises.

As I said, I would have spoken on this matter tomorrow—I assume it is going to be open to debate—but, regrettably, I shall have to be away tomorrow afternoon, and I thought I had better discharge my responsibilities here today.

Mr. GOLDWATER. Mr. President, I was present at the hearing on yesterday. The hearings only bolster my fear about this treaty. I will very recluctantly vote against it.

I feel basically as all Americans do, in opposition in effect to colonization or our keeping of lands that we occupy through war.

The Senator from Mississippi mentioned what to me is the main objection in a broad sense, that we would be prohibited from launching any military operations from Okinawa without consultations with the Japanese Government. This came through to me yesterday as I listened to the representatives of the military and the State Department. For example, it is my belief—and correct me if I am wrong—that if we still have troops in South Korea or on the DMZ and the North Koreans attack and we require air operations, which are not available on the mainland of China or in South Korea, that under the language I heard yesterday, we would have to have consultations with the Japanese Government before we could help our own troops. Am I correct on that?

Mr. STENNIS. Mr. President, I do not remember that particular representation. Is the Senator in his illustration talking about an attack by North Vietnam or North Korea on Okinawa bases?

Mr. GOLDWATER. No. I am just using an example. It could apply to any other instance. If North Korea decided to disregard the so-called armistice and open active operations against our troops and South Korean troops that would require air support above that which we could furnish from our South Korean bases, would we be able to operate B–52s from Okinawa or would we first have to get permission of the Japanese Government?

Mr. STENNIS. I did not hear such an illustration in our testimony.

Mr. GOLDWATER. The illustration given was in the Southeast Asian theater. I am assuming the Southeast Asian theater will have been concluded before this treaty goes into operation. I understand the Japanese Government did not yet authorize it. I use Korea only as an example of what we might have in that part of the world where North Korea could attack our troops or South Korean troops. If the Japanese Government by that time wanted to do so, for political reason such as an alliance with the Soviet Union—which I do not put past the possibility of happening—they could deny us or delay cooperation with us to the point that we could not get what we wanted by launching such an attack.

Mr. STENNIS. In such situations, the "cans" and "cannots" are not always crystal clear in advance, but Prime Minister Sato has said—in November 1969—that the security of South Korea was essential to the security of Japan, and that the security of Taiwan was most important to Japan. That serves as a very strong lead, indicating the spirit in which this arrangement has been made by the President and by the Prime Minister.

I do not think our situation is anything like an absolute, because we are on someone else's property and they could intervene and cause us to get off whenever they wanted, like the French did a few years ago concerning NATO.

The theme of this statement by Prime Minister Sato is that their interest lies with our interest. Of course, that might not always be true in years ahead.

Mr. GOLDWATER. The Senator is getting very close to my basic feeling about this. I am not opposed to the idea. A month ago I would not have been opposed to ratifying the treaty but this is a different world this week than it was 2 weeks ago. World power has shifted from the United States. Our alliances are beginning to weaken. While I have great faith and trust in Japan, if Japan joins those countries which begin to feel the United States has no desire to retain its world leadership, she could very well tell us to get off Okinawa, or stay there, but she might say, "You cannot do anything in a military way."

One other question bothers me and I will not delay the Senator.

Mr. STENNIS. That is all right.

Mr. GOLDWATER. I have a California cold, as we call it in Arizona.

We are going to have to remove our nuclear weapons from Okinawa. There is no other place immediately available without further treaty that would put

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these missiles within the range of possible enemies—Red China or the very remote possibility of the Soviet Union. Somebody is going to have to provide that nuclear umbrella over there and that somebody is going to be Japan.

The question that comes up secondly in my mind, in addition to the limitations placed on our military operations from the island, is a speeding up by Japan of their rearmament, the creation of not just another power but the creation of a fifth world power. The more powers we have in this world seeking world domination, the more certain to me war becomes. I think history will bear me out on that.

So, Mr. President, I conclude by saying I appreciate the Senator permitting me to use a little of his time. We rarely disagree and I think in this case we disagree just a little. I am going to have to vote against this treaty, not that I am going to like to do so, but I have grave appprehensions about its result.

I think if our State Department and the Government of Japan were able to work out a little more leniency toward us on what we could retain over there in the way of forces and how we could use those forces I would see nothing wrong with this, but I am fearful of what can happen.

I thank the Senator for yielding.

Mr. GRIFFIN. Mr. President, will the Senator yield to me?

Mr. STENNIS. Yes, I yield.

Mr. GRIFFIN. Mr. President, I wish to commend the distinguished chairman of the Armed Services Committee for his statement, to which I was privileged to listen. I want to make reference to one fact which, it seems to me, ought to be included in the RECORD.

From time to time I have heard some who are critical of our Government, both within our country and outside the country, refer to the United States as an "imperialistic" Nation.

I intend to vote for the pending treaty. But I believe it should not be overlooked that the Soviet Union, since the conclusion of World War II, has been occupying some islands near Japan that were part of the country of Japan. It is my understanding that there has been no flexibility whatsoever, so far as the Soviet Union is concerned, in terms of turning those islands back to Japan.

I believe that this situation presents an interesting contrast, one that ought not go unnoticed as we vote on this treaty and as we enter into a new era of relationships with our friends the Japanese.

I thank the Senator from Mississippi for yielding.

Mr. STENNIS. I thank the Senator for his contribution. He certainly has made a splendid point.

The matter of occupation in a self-respecting nation, whose people are in a period of growth and expansion, is no small matter. I come from a part of the country which was occupied, and to a degree, completely occupied, for some years. I inherited some knowledge of the attitude of such people. I can understand it better than I otherwise would. It does not make any difference about the color of the skin or the nationality or anything else. The people are a part of the sovereign government, and they just dread the thought of ever being occupied.

I think we have been fortunate to have had this uninterrupted freedom for 25 years, and I believe by this adjustment we will perhaps have it 25 years more; but if we let an extreme, radical group get in control of Japan, we are not going to have it 15 minutes after they get in control.

Mr. President, I yield the floor.

Mr. FONG. Mr. President, the Senate is today deciding whether it should give its advice and consent to ratification of the agreement between the United States and Japan concerning the Ryukyu Islands and the Daito Islands. This treaty provides for the return of the Ryukyu Islands and the Daito Islands to the administrative control of Japan.

After reading and studying the statements that were given before the Senate Foreign Relations Committee on this matter, and after pondering all the ramifications and repercussions that could result from either acceptance or rejection of this treaty, I have concluded that ratification of the Okinawa Reversion Treaty is indeed in the best interest of the United States.

I firmly believe that this agreement will soon be seen as a historic and significant document because it would not only resolve the last major United States-Japanese issue arising from World War II, but it would also allow "the continuation of friendly and productive relations between the United States and Japan."

As President Nixon recognized in his letter of transmittal to the Senate:

> Japan's phenomenal economic growth represents a most significant development for us and for the other nations of the Pacific. Japan is now the third largest producer in the world and has developed with us the greatest transoceanic commerce in the history of mankind. The potential for cooperation between our two economies, the world's most productive and the world's most dynamic, is clearly immense. For this among other reasons, Japan and the United States have a strong mutual interest in the peace and security of the Pacific area. This interest is recognized in our Treaty of Mutual Cooperation and Security, which both our countries recognize as a keystone of our security relationships in that part of the world. I think all Americans also realize that a close and friendly relationship between Japan and the United States is vital to building the peaceful and progressive world both of us want for all mankind. The problems involved in strengthening the fabric of peace in Asia and the Pacific will undoubtedly be challenging. But if Japan and the United States go separate ways, then this task would be incomparably more difficult. Whatever differences may arise between our nations on specific policy questions, it is essential that the basic nature of our relationship remain close and cordial.

I agree with the President's assessment that it is in our country's interest to maintain a strong and positive partnership with Japan. I will vote for ratification because I believe that this treaty will contribute much to strengthening and improving the ties that bind us in our common pursuit for peace, economic development, and human betterment.

Mr. President, before closing, I wish to call my colleagues attention to an issue that has been stirring as a result of our decision to return the administrative rights over these islands to Japan. The question that is on the mind of many people is: Who has the legal and sovereign rights over the Tiao-Yu Tai Islands?

While testifying before the Senate Foreign Relations Committee regarding this matter, Secretary of State William P. Rogers conceded that:

> This treaty does not affect the legal status of those islands at all. Whatever the legal situation was prior to the treaty is going to be the legal situation after the treaty comes into effect.

Likewise, the report issued by the Committee left unresolved the question of legal sovereignty over the Tiao-Yu Tai Islands. On page 5 of its report the Foreign Relations Committee stated that:

> The Republic of China, the People's Republic of China and Japan claim sovereignty over these islands. The Department of State has taken the position that the sole source of rights of the United States in this regard derives from the Peace Treaty under which the United States merely received rights of administration, not sovereignty. Thus, United States action in transferring its rights of administration to Japan does not constitute a transfer of underlying sovereignty nor can it affect the underlying claims of any of the disputants. The Committee reaffirms that the provisions of the Agreement do not affect any claims of sovereignty with respect to the Senkaku or Tiao-Yu Tai Islands by any state.

The Tiao-Yu Tai Islands are a group of eight small uninhabited but oil-rich islands that are intimately related to the Chinese mainland and Taiwan. They are located about 120 miles from Taipei and 240 miles from Okinawa. Likewise, the surrounding waters are less than 200 meters deep while the water which separates these islands from the Ryukyus is over 1,000 meters deep.

Besides the geographical arguments favoring its exclusion from the present treaty, both the People's Republic of China and the Republic of China on Taiwan claim that the Tiao-Yu Tai Islands are historically and politically part of the territory of Taiwan, which both governments agree is a province of China.

Mr. President, in addition to the above reasons arguing against the inclusion of the Tiao-Yu Tai Islands into the Okinawa Reversion Treaty, I have in my possession a facsimile of an Imperial Edict which shows that in 1893 the Empress Dowager Tzu Hsi awarded the three small islands of Tiao-Yu Tai, Huang Wei Yu, and Chih Yu "to Sheng Hsuan Huai as his property for the purpose of collecting medicinal herbs."

One of Mr. Sheng's lawful descendants, Mrs. Grace Yi Hsu, a citizen of the United States, has the original of this document and therefore claims ownership to the three islands in behalf of herself and the other descendants of Mr. Sheng. It is my sincere hope that she be allowed every consideration in proving her family's claim to the three islands.

Mr. President, I ask unanimous consent that a translated copy of the Imperial Edict of Empress Dowager Tzu Hsi regarding the Tiao Yu Tai Islands be printed in the RECORD at this time.

There being no objection, the edict was ordered to be printed in the RECORD, as follows:

TRANSLATION

(Imperial Edict of Empress Dowager Tzu Hsi issued on the 10th month of the 19th year of Emperor Kuang Hsu, *1893*)

The medicinal pills submitted by Sheng Hsuan Huai, *Tai Chang Szu* Cheng* have proved to be very effective. The herbs used in making the pills are said to have been collected from the small island of Tiao Yu Tai, beyond the seas of Taiwan. Being made of ingredients from the sea, the prescription is more effective than that available in the Chinese mainland. It has come to my knowledge that the said official's family has for generations maintained pharmacies offering free treatment and herbs to destitute patients. This is really most commendable. The three small islands of Tiao Yu Tai, Huang Wei Yu, Chih Yu are hereby ordered to be awarded to Sheng Hsuan Huai as his property for the purpose of collecting medicinal herbs. May the great universal benevolence of the Imperial Dowager Empress and of the Emperor be deeply appreciated.

(SEAL OF QUEEN MOTHER TZU HSI.)

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Is it correct to state that the pending treaty covering the Ryukyu and the Daito Islands has now gone through all the stages up to and including the presentation of the resolution of ratification?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. And that it has been decided by the Senate that the vote will occur at 3 o'clock tomorrow, without further debate tomorrow on the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the resolution of ratification.

The yeas and nays were ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

*Tai Chang Szu had control of the Imperial Court Infirmary. Tai Chang Szu Cheng was an official in Tai Chang Szu.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE REVENUE ACT OF 1971

Mr. LONG. Mr. President, I ask unanimous consent to submit at this time, on behalf of the Committee on Finance, a report on H.R. 10947, the Revenue Act of 1947.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I ask unanimous consent to have printed in the RECORD an announcement of committee decisions reached in executive session, released to the press today, so that Senators may know the recommendations of the Senate Committee.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

FINANCE COMMITTEE REPORTS REVENUE ACT OF 1971

Honorable Russell B. Long (D., La.), Chairman of the Committee on Finance, today announced that the Committee on Finance had finished its work on H.R. 10947, the Revenue Act of 1971 and that it had ordered the bill reported to the Senate. The principal features of the bill involve restoration of the investment tax credit, a codification of the asset depreciation rules of the Treasury Department, a speed-up of individual income tax cuts, repeal of the Federal excise tax on automobiles and light-duty trucks, and enactment of tax incentives to spur exports.

The Chairman reported that he was pleased the Committee had seen fit to agree to his amendment to upgrade the tax deduction for child care and housekeeping expenses of working mothers and single parents. He said that mothers who must work in order to provide an adequate living for their family should not be penalized by a tax statute which denied them reasonable deductions for these costs which they must incur when they work.

He also indicated his regret that the Committee on Finance was not willing to increase the personal exemption from $750 to $800. He stated that he was sure this was what the Senate itself would want to do, and he would have preferred that the amendment be added to the bill in Committee. Senator Long said that "without this amendment, the bill still suffers an imbalance as between the tax relief it offers business and the tax relief provided for individuals as compared to existing law."

Senator Long also reported his understanding that the Senate would begin consideration of this bill on Wednesday November 10, 1971.

Before completing its work on the legislation, the Committee on Finance amended the House bill in several important respects. These amendments and the revenue impact of the bill as ordered reported are described in the following paragraphs.

REVENUE IMPACT

In general the Committee bill is slightly more expensive from a revenue standpoint than was the House version. In 1972 the Committee bill involves a revenue reduction of approximately $8.0 billion compared to a loss under the House bill of about $7.8 billion. Most of this difference is accounted for by the amendment to upgrade the deduction for child care and housekeeping expenses in the case of single parents and working wives. A comparison of the revenue impact of the House bill and of the Committee bill for 1971, 1972, and 1973 follows:

REVENUE ESTIMATES OF HOUSE VERSION AND SENATE FINANCE COMMITTEE VERSION OF H.R. 10947

[In millions of dollars]

	1971	1972	1973
Individual income	−1,370	+3,230	−1,090
Investment credit	−1,500	−3,600	−3,900
ADR (5½ year)	+2,100	+1,700	+1,500
DISC		−100	−200
Total of lines 2, 3, and 4	+600	−2,000	−2,600
Excises	−900	−2,560	−2,260
Total	−1,670	−7,790	−5,950

SENATE FINANCE COMMITTEE

Individual income	−1,370	−3,460	−1,305
Investment credit	−1,510	−3,610	−3,910
"WIN" credit		−25	−30
ADR (5½ year)	+2,100	+1,700	+1,500
DISC		100	−190
Total of lines 2 to 5	+590	−2,035	−2,610
Excises	−930	−2,540	−2,240
Total	−1,710	−8,035	−6,165
Change from House	−40	−245	−215

INVESTMENT TAX CREDIT

(a) *Restoration of the Tax Credit.*—The Committee agreed to the proposed restoration of the 7 percent investment tax credit and approved the effective date rules in the House. Under these rules, property ordered after April 1, 1971, or property delivered after August 15, 1971 (regardless of when ordered) would qualify for the credit.

The Committee amendments will clarify that railroad track (and installation costs), certain storage facilities (primarily those used on farms) and other structures closely related to the property they house, and coin-operated laundry machines used in lodging facilities are eligible for the credit.

(b) *Property Used Outside the United States.*—The Committee agreed to the provision in the House bill with respect to tax credits for communication satellites. In addition, it added amendments to the bill to assure that the tax credit will apply also to undersea telephone communication cables manufactured in this country, including cases where the cable connects points outside the United States if it is part of a link with the United States.

Also, the Committee added an amendment to the bill to extend the application of the 7 percent tax credit to special-purpose structures used on the high seas or on the continental shelf of foreign countries for exploration and extraction of undersea minerals.

Finally, the Committee approved an amendment to assure that financial institutions which make financial leases relating to vessels and aircraft used in the foreign trade of the United States would not suffer a reduction in their foreign tax credit by virtue of the transaction. In essence, the Committee amendment will provide that income under such a lease will be treated as income from domestic sources rather than income from foreign sources. This will facilitate arrangements under which lessors will obtain the benefit of the investment tax credit.

(c) *Buy America.*—The Committee generally agreed to the provision in the House bill denying the tax credit to property manufactured abroad for the period within which the import surcharge remains effective. However, this portion of the bill was amended to authorize the President to defer the restoration of the investment tax credit beyond the day on which the import surcharge is terminated. The Committee also agreed to the House provision which authorizes the President, in the public interest, to extend

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the credit to a class of foreign products, but amended it to allow him to make the credit applicable in such cases on a retroactive basis of up to two years.

In addition, it is provided in the Committee amendments that foreign property ordered after March 31 and before the President's State of the Economy Message on August 15 will be eligible for the tax credit. As under the House bill, foreign property acquired thereafter will be ineligible.

It was also agreed that the report of the Committee on Finance will indicate that the President may find that it would be in the public interest to extend the investment tax credit to foreign property, such as agricultural implements, which has long been duty-free under the tariff laws.

(d) *Livestock.*—The Committee agreed to provisions in the House bill extending the investment tax credit to livestock, but it modified the House bill in two important respects. First, horses would not be eligible for the credit in any case. Second, livestock purchased within six months before, or six months after, the sale of similar livestock would be ineligible for the credit unless the investment tax credit on the livestock being sold has been subjected to the recapture rules. For this purpose, young breeding stock acquired to replace animals culled from a herd at the end of their useful life for that purpose would not be "similar" and the credit on the new animals would not be denied.

(e) *Used Property.*—Under the House bill, used property purchases of up to $65,000 would be eligible for the tax credit, but the $65,000 limitation would be reduced or offset by the amount of investment in new property during the year. The Committee deleted the offset feature and reduced the limitation from $65,000 to $50,000.

(f) *Regulated Utilities.*—The Committee agreed to eliminate an inequity between regulated communication utilities which qualify for a 4 percent tax credit and nonregulated communications systems owned by private business which, under the House bill, qualify for a 7 percent credit. The Committee decision equates the two situations by allowing only a 4 percent credit in both cases.

The Committee agreed to restore the full 7 percent tax credit to international telegraph companies. The House bill had cut them back to a 4 percent credit, as if they competed with domestic utilities. Actually, they compete with foreign government-supported international telegraph companies.

The House bill provides that if a utility commission acts contrary to the flow-through rules, and rate base rules, in the bill, the utility would be denied the tax credit for all open years in the past and all future years. The Committee modified the House bill so that the credit would be denied only with respect to the particular commission's area—not nationwide—and only for the period the commission does not follow these rules—not forever.

The House bill exerted a pressure on regulatory agencies to comply with the flow-through, and rate base, rules in the bill by April 1, 1972. The Committee amended the House bill to eliminate the April 1 deadline, and to provide instead that the new rules must be complied with in all final determinations of regulatory agencies after the effective date of the bill.

In addition, the Committee clarifies the House bill to prevent avoidance of the flow-through rules by regulatory agencies insisting on one rule for ratemaking purposes consistent with the bill, and a different rule for accounting purposes. Under the bill, the same rules would be required for ratemaking purposes and in the utilities' "regulated books of account."

Finally, the Committee bill makes the flow-through rules inapplicable in those instances where a regulatory body determines that the natural domestic supply of the product furnished by the regulated company is insufficient to meet present and future needs of the domestic economy.

(g) *Lessee-Lessor.*—The House bill provides that the investment tax credit is not to apply in the case of individuals who are lessors of property unless they are manufacturers or lease on short-term bases. The Committee clarifies the House bill so that corporate partners of a partnership will not be denied the credit.

The Committee also agreed that a lessor may pass through the full tax credit to a lessee only if the lease is for a period in excess of 80 percent of the "class life" of the property. In the case of short-term leases not qualifying for the pass-through of the full investment credit, a proportionate part of the credit—related to the period of the lease as a percentage of the class life for the property—may be passed through, but only to the *first* lessee.

(h) *Carryover of Pre-1971 Tax Credits.*—Under existing law, there is a special limitation under which not more than 20 percent of accumulated tax credits could be used in a year subsequent to 1969. The House bill repeals this limitation effective January 1, 1972. A Committee amendment accelerates the repeal of the 20 percent limitation so that it (as well as the regular 50 percent limitation on use of tax credits) would apply with respect to only five-eights of a calendar year taxpayers' liability for 1971, and the 50 percent limitation (but not the 20 percent limitation) would be applied to the remaining three-eighths of tax liability for 1971.

(i) *Accounting Principles and the Tax Credit.*—The Committee agreed to include in its report language to indicate that nothing in the bill should be construed to preclude the use of "flow through" in the financial reporting of net income in nonregulated industries, but that taxpayers should indicate on their financial reports the methods they used to account for the investment tax credit.

ASSET DEPRECIATION RANGE (ADR)

The Committee generally agreed to the provisions in the House bill which incorporate into the statute the basic rules (other than the first-year convention) of the ADR system announced by the Treasury Department in January, 1971. Among the new statutory rules is one calling for a "class life" system for all assets.

In order to provide time for the Treasury Department to determine class lives for real property (and for so-called subsidiary assets, such as jigs, dies, textile mill cam assemblies, returnable containers, glassware and silverware), the Committee agreed to permit taxpayers to continue to use, for up to three years, shorter useful lives for those types of property if the shorter life is one which can be justified under the 1962 depreciation guidelines. Under this amendment, the transition period would end sooner than three years if the Treasury promulgates class lives for the property in question.

The Committee also agreed that railroads would be given an option, on a year-by-year basis, to use the repair allowance rules in existing law as added by the Tax Reform Act of 1969 or those under the ADR rules being codified by the bill.

PERSONAL TAX PROVISIONS

(a) *Withholding Changes.*—The House bill makes changes in the withholding taxes to reflect higher personal exemptions and low income allowances and to reduce underwithholding. The new rules would become effective under the House bill in two steps. The first occurring November 15, 1971; and the second occurring on January 1, 1973. The Committee bill makes the entire change in the withholding rates effective January 1, 1972.

(b) *Deduction for Child Care-Housekeeping Expenses.*—The Committee agreed to an amendment under which (i) single parents—those who are widows or widowers, divorced or separated, (ii) taxpayers with disabled spouses, and (iii) married couples whose combined income does not exceed $12,000 per year, would be allowed to deduct up to $400 per month of the expenses involved in obtaining care, including housekeeping services, for children under age 14 or for disabled dependents in the taxpayer's home in order for the person to become gainfully employed. If the taxpayer chooses to have his children cared for in a child care center or in other child care facilities outside his home he could apply up to $200 per month of this deductible amount toward the expenses of caring for one child, $300 if two children are involved and the full $400 if more than two children are so cared for. In such a case, the remaining amount not used for outside child care would be available as a deduction with respect to amounts paid as housekeeping expenses.

Where a disabled dependent is being cared for, the amount of the deduction under this amendment must be offset by disability benefits received with respect to the dependent. In the case of married couples, the amendment would provide for a reduction in the total deduction that may be claimed so that for each $1 of additional earnings the amount deductible would be reduced by $.50.

EXCISE TAX ON AUTOMOBILES, TRUCKS, ETC.

(a) *General.*—The Committee generally agreed with the features in the House bill providing for repeal of the 7 percent excise tax in the case of passenger automobiles and the 10 percent excise tax in the case of light trucks, those having a gross vehicle weight of 10,000 pounds or less. However, the Committee amended the House bill in a number of relatively minor respects.

First, it provided that the effective date of the repeal of the tax on light trucks will be fixed at August 15, 1971, thus conforming with the effective date provided by the House bill with respect to repeal of the automobile tax. Under the House bill, repeal of the light truck tax would have been September 22, 1971.

Second, the Committee agreed to impose a tax on original equipment tires on imported automobiles, trucks and other equipment and implements conforming the treatment of these tires with the treatment of tires for domestically produced vehicles.

Third, the Committee amended the House bill to repeal the 10 percent tax on light trailers generally used in connection with the light trucks the tax on which would be repealed by the bill. The trailers eligible for this tax exemption are those having a gross vehicle weight of 10,000 pounds or less. The Committee understands that the savings from repeal of the tax on these trailers will be passed on to the ultimate purchase of the trailers.

(b) *Foreign Automobiles and Light-Duty Trucks.*—In addition to the repeal of the excise tax on domestic automobiles and light-duty trucks, the Committee agreed to suspend the tax on *foreign* automobiles and light trucks, also effective August 16, 1971. However, the President would be authorized after the date of enactment of this Act to terminate the suspension and in effect to reimpose the excise tax on imported cars and light-duty trucks from any foreign country which discriminates against automobiles of U.S. manufacturers. The President's authority will be limited by the provisions in existing law which provide for a progressive reduction and ultimate repeal of the automobile excise tax by 1982, and a reduction of the 10 percent tax on trucks to 5 percent on October 1, 1977. After 1981, his authority with respect to both automobiles and light-duty trucks would terminate.

This amendment could be applied by the President, for example, to automobiles imported from those countries which impose special horsepower or weight taxes which discriminate against U.S. automobiles, or which impose higher consumption taxes on U.S. automobiles than are imposed on domestic cars, unless the discrimination is removed.

(c) *Truck Parts.*—The Committee *declined* to approve an amendment which would have repealed the tax on parts suitable for use on light-duty trucks. In making its decision, the Committee was aware that today there is no tax on automobile parts and, in many instances, parts used on automobiles are interchangeable with those used on light-duty trucks, the tax on which is repealed by this bill. Thus, in many situations, the truck part involved will not be subject to tax. Where the part involved is not interchangeable with an automobile part, the Committee felt it unwise to write an exemption which might apply to parts used on larger, taxable trucks.

(d) *Highway Trust Fund—Alcoholic Beverage Tax.*—The proposed repeal of the excise tax on light-duty trucks and trailers reduces the amount of revenues flowing into the highway trust fund for use in construction of the interstate highway system by about $350 million.

In order to restore an approximately equivalent amount to the highway trust fund so that the highway construction schedule will not be impaired, the Committee agreed to divert 7 percent of the revenues from the Federal excise tax on alcoholic beverages to the highway trust fund.

Under this amendment these revenues will be made available to the highway trust fund for each year through 1977.

Fourth the Committee will clarify the tax exemption of demonstrator vehicles and cars made available by dealers to schools for driver training prior to August 15 but which are returned to the dealer and sold by him subsequent to that date. Under this Committee decision, a refund of the tax on demonstrator automobiles and cars will be available if more than 50 percent of the mileage remaining under the warranty is unexpired on the date the vehicle is sold (under the House bill more than 80 percent of the warranty mileage must have been unexpired).

STRUCTURAL IMPROVEMENTS

(a) *Standard Deduction and Personal Exemption—Trust Income.*—Under the House bill, the beneficiary of a reversionary trust would not be allowed to use his personal exemption or standard deduction to offset the trust income if he is related to the grantor of the trust. The Committee substitutes for this provision in the House bill a new rule under which the standard deduction (but not the personal exemption) would be denied with respect to unearned income of a child entitled to be claimed as a dependent of another taxpayer.

(b) *Hobby Losses.*—The Committee approved the provisions in the House bill relating to farm losses incurred by subchapter S corporations but added to the bill an amendment to clarify the treatment of hobby losses under the Tax Reform Act of 1969. Under the Act there is a presumption that an activity is engaged in for profit if the taxpayer realizes a profit in two out of the last five years (two out of seven if the activity relates to the racing of horses). Under the 1969 Act, this presumption would not apply if the loss year preceded the profit year during the first five (or seven) years of a trade or business or during the transition period following the effective date of the 1969 Act. The Committee amendment makes it clear that the presumption does a apply regardless of the order in which the profit years occur in these transition periods.

(c) *Western Hemisphere Trade Corporations.*—The House bill contained an amendment to make the Western Hemisphere Trade Corporations provision inapplicable if less than 95 percent of a corporation's gross income was derived from sources outside the United States and the Virgin Islands. Under existing law, Virgin Island income was treated as qualifying income. The Committee approved the provision in the House bill in principle with a relatively significant modification.

The Committee narrowed the scope of the House provision so that for Virgin Island tax purposes, the Western Hemisphere Trade Corporation provisions would be inapplicable. Thus, income taxable in the Virgin Islands would not be eligible for the 14 point tax reduction.

(d) *Capital Gains—Minimum Tax.*—The House bill provided that foreign capital gains and stock options would be treated as tax preference items for purposes of the minimum tax if the foreign country imposes no significant tax with respect to them. Under the House bill, this treatment applied retroactively to the effective date of the minimum tax, January 1, 1970. The Treasury Department had originally issued proposed regulations to the effect that if a country imposed no or a very small tax on all income, the amounts in question would not be tax preferences under the minimum tax. On June 24, 1971, the regulations were reproposed to indicate that these items would involve preferential income. The Committee bill clarifies the past by treating the items as tax preferences for minimum tax purposes from June 24, 1971. It also agreed to clarify that foreign non-taxable transactions, such as corporate reorganizations are not to cause a capital to be treated as a tax preference if it is considered to arise for United States tax purposes because of an allocation of income or a deemed distribution under the corporate reorganization provisions.

(e) *Net Leases-Real Estate.*—The Committee generally agreed to the provision in the House bill regarding the determination of excess interest for purposes of the minimum tax and, effective in 1972, the denial of a deduction for one-half of net investment interest. However, the Committee modified the House bill (and the existing law) in three significant respects. First, it amends the definition of excess investment interest so that to the extent the taxpayer incurs an "economic loss" as contrasted to a "tax loss," the interest involved would not be "excess investment interest," and therefore would remain deductible. In addition, the Committee bill will provide that in determining "excess investment interest" under the so-called 15 percent method taxpayers may elect to aggregate their leases in a single property making it unnecessary to characterize each lease separately as a business lease (the interest on which would be deductible) or as an investment lease (the interest on which would be a preference).

Finally, the Committee agreed to omit properties five years or older from the calculation of excess investment interest unless the taxpayer elects to include all such properties as investment properties.

(f) *Capital Gains Income of Trusts-Throwback Rules.*—The Tax Reform Act of 1969 included a provision to become effective in 1972 under which capital gain income of trusts would be subjected to an unlimited throwback, just as other income of the trusts. A Committee amendment to the bill would defer for one additional year until January 1, 1973, the effective date of the 1969 provision.

(g) *Bribes and Kickbacks.*—Under the Tax Reform Act of 1969 certain bribes and kickbacks (which under the prior law had been deductible) inadvertently were made deductible. The Committee amended the House bill to restore the prior law by denying the deduction for bribes and kickbacks or other illegal payments where the payment involved was in violation of a State statute which is being generally enforced, or in violation of a Federal law. In addition, the Committee bill makes medical referral fees (bribes or kickbacks) illegal under the Medicare-Medicaid Program and other Federal health programs.

(h) *Dividend Distribution to Foreign Corporations.*—Present law limits the portion of a non-cash distribution from one corporation to another which may be treated as a dividend to the lower of the fair market value of the property or its adjusted basis. In the case of distributions to foreign corporations this rule may permit avoidance of U.S. tax on the gain when the property (on which dividends were limited to adjusted basis) is later sold by the foreign corporation. To deal with this possibility, the Committee bill includes an amendment under which the taxable amount of a dividend in property to a foreign corporation will be the fair market value of the property distributed.

(i) *Original Issue Discount.*—The Tax Reform Act of 1969 provided rules for taxing original issue discount on bonds, but makes no provision for collecting tax on this discount in the case of bonds held by a nonresident alien. The Committee bill includes amendments under which the issuer of bonds (with a maturity of more than six months) to a non-resident alien individual would withhold tax (at the regular rate of 30 percent), not only on the interest paid on such bonds, but also on the original issue discount attributable to the period to which the interest relates.

(j) *Foreign Beneficiary of Domestic Trust.*—The Committee bill changes the rules for taxing rental income received by a foreign beneficiary of a U.S. trust (such as a real estate investment trust) to correct a situation under which the 30 percent withholding tax has been diluted by assessment against a "net" income of the trust rather than a "gross" income. Under the Committee decision, the amount of trust income taxed to the foreign beneficiary will be "grossed-up," by in effect adding back in the foreign beneficiary's share of deductions taken by the trust.

DOMESTIC INTERNATIONAL SALES CORPORATION

(a) *General.*—The Committee on Finance agreed to the provisions of the House bill relating to Domestic International Sales Corporations (DISC) with three important amendments:

(1) In lieu of the approach of the House bill to allow deferral only with respect to profits on sales above base-period sales (the base period would be 75 percent of export profits in the three-year period 1968–1970), the Committee amendment permits tax deferral on 50 percent of the export profit of the DISC.

(2) Whereas the DISC provisions of the House bill were written as permanent law, the Committee amendment would terminate the deferral privilege after 1982. Under this Committee amendment, income deferred during the intervening ten years could remain deferred beyond the termination of the DISC legislation.

(3) Deferral is not to be allowed to the extent DISC profits are invested in foreign plant or equipment. Under this "fugitive capital" feature, a DISC's profits will be considered invested in foreign plant or equipment to the extent foreign plant and equipment investments of the DISC's parent (and affiliates) are in excess of (a) 50 percent of the group's foreign earnings, plus (b) the amount of funds raised by the group in the form of debt or equity.

(b) *Export Trade Corporations.*—The Committee also approved an amendment which would retain in the law provisions authorizing tax deferral in the case of Export Trade Corporations. Under the House bill, these deferral provisions would have been terminated with the enactment of the DISC. Under the Committee amendment, existing Export

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Trade Corporations may continue to be used as an alternative to Domestic International Sales Corporations.

JOB DEVELOPMENT—WORK INCENTIVE PROGRAM

The Committee approved an amendment (the text of S. 1019) to develop job opportunities for welfare recipients through a job development tax credit and through improvements in the existing Work Incentive Program for Welfare recipients.

As an incentive for employers in the private sector to hire individuals placed in employment through the Work Incentive Program, the amendment would provide a tax credit equal to 20 percent of the wages and salaries paid to these individuals. The credit would only apply to wages paid to these employees during their first 12 months of employment. It would be recaptured if the employer terminated employment of an individual during the first 12 months of his employment or before the end of the following 12 months.

The amendment would also make a number of structural improvements in the existing Work Incentive Program for welfare recipients. First, it would require that 40 percent of the funds spent for the WIN Program be for on-the-job training and public service employment. Second, it would require the Secretary of Labor to establish local labor market advisory councils whose functions would be to identify present and future local labor market needs. These findings would have to serve as the basis for local training plans under the WIN Program to assure that future training was related to actual labor market demands. Third, it would simplify the financing and increase the Federal share of the cost of public service employment (special work projects) by providing 100 percent Federal funding for the first year and 90 percent Federal sharing of the costs in subsequent years.

BALANCE OF PAYMENTS EMERGENCY AMENDMENT

The Committee approved an amendment to provide the President with discretionary authority to protect the balance of trade and balance of payments of the United States by allowing him to: (1) impose selective or general import quotas, or (2) impose an import surcharge of up to 15 percent of the value of the imported article, during a "balance of payments emergency."

Under the amendment, the "national emergency" proclaimed by the President on August 15 under Proclamation numbered 4074 is deemed to be a balance of payments emergency for the purpose of this amendment. In addition, for future emergencies, the President may, from the date of enactment until December 31, 1976, proclaim a balance of payments emergency whenever he determines that—

(1) The balance of payments has been in deficit for four consecutive calendar quarters;

(2) The United States has suffered a serious decline in its international monetary reserves; and

(3) There is a serious threat to the international financial or international trade position of the United States.

The President could terminate a balance of payments emergency period at any time. In any event, it would terminate three years after he initially proclaims it, unless within that period, he proclaims it is necessary to continue the authority, in which case it may continue until December 31, 1976.

The quota and surcharge authority may be used selectively with respect to countries and products, except that the President may not impose a quota and surcharge on the same product, and must relate any quota to a recent representative base period of imports. The surcharge may not be applied to duty-free products. The President may increase, or decrease, or terminate the quotas or surcharges in effect or impose new ones, in accordance with the criteria specified above.

In general, the quota features of this amendment are patterned after Article XII of the General Agreement on Tariff and Trade, which permit countries suffering balance of payments difficulties to protect their external monetary reserves by imposing quotas. The amendment would make it unnecessary for the President to invoke the broader authority included in the "Trading With the Enemy Act" against friendly trading partners. The authority granted by this amendment with respect to surcharges clarifies the President's authority to impose surcharges on imported goods, enabling him to impose a uniform surcharge without regard to the amount of prior tariff concessions. The surcharge he proclaimed on August 15 was less than 10 percent in some cases because the authority under which he acted limited his action to a termination of suspension of past concessions. The Committee felt that the flexibility afforded the President by this provision to impose surcharges and quotas selectively is necessary in the light of the continuing balance of payments crisis and the negotiations over trade and monetary matters which are likely to continue over the next several years.

GENERAL

Provisions of the House Bill Not Described Herein were generally approved by the Committee without substantive change.

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 425, S. 2820. I do this so that the bill may become the pending business.

The PRESIDING OFFICER (Mr. HANSEN). The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 2820) to provide for an economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, for the information of the Senate, the introductory statements will be made on this bill this afternoon. There will be no votes today. The distinguished assistance majority leader has indicated the procedure which will be followed; I make this statement only to corroborate what he has said, and to put the Senate on notice as to what the situation will be for the rest of the day.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I believe that the Senates' rejection of the omnibus foreign aid bill was a salutary development which should lead to a more rational foreign aid policy and a more realistic view of America's role in the world. The Senate's 41-to-27 vote was a rejection of the old; the bill before us is the beginning of the new. This bill represents the first, irrevocable step toward reordering our foreign aid priorities.

The Committee on Foreign Relations has reported two interim bills which provide reduced funds for a phaseout of the old economic and military aid programs pending the drafting of a new long-range program by the committee next session. Each of the two revised bills begins with a statement of policy which states that:

The bill looks to the phaseout of the current program and to the establishment of a new one which will command the respect and support of Congress and the American people.

Obviously, the old programs did not.

The defeat of H.R. 991 by the Senate was the result of a number of factors. One was the fact that, traditionally, authorizations for foreign economic development, humanitarian, and military programs have been lumped into one bill, forcing members of the Senate to take—or reject—the bad with the good, according to how he viewed each category. The Senate's rejection of H.R. 9910 reflected the growing dissatisfaction by Members with one or more components of foreign aid. Some support bilateral economic and humanitarian aid but oppose military aid. Many Members support military aid and oppose economic assistance. Others support multilateral and humanitarian aid but oppose bilateral aid, as presently constituted. And so it goes. Members of the Senate have not been accorded the opportunity to vote on the merits of each major aid category—bilateral economic aid, military aid, and multilateral and humanitarian aid.

In order to insure that each of the three major categories stood, or fell, on its own merits, I offered in committee three bills which separated the present hodge-podge of programs and allowed authorizations at reduced levels during the phaseout period. Three bills, instead of two, would have provided a sharper delineation of the purposes and objectives of each aid category, and given guidance on how the Senate wanted the new foreign aid programs to be shaped for the future. But, to my regret, the committee decided to combine the bill for bilateral economic aid with that for humanitarian and multilateral programs. The Senate will still be prevented from expressing itself clearly on each of the three categories.

In the past the Foreign Relations Committee has urged passage of separate bills for economic and military assistance. But, thus far, it has failed to persuade the House of Representatives on the merits of separating the two programs, primarily, I believe, because of tactical considerations in getting aid legislation through the House. The committee last tried to separate the economic and military programs in 1966. Its report on the economic aid bill had this to say:

A majority of the committee believes that handling programs by separate bills will allow each to stand on its own merits and that the public will gain a better understanding of the distinctions between the two programs. It has been argued that the economic aid program may be emasculated by the Congress if military assistance is not a part of the package. If the economic aid program is so distasteful to the public and the Congress, it should not continue to have a free ride on the back of military aid. Congress should have the opportunity to consider the program as a separate measure and shape it to more acceptable proportions if it is that unpopular.

The committee has again decided to report two separate bills which will permit Senators to weigh military and economic aid on their respective merits. No longer will either of these categories ride on the back of the other. Each will stand or fall by itself.

Together, the two bills approved by the committee contain all of the policy provisions in the omnibus foreign aid bill defeated by the Senate. These provisions appear in whichever of the two new bills is most appropriate for the subject matter. For example, the Cooper-Church amendment and the prohibition on aid to Greece do not appear in either bill, since they were stricken from H.R. 9910 by vote of the Senate. However, the requirement for the phaseout of development loans is in this bill; the Mansfield amendment, and the $341 million ceiling on aid to Cambodia are carried over in the military aid bill. The only substantive change added in the committee is an amendment relating to the administration of the program for relief of Pakistani refugees.

The pending bill authorizes a total of $1.1 billion for economic and humanitarian assistance programs in fiscal 1972. Of this amount, $695 million is for bilateral economic assistance programs, $154 million is for multilateral programs—primarily under United Nations auspices—and $295 million is for humanitarian relief programs. This is a reduction of $160 million from the amounts in the omnibus bill defeated by the Senate.

In addition to these money authorizations, the bill makes the following policy changes:

First, calls for shifting more of our economic aid to a multilateral basis and requires a phasing-out of the bilateral loan program;

Second, ties the release of funds appropriated for foreign aid and military sales funds to prior release of impounded funds for domestic programs;

Third, provides for annual authorization of appropriations for the Department of State and the U.S. Information Agency;

Fourth, suspends all assistance and military sales to Pakistan, except humanitarian relief. The President must make certain findings before aid could be resumed;

Fifth, tightens the Hickenlooper amendment relative to prohibiting assistance to countries which expropriate American-owned property without fair compensation;

Sixth, authorizes assistance for purposes of controlling the international drug traffic and provides for a cutoff in assistance to countries which do not take adequate steps to control the production, processing, and distribution of drugs; and

Seventh, calls upon the President to take appropriate action to bring about a reduction of the United States regular assessments for the United Nations to not more than 25 percent of the total U.N. budget, and requires annual authorization of U.S. contributions to United Nations programs.

Mr. President, the handwriting has been on the wall for foreign aid for years. On the basis of the reaction of my own constituents, and from what I have heard from my colleagues, the public seems to look upon the Senate's defeat of the aid bill as one of the few constructive things Congress has done in recent years. Perhaps it was inevitable that a foreign aid bill had to go down to defeat before real reforms could be made. No foreign policy can be successful unless it has the support of the American people. Both foreign aid and the war in Vietnam are prime examples. Foreign aid squeaked through Congress each year only because it was constantly being sweetened up with something for everybody—exports for business and labor, investment guaranties for the bankers, fighting communism with arms aid for the conservatives; building schools and hospitals for the liberals; and so on down the list. Foreign aid bills have become a grab bag, a grab bag for everyody but the American people who pay the bills.

I think it is fair to say that the public neither supports nor understands the rationale for much of the foreign aid program. Humanitarian aid, yes. But the programs for which the great bulk of the aid money goes have yet to make a valid case in the public mind. If the new approach to foreign aid is to succeed in the long run, it must be one which the people understand and support. It will not be easy to create a sensible program out of the present chaotic situation but that is the challenge for the committee in the coming months. We will do our best to develop a new concept which will command the support of both Congress and the public.

I believe we are now at a critical turning point and that the Senate is in the position to initiate a major revision in American foreign policy.

Mr. President, the report on this bill, of course, carries a detailed analysis of the provisions of each of the aid categories. As I have said, I think it is better to have two bills than one, but it is not as good as three.

In view of the situation on the floor at present, I think it would be useful at this time to make the statement on the military aid bill although it is not pending; it will however follow this bill. This will, I think, prove useful by having the two statements together in the RECORD.

Therefore, I will proceed to make a short statement on the military aid bill, which I understand is scheduled to follow the economic aid bill.

THE MILITARY AND RELATED AID BILL

I will be brief in explaining the committee's recommendations for military and related aid. The Senate is already aware of the committee's objectives in separating the omnibus foreign aid package into two bills.

This bill authorizes a total of $1,185,000,000 for military aid and related programs in fiscal year 1972. This is a reduction of $425 million from the same programs in the bill as defeated on October 29. The total is broken down as follows:

[In millions]

Military grant assistance	$350
Military credit sales	400
Supporting assistance—general	350
Supporting assistance—Israel	85

A ceiling of $550 million is authorized for military credit sales and, of that amount, not less than $300 million is earmarked for Israel.

In addition to the authorizations I have listed, the bill carries over the pertinent policy provisions from H.R. 9910. The most significant of these are:

First, declare a national policy that all U.S. forces be withdrawn from Indochina within 6 months, subject to release of prisoners of war;

Second, imposes a ceiling of $341 million on obligations and expenditures in or for Cambodia in fiscal year 1972 and puts a ceiling of 200 on the number of American civilian and military government personnel in Cambodia;

Third, requires the President to submit to Congress a country-by-country list of foreign aid allocations within 30 days after passage of the appropriation bill and permits a maximum 10-percent increase in aid in each category and country by transfer of funds from other countries or program without advance notice to Congress;

Fourth, requires advance notice to Congress before use by the President of the transfer, waiver, and certain other special authorities available to him under the Foreign Assistance Act;

Fifth, requires a 25-percent cutback by September 30, 1972, in the number of U.S. military personnel assigned abroad to military advisory missions or similar groups;

Sixth, requires 25-percent payment in foreign currency for U.S. military grant aid; and

Seventh, prohibits waiving by the President of the ceilings on military aid and sales to Latin America and Africa.

Mr. President, the military assistance to be authorized by this bill is only a small part of the money and arms the United States plans to give this fiscal year to other countries for military purposes. The conference report on the defense authorization bill, which will be before us shortly, contains an authorization of $2.5 billion in military aid for Southeast Asia; $454 million in surplus weapons and materials will be given away under authority of the pending bill and other legislation—not counting the vast amounts to be given to South Vietnam, Thailand, and Laos; $90 million in naval ships will be transferred to other countries; and so it goes. All components add up to a total military aid program of nearly $5 billion. And that does not include military aid channeled through the CIA or cash and commercial sales of arms.

There is still about $1.4 billion in the pipeline for the regular military grant aid and credit sales programs, which are to receive additional funds under this bill. We will be dispensing arms through these programs for a long time, even if no additional money is provided this year.

I believe that the amounts the committee approved are much too generous and I hope that they will be reduced by action on the floor. The $1.2 billion in this bill is $370 million more than Congress appropriated for the same purposes in fiscal 1970. With a $30 billion-plus deficit facing us, an unprecedented balance-of-payments deficit, and continued deterioration of our domestic situation, especially in the big cities, I think that

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Congress should not approve a military aid program above the 1970 figure.

In closing, Mr. President, I wish to say a few words about the many dire predictions we have been hearing from the vested foreign aid interests about the terrible things that will happen—both here and around the world—if we stop, or seriously reduce the aid program. They differ only in degree from the predictions of calamity we get from the executive branch each year that Congress cuts back a bit on an administration request. Congress has heard cries of "wolf, wolf" for many years. Yet, the world still turns and it will continue to turn if we do not pass any military aid bill at all.

Whether we have a military aid program, and, if so, how large, is a matter on which the Senate should exercise its independent judgment. The track record of the last several Presidents in the use of military aid as a foreign policy tool is not a persuasive one. I think the Senate is capable of doing better and the reductions made by this bill are a good start, although not so much of a start as I would like.

Mr. President, recently there have been two or three other things I want to call to the attention of the Senate which I believe are relevant to these bills.

THE AIR WAR IN INDOCHINA

Mr. President, most Americans appear to hope and believe that American involvement in Southeast Asia and direct American participation in fighting in Vietnam are coming to an end. These hopes and beliefs are constantly reinforced by an endless series of official announcements dealing with projected troop withdrawals, the deactivation of military units and comparisons of past and present trop strengths and casualty figures. Moreover, day after day we are reminded that combat responsibility is being handed over to the Vietnamese.

Due perhaps to the extraordinary success of this thought conditioning process, relatively little public attention has been devoted to the continuing intensity of the U.S. air war in Indochina. It will come as a surprise, therefore, to most Americans to read that "in 1971 as much bombing is being done in Indochina as was done in all theaters in World War II." Similarly, it will surprise many to read that the Nixon administration, which promised us an end to the war "will have deployed in 3 years as much bomb tonnage as the Johnson administration did in 5."

The foregoing statements, supported by extensive documentation, appear in a research document entitled "Air War in Indochina" release today by a group at Cornell University. I commend this report to the attention of my colleagues. The air war report not only renders a detailed accounting of the tragedies and failures connected with the Southeast Asia air war in the past 7 years but, more importantly, it underscores the need for a clear cut statement of policy on the part of the President regarding the future of U.S. air operations in Indochina.

It is obvious to me after examining this report that the answer to the question of whether American involvement in the war is to be ended—as the American people hope and believe—or whether the administration will continue to deal in illusions, is bound up in the President's future plans with regard to American air combat units in Southeast Asia.

While acknowledging that U.S. air activity in South Vietnam has been significantly reduced in the past 3 years, the air war report makes it abundantly clear that "as U.S. troops are withdrawn, massive aerial firepower remains to substitute for manpower." On the basis of the analysis presented in the report it appears that direct U.S. combat air support is of even greater importance in the ongoing conflicts in Cambodia and Laos than it is in South Vietnam.

Thus far the administration has not evidenced any credible interest in negotiating a political settlement in Indochina or in reaching an agreement which would secure the release of American prisoners in return for setting a complete withdrawal date. It is difficult to escape the conclusion, therefore, that the President is still determined to control the future of Southeast Asia by the application of force. As time passes and U.S. troop withdrawals continue in the absence of compromise, I fear that the administration will find itself, as the air war authors suggest, "still boxed in by the enemy's military initiatives" with retaliation from the air as the only remaining available response.

In light of the facts and analysis presented in the air war report, such a strategy would appear to be unacceptable both in terms of its indiscriminate and destructive impact on the people of Southeast Asia, and in terms of the political and military risk involved.

I hope that my colleagues in the Senate will study the air war report and reflect upon its findings. When one considers the futility and the tragedy of the air war one can well ask, as the authors of the report do, Why was it done? A more timely question, and one which the President should be expected to answer a week from today is, Will it continue?

Mr. President, I ask unanimous consent to have the press release bearing on this research report printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

AIR WAR IN INDOCHINA

A research report released today by a group at Cornell University presents for the first time detailed statistical data on the American air war in Indochina. The report contains both a historical account and a technical analysis of the problems connected with air missions. This provides the basis for an accurate interpretation of the present level of deployment of American air power and for a study of the trends for the immediate future. The data reveal that, contrary to reports and impressions, the air war in Indochina is not being "wound down" like the ground war. As U.S. troops are withdrawn, massive aerial firepower remains to substitute for manpower. The Administration's policy of withdrawal-without-political-compromise leaves it still boxed in by the enemy's military initiatives; the only response available is massive retaliation from the air.

The study, sponsored by the Center for International Studies at Cornell University, found that in 1971 as much bombing is being done in Indochina (which is about the size of Texas) as was done in all theaters in World War II. In the first 8 months of this year, over half a million tons of air-dropped munitions were used, 17 times the total amount used by the British in 10 years of successful counterinsurgency in Malaya. By the end of this year, the Nixon Administration will have deployed in three years as much bomb tonnage as the Johnson Administration did in five.

In South Vietnam alone, the U.S. has already dropped 3.6 million tons of bombs, almost four times as much as it used in the Korean war. The report presents a study of the impact of an air war conducted on such a scale. Only 5% to 8% of the air sorties flown in South Vietnam were in direct support of American or allied troops in battle; the rest were for interdiction, harassment, and retaliation—missions which, in a country being defended not attacked from the air, result in widespread civil destruction among the population whose allegiance is being sought. The motivation for many of the air strikes is documented by the leaflet drops which preceded them; the texts of several such leaflets are cited. In South Vietnam to date, it is estimated that there have been over one million civilian casualties, including 325,000 deaths, while over 6 million people (one-third of the population) have become refugees.

U.S. air activity in South Vietnam itself has been cut back, with the South Vietnamese Air Force taking up some of the tactical bombing assignments. U.S. emphasis is now more on saturation bombing by B–52 Stratofortresses. A typical mission of six B–52s drops 300,000 pounds of high explosive in a fraction of a minute. (A hand grenade contains less than one pound.) Such bombing without a detailed target demolishes an area corresponding to 200 city blocks. Over half the tonnage dropped in South Vietnam has been in such massive saturation raids.

Bombing of the North between 1965 and 1968 failed to yield significant results. Economic damage inflicted was about $500 million, with casualties reaching 100,000, 80% of whom were civilians. (Equivalent damage in the U.S. would have been $200 billion and 1.2 million casualties.) In spite of the intensity of the air effort, CIA and Defense Department studies at the time showed no measurable reduction in North Vietnam's will or capability for contributing to the war in the South. The statistics cited in the report show that the 1968 bombing "halt" did not actually reduce air activity in Indochina, but only shifted the focus—first to below the 20th parallel, and then to Laos and the Ho Chi Minh Trail.

Despite Nixon Administration denials, a major air effort has been carried out in northern Laos to support ground activities of the Royal Laotian Government totally unconnected with the conflict in Vietnam. U.S. bombing there during 1969, the study reveals, was as intense as that during the attack on North Vietnam (200,000 tons per year in an area the size of Kentucky), and even fewer restrictions were placed on the use of air power than in Vietnam. The recurring reports of widespread devastation of Laotian society are credible in the light of these facts. Despite this massive bombing effort the Pathet Lao now control more territory than ever before.

In Cambodia, American air operations have been conducted with sustained intensity since 1970. They have included not only interdiction missions against supply and troop concentrations in the northeast, but also close-support operations for Cambodian and South Vietnamese troops. At present Cambodia has joined the list of Indochinese countries totally dependent on the U.S. for their military and economic survival.

The air war over the Ho Chi Minh Trail in southern Laos has been steadily escalating since 1966, with 400,000 tons of munitions dropped this year. This interdiction campaign has become the focus of the U.S. air war in Indochina; it has also served as a laboratory for the improvement of air-war technology. Elaborate and expensive electronic devices are being developed as instrumentation for an "electronic battlefield," the goal of which is automated and computerized warfare, providing an all-weather, day-night interdiction capability. This development is a further step in the depersonalization of war: "machines fight the gooks, and no human beings are involved on either side!"

The direct budgetary costs of the air war thus far have been about $25 billion, or about one-quarter of the cost of the Indochina war, with the total U.S. economic costs estimated at more than $50 billion. The immense cost to the people of Indochina cannot be put in such precise figures, but it must be taken into account in evaluating the air war.

The air war has also resulted in a direct and massive onslaught on the ecology of Indochina. More than one-third of the forest area of South Vietnam has been sprayed with defoliants, one-half of the country's mangrove forests have been killed off, and enough food has been destroyed by herbicides to feed 600,000 people for one year.

In terms of military effectiveness, the study finds that although air power has been able to achieve narrowly defined military missions, such mini-successes have not added up to yield an overall position of strength. U.S. political aims in Indochina are hardly more secure today than ten years ago. Indiscriminate destruction resulting from the use of air power amidst civilian populations contributes to the continuing weakness of friendly regimes in Indochina.

Various examples point to the paradox inherent in the mechanized American response to guerrilla warfare. For instance, one Defense Department analysis showed that the massive American bombing gave the enemy more than enough explosives from dud bombs, 27,000 tons in 1966 alone, to make his mines and booby traps. Such devices killed over 1,000 U.S. soldiers that year, while the air strikes were estimated to have killed no more than 100 of the enemy.

The credibility of U.S. government statements about the air war is called into question by numerous discrepancies. The Pentagon Papers have now revealed developments through early 1968; this report draws attention to events since that time. In 1969, when 200,000 tons of bombs were dumped on northern Laos, Washington officially admitted only to flying "reconnaissance" missions. B–52 raids in northern Laos went on for more than a year before official acknowledgement. It was stated that U.S. planes were not giving close support to Cambodian troops when in fact they were. "Protective reaction" raids against North Vietnam strike a wider range of targets than their official description implies.

In surveying the present trends in the air war, the report finds that there has indeed been a significant withdrawal of American air power from Southeast Asia. Despite this relative decrease in the number of U.S. aircraft deployed in the theater, more than enough remain to permit a continuation of the air war on a massive scale. American attack planes are being withdrawn primarily from bases within South Vietnam, substantial numbers remain in operation from bases in Thailand and carriers in the South China Sea. At the same time, the South Vietnamese Air Force is being built up to take over many of the in-country operations, while relying however, on U.S. aircraft for the maintenance of air superiority and for missions in other parts of Indochina.

Aerial bombing has undeniable military advantages in conventional warfare with massed troop concentrations; but in guerrilla warfare, the study concludes, the American capital-intensive response, substituting lavish firepower for manpower, is both inefficient and indiscriminate. Military gains, which at most buy time, are mitigated by heavy civilian damage from air war, the consolidation of enemy morale which frequently results, and the unfavorable image of the U.S. projected abroad. Close air support of friendly troops has definite advantages—but only a small fraction of the U.S. air effort has been devoted to that mission. Interdiction is a valid objective—but it has yet to be shown that air power under Indochinese conditions can reduce the flow of men and material enough to curtail guerrilla activities.

This study of the air war in Indochina was undertaken by 20 researchers from the fields of government, economics, Southeast Asian studies, international law, ecology, history, and the natural sciences. It is based on interviews with over 80 experts and a survey of available literature. The work was sponsored by the Peace Studies Program of the Cornell Center for International Studies and the Program on Science, Technology, and Society, with financial support from the D.J.B. Foundation of New York.

Mr. FULBRIGHT. Mr. President, one other document that I thought was revelant relates to the Harris survey published in the Washington Post on November 8, entitled, "Public Backs Viet Pullout by May, 3 to 1."

It reads:

By nearly 3 to 1, the American people favor "getting completely out" of Vietnam by next May. The public is looking for an intent to liquidate U.S. involvement rather than an immediate withdrawal.

Between Oct. 26 an Oct. 31, a cross section of 2,004 households was asked:

If it meant keeping the communists from taking over Vietnam, would you favor or oppose the following?

[In percent]

	Favor	Oppose	Not sure
Leaving 50,000 noncombat U.S. troops there	32	55	13
Continuing to use U.S. bombers and helicopters to support the South Vietnamese Army	29	57	14
Continuing to send over $1,000,000,000 a year in military aid to the South Vietnamese	16	70	14

Even at the risk of a Communist takeover, sizable majorities of the public want the United States out completely from Vietnam.

For the first time, a clear majority of Americans say they feel that the pace of withdrawal of U.S. troops from Vietnam is "too slow." The cross section was asked:

Do you feel the pace of withdrawal of U.S. troops from Vietnam is too slow, too fast, or at about the right pace?

[In percent]

	Too slow	Too fast	About right	Not sure
Late October 1971	53	3	38	6
July	42	4	48	6
April	45	5	45	5
March	34	3	53	10
February	46	4	42	8
January	33	5	55	7
July 1970	32	8	48	12
May	27	13	46	14
April	34	8	47	11
December 1969	26	5	56	13
October	30	9	51	10

The main segments of the public where the pressure is greatest to disengage from the war as opposed to a further "winding down" of the war are in the East, among women, among young people under 30 and among blacks.

By contrast, the last-ditch supporters of the war, now a distinct minority, are most often located in the South in small towns and areas, and among persons 50 years of age and older.

Asked if they favored or opposed the United States "getting completely out of Vietnam by May, including all combat and non-combat troops," the vote was 62 per cent in favor and 21 per cent opposed.

The significance of this, to me, is that it relates especially to our military aid program to Cambodia of $341 million, which was discussed at length on the floor during the earlier foreign aid debate. I believe the $341 million ceiling was approved by a very narrow vote. It was very close. Of course, the RECORD speaks for itself.

I have been and I still am very deeply concerned about this item, and not solely because of the amount of money, although it is a vast amount.

Two years ago, we supplied little, if any, aid to Cambodia. At the time Sihanouk was overthrown, we had no Ambassador there. If there was any aid, it was a minimal amount. There may have been something for Cambodia by way of the multilateral aid programs, but our bilateral aid did not amount to anything. In view of this, I am very concerned about the sudden and rapid increase to $341 million in aid to Cambodia.

I raised the question in the committee with the Secretary of State concerning the policy significance of this. I asked what the ultimate objective of the program was to justify such an enormous increase in this item for Cambodia, a small country with a population of about 6.5 million.

I did not get a satisfactory reply from the Secretary with regard to my question concerning the policy significance of this large amount of money for Cambodia.

I was told, as usual, that this amount would be needed to protect the withdrawal of our soldiers. To me this is a nonsequitur. I do not see how this very large increase in aid to Cambodia would have any particular bearing on our withdrawal policy. I think it has some other significance.

In this connection, I want to draw attention to an article published recently in the paper about an alleged recommendation of the Joint Chiefs to the Secretary of Defense. The article states that our Government plans a major increase, which we will pay for, in the size of the Cambodian Army from its present 180,000 to 300,000 by 1977.

This article is from the New York Times of October 13. I will read some selected paragraphs and I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JOINT CHIEFS SAID TO DEVISE COSTLY CAMBODIA WAR PLAN

WASHINGTON, October 12.—The Joint Chiefs of Staff are said to have designed a

costly program of "pacification" and other unconventional warfare for Cambodia to protect South Vietnam's western flank as Americans continue their withdrawal from Indochina.

They have also proposed a series of budget devices to augment the funds that Congress will be asked to provide for expanding the Cambodian Army over the next five years.

The Chiefs submitted their program last month to Secretary of Defense Melvin R. Laird, according to Congressional sources Mr. Laird, who has been bargaining with the Chiefs since June about the cost of the effort, is described as still reluctant about the latest version, which would double spending to about $500-million a year by 1977.

The final decision, however, will rest with a senior policy review group run by Henry A. Kissinger, the President's adviser on national security affairs.

How to protect Cambodia from the North Vietnamese forces and deny them the use of Cambodian territory for attacks against South Vietnam's population centers has become a major problem for Pentagon planners. As the American forces in Vietnam are reduced to 50,000 men, at the most, and come to rely on air power for operations in the rest of Indochina, the planners are looking to indigenous forces to carry the burden in ground combat.

With a first-year grant of $185-million in military aid and $70-million in economic aid, the Cambodian Army has already been expanded from 30,000 men in April, 1970—when American forces invaded the North Vietnamese "sanctuaries" in Cambodia—to a current strength of about 180,000. The Cambodians are said to have fought well, but most of them are no match yet for the 60,000 North Vietnamese in their country, mostly east of the Mekong River.

SAIGON'S TROOPS UNPOPULAR

South Vietnamese troops have periodically moved into Cambodia to help out, but they are no more popular among Cambodians than the Communists forces from the north and will in any case be needed for the defense of their own territory.

When the Joint Chiefs of Staff first considered the problem last June, they proposed a 1971–72 military aid program of $350-million, Congressional informants report. Secretary Laird said that he could not afford that much and that Congress would not support such an increase.

The chiefs said that with $200-million in military aid they could not increase the size of the Cambodian Army, but for $275-million they could expand it to 225,000 men. Mr. Laird's budget pruners said that such an increase in strength could probably be achieved with $252-million.

But as finally submitted to Congress, the Cambodian aid program called for $200-million in military aid, $110-million in economic assistance and $15-million worth of agricultural commodities, for a total of $325-million. This was a net increase of $61-million over last year's allocations.

ALTERNATE PLANS OFFERED

Nonetheless, in explaining their elaborate military plans to Mr. Laird, in a memorandum dated Aug. 30, the Joint Chiefs indicated that they could get around the limit on military spending and proceed with the build-up.

According to informants, the Chiefs offered four different ways of generating an additional $52-million so as to add 40,000 troops to the Cambodian Army and also raise the "paramilitary" force of armed civilians to 143,000.

The first way would be simply to transfer $52-million from the economic aid program to military spending, which can be done later in the fiscal year simply by the Administration's notifying Congress. The second way would be to use the economic aid fund for the purchase of all "common use" items such as trucks and jeeps, which have military as well as civilian value, thus freeing other military funds.

A third way would be to increase procurement for the United States Army by $52-million and give the materiel to the Cambodians, for "repayment" later. The fourth way would be to make some exceptions in Defense Department supply regulations, declaring additional equipment to be "excess" and delivering it to the Cambodians.

The Pentagon planners said they were looking ahead to further increases in the Cambodian Army so that it would number 256,000 men by mid-1973 and more than 300,000 men by 1977. The paramilitary units, they believe, must be augmented to nearly 200,000 by mid-1973 and more than 500,000 in 1977. This would mean arming about 10 per cent of Cambodia's population of 7 million, or nearly half the adult male population.

The Joint Chiefs would provide for a mechanized brigade, an artillery brigade and coastal patrol units, as well as ground troops and extensive logistic support. They would look to the Agency for International Development to help finance the paramilitary defense forces, including the police. The Central Intelligence Agency would be asked to mount additional programs and to provide airlift support.

The program of activity drawn up by the Joint Chiefs is divided into four headings, labeled "Pacification," "Unconventional Warfare," "Psychological Operations" and "Civil Affairs." The country would be divided into eight pacification areas and this program would be supervised by a new United States Deputy Ambassador—as in South Vietnam—in a new embassy structure.

The Pentagon would also establish a three-nation military committee with the Cambodians and South Vietnamese, in which the Defense Department would be represented through Gen. Frederick C. Weyand, the deputy commander of American forces in Vietnam.

Mr. FULBRIGHT. The article reads in part as follows:

The Chiefs submitted their program last month to Secretary of Defense Melvin R. Laird, according to Congressional sources. Mr. Laird, who has been bargaining with the Chiefs since June about the cost of the effort, is described as still reluctant about the latest version, which would double spending to about $500 million a year by 1977.

This is for Cambodia.

I continue to read from the article:

Nonetheless, in explaining their elaborate military plans to Mr. Laird, in a memorandum dated Aug. 30, the Joint Chiefs indicated that they could get around the limit on military spending and proceed with the build-up.

According to informants, the Chiefs offered four different ways of generating an additional $52 million so as to add 40,000 troops to the Cambodian Army and also raise the "para-military" force of armed civilians to 143,000.

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The request for $341 million is, of course, quite consistent with this plan, submitted by the Joint Chiefs to the Secretary of Defense. It is not consistent with the idea of withdrawal. This is why I raised the question of the purpose and objective of this administration in Southeast Asia, and especially the purpose of asking for $341 million for Cambodia this year.

It strikes me that the only proposal I can think of that is consistent with this amount is the plan of the Joint Chiefs as reported in the New York Times article, that the administration plans to stay in Southeast Asia indefinitely. That could mean anything from 2 to 20 years or longer, in Cambodia, Laos, and Thailand—not to mention South Vietnam.

The tremendous air bases in Thailand, together with the combined naval and air bases at Sattahip, would be the central strength of the strategic forces of the American military, supported of course by the local Thai army.

Thailand already has a substantial army, to which we have contributed a great deal. We, of course, built the bases.

I believe there was a $350 million ceiling in the military procurement bill for Laos. The pending bill contains $341 million for Cambodia. It seems to me this all adds up to a policy of considerable permanence on our part in that area. What the objective of this is is not clear. It is certainly not clear from anything that the administration has said. It may well be that it is justifiable to pursue the policy of maintaining a very strong and powerful American military presence in that area, supported by a satellite army, such as the one being created in Cambodia and the one which we have already created in Laos. It may be that this policy has some justification. What I would quarrel with is not making it clear, not putting it on the record for both the Congress and the American people to judge whether it is justifiable.

I complained, because they refuse to give any justification other than the quite irrelevant one, that it is to protect the withdrawal of our soldiers from Vietnam.

This is why I was particularly interested in the $341 million for Cambodia. My interest was increased by the fact that the administration went to such lengths to refuse to give to the Committee on Foreign Relations their 5-year military aid plans, including their plans for Cambodia and the other aid-receiving countries in Southeast Asia.

This has all been reported in the press. Senators know what finally happened: The President resorted to a plea of Executive privilege in order to deny to the committee the 5-year plans for military aid around the world.

At that time I did not realize they were going to ask for so much money for Cambodia. The original ceiling for this item was $250 million, as introduced by the Senator from Missouri, but under the influence of arguments from various people he raised that amount to $341 million.

This disturbs me very much. I think the least we can expect and the least the American people can expect is some rational and reasonable explanation of what our policy is—some explanation of why so much money is required for Cambodia, Laos, and Thailand.

Therefore, until such an explanation is made I expect to vote against the military aid bill. I do not wish to be a party to the initiation of a policy which has not been explained, and about which I am not certain.

It is regrettable that the administration cannot take the Congress and the American people into its confidence with respect to what its real objective in Southeast Asia is.

I believe this poll I mentioned in the Washington Post and many other things indicate that the American people generally have been sold the idea that our policy is a total military withdrawal from Indochina. I think that is what they believe and expect. They support it; I support it. But that is not the policy which we are being asked to support in this military assistance program.

Therefore, there is a high degree of misunderstanding present in this program, and I regret that there has been a failure of the administration to supply as the law requires—unless we accept executive privilege—to the Senate relative to planning data on this program.

I very much regret this and I am willing to guess or prophesize—I guess predict is the word—that if we go down this road of supplying these funds to Cambodia and Laos, it will not be long, 2 or 3 years, until we have what will be a total commitment to the support of these small countries; that we will be so committed militarily that it will be extremely difficult to withdraw; and that it will cause us enormous expense in money and materials.

Parenthetically, I think such would be a hindrance in the long run to the announced goal of this country to seek relations with China. So I very much regret we have not been informed more specifically about the administration's objectives in Southeast Asia in connection with this military aid bill.

PRIVILEGE OF THE FLOOR

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that Mr. Carl Marcy, Mr. Norvill Jones, and Mr. Robert Dockery of the staff of the Committee on Foreign Relations be allowed on the floor during the debate and rollcall votes on the two foreign aid bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8629) to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8630) to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses.

ORDER FOR RECOGNITION OF SENATOR HARRIS ON THURSDAY, NOVEMBER 11, 1971, INSTEAD OF TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order previously entered by which the distinguished Senator from Oklahoma (Mr. HARRIS) would have been recognized tomorrow morning be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders, under the standing order, on Thursday the distinguished Senator from Oklahoma (Mr. HARRIS) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 9 A.M. ON THURSDAY, NOVEMBER 11, 1971, FRIDAY, NOVEMBER 12, 1971, AND SATURDAY, NOVEMBER 13, 1971

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow and when it completes its business on Thursday, it stand in adjournment until 9 o'clock a.m. on Thursday and 9 o'clock a.m. on Friday, respectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday it stand in adjournment until 9 o'clock a.m. on Saturday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, reserving the right to object, is that absolutely an irreversible and irrevocable decision?

Mr. BYRD of West Virginia. No, theoretically; yes, pragmatically.

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill (S. 2820) to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

MILITARY AID

Mr. NELSON. Mr. President, I would like to ask the chairman of the Committee on Foreign Relations a question or two about the authorization of some $341 million in military aid for Cambodia. I did not have the opportunity to hear all of the remarks of the committee chairman who may have covered some of this, but what puzzles me is the posture of the administration in asserting that they are withdrawing from Vietnam while we are expanding our military investment in Laos in the procurement bill, and now in Cambodia in this military aid bill which has just come out of the Foreign Relations Committee.

How does the Senator reconcile the rhetoric of the administration in saying that they are withdrawing from Indochina, from Vietnam, while we are dramatically expanding our military investment there?

Mr. FULBRIGHT. The Senator raises the question which bothers me most about the military aid bill. As the Senator knows, this was the item that precipitated more arguments and more vigorous disagreement than any other single item during the earlier foreign aid debate.

The military procurement bill has a blanket or overall authorization of $2.5 billion, excluding Cambodia, for military assistance to Southeast Asia. When this authority was given to the Armed Services Committee, we were at peace with Cambodia. It was a neutral country. We had no AID program there. This program started only a couple of years ago and that is why it is under the jurisdiction of the Foreign Relations Committee, whereas Laos and Thailand and Vietnam are under the jurisdiction of the Armed Services Committee.

Out of the overall authorization of $2.5 billion, the Senate set a ceiling of $350 million for Laos, a country with a little over 2 million people—$350 million in another bill——

Mr. NELSON. That is, in the military procurement bill?

Mr. FULBRIGHT. That has already been done. The conference report has not been approved, but the Senate set the ceiling in the bill it passed. Then came the foreign aid bill with the $341 million ceiling for Cambodia.

What is the explanation of this? I asked the Secretary of State, as a policy matter, "What is the objective? What do you seek to achieve by this kind of enormous enlargement of the military aspects of our program in Indochina?" He talked a great deal around the answer, but he finally ended up with the usual statement that it was for the protection of the withdrawal of our troops in Vietnam.

To me, it just does not fit. To me, it does not make sense. We do not need this kind of involvement in Laos and Cambodia to protect the withdrawal of our troops. It must mean something else. That something else is indicated by the 5-year plan of the Chief's, as reported in the New York Times, to build up an enormous army in Cambodia, with us paying for all of it.

XUM

Mr. NELSON. Let me ask if the distinguished chairman of the Foreign Relations Committee put that plan in the RECORD at the time of the debate on the foreign aid bill, before it was defeated?

Mr. FULBRIGHT. I mentioned it then, and I put the Times article in again today.

Mr. NELSON. Did I understand the Senator to say that it is a 5-year plan to build up the Cambodian army to 300,000?

Mr. FULBRIGHT. We are not sure of the exact period. It is apparently a long-range plan, covering the period through 1977. We are not privy to it. This is a proposal by the Joint Chiefs that was given to Secretary Laird. It was not given to us, but it was reported in the New York Times. Quite often this is the only way we can get information.

To refresh the Senator's mind, we requested DOD's 5-year plans for military assistance which it makes and which it has made for many years, and which would include Cambodia. The Pentagon flatly refused to comply with our request. When we pressed it to the point of asking the General Accounting Office to cut off the funds, the President, at the last moment, invoked Executive privilege. Does the Senator remember that?

Mr. NELSON. Yes.

Mr. FULBRIGHT. In those documents would have been the plan for Cambodia. At the time I wondered why in the world they were so reluctant to give the Senate, even on a classified basis, an indication of what they had in mind. Now it begins to come through a little. It makes some sense, because they do have plans that are contrary to what I think the American people believes to be the administration's policy in Southeast Asia.

Mr. NELSON. Did the Secretary address himself to the New York Times article or the proposal that they are building an army of 300,000 in Cambodia?

Mr. FULBRIGHT. He dismissed that. I think he pleaded ignorance of it.

Of course, it was not his plan. He could say he was not privy to it, and I could not challenge his statement.

Mr. NELSON. The Senator means that——

Mr. FULBRIGHT. The Secretary of State.

Mr. NELSON. The Secretary of State is not privy to the demands of the Pentagon, the Defense Department, for massive activities in foreign countries?

Mr. FULBRIGHT. Well, strange things happen in our Government. This whole business has a long history, and things are just now beginning to fall into place.

I think it is quite interesting to recall the following from which is not quite a year ago, the committee's report of December 14, 1970, on the supplemental foreign assistance bill, page 8. If the Senator will recall, this was just before the invasion of Cambodia by the U.S. Army. Does the Senator remember that? We had the Secretary of State before the committee 3 days prior to the invasion. I read from that report:

> When Secretary of State Rogers appeared before the Committee on Foreign Relations last April 23 to discuss Cambodia, he expressed his concern about initiating a large aid program for Cambodia.

Mr. NELSON. Does that mean interest?

Mr. FULBRIGHT. Oh, no; he was worried. "Concerned" in the sense that one would be concerned for the health of his daughter or son.

This was just 3 days before the invasion of Cambodia. The Secretary told the committee at that time:

> Undoubtedly, even though the request is for military assistance now, it would lead to a request for military advisors and if the going got tough after we had military advisors undoubtedly we would be confronted with a request for military aid in the form of troops, and it might well be that we would have a repetition of what happened in South Vietnam which, of course, would be, I think a very serious and unfortunate situation.

Mr. NELSON. Was he expressing his concern or worry about the level of the aid we were already giving to Cambodia in the spring of 1971?

Mr. FULBRIGHT. We did not have a big program in Cambodia there. We were just discussing the situation.

Mr. NELSON. This was a year ago last spring?

Mr. FULBRIGHT. A year ago last spring—April 27, 1970. The report I am reading from is dated December 14, 1970.

Mr. NELSON. Will the Senator advise me about this; maybe my memory is bad. I have no recollection about any debate or any authorization in any bill on the floor of the Senate.

Mr. FULBRIGHT. Prior to that?

Mr. NELSON. Anything that authorized us to put $100 million, or thereabouts, into Cambodia, which the administration did starting a year and a half or 2 years ago.

Mr. FULBRIGHT. There was no authorization. The administration transferred $110 million and spent it in Cambodia without an iota of authorization. They later came forward—I think this is what the Senator is talking about—5 or 6 months later and asked, as I recall, for $250 million; $110 million of that amount was to repay the money they transferred from other sources earlier. There had been no authority to spend anything at all in Cambodia. We ended by giving $282 million last year, but it was in large part authorized retroactively.

Mr. NELSON. Is the Senator saying that the expenditure by the executive branch was in violation of the law?

Mr. FULBRIGHT. It was in violation of the spirit of the law, because the uniform practice with respect to foreign aid bills has been that when the administration gives a justification for a program, it usually indicates the countries that are to be assisted—A, B, C, D, and E.

The President did have transfer authority under the Foreign Assistance Act. So I should say that, strictly and technically speaking, it was not a violation of the law, but it certainly violated the customary way in which these programs have been conducted in the past.

In the old days, there used to be a high degree of trust between the legislative and executive branches. When I first came to the Senate, the executive used to have confidence in the legislative branch; and Congress reciprocated by giving broad discretionary authority in order to give the executive some flexibility.

Now, what we run into more and more is just what I am complaining about in this bill, a reluctance or a refusal on the part of the executive to inform Congress of what it has in mind, what its policy is, what it is we are being asked to vote this money for, or what objective it is sought to achieve.

I would say that started in the old days, for reasons that I suppose came out of the war and the controversy over the war, and has developed until the bureaucracy and the executive branch just do not wish to tell Congress anything. The most extreme example was their refusal to give the Senate committee the relevant documents in connection with the executive department's so-called 5-year military aid plans, despite the fact that the law specifically requires the executive to make such information available to the relevant committees of Congress. Without it, we are voting blind.

We asked for these plans. They did not answer. Finally we invoked the law that would cut off the funds if we did not get the information.

The only response they made was to plead Executive privilege. I cannot imagine how one can reasonably call a document in the Pentagon, which the President probably never saw, to come within the purview of Executive privilege. But nevertheless, the President exercised that power, however inappropriate, at least to me it was, and therefore we did not get these plans.

A similar document, or a part of these plans, I would say, is what is reflected in the article in the New York Times.

This is a situation which disturbs me very much. It is not just the money, though I will admit it is a lot of money, but the real issue is where we are going in Southeast Asia? The country thinks we are getting out. These facts are, to me, utterly inconsistent with getting out, I mean really removing our military presence from that area.

Mr. NELSON. This is the issue that concerns me: my suspicion that we are really not getting out, and that we are making substantial commitments and expanding them in Cambodia, Laos and Thailand, with the likelihood that we will be there a long time.

I am wondering, what are the establishments? What are we spending in Thailand, and what is the infrastructure there?

Mr. FULBRIGHT. We will have to look that up. Thailand, as I said a moment ago, is not in this military aid bill, because it is under the jurisdiction of the Armed Services Committee. It will get its money out of the DOD authorization bill, the $2.5 billion we have already authorized. It is not in this bill; in total, Thailand is getting $139 million this year.

Mr. NELSON. Is that in military aid?

Mr. FULBRIGHT. That is military, and economic supporting assistance.

However, this amount does not include such sums as accrue to them from expenditures by our forces in Thailand.

Mr. NELSON. That is what I meant to ask.

Mr. FULBRIGHT. We have 40,000 or more troops, Air Force people, and supporting personnel at our big air bases, of which I believe there are a number, plus the Sattahip Naval and Air Base, a very large installation.

The $139 million is the direct aid; $77 million of this is strictly military. It does not include the peripheral costs of our forces there.

Mr. NELSON. But that is to the Government of Thailand itself?

Mr. FULBRIGHT. That is correct.

Mr. NELSON. So our expenditures on our bases there and those of our personnel, and our substantial expenditures on that very large bomber force in Thailand, are all in addition to this?

Mr. FULBRIGHT. That is correct. These are the direct items, the military assistance and what they call economic supporting assistance.

Of course, as the Senator knows, we give them military assistance, and then we give them economic assistance in order to help to pay for the military.

Mr. NELSON. Back to Cambodia for a moment. What was the year in which the administration, without notice, consultation, or advice to Congress, spent that $110 or $120 million in Cambodia?

Mr. FULBRIGHT. It began in fiscal 1970 and ran into 1971. I would like to finish what I was saying earlier with reference to some of the Secretary of State's remarks about the time of our invasion of Cambodia. I read this one paragraph, and got diverted.

Mr. NELSON. Yes.

Mr. FULBRIGHT. Let me read that paragraph again, to show the Secretary's thinking about aid to Cambodia at that time.

The Secretary said, as I noted earlier:

> Undoubtedly, even though the request is for military assistance now, it would lead to a request for military advisors and if the going got tough after we had military advisors, undoubtedly we would be confronted with a request for military aid in the form of troops, and it might well be that we would have a repetition of what happened in South Vietnam which, of course, would be, I think, a very serious and unfortunate situation.

Mr. NELSON. Quite obviously, the Secretary had no notion that there was going to be an invasion at the time he was testifying before the committee.

Mr. FULBRIGHT. The Senator asked me a while ago, could I believe the Secretary was not privy to the proposals of the Joint Chiefs. It is quite evident that he was not privy to the invasion plans at the time he made the statement to the committee. The President made his announcement 3 days later.

Let me now read from a committee statement issued shortly before the invasion began:

> In a meeting with the Secretary of State last Monday, members of the Foreign Relations Committee were virtually unanimous in expressing their deep concern over the possibility of any action by the United States that might involve our Nation further, directly or indirectly, in the changing situation in Cambodia.

This is a direct indication of the committee's attitude at that time. The committee met and was virtually unanimous. I think there may have been one Member who had some reservations.

The rest were unanimous in saying, in effect, "We do not want to become involved in Cambodia."

I do not wish to drag up old ghosts, but the Senator from Wisconsin happens to have been one of the men who I think were most sensitive to the Tonkin Gulf situation in August 1964—certainly much more sensitive than I was. I was more trusting of the then Johnson administration, and I was taken in to a greater extent, I believe, than was the Senator from Wisconsin. At least, he raised some very pertinent questions.

Under the influence of the statements—assurances—of the Johnson administration, I assured the Senator from Wisconsin—because I had no sources of knowledge other than what I had been told by the administration—that, no, there was no purpose of expanding the war, that the purpose was not to have a war, that the purpose of the Tonkin Gulf resolution was to show unity between the executive and the legislative branches and to strengthen the President's hand, so that he could persuade them not to proceed with the war, and thereby be able to persuade the North Vietnamese to stop their support of the war in the south. "No wider war" was the slogan then, and the resolution was presented in that fashion.

The Senator from Wisconsin, much to his credit, raised the question and considered offering an amendment. I said that I was in sympathy with that amendment, that I thought it expressed what I understood to be the policy of the Government, but that if we approved it, we would have to go to conference on it. That would delay passage, and we would lose the psychological effect of the quick action to show our support for the President.

I think we are both entitled—I am—to learn from that experience. The Senator really does not have to learn. He already, I think, has some skepticism about what this policy is, and I am very glad he does, because I think it is healthy for us to be skeptical about such matters.

Take all things together: The refusal to submit the 5-year plan. Such documents used to be available to us. The refusal is unusual. Then the exposure of the plan, as in the New York Times, together with the vast amounts, from nothing to $341 million in 2 years in Cambodia, $350 million in Laos. Put these things together, and what does it mean? It seems to me that this is what we are entitled to know. If we are going to vote on this matter, are we not at least entitled to know what it is for? What is it really for? Obviously, it is not just to protect the withdrawal of the remaining troops in Vietnam. It must have some other purpose, because they do not need it for troop withdrawals.

With respect to the story of the bombing that I put in, they are now bombing at an enormous rate. Of course, they do not call it bombing any more. The administration does not call it bombing. They call it protective reaction strikes. But in these protective reaction strikes, they drop the same kind of bombs that they used to drop in a bombing raid.

The administration says that it is not sending advisers into Cambodia, because the law prohibits it. Rather, they send in equipment delivery teams. The law does not use the term "delivery teams." I imagine they are still human beings, American citizens, who work for the U.S. Government; but they are delivery teams, and, therefore, the administration says they are not covered by the existing restrictions on advisers.

So, really, with this kind of relationship, it is almost impossible to know what is being planned. I am raising this question because it does seem to me that we ought to know where this administration is headed in Southeast Asia. Apparently, the only way you are going to know is for you to figure it out for yourself.

I remind the Senator that the distinguished Attorney General said:

> Judge us by what we do, not by what we say.

I believe this approximates his words.

From what they do, I am trying to figure out what they really have in mind as to the policy in Southeast Asia.

Mr. NELSON. I am concerned because I think there may very well be a parallel between what happened, how the executive branch proceeded in the Vietnam situation in 1964, 1965, and 1966, and what the executive branch is now doing by expanding our involvement—in expenditures, at least—in Laos, and expenditures and advisers and assistance in Cambodia, and maintaining a large operation in Thailand.

I do not think that the Senator from Arkansas was misled by the Tonkin Gulf resolution. I think that what the administration was saying was what they thought at the time, unless we are to say that it was a massive, calculated defeat.

The disturbing thing to me is that very able writers, who are writing about that period, are now saying that Congress gave a blank check in August of 1964 to the President to commence a ground war in Vietnam, if he thought that had to be done. If one reads the broad language of the resolution, as the Senator pointed out—and it was discussed on August 6 and 7, 1964—it would authorize an assault on the moon, for that matter. But the point that the Senator from Arkansas has made is that they were trying to show the unity in this country.

When I offered an amendment to specifically delineate the language in such a way as to make it clear that it did not authorize a change in our role in Vietnam from one of technical aid and assistance to a military commitment, it was because of the interpretation of the intent of the administration, by the Senator from Arkansas, that that was all the resolution really meant.

Looking at the circumstances of the day, and the time, and the political campaign, and what the President was saying to the Nation, and the attacks that were being made upon Senator GOLDWATER for advocating an expansion of the war, I concluded that this was really a kind of cheerleader's resolution; and,

therefore, if the President needed some cheerleaders cheering to convince them in Vietnam that the country was unified and that they should not be attacking us in the Gulf of Tonkin—if, in fact, they did—and we thought they did—then, fine, if that would help prevent an involvement in the war. Then I would vote for the resolution, but not to authorize the President to commence a ground war.

I did not hear anybody say that they favored a ground war at that time. In fact, within a day after that, on the floor of the Senate, I pointed out that that was not what we authorized. I stated in February, 1965, that you could not win a war over there with a million troops, and I voted against the $700 million appropriation in the spring.

What happened was that the President took a resolution which he was using to show unity in 1964, and then later decided that he would use it to prove that Congress authorized him to do what he was then doing, which had become quite unpopular.

I might say to the Senator from Arkansas that if he had stood on the floor of the Senate on August 6 and 7, when the Tonkin Gulf resolution was pending, and said, "Yes, this is the purpose, and this authorizes an all-out ground war in Vietnam," the President of the United States would have repudiated the chairman of the Foreign Relations Committee.

We were saying that Mr. GOLDWATER was going to get us into trouble, and the President was saying that. He was also saying, before and after the resolution, as the Senator well knows, that he was not going to send American boys to fight a war that Asian boys should fight for themselves. I recall that the Senator from Arkansas put in the RECORD four or five or six statements of that kind made before and after, so that if legislative intent or history mean anything, we judge the responsibility in the context of the times. If the Senator had been speaking for the administration, as he was, and said this authorized a war, President Johnson would have repudiated him out of hand because that was contrary to the political campaign he was making at that time.

Mr. FULBRIGHT. I think the Senator is quite right in his observations but I would like to suggest one correction, when he said I was not misled in the second instance, which looks as if it were minor, but what it did do was to create an emotional background which prevented the kind of discussion we are having now, which is more or less an unemotional description and analysis of what happened then, after the Johnson administration made the case that we had been attacked on the high seas. Everyone was stirred up, everyone said it was intolerable. But those reactions were based on deception.

It is quite possible—I agree with the Senator—that the Senator believed, however misguided I was in that belief, that such a resolution would strengthen the President's hand at that time, but he did not believe the President would use it to engage in a massive ground war. That I would not argue with. The only real deception created was the atmosphere which inhibited if not prevented a rational discussion of the policy involved—at least on my part it did, because I thought it was intolerable that we should be subjected to attacks on the high seas. The newspapers played this up so dramatically, as the Senator knows, about how those dastardly people dashed out when we were peacefully going our own way on the high seas. But in my opinion there were no such attacks in the second instance. I wonder what the Senator thinks——

Mr. NELSON. What I meant by that, the Senator not being misled, was, in fact, the Gulf of Tonkin resolution at the time it was asked for by the administration was not for the purpose the President claimed it was a year or two later——

Mr. FULBRIGHT. That is right.

Mr. NELSON. It was for the purpose of showing unity and not for the purpose of starting a ground war.

Mr. FULBRIGHT. That is right.

Mr. NELSON. I thought of that reason later, and that is my only point about it.

Mr. FULBRIGHT. While I think that is relevant, here we are faced with these unusual circumstances of an enormous increase in our involvement in Cambodia, together with the refusal to supply the basic information which we requested but later made public by the New York Times. All of this leads to the question—What is the purpose of this authorization of so much money for Cambodia? Is it really to protect the withdrawal of troops, or is it preparatory to the establishment of a permanent military presence there, permanent in the sense of being indeterminate—I mean by that, 5, 10, 20 years—or however long, which I do not know, but not consistent withdrawal within the foreseeable future, the next 2 or 3 years, which is what I think the people want.

This is very important. It may be justified. It may be a good idea that we have a permanent military presence in Thailand, and a half a dozen more places with these enormous strategic bases in the two buffer states of Cambodia and Laos. Maybe that is a good idea. If it is, it seems to me it is up to the administration to sell the idea, and then for us to vote the money, with our eyes open. We can accept that as a proper principle. This is the real point I am making.

If it is not a good idea—as I happen to think it is not, with all the information I have—I should be entitled to make the argument, "Look, this is what they are up to. I do not approve of it," and the Senate should vote on that basis rather than do it in the dark.

Mr. NELSON. I agree with the Senator that if it is in fact a good idea to make these large investments and build an army in Cambodia of 300,000 troops and spend $350 million in Laos maintaining a big establishment in Thailand, and staying there with a strong physical presence for some years to come, I would like to hear the justification of the idea.

I think it is a bad idea. I am against it. I do not believe that they can give me any reason sufficient to cause me to support that. But it should be above board. I think the constituents in my State think we are just getting out of Vietnam, and we are all happy about that. It is believed that whatever little amounts we are spending, in Laos, Cambodia, and Thailand—and most of the people in this country do not know what those amounts are—that they are for the purpose of protecting our withdrawal; whereas I suspect, however, it is quite another matter——

Mr. FULBRIGHT. That is right.

Mr. NELSON. And that what is going to happen, as has always happened, as the Senator from Arkansas has said before, we spend and spend and spend and pretty soon the country is entirely dependent upon the United States, and we are soon deeply involved there. Then we want to withdraw and they say, "You cannot do that. You build us up. You are our only support. Now you are going to double cross us and pull out." We see many articles in the newspapers about that now.

Mr. FULBRIGHT. That is right.

Mr. NELSON. That by voting against a foreign aid bill we are cutting the ground from under our clients. So it becomes an argument for us not to withdraw. Whether a good policy or not, that is what should be out in the open, discussed, and debated, and then settled on its merits.

Mr. FULBRIGHT. The Senator is quite correct. There are one or two other things that support the thesis. Here is an article published in Newsweek for October 18 entitled "Instant Replay."

It reads in part:

Since late last year, the U.S. Embassy staff in Phnom Penh has jumped from fewer than 60 officials to more than 150. And despite a Congressional resolution specifically forbidding the use of American military advisers in Cambodia, many more U.S. officers appear to be on their way there.

The Senator sees what I meant when I said the administration does not call them advisers but rather equipment delivery teams, a term not used in the law.

Continuing to read from the article:

Among other things, Mataxis favors expansion of last year's $180 million aid package and full U.S. backing for Cambodian assaults on Communist sanctuaries and supply lines.

Mr. President, I ask unanimous consent to have the entire article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INSTANT REPLAY

In one official pronouncement after another, the Nixon Administration has earnestly proclaimed its determination to avoid any major commitment in Cambodia. But for all that, the American presence in the once-sleepy capital of Phnom Penh has grown dramatically. Since late last year, the U.S. Embassy staff in Phnom Penh has jumped from fewer than 60 officials to more than 150. And despite a Congressional resolution specifically forbidding the use of American military advisers in Cambodia, many more U.S. officers appear to be on their way there. As a result, a bitter dispute has broken out in the U.S. Embassy—a clash between U.S. civilians and military men that could well determine the shape of American involvement in Cambodia for years to come.

At the root of the debate is the question of America's military role in that beleaguered country. Arguing for a minimal military-aid program, the civilians, led by chief political counselor Jonathan P. Ladd (himself a former Special Forces commander in South Vietnam), contend that the U.S. should train an elite force of Cambodian guerrillas to harass the Communists, but should not get bogged down in support of large-unit operations. By contrast, Brig. Gen. Theodore O. Mataxis, who heads the Military Equipment Delivery Team (MEDT) in Phnom Penh, has fought for a more activist U.S. policy. Among other things, Mataxis favors expansion of last year's $180 million aid package and full U.S. backing for Cambodian assaults on Communist sanctuaries and supply lines.

IGNORED

As of now, Mataxis & Co. seem to be in the lead. When Ladd balked at giving the relatively unsophisticated Cambodian forces expensive M-16 rifles, Mataxis pushed the M-16 order through, contending that the Cambodians should be as well armed as possible. And civilian complaints about the growing U.S. military establishment in Phnom Penh have been pointedly ignored. Just two months ago, Mataxis—who used to spend most of his time in Saigon—moved to the Cambodian capital, bringing with him his aide de camp and personal staff. At the same time, the number of MEDT personnel, whose job is to see that U.S. aid is being "properly used," has more than doubled. Many observers, in fact, believe that, despite the Congressional ban, some MEDT members are fulfilling advisory roles with the Cambodian Army.

To some experts, the growing influence of the military is an inevitable outgrowth of the slackening war in Vietnam. "The pressure to increase the military presence here is really strong," said one American diplomat in Phnom Penh. "There are simply too many officers losing their jobs in Saigon. These men are worried about their careers, and you don't become a general sitting behind a desk in Washington." Others place the blame directly on U.S. Ambassador to Cambodia Emory C. Swank. For although Swank, a 40-year-old career diplomat, is said to favor what he jokingly refers to as a "medium profile," critics have charged that he has knuckled under to the generals. "Swank claims he's not competent to assess the needs of the military," said one embassy official. "But in Fred Ladd, he's got the best adviser in Southeast Asia. By throwing up his hands, Swank is just trying to keep himself off the hook in case everything goes wrong."

Whatever the reason for the growing primacy of the military, the betting is that it will increase. For despite a pending amendment to the foreign-aid bill calling for a 150-man ceiling on U.S. personnel in Cambodia, the Defense Department is reportedly going ahead with plans to expand MEDT forces to an estimated 500 by the end of next year. And there are signs that the military men already in Cambodia are getting more directly involved in the fighting there. American helicopters have reportedly begun transporting Cambodian troops into battle areas and supplying them with ammunition. And at Pochentong Airport in Phnom Penh, U.S. forces recently opened a radio center (officially called a "navigation aid") to coordinate air support for Cambodian troops.

Though no one seriously suggests that the U.S. is about to slip into another Vietnam-scale involvement in Cambodia, the momentum of the buildup appears strikingly familiar. "The military are already falling all over themselves at the embassy," said one U.S. official. "Within a year, the Pentagon will have taken over our operations in Cambodia—and Swank and all the other civilians will be sitting on the sidelines just like the civilians in Saigon."

Mr. FULBRIGHT. Mr. President, it is interesting that the law forbids us from sending in U.S. advisers and training the Cambodians ourselves. This is in the article published in the Washington Post on the 11th and the 7th——

Mr. NELSON. Is the Senator referring to the resolution passed here last year?

Mr. FULBRIGHT. In the supplemental aid bill, a restriction upon our sending in ground troops and advisers into Cambodia.

Does the Senator remember that?

Mr. NELSON. I remember it very well. What is their explanation for the Thailand troops that are fighting in Cambodia and being supported by our money?

Mr. FULBRIGHT. They are called local forces. It is playing with words. The distinction is the same as between a bombing raid and a protection strike. How does the Senator from Wisconsin explain it? It seems to me it is semantic trickery.

This dispatch is dated November 7, 1971. I shall read what Adm. Thomas H. Moorer said, in the face of Cooper-Church restriction:

Adm. Thomas H. Moorer, Chairman of the U.S. Joint Chiefs of Staff, said in Phnom Penh the Joint Chiefs planned to hire foreigners, known officially as third country nationals, to train Cambodians in American logistical systems.

I read further from the dispatch:

At a news conference at Pochentong Airport, Moorer commended the Cambodians for progress in developing their armed forces from a prewar force of only 30,000 to an army of roughly 200,000 today.

That is the phase-in. That is the Chairman of the Joint Chiefs of Staff applauding the Cambodians for an army that is now up to 200,000. Putting all those items together from the story in the New York Times, we can see that the military hopes to have the number of troops in Cambodia up to 300,000. This is the only logical explanation of the $341 million request.

In addition, there is another article from Phnom Penh, published in the Washington Evening Star of October 15, 1971:

The U.S. Army plans to get around the Cooper-Church amendment's ban on American military men in Cambodia by paying $200,000 to hire foreigners for noncombat work, American officials report.

"They are people who can do under contract what we are forbidden to do," a U.S. source declared. Another source said they would cost less than American civilians.

Cooper-Church, passed by Congress last year, bars American military advisers, training personnel and combat troops from Cambodia.

Further the article states:

The foreigners would be employed in supply depots and maintenance shops behind front lines, although the sources did not rule out an eventual role as combat advisers.

The sources said the use of foreigners had been recommended by teams of military experts who visited Cambodia to study supply snarls.

The sources noted that a handful of foreigners are already being paid by the American Military Assistance Program to Cambodia. They include about 10 Air America maintenance crewmen who keep Cambodia's T-28 fighter bombers flying, a representative from Bell Helicopters, and 3 Filipinos brought here from Laos to set up an English language school.

So the program is already underway. What is the objective of it?

Mr. President, I ask unanimous consent that the two articles in their entirety be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Star, Oct. 15, 1971]

THE ARMY FINDS A LEGAL WAY

PHNOM PENH.—The U.S. Army plans to get around the Cooper-Church amendment's ban on American military men in Cambodia by paying $200,000 to hire foreigners for noncombat work. American officials report.

"They are people who can do under contract what we are forbidden to do," a U.S. source declared. Another source said they would cost less than American civilians.

Cooper-Church, passed by Congress last year, bars American military advisers, training personnel and combat troops from Cambodia.

LIMIT OF 50 VOTED

The sources said the foreigners, known in official circles as "third country nationals," would supplement the American military equipment team which is responsible for handing over arms and ammunition to the Cambodians but is forbidden to show the Cambodians how to use the equipment.

Headed by Brig. Gen. Theodore Mataxis, the team's current strength is 113 men, with 50 officers and enlisted men assigned to the Cambodian capital and the rest in Saigon.

The Senate Foreign Relations Committee on Thursday voted to limit to 50 the number of foreigners hired in Cambodia. Most likely they will be Koreans, Nationalist Chinese, Australians or New Zealanders experienced in dealing with the American military in South Vietnam or Laos, where some have been engaged in hazardous undercover work for the Americans.

MAY ADVISE ON COMBAT

The $200 million U.S. military assistance program for fiscal 1972, now the subject of congressional hearings, includes an item for third country nationals, a source said. He said salaries for foreigners in Cambodia might total $200,000 a year.

The foreigners would be employed in supply depots and maintenance shops behind front lines, although the sources did not rule out an eventual role as combat advisers.

The sources said the use of foreigners had been recommended by teams of military experts who visited Cambodia to study supply snarls.

The sources noted that a handful of foreigners are already being paid by the American military assistance program to Cambodia. They include about 10 Air America maintenance crewmen who keep Cambodia's T28 fighter-bombers flying, a representative from Bell Helicopters and three Filipinos brought here from Laos to set up an English language school.

UNITED STATES TO PAY OTHERS TO TRAIN CAMBODIANS

Adm. Thomas H. Moorer, chairman of the U.S. Joint Chiefs of Staff, said in Phnom Penh the Joint Chiefs planned to hire foreigners, known officially as third country nationals, to train Cambodians in American logistical systems.

American military men have been barred from giving Cambodians any advice or training here by the Cooper-Church amendment passed by Congress last year.

At a news conference at Pochentong Airport, Moorer commended the Cambodians for progress in developing their armed forces from a prewar force of only 30,000 to an army of roughly 200,000 today.

Moorer, who has been accompanying Secretary of Defense Melvin R. Laird, flew into the Cambodian capital today from Danang, South Vietnam. After calling on Marshal Lon

Nol, Cambodia's semi-invalid premier, and acting Premier Lt. Gen. Sisowath Sirik Matak, Moorer flew to the seaport of Kompong Som for a brief visit and then to Udorn, Thailand.

The U.S. Navy said today it is sending home the last Seabee construction batallion left in Vietnam. The U.S. Army said it was closing down operations of an engineer battalion that had been assigned to the Americal Division.

On battlefronts, U.S. Command spokesmen said at least one American was killed when a unit of the 3rd Brigade of the 1st Cavalry Division came under mortar barrage today 4 miles east of Saigon.

American B-52 bombers blasted a North Vietnamese truck depot near Khesanh this morning, destroying a number of vehicles. The bombing raid was the second attack on the depot this week and followed a rocket attack by helicopter gunships on Wednesday which destroyed 10 trucks.

Mr. FULBRIGHT. What is the objective of the policy? What do we seek to accomplish? It seems to me that the Senate ought to know this before it votes. I tried to get the answer last Wednesday or Thursday when the Secretary of State was before the committee. I did not get it any more than I got when I asked for the 5-year plans.

It is not my place to advise other Senators. However, it seems to me that Senators ought not to vote in the dark. If they want us to support the measure, they ought to be willing to stand up and say what it is for.

Mr. NELSON. Mr. President, I hope that by the time we come to a vote on the military aid bill we will get an answer. I believe it is anticipated that we will vote on the day after tomorrow or that we will take up the economic assistance first and the military aid second.

Mr. FULBRIGHT. The scheduling in the Senate is beyond my responsibility. I thought today that we were going to have some votes and proceed to do business. However, for reasons that I do not understand, we stayed here last night under the pressure, I thought, of getting things done. What will happen tomorrow or the next day, I do not know. I wish I could assure the Senator of what will happen.

I have heard it discussed, without any assurance whatever, that we were going to vote on the Okinawa treaty tomorrow and that we would then be ready to vote on the economic aid bill. When that is passed, we will then proceed on to the military aid bill.

Mr. NELSON. Mr. President, in any event, it is likely that there will be no vote on the military aid before tomorrow or perhaps the day after tomorrow?

Mr. FULBRIGHT. That is a probability.

Mr. NELSON. That would give the administration time to furnish the answers to the questions we have been discussing here so that perhaps someone could explain it on the floor and give us some better justification than the mere assertion that the purpose of being in Cambodia is to protect the withdrawal of our troops.

I do not understand that answer, since the troops that are in Cambodia are Cambodian troops and are not our troops.

Mr. FULBRIGHT. Of course, recently the activity has been primarily between the South Vietnamese and whoever went into Cambodia, and they are attacking the North Vietnamese. I remind the Senator of a little history relative to this. In the old days, there has always been great rivalry between the North Vietnamese and the South Vietnamese. They are a more aggressive people than the Cambodians. The Cambodians have been a relatively quiet people. The traditional enemies have been the Vietnamese and the Cambodians. It was the same way with the Thais.

In the old days there were periodic excursions into one country or the other by the Cambodians and the Thais. They had a long fight over a border problem that went to the International Court.

I believe that the real contest is between North and South Vietnam as to which one will get Cambodia. That is the problem at the present time. Of course, one thing that the Cambodians want above everything else is to get both the North Vietnamese and the South Vietnamese out of there. They are being overrun and occupied by those two countries.

As the Senator knows, when a fight nears the end, it is like two dogs fighting over a bare bone. They fight over the remains. That is what is going on there. We are getting in the middle of it. It is much like what was going on in Vietnam. There were two different factions. There were the South Vietnamese and the North Vietnamese, the Communist and the non-Communists, remnants of the old French regime. They were fighting as to who would be the inheritor of the colonial empire. Now we have a fight in Cambodia between the North Vietnamese and the South Vietnamese as to who will inherit Cambodia. The Cambodians, of course, want to see both get out.

I hate to see us get involved. All of it is beyond our capability to deal with except by this massive military might which does not solve anything.

It of course destroys a country, as we have been destroying Vietnam and Laos.

The situation over there is something our military is not designed to cure, in my opinion. That is why we ought to know the purpose and the objective of the administration's policy.

If my experience is any guide, all the administration will say is that whatever we do in Cambodia, Thailand or Laos is to protect the withdrawal of our troops. If the Senator thinks that is a satisfactory answer, he can vote to support it. In my opinion the policy indicates a military buildup over there which I do not want to support any more than I would have supported the Gulf of Tonkin joint resolution, had I known then what I know now.

Mr. NELSON. Mr. President, I do not think it is a very convincing argument. That is why I voted against the military procurement bill.

Mr. President, I want to thank the Senator for his observation about the issue of our authorization for appropriations in Cambodia. It simply reinforces my belief that our purposes there are other than what have been publicly stated. I therefore cannot support the appropriation.

I thank the Senator from Arkansas.

The PRESIDING OFFICER. What is the pleasure of the Senate?

QUORUM CALL

Mr. FULBRIGHT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HANSEN). Without objection, it is so ordered.

PROPOSED CHANGE OF REFERENCE—S. 2574

Mr. McGEE. Mr. President, this afternoon I have agreed to join the Senator from Nebraska (Mr. HRUSKA) and the Senator from North Carolina (Mr. ERVIN) in a colloquy concerning a Senate bill reported from the Post Office and Civil Service Committee, S. 2574.

The bill was reported after having been referred to the committee by the Parliamentarian; and jurisdiction rests with this committee, in his judgment, even though, as most of us understand, almost any bill that comes before this body can be divided, like Gaul, into at least three parts, and maybe more, in terms of where its bits and pieces lie.

Nonetheless, I have agreed, as we have reported the bill from the committee, to respond to questions that the ranking minority member of the Committee on the Judiciary has manifested an interest in raising, that we might discuss the matter more fully, and to questions from the senior Senator from North Carolina.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. HRUSKA. Mr. President, the Committee on Post Office and Civil Service was assigned the bill because it contained references to the U.S. Postal Service and the Bureau of the Census. But the real thrust of the bill, and the primary thrust of it, is to establish a national voter registration system.

That subject has generally been within the jurisdiction of the Committee on the Judiciary, starting with the Civil Rights Voting Act of 1957, to my personal recollection, and, of course, including the civil rights act amendments of the 1960's, the Voting Rights Act of 1965, and the Voting Rights Act of 1970. All of these were considered by the Committee on the Judiciary.

It just seems to members of the committee that a reference to that committee for a reasonable time in which to get at least some official and systematic analysis of it, and perhaps a little additional testimony in the light of the committee bill, would be desirable.

Mr. McGEE. I would say to my friend from Nebraska that we are all familiar with the multiple referrals latent in any measure that is introduced. In our committee, we raised no particular question on this matter.

The distinguished senior Senator from North Carolina is chairman of the subcommittee of the Committee on the Judiciary which examines the rights of Federal employees. A case could be made that we had some interest there. We felt that, however, he was doing an excellent job on the point of it that was the relevant one, and we have applauded his efforts.

At present, the Finance Committee, in a current measure which it will soon report, is considering new salary levels for supergrade Federal employees. That would be regarded, I think, as specifically within the prerogative of the Post Office and Civil Service Committee; but it was a part of a larger finance measure that was coming out, and we raised no particular point on that, simply trying to understand the multiple parts of the legislation.

Likewise, then, on S. 2574, we have not proceeded along the lines of the Voting Rights Act of 1970, which was considered by the Judiciary Committee; and we have simply sought to set up a mechanism, a mechanical operation, that would remove some of the remaining obstacles to the process of registration in Federal elections—and only Federal elections.

I would point out that as a consequence of our very extended hearings and the long deliberations of the members of the committee, there were many differences as to whether we should strip out of the original legislation a great many of the provisos in an attempt to keep it as close to the mark as possible. I think we have a barebones bill here, one that simply provides that the Bureau of the Census would be responsible for distributing the necessary forms for applying for registration; that the postcard would be handled by the U.S. Postal Service in returning that information to the county clerk or the State authority responsible for it; and that in that context the responsibility for this measure, as assigned by the Parliamentarian, lay within the jurisdiction, in that category, of this particular committee, from the way that the bill was structured.

I would only add, as to one or two other measures introduced earlier, that when one of them was referred to our committee by unanimous consent—not by the Parliamentarian—the minority whip, Mr. GRIFFIN, at that time made the point——

(Mr. GRIFFIN entered the Chamber at this point.)

Mr. McGEE. I ask the Senator from Michigan, How is that for timing?

He made the point that he thought that in the future, in such matters, the reference ought to be made by the Parliamentarian and this bill was referred to our committee by the Parliamentarian's judgment, namely, that the main substance of the content of the bill lay within the jurisdiction of our committee.

Thus, on that ground, we proceeded in good faith, with very careful attention being paid to avoiding transgressions into the jurisdictions of other committees, and we were hopeful that the courtesies and the understanding that we have extended in similar matters on other bills would be reciprocated in this case.

That is the essence of our position on the matter.

Mr. ERVIN. Mr. President, I would say that if I had known anything about these bills being there, I would have wanted to come and testify about them, because I would consider that anything connected with Federal elections is alien both to the Post Office and to the Bureau of the Census.

One time before in the Nation's history they undertook to let the Federal Government have supervision of certain elections, and the country was filled with fraud and scandals almost throughout the Nation.

I think this bill belongs in the Judiciary Committee. As a precedent, ever since I came to the Senate, every bill having to do with elections has been sent to the Judiciary Committee except one bill on one occasion, which was referred to the Rules Committee.

We have had before us in recent years two voter registration bills, the Voting Rights Act of 1965 and the bill to suspend all literacy tests throughout the United States. Both of those came through the Judiciary Committee.

There is a provision of law that aliens have to register with the post office. By the same token, they could say, "We have charge of the immigration laws, since aliens have to register with us." And they might also say, "Since the Bureau of the Census takes a farm census, we could also take jurisdiction of all matters committed to the Department of Agriculture."

I think this whole procedure is alien to the purposes of the Bureau of the Census and alien to the Post Office Department. But that is beside the point at the present time. I should like to have an opportunity to study the bill. I think it makes a drastic change in the election laws of the country, and I think that some committee that has had some experience on that matter ought to have a chance to look at the bill and see whether it needs amendment.

I have not seen a recent edition of the bill; but I read the first one, and absolutely, under the first bill—the one I read—in my judgment there would be no way to protect the people of the United States against monumental frauds, because the person who registers to vote for President, Representative, or Senator would never be seen by the local registrar. He would be required, as I read the bill, to put the applicant on the books without any opportunity to ask him any questions whatever. We might as well not be so naive as to believe that there are not many people in this country who would steal elections. A few years ago—meaning no harmful reference—it was discovered, after an election in the State of Missouri, that hundreds and hundreds of people were registered and voted there whose addresses in many cases were filling stations.

If this bill is passed without some stringent amendments, there is going to be a general resurrection of the dead throughout the United States on every election day.

We cannot hope that everybody will be as honest as the two men who went to a cemetery in a county in my State to get names from the gravestones. One of them was reading the names off the gravestones, and the other was writing them down.

One man read: "Sacred to the memory of Israel Sherinstein."

The other man said: "Wait a minute. That's a long name. We can divide that into two parts and have two votes here.

The other fellow said: "No, sir. If I'm going to have anything to do with this, it's going to have to be honest." [Laughter.]

That is the kind of election law—with all due respect to my good friend and the committee—that shows that the Committee on Post Office and Civil Service does not know much about elections.

Mr. McGEE. I would say to my friend the Senator from North Carolina that at this point I think we are less concerned about the substance of the bill, which he has not yet had a chance to study—and thus the allegations about where potential fraud might come in ought not parallel that—but, rather, whether we have some jurisdiction over this matter.

I must say that I again applaud the Senator from North Carolina for his efforts with respect to looking into the rights of Federal employees. We are jealous about Federal employees. The Committee on Post Office and Civil Service has jurisdiction over Federal employees. We think the Senator has rendered a service in that connection. We do not think we are the only ones who are concerned about Federal employees and what their rights are.

I think this question lends itself to some knowledge that we on the Committee on Post Office and Civil Service have some considerable knowledge that relates to the feasibility of this process in carrying out the broad lines laid out in the Voting Rights Act of 1970. That is all we really need to submit in regard to it. At this stage, it is a jurisdictional matter, not a substantive matter, as I understand it.

Mr. ERVIN. In fact, referring to the bill of rights for Federal employees, when I first drew that bill and before I introduced it, I went to the distinguished predecessor of the distinguished Senator from Wyoming, the Senator from Oklahoma, Mr. Monroney, and called his attention to the bill. I stated that while I was trying to protect their constitutional rights, a field in which the Committee on the Judiciary has jurisdiction, I recognized that the Committee on Post Office and Civil Service could also take jurisdiction. So I got his consent to introduce the bill and to make a unanimous consent request—which was suggested to me by the distinguished Parliamentarian—that the bill be referred to the Judiciary Committee, and that was done originally.

Then, after the distinguished Senator from Wyoming succeeded to the chairmanship of the Committee on Post Office and Civil Service, I had a similar conversation with him, and he and I agreed that that would be the procedure to follow. That has been done.

In this case, I do not think the Judiciary Committee was told in advance about this proposal. I now want adequate time to read at least the latest version of the bill. I understand that the bill has been revised drastically since I read it, and I have not had an opportunity to see

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that. I have 5 days of hearings scheduled in the immediate future. I cannot be here.

Mr. McGEE. I appreciate the point the Senator makes.

At no time on this measure and its reference did I ask unanimous consent that it be referred to the Committee on Post Office and Civil Service. The Senator was kind enough to consult on the other bill and to ask unanimous consent that it be referred. But this is a question that has come up in terms of how the bill got to the Committee on Post Office and Civil Service, and that is the point that was raised in the RECORD by the Senator from Michigan.

Mr. GRIFFIN. I should like to recall what happened, because I remember it very well. It was late in the day. My attention was distracted at a time when the Senator from Massachusetts (Mr. KENNEDY) who is in the Chamber now—presented, from the well, a bill at the desk and asked unanimous consent that it be referred to the Committee on Post Office and Civil Service. There was no objection, and that was it. He left the Chamber.

Then I had the opportunity to go to the desk and take a look at the bill. I realized that it was an election registration bill which, in my humble judgment, should not have been referred to the Committee on Post Office and Civil Service.

Of course, if it were properly to go there, unanimous consent would not have been required. Even though the distinguished Senator from Massachusetts was not then on the floor of the Senate—and I hesitated to do this—I felt so strongly about it at the time that I made a request that if and when the bill should be reported by the Committee on Post Office and Civil Service, to which it was being referred by unanimous consent, it should thereafter be referred to the committee which would have had jurisdiction if the request had not been made.

Frankly, it seems to me that this bill should have gone to the Committee on the Judiciary, and at that time I thought my request would accomplish that result. If it did not, I would certainly join with the Senator from North Carolina in urging now that it be referred to the Judiciary Committee, after having had the benefit of the study of the Committee on Post Office and Civil Service.

Mr. McGEE. Let me say to the Senator from Michigan that that is not the bill about which we are talking.

Mr. GRIFFIN. I see.

Mr. McGEE. That bill was not reported by the committee. That was the bill that was introduced by the Senator from Massachusetts. This is an entirely different bill, the McGee bill, that was reported at a later date. So it is not the same sequence of events about which the Senator was concerned.

Mr. GRIFFIN. Was this the origin of the bill?

Mr. McGEE. No. We had four bills actually submitted and referred to the committee, one way or another—one of them by unanimous consent—in the same way that the bill concerning the constitutional rights of Federal employees was submitted to the Judiciary Committee—by unanimous consent.

But the McGee bill, in its approach in this matter, through the Bureau of the Census and the Post Office Department, was submitted about 10 days later, in its own right among those bills, and was submitted by reference from the Parliamentarian, not by a unanimous-consent request. So I think it still lives up to what I understand the intent or the interest to have been on the part of the Senator from Michigan.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator.

First of all, I want to extend my warm congratulations to the Senator from Wyoming for the work he has done on the bill, the series of hearings he has held, and the wide range of witnesses that have been heard on the proposed legislation. I think he and his committee deserve the commendation of all Members of the Senate.

As one who has long been interested in the expansion of the right to the franchise, I have been very much aware of the voices that have been raised, time and time again, questioning both the jurisdiction and the substance of legislation in this area. I think we have made significant progress in this body in expanding the right to the franchise, and I believe the present legislation is an important addition to the long line of matters that have drawn the attention of the Senate.

I can think of a recent time when the Senate considered the question of redistricting congressional districts. That was a hotly contested debate. There were efforts to keep it in committee, to study it further, and to examine its various implications over and over.

I can think of a recent time when the Senate considered the poll tax. I remember the hue and cry against our efforts to abolish the poll tax and the injustice it meant for those who were poor or black; we heard all kinds of reasons why the Senate should not abolish the poll tax.

Then I remember the debate on the 18-year-old vote. It was a Senate floor amendment, and its opponents said it had not been given consideration in the committee. Nonetheless, the Senate acted.

In each area, the action of the Senate has been supported by the Supreme Court. On the present bill, there have not been any serious constitutional questions that have been raised. As a matter of fact, two of the most outstanding constitutional scholars on the question of the 18-year-old vote, Professor Pollak of Yale and Professor Freund of Harvard, as well as many other constitutional authorities, are unanimous in supporting the constitutionality of the bill that has been reported.

So I supported and commend the Post Office and Civil Service Committee for its work. As a member of the Judiciary Committee and as one who has been in on some of these past battles, I believe that the Post Office and Civil Service Committee is performing a special service here.

We can talk about these matters of jurisdiction on into the night. The Senator from Wyoming has already touched on some of the various experiences he has had on jurisdictional questions. If we were to consider the whole range of Senate committee jurisdiction over elections, we can think of the Committee on Commerce, which has jurisdiction over broadcast spending in elections. We can think of the Committee on Rules and Administration which has jurisdiction over reporting and disclosure.

We think of the Committee on Finance which has jurisdiction over tax credits for political contributions. It is clear that many different committees have an interest in this area, and I think we should respect the interest of the Post Office Committee, just as we respect the interest of all the other committees.

This is not to say that we are all not jealous of the different matters over which our committees have jurisdiction. We know that there is frequently an overlap in jurisdiction between the Foreign Relations Committee and the Armed Services Committee.

I know the problem firsthand. For instance, as chairman of the Health Subcommittee, I realize that the Finance Committee will work its will in the area of financing health care. There are two essential parts in providing health care. One is delivery, and the other is the financing. They should not be separate, but in this particular matter, that is the way the Senate system works.

Financing of health care goes through the Finance Committee, and the delivery system goes through the Health Subcommittee.

We could spend a great deal of time wrestling around on this bill, but we all recognize that we work our will in terms of what goes on on the floor of this great body.

Last year, the Senate acted on the floor to accept Senator GOLDWATER'S residency requirement of 30 days for presidential elections, and we acted on the floor of the Senate in terms of the 18-year-old vote. This bill is much less complicated. It involves a much simpler kind of question. It is trying to provide opportunities for young and old alike to participate in a more meaningful way in the election process.

I do not believe that we should tarry long. As a member of the Judiciary Committee, I know its many current duties and assignments, including the consideration of the two Supreme Court nominations. I am very much aware that on the present bill, a substantial record has been made by the Post Office and Civil Service Committee, and I am aware of its fairness in conducting the hearings. They had a variety of opinions that were received. The fact is, this is a limited piece of legislation in terms of application. I would certainly hope, with the degree of urgency on this kind of legislation, that the chairman will continue to stand firm in his viewpoint, to insure that we do have the opportunity to debate these issues and act on them before the end of this year.

Mr. GRIFFIN. Mr. President, will the distinguished Senator from Massachusetts yield?

Mr. McGEE. I am glad to yield to the Senator.

Mr. GRIFFIN. Since the Senator from Massachusetts serves on the Judiciary Committee, he indicated there were no constitutional questions. I do not think he really meant to say that. I would imagine that there are some, because I am aware of the fact that there were constitutional questions raised in the hearings before the Post Office and Civil Service Committee.

I wonder whether the Senator from Massachusetts would object if a unanimous-consent request were made that the bill now be referred to the Judiciary Committee, which I think, if it did not have primary jurisdiction, certainly would have equal jurisdiction with the Post Office and Civil Service Committee.

Mr. McGEE. The chairman of the committee would object.

Mr. KENNEDY. Is the Senator a member of the Judiciary Committee?

Mr. GRIFFIN. No; my understanding is——

Mr. HRUSKA. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. If I may take just a moment, I would like to finish my question with the Senator from Michigan first. What is the basis for the constitutional questions that were raised?

Mr. GRIFFIN. I am relying on the advice of the Senator from Nebraska, which I always find to be pretty good advice.

Mr. KENNEDY. The Senator from Nebraska is one who opposed the question of congressional redistricting, who opposed the 18-year-old vote, and who opposed the action of this body in terms of the poll tax. I do not question his advice, but——

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HUGHES). The Senator from Wyoming has the floor.

Mr. KENNEDY. The point I was raising is that in the committee hearings on the present bill, no substantial constitutional questions were raised. Obviously, any lawyer worth his salt can raise a constitutional question. The issue is whether the constitutional question is substantial. Am I not correct in my understanding that no substantial constitutional questions were raised?

Mr. McGEE. The question did come up in the same way in the committee deliberations, as well as in the hearings, but I would be willing to yield some time, as requested by the Senator from Nebraska, to raise a question with the Senator from Massachusetts.

Mr. HRUSKA. Mr. President, I suppose I could have the floor on my time, but I will be glad to take advantage of the Senator's yielding. Representation was made that I opposed the 18-year-old vote as well as the poll tax. The facts are to the contrary. The facts are that I approved of and supported the 18-year-old vote—

Mr. KENNEDY. As an amendment to the Voting Rights Act?

Mr. HRUSKA. To get down to the matter of whether constitutional questions were raised, they were not raised by me, they were raised by Ralph E. Erickson, Deputy Assistant Attorney General, who appeared before the committee for the Department of Justice, and gave a well-reasoned and well-documented presentation of the subject on constitutionality. Here we have the bland and unsupported statement that no constitutional problems or questions were raised. They have been raised. There were constitutional considerations on matters of State laws, on the matter of enforcement, which always resides in the Department of Justice, and of course the Judiciary Committee is the natural home for the consideration of a measure of that kind.

What are the serious constitutional questions which were raised? They begin on page 270 of the committee hearings—20 pages of consideration of that—together with practical considerations of why this proposal should be looked at carefully.

Mr. KENNEDY. Mr. President, will the Senator from Wyoming yield?

Mr. McGEE. If I may first respond to set the record straight about the hearings, because I sat in on them during every minute and remember when Mr. Erickson testified. He was drafted at the last minute. He had been in the Department of Justice only 3 days. He had not really had a chance to get into this subject. He ended by testifying to a measure that has been very, very considerably changed from his suggestions, I think that he made some very helpful ones. We changed some of the phrases he used and tightened up the bill. His private observation, as a matter of fact, was that he thought we were on the right track. It was a case of his trying to acquaint himself with the problems as we went along. We worked along together with him.

Mr. HRUSKA. Mr. President, he testified on four bills. There were four bills. He testified on each of them. And at the conclusion of his statement, I find by a hurried reading—and this is the first time I saw the printed hearings——

Mr. McGEE. But not the November bill.

Mr. HRUSKA. No. But that is all the more reason why he should be called back and we should say: "Here is a clean bill. Do any of these constitutional questions apply to the clean bill?" They are raised, and it is right here.

Mr. McGEE. He was called up in such a hurry, and he was new on the job. We gave him the November print, the last print of the bill all cleaned up, and asked him to take it back and review it. He was kind enough to do that and he sent up his general observations.

There was no attempt to bypass or to duck the issue or to go ahead with the basic questions on this. And the constitutional question after the Oregon against Mitchell case was a secondary rather than a primary matter after it was developed by Mr. Erickson in the testimony.

Mr. HRUSKA. Inherent in the proposition is still the question whether there are constitutional questions, and plainly there are.

Mr. McGEE. I would challenge the Senator on that statement. I think that there are no basic constitutional questions. An 8-to-1 vote of the Supreme Court settled that issue in the Oregon against Mitchell case.

Mr. HRUSKA. Mr. President, I am not so sure.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. KENNEDY. Mr. President, it seems to me that we are getting somewhat selective as to when we shall ask the Judiciary Committee to take these matters. The same thing could be said with regard to other bills. It seems to me that whether we are asked to send a bill to the Judiciary Committee depends upon whose ox is being gored.

Obviously, the fact that a bill contains a constitutional question does not automatically give the Judiciary Committee jurisdiction over it. A few months ago, the Senate passed a major election reform bill that contained a number of first amendment issues, but there was no claim then that the Judiciary Committee had jurisdiction.

This is an extremely basic and fundamental bill of legislation. It deals with the availability of registration, and the Post Office Committee has clear jurisdiction.

The chairman of the committee has stated the constitutional question entirely correctly by his references to Oregon against Mitchell.

However, I did not know we were going to take the bill up and debate it tonight.

I am sure that the Senator would agree that we could have a reasonable amount of time to acquaint ourselves with the bill, before it is called up for floor debate. The Senator from North Carolina and the Senator from Nebraska are great constitutional authorities, and we look forward to their participation in the debate.

Mr. McGEE. We all agree with that statement, having had a fast look at the RECORD.

Mr. ERVIN. Mr. President, the Constitution of the United States still states that each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. It says that the electors shall elect the President.

This bill says that the Post Office Department and the Bureau of the Census, as I read the first draft, would determine that instead of the States. I think that is a serious constitutional question.

Mr. McGEE. Mr. President, I do not want to go into the subsistance of the question. It is a jurisdictional one, according to my recollection of the hearings. And I have to do this very roughly because I am not a constitutional lawyer, although once I thought I was a constitutional historian. Article I, section 4, does in specific language suggest that Congress should be the judge of the elections in the case of its membership. It was upon that basis that we have the decision in the Oregon against Mitchell case. That is in the Constitution.

We cannot content ourselves by reading a part of the Constitution that proves our side.

Mr. ERVIN. Mr. President, it refers only to Representatives in the House. It says their qualifications are to be pre-

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scribed by the States. The part I read refers to the presidential electors.

Mr. KENNEDY. Mr. President, the committee was on sound ground in its view of the constitutional issue. The chairman has already referred to Oregon against Mitchell, which decided the issue of residence requirements. On Smiley against Holm, decided in 1932 by Chief Justice Charles Evans Hughes for a unanimous court, the Supreme Court clearly held that Congress has plenary power under the Constitution to legislate in the area of voter registration.

We know that in the past, Congress has acted on the 18-year-old vote, the question of redistricting, and the question of the poll tax. They were all much closer constitutional issues than the one we have here. Ultimately that matter will be decided on the floor of the Senate, and there is no need for further reference of the bill to any other committee. But, I would think that the Senator from Wyoming would give us a reasonable time for preparation, so that by the time this matter comes up, we can avail ourselves of the necessary study.

Mr. McGEE. Mr. President, the purpose of this colloquy was to spell out the various ramifications and the jurisdictional question on this matter, rather than pressing for a vote on the matter right now.

I am advised by the leadership that the measure will likely follow immediately in the wake—I guess the only guarantee I can make is before adjournment. I will modify the generalization I have made.

Mr. HRUSKA. That gives a little latitude.

Mr. McGEE. The Senator is correct. In the interest of accuracy, I will modify my statement to that extent. I would say again to my friend the Senator from North Carolina that I did not come here to debate the substantive issues in the bill. However, as I read section 4 of article I of the Constitution, it provides:

> The Time, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; . . .

That is as the Senator said. However, it goes on and says:

> . . . but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.

It was the opinion in the Oregon against Mitchell case that made this a legitimate factor and an area for the consideration of this body. Thus, it was not a relevant constitutional matter in the light of that opinion. That was my opinion of it during the hearings when we had a spokesman from the Attorney General's office addressing us.

That is the essence of all I have to say here to my friend the Senator from Nebraska.

Mr. HRUSKA. Mr. President, the Senator from Michigan has inquired as to whether it would be possible to get a unanimous-consent agreement to refer the bill to the Judiciary Committee. I understood the chairman of the committee to indicate that he would object to such a request. What suggestion would the Senator have as an alternative?

Mr. McGEE. Mr. President, I think that the case for the Post Office and Civil Service Committee having jurisdiction of this particular bill and the terms on which it is drawn are very strong. I am not prepared to yield on that in any sense.

As a matter of courtesy, I would be interested in working out some sort of an understanding so that the Judiciary Committee would have a chance to look at the bill, but not a unanimous-consent agreement to refer the bill to it unless that agreement is accompanied by the requirement that it come back to the floor at a time certain in the condition in which we have reported the bill. In other words, the committee would be given a chance to look the bill over and to look at the hearing record, and that sort of thing. However, I am not about to relinquish jurisdiction of the bill.

Mr. HRUSKA. That would not be the purpose of the unanimous-consent request, because jurisdiction having been resident in the Post Office and Civil Service Committee, that would be the primary jurisdiction.

But it seems to me there should be some period of time given to the Committee on the Judiciary because of its interest and its primary interest in the thrust of the bill and because of constitutional considerations and the enforcement and criminal penalty section, and a number of other things. It seems to me they should have some opportunity to analyze and officially report to the Senate their judgment and appraisal of the section.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. KENNEDY. I always enjoy listening to my good friend from Nebraska on these procedural questions.

I hope that when the gun legislation comes from the Committee on Finance, he will be willing to argue jurisdiction of the Committee on the Judiciary as strongly as he argues the question of this bill being referred to the Committee on the Judiciary.

Mr. HRUSKA. There is no difficulty on that score. The Senator knows it.

Mr. KENNEDY. I hope he will take the same position with respect to the gun legislation. I wish that when we came here to debate sending the gun legislation to the committee, my friend had argued that it go back there and stay for a period of time, when we talked about relaxing the 1968 act.

I think there is no reason in the world why the chairman or the majority leader should not call up this bill at the end of the week, or early next week, to give us all an opportunity to study the full and complete record on this, and to consult with whomever we wish.

As a member of the Committee on the Judiciary, I am sure that committee is extremely busy now. We have witnesses on the two Supreme Court nominations, and a great deal of work is before that committee. To give that committee a week or 10 days for deliberation on this bill is meaningless. The chairman of the Committee on Post Office and Civil Service has done an extraordinary job, and his bill should now go before the Senate.

If we start moving in this direction of further referral, it is a dangerous precedent. Are we going to have health legislation from the Committee on Finance referred to the Health Committee? Are we going to rearrange and adjust the jurisdiction of all the other committees? This matter has been given due deliberation. The record has been made. I hope the chairman will stand firm.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. HRUSKA. I yield.

Mr. GRIFFIN. Mr. President, I have before me a copy of the bill that has been reported. As I read it, this act may be cited as the National Voter Registration Act, which is the title of the act. Although I have not read the bill—I do not know whether I would be for or against it—I take it that the primary purpose has to do with the registration of voters in elections.

I know it is not necessary to read for the benefit of the chairman of the committee the jurisdiction of the Committee on Post Office and Civil Service as it appears in Senate rule XXV, but I would like to read it for the RECORD in light of our discussion because the jurisdiction is very limited and does not involve very much reading. I will read the jurisdiction of the Committee on Post Office and Civil Service from rule XXV of the rules of the Senate. It reads:

> (n) Committee on Post Office and Civil Service, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
>
> 1. The Federal civil service generally.
> 2. The status of officers and employees of the United States, including their compensation, classification, and retirement.
> 3. The postal service generally, including the railway mail service, and measures relating to ocean mail and pneumatic-tube service; but excluding post roads.
> 4. Postal-savings banks.
> 5. Census and the collection of statistics generally.
> 6. The National Archives.

That is the extent of the jurisdiction of the Committee on Post Office and Civil Service. There is nothing in the rule that gives the committee jurisdiction over a national registration program.

If any committee other than the Committee on the Judiciary has jurisdiction it would be the Committee on Rules and Administration, which does have some jurisdiction relating to Federal elections. I think that would be very clear. Those two committees might jointly have considered this bill. But it is difficult for me to understand, other than the fact that the mails will be used, which is generally the case with almost anything that happens, that the bill would have any relationship whatever to the Committee on Post Office and Civil Service.

Mr. McGEE. I did not hear the Senator read the "Bureau of the Census."

Mr. GRIFFIN. Yes, I did.

Mr. McGEE. I was busy talking. I want to go back to that. There is a certain carrying factor involved. It is the Bureau of the Census that would have the job to get this distributed. That decision has been made.

We have acted in good faith. We have held extensive hearings in depth on these questions. I feel very strongly about the whole jurisdictional factor here because of the extremes we went to in respect to the other areas, realizing it always is a mixed bag, but the preponderance of the mix, in the judgment of the Parliamentarian, is due to the method we have prescribed for carrying out this segment of voter registration.

I think it is as elementary as that. The jurisdictional question has been raised. Maybe we shall have to resolve that question again.

I have discussed this matter with the Senator from North Carolina and the Senator from Nebraska. I have discussed it with the chairman of the Committee on the Judiciary, the Senator from Mississippi (Mr. EASTLAND). They manifested real concern with regard to the claim that we are busy and are trying to get out at the end of the session.

I note here a copy of a letter that most Senators received from the leadership. It is dated October 20, 1971, and it states that following the disposition of the economic tax proposals the following items will then be considered. This is responsive to the question raised earlier, on which I had to remain ambiguous until I could get the masterpiece itself: Phase II, voter registration, narcotics, 2 Supreme Court nominations, and the Okinawa reversion treaty. That is the program spelled out in the letter from the joint leadership.

I stand firm on the jurisdictional question. We are running out of time. I do not know of any other possibility available. The more we discuss this question, the more I think we are being crowded and are going to have to make a decision on the matter, up or down.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. KENNEDY. I understand the Senator utilized the post card form with regard to jurisdiction as a means.

Mr. McGEE. That is just a means.

Mr. KENNEDY. Who is the principal administrator of it? Is it the Census Bureau?

Mr. McGEE. The Census Bureau. It is within the Census Bureau that the national voter registration administration would be set up.

Mr. KENNEDY. It seems to me that the Senator's committee clearly has jurisdiction.

Mr. McGEE. That was my understanding. That is why I have been surprised about the jurisdictional question raised here.

Mr. KENNEDY. I agree with the Senator from Wyoming. I think he is completely within his rights, and I agree with the Parliamentarian in referring the bill to his committee.

Mr. McGEE. We did this in good faith because of the judgment made and the equity, on balance, of it all. We introduced no new areas or guidelines. We just followed legislation until now that has been reported by the Committee on the Judiciary. In this process we have arrived at a mechanism totally within the jurisdiction of this committee to permit it to be carried out, and still respecting, in a very stringent way, the rights and responsibilities of the States in this process.

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. McGEE. I yield.

Mr. HRUSKA. I come back to my first question. Inasmuch as a unanimous consent agreement would be objected to, what alternative suggestion has the Senator from Wyoming?

Mr. McGEE. What would the Senator propose? I imagine we would talk about a possible date in which to give somebody time to look at it. We cannot find that time. Senators are going to be gone, making speeches. The Senator's committee is having hearings on the nominations of two justices to the Supreme Court, which may extend some time yet, and we are running out of the projected time left in this session.

I have some responsibility to protect the actions of this committee and to make sure we are not running out the back door.

Mr. ERVIN. Mr. President, as I understand it, the only way the question of jurisdiction could be raised would be when the bill was called up and became the pending business. Then a motion would lie to refer to a committee that any Senator felt had jurisdiction. I would like to make a parliamentary inquiry to that effect.

The PRESIDING OFFICER. The Senator from North Carolina is correct. The bill has to be before the Senate before a motion to that effect can be made.

Mr. ERVIN. It seems to me there is a considerable amount of work already on the agenda, which is going to take some days. I would only make a request of the distinguished majority leader and the distinguished assistant majority leader and the distinguished Senator from Wyoming that whenever this bill is called up, I be notified in advance; and also I request that I be assured that no motion or unanimous-consent request will be made with respect to this bill until the Senator from Nebraska, the chairman of the Judiciary Committee, the minority whip, and I are all given notice, so that we will have an opportunity to be present at any time a motion or a unanimous-consent request is made with respect to it.

Mr. KENNEDY. Mr. President, may I be included in that request?

Mr. ERVIN. Yes.

Mr. HRUSKA. Mr. President, the Senator from Hawaii (Mr. FONG), who is the ranking Republican member of the Committee on Post Office and Civil Service, should be notified.

Mr. BYRD of West Virginia. Mr. President, who has the floor?

Mr. McGEE. Mr. President, I have the floor. I am glad to yield.

Mr. BYRD of West Virginia. Mr. President, if I may respond to the distinguished Senator from North Carolina, I will give him that assurance—and I am sure I can speak for the majority leader—to the extent that the Senator from North Carolina (Mr. ERVIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Hawaii (Mr. FONG), the Senator from Nebraska (Mr. HRUSKA), the Senator from Wyoming (Mr. McGEE), and the Senator from Mississippi (Mr. EASTLAND) will be notified prior to the calling up of the measure that has been discussed, and that no time agreement will be entered into without the approval of those several Senators whose names have been mentioned.

Mr. ERVIN. Will the Senator from Wyoming agree to that, because there is a great difficulty on the Senator's part and any other Senator's part on agreeing to a time?

Mr. McGEE. The Senator is correct. I would agree. Apparently the Senator from Nebraska would agree to the agreement made by the distinguished assistant majority leader on this matter. I would be willing to let it rest at that point.

Mr. ERVIN. At what point?

Mr. McGEE. At the point just described by the Senator from West Virginia (Mr. BYRD) as a commitment to us.

Mr. HRUSKA. Mr. President, would there be any disposition on the part of the Senator from Wyoming to agreeing to a date, say November 22, which is a week from this coming Monday? It would give the committee some chance to assess the situation and respond to the Senate, and then have it automatically returned to the calendar.

Mr. McGEE. As the Senator knows—and we were discussing this earlier—the 22d gets a bit late in terms of other schedules that are also intruding. November 18 was the date the Senator from Mississippi and I had tentatively discussed informally, without giving any commitment on it. By the time we get to Monday, November 22, we are getting into rather deep commitments that follow there shortly. I think the 22d would be extremely difficult.

Mr. ERVIN. November 18?

Mr. McGEE. I was taken by the suggestion of the Senator from North Carolina as to the parliamentary procedure and the consideration that is guaranteed. That still is the forthright way to get at it, because those issues can be raised at that time, as well as the judgment from the report and the November printing.

Mr. ERVIN. The Senator from Wyoming, as I understand, is willing to let the matter go for consideration by the Judiciary Committee until the 18th, on the understanding that the Judiciary Committee will return the bill by that time.

Mr. HRUSKA. On or before the 18th?

Mr. ERVIN. Yes.

Mr. McGEE. I think we are getting into a little disagreement over the question of referral, on the jurisdiction question. I thought the 18th was the time we could bring it up, but I also thought the suggestion was that we were going to discuss the bill, if we could clear that time, on the ramifications, including the jurisdictional question, on the floor of the Senate. That is what I understood the Senator from North Carolina to say.

Mr. ERVIN. So far as I am concerned, I would not want to agree now to bringing it up on the 18th for action.

Mr. McGEE. I misunderstood. The Senator would leave that to the leadership?

Mr. ERVIN. Yes; it would be up to the leadership.

Mr. McGEE. After notifying all of us?

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Mr. ERVIN. Yes.

Mr. McGEE. That is right.

Mr. ERVIN. I agree that the Senator from Wyoming does not refer to "referral" in the technical sense.

Mr. McGEE. In the technical sense. I could not agree to that.

Mr. ERVIN. But is willing to agree that the members of the Judiciary Committee may consider the bill informally, with the understanding that the matter can be motioned up on the 18th or thereafter by the majority leader, subject to the notice we discussed.

Mr. McGEE. If the leadership did not choose to call it up before; but I would gather there would be no break beforehand on that score.

Mr. HRUSKA. That is satisfactory with me. I had no reference to the formal reference to the Judiciary Committee, but to the consideration or a report it might want to make.

Mr. KENNEDY. Mr. President, I would object to that. This measure is on the calendar now. The bill has been reported. Are we going to open up questions of jurisdiction on every matter that is going to come before the Senate?

I understood the Senator from Wyoming and the assistant majority leader to indicate that other Senators would be notified and that we could decide this matter in accordance with the Senate rules. I do not know what is meant by informal or formal committee reference. I think we ought to go by the rules. We often hear statements here about running such situations by the rules. The matter has been referred to the committee. It is on the calendar now. Certainly, at the time when it is going to be called up, all of us ought to have an opportunity to know about it.

And all of us ought to have an opportunity for informal study of it. Nobody would object to that. But I have doubts about an informal report or study. The bill is on the calendar now. Let us have the Senate work its will and not have further delay in the matter.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. HRUSKA. Reference to the committee, whether formal, informal, or otherwise, is for the purpose of having the committee jointly consider it, just as it passes on any similar measure, in order, on the basis of whatever limited study it can give to the bill, that it can favor the Senate with its sentiments.

We are not going to get to the bill before that, in any event, according to all practical computations; and unless it is just a dog in the manger proposition, Mr. President, I do not see what objection could flow against that kind of situation.

Mr. McGEE. I think our disagreement is over the terminology and the effect of this, but referring it to the leadership, for it to take its place in their judgment, as they see fit, as a question, gives everybody a chance to look at it, whether it is formal or informal, because there is disagreement over whether it should be a formal or an informal referral, would assure that they have access to the hearing record, that they have access to the November print of the bill as it is laid before the Senate, and that the judgments of all concerned can be shared with the Senate in that interval, which will be the interval presently laid out.

Mr. HRUSKA. That is not giving anybody any consideration on the basis of there being some merit to the proposition in view of the fact that virtually in every major voting rights measure since 1957, going right on through, has gone to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, if the Senator will yield, that is not——

Mr. HRUSKA. I do not yield at this time. All we ask is that it be sent to the Committee on the Judiciary, so that that committee may communicate to the Senate officially before the 18th and say, "We have had this little more time to study it; here are some of our thoughts on it."

If the Senator does not want the Judiciary Committee to have even that courtesy extended to it, let him say so, and we will fold our tents and go on to the Judiciary Committee hearing, where we are still considering the nominations of Mr. Rhenquist and Mr. Powell.

Mr. FONG. Mr. President, will the Senator yield?

Mr. McGEE. I have promised to yield first to the Senator from Massachusetts.

Mr. KENNEDY. I have nothing to add at this time.

Mr. FONG. Mr. President, the Post Office and Civil Service Committee has filed its report on the bill, and three of the four minority members have stated, in minority views, under the heading "Jurisdiction of Post Office and Civil Service Committee," as follows:

JURISDICTION OF POST OFFICE AND CIVIL SERVICE COMMITTEE

A severe indictment can be made of this bill on the basis of committee jurisdiction and expertise.

Rule 25–1 "l" states that matters relating to civil liberties shall be referred to the Committee on Judiciary. Bills dealing with voting rights and registration for Federal elections have in the past been referred to and considered by the Committee on the Judiciary.

The Senate Committee on Post Office and Civil Service received this bill on voter registration because contained in it were references to the United States Postal Service and Bureau of the Census. These two Federal agencies were to produce, distribute, monitor and deliver Federal voter registration cards. However, the primary thrust of the bill was to establish a national voter registration system.

The debate that will take place on the floor and the discussions in the Committee on Post Office and Civil Service on this measure will center not around the participation of the United States Postal Center or the Bureau of the Census in the National Voter Registration system but rather whether or not such a system should be established.

It is essential in considering legislation of this importance that the Committee which has the expertise arising out of many years experience in the field consider such legislation. Constitutional questions, impact on state laws, imposition of criminal penalties and a multitude of other questions attending the establishment of a national voter registration system should be given much greater consideration in committee than the Post Office and Civil Service Committee gave S. 2754.

The Civil Rights Act Amendments of the 1960's, the Voting Rights Act of 1965, the Voting Rights Act of 1970, all of these were considered by the Senate Judiciary Committee. The Federal agency charged with overseeing voting rights is the Justice Department. Here the bill seeks to establish a National Voting Rights Administration in the Bureau of the Census, Commerce Department. This appears to be setting up a system without coordination between Federal agencies and is inviting problems that can and must be avoided.

The Committee staff has drafted five or more different versions of this bill. Even after the Committee had acted, substantive changes were being made in the bill. We understand that very substantive floor amendments will also be made by the majority of the Committee during debate on this bill in order to correct deficiencies that have been raised after the Committee voted on the bill.

There may be very many more pitfalls contained in the bill even after adding floor amendments. The Post Office and Civil Service Committee had one executive session of less than an hour's duration on this bill.

With all due respect to the expertise of the Committee members and staff of the Post Office and Civil Service Committee in attempting to write legislation on voter rights and registration, the bill continues in many deficiencies and should be re-referred to the Judiciary Committee for further refining consideration.

As the ranking Republican member of the Post Office and Civil Service Committee, which worked on the bill, I still do not understand the bill too well yet. It is a real hodge-podge, and it should be referred to the Committee on the Judiciary which, after all, has jurisdiction over voter registration.

The main thrust of the bill is voter registration; it is not the use of the U.S. Postal Service nor of the Census Bureau. The only reason why it was referred to the Post Office and Civil Service Committee was that it was tied to the Postal Service in that the Service was going to deliver the cards to the voters; and the only reason another bill was sent to this committee was that it was similarly tied to the Census Bureau.

These are really the only reasons the bills were sent to our committee—because the instrument used getting the forms out was the Postal Service and the Census Bureau.

But there are real, vital questions here, dealing with constitutional rights, and with the impact of the law if we enact this bill, on the registration laws of the States. There are questions of criminal penalties; we have a provision in the bill for a fine of $10,000 for fraud, or 5 years imprisonment, or both, and a fine of $5,000 if one interferes with the rights of a voter.

We have in this bill many, many questions dealing with the judiciary, with justice, and with the judicial process, and I think that the bill should be referred to the Committee on the Judiciary, so that that commitee can look it over.

Mr. BYRD of West Virginia. Mr. President, the subject of committee jurisdiction with respect to the voter registration bill has been discussed pretty thoroughly, I think, this afternoon. It is clear at this time, that no unanimous-consent request to refer the bill to the Committee on the Judiciary would meet with the approval of all Senators present. Moreover, no motion would be in order today to that

effect, by virtue of the fact that the bill is not before the Senate. Consequently, in view of the fact that the leadership is now on notice and has assured certain Senators here that no agreement will be entered into with respect to this bill without prior consultation with those Senators; and second, that the bill will not be called up until those Senators have been properly notified and consulted with, it would seem to me that it would be useful now to proceed to other matters. I do not wish to cut off debate, of course.

Mr. KENNEDY. Mr. President, will the Senator yield for just one final question?

Mr. BYRD of West Virginia. I yield.

Mr. KENNEDY. As I understand, this measure was introduced in September?

Mr. McGEE. Yes; in fact, on the 16th of September.

Mr. KENNEDY. At any time prior to this, has jurisdiction been challenged?

Mr. McGEE. At no time that I am aware of. At no time were we ever aware of its being challenged.

Mr. KENNEDY. And now that it is on the calendar, this question arises?

Mr. McGEE. The challenge has come as we prepared to act.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield to the able Senator from North Carolina.

Mr. ERVIN. On that point, the time for raising the challenge has not arisen yet. It cannot arise until the bill is called up and made the pending business.

Mr. BYRD of West Virginia. The Senator is correct.

ORDER FOR RECOGNITION OF SENATOR SYMINGTON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the recognition of the two leaders tomorrow, the distinguished Senator from Missouri (Mr. SYMINGTON) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. I ask unanimous consent that upon the conclusion of the remarks of the Senator from Missouri (Mr. SYMINGTON) tomorrow, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, and that at the conclusion of that period the Chair lay before the Senate S. 2820, a bill to provide foreign economic and humanitarian assistance authorization for the fiscal year 1972.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REFERENCE OF THE RUNAWAY YOUTH ACT

Mr. BYRD of West Virginia. I ask unanimous consent that a bill introduced today by the Senator from Indiana (Mr. BAYH) for himself and the Senator from Kentucky (Mr. COOK), to be known as the Runaway Youth Act, be referred to the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAY BOARD DECISION INDICATES WHY CONGRESS MUST LEGISLATE STANDARDS AND POLICIES FOR STABILIZATION ACT

Mr. PROXMIRE. Mr. President, yesterday the Pay Board made three significant decisions affecting the lives and fortunes of millions of Americans. This group of 15 men, elected by no one and not even confirmed by the Senate of the United States, took far-reaching and even unprecedented actions.

First, they determined that future standards for pay raises during phase II of the program should be set at 5.5 percent.

Second, where pay increases have been negotiated, they can be put into effect after November 13 provided that are not unreasonably inconsistent with the Pay Board's standards. Most deferred increases will, therefore, go into effect.

Third, and highly significant, they determined that raises bargained for or determined before August 15, but which were to have gone into effect during the freeze, would not be paid retroactively except in unusual circumstances.

ACTION RAISES IMPORTANT QUESTIONS

The latter action, especially, raises grave questions and indicates why it is so important for Congress not only to legislate specifically on these matters rather than to leave them to the arbitrary decisions of appointed bodies, but also why it is imperative that Congress review the powers granted in the stabilization act itself after there has been 2 or 3 months of experience under the act.

There are a whole series of questions raised by the refusal of the Pay Board, by a 10-to-5 vote, to grant the retroactive increases previously agreed to. Among the most important ones are these.

ABROGATION OF CONTRACTS

First. These agreements represent contracts bargained for in good faith between management and labor. Like all contracts they include offers acceptances, and considerations. They are compromises which are the results of give and take.

Now the Pay Board has ruled that certain provisions of these contracts cannot be honored. Agreements reached through private collective bargaining in good faith for wage increases in the period August 15–November 13 are abrogated by the Pay Board.

This not only raises grave questions about labor contracts, but what about other contracts?

Is the Pay Board or the Price Commission going to do the same with respect to other contracts? Most interest rates fell during the pay period. But what about the interest rate on those individual bonds which rose during the freeze period? What about mortgages where the cost of the new homeowner determined during the period of the freeze was increased above the cost of a prior period? While it is true that interest rates and mortgage rates in general declined during the period, or at least did not go up, the general level of rates is composed of thousands of individual transactions, some of which up and some of which went down.

Imagine the hue and cry if the President of the United States or a board acting on his behalf should abrogate a contract involving interest payments. Congress would be overwhelmed with petitions from angry people who feel that this is a sacred contract they entered into and that they have a right to expect payment in full. No more sacred, however, than a wage contract which is negotiated in good faith.

These, too, are contracts. What is to happen to contracts of all kinds if the Pay Board can arbitrarily determine that labor contracts already entered into are not to be carried out?

This is a vast power to be exercised by the Pay Board. In this case the principle is far more important, than the specific consequences.

WAS IT NECESSARY?

Second. Was it really necessary to exercise the power to abrogate contracts in order to fight inflation? Was it worth it?

Wage and salary disbursements for the entire economy were at the annual rate of $580.9 billion in the months of August and September.

Far less than 1 percent of this amount was involved in retroactive contracts—I think probably less one-half of 1 percent. This Pay Board decision, could not significantly affect the basic principle the President is trying to achieve—namely, to reduce the rate of price increases to below 3 percent by the end of next year. For all practical purposes, the amount of money involved in granting retroactive pay provisions was not enough to have any significant effect on the inflation battle.

This is a very strong reason to argue that the Pay Board, as a practical matter, should have honored the contracts.

I can think of only one significant reason against such action. There may have been some cases—especially in the case of small or marginal employers—where granting the pay increases retroactively, while not allowing the employer to raise prices to cover the added costs, would work an unfair hardship on the employer.

On the other hand, there must be dozens of municipal and State governments which had already raised taxes or cut other expenditures to provide for pay increases for teachers, police, sanitary workers, and others scheduled to go into effect during the freeze. Surely, most private employers who had pay increases scheduled for the August 15–November 13 period had already taken action through price increases or other means to meet the scheduled pay increases.

Now, it is true that the Board's exception recognizes this. But the burden of proof—and it is a very hard burden—is on the worker.

In these cases where proof cannot be adduced, working people will be unfairly denied the increase. On the other hand, it is true that in a few cases, there would be a genuine hardship on the employer, if we go the other way.

There is one possible way to both grant the retroactive increases and to meet the

genuine grievances of a small employer. Instead of denying any retroactive increases except where the union proves that the employer raised prices in anticipation of wage increases scheduled to occur during the freeze, why not allow the retroactive increases except where the employer proves that he did not take action in anticipation of the scheduled wage increases?

In other words, why not let the contracts stand except where it can be shown that a hardship resulted?

Instead of taking this course, the Pay Board's action will mean thousands of contracts are abrogated and the burden of proof is thrown on the wage-earner to prove that the employer raised prices in anticipation of the scheduled increases. Since the wage earner does not have access to the employer's books, he is now asked to perform an almost impossible task.

The Pay Board has this matter upside down. This is especially true in view of the extreme seriousness of the power exercised by the Board to abrogate contracts.

NO CONTRACT—NO WORK

Third. Even if the labor members of the Pay Board reluctantly accept this decision—I am talking about their leaders—the rank and file of the labor movement may be entirely unwilling to do so. If the pay provisions of contracts are abrogated, then working men and women may well consider that they have no contract. We may be facing a period of labor unrest and strife entirely out of proportion to the importance of this decision. Last Sunday I spent several hours—I expected to spend perhaps less than an hour, but I ended by spending several hours—with about 500 working men and women in Milwaukee, and I can report that the feeling on this matter runs far deeper than the public or Congress is aware. They deeply resent what has happened to their pay increase. The sentiment at that meeting—there were 500, and they represented a great number of unions—was very powerfully against this kind of action which, of course, had not been made at that time but was anticipated.

A contract is the result of free collective bargaining. It is not only pay rates which are bargained for, but also hours, working conditions, working rules, and hundreds of other matters. A labor contract represents the results of all these matters. When the pay provisions are abrogated, the question becomes whether working men and women are obligated to abide by the remaining provisions of the contracts which represent a compromise between pay raises and working conditions.

But, on balance, there was little or nothing to be gained in the fight on inflation by failing to grant retroactive increases. And there has been a great deal to lose in abrogating the sanctity of contracts. The refusal to honor these contracts, in light of their relatively minor consequences for price stability, could cause the entire stabilization program to break down by destroying working men and women's confidence in the fairness of the program. That risk does not seem to be worth the price.

WHO GETS THE WINDFALL?

Finally, who is to get the money saved by companies or public bodies as a result of the failure to pay out wages already agreed to? There are some cases where taxes have been increased to pay for teachers' pay raises. Now the teachers are not to get the raises for the August 15 to November 13 period. Who gets the windfall?

Meanwhile, some companies will now save tens of thousands of dollars of the costs of doing business. In the absence of direct price decreases to consumers, these savings may merely be transferred from the pockets of the men and women working for these companies into the coffers of the company treasury or to the stockholders as increased equity in the company.

CONGRESS MUST LEGISLATE INTELLIGENTLY

Because of what happened yesterday, it is now even more important than before that the Senate and House of Representatives should not only legislate carefully and in detail on these matters, leaving very little in the nature of general or vague directions to the President and the Pay Board and Price Commission, but also we should refuse to grant authority now beyond April 30, 1972, when this act expires. We ought to have some experience; we ought to know what we are doing. We will have very little knowledge of what we are doing or what the Pay Board and Price Commission is going to do if we act in the next couple of weeks to extend the authority.

The decisions of the Pay Board and Price Commission are just now being made. Before we extend the Stabilization Act another year beyond April 30, 1972, we should wait until there has been some experience under the program.

We have plenty of time. In February or March we can reopen this matter, review what has happened, and legislate after having had some experience under the law.

If we extend the act now until May 1, 1973, there will be no occasion on which Congress will be required to review the act. In view of this tremendous grant of power—power which Arthur Burns, Chairman of the Federal Reserve Board, referred to as "dictatorial"—this is the very least we can do.

I would remind my colleagues that the fundamental authority under which the President is acting is limited to only five lines in the stabilization act. Those five lines read as follows:

The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970. Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent gross inequities.

That is all. That is it. That is the whole thing. No standards, no restraints. The President is given the most massive economic power that Congress has delegated to any Chief Executive since I came to the Senate. I think it is among the most massive powers ever given. At this time, there have been no guidelines at all set forth by Congress.

It is now time for Congress to legislate responsibly. And to legislate responsibly we need to spell out the precise powers and standards we are granting to the President, and to make provision for reviewing these powers after there has been 2 or 3 months' experience under the act.

TRIBUTE TO THE LATE RICHARD BREVARD RUSSELL, SENATOR FROM GEORGIA

Mr. BYRD of West Virginia. Mr. President, on October 19, 1971, in Newport News, Va., the very distinguished Senator from Mississippi (Mr. STENNIS) honored the memory of his predecessor as chairman of the Armed Services Committee when he spoke at the keel-laying ceremonies for the nuclear attack submarine, U.S.S. *Richard Brevard Russell*.

The eulogy given by Senator STENNIS on that day serves to remind us—though I know that a reminder would be unnecessary—that the late senior Senator from Georgia was a man dedicated to the concept that a free America must always be a strong America. To that end he lent his immense strength and incomparable skills for many years in this distinguished body.

Mr. President, as I read the words spoken by Senator STENNIS for our late colleague, I was struck by the fact that much of the language, the admiration and respect that the tribute contained could be applied without change to the distinguished junior Senator from Mississippi (Mr. STENNIS) who now lends his distinction and skill to the chairmanship of the committee so long graced by a Senator and an American of such very high stature—Richard Brevard Russell—a man whom I admired more than any other man in Washington and who once said:

The United States has more than is worth protecting than has any other nation, and I am thankful that our citizens are willing to pay the price for its defense.

I ask unanimous consent to have printed in the RECORD the tribute paid by Senator STENNIS to the memory of a great patriot, Richard Brevard Russell.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

KEEL LAYING OF THE "RICHARD B. RUSSELL" (SSN 687) NEWPORT NEWS, VA., OCTOBER 19, 1971

(By Senator JOHN C. STENNIS)

Mr. Secretary, Mrs. Stacy and other members of the Russell family, ladies and gentlemen:

For me, my friends, this is a sacred hour. I feel we have the personification here today of much of the fine dedication in our Navy. Too, we honor a man who represented the ultimate in dedication to his country; so, we look to the future with confidence in our system and in our ability to carry it on. So it is with pride and with humility that I speak. Just as I am proud to participate with you in the initiation of another link in the chain of America's defensive armor, so, too, am I humble in the thought that in this dedication we are paying tribute to the memory of that great American for whom this ship will be named—Richard Brevard Russell.

No small part of his service was his own dedication to the concept that this nation must remain strong if it would remain free. And one of the keystones of this philosophy was that America must maintain a Navy that is second to none. To these ends he bent his energies, his will, his skill for almost four-score years in major Senate positions.

During all that span of time he was foremost among the legislators in urging national defense. I doubt that any man during that period worked harder to preserve peace, yet, at the same time, to prepare for the wars that might come and did come.

He was one of those who took an early lead in 1939, and this is significant, when war clouds darkened on the world horizon, arguing for greater preparedness, even to insisting that an inadequate defense budget be returned for desperately needed increases.

He vigoriously supported every effort during World War II.

He feared the dismemberment of our defense machine after that war, for he could see the threat of the Cold War even then.

He stood firmly behind the President at the time of the Korean War, convinced that the forces of aggression must be repelled.

During all that time he recognized, too, the needs of our fighting men and those of their families, and was in the foremost in seeking legislative means to alleviate the hardships, the sacrifices, and the lonely vigils that are by-products of that great calling.

Six Presidents of the United States turned to Senator Russell for advice and counsel on matters dealing with the country's defense. He gave it freely, frankly, without an echo of partisanship, always in the nation's interest.

And, finally, although he opposed our commitment in Southeast Asia from its inception, once the dye was cast, he used every means at his command to bring that war to a successful conclusion:

I want to quote from him four and one-half years ago these words of wisdom:

As for me, my fellow Americans, I can never knowingly support a policy of sending even a single American boy overseas to risk his life in combat unless the entire civilian population and wealth of our country—all that we have and all that we are—is to bear a commensurate responsibility in giving him the fullest support and protection of which we are capable."

In retrospect, you and I can only marvel at his perceptive judgment, take to our hearts his unerring message, and vow to support such a precept in the future.

For the past 25 years this country has been the bastion of defense for the whole free world. Often expressed, repetition has dulled the colossal magnitude of this undertaking. Our farflung commitments, our bounteous economic largesse, our constant and immediate willingness to back the cause of freedom wherever the gauntlets were thrown—these are unparalleled in history and would, indeed, have brought on the collapse of any other nation.

But during that period of 25 years, our Navy has provided the sinews of strength necessary to implement our foreign policy. When called upon, the Navy has always been prompt to act to blunt the aggressor's sword, to maintain order, to succor those in direct need. On the beaches of Lebanon, as backup to the relief of beleaguered Berlin, as a containment force in the conflicts between Israel and the Arab states, in massive support of Korea ad Vietnam, as a major factor in the Cuban crisis—all these and more have proved the mettle of our Naval forces and their priceless value to our nation and to the free world. They have always been found ready.

Now, my friends, I feel this way. People ask me what keeps you going, what keeps you going during the debates (the debatees this year). I had one seldom-expressed, abiding feeling at the very bottom of my soul that without an effective military power we actually have no foreign policy.

We are just fooling ourselves if we think that we can have a meaningful foreign policy or a meaningful self-defense in the world in which we live unless we have this adequate military power, and I'm not talking merely of machines, and guns, and other weapons, although they are necessary. But let us not make the mistake—we must look to the manpower—the dedication, the very soul and courage of the men that are behind our weapons.

Now, no small part of this readiness to which I referred can be attributed to the foresight and wholehearted assistance over those years given by Richard Russell. During the '50s and '60s, he supported the augmentation of our fleet of aircraft carriers—carriers that aided and still are aiding in stilling the troubled waters of the Mediterranean. He was among the first to recognize the invaluable contribution that nuclear energy could make to undersea warfare. He fought hard and successfully to increase the size of our Polaris fleet in time to neutralize the forces of nuclear blackmail or aggression. He encouraged—he did more, he insisted—on a more rapid increase in our high-speed nuclear attack submarine force, because he early saw in the sudden expansion of the Soviet fleet a threat of worldwide proportions. At the time, I was chairman of the Preparedness Subcommittee, studying the subject with grave concern. I advocated that course, and I welcomed his invaluable assistance; in fact, I was the assistant to him.

In the long history of our country, it has been a tendency—one might almost call it a tradition to neglect our armed forces between major wars.

I mention it with emphasis because, as a layman—a civilian, I want to try to help you understand more about an unfortunate present situation which I believe is getting better. But we, as a people, reject aggression on our own part and, probably as a result, we also reject a proper defense posture. We assume a benevolent attitude toward the world at large with a sort of benign and innocent hope that the forces of aggression will reciprocate with similar benevolence. How ill-founded has been this hope, I need hardly remind those here today. At one time this was permissible, however ill-advised, since a two-ocean moat protected fortress America. But with the crossing of oceans or over poles reduced to computer-calculated nuclear minutes, we no longer can afford the luxury of unpreparedness. It takes five years to build a carrier and almost twice as long to devise and produce new aircraft or a new missile system. We started building a more modern Navy two years prior to Pearl Harbor. But this was not enough time, and it took almost two more years before we could engage the enemy. Today we cannot buy that time. When an aggressor strikes, we must be ready, or suffer a devastating and perhaps a final defeat.

So I hold with Senator Russell—to use his own words—that "we owe it to ourselves and to succeeding generations to work fervently toward peace and understanding among nations." But I hold with him that unilateral disarmament is tantamount to national suicide in our present climate of international aggression. Within the past few days, we have had renewed warnings of a massive Soviet buildup in nuclear weaponry. It would be foolhardy to ignore this portent.

Yet, even as we gather here today, there are Americans—well-meaning Americans—who attack our Army, our Navy, our Air Force on the grounds of size, power, influence and cost. One might excuse this as an inevitable offshoot of the winding down of the conflict in Asia. Or one might attribute it to our pressing economic needs in other areas. One might even attribute the disenchantment with the present war as a source of dissatisfaction with the defense establishment, forgetting that the military carries out our policy, but does not forge it. Let me make this fact clear to all Americans:

To wear the American military uniform is a distinct privilege and an honor. An active military career is a highly honorable profession. From the very moment our national independence was declared, but had not been won, the man in the military uniform has been on the front line, winning our independence first, and since then, and until this very moment, maintaining the security and safety of our people.

And, in the larger sense, let us remember it is both fitting and proper that control over the defenses of our country should rest in civilian hands. The Constitution makes this clear. It is of vital importance to the future welfare and strength of our armed forces that we constantly remind ourselves of this, or to act otherwise, would fester the dichotomy of thinking that presently exists, and, in the long pull, weaken that which you and I wish to strengthen.

I have a firm and abiding faith, my friends, in the ultimate judgments of the electorate of this nation. And I know that was true of the man that we honor here today. Given the facts, clearly and impartially stated, I have no doubt as to their unselfish ability to choose—as the phrase has it—between guns and butter. But this requires patience, understanding, and patriotism of the highest order on the part of our military personnel. So be patient! Richard Russell with that wonderful prescience of his, stated it so well when he said several years ago:

"Among the nations of the earth, each attaches an importance to defense that is proportionate to its valuation of its institutions, resources, traditions, and individual rights. The United States has more that is worth protecting than has any other nation, and I am thankful that our citizens are willing to pay the price of its defense. I trust this will always be true."

In my own work there is the Senate, I was singularly fortunate to be able to partake of his profound wisdom, experience, and knowledge. I was proud to be his friend, and proud of the trust that he placed in me, as we found in each other a mutual respect, a common philosophy, and a similar understanding of the basic needs.

I mention these things today in gratitude—to assure you, and others, that so far as my power and energy and ability will go, I propose to maintain those same principles, those same ideals for strength, ability and confidence in our military that he so well personified.

Just as men of such stature as John Paul Jones and David Farragut symbolise the ideal of the patriot in uniform, so, too, does the figure of Richard Russell epitomize that spirit of unselfish patriotism in mufti. And when the nuclear attack submarine *USS Richard Brevard Russell* slips down the ways and assumes its station on patrol in the far reaches of the ocean depths, I confidently believe that this spirit of patriotism that so marked the ship's namesake will be imparted to those brave men who will man the ship—and to other Americans—that they will be imbued with the same type of courage that enabled him to face odds unflinchingly; the same type of almost instinctive, yet reasoned, vision that enabled him unerringly to choose the right course; the same type of unselfish devotion to duty that American needs in this hour.

Those qualities—as long as they remain—for a thousand years and more, a free America will remain. When one sums up this matchless man and his wonderful career in a word, he has to choose the word "Patriot." And when I try to sum up the strength of the Navy in one brief clause, I would say it is the dedication of the man in the Navy and the Marine Corps to our country, to their purposes, to their God. So God bless the memory of Senator Russell. God bless the Navy. God bless the people of the United States.

XUM

QUORUM CALL

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker has affixed his signature to the following enrolled bills:

H.R. 8629. An act to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes; and

H.R. 8630. An act to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses.

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill (S. 2820) to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

AMENDMENT NO. 632

Mr. HUMPHREY. Mr. President, I send to the desk an amendment and ask that it be printed and lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received and printed and will lie on the table.

Mr. HUMPHREY. Mr. President, this amendment is designed to prevent any reduction in foreign assistance authorization being used as an excuse to curtail the already too meager support given to humanitarian assistance, particularly food aid.

I have offered this amendment, Mr. President, because I am convinced those seeking reductions are concerned over the direction of "big money" programs, not the little programs for mothers and children that have already been to often neglected in many instances. I feel such an amendment is necessary, despite the overwhelming legislative history of the Senate concerning the direction of such aid. Why? Because too often in the past, I have seen agencies of our Government apply such reductions in authorization or appropriation exactly the opposite to what the Congress has indicated.

I ask unanimous consent that at this point the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 632

On page 2, between lines 4 and 5, insert the following new section:

FOOD FOR PEACE PROGRAM

SEC. 3. It is the sense of the Congress that funds to administer the Food for Peace Program should not be reduced as the result of any reduction in the authorizations provided to carry out the Foreign Assistance Act of 1961.

Mr. HUMPHREY. Mr. President, during the past 2 weeks many of my colleagues have emphasized that, despite differing viewpoints on some aspects of foreign aid, they did not want to curtail humanitarian aid, particularly food aid. I certainly agree. One of the great successes of the past two decades has been the effective, constructive use of America's abundant food and fiber production to benefit humanity throughout the world under our food for peace program.

It has been one of the most popular programs with the Congress, with true bipartisan support. Repeatedly, Public Law 480, the legislative basis for food for peace, has been extended by overwhelming majorities. Over the years since this program was originally enacted, based primarily on a desire to make better use of our ability to produce—rather than just shut down rural America through curtailment of farm production, we have seen the original "surplus disposal concept" replaced with nutritional and self-help emphasis.

Mr. President, my work in the Senate over the years of my service has in large measure been directed toward the implementation of food for peace. I am one of the original cosponsors or coauthors of this legislation. During my service in the Senate in the fifties and sixties I offered a number of amendments that I believe improved the food for peace program, extended its coverage, and helped to develop it into a program of nutritional aid and self-help.

We have seen food become the incentive to agricultural production improvements in other countries, instead of just a crutch. We have seen work for development replace perpetual relief handouts. We have seen the donation phases of programs, whether through America's great voluntary agencies like CARE, Catholic Relief Services, Church World Service, Lutheran World Relief, and the American Jewish Joint Distribution Committee or on a government-to-government basis, concentrated more on maternal and child health care, along with school lunch programs, and less on direct family dole. We have seen new products designed and developed to meet nutritional needs of children, and help eliminate the world's protein shortage. And, right now, we are seeing some of these new low-cost high protein products originally developed through this program become the mainstay of saving lives among Pakistani refugee, just as they did in Nigeria before peaceful conditions were restored in that country.

What concerns me, in the face of concern over other phases of our foreign assistance effort, particularly military assistance, is that all of our colleagues may not realize how crucial AID funds are to the effective operation of food for peace.

It is true that the financing of the food purchases in the United States for this program are handled under other appropriations—through the Commodity Credit Corporation in USDA. But the Agency for International Development handles the overseas implementation of the food-for-peace program, and the Washington programing end of the food donation phases for maternal and child health care, for school lunch programs, for work for development projects, for the world food program of FAO and for UNICEF, and for contributions to refugee programs such as in Nigeria and India and East Pakistan. As a result, the administrative funds for the food-for-peace program come out of the Foreign Assistance Act appropriation—a very limited amount—too limited, in my opinion—but a very necessary amount to assure the food gets to the people who need it, and is wisely and constructively used. Thus a very small investment in administrative dollars to the Agency for International Development is protecting the effective use of billions of dollars of food aid financed from another source.

My concern, Mr. President, is that nothing in the changes recommended by the Senate Foreign Relations Committee in authorizing continued foreign assistance at a lower level shall be construed by officials of AID as a mandate to cut the already limited funds going in support of the food-for-peace program.

The amendment I offer really states simply that there shall be nothing in the Foreign Assistance Act that shall in any way jeopardize these administrative funds for pursuing the objective and the purpose of food for peace. After all, if the Department of Agriculture budget can sustain the major share of the food-for-peace costs, the least that AID can do is to maintain an effective administrative group to assure continued constructive use of the food.

Mr. President, I do not want my remarks to be interpreted as a criticism of Dr. Hannah, the Director of the AID program or of the AID agency. I want to make sure that when Congress acts on foreign assistance—and I believe it will, and I am sure there will be reductions in the foreign assistance program—there shall be no diminution, no dilution, and no cutting back in the food for peace program, because all that the AID agency does is to help in the administrative costs and to provide help in the form of other developmental loans which may relate to that program.

I am sure there is no intent in this body, in the current debate on certain aspects of our foreign assistance, to minimize the continued effectiveness of the food for peace program, so important to children of the world and yet at the same time so important to American agriculture as well. Once again we have bumper crops in our farm areas, and most of us, I am sure, would rather see a share of this production wisely used for humanity instead of seeing it pile up once more as an unwanted surplus bulging from our storage bins while much of the world goes hungry.

For my colleagues whose constituents, like mine, include farm producers, may I remind them of the volume of U.S. farm products being moved into export markets or contributed under donation programs through the food for peace program, under either title I credit sales or title II food donations. During fiscal year 1971, shipments amounted to over $1 billion worth of cotton and cotton products, condensed milk, nonfat powdered milk, tallow, barley, corn, sorghums, rice, wheat and wheat flour, vegetable oil, tobacco, bulgur, cornmeal, rolled oats, CSM, wheat-soy-blend or WSB, rolled wheat, and soya flour.

Mr. President, I have just received from AID's food for peace office a summary listing these shipments by commodity, quantity, and value. I ask unanimous consent to have these tables, covering title I and title II Public Law 480 shipments, printed at this point in the RECORD.

There being no objection, the tabulations were ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1971, PUBLIC LAW 480, TITLE I SHIPMENTS BY COMMODITY QUANTITY AND VALUE

Commodity	Quantity (thousand units)	Value (millions) [1]
Cotton (bales)	872	$121.0
Cotton products [2] (pounds)	6,121	4.2
Condensed milk (pounds)	41,817	11.6
Nonfat powdered milk (pounds)	20,244	3.8
Tallow (pounds)	21,462	1.8
Barley (pounds)	13,567	3.7
Corn (pounds)	72,302	22.1
Sorghums (pounds)	99,988	23.5
Rice (pounds)	2,054,210	148.1
Wheat and wheat flour (pounds)	11,667,090	309.0
Vegetable oil [3] (pounds)	661,496	87.5
Tobacco (pounds)	24,750	24.6
Total		760.1

[1] Export market value.
[2] Mostly cotton yarn.
[3] Mostly soybean oil.

FISCAL YEAR 1971, PUBLIC LAW 480, TITLE II SHIPMENTS BY COMMODITY QUANTITY AND VALUE

Commodity	Total	
	Pounds (thousands)	Dollars (thousands)
Barley	171,888	4,816
C.S.M.	361,899	30,845
Bulgur	518,821	21,986
Corn	228,982	6,964
Cornmeal	181,075	8,814
Cotton		2
Cotton products	197	286
Sorghum	202,524	5,765
Nonfat dry milk	311,627	97,688
Rolled oats	67,616	4,141
Oats	77,216	1,991
Vegetable oil	189,746	34,986
Wheat	1,132,463	39,278
Wheat flour	952,524	41,979
W.S.B.	31,064	2,520
Soya flour	250	25
Rolled wheat	10,772	487
Total	4,438,664	302,573

Mr. HUMPHREY. Mr. President, let me make clear that these commodities are not paid for out of foreign assistance money; they are paid for out of USDA money. But the machinery that guides their programing and use, the administrative forces that make sure they are used as intended and not diverted into black markets or wasted, all come out of AID financing. It is these minimal administrative expenses that I want to make sure are protected.

Above all, we must make sure the donation programs are not wiped out, in the heat of concern over doubts about military assistance. Do any of my colleagues want to be responsible for taking food away from the 1,710,000 mothers and newborns now being serviced almost daily by the food for peace maternal and child care programs?

Does any Senator want to say the 12,375,000 children now receiving food for peace commodities in school lunch programs in 21 countries should suddenly go hungry, while we have surpluses that would otherwise go to waste?

By the same token, does any Senator want to shut off the 2,515,000 recipients participating in work front programs—not relief programs—where they are providing free labor on development projects in return for food for their families, a way of preserving their dignity by creating jobs instead of making them just dole recipients?

These are the kind of programs—currently reaching 18,600,000 people, mostly children, with daily rations—developed by the food for peace staff of AID, here in Washington and in our AID missions abroad. They are sound programs, designed to help people help themselves. They are the "regular" programs, designed to help people help themselves. They are the "regular" programs conducted by food for peace, in contrast to the more publicized emergency programs such as Biafra relief or Pakistani relief—or relief at the time of any natural disaster like the earthquakes, floods, and typhoons that hit the world from time to time.

Yet without proper administrative machinery, under foreign assistance funds, we could not have these programs, either the emergency programs or the regular child health and maternal care programs and work-for-development programs.

Mr. President, I urge Senators to see that they are protected; I urge the chairman of the Foreign Relations Committee to see that these programs—involving but a pittance of all that goes under the name of "foreign aid" yet vastly more important in human terms than much of the rest—are not the victims of any reduction this body imposes on foreign aid funds.

Mr. President, I regret that the Agency for International Development—and, yes, most of its predecessor foreign aid agencies—have become so enamoured with the "big money" programs, so captive of the macro-economists building models, that they have neglected to think and speak in the human terms of people—of mothers, of children, of the hungry. Perhaps one of their troubles in holding the support of Congress has been too much concern for "big money" projects, and too little concern for these humanitarian projects of which I am speaking today.

In addition to seeking to prevent any reduction in the small amount of administrative funds devoted to the Food for Peace program, I suggest to AID that it should seriously consider establishing within its organization a Bureau for Food and Humanitarian Assistance, so that the programs like food for peace, voluntary agency support, refugee relief, and similar efforts which do have mass public support are not hidden away in the basement, while all the public attention is focussed on trying to get money for big projects that cannot be interpreted in terms of people, at home or abroad. Such a bureau should be in whatever agency handles other foreign economic assistance—not just in State Department—because we should keep humanitarian assistance away from short-term political influences, and food assistance relates to both economic development and humanitarian assistance. The bulk of humanitarian assistance involves food, yet it would be wrong to categorize all food aid as just humanitarian as many food programs make a solid contribution to economic development. I would hope the chairman of the Foreign Relations Committee would join me in supporting such an effort to make sure the distinction is made to Congress about where foreign assistance money is going, and for what purpose, so that Congress in turn can express itself on the type of programs it approves and the type it opposes.

Mr. President, I am also a cosponsor with the Senator from New York (Mr. JAVITS) of an amendment which would strike out the so-called Goldwater-Stevens amendment on concessionary loans. I have reviewed the impact of the Goldwater-Stevens amendment on our AID program and particularly as it relates to Public Law 480.

I asked the Administrator of the AID program, the Agency for International Development, Dr. John Hannah, to share with me his observations as a result of our conversations. I have a letter that was directed to me by Dr. Hannah at my request so that I would have the information in writing. I ask unanimous consent that the complete text of that lettter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., November 8, 1971.

HON. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR HUBERT: The revised foreign assistance bills are expected to be considered by the Senate this week. We feel strongly that the amounts proposed for economic development and humanitarian assistance are far below the minimum necessary if we are to make a responsible contribution to the international effort to help the less developed countries. We hope that the amounts reported by the Senate Foreign Relations Committee can be increased, but I am writing to you to draw your attention to another matter.

Under the Foreign Assistance Act we have been authorized to lend money to developing countries at concessionary rates—that is, the loans are made for 40 years with a 3% interest rate. Since the beginning of the program, the reason for a favorable rate has been the poverty of the borrowing countries and their obvious inability to repay if funds had to be borrowed at market rates. However, this has never meant that the individual farmer or industrialist in the borrowing country gets such a favorable rate. When our funds are relent to them, the appropriate commercial rate is charged. Not only has our policy led to an almost faultless repayment record—less than one-fourth of one percent of A.I.D. dollar loans are in default—but the U.S. now receives about $250 million annually in dollar repayments of previous development loans.

I would also point out that our terms are by no means the softest available. Canada makes aid loans for 50 years with an interest rate of 0.3%; Britain and Sweden charge 1%; Denmark charges no interest. Most

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other aid donors have an interest rate about the same as ours.

An amendment to the Foreign Assistance Act during the floor debate on October 29, and retained by the Foreign Relations Committee in its revised interim bill, raises the minimum interest on aid loans to the Treasury borrowing rate. This will negate the very purpose of development lending and put us out of step with other industrialized countries. It will have the effect of vitiating the Development Loan program.

It does even more than this—it will seriously and adversely affect the U.S. farmer. Section 106 of the Agricultural Trade Development and Assistance Act (PL 480) as Amended, provides that terms of sales of agricultural commodities on credit shall not be less than the terms of development loans under the Foreign Assistance Act. Thus by raising the interest on development loans, we would automatically raise the interest rate on PL 480 credit sales. Nor is this link an accident. The Congress and outside experts have long felt that the cost of food assistance from the U.S. should not be cheaper than the cost of loans with which to buy fertilizer and other production inputs. To do otherwise, would be to create permanent dependence on the U.S.

We estimate that FY 1972 shipments under PL 480 would amount to
5,126,000 tons of wheat
1,197,000 tons of feedgrains
778,000 tons of rice
420,000 tons of vegetable oil
15,000 tons of tobacco
800,000 bales of cotton, and
90,000 tons of cotton products.

Most of these shipments will not be affected by the proposed change in terms since they derive from sales agreements already signed. However, some shipments in the second half of 1972 and nearly all shipments in subsequent years will be affected.

The full extent of the impact is hard to predict but it is clear that in today's world market, terms are vital to the sale of agricultural products. Japan, facing a large rice surplus, is already offering terms which are competitive with our present terms—if our interest rate were raised, there would be no competition. Japan has a 5 million ton rice surplus to dispose of. Similar developments could be expected in other products such as wheat, oils, cotton and dairy products.

The purpose of PL 480 is both to promote trade in agricultural products and to assist the poor countries by providing basic necessities. By raising the interest rate on A.I.D. development loans—and thus on PL 480 credits—we defeat both purposes. I therefore hope that the interest rate provision of Section 201(d) of the present Foreign Assistance Act can be restored.

Our first priority must be an extension of the Concurrent resolution under which we are currently operating that expires next Monday, November 15. This extension will give time to the Congress to consider the revisions and changes now being given consideration. I hope you will want to take some leadership on this item.

Sincerely,

JOHN A. HANNAH.

Mr. HUMPHREY. Mr. President, what I am concerned about in the Goldwater-Stevens amendment, as it relates to Public Law 480, is stated so well by Dr. Hannah that I would like to read this paragraph:

An amendment to the Foreign Assistance Act during the floor debate on October 29, and retained by the Foreign Relations Committee in its revised interim bill, raises the minimum interest on aid loans to the Treasury borrowing rate. This will negate the very purposes of development lending and put us out of step with other industrialized countries. It will have the effect of vitiating the Development Loan program.

Dr. Hannah gave me the information that I was looking for. However, I wanted to have it verified. He said:

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The purpose of PL 480 is both to promote trade in agricultural products and to assist the poor countries by providing basic necessities. By raising the interest rate on A.I.D. development loans—and thus on PL 480 credits—we defeat both purposes.

Mr. President, we have millions of pounds of surplus rice.

I want to place in the RECORD, so that the Senator from Louisiana (Mr. ELLENDER), who is so deeply concerned about this matter, the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Louisiana (Mr. LONG), who represent States where rice is produced, will know that we are cutting our rice producers' throats in the interest rate provided in the Goldwater-Stevens amendment. I want Senators from the grain-producing States and the wheat-producing States of the West—and in the Midwest; the Dakotas, Nebraska, Oklahoma, Texas, Colorado, Wyoming, Washington, and Oregon, to mention a few—whose States today produce millions of bushels of grain for shipment under Public Law 480, to know how seriously their States would be affected. Millions of dollars in sales would be affected by the Goldwater-Stevens amendment.

We are going to be giving the Soviet Union better terms on the purchase of wheat than we are going to be able to give more friendly countries if the Goldwater-Stevens amendment remains in the bill.

There are still a few Senators who speak up for farmers today. Thank goodness. The present Presiding Officer, the Senator from Iowa (Mr. HUGHES), is among them. But if there is one group of Americans today who have been forgotten by both the Congress and the President, it is the American family farmer. I sometimes feel like an oddity in this body even speaking up for them.

This administration can blink its eyes at the possibility of a $300 million drop in net farm income this year. That is the estimate. If that were to happen to the automobile industry, every member of the Cabinet would be over here wrestling us to the floor to get relief. When Lockheed was in trouble they practically put the old double whammy on us. I guess I am one of those that yielded under pain and duress. But when something happens to those who produce our Nation's food and fiber—those who are getting only 2 percent above what they were getting in the depths of the depression—this administration, the Cabinet, and most of Congress pretend it is not even happening.

The Senator from Minnesota is not about ready to see the farmers get another dagger in the back. I am not ready to see rural America get another dagger in the back. There are not more than one, two, three, or four that I can think of around here who are ready to stand up and be counted. As long as I am a Member of this body—and I intend to be one—I intend to speak up for the man who is producing the food and fiber that all Americans depend upon.

If our bankers made money available as cheaply as our farmers make food available, we would be in good shape. Many Members of Congress worry about railroads and banking, but not too many worry about farmers.

I am one of the sponsors of Public Law 480, and I do not want to see one of my legislative children suffocate. That is about what we are up to unless we put on a real battle to take care of some of the more important things in the foreign aid bill.

I am not satisfied with all the aspects of the foreign aid bill by a long shot, but I am very much devoted to what we call Public Law 480, the food for peace program. And anything that may have an adverse impact upon it, I am going to be against it. I feel in this case like the father or a mother of a son in that anything that hurts him, I am against. I know what is going to hurt farmers and our foreign assistance program as it involves humanitarian purposes.

It is difficult to fathom how we act around here with people all over the world starving when we do not have enough storage space in the Midwest to take care of our surplus commodities. We have a 60-million-ton surplus of feed grains and one of our biggest wheat crops. We have so much feed grain that we do not know where to store it, so we are dumping it on the ground—and the administration does not even know it is happening. At least we show some concern.

I do not want to be too unkind about this. Voices are being raised, but they do not get into the newspapers, or on the radio or on television. What we call the media cannot even spell "farmer."

The Farmers Union national convention came to Washington, D.C., and there was not a single television, radio, or newspaper report on it. Farmers forgot to demonstrate. If they had been lying down in front of the White House or picketing Congress, they would have made it, but they came here as decent, thoughtful, God-fearing, taxpaying citizens. It seems that somehow we have forgotten how people like that look or act. But I am not going to forget them. I came here to represent the unrepresented, the handicapped, the sick, the poor, the minorities, the farmers, the kind of people who do not get in the news. The rest of them can take care of themselves pretty well. That has been my philosophy. That is the way I am going to act. I would not have worked for a loan for Lockheed if I did not worry about workers and their jobs.

I am worried about farmers and their income; I am worried about kids and their education. This country today does not seem to know what comes first.

I offer my amendment and, Mr. President, you just heard the first of a series of comments about it until it is adopted. I hope and pray we will be able to do something about the amendment offered by the Senator from Arizona and the Senator from Alaska. I know their purpose. I understand their interest in having the interest on development loans at not below the rate of interest that the Treasury pays. I understand that, and I appreciate that. I find not too much fault with it; but when it comes to our agricultural sales, which is the only thing that bails this country out in foreign trade, I am opposed to any change of law that will adversely affect that.

Let the Senate and the House know, and let the public know, that if it were not for the American farmer and his production, this country would have a trade deficit that would be colossal, and totally destructive to our country. How in the name of commonsense is the Nation going to have a balance of trade without it I do not know. The American economy cannot be revived with an adverse balance of trade. If they do not know that much, they should go back to school and study economics I and II, for even a freshman knows that.

Mr. President, having delivered myself of a few of my emotions tonight, I have no objection if the distinguished majority whip, who has been so tolerant of me, suggests we go over to another day.

Mr. BYRD of West Virginia. Mr. President, the Senator from West Virginia now speaking thoroughly enjoyed the remarks of the distinguished Senator from Minnesota (Mr. HUMPHREY). He is glad to listen to the Senator from Minnesota at any time and is always educated, informed, and inspired by his remarks.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. HUMPHREY. Mr. President, I want to include the fine and good Senator from West Virginia as one of those concerned people that I was speaking about. When I have stood on the floor of the Senate in years past and needed an ally, all I needed to do was to walk over to the distinguished Senator from West Virginia, and if he had two votes, I would have gotten them.

Mr. BYRD of West Virginia. I thank the distinguished Senator.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m. Following the recognition of the two leaders, under the standing order, the distinguished senior Senator from Missouri (Mr. SYMINGTON) will be recognized for not to exceed 15 minutes.

There will then be a period for the transaction of routine morning business not to exceed 30 minutes, with statements limited therein to 3 minutes. At the conclusion of that period the Chair will lay before the Senate S. 2820, a bill to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972.

A time agreement has been entered into with respect to that measure, and the majority leader has asked me to state again that any rollcall votes on amendments to that bill will not occur until after the rollcall vote on the Okinawa treaty, which is scheduled to take place at 3 p.m. tomorrow. So there will be rollcall votes tomorrow afternoon.

It is anticipated that the Senate will complete its action on the foreign economic and humanitarian assistance measure tomorrow—even if the Senate has to stay in late—and that it will then proceed to take up the second of the foreign aid measures, S. 2819, a bill to provide foreign military and related assistance authorizations, in connection with which there is also a time agreement entered into.

ADJOURNMENT UNTIL 9 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 31 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, November 10, 1971, at 9 a.m.

EXTENSIONS OF REMARKS

FLORIDA'S DEMOCRATIC WOMEN

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. PEPPER. Mr. Speaker, it is my privilege to call to the attention of my colleagues the installation speech of Mrs. Margaret H. Cobbe upon her acceptance of the presidency of the Democratic Women's Club of Florida. Mrs. Cobbe, of Gulfport, Fla., is a distinguished member of the Democratic Party in my State, and I am confident she will prove to be an outstanding leader of our Democratic women.

I cite this speech here because it expresses the new spirit of women in politics. It conveys clearly and simply the determination of dedicated women to make our political system work, to make it work for women and for all Americans.

I believe my colleagues of both parties will be interested in Mrs. Cobbe's remarks, which were delivered on October 9 at the annual convention of the Democratic Women's Club of Florida in Miami Beach, in my congresisonal district, and which follows:

INSTALLATION SPEECH OF MRS. MARGARET H. COBBE

Today the Democratic Women's Club of Florida chartered a new course for the future. I feel humble and proud and a little awed to have been selected as your leader. I don't kid myself into thinking it will be smooth sailing. I'm sure we'll make our share of mistakes but we'll learn from them and we'll pick ourselves up again and row all the more vigorously. With everyone pulling together, I feel confident we'll weather the storms and reach our destination.

You have elected some strong officers here today. I want the Committee Chairmen to be just as strong. For this reason, I will delay appointments until I have consulted with many of you. We must have the most capable people in the state to make our reorganizaiton work and I invite you to give me your recommendations.

I am just so proud of our organization and I hope that during these two years I can project that pride to each of you, and to the small and the mighty throughout the state. We must not only feel affection for our local clubs but we must learn to think regionally and state-wide so that we can multiply our strength and influence and recognition.

Our past presidents have been ladies of the highest order. Their dignity and integrity have been beyond reproach. I promise to work very hard to maintain the high standards they have set and, hopefully, move ahead in other ways:

First, I would like to see a closer liaison with other Democratic organizations. We've made progress, particularly with the State Executive Committee, but there is room for improvement. I believe we should cultivate our Democratic youth; take them under our wing and nourish them. Our Junior Executive Committee project, which we instituted last year, is an excellent opportunity for us to guide our young. Some of their viewpoints may seem radical to us, but with tolerance and vision, they can be tempered with the wisdom of age and experience, and made into workable ideas for us all. They have much to offer and we too can learn. We could use some of their idealism, their enthusiasm and their fresh concepts. The Party is big enough and broad enough to blanket all: the old and young, conservative and liberal, and all the in-betweens. A woman's organization is the perfect vehicle for unifying all Democratic forces—we have the temperament, the patience and the discipline to do it. For years we've bolstered the egos of our men by letting them take the credit for what we've done, and perhaps that's the reason for lack of progress in my next point:

Recognition. Some sources think we're the

best-organised Democratic group in the state. Others barely acknowledge our existence. We must take action to alter the thinking of the latter group. We can be aggressive and still remain feminine. We can let them know we're alive without the marching, sign-waving and chanting. We have opinions and we should express them. We should not have to attend a Special Women's Caucus or a Liberation group for fulfillment. We have a ready-made organization right here and we must exercise its full potential. Gone are the days when a candidate can come to town and meet with a group of men only, if he's smart. When a sponsor arranges such a meeting, he does a disservice to the candidate. Women are capable of policy-making, of organizing, of planning. And we should protest when we're excluded from such a gathering. I attended a meeting on the East Coast recently where only three women were present, two of us from out of town. And even though I'd travelled three hours to get there, I'm sure I would've been turned away, as other women were, had it not been for the formidable presence of our National Committeewoman. The power of this organization can and should be used to correct such inequities.

Now we come to a most important point: involvement in the issues, and this becomes intermingled with recognition. No longer is a woman content to follow blindly along just because a candidate or officeholder is a registered Democrat. The coffees and luncheons and little courtesies are nice. We appreciate them; but they are no substitute for good government. We should not have to worry about stepping on the toes of a candidate or officeholder; our main concern should be whether the issue is good for the people. If thorough study convinces us it is not good for the people, then we should wield our influence. An officeholder should be responsive to his constituents and should gracefully receive constructive criticism, especially from those who played a major role in placing him in office, because we too become accountable for his actions.

The Democratic Women's Club of Florida believes strongly in party organization. It is the alternative to power and special interests. Our motivation is completely unselfish—it is simply placing good candidates in office. It isn't enough for us to say, "I got a Democrat elected." The proud moment comes when we can say, "I got a good Democrat elected who's good for the people of Florida." I'd like to see our organization take the lead in this type of party endeavor. We can be the guide—the very conscience—of our party.

As we activate the Regional Councils, more leadership roles will open up; untapped talent will be discovered. There will be more opportunity to voice your opinions; more occasion to study the issues. It will be a training ground for higher office. You will find yourself more involved than ever before and it is my opinion that increased club membership will naturally follow.

The immediate task before us is to do everything in our power to assure the success of the proposed amendment to allow a tax on corporate profits. Florida has a regressive and inelastic tax base which needs to be corrected, and this will be a good beginning. Reubin Askew came to the woman in the early days when he was struggling for recognition. And the women responded. We did the missionary work by answering the question, "Reubin Who?" We endorsed his corporate tax proposal because it is right that everyone should pay his fair share. We must go the rest of the way now and produce the winning vote. This should be our first priority when we return home.

The year ahead will be a strenuous one, but I know we'll find the Democratic Women's Club of Florida equal to the challenge. Not since the suffragettes marched for the vote have women's voices been so loud in the land. This is a new era of Women Power. I am confident that the voice of the Democratic Women will be heard.

REVENUE SHARING—A BOON TO APPALACHIA

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. BAKER. Mr. Speaker, it was recently my pleasure to have Mr. Donald W. Whitehead, Federal Cochairman of the Appalachian Regional Commission, speak in my district on revenue sharing and Appalachian development.

Mr. Whitehead, who heads the very successful Appalachian regional development program, explained in a speech to some of my constituents at the Downtown Civitan Club in Chattanooga how the Appalachian Regional Commission is paving the road toward the new federalism.

I believe that Don Whitehead's comments are valuable, and I welcome this opportunity to share them with my colleagues.

The article follows:

REVENUE SHARING AND APPALACHIAN DEVELOPMENT—A PRESENTATION BY DONALD W. WHITEHEAD, FEDERAL COCHAIRMAN APPALACHIAN REGIONAL COMMISSION

President Nixon in his 1971 State of the Union Address advanced Six Great Goals for America.

Perhaps the most significant of these from the standpoint of the structure of the Federal system was his revenue sharing program. The Appalachian portion of America will be greatly affected by this program when it is enacted into law.

I am grateful for this opportunity to lay before you at some length our thinking on the critical subject of the relationship between revenue sharing and Appalachian development. We at the Appalachian Commission in Washington, working through the Appalachian offices in the states, have for some six years been addressing many of the questions which revenue sharing will raise.

OVERVIEW

Let me initially outline for you an overview of my remarks here today. There are three major topics I would like to discuss.

First, while recognizing that an extensive explanation of the history and the provisions of revenue sharing programs is not needed for this audience, I would like briefly to review both those points, as well as to discuss some general reasons for and general impacts of revenue sharing.

Second, after completing that, I would like to elaborate in some detail how the Appalachian Regional Commission is paving the road, so to speak, towards the New Federalism. I hope those remarks will serve to illustrate why Appalachia should be the best prepared region in all America to utilize effectively the revenue sharing programs.

The third portion of today's remarks will deal with some plans and prospects for Appalachia under revenue sharing.

BRIEF HISTORY OF REVENUE SHARING

Conditional grants in aid are not a new phenomenon on the American political scene; indeed, they may be said to antedate the Constitution itself. From the time of the Confederation Government, when the sixteenth section of every township in the Northwest Territories was set aside for the support of public education, until this very day, Federal grants of one sort or another have played a significant role in the American political process. Under the present Constitution of the United States, the practice may be said to have begun with the assumption of the state debts by the Federal Government.

Hamilton's Funding Act implemented Federal policy on this matter together with the somewhat related and extremely sensitive problem of the Continental debts. During the Jackson Administration, the Surplus Distribution Act disbursed some $28 million from the Federal Treasury to the states. Ostensibly, a loan, these payments were, in effect, outright gifts.

There are several landmark legislative actions in this general policy area. The Morrill Act of 1862 gave to each state large tracts of land for establishment and support of state universities and colleges. The Smith-Lever Act of 1914 is unique in that it was the first grant to have a matching requirement and the first to require prior Federal approval of the plans involved.

Its substantive content dealt with agricultural extension programs at land grant colleges. The Social Security Act of 1935 had the then unique provision of making grants directly to individuals.

The Federal Highway Act of 1965 set the 90:10 ratio program which is building the nation's Interstate Highway System. Model Cities, Medicare, and OEO are further examples. The late 50's and the decade of the 60's saw the blossoming of a plethora of grants-in-aid—literally hundreds of them—eventually distributing more than 30 billion dollars of federal aid last year.

A tremendous amount of dissatisfaction has grown up in recent years among a variety of groups with the effects of the Federal grant system. Although more often than not couched in economic terms, the basis of the arguments seems to rest in political policy decisions and consequences which surround the grants. So beginning perhaps as early as 1958 there began to come calls for altering the grants-in-aid system. In the 1960's Dr. Walter Heller, the noted economist, and Joseph Pechman of the Brookings Institution advanced the concept of "revenue-sharing." Shortly thereafter the idea entered the political arena.

It was within this context that President Nixon has advanced both his general revenue sharing program as well as his six special revenue sharing packages. For a moment if I might, let me recap the broad outlines of those plans.

The general revenue sharing proposal would be a $5 billion fund for the first fiscal year of operation and would grow each year as its personal income tax base rises. It would be set at 1.3% of such base. The two factors determining what portion of the total allocation each state would receive will be population and revenue effort, or how well a state utilizes its own resources to raise revenue.

Only states and general units of local government would participate in the program. There would be no programatic requirements for the use of general revenue sharing funds.

Six special revenue sharing programs, totaling $11 billion, have been proposed by the Administration: (1) Urban Community Development; (2) Rural Community Development; (3) Law Enforcement; (4) Education; (5) Manpower; and (6) Transportation. Basically the approach here is to consolidate some 130 existing narrowly defined categorical grant programs, add some $1 billion in new funds, and to combine all this into the six broad areas I mentioned. Within the purposes set out by those broad categories, states and their localities would be free to spend the money as their own needs dictated.

Three special provisions about revenue sharing are worthy of mention. Later in discussing the impact of revenue sharing on Appalachia, additional aspects of the plans will be outlined. First, all revenue sharing plans, except the Urban Development and the Rural Development ones, have a "pass-through" requirement which insures that local units of government will have decision-making power over how a portion of the shared revenues are spent. Urban Development Revenue Sharing has what might be called a "pass-around" requirement, which makes it mandatory for all parts of an urban area, central city and environs alike to share funds. Rural Development Revenue Sharing is limited by its nature to the rural parts of a state, and such funds must be spent for the benefit of rural residents.

Second, all revenue sharing plans have firm safeguards to insure that no American of any race, color, or creed will be denied benefits of programs funded by shared revenues.

Third, the President has pledged for the six special revenue sharing programs a "hold harmless" guarantee. Quite simply this means that no state will receive less money under special revenue sharing programs than it currently receives in the Federal grant programs which are collapsed into that special revenue sharing program. Pure, plain, and simple. The figures are available for inspection. From the perspective of a broad overview, that is what President Nixon has proposed.

GENERAL ANALYSIS OF REASONS FOR AND IMPACT OF REVENUE SHARING

Ladies and gentlemen, all across America today in metropolis and hamlet alike, among citizens old and young, growing numbers of people are fed up with government as usual. For government as usual too often has come to signify governmental institutions and practices which have failed to keep pace with the times. Plurality and diversity are the twin cornerstones of American democracy. Plurality and diversity are the fundations upon which the entire concept of revenue sharing rests.

I reject at the outset the patronizing notion that the government and government officials in Washington are necessarily more talented, more wise, more efficient, or more dedicated than their counterparts at other levels. And at all levels, but especially at state and local levels, government often lacks the ability or the tools to serve the people. Bear in mind if you will that the heavy burdens of services in this country, such things as education, police and fire protection, welfare, etc., are borne primarily by state and local governments, not by the Federal government.

The preemption of the personal income tax base by the Federal level of government has effectively denied to all other jurisdictions the most growth-elastic source of revenue. Property taxes, sales taxes, and the like are the source of practically all state and local tax revenues.

It is not in my estimate an exaggeration to assert that states and municipalities face a fiscal crisis. But all too often the debate concerning the grant-in-aid system or the revenue sharing proposals has centered on these economic questions. It is understandable that this would be the case. The dollar is an economic unit. But in my estimate the arguments about revenue sharing and the possible impact of that program range far beyond national fiscal policy. Those arguments go to the heart of the political nature of the Federal system, to the keystone of the relationship between the national government and the states and between the states and their subsidiary governmental units. President Nixon squarely addressed this question in one of his revenue sharing messages:

. . . (State and local governments) are placed in the position of having to accept Federal money with its concomitant restrictions on state funds or receive no Federal money at all. Thus we may find states and local governing units pursuing projects which may be of low priority to them simply because money for these projects is available, but the matching requirements for such grants may have to be met at the expense of programs of higher priority to the community.

Continuation of such a policy clearly is not in the best interest of good government at any level. No one benefits; everyone loses. While political pressure forces state and local leaders one way, financial pressure drives them in another direction. The result? People lose. They lose faith most of all, faith in the ability of government to cope with public problems.

What would be some of the effects of a program of revenue sharing such as President Nixon has offered to America? Not only in Appalachia but also throughout all America, several come to mind.

The introduction of revenue sharing is likely to alter the patterns of differential access to decision-makers. Public policy in the United States is shaped largely by the downward pressure of Federal expenditures and the upward thrust of legislative intervention on behalf of local interests. This factor, when coupled with the structure and the function of the American Federal system provides a wide variety of channels to decision-making centers of government. Pressure groups have exploited these opportunities for differential access by lobbying directed at various critical points in the decision-making process. And with the nationalization of major policy issues, local and state public officials have organised for political action. With power to make decisions on particular issues moved from Washington to state capitals and to city halls patterns of influence will also change. The real point is such decisions will be made closer to home and decision makers will be more accessible to the people. The role of special purpose local government units such as sanitary and water districts is going to change under revenue sharing. Such units cannot receive general revenue sharing funds. As states and localities gained additional revenue, they might take over the function which the special units now provide. Local general governmental units may then choose to work in cooperation to solve their problems. At any rate, for the most part, such special units operate by virtue of state permissive authority under the general concept of Dillon's Rule (local governments are the creations of the State and derive all their powers from the State).

Shared revenues will have some impact on the fiscal efforts of state and local governments. Such a statement seems self-evident, but assessing such impact is a little more difficult. Three alternatives seems plausible to me. Such impact could be *stimulative* in nature. By that I mean that the added revenue would spur a recipient government to new activity, with perhaps additional state financing. In the second place, the impact of revenue sharing funds might be *additive* in nature. That is, the funds might be used to increase the size of a particular program of function already in operation. It is anticipated that much of the money from the special revenue sharing funds will be used to continue many of the programs in that particular subject area. Third, shared revenues might have a *substitutive* impact on fiscal effort. State and local governments might substitute shared funds for those raised locally thus freeing the latter funds for other uses, or for reducing regressive local tax burdens.

For the last several minutes I have tried to outline briefly the history, some of the underlying thinking, and some of the possible impacts of revenue sharing. All this has been done on a general broad scale. For a few minutes now, let us think together in some detail about Appalachia and revenue sharing.

APPALACHIA: PAVING THE ROAD TOWARDS THE NEW FEDERALISM

Several months ago a White House official noted that Appalachia was "leagues and leagues ahead" of the rest of the country in community development cooperation. And it is not surprising that this should be so. Since 1965 the thirteen Appalachian states and the Appalachian Regional Commission have been attempting to foster just that particular climate. Notable success has been evidenced; much remains, however, to be accomplished.

When revenue sharing becomes law, the Appalachian portion of this country should be the most prepared area in all America to utilize effectively those shared revenues. There are at least two major reasons for this.

First: *Area Cooperation.* Through the creation of multi-county organizations controlled by local governments operating under state direction, the Appalachian states have been able to strengthen local government's ability to plan for and to utilize area-wide services. This experience upon further refinement will have prepared the states to plan for and to control effective use of the *state share* of new revenues. But equally as significant, it has taught the localities to work together in planning and in using the *local* "pass-through" *portion* of shared revenues. Several local jurisdictions working together will therefore be able to accomplish goals which each working separately could not hope to achieve.

A second reason why Appalachia will be well prepared to utilize shared revenues is that the Appalachian experience has heavily stressed the development of comprehensive planning and the improvement of management capabilities of government to be able to implement those plans. The Appalachian Regional Commission is concentrating major attention on efforts to improve the caliber of management at state and local levels of government. Concurrently, we are reinforcing our attempts to encourage states to develop broad-gauge plans and budgets to meet stipulated objectives.

Management and planning will be vital to the success of revenue sharing. President Nixon, as part of his Urban Community Development Sharing, has offered a special supplementary proposal for Planning and Management Assistance to the States. For the current fiscal year this project is budgeted at $100 million.

Focused on political executives at state and local levels the implementation of this program will enhance the utilization not only of any shared revenues but also of the remaining $20 billion in Federal grant programs as well as state and local programs.

What about the Appalachian Regional Commission and its role in paving the road towards the New Federalism? The Commission is the major experiment in force today for innovations in the Federal system. At the Commission, we have a partnership. Not a partnership of theoretical objectives, but a real partnership of decision-making. President Nixon's representatives and the representatives of the thirteen Appalachian Governors sit at the Commission table, decide priorities and set policy. We do not always agree, and states disagree among themselves.

From that political process emanate viable, workable political decisions. Political decisions which are translated into action to benefit the people of Appalachia. This is the new wave of Federalism.

At the Commission we are also trying to achieve a flexibility of Federal assistance for the thirteen states of the Region. As the quality of planning in Appalachian states has improved, the Commission has moved towards less restricted block grants for broad purposes. This is the true essence of special revenue sharing. It is the next step along the road towards an expanded general revenue sharing program. The unbelievable fragmentation of categorical grants and the lack of control at the local level over how these grants are used are two things this Administration is determined to change. Perhaps the really unfortunate thing about this ragtag system is that it renders nearly impos-

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able any rational community planning about available needs, resources, and capabilities.

In those dark days of the early 1940's just after the Battle of Britain, Winston Churchill called upon America and her people: "Give us the tools and we will finish the job." President Nixon made the same plea when he offered the most sweeping and comprehensive reorganization of American Government in all our history. We at the Commission will continue to encourage reforms at the state and local levels which will complement the President's initiatives. To do this we will continue to provide funds and technical assistance to states and to their localities. Thereby we will seek to aid them in their quest to modernize administrative operations and to consolidate categorical departments and bureaus along functional lines. Without these tools, revenue sharing and all the benefits that program will bring will be seriously impaired as we seek to pass those benefits along to the people of this nation.

Let me turn now to some specific plans and prospects for Appalachia once revenue sharing becomes a reality.

APPALACHIA UNDER REVENUE SHARING: PLAN AND PROSPECTS

The special revenue sharing program which will have the most immediate impact on Appalachia and the program which is designed especially for that and for similar regions is Rural Community Development Revenue Sharing. What is a "rural" area? About as many definitions exist as one would want to find. In the revenue sharing legislation, however, rural areas are defined as counties or similar political subdivisions which either have a population density of less than 100 persons per square mile OR are not parts of a standard metropolitan statistical area. Over 2800 counties in the nation fit this category.

In his March 10 message the President noted:

It takes many different kinds of activities to create rural development—to create opportunity. One must start with the individual—his education, his skill training and his health. Next the individual needs to be linked to resources and markets through transportation. Public sector infrastructure . . . is needed to encourage industry to locate in new areas. The environment is also becoming an increasingly important factor in industrial location.

Under this program some $1.1 billion, over 15 percent of which is new money, would be available for revenue sharing. Moreover, the President has requested an added $100 million for cities between 20,000 and 50,000 which would not be eligible for Urban Community Development Revenue Sharing. This would be only for cities in that size and would not be part of the formula share. Rural Revenue Sharing will remove barriers and streamline efforts for development not only in Appalachia but also in all America as well.

As well-intentioned as past rural development programs have been strict requirements and guidelines have often severely hampered states and localities in efforts to attract industry and services for their people. Elimination of inflexibility is a key goal for Rural Revenue Sharing.

Narrow Federal project definitions can force states to spend scarce revenues on "matching funds" thereby distorting their own priorities. It is difficult for local jurisdiction to say "no" when Federal funds are available. More urgent community priorities may fall by the wayside. Revenue sharing will end this practice to a large degree—as there are no matching requirements.

Political accountability is made difficult by the present system. Elected officials should in my estimate have both the authority to set priorities, the requisite power to implement projects flowing from those priorities, and the accountability to be held responsible for those decisions. Revenue sharing will make this possible.

Conversion of the existing development programs into Rural Development Revenue Sharing is both logical from the standpoint of rational policy and consistent with the aims of those programs. Diversification of the economic life of rural America to meet the challenge of producing a better life for her citizens is our goal. All America, urban and rural alike, has a critical stake in the success of rural development. Progress has been made towards achieving that goal, especially in Appalachia. But we and the country as a whole have much left to do.

As I mentioned earlier one of the critical aspects of revenue sharing and a requirement common to all the President's proposals is the necessity for the development of statewide planning for public policy purposes. Statewide planning has as its goal rational coordinated policy. Under the proposed legislation, the Governor has the responsibility for the preparation and filing of the plan resulting from a consultative process between Governor, planners, and the local, multijurisdictional bodies. The Governor will have the final responsibility, part of the particular agony of that office.

What about the Appalachian Regional Commission itself? Much speculation has appeared about what would happen to the Commission after the passage of Rural Development Revenue Sharing. Several things emerge in answering such a question.

The Administration bill continues Federal participation in and Federal support of the Commission as well as support for staff established pursuant to the original Appalachian Act, though all its present program funds would go directly to the States.

The Appalachian state could continue all projects and programs of the Commission which they elect. The Appalachian Governors have assured me that this is precisely their invention. Of course, this is the way things are now since each Governor must give approval to every Appalachian dollar spent in his state.

Will Appalachian states be short-changed? The answer is no. No state will receive less under any special revenue sharing program than it did under all the present programs which are folded into that revenue sharing package. This is the concept of "hold harmless," a baseline below which a state cannot fall. Many states will receive more than the minimum, however.

This in a nutshell is the Rural Development Package which will so basically affect the country will benefit from all the revenue sharing programs, so will Appalachia. How so? Let me briefly explain some key provisions of the other five special revenue sharing programs which will have special interest to Appalachia.

1. Urban Community Development. Twelve percent of the Appalachian people live in urban areas, cities over 50 thousand and their surrounding environs. New ways are needed to rebuild our cities. Federal grant programs for urban development have not achieved the purposes for which they were established. Delay, duplication, waste, rigidity, and inconsistency have frustrated the noblest of goals. Appalachian cities are no exception. Urban development funds would be available to aid these cities. Eight percent of Appalachian people live in cities of 20–50,000 population. They will benefit from the special $100 million fund I mentioned earlier plus a portion of the $2 billion fund.

2. Transportation Revenue Sharing. The lion's share of that program, some $2.04 billion, is for general transportation needs. Appalachia will receive its share of these funds.

3. Education Revenue Sharing. A significant portion of the $3 billion set aside for education will be in the area of vocational education. Appalachia has been a pioneer in that field, and will continue to be so. Just as any other portion of the nation, Appalachia will benefit from all the programs outlined in education revenue sharing.

4. Law Enforcement Revenue Sharing. This particular program makes changes in the Omnibus Crime Control Act of 1968, to give full measure to the President's promise that "The wave of crime will not be the wave of the future." The plan will assist both enforcement and judicial agencies at state and local levels to wage the war on crime.

Appalachia has much need for modernized police and judicial systems. This half billion dollar program will be a giant step forward towards achieving the great American ideal of equal justice under law. Both comprehensive planning and operational activity would be eligible for assistance.

5. Manpower Revenue Sharing. Manpower is an area, the President has noted, where ". . . the need to adapt to diverse and changing local conditions is especially compelling . . ." The goal is deceptively simple: move men and women to productive employment. But to do this, major programs of recruitment, testing, placement, and training are required, to name only a few. The need for this training in Appalachia is acute. The Administration has tagged $2 billion for this type revenue sharing. State and local governments in Appalachia will have a portion of this amount.

Not to be overlooked of course is general revenue sharing, the $5 billion fund for general governmental purposes. A state or a locality could spend any portion of its share of this money for any purpose I have previously outlined or for any other legitimate purpose. The important factor of course is that again, the decisions about the use of that money will be made by the people at the state and local levels. This will enhance the ability to make effective decisions for they will have the resources to implement their plans.

We have looked for the last several moments at how Appalachia and Appalachians will benefit from revenue sharing. Both general revenue sharing and the six special revenue sharing programs will have tremendous impact on the area. But in conclusion, let us think together for a minute about the larger questions raised by my remarks here today.

FINAL PHASE: THE NEW FEDERALISM

What then is the final goal, the ultimate aim of all the revenue sharing proposals? Woodrow Wilson called it the "cardinal question" of American constitutional law—the balance of power between national and state governments.

There is just too much to be done in America today for the Federal Government to try to do it all. Remember this central point: the purpose of revenue sharing is not to prevent action but rather to promote action, not to fight power but rather to focus that power for the benefit of all America. "Good people," the President has noted, "cannot do good things with bad mechanisms. But bad mechanisms can frustrate even the noblest aims."

One of the best things about the American Constitution and the system of government which has grown up around it, is that so much room is left for change. Thomas Jefferson summarized the problem we face in his usual incisive fashion:

I am certainly not an advocate for frequent and untried changes in laws and constitutions . . . but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, (then) institutions must advance also, and keep pace with the times.

The President's revenue sharing proposals will focus new power and responsibility on all levels of government. And the ultimate beneficiaries will be America's people. But all

public power is a trust; we who exercise it are responsible to our people. For in our system it is from the people and for their benefit that all power must spring. Our forefathers had a clear vision and the fruit of their vision was a new nation. It is for us now, if our vision can match that of the men of Philadelphia, to renew the Government they created and thereby give new life to our common dreams.

COMMENDING J. EDGAR HOOVER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. YOUNG of Florida. Mr. Speaker, in this period of time when it seems that we are continually confronted with turmoil and strife and protests from within the country against America, it is indeed heartening to find an organization which is totally dedicated to our country and which holds true the guiding principles upon which our Nation was founded. The American Legion is a national organization of people who have made it their responsibility to stand up for America. Because of the selfless dedication of these patriots, I am pleased to have the honor of introducing the following resolutions adopted this year at their national convention, and I commend the Legionnaires for their support of and adherence to the principles embodied in these resolutions. I hope that others, too, might follow their leadership for the benefit of our Nation and its future.

The resolutions follow:

COMMENDING J. EDGAR HOOVER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

(Origin: Department of Louisiana; Res. No. 90—Wisconsin; Res. No. 261—Nevada; Res. No. 267—Maryland; Res. No. 345—North Dakota; Res. No. 389 using No. 19 and text of No. 261.)

Whereas, J. Edgar Hoover has been a staunch defender of the rights and freedoms of the citizens of this great Republic without regard to race, creed or color; and

Whereas, Mr. Hoover being a faithful servant of the people of this Nation, has through his untiring efforts exposed the enemies of the United States of America from within; and

Whereas, The attempted downgrading of, and clamor for forced retirement of Mr. Hoover must be held in contempt by the overwhelming majority of the people of this Nation; and

Whereas, Former Presidents John F. Kennedy and Lyndon B. Johnson and President Richard M. Nixon have continued J. Edgar Hoover as Director of the F.B.I.; now, therefore, be it

Resolved, By The American Legion in National Convention assembled in Houston, Texas, August 31–September 1, 2, 1971, that The American Legion hereby commends J. Edgar Hoover for his untiring efforts, for his devotion to duty, and for the vigorous and impartial manner in which the F.B.I. conducts its business; and, be it further

Resolved, That a copy of this resolution be forwarded to the President of the United States, the Attorney General, the President of the Senate, the Speaker of the House of Representatives and Mr. Hoover.

PROHIBIT DISPLAY OF ENEMY FLAG

(Origin: Res. No. 268—Maryland; Res. No. 433—Virginia; Res. No. 566—New York were consolidated, using Number and text of 268.)

Whereas, The flags or banners of hostile countries or revolutionary groups, holding Americans as prisoners of war, are permitted to be flown in these United States; now, therefore, be it

Resolved, By The American Legion in National Convention assembled in Houston, Texas, August 31–September 1, 2, 1971, that The American Legion seek to have laws enacted by the Congress of the United States making it a penal offense for anyone flying the flag of any country or revolutionary group hostile to the United States of America and holding Americans as prisoners of war.

EASY AND INEXPENSIVE TRAVEL TO FLORIDA

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. CHAPPELL. Mr. Speaker, within a few weeks the Auto-Train will begin carrying passengers along with their cars down to central Florida. This is an exciting new travel service that is catching on with the public and we want to commend Auto-Train for their innovativeness.

Just this week, Time magazine commented on the Auto-Train service and I would like to quote their article:

Driving the 1,340 miles of Highway 95 from New York to Florida is at best a tiresome two-night, nine-meal trek. Its costs about $150 for a group of four. But thousands of vacationers continue to make the grim odyssey rather than opt for relatively cheap air flights, for the simple reason that a Florida holiday virtually demands an automobile, and rentals there during peak seasons are prohibitive.

Now that trip will no longer be necessary, thanks to the new Auto-Train. Modeled on the excellent auto-bearing passenger trains of Europe and Canada, the Auto-Train will begin running daily from the Washington suburb of Alexandria, Va., to Sanford, Fla., on Dec. 6. The train will carry 90 to 104 vehicles in several enclosed carrier cars for a flat fee of $190 per car and group of four passengers. It will leave the new Alexandria station at 8 p.m., stop only for brief crew changes, and arrive at 11 o'clock the following morning in Sanford, a pleasant 3½ hour drive from Fort Lauderdale or Miami.

Mr. Speaker, while the Time writer mentions a drive on to other areas of Florida, I would like to point out that when a passenger arrives in Sanford, Fla., he is right in the middle of the most interesting and exciting section of the entire State. Intercoastal waterways, beautiful tropical attractions, the beaches, great citrus groves, horse farms, and sports activities—the world's finest are all within a few minutes' drive from the termination of the train. Additionally, the visitor will find the friendliest and most wonderful people in the world in this section.

Mr. Speaker, we are proud of the new Auto-Train and know it will see many years of success on trips to central Florida.

AIR TRAVEL, CHICAGO TO ISRAEL

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. McCLORY. Mr. Speaker, the interest in air travel from Chicago to the State of Israel is increasing—and it appears that additional service could be made available for direct flights from Chicago to Tel Aviv by El Al Airlines.

Mr. Speaker, application for such service was recently denied by the Civil Aeronautics Board with the result that a resolution was adopted by the House of Representatives of the Illinois General Assembly urging the President and Civil Aeronautics Board to review and reconsider this application—and recommending that the flight route requested by El Al Airlines for service between Chicago and Israel should be granted.

Mr. Speaker, I am calling to the attention of the House of Representatives this significant action by the Illinois House of Represenatives, and would urge other Members of this body—particularly from the great Midwestern area of our Nation—likewise to express their interest in the need for this additional air service. Mr. Speaker, the principal sponsor of the Illinois resolution is my longtime friend and respected counterpart, Representative John H. Connolly, of Waukegan. I am attaching the copy of this resolution for the benefit of all the Members of this body.

The resolution follows:

HOUSE RESOLUTION 396

Whereas, The Civil Aeronautics Board of the United States has denied the application of El Al Airlines for an approved direct flight route from Chicago to Israel; and

Whereas, Untold thousands of Illinois citizens and midwestern Americans fly to Israel each year for business, pleasure or to visit relatives or the many holy places and shrines of deep significance for the Jewish and Christian religious faiths; and

Whereas, Existing air travel patterns necessitate, for travelers departing Chicago, a change of air craft at either Kennedy International Airport or Montreal, with all the hardship, inconvenience and expense caused thereby, such stop-overs being especially burdensome on the many elderly air passengers; and

Whereas, Shameful congestion of air traffic already exists over Kennedy Airport, with all the hazards inherent in such conditions, and delays both landing and departing, and a direct Chicago-Israel route would by-pass this congestion; and

Whereas, The Civil Aeronautics Board has approved direct flights from Chicago to many other European, Middle European and Mediterranean countries, and in this light denial of El Al's application appears unjustified; therefore, be it

Resolved, by the House of Representatives of the Seventy-seventh General Assembly of the State of Illinois, that this body strongly urges the President of the United States and the Congress to inquire into the decision of the Civil Aeronautics Board denying El Al's application: to recommend to the Civil Aeronautics Board that it reconsider its prior decision and grant approval for the flight route requested by El Al Airlines; and, be it further

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Resolved, That a suitable copy of this resolution be forwarded by the Secretary of State to the President of the United States; the Speaker of the House of Representatives of the United States; the President of the Senate of the United States; each member of the congressional delegation from Illinois; and to the Chairman of the Civil Aeronautics Board.

Adopted by the House, October 11, 1971.

PRAYER IS A PRIVATE MATTER

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. SCHWENGEL. Mr. Speaker, another indication of the widespread concern about the so-called prayer amendment is an editorial which appeared in the Friday, October 29 issue of the Miami Herald.

As the dangers of the amendment become better known, people are becoming more vocal in their opposition to the amendment. This editorial pointedly shows the divisiveness which could come about if the amendment was passed.

The editorial follows:

PRAYER IS A PRIVATE MATTER; HOUSE SHOULD LEAVE IT SO

The issue of prayer in the schools has the odd result of stirring up irreverent anger, and mostly for the wrong reasons.

A constitutional amendment to permit "nondenominational prayer" in the public schools is expected to go before the U.S. House of Repreesentatives for a vote next month.

What passage of this amendment would create is a new layer of confusion and emotion for no good reason.

For one thing, the amendment apparently assumes that the U.S. Supreme Court has forbidden prayer in the schools, which it has not. In its famous decision, the court went to great lengths to explain it forbade officially led or prescribed prayer, not voluntary prayer.

For another, the notion of licensing a nondenominational prayer creates the necessity for the government to get into the business of determining when a prayer is or is not denominational.

Not only does the government have uniquely poor qualifications for this exercise, but such a move would run contrary to the historic separation of church and state provided in the Constitution. We oppose any weakening of that provision.

Besides, we wonder how satisfying a nondenominational prayer might be. A political cartoonist aptly commented on this recently when he pictured a classroom scene with a teacher leading a prayer. It began: "To whom it may concern . . ."

The proposed constitutional amendment reads:

"Nothing contained in this Constitution shall abridge the rights of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

The Supreme Court this year reinforced the 1962 and 1963 decisions which held that organized prayers and Bible readings were unconstitutional. In a decision involving state aid to parochial schools, Chief Justice Warren E. Burger said for the 8–1 majority:

"The Constitution decrees that religion must be a private matter for the individual, the family and the institution of private choice, and that while some (government) involvement and entanglement is inevitable, lines must be drawn."

The new amendment has unlimited potential for divisiveness. The questions it raises to be answered are nearly endless. We think they would harm the good motives sincerely expressed by the prayer advocates.

Prayer, it seems to us, must remain an individual thing. By its very nature it is not something to be imposed. If it is not a voluntary personal expression, is it a real prayer?

We know of no person who does not have ample opportunity to pray in church or home or whatever silent private moment and place he chooses.

If he is not praying, it is not the fault of the Supreme Court, and not the business of the Constitution to make him do so.

WETLANDS ARE NOT WASTELANDS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. DINGELL. Mr. Speaker, pursuant to permission granted I insert into the CONGRESSIONAL RECORD an article appearing in the Washington (D.C.) Post of Saturday. October 30, 1971 entitled "Wetlands Are Not Wastelands" which speaks clearly for itself.

The need to preserve the Nation's wetlands is becoming critical and an appreciation for that need is clearly manifest in the article.

The article follows:

WETLANDS ARE NOT WASTELANDS

The ocean is far too vast and stormy a place for the hatching and nurturing of numerous species of fish and other marine life. The re-creation of that life depends on the wetlands—the shallow areas of beach, marshes, swamps, open creeks and ponds, sand dunes, bogs, salt meadows or even woods that are sometimes flooded. Neither could ducks, rails, snipe and many other birds survive without them. They are also the habitat of muskrat, otter, beaver and mink. Only thoughtless or ignorant men consider the wetlands wastelands to be dredged, filled or polluted.

A good many pepole, too, depend on the wetlands for their livelihood. In Virginia the wetlands, both above and below the low water mark, represent only one per cent of the total state territory. Yet 95 per cent of Virginia's annual harvest of commercial and sport fish depends on their marshes in one way or another. So does a good part of the tourist industry and much recreation. Dr. William Hargis, head of the Virginia Institute of Marine Science, estimates that Virginia's seafood industry yields a catch of about $20.5 million a year. The value of saltwater sport fishing to the economy, he says, is about $40.2 million per year. Wetland hunting is estimated to pump some $1.4 million annually into the economy.

Preserving the wetlands is therefore not only a matter of ecological sentiment but also of clear-cut, measurable economic gain. A growing number of Virginia legislators, it appears, are beginning to understand this and are now more inclined than they have been in the past to pass effective legislation such as Maryland recently enacted to protect its wetlands. We urge them on.

AMERICAN OIL SCORES FIRST IN PROTECTING THE ENVIRONMENT AGAINST PETROLEUM SPILLS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. COLLINS of Texas. Mr. Speaker, American Oil is one of the leaders in the petroleum industry's continuing development of programs to guard against pollution. In recognition of American Oil's development of a skimmer that recovers all types of spilled oil at high rates in both calm and rough water, the company was awarded first place in Petroleum Engineer's environmental control development program in the category of transportation.

With such developments as this, American Oil and the entire petroleum industry are leading the way for the rest of America in protecting our environment. American Oil was cited by judges as follows:

AMERICAN OIL CO.

Since early 1967, one of the goals of American Oil Co.'s Research and Development Dept., has been to provide the petroleum industry with more effective oil recovery equipment. The initial objective was to develop an oil skimmer that would recover all types of oil at a high rate, would function efficiently in both calm and rough water, and would minimize the water content of the recovered oil. Subsequent operating experience indicated that a truly effective skimmer should also be capable of recovering oil-soaked debris and oil-soaked straw.

Two unique oil recovery devices were developed as a result of this program.

The first device—called the Absorption Oil Skimmer—uses a sock of flexible, open-celled, polyurethane foam on a rotating drum to soak up the spilled oil. Rollers squeeze the foam, selectively rejecting water and recovering oil. A small experimental model was tested before the end of 1967. A working skimmer was constructed consisting of a 1-ft. diam drum 4 ft. long, mounted between hulls of a 20-ft self-propelled pontoon boat. Unit was delivered to the company's Yorktown, Va., refinery in February, 1968. This unit was capable of recovering 2100 gal of liquid containing 95% oil. Although intended primarily for use in relatively calm water, craft recovered oil efficiently in waves of 2-ft nominal height.

In March of 1968, the U.S. Coast Guard borrowed the skimmer and flew it to San Juan, Puerto Rico, where it helped clean up the spill from the tanker Ocean Eagle. Three identical units were constructed and delivered to American Oil marine terminals by August, 1968. Subsequently, the Absorption Oil Skimmer was made available to others through licensees in the U.S. and Japan. The largest commercial version is a 40-ton oil skimming ship currently in use in Tokyo Bay.

The second device—called the Brush Belt Oil Retriever—was developed during 1970 to handle oil-soaked debris and straw as well as oil. It uses a brush-like belt of polypropylene bristles mounted on an inclined conveyor. Debris and straw are removed by a rake and oil is removed by a wiper bar. A small experimental model with a 1-ft wide belt was tested and found capable of recovering 2100 gal/hr/ft width. Recovered liquid contained 95% oil. A unit using a conveyor with a length of 10 ft between pulleys can recover oil efficiently in waves having a nominal height of four ft. The Brush Belt Oil Retriever was selected by Industrial Research Inc. as one of the top technical developments of 1971. A commercial version capable of recovering up to 12,000 gal/hr of oil is being constructed.

The Absorption Oil Skimmer is covered by U.S. Patent No. 3,546,112. Patent is pending on the Brush Belt Oil Retriever.

American Oil is in the vanguard of the petroleum industry in environmental control development. One of the judges in the awards program noted that being a judge has been an education. We commend the judges on completion of a difficult task of choosing between the many progressive innovations. The following judges on the Awards Committee reflect quality and depth of perspective in their review of petroleum environmental control development:

LIST OF JUDGES

Jules Bergman, Science Editor, ABC News.

Bob Chandler, National President, Sigma Delta Chi professional journalism society.

Professor James A. Fay, Professor of Mechanical Engineering, Massachusetts Institute of Technology.

Duane L. Gregg, Assistant Managing Editor, Better Homes and Gardens.

Phil Herrera, Environmental Writer, Time Magazine.

Tom Kimball, Director, National Wildlife Federation.

Dr. Henry Linden, Director, Institute of Gas Technology.

John T. Middleton, Air Pollution Control Office, Environmental Protection Agency.

Burt L. Schorr, Environmental Writer, Wall Street Journal.

Thomas R. Shepard, Jr., Publisher, Look Magazine.

Dr. Dale Straughn, Allan Hancock Foundation, University of Southern California.

Peter C. Stuart, Environmental Writer, Christian Science Monitor.

Dr. Claude E. Zobell, Marine Biologist, Scripps Institute of Oceanography; University of California.

John Scott, Editor, Petroleum Engineer, Awards Program Coordinator.

U.S. WITHDRAWAL FROM VIETNAM

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. JACOBS. Mr. Speaker, I was wondering, in view of the events of the past few weeks in Saigon, if any Member of Congress or any member of the executive branch would care to say he or she is willing, from this day forward, to give his or her life, limb, sanity or freedom—POW even for another day—further to prop up the Saigon dictatorship.

Other Americans are being ordered to do so today.

Following is the language of House Resolution 630, which I introduced on September 30, 1971:

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madame Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Vietnam stated on July 1, 1971, that the policy of her government is: "If the United States Government sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of United States forces and those of the other foreign countries in the United States camp, the parties will at the same time agree on the modalities:

A. Of the withdrawal in safety from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp;

B. Of the release of the totality of military men of all parties and the civilians captured in the war (including American pilots captured in North Vietnam), so that they may all rapidly return to their homes.

These two operations will begin on the same date and will end on the same date.

A cease-fire will be observed between the South Vietnam People's Liberation Armed Forces and the Armed Forces of the other foreign countries in the United States camp, as soon as the parties reach agreement on the withdrawal from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp.

Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from South Vietnam within sixty days following the signing of the agreement: Provided, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

PULLER ANECDOTES

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. MORSE. Mr. Speaker, it was from Charles W. Colson, now special counsel to the president, who served as a company commander in the 2d Marine Division under Gen. Lewis B. (Chesty) Puller, that I first learned of the truly extraordinary qualities of this distinguished American.

Few men, in my opinion, more rightly deserve the title of "hero" than Chesty Puller. His career was marked by professional valor, bravery, and leadership to his country, combined with a deeply thoughtful and humanitarian spirit for the men he led.

Chuck Colson has often told me that General Puller taught him much more about men and about life than he ever learned in his 4 years of undergraduate schooling studying under brilliant professors—a luxury General Puller himself never had. He has also related to me that Chesty Puller taught him, and thousands of other marines, that the most powerful force in the world is a man's own determination and that the word "can't" simply doesn't exist in the English vocabulary.

Another friend of mine who knew General Puller was Mr. Wendell Pigman, of Washington, who served in the 1st Marine Regiment when it landed at Inchon and later during the capture of Seoul in the Korean war. I am pleased to share with my colleagues a letter, written by Mr. Pigman, which appeared in the Washington Post of October 26, in which he recalls some of his memories of Chesty Puller that typify the character and spirit of this Marine Corps leader.

PULLER ANECDOTES

(By Wendell H. Pigman)

Those who served with Gen. Lewis B. (Chesty) Puller, USMC, admired that salty scrapper. He was the enlisted man's hero. His death opens a gap in my pantheon.

A few anecdotes give some of the flavor of the man. Shortly after landing the 1st Marine Regiment at Inchon, Korea, Puller was guiding the attack from the top of a hill next to the Inchon-Seoul highway. General MacArthur appeared with an entourage at the foot of the hill. Word was sent to the top of the hill that General MacArthur was at the bottom. Word came back down that Colonel Puller was at the top. The two did not meet.

Shortly after the First Marine Division had come out from the hard-fought battles at Chosin Reservoir and was resting at a camp west of Pusan, Colonel Puller held an awards ceremony. After pinning medals on a number of men, Puller said: "I understand that some of you men are worried; that you are afraid that you will not be taken care of. Well, don't worry. I'm going to get you back in the fight right away." There was no cheering but morale took a definite upturn.

Just before the Cuban missile crisis, recently retired General Puller was attending a wedding reception in Arlington. When asked what he was doing, he replied: "I'm staying in shape by chopping wood every day. They're going to need me. They say it will take three divisions to take Cuba. It will only take one Marine division and I'm going to command it." Little wonder that Headquarters didn't want him in Washington.

He was a colorful and able field Marine. His indomitable spirit will be missed.

I am deeply grateful to men like Chuck Colson and Wendell Pigman, and our colleague, Lawrence Coughlin, who have known Chesty Puller well, and have shared their memories of him with me. I join with them in extending my deepest sympathies to Mrs. Puller and her family.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

ON THE PRAYER AMENDMENT, THE DENVER POST SAYS "NO"

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. SCHWENGEL. Mr. Speaker, the Denver Post called attention to the issue of religious liberty which has too often been ignored in the debate over the prayer amendment. That is, the supporters of the amendment would rather that it not be discussed.

Yet, this is what is at issue. In this editorial which appeared on October 31, the Denver Post does a public service by pointing out how the so-called prayer amendment would infringe on the freedom of religion so deeply engrained in our system of government.

The editorial follows:

[From the Denver Post, Oct. 30, 1971]

IF IT FAVORS FREEDOM OF WORSHIP, CONGRESS SHOULD KEEP HANDS OFF

Nine years ago, the Supreme Court ruled that the First Amendment to the Constitution made it none of government's business "to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

The court did not, as some people rather excitedly concluded at the time, make it illegal for anyone to pray, in school or anywhere else, nor did it outlaw references to God in American public life.

The decision, written by the late Justice Hugo Black—who was an authority on James Madison—was clearly in accord with the views of Madison and the other drafters of the First Amendment. It rejected an attempt by a New York school board to prescribe for public school pupils a prayer written by the state board of regents.

The decision was not, of course, in accord with the views of those who put great store by officially-sanctioned, lowest common denominator expressions of public piety.

Hence, there have been several attempts since that 1962 *Engel* case decision to amend the First Amendment to specify that the clause banning the official establishment of religion by the state does not preclude public non-denominational worship.

So far, these attempts have failed.

The latest is a resolution submitted by Rep. Chalmers Wylie, R-Ohio, which could come up for a vote of the House of Representatives by Nov. 8.

Representative Wylie's resolution contains this wording:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in non-denominational prayer."

What is wrong with that?

In the first place, as the National Council of Churches of Christ has pointed out, Americans already have the right to participate in prayer, non-denominational or denominational, in public or private buildings, under the free exercise of religion clause of the First Amendment as it presently exists and as it has NOT been diminished by the Supreme Court.

Conceivably, Wylie's reference to non-denominational prayer could actually narrow down the freedom to worship.

But even more to the point is the implication—made explicit every time some government body in this country decides to authorise official worship—that the agency that authorises a prayer also sets the terms for what sort of prayer is permissible. It is at that point that government intrudes, however cautiously, on the individual's rights of conscience.

During congressional debate in 1789, Daniel Carroll of Maryland very wisely observed in behalf of the proposed First Amendment that "the rights of conscience are, in their nature, of peculiar delicacy, and will little bear the gentlest touch of governmental hand."

Madison himself was asked to interpret the words referring to religion in the proposed amendment and he said they meant "that Congress should not establish a religion, and enforce the legal observation of it by law, *nor compel men to worship God in any manner contrary to their conscience.*"

That, to us, is the essence. Prayer is an individual matter of conscience, and the best thing government can do—for prayer, and for religious observance generally—is keep its hands off.

The individuality of prayer, the privateness of prayer, is something that Christians, particularly, should seek to affirm. For it was Jesus who told His disciples (as reported in the sixth chapter of St. Matthew) that they should not pray as the hypocrites do, standing in public places, "that they may be seen of men," but that they should pray in their own rooms, "to thy Father which is in secret."

He also warned them, when they prayed, to avoid using "vain repetitions, as the heathens do." It is almost as if He was referring to one of those non-denominational devotions composed by an agency of government.

PIG BOWL

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. ESCH. Mr. Speaker, on November 7, 1971, football fans across my district flocked to Eastern Michigan University's Rynearson Stadium to watch the classic Pig Bowl—the annual battle between the "Goats" of the Ann Arbor Police Department headed by Chief Walter E. Krasney, and the "Pigs" of the Washtenaw Sheriff's Department headed by Sheriff Douglas Harvey. Beyond viewing one of the truly great football games of the season those in attendance contributed to a Christmas fund for needy children in Washtenaw County.

The Pig Bowl began in 1969 when Deputy William Gilless voiced his concern for the needy children of Washtenaw County. He contacted the Ann Arbor police and proposed a charity football game between the two departments. This was the first time that a police group had tried this sort of project, and since then many other police departments have picked up the idea.

With somewhat greater advance planning, the second year's gridiron contest drew a record crowd of 7,500. More than $9,000 was raised to buy toys for needy children at Christmas and to support organizations throughout the county who were involved with youth activities.

The success of the first two games is due to many hours of work and effort by many segments of the community. Business places through the county sell tickets and encourage their patrons to attend the game. The University of Michigan and Eastern Michigan University have lent their support and equipment for the game. Off-duty officers from both departments donate their time on patrol for their colleagues who are playing in the game.

The coordinators for this year's game were Jan Suomala and Duane Weber representing the Ann Arbor police and Ron Ritter representing the sheriff's department. All three coordinators, of course, predicted victory in this the third game. Regardless of the outcome however, the real winner was again the children of Washtenaw County who will have a merrier Christmas than they might have had.

RUSSIAN FLOTILLA IN CUBA

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. PEPPER. Mr. Speaker, we have seen further evidence of the determined and expanding development by the Russians of a military and naval base in Cuba. Not only are many thousands of Russian soldiers in Cuba but naval flotillas with increasing frequency now come to Cuba. One arrived recently just after Premier Kosygin left. An item about this flotilla appeared in the Miami Herald of November 1. I am gravely concerned that the administration seems to be indisposed to have a confrontation with Russia about this growing base it is establishing in Cuba. We may, if we wait very much longer, find that Russia with her increased strength will not back down in a confrontation.

Mr. Speaker, I include in the RECORD, following my remarks the item that appeared in the Miami Herald of November 1:

[From the Miami (Fla.) Herald, Nov. 1, 1971]

RUSSIAN FLOTILLA IN CUBA

A Five-ship Soviet Navy task force arrived in Havana Sunday and was received by thousands of Cubans who lined up on the waterfront and waved Soviet flags.

The force, composed of two sub chasers, two conventional-powered submarines and a tanker, are on an "instructional cruise" and will remain in Cuba until Nov. 9, Havana Radio said.

The ships arrived a day after Soviet Premier Alexei Kosygin returned to Moscow after a four-day Cuban visit.

Soviet warships have been making periodic visits to Cuba for the past two years in what United States officials regard as a continuing Soviet policy to show the flag in areas of their interest.

A report of reconnaissance sightings by U.S. planes and ships had earlier described two of the Russian vessels as a modern guided missile cruiser and a guided-missile destroyer.

CFR AND ITS TOP SECRET DOCUMENTS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. RARICK. Mr. Speaker, according to local news reports, top secret Pentagon papers are more accessible to the public than a "confidential paper delivered to a Council on Foreign Relations seminar by Daniel Ellsberg," self-confessed thief of the Pentagon papers.

Exactly why the highly influential Council on Foreign Relations is able to maintain such secrecy while being privy to highly classified Government information is not made clear, nor is it clear why the Council on Foreign Relations would want to suppress information that may be vital to our Nation's security.

I ask that related news articles be inserted in the RECORD at this point.

The articles follow:

[From the Washington Post, Nov. 6, 1971]

ELLSBERG PAPER CRITICIZED ESCALATION

The confidential paper delivered to a Council on Foreign Relations seminar last year by Daniel Elseberg that was handed over to the Federal Bureau of Investigation contains Ellsberg's frequently repeated criticism of the U.S. policy of gradual escalation in Vietnam.

The paper was delivered on Nov. 17, 1970, to a study group that included Morton H. Halperin, a former member of the Pentagon's Office of International Security Affairs and chief editor of the now-famous Pentagon papers about the Vietnam war, Paul C. Warnke, who was assistant secretary of defense in charge of ISA, and Helmut Sonnenfeldt, then and now a senior member of Henry Kissinger's National Security Council staff.

Ellsberg later admitted leaving to the press the Pentagon papers.

Discussion held regularly at the Council on Foreign Relations in New York are meant to be confidential. A "discussion meeting report" made available to The Washington Post along with the copy of the Elsberg paper is marked "confidential—not for publication."

The Council on Foreign Relations is one of the most prestigious organization dealing with foreign affairs in the United States. Its members include leading figures in the East Coast foreign policy establishment in and out of government.

There was no indication from the contents of the Ellsberg paper why it should become the object of a subpoena in connection with an investigation of how the Pentagon papers reached the press. The Council's surrender of the paper has raised criticism from some members.

In his seminar paper, Ellsberg draws an analogy between the graduated response that characterized U.S. policy in the Cuban missile crisis and the progressive escalation of involvement in Vietnam. But in Cuba, he said, there was clear public support for the President, and Americans could see a direct threat. Furthermore, he noted, unilateral American power could wipe out the Soviet missiles in Cuba. These conditions did not exist in Vietnam. Nor did the essential matter that in Cuba the stakes were smaller for the adversary than for the United States.

Ellsberg said that Lyndon B. Johnson's 1964 campaign provided the clear signal to Hanoi "that it was politically rewarding for him in 1964 to imply to the public he was not leading them toward a large war in Asia."

Ellsberg said, "They knew they could assure him a large, long war, if he chose to start one at all . . . The mood of the public, foretold by Johnson's tactics and confirmed by his success, could only reassure them on the ultimate outcome: or at the very least, on the relative merits of holding on under pressure and prolonging the war, while raising its costs for America."

In the confidential summary of the discussion that followed Ellsberg's presentation—a digest on which it is clearly noted that it was not edited by the participants—Warnke is said to have noted that the Vietnam case did not warrant "general conclusions about the efficacy of a policy of gradual escalation."

The digest said, "The only lesson Mr. Warnke drew was: don't commit force on an all-out or limited basis unless you are prepared to pay more than what the other side is willing to pay."

Another participant sought to summarize some points for William Bundy, who was absent. "Bundy points to calculations of beneficial side effects elsewhere in Southeast Asia." Bundy has been appointed head of Foreign Affairs, the quarterly magazine of the council. He was Assistant Secretary of State for Asian Affairs during the Johnson administration.

[From the Washington Post, Nov. 5, 1971]

U.S. SUBPENA UNITARIAN FUND RECORDS

(By Sanford J. Ungar)

The FBI, armed with a grand jury subpoena, is inspecting the bank records of the Unitarian-Universalist Association in Boston.

The FBI inspection, covering eight separate bank accounts of the religious association and its non-profit publishing arm, Beacon Press, is part of the Justice Department's investigation into disclosure of the Pentagon papers.

Sen. ——— who learned of the bank inspection last night, said he will fly to Boston this morning to ask the First U.S. Circuit Court of Appeals to hold the Justice Department in contempt of court.

——— contends that the FBI action violates the appellate court's order suspending the grand jury investigation, pending the outcome of the senator's legal effort to place permanent restrictions on the probe of the Pentagon papers.

Beacon Press last month published an edition of the secret Pentagon study on the Vietnam war from material made public by ——— during a midnight Senate subcommittee session June 29.

As ——— planned his new court action for today, the religious organization announced in Boston that it would send representatives to New England Merchants National Bank—where the records inspection has been taking place—"to register our strenuous objections."

Attorneys for the Unitarian-Universalist Association and Beacon Press were also reportedly considering their own moves in federal court in Boston.

Statements from both the association and ——— last night indicated that the new issue had been injected into the continuing furor over the Pentagon papers investigation—the constitutional separation of church and state.

Robert West, president of the religious organization, which represents some 200,000 Unitarian-Universalists across the country, said, "We perceive grave danger in the subpoenaing by the government of the checks of a religious denomination, particularly as it relates to the publication of a controversial book."

He charged that "serious questions of church-state separation and freedom of the press are raised, in addition to the general issues of government intimidation and repression of dissent."

———, for his part, said, "I think it's wrong. I will use everything in my power to stop them from what they are doing."

The senator has already contended in federal court that the government investigation threatens his own congressional immunity as well as the constitutional separation of powers among the three branches of government.

Sources said the bank records under examination by the FBI cover the period between June 1 and Oct. 1 of this year, during which arrangements were made for Beacon's republication of the Pentagon papers.

The grand jury subpoena was originally issued on Oct. 28 and covers all checks deposited into and issued from the eight bank accounts in excess of $5,000.

According to the subpoena, those checks are to be presented before the grand jury next Wednesday, the same day as the scheduled argument on ——— appeal before the circuit court in Boston.

The subpoena came to light only yesterday, when bank officials informed the association and Beacon that FBI agents had already begun inspecting the records.

Attorney David R. Nissen of Los Angeles, who is supervising the government's investigation of the Pentagon papers reached in Boston last night, said he had no information about the FBI's activities at the bank.

But Nissen said that as long as grand jury proceedings are not resumed, "the FBI is perfectly free to interview anyone" without violating the outstanding appellate court order.

Bank officials could not be reached last night for comment.

Meanwhile, members of the Council on Foreign Relations have reacted angrily to the organization's decision to make available to the FBI a confidential seminar paper by Daniel Ellsberg.

James C. Thomson, a professor of history at Harvard University, yesterday labeled the council's action "outrageous."

"It is counter to normal ethics and to the printed by-laws of the organization," Thomson said after learning that the document had been turned over to FBI agents in response to a subpoena from a grand jury in Boston investigating disclosure of the Pentagon papers.

THE LATE HONORABLE A. WILLIS ROBERTSON

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 4, 1971

Mr. ROONEY of New York. Mr. Speaker, the United States and the Commonwealth of Virginia have lost a truly distinguished citizen with the passing of the Honorable A. Willis Robertson who served for over 30 years in this House of Representatives and in the other body. He had a keen mind and combined it with great integrity. He was a fair man and a gentleman admired by all, regardless of political persuasion. He was a man that the Commonwealth of Virginia, which he loved so much and spent almost his entire life serving, could be duly proud. Willis Robertson spent almost half a century in public service. Those many of us who knew him with admiration and respect are deeply saddened by his passing. To his family I extend my deepest sympathy.

ISRAEL'S ECONOMIC CRISIS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. HAMILTON. Mr. Speaker, Israel is now facing a grave economic crisis which was mainly brought about by the massive defense needs and the resulting huge foreign debt. Clyde Farnsworth's articles in the November 7 New York Times describe the staggering dimensions of Israel's economic problems and I commend his comments to my colleagues:

ISRAEL: "THE IMPOSSIBLE"

(By Clyde H. Farnsworth)

JERUSALEM, ISRAEL.—The three million citizens of Israel face economic problems of staggering dimensions, but Government and business leaders believe that whatever happens, the future can never be as grim as the past.

Daniel Rekanati, head of the largest private bank in the country, put it this way: "I remember back in 1952 an American banker came over for a visit and asked me whether I thought the State of Israel would still exist in three years. Nobody asks that question today."

The way Yigael Brod sees his life may be indicative of prospects at large. He is a 22-year-old machinist's helper just mustered out of the army after his compulsory three years of service, seven months of which were in the trenches along the East Bank of the Suez Canal.

Mr. Brod, married and the father of a three-week-old daughter, lives with his family in a one-room apartment in South Jerusalem. He makes $125 a month at the factory and has been told by his boss that if he works hard he can count on doubling his pay over the next seven years. The young man is already deeply in debt.

Life in Israel is hard, he told a foreign visitor recently. "To make it, you have to work, because nobody gives you anything. I'm not afraid of hard work. We have a saying in Israel that if you have a lot of money, it's not good money."

Although she depends heavily on aid from the United States and the support of world Jewry, Israel, like Yigael Brod, has found no substitute for hard work in the deadly serious matter of progressing economically.

It's not a question of survival but of raising living standards, said Shimon Peres, former Deputy Defense Minister, who is now Minister of Communications and Transport.

This is a working man's society, said Yitzhak Ben-Aharon, head of the National Labor Federation. It marks a unique appearance in Jewish history. Three-quarters of the working population of one million are industrial workers.

What are the problems?

The country's foreign debt is probably unparalleled in the history of any nation, representing the equivalent of $1,000 for each citizen. It takes $500-million a year, or 10 per cent of the gross national product, just to service the debt.

Defense spending is wildly disproportionate, eating up resources that could be used for better homes, schools and public transport. Defense takes up to 27 per cent of the G.N.P., against 10 per cent in the United States.

Israel is practically without natural resources and, according to Agriculture Minister Haim Gvati, is in danger of running out of water in the next five to 10 years.

Although the country is in the economic growth league of Japan, inflation, abetted by last August's devaluation, is dangerously pushing up costs.

Because everything is being sacrificed for growth, the Jewish land is in the midst of a fierce labor shortage and is coming increasingly to depend on Arab labor. One-tenth of the work force is Arab, and regularly scheduled buses now bring Arab day labor from the occupied territories on the west bank of the Jordan and from Gaza to jobs in Tel Aviv. There are youth protests because pent-up social demands are not being met quickly enough.

"We are trying in this country to do almost the impossible," said Mr. Rekanati, chairman of the 129-branch Israel Discount Bank, from his Tel Aviv office. "In addition to defense, we have to absorb immigration running to 50,000 persons a year and build homes and schools for these people. And simultaneously we are trying to be a welfare state and to insure that standards of living of the population are continuously rising. They say this is a country of miracles."

Israel's total foreign expenditures for military hardware, raw materials and other needs are running at an annual rate of $3-billion. Earnings from industrial and farm exports and from tourism, shipping and financial services amount to $1.5-billion. This is the dimension of the balance-of-payments problem.

The deficit is financed by loans and gifts, by the capital input of foreign companies, by war restitution payments to Israeli citizens from the West German Government (running at $200-million a year) and if necessary, by the $400-million pool of foreign-currency reserves of the Israeli national bank.

"It is a hand-to-mouth monetary existence. Last year two great miracles befell us—the armaments from the United States and the aid from the United States," said Pinhas Sapir, Minister of Finance, Commerce and Industry and a likely successor to Premier Golda Meir.

"To many Israeli officials the only way to get out of the bind is to export more. To export more the base of the economy has to be broadened. To broaden the base of the economy more debt has to be incurred.

"We're not worried so long as our exports and the general economy continue to expand by 10 per cent or more," said Mr. Rekanati, the banker.

Finance Minister Sapir is confident exports will reach $2-billion by 1973, a 40-fold increase over 1949.

But practically every country in the world wants to export more, which means that competition will be much tougher than in the past. The United States with its new imports surcharge and monetary initiatives signalled the beginning of what some economists see as a new mercantilist era.

While the terms of competition toughen, Israel faces the possible contraction of markets as a result of the expected widening of the European Common Market to include Britain, Ireland, Denmark and Norway.

The larger customs union would tend to increase trade among the members at the expense of those outside.

The six Common Market countries are Israel's biggest market, buying $260-million of products a year. The United States comes next with $170-million.

In line with her export drive Israel badly wants to get under the European tariff walls. A preferential commercial agreement went into effect a year ago under which customs duties on industrial products will be progressively lowered by one-half over five years, while duties on farm products will be cut by 40 per cent.

Israel is far from satisfied with the Common Market agreement, according to Avraham Agmon, director general of the Finance Ministry. "The agreement has done us little good," he said, pointing to the competition with developing countries, which, under still another accord, ship manufactured and semi-manufactured goods into the Common Market duty free.

In the struggle for markets Israel has gained some important advantages, however, by specializing in the high-technology fields in industry and concentrating on profitable, capital-intensive sectors in agriculture.

Europe is now cultivating a taste for avocados from the western Galilee area and the Israeli coastal plain. None were produced 10 years ago. The market last year was worth $2-million.

Similarly $2.5-million worth of strawberries were sold from Israel to Europe last year. The strawberry crop began only five years ago. Celery, peanuts and melons are among the new crops grown in the irrigated semi-desert lands, earning altogether some $30-million a year in foreign currency.

Perhaps the most technologically exciting agricultural venture involves flowers. Freshly picked carnations, roses, gardenias and other flowers are flown to European centers daily under a computerized marketing setup. Agents in European centers transmit data on the specific needs, even to the shapes and sizes of flowers demanded, and within hours the shipment arrives from Lydda Airport.

All of this is in addition to the main staples—oranges, lemons and grapefruits. Israeli citrus exports last year totaled $115-million.

But Israel is chiefly counting on industrial exports to pay its way in the world The large defense outlays have stimulated metal and electronic developments. In addition to finding some peacetime applications for defense spending, Israel has become an arms exporter.

A sophisticated sea-to-sea missile, the Gabriel, already operational in the Israeli Navy, has been sold to some foreign countries, according to sources in the Defense Ministry.

Koor Industries (Koor means melting pot in Hebrew) is the country's biggest industrial enterprise. It is actually a conglomerate of 50 manufacturing companies owned by the industrial offshoot of the National Labor Organization, the Histadrut. Some of the companies are jointly owned with foreign enterprises such as General Telephone and Electronics and the big Belgian glass producer, Glaverbel. The 50 companies do an annual business of about $300-million.

Koor is run by Israel's former defense chief Meir Amit, who likes to point out to visitors that in relative terms Koor is bigger than General Motors. "We account for 9 to 10 percent of total output in Israel—General Motors for only 3½ percent of output in the United States," he said.

To meet the national goals, said Mr. Amit, Koor is determined to triple its volume of foreign sales by 1975.

MIDEAST PEACE IN OIL DRILLING

(By Clyde H. Farnsworth)

TEL AVIV.—On the Western Sinai Peninsula and offshore in the Gulf of Suez oil is being drilled for both by Egypt and Israel, with no regard to the hostilities between the two countries.

"Four or five frogmen could easily destroy the installations on both sides," a high Israeli petroleum official said. "They leave us alone and we leave them alone. So what we have now is an oasis of peace."

The former Egyptian wells in the Balayim Field, halfway up the Gulf of Suez, are pumping more than 100,000 barrels daily, enough to make Israel completely self-sufficient in oil for the first time.

Israel took the wells in the six-day war between June 5 and June 11, 1967, when all the Sinai peninsula was occupied. The war left Israel in possession of 34,000 square miles, four times the land occupied after the 1948 war of independence and one-half the area ruled by Solomon.

Thirty or forty miles south of Balayim are the offshore wells of the El Murgan Field, pumping about 300,000 barrels daily for Egypt. The Standard Oil Company of Indiana's subsidiary, the Pan American Oil Company, holds the concession.

Tankers from both sides ply the Gulf of Suez with their much-valued cargo in business-as-usual fashion. The Israeli tankers round the sandy peninsula and churn up the Gulf of Eilat on the eastern side of the Israeli port of Eilat. The crude oil is then refined into gasoline, diesel oil and other products for Israeli consumption.

The Balayim Field had been operated for the Egyptians by Enter Nazionale Idrocarburi (E.N.I), the Italian state oil company.

The Israeli authorities have told E.N.I. that it would be compensated for the oil acquired by Israel on the basis of the normal shareout in the Middle East—25 percent usually goes to the operator and 75 percent to the state.

Israeli technicians have run the operation since the six-day war. Fresh capital has been ploughed into the field.

Until there is a Middle East settlement, the Israeli authorities maintain, Israel will continue to take the oil as the spoils of war. There is no question, they say, of compensation for Egypt.

Until 1967 Israel, which produces inside her 1948 frontiers only 3 percent of her oil needs, was able to get around Arab oil boycotts against the Jewish state by purchasing oil indirectly from Iran and other sources.

Even with the oil from Sinai, Israel continues to purchase from the same sources to build up her reserves.

Israeli companies are also actively engaged in a search for oil outside the Middle East, but as yet have made no important strikes.

FOREIGN DEBT MOUNTS

Israel's over-all foreign debt has risen nearly three times since the end of 1968 to $3.4-billion.

Fifteen-year bonds sold to the world Jewish community at relatively low interest rates—4 per cent—comprise $1-billion of the debt. About 80 percent of the money has been raised in the United States and 10 percent in Canada.

The Israeli Ministry of Finance says there is a high proportion of renewals when the bonds mature.

The largest portion of the debt to governments is carried by the United States, chiefly to finance purchases of American military hardware. Last year Israel was given a $545-million loan to pay for American aircraft.

CONCERN OVER THE PROPOSED PRAYER AMENDMENT

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. PEYSER. Mr. Speaker, I have been deeply concerned over the proposed prayer amendment. I have spent many hours reading, thinking, and praying for guidance in reaching a decision on this matter. I signed the petition to bring this matter to the floor of the House of Representatives in order that it could be debated publicly and not remain locked up in committee. I personally see no reason that a group of young people cannot gather together voluntarily in a school or any public building and pray together or discuss religious thoughts they may have—nor do I see anything in the Constitution of the United States that prohibits this kind of action. I guarantee that if any attemps are made to limit the freedom to pray in my congressional district, I will personally join the fight to make it possible for people to gather together for this purpose.

However, I feel, as do the leaders of every organized religion whom I have been in contact with who represent the overwhelming majority of the people in my district, that we do not want the State to dictate the type of prayers that we and our children must say.

I have long been active in the Episcopal Church as a vestryman and as superintendent of the church school. I have talked with people of the Catholic, Protestant, Jewish faiths, and people of other persuasions and have found very few who want their children to be exposed to a State prayer. This type of action is similar to the steps taken by the Communist Party in the Soviet Union to control the innermost lives of their people and particularly their children.

It is for these reasons, coupled with a love for this great country of our and a love of the freedom which our Constitution and particularly the Bill of Rights have given all of us, that I have voted against this misleading amendment.

NOT TO BLAME FOR ATTICA OR OTHER ILLS

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. DUNCAN. Mr. Speaker, I read a very moving, very true, letter which I wish every Member of Congress would read—would heed. Who is to blame for the ills of our society?

The letter follows:

[From the Knoxville News-Sentinel, Oct. 2, 1971]

NOT TO BLAME FOR ATTICA OR OTHER ILLS, SHE DECLARES

Editor, The News-Sentinel:

Well, it's finally happened. Once again, I've been blamed for another incident in this country. I sat tonight and listened to a man on television blame me for the tragedy at Attica.

My little brain is working overtime in writing this letter. I say little brain, because anyone with common sense would have been hollering long ago.

I've been blamed for the riots on the college campuses.

I've been blamed for the war in Vietnam.

I've been blamed for oppressing the Negro race.

I've been blamed for the generation gap.

You name it; I've been blamed for it.

There's not a single prisoner at Attica that I helped put there. And it's a great possibility had they lived by my ideas and standards, they wouldn't be there either. But my ways of living are a little old-fashioned. Instead of stealing, I worked for what I have. Instead of murder, I've tried to follow the Golden Rule. Instead of trying to tear down this country, I've tried to stand behind it. I haven't demanded a single thing in return.

Demands, demands, demands. That's all I hear anymore. I'm sick to death of it.

Attica is a prison for hardened criminals. These men didn't just rob somebody's piggy bank. Some of them were two and three time losers. If they could have been rehabilitated, they would have learned a lesson the first time.

And you actually expect me to sit and take the blame? Me, the society, the country?

No, fella, you pushed me too far. I refuse to be held responsible for Attica. I refuse to be blamed for being the "society" that put these man behind bars. I refuse to be held accountable for the environment of these men.

But I will take the blame for the country being too lenient with a criminal. I will take the blame for allowing laws to pass that protect the guilty rather than the innocent. I will take the blame for letting courts and Justice Department make it so easy on a lawbreaker that he's not afraid to commit his crimes.

To the families of the slain hostages, I owe my deepest sympathy. To the surviving prisoners at Attica, I owe nothing.

MRS. CARL VALENTINE.

PRICE OF FREEDOM

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. WINN. Mr. Speaker, my esteemed colleague from western Kansas, Mr. KEITH SEBELIUS, recently addressed a group of young people in his district concerning the price of freedom.

A Great Bend, Kans., radio station, KVGB, was so impressed with what he had to say that they devoted an editorial to his remarks. I felt the entire House would find this brief editorial and Congressman SEBELIUS' ideas of timely interest.

KVGB EDITORIAL

Kansas' First District Congressman Keith Sebelius addressed more than 100 young people from Northwest Kansas last week-end regarding youth's role in today's business world.

His comments are an impressive commentary on our economic system, and they deserve quotation.

Under free enterprise, Congressman Sebelius said, the individual citizen or the customer is the boss. Despite the claims of socialism, fascism, communism or any "ism," Sebelius pointed out, no other system exists where the man in the street can discipline management.

The Congressman continued: "Nothing is free in this world. Everything in our economic life has a source, a destination and a cost that must be paid. Government is not a source of goods or money. Everything that is produced by government is produced by the people, and most important, what the government gives to the people it must take from the people.

"'The only money government has to spend is the money that is taxed or borrowed out of the people's earnings. If the government decides to spend more than it takes in—and it has been doing a lot of that for too many years—that money, when it is spent, reduced the value of the people's money and their savings.

"Employment and job security do not come from the government or from business. They come from the customer. If there are no customers there can be no business and no payroll and no jobs."

Congressman Sebelius concluded with these comments, which we heartily applaud: "Our American system of free enterprise rests firmly on the belief that you know what is best for yourself. It also assumes the individual will assume the responsibility to safeguard this freedom. Most young citizens I visit with buy that concept. It is time a lot more of us began selling it."

MILAN ARMY AMMUNITION PLANT GETS ARMY'S TOP AWARD FOR EXCELLENCE

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. JONES of Tennessee. Mr. Speaker, recently it was my pleasure to attend ceremonies presenting the Department of Army's most coveted "Sustained Craftsmanship Award" to the Harvey Aluminum Sales, Inc., operating contractor of the Milan Army Ammunition Plant, Milan, Tenn., a shell loading and storage facility under the command of Maj. F. T. Mullens.

Making the presentation, the first to be awarded, was Lt. Gen. J. M. Wright, comptroller, Department of Army, at ceremonies conducted at the plant on Tuesday, October 26, 1971. General Wright was accompanied to the plant by Brig. Gen. P. G. Olenchuk, commanding general of the 26 Plant Ammunition Procurement and Supply Agency—AP SA—having direct control of the Milan, Tenn., facility. The award was the result of the Harvey Co.'s effective Zero Defects program, which General Wright commended highly. The general pointed out that the company won the Achievement Award in 1969 and the Craftsmanship Award in 1970. Quoting him further:

Having fought in three wars and been a customer of yours, I express my sincerest appreciation for your dedication and endless motivation in your work.

Receiving the distinguished award was plant manager F. C. Bryant, who literally grew up in the industry. Said Mr. Bryant:

Our employees wanted this award, for it represents the crowning honor to the impressive list of awards already earned.

He stated further:

You must remember that our plant has a most impressive record of meeting production schedules and shipping dates.

The list of honors for the plant includes the following:

The National Safety Council's Industry-wide Safety Record of 9,160,000 manhours without a lost-time injury. Quite an achievement for an explosives industry.

The Cogswell Industrial Security Award. Milan was the only Plant in the APSA Complex to receive the award and vied with more than 20,000 defense plants for the honor.

Annual recognition for the results of its Cost Reduction Program from 1964 through fiscal year 1971. A total savings of over $13,225,000 has resulted from employee actions and suggestions.

S. P. Huntley, zero defects manager for the Harvey Co. stated:

The Sustained Craftsmanship Award was the big one, our people wanted it, we've got it, and our flag clearly shows that we're Number One.

The award is a fitting tribute to the west Tennessee employees of the plant, who compose more than 98 percent of the supervisory and production personnel. It is also a tribute to Mr. Leo Harvey, founder of the Harvey Co., who had great faith in west Tennesseans, and the continuing faith of J. Donald Reuth, current president and chief executive officer of the company. The company, an equal opportunity employer, has an employment total in excess of 3,000 with 30 percent of this total composed of minority group personnel. Mr. Bryant further pointed out:

We are what you might call an isolated industry in this agricultural area. Our employees have no long history of industrial know-how, the fact is, we're scarcely one generation removed from almost total economic dependence on agriculture.

I have always had a strong interest in the Milan plant and want to express personal congratulations to the officers and employees for their continuous record of outstanding performance in craftsmanship, efficiency, and safety.

WEST COAST OF FLORIDA BLIGHT

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. YOUNG of Florida. Mr. Speaker Florida's west coast is scenically set on miles of beautiful white sand beaches bordering the clear waters of the Gulf of Mexico. It is this beauty which has lured thousands of tourists to choose the gulf area as their permanent home. This picture, however, was destroyed last summer by an outbreak of the dread "red tide." This is a natural phenomenon which results from the rapid multiplication of rust-colored marine micro-organisms which stain the sea and release a toxin which is fatal to fish. It is not caused by any known act of man and so far is not controllable by man. It came and went solely as a result of the mysterious workings of nature. It did, however, leave its devastating mark on the area—miles and miles of beaches littered with millions of putrefying fish, the sand and water barely visible because of the density of their decaying carcasses. It took many days and nights of continuous labor to repair this damage and thousands of man-hours of labor at a final cost of over $200,000 to the local governments involved.

To this section of Florida's west coast, the "red tide" is now only a horrible memory, but they are still struggling to recoup from the financial burden it placed upon them. For this reason, I am introducing today, with my two distinguished colleagues, Mr. HALEY and Mr. GIBBONS, a private relief bill which will guarantee payment of losses sustained by each city, county, and State agency involved in the cleanup of this terrible blight.

UNEMPLOYMENT IS UP IN THE NATION

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. O'NEILL. Mr. Speaker, the problem of unemployment in our Nation is a matter of great concern to every Member of Congress. This resistant strain of unemployment, which has inflicted the country, has hit white and blue-collar workers, executive, and laborer, scientist, and municipal employee.

I am placing in the RECORD the remarks of Mr. Albert J. Kelley, dean, school of management, Boston College and chairman of the Board of Economic Advisors, Commonwealth of Massachusetts, given before members of the New England delegation some weeks ago. Mr. Kelly directs his comments to a very particular problem facing the Northeast area, the highly skilled unemployed scientist and technician. It is pointed out by Mr. Kelly that not since the great depression has this country seen such a high percentage of highly educated professionals in the unemployed sector.

I request that all Members interested in finding a solution to the growing problem of technical unemployment read with care the astute comments contained in Mr. Kelley's statement.

The statement follows:

GOVERNMENT INCENTIVES FOR TECHNOLOGY TRANSITION AND INNOVATION

(By Albert J. Kelley)

BACKGROUND

Defense and space cutbacks during the last two years have had a unique effect upon the U.S. economy. While considerable attention has been given to unemployment and job aspects of these cutbacks, there are more subtle technological implications which impact the long-range economic health of the United States.

Manifestation of the deeper underlying technological problem is given by the large number of engineers and technical professionals who have been disemployed by these cutbacks. We have not seen as high a percentage of highly educated professionals in the unemployed sector since the Great Depression.

To date, solutions to defense cutbacks have been concentrated on personal and humanitarian factors, that is to get people back to work. Let us look for a minute at the underlying economic factors that currently face us.

The technology base in this country has been largely supported since World War II by the Defense Department and NASA. The projects they sponsored were important to the national interest; they were glamorous and it was indeed patriotic and financially lucrative for individuals and corporations to join in these endeavors. As a result, a very significant proportion of the quality and quantity of the science and technology community was attracted into DOD/NASA sponsored activities, whether working for the government, private corporations, or universities. This situation, of course, peaked markedly during the 1967/68 time period when the Viet Nam buildup compounded by the NASA Apollo program caused a large temporary bubble in demand for high technology products and services.

This dramatic buildup had two major effects. First, it pulled in a lot of engineers and scientists and trained them in the government way of doing business with its own procedures for management, technical specifications, procurement, and financial incentives. Second, by pulling in these large numbers of technical personnel, a vacuum was created in the civilian technology sector into which foreign competition and products moved and captured major market shares. As a result, foreign competitors are deeply entrenched in what would be "natural" conversion markets for many previously DOD/NASA oriented personnel and companies. For example, a "natural" area of conversion for the defense electronics industry would be in home radio, T.V., hi-fi, etc. This market is already heavily saturated by foreign companies largely Japanese.

The DOD/NASA approach, in fact our historic governmental approach, to technology has been on a project-by-project basis. That is, individual projects were circumscribed and specified by the sponsoring government agencies and competed for by private organizations. This was considered to be the free enterprise competitive way of doing business and, by and large, worked quite well since there was always a continuous stream of projects. Even though it was theoretically a winner-take-all system, there were sufficient projects to go around so that many companies were able to prosper in the DOD/NASA sector. Government sponsorship of technology was basically project-oriented rather than institution-oriented. Ideally, at least in theory, the military-space-industrial complex was openly competitive, the strong prevailed, the weak were eliminated. With reduced technology dependence on DOD/NASA, we may now have to reshape government support more along institutional rather than strictly project lines.

Many new high technology companies were started during the 1950's and 1960's, some with resounding financial and investment success. A major factor in the early success of these new technology enterprises was the advantage they had in starting-off immediately with government contracts. Very often, in fact in a very high percentage of these start-ups, the entrepreneur-managers started their new company with a contract in hand either from their old organization or from a government agency with whom they had developed rapport. As a result, the new technology companies were often able to get a a year head start with guaranteed income while going through the different embryonic stage. The company started off in a familiar area of business with minimum risk, the entrepeneur's dream.

Many of these smaller companies have been hard hit by recent cutbacks particularly if they have assumed the role, as many have, of major subcontractor. In a cutback they are in double jeopardy since they receive not only their proportionate share of prime contract cutbacks but are further hit by the prime contractor keeping in-house a higher percentage of the contract work and putting less out to subcontract. Thus the "make or buy" decision in a decreasing market becomes increasingly easier for the prime contractor to the detriment of the subcontractor. Further, many prime contractors have delayed payments to subcontractors even though progress payments have been made by the Government.

High technology subcontractors were the first to feel the effects of defense and space cutbacks for these reasons. They are undoubtedly suffering the most, though heard the least, since they do not have the resources and political sophistication of larger prime contractors. Many are now concerned that we are in danger of seriously undermining, if not eliminating, our subcontractor structure, a vital element in our industrial base for national security.

Since the DOD and NASA financial props have been pulled out from under the technology segment of our economy, there is a new awakening to the importance of technology in the private sector. We have always believed that technology was important to our international pride and prestige. More recently, we have come to realise that it is indeed important in our total economic posture and strength including international trade. Secretary of Commerce Stans' testimony to the House Science and Astronautics Committee of July 27, 1971 documents some of the interrelation between technology and international economics.

No easy solution to our current technology problems has emerged but the techniques employed to solve these problems have by their very nature been inefficient and, therefore, not too effective. For example, the problem has been attacked by Federal and State Governments as an unemployment situation, on an individual basis. While this is indeed humanitarian, it is relatively inefficient to approach the problem on a person-by-person basis particularly when there are so many disemployed. What is needed is not more training, not more unemployment assistance, but jobs. These are created by healthy segments of the economy manned by healthy corporations. However, the technology industry itself has not generally approached the problem in a sophisticated manner. This is probably due to inexperience in commercial business areas more than any other cause. The DOD/NASA supported technology organizations have often approached new market areas with solutions looking for problems. By experience many have operated in DOD/NASA—as a result they have become product rather than market oriented. This attitude has slowed conversion and in many instances turned away potential but unsophisticated customers for technology goods and services.

This paper is largely concerned with assistance and incentives which can be provided to *organizations* to convert their business and personnel *in situ*. The action which the Federal Government can take can be broken down into three basic areas:

(1) Sponsored Technology Projects
(2) Direct Assistance
(3) Passive Incentives

GOVERNMENT ACTIVITIES RE INNOVATION

I. Sponsored technology projects

Government sponsored technology projects take the form of a major project involving *national goals*. While the peaceful national technology project in the 1960's was landing on the moon, in the 1970's it could be something like environmental and pollution control (backed up by sufficient funds and personnel).

Alternatively, or in parallel, there could be several smaller technology projects which provide seed money or government sponsored project incentives to move the high technology community into specific areas such as medical technology, the environment, urban problems, etc. A method of accomplishing desired civilian R&D projects could be government sponsorship of R&D and prototype competitions, that is, the government sponsorship of civilian R&D projects such as DOD sponsors Defense R&D projects.

In any case, it is important that some technology projects in desired conversion areas be backed by the government to provide a continuum for the technology community and private corporations. In this way, they can make the transition to new technical areas and applications while, in the interim, doing business the government way. As they move into new technology areas, they can acquaint themselves with new ways of doing business in the private sector and be on the look-out for civilian market applications of the projects they are executing under government contract. In other words, the government can provide transition assistance to ease the conversion of technology organizations into the private sector. There is, of course, a danger that government projects once started never stop and then these new technology market areas would continue under government subsidization rather than the government serving as a catalyst to assist the transfer.

II. Direct assistance

Under the hypothesis that it is more efficient to convert an operating organization than to convert the unemployed individual-by-individual, a *Corporate G.I. Bill* is proposed. A Corporate G.I. Bill would have many of the same features provided for individual veterans phasing out of the Armed Services. The problem for defense contractors is, in many ways, analogous to the individual veteran. The Corporate G.I. Bill would include loans or loan guarantees by the government to help finance the transition into the private sector, it would also provide education funds for re-orientation which could consist of on-the-job training or outside development courses. A subsidiary concept within the Corporate G.I. Bill is the proposal to subsidize approximately one-half of one year's salary for supplementary corporate personnel during the transition phase. Many companies have already cut to the bone to stay alive and do not have a sufficient cushion in personnel or financial resources to move into new business areas. The ability to hire additional personnel during the transition phase could help these companies break out of their current trap.

We should continue to search out the possibilities extant in already established programs and agencies, for example, the Small Business Administration. The SBA has several instruments already well established which, if fleshed out, could serve as valuable conversion vehicles. The SBIC program, if properly funded would become popular again and play an important role in the formation of new technology companies.

Many feel that the formation of new technology companies is the best way to effect conversion. Whether or not, they undoubtedly provide incentives for entrepreneurial minded technical personnel and are an avenue which should be vigorously supported. New business formation is one of the proven instruments for technology transfer. However, conditions are not the same as in the 50's and 60's. It is now more difficult and may require new or different government support.

We should increase the use and activity of the Title 501 concept within the Small Business Administration authority. The Title 501 Company is a state industrial development company which can receive matching funds from the Small Business Administration.

There are several avenues through which state and local governments could provide active assistance with or without federal support or subsidy. At the very least, the federal government could standardize or upgrade to the highest common denominator the various state programs already available.

Examples of state and local government assistance are:

(a) Standardize and upgrade loan guarantees provided by state governments. For example, some states (*e.g.* Vermont) guarantee 100% loans for facilities and equipment for new companies or companies they desire to attract. Others provide none.

(b) Provide consistency and loosen government regulations on industrial revenue bonds. These are tax exempt bonds supported by a state authority but issued by a

private corporation. These have met with great success in some states (e.g. Alabama, Massachusetts). However, IRS restrictions for tax recovery now limit these to 5 million dollars.

(c) Local Technical Assistance Programs (sometimes called conversion corporations) could be instituted with government support. These would provide business assistance and a loan bank similar to RFC to help corporations convert. Many high technology defense supported companies do not know how to move into new market areas. They don't even know what new types of people to hire if they had the resources. A local technical assistance program at the state or local level could provide market surveys and identify new product areas. It could help companies to locate new government contracts with agencies different from those they may have been working with in the past. It could include a Washington liaison office to help locate government contracts in emerging technology areas which are peculiarly suitable to a particular State or region. A Washington office could provide assistance to the corporations in its region such as an information service to help locate government contracts or lands. The federal government procurement scene is a mass and a puzzle to most small companies, even those who have been doing business with a particular agency for many years. A local technical assistance program could also provide other peripheral business services, consulting and advice to help small to medium size companies make the transition into the civilian sector.

III. Passive incentives

The Federal Government can provide many passive incentives, primarily financial, to attract capital and therefore increased attention and resources to high technology areas. Examples are:

(a) Investment tax credit for research and development. This could include accelerated depreciation allowances for facilities and equipment supporting high technology development.

(b) Investment tax credit for high technology products made in the U.S. and sold overseas.

(c) Tax holidays (full or formula basis) for new emerging high technology companies for specified periods of time. This could include tax holidays for corporate divisions or whole corporations converting from defense to other business areas.

(d) Investment tax credits to encourage foreign licensing arrangements whereby a credit is given to the U.S. corporation which manufactures in the U.S. under a foreign license.

(e) Investment tax credit for upgrading or retreading personnel in a company through education to enable the company to move out of defense/space into new business.

(f) Reshaping of policies on Independent Research and Development whereby the independence is broadened not reduced (such as the Mansfield Amendment). IR&D policy could be recast to permit such research unrelated to defense but related to conversion.

(g) It has been suggested that a change in the patent protection period policies could encourage increased high technology cross fertilization. This could consist of reducing the patent protection period to some time period less than 17 years or providing the government with authority to buy out some patent rights where technical turnover would be enhanced.

In reviewing patent policy some procedure should be established whereby the government can grant exclusive licenses on certain ideas or products. While this is contrary to a concept of open competition and free enterprise, on the other hand, many government patents lie fallow and untouched.

(h) The government, as a matter of policy, should review its antitrust attitudes with respect to joint corporate ventures for research and technical development. For example, while it has been argued by many renowned economists that the SST should have been built by private enterprise, no single company has the resources to go it alone. Under our antitrust policies, a consortium of private corporations, the only way it could be done without government support, would be immediately attacked by the government.

(i) In some way we must find mechanisms to reduce the pressure for short range corporate financial performance on the part of high technology companies. This is a fact of life in investment and stock market dealings. While investors formerly looked at annual earnings, now they look at quarterly earnings and even are searching for monthly financial information. The high technology corporation which needs time to develop new ideas and products unfortunately falls into the same pit as other companies when being analyzed by the investment community. Because of the increasingly short-range investor outlook, we have in many companies directly or indirectly suppressed technological developments. This has resulted in a preponderance of commercial product *variations* coupled with energetic marketing rather than true development or research.

MAKING DEMOCRACY WORK

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. CHAPPELL. Mr. Speaker, Alexander Wolcott once stated:

I am tired of hearing it said that democracy doesn't work. Of course it doesn't work. It isn't supposed to work. We are supposed to work it.

I am very proud that the students and faculty of Stetson University in DeLand, Fla., will engage in an innovative program to learn how democracy works. Stetson has invited representatives from 35 colleges across America to join with its students in a 4-day model U.S. Senate program in an effort to duplicate the legislative atmosphere of Washington. The students will participate in committee work, party caucuses, and full Senate debate on legislation now pending before the upper house of this Congress.

Stetson University and the citizens of the Fourth Congressional District will welcome Senators ROBERT BYRD, LAWTON CHILES, and EDWARD GURNEY as speakers during the 4-day program commencing November 11.

I am impressed that this model Senate program originated with, and is being planned and coordinated by, students. To those who decry the negative role of the college student in American society, I say, look to the students of Stetson University as indicative of the caliber of the vast majority of youth today. These students are determined to learn how they can make democracy work.

In undertaking this program, Stetson University is making a significant contribution to the Nation, the Congress, and the American way of life.

THE INAUGURAL ADDRESS OF FORMER ASSISTANT SECRETARY OF THE TREASURY MURRAY L. WEIDENBAUM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. FRENZEL. Mr. Speaker, the inaugural address of former Assistant Secretary of the Treasury, Murray L. Weidenbaum, on assuming the Mallinckrodt Distinguished University Professorship at Washington University in St. Louis, was published in the Washington Post on November 7, 1971.

This address by a respected academician gives some interesting insight into the workings of the Nixon administration. Especially interesting to me was Weidenbaum's affirmation that the administration never put him in the position of saying anything he did not believe in.

The address follows:

INAUGURAL ADDRESS

(By Murray L. Weidenbaum)

My initial inclination was to entitle this lecture "Two Years With the Enemy," in the spirit of Richard Dudman's recent book, *Forty Days With the Enemy*. As you may know, that distinguished correspondent of the St. Louis Post-Dispatch was referring to his experiences as a captive of the Cambodians.

However, I do not want to draw close parallels, particularly since my two years with the Nixon Administration were quite voluntary. In any event, upon reflection, I felt that an accurate title for this report on a leave of absence would be "Confessions of a Republican Academic."

As a starter, I should like to recall the very first college lecture that I gave after I joined the Nixon administration in 1969. At this Eastern college, I presented what I meant to be a very straightforward and low-key account of the extent to which college professors had been appointed to policy positions in the new Administration. I recited a long list of intellectuals, ranging from members of the Cabinet to key White House advisors, and extending through the subcabinet and operating agencies.

However, I was unprepared for and thrown by the very first question that was tossed at me during the question and answer period—"How can you stand it in that administration?" I believe that I responded in a flippant manner to the effect that I stopped beating my wife two weeks earlier. I think that I am somewhat better prepared now and I would like to offer a delayed response to that nasty but thought-provoking question.

The passage of time tends not only to heal wounds but, more treacherously, leads to our remembering more of the pleasant than the unpleasant. Hence, let me say at the outset that these were not two years of uninterrupted joy or success. Truly, rather, it was an experience, and some of the lessons are quite ambivalent.

For example, I came away with the strong belief in the need to change the way in which the Congress does its work. The often times excessive concern with detail and trivia is hardly conducive to high level decision-making. More fundamentally, the notion of one man-one vote needs to be truly implemented in the deliberations of the Congress itself, particularly at the crucial committee and

subcommittee levels, which tend to be so dominated by a few senior members.

Yet, simultaneously, I came away with indelible impressions of many men of integrity, instances of quiet courage, and an overall atmosphere of just plain hard work and dedication. I believe that it is pertinent to note that my main, although not sole, relationship with the Congress was unsuccessful; it was in connection with my responsibility for revenue sharing, a program that I was not able to see enacted during my tour of duty.

Similarly, I know that it is fashionable to lambaste the upper reaches of the Nixon administration. Now, certainly, the cast of characters does not exclusively consist of lovable or self-effacing men and women. However, I must bear witness to the fact that the dominant impressions that I bring back with me after more than two years of working with them, sometimes in very close relationships, are positive—an abiding loyalty, intelligence, industry, and dedication to the public interest (of course, as they see it).

To those of you who may be skeptical, I can only repeat the immortal words attributed to Henry IV, "Hang yourself, brave Crillon. We fought at Arques and you were not there."

Incidently, conjuring up the image of fighting at Arques may be more than a matter of poetry. It was no secret in Washington that at times I strongly disagreed with some of the policies of the Administration. Maybe that in itself was more than enough reason to make it all worth while. I did have ample opportunity to present my views, to argue for the things that I believed in, in the policy councils of the Administration.

What I consider memorable about my experience in the Nixon administration is that I was never put in the position of having to say, in public or in private, anything I did not believe in. The other side of that coin is that I never, in public, attacked the policies of the administration. I must admit that sometimes that took a little self-restraint. But these two interrelated rules of conduct, I believe, enable you simultaneously to maintain your integrity and your effectiveness.

Perhaps, the biggest surprise was to find a juxtaposition of roles. In representing a supposedly conservative administration, often I found myself on the side of progress vis-a-vis the status quo. Certainly, that was our position in promoting welfare reform, revenue sharing, a cleaner environment, and stimulative budget deficits.

Let me cite a case in point, the concern about a cleaner environment. Economists—regardless of political persuasion—generally do not view the problem solely in terms of appealing to our sense of moral outrage. Rather, we tend to think of practical changes in our economic system that would result in the creation of less pollution. A favorite method is to make the very act of polluting more expensive than not polluting. The assumption we follow here is that most people and organizations pollute not because they are nasty and enjoy messing up the environment but, rather, they pollute because it is easier or cheaper or more profitable.

Well, the Nixon administration acted on that approach. We suggested a tax on the lead going into gasoline. This would have encouraged motorists to switch to nonleaded gasoline, which should have helped reduce a major pollution problem.

Believe me, the initial public reaction was an eye opener. Aside from the environmentalists in the administration, the friends of the environment generally sat on their hands. After all, they seemed to reason, what did the Nixon administration and particularly the green eyeshade types in the Treasury care about the environment?

But the industries that would have been affected by the tax quickly saw the point of our efforts. They launched a strong counter-attack. Only then, belatedly, did some of the more open minded environmentalists realize that there must be something good in the Administration's approach. But by the time they saw the light and started to support us, it was too late and the proposed tax on leaded gas did not pass.

I want to share with you something that I learned about economists and economic policy, which may have wider application. Despite the sophistication of their mathematics and theoretical constructs, I have concluded that those with a rigid, all-purpose cure for our economic ailments have done us a great disservice. At times, they remind me of the old Steve Allen TV routine—"Here is the answer, now what is the question?"

Models can be useful pedagogical and analytical devices, but their practitioners can fall into the trap of assuming that the real world just has to conform to their model. "After all who has a better model?", is often the stock response of the cavalier model builder.

Perhaps unfortunately, the first two years of the Nixon administration tended to coincide with the hey day of the monetarist approach to national economic policy. In any event, some of the practitioners of the monetarist doctrine seemed to say that making necessary changes in the stock of money in the economy would suffice to attain the desired goals of economic policy, such as reducing inflation or increasing employment. Thankfully, at least I recall no claims for curing baldness or altering fertility.

It will take a considerable passage of time for me to forget the many occasions on which I heard true believers tell me, "The inflation just has to slow down. Look what's been happening to the money supply." And later, "The economy just has to turn up rapidly. Look what's been happening to the money supply." Wasn't it Gertrude Stein who said that the trouble with Americans is that we always try to simplify things instead of attempting to understand complexity?

Before concluding, I do need to dispose of two questions that I frequently get: "Would you have gone to Washington if you knew then what you know now?", and "Would you recommend that any of us take a post in the government?"

The first question is the easier to answer. Of course I'm glad that I went and had a chance to observe, participate in, and hopefully influence government policy-making. As to the second question, it is always harder to answer for someone else. I do hope that many of you get the opportunity for a government position and that you take it. Beyond this apologia por vita mea, I can only recall for you a visit from one of Ralph Nader's "Raiders" shortly before I left the Treasury.

He came to tell me that, after seeing how we performed our duties, he was changing his mind about government service. He now thought that it was possible to try to do some good without compromising yourself. At some point in his career, he added, he'd like to work at the Treasury.

My friends, perhaps I can sum up this report by saying that maybe all I have learned from my recent stay in Washington is that Pogo may be right after all. I have met the enemy and he is us.

PRAYER AMENDMENT DEFEATED

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. RARICK. Mr. Speaker, the 240-to-162 rollcall vote on the prayer amendment did not supply the two-thirds majority—268—of those present and voting to pass the constitutional amendment, but it did show the American people that there are more Members in Congress who believe in voluntary prayer for children in public schools than those who oppose it.

The spectacle that followed the announcement of the vote defeating the prayer amendment—Members jumping to their feet and applauding—was reminiscent of the recent display of disrespect following the defeat that the American people suffered in another deliberative body, the United Nations General Assembly, when Red China was seated and Nationalist China expelled.

This vote and the disgusting spectacle which followed should impress upon the minds of the people back home what is wrong with their governmental leaders who gleefully used the power of their office to deny little children the right to voluntary prayer as a part of their school activities.

While no photographers were allowed in the Chambers, as there were at the United Nations, the recorded vote will let the American people know the philosophy and caliber of men who represent them in Congress.

THE FEDERAL BUREAUCRACY

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. COLLIER. Mr. Speaker, one of my basic concerns during the 15 years that I have spent in this body has been the abuse of power by an arrogant bureaucracy, the continual increase of the bureaucracy's power, and the apparent indifference among many of my colleagues to the shift of power from the people's elected representatives to an unelected bureaucracy.

Hopefully the Supreme Court of the United States will soon have a majority that realizes that our Government is one of laws and not of men. Why should we not at the same time have administrative employees who will work in accordance with the Constitution and the laws passed by Congress?

One of the most thoroughgoing, devastating, and factual indictments of the Federal bureaucracy that I have ever read recently appeared in the newspapers published by Eugene C. Pulliam. In "Will the Federal Bureaucracy Destroy Individual Freedom in America?", the publisher of the Indianapolis Star and News and the Phoenix Republic and Gazette has issued a solemn warning that we in the Congress cannot afford to let pass unheeded.

The bureaucratic monstrosity that has become an almost sacrosanct elite began its long period of growth from a relatively modest establishment to its present gargantuan size in 1933, when the radical New Deal elements came to power under Franklin D. Roosevelt. World War II helped to stimulate its growth, but the real impetus came in 1961, when John F. Kennedy and another army of planners

began to bombard the Congress with a never-ending stream of legislative proposals.

Many of these proposals were stalled in legislative bottlenecks, but the most vicious campaign of hate ever directed against a presidential candidate rescued the planners. The defeat of BARRY M. GOLDWATER, whose millions of adherents wanted to have the bureaucracy reduced, streamlined, and brought under control, was accompanied by a gain of 36 Democrats in the House of Representatives. The Kennedy schemes that had been stalled became law during the administration of Lyndon B. Johnson, not because the new President had any greater ability to sway legislators, but simply because he had the votes that his predecessor lacked.

Two years later President Johnson's party lost 47 seats in the House and many of the spenders returned to the oblivion from which they had sprung, but the damage had already been done. Most of the financial problems that plague us today and make it difficult for President Richard M. Nixon to restore stability to the economy had their origins in the Congress that rubberstamped approval to numerous new programs. Each of these invasions into territory traditionally reserved to the States and local communities or to private enterprise required its billions of dollars, thousands of employees, and hundreds of regulations.

What is the remedy? The obvious one is to replace those in Congress who jump through hoops whenever the bureaucracy issues a demand for legislation that inevitably increases the power of the intrenched bureaucrats. Instead of creating new agencies and increasing the number of bureaucrats, who already multiply like rabbits, we ought to repeal a few laws, reduce the number of Federal offices, save a few billion dollars, and lessen the power of these arrogant bureaucrats.

Whichever party controls the executive branch should have the authority to hire and fire in all positions of consequence. While I would not go so far as one of Shakespeare's characters, who said, "The first thing we do, let's kill all the lawyers," I would fire the lawyers who write the complex and devious regulations that frustrate the intent of Congress.

It would also be a good idea to replace the public relations officials with employees whose duties would be strictly limited to the issuance of necessary information. A coordination of research activities would undoubtedly unearth a tremendous amount of duplication and make-work activity that does tremendous harm to legitimate and worthwhile research.

Much could be accomplished by ending the system of annual salary increases that furnishes momentum to the spiral of inflation, by weeding out employees who have struck against the Government, by reducing the amount of annual leave, by ending the abuse of sick leave, and by demanding the use of labor-saving devices.

Many people defend the excess jobs in the executive branch as a form of glorified relief. If such jobs actually constitute relief, then they should be limited to one per family, however, I most emphatically reject this justification for make-work, especially in times of great prosperity.

Mr. Speaker, inasmuch as Mr. Pulliam's remarks deserve the widest possible audience, I am submitting them for the RECORD at the conclusion of my remarks:

WILL THE FEDERAL BUREAUCRACY DESTROY INDIVIDUAL FREEDOM IN AMERICA?

The most serious threat to freedom in America today—including freedom of the press—comes from a Federal bureaucracy which seems determined to gain control over every facet of American life.

This is not a partisan issue. As a matter of fact, there are now three great parties in America—the Democratic party, the Republican party and the Federal bureaucracy. Of the three, the Federal bureaucracy is the strongest and most powerful because it is the best organized and is protected from political reprisal by civil service.

When a new administration comes in, less than 10 percent of the bureaucrats go out; the other 90 per cent keep their jobs regardless of which party is in power.

The U.S. State Department is probably the most bureaucrat-infested agency in the entire government. A small coterie of career men who are protected and immune from discipline by civil service constantly harass and embarrass whoever is secretary of state. They did it to Dean Rusk and are doing it now to Secretary Rogers. Secretary John Foster Dulles had some very terrible experiences with this group. These State Department parasites don't want any secretary to succeed. They want to run the State Department in their image. They never want to get tough with any nation, whether friend or foe. They just want to be personally popular in all capitals of the world, no matter what their actions do to the prestige of our foreign policy. It's a hell of a way to run a State Department but that is the way it is being run now. If President Nixon is re-elected, he should ask Congress for the right to abolish civil service in the State Department and clean house from the first under secretary to the brocaded janitors.

Entrenched behind the safety of civil service tenure, the bureaucrats always proclaim that they are acting in the public interest and proceed to issue decree after decree, having the full force and effect of law, whereas not 20 per cent of the bureaucratic rules and regulations and orders are ever voted on by the Congress.

There are thousands of honest and dedicated men and women in the government civil service but their leaders and department heads make life unbearable for anyone who dares speak out against the arrogant plan for government by bureaucratic decree.

PRESIDENT STYMIED

The American people don't realize just how terrifically strong this bureaucracy is. At the present time there are 2,911,000 Federal employes; when President Nixon came to office, out of 4,000 and some employes in the Office of Economic Opportunity he could only change 16! Think of it. The President of the United States was absolutely overwhelmed, to the tune of 4,000 to 16.

Another instance of the arrogant determination of the bureaucracy developed recently in the Interior Department. The United States government has a treaty with the Navajo nation. The treaty is just as binding as any treaty we have with Canada or Mexico, yet the bureaucrats in the Interior Department paid no attention whatever to its stipulations. President Nixon promised the Indians he would do something about it. When he tried to do so this summer, the Bureau of Indian Affairs paid no more attention to the President of the United States than they had to the chief of the Navajo Indians. The bureaucrats in the Bureau of Indian Affairs are determined to run all matters pertaining to Indians in this country—regardless of treaties, presidents or the welfare of the Indians themselves.

Bureaucrats seldom get mixed up in financial scandals. They are not interested in money; they are interested only in power, and the American people have permitted them to take over, often without legislation.

Robert Finch, one of President Nixon's closest friends, was literally driven out of the Department of Health, Education and Welfare because the career bureaucrats in HEW just weren't about to let anyone else run that department, which is one of the largest and most important and spends more money than any other department except Defense. And things haven't changed one iota since Finch left.

Just how far they will go in expressing contempt for the people to whom they are supposed to be responsible is suggested by protest demonstrations in defiance of the President staged by employes of this department.

Senator Barry Goldwater observes that "several hundred employes of the Department of HEW—none of whom was elected by the people who pay them—could hold a mass meeting to protest policy decisions reached by the White House and by the Secretary of HEW."

The bureaucracy dominates the Federal Trade Commission, the Food and Drug Administration and countless other agencies. Prof. Yale Brozen of the University of Chicago recently called attention to the fact that because of these regulatory bodies free enterprise in this country is only half alive. He cited as evidence government's control of the mail, of water supplies, schools, airlines, railroads, highways, banks, farms, utilities and insurance companies.

JOB DESTROYERS

Government regulation has driven the railroads to the point of near extinction, hampered the small businessman with a network of controls, created problems in our cities with ill-conceived programs which have caused a net loss of at least half-a-million units of low cost housing since the 1930s. Yet the same bureaucrats and regulators who have created these problems now say they are going to cure them—and that for this purpose they must have still more authority over our lives.

The regulators talk a great deal about unemployment, and the need for still more government power to cure it. Yet Prof. Brozen has shown at length that government wage regulation has caused unemployment, pricing youthful and other marginal workers out of the labor market. Federal wage minimums have caused a doubling of unemployment levels among minority youth since 1954—from 16.5 per cent to well over 30 per cent.

In their effort to control everything, the regulators are trying to dictate virtually every phase of the business process—from the content of peanut butter and breakfast cereals to the packaging of soap flakes and the advertising of tooth paste. The Federal Trade Commission has recently decided it has the right to halt "special" sales in stores and back its decrees with a $5,000 fine.

In a similar move, attorneys for the Equal Employment Opportunity Commission have argued that businessmen cannot relocate if this would deprive minority workers of employment—claiming such relocation would violate the 1964 Civil Rights Act. Examination of the act shows it contains no such sweeping provision, and that this interpretation is purely something dreamed up by the bureaucrats to extend their own arbitrary power over business.

Members of Congress are helping the bureaucrats by holding hearings, spending government money by the millions to prove we probably shouldn't be eating cranberries at the wrong time and that cyclamates might poison your neighbor's dog. Think of the time, effort and money that have been wasted on just those two things alone, which accomplished nothing whatever.

Perhaps the clearest example of the way in which the regulators achieve the opposite of what they say they are going to may be seen in the current controversy over pollution. In one case regulatory fever brought the closing of a plant in Northern California which was not in violation of pollution standards and whose termination meant the loss of 800 jobs. A similar story was written in Marietta, Ohio, where Federal pollution standards if enforced would require the closing of a key industrial plant and the loss of 625 jobs. In the most serious case of all, senseless regulation threatened the closing of a Connecticut plant where some 40 per cent of the nation's supply of penicillin is produced.

TIPPING THEIR HAND

The arrogance of the bureaucrats was blatantly emphasized when they proposed a special tax break for themselves. These bureaucrats already enjoy job pay increases more frequently than most Americans and they have all sorts of benefits and special privileges which put them in a class apart from and above the average citizen. The plan now being studied to give them special tax exemption is the last straw. Special exemptions from Federal taxes on the top $3,000 of salaries paid to bureaucrats in the highest of three civil service classifications are proposed. These salaries range from $28,000 to $38,000 a year. A diminishing scale of tax breaks is provided for the lower classes. All bureaucrats will get a tax break if this plan is accepted, while we know of no other group of Americans who are going to receive any such tax breaks.

As their control over our economic life has grown, the bureaucrats and regulators have shown their intentions more and more openly. In a wide variety of cases they are advancing the idea of "social engineering"—the notion that government "experts" should take children away from their parents, break the ties of family life, and mold American youngsters into the image of the bureaucrats themselves. In the dispute over "busing," for example, we have seen Federal regulators disrupting the life of local communities, ordering children transported to schools far from their homes, overriding the wishes of parents and city officials.

The motive behind this is spelled out clearly by spokesmen who say "disadvantaged" children have to be taken away from the influence of their parents and placed increasingly under the influence of the bureaucratic experts. "It is important," says one spokesman, "to replace this family environment as much as possible by an educational environment—by starting school at an early age, and by having a school which begins very early in the day and ends very late."

Busing is opposed by 76 per cent of the American people, including black, white and yellow. It has become a national headache and a national scandal. This never would have happened had it not been for the zealots among the career people in HEW, who are determined to demonstrate their power.

How far the problem of bureaucracy and dictatorial control of American economic life can be carried is suggested by the case of Ralph Nader. Here is a man without any official authority or credentials of any kind, forcing American industry into submission, threatening Federal prosecution if industry doesn't agree with his plans, bullying his way toward being the supreme dictator of all industrial production in this country. I want to quote here from a speech made by Thomas R. Shepard Jr., publisher of Look Magazine, regarding Nader's program and objectives.

Mr. Shepard says, "I have heard many businessmen dismiss Ralph Nader and his associates as well-meaning fellows who sincerely want to help the American consumer by improving business methods. Forget it. Mr. Nader isn't interested at all in seeing American industry clean house. What he wants is the house—from cellar to attic. His goal is a top-to-bottom takeover of industry by the government, with Mr. Nader, himself, I would guess, in charge of the appropriate commission.

"Find it hard to believe? Then listen to this Associated Press report of a speech he made last September: 'Consumer advocate Ralph Nader has proposed that corporations that abuse the public interest should be transferred to public trusteeship and their officers sent to jail.'"

Among the proposals Nader favors are having "publicly elected" members imposed on corporation boards of directors to serve the "public interest" as defined by Nader, abolishing corporate trade secrets on the grounds that "a corporation doesn't have the right of privacy" and making all corporate tax returns public on the same grounds.

Still more incredible are Nader's proposals that corporate executives be suspended from their jobs through "sanctions" he wants to impose and that entire companies be driven out of business if they don't live up to what he calls a "social cost test."

NADER'S FINANCES

Who has appointed this man to play God over American business? Who has given him and the bureaucrats who are helping him the right to destroy the investment and effort of thousands of Americans who have entered into the voluntary associations of corporate endeavor? Who has commissioned them to dictate, suspend, or bankrupt organizations in which the resources and energies of countless American citizens have been invested?

Unbelievably enough, many of his assaults on our business system are financed by elements in the business community itself. He receives a good deal of money from foundations—including the prestigious Carnegie Foundation. He is also supported by the Philip M. Stern family fund, the Norman Fund, the Jerome Levy foundation, and Gordon Sherman of the Midas muffler company, among others.

Even so, Nader never would have gotten to first base with his crusades if he had not had the help of the bureaucrats.

Recently Professor C. Northcote Parkinson, noted for his numerous laws governing human behavior, predicted that, if the present trend toward government employment continues, everyone in Britain will be working for the government by the year 2195. Following this prediction by Dr. Parkinson the Morgan Guaranty Trust Company of New York prophesied that if this trend in America goes on, every American will be working for the government by the year 2000.

The significance of all this for the American press should be apparent. The collectivists and regulators like to say they are in favor of freedom of expression, and that the controls they have placed over our economic lives will not endanger other aspects of our liberty like the free press and freedom of speech.

The argument they use is that "human rights" can be separated from "property rights" and that economic controls do not mean political controls. The whole record of what has been happening in this country shows such an argument to be false. Those of us in the newspaper business have long argued, and correctly, that the rest of the nation cannot remain free unless the press is free.

By the same token, it is impossible to have a society and economy supervised in every detail by Washington regulators and at the same time expect the press to be free.

The mission of the American press always has been to keep this country free and never before has there been a time when the American press should give first priority, regardless of other considerations, to the job of keeping a free press functioning in this country. The networks are having a very serious battle with the bureaucracy. They cannot fight their own fight because they have one hand tied behind them by bureaucratic controls. We do have an obligation to fight their battle for them because the networks have the same basic right of free expression as we do. The right of free expression is the fundamental right of liberty and we should remember always that America is the greatest country only because America is free.

The bureaucrats have been able to bully and blackmail television into accepting all kinds of unfair regulations. They attempted the same thing with the press. They realize their goal cannot be accomplished until they have control of the press, and now they are using the FCC to do that very thing. They are also using the office of the Attorney General, frequently without his knowledge or consent, to send out threats, directives and regulations unsanctioned by Congress, but with the full force and effect of law nonetheless.

Take two or three of the most recent cases. In 1968 Congress, after two years of debate, passed Senator Carl Hayden's failing newspaper bill. President Nixon signed that bill. Yet two months ago, the same crowd in the Attorney General's office who were there when they made such a terrific fight against the bill and were holdover Civil Service employes—most of them Socialists at heart who believe in statism and state control—sent out letters to a group of 50 newspapers, demanding all kinds of reports and statements under threat of being hauled before the Senate and anti-trust division for violation of the anti-trust laws.

That law was passed by Congress. It hasn't been repealed. It hasn't been violated. And yet these bureaucratic lawyers in the Attorney General's office go right ahead and cause unmitigated annoyance and expense to the newspaper industry, their one object being to get the newspapers to agree to some form of government regulation. Well, thank God, most of the newspapers ignored the Justice Department.

FCC DECREES

Then the FCC gets into the act again by issuing a decree, without the consent of Congress, simply on its own volition, telling the networks they must devote so much time to this and so much time to that and so much time to public broadcasts which are put out by the NEA, hardly a source of unbiased information. And what do the television people do? They must comply or else. Now the FCC had no authority to make such a decision and thank God one judge told the FCC to go jump into the lake until it got authority from Congress to issue such a decree. But that didn't stop the bureaucrats. The Justice Department has jumped onto the agreement which was made by the New York Times and the Chicago Daily News wire services. The cost of the wire tolls was increased and the two companies decided to split a day and night wire in order to save money.

The irony of this situation is that in April of 1970 the Federal Communications Commission told the two wire services that they would have to do just exactly what they are doing if they wanted to use the services of the AT&T, and the Commission itself proposed that the two services share the wire with another user simply as an economical manner in which to serve their clients. And the New York Times and the Chicago Daily News entered into an agreement positively dictated and approved by the FCC.

Now along comes the Justice Department and says, "You can't do this. It is a violation of the anti-trust laws."

XUM

Let's take the case of tobacco. The FCC, without the consent of Congress—which it later obtained—told the television stations they could not advertise cigarettes. Yet the very same government which the FCC represents is spending $660,000,000 a year to promote, encourage and carry on the sale of tobacco. This order of the FCC is clearly unconstitutional unless the United States government absolutely prohibits the growing and sale and manufacture of tobacco and its products.

From the other direction, the U.S. government is subsidizing programs over the Public Broadcasting Service network which are often slanted to the radical side. The nature of this bias came to light in an "educational" TV attack on the FBI which was cancelled from its regular broadcast slot after J. Edgar Hoover protested. The Corporation for Public Broadcasting will receive an estimated $35 million from the taxpayers this year, some $9.2 million going to PBS. Why should bureaucrats force the taxpayer to underwrite one-sided propaganda?

A related case involving abuse of the regulatory power of the Federal Communications Commission is the interpretation that has been given the so-called "fairness doctrine." A memorandum prepared by the Reuther brothers in 1961 urged that this doctrine, which is supposed to insure balanced programming, be used as a device for attacking conservative broadcasters, most of whom appear on a local and not a network basis. Over the past 10 years the "fairness doctrine" has repeatedly been invoked against broadcasters and station owners whose views are different from those of the collectivists, but has not been invoked against network figures whose views are more in keeping with the Reuther memorandum outlook.

PRESS IS NEXT

Two years ago a member of the Federal Communications Commission urged that this dictatorial formula be used against newspapers as well. In an August 1969 speech in Dallas, Tex., Kenneth Cox of the FCC said that "Congress could constitutionally apply counterparts of our equal time and rights of reply obligations to most newspapers, since they move in, or clearly affect, interstate commerce, and since the public interest in their providing their readers with both sides of important questions is clear."

Give these bureaucrats the right of regulation over the American press and you have lost America to bureaucratic statism.

This country was founded as a republic with a representative government, but has degenerated into a democracy run by organized minorities, the strongest of which is the Federal bureaucracy. Never in the history of man has a democracy survived more than 200 years, and ours will not survive unless we make it a representative government and abolish the power of the Federal bureaucrats.

Most democracies have been destroyed by centralized bureaucracies—or at least by the rule of organized minorities. The newspapers of this country owe it to America and to the world to make sure that representative government survives in this country—that freedom of the press and the right of free expression are never destroyed by a bureaucracy or any minority group. If we prove here that representative government can work, then freedom will spread to all corners of the world in time.

The United States spends billions of dollars every year to oppose Russia's determination to impose its autocratic rule of complete domination on other countries and to control individual freedom, industrial production, education and everything that approaches freedom of speech and freedom of expression. Here in America the bureaucrats are forcing the United States, step by step, to accept a system of government that will destroy free enterprise, local control of our educational system and, most important of all, the right of free expression, the fundamental right of liberty. If the bureaucrats succeed, freedom as we know it in America will be lost—maybe forever.

THE SURPRISING MOON

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. TEAGUE of Texas. Mr. Speaker, in a recent editorial of Aviation Week, Robert Hotz reviews the achievements and contributions of the Apollo program and particularly the highly successful scientific investigation of the Moon on the Apollo 15 flight. Mr. Hotz decries the views of those who sneered at the benefits of the Apollo program in its early days. He cautions those who make decisions on the space shuttle not to discount its significance and value as was often done in the Apollo program. I commend this important editorial to my colleagues and to the general public.

THE SURPRISING MOON

For as long as man has been on this planet, he has gazed at the varying luminous shapes of the moon with intense curiosity, aware almost from the beginning that this heavenly body was linked somehow with his own destiny. For several hundred years man struggled to magnify the power of his eyes to study the surface of the moon in an attempt to discern something of its true nature. Finally, in July, 1969, man solved this problem by successfully transporting his own eyeballs to the lunar surface and beginning the genuine exploration of that body. Along with himself, man brought an ingenious array of scientific instrumentation to the moon, capable of measuring various physical phenomena and transmitting data back across a quarter million miles. In the two years since man fulfilled his age-old longing to go to the moon, he has learned some strange and wondrous things. The moon proved full of surprises.

Very few of the pre-Apollo theories about the moon have survived even the first few years of manned exploration. The vision of a cold, dead planet has given way to an amazing variety of geological activity detected and measured by the Apollo instrumentation. Perhaps the most astonishing and interesting discovery is the possibility that water exists in sizeable quantities in some form below the lunar surface. There is enough evidence pointing in this direction to merit an experiment aboard Apollo 17 to probe for confirmation.

Two Rice University scientists, Dr. John Freeman and Dr. H. K. Hills are "80 per cent certain" that water vapors are issuing through cracks in the lunar surface during periods of frequent small moonquakes. Confirmation of the existence of significant quantities of water or ice below the lunar surface would add a completely new dimension to the scope of lunar exploration.

But there have been many other surprising discoveries on the nature of the moon since Apollo 11. Far from being dead, the moon has considerable seismic activity in moonquakes of regular frequency and of a type that does not occur on earth. Heat has also been detected toward the core of the moon estimated as high as 800F. The moon has a greater magnetic field than estimated. It is a mineral storehouse of tremendous magnitude with some elements in combinations rarely or never found on earth.

Beneath its surface are both a rubble or honeycomb type of structure and massive concentrations of solid material. There is growing evidence that the moon at one time had volcanic activity and there are gases other than water vapor that vent to the surface during periods of large moonquakes. These may account for the orange colorations observed for more than 150 years by earthbound astronomers.

All of these major surprises have resulted from the first four manned explorations of the moon. In addition there is a sizable accumulation of other scientific data to be refined from the instrumentation still functioning on the moon and the nearly 400 lb. of lunar rocks and soil samples returned by the four Apollo crews. The moon has already proved to be a scientific bonanza regardless of what more material benefits may be realized eventually.

All of this must be a cause for considerable chagrin and embarrassment to that segment of the scientific community that led the sneering section during the early stages of the Apollo program when flight testing of operational hardware was of necessity its primary concern. Even though the history of aircraft development showed clearly that flight testing of hardware was necessary before a vehicle could perform either its military or commercial mission successfully, this faction of scientists clamored like a group of spoiled brats for scientific passengers and scientific activity before the operational integrity of the lunar transportation system was established. In fact, it was their snide and persistent clamor that helped the budgeteers snip the last three Apollo lunar missions from the program. The budgeteers, who are interested only in eliminating costs and care nothing for achievement, were more than ready to use the excuse provided by these yapping scientists that Apollo was really not a scientific program but just a gigantic stunt flight. Thus, according to their logic, once man had gone to the moon a few times there would be no further point or value in continuing the Apollo missions. With the bountiful scientific harvest of Apollo 15 and the opportunity to fly scientist-astronauts on Apollo 17 and beyond, the scientific community now finds itself running out of Apollo missions. Apollo 18, 19 and 20 have been scrapped to save money, despite the fact, now obvious, that they would offer the maximum opportunity for scientific lunar exploration.

We think this bit of scientific pettifoggery is worth noting because we see signs that it is being repeated as the development of the space shuttle moves forward. The scientists that sneered at Apollo are beginning to cast the same type of darts at the space shuttle. Thus, it is appropriate that they be reminded of how their unscientific and short-sighted behavior helped to curtail the real scientific potential of Apollo. Consequently, their growing criticism of the space shuttle should be thoroughly discounted in advance. Actually, the space shuttle will provide scientists with an unprecedented opportunity to extend their laboratories and themselves into the working environment of space. But the shuttle must go through the same rigorous engineering development and flight testing stage during which scientists are best left at home. We hope they will spend this inevitable period in interested silence and graciously await the opportunity that the space shuttle will ultimately offer them instead of trying to kill it for their own stupid, selfish reasons.

It is no longer the same old moon smiling down on us that it was before Apollo. It is a moon that is full of surprises. Having piqued his own curiosity with the initial discoveries there, it is certain that man can never again ignore its lure.

THE PRAYER AMENDMENT

HON. FRED SCHWENGEL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. SCHWENGEL. Mr. Speaker, the Washington Post this morning spoke convincingly on behalf of the position I have taken on the so-called prayer amendment.

The editorial states the case against the amendment concisely and clearly.

It is my earnest hope that the House, in its wisdom, will defeat this dangerous attack on religious freedom in this country.

THE PRAYER AMENDMENT

Sometime today, the House of Representatives will vote on a proposed constitutional amendment designed, according to its sponsors to put prayer back into the public schools. The vote will come at the end of a short debate—the House has allotted only one hour for discussion of this attempt to change the First Amendment—but at the end of a long campaign. Ever since the Supreme Court first spoke on this matter in 1962 there has been agitation throughout the country for such an amendment. It is agitation which, in our view, has been based on a misunderstanding both of what the Court did and of why this country's history and traditions compelled it so to rule. Thus, while we fully respect the sincerity and good intentions of those who have labored so long for this amendment, we hope the House will reject it firmly today.

As we noted last week, the prayer amendment has produced a remarkable division inside many of the nation's religious groups. A campaign by individual citizens and churches who believe prayer in the schools is needed to stop the moral deterioration of the nation was largely responsible for bringing this matter to the House floor on a discharge petition. On the other hand, the leaders of many of the country's religious organizations have been at the center of the campaign to defeat the proposal once it was set for a vote. As a result of this conflict, deep emotions are loose inside some denominations; we note, for instance, that the Southern Baptist conventions of North Carolina and Texas are on opposite sides of this fight. Such splits suggest the controversial nature of the amendment and the threat it holds of igniting religious strife. That, alone, is sufficient reason for the House to reject it today but there are other, more persuasive reasons.

Some of these reasons rest deep in America's history, springing from the fears that existed when a new nation was founded and a First Amendment was written. Others grow directly from the practical consequences that the adoption of this currently proposed constitutional amendment would bring. It is to these that we turn first.

The framers of the prayer amendment drafted it to overcome to some extent the Supreme Court decisions on Bible reading and prayer in the public schools, by making possible the daily recitation in the schools of nondenominational prayers. But it is on this point that a question of vagueness arises. The text of the amendment says:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

This language misses entirely the point of the Supreme Court decisions. The Court has never said an individual cannot *participate* in prayer—denominational as well as nondenominational—in a public building. What it has said, in 1962 and again in 1963, is that government officials, including teachers, cannot *sponsor* such a prayer when their sponsorship brings pressure to bear on individuals either to participate or to be branded as outsiders. Nothing in the proposed amendment deals with the question of sponsorship, so that conceivably the language may add nothing and may change nothing—though that plainly is not the intent of its sponsors. In other words, it deals with the real question involved in the prayer cases only by indirection and through vagueness.

The second question to be raised about this proposal is how a "nondenominational prayer" is to be defined. The principal proponent of the prayer amendment, Rep. Chalmers P. Wylie, recently addressed himself to this question in an exchange of correspondence with Rep. Sam Gibbons. Mr. Wylie wrote:

". . . An example of an appropriate nondenominational prayer would be the New York State Regents' Prayer, which was composed by a Jewish rabbi, a Catholic priest, and a Protestant minister . . .

"It is fair to say, also, that a prayer could be nondenominational in the context of the overall school program even if it would be regarded as sectarian if considered in isolation. It would seem to be legitimate for the appropriate authorities to permit the different religions represented in the school or other vicinity to take turns in offering a prayer of their respective religions . . ."

Contrast the first part of that with the recent statement signed by the leaders of several national religious organizations, including the Baptists, Episcopalians, Methodists, Presbyterians and Jews. They said.

"The major faiths themselves have never been able to achieve consensus on a definition of prayer, much less a definition of 'nondenominational' prayer. . . . If such a proposed amendment should become a part of the Constitution of the United States, a new religion of 'nondenominationalism' would in a measure become established which could destroy the integrity of both church and state."

A third question raised by the proposal is who would decide what prayer is to be used in the schools. Mr. Wylie says that "the composition or selection of the prayer would be the function of the local school authorities." We cannot help wondering what this would do to local school board elections in a community sharply divided along religious lines. Or what it would do to the federal courts which would have to decide whether a particular prayer was nondenominational any time a parent wanted to complain.

Overriding these drawbacks, however, is the philosophical argument against the proposed amendment. This is an argument based on the need for strict separation of church and state, for complete religious freedom without the slightest impingement by government. It is an argument we have made many times in many contexts and will not belabor again. It should suffice to say now that we believe the proposed amendment would alter the arrangement of our liberties which led Mr. Justice Jackson to write almost 30 years ago:

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us."

THE THREAT TO OUR MILITARY SUPERIORITY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. CRANE. Mr. Speaker, it has taken a long time for many Americans to become aware of the fact that our military superiority is no longer a real fact of life in international affairs. By June of 1971 the number of Soviet ICBM's are estimated to have increased sixfold over what it was in 1965. Adm. Thomas Moorer, Chairman of the Joint Chiefs of Staff, projects a Soviet ICBM force numbering 1,500 at that time, a force 50 percent larger than that possessed by the United States.

Numbers alone, however, do not tell the whole story. The 300 SS–9 missiles now deployed, a weapon which far overshadows our Minuteman ICBM, by themselves possess several times the destructive capability of our entire land- and sea-based missile force. Recently, Secretary of Defense Melvin Laird noted that the Soviets have started a "new—and apparently extensive—ICBM construction program." These new ICBM's will be at least as large if not larger than the SS–9's. Weapons of this size are not designed to destroy cities, but rather to be used as counterforce weapons; that is, used to knock out our Minuteman force and help preclude a U.S. response to a Soviet attack.

Writing in the Chicago Tribune, William Anderson reported of a talk given by Gen. Raymond G. Davis, assistant Commandant of the Marine Corps. Said General Davis:

It is my conviction that wars are begun by aggressors who consider their intended victims militarily weak. . . . Power is a cause of war only when it is one-sided. Strength neutralizes strength. Effective defense is on strength.

General Davis reminded his audience that—

Just because Americans have grown weary of war other nations are not diminishing their power to make war . . . those that pose the greatest threat are rapidly increasing their war making capacity.

Columnist Anderson points out that General Davis was "talking about Russia. Since 1965 the Russians have increased their missile capacity—some with 25-megaton warheads—from 220 to 1,500—ahead of the United States for the first time. The Soviet Navy should pass the American Navy in all numbers in 2 more years."

This is the perilous state of the national defense. Only those who fail to understand the gravity of the current situation would argue that the Nation is secure and that the current level of defense spending and research and development is adequate. It is inadequate, and unless dramatic changes are made our country's military superiority will become simply a memory of the past.

XUM

I share William Anderson's column from the Chicago Tribune of September 28, 1971, with my colleagues, and insert it in the RECORD at this time:

THE THREAT TO OUR MILITARY SUPERIORITY

(By William Anderson)

SAN DIEGO.—This second largest California city has a national reputation for being superdefense minded. It may be because many military people retire in its near-perfect climate after initially sampling the weather at Navy and Marine installations.

There is also a myth that San Diego County is solid Republican, right-wing, and strongly in favor of World War III to keep the economy and the boats of the admirals running at full speed ahead.

But like so many other myths that obtain currency elsewhere in the nation, there is more fiction than fact to these tales told about this big military-industry complex. As one example, the latest registration figures for the county show a near tie between the number of Republicans and Democrats now registered to vote.

And the tone of the military leaders is to tell it the way it is.

A MORE LIBERAL NAVY

The Navy, making up a large part of this city, is in the midst of a more liberal way of life for the enlisted man—allowing beards, fairly long hair, and more shore leave with families.

The Marine Corps is keeping its tough-minded reputation with the slogan, "We need a few good men"—a logical recruiting device for an elite, small military group that has built a legend over nearly 200 years with pride and valor.

As expected, there is opposition to both military approaches—both in and out of the services. Even some Navy enlisted men don't like the "new Navy" and it is possible to find some younger Marine officers who would like to see a more relaxed corps.

But there is a sharing here of concern in the top ranks of both services over what is going to happen to the United States if it continues to slip in military strength. It is not a popular thing to talk about in public because it is now more fashionable to be in favor of the environment or quick withdrawals from Viet Nam.

However, some military leaders do discuss the strength of the United States, both here and on the college campuses around the nation, and one of them happens to be Gen. Raymond G. Davis, assistant commandant of the Marine Corps. Davis, a Medal of Honor winner, has appeared at schools around the country, and in some cases has been called a "war monger" or "murderer."

More recently he spoke at the annual meeting of the Marine combat correspondents convention here and presented a theory on the cause of wars.

WHY WARS BEGIN

"It is my firm conviction," he said, "that wars are begun by aggressors who consider their intended victims militarily weak. Hitler certainly wouldn't have started his drive thru Western Europe unless he thought the Allies were too impotent to stop him. The North Koreans would not have invaded the South if we had not portrayed weakness.

"Power is a cause of war only when it is one-sided. Strength neutralizes strength. Effective defense is based on strength.

"Just because Americans have grown weary of war other nations are not diminishing their power to make war . . . those that pose the greatest threat are rapidly increasing their war-making capacity."

Davis, of course, was talking about Russia. Since 1965 the Russians have increased their missile capacity [some with 25 megaton warheads] from 220 to 1,500—ahead of the United States for the first time.

The Soviet navy should pass the American navy in all numbers in two more years—and plans are being made to increase the merchant fleet of that nation by about 10 times its current 1,700-ship total.

"In just the markets of the world," Davis said, "they can underbid us. They can carry more cargo, at a better rate, than we can. This alone could present a major challenge to our national economy because of our dependence on world trade."

Davis throws down the theories that it is wrong to work for a living—or that we are a police state, aggressive and imperialistic. He holds, however, that money and technical knowledge alone cannot shore America's defense, "without popular spiritual and moral support."

Hang in there, general, help may be on the way.

NIXON GOES TO SUMMIT TO GAIN WORLD PEACE

HON. JOHN DELLENBACK

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. DELLENBACK. I call the attention of my colleagues to an editorial in the Portland, Oreg., Oregonian which concludes that:

Every President of the United States since World War I has sought without major success to break down the barriers to world understanding. President Nixon is nearer than any of them to achieving this long step for mankind.

The editorial makes the point in its introduction that:

The President's decision to be the first U.S. President to visit the Soviet Union, as well as the first to visit Communist China, certifies his inaugural pledge to substitute discussion and negotiation for confrontation among the powerful nations.

This thoughtful and thought-provoking editorial follows:

NIXON GOES TO SUMMIT TO GAIN WORLD PEACE

President Richard M. Nixon's decision to be the first U.S. President to visit the Soviet Union, as well as the first to visit Communist China, certifies his inaugural pledge to substitute discussion and negotiation for confrontation among the powerful nations.

More importantly, his acceptance of the Russian invitation for a summit meeting with the heads of government and party in Moscow, set for late May next year, certifies that the President's tenacity in pursuing the goal of reducing tensions of the Cold War has made an impact on Soviet leaders.

In refutation of the caterwauling of anti-war Democrats who try to pin the hawk label on President Nixon, his program is and has been a peace program. Instant peace is not an attainable goal, but every move the Nixon Administration has made has been in the direction of ending conflicts in all parts of the world.

The President is ending American participation in the Indochina war. His intervention in the Middle East brought a cease-fire in the Arab-Israeli war and some degree of Soviet and Arab restraint in renewing it. He has completely altered U.S. policy toward Communist China by breaking the communications and travel barrier, accepting Peking's invitation to visit and supporting admission of Red China to the United Nations, but with retention of a seat for Taiwan. He has broken the Berlin deadlock and made progress toward a strategic arms limitation treaty with the Soviet Union.

In these and many other areas of conflict, President Nixon has become the leader this powerful nation needs in foreign affairs. Because of his dedication to negotiation of major world issues, because of the preparatory work that has been done, and because leaders of other nations recognize his sincerity, the time is ripening for meetings at the summit.

If the Strategic Arms Limitation Talks (SALT) can be concluded successfully before the May meeting date in Moscow, this will indeed be a historic conference. Even if there continue to be differences, however, the summit meetings in Peking and Moscow, rival capitals of the Communist world and ideological opponents in this era, could be tremendously important in furthering international understanding and preventing future wars.

Every President of the United States since World War I has sought without major success to break down the barriers to world understanding. President Nixon is nearer than any of them to achieving this long step for mankind.

A PROBE OF NADER

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. GOODLING. Mr. Speaker, the news comes to us that Mr. Ralph Nader, the self-styled consumer champion, is going to conduct an investigation of Congress, feeling that this legislative body is an "underachiever."

For a long time I have wondered what are Mr. Nader's credentials for being both an expert and a judge on a wide variety of subjects. I am a director of the American Automobile Association, and just recently an article appeared in the AAA's October issue of its American Motorist publication. This article reverses things by making Mr. Nader the subject of the spotlight, an exercise he apparently does not relish; hence, I feel it is quite timely, and I submit it to the CONGRESSIONAL RECORD and commend it to the attention of my colleagues:

AAA ROW NOW DEMANDS: A PROBE OF NADER

Challenged by an arrogant and high-handed Ralph Nader, the American Automobile Association recently countered with the novel suggestion that if AAA was to be grilled by Nader, the AAA should in turn get a chance to inquire thoroughly into Nader's objectives, motives and goals.

Nader, however, refused to be interviewed by a trained staff of AAA newsmen, thus violating the logic by which he justifies his own investigations into big business and big government. After all, he has become Big Nader.

Nader has spread himself around like an oil slick, covering such areas of interest as auto safety, air safety, railway efficiency, land use policies, nursing home practices, monopolies, bank management, water pollution and the manufacture of hot dogs. He has accused the Air Force of flying too low near nuclear plants, the fish canners of putting foreign objects in canned fish, the citrus folk of watering down their orange juice.

As the self-appointed defender of consumer interests, Nader has become a national, semi-public institution wielding enormous influence over the minds of millions of Americans. The public therefore deserves a look into Nader's own organization and methods.

How can one man be an authority in so many fields? What kind of control does he exert over the young men and women who form the task forces known as "Nader's Raiders"? What are their qualifications? How do they operate? How carefully do they check their facts?

Since he unmercifully exposes others in behalf of the public's right to know, Nader should be the first to agree to an inquiry into Ralph Nader Crusades. When we say inquiry, we mean something more than a superficial, Nader-oriented TV panel show or an audience-participation interview which covers many subjects but permits no continuous line of questioning on any.

Nader had a right to object when General Motors conducted an undercover investigation of him but there was nothing secret or offensive about the AAA proposal. If he simply objects to being investigated by a business firm, we have an alternative suggestion: an investigation—upon his approval, of course—by an appropriate committee of Congress, by a reputable and objective foundation or by a team of trained reporters given time to follow up their points of inquiry in depth.

The American public does need protection against unscrupulous business firms and negligent government. In some cases Nader has served as a useful gadfly. But honest firms and reliable government officials deserve protection, too, against the reckless shotgun blasts of publicity-seeking crusaders.

The public deserves an assessment of the quality of the information Ralph Nader furnishes and the methods by which he obtains it. Therefore, it is disturbing when the investigator, himself, refuses to be interviewed.

HIGHER EDUCATION ACT OF 1971

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. BAKER. Mr. Speaker, last Wednesday the House granted me an official leave of absence, and it was my privilege and duty to attend the National Highway Safety Conference on behalf of my State of Tennessee.

On Thursday last, during the consideration of the Higher Education Act of 1971, the House debated and agreed to amendments to reaffirm the intent of Congress that busing should not be used to overcome racial imbalance in any school or school system.

I sincerely subscribe to the purpose of these amendments. I oppose the busing of our schoolchildren under such circumstances.

For the record, I would like to express my support for the Broomfield amendment to grant relief from court decrees prior to final appeal; the Green amendment to prohibit bureaucratic harassment of local school districts; and the Ashbrook antibusing amendment.

I hope these amendments will soon be the law of the land.

PESTICIDE LEGISLATION

HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. DOW. Mr. Speaker, the current business before the House on pesticide legislation has raised the question of State activity in this area.

In my efforts to examine the full impact of the pesticide amendment, H.R. 10729, I have sought an analysis of the present level of State regulation restricting or banning pesticide use.

The only summary of State action on pesticides that I have found helpful was prepared by Dr. Rollin M. Dennistoun, administrative supervisor for the Minnesota Department of Agriculture. His report, which is up to date through the early part of 1971, has been most beneficial to me in evaluating the Pesticide Control Act amendments.

Since the House Agriculture Committee "intends for the Federal law to preempt the States from restricting or licensing any 'general use' pesticide," I am sure that our colleagues will want to know the status of their State's particular pesticide regulations. The thrust of the Dennistoun report is a concentration on agricultural uses, rather than on home or industrial use. Since the report was written I am further informed that two States have changed their procedures. Minnesota has a new regulation for dealer licensing on restricted use pesticides, and Indiana has a new pesticide control law.

It is my hope that the State information will be helpful to Members who are evaluating the Dow substitute and the committee bill for its effect on their State, both now and at some time in the future. The summary follows:

SUMMARY OF MINNESOTA PESTICIDE QUESTIONNAIRE RELATING TO THE BANNING OR RESTRICTING THE USE OF PESTICIDES

The first basic question asked each state was: Has your state banned (meaning completely outlawed—without any qualifications) any pesticides? If the question was answered affirmatively, subsequent questions requested the state to indicate how the action was taken and to list the pesticide materials banned.

Five states replied affirmatively to the first basic question, and the information obtained is summarized as follows:

(1) Michigan—by administrative order has banned the use of Thallium Sulfate. (See Page 3)

(2) New Mexico—by legislation has banned the use of DDT and DDD (TDE). (See Page 3)

(3) New York—by regulation has banned the use of Bandane, BHC, DDD (TDE), DDT, Endrin, Mercury Compounds, Selenites and Selenates, Sodium fluoroacetate, Strobane and Toxaphene. (See Page 3)

(4) Texas—by administrative order has banned the use of Thallium Sulfate. (See Page 4)

(5) Vermont—by legislation has banned the use of DDT. (See Page 4)

The second basic question asked each state was: Has your state restricted the use of any pesticides? If the question was answered affirmatively, subsequent questions requested the state to indicate how the action was taken, to list the pesticide materials restricted and to state whether or not dealer or user permits are required.

The information received from each state in reply to the above questions is summarized by states on the following pages.

SUMMARY OF INFORMATION AS TO THE RESTRICTED USE OF PESTICIDES

State	Pesticide use restrictions					Restricted use pesticides												Permits required				Comments
			By—										Others					Dealer		User		
	Yes	No	Legislation	Regulation	Administrative order	DDT	DDD	Dieldrin	Endrin	Heptachlor	Lindane	Aldrin	Chlordane	Toxaphene	Thallium sulfate	Compound 1080	Phosphorus paste	Alkyl mercuries	Yes	No	Yes	No	
Alabama		X																					Are considering.
Alaska																							
Arizona	X		X		X	X												X		X		
Arkansas	X		X															X*			X	Notification or minimum distance required for use of: volatile esters of 2,4–D and 2,4,5–T; oil soluble amines and diamines of 2,4–D and 2,4,5–T; invert 2,4–D and 2,4,5–T; and low volatile esters of 2,4–D and picloram (Tordon) near susceptible crops. * Required for distributing 2,4–D, 2,4,5–T and similar products in containers of 1 gallon or more and/or user case lots.
California	X		X		X*	X*	(*)	(*)	(*)					(*)	X	X		X		X	X		* Use permit for these materials has been required since 1964. For further information write the Department of Agriculture.

SUMMARY OF INFORMATION AS TO THE RESTRICTED USE OF PESTICIDES—Continued

State	Pesticide use restrictions: Yes	Pesticide use restrictions: No	By—: Legislation	By—: Regulation	By—: Administrative order	Restricted use pesticides: DDT	DDD	Dieldrin	Endrin	Heptachlor	Lindane	Aldrin	Chlordane	Toxaphene	Others: Thallium sulfate	Others: Compound 1080	Others: Phosphorus paste	Others: Alkyl mercuries	Permits required: Dealer Yes	Permits required: Dealer No	Permits required: User Yes	Permits required: User No	Comments
Colorado	×		×													×*							* For sale only to agencies of State or Federal Government. Restricted to recommended uses only.
Connecticut	×		×			×	×	×	×	×		×		×		×				×	×		* For aerial and aquatic pest control.
Delaware		×																					No such legislation pending.
Florida	×		×	×		×	×	×	×	×	×	×	×	×	×				×	×*	×		* Dealers must be licensed.
Georgia	×			×	×											×					×	×	
Hawaii		×																					
Idaho	×			×																	×	×*	* Use of all chlorinated hydrocarbons by aerial applicators is restricted in one county.
Illinois	×			×		×													×		×		
Indiana		×																					
Iowa	×																						Use of 2,4–D H.V. esters prohibited in all of 4 counties and in part of one county.
Kansas		×																					Will not register Lindane vaporizers.
Kentucky	×		×		×	×														×		×	Fertilizer-pesticide mixtures for tobacco.
Louisiana	×		×	×											×					×		×	Hormone type 2,4-D and arsenical acid.
Maine	×			×		×	×	×	×	×		×		×						×	×		
Maryland	×			×*		×	×	×	×	×	×	×	×			×			×		×		*Also parathion, phosdrin, sodium arsenite and TEPP.
Massachusetts	×			×		×	×	×	×	×	×	×	×							×	×		Permits for dieldrin only. Other restricted materials prohibited for out-of-doors use.
Michigan	×				×	×					×									×		×	(See page 1.)
Minnesota	×			×		×	×	×	×	×	×	×			×*	×*			×		×		*Restricted by structural pest control regulations.
Mississippi		×																					
Missouri		×																					
Montana		×																					
Nebraska		×																					
Nevada		×																					Will not register products if USDA has not established a finite tolerance.
New Hampshire	×			×		×	×	×	×	×	×	×	×	×						×	×		Sodium arsenite.
New Jersey		×																					
New Mexico		×																					(See p. 1.)
New York	×			×*				×		×	×	×	×						×		×		(See p. 1.) *Contact Department of Agriculture.
North Carolina	×				×	×	×*	×*	×	×*	×*	×*	×*	×	×						×			*Not permitted for use around tobacco.
North Dakota		×																					
Ohio	×		×	×		×	×				×	×					×	×	×		×		New pesticide use and application law and regulations effective Mar. 1, 1971.
Oklahoma		×																					Have proposal up for restriction of some pesticides and permit requirements.
Oregon		×																					Action pending.
Pennsylvania		×																					
Rhode Island	×		×			×	×	×	×	×	×	×	×	×							×		Written authorization required to purchase and use restricted insecticides.
South Carolina	×																						All restricted same as USDA.
South Dakota		×																					
Tennessee						×	×	×		×	×	×	×		×	×	×			×		×	All restricted same as USDA and also arsenic compounds and 2,4,5–T.
Texas		×																					(See p. 1).
Utah	×			×					×*		×*									×		×	*Restricted use on hay and forage crops only.
Vermont	×			×												×	×	×		×		×	(See p. 1.)
Virginia	×			×		×	×	×	×	×	×	×	×	×		×	×	×		×		×	Labels may include only the permitted uses.
Washington	×			×		×	×	×	×	×	×	×	×	×	×	×	×	×		×	×		Pesticide dealers must be licensed. Certain restricted pesticides can be sold only to users with permits.
West Virginia		×																					
Wisconsin	×			×	×	×	×	×	×	×	×	×						×		×	×*		*Permit required for all uses except those published by the Department. Department publishes no uses for DDT or endrin.
Wyoming	×		×								×									×		×	
Puerto Rico	×			×	×	×	×	×	×	×	×	×			×	×	×	×		×		×	All restricted same as USDA and also 2,4,5–T and sodium arsenite.
Canada	×*					×	×	×	×	×	×	×	×	×						×	×		*Federal position. Some provinces have placed further restrictions on the listed compounds.

PETROLEUM'S ROLE IN THE AMERICAN DREAM

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 26, 1971

Mr. PICKLE. Mr. Speaker, Richard Gonzalez is a well-known economist and former professor at the University of Texas and a noted petroleum expert. In a recent speech before the Governor's Conference on Meeting Energy Needs, Dr. Gonzalez gave his analysis of the problems facing the petroleum industry. Much of this statement is in accord with earlier statements I have made on the effect of the pending energy shortage.

The statement follows:

A GREATER PROSPERITY AND EASIER LIFE REALIZED THROUGH PRODUCTS OF OIL INDUSTRY

For 200 years the American dream has been to create greater prosperity and an easier life for each succeeding generation. The material welfare that we now enjoy with a shorter work-week and less manual labor than ever before—demonstrates the success of our forefathers in making that dream a reality.

Concentration on material goods and services has brought problems as well as benefits. In major metropolitan areas, where 70 percent of our population now resides, life has become more hectic and less pleasant than we would like. Our determination to reduce poverty further makes it clear that we want more of the advantages of a highly productive industrial society. However, our improvement in income and wealth now allows us to think about and want something else as well. What most of us want is better progress, with progress defined to include a better, healthier environment and regard for protection of natural beauty so that we may have an opportunity to enjoy readily an escape back to nature in the leisure time made possible by industry.

The dismal view that a satisfactory environment requires a reduction in population, in industrial production and in use of the mineral energy that makes us more productive and comfortable is wrong. The myth about the "good old days" will not bear critical examination. Backbreaking work from sunup to sundown for the bare subsistence characteristic of the life of most mankind in the past is not what we want now or for the future. On the contrary, the current revolution in economic expectations rests on the belief that life can be made better promptly for all mankind.

We have the resources, the intelligence, and the ability to realize better progress in terms of both economic welfare and the quality of the environment. Fortunately, with rising productivity we can afford to spend more money on reducing the undesirable side effects of industrialization and urban concentration without reducing our material welfare or giving up our great cities with their variety of cultural advantages.

PETROLEUM AND ECONOMICS PROGRESS

The extraordinary economic progress of this century has been based on the products of the petroleum industry—oil and natural gas. In agriculture, in industry, and in transportation, liquid fuels have brought about revolutionary changes. The gains in productivity are illustrated by our ability to produce more food than ever before with a small fraction of the workers required in the days before tractors and other new farm machinery. In the home, oil, gas, and electricity provide heat, cooling, light, and the power for many household appliances that make life healthier as well as more comfortable.

In the past 50 years, oil and gas have provided practically all of the additional energy used in the U.S. These fuels now supply three-fourths of the vast quantities of energy that we use each year. For 1970, our consumption of mineral fuels consisted of 230 billion gallons of petroleum products, nearly 220 billion therms of dry natural gas, and 1,050 billion pounds of coal. Average consumption per capita exceeded 1,000 gallons of liquid fuels, 1,000 therms of dry gas, and 5,000 pounds of coal. Of all the energy we used last year, liquid fuels supplied 43.4 percent, gas 32.5 percent, coal 20 percent, hydroelectric power 3.8 percent, and nuclear power only 0.3 percent.

Our economy now produces goods and services valued at more than a trillion dollars a year. Our total consumption of energy is equivalent to more than 500 billion gallons of oil. Those numbers mean that a gallon of oil—or its equivalent of about 140 cubic feet of gas or 12 pounds of coal—provides the power required for and associated with $2 of gross national product. They also mean that with the technology available now and for the rest of this century, rising income per capita for an increasing population will depend on increasing supplies of energy.

FUTURE PETROLEUM REQUIREMENTS

Looking ahead for the next 20 years relevant to decisions that must be made now about new investments affecting future energy consumption and production, it appears that plans should be made on the basis of energy requirements continuing to increase at a rate of about 4 percent a year, doubling in about 20 years. Such expansion will be necessary in order to increase productivity by 3 percent per year and real output by 4 percent if living standards are to continue doubling each generation for a population rising one percent per year.

Part of the growth in energy demand will be met by nuclear power, coal, and fuels extracted from shales and synthesized from coal. At best, however, the environmental problems incident to these forms of fuel and the time required to improve processes and make huge new investments limit their potential growth over the next 20 years. Therefore, the nation will need much larger supplies of liquid fuels and of gas.

Gas is a very attractive fuel, clean burning and with little risk of pollution. If sufficient supplies were available, the demand would continue to grow at a very rapid rate, at least 6 percent to 8 percent per year . . . however, such expansion is unlikely even if expensive liquified natural gas is imported and if expensive gas is manufactured from coal.

How much natural gas will be available will be influenced to a great extent by how much oil national policies encourage from internal sources, including Alaska. The joint nature of exploration for and development of oil and gas has kept the relation of new gas to new oil in the range of 6–7 mcf per barrel. At this rate, gas supplies will continue to fall short of current domestic use if only 3 billion barrels of new oil are developed annually in the U.S. With development of 4 billion barrels of new oil per year, new U.S. gas supplies would probably increase enough to allow for some further expansion in use of natural gas.

PETROLEUM SUPPLY PROSPECTS

U.S. production of crude oil and natural gas liquids now averages about 4.3 billion barrels a year, about 77 percent of the consumption of 5.7 billion barrels. Known U.S. reserves, including 10 billion barrels on the North Slope of Alaska not available to meet demands until transportation facilities are approved and completed, total less than 50 billion barrels. Production of oil as well as gas is currently near the limits of capacity. Consequently, additional domestic supplies depend on producing more oil in Alaska and on finding and developing new reserves at a faster rate in the lower 48 states.

About 23 percent of U.S. supplies are now derived from foreign sources, principally from overseas areas. The cost of this oil has risen sharply within the past year as a result of higher taxes imposed by the exporting countries. It will continue to increase at least 5 percent a year through 1975 under existing contracts. After 1975, the cost of foreign oil can be expected to escalate still further. The very rapid growth of foreign demands plus the obstacles to large investments required to expand production sharply caused by threats of nationalization without adequate compensation for the value of reserves may limit available supplies of foreign oil to less than potential demand. Therefore, the U.S. is faced with the prospect that its own rate of development of energy resources at home may determine the adequacy of its energy supplies for desired economic progress as well as the price paid for foreign oil.

While the rate of development of U.S. oil and gas resources has fallen behind consumption during the past decade, this adverse development has been caused by economic and political forces and does not result from a shortage of potential domestic resources remaining to be developed. In the opinion of geological experts, the U.S. can find and develop more oil and gas in the future than it has in the past. Therefore, the adequacy of domestic supplies will depend on stimulating investment enough for development of new reserves to allow for a further substantial increase in production in keeping with rising demands.

Experience in the period 1946–57 showed that rising real prices for oil and gas encouraged rapid expansion in exploration and drilling and resulted in a marked gain in oil and gas reserves and productive capacity. By contrast, declining real prices thereafter contributed to a sharp decrease in exploration and drilling and brought about the present tight supply situation. In the normal course of economic events, this situation would bring about higher prices to stimulate additional investment and supply until the needs of consumers for oil and gas could be met with ease. Economic forces are not entirely free to work, however, and are only part of the picture. Political forces and environmental problems complicate the task of assuring adequate petroleum supplies.

PETROLEUM SUPPLY PROBLEMS

The problems that may cause this nation to find itself short of oil and gas at times during the next decade arise from governmental policies and actions. The principal problems are that federal regulation of the price of gas and oil has discouraged new investments and that environmental regulations will adversely affect the supply and cost of new oil and gas.

Investors have been discouraged from expanding outlays for new oil and gas in the U.S. by the following developments:

1) Regulation of the price of natural gas by the Federal Power Commission at artificially low levels in relation to rising costs and to additional demands created for gas by air pollution regulations.

2) Declining real prices for crude oil under federal "surveillance" of prices under oil import controls adopted for reasons of national security and intended to encourage rather than discourage development of increased domestic capacity.

3) Liberalization of oil imports under continuing political pressures from consuming areas without regard for the consequences on supplies of attractively priced domestic natural gas, for the risks incident to dependence on insecure overseas oil, and for national security.

4) The recommendation of a Cabinet Task Force, fortunately not adopted, that oil import controls be changed in a manner designed to cut the price of crude oil by 30 cents in 1970 and up to 80 cents by 1975.

5) The Tax Reform Act which cut percentage depletion and raised taxes by an amount equal to 5 percent of the gross value of oil and gas, thereby creating fears about further cuts which may be made later. This added risk could have been avoided if the cuts had applied only to production from wells drilled after the Tax Reform Act was adopted.

Environmental regulations have also had an effect on the supply of oil and gas, and will continue to influence costs as well as supply. The most promising areas for development of large new domestic supplies of petroleum at reasonable costs are on the Continental Shelf and in Alaska, where the environmental problems encountered have served to delay drilling and construction of transportation facilities.

Operating in deep waters and in Alaska presents difficult problems. The problems can be solved, however, provided that environmental regulations are reasonable and not unduly expensive. They must be solved reasonably and promptly because without supplies from these areas the U.S. is likely to face serious shortages of both oil and gas. The record of effective control of oil and gas wells with little pollution under difficult circumstances has been good, contrary to the public impression created by the emphasis in the press on a few accidental spills. Out of 14,000 offshore oil wells drilled, less than two out of 1,000 have blown out, and only a handful have caused enough trouble to attract public attention. Pipelines also have an excellent record, with very few breaks and extremely low losses, even in areas subject to earthquakes.

Pollution caused by discharge of oil from tankers is another problem about which the public is not adequately informed. The report on the Study of Critical Environmental Problems sponsored by Massachusetts Institute of Technology, entitled "Man's Impact on the Global Environment," notes that the tankers with 80 percent of the capacity of the world's fleet using a simple technique known as "Load on Top" are responsible for only 30,000 of the 520,000 metric tons of oil discharged into oceans annually. If all other tankers were required to use this technique, tanker oil discharges could be reduced by more than 90 percent. This problem is not one of technology but of enforceable international agreements.

Refineries, docks, and storage plants are necessary facilities to process crude oil and deliver refined products to consumers. The prevailing attitude toward these facilities has become that they are things we cannot do without but wish they could be located where no one would be bothered in any way by

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their operation! Perhaps the criterion will become that each geographic area must take care of all the facilities required to meet its own demands. In that case, the East Coast, accounting for 40 percent of U.S. consumption of petroleum products, will have to expand refining capacity sharply, as the major portion of its refined products now come from the Gulf Coast and foreign refineries.

Pollution problems cannot be solved on either a national or global basis by exporting them from one area to another. The environmental costs are properly the responsibility of the consumers involved. These consumers must be informed as to the immediate and long-range costs arising from environmental regulations in order that they may decide how much they are willing to pay for improvements. Without such information, we may all find out too late that the cost of marginal improvements exceeds their benefits.

BETTER PROGRESS FOR THE FUTURE

The level of concern about our environment appears to be directly related to average levels of income. At the lower end of the scale, the greatest beneficial improvement in environment is in economic terms of better jobs and rising living standards. Families with high incomes find economic problems less important and can afford to pay more for a good environment. The national problem is to achieve improvement of the environment for the general public without interfering with our social goals of reducing poverty and raising levels of income for the vast majority of our people.

Gov. Mandel (of Maryland) has expressed the purpose of this conference well in focusing attention on "the problems we all face in ascertaining that we can meet the economic growth goals of our citizens for adequate fuel and energy at reasonable cost in the coming decades while improving the quality of our environment." My analysis of the situation with respect to petroleum leads to the conclusion that we can have increasing supplies of domestic oil and gas for economic growth and national security consistent with a better physical environment. To achieve this desirable objective we must approach the future with understanding that our multiple goals should all be taken into account simultaneously so that we do not lose perspective of the general public interest by undue emphasis on only one goal.

STOKELY-VAN CAMP AND THE BOTULISM SCARE: THE CRISIS THAT WAS NOT

HON. WILLIAM G. BRAY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. BRAY. Mr. Speaker, for the third time this year a major food company has had the dread and highly toxic poison of botulism linked to its name. The charge was false, but the damage that has been done to the company—over 100 years old and one of the best-known and most respected names in food processing in the United States—is incalculable.

As the following story from the November 8, 1971, National Observer shows, it seems a good deal of this has been totally unnecessary. To be sure, consumers have a right to protection from poorly prepared foods that could be lethal. But at the same time—and all too often overlooked—is the equal right of the companies concerned to have their good names and reputations considered, as well. As the story points out, since 1920, 750 billion cans or jars of food have been turned out; there have been only 40 botulism incidents, and four deaths, in all that tremendous volume. I believe this says a great deal for the canning industry that these false alarms will badly damage. This is vastly unfair to an industry that has bent over backwards, and then some, to look out for consumer welfare.

[From the National Observer (Ind.) Nov. 13, 1971]

THIS TIME, A BOTULISM SCARE WINDS UP AS A COSTLY FALSE ALARM

A CAN OF BEANS, SUSPECTED OF DEADLY TAINT, IS FINALLY CLEARED, BUT A MAJOR CANNER FEARS FOR ITS GOOD NAME

(By August Gribbin)

The news flashed first from Tallahassee, Fla.:

Botulism—a rare, lethal poison that had become a household word in recent months after some persons died from eating food tainted with it—seemed to have contaminated yet another respected food processor's product.

Stokely-Van Camp, Inc., the company that first canned pork and beans 110 years ago and makes the "thirst quencher" Gatorade, became the third major food manufacturer this year to have botulism linked to its name.

The Florida Agriculture Department had initiated an alert, warning consumers that tests indicated botulinum poison in the blood of a 4-year-old boy who had eaten Stokely green beans. Hours later, the U.S. Food and Drug Administration (FDA) issued "an urgent warning" against the product and announced that the company was recalling it.

Concern spread through the food-processing industry. The FDA, the Center for Disease Control (CDC) in Atlanta, and various state agencies readied for emergency.

But there wasn't any botulism in the Stokely beans. In fact, there never had been firm evidence that any of the beans were tainted. Ultimately, the FDA was forced to admit it was a false alarm and that Stokely-Van Camp was the victim.

What went wrong?

Though Stokely executives at company headquarters here eschewed "Monday-morning quarterbacking," one lamented: "It's this climate of consumer hysteria. Things have gone so far that a panicky housewife can catapult the nation into a phony crisis."

And a costly crisis that could happen again tomorrow. In addition to the company's expenses in emergency measures such as recalling suspected green beans, Stokley may have suffered incalculable undeserved loss of reputation and public confidence. And even as segments of the food industry press for tighter Federal regulations to restore confidence in their products, the risk remains: The consumer-warning system's ability to react to food-poison suspicions may never preclude possibility of false alarms like the one that started in northern Florida.

On Wednesday, Oct. 27, Capt. William C. Cleveland, Jr., 27, a Marine flight instructor at the Pensacola Naval Air Station, and his 4-year-old son forked down some Stokely Finest French Style Sliced Green Beans. The captain complained the beans were bad. Tasted "like sauerkraut," he told his wife.

At that, Mrs. Cleveland recalled she had heard the can "hiss" when she opened it. In itself the sound could mean little. But she also thought the can might have been swollen or distorted. Together, these signs could indicate the presence of botulism or some other food poison. The captain and his son hustled to Sauffley Dispensary on the Pensacola base.

Both were feeling fine, but they wanted to be sure. It can take more than 18 hours for the first symptoms of botulism to appear. And then it can be fatal. Besides, fast treatment for food poisoning is recommended.

So the attending Navy physician phoned the Center for Disease Control in Atlanta and spoke to Dr. Eugene Gangarosa, a bacteriologist. He recommended that the Navy doctor induce vomiting then administer a purgative to the suspected victims. Dr. Gangarosa also asked that samples of the suspect beans and of the patients' blood be rushed to the center in Atlanta. That night he notified the FDA of the incident.

At noon Thursday the first blood samples arrived in Atlanta for testing. At about that time Captain Cleveland and his son, feeling fine, left the dispensary where they had been under observation.

Tests for the presence of botulism are intricate and time-consuming. They involve making serums from the suspect materials and injecting the serums into mice. The injections must be given to a number of mice, including some protected by botulinum antitoxin and others that are not protected. The tests often are made in sequence. Normally there's a waiting period after injections, and autopsies often are necessary. The process can take many hours.

Because of the time required to prepare the suspect beans, tests on them couldn't begin until Friday at noon. But on Thursday, the Center for Disease Control began tests using the patients' blood. The father's blood checked out fine. Ultimately the tests on the beans showed they were totally free of botulism too.

Thursday evening, however, one of two mice injected with the child's blood serum died. The other was ailing. Dr. Gangarosa called Pensacola for more blood to test. He also passed the news to the FDA, whose agents had spent Thursday checking the Pensacola Commissary for swollen or suspicious-looking cans of the green beans. They had found none.

By Friday morning the child's blood had killed a second mouse. Dr. Gangarosa told the Navy physician and recommended antitoxin for the youngster.

This time, officials in Atlanta told the FDA it had obtained "tentatively positive" findings that the child had been poisoned by botulinum toxin. Through its regional office in Atlanta, the FDA notified the Florida Agriculture Department. The FDA then told Stokely-Van Camp what had happened and asked for the recall. The agency also notified the National Canners Association, a research and public-relations group for the industry in Washington, D.C. Up until then, there had been no public announcement of botulism suspected in the Stokely beans.

Says George Rose, a veterinarian and bureau chief in the Agriculture Department's inspection division: "We got the word from FDA at 10:30 a.m. Friday. We checked the facts. We knew that the suspect beans were publicly available in stores, and they were in homes. We decided we could not afford to take chances with people's health."

So Florida issued its warning against Stokely-Van Camp's green beans coded SB72/E213 D. The botulism scare was on.

Stokely officials say they were certain at the time that there had been some mistake. The beans had been packed on Aug. 1, 1970. If anything had been wrong with them it would have become apparent much sooner, they said.

Another mouse had died by Saturday, however, and autopsies on the mice proved Stokely right. There was no botulism. Specialists in Atlanta say the mice might have been killed by the residue of medicines left in the lad's blood following treatment for a cold the week before.

The recall continued through Sunday. On Monday the FDA stopped the recall, exonerated Stokely, and praised the company for its co-operation.

Still, company and canning-association officials were miffed. "We can't tell how much this incident will cost us," explains David McVey, a Stokely vice president. "Out-of-hand expenses for travel, telegrams, and overtime amounted to about $25,000. From Friday through Monday the top executives of this company and many others did nothing but work on the recall—day and night. But in the long run the insult to our product could cost us millions."

Adds Vigen Babayan, vice president in charge of research, development, and quality control: "It's like a libel trial. Adverse statements about the victim get maximum publicity for days. Then, when the statements are shown up as lies, nobody hears about it. People tend to remember only the dirt."

Officials of both Stokely-Van Camp and of the canners' association say that that if they had been notified of the botulism scare sooner, they could have rushed microbiologists to the scene and provided helpful data. They say they might have helped establish more quickly whether there was a real emergency.

After several food-contamination incidents in recent months, particularly the death of a Manhattan banker from botulism and the discovery of botulism in Campbell's chicken-vegetable soup, the canning industry has been searching for ways to re-establish public confidence in its products.

In fact, four days before the green-beans affair, the association, which represents 550 companies producing 90 per cent of the nation's canned food, had asked the FDA to impose new and tougher requirements on all food-processing companies. No one could remember an industry asking for more regulation.

The association asked that the Government require every canner to register with the FDA and to mark its products with codes indicating who processed the product and when. Companies like Stokely, which now do this, do it voluntarily.

The association also suggested the FDA demand that certain processing records be filed with the Government. It wants mandatory training programs and certification for company supervisors. Significantly, it wants the Government to demand that companies report to the FDA all discoveries of spoilage in shipped products. That's not legally required at present.

The canners hope their willingness to accept increased monitoring and regulation will demonstrate their sincerity. Since 1920 the industry has turned out 750 billion containers of food. There have been just 40 botulism incidents and 4 deaths from all of them.

The canners declare they're not content with that record. Even so, they insist the consumer is 100 times more likely to be hit by lightning than to become ill with botulism from their products.

BUSH DEFENDS TWO-CHINA POLICY

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. STEIGER of Wisconsin. Mr. Speaker, the chief U.S. spokesman at the United Nations, George Bush, wrote a thoughtful article which appeared in the Sunday Star yesterday.

This article represents an unusual step for Ambassador Bush to take but one which I believe is useful and helpful in pointing out the problems contained in the analysis of a former U.S. official, Charles Yost.

I urge my colleagues to read this piece:

BUSH REPLIES TO YOST: IN DEFENSE OF THE TWO-CHINAS POLICY

(By George Bush)

Recent comments of my predecessor at the United Nations, Ambassador Charles W. Yost, regarding the outcome of the U.N. vote on the China admission question need rebuttal, Although I am normally reluctant to engage in this sort of debate.

The ambassador has offered his analysis of the vote and a number of arguments as to why the United States was on the losing side of the issue. I cannot agree with many of his reasons and I am unable to draw the same conclusions as to the results.

The ambassador asserts that the reaction of the Nixon administration and others to the ouster of the Republic of China tasted of sour grapes. While conceding that a feeling of disappointment over the expulsion was a "natural" reaction and to be expected, he accuses the supporters of the Nationalist Chinese seat in the United Nations of overreacting to its elimination. In a word, the ambassador seems to be saying that it wasn't worth all the fuss.

The United Nations was formed out of the ashes of World War II as a forum for the peaceful settlement of international disputes. Today there are more than twice as many nations holding membership in the organization as there were when it was established over two decades ago. The more nations that recognize its validity and join its ranks, the greater are its chances of accomplishing its goals. It was precisely this proposition that moved President Nixon to seek more normal relations with the People's Republic of China and to encourage its admission to the United Nations.

Ambassador Yost's intimation that the President's decision to go to Peking, and Dr. Kissinger's timing of his second visit to that country were a signal to the U.N. membership to deliver the final blow to Taiwan's hopes, is incredible. The President reiterated his policy with respect to his visit to the People's Republic of China in July, August and again in September. At the same time our policy with respect to Taiwan's membership in the United Nations has been consistent from the outset. The U.N. issue and Dr. Kissinger's trip were totally unrelated and represented the continued implementation of our overall policy. The trip was planned when we had every reason to believe that the U.N. vote would take place well afterwards. The coincidence was probably as difficult for the People's Republic of China as it was for us.

In short, our cards were played in the open through every step in the evolution of this issue. In fact, the case can be made that Dr. Kissinger's presence in Peking at the time of the U.N. debate can more easily be interpreted as confirmation of, rather than challenge to, the consistency of our policy with respect to the China issue.

The United States did everything it possibly could do to convince the members of the United Nations of our earnest desire to see the Taiwan seat retained in the General Assembly. Our position was fully consistent with the desire for all peoples of the world to be represented in the United Nations.

I simply can't agree with the three arguments advanced by Ambassador Yost as to why America's friends voted against us on the China question. His first was that United States resistance to the admission of the People's Republic of China for 20 years precluded a favorable vote on our dual-representation formula. This nation had opposed the admission of Communist China not because we preferred her people to be represented by the Taiwan government but due to other historic imperatives well known to all.

The fact that circumstances and conditions have changed vis a vis China, and the United States now supports its admission to the UN, is, in our view, unrelated to the question of whether the Taiwan government should retain its seat. The crux of the issue in last week's vote was that these two questions should be separate.

His second argument that dual-representation would not have brought the People's Republic into the U.N. because Peking considered it an implicit recognition of the legitimacy of the Taiwan government, again shows a misunderstanding of the American position. The President was fully aware of the possibility that the People's Republic of China might not have entered the United Nations had Taiwan been allowed to remain, and was fully prepared to deal with that question when it arose: *But neither the President nor I felt at any time that that was a legitimate basis to vote for the expulsion of the Nationalist Chinese.* We made every effort to make that point clear to the membership.

We felt that Peking should be invited into the U.N.—but on the U.N.'s terms, not Peking's terms. If we are to condone the expulsion of a small member-nation to make room for a large non-member nation, we immediately expose the U.N. to the possibility of diplomatic blackmail. For example, it is now not inconceivable that a major nation will condition its future participation in the U.N. on the expulsion of some less significant adversary nation. That would be a disaster.

The third, and according to Ambassador Yost, the most important reason for the ouster of Taiwan, is simply that, since the U.S. was re-establishing relations with Peking, we could not expect other nations to vote in favor of an issue anathema to the Communist Chinese. They too would now be interested in bettering relations with the PRC.

The inconsistency of this argument is self-evident. The United States while re-establishing its relations with Chinese government, not only voted for the retention of the Nationalist Chinese but worked actively to gain support for it among other nations as well. This we felt demonstrated (1) that we were serious and (2) that others might well be able to do the same thing—if these two positions are not inconsistent for us, why must they be inconsistent for our friends? The United States was not asking any government to do something that we ourselves were unwilling to do.

Ambassador Yost and I share the same view that the United Nations is a beneficial instrument of world peace and that it should be preserved and supported. Where we obviously disagree is in the significance of expelling a member-nation. Mr. Yost apparently feels (1) that the expulsion of a smaller nation is not of great importance if it facilitates the admission of a larger nation, and (2) that in the instance of the Taiwan government, the expulsion was justified by the facts in the case. I believe he is wrong on both counts, and that this will soon become apparent to all.

CENTRE 6, HARVARD 0

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. MAZZOLI. Mr. Speaker, but for the regrettable and untimely death of my good friend and esteemed colleague, John C. Watts, I am sure that it would be he who would exercise the great

privilege of calling the attention of the House of Representatives to an event long cherished in the memories of Kentuckians.

I speak of the achievements on the afternoon of October 29, 1921, of a stalwart band of athletes from tiny Centre College, located in Danville, Ky., a scant 20 miles from John Watts' birthplace and lifelong home.

On that Saturday afternoon 50 years ago, little Centre College humbled mighty Harvard on the football field at Cambridge, Mass. The stars of that memorable upset victory are many and legendary. They include such names as Alvin "Bo" McMillin, James "Red" Roberts, and, of course, the great coach, Charles "Uncle Charley" Moran.

As a Kentuckian, it is with great pride that I include the following account of Centre College's 6-to-0 triumph over Harvard in the RECORD. This article, written by Mr. Larry Boeck, appeared in Louisville's Courier-Journal & Times magazine of October 24, 1971. It is entitled "Centre 6, Harvard 0":

CENTRE 6, HARVARD 0

(By Larry Boeck)

The stars of the team—perhaps the most famous squad in Kentucky gridiron history—were known almost as much for their respective skills at shooting dice and pool as they were for playing football. One, a back, had been a potential juvenile delinquent, a neighborhood gang member in then rugged Fort Worth, Tex. Another, an end and blocking-back, was a country boy from isolated Somerset, Ky. And the coach, a onetime major-league baseball umpire, doubled as team cobbler, tailor, trainer and groundskeeper.

That this trio, and this team, captivated sophisticated, proper Bostonians was, perhaps, a reflection of that anything-goes decade known as "The Roaring Twenties."

The star back was shrewd Alvin "Bo" McMillin, not only an artful runner but also so adroit at crap shooting that fellow gamblers eventually insisted he shake the cubes in a water glass, hurl them over a stretched string and bank them against a wall.

Then there was playful James "Red" Roberts, the bullish defensive end and blocking-back who tucked $100 bills between his ears while shooting pool at $5 per game in a Danville billiards emporium.

The dedicated coach was Charles "Uncle Charley" Moran, who once told a reporter watching him repairing cleats on game shoes: "Know who bought these shoes? Me. I ain't going to wear 'em, but they'll carry me places, I'm thinking." As, indeed, they did.

These men spearheaded the 1921 Centre College football team that was to repeat its 1920 invasion of the Boston suburb of Cambridge, Mass., for a return game with Harvard. The Centre Praying Colonels' wide-open offensive heroics in a losing 31-14 cause the season before had captured the fancy of New England gridiron enthusiasts. Centre prepared for the game at Danville, Ky., on a dusty field carved out of unused pasture land and accommodating perhaps 1,000 spectators, or so.

Meanwhile, the urbane gentlemen of Harvard, with a stadium seating 50,000, awaited the return of the rustics from Kentucky in a hospitable, friendly but perhaps condescending mood. After all, next after the Centre game, they were to play arch-rival Princeton. They planned for the Praying Colonels from Kentucky to provide them with a solid scrimmage, with injured first-stringers getting a chance to mend and rest in preparation for that important Ivy League contest. Prospects were that the colorful Colonels, in view of their valiant effort of the previous season, would fill the stadium. The event, therefore, would be a financial as well as artistic athletic success.

Thus was set the stage for what is widely regarded as the most monumental—or, at least, most romantic—upset in the annuals of intercollegiate football. This week, then, assumes special significance as the golden anniversary of that surprise. For on Oct. 29, 1921—in the era of the racoon coat and the prohibition hip flask—Centre College, a tiny yet picturesque school cuddled cosily in the rural Bluegrass of Kentucky, confounded an academically and athletically mighty Harvard, striking down the cultural and economic giant of metropolitan Boston, by 6-0.

True enough, many Boston writers and fans respected Centre. They were enthralled, in fact, by the emergence of the hitherto unheard-of school, buried in the Kentucky hinterlands, as a football adversary worthy of consideration. But, perhaps, of not much more. For while there was a color and a dash about the Colonels. Boston—although not Harvard—may have been a bit patronizing about it all.

Just days before the game, for instance, the Boston Transcript said: ". . . the game with the Kentuckians hardly will be more than an incident for Harvard, as during the next fortnight every effort will be put on preparing the team for the Princeton contest Nov. 5. . . . Harvard looks for a brilliant aerial display and formations of an open order from the Kentucky 'Colonels,' but hardly the punishing assaults that Penn State provided." The Boston Herald recorded: ". . . Harvard expects a hard game from Centre but does not believe the Colonels will furnish anything like the opposition generated by the whirlwind Penn State team." Harvard and Penn State had struggled to a 21-21 tie the week before the Centre invasion of Cambridge. It was a body-bruising game that left at least five Harvard starters in such a battered physical condition that Harvard Coach Bob Fisher had decided to rest them against Centre—barring an unforeseen emergency—and get them ready for Princeton.

That was a mistake in football logic. But, in retrospect, it is understandable, for this was not the football age we know: of scouting sleuthing that has attained James Bond or Central Intelligence Agency perfection, of revealing game movies, of speedy communication of bits of information that, when put into the mosaic of the whole, allow coaches to make almost computerized decisions (indeed, present-day teams, especially the professionals, are using computers).

To understand what happened in that upset and paved the way for it, it's necessary to know something of the Centre College dynasty that was constructed immediately after World War I and continued through 1924, at least. Louisvillian John Y. Brown Sr., in his book "Legend of the Praying Colonels," tells how Robert L. "Chief" Myers, the Centre coach who put together the team that Moran developed, recruited the talent that was to make the Colonels a legend.

Myers, coach at Northside High School in Fort Worth, "discovered" McMillin literally in the grasp of police, recounts attorney Brown, a onetime "scrub" on Centre's team. Sherman Minton, Myers's friend who later became a United States senator and then a justice on the Supreme Court, and Myers went to a baseball game one summer afternoon. At the entrance, they heard a commotion, looked around, and saw two policemen holding a 13-year-old youngster struggling to get loose. Myers asked the policemen what had happened.

"We caught the boy attempting to slip in," said one of the officers.

Myers mulled things over. "I'll buy him a ticket," the coach told the police, "if you'll turn him over to me."

They agreed. The youngster was Bo McMillin, a kid from across the tracks in Fort Worth where he was a member of a juvenile gang. Myers took an interest in Bo and talked him into playing high-school football for him. Eventually, when Myers went to Centre College, he took along Bo, as well as future All-American center and kicker James "Red" Weaver, Matty Bell, later in life to become one of the nation's great football coaches at Southern Methodist University, Bob Mathias and Thad McDonald.

Unfortunately, McMillin, Weaver and McDonald were half-credits short of academic eligibility to enter Centre. Undaunted, Myers arranged for the young men to enter Somerset High School to make up the credits. To cover their expenses, he set up a "pressing club" with 30 men in town each agreeing to have one suit a month pressed by the boys. At $1 per suit, this netted the players $30 per month—enough to defray living expenses. A story is told that McMillin scorched the seat of the pants of one black suit and, to cover up, applied shoe polish to it. When the owner wore the suit, the seat of the pants fell out while he was at work.

McMillin had better luck at Danville. The home of Centre College then was an important railroading terminal. And when railroaders cashed their paychecks, McMillin was certain to be in town for the inevitable crap games. He was a consistent winner—a combination of exquisite skill and, no doubt, fabulous luck. Attorney Brown, a classmate and friend of Bo, recalls, "Bo broke every gambler in the Bluegrass shooting craps."

Meanwhile, cut-up Roberts, with the $100 tucked under his ears and another $100 tossed on the floor in a corner as a gag (although he kept a wary eye on it), was doing well at playing pool for $5 a game.

When "Uncle Charley" Moran took over the team, he worked around the clock. And at a school which had an enrollment of around only 200, he produced three All-Americans in McMillin, Roberts and Weaver.

At the same time, he was his own equipment manager, something that stunned a former Harvard star who had gone to Danville to scout the Colonels before their first meeting with Harvard.

"When I arrived at Centre College," the scout recalled, "as is now customary in the scouting game, I started to look up the head coach to introduce myself and to announce my mission. Going into the gymnasium, I asked one of the students where I would find Coach Moran. He told me in a small room at the end of the hall. Arriving there, I noticed a man nailing cleats on some football shoes, and looking for the world like a cobbler; I asked him where I could find Moran. Keeping busy, the man answered, 'Talking to him.' It took me about a minute to recover, get my bearings, and recover my speech. Finally, I made myself known. Moran greeted me cordially, apologized for his cobbler attire, and explained how different things were at Centre than Harvard. Incidentally, he asked my further indulgence while he repaired a couple of uniforms."

Despite the lack of an impressive staff, a scanning of the records for previous seasons would have indicated to Boston fans that Centre, in reality, was no country-bumpkin football team. Two seasons before, for example, in 1919, it had tamed a mighty West Virginia by 14–6 in compiling a 9–0 record. And in 1920 the Praying Colonels were 8–2, the only defeats having been inflicted by Harvard 31–14 and Georgia Tech 24–0, that in a game in which McMillin was knocked out and lost to the team.

In 1921, Centre had prepared for Harvard by defeating Clemson 14–0, Virginia Polytechnic Institute 14–0, St. Xavier of Cincinnati 26–6 and Transylvania by an unbelievable 96–0.

Then came the train ride to Boston amid a gay, carnival atmosphere. Festooning the train were signs which read: "Oct. 23, 1920: Harvard 31 Centre 14. Let's Reverse the Score Oct. 29" . . . "The Prayin', Fightin' Colonels From Danville to Boston" . . . "Centre Fights! Down Harvard!"

When the Twentieth-Century Limited pulled into Boston, a crowd of 1,000 greeted the visitors. Among them was a Kentuckian studying law in Boston, A. B. "Happy" Chandler. "I had gotten to know Coach Moran while I was at Transylvania," Chandler recalled, "and so I scouted Harvard for him when the Crimson beat Georgia 10–7 and then tied Penn State 21–21." (Harvard also had defeated Boston University 10–0, Middlebury 16–0, Holy Cross 3–0 and Indiana 19–0.)

Boston's greeting was reported in a newspaper: "The same hospitality and enthusiasm that was accorded old Centre last October still is in evidence. All Boston seems to be pulling for the Danville boys. A ticket broker of long standing announced this afternoon that the demand for seats far exceeded the call for pasteboards to the Yale and Princeton contests."

There was little indication of anxiety or tension among the Colonels in the big city. Or, at least, it didn't show as they attended a performance of the Ziegfield Follies. The coaching staffs of both schools, and other officials from Harvard and Centre, dined together at the Belmont Springs Country Club. Harvard, meanwhile, was a battered team and still planned to rest many of the injured regulars. But R. Keith Kane, captain of that Harvard team and now a New York attorney and executive, doesn't recall that the Crimson players were complacent.

"The 1921 season was a very, very trying one," said Kane. "The schedule actually was too severe and the number of injuries we had was appalling. The Princeton game of the following week was, of course, in our minds. It was, on our schedule, the second game of importance to us, Yale being the big rivalry. Yet, from the previous season's game against Centre, we realized Bo McMillin was a big threat, and so was Red Roberts. What surprised us, however, and completely befuddled us, was the 'Penitentiary Shift' Centre used in lining up for offensive plays."

In that shift, the Colonels reminded observers of prisoners marching, the linemen trailing one another and also the backs. Sometimes the end became the center.

"The shift allowed Centre to take advantage of the terrific blocking of Roberts," said Kane. "He played end, blocking back, tackle or center!"

And McMillin was "terrific," said Kane.

Bo's 32-yard run resulted in the first defeat for Harvard in five years—since 1916, when Yale had triumphed over the Crimson. And the ubiquitous Roberts was very much in evidence during Bo's scamper.

The upset made for dramatic sportswriting. One paper reported:

"Those literary gents who have been writing football romances for prep schoolboys for 20 years, have not seen or imagined a thing. Let them try this one on their typewriter: Centre College 6, Harvard 0. Give Captain 'Bo' McMillin credit for the touchdown.

"Once in a long time something happens in real life which completely outdoes the wildest imagination of fiction or the movies. Harvard's great horseshoe stadium jammed with 50,000 spectators saw such a scene enacted when Centre College triumphed over Harvard."

The Boston Globe story said of the winning run: "McMillin had been smothered in most of his previous attempts to gain, but this time he came through. His play was through the Harvard left wing and Roberts was ahead of him. Red spilled at least three men and was looking for more action when McMillin, seeing the chance, reversed and then was off to his left and straight for the corner of the field."

After the game—in which Harvard finally used all but three regulars—Huntington R. Hardwick of the Globe credited Centre blocking for the victory. He wrote:

"The clean-cut manner in which they (the Colonels) took out Harvard men was a revelation. Red Roberts was particularly noticeable in this role. He is a character on the field. On one-half the plays, he loafed fearfully, frequently never touching a soul and apparently watching with indifference what was going on; then suddenly he would change into a raging interferer and sweep his opponent completely off his feet, or defensively charge in and smash a Crimson back behind the line of scrimmage. End on the offense, tackle on the defense, punting and even carrying the ball on line plunges, he most conclusively proved his versatility and power. If Roberts would 'stick to his knitting' throughout the entire game what a marvelous player he would be!"

Centre, after that historic victory, and a warm welcome back home at Danville, remained undefeated the remainder of the season to end with a 10-0 record including a 55–0 triumph over Kentucky. (The Colonels lost a post-season game on Jan. 2, 1922, by 22–14 to Texas A. & M. at Dallas.) Harvard meanwhile, lost that game to Princeton, 10–3, the following week but beat Brown and Yale.

The Colonels continued powerful through 1924. By then, however, the dice-shooter and the pool-player were gone and Coach Moran had departed to coach elsewhere. And, gradually, Centre College eased out of the major-college football picture.

The Centre upset over Harvard, nonetheless, lives on—and probably will be rehashed as long as intercollegiate football is played.

CUBAN POLITICAL PRISONERS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. PEPPER. Mr. Speaker, I wish to bring to the attention of my colleagues a series of articles which appeared in the Miami News earlier this month and brought to my attention by reporter Hilda Inclan.

As you will see, these articles tell the story of atrocities, brutality and murder committed by the Cuban Communist government against its political prisoners.

The details these articles reveal have never been made public before and they disclose most vividly the continuing cruelty and ruthlessness of the Castro Communist regime.

I have written to Secretary-General Thant at the U.N. to bring this situation to the attention of all U.N. members and to these conditions about which decent men everywhere are vitally concerned. I believe we should also have the benefit of the following articles:

MASSACRE ENDED CUBA JAIL TERM

(By Hilda Inclan)

A sugar mill worker who would have walked out of a Cuban political prison in December will not be able to do so.

Jose Oriol Acosta Garcia is dead.

He was shot to death by Cuban soldiers Aug. 5, inside Prison Camp Number 4, Manacas, Las Villas Province.

He was unarmed. He had been given a 10-year sentence for alleged anti-Castro activity. His sentence would have been up Dec. 31.

Cuban soldiers began shooting against Acosta and his comrades in the Manacas jail when the prisoners tried to intercede in favor of a few others being transferred from the Santa Clara jail.

After Acosta fell to the ground, dead, the other prisoners picked up stones and threw them at the soldiers.

Other political prisoners were wounded as a result. Rafael Ibanez Turino was hit in the mouth; Eliel Viamonte Espin, in the neck; Enrique Borges Rodriques was beaten all over.

Cuban Prime Minister Fidel Castro and his government-run news media have kept a tight silence on the Manacas jail incident. But letters smuggled out by various prisoners in that jail are already reaching their relatives in Miami.

Enraged Cuban exiles here, most of whom have an acquaintance—if not a relative or close friend—inside Cuba's political prisons are already referring to the incident as "the Manacas massacre."

The News is publishing a letter smuggled out by a Manacas prisoner, describing what happened Aug. 5.

The letter was addressed to Humberto Medrano, former executive director of Prensa Libre, a popular daily newspaper in Havana's pre-Castro days. Medrano is today a car salesman and a Diario Las Americas guest columnist who's been publicizing the prisoners' plight for many years.

At least three letters from other Manacas prisoners addressed to their relatives here have been located in the Miami area. They say essentially the same thing.

Acosta was a worker in the Sugar Mill Constancia in Las Villas Province. During the mill's idle time, he taxied passengers from the mill to nearby Cienfuegos.

He was arrested by Castro authorities January 1, 1962. The Revolutionary Court of Las Villas Province gave him a 10-year sentence.

His wife, Martha Perez Garcia, and his sons Jose, 14; Tomas, 11, Alberto, 9, still live at the Constancia sugar mill.

They were already anticipating spending New Years' Eve with Acosta this year. Their excitement has now been drowned in sorrow.

TRANSLATED LETTER TELLS OF BLOODTHIRSTY ENEMY IN CUBA PRISON

CONCENTRATION CAMP 4,
Manacas, Las Villas, August 9, 1971.

Mr. HUMBERTO MEDRANO,
Miami

DEAR FRIEND: How many things have happened in this Concentration Camp of Manacas since the last letter I sent you! What a bloodthirsty enemy we've got! How much blood has been shed and for pure pleasure!

Today this penitentiary is in mourning. Once more, the homicidal bullet's lead has vented its fury on this mass of defenseless men.

It was August 5, 1971. It must have been three in the afternoon when a prison van stopped in front of the interior door of our "alambradas." (The word means "wire mesh." Prisoners refer to that jail in those terms because of the great amount of barbed wire on top of the fences surrounding it.)

Tens of militiamen stood behind and around the van, escorting it. Instinctively or mechanically all of the prisoners started closing in. Without knowing why, a tremendous fear, an inexplicable anguish tortured our throats.

At last the van stops, enveloped in great mystery. The penitentiary director who was coming in front of the van, gets in it and from below, we can hear a loud argument going on. Then he comes down and with an arrogant gesture walks into the garrison headquarters.

That is when the people in the van start yelling to tell us that they were refusing to get out of the van because they had been taken by force from their partners who were staging a hunger strike in the prison of Santa Clara. They ask us also not to get involved in anything since the director has told them that he is ready to do anything and assume all responsibility.

At that time, we see more than 400 soldiers coming in through the main door, carrying the most modern weapons and getting ready to charge against us.

They position themselves behind various available parapets, leaving us uncovered, but with our dignity very high. A group of soldiers goes into the van and tries to get the prisoners out, pushing them and hitting them with the butts of their guns.

Upon seeing such an injustice, we wanted to intercede, but the cowardice of the director and the other officers reached the heights of ordering their men to shoot against us.

Upon the first discharge, Jose Oriol Acosta Garcia fell to the ground with a wound on his head. Far from frightening us, this had the effect of enraging us to such a point that we gathered every stone that was handy and blindly, we charged against the enemy troops.

The murderous bullets hit the ground upon which we crawl until we finally reach the point where the director and the officers are standing. There was a hand-to-hand combat, but the bullets were not as threatening any more since the soldiers didn't want to hit their chiefs.

Then upon seeing that most of us had gone by the point dominated by his machine guns and fearing a carnage of incalculable proportions, the "brave" director asks us yelling that we help him stop the combat.

When he saw that we weren't listening, he ran among his own men asking them to stop the fire. This was the same man that moments before had said he would assume "all responsibility" for what happened.

Finally, after about half an hour of unequal fighting in which fists were smashed against sharp bayonets and in which murderous bullets wounded our defenseless flesh, we see the van leaving again with its glass windows broken and its sides dented. Four comrades that they hadn't been able to take out were taken away in it.

The final result was: one dead comrade, Jose Oriol Ascosta Garcia and several men wounded like Eliel Viamonte Espin, Ibanez Turino and Enrique Borges Rodriguez. This last one, who was seriously beaten, can count on his body 18 bullet wounds, scars, which he carries with pride, from his anti-Communist fight.

Now then who is the assassin of Jose Oriol Acosta? Who is responsible for such a massacre? Those who gave the orders to shoot, that is, the officers Orestes Moya, chief of prisons in this Province; Abraham Claro Cruz, director of this jail; the lieutenants Almanza Lulo, Adalberto Rodriguez, who in addition to giving the orders, happily discharged their caliber US 1 guns?

Or are the guilty ones, on the other hand, the Julian Herreras, the Sacarias Sequeiras, the Granelas, the Saldivars, the fantomas and tens and tens more that cowardly discharged their rifles and machine guns to massacre with impunity a defenseless multitude whose only weapons were their dignity as political prisoners and their firm decision to triumph? To us, all of them have the same degree of responsibility.

Everybody here shot at us, from the chief of the kitchen and construction to the male nurses who first make the wounds that their fine hands will heal later.

Tell the world then, that between Auschwitz and Manacas, between the Nazi concentration camps and those of Fidel Castro, there is no difference:

That the 20th Century continues producing monsters, mocking shamelessly the forces of democracy.

That this small group of men will continue opposing communism even if the Fulbrights will argue in favor of relations with Cuba and even if Nixon will back China's entrance into the United Nations.

"TIGER CAGE" PRISONS REVEALED

(By Hilda Inclan)

Thousands of persons locked in tiny, airless cells in Communist Cuba, wasting away, waiting to die. . . .

Their only "crimes," in many cases: Their political inclinations.

This is the gist of letters smuggled into this country from prisoners in those jails; from prisoners in the 1971 version of the infamous "Tiger Cages" of the Vietnam War, where thousands of prisoners of war were herded together like animals.

They are men and women from all walks of life; sugar cane cutters, blue-collar workers, peasants, clerks, doctors, teachers, technicians, newspapermen.

The Miami News today is publishing from one of these prisoners a letter that reveals details never before made public in English. He is in the Boniato jail.

Prisoners in this jail, in Oriente Province, have been kept incommunicado for two years. Their entire dinner fits in a small can of condensed milk.

Plagued by scurvy and other diseases, they are denied medical attention. The windows in their tiny 5' by 10' cells are securely boarded up with steel plates. They are allowed no sunshine or exercise. Their bathroom is a hole in the floor.

Two persons are in each cell.

"It seems impossible that what we are telling is actually happening here," the Boniato prisoner wrote. "Only you, those that were here, the Frenchmen that were prisoners of the Communist in Indochina, the North Americans taken prisoner in Korea; only they know that we are not lying."

Pictures of German concentration camps after World War II shook the world. But no pictures can be taken of Cuba's camps.

In Boniato, no outsiders can enter.

In another prison camp—in Manacas—conditions are slightly better. Isolation is not as complete.

Still, a sugar mill worker who would have been freed in December was murdered Aug. 5.

He fell to the ground, a gunshot wound in his head, a victim of the rage of the Prison Camp Director.

He was shot during a flurry that occurred when prisoners from another jail were being transferred to Manacas. Other prisoners were wounded.

In Boniato, three other political prisoners were killed by guards during an alleged escape attempt.

The letter, and others, being smuggled out by the prisoners at great personal risk, are the only way they have of communicating their plight to the outside world.

The method of smuggling the letters out cannot be told.

Some of the prisoners in Boniato, Manacas and other jails have been there virtually since Fidel Castro came into power in 1959.

All are accused of anti-Castro activity and opinions.

They all share the same cells, the same fate.

Estimates as to the number of prisoners run as high as 100,000. No one seems to know for sure exactly how many jails there are.

BONIATO: TIGER CAGE PRISONS REVEALED

(By Hilda Inclan)

"The terror and the physical tortures of these years have been too much . . . Many of us have reached a crisis point and gone mad. "Fernando Lopez del Toro hung himself."

These are excerpts from one of many letters being smuggled out at great risk by men inside Castro's political prisons.

The News today is reproducing a letter written by a prisoner inside the worst of all Cuban jails, the Boniato Prison in Oriente Province.

Men in that jail have been kept incommunicado for two years, living in 5' by 10' "tiger cages," two men to a cage. A hole in a corner on the floor is their bathroom. They get no sunshine or exercise.

These men are known as the "tapiados." Their cell windows have been "tapiadas" or boarded up with steel plates to insure no sunshine gets in.

The letter being reproduced today was written by a prisoner lying on the floor to get whatever light sneaks in beneath the doorway. He couldn't find paper so he scribbled on the white space around the nameplate of Havana's main government-run daily, Gramma.

He addressed his letter to a friend of his, a former political prisoner, now in freedom.

The names of both men are being withheld to protect the one still in prison from possible reprisal from Cuban authorities.

"The living conditions described in the letter are authentic," Dr. Jaime Suchlicky said today. He is associate director of the Latin American Institute of the Center for Advanced International studies, University of Miami.

TRANSLATION: "WE ARE SUBJECT TO EXTERMINATION"

"Tiger Cages" of Cuba, Boniato Prison, June 10, 1971. My dear brother . . . !

This letter is not an outcry, it isn't a call for help. We know that we are alone. We know about the apathy of international bodies, of the press of the free world, that which appears to be so dynamic in denouncing injustices but doesn't say one word about what is going on in the prisons of Cuba. What do they want, that we send them photographs? The communist jails are not the jails of democratic countries. Nobody can enter here. This is the only piece of paper that I have been able to get to write to you. The Physical integrity of many prisoners will be risked to try to get these lines out to you.

Our situation is very difficult. These are the "Tiger Cages" of Cuba. All of the political prisoners of Boniato are being subjected to the most brutal and inhumane plan of physical extermination that America has heard of in all its history.

We've already been here for two years incomunicado in cells with windows and doors hermetically walled up with steel plates. The total lack of light has made many of us almost blind. I am writing this letter lying down on the floor, using the very soft light that comes in through the small space underneath the bottom of the door . . .

The cells are five feet wide and ten feet long. That's the way political prisoners here live, two for each cell, without getting out of their cells for years. As a bathroom we have a hole in one corner and a faucet that never has any water. Our excrement and our urine accumulate constantly in fetid puddles. We lack any articles of personal hygiene. Our food doesn't reach 900 calories per day. Everything served is carefully weighed. One lunch fits inside an empty can of condensed milk; one dinner, the same; that is our plate, one of those cans. Our breakfast: hot water with sugar and one ounce and a half of bread.

LOOK LIKE PRISONERS IN CONCENTRATION CAMP

Our diet is composed solely of corn flour and boiled noodles and white rice, all of it served with tiny spoons. The absence of proteins and other foods is total. There are men here whose weight has gone down to 70 pounds. I must weigh 115 pounds. The last time they came over to weigh us with a portable scale my weight was 120 pounds. I have lost 35 pounds. My thighs measure 15 inches, my biceps 10. My legs, 11, my waist, 26. All of us look like the prisoners in the concentration camps at the end of the Second World War. Those photographs shocked the world. But here, no pictures can be taken.

Our fate is that of every prisoner of the communists that will not accept their "rehabilitation" plan: physical extinction and biological experimentation is our destiny.

There is no medical assistance. All of us are sick. Scurvy is creating havoc here. Our bodies are full of some dark pustules, our gums are swollen, our teeth are loose, bloody. Hemorrhages through the nose follow every sneezing spell. Our ankles, in many of us, are a hodgepodge of varicose veins. It's been more than ten years already, and you've been more than ten in communist jails.

Skin illnesses, ulcerations of all mucous tissues, mouths full of sores, constant diarrhea. It seems impossible that some of the men here be alive. They are ghosts. The government promised in this type of imprisonment to "punish" us for our decision not to go into the "rehabilitation" plan, and to reduce us to rags. They have already accomplished that. A.—We are already rags. Physically, we will never again be men. Many of us will die here.

We are being subjected, scientifically, to a plan of mental and physical liquidation directed by Czech, Cuban Communist and Russian doctors. They experiment biologically with us, observe us constantly, and subject us to diverse stimuli.

Many of us have reached a crisis point and gone mad. There's been several suicide attempts. The terror and the physical tortures of these years have been too much.

Fernando Lopez del Toro hung himself. We are under the constant threat that the people in the garrison may come over and beat us savagely; the constant pressures, the total isolation. For two years, our families have known absolutely nothing about us. The government denies to them our real situation. That is why I'm telling you, our situation is very difficult.

But we expect nothing from Democracy or from the Latin American governments that have ignored us and turned their backs on our sacrifice.

To denounce this situation to the world is useless. We have become disillusioned about the reception given these letters. It seems impossible to the outside world that what we are telling them is actually happening here. Only you, those that were here, the Frenchmen that were prisoners of the Communists in Indochina, the Northamericans taken prisoner in Korea; only they know that we are not lying.

We are here, in the "Tiger cages of Cuba," dying for Democracy, defending the principles of the free nations. But it is sad to fight defending freedom and justice and be forgotten by the free and just men of the world!

Long Live Free Cuba!
Long Live Democracy!
Down with communism!
Your brother,
A.
Tiger Cages of Cuba
Political Prison of Boniato, Oriente, Cuba.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

TESTIMONY ON ECONOMIC STABILIZATION

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. RYAN. Mr. Speaker, during this period of economic stabilization, I would like to point out that there are millions of hard-working, industrious people who are not able to earn nearly enough to attain an acceptable standard of living. Hence, I have introduced H.R. 11406—along with House Concurrent Resolutions 414, 423, and 434 with cosponsors—to exempt low-paid workers from Government restrictions on wage increases until their wages reach the point where they are no longer substandard.

I am pleased that the House Banking and Currency Committee recognized the need for exempting the wages of the working poor by adopting the language of my bill when it was offered as an amendment to the Economic Stabilization Act by our distinguished colleague from Maryland (Mr. MITCHELL) during the markup session on November 4.

David Livingston, executive vice president of Distributive Workers of America, Alliance for Labor Action, and president of District 65, DWA–ALA, testified before the House Committee on Banking and Currency on November 5, 1971. He presented a very persuasive case for exempting substandard wage earners, not only pointing to past precedent during World War II and the Korean war, but also pointing to present statistics which show that in New York City alone 25 percent of the work force earns less than $100 per week. As David Livingston said so well, to place controls on the earnings of the working poor and near poor—would be to condemn them to permanent poverty.

His cogent testimony follows:

TESTIMONY OF DAVID LIVINGSTON

I appreciate the opportunity to appear before this distinguished Committee to testify concerning economic stabilization legislation. The Committee has already heard testimony directing attention to fundamental inequities in the current program, especially the absence of any controls on profits, interest rates and dividends. Also we are certain that the Committee has already observed that there are hundreds of thousands of volunteers, employers, who are eager to enforce the wage control aspects of economic stabilization. Price control is another matter.

Our special concern, however, is the threatened application of wage controls to the working poor and near poor, to those who just don't make a living. Unless there is an exemption from wage controls for such people, a national disaster impends. Already 6% of the working population are without jobs according to the Bureau of Labor Statistics figures. The Bureau will tell you that this percentage does not take into account certain groups. Our estimate is that the actual number of unemployed in the country is somewhere between eight and nine percent—close to eight million workers.

In September of this year, the Manpower Administration of the U.S. Department of Labor published a report indicating that the number of major labor areas in the categories of substantial unemployment had climbed to 64—the highest total since October 1961. Likewise the Government has published figures showing that the absolute number of persons below the poverty line increased last year for the first time in the twelve years that the statistics have been maintained. The number of persons in this category exceed twenty-five million. This bleak picture is likely to continue since the job producing aspects of the current economic plan is only a hope to provide approximately half a million new jobs. This is the background in which many workers are striving to hold on to their jobs and provide for their families. This is the situation in which the working poor are battling to stay out of the ranks of the unemployed and off the welfare rolls. They are fighting to improve their jobs and their earnings—to win wage increases, to keep up with rising living costs and to improve their standard of living—if only a little.

I speak today on behalf of our members in Metropolitan New York and also for thousands in the States of Florida, South Carolina, North Carolina, Georgia, Virginia, Tennessee, Arizona, Connecticut, Missouri, California, Illinois, Pennsylvania, Ohio, Texas. Our observation is that the overwhelming majority of the working poor and the near poor are white Americans, although Blacks and other minorities appear in the working poor out of proportion to their share of the population.

In New York City alone, approximately 25% of the work force earns less than $100 per week and throughout the Country, the numbers run into many millions. Among non-union workers, about 75% of the work force, the number whose earnings are substandard is even greater. Their earnings do not permit them to keep their families in safety and health, to educate their children and to supply the bare necessities of life.

The Bureau of Labor Statistics publishes three budgets for a family of 4—an employed husband at age 38, a wife, an 8 year old girl and a 13 year old boy. One of the budgets is called the high budget, the second is called an intermediate budget and the third is called a lower budget for a 4 person family.

In the spring of 1970, the lower budget for urban United States was $6,960. For New York and North Eastern New Jersey—$7,183. By now these figures would have to be adjusted upward by approximately 8% or 9% to take into account increases in the cost of living since the Spring of 1970. Lest anyone think this budget is "frilly", it allots $2,091 a year for food. We would like to find the housewife who could feed her husband, herself and two growing children on $40 a week considering what is happening to food prices. It is perhaps significant that the higher budget for the same size family allotted $3,551 for food.

To place controls on the earnings of workers below these wage levels would be to condemn them to permanent poverty. We are accompanied this morning by some workers who earn salaries from $91 to $101 per week. Before the freeze, they were scheduled by contract to receive automatic increases of $7 to $10 per week. In addition, they were scheduled for a cost of living increase of $5 per week. Thus over all they were slated for about a 12% increase—much greater than the highest allowable rate reported under

consideration. With these increases, these workers will still be only making about $5800 a year, well below the minimum budget. It is not inflationary to permit these workers the increases coming to them. So long as a worker is at such wage levels, so long as he is of the working poor or near poor, he should be exempt from any regulation until his earnings are no longer sub-standard—until he is no longer poor or near poor.

This is, of course, not the first time that the United States has dealt with economic stabilization. It occurred during World War II and during the Korean War. In both cases, legislation did not leave to the President alone the power to control wages. Even during the time of greatest peril, the Congress retained its authority over the economic life of our country. In both cases, the legislation permitted wage increases to workers whose earnings were sub-standard or who were suffering from a gross inequity. The Congress did not limit increases to the legal minimums established by statute and defined sub-standards at levels well above the statutory minimums.

During World War II, regulations specifically exempted from any control, even from the necessity of seeking approval, any wage increases to workers whose earnings were at or below 50¢ per hour. At that time, the Federal Minimum Wage was 30¢ an hour. Thus the automatically approvable rate was 66⅔% above the legal minimum. Now the legal minimum is $1.60 per hour and the rate in New York State is $1.85. Using the same approach would lead to exempting from regulation any worker (union or non-union) whose earnings were about $3 to $3.50 per hour.

In brief, we urge that this Committee recommend legislation to the Congress that there be no freeze or controls applied against workers who do not make a living—that they should be specifically exempt from limitations on their earnings. Our members and many, many workers like us, union and non-union, appeal to the Congress and to this Committee. We urge that you do not permit regulations to be adopted that control whether our members eat or do not, whether they educate their children or do not, whether they can hold their heads high or do not. Our members earnings are low, but they are on the way to a decent living. Slowly, painfully through collective bargaining, they are gradually approaching the point where perhaps they will not need supplementary relief and where their families, their children can have a small share of the good things of life. Until our members make a living, we urge that wage increases to them not be limited or controlled. We urge statutory exemption of those whose earnings are sub-standard. We seek your help, the help of Congress—so that the working poor and near poor not be confined to permanent poverty.

PRAYER AMENDMENT

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. PRICE of Texas. Mr. Speaker, I have introduced legislation which would allow prayer in our schools—I have pushed for it and supported it all the way because of my firm belief in the right of the people to offer prayers to God in our public institutions.

There have been certain objections raised regarding the prayer amendment that is now up for consideration, some of the opposition being expressed by those who are simply against prayer, while most, I am sure, has come from well-intentioned persons and organizations who question certain wording and phraseology as contained in the resolution. I do not quarrel with those who, for example, might wish to insert the term "voluntary" or "extemporaneous" or remove the term "nondenominational" from the language of the resolution, if this would alleviate fears that the resolution as presently written in some way narrows the meaning of the first amendment freedom of worship.

However, whether we are for or against this resolution, two things seem abundantly clear. First, through the vehicle of the discharge position we have at last brought to the House floor for debate, an issue which has been uppermost in the minds of our people for years. It is by this debate that we shall be able to consider all the pros and cons and to decide once and for all, the direction to be taken regarding prayer in public buildings. And second, and even more important, we are exercising one of the great strengths of our Constitution in turning this matter over to the people of the various States for their final decision. For it is by the process of ratification by three-fourths of the States that the people will be able to speak directly and to decide the fate of the prayer amendment. Only recently we witnessed a similar action in lowering the voting age to 18 in all elections—in this case, there was a groundswell of popular support for extending the right to vote to a new sector of the population, and our constitutional process of ratification provided for an orderly way to dispose of the confusion and contradiction that had surrounded this issue.

Mr. Speaker, in summary it is my firm conviction that every citizen has the right to pray whatever he pleases, wherever he pleases, and whenever he pleases, so long as his activities do not constitute an unreasonable infringement upon the rights of others not to participate. Furthermore, I oppose any procedure whereby government, at any level, may interpret, modify, require, or prohibit this individual right to prayer. While I am not wedded to any particular bill, I strongly support a prayer amendment which will broaden the right to pray beyond the purview of any governmental agency or instrument.

CANNIKIN CONSEQUENCES STILL TO COME

HON. JOHN G. DOW

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. DOW. Mr. Speaker, my friend and constituent, David Sive, who led the attorneys on Saturday seeking to stay the Cannikin megaton test at Amchitka, has made available to us some of the very telling data on which appeal to the Supreme Court was made. This consists of affidavits of expert witnesses, largely scientific. They point out that serious consequences of the Cannikin test may yet occur. For example, contents of the water table at Amchitka becoming contaminated in the chimney above the blast cavern, may introduce dangerous concentrations into the sea.

The papers supplied by Mr. Sive and appended here include first an affidavit by a legal associate of Mr. Sive, James A. Burke. This is Mr. Burke's precis of papers by several scientific experts which contest claims of relative safety asserted by the environmental impact statement of the Atomic Energy Commission.

In addition, I append three other affidavits by recognized scientific authorities, which challenge the safety of the Cannikin test. These three affidavits are ones by M. Nafi Toksöz, Robert Muller, and David Evans—the latter preceded by an affidavit of Mr. James A. Burke in lieu of a signature by Mr. Evans, which it was not practical to obtain. The several documents appear below:

[U.S. Court of Appeals for the District of Columbia, Civil Action No. 71–1732]

AFFIDAVIT BY JAMES A. BURKE

The Committee for Nuclear Responsibility, Inc., et al., Plaintiffs-Appellants versus Glenn T. Seaborg, et al., Defendants-Appellees.

James A. Burke, being duly sworn, deposes and says:

1. I am associated with the firm of Winer, Neuburger & Sive who, along with Harold P. Green, Esq., Suite 1000, The Watergate Six Hundred, 600 New Hampshire Avenue, N.W., Washington, D.C. are attorneys for the plaintiffs in this action.

2. Mr. Sive and I, alone, have read the four documents which the U.S. District Court made available to plaintiffs' attorneys, but which were not released to the public. These documents are:

(a) Pages 1 through 6 of a seven-page statement with two attached maps or diagrams, by J. W. Hadley, which statement is part of 1b of Annex B to the Larson Affidavit (Gov. Ex. 18), (hereinafter referred to as the "Hadley Memo");

(2) A ten-page paper by Dr. W. G. Van Dorn, dated December 15, 1970, and entitled "Probability of Tsunami Generation and Connection with Cannikin", which paper is part of 1b of Annex B to the Larson Affidavit (Gov. Ex. 18), (hereinafter referred to as the "Van Dorn Memo");

(c) A statement by Mr. M. L. Merritt consisting of four pages, entitled "The Ground Water Problem at Amchitka", which statement is part of 1b of Annex B to the Larson Affidavit (Gov. Ex. 18) (hereinafter referred to as the "Merritt Memo");

(d) That portion of page 2 beginning with the paragraph entitled "Earthquake Generation", and carrying through the last four words on page 6, item 3A, of the Train Affidavit (Gov. Ex. 11), (hereinafter referred to as the "Train Memo").

3. Deponent believes that it might aid this Court in considering the significance of these documents and their relationship to both the Environmental Impact Statement and to the claims of the plaintiffs in this action if your Deponent were to indicate what he considers to be some of the more significant aspects of this relationship.

4. In the Impact Statement, the Atomic Energy Commission (hereinafter referred to as the "Commission") states that, based on the experience gained at the Nevada Test Site and in the previous detonation of Milrow at Amchitka, "It is expected that the only observable effect from Cannikin will, again, be a cluster of small aftershocks in the vicinity of the explosion site." (See pages 54–55).

In the Train Memo, whose subject matter is "Potential Environmental Hazards Associated with Cannikin", it is stated that extrapolation from the Nevada Test experience is uncertain at best due to the differing geologic structure of the Amchitka area, and that Milrow itself can provide "no sure basis" for prognostication as to Cannikin (page 4, paragraph one).

The Milrow experience may not be applicable not only because that detonation took place eight Km. away from the proposed Cannikin detonation (see Toksoz Affidavit), but also because there may be a threshold value of strain that must be exceeded prior to the initiation of a large earthquake, such as in the recent earthquakes in Chile and Alaska (Page 4, Train Memo) In other words, the energy released by the one-megaton Milrow detonation may not have been sufficient to initiate a large earthquake, whereas the five-megaton Cannikin may well be.

As is stated in the same paragraph in the Train Memo, once one "lock point" is broken, sufficient energy may be resealed to break other lock points; if the stored strain energy is large, the triggered earthquake can be of much greater magnitude than the triggering event, as though the first lock point where the first domino of a row dominoes leading to a major earthquake. Neither this process of triggering an earthquake, nor the possibility of triggering a major earthquake that this process presents, is at all discussed in the Environmental Impact Statement.

The Train Memo continues, noting that the major fault in the general region of Amchitka is thought to be some forty Km. beneath the test site, and "the strain field will certainly be altered at this depth by the underground explosion". This, it is submitted, is not a "negligible" chance of triggering a major earthquake, and it is certainly not "a cluster of small aftershocks".

Prefatory to the above discussion in the Train Memo, it is stated that it has been said that there is ". . . no cause for apprehension with regard to the Cannikin test. Unfortunately, this is not the case".

5. On page 2 of the Train Memo, it is stated in paragraph one that if fractional forces are overcome through raising the underground fluid pressures, an earthquake may result. This is also the first of the three "well-documented ways of triggering an earthquake" discussed in pargraph three on the same page, and also discussed in the last paragraph of the Train Memo. This process, as well as the above-mentioned domino theory, is also set forth on page 3 of the Hadley Memo.

This increase in underground fluid pressure is the same mechanism for triggering a major earthquake that is postulated in the affidavit of David Evans, submitted by plantiffs to the District Court. It is not at all discussed in the Environmental Impact Statement, and it clearly increases the likelihood of a major earthquake.

Page 3 of the Train Memo refers to an earthquake being caused in Koyna, India, by means of this mechanism. As is stated in the Train Memo, the Koyna area is not normally seismic. Therefore, as is stated in the Evans affidavit, there is no reason to believe that an earthquake would have been imminent at the site. This is contrary to the suppositions made on page 54 of the Environmental Impact Statement.

6. It is also stated on page 3 of the Train Memo that the creation of a large cavity by the detonation of Cannikin will cause permanent changes in the strain field of the Amchitka region. The effects of this are not presented or discussed in the Impact Statement.

On the same page, it is also noted that no accurate prediction of the seismic results of the Cannikin detonation is possible, because detailed geology is largely unknown at any given location. The extent of this ignorance is not indicated in the discussion of the geological studies at page 19 of the Impact Statement.

7. With reference to the lack of discussion in the Impact Statement of responsible, opposing scientific opinion, the following comments in the Hadley Memo should be noted:

"Qualified scientific opinion is in good agreement that the possibility of triggering a large earthquake by Cannikin is remote, but real. . . . Variation of technical opinion from this position is minor". (Page 6)

This "real" possibility of a large earthquake and the differing "technical opinion" are not presented or discussed in the Impact Statement.

The Hadley Memo goes on to note that:

"The advice of scientists as to whether or not the seismic hazards of Cannikin are acceptable has been somewhat more diverse. . . . ". (Page 6)

8. One would not surmise this diversity of advice from a reading of the Impact Statement. There is no indication that such diversity exists, much less a discussion of the opposing points of view. (See page 54, Impact Statement.) With reference to the lack of presentation of responsible opposing scientific opinion, the statement made by Dr. Van Dorn in paragraph 2 of the first page of his document entitled "The Possibility of Tsunami Generation in Connection with Cannikin" ("Van Dorn Paper") should be noted. Dr. Van Dorn states that he is as deeply concerned with the safety aspects of the underground nucelar explosion at Amchitka as the well-qualified geophysicists in the Train Memo. While attorneys for plaintiffs in this action have not been permitted to see the above-mantioned Train Memo, the next paragraph of the Van Dorn paper indicates that these "well-qualified geophysicists" believe that the risks are great.

There is no indication in the Impact Statement of any "well-qualified" opinion expressing the existence of substantial risk.

9. Subsequent to the discussion at page 4 of the Irwin Memo of the possibility of triggering a major earthquake, it is stated that the "real danger" from the triggering lies in the generation of a tidal wave or tsunami. The Memo goes on to note that it is not possible to assess quantitatively the probability of such generation at this time.

However, it appears from these documents that the risk is certainly greater than the "negligible risk" discussed at pages 57–59 of the Impact Statement. On page 5 of his paper, Dr. Van Dorn refers to the one-three megaton potential energy of the earthquake which fostered the last major tidal wave in the Alaskan area, and continues by noting that "similar volumetric displacements" were all that were needed to create the huge tsunamis of 1946, 1957 and 1960. This one-three megaton potential energy is only one-fifth to one-half of the energy of the proposed Cannikin detonation.

In discussing the impact of these tsunamis, Dr. Van Dorn notes that tsunamis generated in the Aleutians by earthquakes have had damaging effects at great distance. The 1946 tsunami that was so damaging in Hawaii was felt as far away as Peru. (The recent earthquake in Chile generated a tsunami that caused loss of life as far distant as Japan. Wave heights actually increase at greater distances, notes Dr. Van Dorn.)

At the beginning of his paper, Dr. Van Dorn observes that in view of these hazards, he has made a number of recommendations for improving public safety, only a few of which have been adopted. He ends his paper by saying that further studies are highly desirable.

It does not appear that the risk of a tsunami is as negligible as is stated in the Impact Statement, and it is clear that the environmental damage which may be created by such a tsunami can be immense. Such damage has not been discussed or evaluated in the Impact Statement.

10. On pages 18 through 22 of the Impact Statement, the Atomic Energy Commission claims that the radioactive by-products of the Cannikin detonation will be incorporated into and trapped in the rock melt or will be absorbed onto the sources of rock material. On pages 22 and 50 of the Impact Statement, it is claimed that the chimney above the cavity will be filled with broken and partially recompacted rock after the collapse, and that this collapse and subsidence does not provide open paths for the escape of radioactivity through the chimney rubble.

However, on page 5 of the Train Memo, it is noted that the chimney will be permeable and that radionuclides will be mixed throughout.

Dr. Merritt, in his paper entitled "Ground Water Problems at Amchitka", the Merritt Memo, also states on page 2 that "Nevertheless, the worrisome suggestion is made that there may be mixing back up the chimney". This chimney, as stated above, is highly permeable and intersects zones of permeable rock between the surface and the detonation cavity. It is in reference to this that Dr. Merritt states on pages 1 to 2:

"On the other hand, it must also be admitted, and this is the basis for the Counsel on Environmental Quality's comments on Cannikin, the the rubble chimney constitutes a highly permeable vertical short circuit of the groundwater system, and that the hydrological measurements indicate zones of fairly permeable rock higher in the section."

11. Dr. Merritt then continues, on page 3 of his Memo, to consider what impact these facts will have on the containment problem:

"Nevertheless, if tritiated water did mix up even in part, what then? *If* this zone is continuous out to and up to the sea, and *if* its permeability is all or largely due to fracture porosity . . . then tritiated water would reach the sea very rapidly."

12. It should be noted at this point that on pages 23 to 24 of the Impact Statement, the Commission postulates three possible mechanisms and time scales for which radioactive by-products of the detonation might migrate to the surface. The third mechanism, on page 24, involves the "very unlikely" assumption that the water within the cavity chimney system becomes mixed. The documents disclosed to plaintiffs' attorneys, as well as the submitted affidavits of Dr. Robert M. Mueller and David Evans, indicate that this not only is a "very unlikely assumption, but the most probable occurrence. This assumption states the Commission, combined with another "unlikely" assumption, would cause contaminated water to reach the sea "in about two or three years after the cavity was filled—or some three years after the explosion." However, on page 5 of the Train Memo, it is noted that, contrary to the assumption of the Commission, the USGS estimates one to two years for the migration of water in the chimney to the sea, with this migration being anticipated, not "very unlikely."

13. In paragraph 3 of page 24 of the Impact Statement, the most extremely negative prospect mentioned by the Commission, it is stated that this migration "would introduce tritiated water into the ocean with an initial concentration about 1,200 times that of the RCG for water." The USGS Report, cited in the Train Memo states that the contaminated water would reach the ocean with a concentration "in excess of 10,000 to 100,000 times" the permissible concentration for water. This is 100 times greater than the Commission indicates is possible under the most adverse conditions, and the Commission was aware of this at the time they published the Impact Statement.

14. A further example of the lack of candor of the Impact Statement involves the statement on page 25 that even if this extreme case were to exist (1,200 RCG), "oceanographers have estimated that there would

be an effective dilution factor of about 100,000 within a few hours." They neglect to mention the context of that statement, which is indicated in the last paragraph of page 5 of the Train Memo, where it is stated that even if the dilution is as great as 100,000, concentrations well above background levels will appear in the food chain, resulting in fish being caught and sold containing radioactive concentrations higher than the RCG (Recommended Concentration Guideline).

There is no discussion of this factor anywhere in the Environmental Impact Statement.

15. It should be noted at this point that the USGS, in one of the documents made public on Monday, entitled "Effects Evaluation Report—Cannikin Event", stated in reference to a water migration time scale considerably faster than the "worst" example postulated by the Commission in the Impact Statement, that

"It should be emphasized that the foregoing analysis is heavily weighted in favor of the worst case. However, it is difficult to conceive of conditions which might improve the outlook significantly."

16. The documents discussed above in this Affidavit strongly corroborate the responsible opposing scientific opinions set forth in the affidavits of David M. Evans, Dr. Robert Mueller and Dr. M. Nafi Toksoz, submitted by plaintiffs in this action. Although the affidavit is directed only to the four documents revealed solely to the attorneys or plaintiffs, and not to those documents made public by the District Court, it should be emphasized here that the public documents also corroborate the above-mentioned affidavits, although less dramatically. (For example, on page 18 of the Effects Evaluation document, it is stated that the collapse of the cavity after the Greeley event did not occur for a period of nine months, although that detonation took place in the same type of rock as encountered at Amchitka. The significance of any delay in the collapse of the cavity and subsequent cooling of the said cavity is discussed in detail in the affidavit of Dr. Mueller. Basically, a failure to collapse results in sustained high temperatures within the cavity which greatly enhance the dissolution of radionuclides in water and facilitates their escape to the surface.)

The legal significance of the failure of the Commission to include the opposing scientific opinions discussed in their own documents, as well as in the affidavits submitted by plaintiffs in this action, is discussed in plaintiffs' brief on their current appeal.

AFFIDAVIT BY NAFI TOKSÖZ

[U.S. District Court for the District of Columbia, Civil Action No. 1346–71]

The Committee for Nuclear Responsibility, Inc., et al., Plaintiffs, against Glenn T. Seaborg, et al., Defendants.

M. Nafi Toksöz, being duly sworn, deposes and says:

1. I am presently a professor of geophysics at the Massachusetts Institute of Technology, and have held this position since 1965. My primary area of specialization is in the fields of geophysics and seismology, in which area I have published about fifty papers in various scientific journals. Six of these papers have been directly concerned with seismic wave generation by nuclear explosions. My educational background includes a Bachelor of Science degree from the Colorado School of Mines, and an M.S. and Ph.D. in Geophysics from the California Institute of Technology.

2. I began studying the relationship between underground nuclear detonations and tectonic strain release in 1962, and since that time I have analyzed the characteristics of approximately twenty-two underground nuclear explosions detonated in this country. I am familiar with the seismicity and general tectonics of the Aleutians and the Amchitka area.

3. For purposes of clarification, the release of tectonic strain is normally defined as an earthquake when it occurs suddenly, and in the case of nuclear explosions, we have reason to judge that this release occurs concurrently with the explosion, induced by the explosion, so that one might consider it an explosion plus an earthquake occurring simultaneously. Explosions have the capability of releasing varying degrees of tectonic strain energy. This essentially means that the explosion triggers an earthquake with aftershocks of varying degrees of energy, and the intensity of the earthquake and after-shocks is determined by the geologic properties of the medium and the tectonic stress characteristics. The latter is related to general tectonic framework and the plate tectonics.

4. The Environmental Impact Statement for Cannikin states at page 3 that, ". . . an explosion at Amchitka will not trigger a large earthquake (defined as one releasing as much or more seismic energy as the explosion itself) unless the occurrence of such an event is imminent, very near to the test site." The above quotation implies that no major earthquake will be triggered by the detonation of Cannikin unless such an earthquake would have happened in the immediate future irrespective of the detonation. However, tectonic stresses in an area may remain the same for a very long time without being released as an earthquake unless this stress field is disturbed. In other words, while it is true that a major earthquake would not be triggered by Cannikin if there were no existing tectonic stresses, it does not necessarily follow that these stresses would be released as an earthquake without the triggering force of the Cannikin detonation.

Examples of this type of phenomenon are numerous: the Rocky Mountain Arsenal and Denver earthquakes; the recent earthquakes in Koyna, India, and Kremasta, Greece, considered to be caused by the filling of reservoirs; and, of course, the after-shock activity and tectonic strain release associated with underground nuclear explosions in Nevada.

5. It is to be noted that the above quotation from page 3 of the Environmental Impact Statement was directed to large earthquakes, defined as ones releasing as much or more seismic energy as the explosion itself. The Impact Statement notes that the possibility of such an occurrence is "very unlikely" (page 3). While the probability of such a large earthquake being triggered by Cannikin is not great, it is certainly not inconsiderable and the use of the words "very unlikely" overly minimizes the danger of such an event occurring.

The Pile Driver and Hardhat detonations in Nevada both caused a release of tectonic strain energy ten times greater than the seismic surface wave energy of the explosions. While these detonations took place in a harder medium than that which surrounds the proposed Cannikin detonation, they indicate the extent to which a given underground nuclear detonation may trigger earthquakes of considerably greater energy than the seismic energy of the explosion. There have also been several explosions that were detonated in Nevada in tuff or rhyolite, geological materials similar to Amchitka volcanics. Among these explosions, Greeley released 3.4 times as much seismic surface wave energy due to tectonic release as due to the explosion. In other words, the earthquake associated with the Greeley explosion had 3.4 times as much surface wave energy as did the seismic surface waves generated by the explosion itself. With this scaling, Cannikin could release as much or more tectonic strain energy as the explosion-generated seismic energy in the surface wave spectral range.

On page 55, the last sentence of the first paragraph of the Environmental Statement states that, "This type of event differs from the premature triggering of a large natural earthquake (having more seismic energy than the explosion itself) which has never been observed from an underground nuclear test." However, on the basis of the Nevada experience, it is clearly possible to have an earthquake with larger energy than the explosion itself in a medium similar to that of Amchitka Island. To provide an idea of what this means with reference to Cannikin, the estimated surface wave magnitude of Cannikin would be approximately equal to that of the Los Angeles earthquake of 9 February 1971. If we apply our factor of 3.4 obtained from the Greeley detonation, we are talking about a possible earthquake with 3.4 times more energy than the Los Angeles earthquake.

6. Throughout the Environmental Statement, the experience gained from the Milrow detonation is relied upon in predictions of the seismic aftereffects and environmental impact of Cannikin (see, e.g., pages 32–34, 55). On page 55 of the Environmental Statement, it is stated that, "It is expected that the only observable effect from Cannikin will, again, be a cluster of small after-shocks in the vicinity of the explosion site."

In addition to the unreliability of attempting to extrapolate from a 1-megaton detonation to one of 5 megatons, the Milrow detonation occurred approximately 8 kilometers from the Cannikin site and, even at this distance, the tectonic release characteristics and seismic effects may differ significantly. This is primarily due to the existence of geologic and stress variations in the earth's crust from one place to another.

To give several relevant examples, two shots were detonated less than 1 kilometer (2,000 feet) to the north and east of Baneberry (see page 17, Environmental Statement). Despite these detonations in the immediate vicinity, large-scale venting occurred upon the detonation of Baneberry because the A.E.C. was unaware that the geologic substructure at the Baneberry site was watersaturated. Thus, two detonations in the immediate vicinity of Baneberry were insufficient to provide the data necessary for a safe detonation. It should be noted that Cannikin is over eight times more distant from the Milrow test site.

With reference to the above-mentioned Greeley detonation, the site for that explosion was approximately 5 kilometers from another test site, that of Boxcar. Greeley released over three times as much tectonic strain energy as the explosion surface wave energy, while Boxcar released less than one-half. Detonations were in volcanics, the size was approximately the same, and there is nothing that would differentiate these explosions as to yield, over-all location, and general characteristics. Yet the tectonic strain energy and release characteristics were altogether different. If from this experience we extrapolate to Amchitka, I do not think there is any assurance that Cannikin will have the same tectonic strain release characteristics as Milrow. As the estimate of environmental damage due to seismic activity has been projected from the data gained from Milrow experience, and since, as mentioned above, this data is limited both in extent and relevance, it is vital that the effects of a significantly differing tectonic strain release pattern be considered.

7. As was shown by the studies conducted in Nevada, the fault length and after-shock area of explosion-induced seismic waves generally depends on the size (yield) of the explosion. (F. A. McKeown and D. D. Dickey, "Fault Displacements and Motion Related to Nuclear Explosions," Bulletin of the Seismological Society of America, Vol. 59, pp. 2253–2269 (1969).) From the experience of the explosions in Nevada, it is reasonable to predict faulting with maximum linear dimensions of between 10 and 35 kilometers as a result of the Cannikin event. This means that the faulting could extend well beyond the limits of the Island and into the sea floor. The displacements across these faults, the exact length and the exact location cannot be predicted beforehand. However, most of the faulting that has been mapped in Amchitka Island runs more or less perpendicular to the structure of the Island. Since the Island is approximately 3 to 7 kilometers wide, the resultant faulting that is to be expected from Cannikin would clearly extend well beyond the land boundaries of Amchitka. While the effects of these faults cannot be evaluated with certainty, they raise problems relating to containment which have not been evaluated in the Environmental Impact Statement.

In addition, the Atomic Energy Commission, in its Environmental Impact Statement, on page 19, says that "In order to assure adequate containment of radioactivity, it is necessary to provide . . . adequate distance from faults . . ." However, there could be faults undetected by the surface geological mapping (note reference to suspected faults, pp. 19–20, Environmental Impact Statement), and there is no assurance that such faults do not exist. There is also no assurance that faulting at or near the detonation point may not take place due to subsequent natural earthquakes.

8. The Aleutians are one of the most active seismic areas of the earth. Large numbers of earthquakes of different magnitudes occur in most parts of the island chain. As a result of these, it is reasonable to assume that tectonic stresses are being accumulated and released by these earthquakes in the general area. The Atomic Energy Commission, in the Environmental Impact Statement, recognizes that, "That Aleutian Island chain is a region of intense seismic activity. In a typical year, several earthquakes of magnitude 6 or greater occur . . . with a great number of small quakes."

However, in the absence of reliable techniques of measuring stresses in situ, it is not possible to determine the stress characteristics of the general region where Cannikin will be detonated. Stresses due to the Cannikin explosion (which could be as much as 20 bars at a distance of 25 kilometers from the explosion point) would interact and modify the existing stress patterns in the general area. Even if this did not result in immediate occurrences of major earthquakes it could still alter the future seismicity of the region, the effects of which are not discussed in the Environmental Impact Statement.

Because of the above-mentioned active seismic nature of the general area, there is always the likelihood of intermediate and large earthquakes in the general region of Cannikin. The ground displacements and faulting associated with these natural earthquakes could interfere at any time during a period of years with the containment of radioactive products produced by the Cannikin explosion, creating faults which could provide migration paths for the radionuclides to the ocean. The problems relating to containment caused by the admitted occurrence of frequent natural earthquakes in the Amchitka area, earthquakes unrelated to the occurrence of the detonation itself, were not at all considered by the Atomic Energy Commission in the Environmental Impact Statement. Since such earthquakes, with the accompanying faults, occur frequently in the Aleutians, this element has a direct bearing on the likelihood of successful containment and the time scales estimated in the Impact Statement for the migration of radionuclides to the surface.

[U.S. District Court for the District of Columbia, Civil Action No. 1346–71]

AFFIDAVIT BY ROBERT MUELLER

The Committee for Nuclear Responsibility, Inc., et al., Plaintiffs, against Glenn T. Seaborg, et al., Defendants.

Robert Mueller, being duly sworn, deposes and says:

1. I am presently a Senior Scientist at the Goddard Space Flight Center in Greenbelt, Maryland, a research center for the National Aeronautics and Space Administration. My primary fields of research at Goddard are planetology and geochemistry, with emphasis on physical chemistry as applied to natural systems.

2. Prior to my work with NASA, I taught and did research in the areas of petrology and mineral chemistry at the University of California and the University of Chicago. My Ph. D. in geology was received from the University of Chicago.

3. During the past decade, deponent has published more than 50 papers in various professional journals, among them *The American Journal of Science, Journal of Geology, Science, Geochemica et Cosmochemica Acta, The Journal Encyclopedia of Earth Sciences* and *The Encyclopedia of Chemistry*.

4. I have read the final Environmental Statement written by the Atomic Energy Commission for project Cannikin, and believe that there exist serious omissions and incorrect assumptions made relative to the geochemical aspects of the containment of the underground detonation. (See pages 18 to 25 of the Environmental Statement.)

5. The basic principles of physical chemistry would seem to contradict the Environmental Statement's assumption that "Most of the radioactive material associated with the detonation will be incorporated into and trapped in rock melt, or will be adsorbed onto the surfaces of rock material. Most material will therefore be essentially retained in the bottom of the explosion zone." (p. 22).

6. In addition to the vagueness of terms such as "material" and "essentially," the geochemistry of the thermodynamic aspects of the stability and solubility of minerals and constituents does not appear to have been seriously considered. The bald statements that adsorption will take place and that radioactive isotopes will combine with the gaseous compounds and condense to form a glass-like material inside the cavity (pp. 18–19) are made with no attempt to justify such a conclusion. There is no support for this contention in the literature referred to by the A.E.C. in the Environmental Statement; indeed, no references are made in their 10-page bibliography to any pertinent articles in the field. This is unsettling at best, since there would appear to be an excellent chance that containment will not occur in the manner contemplated by the Environmental Statement.

7. In a chemical sense, containment has two aspects: (1) the degree of mobilization of the radionuclides in the sense of their dissolution from the rock or melt into the aqueous fluid and (2) the transport of this radionuclide-containing fluid away from the detonation site. While the second aspect, the transportation away from the site, is poorly treated, the first aspect of the problem involving dissolution of the radionuclides is virtually ignored in the Environmental Statement.

8. There are two principal mechanisms which have to be considered in relation to the aspect of the containment problem mentioned above: (1) dissolution of all the elements of the crystal, and (2) exchange of the radionuclides in the rock minerals and the aqueous fluid.

The first mechanism involves the dissolution of all the components of feldspar mineral which are the major constituents of the Amchitka rocks. The components are potassium, sodium, alumina, silica, oxygen, also calcium. In dissolution of the minerals, all these components go into the solution in the aqueous phase. This dissolution is enhanced by high temperatures and pressures such as will prevail at the point of detonation.

Adsorption on rock surfaces is significant only at low temperatures (room temperature or lower). At high temperatures (800° C), equilibrium is rapidly achieved between the water phase and the body of the rock. At such temperatures, all rock constituents including the radioactive material will go into solution in the water phase. This tendency to dissolve increases with temperatures and water pressure (Morrey & Hesselgesser, *Econ. Geol.* 46, 821, 1951; Ellis & Mahon, *Geochimica Acta*, 28, 1323, 1964—and others) and will occur both for glass and for crystalline rocks. Thus the mechanism of adsorption it totally erroneous applied here (p. 22, Environmental Statement) and only the term solubility should be used. The quantity of radioisotopes adsorbed by rock surfaces will be negligible compared to those dissolved within the phases. At 800° C. or greater (basalt melts at 110° C), the glass predicted at Pages 18–19 of the Environmental Statement is rapidly converted to crystals and equilibrium with respect to solubilities is achieved on a time scale of hours to months in most silicate systems in the presence of water. It must be kept in mind that if glass does not form and the melt crystallizes, most constituents will be less soluble in the crystals than in the glass. If glass forms initially and then devitrifies this material (including the radioisotopes) will be rejected into the water phase. (Nobel, Smith and Peck, Geochimica et Cosmochimica Acta, 31, 215, 1967. There is a voluminous body of literature in experimental physical chemistry and geochemistry on the solubility of radionuclides such as potassium and cesium in heated aqueous solutions such as will prevail at the test site. In addition to those works already mentioned above are such examples as Orville, 1963; Garrels and Howard, 1959; Gruner, 1944; Hemley, 1959, Morey and Chen, 1955; O'Neil, 1948; Wyart and Jabatier, 1956, and numerous others.)

9. The second mechanism is operative in saline waters such as are postulated to be present at the point of detonation by the A.E.C. at page 22, para. 1, of the Environmental Impact Statement. This mechanism involves the exchange of radionuclides in the rock, glass or melt with the aqueous solution. As saline solutions come in contact with the rock or melt, typical radionuclides such as potassium and cesium will exchange. In the exchange, potassium or cesium ions move out of the mineral rocks and pass into the surrounding saline solutions. Sodium ions in the solutions pass into the crystal minerals of the rock and the potassium and cesium go into solution.

This exchange reaction results in net displacements of radionuclides from the minerals into the surrounding solutions. The radionuclides are thus made available for transport out of the systems or away from the site of detonation.

10. The mechanism of exchange is well documented in the scientific literature. The pertinent experiments have been conducted over a broad range of temperatures and pressures which completely bracket conditions which will prevail after the detonation. For example, the works of J. W. Gruner, 1944, "Hydrothermal alternation of feldspar in acid solution between 300 and 400° C": *Econ. Geology*, vol. 39, pp. 578–589, and T. F. O'Neil, 1948. "The hydrothermal alteration of feldspars at 250–400° C": *Econ. Geology*, vol. 43, pp. 167–180; found that natural alkali feldspar react with aqueous alkali salt solutions.

11. Other references and documental experiments that bear on this problem are that of R. M. Garrels, and Peter Howard, 1959, "Reactions of feldspar and mica with water at low temperature and pressure": *Nat. Conference on Clays and Clay Minerals*, 6th, Proc., pp. 66–68; J. J. Hemley, 195. "Some mineralogical equilibria in the system K_2O-Al_2O_3-SiO_2-H_2)": *Am. Jour. Sci.*, vol. 257, pp. 241–270; G. W. Morey, and W. T. Chen (1955). "The action of hot water on some feldspars": *Am. Mineralogist*, v. 40, pp. 996–1000; Jean

Wyart and G. Sabatier 1956a, "Mobilities des ions alkalins at alcalino-terraux dans les feldspaths:" *So. Franc. Mineralogie Bull.*, vol. 79, p. 444-448; 1955. "Transformations mutuelles des feldspars alkalins; reproduction du microcline et de l'albite:" *Soc. Franc. Mineralogie Bull.*, vol. 79, p. 574-581. Two references 56A and 56B. One of the most recent documents is the comprehensive work of Philip M. Orville entitled, *Alkali Ion Exchange Between Vapor and Feldspar Phases.*

12. The experiments to which I refer here are parts of the great body of scientific literature and have withstood the severe critical scrutiny of the scientific community. The experiments described are so difficult and far-reaching that they would be extremely difficult for the A.E.C. to duplicate in the allotted time. Also, these experiments represent the highest order of experimental work since they involve the obtainment of chemical equilibrium values. They are thus set apart in quality from the experiments cited by the A.E.C.

The importance of equilibrium vs. non-equilibrium experiments is that equilibrium experiments provide a baseline for evaluating phenomenon which occur under a variety of conditions other than those of the experiment. They thus have a high degree of prediction value because equilibrium implies that their experiment can be repeated under the same physical conditions. This does not mean that their predictive value is confined to equilibrium conditions; they provide the direction in which all systems trend spontaneously.

In the experiments cited by A.E.C., the time scale is short and equilibrium was not established, consequently they have small predictive value for situations different from those of the experiment. For example, as a certain quality of radionuclide is leached in 16 hours in a leaching experiment, it is difficult or impossible to predict the quantity which will be leached in 16 days or 16 months. The latter time scales are of greater significance in the case of CANNIKIN than the short time scales cited in the A.E.C. experiments. At that, the leaching experiments fail to support the A.E.C., but actually show substantial leaching of radionuclides.

13. Although the mechanisms of dissolution and of exchange of the radionuclide components are effective at the relatively low temperature of 200° C, these mechanisms are greatly enhanced as the temperature increases. For example, if typical sodium chloride saline solution is in contact with a feldspar crystal, an increase in temperature will require that more potassium move out of the crystal into the saline solutions. This effect is particularly marked between 500° and 900°C. (Orville [1963]) Since the temperatures which will prevail at the point of detonation are those of molten basalt which is approximately 1100° C, it can be seen that temperatures will be ambiently high for a substantial movement of radionuclides such as those of potassium and cesium into the associated saline solutions. Reference: Eugster (1955), the exchange of cesium and potassium between H_2O vapor and feldspar crystals.

14. The chief failing of the Environmental Impact Statement is that it fails even to mention any of the many references to this great body of literature, nor does it describe equivalent experiments by the A.E.C. The field of geochemistry is virtually ignored, and there is a great void in the discussion of containment in the Environmental Impact Statement. This body of knowledge is vitally important to the problem of containment, not only because it brackets the temperatures and pressures which will prevail after detonation, but also because of the feldspar minerals in major components of the basaltic rocks present at the test site.

The cited equilibrium experiments are also important in fixing the time scales under the exchange, and chemical dissolutions can occur. Time scales carefully determined through experiments, refute the A.E.C.'s contention that the radionuclides will be trapped in the rock or melt (p. 22, Environmental Impact Statement). For example, in the work of Orville (1963), it was found that equilibrium was usually obtained in less than 300 hours. It should be noted first, that this time scale is long relative to the time scale of leaching experiments cited by the A.E.C. This means that the experiments were relatively much more difficult than the leaching experiments. However, it should be noted that the time scale of 300 hours or less is short when compared to the probable time scale of cooling of the molten rocks at detonation point. In other words, although the A.E.C.'s experiments cannot tell, then, what will happen during the time scale of cooling the equilibrium experiments, some of the referenced literature can tell us this very precisely.

15. In the matter of adsorption which is invoked by the A.E.C. to trap the radionuclides in the vicinity of the detonation (see p. 22, Environmental Impact Statement), it is interesting that adsorption phenomenon are never taken into account in the equilibrium experiments cited. The reason that adsorption is not considered in evaluating those experiments is that there is no evidence that it is operative to any sufficient degree. There just is not enough adsorption at temperatures above 200° C to show up. In fact, the phenomenon at adsorption is not significant in the A.E.C.'s own leaching experiments. Furthermore, adsorption is a mechanism which is never deemed significant in high temperature silicate experiments.

16. The high temperatures necessarily incurred as a result of the detonation of a nuclear warhead underground also mitigate against the formation of "a glass-like material inside the cavity" (pp. 18-19, Environmental Impact Statement).

Briefly stated, the formation of glass demonstrates rapid cooling. Cannikin is to be exploded at a greater depth and will be larger than any previous blast; both features contribute to a slower rate of cooling, assuming communication with the surface is restricted. Thus no glass may form, or if it does form initially it may devitrify in a short time, perhaps in hours or days. If, on the other hand, rapid cooling does occur in such a deep hot cavity, the A.E.C. is faced with explaining how this happens. Almost certainly rapid cooling of such a large mass would require fluid transfer to move the heat since conduction is too slow. But this again implies rapid movement of fluids through the rock and probably exchange with the surface. This is especially significant since the fluids (water solutions) accomplishing this heat transfer would have heavy radioactive content due to the dissolution and exchange mechanisms described above. See paragraphs 7-9, 13, *supra.*

17. It should be emphasized again that, although the A.E.C. insists that the radionuclides will be trapped inside of the rock, or glass, or on the surfaces of the rock and glass fragments, the cited experiments, including the A.E.C. leaching experiments, show just the opposite. They show, in fact, that when other saline or non-saline aqueous solutions are in contact with silicate rocks or glass on a time scale of the order of 300 hours or less, chemical equilibrium exchange of radionuclides takes place between the aqueous solutions and the deep interiors of the mineral crystal, such as feldspar and other phases, making those constituents available to the aqueous phase for subsequent transport away from the detonation site. Reference: American Journal of Science—May 1968—K. L. Currie, *On the Solubility of Albite in Supercritical Water in the Range 400 to 600° C and 750 to 3500 Bars*, and experiments and articles cited above.

18. While this brief outline of some of the most basic questions and problems is necessarily limited and incomplete, it may serve to emphasize the extent to which the Atomic Energy Commission has failed to discuss even the most obvious variables in the problem of containment. An unlikely conclusion is stated in the Environmental Statement with no evidence or documentation presented in support of it, while the great weight of scientific opinion has reached differing conclusions as a result of extensive and carefully controlled equilibrium experiments. These experiments indicate that rather than remaining trapped, radionuclides will either be dissolved directly in the water or, through the mechanism of exchange, be removed from the interior of the crystals or glass (if any) and pass into the water solution. This is especially significant, since migration of radionuclides to the surface is greatly enhanced when they are in water solution.

[U.S. District Court for the District of Columbia, Civil Action No. 1346-71]

AFFIDAVIT BY ROBERT MUELLER

The Committee for Nuclear Responsibility, Inc., et al., Plaintiffs, against Glenn T. Seaborg, et al., Defendants.

Robert Mueller, being duly sworn, deposes and says:

1. That deponent's background and qualifications are set forth in paragraphs 1-3 of deponents' annexed Affidavit of this same date.

2. This Affidavit is in reply to the Affidavit of Gary H. Higgins dated October 13, 1971, and received by plaintiffs in this action on October 23, 1971.

3. In response to Dr. Higgins' statement that he does not believe deponents' contentions have appeared in any scientific or other publications (paragraph 2), deponent respectfully refers this Court to the annexed Affidavit in particular, to paragraphs 3, 8, 10, 11, 13 and 17 thereof. Deponent believes that he need not make separate reference to his prior Affidavit of August 25, 1971, as the content of that Affidavit has been incorporated almost in toto in the annexed Affidavit for the convenience of this Court.

4. With reference to paragraphs 4 through 8, Dr. Higgins' Affidavit, I believe it is necessary to clarify for the Court the significance of the estimated time scales involved. Dr. Higgins is quite correct when he states that the temperature of the cavity will eventually cool to a temperature in the vicinity of 250° C. The crucial question is when this will happen and what will take place before it happens.

5. Immediately after detonation, the cavity will contain a vapor with a temperature in the one million-degree range. This temperature will cool through the mechanism of radiation fairly rapidly until it reaches the 2000-3000° C range. The cooling then becomes progressively slower as the temperature lowers approaching equilibrium.

6. In paragraph 8 of his Affidavit, Dr. Higgins states that, "Temperatures of 250° C rather than 800° C are probably representative of actual cavity conditions a few hours after the explosion." However, in paragraphs 4 and 5 of his Affidavit, Dr. Higgins states that lowering the temperature to this range is dependent upon the collapse of the cavity and the filling of the cavity with cold rock from above. The time when this collapse will occur is quite uncertain, and could well be a matter of days. On page 50 of the Environmental Impact Statement for Cannikin, the Atomic Energy Commission states, "Eventually, after a period which cannot be predicted exactly but which may be a day or so the unsupported rock arch above the cavity will collapse, . . ."

7. A day is an immense amount of time if considered relative to the question of whether radionuclides will go into water solution through the mechanisms of either dissolution or exchange (see my annexed Affidavit, paragraphs 8 and 9). As stated above, temperature reduction from 2000° C to 1000° C range will take a significant amount of time, and will almost certainly remain above the 1100° C point throughout a period such as the day postulated by the Atomic Energy Commission. If the cavity collapse is delayed beyond this period, as the Atomic Energy Commission indicates is certainly possible, the temperature will remain in the 750° C to 1000° C range for a matter of days. This decline in temperature could be accelerated by the admission of a large volume of water to the cavity, but such an event would facilitate and enhance the processes of dissolution and exchange referred to in the annexed Affidavit.

8. The chemical reaction to effect the exchange of potassium and cesium with the sodium in the water solution or water vapor will take place in a fraction of a second at the very high temperatures which will be present in the cavity after the detonation. The time required for this chemical reaction will gradually increase into seconds as the temperature of the cavity drops and cools. However, in the 1000° to 2000° C range, which will be present in the cavity prior to collapse, the mechanisms of exchange and dissolution of radioisotopes into water solution will occur in a matter of seconds. The vapor itself, which the Atomic Energy Commission claims will fill the cavity immediately after detonation, will consist of a vaporization of the water that had been in the rocks. Many of the radioactive ions will remain in the water that condenses from this vapor.

9. Thus it can be seen that the mechanisms of dissolution and exchange can and will take place for a considerable length of time before the cavity has collapsed and the temperature cooled to the 250° C postulated by Dr. Higgins. However, it should be pointed out that even at 250° C, the same mechanisms of dissolution and exchange will still take place. The significance of this drop of temperature is that the chemical reactions will take a considerably longer length of time to occur than was the case prior to such a drop in temperature. A reaction that was a matter of minutes or seconds at the extremely high temperatures prior to collapse will still occur at the lower equilibrium temperatures indicated by Dr. Higgins, but the chemical reactions would then be effected on a time scale on the order of a month or months, depending upon the temperatures prevailing and the nature of the solutions. As some of the radionuclides involved in the above-mentioned mechanisms of dissolution and exchange have half-lives which may be measured in terms of decades rather than months, the fact that these chemical reactions may take a month or months to take place at the lower ambient temperatures mentioned in Dr. Higgins' Affidavit certainly does not preclude their possible migration and escape.

10. With reference to paragraphs 8 and 9 of the Higgins Affidavit, Dr. Higgins states at the beginning of paragraph 8 that my belief that adsorption on rock surfaces will be very slight is based on the conclusion that cavity temperatures will remain high. In this, Dr. Higgins is partially correct. I do believe that cavity temperatures will remain high, certainly high enough to completely inhibit the mechanism of adsorption which does not take place to any significant degree at temperatures above room temperature. As stated in the annexed Affidavit at paragraph 15, the mechanism of adsorption was not only not considered significant in the experiments cited throughout the annexed Affidavit, but was also not considered significant in the Atomic Energy Commission's own leaching experiments. A cavity temperature of 250° C, such as postulated by Dr. Higgins in his Affidavit, would prohibit all but a negligible and insignificant amount of adsorption.

11. In addition, the mechanism of adsorption, while dependent upon cooling to room temperature levels, also requires pervasive penetration of the porous spaces of the rock by fluid. This process requires prolonged and intimate contact by the fluid with the grains in the rock. The Atomic Energy Commission's theory of adsorption is thus dependent upon an extremely slow diffusion of the water solution involved, a slow filtering through porous rock, a process whose time scale is measured in terms of years. Such a process is not at all consistent with the cracks and fissures which the Atomic Energy Commission admits will exist around the cavity after detonation (see, e.g., page 22, Environmental Impact Statement). A water solution enhancing the migration of radionuclides will not achieve the prolonged and intimate contact necessary for adsorption if such cracks and fissures are available for it to move through. These same cracks and fissures also permit the escape of the water solution long before temperatures in and around the cavity have an opportunity to cool to a range permitting any significant degree of adsorption.

12. With reference to paragraph 11 of Dr. Higgins' Affidavit, deponent respectfully refers this Court to the clear delineation of the adverse effects on containment set forth in the annexed Affidavit, as well as in the present one.

CERTIFICATE OF SERVICE

I certify that on the 28th day of October, 1971, I hand delivered a copy of the annexed Affidavits of Dr. Robert Mueller to: Thomas McKevitt, Esq., Department of Justice, 9th Street and Constitution Avenue, who is attorney for the Defendants in this action.

JAMES A. BURKE.

[U.S. District Court for the District of Columbia, Civil Action No. 1346-71]

AFFIDAVIT BY JAMES A. BURKE

The Committee for Nuclear Responsibility, Inc., et al., Plaintiffs, against Glenn T. Seaborg, et al., Defendants.

James A. Burke, being duly sworn, deposes and says:

1. That he is associated with the firm of Winer, Neuburger & Sive who, along with Harold P. Greene, Esq., Suite 1000, The Watergate Six Hundred, 600 New Hampshire Avenue, N.W., Washington, D.C. are attorneys for the plaintiffs in this action.

2. The annexed affidavit of David M. Evans is being submitted to this Court at this time without his signature. Mr. Evans is presently at the Colorado School of Mines in Boulder, Colorado. This affidavit was prepared from extensive notes left with your deponent by Mr. Evans, with changes from the form of his draft having been made solely for the sake of presentation to this Court in affidavit form. A copy of this affidavit was read slowly and carefully to Mr. Evans over the telephone and Mr. Evans then proposed and dictated any and all changes in wording and content that he felt were desirable. The affidavit now being presented to this Court incorporates all of the above-mentioned changes in wording and content desired by Mr. Evans. The affidavit in its present form was then again read in its entirety to Mr. Evans over the telephone, and Mr. Evans has authorized its presentation to this Court in its present form.

3. The original of this affidavit is, at this moment, in the process of being hand-delivered by air messenger to Mr. Evans to obtain his notarized signature. It will then be returned by air messenger to the attorneys for plaintiffs in this action, immediately thereafter to be delivered to this Court.

4. Your deponent believes that, in view of the intense time pressures now existent in the present action, it is both necessary and desirable to avoid, if possible, any further delay which would be occasioned by waiting until we have received a signed and notarized copy of the original affidavit. Deponent is therefore submitting the affidavit of Mr. Evans to this Court in its present form and attests that a subsequent identical copy with the notarized signature of Mr. Evans subscribed will be before this Court as soon as your deponent receives it upon its return from Colorado.

[U.S. District Court for the District of Columbia, Civil Action No. 1346-71]

The Committee for Nuclear Responsibility, Inc., et al., Plaintiffs, against Glenn T. Seaborg, et al., Defendants.

AFFIDAVIT BY DAVID M. EVANS

David M. Evans, being duly sworn, deposes and says:

1. Deponent is a Certified Professional Geologist with thirty-five years of experience in locating the situs and tracing the movement of underground fluids throughout the United States, Canada and Mexico. Your deponent received a degree in Geological Engineering in 1936 from the Colorado School of Mines.

2. Deponent is the author of numerous geological papers published by, among others, the Geological Society of America, the American Geological Institute, the Colorado School of Mines, the Rocky Mountain Association of Geologists, and the American Association for the Advancement of Science. Deponent is also a member of the American Institute of Professional Geologists, the American Association of Petroleum Geologists, the Rocky Mountain Association of Geologists (past president), the Wyoming Geological Association, and the American Association for the Advancement of Science, as well as being listed in *American Men of Science.*

3. It has been demonstrated that earthquakes can be triggered by raising subsurface groundwater fluid pressure. This subsurface fluid pressure may be raised through varying mechanisms. Damaging earthquakes, for example, have been triggered by raising underground fluid pressures through the filling of reservoirs, as in Kremasta, Greece, in 1966, and Koyna, India, in 1967. The Baldwin Hills Dam disaster in Los Angeles was caused by pumping into a nearby oil field. Your deponent demonstrated in 1965 that it was rising underground fluid pressures caused by pumping into a deep well which was causing the series of about 750 earthquakes which had occurred throughout the Denver area since 1962.

4. In view of the proven ability of increased subsurface fluid pressure to cause earthquakes, your deponent disagrees with the quotation on page 54 of the Environmental Impact Statement which states that, "An explosion will not trigger a large earthquake (defined as one releasing as much or more seismic energy than the explosion itself) unless the event is detonated near such a fault on which an earthquake of this magnitude is imminent." A significant rise in underground fluid pressure may cause an earthquake where none was imminent prior to such a rise in pressure (see, for example, Koyna and Kremasta, paragraph 3 above). This phenomenon comes about through the operation of the Hubbert-Rubey pore pressure effect; that is, as underground fluid pressure is raised, the frictional resistance between blocks of rock approaches zero.

"The rock medium surrounding Cannikin is fully water-saturated . . ." (page 18, Environmental Impact Statement), and this volcanic geologic substructure is replete with "faults", "fissures", "cracks" and "crevices" (pp. 19-24, Environmental Impact Statement).

In Denver, raising the fluid pressure 500

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pounds per square inch triggered crustal movement recorded as earthquakes. The underground detonation of Cannikin is projected to create a cavity containing rock vapor at a pressure of 15,000,000 pounds per square inch (Dr. James E. Carothers, Lawrence Radiation Laboratories, "Hearings on Amchitka Nuclear Tests, Anchorage, Alaska, CONGRESSIONAL RECORD, June 4, 1971, p. 18095. After the Milrow event of 1 megaton, water geysers were seen 4,300 feet from ground zero along streams and lakes, and along the shore of the island (Ballance and Dudley, "Hydrologic Effects of the Milrow Event," U.S.G.S. 474–71; page 51, Environmental Impact Statement). These geysers were the result of underground fluid pressure created by the 1-megaton Milrow event.

5. The Aleutian Island chain is a region of intense seismic activity (see, e.g., page 52, Environmental Impact Statement) with the geologic substructure of the Amchitka area under significant tectonic stress due to the constant ground movement in the area. The operation of the above-mentioned Hubbert-Rubey pore pressure effect (see paragraph 3, *supra*) as a result of the immense underground fluid pressures created by the 15,000,000 psi within the cavity created by the Cannikin detonation could very well trigger crustal movement beneath Amchitka resulting in an earthquake of significantly larger magnitude than the explosion. An earthquake caused in this manner need not have been imminent immediately prior to the detonation. The above-mentiond earthquakes in Denver and Koyna, India, took place in very stable areas, where there is no reason to suspect that an earthquake would take place due to natural causes.

It should be noted at this point that your deponent is differentiating between a discussion of "triggered" earthquakes involving the instantaneous release of tectonic strain energy occurring simultaneously with the detonation, and the lack of discussion of a drastic rise in underground fluid pressure causing crustal movement and resulting in a large (magnitude 7.4-plus) earthquake after the event.

6. The Atomic Energy Commission, in the Environmental Impact Statement, states that they believe the risk of a damaging tsunami (popularly referred to as "tidal wave") is negligible. However, this prognostication is based upon a belief that "The principal mechanism of wave generation is uplift or subsidence of the sea floor directly involved in earthquake source motion" (page 57, Environmental Impact Statement). Since the Atomic Energy Commission apparently believes that this type of motion is unlikely to occur to any great extent, they follow this assumption to its logical conclusion, namely, that the possibility of a damaging tsunami is negligible.

However, in a report on marine geophysical aspects of the Milrow event, it is stated that "...large tsunamis may be generated by slumping of unstable sediment or by movement along faults, and because both of these events might be triggered by a nuclear test..." (vonHuene and Carr, "Summary of Marine Geophysical Studies for the Milrow Event," *Geologic and Hydrologic Effects of the Milrow Event, Amchitka Island, Aleutian Islands, Alaska*, U.S.G.S. 474–71, page 66). The above mentioned report also sets forth evidence of sediment on the Aleutian Terrace and Trench which might become involved in large submarine slumping and resultant tsunamis after the detonation. References throughout the Environmental Impact Statement to such events as "rockfalls and earthslides" (page 2), "vertical displacement of the flat marine terrace" (page 51) and "sea floor displacement" (page 51), indicate that the slumping of such unstable sediment is quite likely.

8. In 1946, the worst tsunami on record to strike the Hawaiian Islands occurred following an earthquake in the Aleutian Islands of magnitude 7.4. It is considered that this earthquake involved movement on a thrust fault which broke the ocean floor, thus creating an extremely damaging tsunami. Von Huene and Carr, at page 70 of the report, mentioned above in paragraph 7, state that a seismic profile indicates the possibility of such thrust faults in the Aleutian Terrace or Trench offshore from Amchitka.

Since the Milrow event triggered fault movement (U.S.G.S. 474–71, *supra*) and movement along faults is predicted to take place upon the detonation of Cannikin (page 51, Environmental Impact Statement), and since movement along faults emerging into the Aleutian Trench and offshore from Amchitka has been established by seismic profiles and lineations in aerial photographs following Milrow (U.S.G.S. 474–71, *supra*), I believe there is a definite possibility that crustal movement triggered by the enormous fluid pressure rise caused by the Cannikin detonation will involve movement along these thrust faults. The result of such movement could be a damaging tsunami such as the 1946 event triggered by an earthquake of magnitude 7.4.

9. In view of the above considerations, your deponent is convinced that the degree of probability that a tsunami will follow and be caused by the detonation of Cannikin is greater than is indicated in the Environmental Impact Statement, and that there should be discussion in the Impact Statement of the above features as they relate to tsunamis.

10. In considering the transport and migration of radionuclides in groundwater from the cavity to the surface and, in particular, to the ocean, the Environmental Impact Statement states on page 24, paragraph 3: "A third mechanism involves the very unlikely assumption that the water within the cavity-chimney system becomes completely mixed, coupled with a second unlikely assumptions indicate contaminated water occurs only through a system of interconnecting fractures. Estimates using these assumptions indicate contaminated water would reach the sea in about two or three years after the cavity was filled—or some three years after the explosion."

The time scales estimated in the above quotation necessarily assume some particular size in the fractures leading away from the post-detonation cavity. The above estimate of two to three years far radionuclide—contaminated water to reach the sea is not only not "very unlikely", it may be an extremely conservative estimate. There is no method which enables prediction of the size of the fractures that will be available for the migration of the radionuclides to the surface. The volcanic geological substructure surrounding the proposed detonation chamber for Cannikin contains many fissures and cracks (see paragraph 4 above). The existence of known and suspected faults near the proposed detonation site has been referred to above (see parsgraph 8 above) and is discussed with reference to the migration of radionuclides in Easington, Fenske, and Nork, *Radioactivity in Water, Project Milrow*, p 3 NVO—1220–135, March, 1970: "These lineations may point out locations in the ocean floor where groundwater preferentially discharges from the island." They suggest that, with reference to the migration of radionuclides in groundwater through these faults and fractures, further work be done "to better estimate the location of radioactive materials. p 17

The Hubbert-Rubey pore pressure effect mentioned above in paragraph 4 presents the possibility of the opening of fracture systems along which contaminated groundwater could move rapidly into the ocean. The significance of the above-noted geysers and lineation (see paragraph 4, *supra*) is that they indicate possible movement along either existing or newly-created fractures.

Edward J. Lynch, in an Atomic Energy Commission publication entitled, *Transport of Radionuclides by Groundwater: Some Theoretical Aspects*, HNS—1229–61, November, 1964, noted that under conditions prevailing at the Nevada Test Site, the migration of contaminated water through fractures .05 inches in width would travel approximately one-tenth of a mile per day, and 16 miles per day through a fracture 6 inches in width. It should be noted here that the highly fractured volcanic substructure of the Nevada Test Site is geologically similar to the highly fractured volcanic substructure of Amchitka.

11. Deponent is convinced, in view of the above considerations, that sizeable fractures and fissures will be available after the detonation of Cannikin for the conduction of contaminated groundwater away from the detonation site at a rate and in a concentration considerably greater than the most negative model propcsed in the Environmental Impact Statement (page 25, paragraph 3). The likely existence of such cracks and fissures, combined with the sharply increased underground fluid pressure should result in water movement away from the cavity at a rate which would almost completely inhibit the absorption mechanism proposed by the Atomic Energy Commission for the containment of radionuclides. The Environmental Impact Statement is thus seriously deficient in that it fails to consider the harmful effects to the environment of radionuclides migrating to the surface far more rapidly and in much greater concentrations than is estimated in the Statement.

CERTIFICATE OF SERVICE

I certify that on the 29th day of October, 1971, I hand delivered a copy of the annexed Affidavits of David M. Evans and James A. Burke to: Thomas McKevitt, Esq., Department of Justice, 9th Street and Constitution Avenue, who is attorney for the Defendants in this action.

JAMES A. BURKE.

AN ANALYSIS OF THE NEW FEDERAL NATIONAL MORTGAGE ASSOCIATION CREDIT AND PROPERTY GUIDELINES

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. MITCHELL. Mr. Speaker, it is with a sense of urgency that I introduce into the RECORD the following article and correspondence. The article is an analysis by the Center for National Policy Review of the new Federal National Mortgage Association credit and property guidelines. The guidelines discriminate flagrantly against the black and poor, the aged and women.

I commend the Center for National Policy Review for undertaking this analysis, and I thank Mr. Daniel W. Spaulding of Baltimore for bringing this information to my attention. I hope that all of my colleagues will find the time to read this worthwhile and knowledgeable critique of the new Fannie Mae guidelines.

In addition, I have also included several letters and statements of position from organizations opposed to the new Fannie Mae position:

FNMA DOCUMENT—OUR REVISIONS AND COMMENTS

This document is an analysis of credit and property guidelines for the conventional mortgage market prepared by the Federal National Mortgage Association (FNMA) and dated December 2, 1970. The guidelines in their present form flagrantly discriminate against minorities, blue collar workers, families with working women, and senior citizens. If these guidelines remain in effect when FNMA is authorized to begin purchasing conventional loans, they will threaten to make it difficult or impossible for many of the people in these groups to obtain conventional mortgages.

What follows is Section 311 and 312 of FNMA's Conventional Selling Contract Supplement, with parenthesis enclosing portions we would delete, and with our suggested alternative language noted by italic.

SECTION 311. CREDIT AND PROPERTY UNDERWRITING

.01 General. FNMA believes that a quality underwriting program is an absolute necessity, not only to its stockholders but also to its goal and stimulating the flow of funds to housing through the development and continuation of an effective national secondary conventional mortgage market. Thus, FNMA will expect that the overall credit of the borrower and the property offered as security will be carefully evaluated by the Seller and that the Seller will not recommend any mortgage for purchase by FNMA unless the Seller (, through its own conventional lending experience,) believes the mortgage to be *an* acceptable *risk* to (prudent lenders) *private institutional mortgage investors* (generally) *in the context of these guidelines*. This recognizes that the Seller has interviewed the borrower(,) *so as to counsel the borrower on the rights and responsibilities of homeownership and on financial planning*, taken the loan application from the borrower, inspected the property offered as security, selected the appraiser, ordered and received the necessary borrower's credit documentation directly from the original sources and made an underwriting determination of the entire credit and property package prior to recommending the mortgage to FNMA for purchase.

To assure maximum understanding of these goals, FNMA will have a statistical spot-check system on credit and property through which FNMA and the Seller will know that the quality underwriting program is producing marketable mortgages. If FNMA's judgment is significantly different from that of the Seller, the matter will be discussed with the Seller. If FNMA determines that the Seller's loan production is inconsistent with the over-all FNMA objectives, prompt corrective action will be taken.

COMMENT

The phrase "through its own conventional lending experience" has been deleted because it tends to reinforce any past biases of the lender. The purpose of these FNMA guidelines is to set minimum standards, not to reinforce any reasonable or arbitrary standards the particular mortgage lender has previously used.

We have substituted the phrase "acceptable risk to private institutional mortgage investors in the context of these guidelines" for the phrase "acceptable to prudent lenders generally." The phrase "private institutional mortgage investors" appears in the FNMA Charter Act. The word "prudent" does not. Present standards in the conventional market vary widely. These FNMA guidelines will play an important role in standardizing what constitutes an acceptable risk to private mortgage investors.

FNMA has maintained that the interview is essential to assure that the borrower has been informed of his rights and responsibilities as a homeowner (although under current practices, such interviews often do not take place). This should be explicitly stated in the Guidelines. There is strong evidence that with proper counseling, the credit risk can be significantly reduced.

.02 CREDIT GUIDELINES

(a) General. As indicated elsewhere in this supplement, Seller must submit basic credit documentation, as typically required by other (prudent) *private institutional* mortgage investors. In addition, the Seller should submit any other helpful information or exhibits which might assist FNMA in promptly underwriting the application and avoiding unnecessary correspondence or delays. The following guidelines will be used by FNMA in underwriting the borrower's ability to repay the mortgage debt, unless the Seller's exhibits indicate a valid reason for departure from normal underwriting procedures because of meritorious circumstances.

COMMENT

The word "prudent" has been deleted and substituted with the words "private institutional," which conforms with the language of the FNMA Charter Act. The repeated use of the word "prudent" throughout this FNMA document is unnecessary and may serve as a signal to lenders to be overly conservative.

(b) Stability of Income. The borrower's application and supporting exhibits must (clearly) demonstrate stability of the mortgagor's income. If the mortgagor is not self-employed, a Request for Verification of Employment, FNMA Form 1005, or its equivalent, covering a period of (at least) three prior years must be submitted. *If the mortgagor is self-employed, he or she may submit, in place of FNMA Form 1005, financial statements on his or her income, the related profit and loss statements if applicable, copies of the Federal and/or State income tax returns, and a currently dated credit report on the borrower's business.*

COMMENT

The requirements for self-employed borrowers have been included in this section instead of (e) where they now appear. The FNMA dccument sets the standard in .02 (b) for the case where "the mortgagor is not self-employed." It is logical at this point to also describe the procedure if the mortgagor is self-employed.

In addition, we have deleted the words "clearly" and "at least" which appear in the FNMA document, because they do not change the substance of the standard, but merely serve as additional code words signaling the lender to be overly cautious.

(c) Secondary Income. (Secondary Income from overtime pay, bonuses, part-time jobs, etc., will generally not be considered as effective income unless special circumstances justify considering it as a future certainty and evidence of past earnings is established by providing three prior year's tax returns or W–2 forms.) *In determining whether or not income from overtime pay and bonuses qualifies as effective income, the key determination to be made is whether or not it is reasonable to conclude that such secondary income will probably continue during the early period of mortgage risk. The early period of mortgage risk is generally the first third of the total term of the loan. Pay from part time jobs should be counted only if it is reasonable to conclude that the mortgagor can and will continue part time activities during the early period of mortgage risk. Special consideration should be given to a borrower holding a second job for the express purpose of improving his living environment by developing the financial resources to purchase a home.*

COMMENT

Since nothing can be considered as a "future certainty," the FNMA document effectively excludes almost all secondary income as described in this section. This is arbitrary and unreasonable, and will have a discriminatory impact on minority citizens who often rely on such income as a regular part of their income.

We have made use of the operative language in FHA's underwriting manual. (See FHA underwriting—Mortgage Credit Analysis—Section 71927.)

The phrase "will probably continue during the early period of mortgage risk" is taken directly from FHA. (The definition of early period of mortgage risk is also taken from FHA.)

As for part time jobs, the phrase "can and will continue part time activities during the early period of mortgage risk" is also taken directly from FHA. We have included a sentence describing special consideration, because if a borrower is holding a second job for the purpose mentioned, this is an indication of his determination and of the kind of "character" that private institutional mortgage investors often are looking for in a potential mortgagor.

((d) Wife's Income. Generally an allowance will be made for a wife's earnings equal to 50% of her gross income provided her Request for Verification of Employment, FNMA Form 1005, indicates stability and continuity, special circumstances involving professional occupations, a history of several years of uninterrupted employment, etc., may warrant consideration of higher percentages, depending upon the circumstances.)

Income in the Case of More Than One Mortgagor. In the case of joint title to the property, the effective income of each mortgagor is computed separately, then added together to provide a sum for total family effective income. The key determination to be made is whether there are circumstances indicating that such income may normally be expected to continue during the early period of mortgage risk. Where such a determination can be made for a wife's income, it is best procedure to count it fully as effective income. The incidence of wife employment, as a characteristic of family life, has increased very substantially in recent years. Particularly where the wife's income has become necessary to maintain the family's standard of living, there is usually a reasonable expectation that the wife will continue to be employed. The principal element of mortgage risk in counting the income of working wives as effective income is the possibility of its interruption by maternity leave. Most employers recognize this possibility and provide for maternity leave, with job retention, as an inducement of employment. With strong motives for returning to work, and failure to do so after maternity leave would probably be due to causes which would be unpredictable and would represent such a very small percentage of volume that it would be an acceptable risk.

COMMENT

Setting an arbitrary percentage of 50% is unreasonable and without basis, and will have a serious discriminatory impact on minority families and blue collar families where the wife's income is often a significant and crucial factor in the family's income and standard of living. Using such an arbitrary percentage also disregards changing social conditions and the trend toward increased employment of women, and it is an unfair discrimination against families where the wife works.

FHA handles the determination of how to count a wife's income in a more realistic and less discriminatory manner. (See FHA underwriting—Mortgage Credit Analysis—Section 71924.) The phrase "circumstances indicating that such income may normally be expected to continue during the early period of mortgage risk" is taken directly from FHA. FHA's underwriting manual discusses changing social trends in some detail. Also described is how "in some of the low income groups, the wife's employment is a necessity

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for maintenance of an acceptable standard of living." The discussion in the last three sentences of this section in our revised version concerning maternity leave, employer's attitude, and the risk of the wife not returning to work, is taken word for word from the FHA underwriting manual.

FHA's practical experience with its standard should be noted. In 1969 in new single family homes in the section 203 program, the wife's income was counted in 89% of the cases where the wife worked. (See HUD Statistical Yearbook for 1969.)

((e) Self-Employed Borrowers. Income from commissions, fees, proprietorships, partnerships, businesses owned, etc., must be substantiated with supporting exhibits covering at least a three-year period of stable or increasing earnings. Such exhibits must include the financial statements on such income, the related profit and loss statements if applicable, copies of Federal and/or State income tax returns, and a currently dated credit report on the borrower's business.)

COMMENT

See comments to (b) Stability of Income.

(f) (Ratio of Income to Debt. Total monthly first mortgage payment of the borrower should generally not exceed 25% of allowable gross income. The borrower's total monthly obligations (which is defined to mean the total monthly first mortgage payments plus any other monthly installment obligations which extend beyond ten (10) months) should not exceed 33% of allowable gross monthly income except in special circumstances involving professional occupations, borrowers with unusual investments, unusual future potential income possibilities, etc., which may justify consideration of a slightly higher ratio.)

Ratio of first mortgage payment to income. Total monthly first mortgage payment should generally not exceed 25% of effective gross income. However this 25% figure should not be considered a strict rule. Particularly in the lower income ranges of the conventional market, it is reasonable to expect a situation where a greater percentage of family income is allotted to housing expense. One possible indication as to whether or not a greater percentage should be allowed may be found in some cases by a comparison of the proposed housing expense with the family's previous housing expense. If the family in the recent past has been spending greater than 25% of effective gross income and has been able to maintain a satisfactory credit record while so doing, or if the family has been paying 25% while at the same time building substantially on its savings, then allowance for a significantly greater percentage will be justified.

COMMENT

It is a well established fact that using a flat percentage of first mortgage payment to family income has no basis in practical experience. The lower the family income, the higher is the percentage of family income normally allotted to basic expenses such as housing. According to the FHA underwriting manual (Section 71903.3), "As income increases higher living standards and other financial obligations may demand a larger proportion of the family budget. It is also evident, that while a mortgage payment amounting to 25% of the mortgagor's income might be a burdensome housing expense for the higher income groups, it could be too conservative even if burdensome for the lower income groups who do not have so wide a market selection."

FHA recognizes the fact that local conditions, as well as conditions relating to the specific family, must play a role in determining the allowable percentage. Our revisions recognize this fact also, and we have included a discussion of some of the factors that can be taken into consideration.

The 33% guideline for total obligations has been deleted because we could find no basis for justifying the use of this figure.

(g) Age of Borrowers. Generally borrowers subject to mandatory retirement in the early (years of the) *period of* mortgage *risk* will not be favorably considered if the repayment of the mortgage debt depends upon continued employment. (In addition, the age of the borrower plus the term of the mortgage should not usually exceed 80 years. Exceptions to the foregoing might be warranted in special) *Where there are* circumstances involving sufficient guaranteed income from cash-on-hand, investments, continuing life insurance benefits, retirement benefits, etc., which reasonably assure an adequate ratio of retirement income to debt(.), *impending retirement should not be considered a disqualifying factor.*

COMMENT

The requirement that age plus term not exceed 80 years has been deleted because it will unreasonably discourage lenders from making loans to individuals who have saved or otherwise invested their earnings with a view toward purchasing a retirement home.

The phrase "early years of the mortgage" has been changed to "early period of mortgage risk" in order to standardize its meaning, since the early period of mortgage risk has been defined earlier in our revised version as constituting the first third of the total term of the loan.

(h) Borrower's Past Credit Ratings. The credit report, which must indicate a rating for all debts listed in the loan application, must establish a proper regard for repayment of contractual obligations; any reports of foreclosures, slow payments, collections, court suits, or other adverse ratings will usually disqualify the mortgagor from further consideration unless valid and verified reasons therefor can be established to eliminate the probability of recurrence.)

Borrower's Credit Rating. The manner in which the mortgagor has paid his obligations is an important criterion in determining acceptability. However, the existence of an occasional slow account in the record of the mortgagor does not necessarily indicate an unsatisfactory attitude. It is necessary to look for the general pattern of credit behavior rather than the existence of isolated delinquencies. Likewise, a period in the past containing financial difficulty does not necessarily make the risk unacceptable if subsequent thereto the subject has maintained a good record on credit extended. Anyone may get into a difficult situation through illness in the family, job layoff and many other unpredictable causes. If the subject has re-established his credit, he or she is not forever debarred because of past credit difficulties. However, numerous reports of adverse ratings in the recent past such as unsatisfactory accounts, court suits, unpaid bills at the point of former residence, collection accounts, etc., may disqualify the mortgagor unless extenuating circumstances (such as temporary illness) were present or until the mortgagor has re-established his or her credit rating.

COMMENT

The FNMA document is particularly rigid and unreasonable, with its reference to *any* reports of foreclosures, slow payments, collections, court suits, etc., as usually disqualifying the mortgagor. The burden for any previous credit problem, no matter how slight, or no matter how long ago, is squarely placed on the potential mortgagor.

Because the standard set by FNMA is so unreasonable, it would likely lead to discriminatory enforcement against minorities and families in the lower income ranges.

FHA's underwriting manual, in a long discussion of the problem, stresses the *pattern* of credit behavior as opposed to isolated difficulties. (See FHA underwriting manual—Mortgage Credit Analysis—Section 71944.) FHA also stresses the borrower's *current* credit rating, not past credit difficulties.

We have sought to capsulize the meaning transmitted in FHA's discussion. Most of the language is taken word for word from the FHA underwriting manual.

.03 Property Guidelines. The mortgaged premises must be located within the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands.

(a) General. Property securing an eligible mortgage must (be in a well maintained neighborhood which evidences a long term marketability and must) consist of one dwelling unit designed for single-family occupancy. The unit may be detached, semi-detached, row, or townhouse, with the underlying real estate owned in fee simple or an acceptable leasehold estate.

(To be acceptable, a leasehold estate (1) must have a remaining term running or renewable at the option of the lessee, for a period of not less than 21 years from the maturity of the loan, or to any earlier date at which the fee simple title will vest in the lessee, which is assignable or transferable if the same be subjected to the lien, and (2) the term of the mortgage must not exceed 4/5ths of the term of the lease, and (3) the leasehold estate must otherwise be acceptable to FNMA.)

FNMA believes that the key to the acceptability of a property is based upon satisfactory appraisal procedures and whether or not the property can be deemed marketable. (See .03(b) and .03(c).) FNMA does not have under any circumstances a "redlining" policy. FNMA will accept mortgages in all price ranges, in all locations where a market exists. However, FNMA expects Sellers to use whatever influence they may have in a given situation to encourage good planning, so that homes provide, to the extent possible, access to employment centers and to educational, recreational and health facilities.

COMMENT

The requirement in the FNMA document that a property be in a "well maintained neighborhood" (undefined) runs directly counter to FNMA's stated policy that it will not "redline" any area. Our revised version makes explicit this ban against "redlining."

Our revisions to these property guidelines are based upon the assumption that the proper framework for evaluating adverse influences should be in relation to the appraisal of the property. On the other hand, while prohibiting "redlining," FNMA should not be in the position of discouraging good planning.

((b) Favorable Factors. Generally, to be acceptable to FNMA, the property must possess the following qualities:

((1) A neighborhood evidence pride of ownership and comparable values which indicates a stable or upward trend in overall acceptability and property values.

((2) Free from adverse influences caused by zoning, land use, nearby commercial or industrial uses, busily traveled streets, offensive odors or noises, etc.

((3) Served by public utilities or private facilities adequate to service the premises.

((4) Improvements to the premises which are functionally designed for residential living and constructed of quality materials and standards of workmanship as are generally acceptable to typical home owners in the area.

((5) A site which is properly zoned, acceptable for residential use and improved with a dwelling adapted to the subject site.

((6) Convenient to schools, shopping, churches, employment centers, areas of recreation, transportation arteries, etc.

((c) Unfavorable Factors. FNMA has no rigid requirements defining acceptable or unacceptable properties, but certain characteristics will generally render the property unacceptable as a mortgage risk unless the

Seller (through its appraiser or otherwise) can provide satisfactory evidence that such apparent characteristics will not affect the value nor the marketability. Among the unfavorable factors are the following.

((1) Homes in declining neighborhoods.

((2) Homes that have depreciated excessively, physically, functionally, or economically.

((3) Over or under improvements affecting value and marketability.

((4) Neighborhood influences detrimental to enjoyment of the premises as residential use, e.g., airports, noise, odors, heavily traveled streets or expressways, industrial or commercial areas, etc.

((5) Neighborhood zoning or land use patterns inconsistent with residential use of the premises.

((6) Lack of vehicular access from the mortgaged premises to a public road or street.

((d) Older Properties. Any older property meeting the general requirements will be considered provided the bath(s), kitchen, heating, plumbing, and electrical facilities have been, or will be, sufficiently modernized to be acceptable to typical home owners in the area.

((e) Rural Properties. Property in outlying rural areas will be given consideration provided:

((1) The land value is equal generally to no more than 25% of the total appraised value of the property offered as security; and

((2) Seller has determined that adequate sewerage and water facilities and other utilities are available and in service on the premises; and

((3) The property is located within a community of homes or is in a strip development and the community or strip development abuts a federal, state or county highway or a well-traveled secondary road; and

((4) The Seller has determined that there are zoning or deed restrictions to protect against encroachments or adverse zoning influences or land usuages of adjacent real estate; and

((5) The property otherwise meets FNMA's general eligibility requirements.

((f) Military or Other Limited Industry Areas. Geographical areas dependent primarily upon one, or a limited diversification of employers, will be subject to close scrutiny because of the impact on the stability of housing in the area should such industry(ies) curtail or discontinue operations.)

COMMENT

We have deleted sections (b) Favorable Factors, (c) Unfavorable Factors, (d) Older Properties, (e) Rural Properties and (f) Military or Other Limited Industry Areas, and substituted (See pp. 12–13) the sections (b) Appraisal, (c) Marketability of the Property, (d) Danger to Health and Safety, and (e) Vehicular Access.

The sections (b) Favorable Factors and (c) Unfavorable Factors are internally inconsistent, confusing arbitrary, and unreasonable.

The statement that "FNMA has no rigid requirements defining acceptable and unacceptable properties" is inconsistent with the statement in (b) Favorable Factors that "the property *must* possess the following qualities:" (Emphasis added.)

Secondly, the requirements concerning neighborhood influences such as noise, odors, heavily traveled streets or expressways, nearby commercial or industrial uses, etc., if interpreted literally would rule out a great proportion of the properties in the country. With such obviously unenforceable guidelines, there is a strong likelihood of discriminatory enforcement.

Thirdly, some of the phrases such as "a neighborhood evidencing pride of ownership" and "Homes in declining neighborhoods" represent a clear attempt at "redlining" in direct violation of stated FNMA policy. The phrase "a neighborhood evidencing pride of ownership" is particularly objectionable not only because of its "redlining" aspects, but because it plays on all the discredited myths and prejudices concerning the attitude and practices of minorities in maintaining their property. Thus it serves as a code phrase discouraging lenders from lending to minorities.

In addition the references to "typical home owners in the area" are objectionable because they run counter to stated national policy to encourage economic integration.

Furthermore, what justification is there for setting special requirement for rural areas? (e)(3) may be interpreted so as to "redline" many rural areas in many states.

Finally, .03 (f), relating to areas with a limited diversification of employers, is not only not a standard, but it has the elements of a "redlining" policy.

In contrast to the FNMA document, with its emphasis on "favorable" and "unfavorable" factors, our revised version sets realistic and useful standards. (See below.) If a property meets the standards set for appraisal and marketability, and if there are no specific hazards to the property endangering the health and safety of prospective occupants, the any use of additional standards involving location can effectively set up a "redlining" policy.

(b) *Appraisal. The appraisal shall be deemed satisfactory if it is in conformance with the requirements set forth in section 205, 307, and 310 of this Conventional Selling Contract Supplement.*

COMMENT

To whatever extent neighborhood influences have a role to play in these property guidelines, such as convenience to schools, or adverse influences such as odors, they will be reflected in the appraisal. If the appraisal still meets the standard set (and if the marketability of the property is satisfactory) then excluding the property because of such influence is clearly a case of "redlining."

In our revised version, it is explicitly stated that the appraisal must be in conformance with the requirements of sections 205, 307, and 310 of FNMA's Conventional Selling Contract Supplement. Section 205 concerns FNMA's procedures for designating an appraiser as an "Acceptable Appraiser." Section 307 concerns the loan to value ratio. (By law, the loan to value ratio can not exceed 75%, except in circumstances involving private insurance, repurchase agreements, or where the Seller retains a participation.) Section 310 sets additional standards, including requiring the use of FNMA Form 1004, the Residential Appraisal Report.

(c) *Marketability of the property. The property shall be deemed marketable if it is reasonable to conclude that its value will not decline at a rate faster than the rate of scheduled decline of the outstanding balance of the loan.*

COMMENT

This standard recognizes that if it is reasonable to conclude that the value of the property will not decline at a rate greater than the scheduled decline of the outstanding balance of the loan, then the loan to value ratio of the mortgage is *not* threatened, and the mortgage is acceptable for purchase by FNMA.

(d) *Danger to health and safety. A property will be ineligible if a specific physical or environmental influence seriously endangers the health and safety of prospective occupants. Such conditions may arise from unsafe construction, serious danger of flooding, excessive smoke or chemical fumes, excessive noise endangering health, danger from fire or explosion, or inadequate water and sewerage facilities or other utilities.*

COMMENT

Even though such adverse influences as mentioned here will be reflected in the Appraisal and Marketability, FNMA should not be encouraging conventional mortgages on properties which pose a serious threat to the health and safety or prospective occupants.

(e) *Vehicular access. With the exception of properties in planned unit developments, the mortgage premises must be provided with vehicular access to a public road or street.*

COMMENT

The FNMA document (Sec. .03 (c) 6) can be interpreted as ruling out planned unit developments. Our revised document allows for this exception.

(g) Living area. Generally a property must contain a minimum of (1,000) *500* square feet of improved living area to be acceptable to FNMA; however, property with less square feet might warrant special consideration if customs of long standing in the area have indicated continued market acceptance and the property otherwise meets FNMA's underwriting requirements.

COMMENT

The requirement in the FNMA document of 1,000 square feet of improved living area is extremely conservative and would rule out much of the conventional mortgage market in the country. A 500 square foot home is not an unreasonable small home, and if a property meets the Appraisal and Marketability requirements set forth in our revised document, it should not be disqualified, as long as it meets a reasonable size standard. FHA's size standards are considerably more liberal than even this 500 square foot standard. (See FHA's Minimum Property Standards for one and two living units, Chapter VI, Section 602, SPACE STANDARDS.)

Section 312. Marketability. The marketability of a mortgage (should not be materially restricted (a) by any circumstances of, or condition affecting the mortgagor, present owner or their affairs, that would cause the mortgage to become delinquent, or (b) by any circumstances of, or condition affecting, the mortgaged premises that adversely affects the value or marketability of the mortgage or that would cause private investors to regard the mortgage as unacceptable for prudent investment) *shall* be *satisfactory if it meets the conditions set forth in Section 311 of this Conventional Selling Contract Supplement.*

COMMENT

In the FNMA document, Section 312 is not only redundant, but encourages extreme conservatism in part (b) by use of the phrase "any circumstances" and the word "prudent." Clearly if a mortgage meets the credit and property standards set forth in Section 311 in our revised version of this document, then its marketability is satisfactory.

STATEMENT OPPOSING FNMA'S GUIDELINES RESTRICTING MORTGAGE CREDIT

Westchester Residential Opportunities, Inc. is a non-profit organization which has assisted more than 150 black, white and Puerto Rican families to purchase homes in Westchester County, New York. In so doing, WRO has had intensive contact with mortgage lenders respecting both conventional and government-insured mortgages.

The minority families who have bought homes with aid from WRO clearly have expended great effort to better their quality of life.

In a clear majority of these cases, the wife was working and the lender gave credit to the wife's income where it was reasonably sure that she would continue to work. In a substantial percentage of families, the husband either earned overtime or held a part-time job, sometimes even a second full-time job. If this had been the family's employment pattern, such income was counted.

Finally, in some instances WRO has been called upon to investigate past credit problems, including judgments. We found that some derogatory information was mistaken,

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and that often problems occurred for non-recurring reasons such as illness or marital estrangement and therefore did not affect present credit worthiness.

Based on this on-the-spot experience, WRO supports the "Joint Statement in Opposition to FNMA's Guidelines Restricting Mortgage Credit" drafted by the Center for National Policy Review, and requests that our field experience as outlined above be given consideration.

WRO's program is integration-oriented. We provide the opportunity for black and Puerto Rican families to move out of the ghetto into white or integrated neighborhoods. If banks had literally followed the FNMA's guidelines in the past, virtually no integration would have occurred in Westchester County at all.

Respectfully submitted,

Dr. KENNETH B. CLARK,
Chairman of the Board,
Westchester Residential Opportunities, Inc.

LEAGUE OF WOMEN VOTERS OF THE UNITED STATES,
Washington, D.C., October 4, 1971.

Hon. GEORGE ROMNEY,
Department of Housing and Urban Development, Washington, D.C.

DEAR SECRETARY ROMNEY: During the past several years, the League of Women Voters has been working at both the national and local levels to expand housing opportunities for poor and minority groups.

We were pleased that the Emergency Home Finance Act of 1970 authorized FNMA to buy and sell conventional mortgages in order to facilitate the flow of credit for home mortgage financing. We thought this action would improve the access to these groups to mortgage credit. However, we are now distressed to discover that proposed guidelines formulated by the Federal National Mortgage Association for use by lending institutions will severely limit just these people from qualifying for needed mortgage credit.

This situation is particularly serious because the ability to purchase a home can determine a family's access to good schools, jobs, and a suitable living environment. These guidelines will therefore restrict minority groups, blue collar workers, and families with working women from obtaining not only decent housing but also other important "amenities" that affect present and future life opportunities.

We call your attention to the statement which has been released to the press today by the League as part of a coalition of civil rights, labor, consumer and other public interest groups. This statement contains a detailed criticism of the guidelines. It is most important that the guidelines be reconsidered in light of the issues we raise. The proposed guidelines, we believe will seriously impede attainment of our national goal of " a decent home and a suitable living environment for every American."

Sincerely,

Mrs. BRUCE B. BENSON,
President.

STATEMENT OF SEPTEMBER 23, 1971

FNMA's proposed credit and property guidelines reflect a vision of America that has always been a myth for most Americans: neat homes on tree-lined streets, Dick and Jane playing on the lawn with Spot, Father puffing on his pipe behind a newspaper after a productive day at the office, Mother occupied solely with making home warm and cozy for all. Most of the people in most of our cities—working people, black, white, brown or yellow—lead far different lives, but their aspirations to home ownership are no less deserving of respect and support by this country's financial institutions. We urge that the guidelines be withdrawn and redrafted in conjunction with a group of Americans who can reflect the diversity that has always been this nation's hallmark and pride.

Ralph J. Perrotta, Executive Director, The New York Project, New York, New York.
Mrs. Mary Sansone, President, the Congress of Italian Amer. Organizations, New York, New York.
Mrgr. Geno Baroni, Director, The Center for Urban Ethnic Affairs, Washington, D.C.

STATEMENT OF NELSON H. CRUIKSHANK ON FNMA MORTGAGE GUIDELINES

The FNMA mortgage guidelines limiting loans to cases where the age of the borrower plus the term of the loan does not exceed 80 years, will have a crushing effect on people over 55. The National Council of Senior Citizens deplores this unnecessary discrimination. There is no legitimate reason for arbitrarily denying mortgages to a large segment of the elderly population. Experience has shown that these people can live up to their obligations and that they do so with greater consistencey than the average borrower. The guideline ignores this experience and plants doubt in the minds of lenders who have had no previous hestitation. Many older people who would have had no trouble obtaining mortgages in the past can no longer be assured financing. Those who might have been able to demonstrate their ability to meet payments will no longer be considered at all, due to an arbitrary age limitation.

The purpose of national action to back up mortgaging is to encourage homeownership among people who might find it difficult by other means to finance a home purchase. Along with the other guidelines, the age limitation serves only to constrict the housing market and make homeownership more difficult, if not impossible, for groups who already face obstacles to participation in national life.

STATEMENT OF THE NATIONAL ORGANIZATION FOR WOMEN CONCERNING THE GUIDELINES OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION ON CREDIT AND PROPERTY FOR THE CONVENTIONAL MARKET

The National Organization for Women, with more than 200 chapters and 15,000 members throughout the United States, is in full support of the *Joint Statement in Opposition to FNMA's Guidelines Restricting Mortgage Credit*. We are deeply concerned that the guidelines as promulgated set standards for lendings institutions which will discriminate against women homebuyers and against homebuying families with working wives.

Particularly offensive is Section 311.02(d) headed "Wife's Income" and calling for a 50% allowance for a wife's earnings in determining the financial stability of a potential mortgagor. No where do the guidelines establish the possibility that a woman might be the principal mortgagor, fully entitled to apply for and receive credit as a borrower in the same way a male borrower would qualify. It is insulting to all women and clearly discriminatory to set an arbitrary rule that her earnings are worth only fifty cents on the dollar in the mortgage market. The concept implicit in this rule is that working women are only half-persons when it comes to dealing in the mortgage market. The rule is based on the fallacious reasoning that all women are only casual participants in the labor market. Nothing could be further from the truth; 37% of the entire workforce is female and nearly 60% are married. Nine out of ten women will work at some time during their lives and most working wives will spend anywhere from twenty to thirty-five years in the job market. It is clear that the rule-makers at FNMA are relying on antediluvian attitudes about women in setting forth their guidelines.

The National Organization for Women demands that the guidelines be revised to incorporate the concept that either the husband or the wife can be designated as the principal mortgagor and that the income of either spouse will be counted fully towards establishing credit. NOW also demands that the language of the guidelines be revised to establish clearly that women are considered qualified mortgagors—e.g. where the male pronoun appears in the text, the female pronoun should also appear. Wherever the word "wife" or "husband" appears, it should be changed to read "spouse."

These changes are fundamental because they get at the deeply-rooted sexism in American institutions and because the changes will expand the opportunity for more Americans to secure decent housing in a decent environment.

AILEEN C. HERNANDEZ,
Chairone, National Advisory Committee.

STATEMENT OF THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE ON THE FEDERAL NATIONAL MORTGAGE ASSOCIATION CREDIT AND PROPERTY GUIDELINES GIVEN BY DAVID A. CLARKE, DIRECTOR, WASHINGTON BUREAU, OCTOBER 4, 1971

We at SCLC find the proposed FNMA Credit and Property Guidelines to be especially discriminatory to the black and poor. We find that these guidelines make it impossible to obtain mortgages to purchase homes for the people who work the hardest and are most deserving, the blue collar workers, the families with working wives, the senior citizens, the urban and rural poor. We find that these guidelines in their present form are intended to aid only the relatively young families with husband with white collar jobs who intend to live in distant suburbs.

These guidelines direct mortgage-lenders not to count overtime, part-time jobs and bonuses as effective income, and to count only fifty per cent of working wives income as such. This is clear and blatant discrimination against those families who depend on secondary income to maintain any standard of decent living.

FNMA's twenty-five percent rule calls for a family to have an effective annual income of four times that of the first years mortgage payments. By not counting secondary income and only fifty per cent of working wives income, this rule combines with the ones previously mentioned to omit the black and poor. FNMA completely overlooks the fact that most lower income families spend over twenty five percent of their income for housing and in many cases have sacrificed and saved with the intent of buying a home.

Another guideline instructs mortgage-lenders not to make loans when the borrower plus the loan terms exceed eighty years. This unjustly excludes those who have worked and skimped for years to purchase a retirement home. FNMA here overlooks the fact that persons over fifty years old generally have excellent records of paying mortgage debts.

Perhaps the most unfair of these guidelines is the one which excludes applicants who have had previous credit problems, without regard to when or whether these problems have been cleared. FNMA does this without studying the causes of such problems, even though they may be due to temporary illnesses, unfair credit procedures, or errors of the credit bureau. For example, a person who felt that sometime in his life a claim was unjust, litigated it, lost and then paid can not receive a mortgage loan. He is in effect being penalized for exercising his civil right to a day in court.

While FNMA's stated policy calls for no redlining of any neighborhoods, the proposed guidelines run counter to this policy. FNMA rules as unacceptable those areas which are near airports, heavily traveled streets and expressways, industrial and commercial areas and areas which have offensive odors and noises. This clearly omits the black and poor in the central cities and many in industrial areas where assistance is most desperately needed.

We find that the FNMA guidelines run counter to the expressed intent of Congress to provide a secondary conventional mortgage market for all people. We find the words and promises of the Federal Government again negated by its actions and inactions to fulfill past and present commitments. The black and poor are again the victims and, on viewing national policy as being a "watch what we do and not what we say" policy, find it all the more wanting.

Integration does not mean assimilation. If we are to have an integrated society, then different cultures, sexes, classes and races must be treated equally. The proposed guidelines not only aid only one culture, sex, class and race, they also punish the remainder of our citizenry by driving, the wedge of separation deeper.

We urge HUD Secretary Romney and all other influential and interested parties to intervene and force FNMA to fulfill a national commitment in the interest of all Americans.

ORGANIZATIONS ISSUING JOINT STATEMENT IN OPPOSITION TO FNMA'S GUIDELINES RESTRICTING MORTGAGE CREDIT

Public Interest Research Group (Ralph Nader).
AFL–CIO.
United Automobile Workers.
National Association for the Advancement of Colored People.
National Urban League.
Southern Christian Leadership Conference.
National Organization for Women.
National Council of Senior Citizens.
National Retired Teachers Association–American Association of Retired Persons.
National Council on the Aging.
League of Women Voters of the United States.
National Urban Coalition.
Congress of Italian American Organizations.
The New York Project.
National Center for Urban Ethnic Affairs.
Center for National Policy Review.
National Council of Churches.
Housing Opportunities Council of Metropolitan Washington.
NAACP Legal Defense and Education Fund.
Mexican American Legal Defense and Education Fund.
Puerto Rican Legal Defense Fund.
Suburban Action Institute.
Center for Community Change.
Nonprofit Housing Center.
Westchester Residential Opportunities, Inc.
Potomac Institute.
National Association of Real Estate Brokers.
National Tenants Organization.
National Committee Against Discrimination in Housing.
Citizen's Advocate Center.

JOINT STATEMENT IN OPPOSITION TO FNMA'S GUIDELINES RESTRICTING MORTGAGE CREDIT

The signatories to this statement represent a coalition of groups concerned with protecting the rights and interests of racial and ethnic minorities, working people, consumers, women and senior citizens.

All of us have a major concern with expanding housing opportunities for all citizens. In seeking greater housing opportunities, the terms and conditions under which credit is made available for the purchase of homes are a critical matter for many people in this country.

The ability to obtain a mortgage to purchase a home determines whether or not a family is able to own their own home. It may directly bear on whether or not a wage earner has access to a good job. For young families, it may mean access to good schools and a decent environment for their children. For older people, it may provide an environment conducive to the enjoyment of their retirement years.

The Federal National Mortgage Association (FNMA) has taken action relating to home ownership that we believe will seriously limit the availability of mortgage credit for the people we represent.

The Emergency Home Finance Act of 1970 authorized FNMA, with the approval of the Secretary of the Department of Housing and Urban Development, to buy and sell conventional mortgages in order to facilitate the flow of credit for home mortgage financing. In anticipation of its entry into this secondary market FNMA has formulated and distributed credit and property guidelines for use by lending institutions which would be the sources for its mortgage purchases.

We have carefully analyzed these guidelines prepared by FNMA, and find that they flagrantly discriminate against members of minority groups, blue collar workers, families with working women, and senior citizens.

If allowed to go into effect in their present form (as found in Section 311 of a document entitled Conventional Selling Contract Supplement), the guidelines threaten to make it difficult or impossible for many of the people in these groups to obtain conventional mortgages.

Our fundamental objections to the guidelines are that their effect:

(1) is to treat harshly and unjustly the very people who are working the hardest to secure a decent life for themselves. The discriminatory impact of the guidelines falls heaviest on people whose income depends on overtime and bonuses, families with working wives, people who have overcome a previously unfavorable credit rating, and people who have struggled to accumulate savings only to find that they would be barred from obtaining a mortgage due to an arbitrary age limitation.

(2) is to encourage lenders to write-off areas of the central cities most in need of investment and revitalization. This amounts to redlining, a discredited practice that was officially repudiated as national policy years ago.

Accordingly, we have joined together to demand:

That FNMA recall its credit and property guidelines for the conventional market, and redraft them so that they are fair to all citizens.

That the Secretary of the Department of Housing and Urban Development refuse permission to FNMA to purchase conventional mortgages until the guidelines have been purged of their discriminatory effect.

As the first attempt by a government-sponsored agency to write credit and property standards for use in the conventional mortgage market, the negative consequences of FNMA's restrictive criteria indeed may be staggering. Lenders will want to comply strictly with the criteria in order to retain their option of selling mortages to FNMA.

Instead of encouraging lenders to make conventional loans to a broad range of people, FNMA's criteria as they now stand are likely to have the reverse effect of standardizing arbitrary practices that will deny home financing opportunities to millions of our citizens.

We are convinced that in granting FNMA the authority to set up a secondary market for conventionals, Congress had no intention of limiting the conventional mortgage market to a narrowly defined class of people in carefully selected communities.

FINDINGS

We find that FNMA's guidelines are unacceptable for many reasons, and among the most flagrant are:

1. *Mortgage lenders are directed not to count pay from overtime, bonuses, and part time jobs as effective income.* This is not only blatant discrimination against blue collar workers in general, but will have a discriminatory impact on minorities who often rely on such pay as a necessary part of their income to maintain their standard of living.

2. *Mortgage lenders are directed not to count a wife's income more than 50%.* Betting such an arbitrary percentage is unreasonable and without basis. It amounts to an unfair discrimination against more than 17 million American families where there are working wives. It completely disregards changing social conditions and the sharp trend toward increased employment of women.

We are particularly concerned about the serious discriminatory impact of this rule on minority and blue collar families where the wife's income often represents a significant and crucial contribution to the family's income and standard of living. All the evidence indicates that minority families would bear the largest burden if FNMA's archaic policy is not revised. A significantly greater percentage of wives in minority families work as compared to wives in white families. A recent survey conducted by the Office of Economic Opportunity indicated that for urban black families, the percentage of family income earned by secondary workers is 1½ times as much as the percentage earned by secondary workers in urban white families.

Our position is this:

A wife's income should be counted fully as long as it has been stable and circumstances indicate that it can normally be expected to continue during the early years of the mortgage. This procedure is already in use by the Federal Housing Administration. In 1969, in its regular insurance program for new single family homes, *all* of the wife's income was counted in 89% of the cases where the wife worked.

3. *FNMA's rule that the ratio of first mortgage payment to the family's effective income should not exceed 25%.* This completely disregards the well established principle that the lower the family income, the higher is the percentage of family income normally allotted to basic expenses such as housing.

To illustrate how this 25% rule would combine with the guidelines on overtime, bonus, part time pay, and wife's income to deny a family a loan, take the case of a family seeking a loan on a house where the total first mortgage payment would be $200 a month, or $2400 per year. To qualify for the loan, the family would need to have an annual effective income of 4 times $2400, or $9600. Suppose the husband makes $8000, of which $1500 comes from overtime and/or bonus pay and the wife has an annual income of $5000. Their combined income of $13,000 clearly should be substantially more than enough to qualify. However, under the FNMA guidelines, only $6500 of the husband's income and only $2500 of the wife's would count. The combined total of $9,000 would be insufficient and the family would be denied the loan.

4. *Mortgage lenders are instructed that loans generally should not be made in cases where the age of the borrower plus the term of the loan exceeds 80 years.* This will unreasonably discourage lenders from making loans to people who have saved or otherwise invested their earnings with a view to purchasing a retirement home. It is especially unjustified in view of the fact that citizens more than 50 years of age have traditionally had a very favorable record in paying their mortgage debts.

5. *FNMA's treatment of the borrower's credit rating.* This is one of the most objectionable features of the guidelines. Any report of a previous credit problem, such as a slow payment, would generally disqualify the borrower, no matter how slight the problem, or no matter how long ago the problem

existed. This guideline particularly will work a hardship against those who have been subjected to harsh credit practices.

The key to a borrower's credit rating should be the general pattern of recent credit behavior, not reports of isolated delinquencies which may be the result of disputed accounts, temporary illness, or actual errors by the credit bureau or others.

6. *FNMA's property guidelines revive the discredited practice of redlining.* This is revealed in such questionable statements as that the property must be in a "well maintained neighborhood," that it must be in "a neighborhood evidencing pride of ownership" and that "homes in declining neighborhoods" will be generally unacceptable. Although left undefined, these phrases may well be applied by lenders to withhold credit from areas of central cities which need assistance most desperately.

We also take exception to FNMA's statement that a property will be generally unacceptable if there are "neighborhood influences detrimental to enjoyment of the premises as residential use, e.g., airports, noise, odors, heavily traveled streets or expressways, industrial or commercial areas, etc." Interpreted literally, these criteria could conceivably rule out a great proportion of the properties in the country. With such obviously unworkable guidelines, there is a strong likelihood that the exercise of individual discretion will lead to discriminatory results.

7. *FNMA's requirement that a property generally must contain a minimum of 1000 square feet of improved living area.* This figure is extremely conservative and would rule out much of the conventional mortgage market in the United States. At a time when the Department of Housing and Urban Development is encouraging technological breakthroughs to increase efficiency in the use of space, this restriction is anachronistic.

In addition to the above objections, we are disheartened by the complete absence in FNMA's document of any mention of the civil rights responsibilities of mortgage lenders. Each seller of mortgage loans to FNMA should be required to provide a warranty that it does not discriminate in the making of mortgage loans and that it has not discriminated against individual mortgagors in the fixing of the terms of loans, because of the race, color, religion, sex or national origin of the mortgagor or potential mortgagor or any person associated with him in connection with the loan or the purposes of the loan, or prospective occupants of the dwelling. The same type of warranty should be provided in connection with the servicing of the mortgage.

NECESSITY OF CHANNELING MORTGAGE MONEY WHERE IT IS MOST NEEDED

The legislative history preceding the passage of the Emergency Home Finance Act of 1970 indicates that providing FNMA with the authority to purchase and sell conventional mortgages was intended to facilitate the flow of housing credit for such mortgages. The legislative history also indicates the anticipation that FNMA's entry into the secondary market would be preceded by efforts to standardize conventional mortgage lending in the United States, which has heretofore operated under a wide diversity of practices and procedures. Although we have no quarrel with these goals, one often expressed fear has been that funds might be diverted from those segments of the housing market most in need. In fact, Secretary Romney in his testimony before Congress last year, while supporting the establishment of a secondary market for conventionals, stated that one of the major problems would be to assure that funds not be diverted from the low- and moderate-income segments of the housing market, whether conventionally financed or not. But paradoxically, FNMA's guidelines, as presently written, will assure the diversion of such funds. That is why the Secretary's intervention at this time is an absolute necessity.

CONCLUSION

We have been forced to intervene in this way at this time because of the insensitivity shown by FNMA to the needs for expanded housing opportunities. It seems to us elementary in a democratic society that an action affecting the aspirations of such a large segment of the population should have been preceded by some opportunity for public scrutiny and consideration.

FNMA's status as a quasi-public agency cannot be used to shield it from its public responsibility. It is answerable for what it does, and we mean to hold FNMA accountable for its lack of concern for the public interest.

FNMA has been advised of the objections raised in this statement. The Center for National Policy Review, with the assistance of the Public Interest Research Group, prepared a document specifying objections to the guidelines and suggesting alternative language to FNMA's credit and property criteria. Although no opportunity was provided for a discussion of our revisions in a public hearing, several of the signatories met with officers of FNMA and our proposed changes served as the basis for the discussion. However, we have had no evidence to date that this attempt at private negotiations has had any meaningful impact.

The promise of decent housing has long been expressed as one of this nation's priority objectives. Twenty-two years ago, the Congress declared as basic national policy the realization "of a decent home and a suitable living environment for every American family." In 1968, faced with the failure to fulfill this commitment, Congress enacted the most far reaching housing legislation in our history.

The critical housing situation again prompted Congress to act in 1970 by passing the Emergency Home Finance Act. Title II of that act provides FNMA with a mechanism to broaden the base of home ownership. FNMA's action, however, subverts the very spirit and purpose of the legislation and represents a retreat from our national commitment.

NATIONAL COMMITTEE AGAINST DISCRIMINATION IN HOUSING (NCDH)

WASHINGTON, D.C., October 4.—U.S. Secretary of Housing and Urban Development George Romney has been urged to withhold his approval for Federal National Mortgage Association purchase of conventional mortgages "until Fanny Mae revises the blatantly and retrogressively discriminatory credit regulations it has proposed."

The appeal to Romney was made in an October 1 letter (released today) from Edward Rutledge, chief executive officer of the National Committee Against Discrimination in Housing (NCDH), the nation's only public interest organization concerned wholly with civil rights aspects of housing.

NCDH warned Romney that the Fanny Mae proposals "would turn the credit clock back more than a generation for the nation's racial minorities and for the poor. It is frankly incredible that a responsible federally regulated agency could in 1971 propose discriminatory regulations that another Federal agency—FHA—had eliminated years ago.

"Approval of Fanny Mae mortgage purchases under the proposed guidelines would directly contradict the President's June 11 policy statement. It would also contradict recent steps taken by HUD under your leadership to rewrite regulations governing federally subsidized and insured programs so that minority citizens have the same housing choices enjoyed by whites," the letter continued.

"Further, for you to concur in Fanny Mae operations under the guidelines would be to concur in Fanny Mae contravention of Title VIII of the 1968 Civil Rights Act, as well as the 1968 U.S. Supreme Court decision outlawing all racial discrimination in housing everywhere," NCDH pointed out.

"The process of mortgage financing is at the core of the operation of the entire housing market. If Fanny Mae is permitted to operate under regulations that so clearly deny opportunities to racial minorities, whatever progress we have made to date in opening any area of the market would be in jeopardy," NCDH emphasized.

NCDH, which counts some 50 national groups as cooperating organizations, has been since 1950 the leading force in nationwide challenges to racially discriminatory Federal policies and practices that have forced segregated residential patterns on the nation's cities and suburbs.

MORE ON THE CASE OF OPERATION KEELHAUL

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. ASHBROOK. Mr. Speaker, on a number of occasions I have inserted in the CONGRESSIONAL RECORD information on Operation Keelhaul, a project in which the United States cooperated to return to the Soviet Union against their will over a million Russian prisoners and displaced persons at the end of World War II. As pointed out before, this depressing tale has been brought to public attention mainly through the efforts of Prof. Julius Epstein of the Hoover Institution at Stanford University who has for years sought to publicize the details of this tragic betrayal in which the United States played a part. In order to have the Operation Keelhaul files released to the public, Mr. Epstein finally went to court to compel the Department of the Army to declassify the material only to be denied certiorari by the U.S. Supreme Court. Because of the Supreme Court's decision in the so-called Pentagon Papers case, Mr. Epstein has again initiated legal proceedings and hopes finally to overturn the Army's position and bring the whole story to public view.

Mr. Allan C. Brownfeld, whose study on the New Left was published by a Senate subcommittee several years ago, looked long and carefully into the Operation Keelhaul case and has covered the many facets and ramifications of this episode in an extensive article for Human Events, appearing in the October 2, 1971, issue. Mr. Brownfeld's articles have appeared in a variety of publications, and his law background combined with this talent in investigative reporting qualify him highly to handle the Keelhaul affair. I include the above-mentioned article, "Operation Keelhaul" by Mr. Brownfeld in the RECORD at this point:

OPERATION KEELHAUL

(By Allan C. Brownfeld)

When the New York *Times* came under fire publishing the Pentagon Papers, it made quite a fuss about freedom of the press and the public's right to know. The Supreme Court, then, upheld the right of the *Times* to publish the stolen papers without prior restraint.

Since both the *Times* and the court have come down on the side of "freedom," it would be only natural to expect that this belief would find some expression not only in the case of stolen documents, but also in the case of documents now unavailable but being sought by a reputable historian using all of the proper administrative procedures.

The almost unbelievably shocking facts in the case of Operation Keelhaul (keelhauling: hauling a man under the keel of a ship), however, show this not to be the case. In what is believed to be the first citizen's suit seeking to declassify a government document under the Freedom of Information Act, the *Times* remained silent and the Supreme Court refused to hear the case.

Operation Keelhaul was the name given the forced repatriation of nearly a million anti-Communist Russian prisoners and displaced persons from Germany to the Soviet Union at the end of World War II.

Prof. Julius Epstein of the Hoover Institution of Stanford University—who has done extensive research on the subject—estimates that between two and five million people in prison camps in Germany, Great Britain, Canada and the United States were forcibly shipped back to the Soviet Union against their wishes to face death or concentration camps at the hands of Soviet leaders.

What the fate of these anti-Communist Russians would be if returned to the Soviet Union was clear. Stalin, upon learning of the large numbers who were surrendering, had issued a top secret order in which he admitted that "on all fronts there were people given to panic, going over to the enemy and throwing away all their weapons."

In a later order he declared that all Soviet soldiers who became German prisoners were judged to be traitors. Stalin is reported to have said, in response to a request for an exchange of postal arrangements for prisoners, that "There are no Russian prisoners of war. The Russian soldier fights on till death. If he chooses to become a prisoner, he is automatically excluded from the Russian community. We are not interested in a postal service only for Germans." Thus, for Stalin the words "prisoner" and "traitor" were synonymous.

United States officials, by even the most generous estimate, had every reason to know what fate was in store for Russian prisoners of war. A member of the International Red Cross delivered to the United States delegation in Switzerland in 1944 a lengthy memorandum relative to the problem which Russians and others of Soviet citizenship would face after the impending allied victory.

Being of Baltic parentage and having good contacts with both the Germans and the Soviets, the Red Cross official was able to present a very astute analysis which proved to be a remarkably accurate forecast of what actually took place. In his memorandum he gave a figure of 1.5 million as the number of Soviet citizens who had been recruited for service with the Germans. He further expressed the opinion that the NKVD or secret police would deal harshly with these persons, based upon their performance in areas liberated from the Germans up until that time.

He went on to state that these people "have been told again and again that, should they surrender, they risk being delivered by the Anglo-Saxons into the hands of their Soviet ally."

The memorandum ends with a plea that the International Red Cross work through the Allied governments in order to save these people. In his doctoral dissertation on Operation Keelhaul, Fred Smith of Georgetown University wrote, "Obviously, this memorandum was ignored or not properly considered. I can say, however, that it was seen by those responsible for policy in this regard, as I did observe their initials on the communication."

Svetlana Alliluyeva (Stalin's daughter), in her book *20 Letters to a Friend*, commented on the treatment of the families of Russian soldiers taken by the Germans: "Yakov's little girl Gulia was reunited with her mother, who had spent two years in prison under the statute providing for punishment of relatives of those who had been taken prisoner. Everyone who was taken prisoner, even if they had been wounded (Yakov was), was considered to have 'surrendered voluntarily to the enemy.' Is it any wonder that when the war ended many of them didn't want to come home?"

One large group of Soviet nationals who had additional reasons for not returning to the Soviet Union were the more than two million who had joined the so-called Vlasov Army, organized by Gen. Andrei Vlasov, who, before his capture by the Germans in 1942, had been decorated by Stalin for his role in the successful defense of Moscow.

With the help of the Nazis, Gen. Vlasov publicly proclaimed a Russian national liberation movement and invited other of his compatriots to join in overthrowing the Stalin regime. With other Soviet nations, Gen. Vlasov, in his Smolensk manifesto, made 13 demands on the Soviet regime which included the abolition of forced labor, collective farms, freedom of religion, conscience, speech, assembly and press, among other things.

After the German capitulation in May 1945, Gen. Vlasov marched south toward the American forces in response to the Allies' declaration that surrender would result in fair treatment according to the Geneva Convention. Before the downfall of the Nazis, the Americans and British had dropped millions of leaflets and so-called safe-conducts signed by Gen. Eisenhower inviting the Germans and those who had fought with them to lay down their arms in exchange for fair treatment.

Prof. Epstein notes that in its leaflets the War Department at first promised the Vlasov troops "speedy return to your beloved fatherland"—the very fate they feared most. Later other leaflets were dropped on Vlasov's troops promising that "we shall never return you to the Soviet Union." Vlasov's troops, however, were among those Russians later forcibly repatriated to the Soviet Union.

At the beginning, American policy on this question was firm and understandable. Secretary of State Cordell Hull, in a telegram to Ambassador Averell Harriman in Moscow, dated Sept. 15, 1944, stated: "In order to avoid the risk of reprisals against American nationals in enemy hands, no person taken as German prisoners of war have been delivered to Allied governments against their will."

The policy of Great Britain is also relevant to the unfolding story of Operation Keelhaul. The American political adviser on the staff of the Supreme Allied Commander of the Mediterranean, Kirk, pointed out to the secretary of state that information reaching him from the War Office in London indicated that an agreement had been made by the British with the Soviets to repatriate all Soviet prisoners of war from the Middle East, ". . . irrespective of whether the individuals desired to return to Russia or not." Evidently, this was a unilateral decision on the part of the British.

In an airgram on the same day he reported that the American forces in Italy had turned over to the British four officers and 3,764 enlisted men who claimed Russian nationality, and in southern France two officers and 2,662 enlisted men claiming Russian nationality had been captured by Americans.

"The evidence available to me," wrote Fred Smith, "shows that very few of those unfortunate people who were returned were ever put to work in the Soviet war effort, except in forced labor camps. Many were summarily shot and a prison term was the least that most of them suffered. All prisoners were processed through 'filtration camps' as a matter of routine, where their individual degree of treason was determined."

In his article, "From the Gallery of Wartime Disaffection," Alexander Dallin had described the tragic fate of a high-ranking Soviet officer, Lt. Gen. Mikhail Fedorovich Lukin, who was captured on the field of battle, after having been seriously wounded in the so-called Vyazma Encirclement in 1941.

Gen. Lukin resisted all the tempting offers of the Germans, including an offer from Gen. Vlasov himself, to join in anti-Soviet efforts. Lukin resisted these lures, in spite of the fact that his anti-Stalinist views were well known. Immediately after his capturre, in fact, Lukin asked that his capture be announced and that if it had been, he wanted the Germans to state for the record that he was both wounded and without arms when captured.

However, Lukin's valiant behavior was to no avail. When he was returned to the Soviet Union he was imprisoned and died in a Smolensk prison in 1947. As Dallin put it, "He had wanted to be a patriot in spite of Stalin. Stalin made him a traitor in spite of himself."

The United States government abandoned its own policies concerning political asylum, and did so only with regard to those who sought asylum from communism.

Evidence of this is contained in a memorandum by Mr. Gufler of the Special War Problems Division dated Oct. 17, 1944 and addressed to the chief of the Division of Eastern European Affairs, Charles Bohlen. It stated:

"The new policy toward Soviet nationals differs from the policy hitherto followed with regard to them and with the policy which it is proposed to continue to follow with regard to other Allied nationals. The most noticeable difference is that no persons claimed by other Allied governments are delivered to the custody of those governments against their will. The adoption of this new policy towards the Soviets will result in the delivery to the Soviet authorities of persons hitherto withheld from them because they were unwilling to return to the Soviet Union."

On Dec. 20, 1944, this policy was made firm by Secretary of State Stettinius, who stated: "The policy adopted by the United States government in this connection is that all claimants to Soviet nationality will be released to the Soviet government irrespective of whether they wish to be so released." In his dissertation Fred Smith writes that "my research indicates that the fate of these people was sealed at this early date." Julius Epstein estimates that the United Staets eventually forcibly repatriated some two million people.

There is an apparent conflict between Secretary of State Edward R. Stettinius' view and that of Acting Secretary of State Joseph Grew. Grew goes on to explain the department's view of the Geneva Convention: ". . . This action has been taken because the Geneva Prisoner of War Convention does not specifically provide for situations such as that which has arisen from the incorporation by the Germans of captured persons of foreign nationality into German military formations.

"It appears to the appropriate American military authorities, who have given most careful consideration to this situation, that the clear intention of the Convention is that prisoners of war shall be treated on the basis of the uniform they are wearing when captured and that the detaining power shall not look behind the uniform to determine ultimate questions of citizenship or nationality. . . ."

This, of course, was precisely what the Soviet Union was asking the United States to do. They were insisting that all possible claimants to Soviet citizenship be sorted out, not just to facilitate their return to the Soviet Union, but in order to see that none of them went unpunished.

Acting Secretary Grew goes on to make even clearer the fact that the American motive in this was very selfish, that our primary concern was the welfare of American prisoners who were still in German hands. He further states:

"There are numerous aliens in the United States Army, including citizens of enemy countries. The U.S. government has taken the position that these persons are entitled to the full protection of the Geneva Convention and had informed the German government over a year ago that all prisoners of war entitled to repatriation under the Convention should be returned to the custody of the U.S. regardless of nationality.

"In view of the fact that the United States has taken this position with regard to American prisoners of war in German hands, it is the opinion of the competent American authorities that, if we should release from a prisoner of war status persons who claim protection under the Geneva Convention because they were captured while fighting in German uniform as members of German formations, the German government might be afforded a pretext to subject to reprisal American prisoners of war in German hands."

At this point, while the Germans still held American prisoners, our government seemed to know exactly what the issues were.

The actual stories of the forced repatriation of anti-Communist Russians to the Soviet government by American authorities is a sad chapter in our country's history, for it marks a retreat from all of our traditional standards.

For example, various recalcitrant ex-Soviet soldiers had been collected at Fort Dix, N.J. They numbered 154. On June 29, 1945, an attempt was made to take them to a ship bound for the Soviet Union. The next day The New York *Times* reported that three of the men had committed suicide rather than return.

It seems that when these men had learned of the American intentions, they had barricaded themselves in their barracks and a riot ensued. The American soldiers had fired tear gas. The prisoners in turn had rushed out of the building wielding knives and clubs. The American soldiers opened fire, wounding some of the men. After the riot had been quelled, the three suicides were discovered in the barracks.

Another source states that the group which rioted at Fort Dix was composed mainly of prisoners who had refused to board a ship on the West Coast for the Soviet Union and were subsequently brought to Fort Dix for shipment over the Atlantic route. The same source states that there had been one prior attempt to load them aboard ship on the East Coast, but that the prisoners succeeded in disabling the ship's engines with their bare hands in order to prevent the sailing. This same author states that the men were finally fed drugs with their food and were got aboard the ship in that manner.

As one might suspect, some Allied officers developed a strong distaste for this whole business, which was certainly not in the tradition of political asylum of either the United States or Great Britain. Many officers became very defensive about the matter, as indeed is the Department of the Army even today.

One British officer was reportedly court-martialed for refusing to obey an order from Russian agents. The story is told by David Dallin in his article, "The Repatriation Crime of World War II," in *The New Leader* of April 21, 1952, of another British officer who went insane as a result of participating in these events.

At Kempton in southern Germany, some 410 former Soviet citizens were repatriated against their will on Aug. 12, 1945. Thousands of Russian refugees were located in this camp and complete panic ensued when the American camp authorities announced on the day before that these people were to be repatriated. The people to be sent back took refuge in their church and their removal was particularly brutal; American soldiers literally broke into the church and demolished it while dragging these people out. Some escaped, some were suicides and there were a number of wounded on both sides.

Evidently, the raising of this topic at the meeting of the Council of Foreign Ministers resulted in some queries being sent to Washington. On September 29, Acting Secretary of State Dean Acheson sent a fairly lengthy telegram to Secretary of State James F. Byrnes summarizing the American policy dilemma as regards repatriation.

Acheson stated that the State-War-Navy Coordinating Subcommittee for Europe had proposed the following two resolutions: "(a) Interpret the Yalta agreement as meaning that all Soviet citizens should be repatriated by force if it contains no provision whatsoever for the use of force in the repatriation of Soviet citizens and was in fact an agreement to facilitate the return of all liberated Soviet citizens who desire to return, there is no obligation on either signatory to use force to bring about repatriation of the citizens of the other party. Therefore, it might be held that the U.S. government will have fulfilled the agreement if it facilitates the return of all liberated Soviet citizens who desire to return."

The remainder of the telegram, however, is quite contradictory in nature. Acheson mentions the reluctance of both the British and American troops to use force, and how the whole affair violates the traditional policy of political asylum. However, he places those Russians found in a German uniform in a different category who should be returned by force if necessary and specifically mentions that some 500 Cossacks being held in Italy should be sent back, using force if necessary, citing the precedent of the Fort Dix incident.

One of the most noteworthy incidents to take place early in 1946 was the forced repatriation from Dachau, of all places.

The New York *Times* broke the story on January 20. Here the forced repatriation of some 271 former Soviet citizens ended in a riot. Ten of the men committed suicide. All this happened in spite of the efforts of 500 American and Polish guards. When ordered to board the trains at gunpoint, they had refused to do so.

The main group, according to the press account, that resisted the repatriation barricaded themselves in one of the barracks and linked arms and defied tear gas for awhile. When the guards finally burst into the barracks and secured them, 10 of the men were already dead and many more were suffering from self-inflicted wounds.

On January 22, the New York *Times* further reported that one of the 21 who had attempted suicide had died. *The heading of the story was, "Russian Traitor Dies of Wound," which in itself says something of the Times' view of such matters.* Actually, according to an emigre account, over 100 men were wounded in addition to the 21 seriously injured and the 11 deaths.

Very strangely at this point, Mr. Kirk, the political adviser to the Supreme Allied Commander, Mediterranean Theater, asks the secretary of state about the divergence of the United States and British policy on the question of forcible repatriation.

In the Mediterranean, both nations operated under a combined staff concept and he mentions that no agreement had ever been reached on the question of the forcible repatriation portion of the Yalta agreement. This message of February 6 indicates that Britain wishes U.S. concurrence in the use of force, which is strange as the evidence indicates that both nations had been applying force, the only difference being that the British were perhaps a bit more indiscriminate in its use.

At any rate, the Soviet observers continued to compile their lists and probably to answer insistent messages from Moscow. A screening commission working in the camp at Plattling stayed only five days to talk with some of the survivors of the Dachau forced repatriation. The unrest among the remaining Russians only increased as a result of such activities.

The American camp commander, Col. Gillis, is reported to have told them: "Tell your people not to become excited; after the verifications the releasing will start and for as long as I am commandant of the camp, no one will be forcibly repatriated."

As late as February 10 he is said to have reassured them again. Unfortunately, Col. Gillis was not able to keep his word. By the night of February 23, all the camp knew that something was afoot. The following morning at 5 a.m., soldiers backed by tanks rushed into the camp and burst into the barracks. Names were called and some men were rushed off under guard, and others stayed, standing in the cold waiting. Ten men were injured enough in their abortive attempts at suicide so as to require hospitalization. But the planning of the American Army was better this time and the fiasco at Dachau was not repeated.

In this forced repatriation, it is estimated that 1,575 men were sent back to the Soviet Union. An Army Signal Corps film recorded the scene of these frightened men being loaded on trains as a Soviet officer called out their names. It also recorded several American officers restraining a Russian who had slashed his chest many times and was grimacing in pain. This picture appeared in the European edition of *Stars and Stripes* for March 6.

According to Fred Smith, "It is now impossible to find a copy of this issue and the official picture is classified for 'Official Use Only' and is not available to the public. This particular issue has even been removed from the bound volume in the Library of Congress. Nor does the Army Library in the Pentagon have a copy available for public viewing."

The caption under the photo states: "Hurt: Russian repatriate Constantine Gustonen grimaces with pain after he slashed himself on the chest some 17 times in suicide attempt to avoid being returned to Russia." The film which is not available is designated AFCR-3M-2122 and is entitled "Return of Russian Prisoners to Russia, Army Pictorial Center, 35-11 35th Avenue, Long Island City, New York, filed card ADC 5824." The picture appears in the *Star and Stripes* of March 6, 1946, on page 3.

Even after all this, Col. Gillis attempted to reassure the remaining men that there would be no further forced repatriations and that they would all be released shortly with Displaced Person documents marked "not subject to repatriation." Several days later Col. Gillis disappeared. He would not be present when the next repatriation took place.

There remains a great deal of mystery about the entire subject of Operation Keelhaul. Gen. Eisenhower's role, for example, remains unclear. In his book *Crusade In Europe*, he expresses great sympathy for the displaced persons. He stated: "The truly unfortunate were those who, for one reason or another, no longer had homes or were persecutees' who dared not return home for fear of further persecution. The terror felt by this last group was impressed on us by a number of suicides among individuals who preferred to die rather than return to their native lands."

Gen. George Marshall, secretary of state, also testified very forcefully against forcible repatriation as a solution to the displaced persons problem. He stated: "To adopt the alternative of forcible repatriation would therefore be violating not only our American traditions but also standards of international conduct." But by now it was 1947, and most of the damages had already been done.

Since 1954 Julius Epstein has been studying the forced repatriation of antiCommunist Soviet nationals by the United States, Great Britain and France. He has written more than 50 articles on the subject. At the start of his research, he came across a file card in the catalogue of the Army Historical Records Branch in Alexandria, Va. It read: "Forcible Repatriation of Displaced Soviet Citizens—Operation Keelhaul." Its file number was: 383.7-14.1.

Prof. Epstein notes that "The moment I saw the file card in the catalogue in Alexandria, I knew that this was the decisive document, compiled by the American Army itself. The fact that the Army itself chose the code word 'Operation Keelhaul' did not leave any doubt in my mind that it has been aware of the fact that Operation Keelhaul was a crime against humanity under the law, established at Nuremberg."

Mr. Epstein proceeded to fill out a library slip to get the Army document. Within a few minutes the librarian at the archives came back to tell him that the dossier was "closed" to the public; in other words, that it was classified "Top Secret," the highest grade in the American system of classification.

Since that time, April 1954, Prof. Epstein has tried on innumerable occasions to get the document—without the slightest success. In May 1956 he testified about forced repatriation before the Senate Internal Security subcommittee and told the senators about the "Operation Keelhaul" document. Sen. William Jenner, who was in the chair, immediately sent one of the subcommittee's investigators to the Pentagon to get the document. The investigator, Mr. McManus, returned empty-handed.

On July 4, 1967, a new law, the "Freedom of Information Act," was passed. This law provides that every American citizen has the right, in the event that the government denies him access to a document, to bring legal action against the government in the district courts. According to this law, the government must prove to the satisfaction of the judge that the document has been properly classified.

A document is "properly classified" only when the government can prove that release of the classified document would seriously endanger American national defense, security, or foreign policy. This has already been spelled out in an Executive Order signed by President Eisenhower.

Prof. Epstein points out that ". . . up to now, the scholar who needed a document could not question the government whether it was properly or improperly classified. But every American scholar knows that there are thousands of historically important documents overclassified 'Top Secret,' 'Secret,' or 'Confidential' not because release would endanger national security, defense or foreign policy, but for one reason only: that publications might embarrass a statesman or politician, a present or past Administration. . . . But embarrassment is no sufficient reason for maintenance of classification."

On May 22, 1968, Julius Epstein filed suit in the District Court of San Francisco for the declassification and release of Operation Keelhaul. Rep. John Ashbrook (R.-Ohio) has said that "The importance of the Epstein case stems from the fact that it is the first test case to be carried to the U.S. Supreme Court concerning the Freedom of Information Act of 1967. Journalists, historians, legislators, lawyers and government officials have an interest in the workability of the act and whether amendments to enhance its utility are in order."

In the San Francisco trial the Army lawyers contested the right of the court to deal with the matter. They denied the jurisdiction of the court and alleged that disclosure of "top secret" documents is exempt by the law itself. Congressman John Moss (D.-Calif.), the author of the Freedom of Information Act, disagreed. He stated that "It is not exempt and that is not the way we spelled it out in the report to the committee. One thing I fought for was the total preservation of the judicial autonomy of the court in reviewing any action of the executive."

Despite all this, the lower courts refused to release the documents, and the Supreme Court refused even to consider the case. The New York Times and the Washington Post, publications which today claim the right to publish stolen classified documents at will, had nothing to say in Prof. Epstein's behalf.

The Supreme Court, which now sanctions the theft and publication of stolen, classified material, would not even hear the case of an historian who sought to find out the facts of history by obeying the law and the machinery set up, supposedly, to provide the public with "Freedom of Information."

On April 22, 1971, Rep. Ashbrook introduced House Resolution 399, asking for the creation of a Select House Committee to investigate forced repatriation, past and present and especially the unwarranted secrecy classification of the Operation Keelhaul file.

At that time Rep. Ashbrook stated that "Mr. Epstein, as far back as 1956, tried to call public attention to this case before the Internal Security subcommittee of the U.S. Senate. Through his efforts it was learned that the U.S. Army possessed a file title 'Operation Keelhaul' which detailed pertinent information but which had a security classification which denied the public access to it. To have the given information made public, Mr. Epstein went all the way to the Supreme Court where he was denied certiorari.

"He appealed to the White House and was successful in having the national security and foreign policy arguments for the secret classification removed. There now remains but one objection to having the information released—the co-authorship of some of this information by our British allies, whose approval the Department of the Army and the White House contend are necessary before release of the Operation Keelhaul file."

The text of the resolution pointed to the fact that the President of the United States has removed the main obstacles to the declassification of Operation Keelhaul files by declaring that "The U.S. government has absolutely no objection to the declassification of the 'Operation Keelhaul' files; however, given the point origin of the documents, British concurrence has not yet been received. Thus we have no alternative but to deny your request."

Operation Keelhaul consists to a large extent of American documents, classified by American military authorities. Rep. Ashbrook states that "No foreign government should have the power to deprive the American people of the opportunity to learn their own history based upon documentary evidence concerning events which occurred more than 25 years ago."

Operation Keelhaul is a sad chapter in our nation's history, and the silence of such alleged friends of free speech and a free press as the New York *Times*, the Washington *Post* and the Supreme Court itself holds open to question the sincerity of their action in the publication of the Pentagon Papers. One might conclude that the commandment of a free press only relates to those documents and pieces of information which fit into a particular value structure, namely that of the *Times* and the *Post* themselves.

The American people have a right to know what really happened at the end of World War II to the millions of Russians who did not want to return to the Stalinist tyranny of their homeland, but were forced to do so by our own government.

The Nixon Administration has the power to declassify these papers, and it owes it to the people of the United States to do so at the earliest possible date. The Congress, through the Ashbrook resolution, has the opportunity to launch its own investigation.

In the meantime, Julius Epstein waits for the material which will enable him at last to tell the full story of America's retreat from its own principles of humaneness and political asylum. It is a lonely fight when there is no assistance from the nation's most vocal defenders of the "people's right to know." Or, do such defenders not really want the people to know about the kinds of truths Operation Keelhaul reveals?

Julius Epstein must wonder a great deal about this, and what it means for the future of freedom in American if it is true.

PRAYER AMENDMENT

HON. HAROLD R. COLLIER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. COLLIER. Mr. Speaker, permit me to address these remarks to those who earlier today in this debate have expressed their concern with the constitutional question involved in the interpretation of "nondenominational" in section 1 of this resolution. Now that we have amended it to substitute "voluntary," failure to approve this resolution becomes a flagrant denial .of the civil rights of those who wish to pray in any public building.

It is absolutely inconceivable to me that this Congress would be opposed to permitting any citizen or group of citizens lawfully assembled in a public building to participate in a voluntary prayer. That is singularly the only question to be resolved at this point in voting on this resolution.

When a court decides that a group of citizens violates the first amendment to the Constitution merely by meeting voluntarily in the high school gymnasium to read a prayer before school even begins, I contend that it is a brazen violation of the constitutional right of these students to do so. I contend further that it is the responsibility of this Congress to make certain that no person is ever required to participate in any prayer against his will or through authoritative coercion. But I contend it is also the solemn responsibility of this Congress to make certain that no person is denied the right to voluntarily participate in a prayer which is not part of a school or other public activity. Purely and simply, the right to pray voluntarily in a public building must be given the same protection under law as the right not to be forced at any time to participate in prayer. Only in this way can the rights of every citizen be provided the individual protection which is the function and

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purpose of the Constitution of the United States.

It is regrettable that so many of the opponents of this resolution read into it that which is just not present. Were we to accept interpretation based upon fear, whether sincere or demagogic, it would be simple enough to take any amendment of the Constitution and repeal it on the basis of fear growing from misinterpretation rather than fact or logic. Constitutional rights are not worth a tinker's dam if they are denied to one person to achieve the desire or satisfy the whim of another.

THE 25TH ANNIVERSARY OF CANONIZATION OF ST. FRANCIS CABRINI

HON. RICHARD S. SCHWEIKER

OF PENNSYLVANIA

IN THE SENATE OF THE UNITED STATES

Tuesday, November 9, 1971

Mr. SCHWEIKER. Mr. President, on November 16, 1971, Cabrini College, of Radnor, Pa., will celebrate the 25th anniversary of the Canonization of St. Frances Xavier Cabrini, the first American citizen to be canonized.

In recognition of that very special event, and in recognition of the humanitarian and charitable works of Mother Cabrini and the order she founded, I ask unanimous consent that an address made by Mother Ursula, M.S.C., former president of Cabrini College, on September 26, 1971, at the National Shrine of the Immaculate Conception in Washington be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY MOTHER URSULA, M.S.C.

In the seat of Christendom, midst the splendor of St. Peter's Basilica, three solemn ceremonies were held within in the short space of nine years in honor of St. Frances Xavier Cabrini. First, her solemn Beatification by Pope Pius XI on November 13, 1938; then her Canonization on July 7, 1946, by Pope Pius XII; and thirdly, the Unveiling of her marble statue with unusual solemnity in the presence of the American Ambassador to Rome, and our President's representative to the Holy See, as well as, Cardinals, prelates, members of the diplomatic corps and religious congregations. This took place on December 8, 1947, a day on which Mother Cabrini assumed a position of honor among the great founders of religious orders.

Today, at the National Shrine of the Immaculate Conception, the Catholic Church in the United States gives Mother Cabrini a place of honor among the American Saints; and richly does she deserve this recognition! For she truly loved America, the land that had been shown to her by Pope Leo XIII. In her letters to her spiritual daughters she repeatedly described the beauty, the charm, and the spiritual and material treasures that God had showered upon the United States of America—"the land of wonders," she called it. In the same way that St. Paul became a Jew with the Jews, a Greek with the Greeks, and a Gentile with the Gentiles, so Mother Carbini became an American with the Americans. She adopted the language, the customs, the patriotism, and even the citizenship of the United States. More than that! She gave a luster, a glory to our country—she became a Saint! The first citizen of the United States to have been raised to the honors of the altar.

Within a matter of minutes, His Excellency Egidio Ortona, Ambassador of Italy and Mother Josephine Migliore will unveil Barbarossa's agate statue of St. Frances Xavier Cabrini, Patroness of Immigrants—a tribute to her greatest work in the United States, her total involvement in the problem of Italian Immigration.

Immigration was then at its height. Between 1870 and 1920 half of the Italian population, 15,000,000 to be exact, deserted Italy, a country then being torn apart by the politics of prestige and conquest, of power and empire. Whole villages moved almost en masse as peasants and artisans hurried to the nearest port and took passage in the steerage. They were going to America, the land of opportunity. They believed in those words inscribed at the base of our Statue of Liberty:

Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, the tempest-tossed to me.
I lift my lamp beside the Golden Door.

If ever there was a social problem so complex as to seem hopelessly insoluble, and so many-sided as to perplex and bewilder the best intentioned, it was the welfare of the Italian immigrant in this country. Yet Mother Cabrini with a virility of mind that was uncommon, felt inspired to tackle this problem in all its vastness and dimensions—human, social, and religious.

She became an exile with the exiled. She familiarized herself with the longshoremen of Brooklyn, with the factory workers in New York, with the miners in Scranton and Denver, with the street vendors in New Orleans. She met them in the slums, she visited them in the prisons, she pleaded for them in the courts of justice. She brought them not only corporal aid, but the consolation of religion and the love of a compatriot. Mother Cabrini did not argue with them about returning to their country; she spoke about their heavenly Father, their true home, heaven. She spoke to them in the language they had learned from their mothers; and when she was sure she was understood, because she was already loved, she discoursed in the language of another mother—the Catholic Church.

She proceeded at once to found a series of hospitals, schools, and nurseries for these immigrants; and in spite of much discouragement and bitter opposition, Mother Cabrini achieved a wonderful success. She became the mother of immigrants, the mother of the dispersed, of the derelicts, of the forgotten people. At a time when Women's Liberation was not the cry of the hour, Mother Cabrini, having liberated herself from the shackles of earthly attachments by her complete dedication to God, was truly free to spend her life in the service of the poor. No woman of our time accomplished more for social service, in the truest sense of the word, than this quiet and unostentatious worker. Nor was her contribution forgotten with her death in 1917.

On October 30, 1952, Judge Juvenal Marchisio of New York at a testimonial dinner in the presence of Cardinal Spellman, presented the Institute of the Missionary Sisters of the Sacred Heart with the Award of the American Committee on Italian Migration to the Italian immigrant of the century—St. Frances Xavier Cabrini—in which Award she is proclaimed Mother of the Immigrant, Servant of the poor, Consoler of the sick, Guardian of the orphan, Friend of the laborer, Messenger of peace, and Citizen of the United States!

And as such, what did Mother Cabrini do for America? . . . The resources of the generous people that came into her hands were transformed into wonderful institutions—chapels, playgrounds, kindergartens, boarding schools, orphanages, hospitals and clinics. By word and example Mother Cabrini made America loved and esteemed by all with whom she came in contact. As an educator, she aimed at developing good Christians and good American citizens. More than anyone else, Mother Cabrini helped the Italian immigrant to find his place in the American way of life. Some have become full-fledged members of American society, even members of our government, contributing their share and fully participating in all that our country has to offer. So if many of the immigrants and their offspring are well on their way to future happiness and good citizenship, they owe it chiefly to St. Frances Xavier Cabrini.

"Not to the East, but to the West" was the commission entrusted to her by Pope Leo XIII. In compliance with that command, O Mother, you came to the West; you saw it, you loved it you conquered the hearts of the immigrants. This beautiful and majestic statue in the National Shrine of Mary Immaculate is a tribute of the West, a monument of devoted gratitude to you. Here, may you continue to listen to the prayers of the needy, and may you obtain peace for America and hope for all mankind.

NOTICE OF HEARING TO REVIEW THE WORK OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. FOUNTAIN. Mr. Speaker, on November 16 the House Intergovernmental Relations Subcommittee and the Senate Subcommittee on Intergovernmental Relations will jointly hold a hearing to review and evaluate the performance of the Advisory Commission on Intergovernmental Relations during the past 5 years. The two subcommittees previously held joint hearings in May 1965 to review the work of the Commission in the first 5 years of its existence.

The ACIR was established by Public Law 86-380, in September 1959, as a unique, permanent bipartisan body that is broadly representative of all levels of government. The basic purpose of the Commission is to strengthen the ability of our Federal system to meet the problems of an increasingly complex society by promoting greater cooperation, understanding, and coordination of activities among the separate levels of government—National, State, and local.

Senator MUSKIE, chairman of the Senate subcommittee, and I are both strong advocates of the principle that Congress should periodically review the programs that it creates. It is in this light that our subcommittees plan to examine the work of the ACIR since our last review.

The hearing will be concerned with the past performance of the Commission in relation to its assigned duties and with the future role of the Commission in the context of changing conditions in our Federal system.

I want to invite all of my colleagues, as well as interested organizations and individuals, who are familiar with the work of the Commission to assist the subcommittees in evaluating the ACIR's performance. Those wishing to testify or to submit statements are requested to contact the House Intergovernmental Relations Subcommittee office.

TESTIMONY OF DR. THOR HEYERDAHL BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. RONCALIO. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

TESTIMONY OF DR. THOR HEYERDAHL BEFORE THE HOUSE COMMITTEE ON PUBLIC WORKS

There are times when an observation is made by someone who is looking for something else. This was the case when the present speaker experimented with prehistoric types of watercraft to travel back into man's past, and yet stumbled upon three practical observations which have a bearing upon man's future:

1. The ocean is not endless.

2. There is no such thing as territorial waters for more than days at a time.

3. Pollution caused by man has already reached the farthest section of the world ocean.

It may seem superfluous to state that the ocean is not endless, something the world has known since Columbus crossed the Atlantic in 1492. Yet I dare insist that this fact has not sufficiently penetrated our minds, we all subconsciously act as if the ocean has horizons running into the endless blue sky. When we build our city sewers in pipes far enough into the sea, when we dump poisonous refuse outside territorial borders, we feel we dispose of it for ever in a boundless abyss. We have known for centuries that our planet has no edges and that the oceans interlock in a never-ending curve around the world, but perhaps it is this uninterrupted curve that gives us the feeling of endlessness, this feeling that the ocean somehow continues to curve into space. From all continents we keep on sending our refuse into the presumably endless ocean almost with the impression that we send it away into space. Rarely do we stop and think of the fact that the ocean is nothing but a very big lake, landlocked if we go far enough in any direction. Other than being the largest body of water on earth, its main distinction from other lakes is that they usually have an outlet to carry away excessive natural solutions and pollution, whereas the ocean has none. Through a world-wide, non-stop flow, all the excess, waste, and refuse that run from lakes and land assemble in the ocean, and only clean water evaporates back into the atmosphere. There were days not far back when our ancestors would laugh at the idea that man could pollute and kill a lake so big that nobody could see across it. Today Lake Erie is only one of a long series of lakes destroyed by man in the most different parts of the world. Place ten Lake Eries end to end and they span the ocean from Africa to America. True, the ocean is deeper than any lake, but we all know that due to photosynthesis the bulk of life is restricted to the thin upper layer, and we also know that an estimated 90% of all marine life happens to be on the continental shelves which represent only 10% of the total ocean area. Add to this that if half a dozen towns send their refuse into Lake Erie, all the cities, all the farmlands, all the rivers and ships of the world channel their refuse into the ocean, directly or in a round-about way. No wonder then, that a time has come when even the world ocean has begun to become visibly polluted.

This discovery, which was first forced upon me while drifting at surface level in the mid-Atlantic in 1969, helped to open my own eyes to the fact that the ocean has its limits, and the closer one gets to know it the more easily this can be perceived. When we rush across it with engine-driven craft we feel that it is thanks to the modern travelling speed that the continents seem to be not so immensely far apart. But when you place yourself on a primitive raft and find that, entirely without engine or modern means of propulsion, you drift across the largest oceans in a matter of weeks, then you realize that you made it, not because of modern technique but quite simply because the ocean is not at all endless. With a speed slightly faster than that of average surface pollution, I crossed the Pacific from South America to Polynesia on nine balsa logs in 1947, and, on bundles of reeds, from Africa to the Caribbean Islands almost twice within a year in 1969–70. Each of these oversea voyages on an aboriginal type of watercraft was intended as an eye-opener for fellow anthropologists who, like the average layman, have retained the universal concept of the ocean as an endless waste, unsurmountable by pre-Columbian craft because of its boundless dimensions. This concept is wrong, and we run the risk of harming ourselves dearly unless we abandon this Medieval concept of the endless sea and accept the fact that the ocean itself is nothing more than a big, salt lake, limited in extent and vulnerable as all the smaller bodies of water.

A second dangerous illusion equally hardie is the image of territorial water. We draw a line parallel to the coast, three miles, ten miles, or a hundred miles off shore, and declare the inside as territorial water. There is no such thing as territorial water, the ocean is in constant motion, like the air. We can draw a line on the ocean floor and lay claims to the static land on the bottom, but the body of water above it is as independant of the map as is the atmosphere above dry land: wind and currents disregard any national border lines. Refuse dumped inside Peruvian territorial waters equals refuse dumped around the shores of Polynesia; refuse dumped inside Moroccan territorial waters equals refuse dumped in the Caribbean sea. Any liquid piped into the port of Safi in Morocco, just where our papyrus bundle-boat was let adrift, will run along as on a river straight to tropic America where some will wash against the beaches and some will move on up along the east coast of the United States. Moroccan territorial waters in a matter of weeks or months become American territorial waters, with all the good and evil this may involve. The salt sea is a common human heritage, we can divide the ocean floor between us, but we shall for ever be deemed to share the common water which rotates like soup in a boiling kettle; the spices one nation puts in will be tasted by all the consumers.

Only when we abandon the almost superstitious awe for the immensity of the sea, and the misconception of coastal water as a stagnant body, can we fully understand what is happening when visible pollution is scattered the full length of the North Atlantic surface current which flows perpetually from northwest Africa to tropical America. This entire span of the ocean, from continent to continent, contain among other modern refuse an immeasurable quantity of small drifting oil clots. They were accidentally noticed during the crossing with the papyrus raft-ship Ra I in 1969 and deliberately surveyed and sampled the next year during the crossing with Ra II.

In fact, in organising our marine experiment with the first papyrus vessel ever to be tested at sea in modern times, our expedition group was initially unprepared for pollution studies. The objectives of the enterprise were to investigate the sea-going abilities and geographical range of the oldest type of watercraft used by man's earliest civilizations in the Mediterranean world as well as in Mexico and Peru, and furthermore to test the effects of multi-national cooperation in cramped quarters and under stress. We were seven men from seven nations on Ra I and eight from eight nations on Ra II. At sea, however, early in the voyage of Ra I, pollution observations were forced upon all the expedition members by its conspicuous presence and undoubtedly also because of our own proximity to the ocean surface with a slow progress through the water.

Departing from the Moroccan port of Safi on the northwest coast of Africa on May 25th, 1969, the seven men on board Ra I became aware of travelling in polluted water for the first time on June 6th, at 24°38' N and 17°06' W, or about a hundred miles (160 km) off the coast of Mauritania. The sea was now rolling calmly and we noticed the surface to be densely scattered with brownish to pitch-black lumps of asphalt-like material as big as gravel and floating at close intervals on and just below the surface. The clots were drifting with the surface current in our direction, but benefiting more from the tradewinds we moved considerably faster, averaging a speed of about 2 to 2.5 knots. The local current speed is about 0.5 knots. Knowing that our reed-vessel was near the circum-African shipping-lane, we climbed the mast and began to scout for ships, being convinced that we had entered the wake of some nearby oil tanker that had just cleaned its tanks. No ship was seen. On June 8th, having advanced about a hundred miles farther to the south-west, we found ourselves again sailing through similarly polluted water, still without any ship in sight. The following day we sailed into an area of the ocean where the same flotsam included pieces of larger size, some appearing as thick, black flakes of irregular shape up to 5–6 inches in diameter. The local ocean water itself gradually turned into an opaque and greyish-green color instead of being transparent and clear blue; it was recorded in the expedition journal as resembling harbor water at the outlet of city sewers.

Although sporadic lumps were noted, no specific entry was made in the expedition log until June 30th, when our position was at 15°45' N and 35°06' W, that is virtually in the mid-Atlantic with Africa and America almost at the same distance. Here once more we suddenly entered an area so polluted that we had to be attentive in washing ourselves or dipping our tooth-brush into the water, to avoid the seemingly endless quantities of oil-clots of sizes ranging from that of a grain of rice to that of a sandwich.

Ra I covered 2,700 nautical miles (ca 5,000 km) in 54 days, and on July 15th and 16th, shortly before abandoning the test vessel we found ourselves again in the same general type of polluted water. Our position was now 13°32' N and 47°20' W, or some six hundred miles (960 km) east of the island of Barbados and slightly closer to the mainland coast of South America. Many of the clots had an eroded or pitted surface, and small barnacles as well as Algae were occasionally seen growing on them.

Some samples were collected and at the end of the voyage delivered with a brief report to the permanent Norwegian Delegation at the United Nations. Although no deliberate or preconceived observations were made, the voyage with Ra I resulted in the involuntary recording of six day's travelling through vis-

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ibly strongly polluted water in the course of eight weeks of trans-Atlantic sailing. Thus, more than 10% of the surface water traversed by Ra I was visibly polluted by a rich flotsam of non-organic material of rather homogenous appearance and undoubtedly resulting from modern commercial activity.

Our report to the United Nations in 1969 aroused a general interest, not least among scientists and shipping authorities, and prepared for what we might again encounter, we decided to keep a systematic record of daily observations when we embarked on the voyage of Ra II the following year. Ra II was again launched outside the breakwaters of the same ancient port of Safi in Morocco, this time on May 17th, 1970. As the water along the west coast of Africa and in the latitudes where we were to undertake the Atlantic crossing is not at all stagnant, but moves towards America with a speed of 0.5 knots or more, it is clear that we did not voyage through the same surface water this second time. In fact, the surface water observed by us from Ra I had been displaced more than four thousand miles during the year that had passed between the departures of the two consecutive raft expeditions. In other words, the water which we traversed along the African coast in May 1969, had long since deposited its flotsam along the Caribbean shores or else carried it into the initial part of the Gulf Stream, by the time we embarked on the second voyage in 1970. Correspondingly, the water seen around us as we abandoned Ra I short of Barbados in July 1969, would this subsequent year be on its return flow with the Gulf Stream back across the North Atlantic, heading for Europe. Nothing could impede this eternal circulation of ocean water, westwards near the Equator and eastwards in the far north, caused by the rotation of the earth itself. Thus the pollution we saw during Ra II was wholly independent of anything we observed on Ra I.

During our experiment with Ra II, in addition to the regular entries in the expedition log, a special pollution record was kept by Madani Ait Ouhanni, who also at reasonable intervals collected samples of the asphalt-like clots which towards the end of the voyage, were handed to the United Nations' research vessel *Calamar* for subsequent transfer to the Norwegian UN Delegation. The samples were taken by means of a fine-meshed dip-net. It should be noted that in the rippled seas oil-clots were difficult to detect unless washed on board or drifting past very close to our papyrus deck. Only when the wave surface was smooth, or the floating objects were of conspicuous size, was it possible to detect and record pollutants passing more than six or eight feet away from the Ra. Thus, the considerable quantities of oil-clots and other floating refuse which were found to float close alongside our papyrus bundles reflect the true dimensions of the problem if estimated in a broader geographical scope. It should also be noted that the route followed by Ra II was straighter and somewhat more northerly than that of Ra I which constantly broke the rudders and was forced on a drift voyage down beyond the latitude of the Cape Verde Islands.

On the background of these facts, it is disheartening to report that drifting oil clots were observed forty out of the fifty-seven days it took Ra II to cross from Safi to Barbados. This is 72% of the travelling time spent in water where oil clots could be seen. From May 17, 1970 when we left the port in Morocco (at 32°20' N and 9°20' W) until and including June 28 when we had reached 15° 54' N and 45°56' W, we recorded oil pollution on forty days out of forty-three. On the three days when pelagic oil lumps were not seen, Ouhanni's entries in the pollution record state that the sea was too rough for proper observation. It may thus be safely assumed that the 2,407 nautical miles (4,350 km) covered by Ra II during the initial 43 days of its voyage represented an uninterrupted stretch of polluted surface water, the degree of visible pollution varying from slight to very grave. It is slightly encouraging to note, however, that with the exception of some sporadic lumps observed on July 30th, no record of such particles was made during the remaining 700 miles to Barbados. This curious fact should not delude us though, since this was the very area where we noted extreme pollution the previous year. Also, on our arrival in Barbados, the owner of our east-coast hotel reported that oil clots were sometimes so common on his beach that it was a problem to keep carpets clean from lumps that had stuck to his clients' feet.

Perhaps the sudden disappearance of oil clots in front of the Caribbean Islands during the 1970 crossing can be ascribed to a temporal irregularity in the local movement of water. The disappearance of the clots coincided with the sudden arrival of feeders from northbound branches of the South Equatorial Current, which were noticed both in our own displacement and simultaneously indicated by sudden changes in water temperature. Nevertheless, although the seemingly ever-present oil lumps disappeared this time, plastic containers and other imperishable manmade objects were observed sporadically until the last day of our crossing.

The average extent of oil pollution recorded during the voyage of Ra II amounted to lumps of asphalt-like material the size of finger-tips or smaller, scattered far apart in otherwise clean water. There would be days when only a very few such lumps could be seen from sunrise to sunset, whereas in exceptional cases the water was so polluted that a bucket could not be filled without some floating clots being caught at the same time.

The first very seriously polluted water was entered by Ra II four days after departure, on May 21st, at 29°26' N and 11°40" W, about 100 nautical miles off the African coast before we entered the passage between the Canary Islands and Morocco. From early that morning until the evening of the following day, Ra II was drifting very slowly through calm water that was thickly polluted by clusters of solidified oil lumps commonly of the size of prunes or even potatoes. Many of these lumps were dark-brown, mousy, and pitted, more or less covered by marine growth, whereas others were smooth and black, with the appearance of being quite fresh. For a duration of two days, the surface water, containing large quantities of these lumps, was also covered intermittently by a shallow white foam such as develops from soap or synthetic washing powder, while occasionally the ocean's surface was even shining in rainbow-colors as from gasolene. The sea was smooth and a vast quantity of dead coelenterates could be seen for considerable distances on both sides of our track. The expedition journal recorded that "the degree of pollution is shocking."

The following week only sporadic lumps were noticed, until on May 29th, at 25°43' N and 16°23' W, when our records again show that "the pollution is terrible". During the previous night oil lumps, of which the biggest were the size of a large fist, had been washed on board during darkness, to remain as the water filtered through the papyrus like through the fringes of whalebone. Barnacles, marine worms, crustaceans, and sometimes bird feathers, were found attached to the oil lumps. The high degree of pollution was this time witnessed for three consecutive days, when swimming inevitably meant colliding with the sticky clots. On May 31st, at 25°00' N and 17°07' W, the expedition journal has the following entry: "An incredible quantity of shell-covered asphalt lumps today, big as horse-droppings and in clusters everywhere. One plastic bottle and one metal oil-can also observed, plus a large cluster of greenish rope, and nylon-like material besides a wooden box and a carton. It is shocking to see how the Atlantic is getting polluted by Man." No ships were seen in the vicinity.

The next entry into seriously polluted waters was on June 16th. At 15°26'N and 34°28' W, again virtually in the mid-Atlantic, the surface of the waves and as far as we could see below contained endless quantities of large and small oil lumps.

Ra II completed its Atlantic crossing on June 12th, 1970, landing on Barbados after covering 3,270 nautical miles (ca 6,100 km) in fifty-seven days. Although pelagic oil clots represented the most consistently recurring type of visible pollution during the two Ra voyages, it should be made clear that other debris from man of a rather heterogeneous kind was also common, even where oil was absent. Thus, in 1970, pollution in the form of plastic containers, metal cans, glass bottles, nylon objects, and other perishable and non-perishable products of man, representing refuse from ships and shores, passed close by the sides of our raft at intervals from the day of departure to the day of landing.

This was in marked contrast to our experience during the voyage of the raft Kon-Tiki two decades earlier. A noted aspect of that voyage, which then took place in the Pacific, was that not a single oil clot, in fact not a single sign of Man's activities, was seen during the 4,300 mile crossing. From the day we left Callao in Peru until we landed on Raroia atoll in Polynesia 101 days later, we were constantly impressed by the perfect purity of the sea. The first trace of other human beings observed was the wreck of an old sailing vessel thrown up on the reef where we landed. Although, in fact, the contrast refers to two different oceans, the currents rotate between them and the difference between observations in 1947 and 1970 is so marked that it probably has some bearing on the rapidity with which we pollute the sea.

Through the State Department of Norway, a meeting was arranged between representatives from different scientific institutions and the oil industry who were invited to discuss an analytic program for the oil clot samples collected by the Ra II expedition. The analytic program was designed to determine whether the samples represented crude or refined oil, and also to estimate the origin, whether it could be leakage from drill, scattered oil from a single wrecked super-tanker like Torrey Camion, oil from marine organisms, or mixed discharges from many different vessels. The analytic work was carried out by The Central Institute for Industrial Research in Oslo, and their findings can be summarized as follows:

The results of the infrared spectras show that the samples consist mainly of saturated hydrocarbons or mineral oil. Some samples seem to contain compounds from decomposed crude oil or heavy fuel oil. Vegetable and animal oils are apparently absent. According to the results of a gas chromatographic analysis the saturated hydrocarbons were normal paraffins (n-paraffins) with 14 to 40 carbon atoms in each molecule with maximum around 20 and 30 carbon atoms. Such n-paraffins are generally, but not exclusively, the major fractions in mineral oil from the USA and North Africa. The samples showed a wide range in their contents of nickel and vanadium which indicate that they have derived from geographically different sources. In short, the conclusion was that the countless oil clots drifting about from continent to continent represent crude oil pollutants not from one leakage or one wreck, but from different origins. We are hardly far off then if we suspect the major part of the oil clots to be the scattered refuse from the numerous tankers which daily discard their ballast water at sea before entering port of loading.

It was not an objective of the Ra expeditions to draw biological or ecological conclusions from our observations. Our aim is merely to call attention to observations that were virtually forced upon us by our prolonged proximity to the surface of the sea. Yet, one cannot refrain from certain deductions. Clearly, the time has passed when ocean pollution was a mere offence to human aesthetics because the surf throws oil and scrap up on the holiday-makers beaches. Much has been written about the tendency of oil molecules to expand in thin layers over wide areas of water, thus impeding the photosynthesis needed by the oxygen-producing phyto-plankton. Those of us who sat on the two Ras observing fishes, large and small, nibbling at any floating particle wonder how the almost ever-present oil clots can avoid affecting the metabolism of the marine fauna and flora; not least the filter-feeding fishes and whales which swim with open mouth and, like the reed-bundles of Ra, let the water sieve through whereas plankton and oil clots alike get stuck in gills, whalebones or intestines. Small fish may get wise to the presence in their own element of unpaletable oilclots, but larger marine species have no way of gaping over plankton without getting in non-organic material floating alongside as well. In addition, the oil lumps examined showed that they very frequently provided a foothold for live organisms which ride along as a sort of bait attracting the attention of bypassing fish. I am referring here to the fact that small *Cirripedia*, or edible barnacles (identified as *Lepas pectinata*) were very commonly sitting in regular clusters on the lumps. Various edible crustaceans were also frequently found clinging to the lumps, notably an isopod (*Idothea metallica*) and a small pelagic crab (*Planes minutus*). Marine worms hid in the pitted surface, and the shell of a tiny dead cuttle-fish (*Spirula spirula*) was found in one sample.

In closing, I may be permitted a personal remark. A much more far-reaching study than our improvised sampling will be needed before we can judge the durability and effects of this steadily increasing flotsam of oil and debris. Perhaps bacterial activity and disintegration will finally sink or efface the oil from the ocean's surface, but certainly not before a large percentage is washed up against the continental and island shores. Having first personally witnessed the almost uninterrupted host of clots rotating about in the mid-ocean, I have subsequently visited some shorelines on the three continents bordering on the land-locked Mediterranean Sea and found a belt ranging in color from grey to black along the waterline of cliffs exposed to the polluted surf. In certain areas, like on the otherwise attractive island of Malta, it is as if the entire coastline to a height of six or eight feet above water-level has been smeared by a black impregnation. Where the invisible marine paintbrush has been at work there is no sign of life, neither Algae nor molluscs, crustaceans or any other marine species naturally at home on such rocks. The coastal cliffs and reefs represent, as we know, a major breeding place for pelagic plankton and a necessary stepping-stone in the life cycle of a great many of the species of paramount importance to Man.

I stress again, there are few things as illusive as the concept of territorial waters. What others dump at sea will come to your shores, and what you dump at home will travel abroad irrespective of national legislation. We must start at the national level, but we must quickly move on to international agreements if we shall be able to protect our common ocean for future generations.

CAPT. REGINALD B. DESIDERO—KOREAN HERO

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. GAYDOS. Mr. Speaker, recently the U.S. Army dedicated an airfield in Korea in honor of a young officer who lost his life fighting for that country's freedom more than 20 years ago.

Airfield A511 at Seoul now has a name. It is "Desiderio Army Airfield," named after the late Capt. Reginald B. Desidero, who was born in Clairton, Pa., in my 20th Congressional District; who lived in California as a man and who died on a hilltop in Ipsok, Korea, as a hero.

The airfield's dedication service was impressive. The ceremonies were conducted by Gen. J. H. Michaels, commanding officer of the U.S. 8th Army, and attended by high-ranking military officials of the United States and South Korea. Also on hand were members of Captain Desiderio's family, including his widow and two sons, Timothy and David. These young men, one a naval lieutenant and the other an Army captain like his father, were just 7 and 3 years of age when Captain Desiderio was killed, but they know his story well.

In view of the Army's recent tribute, however, I believe it would be appropriate to relate that story to my colleagues for Captain Desiderio's gallantry and heroism earned him our Nation's highest military decoration—the Congressional Medal of Honor.

On the morning of November 27, 1950, Captain Desiderio was commanding Easy Company of the 27th Infantry Regiment, the "Wolfhounds." His mission was to hold a command post against an enemy breakthrough. In the early morning hours the Red Chinese began a series of attacks against the position. The enemy fire was intense and twice Captain Desiderio was wounded—once by mortar fragments and again by small arms fire. He refused evacuation and, instead, continued to move among his men, checking their defenses and preparing them for the next onslaught. It came in a final, fanatical charge which penetrated Easy Company's position and Captain Desiderio personally met it with carbine rifle and grenades. He inflicted many casualties until he was hit by machinegun fire and mortally wounded. His men, spurred on by their captain's example of courage and leadership, beat back the Chinese attack.

A detailed account of that battle is carried in the November, 1951, issue of the U.S. Army Combat Journal. In it, the author, Col. S. L. A. Marshall, describes how at one point during a lull in the bitter fighting Captain Desiderio, sensing the weariness of his men, sounded a rallying call that was picked up and echoed along the battle line: "Hold till daylight and you've got it made."

Ironically, it was at dawn's first light that the men of Easy Company broke the back of that last Chinese charge.

Captain Desiderio was buried in the United Nations Cemetery, north of the 38th Parallel, in Pyongyang, North Korea, until 1955 when his body was returned home and interred at the national cemetery in San Francisco.

On June 21, 1951, Gen. Omar Bradley presented the Congressional Medal of Honor to Captain Desiderio's widow, now Mrs. Patricia Becker. It was the last of many decorations he had which attested to his courage and bravery. The others, most of which were won fighting in Europe during World War II, include the Silver Star, the Bronze Star with two clusters, the Belgium Croix de Guerre with palm, the Purple Heart, the Combat Infantry Badge and the State of California's Medal of Valor.

It was not, however, the last honor bestowed on this hero. On May 17, 1956, at Pasadena, Calif., the Honorable Wilber M. Brucker, then Secretary of the Army, dedicated the armory at the Army Reserve Training Center in Captain Desiderio's name. He had served there as an adviser prior to being assigned to Korea.

And, in the spring of 1961, the city of Clairton, where several of the captain's brothers and sisters still reside, established a public park in his memory. A small monument, containing a description of Captain Desiderio's final actions, has been erected at the site.

Mr. Speaker, it is no easy thing to speak of men such as Captain Desiderio. I cannot find the words to express the emotions I feel. Pride and admiration become entangled with deep respect and a sense of sadness that such men must die in war. I can only say I believe with all my heart that as long as America has such men, she, at least, will remain free.

ANNUAL POLL RESULTS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. EILBERG. Mr. Speaker, each year I conduct an annual poll by mail of my constituents. I continue to find this technique a valuable and useful tool in helping me to better represent the people of my district.

Last July I mailed my annual questionnaire to every household in my Northeast Philadelphia district. The results have been tabulated and studied and I am now mailing them to the more than 141,000 households in my district.

With the unanimous consent of my colleagues, I would like to enter this most recent report to my district in the RECORD:

The report follows:

REPORTS TO THE PEOPLE

DEAR FRIEND: The results of the questionnaire I mailed to you during the summer have been tabulated and, as I promised, I am sending the results to every home in the Northeast. The outstanding fact of this year's poll is that you now consider crime and drug abuse the most pressing problems facing the Northeast and the country.

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THE DRUG PLAGUE

This year drug abuse has finally been recognized as a lethal epidemic which threatens to destroy our country. I have asked the President to declare the major cities—where addicts account for about half of all crimes committed—"national disaster areas" and to provide emergency funds so we can deal with the problem. In addition, I sponsored eight bills dealing with drugs, including treatment of addicted servicemen and veterans and sanctions for foreign countries which help prevent narcotics from entering the United States. This summer, as the representative of the Judiciary Committee, I went to England, France, and Italy to study drug treatment programs and to discuss international narcotics law enforcement problems with European and American officials.

THE ECONOMY

As your representative in Congress, I have sponsored five pieces of legislation which call for Federal revenue sharing with the cities. During the current wage price freeze, I have joined with other Congressmen in calling on the Administration to permit raises, especially those provided in existing labor contracts to be granted retroactively.

YOUR VOICE IS HEARD

Following you will find the results of the questionnaire, reported by percentage. I want to thank all of you who took the time to respond and all of those who added their own thoughtful observations.

With best wishes,

Sincerely,

JOSHUA EILBERG.

CONGRESSMAN JOSHUA EILBERG REPORTS YOUR VIEWS

(Rounded off to nearest percentage)	Percent Yes	No	Undecided	No response
1. (a) Do you believe that inflation is under control?	2	95	2	1
(b) Do you believe that the recession has eased?	11	79	7	3
(c) Do you believe that unemployment is in check?	6	87	5	2

(Rounded off to nearest percentage)	Percent
2. If you were writing the Federal Budget, which program would you cut 1st?	
Crime	1
Defense	12
Education	1
Foreign aid	45
Health	0
Highways	3
Housing	1
Pollution control	0
Space	16
Welfare	13
No response	8

	Percent Increase	Decrease	Leave same	No response
3. Would you increase, cut or leave the same aid to:				
(a) Elementary and secondary public schools	62	5	26	7
(b) Private and parochial schools	40	26	27	7
(c) Colleges and universities	34	22	34	10

	Percent Yes	No	Undecided	No response
4. Do you support Federal revenue sharing?	70	13	14	3
5. (a) Are you in favor of a national health plan?	62	24	12	2
(b) Are you a member of a private health insurance plan?	92	7	0	1
(c) If you are a member, are you satisfied with the services?	53	32	8	7
(d) If you are a member, are you satisfied with the costs?	27	61	4	8
6. (a) Do you think the present level of social security benefits is adequate?	21	67	10	2
(b) Do you favor my proposal to include prescription drugs under Medicare?	83	11	5	1

	Percent Yes	No	Undecided	No response
7. (a) Do you feel personally threatened by crime on the streets?	77	18	4	1
(b) What is the best approach to dealing with the narcotics problem?				Percent
Education				35
Rehabilitation				12
Law enforcement				45
No response				8
(c) Would you reduce 1st offender penalties for possession of marihuana?	46	45	8	1
(d) Do you favor economic sanctions against countries that refuse to cooperate with the United States in dealing with illicit drugs?	95	3	1	1
(e) Do you favor a proposal to purchase Turkey's opium crop and destroy it?	36	50	12	2
8. (a) Do you feel some progress has been made in the past year in cleaning up our air and water?	52	36	11	1
(b) Are you satisfied with the progress toward cleaning up our environment?	12	79	8	1
(c) Are you prepared to bear some of the cost of cleaning up the environment?	58	31	9	2
9. Are you concerned about the development of North Philadelphia Airport?	51	36	12	1
10. (a) Do you feel that the nuclear powerplant facility is dangerous?	32	45	21	2
(b) Do you believe that such facilities can provide power without polluting the water or air?	42	29	27	2
(c) To assist in conserving power would you be willing to sacrifice some of your electrical appliances?	46	42	9	3
11. (a) Do you think the present draft system is fair?	33	53	12	2
(b) Should the present draft system be abolished in favor of an all-volunteer army?	44	43	11	2
(c) Should the draft system be abolished even if an all-volunteer army is not available?	22	66	9	3
12. (a) Do you support the present U.S. policy in Vietnam?	25	64	9	2
(b) Do you think that the Laos and Cambodia campaigns will end American involvement more quickly?	22	62	14	2
(c) Do you support a fixed time-table for American withdrawl from Southeast Asia?	49	38	11	2
13. (a) Do you think that Israel should withdraw from all territories it occupied during the 6-day war?	17	64	17	2
(b) Do you think it should withdraw from some of these territories?	44	30	19	7

	Percent Before	After	Undecided	No Response
(c) Should Israel withdraw before or after it negotiates an agreement?	15	68	.....	17

	Percent Yes	No	Undecided	No response
(d) Should the U.S. continue to lend money to Israel	60	26	13	1
(e) Should the U.S. continue to sell arms to Israel?	67	21	10	2
(f) Should U.S. troops participate in a middle-eastern peace keeping force?	30	58	10	2

14. What do you think are the three most pressing problems facing America today? Please list in order of urgency. (Using a weighted point system, the following results were tabulated.)

	Percent
1. Crime and drug abuse	25
2. Economy and unemployment	24
3. Vietnam	17
4. Environment	6

The remaining 38 percent included welfare, education, taxes, racial problems, government operations, and foreign policy.

15. What one problem in the Northeast is of the most concern to you? (Using a weighted point system, the following results were tabulated.)

	Percent
1. Crime and drug abuse	33
2. Mass transit	12
3. Education	12
4. Bicentennial at Byberry (solved)	11

The remaining 32 percent went to a wide range of problems.

MODEL STATE ACT FOR THE CIVIL COMMITMENT OF NARCOTIC ADDICTS FOR TREATMENT AND REHABILITATION

HON. LOUIS FREY, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. FREY. Mr. Speaker, recently I had the opportunity to address the National Society of State Legislators Conference in Philadelphia. I presented to them a model State statute for a comprehensive approach to the drug problem facing us today. Following is a copy of my remarks on this subject:

MODEL STATE ACT FOR THE CIVIL COMMITMENT OF NARCOTIC ADDICTS FOR TREATMENT AND REHABILITATION

DECLARATION OF POLICY

It is the intent of the Legislature that persons charged with or convicted of violating state criminal laws (with certain enumerated exceptions) or persons not charged with a criminal offense, who are determined to be addicted to narcotic drugs and who require medical treatment should be civilly committed for confinement and treatment for such condition and its underlying causes. Such treatment shall be carried out for nonpunitive purposes not only for the protection of the addict against himself, but also for the prevention of contamination of others and the protection of the public.

It is further policy of the Legislature that individualized treatment taking into account the degree of addiction, age of the addict, and behavior and criminal record of the addict, will be provided to those committed under this program so that they may be treated and rehabilitated in the shortest possible period of time and once again become functioning members of society. Such treatment will include assistance in developing job skills, securing employment, and finding suitable housing.

Title I: Civil Commitment of Persons Charged with or Convicted of a Crime

SECTION 101. DEFINITIONS

For the purposes of this title—

(a) "Addict" means any individual who habitually uses any narcotic drug as defined by section 102(16) of the Controlled Substances Act so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such narcotic drug as to have lost the power of self-control with reference to his addiction.

(b) "Treatment" includes confinement and treatment in an institution and supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative or maintenance services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending or controlling his dependence on addicting drugs and his susceptibility to addiction.

(c) "Felony" includes any offense in violation of a law of the State which at the time of the offense was classified as a felony by the law of the State.

(d) "Conviction" and "convicted" mean the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, but do not include a final judgment which has been expunged by pardon, reversed, set aside or otherwise rendered nugatory.

(e) "Eligible individual" means any individual who is charged with an offense against the State, but does not include those determined unsuitable due to one or more of the following factors—

(1) Previous convictions of murder, assault with intent to commit murder, attempt to commit murder, kidnapping, arson, robbery, burglary in the 1st degree, mayhem, felonies involving bodily harm or attempt to inflict bodily harm or offense for which the minimum term is more than 5 years in state prison.

(2) Excessive Criminality. Persons whose histories include criminality of any nature which is evaluated as chronic and/or extensive are considered unsuitable for the civil addict program.

(3) Sale of Narcotics, Dangerous Drugs or Marijuana. Persons who are involved in a large-scale trafficking operation, or persons who are found to be trafficking or in possession of narcotics, marijuana, or dangerous drugs beyond that which might be reasonably necessary to support their own need for narcotics.

(4) Assaultive Behavior. Persons with a history of assaults, battery and other offenses against the person, including—a) those with a pattern of aggressive and assaultive behavior. This pattern may be developed either by acts committed over several years with periods of nonviolent adjustment in between or it may demonstrate itself in a series of acts preceding the instant arrest; b) those who have a pattern of aggression which precedes their narcotic addiction and continues after their addiction; c) those for whom it is adjudged that long-term institutionalization is indicated because of the seriousness of their behavior. Single acts of aggression may warrant exclusion when the act was of such nature that it demonstrates aggression which was aggravated or vicious, or when the individual was involved in using dangerous or deadly weapons in the commission of the instant or prior offenses.

(5) Other Relevant Reasons: a) Extreme Recalcitrance: Case history shows subject can reasonably be classified as an escape risk or is recalcitrant to the extent that he unduly threatens the good order and the security of the minimum security facilities of the civil addict program; b) Unresponsive to Program: Case history shows that while the person is a narcotic addict, he has been previously exposed to therapy and rehabilitation programs without significant gains; c) Other Medical or Psychiatric Disorders: Those who, while they may be addicted to narcotics, have major behavior or medical disorders distinguishable from narcotics addiction, and which would need treatment (in addition to treatment for addiction) which the civil addict program is not able to provide, including—I. Sex deviates—case history or diagnosis shows person to be a sex deviate who needs treatment for this pathology in order that he may be controlled and that he becomes less of a threat or menace to society; II. Chronic psychotics—persons who would require treatment or their psychosis before the addiction problem could be approached. III. Serious medical disorders—A. Persons with such serious medical problems that treatment for their narcotic addictions is secondary and B. Persons whose medical problems are severe and may be deemed irreversible.

(f) "Patient" means any individual with respect to whom a petition has been filed by the district attorney (or his equivalent) as provided in section 105 of this title.

SECTION 102

(a) If the district attorney (or his equivalent) or judge has reason to believe that an individual charged with or convicted of a criminal offense against the State is an addict, then the district attorney (or his equivalent) or judge will request the State Rehabilitation Center to determine if there is reasonable cause to believe such. If the State Rehabilitation Center determines that there is reasonable cause, the district attorney (or his equivalent) will file a petition with the court to have such person examined to determine if he is, in fact, addicted.

(b) Upon the filing of any such petition by a district attorney, the court may order the individual to appear before it for an examination as provided in subsection (d) of this section. The court shall cause a copy of such petition and order to be personally served upon the defendant.

(c) The court shall advise the individual to be examined of his right to have his own physician present for consultation during any examination conducted under this section, but in no event shall such physician be entitled to participate in any such examination or in the making of the report required under this section with respect to such examination.

(d) The court shall then appoint 2 qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination the court may order the individual committed for a period not to exceed 72 hours to the custody of the Director of the State Rehabilitation Center for confinement in a suitable hospital or other facility designated by the Director of the State Rehabilitation Center.

Each physician appointed by the court shall, within such 72 hour period, examine the individual and at the end of the examination file with the court a written report with respect to such examination. The examination shall consist of a physical examination and a psychiatric examination, except the psychiatric examination shall not be administered, and the individual shall be immediately returned to the court for such further proceedings as it may direct, if the physical examination indicates that the individual is not a narcotic addict. Each such report shall include a statement of the examining physician's conclusions as to whether the individual examined is a narcotic addict and requires medical treatment. Upon the filing of such reports, the individual so examined shall be returned to the court for the completion of the criminal proceedings. Copies of such reports shall be made available to the individual and the district attorney (or his equivalent).

SECTION 103

(a) If both examining physicians (referred to in section 102(e)) conclude in their respective written reports that the individual is not a narcotic addict, or is an addict not requiring medical treatment, the court shall immediately enter an order discharging the individual and the pending criminal proceeding shall be immediately resumed. If the written report of either such physician indicates that the individual is a narcotic addict who requires medical treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the individual to submit to a thorough examination, the court shall promptly set the case for completion of the criminal proceedings.

SECTION 104

(a) Any individual who has been examined and found to be a narcotic addict in need of medical treatment under this title may be detained by the court for a reasonable period of time in a suitable hospital or other facility designated by the State Rehabilitation Center until after the criminal proceeding has been concluded, and such hospital or facility may administer to the patient such interim medical treatment as is necessary.

(b) An individual committed for examination shall not be released on bail or on his own recognizance.

SECTION 105

(a) At the completion of the criminal proceedings, the district attorney (or his equivalent) will petition for the commitment or

an individual who was found guilty of the criminal charge and who was examined and determined to be an addict in need of medical treatment if the Director of the State Rehabilitation Center certifies that appropriate facilities and trained personnel are available for the treatment of the person and that such person is an "eligible individual" as defined in section 101(e). After such petition has been filed the individual will be transferred to the court of competent jurisdiction (referred to in section 401) located at the State Rehabilitaton Center.

(b) The court shall advise the patient appearing before it pursuant to subsection (a) of this section of his right to have counsel at every stage of the civil judicial proceedings under this title and, if he is unable because of financial reasons to obtain counsel, the court will, at the patient's request, assign counsel to represent him;

(c) The court shall also advise the patient that if, after hearing as provided in this title, he is found to be a narcotic addict who requires medical treatment and an "eligible individual" as defined in section 101(e)—

(1) he may be civilly committed to the State Rehabilitation Center for treatment;

(2) he may not voluntarily withdraw from such treatment;

(3) the treatment will last for an indeterminate period of time not to exceed 5 years but in no event shall it exceed the sentence which would otherwise have been imposed.

(4) during treatment, he may be confined in an institution;

(5) the imposition or execution of the sentence will be stayed, pending the successful completion of treatment.

SECTION 105

(a) The court of competent jurisdiction located at the State Rehabilitation Center will promptly set the case for civil hearing to review the report of the examination conducted by the director of the State Rehabilitation Center and other information coming to its attention to determine if the patient is an addict and if he is an "eligible individual" as defined in section 101(e) of this title. The court shall cause a written notice of the time and place of such hearing to be served personally upon the patient and his attorney. Such notice shall also inform the patient that upon demand made by him within fifteen days after has has been served, he shall be entitled to have all issues of fact with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury trial is made, the court, in conducting such hearing, shall determine all issues of fact without a jury.

(b) In conducting any civil hearing under this title, the court shall receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 102. Any patient with respect to whom such hearing is held shall be entitled to testify and to present and cross-examine witnesses.

SECTION 107

Whenever an individual is committed to the custody of the Director of the State Rehabilitation Center for treatment under this chapter the sentence shall be continued without final disposition and shall be dismissed if the director of the State Rehabilitation Center certifies to the court that the individual has successfully completed the treatment program. On receipt of such certification, the court shall discharge the individual from custody and waive the sentence. If prior to such certification the director of the State Rehabilitation Center determines that the individual cannot be further treated as a medical problem, he shall advise the court. The court shall thereupon terminate the commitment and the patient shall be returned to the court for execution of the sentence.

SECTION 108

An individual committed for treatment shall not be released on bail or on his own recognizance.

SECTION 109

Whoever escapes or attempts to escape for examination or treatment, or whoever rescues or attempts to rescue or instigates, aids or assists the escape or attempt to escape of such a person is guilty of a crime punishable by imprisonment in the state prison for not exceeding 7 years. This section does not apply to unauthorized absence from a halfway house or other outpatient facility or program.

SECTION 110

The total period of treatment for any individual committed to the custody of the director of the State Rehabilitation Center shall not exceed 5 years, but in no event shall it exceed the maximum sentence that could otherwise have been imposed. If, at the expiration of such maximum period, the director of the State Rehabilitation Center is unable to certify that the individual has successfully completed his treatment program, the pending criminal proceeding shall be resumed.

SECTION 111

An individual committed under this title may not be conditionally released until he has been treated for 6 months following such commitment in an institution maintained or approved by the Director of the State Rehabilitation Center for treatment.

SECTION 112

Nothing in this title shall preclude a person who has been discharged from the program from being recommitted under the program, irrespective of the periods of time of any previous commitments.

SECTION 113

Whenever a pending criminal proceeding against an individual is resumed under this title, he shall receive full credit toward the service of any sentence which may be imposed for any time spent in the institutional custody of the director of the State Rehabilitation Center or any other time spent in institutional custody in connection with the matter for which sentence is imposed.

SECTION 114

The determination of narcotic addiction and the subsequent civil commitment under this chapter shall not be deemed a criminal conviction. The results of any tests or procedures conducted by the director of the State Rehabilitation Center or the supervisory aftercare authority to determine narcotic addiction may only be used in a further proceeding under this chapter. They shall not be used against the examined individual in any criminal proceeding except that the fact that he is a narcotic addict may be elicited on his cross-examination as bearing on his credibility as a witness.

Title II: Civil commitment of persons not charged or convicted of any criminal offense

SECTION 201. DEFINITIONS

For the purpose of this title—

(a) "Addict" means any individual who habitually uses any narcotic drug as defined by section 102(16) of the Controlled Substances Act, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to this addiction.

(b) "Treatment" includes confinement and treatment in an institution and supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative or maintenance services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending or controlling his dependence on addicting drugs and his susceptibility to addiction.

(c) "Related individual" means any person with whom the alleged narcotic addict may reside or at whose house he may be, or the husband or wife, father or mother, brother or sister, or the child or the nearest available relative of the alleged narcotic addict.

(d) "Patient" means any individual with respect to whom a petition has been filed by a district attorney (or his equivalent) as provided for in section 202 of this title.

(e) "Eligible individual" means any individual who volunteers for treatment himself or who is volunteered by another, but does not include those determined unsuitable due to one or more of the following factors—

(1) Previous convictions of murder, assault with intent to commit murder, attempt to commit murder, kidnapping, arson, robbery, burglary in the 1st degree, mayhem, felonies involving bodily harm or attempt to inflict bodily harm or offense for which the minimum term is more than 5 years in state prison.

(2) Excessive Criminality. Persons whose histories include criminality of any nature which is evaluated as chronic and/or extensive are considered unsuitable for the civil addict program.

(3) Sale of Narcotics, Dangerous Drugs or Marijuana. Persons who are involved in a large-scale trafficking operation, or persons who are found to be trafficking or in possession of narcotics, marijuana, or dangerous drugs beyond that which might be reasonably necessary to support their own need for narcotics.

(4) Assaultive Behavior. Persons with a history of assaults, battery and other offenses against the person, including—a) those with a pattern of aggressive and assaultive behavior. This pattern may be developed either by acts committed over several years with periods of nonviolent adjustment in between or it may demonstrate itself in a series of acts preceding the instant arrest; b) those who have a pattern of aggression which precedes their narcotic addiction and continues after their addition; c) those for whom it is adjudged that long-term institutionalization is indicated because of the seriousness of their behavior. Single acts of aggression may warrant exclusion when the act was of such nature that it demonstrates aggression which was aggravated or vicious, or when the individual was involved in using dangerous or deadly weapons in the commission of the instant or prior offenses.

(5) Other Relevant Reasons: a) Extreme Recalcitrance: Case history shows subject can reasonably be classified as an escape risk or is recalcitrant to the extent that he unduly threatens the good order and the security of the minimum security facilities of the civil addict program; b) Unresponsive to Program: Case history shows that while the person is a narcotic addict, he has been previously exposed to therapy and rehabilitation programs without significant gains; c) Other Medical or Psychiatric Disorders: Those who, while they may be addicted to narcotics, have major behavior or medical disorders distinguishable from narcotics addiction, and which would need treatment (in addition to treatment for addiction) which the civil addict program is not able to provide, including—I. Sex deviates—case history or diagnosis shows person to be a sex deviate who needs treatment for this pathology in order that he may be controlled and that he becomes less of a threat or menace to society; II. Chronic psychotics—persons who would require treatment for their psychosis before the addiction problem could be approached. III. Serious medical disorders—A. Persons with such serious medical problems that treatment for their narcotic addiction is secondary and B. Persons whose medical problems are severe and may be deemed irreversible.

SECTION 202

(a) Except as otherwise provided in subsection (b) of this section and in section 211 of this title, whenever any narcotic addict desires to obtain treatment for his addiction, such addict may file a petition with the State Rehabilitation Center requesting that he be admitted to the State Rehabilitation Center for treatment of his addiction. Any such petition filed by a narcotic addict shall set forth his name and address and the facts relating to his addiction.

(b) Except as otherwise provided in subsection (a) of this section and in section 211 of this title, whenever a related individual, or any law enforcement officer or health official or judge has reason to believe that any person is a narcotic addict, such related individual law enforcement officer, health official or judge may file a petition with the director of the State Rehabilitation Center requesting that such person be admitted to the State Rehabilitation Center for treatment of his addiction. Any such petition filed by a related individual, law enforcement officer, health official or judge with respect to a person believed by such related individual, law enforcement officer, health official or judge to be a narcotic addict shall set forth the name and address of the alleged narcotic addict and the facts or other data on which the petitioner bases his belief that the person with respect to whom the petition is filed is a narcotic addict.

SECTION 203

(a) The director of the State Rehabilitation Center will after receiving the request for treatment and rehabilitation of a suspected addict under section 202 (a) or (b) of this title shall, if it is determined that there is reasonable cause to believe that the individual is a narcotic addict, that appropriate facilities and trained personnel are available for the treatment of the person, and that the person is an "eligible individual" as defined in section 201(e), advise the district attorney or his equivalent, to file a petition with the court of competent jurisdiction to commit such individual to the State Rehabilitation Center for treatment.

(b) Upon the filing of any such petititon by a district attorney or his equivalent, the court may order the individual to appear before it for an examination by physicians as provided under section 204 of this title and for a hearing, if required, under section 205 of this title. The court shall cause a copy of such petition and order to be served personally upon the patient.

SECTION 204

The court shall immediately advise any patient appearing before it pursuant to an order issued under subsection (b) of section 203 of his right to have (1) counsel at every stage of the judicial proceedings under this title and that, if he is unable because of financial reasons to obtain counsel, the court will, at the patient's request, assign counsel to represent him; and (2) present for consultation during any examination conducted under this section, a qualified physician retained by such patient, but in no event shall such physician be entitled to participate in any such examination or in the making of any report required under this section with respect to such examination. The court shall also advise such patient that if, after an examination and hearing as provided in this title, he is found to be a narcotic addict who requires medical treatment, he will be civilly committed to the State Rehabilitation Center for treatment; that he may not voluntarily withdraw from such treatment; that the treatment (including post-hospitalization treatment and supervision) may last 36 months; that he may be confined in an institution for up to, but not exceeding, 6 months for treatment or, in the alternative, he may be placed in an outpatient program established by the State Rehabilitation Center for treatment and supervision; that if he is confined in an inpatient facility he will, following his release, be placed under the care and custody of the director of the State Rehabilitation Center for treatment and supervision under a posthospitalization program established by the State Rehabilitation Center; and that should he fail or refuse to cooperate in such posthospitalization program or be determined by the director of the State Rehabilitation Center to have relapsed to the use of narcotic drugs, he may be recommitted for additional confinement in an inpatient facility followed by additional posthospitalization treatment and supervision. After so advising the patient, the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination, the court may order the patient committed for such reasonable period of time as it shall determine, not to exceed 10 days in the case of a patient described in section 202(a) of this title, or not to exceed 72 hours in the case of a patient described in section 202(b) of this title. The examination shall consist of a physical examination and a psychiatric examination, except the psychiatric examination shall not be administered, and the patient shall be immediately returned to the court for such further proceedings as it may direct, if the physical examination indicates that the patient is not a narcotic addict. Each physician appointed by the court shall, within such period so determined by the court, examine the patient and file with the court, a written report with respect to such examination. Each such report shall include a statement of the examining physician's conclusions as to whether the patient examined is a narcotic addict and is likely to be rehabilitated through treatment. Upon the filing of such reports, the patient so examined shall be returned to the court for such further proceedings as it may direct under this title. Copies of such reports shall be made available to the patient and his counsel.

SECTION 205

(a) If both examing physicians (referred to in section 204) conclude in their respective written reports that the patient is not a narcotic addict, or is not an addict who requires medical treatment, the court shall immediately enter an order discharging the patient and dismissing the proceedings under this title. If the written report of either such physician indicates that the patient is a narcotic addict who requires medical treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the patient to submit to a thorough examination, the court shall promptly set the case for hearing. The court shall cause a written notice of the time and place of such hearing to be served personally upon the patient and his attorney. Such notice shall also inform the patient that upon demand made by him within fifteen days after he has been served, he shall be entitled to have all issues of fact with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury is made, the court, in conducting such hearing, shall determine all issues of fact without a jury.

(b) In conducting any hearing under this title, the court shall receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 204. Any patient with respect to whom a hearing is held under this title shall be entitled to testify and to present and cross-examine witnesses.

(c) Any patient with respect to whom a hearing has been set under this title may be detained by the court for a reasonable period of time not to exceed 30 days in a suitable hospital or other facility designated by the director of the State Rehabilitation Center until after such hearing has been concluded.

SECTION 206

If the court determines after a hearing that such patient is a narcotic addict who requires medical treatment, the court shall order him committed to the care and custody of the director of the State Rehabilitation Center for treatment in an inpatient facility or outpatient program to be established by the State Rehabilitation Center. The director of the State Rehabilitation Center shall submit to the court written reports with respect to such patient at such times as the court may direct. Such reports shall include information as to the health and general condition of the patient, together with the recommendations of the director of the State Rehabilitation Center concerning the continued confinement of such patient.

SECTION 207

Any patient committed to the care and custody of the director of the State Rehabilitation Center pursuant to section 206 of this title shall either be committed for a period up to six months in an inpatient facility subject to such posthospitalization program as may be established pursuant to section 208 of this title, or in the alternative, he may be placed in an outpatient program established by the State Rehabilitation Center for treatment and supervision. After the director of the State Rehabilitation Center certifies that the individual has recovered from addiction to the extent that release on an outpatient status is warranted, the Narcotic Addict Evaluation authority (see section 307) in its discretion may conditionally release the individual under supervision.

SECTION 208

If, at any time during such three year period, any patient (1) fails or refuses to comply with the directions and orders of the director of the State Rehabilitation Center in connection with such patient's posthospitalization treatment and supervision, or (2) is determined by the director of the State Rehabilitation Center to be again using narcotic drugs, the director of the State Rehabilitation Center may order such patient's immediate return to the committing court which may recommit such patient to the State Rehabilitation Center for additional treatment for a period of not to exceed six months, and may require such patient thereafter to submit to a posthospitalization program.

SECTION 209

Nothing in this title shall preclude a person who has been discharged from the program from being recommitted under the program, irrespective of the periods of time of any previous commitments.

SECTION 210

Any determination by the court pursuant to this title that a patient is a narcotic addict shall not be deemed a criminal conviction, nor shall such patient be denominated a criminal by reason of that determination. The results of any hearing, examination, test or procedure to determine narcotic addiction of any patient under this title shall not be used against such patient in any criminal proceeding.

SECTION 211

Any physician conducting an examination under this title shall be a competent and compellable witness at any hearing or other proceeding conducted pursuant to this title and the physician-patient privileges shall not be applicable.

SECTION 213

The provisions of this title shall not be applicable with respect to any person against whom there is pending a criminal charge—whether by indictment or by information, which has not been fully determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release has not been fully served, except that such provision shall be applicable to any such person on probation, parole, or mandatory release if the authority authorized to require his return to custody consents to his commitment.

SECTION 213

Notwithstanding any other provision of this title, no patient shall be examined pursuant to section 204 of this title unless the director of the State Rehabilitation Center certifies that adequate facilities or personnel for treatment of such patient are available.

SECTION 214

Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment under this title, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person is guilty of a crime punishable by imprisonment in the state prison for not exceeding 7 years. This section does not apply to unauthorized absence from a halfway house or other outpatient facility or program.

SECTION 215

Any person who knowingly makes any false statement to the district attorney or his equivalent in any petition under section 202(b) of this title shall be guilty of a misdemeanor.

Title III: State Rehabilitation Center

SECTION 301

There is hereby established an institution and branches thereof under the jurisdiction of the Department of Corrections to be known as the State Rehabilitation Center. The principal purpose of such Center shall be the evaluation, receiving, control, confinement, employment, education, treatment and rehabilitation of patients who have been committed to it by a court of competent jurisdiction as narcotic addicts who require medical treatment.

SECTION 302

(a) A Director shall be appointed by the Governor for the State Rehabilitation Center who in turn shall appoint, subject to civil service, such other officers and employees as may be necessary.

(b) The Director shall acquire or construct, and equip, in accordance with law, suitable buildings, structures, and facilities for the State Rehabilitation Center.

(c) The Director shall be responsible for the supervision, management, and control of the State Rehabilitation Center and for the care, custody, training, discipline, employment, and treatment of the patients confined therein.

(d) The Director shall make all rules and regulations for the administration of the State Rehabilitation Center.

SECTION 303

The director of the State Rehabilitation Center shall assist the district attorney or his equivalent in making his decision to petition an individual for commitment by—

(a) Receiving the request from a person seeking to commit himself or another suspected to be an addict under title II of this Act;

(b) Determining that there is reasonable cause to believe that a person is a narcotic addict and advising the district attorney or his equivalent as to such; and

(c) Determining that adequate facilities and trained personnel exist to treat the person for whom the petition was filed and advising the district attorney or his equivalent as to such.

SECTION 304

The director of the State Rehabilitation Center should exercise complete flexibility in dealing with addicts committed to the Center and attempt, in all cases, to provide individualized, multi-modality treatment including, but not limited to, medical, educational, social, psychological, and vocational services, corrective and prevention guidance and training, and other rehabilitative or maintenance services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending or controlling his dependence on addicting drugs and his susceptibility to addiction.

SECTION 305

The director shall establish separate treatment and rehabilitation programs for persons under 21 years of age and for men and women. Separate facilities will also be provided so that each group can be segregated for specialized treatment. Such facilities and programs will not be isolated but will be integrated in communities in the State. The State Rehabilitation Center is authorized to subcontract with existing community programs for the referral of addicts committed under titles I and II of this Act.

SECTION 306

Treatment for the maintenance or control of dependence on addicting drugs by the use of methadone and other heroin substitutes shall be strictly controlled, limited to narcotic addicts who are over 21 years of age and who have failed on two previous occasions to respond to treatment designed to end dependence on addicting drugs, and shall not be administered to pregnant women.

SECTION 307

(a) There shall be established in the State Rehabilitation Center a Narcotic Addict Evaluation Authority, hereafter referred to in this Section as the Authority. The Authority shall be composed of five members, each of whom shall be appointed by the Governor, for a term of four years and until the appointment and qualification of his successor. Members shall be eligible for reappointment. The chairman of the Authority shall be designated by the Governor from the 5 members from time to time. The terms of the members first appointed to the Authority shall expire as follows: one on January 15, 1973, one on January 15, 1974, one on January 15, 1975, one on January 15, 1976, and one on January 15, 1977. Their successors shall hold office for terms of four years, each term to commence on the expiration date of the term of the predecessor. The Governor shall fill every vacancy for the balance of the unexpired term. Insofar as practicable, persons appointed to the Authority shall have a broad background in law, sociology, law enforcement, medicine, or education, and shall have a deep interest in the rehabilitation of narcotic addicts.

(b) Each member of the Authority shall devote such time to the duties of his office as required for performance of his duties and shall be entitled to an annual salary of ——— for attendance upon business of the Authority. The chairman shall be entitled to an annual salary of ———. In addition, each member shall be allowed actual expenses incurred in the discharge of his duties, including travel expenses.

(c) The Authority shall maintain its headquarters at the State Rehabilitation Center and shall be provided with necessary office space, equipment and services from funds appropriated to the State Rehabilitation Center.

(d) The Authority shall meet at the Center or its branches at such time as may be necessary for a full and complete study of the cases of all patients who are certified by the director of the State Rehabilitation Center to the Authority as having recovered from addiction or to such an extent that release in an outpatient status is warranted. Other times and places of meetings may also be fixed by the Authority. The Authority panel shall consist of at least two members of the Authority. Three members of the Authority shall constitute a quorum for the transaction of business. No action shall be valid unless concurred in by a majority of the members present.

(e) After an initial period of observation and treatment, whenever a person committed under this Act has recovered from his addiction to such an extent that, in the opinion of the director of the State Rehabilitation Center, release in an outpatient status is warranted, the director shall certify such fact to the Authority. If the director has not so certified within the preceding 6 months, his case shall automatically be referred to the Authority for consideration of the advisability of release in outpatient status. Upon any such certification by the director or such automatic certification, the Authority may release such person in an outpatient status subject to being retaken and returned to inpatient status by the committing court as described in section 208 of this Act. The supervision of such persons while in an outpatient status shall be administered by the State Rehabilitation Center in conjunction with the Department of Corrections.

A single member of the Authority may by written or oral order suspend the release in outpatient status of such a person and cause him to be retaken, until the next meeting of the Authority. The written order of any member of the Authority shall be sufficient warrant for any peace officer to return such persons to physical custody.

It is hereby made the duty of all peace officers to execute any such order in like manner as ordinary criminal process.

SECTION 308

An addict parole program will be established in the Department of Corrections. Rules and regulations governing the operation of the program will be established by the Director of Corrections with the director of the State Rehabilitation Center to closely supervise the patient after release from the facility, to make periodic and surprise testing for narcotics use, to counsel the patent and assist him in securing employment and a place to live, to recommend to the Director of the State Rehabilitation Center if it is in the best interests of the patient and society that a patient should be returned to inpatient status at the State Rehabilitation Center, and to limit the caseload of each parole officer so that he can effectively assist the individual addict.

SECTION 309

The State Rehabilitation Center is authorized to establish one or more halfway houses in metropolitan areas to assist the addict in locating and maintaining employment, finding a place to live, and in adjusting to society without the aid of drugs. Rules and regulations governing the operation of such halfway houses shall be established by the Director of the State Rehabilitation Center and shall provide for control of the earnings of persons assigned to such halfway houses during their residence there, from which shall be deducted such charges for maintenance as the director of the State Rehabilitation Center may prescribe.

Title IV: Civil Commitment and the Courts

SECTION 401

It is the intent of the Legislature that, if possible, all hearings to be held pursuant to titles I and II of the Act for the civil commitment of alleged addicts will be held in a division of the court of competent jurisdiction to be located in the State Hospital designated by the State Rehabilitation Center where such alleged addicts are confined for treatment and examination pending the hearing in order to facilitate the proceedings.

SECTION 402

The Attorney General of the State is authorized and directed to establish training programs for the judges of the courts of competent jurisdiction who sit on the court referred to in section 401 of this title, and probation and parole officers under the addict parole program created in title III of this Act to better acquaint them with all aspects of the problems relating to drug addiction and dependency, and to enable them to carry out their duties and responsibilities regarding narcotic addiction in a manner that will best serve the interests of justice, safety, and humanity.

ADDRESS OF CONGRESSMAN LOU FREY, JR., BEFORE THE NATIONAL SOCIETY OF STATE LEGISLATORS, OCT. 21, 1971

MODEL STATE ACT FOR THE TREATMENT AND REHABILITATION OF NARCOTIC ADDICTS

Ladies and Gentlemen, I am honored to have the opportunity to participate on this panel this morning to discuss the growing menace of drug addiction and possible legislative solutions to it.

Narcotic addiction is a national epidemic and something must be done immediately to stop the contagion of disease and crime sweeping this country. We cannot wait for long, drawn-out, philosophic studies to be completed. Heroin is a "now" problem. A new approach and the commitment of substantial resources is required if we are to prevent the loss of an entire generation of young Americans.

The number of narcotic addicts has been estimated at being between 250,000 and 500,000. The recently released FBI crime report stated that arrests for Narcotic Drug Law violations for 1970 were 44% above those for 1969 and 741% above those for 1960. Over 1,000 persons died in 1970 in New York City alone, where over half the nation's drug addicts reside. It is the greatest single cause of deaths among young people between the ages of 15 and 35 in New York City. More lives have been lost to drugs in the last 8 years in New York City than the entire state of New York has lost in the war in Vietnam.

There is, moreover, a direct correlation between addiction and crime. An addict may need from $50 to $150 a day to buy heroin to support his habit, and thus must steal goods worth 5 times the cost of his habit. Thus, an addict with a $50 a day habit would have to steal over $90,000 worth of goods per year to maintain his habit. It is estimated that $8.1 billion per year is required to support the habits of drug addicts nationwide. Moreover, organized crime reape between $2 and $5 billion from the illegal sale and distribution of drugs.

Consequently, 98% of the addicts in New York City resort to crime to support their habit. In the District of Columbia, 60% of funds obtained to support addiction are obtained through burglary, robbery, and larceny; 15% through prostitution; and 10% from other illegal activities. In addition, at least 20% of all addicts obtain heroin by pushing drugs.

Jerry Wilson, Chief of Police in Washington, D.C., in a letter dated September 3rd, informed me that 3,668 persons arrested in D.C. last year were determined to be addicts either because they volunteered the information or there was physical evidence of such. Of these, 2,628 were arrested for crimes against property; 1,972 for burglary I and II, 197 for attempted burglary, 409 for grand larceny and 50 for arson.

In addition to the huge economic costs due to narcotic addiction, there are substantial social costs. The entire criminal justice system (the police, courts and correcting institutions) has an enormous burden placed on it. Additional costs include the lost productivity of addicts, costs due to personal injury and property destruction incurred in crime, and illnesses and premature deaths brought on by addiction.

Moreover, families are destroyed, young lives have been ruined, and large segments of our society live in fear of becoming the victims of addiction-related crimes.

Present programs—Federal and state—are not working. Under the Narcotic Addict Rehabilitation Act of 1966, only 7000 persons had been admitted for examination and evaluation in 4½ years, and 57% of those who volunteered for treatment were rejected as "not being rehabilitatable."

And state programs, except for a few—such as California and Illinois—are even less adequate. In my own state of Florida, there are no state-funded treatment facilities; an addict who desires treatment is referred to one of 75 community programs which are locally or federally-funded. The community programs, for the most part preexisted the creation of the State Office of Drug Abuse, are scattered throughout the state, and provide different kinds of treatment.

Furthermore, there isn't a state-operated or directed halfway house program, an addict parole program, or methodone or other maintenance program. Consequently, even if there are openings in some of the community programs, and most are running at full capacity, there is only a remote possibility that an addict will receive individualized treatment.

After several months of hearings and field trips, the Republican Task Force on Drug Abuse, of which I am the Chairman, drafted legislation entitled "The Omnibus Narcotic Addict Control, Rehabilitation, and Research Act of 1971". The House Judiciary Committee is now holding hearings on this bill which, in my opinion, deals more comprehensively than any other with the "demand" side of the drug problem. It has received the endorsement of, among others, the National District Attorneys Association.

Based upon this legislation and on the statutory authority for some of the well-run state programs, especially California, which I have observed, I have drafted a model state act which I believe will provide the framework to effectively deal at the state level with the demand side of the drug problem.

Comparable to the civil commitment of the mentally ill, this act provides for the civil commitment of drug addicts who have either been charged or convicted of a crime or not charged or convicted. These new involuntary civil commitment procedures, which includes numerous safeguards to prevent violations of due process, will have the following results: 1) put substantially more addicts in a therapeutic climate; 2) protect the addict against himself; 3) prevent the contamination of others and protect society against criminal acts; and 4) reduce the demand for narcotics by placing any known addict under medical supervision and control.

There are two separate commitment procedures—one for the criminal addict and one for the non-criminal addict.

In the case of the criminal addict, the Act is designed to commit for treatment in lieu of sentencing those addicts who, for the most part committed crimes to support their habit; and who, with external motivation, can be rehabilitated to the point where they can, once again, function in society without having to commit crimes to support their habit or spreading the contagion of addiction. The procedures set forth in the Act will also result in addicts charged with a crime being confined in a suitable facility for treatment pending the outcome of both the criminal and civil proceedings. Since a large portion of the street crimes are committed by addicts on bail, it is important that we place those charged with a crime in a treatment facility.

Addicts with excessive criminality histories, who have committed offenses with a minimum term beyond 5 years or involving bodily harm, who were involved in the trafficking of drugs beyond that necessary to support their habit, or for other relevant reasons will not be eligible for treatment in lieu of sentencing.

The criminal addict may be committed for treatment to last up to 5 years, including 6 months of inpatient treatment, but it cannot exceed the period of time to which he would have been sentenced to. He may, however, be released to an outpatient program after the initial 6 months of inpatient treatment, if he has improved sufficiently. If he successfully completes the program, the sentence will be dismissed. If he does not or if he resists treatment, he will be returned to the court for execution of the sentence. Full credit toward the service of the sentence will be allowed for the time spent in institutional custody.

In the case of the non-criminal addict, the addict himself may volunteer for treatment or a petition may be filed by a related individual (which includes any person with whom the addict lives), a law enforcement officer, health official, or judge who has reason to believe that the person is an addict. Any false statements made under this act are a misdemeanor.

If it is determined by the State Rehabilitation Center, which I shall refer to shortly, that there is reasonable cause to believe an individual is an addict who is eligible for treatment and that there are adequate facilities and trained personnel to treat the person, the district attorney (or his equivalent) will file a petition for commitment with the court of competent jurisdiction. The alleged addict will be advised of his right to have an attorney present at all stages of the proceedings, his right to a jury trial, right to have his own physician, and what is involved in being committed.

Within 72 hours after the petition is filed, the person will receive both a psychiatric and physical exam to determine if, in fact, he is an addict. The physical exam is administered first and may be given within several hours. If there is no trace of narcotics in his system, the person will be immediately released. Any patient with respect to whom a hearing has been set may be confined in a suitable facility to receive treatment pending the hearing.

If the court determines that the individual is a narcotic addict who requires medical treatment, he shall be committed to the care and custody of the Director of the State Rehabilitation Centers for treatment in either an inpatient or outpatient facility for up to 36 months, with a maximum of 6 months in an inpatient facility.

Release to an outpatient facility or readmittance to an inpatient facility for both the criminal and non-criminal addict will be determined by a 5-member Narcotic Addict Evaluation Authority. Three months after a person has been committed to an inpatient facility, he may petition to be released on an outpatient basis. After 6 months, the Narcotic Addict Evaluation Authority will automatically review the case for release.

These procedures will result in putting substantially more addicts in a therapeutic climate and, thereby, prevent the contamination of others and reducing drug-related crime. Volunteer programs by themselves are simply not sufficient. The hard fact is that heroin addicts are basically sick people with tremendous psychological problems. They are both physically and psychologically addicted. Motivation is the key to recovery and in 95 percent of the cases the motivation must be imposed by an outside force on the individual.

The most important aspect of this pro-

posed Act is, however, not the commitment of addicts, but the provisions in the Act which provide for the flexible handling of the heroin addicts committed. One of the great dangers is dealing with heroin addicts is to assert and believe generalities. Each is an individual and, as such, presents peculiar problems. There is no one cure for all heroin addicts.

For some, methodone or even perhaps heroin maintenance is the only solution because they simply lack the psychological capacity to kick the habit. For others, outpatient clinics or halfway houses might be more important. The most we can hope for is to make many of their lives useful for varying lengths of time until an antagonist is developed.

This Act suggests that the court in which civil commitment hearings are held be located, if possible, at the state hospital where the addicts are examined, tried, and committed. A State Rehabilitation Center (SRC) is created which has the flexibility to provide individualized, multi-modality treatment for the addicts committed. The SRC will advise the court and the district attorney (or his equivalent) as to 1) whether there is reasonable cause to suspect that a person is an addict; 2) whether there are adequate facilities and trained personnel to treat him; and 3) what treatment is best suited to the individual addict based upon his degree of addiction, age, and criminal record. There is no prescribed period of confinement or method of treatment.

Thus, some addicts will be referred directly to an outpatient program, including halfway houses established in metropolitan areas, others to inpatient facilities for medical treatment and group therapy. Carefully-controlled methodone maintenance programs will be utilized for hard-core addicts, while a separate program will be established for the young addict whose problems differ from the older, hard-core addict. Moreover, each addict upon being released on an outpatient status will be given the opportunity to develop job skills and receive assistance in securing employment and housing.

The State Rehabilitation Center will have the power to subcontract with existing community programs and create new ones, if necessary, so that the treatment programs will be integrated with the local communities in order to assist the addict in readjusting when he is released.

This Model Act does not provide all the answers to the enigma of drug abuse, but, it does, I believe, offer a framework which, if adequately funded, would enable each of your various states to make giant strides in reducing the spread of addiction, reducing drug-related crime, and returning many young people back to society as healthy, functioning citizens.

The social and economic costs of drug addiction far outweigh the commitment of public resources, both federal and state, which the enactment of this proposed legislation would require. It is up to us as legislators to educate our constituencies to the severity of the problem and the need for immediate measures, such as this Model Act, and the commitment of substantial resources. Thank you.

POW EVEN FOR ANOTHER DAY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. JACOBS. Mr. Speaker, I was wondering, in view of the events of the past few weeks in Saigon, if any Member of Congress or any member of the executive branch would care to say he or she is willing, from this day forward, to give his or her life, limb, sanity or freedom—POW even for another day—further to prop up the Saigon dictatorship.

Other Americans are being ordered to do so today.

Following is the language of House Resolution 630, which I introduced on September 30, 1971:

HOUSE RESOLUTION 630

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madame Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Vietnam stated on July 1, 1971, that the policy of her government is: "If the United States Government sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of United States forces and those of the other foreign countries in the United States camp, the parties will at the same time agree on the modalities:

"A. Of the withdrawal in safety from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp;

"B. Of the release of the totality of military men of all parties and the civilians captured in the war (including American pilots captured in North Vietnam), so that they may all rapidly return to their homes.

"These two operations will begin on the same date and will end on the same date.

"A cease-fire will be observed between the South Vietnam People's Liberation Armed Forces and the Armed Forces of the other foreign countries in the United States camp, as soon as the parties reach agreement on the withdrawal from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp."

Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from South Vietnam within sixty days following the signing of the agreement: *Provided,* That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

A RURAL WYOMING CITIZEN DEFENDS LABOR UNIONS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. RONCALIO. Mr. Speaker, in the difficult adjustment of the new economic policy, a certain regrettable bias toward the labor movement has been expressed by those who seek easy answers to complex problems.

The Torrington Telegram in Torrington, Wyo., recently carried a letter from Barbara Givens, daughter of the late Dave Givens, an able and active leader in Wyoming's labor force.

Her defense of collective bargaining and expression of an idealism which goes beyond economic interest is most timely and I recommend it to my colleagues as a balance to some of the discriminatory antilabor publicity which has lately been in evidence.

Her letter follows:

WOMAN WRITES VIEWS ON LABOR UNIONS

(By Barbara Givens)

After reading an article in the Sept. 2, issue of the Torrington Telegram about unions, I felt a strong need for a rebuttal. It appears to me, that this man has never been a union member, nor has he any true knowledge of their functions.

A union is a group of workers united to provide and to protect the interests, welfare and rights of its members. Too much propaganda is spread about such an organization, when only a small portion of it is correct. This holds very true of the letter to which I am referring. Where this information was gathered, I do not know, but I hope this letter will verify what unions are all about. Since Wyoming is not a strong union state, it will be hard for some of you to comprehend the true meaning of a union. But, if I am not one to sit back, and let the truth to go unsaid. If this person would read a copy of the Taft-Hartley Act, then he would know exactly the limits of a union.

Since the beginning of the Labor movement in America, our members have been involved in projects of charity and benevolence. The reason for all unions has been the promotion of the well being of people. In a strong union state, you find the employer more than happy to be a union, rather than non-union. The reason for this is very simple. The employer knows that unions are more apt to be concerned about production, than non-union employees.

Unions are not strong because they have unlimited tax exempt funds to block anybne who opposes them at the polls, nor are members forced to pay any undue monies for any such political activities. Unions canvass each and every candidate on the local county, state and national basis. They review each candidate's stand on strong issues and this information is then passed onto its members. They only recommend, who they feel would be better for labor. Then, and only then, does labor approach its members on political activities. Unions do, and always will support any candidate they feel is worthy of their support. Members are in no way, shape or form, forced to vote or take part in any political activities against his own wishes. Organized labor does not have any more force at the polls, than big business, N.F.O., church organizations, foundations, or other so-called civic organizations. If organized labor is as strong, as the letter stated, I'll assure you, there are a number of people in office today, and have been in the past, who would never make it to first base.

This country has always been reluctant to recognize, that organized labor has a legitimate place in its economic status. It is very true that organized labor has gained strength over the years. But Labor has gained its power only through the growth of collective bargaining, both of which are strongly supported by our government. It has taken a long time, but labor has developed leaders, who are intelligent, understanding of the issues, and persuasiveness can match those of management. Unions do not run its members. Union leaders do not enter into your job, unless they are called upon to do so. If trouble arises, and if you call them, then only do they come at your beck and call. Our union leaders negotiate on a contract with the management through collective bargaining. When both sides reach a tentative agreement, this agreement goes before the union membership for ratification. If the membership refuse this agreement, it is our leaders who go back to the drawing board for us.

Some people feel it is very wrong to force or compel a person to join a union to secure a job. But, as a member of one of the largest unions in the country, I am one who does not. In a union shop, you have 30 days in which to decide, as to whether or not to join a union. This is more than ample time for one to decide, if he likes the wages, benefits, working conditions, and the support that a union shop gives. If one feels that it is not worth a little extra a month to secure a job, usually a good one, and to grow and prosper with the rest of the country, then this person belongs elsewhere.

I am very much aware of Wyoming's so-called "right-to-work" law, because I am the daughter of a man, who fought long and hard to keep Wyoming free of such a law. In case you do not know to whom I am referring, my father was, God rest his soul, Dave Givens. He was also president of the local union in Torrington for 15 years, and president of the Intermountain Region. He was also organizer of the now and present Torrington Community Federal Credit Union.

Any state, that has shown little interest in positive labor relation laws, have bestirred themselves to enact this law. It may also be of interest to know, most of the states that have enacted this law, are rural and southern states. This, in my books, is a leeches paradise, because it allows a person, who does not wish to join the union, to receive all benefits. It's a dirty rotten shame a union man has to put up with a man who is lazy and just wants to rake in all the goodies.

Free enterprise must be truly free for labor as well as for management, and without free enterprise, we have no economy. Organized labor is the economic backbone of our country, and if it were not for organized labor, wages, benefits, working conditions, and production would be far below what it is today.

Anyone who can sit back, let the world go around, and let others do his work, belongs on the old homestead, miles from civilization, sitting on a creek bank, under an old oak tree, and thinking of nothing or no one but himself.

HOWARD CHERNOFF AND HIS IMPRESSIVE ACCOMPLISHMENTS

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. SLACK. Mr. Speaker, upon occasion we encounter an outstanding example of the way in which the enterprise management spirit can be directed toward a public service responsibility.

These examples show that it can be done. Redtape can be cut. A proud and impressive showing of the American heritage can be organized, even though all of the appropriated funds are not spent.

In this connection I speak of Howard L. Chernoff, whose work I have admired both during his service with the Federal Government and while with private industry in numerous capacities. He has again gained recognition and well-merited praise, and the praise he has earned is of the kind that reflects to some degree on all his countrymen. I am pleased to have the opportunity to call to your attention a summary of his most recent accomplishment and recognition, as reported in the Honolulu Sunday Star-Bulletin & Advertiser on October 24, 1971:

EWC: CHERNOFF WHITE HOUSE HONOREE

(By Gene Hunter)

Ambassador Howard L. Chernoff, a Senior Fellow at the East-West Center Communication Institute, was one of 15 Americans honored last week for helping the Federal government save money.

Chernoff was the man chosen to plan and build the U.S. pavilion at Japan's Expo '70—and he did it for $1,350,000 less than the $10.1 million Congress appropriated for the job.

Chernoff received the award from President Nixon Monday at the White House in conjunction with the Federal Management Improvement Conference. The awards were established by Nixon to recognize those who contribute improved operating effectiveness and help cut the costs of the executive branch of the government.

Chernoff, a resident of San Diego, is in Hawaii to organize and conduct a seminar for high-level government information officers from 12 Asian countries. The program is the first of its kind, and the 64-year-old Chernoff said:

"I like that, because nobody can tell me, 'You can't do it that way because last year it didn't work.'"

Chernoff said the seminar will not attempt to propagandize the Asian officials, or to tell them how to operate a government information office. Instead, it will provide for an exchange of ideas.

One effect of such a seminar might be closer understanding of government by the people, because of new ideas developed by the information experts, Chernoff said. In his letter to those being invited to the seminar Chernoff expressed the hope that "each of us might go away with one new idea, and to my mind this would make it worthwhile."

The seminar is planned for Feb. 6–18, and Chernoff will return to San Diego about March 1.

The Cleveland-born Chernoff has spent most of his life in communications. He joined the Lorain (Ohio) Journal in 1928 as a reporter, but soon switched from the editorial department to the business office, becoming advertising manager.

"That was before the American Newspaper Guild (the newspaperman's union), and I felt I had to eat," Chernoff said, recalling the low salaries paid reporters at that time.

Chernoff also has been an executive with the Clarksburg (W. Va.) Exponent-Telegram, the West Virginia Network, the San Diego Daily Journal, KFMB radio and television in San Diego and the Sioux Falls (S. Dak.) Argus-Leader.

Among the major honors he has received in the communications field are the Peabody Award for the Most Outstanding Use of Radio in the U.S. (1943), the Variety Award for Expanding Radio's Social Usefulness (1944) and the New York Times Award for Civic Responsibility (1960).

Asked his opinion of the print and broadcast media today, Chernoff replied: "In many respects newspapers are far better than when I started out in the business. Newspaper reporting is being done by a higher type, better educated person now."

But he added that in some ways the news media "have failed miserably."

Frequently, newspapers do not cover the "positive aspects" of government, Chernoff said. The Washington Post ignored the recent White House ceremony in which 15 persons were honored for saving the government millions of dollars, he said, adding:

"If 15 men in government had stolen money, it would have been a hell of a story."

Chernoff said Honolulu radio is "just about at its worst," in both news and general programming. "The news you hear is obviously a rewrite of the morning or evening papers," he said.

Chernoff said he watches almost no television here, and cannot comment on that medium.

He said he did, however, watch the recent World Series on television—then grabbed the newspapers the next day to read about what he had seen. "I think many people do that," he said.

Chernoff helped former Gov. H. Rex Lee of American Samoa establish the pioneer educational television network in that South Pacific territory and was the man who conceived and started the famed San Diego Children's Zoo. Chernoff then was president of the San Diego Zoo, the world's largest zoo—and one of the few that is self-supporting.

In 1965 Chernoff was named executive assistant to the director of the U.S. Information Agency, the No. 2 post in that office, and from there was chosen by President Johnson to develop the Expo '70 pavilion.

Chernoff first was called Commissioner General of the United States Pavilion, a title that Nixon changed to Ambassador. Chernoff said this title change was not made to honor him, but as a compliment to the Japanese people since it upgraded him in their eyes.

He and his wife, Melva, and the 29 members of his staff lived in Japan from August, 1969, until December, 1970, on the pavilion project.

The Chernoffs, and all members of his staff, took 10 months of tutoring in the Japanese language before they moved to Japan. They lived in a middle-class neighborhood in Toyonaka, midway between Osaka and the site of Expo '70, and were the only Americans in that city of 400,000.

"At first they didn't know what to make of us but we became very good friends with our neighbors," Chernoff said.

He said Japanese seldom visit each others' homes, but that their Toyonaka neighbors accepted invitations to the Chernoffs. When some of those friends in turn entertained the Chernoffs, they invited neighbors who had lived beside them for 20 years but who had never been in their home.

After social formalities and amenities are observed, Japanese businessmen enjoy hard-nosed bargaining, Chernoff said. In dealing with contractors and others involved in the construction of the pavilion, he said, there were "many tedious, tough negotiations—but I found the Japanese respected that."

In recognition of his Expo '70 work, Chernoff recently was named a Grand Officer of the Imperial Order by Japanese Emperor Hirohito. The Emperor also sent the Chernoffs three large silver cups, used for New Year's sake drinking.

When the Emperor visited the American pavilion at Expo '70, the Chernoffs were briefed on how to act, what to say and what Hirohito might say. While things didn't go exactly as planned, Chernoff found the Emperor relaxed and friendly.

The Emperor's 11-year-old grandson Prince Hiro, had visited the pavilion two weeks before and Chernoff told Hirohito that the boy probably could explain the space exhibit better than anyone working there.

Hirohito replied jokingly that Hiro well might become the first Japanese astronaut and both men laughed. A photographer took a picture at that moment, which one Japanese newspaper ran eight columns wide. The Imperial household said that photograph was the most informal picture of the Emperor ever printed.

A CALL FOR A NATIONAL COMMITMENT TO PROVIDE ADEQUATE AND QUALITY TREATMENT FOR KIDNEY DISEASE SUFFERERS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. ROE. Mr. Speaker, I wish to call attention to you and our colleagues here in the House the desperate need in our country to provide for the necessary services and treatment to aid sufferers of the dread diseases of the kidney which not only carry heart-breaking circumstances during the end stage renal disease, but also place heavy financial burdens upon the families of its victims.

No parallel situation exists in the medical profession today where techniques have been developed for the diagnosis and prevention of disease which would save lives, and yet, at the same time, people continue to progress to chronic kidney disease and death, because of the lack of trained medical technicians, available facilities, research and equipment for the diagnosis, evaluation, treatment and prevention of kidney disease.

Just recently in my congressional district, Carl Salamensky, a dedicated husband, father, eminently qualified and capable college administrator with the William Paterson College of New Jersey, and the victim of chronic kidney failure passed away prematurely after a valiant fight, due in large measure to the desperate need for an improved quality of treatment and the lack of a truly concentrated national commitment to cure and control this exceedingly lethal crippling disease. The ravages of this disease not only destroys the physical body, but erodes the emotional and psychological capacities of its victims destroying the will to survive.

The untimely death of Carl Salamensky identifies an area of medical concern that must receive the immediate, assiduous attention of this Congress. Statistics portend that chronic kidney disease will strike and kill 8,000 to 10,000 persons each year; many, like Carl Salamensky, will be forced to die prematurely, because the facilities, the supplies, and the services necessary for their very life's sustenance will not be available.

It is clear to all of us that the medical profession is now equipped to assist these people to lead normal working lives, but it is a tragic moral and social failure that funds are not available to permit the implementation of the medical profession's developed techniques to save these lives.

There is indeed an urgent need for the implementation of a comprehensive program to combat kidney disease through the coordinated efforts of the Federal, State, and local governments, the medical professions, universities, nonprofit organizations, and individuals throughout our Nation. On Friday, November 5, I was pleased to join with Senator HARRISON A. WILLIAMS, Jr., of New Jersey, Senator JOHN G. TOWER, of Texas, and Senator J. CALEB BOGGS, of Delaware, in introducing a bill for consideration by the Congress to amend the Vocational Rehabilitation Act to provide special services, artificial kidneys, and supplies necessary for the treatment of individuals suffering from end stage renal disease. This measure authorizes $25 million for grants in aid on a 90 to 10 percent Federal-State matching fund basis for an expanded coordinated kidney disease treatment program. This legislation would achieve a major step forward in providing immediate assistance to individuals suffering from end stage renal disease.

On January 22, 1971, I cosponsored with Congressman HOGAN et al., H.R. 817, to establish a national catastrophic illness insurance program under which the Federal Government acting in cooperation with State insurance authorities and the private insurance industry, would reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost. This measure would help those people who find themselves unable to take out proper medical, hospital, or surgical insurance or health plan protection, because the cost is prohibitive.

On March 17, 1971, I introduced H.R. 6302, to establish a National Kidney Disease Act of 1971 providing Federal grants in aid to encourage and develop education, research, training, and demonstration projects to seek out mass testing procedures for the early detection of kidney disease, more effective and economical devices for blood purification, and to generally help improve the health manpower and facilities available to the Nation in combating this dread disease.

The earliest possible enactment of the foregoing proposals will provide a truly concentrated major step forward toward a comprehensive national commitment dedicated to the establishment of long overdue adequate and quality treatment for kidney disease sufferers during this decade of our history when one of the most important national goals with the highest priority should be that every American receives the finest quality medical and health services possible.

IS VIETNAM SAFER THAN NEW YORK CITY?

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. WOLFF. Mr. Speaker, the availability of the so-called "Saturday Night Special"—cheap, small handguns, selling at about $5 or even less—has created a murder nightmare in most urban areas, especially in New York City. WABC, an ABC-owned radio station in New York City, regularly presents editorials on topics of public interest, delivered by its vice president and general manager, George H. Williams. Recently, WABC broadcast an editorial comparing the death rate in the city from these Saturday Night Specials to the death toll in Vietnam. It is a shocking comparison and I commend WABC for its editorial.

I have supported legislation to achieve what the editorial seeks—an end to senseless killings. I also have introduced legislation, backed by 80 of my colleagues, to ban the manufacture and distribution of switchblade knives, the tools of silent death. One appropriate way to reduce the incidence of crime and violence is to make it more difficult for people to secure the weapons of violent crimes.

The WABC editorial makes the point that with more than 800 persons slain in New York City this year, the city's death rate may exceed that of Americans in Vietnam. The editorial follows:

IS VIETNAM SAFER THAN NEW YORK CITY?

There is a very good possibility that by the end of this year . . . the death toll in New York City might be higher than the American death rate in Vietnam.

Already more than 800 people have been slain here . . . this is far ahead of last year's rate.

And the average for murdered police is already more than one a month. Gun registration is apparently not the answer. The sale of guns must be controlled.

Maybe we should bring some of those small-town congressmen into New York for a weekend to see all the senseless killings. Those cheap handguns can be picked up for a few dollars . . . yet they can kill quickly . . . even if they don't fire a second time.

Do we need a Gulf of Tonkin incident here before congress declares war on handguns? As Mayor Lindsay has pointed out . . . the combat on our city's streets can only be stopped . . . by the national control of gun sales.

JAMES G. FULTON

HON. GEORGE P. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. MILLER of California. Mr. Speaker, expressions of sorrow still come to the committee lamenting the passing of our colleague, James G. Fulton. Jim's dedication to maintaining vigorous and progressive scientific research and development programs of the Nation is known far and wide in Government and in the civilian areas. Full recognition of that dedication is expressed in the following letter which I would like to insert for the RECORD. This letter is the expression of the highest levels of the National Science Foundation, the agency that has done so much since 1950 to make our country worthy of world leadership:

NATIONAL SCIENCE FOUNDATION,
NATIONAL SCIENCE BOARD,
November 2, 1971.

Hon. GEORGE P. MILLER,
Chairman, Committee on Science and Astronautics, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During our October meeting in Washington the Members of the National Science Board expressed sadness upon learning of the death of Representative James G. Fulton of Pennsylvania, and asked that I convey the sympathy of the Board to you as Chairman of the Committee on Science and Astronautics, on which Mr. Fulton served so ably as ranking minority member.

The importance of the support of science to national and international welfare was exceptionally well understood and clearly articulated by Mr. Fulton. The Congress and the scientific community have indeed lost an informed spokesman for the cause of science. Perhaps the most fitting memorials to Mr. Fulton's dedicated efforts in the Congress in support of scientific advancement are the record of the outstanding accomplishments of the United States space program and the increased communications among nations for international cooperation in science and space.

The Members of the National Science Board who have had the privilege of working with the Committee on Science and Astronautics express to you and the other Members of your Committee our condolences upon the death of your distinguished colleague.

Sincerely yours,

H. E. CARTER,
Chairman.

A PILOT PROGRAM FOR THE NATIONAL SERVICE ACT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. BINGHAM. Mr. Speaker, while the Congress has extended the draft for 2 more years, it is clear that the system must be revised. Earlier this year, I introduced legislation, the National Service Act, which I believe reflects the needs of the Nation and the desires of its youth. It would provide for civilian service as an alternative to military service. Writing in the September issue of Teachers College Record, Mr. Donald J. Eberly outlines a workable pilot project to study the impact of a national service system.

In his article, Mr. Eberly takes the 10-point statement on National Volunteer Service of the National Service Secretariat, as a delineation of the assumptions for his proposal. Expanding on that theme, he devises a profile of the needs of service fields and educational background of volunteers. Then, he directs himself to the pivotal questions which a pilot program must answer:

First. What are the needs?

Second. Who will meet them?

Third. What will be accomplished?

Mr. Eberly's proposal offers a thoughtful and intriguing approach which would test the feasibility of a national service system and its potential impact. The idea deserves the Congress' critical attention.

Following is the text of Mr. Eberly's article:

A NATIONAL SERVICE PILOT PROJECT

(By Donald J. Eberly)

"Overnight, you'll have a million kids on your hands, and it will be the biggest boondoggle in history." So goes one of the more eye-catching arguments against national service. What this criticism fails to consider, however, is that most serious proponents of national service advocate not a crash program but a transition period of three to five years to build up enrollment to a plateau of one to two million persons. The need at present centers on designing a true pilot project to test the feasibilities of a full-scale national service.

Experience with youth service programs over the past decade has permitted an acceleration of the recommended developmental period, but as yet there has been no true national service pilot project. The Peace Corps, VISTA and the Teacher Corps are small programs (none enrolls as many as 10,000 participants), widely dispersed, and highly selective. The Neighborhood Youth Corps and Job Corps are exclusive programs (participants must be educationally and financially poor) with underdeveloped service components.

Still these programs have helped to pave the way for national service. Skeptics who thought young people were not wanted or could not perform competently in overseas assignments were proved wrong by the work of thousands of Peace Corps volunteers. Hundreds of thousands of applicants for the Job Corps destroyed the myth that only a compulsory program could reach poor, uneducated young people, and the effective tutorial services of the Neighborhood Youth Corps demolished the thesis that such young people were suitable only for menial tasks.

These programs are also teaching us where they fall short of the national service ideal. For example, many VISTA volunteers have felt frustrated with their inability to effect the reforms which they want and society needs. Some have concluded that the necessary reforms could never be achieved through service; an overthrow of the system was required. What has not been tested is the potential of a full-scale service program. Suppose, for example, the Teacher Corps, in cooperation with the local school board, teachers' union, parents, students, and colleges, were to recruit young people to augment the teaching staff of city schools to bring the teacher-pupil ratio to the level of private schools. The ratio might drop from, say, 1:30 to 1:12. Until we know the true impact of this approach, and similar ones in such fields as health, environment, and protection, we cannot rule out the national service idea as an agent of change.

The longer the United States delays experimentation with national service, the more rapidly does it approach the time when a crash program may be needed. Our record is less dismal than one might guess. The Civilian Conservation Corps was our major successful mobilization program of youthful manpower for nonmilitary purposes. Within three months of the day it became law in 1933, some 275,000 young men were enrolled in CCC camps.

Although unemployment figures have not reached the crisis level of 1933, the combined effect of rising unemployment, youthful alienation, societal needs, and the lock-step of education appears to be leading us toward a crisis of similar proportions. While there is still time, it is only common sense to test a program designed to meet the basic needs of youth and society and which, as a byproduct, might avert the looming crisis. Moreover, such a test is long overdue. National service pilot projects were recommended in 1967 by the National Advisory Commission on Selective Service and by the National Service Conference, in 1969 by the Joint Commission on Mental Health of Children, and in 1970 by the President's Commission on Campus Unrest.

Skeptics of national service probably will look upon such projects as test cases, the results of these pilot projects to determine whether or not a full-scale program should be undertaken. National service proponents, on the other hand, will likely consider the results as a demonstration of the enormous potential of the national service concept.

Whatever the pilot projects prove to be, this paper looks upon them primarily as empirical research. A theoretical basis for national service has been defined. A national service concept has been put forward and examined, the expected benefits tabulated, the costs estimated, the probable impact on the draft, on education, on society, considered. Viewed as a seed, national service has been quite thoroughly analyzed. Now it is time to plant seed, several of them, in different kinds of soil, and in various types of weather. Then, when the fruit has been harvested, we can determine what next for national service.

Before designing test projects, we must first ask what it is we want to discover. Then we can design the projects to most efficiency meet our objectives.

ASSUMPTIONS

This paper is based on the kind of national service program outlined in a ten-point *Statement on National Volunteer Service*,[1] which has drawn the endorsement of many of the strongest advocates of national service. The statement reads as follows:

The zeal of young people to build a better society has never been clearer than it is now. Yet opportunities to work constructively for a better society are limited. Compared to national needs, relatively few jobs in the service fields are available to young men and women.

Still, the service needed by society—in such fields as education, health, conservation and municipal services—is enormous. Many of these needs could be met by young people, those who are asking for relevance in education, for a chance to meet their service responsibility outside the armed forces, and for first-hand experience with problems whose outcomes will determine the kind of world to be passed on to their children.

In order to meet many of our most pressing needs and to permit young men and women to become engaged in the building of a better society, We endorse a program of national volunteer service, which would have these basic features:

1. Service opportunities would be available to all young people. The main criterion for admission would be willingness to serve.

2. Each participant would both serve and learn. Learning would range from development of specific skills to growth in self-knowledge, problem-solving, and working with people.

3. Service activities would be directed and financed at the local level to the extent permitted by available resources, and would include projects organized and directed by young people. Thus, maximum local initiative would be encouraged.

4. Service activities would be underwritten by a public foundation at the national level. Such a foundation, which should be removed from political pressures but which would receive both Congressional appropriations and private contributions, would assure support for all needy projects.

5. The basic *raison d'être* for national volunteer service is the need society has for the service of youth. Main areas are tutoring, health and mental health, conservation, and various kinds of community and family service. By serving in these fields, young people would be able to test themselves through service to society and would receive valuable experience for their careers.

6. Young people who seem poorly qualified by conventional standards could serve effectively. High school dropouts are today serving as tutors, and doing a good job; others are receiving specialized training for responsible hospital positions. Each participant would be given the training and supervision needed for the assignment.

7. There would be a transition phase. Growth of national volunteer service would be constrained by identification of useful tasks, finding enough trainers and supervisors, and obtaining sufficient funding. The

[1] *Statement on National Volunteer Service*, Washington, D.C.: National Service Secretariat, August 3, 1970.

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transition phase would permit experimentation with various techniques and activities.

8. Participation would be by means of a contract, voluntarily entered into by all parties. The contract would spell out the responsibilities of the participant, the sponsoring agency and the funding agency.

9. Duration of service would range from a minimum of one year to a maximum of four years. The normal contract period would be one or two years, renewable.

10. Participation in national volunteer service would be viewed as fulfillment of a person's service obligation. Thus, satisfactory completion of national volunteer service—for the same period of time as needed to complete one's military service obligation—would place participants in the same draft category as veterans of military service. Also, if armed forces manpower requirements were to be met solely by volunteers, there would be no need to relate civilian service to military service since both would be manned by volunteers.

PROFILE OF NEED

How many tutors are needed? How many to work on health projects? How many conservationists? How many to assist city officials in the delivery of human services?

In the absence of more recent data, major reliance for theoretical estimates of need is placed on two six-year-old reports, one prepared by the National Commission on Technology, Automation, and Economic Progress, the other by Greenleigh Associates for the Office of Economic Opportunity. Both reports estimated the need for sub-professional workers in public service fields, as shown in Tables I [8] and II.[9]

Based on these estimates, a subsequent reordering of national priorities (e.g. beautification must now be subsumed under environmental concerns), and my experience with youth service programs, such as, the Atlanta Urban Corps, I compiled in 1970 a revised estimate of needs, as shown in Table III.[4] For purposes of planning pilot projects, it is suggested that Table III serve as the profile of need until harder data become available.

TABLE I

Source of Employment:	*Job Potential (in millions)*
Medical institutions and health services	1.2
Educational institutions	1.1
National beautification	1.3
Welfare and home care	0.7
Public protection	0.35
Urban renewal and sanitation	0.65
Total	5.30

TABLE II

Field of Service:	*Theoretical Potential*
Health, including hospitals and mental health	1,355,000
Education	2,016,900
Day care	14,000
Recreation and beautification	136,000
Libraries	62,700
Public welfare	65,000
Probation and parole	16,000
Institutions, dependent and delinquent children	38,500
Public works	150,000
Police and fire	50,000
Prisons	24,000
Defense	350,000
Total	4,278,100

WHO WILL SERVE?

What young people will choose to participate in national service, Will they be rich or poor? Black or white? Male or female? High school dropouts or college graduates?

Survey data are available on these questions from three polls taken in recent years. Poll Number 89 of the Purdue Opinion Panel asked a representative sample of high school students this question:

TABLE III.—ESTIMATED NEEDS AND EDUCATIONAL REQUIREMENTS FOR NATIONAL SERVICE PARTICIPANTS

[In thousands]

	Need	Minimum academic background: High school dropouts	High school graduates	Some college	College graduates
Total	4,030	1,340	1,470	935	285
Educational services	1,000	205	420	270	105
Tutors	600	100	300	180	20
Teacher aids	300	100	100	80	20
Teachers	60				60
Public media aids	40	5	20	10	5
Health services	900	215	405	230	50
Health aides	800	200	350	210	40
At hospitals	600	150	250	170	30
Outside hospitals	200	50	100	40	10
Mental health aides	100	15	55	20	10
At institutions	50	10	25	10	5
Outside institutions	50	5	30	10	5
Environmental services	800	600	110	50	40
Conservation aides	500	400	50	30	20
Pollution and sanitation aides	100	60	20	10	10
Beautification aides	100	70	20	5	5
Park development aides	100	70	20	5	5
Social services	560	110	210	210	30
Day care aides	200	30	100	65	5
Welfare aides	200	30	50	110	10
Parole and probation aides	20	5	10	5	
Prison aides	20	5	10	15	
Geriatric aides	50	20	20	10	
Settlement house aides	50	20	20	10	
Legal aides	20			5	15
Protection services	300	60	155	65	20
Police aides	200	25	120	45	10
Fire aides	50	20	15	10	5
Highway safety aides	50	15	20	10	5
Other services	470	150	170	110	40
Public works aides	200	100	70	25	5
Recreation aides	100	20	50	25	5
Library aides	50		15	30	5
Mayor's aides	20	5	5	5	5
Others	100	25	30	25	20

Instead of being drafted into the armed forces, suppose every person, male or female, could spend one year working in some way for his country to solve its problems. For which of these would you be willing to work a year? (Answer only one.)

A. Poverty: slums, ghettoes, welfare programs, housing, etc.

B. Conservation: air, water, pollution, etc.

C. Education: improve and expand

D. Race problems: provide equal opportunity

E. Some other than above; or would not be willing to work a year [5]

Four years earlier, in April 1966, the Gallup Organization asked college students this question:

VISTA is a federal program made up of volunteers who live and work among the poor in depressed areas of the nation. Do you think you would have any interest in working in this program, either on a full-time or a part-time basis? [6]

Results for a selected group of teen-age girls are found in a survey conducted for *Seventeen* magazine in February 1969. It asked a sample of their subscribers this question concerning voluntary national service:

Would you personally volunteer to serve for a year in such a program? [7]

These and related questions in the three surveys yielded responses which suggest theoretical answers to several questions that pilot projects could be expected to answer empirically:

1. All three polls indicate a majority interest in national service quite apart from draft considerations, and a somewhat stronger interest as a draft alternative. The surveys also indicate that more young women than young men would volunteer for a program of national service.

2. By age and educational levels, the surveys suggest that the largest group of entrants into national service would be high school graduates, ages seventeen or eighteen. Some would choose to finish college before entering, while others would interrupt high school or college studies to enlist.

3. The racial composition of national service participants would reflect the larger society, with minority group representation falling no lower than from 11 percent to 10 percent. On project choice, the percentage of minority group volunteers working in poverty programs would be substantially over 11 percent, while the percentage working on conservation projects would be substantially under 11 percent.

4. The surveys reveal a slight lessening of interest at the two extremes of the economic spectrum. Also high school students with very low grades are somewhat less interested in national service than those with average or high grades. When the surveys are examined regionally, it is clear that young people would volunteer for national service in very nearly the same proportions from all regions of the country.

[5] A. C. Erlick, "People Problems: Population, Pollution, Prejudice, Poverty, Peace." *Report of Poll 89*. Purdue University: The Purdue Opinion Panel, 1970.

[6] *Attitudes of College Students Toward VISTA*. Princeton, New Jersey: The Gallup Organization, Inc., 1966.

[7] "National Service Survey," *Seventeen* Magazine, March 1969, p. 5.

[8] "Technology and the American Economy," in *Report of the National Commission on Technology, Automation and Economic Progress*. Washington, D.C.: U.S. Government Printing Office, Vol. I, February, 1966, p. 36.

[9] *A Public Employment Program for Unemployed Poor*. New York: Greenleigh Associates. November, 1965, pp. 28–29.

[4] Donald J. Eberly. *The Estimated Effect of a National Service Program on Public Service Manpower Needs, Youth Employment, College Attendance and Marriage Rates*. New York: Russell Sage Foundation, 1970.

The surveys are not helpful in forecasting how many men would opt for civilian service as against military service. At any rate, the major determinants, such as, war and level of unemployment, would not be controllable by pilot project administrators.

Should the nation decide to commit itself to the draft and to national service, then pilot projects should test the influence on enrollment of such controllable variables as rates of pay, duration of enlistment, and postservice benefits.

Should the nation decide to commit itself to a volunteer military force and a standby draft only, the pilot projects should test the option plan for national service to discover how much money in incentive pay and amenities for persons in the military could be saved by instituting a program of national service.

WHAT WILL BE ACCOMPLISHED?

This is the most difficult area to take measurements. What is the value to a person learning at age twenty, instead of age fifty, that a career in which he serves his fellow man would be more rewarding? What is the value to society of motivating 1,000 young people to enter legitimate careers instead of the world of crime? What is the value to the economy of looking after 4,000,000 infants of working mothers?

The direct financial aspects of these acts could be estimated fairly accurately. The social and personal benefits, however, do not lend themselves to easy quantification. One approach is to compare the cost of national service benefits to the cost of the same benefits obtained through alternative means.

Consider, for example, a National Service Highway Safety Patrol Corps. Although Corps members would carry no guns and have no power of arrest, it is postulated that their presence on the highways would deter speeders and reduce fatalities. Corpsmen would administer first aid to accident victims and with the aid of helicopters attached to each Corps unit assist in rushing victims to hospitals.

Benefits to participants would include training in auto mechanics, first aid, electronic equipment maintenance, helicopter operation, and career guidance. Attitudinal changes on such subjects as age, race, nationality, education, and family income could also be examined.

The total benefits accruing from the Patrol Corps and comparable programs in other major areas, such as, education, health, and conservation, would be quantified, and the cost compared with the cost of achieving the same benefits through alternate methods. The results would indicate those areas in which national service was the most economical means to a set of objectives and those in which it was the most costly.

To be useful, project goals must be fairly specific. With the highway safety project, for example, the objectives might include the items in Table IV.

Clearly, if goals are to be measured with a fair degree of accuracy and have significance, the test projects would have to be concentrated. It would be very hard to measure the impact of 1,000 highway safety patrolmen spread throughout the country, but relatively easy to measure their impact if confined to one state.

DESIGNING A PILOT PROJECT

Although numerous questions have been posed on the national service concept, they cannot be answered independently of each other. National service is not simply the provision of manpower, such as, the assignment of a highway safety patrolman to a dangerous intersection. It is not simply the education offered to participate. Nor is national service simply an opportunity offered young people to experiment with public service careers, to travel, to find alternatives to the draft and the lock-step of education. National service is all of these things, and the profile of motivations and benefits of a national service experience would be unique to each participant. So, if national service is to be tested properly, the experiment must be comprehensive and conducted on a fairly large scale.

Table IV

1. Number of lives saved.
2. Number of injuries avoided.
3. Reduction of damages to automobiles (dollar value).
4. Provision of training:
   (a) In first aid.
   (b) In auto mechanics.
   (c) In radio.
   (d) In helicopter operation.
5. Facilitation of career choice:
   (a) As highway patrolmen.
   (b) As helicopter pilots.
   (c) As medical personnel.
   (d) As auto mechanics.
   (e) As electronic technicians.
6. Reduction of societal costs resulting from Corps participation:
   (a) Penal system.
   (b) Welfare system.
   (c) Unemployment.
   (d) Educational system.
   (e) Health system.

As indicated earlier, the main thrust of this empirical research project appears to fall into the following three categories:

What are the needs?

Who will meet them?

What will be accomplished?

Sequentially, these topics are interrelated as shown below:

[Chart referred to not printed in the RECORD.]

In practice, then, an integrated pilot project can be designed in which the persons who enroll in the Resources Project can fill the positions identified in the Needs Project, and their accomplishments measured in the Results Project.

Before designing a pilot program to test our hypotheses, however, we have to recognize three possible limiting factors.

First, all national service projects will involve the interaction of national service participants and other human beings. Hence it will be important for the participants not only to be needed, but also to be wanted by the local residents. Ideally, a community would initiate a request for a test project, would design the project, would provide for training and supervision of participants, and would evaluate the completed project. The actual sponsor, which might be the board of education, a local hospital, or a new consortium, would have to demonstrate broad-based community support.

Proper receptivity to national service cannot be overstated, For this reason our test criteria cannot be too rigid. It would be preferable, for example, to test national service in an area that is 25 percent black and receptive than one that is precisely 11 percent black and hostile. This factor is not simply the hope of a national service protagonist. Testing national service in a hostile area means a built-in negative bias, probable failure, and the likelihood that the national service researchers will never have their questions answered.

The second constraint concerns finding an adequate number of competent, middle-level personnel to fill positions created by a test project. In our highway safety project, for example, we would need a helicopter instructor and a number of other supervisory personnel. No doubt they can be found, but if we have to go outside the test area to locate such individuals, it is likely that we would not yet be ready to launch the highway safety program on a nationwide basis.

A third constraint arises if the number of positions and the number of applicants are unequal. To permit a need to go unfilled, or an applicant to be rejected for lack of opportunity, would damage the credibility of the whole operation. Reservoirs should be established. If needs exceed participants, the project should be able to recruit outside persons and to include them in the project. If participants exceed needs, similar projects elsewhere should be started.

These fringe considerations probably would entail higher unit costs, but they are, nevertheless, essential to a thorough test of the idea. For they are what differentiates national service from VISTA and other limited programs. Young people must be guaranteed a chance to serve. And public service agencies must be assured the help they request. Without such guarantees the project degenerates into another token effort. With them, we can discover whether national service is as powerful a program as it is an idea.

THE RESOURCES PROJECT

Several possibilities exist for the Resources Project. To determine the size and nature of the universe of persons who would enroll, national service could be open to all whose birthdays fell on a specified date, or whose last name began with a certain letter. Either of these approaches would assure recruits from all over the country. In terms of local impact, however, either alternative would dilute the pilot project. So few persons would enroll from any single area that it would be difficult to measure the effect on schools, business, crime rate, and so on

The most useful approach from a research viewpoint would open the pilot project to all young people in a given geographic area. By mean of the gerrymander principle, a standard metropolitan area could be expanded to include some rural areas, thereby defining a population whose socioeconomic characteristics typify the United States as a whole. Not only would such an approach facilitate studying the impact of national service, but it would also reduce the costs of recruitment and otherwise add to the efficiency of the test project.

The minimum population of the test area should be 1,000,000. This writer has earlier suggested that a national service program would enroll some 2,000,000 young people, or about 1 percent of the total population.[8] Let us assume that we could expect to enroll 1 percent of the population in the pilot project. With some 10,000 participants, the project should yield results that would be predictive of a nationwide national service program.

Do the prescribed test areas exist? They certainly do. According to the 1970 census, 15 states and 54 metropolitan areas have population totals between the suggested limits of 500,000 and 2,000,000. These examples are cited not to rule out other test sites, such as multistate regions and individual city boroughs, but merely to indicate the number of options within a fairly narrow population range.

A firm decision on the test project would have to be made a year before the operation begins. Even before the decision is made, however, cooperation with the local citizenry would have to be secured and the funds appropriated. In the year after the decision, the staff would set up the necessary machinery, an independent research team organized to make measurements, and positions found for the estimated 10,000 participants.

In designing and implementing the pilot projects, it will be helpful for planning purposes to have some national figures. A solely qualitative approach would result in great variations in the assumptions of staff members as to the number of participants. A possible breakdown for the Resources Project is given in Table V.

[8] Eberly, *op. cit.*

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THE NEEDS PROJECT

By definition, the Needs Project must be concentrated. Places for 2,500 educational aides could easily be found throughout the country, but that experience would tell us little about total nationwide demand. Hence the Needs Project should be undertaken in an area comparable in size to the Resources Project.

Unlike the Resources Project, however, the Needs Project can be divided by category. In fact, more accurate estimates of nationwide demand probably would result from conducting sub-projects in separate localities than from having all projects in the same place.

TABLE V

	Number	Variation (percent) Increase	Decrease
Total population of area	1,000,000	+100	−50
Minority group population	110,000	+100	−20
Number of applicants, 16 to 30	25,000	+100	−50
Number rejected	250	+100	−50
Number opting out	14,750	−100	−50
Number of participants	10,000	±50	
Number of dropouts	500	±50	
Age of participants:			
16 to 17 years	1,500	±35	
18 to 19 years	4,000	±25	
20 to 21 years	2,500	±30	
22 to 25 years	1,500	±35	
26 to 29 years	500	±50	
Educational background of participants:			
High school dropouts	2,500	+20	
High school graduates	4,000	±15	
Some college	2,000	±20	
College graduates	1,500	±25	
Sex of participants:			
Male	4,000	±30	
Female	6,000	±25	

By having each of the Needs Projects tested in different communities, different administrative approaches could be tried, and it will not be an all-or-nothing proposition. By encouraging local officials to use the administrative procedures that seem best for their needs, it would be possible to examine the similarities and differences in procedure, and to determine which matters should be made a condition of participation in national service projects and which should be set locally. Furthermore, project dispersal would place less strain on the communities where the sub-projects took place. If all were concentrated in one locality, it would be comparable to launching a nationwide program of 2,000,000 participants with no build-up period!

One of the Needs Projects should be tested in the same area as the Resources Project. In doing so, we should be able to determine the number and types of young people who opt for local service, and to examine the comparative results of such service.

Just how the projects would be divided would depend heavily on the nature of the proposals. An advisory board to the pilot project could review the proposals and award contracts in a manner to most nearly achieve a nationwide program in miniature.

[Figure I chart referred to not printed in RECORD.]

Participation in each sub-project should cover the socioeconomic spectrum, although individual sub-projects would often show distortions from the norm. For example, the average educational level of participants in an educational project would likely be somewhat higher than in a conservation project.

THE RESULTS PROJECT

While the sponsoring organization in each participating community would be responsible for basic recordkeeping, an independent agency should be engaged to audit such records and otherwise to evaluate and interpret the results.

Such an agency would conduct its research in accordance with the project objectives. It would fully describe the resources and needs and explain in detail the extent to which the objectives were met. Evaluation studies would begin when the sites were chosen and would continue throughout the life of the project.

In addition, provision should be made for other persons wishing to evaluate the national service pilot project. The aforementioned advisory board could rule on the legitimacy of such requests and minimize the effect of the Heisenberg Uncertainty Principle by keeping research studies from seriously affecting the project itself.

In summary, we have designed a pilot project to test the national service concept. Always difficult to define simply, the three components of the project are shown graphically in Figure 1. Such a three-dimensional matrix suggests the interrelationships among the components and could be an informative way of presenting data on the project.

PRAYER AMENDMENT

HON. ARTHUR A. LINK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. LINK. Mr. Speaker, on Monday, November 8, 1971, I voted against House Joint Resolution 191, the prayer amendment. I voted against the amendment because of my faith in the wisdom of the founders of our Nation, who knew oppression and hungered for freedom. Through the Bill of Rights they sought to establish and preserve the freedoms they felt were fundamental to a new kind of democratic society.

Some of their most bitterly felt oppression resulted from the combined authority of church and state. Under the guise of religious teachings and beliefs, government officials were able to direct the lives of citizens. The fact that the very first article of the Bill of Rights states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" is a positive statement of their desire to insure this basic freedom.

The measure that was defeated on Monday severely threatened this freedom. Many citizens responded to this threat by urging Members of Congress to vote against the proposal. The comments by one of the pastors in my State of North Dakota came to the very crux of the matter:

Present laws permit a time for silent meditation which is all that should be permitted in a pluralistic society such as our own. . . . If this opposition to prayer in school seems strange on the part of the church, you need only reflect on why there were large groups of people immigrating to this country years ago for religious reasons: it was not because of a lack of religion in their homelands, but because well meaning rulers thought they could make people good by enslaving their consciences.

The proponents of the resolution severely weakened their case, when only minutes before the end of debate, they offered an amendment to change the wording from "nondenominational prayer" to "voluntary prayer or meditation." We should not tamper, on a spur-of-the-moment decision, with our Nation's most precious heritage, the Bill of Rights. In this case, I believe I voted to preserve one of its most fundamental principles.

BUSH REPLIES TO YOST: IN DEFENSE OF THE TWO-CHINAS POLICY

HON. WILLIAM L. SPRINGER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. SPRINGER. Mr. Speaker, some days ago, Charles W. Yost, former U.S. Ambassador to the United Nations made comments with reference to the outcome of the vote on the admission of Red China to the U.N.

George Bush, our present Ambassador to the U.N., replied to Mr. Yost in an editorial in the Washington Evening Star of Sunday, November 7. I am sure that all of my colleagues will want to read this editorial:

BUSH REPLIES TO YOST: IN DEFENSE OF THE TWO-CHINAS POLICY

(By George Bush)

Recent comments of my predecessor at the United Nations, Ambassador Charles W. Yost, regarding the outcome of the U.N. vote on the China admission question need rebuttal, although I am normally reluctant to engage in this sort of debate.

The ambassador has offered his analysis of the vote and a number of arguments as to why the United States was on the losing side of the issue. I cannot agree with many of his reasons and I am unable to draw the same conclusions as to the results.

The ambassador asserts that the reaction of the Nixon administration and others to the ouster of the Republic of China tasted of sour grapes. While conceding that a feeling of disappointment over the expulsion was a "natural" reaction and to be expected, he accuses the supporters of the Nationalist Chinese seat in the United Nations of overreacting to its elimination. In a word, the ambassador seems to be saying that it wasn't worth all the fuss.

The United Nations was formed out of the ashes of World War II as a forum for the peaceful settlement of international disputes. Today there are more than twice as many nations holding membership in the organization as there were when it was established over two decades ago. The more nations that recognize its validity and join its ranks, the greater are its chances of accomplishing its goals. It was precisely this proposition that moved President Nixon to seek more normal relations with the People's Republic of China and to encourage its admission to the United Nations.

Ambassador Yost's intimation that the President's decision to go to Peking, and Dr. Kissinger's timing of his second visit to that country were a signal to the U.N. membership to deliver the final blow to Taiwan's hopes, is incredible. The President reiterated his policy with respect to his visit to the People's Republic of China in July, August and again in September. At the same time our policy with respect to Taiwan's membership in the United Nations has been consistent from the outset. The U.N. issue and Dr. Kissinger's trip were totally unrelated and represented the continued implementation of our overall policy. The trip was planned when we had every reason to believe that the U.N. vote would take place well afterwards. The coincidence was probably as difficult for the People's Republic of China as it was for us.

In short, our cards were played in the open through every step in the evolution of this issue. In fact, the case can be made that Dr. Kissinger's presence in Peking at the time of the U.N. debate can more easily be interpreted as confirmation of, rather than challenge to, the consistency of our policy with respect to the China issue.

The United States did everything it possibly could do to convince the members of the United Nations of our earnest desire to see the Taiwan seat retained in the General Assembly. Our position was fully consistent with the desire for all peoples of the world to be represented in the United Nations.

I simply can't agree with the three arguments advanced by Ambassador Yost as to why America's friends voted against us on the China question. His first was that United States resistance to the admission of the People's Republic of China for 20 years precluded a favorable vote on our dual-representation formula. This nation had opposed the admission of Communist China not because we preferred her people to be represented by the Taiwan government but due to other historic imperatives well known to all.

The fact that circumstances and conditions have changed vis a vis China, and the United States now supports its admission to the UN, is, in our view, unrelated to the question of whether the Taiwan government should retain its seat. The crux of the issue in last week's vote was that these two questions should be separate.

His second argument that dual-representation would not have brought the People's Republic into the U.N. because Peking considered it an implicit recognition of the legitimacy of the Taiwan government, again shows a misunderstanding of the American position. The President was fully aware of the possibility that the People's Republic of China might not have entered the United Nations had Taiwan been allowed to remain, and was fully prepared to deal with that question when it arose. *But neither the President nor I felt at any time that that was a legitimate basis to vote for the expulsion of the Nationalist Chinese.* We made every effort to make that point clear to the membership.

We felt that Peking should be invited into the U.N.—but on the U.N.'s terms, not Peking's terms. If we are to condone the expulsion of a small member-nation to make room for a large non-member nation, we immediately expose the U.N. to the possibility of diplomatic blackmail. For example, it is now not inconceivable that a major nation will condition its future participation in the U.N. on the expulsion of some less significant adversary nation. That would be a disaster.

The third, and according to Ambassador Yost, the most important reason for the ouster of Taiwan, is simply that, since the U.S. was re-establishing relations with Peking, we could not expect other nations to vote in favor of an issue anathema to the Communist Chinese. They too would now be interested in bettering relations with the PRC.

The inconsistency of this argument is self-evident. The United States while re-establishing its relations with the Chinese government, not only voted for the retention of the Nationalist Chinese but worked actively to gain support for it among other nations as well. This we felt demonstrated (1) that we were serious and (2) that others might well be able to do the same thing—if these two positions are not inconsistent for us, why must they be inconsistent for our friends? The United States was not asking any government to do something that we ourselves were unwilling to do.

Ambassador Yost and I share the same view that the United Nations is a beneficial instrument of world peace and that it should be preserved and supported. Where we obviously disagree is in the significance of expelling a member-nation. Mr. Yost apparently feels (1) that the expulsion of a smaller nation is not of great importance if it facilitates the admission of a larger nation, and (2) that in the instance of the Taiwan government, the expulsion was justified by the facts in the case. I believe he is wrong on both counts, and that this will soon become apparent to all.

STALEMATE AT SUEZ

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. WOLFF. Mr. Speaker, Kenneth J. Pexrow, a friend and constituent, has called my attention to an excellent editorial column by William Randolph Hearst, Jr., editor in chief of the Hearst newspapers, titled "Stalemate at Suez." It is a fine assessment of the travail Israel has encountered and still faces in attempting to achieve peace in the Middle East.

I have introduced in this session of Congress legislation, supported by my colleagues on both sides of the aisle and from all parts of the country, expressing the sense of Congress that the United States should sell to Israel aircraft necessary to Israel's defense against the takeover of the entire Middle East.

That is what the Middle East crisis is all about. Russia is giving military support to Egypt. If a balance of power is to be preserved—which is the only way peace can be preserved—Israel must receive equal military support, and it can only come from us. Five successive U.S. Presidents have seen the relationship between Israel's integrity and survival, and U.S. national interests.

Editor Hearst points out that the United States advocates as a first step toward a peace settlement an agreement for the reopening of the Suez Canal, but that all that Israel has gotten from Egypt in exchange for its conciliatory attitude are impossible demands and threats of renewed warfare by the first of the year.

Mr. Hearst's comments follow:

STALEMENT AT SUEZ

(By William Randolph Hearst, Jr.)

NEW YORK.—Every time the continuing Mideast crisis is discussed in this column—which is often, since it is so important to so many people of the world—invariably a number of largely unprintable letters come in accusing me of being biased in favor of Israel.

My pro-Arab correspondents can spare themselves the risk of writer's cramp today. I admit in advance what my regular readers know every well—that Israel has been a special interest of mine since its very beginnings, and that its national goals and aspirations have always had my sympathy and support.

Having said that, I contend that what you are about to read here today is as objectively fair an assessment as can be presented from the situation today.

That assessment, in a word, is that it is Israel which thus far has sincerely opened the door to a possible Mideast peace settlement. Egypt, by provable contrast, has offered nothing but unreasonable demands.

Before getting into the subject, which has preoccupied the United Nations and my own attention most of the week, an apology may be in order for not giving column priority to the flood of domestic news recently emanating from Washington.

No slight is intended. President Nixon's post-freeze program, the latest developments on his China visit, congressional action on his tax bill and the military appropriation measure—all are important and inviting subjects.

My general comment is that the President, by and large, has had a pretty good week.

Speaking specifically, I note that opposition to the tax bill and criticism of the post-freeze program mostly springs from political or similarly predictable points of view.

The major objection is that the Nixon Administration allegedly is doing more for industry than it is for labor and my reaction to this is—why not?

You don't need to be an economist to know that labor can only prosper if industry does. Or that a healthy industry is the only real cure for unemployment. Or that the government already—rather effectively—"controls" profits by taking 50 percent of them, if any there be.

So—let's get back to those Arab-Israeli quicksands.

It is not my nature to be pessimistic. You can find reason for hope in almost any dismal situation. Yet there seems very little cause for optimism in the current status of the Mideast peace negotiations being led by the United States.

The position of the U.S. was outlined in a complicated, six-point program urged by Secretary of State Bill Rogers in his UN address last Monday. Unfortunately, Israel and Egypt cannot agree on its most basic proposals.

What the U.S. advocates as a first step toward a final peace settlement is—quite sensibly—an agreement whereby the Suez Canal might be cleared and restored to operation as the waterway of immense value it once was.

Israel has made a major concession to this end. It has indicated it is willing to withdraw its troops some 10–15 miles back from the canal on two conditions: (A) That no Egyptian military forces move across the canal into that bank area, and, (B) that its ships be guaranteed passage through the reopened facility.

To this, to date, Egypt has given a big fat no. It insists that its military forces be given access to the east bank. It hedges on the idea of giving Israel immediate use of the reopened waterway. Most important, it demands a written pledge from Israel that any Suez settlement will mean that Israel agrees to return all Arab territory it took in the 1967, six-day war.

You can forget all the side issues in that six-point program of Mr. Rogers. The crux of the problem right now is whether Israel and Egypt can ever agree on such a relatively simple first step as getting the Suez Canal open.

The big stumbling block is that Egypt refuses to accept the fact that it lost the 1967 war it provoked. Having lost, it wants its marbles back and takes the position that Israel has no right to the territory it conquered.

In this it has the support of the UN. The contention is that Israel technically started the war and thus was the aggressor—a view which ignores the fact that Israel HAD to act to save itself from the imminent mass destruction prepared and announced by Nasser, the late Egyptian president.

The technicality is basically irrelevant to reality since it also ignores the most fundamental rule of warfare—that to the victor belong the spoils.

Israel thus may agree to return some holdings in the interests of peace—as it has—but it has no more intention of returning all of them than Russia has of giving up the Eastern European nations it took over in World War II.

Russia, for its own safety, occupied and established those nations as satraps whose

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chief function is to serve as a buffer zone between itself and any attack from the West. Israel has done much the same thing.

Before the 1967 war, for example, Egyptian bombers were only five minutes away from Tel Aviv while Israel's planes were a half hour or so from Cairo. Today the tactical advantage is reversed.

The point is that land ownership has changed hands because of an armed conflict which Egypt caused and lost. That is an accomplished fact, and no amount of pressure is going to force Israel to return anything it considers vital to its security.

All of this, to me, underscores the fundamental importance of Israel's offer to withdraw some 10 to 15 miles so the Suez Canal might be reopened under wholly reasonable conditions.

The offer is a major concession, obviously made because Israel earnestly wants to help solve the deadlock. Any way you look at it, the proffered withdrawal entails a calculated risk.

In exchange for its conciliatory attitude, Israel has gotten precisely nothing from Egypt except impossible demands and threats of renewed warfare by the first of next year.

According to Cairo, Israel will have to pull back nearly 30 miles instead of 10 or 15. As mentioned earlier, it will have to permit Egyptian troops in the vacated territory. It will have to wait and see under what circumstances it may use the Suez Canal.

Above all—and here we repeat the nuts and bolts of the whole problem—Israel will have to agree in advance that any settlement on Suez automatically means its agreement to return every single inch of conquered Arab territory.

Israel simply will never do this.

Egypt, in turn, shows not the slightest sign of easing up on its total withdrawal demands.

It would seem to be a wholly insolvable problem if it were not for the fact that Israel has made its first step offer toward a potential compromise.

The next step is up to Egypt.

Until Egypt responds in a similar spirit of cooperation, the Mideast powder keg will sit there in constant danger of a truly catastrophic new explosion.

CORNELIUS J. HAGGERTY

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. CARNEY. Mr. Speaker, it is with deep regret that I learned of the death of Cornelius J. Haggerty, who had retired last May as president of the Building and Construction Trades Department of the AFL–CIO.

Mr. Haggerty had served in that position for 11 years, during which time he represented 17 unions with a total membership of 3.5 million. His election to the presidency of this great union climaxed a long and fruitful career in the labor movement, which he joined in 1915 as a member of the Lathers Union. He became president of his local and finally president of the California AFL–CIO. He served in this position from 1937 to 1943, when he became the secretary-treasurer of the AFL–CIO.

In addition to these offices, Mr. Haggerty was a member of the Advisory Committee of the Office of Price Administration and the Manpower Commission, and was appointed by California Gov. Earl Warren to the Board of Regents of the University of California. He thus became the first representative of organized labor to serve on the Board of Regents.

Mr. Haggerty's tenure as president of the Building and Trades Department was marked with a dedication to the highest standards of equity and fair play. He had opposed wage controls unless price and profit controls were also imposed. He advocated a program for the hiring and training of Negroes and other minority group members. Mr. Haggerty had also worked against the use of poor quality materials in construction projects and had urged his workers to give a fair day's work for their pay.

Mr. Speaker, this outstanding American demonstrated unusual leadership abilities while working for the right of the people he represented. In recognition of his total dedication to these high goals, the Building and Construction Trades Department Executive Council passed a resolution in his honor at their recent general convention in Chicago, and I include this resolution in its entirety in my remarks:

RESOLUTION

Whereas, the Executive Council and the Officers of the Building and Construction Trades Department, AFL–CIO, the General Presidents of the seventeen International and National Unions affiliated with the Department and their more than 3,000,000 members have learned with profound sorrow of the death October 10, 1971 of Cornelius J. (Neil) Haggerty; and

Whereas, C. J. Haggerty served with distinction and dedication as President of the Building and Construction Trades Department from 1960 until May 6, 1971, when, for reasons of health, he resigned to become President Emeritus of the Department; and

Whereas, C. J. Haggerty was a faithful, industrious, intelligent member and leader of the trade union movement from the start of his career as a building tradesman, when he joined Lathers Local Union No. 72 in Boston in 1915; and

Whereas, C. J. Haggerty spent his adult life in furthering the aims and objectives of the trade union movement as a business manager of his local union, a Vice President of the Wood, Wire and Metal Lathers International Union; Secretary of the Los Angeles, California, Building and Construction Trades Council; Vice President of the California State Federation of Labor, AFL; Secretary of the California State Federation of Labor, AFL; Secretary-Treasurer of the merged California Labor Federation, AFL–CIO, and President of the Building and Construction Trades Department, AFL–CIO; and

Whereas, C. J. Haggerty devoted himself to many civic, cultural and educational causes, including the Federal Advisory Council on Employment Security, the Board of Directors of the National Housing Conference, the National Planning Association, the Latin-American Unit of the International Confederation of Free Trade Unions and the Joint United States-Mexican Trade Union Committee; and

Whereas, this warm, friendly, courteous, sincere gentleman was the first labor man in the history of the University of California to be named a member of the Board of Regents of that great University; and

Whereas, the federal government recognized the talents of C. J. Haggerty by calling him to service on a variety of important Presidential Committees and Commissions, including missile sites, traffic safety, youth employment, fine arts, peace corps, rehabilitation of the industrially injured and apprenticeship and training; and

Whereas, C. J. Haggerty embodied the finest type of leader in his unstinting efforts to provide equal employment opportunities for trained citizens of his nation, regardless of race, religion or creed; and

Whereas, the trade union movement and the United States of America have suffered a loss in the passing of this splendid labor leader now, therefore

Be it resolved that the Officers, the Executive Council and the General Presidents of the Building and Construction Trades Department, AFL–CIO, in behalf of the men and women they represent, extend to Margaret Kelleher Haggerty, his lovely wife; their two sons, Cornelius J. Haggerty, Jr., and Donald P. Haggerty, and their seven grandchildren and six great grandchildren the most sincere sympathy and, further,

Be it resolved that a copy of this resolution be sent to his wife, sons and all state and local councils and the Building and Construction Trades Department, AFL–CIO.

Mr. Speaker, I would like to express my sympathy at this time to Mr. Haggerty's widow and family. Their sorrow in his passing will certainly be shared by all his many friends in the labor movement.

SENSIBLE ACTION ON FOREIGN TRADE

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. MOLLOHAN. Mr. Speaker, 2 months ago, this Nation finally took some sensible actions on the question of foreign trade. We recognized that the relative strengths of the economies of the major nations of this world had changed over the last 25 years, and we insisted that there be a change in the valuations of currencies to reflect the present day, where there are several highly industrialized and highly skilled trading countries which have experienced enormous growth in the past two decades.

I hope, Mr. Speaker, that this is just the beginning of our search for the realities of today's international trade picture. Over the past few months and years, when we have sought to work out a more realistic trade policy, we have thought almost exclusively in terms of quotas and tariffs, of goods and services, and of trade balances and deficits.

Yet, today we must be talking about capital exportation, about the transfer of vast technologies to other countries, of relative tax structures, and above all about jobs and the equities on behalf of American workingman and consumer.

For, today, we are a major exporter of capital—in the 20 years between 1950 and 1970 our overseas investment increased from $19 billion to $108 billion. And because of this, we have lost jobs not only because foreign goods which come into the United States compete against goods manufactured here, but because U.S. capital has gone abroad to manufacture goods in foreign lands with the result that foreign goods produced with American capital compete against American-made goods in foreign markets.

Our steel industries, for instance, are hurt not only when raw steel is imported competing for orders in American firms, they are also hurt when foreign cars are sold here instead of American models, because those cars have foreign, not domestic steel. But they are hurt yet another way—when the American auto manufacturer goes to Germany or Britain and manufactures cars to sell in those nations which compete against American-made cars. The injury goes yet another step as well—when an American auto manufacturer produces cars abroad to be brought back to the United States for sale.

The problems we face, Mr. Speaker, are not limited to protecting our industries against the inflow of foreign products though that certainly is one of the key questions. It also involves the question of the exports of capital and jobs. For when capital which could be used at home to produce jobs is exported overseas, we lose the jobs which that capital could have generated.

And for that reason I am introducing legislation today which will address itself to both problems. It would impose quantitative restraints on imports by establishing a quota level based on the average annual imports during 1965–69. Where there is a voluntary government-to-government agreement in effect, the provisions would not apply. It would change the way in which we deal with dumping problems as well.

Presently, there are two departments involved in any antidumping case. The Treasury Department must find the existence of dumping—the practice of selling products in the United States at less than the price they were sold in the producing country. Then the Tariff Commission investigates the extent of the injury.

The bill I am introducing would establish a three-man commission to determine both within 4 months of the time the complaint was filed.

Another provision would change the requirements for receiving relief from imports. This legislation would require that increased imports contribute substantially to causing or threatening severe injury instead of requiring that the injury be the result of trade agreement concessions.

This legislation would also impose limitations on the flow of both investment and patented technology overseas. It would give the President the power to regulate the outflow of funds for private investment and would prohibit any holder of a U.S. patent from producing the patented product abroad at the risk of making the patent unenforceable in the U.S. courts.

This legislation would also change the tax treatment of American operations overseas to bring the treatment in line with their domestic operations.

Mr. Speaker, there are several things that must be done on the question of foreign trade, and this legislation attempts to accomplish those things. We must stop dumping practices, and we must halt the increasing rate of imports in some industries.

We must encourage American industry to strengthen its investments here in the Nation and discourage the flight of capital to other countries. We have more than 5 million people looking for jobs in this Nation, and yet the capital which could create those jobs continues to move overseas. Foreign goods continue to flood our markets in certain categories and eliminate even more jobs. It is time to put a stop to this, and I hope my colleagues will join with me in the formulation of an effective and comprehensive trade policy that will meet the needs of this country throughout this decade.

VIETNAMESE TRAINEES GIVEN SOMETHING EXTRA BY SPONSORS

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. HAGAN. Mr. Speaker, war uproots many people and creates unusual situations. One of these has to be the experiences of fighting men who are sent to faraway places to fight or get ready to fight.

Hunter Army Airfield in my district is the training ground for Vietnamese who are preparing to fly helicopters in the war back home. The manner in which the people in the area of the airfield have taken into their lives these young pilots is highly commendable. When they return to Vietnam they will not only know how to maneuver helicopters, but will be well informed about things American, especially the home life of our country. Over 1,400 Savannahians have participated in sponsoring cadets.

I include in the RECORD the following account from a special section of the Savannah Evening Press of October 29, 1971:

DISCOVERING THE UNITED STATES, TOO—VIETNAMESE LEARN MORE THAN FLYING

Every two weeks a new group of eager Vietnamese Air Force Cadets arrives at Hunter Army Airfield to begin their final phase of rotary wing flight training. Each student will spend 20 weeks at Hunter learning and perfecting new skills before returning to the Republic of South Vietnam as a qualified helicopter pilot.

While undergoing their final phase of flight training, these students also participate in two programs very different from their flight training. These are the Department of Defense Informational Program and the Vietnamese Sponsorship Program.

The average Vietnamese student is 23 years old and comes from one of the metropolitan centers in Vietnam (Can Tho, Dalat, Saigon, Da Nang, and Hue). Their social backgrounds are as varied as a comparable group of American students. About 10 per cent are married and about 15 to 20 per cent are Christians (mostly Catholic). All students speak English.

The Department of Defense (DOD) Information Program familiarizes the students with the American way of life, including government, education, business and the news media. This program is implemented through formal classes and through local tours in the Savannah area. Vietnamese students are currently enjoying local tours to such establishments as Armstrong State College, Grumman Aircraft Company, WKL–TV, and National Gypsum Company. In addition to the local tours of Savannah, students are taken on a three-day visit to our nation's capital. These tours are invaluable in helping the Vietnamese students to understand our country, our economics and our way of life.

The Sponsorship Program brings the students into contact with the American home life, something which cannot be taught in the classroom. Potential sponsors are contacted by the Foreign Liaison Office (352–5426, 352–5922) at Hunter. Those persons who want to act as sponsors are paired with students for the 20-week period. Normally two students will be paired with one sponsor couple.

The Sponsorship experience is probably the most important period in the students' learning process. The benefits to the students are two-fold. They are given an opportunity to obtain much relaxation from their strenuous course of training and to learn something of the non-military aspects of our way of life on a person-to-person basis.

On the other hand, the sponsors and their families are afforded the opportunity to learn much about an older and very different culture. In fact, many sponsors feel that they and their children gain a great deal more from their family's participation than the students, and many lasting friendships are formed before the students return to their homeland.

If you are interested in the Sponsorship program, please call the Foreign Liaison Office at any time. The Sponsorship Program has received strong support from the Savannah population in the past. (To date over 1400 Savannahians have participated in this worthwhile experience). With the holiday season fast approaching, why not share your holiday spirit with two young men far away from home? You can be an ambassador right here in your own community.

THE VOTES AGAINST BUSING

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. MURPHY of Illinois. Mr. Speaker, the reaction to the House decision last week to prohibit the use of Federal funds for busing to achieve racial balance has been loud and varied. The controversy surrounding this issue has been one filled with deep and often bitter emotions. I think an editorial in the Chicago Tribune published this past Monday contained a very sensible and rational analysis of the problem.

This editorial pinpoints the overriding issue in this area: the quality of our public education system. This must always be our primary concern. I believe it is not feasible to place the entire burden of integration on our schools, especially at the expense of the quality of education our children receive.

The editorial notes there were some congressional votes motivated by racial prejudice and opposition to integration. Sadly, this is probably true. But I am convinced that the majority of the Members of this body are committed to solving the critical problem of racial isolation in our country. The rejection of

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busing was, therefore, a rejection of the means rather than the end.

Let us remember that on the same day we disapproved busing we approved $1.5 billion to aid in the desegregation of public schools. We must continue to be receptive to new proposals aimed at achieving racial harmony. Busing was not the answer but that should not be a signal to discontinue the search for a more comprehensive solution.

I insert a copy of the editorial for the benefit of my colleagues. I believe it is a timely statement in light of our recent actions:

THE VOTES AGAINST BUSING

By decisive votes of 235 to 125, 233 to 124, and 231 to 126, the House of Representatives added to a pending bill riders taking the federal government out of the business of busing students to achieve school integration. The approved measures not only prohibit use of federal money for that purpose but also restrain federal officials from making such busing by states or districts a condition of receiving federal grants. As Elliot L. Richardson, secretary of health, education, and welfare, said, "The House was expressing an attitude."

In fact, the House was expressing several attitudes. One attitude, no doubt, was unworthy racial prejudice in general and a yearning for racially segregated schools in particular. But no one should think that that was the only attitude expressed. There are good reasons, entirely free from racial animus, for wanting to minimize moving school pupils about the landscape.

Busing is tremendously expensive in terms of money, time, and energy—all of which can be better used than by making premature commuters out of school children. As long ago as July 31, 1969, Rep. Edith Green [D., Ore.], in a notable speech in the House, questioned busing as an effective means to good ends. Speaking as a legislator who had "voted for every civil rights act that has been before this House," Mrs. Green said: "Emphasis on integration and housing unaccompanied by a demand for academic excellence is worthless. This is what we ought to be concerned about—the quality of the programs." She deprecated "placing the major responsibility for integration on one institution," the public schools, and suggested that busing between black and white neighborhoods can discourage rather than promote integrated housing. Events since 1969 have done much to confirm what Mrs. Green said.

In the old dual school systems of the Deep South, the contrast between schools for whites and schools for blacks was often extreme. Some busing there no doubt was required to give black pupils access to adequately funded schools. Inequitable contrasts between schools exist in the North, too, even if they have been less deliberate and less emphatic than in the South. But a strong, unprejudiced case can be and has been made, by President Nixon and others, against calling on the schools and their pupils, bus drivers, and teachers to undertake the whole job of preventing calamitous racial isolation in this country.

The House approved appropriating $1.5 billion to help schools desegregate. With or without busing, applicants for grants will be active. The bill in question, sponsored by Illinois Rep. Roman Pucinski, speaks of many undertakings—programs and projects and personnel to counsel, guide, teach, organize extracurricular and community efforts for the sake of reducing racial segregation and isolation. Part of the intent is to discourage the flight to the suburbs by strengthening city schools.

Once the $1.5 billion appropriation, which is for several years, goes into action [if it does], Illinois will be getting $70 million a year, and Chicago $42 million of that. With busing eliminated, all of this money will be available for improving the quality of education. We hope the money will be well spent. It could be.

But the basic message of the antibusing votes is that Congress has turned away from the idea that the schools can be expected to be the sole agency for increasing racial integration in American society. The schools never should have been burdened with this expectation, and it is good that they are being relieved of it.

THE CHANGING ROLE OF THE CALIFORNIA MILITARY FORCES: AIR AND ARMY NATIONAL GUARD

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. JOHNSON of California. Mr. Speaker, for the past several decades, since World Wars I and II, the different branches of the armed services have been, quite naturally, associated with wartime activities, both in action and in reserve, during times of combat as well as peacetime. More recently, they have been brought into focus during times of violent social unrest as a force to quell civil disturbances, by force or merely by their presence, on our college campuses and in the streets of our cities. As a result, through no fault of their own in most cases, the branches of the Armed Forces have come to be looked upon by a great number of the civilian population with particular emphasis on the young, as an arm of the "establishment" reaching out with an iron fist to stifle dissent and quiet voices calling for a new course in human events.

Recently, however, I have had occasion to note a new direction which has been taken by a branch of the Armed Forces in my own Golden State, under the direction of Commanding Maj. Gen. Glenn C. Ames, the California Army and Air National Guard. I would like to cite for you now, Mr. Speaker, their participation in domestic action programs, ranging from ecology and reclamation projects to human service programs directed at the needy and underprivileged, not to mention a substantial list of special projects such as the support of community and governmental agencies, including Project Headstart, and very frequently, the many Scout posts throughout the State. I would like to insert in the RECORD some examples of the Guard's new activities.

In ecology and reclamation projects, some 216 California National Guardsmen and 8,529 community volunteers participated on 24 separate occasions in such activities ranging from "river bottom" cleanups and junk car removals to planting pine tree seedlings. These projects have been coordinated with and in support of various ecology collection centers in California in recycling waste material and removal of litter.

In the category of support to the Needy and Underprivileged, there were 308 participants of the National Guard, 61 of whom sustained varied programs in this category during the period 1 January through 30 June 1971. Projects included collecting and repairing toys, holding picnics and arranging to take needy children to a circus. The Guard maintains the organizational structure of the Army Champs program which was fostered during this period primarily for the underprivileged.

Perhaps the greatest National Guard involvement can be cited on behalf of their support to community service organizations. The variety of civic, religious and educational organizations extends to lodges, churches, teams, associations, post and troops. On 91 occasions throughout the state of California, a total of 442 Guard personnel participated along with 15,398 townspeople in activities with these service organizations. The community service organization supported most frequently were the Scouts (Cub, Girl, Boy, Posts) with 25 separate activities, many on a continuous year-round basis. Some National Guard units sponsor and run their own troops. The largest number of people at a single event, other than Scouts, was the Guard support to a Walk-a-thon for the March of Dimes. Over 2,000 people were involved with the Guard providing drivers, buses, ambulances, medics and five manned rest stations.

On 42 different occasions during the period 1 January through 30 June 1971, which this report covers, the California National Guard was requested to assist governmental agencies which were instituted to provide educational, protective, utility and medical services for local communities and surrounding areas throughout the State. Requests from all levels of government involved 376 guardsmen assisting 11,156 people. Projects included Guard medical teams treating and consulting inmates in the San Francisco City Jail, Guardsmen patrolling the community with law enforcement personnel, construction projects requested through municipal agencies, and the provision of food for families in the Head Start Program.

Guard-initiated Service Programs also merit considerable recognition. While these involve some slight overlapping with other divisions due to coordination which may be necessary with either a civil or governmental organization, the essential difference is that the program or project is Guard inspired, initiated and promoted. These activities involved over 9,500 local citizens and Guardsmen on 149 separate occasions. The largest and most frequent activities are tours conducted by the National Guard Missile and Air base personnel. This was done on 122 occasions and involved over 8,000 people. Other programs included providing range facilities and instructors for hunter safety classes, equipment displays and aid to needy children.

Mr. Speaker, I am gratified to be able to testify for the extensive and comprehensive efforts being made by these State military forces to bridge the gap which has been created through the years with respect to the men in uniform, and through these commendable actions, allow for a new concept of "keeping the peace" to be born.

The times call for men of reason and moral courage to work together to attain the same goals which are vital for the national interest and of significance to each of us, student, soldier, the businessman, farmer, and laborer, all of whom are brothers, each seeking to live out their lives in peace and contentment, achieving what fulfillments they can.

Through the efforts of the Army and Air National Guard in lending a hand in domestic programs which constructively touch the lives of so many, the tragic memories of confrontations and discord of the past can be pushed aside, and this "peacekeeping" league can begin to create and share the tranquility and amity which comes to a city, State, and nation whose citizens combine their energies to instill reason, understanding, and a common passion for unity and brotherhood. And, while one must always respect the duties of the National Guard during times of social unrest and states of emergency as they risk and even spend their lives for protection of the citizenry, I believe the rapport which is being established by this new direction will overcome, to a great extent, the course of events which posed the men in uniform and much of the civilian population in contention through the crossfire of social change. I am confident that my colleagues here in the House of Representatives will agree that to see this fellowship and participation in these activities and programs is to realize that this is truly the meaning of "peacetime," a calm and public quiet which can maintain itself without the use of force.

Mr. Speaker, I submit that the California National Guard should be commended and encouraged in their course of action.

PALO ALTO TIMES SUPPORTS EQUAL RIGHTS AMENDMENT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. EDWARDS of California. Mr. Speaker, as you will recall, on October 12 the House of Representatives passed the equal rights amendment by an overwhelming majority of 354 to 23. This large vote in favor of the amendment demonstrates the widespread recognition that discrimination against women is inconsistent with the basic principles of our democracy and should be eliminated.

During the course of our debate on the proposal, opponents of the equal rights amendment attempted to confuse the issues before us by raising the question of so-called protective labor laws that purport to benefit women and children. In addition, they also raised the question of the effect of the equal rights amendment on compulsory military service. I believe that during the course of our debate both of these issues were dealt with effectively.

Mr. Speaker, as floor manager of the equal rights amendment, it was gratifying to me to read in the Palo Alto Times of October 15, 1971, an excellent editorial summarizing our debate and commenting on the significance of the issues that were raised. The Palo Alto Times should be commended for this editorial.

So that all of our colleagues may have the benefit of the editorial, I include it in the RECORD at this point.

ON WITH WOMEN'S RIGHTS AMENDMENT

For the second consecutive year the House of Representatives has approved and sent to the Senate a constitutional amendment to guarantee equal rights to women.

Last year, the proposed amendment was allowed to die in the Senate, never getting out of committee. It should not meet a similar fate again.

Despite a favorable House vote, 354 to 23, the amendment is expected to meet stronger opposition in the Senate. Opponents argue that approval would not only wipe out protective labor laws for women but would also make women subject to military draft. Both these arguments need review in light of modern developments.

Protective labor laws were adopted to benefit women and children in the era of sweat shop industry. With today's technological advances, physical strength and endurance are less important on most jobs. Many "protective laws" have become tools for discrimination, prohibiting women from doing work that provides higher income and opportunity for promotion.

The debate over drafting women for military service has received more attention than it deserves. It may even be a moot point. The peacetime draft itself is an issue which Congress will have to take up again in two years.

Should there be a national emergency, women could be drafted to serve in a variety of capacities—as they did voluntarily and well in World War II.

The Senate is not expected to take action on the equal rights amendment until some time next year. Then, it should receive immediate, affirmative action so it can be sent to the states for ratification.

THE SCHOOL PRAYER VOTE

HON. HASTINGS KEITH

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. KEITH. Mr. Speaker, yesterday, the House defeated House Joint Resolution 191 which would have permitted prayers in public schools. I was among those who voted against it.

I had felt for some time that there was considerable merit to the proposed amendment. I had thought, "What harm could come from such a change?"

As yesterday's debate developed, however, I asked my self: "Who, or what agency of Government, would make the decision concerning the propriety of an acceptable "nondenominational prayer?"

For example, I could conceive of three or four separate prayers being authorized simultaneously, of divisions of the student body into denominational groups, and of rosters and room assignments being published on bulletin boards.

I believe that the administration of the act could promote more dissension than Divinity; so I agree with the logic of the distinguished Speaker of the House, who said:

Any interference by any official at any level is a violation of freedom of religion. I am not prepared to let the meddling hand of government at any level in any degree be placed on any man's alter.

My logic was quite similar to that expressed in a splendid lead editorial which appeared in today's Washington Daily News. I commend it to the attention of my colleagues:

THE SCHOOL PRAYER VOTE

Despite heavy pressure from some well-meaning but ill-informed people, the House has rejected a constitutional amendment that would have jeopardized religious freedom in America.

As it came before the House yesterday, the proposed amendment would have added these words to the Constitution:

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled in any public building which is supported in whole or part thru the expenditure of public funds to participate in non denominational prayer."

Rep. Chalmers P. Wylie, R-Ohio, sponsor of the amendment, said its sole purpose was to make it possible for school children voluntarily to take part in nonsectarian prayer.

But the innocent-sounding phrase "non denominational prayer" actually was loaded with danger. Religious bodies never have been able to agree on a definition of "non denominational prayer" and never will, for the simple reason that there is no such thing.

The very act of praying presupposes the existence of a God who hears prayers, and that in itself, from the viewpoint of an athiest or agnostic, is a sectarian belief.

In the absence of consensus, the final decision on which prayers were sufficiently "non-denominational" to be prayed in public buildings obviously would have had to rest with some government agency. And that would have given government precisely what government must never have—authority in the realm of religion.

When this pitfall was pointed out in House debate, Rep. Wylie made a last minute attempt to salvage his amendment by substituting the word "voluntary" for "non-denominational." This had the effect of making the proposed amendment meaningless.

The U.S. Supreme Court has never denied public school children—or anyone else—the right to engage in voluntary prayer at any place or at any time.

All the court did in its widely misunderstood rulings of 1962 and 1963 was to hold that a school or other governmental body may not require any child to pray or prescribe the form of prayer to be used in a public school classroom.

The existing First Amendment has safeguarded religious liberty in America for nearly two centuries by maintaining a wall of separation between church and state. Tampering with this precious guarantee, in the name of "restoring" a right that has never been lost, would have been an act of folly.

PRESIDENT NIXON IS KEEPING HIS WORD

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. McCLORY. Mr. Speaker, last week the President of the United States withdrew an additional 5,500 soldiers from Vietnam.

On January 20, 1969, there were 532,500 Americans enduring the perils of an Asian war. Today, there are 191,100 Americans in Vietnam who are planning to come home.

Mr. Speaker, President Nixon is keeping his word.

XUM

PEOPLE SHOULD HAVE PRIORITY OVER PAPERWORK IN MEDICAL CARE

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. SEBELIUS. Mr. Speaker, in enacting health care legislation, congressional intent has been to improve health care and to expand the scope of our health care delivery system.

However, for some time now, we in rural areas have experienced a decline in health care services, and I am most concerned over a most ironic situation. Part of our problem in rural and small town America stems from the Federal health programs conceived to answer our problems.

The situation has become so acute and severe that those who have to live with the situation have even labeled Federal health care regulations and restrictions as "bureaucratic harassment."

I am sure that administrative regulations to implement Federal health care programs are conceived by well intentioned career officials who unfortunately are not aware of the practical and realistic situation confronting our beleaguered rural doctors.

The blunt fact of the matter is that these arbitrary and unrealistic regulations threaten the very existence of established health care services in many areas. These regulations have also forced an unnecessary escalation of health care costs.

The problem really seems to be reduced to one basic premise: We must reaffirm the priority of patient care over paperwork in our health care programs. Physicians and local health care officials must be given latitude to satisfy local health care requirements with local resources.

We must begin to reduce the bureaucratic redtape and burdensome reports and, most important, we should replace the negative attitude on the part of our Federal agencies and bureaucrats and implement positive programs of advice, flexibility, and technical assistance.

Mr. Speaker, in my congressional district, the community of Medicine Lodge is gratified to have the services of a young doctor, Larry Ball. Dr. Ball has launched a one-man fight to publicize what should be obvious—that people should have priority over paperwork in medical care.

To clearly illustrate the urgency of this problem that confronts all family practitioners in our rural areas, I insert the following article in the RECORD. The article is by Gary Noland, a knowledgeable and enthusiastic editor of the Barber County Index. This well-written article, entitled "A Doctor Protests Bureaucratic Interference With Patient Care" clearly states our problem. I submit to my honorable colleagues it is time for some answers:

PAPERWORK VERSUS PATIENT CARE—A DOCTOR PROTESTS BUREAUCRATIC INTERFERENCE WITH PATIENT CARE

(By Gary Noland)

A young doctor here is taking a stand against "bureaucratic" red tape, paper work, and controls that he feels threatens the ability of physicians to provide proper patient care.

Dr. Larry Ball feels bureaucratic harassment is such a threat to his ability to function as a physician that he is personally taking a public stand against what he considers the arbitrary authority of bureaucrats to stifle his attempts to provide adequate patient care.

"Patients care above paper work" is the creed the young doctor has adopted in his fight against bureaucracy in the health field.

"They'll have to give me something I can live with, or I cannot practice private medicine," Dr. Ball stated during an interview in which he complained of the increasing burden of paper work, much of which he feels is unnecessary.

Dr. Ball, one of three physicians in this community, has a fine record of compliance with required paper work and records. This is the opinion of Gene Shirley, hospital administrator, and Lloyd Clarke, chairman of the Medicine Lodge Memorial Hospital Board.

But for years Dr. Ball has been troubled by the increasing load of paper work and feels that it has reached the point where it interferes inordinately with the time he needs for patient care.

I've let the community become aware of this problem, a problem particularly encumbersome to rural physicians as opposed to their urban counterparts, Dr. Ball explained.

Indeed he has undertaken a campaign, almost single-handedly, to alert local citizens of what he feels is a threat to adequate health care and the existence of hospitals in rural areas.

He has spoken before the congregation of the Methodist Church here and before a county meeting of Farm Bureau members. In addition, he has fired off letters to public officials and state health officers protesting the encroachment of bureaucrats in his private practice. Pending, but not yet mailed, are letters to rural physicians across the state seeking their support against the problem.

A letter from the Kansas State Administrator of Medicare citing deficiencies in medical records and threatening decertification of the local hospital for Medicare if compliance was not immediately forthcoming prompted Dr. Ball to take up his campaign.

Many of the deficiencies cited pertained to records Medicare requires the physician to keep.

In a letter to the state administrator, W. J. Burns, Dr. Ball replied: "To do this (what Medicare requires) will require a great deal more physician time. Since we are already swamped with more patient care than we want, this means we will either have to give less time to our patients and thus cause a deterioration in patient care, or else, more likely, we will be forced to tell patients we can't take care of them.

"How do you tell a wife whose husband is having chest pain that you can't see him because you have records to fill out? Also since fewer patients are seen this means that charges have to be increased for each patient.

"Thus, for the patient it means higher charges and the possibility of less personal care so that everything can be recorded . . ."

Dr. Ball concedes that record requirements are more sensible for physicians in larger urban hospitals.

There with more teamwork and coordination of specialists, the need for more detailed records is apparent. Also city hospital administrators can exert more pressure on doctors to keep records by threatening to bar them from practicing in the hospital.

In a rural community with only three doctors the requirement to keep so many detailed, and, in his opinion, many useless records, is senseless and only deprives the physician of time for real patient care.

Dr. Ball came here 10 years ago from Wesley Hospital in Wichita. "I came to a small town to escape someone constantly breathing down my neck, and I've escaped it for 10 years," he said alluding to the present tightening of regulations on rural doctors.

The problem, the doctor explained, is that if the physicians do not meet all Medicare requirements on records, the hospital will not be eligible to receive federal payment for Medicare patients. Without the federal payments, the hospital might cease to function, unable to meet financial costs.

Hospital administrator Shirley confirmed that the normal patient load runs from one-third to one-half Medicare patients.

The problem is one directly confronting physicians, Dr. Ball said. "The hospital administrator and board are trapped," he explained. "They are interested in keeping the hospital open, as they should be."

Local administration can only exert pressure on the doctors to comply. This they have to do to comply with state and federal pressure.

There is no battle here with local officials or persons, Dr. Ball explained. The fight is with state and federal bureaucracy.

What measure would make it possible for him to function as he feels he must?

"Let's just put patient care above paper work" is Dr. Ball's answer.

There is a definite need for some records. Without medical histories and physicals a doctor is helpless, he added. But bureaucrats are insisting on extensive, detailed accounts for patient admittance, frequent detailed progress reports, consultation reports, dismissal accounts and on and on, he complained.

The problem is economics to a great extent, he said. The Medicare program is costing much more than anticipated and now bureaucrats are tightening reporting procedures and forcing doctors to become policemen in an attempt to cut costs.

"If I thought perusal of these records would save the government money, it would not be so disturbing, but you are not going to make people honest by passing laws," he said.

What does Dr. Ball hope to gain by a one-man stand against the medical bureaucracy?

He hopes to gain some public support and support from more physicians. But he does not delude himself. The possibility of a physician in a small rural town speaking out against state and federal bureaucracies with any success is almost nil.

But for Dr. Ball, the conflict has required him to make a personal decision, one of deep conscientous conviction . . . a decision that compels him to speak out against the system as it is and as it threatens to become.

"This is not a good solution for me. I enjoy Medicine Lodge and my practice here. But I have to live with myself. The way things are is not morally right (in my mind)," he stated.

"I feel the only way this can be fought is by taking the issue to the consumer (of medical services) who faces the problem," he added.

CONGRESS SHOULD ACT ON BEHALF OF SOVIET JEWRY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. SCHEUER. Mr. Speaker, the plight of three and a half million Jewish citizens of the Soviet Union is a source of continuing concern to many Americans.

Soviet citizens of the Jewish faith are denied the rights guaranteed to them by the Soviet Constitution and the United Nations Universal Declaration of Human Rights, to which the Soviet Government is a signatory. They are the victims of a deliberate, Government-sponsored policy which denies them far less cultural and religious freedom than virtually any other of the 120 officially recognized nationality or religious groups in the Soviet Union.

Today, the Subcommittee on Europe of the House Committee on Foreign Affairs held one of a series of hearings designed to inquire into the problem. I was privileged to testify at this hearing and I wish to include my statement at this point:

STATEMENT OF REPRESENTATIVE JAMES H. SCHEUER BEFORE THE SUBCOMMITTEE ON EUROPE OF THE HOUSE COMMITTEE ON FOREIGN AFFAIRS ON THE SOVIET GOVERNMENT'S TREATMENT OF ITS JEWISH CITIZENS, NOVEMBER 9, 1971

Mr. Chairman, many times throughout our history, we, as Americans, have expressed our sympathy for oppressed citizens of other countries. Examples from our early days as a nation include American sympathy for and support of the French Revolution. More recently, we have voiced concern and support for the people of Greece and Vietnam, and for the minorities in Rhodesia and South Africa.

It is true that these expressions of sympathy have been made at times when here at home we have failed to live up totally to our deeply held ideals of freedom, opportunity, equality, cultural diversity, and justice under law. Nevertheless, it is the policy of all branches of our government—legislative, executive, and judicial—to abide, at times more closely than at others, by these ideals at home and we have done much to ensure a greater enjoyment of these rights in other lands.

In light of this history, it is perfectly appropriate and consistent for the United States to express its sympathy for Soviet citizens of the Jewish faith.

There is no doubt that the three and a half million Jewish citizens of the Soviet Union are suffering from a policy of oppression and discrimination which denies them certain basic human freedoms and the full package of rights and privileges enjoyed by the other 120 officially recognized minority groups in the Soviet Union.

While it is true that many Jews in the Soviet Union are placed in physical danger solely because of their ancestry, they in no way appear to be in the danger that Jews all over Europe faced during the infamous holocaust of the Third Reich.

Rather, today, Soviet Jewry suffers from a policy of forced assimilation—a deliberate, government-sponsored effort to stamp out all vestiges of Jewish religious and cultural heritage.

Synagogues have been systematically closed down for the past 30 years. Less than 70 synagogues remain to serve a population of three and a half million Jews. This compares with the 120 synagogues in Chicago which serve a Jewish population of only 200,000. Moreover, through the use of police informers, those Jews who wish to attend the remaining synagogues are intimidated and made afraid to do so.

The study of Hebrew is consistently and forcibly discouraged. Recently, Moscow's only Hebrew teacher was imprisoned on vague charges of "hooliganism."

The Soviet government informally, but nonetheless rigorously imposes a ban upon the manufacture or importation of Jewish religious objects.

Jews who manifest a desire to emigrate to Israel are fired from their jobs and harassed both officially and unofficially.

Mr. Chairman, I could go on, but you will no doubt hear more on the specific manifestations of Soviet policy from others who are more expert than I. The broad outlines of the situation are clear, however. Jews are the subject of intense cultural, religious, and job discrimination in the Soviet Union not visited on any other single minority group.

In many respects, this fact is not new. The Soviet Union has a long history of anti-semitism which has been manifested in years past by bloody pogroms in all sections of Russia and Eastern Europe.

What is new today, however, is that peoples of all nations are viewed as possessing rights which were unthought of years ago. This new consciousness of human dignity is exemplified by the UN Charter, the Universal Declaration of Human Rights, and the constitutions of many nations including that of the Soviet Union. World opinion will no longer tolerate violations of these rights, let alone the murderous pogroms of a hundred years ago in Russia and Poland, and a generation ago in Germany.

It is also true that discrimination against all forms of religion in the Soviet Union is not particularly new. Beginning with the Bolshevik Revolution, the Soviet Union has discriminated against those who are religious or otherwise viewed as dissenters from official policy.

But, here again, what is new is the changed state of affairs. Shortly after the Six Day War in the Middle East, Jews in the Soviet Union experienced a tremendous heightened interest in Israel and in Jewish religious culture and tradition. In part, the Soviet government viewed this increased interest in the same threatened way as it views any expression of dissent. In part, the government viewed this revived interest as contrary to the government's policy of support for the Arabs in the Middle East.

These two forces converged and led to an intensified campaign of discrimination against Jews so that today they are victims of far more intensive discrimination than that experienced by any other religious or cultural group in the Soviet Union.

Jews, unlike other minority groups, are not permitted to establish their own schools. Jews, unlike Muslims, for example, are not permitted to leave the Soviet Union for religious study. Jews, unlike other minority groups, have been placed on trial for "hooliganism," and other crimes. All of these facts indicate that the Jews have been singled out for "special treatment."

At a crucial point in Russian history, Lenin wrote a tract entitled, "What is to be Done?" We ask the very same question today.

I have spoken with a number of Jews who recently left the Soviet Union, who indicate that the Soviet government *is* sensitive to world opinion and that unofficial expressions of concern do have a beneficial effect upon the policy of that government if they are peaceful and lawful, and do not involve violence or destruction of property. It is unmistakably clear that *official* expressions of concern would be even more meaningful.

The time has come, therefore, for the United States to make known its disapproval of the Soviet policy towards Russian Jews. The President should make his personal concern known through both formal and informal channels. I have written the President to this effect together with 41 of my colleagues. The response of the President to this letter was less than encouraging. In fact, the President simply noted that he had issued a statement last January 11th to American Jewish leaders expressing this country's commitment to freedom of religion, cultural diversity, and the right to emigrate. The President should make this commitment known in frequent and forceful public statements addressed to the Soviet government and to Soviet officials.

Moreover, the United States should express its concern through the Voice of America by means of Yiddish language broadcasts to the Soviet Union. Again, I have joined in letters to this effect sent by a number of my colleagues to Mr. Frank Shakespeare, Director of the United States Information Agency. And, again, the response has not been encouraging. It fact, the Agency has refused to broadcast in Yiddish.

Voice of America broadcasts in Yiddish could have a great beneficial effect upon the morale of the Jews in the Soviet Union. Moreover, broadcasts of this nature would be a clear signal to the Russians that our country is deeply concerned about Soviet treatment of its Jewish citizens.

Mr. Chairman, these are only two actions which our government can take to help ameliorate the plight of Soviet Jewry. There are many other ways in which our country could make its concern known. I therefore support the resolutions before this committee which call upon the President to take appropriate, forceful steps immediately.

The Soviet Union must be made to realize that, as an established power which does not face any real external threat, it need not fear competitive ideas; it need not fear those who criticize Soviet society or those who seek to recall their cultural heritage.

Finally, it must be made to realize that the detente it apparently seeks with the United States can only be furthered, not stymied, by granting to Soviet Jewry as well as others in the Soviet Union, the full rights of worship, cultural diversity, and migration enjoyed by citizens in all freedom-loving nations.

SOVIET STRENGTH IS GROWING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. CRANE. Mr. Speaker, at the very moment when Soviet leaders were visiting in such Western countries as Canada and France, and at a time when the Soviet Union is preparing for the visit to that country of President Nixon, the fact is that the U.S.S.R. is, by its actions, showing its commitment, not to peace, but to war.

Consider these facts, for example, with regard to naval power. Since the Soviet navy launched a massive buildup after the Cuban crisis, it has become, as "Jane's Fighting Ships" notes, "the supernavy of a superpower." Moscow's growing strength at sea has long since been observed in the Mediterranean and in the Indian Ocean. The northern fleet, the smallest in the Soviet navy at the end of World War II, is now the biggest, and looks forward to the time when it will be in control of the North Atlantic.

Operating out of Murmansk, the northern fleet has an estimated 560 ships, including 160 submarines, more than 65 of them nuclear powered. By contrast, the entire U.S. Atlantic Fleet has 358 ships, of which 40 to 50 are assigned to the 6th Fleet in the Mediterranean. Since 1968, the U.S. command has been cut back 25 percent in ships and 19 percent in men, and it is scheduled to lose another 10 ships by next summer. Norway's Rear Adm. Magne Braadland states that:

The threat to the United States is not coming from Vietnam and not from Central Europe either. It is sailing from Murmansk.

The same facts are true with regard to missile strength. By 1973, according to Secretary of Defense Melvin Laird, Russia will have a fleet of missile-firing submarines the equal of our 41 nuclear-powered Polaris submarines. A recent editorial in the Chicago Tribune points out that:

Their arsenal of intercontinental ballistic missiles (ICBM's), many of them packing more nuclear potency than ours, is now more than half again as large as the 1,054 figure stabilized during the early Johnson Administration by former Defense Secretary Robert S. McNamara.

The Tribune also commented about the dangerous situation facing us in the North Atlantic:

Soviet superiority on NATO's northern flank is even more crushing. There the alliance is outnumbered four to one on the ground, seven to one in aircraft and six to one in ships . . . In effect, the Soviet Navy is demonstrating that Norway, without any land connection to its NATO partner, is at the mercy of whoever controls the waves.

While the Soviet Union speaks of peace, while we negotiate at the SALT talks for an arms limitation agreement, and while President Nixon prepares to visit Moscow, the Soviet Union is itself rapidly moving ahead of us in all strategic areas. Our own country, more and more, appears to speaking and negotiating from weakness, a perilous position for any country.

I would like to share with my colleagues this important editorial from the Chicago Tribune of October 18, 1971, and insert it into the RECORD at this time.

[From the Chicago Tribune, Oct. 16, 1971]

THE POLITICAL POWER OF MISSILES

Despite Moscow's efforts to portray the Soviet Union as a peace-loving nation interested only in detente with the non-Communist West, there is little evidence of any slackening of the Soviet surge for military superiority.

Far from easing up on the strategic arms race, the Soviets have stepped up their production of land-based and sea-based missiles, even while the Strategic Arms Limitation Talks [SALT] are in progress. Secretary of Defense Melvin Laird told a press conference recently that the Russians are "far outdistancing" the generous estimates of their missile production he gave Congress in March.

By 1973, a year earlier than his prediction of seven months ago, he says Russia will have a fleet of missile-firing submarines the equal of our 41 nuclear-powered Polaris submarines. Their arsenal of intercontinental ballistic missiles [ICBMs], many of them packing more nuclear potency than ours, is now more than half again as large as the 1,054 figure stabilized during the early Johnson administration by former Defense Secretary Robert S. McNamara.

Numbers, of course, are not the only criterion of military supremacy. Technological quality is equally or more important. Even more pertinent in today's world is the leverage Soviet military power provides in reaching political objectives. As Secretary Laird has said:

"If the Russians have a superior military force, they can gain their political objectives throughout the world without the use of weapons. There is no military advantage to overkill, but the political gains are tremendous."

No one is more aware of these facts of life than members of the North Atlantic Treaty Organization [NATO], particularly those who face Communist ground and air power in Central Europe and Russia's immensely powerful Northern Fleet on NATO's vulnerable northern flank.

In Central Europe, where the NATO alliance has reduced its force 25 per cent in the past five years, the Communists have beefed up theirs. They now weigh in with 58 military divisions [31 Soviet], 855,000 men and 13,650 tanks as against the Western forces in West Germany and Denmark of 26 divisions [4½ U.S.], 703,000 men and 6,600 tanks.

Soviet superiority on NATO's northern flank is even more crushing. There the alliance is outnumbered four to one on the ground, seven to one in aircraft and six to one in ships. Russia's Northern Fleet, based on the ice-free port of Murmansk, totals 400 ships and 160 submarines, 65 of them nuclear. This far outnumbers the entire U.S. Atlantic Fleet, including the 6th Fleet in the Mediterranean. Moscow also counts on the 1,045 ships and 65 submarines in its Baltic Fleet and those of East Germany and Poland.

These are formidable Communist naval forces. When they put to sea for naval exercises in the Norwegian Sea or adjacent NATO waters, as they frequently do, the Soviet warships carry an unspoken message that carries far more import than the usual "show the flag" maneuver.

In effect, the Soviet Navy is demonstrating that Norway, without any land connection to its NATO partners, is at the mercy of whoever controls the waves. The obvious implication is that Norway might do better to consider the advantages of neutrality, at least to the point of remaining outside of Europe's Common Market, whose growing economic power is feared by Moscow.

The greater Russia's military superiority in the North Sea area, the more unmistakable—and perhaps inescapable—this message will become, not only on Norway but on other European countries as well.

DRUG ABUSE TREATMENT

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. BURTON. Mr. Speaker, with the ever increasing concern about drug dependency and abuse in our society, I was pleased recently to read a report entitled, "Evaluation of Current Approaches to Drug Abuse Treatment" which outlines a new approach and offers new rays of hope. This report deals with advances made in this area by Mr. Harlan Antler.

Mr. Antler is presently the director of the Orange County Training and Counseling Center and was most recently commended for his outstanding work in a resolution adopted by the California State Senate.

I am pleased to place in the RECORD at this time the full text of both the resolution and the report.

The articles follow:

THE SENATE, CALIFORNIA LEGISLATURE

RESOLUTION OF THE SENATE RULES COMMITTEE

(By Senator Mervyn M. Dymally)

Whereas, Harlan Antler is one of California's foremost experts on drug rehabilitation and training of adolescents; and

Whereas, Mr. Antler's leadership and expertise in working with youth has been recognised by the officers of the Community Delinquency Control Project, who lauded him for outstanding management of the California Youth Authority "Half-Way House" where the recidivism rate was reduced 50 percent; and

Whereas, He has served as a delegate to the California Council on Children and Youth, and has directed an experimental Continuation High School Program for the City of Antioch, which has resulted in several former high school dropouts returning to the regular public school system; and

Whereas, Mr. Antler has been praised for his direction of the experimental Training-Furlough Program in the Rehabilitation Center at Clayton, under which inmates received extensive basic education, attitudinal training, and job placement; and

Whereas, In addition to his many other constructive activities he developed and conducted statewide training seminars for parole officers, probation officers, and teachers dealing with "hostile youth"; and

Whereas, He is a member of the Vocational Counselors of California, and has coauthored group training and therapy texts used nationally in federally funded manpower training programs; and

Whereas, Mr. Antler has been honored by appointment as "Special Deputy Sheriff" in Contra Costa County; now, therefore, be it

Resolved by the Senate Rules Committee, That the Members commend Harlan Antler for his valuable contributions to the public good and for his outstanding and constructive community involvement in working with youth and inmates of penal institutions; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to Harlan Antler.

Senate Rules Resolution No. 439 adopted August 16, 1971.

JAMES R. MILLS,
Chairman.
MERVYN M. DYMALLY,
Senator, 29th District.

EVALUATION OF CURRENT APPROACHES TO DRUG ABUSE TREATMENT

This is the first in a series of evaluations of current alternative solutions to social problems prepared by the research team from the Central California Applied Social Research Organization. This study, under the direction of Robert Weber, Associate Professor of Sociology at Fresno State College, was initiated to assist interested individuals and organizations carrying on the struggle against the ever-increasing menace of drug abuse.

WHAT IS DRUG ABUSE?

Lack of sufficient historical data makes it difficult to accurately determine when or where man first started using drugs for purposes other than medical. Data does show that beer was produced as far back as 7000 B.C.[1] and the effects of the poppy plant (heroin and morphine source) were described in the pharmacology text of Dioscorides in the first century A.D.[2]

While we know that man has used drugs for thousands of years, it is interesting to note that not until recent times has this use reached epidemic proportions. It is no longer just an "interesting social problem." President Nixon recently concluded that the magnitude of drug abuse requires that this problem be given top national priority. Drug abuse is clearly a modern crisis.

We have defined "drug abuse" as the use of any synthetic or organic compound which threatens the physical, mental, or emotional well being of the individual. The "drug abuse problem" is defined as the inordinate amount of drug abuse which threatens the well being of our society.

Footnotes at end of article.

The inordinate amount of drug abuse is indicated by the following statistics:

Between 1960 and 1965 the drug abuse crime rate rose 36%.[3] In New York City between 1965 and 1966 the drug abuse crime rate rose 40%.[4]

In California between 1958 and 1967 the crime rate for drug abuse among juveniles rose 1,528.9%.[5]

With these rises in drug abuse come rises in related crimes. This includes crimes committed to support habits and crimes committed because of the effects of dangerous drugs.[6]

Since 1966 drug abuse has become widespread. It is no longer limited to the ghettos of our country.[7] Drug abuse reaches every segment of our society. For example, a startling survey done by the San Francisco Chronicle in 1970 indicated that one in every four business executives had tried drugs.[8] Studies done at almost every high school and college campus in California show that 40 to 80% of all students have at least tried drugs.

Not only are many more people in more walks of life using drugs today than just five years ago, but more varieties and greater quantities of drugs are available. Barbiturates and amphetamines (depressants and antidepressants), virtually unheard of 25 years ago, are now mass produced and have, according to recent medical opinion, replaced heroin and opium as the two most dangerous drugs.[9]

Taken together this data points to a hard fact: until a few years ago a few thousand people were taking a handful of different types of drugs, now several thousand people from all segments of society are taking hundreds of different types of drugs.

To further emphasize just how widespread drug abuse is consider the fact that at no other time has drug abuse been so great a problem among military personnel that soldiers leaving a battle zone had to be checked for addiction and many placed in rehabilitation programs. This has happened in 1971 to the military personnel in Viet Nam.

The increased use of drugs among our youth has reached staggering proportions in the last few years. The use of amphetamines, barbituates, hallucinogens, opiates and marijuana is not only common practice, it has become acceptable behavior among the young. If a child is not a regular user himself then he is a part time user, experimenter or is adversely affected by the drug culture.

Even private industry, the bulwark of American economic strength, suffers from drug abuse. It is difficult to find entry level employees who are not victims of drug abuse. Turn-over rates among entry level employees in industry are staggering and very costly to business. Industry has been searching desperately for methods of obtaining or developing reliable employees. Although industry is not trying to attack the drug problem per se, it is trying to find methods for developing positive attitudes among employees. Drug abuse is a major barrier to the development of such attitudes.

TREATMENT METHODS CURRENTLY USED IN THE FIELD OF DRUG ABUSE

In our attempts to find the most effective techniques for rehabilitating people affected by drug abuse, the research group studied three basic methods: chemical therapy, individual therapy, and group therapy.

Chemical therapy

Chemical therapy for drug abuse is used strictly for heroin addiction. The methadone treatment is the most popular. This treatment allows for the heroin addict to have his physical craving satisfied without leaving him in a "doped up" state that prevents him from being a constructive member of society. This treatment costs only a few cents a day.

But methadone itself is addictive. In fact reports from drug abuse facilities in New York and Lexington indicate that methadone is a more difficult addiction to cure. The Lexington facility also reports that nine out of every ten patients return to heroin after leaving that treatment center.[10]

Cyclasocine is the other drug used to combat heroin addiction. This chemical is a long acting opium antagonist that blocks the effects of heroin. It has been used effectively in Europe and, unlike methadone, is non-addictive. Cyclazocine has been used on a pilot basis in New York City.[11]

Individual therapy

Although all therapy is to some extent individualized, the one to one doctor-patient relationship is totally individualized. But those patients who can afford the cost of such attention are faced with another dilemma: whom to see? The medical profession is already over-burdened with treatment of the physical ailments of the population. Psychologists and psychiatrists are relying more and more on the group methods of therapy to handle their enormous case loads.[12]

Group therapy

One of the first breakthroughs in the field of group therapy for drug abusers came with the opening of Synanon in 1958. Charles E. Dederich started Synanon with the aid of a handful of heroin addicts, whom he led out of "their formerly encapsulated lives of drug addiction, crime and prison.[13]

Synanon has focused mainly on hard-core heroin addicts. "Attack therapy," good food, a bed, and a peer group to which the addict can relate comprise the Synanon picture.[14]

The major technique employed by Synanon is the foster reliance on the Synanon group—a group which advocates "staying clean." [15] By March, 1964 there were 400 drug-free persons affiliated with Synanon.[16]

For the extremely tough, hard-core, criminal addict the equally tough approach of "attack therapy" seems to be effective. Whether these attack methods could be used on a confused 14-year-old child who is an occasional user remains doubtful.

(Note: The following group therapy approach has been extensively documented, as it is the approach our researchers found to be most capable of handling almost all areas and degrees of drug abuse.)

The plight of industry, described earlier in this paper, demanded that techniques be developed to turn destructive, negative individuals into creative, positive individuals who could hold down a job. The problem here was not only drug abuse but also basic attitude.

In 1969 Mr. Harlan Antler, working in conjunction with United States Research and Development Corporation (a New York-based management corporation which handles adult education projects throughout the country) developed a new group therapy approach to changing negative attitudes to positive ones, taking into account the problem of drug abuse.[17]

"Because most of the trainees at the center (a U.S.R.&D. adult education center in Antioch, California) were drug users, any techniques which we developed for handling general attitude problems also had to cope with drug addiction." [18]

The formula Mr. Antler developed was based on the assumption that drug abuse and other negative behavior in individuals began with the individual's belief that he was "worth nothing, couldn't compete in society and had no alternatives." [19]

Mr. Antler designed an attitudinal training package which concentrated specifically on individual attitudes. One of our researchers attended a group training session held in Sacramento in April of 1970 to train people in the use of these new techniques. Our researcher reports that he went to the session "expecting to be lectured to about the new methods of group training. But in three days I learned that I was there as a teacher myself. No one person, including Mr. Antler, pretended to have all the answers.

"This attitude pervaded the entire session. I quickly learned that this only served to reinforce the idea that I was an individual with a great deal of positive information. This was more than my personal fears had allowed me to believe of myself previously." [20]

Mr. Antler's techniques do not cause the individual to become reliant on the group, but rather to become self-reliant. The process of achieving this self-reliance takes three steps:

1. The group is used to reinforce the positive strengths of each individual.

2. The idea that each individual can be positive and creative is reinforced.

3. Each individual begins to believe he is positive and creative and doesn't have to remain in the negative environment he has created for himself. Thus negative attitudes are replaced with positive ones.

As simple and straight-forward as these techniques are, they had tremendous impact at the Antioch Center and in the community. This unprecedented success is verified by a superlative Bank of America evaluation of the Antioch program:

"Unquestionably, the results are unparalleled in this area of California and by any standard are extraordinary, bordering on unbelievable. To move a person destined for a life of poverty and misery to a college career in ten weeks is an achievement without comparison. And to continue on the basic mission of providing a formerly skeptical industrial community with productive workers while cooperating with the school system to reduce drop-outs, is a demonstration that private industry can successfully apply its techniques to the problems of society. That the results are replicable is perhaps the most significant aspect of the program." [21]

Mr. Antler strongly believes that this technique can be used in other community problem areas. For example, the people in the center used all kinds of drugs to varying degrees. Mr. Antler's techniques proved capable of getting these people off of drugs. Since the clients at the Antioch center were mainly from a single socio-economic level, our researchers were interested in the impact of this basic attitudinal training method on other socio-economic levels in the community. Because Mr. Antler was able to apply his techniques to some other community problem areas letters from many people affected by the training were made available to us through U.S. R&D.

Mr. Antler's training methods were used at Delta High School in Pittsburgh, California, a continuation high school and junior high school program. Mr. Eugene Douthit, principal of that school commented:

"The pilot study is a booming success. The IMC (Antioch center) approach and philosophy couple to bring about positive changes in attitudes and performance educators in continuation programs have sought after: a program which works!" [22]

Letters from members of the Diablo Valley College staff who participated in a three day training session in Mr. Antler's techniques are also enthusiastic:

"I think it will be useful to me as a department chairman, father and human being. It has helped me to learn how to be more open to information and to look for other alternatives of thinking and behaving." (Vince Custodio, counseling department, Diablo Valley College) [23]

"This is written on behalf of Messrs. Custodio, Henstrand and Lindsey who were par-

Footnotes at end of article.

ticipants in the Supervisory-Management Training Program conducted by you and your staff. These three men expressed great enthusiasm for the program and were high in praise of the personal and professional growth which resulted." (William P. Niland, President, Diablo Valley College)[24]

Verle C. Henstrand, Dean of Students at Diablo Valley College, saw clearly the problem of bringing "together people from different occupations and responsibilities," and praised the training session for accomplishing just that.[25]

City officials and employees were also very favorably impressed by the program:

"Your endeavors and accomplishments with the trainees enrolled at IMC are certainly to be commended. If either the Antioch police department or I can be of any service to you . . . please do not hesitate to call us." (E. A. Carlson, Chief of Police, Antioch, California)[27]

"I asure you that I have learned more about communicating with people in the last three short days than at any other time previously." (Edward Cavelli, Assistant Fire Chief)[28]

Favorable comments were also received from social welfare supervisors, city administrators and many from industry. The following letter indicates the type of comments received from these groups.

"At the outset, I thought the value of the training session would be questionable. However, it has been difficult for me to do anything since the training ended without thinking of the Industrial Manpower Center and the people associated with the center. Needless to say, I find myself enlightened and enthusiastically seeking "new alternatives" to the standard way of doing things." (T. G. Matosian, Supervisor, Education and Training, United States Steel Corporation)

CONCLUSION

No other program we have investigated has had the multifaceted success of the Antioch program. It was industry's need for an employee with a positive attitude that gave impetus to the search for an answer—an answer that could either help people off of heroin or turn them away from violence, poverty or a general negative self-image.

Since the Antioch project, Mr. Antler's techniques have been put into effect in other adult education projects througout the nation, as well as at group homes for boys, continuation schools, regular public schools and college programs. All segments of the community have been aided by these techniques—fire department, police department, social welfare workers, banks, industry, city administration, college students, high school and junior high school students from all socio-economic backgrounds.

Though the other treatment methods discussed in this report are effective, they are oriented toward narrower goals that do not allow for a diversified approach to the diversified problem of drug abuse. For example, the methadone treatment could not possibly be used on a barbiturate user or a child who does not take drugs, but is adversely affected by the drug culture. It also does not seem feasible to teach Synanon's "attack therapy" to parents for use in dealing with their children.

A diversified problem needs a diversified approach. Mr. Antler's approach has proven effective with virtually all segments of the community and on many different types of problems. Probably the most important aspect of these techniques is that they can be transmitted easily from individual to individual, thus aiding many people, from parents to police, in handling the problem of drug abuse.

FOOTNOTES

[1] Blum, Richard H. and Associates. *Society and Drugs*. 1969.
[2] *Ibid.*
[3] President's Commission on Law Enforcement and Administration of Justice. *The Challenge of Crime in a Free Society*. 1967.
[4] Hentoff, Nat. *A Doctor Among the Addicts*. 1968.
[5] California Council on Criminal Justice. "Patterns of Juvenile Justice in California." *Report of the Task Force on Juvenile Delinquency*.
[6] Presidents Commission on Law Enforcement and Administration of Justice. *Op. cit.*
[7] Louria, Donald B., M.D. *The Drug Scene*. 1968.
[8] San Francisco Chronicle. File on Drug Abuse: Information from news articles of 1969–1970.
[9] McGrath, John H. and Scarpitti, Frank R. *Youth and Drugs*. 1970.
[10] President's Commission. *op cit.*
[11] *Ibid.*
[12] Interviews by CCASR researchers in three California counties. 1971.
[13] Yablonski, Professor Lewis, *Synanon: The Tunnel Back*. 1967.
[14] *Ibid.*
[15] *Ibid.*
[16] *President's Commission*, op. cit.
[17] Bank of America. *Achievement Analysis: An analysis of the pilot training cycle of the Pittsburgh-Antioch Industrial Manpower Center, Antioch, California*. December, 1969.
[18] Comment by Mr. Harlan Antler in response to researcher question about the inception of the program. Letter dated March 13, 1970.
[19] Comment by Mr. Harlan Antler, training of trainers session held in Sacramento in May, 1970.
[20] Analysis of training session held in Sacramento, May, 1970.
[21] Bank of America, *op. cit.*
[22] Letter to United States Research and Development (U.S.R&D) from Eugene Douthit. November 20, 1969.
[23] Letter to U.S.R&D from Vince Custodio. September, 1969.
[24] Letter to U.S.R&D from William P. Niland. October 20, 1969.
[25] Letter to U.S.R&D from Verle C. Henstrand. January 12, 1970.
[26] Letter to U.S.R&D from E. A. Carlson. May 5, 1969.
[27] Letter to U.S.R&D from Edward Cavelli. September 26, 1969.
[28] Letter to U.S.R&D from T. G. Matosian. September 29, 1969.

CO-OP MONTH

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. OBEY. Mr. Speaker, as many of my colleagues know, during the month of October we celebrated Co-op Month. What many might not know is that the Cooperative League of the U.S.A. has declared the 1970's as the "Cooperative Development Decade," a time in which cooperatives across the Nation will work to make their services available to more people.

I would like to offer my congratulations to the cooperative movement and to the thousands of cooperative members in Wisconsin and throughout the country. I certainly wish them success in the future.

For many years, of course, those in rural areas have known the importance of cooperatives. Now they are becoming increasingly important to those in urban and suburban areas as well. It is clear also that co-ops have entered into a new stage of development. They are emphasizing the fact that co-ops care, and by this they mean that co-ops care about tomorrow and the changes it will bring to co-ops and cooperators.

Cooperatives have taken it upon themselves to evaluate their relation to the socioeconomic problems of our decade problems like education, housing, and rural poverty. The movement has made it clear they intend to become more concerned with our total environment. They have recognized the need to provide more than improved prices and business services, and they are trying to identify community and member problems which co-ops can solve.

This expanding cooperative concern is not the result of Government mandate but a self-initiated effort to bring added relevancy to America's cooperatives. Furthermore, it includes an assessment by cooperatives of themselves.

Our cooperatives have moved forward largely through the leadership of the Cooperative League of the U.S.A. While individual co-ops have been trying individually to demonstrate the responsiveness of farm co-ops to the plight of urban and suburban areas, the league has brought this effort together. It has given urban co-ops a chance to develop under the protection of their established rural counterparts. In serving America, the combination of rural marketing and urban consumer co-ops will provide an increased income for the farmer while decreasing the product cost in the city. This urban-rural cooperation has long been needed in an economy faced with declining farm prices and increasing food costs.

But cooperative face serious challenges in the years ahead. Above all, it is obvious that co-ops cannot be satisfied with the successes they have known in the past.

During Co-op Month celebrations, Art Danforth, secretary-treasurer of the cooperative league spoke of these challenges to cooperatives. His speech was a thought-provoking testimonial to the qualities of cooperatives coupled with an appeal for self-examination. He highlighted the problems of leaving cooperatives down on the farm, and he carefully spelled out the role cooperatives must and should accept in the future. His address was a thoughtful interlude in a gigantic success story, and I ask that it be printed below so my colleagues will have the opportunity to read it.

The address follows:

CHALLENGE TO CO-OPS

Let me tell you something in strictest confidence: I have a disease. I hope it's contagious, but not fatal. But so you'll understand, let me describe a symptom: my wife and I will be sitting in a restaurant, paying no particular attention to conversation at other tables. Then someone two or three tables away uses a word. And I hear that one word, without having heard anything that went before. And my ears begin to strain.

You get only one guess as to what that word is.

Well, so much for my cooperative credentials. On to co-op development and the co-op development decade. But first let's make one honest admission:

We may not make it!

We may remain so fragmented and provincial and segregated that we die of self-induced anemia. We may give so little attention to member and employee co-op information and orientation that our spirits and our brains die from lack of blood. We may be so self-satisfied with internal accomplishments that we die of corpulence between the ears. We may be so unaware of changes in the social and economic environment around us that we might as well be dead—as indeed we soon would be.

Let me put it more brutally.

If our farmer co-ops remain unconcerned about urban co-op development, content to continue their excellent service to the 5% of Americans who are farmers, they will become increasingly irrelevant in our changing society. If our urban co-ops cannot learn to work with farm co-ops toward common co-op development objectives, they will never have the strength to grow. If independent local co-ops do not recognize in time—and we don't have much time—the need for consolidation and merger, major competitive forces will overwhelm them. If our cooperative leadership is primarily concerned with security and status, they will insist on maintaining weak parochial structures. If, within our larger co-ops, we do not develop sound representative structures so that member participation continues to be an "available option" (to use John Gardner's phrase), we become indistinguishable from other businesses. In short, for self-preservation we need growth, consolidation, and participation. And for all three we need a national co-op development program with major emphasis on developing user-owned cooperatives where they don't now exist: in the towns and suburbs and cities. Inner cities, by the way, included.

This doesn't for a moment suggest that we don't still have a job to do in strengthening the bargaining power of farmer-owned off the farm business. We need to find new sources of capital, of skilled managment—and of member support—to move all farm co-ops into positions of greater market strength. And we need to do it in these first years of the decade of the 70's.

As an aside, one comment: farmers are losing their political clout to the increasing urban-suburban vote. As key Congressional chairmen, who hold on through seniority, are replaced, this clout will become weaker. Farmers need allies in the cities and suburbs. And there is no better way for farm co-ops to develop allies in the cities than to help develop user-owner co-ops there. End of nonpartisan political speech.

So what do we do about it? Of course the jury is still out. But if we wait for action until all the evidence is in, we will surely be attending our own hanging. What we need to do is bring together the best we know, the best we have—and move forward today—ready to modify our course of action as new information develops. And that, really, is what the Co-op Development Decade is all about.

But how come this "Development Decade" develops within the League? Well, as you probably know, the League has within its membership nearly all kinds of cooperatives. We have more financial and membership support from farm co-ops than from any other kind because there are, in this country, so many more strong co-ops in rural areas. But we also have many other kinds in our membership: consumer goods, housing, insurance, credit unions, group health, student, consumer services, parents preschool, fishery, handcraft. Bound toegther by user-ownership principles we hold in common, in spite of some differences in language and interpretation. So, we get feedback from all these different kinds of co-ops.

One service we provide our members is our membership in International Cooperative Alliance—and ICA launched, about two years ago, plans for an International Cooperative Development Decade. Returning from the ICA Central Committee, Stanley Dreyer, our President, wondered: maybe this idea, implemented within the United States, modified to suit our own needs, was that we needed to help us move forward in a really significant way. He proposed this to our Board, and to our 1970 Biennial Congress meeting in New York City. And received solid endorsement.

To make this mean anything, we had to have a feed-in of background and ideas from many different kinds of co-ops. We also needed to tap various kinds of expertise in communications, social sciences, operations. So we developed a kind of grid structure that combined representation from a wide variety of co-ops with professional expertise in a wide variety of fields. And from this, our Co-op Development Decade Council.

First steps, after appointment, was to develop some background appreciation of current and future social and economic trends—for we are looking to the 1980's not to today's world. And we brought in speakers who could describe for us these trends, improve our understanding of the world we are moving toward: a world with more youth—and yet with more retirees; a world with more working wives—and yet with more leisure time; a world with the ability to provide health and housing for all—but with continuing maldistribution of these and other goods and services; a world with increasing concentration in large cities and their suburbs—but with a threatening and dying core at the center of each; a world needing far greater attention to mass transit and housing and ecological problems—but with a fragmented political structure that makes attention to these problems extremely difficult.

Two brief quotes from Dr. Roger Blackwell, one of the consultants we brought in, will illustrate:

"The strategic target of the '70s will be people in the 25–34 age group. There will be more of them and in many cases both members of the family will be working. Education will give more income at an earlier age. More than half of high school graduates are going on to college. Firms have to work hard to keep older employee salaries above the level of newer, younger employees."

"Five trends are noticeable in family influence: An earlier school age, children live in different parts of the world from their parents, grandparents can't easily influence grandchildren, men and women roles are being redefined, and the weekend father. (Ninety-two per cent of drug users came from homes where the father was not around.)

"These trends can be a disaster for many types of co-ops because of the mobility they reflect in our society. However, they may be a positive force if they mean that the co-op may be able to replace the family in the eyes of some.

"If co-ops had a national identity, the problem could be a strength. (This is one reason why national brands are important.) Personal recommendation is most important, when such national identification is lacking. (How does one carry one's AAA membership from one city to another?)"

In short, we sought a clearer understanding of the world to which cooperatives must become relevant, if they are to survive as significant user-owned organisations.

From all this, emerged four sub-councils; their names generally indicate their functions:

Growth components needed for cooperatives

Education and communication

Member relations

Relations between established and emerging cooperatives

Each of these has developed a brief preliminary report, sort of a thinkpiece, as a basis for further discussion.

The first subcommittee report, on *Growth Components*, headlines these factors:

Feasibility, Favorable Climate,
Financing, Research,
Training, Technical Assistance,
Informed membership.

The second, on *Education and Communication*, suggests as objectives:

Greater teacher awareness and understanding of cooperatives

Programs of study leading to a degree in "cooperativism"

Greater general public acceptance of co-ops as a way to fulfill unmet needs

Greater *member* understanding of co-op principles—and of their rights and responsibilities

Formalized training programs within co-ops, to improve supply of qualified board members and managers.

And the third subcommittee, on *Member Relations* suggests:

"The challenge to cooperatives is to operate on sound economic policies while developing the cooperative as a vehicle through which members may mold a desirable environment rather than being forced to adapt to changing circumstances."

To implement this, we'll need more adequate ways to gather accurate information on member desires and needs. We'll need a vehicle through which members can improve factors other than prices and business service—we must be concerned for the *total environment*. We'll need more emphasis on identifying the community and member problems co-ops can help resolve. We'll need more co-op mergers, more employment of community organization experts, more intercooperative relationships.

And that's where we stand today.

What will it all mean? Maybe nothing. Maybe a set of reports that are embalmed in mimeo ink buried on the shelves. This sometimes happens, has happened before. But we intend to do what we can to provide life and vigor for them so long as we have it ourselves.

More hopefully, these reports can be the small beginning of the revolution in concept that our American cooperatives need to survive, to become really significant in that world of the future. Out of this League effort, can emerge a new American cooperative movement—a new cooperative moving together and a new cooperative moving ahead.

We have the resources, the skills, the leadership ability. It remains to be seen whether we have the vision to look beyond the confining walls we have at times erected between us. And the dedication to move out beyond them.

I am convinced that there is no activity, no purpose more important to the healthy future development of our country.

As I said at the start: We may not make it. But I am convinced that we Can!

SOUTHERN GOVERNORS CONFERENCE HAILS CONGRESS FOR NATIONAL EFFORTS TO CONTROL WATER POLLUTION

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. WAGGONNER. Mr. Speaker, the Southern Governors Conference recently sponsored a Spotlight Conference on the Environment. And at this conference, Congress was hailed for national efforts to control water pollution, and a statement was adopted that encourages continuance of indepth study of performance

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in the field of water pollution control at both the State and National levels.

In view of the scope and clarity of the statement, and knowing my colleagues would have a deep-seated interest in this topical matter, Gov. John J. McKeithen of Louisiana sent me a copy of the statement that I might somehow bring it to the attention of the Congress. Therefore, I would like to insert it in the RECORD so all my colleagues might study and consider its proposals and position on this most timely topic:

STATEMENT ON NATIONAL WATER POLLUTION CONTROL LEGISLATION ADOPTED BY THE SPOTLIGHT CONFERENCE ON THE ENVIRONMENT, SPONSORED BY THE SOUTHERN GOVERNORS CONFERENCE

The Conference lauds Congress for the importance it has attached to the national effort to control water pollution, and encourages the Congress to continue its in-depth study of performance at both the State and Federal levels.

Very significant accomplishments have been made during the past five years under current Federal and State legislation. The Conference urges Congress to move forward by building on those accomplishments. It is unlikely that new laws with different goals and different strategies will speed progress. Rather, it is more likely that such action will destroy the momentum that has finally built up after years of effort.

The Conference is convinced that neither the federal government nor the individual states embarked on independent programs will be able to conduct separate water pollution control programs which will in an effective and efficient manner meet public expectations. We believe that improvement in federal-state relationships is desirable and that Congress could provide the avenue for that improvement through modifications of existing federal laws.

In light of the foregoing, the Conference is concerned that the thrust of current proposals under consideration in the Congress will inadvertently lead to further deterioration of relationships. Unless the underlying structure of government in the United States is changed drastically, it is evident that the states must play a very significant role in water pollution control. Exercising their police and welfare powers, the states are uniquely endowed with the necessary sovereign authorities. This, coupled with knowledge of local mores and priorities, indicates a primary role in such functions as the administration of permit systems, the establishment of receiving water and effluent standards, the determintion of waste water purification requirements and the basic enforcement duties.

The magnitude of projected expenditures coupled with the need for concerted and effective action dictate a strong planning role for both state and federal governments. However, there is little likelihood that plans will be adopted unless they are developed with full participation of local governments.

On the other hand, the federal government is better equipped to serve in the role of supporter and overseer. The federal government should provide high level technical assistance, provide a national system for storage and retrieval of basic data, support research in government and universities, provide for training of scientists and technicians, provide adequate financial assistance, and enforce interstate standards.

It is desirable and inescapable that the states follow the course set by the federal government. Therefore, it is extremely important that the federal government advocates efficient goals and policies, and follows a dependable and consistent course of action.

The Conference believes that the national effort will be furthered if the federal government uniformly monitors states' activities to insure that they are effective and the Conference supports the concept that the federal government should step in when a deficiency cannot otherwise be satisfied.

We believe that a fair appraisal of the national water pollution control effort during the past few years would lead to the conclusion that many major delays and shortcomings can be traced in large measure to the failure of the federal government to perform in the functions narrated above. We are concerned that some of the proposals coming to our attention would move the federal government deeper into the front line responsibilities of the states while intending to ignore the major responsibilities that only the federal government can efficiently fulfill.

The weight of the legislative proposals coming to the attention of the Conference do not attain the proper balance between state and federal efforts. In our opinion many of the proposals place the federal government in a dominant role with the states relegated largely to the role of puppet. That position does not provide the freedom necessary for the states to make the valuable contributions that they are uniquely capable of making.

The most serious objections are the reduction of the state's role and the vesting of sweeping powers granted to the administrator of the Environmental Protection Agency. Rather than strengthening the nationwide effort, these moves would demoralize the states and place in the administrator far more authority and responsibility than could be assimilated within any reasonable time frame. The result would be unwarranted delay in achieving the goal of effective control and enhancement of water quality.

The Conference believes that the administration of discharge permits, or the equivalent thereof, is one of the most critical issues that Congress should face in connection with the amendments to the Federal Water Pollution Control Act. We believe that this issue has extremely important consequences in terms of federal-state relationships and also in terms of the longer range aspects of state water pollution control programs. The intrusion of the 1899 Act administered by the U.S. Corps of Engineers has created difficulties, increased work, and in some instances promoted delay in implementing schedules. Proposals to perpetuate a federal permit system by simply transfering the 1899 authority to the Environmental Protection Agency, while laudatory in the sense that one federal agency is eliminated, does nothing to reduce or correct the present dilemma. Instead of basing the permit system on the Refuse Act of 1899, the Conference proposes that a fresh start be initiated through the establishment of a waste disposal permit system administered by the states and backed up by the federal government.

The system would function through programs established under state laws with the provision that the state programs meet minimum standards set forth in the federal legislation establishing the system. Each state would administer a permit program except where a state refuses to do so or where its program would not meet the requirements of the federal legislation. In those situations, the Environmental Protection Agency would be required to implement a system meeting the requirements of the legislation.

This alternative approach is contained in the proposal submitted to the staff of the Senate Public Works Committee through the office of Daniel J. Evans, Governor of the State of Washington. The Conference endorses Governor Evans' proposal in principle and urges the members of the Southern Governors' Conference to support the permit system proposed by Governor Evans by appropriate communication with their respective congressional delegations.

While this statement has singled out the permit issue, many other proposals coming to the attention of the Conference cause concern and in some instances, strong opposition. It is recognized that these proposals have not yet been embodied in proposed legislation and, in fact, some of the proposals in themselves are self-contradictory.

The pollution control administrators in the states comprising the Southern Governors Conference stand ready to work with and assist the Committee staffs and the members of Congress in the development of crucially important water pollution control legislation.

PRICE URGES U.N. EXPULSION OF BYELORUSSIA AND THE UKRAINE

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. PRICE of Texas. Mr. Speaker, I rise today to cosponsor a resolution calling on the President to take the steps necessary to seek the expulsion of the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic from membership in the United Nations General Assembly.

It is often said that truth is stranger than fiction, but I know of no more perfect example of this than the continuous perpetuation of the myth that somehow the Ukraine and Byelorussia are eligible for membership in the United Nations. The fact is that their presence arose out of a political deal cooked up during World War II when President Roosevelt, Prime Minister Winston Churchill, and Soviet boss Joe Stalin laid out plans for the postwar years. Stalin, who was continuously throwing roadblocks and curves into allied efforts during the war, had proposed giving a General Assembly seat to each of the 16 Soviet provinces, attempting to justify such a move on the basis that the Soviet constitution allowed each state to maintain independent diplomatic relations with other nations, and also as a "consolation prize" for the great wartime sacrifice of the people living in the various Soviet provinces. Although Churchill supported the multiseat formula, because of Britain's own imperial system, Roosevelt threatened to counter the Russian proposal by demanding a seat in the General Assembly for each of the 48 American States. Of course, to maintain that our American States are sovereign entities in the field of diplomacy would be an utter absurdity, and yet Roosevelt eventually agreed to giving Stalin two extra seats in the General Assembly, one each for Byelorussia and the Ukraine.

Mr. Speaker, the point so obvious here is that by the furthest stretch of the imagination, Byelorussia and the Ukraine have never been and are not now rightfully eligible for the seats they have continued to occupy in the United Nations. It is a well-known fact, that Soviet claims notwithstanding, neither the Ukraine nor Byelorussia has been sovereign since the Communist takeover in 1918; neither has diplomatic relations with any other nation in the world, nor does either of these provinces conduct foreign relations separate from those of the U.S.S.R.'s.

If ever a case more clearly underlined the need for expelling the Ukraine and Byelorussia from the United Nations, it is the incredible action taken a few weeks ago by the General Assembly in expelling the Government of the Republic of China. For if the General Assembly by the very furthest indulgence in fantasy could somehow justify expelling a charter member of the United Nations, a member which has abided by the principles of the charter, then there is no way possible to rationalize the legitimacy of the continued presence of Byelorussia and the Ukraine which were never deserving of membership in the first place.

Mr. Speaker, I strongly support this resolution. If the United States is to continue its participation in the United Nations, let us correct the glaring inequities which undermine our relative position of strength within that mischievous organization.

A BILL TO FORBID INTERSTATE TRANSPORTATION OF ANIMALS INJECTED WITH DIETHYLSTILBESTROL

HON. OGDEN R. REID

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. REID of New York. Mr. Speaker, I am introducing in the House today a bill making it unlawful to transport in interstate commerce any animal that has been fed or injected with diethylstilbestrol—DES—or any food product thereof.

DES is an artificial female sex hormone used in the United States to promote rapid weight gain in cattle. Its usage can increase the market weight of an animal by almost 20 percent. Under current regulations, farmers are required to comply with an established 7-day withdrawal period before slaughter, and an established maximum dose of 20 milligrams per pound of feed.

Earlier this year, the Committee on Government Operations of the House of Representatives held hearings on whether or not the usage of DES in the United States should be outlawed, since there is increasing medical evidence that DES can cause cancer. No action was taken as a result of these hearings, and beef cattle growers have been allowed to continue feeding DES to steers. There are a variety of reasons for this. According to a recent study by the Department of Agriculture, if DES were banned from beef feeds, retail prices would probably increase 2½ cents to 3½ cents per pound. Dr. C. D. Van Houweling, Director of the FDA's Bureau of Veterinary Medicine, sets a higher price tag on banning DES, and has stated that "people would rather eat a little of a carcinogenic chemical than pay the extra 20-percent cost of beef" that would incur if DES were totally banned.

The other reason given at the time for not outright banning DES is that the livestock producers had agreed to participate in a voluntary, nationwide program "designed to further assure consumers of consistently safe and wholesome meats." I admit I was skeptical at the time that such a program was being entered into with the proper spirit by cattle producers when I read an article in The American Beef Producer called "Drug Withdrawal, If We Don't Do It, The Government Will," in which it was stated that "the same society that 'pops pills' from morning to night does not want drugs in its meat." I feel that the fact the withdrawal period has had to be increased from 2 days to 7 days is conclusive evidence that this program was a failure. I do not have evidence at this time as to how closely this program was monitored by the Department of Agriculture, but it was pointed out at the hearings that during the latter 6 months of 1970 approximately 540,000 cattle were slaughtered each week, yet only 90 samples of cattle tissue were examined for DES residues.

During the hearings that I mentioned, Dr. William B. Buck, an Iowa State University professor who raises cattle stated that many farmers tend to ignore the original required 48-hour withdrawal period regulation. He stated that within 12 hours after a farmer decides the price is right, his cattle are likely to be at the slaughterhouse, and also that most farmers feel it is too much trouble to clean out for a 48-hour period the elaborate feeding machinery already stocked with DES supplemented feed. Twenty-one countries, including Argentina, Australia, Denmark, Ireland, West Germany, France, Italy, Poland, South Africa, Sweden, and Switzerland, have outlawed the usage of DES as a growth promotant.

For the past 15 years, a number of medical experts have been claiming that DES can induce cancer. Uterine tumors have frequently been found in guinea pigs given as little as 1.5 mg. of DES in subcutaneously implanted pellets, and it has been learned by extensive animal experimentation that intermittent administration of very large doses of DES is far less effective in inducing tumors than is a continuing exposure to an extremely minute dose. As far back as 1956, during the Symposium on Medicated Feeds in New York City, it was brought out that—

A great body of evidence shows that cancer-inducing chemicals can exert their effects on catalytic quantities, inducing changes in cells which are mediated by unknown substances transmitted from cell to cell long after the original cancer-inciting material ceases to be demonstrable in the tissues. No assurance of the absence of such substances can be offered consumers of tissues from animals treated with or fed a carcinogen, such as diethylstilbestrol.

Only recently, a most pertinent example of the possible aftereffects of this hormone was pointed out in the New England Journal of Medicine 1 month after the March 1971 hearings were held. A very rare form of cancer in young women—adenocarcinoma of the vagina—clear-cell or endometrial type—was found in eight young women between the ages of 14 and 22 in Vincent Memorial Hospital between 1966 and 1969. The unusual occurance of this tumor led to an investigation into possible causative factors, and it was found that seven of the eight mothers of patients with carcinoma had been treated with DES early in their pregnancies in order to ward off possible miscarriages. From the results of their investigations, the medical researchers reached the conclusion that "it is possible that stilbestrol—DES—alters fetal vaginal cells in utero, with changes that do not become manifest in a malignant form until years later."

Thus far, medical evidence has determined only that direct ingestion by human beings, mice and guinea pigs can induce cancer. There has been insufficient time to acquire evidence as to whether or not the indirect ingestion of DES—that is, by eating meat products from animals which were fed with DES fortified feed—can induce cancer in human beings. However, from the evidence which does exist there would appear at least a substantial possibility that such indirect ingestion could cause cancer. This risk requires legislation to protect the American consumer.

My bill provides that any individual, partnership, corporation or association knowingly acting in violation of its provisions shall be fined not more than $50,000 or imprisoned not more than 5 years, or both. In light of the potential cancer causing properties of DES, I do not feel that this penalty would be excessive.

COLONIAL PIPELINE RECOGNIZED AS PACESETTER IN ENVIRONMENTAL CONTROL

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. COLLINS of Texas. Mr. Speaker, among the foremost leaders of research and innovations for environmental control in the petroleum industry is Colonial Pipeline. Colonial has been recognized with a first-place award in Petroleum Engineer and Pipeline and Gas Journal for its program to eliminate contaminants from the discharge at pump stations and tank farms.

The subject of environment is of vital importance to all Americans. We salute Colonial Pipeline for their developments toward protecting our country against pollution. Innovations in environmental control development from the petroleum industry plus the Nixon administration's progressive policies of cooperation with industry spell a bright future for pollution control in our country.

The award to Colonial Pipeline states:

Elimination of contaminants from the discharge at pump stations and tank farms was the objective of this program planned and executed by Colonial Pipeline Co. To accomplish this, equipment has been installed and drainage revised at all major locations.

Contamination usually resulting from withdrawing water from the sumps of storage tanks was eliminated by discontinuing the use of the tank water draw-off line and installing a closed piping tank line stinger system.

All tank switching manifolds were original-

XUM

ly constructed on a lower elevation than the tank bottoms and the tank lines are sloped on an even uphill grade from the manifold to the tanks. Stingers were installed adjacent to the manifold or at the low point in the tank line, and were inserted through the top of the tank line pipe to extend down inside the pipe to within an inch of the bottom where any water in the tank or line will accumulate. Weight of the product in the tank causes the water to be pushed out through the stinger and into an oil-water separator.

Any oil present is skimmed off and returned to a tank while the water flows by gravity to a concrete retention basin for inspection. Outlet from this concrete basin is 2½ ft below the liquid surface to insure that only water will leave the basin.

To insure that all water leaving a tank farm contains no contaminants, retention ponds varying in size from a fraction of an acre to several acres have been constructed at major facilities to retain all water, including that from tank dikes, oil/water separators and surface drainage. Some facilities required considerable grading, terracing and the installation of large diameter drain lines to divert the flow into a retention pond for inspection before leaving the property.

Bottom or baffled drain lines from the ponds are designed to maintain a constant liquid level and hold several feet of product on top of the water should an accidental discharge into the pond occur. Most of these ponds have been stocked with game fish and ducks to prove the purity of the water.

Pump stations and smaller facilities are being equipped with a compartment-baffle type of oil/water separator, or a retention pond, or both, depending on the calculated risk and terrain.

Total cost of Colonial's water reclamation program has been about $1,000,000.

POLISH PRIEST ON WAY TO SAINTHOOD

HON. ROMAN C. PUCINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. PUCINSKI. Mr. Speaker, recently Pope Paul VI conducted a ceremony in Rome to beatify a Polish Franciscan priest, Father Maksymilian Kolbe, thus paving the way for this humble man to become a Catholic saint.

Father Kolbe is a saint indeed. He sacrificed his life so that another could live, and inspired a multitude of others around him.

During World War II at the Auschwitz concentration camp, the Nazis selected 10 men to die as a reprisal for those who had escaped. One man selected, Franciszek Gajowniczek, opined that it was a pity to leave his wife and children. Father Kolbe stepped forward and asked to replace Mr. Gajowniczek.

Father Kolbe and the nine other prisoners died slow and painful deaths. He gave solace and comfort to the other prisoners. He was the last to die.

Mr. Gajowniczek attended the beatification ceremonies in Rome. He is 70 years old today, and has recounted for us the very stirring story of the supreme sacrifice made by Father Kolbe on his behalf.

Mr. William Willoughby, of the Washington Evening Star, recounts Mr. Gajowniczek's heartrending story, which I place in the RECORD today.

The story follows:

NAZI VICTIM REMEMBERS—POLISH PRIEST ON WAY TO SAINTHOOD

(By William Willoughby)

VATICAN CITY.—Franciszek Gajowniczek has been carrying around one big regret for the last 30 years. Back at Auschwitz concentration camp, the Pole had been selected as one of the 10 men to die. A Polish Franciscan priest stepped forward, offering to die in Gajowniczek's place.

Things happened so quickly that day in August, 1941, and prison regulations were so tight that the man who got this most unlikely reprieve could not indicate his thanks even with his eyes to the priest.

Franciszek is a visitor in Rome today—a man of 70. He was one of the many thousands watching Pope Paul VI conduct a ceremony beatifying Father Maksymilian Kolbe for the extreme sacrifice in behalf of his fellow countryman. Kolbe thus is on his way toward becoming a Catholic saint.

Gajowniczek told the Associated Press in Brzeg, Poland, his hometown, that he prays to the saint every night. The man understandably could have made the priest a saint in his own mind even if the Catholic Church had never taken steps to do it.

Franciszek tells the story this way: Some prisoners had escaped from the prison which eventually was to claim the lives of four million persons. The prisoners always cringed when there were escapes. The Nazis would select from a lineup 10 persons at random to die. It was a slow, agonizing death in which the victims starved.

While the Nazis were searching for the escapees, the prisoners were made to stand from 6 in the evening, on through the night and until 11 a.m. the following day. In the heat of it all, they were given no food, no water. Some died while going through this ordeal. Guards beat some who had trouble standing.

Then came the moment of truth. The SS officer stepped forward and announced 10 were to be selected to die. He would come to one and then another and guards would jerk the ill-fated ones from the line for their slow, merciless doom.

Four had been picked when the SS officer stood by No. 5659.

"When he stood facing me, I knew that was the end," Franciszek said.

"It's a pity I must leave my wife and children," the doomed man said. That's all that came out.

Father Kolbe had been standing nearby and heard Franciszek's words. There was no hesitation. He broke the line and stood, smiling, in the face of the officer.

"What does this Polish swine want?"

Kolbe put it simply. "I am a Catholic priest, rather elderly. I want to go instead of that chosen prisoner. He has a wife and children and is needed by his family."

Franciszek couldn't believe it first of all, that the priest had made a selfless offer and second, that the officer actually accepted it. There was no way the grateful man could show his appreciation.

Kolbe and the nine others were put in a cell without furniture or without windows to starve to death. The priest inspired the dying to sing hymns and he consoled them in the words of Christ. After two weeks had passed, six had died. The Nazis needed the building for another purpose and shot poison into the rest. Kolbe, at 47, was the last to die.

"Kolbe never once tried to shirk his priestly duties in those nightmare days," Franciszek said. "He was very often beaten for it and the guards would laugh at him, but he regularly held prayer services for prisoners and heard their confessions."

What did it do for Franciszek once he was released? He had an intense desire to help unfortunates. He did voluntary work for the poor.

If one ever wants to know what made the early Christians such fanatics for Jesus, the answer lies to an exemplary degree in this touching story out of the hell of Auschwitz. Those who came to understand the Gospel could see the guard staring them in the face. They knew "This is the end."

Then, as their Gospel beliefs taught them, out of this hopeless situation of the soul, Christ stepped forward, putting His life on the line for them.

Kolbe preached his most profound sermon that day in August. His words became flesh—his very own.

They carried echoes of an even more profound message made flesh one Good Friday afternoon.

For all the No. 5659s of the world.

DC–10: A REAL SMOOTH BIRD

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. HOSMER. Mr. Speaker, when the first McDonnell Douglas DC–10's began rolling off the line in Long Beach, Calif., and taking to the skies, pilots were almost unanimous in their praise and admiration for this big new bird.

Its instant acceptance and success augers well for the U.S. aviation industry, the company, and for my congressional district.

For a pilot's eye view of the DC–10, I call attention to an article in the November issue of Air Line Pilot magazine, reporting on a trip by the Air Line Pilots Association evaluation team from San Francisco to Washington.

The article follows:

WHAT PILOTS WANT TO KNOW ABOUT THE DC–10

There on the Long Beach, Calif., ramp, it looked big as a mountain to pilots of DC–8 and DC–9 class of jets. Each step closer created that feeling of being at the bottom of a canyon looking up to the rim. With three DC–10s on the line, the first impression of size was magnified threefold.

Airplane number 8, painted in the red, white and blue stripes of the McDonnell Douglas Co. has flown 290 hours since rollout last year. This was the third ALPA's DC–10 evaluation team that would fly to end its Phase Two evaluation of the aircraft since it began work with Douglas and the wide-bodied jet concept three years ago.

To the DC–8 and DC–9 pilots there were similarity and familiarity features to which they have long been accustomed; to some pilots of brand-X jet transports, it was a whole new formula. It had been easy to comprehend paper plans and even the mock-up, but upon meeting the real DC–10, the size was still a surprise and there was an inner thrill knowing they had been associated with its birth. Team members felt some modest pride in having contributed a little something to its being a better airplane than the state of the art has produced to date.

The 11-man team, headed by Captain Ray Lahr, was accompanied by Douglas flight executive A. G. Heimerdinger and test pilots Don Mullin, Cliff Stout and Jim Stuart. The group had completed detailed progress and flight test briefings the day before. Now on Aug. 13, it would fly. Three days later, ALPA President John J. O'Donnell, First Vice President Al Bonner and Captain Don McBain would fly it too. Their assessment would echo the reactions of the ALPA team.

With Cliff Stout occupying the right seat, they took turns at flying during the three-hour period. Whether at the controls or kibitzing from the flight deck, they checked every major feature of the 50-ton bird: approaches to full stalls, landing and takeoffs with engine idle (engine out) conditions, in taxi operations, control-navigation-pressure systems checks, fuel system operations, etc. They did everything the line pilot needs to do to gain an honest, comfortable feel of a new jet slated for service.

The most immediate feature that drew accolades from all, was cockpit visibility. Compared to in-service jets, the DC–10 is a veritable greenhouse. Up, down, forward and backward, the sky can be swept visually from both sides of the flight deck with easy, comfortable movements. Since the wing sweep back is 37 degrees, however, the tips of the wings cannot be seen from the cockpit.

To an observer, watching pilots take over the left seat for the first time with ease and confidence while flying in the Marine fighter base airspace surrounding Yuma, Ariz., it was obvious that this single feature will improve terminal area eyeballing efficiency many times over that of present day jets. Even on high attitude climbouts, forward visibility is impressive.

Perhaps the most outstanding high praise, next to visibility, had to do with handling on the ground and in the air.

Numerous other comments and recommendations have been reported by the team. A few are reported here:

Engine starting is as automatic as it can be. Two manual actions are required: twisting the ignition knob and momentary depressing of the "start" switch on the overhead panel. The next move is to set fuel control lever on the throttle quadrant, holding it in open position until the engine fan speed reaches 10% or more.

Pretaxi and pretakeoff check-list items have been reduced.

Nosewheel steering is the answer to a pilot's prayer. The technique is easy to grasp. Steering is a little on the sensitive side but this is considered desirable. Nosewheel effectiveness, when coupled with the 10-degree rudder-steering capability, provides for safe and smooth roll-out and turn control. First timers at the controls encountered little difficulty with turns because of the pilot's perch being 20 feet ahead of the nosewheel.

Weighing in at 370,000 pounds, the DC–10 requires about 31% power to start the taxi roll. It can be maintained with engine idle thrust. Some carriers suggest saving the third engine until reaching the run-up position at takeoff.

There's very little lag between throttle advancement and delivered thrust. It takes less than 5 seconds to accelerate from idle to full power. Takeoff power on the flight was 102.7% N_1 at 23°C. Cruise power used was 98.3% N_1 at 19°C.

Shortly after breaking ground, climb speed stabilized well at 2,500 feet per minute. And at 8,000 feet, with flaps retracted, and 250 knots airspeed, rate of climb was 3,000 feet per minute.

During cruise operations—380 knots at 15,500 feet, the Mach beeper horn sounded as the gait nudged past Mach 0.85. A Dutch-roll recovery without yaw dampener on was demonstrated; although dampening was slow, recovery was firm. The autopilot was engaged and the auto throttle action held the speed at 320 knots. Spoilers worked smoothly and delivered relatively little vibration at low settings.

Approaches to the stall were made with the aircraft clean at 14,000 feet. The stick shaker became effective at 177 knots. The combination of lights, noise and physical vibration in the steering wheel makes it inconceivable that the stall warning could ever be ignored. Slats were deployed automatically. With 18 degree flaps, the near point of stall was 130 knots. Although full stalls were not made, the aircraft handled well to the point of fall off. Aileron and rudder-elevator control was effective. Except for the stick shaker action, each pilot could have easily been stalling a Cessna 172. The flight deck feel was the same.

Landing approaches: In this area, the big craft was exceptional, that solid feel denoting excellent stability. At 200 knots, flaps were set at 20 degrees and power setting was about 60%. Small adjustments in power to hold approach speed were easy for the first-time DC–10 pilot. Without exception, each ALPA pilot made the first touchdown with ease, despite the higher perch of the cockpit—15 feet as compared to 20½ feet for the DC–8 and 11 feet for the DC–9.

On final to Yuma's 21R, approach power rounded out at 73% to hold a steady 145 knots and a 600 feet-per-minute rate of descent. The temperature was 100° F and the wind was 270 degrees at 8 knots. The usual rough air surrounding Yuma at midday had little effect upon the DC–10's level flight stance.

During several touch and go takeoffs Douglas's Stout or Mullins would pull outboard engines and only a small amount of rudder pressure was needed to hold direction; in one case a 5-degree bank into the good engine compensated for rudder pressure to maintain straight flight. Center engine out caused no-marked change in trim. There was no noticeable change in cockpit noise or flight conditions as power was retarded.

Direct lift control, a Douglas innovation to provide precise speed, attitude and rate-of-descent control, was used on several landing approaches. To the observer, there was no improvement apparent. Each pilot, however, expressed satisfaction with its function and, of course, the real value will accrue when CAT II and III systems are operative.

Other landings were made with various systems inoperative to demonstrate redundancy and the high degree of selectivity available to the pilot during emergencies or equipment failure.

Since it is difficult to observe wing tips from the cockpit, ground guidance is essential while taxiing in tight places. The center windshield is expected to be a good ice collector and indicator for wing icing.

Alternate system operation with regard to environmental control was demonstrated. An emergency descent was made at 300 to 330 knots, at the rate of 10,000 feet per minute.

Fuel system operation with fuel boost pumps off on outboard engines demonstrated many options available for fuel transfer and trim in case of pump failure.

No-flap approaches and landings were made. All pilots expressed satisfaction with performance in this department. In fact, a two-engine out approach with no flaps, but with slats extended, was made at 184 knots. Speed at the threshold for landing was 160 knots.

Without question, the team's response to the five hours of flying, praised Douglas for the many improvements and innovations that enhance flight safety and comfort for the crew as well as the passengers. Some items suggested for further study or improvement included:

Better identification of the various beeps and warning horns that require instant recognition by the flight crew.

Hot air blast from the auxiliary power unit is questioned as a possible problem for the ramp areas.

Reduction of sound in the cockpit air-conditioning system is desirable and Douglas indicates action is underway at this time.

Some other specific cockpit items praised included engine-failure lights that activate when 10% differential in power exists between engines; the aircraft operated well under crosswind conditions; brakes are adequate and very smooth in operation; the Goodyear wheel, brake and antiskid system produced an average stopping distance of about 2,200 feet at landing weight of 360,000 pounds. The aircraft is certificated for operation on airports with runways as short as 5,200 feet, the same as the DC–9.

This rundown, at best, is a summary of some of the more detailed items pilots noticed during their first exposure to the DC–10. Further flying, of course, will give a finer assessment of its performance and capabilities, which are due to make this aircraft one of the most productive jet transports ever placed into operation.

Flight checks of the autoland system were not possible since this equipment was not installed in number 8. In addition to the autoland system, the company offers some intriguing extras: an automatic engine trim system that holds power trim between the three engines to within plus or minus 1%. This is far more precise than can be set manually.

Under development is a performance and failure assessment monitor, a small cathode ray screen that shows an imaginary runway and predicts the touchdown point on the runway.

In the cabin, reaction of the stewardess representative, Mya Shelton, was excellent. Operational use has already demonstrated the value of Douglas' human factors research. As with any new automobile, boat or airplane, however, there are a few items recommended for attention. Removable type lights are needed near doors. The front hatch where the ladder exists from the lower galley requires a hinge or tether on it. Exit doors require two different operations to open and the front door seems to require more muscle than the others.

There is a question about the possibility of doors being opened in flight when cabin pressure is 0.4 inches or less. A window would be a welcome addition in the galley to guard against possible crew claustrophobia. The noise level in the galley, especially with gear down, is higher than desired. It is recommended that all carts be stowed in the galley for landings. The jump seat appeared to be good for the time available to check it.

At the time of the ALPA team's flight, there were five test aircraft in the program. They had completed 929 flights for total time of 1,554 hours 40 minutes. Number one DC–10 completed 455 hours of flight to certification in 10½ months—120 hours less than the DC–9 program, which required 14 months.

An immediate payoff, a surprise to everyone, is the substantial reduction in pilot checkout time. Through the use of DC–10 simulators, flight time for type rating has been reduced to less than two hours. This is a savings of more than three hours from the 747 average of five hours.

During its first two months of service, daily utilization rate for American Airlines and United exceeds 14 hours.

The Big Bird from Mc-D has a great future. Every pilot who has flown it, walks away with a broad grin and an "I don't believe it" shake of the head. They call it a real s-m-o-o-t-h bird.

EFFORTS OF CREW OF U.S.S. "RANGER" TO SAVE LEUKEMIA VICTIM

HON. WILLIAM S. MAILLIARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. MAILLIARD. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

I am sure my colleagues will be pleased to note the efforts of the crew of the Alameda, Calif., based U.S.S. *Ranger* to save the life of a 4-year-old leukemia victim.

Four-year-old Christopher Campbell of Phoenix, Ariz., has been undergoing

XUM

treatment for leukemia at St. Joseph's Hospital in Phoenix.

In addition to two visits per month to the hospital to receive intravenous medication, the child must have a blood transfusion at least once a month, depending on his current condition and response to treatment. Christopher's mother, Mrs. G. L. Campbell, said that she had received little help from residents of Arizona in getting blood donations for her son.

Quite unexpectedly, the Irwin Blood Bank of the San Francisco Medical Society began collecting blood donations. The blood drive was spearheaded by a former crewman of the U.S.S. *Ranger* who learned of the child's plight through a friend of Mrs. Campbell's family in San Francisco.

As of September 15, *Ranger* men have donated 88 pints of blood in San Francisco.

Following is a letter from Mrs. Campbell expressing her deep appreciation to the *Ranger* men:

Up until a couple weeks ago, it was my feeling that compassionate acts of one man for his neighbor were only to be found in history books. It seemed to me that today's world was too fast and cold for these acts to exist. Then I learned of a group of men, whom I have never met, spearheaded by a Mr. Vance M. Olliver, who had begun a drive for blood donations for my son Christopher who was stricken by leukemia last year.

I don't really know how these men knew of our plight with medical expenses, etc., nor why they went so far to help a family they had never heard of before, but I thank God for everyone. In this day and age, such acts of genuine love and kindness are all too few and far between, and it is refreshing to know that at least the act of compassion is still free.

In our hearts there will always be a place of special significance for the men of the U.S.S. *Ranger*. I know in my heart you will all be richly rewarded when the material things of this world have long passed. May God bless you all abundantly and send help to you in your time of need.

THE LATE HONORABLE SPESSARD L. HOLLAND

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. ROONEY of New York. Mr. Speaker, I was saddened to learn of the passing of the Honorable Spessard L. Holland, who for almost a quarter of a century so ably represented the people of Florida in the U.S. Senate. Senator Holland served on the Senate Appropriations Committee and over the course of the years we had many a discussion at House-Senate conference meetings. We did not always agree on things, yet we became good friends and I had nothing but respect and admiration for Spessard Holland. He was a man who spent his entire life in public service, first as county prosecutor, as a judge, as a member of the Florida State Senate, as Governor of Florida, and for 24 years as Senator from Florida, leaving the other body finally, because of ill health. He was a gentle but forceful man, a dedicated man, a man with many friends. He will be sorely missed by all who knew him.

To his lovely wife and family I extend my deepest sympathy.

YOUNG VOTERS LOOKING FOR COMMON POLITICAL GROUND

HON. WILLIAM J. GREEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. GREEN of Pennsylvania. Mr. Speaker, young Philadelphia voters looking for common political ground met recently to explore the possibility of establishing a forum for action and discussion of the issues affecting their lives. Under leave to extend my remarks, I wish to insert the following story related to their activites and a copy of the position paper on pollution control prepared by the Young Philadelphians:

[From the Philadelphia Tribune, Oct. 23, 1971]

TEMPLE CONVENTION HOPES TO SPUR YOUTHFUL VOTERS

The voice of the young voter will be heard for most of the day at Temple University's Thomas Hall, Broad and Norris Sts., tomorrow (Saturday, October 23rd).

The occasion will be a conference sponsored by the Young Philadelphians, an organization which has formed to maximize the political leverage of youthful voters.

Co-chairmen of the organization are Johnson Collins, a center-city resident, and Ken Platt, of West Philadelphia. Collins, 28, and Platt, 27, outlined the aims of the convention in a Tribune interview this week.

"The Young Philadelphians will attempt to develop some sort of common ground among young voters. Through its permanent organization, we will work on voter education, direct political activity, lobby in Harrisburg, Washington and City Hall and monitor City departments with our own expert people," they said.

One of the goals of Saturday's conference is to attract at least 1,000 young voters. During the convention, which is scheduled to run from 9 A.M. until 9 P.M., a platform on the November 2nd election will be hammered out and voted on.

Both major mayoralty candidates have been invited to speak and make their appeal for the youth vote.

Collins, Platt and Bob Mulligan, co-director for public relations, emphasized that the convention was not directed for or against any political candidate.

WARNING

However, Collins added that there was little sense in a candidate claiming that he has the majority of the youth vote if that candidate is not concerned enough to come forward and make an appeal for it.

The question that the candidates will be asked to respond to is "why should the young people of Philadelphia vote for you and not your opponent?"

Following the hoped for question and answer session with the candidates, the delegates will relax for two hours of entertainment.

Registration for the convention will cost $2. The registration period will be from 9–10 A.M. Following the close of registration, the delegates will be welcomed by a spokesman from the Young Philadelphians. After that, a nationally prominent speaker will discuss the role of young people in urban change. From 11 A.M. until 2 P.M., a series of workshops on various topics of concern to youth will be held.

The platform will be debated and adopted or amended by the general assembly shortly after. Following a dinner break at 6 P.M., the candidates for mayor will be heard.

DIRECTORS

Task force directors for the convention are Miriam Gafni—Criminal Justice system; Henry Stein—Drugs; Debra Wiener—Education; Jack McCormick—environment; Gangs—Harold Haskins; Allen Beckman, Joan Ferreira—Government-Community Relations and Political Action; Health and Social Services—Dr. Edward Foulks; Housing—Shirley Dennis; Vietnam and its impact locally—Pat O'Reilly; Recreation and Culture—David Katzive, Roger O'Dell; Taxation, Employment and Economic Development—Carl Francis, Paul Oldroyd, and Transportation—John Schumann.

Collins, Platt and Mulligan said that the concerns of the Young Philadelphians reach far beyond the November election.

"Philadelphia is at a turning point. The young people have a stake here. Most of us are ready to spend our lives in this city. However, the city is suffering from a 'brain-drain' which will continue as long as we have to bang our heads up against a stone wall of indifference and powerlessness. The city can grow or it can become an Appalachia bcause it has driven its youth out," they said.

POSITION PAPER ON AIR POLLUTION CONTROL IN PHILADELPHIA

(Presented by Olivia Hall)

INTRODUCTION

I am Olivia Hall, Co-Director of The Task Force on Environment of The Young Philadelphians.

The Young Philadelphians has as its prime objective the maximization of the political leverage of the young people of Philadelphia. To accompliah this goal, our organization has estabiished twelve Task Forces. The function of these Task Forces is to develop and advocate solutions to the major problems which are of concern to the young people of our City.

DEFINITION OF THE CONCEPT

As you are, of course, aware, young people have been largely responsible for bringing to the attention of the American people the urgent need to conserve and improve our environment. We, The Young Philadelphians, are concerned with the totality of man's environment.

The environment consists of much more than just the air we breathe and the water we drink. We are concerned not only about the natural environment, but also the human environment and the made-made environment. We are concerned with the gang violence and drug addiction which are making waste of the lives of hundreds of you-g Philadelphians each year. We are concerned about the 40,000 vacant and abandoned houses in this city. We are concerned about the absence of adequate public transportation. We are concerned about the unavailability of jobs. We are concerned about the deplorable conditions in our schools. In short, we, The Young Philadelphians, are concerned about the quality of life in our City and we are working to help achieve for Philadelphia the quality of life which our people deserve.

Air pollution is definitely having a detrimental effect on the quality of life in our City.

DESCRIPTION OF THE PROBLEM (S)

Air pollution adversely affects health. Daily levels of air pollution—measured in terms of levels of particulate matter accompanied by sulfur dioxide—have been positively correlated with indices of mortality and morbidity. The effects, which are most noticeable in persons who are suffering from cardiac or respiratory conditions, are observed within a few hours after a deterioration in atmospheric conditions and are frequently evident even with small increases of pollution.

Air pollution has a number of significant adverse effects on the economy. Some of the more obvious ones are the soiling of materials by dustfall, which necessitates additional expenditures for cleaning; and corrosion of materials, which necessitates replacement and application of protective coatings. Particulate matter suspended in the atmosphere contributes to the haze and turbidity which reduce sunlight; thereby decreasing illumination and reducing visibility. Reduced visibility can create transportation hasards. Oxides of sulfur together with fine grain particulate matter necessitates extra expenditures for medical care and result in lost workdays, reduced productivity and sometimes loss of life. Automobile exhaust emisions contain poisonous carbon monoxide. They also contain hydrocarbons and oxides of nitrogen and contribute to the production of smog. Oxidants formed by various combinations of pollutants in the atmosphere can be detrimental to humans and damaging to plants and animals.

Air pollution, like war, is unhealthy for children and other living things.

DISCUSSION OF THE CAUSATION OF THE PROBLEM (S)

Some degree of air pollution is an inevitable and unavoidable concomitant of an industrial society. The preponderance of air pollutant emissions is the result of (1) transportation, (2) industrial operations, and (3) power generation facilities.

In Philadelphia during 1966, approximately 720 tons of sulfur dioxide, 190 tons of particulate matter, 310 tons of nitrogen oxides, 570 tons of organics and 2,600 tons of carbon monoxide were discharged into the air daily. Of this, about 60%, mostly carbon monoxide, was due to automotive sources.

RECOMMENDED NEW APPROACHES TOWARD SOLVING THE PROBLEM (S)

Philadelphia's major air pollution problem is caused by automobiles, trucks and buses. This problem *can* be solved; but the present City Government is doing very little to deal with the problem of automotive exhausts. Under a program instituted approximately two months ago, one or two Air Managament Service Inspectors are on the streets at all times—riding around with policemen—issuing citations to the drivers of vehicles emitting excess pollutants. So far, approximately 125 citations have been issued.

In view of the fact that automotive vehicles are responsible for about 60% of the pollutants emitted into Philadelphia's atmosphere, this program is almost ludicrously inadequate.

The only ways to make a serious impact against automotive pollution, at the present time, is to reduce the number of cars in use and to require the installation of the best available air pollution control devices.

We must cut down on the number of, and the need for, cars in the City by improving the mass transit system.

We must break up the Highway Trust Fund which channels all of our gasoline tax revenues into highway building and, instead, spend our tax money to create efficient, clean and safe public transportation. Last year, Pennsylvania spent $500 million on highways and $12 million on mass transit.

Furthermore, Pennsylvania does not require the installation of pollution-control devices on automotive vehicles and the Commonwealth does not inspect them to check their efficiency. Obviously, this must be changed.

The Air Pollution Control Board and Air Management Services must make certain fundamental changes in their policies and procedures with respect to private, quasi-public and public industrial polluters.

Greater use must be made of the leverage held by the Air Pollution Control Board and Air Management Services.

In insuring pure air for our citizens, it is neither necessary nor desirable to drive industry away from our City. However, a stronger, more affirmative posture must be adopted by these City agencies. These agencies must monitor, on a continuous day-in, day-out basis, Philadelphia's major polluters. Furthermore, the major polluters must be persuaded to take significant action to reduce their pollution emissions in the shortest time possible.

This type of posture would, of course, require more air management personnel. But in view of the fact that the City's Budgetary appropriations for the Management of Air Resources has increased by nearly 200 percent in the past two years (Fiscal 1970—$655,079; Fiscal 1972—$1,731,904, Air Management Services has the fiscal capability to hire the necessary personnel immediately.

Finally, the victims of air pollution—the citizens of Philadelphia—must be brought directly and actively into the process of managing our City's air resources.

One afternoon of public hearings, given once a year, during "Clean Air Week" is obviously grossly inadequate as a method of insuring significant citizen participation.

Why can't housewives be employed as Air Pollution Inspectors?

Why can't high school students be employed in Air Pollution Work-Study Programs?

Why can't programs be established in area colleges and universities to train Air Pollution Control para-professionals?

Why can't these steps be taken?

CONCLUSION

In 1802, when England was in the midst of the Industrial Revolution, the poet, William Wordsworth, wrote the following lines concerning the City of London:

"Earth has not anything to show more fair:
Dull would he be of soul who could pass by
A sight so touching in its majesty:
This City now doth, like a garment, wear
The beauty of the morning; silent, bare,
Ships, towers, domes, theatres and temples lie
Open unto the fields, and to the sky;
All bright and glittering in the smokeless air."

Ladies and Gentlemen, I ask you: "Will anyone ever be able to describe our City as: 'All bright and glittering in the smokeless air.'"

Thank you.

THE LATE WINFIELD K. DENTON

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1971

Mr. BRADEMAS. Mr. Speaker, I take this time to pay tribute to a warm friend and outstanding public servant, our late colleague, Winfield K. Denton, of Indiana.

Mr. Speaker, I had the privilege of serving in Congress during several of the eight terms which Mr. Denton served in this body.

I have met few persons in public life more hard working or more devoted to the public good than Winfield Denton.

Mr. Denton gave outstanding service on the Appropriations Committee of the House of Representatives and was chairman of the Subcommittee on Appropriations for the Department of the Interior and related agencies.

A man of great personal warmth, Winfield Denton was characterized by a deep sense of responsibility as a Member of Congress. Along with all who had the privilege of serving here with him, I shall miss him.

CONGRESS MUST TAKE CLOSE LOOK AT PENDING OEO LEGISLATION

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. ASHBROOK. Mr. Speaker, an editorial in the Washington Star of November 8 made reference to legislation now working its way through Congress, namely the extension of the Office of Economic Opportunity Act, as "social legislation of monumental nature." As a member of the House Education and Labor Committee which handled this legislation and now as a member of the House-Senate conference presently considering the OEO package I have had ample opportunities to closely scrutinize this proposal.

From my vantage point the Star's reference to this legislation as "monumental" is no ill-considered exaggeration. The Child Development Act, which is now part of the package and to which the Star editorial has reference, of itself deserves serious consideration. But combined with the other controversial provision in the package, that of the Legal Services Corporation, the scope and seriousness of this legislation can hardly be overestimated.

In my Washington report of November 10, I attempted to bring to public attention the potential danger to parental rights and responsibilities which could accrue from Federal abuses in the area of child development. As indicated, some amendments have been worked into the legislation, but I still view it as dangerous legislation.

Also apprehensive about the ramifications of the Child Development Act is Human Events, the Washington newsweekly which oversees and reports on congressional activities with an eagle eye. From the standpoint of financing the program, Human Events in its November 13 issue provides some projected figures which the taxpayer might well face in future years as an added feature of his tax burden.

In the same issue of November 13, Human Events gives reasons and cases to support the premise that the legal services provisions of the OEO package could be just as big a headache as the child development proposals. Past experiences in the legal services field make it mandatory that a tight rein by Congress be exerted to prevent radicals and extremists from establishing a ready beachhead in this highly vulnerable program. It is generally conceded here in Congress, but not appreciated outside, that the oversight duty of Congress, which is to

monitor and correct abuses in congressional programs, is rarely exercised adequately due to a shortage of both time and personnel. Thus, the administration of programs by executive agencies does not have the congressional supervision originally intended. For this added reason, adequate safeguards at the outset are necessary in the legal services area if a sophisticated, legalistic chaos is to be avoided.

I include at this point the four items mentioned above; the Star editorial, the Washington report of November 10, and the two items from Human Events:

[From the Washington Star, Nov. 8, 1971]

DAY-CARE DILEMMA

Once again this week, House-Senate conferees will try to settle their differences over the Child Development Act, which is now part of legislation to extend the life of the Office of Economic Opportunity Act. If they can't do any better than they have so far, they might as well give up. Which is to say, President Nixon would have ample reason to veto the whole package.

No one should underestimate the potential impact of the child-care bill. It is social legislation of monumental nature. It promises to alleviate the lot of millions of American women who work but have no suitable arrangements for care of their children. It promises a national commitment to comprehensive early childhood education. In light of the estimate of some six million preschoolers whose mothers work, and in light of the further estimate, thought to be conservative by some, that it will cost about $1,600 per child for adequate full-time care, it is easy to see that the total price tag of such a program would run into billions of dollars annually.

Congress, then, might have been expected to approach the subject with a measure of caution, at least to the point of trying to create the best possible administrative mechanism for guiding where the money will go, and how the new child-care centers will take shape. No such thing happened. What has emerged instead threatens an administrative mess. This occurred in part because the biases of the child-care lobbying groups fit in so neatly with the political instincts of so many congressmen. The chief example: Liberal groups tend to distrust state governors; fine, said Congress, and it pork-barreled the child-care bill to the point that thousands of large and small communities will be able to get money directly from the federal government to run day-care centers. It's as if no one has learned anything from the failures of similarly-constructed social welfare programs of the past.

The conference committee can do little about these defects. But it does have great discretion over what kind of families will be eligible for full or partial subsidies. So far, the conferees have tentatively decided that free day care should go to children of families of four with incomes of less than $5,250 annually. Reasonable enough, but then the formula goes from there to provide partial subsidies to families making up to and, in some cases, well beyond $20,000 a year. It's this kind of thing that should be corrected.

No one can disagree with the statement of Senator Mondale that "in a country where more and more women are working, we better start worrying about what's happening to their children." It's precisely because this issue is so important that an extraordinary effort should be made to construct a program that is both feasible and defensible.

AS THE TWIG IS BENT

(By JOHN M. ASHBROOK)

As if the federal government did not have its nose in enough of our affairs, we are now faced with a federal bid to take over control of our children. The threat to the family of the child development programs now being considered by a House-Senate conference committee on which I sit cannot be overstated.

Strangely, up until recently this proposal had not received much attention outside of the Congress. But as more and more people realize the breadth and ramifications of the child development plans, they have become increasingly alarmed at how this program could undermine the structure of family life.

At the outset, I think most Members of Congress believed this was nothing more than a plan to establish day-care centers for working mothers. It is far more than that, however. The bill contemplates, ultimately, federal support of the entire range of services bearing on the development of our children.

As a member of the Education and Labor Committee and a House conferee on this legislation, I have directed by efforts to insuring that—since it seems we cannot prevent passage of the bill—adequate safeguards are included to protect the family unit, the sanctity of the American home and the traditional domain of parents.

Three amendments I offered which I think significantly improve the child care provisions were adopted by the Education Committee. These amendments provide safeguards to insure that the child care sections will not be interpreted to infringe upon the moral and legal rights and responsibilities of parents or guardians in the upbringing of their children.

Nevertheless, even with the inclusion of my amendments, the Child Development Act is very dangerous legislation. We have seen what has happened over the past decade as educators have determined it is their business to correct mistakes they feel are made in the home. Now we would have child-care "experts"—who think they know much better than the parent how the child should be treated—using the child development programs as vehicles to reach their social objectives.

By regarding our children almost as wards of the state, what the government feels to be adequate medical, educational, social, psychological, nutritional, and who knows what other kind of care would be available to each and every child in the Nation.

No one has any wish to deprive a child of every advantage possible. But a child who already has a home environment which provides him with love, care and the spiritual and moral guidance deemed in order by his parents has no need to be remolded in a mass-assembly government cast.

What do we need to do is provide for those children who do, in fact, need help while at the same time protecting the homes and families of those who are now receiving adequate parental care from unsolicited federal intervention.

[From Human Events, Nov. 13, 1971]

MULTI-BILLION-DOLLAR PROGRAM FOR BABY SITTERS

Pending legislation in a House-Senate conference committee would create a federal system of day care centers at astronomical cost.

Under the conference "compromise" proposal—more expensive than the already costly Nixon Administration plan—the cost of federal baby-sitting would be a soaring $31.9 billion, if all 40 million eligible children participated. Even under the Administration's program, a 100 per cent participation rate would require $20.3 billion.

While the Administration only wants children from families with incomes of $4,300 or less to be eligible for free care, the conference committee would like the cutoff boosted to $5,230. Earlier, the more generous Senate bill, sponsored by liberal Walter Mondale (D.-Minn.), would have given free day care to families of four making less than $6,900.

Because the compromise bill authorizes that only $1.2 billion be spent this year, just 3 per cent of the children eligible could take part in the day care scheme at first. But liberal lawmakers and social reformers would likely pressure Congress into raising the funds available to the centers so that a much larger percentage of children could participate. Mondale himself said: "The measure we have introduced contemplates a buildup over several years. . . ." Thus, fears of a $30-billion day care system are not unrealistic.

The Administration's aim is to permit welfare mothers to go to work while their children are being cared for and influenced by a staff that receives orders from Washington. However, the cost to society of providing this day care would be greater than if the mothers were employed and no longer receiving federal welfare payments, according to a report by the President's Commission on Income Maintenance Programs published in November 1969. The panel, therefore, rejected the idea of providing federal day care centers for welfare mothers.

Moreover, the number of mothers who do work has increased 800 per cent in the last 30 years and now exceeds 12 million. Yet these women have managed without a multi-billion dollar baby-sitting program. Statistics show that more than half of the mothers with children between six and seven are working and about one-third with pre-school children hold jobs.

Because of the unjustifiable costs and strong federal control involved, no national day care program seems reasonable. Local communities grappling with the indeed important problem of working mothers with children perhaps can devise a more realistic solution.

CONGRESS VERGES ON OK OF LEGAL SERVICES SLEEPER

While many members of Congress have been deeply concerned over the child development portions of the anti-poverty package before a Senate-House conference (see page 13), a number of lawmakers are now taking a closer look at an equally ominous feature attached to the same measure: the Legal Services Corp.

Bad as the present OEO-run legal services program is, say its detractors, the corporation threatens to become a high-octane engine for federally funded radical activity, a vehicle far more dangerous than the current setup.

Under the legal services program as now constituted, the governor of every state is at least equipped with a partial veto, but this veto is out the window in the proposed new legislation. Congress also has greater control over the current program—weak though that control is—than it would have under the independent corporation.

Just as disturbing is the fact that Congress, for some curious reason, repeatedly rejected or watered down efforts to establish important guidelines for lawyers funded through the new corporation.

The Nixon Administration, for instance, tried to limit the corporation's activities to "non-criminal matters," require that full-time legal services attorneys "refrain from any outside practice of law," forbid "partisan political" activity and establish "disciplinary action" for those violating the rules. But the bill that is likely to emerge from conference, say some observers, will probably be shorn of virtually any of these meaningful safeguards.

While the corporation set up would relax the present rules regarding legal services attorneys, the hard fact is that even the *current* rules have failed to prevent many legal services programs from developing into havens for radical activists.

Disturbing information from California, where an investigation of violence in state prisons is now going on, suggests, for instance, that the very same lawyers who are attracted into the federally funded legal aid program are the ones who are aiding and abetting convulsions in the penal system such as occurred this past summer at Attica, N.Y., and at San Quentin.

In a report to Gov. Ronald Reagan, the California Board of Corrections notes that members of the OEO-funded California Rural Legal Assistance program (CRLA) were among a group of activist lawyers who have initiated various legal actions on behalf of militant prisoner groups.

These legal actions, the Board of Corrections says, were "presumably intended to generate unfavorable publicity." The board notes that "one such action, filed on behalf of an inmate by a CRLA attorney, charged negligence and incompetence on the part of the medical staff at Folsom [prison]. The inmates charges of improper medical practice has been previously investigated by outside consultants and found to be false or inaccurate."

The Board of Corrections reports that CRLA also filed a federal court civil action for the conspiracy to commit murder, charging three Soledad employes with trying to get one inmate to murder another. It developed that two of the three employes named in the suit were not in the prison on the day when the murder was supposed to have occurred. The suit was later dropped.

There is additional evidence, still being further documented, which indicates that some of California's federally funded young legal eagles have been involved in encouraging strikes, riots and other disruptions in California prisons.

Supposedly, these "idealistic" young lawyers are pocketing federal paychecks in return for offering legal aid to the poor in civil matters ranging from divorce to consumer fraud to property disputes. They are required by law to steer clear of criminal cases. But in fact they have shown an alarming proclivity to inject themselves into cases involving radical violence and civil disruption.

Thus, for example, after a police raid on the headquarters of a militant group in the Los Angeles area, law enforcement officials were surprised to see a well-known lawyer from an OEO-funded program popping up in defense of the militants. "Oh, I'm doing this on my own time," was the attorney's explanation. "It's amazing how much of 'their own time' these guys have," says one Los Angeles law officer. "They must open their office to the poor a few hours a week . . . late at night."

Yet CRLA is only one of many controversial legal services projects that have blossomed across the country. The OEO in Washington, for instance, was forced to crack down on the Florida Rural Legal Services (FRLS) program which played a major role in chartering COBY, a militant youth organization steeped in radical activities. The FRLS not only provided assistance to COBY, but published its revolutionary newsletter, *Muck Rake*. Printed on FRLS equipment, *Muck Rake* has portrayed police as "pigs" and printed inflammatory cartoons of police officers beating up blacks.

As another random case in point, the Los Angeles Neighborhood Legal Services program (LANLS) was allowed to function at length until publicity forced Washington to put a halt to its revolutionary activism.

Particularly disturbing was that Kenneth Cloke, who had been closely associated with Communist and Communist-front groups, was an attorney on loan to LANLS. Cloke traveled to Tucson, Ariz., in November 1970 to represent Teri Ann Volpin, a friend who had been jailed for refusing to testify about a matter involving the transportation of dynamite by Weathermen. Miss Volpin had been the Venice area representative to the LANLS board. Other attorneys connected with LANLS had similarly unsavory records.

Indeed, the legal services program seems to be a magnet for revolutionaries and radicals.

Stephen Bingham, who had been deeply involved with OEO activities, including Berkeley Neighborhood Legal Services programs, has now been indicted on five counts of murder in connection with the San Quentin prison violence in August.

Julian Tepper, a Washington anti-poverty lawyer who was on the negotiating committee during the Attica convulsion, is now justifying the prisoner revolt in speeches across the country. Speaking in Providence, R.I., recently, Tepper was quoted as saying it is impossible to condemn the prisoners for the revolt if one is for prison reform.

The prisoners, he went on, could no more be condemned for turning to violence to improve their living conditions than men of the Boston Tea Party. Tepper not only condemned the decision to use force to retake the prison, but strongly defended radical lawyer William Kunstler, who has applauded the prisoners for taking hostages at knife point.

Tepper, incidentally, is an official of one of the legal aid societies that would help govern the legal services corporation.

Federally funded attorneys, moreover, are also known to be cooperating closely with Fay Stender, a member of the pro-Communist National Lawyers Guild. Mrs. Stender is no stranger to left-wing and revolutionary causes. Her clients have included such Movement people as Jerry Rubin and Mario Savio, and it was her brief that recently obtained a retrial and release on bail for Black Panther Huey Newton.

Thus the current federally funded legal services program has become a cradle for revolutionary action. Yet the Congress now seems on the verge of passing a new legal services program possessing less restrictions on it than the present one. The new corporation, if not vetoed, will turn into a lethal revolutionary weapon aimed at bringing down the Republic—and the weapon will be financed with the taxpayers' dough.

DEVELOPMENTS REGARDING THE COMPREHENSIVE CHILD DEVELOPMENT ACT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. RARICK. Mr. Speaker, regarding the child development legislative programs, Dr. Edward P. Zigler, President Nixon's appointee to head the Office of Child Development, is reported to have said:

People don't recognize the monumental nature of this legislation and what effect it can have on the country in 20 years.

This incredible legislative proposal known as the Comprehensive Child Development Act has already passed both Houses but has not been reported back from the conference committee.

I feel certain that if this Comprehensive Child Development Act were fully explained to the American people and a referendum on it were held, the bill would be ovrewhelmingly rejected.

Why was this bill sneaked through in such haste? Why were no concerned parents groups called to testify at the hearings? After all, parents have the most to lose should the bill be passed and implemented. But, as usual with many bureaucrats, parents are just supposed to provide the money and the children and to be satisfied with what the new American revolution is doing "for their own good."

And now we see more pressure from below in the form of a large half-page advertisement appearing in this morning's Washington Post urging that the Comprehensive Child Development Act be passed. The ad was sponsored by a so-called "Children's Lobby". The following names appeared below the ad:

Robert Aldrich, M.D., Vice Pres., Health Affairs, University of Colorado; Joyce Black, Pres., New York City Day Care Council; Arnita Boswell, Prof., Social Work, University of Chicago; Urie Bronfenbrenner, Prof., Human Development and Family Studies, Cornell University; Jerome Bruner, M.D., Director, Center for Cognitive Studies, Harvard University; Ricardo Callejo, Attorney, Spanish Speaking, Sur-Named Political Assn., San Francisco; Eli E. Cohen, Exec. Sec., Natl. Committee on Employment of Youth; and Raymond Cohen, M.D., Past President, Texas Pediatric Society.

Manuel Diaz, Jr., Vice Pres., New York City Urban Coalition; James Dumpson, Dean, School of Social Work, Fordham University; Marion Edelman, Washington Research Project Action Council; Donald Fink, M.D., Former, Dir., American Academy of Pediatrics Consultation Service; Marcus Foster, PhD., Superintendent, Oakland Public Schools; Glenn Gibson, M.D., Pediatrician, Baton Rouge; Elinor C. Guggenheimer, Policy Council, National Political Women's Caucus; and Dorothy I. Height, Pres., Natl. Council of Negro Women.

Francis Keppel; Reginald Lourie, M.D., Pres. Joint Commission on Mental Health of Children; Sanford Matthews, M.D., Regional Pediatric Medical Coordinator, Atlanta; Joseph Monserrat, Member, Board of Education, New York City; John Niemeyer, Chairman, Day Care and Child Development Council of America; Josephine Nieves, Dir., Puerto Rican Studies, Brooklyn College; Julius Richmond, M.D., Dir., Judge Baker Guidance Center, Harvard University; and Mrs. Alexander Ripley, Vice Pres., California Children's Lobby.

This advertisement sponsored by The Children's Lobby; Jule M. Sugarman, President, New York, N.Y.

One wonders who elected this vested interest group of social workers, youth directors, pediatricians, mental health and human development experts to lobby for America's children. I wonder how many of them even have children of their own. What is their real reason for being so vitally interested in the Federal Government's assuming the role of rearing America's children?

Another development in this area of Nixon's children is a little publicized amendment to the Higher Education Act of 1971, which passed the House after 2 o'clock last Friday morning, is the amendment to establish a National Institute of Education. While paying lip-service to the U.S. Constitution by admitting that "the direction of the education system remains primarily the responsibility of State and local governments," the amendment proposes that the Director of the Institute be separate from the Office of Education and be responsible directly to the Secretary of HEW, who is authorized to establish child development programs and serv-

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ices as follows: Specially designed health, social, and educational programs—including afterschool, summer, weekends, vacation, and overnight programs. The times indicated include every hour of every day of the year.

Now what is this National Institute of Education? The "think-tank" command post for the comprehensive child development program? And what is it to do? It is to conduct educational research—basic and applied—and experiments. And who will be the human guinea pigs for the experimentation and to whom the research will be applied? No doubt they will be your children and grandchildren and mine as well as those of other American parents. And we can expect the experimentation with our children to begin at birth or perhaps age 1. We are told by a proponent of the amendment that "we are just beginning to learn of the critical importance of early childhood education between the ages of 1 and 5 when the rate of learning may be at its peak."

Or, it is possible that international experiments may be conducted with children from Russia, China, and Israel—countries where children are already controlled by the government from infancy.

Section 1407 of the amendment authorizes the Director of the Institute to enter into contracts or cooperative agreements with any international organization or agency—the United Nations, I might suggest, is such an organization—to carry out the purposes of the amendment.

So that our colleagues may refresh themselves on the amendment providing for a National Institute of Education, which passed the House by a 210–153 vote, I insert the amendment at this point in my remarks:

TITLE XIV—NATIONAL INSTITUTE OF EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "National Institute of Education Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 1402. (a) (1) The Congress hereby declares it to be the policy of the United States to provide to every person an equal opportunity to receive an education of high quality regardless of his race, color, religion, sex, national origin, or social class. Although the American educational system has pursued this objective, it has not attained it. Inequalities of opportunity to receive high quality education remain pronounced. To achieve quality will require far more dependable knowledge about the processes of learning and education than now exists or can be expected from present research and experimentation in this field. While the direction of the education system remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

(2) The Congress further declares it to be the policy of the United States to—

(i) help to solve or to alleviate the problems of, and promote the reform and renewal of American education;

(ii) advance the practice of education, as an art, science, and profession;

(iii) strengthen the scientific and technological foundations of education; and

(iv) build an effective educational research and development system.

(b) The purpose of this title is to establish a National Institute of Education to conduct and support educational research and development and disseminate educational research and development findings throughout the Nation.

ESTABLISHMENT OF NATIONAL INSTITUTE OF EDUCATION

SEC. 1403. There is established in the Department of Health, Education, and Welfare a National Institute of Education (hereinafter referred to as the "Institute"). The Institute shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate. The Director shall perform such duties as are prescribed by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and shall be responsible to such Secretary and not to or through any other officer of that Department. The Director shall not delegate any of his functions to any other officer who is not directly responsible to him. The Director shall receive compensation at the rate prescribed for the Commissioner of Education.

FUNCTIONS OF THE INSTITUTE

SEC. 1404. (a) The Director, through the Institute, shall conduct educational research; collect and disseminate the findings of educational research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants of technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals; promote the coordination of such research and research support within the Federal Government; and may construct or provide (by grant or otherwise) for such facilities as he determines may be required to accomplish such purposes. As used in this Act the term "educational research" includes but is not limited to research (basic and applied), planning surveys, evaluations, investigations, experiments, developments, and demonstrations.

(b) Not less than 90 per centum of the funds appropriated under section 1408 for a fiscal year shall be expended to carry out this title through grants or contracts with qualified public or private agencies and individuals.

EMPLOYMENT OF PERSONNEL

SEC. 1405. The Secretary may appoint and fix the compensation of such officers and employees as may be necessary to carry out such purposes. Such officers and employees shall be appointed in accordance with chapter 51 of title 5, United States Code.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND DEVELOPMENT

SEC. 1406(a). The President shall appoint a National Advisory Council on Educational Research and Development which shall—

(1) review and advise the Secretary and the Director on the status of education, educational research and the prospective educational needs of our society;

(2) advise the Secretary and the Director of the Institute on development of programs to be carried out by the Institute and on matters of general policy arising in the administration of this Title;

(3) present to the Secretary and the Director such recommendations as it may deem appropriate for the strengthening of educational research, the improvement of methods of collecting and disseminating the findings of educational research and of ensuring the implementation of educational renewal and reform based upon the findings of educational research;

(4) conduct such studies as may be necessary to fulfill its functions under this section; and

(5) prepare an annual report to the Secretary on the current status and needs of educational research in the United States;

(6) submit an annual report to the President on the activities of the Institute, and on education and educational research in general, (A) which shall include such recommendations and comments as the Council may deem appropriate, and (B) shall be submitted to the Congress not later than March 31 of each year; and

(7) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(b) The Council shall be appointed by the President and shall consist of fifteen members appointed for terms of three years; except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the members first taking office shall begin upon enactment of this title and shall expire as designated at the time of appointment, five at the end of three years, five at the end of two years, and five at the end of the first year. One of such members shall be designated by the President as Chairman. Members of the Council who are not regular full-time employees of the United States shall, while serving on the business of the Council, be entitled to receive compensation at rates to be determined by the Secretary, but not exceeding the per diem equivalent for GS–18 for each day so engaged, including travel time and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. The Director of the Institute and the Commissioner of Education shall serve on the Council ex officio.

(c) The Secretary shall provide to the Council such professional, clerical, and other assistance as may be required to carry out its functions.

(d) The President may also appoint other Federal officials as non-voting ex officio members.

(e) The Council is further authorized to obtain services in accordance with the provisions of section 3109 of title 5, United States Code, and it may enter into contracts for the conduct of studies and other activities necessary to the discharge of its duties.

GENERAL PROVISIONS

SEC. 1407. (a) The Director, in order to carry out the purposes of this title, is authorized—

(1) to make, promulgate, issue, rescind and amend rules and regulations governing the manner of operation of the Institute;

(2) to accept unconditional gifts or donations of services, money or property, real, personal or mixed, tangible or intangible;

(3) without regard to section 529 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements or other transactions as may be necessary for the conduct of the Institute's work and on such terms as he may deem appropriate with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any international organization or agency, or with any firm, association, corporation or educational institution, or with any person, without regard to statutory provisions prohibiting payment of compensation to aliens;

(4) to acquire (by purchase, lease, condemnation or otherwise), construct, improve, repair, operate and maintain laboratories, research and testing facilities, computing devices, communications networks and machinery and such other real and personal property or interest therein as deemed necessary.

(5) to acquire (by purchase, lease, condemnation or otherwise), and to lease to others or to sell such property in accordance with the provisions of the Federal Property and Administrative Services Act, patents, copyrights, computing programs, theatrical and broadcast performance rights or any form of property whatsoever or any rights thereunder; and

(6) to use the services, computation capacity, communications networks, equipment, personnel and facilities of Federal and other agencies with their consent, with or without reimbursements. Each department and agency of the Federal Government shall cooperate fully with the Director in making its services, equipment, personnel and facilities available to the Institute.

(b) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–5a). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

JOINT FUNDING WAIVER AUTHORITY

SEC. 1408. Where funds are advanced for a single project by more than one Federal agency for the purposes of this title, the National Institute of Education may act for all in administering the funds advanced and any such agency may waiver any technical grant or contract requirement which is inconsistent with the similar requirements of the National Institute or which the National Institute does not impose.

APPROPRIATIONS AUTHORIZED

SEC. 1409. There are authorized to be appropriated for the fiscal year 1972, and for each fiscal year thereafter, such sums as may be necessary to carry out this title, which shall remain available until expended.

As information about the ramifications and the impact of the Comprehensive Child Development Act are more widely disseminated among the general public, more and more concerned Americans are speaking out against it. Much of the publicity being given to the Comprehensive Child Development Act can be credited to concerned grassroots citizens groups in various sections of America. I might add that mothers are taking the lead in this matter.

As additional evidence of concern by American citizens over the Comprehensive Child Development Act, I insert at this point in the RECORD a resolution passed and approved by the American Legion, Department of Washington, and sent to me by its commander, Mr. William J. Fortson; and a commentary on S. 2007 by Mrs. William J. Coonley, of Parents Involved in Legislative Action of El Paso, Tex.

RESOLUTION 71–2

Whereas, the bills for the Parent Replacement Program, mainly the Comprehensive Child Development, Day-Care, and Child Advocacy, usurps the parent's God-given rights and the parents authority to control, educate and direct their children, and are therefore unconstitutional, and

Whereas, these and other such programs emphasize the rights of the child rather than the needs of the child and the teaching of his responsibilities, and

Whereas, these programs are designed to bring about social change and changes of moral attitudes, and

Whereas, these bills involve the expenditure of astronomical amounts of the taxpayer's money, thus increasing the national economic problem and causing greater inflation, and

Whereas, there is an insufficient number of qualified and trained personnel to implement the programs, and

Whereas, these programs are in fact experimental and use children in part, or in total (through pilot programs) as human guinea pigs, and

Whereas, these programs will supplant all other authority, (the parents, the church school, and the law enforcement agencies) and

Whereas, these programs will destroy the family unit and promote a "new society" that is detrimental and contrary to our American Christian-Judeo concepts upon which this nation was founded; Now therefore, be it resolved that The American Legion, Department of Washington, strongly urge:

a. All legislation and expenditures be stopped on these "Parent Replacement Programs".

b. All funding for progressive, (permissive), innovative, and social changing education of today, (eg. sex education, sensitivity training, alternate schools, etc.) be stopped.

c. The Department of Health, Education and Welfare be investigated thoroughly to list those promoting these programs and said promoters be permanently removed from office.

And it be further resolved that The American Legion, Department of Washington request National Headquarters of the American Legion to initiate the action requested above.

Passed and approved in regular meeting, quorum present, 18th day of October, 1971.

THE FREEDOM OF AMERICA'S CHILDREN

Bill S. 2007 provides for the "continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes." Read the bill carefully. Halfway through the bill, there is a reference to the Program *Head Start*. The program, Follow Through is also mentioned, along with Family Planning.

The important fact to recognize about bill S. 2007 is that it contains facets of the Child Advocacy/Child Development Program. The entire Child Advocacy/Child Development program should be consolidated so that it can be properly examined. In a sense, it has been consolidated in S. 1414 (Sen. Ribicoff, D. Conn) but as the proposed Child Advocacy/Child Development Program now exists, *it will be implemented through the passage of a series of bills.* The unsuspecting will not realize what has been implemented until the damage is done and the HEW sponsored program is in.

S. 2007 is one of this series of bills designed to usher in the "brave new world." At present, various facets of the Child Advocacy/Child Development Program exist and they need only be drawn into a cohesive whole, through the ratification of various bills, to implement an entire new social order for America. If an entire revolutionary social order is to be considered it must not be concealed within numerous bills.

These programs, which are particles of the greater whole, exist virtually unrecognized by most Americans. The concept is far-reaching and is the dream of various behavorial scientists, sociologists, psychologists, psychiatrists and social workers all headed up under the Department of Health, Education, and Welfare. Dr. Edward Zigler of the Department of Health, Education, and Welfare has stated that the Administration's children's program will consist of . . . "revolutionary new day-care centers developing into programs for *all children between the ages of one and six . . . serving children from all social and economic backgrounds* . . . bringing these children together at an early stage in life (first six years) is *one of the best ways to achieve socio-economic integration.*" (Seattle Post-Intelligencer 10/22/70)

Our society has many ills which need rectifying. This cannot be done overnight when we are dealing with America's children . . . America's future. Anyone who is a parent or who has a love and understanding for the young, knows the fragile ego of a child and the nurturing it needs. There *are* those children within our society who need shelter and it should be provided for them. However, the program should *not* be mandatory for all children.

Much of the source material pertaining to Child Advocacy/Child Development consistently states, "*all of the children from all social and economic levels.*" This amounts to one thing . . . *the collective society.*

Some Americans would foster the malignant growth of the so-called collectivist and "classless society." Those who foster this society are divided between the well-meaning but not politically knowledgeable and those who seek to create a tremendous new bureaucracy of jobs, departments and positions at the *expense of the American citizen as an individual and as a taxpayer.*

The source material pertaining to Child Advocacy/Child Development constantly stresses a child's *rights.* The *freedom* of the American child is never mentioned. For decades we have witnessed the slow erosion of *freedom.* The Child Advocacy/Child Development program, *which is slated to ride into our society on the shoulders of the Head Start Program is the greatest threat to our freedom today.* The seeds of the collectivist society are planted.

Our nation is deluged with propaganda. One cannot determine whether he is reading *Good Housekeeping* or the official Communist publication, *Political Affairs*, when he reads of "Day Care Centers," and begins to glimpse the gargantuan hovering figure of bureaucratic "big government" smothering our children in a mass of Dewey-inspired education and social welfarism.

The push for government-controlled children has been advancing for a long time. In June 1969, *Political Affairs*, "Journal of Marxist Thought and Analysis-Theoretical Journal of the Communist Party, U.S.A." observed, ". . . what is now required in addition is a coordinated national effort for federal legislation that would make the nursery and child-care system *an extension of the public school system.* Such an endeavor could and should have the active support of the unions and the broadest range of community, civic and religious organizations."

The recent torrent of writing on Child Advocacy/Child Development and more particularly Day Care was best expressed by *The Humanist* (July/August 1971) in an article which stated, "Another question is, should day care be available to *all*, or only to low-income and welfare recipients? If it is made available to only the welfare recipient and working poor, *it may acquire the stigma attributed to present public assistance programs.*"

In the official Communist newspaper, *The People's World* (World Magazine section, July 24, 1971) is an article entitled, "Nixon's Family Destruction Plan." The writer observes, "A leader of the independent forces at the White House Conference was Mrs. Therese Lansburgh, President of the *Day Care and Child Development Council of America* . . . she said 500,000 new day care spaces are needed annually between now and 1980—a total of 5.6 million. Mrs. Lansburgh urged nationwide support for a new movement called the "Children's Lobby' with offices at 110 Riverside Drive, New York City."

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Again—the advocates of the collectivist society.

"The family, however, is not a psychological necessity . . . Today people are disturbed when the family is criticised or said to be declining because they see in it the only possibility for human warmth or sociability . . . the *myth* of the family blinds us to the dangers of our normal child-care practices." . . . states an article captioned, "Families Can be Unhealthy for Children and Other Living Things." (*Psychology Today*, August 1971)

Even *Good Housekeeping* (September 1971) has joined the chorus of those who would restructure life for American youth and following generations. An article describing, "Day Care Centers," states: "A portion of the article is devoted to the Women's Lib activists who advocate the working mother liberated from her children . . . Dr. Urie Bronfenbrenner (states). 'Nobody should have to live in the crasy world the modern woman with young children lives in without help.' Day Care, he believes, is part of the answer."

The article continues, "As the new day-care movement has gained momentum, there has been an upsurge of interest in operating chains of franchised centers for profit. Expectations that Congress might vote money for subsidizing construction and operating costs only increased the enthusiasm. One economist predicted Day Care might become as big a business as the automobile industry. At least 20 companies are currently involved in developing franchised centers . . . says a pediatrician, 'The plight of our elderly citizens in nursing homes that are run for profit provides a frightening example of what might happen to our children.' . . . franchisers cannot be expected to fade away. *With large sums of money involved and the stakes high, battles will be fought by their supporters both in Washington, D.C. and on state and community levels* . . . Some authorities believe that the expansion of national *Head Start* programs that are currently available only to children of lower-income families may offer the simplest and most practical solution. . . They provide for the participation of neighborhood people and as public programs, are open to all children. In Washington, the Office of Child Development in the Department of Health, Education, and Welfare has assumed the task of setting standards for what Day Care should be . . . the director Dr. Edward F. Zigler, one of the original *Head Start* planners, admits that, 'We can't really set up more day-care centers overnight. I assure you that we can expand within *existing framework* as fast as funds and facilities become available.' "

The radical Chicano publication *Regeneracion*, Vol I, No. 10 entered the propaganda assault with an article entitled, "For All Women—A Proposal for Child Care," remarking, "In California there are a variety of child care programs; private, federal-state-community financed and children's *Head Start* centers . . . there is a jumble of programs . . . It seems clear to us that what must be done is to try to sort out the tangle and organize parents statewide to set up *one* child care program . . . We propose one agency representative of and responsible to the individual centers."

Norman Cousin's *Saturday Review of Literature* joined the hue and cry for the mass-produced child. In the August 21, 1971 issue in an article headed, "Who Raises Russia's Children?" the author cites the studies of the psychologist Dr. Urie Bronfenbrenner ("Two Worlds of Childhood: U.S. and U.S.S.R.) and compares Project *Head Start* to the Russian pre-school projects. The article hastens to point out an interview with the director of a nursery-kindergarten, "She seemed genuinely puzzled when I asked her for ideas on the problem of how to provide an *equal* educational opportunity for the child of a scientist and the child of an unskilled worker . . . . Waving a manual of instructions from the Soviet Education Ministry, she replied: 'All of our children are taught in the same way, according to carefully laid out principles. There is *no difference* in the way children respond to school; I worked in a factory neighborhood before I came to this nursery, and the children *were exactly the same*. Every child has the same chance, especially if he comes to the nursery when he is two or three years old . . . . It would only confuse a child to see the person next to him doing something different. *Children learn by imitating* . . . The kindergarten has to offer excitement for a child's mind as well as *training for collective life*."

It is apparent that the United States is being inundated with a torrent of propaganda in order to "soften up" and prepare the people of this nation to surrender their children and deliver them into the hands of psychologists, psychiatrists, educators, behavorial scientists and even a large body of poorly trained personnel. It is obvious that there are not enough trained personnel to fill the posts of the gigantic program espoused by HEW.

Most American families give their children the proper care, love and training. Conversely, there *are* children within our society who suffer neglect, deprivation and even abuse. Perhaps the Child Advocacy Program would keep these children from becoming the derelicts and delinquents of tomorrow's society. Parents, citizens and legislators of the nation must work towards a tempering of the Child Advocacy/Child Development Program. With the aid of revisions, we must plug the legal loop-holes which constitute a possible threat to the equilibrium of American family life and leave a structure that would shelter the children who are in *need* of help.

First of all, anything pertaining to our nation's 50,000,000 children *should not be concealed within a bill*. Any proposed program should be made clear to our legislators and to the people of this country. Many of the *hundred-odd bills* pertaining to Child Advocacy/Child Development stress a child's *rights*—none of these bills mention the word *freedom* of America's children. Is the freedom of our children to be turned over to the "master planners?"

Today's adults are responsible for the future of today's defenseless children. Bills pertaining to our children must be *out in the open and carefully studied*. We must scan every line of every bill regarding our children, their education and their futures.

TWENTY-SIX DISASTROUS YEARS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mrs. ABZUG. Mr. Speaker, the Senate's action last week to defeat the foreign aid bill points up the reality of acknowledged consensus concerning American foreign policy. Americans are communicating to their duly elected officials their desire to restructure and reorient American goals and appropriations in order to sort out a foreign policy shrouded in inconsistencies and inundated with cold war strategies now long outdated. This change of attitude is not limited to youth groups, or antiwar groups but is found within the military as well.

I insert into the RECORD an article by retired Brig. Gen. Hugh B. Hester of the U.S. Army who points up the disaster of our foreign policy, not in the past 5 years of the past decade, but a policy riddled with deception for the past 26 years. I think my colleagues will find this article of considerable interest.

The article follows:

TWENTY-SIX DISASTROUS YEARS

(By Hugh B. Hester, brigadier general, U.S. Army, retired)

As a result of the recent Pentagon disclosures, even the most extreme supporter of the military and foreign policy of the United States can no longer successfully deny the charge that successive Washington administrations since World War II (WWII) have deliberately deceived the American people and the Congress, particularly in matters pertaining to war and peace. These disclosures denote progress, but they are not enough. A disclosure of the deceptions of the Truman Administration must be promptly added, for these laid the foundation for the deceptions that followed. And those of the Nixon Administration must be kept current by constant and energetic probing.

Actually, nothing new of very great importance has been disclosed by the Pentagon Papers. Many competent students and some of the mass communication media had previously reported the facts. The basic trouble has been an uninterested or lethargic public and an elite class of leaders, civil, military, and business, who do not trust the people. What is new and shattering, however, to the uninformed and silent majority is that the king's own diaries have disclosed how horrible and shoddy they really look without clothes. The following will, I hope, give a glimpse of the present and past not covered by the Pentagon Papers.

One aspect of the tragedy of our genocidal war in Vietnam is disclosed in this comment by Dr. Stephen E. Ambrose, now the Eisenhower Professor of War and Peace, Kansas State University:

"We have dropped more bombs on that tiny land (Indochina) than all the (other) targets in the whole of human history put together . . ."

And Professor Ambrose continues, "Indochina contains enough bomb craters to occupy an area greater than Connecticut's 5,000 square miles . . . We have released more than 100 million pounds of chemical herbicides over more than 4 million acres . . . some experts speculate that Vietnam can never recover from the ecological effects of the American bomb and chemical air offensive . . .".

Professor Ambrose says further, "Two American medical doctors, recently returned from Vietnam, estimate that South Vietnam has suffered 4 million casualties . . ."

If this not genocide, then you name it.

The ugly tragedy occurring in Indochina has its roots in the past. Each succeeding President in turn has contributed his share toward that disaster. An all-too-brief analysis of what I choose to call "Twenty-Six Disastrous Years," makes this clear.

Gar Alperovitz, a distinguished American scholar, in his book, Atomic Diplomacy: Hiroshima and Potsdam, completely demolished the Truman claim that dropping the atomic bombs on Japan, August 6 and 9, 1945, saved a million American lives. This book discloses that the top military leaders of Great Britain and the United States are on record as stating there was no military necessity for dropping the bombs, as Japan was already trying to surrender. The conclusion is, therefore, inescapable that the decision to drop them was a political one: a warning to the Soviet Union. This marked the renewal of the Cold War which had been swept under the rug for the duration of WWII. (See also, Yalta, Prelude to the Cold War, by Diane Shaver Clemens, Oxford Press.)

The late Korean expert and American scholar, George McCune, born in Korea of American missionary parents, in his book, Korea Today, describes how Korea was united and then divided shortly after the war in the Pacific ended, August 15, 1945. McCune, because of his Korean expertise, was sent to Korea very early. Upon arrival, he found that a provisional Korean Government had been set up in Seoul immediately after the war ended, representative of every important Korean group, and that they had disarmed the Japanese military forces and were actually governing all of Korea when he arrived. General Hodge, however, according to McCune, dismissed this government upon his arrival in mid-September 1945, and turned the administration of South Korea back to the Japanese and their Korean collaborators, pending the arrival of Truman's puppet, Syngman Rhee.

This ended Korean unity for an indefinite period and cleared the way for the Korean Civil War, June 1950, a war which the Truman Administration immediately converted into a U.S. war to "contain communism," camouflaged under the name of the United Nations. Immediately thereafter, it also intervened in China's Civil War by placing the Seventh U.S. Fleet in the Formosa Strait, under the pretext of protecting the southern flank of its military forces. This was also in violation of the United Nations Charter. Having succeeded in forcing the United Nations to intervene in a civil war in violation of its own Charter, the Truman Administration then forced the United Nations to accept its puppet, Chiang Kai Shek, located on the tiny island of Taiwan, as the U.N. representative of all of China. These stupid acts finally forced the real China into the Korean War in defense of her core interest, North Korea.

This writer was stationed in Berlin, Germany, September 1945 to November 1947, as head of a program designed to provide the German people in the U.S. Zone with enough food to prevent starvation and unrest which might threaten the security of U.S. forces. From this observation post, I watched at close range the disastrous results of Truman's revived Cold War, which were: A divided Berlin, Germany, and Europe, and a rearmed Germany. These tragic errors, when combined, in my opinion, not only threatened the peace of Europe, but also the peace of the world. In addition to this, I would like to record two very interesting personal experiences which I consider germane to my German assignment.

On January 30, 1947, at Stuttgart, Germany, the late former President, Herbert Hoover, told a group of Germans which I had assembled to discuss food import requirements for the U.S. Zone, "We are counting upon your support in the coming war against the atheistic barbarians of the East." At the time, Mr. Hoover was on an economic mission to Germany for President Truman. The above quote was Mr. Hoover's only comment to my suggestion that the Germans might be interested in his reaction to the above requirements report.

The other incident occurred a few days before I left Germany for my new assignment as U.S. Military Attache to Australia. The occasion was a discussion of German currency reform with one of the top advisors to the U.S. Military Governor. In answer to my inquiry as to how the negotiations were going, he replied that the United States was imposing conditions that the Soviets could not accept. Apparently in reaction to my obvious surprise, he stated, "We are going to drive the Russians not only out of Germany, but out of Europe." It was the introduction of the new German mark which "the Soviets could not accept," into the three Western sectors of Berlin that provoked the Soviet ground and water blockade and the U.S. Berlin air lift response.

Space limitations prevent a detailed analysis of the Cold and Hot War acts which have marked the past twenty-six years. Reporter readers wishing to read a comprehensive and scholarly discussion of the fateful years of the Truman Administration which laid the basis for the tragic eighteen years which have followed should carefully study, How We Got Where We Are, by Robert Lash, a distinguished member of the editorial staff of the St. Louis Post-Dispatch, and Pulitzer Prize winner, carried in the July 1971 issue of the Progessive Magazine, Madison, Wisconsin.

The eight Eisenhower years in the White House have come to represent a period of relative national rest from the previous 30-odd years of war, Hot and Cold, depressions, and maddening world tenaions. On the positive side: he ended Truman's Korean War; refused to enter the French Colonial War in Indochina in spite of the urgings of his Vice President Richard M. Nixon, his Secretary of State John Foster Dulles, and the recommendations of all the members of the Joint Chiefs of Staff save that of General Matthew B. Ridgway, the Army Chief of Staff; and he reduced the annual military budget to the manageable amount of $40 billion. It is now twice that amount.

On the negative side, General Eisenhower permitted Dulles to organize SEATO, which proved to be the entering wedge by which the Kennedy, Johnson, and Nixon Administrations later converted the French Colonial war in Indochina into an American Imperial war; and permitted the CIA to begin its massive expansion into a government inside the government, with power to overthrow foreign governments and make limited warfare upon them, clandestinely make foreign policies, and actually engage in massive esplonage and sabotage programs. None of these, however, gained anything remotely resembling their present massive power during his eight-year stewardship.

The One Thousand Days of the Kennedy Administration were dominated, in my view, by strife, turmoil, and near national disaster during the missile crisis, October 1962, and ended in the personal tragedy of the Kennedy assassination, November 22, 1963. The most interesting and informative narrative of this period which I have seen is contained in an article, "The Kennedy Private War," the New York Review of Books, June 22, 1971, issue. The article does not give a flattering account of the Kennedy Administration, but it nevertheless deserves wide readership and discussion. Even if a small fraction of the material contained in this article is proven correct, the popular conception of the young President will be radically changed. It pictures him as just as full of deception, duplicity and Machiavellian characteristics as typifies his two successors. It contains no official evidence whatsoever that the personable young President had plans to extricate the nation from the Indochinese quagmire into which John Foster Dulles first placed us, as claimed by Kenneth O'Donnell, his friend, and the former Senator Wayne Morse. If Kennedy had reversed his initial policy of expanding U.S. involvement in Indochina and ordered substantial withdrawal of troops, only to have these orders cancelled by his successor, surely this should be verified and officially made known. If these orders were given, they must have been recorded somewhere.

The widely circulated and much-discussed Pentagon Papers, disclosing the colossal and calculated character of the deception imposed upon the Congress and the American people by the Johnson Administration as to why and how it catapulted this nation into the Indochinese jungle, makes unnecessary, it seems to me, further discussion here. I would add one caveat, however, and urge Congress, the press and people to examine closely at all times the activities of the Nixon Administration, which seem to me to be based on the same false assumptions, myths, and objectives as those of its predecessors.

The solid fact remains that successive Washington Administrations have pursued a global grab for power policy since WWII under the euphemistic term of "Communist containment." This term has been used, in my opinion, as a fig leaf to cover up their real purpose, which is, World Domination by the United States.

Along with many millions of the most dedicated, best-informed and most patriotic Americans, I have characterized successive Washington Administration wars of aggression upon the Indochinese people as illegal, immoral, and genocidal. Vietnam was one nation before the United States was discovered, and the 1954 Geneva Agreements confirmed that she was still one nation. A nation cannot commit aggression against itself. It was the Eisenhower Administration that violated the Geneva Agreements by instructing its Saigon quisling agent, Ngo Dinh Diem, not to permit elections throughout Vietnam in 1956, as scheduled at the Geneva Conference 1954. (See Eisenhower's book, Mandate for Change; and General Ridgway's book, Soldier: Memoirs of Matthew B. Ridgway; and also see the article, "Vietnam Lobby," Ramparts Magazine, July 1965, written by Robert Scheer and Walter Hinkle.)

For proof of the illegality of the Johnson and Nixon Administration wars of aggression, imposed upon the Indochinese people, I suggest that Reporter readers study the pamphlet "America Vis-A-Vis Vietnam," prepared by an ad hoc committee of distinguished national and international lawyers. (This report was inserted in the Congressional Record by Senator Wayne Morse, February 25, 1966. Copies can be secured by writing your Congressman) A much larger and more detailed study is now available in book form, Vietnam and International Law: The Illegality of the U.S. Military Invasion, prepared by a Consultative Lawyers Committee on American Policy Toward Vietnam, with John H. E. Fried, Rapporteur. (See O'Hare Books, Inc. publication, 10 Barkley Road, Flanders, N.J. 07836.) The facts and the law contained in these two sources proclaim in irrefutable logic, I believe that these wars are illegal.

There are scores of books testifying to the immorality of the Indochinese War as conducted by the Johnson and Nixon Administrations. I strongly urge that Reporter readers ponder a book, In the Name of America, a Study Commissioned and Published by Clergy and Layman Concerned About Vietnam, because of the high intellectual quality and unquestioned moral character of those sponsoring and those collecting the material, which shows that almost every law contained in International Conventions Relating to the Conduct of War, and signed by our government, have been violated by our forces in Indochina. This book may be obtained at many book stores, or by sending a check or money order for $2.95 per copy for paperback, or $4.95 for hard cover, to Clergy and Laymen Concerned, Rm. 547, 475 Riverside Drive, New York, N.Y. 10027. I urge its wide readership. There will be few readers indeed of this collection of war crimes who will not cry, "In the Name of God, Stop This War!"

In support of a charge that the Johnson and Nixon Administrations have committed genocide in this war upon the Indochinese people, I suggest a study of Ecocide in Indochina by Barry Weisberg, Canfield Press-Harper & Row, paperback $3.95; Chemical and Biological Warfare, by Seymour N. Hersh, Boggs Merrill, $7.50; "Chemical and Biological Warfare Hearings of U.S. Senate Committee for Foreign Relations," (Free).

As a wrap-up for the illegal, immoral, and genocidal characteristics of these wars which I charge successive Washington Administrations with having waged in Indochina, I strongly urge Reporter readers to study Neil

XUM

Sheahan's Article, "Shall We Have War Crime Trials?", New York Times Book Review, March 28, issue, 1971. The author discusses in depth the war crime issue and thirty-three books, pamphlets and reports on this subject.

It may surprise Reporter readers for a former Brigadier General of the U.S. Army to express these views. Admittedly, they anger Cold War Warriors and War Hawks. Honest discussions, however, are vital to a free society. Opposition to harmful and dangerous government policies at every level is not only the right of every citizen, but a duty as well. And failure to exercise this duty is, in itself, a form of subversion.

I opposed the Cold War between the two World Wars, and its revival by the Truman Administration after WWII, because I feared this would fuel the flames of war and violence generally, and it has. Certainly I am as aware, as most others are, of the crimes committed by other nations and their people. I have been criticized for not concentrating on these crimes at least equally with those of our own. The answer, to me, is quite simple: my relations with, and responsibility to other nations and people, and to my own country and people, are quite different. Hopefully, I may have some wholesome influence upon the latter. Besides, I cannot see how condemning the crimes of the Viet Cong or of other foreign countries can reduce or expiate the crimes of our so-called leaders and our own people.

Anyway, I am prepared to state that I have never written an article, or letter, or made a speech in opposition to U.S. Government policies that I did not sincerely believe would serve the best interests of our people, to whom I owe my principal loyalty. To me this is the true test of a patriot. Otherwise, those who served Hitler and Tojo loyally and well would be the real German and Japanese patriots.

To the charge that I support the United Nations, I proudly plead guilty. I do so because I believe that international cooperation must replace conflict, which means war. And war is now outmoded because of the existence of thermo-nuclear and other weapons of mass destruction. I also believe the world is ONE and that we are all children of the same GOD. Albert Szent Gyorgyi, the distinguished Hungarian scientist and Nobel Laureate of Medicine, now a U.S. citizen, put it this way: "Distance has vanished and we are living, now, all in the same cave in which there is room for one family only, the family of man (therefore) we can have but one moral code for our behavior, the one for life inside the group, there being no outside group anymore." (May, 1964, Bulletin of Atomic Scientists.)

ABOUT THE AUTHOR

Gen. Hugh B. Hester, the author of this article, brings unique competence to the subject. He has served with distinction in both World Wars, retiring with the rank of Brigadier General, U.S. Army, at the end of 1961 after more than 34 years continuous service in the U.S. Army.

Born in North Carolina on August 5, 1895, he graduated from the University of North Carolina. He was commissioned a Second Lieutenant of Field Artillery on August 15, 1917; graduated from the Field Artillery School, Samur, France, in December 1917, and served with the Second Division throughout the war in all its engagements, five major operations in all. Both the U.S. and French Governments decorated him for gallantry in action. Following the Armistice, he served in the German Occupation from December 1918 to August 1919.

Between World War I and II, he attended various military schools, and was assigned to the War Department from 1938 to 1942. Thereafter, he served under General MacArthur in the Pacific from 1942 to the end of World War II. At the end of the war, he was assigned to the military government in Germany, September 1945 to November 1947, following which he was U.S. military attaché to Australia from 1947 to 1948, and completed his military career by commanding Army supply depots in Philadelphia, Pa. from 1948 through 1951. For his service in World War II, he was awarded both the United States Distinguished Sevice Medal (the highest U.S. Army award for non-combat eervice) and the French Legion of Honor.

After his retirement from the U.S. Army in 1951, he did graduate work at the University of Pennsylvania for 3½ years, specializing in U.S. Foreign Policy and International Relations, and has been a lecturer and writer on both subjects since 1955. He is co-author of "On the Brink" (Lyle Stuart, publisher, 1959, New York, N.Y.). He is now writing a book of which the present article is a preview.

THOUGHTFUL COMMENTS BY A STUDENT

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. FRASER. Mr. Speaker, an address given by a college student in my State contains many valid points about our educational system.

Education can be improved if we will listen to the comments of alert and perceptive students.

The address follows:

VALEDICTORY ADDRESS DELIVERED BY MICHAEL J. GLENNON, COLLEGE OF ST. THOMAS, ST. PAUL, MINN.

Archbishop Byrne, Dr. Moos, Msgr. Murphy, members of the faculty, fellow students, ladies and gentlemen:

I consider it a great privilege to represent our class here today.

In years past, it would have been sufficient, in remarks such as these, to mention hallowed halls, bumpy roads, and uncharted seas; to make some abstruse reference to Plato's Cave, Don Quixote's windmills, and Feuerbach's irrelevance; and to mix them all together into precisely the right blend of scholastic unintelligibility.

But the time for comforting platitudes is over. I want to talk today about something that concerns me very much.

The summer before last I walked through Resurrection City, the village of plywood shanties built by poor people assembled in Washington. It was a memorable walk. The temperature was 90. The place smelled like a pig sty. There were flies everywhere, and everywhere you walked your shoes sank in mud. When it rained—and it rained a lot that summer—water, dripping through the plywood, fell on sleeping children.

FORMS OF MANIPULATION

The people of Resurrection City came to Washington for a number of reasons—poverty, discrimination, disease. But it seems to me that, behind it all, they were saying something that many students have been saying this past month; something that blacks have been saying for the past decade; and something that every one here has at least thought at one time or another. They were saying that they were tired of having their lives callously manipulated.

Manipulation comes in many forms. There is the manipulation of the draft. There is the manipulation of some employees by their bosses. There is the manipulation of small countries by larger ones.

But what I want to talk about, in these few minutes, is an invisible form of manipulation aimed at every one of us—students, housewives, salesmen and professors. It is an assault on freedom more dangerous than any wiretap and more frightening than any midnight policy raid—that is, the manipulation of the human mind—the elimination of alternative choices through psychological coercion.

AGE OF TRANSITION

Thought control is not completely new, but it has never been easier than it is today. For this is a transitional age. Agreement on basic assumptions is no longer universal. The press reported recently that a student filled out a form that asked, "Do you favor the overthrow of the United States government by force or violence?" Thinking it a multiple choice question, the student circled "violence." When we were freshmen, Dr. Shannon, in a Vatican II lecture, referred to the "arsonistics"—those who demand reform at the price of violence—and the "immobilistics"—those who demand comfort at the price of stagnation. Today, the gulf between those two groups is growing wider. Their numbers are growing larger. We have discovered that many of the ladders that take a lifetime to climb are against the wrong walls. And so, what would be lives of quiet desperation have become noisy excursions into uncertainty and frustration. So many values have been devaluated within our own lives that we hesitate to adopt new ones. As Marshall McLuhan said, we always back into the future by looking into the past.

As a result, in this context of confusion, there is little need for the manipulators to restrict the right to choose—undesired alternatives are erased by subtle appeals to fear, pride and patriotism. The solution to perplexing social turmoil is "law and order." The answer to an "effete corps of impudent snobs" is "love it or leave it." And the only way to halt communism is for the United States to become a global Wyatt Earp.

SIMPLICITY IS NOT VALIDITY

Of course, it's hard to judge after only 22 years, but I sometimes have the suspicion that the validity of solutions presented to us may not be proportionate to their simplicity and emotional appeal.

We live in a complex age. Psychologists tell us that complexity breeds anxiety, anxiety fear, and fear desperation. And desperation can cause some strange, strange distortions. In an age of totalitarian communism, American liberty must be preserved. How do we preserve it? By tapping telephone conversations, by opening mail without permission, by bursting into private homes without a knock or a search warrant—and by intimidating newspapers and TV commentators that have the audacity to criticize such patriotism. The double-think slogans—war is peace, slavery is freedom—were not supposed to arrive until 1984. But already we are faced with the curious intelligence that to benignly neglect is to helpfully correct; that to destroy is to save; that to escalate is to de-escalate. It's hard to believe. It's really hard to believe that those things can be said—and accepted!—in the best educated country in the world.

A good part of the reason for this susceptibility to mental manipulation lies in the educational system. For too long education has been merely a passport to a bankbook. For too long the goal of American education has been to shoehorn people into society with as little pinch as possible. We are called to fight in a war without meaning or morality, and what do we study? Iambic pentameter. Our children may be born into a world where the greatest health hazard is *air*, and what do we study? Conjugation of the French subjunctive.

NICETIES OR NECESSITIES?

These are, of course, valid subjects for study.

It's just that there have not been that many sonnets written or verbs conjugated in graveyards and cemeteries. When the study of niceties excludes the study of necessities, there is something sadly lacking in an education. For education's first task must be to create a social climate in which the niceties can be studied. This means, today, that it must be at the vanguard in man's fight for survival. Education must encourage creativity rather than conformity, innovation rather than tradition, and above all, questioning rather than acceptance.

Questioning is never easy. It requires the boldness to speak out, the courage to stand alone, and the integrity to debate rationally. The questioning mind recognizes that silence and majority membership are *not* the ultimate civic virtues; that to be content is often to be insensitive; and that, as Brandeis said, "The greatest menace to freedom is an inert people . . . public discussion is a political duty."

Few chains have been broken, however, by ideas alone. Ideas have to be translated into action—and that's where the trouble starts. How many of us will retain our moral judgment when the payments on our splitlevels and second cars are affected? How many of us will dare to bring forth the wrath of our wives bridge clubs by speaking out against bigotry and repression? And how many of us will demand an end to senseless murder if it also means an end to Christmas bonuses?

COMFORT AND EXPENSE

Of course, we can always take the easy road. We can always say, "Well, the president knows more about it than I do," and then bury out heads in the sand of Gilligan's Island. We can always say, "There's nothing I can do about it anyway," and retreat to the quiet safety of the golf course.

The escape from freedom is usually comfortable. But that comfort can be expensive. We may have to dull our hearing to avoid the cries of starving children. We may have to blur our vision so we won't see our sons and brothers dying before our eyes on a TV screen. Then when we've deadened all our senses we can be truly comfortable—nothing more can touch us. We need never be moved to take an unpopular stand that might threaten that comfort.

But if we do choose that course, we'd better do our best to forget the disquieting warning of Dante. For it's as true today as it was 700 years ago. He said: "The hottest places in hell are reserved for those who, in time of moral crisis, preserve their neutrality."

THE FAMILY FARM ACT OF 1972

HON. JAMES ABOUREZK

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. ABOUREZK. Mr. Speaker, today I am introducing the Family Farm Act of 1972, an act designed to prohibit conglomerate farm operations which constitute unfair, monopolistic competition for the family farmer. Over the past decade family farmers have been driven off the land by unfair competition from vertically integrated conglomerates that write off production losses against huge profits made in their manufacturing and distribution operations. This kind of writeoff is a luxury that is denied to the family farmer, and it is a luxury that is the direct result of monopoly in the agricultural industry. Supermarkets, for example, now receive a 23-percent return on every dollar invested, while farm operators get only about 1 percent. Clearly, a large corporation which owns a supermarket chain can use the 23-percent return to offset some pretty large losses in its actual farming operations. What family farmer or rancher could do that?

In his recent series of articles in the Washington Post, Nick Kotz, a Washington Post staff writer, provided us with an excellent and detailed study of this problem. In the first article of that series he looked at Tenneco, Inc., the 34th largest U.S. corporation. In its own report to its stockholders, the conglomerate states:

Tenneco's goal in agriculture is integration from seedling to supermarket.

To help meet its goal Tenneco has 1970 profits of $324 million acquired in such fields as oil production, manufacturing, and shipbuilding.

There is no reason why farm and ranch families should have to compete with huge corporations such as this that produce their own machinery, buy fertilizers from their own subsidiaries and distribute and market their produce in their own packing and supermarket facilities. This is unfair competition that is crowned by the final irony that it has nothing whatsoever to do with efficiency of production. Agricultural conglomerates are not more efficient than a reasonable size family farm. In fact, the really large conglomerates often suffer from bureaucratic hardening of the arteries that makes them less efficient than a good family operation. Unfairness lies in the fact that even the most efficient family operation can be undersold by a conglomerate whose actual farming operation is less efficient than that of the family farm.

When this happens, everybody loses. The family farmer loses because he is forced from his chosen occupation and evicted from his lifelong home. The consumer loses because the cost of his food supply is placed more and more in the hands of a few large conglomerates who will soon control prices across the country. Our urban areas lose because they must pay the taxes to provide roads, and schools, and often welfare for the displaced farmer. And the Nation as a whole loses because conglomerate farming only accelerates the trend toward overpopulated cities and barren rural areas.

There is no excuse for pretending that it is the inevitable law of the market place that all family farms should be replaced by corporate producers. This is bad economics, and it is terrible public policy for a nation that already has far too much of its population crowded into a few metropolitan centers. I am pleased that a number of my colleagues have joined me today by cosponsoring this vital legislation. If others are interested, I would be happy to reintroduce the bill at a later date. A copy of the legislation follows:

H.R. 11654

A bill to amend sections 9 and 11 of the Clayton Act, as amended, to provide for the continuance of the family farm and to prevent monopoly and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Clayton Act (38 Stat. 730; 15 U.S.C.A., sec. 12) is amended by adding the following:

"FINDINGS AND PURPOSES

"SEC. 9. (a) The Congress finds that it is desirable to preserve free, private enterprise, to protect small business and prevent monopoly, and to protect opportunity for family farmers in interstate commerce, as well as to protect consumers. Vertical integration of the agricultural industry by the processing, distributing and retailing industries and conglomerate businesses have created situations of unfair, monopolistic competition for the family farmer. This situation has contributed to the decline of rural populations and the consequent crowding of metropolitan centers. It has resulted in a noticeable decline in competition in some phases of agricultural production and threatens others. It is the national policy to restore competition to the agricultural industry and to provide for the continuance of the family farm.

"(b) This Act shall be known as the Family Farm Act of 1972.

"(c) No person, partnership, corporation, trust or conglomerate business entity engaged in non-farming business in or effecting commerce and owning or controlling assets amounting to more than $3,000,000 or owning or controlling stock or other share of capital in one or more business entities in commerce with a total value of $1,000,000 or more, such as, but not limited to, those corporations engaged in the meat or poultry packing business or the wholesaling or retailing of red meat, poultry or livestock products, including dairy products; or engaged in the processing, purchasing, selling or handling of grain or other field crops, including fruits, vegetables, pulses, or animal feeds; or engaged in the production, sale or distribution of agricultural chemicals and fertilizers or petroleum products; or engaged in the manufacture, sale or distribution of farm supplies, including machinery, buildings, fencing or other equipment; or engaged in the business of insurance banking, money lending or extension of real estate or production credit or selling goods to or providing services to farmers; or engaging in other similar business activities or in buying agricultural products from farm producers except farmer-owned and controlled cooperatives, corporations and associations which meet the conditions of the Capper-Volstead Act (42 Stat. 388) shall directly or indirectly engage in farming or production of agricultural products, or control, or attempt to control, agricultural production through the ownership or leasing of land for agricultural purposes or by contracts with others or by integration, merger or any other means of acquisition or control; *Provided*, That the foregoing prohibition shall not apply in the case of any one or more of the following:

(1) charitable institutions which engage in agricultural production for other than income purposes as a part of their charitable function;

(2) educational institutions engaged in research as a part of academic and extension activities; and

(3) non-profit institutions engaged in agricultural production solely for purposes of research.

"(d) Every person, partnership, corporation, trust or conglomerate business entity subject to the prohibitions of Section 9 (c) of this Act that is lawfully engaged in agricultural production or controls agricultural production prior to the enactment of this Act shall be required to divest all holdings, assets and other interests in such production within five years after enactment.

"(e) Nothing in any provision of this Act shall be construed to prevent any creditor, legatee, beneficiary, or intestate successor

subject to Section 9(c) of this Act from lawfully, acquiring, pursuant to forfeiture or laws of succession, land or other means of agricultural production or of control of such means of agricultural production provided that they shall divest themselves of such property within two years of acquisition.

"(f) Section 11 of the Clayton Act (38 Stat. 730) is hereby amended to include Section 9 within the enforcement provisions of Section 11.

"(g) This Act shall become effective upon its enactment."

A REAL HERO—WINFORD STINSON

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. WYMAN. Mr. Speaker, in these times of seeming public indifference to tragedy and crime, it is positively refreshing to learn that there are citizens who will risk their lives to protect innocent victims from vicious criminals. Such a man is Winford Stinson from Lynn, Mass., who battled a knife-wielding assailant in a Stoneham home Stinson was delivering milk to.

I know all Members of Congress would join me in commending Mr. Stinson for his unselfish and heroic conduct. Americans everywhere have reason to be proud of Winford Stinson.

So that others may know of Mr. Stinson's heroism, I include the following account from a recent issue of the Boston Herald:

HERO MILKMAN "DIDN'T KNOW I WAS FIGHTING FOR MY LIFE"

(By Joe Purcell)

A Lynn milkman who decided to get "involved," sat upright yesterday in a bed at New England Memorial Hospital in Stoneham, his left lung deflated, his left arm checkered with teeth bite marks, his condition listed as "satisfactory."

"I didn't know I was fighting for my life until it was all over," said 32-year-old Winford Stinson, the father of two.

On Wednesday, Stinson was stabbed in the chest and bitten while battling with a knife-wielding man who had invaded a Stoneham home, trussed up two women, one of them elderly, and allegedly was attempting to rob the house.

One of the women is a customer of Stinson's, 67-year-old Mrs. Emily Nesmith, and the other her daughter, Mrs. Helen Rand of Cedar Lane, Merrimack, N.H., who was visiting her mother.

Stinson said that when he pulled his truck into the Nesmith driveway at 16 Sunset Rd., the intruder apparently had been inside for some time. The house was ransacked. Mrs. Nesmith and Mrs. Rand sat in terror on a living room-dining room sofa, electric cord in tight loops around their wrists.

"I put the milk down on the breezeway floor and the door opened," Stinson said. This guy appeared. He had a knife and he motioned me inside and I said, 'Oh, no,' and I motioned to him to come outside into the breezeway.

"Then he tried to pull me in, and I lunged at him and pulled him into the breezeway. There was a stirring inside the house and out of the corner of my eye I could see Mrs. Nesmith.

"This guy was strong as a bull. I grabbed him and I kept warding off the knife and we waltzed around in the breezeway. There was a lot of banging around."

Stinson said he liked Mrs. Nesmith very much because she had been "nice to me" and "used to give me coffee when it was cold."

"Anyway, there was a lot of yelling and I felt myself getting weak—I had been stabbed at the time I guess but didn't know it—and then I gave a hard push and this guy went right through a panel of glass in the breezeway."

Dr. Morton H. Healfitz interrupted Stinson's recital and said he was going to do a "thoracotomy"—re-inflate the left lung. Stinson said, "Don't go away, I'll be with you in a minute."

A half-hour later, Stinson, a tube sticking from his chest, picked up the narrative and said: "I couldn't get the knife away from him and now he was bleeding from the glass I rammed him through and I called to Mrs. Rand to get something and give him a belt or two.

"She came out with a sauce pan and whacked him a few times over the head, but I was close to him and I was afraid she was going to hit me by mistake. Anyway the pan was too light and was all dented in no time."

The milkman broke off to rub his left arm near the bicep which was bandaged too. He said, "He bit me twice, big teeth marks, and if this guy ever needs false teeth, the dentist can get a good impression from my arm."

Stinson, steered the story back to the breezeway and he said that "now I was getting awfully tired and he still had the knife and I knew something had to be done. I pulled him free of the shattered glass figuring I'd push him through another one of the big panes there.

"One of the chairs crumpled and I saw a yellow piece of wood and I told Mrs. Rand to pick it up and hit the guy again. She did and and as she did I pushed down and he wacked his head against something and he just folded up under the table. I took the knife away from him."

Someone delivered a tray of food and Stinson spotted a carton of milk and pushed it away in a hurry. He said: "It's the wrong brand. I work for another outfit, (H. P. Hood & Sons). Returning to his story, he said.

"The guy was out cold. I looked at the knife. It was good craftmanship, bone-handled and a sleek five-inch blade. Then I saw another knife. It was in his back pocket and I took it out. Then I sat on him. I was getting real tired, and a man, a neighbor I guess, looked in, frightened-like and I told him to get some help and soon everybody and his brother was showing up and the police were everywhere. It was very confusing."

Stinson said: "I got up. I guess I needed some air and I walked outside." He didn't realize it but he bumped against a pole and stained it with his blood, then brushed against Mrs. Rand's car and left red smudges on the fender.

"I sat down on the grass and the whole thing hit me. I was bleeding, my shirt and jacket were red in spots and I felt hazy and I began to think and I said to myself: That guy was trying to kill me. Funny, I didn't think about that at the time we were barrelling around inside. I was concentrating on getting the knife. I had to have it. I didn't think of anything else. A couple of times though, Mrs. Nesmith entered my mind and I knew it wouldn't do to have this man loose in her company."

"You know there are a lot of nice people around. The people on my route are great. They are just great people. They are considerate and nice."

Stinson looked up at the door in the hospital and he said "Caroline, that's my wife, should be here soon" and in the same breath he mentioned his children's names, Mike, 8, and Susan 7.

Then he said, "I knew I was pretty weak sitting on the grass and I began to worry about the money I had in my pocket, company money, and the truck. The cops came and they wanted to know if I'd go to the hospital in an ambulance or a cruiser and I got up and walked over to the truck and secured it and gave the cops the name of my boss and told them to call him. Then I came here. They're nice here but I hope I get out soon."

Police said Stinson deserves "a lot of credit" and said that suspect, Dennis P. Murray, 21, formerly of Stoneham, was with another youth earlier in the day. Their stolen car crashed and Murray ran into the woods—eventually showing up at the Nesmith place. The other youth, 19-year-old Lawrence Ginewicz of Charlestown was taken into custody. Murray has been charged with assault with a dangerous weapon, assault with intent to murder and assault in a dwelling.

Yesterday Mrs. Nesmith said, "I'm still nervous. She showed the breezeway where the fight took place and she asked about Stinson and when he would be back on his feet.

She said, as an afterthought, "Tell him I got the milk, okay."

A CONFERENCE

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. ZWACH. Mr. Speaker, one of the biggest boosters for countryside America is O. B. Auguston, editor of the West Central Daily Tribune of Willmar, in our Minnesota Sixth Congressional District.

Most of his life he has spent in our rural west-central region of Minnesota. He lived through the big depression of the 1930's. He has watched the rural economy rise and fall. He is probably as much of a practical expert in this field as you will find.

The other day, he printed an editorial to which I would like to call the attention of all who read the CONGRESSIONAL RECORD.

Mr. Augustson very aptly points out:

If farm income is right, rural America will take care of all its problems, but if the income is not there, there will be less and less family farms which are the backbone of the average rural town.

The editorial follows:

A CONFERENCE

A few years ago we participated in a Rural Economic Conference. It was held at Mankato. We served on one of the committees, even got in on some of the planning. As to the latter when we saw the agenda we noted with amazement that the income of agriculture, the basic industry of the rural areas was completely forgotten. Instead they talked about everything else. Like salve on a boil that needed far greater treatment. Upon our insistence farm income was finally placed on the agenda with other members of the agenda committee agreed with us. We were about to quit the outfit at that time.

Well—the conference was held and really came to naught because the basic problem of rural America, even tho on the agenda, only got cursory attention.

Now we note another similar one held recently at Montevideo. Loaded with the usual good intentions but again perhaps a mountain laboring but producing only a mouse. Have read an account of this conference and in the report find not a word about farm income. Not the real surgical thing that has to be done—and that is farm income—but more salve on the symptoms or the after effects.

A lot of these city boys can talk all they want but they forget that if farm income is right—rural America will take care of all its problems. They also overlook that if that income is not there—there will be less and less family farms which are the backbone of the average rural town. When they are only the big farmer or corporate ones, these big fellows will bypass the little town and deal with the big town. It has always been that the big deal with the big. Guess there is plenty of evidence to support that statement.

True there are some areas where some regional services could save something. But such will be peanuts compared to the coconut lost when the real economy is lost. Like the old adage, saving at the spiggot but losing at the bunghole.

Just wonder if a big metro city was in trouble. Their income in big industries is way down and they are in trouble. Also the ranks of unemployment is growing with increasing concern. Rural folks would then go down there and tell them what salves they might put on some petty things. And what would they tell us? Of course we know. They would be quick to say—give our industries and the like decent incomes so we can employ more people and we will take care of ourselves. Right? For there is our problem they would say. Correct. And it is the same problem that we have in rural America—our main industry is in trouble.

So a big conference was held but the big result was not there.

EUROPEAN COMMON MARKET TARIFFS GRAVELY DAMAGE U.S. CITRUS EXPORTS

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. VEYSEY. Mr. Speaker, on September 29, 1971, I inserted into the RECORD an article by James Cary of the Copley News Service, "Common Market Creates Threat."

Mr. Cary discussed the upsetting effects on U.S. agricultural exports over the past few years from the Common Market's variable tariffs and the preferential agreements it has entered into with 27 other nations, mainly Mediterranean countries and former French colonies.

The loss in exports of fresh citrus fruits alone will rise to $8 million, according to estimates by the Department of Agriculture. At a time when we are trying to encourage American manufacturers to seek foreign markets in order to correct our imbalance of payments, it would seem that we should fight harder to preserve those markets we already have due to the extraordinary productivity of our farmers and ranchers.

I am inserting below a letter from Mr. D. F. McMillen, assistant general manager of the Sunkist Growers, elaborating on precisely how the Common Market's preferential agreements, which are in violation of the GATT agreements we and the EEC countries have signed, have seriously damaged our long established market in the Western European countries.

The letter follows:

SUNKIST COOPERATINO CITRUS GROWERS OF CALIFORNIA AND ARIZONA,

November 1, 1971.

Hon. VICTOR V. VEYSEY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN VEYSEY: This is in reply to your letter of October 4 addressed to Mr. D. M. Anderson, general manager of Sunkist Growers.

We are very appreciative of your interest in and concern over the protectionist policies of the European Common Market, and particularly your reference in your statement in the Congressional Record to the preferential agreements with the Mediterranean countries. As you are well aware, the California-Arizona Citrus League has been pressing the Administration for more than a year to bring an end to the discrimination by the Common Market against exports of U.S. fresh citrus. The reduction of 80% granted to Tunisia and Morocco and 40% granted to Israel and Spain thru the preferential agreements to which you refer has seriously damaged our long established market in the Western European countries.

You have inquired concerning any information which we might have on how these variable tariffs of the Common Market have affected us. I am enclosing a copy of a chart showing sales of oranges, by country of origin, in the Rotterdam market for the summer months during the three years, 1969, 1970 and 1971. You will note the serious decline in a share of that market accounted for by sales of California-Arizona oranges, declining from an approximate 25% share in 1969 to a 15% share in 1970 and a 10% share in 1971. The Department of Agriculture now estimates that the loss in volume to exporters of fresh citrus from the United States as a result of these preferential tariff agreements will reach $8,000,000 dollars annually.

The Common Market has taken action, unilaterally, to reduce the duty from 15% to 8% for the four months of June, July, August and September in an effort to "improve the climate" between the United States and the EEC. While this action by the EEC has been of some assistance to the citrus industry, it has not removed the discrimination since the 80% and 40% reductions apply to the lower rates of duty. Furthermore, the action taken by the EEC as it now stands terminates on June 30, 1972. Accordingly, the California-Arizona Citrus League is continuing to press for a satisfactory resolution of this problem which can be achieved simply by according Most Favored Nation treatment to the United States as provided for in the GATT contracts to which the Common Market countries and the United States are signatory.

Again, may I express our appreciation for your interest in and concern for this very important problem. We will continue to keep you informed concerning developments and hope that we may feel free to call upon you for assistance at any time.

Very truly yours,

D. F. MCMILLEN,
Assistant General Manager.

MINUS "ZPG" NEXT?

HON. JOHN M. ZWACH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. ZWACH. Mr. Speaker, it was not many months ago that Members of this body were introducing legislation designed to discriminate, taxwise, against parents of more than two children because they feared the population explosion would overpopulate America.

Today we get the news from the Census Bureau that the World War II "baby boom" has been replaced by the greatest decline in the Nation's under-5 population in the entire 120-year history of the Bureau.

Mr. Speaker, Bernard Casserly, editor of the Catholic Bulletin, in St. Paul, Minn., recently wrote an enlightening editorial on this matter, which, with your permission, I would insert in the CONGRESSIONAL RECORD:

MINUS "ZPG" NEXT?

It was inevitable.

The large headline on the top of the front page said "U.S. 'Baby Bust' Replaces 'Boom'." The Associated Press story disclosed that the "baby boom" of World War II had been replaced "by the greatest decline in the nation's under-five child population during the 120 years for which statistics have been kept," according to the 1970 census. Children under 5 years of age decreased 15.5 per cent in 1970 from the 1960 total. The possibility of "zero population growth" is now real, according to a study made by the Washington Center for Metropolitan Studies under a grant from several foundations.

Even if the "baby bust" does not continue, the fact of a 15 per cent reduction in the number of children under five is going to have a critical impact on the social economy. The census figures only confirm what school administrators have been trying to deal with for several years now. Empty classrooms are soon going to become as common as locked delivery rooms and maternity wards in hospitals—with Catholic institutions no different from the rest.

The development of the "pill" is not the sole reason for this unparalleled drop in the nation's pre-school population—although it is probably the most important. The responsibility for the new shape of American society lies chiefly in the hands of the Planned Parenthood—World Population groups and their auxiliary agencies. Planned Parenthood has been leading the field with its anti-life program for many decades. It cried "wolf" about the "population explosion" long before others took it up; it opposed large families and sued to have contraception laws wiped from the books, and it has moved from promoting contraception to advocating abortion and sterilization as legitimate means of family planning.

The Planned Parenthood philosophy would have gone whistling in the wind had it not been picked up by the public communications media which made the population issue their special thing. Rarely has there been a more demonstrable case of the impact of the media upon public opinion. The "wanted child" syndrome, the "standing room only on planet earth" theme, the distorted population statistics extrapolated from selected baby boom periods, all these concepts became household hywords. And Catholics bought most of the package—despite the efforts of their religious leaders—just as their friends and neighbors did.

One of the few voices to speak out with vigor and authority on the threat of the anti-life forces in this generation has been that of Pope Paul VI. His much attacked encyclical, "Humanae Vitae," ("On Human Life") foresaw the victory of the contraception forces, the successes of the abortion seekers, and the dangers of the euthanasia planners. Pope Paul's encyclical, challenged in Catholic circles as well as where opposition was expected, has much to say to us today in the light of the new population statistics.

Cardinal John Wright, Prefect of the Sacred Congregation of the Clergy, talked

about the validity of "Humanae Vitae" today in a forthright article, "Reflections on the Third Anniversary of a Controverted Encyclical," in the English edition of "Osservatore Romano" on July 30. Pope Paul "echoes the witness of Pope John, almost his very words," the cardinal wrote, when the Pope stressed the natural law and the person, and the "vanity of seeking solutions to population problems 'in expedients which offend against the divinely established moral order and which attack human life at its very source (rather than) in a renewed scientific and technical effort in man's part to deepen and extend his dominion over nature' to quote John XXIII."

"The encyclical remains then, much more than a negative pronouncement on artificial contraception," Cardinal Wright said. "It is a positive, though admittedly incomplete, presentation of marriage morality; it says no only to negative concepts of man's vocation. In an age when almost all the means of social communication are used in greater or lesser degree to debase sexual love to (the level of) erotic techniques or diversions, the Pope proclaims anew the positive values of love, marriage, parenthood and family life. He does so against the authentic Christian background of the Cross, which all followers of Christ must carry, and the destiny of life everlasting to which all who love are called."

Will the success of the anti-life forces, and their allies, the public communications media, now slow down their campaigns for abortion, sterilization, the two child family, zero population growth? Will the fact that 85 pre-school children now play where 100 boys and girls romped a decade before bring a halt to their efforts? We pray that it will, but we are not optimistic.

Just getting underway is a concerted effort to make zero population growth (ZPG) national policy. A Coalition for a National Population Policy has been formed to achieve a "stable population" in the U.S. The Coalition is seeking Congressional adoption of a Joint Resolution on "population stabilization." In the light of the new census figures on the decrease of pre-school children, the Coalition should be told to close up shop.

But it won't. Neither will all the other groups which seek to solve the world's crises by eliminating people instead of problems. If only the shrill pessimists who look at planet earth from the wrong end of their telescopes would have spent their time and money solving problems of food supply, transportation, marketing and storage, we might well have been on our way to solving the real problems of overproduction and underconsumption.

We fear, however, that the anti-life forces will only redouble their efforts to control the "population explosion," electing to ignore the 1970 census figures as well as the earlier advice of God the Father, as recorded in Genesis, Chapter I, Verse 28, to our first parents: "Be fertile, and multiply; fill the earth, and subdue it."

CONSIDERATION OF THE HUMAN ASPECT IN THE DELIBERATION OVER HEALTH CARE LEGISLATION

HON. MARTHA W. GRIFFITHS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mrs. GRIFFITHS. Mr. Speaker, the discussion currently taking place in the Congress over national health care has focused on many aspects of the proposed legislation—and all aspects need scrutiny. But one aspect—a very important aspect—sometimes has been overlooked. That is the human aspect—the feelings and attitudes of working people all over the country who believe that this Nation should have an efficient health care delivery system. On November 4, Mr. Louis B. Knecht, executive vice president of the Communications Workers of America, testified before the Ways and Means Committee, and emphasized this aspect.

I urge my colleagues to read this gentleman's testimony:

STATEMENT OF L. B. KNECHT

My name is Louis B. Knecht, and I am an Executive Vice President of the Communications Workers of America, a union which represents approximately a half-million communications and other workers. Joseph A. Beirne, our President, has asked me to appear on the union's behalf, and we appreciate being allowed to give our views to the Committee.

I think we all agree that health care delivery in America today is poor. In some areas . . . and for some people . . . it is miserably poor.

President Nixon has said so.

Experts have said so.

And our members in big cities as well as in little towns and villages all across the country, tell us so.

Methods which would provide real improvements in health care delivery are available in pending legislation. But spokesmen for major components of the health industry—the practitioners and the insurors—are locked in an alliance to thwart legislation which would produce a health care delivery system that meets the needs of the time . . . and the needs of the future.

The opposition is inciting a confrontation which concerns the Communications Workers of America deeply.

That confrontation is between the narrow, special interest of the health industry, and the broad, general interests of the average American.

We feel that if the narrow, special, but powerful, interest is allowed to dominate the needs of the vast, working American public, a situation will result which can be even more serious than abysmal health care delivery.

That situation would be the conscious decision by American workers that whenever the worker-citizen's interest comes up against a special interest—the special interest wins. Consequently, representative government as they know it, and wish to preserve it, will not work.

The average working man's frustration about government's ability to solve problems and his anxiety about getting good health care delivery for himself and his family are combining now to produce this attitue which I have described. It is the attitude Chairman Mills called "increasingly resentful," on the day these hearings started.

Because of that attitude . . . and because of the merits of H.R. 22 the Communications Workers of America urges the Committee and the Congress to support the Griffiths-Corman Bill.

We believe that H.R. 22's concept of what health care should be—its benefit structure, its administrative procedures, its financing, its provisions concerning providers of health services, its programs for building resources to deliver health care—all answer the need which exists in America.

We also believe that it would be a serious mistake if Congress adopts half-steps in the right direction.

The problem has reached the point where half-steps would be little better than no steps at all.

To the people—to the workers who discuss this with us—half-steps would be only another example of government generating an expectation of performance, without delivering it.

HEW Secretary Elliot L. Richardson's testimony here, on behalf of the Nixon Administration, looked to us like a clear example of the erroneous idea that a new facade of health care delivery is acceptable . . . but we know that a facade won't do. A new health care delivery structure is needed.

He told this committee that improvements can be made without disturbing the historic division that finds government taking care of the health needs of the elderly and the indigent; while the private sector takes care of the rest of the people

That just isn't working now, and it won't work anymore.

We would like to ask the committee to give special attention to this comment by the Secretary, and I quote:

"We believe the comprehensive health care services should be provided as rapidly as possible for the entire population. However, it will take time to develop sufficient manpower, facilities and managerial skills to fulfill this goal." . . . end of quote.

Medical and health manpower training should be expanded and streamlined, but we will fool ourselves if we think that is the way to solve the country's health care delivery problem.

The way to solve it is to pass HR 22, which recognises the needs in manpower and planning and facilities, as well as the need to change a cottage industry to a technologically efficient system . . . and provides the methods for solutions.

The President of our union, Joseph A. Beirne, served on the National Advisory Committee on Health Manpower, and I would like to mention a recommendation made by the committee, because it helps illustrate a current aspect of the problem.

In 1967, the Advisory Committee said, and I quote:

"The productivity of physicians should be increased beyond presently planned levels by a substantial expansion in the existing medical schools, and by continued expansion of new schools."

But, as recently as October of 1971, the American Medical Association testified before the House Armed Services Committee against a bill to set up a military medical academy, which would provide a supply of physicians for the military.

The AMA did not prevail—the Armed Services Committee reported the bill out unanimously.

But the AMA attitude has made it plainly obvious that this organization should no longer influence vital health legislation.

The real demands and needs of Americans should prevail.

We are aware of the fact that a national advertising campaign has been inaugurated to beat HR 22, and we do not question the right of any interest group to try to sell its message.

But we do not believe that the campaign will be successful.

The average working American we meet knows that something is wrong with the health delivery system, and the average working American knows those who control that system have created the problem.

They are looking to Congress to enact the solution, and Congress should enact it, in the form of HR 22.

Thank you.

BREAD AS A MAJOR SOURCE OF PROTEIN

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. SEBELIUS. Mr. Speaker, today, as every citizen knows, we are becoming more and more aware of good nutrition as a means to fight our malnutrition and hunger problems as well as the worth and merit of physical fitness. This new awareness has led to many nutrition and diet programs to the point our entire Nation has become "calorie and nutrition conscious."

Good health and physical fitness are, of course, basic to our individual and collective interests, but lately I have been concerned over what I consider to be an unjustified prejudice against one of our basic foods and one of our basic industries. I am talking about the popular, but untrue, belief that bread should not be eaten if you are trying to watch your weight, and that it is not nutritious.

Bread is one of our basic four food groups. Bread's low-fat, low cholesterol, low sugar, low salt profile, in fact, make it one of the most nutritious and healthful foods available to the consumer. And, bread has the necessary properties to become a major source of protein.

Dr. Jean Mayer, professor of nutrition in the School of Public Health of Harvard University, and an adviser to the White House on nutrition matters, recently told baking executives at the 74th annual meeting of the American Bakers' Association that increased bread consumption—at the expense of high-fat, sugar, and salt-laden products—could alleviate many national health problems.

Mr. Speaker, I think Dr. Mayer's comments should be brought to the attention of all who are concerned with nutrition and physical fitness. I insert a summary of his remarks which appeared in the October 26 edition of the Southwestern Miller, in the RECORD:

DR. MAYER'S COMMENTS

BAL HARBOUR, FLA.—America is in trouble, nutritionally, Dr. Jean Mayer, noted nutritionist, told baking executives at the opening of the 74th annual meeting of the American Bakers Association, and increased bread consumption—at the expense of high-fat, sugar and salt-laden products—could alleviate the problems in the national dietary.

Dr. Mayer, professor of nutrition in the School of Public Health of Harvard University and an adviser to the White House on nutrition matters, was the lead-off speaker at the A.B.A. general sessions on Monday, Oct. 25, at the Americana hotel in Bal Harbour, Fla.

He criticized bakers for not telling the nutritional story about bread in a more convincing way when their product is, indeed, under attack. "Extraordinary prejudices about bread have been built up," he said, "and your advertising has not dealt with these effectively."

Among the public prejudices Dr. Mayer listed are "gross overestimation of the calorie content of bread" and a misconception that "meat is the only source of protein."

BLIND TO PROMOTION OPPORTUNITY

"The bread industry as a whole has not taken advantage of the fact that it has an answer to many of the nation's health problems," he said. "The industry has been blind as to what could be done to promote bread in a nutritional context," Dr. Mayer added. He urged the industry to "more enlightened self-interest" to point out the value of bread's low-fat, low cholesterol, low sugar, low salt profile, compared with other foods. This will require, he said "a more intelligent marketing effort" in an attempt to "recapture the market share of market you have lost." As a nutritionist, Dr. Mayer said he would be happy to see a successful recapturing of the market by bread.

FALLACY IN BASIC FOUR FOODS

It is up to the baking industry, he said, to take the lead in dispelling the common fallacies about bread. One of these fallacies, he pointed out, lies in the very promotion of bread and cereal products as one of the four basic food groups. Stating he never thought the Basic Four food groups served a good teaching aid, Dr. Mayer pointed out that under the grouping vegetables and fruit are classified as vitamin and mineral sources, milk as calcium-giver and meat as protein source. But bread and cereal products are said to be energy-producing. "To most people, energy means fat. In effect, you are saying bread is fattening," Dr. Mayer said.

Quite the contrary is true, he declared. Still, the effect of promoting bread as one of the Basic Four foods is that "every woman in America thinks she needs only to look at a slice of bread to get fat."

AFTER THE BOTULISM SCARE, SOME HARD QUESTIONS NEED ANSWERING

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. BINGHAM. Mr. Speaker, the latest episode in the perplexing task of providing the American consumer with wholesome food is discussed in an article which appeared in the Washington Post on November 7, 1971. Although the Food and Drug Administration rescinded its order warning consumers against eating canned beans made by the Stokely-Van Camp Co., which had been believed to contain a deadly botulism infection, Stokely—the Nation's third largest canning company—expects the reverberations to last for some time. These shock waves result from the shaking of public confidence in its products. Managers of the company believe that during a 48-hour period, 2 weeks ago, the fate of their company hung in the balance. If they had to recall the canned beans, shoppers would undoubtedly avoid its other products. In an industry noted for a large inventory and financed principally by short-term notes, such loss of public confidence could have caused the company to go bankrupt.

The incident raises some very important problems for the canning industry and the Federal Government: What procedures should be established for inspecting and approving food processing plants? What steps should be prescribed before a company or the FDA warns the public against any food? How can food manufacturers effectively protect their operations in the event the public is warned? How can "false alarms" be avoided? These and other questions must be discussed and resolved in the coming months if the American consumer and the canning industry is to have full confidence in the food market in this country.

The text of the Washington Post article follows:

SCARE OVER BOTULISM LEAVES STOKELY-VAN CAMP SHAKEN

(By Philip Greer)

INDIANAPOLIS.—Ten days ago, Marine Capt. William Cleveland, Jr., told his son across the dinner table, "These beans taste like sauerkraut."

Cleveland was to spend the next four days apologizing for that remark, which triggered a botulism scare. Stokely-Van Camp, Inc., may need years to get over it.

"I knew it was a false alarm as soon as I heard it," Senior Vice President David McVey said. "Those people ate the beans on Wednesday night. By the time we got the call on Friday, they would have been dead if it was botulism. At least they would have been sick as hell."

McVey was in his office on the third floor of Stokely's white stone headquarters on the north side of this midwestern capital, just beginning to add up the damage that the company feels is bound to come. It will be weeks, he said, before the effect on consumer acceptance can be measured "and it could cost a lot of money to get that confidence back."

On Oct. 29, acting on a request from the Food and Drug Administration, Stokely recalled 15,792 cans of string beans—french cut, 8 oz. can, lot numbered SB 72—E213D—because of "presumptive evidence" that they were contaminated with deadly botulism toxin, a poison which can grow in canned products that have not been properly sterilized.

Botulism effects can be deadly, not only for people but also for corporations. Last summer, a Bedford Hills, N.Y., banker died of botulism poisoning after eating soup canned by Bon Vivant Soup Co. of Newark, N.J. Bon Vivant has gone out of business and the government has filed charges against its owners.

In September, Campbell Soup recalled some chicken vegetable soup after its own laboratory found traces of botulism contamination.

Last Monday, the FDA rescinded the Stokely recall, announced that neither Cleveland nor his son had botulism poisoning and praised Stokely for its quick action. All that was left, apparently, was for Stokely to pick up the pieces.

McVey is clearly angry about the way the case was handled, but he refuses to say so.

"If they had waited one more day to Saturday, they would have known it wasn't botulism" is about all he will say about the way the case was handled by the FDA and the Florida Department of Agriculture.

After Cleveland's complaint, his wife—who later told a Stokely officer that she was sensitive because of the Bon Vivant and Campbell cases, called the family doctor at Pensacola Naval Air Station, where Cleveland is stationed. Father and son were taken to the infirmary and samples of their blood serum and the beans were flown to the Center for Disease Control in Atlanta. The Clevelands, showing no ill effects, were sent home.

On Friday morning, a mouse that had been injected with blood serum from the son died and another with the same serum showed signs of respiratory illness. Mice injected with the father's blood showed no symptoms.

"That's a presumptive indicator of botulism," said Vigen K. Babayan, a Stokley vice president and chemist." But it is not a positive indicator. There are lots of things that can make a mouse die."

Soon after, the telephone rang in Stokely's legal department, McVey recalls. "It was the FDA saying they had a suspected case of botulism and that was all. They wanted to know where the beans had been packed and where they were shipped."

The beans were packed in Scottsville, Mich., on Aug. 1, 1970, and shipped to warehouses in Tipton, Ind., and Newport, Tenn. FDA agents went to both warehouses searching for cans from the suspect lot, but found

none. The two warehouses service the entire southeastern U.S., as far north as Pennsylvania. Beans in the suspect lot were shipped out of the warehouses last April and May.

"Around noon we got another call," McVey said. "They said, 'It looks like we'll have to ask for a recall.' I was sure it wasn't botulism, but who was I going to buck? So we ordered the recall."

Friday afternoon, Cleveland and his son were ordered into the hospital for observation, although neither had yet displayed any signs of illness.

On Saturday morning, Babayan was dispatched to Pensacola, arriving around noon. "They were all lined up waiting for me," he says. "They" were Capt. Hugh Pratt, chief of medicine at the hospital, two staff physicians and Dr. Stanley Music of the Florida Department of Health.

"Capt. Cleveland was there, too," Babayan recalls. "He said the whole thing happened because his wife was being cautious. He said he'd eat Stokely products any day."

On Sunday, Babayan flew to the Center for Disease Control in Atlanta, where tests confirmed the absence of botulism. "On Saturday night, I started getting calls from the press telling me we had been cleared," McVey says, "but the recall went right on until we heard from the FDA."

While the tests were being made, Stokely's headquarters was busy trying to find the remnants of the lot. The entire data-processing staff, all the company executives and a number of other employees worked through the weekend. "We had 500 invoices for beans from April to now," McVey says, "and we had to follow them all up."

The suspect lot consisted of 568 cases. In an average year, Stokely sells about 100,000 cases of 8-ounce cans of green beans, of the best selling "seasonal" products. To make the job more difficult, the lot number is not printed on the case, only on the cans themselves. Wherever we had sent 8-ounce french green beans, they had to tear open the cases and check the numbers," McVey explained.

McVey has no idea how many cases were actually found, because none of them has been returned to the company.

"Most, will never be found," he says. "They were shipped last spring and in a high-turnover business like this, they've probably been eaten. That's another reason I didn't think it was botulism. We'd have heard long before this."

By Sunday, it was pretty clear that the beans were not tainted. At 5:30 in the afternoon, 48 hours after another pair of mice had been injected with a second blood sample from Cleveland's son, the Center for Disease Control was sure the beans were safe.

Babayan called the FDA to ask about an announcement and was told it would come from Washington on Monday. Babayan flew to the capital.

Along with representatives of the National Canners Association, he arrived at FDA headquarters in Rockville around 9 a.m., then waited until a staff meeting ended at 10:45. At 12:30 the announcement was released and Babayan went home.

Looking back, McVey admits he was worried, despite his confidence that the company would be cleared. "When we got that recall, everybody from the office boy to the company president had butterflies in his stomach," he says.

If the beans had been contaminated, Stokely faced the probable ruin of its business, the third largest canning company in the country and second in domestic sales. Like all food processors, Stokely depends heavily on short-term loans to finance the purchase, processing and storage of seasonally grown products. The company has a $93 million line of credit and, at the end of 1970, nearly half its current liabilities were made up of short-term notes.

"If you find yourself with inventory you can't sell, it could wipe the company out," McVey said.

Stokely has no contingency plan for a botulism scare. "In the last 45 years, there have only been four deaths from botulism in this country," Babayan explained.

"And it's in the back of your mind any time you hear of a botulism scare," McVey added. "You think, there but for the grace of God go I."

Stokely's laboratories check samples from every lot of the company's more than 400 products. Stokely has never previously had a botulism scare in its 101-year history, McVey said, but he added, "Certainly in the canning business you keep your fingers crossed."

McVey and Babayan think the current national nervousness over botulism requires immediate attention from both the FDA and the National Canners Association.

"Things like this affect the whole industry," Babayan says. "People associate these things with all companies. The canners and the government have to set up procedures for when this happens.

"Should they wait until they're positive about the facts or should they announce it right away? If you destroy confidence, you're going to live in a jungle."

With the scare over, Stokely is making a survey of its distributors to get an idea of the marketing and advertising problem it faces now. But it still doesn't know why Capt. Cleveland's green beans tasted like sauerkraut.

"The FDA wouldn't let us test the beans at first," McVey says. "They've told us now that they're sending them to us."

Adds Babayan: "when the botulism was ruled out, the Center for Disease Control looked into medicines and drugs that Cleveland's son might have taken. They found that the boy had a cold about a week before and was taking antibiotics. Antibiotics in human blood can kill a mouse."

NOT-SO-FREE ENTERPRISE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. UDALL. Mr. Speaker, the always interesting Wall Street Journal came up with one of its more provocative pieces on November 5, 1971.

In essence, the article suggests that American business, particularly big business, for all of its "free enterprise" rhetoric, is rushing pell-mell to a system of state socialism—asking for it, in fact.

I commend to my colleagues the column by Alan L. Otten entitled, "Not-So-Free Enterprise."

The column follows:

NOT-SO-FREE ENTERPRISE

(By Alan L. Otten)

WASHINGTON.—Amtrak tells Congess it needs another large injection of federal funds to keep its passenger trains operating.

U.S. airlines ask for lots more government help, too, and find a sympathetic listener in Civil Aeronautics Board Chairman Secor Browne.

Defense contractors lobby the Pentagon to boost profit margins and extend other aid to lift them from their current depressed state.

More and more, American industry—linchpin of the great free enterprise economy—seeks succor from the government. There's always some perfectly valid reason, of course. Industrial capacity must be saved for national defense. Thousands of jobs have to be preserved. The public must continue receiving some service that industry can offer only at a loss. Foreign firms are competing unfairly with cheap labor and government subsidies.

Regardless of the reason, though, the end result is always the same—and maybe its time to stop and think it all through a little more rationally.

Consider some examples that indicate just how addictive the habit has become. Lockheed gets special big federal loan guarantees and extra government business to help it out of its troubles. The Navy probably will sweeten its existing F-14 aircraft contract to bail out beleaguered Grumman. The Pentagon cuts back the number of assault ships it wants from Litton Industries, but earmarks more than $100 million to ease Litton's pain.

Why don't defense and aerospace companies move more aggressively to take up their current slack with more work on mass transit, pollution control, waste disposal and other newly expanding areas? The technology is different, they claim; they lack the know-how; the market is uncertain. Yet these are precisely the problems that aggressive capitalism is supposed to specialize in overcoming. Obviously many of these companies prefer to avoid the risks, and to wait instead for a new cycle of defense or some special bailout, a la Lockheed.

Or look at the railroads. The Penn Central received major federal help and more may be coming. Amtrak knew from the start that the initial government financing wouldn't be nearly enough. Congress and the Department of Transportation prepare broad new aid for freight carriers. The rails' complaints are legitimate enough: They are forced to pay big wage increases, to continue serving unprofitable routes, to compete with tax-subsidized bus and truck companies and airlines. Yet efforts have been notably limited to meet the problem though better service, lower rates, greater productivity.

Now, after several lush years, airlines feel the pinch—and bee-line for Washington. Pan Am and TWA ask government intervention to keep international air fares high. Domestic lines and plane makers urge government aid in developing new planes.

The pattern is by no means confined to defense, space, transportation. The White House considers private industry's research and development efforts so inadequate that it discusses new tax breaks and other financial incentives to spur them. When brokerage houses became wobbly and Congress and the public clamored for protection for investors, industry argued that it couldn't set up an insurance corporation to do the job without $1 billion of stand-by credit from the Treasury.

The housing industry lobbies for ever-greater federal funds for homebuilding. Despite the possibility of eventually whopping profits, most firms refuse to move into the highly touted "new towns" area unless they get almost complete government guarantees against loss.

The recent intense drive for government protection against import competition is essentially just a different aspect of the same picture. Steel, textiles, autos and all the other import-hit firms find quota or tariff protection far more attractive than the supposedly traditional answers of American capitalism—modernized plants, greater efficiency, product innovation, higher quality, lower prices.

The new economic policy announced by President Nixon on Aug. 15 contains a basic inconsistency in this regard. Wage and price controls were ordered to check rising prices in the United States. Yet the import surcharge levied at the same time pushes up prices on imported goods; these imports in the past have served as a major constraint on prices of domestically produced items and as one of the strongest spurs to modernization and innovation by U.S. industry.

There has been far too little attention, too, to the buy-American provisions in the pending tax bill, which allows a new 7% investment tax credit only on American-made machinery and equipment. This provision will keep many U.S. companies from buying more efficient and possibly cheaper foreign machinery—and thus permanently freeze into the U.S. price structure the higher costs of the American equipment.

A particular bit of irony: The textile industry, after finally winning its long battle for greater government protection against foreign-made textiles, promptly turns around and lobbies for permission to buy foreign-made textile machinery—and still get the 7% investment credit. The reason the industry advances is that high-quality textile machinery simply isn't available in this country.

Clearly, there's a crying need for some sort of serious national discussion and debate on just how far and fast the administration, Congress and the country want to continue down this road to some modified form of state socialism. Maybe all the government help—loans and special contracts and subsidies and import quotas and the rest—are indeed necessary to protect U.S. companies and preserve U.S. jobs. Or maybe it would be better to let traditional free-market forces make the decisions, even at some cost and damage to individual workers and industries.

In any event, though, government policy in so vital a matter should be more than merely reacting to emergencies, bailing out one company or industry and then another. Whichever way the policy is to go, it certainly should be more carefully considered, more precisely planned than it is now or has been recently.

And perhaps in the meantime, too, there could be a little less preaching about the wonderful principles of the free-enterprise system by businessmen who frequently find these principles so difficult to practice.

JEWISH LEADERS AND PENNSYLVANIA CONGRESSIONAL DELEGATION DISCUSS ISRAEL'S NEED FOR PHANTOM JETS

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. EILBERG. Mr. Speaker, on Tuesday, November 9, seven rabbis from the Philadelphia and Pittsburgh areas met with members of the Pennsylvania congressional delegation to discuss Israel's critical need for the F-4 Phantom jet aircraft.

Israel needs the planes, as everyone knows, for her defense, but so far the Nixon administration has refused to sell them.

The discussion was frank and open and all of the representatives who spoke expressed their support for the arms sales to Israel.

Attending the meeting with me were: Senator RICHARD SCHULTZ SCHWEIKER, and Congressmen ROBERT N. C. NIX, EDWARD G. BIESTER, JR., JOHN H. WARE, JOSEPH MICHAEL MCDADE, DANIEL J. FLOOD, J. IRVING WHALLEY, LAWRENCE COUGHLIN, WILLIAM S. MOORHEAD, FRED B. ROONEY, HERMAN T. SCHNEEBELI, JOSEPH M. GAYDOS, JOHN PHILLIPS SAYLOR, ALBERT W. JOHNSON, FRANK M. CLARK, THOMAS E. MORGAN, and H. J. HEINZ.

The rabbis who were there are: Jerome Bass, Morris Dembowitz, Arnold Feldman, Harold Goldfarb, Seymour Panitz, Nathan Reisner, and William Sajowitz.

The statement for the clergymen was delivered by Rabbi Dembowitz, vice president of the Board of Rabbis of Greater Philadelphia.

It is a clear and cogent statement of what I feel are the beliefs of the majority of Jewish Americans, and, in fact the majority of all Americans.

At this point I enter his statement into the RECORD:

STATEMENT BY RABBI MORRIS V. DEMBOWITZ

My name is Rabbi Morris V. Dembowitz. I am the Vice President of the Board of Rabbis of Greater Philadelphia which comprises more than 100 Rabbis who serve a Jewish community of some 330,000.

We represent the three main religious groupings characteristic of American Judaism: Orthodox, Conservative and Reform.

What I have to say is not new but it is articulated here because we see an erosion of relationships between our country and Israel that must inevitably react not only upon the American Jewish community of 6,000,000, but also upon the American people itself, whose tradition is so interwoven with Hebraic strands of ethnics, conceptions of justice and ideas of religion which derive from that unique land we call Israel.

1. At the outset I wish to assure you that we do not represent a lobby for Israel.

2. Our specific purpose is to express to the Senators of Pennsylvania and to the Commonwealth's representatives our deep gratitude for the Senate Resolution, signed by 78 Senators, and for the identical House Resolution so overwhelmingly supported by Pennsylvania Congressmen, which calls on the Administration to take immediate affirmative action on Israel's request for Phantom jets to maintain her "deterrent capability and to re-affirm" the importance of secure and defensible borders as a vital element in a peace settlement to be negotiated by the parties themselves. This resolution takes on an added sense of immediacy in the light of the recent Soviet MIG-23 Overflights on Israeli territory, most likely manned by Russian pilots.

3. We are also deeply appreciative of your graciousness in meeting with us during these busy days. We have not come impelled by a sense of crisis—but as religious leaders, desiring to share with you, our elected representatives, a pervasive gnawing concern, which not alone we, but our people feel as to the outcome of the Middle-East situation and what lies in store for Israel.

4. We want you to understand what causes our concern and to have you catch the depth of feeling from which it emanates. It comes from a vivid and never to be exorcized horror which was the holocaust. The deaths of those 6,000,000 of our kinsmen and co-religionists, the very flower of European Jewry, constitute a giant black spectre that that is always with us.

5. This spectre conjures up before us, as we look out upon our world, a series of smaller, yet, taken one by one, unbelievable horrors.

a. We read of 7500 Jews from Russia, permitted to leave. Where can they go—except to Israel? For little beleaguered Israel is their only refuge—and who knows how many more will soon be coming? We thank God that there is an Israel to go to. At the same time, we wonder about other Jews in the U.S.S.R., languishing in Soviet jails, some exiled to Siberia, many deprived of livelihood and means because they were brave enough to ask for permits to leave the Soviet Paradise. How much less than a holocaust or a pogrom is their fate?

b. Turning to the Middle East we are told of tortures, of expropriations, of jailing of the small remnant, only 4500 Jews who are still held hostage in Syria. When they will be able to leave, only Israel can be their refuge.

c. What about the Jews in Iraq, the few still in Egypt, the 100,000 Jews in North Africa? Each one constitutes not a holocaust but a living death. Only Israel gives them a gleam of hope. Only Israel will take them willingly. Only Israel will absorb them, and restore them to the human family.

6. We reject as false and cruel, the Soviet accusation that Israel needs Russian Jews only as cannon fodder in her army. The few thousands that have been able to leave Russia have to under-go the same process of absorption, of finding jobs, of acculturating to a free way of life, of learning Hebrew. Like all who come to Israel, it will be years before they can make their way and stand on their own feet. When they do qualify for military service. It is that they can undertake the rigorous, pressure cooker training, which will fit them for civilian life, as well.

7. Were Israel interested only in cannon fodder, she would not be sending her own peace corps of young men and women, educated, trained, all of them army reservists, to nearly 90 different countries in Asia, Africa, and Latin America, less developed than Israel, to help them in economics, industry, agriculture and medicine. Despite her position in a sea of enemies, despite her own immigration and absorption problems, despite the heaviest taxes of any democracy in the world, Israel encourages students from these underdeveloped states to study in Israel. And, when they have been trained in Science, Agriculture and Medicine, they return to their home countries to lead in their construction and development.

8. With all its own external and internal problems, Israel had enough energy and sympathy to offer food and medicine to East Pakistan, and was rebuffed for her pains. Despite the hostility of the Arab world Israel has established installations for health and education in the administered territories, and has taught these Arabs in the area new techniques of agriculture and industry, thereby raising their standard of living. This last summer 106,000 Arabs, from various Arab countries, visited relatives in Israel and in the administered sectors. Some 2000 of these applied for permanent return to the West Bank. There were no flare-ups. All was calm.

9. We had thought that our State Department knew all these things, understood the uniqueness of Israel, appreciated and admired her achievements. Instead we have further cause for concern in the erosion of the close and friendly relationships that recent State Department activities reveal.

10. We are greatly distressed by the suggestion of the Department that Israel withdraw from the Suez some distance to the east in Sinai, that Egyptian forces cross over to the side evacuated by Israel, and thus destroy the effectiveness of the Bar Lev defense line, fortified by Israel at great cost of life and treasure. What would Egypt's quid pro quo be for this Israeli surrender? The promise of a limited cease-fire. What the Egyptian promise is worth we know from the missile installations that were brought close to the Suez in violation of the cease-fire terms arranged by the U.S. in June, 1970. If the past is any indication of the future, a limited cease-fire is an open invitation to war.

11. We are told by State Department spokesmen that we should regard the threats by Egyptian leaders that Israel will be destroyed or driven into the sea, as only so much rhetoric, only typical Arab hyperbole. This only invokes in us the ghost of Hitler proclaiming to all the world that he would rid Germany and indeed, all Europe, of its Jews. That, too, was rhetoric, effective rhetoric, for it became grim reality in the holocaust.

12. This is our overriding concern, today

and for the future. It is always with us. We who have experienced, even at a distance, the fate of the Jewish people, its destruction in Europe, are afraid, are obsessed by a dark fear that Israel's friends, after so many years of aid, become tired and impatient. That is why we share with you our emotional concern.

13. None the less we take this opportunity of thanking you most profoundly for supporting the Resolution, both in the Senate and the House, which indicates that the people's representatives are still Israel's best friends. We hope that the Resolution will be as overwhelmingly endorsed by the members of the House as it was by the members of the Senate.

14. I close by mentioning the question of the Foreign Aid Bill that Congress will be considering. We naturally feel that Israel's economic viability must not be shaken, especially when the military threat from Egypt and her allies is a real one. It has been Egypt's boast that Israel cannot long withstand either military or economic attrition. Twenty-three years of Israel's existence shatters this Egyptian boast. But we know well that without the support of our country, both in military and economic supportive assistance, Israel could not have endured. Our faith in this country and in its commitment to constitutional democracy has often been fortified by the evidence of our fellow-citizens' sympathy for and even identity with the hopes and destiny of the reborn State of Israel. Like America at its best, Israel, too, is dedicated to the democratic and ethical ideal of nationhood. We have faith that you and the overwhelming majority of Congress will continue your support of Israel and will help her to remain a bulwark of responsible democracy in the Middle East. A Foreign Aid Bill that will keep Israel materially and economically strong is the means of attaining this goal.

15. It was Lloyd George, I believe, who said some years after the first World War when disillusion and general unrest was sweeping the world, that the only lasting achievement of that war would be seen to be the establishment of the Jewish National Home in Palestine. That Home is now the State of Israel. It is our belief that in defending and straightening it, we are advancing not only the cause of justice and democracy in the Middle East—but also, so our faith would have it, the cause of the future peace of the world.

DRUG UNIT SHEDS IMAGE OF PRISON

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. MURPHY of Illinois. Mr. Speaker, I am inserting a November 2, New York Times article describing the narcotics rehabilitation center of the National Institute of Mental Health in Lexington, Ky.

This facility is a good example of the approach we must take in dealing with narcotic addiction. The story notes that the facility's recommitment rate dropped drastically since the center began to resemble a hospital rather than a prison.

Some criticize that such programs are soft on criminals. I would argue that we can no longer imprison addicts without treatment, allowing them to return to the streets in a more desperate condition than when imprisoned. Our criminal justice system must be truly committed to rehabilitation.

Narcotic addicts, for the most part, are not hardened criminals. The uncontrollable craving for a fix leads them to crime to support their habit. It makes a great deal more sense to pursue programs like the one at Lexington in an attempt to rehabilitate the addict so that he may return as a productive member of society.

The need for more community-based facilities is apparent since access to large centers presents difficulties for many addicts. The main point is that we must continue to pursue new and innovative programs in this area. Our past experience shows that simple incarceration does not alleviate the problem, only postpone it. I insert a copy of the Times' article as an example of the type of facility which merits our continued support:

DRUG UNIT SHEDS IMAGE OF PRISON—REFORMS ARE INSTITUTED AT A HOSPITAL IN KENTUCKY

LEXINGTON, KY.—For 32 years, the United States Public Health Service ran a drug-treatment hospital here like a prison, with guards and iron bars. The facility had a recommitment rate of 90 per cent.

Now the bars are off the windows, bright colors decorate the walls, the inmates are called residents, and they have a swimming pool. The current recommitment rate is 27 percent.

The change came with passage by Congress of the Narcotic Addict Rehabilitation Act in 1966. The center began changing its treatment program, its philosophy toward addicts and its operation of the physical plant. About four years ago, the National Institute of Mental Health took over administration of the hospital.

The thousand-acre center, a complex of four-story and five-story buildings, is still surrounded by a high wire fence. But inside, the treatment program now deals in psychotherapy, group and occupational therapy, social services, special training, academic and nonacademic education and general health care.

6 TREATMENT UNITS

There are five semiautonomous treatment units—three male, one female and an experimental self-help group patterned after California's Synanon. Residents are permitted to decorate their own living quarters and their paintings embellish the walls.

The new approach has also been criticized. United States Attorney Charles Anderson of Nashville, Tenn., has called the center a "failure and waste of the taxpayers' money." He said that the center merely took criminals and released them from custody.

But Dr. Harold T. Conrad, chief of the center, says: "We deliberately don't have a jail-type facility because that did not work for 35 years."

Dr. Conrad said he would like those charged with drug-related crimes to be tried and sentenced, then given the opportunity to participate in the program instead of a prison term, but he added: "We don't advise district attorneys to drop charges against addicts because they want treatment."

VOLUNTARY ADMISSION

Addicts can also seek voluntary admission to the center through a United States Attorney.

The second criticism came from Representative Don Edwards, Democrat of California, who charged that addicts were being turned away "by the busload" from Lexington.

Mr. Edwards, chairman of a House Judiciary subcommittee considering drug rehabilitation legislation, said he was quoting from a General Accounting Office report that stated that Lexington and other treatment facilities were turning away addicts while operating at only 50 per cent of capacity.

"I haven't seen any such report and we haven't turned anyone away for lack of space," Dr. Conrad said. He said that addicts admitted to the center must stay at least 30 days. After this "evaluation" period, during which addicts are withdrawn from drugs and undergo orientation, it is determined if the addict wants help and is suited to therapy.

"Our staff spends most of its time trying to persuade the patient to stay," Dr. Conrad said. "Rather than turning him away, the usual sequence involves the physician having to put up with a patient who is knocking on his door demanding to be released."

The patients who do stay undergo six months of intensive treatment and then enter aftercare programs for 36 months in their home communities.

TROOP PRODUCES 37 EAGLE SCOUTS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. GAYDOS. Mr. Speaker, I know every American is aware of the contribution the Boy Scouts of America have made to our Nation and its heritage. We are all proud of this organization and the type of men it has produced. Many of them have become leaders of men in every field of endeavor.

I am particularly proud of a troop in my 20th Congressional District of Pennsylvania. Among its many accomplishments, St. Robert Bellarmine Troop 85 of East McKeesport, has produced 37 Eagle Scouts in an 8-year period.

The adult leaders of this troop include David Edwards, scoutmaster; Joseph Capezzuto, Joseph Filicky, Chris Hoke, John Hoke, Richard Kellar, and Joseph Merritt, assistant scoutmasters; Joseph Capezzuto, campmaster; Chris Hoke, advancement chairman; Francis Mullen, committee chairman; John Hoke, secretary; Paul Gates, treasurer; and James Peppler, institutional representative.

Mr. Speaker, it is a pleasure and privilege to insert into the RECORD the names of the young men from troop 85 who have attained the rank of Eagle Scout, and I invite the attention of my colleagues to this outstanding achievement on the part of a single troop.

The names follow:

1961—John Galla and John Hathway.
1964—Jerome Males.
1965—David Edwards, Robert Brannan, and William Bird.
1966—Edward Deenihan, Gary Litwin, Alfonse Wezorek, Roy Ferrence, Ron Simko, and Robert Bird.
1967—Charles Beckett, John Hoke, Chris Hoke, Daniel Edwards, Edward Edwards, John Dern, and Richard Kellar.
1968—Joseph Merritt and Patrick Deenihan.
1969—James Males, Dale Edwards, Patrick Edwards, Richard Wiley, Francis Mullen, Anthony Verrico, John Filicky, and David Malicki.
1971—Gerry Musinsky, David Stickel, Richard Welesko, Joseph Anselmo, Jeffrey Balogh, William Krumenaker, Michael Miller, and Glenn Gates.

WILDLIFE—WHO NEEDS IT?

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. RONCALIO. Mr. Speaker, on Thursday, September 23, I submitted to the CONGRESSIONAL RECORD two winning essays from the Wyoming Wildlife magazine published by the Wyoming Game and Fish Commission which were tailored to the national theme: "Wildlife—Who Needs It?"

Today I submit the third in this series of articles, the first place winning essay in the junior division. "Why We All Need Wildlife" was written by an eighth grader from Lander, Wyo., Master Ron Reesy. Ron's clear and forthright message is one that we who have long since passed the 8th grade would do well to ponder.

The article follows:

WHY WE ALL DO NEED WILDLIFE

Each individual should consider what wildlife does for him. Wildlife, like the miners' canaries, can indicate to us whether our environment is fit for our survival. The effects of DDT and other pesticides were discovered through studies of what they were doing to the wildlife. A few species of wildlife were analyzed after death and the scientists found that the wildlife had gotten the DDT from plants they had been eating. From further research, the scientists found that some people had already absorbed the harmful chemicals by eating the meat from the wildlife.

If a person were out in the wilderness and came upon a waterhole where dead animals or birds were close around he may be pretty sure that something was wrong with the water. If the wildlife was not there it may be the human who would drink the water and die. This is only one example but the same can apply to our food and the air we breathe. The miners used to have canaries fly down into the mines to test for dangerous gases in the shafts. If the canaries came back safe then the miners would know that the air was safe for them to breathe. If the canary did not come back the miners would know that it was unsafe for them to go down in the mine shaft.

Many people who live in big cities and towns don't get out of town very often; most of these people cannot see the need for wildlife and they don't understand what the wildlife does for mankind. They take wildlife for granted, and if they do think about it at all they will probably think that there will always be wildlife somewhere but it just doesn't concern them enough to really think about the advantages of having wildlife in our lives.

I would like to take any person who doesn't really care about the wildlife and ask him to go for a walk through a field, a desert, or a forest where he could listen to the sounds of the birds and animals—the chattering of chipmunks and the rustle of leaves when a deer walks by—and be able to see all of the wildlife. Then I would ask the same person what he thinks it would be like to walk through the same places with me when everything was still and silent—and no wildlife at all to be seen. After this the person could choose which way he likes best and I do think he would like the wildlife way best.

When roads and housing projects are built many different types of wildlife habitats are destroyed. For example, when a tree is cut down it will destroy the home of some animals or birds. And acres of forest are being cut down all over the country and there are many homes and habitats of different wildlife species which are destroyed. The more hardy birds and animals may move and adapt to new environments and make new homes; others are just left to die. We can make substitutes for materials but there are no substitutes which can be made for wildlife. The wildlife of the country should be considered when building projects are planned.

Wildlife is also used as a great source of food. Hunting wildlife is a great sport for many people and besides the sport, many people hunt wildlife as a source of food for their families to eat. Indians still use animal hides for making clothes for themselves and also to sell as a means of making a living.

Wildlife is a major part of the web of life. Without the wildlife in the web of life insects would eat Man out of his house and home. Many birds and animals eat insects and bugs which are harmful to humans and their crops and source of food.

It doesn't take much time and thinking to know that the answer to the question "Wildlife: Who needs it?" is we ALL DO, whether all of us realize it or not. Just stop what you are doing for a few moments and think about what your life would be like with no wildlife at all any where!

COUNCILMAN ZAZYCZNY DEFENDS KOSCIUSZKO HOME AT CITY COUNCIL

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1971

Mr. EILBERG. Mr. Speaker, as one of the original sponsors of legislation (H.R. 6759) to make Thaddeus Kosciuszko's last American home, located in Philadelphia, a national historic site, I was very pleased with the recent remarks of City Councilman Joseph L. Zazyczny, made in behalf of this effort. It is with singular pleasure that I call the eloquent statement of Mr. Zazyczny, who represents the section of Philadelphia in which I reside, to the attention of my colleagues.

The remarks follow:

Mr. President, I rise to speak specifically on a point of personal privilege that has touched the hearts of millions of people throughout the country for quite some time. We in this Council have also taken an active role with regard to the subject about which I intend to remark, when just a short time ago this Council passed a resolution, and that wasn't the first time, appealing to the government of the United States, through the United States Department of the Interior, National Park Service, recommending that the Thaddeus Kosciuszko House at 301 Pine Street in Philadelphia, as it has become known, be made a historic site by the suggestion of the advisory board of the National Park Service.

For many years this item has been bouncing about the halls and corridors of government, and despite all the public requests and historical facts presented, the United States Department of Interior Advisory Board recommended against the appeals to make this a national historical landmark.

I call this the worst Polish joke ever expounded upon in these United States, and an insult not only to the millions of Americans of Polish descent but also the governmental agencies and elected officials who are supporting the naming of 301 Pine Street and designation of it as a national historical site. It is a disgrace that after so many years of contributions by many ethnic Americans to the greatness of this country, that a top federal agency would lend itself to such a low position in an effort to justify what I claim is their prejudices.

Many of us may not know who Thaddeus Kosciuszko was. Some of us are probably well aware of who he is, or who he was. He is best remembered for his engineering skill in erecting the fortifications at West Point during the colonial wars. His choice of battlefields and the erection of fortifications at Saratoga greatly contributed to the American victory there. He later distinguished himself as an officer in the cavalry in the Carolina campaign.

Kosciuszko recommended the present location for the establishment of the military academy which today is known as West Point, and where today there is a monument and garden to his memory. Military historians also name him the father of American artillery for his publication of the first effective system for the organization of the American artillery.

Kociuszko was not a mercenary, and came to this country because of the colonists' quest for freedom. He used all of his own personal funds during his stay in this country. His devotion to liberty and Polish independence has made him one of the great Polish heroes but also his tremendous knowledge and sacrifices as well as his contributions have won him recognition as a great hero of our own American Revolution.

Mr. President, this is why I am appalled at the recent decision of the Advisory Board of the National Park Service to refuse Thaddeus Kosciuszko's home in Philadelphia as a national historical site. The board's reasoning is as specious as its decision is unwise. The board reasons that the house did not qualify as a national historical site because Kosciuszko lived there for only six months. To refuse a house for such a reason is to fault Kosciuszko for being a soldier and for living the life of a soldier. In his fight for American freedom Kosciuszko seldom stayed in any one place for a long time.

We in Philadelphia have done our part. This particular body has done more than can be asked of any body to preserve this site. We have done everything possible, both through ourselves and through the Redevelopment Authority, and I believe Philadelphia is to be complimented for its efforts.

But it seems that the men in Washington, D.C., wish to turn their backs not only on Kosciuszko but, as is quite obivous, to the millions of Americans of Polish descent, ignoring their contributions to the greatness of these United States and spitting on their blood that has flowed in the wars of this country's existence. For they too paid the supreme sacrifice, following in the footsteps of Kosciuszko, whose philosophy always was, "For God and country."

It must be remembered also, Mr. President, that at this Pine Street address Kosciuszko wrote and delivered to Thomas Jefferson his will and testament in which he bequeathed his fortune for the freedom of enslaved blacks. In a day when men are proclaiming the principle that all men are created equal, while holding other men in bondage, Kosciuszko by his will gave living proof of his dedication and belief in this principle.

I appeal to everyone, not only in this room but Philadelphia, to set upon their elected officials in Washington, D.C., and to definitely have this site in Philadelphia designated as a historical site under the guidance of the Federal government, and that it really does belong in the Society Hill area, and it is a tribute not only to a man but a philosophy, a belief, and a man's love of freedom for which we are well known.

SENATE—*Wednesday, November 10, 1971*

The Senate met at 9 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

God of our fathers and our God, we thank Thee this morning for Thy kindly providence which has watched over this land from the beginning even until now. For the patriot, the soldier, the statesman, and for the work of hand and pen and speech by which the Nation has been enriched and made strong, we thank Thee. In these turbulent times give us wisdom and strength to mobilize our moral and spiritual forces for the making of a better world. Imbue the people with a genius for compassion and mercy, for goodness and brotherhood. Enable Thy servants here and elsewhere in the Government to enact such measures as will create great and good people in a righteous nation from which will radiate ameliorating strength for all mankind.

In the name of Him who went about doing good. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 10, 1971.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 9, 1971, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FOREIGN AID

Mr. SCOTT. Mr. President, last Thursday, Mr. George Meany, president of the AFL–CIO, made a statement in regard to the Senate's defeat of the foreign aid authorization bill.

He said:

The crisis created by the Senate's rejection of the Foreign Aid bill is intolerable.

The United States can ill afford the posture of isolationism or even the appearance of isolationism. The United States does not live in a vacuum and it would be folly to pretend America can. The United States just cannot run away from its world responsibilities.

We urge the Congress to immediately pass a continuing resolution at current expenditure levels in order that the program not die.

Immediately thereafter the Congress should proceed to draft a new measure designed to promote the welfare of the people in free developing nations, primarily directed toward alleviating conditions of human deprivation, establishing democratic institutions, providing economic and technological know-how, and insuring adequate military assistance to defend and preserve national independence and promote international peace.

We in the AFL–CIO have long believed and we continue to believe that the foreign assistance program is a sound, worthwhile and valuable instrument that serves the national and international interests of the United States.

We believe it has had and continues to have the support of the people of the United States.

It is incumbent upon the President and the leadership in the Congress to end this crisis immediately and forthrightly.

Mr. MANSFIELD. Mr. President, I listened with appreciation to the statement made by Mr. Meany of the AFL–CIO, as relayed to the Senate by the distinguished minority leader.

It is always good to hear from organized labor, especially from the president of the AFL–CIO, who takes an active and worthwhile interest in the affairs of the Nation.

We appreciate his views on Vietnam, although we do not necessarily agree with them.

We appreciate his views on the President's new economic policy.

We appreciate his views on foreign aid, even though some of us do not necessarily agree with them. I would suggest that this is a matter which the Senate has faced up to and has already decided in its wisdom. It is now considering the matter again.

The need for reform in the aid program is not only present but is long overdue. Too much money has been wasted both in the economic and the military fields.

I would hope that the Senate would be aware of all of the facets in the bills which will be under consideration and are now the pending business, and will exercise its own judgment as to what should be done. After all, we do happen to be the representatives of the people of the States from which we come. We do have a certain amount of responsibility which we must face up to. It would appear that when we consider foreign aid measures we should keep in mind that the two bills reported from the Committee on Foreign Relations retain all the actions taken by the Senate during the course of the consideration of the previous aid bill.

So far as the administration is concerned, all I can see is another adversary proceeding. Every time the Senate tries to do something and tries to do it cooperatively in the form of a resolution or an amendment, the people downtown, for some reason or other, take the opposite tack. There is no "give." There is no "budge." What they say is gospel. They are not open to compromise.

A good aid program is in the best interest of this country. But with the kind of aid programs, grab bags, and gimmicks which we have had to contend with during the past 4 or 5 years, especially this year, I think those programs have outlived their usefulness. A new concept must be developed which seeks to help people, not governments; one which does not go out to try to revive currencies, as is the case in Laos, Cambodia, and Vietnam. AID right now is pouring in funds to beef up those currencies. That is not a function of AID.

Mr. SCOTT. Mr. President, I agree that the foreign aid program needs a very careful review next year, when we reconvene.

I also agree that certain things need to be done. I agree that there should be reform. Meanwhile, I want a program that will help people.

Ninety-three percent of the funds spent in the foreign aid program are spent within the United States. They involve the labors of 5,000 companies and over 60,000 people, many of whom would be out of work by the ending of such a program arbitrarily or by its excessive diminution.

This is a program to help people. That is why the AFL–CIO is interested in it and has long been interested in it.

It is a program to help people, too, in the other countries of the world. It is a program to help children through UNICEF. It is a program to help the developing countries by means of the developing funds, the multilateral funds, and many of the bilateral funds.

It is a program by which we are enabled to keep our promises and our treaties. It is a program by which we have undertaken to see that, as we withdraw from a long and unpopular war, we do not leave those who remain totally abandoned, utterly unprovided for, and, further, embittered at the ingratitude of the United States.

As a nation, we have made our covenants. We have given our bonds. We have furnished our assurances to the other peoples of the world. If, for no other reason, we will have to continue the program. Then after we do, let us, by all means, review it. After all, any program that has been in existence for 25 years can stand review.

Let us see if we cannot get one which is less expensive, one which is less costly in the misunderstandings it brings about, one which is more fully in the enlightened self-interest of America, and one which does more fully meet the modern problems of the rest of the world, rather than being structured on the basis of the problems of the world as they were 25 years ago.

I think that the Senate in a spirit of conciliation and compromise is about ready to adopt the proposed new foreign aid program. I think the Senate is perfectly capable of writing a good and a new one. I think we can write it on Capitol Hill. I think that we know our job and are prepared to perform in accordance with it.

Mr. MANSFIELD. Mr. President, what the Committee on Foreign Relations reported was a less expensive program. What the administration wants is a continuing resolution, which would be a more expensive program. Furthermore, the program has turned into an arms sales and an arms grant program, by means of which we shift, to a large extent, obsolete weapons of various kinds to various countries and, in that way, build up a dependency, a process which I think is open to question. This country has become the largest arms dealer in the world.

I think it is about time to put a stop to this kind of program and to call it what it is. That is the purpose of the two bills which will be before the Senate today and tomorrow. I am only sorry that the proposals were not broken down into three parts—economic, humanitarian, and military. This was attempted. Unfortunately, the votes were not present to operate on that basis.

I hope, and I am very sure, the Senate will take a close and a hard look at the proposals now before it.

Mr. SYMINGTON. Mr. President, I should like to associate myself with the words of the distinguished majority leader.

In listening to the news media last night and this morning, many high officials in this administration were lecturing the Senate as to its recent actions on foreign aid. I, for one, do not intend to be sandbagged by any heavy onslaught against the decisions of the Senate.

I also believe it is about time we recognize that the American taxpayer cannot afford to spend tens of billions of dollars to destroy many of these countries—only recently we started on another one, Cambodia—and then spend tens of billions of dollars bringing them back to some form of reasonable economic stability.

I would like to also associate myself with the remarks of the majority leader with respect to the continuing resolution. In my opinion, at this point and under these circumstances, a continuing resolution would be an abandonment on the part of the legislative branch of its prerogatives and responsibilities under the Constitution.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the distinguished Senator from Missouri is now recognized for not to exceed 15 minutes.

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

Mr. SYMINGTON. Mr. President, last Friday the White House announced that the President had ordered a reorganization of the intelligence community. I ask unanimous consent that their press release to this end be printed in the RECORD at the conclusion of these remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. SYMINGTON. Mr. President, as reported by the press, the administration's plan creates an "enhanced leadership role" for the Director of the Central Intelligence Agency, turns more of the operating responsibility for that Agency over to the Deputy Director, who is a lieutenant general in the Marine Corps, and creates or reconstitutes a variety of boards, committees, and groups who are charged with important responsibilities within the intelligence community.

The reported aim of the reorganization is to improve the "efficiency and effectiveness" of U.S. intelligence activities and press comments on this move include references to alleged concern over the size and cost of intelligence operations; also to general unhappiness about various specific intelligence estimates. Such reports have been officially denied, but it is acknowledged that this reorganization is the result of "an exhaustive study" of the U.S. intelligence activities.

It could be that the reorganization announced last week by the White House is a constructive move. In recent years there has been a growing belief that there was heavy duplication and therefore waste within the overall intelligence community. Unfortunately, however, it has been impossible for the public, or even concerned Members of Congress, to obtain enough information on this subject for informed judgment.

By the same token, it is equally impossible to determine, at least at this time, whether the organization changes now decreed will accomplish their stated purposes, or to determine what will be their practical effect.

One thing is clear, based on the manner in which the reorganization was handled and announced; namely, the executive branch does not consider either the organization, or the operation, of the intelligence community to be matters of concern to the Congress. To my knowledge there was no advance consultation whatever with the Congress regarding this reorganization, or even any advance notice of what had been decided.

In 1947 the Central Intelligence Agency was established by act of Congress. Its powers and duties are specified by law. Its Director and Deputy Director are subject to confirmation by the Senate.

Last year the Congress appropriated an amount estimated by the press to be between $5 and $6 billion for the activities of this Agency and the other component parts of the intelligence community.

As one Member of the Senate, I will not accept the proposition that the role of Congress in organizing the intelligence community ended 24 years ago with the passage of the National Security Act, or that our only current and continuing responsibility is to appropriate whatever number of billions of dollars the executive branch requests so as to handle this work.

Last Saturday, when I learned from the press about this intelligence reorganization, as ranking member of the Committee on Armed Services, I wrote the chairman of that committee, requesting hearings either by the full committee or by the CIA subcommittee, of which I have been a member for some 15 years. In that letter I presented the fact that this subcommittee has not met once this year.

This latest reorganization on the face of it raises questions about past, present, and future performance of our multibillion dollar annually intelligence community; questions such as:

If it has been inefficient, what and where were its deficiencies?

In what sense does it need to be more "responsive?"

What is implied about the past by the reference in the press release to the objective of insuring "strengthened leadership" in the future?

The White House announcement offers neither answers to these questions nor explanations of the remedies which have now been unilaterally decreed.

In order to understand properly, said action by the executive branch, Congress should know the answers to such questions as the following:

How is the leadership role of the Director of the Central Intelligence Agency "enhanced" by the creation of a new and obviously more powerful supervisory committee chaired by the Adviser to the President for National Security Affairs, on which new Board not only sits the Attorney General but also the Chairman of the Joint Chiefs of Staff?

In this connection, Mr. President, in reading over the Pentagon papers one is impressed with the fact that in the majority of cases the assessments of the situation by the CIA have since proven to have been most accurate. We hope that such independent intelligence assessments will be maintained and that this new reorganization will not result in the intelligence community's conforming to the administration viewpoints from a political standpoint or from the standpoint of what the military services want.

Of particular concern is that those so associated with the administration who have a tendency to see a Communist behind every bush will have an opportunity to suppress any intelligence data which is an effort to prove the opposite. It is a fact that the analyses of the Central Intelligence Agency were proven to have been better than those of DIA and

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State or the political judgment of many in the White House during the past administration.

I might add that in the recent critical article about the Central Intelligence Agency, published in U.S. News & World Report, one of the chief criticisms of the Agency was that already the intelligence is being unduly influenced by the military. It is rather ironical that in the reply by a member of the intelligence establishment to this criticism the statement was made:

I submit there is no Federal agency of our Government whose activities receive closer scrutiny and control than the CIA.

But, as mentioned a moment ago, the subcommittee having oversight of the Central Intelligence Agency has not met once this year.

Another question that should be asked is, Has this new White House committee been given authority or/and responsibility which heretofore was the responsibility of the CIA; and which the Congress, under the National Security Act, vested in the Agency?

How can the integrity of the intelligence product be assured when responsibility for the most critical aspects of intelligence analysis is taken out of the hands of career professionals and vested in a combination of military professionals and the White House staff?

How will the access of Congress to information concerning intelligence activities and products, already severely restricted far more than any other aspect of the Federal budget, be affected by bringing the most important aspects of intelligence production and coordination directly under the White House; and thus within the scope of what the President believes he can deny to the Congress through the exercise of executive privilege?

The answers to these questions are not to be found in the press release issued from the White House last Friday. Accordingly, and inasmuch as a large part of the Federal budget is based primarily on intelligence estimates, let us hope that hearings with respect to this announced reorganization of the intelligence community take place at the earliest opportunity.

Mr. President, I shall have more to say on this subject at a future date. In the meantime, I ask unanimous consent that a pertinent article entitled "Recasting Intelligence," by Mr. Joseph Kraft, and published in the Washington Post of November 9 be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

EXHIBIT 1

THE WHITE HOUSE

The White House announced today that the President has directed a number of management steps to improve the efficiency and effectiveness of the U.S. foreign intelligence community.

The President's objectives are to ensure:

Continuing review of the responsiveness of the U.S. intelligence effort to national needs.

Strengthened leadership for the community as a whole.

More efficient use of resources in the collection of intelligence information.

Elimination of less efficient or outmoded activities.

Improvement in the quality, scope and timeliness of intelligence information.

The improvements directed by the President follow an exhaustive study conducted at his direction by the staffs of the National Security Council (NSC) and the Office of Management and Budget (OMB) with contributions from the President's Foreign Intelligence Advisory Board (PFIAB), the President's Science Advisor, and the Intelligence community.

The major management improvements include:

An enhanced leadership role for the Director of Central Intelligence (DCI) in planning, reviewing, coordinating, and evaluating all intelligence programs and activities, and in the production of national intelligence.

Establishment of a National Security Council Intelligence Committee, chaired by the Assistant to the President for National Security Affairs. Its members will include the Attorney General, the DCI, the Under Secretary of State, the Deputy Secretary of Defense, and the Chairman of the Joint Chiefs of Staff. The Committee will give direction and guidance on national intelligence needs and provide for a continuing evaluation of intelligence products from the viewpoint of the intelligence user.

Establishment of a Net Assessment Group within the National Security Council Staff. The group will be headed by a senior staff member and will be responsible for reviewing and evaluating all intelligence products and for producing net assessments.

Establishment of an Intelligence Resources Advisory Committee, chaired by the DCI, including as members a senior representative from the Department of State, the Department of Defense, the Office of Management and Budget, and the Central Intelligence Agency. This Committee will advise the DCI on the preparation of a consolidated intelligence program budget.

Reconstitution of the United States Intelligence Board chaired by the DCI, including as members the Deputy Director of Central Intelligence (Vice Chairman); Director of Bureau of Intelligence and Research, State Department; Director of National Security Agency, Director of the Defense Intelligence Agency; representatives of the Secretary of the Treasury and of the Director of the Federal Bureau of Investigation and the Atomic Energy Commission. The Board will advise and assist the DCI with respect to the production of national intelligence, the establishment of national intelligence requirements and priorities, the supervision of the dissemination and security of intelligence material, and the protection of intelligence sources and methods.

The President has also directed certain changes in the Department of Defense's intelligence organization.

A National Crytologic Command will be set up under the Director of the National Security Agency. Under this command will be consolidated activities now carried out by separate agencies. A further change is the consolidation of all Department of Defense personnel security investigations into a single Office of Defense Investigations. The President has also directed that a Defense Map Agency be created by combining the now separate mapping, charting and geodetic organizations of the military services in order to achieve maximum efficiency and economy in production.

EXHIBIT 2

RECASTING INTELLIGENCE

(By Joseph Kraft)

The reorganization of the intelligence community announced last week looks at first glance like a mere administrative tightening. The producers of the raw intelligence are simply being made more responsive to the needs of the consumers in the White House.

But the Nixon administration is no more free than most others of the itch to enforce conformity. Unless very carefully watched, the new set-up could be one more device for destroying independent centers of analysis and information inside government.

The reorganization has two main components. For one thing, Richard Helms, the director of the Central Intelligence Agency, has been given authority to coordinate his own budget with those of the intelligence units within the Defense and State Departments.

Since Helms as CIA director is a member of most of the high-level policy committees in government he is alert to the intelligence needs of the President and his closest advisers. Presumably he will be able—perhaps with considerable saving of money—to make the work of such intelligence outfits as the National Security Agency and the Defense Intelligence Agency more relevant to White House needs. His part of the reorganization seems relatively straightforward.

The second part of the reorganization involves what is called "net assessment." That is a fancy term for the answer to the question: How does the strategic balance stand between Russia and the United States? That question, with deep ramifications in politics and economics as well as foreign policy, is to the various private and public interests that come to a head in government what a piece of red meat is to a pack of starving dogs.

Under the Eisenhower administration the net assessment was handled by a secret subcommittee of the National Security Council headed by a general officer and working out of the Pentagon. In the Kennedy and Johnson Administrations, the net assessments were essentially made under the direction of Secretary Robert McNamara in the Systems Analysis Division of the Department of Defense.

Under the Nixon administration there has been no central responsibility for net assessment. The result has been a chaotic battle featuring many protagonists. In general, Secretary of Defense Melvin Laird, with the backing of his director of research John Foster and to the delight of congressional hawks, has tended to rate the Soviet threat very highly. The CIA, to the delight of congressional doves, has been more skeptical about the Communist menace.

Under the new reorganization, responsibility for making the net assessment will be vested in a group working under the head of the National Security Council staff, Dr. Henry Kissinger. The official immediately responsible for the net assessments will be Andrew Marshall, who now leaves the Rand corporation where he has been serving as an analyst to take a place on the NSC staff.

Mr. Marshall is by all accounts an extremely good man—experienced, reliable and discriminating in judgment. Presumably he can do a serious job of pulling together the vast range of complicated data required for making the net assessment.

But it is a serious question whether that office should be performed in such close range to the White House. For the atmosphere in the White House is heavily political. There is not great disposition toward detached analysis, still less to hear news out of keeping with prejudices and commitments.

A nice case in point is the defense program review committee set up under Dr. Kissinger back in 1969. The purpose of that group was to cast a cold, analytic eye on the defense budget, and some of the best analysts in and out of government signed on to do the staff work.

But the President has backed the big spending program of Defense Secretary Laird. The review committee has been allowed to wither on the vine. Half a dozen of the analysts connected with it have resigned, and the senior official presently concerned, Dr. K. Wayne Smith, is rumored to be leaving soon.

No serious high level critique of the defense budget is now being made anywhere in government. That is one of the reasons the Congress, and those of us in the press are floundering so when it comes to defense expenditures.

What all this means is that the new intelligence set-up should be watched with great care. It looks like a sensible arrangement. But it could easily become one more instrument for restricting information and criticism to the disadvantage of all of those on the outside of government.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore (Mr. ALLEN). In accordance with the previous order, there will be a period not to exceed 30 minutes for the transaction of routine morning business, with speeches by Senators limited to 3 minutes.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

REPORT ON CONTRACTS NEGOTIATED BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., transmitting, pursuant to law, a report on contracts negotiated by that Administration, for the period January 1, 1971, through June 30, 1971 (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

REPORT ON TITLE I AGREEMENTS UNDER AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

A letter from the General Sales Manager, Export Marketing Service, Department of Agriculture, transmitting, pursuant to law, a report on Title I Agreements Under the Agricultural Trade Development and Assistance Act of 1954 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON VIETNAMESE SUPPORT COSTS

A letter from the Assistant Secretary for Defense, transmitting, pursuant to law, a confidential report relative to Vietnamese Support Costs (with an accompanying report); to the Committee on Armed Services.

FINANCIAL STATEMENTS OF THE NATIONAL RAILROAD PASSENGER CORPORATION

A letter from the President, National Railroad Passenger Corporation, Washington, D.C., transmitting, pursuant to law, financial statements of the Corporation, as of June 30, 1971 (with an accompanying report); to the Committee on Commerce.

REPORT ON U.S. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

A letter from the Secretary of State transmitting, pursuant to law, a report on the extent and disposition of U.S. contributions to international organizations for the fiscal year 1970 (with accompanying report); to the Committee on Foreign Relations.

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. ALLEN) announced that on today the President pro tempore (Mr. ELLENDER) signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

H.R. 8629. An act to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes; and

H.R. 8630. An act to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOSS, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 10203. An act to amend the Water Resources Research Act of 1964, to increase the authorization for water resources research institutes, and for other purposes (Rept. No. 92-438).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BEALL:

S. 2831. A bill for the relief of Arnaldo Sandro Vendemmia and wife. Referred to the Committee on the Judiciary.

By Mr. ALLOTT (for himself and Mr. DOMINICK):

S. 2832. A bill to change the name of the Department of Commerce Laboratories in Boulder, Colorado to the Dwight David Eisenhower Laboratories. Referred to the Committee on Commerce.

By Mr. BAKER:

S. 2833. A bill for the relief of Americo Rivas-Elvira. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLOTT (for himself and Mr. DOMINICK):

S. 2832. A bill to change the name of the Department of Commerce Laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories. Referred to the Committee on Commerce.

Mr. ALLOTT. Mr. President, I am pleased to once again introduce legislation on behalf of myself and Senator DOMINICK to allow an institution in our State to honor a great American. I might note that companion legislation is being introduced in the House of Representatives today by Congressman BROTZMAN.

Under the terms of this legislation, the laboratories maintained by the Department of Commerce in Boulder, Colo., shall hereafter be known as the Dwight David Eisenhower Laboratories.

Mr. President, it is altogether fitting and proper that we honor President Eisenhower in this way. As President, "Ike" was a great friend of science and learning. Under his leadership, America placed great resources at the disposal of the scientific community. This helped the American scientific community to become the most advanced and productive in the world.

President Eisenhower was especially interested in the peaceful uses of science. It is not hard to understand why he was interested in this.

As a great soldier—among the greatest this Nation has produced—General Eisenhower saw the devastating destruction that can be wrought by modern science and technology when they are harnessed to the engines of war.

In the peacetime, for which he fought as a general, and which he preserved as a statesman, President Eisenhower was devoted to the cause of sharing the benefits of knowledge with peaceful peoples everywhere.

Thus, I am pleased to be able to help bring about this honor to a man who deserves to be remembered as a great friend of American science. He deserves a large share of the credit for the scientific achievements which have materialized since he passed from public life. He deserves the honor of being remembered as a great friend of American science. He deserves the honor of being remembered through the Dwight David Eisenhower Laboratories.

Mr. President, it is my fervent hope that the Senate will act favorably on this bill during this session of the Congress.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 740

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 740 the Veterans Advance Education Payment and Work-Study Act of 1971.

S. 2108

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2108, the Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1971.

S. 2219

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2219, the Veterans' Administration Health Manpower Training Act of 1971.

S. 2354

At the request of Mr. CRANSTON, the Senators from Minnesota (Mr. MONDALE and Mr. HUMPHREY) were added as cosponsors of S. 2354 The Veterans Health Care Reform Act of 1970.

S. 2355

At the request of Mr. CRANSTON, the Senators from Minnesota, (Mr. MONDALE and Mr. HUMPHREY) were added as cosponsors of S. 2355, the Veterans' Admin-

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istration Continuing Medical Education Act.

S. 2509

At the request of Mr. SCOTT, the Senator from New Jersey (Mr. CASE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from New Hampshire (Mr. MCINTYRE) were added as cosponsors of S. 2509, to incorporate Pop Warner Little Scholars, Inc.

S. 2709

At the request of Mr. HATFIELD, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of S. 2709, to permit American citizens to hold gold in the event of the removal of the requirement that gold reserves be held against currency in circulation.

S. 2767

At the request of Mr. THURMOND, the Senator from South Carolina (Mr. HOLLINGS), the Senator from New York (Mr. JAVITS), the Senator from Texas (Mr. TOWER), the Senator from Maryland (Mr. BEALL), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 2767, to authorize nonregular military service personnel to elect retirement as early as age 50.

S. 2796

At the request of Mr. MCGOVERN, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2796, the Foreign Assistance Act of 1971.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 633 AND 634

(Ordered to be printed and to lie on the table.)

Mr. ALLEN, for Mr. HOLLINGS, submitted two amendments intended to be proposed to the bill (H.R. 10947) an act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

EQUAL EMPLOYMENT OPPORTUNITIES ENFORCEMENT ACT OF 1971—AMENDMENTS

AMENDMENTS NOS. 635 AND 636

(Ordered to be printed and to lie on the table.)

Mr. ERVIN submitted two amendments, intended to be proposed by him, to the bill (S. 2515) to further promote equal employment opportunities for American workers.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 637

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted amendments, intended to be proposed by him, to the bill (S. 2819) to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 638

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment, intended to be proposed by him, to the bill (S. 2820) to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 252

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of amendment No. 252, to the bill (S. 2108) the "Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1971."

AMENDMENT NO. 563

At the request of Mr. HUMPHREY, the Senator from Utah (Mr. Moss) was added as a cosponsor of amendment No. 563, to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 601

At the request of Mr. HUMPHREY, the Senator from North Dakota (Mr. BURDICK), and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of amendment No. 601, to House bill 10947, supra.

AMENDMENT NO. 630

Mr. RIBICOFF. Mr. President, I am pleased to add my name as a cosponsor of amendment No. 630 to H.R. 9727, the Marine Protection and Research Act.

This amendment, introduced by the Senator from Wisconsin, (Mr. NELSON), would prohibit Federal leases for oil drilling in the Atlantic Ocean off the east coast for 2 years until the designation of marine sanctuaries is made by the Government.

It has become all too clear that the Interior Department and the oil companies have their eyes on possible oil and gas deposits off the east coast. If we who live on the east coast hope to prevent its spoilation, now is the time to act. Before a single exploratory well is drilled the most thorough examination possible must be made of the area in order to protect the vital recreational and environmental resources which still exist.

I hope my other colleagues will give this amendment their support when the Senate considers House Resolution 9727.

NOTICE OF HEARINGS ON THE FEDERAL COURT JURISDICTION ACT

Mr. BURDICK. Mr. President, as chairman of the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, I wish to announce the continuation of hearings on S. 1876—the Federal Court Jurisdiction Act, on proposals for dealing with litigation involving multiple-parties and multiple-States and provisions for resolving certain choice-of-law questions.

The hearing is scheduled for Wednesday, November 17, 1971, at 10 a.m., in room 6202 of the New Senate Office Building.

Any person who wishes to testify or submit a statement pertaining to this subject should communicate with the Subcommittee on Improvements in Judicial Machinery, room 6306, New Senate Office Building—202/225-3618.

NOTICE OF HEARINGS ON PROPOSED DEPARTMENT OF COMMUNITY DEVELOPMENT

Mr. RIBICOFF. Mr. President, the Committee on Government Operations will hold public hearings on November 16, 17, and 18, 1971, on S. 1430, which would create a Department of Community Development.

The hearings will be held each morning at 10 o'clock in room 3302, New Senate Office Building.

ADDITIONAL STATEMENTS

JUSTICE FOR THE VICTIM OF CRIME

Mr. MANSFIELD. Mr. President, I have long advocated the concept of establishing at the Federal level a program designed to compensate the innocent victims of crime. My bill, S. 750, is now pending before the Committee on the Judiciary, and before too long I hope to see action completed there so that the Senate itself can face this most important issue.

Earlier this year I was honored by the request of the Law Review at the University of Houston School of Law to prepare an article on this subject and to set forth my views on victim compensation. I did so; and the article, entitled "Justice for the Victims of Crime," has been published in the Houston Law Review, volume IX, No. I, dated September 1971. I read from the concluding remarks the following statement:

In the last one hundred years, the criminal and the State have dominated the arena of crime and punishment to the injurious exclusion of the victim. To revive at this time the proposition that citizens are entitled to protection and such protection failing, that citizens at least are entitled to be compensated for the losses they suffer from violent criminal action, can only serve to strengthen the social fiber of our Nation.

It is time, Mr. President, that the attention of the Nation be focused on the innocent victim of crime, on his loss and suffering. It is to him that my bill, S. 750, is addressed.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUSTICE FOR THE VICTIMS OF CRIME

(By Senator MIKE MANSFIELD*)

If the brigand has not been caught, the man who has been despoiled shall recount before God what he has lost, and the city and governor in whose land and district the brigandage took place shall render back to him whatever of his was lost.

If it was a life [that was lost], the city and the governor shall pay one mina of silver to his people.[1]

Just as violence in our society has continued from times past so, too, does the concept of compensating victims of violence find its roots planted firmly in the early history of mankind. It is out of a deep personal concern for violence and its effects upon our society today that I seek to revive the concept of victim compensation. In doing so, I have not approached this issue as a lawyer or as a student of the law. I have endeavored to view the matter as one who is concerned that recent efforts to stimulate new approaches for stemming, and even reversing, the ever-rising rate of crime and violence have focused too little attention upon the innocent victims. It is to these victims that my compensation legislation, Senate bill 750, is directed.[2]

To be sure, societies have always suffered the ravages of violent crimes. The earliest reported was Abel's murder at the hands of his brother, Cain. Chronicled daily by the press are crimes of the most heinous nature. In the days of old, punishment was meted out under the dubious rationale of "an eye for an eye, a tooth for a tooth." Presently, our system of justice seems to translate this form of retribution into the consistent abstraction of the state versus the criminal, which often leaves the victim unappeased, the government bogged down in court and the criminal more expert at his trade. At one time, retribution was the fashion and strength—the rule. As social order became more sophisticated, retribution yielded to the action of the group, but the concept of satisfaction for insult or injury remained based on revenge.

By the laws of our society today, the accused is prosecuted for his crime, and if found guilty, punished by the state. The victim, whose cooperation is often essential to the prosecution process, is precluded from inflicting any type of physical revenge. That is at it should be. But his sole recourse within our federal jurisdiction is to seek damages by instituting civil action against the guilty criminal. At best, this has been an inadequate remedy considering the financial condition of most perpetrators of violent crime. In fact, a recent survey of victims of violent crimes indicated a bare 1.8 percent of the victims ever collect anything from their attackers. Yet 74.2 percent of the victims experience economic loss, not to mention the physical damage and suffering involved.[3]

The economic loss and physical pain which accompanies crime is no small matter. Indeed, the President's Commission on the Causes and Prevention of Violence documents the alarming increase in the rate of violent crime. Between 1958 and 1967, for example, violent crimes increased for all ages by 65.7 percent. An even more alarming aspect of these statistics shows that, when the arrest rates for violent crimes are broken down into age groups, there are increases of 222.0 percent among the 10–14 year-olds and 102.5 percent among the 15–17 year-olds.

With the crime rate continuing to rise in such immense proportions, the vociferous cry for law and order has not gone unheeded at the federal level. The United States Senate in the last Congress passed at least 18 major crime proposals.[4] In doing so, it increased substantially the assistance to local law enforcement agencies. This assistance helped provide more training for policemen and more and better police equipment. In short, it afforded to the police some badly needed tools in their fight against crime and violence. However, in spite of all its efforts to provide a safer society, Congress failed miserably to consider those citizens injured by crime.[5]

Focusing more attention on the criminal and less on his victim is an inequity of modern society. The origin of this phenomenon is interesting and telling of our English heritage. In early Saxon England there was a two-fold process whereby a criminal was required to compensate his victim and pay a fine to the king as well. Such a system seems to have been a well-balanced recognition of crime as affecting both society generally and the victim individually. Gradually a system was substituted which put the defendant's life totally at the king's mercy and removed the victim's right to reparation.

"Without entering into a detailed recitation of judicial history, this brief explanation is offered to demonstrate that where once the individual victim was the primary force behind the process of redressing private wrongs, he ultimately yielded his responsibility to the state. The state in the form of the king and his ministers willingly accepted this role deciding, apparently, that doing so limited acts of revenge. This permitted a more effective suppression of unplanned or nonstate violence and social strife. Secondly, the state's expanded authority offered wider protection.

"Whatever the reason, however, the modern result has established the combination of state versus criminal, to the virtual exclusion of the victim. Such a policy abrogates any social contract that is thought to exist between the citizen and his society. The average citizen pays his taxes and obeys the laws imposed by society. In return he expects, some would argue on a contractual basis, to be protected by those laws from illegal acts which result in injury and suffering to him. In short, if society fails in its efforts to provide basic protection, then the social contract has been breached; the citizen has suffered. To him there is no particular non-punishable recourse available other, perhaps, than overt apathy. Reflective of this growing apathy has been the significant increase in the number of cases where victims refuse to become involved; not witnesses, not to assist the prosecution, not in preventing the crime, not in assisting a police officer. It should be added that this reaction is not limited to the immediate victim but is extended to witnesses, to the victim's relatives, to his friends, and neighbors. This is not surprising, if you recognize the fact that less than 2 percent of the victim population ever received any type of restitution.

Overt apathy or non-participation by citizens in regulatory functions of society may become a critical problem during the last quarter of the 20th century. Whereas our technology has grown, our interactions have increased, and our communications have expanded, an increased need for recognized social responsibility by *all* citizens has become a necessity. In the past Horace Greeley's admonition to the reckless and irresponsible to go West was an attempt at alleviating social tensions. But today, citizens must recognize that through their plain apathy, they commit crimes against society. The elected representatives need to become cognizant of the need for legislation that would encourage, in fact reward, acts that were socially responsible. Social contracts, as has been the case with most contracts, are much more complicated today than at any time in the past; but if those contracts are to be weakened and violence is to spread at the rate it is speeding presently, it is my strong feeling that our society will help bring about its own downfall. As Thomas Babington Macauley inferred in a letter to an American friend during the 19th century, the United States will not fall by external invasion, but instead will fall by internal dissent, division, and violence.[6]

It has been said that the institutions of justice have become more concerned with the protection of the rights of the criminal than with the need for law and order in society. To an extent, I would agree. But I feel the major emphasis is misplaced. To me, a major liability within the present system of criminal justice is its utter failure to consider the innocent victim. This is the whole basis for my interest in reviving the concept of victim compensation. Though employed in the past to inhibit the practice of revenge, I believe the concept is equally applicable in today's society where the citizen has come to rely so greatly upon safety and police facilities, as furnished at the local, state, and federal levels.

Another aspect of the problem concerns the government's task of rehabilitating criminals. Though these efforts have been totally inadequate, it is government's failure to succeed in this endeavor which certainly has aggravated, if not generated, the whole problem of recidivism. How much violent crime, it should be asked, is committed at the hands of the recidivist who has been released upon society from a penal institution that served only to mold him into a more hardened and bitter criminal than he was when first incarcerated? His innocent victim has been doubly cheated by society. Not only has society failed to protect him with sufficient police and safety facilities, but its penal institutions have actually created a more serious threat to law and order by serving as graduate schools for criminals.

As a matter of public policy, social compensation programs are not revolutionary notions. Indeed, there is great similarity in rationale and origin between the notion of compensating workers, assuring them of a reasonably safe place in which to work, and compensating victims of crime, assuring them a reasonably safe society in which to live. Just as rapid industrialization increased hazards for the worker, so did the rapid urbanization of the 20th century create social conditions which set the stage for the substantial increase in recent crime statistics. Furthermore, just as the worker was frustrated in his attempts to recover damages, so, too, has the victim of crime today been frustrated. In many cases the offender is not apprehended. When he is, he is often destitute. Further complicating this latter difficulty is the fact that present penal methods deprive the offender of his ability to make restitution, as he is deprived of any means of obtaining a gainful livelihood.

Along with the worker compensation concept, other steps have been taken in the past 30 years which manifest society's abandonment of laissez faire attitudes when facing matters of collective community need. Social security, medicare, aid to dependent children, assistance for the handicapped, the aged and the blind, ideas of no-fault insurance, and national health insurance all reflect a recognition of collective societal responsibility. Fulfilling this responsibility with regard to victims of crime is no easy task. Senate bill 750 attempts to face the problem. If adopted, it would by no means represent the first such step taken within today's family of nations. Within the last ten years, New Zealand, England, and some provinces in Canada and Australia have all enacted governmental programs of compensation for innocent victims of violent crimes. In addition, our States of California, Hawaii,

Footnotes at end of article.

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Nevada, Maryland, Massachusetts, and New York all have enacted some type of compensation program. My colleague, the former Senator from the State of Texas, Ralph Yarborough, introduced a crime compensation bill in both the 89th and 90th Congresses.

The main features of my bill currently before the Senate deserve some explanation. First of all, the bill would create a three-man Violent Crime Compensation Commission. The Commission would compensate innocent victims for injury or death resulting from any one of 16 offenses. The 16 offenses could be grouped generally under the headings of homicide, assault, and sexual offenses, all occurring within the federal criminal jurisdiction. There would be a maximum limit of $25,000 for each award. It would be the Commission's duty to examine the evidence presented, both to determine what level of compensation should be granted and whether in fact the person making the claim is an innocent victim.

With some limitation, the Commission could order the payment of compensation on behalf of the injured victim to the person responsible for his maintenance, to his dependents or closely related survivors. The authority of the Commission to award compensation would not be dependent on prosecution or conviction of the accused for the offense giving rise to the injury.

As far as what types of losses are covered, the proposal would provide compensation for expenses incurred as a result of the victim's injury or death, for the loss of his earning power, for pain and suffering and for any other pecuniary losses which the Commission deems reasonable. Compensation would be denied where the victim was, the time of the injury or death, living with the offender or in any case where the Commission finds that unjust enrichment would result to or on behalf of the offender. Decisions and orders of the Commission would be reviewed by the appropriate Courts of Appeals. A most important provision would allow the Commission, where possible, to recover from a convicted assailant the amount of any awards granted as a result of his crime.

There is also provided a grant program which would encourage States to establish crime compensation systems within their individual criminal jurisdictions. At this stage, the provisions of S. 750 are by no means final. Indeed, at an appropriate time during the legislative process, many of its features will undergo close examination, and undoubtedly, changes will be made. This is an essential purpose of the legislative process.

Recently, President Nixon recommended a special compensation program for survivors of policemen killed in the line of duty. It would seem appropriate that such a program be considered along with, and as a part of, S. 750. There are additional aspects of victim compensation that deserve greater examination and clarification. For example, the whole matter of the projected costs for implementing crime compensation on the federal level must be examined. The possibility of tying rehabilitation and restitution to compensation also has been raised. That, too, should be explored.

Indeed, many questions need to be clarified before a federal program allowing the compensation of innocent victims of violent crimes can be established. The objective in introducing this proposal is to begin the process. Before this Congress adjourns in 1972, it is my hope that the process will be complemented, and there will be established on the federal level the principle that violent crime is a three-party affair which includes the victim, the criminal and the state. In the last 100 years the criminal and the state have dominated the arena of crime and punishment to the injurious exclusion of the victim. To revive at this time the proposition that citizens are entitled to protection, and such protection failing, that citizens at least are entitled to be compensated for the losses they suffer from violent criminal action can only serve to strengthen the social fibre of our nation.

FOOTNOTES

*U.S. Senator (D., Montana).

[1] The Code of Hammurabi, §§ 23–24, *cited* in C. JOHNS, THE OLDEST CODE OF LAWS IN THE WORLD 6–7 (1903).

[2] S. 750, 92d Cong., 1st Sess. (1971). A similar bill was introduced on December 10, 1970. S. 4576, 91st Cong., 2d Sess. (1970).

[3] *Hearings on S. 2936 Before the Senate Committee on the District of Columbia*, 91st Cong., 1st Sess., at 127 (1969), *quoting* A. LINDEN, THE REPORT OF THE OSGOODE HALL STUDY ON COMPENSATION FOR VICTIMS OF CRIME 11 (1968.)

[4] Crime bills passed by the 91st Congress include: Omnibus Crime Control Act of 1970, Pub. L. No. 91–644, 84 Stat. 1880 (Jan. 2, 1971); Comprehensive Drug Abuse and Control Act of 1970, Pub. L. No. 91–513, 84 Stat. 1236 (Oct. 27, 1970); Organized Crime Control Act of 1970, Pub. L. No. 91–452, 84 Stat. 922 (Oct. 15, 1970); Criminal Justice Act of 1970, Pub. L. No. 91–447, 84 Stat. 916 (Oct. 14, 1970); Postal Reorganization Act of 1970, Pub. L. No. 91–375, 84 Stat. 719 (Aug. 12, 1970); District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. No. 91–358, 84 Stat. 473 (July 29, 1970); Omnibus Judgeship Bill of 1970, Pub. L. No. 91–272, 84 Stat. 294 (June 2, 1970).

[5] Actually, the Senate passed a victim compensation program for the District of Columbia, including it as a part of the District of Columbia Court Reform Bill. 116 CONG. REC. S. 4387 (daily ed. March 24, 1970). The provision was dropped by the Conference Committee on the matter and never became law.

[6] Letter from Thomas B. Macauley to Henry S. Randall, May 3, 1857, on file in the Library of Congress, Macauley said:

"Your republic will be as fearfully plundered and laid waste by barbarians in the 20th century as the Roman Empire was in the Fifth, with this difference: that the Huns and Vandals who ravaged the Roman Empire came from without and your Huns and Vandals will have been engendered within your own country, by your own institutions."

URBAN MASS TRANSIT

Mr. CASE. Mr. President, last week, 37 Members of this body, myself included, joined in writing to the President to urge speedy allocation of the $900 million Congress provided for urban mass transit in fiscal 1972.

It was most gratifying to have so many Senators sign the joint letter. I am confident the President will be impressed. More important, however, we hope he will act promptly to make the $900 million available to the urban mass transit program.

Mr. President, I ask unanimous consent that a press release listing the names of the cosigners and carrying the text of our letter be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

Thirty-seven members of the U.S. Senate joined today in asking President Nixon to speedily allocate the $900 million Congress provided for urban mass transit in fiscal 1972.

Led by Senators Clifford P. Case (R-N.J.) and Harrison A. Williams, Jr. (D-N.J.), the 37 senators made their views known in a letter to the President.

The senators said that after years of neglect the cost of revitalizing and expanding urban and suburban transportation systems will be substantial. They cited as one measure of the cost the $2.6 billion backlog of applications for Federal mass transit assistance.

"That the states and cities will not be able to undertake the job on their own is beyond question," the letter stated. "They understandably must look to the Federal Government as their principal source of financing."

The senators said they had been advised that the full $900 million could be committed during the present fiscal year, and that a substantial portion could be used "quickly" to create jobs in the present period of high unemployment.

Last March, 28 senators signed a letter urging the Administration not to go through with plans to reduce the fiscal 1971 mass transit program from the $600 million provided by Congress to $400 million. The 37 signing the current letter were:

Gordon Allott, Birch Bayh, J. Glenn Beall, Jr., Lloyd Bentsen, Edward Brooke, James L. Buckley, Clifford P. Case, Frank Church, Alan Cranston, Thomas F. Eagleton, David H. Gambrell, and Robert P. Griffin.

Fred R. Harris, Philip A. Hart, Vance Hartke, Mark O. Hatfield, Harold E. Hughes, Hubert H. Humphrey, Jacob K. Javits, Edward M. Kennedy, Warren G. Magnuson, Charles McC. Mathias, Jr., George S. McGovern, and Walter F. Mondale.

Edmund S. Muskie, Gaylord Nelson, Robert W. Packwood, Claiborne Pell, Charles H. Percy, Jennings Randolph, Abraham Ribicoff, Richard S. Schweiker, Hugh Scott, Adlai E. Stevenson, III, Stuart Symington, Lowell P. Weicker, Jr., and Harrison A. Williams, Jr.

The text of the joint letter follows:

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We urge the speedy allocation of the $900 million provided by Congress for the urban mass transit program in fiscal 1972.

There is ample justification for committing the full amount of this appropriation.

After years of neglect, the cost of revitalizing and expanding our urban and suburban transportation systems will be substantial.

One striking measure of the cost is the backlog of applications for Federal assistance placed with the Urban Mass Transit Administration. It presently totals $2.6 billion.

That the states and cities will not be able to undertake the job on their own is beyond question. They understandably must look to the Federal Government as their principal source of financing.

Under the 1970 law, which expanded the mass transit program, it will be possible to provide $3 billion over a five-year period to help finance mass transit improvement. However, if the program is to meet the need, as well as live up to the expectations it has created, it must be adequately funded.

The Administration request for a $600 million program level is a step in the right direction. Under this approach, $510 million would be allocated to capital grants, the heart of any effort to replace, improve and expand local bus, rail and subway systems.

Yet we believe that at least the full $900 million appropriated by Congress is needed. Under the Congressional figure, the allocation to capital grants will be $810 million.

The Urban Mass Transit Administration advises that it can commit the appropriated amount between now and the end of the present fiscal year next June 30. In addition, it believes a substantial portion of the $810 million can be put to use quickly on existing construction projects and thereby create jobs in this period of high unemployment.

Mass transit stands at a critical juncture. Without adequate support from the Federal Government it surely will fail in the vital job which only it can perform.

The Federal Government has made a commitment to help the thousands upon thousands of people living in our metropolitan areas deal with their serious transportation problems. We must meet that commitment.

It is essential that the $900 million be made available promptly.

ADDRESS BY GOV. GEORGE C. WALLACE OF ALABAMA

Mr. ALLEN. Mr. President, at a Veterans Day observance on October 25, 1971, Alabama's Gov. George C. Wallace spoke to members of the Medal of Honor Society at a world peace luncheon in Birmingham, Ala. The State of Alabama was honored by the presence at the luncheon of 135 Medal of Honor winners along with distinguished members of the Armed Forces. It was my pleasure to be in attendance together with Senator SPARKMAN and other members of the Alabama congressional delegation.

Today, as never before, the Armed Forces and the Military Establishment in general are under continuous bombardment in the form of demeaning faultfinding which, by reason of its scope, intensity, and virulent nature, impairs the effectiveness of our Armed Forces and thus threatens the security of the United States. For this reason it was refreshing to hear Governor Wallace speak out in his characteristically forceful and forthright manner in defense of our veterans and on critical aspects of our national defense posture.

Mr. President, I commend Governor Wallace's address to the thoughtful consideration of Members of the Senate and the public in general. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY GOV. GEORGE C. WALLACE

Members of the Medal of Honor Society, Mr. Chairman, Mr. Secretary, General Doolittle, Dr. Whitely, General Davis, General Haines, distinguished members of the Armed Forces, Senator Allen, Senator Sparkman, members of the congressional delegation, and veterans of the wars in which our Nation has participated. As Governor of this State, let me extend to you a sincere and warm welcome, especially to you who are from without Alabama, and to the Secretary of the Air Force, the Honorable Robert Seamans. We are very grateful that you decided to come or could come here to participate in this affair in Alabama. We are grateful to you and thank you for your visit. Of course, we saw General Doolittle last night at the municipal auditorium—his heroic exploits of a few years ago in World War II will always be remembered in the history of our country. I'm sure that as we pause here a moment on this Veteran's Day, we should think about those who are missing in action in the Vietnam war and those who are prisoners of war as their plight, of course, is with us. It is with those who are in official positions in Washington and let us continue to think and pray for them to soon return to their families.

I said last night and I'll say it again to the television audience and you who are present today that I can think of no other visit that has brought honor and credit to our State and to the city of Birmingham and Jefferson County than to have had in our midst some 135 Medal of Honor winners. I think that this is the most distinguished group that has ever visited the State of Alabama. I had the pleasure of meeting a great number of you in Daytona Beach, Florida, a few years ago and told you that I hoped some day you would come to this State. I had the pleasure of seeing General Haines in Southeast Asia some time ago in Taiwan, in the city of Taipei in free China.

There's an inscription on a monument at one end entrance of our state capitol which ends with "The Name of Patriot Stands Alone". I think today in this liberal, dubious world in which we live, especially among some hue of our leadership in the country, we should understand and recognize, and we do in Alabama, that the name "patriot" still stands alone. Surely these medal of honor winners who have gone beyond the call of duty have honored us by coming here to Alabama.

My brief part on this program not only is to welcome you to the state of Alabama and to thank the secretary of the air force and others for being here, but also to talk briefly on Alabama's military role. I think that all of those in the armed forces who are here today know that for the record that Alabama has participated in all of the wars in which this nation has been involved from its inception. So, I'm not going into detail about that. I think that the people of Alabama are as patriotic as the people of any state. Not that we are any more patriotic, but at least when we are involved, the question of right or wrong in this involvement dissipates in Alabama, and we stand with our servicemen.

In the few moments that I have here, I'm going to say what I believe is Alabama's feeling about the present status of the thinking in the country about armed services and to say that I am grateful to the armed services, and I sometimes deploy and sometimes I'm frustrated at the attitude in certain circles among those whose slogans seem to be to disarm the United States. I'm one who believes in peace through negotiation and that is the belief of Alabamians, but we also believe that you cannot negotiate for peace unless you negotiate in strength, and when you sit down with the enemies of the free world, unless you are strong, nothing in my judgment comes of the negotiations.

We in this country have been told that strength is weakness and weakness is strength—but this is not true. We have been told that parity rather than superiority in military weapons and munitions is sufficient to assure the keeping of the peace and the protection of this country—but this is simply not true. We have been told that a "deterrent" capability in maintaining peace and assuring freedom from attack, and we have also been led to believe that the commitment of our military forces need not always be followed by a quest for victory—this is not true.

I strongly disagree with the concept of parity and in its stead call for superiority in order that any President of the United States, whoever he might be, can walk, not crawl, to the negotiating table.

Let me hasten to say that I can be placed among those numbers who look forward to the day when effective bilateral and multilateral disarmament takes place. But until that day comes, and I pray to God that it comes soon, we must constantly evaluate and upgrade our national defenses. There are those in high places in this country today who would relegate this nation to a second-rate military power. And I am fearful that many of our citizens do not realize how close we are to being a second-rate power now. The respected institute of strategic studies in London tells us that as of September 1, 1971, the Soviet Union not only achieved parity in land based intercontinental ballistic missiles with the United States, but that its strength in that area exceeds ours by 45%. In the five years from 1965 to 1970, the Soviet Union virtually quadrupled its strategic missile force. During that same period, the United States reduced its megatonnage by more than 40%. I might also point out that during the same period when it was recommended that the United States construct many silo-type missile sites for intercontinental ballistic missiles, the voice of those doves in Washington rose loud and above all the others to say that we ought not to spend the money and were able to effectively block the construction of ICBM sites which would have probably given us an effective ballistic missile defense.

I say that we must improve and upgrade our national defense system.

It is good to talk for disarmament. It is good to hope for disarmament. But those who advocate disarmament above national security are in for a rude awakening if they think the Communist nations have lessened their quest for more complex, more sophisticated, and more destructive weapons. The best way to insure peace is to maintain a posture of defense so strong that any nation will be fearful of the thought of promoting war.

We need strong new emphasis on research and development in the area of weaponry and mobility as well as other areas vital to our security. We need to proceed with the upgrading and installation of an anti-ballistic missile defense for the protection of our Nation and its citizens.

Yes, we need all of this and even more, we need to guarantee that American troops will never again be committed with less than total support of all available resources, moral and material—and with a commitment and desire for victory by the leaders and people of this country.

In the words of Donald E. Johnson, administrator of Veteran Affairs, Veterans Administration, "the future security of our Nation demands that the attitude of the American people toward our Armed Forces be changed. It is true that our service men in Vietnam, and our veterans returned from Vietnam, have fought not only the longest war in American history, but the loneliest and most personally tragic as well.

"Not only because their service and sacrifice are unappreciated, but even more because their service and sacrifice have been largely ignored.

"Their return home has been marked, not by parades and banquets and bands, but too often by indifference and even hostility.

I think that the indifferent and hostile attitude toward the military by some in this country is shameful—and I want you to know that we in Alabama and in Birmingham do appreciate the many sacrifices that those who have served in our military have made for us. I am proud to have had the opportunity to serve during World War II and I think it is a great honor to serve.

As I conclude, I want to leave you with the words of a great veteran poet of some 250 years ago:

"God and the soldier we adore,
In time of danger, not before
The danger past and all things righted,
God is forgotten and the soldier slighted."

THE CANNIKIN TEST

Mr. ALLOTT. Mr. President, in a warm editorial in the Saturday edition of the New York Times, the editors waxed theological on the subject of the Cannikin test.

They concluded with these words:

However, if the Supreme Court fails to intercede today, an underground explosion 250 times greater than Hiroshima will take place as planned. Let us pray.

Indeed, let us pray frequently, and for a variety of purposes. It is a pleasure to see the New York Times, which has

spilled much ink in the effort to keep prayers out of school, praying vigorously.

And their prayers, like the Cannikin test, seem to have worked. There were none of the earthquakes, tidal waves, and sundry other calamities which some apocalypticians predicted would result from the test.

Let us hope that Cannikin yielded the information that we needed, and that such tests will be of diminished importance in an increasingly peaceful world. Meanwhile, let us just enjoy the spectacle of the New York Times worshiping something other than itself.

FORT HUNT HIGH SCHOOL SYMPHONIC AND MARCHING BAND

Mr. BYRD of Virginia. Mr. President, we hear much these days of young people with problems, but I wish to salute today a group of young people who have made an outstanding record for themselves.

They are the members of the Fort Hunt High School Symphonic and Marching Band. Under the direction and leadership of Mr. Frank B. Wickes they have established themselves as one of the best high school bands in the Nation.

The Fort Hunt High School band has won numerous awards in the last 2 years. Now the band has received an invitation to participate in the International High School Band Festival in Vienna, Austria, in July 1972. Less than 2 percent of all of the high school bands in the United States were even considered by the Festival Invitation Committee, and the Fort Hunt band will be the only high school band representing Virginia.

The International Band Festival, conceived by the Austrian Government to highlight its "Youth Year—1972," has the official endorsement and cooperation of the Government of the Republic of Austria, and is under the patronage of the Federal Minister of Education. The Festival Committee has invited bands from more than 30 countries in the free world.

While in Austria the Fort Hunt band will join the other festival bands in the presentation of open-air concerts in the city's parks, compete for festival awards and the prize of the city of Vienna, and enjoy the cultural and entertainment attractions of one of the world's most musically historical capitals.

I wish them every success, and I am proud that this fine group of young people will be representing Virginia in Vienna.

ENFORCEMENT POWERS OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. BAKER. Mr. President, when the Senate considers S. 2515, whether in the remaining days of this session or in the early days of the next, it will have to make a fundamental decision with respect to the operation of the Equal Employment Opportunity Commission. That fundamental decision is whether enforcement powers should be vested in the EEOC itself or in the Federal courts. I, for one, believe strongly that such authority should be left to the judiciary.

Perhaps the most prominent and effective spokesman for such a course is the able Senator from Colorado (Mr. DOMINICK) who succinctly stated his views on the matter in an article published in the journal Nation's Business of October 1971. I ask unanimous consent that the article, entitled "Let's Be Fair About Equal Employment," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Nation's Business, October 1971]

LET'S BE FAIR ABOUT EQUAL EMPLOYMENT

(By Senator PETER H. DOMINICK)

Picture yourself as an employer visited one day by an investigator from the Equal Employment Opportunity Commission.

His agency, he says, has received a complaint that you have discriminated against a job applicant. From then on, everyone you're up against is a member of the same team.

The first man goes on to investigate, and to file a formal complaint—with the EEOC.

The same agency arranges a hearing at which another EEOC employee is the prosecutor and still another is the trial judge. When a decision is handed down, other EEOC employees proceed to act as a reviewing authority.

If you're dissatisfied with their judgment, you can—after the time and expense of that drawn-out process—embark on new, lengthy and costly litigation in a U.S. Court of Appeals. But only after the EEOC has finished.

Many situations like that could come about under the approach urged by some members of Congress.

There is no doubt that the time has come for Congress to provide an enforcement procedure which would give substance to the purposes of the legislation that established the Equal Employment Opportunity Commission.

But the key to reaching this goal is a workable structure that would be fair to both employee and employer.

That is why I believe the enforcement powers should be vested in the federal courts and not be turned over to the EEOC itself in the form of "cease and desist" authority.

Under the latter arrangement, to which I have strongly objected, the Commission would be empowered to go around the country issuing orders to employers, after the type of proceeding described above, to refrain from alleged discrimination in hiring and on the job.

When Congress established the EEOC under the Civil Rights Act of 1964, it was given authority to investigate complaints of discrimination in employment and to try to resolve grievances through conciliation procedures.

While the EEOC had no mandate to enforce fair employment practices, there were immediate demands for legislation to give it those powers.

However, Congress has been divided over who should have the enforcement powers—the EEOC itself or the courts. The House last month passed an Administration-backed bill to turn the job over to the courts. But some Senators favoring the "cease and desist" approach hope to revise the legislation along those lines when the Senate considers it later this year.

POLICY INTO REALITY

I strongly believe in translating the policies embodied in the Civil Rights Act into concrete realities for working men and women in this country who have been denied employment opportunities because of race, color, religion, sex or national origin.

In my opinion, the way to do it is through a plan such as the one passed by the House.

Under this plan, the Commission would first seek to obtain voluntary compliance with the law by specifying immediately the nature of the complaint and advising the employer that he was violating the law.

If a satisfactory agreement could not be reached through negotiations in this manner, the Commission would be free to bring its own direct action against the employer in a U.S. District Court.

Using established judicial procedures, the Commission could—pending a final ruling—request a preliminary injunction or temporary restraining order.

If a court, after hearing the case, decided a violation had occurred, it could enjoin the employer from engaging in the unlawful practices. The court also could order whatever relief was considered appropriate, including hiring of employees, or reinstatement with or without back pay.

There are many reasons why the judicial approach is superior to administrative "cease and desist" procedures.

The principal objection to the administrative approach is that it harkens back to the "Star Chamber" proceedings outlawed in England more than 300 years ago. That is, the EEOC would, in effect, become investigator, prosecutor, trial judge and judicial review board—all before you ever got to the Court of Appeals!

I do not believe this is appropriate for any Executive agency of government.

Furthermore, as a practical matter, EEOC Chairman William H. Brown III has told the Senate Committee on Labor and Public Welfare that his agency has a case backlog of 18 to 24 months. If it is unable to handle the load under the present arrangement, there seems little likelihood it could begin issuing cease and desist orders for quite some time.

Chairman Brown estimated it would take almost two years to set up a trial examiner procedure, and substantial staffing of trial examiners and new lawyers would be needed to conduct the adjudication procedures before the Commission itself.

We already have over 90 federal district courts and nearly 400 judges for those courts.

Under the judicial approach, where there was a legitimate case, the Commission could take it right into one of those courts—already set up, staffed and paid for.

Naturally, use of the existing court system would mean more immediate action than the cease and desist method, which would be more than two years down the road, even after a bill had been signed into law.

OTHER WORRIES

And the judicial approach, course, would bring together and preserve both the expertise of the EEOC in investigating, processing and conciliating unfair employment cases and the expertise and freedom from shifting political winds of the federal courts.

There are other matters of concern to many businessmen in proposals for changes in the law.

For example, Chairman Brown indicated in testimony last year that remedies for discriminatory practices should reach back to the effective date of the Civil Rights Act—July 2, 1965.

Consider the threat of the enormous back pay liability that would confront employers! A fairer solution would be limiting liability to two years prior to the date a complaint is filed. This is not an unprecedented procedure—the Fair Labor Standards Act has followed it to the satisfaction of most parties for many years.

Of equal concern to many businessmen is the Commission practice of conducting full-scale personnel audits of an employer's company-wide employment practices whenever a charge is filed against him.

Unfortunately, in too many cases, little attention is paid to the specific charge, and the Commission engages in fishing expedition, looking for evidence to support allegations of a "pattern of practice" of discrimination. This type of action is of no direct benefit to the individual filing the original complaint, because action on his limited grievance more often than not is abandoned or delayed while the Commission is engaged in the broad investigation of the entire company.

So the employee suffers and the company suffers. This inequity should be corrected in any new legislation.

DOING THE JOB—PROPERLY

In summary: There is a need to put some teeth into the equal employment section of the 1964 Civil Rights Act—and to avoid inequities.

The EEOC cannot do its job unless there are some enforcement powers behind it. Because of this immediate need, and because of my belief in the separation of powers among the three branches of this government, I maintain that use of the courts is the proper way.

That approach would give the EEOC the power it must have and, at the same time, insure that the procedures would be workable—and fair to all.

NEW CITIES FOR THE SEVENTIES

Mr. MOSS. Mr. President, it is important that the Nation direct its technical talents toward its real needs, the resolution of our urgent social problems. This morning the Senator from Massachusetts (Mr. KENNEDY), spoke on this issue to the northeast electronics research and engineering meeting of the Institute of Electrical and Electronics Engineers.

I ask unanimous consent that his statement entitled, "New Cities for the Seventies," be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR EDWARD M. KENNEDY

I welcome this opportunity to address the Northeast meeting of the IEEE. As Chairman of a Senate Subcommittee on Science since 1968, I've had more opportunity than most members of Congress to get to know the members of the technical community—to understand your problems and to appreciate your boundless potential to contribute to the public good.

Each year that I've steered the National Science Foundation budget through the Senate I've been enormously impressed with the untapped ability of engineers to tackle the nation's problems. At the same time, as I've led the fight in Congress to maximize utilization of technical manpower, I've been appalled at the shocking waste of talent and resources which the Administration has permitted.

This laissez faire approach is unacceptable. The nation must have a strong science policy. We cannot continue to bury our technical talent under a cloak of official apathy.

My work on these issues makes one point abundantly clear: America's strength springs from the skill of its people. Scientists and engineers possess a large measure of those skills. The nation needs all the talent it can muster to surmount its present problems.

Yet at this time of maximum need, between one and two hundred thousand technical personnel across the country are out of work, or employed in jobs below their skills. Since each working engineer generates six to ten other jobs, this means a potential loss of over a million jobs throughout the nation. And it means that it will take us that much longer before we can bring our social problems under control.

We must put our engineers back to work, and we must direct their efforts toward the nation's real needs. Technical innovation must become as vital a part of the civilian economy as it has been in defense and space. This is the way to create jobs, strengthen our international economic position, and improve the quality of our lives.

Over the long-run, the key to technical innovation lies in the private sector. But industry will use technology to innovate only to the extent it finds it profitable to do so.

Government has the responsibility to set the framework of tax laws, patent policies, and other incentives which determine the profitability of technical ventures. I am currently developing such measures, and intend early in the next session of Congress to introduce legislation designed to foster technical innovation in the civilian economy.

But our present problems cannot wait on long-term solutions. Strong government action is needed now to put our technical talent back on track.

For the past two years, I have been engineering a legislative program on economic conversion—to put over technical talents where our problems are. In August 1970 I introduced the first bill on Conversion Research and Education. By January 1971, the bill had been strengthened and re-introduced as the Conversion Research, Education, and Assistance Act. Last March I added the Economic Conversion Loan Authorization Act. And last month I introduced the New Cities Research and Experimentation Act.

Taken together, these bills can provide the propulsive thrust needed to get our technical work force moving again.

Most of you in this audience chose a career in engineering with confidence in your job security and the contribution you would be able to make to society. National leaders and career counselors urged you to enter engineering to serve your nation, fulfill your potential, and achieve a rewarding life for yourselves and your families.

Yet today engineering jobs are on the decline and the profession is on the defensive. Last week I held hearings on my conversion bills and was deeply distressed at the witnesses' testimony.

A 59 year old engineer from Lincoln, Massachusetts testified that he had been out of work for 16 months. After 14 years with his last employer, he received 4 days notice before separation. But although the human being was discarded, his ideas remained the property of the firm. The company has since received patents on two applications he had pending before his dismissal.

A communications engineer from Cherry Hill, New Jersey led the team which designed the antenna for the Lunar Rover vehicle on Apollo 15. As you know, this antenna permitted the astronauts to transmit their findings as they explored the surface of the moon. The design was so successful that the engineer received a special commendation from NASA for his leadership. He also received a layoff notice from his firm shortly before he watched his antenna in action on the surface of the moon.

Another unemployed engineer from Newton, Massachusetts told of his experience leading a self-help group of unemployed engineers. He described the severe impact on the individuals and their families—the suicides, nervous breakdowns, and broken families which were all too prevalent.

And a 59 year old aeronautical engineer from Seattle, unemployed for 13 months, told how earlier in his career he had turned down an opportunity for a tenured professorship at a leading university because he did not want to give up his work on government sponsored aerospace programs.

These are typical of the countless examples with which all of you are familiar. Other witnesses at the hearings showed the extent of technical unemployment and corroborated the experience of these individuals.

These are not people who have lost their jobs through any fault of their own. They are highly competent individuals who have performed successfully over the years, and have now been placed on the shelf because of shifting national programs far beyond their control.

For many of them it is impossible to find professional employment in the present market. And when they try instead to become cab drivers, construction workers, or shoe salesmen, they are told they are too old or too well qualified.

And current government assistance programs are not addressed to their needs. Normal unemployment compensation, health insurance, welfare and food stamp programs are not designed for the families of professionals who have been earning $15,000 a year or more.

But the most important point which emerged from the hearings was the great potential this group possesses to contribute to the nation's needs. Engineers who can produce patents for their former employers can provide ideas which will benefit society. Engineers who can transmit data from the moon can help meet the data processing needs of our technological economy. And engineers who could have taught at our leading universities must have some lessons to offer of benefit to all of us.

The problem is not with the engineers, but with the lack of Government policy for engineering. The economic conversion bills which I have introduced in the Senate attempt to fill that gap and meet four basic goals: First, we must establish a framework of national science policy which assures the nation the maximum benefit from its technical resources. Second, we must create 200,000 technical jobs which tackle the real problems of our society. Third, we must aid communities, companies, and individuals in making the difficult transition into those jobs. And fourth, we must provide interim financial aid to unemployed technical personnel until the new programs are operational.

My proposal for creating many of the necessary jobs is the New Cities Research and Experimentation Act, which authorizes $1 billion for the design and development of much needed new cities.

Lately it has become fashionable to say that our cities are ungovernable, that their problems are insoluble. I cannot accept this pessimistic view. Surely, the scientific skills and organizational knowhow which carried us to the surface of the moon can teach us to move expeditiously over the face of the earth. Surely, the nation that produced the most powerful industrial system in history can learn to adapt its technology to present problems and future needs. Surely, the people who tamed a wilderness and created our modern civilization can unsnarl our cities and make them livable, once again, for man.

The Conversion Research, Education, and Assistance Act meets two of the other basic goals. For the first time in our history, it establishes a civilian science policy for the nation:

Full-employment for scientists and engineers, in positions commensurate with their skills.

Parity in Federal expenditures for civilian and military research and engineering.

Annual growth in the Federal investment in science and technology, in proportion to the growth in the GNP.

This Act also authorizes $500 million for aid to communities, companies, and individuals in making the difficult transition to civilian, social programs. Such aid would encompass financial, technical, and educational assistance.

Key programs include: $63 million to establish Community Conversion Corporations; $45 million to enable State and local governments to employ scientists and engineers, and to plan technical programs for their regions; $45 million to help small technical firms convert to civilian projects; and $225 million to provide unemployed technical personnel with

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placement, and relocation assistance, and reorientation and on-the-job training.

The remaining goal of my proposed conversion program is met by the Economic Conversion Loan Authorization Act. This bill authorizes $300 million to provide government guarantees and interest assistance payments for long-term, low-interest, loans to unemployed scientists and engineers. They would be able to borrow up to $12,000 and have ten years to repay the loans after they were reemployed in high paying jobs.

They would, in effect, be mortgaging their future earnings to meet their present commitments. This measure is financially sound because we know the nation cannot let this reservoir of talent remain unemployed. As a whole this group must return to work, and its members must once again earn high salaries.

But the crux of my conversion legislation is the New Cities Bill. This is the means to create the civilian market for technical personnal and to direct their talent toward our real problems.

The New Cities Research and Experimentation Administration would function in much the same way as NASA; except that it would focus on the problems of the cities rather than outer space. The new Administration would sponsor the design, testing and demonstration of urban systems in: transportation, communication, housing, water supply, energy supply, public safety, fire fighting, health services, education, and environmental systems.

Thus, for example, the transportation systems contract could stipulate a mass transit system which would pick up and deliver 75% of the city's population from within ¼ mile of their home to ¼ mile of their job while meeting acceptable standards of cost, time, cleanliness, comfort, and impact on pollution levels. Similar contracts could be awarded for solid waste disposal systems, power systems, communication networks, and health services.

The resulting systems would be publicly demonstrated for use in new cities and in improving the conditions within existing cities. The new agency would catalyze technical innovation throughout civilian industry.

Thus the New Cities Program can serve as the dramatic focus for science in the decade of the Seventies, in much the same way as the space program did in the decade of the Sixties. But the results will be of direct benefit to all our citizens here and now—not at some future date.

Whether our present situation is remembered as a crisis, or a new beginning depends on what we do with it. For the first time in history our nation has a vast surplus of unused technical talent which can and must be put to work. If we seize that social opportunity and meet that technical challenge, we can redirect our extraordinary scientific imagination to our real problems. We can resolve the crisis of the cities, restore the integrity of the environment, and enhance the quality of our lives.

In the spring of 1961, President Kennedy challenged the technical community to place a man on the moon within a decade. The nation's engineers responded magnificantly, and the race was won.

But now ten years later, the team is marking time while we search for a new target. The target I propose is New Cities for the Seventies.

Before this decade is up, let the nation's engineers design and demonstrate a totally new city—one that shows us what is possible for all Americans in all cities. This is a goal which will test our technical talent to the fullest. This is a goal which is relevant to our real problems. This is a goal which, I am confident, we can meet.

THE DEBATE ON NATIONAL HEALTH INSURANCE

Mr. DOMINICK. Mr. President, I have a recent article from Modern Medicine which I think merits the attention of Senators who are interested in the current debate on national health insurance. It was written by Dr. Gunnar Biörck, a medical educator in Sweden. Many critics of medical care in the United States are fond of citing statistics purporting to show that it is inferior to health care in Sweden, which operates under a socialized system. Dr. Biörck comments on that comparison are interesting.

He starts by making the point that due to the disparities in population and other factors, comparisons between health statistics in the United States and Sweden are not very meaningful, and suggests that a better comparison would be between the State of Minnesota and Sweden. He goes on to make several criticisms of the Swedish system. He questions whether a health program controlled entirely by the Federal Government—like the Swedish system—will result in lower costs or better quality of care. He believes that the private sector has an important role to play in the delivery of health care, and observes that its elimination in Sweden has resulted in depersonalization of health care and inadequate incentives for doctors, causing many of them to migrate to the United States.

I think this article is worth considering, not just because I share Dr. Biörck's opinion that domination of our health care system by a massive, expensive, innovation stifling Federal bureaucracy would be unfortunate, but also because his views are based on actual experience in such a system. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Modern Medicine magazine, Aug. 9, 1971]

AN INSIDER'S VIEW OF MEDICINE IN SWEDEN

(How does medicine in Sweden compare to medicine in the United States? Dr. Gunnar Biörck, a leading medical educator who has worked within the Swedish system for thirty years, was asked for his opinion. Here is his reply.)

In a letter to me you have asked my opinion on some statements made in an article in which Swedish medicine was compared with American. In particular, you wanted to know whether Swedish medicine was far superior to American medicine because it is socialized—as allegedly stated by Senator Kennedy—whether the Swedish system offers substantial incentives for doctors to do a superior job, whether the waiting lists are short to get into hospitals and a doctor will see patients at any time, whether socialized medicine lowers hospital costs, and, finally, whether the only thing against the Swedish system is that its patients are kept in experimental hospital beds for too long a time.

Before commenting on these statements I would like to say that I adhere to the old concept that a visitor to a foreign country should abstain from involving himself in the internal (or foreign) politics of that country, and, likewise, that he should abstain from belittling his own country, even though at home he may voice independent and nonconformist views in matters of public interest. I would like to add that I do consider U.S. senators generally to be quite well informed, and I have great respect for their judgment in public affairs.

However, I have been invited to this country on the occasion of the 200th anniversary of the New York Hospital and asked to participate in open discussions concerning the tasks of a university medical center in the future health care organization in your country. Against this background, and the information I have got over the years on your system of medical care, I venture to answer your letter to the best of my knowledge.

As you know, I have been working within the Swedish system for more than thirty years, of which the last twenty have been in university hospitals. For all practical purposes, I have been a civil servant, employed full time by government or local authorities, although up to Jan. 1, 1970, as a university professor and head of a department of medicine. I had the right of seeing a few private patients in consultation in the hospital. I have been serving on many committees, appointed both by the government and by professional organizations, and in our last big "reform" in Greater Stockholm, as of this year, I am a kind of "regional director" of medicine in the Stockholm area in addition to the tasks as professor and head of a big department of medicine. I tell you this some personal experience of the "inside" of the Swedish system and maybe a little more so than representatives of the government and their public relation interpreters, who do not practice medicine themselves.

I think it is necessary to begin with some general statements. Sweden is a country with a population of 8 million, which is less than the New York metropolitan area. Furthermore, it is a country with a homogenous population, as regards race, religious, or cultural values; many of its social institutions have old traditions, and we have not been in war for almost one hundred sixty years. It is obvious that comparisons of the actual state of health in our two countries (such as infant mortality, life expectancy, etc.) *cannot* relate only to differences in *systems* of medical care *delivery*, but must be viewed against a complicated "anthropological" background and also take into account the difficulties created by numbers in your case. Rather than comparing Sweden with the U.S., one might select for comparison perhaps the State of Minnesota, to get the proportions straight.

Against this background, which should be almost self-evident, I do not think that "Swedish medicine" is far superior to "American medicine," and even though "delivery" may be somewhat better at home than it is here for many groups in the society, I doubt if this is due mainly to its being "socialized."

Let us get things straight: if you think in terms of economics and management (which are only in part applicable to medicine, by the way) "protection," delivery, and consumption must be considered. As for "production," I sincerely believe that the achievements of American medical science over the years have been—and still are—outstanding in the world. I know it, from many visits to the excellent medical schools and research institutes in this country. The medical profession in my country is profoundly grateful for all opportunities for learning that you have provided us for so long. The impressive number of American Nobel prize winners in the biomedical sciences should convince yourself of how the world outside the U.S. recognises your achievements. I find it utterly deplorable that in the present era or guilt feelings, bad conscience, and self-accusations, in which I am surprised to find so many medical men (who should know better) in this country, the *morale* of the centers of learning and study seems to be weakening. The American medical school and university hospital, as I know them, have a good cause and a clean record and, by Jove, they should be worth fighting for in the upright position.

Now, to the delivery system. This is a part of the American medical system I personally know less about. My own experience tells me that an insurance system would be the logical solution of the economical and practical difficulties that arise subsequent to disease as well as to loss of earning capacity for other reasons: unemployment, childbirth, etc. It is also obvious that because not all men are rational creatures, not all are middleclass wage earners, and some are stricken very much more than others, *individual* insurance schemes may not suffice, and the burden may have to be shared by all. In essence, part of the "welfare" money may have to be channeled into "health" money.

I do not know your system (sometimes referred to as a nonsystem) well enough to go into further detail. But it is my strong belief that a system based on the insurance concept, and with some mechanisms that make it worthwhile for the individual citizen to try to keep in good health and not to lean on—and abuse—a community service organization, is far better than a system in which access to medical services on demand and without cost to the individual at the moment is being promised. No such organization has as yet been able to live up to the expectations—and is not likely to do so. The Treasury will eventually refuse to pay the bill.

Up to Jan. 1, 1970, I would have denied that Swedish medicine was "socialized." We had a compulsory health insurance, paid together with our taxes; we had free hospital care, discounts on expensive or lifesaving drugs, cash money for sick wage earners, and three-fourths of doctors' fees being reimbursed to the patient by the insurance for visits to private practitioners, hospital physicians, and outpatient departments. This system did in fact work well and it did minimize medical bureaucracy and permit a fairly free choice of doctors. The private sector was responsible for one-third of the delivery of ambulant medical care, which is, I believe, a reasonable green belt priority, fresh air and possibilities for doctors and patients alike.

On Jan. 1, 1970, there was a political shutdown on this state of affairs. *All* hospital physicians were deprived of their right to see private patients in consultation; with the exception of professors, they all got working-hour schedules of about fifty hours a week in the hospitals. By means of other legislation, their security on the job is lessened, and the avenue to political appointments instead of appointments based on evaluation of training and competence is being opened.

Attempts are being made to buy out the private practitioners by providing so many posts in the community-run ambulant health services that no market will be left for the private initiative. In short, the medical profession in Sweden is soon likely to become what epidemiologists refer to as "a captive population." No wonder that a number of our best young doctors are feeling their way to the U.S.

Against this background I venture to say that the "delivery" system in Sweden between 1955 and 1970 was not "socialised" and did work well. What we have got after 1970 is very much more socialised—and intended to become fully socialised in due time—and what we have seen of it as yet has not worked as well as before. And that is precisely because this new system does not offer substantial incentives for doctors to do a superior job. There are, no doubt, a few physicians who feel that the absence of "economic transactions" between them and their clients make life easier, but I believe that in the majority of cases the doctor-patient relationship has become weaker in a situation where the patient is no longer seeing the doctor of his or her choice, but an impersonal institution, in which one cannot be assured of meeting one's "own" doctor. My feeling is that incentives are being reduced in a socialized system, and unless you introduce incentives other than economic, you are going to get a service that is worse, and not better, than what we used to have.

A reflection of this situation is the fact that—contrary to what is stated in the article you refer to—waiting lists have been substantially increased during 1970 for admission to hospital outpatient departments and so useless for admission to certain clinical departments (such as departments of medicine) that they are almost not in use. Two-thirds to three-fourths of all admissions to departments of medicine take place as emergencies, in many instances emergencies among those who were on the waiting list. Waiting time in our outpatient department has doubled in 1971, and this is true also of other departments.

One of the reasons for this is precisely that "socializing" of physicians in ambulant care makes them less interested in the work-up of the more difficult patients, who are, instead, increasingly being referred to the hospitals. It is, of course, equally true of the Swedish system as it is of the American that patients will be seen by a doctor "at any time," inasmuch as this refers to emergency units in hospitals. Otherwise, it is, of course, not true. Doctors in both countries are increasingly unwilling to work outside office hours or to make house calls. This is a consequence of the present trends in the affluent society at large, where—as taxes rise—leisure becomes a more and more valued commodity.

As for the statement that "socialized medicine" lowers hospital costs, I doubt it and can see no sensible reason why this should be so. Hospital costs *as such* are mainly salaries, which make up 80% of the average Swedish hospital budget. It is, in fact, obvious that the use of full-time salaried staff must be more expensive than your way of soliciting a good deal of unpaid or little-paid medical manpower by means of "visiting physicians." However, what ultimately is of importance is, of course, bed occupancy rates and results of treatment relative to running costs. I have no impression at all that we should be better off than you are in these respects, and if this could be shown to be the case, I believe it has nothing to do with the financing of the system, but with medical priorities and the general organization of care in our countries.

And last, the notion that we should be keeping patients in "experimental hospital beds" for longer periods than you do appears to me to be completely erroneous, to say the least. It is hard to understand where it comes from. I am convinced that there are far more "experimental beds" in this country than in mine, and we are envious of you for the possibilities that such beds have given you to study with extreme care and in depth, e.g., diseases of metabolism and endocrine diseases. We wish we had more and better beds of this kind.

On the contrary, the increasing demand of beds for vascular catastrophes in the aged is so great in our hospitals that we have to send back to their homes many patients, in whom we could not complete the proper program of study, just because of lack of space for those with less acute needs.

It may be that the "Swedish system" is a game of chess, where some more moves have been made than in the corresponding American chess game. Then, you should really try to evaluate the inherent consequences of our game.

With this, I believe to have commented on the issues you brought before me. In conclusion, I would like to give a personal view of some of your problems, without reference to the "Swedish system," but with reference to what I have seen and heard in connection with my present visit to your country.

In every system of medical care, the medical schools and the university hospitals constitute the fortresses and the armories of the system. The American medical schools I know of have produced the finest physicians in the world, both as regards knowledge *and* professional ethics. You should be very careful not to sacrifice these virtues—and the support of them!—in a well-meaning but foolish attempt to conform to new ideas. I am working in a largely service-oriented medical system, also at the university level, and I know that that means you never get time to think. In the words of Yale president Kingman Brewster: you are compelled to *meet today's needs now*. In my opinion, this is the task of the overall medical care system, but not of the university medical center. The tasks of the latter are to foresee and work on tomorrow's problems and their solutions, today. You cannot easily do both things at the same time. What I have said does not, of course, exclude the notion of the university engaging in experiments in what is labeled here "community medicine." The crucial question is, whether the university shall attempt this on the size of 15,000 people, 150,000 people, or 1,500,000 people.

It is my firm conviction that while the university might handle successfully a community of 15,000, the medical coverage of 150,000 or 1,500,000 is the task of local public health authorities. Quite another thing is, of course, that the university should aid in all possible ways, in a consultant capacity, to developments within the organization of medical care within its area of influence.

Let us, however, not forget that many of the health problems of today are not within the area of competence of medicine proper. Poverty, bad housing, and unemployment are basic factors in many diseases, but these problems cannot be solved by doctors. Drug abuse, alcoholism, and excessive cigarette smoking lead to severe diseases; yet they are part of our culture, morbid solutions of states of dissatisfaction with life, against which medical efforts so far have been remarkably unsuccessful. I think it is timely to try to decide what medicine and doctors *can* do, and what they *cannot* be expected to do, if we are to avoid the rising dissatisfactions that will result from unduly rising expectations on the side of the consumers. Crime is not the fault of law schools, nor is a deficient health situation the fault of the medical school. That responsibility rests with the government—local, state, or federal.

It seems not unlikely that you need more physicians and a better congruency between the location of your health resources, including all kinds of health personnel, and the populations most in need of health services. The latter can be achieved either by command or by attraction. It will probably not be achieved without some action by your governments. It should be possible to capitalise on the idealism of certain young people, to a limit. I see a cause of concern in some plans to double the intake of medical students and at the same time shorten medical

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schools from four to three years. It is unlikely that with larger classes, fewer teachers per student, and a somewhat lower average scholastic level of students one should be able to produce the same quality as today. Some may, of course, possibly consider the present quality well too high in meeting the needs of the community. I do not share that view. I think a bad doctor may be more expensive to the community in the long run than a good doctor.

Finally, in looking toward the future, let me warn you on one score where you should not fool yourselves.

In epidemiological studies from this country, one seems always to be dealing with "men 40 to 64" years of age. Above and besides this, the rest is silence. But with improved general health—not least through efforts within the area of preventive medicine—you may gain those five, six, seven years of life expectancy in which you differ from us, and you may increasingly have to face the *repeated acute episodes* from one or more chronic diseases in your retired population, men and *women*, 65 to 90+ years of age. These people *cannot* be taken care of during conventional office hours in health centers, and they will not be helped by multiple health screenings; they remain the task for emergency services, intensive care units, and wards of large hospitals and competent institutions for the chronically ill.

These are the people who during their active lives made this country prosper and provided the means upon which the present American "health empire" (to use a phrase from a wicked and vicious pamphlet) was built. They should have the right of being properly—which means well—taken care of, and not discarded as useless and non-productive. Therefore, do not demobilize your hospitals in a wave of enthusiasm for "health centers." You will need both.

And in order to support both, I believe that you—and we—must do away with the easy dreams of futurologists: that paradise will come to us without effort, only as a product of technology and self-perpetuating economic growth. With present-day emphasis on values other than material gain and productivity, we may easily run into a situation with diminishing or discontinuing growth, contracting budgets, and less money available for health purposes.

Medical men may well be playing *two* roles—and those who are fit to do so *should* do so—namely, one *professional* role and one role as *citizen*. It is in the latter capacity, more than in the first, that a medical man may have to attack and try to solve major problems in the society which may cause ill health. These two tasks and two roles should not be confused with each other.

To decide upon priorities in a rising economy is difficult, but to do it in a declining one is worse. I feel we should all remember—and the youth "movement" in particular—what William Osler once said: "The master word in medicine is work."

SENATOR SPESSARD L. HOLLAND

Mr. BIBLE. Mr. President, I wish to join Senators in expressing the profound sadness we all share in the passing of Senator Spessard Holland. He was, as the majority leader phrased it, a U.S. Senator in the best meaning of the term.

I knew and grew to respect Spessard Holland as a member of the Appropriations Committee, where we often worked together on money matters. He was always a hard and extremely effective worker, and it is on that committee, I believe, that he will be missed most sorely in the years ahead.

But it was in our common interest in the conservation of natural resources and in the preservation and development of recreation lands that we were most closely associated. As chairman of the Subcommittee on Parks and Recreation, I found his wisdom and guidance an essential element in the development of the Everglades National Park and in the many other programs so important to land, water, and wildlife resources in Florida.

Spessard Holland was a patriot and an inspired leader who has left a brilliant mark on the history and progress of his State and Nation. I offer my deepest sympathy to Mary Holland, whose personal grief may be lessened in some measure by the knowledge of her husband's great contributions and the pride she must have in his wide range of accomplishments.

Mr. ALLOTT. Mr. President, all Senators were deeply grieved by the news Saturday of the death of Senator Spessard L. Holland, of Florida.

Senator Holland served his State with distinction during 4 years as Governor. He served his State and the Nation with equal distinction during 24 years in the Senate.

He was a Senator's Senator—attentive to his duties, respectful of the needs of the entire Nation, a sensitive and prudent statesman in dealing with the most divisive issues of the tumultuous times in which he lived.

While I have many warm memories of service with Senator Holland, I cherish most the memory of his courageous steadfast efforts on behalf of the 24th amendment to the Constitution. This struck down the poll tax, which had been one device effectively used to deny the franchise to black voters in the South.

Mrs. Allott and I extend to Senator Holland's wife, Mary, our deepest sympathy in her loss.

Mr. McGEE. Mr. President, I wish to pay to the memory of a former colleague—Spessard L. Holland—who was taken from our midst last Saturday.

It is with a sense of tragedy that I mark the passing of Senator Holland, for I came to know him very well while working with him on the Appropriations Committee. As chairman of the Agriculture Appropriations Subcommittee, his contributions to the farmers and ranchers of the Nation were many and significant in scope.

But perhaps the greatest recognition this body and the Nation paid to Senator Holland related to his long and difficult struggle to outlaw the poll tax in Federal elections. His efforts culminated in the passage of the 24th amendment to the Constitution in 1962 and State ratification in 1964. This, in itself, can only be recognized as the highest legislative achievement any Senator can render his country.

It is, therefore, with a deep sense of loss that I pay my final tribute to a man I held in great esteem.

THE FORMIDABLE MIND OF DANIEL P. MOYNIHAN

Mr. ALLOTT. Mr. President, with customary charity, and with a disdain for wordmincing that is rare in the diplomatic circles in which he is currently sojourning, Mr. Daniel P. Moynihan, currently a delegate to the United Nations, has spoken his formidable mind on the subject of that organization.

I can think of no more salutary reading for Senators than the interview with Mr. Moynihan in this morning's New York Times. So that all Senators may profit from it, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MOYNIHAN, A DELEGATE, FINDS THE U.N. WITH HEAD LOST IN A CLOUD OF IDEALS

(By Israel Shenker)

UNITED NATIONS, N.Y.—"Words may be weapons," said Daniel P. Moynihan, "but at the United Nations they wound exceeding slow."

The Harvard professor who set up shop in the White House basement in 1969 and served two years as President Nixon's resident intellectual has now surfaced as a United States delegate.

Mr. Nixon, it is known, wanted to make Dr. Moynihan the permanent United States representative, but he decided that he did not want the job. He is one of five delegates instead of the first among them.

Daily he steps out jauntily from the mission, crosses First Avenue and plunges into the basement of United Nations headquarters.

UNHERALDED AND UNSUNG

There is yet another meeting of yet another committee, its work unheralded and unsung, and underground; the United Nations' undying messages to humanity seldom rise to the threshold of public consciousness.

"The agenda seems to go on forever, and so do the committees, and so does the talk," Dr. Moynihan said in an interview between plunges.

"People caught up in the League of Nations system attached enormous importance to agreement on texts stating certain general principles and shared aspirations and understandings—not on specific undertakings but rather on the way the world ought to be. It turned out not to be a very productive enterprise—and it continues here."

However hard he tries, Dr. Moynihan grows testy at that enterprise. Americans see laws as instruments to be enforced, he suggested, while many others consider them documents to be admired. When Americans resist efforts merely to formulate ideals, others see it as resistance to the ideals themselves.

The United Nations has become a forum where nations try to agree on the nature of truth, Dr. Moynihan complained, adding: "The term 'truth' is not comprehended under the category 'government.' Intellectuals scholars, individuals, churches seek truth. Governments seek agreements, they seek order or perhaps disorder. They are most decent when they are simply trying to arrange compromises which are, by definition, an imperfect version of truth.

"What I think we could usefully have less of at the U.N. is this quest for large pronouncements about things which are difficult for anyone to understand and impossible for governments to agree upon."

"We've been going through an endless misery with the totalitarian states about which of us is nastiest and meanest," he continued. "Nothing is achieved by our exchanging epithets. No one's view of himself or the other is ever changed."

What would be more realistic, he said, would be "sitting down to reach compromises with totalitarian countries not about how we view the world but how we behave in it—compromise, agreement, contract."

"I am not willing to sit down and try to reach an agreement about which of us is the best country and what is true and beautiful and good and decent," he went on. "There are not categories appropriate to the U.N. forum or subject to negotiation."

"One begins to get a feeling for what Americans are good at and what we're not good at," Dr. Moynihan said.

"I don't think we're very good at ideological argument. Nuance and subtlety and quiet thrust are not taught at American universities, and it's not what we learn in American government.

"At the U.N. we find ourselves up against theoreticians, and I think we're a little bit over our depth. We have a lot of experience about how you run a decent country, but surprisingly little experience at describing the process. This is a weakness of our foreign policy and the strength of our democracy.

Dr. Moynihan is upset by the United Nations' quadrennial report on the world social situation, which attempts to assess the quality of cultures by measuring protest and by measuring protest and dissent. A hopeless undertaking, Dr. Moynihan insisted, his voice shifting from low to high dudgeon:

"There are those societies that permit no dissent internally and those which not only permit it but even, as in the United States, occasionally finance it. Along the spectrum you will never get agreement about what is the right way to organize yourself, and we mustn't get into the business of splitting the difference.

"I will not split the difference between a totalitarian society and an open one, or suggest that there's good to be said on both sides. Neither the U.N. nor even the Scandinavians were put on earth to split the difference between a totalitarian society and a democratic one."

RIGHT OUT OF ENGELS

Reading in the report that American youth, "feeling powerless to effect social change," had become hippies and addicts, his fury increased: "That's a statement which at one or two or three or four removes comes straight out of Friedrich Engels's 'The Condition of the English Working Classes,' which he published in 1844 and which dealt with such problems as drink in Manchester."

"If you can't recognize an argument from Engels, don't get in that poker game," Dr. Moynihan advised. "Instead, talk about how we feed people in West Bengal. There has been a disaster there of proportions the world has no name for yet. Who rushed to the scene with help? We did. Why? Because we're such a no-good, genocidal, imperialist, rotten, fascist regime, that's why!"

Enlarging the theme, he said: "We're simply good at getting things done, and most of the world knows that. To be sure, intellectuals here and elsewhere profoundly distrust our society. But the United Nations must not reflect the intellectuals' view of the world. We'll always lose in that encounter."

"The ordinary people of the world see in the United States an enormously rewarding society for people like themselves," he added, "and it doesn't seem to matter how much their intellectuals and their governments try to prevent them from seeing it."

At this stage of United Nations experience, Dr. Moynihan would like to think that a brave new world organization is possible.

TRIBUTE TO DR. HAROLD E. HYDE

Mr. McINTYRE. Mr. President, I wish to congratulate Dr. Harold E. Hyde on the occasion of his 20th anniversary as president of Plymouth State College in Plymouth, N.H. Twenty years ago this fall, this State college, then Plymouth Teachers College, inaugurated Dr. Hyde as its 10th president.

The "Hyde years" at Plymouth State College have been marked by a tenfold expansion in enrollment, a diversification of programs, and a vastly improved campus. Equally as impressive is Dr. Hyde's personal recognition among college presidents and education leaders.

Since 1934 he has worked untiringly to make our schools better centers of learning for our children. During these many years, Dr. Hyde has served as chief of the New Hampshire Division of Educational Research, director of the New Hampshire Council for Better Schools, and chairman of the New Hampshire Commission on Teacher Education and Professional Standards.

Presently, Dr. Hyde serves on the board of trustees of the University of New Hampshire, is a member of the Commission on Higher Education of the New England Association of Colleges and Secondary Schools, and serves on the New Hampshire Coordinating Board of Advanced Education and Accreditation.

Dr. Hyde has also found the time to be active in civic affairs. He is a past president of the Plymouth Rotary Club and presently serves as director of the Sceva Speare Memorial Hospital in Plymouth.

The honors bestowed on Dr. Harold E. Hyde over the years are many. I would like to call special attention, however, to several of his recent achievements.

In November 1970, he was one of six college and university presidents appointed to an advisory council which met with White House Counselor Robert Finch, Secretary Laird, and other key Nixon administration officials to provide input on "selected problems facing higher education in the 1970's."

This year he has been elected vice president of the eight-member New Hampshire College and University Council.

But most importantly, Dr. Hyde will be announced today as the newly elected president of the prestigious American Association of State Colleges and Universities, which represents the presidents of 275 State colleges and universities.

This is truly a distinguished record. Few leaders of education in our Nation can match it. Few leaders of education have devoted so much of themselves to strengthening our knowledge, our understanding of man, our pursuit of wisdom.

I know I speak for all New Hampshire in expressing our pride in Dr. Hyde's accomplishments and the impressive achievements of Plymouth State College under his able guidance.

In these days of academic stress, when many of his colleagues are averaging only 5 to 6 years in office, President Hyde's continued tenure is a tribute to a total commitment and devotion to higher education. I would like to extend to him my warmest congratulations.

Robert Frost, who once was a teacher in Plymouth, wrote these lines about men like Harold E. Hyde:

There is a call to life a little sterner,
And braver for the earner, learner, yearner.
Less criticism of the field and court
And more preoccupation with the sport.

Harold Hyde has met this call. He has displayed this kind of bravery throughout his life. And we await the next addition to his superior record of achievement.

H.R. 10947—THE REVENUE ACT OF 1971

Mr. HATFIELD. Mr. President, preceding the publication by the Finance Committee of the official committee report on H.R. 10947, the committee isssued a summary of the bill, treating the substantive material in a lucid manner.

I now see that the bill itself is 209 pages long, and the report is 154 pages long. That makes this 17-page summary all the more useful.

Mr. President, because of the brief overview presented in the committee summary, I ask unanimous consent that the summary be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

FINANCE COMMITTEE REPORTS REVENUE ACT OF 1971

Honorable Russell B. Long (D. La.), Chairman of the Committee on Finance, today announced that the Committee on Finance had finished its work on H.R. 10947, the Revenue Act of 1971 and that it had ordered the bill reported to the Senate. The principal features of the bill involve restoration of the investment tax credit, a codification of the assets depreciation rules of the Treasury Department, a speed-up of individual income tax cuts, repeal of the Federal excise tax on automobiles and light-duty trucks, and enactment of tax incentives to spur exports.

The Chairman reported that he was pleased the Committee had seen fit to agree to his amendment to upgrade the tax deduction for child care and housekeeping expenses of working mothers and single parents. He said that mothers who must work in order to provide an adequate living for their family should not be penalized by a tax statute which denied them reasonable deductions for these costs which they must incur when they work.

He also indicated his regret that the Committee on Finance was not willing to increase the personal exemption from $750 to $900. He stated that he was sure this was what the Senate itself would want to do, and he would have preferred that the amendment be added to the bill in Committee. Senator Long said that "without this amendment, the bill still suffers an imbalance as between the tax relief it offers business and the tax relief provided for individuals as compared to existing law."

Senator Long also reported his understanding that the Senate would begin considera-

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tion of this bill on Wednesday, November 10, 1971.

Before completing its work on the legislation, the Committee on Finance amended the House bill in several important respects. These amendments and the revenue impact of the bill as ordered reported are described in the following paragraphs.

REVENUE IMPACT

In general the Committee bill is slightly more expensive from a revenue standpoint than was the House version. In 1972 the Committee bill involves a revenue reduction of approximately $8.0 billion compared to a loss under the House bill of about $7.8 billion. Most of this difference is accounted for by the amendment to upgrade the deduction for child care and housekeeping expenses in the case of single parents and working wives. A comparison of the revenue impact of the House bill and of the Committee bill for 1971, 1972, and 1973 follows:

REVENUE ESTIMATES OF HOUSE VERSION AND SENATE FINANCE COMMITTEE VERSION OF H.R. 10947

[In millions of dollars]

	1971	1972	1973
Individual income	−1,370	−3,230	−1,080
Investment credit	−1,500	−3,600	−3,900
ADR (3½ year)	+2,100	+1,700	+1,500
DISC		−100	−200
Total of lines 2, 3, and 4	+600	−2,000	−2,600
Excises	−900	−2,560	−2,260
Total	−1,670	−7,790	−5,950
SENATE FINANCE COMMITTEE			
Individual income	−1,370	−3,460	−1,305
Investment credit	−1,510	−3,610	−3,910
"WIN" credit		−25	−30
ADR (3½ year)	+2,100	+1,700	+1,500
DISC		−100	−170
Total of lines 2 to 5	+590	−2,035	−2,610
Excises	−930	−2,540	−2,240
Total	−1,710	−8,035	−6,165
Change from House	−40	−245	−215

INVESTMENT TAX CREDIT

(a) *Restoration of the Tax Credit.*—The Committee agreed to the proposed restoration of the 7 percent investment tax credit and approved the effective date rules in the House. Under these rules, property ordered after April 1, 1971, or property delivered after August 15, 1971 (regardless of when ordered) would qualify for the credit.

The Committee amendments will clarify that railroad track (and installation costs), certain storage facilities (primarily those used on farms) and other structures closely related to the property they house, and coin-operated laundry machines used in lodging facilities are eligible for the credit.

(b) *Property Used Outside the United States.*—The Committee agreed to the provision in the House bill with respect to tax credits for communication satellites. In addition, it added amendments to the bill to assure that the tax credit will apply also to undersea telephone communication cables manufactured in this country, including cases where the cable connects points outside the United States if it is part of a link with the United States.

Also, the Committee added an amendment to the bill to extend the application of the 7 percent tax credit to special-purpose structures used on the high seas or on the continental shelf of foreign countries for exploration and extraction of undersea minerals.

Finally, the Committee approved an amendment to assure that financial institutions which make financial leases relating to vessels and aircraft used in the foreign trade of the United States would not suffer a reduction in their foreign tax credit by virtue of the transaction. In essence, the Committee amendment will provide that income under such a lease will be treated as income from domestic sources rather than income from foreign sources. This will facilitate arrangements under which lessors will obtain the benefit of the investment tax credit.

(c) *Buy America.*—The Committee generally agreed to the provision in the House bill denying the tax credit to property manufactured abroad for the period within which the import surcharge remains effective. However, this portion of the bill was amended to authorize the President to defer the restoration of the investment tax credit beyond the day on which the import surcharge is terminated. The Committee also agreed to the House provision which authorizes the President, in the public interest, to extend the credit to a class of foreign products, but amended it to allow him to make the credit applicable in such cases on a retroactive basis of up to two years.

In addition, it is provided in the Committee amendments that foreign property ordered after March 31 and before the President's State of the Economy Message on August 15 will be eligible for the tax credit. As under the House bill, foreign property acquired thereafter will be ineligible.

It was also agreed that the report of the Committee on Finance will indicate that the President may find that it would be in the public interest to extend the investment tax credit to foreign property, such as agricultural implements, which has long been duty-free under the tariff laws.

(d) *Livestock.*—The Committee agreed to provisions in the House bill extending the investment tax credit to livestock, but it modified the House bill in two important respects. First, horses would not be eligible for the credit in any case. Second, livestock purchased within six months before, or six months after, the sale of similar livestock would be ineligible for the credit unless the investment tax credit on the livestock being sold has been subjected to the recapture rules. For this purpose, young breeding stock acquired to replace animals culled from a herd at the end of their useful life for that purpose would not be "similar" and the credit on the new animals would not be denied.

(e) *Used Property.*—Under the House bill, used property purchases of up to $65,000 would be eligible for the tax credit, but the $65,000 limitation would be reduced or offset by the amount of investment in new property during the year. The Committee deleted the offset feature and reduced the limitation from $65,000 to $50,000.

(f) *Regulated Utilities.*—The Committee agreed to eliminate an inequity between regulated communication utilities which qualify for a 4 percent tax credit and nonregulated communications systems owned by private business which, under the House bill, qualify for a 7 percent credit. The Committee decision equates the two situations by allowing only a 4 percent credit in both cases.

The Committee agreed to restore the full 7 percent tax credit to international telegraph companies. The House bill had cut them back to a 4 percent credit, as if they competed with domestic utilities. Actually, they compete with foreign government-supported international telegraph companies.

The House bill provides that if a utility commission acts contrary to the flow-through rules, and rate base rules, in the bill, the utility would be denied the tax credit for all open years in the past and all future years. The Committee modified the House bill so that the credit would be denied only with respect to the particular commission's area—not nationwide—and only for the period the commission does not follow these rules—not forever.

The House bill exerted a pressure on regulatory agencies to comply with the flow-through, and rate base, rules in the bill by April 1, 1972. The Committee amended the House bill to eliminate the April 1 deadline, and to provide instead that the new rules must be complied with in all final determinations of regulatory agencies after the effective date of the bill.

In addition, the Committee clarifies the House bill to prevent avoidance of the flow-through rules by regulatory agencies insisting on one rule for ratemaking purposes consistent with the bill, and a different rule for accounting purposes. Under the bill, the same rules would be required for ratemaking purposes and in the utilities' "regulated books of account."

Finally, the Committee bill makes the flow-through rules inapplicable in those instances where a regulatory body determines that the natural domestic supply of the product furnished by the regulated company is insufficient to meet present and future needs of the domestic economy.

(g) *Lessee-Lessor.*—The House bill provides that the investment tax credit is not to apply in the case of individuals who are lessors of property unless they are manufacturers or lease on short-term bases. The Committee clarifies the House bill so that corporate partners of a partnership will not be denied the credit.

The Committee also agreed that a lessor may pass through the full tax credit to a lessee only if the lease is for a period in excess of 80 percent of the "class life" of the property. In the case of short-term leases not qualifying for the pass-through of the full investment credit, a proportionate part of the credit—related to the period of the lease as a percentage of the class life for the property—may be passed through, but only to the *first* lessee.

(h) *Carryover of Pre-1971 Tax Credits.*—Under existing law, there is a special limitation under which not more than 20 percent of accumulated tax credits could be used in a year subsequent to 1969. The House bill repeals this limitation effective January 1, 1972. A Committee amendment accelerates the repeal of the 20 percent limitation so that it (as well as the regular 50 percent limitation on use of tax credits) would apply with respect to only five-eighths of a calendar year taxpayers' liability for 1971, and the 50 percent limitation (but not the 20 percent limitation) would be applied to the remaining three-eighths of tax liability for 1971.

(i) *Accounting Principles and the Tax Credit.*—The Committee agreed to include in its report language to indicate that nothing in the bill should be construed to preclude the use of "flow through" in the financial reporting of net income in nonregulated industries, but that taxpayers should indicate on their financial reports the method they used to account for the investment tax credit.

ASSET DEPRECIATION RANGE (ADR)

The Committee generally agreed to the provisions in the House bill which incorporate into the statute the basic rules (other than the first-year convention) of the ADR system announced by the Treasury Department in January, 1971. Among the new statutory rules is one calling for a "class life" system for all assets.

In order to provide time for the Treasury Department to determine class lives for real property (and for so-called subsidiary assets, such as jigs, dies, textile mill cam assemblies, returnable containers, glassware and silverware), the Committee agreed to permit taxpayers to continue to use, for up to three years, shorter useful lives for those types of property if the shorter life is one which can be justified under the 1962 depreciation guidelines. Under this amendment, the transition period would end sooner than three years if the Treasury promulgates class lives for the property in question.

The Committee also agreed that railroads would be given an option, on a year-by-year basis, to use the repair allowance rules in existing law as added by the Tax Reform Act of 1969 or those under the ADR rules being codified by the bill.

PERSONAL TAX PROVISIONS

(a) *Withholding Changes.*—The House bill makes changes in the withholding taxes to reflect higher personal exemptions and low income allowances and to reduce underwithholding. The new rules would become effective under the House bill in two steps. The first occurring November 15, 1971; and the second occuring on January 1, 1973. The Committee bill makes the entire change in the withholding rates effective January 1, 1972.

(b) *Deduction for Child Care-Housekeeping Expenses*—The Committee agreed to an amendment under which (i) single parents—those who are widows or widowers, divorced or separated, (ii) taxpayers with disabled spouses, and (iii) married couples whose combined income does not exceed $12,000 per year, would be allowed to deduct up to $400 per month of the expenses involved in obtaining care, including housekeeping services, for children under age 14 or for disabled dependents in the taxpayer's home in order for the person to become gainfully employed. If the taxpayer chooses to have his children cared for in a child care center or in other child care facilities outside his home he could apply up to $200 per month of this deductible amount toward the expense of caring for one child, $300 if two children are involved and the full $400 if more than two children are so cared for. In such a case, the remaining amount not used for outside child care would be available as a deduction with respect to amounts paid as housekeeping expenses.

Where a disabled dependent is being cared for, the amount of the deduction under this amendment must be offset by disability benefits received with respect to the dependent. In the case of married couples, the amendment would provide for a reduction in the total deduction that may be claimed so that for each $1 of additional earnings the amount deductible would be reduced by $.50.

EXCISE TAX ON AUTOMOBILES, TRUCKS, ETC.

(a) *General.*—The Committee generally agreed with the features in the House bill providing for repeal of the 7 percent excise tax in the case of passenger automobiles and the 10 percent excise tax in the case of light trucks, those having a gross vehicle weight of 10,000 pounds or less. However, the Committee amended the House bill in a number of relatively minor respect.

First, it provided that the effective date of the repeal of the tax on light trucks will be fixed at August 15, 1971, thus conforming with the effective date provided by the House bill with respect to repeal of the automobile tax. Under the House bill, repeal of the light truck tax would have been September 22, 1971.

Second, the Committee agreed to impose a tax on original equipment tires on imported automobiles, trucks and other equipment and implements conforming the treatment of these tires with the treatment of tires for domestically produced vehicles.

Third, the Committee amended the House bill to repeal the 10 percent tax on light trailers generally used in connection with the light trucks the tax on which would be repealed by the bill. The trailers eligible for this tax exemption are those having a gross vehicle weight of 10,000 pounds or less. The Committee understands that the savings from repeal of the tax on these trailers will be passed on to the ultimate purchase of the trailers.

(b) *Foreign Automobiles and Light-Duty Trucks.*—In addition to the repeal of the excise tax on domestic automobiles and light-duty trucks, the Committee agreed to suspend the tax on *foreign* automobiles and light trucks, also effective August 16, 1971. However, the President would be authorized after the date of enactment of this Act to terminate the suspension and in effect to reimpose the excise tax on imported cars and light-duty trucks from any foreign country which discriminates against automobiles of US manufacturers. The President's authority will be limited by the provisions in existing law which provide for a progressive reduction and ultimate repeal of the automobile excise tax by 1982, and a reduction of the 10 percent tax on trucks to 5 percent on October 1, 1977. After 1981, his authority with respect to both automobiles and light-duty trucks would terminate.

This amendment could be applied by the President, for example, to automobiles imported from those countries which impose special horsepower or weight taxes which discriminate against US automobiles, or which impose higher consumption taxes on US automobiles than are imposed on domestic cars, unless the discrimination is removed.

(c) *Truck Parts.*—The Committee *declined* to approve an amendment which would have repealed the tax on parts suitable for use on light-duty trucks. In making its decision, the Committee was aware that today there is no tax on automobile parts and, in many instances, parts used on automobiles are interchangeable with those used on light-duty trucks, the tax on which is repealed by this bill. Thus, in many situations, the truck part involved will not be subject to tax. Where the part involved is not interchangeable with an automobile part, the Committee felt it unwise to write an exemption which might apply to parts used on larger, taxable trucks.

(d) *Highway Trust Fund—Alcoholic Beverage Tax.*—The proposed repeal of the excise tax on light-duty trucks and trailers reduces the amount of revenues flowing into the highway trust fund for use in construction of the interstate highway system by about $350 million.

In order to restore an approximately equivalent amount to the highway trust fund so that the highway construction schedule will not be impaired, the Committee agreed to divert 7 percent of the revenues from the Federal excise tax on alcoholic beverages to the highway trust fund.

Under this amendment, these revenues will be made available to the highway trust fund for each year through 1977.

Fourth, the Committee will clarify the tax exemption of demonstrator vehicles and cars made available by dealers to schools for driver training prior to August 15, but which are returned to the dealer and sold by him subsequent to that date. Under this Committee decision, a refund of the tax on demonstrator automobiles and cars will be available if more than 50 percent of the mileage remaining under the warranty is unexpired on the date the vehicle is sold (under the House bill more than 80 percent of the warranty mileage must have been unexpired).

STRUCTURAL IMPROVEMENTS

(a) *Standard Deduction and Personal Exemption-Trust Income.*—Under the House bill, the beneficiary of a reversionary trust would not be allowed to use his personal exemption or standard deduction to offset the trust income if he is related to the grantor of the trust. The Committee substitutes for this provision in the House bill a new rule under which the standard deduction (but not the personal exemption) would be denied with respect to unearned income of a child entitled to be claimed as a dependent of another taxpayer.

(b) *Hobby Losses.*—The Committee approved the provisions in the House bill relating to farm losses incurred by subchapter S corporations but added to the bill an amendment to clarify the treatment of hobby losses under the Tax Reform Act of 1969. Under the Act there is a presumption that an activity is engaged in for profit if the taxpayer realizes a profit in two out of the last five years (two out of seven if the activity relates to the racing of horses). Under the 1969 Act, this presumption would not apply if the loss year preceded the profit year during the first five (or seven) years of a trade or business or during the transition period following the effective date of the 1969 Act. The Committee amendment makes it clear that the presumption does apply regardless of the order in which the profit years occur in these transition periods.

(c) *Western Hemisphere Trade Corporations.*—The House bill contained an amendment to make the Western Hemisphere Trade Corporations provision inapplicable if less than 95 percent of a corporation's gross income was derived from sources outside the United States and the Virgin Islands. Under existing law, Virgin Island income was treated as qualifying income. The Committee approved the provision in the House bill in principle with a relatively significant modification.

The Committee narrowed the scope of the House provision so that for Virgin Island tax purposes, the Western Hemisphere Trade Corporation provisions would be inapplicable. Thus, income taxable in the Virgin Islands would not be eligible for the 14 point tax reduction.

(d) *Capital Gains—Minimum Tax.*—The House bill provided that foreign capital gains and stock options would be treated as tax preference items for purposes of the minimum tax if the foreign country imposes no significant tax with respect to them. Under the House bill, this treatment applied retroactively to the effective date of the minimum tax, January 1, 1970. The Treasury Department had originally issued proposed regulations to the effect that if a country imposed no or a very small tax on all income, the amounts in question would not be tax preferences under the minimum tax. On June 24, 1971, the regulations were reproposed to indicate that these items would involve preferential income. The Committee bill clarifies the past by treating the items as tax preferences for minimum tax purposes from June 24, 1971. It also agreed to clarify that foreign non-taxable transactions, such as corporate reorganizations are not to cause a capital gain to be treated as a tax preference if it is considered to arise for United States tax purposes because of an allocation of income or a deemed distribution under the corporate reorganization provisions.

(e) *Net Leases—Real Estate.*—The Committee generally agreed to the provision in the House bill regarding the determination of excess interest for purposes of the minimum tax and, effective in 1972, the denial of a deduction for one-half of net investment interest. However, the Committee modified the House bill (and the existing law) in three significant respects. First, it amends the definition of excess investment interest so that to the extent the taxpayer incurs an "economic loss" as contrasted to a "tax loss," the interest involved would not be "excess investment interest," and therefore would remain deductible. In addition, the Committee bill will provide that in determining "excess investment interest" under the so-called 15 percent method taxpayers may elect to aggregate their leases in a single property making it unnecessary to characterize each lease separately as a business lease (the interest on which would be deductible) or as an investment lease (the interest on which would be a preference).

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Finally, the Committee agreed to omit properties five years or older from a calculation of excess investment interest unless the taxpayer elects to include all such properties as investment properties.

(f) *Capital Gains Income of Trusts—Throwback Rules.*—The Tax Reform Act of 1969 included a provision to become effective in 1972 under which capital gain income of trusts would be subjected to an unlimited throwback, just as other income of the trusts. A Committee amendment to the bill would defer for one additional year until January 1, 1973, the effective date of the 1969 provision.

(g) *Bribes and Kickbacks.*—Under the Tax Reform Act of 1969 certain bribes and kickbacks (which under the prior law had not been deductible) inadvertently were made deductible. The Committee amended the House bill to restore the prior law by denying the deduction for bribes and kickbacks or other illegal payments where the payment involved was in violation of a State statute which is being generally enforced, or in violation of a Federal law. In addition, the Committee bill makes medical referral fees (bribes or kickbacks) illegal under the Medicare-Medicaid Program and other Federal health programs.

(h) *Dividend Distribution to Foreign Corporations.*—Present law limits the portion of a non-cash distribution from one corporation to another which may be treated as a dividend to the lower of the fair market value of the property or its adjusted basis. In the case of distributions to foreign corporations this rule may permit avoidance of US tax on the gain when the property (on which dividends were limited to adjusted basis) is later sold by the foreign corporation. To deal with this possibility, the Committee bill includes an amendment under which the taxable amount of a dividend in property to a foreign corporation will be the fair market value of the property distributed.

(i) *Original Issue Discount.*—The Tax Reform Act of 1969 provided rules for taxing original issue discount on bonds, but makes no provision for collecting tax on this discount in the case of bonds held by a non-resident alien. The Committee bill includes amendments under which the issuer of bonds (with a maturity of more than six months) to a non-resident alien individual would withhold tax (at the regular rate of 30 percent), not only on the interest paid on such bonds, but also on the original issue discount attributable to the period to which the interest relates.

(j) *Foreign Beneficiary of Domestic Trust.*—The Committee bill changes the rules for taxing rental income received by a foreign beneficiary of a US trust (such as a real estate investment trust) to correct a situation under which the 30 percent withholding tax has been diluted by assessment against a "net" income of the trust rather than a "gross" income. Under the Committee decision, the amount of trust income taxed to the foreign beneficiary will be "grossed-up," by in effect adding back in the foreign beneficiary's share of deductions taken by the trust.

DOMESTIC INTERNATIONAL SALES CORPORATION

(a) *General.*—The Committee on Finance agreed to the provisions of the House bill relating to Domestic International Sales Corporations (DISC) with three important amendments:

(1) In lieu of the approach of the House bill to allow deferral only with respect to profits on sales above base-period sales (the base period would be 75 percent of export profits in the three-year period 1968–1970), the Committee amendment permits tax deferral on 50 percent of the export profit of the DISC.

(2) Whereas the DISC provisions of the House bill were written as permanent law, the Committee amendment would terminate the deferral privilege after 1982. Under this Committee amendment, income deferred during the intervening ten years could remain deferred beyond the termination of the DISC legislation.

(3) Deferral is not to be allowed to the extent DISC profits are invested in foreign plant or equipment. Under this "fugitive capital" feature, a DISC's profits will be considered invested in foreign plant or equipment to the extent foreign plant and equipment investments of the DISC's parent (and affiliates) are in excess of (a) 50 percent of the group's foreign earnings, plus (b) the amount of funds raised abroad by the group in the form of debt or equity.

(b) *Export Trade Corporations.*—The Committee also approved an amendment which would retain in the law provisions authorizing tax deferral in the case of Export Trade Corporations. Under the House bill, these deferral provisions would have been terminated with the enactment of the DISC. Under the Committee amendment, existing Export Trade Corporations may continue to be used as an alternative to Domestic International Sales Corporations.

JOB DEVELOPMENT—WORK INCENTIVE PROGRAM

The Committee approved an amendment (the text of S. 1019) to develop job opportunities for welfare recipients through a job development tax credit and through improvements in the existing Work Incentive Program for welfare recipients.

As an incentive for employers in the private sector to hire individuals placed in employment through the Work Incentive Program, the amendment would provide a tax credit equal to 20 percent of the wages and salaries paid to these individuals. The credit would only apply to wages paid to these employees during their first 12 months of employment. It would be recaptured if the employer terminated employment of an individual during the first 12 months of his employment or before the end of the following 12 months.

The amendment would also make a number of structural improvements in the existing Work Incentive Program for welfare recipients. First, it would require that 40 percent of the funds spent for the WIN Program be for on-the-job training and public service employment. Second, it would require the Secretary of Labor to establish local labor market advisory councils whose function would be to identify present and future local labor market needs. These findings would have to serve as the basis for local training plans under the WIN Program to assure that future training was related to actual labor market demands. Third, it would simplify the financing and increase the Federal share of the cost of public service employment (special work projects) by providing 100 percent Federal funding for the first year and 90 percent Federal sharing of the costs in subsequent years.

BALANCE-OF-PAYMENTS EMERGENCY AMENDMENT

The Committee approved an amendment to provide the President with discretionary authority to protect the balance of trade and balance of payments of the United States by allowing him to: (1) impose selective or general import quotas, or (2) impose an import surcharge of up to 15 percent of the value of the imported article, during a "balance of payments emergency."

Under the amendment, the "national emergency" proclaimed by the President on August 15 under Proclamation numbered 4074 is deemed to be a balance of payments emergency for the purpose of this amendment. In addition, for future emergencies, the President may, from the date of enactment until December 31, 1976, proclaim a balance of payments emergency whenever he determines that—

(1) The balance of payments has been in deficit for four consecutive calendar quarters;

(2) The United States has suffered a serious decline in its international monetary reserves; and

(3) There is a serious threat to the international financial or international trade position of the United States.

The President could terminate a balance of payments emergency period at any time. In any event, it would terminate three years after he initially proclaims it, unless within that period, he proclaims it is necessary to continue the authority, in which case it may continue until December 31, 1976.

The quota and surcharge authority may be used selectively with respect to countries and products, except that the President may not impose a quota and surcharge on the same product, and must relate any quota to a recent representative base period of imports. The surcharge may not be applied to duty-free products. The President may increase, or decrease, or terminate the quotas or surcharges in effect or impose new ones, in accordance with the criteria specified above.

In general, the quota features of this amendment are patterned after Article XII of the General Agreement on Tariff and Trade, which permit countries suffering balance of payments difficulties to protect their external monetary reserves by imposing quotas. The amendment would make it unnecessary for the President to invoke the broader authority included in the "Trading With the Enemy Act" against friendly trading partners. The authority granted by this amendment with respect to surcharges clarifies the President's authority to impose surcharges on imported goods, enabling him to impose a uniform surcharge without regard to the amount of prior tariff concessions. The surcharge he proclaimed on August 15 was less than 10 percent in some cases because the authority under which he acted limited his action to a termination of suspension of past concessions. The Committee felt that the flexibility afforded the President by this provision to impose surcharges and quotas selectively is necessary in the light of the continuing balance of payments crisis and the negotiations over trade and monetary matters which are likely to continue over the next several years.

GENERAL

Provisions of the House Bill Not Described Herein were generally approved by the Committee without substantive change.

WHAT DID WE GAIN IN THE CHINA VOTE

Mr. HUMPHREY. Mr. President, I invite the attention of Senators to an article written by Robert S. Elegant, and published on October 27 in the Los Angeles Times. Mr. Elegant points out what the world stands to gain from the admission of mainland China to the United Nations. Instead of calling the U.N. vote a "moment of infamy," Mr. Elegant stresses the positive results which we can expect with active Chinese participation in the United Nations and all its specializd agencies. He notes that "Peking's admission will not only strengthen the U.N. peacekeeping capacity, but will, at the least, open the door to Chinese participation in extra-U.N. activities like arms limitation and nuclear test ban talks."

In addition, the admission of China, followed by a successful visit by the President to Peking, could mark the opening of a new era in Sino-American relations: an era of normalization and understanding. While the President responded appropriately to a trend of change developing in international relations by planning a trip to China, his response in the United Nations has been far less appropriate. He has deliberately failed to stress the positive elements of the China vote, and has succeeded in undermining American support for the U.N.

I want to make certain that the American public is not misguided, that they do not think that the U.N. vote marked "a day of infamy." I think, despite the unfortunate explusion of Taiwan, that it marked a day of hope for the stabilization of world relations. In this context, I ask unanimous consent that the article by Robert Elegant be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES DID NOT REALLY LOSE WHEN U.N. VOTED TO ADMIT PEKING, EXPEL TAIWAN

(By Robert E. Elegant)

MUNICH.—The long arm of coincidence can stretch only so far. It was hardly coincidence that placed Dr. Henry Kissinger, the President's guru for foreign affairs, in Peking at the precise moment the United Nations was voting to admit Communist China and expel Taiwan.

The vote opened a major new phase in international relations. China will play an effective and "normal" role in the affairs of nations, and Sino-American cooperation will grow. The adroit orchestration of Kissinger's visit, American maneuvering at the United Nations and Peking's ritual denunciation of that maneuvering revealed a high level of practical cooperation. Equally important, those events revealed a sophisticated mutual understanding about the domestic and foreign political pressures that each nation feels. Such understanding is the necessary basis of joint action to attain common purposes.

The United States appeared to be striving to save Taiwan's seat in the General Assembly, while admitting Peking to the Security Council. That appearance was almost—but not quite—believable. After all, Washington knew Peking would not accept half a loaf.

Once the President announced his intentions of visiting China, it was a foregone conclusion that Peking would get in and Taiwan be expelled. The Administration simply could not imperil the visit and the burgeoning Sino-American relationship by excluding Peking.

Actually, Washington's ostentatiously warmer attitude toward Communist China insured her admission. Wavering nations knew that voting for Peking would not really offend the United States.

For the United States to have seemed to champion Taiwan's residual rights while advocating Peking's admission may have been hypocrisy. But it was the kind of creative hypocrisy that is, unfortunately, often necessary in diplomacy. Washington avoided blatantly selling out Taiwan, but attained the greater purpose of gaining the U.N. seats for the People's Republic, which actually administers the vast mainland and some 750 million Chinese.

Both the abstract principles of the United Nations and the already tarnished American reputation for straightforwardness have undeniably been impaired by the charade.

But the United Nations' chief purpose is preserving the peace, not pursuing the chimera of ideal justice. In time, Peking's admission will not only strengthen the U.N. peacekeeping capacity, but will, at the least, open the door to Chinese participation in extra-U.N. activities like arms-limitation and nuclear-test-ban talks.

So China's belated entry into the world community, assisted by a developing "special relationship" with the United States, half justifies the American sacrifice of absolute rectitude. Besides, a reputation for skillful diplomacy, which the United States has emphatically not enjoyed recently, is enhanced by precisely such devious maneuvering as has occurerd in Washington, Peking and New York. The formulation may appear cynical, but diplomacy is cynical.

It is, one hopes, not cynical to caution that the immediate transition could strain the United Nations.

Peking may seek vindication by demanding reexamination of many previous decisions, not least the resolution condemning the People's Republic as the aggressor in Korea. Communists have consistently maintained that all decisions taken while Taiwan occupied their "legal and rightful position" in the United Nations were automatically illegal. Peking may also lay down a barrage of vetoes, as the Russians did in the early days.

But chances are slightly better than even that the altered Chinese regime, just attaining "normal" international respectability and influence, will refrain from excessive disruption.

The consequences of China's belatedly joining the world will profoundly alter all existing international relationships. But that, as Conan Doyle would say, is another story. The immediate discernible effects are sufficiently profound—and hopeful:

Gaining U.N. membership was one of Peking's major immediate foreign policy objectives. The others were nuclear capability, already attained, and poeseesion of Taiwan, where Peking will be somewhat patient.

Admission to the United Nations has resulted directly from the pragmatic, moderate policies of the realistic faction in China represented by Premier Chou En-lai. Admission, therefore, greatly strengthens the realists' hand, while weakening the extremist faction of Field Marshal Lin Piao, which poses the threat of international or civil war.

U.N. membership will compel China to accept concomitant responsibilities. Peking must, in time, take a reasoned stand on many world issues it now can dismiss with doctrinaire statements.

Moreover, senior officials will be exposed to a variety of views in the corridors of the United Nations. They must realize, as the vote for admission indicates, that the world does not seek their destruction. China should, therefore, continue her progress toward reasonable assessments and policies.

The Sino-American relationship can now develop unimpeded. Peking's support of Hanoi's "liberation" of South Vietnam will decrease, stalemate will allow accelerated American withdrawal without defeat. Having fought two semi-proxy wars, Peking and Washington now pursue more peaceful interests.

Despite its often maladroit performance, Washington has already gained much from applying the stick in Vietnam and belatedly displaying the carrot of reconciliation to China.

NATIONAL VOTER REGISTRATION BILL

Mr. MOSS. Mr. President, as the Senate prepares to vote on a national voter registration bill sponsored by the Senator from Wyoming, (Mr. MCGEE), I urge that we give consideration to the comments contained in Milton Viorst's column which appeared in Tuesday's, November 8 edition of the Washington Evening Star.

As Mr. Viorst pointed out:

This proposal is hardly controversial. The provision of the McGee bill that has generated quiet opposition on Capitol Hill is the one clearly aimed at encouraging the participation of people who have hitherto taken little or no interest in the democratic process.

While most of us do not delude ourselves into thinking that easier registration procedures will facilitate a substantial increase of Americans participating in the election process, we should keep in mind that the central issue is the establishment of procedures which encourage eligible voters to register.

As Mr. Viorst further remarked:

It's a dashing idea, and it conceivably could change the character of American elections. At the least, it's a step forward a sounder democracy.

I ask unanimous consent that Mr. Viorst's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Nov. 8, 1971]

WOULD A LAW GET OUT NONVOTERS?

(By Milton Viorst)

It's one of the long-standing flaws of our democratic system that a relatively small percentage of Americans actually casts ballots in our elections.

In most presidential contests, no more than 60 percent of adults go to the polls. For senatorial and congressional races, the figure is lower. In other Western democracies, 90 percent or more normally vote in major elections.

Within the next week, the Senate will take up an important bill by Sen. Gale McGee, D-Wyo., to help correct this flaw. It is designed to eliminate some of the major obstacles to widespread voter participation.

First, it would deal with the large number of Americans disenfranchised by state residency requirements. The Census Bureau figures that one American family in five moves each year. In 1970, Congress eliminated residency requirements for presidential elections. The McGee bill would extend this ban to all federal elections.

But this proposal is hardly controversial. The provision of the McGee bill that has generated quiet opposition on Capitol Hill is the one clearly aimed at encouraging the participation of people who have hitherto taken little or no interest in the democratic process.

It's no secret that the rich and the middle-class—with a sophisticated understanding of how elections affect their interests—find their way to the polls on election day.

The non-voters are those who feel alienated from society's machinery, who consider themselves powerless to help themselves through the electoral process. Chiefly, they're the poor and often the black and other minorities.

The cynics would say that the ruling class likes it this way. Indeed, there is some evidence that that's true. Perhaps black disenfranchisement in the South is a special problem—but it's not the only instance of conscious disenfranchisement by far.

In Virginia, for example, the profoundly conservative Byrd organization ruled for decades by limiting the electorate—both black and white—through the poll tax and other devices. Since the poll tax was abolished, the Byrd organization has fallen apart, and Virginia politics have become substantially more liberal.

In many states, North and South, the electorate's size—and composition—is kept under control by the complexity of getting on the voting rolls. In 1968, it was found that two-thirds of the 47 million adult Americans who failed to vote were not registered.

In most jurisdictions, registration offices are open from 9 to 5, Monday to Friday. This means working people must take time off

from their jobs to register. Ideally, perhaps, they ought to take the time. But if they're dubious about the electrical process anyway, they probably won't bother—and the "will of the people" gets badly distorted.

What McGee proposes is the establishment of a Voter Registration Administration within the Bureau of the Census to send to every citizen a simple form that would provide automatic registration when forwarded to the local election board.

The Nixon administration—which, presumably, stands to lose by the change—has greeted the bill coldly. When it objected to the enforcement provisions that McGee proposed, McGee changed them. But the administration is still cold.

Yet it would be unfair to suggest that all Republicans are opposed. Americans have a strong commitment to the right of suffrage, which conservatives—sometimes against their interests—tend to share. A few Southerners, after all, even supported legislation to guarantee the black vote in the South.

To be sure, when the bill came out of McGee's committee last week, all but one Republican, were in opposition. But unless the White House puts on a massive drive, enough Republicans are expected to support the measure on the Senate floor to assure passage.

McGee is not deluding himself into thinking his proposal will make a miracle. A Census Bureau survey indicated recently that, in a majority of cases, indifference is at the root of non-voting. Easier registration may not change that.

But it's a dashing idea, and it conceivably could change the character of American elections. At the last, it's a step toward a sounder democracy.

PROBLEMS IN THE MIDDLE EAST

Mr. PACKWOOD. Mr. President, for more than a year the United States has been trying to suggest or impose, call it what you will, a solution to the problems of the Middle East which is not to the liking of the nations in that area. It does not behoove the United States to tell Israel or the Arab countries what form of settlement they should achieve between themselves to settle their varying problems. It is just that kind of an attitude that projected the United States into Vietnam. The United States should simply realize that, first, Israel is a nation which has a right to exist; second, that no peace will come in the Middle East until the parties themselves agree to it; and third, the United States should make sure that Israel has sufficient economic and military help to be able to bargain for peace from a position of parity.

The views I have expressed above have never been more cogently or succinctly stated than in an editorial published in the Washington Post of Wednesday, November 10, 1971. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 10, 1971]

THE PACE OF MIDEAST DIPLOMACY

"I shall not allow 1971 to pass without the battle (with Israel) being resolved, either by war or by peace," Egypt's President Sadat said July 23. But of course he will. Peace by year's end is out of the question: nobody's ready to compromise. And there is, by Mideast standards, no more than routine danger of war.

Israel, enjoying both the possession of Egyptian territory and an American-made cease-fire, simply has no logical incentive for war. Some partisans of President Sadat insist that he is the prisoner of his rhetoric and cannot much longer hold his champing army back, but his record belies that belittling judgment. Since replacing Gamal Nasser, he has undone a serious political challenge, turned his people's attention toward domestic reform, and made more effective arrangements with Russia for the defense of Egypt against Israeli air strikes. The result is that he is freer than ever from a compulsion to lead Egypt to a fourth defeat, as the experts agree another war would be. A policy combining ardent slogans and prudent acts seems to suit his diverse political needs. Certainly that's better than the other way around.

The attitude of the superpowers is also relevant. Moscow, by agreeing to receive Mr. Nixon next May, has in effect said it won't precipitate a Mideast collision before then. Moreover, the deeper the Russians penetrate into the Egyptian military, the more they presumably discover its inadequacies relative to Israel. Moscow could compensate by assuming an even larger direct combat role than it had before the cease-fire started in August, 1970, but that would involve political and military risks it can hardly wish to accept before next May. Soviet policy comes down to waiting.

Waiting for what? For the United States to force Israel to withdraw to pre-1967 borders on terms acceptable to Egypt. The U.S. wants a settlement in a hurry: there lie easier relations with the Kremlin, political rewards in 1972. To a settlement pressed by Washington, however, Israel prefers a peace fashioned with Egypt. In pursuit of a made-in-America settlement, Secretary Rogers is trying to compromise Egyptian-Israel differences. The Egyptians stand firm, so the compromises now all involve Israeli concessions. In an interim settlement, Mr. Rogers argues, Israel should let Egyptians forces cross the Suez Canal, accept a certain time limit on the cease-fire, and agree to move on to complete withdrawal from Sinai. To overcome Israel's reluctance to accept these points, the United States is withholding Phantoms, which are militarily, politically and psychologically Israel's critical weapon.

The pressure is not working. American undercutting of its negotiating position while cutting off its Phantoms has stirred Israel's deepest fears and alarms and has frozen its Mideast diplomacy. The way to thaw it is for the United States to open the Phantom pipeline—what goes through it may not be so important as Israel's knowing that it's open—and to back off and let Egypt and Israel reach toward each other at their own pace.

WORK-AT-HOME SCHEMES SWINDLE THE ELDERLY

Mr. CHURCH. Mr. President, for many Americans, working at home has become a way of life. And I have no complaints to make against those legitimate work-at-home offers which provide income. But as chairman of the Special Committee on Aging as well as its Subcommittee on Consumer Interests of the Elderly, I cannot help being very much concerned about the mounting volume of questionable schemes directed at older people who need to earn an income.

Such schemes involve a wide variety of products and/or services to be manufactured, sold or performed in the home; such as sewing baby shoes, addressing envelopes and postal cards, clipping news items and even starting one's own work-at-home business through a referral plan. Large profits are claimed for small monetary investment but the only profits usually realized are to the swindlers. According to the U.S. Postal Service, two such swindlers selling baby shoe kits to be made at home filched an estimated $150,000 in Michigan and $30,000 in Canada. The Postal Inspection Service concluded a record 224 investigations and discontinued 190 operations in fiscal year 1971. At present, some 159 investigations are underway. This is some indication of the volume of the work-at-home frauds. At least, it is an indication of the volume which fortunately came to the attention of the Postal Inspection Service; we can only guess at the overall volume.

The experience of the Postal Inspection Service has shown that there is no profit for the homeworker" in addressing envelopes and postal cards, clipping newspapers, sewing baby shoes, and the like. There is simply no market for this kind of service.

At my request, the Postal Inspection Service provided the following questions which would-be homeworkers would be wise to ask:

First, will you be a salaried employee of the firm? If so, what is the salary offered?

Second, if no salary is offered, what will be the source of claimed "earnings" stated in the offer?

Will you be buying instructions which, through your own resources and by your own energy, you put to use in your own community in an attempt to establish a small business? First, will you have to seek your own market in your community to sell your services or to sell your material which you buy and assemble? Second, what demand exists for such goods or services?

Will you be buying an instruction kit and sales kit to use in an attempt to sell a firm's products to other persons as an independent agent? If this is the arrangement, what specific provision is made to assure that commissions due you as a result of any sale will be fulfilled?

Will you be buying an instruction manual and envelopes which you are to mail others in an attempt to sell others the same instruction manual? Does this operate in a "chain letter" manner?

Third. Ask the firm making the offer to provide you with the names of other persons who have bought its kit of instructions or sales manual so that you may contact such individuals for the benefit of their experience. Have they made an amount of money claimed in the literature?

Postal inspectors need the cooperation of postal customers in gathering evidence that the promoters knowingly made false claims. All potential homeworkers should hold all letters and other correspondence, including envelopes and other evidence related to the work-at-home business. If he suspects that he is being defrauded, he should contact the seller, the publication which carried the advertising, the Better Business Bureau and the State consumer protection agency. If he is not satisfied with the results of these contacts, he should make a written report to his postmaster or nearest postal inspector explaining his concern.

It is especially disheartening to realize that these schemes are not new. Most of the work-at-home schemes are the same as they were 10, 20, or 30 years ago. It is unfortunate that there has been no all-out effort to eliminate this kind of fraud which is particularly vicious, as it preys on the sick and the elderly who are attempting to supplement their meager incomes by working at home.

Mr. President, I ask unanimous consent to have printed in the RECORD an article on this subject, written by Sylvia Porter, and published in the Washington Star of June 20, 1971.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE WORK-AT-HOME TRAPS

(By Sylvia Porter)

Have you been bombarded recently with extravagant lures on new ways to earn thousands of dollars by working at home? No particular talents needed . . . Not much work . . . Just push a button . . . Or make a few phone calls . . . Or launch a simple mail order operation.

For many Americans, working at home has become a way of life. Some three million today work at home part or full-time; the list of jobs which can be performed at home is lengthening by the day. Many workers at home are professionals—artists, writers, advertising people—who have created significant careers which can be pursued from a card table. All these have learned how great can be the savings in commuting costs, baby-sitting fees, other overhead expenses—on top of the fat tax deduction arising from the use of a part of the home as an office.

This gripe is not with the legitimate work-at-home offers. Rather it is with the mounting volume of gyps aimed at exploiting the yearnings of people to earn money at home.

All these schemes follow the same pattern and, in fact, most of the traps are the same as they were 10, 20, or 30 years ago. For instance, you see an ad in the help wanted section of the paper telling you that you can earn an alluring total "in your spare time and stay at home too." If you answer, you're asked to send $2 or more to get "instructions" for the job you are to perform. Then, when you receive the instructions, you learn it will cost another $37.50 to get the materials you must have for the job. Then when you submit your finished work (whatever it is), you are told it is not acceptable—or perhaps you are told nothing at all.

Or an ad promises to finance your investment in, say a $900 floor waxing machine from which you can earn $1, $2, $5 will earn $6 or more an hour with your home-based floor waxing business. However, the "employment papers" you are persuaded to sign turn out to be promissory notes binding you to buy the machine for an exorbitant sum—and without any assurance you'll ever get your money back in the business.

Or the lure may be a clipping service scheme under which you can earn $1, $2, $5 or whatever for each clipping of a certain type of item in the local papers. But the catch is you must pay $2 or so for "instructions" on how to start a home clipping bureau and then you find nobody wants to buy the articles you clip.

The list of traps is dismally varied as well as long. How do you avoid them? By getting the answers to these questions about any home work operation which tempts you:

1. Will you be paid by the firm, and if so, how much? If not, where will the promised earnings come from?

2. Are you expected to pay any fair-size sum to buy "instructions"? If so, steer clear of the deal.

3. Who will be your customers and who is supposed to line them up?

4. Is there a ready market for the product or service? Or are you supposed to invest time or money or both in developing one?

5. If commissions are promised as payments for your efforts, what assurance do you have that the commissions actually will be paid? A vague promise coming through the mail from a company unknown to you is scarcely adequate assurance.

6. Is the company willing to give you names and phone numbers of others who have invested in its instructions or products so you can query them on their experiences and what they earned?

To sum it all up, if you are offered "fantastic profits" for "easy work" in combination with a requirement that you invest substantial sums of money for instructions and materials, watch out! Stop. Get in touch with the nearest Better Business Bureau, Federal Trade Commission office or consumer protection agency. Do not take one further step toward the deal without their assurance it's okay.

PROPOSAL TO REDESIGN FOREIGN AID PROGRAM

Mrs. SMITH. Mr. President, a most meritorious proposal for a total redesign of the Foreign Aid program has been made by the editor of the Maine Sunday Telegram in the November 7, 1971, issue of that paper.

The author of the proposal, William Caldwell, discussed his proposal recently with me, and I immediately passed it on to the President for his consideration.

Because of its great merit and interest, I commend it to the Members of this body for their consideration and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A BOLD PLAN FOR REVAMPING FOREIGN AID SHAMBLES

Here is a suggestion for a total re-design of the so-called Foreign Aid program.

The Foreign Aid program, as set up today, suddenly and unexpectedly hit the skids in the Senate. The Senate voted to kill the bill in its entirety—kill all military aid, all technical assistance, all economic development programs in one fell swoop. Such a sudden death would be grossly unwise.

There is a parallel between this vote in the Senate on foreign aid and the Maine vote on income taxes. Both issues were laden with emotional prejudice. But Maine voters were not swept away by emotion. The Senate was. Reason prevailed in Maine. Emotion won in the Senate.

Now to survive at all, the foreign aid program must be revamped and overhauled. For years, Congress has been demanding a revamp. But for years, successive administrations have done nothing more than change the name of the agency running foreign aid. Now the axe has fallen suddenly on Nixon, undercutting his foreign policy. What should be done now?

We suggest the following complete reorganization of the Foreign aid program.

1. All military programs be taken out of the foreign aid bill and put into the Defense budget, where they belong.

In this way, the planes, tanks, weapons and military support of all kinds which we provide to allies and friends would have to be clearly justified as contributing to the greater security of the United States. The programs proposed would have to show they provide more free world and U.S. security at less cost and less risk to American lives than if we did the job alone with U.S. troops or weapons. Foreign military assistance would then be less a lever or a bribe to bail out the foreign policy of our diplomats and more a tool of national security.

2. Simultaneously there should be a total change in economic aid. All economic development programs should be financed from here on only by the capital and interest repayments coming back to the U.S. each year from previous economic development programs. No new money need be appropriated.

The United States should state that we cannot keep dipping anew every year into our own resources to finance other nations' development, when we must do so much at home.

Instead, we should finance all foreign economic aid programs only from the funds being repaid by foreign nations. Billions have been lent out by the U.S. to help ourselves and others since the days of the Marshall plan. This money has done its work well. Economic development has resulted. The loans are being repaid, and including capital repayments and the interest being paid, the total coming back amounts to hundreds of millions a year.

We suggest now that the President propose, and the Congress authorize, that such monies will be available to go out to work again. But that we will make no new money available. All future foreign economic aid will be financed by repayments of earlier aid.

Such a policy would spotlight those many nations who are making their repayments on schedule, and the same spotlight would prod the laggards to make their payments.

This kind of program would demonstrate clearly that U.S. aid works: that foreign aid has not been a rathole. And to the degree it has worked well, repayment money will be "rolled over," and be sent out to work well again, according to current needs and current policy.

3. The Technical Assistance programs, small in cost and big in popular and congressional support, can stand on their own feet as a separate measure and earn their own appropriations.

4. Blocked currency, the so-called counterpart funds, which today are piled up in foreign banks in such nations as India, Yugoslavia, Morocco etc. should be released and productively used to finance the purchase of equipment or material to back up the loans made through the revolving fund suggested above.

This clear-cut, understandable separation of the conglomerate foreign aid program, as suggested here, would demonstrate to the American people and to the world, the specific purposes and specific limits of foreign aid. If this new approach to foreign aid is adopted, then the program's accomplishments might be more widely understood and supported.

Reform is overdue. We need reform which will clarify, rather than cloud, the purposes and dimensions of this essential instrument of foreign policy and national defense. The proposals made here today, we hope, do both.

REMARKS OF SENATOR HUBERT H. HUMPHREY BEFORE INTERNATIONAL CITY MANAGERS ASSOCIATION

Mr. HUMPHREY. Mr. President, on Monday of this week, I was privileged to speak before the International City Managers Association at their annual convention in Miami, Fla.

The city managers are engaged in one of the most difficult and trying tasks facing our country: The management of the modern city. And, the 57th annual convention reflected in every way the diverse demands placed on managers. Panels were held on the use of data in small and large cities, on law enforcement assistance, on service goals, on drug addiction, and on financing city services.

The convention was both practical and theoretical. New concepts, new ideas were developed, and ways of putting those ideas into operation were explored.

It was an honor to address these professionals.

I ask unanimous consent that the text of my remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY

For many years, Americans thought they knew what a community or a city was . . . tall buildings, concrete, automobiles, street cars, baseball games, parks . . . and people, moving, pushing, hustling, doing.

But, the sights and the sounds are not the essence of the city. The tall buildings are there, of course. And there are plenty of cars and people.

But in all too many instances, the spirit has gone out of our cities. And no matter how hard we try, we cannot seem to replace it.

Look at the statistics. People move out of—not into—the cities. And they move away from—not to—the rural areas. They move increasingly to the suburbs, creating larger and larger mass metropolitan areas.

And, those who leave the city are often the young, those with education, will, spirit, and those with earning potential.

The result is predictable: The gap between rich and poor, between the haves and the have-nots grows wider, seemingly unbridgable, and frightening.

We wonder why and what can be done about it.

I'll not recite to you the usual litany about the urban and the rural crises. They are all too familiar.

What I want to do is give you my thoughts, perceptions about how to change life in American cities—cities of all sizes with all kinds of problems.

And, this is not gospel. It is just one man's analysis and one man's desperate hope that we can do better. I believe we can. I know we must.

Government means different things to different people. To the government workers, it means his desk, his bureau, his department. To the governor, it is his state. To the Senator, it is the Congress.

But, what does it mean to the people?

The average citizen does not differentiate among the various levels of government—he thinks about the government.

And, when things do not work, he blames the government. If he is disillusioned, if he is angry, if he is bitter, if he is frustrated, it is the government.

And, we are all part of it.

But, too often, we pretend that it is someone else's responsibility—the President's, the Senator's, the Mayor's, the Councilman's, or the City Manager's.

And government becomes alien, foreign, remote from the people.

What we must learn is that the government must serve people, not a system, or a board, or an authority, but people.

It is not an academic institution.

Government exists because of and for people.

I believe we need a refocus on the fact. We need to refocus on "street level government" and the essentials of public service.

People must be able to call city hall and have their sidewalks fixed, their apartments inspected, their garbage collected, snow removed, dependable electricity, enough heat.

And, no one knows this better than you—you who are on the front lines, making the decisions, taking the heat and making it go.

You are professional and competent.

Yet, we both share a frustration about the fact that local government seems to have become a holding operation—a custodian of dreams rather than a cutting edge of social progress.

Our challenge is this: We must couple responsibility with resources to make "street level" government work.

And, our challenge is great.

Within the next thirty years, over 70 percent of our population will be concentrated in three major metropolitan areas:

One stretching from Boston to Virginia.

Another from Chicago to Detroit.

A third from San Diego to San Francisco.

Each a megalopolis of over 60 million people—stretching for hundreds of miles.

What kind of life will these people have? What kind of government will they have? How are they going to live?

We have a great disparity in this nation. Government services are unequal in quality and availability.

Our people—no matter where they live—should have certain basic standards of service—standards of education, of health, of hospitals, of social services, of public services.

This is their basic right.

We are a mobile people. But our standards of service must be constant. We should have the same fundamental standards in Seattle as we have in Mississippi, in Albuquerque as in Miami.

This is but a first step in restoring the people's confidence in government.

So we have two principles now:

First, a government that focuses centrally on its people—that provides the citizens with the best of street level government.

Second, a minimum floor of services for all Americans.

There is a third principle: development.

America today is a nation that is privately wealthy but publicly poor.

There is a $12 billion poverty gap.

There is a $70 billion waste disposal and sewage gap.

There is a $15 billion clean air gap.

And, we could spend billions more on transporation, education, and housing.

What it points to is this:

The 1970's should be a decade of dynamic domestic development.

How are we going to do it?

The fundamental answer is a new credit mechanism, long term credit, and massive investment in public works.

Our communities desperately need money. Call it what you will—revenue assistance, revenue sharing, bloc grants, grants-in-aid—the name isn't important. What is important is where the money goes and what it does.

I am pleased that your organization broke a long-established precedent and endorsed the principle of revenue sharing.

We need it. Our communities need it. And I am strenuously opposed to the President's delay in helping our cities and states.

But revenue sharing is just a short term aid—a temporary infusion.

We need long term credit.

In May of this year, I introduced the National Domestic Development Bank Act of 1971.

The objective of my bill is to provide an alternative source of funds for new schools, medical and hospital centers, day-care centers, parks, waste disposal plants, playgrounds, and much more.

Many of you here have used municipal bonds.

And you know how hard it is to sell a 40-year bond at any reasonable rate of interest.

Yet, the government of the United States, through such institutions as the Inter-American Bank makes loans for people you and I have never met.

I say to you that if we can make loans to Rio de Janeiro, at low rates of interst for 40 years, then we can make loans to Miami, to Williamsport, to Minneapolis, or anywhere else right here at home.

We simply must change our financing system.

We are trying to build new community facilities on credit terms that were designed for the 1900's. And, it simply won't work.

We must have a credit structure that will eliminate the present stop-start method of public finance.

The National Domestic Development Bank emphasizes community planning—planning that results in decisions, to move on projects, not to have another study.

It is a bank that emphasized multi-year financing so that longer-term projects are completed.

And, it is a system they can ensure that government *does* reach the people.

The National Domestic Development Bank can help large cities and counties—but what about rural areas?

Millions of people are leaving rural America for the cities, compounding the urban crisis, adding the problems of poverty and joblessness, and welfare.

It was with this in mind that I introduced companion legislation to the National Domestic Development Bank—a supplementary program specifically for communities under 35,000 population.

The Rural Development Bank bill can give our smaller towns new hope.

Credit financing will enable us to build the public projects that are so vital and so necessary. They can provide jobs. They can infuse the economy of a town with money, with enterprise. They can put people to work.

Long term credit and investment in public projects and services can help end the stagnation of our economy—help end the hopelessness.

There is a fourth principal: We must have professionalism, management, and progressive leadership in our communities.

And this is where you are vitally important.

At one time it was the custom for the city manager to be only the guider of policy, the administrator, the detached professional.

But things have changed.

You are still the professional. You are using the new techniques of modern city management—techniques of operations research, critical path analysis, simulation, modeling, and network programming.

You are using information to its fullest. And, you, better than anyone, are adapting the new techniques of computer technology to budgeting and decision making.

But, you are more than just a professional. Your role is more difficult. Aggressive progressive community leadership is now required.

And, I applaud this trend. For I firmly believe that the administration of a community cannot be separated from the life blood of a community.

Passive leadership has no place in the contemporary community.

The stakes are too great, too awesome.

So what do we need?

A government that serves people.

A nation that has a floor of services for its people.

A financing strategy that provides the resources for local people to design their own solutions.

And positive, forward-thinking leaders.

These are the elements—the fundamentals—that will allow us to improve the human condition.

As Lincoln said, "We must disenthrall ourselves of the past. The times are new, and the times call for new ideas."

LEGISLATIVE RESPONSE TO "SOFT SOAP" ON DETERGENTS

Mr. MCINTYRE. Mr. President, the environmental concern of our friend and colleague, the distinguished Senator from Wisconsin (Mr. NELSON) has been translated into many thoughtful and prescient legislative initiatives during the 8 years he has been in the U.S. Senate.

In the case of controlling detergent pollution, Senator NELSON's awareness of the problem and efforts to develop a coordinated, comprehensive program to provide safe nonpolluting detergent ingredients stems from his experiences and Governor of Wisconsin.

In his first year as a Senator, in 1963, Senator NELSON joined me and four other Senator in the 88th Congress in sponsoring S. 1183, the first legislative proposal in this body which focused on the national problem of detergent pollution. In each of the succeeding four Congresses, as this issue has persisted unresolved and unabated, the Senator from Wisconsin has responded legislatively and enunciated a Federal program to bring an orderly institutional response to the ongoing question of detergents, environment, and health.

Last week Senator NELSON testified before the Commerce Committee's Environmental Subcommittee on the persistent problem of detergent pollution. In his testimony, Senator NELSON concluded:

It is time that we take the experimentation on the safety and environmental impact of detergents out of the marketplace and put it in the laboratory.

The Wisconsin Senator went on to articulate a "First Time Safe" philosophy for all detergents sold in this country.

This "First Time Safe" concept for detergents would be specifically implemented by a Federal detergent program containing these three elements: First, a limitation for the present time on phosphate content in detergents with a clear mandate for their eventual total removal; second, establishment of test protocols, standards, and regulations for all detergent ingredients; and third, an intensified Federal program for the development of substitutes for phosphates in detergents which are safe to health and will not harm the environment. This program would in no way diminish efforts to institute the control of all nutrients at the municipal treatment stage, but would complement it.

Mr. President, so that the Senator from Wisconsin's long experience with this issue and his suggestion on how to legislatively implement a reasonable detergent pollution control program can be brought to the attention of the Senate, I ask unanimous consent that his tesimony of October 15, 1971, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR GAYLORD NELSON BEFORE THE SUBCOMMITTEE ON THE ENVIRONMENT, COMMITTEE ON COMMERCE, U.S. SENATE, OCTOBER 15, 1971

Mr. Chairman and Members of the Environment Subcommittee, I appreciate the opportunity to appear before this Subcommittee to discuss the legislative proposals dealing with the control of toxic and hazardous chemicals entering the environment, and, in particular, to testify on the subject of synthetic detergent pollution.

Eight years ago tomorrow, on October 16, 1963, the Senate was debating S. 649, the Federal Water Pollution Control Act. At that time my remarks on a specific portion of that legislation, which dealt with the control of detergent pollution, were prefaced with the following statement:

"In an age of almost continual cold war crisis, with a civil rights revolution exploding in our backyards, with serious economic and social problems all around us, it may seem easy and convenient to postpone solutions to a problem which we always have with us—the problem of our own destruction of our natural resources."

"But the solution to this problem cannot be postponed. It grows worse every day and every hour. And if we continue to delay facing up to it, we may discover some day that it is too late—that our natural resources have been destroyed to such an extent that they can never be restored again."

Eight years later, on October 15, 1971, these thoughts are still an accurate assessment of the manner in which we continue to approach the degradation of our nation's lakes and waterways. This is particularly true in our attitudes and actions regarding detergent pollution.

As growing amounts and varieties of pollutants and waste products foul the waters of America—adding toxic poisons and excessive nutrients—we placidly continue to play environmental "brinkmanship" with this critical natural resource. After yet another summer of bacterially contaminated bathing beaches and floating masses of foul algal blooms in our lakes and rivers, we still have refused to take the prohibitive and the preventive actions that are necessary to insure that the nation's water supplies are not irretrievably damaged.

Of primary importance is the fact that we are still without the institutional capability of taking any appropriate preventive or prohibitive actions. In the case of our capability to deal with long-standing problems of detergent pollution, we are still solely dependent upon industry's (quote) "voluntary" (unquote) efforts while the federal government conducts a rotating series of government press conferences as this unpleasant subject is passed like a hot potato from agency to agency.

Recognized sources of water pollution continue unabated in 1971. Consequently, even less is being done to anticipate future harmful or toxic substances before they enter the environment. As a result, we remain unable to take prospective preventive action, but must react to a series of crisis situations. It would also seem that our governmental agencies are only begrudgingly moved to activity on problems of environmental contamination after the damage has been done.

This is an extremely short-sighted and costly method of public administration of our natural resources. The safety and environmental integrity of our natural resources cannot remain dependent upon eleventh hour ad hoc decisions.

The past and present history of industry and federal government efforts to control the adverse health and environmental effects of synthetic detergents is a glaring and acute example of the failure to provide measured institutional structures and procedures capable of developing answers for a known, specific, reoccuring and chronic environmental problem.

It should be noted that the detergent controversy has been sputtering and foaming for over a decade without resolution and the issue involves the health and environmental safety of *all* synthetic detergent ingredients, not only the present serious controversy over phosphates and their replacements.

My concern about this problem began a little over ten years ago when, as Governor of Wisconsin, it was brought to my attention that almost one third of the shallow wells in Wisconsin were polluted by detergents. Subsequently a special investigation by several agencies of the State of Wisconsin revealed a vast amount of information on this problem.

In each of the five Congresses since I entered the Senate in 1963, I have sponsored legislation to control detergent pollution, and, of course, here we are again today discussing what has become a very familiar subject over the years.

In 1963, this country was faced with mountains of foam floating on the surface of our rivers and lakes, giving dramatic evidence to the vast quantity and persistent nature of synthetic detergents which were polluting the nation's surface and underground water supplies. Developed about the time of World War II, the soap and detergent industry and the American public did not investigate or recognize the polluting potential of synthetic detergents when they were first put on the market. The rush to capitalize upon the cleaning power of synthetic detergents was the primary goal and by 1963 the industry was marketing close to 4 billion pounds a year.

It was discovered in the late 1950's that because of the particular molecular structure of a component of this first generation of synthetic detergents, the cleaning agents were not easily attacked by the bacteria in sewage treatment systems and broken down into harmless byproducts. Instead, synthetic detergent chemicals passed through our municipal sewage disposal plants and household septic tanks into lakes, streams, underground water supplies and wells. As a result of these non-degradable detergents, foaming rivers, contaminated wells, and fears of damage to recreational resources, aquatic life, and possibly human health became a cause for concern throughout the entire United States.

In the 88th Congress I joined the distinguished Chairman of the Commerce Committee, Senator Magnuson, and several other Senators concerned with this problem in sponsoring S. 1183. This legislation, which was introduced on March 25, 1963, directed the Secretary of Health, Education, and Welfare to study the problems of detergent pollution and develop standards of decomposeability which must be met by all synthetic detergents by June 30, 1965. This proposal was incorporated into S. 649, the Clean Water Act of 1963, which passed the Senate by a vote of 69–11 on October 16, 1963 but which was not acted on by the House of Representatives.

A little more of this frustrating legislative history should be detailed to the Subcommittee as the patterns of industry actions will have a familiar ring.

The soap and detergent industry reacted to the 1963 legislative proposal by denying that the mountains of foam presented any kind of a pollution problem which affected the public interest. In fact, statements were made that the foaming might even have some value in acting as a visual tracer for other sources of pollution.

While the industry admitted that detergents did cause some but not all the foaming on lakes, rivers, and at sewage plants, they argued that the problem was basically one of esthetics and denied that the detergents posed any threat to public health or aquatic life.

Claims were also made that legislation to bring detergent pollution under control would impede scientific progress, that the costs of control would exceed several hundred million dollars, and that the legislative deadline of June 30, 1965, could not be met.

In spite of these claims, on April 18, 1963, just three weeks after our bill had been introduced in the Senate, and while similar legislation was before the Wisconsin legislature, the Soap and Detergent Association announced at a public hearing before a committee of the Wisconsin State Legislature that the industry would (quote) "voluntarily" (unquote) undertake to change over

to a new kind of detergent by December 31, 1965.

The Soap and Detergent Association was to later inform me that the changeover which earlier had been strenuously opposed as unnecessary and impossible could be achieved by June 30, 1965—the date set in the original Senate bill and the deadline which the industry itself had opposed as unrealistic.

Unfortunately, the detergent pollution problem was not solved by the rapid substitution of the "hard" original component of synthetic detergents known as ABS with a new "soft" detergent chemical known as LAS. While this new formulation was accompanied by impressive claims as to its biodegradability, by March of 1965, when a substantial portion of the changeover from the ABS formulation to the LAS formulation had already taken place, there was growing evidence that the new LAS formulation did not live up to its advertised pollution-free biodegradability.

Thus, on March 10, 1965, I introduced an updated detergent control bill in the Senate, S. 1479. This legislation called for a national advisory committee of experts, including representatives of the detergent industry, to recommend national standards of biodegradability to be met by the cleaning component of all detergents. The express intent of the legislative approach enunciated in S. 1479 was to establish a principle of thoroughly considering the environmental and health implications of a new chemical formulation before it is mass produced and introduced into our environment and to avoid the costly belated reactions after the damage has been done.

As Senator Spong, the sponsor of Amendment No. 338 to the Administration's proposed Toxic Substances Control Act, well knows, we are still fighting in the Congress, and particularly with the Senator's efforts here in this Subcommittee to legislatively establish the principle of thorough premarket testing of environmental and health aspects of chemicals and products which enter commerce at an ever-expanding rate. I refer to this concept as "First Time Safe".

As we discovered in our experience with the first generation of "hard" synthetic detergents in the early 1960's, an environmental or health protection system that is unable to look prospectively but merely allows the substitution of new problems to pose as the solution for old ones is no system at all.

In the last five years of the 1960's attention became focused upon the role of phosphate based detergents in the over-fertilization and accelerated eutrophication of our waterways. And now, as we fumble into the 1970's with the problem of phosphates, we also stumble into the known and unknown dangers of replacing phosphates with chemicals or compounds which have not been thoroughly considered for their health effects or long range impact upon the environment. And still there is no comprehensive or coordinated national effort to bring a systematic scientific approach to the problem of formulating laundry products which are safe and do not harm the environment.

When research published in 1966 by scientists of the U.S. Public Health Service and the report of the Lake Erie Enforcement Conference Technical Committee early the next year confirmed in my mind the critical role of detergent phosphates in water pollution and the accelerated eutrophication of lakes and other standing bodies of water, the legislation which had been introduced in the preceding two Congresses was expanded and strengthened.

S. 1343, which was introduced March 21, 1967, would have directed the development of national detergent standards to describe the biodegradability, decomposability and water eutrophication ability that must be met by all the constituents of synthetic detergents regardless of their chemical nature or function in the detergent. Once again, these standards would have governed the composition of detergents before they entered the public market place and are introduced into the national water system.

Furthermore, this legislation would have involved the cooperative efforts of the detergent industry in helping to develop the systematic and orderly progression of test protocols and procedures necessary to any rational and fair system of standards and regulations.

Recognizing the serious national need for safe non-polluting detergents this 1967 proposal would have also provided financial assistance to the public and private research efforts to develop synthetic detergents which will break down readily and will not impair the efficiency of any sewage treatment processes and whose residues will not be toxic or harmful to humans, fish, or plant life. The research program would also have been directed toward finding methods of improving existing sewage treatment processes so as to remove nutrients and developing new methods of control.

Needless to say, two Congresses and two more pieces of legislation later, the country still needs a systematic coordinated federal effort of research into the development of safe non-polluting detergent ingredients and formulations, backed up by a system of standards and regulations which must be met by all detergents before they enter the market place.

National annual detergent sales now exceed some 5.5 billion pounds or approximately 27.5 pounds for every man, woman, and child in this country. The detergent builder is usually sodium tripolyphosphate and this compound amounts to some 2.2 billion pounds annually. This is a $1.5 billion sales market that involves some degree of competition between over 50 nationally marketed brands and an uncounted number of locally packaged and marketed brands.

The point which must be stressed, Mr. Chairman, is that with a business this large and widespread, touching every home and corner of this country, we cannot begin our experimentation on health and environmental safety in the market place, and expect to have other than chaos. Chaos for the consumer who must try and wend his way through rows of supermarket shelves informally blindfolded and trying to balance health interests, against environmental interests, against cost interests against cleaning efficiency interests. Chaos for the business community which has no idea which detergent ingredient or product is going to be on the market for how long. And chaos for the governmental administrators who must continually prepare a new press statement, or a clarification of a previous statement, as another problem in the continuing detergent debate emerges.

Mr. Chairman, it is time that we take the experimentation on the safety and environmental impact of detergents out of the marketplace and put it in the laboratory.

A "First Time Safe" philosophy for detergents sold in this country implemented by a national program of subjecting all ingredients and formulations to standards and regulations based on thorough laboratory testing before national marketing is a reasonable goal. This policy, backed by a major development program to find safe substitutes for phosphates, would end the present market, consumer, governmental, and environmental chaos.

In large measure, this situation derives from the absence of strong coordinated authority in one federal agency to deal with this issue. At the present time, federal authority to deal with detergents is almost nonexistent, and what mandate exists is scattered among a variety of agencies.

At this point in my testimony, Mr. Chairman, I would like to submit for the hearing record a study which was prepared at my request earlier this year by the Library of Congress on the authority of certain agencies to regulate detergents:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 31, 1971.

To: Honorable Gaylord Nelson.
From: Harold Berkson, Specialist in Environmental Policy Environmental Policy Division.
Subject: Authority of certain agencies to regulate detergents.

In response to your request concerning the regulation of detergents the following is submitted.

There appears to be constitutional basis for such legislation in the commerce clause, art, I, sec. 8, cl. 3.

The report "Phosphates in Detergents and the Eutrophication of America's Waters" (House Report 91–1004) indicates that the Fair Packaging and Labeling Act already authorizes the Federal Trade Commission to require package labels of consumer products containing two or more ingredients to bear the names of the ingredients. The F.T.C. may require this listing of ingredients after first finding such regulation "necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity." 15 U.S.C. 1454(c). That section might be utilized to require that detergent labels reveal the presence of phosphates and other ingredients, but does not appear to authorize a requirement that the amount or percentage of ingredients be listed.

The report on phosphates in detergents (House Report No. 91–1004) indicates at page 65, footnote 51, that the definition of "cosmetic" found in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 (i), and incorporated in the Fair Packaging and Labeling Act, 15 U.S.C. 1459, includes products "intended for cleansing the human body and which are not soap." The footnote then concludes that "products labeled as 'detergents' are covered by the Federal Food, Drug and Cosmetic Act, and therefore, by the Fair Packaging and Labeling Act." It would appear, however, that detergents are "cosmetics" only if "intended for cleansing the human body" and that those detergents intended for use as laundry or dishwashing cleaners only would not fall within the definition. The distinction may have some importance because 21 U.S.C. 362 (a) defines as "misbranded" a cosmetic with labeling which is "false or misleading in any particular." The act prohibits the introduction into interstate commerce of "misbranded" cosmetics. As the report on phosphates in detergents points out, much of the labeling on laundry and dishwashing detergents can be considered "misleading" in the characterization of ingredients. If the Federal Food, Drug and Cosmetic Act were applicable to Laundry and dishwasher detergents, then the Federal Trade Commission might be able to issue regulations which go beyond those authorized by the Fair Packaging and Labeling Act.

Laundry and dishwasher detergents are apparently covered by the Fair Packaging and Labeling Act, because the definition of "consumer Commodity" continues, after incorporation of the definition from the Food, Drug and Cosmetic Act, to include:

"Any other . . . product . . . of any kind . . . which is customarily produced . . . for use by individuals . . . or in the performance of services ordinarily rendered within the household, and which usually is . . . expended in the course of such . . . use."

The Federal Hazardous Substances Labeling Act, 15 U.S.C. 1261, might also be invoked to require a labeling warning of the polluting effect of commodities such as detergents. That law defines as "hazardous" any substance which is "toxic," "corrosive," or an "irritant," if such substance may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use.

Excepted are foods, drugs and cosmetics as defined by the Federal Food, Drug and Cosmetic Act. Detergents could be considered "toxic" within the meaning of the law:

"Any substance . . . which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface."

Although it is questionable whether such toxicity could often be considered to proximately cause substantial personal injury or illness through pollution of waters from which drinking water is taken and treated, Suffolk County, Long Island, has recently found a threat to the public health in the presence of detergents in the ground water supply. See p. 5, *infra*. It may be that a detergent could be found "hazardous" because of its corrosive or irritating effect on human skin, but that water pollution would not be considered a "principal hazard" requiring specific mention on the label. If a substance is "hazardous" within the meaning of the act, then its label must contain the word "Warning" or the word "Caution", and "an affirmative statement of the principal hazard or hazards."

The above summary of existing laws possibly related to a pollution warning on labels of consumer products reveals no clear authorization for any federal agency to require such a warning. Any of the three laws noted—the Fair Packaging and Labeling Act, the Food, Drug and Cosmetic Act, and the Hazardous Substances Labeling Act—might be appropriate sections of the Code to amend to require a labeling warning of the polluting effects of products.

The Environmental Protection Agency has authority and jurisdiction over detergents only as water quality might be degraded to below that existing or as their presence may prevent improvement of water quality to comply with established standards. The EPA may also take action if it can be demonstrated that the presence of detergents degrades or damages the water resource. In most cases EPA jurisdiction is restricted to interstate waters and their tributaries (standards violation) or to navigable waters (damage). The more effective role of EPA in regulating detergents might be manifested in the approval and awarding of various grants for treatment facilities or for state and local programs. To the best of my knowledge, there currently is no Federal legislation specifically regulating detergents.

Several bills were introduced in the 91st Congress to regulate pollution by packaging and by detergents, but it appears that no bill was introduced to require a warning on the labels of detergent packages. These bills were:

H.R. 12435, a copy of which appears in Appendix I of the *Hearings on Phosphates in Detergents and the Eutrophication of America's Waters*, would amend the Water Pollution Control Act to require that detergents manufactured or imported into the United States contain no phosphorus.

H.R. 19278 would amend the Water Pollution Control Act to prohibit discharge into the navigable waters of substances listed by the Secretary of Interior as "hazardous" to public health or welfare.

H.R. 6751 the "Detergent Pollution Control Act of 1969" would amend the Water Pollution Control Act to establish standards of "bio-degradability, decomposability, and water eutrophication ability which must be met by all synthetic detergents."

State and local governments have also passed legislation to control pollution caused by detergents.

New York State law now requires that labeling of soaps and detergents plainly reveal the phosphate content.

After finding detergents in ground water at public-supply well fields, Suffolk County, Long Island, has recently passed an ordinance barring the sale and exchange of detergents on and after March 1, 1971.

Wisconsin has banned the sale and use of nondegradable detergents containing alkyl bensene sulfonate. Wisc. Stats. Ann. § 144.14.

Chicago has enacted a municipal ordinance requiring all detergents to be limited to 8.7% phosphorous by February 1, 1971 and prohibits all phosphorous by June 1972.

In Akron, a local ordinance requires labeling as to content by February 1, 1971 and complete ban of all phosphorous by June 30, 1972. This law is currently being contested by the Association of Soap and Detergent Manufacturers who have recently won an injuction against the city enforcing the law.

The city of Duluth, Minnesota, is considering an ordinance which would require retail merchants to post a list of the phosphate content of detergents offered for sale in their stores.

These and other state and local laws which may be enacted to attempt to control pollution caused by detergents raise the question of whether federal legislation proposed to regulate detergents should pre-empt the field or whether state and local regulations should be permitted to impose standards different from those of federal law. It was in order to prevent "chaotic marketing conditions and consumer confusion" which might be caused by a "multiplicity of state and local regulations" that Congress inserted a pre-emption clause in the Federal Cigarette Labeling and Advertising Act. House Report No. 449, 89th Congress, 1st Session (1965). Any pre-emption clause should precisely specify what is pre-empted; the cigarette labeling pre-emption clause states:

"No statement relating to smoking and health, other than the statement required by section 1333 of this title shall be required on any cigarette package." 15 U.S.C. 1334.

A similar clause pre-empting state and local regulation of detergent labeling would not prohibit ordinances such as Suffolk County's banning sale of detergents altogether.

The result of this diluted and scattered authority to deal with detergent pollution has been a continued reliance on the "voluntary" efforts of the soap and detergent industry to make costly investments that are sure to disrupt a lucrative market, a "pass-the-buck" attitude within the federal structure as they attempt to deal with a difficult subject involving powerful interests with only partial administrative tools and a weak Congressional mandate, a growing number of state and local government actions as they respond to a rising public demand for an end to water pollution from this source.

The role of detergent phosphates in water pollution and the need for their removal was firmly established by the end of 1970. The Twenty-third Report of the House Committee on Government Operations, issued April 14, 1970, and entitled "Phosphates in Detergents and the Eutrophication of America's Waters" (House Report 91–1004), recommended an eight point program concentrated upon the removal of phosphates in detergents.

As a result of studies of the eutrophication in the lower Great Lakes carried out by the Advisory Boards to the International Joint Commission, the IJC confirmed in their interim report in April and in their final report of December 1970 the recommendations of the Advisory Boards for effective phosphate controls: a) phosphates in detergents would be replaced by environmentally less harmful substances by 1972; b) a nutrient removal program would be implemented at sewage treatment plants in all large cities discharging into the Great Lakes; and c) the input of agricultural phosphates from the drainage basins would be brought under control.

The IJC recommendations were paralleled in the First Annual Report of the President's Council on Environmental Quality in August 1970. At that time CEQ considered eutrophication as perhaps the single-most difficult water pollution control problem; they concluded that phosphates are the most important nutrient to control if eutrophication is to be successfully attacked, and recommended three actions: 1) Phase phosphates out of detergents as soon as possible; 2) Find better methods to control agricultural runoff; and 3) Remove more of the nutrients from wastes generated by towns and cities, particularly in urban centers and in critical areas such as the Great Lakes.

Now let's us take a quick look at the vagaries of government and industry's actions with regard to detergent pollution in the last two years. Let us measure what has been said with what has been done.

When attention was given to finding substitutes for detergent phosphates, NTA (nitrilotriacetic acid) was considered the most likely replacement. By May of 1970, Procter and Gamble was making public announcements that they would be replacing 25% of the phosphates (by weight) in its detergents with NTA.

This industry effort was communicated later in the year directly to the Administration in the October 1970 Report of the Detergent Sub-Council of the National Industrial Pollution Control Council. Chaired by Howard J. Morgens, President of Procter and Gamble, the nation's largest detergent maker, the Sub-Council reported to the Department of Commerce in their summary: "The detergent industry has undertaken a massive voluntary program to reduce the phosphate content of its laundry products." . . . and "This reduction is being achieved by the substitution of new ingredients for phosphates."

Unfortunately for the public, the substitution was made without the thorough public testing which could give assurances as to the safety of NTA. During hearings before the Subcommittee on Air and Water Pollution of the Senate Public Works Committee, Dr. Samuel Epstein presented testimony on "Potential Biological Hazards Due to Nitrates in Water and Due to Proposed Use of Nitrilotriacetic acid (N.T.A.) Detergents".

The initial questions by Dr. Epstein in May 1970 sent the Federal Water Quality Administration scrambling to do some testing. FWQA (now the Federal Water Quality Office under the Environmental Protection Agency) requested studies on NTA to be conducted by the National Institute of Environmental Health Sciences.

On December 19, 1970, at the urging of the Environmental Protection Agency and following a joint statement that previous day the EPA Administrator and the Surgeon General, the major detergent manufacturers "voluntarily" agreed to discontinue the use and production of NTA as a detergent builder pending further study.

In a Staff Report to the Public Works Committee released at the same time as the NTA announcement and resulting from his May testimony raising questions about the degree of testing conducted on NTA, Dr. Epstein recommended: "The present use of high-level phosphate detergents should be disallowed to prevent further eutrophication and to reverse existing eutrophication." In referring to the experience with NTA replacement, however, the report said: "Concern for the protection of environmental quality is no reason to replace a relatively defined and otherwise controllable ecologic problem by a solution posing potential hazards to human health and environmental safety or undefined and unpredictable dimenson."

The methods by which industry was forced to halt the replacement of phosphates with NTA in 1970 are under a great deal criticism, and the NTA controversy is not yet ended. In particular, the criticism focuses on the experimental design and significance of the statistical data obtained by the admittedly rapid governmental tests.

One thing is certain from this experience.

The situation with NTA replacement of phosphates is exemplary of the continuing problem in detergent pollution control and the marketing of a safe, efficient and economical detergent which is not harmful to health or does not degrade the environment:

(1) detergents are marketed without the date and knowledge as to its impact upon human health and environmental safety;

(2) neither the industry nor the federal government has an established on-going coordinated public program to test detergent ingredients;

(3) the rapid replacement of phosphates with NTA or any other ingredient does not automatically assure the reduction of the rate of eutrophication; and

(4) the costs of rapid replacement of phosphates with unknown, untested ingredients may greatly exceed the benefits—environmentally, financially, and in the loss of public confidence in industry and government capability or desire to solve the problem.

Despite the experience with NTA, we seem to be repeating the same industry-government merry-go-round this year. Following the discontinuance of NTA as a replacement there has been a rush of detergent products upon the market claiming to be "non-polluting" alternatives to phosphate detergents. In many instances, these new detergents have played upon environmental themes in their advertising and in their brand names. As with NTA, however, these alternatives are being suggested as replacements for phosphate detergents without comparable knowledge of their potential environmental or public health effects.

Thus, on March 8, 1971, the Food and Drug Administration seized two detergents manufactured by the Ecolo-G Corporation of America because tests showed them to be highly alkaline and toxic and corrosive to the skin and the cause of severe eye irritation. The FDA authority, however, is restricted to the requirements of the Federal Hazardous Substances Act. These requirements were satisfied by the manufacturer with the labeling of the products to warn of the hazardous nature of the product.

Even labeling requirements as a means of promulgating information about detergent formulations have produced controversy between federal agencies, and confusion among the public. On January 25, 1971, the Federal Trade Commission proposed a trade regulation rule which would require manufacturers of detergents to list all ingredients on packages, and to disclose clearly that their phosphate-containing products contribute to water pollution and should not be used excessively and that it is unnecessary to use phosphates in soft water areas.

When Administration witnesses appeared at a hearing on the FTC proposal on April 26, 1971, they asked the Commission to defer action pending further studies. The officials agreed that "We must continue and intensify our efforts to obtain reduction or elimination of phosphates in detergents as soon as assurance is available that the material or materials to be used as a substitute will not cause equal or worse problems and will not endanger human health" (Russell Train, Chairman of CEQ). Still, they argued, no labeling action should be taken presently by the FTC because the present alternatives to phosphate detergents, the growing number of nonphosphate detergents may not be safe.

The Surgeon General concluded his testimony on April 26, 1971 by saying: "Finally, because scientifically much is still unknown, we must conduct additional research on phosphate substitutes to ascertain their place and the place of labelling in an effective overall program."

"The U.S. Public Health Service therefore urges the Federal Trade Commission to defer making a decision regarding labelling at this time."

The Chairman of the President's Council on Environmental Quality echoed the Surgeon General's comments about the rethinking going on in the Administration on detergents: ". . . We are also in the process of developing legislative and administrative proposals which would limit the use of phosphates in detergents and ensure protection of public health."

"Once this review is completed which will be prior to the scheduled conclusion of these proceedings, we will be in a position to advise the Commission both on the Administration's program to deal with environmental and health problems from detergents and to indicate how labelling requirements fit into the overall program."

"Accordingly we recommend that the Commission not make a decision on its proposed rule at this time."

If the right hand washes the left hand in this Administration, it apparently does not do so with detergents, for eleven days after the Administration spokesman testified for no action on the Federal Trade Commission's proposed phosphate labeling ruling, I received a written response from the Environmental Protection Agency to a question regarding EPA's discontinuance of listing phosphate contents of detergents. Let me quote the May 7, 1971 letter from the Environmental Protection Agency:

"At one time such a listing was published. However, because of this industry's continuing awareness of consumer interest, and the introduction of new research into the products, it became impossible to keep such a listing current and thus accurate."

"A far better approach is one which requires clear labeling on detergent products and we understand that the Federal Trade Commission has had a great deal of success in achieving voluntary labeling among various manufacturers of these detergents . . ."

Well, that "far better approach which requires clear labeling" was opposed by spokesmen for two offices of the federal government less than two weeks previously, and it appears that the FTC was having such a success with the "voluntary" efforts of the industry that they proposed a mandatory program.

Mr. Chairman, at this point in the record let me submit the full text of the May 7, 1971, letter from the Environmental Protection Agency:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., May 7, 1971.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: This is in response to a telephone request from Miss Anderson of your office concerning the questions of EPA's failure to publish a listing of phosphate contents of detergents.

At one time such a listing was published. However, because of this industry's continuing awareness of consumer interest, and the introduction of new research into the products, it became impossible to keep such a listing current and thus accurate.

A far better approach is one which requires clear labeling on detergent products and we understand that the Federal Trade Commission has had a great deal of success in achieving voluntary labeling among the various manufacturers of these detergents. Should you have additional questions on this subject, you will want to contact the FTC about them.

Thank you for your interest.

Sincerely yours,

GRAHAM W. MCGOWAN,
Director of Congressional Affairs.

Mr. Chairman, the strong stance on the labeling of phosphate detergents of this Administration was also the subject of editorials in the May 1st edition of the Minneapolis Tribune and the May 8th edition of the Milwaukee Journal and I would like to submit the text of the two editorials for the record at this point:

[From the Minneapolis Tribune, May 1, 1971]

WHY WAIT TO LABEL DETERGENTS?

Representatives of the Nixon administration appearing before the Federal Trade Commission this week set up a straw man. The FTC was conducting hearings on a proposal to require detergent manufacturers to tell consumers the phosphate levels of their products and to warn them that phosphates contribute to water pollution. The information would be printed on the products' labels.

Jesse L. Steinfeld, the surgeon general, and Russell E. Train, chairman of the Council on Environmental Quality, agreed that phosphates are a major cause of the rapid aging of lakes. "It has also been generally agreed," Steinfeld said, "that the principal controllable source of those phosphates is sewage, and that the principal source of phosphates in sewage is detergents."

Yet the two administration spokesmen asked the FTC to delay action on the labeling proposal. Why? Because some phosphate substitutes have been found to be potentially harmful to humans. And, as the president of Procter & Gamble, the nation's largest detergent maker, told the FTC, "The industry would have to replace the phosphates with other materials before those other materials have been proved to be safe for people and the environment."

There's only one thing wrong with that argument: It's directed at something other than the proposal under consideration. The regulation the FTC is considering wouldn't require manufacturers to halt the use of phosphates, thus forcing them to use untested substitutes. All it would do is to have them tell consumers the amounts of phosphates in their products and remind them of the substance's role in water pollution. Consumers concerned about water pollution could use the information to help them select a detergent with a low phosphate level. Those who were unconcerned could ignore the warning.

If, after all, phosphates contribute to pollution, but no satisfactory substitutes have been found, then it would seem desirable for the government to encourage the use of detergents with low levels of phosphates as an interim measure, at the same time encouraging the industry to continue its search for safe alternatives. That's all the proposed labeling requirement would do. By asking the FTC to delay action on it, the administration, in effect, is seeking to postpone efforts to cut back on the use of phosphates and is reducing the industry's incentive to eliminate them entirely.

[From the Milwaukee Journal, May 8, 1971]

STRANGE STANCE ON DETERGENTS

The Nixon administration puts itself in an untenable position in opposing a proposed Federal Trade Commission rule requiring manufacturers to warn consumers that phosphate detergents speed water pollution.

Russell Train, chairman of the Council on Environmental Quality, and Surgeon General Jesse Steinfeld said at recent FTC hearings that phosphate substitutes not in themselves dangerous to health should be found first. They agreed that phosphates are a serious factor in water pollution.

In fact, Train's agency last August pointed out that most phosphates speeding eutrophication of lakes and streams come from municipal sources, and 50% of that amount comes from phosphate detergents. It then recommended phasing out phosphates, a step that Canada, Chicago and some other places have since ordered.

The FTC is not proposing an outright ban on phosphate detergents. It is only proposing that each package carry this message:

"Warning: Each recommended use level of this product contains (whatever number of) grams of phosphorus, which contributes to water pollution. Do not use in excess. In soft water areas use of phosphates is not necessary."

Detergent makers don't like this because printing new labels would be costly. And it might lead to consumers' using less detergent, as some experts say they should do, and could do without any adverse effect on their laundry. Raising the specter of untested phosphate substitutes in an effort to block a sensible warning to housewives about excess phosphate detergent use is a scare tactic. The administration should have no part of it.

Then, a little more than one month later, the Food and Drug Administration announced on June 28, 1971 that it ". . . will require a number (25) of manufacturers to improve labeling on household laundry and dishwashing detergents to warn against eye and skin irritations and injury from ingestion . . ." The press release went on to say that the need for this labeling was confirmed by FDA on the basis of tests performed by Agency scientists on 39 detergent products, out of the 200 or so in common use in this country.

The exact nature of the harmful ingredients, however, or whether it was just nonphosphate detergents which needed additional labeling because of hazards was not revealed in the June 28th release. The public had to wait for another three months to find out any more information about the relative merits of the 39 detergents tested by FDA.

On September 15, 1971, one month ago, the Council on Environmental Quality, the Department of Health, Education, and Welfare, and the Environmental Protection Agency jointly announced a number of conclusions with respect to health and environmental problems associated with detergents.

These three agencies concluded that the NTA controversy remains unresolved and therefore it was not a suitable substitute at the present time, that there was cause for serious concern about the health hazards of caustic substitutes for phosphates, and that EPA was launching an extensive study to identify bodies of water in the country subject to eutrophication problems and will assist local governments in reducing phosphates through municipal waste treatment.

Apparently this was intended to clarify the Administration's position on phosphates and detergents. I doubt if that modest goal was obtained, or if the position was indeed clear, it was certainly not accepted without opposition.

Mr. Chairman, at this point in the record I should like to submit three editorial comments on the Agencies' September 15, 1971 announcement: (1) an editorial in the September 22, 1971 New York Times entitled "Whitewash for Phosphates"; (2) an editorial from the October 2, 1971 Washington Post entitled "Ring Around the Government's Collar"; and (3) an opinion page article by Peter Vanderpoel from the October 7, 1971, issue of the Minneapolis Tribune entitled "Washington's Poor Advice":

[From the New York Times, Sept. 22, 1971]

WHITEWASH FOR PHOSPHATES

The Federal Government succeeded last week in undoing several years of public education on the harm that detergents do to the nation's waters. In an act as unnecessary as it was sudden and confusing, four of its top health and environmental officials urged a return to phosphate detergents on the ground that alternative cleansers were worse.

Nothing in the Government's explanation justified its panicky reversal. Its explanation, it may be pointed out, followed closely the line of reasoning advanced by leading elements in the soap and detergent lobby. Whether or not it was industry pressure that accounted for the change, people who have been accurately warned of how much damage phosphates can do to lakes and streams will find it difficult to take on faith the next warning that issues from the guardians of the environment.

Admittedly, a dilemma has been building up in the matter of how America should wash its clothes. With the spreading knowledge that phosphates can choke the life out of a lake by nourishing destructive algae and vegetation, alternative cleansers came into use—but they, too, presented problems.

Some contained NTA, a chemical compound that might possibly cause cancer. Other detergents, including some of the biggest sellers at the supermarket, contained caustic soda, though not in its free form; these pose just enough threat of damage to the eyes, nose and throat, not to mention the innards of children, for the Surgeon General to talk of having them banned, though he has so far refrained from directly recommending that course. Old-fashioned soap, it might be added, is not adapted to dishwashers, leaves a scum in laundry machines and is impractical for use on synthetic fabrics designed to be cleaned only by the chemical action of detergents.

The Environmental Protection Agency suggests now that the solution must lie in the building of special sewage treatment facilities, or the adaptation of existing plants, with a view to ridding effluents of all harmful phosphates, not just those from detergents. Such a program, if carried out immediately, would be ideal, since phosphate detergents account for only part of the phosphorus which induces eutrophication in our waters. The rest comes from agricultural fertilizers, animal feeds and industrial products. Phosphorus can be precipitated at a treatment plant without difficulty. The trouble is that governments move at the pace of a leisurely snail; by the time essential equipment is installed, untold damage may be done.

The question, then, is what to do in the meantime. And here the Government's position is untenable. Instead of rescinding bans on phosphate detergents, as the Federal officials now urge, states and localities that have such bans should keep them in force—at least until the E.P.A. completes a proposed study that will identify those endangered waters that might be saved from decay by appropriate sewage treatment.

Less harm would be done for the time being if housewives continued, with reasonable care, to use so-called caustic sodas, especially in combination with regular soap. A nation that suffers the lethal automobile and allows handguns is not likely to be overwhelmed by the presence of washing sodas in the home—along with a dozen other potentially risky substances such as drain cleansers, dangerous drugs or even kitchen matches. Time, moreover, gives promise of producing really harmless detergents, several of which are reported to be well on the way.

A holding pattern of this sort, rather than the implausible course the Government has chosen, would allow a continuing effort to save the nation's waters without causing more than a minimal risk to health. There would perhaps be some social risk in wearing clothes with a touch of tattle-tale grey. But then again, that just might be viewed as a badge of honor.

[From the Washington Post, Oct. 2, 1971]

RING AROUND THE GOVERNMENT'S COLLAR

Choosing between the lesser of two evils is always, like the daily washload, messy business. Especially so when the choice involves detergents. The federal government's recent reversal of environmental policy—go back to phosphates, they are safe for human health, said the Surgeon General to housewives—may have delighted the detergent industry (Procter & Gamble, Lever Brothers, Stauffer Chemical, Monsanto, among others), but it has only confused the women and men who load the wash. If anything useful has resulted from this policy shift, it is another lesson in the hard truth that caring for the environment at this late date is an enormous complexity involving politics, vested interests, profits and social customs.

The government's original stricture against phosphates was correct. Lakes and waterways were being choked to lifelessness when phosphates—fresh from the washing machine—flowed into them. When the detergent industry saw both public and legal sentiment awakening to the danger of this touted cleaner, it cleared away the phosphate suds and came up with substitutes. The government examined these substitutes—alkaline compounds known as caustics—and found them less desirable than the original product; instead of harming the nation's waterways, they could harm the nation's human beings. The caustics are health hazards to the eyes, nose and throat, and are especially dangerous to children; officials reported the death of an infant who swallowed a mouthful of caustics.

The logic of the government's latest decision is, much like many of the vanishing streams it once worried about, clear but shallow. Instead of reversing its original phosphate decision—and thereby confusing the public, which is awash with enough confusion about cyclamates, tuna fish, swordfish, vichyssoise—why not inform the housewife that caustics are dangerous, to be kept away from children and to be used with great care, like iodine, matches, sharp knives, the automobile? The government's concern for children who might ingest caustics is fine; it is a strangely sudden concern, though, if you examine the government's careless record on protecting children from such proven and often deadly threats as flammable nightwear, lead poison or dangerous toys. Or is the concern really for the detergent industry? At any rate, the latter assuredly has a warm feeling for the government, now that the latter has come around to the industry view. Instead of away with phosphates, it is now phosphates away.

Looking back to the days of clear water and clear thinking, much of this wash problem could have been avoided if the advertising agencies had not over-rinsed the public with whiter-than-white pitches. To achieve a washday miracle, powerful phosphates were introduced. So, mistakenly conned, we became a nation of super-clean shirts but super-dirty lakes. What is needed now is a return to the reality that clean, not super-clean, garments are just fine, and your neighbor or boss won't mind if your shirt or dress is merely white rather than whiter-than-white. The detergent industry should have no trouble supplying us with cleaners for that modest goal, and spare us our lakes and our health. If they don't there is the advice Jerome Kretchmer, New York City's Environmental Protection Administrator, gave to New Yorkers; use a combination of soap and washing soda instead of detergents. "Your clothes," he said, "may not glow in the dark, but they will be clean and fresh at lower cost and without adding phosphates to our waters."

[From the Minneapolis Tribune, Oct. 7, 1971]

WASHINGTON'S POOR ADVICE

(By Peter Vanderpoel)

Federal officials dealing with environment, food and health offered some poor, and surprisingly short-sighted, advice to Americans in the last several weeks.

First came the about-face on phosphate

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detergents. The government has discouraged their use for several years because phosphates feed algal growth, which contributes to the stagnation and death of lakes. Detergents contribute the largest share of phosphorus from man-made sources to water in the country—between 1.5 and 1.8 billion pounds a year. In 1970, a U.S. House Government Operations Committee report recommended that all phosphates be ordered removed from detergents by 1972.

Soap-makers, as a result of the government position, had begun to replace phosphates in their detergents with a chemical, NTA, or caustic soda. But NTA may have harmful effects on both the environment and human health, and caustic soda (which is harmful to the eyes, nose and throat) can be fatal if ingested.

So federal officials, in what Rep. Reuss of Wisconsin termed a "capitulation to soap and detergent-makers" (who had been exerting heavy pressure in Washington), urged housewives to return to phosphate detergents as the least harmful alternative.

Maybe, they suggested, the water-pollution problem could be solved by spending between $1 billion and $1.5 billion on sewage-treatment plants capable of removing phosphates. (That kind of treatment can double the capital and operating costs of such plants.)

The government had at least three better options:

Require that detergents containing caustic soda be marked with a warning that they are potentially harmful and should be kept out of the reach of children—the procedure used with countless household products now allowed on the market. As Edward B. Osborn, president of Economics Laboratory, Inc., said at the company's annual stockholders meeting Tuesday in St. Paul, "literally dozens of common household products are dangerous if ingested."

Return to the use of soap. Detergents are the most effective product in automatic washers, but they don't get clothes much cleaner—only "whiter and brighter"—than old-fashioned soap.

Allow only low-phosphate detergents on the market. The amount of phosphates in some products now reaches above 70 percent, up to perhaps 10 times as much as necessary.

The second example of poor advice came last week, when officials criticized public concern about PCBs, the DDT-related chemicals recently found in large amounts in chickens, eggs, turkeys, salmon and fish meal. The government position was based on findings that PCBs pose only a "potential, but not immediate, (human) health hazard," said Dr. Charles Edwards, head of the federal Food and Drug Administration.

It's reassuring to hear this. But Edwards was short-sighted in concentrating on the public health question to the exclusion of advocating a more balanced, long-term concern for the environment. Until such a traditional "public health" approach ("It's no problem until someone becomes sick or dies") was superseded in this country by a broader ecological view, very little progress was made against pollution.

A panel of Nobel laureates, meeting in Sweden, concluded recently that PCB concentrations may "damage ecosystems irreversibly on a worldwide scale before the damage is recognized." It recommended that "their entry into the environment be curtailed to every practical extent, even if this requires constrictions on production and use." England has banned PCBs.

The lesson in both cases is that far too many new chemicals are being manufactured and introduced into the environment without regard for, or knowledge of, their ultimate effects on people or the environment.

William Ruckelshaus, head of the federal Environmental Protection Agency, said in a recent speech: "Each year thousands of new chemical compounds are put into use. The way we consume and dispose of these goods has become a major environmental problem and a potential threat to the health and comfort of the human race, if not to its survival."

He recommended much stricter government control of new chemical products—a position shared by members of the President's Council on Environmental Quality.

If Ruckelshaus and the council are right—and the evidence indicates they are—then the ultimate threat to humans posed by products such as phosphate detergents and PCBs is far too "potential" (Dr. Edwards' word). And it's Ruckelshaus' perspective that the government should have reflected in its two announcements.

Part of the confusion created by the September 15th announcement stems from the fact that simultaneously the Food and Drug Administration made public the list of 39 detergents it had analyzed and assessed for potential health hazards in June. The FDA also revealed a health safety rating system for these 39 detergents which ranges from "(1) Caution, harmful if swallowed" to "(5) Danger, may cause burns to skin and eyes, harmful if swallowed".

Mr. Chairman, I ask that a listing of the FDA's list of 39 detergents and their ratings according to the FDA's assessment of their safety as reported in the September 16, 1971 issue of the New York Times be printed at this point in the RECORD:

[From the New York Times, Sept. 16, 1971]

THIRTY-NINE DETERGENTS ASSESSED

WASHINGTON, September 16.—Following is a list made public today by the Food and Drug Administration of 39 detergents it has analyzed and assessed for potential health hazards:

The rating system is: 1. Caution, harmful if swallowed. 2. Caution, harmful if swallowed, eye irritant. 2A. Caution, eye irritant. 3. Warning, injurious to eyes, harmful if swallowed. 4. Warning, injurious to skin and eyes, harmful if swallowed. 5. Danger, may cause burns to skin and eyes, harmful if swallowed.

The 39 products, which are only a sampling of some 200 detergents in common use, are:

[Product, phosphate content and rating]	
Par, none	3
M–W Lo Suds, none	1
B–70, none	4
Crystal Clear, yes	2
Concern, none	4
Amway SA–8, yes	2
T-Rif, none	1
Pure Water, none	3
Giant OW, yes	5
Phosphate Free, none	3
Klean, yes	5
Miracle White, none	3
Kink Kullen, none	3
Arm and Hammer, none	2
Basic L, none	3
Controll, none	3
Burst, yes	2A
Cascade, yes	2
All, yes	2
Tide XK, yes	*
Drive, yes	**
Phos-Free, none	†
Bio-D, none	3
Amway SA–8, none	2
Sears, none	4
Fab, yes	4
Breeze, yes	2
Cheer, yes	2
Logic, none	4
Cold Power, low	#
Ecolo-G, none	4
Triumph, none	3
Acme, none	4
Balance, none	5
Un-Polluter, none	3
Trend, none	2
Cold Water, low	2
PFD, none	4
Spring Clean, none	2

* Eye and skin irritant.
** Toxic, eye and skin.
† Eye and skin.
# Eye, skin.

The F.D.A. list contains one duplicate name, that of Amway SA–8. In the two references it was said, without explanation, that the product both contained phosphate and was free of it.

On the one hand, three agencies were stating "Certain of the non-phosphate detergents now on the market contain ingredients that, if accidentally ingested, aspirated, or introduced into the eyes, may be extremely injurious to humans, particularly to children. These particular products utilize materials as a substitute for phosphates that are highly caustic and that clearly constitute a health hazard, *which phosphates do not* (emphasis mine)."

At the same time, the FDA listing of detergents gave the non-phosphate product M-W Lo Suds a (1) rating, that is the least harmful in a rating system of (1) to (5). At the same time the phosphate-containing product Giant OW was rated (5), that is the most dangerous in the FDA's testing system. Other phosphate-containing products in the FDA's list scored (5) (the product called Klean) and (4) (Fab), yet the Surgeon General was quoted as generally recommending phosphate detergents for families with small children precisely because of the caustic dangers that could be associated with some non-phosphate detergents.

Unfortunately, the term "caustic" was made the equivalent of "non-phosphate" in statements about the announcement by some Administration officials while others were announcing that the problem is not quite that simple. In an attempt to simplify a complicated scientific concept—that is explaining about alkalinity and pH, as well as the effects of concentration upon causticity—understanding and clarity were lost.

There is also some confusion as to the alternate solutions proposed by the agencies and amplified by the Administrator of EPA in his testimony here two weeks ago. In particular, the Administrator of EPA mentioned that instead of wringing the phosphates out of detergents before they enter the laundry water, EPA would be supporting programs for the construction of municipal waste treatment facilities which will remove phosphates at the 80% level or above.

Now, there is no argument about the need to remove nutrients from waste water at the sewage treatment stage. What is arguable is that this has never been viewed by anyone other than the soap and detergent industry as a substitute for the removal of phosphates from detergents. As the Council on Environmental Quality stated in their First Annual Report in August of 1970, nutrient removal at the sewage treatment plant stage is only one part of a three-pronged program which also includes phosphate replacement in detergents and control of agricultural runoff.

Thus, it is not the enunciation of the goal which is important, it is the amount of commitment in hard dollars that counts. When viewed in this way, a $500 million phosphate removal program in this Administration's $12 billion national program for waste treatment facilities soon becomes glaringly inadequate when it is unsupported by the other two prongs of the CEQ program.

That $12 billion program really is only a $6 billion Federal program and this is to be spread over 3 years. With the National League of Cities and the U.S. Conference of Mayors estimating that the country's water pollution control needs over the next 5 years will be between $33 billion and $37 billion, with a Federal program of $3 to $4 billion required each year to meet these needs, construction of nutrient control facilities appears to be a long distance away.

The program for rescuing the Great Lakes alone is estimated to cost the United States $1.5 billion for treating the sewage that goes into the lakes and the St. Lawrence River. And there the chief culprit is phosphates.

Mr. Chairman, at this point I should like to include in the record an editorial from the January 28, 1971 issue of the Washington Evening Star entitled "Rescue Mission" which comments on the control of prosphates entering the Great Lakes:

[From the Washington Star, Jan. 28, 1971]

RESCUE MISSION

The proposal by a joint United States-Canadian commission for rescuing the Great Lakes offers a shocking clue of what man is up against in the struggle to cleanse the environment of the poisons he has put there.

The proposed expenditure—$1.5 billion for the United States, $250 million for Canada—just for treatment of the sewage that goes into the lakes and the St. Lawrence River, gives an indication of the tab for the total environment. And the difficulty entailed in trying to save the lakes offers a hint of the overwhelming obstacles that face a planetary rescue mission.

The Great Lakes is the right place to start, for it is there that the deep wounds inflicted by man's thoughtless ravagement of the environment are most obvious. Lake Erie is moribund. Lake Ontario is on the critical list. Throughout the lower lakes and the St. Lawrence, the complex system of aquatic and animal life has been poisoned and is dying.

The commission identifies the chief culprit as the phosphates that form an important part of modern detergents. It is not the only villain; the lakes have long been used as a dumping ground for a variety of poisons. But the phospate problem is the place to start.

Phosphates, it is now known, do their deadly work by promoting the wild-fire growth of algae. This primitive plant life is produced in quantities greater than the lake can naturally support. It dies and decays, and the process of eutrophication—the elimination of oxygen from the water—sets in. Finally the water is unable to support life and the lake, quite literally, dies.

Canada has announced that phosphates must be eliminated totally from all detergents used in that country by the end of 1972. The Nixon administration has let it be known that it will neither recommend nor support such an action until a suitable replacement for phosphates can be found.

The administration's position is economically sound and ecologically outrageous. The ban should be imposed by Congress—over a presidential veto if necessary—to take effect no later than 1972. If a safe substitute can be found before the deadline, everyone will be happy. If not, the detergent industry will be hurt and the rest of us will have to get along with less-white whites and less snap in our colors. But it is time for us all to face the fact that the environmental crisis cannot be overcome by talk, that survival is going to require some real sacrifices, a lot of money and an infinite determination.

That the current situation concernnig the control of detergent pollution is in a state of muddled confusion is an understatement. The soap and detergent industry still promotes phosphate detergents as highly desirable to the maintenance of health safety and laundering, yet these products are recognized as a major contributor to the eutrophication of our waters and are considered unnecessarily in soft water regions of our country.

At the same time, questionable substitutes for these phosphate detergents are being introduced into the market and promoted as environmentally safe nonpolluting laundry agents. However, none of these product claims can be supported by an accepted program of pre-market testing for the ingredients' impact upon health and environment.

Much has been said about the research drive by industry and the government into the development of safe substitutes for phosphates. Two weeks ago the Administrator of the Environmental Protection Agency said to this Subcommittee ". . . we will continue our efforts to stimualte the detergent industry to increase its research on the development of a safe non-phosphate detergent. We will also continue our research on substitutes for phosphates." When asked by this Subcommittee to give a dollar estimate of industry's research efforts into the deevlopment of phosphate replacements, the EPA spokesmen said that the industry figures were unavailable. When asked by this Subcommittee about the level of federal government effort into the development of phosphate replacements, the EPA spokesmen quoted one contract with the Gillette Company Research Institute. This contract was awarded in June of last year and involves a mighty research effort of $250,000 this year.

Finally, even though effective control of eutrophication is recognized to require not only the elimination of phosphates and other nutrients from municipal and industrial effluent, little is being done to upgrade sewage treatment plants. More than a paper commitment to nutrient removal is necessary. This is a bricks and motar program that requires hard cash and which must compete with programs to obtain the most basic forms of treatment in some metropolitan areas.

In this murky situation, it is the public that is losing. They are receiving little assistance from either the soap and detergent industry or the government, yet they are expected to make important informed consumer decisions about complex matters of health, environment, and economics.

It is in this situation that it is appropriate and necessary for the Congress to offer some sensible leadership and, instead of throwing up its hands, map out a reasoned program for attacking the problem.

First of all, let the Congress put some financial muscle into the program for catching up with the backlog of waste treatment plant construction in this country. We are not going to take care of the backlog and achieve any acceptable level of nutrient removal—no matter how extensive the technology which is available—if we are unwilling to commit the funds required to construct and operate the equipment. $2 billion of Federal funding a year for three years is not adequate. I have suggested a $25 billion program covering five years and involving a Federal-State sharing ratio that is the same as the Highway program, 90–10. It is not known for sure what will emerge from the Senate Public Works Committee when it reports its Clean Water legislation, but it is expected that the Senate will soon be voting on a construction grant program for municipal treatment facilities which more closely approaches the needed level of financial commitment.

This Administration must be commended for offering S. 1478, the proposed Toxic Substances Control Act. The recognition of the need for pre-market testing of chemicals entering the environment—that is, a First Time Safe philosophy—is vitally important. I believe, however, that Senator Spong's amendment #338 to S. 1478, is a necessary improvement for any meaningful First Time Safe legislation. The concept of pre-market testing must be broadly applied, not only to any new chemicals, but as Senator Spong's amendment directs, to "potentially hazardous existing chemical substances" as well.

This coverage also cannot just be limited to those substances which are *found* to be toxic, which is merely taking retrospective action, but should apply prospectively to those substances which may be harmful to human health and the environment.

While a broad program of pre-market testing of all chemicals which may be harmful to health or the environment is a desirable legislative goal, this legislation should specifically focus on the chemicals in detergents. As a singular national problem which has existed unabated for over ten years, legislative attention to this issue is long overdue.

Both goals certainly could be achieved in a Toxic Substances bill. By directing attention to the issue of replacing phosphates with safe substitutes, an exemplary program would be established for the broader range of substances which may prove harmful to health or the environment.

To achieve this specific goal, the replacement of phosphates in detergents with safe substitutes, a limitation should be placed upon the phosphate content in detergents. While a program of development of phosphate substitutes continues, while these substitutes are being tested, and while municipal treatment plants capable of removing a broad range of nutrients are being constructed, it is perfectly reasonable to set a ceiling upon the phosphate content in detergents. The City of Chicago and Canada have recognised that we cannot wait until the ultimate solution is found to take action. The phosphate problem exists now and the restricton against high-phosphate detergents will provide some measure of relief, yet not unduly inhibit laundry efficiency, or pose a danger to health.

I personally feel that a legislative deadline should be placed on the removal of *all* phosphates from detergents. Considering the amount of damage which is occurring to our waterways, this must remain our goal. After ten years of frustration and industry foot-dragging, the message should be spelled out loud and clear. However, the complete removal of phosphates from detergents should not be required unless *all* ingredients including the phosphate replacement are subjected to adequate testing and an agreed system of standards and regulations.

The establishment of standards of water eutrophication ability, biodegradability, toxicity and effects upon public health and welfare which must be met by *all* synthetic detergents was the first step in the legislative proposal, S. 75, which I offered this past January.

In addition to the establishment of standards and regulations covering all detergent ingredients, S. 75 called for a specific program of federal assistance to accelerate the development and manufacture of detergents that are free of phosphorus and whose other ingredients, including the phosphorus substitute, are pollution free. The safe detergent R & D program in S. 75 calls for a $10,000,000 effort for each of six years. If the Congress is going to exercise a greater degree of control in calling for the elimination of phosphates in detergents and subjecting all ingredients to testing protocols, standards, and regulatons, then in all fairness to the industry it should complete its commitment by a much greater federal participation in the research and development of pollution free safe phosphate substitutes.

A specific federal detergent program containing these three elements: (1) a limitation for the present time on the phosphate content with a clear mandate for their eventual total removal; (2) establishment of test protocols, standards, and regulations for *all* detergent ingredients; and (3) an intensified federal program for the development of safe

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substitutes for phosphates—would be a firm and decisive step in ending the confusion and the environmental and health insults that we continue to suffer as a direct cause of phosphate detergents.

S. 1478 is, I believe, an appropriate legislative vehicle for implementing the federal detergent program which was enunciated in S. 75. In directly applying a measured First Time Safe program to the known and chronic hazards of detergents, a strong precedent would be achieved for the type of anticipatory approach to all chemicals which may be harmful which is stated in amendment # 38 to S. 1478.

Mr. Chairman, I would like to conclude my remarks by offering three editorial comments for the record from the Minneapolis Tribune, the Capital Times of Madison, Wisconsin, and television station WITI–TV, Milwaukee, Wisconsin, which discuss the need for a First Time Safe program for detergents and other chemicals entering the environment:

[From the Madison (Wis.) Capitol Times, Mar. 13, 1971]

PRICE OF "WHITER THAN WHITE"

The continuing controversy over phosphates in detergents—which peaked here in Wisconsin last week at legislative hearings on a number of phosphate-ban bills—is a symptom of a larger problem. It is one that goes far beyond a housewife's vexation over grey wash.

The real issue, it seems to us, is how long this country can continue to revere such meaningless symbols of affluence as "whiter than white" laundry, at the expense of a clean environment.

Housewives have been brainwashed into thinking they will be social misfits if their laundry is not at least as white as that of the woman next door. Meanwhile, the phosphates which produces that whiteness go into our lakes and streams, and nourish the growth of oxygen-consuming algae.

Many of those who testified at last week's hearings indicated that, if forced to choose between whiter-than-white laundry and a clean lake, they'd choose the latter.

That they are prepared to make that choice indicates that people are becoming more and more concerned about the quality of their lives and their surroundings. They are questioning whether our population and Gross National Product can continue to soar, while the resources which support us all are being depleted by our gluttonous, wasteful consumption patterns.

The soap and detergent manufacturers are a part of the industrial complex which stimulates those consumption patterns by creating an artificial "need" (in this case, whiter-than-white laundry) in the minds of consumers, and then proceeding to satisfy it.

We need whiter-than-white wash about as much as we need electric can openers.

[From the Minneapolis Tribune, Oct. 7, 1971]

REGULATING NEW PRODUCTS

Federal officials concerned about the environment warn that far too many new substances are put on the market in this country without any assessment of their ultimate effects.

An article on this page discusses some examples. No one considered the possible damage to lakes when soapmakers began producing phosphate detergents in the 1940s, although phosphorous had been identified before 1900 as a cause of dying lakes. The effects on humans and the environment of the chemical NTA, a phosphate substitute in detergents, are still unknown, although it was introduced commercially five years ago.

PCBs, which closely resemble DDT, came into use in 1929; until a few years ago, scientists were unable even to distinguish them from DDT in laboratory samples. Now, some researchers have found that PCBs act as do DDT and "hard" (long-lasting) pesticides—they accumulate in wildlife, move up the food chain in increasing concentrations and are harmful to birds and other wildlife. (DDT and pesticides are themselves examples of products introduced without full knowledge of their effects.)

The President's Council on Environmental Quality pointed out last year that the nation became aware of mercury pollution only after "it had become critical in some areas." Add cadmium and lead to the list. Add, too, the "large and rapidly increasing number of harmful and potentially harmful chemicals that are commercially used and eventually enter the environment," as the council said in August.

William Ruckelshaus, head of the federal Environmental Protection Agency (EPA), and council members are correct, we believe, in calling for federal controls over new substances put on the market. "People," Ruckelshaus says, "no longer want benefits promised without due regard to the detriments they may produce . . ."

The risks and benefits should be weighed *before* a decision is made to market new products that may harm the environment. Manufacturers should be required to provide EPA with information on the makeup and expected effects of new chemical products; the agency should have authority to test and to hold questionable products off the market.

A government procedure requiring the careful assessment of all new chemicals would not impinge harshly on technological development, as some fear. But it would result in a better understanding of the ultimate impact of technology. And, as Ruckelshaus points out, in the long run this promises to be far cheaper than undoing mistakes after the fact.

BE SURE PHOSPHATES NOT REPLACED WITH DANGEROUS INGREDIENTS

There's little doubt that scientific investigation has proved that phosphorus can bring rapid deterioration to our lakes, rivers and streams. So one would suppose the only logical step would be to ban all phosphorous from our waters. Order all detergent makers who insist on using phosphates to take their product off the market. Apparently, though, it's not quite that simple. Most of us are willing to give up our "whiter than white" shirts and bed sheets . . . but we find now that may not be the only sacrifice we could be forced to make.

At a public hearing in Madison last week, Milwaukee Health Commissioner, Dr. E. R. Krumbiegel, said that 64% of the phosphate detergents sold are for home laundry and could be safely banned. But, detergents with special uses, particularly in food processing and health institutions, could not be banned immediately. So, we could be faced with serious problems in some areas if we move too quickly.

An interesting moment occurred during the Madison public hearing. A woman produced a box of widely advertised no-phosphate detergent as "proof" that suitable substitutes are already available. At the same time, the federal food and drug administration was ordering the withdrawal of the product from the market, because lab tests showed that it is "highly dangerous, toxic, corrosive and upon contact, it creates severe eye irritation, open wounds and sores on the skin." She wanted that product to replace phosphate detergents.

TVG feels it is extremely important that both sides know what they're talking about. Much of the argument in this battle against phosphate detergents is based more on emotion than on solid fact. We're as anxious as anyone to clean our rivers, lakes and streams of damaging phosphates. But, let's follow the advice of unemotional, unbiased experts . . . like Milwaukee's Dr. Krumbiegel whose only interest is the health and welfare of the people of the state. He stresses caution. Before we ban phosphates in detergents, let's be absolutely sure we're not replacing them with even more dangerous ingredients.

URBAN TRANSPORTATION

Mr. SCOTT. Mr. President, the Department of Transportation's very able Administrator of Urban Mass Transit, Carlos Villarreal, recently addressed the Fifth International Conference on Urban Transportation in Pittsburgh. Because his comments would be applicable to the problems and solutions of urban centers all over the Nation, I ask unanimous consent to place his remarks in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY CARLOS C. VILLARREAL, ADMINISTRATOR, URBAN MASS TRANSPORTATION ADMINISTRATION, AT THE FIFTH INTERNATIONAL CONFERENCE ON URBAN TRANSPORTATION, PITTSBURGH HILTON HOTEL, PITTSBURGH, PA., SEPTEMBER 9, 1971

I wish to compliment the Conference Committee and take particular note of the important contribution this series of international conferences on urban transportation has made to better public understanding and support for mass transit. Not only is this true in this community, but in the State of Pennsylvania (particularly in the formation of the Pennsylvania Department of Transportation), and in Washington where we have been able to obtain the kind of Federal legislation mass transit has needed for so long.

Quite frankly, the U.S. Department of Transportation is very pleased to sponsor jointly this conference with Carnegie-Mellon University and Pittsburgh industry. Secretary Volpe and I feel we can only make progress in mass transit if we use *every* resource available to us. I can assure you ours is not a job for government alone. Make no mistake. Transit needs American industry—all industry.

However important various government programs and legislation may be, it is our *industry* that will design and build the things government merely helps to finance. In DOT and in UMTA, we are very much aware of this and remember well the important role industry has to play.

As I travel from city to city around this great country of ours, and as I meet and talk with people about transit and how to make progress in public transportation, more often than not I find myself summing up things this way: Get the *community and political leadership* of your city together; agree to, and *adopt a regional transportation plan* that makes technical and economic sense; have the *courage of your convictions;* arrange the financing for the local share—do these things, and your city will have a new public transportation system—because *now* the Federal Government has the agency and funds to help it come about.

Take note of the elements requisite to success and progress in mass transit: *community and political leadership—in all segments* of the community, in city hall, with the county commissioners, manufacturers and large employers; and with the people—your riders, and potential riders; every city that has a new transit system has had a strong community leader committed to it; Adrian Falk in San Francisco, Mayor Drapeau in Montreal, to name just two; *adoption of a regional plan* for balanced and integrated transportation development; your plan must make *technical sense* and it must make *economic sense,* it has to work and also be capable of being financed; the *courage of your convictions*—the willingness and interest to lead your community to saying "Yes" to transit; and lastly, you need the *local share,* the city, county, State, special district—whatever—your share of the cost to be matched by the Federal share.

I want to speak for a moment about Federal mass transit legislation, what we are doing in the Urban Mass Transportation Administration, and the approach we have taken to our program.

I think perspective is essential to understanding.

Looking back helps us understand as we look forward.

By that I don't mean nostalgia, but rather a look at where we have come from, where we are going in the immediate future, as well as where we *need* to be going in the long run.

In the Sixties we began by paying more attention to the urban problem and solutions now no longer perceived as building highways and parking lots for an increasing number of automobiles, but as *both* an urban and human problem embracing the whole urban scene. It was recognised that the use to which land was put was the source of movement, the generator of travel. The two were indivisible, and the intelligent planning of the one could influence the demand for the other. But planning alone was not the answer, it was a means for finding the answer.

Just as there are many uses for land, there are many means of movement; *all* have to be considered, and those selected have to be fitted into a pattern and an overall balanced urban plan in which transportation is an integral part. This is a fundamental break with the past and provides the conceptual basis for multimodal urban transportation development.

This change in the perceived form and need for public transportation, a new public attitude, and a willingness to support mass transit, resulted in legislation to provide the required program and funds.

There have been several major pieces of Federal legislation in urban transportation.

The Housing Act of 1961 reflected Congress's first interest in urban mass transit by providing for two programs: demonstration funds for the development and testing of new urban transit techniques, and capital loan funds for facilities. The Act also made it clear that urban planning assistance was available for transportation planning under Section 701. Although the loan program proved to be ineffective, the demonstration program in part led to the enactment of legislation in 1964 providing for a permanent capital grants program.

The 1964 legislation also broadened the demonstration program to include research. In 1966, further amendments expressed the interest of Congress and provided funding for new systems, technical studies, managerial training and university research and training grants.

Reorganization Plan No. 2 in 1968 transferred the Urban Transportation Program to the Department of Transportation, and in 1970 the Congress passed President Nixon's Urban Mass Transportation Assistance Act.

This landmark legislation provides significantly larger long-term continuing financing for transit system improvements. For the first time, mass transit was pledged the kind of Federal resources necessary to turn-around the down-spiral of public transportation service.

Few pieces of major legislation can boast favorable voting margins so one-sided as the 1970 mass transit legislation, due in this case to a better general public understanding of the mass transit issue.

It has also become clear that better public transit is good for everybody—whether or not you use it; whether or not you are from the city or the suburbs; whether or not you own a car; whether or not you are rich or poor, young or old. Public transportation is an essential public service. Increasingly, the public realizes this and Congressional interest and action on legislation bears this out.

With very significant bi-partisan and industry support, we have been able to get the needed legislation and Congress has authorized $10 billion over twelve years to improve bus and subway systems, to design and build new stations and terminals, to build surface lines, elevated lines, finance commuter railroads, ferries, and to otherwise finance the planning, development and construction of a great variety of transit facilities.

When the Fourth International Conference was held in 1969, the Federal mass transit program had annual funding of $175 million—the following year, $175 million; and last year, $400 million. The House and Senate have both indicated still further substantial increases for the current fiscal year.

Whereas less than one billion Federal dollars have been spent on mass transit during the ten-year period 1961 to 1971, we now expect to obligate during the eighteen-month period for January 1971 through June 1972, $1 billion.

But legislation is not enough. It seems to me that three things have been needed at the Federal level to bring about the development and implementation of a national program to bring urban mobility to our cities: *legislation, program management,* and *innovation.* Quite frankly, I have directed my own personal time and efforts to these three things:

—*Legislation* to provide an adequate amount of long-term assured Federal financing for high-capital-cost-transit investments;

—*Program management;* staff and organization to obligate and expend funds in such a way as to achieve the maximum benefit and effect for both the transit riding public and urban people generally; and

—*Innovation;* research and development in components, systems, and equipment; directing our best talent and resources in the traditional transit industry and from elsewhere—to give us vehicles, stations, controls; the design, esthetics and architectural features of the newest and best in transit systems. A strong but balanced research and development program.

I have already spoken about legislation.

I have deliberately given time and effort toward developing a strong program management team in our agency. I feel we must be on top of our projects, administer them well and wring out of them every dollar of transit improvement value. This means a management information system, strong audit capabilities, and transportation representatives up on their projects.

New transit systems take a long time to build. Old ones take a long time just to upgrade, rebuild, improve and re-equip. The capital cost is high. The lead time is long. And construction and transit equipment costs are rising—perhaps faster than the national average for this very costly work.

So the way in which *we*—and by that I mean *all of us*—manage, direct, supervise and oversee projects has everything in the world to do with the results and how successful we are in providing the public with better transportation.

Currently, we have more than $2 billion in active, on-going projects. Our dilemma is that we need to help cities make up for years of transit neglect and to overcome the long-range debilitating effect of decades of inadequate funding, while at the same time make immediate short-range progress today with transit systems carrying passengers in yesterday's transit cars and buses.

Compounding the challenge is the need for us to manage our program so as to make progress with new systems, the development and installation of which have high cost in time and capital, and also to coordinate with the Federal Aviation Administration and the Federal Highway Administration in these innovations.

Secretary Volpe has used dynamic leadership in encouraging all the Administrations in the Department to work as a team and have their programs complement each other. The projects calling for interrelated departmental activity become larger and more important every day. Two very important projects come immediately to mind: Airport Access and Exclusive Busways.

We are working very closely with the FAA and several major airports on the growing need for high speed, high performance airport access and airport circulation transportation. In many cases, the airport access route has become an important component of the future Regional Transportation System—as in Los Angeles; on both sides of San Francisco Bay; in Philadelphia and in New York, both to JFK and to Newark Airport.

Exclusive busways and express bus lanes offer great promise as is evident from several of our on-going projects; the I–495 Lincoln Tunnel approach from New Jersey to New York City; the Shirley Highway approach to Washington from suburban Virginia (now carrying 19,000 daily commuters on a single freeway lane), and the Blue Streak Project in Seattle. In these, as well as in other cases, while working with the Federal Highway Administration we are able to use the resources from both UMTA and FHWA to build and equip high capacity freeway lanes and provide immediate relief of commuter congestion.

Some cities will be able immediately to benefit from bus transit improvement projects. Our basic policy is that each city or region should decide on the type of transit system it needs and can afford. We believe that bus systems should be optimised in every community. Existing rail rapid and rail commuter systems should be improved and extended in accordance with the Regional Plan.

As I said earlier, new systems take a long time to build and have a high capital cost even though they do have the advantage of high capacity and high speeds, and are well suited to high density, large metropolitan areas.

UMTA has a technical studies program and other initiatives to enable cities to determine for themselves the type of system that best meets their needs and urban transportation requirements. Our responsibility is to provide the Federal financial assistance and program management capabilities to help implement these local decisions.

Above I have spoken about legislation and program management. We have also directed much of our efforts to innovation—our research and development program. Innovation has a special importance in the Federal mass transit program. The need for a bold and imaginative research and development program is obvious. All you have to do is go for a ride on the bus or the subway.

When President Nixon signed our new legislation last Fall, he spoke to the matter of mass transit innovation and research. He said, "(This Bill) provides a very significant financial commitment on the part of the Government to mass urban transportation systems. And it will mean that *we will find the methods* whereby in the future we can move into the cities and through the cities of our country in a way that will enable life in those cities to be much more attractive than would be the case when the cities are jammed with traffic . . . this, we believe, is an historic step to meet that challenge."

Right now we are in need of vastly improved transit and commuter railroad cars. We need a new city transit bus. We need a better bus for very promising express bus lane projects. We need a whole family of related vehicles for feeder lines, for short distance circulation and distribution systems to service transit stations, park-and-ride

facilities. We have a systems manager now going out for bids for a new family of buses, and we have accelerated the bus program to give us a new prototype bus in fifteen months.

Earlier I mentioned our working with the FAA and FHWA on joint projects.

Within the last few weeks, we dedicated a portion of the Department of Transportation's test facility in Pueblo, Colorado, which with the Federal Railroad Administration we will use for the evaluation and test of railroad commuter cars, rail rapid transit cars and urban tracked air cushion vehicles.

This transit car testing and development effort is another example of departmental cooperation and involves the DOT Transportation Systems Center in Cambridge, Massachusetts. In addition, transit properties have already furnished transit cars and technical assistance. We have every hope and expectation that this test facility will become a center for rail vehicle development and advancement. A test center can easily become a hobby shop and laboratory for the pet ideas and theories of those who manage it. It takes careful program management to keep the work on the track, so to speak. We hope it will be *sooner* rather than *later* that you ride in a commuter car or a transit car, some part of which was developed or tested at Pueblo. There is some reason to be confident in this prediction. The test track at BART—a much smaller effort than Pueblo—produced specifications, design data and a new transit car we can all ride on early next year in San Francisco.

In the long run, I would expect that about five percent of our total program funds over the next ten years will be spent on new bus, rail and transit systems development. Last year we had a budget of $45 million for R&D, and this year we will have $65 million.

Secretary Volpe and I are in complete agreement that our research program should be balanced as to short and long-term objectives, balanced in development of bus, rail and new systems, and balanced in funding so as to provide sufficient funds for promising projects and advancing capital grant candidate systems in a realistic time frame.

Quite frankly, I am very much flattered to be on this conference program with that great engineer-designer philosopher, Buckminster Fuller.

He has written a remarkable little book entitled "Operating Manual for Spaceship Earth." You may be more familiar with Mr. Fuller's remarkable geodesic domes, but listen to what he says: "If you are in a shipwreck and all the boats are gone, a piano top buoyant enough to keep you afloat that comes along makes afortuitous life preserver. But this is not to say that the best way to design a life preserver is in the form of a piano top. I think that we are clinging to a great many piano tops in accepting yesterday's fortuitous contriving as constituting the only means for solving a given problem."

Too often public officials and community leaders cling to yesterday's transportation systems while attempting to provide mobility for today's urban people, with their special needs for ever-increasing access, mobility and freedom in getting around, this just can't be done. For that reason I think our research program is especially important.

I further think we tend to accept our cities as they are, built on a land-use pattern most closely associated with its historic shape and developed along railroad and highway transportation lines. In all too many cases we tend to feel that only past solutions are the answers to be sought. Needless to say, I disagree. Our legislation, program management and research efforts bear this out.

To summarize, the Federal report on mass transit is that we now have the legislation, the program management and the research effort to make a significant impact on the very significant transit needs of this country. I feel certain the results to be achieved are only limited by how well we use the resources now available to us, the leadership in the States and local communities give to their transit improvement programs, and the extent to which we make the most of the opportunities before us.

HAPHAZARD APPROACH TO FOREIGN AID

Mr. McGEE. Mr. President, although I sincerely believe there is little inclination on the part of the U.S. Senate to completely dispense with a foreign aid program, I am fearful that the haphazard manner in which we are approaching this problem could produce that disastrous result.

As I advocated last week, I think it would behoove us to pass a continuing resolution to fund our foreign aid program at the fiscal 1971 levels to provide us with the necessary time to come up with a restructuring of this program which would be the outgrowth of our best thinking.

In this morning's Washington Post, an editorial entitled "Foreign Aid Reform" scored a legitimate point that—

> The case for slowing down the pace—by putting off big reforms and simply passing a resolution continuing the program near current levels for, say, three or four months—therefore becomes very strong.

John Hannah, Administrator of the Agency for International Development, also had some very pertinent comments in his article appearing in the same edition of the Post.

Hannah builds a very rational case warning of the dangers inherent in recommendations already arrived at by the Foreign Relations Committee. Here again, the haphazard manner in which we are attempting to achieve foreign aid reform has certainly been detrimental to the development of a truly workable and realistic program.

Marquis Childs, in his column also in this morning's Post, scores similiar points also valid in their scope.

I ask unaimous consent that the editorial, Dr. Hannah's article, and Mr. Child's column, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

FOREIGN AID REFORM

The administration and Congress are both pushing for quick action on foreign aid but in opposite directions and if they keep at it the result is likely to be no foreign aid bill at all. The case for slowing down the pace—by putting off big reforms and simply passing a resolution continuing the program near current levels for say three or four months—therefore becomes very strong.

A key fact is that Mr. Nixon intends to make a major report on the Indochina war in the next week. It would seem to be a matter of self-interest for his critics on the war issue to give him a hearing before venting further spleen on aid. On the President's part he could realize that his Vietnam report gives him the means to sweeten considerably the atmosphere in which a new aid bill will be debated. So at both ends of Pennsylvania Avenue, delay has its reasons.

Moreover, the only aid legislation extant, the "two" bills reported out by the Senate Foreign Relations Committee, are inadequate. As John Hannah notes elsewhere on this page, the committee's snap decision last week to split economic/humanitarian aid from military aid was the very same step it refused to take last spring on grounds that the matter required more study—as it does. In fact, it is not the "same step": the administration would truly have split the programs but the committee would split merely the voting on them, not the administering of them. To split the voting, of course, fragments the two-decade pro-aid coalition to the point where, in the current sour and erratic mood on Capitol Hill, neither economic or military aid may be able to muster enough votes for survival. If Congress is to kill aid, then at least it should soberly calculate the costs.

After months of deliberation on the old bill, the Senate had said that $2.9 billion is appropriate; suddenly it switches to $2.3 billion. The new economic bill would increase interest rates on development loans (and food credit sales) to a level where no country which needed them could afford them. The bills make no effort to relate aid for Indochina either to the war expenses that would be required by its Mansfield amendment (fight until the prisoners are returned) or to the civilian needs that would unfold pursuant to its Cooper-Church amendment (withdraw). Haste make sloppy drafting.

The administration, using scare talk loosely, wants the whole existing program extended indefinitely. That ship obviously won't sail. The better way is that indicated by the House, which is scheduled to vote today on a resolution to continue aid spending at current levels until the end of this session of Congress. The only trouble with that is that once the Thanksgiving and Christmas recesses are subtracted, not enough time is left for careful drafting or for assembling the political support necessary to enact a new bill. The House should provide a bit more time.

ADMINISTRATOR EXAMINES ARGUMENTS: WHAT SORT OF AID "REFORMS"?

(By John A. Hannah)

Some in the Senate have explained the Oct. 29 defeat of the foreign assistance bill as a mercy killing. The old program, they say, was diseased by vestiges of the cold war, weighed down by bureaucracy, devoid of ideas. Better to let it die, they said. The Senate wants a "new concept." It wants a "fresh start" consistent with the non-interventionist temper of the times. I want "new proposals to redirect our Foreign Assistance Program."

As diagnosticians of foreign assistance the Senate committed two errors. It failed to examine the patient closely enough to find out that the diseases it decries have been under successful treatment for some time. It failed to remember that the administration has proposed major reforms of the program which make it eminently worth saving.

On April 21 this year, the President sent two completely new foreign assistance bills to the Congress. One bill covered economic and humanitarian aid, the other military and related security aid. This legislation—138 pages long—was the culmination of 19 months of study by the Peterson Commission, a panel of experts headed by Rudolph Peterson, Chairman of the Board of the Bank of America, and by the Executive Branch.

The legislation contained most of the remedies for foreign aid now being advanced in the Senate as new concepts. It proposed:

Separating economic development and humanitarian assistance programs from military and security assistance programs; a stronger emphasis on technical assistance programs directed toward alleviating the mass unemployment, malnutrition and poverty problems which rapid population growth has brought to the developing countries; channeling more aid through multilateral institutions to lower the political profile of bilateral aid; reducing the size of AID's overseas missions and staffs; eliminating many of the restrictions which make aid procedurally difficult to administer and reduce its effectiveness. (The current AID list of provisions which Congress requires us to meet before we can make a loan runs to 75 items.)

The House Foreign Affairs Committee held six weeks of hearings on the new legislation. As the hearings unfolded, it was apparent that Congress held widely differing opinions as to how foreign assistance should be reformed. Many in the Senate favor increased use of multilateral programs and separation of military and economic assistance, but many in the House do not.

These differences and the far reaching nature of the reforms prompted the Foreign Affairs Committee to decide that more time was needed to study the proposals. The Committee decided to recommend reauthorizing AID as it is for two more years. In the Committee's words, "a two-year authorization would enable the Legislative Branch to approach the problem of foreign aid reorganization with greater deliberation without jeopardizing the continuation of the program."

Senator Fulbright's Senate Foreign Relations Committee accepted this decision. They held only three days of hearings on the new legislation, then recessed to wait for the House to act. The House passed its bill on August 3. The Foreign Relations Committee sent this bill with amendments to the Senate floor on October 22 where it was defeated Friday night, Oct. 29.

The two "new" bills reported out by the Foreign Relations Committee last Thursday purport to separate military and security assistance from economic and humanitarian assistance. But in fact they leave matters exactly as they are. The authority for administering both security assistance and development assistance remains with the Administrator of AID; the authority to transfer funds between them is unaffected; and authority to establish a Coordinator for Security Assistance in the State Department to administer and coordinate these programs is not included in the bills.

The bills still contain the restrictive amendments so vigorously contested in the Senate two weeks ago.

Development loans, which have been the backbone of AID's program, are vitiated by a requirement that they bear interest rates of six per cent or more. Poor countries with few natural resources and low levels of exports cannot take the basic steps toward development without foreign exchange for raw materials, machinery, fertilizer, pesticides and other imports needed for agricultural and industrial growth. For many years AID's policy has been to provide foreign exchange, not through grants, but through low interest loans.

Since these countries cannot afford high interest loans, the Senate's action, if sustained, will take us back to the time when the U.S. could only "give away" its assistance. The new bills provide no funds for population programs, but require these to be funded from the greatly reduced authorizations for other programs. The new bills provide levels of funding for military assistance and supporting assistance for Vietnam, Laos, Cambodia, Thailand, Jordan and Korea far below the firm commitments that have been made to all these countries.

The facts of life are that the Senate and House have many different views about foreign aid. We should not try to resolve these views and pass new bills in a week. We believe Congress should pass a continuing resolution which keeps the entire program together and permits time to discuss the reforms which are now on the table. The Senate need not fear that taking time for discussion will leave the country with a tired old AID program.

The administration has been working to put more aid through multilateral channels for several years. The amount proposed for multilateral institutions this year is almost double that of two years ago.

Channeling more funds to multilateral institutions has to be a step-by-step process. Immediately turning over all AID funds to institutions like the World Bank and Asian Development Bank would overload their administrative capacities and, more importantly, violate their international character. The "Anglo-Saxons" are already accused of playing an excessive role in several of them. The nature of these institutions requires that we move in concert with others to increase their resources. One cannot build international institutions unilaterally. We must help the U.N. agencies develop the routines and management techniques required to satisfy our Congress and the American people that funds we provide are effectively used.

The process of sharing the aid burden is well advanced. The U.S. share of world-wide aid has dropped from 64 per cent to less than 40 per cent in fifteen years. Measuring aid as a per cent of GNP, the U.S. ranks 12th among the 16 major aid-giving countries. Those ranked above us in order are: France Netherlands, Australia, Belgium, Portugal Canada, Denmark, Sweden, England, Norway and Germany; those countries below us are Japan, Italy, Switzerland and Austria.

AID's bilateral program is not widely scattered. More than 80 per cent of our aid goes to ten countries. AID's technical assistance program is concentrated in four critical areas: agricultural, population and health, education and public administration.

AID is lowering its presence abroad. We reduced our overseas staff by 10 per cent in fiscal year 1970 and 10 per cent more last year to the lowest levels in AID history. We plan further reductions this year. Increasingly, our projects are implemented by personnel from U.S. universities or other private organizations—not AID personnel. Of the more than $14 million dollars AID and its predecessors have loaned abroad, less than one-fourth of one per cent is in default.

Aid is not a drain on the U.S. balance of payments. The aid program sends U.S. goods and services abroad, not dollars. In FY 1970, aid funds bought more than $1.5 billion in commodities and services from more than 5000 U.S. companies in all 50 States.

Most importantly, the aid program works. In the last decade, the economies of the less developed countries grew almost twice as fast as the United States did at comparable stages of its history. They are expected to accelerate this rate of growth in the 1970s. This growth would not have been achieved without aid from the U.S. and other countries. The world is a better place to live in than it would have been without President Truman's Point 4, and its successor agencies through U.S. AID since 1961.

ONLY COMPROMISE CAN SAVE AID PLAN

(By Marquis Childs)

The test just ahead on foreign aid is hardly less a test of whether the system of divided powers works or not. To chop down the whole foreign aid program is a disaster. This is far more than scoring political points, since so much turns on the continuity of many of the programs.

The growing imbalance between military and economic aid was the root cause of the Senate defeat of the administration's foreign study by the staff of the Senate Foreign Relations Committee showing that of the total to be dispensed over the next five years, $27 billion would go for military aid and $34 billion for economic assistance.

In the measure voted down a total of $1.723 billion went for all military purposes against less than half that for various forms of economic help. The result was to unite conservatives, who have long felt foreign aid spending was excessive, with opponents of the administration military policy such as Chairman J. Fulbright of the Senate Foreign Relations Committee who calls it "American imperialism."

Now a compromise has been put together with military assistance in one package and economic aid in another. This will presumably wind up with the support of active opponents such as Fulbright, Sens. Mike Mansfield, Frank Church and other Democrats, together with skeptical Republican moderates such as Sens. George Aiken and Clifford Case. In short, it would be a coalition insuring passage of those parts of the package essential for the continuity of aid programs in developing countries even though there have been radical cuts.

Soundings by this observer indicate that the compromise is the only chance for survival of foreign aid in the Senate. Will the White House go along? If the decision is to accept it, then passage can be fairly swift, although inevitably when the separate military phase comes up the debate will be prolonged. To fight the compromise, using all the pressure tactics in the White House arsenal, will mean no foreign aid for an indefinite time as the Senate wrangles over the dry bones of past errors and present hostilities.

The administration has a lot on its side in the current dispute. As originally sent to Congress in April, the whole aid structure was to be reorganized, with the military separated from the economic. Outright military grants, the funding of military sales and support assistance for maintaining large military establishments would go into one package labeled "security assistance."

This was an overhaul long overdue. But the House Foreign Affairs Committee fell back on the format of the Foreign Aid Act of 1961. Two years, the committee reported, would be required to study reorganization of the system.

Obviously that was not good enough, so when the tired, old bundle reached the Senate the result could have been predicted. Fifteen Republicans, including Sen. Robert Dole of Kansas, chairman of the Republican National Committee, joined 26 Democrats to make the score 41 to 27.

Foreign aid has no constituency. That has been increasingly clear as the military share increases year by year.

Rep. Wilbur Mills, the grand panjandrum of the House Ways and Means Committee, is saying privately that the deficit this fiscal year will be not $30 billion, as has been widely reported, but $35 billion. For a Republican administration bringing out of the past an inherent faith in budget balancing, that is a staggering figure. This may jazz up the economy as President Nixon, a very recent convert to Keynesianism and the spur of a deficit, apparently believes it will.

But the claims of developing peoples, already suffering from the Nixon new economics with the commodity prices falling, rate low as against the claims of the powerful constituencies pressing for housing, school lunches, improved medical care. For the United States, the richest nation, to be a dropout on foreign aid is intolerable.

LAKE HINKLE—POEM BY CHESTER A. BRADLEY

Mr. McCLELLAN. Mr. President, recently I was honored to participate in the dedication of Lake Hinkle, a part of the Jones Creek Watershed Development in Arkansas. A poem entitled "Lake Hinkle" and composed by Chester A. Bradley of North Little Rock, Ark., was

read there. I think this poem captures part of the spirit and determination of my State of Arkansas with respect to our treatment of the earth itself and of its abundant natural resources. I am happy to ask unanimous consent that the poem be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

LAKE HINKLE

(By Chester A. Bradley)

This region here, so beautiful and wild,
Has changed but little with the march of time.
While other spots on earth have been defiled,
Their loveliness defaced by soot and grime,
These hills and valleys still reflect the love
That God poured out upon the planet's face.
Here creatures of the wilderness—the dove,
The turkey and the deer—can still find space
To live their lives without man's harsh restraint.
Here streams flow from the mountains as of yore,
Their waters clear as cloudless skies; no taint
Has touched a drop; we know they hold in store
Refreshment for a thirsty countryside.
And now a dam is here upon this creek,
A lake is formed that we can view with pride,
A place where visitors can come and seek
The soothing power of nature at its best;
And it is good to know that they will find
Much loveliness, and exercise and rest,
And something more important—peace of mind.
My parents both were born near where we stand,
And here also, is where I got my start.
The changes that were made upon this land
Are welcome to my eyes and to my heart;
The many days of work that have been done
Have saved the heritage for everyone.

THE F-111 PERFORMANCE RECORD

Mr. BENTSEN. Mr. President, in the course of the congressional and public debate in the past over the development of the F-111A aircraft many questions were raised as to its potential effectiveness as a vital part of our strategic air forces. Those questions are now being answered over the skies of Europe by the performance of the F-111 as an integral part of our NATO forces.

The 20th Tactical Fighter Wing, stationed at Oxfordshire, England, presently deploys some 72 F-111A's in performing its support mission for NATO forces in Europe. The men of this unit, many of them veterans of Vietnam combat service, have given the F-111 a resounding "A-OK" for its performance in repeated sorties over the European staging area.

The testimony of the pilots who fly the F-111 along with the unblemished performance record it has established in use by the 20th Tactical Fighter Wing make for a strong endorsement of the decision to continue deployment of the F-111 and to include it as a major part of our airstrike forces.

Mr. President, I ask unanimous consent to have printed in the RECORD a newsstory from the Sdyney Morning Herald, Sydney, Australia, that reports the performance of the F-111 in its NATO assignment and details the plans of the Royal Australian Air Force to continue with its purchases of the F-111C.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

F-111 BACKING FOR NATO

UPPER HEYFORD, OXFORDSHIRE.—The U.S. Air Force can now put a large number of its F111 long-range strike bombers over Europe from this base in support of its NATO commitment.

Day in day out, nine of the 72 F111As making up the crack USAF 20th Tactical Fighter Wing are stationed in an alert area ready to be flown into the NATO immediate alert system.

Each of three squadrons of 24 aircraft is flying 12 sorties a day with an average of three hours 20 minutes a flight.

Each aircraft averages 20 flying days and 18.6 flying hours each month.

The aircraft can fly at supersonic speed at sea level and mach 2.5 speed at altitude over training grounds covering large areas of Britain and the western part of France, down to the Spanish border.

This is the aircraft which the RAAF will have to wait another year to acquire.

Almost 100 Americans pilots and navigators, most of them with extensive service in Vietnam, are loud in their praise of the F111.

Senior American airmen were unwilling to buy into the politics surrounding the F111, but were obviously puzzled over the slowness of the Australian Government to make a final decision to acquire the 24 F111C aircraft ordered for the RAAF.

Federal Cabinet is expected to make a decision to this effect late this month following a favourable report from the RAAF's own experts.

Even then the 24 RAAF F111Cs will have to undergo extensive modifications before delivery can start, probably in 12 months.

Twentieth Tactical Fighter Wing men said today that two of their three squadrons, 79 and 77, had become fully operational since they started flying from this base late last year. The third, 55, is now coming to operational pitch.

No pilot can start the conversion course to fly the F111 in this wing unless he has had 1,000 hours service on jet aircraft.

The upshot is that most of them are veteran captains, and even lieutenant-colonels, in spite of their seeming youth.

Today, a hard-faced and obviously taciturn USAF "bird," Colonel Robert McIntosh, deputy commander for operations of the wing, was deeply sincere in his praise of the aircraft.

A USAF veterans, he said he felt far more secure flying the F111 in normal missions and in facing combat than he had ever felt in any other type of aeroplane.

Colonel McIntosh said wryly that if anyone was privy to the "Russian warbook," he would find the 20th Tactical Fighter Wing high up on its target priorities.

One of his more junior, but still highly experienced pilots, described flying conversion from other highly rated aircraft to the F111 as "like passing from riding a bicycle to driving a Jaguar."

The American pilots to a man swear by its terrain-following radar which gives them the confidence to fly over set courses down to 200 feet with absolutely no visual reference to the ground.

It is this ability to deliver nuclear or conventional bombs at very low level in all weathers or in the absolute darkness of night which gives the F111 its real and vital importance.

"It can do better on any strike mission than any other aircraft flying in the world today," Colonel McIntosh said.

He paid particular attention to the tanker refueling training being given men of his wing although the conversation revealed that the F111 can fly from the Atlantic seaboard of the United States to this base without any refueling or even emergency tanker standby.

This means that the USAF is obviously training to give its F111s a huge range to anywhere in eastern Europe.

The tankers which carry out the training runs, at least one or two a week for each squadron, operate from the huge USAF base at Torrejon, Spain.

The 20th Tactical Fighter Wing has more than 3,600 men at this base as part of its only F111 operation over Europe.

NORTHERN IRELAND TODAY

Mr. RIBICOFF. Mr. President, recent events have underscored the timeliness and cogency of Senate Resolution 180, calling for an end to the bloodshed in Northern Ireland, which I cosponsored with the distinguished senior Senator from Massachusetts (Mr. KENNEDY).

This morning's New York Times carries a front page story headlined "Ulster, Torn by Guerrilla War, Faces Major Political Change." Two specific changes mentioned in the article—the abolition of the Northern Ireland Parliament and the end of internment—are contained in our resolution.

More people are becoming aware of the depth and the nature of the causes of the growing violence in Northern Ireland. While there may still be genuine differences over solutions to this conflict, I am certain most Americans would agree that an increase in the use of military force and the continuation of discriminatory practices against a minority in Northern Ireland are not the answers.

I ask unanimous consent that the entire article by Bernard Weinraub, published in the New York Times of November 10, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ULSTER, TORN BY GUERRILLA WAR, FACE MAJOR POLITICAL CHANGE

(By Bernard Weinraub)

BELFAST, NORTHERN IRELAND.—Torn by a new surge of urban guerrilla warfare, Northern Ireland is confronting the major social and political crisis of its 50-year history.

Government officials, Roman Catholics and Protestants, moderates and extremists on both sides agree that Ulster faces a dramatic political shift that will result in London's assuming new initiatives and powers in the tormented province of the United Kingdom.

At the highest level of the Protestant-dominated provincial Government there is growing anxiety that the semi-independent Parliament at Stormont Castle will be suspended and some form of direct rule from London will take its place. With that the precarious dominance of the million Ulster Protestants over the half-mission Catholics will topple.

"It is now a crunch situation," a senior official here said today. "There is a feeling among Protestants—a real feeling—of the possibility of betrayal by Westminster."

The current crisis is the culmination of the wave of killings, bombings and arson that followed the Government's internment of suspected terrorists to root out the Irish Republican Army, which seeks to end the partition of Ireland. In the three months since then 96 persons—61 civilians, 28 soldiers and 7 policemen—have been killed. The most recent incident occurred today when a British soldier, on foot patrol near the Bogside in Londonderry was shot and killed by a sniper.

Belfast, with a population of about 400,000, is a stricken city. Wooden barriers protect the new skyscraper Europa Hotel and downtown office buildings, where security guards inspect packages, are boarded up. At dusk shops and pubs are also boarded and at 9:30 p.m. the buses stop running. By night the darkened main street, Royal Avenue, is eerily silent except for the rumble of armored cars and voices crackling over military radios.

LEGACIES OF TERROR

The barbed wire, the smoking hulks of pubs, the funerals that clog traffic, the shattered shops, the restaurant windows of plywood and corrugated iron—all these are the visible legacies of terror in this 19th-century industrial city.

Voicing the Catholic minority's view, Tom Conaty, chairman of the Central Citizens Defense Committee, a powerful group in the Catholic ghetto, said: "This thing's going to break. It won't go on. We're sick of violence but it's going continue unless Stormont is abolished."

"Northern Ireland is like a 50-year toothache," he continued. "Direct rule would be like going to the dentist. It will hurt for a while but we'll get used to it."

Although the Catholics yearn for unification with the largely Catholic Republic of Ireland to the south, the immediate aim of Catholic leaders is to eradicate the Parliament, which most Catholics view as merely dedicated to Protestant dominance.

The Protestants, who fear that the Republic will eventually engulf them, view direct rule as a first step toward unification.

SAD DAY FOR ULSTERMEN

The Rev. Ian Paisley, the extremist Protestant, said that he has learned "on the highest authority" that direct rule was imminent. "This is a sad day for Ulster and a sad day for Ulstermen," he said.

The possibility of direct rule evokes uncertainty and anger, especially among Protestants.

Prime Minister Brian Faulkner said over television last night: "I believe that the imposition of direct rule would produce a far more violent holocaust in Northern Ireland than anything we've ever had."

His associates speak in even blunter, almost frightened terms saying that direct rule would be a betrayal by the British Government.

What form direct rule may take remains uncertain. There is some discussion of a commission of Catholics and Protestants appointed by London, to run Northern Ireland and plan a new government and constitution, possibly in three years' time.

Although the terrorists would oppose such a move, the feeling among Catholic leaders is that the rank and file would support direct rule as long as Parliament and internment ended.

John Hume, who has emerged as the most influential figure in the predominantly Catholic opposition, said: "The first and essential step, whatever the agreed solution to emerge from the current situation, must be the abolition of the present system of government."

Mr. Conaty was equally adamant: "Ending internment and abolishing Stormont would give us a chance to turn the community against violence. You can't do that now. Stormont was the institution for most of the problems we have. And internment is a disaster."

ARMY INTELLIGENCE SPOTTY

A total of 882 persons have been seized since the imposition of internment on Aug. 9. More than half—476—have been released.

Although the army maintains that many hard-core terrorists have been seized, the large number of those released points to a spottier flow of intelligence than the army had been claiming. Critics also point out that the efficacy of internment has been undermined by the wave of terror and killings that it provoked.

Internment has been turned into an even more emotional issue by charges that prisoners have been tortured. Yesterday the widely respected London-based organization, Amnesty International, reported internees' allegations of torture and brutality.

In the Catholic community leaders have asserted that internment is an anti-Catholic measure and that Protestant gunmen have been ignored. This was denied by Mr. Faulkner, who said:

"I can't tell you, in fact, whether there are any Protestants who have been interned but I would accept, certainly, that at least 90 percent of those who have been interned are Catholics. This is because the I.R.A. has such a grip in the Catholic community. But I say this—that the vast majority of the Catholic community, probably 90 per cent of them, are totally opposed to the thugs and murderers in the I.R.A."

ECONOMY IS LAGGING

Intensifying the old antagonism between Protestant and Catholic is a lagging economy that has entrenched the disadvantages of the Catholics.

Business in Belfast has dropped more than 40 per cent in three months. Three of the city's 11 dance halls are closed and the others are open only once or twice a week. Stores advertise "bomb damage sales."

A visitor returning after only a month discerns the decline. One of the best-known hotels, the Grand Central, is closed. The best Chinese restaurant is protected with wooden sheets, the result of a recent blast. Airline service has been curtailed.

Last week a recruiting campaign for teachers in Australia brought a flood of applicants.

"We're losing not only teachers but doctors and businessmen and some of our best skilled craftsmen," said Brian Walker, chairman of the moderate New Ulster Movement, set up two years ago to spur a Catholic-Protestant dialogue.

"When the skilled carpenter or toolmaker leaves for England or Australia or South Africa, we're not just losing a man but 20 and 30 years of training and experience. It's heartrending to see the drain. It's a hemorrhage on our national resources and far more shattering to our community than the bombing of a store."

THE FOREIGN AID MESS

Mr. McGEE. Mr. President, the present dilemma with which we are faced concerning the issue of our foreign aid program can most probably be laid at the feet of both the Senate and the administration. In my estimation, this dilemma could have been avoided.

In the Washington Evening Star of Thursday, November 4, columnist Crosby S. Noyes discussed the events which led to this unfortunate set of circumstances. I feel his assessment of the situation is worth noting.

I believe it is time for the Senate and the administration to set aside their animosities which have, in effect, substantially deteriorated the ability of the Nation to pursue a reasonable foreign aid program. It would behoove us all to put our best foot forward in arriving at a constructive, ongoing program to meet our international challenges.

I ask unanimous consent that Mr. Noyes' column, entitled "Playing Games Leaves Foreign Policy in Mess," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PLAYING GAMES LEAVES FOREIGN POLICY IN MESS

(By Crosby S. Noyes)

The administration and the Senate have both been playing games and between them they have the foreign policy of this country in a mess which is going to be very difficult to sort out.

At this point, naturally, each side is blaming the other. The administration is charging the Senate with blatant irresponsibility in killing off the foreign aid program and jeopardizing President Nixon's foreign policy at a particularly delicate moment of transition. The senators, quite unabashed, accuse the administration of having contributed greatly to the mess by inept leadership and a congenital hostility to the Congress in the area of foreign affairs.

Both sides, in the immediate context, are right. The Senate revolt Friday night was mindless and blind and extremely damaging to American interests. The performance of the administration in successive crises over the last two weeks has been marked by an inability to assess the strength of its opposition and an uncanny knack of making the worst of a bad situation.

In the space of a single week, the administration demonstrated dramatically that it had lost control in the United Nations and the United States Senate. Its reaction to these events has served to strengthen the impression that the administration also has lost control of its own foreign policy. And this could have the most disastrous consequences, not only for the administration and the country, but for the world as a whole.

The saddest part is that none of this was really necessary.

It wasn't necessary—though it may well have seemed politically expedient—for the administration to exaggerate the extent of its defeat Oct. 25 in the U.N. General Assembly.

In voting to expel the Nationalist Chinese and to seat the government of mainland China, the U.N. membership did no more than follow Nixon's own China policy to its logical and inevitable conclusion. Whatever anti-American overtones there may have been in the final vote, the American case for seating two governments, both claiming to represent China, involved contradictions that could not be ignored.

The same thing can be said of the administration's handling of the foreign aid bill in the Senate.

It wasn't necessary—though again perhaps expedient—for the President to have made a quite gratuitous connection between the U.N. vote and the future of "foreign aid allocations" which at that very moment were being bitterly debated in the Senate. The fact that some of the delegates who had voted against the American position came from countries that had received aid from the United States was wholly irrelevant.

The effect was to alienate support for the foreign aid program both by those who approved of it as a means of buying votes and by those who did not. Either way, the administration was the main loser.

It wasn't necessary for the President to make it clear before the Senate vote that he would take no position on proposed cuts in foreign aid or American support for the United Nations. In particular, his threat to veto the foreign aid bill if it included amendments opposed by the administration encouraged both opponents of the program and opponents of the administration.

The net result was to alienate, perhaps permanently, a large group of liberal senators who have always supported foreign aid authorizations in the past. The quite accidental coalition of this group with conservatives and isolationists who have traditionally voted against foreign aid succeeded in killing the whole program.

XUM

It is quite unlikely, in the long run, that this coalition will hold together in preventing a revival of the program by one means or another. The strong probability is that the administration will get congressional approval for all essential parts of the program, including continuing military and economic support for Indochina, South Korea and Israel.

Although liberal senators are talking boldly at this point of eliminating all of the military aspects of foreign aid and restoring selectively only those programs of purely humanitarian purpose, they know that their victory Friday was something of a fluke that is likely to be short-lived.

And this, finally, raises the question of why it was necessary for all administration spokesmen to react to the Senate action in such apocalyptic terms, implying that this nation's whole foreign policy had gone down the drain and that an effort of 25 years had been undone by a single vote. The effect, once again, was to increase the damage to the prestige and authority of the administration before the nation and the world and to shake the confidence of every country that relies on the United States for support.

MOBILE HOME MAIL DELIVERY

Mr. CRANSTON. Mr. President, early this year, it came to my attention that the U.S. Post Office Department—which has since become the U.S. Postal Service, under the Postal Reform Act—had made a policy decision not to deliver mail to individual mobile homes. Instead, they said, they would deliver to management offices, to central receptacles, and to centralized clusters with a minimum of 20 users at all newly developed mobile home parks.

I was concerned that this policy discriminated against people who have chosen mobile homes as an alternative to high-cost permanent dwellings and who want to live in individual housing.

Low-cost, comfortable, and decent housing continues to be in major shortage in our country. Mobile homes are playing a larger and larger role in the solution to this problem.

In several letters to Postmaster General Winton Blount, I wrote that the type of new mobile homes found in California in no way fits the description of "concentrated housing areas"—the rationale behind the Post Office action. In meetings between post officials and members of my staff, I urged that the Post Office reconsider this policy.

I am pleased to announce that the Postmaster General's office today advised me that a policy change has at last been made.

Under the new regulations each local postmaster will have the authority to choose among four alternative plans for mobile home park mail delivery in his area. The plans are:

Delivery to the management offices.

Delivery to central receptacles such as those found in apartment buildings.

Delivery to cluster boxes of two or more.

Curbside delivery to each mobile home with the boxes placed between every two mobile homes on a shared pillar.

I commend and thank the U.S. Postal Service for the flexibility and fairness they have displayed in this matter. At the same time, I urge residents, management, and developers of new mobile home parks to contact their local postmasters requesting that the fourth alternative of curbside delivery to each residence be implemented in their mobile home parks.

MINORITY HIRING IN THE CONSTRUCTION INDUSTRY

Mr. HARTKE. Mr. President, an article published in the Wall Street Journal of September 7, 1971, indicates that a new approach to minority hiring plans in the construction industry is being discussed within the Department of Labor. A major feature of this new approach is the elimination of any representatives of minority groups from the formulation of hiring plans.

The construction industry has long been recognized as a sensitive area for minority employment. Recognizing this, the Department of Labor has been diligent in its pursuit of training programs and hiring plans which held out a reasonable promise of a substantial increase in minority employment in the construction industry.

Under the present system, representatives of labor unions and the construction industry get together with representatives of minority groups and government to formulate a hiring plan for the community. The new approach which the Department of Labor intends to implement on an experimental basis would eliminate representatives of minority groups from the formulation of these hiring plans.

Mr. President, I find it difficult to understand the reasoning behind this so-called new approach. I understand that it is similar to the process now used in formulating hiring plans for nonconstruction industries. Nevertheless, the success of any plan depends on its acceptance by those who will be asked to abide by its terms. To exclude the very groups which the hiring plan is supposed to assist is to seek failure where success is so badly needed.

In a letter which I recently received from John Wilks, Director of the Office of Federal Contract Compliance, I was informed that the new approach views the minority hiring problem as an industry problem, and that minority workers are beneficiaries of the hiring plan but should not participate in the administrative process of formulating that plan.

Surely this is shallow reasoning and poor logic. Minority hiring is a community problem which should be solved by the community—not by a mere segment of that community. This so-called new approach threatens to turn back the clocks to a time many years ago when there was little if any progress in promoting minority employment in the construction trades.

This new plan must not be implemented—even on an exprimental basis. If it is implemented, it threatens to destroy the confidence of blacks, Puerto Ricans, Mexican Americans, and others throughout the country who have looked to the Federal Government as a source of hope and as a source of remedial action.

Mr. President, I ask unanimous consent that the Wall Street Journal article and three relevant letters be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 7, 1971]

NEW MINORITY HIRING PLAN FOR CONTRACTORS SAID TO BE WEIGHED BY LABOR DEPARTMENT

(By Byron E. Calame)

WASHINGTON.—Labor Department officials are mapping a new approach to the promotion of minority hiring by construction contractors working on federally aided projects.

The "prototype" of the new approach is being hammered out in Boston, where a tripartite voluntary hiring plan involving union, contractor and minority community representatives has encountered major problems; sources in the department indicate. It may be unveiled as early as mid-month, according to sources in Boston.

Under the new approach being contemplated, contractor and union officials in a city would be required by the department's Office of Federal Contract Compliance to come up with their own specific minority hiring goals and timetables. This is essentially the same "affirmative action" requirement the OFCC imposed on federal contractors outside the construction industry in its so-called "Order No. 4" issued last year.

Only last May, top Labor Department officials had said the OFCC intended to start imposing specific minority hiring goals on federal contractors in a number of cities, as it had first done in 1969 in Philadelphia, because voluntary, or "hometown," solutions such as Boston's weren't working. In the ensuing weeks, so-called "Philadelphia plans" were imposed in San Francisco, St. Louis and Atlanta. And some OFCC officials predicted similar plans would be imposed in up to a dozen more cities, including Chicago, during the next year.

The imposition of government-prescribed goals and timetables in Chicago and other cities is being held up until the new approach can be developed, sources in the department say. One major problem with the Philadelphia-plan approach, they concede, is that the OFCC simply doesn't have the manpower to move into a significant number of cities fast enough to gather the extensive data needed to set the specific goals and timetables for such plans.

A Labor Department official notes that "the obligation of resources required to start an imposed plan and to make sure it's implemented is fantastic." Another source concedes somewhat ruefully that the idea of getting union, contractor and minority community representatives to come up with workable voluntary plans has proved to be "like throwing three cats in the same sack—there's sure to be a fight."

"When you try the tripartite approach, they're always squabbling over the money" that federal manpower officials usually funnel to train minority building tradesmen, observes one department policy maker. "So we decided to try a new approach . . . and Boston will be the prototype."

The department's effort to get contractor and union officials to come up with a two-party affirmative action plan seems likely to trigger an angry reaction from minority group leaders in some communities. "There is going to be trouble, possibly even demonstrations and violence," if the government decides to leave the minority community representatives out of the development of the new plan, predicts one source close to the Boston situation.

One high Labor Department official stresses that "the big hurdle" will be getting the officials of building trades unions to join with the contractors on federally aided construction projects in formulating an affirmative-action plan with specific minority hiring goals. The executive order under which the OFCC operates technically covers only the contractors and subcontractors on such projects.

Government attacks on alleged job discrimination by unions must usually be based on the broader provisions of the Civil Rights Act of 1964.

Nevertheless, Labor Department officials contend the OFCC has enough clout in the construction industry to wrangle "a commitment from the unions." Adds one source: "If you get a commitment from the contractors and the unions, it's going to be easier to get results" than it has been under the voluntary approach.

Although the details aren't clear, the OFCC has apparently convinced the building trades in Boston to participate with contractors in the formulation of specific minority hiring goals.

OCTOBER 8, 1971.

Mr. JOHN WILKS,
Director of Office of Federal Contract Compliance, Department of Labor, Washington, D.C.

DEAR MR. WILKS: A newspaper article early last month indicated that a new approach to minority hiring plans was being discussed within the Department of Labor.

That approach would emphasize the role of contractors and union officials at the apparent expense of community involvement.

I would very much like to know if my impression of this proposal is accurate.

Sincerely,

VANCE HARTKE,
U.S. Senator.

U.S. DEPARTMENT OF LABOR,
EMPLOYMENT STANDARDS ADMINISTRATION,
Washington, D.C.

Honorable VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HARTKE: This is in response to your October 8th letter concerning the Department's new approach to minority hiring plans in the construction industry.

The Department has approved an experimental affirmative action program for the construction industry in Boston which excludes the participation of the minority community in the administration of the plan. The approach is similar to the affirmative action program for non-construction industries, where the problem is viewed as an "industry problem," and minority workers are beneficiaries of the plan but do not participate in the administrative process. A copy of the program for non-construction industries is enclosed.

I would like to reiterate that this is an experimental program that will be monitored closely for results.

Your continued interest in equal employment opportunity is appreciated.

Sincerely,

JOHN L. WILKS,
Director, OFCC.

THE INDIANAPOLIS PLAN FOR EQUAL EMPLOYMENT, INC.,
Indianapolis, Ind., October 28, 1971.

The Honorable VANCE HARTKE,
United States Senate,
Senate Office,
Washington, D.C.

DEAR SENATOR HARTKE: Over the past three years there has been a lot of attention directed toward the building trades and their lack of minority participation. Whether this under-representation has been the result of overt discrimination or from a de facto arrangement cannot be adequately demonstrated. At any rate, 1970 and 1971 have seen the proliferation of voluntary home town plans and imposed plans to increase the level of minority participation in these skilled and high paying positions.

We of The Indianapolis Plan have always maintained that voluntary plans such as ours represent the best hope for relatively quick and smooth rectification of the problem. Through working together toward a common goal, building contractors, union representatives and representatives of the minority community have been able to put life and spirit into a concept. Although we have a signed Memorandum of Understanding and Supplemental Agreements from all the crafts in the Marion County Building Trades Council, all those printed words would be meaningless if it were not for cooperation from all three groups.

Lately we have heard that in terms of the Federal Government's thrust, a new direction is about to unfold. That emphasis is alleged to be toward bipartite agreements, leaving out the minority community. It is our conviction that such agreements could not work. A cursory review of the history of the building trades should make that painfully obvious. Generally, contractors say that they have never discriminated against blacks and other minorities, but rather have tried to secure them for their work forces with no success. Union will tell us that their doors have been open, but no minorities have applied for entrance or membership. If that is the case, then it does not seem to me that either group could be considered competent with respect to minority recruitment. A quick look at the lack of minority representation in the building trades will prove that. If the reverse is true, that contractors and especially unions have aggressively excluded minorities, then the situation is clear. Conditions have not changed to the point that these two groups could implement a viable minority employment program. It is only when the minority community is involved, as is the case of The Indianapolis Plan, that adequate numbers of minorities can be recruited for the building trades.

I hope that you will consider these points and support the concept of tripartite home town plans. We are not speaking for The Indianapolis Plan so much as the other cities in Indiana, because our Plan has demonstrated that it is workable and, in fact, is working. I write this more for the many communities in Indiana that are currently putting together home town plans. At the present time Fort Wayne, South Bend, Evansville, Richmond and the tri-city area of Muncie, Anderson and New Castle are composing proposals to present to the Department of Labor for funding.

Thank you for any support given to this issue.

Sincerely yours,

ALBERT R. BUTLER,
Project Director.

AEC'S RELATIONSHIP TO REACTOR CONTRACTORS

Mr. ANDERSON. Mr. President, Mr. Chris FitzGerald, editor of Nuclear News, published monthly by the prestigious American Nuclear Society, has written an incisive editorial concerning the Atomic Energy Commission's relationship to its reactor contractors, and its responsibility to the American public under the provisions of the Atomic Energy Act of 1954. Mr. FitzGerald has pinpointed a number of important questions that need to be examined in depth in order to determine the direction that the AEC may be taking if the speech delivered by AEC Chairman James R. Schlesinger at the American Nuclear Society industrial forum meeting in Miami Beach, Fla., on October 20, 1971, is any indication of a change in the AEC-industry relationship.

I ask unanimous consent that Mr. FitzGerald's editorial entitled "Memorandum From the Editor," published in the November 1971, volume 14, No. 11, issue of Nuclear News, be printed in the RECORD. I also ask that "Excerpts from the Remarks by USAEC Chairman James R. Schlesinger at the ANS–AIF Banquet, Bal Harbor, Fla., October 20, 1971" published in the above-mentioned issue of Nuclear News, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From Nuclear News, November 1971]

MEMORANDUM FROM THE EDITOR

The Atomic Energy Commission as it is presently constituted has been called the "post-Calvert Cliffs Commission." And in his speech at the ANS–AIF Banquet in Miami Beach last month, the new Chairman James R. Schlesinger, referred to the Calvert Cliffs decision as a watershed event in the history of nuclear power. After hearing his remarks (see pages 18 and 32), one may well agree that a turning point has been reached in the relationship between the Commission and industry, but it is less clear whether this has come about because of the Court's decision or because of the possibly independent desire on the part of the Nixon administration, the new AEC Chairman, or the full Commission to alter the role of the AEC.

Schlesinger made his position clear: As far as light water technology is concerned, the industry is "rapidly approaching mature growth," and it should now be "self-reliant." He added, "It is not the responsibility of the Atomic Energy Commission to solve industry's problems which may crop up in the course of commercial exploitation. . . . The AEC's role is a more limited one, primarily to perform as a referee serving the public interest." He has thus, at least as far as light water reactor technology is concerned, nicely separated out the "promotional" role of the AEC and has retained its regulatory role—just the opposite of the solution usually suggested.

The main question is: Even if one accepts the idea that light water reactor technology and the utilities' application of it amounts to a mature industry (which, in many respects, it is not), is this limited view of the AEC's role consistent with the provisions of the Atomic Energy Act of 1954, which calls for "a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public" and "a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress"?

The existence of a flourishing reactor manufacturing industry does not of itself relieve the AEC of its job of giving active assistance in the implementation of light water reactor technology at the user level. In the same speech, in fact, Schlesinger mentioned some of the problems facing the industry—e.g., the development of standards, the assurance of reactor safety, quality assurance, and the development of the right kind of manpower to design, construct, and operate nuclear power plants. All of these objectives deserve attention from the AEC not only from a regulatory standpoint, but also from a development standpoint, consistent with the requirements of the Atomic Energy Act.

This assessment leads to other questions: To what extent does the Chairman's expres-

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sion represent the views of the full Commission? (He is, after all, only the first among equals.) And what is the JCAE's position on a reduced role for the AEC? These are questions that require elucidation.

In connection with the Calvert Cliffs case, Chairman Schlesinger has said that the AEC has no intention to evade its responsibilities under the law (NEPA). There should be no disagreement with that statement. At the same time, the Commission should have no intention to evade its responsibilities under another law: the Atomic Energy Act.

[From Nuclear News, Oct. 20, 1971]

EXCERPTS FROM REMARKS BY USAEC CHAIRMAN JAMES R. SCHLESINGER AT THE ANS-AIF BANQUET, BAL HARBOR, FLA., OCTOBER 20, 1971

Some of you may feel that Calvert Cliffs was a watershed event . . . that the Court's decision should have been fought, that by failing to appeal the decision and by issuing regulation in conformity with the Court's decision the Atomic Energy Commission was admitting that it was wrong, that the whole set of events was tantamount to the AEC's abandoning the industry. In light of the historical climate in the industry, this is an understandable response. From its inception the Atomic Energy Commission has fostered and protected the nuclear industry. Looking back one can, I think, say that this was the right policy for that historical epoch. That policy permitted a new and vital technology to be exploited; it created an industry and then protected the industry as it grew to relative maturity. But that industry, insofar as it involves the exploitation of light water reactor technology, should now be on a self-sustaining basis. Those of you who regard the response to the Calvert Cliffs as indicating a climatic change in the relationship between the industry and the AEC could well be right, though perhaps for the wrong reason. The move toward greater self-reliance for the industry had a certain historic inevitability. Such a process is always painful. It is, however, necessary. One result will be that you should not expect the AEC to fight the industry's political, social, and commercial battles. These are your tasks—the tasks of a self-reliant industry. . . .

In this regard the thrust of the Atomic Energy Act of 1954 can readily be misconstrued. The concept of "promoting," implicit in the act, is an elastic one. It can be interpreted quite properly, to mean that the AEC has responsibility aggressively to develop new or improved technical options which may be exploited for public use. It can be interpreted, quite improperly, I believe, to suggest that the Atomic Energy Commission should indulge in promotional activities on behalf of well-established industrial sectors. Perhaps the phraseology is obsolescent. In any event the word "promotional" has served to confuse some sections of the government, the industry, and the public regarding the proper role of the Atomic Energy Commission in this mature stage of the industry's development.

It is the responsibility of the Atomic Energy Commission vigorously to develop new technical options and to bring those options to the point of commercial application. It is not the responsibility of the Atomic Energy Commission to solve industry's problems which may crop up in the course of commercial exploitation. That is industry's responsibility, to be settled among industry, Congress, and the public. The AEC's role is a more limited one, primarily to perform as a referee serving the public interest. I might add that it is to industry's long-run advantage that the public has high confidence that the AEC will appropriately perform its role in this regard. . . .

You have every right to demand that the AEC perform its duties efficiently. If extraordinary costs are incurred because of the unduly slow functioning of AEC procedures, that is our problem and our responsibility to solve it. It is not our responsibility, however, if a utility encounters unanticipated costs because of a failure to do its job properly, failure to comply with the procedures, or because of a change in the law. We are sympathetic; we understand your problem, but it is your problem.

Finally—and let me underscore this point—it is not the AEC's responsibility to ignore in your behalf an indication of Congressional intent, or to ignore the courts. We have had a fair amount of advice on how to evade the clear mandate of the federal courts. It is advice that we did not think proper to accept. If you regard the legislative or judicial framework as extreme or unworkable, you have a clear remedy through the seeking of legislative relief. We sympathize with the difficulties that you are facing, but we have no intention of evading our responsibilities under the law. . . .

Dealing with intervenors is a time-consuming process. Most intervenors ask appropriate questions, albeit somewhat repetitiously. Some intervenors are deliberately exploiting existing procedures in order to cause delay. To the extent that delaying tactics have been used as a tool to force the provision of information that the intervenors may feel that they have been improperly denied, it is understandable. There is a direct way of dealing with this problem. To the exent that delaying tactics have been employed sheerly for the purpose of delay, to put off month-by-month or year-by-year the operation of plants and imposing costs on industry and the public, it cannot be condoned.

Environmentalists have also been raising questions that transcend the issues involved in individual plants. The question has been raised, by Michael McCloskey of the Sierra Club among others, whether our society for environmental reasons viewed broadly ought not curb its appetite for energy and for electric power. It is a legitimate social question. It is not unreasonable to question whether neon signs or even air conditioning are essential ingredients in the American way of life. More fundamentally, it is not unthinkable to inquire whether energy production should be determined solely in response to market demand. Some of you, I suspect, have strong views on this matter. You should be prepared, whenever the necessity arises, to present your position to the public just as the Sierra Club does—and I suspect that at this reading you are likely to have the public with you.

Whatever the private views of the Commissioners, it would seem to me inappropriate for the Atomic Energy Commission to take a position on this issue. The AEC should be officially neutral. It is the AEC's mission to provide energy options that will serve public needs—in whatever manner the public prescribes those needs. The AEC lacks authority and consequently should avoid becoming entangled in the determination of broad social issues of this type. . . .

I have heard the charge that the AEC has been "over-reacting." The new regulations are tough; you will agree, however, that they comply with the spirit of the Court's decision. While they are tough, they are workable. I am surprised and concerned therefore by the attitude of discouragement to which I referred previously. These new regulations present no insuperable difficulties, if you will get on with your part of the job and we get on with ours. . . . A suitable cost-benefit study can normally be developed on the order of two months, particularly if there is a suitable format. . . . You will need guidelines for such studies and you shall have them.

TRIBUTE TO SENATOR WINSTON L. PROUTY

Mr. CRANSTON. Mr. President, Winston Prouty was a friend and respected colleague to many of his fellow Senators. During his years in the House and Senate, we learned to respect his fairness, his good judgment, and his compassion for his fellow man. I was privileged to serve with him on the Committee on Labor and Public Welfare, where his deep interest in and knowledge of issues basic to the Nation's well-being was evident in his contributions to our work. He left his imprint on the many pieces of landmark legislation developed by that committee over his 12 years of service as a committee member.

His amendments to the Employment and Training Opportunities Act of 1970 indicate his concern for the right of each individual to a life of dignity; one would provide special consideration to jobless heads of households with dependents; another would provide special consideration in job referral to those who need it most—the unemployed, underemployed, or the unskilled; a third amendment would emphasize training in skills that would lead to long-term employment and career opportunities, rather than just dead-end jobs meeting a short-term crisis.

This same concern for human dignity extended to the many reform measures he introduced to benefit the elderly. I was aware of his leadership in this area prior to my joining the Senate, and I was deeply impressed to see him pleading for benefits and programs that were well ahead of their time. For years he urged a minimum annual income for all Americans over 65 and argued for increased social security benefits at a level which would come closer to meeting the realities of rising prices. He fought for liberalized social security earnings tests and a waiver of coverage for workers over 65. He sponsored legislation to expand medicare benefits by eliminating deductible and coinsurance features; extending coverage to prescription drugs, eyeglasses, and dental work; lowering women's eligibility from the age of 65 to 62; and permitting easier access to extended care facilities. This legislation has not yet been enacted, but undoubtedly will become law in the future due, in large part, to the groundwork laid by Senator Prouty.

In the health care area, his commitment to finding new approaches to solving the problems besetting the Nation is evident in the leadership role he played in the historic health legislation passed by Congress in the past 10 years. The Health Professions Educational Assistance Act and the Nurse Training Act, which were just extended by Congress, were originally developed with Senator Prouty playing a major role in establishing the basic underlying philosophy.

He saw future weaknesses in the health-care system before they became readily apparent to others. He was a cosponsor of the Family Practice Act of 1970, which passed the Senate but on which action was never completed in the House. This year, comparable provisions were included in the bill extending the Health Manpower Act. These provisions will encourage young men and women to enter the field of family medicine, and will encourage schools and hospitals to develop more programs for training in these specialities.

He was an early supporter of the legislation developing Federal programs for research, teaching, and demonstrations in the fields of heart, cancer, and stroke —the regional medical programs—and was very active in his support of the northern New England regional medical program. This program has an outstanding record in establishing coronary care units throughout the area. Senator Prouty was a leader in efforts to strengthen the role of the regional medical programs in local initiatives to improve and coordinate the provision of health care, a role now generally accepted, but rejected in many areas only a few years ago.

He lead in the development of other health-care legislation providing answers to current problems, such as the first comprehensive approach to treating mental retardation and mental health—the Mental Retardation Facilities and Community Mental Health Centers Construction Act. When that act came up for extension in 1970 he was active in amendments which would make the benefits of this legislation especially available to poverty areas through increased financial assistance.

Senator Prouty also participated actively in the expansion of the community mental health center program to include specific projects for alcoholism. He was also deeply involved in the enactment of legislation to authorize programs for the prevention, treatment, and rehabilitation of drug addiction.

Since coming to the Senate, I have been privileged to Chair the subcommittees having jurisdiction over legislation affecting medical care for veterans. Senator Prouty always provided the greatest support to me in my efforts to insure that the Nation's veterans receive the high quality health care the citizens of this Nation wish them to receive.

He was one of the first to recognize the potential of the veteran who had received training as a medic in military service and call for programs to utilize his experience and skills in the civilian community. He introduced legislation in 1969 which would have established a program to recruit and train veteran medics for civilian health positions. These provisions were incorporated in 1970 in the extension of the Allied Health Professions Education Act, and just recently the Comprehensive Health Manpower Training Act of 1971 also included provisions to encourage the utilization of these valuable young men in civilian medical careers. I feel this is an answer to many problems in the health field, and have myself introduced legislation to encourage the Veterans' Administration in its medical facilities, as well as medical schools and other medical education institutions, to take full advantage of the training these men have received and adjust and expand their training for utilization in the civilian sector. Thus again, Senator Prouty's vision is becoming reality.

Senator Prouty, who prior to his service in the Senate was a Member of the House and had served there on the House Veterans' Affairs Committee, consistently supported moves to create a standing Committee on Veterans' Affairs in the Senate, and in this session of Congress such a committee was born.

It would be impossible to cite all the reforms Senator Prouty took a leadership role in achieving. I have been able to touch upon only a few. But as we take on new matters in Congress, we are constantly reminded of the stands he has taken and the leadership he has provided in earlier discussions in the Senate and the House. We already miss his good counsel, his judgment, and his constant dedication to principle and we miss him as a close friend and associate. Our loss will seem greater as time passes. But his ideas are still with us, and the contributions he has made to the Nation's laws will remain as the foundation for many future innovations.

INDIAN EDUCATION

Mr. McGOVERN. Mr. President, for many years American Indians have been striving for a measure of community control of their own schools. Despite assurances from the administration, to date, none of the 10 Indian-controlled school boards who have applied for Government contracts to operate their own schools have been given commitments. One of the schools involved is an Oglala Sioux facility at Pine Ridge, S. Dak., whose board has been waiting, not too patiently, to get on with the business of educating its children.

The Washington Post published an excellent article entitled "Indian Runaround," which details the frustrating foot dragging and delay in connection with Federal contracting for Indian school boards. I ask unanimous consent that the story be printed in the RECORD and commend it to the attention of Senators who are concerned with Indian education.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INDIAN RUNAROUND—HOW THE BUREAUCRACY VETOES A NIXON VOW ON SCHOOLS

(By William Greider)

On the Wind River reservation in Wyoming, which the Shoshone share with the Arapahoe, about 40 or 50 Indian children did not go back to boarding school this fall.

Most of them were under the impression that a new high school would be operating on their reservation, controlled by an Indian school board, supported by the federal government. They were misled by what they heard from Washington. Some of them are still waiting.

The children at Wind River, when they reach high school age, are scattered across the map. About 300 or so go to two public high schools off the reservation in the towns of Lander and Riverton. An additional 150 or so are sent to government boarding schools in six states. Still others, perhaps a couple of hundred, don't go to school any more.

"What we're trying to do," says Allison Sage, an Arapahoe who is president of the Wind River Education Association, "is bring our kids back home and attack the drop-out problem or, rather, the push-out problem."

He and the other parents at Wind River have been trying to get their own community high school, which, after all, is not exactly a radical proposal. They are encouraged by words from the President himself and by a letter from the commissioner of Indian affairs. But so far they have encountered mostly frustration and postponement.

The educational problems at Wind River are a small matter compared to the tens of thousands of Indian young people already lost, but the situation is noteworthy because the parents there have tried—and so far failed—to do something dramatic to "bring back" their kids.

In the process, they have discovered what any seasoned Washington lobbyist could have told them—that the President makes the grand declarations of government policy, but that he is not there when bureaucrats draft the regulations or negotiate the contracts or keep the project proposals shuffling back and forth from one office to another. The people from Wind River have become convinced that this process, in the end, can twist the President's words or perhaps even veto his ideas.

COALITION FORMED

Among Indian leaders, there was general applause and even some cheering when President Nixon first announced his new goals for Indians: The Indians themselves would begin to run things. The paternalism of non-Indian bureaucrats would be replaced with self-determination contracts through which tribal leaders could take over the operation of government programs.

As the President envisioned it, these contracts might cover any of the variety of federal programs on the more than 300 Indian reservations, from real-estate management to police protection. The heart of it, however, was to be education—where people shape their own image of themselves and determine whether their culture will survive in their children.

Mr. Nixon declared: "Consistent with our policy that the Indian community should have the right to take over the control and operation of federally funded programs we believe every Indian community wishing to do so should be able to control its own Indian schools."

That was July 8, 1970. Since then, only one tribe—the small band of Miccosukee in South Florida—has managed to wrestle out of the Bureau of Indian Affairs the kind of contract which gives the Indians control over their school. They accomplished that in part because their tribal chairman, Buffalo Tiger, waded through repeated tangles of red tape and in part because the tribe had a Washington lawyer lending his time and expertise to the struggle.

Three other tribal groups—the one at Wind River, an Oglala Sioux community at Pine Ridge, S.D., and the Crow reservation at Busby, Mont.—have also waded into the thicket with firm proposals, but so far they have not come out with contracts. Instead, the process has created a lot of legal back-and-forth between them and the bureau. They have felt the need to form a "coalition" of some 10 fledgling Indian-controlled school boards, united to prod the BIA into doing what the President said to do.

THIRTY-TWO YEARS LATER

The coalition was in Washington last week, lobbying at the bureau, the Interior Department and Congress. Its "position paper" expressed considerable skepticism about the future of self-determination contracts:

"Each day's procrastination endangers at least four Indian community school projects and retards the education of our children. Our belief in the good faith of this administration as regards self-determination for Indians in education is fast dwindling and only immediate fulfillment of prior commitments can restore our support."

The commissioner of Indian affairs, Louis R. Bruce, an Indian himself, and Secretary of Interior Rogers C. B. Morton periodically reaffirm their devotion to the idea. But the

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Indian skepticism is based solidly on the history of reform—initial enthusiasm buried by bureaucratic delays and diversions. The official policy of the BIA, for instance, is to phase out government boarding schools. That has been the official policy for more than 35 years, yet the percentage of Indian children who must leave home for their schooling has dropped only modestly since 1930.

The current few who are trying to get self-determination contracts fear that their experience will be a negative object lesson for other tribes who will see the frustration and won't bother to try.

"It's trying desperately to get off the ground," says Mrs. Barbara Sinclair, a Shoshone from Wind River, "but the bureau is saying, Oh, we don't know if that's right. They're so expert in everything. They won't give up anything."

QUITE IRRESPONSIBLE

For their part, the BIA officials insist that their caution is merely prudent, that contracts must be carefully drawn to insure accountability, that hastily launched projects might fail and injure the children, that the government must be satisfied that the school-control proposals are what the reservation parents really want.

Elizabeth H. Skelly, an education officer who has done much of the negotiating, says the accusations of foot-dragging are "quite irresponsible." The Wind River sponsors, she says, "just rant and rave on. It's really a political maneuver on their part to build up the pressure and barrel through a loose contract."

She expects that as many as six Indian-controlled schools may be operating with BIA contracts by next fall, though how many follow beyond that is less certain. Even six would represent dramatic progress compared with the past.

"However, in the last six months," Mrs. Skelly says, "we've met with tribal groups that are interested but a great deal of doubt and concern has been expressed. They like the idea, but they see all the problems they are getting into. They have a feeling they might get out on a limb by cutting off the bureau. There's much more reluctance than one might think. After all, this is a big step for these people to take."

Mrs. Skelly contends that each step of delay has involved a legitimate problem, often a requirement which the sponsoring group had failed to meet. The way the sponsors tell it, each time they meet one objection they are given a new one to contend with.

THE BRUCE LETTER

At Wind River, for instance, Sage, Mrs. Sinclair, and the others spread the word in April that a new high school could be opened in September, using the facilities of an Episcopal mission. Their confidence was based on a letter from Commissioner Bruce expressing "our firm intent" to contract for a high school in the fall with at least $250,000.

"This is the kind of local initiative by Indian tribes which I wish to encourage, and I intend to give this matter personal attention until a contract has developed," Commissioner Bruce said.

The Wind River group set out to demonstrate the community support required by the bureau with petitions signed by more than 900 parents and students, in contrast to an opposition petition signed by fewer than 100, mainly Shoshones. A series of referendums held at local elementary schools produced better than 2-to-1 support. The Arapahoe Tribal Council passed a resolution endorsing the proposal—though the Shoshone council did not, a fact which BIA officials consider an obstacle to a contract.

The sponsors did not hear any more encouragement from Bruce, but they heard lots of questions from his subordinates in the Indian agency. A negotiation meeting was set for May, but according to Michael Gross, lawyer for the Wind River association. "We were sitting around the table waiting for the BIA and nobody showed up."

The problem, it seems, was that influential congressmen and departmental contract officers were upset by the new Indian contracts which tribes were seeking and which some BIA officials (mainly Indians brought into office by Bruce) were promoting. They questioned the format, the legal authority, the procedures for audit control. The flap inside the BIA made cautious officials even more timid. All negotiating was suspended while a contract team worked on a "model" contract that would apply to the Ramah, N.M., Navajo school started in 1970 as the first of its kind.

The new "model" contract wasn't completed until mid-September and, when they saw it, the Indian school boards objected strenuously, but unsuccessfully. It was 39 pages long and loaded with fine-print prescriptions on how the Navajo parents at Ramah should operate their school, down to the lunch rations of fruit and corn muffins. It was essentially a procurement contract, like those for buying paper clips or pencils.

By contrast, the bureau signs contracts every year with state governments for the distribution of federal aid to educate Indian children—and these agreements are brief and generalized. The state schools get their money in two advance payments, with no requirement for advance proof of expenditures; the Indian schools will have to submit monthly invoices detailing their expenditures before they can get the federal money.

Lawyer Gross contends that the BIA could draw similar contracts with the Indians, giving them more leeway to make their own decisions. "Educational services are not commodities," the school-boards coalition protested. The BIA insists, however, that it must follow the long contract form or run into new objections from Congress or the auditors.

OUT OF FAITH

While the "model" contract was still being drafted, the Wind River group met with bureau officials in July and were told that the proposal which the BIA commissioner endorsed in April was impractical. The proposed contract of $250,000 was not enough to finance a decent high school and, besides, there was not enough time.

"These people," Mrs. Sinclair complains, "are all Eastern and they think in terms of two or three thousand kids for a high school. I pointed out to them that Chugwater, Wyoming, graduated seven kids."

Nevertheless, the Wind River group reluctantly accepted the idea that it would not get a high school this fall, but would try instead for an "education resources center," a euphamism for a special school to deal with 9th and 10th grade children who have left school.

No progress has been made so far on this plan. But, according to Mrs. Skelly of the BIA, any delay can be blamed on the Wind River group because it did not promptly submit the new proposal. In any case, she suggested last week that the Indians may have to produce evidence of community support all over again—since their original petitions and resolutions were in support of a high school, not a special center.

"What's so sad," says Mrs. Sinclair, "is that people were really steamed up about this last spring. We simply can't go back to the community any more and say there's something going to happen in two weeks, then it's three months and nothing. People are out of faith."

The sponsors like Sage and Mrs. Sinclair feel that the opposition has been inspired by whites who do not want to see an independent school district established on the reservation for fear of losing tax revenues which the off-reservation schools draw from oil fields on the Indian lands. In any case, both of Wyoming's senators agree that the Wind River proposal does have strong support among the Indians and they are pressuring the bureau to reach an agreement when they meet again this week.

THE BUREAU'S RECORD

Meantime, the school coalition members take a glum view of the bureau's insistence on "good management." Frank LaPointe, representative from the Rosebud Sioux reservation in South Dakota, complains: "They have a mentality that goes something like this—that we can do it better than Indian people can. It goes like this, too—Indian people can't do it."

There is no question that some of the BIA's caution stems from fears that turning over money and school children to Indian parents will risk wasting both. The irony is that the BIA has managed in the past to waste quite a lot itself without involving Indian control.

A harshly critical internal audit of BIA contracts by the Interior Department recently concluded:

"Most of the things we found wrong represent a continuation of long-standing practices. While the new thrusts of bureau programs toward tribal involvement have added to the problems, a conclusion identifying policy changes as the principal cause is, in our opinion, incorrect."

Among other things, the auditors found an area director who bought six cars but neglected to get title to the vehicles. In another instance, a bureau employee took over a contract when the contractor died. In another, a training school was advanced $113,000 but only spent $67,000—and had use of the extra money interest-free before the bureau got it back. A relocation and training project proposed a contract to handle 77 Indian families for $216,000, then revised it a month later—reducing the number of families 48 per cent and the price 9 per cent.

The Indians think they can match that record for fiscal responsibility—and maybe even do a little better.

GREAT LAKES SHIPPING CRISIS

Mr. GRIFFIN. Mr. President, yesterday the Administrator of the St. Lawrence Seaway Development Corporation, Mr. David Oberlin, announced that restrictions would be placed on ships entering the seaway after November 12. This drastic action was necessary in order to minimize the possibility of ships being trapped in the seaway after the December 12 closing date.

At present, there are 215 vessels in the seaway system—nearly a 100-percent increase over the number at this time last year. The Administrator has concluded that unless the number of incoming ships is limited now, there is the distinct possibility that as many as 100 ocean freighters could be locked in for the winter.

This unprecedented increase in seaway shipping, due in part to dock strikes on the east coast, is both welcome and disheartening. It is welcome to those of us in the Great Lakes region who recognize the economic potential of the seaway and have been striving to develop this potential.

It is most disheartening, however, to see shipping growth limited because our Nation's most important inland waterway is out of service approximately 4 months each year.

The present crisis serves to underscore the urgent need to extend the shipping season on the Great Lakes and the seaway. Despite the completion of the seaway in 1959, despite improvements in locks and ships design, and despite increased ice-breaking capabilities, it is still necessary to be concerned about a possible repeat of the great ice blockade of 1926. In December of that year 150 ships were frozen in the Great Lakes below the Soo locks. Twenty-six vessels remained frozen in for the entire winter.

Last year, with the support of Great Lakes Senators and Congressmen, Congress authorized $6.5 million for a 3-year program to demonstrate the feasibility of extending the navigation season on the Great Lakes and the St. Lawrence Seaway. Thereafter, the administration budgeted only $300,000 for the first year of this program. However, again with strong bipartisan support of Great Lakes Senators and Representatives, Congress appropriated more than double the administration's budget request. And a much higher level of funding will be required during the next 2 fiscal years if this demonstration project is to be successfully completed.

Despite the reluctance indicated by the administration with respect to the first year funding, there are encouraging signs that the importance of season extension is recognized by the administration—particularly by the Department of Transportation. For example, the Coast Guard has announced that the polar ice-breaker, *Edisto*, will be assigned to the Great Lakes this winter to assist the ice-breaker *Mackinaw* in winter shipping tests.

Furthermore, in a recent article written by the Secretary of Transportation, entitled "Extension of the Seaway Navigation Season Is Essential To Halt Present Economic Erosion," which appeared in the summer issue of Seaway Review, Secretary John Volpe emphasized the importance of increasing Seaway capacity not only for the Great Lakes region, but also for the entire Nation. In the article, he said:

> One fact is all important in understanding the Seaway. The industry and businesses served by this waterway account for an incredible 43 percent of our gross national product. This is, indeed, the industrial heart of America. And the prosperity and good health of the seaway states depends upon the prosperity and good health of the whole Nation.
>
> This area and its industrial capacity is a national asset. And there's the rub. We find indications, unfortunately, that the economic health of this area is suffering. There are traces of economic erosion. This erosion must be halted. This is the basic premise of our transportation planning in the area.
>
> It is the ability of the Seaway to give added value to the products of this midwest area. Any enlargement of Seaway capacity—through extending the season, for example—will contribute more to the economic well being of this area. This, then, is our purpose—to expand the economy of this area and thereby, increase the standard of living of those who live here and work here.

In that same article the Secretary concluded as follows:

> I predict we shall be seeing a tremendous increase in the usage of the Great Lakes-St. Lawrence Seaway . . . far greater than we dare dream about now.

I suspect the Secretary did not have in mind that the increase would come so quickly.

Mr. President, the Great Lakes-St. Lawrence Seaway system, the gateway to and from the industrial heartland of America, is a vital national asset. Full development of the shipping potential of this great transportation artery is essential to the administration's goal of a balanced transportation network.

Too often in the past the efforts of Great Lakes Senators and Representatives to improve Seaway shipping have been discounted as being merely a natural consequence of local and regional interest. It is time for the national significance of the Seaway to be recognized. Hopefully, the present crisis will be beneficial in the long run by focusing attention on the needs of this important waterway system.

Mr. President, I ask unanimous consent that the Seaway Review article to which I referred, as well as a release issued by Administrator Oberlin be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

RELEASE ISSUED BY ADMINISTRATOR OBERLIN

The St. Lawrence Seaway Authority of Canada and the U.S. St. Lawrence Seaway Development Corporation announced jointly today that 11:59 p.m., EST, November 12, has been fixed as the conditional cut-off date for the entrance of ocean vessels into the St. Lawrence Seaway-Great Lakes system.

The action was taken in an effort to prevent the trapping of ocean vessels in the Great Lakes by the closing of the Seaway now scheduled for December 12. The U.S. and Canadian Seaway officials said that unless steps were taken to limit the number of ships entering the system, approximately 100 ocean freighters could be trapped for the duration of the winter. They said that at the present time approximately twice as many ocean vessels are in the Great Lakes as were there at the same period last year.

Under the joint action taken today ocean vessels entering the Seaway after the November 12 cut-off time must do so subject to the following conditions:

(1) Ocean vessels that entered after the cut-off time must yield to vessels that entered before the cut-off time; (2) Late Entries will be afforded a Sequential priority among themselves according to their date of entry and in a manner consistent with the efficient operation of the system. This priority will not take account of the port of call of vessels in the Great Lakes so that the last in, if it is not trapped, will probably be the last out; (3) Should an ocean vessel insist upon entering the system after the cut-off date, written assurance will be required from the vessel owner or agent that the conditions of entry are understood and the vessel owners accept the possibility of being trapped.

The decision to limit entrance into the Seaway by ocean ships was announced in a Notice to Mariners issued jointly from Cornwall, Ontario, and Massena, New York. The Notice to Mariners is attached.

In spite of this cut-off notice a number of ocean vessels may as a business risk insist on entering after November 12th. Even the application of a qualified restriction cannot substantially guarantee the safe exit of all ocean vessels in the system on November 12th. Unbalanced downbound ocean vessel arrivals at locks, excessive bad weather, mechanical failures, major accidents or any unexpected shortage of pilots can destroy the capability of the system to get all of these vessels out.

The Entities said that the application of the restriction will probably prevent about 100 vessels from making a final trip into the Seaway. The possibility of such a situation has been followed by the Seaway Entities since mid-October. The situation began to appear critical with a rapid acceleration of the ocean vessel arrival rate in late October and early November. Late in October shipping agents were canvassed for details of projected arrivals from foreign ports and a similar canvass was made on the 2nd of November. The data gathered indicated that a saturation of the system's capacity to clear ocean vessels before the announced closing date might arise around mid-November. However, arrival rates so exceeded the projections that the saturation point was advanced. The problem is not related solely to the capacity of the locks to pass the ships, but it incorporates a number of complex factors including weather conditions, installation of ice booms by Hydro Commissions, inland vessel traffic and the availability of pilots. All of these have been taken into account.

There are 215 vessels above St. Lambert today as compared to 112 in 1970. This morning there is a queue of 13 ocean vessels waiting at Montreal to enter St. Lambert Lock, and there are 22 upbounds and all downbounds waiting at the Welland Canal.

NOTICE TO U.S. MARINERS

Seaway Notice No. 15, further to Seaway Notice No. 14.

At present, there are 215 ocean vessels above St. Lambert as compared with 112 on this date in 1970. Of these there are 167 above Port Weller as compared to 85 last year. There is a queue of 13 ocean vessels waiting at Montreal to enter St. Lambert Lock; and 22 upbounds and 11 downbounds waiting at Welland. Effective tomorrow, November 10, daily radio messages outlining the current situation will be broadcast to the trade.

A further analysis based on the latest updated information on upbound ocean vessel arrival rates clearly indicates that unless active steps are taken to relieve the situation, there will be approximately 100 more ocean vessels in the system than could be cleared from the Seaway by the closing date of December 12th.

Therefore, the entrance of ocean vessels at St. Lambert should not be contemplated after the cut-off time of 2359 hours, November 12th and can only be undertaken subject to the following conditions: (1) Ocean vessels that entered after the cut-off time must yield to vessels that entered before the cut-off time; (2) Late entries will be afforded a sequential priority amongst themselves according to their date of entry and consistent with efficient operation of the system. This priority will not take account of the port of call of ocean vessels in the St. Lawrence-Great Lakes so that the last in, if it is not trapped, will probably be the last out; (3) Should an ocean vessel insist upon entering the system after the cut-off date written assurance will be required from the vessel owner or agent that the conditions of entry are understood and the vessel owners accept the possibility of and responsibility for being trapped.

This decision has been reached after taking into account a number of complex factors which have an effect on the capability of the system to pass the vessels such as adverse weather conditions, installation of ice booms by Hydro Commissions, inland vessel traffic, lockage reliability, and availability of pilots. The establishment of the cut-off time does not inferentially guarantee the exit of ocean vessels now in the system or of those entering between the date of this Notice and the cut-off time. Unbalanced downbound ocean vessel arrivals at locks, excessive bad weather, mechanical failures, major accidents or any unexpected shortage of pilots can affect or destroy the Seaway's ability to exit transit all vessels.

EXTENSION OF THE SEAWAY NAVIGATION SEASON IS ESSENTIAL TO HALT PRESENT ECONOMIC EROSION

(By Secretary John A. Volpe)

One fact is all important in understanding the Seaway. The industry and businesses served by this waterway account for an incredible 43 percent of our gross national product. This is, indeed, the industrial heart of America. And the prosperity and good health of the seaway states depends upon the prosperity and good health of the whole Nation.

This area and its industrial capacity is a national asset. And there's the rub. We find indications, unfortunately, that the economic health of this area is suffering. There are traces of economic erosion. This erosion must be halted. This is the basic premise of our transportation planning in the area.

The essential fact of transportation is that it adds value to services and products. The tons and tons of orange juice in Florida would have little value if it could not be moved to the markets of the Nation. The wheat in the fields of Kansas, and the petroleum products of Texas all are worth more because of the availability of transportation.

It is the ability of the Seaway to give added value to the products of this midwest area. Any enlargement of Seaway capacity—through extending the season, for example—will contribute more to the economic well being of this area. This, then, is our purpose—to expand the economy of this area and, thereby, increase the standard of living of those who live here and work here.

Our Nation is growing and growing by leaps and bounds. Our population increases by about 6,000 persons per day. This growing population, moreover, is constantly increasing its standard of living. This average growth of 6,000 persons per day is accompanied, for example, by an average net increase of over 12,000 automotive vehicles per day. Projecting all these figures into the 1980's we see a tremendous booming economy. To meet the needs of this economy we shall, in the next 18 years, almost double the capacity of our transportation network.

This is a staggering challenge—to provide as much transportation in 18 years as we have built up in the past 350 years.

I can tell you right now we are not going to meet this goal simply by building more of everything—more highways, more railroads, airports or more seaways. We are going to achieve this increased capacity, by more efficient utilization of our present systems. We are, consequently, going to need the Great Lakes-St. Lawrence Seaway System and we are going to need all the seaway capacity we can get.

The most immediate way of increasing capacity is, of course, extending the Seaway season, and that is the business at hand.

I have in my own mind no doubt whatsoever that we shall one day see year round operations of the system. We have the know-how and the technology. This achievement, however, lies in the future, and will come about as a result of achieving our more immediate objective—our objective of gradually increasing the Seaway season.

There may be skeptics who will see little value in merely opening the season a few days earlier in the Spring and shutting down a few days later in the Winter. The most obvious answer is that we have to make a beginning and this is the way we are beginning. But I am also aware that in human activities mere habits—patterns—and routines—customary ways are mighty important. Because we make it possible for a few more trips both at the beginning, and at the end of the season, there will be more trips in between. Use begets use. This is the essence of growth.

This extension of the Seaway season is going to require contributions from a lot of people: industrial users, shippers, port authorities, city, state, and Federal officials, steamship operators and right down the line.

PREPARE FOR CHANGES

This extension of the Seaway season will, in time, also involve certain changes that must be prepared for and certain challenges that must be met. Let me deal with one of those challenges right here.

There is concern in this Great Lakes region that the lengthening of the Seaway season and the ultimate year round operations of the waterway will have a number of decisive effects on the surrounding environment. The power people are concerned; conservationists are worried, and individuals living near the shores of the lake are skeptical.

Let me set the record straight. My job is transportation. But by law—and by my own nature—I am violently opposed to any project that unalterably harms our environment. We have already stopped a number of projects throughout the Nation that posed potential threats to the environment. We put a halt to construction of the international jet port which threatened the ecology of the Everglades. We stopped a highway that endangered the beauty of the area surrounding the old man of the mountain in New Hampshire. And we stopped construction of a freeway that would have walled off the historic old French quarter of New Orleans.

I assure you here and now consequently, we shall undertake no action that will endanger the ecology of this Great Lakes area. We are mindful of the challenges we face. The extension of the Seaway season—and the ultimate potential goal of year round operations—involves altering the course of nature. But before we begin we shall know precisely how much altering must be done and precisely what the effects of these changes will be.

These questions will be the subject of the many studies we shall be undertaking in the next few years.

A GREAT NATIONAL RESOURCE

You will appreciate our feelings toward the environment of this Great Lakes area when I remind you that one of the largest administrations in our Department of Transportation is the United States Coast Guard. And the Coast Guard is not merely interested in preserving the status quo. The Coast Guard—through its limnology studies and anti-pollution activities—is aiming at a cleanup—not just a halt of further pollution. Yes, these Great Lakes are a great national resource and they must not be despoiled.

And so in conjunction with the great nation of Canada we are going to move out on a new adventure—an experiment of great magnitude and daring. I have no doubt about the outcome. We shall succeed.

It is essential to our ultimate success that we begin with a proper appreciation of the worth of our task. This appreciation must rest on the knowledge that the St. Lawrence Seaway is already a success—that it has proven its worth—and that any increase and addition to its productivity will pay its own way. I am displeased with those critics who compare, unfavorably, the Seaway with some idealized hypothetical abstraction. The Seaway cost/benefit ratio may suffer when compared with the ideal, but this cost/benefit ratio compared with the standards of transportation-American style 1971, the St. Lawrence Seaway is a highly successful operation. And what other standards *are* there?

I would also like to note that extending the season will involve more than contributions and work by just the Federal government.

Local ports and port authorities are going to have to step up their activities and supporting transportation systems are going to need attention. It is highly likely—thanks to President Nixon's new proposal on transportation revenue sharing—that we will be able to work closely with you on this. This proposed legislation—if passed into law—could have a great bearing on this Great Lakes area.

We must all be ready to change and grow. Our population is growing and changing. The institutions and the governments which serve this population must also change. And we must face this change and growth with confidence. I have no fear of the future and I look forward to it with eagerness. We are nearing the good times—the best days of all.

I predict we shall be seeing a tremendous increase in the usage of the Great Lakes-St. Lawrence Seaway . . . for greater than we dare dream about now.

FOREIGN AID FAILINGS CONCEDED

Mr. CHURCH. Mr. President, over the past week I have brought to the attention of the Senate several newspaper columns and editorials, as well as radio and television commentary, dealing with the Senate's defeat, on October 29, of the administration's foreign aid bill.

The latest column that has come to my attention was written by Tom Braden and published in the Washington Post of November 9.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOREIGN AID FAILINGS CONCEDED

(By Tom Braden)

Members of the Nixon Administration are privately less concerned about the defeat of the foreign aid bill than their public outcries are suggesting.

For example, Henry Kissinger told Sen. Frank Church (D–Idaho) that he thought there was much to be said for the arguments Church put forward in his definitive Senate speech "Farewell to Foreign Aid." And Federal Reserve Board Chairman Arthur Burns actually congratulated Church on the speech.

These private attitudes reflect more than the knowledge that foreign aid now in the pipeline will last a year and a half or the hope that some substitute will replace the defeated program. They reflect a large measure of agreement with Church's thesis that foreign aid is "a proved failure."

A failure, Church argued, in terms of its stated objectives—the containment of communism, the promotion of economic development and the advancement of freedom.

"We have been thrown for losses across the board," Church said. "In the name of preserving peace we have waged an endless war; in the guise of serving as sentinel for the Free World, we have stood watch while free governments gave way to military dictatorships in country after country; 10 years of foreign aid have failed to narrow the gap between rich nations and poor or between rich elite and impoverished masses; in most underdeveloped lands it has widened."

It is an indictment which can't be argued. Nor is it easy to quarrel with the Church analysis of the reasons why foreign aid has failed.

First, because the belief that American capital and know-how worked economic wonders has turned out to be irrelevant and unworkable in poor countries. A wag in the Peace Corps once defined the problem by reversing Winston Churchill's famous peroration: "Give us the job," he said, "and we will furnish the tools."

Second, because in the poor rural societies of the world, the concepts of "communism" and "capitalism" are meaningless.

Third, because in the futile effort to shape the development of poor Third World countries, we have built a vast and wasteful bureaucracy. Relative to population, the senator pointed out, we have twice as many people administering our aid program in Brazil today as the British once required to govern India.

Sen. Church was more kindly to the bureaucrats of AID than are most reporters who have inspected American aid programs abroad. Any of them can testify that the Agency for International Development (AID) is largely staffed by retired teachers and professors who spend their time drawing up "feasibility studies" and inhabit corridors down which it would be possible to fire a cannon any evening after five without endangering a living soul.

Church was also a little less candid than he might have been about the American myth that foreign aid is for the sole benefit of foreign nations.

About 93 per cent of the dollars we make available to foreigners though our aid program must be spent with American business. In Brazil alone, American companies, their risks insured by AID for a small premium, their profits nourished by the law which requires that recipient nations buy the law which requires American, have withdrawn since 1964 more money than they have invested. For Brazil it is a net drain.

So it is hard to argue for the present program. Its demise will not affect the South Vietnamese army which gets its supplies directly from the Pentagon. It will force the Administration to come to Congress and ask for a separate appropriation for Cambodia. Perhaps this is the reason for the public cries of alarm. If so, senators are willing to bear the outcry in order to discover the facts.

CALIFORNIA MARINE SANCTUARY LEGISLATION

Mr. TUNNEY. Mr. President, my colleague from California (Mr. CRANSTON) has introduced S. 1446–1452, legislation which I have cosponsored to create California Marine Sanctuaries. On November 1, 1971, Senator CRANSTON and I testified before an Interior subcommittee urging that prompt action be taken on these bills. Subsequent testimony by the Department of Interior was disappointing to say the least and demonstrated a lack of understanding of the issue.

I ask unanimous consent that a November 7, 1971, Los Angeles Times editorial, endorsing the need for the enactment of California Marine Sanctuary legislation, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, and follows:

CRANSTON'S OFFSHORE OIL PROPOSALS

U.S. Sen. Alan Cranston (D-Calif.) is convinced that the Department of Interior is deliberately misunderstanding efforts to extend state oil-free sanctuaries into federal waters off the California coastline.

From the standoff ending of a stormy meeting of the Senate Interior Committee, we believe Cranston is right.

Shortly after the Santa Barbara Channel oil blowout in 1969, Cranston and former Sen. George Murphy sponsored a bill that would have required the automatic establishment of federal sanctuaries seaward of existing state sanctuaries. The Administration, however, objected that the bill would erode federal authority in deciding how federal lands were to be administered.

To meet the objections, Cranston this year introduced a new packet of seven sanctuary bills. The new bills eliminate the automatic feature on existing and future state oil-free zones. They even drop a restriction, one especially alarming to the oil industry, against exploration in the federally controlled outer continental shelf.

And the new legislation, as it should, gives the President the right to grant oil leases in the event of national emergency. Still the Interior Department remains opposed.

Basically, the bills (SB 1446–1452) would permit Congress to ban oil activity in federal tidelands seaward from six present state oil-free zones, and, in the process, protect 250 miles of California's priceless 1,000-mile coastline. They do not bind the federal government on future state action. They do not even affect the contested federal oil zone off Santa Barbara.

As to loosening federal control of oil lands of other states, a specter raised by the Interior Department, that is an argument between the Administration and other states.

If the citizens of California are willing to forgo tidelands oil revenue to protect their beaches, Congress should grant them that right.

What California's senior senator contends is the deliberate inability of Interior Department officials to understand the beneficial intent of the proposal should not be permitted to kill off the legislation in committee.

YOUNG ALABAMA POETS

Mr. SPARKMAN. Mr. President, again this year the National Poetry Day Committee's autumn festival has honored the outstanding young poets and artists of my State of Alabama. In mid-October, the National Poetry Day Committee, headed by Dr. Frances Clark Handler of Miami Beach, Fla., and the Alabama chairman, Mr. Joe Mitchell Pilcher, paid tribute to four young poets from Alabama. These young people were awarded both State and national prizes in the annual student poetry contest. The contests in Alabama were conducted under the auspices of Mr. Carl P. Morton and Mr. Richard G. Beyer, of Birmingham and Florence respectively, and by Mr. Joe Mitchell Pilcher. Mr. Morton is president and Mr. Bever is a past president of the Alabama State Poetry Society. Mr. Pilcher, who is a poet and musicologist from Montgomery, is the Alabama chairman of the National Poetry Day Committee.

Serving as cochairmen and judges on the student poetry contest panel with Alabama Chairman Pilcher were Mrs. Virginia Farnell, William Young Elliott, Morton D. Prouty, Isabel Morton, Frances Durham, and Corinne Demetropolis.

Young Alabama poets honored by the committee were Tom Pilcher, an alumnus of Auburn University; Kathie Farnell, a sophomore at Montevallo University, Montevallo, Ala.; Terry Willis, a ninth grader from Bellingrath, Ala.; and Jean Shelton, a senior at Robert E. Lee High School in Montgomery, Ala.

Mr. President, the national award winning poem was written by Tom Pilcher and is entitled "Jasmine Hill." The poem is as follows:

JASMINE HILL

(By Joseph Thomas Pilcher)

In gardens of summer evenings
Where wandering winds move the soul
To Temples of long ago,
In gardens of moonlight memories
Where perfumed breezes engulf the soul
And the hound of love howls from the hill.
Nature steals the heart
And you are a child once more.

Mr. President, it gives me a great deal of pleasure to invite the attention of Senators to the activities of the National Poetry Day Committee, and I take pride in the recognition given to these young writers from my State.

THE YAKIMA INDIAN NATION AWAITS JUSTICE

Mr. KENNEDY. Mr. President, recently my Subcommittee on Administrative Practice and Procedure held hearings relating to the protection of Indian natural resources.

I conjectured in my opening statement that the hearings would attempt to expose in the clearest terms the Federal Government's flagrant abdication of its trust responsibilities to the Indian people.

Mr. President, that was an understatement. The testimony of the Indian leaders—young and old, educated and traditional—unwound before the subcommittee a scroll revealing the shameful role of our Government, which by treaty and statute, is the guardian of the Indian people and protector of their rights, in participating in the abrogation of those rights.

Since the signing of the last treaty in the 19th century, the Indian land base has dwindled by almost 90 million acres. Much of that land has been slipped quietly into the public domain, and the decisions of Federal courts, findings by the Indian Claims Commission, and congressional enactments have time and again highlighted the illegal taking of Indian land by the United States by mistake, fraud, and even force.

One case in point, illustrative but not unique, clearly points up a continuing breach of trust and treaty by our Government. Chairman Robert Jim, of the Yakima Nation, testified before my subcommittee on an issue of primary importance to his tribe today, and I ask unanimous consent that his testimony be included in the RECORD at the end of my remarks.

Mr. President, the efforts of the United States to wrench from the Yakima Indians of Washington State 21,000 acres of their lands, including their religious mountain, Mt. Adams, is a clear example that our Government still clings to the bureaucratic and oppressive attitudes which in the first instance drove these people from their lands.

The Yakima Indian Nation contends that the United States is today trespassing on 21,000 acres of Yakima lands.

A charge of trespass is serious indeed; but perhaps there is no milder term to describe our presence on their 21,000 acres.

A careful review of the Yakima Indian Nation's rights clearly indicates that there is substantial merit in their contentions.

In 1855, our Government dispatched its agent and then Governor of the Oregon Territory, Isaac Stevens, to make treaties with the Northwest Indians in preparation for pacing a peaceful entry for the on-rushing mass from the East. With the absence of the kinds of hostilities encountered in the Plains and the Southwest, these treaties were made

in peace. The force of the Government's position came not from guns and cavalries, but from deception and devisive maneuverings.

The wise chiefs at that treaty gathering, particularly Kamiakin, chief of the Yakima Nation, chose to reserve for future generations lands which were engulfed by natural ridges and streams. These were peaks and shorelines they could see and thus relate to the treaty map. These were boundaries our Government recognized and guaranteed to protect against all intrusion from outsiders. But what about intrusion by the United States itself?

Alas, when the United States sent its surveyors forth they did not bother to follow the treaty language. And for whatever reason the treaty map which had accompanied the treaty was mysteriously lost or misplaced in Government files and not found until 1930—75 years later.

Without regard for the natural peaks and ridges and rivers, straight line surverys were conducted, chopping off large sections of Yakima lands.

In an effort to regain their lands, the Yakimas suffered the lengthy struggle of argumentation and testimony before our courts and Indian Claims Commission, a labyrinth from which Indians have never gained their rightful due.

Twenty years after they entered their first plea, the Yakimas won a decision from the Indian Claims Commission in 1968 establishing the southwestern outer boundary, including a total of 121,000 acres of land as having been erroneously excluded from the reservation.

Without regard for the Yakima's rights, the United States appropriated 98,000 acres of these lands to homesteaders and other third parties. The Commission, ruling these lands to have been taken, paid a typically low unconscionable sum per acre for the lost lands, 2,000 acres of unpatented lands were returned to the Yakima. Of the 21,000 acres remaining, now illegally under Forest Service jurisdiction, the United States has refused, to date, to move positively in the erasure of this shame from our archives.

In 1968, the Indian Claims Commission allowed a stipulation in the Yakima case regarding the 21,000 acres, permitting the Yakima a period of time to "enable the Yakima Tribe to seek restoration of these lands to the Yakima Reservation." A stipulation was necessary because the Congress empowered the Indian Claims Commission, regardless of merits in each case, to make only cash settlements with Indian tribes.

Since that time, the Yakima have been attempting to bring this matter to the attention of the President of the United States. A concerted effort was begun in March of this year to reach the President. The Yakima wrote the President on May 10, 1971, requesting his consideration and intervention.

The Commissioner of Indian Affairs, Mrs. Louis Bruce, responded to that letter on June 29 of this year stating:

> We agree that the Tribe's request for this property is fully justified and the adjustment of the reservation boundary would right a wrong of long standing.
>
> The President is very much aware of the importance of the Yakima Indians' claim to some 21,000 acres of land; however, this is within the purview of the Secretary of the Interior.
>
> You may be assured that this Bureau as well as the Secretary will assist the Yakima Tribe as much as possible in its efforts to have this land made a part of this reservation.

This assurance by the Commissioner appears so far to be as useful to the Yakima as the assurance by Governor Stevens that the land embraced by the treaty recitations would be an inviolate home and abiding place for them.

In the 1904 Supreme Court decision of United States against Winans, the Court, after reviewing the legal status of the treaty, declared the dignity of Yakima title:

> The treaty was not a grant of rights to the Indians, but a grant of rights from them—a reservation of those not granted.

In the same decision the Court declared:

> The construction of the treaty disposes of certain subsidiary contentions of respondents. The land department could grant no exemptions from its provisions. It makes no difference, therefore, that the patents issued by the Department are absolute in form. They are subject to the treaty as to the other laws of the land.

The precedent which arises from the Winans decision is that the Yakima Indian Nation retained title to all the lands and appurtenances embraced within its treaty of 1855.

Another case before the Supreme Court involved patents erroneously granted to the Northern Pacific Railroad. The Court annulled those patents, stating in a 1913 decision:

> The Foundation of the bill is that the patents were issued by mistake as public lands.

Because the patented lands were private Indian lands and not public lands, the Supreme Court held they were not subject to disposition by the United States.

Indeed, the 21,000 acres of land, including Mount Adams, are not available to the United States for disposition for and unto itself. It is against all principles of law and morality that the United States, trustees for these people, should take its ward's lands for itself. Expropriation by erroneous survey of Indian lands cannot be in the interest of the United States.

The Supreme Court, again in the Northern Pacific decision, enunciated the danger of such takings:

> If the Government may control the cession and control the survey and by the action of its agent foreclose inquiry or determine it, an easy means of rapacity is afforded, much quieter but as effectual as fraud. We should hesitate to put the Government in that attitude.

For the United States to do less than justly restore the 21,000 acres to the Yakima would bring dishonor upon this Nation.

Restoration of these lands is totally within the authority of the President of the United States. The congressionally created Indian Claims Commission has found in favor of the Yakima, but is not empowered to restore the 21,000 acres to them.

Although the Yakima have not been formally informed of the White House response to this issue, it has been reported that the White House has referred this issue to the Attorney General for a determination of the status of the 21,000 acres.

What shall the Justice Department say? That an erroneous survey provides a legal vehicle for the expropriation of Indian lands.

A rather complete legal memorandum concerning the Yakima Indian nation's title to the 21,000 acres was written by Mr. William Veeder of the Bureau of Indian Affairs. In that memorandum it is pointed out that these lands were under judicial decisions considered private—not public—lands and therefore could not legally be included by Executive order as national forest. Mr. President, I ask unanimous consent that this memorandum be included in the RECORD in its entirety at the end of my remarks.

But I believe, Mr. President, that one need not rely on compelx legal reasoning to see the merits of this matter.

Mused Yakima Chairman Jim:

> If a man builds his fence in the wrong place, no court in the land will say that this error gives him title to his neighbors land. The administration is our trustee, legally, and it should not steal from its wards.

The Forest Service indicated in a letter to me that it would rather have the Yakimas compensated for their land. Compensation, of course, would be computed at the time of the taking, which started in 1897. This of course would be the easy—and the cheap—way out for the Government. But the Yakima people will not, and should not, stand for it. As Chairman Jim indicated:

> But all of the land is special to us. We have worshipped it. You have to be an Indian to really understand why and how, but the land is our Mother Earth. It is the source of life, and they are not going to make any more land. They may keep making new money, but our Creator put the land here, and He made us the keepers of the land—not the owners. We had to accept money for some of our stolen lands, but that makes no more sense than accepting money for the air. We are not going to rest until we get this land back.

The sanctification of illegal takings of Indian land through the inaction of the administration cannot and should not continue.

Is it not enough that the Yakima have, of their own initiative and expense, paid heavily in time and funds to establish their rights.

Is it not enough that the Yakima granted to the United States the full rights to 11 million acres in the fertile heartland of Washington State.

Is it not enough that the Yakima are not asking, because of broken treaty, that all the 11 million acres be returned to them. They have broken no promises; yet, in spite of our breach of promise, they remain hopeful that there is still justice in America.

Let us act with honor and move to restore these lands immediately. Let us live up to the hope and faith expressed by Kamiakin, chief of the Yakima, as he proclaimed to the treaty makers before he signed the treaty:

> Perhaps you have spoken straight, that your children will do what is right. Let them do as they have promised.

We are those children of whom Kamiakin spoke; we can do what is right. So that, for a moment of truth, we can tell our children that their forefathers have spoken straight.

I ask unanimous consent that certain statements be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

STATEMENT, IN PART-LAND RIGHTS, BY ROBERT B. JIM, CHAIRMAN, YAKIMA TRIBAL COUNCIL, YAKIMA INDIAN NATION, TOPPENISH, WASH., BEFORE THE SENATE SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE, OCTOBER 19, 1971

Mr. Chairman and Honorable Senators: The need to protect Indian land rights is of greater importance today than it ever has been; for we face not the obvious barrels of guns to force a takeover of our lands, but the selfishly designed law of men who are ever destroying the little earth they retain and are out to get the little lands that we, Indian Nations, have left.

It took extreme patience, my honorable Senators, for the Yakima to fight through your courts and commissions to establish land boundaries we always knew to be correct by Treaty outlining our lands.

I will not call upon your patience now, to listen to the grueling years, months and hours it took to have our rightful lands recognized.

But as you well know, Gentlemen, recognition of rights is not always land in hand. The Indian Claims Commission, in 1967 determined that in the Southwestern portion of our Reservation, 121,465.69 acres had been excluded by erroneous surveys conducted by the government, known as Tract D. In the meantime, from erroneous survey to 1968, the government had patented out of Tract D, nearly 98,000 acres to third parties, the government thus giving itself the argument of a taking. So we were paid a pitiful sum of 50c an acre for the lost acreage. Another 2,000 acres of unpatented lands in that tract were returned to our jurisdiction. *Now* 21,000 acres remains in government hands, and we have been facing frustrating maneuvers and devices keeping these lands from being restored to the Yakima Indian Nation.

That 21,000 acres happens to include one-half of our religious mountain, Mt. Adams. The mountain is of significance to us because in our religion it is the symbol of life's renewal: Throughout the year, beginning in Spring, we celebrate the gifts of life as provided through the mountain. For, from the mountain comes the water which gives life to all living things—the grass for the deer; the roots for our strength; the streams for the fish.

And at the end of life, it is to the mountain that the spirit of the Yakima returns.

Because it has always been a part of my people and their religion, our wise chiefs reserved that mountain for the Yakima in the Treaty of 1855. They needed no surveyors because Mt. Adams stood in might for all to see.

In 1907 however, President Theodore Roosevelt, extended the boundaries of what is now the Gifford Pinchot National Forest. It embraced (quote) "Public Lands bearing Forest" (unquote) and because of the erroneous survey, embraced Mt. Adams and our 21,000 acres, which were private lands reserved for and by the Yakima.

These lands remain within the Gifford Pinchot National Forest today, under the jurisdiction of the United States.

In effect, the United States, Trustee for the Yakima Indian Nation, is attempting to take from its wards, for its own benefits, against all sound principles of law.

We are often asked, "why didn't the Indian Claims Commission restore the 21,000 acres to the Yakima?"

Because, we are told, the Congress, in its wisdom, in creating the Indian Claims Commission, limited its authority, regardless of its findings, to cash settlements with Indian Tribes.

In our case, regarding the 21,000 acres, the Indian Claims Commission allowed a stipulation permitting us time to pursue other avenues of government for the restoration of these lands, which are truly ours.

After following many hopes for restoration in many directions, we finally began a concerted effort to bring this national wrong to attention of our Chief Trustee, President Nixon, who has the Executive authority to right this injustice. We were immediately met, however, with a conspiracy by silence, our letter of plea for the President's intervention of May 10, 1971 was not answered until June 29, 1971—and not from the President or much less his staff, but from the Bureau of Indian Affairs.

Indeed, for some time, in an effort to ignore our rights, the White House staff was referring the multitude of letters of tribal and national support, to the Bureau of Indian Affairs for response.

We cannot believe that the President would knowingly permit such treatment of Indian people. The national shame in depriving us of our rightful lands for over a century, is added to today by staff, by a people we do not elect, but who take it upon themselves to make administrative decisions regarding the constitutional rights of the Indian.

There is an attempt to pursue the old Bureaucratic line of forcing us to accept cash for the 21,000 acres; we will have nothing to do with money for this land. The United States can make money every day in all the denominations it wishes, but it cannot make land; except perhaps, by the illicit takings of Indian lands.

The 21,000 acres the United States trespasses on today is ours; it has been ours since time immemorial and legally belongs to the Yakima today.

We will not accept any alternative but the restoration of our lands.

It is a sad documentary that the United States, which set itself up as the Trustee for American Indians, has not established the tools nor the avenue for the Indian people to be protected from its Trustee—for we are victims of our Trustee's whims and sometimes, greed. All the Indians have today to protect their rights, are lawyers and staff who also represent the adversary of the Indian. How well they write their briefs on our behalf depends upon how committed they are to another branch or department or bureau of government, not upon their commitment to their profession.

I wish to commend the Senate Sub-Committee on Administrative Practice and Procedure for its interest in the protection of American Indian Rights as established by treaties between the United States and the Nations of Indians. The United States is solemnly committed by contract to protecting our rights. That responsibility has been for too long, carelessly observed.

Not only do we need a new commitment to the protection of Indian land and other rights, but a vehicle—a body of legal minds, unhampered by conflict of interest and the interference of government, to recommend and move in behalf of the American Indian, for the protection and continued enjoyment of rights, reserved by the Indians themselves, when they gave to this powerful nation, the earth and wealth from which it gathered strength to become great.

YAKIMA INDIAN NATION'S TITLE TO THE 21,000 ACRES OF LAND HERE INVOLVED IS OF THE HIGHEST DIGNITY—GUARANTEED BY THE SUPREME LAW OF THE LAND [1]

Title of the 21,000 acres of land which resides in the Yakima Indian Nation is of the highest dignity which can be ascribed to a property right or interest. That immemorial title dates back to antiquity. Dominion—not *title*—passed to the United States of America over the lands in question by the Treaty dated June 15, 1846, with Great Britain.[2] Long prior to that date—when, no one knew—the Yakimas had invested in them their aboriginal title to the 21,000 acres of land.

Essential to this consideration is brief reference to the history of the relationship between the United States of America and the Yakima Indian Nation. The immemorial title of the Yakima Indian Nation is protected by the Constitution of the United States of America for when the President's representative, Governor Isaac I. Stevens, met with the Confederated Tribes and Bands of Indians, "considered" as one nation under the name of "Yakima", the Treaty-making power under the Constitution was invoked with all the moral dignity attendant upon it.

Important likewise is this precept of law as enunciated by the source of sovereignty: "This Constitution • • •; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land • • •."[3]

It was pursuant to the "supreme Law of the Land" that this country through its authorized representatives addressed itself to negotiating a treaty of peace and friendship with the Yakimas. That council of peace and friendship was held May 22 through June 11, 1855.[4] One must recoil at the present trespass and illegal occupancy of the 21,000 acres of Yakima land by the Agriculture Department's agents, or ascribe to this Nation and its representative, Governor Stevens, an immoral, transcendent wrong perpetrated in the name of friendship upon the Yakimas.

In addressing the Yakimas, Governor Stevens in apparent sincerity—albeit highly paternalistic—assured them in substance that the lands embraced within the boundaries described by the Treaty would be an inviolate home and abiding place for them.[5] When Stevens recited all the good things that the "Great Father" had in mind for them, he was either engaging in hypocritical drivel in regard to the intentions of the Chief Executive of this Nation, or he was covenanting that the Presidents of this country, then and in perpetuity, would not violate the solemn obligations being entered into with the Yakima Indian Nation. As a result of the negotiations briefly alluded to above, the Treaty of 1855 was entered into between the Yakima Nation and the United States. It was ratified March 8, 1859, and proclaimed by the President on April 18, 1859.[6] In the succeeding paragraphs there will be reviewed the legal principles which establish beyond successful contest the title of the Yakima Indian Nation to the 21,000 acres of land which are the subject matter of this consideration.

(a) *Nature, character and dignity of the Yakima Indian Nation title declared by the Highest Court:*

Discussed briefly above is the historical and constitutional dignity of the Yakima Treaty of 1855. Great stress must be placed upon the decisions of the Supreme Court in its declarations of the legal consequences of that Treaty as it pertains to the Yakimas' title to the 21,000 acres.

In the 1904 *Winans Decision* the Supreme Court enunciated the legal relationsip of the Yakima Nation and the United States under the Treaty as that relationship pertains to the title of the lands here involved, indeed,

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all lands, rights, appurtenances and hereditaments embraced within the Yakima Indian Reservation. In detail the Treaty was analyzed and from it extensive excerpts were set forth. Having quoted the initial clause of the Treaty pursuant to which a vast empire was ceded, relinquished, and conveyed by the Indians to the United States, the Court quoted the following crucial clause of the covenant between this Nation and the Yakimas insofar as here pertinent:

"Article II. There is, however, reserved from the lands above ceded for the use and occupation of the aforesaid confederated tribes and bands of Indians, the tract of land included within the following boundaries: . . .[7]

Included in the lands described are the 21,000 acres now occupied by agents of Agriculture's Forest Service. Respecting the 21,000 acres and all the lands of which they are a part, the National Government and the Yakima Indian Nation further covenanted:

"All of which tract shall be set apart, and, so far as necessary, surveyed and marked out, for the exclusive use and benefit of said confederated tribes and bands of Indians as an Indian reservation; nor shall any white man, excepting those in the employment of the Indian Department, be permitted to reside upon the said reservation without permission of the tribe and the superintendent and agent."

This quoted proviso of the Treaty gave rise to the *Winans Case* by reason of the attempted violation of that right of fishery retained by the Indians:

"The exclusive right of taking fish in all the streams where running through or bordering said reservation, is further secured to said confederated tribes and bands of Indians, as also the right of taking fish at all usual and accustomed places, • • •."[8]

Summarizing the controversy between the Yakimas, Winans and the State of Washington, the Supreme Court had this to say:

"The right to resort to the fishing places in controversy was a part of larger rights possessed by the Indians, upon the exercise of which there was not a shadow of impediment, and which were not much less necessary to the existence of the Indians than the atmosphere they breathed."[9]

In denying that either the issuance of the patents to private individuals in the fishing area or the issuance of a license to operate a fishing wheel to the patentee by the State of Washington, could violate the Yakimas' Treaty rights of fishery, which are interests in real property of the highest order,[10] the Supreme Court said this:

"• • • *the treaty was not a grant of rights to the Indians, but a grant of rights from them—a reservation of those not granted.* And the form of the instrument and its language was adapted to that purpose."[11] (Emphasis supplied)

Let this fact be emphasized for it is the precept of law governing here:

It was the Yakima Nation at the time of the 1855 Treaty that held title to the 21,000 acres of land—title was not in the United States; the Yakima Nation under the Treaty was the grantor to the United States, and not the grantee from the United States.

Underscoring the fact that it was the Yakima Nation that held the title to the 21,000 acres and the rights of fishery then before the Court, it expressed this additional conclusion:

"• • • the right [retained by the Yakima Nation] was intended to be continuing *against* the United States and its grantees as well as against the State and its grantees."[12]

Dignity of the Treaty as a guarantee of the Yakima title to the real property retained pursuant to it, against Federal encroachment was succinctly stated in these terms:

"The construction of the treaty disposes of certain subsidiary contentions of respondents. The Land Department could grant no exemptions from its provisions. It makes no difference, therefore, that the patents issued by the Department are absolute in form. They are subject to the treaty as to the other laws of the land."[13]

Key precedent, as stated, which emerges from the *Winans Decision* is the express declaration that the Yakima Indian Nation retained title—did not grant title to the United States—of all of the lands and appurtenances embraced within its Treaty of 1855.

Applying the precedent of *Winans* the Supreme Court of the United States again[14] reviewed the Yakima Treaty of 1855. It further buttressed—if that were possible or required—the *Winans* concepts of Yakima title. Harsh nature of the remedy prayed for and the relief correctly granted in the *Northern Pacific Decision* above cited, is an important aspect of that decision. Involved was real property title to which had been retained by the Yakima Indian Nation by its Treaty of 1855, as in *Winans*. Patents had erroneously been granted to the Northern Pacific Railway. The National Government brought an action to have those patents annulled. In the words of the Highest Court, "The foundation of the bill is that the patents were issued by mistake as public lands • • •."[15] In truth and in fact, as the evidence proved, the lands thought to be "public lands"—a term of art—were Indian lands title, as stated, having been retained by the Yakima Nation by its Treaty of 1855.

In the phase of the consideration which follows the distinction between the lands title to which resides in the Yakima Indian Nation, and "public lands"—as stated, a term of art—will be analyzed in detail.

Throughout the *Northern Pacific Decision* the Supreme Court—as in *Winans*—distinguishes between the properties "reserved" by the Yakima Nation and those "ceded, relinquished and conveyed to the United States."[16] It alludes to the fact that although the Treaty of 1855 contains a description of the tract reserved which is "• • • very confident and seems to assure certainty by prominent and unmistakable natural monuments", nevertheless, "Controversies, • • • almost immediately arose, the Indians contending for one location of the calls and enterprising settlers contending for another."[17]

On that background the Court reviewed conflicting surveys made by the United States. Stressed here is the fact that the controversy between the Agriculture Department and the Yakima Indian Nation stems from occupancy by the former of 21,000 acres of Indian lands predicated upon an admittedly erroneous survey made by another agency of the United States. Hence, in simplest terms, this travesty: An agency of the Federal Government—Trustee for the Indians and a party to the Treaty—is knowingly occupying land which by reason of the solemn between the Indians and the United States, was reserved by the Yakima Indian Nation.

Sustaining the finding of facts by the trial court that the lands of the Yakima Indian Nation has been patented by mistake as "public lands" due to the erroneous survey, the Supreme Court annulled the patents as prayed for, declaring the title in the Yakima Nation in these terms:

"The controversy in the case, therefore, turns upon which of the surveys, Schwartz or Barnard's, correctly marks the boundaries of the reservation. The difference in the surveys amount to 293,837 acres. The Circuit Court accepted the Barnard survey and entered a decree cancelling the patents. The decree was affirmed by the Circuit Court of Appeals."[18]

In affirming the decree annulling and cancelling the patents the Supreme Court enunciated the controlling principles:

The lands mistakenly patented were "reserved" by the Yakimas "for their own use. We must keep in mind their situation—what they gave and what they reserved. • • • They gave up a principality."[19]

Reiterating and reaffirming the *Winans* principles and those set forth above, the Supreme Court continued:

"It must be borne in mind that the Indians had the primary right. *The rights the Government has are derived through the cession from the Indians.*"[20] (Emphasis supplied.)

Due to the basic fact that erroneously patented lands were Yakima Indian Nation lands—not "public lands"—the Supreme Court held they were not subject to "disposition" by the United States.[21]

As recently as 1964 the Yakima Treaty of 1855 was again the subject of judicial analysis as to the legal principles flowing from it respecting interests in real property to which it pertained.[22] There the title of the Yakima Indian Nation to rights to the use of water retained by them under the Treaty of 1855 was at issue. Those rights have all the dignity of a freehold interest in the Treaty lands of which they are part and parcel.[23] Applying the legal concepts of the *Winans* and *Northern Pacific Decisions* in regard to the Treaty of 1855, the Court of Appeals for the Ninth Circuit, and certiorari was twice denied, said this:

"That the Treaty of 1855 reserved rights in and to the waters of this stream for the Indians, is plain from the decision in Winters v. United States, • • •."[24]

Referring to the *Winans Decision* the Court quoted the legal and moral rationale of it;

"When the Indians agreed to change their nomadic habits and to become a pastoral and civilized people, using the smaller reservation area, it must be borne in mind, as the Supreme Court said of this very [Yakima] treaty, that 'the treaty was not a grant of rights to the Indians, but a grant of rights from them—a reservation of those not granted.' United States v. Winans, 198 U.S. 371, 381."[25]

Dignity of the title of the Yakima Nation to the 21,000 acres of land, residing in it from time immemorial, is most impressive. Three landmark decisions adhering to the sound and moral precepts of the *Winans Decision* and the *Northern Pacific Decision* attest to that conclusion. As the unassailable authorities respecting the Yakima title under its Treaty of 1855 demonstrate, it pertains not only to the land itself but to its rights of fishery and rights to the use of water.

At all times down to date that immemorial title has resided in and now resides in the Yakima Indian Nation in regard to the 21,000 acres, all as will be more fully discussed.

(b) *Title of the Yakima Nation to the 21,000 acres is private in character held in trust for it by the United States—those 21,000 acres are not now nor have they ever been "public lands":*

Authorities have been analyzed and the substance of them set forth in the paragraphs which immediately precede. Emphasized there is the fact that title to the 21,000 acres was retained by the Yakima Nation when it ceded, conveyed and relinquished to the United States a vast "principality" pursuant to its Treaty of 1855. Two aspects of the title retained by the Yakima Indians—not conveyed—are of extreme importance: (i) Status under the Constitution of the *United States as it relates to the title of the Yakima Nation* to the 21,000 acres; (ii) Status of those 21,000 acres, title to which has been retained.

(i) *Yakima Nation's title to 21,000 acres of land private in character held in trust for Yakima Indians by the United States under the Constitution:*

Response to the first aspect—the status of the United States in regard to the 21,000 acres, title to which was "reserved" by the

Footnotes at end of article.

Yakima Indians for themselves—is free from doubt. Since the formative years of this Nation the United States has occupied the status of a Trustee for the American Indians and their properties.[26] Chief Justice Marshall, having observed the unique status of the American Indians, declared it to be a "• • • relation to the United States" which "resembles that of a ward to his guardian."[27] Repeatedly the courts have reaffirmed that relationship: The United States, Trustee; the American Indians, the beneficiaries, under a trust the genesis of which is the Constitution itself.[28] In fulfilling that trust to the Indians the United States owes "the most exacting fiduciary standards."[29] Those exacting standards demand from this Nation, its agencies, officers and employees the highest degree of loyalty, fidelity, care, skill and diligence.[30]

These 21,000 acres, title to which was reserved by the Yakima Indians, and held in trust for them under the Constitution, are *"private"*—not "public"—in character. Seizure of them under the powers of *eminent domain* when authorized by the Congress, entails the payment of just compensation, likewise under the Constitution, identically with any other lands held in "private" ownership when "taken."[31]

(ii) *Yakima Nation's 21,000 acres are not now and never were "public lands":*

Crux of the issue here presented is the very basic distinction between this Nation's "public lands" and the "private" lands of the Yakima Nation, including the 21,000 acres here involved, held in trust by the United States for the benefit of the Yakima Indians.

As stated earlier, the term "public lands" is a term of art in the contemplation of the law, with far ranging implications. Few tenets of the law pertaining to natural resources are more firmly established. The Supreme Court has repeatedly held that lands of the United States which are reserved are severed from the public lands. In *United States v. O'Donnell*,[32] the Court said: "It is a familiar principle of public land law that statutes providing generally for disposal of the public domain are inapplicable to lands which are not unqualifiedly subject to sale and disposition because they have been appropriated to some other purpose." There has been consistent judicial acceptance of that principle.[33]

The Congress, in passing the Federal Power Act, ascribed to the term "public lands" the same connotation which has been adopted by the Supreme Court. That Act specifically states[34] that " 'public lands' means such lands and interest in lands owned by the United States as are subject to private appropriation and disposal under public land laws. It shall not include 'reservations', as hereinafter defined; (2) 'reservations', means national forests, tribal lands embraced within Indian reservations, • • • withdrawn, reserved, or withheld from private appropriation and disposal under the public land laws; • • •."

With great clarity and quite recently the Supreme Court in the *"Pelton Decision"* enunciated the principle that "public lands" are those title to which is in the United States which "• • • are unqualifiedly subject to sale and disposition • • •"[35]

Most assuredly the lands "reserved" by the Yakima Nation under its Treaty of 1855, including the 21,000 acres, are not "public lands." That statement is predicated upon the *Northern Pacific Decision*—controlling here—in which, in declaring the applicability of an Act of Congress pertaining to "public lands", the Supreme Court distinguished the lands, title to which was reserved to themselves by the Yakima Nation in its Treaty of 1855, from lands held by the United States "unqualifiedly subject to • • • disposition":

"The act was one of a series of acts and manifestly applies only to the *public lands of the United States* subject to acquisition under the laws enacted for the disposition of the public domain."[36]

On the background of fundamental law declaring with precision that the lands embraced within the Yakima Treaty of 1855 are not and have never been "public lands", the pertinent facts and law respecting the establishment of the Gifford Pinchot National Forest will be reviewed.

INTEGRITY OF THE YAKIMA TREATY OF 1855, AND THE TITLE OF THE YAKIMA NATION TO THE 21,000 ACRES HERE INVOLVED WERE NOT AND HAVE NOT BEEN VIOLATED BY THE PRESIDENT OF THE UNITED STATES

Supreme Court and Congressional declarations have made abundantly manifest the meaning of the term "public land." Definition of that term of art has been dwelt upon above. As a consequence the Congress was well aware of the lands to which it had reference when it passed the March 3, 1891 Act which was in part as follows:

"Sec. 24. That the President of the United States may, from time to time, set apart and reserve, in any State or any Territory having *public land* bearing forests, in any part of the *public land* wholly or in part covered with timber or undergrowth, whether of commercial value or not, as *public reservations*, and the President shall, by public proclamation, declare the establishment of such reservation and the limits thereof."[37]

Yakima Indian lands described in the Treaty of 1855 are not within the purview of that quoted excerpt from the Congressional Act, which related only to "public land" subsequently to be embraced within what is now known as the Gifford Pinchot National Forest. That fact is manifested by the Proclamation dated February 22, 1897,[38] issued by President Grover Cleveland when he established the Mount Rainier Forest Reserve. Quoted verbatim in that Proclamation is the above set forth Section 24. In accordance with that Section, the Proclamation is strictly limited to "public lands" and to "tracts, pieces or parcels" of it within the described area.

President Theodore Roosevelt, in a Proclamation dated March 2, 1907, as set forth below amended the Proclamation of February 22, 1897, by declaring that "additional lands" would be within the Mount Rainier Forest Reserve. The exterior boundaries of the "additional lands" included the 21,000 acres of Yakima Indian land. Let this fact be emphasized:

That 21,000 acres of Yakima land, although within the exterior boundaries set forth in the diagram made a part of the 1907 Proclamation, were excluded from the Forest Reserve in these terms: "• • • excepting all lands which at this date are embraced within any withdrawal or reservation for any use or purpose to which this reservation for forest uses is inconsistent."

It is understood that by subsequent action, in no sense affecting the Yakima title, a portion of the National Forest has been designated the "Mount Adams Wild Area."

Congress—the Presidents—excluded the 21,000 acres from the Gifford Pinchot National Forest, so designated in 1908:

Coalescence of Congressional and Executive actions gave rise to these legal consequences:

(i) Congress exercised its powers over the "public lands"—in no way affecting the Yakima lands;

(ii) The 1897 Presidential Proclamation conforming to the Congressional Act pursuant to which it was issued, did not pertain to Yakima Treaty lands, but only to "public lands • • • within the limits • • • described" in the Proclamation;

(iii) In amending the 1897 Proclamation to include "additional lands" the 1907 Proclamation expressly excepted Yakima Indian Reservation lands which were obviously inconsistent with the reservation proclaimed "for forest use • • •."

There is no room for construing either the Congressional Act or the Presidential Proclamations. They pertain only to "public lands." Chief Justice Marshall stated the principles of law which govern here; "Affirmative words are often, in their operation, negative of other objects than those affirmed; • • •."[39] Yakima lands are excluded.

Emphasis has been placed on the fact that the phrase "public lands" is a term of art. It is an elemental proposition of law that:

"In the absence of a legislative intent to the contrary, legal terms in a statute are presumed to have been used in their legal sense."[40]

Based upon the express language of the Congressional Act and the Proclamation, violence is done to very basic principles of jurisprudence to attempt to include the 21,000 acres of lands, title to which is in the Yakima Indian Nation, within the purview of the term "public lands."

Integrity of the Yakima Indian Nation's Treaty of 1855 and of their title to the 21,000 acres of land here involved, was very obviously maintained by both the Congressional Act authorizing, and the Presidential action proclaiming, the exclusive use of "public lands" for what is now known as the Gifford Pinchot National Forest—excluding Yakima Treaty lands.

CONGRESSIONAL AND PRESIDENTIAL INTENTION CONTINUES TO MAINTAIN—NOT VIOLATE—THE YAKIMA INDIAN NATION TREATY OF 1855 AND ITS TITLE TO 21,000 ACRES HERE UNDER CONSIDERATION

(a) *Bad faith is not to be imputed to Congress or the office of the President of the United States:*

History of the Yakima Treaty of 1855 has been set forth above. Its objectives have been underscored. Legal consequences of the Treaty have been declared by the Supreme Court and reaffirmed by it, all as reviewed above. Succinctly stated: Title to all lands not ceded, conveyed or relinquished to the United States, was reserved by the Yakima Indian Nation, including the 21,000 acres. They are not "public lands."

Congress, when it invested the President with the plenary power of the Nation over "public lands" covered with forest; the President, when exercising the power under that Congressional authorization to establish the presently designated Gifford Pinchot National Forest, limited the Proclamation to "public lands", did not violate this Nation's solemn Treaty with the Yakimas by attempting in a manner *unauthorized* by Congress to seize the privately reserved lands of the Yakima Indian Nation held in trust for it by the United States.

Imputation of bad faith to the Congress or to the Office of the President is rejected out of hand. There is not a scintilla of fact or authority to support it.

It is understood there has been reliance upon a different legal-factual situation than here presented, to justify seizure and occupancy of the lands of the Yakima Indian Nation. To do so is most assuredly reliance upon a slender reed.[41] To sustain the seizure of the 21,000 acres of Yakima land there must be Congressional authorization. No strained construction of precedents respecting the President's "great powers over the public lands" suffices to justify that seizure.[42] Quite obviously the quoted statement and the tenor of the decision from which it is taken are in error. As reviewed, the 21,000 acres are not now and have never been "public land." Continuing in the mistaken concept that Congress authorized and the President proclaimed, a violation of the Yakima Treaty of 1855, it is stated in the case last cited that, although there was an erroneous survey bringing Flathead Indian lands there in-

Footnotes at end of article.

volved, within an area thought to be "public lands" the "Presidents acted within their powers even though they were wrong * * *."[46]

That statement is rejected as precedent here, much less controlling. It is, as observed, a fallacy to apply the precepts respecting Presidential power over "public lands" to the lands reserved by the Yakima Indian Nation. Continuing with the fallacy that Congress and the President acted in regard to other than "public lands" it is erroneously stated that: "* * * because the Presidents were within their authority, their actions effected the taking of the plaintiffs' [Flatheads'] land. * * * the Indians cannot now claim that the lands have always remained theirs."[47]

Final rejection of the erroneous concepts contained in the last cited authority, are these facts and principles of the law:

1. The title of the 21,000 acres of land is in the Yakima Indian Nation under the Treaty of 1855. That lands thus reserved by the Yakimas are *not* "public land" has been declared, adjudicated and decreed by the Supreme Court in the *Winans* and *Northern Pacific Decisions*.[48] Adherence by the Trustee of the Yakimas to those precedents is mandatory. Acceptance of the last cited Court of Claims decision as controlling here is violative of that trust.

2. Title of the Yakima Indian Nation to the 21,000 acres of land has not in any way been denigrated through the issuance of patents to private individuals. Moreover, Congress neither authorized nor ratified its seizure. Hence, the facts are vastly different from the *Creek Nation Decision* heavily relied upon in the decision of the Court of Claims.[49] To be reviewed is the inapplicability of the *Creek Nation Decision* as a precedent in regard to the 21,000 acres unpatented of Yakima land seized by the Forest Service.

Under the circumstances agents of the Forest Service originally trespassed upon those 21,000 acres and are now in illegal occupancy of them as will be more fully reviewed.

(b) *Integrity of the Treaty with the Yakima Indian Nation was not violated by the United States; title to the 21,000 acres of their land seized by erroneous survey:*

An error in a Department of the Interior survey resulted in the erroneous encompassing of Yakima Indian lands within the National Forest. That error in survey is admitted by the parties, recognized by the Indian Claims Commission. Violation of the Treaty of 1855; seizure of the 21,000 acres of Yakima Indian land does not ensue from the mistake of the Trustee United States in fulfilling the clause of the Treaty which specifically provided for the survey. That the erroneous survey does not affect the title of the Yakima Indian Nation has been specifically and finally ruled upon by the Supreme Court in the *Northern Pacific Decision* and is here controlling. On the subject the Highest Court, in rejecting the assertion that the Yakima title could be affected by an error in survey, adopted these caustic terms:

"If the Government may control the cession and control the survey and by the action of its agents foreclose inquiry or determine it, an easy means of rapacity is afforded, much quieter but as effectual as fraud. We should hesitate to put the Government in that attitude."[50]

Subsequently in *Creek Nation*, the Highest Court rejected the frivolous assertion that a trustee's error in survey could result in the seizure of the lands of the Indian beneficiaries:

"Plainly the appropriation [of the land involved] was not in 1873, when Darling's survey was approved by the Commissioner of the General Land Office. That survey did not effect any change in the existing ownership; nor was it intended to do so."[51]

Footnotes at end of article.

Two Supreme Court decisions establish the rationale to which this Nation adheres in regard to assertions that erroneous surveys could constitute a seizure of Indian lands:

1. A "rapacity" in regard to the Indians would be practiced upon them if an erroneous survey by the Trustee could consummate a seizure of their lands;

2. An erroneous survey does "not affect any charge in the existing ownership."

On that background the immutable criterion essential for seizure of the Yakima Indian Nation's 21,000 acres of land, a criterion which is here totally lacking, will be considered.

CONGRESSIONAL INTENTION TO VIOLATE YAKIMA TREATY OF 1855 AND TO SEIZE THROUGH THE EXERCISE OF EMINENT DOMAIN THE 21,000 ACRES OF LAND, AN IMMUTABLE CRITERION TO THE EXERCISE OF THE POWER OF CONDEMNATION WHICH IS WHOLLY ABSENT

Congressional and Presidential intention to encompass only "public lands" within the Gifford Pinchot National Forest has been established. That intention, as stated, excludes an intent to seize the 21,000 acres of Yakima Indian land for use as a public national forest.

Intent by Congress is an imperative condition precedent to action by the United States which would intrude itself upon the Treaty lands of the Yakimas, violate the Treaty, condemn title to the 21,000 acres it guaranteed to the Yakima Nation, and seize them for National Forest purposes.

In the words of the Supreme Court in regard to the authority of the Chief Executive of the United States to take property:

"The President's power, if any, to issue the order [to seize private property] must stem either from an Act of Congress or from the Constitution itself. There is no statute that expressly authorizes the President to take possession of property as he did here. Nor is there any Act of Congress to which our attention has been directed from which such a power can fairly be implied."[52]

That principle of Constitutional law is, of course, applicable to the Treaty lands of the Yakimas.

Indispensable nature of the Congressional intent antecedent to the "taking" of property is too well established sensibly to challenge.[53]

Ratification of a trespass, of course, requires an intent by Congress. There is no evidence whatever, indeed, evidence is to the contrary, that Congress ratified the trespass and illegal occupancy of the lands in question.[54]

Creek Nation, just cited, is a key decision on the subject of the requisite elements for the seizure of Indian lands through this Nation's soverign power of *eminent domain*. Controlling precepts of that case were correctly recited in these words: "* * * if the putting of such treaty-reservation tracts in national forests was *authorized* or *ratified* by Congress, the Federal Government thereby took the Indians' property * * *."[55] (Emphasis supplied) Indispensable nature of Congressional intention—antecedent to Federal seizure, or subsequent ratification by Congress of illegal seizure—is abundantly manifest. A different rule would partake of anarchy. As the *Youngstown Decision, supra*, underscores—the Chief Executive may exercise the power of *eminent domain only* when that power is authorized by the Constitution or an Act of Congress.

Congress authorized withdrawal of "public lands" in the State of Washington; exercising that conferred power of withdrawal of "public lands" the Chief Executive proclaimed the establishment of an area to become the Gifford Pinchot National Forest.[56]

Congress, having expressed its *intent* in regard to the withdrawal of "public land"; having refrained from expressing an interest to authorize the seizure of the 21,000 acres of Yakima Indian Nation lands, the President could not seize the lands, but rather, as reviewed in detail, limited his proclamation to "public lands". To reiterate—an erroneous survey by an agency of the Trustee United States of America "* * * did not effect any change in the existing ownership;" of the Yakima Nation "* * * nor was it intended to do so."[57]

Let this fact be emphasized: Congress did not authorize the seizure of the 21,000 acres of Yakima Nation land; the President did not purport to seize those lands; there was no authority to seize; no act of purported seizure by the President; no seizure to ratify. Hence, this is the prevailing circumstance: Agents of the Forest Service trespassed upon the 21,000 acres and they are presently in illegal occupancy of those 21,000 acres of Yakima Indian Nation land.

Reliance upon the Salish and Kootenai Decision wholly unwarranted; erroneous:

Probing the correctness of the *Salish and Kootenai Decision* transcends the scope of this consideration. As stated in the *Yakima Decision*, different facts may require application of different legal principles. Failure to take cognizance of an element frequently results in a different conclusion. In the *Yakima Decision* by the Court of Claims respecting the boundary here involved, that court had this to say:

"* * *individualized boundary calls which have to be read in the light of varying surveys, personal and tribal recollections, and comparable individualized materials" frequently render inapplicable the rulings of other cases.[58]

Basic and fundamental distinctions exist between the facts and the law relative to the 21,000 acres of Yakima Indian Nation lands, controlling in this consideration, which were not applied or relied upon in the *Salish and Kootenai Decision*, rendering that decision inapplicable here. They are in part as follows:

(a) Controlling here is Section 24 of the March 3, 1891 Act discussed above in detail.[59] That Section authorized withdrawal of "public lands" title to which was in the United States—not seizure of Yakima Indian Nation lands;

(b) Likewise controlling here is the Presidential Proclamation restricted strictly to "public land * * * within the limits hereinafter described, * * *"—not Yakima Indian Nation lands, private in character, held in trust for the Indian Nation;

(c) In the *Salish and Kootenai Decision* the controlling distinction of "public lands" from those of the Yakima Indian Nation land, was not considered in rendering the decision.

Rather, as reviewed above, the court—in error—referred to the "great powers over the public lands" of the Presidents to support its conclusion that Congress authorized the seizure of the Salish and Kootenai lands or subsequently ratified the seizure, which it most assuredly did not in regard to the 21,000 acres of Yakima land.

(d) Failure to apply the law respecting "public lands" referred to in the authorizing Section 24 of the Congressional Act, and the Presidential Proclamation in the *Salish and Kootenai Decision*, strips away all elements of controlling precedent respecting that decision in regard to the Yakima 21,000 acres. Speculation is not permissible as to what the decision would have been if Section 24 had been viewed as controlling. To be noted: Section 24 of the March 3, 1891 Act is alluded to in the *Salish and Kootenai Decision* but Section 10 which relates to "disposal" of Indian lands was primarily relied upon by the Salish and Kootenai and hence principally considered by the court.[60] Indeed, the court completely confused the law respecting "public lands" and in grave error applied it to the Indian lands.[61]

(e) Facts respecting the Yakima lands are drastically different than those recited in the *Salish and Kootenai Decision*. From the outset the Yakimas had strenuously contested

the erroneous surveys as being violative of their Treaty of 1855. They had proceeded to the Supreme Court in regard to other errors, and controlling law in regard to their Treaty boundaries, and relied upon here was enunciated by the Supreme Court in the *Northern Pacific Railway Case*. That all-important Supreme Court precedent is in itself a factor which obviously distinguishes it from the *Salish and Kootenai Decision*. At all times important here the United States was considering, reconsidering and changing the Reservation boundaries based upon Yakima complaints. There were no Congressional Acts authorizing seizure of the lands in question, and no Acts by Congress in ratification of the erroneous boundaries. Again it is to be noted that in the *Salish and Kootenai Decision* the Court failed fully to consider the basis of the *Creek Nation Decision*. Congress ratified the seizure and disposition of the Indian lands—the key issue in that decision.[62] It was the Congress—having the exclusive power—which acted to ratify the seizure of the Creek Nation land; the President was powerless to do so, a fact not recognized in the Salish and Kootenai Decision.[63]

The basic distinction between the Yakima Nation factual situation, the established precedents, the failure of the Court of Claims to distinguish between "public lands" and Indian lands, preclude reliance upon the *Salish and Kootenai Decision* as grounds for seizing the Yakima Indian Nation's 21,000 acres. Indeed, as stated, the Forest Service trespassed upon those lands and is now in illegal occupancy of them.

FOOTNOTES

[1] Summary of facts regarding the 21,000 acres of land set forth above. See also Senate Calendar No. 860, Report No. 91-857, 91st Congress, 2d Session, S. 3337, May 12, 1970—pages 4–5.

[2] In Regard To The Rocky Mountains (9 Stat. 869).

[3] Constitution of the United States, 1787, Article II, Clause 2, Section 2; Article VI.

[4] 14 Ind. Claims Comm. 536, 537, Finding 56 (February 25, 1966).

[5] Id. at 538 et seq. See also Official Record of Proceedings.

[6] Treaty of June 9, 1855 (12 Stat. 951); ratified March 8, 1859, and proclaimed by the President April 18, 1859. Northern Pacific Railway Company v. United States, 227 U.S. 355, 356 (1913).

[7] United States v. Winans, 198 U.S. 371, 377 (1904).

[8] Id. at 378.

[9] Id. at 381.

[10] In Thompson on Real Property, per. ed., vol. 1, sec. 250, this statement appears: "It is held that fishing rights are incorporeal hereditaments, since they issue out of, * * * or are annexed to things corporeal." It is also stated in 22 Am. Jur., Fish and Fisheries, sec. 7: "The right to fish at a certain place is a property right constitutionally protected from confiscatory legislation, * * *. It is an interest in real estate in the nature of an incorporeal hereditament, * * *."

[11] United States v. Winans, 198 U.S. 371, 381 (1904).

[12] Id., at 382.

[13] United States v. Winans, 198 U.S. 371, 382 (1904).

[14] Northern Pacific Railway Company v. United States, 227 U.S. 355 (1913).

Note: The Northern Pacific Decision was rendered antecedent to the finding of the map of the Yakima Indian Reservation which fully confirmed the descriptions in the Treaty. Hence the factual situation immensely strengthens the title of the Yakima Indian Nation to the lands here involved. Those additional facts, however, and the change of circumstances must be viewed as strengthening the legal precedents enunciated by the Highest Court in the Northern Pacific Decision.

[15] Northern Pacific Railway Company v. United States, 227 U.S. 355, 356 (1913).

[16] Id., at 356–357.

[17] Id., at 357.

[18] Id., at 358.

[19] Id., at 360–361.

[20] Northern Pacific Railway Company v. United States, 227 U.S. 355, 366 (1913).

[21] Id., at 367.

[22] United States v. Ahtanum Irr. Dist., 236 F.2d 321 (CA9, 1956); Appellees' cert. denied 352 U.S. 988 (1956); 330 F.2d 897 (1965); 338 F.2d 307; cert. denied 381 U.S. 924 (1965).

[23] United States v. Winters, 207 U.S. 564 (1908); Arizona v. California, 373 U.S. 546 (1963); United States v. Walker River Irr. Dist., et al., 104 F.2d 334 (CA9, 1939); United States v. Ahtanum Irr. Dist., 330 F.2d 897 (CA9, 1964); United States v. Winans, 198 U.S. 371; United States v. Powers, 305 U.S. 527 (1939).

[24] United States v. Ahtanum Irr. Dist., 236 F.2d 321, 325 (CA9, 1956).

[25] Worcester v. Georgia, 31 U.S. 515, 548 (1832).

[26] Cherokee Nation v. Georgia, 30 U.S. 1, 15 (1831).

[27] United States v. Kagama, 118 U.S. 381 (1886); Seminole Nation v. United States, 316 U.S. 286 (1942); Oklahoma Tax Commission v. United States, 319 U.S. 598, 607 (1943); United States v. Tillamooks, 329 U.S. 40, 47 (1946).

[28] Navajo Tribe of Indians v. United States, 364 F.2d 320, 322 (Ct. Cls. 1966).

[29] American Law Institute, Restatement, Trusts, Sections 174, 175, 176. The Menominee Tribe of Indians v. The United States, 101 Ct. Cls. 22, 23 (1944); American Law Institute, Trusts, Sec. 187, pp. 479, 480–1 III Scott on Trusts, 3d ed., Sec. 187, p. 1501; American Law Institute, Trusts, Section 170.

[30] Chippewa Indians v. United States, 305 U.S. 479 (1939); United States v. Shoshone Tribe, 304 U.S. 111 (1937); United States v. Klamath & Moadoc Tribes, 304 U.S. 119 (1938). Cf. United States v. Algoma Lumber Co., 305 U.S. 415 (1939).

[31] 303 U.S. 501, 510.

[32] United States v. Minnesota, 270 U.S. 181; Leavenworth, Lawrence and Galveston R. R. Co. v. United States, 92 U.S. 733, 742; Cameron v. United States, 148 U.S. 301, 309–310; United States v. O'Donnell, 303 U.S. 501, 510, and cases cited.

[33] 16 U.S.C. 796 (1), (2).

[34] Federal Power Comm. v. Oregon, 349 U.S. 435, 448 (1954).

[35] Northern Pacific Railway Company v. United States, 227 U.S. 355, 367 (1913).

[36] 26 Stat. 1091, 1103.

[37] (a) "Whereas, it is provided by *section twenty-four* of the Act of Congress, approved March third, eighteen hundred and ninety-one, *** 'That the President *** may *** set apart and reserve, *** *public land* bearing forests, in any part of the *public lands* wholly or in part covered with timber ***

"And whereas, the *public lands* *** *within the limits hereinafter described*, are in part covered with timber ***

"Now, therefore, I, GROVER CLEVELAND, President of the United States, *by virtue of the power in me vested by section twenty-four of the aforesaid Act of Congress*, do hereby * * * proclaim that there is hereby reserved *** all those certain tracts, pieces or parcels of land lying and being situate in the State of Washington, and within the boundaries particularly described as follows, to-wit: *** [description] (Emphasis supplied.)

(b) March 2, 1907 Proclamation:

"Whereas, The Mt. Rainier Forest Reserve, in the State of Washington, was established by proclamation dated February twenty-second, eighteen hundred and ninety-seven;

* * * * * *

"Now, therefore, I, Theodore Roosevelt, President *** do proclaim that the aforesaid Mt. Rainier Forest Reserve is hereby enlarged to include the said additional lands, and that the boundaries of the reserve are now *as shown on the diagram forming a part hereof;*

"*** excepting all lands which at this date are embraced within any withdrawal or reservation for any use or purpose to which this reservation for forest uses is inconsistent ***." (Emphasis supplied.) (30 Stat. 36 authority for inclusion.)

[38] Marbury v. Madison, 5 U.S. 137, 173 (1803).

[39] Sutherland *Statutory Construction*, 3d ed., p. 438, Sec. 4919—see also Sec. 4915 *Expressio unius et exclusio alterius.*

[40] Confederated Salish and Kootenai Tribes v. United States, 401 F. 2d 785 (1968).

[41] Id. at 789.

[42] Id. at 789.

[43] Id. at 789.

[44] See above, pages 1 et seq.

[45] Confederated Salish and Kootenai Tribes v. United States, 401 F. 2d 785, 788 (1968).

[46] Northern Pacific Railway Company v. United States, 227 U.S. 355, 366 (1913).

[47] United States v. Creek Nation, 295 U.S. 103, 111 (1934).

[48] Youngstown Sheet and Tube Co. v. Sawyer, 343 U.S. 579, 585 (1951).

[49] Jackson v. United States, 27 Ct. Cls. 74, 83 (1891); International Paper Co. v. United States, 282 U.S. 399, 408 (1931); Portsmouth Harbor L & H Co. v. United States, 260 U.S. 327, 329–330 (1922).

[50] United States v. Creek Nation, 295 U.S. 103, 108–111 (1934).

[51] Confederated Salish and Kootenai Tribes v. U.S. 401 F. 2d 785, 787 (1968).

[52] See above, pages 10 et seq.; pages 14 et seq.

[53] United States v. Creek Nation, 295 U.S. 103, 111 (1934).

[54] The Yakima Tribe v. United States, 158 Ct. Cls. 672 (Opinion, page 8, Court of Claims, October 3, 1962).

[55] See pages 14, et seq.

[56] Confederated Salish and Kootenai Tribes v. United States, 401 F. 2d 785, 788 (1968).

[57] Id. at 789; See *Midwest Oil Decisions* relied upon, proving the error.

[58] United States v. Creek Nation, 295 U.S. 103, 109–110 (1934).

[59] See erroneous statement "* * * the Presidents acted within their powers * * * because the Presidents were within their authority their actions effected the taking of plaintiffs' lands."

AN ALTERNATIVE ECONOMIC POLICY

Mr. McGOVERN. Mr. President, I have issued today a statement which represents a series of alternative economic proposals to the policy followed by the Nixon administration.

The main points of this program are:

First. Federal investment of $10 billion to create 2.6 million jobs by the end of 1972;

Second. Inflation insurance in the form of Government bonds with cost-of-living features for those on fixed incomes;

Third. Exemption of low-wage occupations from controls and full application of the wage provisions of existing collective bargaining agreements;

Fourth. A Senate investigation of price-fixing by industry under cover of the price freeze and selective, rather than general, application of controls to prices and wages;

Fifth. An excess profits tax for windfall profits;

Sixth. Interest subsidies for agriculture, education, and housing loans;

Seventh. Rejection of all major proposed administration fiscal measures; and

Eighth. Increases in farm income supports.

Mr. President, I ask unanimous consent that the complete text of my introductory remarks and the statement be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

INTRODUCTORY REMARKS

I am offering proposals today which I believe are real and viable alternatives to Mr. Nixon's so-called New Economic Policy.

For many months, we saw that Mr. Nixon's original and continuing Economic Game Plan bore a distinct similarity to his so-called Secret Plan to End the War. Neither one worked.

Now that the Nixon Administration has belatedly offered a program to halt inflation and to put people back to work, we find in the fine print the essence of what it's all about:

Namely, the new Nixon Economic Game Plan is a plan which will penalise and hurt the working man and women . . . the middle-class taxpayer . . . the disabled and elderly . . . and little people in general.

It is a plan which does *not* call on big business and the economically-powerful to sacrifice much of anything. Indeed while controlling wages, it offers a tax bonanza to the rich.

To borrow Mr. Nixon's words, let me make myself perfectly clear: I support the strong position taken by organized labor on the recommendations of the Pay Board in view of the lack of effective controls on either prices or profits. I intend to fight for, and defend, that position in the Senate and in the country.

We need a Phase III in economic policy—and that's to phase Mr. Nixon out of office and back to private life.

In the meantime, I mean to resist his discriminatory and thinly-disguised program to benefit the kind of people who contributed $5 million to his campaign coffers last night, while penalizing the ordinary citizen.

A PROGRAM FOR FULL EMPLOYMENT AND INFLATION INSURANCE

(Proposals by Senator GEORGE MCGOVERN)

For almost three years, we have seen the American economy steadily deteriorate. While it is true that the Nixon Administration inherited an inflationary situation, it has not taken satisfactory action to control that inflation. In fact, the measures adopted by the Administration have brought new harm to the economy.

The Administration's economic policy has passed through three stages. Under the original "game plan," inflation was to be fought by slowing down the economy and increasing unemployment. When satisfactory results were not achieved, the New Economic Policy was announced. Phase I was supposedly devoted to reducing inflation, unemployment and international speculation. Oddly, when Phase II was announced, no further reference was made to the fight against unemployment. Actually there was no substantive difference among the three stages—all have been based upon an effort to reduce inflation by keeping millions of Americans out of work.

The greatest potential gainers from this policy are the major corporate enterprises. Considerable tax benefits for them have been built into the Administration's program. But instead of a renewal of confidence in the economy as a result of this action, we have seen the stock market fall sharply. The public has not moved to display confidence in those who are supposed to gain from the policy and by implication has shown its doubts about the policy.

The proposals contained in this program relate only to the domestic impact of the present economic policy. A separate statement relating to the balance of payments will be issued later.

1. *Unemployment.* There are presently about 84 million people in the civilian labor force in the United States. Approximately 5 million (or 6 percent) of these people are unemployed. The data on unemployment and the labor force are compiled from monthly surveys of households. A person is counted as in the labor force if he is employed or if he has made a specific effort to find a job within the previous 4 weeks. When the economy slows down and job opportunities become scarce (as at the present time), some people get so discouraged from ever finding a job that they quit looking for one. These people are then not counted as being in the labor force, which means that they are not counted as being unemployed. When the economy picks up and job opportunities become more plentiful, these people begin looking for jobs again and are then again counted as being in the labor force.

Because of the present economic slowdown, there are thus more than 5 million people who are unemployed and who would like to have a job. There are probably between about 500,000 and 1 million people who do not have a job and are not counted as being unemployed, who would like to work if jobs were available. This means that there are really about 5.5 to 6 million people unemployed in the United States and that the actual unemployment rate is not 6 percent, but between about 6.5 and 7 percent. (The 7 percent figure, for example, is derived by adding 1 million to the present labor force of 84 million and 1 million to the present unemployment figure of 5 million and then dividing 6 million by 85 million to get the percent unemployed.) The job picture is thus worse than the published unemployment data indicate.

It is also the case that in an economic slowdown the average number of hours that each person works and is paid for per week falls, which means that many people are underemployed when the economy is sluggish. This underemployment is not distributed evenly, but tends to fall more heavily on low-skilled workers. For the economy as a whole, we can estimate that the average work week is between about 15 and 30 minutes less than it would be if the economy were at full employment. With an employed labor force of about 79 million people, this means that between about 20 and 40 million hours are not worked per week that would be worked if the economy were at full employment. Given the uneven distribution of these hours, this in turn means that many workers are being seriously hurt by having to work much less than full time. This loss is not reflected in the published unemployment rate data since a person is counted as employed even if he worked only a few hours during the survey week. Taking an average figure, we can say that the equivalent of an additional 800,000 unemployed are represented by those underemployed. Adding this figure to the unemployment rate above would put the total rate at 7.9 percent.

It should be noted that when the unemployment rate rises by, say, 50 percent (from, say, 4 percent to 6 percent), the number of people who have been unemployed for 27 weeks or longer rises by a much larger percentage. There are presently about 550,000 people who have been unemployed 27 weeks or longer, whereas in 1969 the number was only 133,000. These people, along with those who quit looking for a job altogether, are the ones who tend to be affected most by an economic slowdown.

Finally, there are millions of young people about to join the labor market after graduation from high school or college. In addition, there are those workers who have seen people in their own plants laid off. Although these people are not among the unemployed, they constitute a growing group that is deeply worried about the threat of unemployment.

In summary then, the present unemployment picture in the United States is worse than even the rather high published unemployment rate of 6 percent indicates.

It is important to note that in addition to all of the factors which drive up the unemployment rate is the Administration's decision to reduce Federal employment by 5 percent. That is an unusual way to reduce unemployment.

Because of population growth, the labor force in the United States grows on average about 1.5 percent per year (i.e., on average by about 1.2 million workers per year). Also, productivity (output per worker) grows on average about 2.5 percent per year. This means that on average output (GNP in constant dollars) must grow at 4.0 percent to absorb the new workers entering the labor force. If the economy is operating below full employment, then for a time output must grow faster than 4.0 percent to absorb not only the new workers entering the labor force but also the existing workers who are unemployed.

The Nixon Administration's statement that the New Economic Policy will create 500,000 additional jobs is thus somewhat vague. The Administration presumably means that 500,000 more jobs will be created than would otherwise be the case without the plan, but this can never be observed directly. What will be true, of course, is that even if the unemployment rate remains at the present level of 6 percent, about 1.2 million jobs will be created during the next year because of the growth of the labor force. Many more jobs than this are needed to drive the unemployment rate down. The Nixon plan doesn't even come close to adding this many jobs in 1972. Under the Nixon plan, the unemployment rate should still be about 5.8 percent by the end of 1972.

It should be noted that the labor force grows faster during an economic expansion than during an economic slowdown. During an economic expansion, people who were before discouraged from finding a job and quit looking for one begin again to look for a job, and these people are then again counted as being in the labor force.

The way to reduce unemployment is through fiscal action. We must close the gap between actual output and the economy's potential. The Federal government should apply an additional fiscal stimulus amounting to about $10 billion above the current budget level in fiscal 1972. This money could be invested in any one of a number of ways, although the most preferable would be through public service employment and government contracting with the private sector for new housing, mass transportation and pollution control equipment. This kind of direct investment is preferable to a reduction in personal taxes or a speed-up in the already legislated increases in personal tax exemptions. Although acceptable, they would act on the economy significantly more slowly. This is because stimulus through tax cuts depends crucially on consumers spending a significant fraction of the increase of disposable income. Such a result is much less certain than the effect of my proposal.

Under this plan, if it had been adopted at the time of the New Economic Policy, output would have grown 5.0 percent in the third quarter of 1971, at 5.7 percent in the fourth quarter of 1971, and then at about 7.0 percent throughout 1972. This growth would lead to a fall in the unemployment rate to 4.5 percent or less by the end of 1972. Beyond the end of 1972, the unemployment rate would reach the full employment level (3.5 to 4.0 percent) and output growth should slow down to about 4.0 percent per year.

This plan would add 2.6 million jobs in 1972, far surpassing the number of jobs that would have to be added just to keep pace with the growth of the labor force.

The fiscal stimulus would cause an increase in real output, rather than an increase in inflation, because labor is now readily available and more than 20 percent of our productive capacity is unused.

The immediate effect of this full employment proposal on the Federal Budget would be relatively small. The current budget outlook for fiscal 1972 is a deficit of almost $26 billion. Had this full employment plan been adopted at the time of the New Economic Policy, one-half of the added $10 billion would have been recovered as tax receipts in fiscal 1972. The remainder would have been recovered in later months. This principle would still apply if the plan were implemented now.

Accompanying this action should be steps to reallocate funds within the existing budget. If significant sums were diverted from unnecessary military spending—in Vietnam, in Europe and in weapons procurement—we could devote them to activities in the civilian sector which are more useful socially and which would create more jobs than do military expenditures. That is why action on economic conversion, which I have proposed since 1963, is more urgent now than ever. Increases in unemployment benefits and adoption of my proposal for additional educational aid to Vietnam veterans would also be helpful now.

2. *Inflation.* It has been clear for some time that the Nixon Administration policy of attempting to reduce the rate of inflation by increasing the rate of unemployment would achieve some success. The maintenance of the high unemployment rate is the best indication that this policy would work, at least to a limited extent. Even before the President announced Phase I of his New Economic Policy, I indicated that the inflation rate would fall from the 4.1 percent level of the second quarter of this year to about 3.1 percent at the end of next year. With all the added force of the New Economic Policy, the rate of inflation can be expected now to fall somewhat below that projection.

Bringing inflation under control is a laudable objective, and vigorous government action was clearly required. A reduction in unnecessary and nonproductive military spending would be a major step in the right direction. Some form of wage and price restraints, as part of an intelligent overall policy, would also have been acceptable.

The Administration has chosen to trade off jobs for a reduction in the rate of inflation. This is a high cost to pay for the accomplishment of that objective.

Instead I suggest that a prudent anti-inflationary policy be followed. In cases where inflation causes serious harm to individuals, the government should employ "inflation insurance" measures rather than relying exclusively on creating unemployment. Even if that meant that a small degree of inflation remained, most people would prefer to get any dollar—even an inflated one—in their pay envelope rather than no envelope at all.

I propose a series of measures to protect people against inflation. These are:

a. Savings bonds with purchasing power guarantees. These would be available to individuals, with the same quantity limitations and redemption rules that apply to current savings bonds. Their dollar value would increase quarterly with the consumer price index. In addition, a modest interest rate would be paid or credited, say a third or a half of the rate offered on ordinary savings bonds.

b. Medium-term (2–5 year) non-marketable notes with purchasing power guarantees for banks and thrift institutions. These are to enable these institutions to offer escalated savings accounts and savings certificates to individuals. Otherwise they might object that the savings bonds under (a) are unfair competition.

c. Long-term non-marketable bonds with purchasing power guarantees designed for pension funds and insurance companies. These bonds would also bear a lower rate of interest than ordinary federal bonds of equivalent maturity—perhaps half or two thirds. They would enable private and state and local pension funds to offer similarly guaranteed pension rights, and insurance companies to offer their policyholders and beneficiaries annuities of constant purchasing power. The funds would take no risk because they would have government guaranteed bonds of the proper maturities to cover their commitments.

For people now drawing private pensions and annuities fixed in dollar amounts, the best thing might be for the government to offer an exchange which would protect these people from further erosion. The government would exchange purchasing power bonds of suitable maturities for the securities on which the funds and companies are now relying to pay the pensions and annuities.

d. Automatic cost-of-living increases in government pensions and welfare payments. This is obvious and has already been proposed for social security. I have also proposed it for Vietnam veterans educational benefits.

The point of these suggestions is that people who want to hedge against inflation, and are willing to sacrifice the chances of larger gains for such security, should be able to do so. The only way that has been available is to hold common stocks; they are by no means a foolproof hedge and they are not easily or cheaply available to low and middle income people.

3. *Wages.* The freeze has been most effective in keeping wages from increasing, because no employer has an incentive to violate the wage regulation. With wage controls likely to remain the most effective portion of the Administration program, ample opportunity is created for serious inequities when wage earners are compared with others in the population.

There are three major injustices in the present direction of Federal wage controls.

First, workers in low wage occupations should be exempted from the freeze or similar controls. As it now stands, these workers are condemned to the bottom of the economic ladder. Increases in their wages would not contribute to inflation so much as they would stimulate increased consumer purchasing.

Second, the White House has announced that wages for Federal blue-collar workers will be frozen until February 15, 1972, and that other Federal pay should not be increased until July 1, 1972. This discrimination against Federal employees is unwarranted and no such penalty should be placed on those who have dedicated themselves to public service. The Congress should reject the White House proposal.

Third, whatever controls are applied must allow for the full implementation of existing collective bargaining agreements. Not only does the present policy violate the sanctity of contracts, but it is another example of the rank discrimination which exists between labor and the corporations. Under this policy, management is able to extract the fulfillment of contractual obligations, while workers are not compensated for whatever additional effort they make. Of course, wage increases must be allowed to reflect increases in productivity. But negotiated wage increases often represent payment for past inflationary effects and for labor's acceptance of new working conditions. In the name of fairness, the government must permit the full application of previous collective bargaining agreements. This was the practice during the Korean War wage-price freeze, and it caused no severe damage.

4. *Prices.* Every American has seen some price go up in the period since August 15. The freeze has not been effective, because it was impossible for a small Federal bureaucracy to monitor the infinite number of prices set by millions of firms and sales outlets.

For that reason, any wage and price controls should be applied only on a selective basis. When such controls were applied on an overall basis in the past, the Nation was engaged in war and could count on a high degree of voluntary compliance based on patriotism. However, even in these past instances, there were numerous cases of violation of controls.

Selective controls, affecting perhaps the 1000 largest corporations, could be effectively administered by the Federal Government. The impact of these leading firms on the total economy is so great that controls on their prices and wages would be felt throughout the economy. Small producers would have an incentive to keep their prices competitive with those of industry leaders. Many are suppliers of the large firms and this would act to keep their prices down. Admittedly, there would be an element of discrimination in this policy, but the corporate giants would be in a far better position to bear this additional burden than would small businessmen and others whose economic survival is not so assured.

The corollary of allowing prices of the smaller firms to remain uncontrolled would be to allow wages in this sector also to remain free of controls. This would permit the relatively minimal overall effect of increased prices in this sector to be compensated by wage increases.

The existence of Federal price controls may appear to permit price-fixing arrangements among private firms. Yet government-sanctioned cartels were declared unconstitutional at the time of the NRA and should not be allowed to contravene the Sherman Anti-Trust Act now.

Accordingly, I urge that the Senate Anti-Trust Subcommittee hold hearings immediately on pricing arrangements now being concocted in wholesale and retail trade.

Finally, we must undertake the kind of institutional reform which will keep the prices of vital services within reasonable limits. For this reason, I have advocated that the Price Commission be authorized to supersede all other agencies related to regulated industries. In this sector, price increases have far surpassed the inflation rate. By the same token, action is required in such fields as medical care and education to insure that they are available to all levels of society.

5. *Profits.* The greatest inequity in the Nixon Administration's wage-price program has been caused by the absence of limitations on profits. There has been some discussion of holding down dividend payments, but that measure could be accomplished without affecting profits, which would be retained. A freeze on profits is inappropriate because, if prices and wages are frozen then profits, the residual between sales and costs, will have to rise if productivity and output are to rise.

An excess profits tax would hold down profits after taxes. This step is required in the name of equity. This tax should be applied in a manner to insure that profits resulting from windfalls should be recaptured. Such windfalls would result from excessive price increases, beyond those authorized or desirable, and from cost savings resulting from wage limitations.

But an excess profits tax should not be allowed to contribute to a slowing down of economic activity. For that reason, adequate provision should be made to allow for three specific profit situations:

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a. a cyclical profit picture in which profits in the year or years immediately preceding the tax were low;

b. a rising profit curve of a steadily growing enterprise;

c. profits in the excess profits tax year which are due to innovation not present in the base period.

The revenue from an excess profits tax should be specifically earmarked in advance. While the resources would probably not be sufficient to justify the creation of a trust fund, the revenue should be allocated to those socially important programs where appropriations have fallen short of authorizations. Among these programs are funding for the OEO and for elementary and secondary education.

It is clear that an excess profits tax can recapture unauthorized gains. The Administration proposal to oblige those who have made windfall profits subsequently to lower their prices is unworkable and unjust. It would be impossible to determine which prices should be lowered and by how much.

6. *Interest.* Interest rates should come down if there is a return of dollars from abroad, as inflation slows and if the Federal Reserve maintains an adequate money supply. In the absence of such developments, an interest freeze could have undesirable effects. Lending institutions would tend to favor those borrowers for whom interest rates were not limited, probably corporations. That would make less credit available to small borrowers, those who merit special consideration.

An alternative course is for the Federal government to offer direct subsidies for certain kinds of loans. In particular, such subsidies should go for agricultural loans, housing loans (with a ceiling on the value of the property) and education loans.

7. *Fiscal policy.* Virtually all aspects of the Administration program relating to fiscal policy are harmful or useless, and they should be abandoned.

The investment tax credit was originally called a "job development credit." Within one day of its announcement, that myth fell away, revealing the proposal as a boon to big business. There may have been some incentive for business to step up its purchase of capital equipment in the first year of the credit under the Administration proposal which provided a 10 percent credit in that year followed by a permanent 5 percent credit. But with the credit at a uniform level of 7 percent, that incentive is removed. As a "job development credit," there was adequate reason to exclude foreign-made capital goods, but that exclusion is no longer valid, because it results in discrimination against American producers who depend on such goods. As such, the credit is a protectionist measure.

It is proposed that this credit should be accompanied by accelerated depreciation allowances. Like the credit, these allowances simply represent a pay-off to big business, whose only possible impact would be through the discredited trickle-down process.

It is highly questionable that either of these methods would work, given the operation of the Nation's productive resources at between 70 and 80 percent of capacity. There is little or no need for additional capital goods in a situation where so much capacity lies idle.

Certainly the only possible justification for the investment tax credit would be if it were applied only to that portion of capital investment higher than in the preceding year. Otherwise we will be spending $5 billion to create a few thousand jobs.

These two proposals, taken together, represent a bonanza to big business worth between $7 billion and $8 billion. It will do little to stimulate the economy. It will certainly boost profits.

The proposal of a tax break for Domestic International Sales Corporations (DISC) is supposed to help exports. But it is merely a reward to present exporters. It would do nothing to encourage new exports or exporters. Yet it would result in a $600 million net fiscal loss at a time when the budget deficit is high. This makes no sense other than as a reward to big business.

The automobile excise repeal is intended to aid both consumers and production. This is constructive to the degree that it increases real purchasing power by lowering prices. But it is questionable whether the automobile industry is the proper place to apply this technique. It offers most help to the relatively wealthy who buy most of the new cars. And it offers a large subsidy to an industry which is known to cause significant pollution. Finally, the first results of the expected impact of the tax repeal indicate that very few jobs have been created, although hours of work have been lengthened.

Another feature of Administration fiscal policy which is aimed at inflation is the impoundment of about $12 billion of funds already appropriated by the Congress. Release of these funds would stimulate the economy and promote activity in the most desirable sectors. Release of these funds would be an effective stimulus to create new jobs. Delay of this step until next year means that hundreds of thousands will be kept out of work simply for political reasons.

8. *Farm income.* The American farmer has been the greatest victim of the Nixon Administration's economic policies. While other prices rose because of inflation, farm prices actually fell from the 74 percent that Mr. Nixon deplored during the 1968 campaign to about 67 percent.

Phase I of the wage-price freeze guaranteed that farm prices could fluctuate—only downward.

Farm prices were allowed to fall too low during the previous Administration. But they have been forced even lower as a result of all stages of the present Administration's economic policy.

The American farmer deserves a higher parity rate now. Yet all the Administration has done is to tamper with the parity ratio calculations. Price supports should be increased by 25 percent in years of oversupply such as 1971. We should also build an emergency food reserve.

Impoundment of Federal funds and high interest rates have hit farmers especially hard.

Action is urgently needed to provide aid in the form of better prices to our farmers.

CONCLUSION: AN INDICTMENT OF THE NIXON ECONOMIC POLICY

The Administration's economic policies are a failure. A bill of particulars must include:

The unemployment rate has gone up 65 percent between the time the Nixon Administration came to office and July 1971;

The use of our productive capacity has fallen 12 percent;

The total loss to the GNP as a result of Administration policies amounts to $90.5 billion;

Real GNP per capita has made no gains whatsoever;

There are now 5.3 million unemployed;

Unemployment among non-white teenagers is 31.6 percent;

When Mr. Nixon came to office 409,000 were unemployed for more than 15 weeks, now there are 1,239,000;

The balance of payments has gone from a surplus of $2.7 billion to a deficit of $22 billion; and

The Bureau of Labor Statistics has been turned into a Ministry of Propaganda as a result of personnel shifts, gagging the impartial interpretation of data, and the suspension of reports on urban unemployment.

The time for enlightened action has come. Further delay can bring catastrophe to the economy and the Nation.

JUDGE EDWARD D. RE

Mr. HUMPHREY. Mr. President, I have just had the occasion to examine the National Italian-American News for October 1971, published in New York and circulated throughout the country. It contains a series of tributes paid to a great American, the Honorable Edward D. Re, judge of the U.S. Customs Court, former Chairman of the Foreign Claims Settlement Commission, and former Assistant Secretary of State.

An editorial in that newspaper discussing the highly desirable appointment of an Italian-American lawyer to the Supreme Court of the United States recommends Judge Re for that distinguished nounced his appointments for the existpost. The President has, of course, aning vacancies of the Court, but I feel that it would be appropriate for me, as one of Judge Re's friends and admirers, to quote at this time from the editorial as it comments on Judge Re's qualifications:

A great judge, a great scholar, a great teacher, an Italian by birth, an American by choice, a patriot of devotion, a parent extraordinary, a dedicated public servant, a superb orator, a model for all our young people: an immigrant boy who rose to some very high positions because he carries the key to America's Promise within him.

Judge Re is a great American, and I am immensely pleased at the recognition that he is receiving.

GENOCIDE: NEW FIELD FOR LEGISLATION

Mr. PROXMIRE. Mr. President, article V of the Genocide Convention states that each party will enact legislation to outlaw genocide. It is argued that the United States should not ratify the Convention because this article infringes upon the police power of the States.

Article X of the Interim Convention on Conservation of North Pacific Fur Seals is similar to the Genocide Convention's article V, and provides a useful precedent. At the time the Fur Seal Convention was ratified by the United States, no objection was made in either the House or the Senate that the Fur Seal Convention infringed upon the powers of the States. The Congress said that this was a new field for legislation. The power could not have been taken from the States because it was never there to begin with.

The same point holds true with the Genocide Convention. The treaty creates a new field for legislation, and it defines a new crime. Therefore it does not take from the power of the States. The several States still retain their powers with respect to the crime of homicide. Nothing is proposed which would infringe on that power.

Mr. President, the Genocide Convention is to prevent a recurrence of the horrors of Nazi Germany. The time has come for the United States to do its share. The Senate should ratify the Genocide Convention.

SENATOR FRED HARRIS' SENSE OF COMMITMENT

Mr. HUMPHREY. Mr. President, in the brief time that Senator FRED HARRIS was an announced candidate for the Democratic nomination for President, he brought to this Nation a new sense of commitment and responsibility which must be an integral part of any Democratic nominee's campaign in 1972.

Senator FRED HARRIS spoke eloquently and thoughtfully about a nation that seems to have forgotten its commitment to the poor of all races. I know that it was his sincere hope that his campaign would ignite a new national concern for people which an affluent society has left behind.

I want to assure my good friend from Oklahoma that what he has done has not been in vain. The issues that he has raised and the problems he has identified are not about to be forgotten or cast aside because he has stepped out of the race. They cannot be and the Democratic Party must confront these issues. It is my sincere hope that he will continue to speak out forcefully in the future as he has done in the past.

The statement of Senator HARRIS this afternoon is eloquent testimony to his devotion to the people, his commitment to social and political and economic reform.

I ask unanimous consent that the statement be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF U.S. SENATOR FRED R. HARRIS, NOVEMBER 11, 1971

These campaign days have been days of listening and learning.

I have listened to affection-starved runaways crowded into a Miami detention jail.

Old people who feel put away in high-rise loneliness.

Black people who still do not feel fully American.

Farmers crushed by corporate giants.

American Indians who still cannot control their lives.

Women who feel the American dream is still a man's dream.

Chicanos whose children are called retarded.

Workers who cannot pay their medical bills.

Students who desperately want to believe in their country.

I now know for sure America is ready for fundamental change. There is a New Populist coalition which can turn this country around.

They believe in the need for the redistribution of income, for breaking up the inordinate concentrations of economic and political power, for idealism as the basis of foreign policy.

They want to put America back together again around these principles. They want the political process to work. They see 1972 as the crucial year.

But I'm broke.

And I cannot continue to campaign actively for President. The campaign office is closing.

Those good people who have enlisted in this effort and the principles we have sought to further should not be hurt by an under-financed campaign.

With others, I will seek—in the Senate and elsewhere—to discuss the real issues that can redeem America and give our people new hope.

SENATOR MILWARD L. SIMPSON: HE SURMOUNTED ADVERSITIES

Mr. HANSEN. Mr. President, a number of U.S. Senators know Milward L. Simpson of Wyoming well. They remember his warm friendliness and absolute sincerity. They became fast friends with Milward Simpson and a number of them fondly recall his years of service in the Senate—from 1963 to 1967—and inquire about him on frequent occasions.

The former U.S. Senator is doing fine, I am happy to report, and I am pleased to say that in the last 24 months or so he has made a most remarkable recovery from some very real health problems—problems that would have crushed a lesser man.

Just recently, one of Senator Simpson's longtime friends and stanchest supporters, James Flinchum, managing editor of the Wyoming State Tribune in Cheyenne, Wyo., wrote an outstanding editorial pointing up the strides—and I use that word advisedly—that Senator Simpson has made.

Because his many friends in this body will be interested in knowing how he is getting along, I ask unanimous consent that the editorial, which presents a classic case on the surmounting of real adversity, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Last weekend, Milward Lee Simpson, 23rd governor of Wyoming and one of the 17 men who have served this state in the United States Senate, stood up on a platform at Laramie and received a resounding ovation.

It was the first time Simpson, who will be 74 on Nov. 12, had ridden the Treagle football special of the Wyoming State Tribune and Wyoming Eagle since 1965, and one of the few rare public appearances he has made since he was stricken with serious illness that forced his retirement from the Senate in January, 1967.

The tribute to the former governor and senator was not only because of his tremendous personal popularity throughout Wyoming but also in recognition of the valiant struggle he has made against not one but two ailments, either of which by any means of measurement would have probably meant the end of an ordinary man.

When Simpson left the Senate seat to which his longtime friend, then Gov. Cliff Hansen, was elected to succeed him, almost five years ago, he was a very ill man, how ill few people really knew.

He had been stricken with a particularly crippling form of arthritis that seemed to be concentrated in one hip. But as bad, perhaps worse, than that, he also was suffering from Parkinson's disease, a baffling ailment of the nervous system that sometimes leaves its victims almost helpless, phyically as well as mentally.

The pain from the arthritis was excruciating; the effects of Parkinsonism terribly depressing.

The other night, Simpson recounted how his wife Lorna, insisted that he keep moving, even if to try to walk around the room of their homes in Cody, and in Sun City, Ariz., where the Simpsons spend the winters.

But finally he became so ill that he was confined to a wheelchair, and unable to move even that under his own power.

But he never gave up the fight, and finally a couple of years ago, he found a surgeon willing to make an experimental operation on his hip which resulted, Simpson says now, in the implantation of more hardware there than an ordinary plumbing shop holds.

Further than that, he found a physician who had heard about a radical new drug called L-Dopa for the treatment of Parkinsonism which had virtually defied all medical effort before that.

Thanks to both, and also thanks to Lorna Simpson and to his own indomitable will, Milward Simpson has been able to discard his wheelchair and get moving again.

Last weekend he drove with his son, Alan, a Cody lawyer and state representative, to Cheyenne for the Treagle, rode the train to Laramie, and then drove home to Cody that afternoon after the football game.

This weekend, he came to Laramie again for a class reunion of the University of Wyoming Class of 1921, at which he was to preside as luncheon toastmaster.

Of the latter trip, Simpson wrote: "I must be a glutton for punishment."

But it was plain also he relished every bit of an experience that meant a new life for a man who had been doomed to a life of confinement and constant care.

Milward Simpson probably is even more popular now than he was as president of the University of Wyoming Board of Trustees, as governor and as a U.S. Senator—a classic case of a fight back against great odds that all the world can admire.

TRANSMITTAL OF INTERNATIONAL AGREEMENTS TO CONGRESS

Mr. CASE. Mr. President, on October 20 and 21, 1971, the Committee on Foreign Relations held hearings on S. 596, a bill which I have introduced to require the transmittal of all international agreements to the Congress within 60 days of their execution.

While the executive branch has admitted that the present informal method of informing the Congress of classified agreements is inadequate, what they have proposed in its stead is yet another informal arrangement.

The ability of the Senate to fulfill its constitutional responsibilities in the area of foreign policy depends upon its knowledge of the commitments entered into by the executive branch by means of these agreements. I continue to believe that a formal remedy to this most serious problem is essential.

I believe each Member of the Senate will wish to inform himself on this issue. I ask unanimous consent that the prepared statements presented at these hearings be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

OPENING STATEMENT BY SENATOR J. W. FULBRIGHT

S. 596—EXECUTIVE AGREEMENTS

The Committee is in the somewhat unusual position today of taking up for consideration a legislative proposal which was first put forth over 17 years ago. This proposal, first offered by Senator Homer Ferguson of Michigan in 1954, and again by Senator William Knowland of California in 1955, is modest in scope but significant in its connotations. The bill would simply require the Secretary of State to transmit the texts of all executive agreements to the Congress within 60 days of their coming into force. The bill, as re-introduced by Senator Case this year, also specifies that, if the President judges any agree-

ment to be too sensitive for disclosure, it may be transmitted to the Congressional foreign affairs committees under an injunction of secrecy. The bill would require too that all executive agreements in force prior to its enactment would also have to be submitted to the Congress.

In one respect this is a modest piece of legislation. Its modesty stems from the fact that it does not attempt in any way to deal with the basic question of whether and to what degree the President possesses constitutional authority to enter into binding agreements with foreign powers. Traditionally that authority was confined to matters of a routine or administrative nature, while significant, substantive matters were thought to require treaties consented to by the Senate. As matters have developed in recent years, I think it no exaggeration to say that this distinction has been substantially reversed: matters of a routine, administrative, or essentially non-political nature—an agreement, for example, for the recovery of lost archaeological objects in Mexico—are regularly submitted to the Senate for its advice and consent. Matters of weight and substance, on the other hand, such as the stationing of troops in a foreign country, or the conduct of clandestine warfare on another government's behalf have in recent years been contracted by secret executive agreement, without the consent or even the knowledge of the Senate.

Without prejudice to the basic constitutional question of the President's authority, or lack thereof, when it comes to negotiating foreign agreements, the Case bill, as I understand it, purports to resolve the prior, more elemental, question of secrecy. Before undertaking to re-examine, and then perhaps to reassert, its proper constitutional authority in the area of the treaties, Congress must first ascertain that at least it knows of the existence and content of agreements with foreign governments by the Executive. The Case bill would require that this information be provided to the two houses of Congress. In so doing, it would represent a long first step toward the recovery of that constitutional authority which we have allowed to erode away over the years.

The bill is substantially the one which was introduced by Senators Ferguson and Knowland 17 years ago. The circumstances under which we consider it, however, could hardly be more different. At that time all but a few Senators were caught up in what we must now recognize as the shortsighted cult of Presidential predominance in foreign policy. Many Senators and Congressmen at that time were bemused with the notion that the President knew best in foreign policy, and that the Congress showed its "responsibility" by playing a compliant role. Since that time, through costly experience, we have discovered that the President does not always know best, and that, indeed, the country would be far better off today if the Congress had been more assertive in the exercise of its constitutional role—a role which consists at least as much in assertion and criticism as it does in compliance.

The Committee is privileged to take counsel on these matters this morning with a distinguished historian, Professor Ruhl J. Bartlett of the Fletcher School of Law and Diplomacy; and a distinguished lawyer, Professor Alexander M. Bickel of the Yale Law School. Both witnesses have appeared before the Committee before, Professor Bartlett testifying on the National Commitments Resolution in 1967, Professor Bickel only three months ago in connection with the still-pending war powers legislation.

Professor Bartlett, will you please proceed, after which we will hear Professor Bickel's statement.

Senator Case Explains the Effect of His Bill on Executive Agreements

Last December I introduced a bill requiring the transmittal of all "executive agreements" to the Congress within 60 days of their execution.

Fifteen years ago a similar bill introduced by Senator Knowland was adopted by the Senate without objection as an alternative to the so-called Bricker amendment.

At that time, the Eisenhower Administration cooperated with the Senate Foreign Relations Committee in drawing up the Knowland legislation. The opportunity is at hand for a similar initiative by President Nixon.

Although the House did not act on this legislation in 1956, subsequent history has demonstrated how right the judgment of the Senate and the President was. The need for such legislation is even greater today.

So, I am happy that the Senate Foreign Relations Committee is opening hearings on my bill. I am pleased that Professor Ruhl J. Bartlett of the Fletcher School of Law and Diplomacy at Tufts University and Professor Alexander M. Bickel of the Yale Law School are today appearing in its behalf.

The terms of the bill are self-explanatory, but there are several important points I would like to emphasize.

First, access by the Congress to the terms of all international agreements is a Constitutional right requiring no legislation to be established.

These agreements are as binding upon the United States as treaties. As confirmed by Supreme Court ruling, they equally are "the law of the land".

A requirement for the disclosure of international agreements already is codified in law. Section 112a of Title I of the United States Code presently requires the Secretary of State to compile and publish all international agreements other than treaties concluded by the United States during each calendar year. But all agreements which the Executive Branch stamps secret have been withheld from the publication provided for by Section 112a.

I am not now challenging the President's authority to make executive agreements, although I believe that a strong case can be made that all agreements with foreign nations should be subject to Senate confirmation. But I do claim that all such agreements should be made available to Congress—publicly, if possible—and, where security considerations dictate, under an appropriate injunction of secrecy. My bill so provides.

In failing to insist on the right of Congress to information as to all international agreements, Congress has been almost as much at fault as the Executive. Be that as it may, the principle is clear, as I said at the outset, that Congressional access to these documents is a Constitutional right. It is not a new right to be established.

The second point I would like to comment upon briefly is the retroactivity of my bill.

While it might seem obvious that the general right of Congress to access to these agreements implies access to all those now in force, as well as to those hereafter to be made, no opportunity for misunderstanding must be permitted to exist. Accordingly, I have introduced an amendment to my original bill (S. 596) adding the following additional language.

In the case of any such agreement entered into force with respect to the United States prior to the date of enactment of this section and still in force on such date with respect to the United States, the text of such agreement shall be transmitted to the Congress not later than sixty days after such date of enactment.

The third and final aspect of this bill which I think should be clearly understood is that it applies to all international agreements. No agreement or commitment entered into by the United States should be withheld by the Executive Branch.

Congress cannot, for example, tolerate the position taken by the Executive Branch that Senator Symington's subcommittee investigating U.S. commitments overseas could not have access regarding the deployment of nuclear weapons abroad since "this subject is of such high classification that it could not be discussed before this Foreign Relations subcommittee under any circumstances".

Regarding the stationing of nuclear weapons abroad or any other subject matter of a U.S. agreement, a September 9 editorial in the St. Louis Post-Dispatch was entirely to the point regarding the bed-rock necessity for Congressional access:

> Congress has the constitutional authority to investigate any matter within its legislative competence and the deployment of nuclear arms which may have a direct relation to acts of war or treaty fulfillments, is well within its purview.
>
> There are those who will be made uneasy by the apparent "adversary" nature of this legislation. They will emphasize the importance of voluntary and informal cooperation to the efficient operation of government.
>
> Mutual good will, a readiness to cooperate, are of course necessary to the effective relationship between the Executive and the Congress.
>
> But friendliness and a cooperative spirit alone are not sufficient.
>
> In an age of instant communications and U.S. military deployment abroad in the eye of potential conflict, all commitments, which can commit or involve this country in possible hostilities, must be formally and systematically examined both by Congress and the Executive before they are triggered by events. Failing such prior examination, the United States Congress—as increasingly has been the case since World War II—is reduced to postmortem reviews of accomplished facts.

It is not necessary to renew the old controversy about Yalta to cite example of cases in which the Congress was deliberately excluded from knowledge of agreements. Much more recently, the Symington subcommittee uncovered contemporary examples of such agreements withheld from the Congress; 1960—with Ethiopia; 1963—with Laos; 1964—with Thailand; 1966—with Korea; 1967—with Thailand; and the secret annexes to the Spanish Bases Agreement of 1953.

Throughout the course of the Symington subcommittee hearings, Executive Branch witnesses described some of the above cited agreements as "contingency plans" or extensions of already existing treaties. Whatever they are called, they are international agreements which the Congress has a right to see.

This bill is not offered as the complete answer to the problems of relations between the Executive and Congress. But it does represent a necessary step.

Clearly, previous practices have proved wanting. We are today living with the consequences.

I am sure these hearings will confirm the essential wisdom of former Senator Homer Ferguson in arguing for enactment of the 1954 bill.

"I think that this is a responsibility that the United States Senate and this committee must assume.

"If under the present law, (executive agreements are) to be the supreme law of the land, then, being a government of law and not of men, we ought to have them filed here in the Senate. If they are secret, they ought to be in this committee, so that this committee could act, if they desire to act, to protect the rights of citizens."

Statement by Ruhl J. Bartlett

In April 1817, the British Minister to the United States, Charles Bagot, and the Acting Secretary of State, Richard Rush, exchanged notes providing for a limitation of naval armaments on the Great Lakes and Lake Champlain. A year later President James Monroe submitted this agreement to the Senate and inquired whether it "is such an arrangement as the Executive is competent to enter into, by the powers vested in it by the Constitution, or is such a one as requires the advice and consent of the Senate. . . ." The Senate "approved of and consented to" the arrangement and thus by implication decided it was in the nature of a treaty. A student of executive agreements, in commenting on this matter, suggests that if one of the founding fathers was uncertain about the authority of the Executive in this instance, modern students vessels from the Great Lakes except those needed for execution of the revenue laws. Nevertheless, Secretary of State John Quincy Adams said the failure of the President to should approach the subject with becoming modesty. Although President Monroe mentioned his Constitutional authority, it may well be that he believed he had legislative sanction for the arrangement under an act of the Congress of February 27, 1815, which gave him the power to remove armed submit the relevant documents to the Senate had resulted in "some inconvenience," and that the British Minister had inquired whether the exchange of notes had been communicated to the Congress.

This incident serves to indicate the long history of the problem of executive agreements and suggests as well the need for modesty on my part in considering them. I have, however, more compelling reasons for modesty because the subject of executive agreements has been extensively examined during recent years by committees of the Congress. Several members of the present Committee on Foreign Relations were members of the Committee when a bill similar to the one before us was introduced in the Senate by Senators William F. Knowland and Homer Ferguson in 1954. The subject was a part of the lengthy hearings on the so-called Bricker Amendment, which will be mentioned later, and was considered in 1967 in connection with the Senate Resolution on National Commitments. It was a part of the discussion in the Subcommittee on "United States Agreements and Commitments Abroad" under the chairmanship of Senator Stuart Symington and of the Subcommittee of the Judiciary Committee on "The Separation of Powers" under the chairmanship of Senator Sam J. Ervin. It was considered also by the Committee on Government Operations headed by Senator John L. McClelland and a Sub-committee under the chairmanship of Senator Henry M. Jackson. It formed a part of the discussion in a Sub-committee of the Committee on Foreign Affairs of the House of Representatives on "Congress, the President and War Powers," and perhaps was examined by other committees of the Congress. In addition the subject had attracted an extensive bibliography of scholarly writing. Under these circumstances I will attempt only a brief introduction to the subject.

The Constitution of the United States contains no explicit provision authorizing the conclusion by the President of executive agreements, but they began under the first President and have grown greatly in number in recent years. During the year 1930, 25 treaties and 9 executive agreements were concluded by the United States, but during 1968 more than 200 executive agreements were made in comparison with 16 treaties. The Department of State estimated as of January 1, 1969, that 909 treaties to which the United States was a party were in force while the number of executive agreements was 3,973. The latter number is minimal, however, if all executive agreements concluded by the United States government are considered because it does not include executive agreements of a routine nature, frequently temporary, made perhaps daily by military commanders or other officers of the United States at home or abroad. Secretary of State John Foster Dulles estimated that such agreements made under the aegis of the North Atlantic Treaty during the first four years of its existence amounted probably to 10,000. It is not supposed that this Committee is concerned with these routine acts which might be more properly called administrative arrangements.

As the Committee well knows it is customary to separate executive agreements into several categories; (1) those made under the authority of a legislative act, (2) those made prior to legislation but expressly subject to later congressional approval or implementation, (3) those made pursuant to a treaty, and (4) those which are derived directly from the President's constitutional powers. Regarding executive agreements authorized by the Congress either prior to an agreement or subsequently, the constitutional issue is mainly, in the words of Chief Justice Charles Evans Hughes, whether the Congress has abdicated or transferred to others "the essential legislative functions with which it is . . . vested." The Chief Justice went on to say that while the Congress could not delegate its essential legislative functions, it was not denied the right to perform its functions "in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within precise limits and the determination of facts to which the policy as declared by the legislature is to apply." (*Panama Refining Company* v. *Ryan*, 293 U.S. 388. 1935) As far as I know, this view of congressional authority to authorize a wide variety of executive agreements is generally accepted. It seems probable, however, that in recent years the Congress in authorizing executive agreements has not always been careful to establish guide lines, policies, and standards under which the Executive may act. Nevertheless, limitations on the right of the Congress to delegate its essential legislative functions exist and whether the essential legislative function has been protected may be a proper matter for judicial determination. It follows logically that if the Congress cannot delegate its essential legislative functions, it cannot delegate authority to the Executive which it does not itself possess under the enumerated powers granted to it by the Constitution.

In this connection I would like to lay at rest, as far as it is possible for me to do so, a famous theory of Federal authority in dealing with foreign affairs. This theory was advanced in an opinion of the Supreme Court of the United States in the well known case, *The United States* v. *Curtiss-Wright Export Corporation, et al.* (299 U.S. 304) of 1936. In that opinion, written by Justice George Sutherland, it was stated:

> As a result of the separation from Great Britain by the colonies acting as a unit the powers of external sovereignty passed from the Crown not to the colonies severally, but to the colonies in their collective and corporate capacity as the United States of America. . . . It results that the investment of the Federal Government with the powers of external sovereignty did not depend upon the affirmative grants of the Constitution. The power to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other sovereignties, if they had never been mentioned in the Constitution, would have vested in the Federal Government as necessary concomitants of nationality.

The fallacy of this historical argument is not difficult to determine. It is necessary only to read the Declaration of Independence which declared that the United Colonies were "Free and Independent States." But if doubt remains on this point, reference can be made to The Articles of Confederation. Although Article I provided that the "style" of the Confederacy was to be "The United States of America," Article II provided that "Each State retains its sovereignty, freedom and independence, and every Power, Jurisdiction and Right, which is not in this Confederation expressly delegated to the United States in Congress assembled."

There were individuals in the Second Continental Congress, and in the Constitutional Convention as well, who advocated the creation of a centralized national state, but James Madison made it clear in *Federalist* 36 and 48 that the states under the Confederation were sovereign states, and Alexander Hamilton conceded the fact in *Federalist* 15 when he wrote, referring to the Confederation: "In our case the concurrence of thirteen distinct sovereign wills is requisite under the Confederation to the complete execution of every important measure that proceeds from the Union." John Adams had written prior to the Declaration of Independence that the colonies had the choice of declaring themselves "a sovereign state or a number of confederated sovereign states." (Merrill Jensen, *The Articles of Confederation . . . 1774–1781*, Madison, 1940, p. 167.) The most basic premise of the American Revolution was the right of revolution, that sovereignty resided in the people. What was created by the Constitution was a constitutional, federal, republic with limited powers vested in the federal government and distributed among its branches. The United States is a sovereign state and may do anything a sovereign state may do under international law, but the federal government as distinguished from the United States is a creature of the Constitution. It is true that the Congress frequently passes resolutions, as in the case of the Cuban Resolution of 1962, or the Middle East Resolution of 1958, which state what the "United States" is prepared or pledged to do, but this surely means only what the Congress is prepared to do under its constitutional powers, and even then such statements of policy or intention have no legal binding effect upon successive Congresses.

Justice Sutherland confused *exclusive* jurisdiction of the federal government in foreign relations with *absolute* and unlimited jurisdiction. He said that "a political society cannot endure without a supreme will someplace." This is probably true, but the supreme will in the United States is the American people. The federal government cannot pass a law or make a treaty in contradiction to the Constitution. The doctrine of the succession of sovereignty from the Crown to the federal government has no basis in American history. Under the Confederation the several states were *de facto* and *de jure* sovereign and while this fact may be obscured or denied, it cannot be changed. The historical argument of Curtiss-Wright is without historical validity.

In the same Curtiss-Wright decision, Justice Sutherland went on to state what has been quoted many times in the hearings mentioned above and in treatises on the presidency. He said:

> It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress.

And then he continued in the same sentence:

> But which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution.

It should be noted that the second part of this statement cancels the first because one of the most far reaching and applicable parts of the Constitution with which this Committee is undoubtedly familiar, is Article I, Section 8 which provides that the Congress shall have power "To make all Laws which shall be necessary and proper for carrying

into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

It is often remarked that in the interpretation of legal documents they must be examined as a whole and therefore that this provision of the Constitution must be considered in relation to all other grants of power.

This is true and it is precisely because it is true that Article I, Section 8 is so transcendent. It covers all other powers granted in the Constitution. The President is assigned certain duties and rights but none of them can be carried into effect without legislative sanction whenever the Congress chooses to exercise its constitutional power. The solid fact is that the Congress is the authoritative organ of the government in the *determination* of foreign policy. The President is the agent of the Congress, the spokesman of the United States in diplomatic relations, or, as Mr. Jefferson said, "the channel of communication between this country and foreign nations," an expression that was rightly used by Senator Ervin when he said that the Constitution intended "that the President should be the channel of communication between the United States and foreign nations, but, in fulfilling that function, he should be merely the executor of a power of decision that rests elsewhere, that is in the Congress." (*Hearings* on Senate Resolution 151, 90th Cong. 2d Sess., p. 191. Aug. 23, 1967.)

A distinguished student of Congressional politics wrote in 1960:

> The Curtiss-Wright decision . . . has been neither watered down nor distinguished away during the past two decades. Instead, the Roosevelt, Vinson, and Warren Courts have made it the cornerstone of a massive edifice of Executive discretion in the conduct of foreign affairs. As the chief of state, the President's fiat has become absolute law, beyond effective challenge in the courts, because in this area he does not share constitutional power as an equal of the Congress as he does in the case of the war power of the national government. In the making of foreign policy the President is either the primary or the exclusive organ of governmental power." (Glendon A. Schubert, *Constitutional Politics*. New York, Holt, Rinehart and Winston, Inc. 1960, pp. 353–354.)

I would not attempt to decide whether this is true as far as the courts are concerned, but it is certainly not necessarily true as far as the Congress, is concerned. As far as the authority of the Congress is concerned, the Curtiss-Wright decision, or anything derived from it, has only one validity: The Court decided that in the particular case before it the Congress had not delegated its essential legislative functions. It did not and could not make the President's fiat law beyond effective challenge of the Congress nor make the Executive either the primary or the exclusive organ of the Government in the *making* of foreign policy. The authority of the Congress to delegate to the Executive the power to make executive agreements is restricted only in the two ways already noted. It cannot delegate its essential legislative functions or authority it does not itself possess.

I have dwelt at some length, perhaps greater than needed, on this matter because the assertions of presidential power have become great and because of the frequency of the reference to Curtiss-Wright in the courts and in presidential pronouncements. One of our successful candidates for the Presidency said in an address: "He (The President) must be prepared to exercise the fullest powers of his office—all that are specified and some that are not. . . . However large its (Congress's) share in the formation of domestic programs, it is the President alone who must make decisions in our foreign policy . . . . only the President represents the national interest." (Quoted in Robert S. Hirshfield, *The Power of the Presidency*, New York: Atherton Press, 1968, pp. 128–133.)

With reference to executive agreements made in pursuance to treaties the problem is more complicated because it involves the President's duty to see that laws are faithfully executed, the question whether a treaty is or is not self-executing, and the right of the Congress to delegate authority conferred upon it by treaty. The first of these problems is not difficult because the Congress can determine the way or ways in which the President may execute laws whether they are made by treaties or by legislation. I have not found a satisfactory rule to determine whether a particular treaty is self-executing unless the treaty itself contains a provision on that subject. I must leave this question to the consideration of constitutional lawyers or to the courts. I scarcely need, however, to remind the Committee that at one time or another the United Nations Treaty and the several treaties of mutual defense have been considered as self-executing and that this interpretation combined with the broad interpretation of the President's powers as Commander-in-Chief of the armed forces, the supremacy clause of the Constitution, and the duty of the President to see that the laws are faithfully executed which is frequently exercised without congressional guidance, opens an opportunity for executive agreements almost without limit.

The problem of executive agreements authorized by legislation enacted in the pursuance of treaties is best illustrated by a case known to this Committee and almost as famous as Curtiss-Wright, namely that of *Missouri* v. *Holland* (252 U.S. 416) of 1920. In that case the Supreme Court asserted the principle that when the United States makes a treaty under the treaty power, the Congress may implement the treaty by legislation which it would not have authority to enact under the Constitution in absence of the treaty. Thus the Court asserted, in effect, that the Constitution can be amended by treaty at least to the extent of the powers reserved by the Constitution to the states.

If executive agreements made in pursuance of treaties either with or without implementing legislation are considered to be potentially dangerous to the national interest and in need of restraint, remedies are available to the Senate or the Congress without the need for constitutional amendment. The Senate does not need to advise and consent to treaties that infringe the reserved rights of the states. It can attach to a resolution of advice and consent a provision making any treaty non self-executing. Of course the President could refuse to ratify the treaty. And the Congress can provide guidelines with regard to any executive agreement made under a treaty.

However extensive and complicated these problems are of executive agreements made under legislative or treaty authority, the greatest problem arises regarding agreements made presumably under the President's direct constitutional mandate. These stem from the powers or duties or position assigned to the Executive by the Constitution, are too familiar to need enumeration, and are difficult to consider in general terms. It is not always easy to determine what constitutes an agreement unless it is formal in character and labeled as such. Is a joint communique issued after a conference with other heads of states an executive agreement, and does a series of Presidential pronouncements declaring a policy of the United States constitute an agreement? Unless it is stated in the agreement, it is sometimes difficult to determine whether it is intended to bind the President alone and is therefore only a declaration of Presidential purpose which the President has a right to state or is intended to bind the United States. Secretary of State Robert Lansing said the Lansing-Ishii Agreement of 1917 bound only President Wilson, but Secretary Charles Evans Hughes thought it bound the United States and negotiated an agreement declaring the Lansing-Ishii Agreement void. This agreement defined the policies of the United States and Japan toward China and denied that either signatory intended to infringe the "independence or territorial integrity" of China. The agreement contained, however, a secret protocol which declared that the two powers would not seek "special rights or privileges" in China which would abridge the rights of citizens of other friendly states. The agreement nullifying the Lansing-Ishii Agreement was also secret, and this question of secrecy is another aspect of the general problem. An even more difficult problem arises when an agreement contains military arrangements during an authorized armed conflict but includes also items clearly applicable to postwar peace terms which clearly should be concluded in a treaty.

In many respects the problem of secrecy is the most disturbing, and I am not referring to secret military arrangements in time of war. The Taft-Katsura Agreement of 1905 under which President Theodore Roosevelt agreed to Japan's control over Korea in return for a statement that Japan was satisfied with American control over the Philippine Islands determined American policy regarding Korea in succeeding years, and violated certainly the spirit and probably the letter of the Korean-American Treaty of 1882. It is generally supposed that President John F. Kennedy made some sort of agreement with Russia during the Cuban Missile Crisis of 1962, but as far as I know the full documentation of this incident has not been published. In that instance the President cited as his authority to act the Congressional Resolution known as the Cuban Resolution, the Charter of the Organization of American States, his powers as Commander-in-Chief of the armed forces. Yet the Cuban Resolution was a statement of policy and not an authorization of action, the Charter of the Organization of American States is not a self-executing treaty and cannot confer power on the President, and whatever are the powers of the President as Commander-in-Chief, they surely do not supplant the war making powers of the Congress. How many secret agreements have been made by the President through the operational aspects of the Central Intelligence Agency is unknown. How important this can be has been shown in recent revelations about the activities of the Central Intelligence Agency in Vietnam prior to August 1964 and the episode involving the USS Destroyer *Maddox*. The non-military parts of the agreements reached at the Cairo Conference of November 1943, were published in the form of a statement issued by the three heads of government participating in the Conference, but the provisions of the Yalta Agreement concerning China and which altered the Cairo Agreement were not revealed to China at the time and not published until 1946, and the whole agreement was not published until 1947.

It seems clear that the problem of secret agreements and indeed the whole problem of the powers of the President to make executive agreements under his direct constitutional grants is only one element in the wider problem of the separation of powers which has been considered by this and other committees of the Congress. If the Executive possesses all the powers that have been claimed under direct grants broadly interpreted, the authority to make a great variety of executive agreements is almost unlimited. Reference needs only be made to the so-called Litvinov Assignment under which the Soviet Government transferred certain of its American assets to the United States was made in connection with an agreement establishing diplomatic relations between the two nations in 1933. The agreement was made under the broad interpretation of the President's power to receive foreign diplomats and which was held by the Supreme Court to be the same as a treaty which superseded state laws. The agreement between President Franklin Roosevelt and Winston Churchill at Quebec on August 19, 1943, dealing with atomic energy dealt not only with wartime arrangements but provided that postwar advantages of a commercial nature would be determined by the President of the United States and the Prime Minister of Great Britain. No mention was made of the Congress as having any authority in the matter. This secret agreement was not printed by the Department of State until 1954.

The most extensive effort of the Senate to deal with most of the problems referred to here was the attempt initiated by Senator John Bricker to secure what has been called the Bricker Amendment to the Constitution. This effort began in the 82d Congress in 1952 and extended through the first session of the 85th Congress in 1957. Since the "amendment" passed through various forms and was connected with other and slightly different proposals, it is better to refer to the Bricker movement, but since this movement was so extensive in time and since some Senators supported one part of the movement but not another or had different purposes in mind, it is difficult to speak of the movement briefly and in general terms. If, however, I may make a general precis of the movement as a whole, its purposes were these. It sought by constitutional amendment to prevent a treaty or any international agreement from becoming effective which is in conflict with the Constitution, to prevent a treaty becoming effective in domestic law except through legislation which would be valid in absence of the treaty, to enable the Congress to regulate all executive agreements with any foreign power or international organization, to make all treaties non self-executing, and to require a rollcall vote in the Senate in approving treaties.

It may well be that the supporters of the movement exaggerated the need for it as a constitutional amendment and it is certainly true that its opponents made excessive claims for the difficulties its enactment would create in executing an effective foreign policy. It was said, among other things, it would return the United States to isolationism, would render the government as ineffective in foreign relations as the government had been under the Confederation, and would require the approval of many treaties by all the states severally. I do not intend to discuss this movement in detail. It seems to me however, that most of its provisions could be effected by the Senate or the Congress through powers already granted to them by the Constitution as I have already indicated. If there has been an improper expansion of Executive power in foreign relations it has occurred because the Congress has failed to exercise its full authority as the principal organ of the government in the determination of foreign policy.

So far, Mr. Chairman, I have not referred to Senate Bill 596 that has been introduced by Senator Clifford P. Case because it has seemed to me useful to place this bill into the broad perspective of the larger problems of executive agreements and because they encounter at every turn the still larger problems of constitutional limitations on federal power and the distribution of powers. In view of this perspective, it seems to me that this proposed measure is so limited in its scope, so inherently reasonable, so obviously needed, so mild and gentle in its demands, and so entirely unexceptionable that it should receive the unanimous approval of the Congress.

I would like, however, to request the indulgence of the Committee for a brief general comment. It seems to me that solutions for the great problems of executive agreements depend upon the view of the Congress of the proper role the United States should play in world affairs and the authority under which this role should be fulfilled. If it is believed the United States should play a leading role, sometimes dominating, to the extent it has been doing in the past two and a half decades, should have alliances—some of them secret—with many nations and large numbers of its armed forces stationed abroad, and should interfere at will in the domestic affairs of other sovereign states, and if it is believed that the principle of federalism should fall into decay, and the principle of the separation of powers in the federal government should gradually be whittled down and power over foreign policy should be allowed to slide into Executive control, then there would seem to be no compelling reason for Senate Bill 596, or for any change in direction of foreign policy, or cause for alarm. Certainly some people in the United States hold this view and believe that the real problem over the control of foreign policy is not that the Executive has become too powerful and too unrestricted but that he has not been given power enough and is too greatly restrained by Congressional action, no matter what the Constitution provides.

There is, however, another possible view of the proper role for the United States in foreign affairs and of the proper control over it. Under this view it is believed that the principle of federalism and the separation of powers is still the best safeguard to American freedom and democracy, that the role of the United States in foreign affairs should be one of cooperation and leadership but not dominance, that the United States should have no secret agreements, no large armed forces stationed abroad in peacetime, and should not try to determine the domestic arrangements of other sovereign states. Under this view, every major foreign policy and every contemplated action concerning it would be submitted to the Congress for discussion and known to the American people, and such policy and action should be defensible before the court of world opinion and based on principles which the United States would be willing to have applied to itself. This view does not suggest the United States should be weak and feeble in its own defense or unwilling to cooperate with other nations against aggression, or that great power in itself is an evil. It suggests that the exercise of power and the determination of the national interest should not be the responsibility and the privilege of the few but should be determined and shared by the many.

It is probably obvious that I am an advocate of this second view. It is a commonplace truism, but nevertheless valid, that democratic processes are often cumbersome, sometimes frustrating to leadership, and may lead to error. But they are the only processes consonant with a free society. It would be fortunate if changes in American foreign policy and its control could be effected through Executive leadership, but the history of the United States and of governments throughout the world is against that prospect. If change is to be made it is almost inevitable that it will have to come through the leadership of the Congress. I believe that Senate Bill 596 is a proper step in this direction.

STATEMENT BY ALEXANDER M. BICKEL

I appear at the invitation of the Committee, which I appreciate greatly, as it gives me a valued opportunity to try to assist in endeavors that I consider of the utmost importance to the future well-being of our country.

In my judgment, S. 596, now reintroduced by Senator Case, makes eminent good sense today, no less than it did fifteen years ago, when its predecessor was introduced by Mr. Knowland of California, and passed by the Senate. S. 596 is the more important today, however, since it complements other measures this Committee has under consideration, which are intended to reassert the proper role of Congress in the formation of the nation's foreign policy.

When I was last before this Committee on July 26 of this year, testifying on the Javits, Stennis, Eagleton and like bills, I indicated that while a declarative statute generally defining and limiting the President's independent power to commit American forces to combat was, in my view, a most useful step, it was only a first step. What has to follow, I believe, is active assumption by Congress of its share of responsibility for the making of our foreign policy, as that policy is manifested in the disposition of our forces throughout the world, and in various commitments and understandings about the mission of those forces. Congress must reassess present deployments, I believe, and make specific decisions authorizing them or, in other instances, causing our forces to be withdrawn. This is, of course, a lengthy process, but before it can ever hope to undertake such a task, Congress must first inform itself with precision about the present state of our understandings with other nations. This is where S. 596 comes in, and this is why it is such an important proposal.

So long as American forces are deployed in various parts of the world—and I am far from suggesting that they were in all or most cases unlawfully deployed in the absence of contrary statutory provisions, or that they should all be withdrawn; rather I suggest only that Congress should review their deployments, and participate in decisions whether or not to deploy them, and where—so long as our forces are deployed outside our borders, occasions when the President may believe them to be in danger of attack can arise, and on such occasions, the President's power to act to protect our forces can scarcely be doubted. Hence if Congress is to share meaningfully in making decisions on issues of war and peace, it must share in decisions about the deployment of our forces, and it must be informed about such deployments, and about the conditions under which they are made. The latter include, of course, executive agreements concluded by the President with other governments.

In requiring, as S. 596 would do, that international agreements other than treaties to which the United States is a party to be transmitted to it, Congress would be exercising a power that, in my opinion, clearly belongs to Congress under the Constitution. I have no answer to the conundrum of when an international agreement must be a treaty, and when it can be a congressional-executive or just plain executive agreement. I do know this, however. It is too late in the day for a purist insistence on treaties as an exclusive instrument in our intercourse with other nations. But on the other hand, the grandiose conception, the almost regal conception of the President's independent role in foreign affairs suggested by Justice Sutherland's dicta in *United States* v. *Curtiss-Wright Corporation*[1] and widely taken up in the first flush of the enthusiasm with which we assumed the world in the mid-1940's[2]—this grandiose conception never had any warrant in the Constitution, is wrong in theory, and unworkable in practice.

The President's independent power to conclude executive agreements with other nations, like other of his powers, can exist only in context, and subject to the limitations, of our singular American doctrine of the separation and joinder of powers, the chief modern authoritative statement of which came from the Supreme Court in the famous *Steel Seizure Case* of 1952.[3] In a concurring opinion in that case that has become a classic, the late Justice Robert H. Jackson wrote as follows:

Footnotes at end of article.

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While the Constitution diffuses power the better to secure liberty, it also contemplates that practice will integrate the dispersed powers into a workable government. It enjoined upon its branches separateness but independence, autonomy but reciprocity. Presidential powers are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress. . . .

1. When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all the Congress can delegate. . . .

2. When the President acts in absence of either a Congressional grant or denial of authority, he can only rely upon his own independent powers, but there is a zone of twilight in which he and Congress may have concurrent authority, or in which its distribution is uncertain. Therefore, Congressional inertia, indifference or quiescence may sometimes, at least as a practical matter, enable, if not invite, measures on independent presidential responsibility. . . .

3. When the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.

The President does, of course, possess some independent powers both as Commander-in-Chief and as Chief Executive, which are beyond the reach of Congress. It may be, though I doubt it, that the power to recognize a foreign government, as exercised in the Roosevelt-Litvinov Agreement of 1933, is such power.[4] I feel certain, however, that the vast bulk of executive agreements falls in what Justice Jackson characterized as the "zone of twilight."[5] Even the Destroyers-for-Bases Agreement executed by President Roosevelt in 1940 with Great Britain was justified by Attorney General Jackson, as he then was, on carefully limited grounds. The acquisition of bases, said Attorney General Jackson, was within the independent powers of the President as Commander-in-Chief and as the organ of the government in international relations because it was a transaction "without express or implied promises on the part of the United States to be performed in the future." The constitutional position would obviously have been differently viewed by the Attorney General if promises of future performance had been involved. And the disposal by the President of unneeded overage destroyers in exchange for the bases was valid because the President's power to dispose of unneeded naval materials had found "clear recognition in at least two enactments of the Congress." But certain "mosquito boats" then under construction could not be disposed of by the President, because such action was forbidden by statute.[6]

Executive agreements which lie in the "zone of twilight" between Presidential and legislative powers are of obvious concern and legitimate interest to Congress in the exercise of the function assigned to it by the Constitution. For the "zone of twilight" may be occupied by Congress at will. It exists, and independent Presidential power can exist within it, only by Congress' leave, or because of the inertia of Congress. It is redefined or it vanishes when Congress chooses to act. What Congress may act on, it can require to be informed about.

The only possible difficulty I can see with S. 596, therefore, is that the President might decline to transmit an agreement which he views as executed in exercise of his own independent power, and as, therefore, beyond the reach of Congressional power, and of no proper concern to Congress. I would seriously doubt the wisdom of a President taking such a position in any circumstances I can now imagine short of full-scale hostilities, but I should suppose that if his function as commander responsible for the safety of troops was involved, he might well be on sound constitutional ground in invoking executive privilege and withholding a document from Congress. Yet I see no need to attempt to write the doctrine of executive privilege into S. 596, and I don't know that there is a draftsman who would be equal to the task of putting that shadowy doctrine into acceptable words. It would seem to me that without now attempting prospectively to settle some future case that might arise in circumstances not now easily foreseeable, the legislative history might make clear the understanding of the Congress that nothing in S. 596 was intended to deny the President the benefit of the doctrine of executive privilege in the conditions in which he would be constitutionally entitled to invoke it.

I believe, as I said when I was last here, that Congress has too long tolerated, indeed cooperated in, a diminution of its role in the conduct of foreign affairs and in the decision of questions of war and peace—a diminution that approaches the vanishing point. In my judgment, the balance of power between Congress and the President ought to be redressed in this respect. It is up to Congress to redress it. S. 596, if enacted, would be an important step in that direction.

FOOTNOTES

[1] 299 U.S. 304 (1936), but cf. *Kent* v. *Dulles*, 357 U.S. 116 (1958).

[2] See *e.g.*, McDougal and Lans, "Treaties and Congressional-Executive or Presidential Agreements: Interchangeable Instruments of National Policy," 54 *Yale L.J.* 181, 534 (1945).

[3] *Youngstown Sheet and Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952).

[4] See *United States* v. *Belmont*, 301 U.S. 324 (1937); *United States* v. *Pink*, 315 U.S. 203 (1942).

[5] See *United States* v. *Capps*, 204 F.2d 655 (4th Cir. 1953), *affirmed on other grounds*, 348 U.S. 296 (1955); Sutherland, "The Bricker Amendment, Executive Agreements, and Imported Potatoes," 67 *Harvard L. Rev.* 281 (1953).

[6] 39 *Opinions of the Attorney General* 484, 487, 489 (1940).

OPENING STATEMENT BY SENATOR J. W. FULBRIGHT

S. 596—EXECUTIVE AGREEMENTS

The Committee welcomes the opportunity today to hear the Administration's views on S. 596, a bill sponsored by Senator Case which would require the Executive to notify Congress of all arrangements it enters into with foreign governments by executive agreement.

Yesterday we heard testimony by a distinguished lawyer, Professor Alexander M. Bickel of the Yale Law School, who said that he thought the bill an "important proposal" which, if enacted, would represent a desirable step toward redressing the balance of power between Congress and the President. We also heard the testimony of a distinguished historian, Professor Ruhl J. Bartlett of the Fletcher School of Law and Diplomacy, who provided the Committee with an historical perspective on executive agreements, from which he concluded that ". . . this proposed measure is so limited in its scope, so inherently reasonable, so obviously needed, so mild and gentle in its demands, and so entirely unexceptionable that it should receive the unanimous approval of the Congress."

In view of the significance of this measure and the constitutional issue to which it relates, we have no doubt that the Administration will have turned its finest legal minds to the study and analysis of Senator Case's proposal. So far, however, we have no hint of the Administration's view except that contained in a brief letter from Mr. Abshire—evidently composed in haste—in which it is suggested that, in lieu of this legislation, Congress should be satisfied with something to be called a "working arrangement."

Our witness today is Mr. John R. Stevenson, Legal Adviser to the Department of State, who we know will wish to resolve our perplexity over the Administration's position. Please proceed.

DEPARTMENT OF STATE,
Washington, D.C., October 15, 1971.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of February 11, 1971, requesting our comments on a bill, S. 596 which would require the transmission to the Congress of international agreements other than treaties to which the United States becomes a party.

The Executive Branch agrees fully with the general purpose of this bill as we understand it—to ensure that the Congress is properly informed of the conclusion by the United States of international agreements in a manner that will enable it to carry out its constitutional responsibilities.

In order to accomplish that purpose, however, the Department of States does not believe that legislation is either necessary or desirable. Instead, the Department believes that practical arrangements can be worked out with the Congress and the Committees concerned that will meet the needs of the Congress in this area. We are prepared to discuss the establishment of such arrangements with the Committee and its staff.

The Department of State believes that if a working arrangement could be made, experience over a reasonable period of time, for example one year, would demonstrate that the needs of Congress can thus be met. At the least, such a trial arrangement would permit Congress and the Executive Branch better to determine whether any legislation is actually needed or whether the proposed legislation is best designed to meet the needs of Congress. Representatives of the Department of State and of the Senate and House Committees could review the working arrangements from time to time with a view to improving them wherever necessary.

I know you will agree that the need for a steady flow of information between the Executive and Legislative Branches of our Government is a continuing one and is not limited to international agreements. In keeping with our basic approach toward constitutional issues involving the separation of powers, we believe that this need can be met best by mutual cooperation between the two branches, not by mandatory legislation.

The Office of Management and Budget advises from the standpoint of the Administration's program that there is no objection to the submission of this report.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

STATEMENT OF HON. JOHN R. STEVENSON, LEGAL ADVISER OF THE DEPARTMENT OF STATE

I welcome the opportunity to discuss Senator Case's bill, S. 596, with the Committee on Foreign Relations. The bill would require the Secretary of State to transmit to the Congress the text of any international agreement other than a treaty to which the United States is a party no later than 60 days after such agreement has entered into force with respect to the United States. An amendment to the original bill provides that agreements already in force at the time of enactment of the bill shall be transmitted within 60 days of such enactment. If, in the opinion of the President, the immediate public disclosure of such an agreement would be prejudicial to the national security, the bill provides that it shall be transmitted only to the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs under an appropriate injunction of secrecy to be removed only upon due notice from the President.

As a starting point for our discussion of this bill, let me state two general propositions upon which I feel confident we can all agree. First, I believe we can take it as well-settled that Congress is not legally required to enact legislation in order to have a basis for obtaining information from the Executive Branch. The power of Congress to inform itself in aid of its legislative function inheres directly in and has no less constitutional stature than the legislative powers themselves. Requests of the Congress for such information, through any duly authorized representative or committee, thus have the same force, legally and constitutionally, as legislation, at least insofar as we are concerned here.

Second, it seems clear that in the area of international agreements the flow of information to Congress can be improved in order to meet the Congressional need for full and timely information on agreements concluded by the Executive Branch in the continuing conduct of foreign relations. The present situation can be improved by having a systematic procedure for providing information about international agreements to the Congress.

Starting from these two premises, then, the bill you are considering would deal with this problem by establishing what would amount to a standing request of the Congress, based on its constitutional powers, for the transmission of international agreements other than treaties on a regular basis as they are concluded. It is thus intended, as I understand it, to ensure that Congress will be adequately informed of the conclusion of such agreements so that it will be able to carry out its constitutional responsibilities. I am in full agreement with this objective.

Therefore, I think the real question before us is what is the best way to achieve that objective. It may be helpful, in looking at that question, for me to outline some of the basic facts regarding United States adherence to international agreements other than treaties and the State Department's practice with respect to our entering into and publishing such agreements as well as our providing them to the Congress. As you know, the number of international agreements other than treaties to which the United States is a party has grown over the years, reflecting the expansion of the international community and the role of this nation in the affairs of that community as well as the increasing complexity of problems which require transnational solutions. The United States is a party to over 4,000 international agreements other than treaties and enters into approximately 200 new international agreements of this kind each year. There are close to 1,000 treaties in force for the United States, and we enter into approximately 15 new treaties per year.

The process of entering into agreements is carefully supervised and subject to standards established by the Department of State. Since May 1953, the Department has had specific regulations (11 FAM 700 et. seq.), referred to generally as the Circular 175 procedure, under which authorization must be obtained from the Secretary of State, Under Secretary or a Deputy Under Secretary for the negotiation and signature of a new treaty or other international agreement. The regulations state that so-called executive agreements are not to be used when the subject matter is of such a nature that it should be covered by a treaty. (11 FAM 722) They also provide that whenever circumstances permit, consultations are to be held with appropriate Congressional leaders and Committees to determine the most suitable way of handling such international agreements (11 FAM 723.1).

In 1964 the Treaties Affairs staff of the Legal Adviser's Office prepared a statement setting forth standards involved in determining whether an international agreement should be concluded as a treaty. These standards remain generally valid today. Under these standards, the treaty form is used:

a. When the subject matter and treatment thereof is traditionally handled by a treaty. This is not necessarily controlling in all instances but requires careful consideration before any departure therefrom.

b. When the subject matter and treatment thereof is not wholly within the delegated powers of the Congress and is not solely within the Constitutional authority of the President.

c. When the agreement itself is to have the force of law without legislative action by the Congress, and the action contemplated is not solely within the President's constitutional authority.

d. When the agreement involves commitments affecting the nation as a whole.

e. When it is desired to give the utmost formality to the commitment with a view to requiring similar formality on the part of the other government concerned, in the interest of long continued respect for its terms.

The Department's regulations provide that the executive agreement form is used only for agrements which fall into one or more of the following categories:

a. Agreements which are made pursuant to or in accordance with existing legislation or a treaty;

b. Agreements which are made subject to Congressional approval or implementation; or

c. Agreements which are made under and in accordance with the President's constitutional power. (11 FAM 722).

Of course one question that lawyers are always faced with is whether a particular exchange amounts to an agreement. Here a judgment factor as to whether the documents constitute an international commitment of a substantive character enters into the picture. We do not, for example, ordinarily consider an exchange of diplomatic notes agreeing to undertake negotiations on some subject, or constituting administrative working details for carrying out a treaty or agreement, as an international agreement to be published or registered with the United Nations.

The process of publishing an international agreement in the Department's Treaties and Other International Acts Series is undertaken only after all the measures required for the entry into force of the agreement have been completed. Most international agreements other than treaties enter into force as soon as they are signed. In the case of diplomatic notes, the signature of the notes and their exchange is ordinarily all that is required. In some instances, however, the signature of an agreement must be followed by further action on the part of one or both of the governments concerned.

Most international agreements other than treaties are concluded pursuant to legislative authority granted by the Congress or subject to Congressional approval or implementation. Others are entered into in implementation of treaties which have received the advice and consent of the Senate. Over 95 percent of so-called executive agreements—probably as high as 97 or 98 percent—fall into these categories. The remainder are based on the President's own constitutional authority. The Executive Branch, by virtue of the President's constitutional powers as Chief Executive, Commander-in-Chief and in the field of foreign relations, actually negotiates and concludes international agreements. But apart from the relatively few cases in which the President relies solely on his own constitutional powers, the authority to enter into the vast majority of such agreements derives in part from Congressional statutes or treaties approved by the Senate.

Also with respect to the vast majority of international agreements other than treaties the practice has been automatically to provide copies of these agreements to the Senate and the House of Representatives. This is presently done through the Government Printing Office which, once it prints the texts of treaties and other international agreements sends copies of them to the Document Rooms of the Senate and the House as well as to the Senate and House Libraries and to the Library of Congress. As far as I am aware, this procedure has worked well over the years. It has almost invariably provided Congress with the texts of treaties and other international agreements within 60 days of their final conclusion. This practice, I believe, should be continued since it is the most direct way of providing the texts of treaties and agreements to the Congress. If the Committee on Foreign Relations and the House Committee on Foreign Affairs would prefer the Department of State to transmit such texts once we receive copies from the Government Printing Office, we would, of course, be happy to do so as an alternative or a supplement to the present arrangement.

As S. 596 recognizes, there are also some sensitive agreements which must be handled differently. It is in this area, I suppose, that the authors of the bill believe the present practice to be inadequate.

I have given considerable thought to how this concern might best be satisfied. It seems to me that a systematic procedure is required for keeping Congress informed. The elements of such a procedure, in my view would include the following:

First, the Department of State should keep the Senate Foreign Relations Committee and the House Foreign Affairs Committee adequately informed of the conclusion of sensitive agreements on the part of the United States on a regular and prompt basis. This might be done through the Committee chairman or otherwise.

Second, the texts of particular agreements could be made available under appropriate security safeguards. I am, of course, aware that differences have occurred in the past between the Executive and Legislative Branches concerning transmittal to Congress of information regarding certain very sensitive executive agreements. Such differences are unlikely to disappear completely in the future. In my opinion, these differences can only be resolved on a case by case basis through cooperation and accommodation between the two Branches. Mutually satisfactory solutions have almost always been possible in the past, and I am confident they can be worked out in the future. However, I believe the number of problems which will have to be resolved in that way will be very significantly reduced by the establishment, as I have suggested, of a regular procedure for keeping Congress informed of sensitive international agreements.

Practical arrangements to implement these principles could, I am certain, be worked out between the Department and the Committees. We are prepared to discuss such arrangements with you at your convenience. My thought is that if a working arrangement along the lines is made, experience over a reasonable period—say one year—would show that the needs of Congress for information about international agreements could be met. I would envision that the Department and the Committees would keep any practical arrangements worked out under continuing review in an effort to improve them wherever necessary.

In conclusion, Mr. Chairman, it seems to me we are dealing with a question of practical arrangements, not with a question of right or authority which would in any way

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be altered by statute. We are cognizant of the committee's desire to be informed of international agreements and quite willing to work out with the Committee and its staff working arrangements and procedures which will enable us to meet the needs of the Congress as well as those of the Executive Branch. I do not see any way in which the proposed bill would facilitate our arriving at a mutually acceptable procedural arrangement. After all, we are dealing here in an area involving constitutional powers of the President and the Congress. These are shared powers flowing from the separation of powers under the Constitution. The best approach to resolving issues in this area is through mutual cooperation and accommodation between the two Branches of Government.

That is why, even apart from the lack of legal necessity for legislation, I believe a practical arrangement for providing information to the Congress on international agreements other than treaties is preferable to legislation. At the least, such a practical approach, on a trial basis, will permit Congress and the Executive Branch better to determine whether any legislation is needed or whether the legislation now before the Committee is best designed to meet the needs of both Executive and Legislature.

For these reasons, I recommend that the Congress not adopt legislation on this subject at this time but instead that the Department of State and the Committees concerned meet to work out mutually acceptable practical arrangements.

ENGLEWOOD, N.J., VOTES ON THE VIETNAM WAR

Mr. CASE. Mr. President, the citizens of Englewood, N.J., went to the polls on election day to choose local, county, and State officials, and to vote on the following question: "Shall the Council of the City of Englewood petition the U.S. Congress for the removal of all American troops from Southeast Asia and for the termination of all appropriations for the prosecution of American involvement in the war in Southeast Asia no later than December 31, 1971?"

By a margin of nearly 2 to 1, Englewood's voters approved this referendum, as I have been officially notified of the outcome by the Englewood City Council.

I believe the clear sentiment of the Englewood voters in calling for a deadline on American participation in the war reflects the views of a large majority of the people of New Jersey and of the country as a whole. Both the Gallup and Harris polls have recorded similar results in nationwide surveys.

Mr. President, I ask unanimous consent that the resolution unanimously adopted by the Englewood City Council on November 4, 1971, calling for a Southeast Asia withdrawal date, and the June 15, 1971, resolution of the Englewood City Council putting this question on the ballot be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the Council of the City of Englewood, by resolution duly adopted on June 15, 1971, caused to be placed on the ballot for the General Election held on November 2, 1971, the following referendum question:

"Shall the Council of the City of Englewood petition the United States Congress for the removal of all American troops from southeast Asia and for the termination of all appropriations for the prosecution of American involvement in the war in southeast Asia no later than December 31, 1971?"

And

Whereas, the official tally of the balloting on said question has been reported by the Clerk of the City of Englewood as: 4,573, in favor; 2,347, opposed.

Now, therefore, be it resolved by the Council of the City of Englewood, in accordance with the directive set forth in said adopted referendum question, as follows:

1. The City of Englewood by this Resolution hereby petitions the United States Congress for the removal of all American troops from Southeast Asia and for the termination of all appropriations for the prosecution of American involvement in the war in southeast Asia no later than December 31, 1971;

2. The Resolution adopted June 15, 1971, hereinabove referred to, directing the placement of the referendum question on the ballot, is hereby annexed hereto and made a part hereof by reference;

3. The Clerk of the City of Englewood shall forthwith transmit a certified copy of this Petition by Resolution, together with the resolution annexed, to United States Senators Harrison A. Williams, Jr., and Clifford P. Case, and to Representative Henry Helstoski, with the request to each of them that he spread this Petition and Resolution annexed hereto upon the Senate and House records respectively;

4. The Clerk of the City of Englewood shall forthwith transmit a copy of this Resolution to each United States Senator; to each member of the House of Representatives; to the President of the United States; and to each member of the Joint Chiefs of Staff of the United States of America.

Whereas, the Council of the City of Englewood has been requested, both formally and informally, by citizens, residents and taxpayers of the City of Englewood to express to the federal government, as the elected representatives of the citizens, residents and taxpayers of the City of Englewood, the sentiment of said citizens, residents and taxpayers against the present American involvement in the war in southeast Asia; and

Whereas, the Council of the City of Englewood has from time to time adopted resolutions for the purpose of bringing the public sentiment of the City of Englewood on various public questions to the attention of the state and federal governments; and

Whereas, American involvement in the war in southeast Asia affects the citizens, residents and taxayers of the City of Englewood in that they and their relatives and friends are required to serve a period of military service in southeast Asia, thereby disrupting their lives and the lives of their families in fulfilling a commitment which they believe to be in violation both of their consciences and the best interests of national policy; and

Whereas, all citizens, residents and taxpayers of the City of Englewood are affected by the American involvement in the war in southeast Asia by reason of the fact that substantial federal funds representing, in large part, federal revenue obtained from payment of federal income taxes are being diverted for the prosecution of said involvement from a multitude of urgent and high priority domestic needs; and

Whereas, the City of Englewood has many public and social problems, the solution of which require federal financial assistance; and

Whereas, the Council of the City of Englewood deems it appropriate that it should make no expression of municipal sentiment with respect to the continued American involvement in the war in southeast Asia without first having determined the sentiments of a majority of the voters of the City of Englewood; and

Whereas, N.J.S.A. 19:37–1 et seq. provides a mechanism whereby the Council of the City of Englewood can determine public sentiment on the question of whether or not such an expression should be made by the governing body of the City of Englewood to the federal government; and

Whereas, the proponents of the point of view that American involvement in the war in southeast Asia should be terminated at the earliest possible time have requested the seeking of the expression of public sentiment on the question of whether or not all American troops should be withdrawn from southeast Asia and all federal appropriations for prosecuting American involvement in said war should cease no later than December 31, 1971

Now, therefore, be it resolved by the council of the city of Engelwood, pursuant to N.J.S.A. 19:37–1 et seq.:

That the Clerk of the County of Bergen is hereby requested to print upon the official ballot, to be used at the General Election to be held on November 2, 1971, in the City of Engelwood, the following proposition:

"Shall the Council of the City of Englewood petition the United States Congress for the removal of all American troops from southeast Asia and for the termination of all appropriations for the prosecution of American involvement in the war in southeast Asia no later than December 31, 1971?"

"TRAGIC MISCHIEF" IN ECONOMIZING ON HEALTH RESEARCH

Mr. BIBLE. Mr. President, the Federal Government has made significant advances in the support of health research, thanks mainly to strong congressional support. But the picture is not so bright as one might expect. Health still ranks low on our list of spending priorities, and the Federal medical research effort has actually lost ground—despite the widely publicized Conquest of Cancer and other important programs.

As a member of the Appropriations Committee and its Labor-Health, Education, and Welfare Subcommittee, I am proud the congressional record on health appropriations. For the research activities of the National Institutes of Health alone we added some $142 million to the President's budget for fiscal 1972, over and above the $100 million funded earlier for the accelerated cancer research effort.

Many thought Congress went too far. I contend Congress did not go far enough. Indeed, when considering the impact of inflation, we have been losing ground.

The administration's budget policies have been of little help to the program. As a matter of fact, without congressional action to expand the President's spending recommendations, this country might well be facing a health research crisis.

An outstanding authority on medical research, Dr. Michael E. DeBakey, contends budget-cutting in this area is creating "tragic mischief" which could have far-reaching effects on the nation's health. In a recent Saturday Review article, Dr. DeBakey and his sister, Lois DeBakey, discuss the problem of medical research dollars at length and point a critical finger at national spending priorities that channel $400 per person to defense, $30 per person to highways and just $7 per person to all medical research.

Dr. DeBakey is a recognized expert in this field and a valued witness before our subcommittee. He is president of the Baylor College of Medicine and director of the cardiovascular research and training center, among other responsibilities. His sister is equally well qualified to speak on the health research issue. She is professor of scientific communications at Baylor and a lecturer at Tulane University School of Medicine.

I ask unanimous consent that their article, "Medical Research Is Hurting," published in the Saturday Review of October 16, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEDICAL RESEARCH IS HURTING

(By Michael E. DeBakey and Lois DeBakey)

Why so little public outcry against the recent disastrous slashes in medical research and education? Average Americans are quiescent, one suspects, because they have bought the notion that from now on we will be spending money on here-and-now patient care, as opposed to "irrelevant" medical research.

This widespread notion is, of course, dangerous nonsense, for like it or not, research, education, and medical care are completely bound up in one another. Any attempt to split them apart is specious, illusory, and the worst sort of false economizing. The sad fact is that in slashing medical-research budgets by many millions of dollars the administration is creating tragic mischief, the effects of which will sooner or later touch every man, woman, and child in this country—as well as unborn generations of Americans.

Is this an extravagant claim? Scare talk? Not really. Consider the unhappy recent memory called tuberculosis. In 1900 TB, "the white plague," was as common a fact of life as mosquitoes. Hospital wards overflowed with TB's wasted victims, and emaciated "lungers" walked the streets wracked by contagion-spreading coughing spells.

If TB as we knew it in 1900 were abroad today, full force, our already overburdened hospitals would have to cope with several million more patients. Fortunately, medical researchers several decades ago developed isoniazid and streptomycin; since the general introduction of these drugs after World War II, the TB death rate in the United States has dropped by 95 per cent. Some foundation ought to do a "cost-benefit" study comparing the expense of developing anti-TB drugs with the cost of maintaining, at today's going hospital rates, several million "phthisical persons." The ratio would be eye-opening.

The virtual elimination of TB by medical research is only one instance among many of the central principle of medical advance: Research, teaching, and patient care go hand in hand. If you cut one, you damage all three. That is why it is no exaggeration to say that the slashes in the funding of medical research over the past few years will almost certainly cause a regression from which it will take American medicine many years to recover—a regression, incidentally, that will also heavily aggravate many of the troublesome social problems now at a racing boil just under the surface of American life.

Since full, free, scientific inquiry is, then, indispensable to human welfare, it is appalling that an enlightened people should take retrogressive steps in this sphere of activity. Certainly, medical science, the branch dedicated to the prevention of disease, the relief of suffering and disability, and the lengthening of productive life, has obvious practical dividends to offer humanity. A people debilitated or incapacitated by infectious, nutritional, parasitic, cardiac, malignant, or other disease suffers a real handicap in developing the skills and acquiring the knowledge needed for the economic, educational, industrial, sociocultural, and scientific advancement of a nation.

The attitude of society toward scientific research and education directly governs the expansion of medical knowledge and the direction of medical research. It is difficult to imagine that an affluent society such as we have in this country, possessed of the facts about the productivity of the great research enterprise we have built in a relatively short period, would not give wholehearted support to the continued growth and development of that enterprise. Alexis de Tocqueville, in *Democracy in America*, gave this sage advice:

"You may be sure that the more a nation is democratic, enlightened, and free, the greater will be the number of interested promoters of scientific genius. . . . Possessing education and freedom, men living in democratic ages cannot fail to improve the industrial part of science; and . . . henceforward all the efforts of the constituted authorities ought to be directed to support the highest branches of learning and to foster the nobler passions for science itself." But perhaps the scientific community has failed to communicate adequately the fruits of research—or our present and future needs—to the general public, partly because of its habit of modesty and partly because of the assumption that these benefits are self-evident. Yet, modesty and poor communications or no, it is still hard to believe that there are officials in high positions who actually think we can make America a healthier nation by altering the delivery of health services while de-emphasizing research on the grounds that it is an esoteric activity of medical school faculties and unrelated to practical social needs. Without continued research, the most extravagant appropriations for delivery of health care can produce no better quality than the application of *current scientific* knowledge permits; without further research into new ways of treating, curing, and preventing unconquered human ailments, the system will remain at a plateau. Without education and training of future scientists, medical educators, and physicians, there will be no one to innovate and administer the health services when the current pool of health manpower dries up.

Without exception, the major medical discoveries since World War II, whether spectacular, like organ transplantation and the artificial heart, or less dramatic, like effective diabetic drugs, can be traced to the research laboratory. It was there that vaccines, antibiotics, and other "miracle" drugs were developed for the control of previously fatal or disabling infectious diseases, including poliomyelitis, diphtheria, pneumonia, mumps, measles, and rubella. The nearly 100 per cent decline in the death rate from poliomyelitis since 1952 is due to poliomyelitis vaccine—the result of years of laboratory research. The tranquilizers and antidepressants developed in the research laboratory have removed thousands of mentally and emotionally ill patients from mental health institutions and returned them to gainful places in society. The anti-hypertensive drugs, such as reserpine, have drastically reduced the death rate from high blood pressure during the past two decades or so. Better methods for detection and treatment of rheumatic heart disease and stroke, particularly among persons below the age of sixty-five, have impressively lowered the fatality rates from these diseases.

The spectacular feats of open-heart and vascular surgery, in which the heart and circulatory system are directly manipulated for repair and correction of diseased or anomalous parts, are possible today only because dedicated scientists spent years in the laboratory diligently working on the heart-lung machine, synthetic prostheses, and related concepts. The remarkable electronic medical devices, such as the cardiac pacemaker, and the wide range of monitoring equipment, which enhances the reliability of diagnosis and the efficacy of treatment, are all products of medical research and technology. The news media notwithstanding, a new life-saving operation, machine, or drug is not discovered overnight. Rather, these techniques and devices usually represent decades of zealous, unspectacular scientific inquiry.

The achievements of medical research are too numerous—and too well known—to recount here, but they include, in addition to the spectacular discoveries, a better understanding of sundry disease processes, which in turn has led to more efficient patient care. Provocative studies in genetics, molecular biology, virology, immunology, and biochemistry, and probings into the still obscure mechanisms of the human mind and body are providing vital information that will one day be applied to the treatment and, ultimately, the prevention of human defects and diseases.

Because medical education, research, and patient care are intimately interlinked, robbing Peter to pay Paul will not do the job at hand. A few months ago the administration budgeted $100-million for a crash program in cancer research, over and above the budget for the National Cancer Institute for 1972. This special sum was actually less than the amount recommended by the National Panel of Consultants on the Conquest of Cancer for the *first year* alone. In making this allocation, the administration failed to heed the panel's specific admonition: "It is of utmost importance that the financing of this program not result in cutbacks in other health programs." During the past few years, the entire federal medical research effort has been cut back disastrously. To help regain lost ground and to allot to medical research an adequate percentage of the health dollar, we should indeed consider *doubling* the present budget of the National Institutes of Health, rather than reduce it.

Despite the sound recommendation of the cancer consultants, the administration sliced heavily into the budgets of other institutes, presumably to pay for the crash program in cancer. It did not provide new funds to fight cancer—it merely *reshuffled* existing medical-research funds. The administration's overall budgetary reduction for medical research and the Regional Medical Programs for heart disease, cancer, and stroke for fiscal year 1972 was about $75-million. If cost-of-living increases are added to this sum, the reduction would amount to about $100-million—the same amount by which the budget for cancer research is being increased. At today's prices, the administration's fiscal 1972 research-support budget was $232-million less than that which supported the fiscal 1969 level of research activity. Fortunately, Congress, recognizing the serious threat of such a budget to the entire research and health enterprise, has insisted on increasing it; for example, the budget for the Regional Medical Programs was increased to $103-million. However, that figure is still $8-million below the 1971 funding.

The level of research activity has been substantially eroded by inflation. The cost of research increases by at least 6 per cent per year, without any expansion at all in activities; yet the proposed budget made no allowance for such inevitable increases. Grants requested for new research of known merit were cut by almost $10-million and those for the general research support program by more than $11-million. The budget for training grants and fellowships was

slashed by $37-million below that of the fiscal year 1971 Congressional level. Programs of key institutes were also cut sharply below 1971 Congressional levels; as a result, laboratories in medical schools, hospitals, and research institutes all over the country have been faced with closure, and the brilliant young graduates, who represent the hope for tomorrow's cures, have been forced to abandon careers in research. The loss to society will reverberate through many generations.

Anyone with simple human feelings knows how important it is that we find a cure for cancer. Yet, ironically, the current emphasis on cancer research at the expense of other needy health budgets does little to advance the total research cause. Going all-out on cancer is in many ways counter-productive, since research is far from ideal when conducted in isolation and is most prolific when a broad spectrum of mutually reinforcing scientific activities flourishes. Certainly it seems unwise to transfer funds to cancer research from research in stroke—one of the leading causes of death—and from the Regional Medical Programs, which are dedicated to the delivery of the latest products of research to the bedside of the patient. Yet the budget for Neurological Diseases and Stroke was reduced by the administration. Fortunately, Congress again insisted that this budget be increased.

All Americans would rejoice if a cure for cancer, the second leading cause of death in America, were found or, better yet, if a method of preventing the disease were discovered. Unquestionably, the recommended effort to search vigorously for the cause of this hideous disease is highly commendable. But we also need, now more than ever, to push forward in our studies of heart disease, which are beginning to show promising clues to underlying mechanisms. And yet the administration's budget of $195.4 million for the National Heart and Lung Institute was at the same level as the appropriation for fiscal 1971. The budget therefore did not accommodate for a cost-of-living increase; it would not even have allowed the maintenance of the present level of research activity. Moreover, $5 million of it was earmarked for new research in sickle-cell anemia. Once again, Congress wisely increased this item in the budget to $232 million.

The curtailment of research in any health field is difficult to justify, but it is especially puzzling in the field of heart disease, since this is *the* leading cause of death in America. Heart disease accounts for more than one million deaths annually—more than half of all deaths—many during the most productive years of life. Every ninety seconds someone—a relative, co-worker, friend, or acquaintance—dies needlessly from heart disease. With adequate support for research in this field, it is entirely possible that we could extend the lives of fifty million Americans who are currently doomed to die prematurely from heart disease. About 1.4 million Americans have already had one or more heart attacks, and each year more than 125,000 people below the age of sixty-five die of heart attacks. Each year, too, people below the age of sixty-five waste 141 million days because of cardiovascular and pulmonary illness, and those sixty-five and above waste an additional 110 million days. The resultant loss to the national economy is staggering.

These figures, along with a review of the advances made during the past decade in prevention and treatment of heart disease, make it difficult to understand or justify what amounts to an actual reduction in support of research and training in cardiovascular disease. Risk factors for premature heart attacks have been identified and documented, and this information is now ready to be disseminated to the population at large. Although we have not yet discovered cures for many of the underlying disorders, we are now able to correct surgically certain congenital malformations of the heart and to relieve some forms of acquired heart disease by coronary arterial surgery. We have also developed pacemakers, artificial heart valves, prosthetic vascular grafts, and cardiac assistors, which, along with such new drugs as the anti-hypertensive agents, and better methods of treatment for cardiogenic shock, have increased not only the *length* but also the *quality* of life for patients with heart disease. The thousands of patients alive and productive today—who would have been dead a number of years ago but for the products of cardiovascular research—testify to the *practical* dividends from this investment.

Just as ill-advised as the curtailment of funds for research is any reduction in support of medical education and training, especially in light of our current serious deficit in health manpower. The education of more and better-trained doctors, nurses, and other allied health professionals will obviously cost money. Yet both fellowships and training grants for graduate level training are suffering serious cuts from 1970 to 1972. Some 440 *fewer* researchers and physicians of advanced training will be available at the end of 1972 than would have been available had the fellowship funding remained at the 1970 level. Nor is the decrease in fellowship support offset by an increase in support available through training grants to specialty teachers; rather the reduction is substantial here too.

All those involved in the operation of a medical school, both professional and lay persons, are acutely aware of the ever-escalating costs of training well-qualified medical practitioners, much of which can be attributed to general inflation. Almost every medical school in the country is dependent on alumni support, not only to build new facilities and equip them suitably but to establish what, in the best judgment available, is thought to be a balanced portfolio of stocks and bonds. As we all know, such portfolios have not provided capital gains or reasonable dividends during the past several years. It will take some time, even if the economy recovers with miraculous speed, for these investments once again to help underwrite the costs of medical education. Until they do, and if our medical schools are not to go into bankruptcy, some emergency funds must be found. Furthermore, since the population as a whole profits from medical education and research, the allocation of federal money for such support is more than justified.

Because research is an essential activity in maintaining and advancing the quality of teaching, some schools have been able to help pay the salaries of some of the teaching faculty from research funds, but now that these funds are in ever shorter supply, support of our teaching faculties becomes a critical matter. Some members of Congress have tried to offer emergency aid to medical schools, but the $100-million that had been earmarked for this emergency effort disappeared in the course of the Senate-House conference on the authorizing legislation, despite concerted efforts by various facets of the medical community to explain the plight of medical schools to Congress.

By its attitude and actions, the administration is magnifying the present jeopardy to an important American enterprise—medical research—the enterprise that holds the key to the future health of the nation. Congress, aware that the administration's health budget was creating a crisis and, indeed, was courting disaster, has restored some of the cuts, but what is yet to be determined is whether the administration will apportion the money and allow its full expenditure. Even these Congressional increases, however, will only mitigate, not completely remove, the threat to the research enterprise caused by several years of retrenchment.

At the moment, most of the increases recommended by Congress are still being withheld, and there are signs that the administration may frustrate the will and the efforts of Congress to resuscitate the health budget. According to the September 15, 1971, issue of *Drug Research Reports*, "... the biomedical community will have to fight for every penny it gets" from the government. The report further notes that "fiscal '73 is now viewed by the White House as another good year in which to cut back research," and suggests that the National Institutes of Health may be ordered to start these cutbacks "by nibbling away at ongoing projects."

The average citizen, who is both the potential victim of ill health and the potential beneficiary of medical research, can play a significant, positive role in maintaining the productivity of biomedical research and training. To do so, however, he needs to understand better some of our current health problems—for example, that some of the high cost of health care today is due to the often cumbersome and complex equipment, the lengthy hospitalization, and the extensive health manpower needed in palliative treatment and the prolonged care and rehabilitation of patients with obscurely understood diseases. To restrict additional funds to the delivery of this same kind of empirical treatment, invaluable though it is at our present level of knowledge, is penny-wise and pound-foolish when we could simultaneously be uncovering the underlying causes of these disorders and eventually their prevention. The annual savings accrued as a result of the virtual elimination of poliomyelitis, for example, amounts to about one-third of a billion dollars, a sum that far exceeds the amount invested in the research that led to its elimination. Added to the tangible dividends that accrue from the conversion of polio patients to useful citizens are the intangible benefits of a happier, and therefore a more creative, society.

Prevention, whether by use of vaccines, diet, or pharmacologic agents, is always more economical to the nation than disability and treatment. We are spending $70-billion annually for sickness, disability, and death. According to a national health survey made several years ago, more than half the people in the labor force (71.3 million) had one or more chronic conditions. As a result, during one year alone, 250 million work days were lost because of acute illness of persons seventeen years of age and older. The loss in wages and productivity is enormous. Yet, we continue to skimp on funds to support the search for the cause of these illnesses and methods of preventing them.

From a purely economic standpoint, it is to the country's advantage to transfer as much of our population as possible from the ranks of the disabled and handicapped, where they constitute a tax burden, to the ranks of the productive and employable, where they can contribute as taxpayers. A report of a study undertaken at the request of Mrs. Mary Lasker indicated that more than two-and-a-half-million wage earners whose lives had been saved in 1967 as a result of the declining death rate paid $1.69-billion in federal income and excise taxes. By contrast, the appropriation for that year for the National Institutes of Health (which at that time included the National Institute of Mental Health) was only $1.4 billion. The figures for the period 1945–1967 similarly show that the federal government gains more in taxes from persons whose lives have been saved as a result of better health knowledge than it appropriates for the National Institutes of Health.

Most citizens would, if they knew the facts, consider as awry national priorities that expend about $400 per person for defense, $125 per person for the Vietnam War, $40 per person for highways, $30 per person for space exploration, but as little as $7 per person for all medical research. Our tax-dollar priorities seem ever more imprudent when we consider that it cost our nation $70-billion (7 per cent of our Gross National Product) last year to support all health activities, an amount exceeded only by the cost of our defense activities. In other words, our lack of knowledge of health matters costs us about $315 per person, but we have been willing to spend only about $7 per person on medical research to help rid ourselves of this economic burden. Mental health services cost our nation $4-billion, or $20 per person, but we spend only 70 cents per person on mental health research. Hospital, nursing home, and physician care, along with drugs and other health services and supplies, cost more than $6 billion for heart disease alone ($30 per person); yet we allocate less than $1 per person for heart research.

We should regard medicine as a large industry with an evolving research base. To remain viable, such a science-dependent industry must expend substantially more than 10 per cent of its total operational costs for research and development. The pharmaceutical and electronic industries, in fact, spend about twice that much, whereas medical research spends less than 3 per cent of national health costs on research and development.

Press accounts of "breakthroughs" during the past few years have suggested that a scientist, working in isolation, suddenly comes upon a miraculous discovery. As dramatic and exciting as this suggestion may be, it is simply untrue. New scientific knowledge involves years of laborious effort and the most disciplined perseverance; blind alleys, disappointments, and frustrations are numerous. The spectacular discoveries announced to the world at large are often a synthesis of accumulated bits and shreds of seemingly impractical information obtained from many previous years of basic and applied research. Findings that may be considered trivial or impractical today may provide just the fragment of knowledge that can be combined tomorrow with another fragment to advance human understanding or improve human life. An extremely esoteric contribution may be the crucial link in the synthesis of scientific data leading to a major discovery. Once the general populace grasps this, they will recognize the imprudence of demanding instant practical results from federally supported research projects and will support a policy of allowing scientists to pursue research freely and imaginatively.

Society obviously has many other needs and desires besides those relating to health, but fulfillment of the other needs and desires will be futile, if indeed it is at all possible, unless our population is healthy enough to enjoy our resources. We cannot afford to let short-term goals eclipse long-rang benefits. Training and medical research are basically long-range projects, but unless something is done now to rectify the proposed drastic reductions in training funds and the crippling cutbacks in research money, we will have neither short-term gains nor long-term profits. Louis Pasteur aptly expressed the humanitarian goal of research when he said, "If conquests useful to humanity touch your heart, . . . take interest, I beseech you, in those sacred institutions that we designate under the expressive name of laboratories. Demand that they be multiplied and adorned; they are the temples of . . . the future. There it is that humanity grows, becomes stronger and better." If indeed our hearts are touched by conquests useful to humanity, we must turn from inspiring rhetoric to positive action—and now.

NATIONAL COMMISSION ON FIRE CONTROLS

Mr. TOWER. Mr. President, many Americans may not know that approximately 12,000 of their countrymen died by destructive fire in 1970. In 1970 an estimated 210 firemen—paid and volunteer—died in the line of duty in the United States. Property damage from fire totaled more than $2½ billion in spite of the heroic efforts of the Nation's 1 million volunteer firemen and 195,000 paid firemen who render a fine public service at a considerable personal risk.

An excellent article entitled "E.P. Fireman on Federal Commission for Fire Prevention," written by the able Scripps-Howard correspondent, Mr. Seth Kantor, and published in the El Paso Herald Post, of October 19, 1971, is a real public service because it helps to inform the public about the fire problem in America and the work which the President's National Commission on Fire Prevention and Control is doing to help meet this critical need which affects all of us.

The purpose of the National Commission on Fire Prevention and Control is to undertake a study and investigation to determine practicable and effective measures for reducing the destructive effects of fire in life and property throughout the country. The Commission will submit to President Nixon and to the Congress a report of its findings and recommendations.

I would also like to cite the work in the human relations area which a distinguished member of the El Paso Fire Department has done, the Honorable Tommy Arevalo, a fire lieutenant of the El Paso Fire Department. He is a Commissioner of the National Commission on Fire Prevention and Control.

Such dedicated men as Fire Lieutenant Arevalo constantly enter the hostile environment of fire to save our lives and property.

When Mr. Arevalo joined the El Paso Fire Department in April of 1953, he was one of the first three Spanish-speaking men to be taken into the fire service there. He is an outstanding example of the contributions to public service to this country of the Nation's 15 million people of Spanish-speaking ethnic background. Because of the productive work of Mr. Arevalo and others like him, the ethnic composition of the El Paso Fire Department has grown from about three Spanish-speaking people in 1953 to approximately 45 percent of the department's force of about 420 people as of November 1971. Mr. Arevalo is a member of El Paso's Council 110 of the League of United Latin American Citizens. The League of United Latin American Citizens is a national organization of Spanish-speaking Americans which has done much through the efforts of such concerned men and women as Mr. Arevalo to improve the opportunities for America's Spanish-speaking people.

I ask unanimous consent that Mr. Seth Kantor's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the El Paso Herald Post, Oct. 19, 1971]

E.P. FIREMAN ON FEDERAL COMMISSION FOR FIRE PREVENTION

(By Seth Kantor)

WASHINGTON.—One hundred years ago this month, in the wake of the great Chicago fire, there was a public outcry for Congress to establish a special commission to find a way to prevent fires.

The commission finally has been organized and is holding its first meeting here today.

El Paso Fire Lt. Tommy Arevalo of 4827 Sierra Madre drive was among the 18 commission members holding their initial meetings here today and tomorrow.

Arevalo is the only member of the commission from the Southwest.

He told the Herald-Post Washington Bureau today that one way to improve fire prevention in El Paso would be to make mandatory the installation of automatic sprinkler systems in the city's new high-rise buildings.

Richard E. Bland, chairman of the National Commission on Fire Prevention and Control and a college teacher from Pennsylvania, said the threat of national tragedies caused by fire has risen steadily since those blazes in the late 19th century which razed whole cities.

"The cost of fire equipment and fire insurance have become critical problems," said Bland, a part-time fireman. "Pay scales for firemen have become large municipal investments.

"Cost effectiveness is now involved in the matter of fighting flames," he said, "and there are so many more people in the country. That means more fires. It finally has come to the attention of Congress that a bad problem exists, which needs federal attention."

Bland heads an 18-member presidential commission with a two-year assignment from Congress to find solutions. Its budget this fiscal year is $300,000.

One of the problems is that an estimated 18 people a day in the United States die from fires in dwellings for one or two families. Fires in such houses account for almost 30 per cent of the nation's $2.6-billion annual loss in fires.

"People picture the problem in terms of a shiny fire truck racing to a big burning building," said Bland. "But often it's someone getting killed in a residence."

About one per cent of the 12,000 people who will die in fires this year in the United States will be firemen.

"The profession now ranks first in the nation in terms of hazardous duty, ahead of mining," said Bland, an associate professor of engineering at Pennsylvania State University.

Bland is one of the nation's one million volunteer fire department members. There are about 195,000 paid firemen in the United States.

CIGARETTES AND CANCER

Mr. PROXMIRE. Mr. President, on September 13 a letter from an art teacher to a former pupil appeared in the San Francisco Examiner. The art teacher was dying of lung cancer, and the letter contained a stark warning against the smoking habit.

A brief commentary following the letter indicated that its indictment of smoking might well be considered a part of the legacy of its author, Mr. Wallace McDonald. It is in this spirit that I ask unanimous consent to have printed in the RECORD the text of the letter with its warning that "cigarettes are really killers."

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There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE LAST LETTER
(By Guy Wright)

He had been her high school art teacher, and now he lay dying. When she heard, she wrote to him.

An expression of gratitude, the letter was, also bubbling with the plans and proclamations of youth.

Back across the generation gap came his reply, from the old to the young, from the dying to the very much alive.

"DEAR NAIRN. Thank you so much for the beautiful letter and the sketches. My advice is: Keep at it!

"I must admit there is a great gap between my concept of art and the globs, blobs, smears, drips, blanks and doodles I see exhibited and accepted as art.

"I do not believe in instant art. Or accidental art. 'Just doing your thing' is not art.

"Your command of your medium, your integrity, the intensity of feeling toward your subject, your overwhelming urge to share a beautiful moment, a deep conviction, these seem to me to be the important things.

"Keep painting, Nairn! Live up to the hilt! Paint now! Anyone with your intelligence and creative ability can't go wrong.

"I'm glad you are happily married, and I hope permanently so. Older people who are single are always particularly lonely.

"The six weeks I have spent in the hospital have taught me much about loneliness.

"My having been stricken so suddenly and without warning has been a shock to me that I find hard to accept as fact. Here I am flat on my back dying of lung cancer when only a few weeks ago I was planning on a long retirement with many years ahead of me to do all the creative things I had postponed.

"I do not regret my years of tesching art. I just feel cheated. It's sort of like reading a novel and discovering that the book was bound with the last three chapters missing.

"What a penalty to pay for my ignorance and stupidity! My habit of smoking cigarettes, which was a habit of compulsion rather than pleasure, has cost me dearly.

"If you or your husband smoke, for God's sake quit!

"Cancer strikes with no warning. Suddenly you are a living death with your breath getting shorter and shorter. You die slowly of suffocation. I have lost 47 pounds in five weeks and cannot stand on my feet for more than two seconds.

"The doctors drain great quantities of liquid out of my lungs by puncturing a hole between my ribs. The pain is excruciating.

"I am embarrassed to burden you with this morbid business, but if I can convince you, or if you can spread the word and convince others, I will feel justified. Cigarettes are really killers!

"The weather here is beautiful. I can think of few places with as much natural beauty as there is here in Marin. This last year I painted a few landscapes (oils) and quite a few watercolors, and sold most of them.

"Love and best regards to both you and your husband. Tell your husband for me that if he can get music out of a banjo he is truly an artist. It's sort of like trying to paint a picture with a baseball bat.

"I hope this letter finds you well and at the easel.

"Love,

"WALLACE MCDONALD."

Fourteen days later Mr. McDonald, art teacher in Marin County schools for 22 years, died at Kaiser Hospital in San Rafael.

Along with his paintings and pupils, perhaps his letter to Mrs. Nairn Rasmussen Williams, now living in Niagara Falls, should be part of his legacy.

MANY RESIDENTIAL FACILITIES NOT MEETING NEEDS OF MENTALLY RETARDED CITIZENS

Mr. HUMPHREY. Mr. President, some 275,000 mentally retarded persons in this country presently live in public and private residential facilities.

Too often in the past these facilities have been constructed to isolate, rather than to integrate these people into our communities. They were simply repositories for human beings, offering little or no opportunity to learn the skills or patterns of living which would equip them to live outside the institution.

The President's Committee on Mental Retardation reported in 1968 that the "average age of institutions is 44 years old. Some have reached the century mark. At least 50 percent are functionally inadequate for the care, growth, learning, and rehabilitation programs that can be successfully carried out with the retarded."

And in May of last year the President's Committee once again called attention to the inadequacies of residential care for the retarded by reporting that—

Many residential services and programs, as they exist within the 50 States, comprise a tragic paradox for the wealthiest nation in the world.

On the one hand, our knowledge of environmental design and care for the retarded has never been greater and increases daily. On the other hand, the gap between what we know how to do and what we actually are doing seems to increase at an even more rapid rate.

However, despite this bleak picture, there are heroic efforts being made by residential facilities to provide a warm, stimulating environment for the retarded.

One such facility is the Denton State School, Denton, Tex., which I recently visited. It serves some 1,700 mentally retarded residents. Many problems still exist, as in any large State facility, but it is obvious that every effort is being made to solve them with innovative programs and approaches.

The purpose of my visit was to participate in the Volunteer Council's annual recognition banquet honoring some 500 to 600 volunteers who work with the staff in serving the needs of the retarded.

It was an inspiring evening. I was deeply impressed by the dedication of these outstanding workers and will never forget the residents of the school who performed at the banquet.

I ask unanimous consent that my remarks on that occasion be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY, VOLUNTEER COUNCIL'S ANNUAL RECOGNITION BANQUET, DENTON STATE SCHOOL, DENTON, TEX., OCTOBER 18, 1971

I am happy to join this evening in this warm expression of tribute and thanks to the men and women who are volunteers for the retarded at Denton State School.

You know that I have an active volunteer for the retarded in my own family—my wife, Muriel. And she shares fully your dedication, your deep involvement, your love for this noble work.

You who work and serve at the Denton State School, as volunteers or as regular staff, have a tremendous responsibility. You are attempting to provide a home along with the care and training that are needed, for some 1700 residents.

Some of these 1700 people may reside here many years—and they may only know or remember life as it was experienced here.

Your kindness, your attention to their individual needs, your attitude toward their handicap, your encouragement in achieving new goals will have a significant effect on their lives. And, how you interpret them and their needs to others can also have a decisive effect on community acceptance, program development, and the type of educational, health and other services that citizens in your area will be willing to support.

There is no one who is better prepared to be ambassadors or spokesmen—and, yes, lobbyists, for the retarded than you. I strongly encourage you to speak out on their behalf, to make certain that their rights are protected; that they have what other people want and seek—equality of opportunity.

A survey by the President's Committee on Mental Retardation has revealed that ignorance of the potential of those with this handicap, plus public misinformation are the major reasons why communities fail to provide adequate programs and services for the retarded. They are also the reasons why many parents do not come forward for help for their children.

Those making the survey wisely urged that the potential achievement of the retarded as independent members of the community and as economically productive persons should be the primary focus of a public information campaign.

I heartily concur and applaud efforts in this direction.

As Muriel often reminds me; it is time to cease talking about what the retarded cannot do and concentrate on what they can do!

At least one-third of the 6 million persons who are actually retarded today are capable of earning a living and being self-supporting, productive members of the community if adequate training and residential facilities are provided for them.

For whatever reason; we have been slow to acknowledge every child has the fundamental right to educational opportunity and the right to health. This applies to all children—gifted, normal, and handicapped.

If the child is handicapped; then he and his family have all the more need for this type of supportive assistance.

Without good health and training, he will forever be denied the equality of opportunity that should be and is his birthright.

Experts in child development advise us that the range of an individual's intelligence is determined during the very early years of life.

And yet, because of the lack of early childhood educational and health services, the majority of children who are mentally retarded are not discovered until they reach school age.

This simply means some very valuable years are lost.

Because of our inaction, we find children lingering in classrooms ill prepared to serve them and often unnecessarily handicapped by such disorders as vision and hearing difficulties which could have been corrected had they been discovered in a good health screening program.

I know that you here at Denton State School are concerned about the need for day care services for the retarded.

For all children, the availability of modern day care help is no longer an individual convenience. It has become a community and a national necessity.

One-third of mothers with children under the age of six, some four-and-one-half million, are working today.

This means that there are several million preschool children in need of developmental day care services while their mothers are out of the home.

Yet there are less than 700,000 licensed day care opportunities available. And Headstart presently serves only about 263,000 children in full-year programs and 208,000 in summer programs.

A day care program is especially important to the family with a handicapped child.

Not only is urgently needed training provided, but it permits the mother a respite from 24-hour care of a retarded child which may make the difference between whether he can remain at home or must live in a residential facility.

I commend your innovative effort here to offer temporary care for a retarded person—whose family care may need such a respite.

And among the nation's poor, malnutrition, crowded and dilapidated housing and a generally inadequate level of living take their toll, too.

The Citizen's Board of Inquiry into Hunger and Malnutrition estimates that 10 million Americans are "slowly starving." Many are children. Without assistance, these children will be dull, listless and poor throughout their entire lives.

How great the toll has been in the past is reflected in the startling statistic—that in the poor neighborhoods of this country is found 75 per cent of all the mental retardation.

So it is vital that those working on behalf of the retarded concern themselves as well with related social problems and human needs.

Such involvement can significantly influence the course of mental retardation in this country.

No one knows better than I that the fight against retardation will not be won in Washington. Washington can and must take the lead to help make victory possible. But, the day-to-day fight will be waged and won as always on the local front.

It will be won where teachers teach retarded children—where researchers study the organic causes of mental retardation—where parent associations toil to build community awareness and activities. It will be won where residential facilities are available to the retarded and organize programs to serve them—where community action workers strive to overcome the conditions of deprivation that create so much of the mental retardation that exists in urban and rural America.

These are the front lines in the fight against mental retardation. And one of the continuing challenges of those working on all levels is to assure that the logistics effort works well and smoothly.

We must assure that current knowledge reaches the public and those who can put it to use.

Stafford Warren, President Kennedy's assistant for mental retardation, maintained that the toll of mental retardation could be reduced by fully one-half if all we know today could be applied successfully everywhere.

It is, of course, essential to plan, to study, to review, to analyze problems and programs for the retarded.

But, this is for naught, in my judgment, if all of this activity does not affect the lives of the mentally retarded and their families in a positive way.

You who are working on behalf of the retarded are doing so during an exciting time.

So many breakthroughs have been made and are being made in the care and treatment of the mentally retarded.

The growing public awareness of this problem is itself a major victory.

And I am especially encouraged by the fundamental changes and improvements that I see being made in residential facilities.

Your work here at the Denton State School is an outstanding illustration of what can be accomplished when there is a unified effort to assure the retarded resident the opportunity to develop his physical, intellectual and social capacities to the fullest extent possible.

You are certainly an inspiration to me and I know you are to many others who are concerned about the needs of the retarded.

We are a rich country, but we are not so rich that we can be wasteful with any human resource.

Our handicapped must be able to participate as fully as possible in every phase of society. We simply cannot afford to be deprived of their talents and skills. We cannot afford the loss of their wasted ability.

THE GAS SHORTAGE—LIMITATION OF NEW GAS SALES BY WASHINGTON GAS LIGHT CO.

Mr. HANSEN. Mr. President, the announcement by Washington Gas Light Co. of the limitation of new gas sales should come as no surprise to those who are familiar with the facts. This is certainly not to say that those of us who have warned of an impending gas shortage and nationwide energy crisis are exulting over the harsh and sad realities of the gas situation. Rather, we are hopeful that the Washington announcement and others that have been or will be made in other cities in the North and East may result in some long overdue changes in Government policies and the enactment of legislation to reverse the suicidal course the United States is now pursuing.

Mr. President, it is a sad day when the suppliers of one of the Nation's principal and cleanest fuels must ban new gas sales to businesses, industry, Government, and even apartment houses. In discussing the gas situation with the head of one of the largest distributors of gas recently, I was told that many cities in the Northeast and even the Midwest would face a critical gas shortage this winter and that there was just no alternatives to the curtailment of service.

In some areas, it may be impossible to meet the demand of residential customers, and industrial use will almost certainly be curtailed or cut off as it was in some areas last winter. On top of the personal hardships that will result, the added unemployment will compound the Nation's economic woes.

Mr. President, we who have warned of the dangers of wellhead price-control of natural gas and the dangers inherent in the rising dependence on foreign oil have based our assumptions and opinions on what we consider reliable sources—both Government, industry, and qualified professional sources that are available to anyone who wants to know.

Yet, others have not only questioned the integrity of such sources but have repeatedly impugned the integrity of the oil and gas industry and accused them of contriving an artificial shortage to increase prices.

It is amazing to me, Mr. President, that the accusers and self-proclaimed experts who make such wild charges are accorded the forum of bold headlines in newspapers and the credibility of prominent coverage in radio and TV newscasts.

It is also distressing because of the false feeling of security such an approach generates, in that somehow the Federal Government or Congress will be able to conjure up the needed gas and with a wave of its magic wand dissolve the chimera of a gas shortage.

The critics and doubters do not mention the fact that U.S. gas distribution companies are paying substantially higher prices for Canadian gas than U.S. producers are receiving or that intrastate gas users are paying almost twice as much for the gas they use compared with the diminishing supplies that are committed to interstate use—the gas that Washington Gas Light Co. is now unable to furnish. Nor do they mention the plans to spend billions of dollars to liquefy and import gas from Algeria at prices more than double the present delivered price of gas to the east coast.

Mr. President, were the situation not so serious, most of these allegations, charges, and accusations would be not only ridiculous but comical.

A front-page, bold headline story in Monday's Washington Post described another major oil discovery in Alaska, whereas the facts of the case are that not a single well has been drilled in the area described nor are there any plans for even offering the offshore area for leasing, according to Department of the Interior officials.

A denial by the American Petroleum Institute of the report that "large deposits of oil have been discovered" off the Gulf of Alaska gave the Post an opportunity to reiterate the claims of the author of the first report, a Senate aide who has made an avocation of harassing the petroleum industry.

Another self-proclaimed consumer advocate joined the head of the Sierra Club in claiming that the energy crisis is a conspiracy. The perennial critic, Ralph Nader, said the "energy crisis" was merely a promotion of the oil firms and departments—which also urge the public to consume fuel in every way possible.

Mr. Michael McCloskey, executive director of the Sierra Club, testified before a Senate Interior Committee symposium on energy policy and national goals that the energy crisis is a conspiracy generated by energy "monopolists" and the banks.

Both Secretary of the Interior Rogers Morton and Assistant Secretary for Mineral Resources Hollis Dole have repeatedly warned of an impending energy crisis.

President Nixon in his energy message to Congress last June 4 also questioned the assumption that sufficient energy will always be available and announced a broad range of actions to insure an adequate supply of clean energy for the years ahead.

Senator JENNINGS RANDOLPH said:

My objective in introducing Senate Resolution 45 (A study of National Fuels and Energy Policy), was to insure that crisis not repeat itself. The immediate goal of the President's Domestic Council is to formulate

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our energy goals for the 1970's. The charter of the study under Senate Resolution 45 is to define and provide a definite national fuels and energy policy for the next 20 or 30 years, where none now exist.

We are so prone to act after the fact in America. A crisis comes and we attempt to go in and plug the holes. Planning is not a bad word; it is a good word. It is one that I believe in. I think that is what you are saying here, that we must be prepared through programs that are broadbased and that are understood if we are to meet a crisis in our fuels and energy programs.

Mr. President, the Senate authorized that study which is now underway in the Committee on Interior and Insular Affairs. The testimony we have already heard emphasizes the urgency of new policy decisions that have been avoided too long already. Further delay will seriously jeopardize U.S. national security and could be very costly in terms of unreasonable prices to the consumers of oil and natural gas and the economy in general.

Mr. President, I wish the unfounded claims of withheld reserves of gas and vast new discoveries of oil were true and that these sources could be called on in such an emergency as we now face in gas supplies. Even the proven reserves of the Alaskan North Slope discovery lie dormant in the ground almost 3 years after discovery and may remain undeveloped 5 more years until the environmental issues of the Alaska pipeline are resolved.

Mr. President, these absurd claims of conspiracy and nonexistent energy and fuel shortages were answered in an honest and forthright manner last week by C. Howard Hardesty, Jr., Continental Oil Co.

Mr. Hardesty, in a speech to the South Carolina Petroleum Council, said that—

Ralph Nader is having trouble discerning the difference between fact and opinion.

Hardesty said:

The reality and scope of the prospective energy crisis has been recognized by many leading authorities, Hardesty said, including President Nixon, the Senate Interior Committee, and the National Petroleum Council. The Nation is now approaching the time when concerned citizens demand and deserve more than criticism which is not supported by fact or aided by constructive solutions.

Mr. President, Mr. Hardesty clearly summarizes and analyzes our energy problems and points the way to solutions. He said:

This nation desperately needs the energy from all reservoirs, including offshore opportunities. This Nation needs the coal and minerals including those which must be surface mined. We need oil terminals, refineries, and LNG plants on our eastern seaboard. We need nuclear plants, and lots of them, and unless you want to wither on the vine, intelligently plan for and make adequate provision for them. These needs cannot be ignored with the hope that they will go away. We must engage in the kind of planning which will permit their development in a way which will still preserve for us an adequacy of nature undisturbed. This planning must result in action now, not tomorrow.

Mr. President, because of the urgent need for answers to those who attempt to delude Americans into believing this very real energy crisis is a fabrication and his novel approach to broaching the generation gap, I ask unanimous consent that the text of Mr. Hardesty's speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY C. HOWARD HARDESTY, JR.

This past week, my wife Doris and I had the opportunity to visit our children at their schools. We were anxious to do so before leaving tomorrow morning on a business trip to the Middle East and North Africa. Our trips to Mercerburg Academy and Duke University may—or may not—have augered well for this distinguished audience because they prompted me to discard an original draft of my remarks for this occasion and direct my thinking to some very relevant issues which were raised at the schools.

I discovered—if I had ever forgotten it—how easily we are intimidated by our youngsters. After a few visitations with advisors and teachers, our 16 year old son approached me with the observation: "Dad, I really don't think you are unreasonable all the time."

With such obvious idolatry, I could hardly wait for his next remark: "Come on in and visit with some friends of mine and find out what really concerns us."

He added that what they wanted to talk about were attitudes they had about business. I felt that if I refused—or if I couldn't answer their questions—I ought to cancel my appearance here tonight. So we adjourned to his room, decorated with *Playboy* foldouts and scattered clothes. There wasn't a minute's hesitation before they spoke up in simple, direct language, and I couldn't fault their intensity even if I found their sideburns and hair too long by my standards or my ability to compete with them on that particular level.

It didn't take long to hear a familiar name dropped with perhaps a touch of reverence: "Ralph Nader says the nation doesn't face a fuel crisis, and he says that the 'energy crisis' is just a promotion of the fuel companies' advertising departments."

Before I could start to answer, one of the other boys added: "Also he says that the ad the industry is publishing that claim the oil companies are working toward improvement of the environment are especially misleading."

Well, I had been prepared for a blast, but suddenly I felt I was standing on the North Slope in a tropical suit. I think it was Alec Waugh who once said: "If we knew where opinion ended and fact began, we should have discovered the absolute." And it seemed to me that this burst of charges demonstrated clearly that someone by the name of Ralph Nader was having trouble discerning the difference between fact and opinion.

We were just getting into the discussion two hours later when the boys rushed off to suit-up for an afternoon football game with the Hill School. I'm not sure I fared better than their team—which lost—but I think, or at least hope, that we had the beginning of an understanding.

No sooner had we arrived in Durham, North Carolina, than our daughter, while enthusiastically describing her afternoon work with the local newspaper stated, "Dad, I'm just finishing an editorial urging that all coastal states follow Delaware's lead and outlaw industry on all this nation's shore lines." Several moments of silence transpired before my bood pressure returned to normal and I could quietly reply, "Good, let's talk about it." We did and maybe—just maybe—we, too, had the beginning of an understanding.

Flying home that night, happy that the children were moving forward with their education, but frustrated in my efforts to resolve all the issues they had raised, I wrote them a letter responsive to their concerns.

Let me impose on you by reading parts of a letter which I have written to them.

DEAR SALLY AND KIM: Your mother and I are very pleased with how you are progressing. Keep it up. Your clear minds which rightly questioned our use of cigarettes and predinner cocktails, raised several questions which deserve more of an answer than I could extemporaneously serve up. So I will favor or inflict you with a few thoughts which time has permitted me to pull together. In case you want to sign off early and give this the deep six, I'm going to tell you that we live in a pretty good country—a country with a deep commitment by our people—including business and industry to improve our environment. With a little common sense on the part of all of us, you'll be a proud citizen, as I have been, of a country which is the leader among nations.

I believe we start on a common ground. Both the goals of your generation and my generation are similar. We want social progress for *all* citizens and we want to advance human knowledge in broad areas. We want an advanced standard of living available to all our fellow men and women. We want to live and work in an environment that is better than just satisfactory and which supports the physical and mental well-being of all of us. We want a sense of security so that the goals we achieve cannot be disturbed by forces beyond our control.

Kim, I suppose I should rest better because Ralph Nader says there is no fuel crisis. But, if, as he says, the so-called "energy crisis" is solely the product of advertising, then we have just witnessed the most successful advertising campaign ever conducted in the history of man. It is not that simple and I recognize that it's always dangerous to take on a person like Nader after his reputation is established. It's hard for me—for two reasons:

First: If I didn't publicly quarrel with him when he attacked other segments of business, then why do I raise my voice now? Is it a matter of "whose ox is being gored?" I'd rather think it is because he is addressing himself to an area where I have some knowledge of the facts.

Second: I happen to believe in the role of the critic when he supports himself with facts. I also believe in the role of muckrakers—however prejudicial that term sounds—as long as he remains responsible. Let me make sure you understand how I use the term "muckraker" by quoting from its originator, Theodore Roosevelt.

"The men with muckrakes are often indispensable to the well-being of society, but only if they know when to stop raking the muck and to look upward to the celestial vision above them, to the crown of worthy endeavor.

"There are beautiful things above and around them and if they gradually grow to feel that the whole work is nothing but muck their power of usefulness is gone."

Nader has in the past rendered a service to this country. In his way, he and his troops have provoked all of us to re-examine our approach to problems. The business community was made to recognize that reasons behind their conduct and their approach to problem-solving had to be laid before the American public. Unfortunately—and too often—incomplete and inaccurate data combined with innuendo are used as the tool. We are now approaching the time when concerned citizens demand and deserve more than criticism which is not supported by fact or aided by constructive solutions.

This most recent blast of Nader's moves me toward the position of Thomas R. Shepard, Jr., publisher of Look Magazine, who calls them a Disaster Lobby which is basically opposed to the free enterprise system and will do anything they can do to bolster their case for additional government controls over industry.

With this in mind, I can tell you that I would be willing to meet Mr. Nader any time to discuss the realities of the energy problems this nation faces. I ask merely that he bring his facts and leave his conjectures at home.

Is this unfair? Do we really have a fuel shortage? Who says that we are facing an "emergency crisis"? The people who have studied the problem in depth are lined up against Mr. Nader.

President Nixon said in his Energy Message: ". . . in the last four years it (energy consumption) has been growing at a faster pace and forecasts of energy demand a decade from now have been undergoing significant upward revisions . . .

"In the years ahead, the needs of a growing economy will further stimulate this demand."

A spokesman for the Department of the Interior has found that: "After years of supposing that we could count on all the energy we needed, we are now finding that the focus of our concern has suddenly moved from the disposal of abundance to the rationing of scarcity."

The Senate Interior Committee began their study of a National Fuels and Energy Policy with this observation:

"There have been numerous symptoms in recent years of failures in our energy system. A few examples of the energy crisis will serve to illustrate an ominous picture.

"The number of summer blackouts in the United States has increased from eight in 1966 to 34 in 1969. In 1970 it rose to 54.

"During the past winter, 39 of the Nation's 181 largest utilities were seriously short of power and had dangerously low reserves of generating capacity."

The National Petroleum Council recently pulled together more than 200 experienced people from all the energy industries—oil, gas, coal, nuclear—to study our energy requirements and supplies—and here are a few highlights of what they said:

Assuming no change in government policies, by 1985 our nation will be confronted by:

(1) a 45% short supply in natural gas as compared to demand

(2) a required doubling of coal production

(3) an increase in nuclear power generation by 100 times

(4) the importation of about 15 million barrels of oil per day.

Are the implications clear to you? Can you imagine the numbers of tankers, refineries, terminals, employees, coal mines, railroad cars, generating stations that all this will involve?

These conclusions have also been accepted by other responsible groups. G. J. Tankersley, President of the American Gas Association, whose main goal is keeping the pipelines full, recently stated:

"There's really no mystery as to how the deliverability gap developed in the gas industry. It is simply a case of demand increasing faster than our ability to develop new sources of supply. Gas has, for example, provided over 50 percent of our nation's new energy requirements over the past 25 years. Supply, on the other hand, has been unable to keep pace with rising demand, and in 1968, we started on a 'deficit spending' course—since that time, our proved reserves in the lower 48 states have regularly declined."

No one who earnestly searches for the truth can run from the fact that for the past three years—1968, 1969 and 1970—new gas supplies discovered in the lower 48 states have only been about one-half of the total gas produced and used. By 1973, South Louisiana (which produces about one-third of the gas used in the United States) will not be able to meet gas deliverability requirements on an annual basis.

No, Sally and Kim, Ralph Nader has just committed an injustice to this nation. Now more than ever before we need intelligent, rational decisions. More than ever before we need a cooperative effort between all positive forces in our life—government, industry, labor, conservationists and consumers to plan for our future. Misstatements—inaccuracies and half-truths critically delay this process. In his haste to muckrake—to make a headline—he ignores the efforts of those who devote their lives to finding and producing the energy requirements of this nation. In all the days ahead let us remember Mr. Nader's statement made on October 29, 1971, that the "energy crisis" was merely a promotion of the fuel firms' advertising departments. Let us also judge his other pronouncements accordingly.

Without facts but armed with opinions, Nader is now creating a dark and brooding sense of doubt—doubt about the extent and the sincerity of the commitment by government and industry to solve one of the most serious problems of our decade. The challenge of providing adequate fuel for our nation is great. We will have to accelerate our exploratory efforts, search in hostile environments, conserve whenever we can and greatly improve our efficiency of use. Attainment of our goals will flow from the muckrakers, but from the cooperative efforts of all of us who want this nation to move forward.

As Chairman of the American Petroleum Institute's Committee on Air and Water Conservation, I deeply resent his statement that ads that oil companies are working toward the improvement of the environment are especially misleading. A few facts will label this the big lie.

Is not the expenditures of $2 billion dollars in 5 years working toward an improved environment? That's what our industry has spent on pollution abatement.

Is not $500 million dollars a year a contribution of some sort toward a better country? That's what the oil and gas companies are spending this year to clean up their house. This one industry is spending more in one day than all the municipalities in this country are spending in a month. How can it be said that we are ignoring our responsibilities?

Is not more than 75 current and completed projects funded in 1971 by the oil industry and the Environmental Protection Agency including 36 research and demonstration projects funded by the industry alone a step in the right direction?

What we are really looking for is a reasonable balance—call it a parity—between what our super technology can produce and what our not-so-super bank balances can afford. If three years ago someone had guaranteed Detroit that they could sell all their 1972 models at twice their current price, then we would be a lot closer to a non-polluting car. That doesn't mean manufacturers would have made a dollar more. But by using special metal alloys and perhaps platinum in a catalystic muffler we could be far ahead of today. But is it right—does it make sense to produce a desired product at prices we can't afford and which does not reflect a balance of our societal means?

The free enterprise system has stood for an important balance: the superior product at the most competitive price. I happen to believe we cannot afford to lose that kind of parity.

We're making progress. Don't sell this country and the free enterprise system short. Even the amount of gases in urban air is dropping sharply. New York City's Department of Air Resources reports year by year decreases in sulfur oxide, nitric oxide, carbon monoxide and aldehydes since the Department began monitoring the air in 1965. Similar declines have been recorded in other big cities. In a recent New York Times article, Professor Matthre Creason of Johns Hopkins University states: "There has been a general decline in all pollution during the past thirty or forty years. In some cities the sulfur dioxide content of the air is only one-third or one-fourth of what it was before World War II."

That may seem hard to believe because most of us hear only about the current problems and we don't take time to make comparative judgments.

But professionals like Harold Gotaas, Dean of the Technological Institute of Northwestern University decry what he calls "emotional and exaggerated views of water pollution." Dean Gotaas stated that "never in history has the quality of water supplies been better. Today's concern over water pollution stems from aesthetic rather than health considerations," the Dean said, and because it does we should study carefully any extravagant counter measures.

You may both have heard that the industry is the cause of all pollution and therefore we must turn from the capitalistic system. Do you really believe that pollution is the creation of capitalism? Recently, Anthony Wayne Smith, President of the National Parks and Conservation Association and Chairman of Environmental Coalition for North America states that "the problems of the poisoning of air, water and soil, which Fromm and others think may prove lethal, are universal, not the fruit of any single economic or political system." Mr. Smith went on to describe the trying problems which the Russians have in preventing and reversing the pollution of Lake Baikal in Siberia, the largest body of fresh water in the world. Journey around the world and you will find that people, not their form of government, create pollution.

Don't misunderstand me. The environmental challenges are large, they cannot be ignored, but they can and will be conquered. The cost is enormous—hundreds of millions of dollars—which our generation, your generation and all future generations will have to pay. We can cry for a cleaner world, but let's not cry when we get the bill in increased prices and taxes. But it is counter-productive to assert—as Nader did—that one industry is ignoring its responsibilities.

Now, Sally, about your editorial to insulate America's shorelines: I must say that outlawing industry on our shorelines is an understandable "knee-jerk" reaction. It's so easy when we are faced with a problem to say "let's pass a law—let's make it illegal." Laws, alone, will not solve the great problems of society whether they deal with equality, segregation, drugs or pollution. The right state of mind is far more important.

In my opinion, Delaware will repeal its industrial prohibition passed more in response to emotion than logic. What special right does one state have to pass its problems on to its neighbor? In the long run, can it say "Yes, we need energy to build our economy, but build a stable for our horse-power in the yard of our neighboring states. Yes, we want the wheels of commerce to roll but someone else must turn the crank." Can we enjoy the shade of the tree without raking up the leaves?

These conflicts will be resolved when sane minds, divorced from emotionally charged atmospheres, recognize that we need natural resources to maintain our economic progress and that they can be harvested and used in a planned way which does not undermine our environment.

This nation desperately needs the energy from all reservoirs including offshore opportunities. This nation needs the coal and minerals including those which must be surface-minded. We need oil terminals, refineries and LNP plants on our eastern seaboard. We need nuclear plants, and lots of them, and unless you want to wither on the vine, intelligently plan for and make adequate provision for them. These needs cannot be ignored with the hope that they will

go away. We must engage in the kind of planning which will permit their development in a way which will still preserve for us an adequacy of nature undisturbed. This planning must result in action now, not tomorrow.

Wouldn't it be nice if we had two worlds? One for our life of progress, social and technological achievement, business, space, industry, factories, coal mines, oil wells, housing and cities. The other would be just on the other side of the door where we could step into the peace, the quiet and the beauty of nature untouched by human hand. To provide a power balance between this need for energy and progress and this need for an undisturbed environment is a challenge which all of us—your generation and mine—must face—and must resolve. The time is upon us to find and to build on the truth. I have no fear but that you will find answers in your time—as we are finding them today—which will move people and society forward. That's really the only direction any of us can tolerate.

In closing, if you have not already turned to more interesting reading, your parents won't apologize for the world in which you live. Our half century has been a good one and when you have traversed more than fifty percent of your material existence, I hope you and your generation will have:

Built as many hospitals;

Erected and staffed as many schools and colleges;

Opened the exciting doors of education to as many people;

Cured as many ills and conquered as many new fields in medicine;

Made as much progress in communications;

Opened as many opportunities for minorities;

Given as unselfishly of yourself for the protection of your nation from aggression;

Aided as many sick and starving people around the world;

Traveled beyond the moon both in reality and in hopes;

Provided a balance—a parity—in the forces which propel us forward, and

Please be ever mindful of and devoted to the one almighty power—God—which guides the destiny of all mankind.

I am confident you will.

Love,

DAD.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair lays before the Senate the unfinished business, S. 2820, which the clerk will please state by title.

The second assistant legislative clerk read as follows:

A bill (S. 2820) to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally to both sides on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, will the distinguished manager of the bill yield time to me?

Mr. FULBRIGHT. I yield to the distinguished Senator from West Virginia.

Mr. BYRD of West Virginia. I thank the Senator.

FOREIGN AID SHOULD BE REVIEWED, REVISED, AND REDUCED

Mr. BYRD of West Virginia. Mr. President, in keeping with my past record over the years, I shall again vote against foreign aid. I think the American people should know that the net cost of the foreign assistance program from 1946 through 1971, including interest on what we have borrowed to give away, amounts to about $213 billion. In other words, this amounts to about $213 for every minute since Jesus Christ was born. During this worldwide spending spree, our gold holdings have been reduced from $23 billion to roughly $10 billion, while short-term dollar claims against the United States—now due—have increased from $8 billion to more than $40 billion. This does not include other U.S. indebtedness abroad.

I am advised that unexpended balances in the pipeline from prior years, including appropriated funds and borrowing authority, amount to more than $18 billion.

Since the inception of this global spending binge, our balance-of-payments situation has placed our fiscal affairs in jeopardy. We have paid to foreign nations $50 billion more than they have paid to us, and the U.S. public debt, which is almost $420 billion, constitutes a figure which is roughly $150 billion above the combined public debt of all the other nations of the world.

I am not opposed to helping, on a selective basis, a few of the other countries of the world. I also believe that foreign aid during the Marshall plan era was vital to our own national security, and for several years following my first becoming a Member of the House of Representatives, I voted for the foreign aid program.

However, in recent years I have voted against foreign aid authorizations and foreign aid appropriations. I am convinced that the kind of foreign aid programs we have been financing so promiscuously all over the world in recent years have long since outlived their usefulness and, in many instances, have been counterproductive. We have been giving away our wealth, destroying the value of the American dollar—which is the equivalent of confiscating the savings of the taxpayers—and we have placed an unbearable public debt upon the shoulders of our children, our grandchildren, and unborn generations. It is unconscionable that we would continue to add to that burden by perpetuating handouts to scores of emerging nations whose impact upon the stream of history will be no more than the splash created by the dropping of a grain of sand into a mighty river. We are foolish if we have ever believed that we could buy friends, and this was proved in the recent U.N. vote on the two-China question. The Bible says—

Be not surety for a stranger.

And Shakespeare said—

Loan oft loseth both itself and friend.

It is appropriate, in this context, also to refer to a quotation from Patrick Henry's speech in the Virginia Convention at Richmond on May 23, 1775:

I have but one lamp by which my feet are guided and that is the lamp of experience.

Mr. President, we have had enough experience in giving away the taxpayers' money and in playing the role of sucker to the rest of the world, and we should have learned our painful lesson by now.

The dire predictions of what will happen if we stop throwing away money overseas as though it were going out of style are to be expected from those who have become addicted to the making of such predictions. If we are ever going to stop this colossal giveaway, we should do it now. The American taxpayer, who is in debt to every other country on this planet, would then, for once, be in our debt.

Mr. President, I suggest the absence of a quorum, with the same understanding as before.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The time will be charged against both sides.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, I yield myself 15 minutes on the bill.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 15 minutes.

Mr. FULBRIGHT. Mr. President, I should like to comment on several items in the economic assistance bill.

I regret that I did not understand that we were foreclosed from having any amendments voted on prior to the vote on the Okinawa treaty at 3 o'clock. I had understood that we were to proceed to the consideration of the pending bill this morning and I had hoped to have some amendments voted on. However, I now understand the unanimous consent agreement forbids votes prior to 3 o'clock.

The PRESIDING OFFICER. The Chair would like to state to the Senator from Arkansas that only rollcall votes are precluded. Voice votes are not.

Mr. FULBRIGHT. Mr. President, I misunderstood the order as it reads on page 2 of today's legislative calendar. It reads:

Ordered further, That no vote occur on either bill, amendment, motion or appeal relative thereto until after the vote on Executive J at 3:00 p.m. . . .

The PRESIDING OFFICER. The Senator is reading the text correctly. However, the text is incorrectly printed.

Mr. FULBRIGHT. Oh, really? Then am I to understand that so long as a vote is not a rollcall vote we can vote on any amendment; so long as it is not a formal rollcall vote?

The PRESIDING OFFICER. The Senator is correct, according to the terms of the agreement.

Mr. BYRD of West Virginia. Mr. President, will the distinguished Senator yield?

Mr. FULBRIGHT. I yield.

Mr. BYRD of West Virginia. Mr. President, I have asked the Senator to yield merely that I, as the Senator who propounded the unanimous-consent request yesterday at the request of the majority leader, may verify the situation as stated by the Presiding Officer.

The understanding at the time was that there could be voice votes before 3 p.m., but that any rollcall votes would be put over until after the treaty vote, which will occur at 3 p.m. today.

Mr. FULBRIGHT. Mr. President, I wish to make some comments about the economic aid bill. It has now developed, especially with reference to the activities of the Office of Public Affairs of the Agency for International Development, that this bill is being promoted and sold not so much as an aid to foreign countries but rather an aid to the domestic economy.

For example, I hold in my hand the press releases from the Agency for International Development in which the Office of Public Affairs has gone to great trouble to estimate what each State receives from the foreign aid bill.

In the case of my own State of Arkansas, for example—which, of course, is one of the smaller recipients—AID says that the State of Arkansas received orders for $3,982,757 during the first 6 months ending June 30, 1971. Then they go to the trouble of even breaking down this amount to show the amounts that the large and small communities would receive. For example, during this period, Forrest City, Ark.—a very fine city in eastern Arkansas—would receive orders of $121 from the Yale Hoisting Equipment Co., which has a plant there.

This is supposed to encourage the citizens of Forrest City to write to their Senators to support the AID bill.

Bauxite-Alcoa would receive orders amounting to $4,302 during this period. It goes on down to Columbian Carbon International Co., $7,709; and Ledbest, Inc., at Springdale, Ark., which will receive $3,400. It even lists the Cloyes Gear Co., at Paris, Ark., which received all of $20 as a contribution of foreign aid.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement entitled "U.S. Foreign Aid Creates Business in Arkansas."

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

U.S. FOREIGN AID CREATES BUSINESS IN ARKANSAS

WASHINGTON, D.C.—Manufacturers in Arkansas received orders financed by the Agency for International Development totaling $3,982,757 during the six months ending June 30, 1971.

AID, which conducts U.S. economic assistance programs overseas, reported the commodities purchased from companies participating in the foreign aid program were shipped to developing countries in Asia, Africa and Latin America.

Approximately 98 percent of all AID-financed commodities came from the United States during fiscal year 1971.

In addition, AID announced that two open technical service contracts with institutions in Arkansas were in effect at the end of December 1970. The holders of such contracts as of that date were:

Agricultural, Mechanical and Normal College, Pine Bluff, dollars open.

University of Arkansas, Fayetteville, dollars open.

A list of Arkansas manufacturers (by county and city) is attached, showing the amount of AID-financed orders placed with them from January through June 1971. The tabulation is based on reports to AID by exporters and usually includes the cost of ocean freight. Thus, the amounts are approximate in some cases.

	Amount this period	Total amount to date
Arkansas:		
Stuttgart:		
Arkansas Grain Corp.	$113,955	$113,955
Riceland Foods	3,034,710	3,034,710
City of Stuttgart	3,148,665	3,148,665
County of Arkansas	3,148,665	3,148,665
Harrison:		
Barrett Robinson	4,797	4,797
City of Harrison	4,797	4,797
County of Boone	4,797	4,797
Jonesboro:		
General Electric	10,995	10,995
City of Jonesboro	10,995	10,995
County of Craighead	10,995	10,995
Paris:		
Cloyes Gear Co	20	20
City of Paris	20	20
County of Logan	20	20
Lonoke:		
Jacuzzi Export Sales Co	5,200	5,200
City of Lonoke	5,200	5,200
County of Lonoke	5,200	5,200
Helena:		
Riceland Foods Inc.	164,860	164,860
City of Helena	164,860	164,860
County of Phillips	164,860	164,860
Little Rock:		
Arkla Chemical Co	565,000	565,000
Armstrong Rubber Co	16,850	16,850
City of Little Rock	581,850	581,850
County of Pulaski	581,850	581,850
Forrest City:		
Yale Hoisting Equipment	121	121
City of Forrest City	121	121
County of St. Francis	121	121
Bauxite:		
Alcoa	4,302	4,302
City of Bauxite	4,302	4,302
City of Saline	4,302	4,302
Fort Smith:		
Baldor Electric Co	44,748	44,748
Baldor Electric Co	6,090	6,090
City of Fort Smith	50,838	50,838
County of Sebastian	50,838	50,838
El Dorado:		
Columbian Carbon Intl Inc.	7,709	7,709
City of El Dorado	7,709	7,709
County of Union	7,709	7,709
Springdale:		
Ledbest Inc.	3,400	3,400
City of Springdale	3,400	3,400
County of Washington	3,400	3,400
Arkansas	3,982,757	3,982,757

Mr. FULBRIGHT. Of course, most of the AID money to Arkansas was for food. The Riceland Foods Co. received $3,034,710, practically all of which is for rice.

Actually that is a distortion, because normally the AID money in the bill is not used to purchase grain. It was only because of the very special set of circumstances, which was more or less of a one-shot deal, that the rice was ordered from the Arkansas Grain Co. for Korea. They were short of money in the AID bill because of the exorbitant division of the money primarily to Southeast Asia.

What I object to is the high pressure of the Public Affairs Office to sell the bill as being a bill not to aid the development of foreign countries, but as a subsidy to domestic business.

I have in my hand a listing of every State and any number of local communities which shows amounts as small as $20.

AID press releases have been sent out all over this country to build up a domestic constituency. People say that one reason the foreign aid bill does not do better is that it does not have any constituency in the United States. Now they are undertaking to build a constituency in the United States, and attempt to show people that this program really subsidizes our own economy.

I think it is an absurd waste of money for the AID people to engage in this kind of high pressure advertising. It is misleading. It is a funny way to subsidize our business, by spending money to buy something to give away.

I understand, for example, that AID officials make much of the fact that a large percentage of our steel exports is accounted for by the AID program. What apparently has happened is that all of our steel companies have become noncompetitive not only abroad, but also within the United States. They cannot compete even in the United States with Japanese steel.

For the construction of big buildings in New York and elsewhere, the builders are buying structural steel from Japan. That is done because of a better quality and a price cheaper than can be obtained from our own steel companies.

We use the foreign aid money to buy steel to export abroad at whatever price they wish to pay. We subsidize our own economic system at home under the guise of the foreign aid bill.

I think this is a disgraceful way to carry on our business here at home. It is a great reflection not only upon our business acumen and efficiency, but also upon our commonsense.

This is one reason why I think this whole program should be reworked and the development loan part of it placed under a multilateral agency so that it will not any longer be a crutch for an inefficient industrial system which we have allowed to degenerate or deteriorate because of our exhorbitant expenditures abroad, not only in economic aid but also in military aid.

We have devoted so much of our wealth to supporting wars that sufficient capital has not been reserved for the modernization of our own economic system. We have made these so-called development loans abroad, and the recipients have built new steel plants and new automobile

plants, and we have helped them do it. If we have not done it directly we have done it indirectly by furnishing the money to various countries to purchase the products needed to build these industries.

It is interesting that in Saigon the Japanese automobile companies and the Japanese motorcycle companies do a tremendous business as a result of the pouring in of money—$600 million at a time. Who is the principal beneficiary? It is the Japanese companies. We furnished them customers for their business, and in the early days we furnished it directly to Japan. Japan is now acknowledged to have the most efficient industrial plants in the world, including the most efficient steel plants, the very things in which this country excelled a few years ago. Before we became completely devoted to the military aid program, this country was the most efficient industrial nation there was. We could make all of these products as cheaply and could compete with manufacturers abroad. Now we cannot even compete with them at home.

In this connection, I will read for the record a typical editorial from Latin America. This one has a Quito dateline.

The editorial states:

Quito, 1 Nov.—Today's El Comercio editorial states that it hopes that the bilateral foreign aid program suspended by the United States Senate will be changed to a multilateral aid program channeled through international credit organizations and UN organizations. The influential daily recalls that the suspended aid had been severely criticised by recipient countries, especially since the loans for development and strengthening armed forces were granted in a bilateral manner and, in some cases, under onerous conditions, such as the amount of interest and the compulsory purchase of capital goods and equipments in the United States, including contracting experts at a very high cost.

That is another gimmick, because they must buy from us at our high prices under the loan program.

The editorial further states:

Also, it adds, there was the mistaken belief on the part of most Americans that the granting of foreign aid automatically meant that recipient countries had to support the White House's foreign policies regardless of what they were. If this did not happen, said the daily, the North Americans felt offended and considered this dissident countries ungrateful.

This helps to describe very well the reaction in this country and among some of the Members of this body to the vote in the United Nations on the Taiwan matter. I think that is a typical reaction of people in many recipient countries. They would like to see us return to a nonpolitical AID program, rather than an AID program for this country disguised as an aid program to promote economic development abroad.

Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "AID—A Two-Way Road," written by Mr. Murrey Marder, a most respected writer, dated November 6. He makes very clearly and in considerable detail the point that, after all, this program is to aid our constituents, and we should vote for it, because it is for the economic benefit of this country.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 6, 1971]

AID—A TWO-WAY ROAD

(By Murrey Marder)

In its struggle to survive, the Agency for International Development is pointedly reminding U.S. senators that business profits and jobs in their home states will feel the pain of foreign aid cuts.

Money, jobs, and by clear implication, votes, can be more tangible weapons in a political fight than lofty arguments about World stability and aid to underdeveloped nations. The appeal to domestic interests to rally to the defense of balance sheets and payrolls could carry double weight in the present depressed state of the U.S. economy.

A generation ago, the concept of foreign aid was scoffed at by its many critics as "milk for the Hottentots." The time came when the condition of the Hottentots and other distant peoples came to be recognized to be not so totally remote from the condition of world order, but the attitude associated with foreign aid remained: "handouts," "give-aways."

To carry foreign economic aid through the Congress—"pure" foreign aid, that is, as distinct from direct, or roundabout support for foreign regimes whose continuance in office was judged to be of direct value to American security interests—economic aid allocations were linked legislatively with military aid. In the name of containment of communism, military assistance could win the votes to override the guffaws about "foreign aid."

The paradox has been that both forms of "foreign" and were, in a real sense, also domestic aid—spent in, and supporting, the U.S. economy.

According to AID, 98 per cent of its funds for the purchase of industrial goods and agricultural commodities is spent in the United States.

In addition, AID estimates that 86 per cent of all money allotted to it, for services, cash grants, salaries and goods and commodities are spent in the United States.

This is not just happenstance, or a result of foreign preferences for made-in-America labels. These funds are generally mandated to be spent in the United States by "tied" loans—meaning loans with strings on them—or other legislative requirements.

U.S. policymakers have been ambivalent about how much they should talk about the tied-to-America quality of American foreign aid. To stress the tie dims the aura of altruism, compassion, and humanitarianism which policymakers would prefer to portray to the world. The result has been that although AID routinely publishes lists of contracts awarded to U.S. firms or organizations, there is normally no great stress on the dollar-tied nature of most foreign aid, leaving the non-military portion of the program adrift without any aroused constituency to defend it.

Only now, with its life on the congressional chopping block, has AID been encouraged, indeed stimulated, by the administration, to mount a major public display of the domestic consequences that can result from slashing "foreign" economic aid funds.

Item: Between 1964 and 1969, AID money financed from 22 to 30 per cent of all cargo shipped on U.S.-flag vessels.

Item: In 1971, AID loans and grants financed U.S. exports totaling $972 million. While this represented only 2.3 per cent of total U.S. exports, it included 25 per cent of all American fertilizer exports; 16.4 per cent of U.S. iron and steel exports; 15.7 per cent of all exports of railroad equipment; 8.5 per cent of basic textile exports; 8.5 per cent of rice exports; 7.3 per cent of all exports of non-ferrous metals and products.

Item: To make the point even clearer politically on Capital Hill, AID statistics now being circulated there show that in the same 1971 fiscal year, $178,829,271 was spent in New York State; $80,508,640 in California; $77,061,159 in Pennsylvania; $73,541,642 in Illinois, and with lesser amounts listed for other states, including $20,572,073 in Maryland and $10,162,141 in Virginia.

Item: Other "fact sheets" being showered on Congress report cumulative totals for many years of AID research contracts to universities, and service contracts to other organizations, including Air America Inc. of Washington, D.C., the organization which operates with the Central Intelligence Agency in Southeast Asia. It is listed for accumulated contracts with AID alone totaling $83,324,200.

This is "self-help" for "deserving nations" with a double entendre; one of them is the United States.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Charles W. Corddry, which was published in the Baltimore Sun. It is along the same line as the previous article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, Nov. 4, 1971]

FEDERAL AGENCIES SAY AID IS NOT ONLY FOREIGN

(By Charles W. Corddry)

WASHINGTON.—In their battle to save foreign aid, administration agencies began yesterday to publicize the claimed effects that the program's demise would have on the domestic pocketbook.

The Defense Department said original plans called for contracts totaling well over $720 million this year to companies producing arms and other defense equipment for military aid and credit sales abroad. The plans were knocked awry when the Senate voted to kill foreign aid, and a restored program is likely to provide for considerably less.

COMMODITY EXPORTS

The Agency for International Development called attention to its financing of close to $1 billion a year in commodity exports under overseas aid programs—for example, 25 per cent of fertilizer exports, more than 15 per cent of railroad equipment, 3.7 per cent of chemicals and more than 16 per cent of iron and steel mill products.

The State Department distributed a sheaf of papers concerning the assertedly damaging effects of any failure to extend foreign aid promptly. These emphasized not only foreign policy but the domestic value of programs such as those carried on in American universities for the benefit of other countries.

All the agencies are acutely sensitive to claims that foreign aid is a "give-away" and by implication not beneficial to the American economy.

The Pentagon said 95 per cent of grant-aid money is spent at home and most funds that finance credit sales to other countries similarly stay in the U.S.

The Agency for International Development said 86 per cent of all the money it spends is spent in the U.S. For commodity exports alone, it said, the figure is 98 per cent.

The State Department's documents amounted to a lengthy list of dire warnings against delay in getting foreign aid back on the books. For example, they said:

1. "Our major programs in Southeast Asia will be aborted." The $566 million sought for economic aid in South Vietnam amounts to more than half that country's imports. "Without it the Vietnamese war effort will grind to a halt and the economy will be thrown into utter chaos." Similar consequences were foreseen for Cambodia and Laos.

2. Regarding provision of money for disaster relief for 9.5 million Pakistani refugees in India, "the U.S. can not stand idly by in the face of the world's greatest disaster."

3. Major programs in nutrition, child feeding, population control, education and agricultural production around the world depend on the appropriation of new money this year.

4. Failure to provide contributions to United Nations organizations would lead members to assume such failure was related to the American defeat on the China question. "Members who stuck by the U.S. and the Republic of China [Taiwan], as well as those . . . opposed, would be affected adversely."

The Defense Department said the contracts it tentatively had planned included $220 million for outright aid and "well over" $500 million for credit sales of arms and equipment.

Some of the plans for financing credit sales called for $175 million for McDonnell-Douglas aircraft, $93 million for General Electric engines, $51 million for Lockheed aircraft, and $110 million for Northrop aircraft and target drones.

For grant aid, there were plans for ordering $100 million in Army equipment, $24 million Navy and $96 million Air Force from a long list of companies throughout the United States.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. FULBRIGHT. I yield myself an additional 10 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized for 10 additional minutes on the bill.

Mr. FULBRIGHT. Mr. President, this proves the real nature of the assistance program and how far away it has strayed from its original purpose of assisting underdeveloped countries. I do not want to be misunderstood. I object to doing this program in this manner. We ought to cut this program out or eliminate it and use the same money for direct development to do the things we need to do here, such as urban renewal, mass transportation, housing, water control projects, sewer and water projects, and so forth. It would be much more efficient to do it directly rather than doing it in a roundabout fashion through the aid program. If it is no longer a program to assist underdeveloped countries, but rather our own country, we would get a lot more for our money if we purchased the materials and put the money directly into projects in the United States. The way we are doing it through the aid program is very inefficient.

Mr. President, another subject has come up on which I should like to comment at this time, since there will not be a vote until 3 o'clock. This subject is raised all the time by almost every supporter of the bill.

It is said that our GNP is so big, and the foreign aid amount is so small. It has been stated that we are only 12th among the developed countries in the amount we give for aid relative to the GNP. It is always the GNP. The GNP has been built up as a criterion of the wealth of this country and our capacity to sustain and service the aid program.

I want to say a few words about the GNP as a criterion by which to judge the capacity of a country to give away its resources, as a realistic yardstick to measure what we ought to give.

As a starting point, it should be noted that in actual dollar amounts this country gives far more than any other country in the world. The administration wanted a $3.5 billion aid bill, but even that would be only one-third of the aid for this year. This fact is often overlooked but what irritates me most is to be confronted with the GNP as the proper yardstick.

PUTTING THE GNP IN PERSPECTIVE

We deal in such large figures in discussing the Nation's economic affairs that it is extremely difficult to grasp their real significance. Further, I fear that some of the measurements used to evaluate the state of the economy make it even more difficult to get a true picture.

The primary standard by which the Nation's economic well-being is usually measured is the gross national product. Although little consideration seems to be given to what constitutes the GNP and what it really means, it has become a sort of national totem or idol—and, as long as it grows higher, the belief apparently is that we have nothing to worry about.

We have been subjected to considerable ballyhoo about the GNP having passed the trillion dollar mark—$1,000 billion. Earlier this year we were treated to a great deal of euphoric talk about the GNP reaching $1,065 billion this year. Already, there are predictions of $1,145 billion for next year.

Inevitably, some public relations man dreamed up a "GNP Clock," which President Nixon launched last December. The clock, in the Department of Commerce, was supposed to tick off the ever-increasing GNP, a symbol of the Nation's economic advance. However, as was pointed out at the time, what the clock was actually recording was inflation—not a real increase in the Nation's economic strength.

A trillion-dollar economy sounds impressive—especially when we are told that the United States GNP is greater than the combined gross national products of Japan, West Germany, France, the United Kingdom, Italy, and Canada; or that the GNP has more than doubled in the last dozen years.

But I am afraid that all the talk of a trillion dollar economy and our burgeoning GNP has deluded us and misled others about the true status of our economy. Although ours is a Nation with great resources and unprecedented economic capacity, it does not take an erudite economist to determine that the economy is not in a sound condition. Among other things, we face a Federal budget deficit of more than $30 billion for this fiscal year, and that by the most optimistic account method.

Dare I suggest that we have been worshipping a false god? Certainly I am not the first to make such a suggestion, but somehow the myth seems to prevail that so long as we have an astronomical and ever-increasing GNP all is well and there is not much that this Nation cannot afford.

Frequently, when I have expressed doubt about our ability to undertake certain expenditures—for example, the large foreign-military aid program—I have been met with replies citing the trillion-dollar GNP as evidence of our ability to afford whatever might be in question.

I think we are making a serious error of self-delusion if we continue to rely so heavily on the GNP as the indicator of our economic status. It is not my intention to discredit the GNP or suggest that it is of no validity or utility. I recognize that many economists look upon the GNP as a useful yardstick. What I would hope to do is simply to put the GNP into perspective and stimulate consideration of other methods of evaluating our economic position.

I have heard the claim that, after all, our military spending is not really that significant because it accounts for only 7 to 10 percent of the GNP. This is certainly misleading. Since World War II, we have spent more than a trillion dollars for military purposes—an amount greater than the value of all residential and business structures in the United States. Currently the military budget of nearly $80 billion, plus another $25 billion in related costs—including military assistance—accounts for more than 60 percent of that portion of the Federal budget which can be controlled.

Some have even made the ludicrous assertion that our involvement in Vietnam has had no detrimental impact on the economy, despite ample evidence to the contrary. For example, Prof. Walt W. Rostow, who served as special assistant to former President Johnson, recently said of the war:

It has never been an economic problem at home. The peak cost was $25 billion—that was out of a near trillion-dollar economy and now it's way down—$16 or $17 billion.

I submit that the real cost of the war has been immeasurable. The $200 billion estimated by the Library of Congress to be the cost of the war accrued thus far does not begin to tell the story. No one has been able to quantify the effects of this experience on the American people. Nor has anyone really been able to measure the economic costs realized through inflation, high-interest rates, and balance-of-payments deficits, or the vital domestic programs which have gone unfunded while we poured billions into Vietnam. Furthermore, no one has been able to add up the intangible costs which accompany the tragic figures of 300,000 wounded Americans and 50,000 killed. I refer not only to the psychological effects of war on the 2 million who have been there, and their families and friends, but the intangible costs in terms of erosion of respect for the law, further disruption of the constitutional system of checks and balances, increased distrust of Government and the growing use of violence as a political tool.

These dramatic consequences cannot be dismissed by glib references to a trillion dollar economy.

Much has been made of the fact that the Soviet Union spends more of its GNP

on the military—about 11 percent—than we do. However, recent figures from the International Institute for Strategic Studies in London indicate that total U.S. military expenditures as well as per capita expenditures are considerably higher than the Soviet figures.

I am firmly convinced that we cannot continue to spend on this scale for military and military related purposes and maintain any real degree of national security. We must consider what this imbalance is doing to the quality of our lives and our true economic capability. In his book entitled "What Price Vigilance?" Prof. Bruce Russett shows that investment in consumer durable goods and in new industrial production equipment is especially diminished by military spending. An added dollar spent by the Pentagon means, among other losses, $0.163 less for consumer durables, $0.114 less for residential structures, and $0.110 less for new production equipment. On the basis of these calculations, this meant $24.5 billion less for consumer durables, $17.1 billion less for 450,000 homes, and $16.5 billion less for new production equipment during the 1960's.

Prof. Seymour Melman offered a very cogent summary in an article entitled, "All the Muscle at One-Third the Cost" in the Saturday Review of October 9:

In the American Northeast, supplies of power, transportation and communication have ceased to be reliable. A widening network of American industries is becoming technically and economically depleted, incompetent not only in the world market, but unable to hold even domestic markets. This is true in steel, shoes, machine tools, civilian electronics, shipbuilding, typewriters, automobiles and other industries. For more than a century, American technical know-how produced new product designs and production techniques. High U.S. wages could be offset by efficiency in the production of excellent products at a low unit labor cost. This vital capability has been diminished by the long and lavish concentration of research talent and capital on military technologies—in which cost minimization is not a basic criterion. The bitter lesson, especially of the 1960s, is that the security of American society is diminished by policies that aim at worldwide hegemony based upon military power, with the assumption that the wealth of this country is virtually unlimited and that military spending of an unproductive sort is no different from productive economic growth.

I believe Professor Melman's comments merit out careful consideration. These are the kinds of things that GNP figures do not reveal. The deteriorating conditions in our large urban areas, for example, are not reflected in the GNP. Nor are the deficiencies by any means confined to those areas which call for public expenditures. As Mr. Melman points out, in addition to shortcomings in power supplies, transportation, and communications:

A widening network of American industries is becoming technically and economically depleted, incompetent not only in the world market, but unable to hold even domestic markets . . .

COMPARISON WITH JAPAN

In a column published in the Washington Post of October 7, 1971, Rowland Evans and Robert Novak discussed the success of Japanese industry. They reported on a steel mill in Japan:

This Mizue mill's modern equipment, all purchased during the 1960s, provides a shiny contrast to American steel mills. As at nearly all Japanese mills, Mizue's steel is produced by the modern oxidization method while most American producers still use the obsolete, inefficient open-hearth method. Following Japanese custom, steel sheets produced at Mizue are two hours by barge from the port of Yokohama and export shipment.

The columnist also raised an additional important point:

One top U.S. policymaker recently lectured the U.S. Embassy in Tokyo that Japanese prosperity is the product of cheap child labor (though Japan, in fact, bars such exploitation). Official Washington simplistically views the Japanese economic miracle as unfairly concocted of sweat-shop labor and high tariff walls.

The truth of the matter is that in many cases Japanese working conditions are better than those in this country. Although pay rates may seem low to us, the large Japanese corporations take good care of their employees. Normally, a Japanese worker will join a company directly from school and stay with that company throughout his career, being treated as if he were the member of a large family.

We seem to have developed remarkable capacity for self-deception. We rationalize Japanese success by labeling them as "unfair," and claim that they use cheap labor or we accuse them of "dumping" their products into world markets. Yet, as Mr. William V. Rapp, of the Boston Consulting Group, Inc., recently pointed out:

It is clear that if Japanese companies were in fact persistently dumping, they could hardly continue to exist for long periods, much less finance their rapid and continued growth.

As for the lower wages, the lower price for Japanese steel is not attributable only to wage differences. A recent report on CBS News "60 Minutes" noted that Nippon Steel has the most modern and automated steel mill in the world. Surveys have shown that metalworking machine tools in the United States are the oldest among all major industrial nations.

INADEQUACIES OF THE GNP

One of the reasons for our self-deception is our reliance on the stupendous GNP figure as a measure of our economic health.

Economist C. Lowell Harriss has pointed out one of the inadequacies of the GNP in his textbook "The American Economy." Noting that a company's factories and machinery add value to products, he writes:

Much of the equipment was there when the year started and when it ended. The Company did not pay suppliers for this machinery during the year. Over time, however, machinery wears out. During the year it was partly used up; some of its value became part of the value of the company's output in the year. In other words, a portion of the value of the goods (final and intermediate products) shipped from factories in 1966 was, in an economic sense, created (and counted in GNP) in earlier years. It was not this year's accomplishment. The GNP, then, includes double-counting: economic values produced this year along with some produced, and counted, in earlier years. The latter is this year's depreciation.

For periods of a few years, such as during a war, our major concern may properly be our potential gross production. For a time the equipment produced earlier can be used without replacement. Clearly, however, such ignoring of depreciation cannot go on indefinitely. We would be stupid to plan for a very long period on the basis of gross product; some of that product must be devoted to replacing the facilities which wear out in creating it. A net figure is more significant.

Mr. Harriss notes that depletion is even harder to judge:

Parts of what we pay for oil, copper and the fruits of the good earth go to the owners of the natural resource. Such receipts are logically treated as a return of investment of capital, not as income. Yet because of difficulties in measuring such values, no deduction for depletion is made in computing net national product.

When depreciation has been deducted from GNP, net national product—NNP—remains. It is generally about 8 per cent less than GNP. Although NNP seems a better measure than GNP for most purposes, it is used rarely. One reason is the unsatisfactory nature of the estimate of depreciation. Another reason is that both the services of government and the taxes to pay for them are handled crudely. Anyone wanting a true net measure must look farther.

A major part of the problem with the GNP, as someone has phrased it, is that it indiscriminately includes "bads" on the same basis with "goods." For example, the cost of bullets used in a gangster's gun goes into the national accounts with the same weight as the price of computers or pencils. It could even be claimed that crime is a stimulus to the GNP, since we have to spend more on law enforcement. Nothing is subtracted from the value of gasoline or automobiles because they contribute to atmospheric pollution, or from agricultural output because some fertilizers or agri-chemicals may pollute the air or water.

The National Bureau of Economic Research, which was once headed by Arthur Burns, Chairman of the Board of the Federal Reserve System is reportedly trying to revise the system of economic accounting so that it will gage the cost of noxious factories, landscape wreckers, noise, and other "disproducts."

Earlier this year, Chairman Burns told the Joint Economic Committee:

I look forward to the day when statisticians add up the national accounts to take account of the depreciation of the environment. When we learn to do this, we will discover that our Gross National Product has been deceiving us.

WHAT THE GNP REALLY IS

The GNP is a naked measure of the value of goods and services produced in a society. Although it includes everything from gambling to garbage disposal, it is definitely not a measure of the social welfare or quality of life.

During recent hearings of the Committee on Finance, I asked Secretary of the Treasury Connally to have his staff prepare an analysis of the components of the GNP and its value as a measurement of the national economic health.

The memorandum produced by the Department of the Treasury in response to my inquiry states:

. . . the GNP should not be regarded necessarily as a measure or index of general welfare or "economic health", but simply as the total of dollars spent by consumers, business, and government.

The Treasury Department takes note of the GNP's inadequacies as a measurement of social welfare, particularly in relation to detrimental factors of growth, such as pollution and waste. The Treasury memo says:

Gross national product may not be ideal as a measure of social welfare. Along with economic growth, there may be increased air and water pollution and environmental hazards. Increasing generation of garbage and other such items, congestion in the cities, depletion of natural resources, and similar apparently detrimental factors affecting individuals and social welfare.

The Treasury memorandum points out that there are possible deductions and additions which could be made to the GNP, but adds:

It would be most difficult to draw a line between what are allowable deductions from the GNP as against those expenditures which surely provide satisfaction and add to social welfare.

Although the Treasury concedes that the GNP "is not a very good measure of social welfare," it notes that "it is difficult to determine how an alternative and comprehensive aggregate intended for this purpose could be developed." The Treasury suggests that perhaps an index could be constructed of some specifications such as expenditures for environmental protection, employee protection and the like. According to the Treasury—

This would be useful in the interpretation of the growth of the GNP aggregates and productivity as well as in its own right in knowing the trend in these expenditures.

Mr. President, I ask unanimous consent that the memorandum from the Department of the Treasury and some accompanying tables supplied at my request be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, these tables point up the continuing shift of the Nation from a manufacturing to a service economy. According to this information, personal consumption expenditures account for 63.2 percent of the GNP, with 26.9 percent of this going for services. Although the GNP is not affected proportionately, there is considerable significance in this changing emphasis and its concurrent reduction in output per man-hour.

One of the questions I asked the Treasury was how much of the GNP was attributable to such things as alcoholic beverages, tobacco, cosmetics. These figures indicate that the GNP includes about $18 billion in consumer expenditures for alcoholic beverages, $11 billion for tobacco and $6 billion for toilet articles and preparations. Together these items account for 3.5 percent of the GNP. I suspect that still more is attributable to expenditures related to these. Additionally, of course, a substantial amount is spent on advertising of these products. It is interesting to note that in describing the functional components of the GNP, the 1971 Economic Report of the President lists tobacco under "basic necessities."

Other items included in the GNP—not all of them listed in these tables—are jewelry and watches, $4 billion; new and used car purchases, $31.5 billion; tires and auto accessories, $5.6 billion; auto repair $8.7 billion; $23 billion for gas and oil; and $3 billion for auto insurance. Highway expenditures by Government at the three levels is about $20 billion.

Recreation amounts to almost $40 billion, and foreign travel and air transportation are more than $7 billion. We spent $3.7 billion to stabilize farm prices, and, according to the figures supplied by the Treasury, we spend $5 billion on sanitation.

The "counterbudget" of the Urban Coalition estimates total air pollution costs at $13.5 billion annually in property damage from soiling, corrosion, and abrasion. Similarly water pollution costs $12 billion annually and we spend $4.5 billion on solid waste disposal. Of course, these totals are not necessarily reflected in the GNP.

Let me quote briefly from the 1971 Economic Report of the President:

The case for production is not necessarily the case for a particular statistic of production such as the gross national production, and the case for economic growth is not necessarily a case for increasing the gross national product. The GNP is not a perfect measure of all the activities comprehended in the idea of economic output. This has long been recognized, and it has most recently taken on new meanings and a new sense of urgency through growing concern for the environment. Many deteriorations or improvements of the environment are not accounted for in the gross national product, even when they are incidents of the production process. This is only a newly conspicuous example of those limitations of the GNP statistic which have been well known for a long time.

I wou'd like to cite one more example of the difficulties posed by trying to relate everything to the GNP. In the case of Government, Government-produced goods are valued at market price if they are sold; otherwise they are measured at cost of production. Likewise, Government services are measured at cost to the Government. This in itself gives rise to a problem for the obvious reason that cost and value are not necessarily equal.

For example, when we brag about how much greater our gross national product is than that of China, we may be overlooking the fact that a school teacher in China may get a salary equal to about 5 percent of the average American salary, whereas, the productivity of the Chinese teacher might be far closer to that of the American teacher. I cite this merely as an example, not as an exact case.

ECONOMIC REALITIES

All the talk in the world about a trillion-dollar GNP cannot obscure the fact that there are some basic unmet needs in this society. I think we must get back down to earth and to some hard economic realities.

It is ironic that while we boast of the trillion-dollar economy and cite it as evidence of our ability to engage in mammoth military and foreign assistance projects, in Arkansas and other States many vital projects remain unfunded. An example of this irony is the fact that the State of Arkansas is without any passenger rail service whatsoever, while many of the nations whose GNP is dwarfed by ours are providing their citizenry with excellent rail and public transportation service. And while Arkansas is particularly deprived of rail service, mass transit throughout the Nation is in need of vast improvement and suffers by comparison with many other nations.

On September 29, I placed in the RECORD a summary of some of the unfunded projects in Arkansas. It is a rather lengthy list. For example, we have 133 unfunded applications for $20 million in Farmers Home Administration grants and loans for the development of water and sewer systems in small communities. Such systems are the backbone of the growth of our smaller towns. We have to provide these communities with the amenities that will make them attractive places to live and work, and which will cut down on the massive migration to our already glutted urban areas.

One of our major needs, both in Arkansas and nationally, is sufficient housing. We are not meeting the need, despite a number of ambitious programs approved by the Congress. In Arkansas alone, there are pending applications for some $100 million in assistance for housing programs.

The 10-year goal set in the Housing Act of 1968 would require an annual production of 2.6 million housing units. However, as the National Urban Coalition reports:

Housing starts have averaged only 1.5 million annually since 1960, and we have produced as many as 2 million units in only 1 year in the last two decades. Indeed, fixed investment in residential structures in constant dollars has not significantly increased over the last two decades and has fallen precipitously as a percentage of the GNP. During the past 5 years, housing investment has averaged about 3.2 percent of the GNP. It has fallen below 3 percent in the current year. Housing investment of 4 percent of the GNP will be necessary to generate production of over 2.5 million units annually.

I could cite many other areas where we are not meeting the needs of the American people. Our cities are in dire need of revitalization. Our GNP may have doubled in a decade, but during the same period many of our major cities have been deteriorating.

Health service and medical care are extremely costly and many of our citizens cannot pay for and do not receive adequate health care.

We are clearly in need of improved law enforcement, and an improved criminal justice system and correctional system.

We must upgrade the quality of education and improve and expand educational facilities.

The list is a long one and I have hit only a few of the high points. We are overcommitted abroad and not doing the job at home.

Surely these realities should help us to put the GNP into perspective. The GNP may give some indications about quantity, but it tells very little about human values and the quality of life, and that is what we must be concerned with.

As economist Paul Samuelson has stated so succinctly:

XUM

Man cannot live by GNP alone . . .

I think we must challenge the omnipotence of the GNP. This idiomatic idol must fall.

If used properly, the Gross National Product probably will remain a useful general measure for economic analysis. However, I believe we must keep it in perspective and not look upon the GNP as a true indicator of the national welfare.

I am not an economist nor an expert in the matter, and I do not have any ready alternatives to propose. I have raised this matter in the Joint Economic Committee and have asked its staff to give it further consideration. Clearly, we need to develop some measure of the national welfare and there should be far more effort both in academic communities and in the Government to evolve such measures. The Gross National Product, by its very nature, cannot serve this purpose.

This, I think, is very relevant to what I was saying before—that our industrial infrastructure, our plants, are not more efficient. It is because during this period we have not invested in our plants the amount that we should have invested to make them efficient. Instead, the money has been used for military programs.

So I submit that the figures which I have included in my statement sustain the thesis that the foreign aid bills, the tremendous Military Establishment which we maintain abroad, and the war have done much to undermine the security of this country—much more than any other single development, I think, during these past 10 years.

So, it seems to me, that the GNP, used as a measure of our capacity to support this bill, is a very misleading yardstick, and I just wanted to raise this question for further consideration.

As I said, I do not profess to be an expert economist. I do not say the GNP has no significance; but I do say it is an utterly irrelevant, erroneous, and misleading measure to judge whether or not we are doing our part in foreign aid.

I want to say something further about what constitutes the GNP. I asked the Secretary of the Treasury, when he was before the Finance Committee, to submit a memorandum on the matter of the GNP. I think it is very revealing. The memorandum shows that the GNP is made up of such items, among others, as alcoholic beverages, tobacco, and cosmetics. The figures indicate that the GNP includes about $18 billion in consumer expenditures for alcoholic beverages, $11 billion for tobacco, and $6 billion for toilet articles and preparations; in other words, items that we call luxuries, which we think we can afford; but I say that is irrelevant to our capacity to service a foreign aid program.

I was reminded of the irrelevance of it with regard to our budget deficit. We have a $30 billion deficit. It is, of course, spent for, we will say, ammunition, guns, or what have you. It shows up in increases in the GNP, so it makes us feel very good. Well, if the GNP is compiled on that basis, and if we had a deficit of $100 billion, that amount would be put into the economic stream, and it would increase our GNP that much more.

Inflation increases the GNP. And, of course, garbage disposal, of which the cost has now skyrocketed, goes into the GNP. But I submit that this is utterly irrelevant to our capacity to support giveaway substantive programs.

We do not give away our garbage to foreign countries. We cannot give to them the cost of water pollution control. We cannot give to them the increased cost of crime control. I am reminded every day in Washington—you see all these new executive protective automobiles—of the vast increase in the local cost of police protection. This increases the GNP, because their salaries are a part of our total production, a part of the cost of government, which itself goes into the GNP.

So the more trouble we have, the more crime we have, the richer we are, according to the GNP standard. This, I say in all deference, is simply an erroneous way to look at our overall economic status, and I do not think it is anything but misleading for those who support this bill to use the GNP as the criterion of the capacity of our country to pay for foreign aid.

The Secretary of the Treasury's memorandum, of course, does make this quite clear, if people will take the trouble to read it. The memorandum states that it is not a very appropriate way to measure the welfare and the well-being of a country, including this one. It is simply a naked measurement of the amount of money we spend for all purposes.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mr. FULBRIGHT. I yield myself 2 additional minutes. A tremendous part of our economy, because we have at least a degree of affluence, goes into things of either a luxury nature or—I do not know how to describe garbage disposal and crime control; they are necessities, of course, but they grow out of the excessive affluence of our country. They have no absolute relation, in my opinion, to the capacity to service the foreign aid program.

So, for this reason and many others, I feel it is a great mistake to increase this bill as it was increased in the committee over my objection, or to increase it at all over what was in the bill for 1970.

When I introduced the three separate bills in the committee, I hoped that we would have an opportunity to vote upon the aid categories separately, to judge each on its own merits. The overall objective of those bills was to keep the amount as nearly as possible to the amount provided in 1970, instead of increasing it.

But the committee, in its wisdom, increased it about $300 million, and that has made it very difficult for me to support even the economic aid bill, although there are parts of this bill which I am very much in favor of. All those parts one could call the humanitarian and multilateral aspects of the bill are generally useful; they are not subsidies to our faltering and inefficient business community.

I do not mean to say that all American producers are inefficient. The rice producers, as a matter of fact, do very well competitively. They do very well in competition with foreign producers. I think probably the agricultural community in this country is the most efficient, relative to other countries, of any. But it is very sad that our industrial production of such things as steel, automobiles, radios—the things that, 10 or 15 years ago, we excelled in, and could compete with anyone in those fields—today have become noncompetitive. For many reasons, we are not competitive generally in those areas of industrial capacity, not only abroad, as I have said, but we are not even competitive here within our own borders. Our own steelmakers cannot compete in many areas with Japanese steel. Japan, all the way across the Pacific Ocean, having to purchase ore in South America or Australia, ship it to Japan, make steel, and then ship it all the way to New York, can still undersell our steel.

I think this is a very serious symptom of a kind of leukemia which afflicts our economic system, and I think it is high time we begin to give thought to the rehabilitation of our domestic economy.

Mr. President, I yield the floor.

EXHIBIT 1

THE GNP AS A MEASURING ROD

(Memorandum supplied to the Committee on Finance by the Department of the Treasury in response to a request from Senator Fulbright to Secretary Connally, October 7, 1971).

Conceptually, gross national product (or expenditures) has as its objective a measure of the value of newly produced final goods and services over a specified interval of time. As such, the GNP should not be regarded necessarily as a measure or index of general welfare or "economic health" but simply as the total of dollars spent by consumers, business, and government. Accordingly, the GNP represents a measure of the preferences of consumers and businesses as expressed in market prices, while in the government sector, expenditures measure the outcome of decisions made in the political process. (Tables 1 and 2 show broad categories of expenditures made by these sectors. Table 3 shows some special categories which relate to so-called "welfare" aspects of measurements.)

On the basis of this official definition, the transactions (aside from some imputations) which are generated in the production and exchange of newly produced goods and services are summed in value terms, that is to say by prices. These provide the weights by which all the physical units are summed for a specified time period. Indeed, prices represent the only means by which the physical units of a nation's output can be valued and totaled in order to obtain a measure of GNP.

These prices reflect the demand and supply influences in the market place, the degree of competition, and the adaptability of the economy to respond to consumer or business preferences—all these are involved in calculating the value of GNP. Accordingly, prices represent a means by which consumer and business preferences are expressed and they explain why more or less of a particular good or service is produced. (The concept of "real" gross national product, i.e., gross national product deflated for price changes, also uses prices as weights.)

GNP AS A MEASURE OF SOCIAL WELFARE

Gross national product may not be ideal as a measure of social welfare. Along with economic growth, there may be increased air and water pollution and other environmental hazards increasing generation of garbage and other such items, congestion in the cities, depletion of natural resources, and similar apparently detrimental factors affecting individuals and social welfare.

POSSIBLE DEDUCTIONS FROM THE GNP TOTAL

Accordingly, it has been urged by some that such costs be deducted from the gross national product to obtain an improved measure of economic growth, as adjusted for social welfare loss. The criterion would be that they represent "costs" rather than adding to the health and welfare of a country. However, if that position were taken, it would bring a host of uncertainties to the computation of the GNP. Among the items which would also fall into this category of costs to be deducted from GNP might be: physicians' services and other medical care; much of governmental activities, including police and fire protection, as well as sanitation; perhaps legal services and all repair services. In a certain sense, it has been pointed out that even food might be considered a regrettable necessity. In short, it would be most difficult to draw a line between what are allowable deductions from the GNP as against those expenditures which surely provide satisfaction and add to social welfare.

POSSIBLE ADDITIONS TO THE GNP TOTAL

On the other hand, if social welfare is the criterion, it is clear that much would need to be added to the calculation of the GNP dollar total. As progress in economic growth is made, more has been produced with fewer people, thereby creating for most people increased leisure, as compared with former years. The valuation of such leisure as a benefit of economic growth would be very difficult and, indeed, that is one reason why they do not show up in the national accounts. Its quantification would present a most difficult problem, because it does not bear a price tag upon which such a valuation could be made.

Another example of benefits which are not measured by the GNP are those provided in the development of public parks and other recreational areas, which surely adds more to social satisfaction, than their costs of production. But there is no easy way to measure this. Again, a greater selection of products which become available to consumers through increased economic growth surely is of great social benefit, but equally unmeasurable.

SOME ALTERNATIVES

The gross national product is not a very good measure of social welfare, but it is difficult to determine how an alternative and comprehensive aggregate intended for this purpose could be developed. Perhaps an index could be constructed of some specifications such as expenditures for environmental protection, employee protection, and the like. This would be useful in the interpretation of the growth of the GNP aggregates and productivity, as well as in its own right in knowing the trend in these expenditures.

TABLE 1.—MAJOR CATEGORIES OF GROSS NATIONAL PRODUCT

	Amount, 1970 (billions)	Percent of GNP
Total GNP	$974.1	100.0
Personal consumption expenditures	615.8	63.2
Durable goods	88.6	9.2
Nondurable goods	264.7	27.2
Services	262.5	26.9
Gross private domestic investment	135.3	13.9
Fixed investment	132.5	13.6
Nonresidential	102.1	10.5
Structures	36.8	3.8
Producers' durable equipment	65.4	6.7
Residential structures	30.4	3.1
Nonfarm	$29.7	3.0
Farm	.6	.1
Change in business inventories	2.8	.3
Nonfarm	2.5	.3
Farm	.3	(1)
Net exports of goods and services	3.6	.4
Exports	62.9	6.5
Imports	59.3	6.1
Government purchases of goods and services	219.4	22.5
Federal	97.2	10.0
National defense	75.4	7.7
Other	21.9	2.2
State and local	122.2	12.5

[1] Less than 0.1 percent.

Source: Calculated from data of the U.S. Department of Commerce, Office of Business Economics.

TABLE 2.—MAJOR CATEGORIES OF CONSUMER EXPENDITURES

	Amount 1970 (millions)	Percent of GNP
Personal consumption: Expenditures	$615,840	63.2
Food	131,757	13.5
Tobacco products	11,188	1.1
Clothing accessories, and jewelry	62,278	6.4
Personal care	10,101	1.0
Housing	91,224	9.4
Household operation	85,618	8.8
Medical care expenses	47,268	4.9
Personal business	35,497	3.6
Transportation	77,871	8.0
Recreation	39,049	4.0
Religious and welfare activities	8,286	.9
Foreign travel and other, net	4,810	.5
Private education	10,353	1.1

Source: Calculated from data of the U.S. Department of Commerce, Office of Business Economics.

TABLE 3.—SELECTED CATEGORIES OF EXPENDITURES IN THE GNP

	1970 (millions)	Percent of GNP
Commerce, Office of Business Economics.		
Consumer expenditures:		
Alcoholic beverages	$17,714	1.8
Tobacco	11,188	1.1
Toilet articles and preparations	6,059	.6
Education:		
Public	54,131	5.6
Private	10,353	1.1
Sanitation:		
Public	2,696	.3
Private	2,362	.2
Highways	16,418	1.7
Government expenditures on welfare and social security:		
Public assistance and relief	16,646	1.7
Unemployment benefits	3,930	.4
Old age and retirement benefits	41,325	4.2
Other	4,048	.4

Source: Calculated from data of the U.S. Department of Commerce, Office of Business Economics.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, I had hoped someone would bring up an amendment which we could dispose of. There are some amendments; I am ready to vote on them.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Are there any amendments at the desk?

The PRESIDING OFFICER. There are amendments at the desk.

Mr. MANSFIELD. Is there an amendment pending?

The PRESIDING OFFICER. There is no amendment pending.

Mr. MANSFIELD. Could the Presiding Officer give the Senate some idea as to how many amendments there are at the desk?

The PRESIDING OFFICER. There are two amendments at the desk.

Mr. MANSFIELD. I thank the Chair. Mr. President, I understand that the distinguished Senator from New York (Mr. JAVITS) has an amendment, the distinguished Senator from Minnesota (Mr. HUMPHREY) has an amendment, and the distinguished Senator from Alaska has an amendment.

I wonder if it would be possible for attaches on both sides of the aisle to contact those distinguished Senators and ask them if they are prepared to call up their amendments at this time. If we are to get out by the first of December, we will have to get hopping.

Mr. BYRD of Virginia. Mr. President, will the distinguished Senator from Arkansas yield me 2 minutes, to make several comments and to inquire of the Senator on certain matters?

Mr. FULBRIGHT. How much time does the Senator want, 5 minutes?

Mr. BYRD of Virginia. Five minutes.

Mr. FULBRIGHT. I yield the Senator from Virginia 5 minutes.

Mr. BYRD of Virginia. Mr. President, I have read the supplemental views of the Senator from Arkansas, the chairman of the Committee on Foreign Relations. It seems to me that what he says in his supplemental views makes a great deal of sense.

I concur in his assertion that three bills instead of two would have provided a sharper delineation of the purposes and objectives of each aid category. I, too, am sorry that the views of the Senator from Arkansas did not prevail in committee.

There are aspects of these proposals that I favor, but there are others that I feel, in this time of high inflation, we probably are not justified in authorizing.

So I certainly concur in the supplemental views of the chairman of the Committee on Foreign Relations.

May I ask the distinguished chairman if I accurately understand the figures? As I understand them, the two proposals brought to the Senate by the Committee on Foreign Relations provide a total of $444 million over the amount appropriated by Congress for foreign aid during fiscal year 1970. Is that correct?

Mr. FULBRIGHT. That is correct.

Mr. BYRD of Virginia. I judge from the supplementary statement of the Senator from Arkansas that it is about $444 million.

Mr. FULBRIGHT. $444 million above the 1970 figure. That was increased in the committee—not with my support.

Mr. BYRD of Virginia. But the figures that have been brought in for Senate consideration total $444 million above what was appropriated for 1970?

Mr. FULBRIGHT. Of the two bills. That is correct.

Mr. BYRD of Virginia. The bill dealing

with economic assistance mentions development loans worldwide and puts that figure at $250 million. Does the bulk of that go to one or two countries, or is it pretty well spread over the world?

Mr. FULBRIGHT. Traditionally, the great bulk has gone to a few countries, especially India and Pakistan. Turkey has been a very big recipient, and Indonesia will be a big recipient.

This is broken down, I may say to the Senator, in our old report, not the new one, on page 19, the report which accompanied H.R. 9910. The Senator will see there how much it is, if he wants to pursue this, as to individual countries: $220 million for India, $110 million for Pakistan, $100 million for Indonesia, $40 million for Turkey. Those are among the biggest individual recipients.

Mr. BYRD of Virginia. I thank the Senator.

It mentions international organizations, and that total, as I reckon it, is approximately $139 million.

Mr. FULBRIGHT. That amount is for the various U.N. programs.

Mr. BYRD of Virginia. For United Nations development?

Mr. FULBRIGHT. Yes. In the report on this bill, on the second page—it is a little difficult to keep these reports separate, because we had the one on the first bill and now this new one—international organizations. The U.N. development program is $90,065,000 and there are the others as listed.

Mr. BYRD of Virginia. In other words, the bulk of that item is for the United Nations development fund?

Mr. FULBRIGHT. That is correct. The bill with respect to the other international organizations, such as the World Bank and the Inter-American Development Bank, was passed about 2 or 3 weeks ago.

This does not contain the regular assessments for the operation of the U.N. This is for our voluntary contributions to the various U.N. programs, such as the UNDP and UNICEF.

As the Senator will see, all of these items are indicated on page 2 of the report on this bill. That is the bill now before the Senate.

Mr. BYRD of Virginia. I have three reports.

Mr. FULBRIGHT. I know. That is what makes it a little confusing. It is the one with Calendar No. 425.

Mr. BYRD of Virginia. I thank the Senator. I have it now.

May I ask one or two questions in regard to special military and related assistance?

Mr. FULBRIGHT. They are not in this bill. That is the bill that follows.

Mr. BYRD of Virginia. That is the following bill, yes.

Mr. FULBRIGHT. We did report out two bills. The military bill has all the military and related security items.

Mr. BYRD of Virginia. I understand that, but I was wondering whether the Senator has been discussing rather generally both bills.

Mr. FULBRIGHT. I am perfectly willing to discuss both. I just want the RECORD to show that the military aid programs are not in this bill.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. FULBRIGHT. I yielded 5 additional minutes.

I am perfectly willing to respond. I only want the RECORD to show they are not in this bill.

Mr. BYRD of Virginia. The Senator is correct. I could wait until that bill comes up, although I have only a couple of questions with regard to it.

Mr. FULBRIGHT. That is perfectly all right.

Mr. BYRD of Virginia. The supporting assistance, economic assistance, in that bill is $435 million, which is higher than it was in 1970 by some $40 million. I wonder whether the Senator can indicate where the bulk of the supporting assistance or economic assistance in that bill will go.

Mr. FULBRIGHT. It will go primarily to Vietnam, Cambodia, Laos, Thailand, and Israel; $85 million is earmarked for Israel. The committee recommendation was $350 million worldwide, $85 million additional for Israel. But the major recipients are Vietnam and Cambodia. Cambodia is a recipient of a very large part of that amount.

Mr. BYRD of Virginia. Who would be the largest recipients of the military credit sales?

Mr. FULBRIGHT. Israel would be the largest recipient of the credit sales, and then it is distributed around—Greece, Taiwan, Korea.

Mr. BYRD of Virginia. What countries would be the major ones involved in the military grant aid?

Mr. FULBRIGHT. Korea is the largest, I believe. Turkey, Taiwan, Indonesia, and Jordan get military grant aid.

Mr. BYRD of Virginia. I thank the Senator from Arkansas.

Again, I want to say that I concur in the supplemental views expressed by the Senator from Arkansas in the report. I doubt the wisdom of increasing by $444 million the amount above what was appropriated in 1970. I regret that the views of the Senator from Arkansas did not prevail in that regard in committee.

I thank the Senator.

Mr. FULBRIGHT. I thank the Senator.

Mr. CHURCH. Mr. President, will the distinguished chairman of the committee yield me 15 minutes on the bill?

Mr. FULBRIGHT. I yield the Senator from Idaho 15 minutes on the bill.

Mr. CHURCH. Mr. President, in reporting out two foreign aid bills, one economic and the other military, the Senate Foreign Relations Committee has made a start toward refashioning the whole program.

The one-package approach has constituted the chief procedural obstacle to the exercise of the Senate's judgment in the past. On final passage of the foreign aid bill, each Senator had to cast an all-or-nothing vote. If a Senator generally approved of economic assistance but opposed the military aid, to get the one he had to vote for both. Moreover, as special interests seized hold of the program and more "goodies" were added to the contents of the package, it became increasingly difficult to vote against the package as a whole. Thus has the same old foreign aid program been perpetuated from year to year.

Now, however, the Foreign Relations Committee has split the program into its two parts. The Senate is free to work its will on each part. This is the proper way to legislate, and I hope the Senate will not revert to the coercive procedural practices of the past by combining these two bills together again.

Second, the committee has made every effort to respect and abide by the decision of the Senate last week rejecting the original foreign aid bill. Prior to the final vote on that bill, it will be remembered, the Senate approved several cuts, two of which I proposed. These several cuts reduced the size of the bill to $2.9 billion, which the Senate then rejected by a vote of 41 to 27.

The new levels of spending, as now proposed by the committee, are fully responsive to the Senate's earlier decision. We have not returned with a carbon copy of the rejected program. To have done so would have been an affront to the Senate. Rather, we have reduced the total for the whole program by another half billion dollars. The exact figures are as follows: $1.144 billion for economic aid and $1.185 billion for military aid, for a total of $2.329 billion.

This curtailed foreign aid program is far more realistic than that demanded by the administration. When one considers that foreign aid for fiscal year 1972, not just that represented by these two bills from the Foreign Relations Committee, but the total flow through all the different legislative spigots, will exceed $9 billion, the need for significant reductions should be self-evident. How can anyone look at our back-to-back $30 billion annual deficits this year and last, or at the huge deficiency in our balance of payments, or at the drastic emergency measures we have taken to devalue the dollar and bolster our sagging exports, and come to any other conclusion? The committee recommendations reflect some recognition of our precarious financial condition. It will be sad, indeed, if the Senate, having finally taken forthright action in rejecting the original bill, now reverses itself and starts adding money to these reduced measures.

In the economic assistance bill now pending before us, the most substantial reduction was drawn from the so-called Development Loan Fund. Yet, the reduced amount of $250 million is only $35 million below the level of $285 million voted by the Senate in adopting the Church-Allott amendment to the original bill. This modest additional cut emphasizes the committee's serious determination to phase out this bilateral loan program. In the future, I strongly believe, along with the majority of the committee, that loans of this type should be made through the international banks and multilateral lending agencies which were set up for this purpose.

In the earlier debate, I made my argument against the foreign aid program as now administered, including the Development Loan Fund. I do not propose to repeat it. But these loans, at best, are a dubious form of foreign aid to underdeveloped countries which are already drained by heavy debt service charges. Far more convincingly, the Development Loan Fund is an aid to our own businesses here at home. According to the Journal of Commerce of November 2:

> Approximately 98% of all commodity exports financed by AID originated in the U.S., and only 2 percent came from offshore sources.

The DLF is, in point of fact, a soft-loan window for the benefit of American big business. Through the DLF, foreign governments obtain loans from the United States with which to purchase American-produced goods and services, on terms more favorable than otherwise available commercially or through our Export-Import Bank—that is, at subsidized interest rates far below the cost of money to the U.S. Treasury.

During the course of the earlier debate, I observed that it was a myth that foreign aid had no constituency in the United States. I said:

> In fact, foreign aid has a large and lively constituency which asserts intense pressure on the Government to keep these subsidies alive.

That observation has been fully borne out in the outcry from affected businesses since the Senate voted down the original bill a week ago last Friday. Indeed, the cries of grief from Wall Street have been much louder than those heard from abroad.

The Wall Street Journal of November 3 recorded the wailing in a headline: "U.S. Firms Push to Get Aid Bill Resurrected; The Stakes: About $1 Billion in Annual Sales." The Journal of Commerce's decibel level was almost as high with a story that began:

> Any termination or phasing out of the bilateral aid program administered by the Agency for International Development (AID) would be costly to American business.

The Wall Street Journal article tells the tale behind the mourning:

> The aid program provides about $1 billion of sales annually for American manufacturers, gives U.S. shipping companies about one-fourth of their total revenues from outbound cargo and supplies assorted research and technical organizations—both private and nonprofit—with about $600 million of contracts overseas. The fate of such business depends upon the outcome of the current foreign-aid impasse in the Senate, according to Nixon Administration officials.

Bilateral aid, symbolized by the Development Loan Fund, is a gigantic sugar plum tree for American businesses. For the goods and services exported to impoverished lands, the recipient governments must pay premium prices, well above world market levels, plus the added freight rates that accompany enforced shipment in American bottoms. This is what we are pleased to call, "foreign aid. The sooner we untie such aid by channeling it through the multilateral lending institutions, the better it will be for poor countries that really need help.

As reported by the committee, the pending bill honors our obligations to international organizations like the U.N. Development Program and UNICEF by designating the full $139 million. Also, the committee agreed to full funding for such special humanitarian efforts as the Indus River Basin project, relief of refugees in India and Pakistan, American schools and hospitals located abroad, plus reinstating the contingency fund.

Taken together the two bills requested, in my opinion, a transitional step toward a reasonable, redesigned foreign aid program, tailored to the fiscal circumstances in which we presently find ourselves. Believing this to be the case, and conscious that another opportunity to force a change of direction in this program may not soon come again, I have decided to uphold the committee's hand.

If the Senate will do likewise and not retreat, if it will hold its ground and refuse to pile more money on top of either of these bills, it is my intention to vote for both of them. We are at the fork of the road where foreign aid is concerned. If we shrink from taking a new direction and fall back instead upon the old path; if we merge these two bills back into one or inflate them with the additional money the administration demands, then I will again cast my vote against the foreign aid program on final passage.

Mr. AIKEN. Mr. President, I yield 10 minutes to the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER (Mr. CHILES). The Senator from New York is recognized for 10 minutes.

Mr. JAVITS. Mr. President, I think it may be useful to the Senate—although we apparently are not quite ready to do all of the business we should do—to have the philosophy which animated the bill explained.

In the first place, the bill represents an effort to have an interim program which has a legislative authority, rather than a continuing resolution to carry the foreign aid program through June 30, 1972. In that respect it is significantly different from the measure which the Senate rejected, because that original measure in its economic and humanitarian aspects extended the program for 2 years and thereby preempted the development of an approach to foreign aid during that period of time. The present approach is also a two bill approach which splits development assistance from military and supporting assistance.

The pending bill relates to a partial reform of the foreign aid program, which apparently is the desire of the majority of the Senate. That is critically important, especially to me, as I was the author of the amendment which called for study to recommend a new foreign aid approach by the President in June of 1970. It took the administration almost a year actually to produce such a legislative program, notwithstanding this specific legislative mandate. It is that, unfortunate time delay by the administration really, which has caused all our difficulty. However, such a new program has now been submitted to the Congress, and it calls among other things for specific new institutions which will be relatively autonomous, although they will be U.S. corporations, in the operation of the technical assistance aspects and the developmental aspects of the foreign aid program.

These new institutions would serve as counterparts to the Overseas Private Investment Corporation, which I also sponsored, which is now operative, and which institutionalized the investment guarantee and similar activities of the United States. So the bills now on the floor must be viewed within the context of being only an interim authorization for a new program. Under those circumstances, why a new authorization and not a continuing resolution? I think the reason is that even in the intervening period there are some things we need to do which require legislation in order to more greatly facilitate our operations.

For example, we extend the authority of the Overseas Private Investment Corporation in respect to guarantees, and so forth, to Yugoslavia and Romania. This would be a highly desirable activity in respect of this matter and an essential part of our program of building bridges to Eastern Europe.

Also we call for certain annual reports, which are useful.

We actually help to finance further the Inter-American Foundation, which is a useful thing in respect to Inter-American business, and we give the promise and assurance that we will develop a new foreign aid program and so incorporate that into law.

We give new authority in respect of the international drug program. This is critically important, especially to people like me, in view of the fact that narcotic drugs and the crimes which they induce are literally strangling New York City, the largest city in my State of New York.

Finally, there are provisions relating to the reopening of the Suez Canal and Pakistani refugees in India—both these provisions may be of crucial importance to the question of whether there will be war or peace in the Middle East.

So, for all of these reasons, we decided to bring in an interim—very interim—bill, covering only a very short period of time for an authorization.

It is to be noted in considering the money to be made available that we have already spent at the rate of the old bill, $2,600,000,000 for economic and military aid through November. Only 7 months are left in the current fiscal year. We thus have spent a larger amount proportionately at the rate of spending over the period of the first 5 months in the fiscal year. Therefore, the reduction in the bill which unfortunately reflects the committee's feelings that it was obeying the views of the Senate as expressed by its negative vote are even more drastic for the rest of this fiscal year particularly when we consider it in terms of the rate of expenditure for our armament sales.

So much for the construction of the bill and the reason for it. I hope that the Senate will pass the bill. But some changes are desirable and undoubtedly will be made either on the floor or in conference. For one, the need for a $125 million line item for population pro-

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grams rather than charging these vital programs to the totality of the aid which is granted by the bill which already have been sharply cut. An amendment will be offered to that effect.

So, Mr. President, we are in this situation respecting the so-called congressional terms for development lending which is incorporated in the bill through the amendment by the Senator from Arizona (Mr. GOLDWATER) and the Senator from Alaska (Mr. STEVENS). That amendment inhibits so seriously the development of the loan fund, which is already cut by 60 percent of what it was in the budget of the administration, as to make it properly nonusable for the purpose for which we authorized it. The same is true for the Alliance for Progress. In other words, if we allow this provision to stand, it will make the Development Loan Fund and perhaps the Alliance unusable. It simply does not conform to the purposes of the loan funds to make loans on the basis which the authors of the amendment would seek to compel.

So much is true that the Senators themselves, immediately or when I call up my amendment—depending on the procedure adopted—are going to seek to exempt from their own amendment sales under Public Law 480.

In due course I shall point out that this is no cure. It only admits to the disease contained in the whole amendment, which should be stricken.

I think it illustrates very vividly why we are seeking to proceed to strike the amendment as it is. And it concedes more than half of it, because the Public Law 480 sales are two or three times the amount which is involved in the $250 million authorized for the development loan.

Mr. President, we are at a very critical point concerning foreign relations and the world is very much concerned. That relates to the fact that this country could go isolationist. We do not write that in large letters and send it by special delivery to the rest of the world; we signify it by the kind of attitude we take and the measures we pass in terms of foreign aid, in terms of trade legislation which again has a profound effect on our foreign relations, and other legislation before the Congress.

It seems to me that the resentment engendered by the vote in the U.N. against the Republic of China on Taiwan plus the dissatisfaction with the international monetary deadlock which continues in the world and what we consider to be discriminatory treatment of our products in some major trading areas of the world and the general disillusionment with relationships abroad arising primarily out of the Vietnam war give the world the impression that maybe the United States is somehow going to pull hard.

The point I would like to emphasize is out from the leadership position it has not the pulling out. That is our privilege. However, the question is, What will the pulling out do to us?

I am deeply convinced that we do not seek the favor of other nations. We do not care whether they like us or not. However, that is very different from letting them say that we are opting out and that they will be left to themselves or be left up to other leadership in the world.

In my judgment—and it is backed up by many other authorities—the nations of the world and particularly the developing nations will seek other leadership. They will not and cannot as yet do it themselves.

It is the basic fallacy of the opponents of this whole concept that somehow or other the nations of the world will get together and help themselves. They do not.

They will simply seek another powerful nation, to wit, the Soviet Union, perhaps The Peoples Republic of China, to be the dominant and leading power in the world. This is so adverse to the fundamental security interests of every American, in my judgment, as to result in an escalation over a period of time of the national defense budget by twice what it is today. It is as stark, realistic, and dangerous as that.

This is the issue at stake. Shall we terminate, or signal to the world that we are terminating, the role in the world which represents a leadership position in the free world? Are we yielding to the Communist world? It is not a matter of their coming up with more money, and so forth. They will, but only in response to whatever is the firm leadership in the world. They have gone with us for years, and they will continue to do so until we lay down the signal, and then they will go with the Soviet Union or another power.

I am not casting any stones or aspersions on the Soviet Union or saying there is anything immoral about such a decision, but we know that if the world influence of a secret, totalitarian government such as the Soviet Union is increased, the elementary defense and security requirements of the United States are bound to double. That is the stake.

Mr. President, we are talking about a couple of billion dollars or even $3 billion or $4 billion versus a military budget in excess of $70 billion. This is the point of breakthrough which must be made clear to the American people if they are to understand the foreign aid program, which is the clearest and most explicit signal we have given.

Mr. President, if anyone needs to be convinced in that respect, look at the morning newspapers. Castro is on his way to Chile, expecting that the situation will change insofar as he is concerned; and it will, just as it is changing with respect to mainland China. Kosygin is in a "nondetente cordiale" with Canada. These are not bad things, but it indicates what happens when a vacuum is created. Signs are on the wall to show who is going to step in.

The reasons for opposing this bill are fallacious and dangerous to our country. Men who advocate that position are as patriotic as I am, but I have stated what I believe to be the essence of our duty here. I believe the clear sign dictates that the United States cannot, should not, and need not signal an end of its role in the leadership of the free world, but that is how a defeat of the AID bill will be read and has been read from the action of the Senate 1 week ago Friday when the Senate turned down the foreign aid bill. We have trimmed it and designed it in a way to appeal to everyone who feels as I have expressed. I hope that for those reasons the Senate will approve the bill.

The PRESIDING OFFICER. Who yields time?

Mr. AIKEN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. AIKEN. Mr. President, I did what I could to get this bill out of the Committee on Foreign Relations, not because I approve all the provisions of the bill—some of them I disapprove very much—but I felt it was essential to get it to the floor of the Senate where the full body of the Senate could give consideration to it. Then, if the House sees fit to act upon this new foreign aid bill we can go into conference and perhaps come out with a bill. We can, if we have the will to do it and if the executive branch has the will to cooperate on a workable and fairly good program.

Mr. President, we have heard questions lately and the public has heard about the so-called Peterson report and the failure of Congress to act on that report. May I point out it was not the failure of Congress to act on that report. The Peterson report was made available to the White House in March of 1970. I spoke on the Peterson report on March 26, 1970, on the floor of the Senate.

I have gone over my remarks that I made at that time. I could not find a single line I would change from 1970. Although the Peterson report was made in March 1970, the implementing legislation prepared by the executive branch was not submitted to Congress until April 1971, 13 months later, and then the two bills were introduced by the chairman of the Committee on Foreign Relations at the request of the executive branch of Government.

I would like to read some of my concluding remarks which I made in March of 1970 because I think they are fully applicable today. I read from those remarks that I made in March 1970:

To sum up my remarks on foreign aid programs, I have these recommendations to make:

First. Do not use aid as an excuse for intervention in the affairs of smaller, poorer countries;

Second. Stop using the gross national product as a yardstick for comparing rich and poor countries;

Third. Use international banks for the business for which banks are intended, not for imposing our moral or political beliefs on the needy people of poorer countries;

Fourth. Recognize the fact that much of our aid programs over the past 10 years have simply made rich countries richer and poorer countries more discouraged.

Mr. President, as I said, those recommendations are from my statement of March 26, 1970.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. AIKEN. I yield.

Mr. FULBRIGHT. Mr. President, I wish to associate myself with what the Senator said at that time.

Mr. AIKEN. It was a speech which I think stood up well.

Mr. President, I ask unanimous consent to have my entire speech of March 26, 1970, printed in the RECORD, including the colloquy I had with the distinguished Senator from Montana (Mr. MANSFIELD), because my remarks are just as applicable today as they were almost 2 years ago.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE SAINTS AND SINNERS OF FOREIGN AID

Mr. AIKEN. Mr. President, in his "State of the World" message, President Nixon said that he expected a new approach to foreign assistance to be one of his major foreign policy initiatives in the coming years.

He said:

"A new American purpose and attitude are required, if our economic assistance is to contribute to development in the new environment of the 1970's."

He has now sent to the Congress for our comments the report of his Task Force on International Development.

It does represent a new attitude.

But I do not find any candid statement of a new American purpose.

Congress still has not been presented with a sufficient reason to continue foreign aid as we know it now.

I have been a consistent supporter of our foreign aid programs, but the more I have lived with the existing legislation, the more I have come to believe a new American purpose in this area is most necessary.

Unless we can develop a more practical program we might as well give up the pretense under which we have been operating for the last few years.

The report of the Peterson Commission makes some interesting suggestions for rearranging the pieces on the bureaucratic crazy quilt in order to give a much needed lower profile to our foreign aid effort.

Most of my comments are now directed at questions left unanswered not only by the Peterson report, but by most of the other recent reviews of this subject by distinguished Americans and others with long attachment to foreign aid.

Before we can talk seriously about new institutional arrangements, we must have the new purpose that President Nixon asks for.

The Peterson Commission recommends a divorce of those foreign aid activities concerned with military assistance and counter-insurgency in the broadest sense of the term from those activities that are concerned with economic and humanitarian objectives.

The union between the saints and the sinners of foreign aid should be dissolved, it is said, to pave the way for giving the saints more money to spend.

Although this may be a laudable objective, I am not sure that divorce would have any such result.

Probably our most successful foreign aid programs were in Korea and Taiwan where there were ample roles for both saints and sinners.

But I agree that a divorce would be most desirable if it promises to achieve practical results.

The Peterson Commission should at least be commended for that recommendation.

If the State Department really wishes to control foreign policy in the foreign relations bureaucracy, it must be willing to accept such responsibilities.

At present, AID is a mechanism for diffusing responsibility.

It provides an irresistible temptation to all the chiefs of the foreign relations bureaucracy—Defense, CIA, State, and the White House itself—to play at intervention.

AID now provides the players with two kinds of levers to enhance their influence; if the arguments of the saints are not persuasive, there are always the arguments of the sinners.

Congress never intended the foreign aid agency to become an all-purpose intervention department.

The Peterson Commission may be right in asking that AID as it now functions be disbanded.

That is a debatable question.

But simply dissolving the marriage between the saints and the sinners of foreign aid is no reason why the Congress should vote a bigger foreign aid program.

There remains the vital question of a new American purpose.

On this score I find both the Peterson and the Pearson Commission reports disappointing.

A thorough reexamination is needed if only to rescue foreign aid from becoming the most boring subject of public policy today.

Take the word "development."

Ten years ago we thought we knew what it meant.

Now we know that development is simply a modern synonym for progress and as such it has become practically meaningless as a guide to policy.

The world is not divided into developed and underdeveloped nations.

Latin America, Africa, and Asia are not bound together in a mysterious condition called underdevelopment.

They are not bound together at all.

No worthy interest can be served by pretending otherwise.

It is true that Latin America, Asia, and Africa have experienced in common an historical encounter with Western ideas, Western economic and commercial penetration, and, usually, Western conquest.

And they are reacting to that common experience in certain similar ways.

They resent the fact that they were dominated or colonized in the past.

They are envious of the wealth and vitality of Western societies.

But it does not follow that the United States and other rich countries should pay reparations in the form of foreign aid for the historical impact they have had.

Nor does it follow that we should mount a crusade in the name of development in order to impose our ideas of progress on these countries.

Those who try to maintain the illusion that the world is divided into developed and underdeveloped nations must answer to the charge that they are investing the state of development with qualities of not just economic, but moral superiority as well.

There is much too much unconscious arrogance in this myth of the underdeveloped world, a myth which hides the vital differences that make these nations both interesting and understandable.

Latin America's culture is rooted in 16th century Spain; Asia's in a variety of infinitely complex traditional cultures dating back several millenia.

If Western man has undoubtedly disturbed the peace of tradition in these parts of the world, it does not follow that we should try to impose our priorities on government there, even in the name of progress.

All foreign aid inevitably involves just that hazard because all foreign aid as now practiced involves intervention in the internal affairs of other countries.

This is the most important reason why we need a new American purpose if we are to carry on foreign aid, and the Congress must understand that purpose.

The champions of development have compounded their difficulties by inventing an ingenious numbers game, designed to shock rich countries with the magnitude of the inequalities among nations, and at the same time to provide a basis for measuring the need for foreign aid.

This game has been played over and over again in years past until it has actually become a menace to the cause it is supposed to serve.

The foreign aid members game grossly exaggerates the real inequalities in welfare among nations.

It puts a premium on comparisons that heighten quite unnecessarily the envy and resentment between rich and powerful nations and poorer, weaker nations.

It creates a sense of hopelessness about the problems of the poorer nations that is certainly no service to them.

The key counter in this game is a useful economic indicator that was never intended to be used for international comparisons—the gross national product.

The foreign aid numbers game turns the GNP into a new weapon of "Western imperialism," as it is called in Communist countries.

We are supposed to believe that the average American lives 50 times better than the average Indian because, as far as we can calculate, our GNP is 50 times greater than India's.

An American family of four living under the official "poverty" line of $3,600 a year is by this method of analysis more than 10 times better off than the average Indian family.

By the same token, a haircut that costs $2.50 in Boston, Mass., is supposed to be 10 times better than the one a citizen of Bombay can get for a quarter.

There is something sinister in a method of measuring inequalities in welfare that is based on the notion that human services of roughly the same quality are somehow worth more in the rich countries simply because the price is higher.

Yet, this is precisely the kind of measurement that underlies virtually all professional attempts to measure the need for foreign aid and to set just targets for same.

Therefore, I am pleased that the Peterson report decided against recommending that a certain portion of the U.S. GNP be earmarked for foreign aid.

I would not for a minute deny the dire plight of the masses in several poorer countries, squeezed by population pressure either into a life of landless laboring in the eroded countryside or into a formless, aimless mode of existence in the crowded cities.

But is it humane to so exaggerate the real inequalities between societies with such absurd measures of progress that envy replaces hope and real human services are denied because they cannot be measured for the GNP the way ours can.

Almost half of our GNP consists of many personal and professional services that embrace much of the human activity in our country.

In a poor country most human services, most human activity takes place outside the money economy and, therefore, does not show up in Western man's calculations of GNP.

Now I ask, are they for this reason alone worse off?

In our search for a new American purpose in foreign aid we might ask president McNamara of the World Bank why the international community should not formally abandon international comparisons based on per capita GNP in favor of some better measures—measures that dispel illusions rather than creating them; measures that do not add to misunderstanding, but hopefully lessen it.

If this means admitting that we do not really know what the need for foreign aid is, that is an admission we should accept with humility because it is obviously the truth.

A new American purpose in foreign aid should start by making a virtue out of what

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we don't know about progress, not about what we think we do know.

What we should have learned most from foreign aid is a better appreciation of our shortcomings.

The new purpose, then, should accent the courage to explore the unknown, not as the bearer of charity and certainly not as the payers of reparations, but rather as the beneficiaries of a technology that has blessed a minority of mankind but only rippled the peace of tradition of the vast majority.

The new purpose of American foreign aid should be, perhaps, a dedication to see how technology can be made as good a servant in hot climates as it has become in temperate climates—and especially a good servant of the very poor in those parts of the world, not just the handmaiden of the rich.

This new purpose should accent people-to-people assistance, not government-to-government assistance.

Our Government should show in word and deed that the American people do care about sharing their knowledge with other nations and helping to adapt that knowledge to the many problems that exist in Asia, Africa, and Latin America.

But primarily it should be private Americans, not official Americans that offer their services.

If they hope to be really helpful, Americans must be willing to serve others rather than just their own Government and its special interests.

They must be invited by others, not imposed or bestowed as a result of a rich country's largess.

They must work under agreements where mutual responsibilities are set out clearly.

They should be fired if they do not live up to their part of the bargain.

Americans with the skills and motivations to give this kind of help, to undertake new voyages of technological discovery, exist in many different kinds of organizations in the United States.

They can be found in universities, in private corporations, and in a host of private associations, religious and secular.

It may be that they should not be brought into the Government because government may not provide a suitable career for them.

The Government's primary task in foreign aid should be to receive requests from others and refer them to likely contractors in the private sector and to help with the negotiation of suitable contracts.

The Government should not be in the business of implementing this kind of foreign aid.

I can imagine an institution to implement foreign aid that is wholly outside government, directed and supported by one or more foundations on an unselfish basis.

Such an institution could be financed by both public and private contributions in the measure that its services were requested, and its contracts proved useful.

I believe Congress would support generously such an institution as an alternative to the progressive bureaucratization of foreign aid.

Such an institution is needed to encourage a new generation of Americans who are willing and able to work in the hot climates of the world where so many of the world's impoverished millions live.

Such an institution could play a part in encouraging private investment.

I can see no need for a new development bank as recommended by the Peterson task force on international development.

We have a sufficient number of international and regional development finance agencies now.

Insofar as their performance warrants it, we should continue to support these agencies.

But let us not forget that capital dressed up as foreign aid is simply a subsidy to the exporters in the rich countries.

We offer through the Export-Import Bank certain financial facilities for American exporters.

Perhaps they should be liberalized somewhat to accommodate some of the development lending now done by AID.

But when it comes to providing others with capital to buy things in the United States, that business should be conducted on a businesslike basis.

Borrowers come to a bank, like the Export-Import Bank, because they want to buy something in the United States.

That is purpose enough, and we do not have to dress that business up as development aid.

Here we run into that old foreign aid numbers game again.

We are told that capital, subsidized capital from the rich countries, is the first need of poor countries today.

We are not told that subsidies to exporters in the rich countries are needed, or are what so many exporters desire.

This seems to me to be a dangerous game, pretty much like a con game in which only the dealer can win.

To falsify the real price of capital in a poor country is not progress or development.

It is simply inhumane treatment.

It could mean sentencing millions to misery if the capital thus provided, deprived more people of a livelihood than it employed by exhausting their resources and limiting their income.

After all, poor countries have in the main one natural advantage in the competition among nations and that is a potentially vast pool of labor.

If foreign aid does not build on that advantage, it cannot be called humane.

We need a new American purpose in foreign aid because we are an activist people and because real inequalities in welfare among societies today affront our sense of justice.

But injustices cannot be expressed in terms of gross national product, nor can they be overcome by falsifying the function of capital in society.

No manipulation of foreign aid funds, no benevolent banker of poor countries, can buy us out of what is a historical predicament that promises to be with us for generations.

The real opportunity of the rich countries is not to offer subsidized capital but to see their own economies in global terms.

They must create more and more room in the world market for the production of the poorer countries simply to insure expanding opportunities for themselves.

More than anything else this means expanding the purchasing power of the people of the less affluent nations.

This is particularly important now that we live in a state of more or less permanent inflation because there is so much to do here at home.

Without more and more sources of production in the world markets, without the discipline of international competition, costs and prices in the rich countries will become even more absurdly unrelated to real human welfare than they are now.

When a haircut comes to cost $10 in Washington or Paris or Tokyo, it is not going to be forty times better than a haircut that still costs a quarter in Bombay.

There is so much hypocrisy in the rich countries' attitude toward foreign aid.

To subsidize exports in the name of foreign aid, while at the same time barring imports from the very countries to which the aid is flowing, is not a new purpose—it is a very old hypocrisy.

If the rich countries really care about the plights of the poor, they will accept President Nixon's challenge to institute a system of global trade preferences designed to assure poor countries the right to compete in the world market with their new production.

We should also try to enter into agreements so that the rich countries do not use poorer countries as pawns in the international trade wars.

After all, the most serious and damaging effect on our own economy comes not from the poorer countries but from the most prosperous nations.

I said I was in favor of divorcing the saints and the sinners of foreign aid in order to reduce the temptation that the present marriage provides for all those who want to play at intervention.

But obviously it is not always easy to tell the saints from the sinners in this business.

To search for a new purpose is much more difficult than the proponents of foreign aid would have us believe.

Perhaps if we abandon the numbers game, perhaps if we stop talking about vague concepts like development and start concentrating on the real possibilities of making technology the servant of the very poor who crowd the hot climates of the world, perhaps if the rich countries really begin to see their economies in global terms—perhaps only then will a new purpose emerge.

All of us are hoping that the President will give us a new direction, for not to do so would be to admit to a failure on our part.

Foreign policy must appeal to something more than very narrow notions of national interest if it is to enjoy sustained public support in this country.

Foreign aid used to suggest such a dimension.

At the same time a nation that can only express such purposes in terms of dollars is a nation in search, not of a new purpose, but merely of a sop to its conscience or a gratification to its desires.

Foreign aid is not worth it as a sop to our conscience for we will probably do more harm than good with it.

To sum up my remarks on foreign aid programs, I have these recommendations to make:

First. Do not use aid as an excuse for intervention in the affairs of smaller, poorer countries;

Second. Stop using the gross national product as a yardstick for comparing rich and poor countries;

Third. Use international banks for the business for which banks are intended, not for imposing our moral or political beliefs on the needy people of poorer countries;

Fourth. Recognize the fact that much of our aid programs over the past 10 years have simply made rich countries richer and poorer countries more discouraged.

In the absence of a new American purpose, perhaps it would be better to close the books on the past two decades of American foreign aid programs and leave the work to international agencies with such support from us as their performance warrants.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. AIKEN. I yield.

Mr. MANSFIELD. I was delighted to receive a copy of the Senator's speech before he gave it. I have not given it as much detailed study as I would like, but I do appreciate the accent which he stresses, the emphasis which the Senator places upon people-to-people assistance rather than government-to-government assistance. The latter, I think, by and large, has been in all too many instances a complete failure.

The summing up of recommendations which the distinguished Senator would make for carrying out the foreign aid program meets with my approval. I think he has exposed some methods which have surrounded this program for too long. This idea of using the gross national product as a measure of what it means or does not mean—anyone can twist that as he sees fit. The suggestion that there should be more internationalization, certainly, I think is worth a great deal; and most important, the Senator's No. 1 recommendation, "Do not use aid as an excuse for intervention in the affairs of smaller, poorer, countries," I believe is most sound.

I commend the distinguished Senator.

Mr. AIKEN. Mr. President, I appreciate the remarks of our majority leader, and would tell him that I would have given him an advance copy of these remarks sooner, except that they were finished only about a half hour before I started delivering them.

Mr. MANSFIELD. May I say that in that respect the distinguished Senator reminds me many times of Adlai Stevenson, who was never able to get his talks down on paper until just before he started to speak. But I am delighted to have this copy.

Mr. AIKEN. Sometimes all of us slow down and have to be pushed up against a deadline before we can get to work.

But I particularly wanted to point out the travesty of using the gross national product in comparing the welfare of people in poor countries with the welfare of people in rich countries.

The gross national product is all right as a means of comparing ourselves with Japan or Western Europe; but when it comes to comparing our situation, our welfare, with that of people who live in some of the very poor tropical countries, the use of GNP for this purpose is simply a farce.

Mr. SPARKMAN. Mr. President, the charge is often made that foreign aid is a giveaway to other parts of the world. Often overlooked is the fact that the money that goes into the aid program is almost entirely spent in this country. I have obtained some statistics which I find most interesting regarding this. Of the money spent during the fiscal year 1971, AID bought $975 million worth of commodities, 99 percent of which was spent in the United States.

I have been pleased to look up the situation in connection with my own State of Alabama. I find that during 6 months ending June 30, 1971, manufacturers in Alabama received over $9 million from AID in the purchase of commodities for developing countries. In addition to these purchases, technical service contracts with institutions in Alabama totaled nearly $1,500,000.

One program of great interest and of great importance in increasing food resources in many countries of the world was that of development of fishing and fish culture. Perhaps the greatest fish expert in the world is Dr. Swingle of Auburn University. Under his direction, a tremendous and most helpful program has been carried on in many countries of the world, particularly in Asia.

I have also obtained some facts and figures relating to what has been spent in the State of Alabama, what companies have been the beneficiaries, and the areas of the State in which the expenditures have been made.

I ask unanimous consent, Mr. President, to have all of these various tables printed as a part of my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

AID PROCUREMENT OF COMMODITIES BY STATE

The Agency for International Development purchased $975,000,000 worth of commodities in fiscal year 1971, with 99 percent of it or $971,800,000 being spent in the United States.

Most of the commodities were purchased in the following 20 states:

New York	$178,829,271
California	80,506,640
Pennsylvania	77,081,158
Illinois	73,541,642
Texas	54,930,416
New Jersey	51,733,490
Michigan	50,791,742
Ohio	46,644,037
Washington	32,072,205
Wisconsin	24,763,247
Louisiana	22,260,826
Maryland	20,572,073
Alabama	16,306,563
Indiana	13,760,298
Massachusetts	12,054,228
Delaware	11,588,213
Georgia	10,257,543
Virginia	10,162,141
North Carolina	9,688,882
South Carolina	8,761,659
Total	806,307,295

These 20 states received 83 percent of the dollar value of all AID-financed commodity purchases in the United States in fiscal 1971.

AID-financed commodities fiscal year 1971 dollar value by state of production

State	Amount
Alabama	$16,305,583
Alaska	3,524,513
Arizona	343,778
Arkansas	4,954,181
California	80,506,640
Colorado	3,766,199
Connecticut	10,965,521
Delaware	11,588,213
District of Columbia	531,404
Florida	6,963,013
Georgia	10,257,543
Hawaii	92,750
Idaho	56,824
Illinois	73,541,642
Indiana	13,760,298
Iowa	4,902,240
Kansas	724,410
Kentucky	5,306,139
Louisiana	22,260,826
Maine	303,679
Maryland	20,572,073
Massachusetts	12,054,228
Michigan	50,791,742
Minnesota	6,278,615
Mississippi	6,723,432
Missouri	7,715,066
Nebraska	1,558,041
Nevada	211,067
New Hampshire	726,671
New Jersey	51,733,490
New Mexico	539,566
New York	178,829,271
North Carolina	9,688,882
North Dakota	1,454
Ohio	46,644,037
Oklahoma	3,524,695
Oregon	6,498,725
Pennsylvania	77,081,159
Rhode Island	2,345,999
South Carolina	8,761,659
South Dakota	91,359
Tennessee	8,350,951
Texas	54,930,416
Utah	463,148
Vermont	844,396
Virginia	10,162,141
Washington	32,072,205
West Virginia	5,817,772
Wisconsin	24,763,247
Wyoming	33,040
Total	900,580,343

Ten cities receiving highest dollar value for orders of aid-financed commodities—fiscal year 1971

City	Dollar value
New York, N.Y.	$144,810,186
Detroit, Mich.	33,457,233
Peoria, Ill.	24,560,815
Houston, Tex.	23,896,083
Tacoma, Wash.	16,784,586
Chicago, Ill.	16,280,847
Sparrows Point, Md.	12,875,916
Stockton, Calif.	11,691,187
Milwaukee, Wis.	11,581,240
Pittsburgh, Pa.	9,899,716

A.I.D. share of U.S. exports

"Foreign aid"—loans and grants extended by the Agency for International Development—financed 7.1 percent of all U.S. exports to the developing countries in fiscal year 1971.

U.S. exports to these countries have more than doubled in the past ten years, in large part because of their average annual rate of increase in gross national product of 5.6 percent. This high rate of growth is itself to a great extent a result of the foreign aid programs of the United States and other industrialized countries.

A.I.D. financed exports in fiscal 1971 totaled $971.8 million—2.3 percent of the value of all U.S. exports, which was $43.116 million.

While the overall percentage may not be large, some specific cases are quite striking. For example, A.I.D. financed in fiscal 1971:

16.4 percent of all U.S. exports of iron and steel mill products.

25 percent of all U.S. fertilizer exports.

15.7 percent of all U.S. exports of railroad equipment.

8 percent of all rice exports.

8.5 percent of all U.S. exports of basic textiles.

7.3 percent of all U.S. exports of non-ferrous metals and products.

Other industries benefitting from A.I.D. funding for their exports and the percentages financed were: petroleum, 4.4 percent; chemicals (excluding fertilizer), 3.6 percent; pulp and paper, 2.4 percent; motor vehicles and parts, 2.3 percent; electric machinery, 2.0 percent; and machine tools, 1.2 percent.

Elimination of A.I.D. financing would have a significant adverse effect not only on U.S. industries in these export areas, but also on the U.S. shipping industry. Over the period FY 1964–1969, the cargo financed under Foreign Assistance Act programs has ranged from 22 to 30 percent of the total cargo moving on U.S.-flag shipping.

U.S. FOREIGN AID CREATES BUSINESS IN ALABAMA

WASHINGTON, D.C.—Manufacturers in Alabama received orders financed by the Agency for International Development totaling $9,137,910 during the six months ending June 30, 1971.

AID, which conducts U.S. economic assistance programs overseas, reported the commodities purchased from companies participating in the foreign aid program were shipped to developing countries in Asia, Africa and Latin America.

Approximately 98 percent of all AID-financed commodities came from the United States during fiscal year 1971.

In addition, AID announced that technical service contracts with institutions in Alabama totaled $1,442,849 at the end of December 1970. The holders of such contracts and their values as of that date were:

Auburn University, Auburn	$1,180,955
Tuskegee Institute, Tuskegee	261,894

A list of Alabama manufacturers (by

county and city) is attached, showing the amount of AID-financed orders placed with them from January through June 1971. The tabulation is based on reports to AID by exporters and usually includes the cost of ocean freight. Thus, the amounts are approximate in some cases.

In FY 1971, Alabama manufacturers received AID-financed orders totaling $16,305,583.

AID purchased $975,000,000 worth of commodities in FY 1971, 99 percent of that total—$971,800,000—being spent in the United States.

It is estimated that AID operations resulted in a direct inflow of $79 million in FY 1971. Expenditures were $1.928 billion; $272 million of it overseas. Receipts from interest and amortization payments on loans totaled $351 million. This positive effect has occurred for the past three years. Thus, in recent years AID has not been a factor in the balance of payments deficit.

Information supplied by AID/OPA, 632-8646, per request from Mr. Thomas Fina, U.S. Department of State.

REPORT ON AID SOURCE SUPPLIES BY STATE OF PRODUCTION AS OF JUNE 1971

	Amount this period	Total amount to date
Alabama:		
Prattville:		
Continental Moss Gordin, Inc.	$219,145	$219,145
City of Prattville	219,145	219,145
County of Autauga	219,145	219,145
Anniston:		
Monsanto Co.	61,200	61,200
City of Anniston	61,200	61,200
County of Calhoun	61,200	61,200
Jackson:		
Allied Paper, Inc.	13,530	13,530
City of Jackson	13,530	13,530
County of Clarke	13,530	13,530
Cullman:		
Bendix Westinghouse Corp.	19,521	19,521
City of Cullman	19,521	19,521
County of Cullman	19,521	19,521
Gadsden:		
Republic Steel Corp.	130,944	130,944
City of Gadsden	130,944	130,944
County of Etowah	130,944	130,944
Birmingham:		
AM Cast iron Pipe Co.	318,101	318,101
C. S. & I. Co.	49,480	49,480
Fontaine Truck Equipment Co.	8,118	8,118
Republic Steel Corp.	22,886	22,886
Stockham Valves & Fittings Co.	5,445	5,445
U.S. Pipe & Foundry Co.	167,515	167,515
U.S. Steel Co.	322,918	322,918
City of Birmingham	894,463	894,463
Fairfield:		
U.S. Steel Corp.	4,520,805	4,520,805
City of Fairfield	4,520,805	4,520,805
Woodward:		
Woodward Iron Co	36,995	36,995
City of Woodward	36,995	36,995
County of Jefferson	5,452,263	5,452,263
Athens:		
Cutler Hammer Inc.	6,045	6,045
City of Athens	6,045	6,045
County of Limestone	6,045	6,045
Huntsville:		
Automatic Electric Co.	10,897	10,897
City of Huntsville	10,897	10,897
County of Madison	10,897	10,897
Mobile:		
Courtaulds North America	2,463,032	2,463,032
International Paper	6,331	6,331
Openheimer Intercontinental Corp.	15,825	15,825
Sealy Thomas Inc.	83,599	83,599
Stallworth Pine Products Co.	14,874	14,874
Stone Container Corp.	18,532	18,532
U.S. Steel of Fairford	24,428	24,428
City of Mobile	2,626,621	2,626,621
Prichard:		
Taylor, Lowenstein & Co.	20,450	20,450
City of Prichard	20,450	20,450
County of Mobile	2,647,071	2,647,071
Montgomery:		
Standard Axle & Forge Co., Inc.	14,022	14,022
City of Montgomery	14,022	14,022
County of Montgomery	14,022	14,022
Decatur:		
Fltra Corp., Prestolite Division	$68,189	$68,189
Monsanto Textiles Division	313,772	313,772
Universal Oil Products Co.	14,151	14,151
City of Decatur	396,112	396,112
County of Morgan	396,112	396,112
Childersburg:		
Beaunit Corp.	55,410	55,410
City of Childersburg	55,410	55,410
County of Talladega	55,410	55,410
Tuscaloosa:		
Phifer Wire Products Inc.	16,750	16,750
City of Tuscaloosa	16,750	16,750
County of Tuscaloosa	16,750	16,750
McIntosh:		
Geigy	95,000	95,000
City of McIntosh	95,000	95,000
County of Washington	95,000	95,000
Alabama, total	9,137,910	9,137,910

Mr. McGEE. Mr. President, over the past few weeks we have heard calls to reduce our financial obligations and contributions to the United Nations. The thrust of this argument stems from claims that the United States has been paying a disproportionate share of the costs for maintaining the United Nations.

However, amidst all this clamor, many have lost sight of the fact that the United Nations contributes more to the American economy than it takes from the U.S. Congress.

This side of the picture is laid out in an article written by James Boyd appearing in last Monday's edition of the Evening Star.

Boyd pointed out that during the last fiscal year the U.S. Government paid $326 million for various U.N. activities.

However, Boyd points out that, "On the other side of the ledger the U.N. establishment contributes $82 million a year to the economic life" of New York City.

He further notes that the U.N. Joint Staff Pension Fund has invested more than $100 million in U.S. Government bonds, in common stock of U.S. corporations and in bonds of American public agencies.

inally, Boyd states that—

The four major international finance institutions are all affiliated with the U.N. and all have their headquarters in Washington. The International Monetary Fund, World Bank, International Finance Corporation, and the International Development Association generate $1.6 billion in investments, a good part of it in the United States.

In light of Boyd's presentation of a side of the picture which many have chosen to ignore, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Nov. 8, 1971]

U.N. CALLED CASH PLUS FOR UNITED STATES

(By James Boyd)

UNITED NATIONS.—This world organization is not quite the burden or nearly so bankrupt as irate American critics have charged over the past few weeks.

So say the people here who can cite chapter and verse from statistics to prove their point. All in all, they conclude, the United Nations contributes more to the American economy than it takes from U.S. Congress.

Last fiscal year, the U.S. government paid $326 million for various U.N. activities—$52.4 million in regular dues, $55.4 million to 11 specialized agencies such as the World Health Organization, and $219 million in voluntary contributions to the U.N. Development Program and other technical assistance organizations.

That amount, the critics note, is less than the Nixon administration is asking in military and economic aid for Cambodia next year. Closer to home, perhaps, it is only $26 million more than the City of New York pays annually for its fire department.

The other side of the ledger shows the U.N. establishment contributes $82 million a year to the economic life of the city—there alone eclipsing the $52.4 million paid out in regular dues by the U.S. government. That income for New York goes into food, services, apartment rents and the like for 8,000 U.N. employes here.

Beyond that, the U.N. Joint Staff Pension Fund has invested more than $100 million in U.S. government bonds, in common stock of U.S. corporations and in bonds of American public agencies.

Furthermore, the critics note that the four major international finance institutions all are affiliated with the U.N. and all have their headquarters in Washington. The International Monetary Fund, World Bank, International Finance Corp., and the International Development Association generate $1.6 billion in investments, a good part of it in the United States.

The near bankruptcy of the U.N. is another matter open to dispute with Washington. While Secretary General U Thant himself agrees that the organization is in "a state of near and hopeless insolvency," he disagrees with the U.S. mission to the U.N. over how great is the deficit.

Last month the American mission put the figure at $233 million. Thant, in his report to the finance committee of the General Assembly, said that only $115 million was essential to escape bankruptcy. Their chief disagreement is over how much is owed for the U.N. peacekeeping missions in the Congo and Middle East—to which such leading powers as the Soviet Union and France refused to contribute.

A slight note of optimism appeared on this front during the last week in October. France after holding out for 11 years, made a voluntary contribution of $3.9 million. That is the first break in the chain of countries refusing to pay for the Congo and Middle East operations.

What remains to be seen is whether the Soviet bloc is ready to work out a formula for ending its boycott of the voluntary contributions. It also remains to be seen what position Communist China will take on U.N. finance when it takes its seat here this week.

Mr. HART. Mr. President, the Committee on Foreign Relations has reported a $1.114 billion foreign economic assistance bill and a $1.185 billion foreign military assistance bill.

I will vote for both bills.

ECONOMIC ASSISTANCE

For some years, I have felt that of the funds provided for foreign aid, more should be directed into economic assistance and less into military assistance. The amounts authorized by these bills move in that direction.

Also, I have favored reduction in money allocated to bilateral programs and an increase in support for assistance programs operated by multination organizations. It seems to me that we are moving in that direction, and I would hope that the Senate defeat of the original foreign aid bill will spur further action in that direction.

Certainly, arguments can be raised why the Senate should defeat any foreign aid legislation which continues ongoing programs.

Some will note, and justly so, that there is waste in our AID programs.

Others will point out our largess—largess spent overwhelmingly for American manufactured goods, I might add—has not purchased for us the undying good will or friendship of nations receiving AID funds.

A few may demand a "no" vote to punish both the United Nations and those nations who voted against us in the U.N. vote to admit Red China and to exclude the Taiwan Government.

And finally, it can be argued that with so many urgent but unmet needs at home, we should stop sending money abroad.

Those are strong arguments, but not compelling.

Certainly, I have spoken as often as many about our unmet domestic needs, and as often as many I have called for a change in national spending priorities.

But the fact remains that there are hungry people abroad, there are millions of Pakistan refugees in need of help, and poverty and disease exist in Latin America and Africa.

Even granted that the amounts authorized in the foreign assistance bill will not solve any of these problems, I cannot accept the premise that the United States, the world's most affluent nation, should turn its back on such conditions.

If our present programs are wasteful, let us devise better programs. If the time has come for a new approach to foreign assistance, as I believe it has, let us develop a new approach.

But in the meantime, let us not completely ignore those who might benefit from our assistance while we debate policy and procedural questions.

To those disappointed that nations receiving U.S. assistance have not always supported our policies, I can only say that foreign assistance should be given not to purchase friends but to help relieve conditions which breed despair, discontent, and destruction.

The measure of an effective economic assistance program is not how a nation's representative votes in the U.N., but what effect, if any, the aid has on the lives of the poor in that nation.

I have two reactions to the suggestion that we should punish the U.N. and U.N. members because of the vote excluding Taiwan.

First, we lost a vote, but does that mean we should drop out? How many times have members of this body, regardless of party, told young people to rise above disappointments and defeat and continue to work within the system to bring about change? That is good advice, whether talking about changing the system at home or in the world.

And second, when we ask why some small nations voted against our position on Red China, we ask the wrong question.

More to the point, we should ask why did we have to depend on small nations, why did so many of the larger and supposedly friendly nations vote against our position?

The answer, of course, might just be that we were wrong.

Or the answer might be that recently we have acted in a less than responsible way toward some of these nations.

We have demanded that our trading partners accept our view of world monetary policy.

We have acted unilaterally to impose a tariff wall and to alter the world currency market.

We have been less than concerned with the effect of such policies on our good friend to the north, even going so far, if news reports are correct, as to suggest that Canada be content to be a supplier of raw material for American industry.

And our handling of the summit talks with Red China and our trade policies have not made life easy for the Japanese Government

And this brings us to the nut of the problem.

Despite what some officials and commentators may say, isolationism is determined less by how many troops a nation has fighting abroad than by how it treats other governments and by its trade and economic policies.

Our recent policies in these more important areas could give rise to fears that this country is returning to its isolationist past. Congressional approval of the committee's reported foreign aid bills could help make clear that this is not the case.

MILITARY ASSISTANCE

As one who has felt that less money should be spent on foreign military assistance, I view the new military aid bill with mixed emotions.

However, there is one overriding reason to vote for the entire bill as reported by committee.

That reason is the Mansfield amendment, calling for withdrawal, within 6 months, of all U.S. troops from Southeast Asia, dependent on a phased return of all U.S. personnel held as prisoners of war.

On more than one occasion I have stated my support for this amendment, both as a way to help stop the killing and destruction in Indochina and also as the best way to insure the safe return of our POW's. I do so again.

Mr. CHILES. Mr. President, while it is not entirely satisfactory, I support S. 2820 because I think it is a step in the right direction. First, it represents a separation of military assistance from the economic development aspects of foreign aid. Second, it is effective only through June 30, 1972, as compared to the 2-year extension the defeated foreign aid bill would have provided, thereby providing Congress with time to evaluate properly the total foreign aid concept and come up with necessary reforms.

I am sure no one wants the United States to abdicate its leadership position in the world, and I believe a sound foreign assistance program is an integral part of that leadership position. We have not had such a program. The present administration had ample warning, the Peterson report for example, of the many existing faults but failed to implement recommendations for approval in its proposal.

I believe Congress is ready to generate the necessary reform and protect our leadership position. S. 2820 is a first step in developing a new look for foreign aid.

Mr. MOSS. Mr. President, I rise in support of S. 2820, the foreign economic and humanitarian assistance measure.

Foreign assistance is not a painful burden for the United States to carry. For 25 years, we have been a leader in the effort to bring a measure of stability, peace and economic justice to the world. Our foreign aid is recognition of the fact that something must be done to lessen the gap between the world's rich and poor nations, not just because of a moral responsibility but also because of our national security interests. The best hope for U.S. security lies in a cooperative program of economic, social and political development aimed at eliminating the underlying causes of instability and conflict.

America's entire foreign assistance efforts represent only about one half of one percent of the Nation's gross product. It has helped, however, to bring about great increases in food production, provide education and better health for millions, and enjoyed substantial successes in encouraging economic development and family planning. It is not the failure that many would have us believe it is.

It is my opinion, therefore, that the Senate defeat of the foreign aid bill was shocking and irresponsible. The Senate passed from a close debate on numerous items in the foreign aid measure to a disasterous assault on the whole bill. But the final vote reflected more of an isolationist political mood than an intelligent appraisal of the bill's merits. To me, it was a tragedy that the world's greatest deliberative body should attempt to cut off foreign aid in such a sudden and questionable manner.

Moreover, the Senate's retreat from responsibility was greatly abetted by the President. Mr. Nixon confined his support for foreign assistance to a message issued after the vote. The President also did not defend endangered American commitments to the financially pressed United Nations, but Senators of his party threatened a President veto of the foreign aid measure if restrictions on the use of funds in Indochina were not eliminated.

Nor did the President aid his cause by favoring restoration in the measure of a $341 million authorization for our involvement in Cambodia, an amount which alone exceeds the total U.S. contribution to the United Nations. This gave the entire bill the character of a referendum on the Indochina war. That was a root cause of its defeat.

Finally, the President reinforced the vengeful mood of many who sought to punish members of the United Nations who voted against our dual representation China policy, by threats to cut contributions to that world body. Mr. Nixon noticeably refrained from deploring the actual U.N. vote, but severely denounced the delegates who cheered the final outcome. Thus, the President's tactics and rhetoric once again polarized congressional sentiment and fed impulses of isolationism.

Today, there are calls for a restructur-

ing of foreign aid and the need for a new approach. After months of debate the Foreign Relations Committee favorably reported a bill calling for $2.9 billion in foreign assistance funding. Now the committee suddenly has switched to a measure that authorizes only $2.3 billion. Last spring, the committee rejected an administration approach to split economic/humanitarian aid from military assistance on the grounds that the matter required extensive study. Now the committee suddenly has adopted the two-bill approach.

I support and will vote for the economic and military foreign assistance measures because they are the only responsible alternative presented. But I do not favor this approach. I believe Congress should pass continuing financing legislation to preserve the entire program, while efforts are undertaken to restructure foreign aid.

But what is required of the Senate is not a new concept of foreign aid, but rather a willingness to cope with the real world. We cannot retreat to isolationism or an abandonment of responsibility for peaceful development elsewhere in the world. Surely, it would be the greatest of all disasters of our tragic experience in Vietnam if it so soured or embittered us as a nation that we draw back in on ourselves. The dangerous ramification of cuts in foreign aid is the spur it gives to a growing sense of isolationism in this country and the signal it sends out to the rest of the world.

We cannot escape the consequences of American power and influence for peace in the world—to do so is both dangerous and costly. The question before us today is world stability and peace. We must not withdraw from a responsible role in the world's future, for our future cannot be separated from that of the rest of the world.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS and Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I send an amendment to the desk, to which I add Senators PEARSON and GOLDWATER as cosponsors.

Mr. JAVITS. Mr. President, I seek recognition for an amendment.

Mr. AIKEN. I yield the Senator a minute to present the amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have sent an amendment to the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 4, between lines 3 and 4, insert a new paragraph:

(B) Section 106(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking out "but not less than the minimum rate required by section 201 of the Foreign Assistance Act of 1961 for loans made under that section" and inserting in lieu thereof "but at a rate of interest of not less than 3 per centum per annum commencing not later than ten years following the date of last delivery of commodities in each calendar year under the agreement, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum".

Mr. STEVENS. Mr. President, I yield myself 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, during consideration of the last Foreign Assistance bill, in connection with an amendment I offered, the Senator from Arizona (Mr. GOLDWATER) had an exchange with the chairman of the committee concerning the interest rates on development loans. That was following the statement I had made. At that time he suggested we should change the development loan interest rates to the amount we are paying to borrow money so that we would not be exporting money at 2 and 3 percent in 10 to 40 years, and borrowing at 6 to 7 percent. The chairman indicated he had a similar feeling, as I recall. The Senator from Arizona indicated he would offer an amendment. When the time came to offer the amendment, the Senator was not present. I carried the amendment for him. The amendment was adopted prior to the vote on the Foreign Assistance bill.

The inadvertent impact of that amendment was that by virtue of the provisions of Public Law 480, the Agricultural Credit Sales Act, whereby the interest rates to be charged on those credit sales is the same as is charged on development loans, the Public Law 480 interest rates were changed also.

This, I am certain, the Senator from Arizona did not intend and I did not intend. We discovered this was the case after the bill had been defeated.

Certainly, I am confident that, had the bill gone to conference, that matter would have been straightened out. We now find the basic attack on the amendment that was offered, an amendment designed to require that the Development Loan Fund loans be at the rate at which the United States borrows money, is premised on the Public Law 480 impact.

We are in a deficit period. We are borrowing money to lend other countries to develop themselves. We have been very generous to the international banks. I thought we had gone to the concept of multilateral loans, where we would join in a world community chest; but having joined in that community chest and paid our dues, we find that we are still lending money at these abnormally low rates.

I was surprised to learn that the report indicates there is an intention to lower those rates even further. I would hope that we could get to that at a later period and that the chairman will allow me to respond to the amendment that is going to be offered to strike this amendment, because I feel strongly about it.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. FULBRIGHT. As I understand the Senator's amendment, it is intended to preserve the status quo of Public Law 480.

Mr. STEVENS. Absolutely. We had no intention to change that.

Mr. FULBRIGHT. I want to join the Senator. I did not think of that amendment as going against Public Law 480 at the time. So I am willing to accept the amendment. It was due to my own thoughtlessness, but I did not know it had any effect on Public Law 480. I think the Senator is quite correct. All he is doing is making his amendment conform with his understanding at the time.

Mr. STEVENS. Absolutely.

Mr. FULBRIGHT. Personally, I am willing to accept the amendment, because I do not think any Senator was willing to change the Public Law 480 terms. I was not, certainly.

Mr. STEVENS. I appreciate the Senator's statement.

I have great respect for the Senator from New York's feeling about the other program and the Public Law 480 program, but it was not our intention that our amendment would apply to the Public Law 480 program. Therefore, I offered the amendment. The chairman has made a statement that he would accept it. I do not know what the position of the Senator from New York is going to be in regard to it.

I think this amendment, without regard to the success of the Senator from New York's position, ought to be in the bill, anyway, because I do not see any reason why the Public Law 480 program should be tied to development loan funds, which I hope and pray Congress will seek to limit in the future and get into the multilateral concept as far as those loans are concerned.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. AIKEN. Does the Senator's amendment apply to moneys loaned for educational, housing, or hospital purposes?

Mr. STEVENS. Does my amendment——

Mr. AIKEN. Apply to the construction of houses such as is taking place in Central America today?

Mr. STEVENS. The amendment I have offered and that I have at the desk applies to the Public Law 480 program and exempts that from any tie-in provision with respect to the development loan fund. The amendment requires, as far as development loan funds are concerned, that the interest rates for those loans be at no lower rate than we have to pay for borrowing the money.

Mr. AIKEN. Loans for all other purposes would be at higher interest rates, unless the United States was borrowing at less than the 3-percent rate. Is that correct?

Mr. STEVENS. The Public Law 480 program is not a part of the development loan program. They were tied together by some previous Congress, and without any previous knowledge of that fact.

As far as the development loan fund is concerned, the loans are made for the purposes the Senator has stated—for housing, education, and development programs. There is money in the multilateral corporations to do that, and they can make those loans at any interest rate they desire, as I understand it. They have the right to set the interest rates. I do not see why we should continue to put money into multilateral banks and at the same time continue to have these development loan funds paid at these very low rates.

Mr. AIKEN. Mr. President, I cannot agree with the chairman of the committee that we should accept this amendment at this time without further discussion.

Therefore, I will yield 10 minutes to the Senator from New York (Mr. JAVITS).

Mr. CASE. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. JAVITS. I yield.

PRIVILEGE OF THE FLOOR

Mr. CASE. Mr. President, I ask unanimous consent that during the consideration of the present foreign aid bill and of the military assistance bill I may have a member of my staff on the floor at all times.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the situation presented to us by the Senator from Alaska (Mr. STEVENS) makes very complex a task which I had set for myself. All is fair in love and war, and parliamentary battles have some aspects of war, but I am required to set of record the whole situation, which is not very pleasant.

Mr. President, the amendment which is in the bill was adopted, not by any vote of the Senate on a rollcall, or even on a division, but was adopted when most Members of the Senate, or many Members of the Senate, including myself, were downstairs having a meeting or conference with President Tito of Yugoslavia. It was well known that I was opposed to the amendment, and no notice whatsoever was given to me of the fact that it was pending on the floor. The amendment was then accepted by the manager of the bill on the floor at that time, who was the majority leader. There had been a unanimous consent agreement that no votes would be taken during the Tito visit—the record makes this clear.

We try not to do such things around here. Sometimes things slip, but when it does happen, one does not make a big fiesta about it. Just because I happened to be gentlemanly about it does not mean any advantage should be taken of that fact. I protested it on the day of the original vote and pointed out what had happened and said that, if the bill passed—this was before the bill was voted down—it would have to be dealt with in conference, I hoped, in a decent and appropriate way.

Well, the bill failed. Then the choice was to try to strike this particular provision when it appeared in a new version before the Foreign Relations Committee. Again, in a spirit of cooperation which typifies the Senate, I made the choice that it should be done on the floor on the ground that it had been adopted on the floor and, if it should be stricken, it should be stricken on the floor.

The result now is that the sponsor of the amendment seeks to take the provision which he thinks will cost him the most votes out of it, which is fine, but it is being done in such a way as to make it extremely difficult for me to move to strike this particular provision, according to the procedures, because it will be a new procedure.

What I am seeking to strike and will have to seek to strike is the provision as it was in the bill which came to the floor, as reported by the committee.

I do not think it is going to necessarily take in the Senate; nevertheless, the net result of that, if I am successful, is that a completely anomalous provision; that is, the new wording offered by Senator STEVENS will hang in the bill, which will have to be stricken in conference, because it attaches to nothing and means nothing if the amendment which I have proposed is successful, because that amendment would strike out the full effect of which this amendment takes out only a partial effect. This Stevens amendment will mean nothing if the amendment which I offer is successful, but it will still be there as a completely anachronistic provision in the bill.

What could have been done, and what I had urged on the author of the amendment, was that the amendment, by a minor change, could have been made a perfecting amendment and voted on before mine was, and if I were successful, it would go out, and if I were not successful, it would go in, and the procedure would be far more regular and would have far less of the coloration of getting in there before I could move on it.

But, as I say, all is fair in love and war but this loose legislative practice does little to further the work of the Senate or the country.

Now, Mr. President, as to the substance of the new Stevens amendment: It seeks to erect a difference between agricultural exports and other exports. For example, what is the difference between agricultural exportation of soya beans, let us say, and the exportation of fertilizer to raise soya beans? Yet, Mr. President, according to the amendment offered by the Senator from Alaska (Mr. STEVENS), he would make that difference. You could lend money on concessional terms under exporting, say, soya beans or barley or some other agricultural commodity, and you could not get concessional terms if you exported agricultural machinery—I shall be prepared to submit to the Senate the facts and figures on that score in due course. These distinctions between if you exported fertilizer, or if you exported the machinery to establish a plant to manufacture fertilizer, are completely arbitrary and unjustifiable distinctions, that have not been made before. It is the very reason why the Public Law 480 credit terms were tied to the foreign aid credit terms in the first place.

This effort to get out from under, as it were, what is considered to be an appealing part of this section to those who are engaged in agriculture, simply does it at the expense of those who are engaged in any other aspect of the American economic system, including sectors which contribute to more efficient operations in respect to agriculture.

Mr. President, I do not think the Senate is naive, and I think the Senate knows, if it wishes to go along with my thesis, that if you are to have a development loan fund, that means anything, you have to have the opportunity to give lending terms which will make it a practical lending medium. If we do not want to do that, let us at least be frank and direct about it, and simply move to strike it out, which Senators STEVENS and GOLDWATER have every right to do. But to attack the entity, by stabbing it in the back, I do not think is fair to the program or fair to what the United States is trying to do about it.

So in due course I shall move, Mr. President, to strike the provision, pointing out to the Senate that the anomoly of this particular new amendment which will then be meaningless and irrelevant. I hope that this Stevens amendment will not inhibit the Senate from doing what is right now, once this is in, in keeping an even balance between agriculture, industrial production contributing to agricultural production, and other industrial production.

Finally, Mr. President, in my judgment I would be guilty of the very thing that I am complaining about were I to oppose this amendment. The mere notice of the fact that I would move to strike this section has already resulted in cutting the tremendously adverse effect of the original Goldwater-Stevens amendment by more than half. It is noteworthy that we export, in Public Law 480 sales, a billion dollars a year. The Development Loan Fund, and it is only for about 7 months, is $250 million. So most of the provision here contained is already looked after.

Hence, Mr. President, as I say, I shall certainly not oppose the new amendment's going in. However, I wish to serve notice on the leadership that I shall oppose an effort to get it voted on now. I believe that it should be voted on at a moment which is contiguous to the presentation of my amendment, so that the Senate will know precisely what has happened, and why.

Therefore, as I say, I should greatly appreciate an agreement on that score, but in the absence of an agreement, I would do whatever I could to have the vote come at a time which would follow the vote on the Okinawa Treaty, so that, as I say, the Senate would be aware of just what is going on in this matter.

Mr. MANSFIELD. Mr. President, if the Senator will yield——

Mr. JAVITS. I yield.

Mr. MANSFIELD. I would hope that the Senator from Alaska would ask for the yeas and nays, so that the vote on that amendment could immediately follow the vote on the Ryukyu and Daito Islands treaty.

Mr. STEVENS. Mr. President, will the Senator from New York permit me to respond?

Mr. JAVITS. Yes.

Mr. STEVENS. We had hoped that this amendment, which is a clarifying amendment to the original amendment as adopted, would be agreed to by a voice vote, because if the amendment of the Senator from New York passes, it would be surplusage, as he says, and could easily be taken out in conference.

If his amendment fails, this one would carry out the original intent of the Senator from Arizona. I am in a little bit of difficulty here, because I am, again, carrying a matter for the Senator from Arizona. But it seems to me that if it

is necessary to have a rollcall—the chairman has indicated he is willing to accept the matter—I am prefectly agreeable, and would hope it would come before the vote on the amendment of the Senator from New York.

But I would hope it is not necessary to have a rollcall. This is something inadvertent in the original action; it is not intended to affect Public Law 480 at all; and all we are trying to do is correct that situation, which I am sure would have happened in conference anyway.

The Senator from New York was on the floor when it happened, and I am sure he will recall that he requested me to wait until after the meeting with Mr. Tito. I did not know of the Senator's firm objection to this proposal, although I am informed he did convey it to the Senator from Arizona, who was not here and I was carrying the matter.

So it is unfortunate. But if the Senator from New York insists on a rollcall vote, then I would like to have this vote before the other.

Mr. MANSFIELD. The Senator from New York has not raised the question, but the Senator from Montana did, in an attempt to sort of pile up votes after the treaty vote, and to get on with this bill.

Mr. JAVITS. Mr. President, if the Senator will allow me to continue, I have a way to solve this, and I am perfectly willing to join in the solution.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. Mr. President, I yield the Senator such time as he needs for this purpose.

Mr. JAVITS. Five minutes. As I say, when I move to strike the section which is in the bill now, if Senator STEVENS' amendment prevails—and obviously I can have no objection to it; it already cuts out much that is adverse in the provision—I shall be unable to move to strike the whole section, including this, because of the parliamentary rule. I have no desire to have a rollcall on this particular matter. We will have a rollcall on the whole proposition.

What I wondered is if it would be agreeable—and I think it can be done by unanimous consent—to allow my motion to strike to reach, when it is made, the whole section, including the Stevens amendment. That could be agreed to, and then we will have a rollcall on the whole thing. I suggest that I do not think it prejudices anyone, and it deals with my particular legislative problem.

Mr. MANSFIELD. Mr. President, I think that can be worked out, if I may reply to the distinguished Senator, but I would express the hope that it would be ready to be taken up immediately following the vote on the treaty, so we could get on with the bill, because we have got more than 3 hours now before we hit the fan.

Mr. JAVITS. I am so cognizant of the Senator's problem that I informed Senator BYRD that I would call up the amendment around half past one. I have 2 hours on it.

Mr. MANSFIELD. I wonder if Senator BYRD could not be reached, and perhaps he could accommodate himself to what the Senator suggests.

Mr. JAVITS. No, Senator BYRD of West Virginia.

Mr. MANSFIELD. Well, I am sure that that Senator BYRD, now in the Chamber, would be willing to accommodate himself to bringing the matter up as soon as this is disposed of, based on an agreement.

Mr. JAVITS. I think the Senator well understands my position. I have other cosponsors, including the Senator from Iowa (Mr. MILLER), who is tied up in an Agriculture Committee hearing, and Senator KENNEDY who is similarly tied up in committee, who have asked me to call the amendment up at 1:30 and reserve time for them, because they simply will not be available until after the Okinawa vote.

Therefore, I would make the following suggestion to the majority leader: That we take the Stevens amendment; that unanimous consent be granted to enable me to move with respect to the whole amendment, as amended; that I call my amendment up at 1:30, with the privilege of reserving a half hour of my time immediately after the Okinawa vote; and that the vote follow immediately thereafter on my amendment.

Mr. MANSFIELD. That is not an unreasonable request, but I do wish that Senators would think of the Senate first, rather than themselves personally.

We are trying to get out of here by the first of December. But if every Senator, or many Senators, or any Senator, is going to ask, "Don't do this because I can't be here at a certain time, because I have to make a speech here or there," or "I have to see somebody else," or "I have to attend a meeting," the Senate will go to pot. The main job of Senators is to be on this floor and tend to the Senate's business.

This procedure makes us look foolish. What we did yesterday was to put off a vote on the Okinawa Treaty so that 19 Republican Senators could attend dinners all over the country. We thought that in the meantime, between now and 3 o'clock, amendments could be brought up, that the time could be used, not wasted, and that if we had rollcall votes, they would take place immediately after the treaty.

We find that we are stuck doing nothing but talking, and the cheapest thing in this body is talk, not action.

So, I would hope that something could be done and that we could get away from this lackidaisical attitude which too many Senators have assumed as their own prerogatives. After all, a Senator has a responsibility. A Senator is not an extraordinary person. Every one of us is here because we are lucky, because we had friends, and because conditions were just right. But once we come here, we should not take ourselves too seriously, but we should take the job seriously, and the job is to be here, on the floor, and tending to the business of the people.

Mr. JAVITS. If the Senator would allow me to complete my thought, another amendment will be offered. I am thoroughly in sympathy with the leadership, and I will endeavor to get the Senator, who is going to offer that amendment, to the floor immediately for that purpose. I hope that the majority leader's feeling can be observed in the fact that we will have not one but two amendments to vote on immediately after the Okinawa vote is cast.

Mr. MANSFIELD. That is the first good news I have heard this morning.

Mr. STEVENS. Mr. President, may I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is it possible to seek unanimous consent that if my amendment is adopted—and the Chairman has indicated that he is willing to accept the amendment—that it be in order for the Javits amendment to strike my amendment as well as the language in the bill which his amendment proposes to strike?

The PRESIDING OFFICER. It can be done by unanimous consent.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order for that to be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I think that is a splendid solution.

Mr. President, I will be prepared and will, as a matter of fact, say now, if the majority leader is willing, that on the 2-hour amendment upon which unanimous consent was granted, I ask unanimous consent that I may call it up at 1:30 p.m., and that I may reserve one-half hour of my time to immediately succeed the vote on the Okinawa treaty. If that is agreeable to the majority leader.

Mr. MANSFIELD. That is agreeable, but I would hope we would have other amendments ready to vote on as soon as possible.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Does the Senator still object to my amendment—adopting it under those circumstances? As I understand, the chairman has authorized adoption of it, and I am prepared to yield back the remainder of my time.

Mr. AIKEN. Mr. President, I am the acting proxy of the Republican leadership—Senator SCOTT and Senator GRIFFIN. I would like to have them make the decision.

Mr. JAVITS. Perhaps we can have a quorum call.

Mr. AIKEN. Before that, I would like to comment on something that the majority leader said a moment ago. He said that talk is the cheapest thing on the Senate floor. I disagree completely with our majority leader, because, next to absenteeism itself, talk can be perhaps the most expensive thing we have on the Senate floor.

Mr. MANSFIELD. I stand corrected.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield myself 2 minutes on the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Washington Evening Star of yesterday, entitled "U.S. Rapped on Laos Money Crisis."

Before the Chair rules, I wish to read from this article, by Tammy Arbuckle:

VIENTIANE.—It's time for a long cool look at the $52 million U.S. economic aid program in Laos, judging by details of Laos' current economic crisis revealed today by diplomatic and Laotian sources.

Sources charged that AID officials in Vientiane remained unperturbed during a five-month run on the Foreign Exchange Operations Fund (FEOF) until they were jolted to awareness by other donor nations—Japan, Britain, Australia and France.

FEOF is a consortium to back the kip with U.S. dollars by selling dollars through Lao banks to local importers, thus stabilizing the kip and Laos' economy.

Explaining causes of the crisis, these sources said the International Monetary Fund, which advises FEOF, planned devaluation of the Lao kip at the end of this calendar year because the Lao government is overspending and because of gold trade falloffs resulting from the high Lao government deficit.

However, high-ranking Lao officials are said to have tipped off Chinese merchants of the plan and the merchants began hoarding imports paid for by millions of dollars drawn from FEOF.

And so forth and so on.

Mr. President, I ask unanimous consent that the entire article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES RAPPED ON LAOS MONEY CRISIS

(By Tammy Arbuckle)

VIENTIANE.—It's time for a long cool look at the $52 million U.S. economic aid program in Laos, judging by details of Laos' current economic crisis revealed today by diplomatic and Laotian sources.

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However, high-ranking Lao officials are said to have tipped off Chinese merchants of the plan and the merchants began hoarding imports paid for by millions of dollars drawn from FEOF.

The merchant's intent was to buy luxury imports cheap, then hoard them until devaluation so they could be sold at huge profits.

During this run on the fund, sources said, "Americans remained unperturbed until finally other donor nations warned them they better watch this."

The United States contributes most of the fund—$18.3 million, or 72.5 percent of the total fund—but the Americans did not move til Sept. 29 when they approached Lao Premier Souvanna Phouma during his visit to Washington.

The United States waited until Finance Minister Sisouk Na Champassak returned toward the end of October to push for a new package deal on the Lao economy, but by that time—the week of October 15 to 22—there was a dramatic run on FEOF by Chinese importers who took out over $1 million in that week.

As late as Nov. 4, an American source, while admitting there had been a run and $1 million had gone in one week, tried to cover the situation up.

All this is the tail end of a story of AID's failure to press for a stop to conditions and abuses which caused the U.S. contribution to FEOF to jump from $4 million in 1964 to $18.3 million in fiscal 1971.

These conditions and abuses include overspending by the Lao government—diplomatic sources said the Lao government has three times as many people as it needs. They say 50 percent of Lao spending is on these salaries.

CORRUPTION REMAINS

Most of the remainder of the Lao budget is spent on the war.

In both civil and military budgeting, large areas of corruption have yet to be eliminated such as "ghost soldiers"—the nonexistent soldiers slipped by pay officials onto the Lao army payroll.

Abuses refer mostly to Vientiane's wheeling and dealing Chinese merchants. Lao officials and diplomats would like to see measures to stop the Chinese importers from sending large sums of dollars abroad and from selling goods to Thailand.

These imported goods are brought cheaply into Laos through buying dollars from the FEOF, then sold to Thailand adding to Vientiane's large money supply problem.

Profiteering has sent Lao prices soaring. Merchants, for example, buy lemons at 5 cents a dozen in Thailand, smuggle them into Laos, then charge 5 cents for two.

Under existing conditions, the only people who benefit from the FEOF are several thousand Chinese and Lao elite.

The government's new package of reforms to deal with some of the problems was announced yesterday. It devalued the kip by 20 percent, increasing taxes on luxury imports by 15 percent and put in effect other measures to curb some of the worst trading abuses.

The devaluation plus the new import taxes will enable the FEOF to operate until Dec. 31.

However, the ordinary Lao which AID is supposed to be helping will suffer too.

Although the government has frozen wages for the last four months, it has not instituted price controls for essential commodities.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the November 9 issue of the Christian Science Monitor, entitled "Senate Foreign Aid Credibility Gap."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SENATE FOREIGN-AID CREDIBILITY GAP

(By Robert P. Hey)

WASHINGTON.—The credibility of the foreign-aid program and the Nixon administration itself are very much at stake in Congress this week.

On the eve of debate over foreign aid both in the Senate and the House, conservatives and liberals were concerned about credibility.

For conservatives, it is their long-time criticism of the economic aspects of foreign aid. They can be expected to point out once again, as in the past, examples of roads which ran from nowhere to nowhere in developing nations. When money is so tight at home, they are sure to ask again, why spend it on wasteful projects overseas? More and more liberals similarly are questioning foreign-aid programs.

CAMBODIAN AID

But for liberals other kinds of credibility in the main are at stake. As the Senate opens debate on $2.3 billion in foreign-aid measures Tuesday, liberals surely will light into the issue of $341 million in military aid to Cambodia.

The Nixon administration has been saying this commitment will not draw the United States into a Vietnam-type war in Cambodia. But many liberals are skeptical. Has the United States really learned its lesson in Vietnam, they wonder.

A number of Senate liberals also are seriously concerned about the basic purpose of the foreign-aid program. They question whether it really exists to fill needs of other nations—or in fact, to enable the United States to exert leverage upon recipient governments.

What makes concern and possible opposition of the Senate liberals so important, is that in years past they have been the backbone of support for foreign aid. It is likely, but by no means certain, that the Senate eventually will approve the two foreign-aid bills it is considering. One is $1.185 billion for military aid; the other $1.144 billion for economic and humanitarian assistance.

DIFFERENT APPROACH

Senate debate over these two measures will be lengthier than debate in the House, where the vote is expected to come quickly on a different kind of bill. The House bill would simply authorize the foreign-aid program to keep on operating temporarily, at the rate of $2.3 billion a year.

Some recent efforts by Nixon-administration officials to gain Senate support for foreign-aid legislation may have backfired, instead.

Liberals have considered them wholly inaccurate. For the liberals, they have widened a credibility gap with the administration: If these assertions cannot be believed, this argument runs, which White House statements on foreign aid can?

In this category is the comment by Secretary of Defense Melvin R. Laird, after a conference with President Nixon, to the effect that unless foreign aid was passed, the American troop withdrawal from Vietnam would be jeopardized.

Liberals say much more aid goes to Vietnam under the aegis of the defense-appropriations bill, than the several hundred million dollars which this foreign-aid bill would add. The Laird argument, they assert, does not hold water.

SALARY QUESTION

Similarly, administration officials have said that if Congress did not quickly pass a foreign-aid authorization, the foreign-aid program would have to halt this month because it would run out of money for salaries of the supervising Agency for International Development.

Nonsense, say liberals. Senate majority leader Mike Mansfield says there are $4.7 billion in appropriated but unspent funds which the agency could use to pay salaries.

Many senators view these administration statements as unwarranted pressure tactics. They don't like it, and they're in no particular hurry to pass the Senate foreign-aid measures which President Nixon characterizes as authorizing far too little money anyway. The White House has asked for $3.6 billion in foreign aid.

XUM

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excellent article by Marquis Childs, entitled "This Crazy Spend-All-To-Kill-All Race Must Be Stopped."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THIS CRAZY SPEND-ALL-TO-KILL-ALL RACE MUST BE STOPPED

(By Marquis Childs)

WASHINGTON.—The $200 million that the blast at Amchitka cost is a drop in a large bucket. With nuclear weapons already in being capable of mass killing and destruction on a scale almost impossible to take in, the pursuit of ever more fantastic and wholesale killing devices goes on.

On both sides of the great divide the pursuit seems to have no end unless it be bankruptcy or total devastation. The demonstrators in Canada against Amchitka forget or ignore that the Soviet Union has had two big underground bangs, one equal to if not exceeding Amchitka, the other somewhat smaller.

In a closed society these things are handled rather differently. Protesters, if any, are hustled off to prison or a lunatic asylum. The fact that no public announcement is made precludes any controversy even if it could occur in, say, the highest ranks of science and administration.

Only through the remarkable American network of detection are the Soviet big bangs known.

They occurred on Novaya Zemlya, a barren island in the Barents Sea far above the Arctic Circle. Zemlya is to be sure at least three thousand miles across the pole from Canada and the Aleutians.

It was the fear of earthquake and tidal wave that touched off such widespread demonstrations against the American 5-megaton blast.

The first Russian underground test on Zemlya occurred October 14, 1970. The initial finding from the detection network put it at "about 6 megatons," that is 6 million tons of TNT. This was revised to from 3 to 6 megatons.

The second test was on September 27 of this year and it was rated from 2 to 4 megatons.

Similarly in Russia the huge amounts spent for weapons development and weapons production are secret. It can hardly be doubted that they match American expenditures, which are staggering. The Atomic Energy Commission budget for the next fiscal year totals $2.294 billion. Of this $1.357 billion is under the Defense umbrella, largely weapons development and testing.

The balance covers a variety of civilian uses from new-type power reactors to isotopes and other medical applications of energy from the atom.

But AEC spending on weapons is small compared to the Pentagon budget. Research and development for weapons is billed at $7.9 billion.

That is the province of John S. Foster, Jr., a master persuader with Congress. He scares the daylights out of the Senate Armed Services Committee with private warnings of what the other side is up to and how our side is falling behind.

It surely is not unreasonable to ask where this race will end. The Cannikin blast was to be the proof test, the final development test, of the warhead for the Spartan missile of the Safeguard anti-ballistic missile system. The Russians on Zemlya, the conjecture was, were doing just the same thing.

But if Mr. Foster's wizards are working up new and more fantastic nuclear weapons, Safeguard already may be as outmoded as the muzzle-loading rifle. Many scientific witnesses when the ABM controversy was at its height two years ago testified it was then hopelessly out of date and would not keep out incoming missile shots. Many of these witnesses themselves had been part of the inner circle of weapons developers.

So we come to the arms limitation talks with the breath of hope out of Helsinki that agreement would come before the end of the year on limiting defensive missiles with the Russians agreeing to approximately 100 around Moscow and conceding up to 250 to the United States to protect the inter-continental missile firing bases in the West.

More recently doubts have been cast on this rather fragile hope. The word is, no agreement until next year.

What this overlooks is the economic consequences of the race. In a totalitarian society the consumer can be squeezed down to a minimum existence. Take one item alone, the motor car.

If the Russians produce 150,000 passenger cars this year it will be a record. The United States is aiming for a 10,000,000-car year.

All the rhetoric about a rich country being able to afford both guns and butter does not conceal the ravages of inflation and the pinch of poverty.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be charged against the bill.

The PRESIDING OFFICER. Equally against both sides?

Mr. MANSFIELD. I ask unanimous consent that the time be charged equally to both sides, on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, in the absence of the distinguished Senator from Vermont (Mr. AIKEN), I yield myself 1 minute of the opposition time. I have ascertained that the arrangements we have made are satisfactory to the minority leadership, so it will result in the following: The Stevens amendment will be adopted. The unanimous-consent request already adopted will commit me, as a part of my 2-hour amendment, to strike the provisions of the bill to which it is directed, including the Stevens amendment.

Time on my amendment will begin at 1:30 p.m., and I will have the privilege of reserving half an hour of my time following the Okinawa Treaty vote, with a vote on my amendment to follow at the expiration of that time.

Mr. STEVENS. Mr. President, reserving the right to object——

The PRESIDING OFFICER (Mr. CHILES). There is no request to vote.

Mr. JAVITS. Let me say to the Senator from Alaska that we have already secured the necessary unanimous consent to vote on the adoption of the Senator's amendment and have agreed on the time for my amendment. I was just restating the situation, but if the Senator is not content——

Mr. STEVENS. I have not yet had a chance to discuss this matter with the chairman of the committee, in terms of the reservation of 30 minutes. I do not know who will defend my amendment as against the amendment of the Senator from New York other than myself. I do not know where I will get the time.

Mr. JAVITS. The Senator has 1 hour—that is, in opposition to that motion, he has half an hour. I assume the Senator can get as much of that time as he wishes. I am simply dividing my time, which is 1 hour, so that one-half of it will come beginning at 1:30 p.m. and the other one-half an hour after the vote on the Okinawa Treaty. That has already been agreed to.

Mr. STEVENS. I do not know where I will get my half hour. The Senator begins at 1:30 and then the Okinawa vote is at 3 o'clock so the Senator obviously has time in between there.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. STEVENS. May I say to the majority leader that I am prepared to yield back my time under the agreement and ask for the question on the adoption of my amendment on a voice vote.

Mr. JAVITS. Mr. President, I yield back the remainder of my time in opposition.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment was agreed to.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time for the quorum call to be taken equally out of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I call up my amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

On page 2, after line 22, insert the following:

"(b) There is authorized to be appropriated to the President to carry out the provisions of title X of chapter 2 of the Foreign Assistance Act of 1961, relating to programs relating to population growth, in addition to funds otherwise available for such purpose, $125,000,000 for the fiscal year 1972, which amount is authorized to remain available until expended. The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of the Foreign Assistance Act of 1961 to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of that Act."

And reletter the following subsections accordingly.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I modify my amendment by adding the following language:

The President shall not exercise any special authority granted to him under section 610 (a) or 614(a) of the Foreign Assistance Act of 1961 to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of that Act.

The PRESIDING OFFICER. The amendment as modified will be stated.

The modified amendment was read as follows:

On page 2, after line 22, insert the following:

"(b) There is authorized to be appropriated to the President to carry out the provisions of title X of chapter 2 of the Foreign Assistance Act of 1961, relating to programs relating to population growth, in addition to funds otherwise available for such purpose, $125,000,000 for the fiscal year 1972, which amount is authorized to remain available until expended. The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of the Foreign Assistance Act of 1961 to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of that Act."

And reletter the following subsections accordingly.

Mr. PACKWOOD. Mr. President, there is earmarking in the bill for $125 million for population programs throughout the world. At the moment the earmarking would come out of the $250 million in economic assistance in the bill.

I do support the earmarking and I do support the $250 million that is already in the bill. However, I do not want to see the $125 million subtracted from the $250 million. The amendment would provide a separate line item of authorization $125 million to cover the earmarking for population control worldwide already in the bill.

The PRESIDING OFFICER. Who yields time?

Mr. SYMINGTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be taken out of the bill and charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily, in view of the situation which has developed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 632

Mr. HUMPHREY. Mr. President, I call up for immediate consideration my amendment No. 632, and ask that it be read.

The PRESIDING OFFICER. The amendment offered by the Senator from Minnesota will be read.

The second assistant legislative clerk read the amendment (No. 632) as follows:

On page 2, between lines 4 and 5, insert the following new section:

FOOD-FOR-PEACE PROGRAM

SEC. 3. It is the sense of the Congress that funds to administer the food-for-peace program should not be reduced as the result of any reduction in the authorizations provided to carry out the Foreign Assistance Act of 1961.

Mr. HUMPHREY. Mr. President, this amendment is designed primarily to prevent any reduction in the foreign assistance authorization being used as an excuse or means to curtail the already too meager support given to humanitarian assistance, particularly food aid. Its objective is the statement of purpose in the bill. There are reductions in the overall allotments in the humanitarian section of the bill—modest reductions, I might say. I want to be sure that those reductions are not reflected in the food-for-peace program.

I offered this amendment because I am convinced that those who are seeking reductions are concerned over the direction of what we call big money programs, and not the smaller programs that are directed toward people, mothers and children, and to others who, in many instances, have often been neglected.

I feel my amendment is necessary despite the overwhelming history of concern by the Senate over the direction of aid, but too often I have seen agencies apply reductions in appropriations or authorizations exactly the opposite from what Congress has indicated. This amendment is not directed toward the Congress; it is directed toward the administration of the aid program itself.

The food-for-peace program has been one of the most popular programs of the Congress and, of course, has had true bipartisan support.

As I indicated yesterday when I submitted this amendment, there is nothing in the bill before us that would indicate any reduction in food-for-peace funds, but there is some overall reduction in total amounts, and I want to make positively sure, may I say to the majority leader and to my colleagues in the Senate, that overall reductions in what we call humanitarian funds shall not in any way cut into the limited amount of funds that are directed for administration purposes and other purposes of the food-for-peace program.

The basic cost of the food-for-peace program is paid by the Agriculture Department. AID has the administration of the food-for-peace program and pays some of the shipping costs.

The purpose of the Humphrey amendment is very simple and very direct, namely, that the administrative funds for the food-for-peace program which come out of foreign assistance appropriations in a very limited amount shall not be trimmed in the name of the economies which we will direct here from the Senate. I am simply saying that the very small investment in dollars for the administration of the program is being effectively used for the billions of food dollars financed by another source, namely, paid for the Department of Agriculture.

I would hope the Committee on Foreign Relations and those Senators who are handling the bill will be willing to take this amendment. I think it will fortify the will of the Congress in the administration of the program.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. COOPER. The Senator's amendment is numbered 632. Is that correct?

Mr. HUMPHREY. 632. The Senator is correct.

Mr. COOPER. It adds a new section, reading:

It is the sense of the Congress that funds to administer the food-for-peace program should not be reduced as the result of any reduction in the authorizations provided to carry out the Foreign Assistance Act of 1961.

Mr. HUMPHREY. That is correct.

Mr. COOPER. I am sure there will be no opposition from any Member on this side. I would like to recall that it was the Senator from Minnesota who was the original author of the food-for-peace program. That fact should be remembered. Throughout the years, his initiative, creativity, and thoughtfulness for other peoples of the world, have been manifested in his continuing support of the Public Law 480 food-for-peace program. I am glad he has offered the amendment. I would like to personally support it.

Mr. HUMPHREY. I thank the distinguished Senator from Kentucky for his support and for his very gracious and kind words.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. MANSFIELD. Mr. President, speaking for the chairman of the committee, and, I hope for the other members of the committee, based on what the distinguished Senator from Kentucky (Mr. COOPER) has said, we are prepared to join the Senator and vote approval of the amendment.

Mr. HUMPHREY. I thank the Senator from Montana, the majority leader.

I yield back the balance of my time.

Mr. MANSFIELD. Mr. President, I yield back the balance of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. HUMPHREY. I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. STEVENSON). Who yields time?

Mr. COOPER. Mr. President, I ask unanimous consent that I may speak out of order for about 3 minutes on the Okinawa reversion treaty now before the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. Mr. President, I yield the Senator as much time as he wishes on the bill.

THE OKINAWA REVERSION TREATY

Mr. COOPER. Mr. President, I wish to speak briefly upon the Okinawa reversion treaty

First, I wish to say that the testimony before the committee of Secretary of State Rogers, Deputy Secretary of Defense David Packard, and Lt. Gen. James B. Lampert was precise, comprehensive, and frank in pointing out clearly the results which could occur, as a consequence of the treaty in the relationships between the United States and Japan, and the people of the Ryukyus. I think these statements should be placed in the RECORD. They are short statements, but I know they will be very helpful for those who read the RECORD in understanding clearly the provisions of this treaty. Therefore, I ask unanimous consent that, at the conclusion of my remarks, the statements of the three witnesses be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. COOPER. I call particular attention to the testimony of Lt. Gen. James B. Lampert, who has been High Commissioner of the Ryukyu Islands. His testimony showed not only his great knowledge of the problems of the islands, but an enlightened attitude toward the relationships of the United States and Japan and a deep concern for the well-being of the people of the islands. I think it important that his testimony be placed in the RECORD at this time, when an attitude of bias is held in some quarters against our military representatives, and the military itself. The testimony of General Lampert shows his fine mind, his able administration of the islands, and his deep and humane concern for the people, and it is typical of the overwhelming majority of our military leaders who serve at the direction of civilian authority.

I would like to point out also, Mr. President, that after the conclusion of World War II and several years of effort, a peace treaty was signed between the United States and its allies with Japan. The Soviet Union did not join in the peace treaty. I think it is to the lasting honor of our country that, although it had done more than any of the other allies to bring about the end of the war in the Pacific against Japan, it did not demand from Japan the cession of any of its territories; and as a result, as this treaty has been signed and I am sure will be approved, there is no question about the transfer of sovereignty to Japan at all, but only of the transfer of administration to Japan.

Without wanting to raise cold war issues, I think it is well to point out that while our country did not demand the ceasing of sovereignty of possessions of Japan, the Soviet Union did.

Finally, I would say that after reading some of the speeches that have been made, there seems to be a recurring doubt as to whether the United States intends to keep or to deploy in these islands nuclear weapons. Secretary of State Rogers and Under Secretary of Defense Packard, upon examination by the committee stated clearly that there would be no nuclear weapons deployed on those islands.

The action of the United States and of this administration under President Nixon is a worthy action, and deserves the commendation of the Senate, Congress, and the people of the United States.

EXHIBIT 1

STATEMENT OF HON. WILLIAM P. ROGERS, SECRETARY OF STATE; ACCOMPANIED BY U. ALEXIS JOHNSON, UNDER SECRETARY OF STATE FOR POLITICAL AFFAIRS

Secretary ROGERS. Thank you very much, Mr. Chairman; I appreciate those remarks.

Mr. Chairman and members of the committee, I am here today to explain why this administration considers it very important that the Senate should advise and consent to the ratification of the agreement between the United States and Japan. The agreement, signed on June 17, 1971, provides for the return of the Ryukyu Islands to the administrative control of Japan.

This agreement can, I believe, truly be called an historic document. It would resolve the last major U.S.-Japanese issue arising from World War II. The agreement provides for the return to Japanese administration of an area which has been historically associated with Japan and whose population strongly desires to be united once again with its native land. The Ryukyus are also an area of significant strategic importance to the United States. The agreement takes full account of this; indeed, one of my purposes today is to explain why we believe that this agreement and its related arrangements would protect and promote the U.S. security interests in the Far East. Deputy Secretary Packard will discuss its security aspects in greater detail in his testimony.

REAFFIRMATION OF NOVEMBER 21, 1969, COMMUNIQUE

The agreement specifically reaffirms that the reversion of the islands to Japan shall be carried out on the basis of the joint communique issued by President Nixon and Prime Minister Sato on November 21, 1969. In that communique Japan recognized that the presence of U.S. forces in the Far East constituted a mainstay for the stability of the area. The communique also reflected Japan's serious concern for the security of countries in the Far East. Prime Minister Sato specifically stated that "the security of the Republic of Korea was essential to Japan's own security" and that "the maintenance of peace and security in the Taiwan area was * * * a most important factor for the security of Japan."

The Prime Minister further recognized in the communique that the U.S. forces in Okinawa played a vital role in the present situation in the Far East. He agreed that the return of administrative rights over Okinawa should not hinder the effective discharge of international obligations assumed by the United States for the defense of countries in the Far East including Japan and that the United States would retain such military facilities and areas in Okinawa as required in the mutual security of both countries. The use of such bases will be governed by the terms of the Mutual Security Treaty of 1960 and related documents which now govern the use of our bases in Japan proper.

AGREEMENTS CONTENTS AS DESCRIBED IN SEPTEMBER 5, 1971, LETTER TO PRESIDENT

I have described the contents of the reversion agreement in general terms in my letter to the President of September 5, 1971, a copy of which has been sent to this committee by the President.

This letter summarizes, among other things, the specific agreements reached. It notes, for example, that the Japanese will pay us $320 million as compensation for civil assets to be transferred to the Japanese Government and for certain reversion-related costs. It also describes the arrangements reached with the Japanese to protect American business and professional interests in Okinawa after reversion. The provisions of these arrangements were worked out after close consultations with the business community on Okinawa. I believe that they should provide a satisfactory basis for the post-reversion period.

CONSULTATION REQUIREMENT WITH RESPECT TO USE OF OKINAWA BASES

Under Secretary Johnson is here to discuss the provisions of the reversion agreement in more detail should you desire him to do so. I would like to comment, however, on one major provision of the agreement, that dealing with our use of the bases on Okinawa following reversion.

There is one principal difference between our present tenure of bases on Okinawa and our tenure of bases in Japan proper. In Japan proper we are required by the Mutual Security Treaty to consult with the Japanese Government in the case of use of bases for military combat operations to be undertaken from Japan, major changes in deployment of U.S. forces into Japan, and major changes in equipment. In 1960, President Eisenhower, in a joint communique issued during the visit of Prime Minister Kishi to Washington, said that the U.S. Government had no intention of acting in a manner contrary to the wishes of the Government of Japan and with respect to matters involving prior consultations under the treaty. Such consultation is not presently required with respect to the use of our bases in Okinawa; after reversion it will be.

Any other agreement would be incompatible with the close relationship which should exist between two great allied powers like the United States and Japan. The provisions of our Mutual Security Treaty have worked well with Japan proper. I am confident they will work well in Okinawa also. We and Japan nevertheless have a common interest in the peace and security of the Far East, an interest which the Government of Japan has confirmed on numerous occasions, most specifically in the joint communique of November, 1969, to which I have just referred.

OKINAWA SITUATION NO LONGER TENABLE

It was clear in 1969, and it remains clear today, that continuance of a situation in which a million Japanese are still living under U.S. military administration more than 25 years after the end of World War II has subjected our position in the Ryukyu Islands and our relationship with Japan to increasing strain.

Such a situation is no longer tenable. It is not in keeping with our national character or our national interest; nor is it consistent with history.

ESTABLISHMENT OF U.S. ADMINISTRATIVE AUTHORITY OVER OKINAWA

Okinawa was one of the 47 prefectures of Japan before World War II. It was separated from Japanese administration in January 1946, by order of General MacArthur, Supreme Commander of the Allied Powers in Japan, and it has been under U.S. control ever since. U.S. administrative authority over Okinawa was confirmed in article III of the Japanese Peace Treaty on September 8, 1951, which gave the United States the right to exercise "all and any powers of administration, legislation, and jurisdiction over the territory and inhabitants of these islands."

MOVEMENT FOR REVERSION OF OKINAWA TO JAPAN

However, a movement for reversion of Okinawa to Japan started even before the peace treaty was signed.

In March 1951, when negotiations for the treaty were just beginning in San Francisco, the Okinawa Assembly adopted a resolution requesting reversion to Japan. The vote was 17 to 3. The three opposing votes were in favor of independence for the Ryukyus. Two months later, in May 1951, Chief Executive Chobyo Yara, the islands' present chief executive, was elected the first chairman of the "Association for the Promotion of Reversion to Japan." He has been at the forefront of the reversion movement ever since and he was elected to his present post in 1968 on a platform strongly advocating immediate reversion to Japan.

JAPAN'S RETENTION OF RESIDUAL AUTHORITY

On September 5, 1951, in presenting the draft of the peace treaty to the Peace Conference, Ambassador John Foster Dulles noted that some of the allied powers had urged that the treaty require Japan to renounce its sovereignty over the Ryukyus in favor of U.S. sovereignty. Others had proposed that the islands be restored completely to Japan. "In the face of this division of allied opinion," Ambassador Dulles said, "the United States felt that the best formula would be to permit Japan to retain residual sovereignty, while making it possible for these islands to be brought into the United Nations trusteeship system, with the United States as administering authority."

It was decided at that time that although the United States had long-term security interests in the Ryukyus, the "peace of reconciliation," which we and most of our allies sought with Japan, would be vitiated by the islands' enforced, permanent detachment from Japan. The "residual sovereignty" formula was clearly designed to convey the thought to Japan and to the world that although the United States was obliged to retain control of the Ryukyus temporarily for security reasons, what had been Japanese territory was not being permanently detached from Japan and the principle of no U.S. territorial acquisitions as a result of war was being observed.

RECOGNITION OF JAPAN'S RESIDUAL AUTHORITY

In December 1953, the United States returned the northern portion of the Okinawa Island chain, the Amami Islands, to Japanese jurisdiction.

In June 1957 President Eisenhower and Prime Minister Kishi reaffirmed "Japanese residual sovereignty" over the Ryukyus.

In June 1961, President Kennedy and Prime Minister Ikeda did likewise.

In March 1962, in connection with an Executive order concerning the administration of the Islands issued on the basis of a U.S. Government task force study of the Ryukyus policies and programs, President Kennedy recognized the Ryukyus "to be a part of the Japanese homeland." He added that he "looked forward to the day when the security interests of the free world will permit their restoration to full Japanese sovereignty."

In November 1967, President Johnson and Prime Minister Sato met in Washington and agreed on the establishment of an Advisory Committee to the High Commissioner "to promote the integration of the Ryukyus with Japan and thus help to minimize the stresses that would accompany reversion." President Johnson also stated at the time that he "fully understood the desire of the Japanese people for the reversion of the islands." The President and the Prime Minister agreed to conduct joint and continuous review of the status of the Ryukyu Islands, "guided by the aim of returning administrative rights over these islands to Japan." They also agreed on reversion of the Bonin Islands to Japan. This left Okinawa, the Daito Islands, and the more southerly islands in the Ryukyu Archipelago as the only territories listed under article III of the peace treaty, which were still under U.S. administration.

Finally, President Nixon and Prime Minister Sato, in their communique of November 1969, announced that "The two Governments would immediately enter into consultations regarding specific arrangements for accomplishing the early reversion of these islands without detriment to the security of the Far East, including Japan.

"The President and the Prime Minister," the communique continued, "agreed to expedite the consultations with a view of accomplishing the reversion during 1972, subject to the conclusion of these specific arrangements with the necessary legislative support."

Thus Japan's "residual sovereignty" over Okinawa has been recognized by every American President and every U.S. administration since the end of the occupation. The agreement before you, Mr. Chairman and members of the committee, the agreement before you and its related arrangements are the logical and timely culmination of an historic progression set in motion over 20 years ago.

BY 1969 TIME HAD COME FOR REVERSION

By 1969 the time had clearly come for the residual sovereignty so long recognized to become a reality. The 10-year, first term of the Mutual Security Treaty which would end in 1970 and the treaty would then become subject to termination by either party on 1-year's notice. Strenuous debates in the diet and possibly violent demonstrations against our bases on this anniversary were anticipated. That they did not occur may well be due largely to the announcement of the Nixon-Sato communique of November 1969 that active negotiations for the reversion of Okinawa to Japan in 1972 were about to begin.

There was also reason to believe that the longer the reversion was delayed, the greater the chance would be of an open clash between demonstrators demanding reversion and Americal military forces protecting our bases. The 1968 election of Chief Executive Yara on a platform of immediate reversion and the growing militancy of student and leftist radicalism on Okinawa had made it apparent that to further delay a reversion agreement would be to erode rapidly the acquiescence of the local population necessary to the continued effective operation of our base structure in the islands.

The local population furnishes a large proportion of the labor force for base operations, particularly on the densely populated island of Okinawa itself. The military communities are not isolated enclaves. On the contrary, military and Okinawan communities are interspersed closely with one another. Hence it would be extremely difficult and probably impossible to operate a base structure on Okinawa effectively if the local populace were actively opposed to our continued presence. At best, a continued U.S. presence under these conditions could be maintained only by vigorous police control that would be both highly undesirable and extremely costly. General Lampert, the U.S. High Commissioner of the Ryukyus since 1969, will have more to say on this point, based upon his personal experience in administering the islands.

It was against this background, then, Mr. Chairman, that the United States joined the Japanese Government in issuing the 1969 joint communique.

EFFECTS OF FAILURE TO CARRY OUT AGREEMENT

In Japan proper, the Japanese people are solidly convinced of the justice of the reversion of Okinawa no later than 1972. For us to disappoint this expectation and to fail to carry out this agreement, which—both to them and to us—is so fair and so necessary, would have extremely unfortunate effects on our whole relationship with Japan. It would, for example, give a strong weapon to those political forces in Japan who do not favor the kind of close relationship with the United States which now exists and who seek to replace the present leadership of the country with others less favorable to such a relationship.

Differences between our two countries in trade and monetary matters have subjected our economic relations to strain in recent months, as the chairman has pointed out. But our basic political and security relationship continues to be stable and cooperative. Our national interest requires that we do everything possible to maintain that cooperation which President Nixon has called the linchpin for peace in the Pacific.

REVERSION IS FURTHER STEP IN CARRYING OUT NIXON DOCTRINE

In the larger framework of our international relations, reversion would be a further step in carrying out the principles of the Nixon doctrine, which recognizes and encourages the greater capacity of our allies to assume the primary responsibility for their defense. In this agreement, Japan agrees after reversion to assume responsibility for the defense of Okinawa against outside attack.

For our part, as contemplated under the Nixon doctrine, we will continue to honor our commitments to Japan under the Mutual Security Treaty and we will continue to provide the protection of the U.S. nuclear shield to Japan in case there is a nuclear threat to Japan's freedom. The emphasis we place on the importance of remaining a Pacific power is reflected in the continued maintenance of our base structure in Japan and in the Ryukyus.

EARLY AND FAVORABLE ACTION URGED

Mr. Chairman, the provisions of the agreement will not become effective until the President has deposited the instrument of ratification. He will not take such action until after the Japanese Diet has enacted the necessary implementing legislation. The step

currently required on the part of the United States is advice and consent of the Senate to ratification.

I urge early and favorable Senate action on the agreement before you. It protects and advances U.S. interests and it is essential, particularly essential at this time, in view of the relations with Japan that have been referred to by the chairman, it is essential to the continuation of a viable and harmonious relationship with one of our major allies in the years ahead.

EXHIBIT 2

STATEMENT BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE ON THE OKINAWA REVERSION AGREEMENT

(By Mr. David Packard)

I am pleased and honored to appear before this Committee today to testify in support of the Agreement between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands.

This Agreement, as Secretary Rogers has described to you, is the culmination of long and detailed negotiations between our two governments, as called for by President Nixon and Prime Minister Sato in their Joint Communique of November 21, 1969. That historic understanding between the President and the Prime Minister, that it was time to return the administrative control of the Ryukyu and Daito Islands to Japan, in turn represented the fulfillment of a long-standing US policy.

As you know, Okinawa represents a major element of the US defense posture in the Western Pacific. We have already 50,000 military personnel deployed on Okinawa, and this includes important units of all the branches of the Armed Forces. The combat and support forces on Okinawa are a major part of our forward based military units in East Asia. With the reversion of Okinawa to Japan, these forces will remain on Okinawa and continue to be ready to perform their missions. However, instead of being able to use these forces with the freedom equal to that available from US territory, our military activities will be subject to the understandings we have with Japan, the host country. While it is much easier and ideally preferable not to be concerned with the wishes or views of a foreign government in the conduct of our armed forces, when these forces are deployed in the territory of a foreign country, it is only realistic to expect that certain conditions must be agreed to. To date, Okinawa has been an exception to this general rule because of its unique history, first as war-conquered territory, then as an area administered by us under the Treaty of Peace with Japan. But the time has come to normalize this aspect of our relations with Japan and with the people of Okinawa, and to respond to the desires of the Japanese and Okinawans for reversion.

Simply stated, after reversion our military forces on Okinawa will be subject to the same conditions as govern the military forces we have deployed in Japan proper. These conditions are set forth in the US-Japan Treaty of Mutual Cooperation and Security and its related arrangements. It is an excellent Treaty which serves well the security interests of both the United States and Japan. We currently have over 30,000 military personnel stationed in Japan who, like their comrades in Okinawa, serve as an important element in our Western Pacific defense posture.

Under the terms of the Mutual Security Treaty and related Exchanges of Notes, we can use our armed forces for the defense of Japan and for other military activities related to the maintenance of international peace and stability in the Far East, except that under the prior consultation formula we need the affirmative approval of the Japanese Government prior to making major changes in the number of US military personnel deployed to Japan, major changes in their equipment, or using our bases in Japan for direct military combat operations, except for the defense of Japan.

In practical terms, these three limitations mean that, first, the US cannot initiate a substantial build-up of U.S. Forces in Japan without that Government's permission. However, small units can be deployed into Japan, and this happens on a fairly regular basis, with only notification to the Government of Japan. In terms of moving our units out of Japan, there is no requirement for prior consultations with the Japanese Government.

The second category of prior consultation concerns major changes in military equipment. The Japanese insisted on this provision as assurance that the US would not act contrary to the wishes of the people of Japan. This of course applies to the storing of nuclear weapons in Japan. That is, the US cannot store nuclear weapons in Japan without the permission of the Japanese Government. Following reversion this same condition will apply to the Ryukyus.

The third category of the prior consultation formula requires the approval of the Japanese Government prior to undertaking military combat operations from our bases in Japan, and on Okinawa after reversion.

Thus, for example, launching of air strikes directly against an enemy target from bases in Japan would require prior consultation. The deployment of combat aircraft from Japan to operate in a zone of hostilities however, would not. Similarly, the myriad of logistic support operations provided to our combat forces from facilities in Japan and Okinawa would not and do not require prior consultation.

Even though subject to the consultative procedures outlined above, we do not believe that reversion will significantly impair the effectiveness of our military forces on Okinawa as an important element in our Western Pacific defense posture. This statement is premised on shared US-Japanese security interests and in turn a general agreement on the purposes for these forces, as embodied in the Mutual Security Treaty. At the time of Prime Minister Sato's visit to Washington in November of 1969 he declared that the security of South Korea was essential to the security of Japan. He also stated that the security of Taiwan was most important to Japan. Thus, in the event of a contingency we believe we would, if necessary, be able to operate our bases in Japan and Okinawa effectively.

Admiral Moorer, the Chairman of the Joint Chiefs of Staff, who is away from Washington today, asked me to assure you that he supports the agreement and urges your favorable consideration of it.

Let me turn now to the functions now performed by our military forces on Okinawa which will be turned over to the Japanese and the provisions of the US-Japan Status of Forces Agreement which will apply to Okinawa after reversion: Specifically (1) the mission of providing for the immediate defense of Okinawa, (2) the civil administration of Okinawa, and (3) the application of the US-Japan Agreement Regarding Facilities and Areas and the Status of United States Armed Forces in Japan.

IMMEDIATE DEFENSE OF OKINAWA

As part of the November 1969 Joint Communique, Prime Minister Sato agreed that Japan would gradually assume responsibility for the immediate defense of Okinawa. One aspect of the negotiations with Japan leading to the Agreement before you has centered on the modalities for transferring that responsibility to Japan. An associated Arrangement was negotiated by Vice Admiral Walter L. Curtis, Jr., the Military Representative to the Okinawa Negotiating Team, and representatives of Japan's Defense Agency. This defense arrangement describes the Ground, Maritime and Air Self-Defense Forces that Japan will deploy to Okinawa following reversion.

The objective is for the Japanese Self-Defense Forces to assume primary responsibility for the immediate defense of Okinawa by July 1973. We believe the Defense Agency's plans for the forces to be deployed to Okinawa are adequate to fulfill the defense mission to be assumed.

These negotiations have been characterized by a spirit of close cooperation which typifies the relationship between the US and Japanese defense establishments.

When the Japanese Self-Defense Forces assume the defense mission of Okinawa, this will make available about $35 million a year for other DOD missions.

CIVIL ADMINISTRATION

As you know, the Defense Department, through the Executive Agent of the Department of the Army, administers the Ryukyu and Daito Islands for the United States Government. The current High Commissioner Lt. Gen. James B. Lampert, USA, a very able officer, is here today as a witness for this Committee. He is prepared to explain in detail the specific plans for relinquishing to Japan our administrative functions and responsibilities for Okinawa, and what effect reversion, or a denial of reversion would have on the daily operations of our bases on Okinawa. I would simply like to state here that upon reversion the United States Government, and specifically the Department of Defense, will cease to have any responsibility for the civilian affairs of Okinawa. The governing of Okinawa will become the responsibility of the Japanese Government and the new Okinawa Prefectual Government.

Transfer of administrative responsibility will mean a savings to the United States of about $20 million/year. This was the cost of running the U.S. Civil Administration including its aid appropriations prior to the decision to begin reversion negotiations. The figure has been sharply reduced already in anticipation of reversion.

APPLICATION OF SOFA

Upon the version of Okinawa to Japan, the US-Japan Agreement Regarding Facilities and Areas and the Status of United States Armed Forces in Japan will apply to Okinawa as well as to Japan proper. This Agreement is commonly referred to as the US-Japan SOFA. Let me briefly outline some of the changes that will result from the application of this Agreement and the Mutual Security Treaty.

1. Provision of areas and facilities

We are currently leasing the private land which we use for our bases on Okinawa. Under the terms of the Mutual Security Treaty and the related SOFA, Japan provides to us free of charge our required facilities and areas. Thus the land rentals on Okinawa which currently cost us over $10 million a year will be assumed by the Japanese Government upon reversion.

2. Employment of local nationals

The current practice on Okinawa is for the military services to hire directly the required local national employees. In Japan, however, we have a Master Labor Contract with the Japanese Government for the provision of the required local national employees. Thus our local national employees in Japan are hired indirectly through the Japanese Government. This system has the great advantage of reducing tremendously labor disputes with our local national employees in Japan. The annual wage negotiations we have on Okinawa will be terminated, as the wages and benefits we pay under the Master Labor Contract will be essentially the same as those paid by the Japanese Government to its own employees. It also means, however

that at reversion our employees on Okinawa will receive an increase in wages and benefits, as the wage scale in Japan proper is higher than it has been in Okinawa. This will create some additional costs to the Defense Department, although eventually we would probably have had to pay the higher wages since the gap in wages between Japan and the Okinawa has been steadily closing.

3. Training of third country nations

We currently have on Okinawa various programs to provide training to the military personnel of other Asian allies. Under the terms of the SOFA, these programs for the training of third country nationals will have to be terminated. The major unit affected by this requirement is the US Army Pacific Intelligence School. This school will be relocated to Guam, or another location in the Pacific, before reversion takes place.

FACILITIES

The final subject I would like to discuss with you is the military facilities we will maintain on Okinawa and those that will be released to the Government of Japan.

First, we will maintain all those facilities essential to the performance of the missions of our military units deployed on Okinawa. Those facilities that will be released are either no longer required by our forces, or will no longer be required once, and as the missions for the immediate defense of Okinawa are transferred to the Japanese Self-Defense Forces.

The largest facility being returned to Japan is Naha Airport. As the airport is the civilian air terminal for Okinawa as well as a US military base, and as the US military activities there have been reduced to a US Navy ASW patrol and utility squadrons, it was judged appropriate to agree to the Japanese request to release the facility completely. The financial arrangement worked out with the Japanese Government is covering the costs of relocating these naval flying activities. The relocation of these Navy units will not impact on their mission performance.

In conclusion, I would note that Okinawa is a small island roughly 70 miles long and 5 miles wide, with a population of about one million—100,000 Americans and 900,000 Okinawans. The smooth functioning of our bases there depends upon the continued goodwill of the Okinawan people, for it is impossible to totally isolate the bases from the rest of the island.

The Okinawan people strongly desire to be reunited with Japan after a separation of over twenty-five years. It is a desire that we, as Americans, can completely understand. Responding to the desires of the Okinawans to rejoin Japan, and of the Japanese who wish to welcome back the Okinawans, is an historically unprecedented act but one which is in keeping with the best in our political heritage. I urge you to consider favorably and quickly this Agreement for the reversion of Okinawa.

EXHIBIT 3

STATEMENT BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE BY LT. GEN. JAMES B. LAMPERT, HIGH COMMISSIONER OF THE RYUKYU ISLANDS, OCTOBER 26, 1971

Mr. Chairman and Members of the Committee, it is a privilege to appear before you today to testify in support of the Okinawa Reversion Agreement.

I serve in three positions on Okinawa, which I have held since January 1969. As High Commissioner of the Ryukyu Islands, I am responsible for the administration of the Ryukyu Islands under the authority granted to the Secretary of Defense and, by delegation, to the High Commission by Executive Order 10713. I exercise these responsibilities through the United States Civil Administration, or USCAR as it is commonly known. My primary missions as High Commissioner are to promote the welfare and well-being of the people of the Ryukyus and to maintain a favorable environment for the effective operation of our military bases, which are located for the most part on the main island of Okinawa.

As the local representative of the Commander-In-Chief, Pacific, I have the responsibility for coordinating local activities of the military services, reporting directly to Admiral McCain in Hawaii.

My other position is Commanding General, United States Army, Ryukyu Islands, in command of the Army Forces in the Ryukyus, under the Commander-In-Chief, United States Army, Pacific, in Hawaii.

The United States has administered the Ryukyu Islands since the end of World War II in 1945. The record of our administration is one in which I believe our country can take considerable pride. The Ryukyuan people have an effective and responsible government of their own, the Government of the Ryukyu Islands, which is based on democratic principles and which for the most part runs its own affairs. They have a freely-elected Chief Executive and a Legislature as well as a court system of their own. Economically, the Ryukyu Islands have achieved one of the highest standards of living in Asia; and the economy has continued to grow each year at an impressive rate. A full-scale educational system, together with extensive social and welfare facilities have also been developed under the U.S. Administration.

There is little doubt, however, that the great majority of the people of the Ryukyus, who call themselves Okinawans but consider themselves Japanese Nationals, strongly wish to return to the administration of their motherland, Japan. The Ryukyu Islands were an integral part of Japan until 1945. Reversion to Japan at the earliest possible time has been repeatedly requested by their elected Chief Executive and by unanimous resolutions of their Legislature, and there have been few expressions of a desire to remain under U.S. Administration. The statement by President Nixon and Prime Minister Sato in November 1969 that the United States and Japan would enter into negotiations with a view to accomplishing reversion some time in 1972 was welcomed by the Okinawan people as a response to their strong desire for reunion with Japan.

We are now in a complex and difficult period, marked by Okinawan uncertainties and anxieties over how reversion will affect them personally. Many Okinawans would like to see greater reductions in our bases, but at the same time they fear that there will be large-scale reductions in the jobs provided by our bases without other jobs being available. Our Okinawan base labor force has reacted strongly to substantial curtailments in our work force required by reductions in the United States Defense Budget. The Okinawan economy and standard of living has been heavily dependent on our bases as well as on United States economic assistance. Our economic aid has been sharply reduced and will of course terminate on reversion. Okinawans are concerned that Japan may not continue to provide the economic assistance required to maintain and eventually raise the economy to levels comparable with the rest of Japan. In recent months they have been apprehensive that they might suffer serious economic losses as a result of recent U.S. measures to protect the dollar and Japan's decision to float the yen.

Serious problems and tensions have also resulted from occasional unlawful acts of U.S. servicemen and from accidents involving Okinawans and Americans. Strong resentment against our exclusive U.S. criminal jurisdiction over military personnel has increasingly found expression.

This is because Okinawans believe the time is approaching when the United States should no longer possess police and other powers of government.

The presence of military chemical munitions on Okinawa, which have just recently been completely removed, was another major factor contributing to Okinawan feelings of anxiety and tensions.

There is a vocal minority which vigorously opposes the presence of our military bases and which takes every opportunity to exploit these existing tensions and the various activities of our bases which unavoidably cause inconvenience and irritation, such as jet aircraft noises and military use of farmlands.

The return of the Civil Administration to Japan and the application to Okinawa of the Status of Forces Agreement (SOFA) between the United States and Japan are expected to reduce sources of friction and tension and to provide a more stable and favorable basis for the future. Our military bases and U.S. forces personnel will be placed in the same situation, with the same status and privileges, as in mainland Japan, including the application of the criminal jurisdiction provisions of the SOFA. This is expected to remove a major source of Okinawan feelings of unequal treatment. In addition, as has been stated by Secretary Packard, relations should improve when base workers, whom the U.S. forces have been hiring and dealing with directly, are employed by the Japanese Government under an indirect hire system as in Japan. The Japanese Government will become responsible for public safety outside our bases, including police, fire protection and traffic control. Under the SOFA, the United States will be relieved of responsibility for the leasing of privately owned land, which has long been a sensitive issue in our relations with the Okinawan people.

The Japanese Government has cooperated closely with us in the handling of various difficult problems that have arisen and in the working out of arrangements for a smooth and orderly transfer of administration.

Following President Nixon's and Prime Minister Sato's November 1969 communiqué, the United States and Japanese Governments established special governmental machinery to negotiate detailed reversion arrangements and to initiate reversion preparatory measures. The United States/Japan Consultative Committee in Tokyo was charged with overall responsibility for conduct of the negotiations. The Preparatory Commission in Okinawa was established "for the purpose of consulting and coordinating locally on measures relating to preparation for the transfer of administrative rights . . ."

As the administrative authority in Okinawa, the United States took the lead in presenting to the Preparatory Commission in July 1970 a comprehensive plan to facilitate the transfer of administrative responsibility to Japan. The essence of that plan was that the transfer should, to the largest practicable extent, be gradual and progressive, avoiding an abrupt and painful shift at reversion. As a framework for a progressive relinquishment of United States Civil Administrative functions to Japan, under continued United States overall authority, the period until reversion was divided in the plan into three phases. The first was from the date of the plan's adoption until a United States-Japan Reversion Agreement had been signed; the second was from then until necessary legislative support was obtained; and the third was from then until reversion day.

Pursuant to this plan, the United States presented in the Preparatory Commission specific proposals for the full or partial relinquishment to the Japanese Government of a number of functions in phase one. Most of these functions were USCAR functions of advice and assistance to the Ryukyuan Government.

We are currently in Phase II of the transfer plan, when we have proposed the relin-

quishment to the Ryukyuan Government of several operational civil administration functions. During Phase III we plan to relinquish to the Ryukyuan Government additional operational civil administration functions, such as administration of quarantine, customs and other related controls. During that final phase many actions will be taken in connection with the turnover of U.S. public corporations, the sale of our controlling interest in the Bank of the Ryukyus, and other aspects of our civil control preparatory to the complete relinquishment of that control to Japan on reversion day.

Although the Okinawan people seem aware that reversion will not take place without the approval of the United States Senate and the Japanese Diet, they nonetheless generally expect that reversion will occur by 1 July 1972 if not earlier. Chief Executive Yara and the GRI Legislature have expressed the desire that reversion take place on 1 April 1972. There can be no decision on the date of reversion, however, until after the Treaty is approved by the Senate and the Diet. We foresee a number of practical problems in preparing for a smooth reversion and for planning purposes we are thinking in terms of 1 July 1972.

Should reversion be delayed much beyond 1 July 1972, I believe we would see a strong adverse reaction from the Okinawan people. I would expect rapid intensification of anti-American sentiment and activity which could make it very difficult to exercise U.S. administrative authority and to maintain a favorable environment for our bases and American personnel. The longer the delay the greater the adverse reaction which is to be anticipated since it is evident that U.S. bases in Okinawa require at least the acquiescence of the Okinawan people.

While a minority of Okinawans continue to demand immediate and complete removal of the American bases, the majority appear to accept the fact that the United States will continue to maintain a military base structure on Okinawa. Irritations and problems will of course continue to arise from the presence of our bases and from two people of such different language and culture living so close to each other in a small, densely populated geographic area. The Okinawans, nevertheless, are basically warm, friendly people. I continue to find in my frequent travels throughout the Ryukyus and in my personal contacts with Okinawans substantial goodwill toward the United States and an appreciation for what the United States has done since World War II to promote the welfare of the people of Okinawa. Individual Okinawans frequently go out of their way voluntarily to express these sentiments to me. I think that with intelligent management of our bases we can preserve these friendly sentiments.

I believe that with the continuing support of our Japanese ally, and with a smooth reversion, our military bases on Okinawa will continue after reversion to be of major value to the United States. Because of the strategic location of Okinawa, our extensive and highly developed complex of military bases there are extremely important in U.S. defense arrangements. They contribute in a major way to our ability to fulfill U.S. commitments to the security of Japan and our other allies in the Pacific.

Mr. MANSFIELD. Mr. President, I yield myself 2 minutes on the bill.

I take this occasion to commend the distinguished Senator from Kentucky, who, as always, has expressed himself precisely, and, as always, has reached the nub of the matter in very few words.

I join him in what he has stated about General Lampert, who I think has been and is an extraordinarily capable administrator, a man in the mold of such soldier-statesmen as Marshall and Ridgway, to name two; a man who has indicated a knowledge not only of things military, but of things political, cultural, and social as well.

It appears to me, Mr. President, that what is happening in this first year of the 1970s indicates that there is a tremendous amount of movement around the world. We find, for example, not only Okinawa, the Ryukyu and the Daito Islands now on the verge of being returned to Japan, but we also find that Japan has come to occupy a very important position in the scheme of affairs in the Pacific, and for that matter in the world. As I tried to indicate yesterday, the Japanese people have been the recipients of some severe shocks of late from this Nation—the imposition of the 10-percent surcharge, which was worldwide, the textile agreement, and the announcement of President Nixon's visit to Peking.

I also tried to indicate yesterday that Japan was one of the few major nations which stood by the United States in an attempt to bring about the admission of mainland China to the United Nations and the retention of the Republic of China on Taiwan in that body.

Those occurrences are indications of a shift, of a change. There are other indications as well. There is some ice being broken in the area of Berlin, and an accord of sorts has been reached, with the East Germans and the West Germans now talking to one another, seeking to reinforce and interpret specifically what the Berlin accords are. Once that is done, and the prospects seem fairly good, then we should find the four ambassadors putting the final imprint on the Berlin accords, and at that time making them into an agreement. That would be followed by Chancellor Brandt's Ostpolitik, the move toward the East, the conclusion of the treaties between the Federal Republic of West Germany and Poland and the Soviet Union, and finally, hopefully, a European security conference, which will discuss not only the matter of a mutual reduction of forces on both sides, the Warsaw Pact countries as well as NATO, but other measures seeking to bring about a detente in Europe which could well contribute immeasurably to the peace of the world.

Then we have President Nixon going to Moscow sometime after the first of May, following, though not immediately, his visit to Peking.

We find the administration trying to cleave a line between the Israelis and the Arabs in the Middle East, a policy of which I thoroughly approve, and trying to bring the parties together on a face-to-face basis. Then we find the President withdrawing troops from Southeast Asia, from a high of 546,000 to a figure of 190,000, or just a little bit under, today. We find a total reduction of the Armed Forces since Mr. Nixon came into power of roughly 1,100,000 men.

So we find all these things happening. In addition, the president of the Soviet Union, Mr. Podgorny; the chairman of the party, Mr. Brezhnev; and the premier or prime minister, Mr. Kosygin, have embarked on a series of travels taking them to various of the world's continents. We even see, for example, the Prime Minister of Cuba, Fidel Castro, today, I believe, arriving in Chile for a week's visit.

What I am trying to say, in brief, is that there is movement in world affairs today, that things are occurring which we cannot as yet decipher; but perhaps out of all this movement will come a new hope.

Perhaps there will arise a realization of what confronts the world today and what faces us tomorrow, and perhaps out of it will come also an end to our looking backward to policies which were good a decade ago, two decades ago, a quarter of a century ago, and a facing up to the realities of the present.

I agree with the distinguished Senator from Kentucky when he states, indirectly and implicitly, that this is a most important vote today. This, too, could signify a change in direction for the better. I think it is overdue. But I am glad that at last we are facing up to it, and I hope that very shortly this matter will be disposed of in the affirmative and by an overwhelming vote.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HUMPHREY. Mr. President, are we under a time limitation?

Mr. MANSFIELD. How much time does the Senator desire?

Mr. HUMPHREY. About 5 minutes.

Mr. MANSFIELD. I yield 10 minutes to the Senator.

Mr. HUMPHREY. Mr. President, I want to register at this time my support for the ratification of the Okinawa Reversion Treaty. I view this treaty as an essential step in the preservation of friendly relations between the United States and Japan. Second, ending our administration over the Ryukyu and Daito Islands represents the clearing away of one of the unsettled remnants of the postwar era.

Were the Senate giving its advice and consent a few months ago, I would merely have stressed in my remarks how the treaty was consistent with our historic policy of maintaining a close association with Japan; how it could serve to move their bilateral relations onto another plane, more in keeping with the future needs of both countries and other countries as well.

Mr. President, I am absolutely convinced that our relationships with Japan are of the utmost importance. While I know that we are now entranced with the prospect of better relationships with mainland China, I think it should be well understood that for the foreseeable future, friendly, cooperative, and healthy relationships between the United States and Japan are absolutely essential for peace in Asia, for the development of Asian countries, and for the promotion of a world of peace and a generation of peace.

Now the ratification of the Okinawa Treaty takes on another significance in addition to those I just mentioned. The Senate's vote comes at a time when relations between our two countries have seriously been shaken due to recent diplomatic maneuvers. I have pointed out repeatedly that our Government's apparent failure to recognize the importance of Japan as a major U.S. ally, a relationship which has been carefully built up through the years, has led us to startle and offend our close friends unnecessarily.

Mr. President, it is of the utmost importance that our national policy relating to mainland China be changed. For this, I commend the President.

The President's announcement of going to Peking was welcome news for all but was very unsettling to the Japanese and other allies who had not been consulted. Next, came the announcement of our new economic game plan which included for the Japanese the single option of reevaluation of the yen. Simultaneously, we were pressuring the Sato government to cosponsor our resolutions on the China question in the United Nations, a position the Japanese Government had been ready to accept at an earlier date, but which it withheld publicly in deference to the wishes of the United States. We were also negotiating a rough and tough textile agreement, presented in the form of an ultimatum to the Japanese Government.

Finally, we had declarations by Government officials which gave credence to rumors spreading that the United States was encouraging Japan to go nuclear. I have tried to have the matter clarified as to what the position of our Government is, but I am still waiting for the Secretary of Defense's reply to my letter. Somehow, communication between branches of Government is as difficult as between the United States and its allies these days.

The Okinawa Treaty, therefore, comes at a crucial time in Japanese-American relations. In the joint communique of November 21 between President Nixon and Prime Minister Sato which led to the Reversion Treaty, two points stand out as offering the most promise:

(1) They (the government of the United States and the government of Japan) would maintain and strengthen their fruitful cooperation in the continuing search for world peace and prosperity and in particular for the relaxation of international tensions.

(2) The reversion of Okinawa would be carried out in a manner consistent with the policy of the Japanese government as described by the Prime Minister. (The Prime Minister described the sentiment of the Japanese people against nuclear weapons.)

In addition, the Senate Foreign Relations Committee determined from the testimony of our Government officials that nuclear weapons would not be stored on Okinawa after reversion.

Taken together, these points offer us the hope of a changing world where security is not only expressed in the deployment of nuclear weapons, but in solid understanding and communication between countries. My vote is a vote for the treaty and a vote for solidification of our relations with Japan in a multipolar world.

I, too, commend the distinguished Senator from Kentucky for his statesmanlike efforts in bringing this treaty to us in the Senate.

The Senate is performing a very valuable service in its advise-and-consent responsibilities, particularly in this treaty. I think all of us know that Japan is an important nation in the modern world, that its relationships to the United States are of vital importance to us, that the Okinawa Treaty represents a forward step in the improvement of those relations—something that needed to be done, something for which I commend our Government—and, hopefully, that this treaty will be a very important step in strengthening and improving the cooperation between Japan and the United States.

I shall, as I have said, vote for this treaty, and I have no doubt that it will be ratified.

Mr. MOSS. Mr. President, I rise to support the ratification of the Okinawa Treaty which provides for the reversion of U.S. rights of administration over Okinawa to Japan. It is not really a reversion. I think we have recognized the sovereignty of Japan over Okinawa since the war in which we occupied the islands.

Twenty-five years after the end of World War II, the United States continues to occupy the territory of Okinawa and measures of executive authority over 1 million Japanese is exercised by American military services. That occupation is the last vestige of a wartime relationship.

Today, the United States and Japan stand on the threshold of a new relationship. The Okinawa Treaty represents the logical conclusion of American occupation policy which has been designed to encourage the emergence of an economially strong and politically stable Japan.

The treaty now places our future relationship on the basis of true equality and opens the door for the continuation of our political alliance on the basis of mutual interest and respect. Cooperation between Japan and the United States can be the keynote to peace in the Far East.

During recent months, the Nixon administration has evidenced callous disregard for our relationship with Japan. The President failed to consult Japan prior to announcing his trip to Peking. Japan also was not consulted prior to the announcement of the new economic policy on August 15, which imposed the 10-percent surcharge. The nuclear detonation on Amchitka Island in the Aleutians is still another example of insensitive diplomacy toward Japan.

The Government of Japan, however, has remained steadfast in friendship and even fully joined in support of U.S. policy favoring "dual representation" of China in the United Nations, thus, sharing with us this major diplomatic defeat.

Because of the economic importance of Japan and its enormous potential in the context of East Asia, the United States cannot afford to pursue policies without consideration of their implication for Japan. The United States and Japan can move apart to a period of uncertainty and even hostility or we can move together as two nations who share a common belief in representative government and private enterprise, despite different cultural origins.

The prime U.S. objective in East Asia must be the maintenance of a viable friendly relationship with Japan. Our two countries must work together to bring stability into the Pacific and to assist other undeveloped countries. We take a great step toward this sound relationship with Japan by ratifying the Okinawa Reversion Treaty today.

Mr. DOMINICK. Mr. President, Monday, the Senate Committee on Armed Services concluded executive sessions on the military implications of the agreement between the United States and Japan concerning the Ryukyu Islands and the Daito Islands calling for the reversion of Okinawa to Japan. After listening very carefully to the testimony received and after personal review of the issue over the past few months, I intend to vote for ratification of the Okinawa Reversion Treaty.

The committee was privileged to hear U. Alexis Johnson, Under Secretary of State for Political Affairs, Gen. William C. Westmoreland, Acting Chairman of the Joint Chiefs of Staff, and other senior military officials intimately familiar with the impact of reversion on U.S. security arrangements.

The essence of the JCS opinion is that while reversion does decrease the flexibility of our force structure, other ways will be found to get the job done so as to minimize any loss of capability. In my opinion, an important point recognized by the JCS is that a continued denial of reversion would have resulted in a rapid erosion of the acquiescence of the Okinawan people in our military bases in the Ryukyus and, in turn, would have caused us considerable difficulties in the effective operation of those bases in the years ahead.

A more overriding consideration is the impact nonratification could have on the Sato government. Although the United States will be somewhat more restricted in the deployment of forces from Okinawa in support of security agreements in the Pacific area, failure to ratify this treaty could bring about the downfall of the Sato government. The possibility would then exist that a new Japanese Government could cancel all basing agreements in Japan proper thereby forcing our complete withdrawal from there.

In summary, there are many more political advantages, both to the United States and Japan, in returning Okinawa to Japanese control. Japan, for the foreseeable future, will continue to be a major cornerstone in the power structure of the Western Pacific. As a strong ally and good friend she will remain essential to the maintenance of our security arrangements in the Pacific. The immediate military disadvantages, while not desirable, can be effectively overcome and, therefore, should not cause rejection of the treaty.

Mr. McGEE. Mr. President, I rise to urge passage of the Okinawa Reversion Treaty which is presently before this body awaiting final action.

This agreement represents the ultimate step in ending an era in American-Japanese relations. It resolves the last remaining major issue between these two nations which arose out of World War II by returning to Japan the remaining occupied territory which we have long promised. Ratification of this document would remove the last vestige of occupying power status now held by the United States.

The importance attached to the need

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for favorable Senate action on this treaty cannot be overemphasized. This action comes at a time when the United States is embarking on a new policy relative to mainland China. It is, therefore, imperative that sound relations exist and be maintained between the United States and Japan as we chart this new course in Asia. Therefore, our political, military, and economic interests are tied to the prompt ratification of this treaty.

As I have cautioned in the past, while the President is striving to normalize relations between the United States and China we cannot let Japan slip from the focus of our attention. This treaty is in accord, I believe, with this assessment of the future of our relations in Asia.

It is clear that continuance of a situation in which a million Japanese are still living under U.S. military administration some 25 years after the termination of World War II has subjected our relationship with Japan to increasing and highly undesirable strain.

The Japanese people are filled with expectation that the efforts of President Nixon and Prime Minister Sato will bear fruition no later than 1972. It would be unfair and inequitable to both nations if there is a failure on the part of the Senate to ratify the treaty. The effect on relations between this country and Japan would be highly disastrous. It would give a strong weapon to those political forces in Japan which do not favor a close relationship with the United States and which seek to replace the present leadership of Japan with those less favorable to maintaining close ties.

Other differences between our two countries in such areas as trade and monetary matters have subjected our economic relations to the straining point in recent months. In spite of all this, our basic political and security relationship continues to be stable and cooperative. Therefore, it is in our national interest to do everything possible to maintain that cooperative spirit which still exists between our two governments.

It is my hope that the Senate will move with dispatch in approving this instrument and, therefore, chart a new era of a cooperative spirit and firm friendship in Asia.

Mr. BUCKLEY. Mr. President, it is with great reluctance that I rise in support of ratification of the treaty before the Senate today to restore Japanese control of the Ryukyu Islands.

Every scrap of evidence indicates that the United States is giving up a military installation in the western Pacific which simply cannot be replaced at any price. Moreover, reversion at this time is especially undesirable from the standpoint of supporting the objectives of the Nixon doctrine in East Asia.

Since World War II, the United States has turned the Ryukyu Islands—won by force of arms in one of the major battles of the Pacific theater in World War II, and one in which I participated—into our major military installation west of Pearl Harbor for the support of our strategic nuclear deterrent forces, as well as our conventional military presence in Asia. Depending upon how one accounts for our investment in the Ryukyu Islands, we have spent between $2 and $5 billion in building an extensive system of air and naval bases, storage depots, and training areas.

It is agreed that the United States will continue to have limited basing facilities in the Ryukyu Islands after reversion, but the use of such facilities is sufficiently conditional upon Japanese Government approval, that no military planner could prudently rely upon the use of the existing bases under the full range of contingencies we must prepare for.

The Japanese Self-Defense Force is to take over the air and naval defense roles of the Ryukyu Islands after reversion. It is well understood by defense analysts that the air defense of the Ryukyu Islands—what can be described in technical jargon as a "point" as opposed to an "area" target—cannot be accomplished without nuclear-armed air defense interceptors. Moreover, the nuclear umbrella which we have provided for Japan against regional nuclear blackmail requires a formidable nuclear presence in the Ryukyu Islands. This will not be feasible under the conditions of the Reversion Treaty.

Because of the lack of a major U.S. nuclear presence in the western Pacific of truly credible proportions, we are encouraging the nuclear rearmament of Japan at a time when we are otherwise seeking to limit the proliferation of nuclear weapons.

In short, it is my belief that the United States made an unwise agreement with Japan over the reversion of Okinawa. We should have settled for some American-owned enclave on the islands, similar to Guantanamo Bay, which could have met our minimum defense requirements while restoring the civil administration of the local population to the Japanese Government.

It is, however, too late in the day to make any such fundamental changes in the basic terms and conditions of reversion. It is my hope, however, that some future protocol could be arranged between the two governments to improve the character of the U.S. military basing rights so that our defense requirements can be met.

I say it is too late in the day because the whole structure of Japanese-American relations has been allowed to crystalize on the assumption of the reversion of the Ryukyus on the terms contained in the treaty. The adverse political effect of a failure to ratify the treaty would, in my judgment, now outweigh the military rights and benefits which we should and could have carved out for ourselves if we had made it clear from the beginning that we intended to maintain total control over a military enclave.

These adverse political effects would be particularly critical as a result of recent changes which have taken place in the Far East. These include the President's initiatives in China and problems affecting United States-Japanese trade relationships. These and other matters affecting the security and economy of the region will require a high degree of cooperation between our two nations at this time and well into the future.

Therefore, in view of the catastrophic political effects which the failure to ratify this treaty would have on an otherwise friendly government, I reluctantly urge its ratification.

I ask unanimous consent that the testimony of Maj. Gen. Dale O. Smith, former Air Force Commander in the Ryukyu Islands from 1957–60, before the Committee on Foreign Relations be printed in the RECORD. While I cannot agree with General Smith's recommendations, his testimony does indicate the hazards we will be incurring through a reversion of the Ryukyu Islands on the terms specified in the treaty.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

GENERAL SMITH'S TESTIMONY

Senator Fulbright and gentlemen of the Foreign Relations Committee: I deem it a distinct privilege to be allowed to express my views before this august committee regarding the reversion of Okinawa to Japan.

I served on Okinawa as commander of the 313th Air Division, the senior Air Force position in the Ryukyu Islands, from 1957 to 1960. In this capacity I was not only responsible for the air defense of Okinawa, both Army and Air Force, but for air offensive operations against the Communist mainland had my country ordered such action.

While serving there it became increasingly apparent to me that Okinawa truly was the "Keystone of the Pacific," as we called it.

Because our forces there were free to be deployed anywhere, immediately upon orders from Washington, we were always the first to be called upon. For example, in 1958 we discouraged a Red Chinese invasion of Quemoy, Matsu and the Pescadores by sending the 51st Fighter Wing to Taiwan along with naval forces based at Naha. This was done in less than 24 hours.

You recall that recently we were unable to go to the rescue of the *Pueblo* because of Japan's reluctance to let us use our forces in this manner.

Because Okinawa was American territory we could keep any kinds of weapons on the island in any numbers. So we had vast and secure weapons storage areas. This was our major munitions dump in the Far East.

Because we administered the islands and because the Okinawans were generally loyal and trustworthy employees, we had no problems of sabotage or pilferage and fewer labor problems than in America itself. As you know, Okinawa provided a great logistics storage area for the Vietnam war.

With reversion, our forces on Okinawa will be as drastically restricted as our bases now are on the home islands of Japan. We closed 50 bases in 1968 including our finest air base, Itazuke. We simply will not be able to protect Okinawa from air attack or utilize it as a logistics or staging base.

The Japanese Self-Defense Force is scheduled to take over air and naval defense of the islands next year. This will include their defensive fighters on Naha Airbase and Nike Zeus missiles.

It won't work. An effective air defense of such a small area requires the use of nuclear air-to-air rockets and ground-to-air missiles. Japan will have no nuclear weapons and I'm sure this committee wouldn't support the proliferation of nuclear weapons.

Similarly, we have provided a nuclear deterrent and umbrella for Japan with quick-strike fighter bombers and Mace guided missiles. After reversion this umbrella will be shot with holes. And we will be pushing Japan into a nuclear posture of her own in order to protect herself against nuclear Red China and Soviet Russia.

Japan is a rich, dynamic, industrial country. She could rearm in two or three years, and with the most modern weapons of the age. I'm haunted with the parallel of Nazi Germany's military resurgence and that we had to fight Germany twice within one generation.

Some senators have informed me that they have been assured by the Chairman of the Joint Chiefs of Staff and the Secretary of Defense that our military commitments will be adequately met in the Western Pacific after reversion.

I need not tell this Committee that the Secretary of Defense is a loyal member of the Administration which is pushing the reversion treaty and that the Chairman of the JCS is his subordinate. I served several years in the organization of the Joint Chiefs of Staff and am well aware of the pressures put upon the Department of Defense to support programs of the Executive Department.

You will recall, too, that the Secretary of Defense and the Chairman in 1964 supported the buildup in South Vietnam to propagate a no-win war. I'm sure you will agree with me that the consequences of that policy have been disastrous and tragic, and that the Secretary of Defense and the Joint Chiefs are not always correct in their judgments.

I submit that the reversion of Okinawa will open a Pandora's Box even more tragic than the Vietnam mistake—and one from which we will not be able to retreat. Out of the box will rise an expanding Red China and a rearmed, nuclear Japan.

It has long been American policy to return the Ryukyus when they were no longer needed for the defense of our allies in the Far East. But, gentlemen, there has hardly been a time since 1945 when we needed Okinawa more.

We are now pulling out of South Vietnam and have yet to learn whether the domino theory will materialize.

Communists are surging into Cambodia, Laos, and Thailand.

Red China, despite the proposed visit of President Nixon, remains warlike and bellicose, and she is rapidly building nuclear weapons.

Soviet Russia is arming at breakneck speed.

And Japan is already toying with the idea of rearming. Should we push her into it by emasculating our forces on Okinawa through reversion?

I submit, gentlemen, that this is a most inappropriate time to return Okinawa and that reversion should be postponed for a year or two at least until we can see the future better.

And I'm not at all sure that the Okinawans themselves would be eager to return to Japan if they had any other choice. There has been no plebiscite.

The President's letter to the Senate mentioned that one million Japanese are anxious to return to their "motherland".

First let me say that the Okinawans are Japanese only because Japan seized the islands in 1874. Up to that time the Okinawans were an independent people. In fact, Americans were there first, before the Japanese. Admiral Matthew Perry based his Black Fleet there in 1852 and 3.

So it seems rather anomalous to refer to Japan as Okinawa's "motherland," and Okinawans never called themselves Japanese when I was there. Although they speak Japanese their ethnic background is quite unique.

Our policy has been to offer Okinawans no association with the United States whatever. We have treated them like orphans. Nor have we suggested that they might be independent. So they have been ripe for the blandishments of Japan, and Japan in turn has been goaded by the Communists who are well aware that American forces on Okinawa have contained Red expansion.

We have invested from $2 to $5 billions in Okinawa depending on how it's figured. Japan will pay just $320 million for these installations, or from 6c to 16c on the dollar. This is hardly a shrewd economic deal.

No mention is made in the President's letter of the cost of substitute installations, possibly in Micronesia. And these will be far from satisfactory. Guam is too small and 1000 miles too far away. Remember how quickly we lost it in 1942?

Reversion will further advertise American weakness and lack of resolution; it will encourage Communist expansion and the rearming of Japan. It will lead to proliferation of nuclear weapons.

It is not so important that we keep friendly relations with Japan as that we keep peaceful relations. And a disarmed Japan has no choice but to remain peaceful.

Mr. CHURCH. I wholeheartedly support the Senate giving its advice and consent to the Okinawa Reversion Treaty.

No country in Asia is more important to the United States than Japan, nor does any country in Asia have greater potential to contribute to the peace and stability of Asia. Ratification of this treaty will remove the last vestige of American occupation of Japanese territory as a result of World War II. This treaty represents the depth of friendship and good faith between Japan and America, and formalizes a relationship of equality between the two countries.

Mr. GRIFFIN. Mr. President. Yesterday during discussion of the Okinawa Reversion Treaty, I drew brief attention to those islands north of Japan which have been taken over by the Russians and have not been returned. I thought it appropriate to call attention to this situation because of the sharp contrast to the attitude of the U.S. Government in agreeing to the return of Okinawa to the control of Japan.

In further elucidation of this situation, I ask unanimous consent to insert the following articles in the RECORD: An article from the Japan Times Weekly dated August 13, 1961, entitled "A Dark Spot in Russo-Japanese Relations"; an article from the Christian Science Monitor of October 19, 1969, entitled "Soviets Warn Japan, Pravda Attacks Japanese Claims to Disputed Pacific Islands"; an article from the New York Times of November 29, 1970, entitled "Soviet Shifts Stand on Japan, Assailing Tokyo on Island Claim."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Japan Times Weekly
Aug. 13, 1961]

A DARK SPOT IN RUSSO-JAPANESE RELATIONS

A group of small and large islands off Hokkaido, at the southern tip of the Kuriles chain, has been an integral part of Hokkaido since the dawn of history.

But today, 24 years after the end of World War II, the islands of Shikotan, Habomai, Etorofu and Kunashiri are still under Soviet control. Indeed there is little hope that these northern islands will be returned to this country in the near future.

This was made painfully clear last week as Foreign Minister Kiichi Aichi met Soviet Premier Alexei N. Kosygin in Moscow to present Japan's case for the reversion of those islands.

In a meeting hurridly arranged prior to Kosygin's departure for Hanoi to attend the funeral of Ho Chi Minh, Kosygin told Aichi that Russia had no intention of altering the national boundaries that were defined at the end of World War II.

The remark was the Soviet reminder that the territorial question between Japan and Russia has already been settled under international agreements—a position that Moscow has reiterated stubbornly in the past.

Undoubtedly, the Soviets have other territorial questions vis-a-vis East European nations and West Germany. It was clear that Kosygin's cool response to Aichi's plea was largely a reflection of Moscow's strong desire to maintain the "status quo" lest any Russian concessions to Japan should add fuel to border disputes with other countries, including Communist China.

But Russia was willing to discuss the question of fishing safety in waters near Soviet-held islands in the northern Pacific. Obtaining Soviet guarantees for the safety of Japanese fishing boats in those waters has been, and still is a difficult task for Japan, because it is linked with the territorial question.

In meetings between Aichi and Soviet Foreign Minister Andrei A. Gromyko and Deputy Foreign Minister Vasily V. Kuznetsov last week, Russia agreed to consider the Japanese plan to allow fishermen to operate within up to three miles of Soviet-held islands. While Japan maintains a three-mile territorial limit, Russia has declared a 12-mile zone.

According to the Japanese proposal, payments equivalent to part of the fish hauls will be made to Russia in exchange for the right of Japanese fishermen to operate within the 12-mile zone. Aichi, however, stressed in a news conference later that these payments should not be interpreted as a "fishing fee" (this would amount to a tacit recognition of the Soviet occupation of the northern islands).

At the end of Aichi's trip to Moscow, there came a more tangible, friendly reaction from the Russians on the fishing safety problem. Foreign Minister Gromyko indicated that Russia would release a large number of Japanese fishermen now detained in that country on charges of "violating Soviet territorial waters."

Gromyko said the Soviet Government is now conveying the Japanese wish for their release to the quarters concerned. According to the latest Japanese count, a total of 128 Japanese fishermen are believed to be held in the Soviet Union for charges of violation of the Soviet territorial waters.

In a lengthy meeting with Aichi, the Soviet Foreign Minister also disclosed that Nikolai V. Podgorny, chairman of the Presidium of the Supreme Soviet, plans to visit Japan next April to attend the 1970 world exposition in Osaka.

If Podgorny's visit materializes, it will be the first visit to Japan by the head of state of the Soviet Union.

The Japanese and Soviet foreign ministers also agreed to hold the second session of the Japan-Soviet regular consultations early next year in Tokyo.

A date for the second session of the periodic, ministerial-level consultations between Japan and Russia has been pending since last year. Gromyko said he will come to Japan himself to represent the Soviet Union at the talks.

Meanwhile, local fishermen here calmly accepted reports from Moscow that the Kremlin has rejected Japan's claim to the northern territories but they hoped that Foreign Minister Kiichi Aichi would strongly push for a Soviet guarantee of safe fishing operations in northern waters.

The local fishermen showed more concern in the current Japan-Soviet talks than any

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other negotiations held between the two countries in the past.

But the fishermen did not foresee an early solution to the northern territorial problem.

They felt that although the Government stand on the problem is praiseworthy, the stiff Russian attitude is not expected to change in the near future.

Toshio Yokota, mayor of Nemuro, took note of the "flexible" Russian stand taken by Soviet Premier Alexei Kosygin on the safe fishing issue.

JAPANESE PROTEST NOTE GIVEN ON SHIP SINKING

Earlier in the week, Japan formally protested to the Soviet Union for the sinking of a Japanese fishing boat, the No. 13 Fukuju Maru, off one of the Habomai Islands Aug. 9 and the delay in notifying Japanese authorities of the deaths of 11 fishermen.

The protest was made by Ambassador to Moscow Toru Nakagawa in a meeting with Soviet Foreign Vice Minister Vladimir M. Vinogradov at the Soviet Foreign Ministry. Nakagawa read a note verbale containing the protest.

The document also called on the Soviet Union to take steps to prevent the recurrence of a similar incident.

It stated that the Government reserves the right to claim damages for the loss of human lives and assets as allowed under international law.

Vinogradov replied, however, that the Soviet Government could not accept the Japanese contention because the circumstances of the accident as described in the Japanese note verbale differed from what had been ascertained through the investigation conducted by the Soviet side.

He said the Soviet Union felt sorry for the incident and the fishermen who drowned but that, if similar accidents are to be prevented in the future, it is necessary for Japanese fishing boats to stay clear of Soviet territorial waters.

The No. 13 Fukuju Maru incident was made known Aug. 28 when the Foreign Ministry notified the Japanese Embassy in Moscow that the 16.77-ton squid fishing boat sank about 10 nautical miles off Shibotsu Island, one of the Habomai Islands, and 11 of its 12 crewmen drowned.

The only survivor was handed over by the Soviet Union to Japanese authorities in the Bay of Shikotan Monday. The fisherman, Shinaro Takada of Nemuro, Hokkaido, returned to his home the same day aboard a Maritime Safety Agency patrol ship.

[From the Christian Science Monitor, Oct. 19, 1969]

SOVIETS WARN JAPAN—PRAVDA ATTACKS JAPANESE CLAIM TO DISPUTED PACIFIC ISLANDS

(By Charlotte Saikowski)

Two small, strategically insignificant hunks of land in the Pacific Ocean are roiling Soviet-Japanese relations.

Moscow has delivered a slashing attack on rising Japanese demands for return of the Soviet-held islands of Kunashiri and Etorofu and thus sharply brought the territorial issue into the open. This could spell the beginning of growing friction between Japan and the Soviet Union, whose relations until now have been largely devoid of political content.

The Russians now warn a further enflaming of Japanese "revanchist moods" could heighten tension in the Far East. They say the recent Sato-Nixon talks, which resulted in a United States promise to return Okinawa to Japan in 1972, constituted "a new military-political alliance between the United States and Japan, two powerful imperialist states, which is openly aggressive in nature."

MOTIVE UNCLEAR

This outburst, sternest in recent history, came in an unsigned editorial in Pravda Dec. 16 and was not official. But the fact it appeared shortly after a meeting of the Politburo and a plenum of the Central Committee suggests it represents leadership thinking.

It is not clear what the immediate motive of the editorial is. Perhaps it is geared to Prime Minister Eisaku Sato's current election campaign.

In any event, non-Communist analysts here see behind it two major long-range concern of the Soviet Government:

Anxiety about Japan's military and political role.

Fear that a growing dispute with Japan over northern islands might set off a chain of territorial demands on the Soviet Union.

There is genuine concern here, it is felt, that Japan within a few years will become one of the strongest military powers in Asia. In time it will emerge as a more independent nation, which, although allied with the United States, will make its own military and political policies. This naturally poses an obstacle to expansion of Soviet influence in Asia.

Where Japan will move in relation to Communist China is the big unknown quantity for the Russians. Americans have begun talks with Chinese in Warsaw. Now Mr. Sato indicates that Japan, too, would like to talk with Peking.

It is not improbable, say diplomatic analysts, that Moscow is nervously eyeing a possible rapproachement among the United States, Japan, and China, with the result that the Soviet Union would be squeezed out of Asia.

The second consideration is likewise crucial to the men in the Kremlin.

In the view of analysts, the Soviet leadership is mindful that the slightest change in territorial outlines of the empire it has built up since World War II could spark a Pandora's box of property claims and lead to a shrinking of that empire. China's claims already are a grave problem. But what of Finland? Poland? Romania?

This concern is reflected in Pravda's charge that the present United States and Japanese policy is a "serious new factor directly affecting the security of Soviet borders in the Far East." The Soviet Union, it said "cannot but take this into account."

PROBLEMS LINKED

Premier Alexei N. Kosygin linked the "northern territorial question" with the Sino-Soviet border problem when he met with Foreign Minister Kiichi Aichi in Moscow last September.

Soviet borders are inviolable, he said, and what affects one segment affects the entire frontier. He reiterated Moscow's official position that no territorial dispute with Japan exists and hence there is nothing to discuss.

Where political relations go from here is the next question. Japanese officials here say Japan cannot give up its "just right" claim to the two islands. They say every segment of Japanese opinion supports the claims. In fact, leftist elements are even more militant in their demands, calling for return of southern Sakhalin as well.

Recently the Japanese Government invited Foreign Minister Andrei A. Gromyko to visit Tokyo early next year. The Russians have not said yes and have not said no. It could be that Mr. Gromyko is unwilling to be the target of irate Japanese public opinion on the territorial question.

ECONOMIC PARLEY DUE

At the same time, the Russians plainly want to go on doing business with the Japanese and there is no indication that economic relations will suffer because of the escalating political problem. A high-level Soviet Japanese economic parley will be held in Moscow in February. Japanese participation in construction of a new Soviet port north of Nakbodka and exploitation of natural gas deposits on Sakhalin will be discussed.

The Russians need Japanese help to develop Siberia's rich resources. They have also earned hard currency from trade with Japan since the balance in the past few years has been in Moscow's favor. It is hardly imaginable the Russians will forgo the advantages of close economic cooperation with their Asian neighbor.

However, Japanese business cannot make big deals without the Japanese Government, which approves long-term deferred credits through the Export-Import Bank. And if political relations cool this could affect the economic picture as well.

Meanwhile, the Russians have made clear they have no intention of giving up the two islands in dispute. A Soviet newspaper recently praised the natural charms of Kunashiri as a hot springs area, comparing it favorably with such crowd attractors as Yalta and Sochi.

[From the New York Times, Nov. 29, 1970]

SOVIET SHIFTS STAND ON JAPAN, ASSAILING TOKYO ON ISLAND CLAIM

(By Bernard Gwertzman)

Moscow.—The Soviet Union, which not long ago was extolling its relations with Japan, is now attacking the Government of Premier Eisaka Sato at every opportunity.

The Russians have expressed anger at the renewed demands in Japan for the return of the so-called "northern territories"—four islands in the Kurile chain occupied since the end of World War II.

Soviet diplomats have complained to the Japanese about Mr. Sato's recent speech to the United Nations General Assembly in which he raised the territorial question for the first time.

Hardly a day passes without such strident attacks as a long article in Pravda yesterday warning of a growth of "revanchism" in Japan and reasserting Moscow's refusal to part with the islands, which have become a major public issue in Japan. Moscow maintains that its occupation is a direct result of the war that cannot be "revised."

EFFECT OF CHINA SITUATION

Japanese diplomats here attribute the decision to criticize Japan and to stand firm on the issue to improved Soviet relations with Communist China.

In the summer of 1969 a Soviet publication said that "an absolutely new favorable atmosphere has appeared in relations between the Soviet Union and Japan, distinct from that 20 or even 10 years ago."

At the time the Russians were concerned about border clashes with China and were actively seeking support throughout Asia.

"As long as they were worried about China," a senior Japanese diplomat said, "they tried to smooth over differences with us. After all, we've been asking for the northern territories for many years. But now they don't need to. In fact, they may not want to because it helps them with China to be publicly at odds with us."

Soviet sources maintain that the Japanese know that Russia will not make any concessions to Japan while it is negotiating border problems with China since that would only lead to a stiffer Chinese position.

The Japanese believe that the Russians, having achieved a landmark treaty with West Germany this summer recognizing the finality of Europe's postwar frontiers, are even less likely to be flexible with Japan. They are putting pressure on Japan to sign a peace treaty making the occupation status final.

The Russians have expressed concern also over the decision by the Sato Government to strengthen political and military ties with the United States, raising the spector of Japanese-American collaboration on Russia's Far Eastern frontier. The American decision to return Okinawa to Japan by 1972 underlines the situation.

So far the political dispute has not affected the economic field, where there have been encouraging prospects for further joint exploitation of parts of the Soviet Far East. Japan is the Soviet Union's second largest non-Communist trading partner.

The islands in dispute, Kunashiri, Etorofu, Shikotan, and Habomai, off the coast of Hokkaido, were occupied by the Russians at the end of the war with the rest of the Kuriles and the Japanese portion of Sakhalin.

The Japanese, in the peace treaty signed with all the allies but the Soviet Union at San Francisco in 1951, renounced claims to the Kuriles, but they have argued that since the Russians did not sign, the issue is still alive.

RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess for 20 minutes, with the understanding that the time be equally charged against both sides on the bill.

The motion was agreed to; and—at 1:01 p.m.—the Senate took a recess until 1:21 p.m. the same day.

On the expiration of the recess, the Senate reassembled, when called to order by the Presiding Officer (Mr. STEVENSON).

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill (S. 2820) to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. JAVITS. Mr. President, I yield myself 1 minute under the bill.

The PRESIDING OFFICER. The Senator is recognized for the purpose of calling up his amendment, which the Chair will ask the clerk to report.

The legislative clerk read the amendment, as follows:

On page 3, line 13, after the word "follows" strike all through and including line 3 on page 4, and the language added by the Stevens amendment after line 3 on page 4.

On page 4, line 4, strike "(2)", and insert in lieu thereof "(1)".

On page 4, line 18, strike "(3)", and insert in lieu thereof "(2)".

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Is it a fact that I have the right to use one-half hour of the 1 hour allocated to me on the bill before 3 o'clock and leave, by unanimous consent, to use the other half hour after the vote on the Okinawa treaty?

The PRESIDING OFFICER. The Senator from New York is correct.

Mr. JAVITS. I simply wish to state that I shall do my utmost to provide, in cooperation with the opponents of my amendment, for some time for them also after the Okinawa vote, which they desire and I think are properly entitled to.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona will state it.

Mr. GOLDWATER. Has a unanimous-consent request been made? Has the Senator from New York asked unanimous consent to accomplish what he wanted about splitting his time?

Mr. JAVITS. I will not necessarily split time, but I will try to have an arrangement by which the opponents will have time after the Okinawa vote.

Mr. GOLDWATER. Mr. President, if the Senator will yield, I do not think we need take long on it. I would be willing to vote on this amendment before the Okinawa Treaty. Is that impossible?

Mr. JAVITS. That is our problem, may I say. We agreed to start voting on the Okinawa Treaty at 3 o'clock.

The PRESIDING OFFICER. The Chair will state that, due to a prior order, the Senator from New York has the right to split his time.

Mr. JAVITS. I thank the Chair very much.

Mr. President, my amendment would strike the provision of the bill which inhibits the so-called concessional lending terms. It will be noted that we have pursued the practice—and it has been built into the foreign aid program and it has been carried on continuously as an element of the Foreign Aid Act—of making concessional terms to those whom we aided through the Development Loan Fund.

Information from AID indicates that, generally speaking, those concessional loan terms have been for 40 years on a 3 percent rate, and if we strike the provision of this bill which relates to this particular proposition, we will be striking out a provision which inhibits us from lending at a rate which is now calculated to be 6 percent.

This is a very critical matter, because it not only involves the rate of interest, but the whole essence of this program. In other words, it is represented by AID that we would simply have no program with respect to foreign assistance because nobody, on either side, will be interested, if so-called concessional loan terms are not permitted. The reason is that the poverty of the borrowing countries—in this case they are countries with marginal financial capability and which already have obvious inabilities to repay if they have to borrow at market rates—would make them unable to borrow at market rates. If they were able to pay market rates, they would not need the Development Loan Fund, the soft-loan windows of the various multilateral lending institutions, and so forth.

Another point which is critically important, Mr. President, is that when they lend the funds, in turn, locally, they do charge the commercial rate, and it is that which enables them to administer the program in a way which is not a drain upon themselves, and for the money to be used with the greatest efficiency and the greatest economy within their own countries, where foreign exchange dollars are required in order to promote development programs.

I might point out, Mr. President, that AID indicates that this policy of concessional loan terms to those who need them has led to a faultless repayment rate, in that less than one-fourth of one percent of the dollar loans made by AID are in default; and that the United States is now receiving $250 million annually in dollar repayments on previous development loans.

It is also pointed out, Mr. President, that other countries—understanding, incidentally, that the other countries are not necessarily as able as we are to carry on such programs—are carrying on exactly the same program, and are making softer loans than we are. For example, Canada makes aid loans for 50 years, with an interest rate of 3 percent. Britain and Sweden charge 1 percent; and most other aid lenders have an interest rate about the same as ours, to wit, 3 percent and a 40-year term.

Mr. President, one other concessional point is important, and that is that we will limit our rate of interest to 2 percent during the 10-year grace period, should one be required, in respect to any of these loans.

The exact figure for the cost to the Treasury of long-term money is 6⅛ percent. It is very important to see how interest rolls up and becomes a very big figure. For example, many of the countries most in need of our help, if we adopt this provision in the bill and do not strike it, as my amendment suggests, could not afford to borrow from us at all, since the cost of the AID loans would almost double. Total interest payments on a $100 million loan, over the life of the loan, would increase from $72 million to $171 million or $180 million, depending upon the grace period.

Mr. President, I certainly beg my colleagues to think about this very carefully, because I do not think that they would look favorably upon this kind of repayment if it were a consumer loan, considering the length of the term and the amount of interest which would have to be paid. For practical purposes, AID believes, and I agree with them, that this would end any development lending.

Also, if we increase the cost of these loans, and these countries should nonetheless borrow anyway, it could jeopardize the ability of at least some of the less developed countries to service the public and private debts which they owed to the United States.

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According to a recent study by the International Bank for Reconstruction and Development, several of our AID recipients will be unable to service their loans unless they are able to arrange for more of their AID loans, rather than less, upon concessional terms. Again I add, we have had almost a faultless repayment record, so there is a real possibility that we could lose upon default as much as we would save as a result of the increased interest rates.

U.S. exports will be hurt by the increased interest rates on AID loans, because the developing countries consider the cost of financing along with the cost of commodities in appraising alternative loan offers of developed countries. Some important U.S. producers would be effectively priced out of the market as a result of the high interest rate. And a very important point, perhaps the most important of all, is that the overall credit capability of the developing countries, whom the development loan fund seeks to help, depends upon not only their getting this kind of loan from us, but upon their getting commercial loans from private sources, and that would be undermined by the interest rate increase, because the higher rate would seriously increase the aid recipients' debt servicing obligations, and therefore affect their credit-worthiness adversely. In turn, the inability of the less developed countries to obtain adequate private commercial financing would hurt the U.S. exporters as well.

Also, Mr. President, we would have to figure on the fact that higher annual appropriations would be needed to do the same development jobs. Budgetary costs, for us, would have to increase markedly, if the net flow of resources to the less developed countries were to be continued. To illustrate, after only 10 years, the Treasury rate would require an 80 percent increase in annual budgetary appropriations to maintain the same levels of net flow on loans to the developing countries. Obviously, therefore, Mr. President, this would in a sense accelerate and further emphasize our own costs in respect of the amount of our budget from which we offer this foreign aid.

Another point that occurs here is that the development assistance countries, the 10 major business countries in the world, major developed countries, including Japan, are organized in a committee called the Development Assistance Committee, which functions under the Organization for European Economic Cooperation. It is very important to note that in the comparisons which are made there as to the amount of lending based on gross national product or the amount of foreign aid based on gross national product, only those resources which are provided to the less developed countries for development purposes and on concessional terms are recognized as official development assistance.

Thus, the interest rates charged on all official development assistance are, by definition, lower than the cost of money to the lending government. That goes for all 10. Indeed, the measurement of the concessional element in development lending is based almost entirely on the difference between the government's borrowing and lending rate. It follows quite simply, then, that the increase in interest rates on AID loans for the cost of long term money to the United States will result in the exclusion of all AID loans except Public Law 480, where we have already corrected the matter by the Stevens amendment, from official development assistance. So the only remaining vestiges of U.S. participation in the total international concessional aid effort that would be left would be our technical assistance, contributions to multilateral institutions, and of course our military aid program, including the supporting assistance which is therein contained.

This would represent a dramatic withdrawal of this Nation from a cooperative humanitarian effort to close the gap between the countries in the north and the countries in the south, the haves and have-nots which, if they continue to draw apart, spells so much danger for the future of our whole society in the developed world.

It is very hard to see how our Nation, which had the foresight, the generosity, and the compassion to initiate this effort 21 years ago, would, for all practical purposes, summarily withdraw from it should this provision be permitted to remain in the bill.

There has been a lot of discussion about where the United States stands among the donors in respect to international development assistance, and there has been argument about whether this is a proper or an improper standard by which to judge.

The fact is that the United States now holds 12th place among the 16 donors in volume of official development assistance as a percentage of gross national product. Nine other countries of the Big Ten, as it were, in the development assistance committee to which I refer—we are 10th in that group—provide aid on better terms than the United States. Those countries are Australia, Denmark, Norway, Sweden, Belgium, the Netherlands, Canada, France, and the United Kingdom.

By this provision in the bill, we would be doubling the already disadvantageous position in which we stand.

The absolute volume of our lending, of course, is very significant. But our hardened terms—precisely because our lending represents such a large part of the total lending—would even more adversely affect the less developed countries, as our trade policy and monetary uncertainty are adversely affecting them now.

As I said a moment ago in the general discussion, many Americans would be affected as well; and this brings me to the amendment Senator STEVENS submitted for himself and Senator GOLDWATER, which has been adopted and is now the subject of a motion to strike.

This amendment endeavors to continue the concessional loan terms for all transactions under Public Law 480. I pointed out before that the transactions under Public Law 480 are four times the transactions under the development loan fund amount which we are authorizing here. That is a billion dollars a year, and we are authorizing $250 million. The effort was there made to cut out, as it were, the Public Law 480 sales from the effect of this provision of the bill, precisely because it was considered so damaging to any business that one could do with a less developing area. Even the sponsors of the amendment were very quick to note that.

Mr. President, it seems to me that that is only an acknowledgement of the defect in this whole amendment, in this whole provision of the bill, and that it ought to be totally swept out for precisely the reason which dictated the sponsors of the amendment seeking to exempt it from Public Law 480 transactions; because, at one and the same time, they noted that it would tend to inhibit trade and agricultural products as well as to diminish the assistance, in a very important way, of the poor countries in acquiring these necessities.

The question, therefore, which immediately faces us is, Shall we discriminate against manufactured goods, which includes even goods necessary for agricultural production—to wit, fertilizer, farm equipment and machinery, and so forth—in favor of the straight agricultural commodities in these lending terms?

I think it is very definitely a most unwise type of discrimination. Just as these terms are vital to the agricultural markets which these terms encourage, so they are vital to the industrial products which are so important to our economy and our balance of payments.

I respectfully submit, therefore, that the effort to take Public Law 480 transactions out of the situation is only an admission of the inadmissibility of the total proposition.

Another thing, Mr. President, is that we have been trying, in order precisely to relieve ourselves of a great part of the burden of foreign aid, to influence other nations to soften their loan terms. Obviously, if we are going to stiffen ours, according to the provision I am seeking to strike, we have to expect that the other nations are very likely to go the same way. So the impact on the developing countries will thereby be compounded. Instead of going in a direction of greater concession to enable loans to be contracted by the developing countries at an accelerated rate to improve their own economies—and that is greatly in the interests of the world—we would be encouraging by our example the industrial countries to go precisely in the opposite direction.

The Japanese Government, for example, is right now trying to persuade its parliament to improve the loan terms it offers. Obviously, with this example of the United States—if that is the example we present—we are not going to get a very good reception for that kind of move in the Japanese Diet. I hope this will not be the case.

The record indicates that other donors have responded to U.S. leadership; and it is logical to assume, therefore, that they will respond, except adversely, to a U.S. leadership which is adverse. Again, it is my fervant hope that this will not be the case.

The record is as follows between 1964 and 1969 as to other countries following U.S. leadership in this regard:

Canada dropped its average interest rate from 4.7 percent to 0.3 percent in that 5-year period.

The United Kingdom dropped its rate from 4.1 percent to 1.2 percent.

Japan's rate has dropped from 5.8 percent to 3.7 percent.

Denmark moved from a 4-percent interest rate to an entirely interest free loan.

The U.S. terms of aid have hardened since 1961, but not remotely to the extent which is contemplated by this particular provision of the bill.

It has been a symptomatic aspect of the foreign aid program of late years, but much more has gone into loans than into grants. Indeed, the whole grant business, except for supporting assistance, where it is in aid of security, defense, and military activity, has passed over into the loan. That is a great development because, first, it has an element of dignity and an element of self-help and, second, notwithstanding our archaic budget procedures which charge this off based on the mere fact that the money is loaned, in an absolute sense it is a great benefit to the United States, as the repayment rate on these loans has been well nigh perfect.

So there is much less of a drain upon our resources in respect of pursuing the foreign aid program in this way.

In 1969, 49 percent of the total aid from the industrial to the developing countries was offset by debt service payments in servicing past debts. This represents some gage of the way in which this whole pattern is working out. But the problem, if we harden the loan terms and the interest rate, works greatly to the detriment of the poor countries; because it increases the net transfer on debt service payments by an increase in the interest rate and, hence, diminishes the value of the aid and of the development aid loans to these countries, and so reverses the whole effort of our policy and of other donor countries to maintain the level of development at this rate or an even higher rate, if possible, in order to close the gap between the so-called industrial and the poor countries.

I repeat what I said earlier: Concessional interest rates do not mean that individuals or companies within the countries that are receiving the concessional rates get favorable rates; because when AID's funds are relent, they are charged the normal commercial interest rates in the country, which are sometimes—and in many cases—higher than those prevailing in the United States. But this gives an opportunity for the country to pay the administrative costs and to get more out of the development loans.

Finally, Mr. President, we have put out an enormous amount of money in foreign aid. The estimate is $140 billion. That sounds like a lot of money, and it is a lot of money, except if it is compared to our barren expenditures in the Vietnam war. This has gone on over a space—within my personal knowledge and personal experience—of some 23 years, though the official foreign aid program is only 21 years old. In that time, the United States has grown richer and more powerful and more productive than ever before in its history. Whereas, at the beginning of that period, a trillion dollar economy would have seemed beyond the wildest imagination of anyone concerned, we have now realized and exceeded that and are going on from there. The relationship is always between what we and the other industrialized nations do and what the less developed countries do. We cannot look at it on an absolute basis.

Of course, we have our poor and those who are hungry, and we have our difficulties; but relative to the other nations whose performance we are trying to bring up closer to ours, we are living in a paradise. Yet, by this means, the effort would be made materially to restrict the funds—already partially restricted in the bill—which we would have available for help in improving their countries. In turn, this is bound to make us more secure and improve our condition in terms of the amount of economic business done in the world.

In my judgment, we have to be careful that we do not dismember the development loan program before we have something effective and adequate to put in its place; or we will reap a legacy from the world which no American wants; namely, not dislike of Americans but hatred of Americans because of the seeming hardness of our attitude. And the multilateral development agencies are not at present ready and able to take up the slack that the destruction of our bilateral lending program will cause.

Notwithstanding the great things we have done, which have not diminished our stature or our resources or our interest in the objectives which these great things have accomplished, we should not now, in midstream, materially reverse our policy to the great detriment of that policy—especially considering what is at stake.

I predict, Mr. President, that the $250 million in development loans, if distorted—as this provision would distort them so that they are nonusable—will do more damage to the United States in hard terms—that is, in creating conditions under which billions of dollars more will have to be added to military programs of the United States, than they are remotely worth and certainly more than is worth the difference of the 3 percent in interest to which this particular provision applies.

Let me quote what an ancient sage in the art of politics, Machiavelli, said in the 15th century:

> In the poverty of the people rests the destruction of the princes.

Today, the United States is one of those princes. I believe that we would be shortsighted, indeed, if we were to be that unwise to totally emaciate the bilateral development loan program until we get some better program—all multilateral, or however we may work it out.

So, Mr. President, I hope very much that we will not make this mistake but that we will agree to the amendment to strike this provision from the bill.

Mr. President, I have used roughly one-half hour of the time on this side. We have a half hour left.

I should like to ask my colleague from Massachusetts (Mr. KENNEDY) the following question: I have reserved a half hour of our time following the vote on the Okinawa Treaty at 3 o'clock and wonder, at that time, whether the Senator from Massachusetts would be one of the speakers. Or, may I ask him, does he prefer to speak then or would he prefer to speak now?

Mr. KENNEDY. Whatever the distinguished Senator from New York wishes. I could ask some questions now and speak afterward, but if time is limited, I would be glad——

The PRESIDING OFFICER (Mr. BUCKLEY). One minute and a half remain at this time.

Mr. KENNEDY. Then we have a half hour later.

Mr. JAVITS. We have a half hour, yes, after the vote at 3 o'clock.

Mr. KENNEDY. If I could be assured of some time——

Mr. JAVITS. I am sure we could take another 5 minutes, if the Senator would prefer it, now, but if he wishes rather to speak afterward——

Mr. KENNEDY. I will speak later.

Mr. JAVITS. I thank the Senator from Massachusetts.

Mr. President, I reserve the remainder of our time. I would suggest to my colleagues in opposition to the amendment that I would be entirely agreeable to entering into a unanimous consent agreement on time so that they, too, can reserve 15 or 20 minutes or the half hour, if that is their desire, after 3 o'clock. I believe that the leadership would prefer that we try to line this up after 3 o'clock. I will leave that to the good judgment of those in opposition to the amendment.

Mr. GOLDWATER. How much time do we have here?

Mr. JAVITS. One-half hour covering our amendment and 1 hour on the opposition. We have a half hour which I have reserved until after the vote at 3 o'clock. As I have already explained, we are anxious to get on——

Mr. GOLDWATER. I agree. I stated earlier that——

The PRESIDING OFFICER. The one-half hour of the Senator from New York has expired.

Mr. GOLDWATER. Mr. President, I yield myself 2 minutes on our time.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 2 minutes.

Mr. GOLDWATER. Mr. President, earlier today I indicated to the leadership that I thought we might have moved on and settled this issue before 3 o'clock because, in my opinion, we could have done away with it in a short time, unless I am reading my friend from Alaska wrong, so that I would say a half hour would be more than we will need. I do not intend to speak at great length on this. It is not a new subject. It is an old subject. It has been covered thoroughly with Members of this body who, I think, have their minds pretty much made up. So, if the Senator from New York wants to request unanimous consent for a half hour on a side following the vote at 3 o'clock, we would not object.

Mr. JAVITS. I am merely trying to be fair because the Senator from Alaska (Mr. STEVENS) felt it was not fair for us

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to be able to reserve our time and not the opposition, so that whatever time you gentlemen want to reserve is all right with me.

Mr. STEVENS. Mr. President, as I understand it, we will use our time after 3 o'clock.

Mr. GOLDWATER. All right.

Mr. JAVITS. Mr. President, I ask unanimous consent that those opposing the amendment may have the similar privilege of using one-half hour of their time now and reserving the other half hour until after the vote on the Okinawa Treaty at 3 o'clock.

The PRESIDING OFFICER (Mr. BUCKLEY). Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered.

Mr. GOLDWATER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 10 minutes.

Mr. GOLDWATER. Mr. President, I must remind my colleagues that there is nothing new about the effort to bring the interest rate charged to recipient countries in line with the rates we have to pay for our money to make the loans possible.

Senators will recall that every year—at least every year that I have been here—the distinguished former Senator from Delaware Mr. John Williams would offer the precise amendment which has been offered and which is now a part of the bill.

I should like to remind my good friend from New York that I am not speaking in anger, as he suggested at one time. I have never voted for foreign economic aid, and I probably never will. Thus, I am voting from habit and not because I am mad at the United Nations.

I do think, though, that we should congratulate the Committee on Foreign Relations on finally coming to realize that this approach should have been used many years ago.

I suggested to President Eisenhower on any number of occasions that we should divide the approach three ways; namely, foreign economic aid; technical assistance; and military assistance. I suggested that we find out what the bodies would vote for.

I base my opposition to this amendment not from the point of view of economics but on plain commonsense. I have never been able to understand why the United States, paying interest rates as high as 7 percent, thinks it wise to loan money to countries at 2 percent and 3 percent, on which those countries pay no interest for 10 years with a 40-year payoff.

As I have often said, I would like to get in on that little "goodie" and I know that most American businessmen would, too.

The thing that strikes me about the argument of the Senator from New York is that after 23 years of this economic development loan, we do not find any diminution in the requests from even the poorest countries. I would think that if this approach had any validity and value—and I happen to think it does have—by now we would find countries like Brazil, Chile, or Jamaica, to mention three of an innumerable group, that would be able to do their own construction. I would think they would have by now built their own steel mills and provided their own factories to build things rather than to continue to buy them from the United States.

Another surprising thing to me is that even though Canada charges 3 percent for the same money and Britain and Sweden charge 1 percent and Denmark charges nothing, 98 percent of the money going to underdeveloped countries in the world continues to come from the United States. It seems to me that if money can be borrowed at zero percent and they do not do it, there must be something more attractive to borrowing the money from a country that charges 3 percent.

I do not know what the reason is. It would perhaps be interesting to hear that reason developed in testimony. The interesting thing is that 90 percent of the money allocated to these foreign countries is spent here in the United States. For example, all 50 States have businesses that do business through this development fund.

My own State of Arizona this year benefits by $343,748.

New York benefits by $178,829,000.

Even Alaska benefits by this to the amount of $3,524,000.

I note that the Senator from Kentucky (Mr. COOPER) is present. Kentucky benefits to the tune of $5,306,000.

The total of this aid financed commodities for the fiscal year 1971, dollar value, is $19,580,243. At 3 percent interest, that costs the borrowing countries $27 million. At 6 percent it would cost them $54 million interest a year, and that is not compounded, either.

The difference between the two is precisely what it is costing the American taxpayer over and above those sums that we have to expect will never be paid back because of the inability of the recipient country to develop its resources.

Again, I do not oppose this approach. I think it is probably a sensible one. I do oppose the idea that we should be giving money away in addition to adding to the high taxes that we already have to impose on our American people.

For example, the cities in America benefit from this:

New York City receives $144,810,000.

Detroit receives $33,457,000.

Peoria, Ill., receives $24,560,000.

Houston, Tex., receives $23,596,000.

It goes on down to Pittsburgh which receives $9,599,000.

Again, I am not citing these figures to be critical of a Senator who might be for this measure or opposed to it. I merely want to point out again that if these funds have done so much good for the recipient countries, why do they keep coming back to the United States to buy? I like that myself. However, it does not make sense to me that after 23 years we find countries that have just as great natural resources as we do have to come back to us for help.

I do not cite this country, because they have recently taken over the copper industry and my State produces 52 percent of all the copper produced in the United States. Chile produces almost all of the rest of it.

In spite of the obvious improvements that they have made in Chile which can be seen by anyone visiting there and in spite of the fact that these improvements have obviously benefited only a handful of people and not a multitude as we had hoped—and this is true of every country I have visited; the rich get richer, and the poor get poorer—the development fund is not producing what we had hoped it would: The raising of the average annual income of the people around the world.

Mr. President, I was rather astounded to hear a Secretary of State argue that these funds affect our balance of payments. If they affect our balance of payments, I suggest that the easier way to do this would be to have the Treasury write out a check and send it over to the State Department. That way we could keep it in the country and not have to go through the bookkeeping work.

The balance of payments means the difference between the exports and imports to and from the countries of the world. We are very deficit in that now. If we change the interest rate from 2 to 6 percent, or whatever it might be, I do not think it will affect the balance of payments. We will not do that until we get more production for our wages and better quality and can compete with the rapidly growing powers around the world that did not even exist in 1945, immediately after World War II.

Our problem in the imbalance of payments has been compounded by foreign and economic aid. We have actually gone year after year after year with an economic balance in our favor. However, when we dump these hundreds of millions of dollars and billions of dollars out with no return, we see an improper balance year after year.

Another thing that interests me and supports and strengthens the position of those who want to retain the section in the bill is that while we loan "X" country money at 3 percent, they in turn loan it to the company that is going to do the work for them, or the companies, at their own rate of interest and they are making money on our money. The companies are benefiting by the monies that we make available that would not otherwise be available to them.

Again, I am not opposing this, because it does produce employment in our country. It does produce sales. However, it seems a strange way to do business, to make it possible for a small or a large country to get 3 percent money and then have General Motors, General Electric, or any one of a number of corporations have to pay the going rate which could be 9, 10, or 15 percent.

Our American corporations benefit. Of course, I cannot get an accurate total on many of these. It is difficult to ferret out. However, United States Steel received $15,829,000 in fiscal year 1971; General Motors, $4.8 million; International Harvester, $2.9 million; Caterpillar Tractor, $13.6 million; Chrysler, $9.5 million; and Dupont, $3.5 million.

Mr. President, again I am glad that

American business is getting this business. It shows me that people around the world still think a little more of some American products than they do of foreign products, although it is becoming increasingly obvious in this country that our consumers are beginning to think more of some foreign made products than they do of products made in this country.

Mr. President, I do not intend to speak at any great length on this matter. Every time the measure came up in the Senate when I was here before and every time former Senator Williams of Delaware offered his amendment, I supported it. I am not taking any new action. I am following the action that I think makes commonsense. I think if we were to put the question to the American people, they would say, "Bravo. Stick with it."

Put the interest up to what we have to pay. If these countries do not want to borrow from us, they have the availability of Canada, Great Britain, Sweden, and Denmark, that they do not seem to be taking advantage of.

Mr. President, that is all I have to say on the subject at this time. I thank the Senator from Alaska for yielding.

[Applause in the galleries.]

Mr. BYRD of West Virginia. Mr. President, may we have order in the galleries?

The PRESIDING OFFICER. The visitors in the galleries are reminded that they are guests of the Senate.

Mr. STEVENS. Mr. President, how much time is remaining to those who oppose the amendment of the Senator from New York?

The PRESIDING OFFICER. Fifteen minutes, and then 30 minutes.

Mr. STEVENS. Fifteen minutes prior to the vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I became involved in this matter in a strange way. I would like to point out a few things.

First, Development Loan funds are available to private enterprise as well as government and quasi-government organizations abroad. I am reading from the report of the Agency for International Development. This is not strictly a Government program. We have a series of programs involved in the international field through AID and we should keep that in mind.

We have the money that is in a bill of this type. We have the International Development and Humanitarian Assistance Act before us today. In that act is technical cooperation money, the money for research, the money for institution building, the money for advisory technical services, and for American schools and hospitals abroad.

Our amendment does not cover any of those activities. We are talking about development loans, development lending programs, which cover project loans, program loans, and sector loans to private enterprise or governments abroad.

I thought we were going on to a program of participating in what I like to call the world community chest on the basis of making our contribution to multilateral institutions.

We have other programs in this bill. The Housing Investment Guarantee program. No direct money is in that.

There is the Inter-American Social American Development Institute. We have OPIC, the Overseas Private Investment Corporation. The Senator from New York is primarily responsible for that, which is money available to guarantee, as an incentive, to U.S. private capital invested abroad.

We have Food for Peace under Public Law 480, the Peace Corps, and the multilateral programs. We have the World Bank for International Development. We have the International Development Association, the International Finance Corporation, the International Development Bank, the Asian Development Bank, the African Development Bank, the European Development Fund, and the United Nations Agency.

We have made our payments to all those agencies. We have made them independent of this amendment here. What we are saying here is there is still a residual portion of the old foreign aid program that is down to a small amount now compared to what it used to be in the days of the Marshall plan. This is the contribution the United States is making through the development loan program. Mr. President, you can go through all the multilateral provisions. We have already this year made our payment into those banks. If they make soft loans and do not get repayment, I take it they will come back to us for a contribution.

We are talking about the problem of the Development Loan program. At present it is a 2-percent rate of interest for 10 years and 3 percent thereafter for a maximum of 30 years, with a 40-year program maximum.

I am reading from AID's presentation to the committee. They specifically said this year before the Committee on Foreign Relations:

> Since 1961 development loans have been repaid to the United States in dollars. Today most loans to recipient governments are on 40-year terms, including a 10-year grace period. Interest rates have increased in recent years to 2% during the grace period and 3% thereafter. In the future, we propose to use more flexible terms which will be determined by the prospects for each recipient country's development and will take into account its per capita income, its long-term foreign exchange earning prospects, and its medium to long-term debt service burden. Thus, the more advanced of the developing countries may pay 4–5% interest while interest rates for other less developed countries will vary from 1 to 3%.

Although they say this is a 3-percent program, with 2 percent during the grace period and 3 percent thereafter for the balance of 30 years, it is a flexible program and they intend to reduce these rates rather than increase them. Once before a similar amendment from conference led to the concept that the interest rates were raised.

We are not in a position where we should go it alone on soft loans. We have contributed more than our fair share to these nations. The Development Assistance Committee was put together to try to get all countries of the world that have the capacity to loan or advance moneys to the less-developed countries to contribute to central banks and authorize and support multilateral institutions so that the rest of the world could participate. Since the period of World War II we have done more than our share. I am reminded of the President's statement where he said we have gone the full mile in terms of our contribution. It is time we took into account who borrows from whom.

This is one of the residual programs of the immediate period after World War II. Private industry and the countries which cannot get money anywhere else in the world can go to any one of these international banks we have contributed to—the United Nations funds, and all the multilateral sources—and if they do not get the money there they can go to the Development Assistance Loan Fund and pay the same amount we pay when we borrow money from our own people to advance it throughout the world.

All this is doing is financing assistance that we are unable to finance to our own people.

I had some press releases gathered up for me with respect to what AID is doing. Here is a Turkey-Iran rail link, September 27, 1971. This is the Central Treaty Organization project to promote economic and social progress in Turkey and Iran at $20.9 million. Soft loans from AID were advanced to this project—10 years at 2 percent with no principal payments and 30 years with 3 percent.

I wonder how much better off our railroads would be if they had that kind of money. We sweat and strain over what happened to our surface transportation system and here we are doing this in connection with the European rail systems in Turkey and Iran at a cost to our taxpayers, as pointed out by the Senator from Arizona—a strictly subsidized loan program, into a strictly private enterprise sector of Turkey and Iran.

Then, there is the mineral resource loan for Colombia. This is dated May 13, 1971, and it is a $1.7 million loan to investigate mineral resources of Colombia looking for copper, asbestos, aluminum, zinc, and organic products including phosphates. All I can say to my good friend from New York is that I wish we could get $1.7 million for that purpose in Alaska, which is one-fifth the size of the United States, and has all those minerals. We know we have minerals of that type. But we are in a situation where, after Chile has taken the action it has with respect to our financial institutions in that country relating to copper, as the Senator from Arizona mentioned, we are going to advance and have advanced money from the funds previously put in that fund for this purpose.

No matter what anyone says, this is how I look at this loan fund. The moneys put out from this loan fund go into stimulating the private sectors of foreign countries and to increase the amount of exports they want to send us.

As a matter of fact, in most instances, I think it will be found it is American companies doing business overseas which take advantage of the low-interest money

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to develop mineral or manufacturing prospects abroad and increase exports from those countries to this country.

As the Senator knows, I have greatly worried about the problem we have in my State, where American companies are unwilling to hire our people who live in the rural areas for the minimum wage on an hourly basis—they offer to work for the minimum wage—because they can take the same work to Taiwan or Korea or elsewhere overseas, where people will work the same amount of time for less per day than our people would receive for 1 hour at home.

So if this money is used for the overseas private investment corporation to guarantee their loans, guarantee their participation in the economy abroad, if they lose, we have to pick up their check in the end. In the meantime, I should think we ought to be trying to export into our neighboring countries the concepts that have made our country strong, and not the concepts that have caused us to start sinking economically and militarily in our standing among the nations of the world.

I feel the time has come to end the giveaway programs of the Federal Government, and I conceive the subsidized Development Loan fund to be, as I have said, the last vestige of a program that, in its inception, had a great deal of merit—the rebuilding of the world after World War II, the great cause of the Marshall plan, the foreign aid programs which followed, which enabled our former enemy, Japan, to come to its present prominence in the world. They enabled Germany to regain its economic strength. Certainly no nation in history has aided its former enemies as we have.

It is now time to look at home, and in looking at home I find our fishermen cannot borrow money at all for more than 10 years. On the other hand, I find Korea can borrow money from this Government and advance loans at rates that help its economy. I find, by virtue of the fact that we are picking up the tab of the military defense of the free world by use of our military umbrella, we are freeing money that they would otherwise have to spend in their defense, so that they are providing us with unfair competition.

I could not agree more with what the ranking Republican member (Mr. AIKEN) of the Foreign Relations Committee said when he stated that we should not consider our gross national product in terms of money lent to borrowing countries.

I think we should look at what the United States has done to maintain the free world, to maintain NATO, and all the other programs through the 25 or 28 years we have done it. We ought to have some "money in the bank," if my colleagues will indulge the phrase, for what we have done in the past. By virtue of what we have done in the past, we ought to be able to turn more of our money into solving the problems here at home.

We might find a great deal more acceptance in some of the programs that I advocate, and I am sure the Senator from New York shares my views in that, related to solving problems of poverty, housing, and what is embraced in H.R. 1, if we were not operating in such a vast deficit situation.

In my opinion, one of the reasons why we have this vast deficit is that we continue not only to make our contributions to multilateral organizations and international banks and to the U.N., but we are trying to go it alone.

As the Senator from Ohio said the other day, we seem to have such a great urgency in wanting to pick up the check first. I do not know why these other nations that have been mentioned do not do this. The Administrator of the Agency for International Development pointed out in a letter to the Senator from Arizona that other countries do in fact now lend money to these same countries. Canada makes loans at 3 percent. Britain makes loans at 1 percent. Denmark charges no interest. Why is it, then, that they are not borrowing money from those nations. Our rates are still higher than those right now at which they still borrow our money. I think one of the reasons is that we have become Uncle Patsy. It is time we stopped that. If there is anything that can symbolize to the country that we are willing to reform the foreign aid program, it is this amendment itself.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally to both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I will take 2 minutes on the bill.

Mr. MANSFIELD. Mr. President, the Senator could take some time on the amendment.

Mr. GOLDWATER. Very well. I will take 2 minutes on the amendment.

Mr. STEVENS. We do not have time on the amendment.

Mr. GOLDWATER. Mr. President, I am sorry it did not come to my attention while I had the floor, but in the report of the Committee on Foreign Affairs of the House on November 6, 1969, there is a very interesting observation. I do not know if it is still going on. My friends on the Foreign Relations Committee can tell me. In the minority report signed by three Members of the House they listed nine points of objection, and the eighth one says:

> Three countries that have been receiving and will continue to receive funds under this bill, Thailand, Korea, and Taiwan, are now lending money to the United States at 6 percent interest.

Mr. BYRD of West Virginia, I suggest the absence of a quorum, and ask unanimous consent that the time be charged equally to both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I yield 3 minutes to the distinguished Senator from Louisiana.

PUBLIC WORKS APPROPRIATIONS, FISCAL YEAR 1972

Mr. ELLENDER. Mr. President, in the past, I have been very critical of the administration for impounding or freezing funds appropriated by Congress for planning and construction of water resource projects. This practice has been followed by both Republican and Democratic administrations. Last year, I believe that a new record was established when the Office of Management and Budget impounded every congressional add-on in the water resource program. On at least two occasions since the fiscal year 1971 appropriations were enacted, I criticized the administration for establishing a blanket policy of freezing congressional add-ons without taking the trouble to determine the reasons or justification for the increases approved by the Congress.

I have just been informed of the results of the apportionment by the Office of Management and Budget of the fiscal year 1972 funds for water resource projects. I am very pleased that, by and large, the administration will permit the use of the funds appropriated by the Congress. I commend the President for this action.

I would also like to point out at this time that in my remarks last year, I said I thought he was getting some bad advice. I am confident, as a result of congressional hearings on the impoundment of funds by the House and Senate Appropriations Committees, and by the Subcommittee on Separation of Powers of the Committee on the Judiciary of the U.S. Senate, the President today is getting better advice with respect to these programs.

The day following adoption of the conference report on the Public Works Appropriation Act, I wrote Mr. George P. Schultz, Director, Office of Management and Budget, with respect to the Public Works Appropriation Act for fiscal year 1972. I would like to think that that letter also had its effect on the administration's consideration of the congressional actions on the budget request for fiscal year 1972.

I had hoped that all congressional add-ons would have been apportioned for obligation in fiscal year 1972. This is not the case. Funds on a few projects were impounded—very few, by the way. The main point, as I see it, is that consideration was given to the responsible actions of Congress. In any democratic process there is room for, and there must of necessity be, honest differences of opinion.

Mr. President, I ask unanimous consent that my letter to Mr. Shultz and the list of projects and amounts held in budgetary reserve be printed in the RECORD.

There being no objection, the letter and list were ordered to be printed in the RECORD, as follows:

SEPTEMBER 23, 1971.

Mr. GEORGE P. SHULTZ,
Director, Office of Management and Budget, Executive Office Building, Washington, D.C.

DEAR MR. SHULTZ: I know that you are aware of the concern of the Members of Congress with respect to the policy of impounding Congressional add-ons. We discussed this matter with you at the beginning of this session in our over-all review of the fiscal year 1972 budget. Similar hearings were held by the House Committee on Appropriations and by the Subcommittee on Public Works of the Committee on Appropriations of the House of Representatives. Extensive hearings were also held on this problem by the Subcommittee on Separation of Powers of the Committee on the Judiciary of the United States.

Last year, all Congressional add-ons for water resource projects in the Public Works Appropriations Act were placed in budgetary reserve.

The Appropriations Committees of the House and Senate held lengthy hearings examining into the needs for the funds requested for fiscal year 1971 and, in my judgment, exercised great restraint in formulating recommendations to their respective bodies. The action of the Administration in placing all unbudgeted funds in reserve clearly indicates that no effort was made to determine the reasons for the increases. I believe that the Congress deserves better treatment than that from the Administration.

Yesterday, the Conference report on the Public Works Appropriation Act for fiscal year 1972 was adopted in the House of Representatives and the Senate. That bill provides some new starts as well as some increased appropriations for going projects which the Congress considered essential.

For the Corps of Engineers, the Conference report provides the funds for the completion of 27 projects, and the initiation of 21 new projects—including five of the seven new projects recommended in the President's budget. The total future commitment on these 21 projects is only $192,539,000, which, at the present rate of appropriations, represents only about 2½ months of construction.

The Congress provided additional funds for a number of projects currently under construction where the amounts recommended were clearly inadequate. The Corps of Engineers has already authorized the contracting Officer to issue out-of-funds notices on two projects for which the Appropriations Act provides additional funds over and above the budget estimate. I believe this is particularly significant when you consider that we are still in the first quarter of fiscal year 1972.

I sincerely hope that you will carefully examine the Congressional increases in the Public Works Appropriations Act for fiscal year 1972, and the reasons therefor. If this is done objectively, I believe that you will be convinced that all of the funds appropriated in this bill should be apportioned for expenditure in fiscal year 1972.

With kindest regards and best wishes, I am

Sincerely,

ALLEN J. ELLENDER,
Chairman.

Generally, Congressional add-ons have been apportioned for use in fiscal year 1972. The funds currently held in budgetary reserve are shown below:

CORPS OF ENGINEERS—CONSTRUCTION, GENERAL

[In thousands of dollars]

Project	Appropriation 1971	1972	Total
Lafayette Lake, Ind	[1] $183	.....	$183
Fall River Harbor, Mass. and Rhode Island	.....	$600	600
New York Harbor, N.Y., collection and removal of drift	.....	80	80
Lukfata Lake, Okla	[2] 450	.....	450
Total	633	680	1,313

BUREAU OF RECLAMATION—CONSTRUCTION AND REHABILITATION

Columbia Basin project, Bacon Siphon and Tunnel	.....	$1,055	$1,055
Oahe Unit, S. Dak	$350	300	650
Colorado River storage project, Savery-Pot Hook, Colo	250	.....	250
Colorado River Basin project, Central Arizona	1,200	.....	1,200
Total	1,800	1,355	3,155

TENNESSEE VALLEY AUTHORITY

Upper French Broad, N.C	$2,300	$1,700	$4,000

[1] Includes funds appropriated prior to fiscal year 1971.
[2] Funds appropriated prior to fiscal year 1971.

ORDER FOR RECOGNITION OF SENATOR GURNEY TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the Senator from Oklahoma (Mr. HARRIS) tomorrow morning, the distinguished Senator from Florida (Mr. GURNEY) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill (S. 2820) to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

Mr. ELLENDER. Mr. President, I suggest the absence of a quorum.

Mr. MANSFIELD. Mr. President, I ask that the time for the quorum call be taken from the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AVAILABILITY OF UNEXPENDED FUNDS APPROPRIATED FOR FOREIGN ASSISTANCE IN FISCAL YEAR 1971 AND EARLIER

Mr. MANSFIELD. Mr. President, I yield myself such time as I may desire, on the bill.

Mr. President, I am in receipt of a letter from the Comptroller General of the United States regarding an opinion I requested of him concerning the availability of unexpended funds appropriated for foreign assistance in fiscal year 1971, and before, to pay salaries and administrative expenses during the present fiscal year. I will place in the RECORD my letter to the Comptroller General and his full reply thereto at the conclusion of my remarks.

At the moment, I shall read two paragraphs from his opinion:

> In our opinion prior obligated and unobligated balances of appropriations made available for Fiscal Year 1971 and prior years for economic assistance are not available for salaries, expenses or other purposes during Fiscal Year 1972. The funds specifically made available until expended, however, will continue available for the purposes for which appropriated unless otherwise provided by law.
>
> With respect to foreign military assistance, Section 108 of the Mutual Security Appropriation Act, 1956—
>
> A long time ago—
>
> Which is a permanent provision of law, authorizes the maintenance of military assistance funds including prior-year obligated and unobligated balances, in one account, which shall be used for all transactions involving military assistance. Such prior-year funds would be available for salaries and administrative expenses for military assistance.

If I may now put this language into layman's terms—with which I am more familiar—and having requested my staff to confer on this with the staff of Mr. Staats, what this opinion holds is that for the military assistance program, prior-year appropriations unexpended would remain available for salaries and administrative expenses. As to the economic assistance programs, the opinion apparently divides those programs into two categories on this issue. For those programs where funds specifically have been made available until expended, pipeline money could be used for salaries and administrative expenses where appropriate. These programs would include: the Development Loan program, the Alliance for Progress, and the Indus Basin program.

In the other cases of economic assistance, this opinion holds that the pipeline funds could apparently not be used for salaries and administrative expenses. These programs would include: Technical assistance, the program providing for international contributions and the so-called supporting assistance program.

Mr. President, I ask unanimous consent that my letter to Mr. Staats and his reply thereto be printed in the RECORD at the conclusion of my remarks, together with some further correspondence with Mr. Staats.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MANSFIELD. Before concluding, Mr. President, I would note the fact that it has come to my attention that this letter written to me by Mr. Staats has been released to the press by a representative of the State Department. I do not know how the State Department came into possession of the letter. For the record, I would say that neither I

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nor, as far as I can determine, any member of my staff, was aware that this action would be taken. Nevertheless, with it, I hope the air is cleared on this issue.

Finally, I would say that, if necessary, I certainly would support a limited authorization, where necessary, to approve salary payments to employees pending either the windup of the foreign assistance programs or their resurrection by Congress as is now underway in the Senate.

EXHIBIT 1

NOVEMBER 6, 1971.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: My letter to you of November 3, requests an opinion concerning the effect of Section 10 of PL 91–672, concerning the availability for obligation or expenditure of money appropriated for foreign assistance (including foreign military sales).

In connection with additional issues involving the foreign assistance programs, it would be most helpful to have an opinion concerning the availability of funds appropriated for foreign assistance (including foreign military sales) under prior years authorization and appropriation measures. Specifically, it is asked whether all or any part of such funds—referred to as "pipeline" funds—can be expended in connection with salaries and administration expenses by agencies charged with the administration of the various foreign aid programs. With regard to such funds that are said to be already obligated, it is asked whether the subsequent de-obligation of such funds would then make them available for salaries, expenses and/or any other purposes for which they were originally appropriated in years past.

Finally, I would hope that the opinions here sought and those sought in my letter of November 3, be furnished as soon as possible and not later than Wednesday, November 10.

Thank you for your cooperation.

Sincerely,

——— ——— ———.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C.

Hon. MIKE MANSFIELD,
Majority Leader,
U.S. Senate,

DEAR SENATOR MANSFIELD: Reference is made to your letter of November 6, 1971, concerning the availability of funds previously appropriated for foreign assistance (including foreign military sales) under prior years authorization and appropriation measures. With regard thereto you ask whether all or any part of such funds—referred to as "pipeline" funds—can be expended in connection with salaries and administrative expenses by agencies charged with the administration of the various aid programs. Also, you ask, with regard to such funds that now have been obligated, whether deobligation of such funds would then make them available for salaries, expenses, or any other purposes.

In the event that the Congress continues the availability of funds by enactment of a continuing resolution without waiving the provisions of section 10 of the Foreign Military Sales Act, and the legislative history of such enactment disclosed that the Congress by such action intended that the foreign aid program be terminated there would be for consideration the provisions of section 617 of Pub. L. 87–195, approved September 4, 1961, 75 Stat. 444, 22 U.S.C. 2367, which reads as follows:

"Assistance under any provision of this Act may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this Act shall remain available for a period not to exceed twelve months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto."

In a section by section analysis of the proposed foreign assistance bill, subsequently enacted as Pub. L. 87–195, the purpose of section 617 was described as follows:

"This section deals with the same subject matter as section 503(a) of the MSA. It provides that assistance under any provision of the bill may, unless sooner terminated by the President, be terminated by an act of the Congress. The President's power to terminate assistance is inherent in his power to furnish assistance. In addition, it authorizes funds made available under the bill to remain available for a period not to exceed 12 months after the date of termination of assistance either by the President or by act of the Congress, in order to provide for the orderly windup of terminated programs of assistance."

See page 17 of Committee Print, 87th Congress, 1st Session, Section by Section Analysis Of Proposed Foreign Assistance Bill, prepared by the Executive Branch for the use of the Committees on Foreign Affairs and Foreign Relations.

With respect to the similar provisions of section 503a of the Mutual Security Act of 1954, the purpose of such provisions is described on page 94 of House Report No. 1925, Part 1, 83d Congress, 2d session as follows:

"This section requires the termination of all or part of the assistance furnished to any nation whenever the President determines that the furnishing of such assistance is no longer consistent with the United States interests or foreign policy, would no longer contribute effectively to the purpose of the assistance, or is no longer consistent with United States obligations under the United Nations Charter, or in the case of military assistance, that such nation is not making its full contribution to its own defense or to the defense of the area of which it is a part. Termination by concurrent resolution of the Congress is also provided. After termination pursuant to this section, funds remain available for obligation for 1 year for the purpose of liquidating assistance programs so as to minimize waste and loss of effectiveness of assistance already furnished."

The House Committee on Foreign Affairs in commenting on the provision for termination contained in the foreign assistance bill, 1961, stated that—

"Section 616 [617] provides for the termination of any assistance under this bill by a concurrent resolution, unless sooner terminated by the President, and continues the availability of funds under the act for not more than 12 months from the termination date to cover the expenses of winding up the programs.

"The President's power to terminate assistance is inherent in his power to furnish assistance.

"The termination provisions in this bill make funds available for the winding up of programs. The term 'winding up' is intended to include the time needed to finish up programs which are near completion and which it is in the interest of the United States to complete. The existing terminology provides for 'liquidating' the assistance programs. This was changed to 'winding up' in this bill, which is intended to express more clearly the intent of the law that when appropriate, certain programs may be completed rather than to require their immediate cessation.

"Certain specified conditions, contained in existing law under which assistance is to be terminated if determined by the President to exist, are omitted, as is a requirement that for the fiscal year 1961 the President recommend plans for the progressive reduction or termination of grants for defense support or special assistance. The Executive has indicated its intention to do whatever it can to reduce progressively the programs for supporting assistance, which includes assistance formerly designated as defense support and special assistance."

See page 73 of House Report No. 851, 87th Congress, 1st session.

The foregoing legislative history clearly discloses that section 617 is directed to the termination of particular projects or programs, that is, all or part of the assistance furnished to any one nation. It also refers to the termination of such individual programs by the President or by concurrent resolution of the Congress. In any event, however, the Congress has not terminated any foreign assistance program by concurrent resolution. Even though the Congress rejected the foreign aid authorization bill, new substitute authorization bills have been introduced and are under active consideration. It therefore is our opinion that section 617 provides no authority for the continued operation or liquidation of the foreign aid programs.

Concerning the availability of previously obligated funds for economic assistance which have been or will be deobligated, there is for consideration the last paragraph appearing in Title I of Pub. L. 91–619, the Foreign Assistance and Related Programs Appropriation Act, 1971, approved December 31, 1971, 84 Stat. 1857, under the heading "Economic Assistance," commonly referred to as the deob-reob authority. That paragraph reads as follows:

"Unobligated balances as of June 30, 1970, of funds heretofore made available under the authority of the Foreign Assistance Act of 1961, as amended, except as otherwise provided by law, are hereby continued available *for the fiscal year 1971*, for the same general purposes for which appropriated and amounts certified pursuant to section 1311 of the Supplemental Appropriation Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961, as amended, for the same general purpose as any of the subparagraphs under 'Economic Assistance', are hereby continued available *for the same period as the respective appropriations in such subparagraphs* for any of the same general purposes: *Provided*, That such purpose relates to a project or program previously justified to Congress and the Committees on Appropriations of the House of Representatives and the Senate are notified prior to the reobligation of funds for such projects or programs." (Italic supplied.)

It consistently has been held that provisions in annual appropriation acts generally do not constitute permanent legislation in the absence of some words of futurity or other terms making such provisions permanent. Not only is there an absence of such words of futurity in the deob-reob authority, but the Congress has reenacted it each year in various foreign assistance appropriation acts thus recognizing that it is not permanent legislation. Moreover, the language of the section makes the unobligated balances as of June 30, 1970, available only "for the fiscal year 1971" and the obligated balances only "for the same period as the respective appropriations in such subparagraphs." It thus is our view that such deob-reob authority is not available during the fiscal year 1972.

In our opinion, prior obligated and unobligated balances of appropriations made available for fiscal year 1971 and prior years for economic assistance are not available for salaries, expenses or other purposes during fiscal year 1972. The funds specifically made available until expended, however, will continue available for the purposes for which appropriated unless otherwise provided by law.

With respect to foreign military assistance, section 108 of the Mutual Security Appropriation Act, 1956, which is a permanent provision of law, authorizes the maintenance of military assistance funds including prior year obligated and unobligated balances, in one account which shall be used for all transactions involving military assistance. Such prior year funds would be available for salaries and administrative expenses for military assistance.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

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NOVEMBER 3, 1971.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: As you are undoubtedly aware, with the Senate's rejection last Friday of the measure authorizing funds for expenditure in connection with various foreign assistance programs covering this fiscal year, questions have now arisen concerning the effect of Section 10 of the Foreign Military Sales Act Amendments of 1971 (PL 91–672). That section provides in pertinent part as follows:

Sec. 10. (a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; • • •.

• • • • •

(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of this section which specifically repeals or modifies the provisions of this section.

Presently, it is understood that authority covering expenditures of appropriations pursuant to assistance programs for the current fiscal year is contained in H.J. Res. 742, which passed the House of Representatives on June 24, 1971, passed the Senate on June 29, 1971 and was signed into law on July 1, 1971 as PL 92–38. Expressly, PL 92–38 authorizes funds "for which provision was made in the Foreign Assistance and related programs, 1971" and provides a waiver of Section 10 as quoted above as follows: "Notwithstanding Section 10 of Public Law 91–672 • • •."

Public Law 92–38 has since been extended on two occasions: first under the terms of H.J. Res. 829, enacted August 9, 1971 (PL 92–71), and later under the terms of H.J. Res. 916, enacted on October 15, 1971 (PL 92–139).

Section 10 of Public Law 91–672 (amendments to the Military Sales Act of 1971) passed the Senate last December. The legislative history of the section is contained in the Congressional Record for that period. From that history, and from the plain language of the provision itself, I would ask that you submit as soon as possible an opinion regarding the meaning and full scope of the effect of Section 10 of PL 91–672 with regard to the expenditure of funds for foreign assistance programs following November 15, the date on which PL 91–139, the last extension of the continuing resolution, expires. More precisely, without waiving expressly the provisions of Section 10 by law, would expenditures of appropriations for foreign assistance programs in this fiscal year be lawful?

I would hope to receive your opinion within the next day or two and certainly well in advance of the November 15 expiration date.

Thank you very much for your cooperation.

Sincerely yours,

——— ———.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., November 10, 1971.

Hon. MIKE MANSFIELD,
Majority Leader,
U.S. Senate.

DEAR SENATOR MANSFIELD: Reference is made to your letter of November 3, 1971, in which you present a question concerning the effect of section 10 of Pub. L. 91–672, approved January 12, 1971, 84 Stat. 2063, in view of the Senate's recent rejection of the measure which would have authorized the appropriation of funds in connection with various foreign assistance programs.

Section 10 provides in pertinent part as follows:

"(a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure—

"(1) unless the appropriation thereof has been previously authorized by law • • •

• • • • •

"(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of this section which specifically repeals or modifies the provisions of this section."

Pub. L. 92–38, approved July 1, 1971, 85 Stat. 89, as amended, appropriates generally, in those instances where the Congress has not as yet enacted specific appropriation acts for the various departments for the 1972 fiscal year, such amounts as may be necessary to continue certain projects or activities until the pertinent annual appropriation act is enacted. The authority contained therein, last extended by Pub. L. 92–139, approved October 15, 1971, unless again extended will expire on November 15, 1971.

Concerning funds for foreign assistance programs section 101(b) of Pub. L. 92–38 provides funds for continuation of—"activities for which provision was made in the Foreign Assistance and Related Programs Appropriation Act, 1971, notwithstanding section 10 of Public Law 91–672." In view of this last provision it is clear that funds provided under Public Law 92–38 to continue foreign assistance programs are available for such purpose notwithstanding the appropriation thereof had not been previously authorized by law. This would be true after November 15, 1971, if Public Law 92–38 is amended by merely extending the November 15 expiration date.

As stated above, the authority contained in Public Law 92–38 will, unless again extended, expire on November 15, 1971, and in view thereof you ask our opinion whether, without waiving expressly the provisions of section 10 of Public Law 91–672, expenditure of funds for foreign assistance programs following November 15, 1971, would be lawful.

Section 10 was added to H.R. 15628, the bill subsequently enacted as Public Law 91–672, by the Senate Committee on Foreign Relations and the effect thereof is described on page 13 of Senate Report No. 91–865, as follows:

"This section would simply state, as a matter of law, that any appropriation above the amount authorized cannot be used and that any appropriation for which there is not an authorization cannot be expended."

It thus seems clear that the Congress intended in enacting section 10 that, in the absence of an authorization or an express waiver of section 10, funds appropriated for foreign assistance programs would not be available for obligation and expenditure until such waiver or authorization had been made. The Congress recognized that this was the effect of section 10 in that it expressly waived its provisions with respect to the funds provided by Public Law 92–38.

We trust the foregoing will assist you in resolving this matter.

Sincerely yours,

———,
Comptroller General of the United States.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION—AGREEMENT WITH JAPAN CONCERNING THE RYUKYU ISLANDS AND THE DAITO ISLANDS

Mr. MANSFIELD. Mr. President, I move that the Senate go into executive session.

The motion was agreed to, and under the previous order the Senate, in executive session, continued with the consideration of Executive J—92d Congress, first session—the agreement between the United States of America and Japan concerning the Ryukyu Islands and the Daito Islands.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. BUCKLEY). The hour of 3 o'clock p.m. having arrived, the Senate, now being in executive session, will vote on the resolution of ratification of Executive J, 92d Congress, first session, which the clerk will report for the information of the Senate.

The legislative clerk read the resolution of ratification as follows:

Resolved that two-thirds of the Senators present concurring therein, that the Senate advise and consent to the ratification of the Agreement between the United States of America and Japan concerning the Ryukyu Islands and the Daito Islands, signed in Washington and Tokyo June 17, 1971.

The PRESIDING OFFICER. The question is: Will the Senate advise and consent to the resolution of ratification?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

On this vote, the Senator from Maine (Mr. MUSKIE) and the Senator from Mississippi (Mr. STENNIS) are paired with the Senator from Nevada (Mr. BIBLE). If present and voting, the Senator from Nevada would vote "nay." The

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Senator from Maine and the Senator from Mississippi would both vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Utah (Mr. BENNETT) is detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. COOK), and the Senator from Ohio (Mr. TAFT) would each vote "yea."

The yeas and nays resulted—yeas 84, nays 6, as follows:

[No. 299 Ex.]

YEAS—84

Aiken	Fulbright	Montoya
Allott	Gambrell	Moss
Anderson	Gravel	Nelson
Baker	Griffin	Packwood
Bayh	Gurney	Pastore
Beall	Hart	Pearson
Bentsen	Hartke	Pell
Bible	Hatfield	Percy
Boggs	Hollings	Proxmire
Brooke	Hruska	Randolph
Buckley	Hughes	Ribicoff
Burdick	Humphrey	Roth
Byrd, W. Va.	Inouye	Saxbe
Case	Jackson	Schweiker
Chiles	Javits	Scott
Church	Jordan, N.C.	Smith
Cooper	Jordan, Idaho	Sparkman
Cotton	Kennedy	Spong
Cranston	Long	Stafford
Curtis	Mansfield	Stevens
Dole	Mathias	Stevenson
Dominick	McClellan	Symington
Eagleton	McGee	Talmadge
Eastland	McGovern	Thurmond
Ellender	McIntyre	Tower
Ervin	Metcalf	Tunney
Fannin	Miller	Weicker
Fong	Mondale	Williams

NAYS—6

Allen	Goldwater	Magnuson
Byrd, Va.	Hansen	Young

NOT VOTING—10

Bellmon	Cook	Stennis
Bennett	Harris	Taft
Brock	Mundt	
Cannon	Muskie	

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. MANSFIELD. Mr. President, with the approval of the distinguished Senator from New York, I would like to ask at this time that no more than 5 minutes be taken under the bill for the purpose of recognizing the distinguished minority leader, and with his permission I would like to join him in expressing our gratification for what the Senate has just done in consummating this important treaty between two great countries.

Mr. SCOTT. Mr. President, it is a matter of very great gratification to me as one who has visited Japan on some 16 occasions that the Senate in such an overwhelming fashion has indicated that it wishes to do full justice to the proper and reasonable provisions worked out in the treaty between our two Governments, an act which can only increase good will between our countries and further continue our friendly relations and mutual high regard for each other.

The fact that the vote was so very much on one side in favor of the adoption of the treaty is a very encouraging sign and I know if I were sitting in the Japanese Diet at this time I would seize this opportunity to conclude by saying arigato gozaimasu.

Mr. President, I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, all I want to do is extend my most sincere congratulations to President Nixon and Prime Minister Sato for working out the agreement which has just been ratified by the Senate.

May I say, if my understanding of the Japanese parliamentary situation is correct the Diet will still be in session for some 60 days to discuss this treaty. I hope the difficulties they meet with there will be just as minor as those we have met here, and they have been most minor.

It is a day of celebration, it is a day of rejoicing, and it is a reaffirmation of the traditional friendship which began in 1853 between this country and the empire of Japan. I hope it is only one step on a long road based on equality, mutual respect and esteem on both sides.

Mr. FULBRIGHT. Mr. President, I wish to associate myself with the majority leader's statement. I want to commend the President and the Secretary of State for sending this agreement down in the form of a treaty. There was great apprehension at one time that this body would either delay it or seek to amend it or change it because of differences, and after consulting at some length, the administration decided to send it down in its present form. I think that was entirely correct, and this is a very commendable action by the Senate. This is a responsible body, and I am delighted with the action that has been taken.

Mr. JAVITS. Mr. President, I associate myself with the remarks of the leadership. I was in Japan in an effort to work out a manmade textile agreement. There was a great feeling that this treaty would be held hostage for that agreement. I think the genuine exercise of statesmanship by the Senate avoided that temptation, and the statesmanship of the Japanese in connection with the textile agreement is a very good augury of our relations, especially as affects Asia, Eastern Asia, and Mainland China and it demonstrates that we have sound enough relations with the Japanese that they will not fear Japan as they have for so long.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

SPECIAL FOREIGN ECONOMIC AND HUMANITARIAN ASSISTANCE ACT OF 1971

The Senate resumed the consideration of the bill (S. 2820) to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Javits amendment.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I yield 7 minutes to the Senator from Iowa (Mr. MILLER). I ask unanimous consent that the record show that the Senator from Iowa (Mr. MILLER) and the Senator from Kentucky (Mr. COOPER) are cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, I thank the Senator from New York.

I rise in support of the pending amendment, No. 629, of which I am a cosponsor along with the Senator from New York (Mr. JAVITS) and others.

As has been pointed out, the amendment would strike from the bill subsection 1 of section 102, which, as reported by the Foreign Relations Committee, would eliminate long-term, low-interest development loans from our foreign aid program, because the interest on such loans would have to be equal to the going interest rates for Treasury Department financing.

We went into this point some years ago, and the very strong sentiment of the Senate was that very low interest rates should be a feature of long-term development loans—otherwise we would defeat the purpose of aiding developing countries. It was also argued at the time that other developed countries make long-term low-interest development loans, and that we certainly should also extend the same type of financing.

Unless this amendment is agreed to, we might just as well put in the bill a statement of policy that long-term development loans will no longer be made, because they will not be made—and the reason is that either the developing countries will obtain long-term, low-interest financing somewhere else; or they will try to get along without them.

What I fear has also been overlooked by the committee is the impact such a provision as is contained in the bill would have on our Public Law 480, food-for-peace program. Section 106 of the Agricultural Trade Development and Assistance Act, Public Law 480—provides that the terms of sales of agricultural commodities on credit shall not be less than the terms of development loans under the Foreign Assistance Act. Accordingly, unless this bill is amended as we propose, the interest rate on Public Law 480 credit sales will automatically have to equal the going rate for Treasury Department financing. The rationale behind this linkage has long been that the cost of food assistance should not be cheaper than the cost of loans with which to purchase fertilizer and other food production inputs; otherwise the incentive to increase food production would be undercut.

The estimates I have received from the Agency for International Development for fiscal 1972 shipments under Public Law 480 are as follows: 5,126,000 tons of wheat; 1,197,000 tons of feed grains; 778,000 tons of rice; 420,000 tons of vegetable oil; 15,000 tons of tobacco; 800,000 bales of cotton; and 90,000 tons of cotton products.

Some of these shipments would not be affected by the change in the bill, since some sales agreements have already been signed. But some of them would be affected; and sales for future years would be, too, with potentially disastrous results to American farmers and hungry people in hungry nations. For example, Japan has a huge rice surplus of 5 million tons and is already offering terms which are competitive with our present terms. If we wish to maintain our Public Law 480 sales, we should leave the present terms alone.

Actually, Public Law 480 has always had a twofold purpose: First, and most important, to help hungry people in hungry nations; second, to promote trade in U.S. agricultural products. I would doubt that any Member of the Senate would say that this program—our food for peace program—has been anything but successful. Over the years we have made some modifications in it so that, for some time, it is working very satisfactorily.

For these reasons, I ask my colleagues to support the pending amendment.

Mr. President, I ask unanimous consent that a letter with its attached statement which I received from the president of the League of Women Voters be printed in the RECORD at this point.

There being no objection, the letter and statement were ordered to be printed in the RECORD, as follows:

DEAR SENATOR: The League of Women Voters urges your support for prompt passage of the development and humanitarian foreign assistance bill introduced by the Senate Foreign Relations Committee on November 5. While the funding proposed for bilateral development loans and technical assistance, as well as the UNDP and other multilateral programs is lower than we want, the League thinks that the legislative separation of development-related assistance from military and defense support assistance is a great leap forward, and outweighs the issue of specific amounts.

We urge your support for separation of the two types of assistance—the one devoted to long-range developmental programs and the one devoted to military and defense-related aid.

We urge your opposition to any moves to cut bilateral development loans (which are largely handled multilaterally through consortia), or to increase interest rates for them.

The League does not support the military and support assistance bill.

Attached is a copy of a League statement of our approach to the U.S. role in international development.

Sincerely,

MRS. BRUCE B. BENSON,
President.

DEVELOPMENT

Support of U.S. policies to: promote Development efforts which focus on human needs and which emphasize cooperation between the developed and developing countries.

The League is firmly committed to development aid as one major facet of an urgently needed partnership of peoples and nations. We are convinced that decisions soon to be made on U.S. aid policy for the 1970s will be crucial to shaping the developing world of the 1980s.

The League is firmly committed to deenergetic support of foreign economic aid has long been recognized in Congress and in international development institutions. Rooted in earlier days of good neighborly interest in Latin America, our aid activities have encompassed support for the post-World War II Marshall Plan programs and the 1949 Point Four Program. Our post-war aid position was based on:

Long range planning.

Adequate financing.

Effective coordination and administration of both bilateral and multilateral programs.

Cooperative financing by developed countries.

Maximum self-help from the developing countries.

A NEW LOOK AT DEVELOPMENT

By the end of the 1960s, American foreign aid had become an incompatible mix of military, humanitarian and development programs. U.S. commitment to the *development* component had suffered serious setbacks as the Vietnam war and crucial domestic needs brought appropriations to the lowest level in U.S. aid history. It was time for a reevaluation of the League's aid position.

After a year-long study, an updated—and up-to-date—position on development was announced in April 1970. The position clearly reiterates our historical support for U.S. policies to help the less developed countries. But it says more. It calls on the U.S. to:

Emphasize the quality of life and focus on human needs in its aid program.

Separate military aid and supporting assistance from development assistance in both legislation and administration.

Increase U.S. development assistance through multilateral channels.

Adopt aid policies that respect cultural differences and favor a partnership relationship with developing countries.

We take the view that the impact of most trade policies cannot be evaluated apart from aid policies. For example: Industrialized countries should be willing to accept a wider range of imports, including raw materials, semi-processed and finished goods. Developed countries should grant temporary preferential tariff treatment to all LDCs. American firms and workers that suffer from such competition should be helped by adjustment assistance rather than by restrictive trade measures. The flow of private investment of U.S. capital to the LDCs should be encouraged. International commodity arrangements, such as the International Coffee Agreement, should be used as a short-term supplement to development aid, especially for single-export countries.

Strong grass roots support is imperative if these changes are to stand a chance of becoming U.S. policy. We are prepared to take the cause of international development to communities large and small across the country. Congress and the nation, though distracted by domestic crises, economic slowdown and a drawn-out war abroad, must be made to see, clearly and in all its implications, the plight of the poor nations.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. JAVITS. Mr. President, will the Senator do it from time on the bill, because I am rather short of time?

Mr. FULBRIGHT. Yes.

Is the Senator aware that we adopted the Stevens amendment this morning, which dissociates the Public Law 480 program from the development loans; in other words, the effect of the amendment is to relieve its terms from Public Law 480, which the Senator was discussing?

Mr. MILLER. The Senator from Iowa is aware of that. He is also aware, if I may add, that there was a unanimous-consent agreement that the Javits proposal will be all-inclusive. I thought it well, in view of the unanimous-consent agreement, that we restate the position with respect to Public Law 480.

Mr. FULBRIGHT. I just wanted the RECORD to show that the matter is already taken care of. Even if the Javits amendment is defeated, Public Law 480's present terms will not be disturbed.

Mr. MILLER. I so understand, but the unanimous-consent agreement was entered into that the Javits amendment will be all-inclusive. Since it will be all-inclusive, I thought it quite appropriate to talk about the Public Law 480 aspects.

Mr. FULBRIGHT. I do not object. I did not know whether the Senator was aware of the fact that we have already taken care of that. In spite of what may happen to the Javits amendment, the Public Law 480 program will go ahead.

Mr. MILLER. I do not find fault with the Senator's technical approach, but the fact is that the unanimous-consent agreement is as I have stated, and it seems to me quite germane to talk about the Public Law 480 program. I would emphasize that, quite apart from what happened to Public Law 480, I wanted to restate my strong support that we continue the long-term, low-interest development loan program, which, without the Javits amendment, will go by the board.

Mr. JAVITS. I thank my colleague.

I yield 7 minutes to the Senator from Massachusetts (Mr. KENNEDY).

Mr. KENNEDY. Mr. President, I rise to speak in favor of the amendment which I have joined the Senator from New York and others in introducing. This provision, simply stated, will bring the development loan program back to life.

Currently, despite the dollar figures which the committee has authorized, the development loan program is dead and every reputable international development economist will concur in that judgment. The provision of the current bill which requires that interest rates on these loans be at not less than the current market rate for Government securities—approximately 6 percent—makes the entire development loan section almost moot.

The reality today is such that virtually none of the developing nations will be able to take advantage of these provisions. Their current debt retirement requirements already are stretching their budgets razor thin. Thus, in 1969 almost 50 percent of the total aid from rich to poor nations was offset by payments from the poor countries to rich countries in meeting their obligations on past debts.

The effects of the present language of the bill will be to substantially reduce the value of American aid. It will mean that far more of the funds of the less developed nations will have to be used for retiring their foreign debt and far less will be used to meet their housing, education, and health needs.

And I might note that this will have a direct and serious impact on the food for peace program. Public Law 480 has a dual function. First, it is designed to assist the poor nations in meeting their basic food needs; and second, it is a strong stimulus to promote agricultural trade, thereby assisting U.S. farmers. Over 8 million tons of agricultural products would have been sold to foreign na-

tions under this program, under the traditional low-interest loan program.

Raising the interest rate will have the direct effect of defeating both goals of this program.

If we want verification for the need to adopt this amendment, let me simply note that for the past 10 years, we have been arguing and cajoling other industrialized nations to reduce the interest rate they charge the developing nations of the world. And we have succeeded to a large extent.

Canada, the United Kingdom, Japan, Australia, Denmark, Norway, Sweden, Belgium, the Netherlands, France, and, I might note, the Soviet Union, all provide development loans at lower interest rates than the United States.

In fact, Denmark now is providing interest free loans, Canada has dropped its loan rate to 3 percent and the United Kingdom offers loans at 1.2 percent.

Or we might simply cite the recommendations of the Commission on International Development, headed by former Canadian Prime Minister Lester B. Pearson. The Pearson Commission recommended that:

> The terms of official development assistance loans should henceforth provide for interest of no more than 2 percent, a maturity of between 25 and 40 years, and a grace period from 7 to 10 years.

The Committee for Economic Development also concurred in the need for interest rates even lower than the 2 to 3 percent rates which this country had been charging.

If there is any rationale to the United States providing its share of foreign assistance. And I believe there is, then we must remove the present requirement for an exorbitant interest rate on development loans.

If there is any question of the need for development assistance in perhaps 100 of the nations of this world, then let me simply note that in the United States per capita gross national product is approximately $5,000. In 55 nations of the world per capita gross national product is under $500, and in 12 of those, including India, per capita GNP is under $100.

And in most of these countries, the vast majority of the populace have incomes far below the national average.

With those statistics in mind, it should not be surprising that delegates to the Columbia University Conference on International Economic Development a year ago concluded that:

> The widening gap between the rich and poor countries of the world has become a central issue of our time. In incomes, living standards, economic and political power, one-third of the world has in recent decades been pulling steadily ahead, leaving the remainder of mankind in relative poverty, in many cases to live without clean water, education, basic medical facilities or adequate housing. Yet with modern technology and existing productive capacity, none of this need continue if mankind would develop the will and organization to use the resources at hand.

If there are any of my colleagues who doubt that the tension between affluent and impoverished nations is rapidly increasing, then let me call their attention to a recent declaration by delegates from 80 nations in Lima, Peru. They stated, "indefinite coexistence between poverty and affluence is no longer possible" and urged greater action not only in the area of development assistance but also in an end to protectionism against the products of the developing nations.

In their argument, they cited a statistic which I believe is relevant. In the industrialized nations, average per capita income increased at an annual rate of $650 during the decade of the 1960's. But for the developing countries, per capita income grew by only $40 a year.

These statistics add a sense of urgency to the need for this Nation to meet its responsibilities in development assistance. And I want to emphasize that this does not mean military aid; it does not mean internal security assistance; it does not mean private foreign investment; and it does not mean relief in the wake of flood or earthquakes. Those programs have to be judged on their own. But in terms of social and economic assistance by the Government of the United States to aid the development process in the underdeveloped world, we must do more because we are more capable of doing more.

We are currently 12th among the 16 developed nations in the percentage of gross national product used for development assistance.

I believe we must stand ready to assist in far greater measure than the amounts of assistance contained in the bill before us, and I believe the statement of President Kennedy in 1963 still is accurate:

> In some 80 developing nations countless large and small decisions will be made in the days and months and years ahead—decisions which, taken together, will establish the economic and social system, determine the political practices, and mold the structure of the institutions which will promote either consent or coercion for one-third of humanity. And these decisions will drastically affect the shape of the world in which our children grow to maturity.

The loan program for worldwide development and for the Alliance for Progress is one of the more direct ways in which this Nation assists in the development process, and unless the Senate is seeking a total divorce from the developing nations of the world, then I urge it to strike the high interest rates that have been placed in the pending legislation.

I strongly urge the Senate to accept this amendment.

In the time that is available, I would like to have a brief dialog with the sponsor of the amendment. Is not one of the great concerns that motivated the Senator from New York in proposing this amendment the very high amount of debt retirement payments which take place in the developing countries?

Mr. JAVITS. Exactly. They are paying out in debt service more than one-half of what they get, and in many countries it is equal. It is simply like creating new slums when we put up public housing. That is something we want to avoid, and it is exactly the same kind of philosophy.

Mr. KENNEDY. Where does this aid go? If this amendment is adopted, what kind of programs will be aided? Given the background and experience of the Senator, will this money be going to the richer nations or Middle East sheiks or will it go to improve and contribute to the social fabric of developing nations?

Mr. JAVITS. Completely the latter. Most of this money—as a matter of fact, more than half—is going to the Near East and South of Asia. The rest of it is heavily committed in Latin America. Incidentally, everybody should know that my amendment also benefits the Alliance for Progress. In other words, we are proposing to increase interest rates there, too. While restoration of the Public Law 480 program might mollify some of our colleagues, others are also interested in the other aspects of it, including farm machinery and other equipment that goes to build up a primitive economy.

As a matter of fact, I would like to point out that the argument made about bilateral lending is not very important. To say it goes into multilateral funds is not true. Perhaps it may be some day, but it is not now. We put into bilateral funds for developing countries $2.4 billion, of which we contributed $1.3 billion, but other countries contributed $950 million, which is no inconsiderable amount. Multilateral lending was $1.1 billion, less than half of the bilateral lending, to which we contributed $393 million, less than 50 percent.

Mr. KENNEDY. Well, as I understand, then, it would be the poor countries that will benefit, and the people who will benefit will be those who are in dire need of food, housing, and social services, as I understand the Senator, is that correct?

Mr. JAVITS. Strictly and exclusively.

Mr. KENNEDY. Would the Senator not agree with me that in terms of the whole development question, the United States, as shown by the statistics just read into the record, is really the caboose in this train moving toward nation building and development? Whereas we started off in the early 1960's as the leader in trying to help and assist in these critical areas, actually, the way we have been cutting back in recent years, and particularly under the present measure, it will represent turning our back on the assisting nations. We are 12th of the 16 industrialized nations in the percentage of our GNP we devote to development aid, and I believe we must do better.

Mr. JAVITS. Exactly, and this will be the finishing blow.

Mr. KENNEDY. Finally, is it the Senator's understanding, as it is mine, that we expend about $5 billion a year in terms of exporting military hardware? Would the Senator not agree with me that we could find cuts in those items of military hardware that we export every year?

Mr. JAVITS. The Senator is correct, and that is the way the Senator has voted and the way I have voted consistently.

Mr. KENNEDY. I thank the Senator. I am happy to be a cosponsor with him, and urge the adoption of the amendment.

Mr. JAVITS. I thank the Senator.

I yield 5 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, I rise to support the amendment of the Senator from New York (Mr. JAVITS) and I do so from very strong convictions. I think the amendment is the key amendment to this foreign aid bill. Section 102, represents an amendment, which was agreed to on the floor of the Senate during the debate on the foreign aid bill—the bill which was defeated. It was retained in the pending bill reported by the Foreign Relations Committee because the committee determined that it would report to the Senate in the pending bill all substantive sections which were included in the defeated bill except funding authorizations, and then the Senate could work its will through amendments. Senator JAVITS' amendment would strike section 102 if section 102 is not stricken, its effect will be to restrict if not kill the Development Loan Fund; will reach into funds which are made available through the Alliance for Progress; and those who think Public Law 480 is escaping because the prohibitions of section 102 have been removed respecting it, will find that eventually the restriction will be applied to Public Law 480 as well.

What are we dealing with? Last year Congress appropriated $420 million for the Development Loan Fund. This year the administration asked for $400 million. We reduced the amount in the Foreign Relations Committee to $350 million, but on the floor of the Senate it was reduced to $250 million. So we are dealing with a 40-percent reduction, and, as the Senator from New York (Mr. JAVITS) has described so aptly, an emaciated Development Loan Fund.

If we now insist upon removing the applicable concessions as to terms of maturity and interest rates, knowing that the United States provides the major portion of development loans, I think it will be impossible for many of those countries we help to carry out necessary development programs for raising the living standard of their peoples. Interest and principal obligations have reached such proportions that they now consume a great deal of their revenue, and section 102 would add to their burden.

Mr. DOMINICK. Mr. President, will the Senator yield?

Mr. COOPER. On the Senator's time.

Mr. DOMINICK. I do not know whether it is my time or not. It is a question.

Does the Senator have any idea as to interest rates which are paid to other countries which are giving soft loans?

Mr. COOPER. Yes. As Senator JAVITS pointed out earlier, Canada dropped its average rate from 4.7 to 3 percent, the United Kingdom from 4.1 percent to 1.2 percent, Japan from 5.8 percent to 3.7 percent, Denmark from 4 percent to interest-free loans. In contrast, we have been increasing our interest rates until now they are 2 percent for the first 10 years and 3 percent for the remainder of the term.

Mr. DOMINICK. I ask the question because I think I was the author of the original amendment.

Mr. COOPER. Yes; as I recall your amendment.

Mr. DOMINICK. And maybe I had better take it on my own time, if the Senator from Arizona will yield me time.

Mr. COOPER. I thank the Senator.

I have said that now we are dealing with $250 million. Also, I would like to name the countries which could be helped by this bill. I am looking at information provided us by AID.

There are, I believe, 19 countries in Latin America that would receive some aid. There are nine countries in Africa. I intend to ask that the names of all those countries be printed in the RECORD, but, reading the list for Africa, there are Congo, Ethiopia, Ghana, Liberia, Morocco, Nigeria, Tanzania, Tunisia, and Uganda, and regional African funds which would help most African countries.

I do not think any of these countries can be called developed countries.

On the continent of Asia, India, Pakistan are included. Turkey is also included. In Southeast Asia, Indonesia, Korea, and the Philippines are assisted.

Mr. DOMINICK. Will the Senator yield further?

Mr. COOPER. I yield.

Mr. DOMINICK. Is it not true, as I gather from the report—and I confess I am asking for information in these questions; I will be happy to use my time—that first of all, we made the majority of the loans?

The PRESIDING OFFICER. Does the Senator from Arkansas yield time?

Mr. GOLDWATER. I yield the Senator such time as he may require.

Mr. DOMINICK. I am yielding time on this side.

The PRESIDING OFFICER. The Senator from Arizona has no more time remaining.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Under the unanimous-consent agreement, we have a half hour left.

Mr. FULBRIGHT. Mr. President, does the Senator from Colorado wish some time? I yield the Senator 3 minutes.

Mr. DOMINICK. I thank the Senator. This is a very difficult thing, to try to find out what the story is under this limited time situation. I do not know who has the time, or whether I have any time. The Senator was yielding for some questions. I will be happy to do it on my time, if I have the time.

Mr. COOPER. I have the floor. The Senator from New York yielded to me 5 minutes, and I certainly will be glad to answer any questions I can. However, if the Senator will allow me to continue, I should like to finish expressing my views.

I have named the amount, $250 million in this bill and the number of countries that would be adversely affected by section 102 unless Senator JAVITS' amendment is adopted.

I think it must be said they are really undeveloped countries, or those approaching the point where they may become self-sufficient. To further reduce this fund by these crippling conditions would have serious effects upon the countries we ought to help. To do so would not help them or help the United States.

I know it has been said, "Well, we have cut out the Public Law 480 program." But this is an inconsistent argument. If it is important for the maintenance of the Public Law 480 program, and I believe it is, to maintain these concessionary rates of interest, the same argument applies to the much smaller amounts loaned through the Development Loan Program.

And how can I say, because $20 million worth of tobacco, and not all of it, from my State goes into the Public Law 480 program—and almost all the tobacco goes to these countries because they want to realize taxes on it—if I come from a tobacco or cotton or soybean State, or a great wheat State, or a great feed grain State, and I said:

> Oh, yes, I will retain the concessionary terms as far as my own State and my own agricultural product is concerned, yet I think we should remove the concessionary rates on such things as machinery which may go into a light machine factory, or water pumps for the thirsty, which go to irrigate the dry and parched lands of other countries, and fertilizer to help them become self-sufficient in food.

How do I make a distinction? How can we make such distinction?

Of course, the Senate has made it and I think it is a very selfish distinction to make. We have a very modest amount for development loans in this bill; we are helping countries which need help.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I yield the Senator 2 more minutes.

Mr. COOPER. A half minute is sufficient. Countries which need to be helped; and even from our own deepest interest when it is argued "Foreign aid is a part of our foreign policy," how can we escape it? If it is a good foreign policy to help other countries, how can we escape it and why should we?

Some cry out about the military policy. Why should we not cry out for the most affirmative, humanitarian, and helpful aspects of our policy, Senator JAVITS has spoken of today and that Senator AIKEN spoke about so eloquently a few days ago? We should hold fast to our traditional spirit of helpfulness and generosity.

I hope very much that this very important amendment of the Senator from New York will be adopted.

Mr. JAVITS. Mr. President, I yield 3 minutes to the Senator from Wyoming (Mr. MCGEE).

Mr. MCGEE. Mr. President, I rise in support of the amendment of the distinguished senior Senator from New York. The committee bill has raised the interest rates on development loans so that the recipients will be compelled to pay interest rates comparable to those paid on U.S. Government borrowings. Furthermore, the committee bill provides that the Development Loan Fund is to be terminated by fiscal year 1975. In my opinion the effect of increasing the interest paid on development loans by the less-developed nations will be the immediate termination of the development loan fund because such an increase would negate the economic effects of any development loan that we would make to any of the developing countries since these nations are already suffering from an onerous debt burden. If we are to

have a bilateral loan program that would accomplish the objectives sought by the pending legislation, the interest rate of 2 percent for the first 10-year grace period and 3 percent for the remaining 30 years is just about the maximum amount the underdeveloped nations can afford to pay. In many instances, even these rates have proven to be too burdensome to the less-developed nations and many worthwhile projects have had to be abandoned.

When the Development Loan Fund was established by the Foreign Assistance Act of 1961, as amended, the interest rates prevailing at that time were three-fourths of 1 percent during the 10-year grace period and 2 percent thereafter.

I personally feel that if the loans are to accomplish the desired ends, these rates would be preferable. However, I am a realist, and I am cognizant that we cannot turn the clock back in the atmosphere that presently prevails.

Mr. President, if we are to gradually phase out the bilateral loan program and replace it with a multilateral program, the change must be gradual and not a precipitous one. The President has strongly endorsed increasing the use of multilateral institutions in the conduct of U.S. aid programs, and the loan program submitted by the administration was a sound one. It provided for $655 million in bilateral lending and $810 million in contributions to international lending agencies. In 1970, the comparable figures were $675 million for bilateral and $460 million for the international financial institutions. To accelerate the turnover of all its development lending to international institutions, ignores several realities. I do not believe that the capacity of these institutions is such that they could cope with what would be a doubling or tripling of their activity. All the banks already are growing at a very rapid pace. For instance, over the past 6 years IDA lending has increased almost 100 percent. To double the lending activity of IDA within even 2 years would be unrealistic. The Asian Development Bank has its operations well launched, but it, too, is growing rapidly already and one could not expect it to achieve its rate of expansion. The Inter-American Development Bank is fully occupied with the administration of the increases in resources agreed in 1970; and further increases are already agreed for the next 3 years. The African Development Bank is embryonic.

Turning over our funds to these institutions would instantly destroy their international character. In several the Anglo-Saxons are already believed to play an excessive role. The nature of these institutions requires that we move in concert with others to increase their resources. This we are doing. One cannot build international institutions unilaterally.

For the foreseeable future the United States will certainly wish to have authority to lend to less developed nations on concessional terms to meet particular cases in which our view of the development situation in a country may differ from that of the international lending institutions, to participate in consortia or coordinating group activity, and to reflect our foreign policy interest.

Finally, it is the intention of the administration to move over the next years to enable the international lending agencies to expand their activities, to shift our bilateral lending to these agencies, but to do this as the capacities of the banks permit and as our fellow donors agree with us.

Mr. President, I want to remind each of us in turn that while we look upon interest rates and this sort of thing as a kind of procedural function because of the level of our economy and the habit of our funding in our own country, we need go back no further than our own REA loans, on which we put a 2-percent ceiling because we need to keep marginal developing REA areas in business as small businessmen. We even have a 2-percent loan there.

As we look back upon the development loan program, the purpose of it is precisely similar—to bring areas of low-risk capital capabilities at this stage into a much larger participation economically. If we begin to soak them—and I put the word "soak" in deliberately—a higher rate of interest in our concept, we are rapidly moving the program out of the development area into the banking category; and, as a result, we ought to have another look at what the committee did.

I favor very strongly the initiatives of the Senator from New York in attempting to make this realistic, in attempting to keep us focusing on the real objectives of the development loan category; because, as we are gradually working our way through the transition into multilateral efforts, into some of the international organization development endeavors, it is important that we not terminate the program prematurely as we seek to go over to this other base of operations.

I commend the Senator from New York for his efforts in this direction.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. PASTORE. I am inclined to be very sympathetic to this amendment. I have always supported it. But I ask this question.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I yield 1 additional minute.

Mr. PASTORE. Does not the Senator think that we would be more honest with ourselves if we made these direct grants? Does any of this money really ever come back to us? We say we are making a loan, even at a preferential rate. Does the money ever come back?

Mr. McGEE. Yes.

Mr. PASTORE. Will the Senator explain that?

Mr. McGEE. It does come back. The loss is very small. The difference is the loss in the cost of the money, which I say is very minimal. The point is that it helps these countries, likewise, to keep some dignity in the operation.

Mr. PASTORE. Does it come back in terms of hard currency to this country, or does it remain there as soft money?

Mr. McGEE. That is a diverse consequence, depending on the particular area. In general, it comes back to this country.

Mr. PASTORE. I think it would be much more effective for this amendment if someone would explain it.

Mr. McGEE. I hope the Senator from New York would expand upon that.

Mr. JAVITS. I yield myself 1 minute. The fact is that the loans are up to date, except for one-quarter of 1 percent in default, and they get that back, actually, about $250 million a year now. It revolves in terms of the development loan opportunities.

This, from that point of view, is an excellent program. The money is paid back in the same currency in which it is loaned, so that if we lend dollars, we get back dollars. From that point of view, whatever may be the arguments which the Senator may feel are convincing or not on either side of the case, certainly it is an intelligent lending program.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I yield 1 additional minute.

Mr. PASTORE. Of course, we have created the Inter-American Bank and we have created the Asian Bank. Many of us feel that it might be better for us, if we are going to make these concessions—which we should, for humanitarian purposes—if we did it on a multilateral basis. Many Senators feel opposed to this particular development fund under the foreign aid program, because we feel it should not be bilateral, that it should be multilateral.

We bolstered IDA by approximately a billion dollars the other day, which most of us supported. The question is, how many different ways do we have to do this?

Mr. JAVITS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. JAVITS. Mr. President, we are in a transition, in all honesty. Right now, the total multilateral lending is about $1.3 billion, and the total bilateral lending is $2.4 billion. We will phase out bilateral lending, but we cannot do it today, because the multilateral institutions have not yet caught up. When the Senator says we appropriated for IDA, we filled up our trenche to the extent of $400 million a year. We are a big contributor in dollars.

I pointed out earlier that out of the $2.4 billion in bilateral lending, we lend $1.7 billion. Other countries, such as Germany and Japan, lend $950 million. In the multilateral lending, our contribution is roughly under the $400 million mark. The other countries are about the same, give or take 10 percent in either direction. It is developing that way.

I have little doubt, knowing Senator FULBRIGHT's temper and our devotion to his leadership—even though he is not with me on this—that we will work out a largely multilateral program. But you have to have an opportunity to do it. In the meantime, we are at least getting money back. Years ago, we just made grants, and it was gone. Perhaps it was justified then, but it is not justified now.

So at least let us do it with some decency and style. It is not going to make us rich or poor if we get the extra 3 percent, and we are going to be a very bad example for others who are beginning to take up much of the slack.

Mr. DOMINICK. Mr. President, will the Senator from Arkansas yield to me?

Mr. FULBRIGHT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. FULBRIGHT. How much time does the Senator wish?

Mr. DOMINICK. Five minutes.

Mr. FULBRIGHT. I yield 5 minutes to the Senator.

Mr. DOMINICK. I thank the Senator.

Mr. President, I just want to make sure that I have the facts clear in my mind.

I believe that I just heard the Senator from New York say that out of the total $2.4 billion that was loaned, we loaned approximately $1.3 billion.

Mr. JAVITS. That is bilateral.

Mr. DOMINICK. On a bilateral basis, which means we are putting the vast majority of this money.

Mr. JAVITS. Not the vast majority. Will the Senator permit me to give the figure?

Mr. DOMINICK. Yes.

Mr. JAVITS. These were just given to us by the AID. Calendar year 1970, bilateral lending, $2.4 billion. The United States, $1.3 billion; other countries—Germany, Japan, the United Kingdom, Canada, France—$950 million. I ask unanimous consent that a letter I have received from Dr. Hannah be put in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., November 9, 1971.

Hon. JACOB K. JAVITS,
United States Senate,
Washington, D.C.

DEAR SENATOR JAVITS: The revised foreign assistance bills are expected to be considered by the Senate this week. We feel strongly that the amounts proposed for economic development and humanitarian assistance are far below the minimum necessary if we are to make a responsible contribution to the international effort to help the less developed countries. We hope that the amounts reported by the Senate Foreign Relations Committee can be increased, but I am writing to you to draw your attention to another matter.

Under the Foreign Assistance Act we have been authorized to lend money to developing countries at concessionary rates—that is, the loans are made for 40 years with a 3% interest rate. Since the beginning of the program, the reason for a favorable rate has been the poverty of the borrowing countries and their obvious inability to repay if funds had to be borrowed at market rates. However, this has never meant that the individual farmer or industrialist in the borrowing country gets such a favorable rate. When our funds are relent to them, the appropriate commercial rate is charged. Not only has our policy led to an almost faultless repayment record—less than one-fourth of one percent of A.I.D. dollar loans are in default—but the U.S. now receives about $350 million annually in dollar repayments of previous development loans.

I would also point out that our terms are by no means the softest available. Canada makes aid loans for 50 years with an interest rate of 0.3%; Britain and Sweden charge 1%; Denmark charges no interest. Most other aid donors have an interest rate about the same as ours.

An amendment to the Foreign Assistance Act during the floor debate on October 29, and retained by the Foreign Relations Committee in its revised interim bill, raises the minimum interest on aid loans to the Treasury borrowing rate. This will negate the very purpose of development lending and put us out of step with other industrialized countries. It will have the effect of vitiating the Development Loan program.

It does even more than this—it will seriously and adversely affect the U.S. farmer. Section 106 of the Agricultural Trade Development and Assistance Act (PL 480) as Amended, provides that terms of sales of agricultural commodities on credit shall not be less than the terms of development loans under the Foreign Assistance Act. Thus by raising the interest on development loans, we would automatically raise the interest rate on PL 480 credit sales. Nor is this link an accident. The Congress and outside experts have long felt that the cost of food assistance from the U.S. should not be cheaper than the cost of loans with which to buy fertilizer and other production inputs. To do otherwise, would be to create permanent dependence on the U.S.

We estimate that FY 1972 shipments under PL 480 would amount to: 5,126,000 tons of wheat; 1,197,000 tons of feedgrains; 778,000 tons of rice; 420,000 tons of vegetable oil; 15,000 tons of tobacco; 800,000 bales of cotton, and 90,000 tons of cotton products.

Most of these shipments will not be affected by the proposed change in terms since they derive from sales agreements already signed. However, some shipments in the second half of 1972 and nearly all shipments in subsequent years will be affected.

The full extent of the impact is hard to predict but it is clear that in today's world market, terms are vital to the sale of agricultural products. Japan, facing a large rice surplus, is already offering terms which are competitive with our present terms—if our interest rate were raised, there would be no competition. Japan has a 5 million ton rice surplus to dispose of. Similar developments could be expected in other products such as wheat, oils, cotton and dairy products.

The purpose of PL 480 is both to promote trade in agricultural products and to assist the poor countries by providing basic necessities. By raising the interest rate provision of Section 201(d) of the present Foreign Assistance Act can be restored.

Our first priority must be an extension of the Concurrent resolution under which we are currently operating that expires next Monday, November 15. This extension will give time to the Congress to consider the revisions and changes now being given consideration. I hope you will want to take some leadership on this item.

Sincerely,

JOHN A. HANNAH.

Mr. DOMINICK. Furthermore, I point out that no matter how you slice it, that is the vast majority that we are lending, and it comes to more than 50 percent of the total amount loaned by all countries in the world.

In addition, as I understand the committee report, we also have more than $192 million coming in for the remainder of this fiscal year which is under the bill authorized to be loaned either for the Alliance for Progress or for the development loans, at a rate not to exceed $200 million.

So we now have—if I may point it out in figures—$250 million authorized under this bill, $200 million authorized under the bill in the event of repayment of loans to that extent; and, over and beyond that, just a few weeks ago we put $900 million—if my figures are correct, and I believe they are—into the Inter-American Bank.

So we put $950 million into the Inter-American Development Fund, so that by virtue of that $1,850,000,000 in the multilateral organizations, and on a bilateral basis $450 million in tax funds, in addition to the multilateral organizations available for the soft loans, it does not seem to me that we are doing the right thing by carrying on at that level, and certainly when we are not asking countries which are borrowing to pay the same interest rate that our own Government must pay in order to borrow it from its own people. It is not as though we were operating on a surplus, or that we have a surplus in the Treasury, or as though our balance of payments was in great shape, or that we were fiscally in good shape, because we are in a situation now with an enormous debt. In fact, I believe the second largest domestic item we have is interest on the national debt at the present time.

So that, loading that on top of our balance-of-payments problem, and the money we have given to the multilateral organizations already, with promises of money to come over the next 2 years in equal amounts, and then adding on the $450 million authorized under the bill, I believe that we certainly have done more than our fair share, to be truthful. Thus, I would not be disposed to try a lower interest rate at this time.

Mr. GOLDWATER. Mr. President, will the Senator from Arkansas yield me 3 minutes to ask a question?

Mr. FULBRIGHT. Yes. I am happy to yield the Senator 3 minutes.

The PRESIDING OFFICER (Mr. BUCKLEY). The Senator from Arizona is recognized for 3 minutes.

Mr. GOLDWATER. May I ask the distinguished Senator from Colorado (Mr. DOMINICK): Is he aware of the fact that, according to the statement made by the distinguished senior Senator from New York (Mr. JAVITS), the money we made available to these countries at these low interest rates is, in turn, loaned by these countries to corporations or businesses that do business for them at the going rate in the country?

Mr. DOMINICK. That is what I understand. I understand that it goes as high as 18 percent.

Mr. GOLDWATER. I should like to direct a question, if I may, to the distinguished chairman of the Committee on Foreign Relations: According to a House report of the Foreign Affairs Subcommittee in 1969—and this may have been changed—I should like to ask the chairman whether it still prevails—it is in the minority report signed by three Members of the House—that three countries which have been receiving and will continue to receive funds under the bill; namely, Thailand, Korea, and Taiwan, are now lending money to the United States at 6 percent interest. Does that still prevail?

Mr. FULBRIGHT. Let me say to the Senator from Arizona that I am not familiar with the provisions in that report. My understanding from a staff member

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is that it had to do with exchanges between these countries and the United States. I confess I have not heard anything about it recently. I do not know what the answer is, as of today.

Mr. GOLDWATER. I thank the chairman.

Mr. President, in conclusion, I reiterate what I said before, that in spite of Canada's charging 1.3 percent, the United Kingdom and Denmark, I believe, 1 percent, and Sweden zero percent, the United States still provides 98 percent of the money that is loaned or given to these countries for development purposes. Five thousand American businesses benefit by this money.

Mr. STEVENS. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. Could I say this, before I yield to the distinguished Senator from Alaska, that I am reminded by the statements of the Senator from Arizona that Senators will recall, not too long ago, we borrowed a substantial amount, I believe $1 billion or maybe it was $2 billion, in Europe in order to help our balance of payments, and paid, then, a higher rate of interest than we would have had to pay in New York, the overall purpose being to try to create an improvement in our balance-of-payments position.

I am informed that during the Johnson administration there was a similar operation, on a smaller scale, of borrowing dollars which the aid program had generated in Taiwan and Thailand. Instead of going to Switzerland or elsewhere in Europe, our Government borrowed it from these aid recipients and paid them interest. It was influenced primarily by the imbalance in our balance of payments.

I reiterate that when we consider the multilateral programs, it was understood, I thought, and I certainly said so, that in voting the full amount requested, it was to be taken into consideration when we came to the bilateral program. This has been the professed policy of the administration and, to a degree, the previous administration. We have said the same thing in the committee's reports on foreign aid. The Senate approved it in principle, and that is what we are doing—moving toward the use of the multilateral organizations. As has already been stated recently—a couple of weeks ago—we voted overall, approximately $2 billion for the development banks.

Now, about the effect of the action which we have taken, AID, within the last few days, in an effort to revive the program, issued the following statement with respect to the AID program in Colombia:

> If AID operations in Colombia were to cease, we could not provide sector loans amounting to $75 million to $80 million for agriculture, education, urban development and industry—capital in markets development, which are planned for FY 1972. . . . Thus, termination of the AID program would profoundly affect this important multilateral effort.

Mr. President, I hold in my hand another statement datelined Bogotá, Colombia, which states:

> Jorge Mejia, President of the Bank of Bogota, held a press conference this afternoon during which he agreed with the opinion of the Finance Minister, Rodrigo Llorente that the measure adopted by the United States Senate to terminate foreign aid will have little effect on the Colombian economic system.

Here is an article with a Quito dateline, which I placed in the RECORD this morning—I believe few if any Senators were in the Chamber at that time—but it is appropriate to this:

> QUITO, November 1.—Today's El Comercio editorial states that it hopes that the bilateral foreign aid program suspended by the United States Senate will be changed to a multilateral aid program channeled through international credit organizations and UN organizations. The influential daily recalls that the suspended aid had been severely criticized by recipient countries, especially since the loans for development and strengthening armed forces were granted in a bilateral manner and, in some cases, under onerous conditions, such as the amount of interest and the compulsory purchase of capital goods and equipments in the United States, including contracting experts at a very high cost.
>
> Also, it adds, there was the mistaken belief on the part of most Americans that the granting of foreign aid automatically meant that recipient countries had to support the White House's foreign policies regardless of what they were. If this did not happen, said the daily, the North Americans felt offended and considered the dissident countries ungrateful.

Mr. President, I think that is a very relevant comment and supports the view that we should move toward multilateral agencies.

Now the terms in the International Development Association are even softer than under the bilateral program; namely, three-quarters of a percent—50 years maturity—a grace period of 10 years. For the Inter-American Development Bank, under the Fund for Special Operations, it is generally 3 percent to 4 percent, 20 to 30 years' maturity, and 3.5 to 5 year grace period.

For the Asian Development Bank, under the Fund for Special Operations, the interest is 1½ percent to 3 percent, maturity 12 to 30 years, and a grace period of 3 to 10 years.

Those are still available to these same countries. I do not know why we persist in continuing a program which I think has gotten us into a great deal of trouble.

Mr. President, I agree, and will not reiterate what the distinguished Senator from Colorado (Mr. DOMINICK) said about our domestic economic situation. But, obviously, we cannot continue these programs indefinitely at these levels.

It has been stated that there is no default on these loans. Well, why should there be any default when these countries have 40 years in which to repay? The major part of these loans have all been made within the past 10 years so that the question of default does not even arise for at least the next 40 years.

It was suggested a moment ago that these bilateral loans are primarily humanitarian. They are not primarily humanitarian.

The humanitarian programs are in part II of the pending bill. But the bilateral loans finance straightforward industrial projects and the like.

It was mentioned a moment ago that $20 million in bilateral loans for Indonesia will finance improvements for the Djakarta International Airport. We are giving them a good airport.

There are many places in this country, as Senators know, that have miserable airports. We have several in my State which need improvements. In addition, Indonesia will get a power distribution system, the West Java High Voltage Transmission program costing $15 million. Or, there is the Djakarta-Bogor Highway project at $15 million. That is a typical program. This is what the development lending program finances.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 additional minutes.

Mr. FULBRIGHT. Mr. President, these loan funds will finance the same kind of projects abroad that we cannot implement here because the President has impounded the funds. We appropriate money for highways and for education here and the President impounds those funds. In my State we were very interested in sewer and water projects, but funds for these projects have been impounded. Yet, we provide funds for these projects in foreign countries.

It is a little odd that we do this under the present conditions.

In India, the situation was a little different. The money largely went for industrial and agricultural raw materials, primarily fertilizer.

Mr. PASTORE. Mr. President, how about Pakistan?

Mr. FULBRIGHT. I will look that up. The Pakistan program, as the Senator knows, has been temporarily suspended by Executive order.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. STEVENS. Mr. President, what is the balance of the amount of money in the Development Loan Fund. Does the staff have that information?

Mr. FULBRIGHT. It is about $2 billion. We will look it up.

Mr. STEVENS. About $2 billion?

Mr. FULBRIGHT. That has been obligated but unexpended.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. AIKEN. Mr. President, is any uncommitted money that is not obligated left in the pipeline?

Mr. FULBRIGHT. No. It is obligated. There is $1,107,471. In the Alliance for Progress loan program, there is $4,408,000. Those are the total figures. It is the total unexpended balance in those two items.

Mr. AIKEN. Mr. President, the so-called balance is mostly allocated funds where the money has not yet been advanced.

Mr. FULBRIGHT. They call them obligated. They have a letter of intent.

Mr. AIKEN. The money is advanced as required as the work on approved projects progresses.

Mr. FULBRIGHT. The Senator is correct. I also think in the past that they are sometimes unobligated.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHURCH. Mr. President, does the Senator from Arkansas have any additional time?

Mr. FULBRIGHT. I promised to yield next to the Senator from Alaska. I will then be happy to yield to the Senator from Idaho.

Does the Senator from Alaska wish to have me yield at this time?

Mr. STEVENS. No.

Mr. FULBRIGHT. I yield 3 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 3 minutes.

Mr. CHURCH. Mr. President, the arguments made in behalf of the amendment are very conscientiously held. I certainly cite the movers of the amendment with the best of intentions. Nevertheless, since the Senate rejected the original AID bill, and since the committee has reduced the amount for the development loan fund, the major outcry we have heard has been from Wall Street, not from abroad. There is a very good reason.

I have in my hand an article from the Wall Street Journal of Wednesday, November 3, 1971. It is a detailed accounting bearing the caption "U.S. Firms Push To Get Aid Bill Resurrected; The Stakes: About $1 Billion in Annual Sales."

The Journal of Commerce published an article on Tuesday, November 2, 1971, under the caption "AID Is Seen Vital to U.S. Businesses."

Mr. President, I ask unanimous consent that the articles to which I have referred plus two others be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1, 2, 3, and 4.)

Mr. CHURCH. The development loan fund is, in effect, the soft window of the American Export-Import Bank. Countries can get loans from the DLF at far more favorable rates than commercial loans or regular loans otherwise available at the Bank.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 7 minutes remaining.

Mr. FULBRIGHT. Mr. President, I yield 3 additional minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 3 additional minutes.

Mr. CHURCH. Mr. President, this program is primarily an aid program for American big- and medium-size business enterprises. It is a public subsidy by which large quantities of American goods and services are exported abroad. To what extent does it really help the underdeveloped countries?

First of all, these countries are already laden down with accumulated debt. Debt service has become one of the chief impediments to economic growth in Latin America and in much of Africa and Asia. Every development analysis written over the 2 years, such as the Pearson report and the Peterson report, stresses this point.

Second, tied purchases made with DLF loans are at premium prices, frequently 15 to 20 percent above the world market price and the American ships which must be used cost as much as 25 percent more than ships of other flags.

We are pleased to call this foreign aid. The best way we can begin to aid countries that are poor and really in need of help is to insist that this aid move through multilateral channels, where it can be untied and utilized to the best advantage of the recipient countries.

If we fail to put the screws on now, we will find that the old program will live on into the future. It will not change and it will not die. This is our opportunity to do something that, in my judgment, will help put the program into the proper channels.

Mr. President, I shall vote against the amendment.

EXHIBIT 1

[From the Wall Street Journal, Nov. 3, 1971]

BUSINESS AND FOREIGN AID—U.S. FIRMS PUSH TO GET AID BILL RESURRECTED; THE STAKES: ABOUT $1 BILLION IN ANNUAL SALES

(By Robert Keatley)

WASHINGTON.—Many U.S. businessmen are as anxious as overseas recipients to resurrect in some form the scuttled foreign-aid bill.

That's because the annual aid appropriation—usually branded by foes as a "giveaway" and last Friday turned down entirely by the Senate—provides a large, if diversified, chunk of business for U.S. companies.

Among other things, the aid program provides about $1 billion of sales annually for American manufacturers, gives U.S. shipping companies about one-fourth of their total revenues from outbound cargo and supplies assorted research and technical organizations—both private and nonprofit—with about $600 million of contracts overseas. The date of such business depends upon the outcome of the current foreign-aid impasse in the Senate, according to Nixon administration officials.

Last week an odd coupling of fiscal conservatives and dovish liberals combined to defeat the administration's $2.9 billion foreign-aid bill by a startling 41-to-27 Senate vote. This week the Senate Foreign Relations Committee and the White House are pondering various alternatives to keep at least some foreign-assistance programs alive.

Chances are that aid will survive in some form, although so far there hasn't been any general agreement about which programs to keep and which to amend or cancel. Yesterday, for example, Secretary of State William Rogers emerged from a White House meeting with President Nixon and called on Congress to move "quickly to repair the damage that has been done." He said the Senate vote has weakened U.S. foreign policy and cut down on Mr. Nixon's freedom to negotiate with other nations.

THE POLITICALLY ACCEPTABLE

Meantime, some Senators are putting forward alternative programs that would finance such politically acceptable aspects as arms for Israel, food for East Pakistani refugees and birth-control devices for India. Many liberal proposals, such as one suggested yesterday by Sen. George McGovern (D., S.D.), would sharply reduce military aid to such nations as Greece and Pakistan and restrict U.S. involvement in Indochina.

Such restrictions complicate the aid bill; the Nixon administration is trying to get the money without accepting amendments it feels would limit its political and military flexibility abroad. Thus, the outcome of the current Senate maneuvering remains uncertain.

But the bill's final form is important not only to aid recipients but also to American companies that manufacture the goods provided under Agency for International Development (AID) contracts.

In fact, AID bureaucrats are especially irritated by the perennial "giveaway" charges made about their programs. During the fiscal year ended June 30, 1970, they say, AID loans and grants financed $995.1 million of American products for shipment overseas to underdeveloped countries; only $19.4 million was used to finance foreign products. Major categories included $140 million for chemicals, $106 million for iron and steel products, $90 million for motor vehicles and parts and $108 million for fertilizer.

The importance of such business varies greatly from company to company. Caterpillar Tractor Co., for instance, sold about $16 million of construction equipment under AID financing in the first half of this year; a spokesman called the sales "important," although only a small portion of the company's $1.15 billion of revenue in that period. In the same six months, the A. P. Green Refractories Co. division at Troy, Idaho, sold $473 of fire bricks to AID clients, and a senior official at the parent company didn't know anything about it.

But for some medium-size manufacturers, AID finances a significant part of their business.

One such firm is Atlantic Steel Co. of Atlanta, which sells steel ingots to fabricators in the U.S. and abroad. L. Glen Dewberry, Jr., president, says Atlantic regularly bids for AID-financial business handled by New York brokers and normally gets $4 million or more of such sales yearly; the company's annual volume is roughly $60 million. "We've done this for several years," says Mr. Dewberry, who hopes foreign aid survives the current congressional fight. Much of Atlantic's AID sales go to rolling mills in Pakistan.

THE IMPORTANCE OF PRESS RELEASES

Another affected company is Riceland Foods of Stuttgart, Ark., the home state of Democratic Sen. William Fulbright, chairman of Foreign Relations Committee, which has given the overall aid program a hard time. L. S. Carter, president of the rice and soybean products concern, says he normally gets $6 million or $7 million of AID business yearly—such contracts, for example, make up about 25% of the company's total rice trade, he notes. South Korea, South Vietnam and Indonesia are among the consumers of Riceland's products, he adds.

To drive home the point that AID can be good business, the agency's bureaucrats issue regular press releases showing how their funds are spent around the U.S. In the first half of calendar 1971, for instance, Massachusetts manufacturers received $5.3 million of AID-financed orders, while those in New York got contracts totaling $74.4 million. Even nonindustrial Nevada got a piece of the action; a Las Vegas chemical company was awarded a $104,585 contract.

None of this largesse, of course, justifies any or all AID programs in themselves, officials concede. But they contend that such statistics debunk frequent assertions that AID funds are a drain on the U.S. balance of payments or on the economy in general. Although some do involve grants, most AID funds are in fact credits for purchases of American goods and are supposed to be repaid by the recipients.

THE MAJOR RECIPIENTS

Another direct beneficiary is the hard-pressed American shipping industry. According to administration figures, AID payments to shipping lines have totaled $2.1 billion since the program began in 1948; they now provide about 25% of the annual revenues from outbound cargoes for American-flag

carriers. In the fiscal year ended last June 30, for example, such freight payments totaled $81 million, or 26.5% of the steamship companies' outbound freight revenues. (This excludes revenues for tramp steamers, tankers and some other shipping activities.)

Foreign-aid legislation generally requires that at least 50% of AID-financed cargo be carried by American ships rather than cheaper foreign companies. Critics contend this is, in effect, a subsidy of American shipping companies and penalizes needy underdeveloped countries, which must use part of their U.S. loans to pay these freight costs.

According to government figures, the major recipients of AID-financed cargoes were American Export-Isbrandtsen Lines, with $10.4 million of such freight revenues; American President Lines, $9.6 million; and Isthmian Lines, $8.9 million. Shipping-industry experts say loss of this business—or a substantial part of it—would be a serious blow to the industry. Because of rising costs and the current prolonged dock strike, many U.S.-flag lines are already in financial trouble.

At present, AID also has some $600 million of contracts outstanding with American technical and research organizations, both private and nonprofit. For instance, Purdue University and its affiliate, Purdue Research Foundation, received nearly $3.6 million in AID contracts in the first six months of this year for various assistance work overseas. A major project is technical assistance to the University of Minas Gerais, an agricultural college in Brazil. Purdue also aids college engineering programs in India and the only university in Afghanistan, which is in Kabul.

Not all these programs involve universities. A major award early this year—worth $83.3 million—went to Air America Inc. of Washington, D.C. This charter line has earned considerable notoriety as the Central Intelligence Agency's airline in Southeast Asia, where its assorted activities include carrying U.S. officials around South Vietnam and dropping guns and rice to guerrilla fighters in the hills of Laos.

These statistics concern mainly civilian programs, although some, like the Air America contract, are a bit ambiguous. But the rejected aid bill also would have financed roughly $900 million of military-equipment sales by American manufacturers—about $220 million under government grants and the rest in credit sales.

Late yesterday the Pentagon released details of the potential impact of the Senate rejection. The negative vote there wiped out—at least temporarily—Defense Department plans to award the following contracts during coming months: $175 million to McDonnell-Douglas Corp. for aircraft and airframes; $116 million to General Electric Co. for aircraft engines; $61 million to Lockheed Aircraft Corp. for aircraft and maintenance services; $89 million to Bell Helicopter division of Textron Inc. for helicopters; $10 million to Chrysler Corp. for tanks; $17 million to Colt Industries Inc. for rifles; $50 million to American Motors Corp.'s Jeep Corp. subsidiary for vehicles; and $24 million to United Aircraft Co. for engines.

This list isn't complete but includes most major orders planned by the Pentagon but needing congressional appropriations before specific contracts can be awarded. The military goods involved would be sent to such aid recipients as South Korea, Cambodia and Turkey.

[From the Journal of Commerce, Nov. 2, 1971]

AID IS SEEN VITAL TO U.S. BUSINESSES

(By Sidney Fish)

Any termination or phasing out of the bilateral foreign aid program administered by the Agency for International Development (AID) would be costly to American business.

Under the "Buy American" clause of the foreign assistance legislation which established AID, American products and services must be used, whenever they are available. Hence an interruption in the AID program would have an adverse effect on business and employment.

In the 1970 fiscal year, total economic aid from U.S. sources amounted to $995 million. Approximately 98 per cent of all commodity exports financed by AID originated in the U.S., and only 2 per cent came from offshore sources. The total of economic assistance authorized by Congress in fiscal 1971 was larger than in 1970.

In addition to economic aid, military aid in the 1970 fiscal year amounted to $1.094 billion. This consisted of planes, armored vehicles, etc., all of which were produced in U.S. plants, by American workers.

HIT BY SUSPENSION

Hardest hit by any suspension of the AID program would be U.S. chemical manufacturers who accounted for $140 million of products, in the 1970 fiscal year; iron and steel mill products, which totaled $106 million; nonferrous products, $41 million; pulp and paper, $26 million; machinery and equipment, $265 million; transportation equipment, $96 million; petroleum and petroleum products, $44 million; foodstuffs (aside from the Food for Peace Program), $11 million; and rubber products, $18 million.

The aid program has bolstered the U.S. balance of trade, at a time when it was slipping as a result of severe competition from low-wage foreign countries. The "Buy American" clause, in effect, helped to offset some of the export bonuses and nontariff barriers which foreign countries created as an aid to their own manufacturers.

Substitution of multilateral aid for the bilateral aid program would rule out the "Buy American" provisions which have enabled AID to assist U.S. exports. Some U.S. senators, including Senator Fulbright who voted Saturday to end aid have been strongly urging that multilateral aid through the World Bank or other international organizations be substituted for the bilateral aid program.

PROGRAM VITAL FACTOR

Some U.S. industries, facing stern foreign competition, would have virtually no exports, were it not for the aid program. The steel industry is a case in point. Since Japanese and European steel mills are able to sell in overseas markets at prices ranging from $10 to $20 a ton under prices quoted by U.S. mills, the American steel industry has only a tiny trickle of exports, aside from those shipments which are financed by aid. Of the $106 million of steel exports in fiscal 1970, approximately $70 million was accounted for by plate and light flat rolled products.

The technical advice to developing countries which is financed by aid, is an indirect source of additional exports, since U.S. advisers tend to specify American-made products, with which they are familiar.

In fiscal 1970, more than 1,300 technical service contracts financed by AID totaled $602 million. This money paid for the service in developing countries of a wide variety of technical firms, consulting engineers, management engineers, specialists in teaching and medicine, etc.

U.S. EXPENDITURES

While expenditures by the U.S. for its foreign aid program have seemed large, they are relatively small in relation to gross national products of the U.S. The United States ranked 11th in the world in 1970 in development assistance expenditures, when the total is expressed as a percentage of GNP. Such countries as Germany and Japan have been spending an increasing share of their GNP for foreign aid.

The U.S. share of total world assistance, which was 80 per cent 15 years ago, has declined to 42 per cent this year. The U.S. thus is still the largest single donor.

Sixty-eight per cent of the total U.S. aid program consists of loans. Only one-fourth of one per cent of these loans are in default, according to John A. Hannah, administrator of AID. The repayment of loans has increased, and recently such repayments have been exceeding new loans.

[From the Baltimore Sun, Nov. 4, 1971]

FEDERAL AGENCIES SAY AID IS NOT ONLY FOREIGN

(By Charles W. Corddry)

WASHINGTON.—In their battle to save foreign aid, administration agencies began yesterday to publicize the claimed effects that the program's demise would have on the domestic pocketbook.

The Defense Department said original plans called for contracts totaling well over $720 million this year to companies producing arms and other defense equipment for military aid and credit sales abroad. The plans were knocked awry when the Senate voted to kill foreign aid, and a restored program is likely to provide for considerably less.

COMMODITY EXPORTS

The Agency for International Development called attention to its financing of close to $1 billion a year in commodity exports under overseas aid programs—for example, 25 per cent of fertilizer exports, more than 15 per cent of railroad equipment, 3.7 per cent of chemicals and more than 16 per cent of iron and steel mill products.

The State Department distributed a sheaf of papers concerning the assertedly damaging effects of any failure to extend foreign aid promptly. These emphasized not only foreign policy but the domestic value of programs such as those carried on in American universities for the benefit of other countries.

All the agencies are acutely sensitive to claims that foreign aid is a "give-away" and by implication not beneficial to the American economy.

The Pentagon said 95 per cent of grant-aid money is spent at home and most funds that finance credit sales to other countries similarly stay in the U.S.

The Agency for International Development said 86 per cent of all the money it spends is spent in the U.S. For commodity exports alone, it said, the figure is 98 per cent.

The State Department's documents amounted to a lengthy list of dire warnings against delay in getting foreign aid back on the books. For example, they said:

1. "Our major programs in Southeast Asia will be aborted." The $565 million sought for economic aid in South Vietnam amounts to more than half that country's imports. "Without it the Vietnamese war effort will grind to a halt and the economy will be thrown into utter chaos." Similar consequences were foreseen for Cambodia and Laos.

2. Regarding provision of money for disaster relief for 9.5 million Pakistani refugees in India, "the U.S. can not stand idly by in the face of the world's greatest disaster."

3. Major programs in nutrition, child feeding, population control, education and agricultural production around the world depend on the appropriation of new money this year.

4. Failure to provide contributions to United Nations organizations would lead members to assume such failure was related to the American defeat on the China question. "Members who stuck by the U.S. and the Republic of China [Taiwan], as well as those . . . opposed, would be affected adversely."

The Defense Department said the contracts it tentatively had planned included $220 million for outright aid and "well over" $500 million for credit sales of arms and equipment.

Some of the plans for financing credit sales called for $175 million for McDonnell-Douglas aircraft, $93 million for General Electric engines, $51 million for Lockheed aircraft, and $110 million for Northrop aircraft and target drones.

For grant aid, there were plans for ordering $100 million in Army equipment, $24 million Navy and $96 million Air Force from a long list of companies throughout the United States.

[From the Washington Post, Nov. 6, 1971]

AID—A TWO-WAY ROAD

(By Murrey Marder)

In its struggle to survive, the Agency for International Development is pointedly reminding U.S. senators that business profits and jobs in their home states will feel the pain of foreign aid cuts.

Money, jobs, and by clear implication, votes, can be more tangible weapons in a political fight than lofty arguments about World stability and aid to underdeveloped nations. The appeal to domestic interests to rally to the defense of balance sheets and payrolls could carry double weight in the present depressed state of the U.S. economy.

A generation ago, the concept of foreign aid was scoffed at by its many critics as "milk for the Hottentots." The time came when the condition of the Hottentots and other distant peoples came to be recognized to be not so totally remote from the condition of world order, but the attitude associated with foreign aid remained: "hand-outs," "give-aways."

To carry foreign economic aid through the Congress—"pure" foreign aid, that is, as distinct from direct, or roundabout support for foreign regimes whose continuance in office was judged to be of direct value to American security interests—economic aid allocations were linked legislatively with military aid. In the name of containment of communism, military assistance could win the votes to override the guffaws about "foreign aid."

The paradox has been that both forms of "foreign" aid were, in a real sense, also domestic aid—spent in, and supporting, the U.S. economy.

According to AID, 98 per cent of its funds for the purchase of industrial goods and agricultural commodities is spent in the United States.

In addition, AID estimates that 86 per cent of all money allotted to it, for services, cash grants, salaries and goods and commodities are spent in the United States.

This is not just happenstance, or a result of foreign preferences for made-in-America labels. These funds are generally mandated to be spent in the United States by "tied" loans—meaning loans with strings on them—or other legislative requirements.

U.S. policymakers have been ambivalent about how much they should talk about the tied-to-America quality of American foreign aid. To stress the tie dims the aura of altruism, compassion, and humanitarianism, which policymakers would prefer to portray to the world. The result has been that although AID routinely publishes lists of contracts awarded to U.S. firms or organizations, there is normally no great stress on the dollar-tied nature of most foreign aid, leaving the non-military portion of the program adrift without any aroused constituency to defend it.

Only now, with its life on the congressional chopping block, has AID been encouraged, indeed stimulated, by the administration, to mount a major public display of the domestic consequences that can result from slashing "foreign" economic aid funds.

Item: Between 1964 and 1969, AID money financed from 22 to 30 per cent of all cargo shipped on U.S.-flag vessels.

Item: In 1971, AID loans and grants financed U.S. exports totaling $972 million. While this represented only 2.3 per cent of total U.S. exports, it included 25 per cent of all American fertilizer exports; 16.4 per cent of U.S. iron and steel exports; 15.7 per cent of all exports of railroad equipment; 8.5 per cent of basic textile exports; 8.5 per cent of rice exports; 7.3 per cent of all exports of non-ferrous metals and products.

Item: To make the point even clearer politically on Capitol Hill, AID statistics now being circulated there show that in the same 1971 fiscal year, $178,829,271 was spent in New York State; $30,508,640 in California; $77,081,159 in Pennsylvania; $73,541,642 in Illinois, and with lesser amounts listed for other states, including $20,572,073 in Maryland and $10,162,141 in Virginia.

Item: Other "fact sheets" being showered on Congress report cumulative totals for many years of AID research contracts to universities, and service contracts to other organizations, including Air America Inc. of Washington, D.C., the organization which operates with the Central Intelligence Agency in Southeast Asia. It is listed for accumulated contracts from AID alone totaling $83,324,200.

This is "self-help" for "deserving nations" with a double meaning; one of them is the United States.

Mr. STEVENS. Mr. President, will the Senator yield me 2 minutes?

Mr. FULBRIGHT. I yield to the Senator from Alaska 2 minutes.

Mr. STEVENS. Mr. President, I asked the question about the amount remaining in the pipeline. I am gratified for the clarification. The staff has provided me with a copy of the House-passed measure. That shows there was $4.7 billion. However, the footnote says that less than $100 million is unobligated and unreserved as of the end of the fiscal year.

The point I am making is that with respect to the money we are providing, we are changing the terms and saying that in the future we will charge the same amount of money it costs to borrow.

Suppose that $4.6 billion is still there. This means that it will be advanced at the old rates of 2 percent for 10 years and 3 percent for another 30 years.

I have heard the argument for the amendment but I cannot understand it. I think the Senator from Idaho is absolutely right. This is a very important issue to the country.

This is a signal to the country that we were ready to reexamine the program and have done so and have changed the signals for the future. It is a small amount, less than one-tenth of the amount that will be spent in the future. We say, "Pay us what it costs to borrow it."

I think the amendment should be rejected.

Mr. JAVITS. Mr. President, I am prepared to yield back the remainder of my time. However, I do have something further to say.

Mr. AIKEN. Mr. President, will the Senator yield me 2 minutes?

Mr. JAVITS. Mr. President, I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. AIKEN. Mr. President, in respect to the suggestion made that we should terminate bilateral loans, we may have overlooked paragraph (c), page 5, which reads:

"(c) Notwithstanding any other provision of law, the President shall reduce the amounts and numbers of loans made by the United States directly to individual foreign countries with the objective of phasing out the bilateral loan program by not later than June 30, 1975.

That is 4 years from now. We have to decide if we want to phase it out in one fell swoop or by degrees.

Frankly, I am skeptical about turning all these programs over to multilateral agencies. There is a provision in this legislation that the President may turn these programs over. Assuming the President runs for reelection and is defeated, he could put his successor in a terrible predicament by turning these programs over before his successor takes office.

What seems to be charity on our part has turned out in many cases to be a very profitable investment. Perhaps the best example would be the Public Law 480 program. The restrictions on interest on that program have been done away with today to sweeten up the bill, but when we began Public Law 480 it cost as much as $2 billion a year to get rid of our surplus crops and food products. That is now reduced to $1 billion a year, in rough figures.

But while we have been handing out or selling on very easy terms these surplus farm commodities, our export sales for these farm commodities for cash has risen about 300 percent and are now about $8 billion a year. That is largely due to the fact that we began by selling on easy terms at low interest rates.

I think what has been done in the Public Law 480 program should also apply to sales of farm machinery, fertilizer sales, and other sales we have made which go to raise the living standards of the people of these other countries.

Therefore, I support the Javits amendment.

Mr. FULBRIGHT. Is the Senator ready to yield back his time?

Mr. JAVITS. I yield back my time.

Mr. FULBRIGHT. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS), as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD. Mr. President, on this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." Having already voted in the negative, I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. MUSKIE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr.

XUM

BROCK), the Senator from Kentucky (Mr. COOK), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is detained on official business.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from Kentucky (Mr. COOK). If present and voting, the Senator from Ohio would vote "yea" and the Senator from Kentucky would vote "nay."

The result was announced—yeas 42, nays 45, as follows:

[No. 300 Leg.]

YEAS—42

Aiken	Hart	Pastore
Allott	Hatfield	Pell
Bayh	Hughes	Percy
Beall	Humphrey	Ribicoff
Bennett	Inouye	Saxbe
Boggs	Jackson	Schweiker
Brooke	Javits	Scott
Case	Kennedy	Sparkman
Cooper	McGee	Stafford
Cranston	McGovern	Stevenson
Dole	Miller	Tower
Fong	Mondale	Tunney
Gravel	Moss	Williams
Griffin	Packwood	Young

NAYS—45

Allen	Ellender	McIntyre
Anderson	Ervin	Metcalf
Baker	Fannin	Montoya
Bentsen	Fulbright	Nelson
Bible	Gambrell	Pearson
Buckley	Goldwater	Proxmire
Burdick	Gurney	Randolph
Byrd, Va.	Hansen	Roth
Byrd, W. Va.	Hollings	Smith
Church	Hruska	Spong
Cotton	Jordan, N.C.	Stevens
Curtis	Jordan, Idaho	Symington
Dominick	Long	Talmadge
Eagleton	Magnuson	Thurmond
Eastland	McClellan	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—12

Bellmon	Cook	Mundt
Brock	Harris	Muskie
Cannon	Hartke	Stennis
Chiles	Mathias	Taft

So Mr. JAVITS' amendment (No. 629), as modified, was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Oregon (Mr. PACKWOOD). There are 28 minutes remaining to the proponents, 27 minutes to the opponents.

Mr. PACKWOOD. Pardon me; I did not hear the Chair.

The PRESIDING OFFICER. There are 28 minutes remaining to the proponents, 27 minutes to the opponents.

Who yields time?

Mr. FULBRIGHT. Mr. President, if the Senator will allow me a moment, I see no need for any long debate on this proposal. I certainly do not expect to take all my time. The matter is very simple. I say that simply because I hope everyone will not run off to his office, and we can explain the amendment and be through with it. I can explain, I believe, what it is in 3 or 4 minutes, and that is all I will need.

Mr. PACKWOOD. I hope it will not take much longer than that, but I would be reluctant to yield back my time at this moment.

Mr. FULBRIGHT. Oh, yes. But I hope that Senators will not leave the Chamber.

Mr. PACKWOOD. Mr. President, I yield myself such time as I may require.

I ask unanimous consent that the names of three distinguished colleagues, the Senator from Illinois (Mr. PERCY), the Senator from New York (Mr. JAVITS), and the Senator from Colorado (Mr. ALLOTT) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, all I am trying to do with this amendment is restore an action that the Senate took unanimously, by voice vote on the floor of the Senate, prior to the defeat of this bill 10 days ago.

Before the bill was defeated 10 days ago, it came out of the committee with the following figures: $320 million for economic development, $208 million for technical assistance, $309 million for Alliance for Progress, and $52 million for administration, or a total of $889 million.

Then the Church-Allott amendment was agreed to, and that cut $160 million from the bill, leaving a total of $729 million.

Then, at that point, the Senator from California (Mr. CRANSTON) and the Senator from Ohio (Mr. Taft) proposed the amendment which was accepted on the floor. That amendment did two things: It added $125 million to the overall authorization of the bill, and it earmarked $125 million for population programs.

So the total of the bill, as it was finally defeated, was $844 million, including the $125 million added on the floor of the Senate in the overall authorization, and the earmarking of the money for population programs.

The bill now before us, as it comes from the committee, has $250 million for economic development, $175 million for technical assistance, $225 million for Alliance for Progress, and $45 million for administration, for a total of $695 million. In that, Mr. President, is included, earmarked, $125 million for population programs.

Let us compare the two figures, those we are considering in the bill now, and those in the bill we finally defeated. The $844 million in the bill 2 weeks ago, as it was finally defeated, included $125 million earmarked for population programs. Now we have $695 million in the bill, including $125 million for earmarked population programs.

The argument will no doubt be made that there is no need to pass the amendment I have offered, because the population programs are already protected and earmarked to the extent of $125 million.

What will happen, however, if the bill passes in its present form, is that there will be significantly less in this bill for economic development than there was in the bill as we finally voted on it 2 weeks ago, and so the earmarked money will subtract from other critical, essential programs.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. FULBRIGHT. I want to emphasize that fact, that the amounts the Senator is talking about were the amounts rejected by the Senate a week ago Friday. Those amounts were rejected by the Senate.

I want to make certain that there is no misunderstanding here. What the Senator is proposing has no effect whatever on the amount for population control, is that not correct?

Mr. PACKWOOD. What I am proposing is the same amendment the Senate accepted on October 29.

Mr. FULBRIGHT. One of my colleagues thinks the Senator is trying to increase the earmarked amount for population control. That is not the effect of the Senator's amendment, is it?

Mr. PACKWOOD. Let me say again, this amendment is identically what the Senate accepted unanimously 10 days ago. We earmarked $125 million for population programs; and we accepted an increase in the overall authorization with the earmarking for population control.

Mr. FULBRIGHT. I agree, but the earmarking for population programs remained at $125 million.

Mr. PACKWOOD. That is correct.

Mr. FULBRIGHT. So the Senator is trying to restore more than what the Senate itself added.

Mr. PACKWOOD. No, what I am trying to do is get the Senate to pass the identical amendment we passed 10 days ago.

Mr. FULBRIGHT. The Senator is asking us to reject now, to undo what we did a week ago Friday.

Mr. PACKWOOD. No, I am asking the Senate to adopt the same amendment we agreed to 10 days ago.

Mr. FULBRIGHT. Well, there is some misunderstanding, with all deference. We voted against the bill, which had an amount of $844 million in it, and what the Senator is attempting to do is restore the amount to $820 million from the present $695 million. He is, in effect, raising the amount, not for population control—that is already earmarked but what he is in effect doing is just increasing the amount of the bill by $125 million.

Mr. PACKWOOD. Whose time are we on, Mr. President?

Mr. FULBRIGHT. I will take my time.

The PRESIDING OFFICER. The time of the Senator from Oregon.

Mr. FULBRIGHT. I will yield the Senator the equivalent, if he likes.

Mr. PACKWOOD. Let us go back again, Mr. President, to the bill as it came out of the committee initially, with $889 million in it, which included $125 million for population programs. It came out of the Senator's committee with $889 million. Now we have before us a bill with $695 million, including $125 million for population control.

Mr. FULBRIGHT. I am hoping we pass a bill. I do not know why the Senator wants the Senate to reject the whole bill again. I thought that was the purpose of the action, and that is why the committee did what it did. We were trying to make it possible for people to vote for a bill who refused it before. Many people are interested in population control.

The point I make is that this does not affect population control money. In fact, the Senator is increasing the amount for the other categories.

Mr. PACKWOOD. We can assume that the money for population control is going to be taken out of the $250 million for economic assistance.

Mr. FULBRIGHT. It does not have to come out of just that. There is $1.200 billion from which it may be taken at the discretion of the administration.

The sum of $1.200 billion is available in the item from which it may be taken, at the discretion of the administration. It can be taken from Development Loans, Technical Assistance, Alliance for Progress, International Organizations, Contingency Fund, and so forth.

Mr. PACKWOOD. Will the chairman please clarify this. It is my understanding that is only taken from Economic Development, Technical Assistance, or Alliance for Progress.

Mr. FULBRIGHT. That is not correct. In the past, it was taken primarily from those programs, but the law would authorize the administration to take it from any one of the items I mentioned, plus Supporting Assistance, for which there is $350 million in the bill. They can take a part of it from any one of these programs. It does not all have to come out of one. The authority is there to take this $125 million from any one of those items in any amount. They can take $50 million or $25,000 from one or the other.

That is the way it now stands, because it is earmarked to be taken out of the whole group of aid categories which add up to $1.200 billion. I think that ought to be made very clear.

Mr. PACKWOOD. I say again that all I am trying to do is what we did 10 days ago by unanimous consent of the Senate, when we earmarked population funds and added $125 million in overall authorizations on the floor of the Senate. The Senator from Ohio (Mr. TAFT) offered the amendment.

Mr. FULBRIGHT. The vote was 41 to 27 against the bill. There was no increase in the amount. I do not recall what the Senator is talking about when he says the amount was increased. We thought we earmarked it in the committee. The Senator from Ohio worried that it was not as clearly earmarked as he wanted, and I accepted it. But we did not increase the amount. We just tied down the earmarking.

The effect of what the Senator is doing is to say, "Let us increase these categories by $125 million."

Mr. PELL. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I yield.

Mr. PELL. Does the Senator's amendment in any way increase the amount that is earmarked for population control?

Mr. PACKWOOD. Does it increase the amount that is earmarked for population control? No, it does not.

Mr. PELL. I thank the Senator.

Mr. FULBRIGHT. Mr. President, I am willing to yield back the remainder of my time. I only wanted to make clear what the amendment did. I did not want to argue about it.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

Mr. FULBRIGHT. Out of the time of the Senator from Oregon.

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I yield such time to the Senator from New York (Mr. JAVITS) as he may need.

Mr. JAVITS. Mr. President, addressing myself to this amendment, the only reason I am taking any time at all on the amendment is that in committee I had a good deal to do with this item.

The reason why we added the item as a line item in the committee, which is the effect of Senator PACKWOOD's amendment, was that we could not see another reduction made out of the items which were left in the bill in view of the very sharp reductions which had already been made. So in the original go-round, we added this specific line item on, and we added on the item for the Pakistan refugees—$250 million for them and $125 million for population control. We have restored the item for the Pakistan refugees as a line item. That is in here specifically, and it adds to the amount of the bill. We have not restored $15 million for population control. Senator AIKEN, as a matter of fact, carried the ball on that when we did it in committee on the original bill.

It is very hard to see, with the amounts we have now truncated so sharply—cutting the development loans worldwide from $400 million to $250 million; cutting the technical assistance from the original bill—that is, the bill that was defeated—from $208 million to $175 million; cutting the Alliance for Progress, unusually sensitive, from $309 million to $225 million; and now laying on its back tough loan terms at 6 percent and cutting the administrative expenses by $6 million. Those are the only items from which the $125 million can come and will lower these accounts accordingly.

The statement by Senator FULBRIGHT that it can come out of the $1.144 billion asks us to take it out of humanitarian programs that everybody protests they want—in other words, the UNDP, UNICEF, the Indus Basin, Pakistan, the American schools and hospitals, and the contingency fund. But this is not the issue, rather the issue is $125 million out of $695 million of development lending, which is what we are talking about, is well over 20 percent. So this is a very considerable cut in the basic amount in which there already has been a considerable cut.

Therefore, in my judgment, to tell us that we can take the $125 million out of $1.144 billion, making it sound like 10 percent—give or take 10 percent—simply does not take account of what the $1.144 billion consists of. It consists of $695 million Development Funds, Technical Assistance, Alliance, from which the $125 million can be taken, but that is it. The other $449 million is for the multilateral assistance humanitarian operations, which everybody has protested they do not want to vitiate, which they do not want to affect.

Therefore, what the Senate is deciding now is whether, for practical purposes, it wants to cut the $695 million provided for general foreign economic assistance by more than 20 percent and take the $125 million out of it, or whether it does not wish to do that with these already truncated amounts.

I believe that this is improvident, in view of all the argument we have heard pro and con and that, therefore, the line item of $125 million should be restored, as we did in the original bill in committee.

Mr. CHURCH. Mr. President, will the Senator yield me 2 minutes?

Mr. FULBRIGHT. I yield 2 minutes to the Senator from Idaho.

Mr. CHURCH. Mr. President, before we vote, I want to clarify what this amendment does.

The amendment will have only one effect, to add $125 million to the bill's total without adding a single cent more for population control. A full $125 million for population control is already earmarked in the committee bill; there will not be an additional cent for population control with adoption of this amendment. It will simply add $125 million more to the total.

I said earlier today that I am prepared to support the committee, which has tried to be responsive to the will of the Senate, as expressed 2 weeks ago, when it rejected the earlier foreign aid package.

However, if we pile money on top of the amount in the pending bill, we will be retreating from the position we took in October and, if that happens, I will be constrained to vote against the program again.

I therefore hope that the Senate will reject this amendment.

Mr. PACKWOOD. Mr. President, I think we should be clear in understanding that the bill we killed 10 days ago included military and economic aid. Chalking up all the votes against it, with regard to the economic portion of the bill, there was injustice because some of those supporting it miscalculated the motives of some who opposed it.

I am talking about economic aid and am comparing what the bill now has in it, $695 million, which was provided for humanitarian purposes, as opposed to the $889 million that the committee stated we needed for this identical aid when they brought out the bill originally.

We cannot, in any way, say that when the Senate defeated the military and economic foreign aid bill 10 days ago, the bulk of the votes against it were because of economic aid.

POPULATION ASSISTANCE

Mr. KENNEDY. Mr. President, I strongly support the amendment of the Senator from Oregon (Mr. PACKWOOD)

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to provide a separate authorization for population assistance programs.

The current bill recognizes the validity of the arguments for continuing the population assistance programs. But the bill, as it now reads, requires that population programs fight for funds with every education, agriculture, and community development proposal eligible for development loans or technical assistance grants.

The amendment assures a separate source of funding for population programs and also guarantees that there will not be any further dilution of the development loan and technical assistance programs.

For example, the Alliance for Progress, for which the administration requested the lowest level of funding in its history, has been cut by more than a third of the committee. But in addition, it must meet its obligations for population assistance programs that have been developed in tandem with United Nations and other multilateral programs. Therefore an additional $17 million for population planning must be taken away from the Alliance.

Today high population growth rates represent a common burden and the single greatest obstacle to more rapid development by the poor countries of the world.

The consequences of overpopulation are visible in famines and malnutrition, in epidemics and chronic illness, in illiteracy and ignorance, in urban squalor and rural stagnation, in unemployment and underemployment—in the full range of human misery.

The depth of the population crisis cannot be understood fully except by those who have seen the children in the barrios of Latin America, in the streets of Calcutta, or in the refugee camps along the Pakistan border.

Then the statistics of 3 percent population growth rate have meaning.

Then one can understand what will happen as the population of Latin America leaps from 270 to 760 million by the year 2000.

Then, one understands what will occur when the population of Africa grows from 310 to 770 million by the end of the century.

The underdeveloped nations are struggling to increase their production, to increase their living standards, to educate their citizens, to house their children—but those tasks are made almost insurmountable by the population crisis.

For these reasons, I believe we must provide the needed funds to maintain the research to find better means of fertility control, to continue the training of family planning specialists, and to increase the capabilities of national institutions in the population field.

Therefore, I strongly support the adoption of the amendment to provide a separate authorization of $125 million for worldwide population assistance programs.

Mr. FULBRIGHT. Mr. President, I yield back the remainder of my time.

Mr. PACKWOOD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. TUNNEY). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Oregon (Mr. PACKWOOD).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Indiana (Mr. BAYH) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from South Carolina (Mr. THURMOND), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Nebraska (Mr. CURTIS) and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOK), and the Senator from Nebraska (Mr. CURTIS) would each vote "nay."

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Ohio would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 33, nays 50, as follows:

[No. 301 Leg.]

YEAS—33

Aiken	Griffin	Nelson
Allott	Hart	Packwood
Beall	Hatfield	Percy
Boggs	Humphrey	Ribicoff
Brooke	Javits	Schweiker
Buckley	Kennedy	Scott
Case	McGee	Stafford
Cooper	McIntyre	Stevens
Cranston	Miller	Stevenson
Fong	Mondale	Tunney
Gravel	Moss	Williams

NAYS—50

Allen	Fannin	Montoya
Anderson	Fulbright	Pastore
Baker	Gambrell	Pearson
Bennett	Gurney	Pell
Bentsen	Hansen	Proxmire
Bible	Hollings	Randolph
Burdick	Hruska	Roth
Byrd, Va.	Hughes	Saxbe
Byrd, W. Va.	Inouye	Smith
Church	Jordan, N.C.	Sparkman
Cotton	Jordan, Idaho	Spong
Dole	Long	Symington
Dominick	Magnuson	Talmadge
Eagleton	Mansfield	Tower
Eastland	McClellan	Welcker
Ellender	McGovern	Young
Ervin	Metcalf	

NOT VOTING—17

Bayh	Curtis	Mundt
Bellmon	Goldwater	Muskie
Brock	Harris	Stennis
Cannon	Hartke	Taft
Chiles	Jackson	Thurmond
Cook	Mathias	

So Mr. PACKWOOD's amendment was rejected.

Mr. FULBRIGHT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McGEE. Mr. President, will the manager of the bill yield to me for 1 minute for a colloquy?

Mr. FULBRIGHT. I yield.

Mr. McGEE. Mr. President, the point I raise has to do with the paragraph on page 27 of the current report on the bill and relates to the problem of allocation of funds for American schools overseas. In the middle of the page, the paragraph starts, "In taking this action," but the relevant sentence is near the end of that paragraph, which reads:

> In considering the projects submitted to both the Senate and the House, AID and State Department officials should weigh each on its merits according to the established criteria used by AID and the State Department to evaluate the merits of section 214 projects and in consultation with the host government.

What I would like to submit for the consideration of the manager of the bill is dropping the language "and in consultation with the host government."

The reason for it is—and I have been deeply involved in the technicalities of this problem—these are strictly American schools overseas with all the money coming from American sources rather than bilateral arrangements and, therefore, this poses some limitation in that regard.

Originally, when we had $30 million in that category, including other institutions, and it made more sense, but now that it has been cut back to $15 million, with rigidly defined institutions, I hope it might be possible to drop that language.

The Senator from New York was there the afternoon that language was put in. I was forced to be elsewhere on Senate business. He and I have discussed the matter with the chairman.

Mr. FULBRIGHT. That is only in the report. The colloquy here would have the effect the Senator has in mind. There is no provision needed in the bill. I agree that that is improper language and should be dropped now. I did not sponsor it in the beginning. The legislative history should make it clear.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 1 additional minute.

The RECORD should show we are in agreement that the language is inappropriate for the report and it should be ignored.

Mr. McGEE. Yes.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. JAVITS. Mr. President, this language arose, as the Senator from Wyoming (Mr. McGEE) said. We had $30 million in the bill and we had lists of particular institutions. These are American-backed institutions or they would not belong in the bill. The amount is now down to $15 million. I agree with the Senator that we do not need any formalization at this stage. There is not enough involved. But we could express the feeling that we have.

Mr. President, I have a letter from Dr. Hannah of AID which has been printed in the RECORD during the earlier debate which indicated that the funds would be distributed without prejudice and I refer my colleagues to this letter.

In the letter they point out they will not be inhibited by their own previous submission of particular schools.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. I yield 1 additional minute.

Mr. JAVITS. Or by other schools, but they will have relative freedom of action.

They know what we want and they have the views of the House and the Senate and that will apply to their previously drawn up lists.

With the letter and with the understanding and the courtesies and protocol it may dictate some knowledge of the host government as to what is going on, but I do agree with the Senator.

Mr. FULBRIGHT. These institutions have to be approved by the government where they exist. Some have a long history and some have a short history. But I agree.

Mr. JAVITS. The purpose was safeguarding and checking back who they were and the background. I think that can be waived.

Mr. McGEE. I thank the Senator.

Mr. JAVITS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

> On page 4 between lines 3 and 4 insert the following:
> "The foregoing subsection (d) shall not be applicable to loans relative to the Alliance for Progress."

Mr. JAVITS. Mr. President, I yield myself 10 minutes and I shall not take that much time.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, we have argued concessional terms and the prohibition against them that is now in the bill by the very close vote we had a while ago. I shall not reargue it.

This is a question I think the Senate should decide, just as it felt this should not apply to Public Law 480. We all agreed on that because that was an inhibition we should not put on ourselves if we want to encourage trade in agricultural commodities. I felt it my duty to lay before the Senate as to whether or not the same exclusion shall be made with respect to the Alliance for Progress, where we have special relations and deep and special concerns, bearing in mind we have already cut the Alliance for Progress loan funds very materially and there is serious concern whether that is a desirable thing to do.

The cut is about 28 percent over and above what we already cut when we reported the bill that was defeated.

The question is, Shall we lay both lashes on the Alliance for Progress, the material cut and the prohibition against concessional terms, or shall the Senate express its will on cutting the Alliance for Progress and treat it as it did Public Law 480? Again, we have a special interest in the amendment.

Mr. CASE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. CASE. Mr. President, I support the amendment. I think it would be a most appropriate action for the Senate to take. The Senator from New York is correct in stating that the United States has a very special relationship with other countries in this hemisphere. We have always recognized this and we should do so in this instance.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HUMPHREY. Mr. President, I join the Senator in supporting this amendment. I call to the attention of those who were disappointed in some recent votes of the United Nations that several nations that gave our country support were to a very large degree Latin American countries.

As the Senator from New Jersey has just indicated, these countries have a unique relationship to the United States and we to them.

Frankly, I am disappointed that we have not done better in the Alliance for Progress, but I do not think this is any time to back away from it, and I am hopeful the amendment of the Senator from New York will be adopted. I think it would be of great help to this bill, to this Nation, and to our policy in that area of the hemisphere.

Mr. JAVITS. Mr. President, I ask unanimous consent that the names of Senators ALLOTT and HUMPHREY be added as cosponsors of the amendment, and I ask unanimous consent that the cosponers of the original amendment, to wit, Senators TUNNEY, CASE, KENNEDY, PERCY, McGEE, MILLER, and COOPER may add their names as cosponsors if they so desire.

The PRESIDING OFFICER. Without objection, is so ordered.

Mr. DOMINICK. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. DOMINICK. The only thing I want to be sure of is that if we should give one of these soft loans to a South American or Central American country, they will not be in a position to relend to a country which is not within the purview of the amendment.

Mr. JAVITS. No. AID is very strict on that. The legislative record should show we must have a firm understanding. It certainly is not my remotest intention that any such subterfuge should be engaged in, but that this money would be strictly for the benefit of Latin American countries and the Alliance for Progress only, directly and indirectly. As I said, I think AID has very tight provisions on that score, but, just as a precaution, I wish to make it quite clear.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. KENNEDY. I join the Senator from New York in this amendment, to give some medium of consideration to the special status of the Alliance for Progress. Obviously, we have a special relationship with countries in the Western Hemisphere. We have had it by geography, history, and tradition. For many reasons, they are our closest allies. I think it is not inappropriate for us to give special consideration to the kinds of development assistance that will be sponsored and achieved under this amendment.

Also, I think that we should look carefully at what the United States has done with regard to Latin America in recent weeks.

We have imposed a 10-percent surcharge on Latin American nations although those nations have nothing whatsoever to do with our balance-of-payments problem. They have substantial surpluses in our favor with regard both to trade and to balance of payments.

We have disregarded the necessities of the Alliance for Progress by killing the foreign aid bill less than 2 weeks ago.

And then we have exhibited a lack of interest and concern in the bill that is now before us which includes substantial cuts in the funding levels for both technical assistance and development loans to the Alliance.

Particularly with regard to Latin America, I believe the committee has decided unwisely to reduce the amounts of money authorized for the Alliance for Progress.

I have been critical of the Alliance in the past and I have felt that it has failed to achieve many of its goals. But I do not believe that the way to reform the Alliance is to simply cut the authorizations without proposing any program to replace it.

I would hope that a separate identity could become a reality for the Alliance in the future with a more fully developed regional institution directing it.

But there are no proposals before us at this moment to alter the character of the Alliance or any of the other elements of the bilateral assistance program. Instead we are urged simply to accept deep cuts in those programs. And I question whether we have adequately examined what the effects would be of the reductions in authorizations now contained in the bill before the Senate.

I have asked aid to explain the impact of the proposed levels of spending and their summary clearly shows that we will be forced to break out commitments to many nations by this action. I ask unanimous consent to have that summary printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

PRELIMINARY ASSESSMENT—CONSEQUENCES OF SENATE BILL: LATIN AMERICA

1. ALLIANCE LOANS PROGRAM—LEVELS

(a) The current Senate proposal, which reduced the Alliance Loan NOA request by 37%, would destroy major elements of the FY 72 lending program and make it impossible to carry out developmentally significant activities now programmed in many countries.

The Administration request was the lowest in the last decade. Thus the program was already reduced to bare bones. For budget

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reasons, A.I.D. deferred an additional $60 million in priority loans and did not include this amount in the request to the Congress.

NOA

Request	$285
Senate figure	150

Anticipating a "bridge" of $75 million from loan repayments and recoveries, the Administration request would have permitted a lending program of approximately $310 million for Latin America.

(b) *Immediate Consequences*

We have already authorized $38.9 in FY 72 loans:

Bolivia program	$12
Bolivia agriculture	8
Guyana-Georgetown approaches	8.9
Panama-tourism	4
ROCAP-private investment (agriculture)	6
	38.9

We assume if the Senate Bill is adopted that at a minimum $17 million of the proposed $150 must be allocated to population programs in Latin America. This together with already authorized loans adds to $55.9 million, leaving a balance of $94.1 in NOA for lending for the remainder of the year.

(c) With various possible, but unlikely, recoveries we now anticipate (optimistically) an additional availability of only $40 for the FY 72 lending program because other competing demands will reduce the available bridge for Latin America. Thus we would have available:

NOA still available from new fiscal year 1972 authority	$94.1
Recoveries (bridge)	40.0
Total	134.1

(d) There are some 36 loans currently in process totalling $297.5. Some of those will not reach fruition in the normal course of loan study and preparation. We assume that there will be some $60 million in "dropouts." Thus, the remaining program would require some $237.5 million.

(e) With recoveries, therefore, we will still be approximately $103.4 million short of the amount we feel is solidly justifiable and needed on economic development grounds. Without expected recoveries of $40 million, we would be $143.4 short. The calculation is as follows:

Revised program:	
Now authorized	$38.9
Loans in process, less dropout	237.5
Population	17.0
Total	293.4
Senate bill program:	
Recovery	40
NOA	150
Total	190
Shortfall	103.4

(f) The loan list for the remainder of the Fiscal Year includes:

$80 million firmly programmed in conjunction with the World Bank consortium for Colombia. That country's education and agriculture investment budgets and plans are tightly meshed with the anticipated U.S. lending.

Major education and agriculture loans in Panama, Nicaragua, Dominican Republic, Ecuador and Uruguay totalling $70 are firmly scheduled and, as in Colombia, occupy a central role in current governmental planning.

Some $15 million is planned for earthquake reconstruction in Peru. This loan follows upon President Nixon's pledge to be helpful to that country in its reconstruction efforts.

Other loans in export development, health, housing, rural electrification, capital markets, and urban development, compromise the remainder of the portfolio. In each case, and in each of the 15 countries in the Caribbean and Latin America to which these loans would be made, there is already substantial interest in and reliance upon the United States' willingness to be helpful.

Clearly at the proposed Senate level, we cannot fund most of these important activities.

2. ALLIANCE LENDING—TERMS OF AID

The amendment setting development lending rates at the Treasury borrowing rate would, in effect, radically change the nature of the AID program which has hitherto been premised upon the notion that the great bulk of assistance to poorer countries should be on concessional terms. Concessionality is the essence of economic assistance.

It should be noted that this change in U.S. lending terms comes at a time when most of the other developed countries have recently softened their terms. To increase the hardness of U.S. lending terms would be contrary to the recommendations of the Pearson and Peterson Commissions, which stressed that the growing and already burdensome debt situation in many LDC's poses a grave threat to their progress.

3. ALLIANCE—TECHNICAL ASSISTANCE

Our NOA request of $129.0 anticipated recoveries of $3.9 million, for a total FY 72 AG program of $132.9. This figure included $17 million for bi-lateral population programs in Latin America, which under the Senate Bill would have to be accommodated within the loan authorization. Moving bilateral population programs from grants to loan, the authorization leaves us with an FY 72 requirement level of $115.9 million. This breaks down as follows:

Technical assistance[1]	$80.9
Inter-regional TA (TAB)[2]	23.0
Inter-regional population	12.0

[1] Includes $2.8 million for Public Safety.
[2] Represents 25% of TAB and other central AID project budgets.

The Senate Bill level of $75.0, together with recoveries of $3.9 million, yields an availability of only $78.9 million, compared with requirements of $115.9. A shortfall of $37.0 million (27%) results. Were inter-regional population activities also accommodated within loan program availabilities and were Latin America funded contributions to inter-regional TA programs scaled down, the shortfall might be further reduced.

A cutback of this magnitude cannot be achieved at this point in time—almost half way through the fiscal year—without stunning effect on the viability of on-going programs.

$42.9 million of the FY 72 Alliance technical assistance program is for high priority activities in agriculture and education and for support of multilateral programs carried out by the OAS.

$24.1 million supports important activities primarily in urban and community development, private enterprise and public administration.

$13.9 million is programmed for technical support, which includes a high percentage of relatively fixed personnel costs (for U.S. and foreign national employees engaged in the planning, administration and monitoring of approximately 500 project activities) which could not be reduced substantially during the remainder of this fiscal year even if employees were abruptly discharged. Severence pay and travel costs would consume very large sums.

Since the proposed Latin American bilateral program provides for only $2.7 million in new projects, there is little room for meaningful economies to be effected by abandoning these new initiatives. In addition, a $500 thousand requirement for narcotics control programs, not foreseen at the time the Congressional Presentation was prepared, must now also be accommodated within a reduced grant budget, further complicating the difficulty of the budget reduction.

The balance, $35.0 million constitutes the Latin American Bureau contribution to AID funding of inter-regional population activities ($12.0 million) and other inter-regional technical assistance programs which are world-wide in scope ($23.0 million).

Mr. KENNEDY. However, I would emphasize that a first item of importance during the next session of the Congress should be an effort to overhaul the foreign aid structure and to rethink this entire matter.

But that action should not result in a reduction in the total amount of our overall development aid. We already are 12th among the 16 industrialized nations in the proportion of GNP devoted to development aid.

Every international panel of development economists has called for a greater amount of development assistance if we are to change a world in which two-thirds of its citizens live in misery.

I believe it is in our interest to work with the developing nations in their efforts to raise the standard of living for their people. I believe that ultimately will be the surest path toward international peace for the nations of the world and the surest path toward social and political justice for the citizens of the world.

Therefore, at the very least, I would hope that the Senate would approve the amendment put forward by the Senator from New York and myself to exempt from the requirement for high interest development loans, the nations of the Western Hemisphere.

And I also ask unanimous consent to print at the conclusion of my remarks an address by Galo Plaza, Secretary General of the Organization of American States to the World Affairs Council at Boston.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

WHATEVER HAPPENED TO THE ALLIANCE FOR PROGRESS?

(By Galo Plaza)

Ten years have passed since representatives of the American nations met in the Uruguayan resort of Punta del Este to launch the Alliance for Progress. Today the fanfare and oratory that accompanied the birth of this comprehensive regional development program are all but forgotten. Critics say that since the Alliance has failed to achieve its lofty objectives of economic progress and social reform, it should be given a quiet burial or simply permitted to fade into oblivion.

As I see it, the Alliance for Progress is very much alive. As a slogan, it may have lost some of its early appeal, but the concept of multilateral cooperation to achieve more rapid economic growth and greater social justice is as valid as ever, and it has been incorporated as a treaty obligation in the amended Charter of the Organization of American States. And President Nixon has reaffirmed the U.S. commitment to the principles of the Alliance.

Although public opinion has tended to regard the Alliance as a bilateral U.S. program, in reality it has been a multilateral program from the start. The contribution of the United States and other external sources has played an important pump-priming role, but the greater share of the effort has been Latin America's, even more so than was anticipated at Punta del Este in 1961.

THE NATIONAL EFFORT

The statistics for the sixties show that national savings financed 94 percent of the investment in Latin America, rather than the 80 percent that was forecast at Punta del Este. The net flow of capital from all external sources, after deducting the outflow, was 17.6 billion dollars, somewhat less than the 20 billion dollars envisioned at the start of the Alliance.

During the last decade the gross domestic product per capita in Latin America as a whole rose from about $370 to about $470, an increase of 27 percent. This growth rate was almost as rapid as that experienced by the United States, where the gross domestic product per capita in the past decade rose about 31 percent. In absolute terms, however, the gap between the gross domestic product per capita in the United States and in Latin America increased from $2,200 in 1960 to $2,900 in 1970.

In some areas, such as tax reform, literacy, school enrollment, life expectancy, and urban water supply, the Latin American countries took significant strides toward the Alliance for Progress goals. In other areas, such as housing and agrarian reform, progress fell far short of expectations.

Although many of the ambitious goals of the Alliance remain unfulfilled, the program has resulted in significant changes in the Latin American infrastructure that pave the way for greater progress in the future. Experience has shown that social progress is not the automatic corollary of economic growth, and that the Latin American countries must attack more directly problems such as income distribution and unemployment, which were not assigned great importance in the Charter of Punta del Este.

The experience of the sixties has also served to underscore the need for maintaining Latin American unity toward the rest of the world on development issues, without trying to prescribe a uniform strategy for individual Latin American countries. Each country has its own development plan, its own approach, its own schedule of priorities, and that is as it should be. But this has not impeded the trend toward greater Latin American cohesiveness and solidarity, which has been evident in the Special Committee for Latin American Coordination.

THE ROLE OF THE UNITED STATES

As the Latin American countries reassess their priorities in the Alliance for Progress and their development objectives in the seventies, it is appropriate that the United States examine its own foreign policy objectives and strategy in the Latin American region.

What does the United States stand to gain from a policy of increased cooperation with Latin America and with the rest of the developing world? The Peterson Report pointedly suggests that the United States "should not look for gratitude of votes, or any specific short-term foreign policy gains from [its] participation in international development. Nor should it expect to influence others to adopt United States cultural values or institutions. Neither can it assume that development will necessarily bring stability." The true objectives of development cooperation, says the Report, are "the building of self-reliant and healthy societies . . ., an expanding world economy from which all will benefit, and improved prospects for world peace."

Some who agree that the United States should do more to cooperate with the self-help efforts of the developing world do not see why special consideration should be given to Latin America. As I see it, there are several reasons.

First is the traditional close association with the Latin American states ever since they became independent a century and a half ago. Second, Latin America's proximity to the United States makes it a more accessible market. Third, as the most advanced of the world's developing areas, on the threshold of accelerated development, Latin America is better equipped to make effective use of external cooperation. Fourth, Latin America is the only area of the developing world that is linked to the United States by a development-oriented treaty—the amended Charter of the Organization of American States.

Nevertheless, there is a tendency in this country to downplay Latin America's importance as foreign policy analysts focus their attention on new developments in East-West relations. Gone are the days of a decade ago when concern for Latin American development was for a fleeting moment considered front-page news.

THE SPECIAL RELATIONSHIP

Some contemporary geopolitical theorists deny the existence of a special relationship between Latin America and the United States, and, furthermore, they see no need for one. They write Latin America off as unimportant to the United States because they fail to understand the region's promise and its potential, a failing that has long been endemic to American popular opinion. Ignoring the special relationship that already exists between the United States and Latin America in the Organization of American States, some writers have counseled a policy of "constructive disengagement." As I see it, disengagement would not be constructive for either party.

Those who underestimate Latin America's importance forget that it already buys some 5 billion dollars in goods from the United States each year, and that this market will grow to at least 7 or 8 billion dollars in the present decade.

They forget that Latin America is the source of raw materials that are critical for U.S. industry and defense.

They forget that U.S. direct private investment in Latin America, with a book value of some 13 billion dollars, brings a return of nearly 2 billion dollars per year in profits and royalties.

They forget that the Latin American countries have demonstrated their strategic importance to the United States in wartime.

Finally, they overlook the political importance of countries that share the United States' views of the requirements of human welfare and of peace and security in the world community.

Raul Prebisch has said that if the United States determines that it has a basic and lasting interest in Latin America, "the inevitable corollary is a systematic long-term effort in which the scale of the means is in reasonable proportion to the magnitude of the ends pursued."

AID FLOWS

Any impartial observer would have to concede that the scale of the means employed thus far bears no reasonable proportion to the magnitude of the ends or to the resources available. Aid flows to date have been inadequate. They have been helpful, but they have not been enough to trigger a major breakthrough toward self-sustaining economic growth.

Although the parallel is imperfect because of widely differing circumstances, the lesson of the Marshall Plan is clear: large-scale economic aid at the outset hastens the day when no economic aid is necessary. Small scale aid may continue indefinitely without producing the desired results.

Through official lending and grants, the United States has made an important contribution to Latin America's development effort, even though much of the aid was tied to purchases in the United States—a policy that has only recently been abandoned.

The point is that contribution was not in proportion to the ends pursued. The U.S. capacity to give financial cooperation and Latin America's capacity to absorb it have both increased, while the volume of U.S. aid has not.

One school of thought holds that the United States has done its part and that now others should carry the ball. The Secretary of State told the OAS General Assembly in April 1971: "Let me state categorically: The commitment of the United States to assistance for Latin America is undiminished." But a few weeks later a Treasury Department official told the Board of Governors of the Inter-American Development Bank that "The preoccupation of our Congress with serious social, economic and environmental problems domestically has caused a reassessment of our priorities," and that "our diminished position in world affairs . . . requires a new approach to further aid." He urged the Bank to seek new sources of capital in other developed countries.

We all know that foreign aid is taking a worse beating every year on Capitol Hill. Although still the largest source of aid in the world, the United States has dropped to twelfth place among the sixteen countries of the Development Assistance Committee in terms of aid as a percentage of gross national product. The United States is now spending less than one third of one percent of its gross national product on foreign economic assistance.

This trend against foreign aid is false economy, because it hurts not only the developing countries but also the U.S. corporations in all fifty states that supply the majority of the goods that those countries import with their aid dollars. The legislators seem to overlook the obvious domestic implications of shrinking foreign aid, which is shrinking trade as well.

There are two bright spots in the picture of U.S. economic aid. One is that an increasing share of it is being channeled through multilateral institutions, such as the World Bank and the Inter-American Development Bank. This gives the developing countries a greater say in where and how the aid should be used, but the weighted voting in these institutions still gives the loudest voice to the United States. The other encouraging development is the decision of the United States Government to exempt Latin American from the announced 10 percent cut in development assistance.

THE TRADE PROBLEM

At the same time it is seeking increased economic cooperation, Latin America is looking for a "new deal" in trade. It is essential for Latin America to expand and diversify its exports to counteract the declining terms of trade caused by rapid growth in the value of the region's imports and sluggish growth in the value of its exports.

Latin America can improve its trade posture by intensifying export promotion efforts and by accelerating the process of regional economic integration. But it will also be necessary for the developed countries to open their doors wider to Latin American products by removing restrictions designed to protect relatively less efficient industries. Japan has set an excellent example by establishing a $210 million fund for adjustment assistance to its domestic textile industry, which is unable to match the competition of

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imports from Korea, Taiwan, and Hong Kong. Paying the cost of readjustment makes more sense—and more friends—than trying to keep the competition out.

Although the United States was an early advocate of a system of generalized tariff preferences for manufactures from the developing nations, it has lagged behind Europe and Japan in putting such a system into practice. New consultation machinery on trade matters within the framework of the Organization of American States has led to broadening of the proposed U.S. preference system to include more products of special interest to Latin America, but until the system is implemented the benefits for Latin America are only on paper.

Nor have Latin America's efforts to expand and diversify exports been helped by the recent United States decision to place a temporary surcharge on imports. This makes it even harder for Latin American products to compete in the U.S. market. Latin America is not responsible for the U.S. balance-of-payments deficit; in recent years the United States has always had a surplus in its transactions with Latin America.

The Latin American countries hope that the import surcharge will be lifted as soon as possible and that the United States will not retreat from its commitment to work toward freer trade. Nothing could be more detrimental to the Latin American development effort than a new wave of trade barriers.

THE POVERTY GAP

Trade expansion and development assistance are means for coming to grips with the most pressing problem of our time: the growing international poverty gap.

The late Martin Luther King once said that "Injustice anywhere is a threat to justice everywhere." This profound and somewhat discomforting thought was echoed last year by some young Americans who formed a volunteer Youth Task Force for International Development. They told President Nixon: "we of the richest nation of all have no right to expect peace if we do not undertake bold and imaginative action and redress imbalances of economic wealth and human opportunity."

There is no guarantee that development will bring peace. We know how often developed nations have resorted to war. But in this era of the revolution of rising expectations, when the gap between the haves and have-nots is widening with each passing year, it is impossible to conceive of a lasting peace without development.

How long can the international poverty gap continue to widen without producing explosions? Will the developed world come to understand, before it is too late, that its own best self-interest will be served by promoting more equitable growth among the nations on this shrinking planet?

Mankind truly has the means to build a world with justice for all and poverty for none. The time has come for all nations, rich and poor, to rise to this challenge.

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

This is exactly the same proposal we defeated a moment ago, except it is limited to Latin America. I call attention to the fact that we are already giving special attention to Latin America. A couple of weeks ago we passed a bill providing, I think, $900 million to be paid in the next 3 years for the Inter-American Development Bank, which money may be loaned at very low interest, some of it from 1¼ to 2 percent, the more typical being 3 to 4 percent, for a period of 20 to 30 years, with a grace period of 3½ to 5½ years.

So we are already giving special attention to Latin America. We do not have a bank similar to the Inter-American Bank for every geographical region. Even the Asian Development Bank is in its infancy and we are giving very little to it. We are giving the Inter-American Bank large amounts of help.

Furthermore, I do not think it is quite right to call these bilateral loans humanitarian loans. These are loans which are used for roads, railways, mass transportation, all sorts of projects that we need in our own country. It is a development loan; it is not a humanitarian program or charity.

If it is desired to give more money to Latin America, let us just increase the amount for the Inter-American Bank, and the fund for special operations program, which is the soft loan program. There may be some justification for that. The committee provided, and the Senate approved just about 2 weeks ago, almost unanimously, all that was requested, all that the administration asked for.

Nothing further needs to be said than we said about the previous amendment of the Senator from New York, so I see no need to belabor the matter. What the Senator is trying to do now is what he wanted to do for all development loans. Now he is doing it only for the Alliance for Progress loans. I am opposed to it.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. FULBRIGHT. Mr. President, if the Senator is willing, I am ready to yield back my time.

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. FULBRIGHT. I yield.

Mr. MILLER. Would it be fair to say that if this amendment is not adopted the Alliance for Progress participation by the United States is, for all practical purposes, ended?

Mr. FULBRIGHT. No. Approximately $1 billion is now in the so-called pipeline, which will be under the old rates. So this is what I would call a gradual phaseout. There is $1 billion available in addition from the Inter-American Bank. Also, I believe there is $75 million for grants in the bill. That is just to give. There is in the bill $150 million for loans and there is $75 million for grants which carry no interest and which are for education and that type of program.

Mr. MILLER. I take it the answer is, No, it will not be ended immediately, but it will be a phaseout situation?

Mr. FULBRIGHT. The bill carries a statement that the bilateral development should be phased out. The Peterson Force report recommended it. I would not say the administration recommends this particular way to do it, but its policy is to phase out bilateral development loans—not all the programs, not all the technical assistance, and other aspects, but the Development Loan Fund, which is what this is—loans to Latin America.

Mr. MILLER. Can the Senator tell us how such a phaseout would conform to any commitments we have made under the Alliance for Progress agreements?

Mr. FULBRIGHT. The bill states at the beginning:

Accordingly, this Act looks to the phase-out of the current program and to the establishment of a new one which will command the respect and the support of Congress and the American people.

The committee has tried to bring out a bill which can be supported. All of the amendments of the Senator from New York are directed toward reconstituting the bill exactly as it was when it was defeated. I do not know whether he thinks the Senate has changed its mind. Perhaps it has. I do not think it has. If he reconstitutes the bill to just the way it was, I would assume it will be defeated again, because it was defeated by a very big margin.

Mr. MILLER. I still would like to get an answer to my question, regardless of what the preamble to the bill recites. How will this conform to the commitments made under our agreements with the Alliance for Progress?

Mr. FULBRIGHT. I do not know what commitments Congress has made. What commitments is the Senator talking about?

Mr. MILLER. I am talking about the commitments made at the Punta del Este meeting which this country and other countries made.

Mr. FULBRIGHT. There is no commitment under any of those agreements that we shall lend money under these soft-loan terms. I think what the Senator may be talking about is some of the general statements that our past representatives very often made, just as we sometimes make statements in general terms. There is no commitment I know of that we shall continue forever the existing program, at almost no interest. What we are trying to do is tighten up on these bilateral terms. However, I repeat, we have given $900 million, which was authorized just recently, on very soft terms. We are not neglecting them. They are getting the special treatment the Senator from Massachusetts referred to.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

On the issue of what we are giving them and what they need, take a trip to Latin America—anybody—to observe the conditions and to ask is the perpetuation of those conditions in our long-term interest as a nation.

The question I am asking is whether our hemisphere can live in peace if it is half poor—and half rich.

We are not very well liked in Latin America, precisely for that reason. I do not mind about the liking, but we are in very grave danger there, and anybody with half an eye can see that. Why? Sure, we have got $900 million authorized over 3 years for the Inter-American Development Bank, but does that measure their needs or requirements, in order to keep themselves from anarchy and revolution? Of course not. As I pointed out in the other debate—I did not want to repeat it again—most of the lending is still bilateral. It will take a while to phase out. Our dean, Senator AIKEN, pointed that out. We have a provision of law in the bill which says:

Notwithstanding any other provisions of law, the President shall reduce the amounts and numbers of loans made by the United States directly to individual foreign countries with the objective of phasing out the bilateral loan program by not later than June 30, 1975.

But let us not kill it here and now. That is the purpose of this amendment, especially with so sensitive an area, which is so aggrieved already by the 10-percent surcharge, by the failure to implement the generalized preference scheme. They say the 10-percent import surcharge should not have been laid on them, because they are not responsible for our international balance-of-payments problems at all. In fact, we have a considerable trade surplus with these nations. But they are getting it, and they are going to get it in this. This 6-percent rate is going to be for them, and also affect them adversely.

Then, Mr. President, I have heard just about all I need to hear about this business of the pipeline, and $6 billion all nicely carried in the pipeline.

We are all lawyers. We know that when you go to a bank and get a construction loan for $150,000, you draw it down as you need it. You certify to the banker that you have used 10 or 20 percent, and then you get it. Does the banker say, "The money is in the pipeline?" No. He says he owes the money.

Mr. President, is the United States going to welch on its commitments? Are we going to add that to all the other troubles we are in? This pipeline business is fine, if you want to kill this thing. Sure, you can argue anything. But we are all sensible men and businessmen, and there is no AID money in this pipeline at all; and the AID officials have testified to that effect.

We are all sensible men of business. If the United States wants to welch on a business deal, yes, then it is in the pipeline in the way my colleague explains it. Otherwise no, and it does not deserve to be figured in the situation.

Let us remember that as surely, we do not like foreign aid, and want to get out of it, et cetera, we are still the most powerful and the biggest Nation on earth. We tower over these nations in Latin America like the Colossus of the North they say we are.

Let us behave like the powerful Nation we are. We are not starving, and not going busted. Sure, we have a lot of problems at home that need to be fixed up, and a lot of ecological needs to be repaired, and poor who need to be helped, and I am certainly no laggard in doing those things. But when you compare what their needs are with ours, when you compare the threats to their security with the threats to our security in terms of anarchy, revolution, and disaster for their people, you begin to get some appreciation of why I have made this final effort to bring some reason to the action we are taking.

I am not asking that more money be put in the program. We are only asking that the terms which enable the utilization of the program for the most important relationship we have, with Latin America not be doubled. This is doubling it. That the money authorized not be tied with conditions that prohibit its very use.

It is very important, Mr. President, to look at the preceding record. We have moved very slowly in this field over a period of 12 or 14 years, as the Senator from Colorado (Mr. DOMINICK) has indicated. We have inched up to 3 percent. But this amendment, which I am trying to change, doubles it, Mr. President, at a time when the pressure is on all the Latin-American nations. They are all figuring out now how they can get so much in loans and pay out just about the same thing in interest and carrying charges. They do not like it, their people do not like it, and they are right.

So here we are going to double it. I hope very much, Mr. President, that we will grant at least this modicum of relief from what is a very trying provision.

I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. I yield myself 5 additional minutes.

Mr. HUMPHREY. Mr. President, I thank the Senator from New York.

I think the point needs to be made that these loans should not be considered as a means for just shipping something out of the country. The truth is that the loans are repayable, and they do serve to augment our economy. More than 80 percent of all the goods and services purchased under the foreign aid program come right out of the American industrial and service economy, so that we are, in a sense, helping both the recipients and ourselves.

I think the point the Senator from New York makes about the fulfillment of our responsibilities in this area of the world, particularly in the Western Hemisphere, cannot be overestimated. I think it is a very valuable and powerful point.

I believe that for us to do less than is being contemplated here, under the purposes of this amendment, would be to injure ourselves as well as to injure the Latin American countries.

I want to raise my voice once again in urging special consideration for this part of the world. It is not a happy part. It is not a prosperous part of the world. It is a part of the world in which there is great poverty and great anger. This is not Western Europe. This is our part of this globe, in the sense that we are neighbors, and we have had a historic neighborly relationship.

There was a time when we were very proud, in this body, of the Alliance for Progress—very proud, as Members of this body, when we contemplated the conference that took place at Rio under the administration of President Eisenhower.

We are very proud of the work we have accomplished, or tried to accomplish. I would not want to see us diminish it, and I would hope the Senator's amendment would be looked upon as an expression of goodwill, of good neighborliness, of good, sound economics, and of good sense. I think it qualifies under all those considerations.

Mr. FULBRIGHT. Mr. President, I want to say a word here.

The Senator from New York rightly says our prestige in Latin America has declined. I think one of the things that has contributed most to the decline is the practices of the American business community, and the programs developed under OPIC and other such institutions. That is why I say we should move toward multilateral aid.

I have already quoted, but I shall refer to it once more very briefly, what I thought was a very provocative editorial, datelined Quito, which claims that the Latin nations are offended by the patronizing attitude which accompanies these bilateral programs, in contrast to the multilateral activities of the Inter-American Bank, or the International Bank, for that matter.

We have had this program; we have given the Latin Americans about $16 billion, in one way or another, in the last 25 years; and the writer of the editorial cites that. He says they are very much against the bilateral programs; they are not sympathetic to them.

Such comments, I think, raise the question as to whether or not a different approach might be more beneficial to our relations with Latin America, than to continue the same old approach.

That is what the committee is trying to do, it is trying to take a new approach to the activity of assistance in the international field.

That is why many of us supported, or I did, at least, the authorization for the Inter-American Bank. This is the way we can maintain normal relations with these countries.

So I do not agree with the Senator that if we give them these bilateral loans at concessional rates over a long period of time, our relations with them will improve. I think the better way is through the multilateral approach, like the Inter-American Development Bank.

I yield the Senator from Alaska 5 minutes.

Mr. STEVENS. Mr. President, I thought we had completed this subject with the prior amendment. It seems to me that this amendment is going backward, and that if we agree to this, the next amendment we will have will be an amendment which says, "Since we have done it for South America, why not go back and do it for the rest of the world?"

As I understand, the amendment covers about one-third to 40 percent of the total program, and what it would say is, with regard to the countries involved in the Alliance for Progress, that they can borrow money that our taxpayers are going to subsidize because of the fact that we are anxious to assist them.

We have assisted them.

The way to do this, again, is to use the Senator from New York's device with OPIC—the Overseas Private Investment Corp. Get the money down there and guarantee it; and if our investors lose, the money will be repaid according to the guarantee by the Federal Government, our Government. To me, there is no question that is the way to do it.

I cannot understand why we should not keep the direction we took here when the bill was before us previously, we sent out a signal that from now on the for-

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eign aid program, so far as development loans are concerned, would be on a basis of what it costs the American taxpayers to borrow the money in a deficit situation.

At a time when we have wage control and price control, when we are going into even a stiffer period so far as the wage increases in this country are concerned, I cannot understand why we should not want to turn that corner, and turn it completely, and apply it across the board.

I would support an increase in the amount of money that would be available for the Alliance for Progress so long as it was on a basis of what it costs us to borrow it. There is no question in my mind that they are very good friends and that the total program is a good one, but to say that they should be excepted and the Alliance for Progress should be put on a par with Public Law 480 is wrong. Public Law 480 is to stimulate the export of our surpluses. The Alliance for Progress is to stimulate the surpluses coming in from a foreign country.

Those foreign exports will come up here. As we try to deal with our own problems, this amendment will complicate our attempts to solve those problems. I cannot understand it, and I have to oppose it.

We have tried to set a new goal. I can only repeat what I said earlier—that the amendment which was previously defeated would have deleted from this bill a provision that applies the concept of the going rate of interest to only 10 percent of the future loans that we are going to make in the development loan program. More than $4.6 billion is already in that pipeline, committed at very low rates of interest. We are dealing with the amount that is authorized in this bill, which is less than 10 percent of that total.

All we are saying is that in the future, with regard to future loans, charge the amount of money it costs us to borrow it. I have heard people talk here about the whopping deficit we have this year, and I have heard about the deficit that may occur in the current fiscal year by June of 1972. That deficit is not going to be aided in any way by continuing to borrow money and lending it at less than it costs us, particularly when we have contributed to so many multilateral agencies that could assist in South America—and could assist on even better terms than this in South America.

I cannot quite understand what the necessity is to exclude the Alliance for Progress countries from the concept we have already expressed on the floor today. I hope we defeat this amendment.

Mr. President, I make an inquiry: Have the yeas and nays been ordered on this amendment?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. DOMINICK. Mr. President, will the Senator from Arkansas yield me 2 minutes for a brief comment?

Mr. FULBRIGHT. I yield.

Mr. DOMINICK. Mr. President, I have been reading the bill as well as the report. I invite the attention of the Senator from Alaska to this, which I think is of some significance in determining the effectiveness of the amendment offered by the Senator from New York.

I read from the bottom of page 5 of the bill:

> In furtherance of the provisions of subsection (a) of this section, any funds appropriated under this part I may be transferred by the President to the International Development Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank or other multilateral lending institutions and multilateral organizations in which the United States participates for the purpose of providing funds to enable any such institution or organization to make loans to foreign countries.

It would seem to me that, rather than killing the Alliance for Progress in this way—in other words, by raising the interest rate, as has been alleged; I do not think it will, but it is certainly going to put a crimp in it—if the President or the State Department or anyone else feels that there has been an unnecessary cutback in our aid to the Latin American countries, he can very easily say, "All right, we will put a few more dollars into the International Development Association," which is authorized, as I understand it—and I want to be sure that I am right on this—to get soft loans at a very low interest rate. Am I correct in that?

I ask the chairman of the committee if I am correct in this: that the President could transfer funds to the Inter-American Development Fund, which would then be able to give soft loans at a very low interest rate.

Mr. FULBRIGHT. At the going rate under the Inter-American Development Bank.

Mr. DOMINICK. That is about 3 or 4 percent, as I recall; sometimes less.

Mr. FULBRIGHT. That is correct. Sometimes 2¼ percent. "Upon such other terms and conditions as the President may determine." That is section (3), on page 6.

I do not like to keep repeating myself, but the Peterson Report recommended that we move in this direction. The President has endorsed it in principle, not in specifics. I endorse it. I think the committee has endorsed it. If he wishes to utilize a multilateral organization he has the authority to do it.

Mr. DOMINICK. I thank the Senator.

Mr. JAVITS. Mr. President, I yield 4 minutes to the Senator from Vermont.

Mr. AIKEN. Mr. President, it has been said that Latin Americans do not like us, anyway. At least, I think that has been intimated during the progress of this debate. The facts, however, do not bear out that statement.

The United States does not have too many friends left in this world, but about half of them will probably be found in Latin America today. At the United Nations, when we needed help, we got help from 16 of the 22 Latin American countries. Mexico and every country in Central America voted with us. The only ones that did not vote with us were Chile, Ecuador, Peru—which have controversies over fishing or something else with us at this time—Guayana, Tobago—which we have helped quite a lot, I agree—and Cuba. All the rest stood by us.

If the proposal to slash cooperation with them, which is proposed now, had been in effect, I do not believe we would have had enough votes left in the United Nations to pay for counting.

These countries do want to work with us. They do not want to be obligated to the countries of Western Europe or Russia or China, all of which are just itching to move in there.

If we want any friends left on this earth, we had better not slap the faces of our Latin American neighbors to the south of us.

Mr. JAVITS. Mr. President, I am perfectly content to rest on the debate, except to make one point.

It has been charged that I am trying to restore the bill to the bill that was defeated. I have offered no amendment to increase amounts. I am not even changing the bill in this regard, because the Senate has already expressed its will as to the Development Loan Fund, and there is nothing I could do about it even if I wanted to.

In every other respect, the bill is as brought out by the committee, so far as I am concerned. So that I cannot agree that there is the remotest indication of that in what I am doing on the floor. But I do feel dutybound, in view of the sensitive situation which we face in Latin America, not to add one more to the pile we already are contracting for—and this is one of them—and, therefore, to pick out the Alliance for Progress and show that we do regard them as our friends and that we want to help.

One last matter of fact, the bank bills, so often referred to here, are still in the House of Representatives. We passed them. But they have not become law. They may be in for some problems. I have no idea.

To keep only half the lendability which we now have in the world, we still want the bilateral. None of the reports, including the Peterson Report, regard it as a phaseout, as being the end result. That is the issue at the moment.

Mr. KENNEDY. May I ask the Senator from New York, does his amendment add any money to the bill? It does not add one cent, is that correct?

Mr. JAVITS. Not one penny. It does, however, charge a lesser interest rate than is being charged now, rather than doubling it.

Mr. COOPER. Mr. President, I hesitate taking up more time of the Senate, but I want to point out that what the Senator from New York is proposing is not inconsistent with the votes already taken. Earlier, the Senate moved to strike the prohibition on concessionary interest rates relating to the Public Law 480 program, a program with which I am wholly in favor and have supported for years.

The Public Law 480 program has had good results all over the world relieving hunger and in some cases starvation. But we also know that it helps our own farm States. My State is one of the beneficiaries of the Public Law 480 program. I represent a tobacco State and it has a share in the $20 million of tobacco products exported to other countries. There are great wheat States which export a large volume of wheat to other countries. It is the same with the feed grain States, and with the corn States, and with the soybean States—now one of the great crops which we export to the rest of the world. Then we think of the cotton States—the great cotton States. There are many other farm States which benefit from the Public Law 480 program. But I believe we should be as generous as possible in helping countries in other ways. The same prohibitions on concessionary rates which have been removed as respects the Public Law 480 program—and I support their removal—should be removed from our development.

Mr. President, I wholly support what the distinguished Senators from New York and Vermont (Mr. JAVITS and Mr. AIKEN) have said. With all the troubles around the world, and we have plenty of our own we should not add further difficulties in this hemisphere of ours. Many speeches have been made recently about our difficulties with Canada. We should make a real effort to improve our relations with Canada. We should talk with them as friends about our problems and solve them.

We also have difficulties in Latin America. But we are all in the same hemisphere. If we cannot maintain a closeness of association with all the countries in North and South America, then I believe that we are in for very difficult times.

I remember, during the administration of President Eisenhower, when, he and Douglas Dillon, his under Secretary of State, took the first initiative toward establishing the Alliance for Progress.

I remember President Kennedy's great appeal for the strengthening of the Alliance for Progress. I remember President Johnson and his trip to Punte del Este to strengthen the Alliance for Progress. I remember the late Senator Robert Kennedy who stood on the floor of this Chamber with amendments in which I joined as cosponsor to preserve the Alliance for Progress. I remember the then Vice President and now a Member of this body, the distinguished Senator from Minnesota (Mr. HUMPHREY), who worked hard for the Alliance for Progress, as well as many other Senators on both sides of the aisle. I remember how strongly we all worked for the Alliance for Progress. And now President Nixon, and Secretary of State Rogers, are carrying on—working to assist in a spirit of equality and friendship our neighbors of this hemisphire.

Therefore, Mr. President, I hope very much that we take this small step to show our continued friendship and devotion toward our neighbors to the south in Latin America.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. FULBRIGHT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. EAGLETON). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from South Carolina (Mr. THURMOND), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Maryland (Mr. MATHIAS) and the Senator from Ohio (Mr. SAXBE) are detained on official business.

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Ohio would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 49, nays 35, as follows:

[No. 302 Leg.]

YEAS—49

Aiken	Hart	Pastore
Allott	Hatfield	Pearson
Anderson	Hollings	Pell
Bayh	Hughes	Percy
Beall	Humphrey	Ribicoff
Bennett	Inouye	Schweiker
Boggs	Javits	Scott
Brooke	Kennedy	Sparkman
Case	McGee	Stafford
Cooper	McGovern	Stevenson
Cotton	McIntyre	Tower
Cranston	Miller	Tunney
Dole	Mondale	Weicker
Eagleton	Montoya	Williams
Fong	Moss	Young
Gravel	Nelson	
Griffin	Packwood	

NAYS—35

Allen	Ellender	Mansfield
Baker	Ervin	McClellan
Bentsen	Fannin	Metcalf
Bible	Fulbright	Proxmire
Buckley	Gambrell	Randolph
Burdick	Gurney	Roth
Byrd, Va.	Hansen	Smith
Byrd, W. Va.	Hruska	Spong
Church	Jordan, N.C.	Stevens
Curtis	Jordan, Idaho	Symington
Dominick	Long	Talmadge
Eastland	Magnuson	

NOT VOTING—16

Bellmon	Harris	Saxbe
Brock	Hartke	Stennis
Cannon	Jackson	Taft
Chiles	Mathias	Thurmond
Cook	Mundt	
Goldwater	Muskie	

So Mr. JAVITS' amendment was agreed to.

Mr. MANSFIELD. Mr. President, if I may have the attention of the leadership on the Republican side, I ask unanimous consent that rollcalls from now on take no more than 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. ALLOTT. Mr. President, I wish to inquire of the distinguished Senator if he knows how many more amendments or votes there will be.

Mr. MANSFIELD. I understand the colleague of the distinguished Senator from Colorado has an amendment which may be accepted.

Mr. ALLOTT. I have one.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLOTT. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ALLOTT. Mr. President, I ask unanimous consent that reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

> On page 22, line 17, strike all after (a) through line 22 and insert in lieu thereof the following:
>
> "Not withstanding any other provisions of law, the President is authorized to furnish assistance to any foreign country, on such terms and conditions he determines necessary, in order to encourage and enable that country to control or eliminate the production, processing, or distribution of drugs within or across its boundaries."

Mr. ALLOTT. Mr. President, this is in the nature of a technical amendment to add language to the committee bill that is in the House-passed bill relating to worldwide drug control activities. This language would allow the use of funds to combat our worldwide drug problem in those nations which section 620 of the Foreign Assistance Act prohibits.

For example, section 620 would prohibit expenditure in Somali because it is a nation whose ships trade with North Vietnam. Mr. President, let me cite other examples where unless my amendment is adopted, drug control funds could not be expended—in Iraq, a nation with whom we have no diplomatic relations—in Bulgaria, a Communist bloc nation, in France, a developed country.

Mr. President, we are authorizing the expenditure of $25 million for world drug control. This is to fight the spread of the cancerous problem that is plaguing our Nation. Let us not tie the hands of the President in this regard. AID informs me that this is sufficient money to start a comprehensive worldwide program of drug control. I believe we should allow the President discretion in using these funds in any place they may be effective.

XUM

I have taken this matter up with the chairman of the committee and I believe that he agrees this technical amendment is necessary to effect the purposes of the bill.

Mr. FULBRIGHT. Mr. President, this is a good amendment. I am willing to accept it. It should be in the bill.

Mr. ALLOTT. Mr. President, unless someone wants time I am willing to yield back the remainder of my time.

Mr. FULBRIGHT. I yield back the remainder of my time.

Mr. ALLOTT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Colorado (Mr. ALLOTT).

The amendment was agreed to.

Mr. DOMINICK. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 27, line 13, strike out "subsection" and insert in lieu thereof "subsections".

On page 27, line 23, strike out the quotation marks.

On page 27, after line 23, add the following: "(c) It is the sense of Congress that notwithstanding any other provision of law, the aggregate of the voluntary contributions (excluding any payment of such shares of apportioned expenses) of the United States to the United Nations, and to all of the organizations, programs, funds, and activities of the United Nations, for each year should not exceed an amount which is in the same ratio to all such contributions to be made to the United Nations, and its organizations, programs, funds, and activities for that year, as the total amount of all such shares of expenses of the United Nations apportioned for payment by the United States for that year is to the total amount of all such shares of expenses that are apportioned for payment by all members of the United Nations for such year."

Mr. DOMINICK. Mr. President, I have a copy of the amendment for the chairman. The amendment would go back into the U.N. voluntary contributions, over which the distinguished Senator from Vermont and I and many other Senators had quite a hassle the other night, and in which I came out on the losing end of the stick.

What I am saying in this amendment is not that we must cut them back but that it is the sense of Congress they should not exceed in ratio and in total more than the percent we pay as a mandatory assessment. It does not seem to me to be smart to say we are going to pay 31.52 percent of the mandatory assessments of the United Nations and then say we will pay a lot more than that in terms of the voluntary programs.

As I tried to point out last time around when I was accused of trying to gut all of this, which I was not, the more countries that become involved in voluntary programs the better off we will be in getting results accomplished out of the particular program that is being funded. If they keep looking to us all the time for the major share of this we will continue to have a series of problems.

Let me give some figures in connection with this matter. For calendar year 1971, the United States is paying 31.52 percent of the total U.N. general budget. For calendar year 1971 the United States is voluntarily contributing 33.25 percent of the special program funds. This amounts, in cash and commodity contributions, to about $223.6 million—including AID contingency funds, Public Law 480 commodities, funds authorized by Migration and Refugee Act of 1962, and funds from Peace Corps appropriations. Based on the calendar 1971 figures, the amendment if made positive and not a sense of Congress would have reduced our total voluntary contribution by 1.73 percent, or about $3.86 million.

Although the 1972 figures are not available I estimate the impact on our 1972 voluntary contributions to be about the same. Under the revised amendment as I have submitted it, no such reduction will be required, but we state that we should work in that direction.

Let me point out that the amendment would not affect the U.S. percentage contribution to any individual special program. Although the total dollars available for these programs will be reduced slightly, the administration will still retain the flexibility of contributing any percentage it desires to a particular program.

The sole purpose of my proposed amendment is to lead toward a reasonable ceiling on U.S. voluntary contributions to the United Nations. Adoption would most assuredly not have an adverse impact on any of the existing special programs to which we contribute, and even if followed by the Appropriations Committee the United States would still contribute far more than any other member now contributes.

The amendment would, however, serve notice to the member nations that, even from the wealthiest nation in the world, there are limits to the amount we feel we can contribute and that the well can run dry.

There are some 131 nations in the United Nations. Under this proposal, I am, in effect, saying that we would like to contribute about 31½ percent of the voluntary contributions and the mandatory contributions, and the other 130 nations would have to pick up no more than the other 69 percent. I do not think that is really being unreasonable.

I might add—and I do not think the chairman is aware of this—that this proposal is cosponsored by the Senator from Iowa (Mr. MILLER) and the Senator from New York (Mr. BUCKLEY).

Mr. MILLER. Mr. President, will the Senator yield?

Mr. DOMINICK. I yield.

Mr. MILLER. My understanding is that the 31.5 percent which we are assessed for regular contributions to the United Nations has been established by a committee consisting of both large and small nations, wealthy and poor nations, and that these percentages apply to all the nations of the United Nations based upon their relative ability to pay.

The Senator is suggesting that we adopt a sense-of-the-Congress resolution that we continue, on the same basis of relative ability to pay, the percentage with respect to voluntary activities as we are assessed for the mandatory activities. Is that correct?

Mr. DOMINICK. The Senator is totally correct.

Mr. MILLER. I support that idea very much. I think the flexibility the Senator has provided for in his amendment is very timely. I do not think we should move to anything too rigid at this time.

Mr. DOMINICK. I appreciate the comments of the Senator from Iowa.

I shall make one more comment, if I may, while I still have the floor.

The other night we adopted an amendment urging the President to try to decrease our mandatory contributions to approximately 25 percent. This proposal would go along the same line, that we try to keep the contributions even throughout, and if we should succeed in that, obviously our share would go down and that of the other would come up.

I reserve the remainder of my time.

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

I have discussed this matter with the distinguished Senator from Colorado. I assume it does not include the Public Law 480 commodities, services, and so on, and certain contributions in kind. I believe it is correct that it would be intended to deal only with the cash contributions.

Mr. DOMINICK. The Senator is correct.

Mr. FULBRIGHT. I point out that it is a sense-of-the-Congress statement, and not a binding provision of law. I could not accept it as such for the reason that there are several programs in which we have a special interest. I point to one, for instance, with regard to the amendment that the senior Senator from Colorado had on drug abuse. It is true we are paying 78 percent on this U.N. program, and we have, because of the war and other reasons, a special interest in that program. We encourage it. One of the reasons is to try, through the U.N., to get the cooperation of other nations to control the international drug traffic. I do not really believe the Senator from Colorado would like to have his proposal interpreted as meaning we would have to cut down to 25 or 30 percent in that area. There are exceptions like this.

Mr. DOMINICK. That is correct.

Mr. FULBRIGHT. I believe I understand the Senator's intent correctly. I am in favor—I think we all are in favor—of keeping our contributions, especially our cash contributions, in line with those of other countries. I said earlier I objected to using our GNP as a criterion for our capacity to pay. I made a quite lengthy statement about it this morning.

I am generally in agreement with the Senator's objective. I believe it might be accepted as an ironclad principle. I am willing to take it to conference. I have not seen it before. The administration should have a chance to see it. I would certainly not want it to be interpreted as a retaliation against the U.N. or anything of the kind. I think the objective is agreeable, with the flexibility for cases where we have special interest in trying to encourage the cooperation of other nations.

Mr. DOMINICK One of the things we were careful to do in this proposal was not to go into a percentage limitation that we would have to hold to in each program. We left flexibility in it. Another matter that may be of interest is that we have put up in the so-called drug program approximately $2 million a year. Unless something has happened in the last few weeks, the maximum that the other nations have put up for this purpose is $11,000, so I would not say that the drug abuse program has been greeted with acclaim by the other nations. I do think we should encourage other nations to come into it.

Mr. FULBRIGHT. We have always been interested in the Children's Fund, and we have had a special interest in population control. Our contributions to the World Health Organization have come down as other nations have become interested in it.

I think our general objective should be that our contributions ought to be in reasonable amounts and in accordance with the ability of other countries to contribute. We have some new members of the United Nations now.

I see no objection to this proposal. I certainly do not interpret it as any retaliation against the U.N. It is just a reasonable approach in trying to keep our contributions in line with those of other countries. That is the way I interpret it. I have no objection to it.

Mr. AIKEN. Mr. President, I yield myself time on the bill.

Mr. FULBRIGHT. I am willing to yield time to the Senator.

Mr. AIKEN. I think the proposed amendment merits a record vote. I believe we ought to reduce our percentage——

The PRESIDING OFFICER. May we have order so that Senators may hear the Senator from Vermont?

Mr. AIKEN. Of contributions——

The PRESIDING OFFICER. Will the Senator from Vermont please suspend until we have order so we can all hear the Senator from Vermont? All Senators who wish to engage in conversation will please do so outside the Chamber.

Mr. AIKEN. I will start again.

I believe this amendment merits a record vote. I would approve reducing the contribution of the United States itself to 25 percent of the overall operating cost of the U.N. budget, as recommended by the Lodge commission. It is now between 30 and 31 percent.

However, as I understand the proposed amendment, it would require the aggregate of all the subsidiary organizations to be reduced to the same level as of the U.N. itself. At the present time 31 percent and 25 percent if the recommendation of the Lodge Commission is approved. That means a substantial reduction would have to come out of some of these different auxiliary organizations. We added $2 million to the Children's Fund. We did in the last bill, and again in this one. So that amount might have to come out of the Children's Fund at least partially. The World Health Organization has virtually eliminated malaria and other diseases in the world. The Food and Agricultural Organization has played a part in eliminating famine in other countries that otherwise would have lost what democratic tendencies they may have had.

Or it could come out of UNESCO. It could come out of the International Labor Organization, which undertakes to raise the pay of workers in other countries until they come near enough to our own wage scale to give our manufacturers a better chance in world trade. It could come out of the United Nations Displaced Persons Fund.

Maybe we do not care about displaced persons. I do not know. Perhaps those people over there in Pakistan ought to be permitted to starve. I do not think so. It could come out of UNRA. But it has got to come out of somewhere, and it is going to be a substantial amount. We had better make up our minds whether we are going to reduce these programs or not.

We ought to get this punitive spirit out of our souls here on the Senate floor and vote for what we think is right, and give some responsible thought to the people in other parts of the world, particularly the sick people, the young people, the children, and the needy people everywhere. I think we ought to have a record vote on this proposed amendment.

I ask for the yeas and nays.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. AIKEN. Wait a minute. I want to reiterate. I absolutely will not go on with trying to wreak vengeance on the sick or helpless people of the world.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, I yield myself 2 minutes.

I regret the Senator's request for a record vote on this amendment. As it is we have flexibility in the matter, and I think by having a record vote, it fortifies its significance, because I think it is likely to win.

We already voted on this principle of trying to work our overall contributions down to 25 percent. I thought that was acceptable to most of the Members. The Senator from Colorado has already agreed that there is great flexibility here; it does not cover the commodities contribution, of which a large part of these percentages—looking at something like the world food program, much of that is in commodity shipping services.

The proposal that we should seek what we believe to be a reasonable contribution, which has been expressed as 25 percent overall, is all I thought the Senator meant as an objective, and that he does not require it as a binding legal provision. I had told him previously I could not agree to it if he put it in rigidly, to where there is no flexibility left, and on that basis I would not accept it. But in this form, to have a record vote, I would think, would create an impression that it is much more significant and ironclad and inflexible than it would be otherwise. But if the Senator wishes, he can do that.

Mr. AIKEN. I think reducing our contribution to 25 or even 30 percent overall means a substantial reduction in the work of some of these agencies I have mentioned. I do not say some of them cannot be reduced. I do not think we pay 30 percent for ILO today; I do not have the records here. But on the children's fund, for instance, our contribution is away above that; it is something like 60 percent, if I remember correctly. I will correct that figure for the RECORD if I am in error.

But this means a substantial reduction to those agencies, subsidiaries, one might call them, of the United Nations, some of which have done more good in this world than the United Nations itself.

I am willing to reduce the United Nations itself to 25 percent any time, but not these poor people that need our help.

The PRESIDING OFFICER. Who yields time?

Mr. DOMINICK. Mr. President, I yield myself 5 minutes.

I regret that the distinguished Senator from Vermont may have misinterpreted this, or has at least not followed carefully what I was trying to say before.

In the first place, this would not reduce our contributions to 25 percent. It calls for a reduction to approximately 31.5 percent; but it would not be a binding legal provision. It just says we should not contribute any more than this.

In the event that the overall size of these programs should go up, I should also point out to the Senator that it is entirely possible that the amount we would pay would be more than what we have under this bill. I tried to point that out in the last debate, but I seem to have failed; I guess my timing was wrong.

Insofar as these programs are concerned, I think all of us are saying these are good programs. There is nothing the matter with them, and I am certainly not trying to kill any of them. As I have said before, I think they are good programs, but it does seem to me it is important to bring as many nations into these things as we can. So long as we keep on doing what we are doing, and acting as Santa Claus for the major portion of the funding of each one of them, the less cooperation we get from the rest of the nations of the world in trying to provide help where it is needed.

The PRESIDING OFFICER. Who yields time?

Mr. AIKEN. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

Mr. PELL. Mr. President, I was very much struck with the eloquent words of the Senator from Vermont, and completely agree with him. Each of these specialized agencies is a unit in itself. Here we have the IMCO, which is the Intergovernmental Maritime Consultative Organization; 9.82 percent is our percentage there, and that is just about right, considering the amount of merchant marine we have.

XUM

Population control; we contribute about 80 percent there. We have more of an interest in that area.

Special contributions for Vietnam; I am amazed, there we have 83 percent. I wonder who the other 17 percent are.

But in general, we should consider each of these as separate items, because if we lump them all together in one, and destroy or harm these specialized agencies, the sum total of whose good has exceeded that of the United Nations as a whole, we would be making a great mistake.

The PRESIDING OFFICER. Who yields time?

Mr. AIKEN. I yield 2 minutes to the Senator from Wyoming.

Mr. McGEE. Mr. President, I have listened very carefully to the Senator from Colorado on this proposal, and I would say candidly I think this is an unfortunate hour to be suggesting a so-called harmless sense-of-the-Congress resolution affecting the United Nations in this regard. The United Nations has taken some pretty severe blows the last few weeks. This one will be misinterpreted, however well it is intended by the sponsor of the amendment, and I would hope that this body now could pull itself together and, in this case, turn down this amendment on this rollcall vote that has been called for, as at least a token reaffirmation of our faith in the effort collectively to try to do some good in the world.

I think one of the betraying remarks of the sponsor of the amendment was that we should not be playing Santa Claus in this business. Nobody intends to play Santa Claus. We happen to be doing some things because they are worthy, they are right, and they are humanitarian, and I do hope that this body will, on the record, reject the proposal that is now pending.

Mr. AIKEN. Mr. President, I yield myself 2 minutes in order to state for the RECORD the percentages which the United States now pays toward these auxiliary organizations of the United Nations.

For the United Nations Development program, we pay 40 percent.

United Nations Childrens Fund, 40 percent.

United Nations Fund for Population Activities, 50 percent.

The IAEA—that is the Atomic Energy Operational Program—we pay 40 percent.

The World Health Organization, we pay 40 percent.

The world food program, I do not have the percentages.

I have the United Nations Institute for Training and Research. We pay 40 percent.

The World Health Organization Medical Research—that is in addition to the WHO itself—we pay only 14.26 percent.

International Secretariat for Volunteer Services, we pay 28 percent.

UNRA—that is the United Nations Relief and Works Agency—we pay 70 percent, and that, I suppose, goes largely to the Arab refugees in the Gaza Strip.

Now, as I say, if this Congress votes to reduce our payment to the United Nations as a whole to 25 percent of the total cost, I think that would be desirable. But it is very obvious, from the percentages we are now paying, that we would have to cut the heart out of some of these other programs, which are doing good work, and in many instances better than the United Nations itself. It is a question of whether you care for the people of this world who cannot take care of themselves or whether you do not care.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. AIKEN. I yield 5 minutes to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I hope this body will listen to the wise counsel it has received from the Senator from Vermont, and I hope it will also listen carefully to the Senator from Wyoming and others who have addressed us, in the hope that we can turn back this amendment, which is called a sense-of-the-Congress resolution.

Many of the voluntary contributions and voluntary agencies we speak of were undertaken at the initiative of the United States, and every one of them does great, without exception. For example, the United Nations Development Fund, to which we contributed some $86,268,000 in fiscal 1971. This was due to U.S. initiative for a multilateral program. It is a technical assistance program. It has produced remarkable results worldwide, and it has brought into collective and cooperative action many countries to help other nations which are in desperate need.

The Senator from Vermont has put the case properly before the Senate. No matter how we look at this, it is going to cut back on programs that are life-saving programs, that are programs of vital importance to millions and hundreds of millions of people. I just cannot imagine that at this stage, with the amounts we are talking about, we would want to do that.

The total amount of our voluntary contributions last year, according to the report of the Senate committee, was $135,188,000, for this great Nation, which has tremendous resources. It is not as if we are paying half of the world's bills. It is that we are trying to give leadership to other nations of the world, for people to help themselves.

Every United Nations project is a multilateral project. That is what we have been arguing about here; that is what we are encouraging. I would hope that we do nothing to dampen that worthwhile effort.

The Lodge Commission, which examined into the United Nations and our relationship to it, made note of the fact that while we should try to reduce our contributions or our assessments, in turn, to the United Nations for its general expenses, that reduction, in terms of the voluntary contributions, should not take place but, indeed, could be increased.

I do not think there is a single program listed on page 18 of the Senate report from the Committee on Foreign Relations that any of us would want to see cut back.

I hope the amendment will be rejected and that we will support the initiative that has been taken by the dean of the Senate Republicans, the Senator from Vermont, who has spoken to us wisely and with good sense and compassion.

Mr. DOMINICK. I yield myself 2 minutes, and then I will yield to the Senator from Connecticut and the Senator from Iowa.

For the record, Mr. President, I want to point out to the Senator from Wyoming that I really do not think anybody is going to say that we are trying to downgrade the U.N. voluntary programs when we will be giving them more than $220 million. That is hardly saying that we are withdrawing from the United Nations. That would be true if my amendment were not flexible, if it were a solid amendment, and if it were not just a sense of Congress.

The total amount we will be cutting back, if it gets cut back—and I am not sure it will—will be $3 million, 1.8 percent. That is hardly a tremendous gutting of the voluntary programs.

The second point I want to make, and I will make it over again, is that this does not apply to each specific program. It just says that the amount we pay in can be allocated by the U.N., in any way they want, by our delegation, and can be put into any of those programs, and we can increase or decrease them.

I listened with real interest to the Senator from Vermont, and I really do not want to be cast, as he apparently tried to do, in the role of being a person who is trying to cut out these programs. I am not trying to do anything of the kind. As a matter of fact, if the total amount of these programs would be increased, our total contribution would be, also, and this is one of the things we may be able to do through the other nations' contributions.

I yield 4 minutes to the Senator from Connecticut.

Mr. WEICKER. I thank the Senator from Colorado.

Mr. President, I rise to speak in favor of the Senator's amendment. The comment has been made that this could be misinterpreted by those in the United Nations, and I am sure that probably certain actions of this body could also be said to be misinterpreted by the administration. What is at issue is whether or not the Senate is going to construct a foreign aid bill that is in tune with these times, under the circumstances of these times.

I think that this, in essence, is what the Senator from Colorado wants to do; and, as I interpret the comments of the distinguished committee chairman relative to flexibility, this is what he is trying to see come to pass in this bill.

So, it is not an argument as to the sick and the hungry and the uneducated throughout the world, or being against the United Nations. Certainly, this Senator from Connecticut has supported that body in all its endeavors and will continue to do so. I am not so much interested in the interpretations of the United Nations or of the administration as I am to seeing the job gets done. Frankly, I think this is what is in the amendment of the Senator from Colorado. There is flexibility to the amendment consistent with the circumstances that exist today, not with the speeches or the words that were used at the founding of the United Nations. That is exactly why this bill has run into trouble.

The name of the game is unimportant, when we talk of the sick and the hungry and the uneducated throughout the world. The banner is no longer important. What is important is the game itself. Is the job for the sick, the hungry, and the uneducated being done throughout the world—with our money and everybody else's? Quite frankly, I do not think it is.

This is not an anti-U.N. vote. What we are talking about in this amendment is making this bill responsive to the year 1971. That is a worthy endeavor.

If we try to apply the same old slogans and the same old words that held true in 1940, we are going to end up with the same foreign aid package that means nothing in its accomplishments.

I sincerely support the amendment of the Senator from Colorado.

Mr. DOMINICK. Mr. President, I want to express my appreciation to the Senator from Connecticut, because, apparently, no matter how long I said it, everybody thought I was against the United Nations. It is really interesting, since I served as a member of the national committee, as a State representative, and sat and went through the United Nations, went through many of the national committee deliberations. I acquired a very fond feeling for the United Nations. I hope we can make it work better, and I think we can.

Mr. President, I yield 4 minutes to the Senator from Iowa.

Mr. MILLER. I thank the Senator from Colorado.

Mr. President, I do not think we are voting on a question of whether we are for the United Nations or against the United Nations or for sick people or against them. This is simplistic, and we understand it.

As I pointed out earlier, in my colloquy with the Senator from Colorado, the real issue here is this: We have had assessments levied by a committee of the United Nations based upon relative ability to pay. If a member state has a percentage of dues of 1.28, we can be sure that that committee set that figure because of that nation's relative ability to pay that much. They have established our percentage at 31.5. I would like to see it lower. Maybe it can be lower based upon changes in the economies of other countries. I hope that is true. But that is the relative ability to pay percentage of the United States and now we have to decide whether we will pursue the relative ability of the United States with respect to these other activities.

We are not talking about very much money. We are talking about something like—as the Senator from Colorado said—possibly $3 million out of $135 million. That is very little. In fact, I would question whether it is that much, because the Senator's amendment accepts commodities and we certainly put a lot of commodities in the world food program. So it may not even be that much. But what we are talking about here is not money, really, but principle.

We are not going to get the members of the United Nations to assume their share of the leadership if we do not adhere to the relative ability-to-pay principle.

How can we encourage a developing country which has a relatively lower ability to pay to take on more leadership if they think someone else is going to take it on for them?

That is the real question here. I am sorry that we have gotten into some of these side issues. I hope that no Senator will vote on those bases.

Mr. AIKEN. Mr. President, I take 1 more minute to say that this amendment has been changed from the way it was when it was voted down by a large majority 2 weeks ago, and that it now intends to express the sense of Congress.

I think that is awfully important. I do not want the world to think that it is my sense that we should reduce our contributions to needy people around the world. Even if we save $3 million by cutting the contributions, I do not know what it would do now, but a couple of years ago it would have run the war in Vietnam for 1 hour.

I would like to see some of the zeal demonstrated against these subsidiary programs of the United Nations demonstrated against the war that is costing us billions of dollars every year. But we can save $3 million. So if we want to save $3 million, then vote to slash money for these organizations which have done so much in the world.

Mr. DOMINICK. Mr. President, I yield back the remainder of my time.

Mr. AIKEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. McINTYRE). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from New Mexico (Mr. ANDERSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "yea."

The yeas and nays were announced—yeas 39, nays 46, as follows:

[No. 303 Leg.]

YEAS—39

Allen	Ellender	McClellan
Allott	Ervin	Miller
Baker	Fannin	Montoya
Bennett	Fong	Packwood
Bible	Gambrell	Roth
Buckley	Gurney	Schweiker
Byrd, Va.	Hansen	Smith
Byrd, W. Va.	Hollings	Spong
Cotton	Hruska	Stevens
Curtis	Jordan, N.C.	Talmadge
Dole	Jordan, Idaho	Tower
Dominick	Long	Weicker
Eastland	Magnuson	Young

NAYS—46

Aiken	Hatfield	Pearson
Bayh	Hughes	Pell
Beall	Humphrey	Percy
Bentsen	Inouye	Proxmire
Boggs	Javits	Randolph
Brooke	Kennedy	Ribicoff
Burdick	Mansfield	Saxbe
Case	Mathias	Scott
Church	McGee	Sparkman
Cooper	McGovern	Stafford
Cranston	McIntyre	Stevenson
Eagleton	Metcalf	Symington
Fulbright	Mondale	Tunney
Gravel	Moss	Williams
Griffin	Nelson	
Hart	Pastore	

NOT VOTING—15

Anderson	Cook	Mundt
Bellmon	Goldwater	Muskie
Brock	Harris	Stennis
Cannon	Hartke	Taft
Chiles	Jackson	Thurmond

So Mr. DOMINICK's amendment was rejected.

Mr. HUMPHREY. Mr. President, now that we are discussing some of the fundamental aspects of our foreign economic assistance program, I want to register my support for those special programs implemented under title V of the Foreign Assistance Act of 1961 and title IX of the Foreign Assistance Act of 1966, which incorporates a dynamic, healthy outlook toward world development. It states that:

Maximum participation in the task of economic development on the part of the people of the developing countries, through the encouragement of democratic private and local government institutions should be the main thrust in the utilization of democratic institutions in development.

All of us who are so desirous of change because of the dissatisfaction in the status quo should think carefully before we reject as completely out of hand certain aspects of our bilateral program. Titles V and IX provide for economic and social development which directs help and assistance to the people.

Some of the programs set up under these titles have lived to the letter of this principle and, as a result, have carved out an important role for themselves in future development programs. Out of appreciation for the work they have done, I would like to single out some of the achievements of the credit union and cooperatives in developing countries.

CONTRIBUTIONS OF CREDIT UNIONS IN DEVELOPING COUNTRIES

Credit Union National Association's activities under its AID contracts for technical assistance in Latin America, Africa, and Asia since 1962 have been in direct response to specific savings and credit problems that existed throughout these regions. The CUNA-AID programs

were designed to benefit those sectors of the economy that are most affected by problems of low income of agricultural and industrial families, small businessmen, civil servants, and labor groups, among others.

For all of these groups, the basic credit situation is identical. Because of their low incomes and savings, they are prevented from either expanding their existing enterprises or activities or from branching into new ones through their own resources. Banking institutions in the individual countries are not able to provide the small, high-risk loans which these sectors need. To obtain credit these people are inevitably forced to turn to money lenders and middlemen for their credit needs and outlays under usurious conditions. Annual interest rates as high as 25 percent and 50 percent for even short-term loans were, and are still, commonplace. This combination of factors prevents the people from modernizing production, increasing their income and savings, and from becoming effective participants in their national economic systems.

Recognizing this situation, the Congress of the United States in enacting the Humphrey amendment to the Foreign Assistance Act in 1961 declared that it was the policy of the United States to "encourage the development and use of cooperatives, credit unions, and savings and loan associations."

Since 1962, CUNA under its AID contracts in Latin America has given technical assistance in organizing credit unions in Peru, Venezuela, Colombia, Brazil, Bolivia, Ecuador, Guatemala, Honduras, Costa Rica, Panama, Nicaragua, El Salvador, Dominican Republic and Paraguay. Today, national federations of credit unions exist in Bolivia, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

In August 1970, these national federations organized themselves into a Latin American Confederation of Credit Unions and became members of the World Council of Credit Unions. Thus, the institutional building cycle has been set in motion from the local or primary credit union institution to the national federation, the regional confederation, culminating with membership in the world wide association.

The success of the credit union program is demonstrated by the number of countries in which the CUNA/AID organizational goals have been fulfilled. Since the start of the effort in 1962, CUNA/AID has been able to phase out its technicians in Peru, Colombia, Venezuela, Costa Rica, and Ecuador.

As of December 31, 1970, there were 3,032 credit unions operating in Latin America with 982,538 members. Total savings of these members amounted to $101,978,157 and loans outstanding totaled $108,984,927. Cumulative loans made since 1962 for production and consumer purposes totaled more than $394,908,000. Production-type AID loans to credit union federations in several Latin American countries now total $9 million.

The strength of the credit union has been in people—involving entire communities in the decisionmaking process and building leadership at all levels. The creation of credit union institutions has produced strong personal identification and enduring loyalty at the grassroots level of society. Throughout the Latin American credit union movement it is estimated that more than 10,000 credit volunteers have received training in their respective areas of responsibility and that type of training is continuing today both locally and internationally.

Credit unions, because of their production and consumer orientation and their short-term loan capability, rarely compete with other financial institutions in the developing countries. Rather they serve to mobilize the savings of low income people, to provide more reasonable interest rates, and to train members who have proven their capacity to handle credit to support housing cooperatives, savings and loan organizations, private banks, and agricultural credit schemes.

Now, I wish to discuss the role of cooperatives in the U.S. AID program with the distinguished Senator from Vermont, Mr. AIKEN. He has given strong and effective encouragement to the application of titles V and IX—these titles in the Foreign Assistance act directing and authorizing the development of certain cooperative enterprises in our foreign aid program.

Mr. AIKEN. I assume it is the intent of the Senate, through this legislation to continue the partnership relationship between the U.S. cooperatives and the U.S. Government which has been so successful these past few years.

Mr. HUMPHREY. Yes; it is. This relationship started 10 years ago when Congress adopted the Humphrey amendment known as title V stipulated that "AID should encourage the development and use of cooperatives, credit unions, and savings and loan associations in its programs to assist the people of the developing countries." Congress restated and emphasized this concept in title IX of the Foreign Assistance Act of 1966 by declaring that "emphasis shall be placed on assuring maximum participation by the people in the task of economic development of the developing countries." U.S. cooperative organizations are working overseas in field of agriculture, rural electrification, insurance, credit unions, housing, consumer distribution, and national institutions for financing cooperative businesses.

Mr. AIKEN. This being the case, I would just like to add additional emphasis by encouraging the maximum use of the experience of the U.S. cooperative leaders through such nonprofit agreements. With nearly one-half of the world's population still hungry or malnourished, and a population explosion calling for a threefold increase in food production in the next 30 years, it is of the utmost importance to assist in creating more Japan-type success, where with average farm size of 2½ acres and through a massive cooperative system owned and run by the millions of small farmers, they have gained access to the tools and technology which make them competitive in all operations, and are now our best dollar market.

I must point to one important development resulting from the title IX provision—the cooperative fertilizer project in India. It is the largest single facility producing fertilizer in India and will be owned entirely by the Indian farmer users.

Mr. HUMPHREY. Prime Minister Indira Gandhi probably described title IX of the Foreign Assistance Act and the role of cooperatives as well as anyone when she stated:

> Cooperatives bridge the gap between the small unit and technology. . . . Cooperation is an ideal instrument for rural development, but it has a vital role in the urban as well. People might reside together in cities, but they are isolated and lonely and do not seem to live together. The faster a city grows, the less mutual regard and sympathy there seems to be among its people.
>
> Cooperatives have the capacity to shape groups into communities with a shared interest.

Mr. President, nowhere has the AID program received back a higher return on its objectives than the relatively few dollars allocated to the cooperative programs. That program goes on.

AID HAS REACHED THE LITTLE GUY

Our foreign aid programs have often been criticized for not reaching the little guy in developing countries. It is true that some AID programs have tended to make the rich richer with only indirect benefits to the poor. However, in recent years AID has increasingly provided support to programs which directly and immediately affect the lives of lower income families.

A good example of this type of AID program can be found in Panama; in 1966 AID responded to a request for help by the Government of Panama and the Panamanian Housing Institute by granting a loan for upgrading and improving squatter areas in and around Panama City. This AID loan also provided funds to develop a new community on the edge of Panama City for voluntary relocation of poor families previously living in the central city slums and in certain squatter areas on swampy uninhabitable land.

The basis for this program was self-help by the participating families. It was structured in such a way that those poor families who demonstrated initiative to improve their own situation could get a helping hand for a better house, a better job, and a better community in which to raise their children.

The $3 million AID loan provided funds for self-help housing programs and minimum urbanization work including streets and waterlines. The loan also provided funds for very low cost schools in the new community which also involved self-help efforts by the residents. A very important element of this program was job training for identified job vacancies. Several hundred family heads obtained employment as a result. Credit was provided for home improvement in existing squatter areas allowing poor families to put on a new roof, add a toilet or replace their mud floor with a concrete slab.

The families that benefited by this loan also participated in the decisionmaking processes of the program. This

was an important element in the success of this program and technical assistance in this area was provided by AID technicians and technicians from the U.S. Cooperative Movement; the Foundation for Cooperative Housing—FCH—provided the full-time services of two technicians during program development and the Credit Union National Association (CUNA) and the Cooperative League of the U.S.A.—CLUSA—also contributed to the success of this program. U.S. Peace Corps volunteers were directly involved living in the squatter areas and assisting the residents in making maximum use of the services. Several thousand lower income families directly benefited from this program.

"The proof of the pudding" in this program is that upon completion of the AID-funded project the Government of Panama continued and expanded this effort with their money. They now have a similar program for 2,500 families under development in the suburban area of San Isidro.

AID, THE PRIVATE SECTOR, AND SELF-HELP HOUSING

Under the AID program, one of the most fundamental and dramatic small programs supported by the Agency for International Development has been to help people to help themselves to better housing.

This program has included the various types of projects, including low-cost homes for farmers in Panama through "pre-co-ops" for $350 per house up to middle-income housing in traditional cooperative fashion where the homes cost up to $8,000 for teachers, civil servants, middle management personnel, doctors and dentists in a small coastal town in Honduras.

The principal objective of the cooperative housing program carried forward by the Foundation for Cooperative Housing under contract with AID has been to help build local institutions. These technical service organizations are designed to be staffed entirely with local professional people who, with guidance from FCH, can develop long-range programs of cooperative and self-help housing. Already five of these technical service organizations have been created in Honduras, Panama, Colombia, Venezuela, and Jamaica. FCH has also helped strengthen similar organizations in Chile and Brazil and has trained many prospective leaders for cooperative housing development in other countries.

Statistics are often deadly so I will give you only a few of them. Under this program 5,437 homes have been completed or are in the final stages of development. The average cost per house has been $4,651. The people themselves have provided down payments that total $2,728,000 and local participation through credit union savings and loan associations or local government agencies have been $7,800,000. The total cost of the program for these homes has been $25,289,000

It is possible to build houses faster if you forget about institution building. But the objective is to help people to help themselves by building local institutions that can continue building homes long after the AID program is completed.

I have some tables and statistics and a summary report on the program which might go into the CONGRESSIONAL RECORD.

The most exciting aspect of this program is the human involvement of the people who are putting their own resources and their own energies into building houses for themselves. Let me give you three small examples.

In the small town of Los Pocitos, Panama, 10 families started the first "pre-co-op," using a $3,000 revolving fund from AID and technical assistance from the Foundation for Cooperative Housing, the local housing agency, a credit union, and the Peace Corps.

The people put in down payments of $30 each. The homes were built with cinder blocks made by the families and their friends with small hand operated machines. The houses were simple but were a great step ahead of the thatched roofs and mud floors of the "chozas" in which the people had been living. When the down payments were in, there was enough money to build the 11th house. People paid $5 a month or more to repay the loans. As the money came back into the revolving fund, other houses were started. Today, there are 30 homes in the community of Los Pocitos with only the original $3,000 cash contribution or $100 per house—put in by AID.

The Los Pocitos project was so successful that 14 other projects, many of them larger, have already been completed, and the Government of Panama is considering a large-scale program of rural housing based on this pattern which would be financed by the Panamanian Government itself. FCH points out that the availability of a local credit union organized for this purpose and help from Peace Corps volunteers were also important factors in the success of this and some of the other projects.

The second example is in the little town of Escuintla in Guatemala. This is a coastal port city about 50 miles from Guatemala City. There are several American-owned plants in Escuintla and a great need for good low-cost housing. The FCH man, with his salary paid by AID, secured the sponsorship of seven of the local industries, of which two were U.S. companies. They helped secure the land and gave their blessings to the project. One hundred eighty homes were built as a cooperative project with the average cost of $2,600 per home. The people put in downpayments totaling $47,000. The mortgage amount was $468,000. The construction money was put up by the housing agency of Guatemala and the mortgage was purchased by the Central American Bank for Economic Integration with a secondary mortgage fund set up by AID for this purpose.

In other words, the people with technical assistance from AID through the Foundation for Cooperative Housing were able to secure their houses at low cost with no direct AID financing.

The new community needed a school, which would have required 7 years waiting time according to local priorities. So CARE, the Cooperative for American Relief Everywhere, provided funds for a 6-room school which was built with the labor of the local community in cooperation with the board of education, which promised to supply the teachers if the people would build their own school.

This is an excellent illustration of what is possible through a partnership of AID and private-sector U.S. cooperative groups in developing programs which reach the grassroots level in development.

Let me give you one more illustration of the cooperation between two important organizations in the private sector and AID in housing development.

The Foundation for Cooperative Housing, FCH, has been working closely with the INVICA organization in Venezuela in the development of a Housing Investment Guaranty Program for that country. The funds for building the housing are coming from savings and loan associations in the New England area through the Boston Home Loan Bank. The funds are guaranteed by AID and by the Government of Venezuela.

For the co-op housing program in Venezuela, $6 million will come from savings and loan associations, $2 million from the Banco Obrero of Venezuela, and $1 million in downpayments from future members of three cooperative housing projects in Venezuela.

This means that ordinary depositors in savings and loan associations in the United States are making it possible for their good neighbors in Venezuela to build better housing for themselves. The guarantee of the U.S. Government is making possible a practical human act of brotherhood and of cooperation that would not have been possible a decade ago.

The funds for building the housing is government money. The program is a self-supporting program all the way through, including a substantial part of the technical assistance, with the balance of the technical assistance underwritten by AID.

In the process of carrying forward this Investment Guaranty Program, the Technical Service Organization in Venezuela is building expertise and experience which will make it possible for them to do many housing projects financed with local savings above and beyond any housing financed by outside sources.

THE MULTINATIONAL APPROACH AT WORK IN HOUSING

AID has been supporting multilateral aid efforts in the private sector as well as the large international agencies. This can be an effective mechanism to mobilize resources of many countries in support of economic development and humanitarian programs for the developing countries.

An example of this is AID's support of the International Cooperative Housing Development Association (ICHDA) through a contract with the U.S. Foundation for Cooperative Housing. ICHDA is a nonprofit association of 12 private, nonprofit and cooperative housing organizations from nine countries—Sweden, Finland, Denmark, West Germany, United Kingdom, India, Chile, Israel, and the United States—established to of-

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fer technical assistance in the development of low cost and cooperative housing in developing countries.

A typical pattern of an ICHDA program can be seen in its work in east Africa. It assisted the Government of Tanzania in a self-help housing project for 500 low-income families. Participants received a lot with utilities and a small "core" house designed to expand as their incomes increase. This was done under the auspices of the U.N. Economic Commission for Africa. To assist the Government of Tanzania implement this self-help, cooperative program, ICHDA sought, encouraged, and arranged for inputs of technical assistance from the United Nations Development Programme, training inputs from the West German Government through ICHDA's German member organization, and additional technicians from the international development agencies of Norway and Canada. ICHDA is now involved in seeking capital assistance from its member organizations and their governments for project expansion.

ICHDA has underway a similar pilot program for West Africa and is negotiating for assistance to India involving several of the national member organizations of ICHDA.

In this way, AID inputs have been small in comparison to the results achieved. A full-fledged self-help housing program has been initiated and carried out with the cooperation and coordination of the governments and private sector organizations from four countries and the United Nations.

COOPERATIVE RURAL ELECTRIFICATION IN THE FOREIGN AID PROGRAM

Since early 1961, the National Rural Electric Cooperative Association has been actively engaged in the worthwhile endeavor of promoting cooperative rural electrification in the developing nations of the world. NRECA's activity in this area is carried on under the provisions of the 1961 Foreign Assistance Act, which established the Agency for International Development and included the amendment which declared it to be the policy of the United States "to encourage the development of cooperatives, credit unions and savings and loan associations."

Since the members of rural electric cooperatives and their national association, NRECA, know from firsthand experience the many economic and social benefits which accrue to a rural area once it is electrified, they were quick to accept the challenge of helping the rural people of other nations obtain the benefits that come with an abundant supply of electric power. In 1961 and in succeeding years, Clyde T. Ellis, the general manager of NRECA—and now general manager emeritus—visited many of the emerging nations of the world to consult with local governmental leaders and U.S. AID officials in the interest of encouraging the consideration of cooperative rural electrification as part of the AID program in each country.

Many countries did respond to this opportunity to get started with rural electrification, using the REA experience of the United States. This type of rural electrification is unique to the United States and serves as a shining example of the way to get rural people involved with a self-help community development program.

To date, NRECA has sent 111 rural electrification specialists representing 70 of the rural electric systems in the United States to 29 foreign countries to appraise the potential for rural electrification and help rural leaders plan the development of rural electrification when the time is right. These men have been unanimous in the endorsement of rural electrification as a major tool in developing the rural areas of these countries. Similarly, the 1,000 rural electric cooperatives in the United States have endorsed cooperative rural electrification for inclusion in the U.S. foreign AID program at each of NRECA's annual meetings since 1962.

Though only a small fraction of AID funds have gone into rural electrification projects, some considerable degree of success has already been achieved in "Exporting the REA pattern" through the aid program. Loans have been made to 39 cooperatives in the amount of $34,600,000, and the countries and their people have put another $20,000,000 into these projects. Including grant-funded projects in Vietnam and northeast Brazil, 51 cooperatives have now been started with AID financing and NRECA technical assistance. These projects now serve some 130,000 families and will in the future serve more than 250,000 families, or some 2,000,000 people. More importantly, the success of these projects is encouraging these nations and others to undertake national programs of rural electrification—not just funds from the United States, but with their own revenues and funds from other sources.

However, only a start has been made in rural electrification. Much more needs to be done. In the rural areas of the developing countries, less than 1 percent of the farmers have electric service even in the more advanced countries like Brazil and Colombia. In these developing countries, from two-thirds to three-fourths of the population is dependent upon agriculture for a livelihood. A major portion of their gross national product and exports comes from the land.

Yet, in most of these countries, this important rural sector, the agriculture sector, has been neglected. In most of the countries, nearly all of the electric power investment has gone into city electrification and powerplants to supply these cities. Too little has been done to electrify the rural areas.

Most of these countries agree that the real strength of the nation resides in their rural people, and they recognize that more must be done to improve the quality of life in rural areas. The rural people recognize, as do many planners, that rural electrification is an absolute necessity to bring them into the 20th century. It is vital if they are to keep their children at home and stop the trek to the cities.

Cooperative rural electrification is a tangible and identifiable foreign aid project. Here is a kind of project that the local people know and recognize as U.S. assistance. They can see and feel its benefits. They know it is America's way of helping them help themselves.

I am sure my distinguished colleagues agree that the Senate and the Congress should insist that the future aid program financed by the United States should include substantial increases in funding self-help cooperatives, including rural electrification cooperatives.

IMPACT OF RURAL ELECTRIC COOPERATIVES

Here is what one electric co-op manager in Costa Rica reports on the impact of cooperative rural electrification on the lives of the 3,000 families served:

> The industry is improve day by day, beside the small factories which already began the production on goods, concrete block, wood products, milk and its derivations . . . another large firm initiated the studies for a huge textile plant which start the operation five months after we energize the system . . . and employ more than two hundred people. We may enumerate a lot of our achievement and progress in the economics and social fields.

Gentlemen, we might correct his English, but we can hardly improve on his observation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. FULBRIGHT. Mr. President, I yield back the remainder of my time.

Mr. AIKEN. Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. Mr. President, may we have order at this point. I would like to hear my name if the clerk calls it.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. CANNON), the Senator from Florida (Mr. CHILES), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Washington (Mr. JACKSON), the Senator from Maine (Mr. MUSKIE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES) would vote "yea."

On this vote, the Senator from Indiana (Mr. HARTKE) is paired with the Senator from Washington (Mr. JACKSON). If present and voting, the Senator from Indiana would vote "nay" and the Senator from Washington would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOK) would vote "nay."

On this vote, the Senator from Ohio (Mr. TAFT) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Ohio would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 61, nays 23, as follows:

[No. 304 Leg.]

YEAS—61

Aiken	Hatfield	Percy
Allott	Hughes	Proxmire
Baker	Humphrey	Randolph
Bayh	Inouye	Ribicoff
Beall	Javits	Roth
Bennett	Jordan, Idaho	Saxbe
Bentsen	Kennedy	Schweiker
Boggs	Magnuson	Scott
Brooke	Mathias	Smith
Buckley	McGee	Sparkman
Case	McGovern	Spong
Church	McIntyre	Stafford
Cooper	Metcalf	Stevens
Cranston	Miller	Stevenson
Dominick	Mondale	Symington
Eagleton	Moss	Tunney
Fong	Nelson	Weicker
Fulbright	Packwood	Williams
Gravel	Pastore	Young
Griffin	Pearson	
Hart	Pell	

NAYS—23

Allen	Eastland	Hruska
Bible	Ellender	Jordan, N.C.
Burdick	Ervin	Long
Byrd, Va.	Fannin	McClellan
Byrd, W. Va.	Gambrell	Montoya
Cotton	Gurney	Talmadge
Curtis	Hansen	Tower
Dole	Hollings	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mansfield, against.

NOT VOTING—15

Anderson	Cook	Mundt
Bellmon	Goldwater	Muskie
Brock	Harris	Stennis
Cannon	Hartke	Taft
Chiles	Jackson	Thurmond

So the bill (S. 2820) was passed, as follows:

S. 2820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Foreign Economic and Humanitarian Assistance Act of 1971".

STATEMENT OF POLICY

SEC. 2. This Act is enacted as an interim measure to carry forward for fiscal year 1972 United States economic and humanitarian assistance programs authorized by the Foreign Assistance Act of 1961. The Congress intends at the earliest possible date to re-evaluate the United States foreign assistance program and to develop a new program for the future. Accordingly, this Act looks to the phaseout of the current program and to the establishment of a new one which will command the respect and the support of Congress and the American people.

FOOD-FOR-PEACE PROGRAM

SEC. 3. It is the sense of the Congress that funds to administer the food-for-peace program should not be reduced as the result of any reduction in the authorizations provided to carry out the Foreign Assistance Act of 1961.

TITLE I—BILATERAL ECONOMIC ASSISTANCE

AUTHORIZATIONS

SEC. 101. (a) There are authorized to be appropriated to the President for fiscal year 1972—

(1) $250,000,000 to carry out the provisions of title I of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Development Loan Fund;

(2) $175,000,000 to carry out the provisions of title II of such chapter 2, relating to technical cooperation and development grants;

(3) $225,000,000 to carry out the provisions of title VI of such chapter 2, relating to the Alliance for Progress, of which amount, except for $75,000,000, shall be available only for loans payable as to principal and interest in United States dollars; and

(4) $45,000,000 for necessary administrative expenses of the agency primarily responsible for administering part I of such Act.

(b) Any appropriation made under any clause of subsection (a) of this section shall be considered as an appropriation made under that provision of the Foreign Assistance Act of 1961 authorizing an appropriation for a prior fiscal year for the same purpose as such clause.

(c) $200,000,000 of the dollar receipts from loans made under part I of the Foreign Assistance Act of 1961 and from loans made under the Mutual Security Act of 1954 are authorized to be made available for the fiscal year 1972 for use for the purposes of titles I and VI of chapter 2 of such Act. Such receipts shall remain available until expended.

DEVELOPMENT LOAN FUND

SEC. 102. Title I of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Development Loan Fund, is amended as follows:

(1)(A) Section 201(d), which relates to general authority, is amended to read as follows:

"(d)(1) Funds made available for this title shall not be loaned or reloaned at rates of interest excessive or unreasonable for the borrower and in no event shall such funds (except funds loaned under section 205 and funds which prior to the date of enactment of the Special Foreign Economic and Humanitarian Assistance Act of 1971 were committed to be loaned upon terms which do not meet the minimum terms set forth herein) be loaned at a rate of interest of less than the rate which the Secretary of the Treasury determines to be equal to the current available interest rate, as of the last day of the month preceding the making of such loan, that the United States paid on its outstanding marketable obligations of comparable maturities.

"(2) The foregoing subsection (d) shall not be applicable to loans relative to the Alliance for Progress."

(B) Section 106(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended by striking out "but not less than the minimum rate required by section 201 of the Foreign Assistance Act of 1961 for loans made under that section" and inserting in lieu thereof "but at a rate of interest of not less than 3 per centum per annum commencing not later than ten years following the date of last delivery of commodities in each calendar year under the agreement, during which ten-year period the rate of interest shall not be lower than 2 per centum per annum".

(2) In section 202(a), relating to authorization—

(A) beginning with the word "That", immediately after *"Provided,"*, strike out through *"Provided further,"*;

(B) strike out "for each of the fiscal years ending June 30, 1970, and June 30, 1971" and insert in lieu thereof "for the fiscal year ending June 30, 1972,"; and

(C) before the period at the end thereof, insert a colon and the following: *"Provided further*, That none of the funds made available under this title shall be used by South Korea in connection with the construction and operation of commercial fishing vessels, fish processing, or the marketing of fish products".

(3)(A) Section 209, relating to multilateral and regional programs, is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following: "(a) The Congress recognizes that the planning and administration to development assistance by, or under the sponsorship of the United Nations, multilateral lending institutions, and other multilateral organizations contribute to the efficiency and effectiveness of that assistance through participation of other donors in the development effort, improved coordination of policies and programs, pooling of knowledge, avoidance of duplication of facilities and manpower, and greater encouragement of self-help performance. It is the sense of Congress that an increasing proportion of United States assistance to the developing countries should be channeled through multilateral organizations and that the United States Government should undertake such measures as may be necessary to help increase the competency and capacity of such organizations."; and

(ii) by inserting at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of law, the President shall reduce the amounts and numbers of loans made by the United States directly to individual foreign countries with the objective of phasing out the bilateral loan program by not later than June 30, 1975.

"(d) In furtherance of the provisions of subsection (a) of this section, any funds appropriated under this part I may be transferred by the President to the International Development Association, the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank or other multilateral lending institutions and multilateral organizations in which the United States participates for the purpose of providing funds to enable any such institution or organization to make loans to foreign countries. Any such transfer shall be made—

"(1) only if the institution or organization agrees that, in making loans out of funds so transferred, it will emphasize and take into account those matters emphasized and taken into account by the President under sections 201(b) and (f), 207, and 208 of this Act;

"(2) without regard to any other provision of this title; and

"(3) upon such other terms and conditions as the President may determine."

(B) Subsection (b) of such section 209 is amended by striking out "REGIONAL PROGRAM.—".

(C) Section 205 of such Act is repealed.

(D) Effective July 1, 1975, section 619 of such Act is amended by inserting after "this Act" the following "(other than title I of chapter 2 of such part)".

HOUSING GUARANTEES

SEC. 103. Title III of chapter 2 of part I of the Foreign Assistance Act of 1961, relat-

ing to housing guaranties, is amended as follows:

(1) In section 221, relating to worldwide housing guaranties, strike out "$130,000,000" and insert in lieu thereof "$180,000,000".

(2) In section 223(1) relating to general provisions, strikes out "June 30, 1972" and insert in lieu thereof "June 30, 1973".

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 104. Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to the Overseas Private Investment Corporation, is amended as follows:

(1) In the first proviso of section 238(c), relating to definitions, strike out "required by law to be".

(2) At the end of section 239, relating to general provisions and powers, add the following new subsection:

"(g) Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in a particular country of the programs authorized by this title, if the President determines that the operation of such program in a particular country is important to the national interest."

(3) Section 240(h) relating to agricultural credit and self-help community development projects, is amended by striking out "June 30, 1972" and inserting in lieu thereof "June 30, 1973".

PROGRAMS RELATING TO POPULATION GROWTH

SEC. 105. Section 292 of the Foreign Assistance Act of 1961, relating to authorization is amended to read as follows:

"SEC. 292. AUTHORIZATION.—Of the funds provided to carry out the provisions of this part I for the fiscal year 1972, $125,000,000 shall be available only to carry out the purposes of this title, and, notwithstanding any other provisions of this Act, funds used for such purposes may be used on a loan or grant basis."

PROHIBITIONS AGAINST FURNISHING ASSISTANCE

SEC. 106. Section 620 of the Foreign Assistance Act of 1961, relating to prohibitions against furnishing assistance, is amended—

(1) by striking out of the first full paragraph of subsection (e)(1) all that matter following immediately below clause (C) and inserting in lieu thereof the following: "and such suspension shall continue until the President is satisfied that such country, government agency, or government subdivision has (i) discharged its obligations under international law toward such citizen or entity, including speedy compensation for such property in convertible foreign exchange, equivalent to the full value thereof, as required by international law, or (ii) has provided relief from such taxes, exactions, or conditions, as the case may be. No other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection."; and

(2) by adding at the end thereof the following new subsections:

"(v) None of the funds appropriated to carry out the provisions of this Act shall be made available to any foreign country which the President determines has failed to support actively the provisions of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War.

"(w)(1) All military, economic, or other assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), all sales of agricultural commodities (whether for cash, credit, or by other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Pakistan under this or any other law shall be suspended on the date of enactment of this subsection.

"(2) The provisions of this subsection shall cease to apply when the President reports to the Congress that the Government of Pakistan is cooperating fully in allowing the situation in East Pakistan to return to reasonable stability and that refugees from East Pakistan in India have been allowed, to the extent feasible, to return to their homes and to reclaim their lands and properties.

"(3) Nothing in this subsection shall apply to the provision of food and other humanitarian assistance which is coordinated, distributed, or monitored under international auspices."

ANNUAL FOREIGN ASSISTANCE REPORT

SEC. 107. (a) Chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is amended by adding at the end thereof the following new section:

"SEC. 653. ANNUAL FOREIGN ASSISTANCE REPORT.—(a) In order that the Congress and the American people may be better and more currently informed regarding the volume and cost of assistance extended by the United States Government to foreign countries and international organizations, and in order that the Congress and the American people may be better informed regarding the sale of arms to foreign countries and international organizations by private industry of the United States, not later than December 31 of each year the President shall transmit to the Congress an annual report, for the fiscal year ending prior to the fiscal year in which the report is transmitted, showing—

"(1) the aggregate dollar value of all foreign assistance provided by the United States Government by any means to all foreign countries and international organizations, and the aggregate dollar value of such assistance by category provided by the United States Government to each such country and organization, during that fiscal year;

"(2) the total amounts of foreign currency paid by each foreign country or international organization to the United States Government in such fiscal year, what each payment was made for, whether any portion of such payment was returned by the United States Government to the country or organization from which the payment was obtained or whether any such portion was transferred by the United States Government to another foreign country or international organization, and, if so returned or transferred, the kind of assistance obtained by that country or organization with those foreign currencies and the dollar value of such kind of assistance;

"(3) the aggregate dollar value of all arms, ammunitions, and other implements of war, and the aggregate dollar value of each category of such arms, ammunitions, and implements of war, exported under any export license, to all foreign countries and international organizations, and to each such country and organization, during that fiscal year; and

"(4) such other matters relating to foreign assistance provided by the United States Government as the President considers appropriate, including explanations of the information required under clauses (1)–(3) of this subsection.

"(b) All information contained in any report transmitted under this section shall be public information. However, in the case of any item of information to be included in any such report that the President, on an extraordinary basis, determines is clearly detrimental to the security of the United States, he shall explain in a supplemental report why publication of each specific item would be detrimental to the security of the United States. A supplement to any report shall be transmitted to the Congress at the same time that the report is transmitted.

"(c) If the Congress is not in session at the time a report or supplement is transmitted to the Congress, the Secretary of the Senate and the Clerk of the House of Representatives shall accept the report or supplement on behalf of their respective Houses of Congress and present the report or supplement to the two Houses immediately upon their convening.

"(d) For purposes of this section—

"(1) 'foreign assistance' means any tangible or intangible item provided by the United States Government under this or any other law to a foreign country or international organization, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country;

"(2) 'provided by the United States Government' includes, but is not limited to, foreign assistance provided by means of gift, loan, sale, credit sale, or guaranty; and

"(3) 'value' means value at the time of transfer except that in no case shall any commodity or article of equipment or material be considered to have a value less than one-third of the amount the United States Government paid at the time the commodity or article was acquired by the United States Government."

(b) Section 644(m) of such Act is amended by striking out—

"(m) 'Value' means—"

and inserting in lieu thereof—

"(m) 'Value' means, other than in section 653 of this Act—."

(c) Subsection (a) of section 634 of such Act is repealed.

(d) The provisions of this section shall apply with respect to any fiscal year commencing on or after July 1, 1971.

LIMITATION ON USE OF FUNDS

SEC. 108. Chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is further amended by adding after section 653, as added by section 107(a) of this Act, the following new section:

"SEC. 654. LIMITATION ON USE OF FUNDS.—(a) Except as otherwise provided in this section, none of the funds appropriated to carry out the provisions of this Act or the Foreign Military Sales Act shall be obligated or expanded until the Comptroller General of the United States certifies to the Congress that all funds previously appropriated and thereafter impounded during the fiscal year 1971 for highway construction, low-rent public housing, Model Cities, water and sewer grants, urban renewal, regional economic development, farm credit, and mass transportation have been released for obligation and expenditure.

"(b) The provisions of this section shall not apply—

"(1) to funds being withheld in accordance with specific requirements of law; and

"(2) to appropriations obligated or expended prior to January 1, 1972."

INTERPARLIAMENTARY UNION

SEC. 109. The first section of the Act of June 28, 1935, entitled "An Act to authorize participation by the United States in the Interparliamentary Union" (22 U.S.C. 276), is amended as follows:

(1) Strike out "$53,550" and insert in lieu thereof "$102,000".

(2) Strike out "$26,650" and insert in lieu thereof "$57,000".

(3) Strike out "$26,900" and insert in lieu thereof "$45,000".

INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

SEC. 110. Part IV of the Foreign Assistance Act of 1969 is amended as follows:

(1) Strike out the title of such part and insert in lieu thereof the following:

"PART IV—THE INTER-AMERICAN FOUNDATION ACT"

(2) The caption of section 401 and subsection (a) of such section of that part are amended to read as follows: "INTER-AMERICAN FOUNDATION.—(a) There is created as an agency of the United States of America a body corporate to be known as the Inter-American Foundation (hereinafter in this section referred to as the 'Foundation')."

(3) Section 401 of such part is amended by striking out "Institute" wherever it appears and inserting in lieu thereof "Foundation".

(4) Section 401(e)(4) of such part is amended to read as follows:

"(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed $10,000 in any fiscal year), allowed and paid;".

(5) Section 401(l) is amended to read as follows:

"(l)(1) The chief executive officer of the Foundation shall be a President who shall be appointed by the Board of Directors on such terms as the Board may determine. The President shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(2) Expert and consultants, or organizations thereof, may be employed as authorized by section 3109 of title 5, United States Code."

ANNUAL AUTHORIZATIONS FOR STATE DEPARTMENT AND USIA

SEC. 111. (a) It is the purpose of this section to enable the Congress generally, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives in particular, to carry out the purposes and intent of the Legislative Reorganization Acts of 1946 and 1970, with respect to—

(1) the analysis, appraisal, and evaluation of the application, administration, and execution of the laws relating to the Department of State and the United States Information Agency and of matters relating to the foreign relations of the United States; and

(2) providing annual auhorization of appropriations for that Department and Agency.

(b) Section 15 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2680), is amended to read as follows:

"SEC. 15. (a) Notwithstanding any other provision of law, no appropriation shall be made to the Department of State under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress.

"(b) The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees of all departments, agencies, and independent establishments of the United States Government conducted outside the United States or its territories or possessions. Any such department, agency, or independent establishment shall furnish any information within the jurisdiction of these committees requested by either such committee relating to any such activity or responsibility."

(c) The last sentence of section 13 of such Act (22 U.S.C. 2684) is repealed.

(d) Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) is amended to read as follows:

"PRIOR AUTHORIZATIONS BY CONGRESS

"SEC. 701. Notwithstanding any other provision of law, no appropriation shall be made to the Secretary of State, or to any Government agency authorized to administer the provisions of this Act, under any law for any fiscal year commencing on or after July 1, 1972, unless previously authorized by legislation hereafter enacted by the Congress."

USE OF FOREIGN CURRENCIES

SEC. 112. (a) Section 502(b) of the Mutual Security Act of 1954 is amended to read as follows:

"(b) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, or any other provision of law, local currencies owned by the United States, which are in excess of the amounts reserved under section 612(a) of the Foreign Assistance Act of 1961, and which are determined by the Secretary of the Treasury to be excess to the normal requirements of the United States, shall be made available to appropriate committees of the Congress engaged in carrying out their duties under section 136 of the Legislative Reorganization Act of 1946, and to the Joint Committee on Atomic Energy and the Joint Economic Committee and the Select Committees on Small Business of the Senate and House of Representatives for their local currency expenses. Any such excess local currencies shall not be made available (1) to defray subsistence expenses or fees of witnesses appearing before any such committee in the United States, or (2) in amounts greater than the equivalent of $100 a day for each person, exclusive of the actual cost of transportation."

(b) The amendment made by this section is effective March 1, 1972.

TITLE II—HUMANITARIAN AND MULTILATERAL ASSISTANCE

AUTHORIZATIONS

SEC. 201. (a) There are authorized to be appropriated to the President for fiscal year 1972, to carry out the provisions of chapter 3 of part I of the Foreign Assistance Act of 1961—

(1) $90,065,000 for the United Nations Development Fund;

(2) $15,000,000 for the United Nations Children's Fund;

(3) $7,500,000 for the United Nations population program;

(4) $2,000,000 for the United Nations fund for drug abuse control;

(5) $1,550,000 for the operational program of the International Atomic Energy Agency;

(6) $1,500,000 for the voluntary assistance program of the World Meteorological Organization;

(7) $1,500,000 for the world food program of the Food and Agriculture Organization of the United Nations;

(8) $400,000 for the United Nations Institute for Training and Research;

(9) $312,000 for medical research conducted under the World Health Organization;

(10) $73,000 for the International Secretariat for Voluntary Service;

(11) $13,300,000 for the United Nations Relief and Works Agency;

(12) $1,000,000 for the United Nations Relief and Works Agency to provide expanded technical and vocational training of Arab refugees; and

(13) $4,800,000 for the United Nations Force in Cyprus.

(b) There are authorized to be appropriated to the President for fiscal year 1972—

(1) $15,000,000 to carry out the provisions of section 214 of the Foreign Assistance Act of 1961, relating to American schools and hospitals abroad;

(2) $15,000,000 to carry out the provisions of section 302(b)(2) of such Act, relating to Indus Basin development; and

(3) $30,000,000 to carry out the provisions of chapter 5 of part I of such Act, relating to the contingency fund.

(c) There is authorized to be appropriated to the President for the fiscal year 1972, in addition to funds otherwise available for such purpose, not to exceed $250,000,000, to remain available until expended, for use by the President in providing assistance for the relief and rehabilitation of refugees from East Pakistan and for humanitarian relief in East Pakistan. Such assistance shall be distributed, to the maximum extent practicable, under the auspices of and by international institutions and relief agencies or United States voluntary agencies. Funds appropriated under this subsection shall be transferred to and consolidated with the funds appropriated under the Migration and Refugee Assistance Act of 1962, but shall not be subject to the limitation set forth in section 2(c) of that Act.

(d) Any appropriation made under any clause of subsection (a) or (b) of this section shall be considered as an appropriation made under that provision of the Foreign Assistance Act of 1961 authorizing an appropriation for a prior year for the same purpose as such clause.

REOPENING OF SUEZ CANAL

SEC. 202. Title II of chapter 2 of part I of the Foreign Assistance Act of 1961, relating to technical cooperation and development grants, is amended by adding at the end thereof the following new section:

"SEC. 220A. SUEZ CANAL.—The President is authorized to furnish financial assistance, on such terms and conditions as he may determine, for assistance in the reopening of the Suez Canal after agreement has been reached by the parties involved, which agreement provides for the use of the Canal by the ships of all nations, including Israel, on a nondiscriminatory basis. For the purpose of carrying out this section, there are authorized to be appropriated not to exceed $10,000,000 in Egyptian pounds now owned by the United States and determined by the President to be excess to the normal requirements of departments and agencies of the United States. Amounts appropriated under this section are authorized to remain available until expended."

INTERNATIONAL DRUG CONTROL ASSISTANCE

SEC. 203. (a) Chapter 2 of part I of the Foreign Assistance Act of 1961, relating to development assistance, is amended by inserting after title III the following new title:

"TITLE IIIA—INTERNATIONAL DRUG CONTROL ASSISTANCE

"SEC. 225. AUTHORITY.—(a) Notwithstanding any other provisions of law, the President is authorized to furnish assistance to any foreign country, on such terms and conditions he determines necessary, in order to encourage and enable that country to control or eliminate the production, processing, or distribution of drugs within or across its boundaries.

"(b) The President is authorized to furnish assistance to any international organization, such as the United Nations fund for drug abuse control, involved in efforts to control or eliminate the production, processing, or distribution of drugs.

"(c) Of the funds provided to carry out the provisions of this Act, not less than $25,000,000 shall be available each fiscal year only to carry out the provisions of this title.

"(d) For purposes of this section, 'drug' means any matter which is included within the definition of controlled substance under title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970."

(b) Section 620 of such Act, relating to prohibitions against furnishing assistance, is further amended by adding after subsection (w) as added by section 106 of this Act, the following new subsection:

"(x)(1) The President shall determine annually, before furnishing any military, economic, and other assistance to a foreign country under this or any other law, whether such country has undertaken appropriate measures to prevent drugs, partially or com-

pletely processed or produced in or transported through such country, from unlawfully entering the United States or from being unlawfully supplied to citizens of the United States.

"(2) Except as otherwise provided under paragraph (3) of this subsection, if the President determines that a foreign country has not undertaken appropriate measures to prevent any such drugs from unlawfully entering the United States or being unlawfully supplied to United States citizens, he shall immediately cease to furnish all military, economic, and other assistance to such country authorized under this or any other law. The President is urged also to seek, through the United Nations or any other international organization, the imposition of international economic sanctions against such country.

"(3) If the President finds that a foreign country referred to under paragraph (2) of this subsection has undertaken, after his determination, appropriate measures to prevent such drugs from unlawfully entering the United States or being unlawfully supplied to United States citizens or finds that the overriding national interest requires that military, economic, or other assistance be furnished to such country, the provisions of such paragraph shall not apply to that country unless the provisions of such paragraph would apply further to that country as a result of a further determination.

"(4) The President shall utilize such agencies and facilities of the United States Government as he may deem appropriate to assist foreign countries in their efforts to prevent the unlawful entry of drugs into the United States or from being unlawfully supplied to United States citizens.

"(5) No provisions of this or any other law shall be construed to authorize the President to waive the provisions of this subsection.

"(6) The President shall, within ninety days after the determinations made by him pursuant to paragraph (1) of this subsection, report to the Congress such determinations, together with a full explanation of the reasons therefor. The President shall also report to the Congress any action taken pursuant to paragraph (3) of this subsection.

"(7) For purposes of this subsection—

"(A) 'drug' means any matter which is included within the definition of controlled substance under title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970; and

"(B) 'military, economic, and other assistance' means any tangible or intangible item provided by the United States Government (by means of gift, loan, sale, credit sale, guaranty, or any other means) under this or any other law to a foreign country, including, but not limited to, any training, service, or technical advice, any item of real, personal, or mixed property, any agricultural commodity, United States dollars, and any currencies owned by the United States Government of any foreign country."

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 204. Section 302 of the Foreign Assistance Act of 1961, relating to authorization, is amended as follows:

(1) Subsection (b)(2) is amended by adding at the end thereof the following new sentence. "The President shall not exercise any special authority granted to him under section 610(a) or 614(a) of this Act to transfer any amount appropriated under this paragraph to, and to consolidate such amount with, any funds made available under any other provision of this Act."

(2) At the end of such section 302, add the following new subsection:

"(f) There are authorized to be appropriated to the President for the fiscal year 1972, in addition to other amounts available for such purposes, $1,000,000 in Egyptian pounds owned by the United States and determined by the President to be excess to the requirements of departments and agencies of the United States, for the purpose of providing technical and vocational training and other assistance to Arab refugees. Amounts appropriated under this subsection are authorized to remain available until expended."

UNITED NATIONS

SEC. 205. (a) The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the "Lodge Commission") which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year.

(b) Section 8 of the United Nations Participation Act of 1945 is amended—

(1) by inserting immediately after "SEC. 8." the subsection designation "(a)";

(2) by striking out "for the payment by the United States of its share of the expenses of the United Nations as apportioned by the General Assembly in accordance with article 17 of the Charter, and"; and

(3) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, no appropriation shall be made for the payment by the United States of its share of the expenses of the United Nations, as apportioned by the General Assembly in accordance with article 17 of the Charter, or for the payment of any amount to any organization, program, fund, or activity of the United Nations, unless such payment has been previously authorized by legislation hereafter enacted by the Congress. Any such authorization shall not be given for a period exceeding one fiscal year."

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRIBUTE TO SENATOR FULBRIGHT AND OTHER SENATORS ON PASSAGE OF ECONOMIC FOREIGN AID

Mr. MANSFIELD. Mr. President, at this time I wish to commend the distinguished Senator from Arkansas (Mr. FULBRIGHT), the able chairman of the Committee on Foreign Relations. His leadership in reviving and resurrecting the economic aspects of the foreign aid program has been truly outstanding.

Though I personally have grave reservations that this program deserves to be continued in its present form, I believe the Senate owes Senator FULBRIGHT and the others so instrumental in this action a deep debt of gratitude.

The distinguished senior Senator from Vermont (Mr. AIKEN) joined to assure this success. His devotion and dedication, as always, were essential to the overwhelming approval of this measure by the Senate.

His participation in providing an interim economic aid program was indispensable. Other Senators are to be similarly commended for their contributions.

Most notable was the contribution of the distinguished Senator from New York (Mr. JAVITS). His views are always most thoughtful and most welcome. The same may be said for the contribution of the distinguished Senator from Colorado (Mr. ALLOTT) and his able colleague (Mr. DOMINICK).

To the Senate as a whole the leadership is most grateful for joining to make possible the final passage of this measure expeditiously and with full consideration for the views of each Member.

TRIBUTE TO SENATOR MAGNUSON AND OTHERS ON PASSAGE OF CONSUMER WARRANTY BILL LAST MONDAY

Mr. MANSFIELD. Mr. President, with the passage of S. 986, the consumer warranty measure, last Monday, the Senate once again witnessed the exercise of legislative skill of the most effective and outstanding character. The chairman of the Commerce Committee, the distinguished Senator from Washington (Mr. MAGNUSON) proved once again that there is no substitute for strong advocacy coupled with consideration for any and all opinions. The expeditious way in which the Senate disposed of the matter can be attributed largely to WARREN MAGNUSON and to his vast knowledge and experience as chairman of the Commerce Committee, and to his great expertise. Naming this proposed law after WARREN MAGNUSON as was the effect of the COTTON amendment is a great tribute fitting this great Senator.

The distinguished Senator from New Hampshire (Mr. COTTON) is to be commended as well for the invaluable assistance which he rendered in steering this bill through committee and to the Senate floor. Through his willing and able contributions this measure became a truly bipartisan effort—one for which the entire Senate can be proud.

Most especially do I wish to give our sincere thanks to the very able Senator from Utah (Mr. Moss) who as chairman of the Consumer Subcommittee of the Commerce Committee has worked diligently and unstintingly to assure a thorough and impartial debate and review of all aspects of the consumer warranty bill. Senator Moss has been untiring in his work on behalf of the American public and all of us will be indebted to him for some time to come for the manner in which he willingly gives of himself to insure a better quality of life for the Nation as a whole. His sincerity of purpose is an inspiration to those who know him.

To be commended also are the members of the Consumer Subcommittee who shepherded this measure from its inception through to final passage by the Senate. The very distinguished Senator from Kentucky (Mr. COOK) as ranking minority member of that subcommittee contributed greatly to our understanding of the ramifications of this bill and we are most grateful to him. My able and distinguished colleague from Rhode Island (Mr. PASTORE) once again contributed to our enlightenment through informative and skillful debate. Others are also to be recognized for their contributions, either in the form of amendments offered or comments made, and I would just like to

thank the Senator from Virginia (Mr. SPONG), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. TUNNEY), and the Senator from Alabama (Mr. SPARKMAN) for their contributions to the overall high quality of discussion and deliberation.

It is almost impossible, Mr. President, to enumerate all who helped to move this all-important measure through the Senate. I am truly grateful to the entire Senate for its thoughtful and expeditious action on last Monday.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent, again, that H.R. 10947, an act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes, be laid aside temporarily and that the Senate turn to the consideration of Calendar 424, S. 2819; that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read the bill by title, as follows: A bill (S. 2819) to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

What is the will of the Senate?

Mr. FULBRIGHT. Mr. President, I yield myself 2 minutes on the bill.

INFORMATION ON LAOS AND CAMBODIA

Mr. President, in the course of the debate on foreign aid on November 9, I mentioned repeatedly the difficulty the committee has had in obtaining information from the executive branch. Let me cite one case, a case I cited before during the debate on the provision in the defense procurement authorization bill setting an expenditure limitation of $350 million for this fiscal year in Laos.

I mentioned during that debate, on October 4 to be exact, that on January 27 of this year I had written the Secretary of Defense asking for certain information for Laos and Cambodia similar to the information that has been regularly supplied to the committee for some years with regard to Vietnam. Mr. G. Warren Nutter, Assistant Secretary of Defense for International Security Affairs, replied on April 14 and said that he could not comply with my request because—

It would not be at all appropriate to discuss or disclose outside the executive branch highly sensitive information on military combat operations of the kind which your questions would elicit if answers were to be provided.

I wrote Mr. Nutter again on April 20 and asked him to provide the committee with a list of the items which he considered to be "highly sensitive information on military combat operations." He replied on May 5 and used another argument which was that because there were no U.S. military advisory personnel in Laos and Cambodia the Defense Department did not have the information requested.

On August 9 I wrote Mr. Nutter again and pointed out that two members of the staff of the Subcommittee on U.S. Security Agreements and Commitments Abroad had visited Laos and had obtained virtually all of the information requested in my original letter of January 27. Furthermore, with the agreement of the Department of State, Department of Defense and the Central Intelligence Agency, a declassified version of that report had been published. I concluded that it did not seem to me any longer credible to claim that the information requested on Laos was not available or that, if it were, it could not be discussed or disclosed outside the executive branch. I then renewed my request for the information I had requested on January 27.

That letter, as I have said, was dated August 9. It is now more than 3 months later and, despite numerous inquiries by the committee staff to the Defense Department, I have still not received any reply whatsoever to my letter.

I ask unanimous consent that the full exchange of correspondence be printed in the RECORD at this point.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
January 27, 1971.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: As you know, at the request of the Committee on Foreign Relations the Department of Defense has, for some time, been supplying it with monthly statistical data relating to the situation in Vietnam. This information has proved to be extremely valuable in following developments there.

The Committee is finding it increasingly difficult to keep abreast of the rapid developments in Cambodia, Laos, and North Vietnam, and I believe that a monthly report containing data relating to those countries would be helpful. The Committee would, therefore, appreciate the Department's cooperation in supplying, on a monthly basis, the information requested on the enclosed list.

I, of course, have no objection to your making this information available to other interested congressional committees, as was done in the case of the Vietnam reports.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

MONTHLY DATA ON MILITARY OPERATIONS IN SOUTHEAST ASIA

Cambodia

1. Size of Cambodian Armed Forces:
(a) Trained and Combat Ready;
(b) In training (specific location if outside Cambodia) or other;
(c) On duty outside Cambodia (other than training).
2. Number of friendly foreign troops in Cambodia:
(a) South Vietnamese;
(b) Other (specify).
3. Number of enemy troops in Cambodia:
(a) North Vietnamese/Viet Cong;
(b) Cambodian Communist;
(c) Engaged in combat operations;
(1) against Cambodian forces;
(2) against South Vietnam forces.
4. Combat air operations in Cambodia:
(a) Sorties flown by:
(1) U.S. planes;
(2) Sorties flown by Cambodian planes;
(3) Sorties flown by South Vietnamese planes;
(4) Sorties flown by Thais or other forces;
(b) Ordnance expended (bomb tonnage and other) by U.S. aircraft in Cambodia:
(1) B–52.
(2) other fixed wing aircraft;
(3) helicopter gunships, etc.
5. Casualties (military):
(a) Enemy killed, wounded and captured;
(b) Cambodians killed, wounded and missing;
(c) South Vietnamese killed, wounded and missing;
(d) U.S. casualties or missing as a result of air or other operations.
6. Transport and Supply Operations:
(a) Number of flights flown by U.S. military transport aircraft to Cambodian airports;
(b) Number of U.S. helicopter transport flights flown in Cambodia;
(c) Number of air drop missions flown by U.S. aircraft in Cambodia;
(d) Number of transport flights by U.S. non-military aircraft (Air America, etc.);
(e) Number of transport flights by South Vietnamese or other aircraft;
(f) Number of supply missions by South Vietnamese naval vessels;
(g) Please provide copies of any contracts or agreements with foreign government or private entities relating to supply or transport operations in Cambodia, including data on amounts paid or reimbursed for such services and the sources of the funding.
7. Payments made by the United States to South Vietnam or other countries for operations in or services rendered in behalf of Cambodia:
(a) Amounts or any such payments and the purpose;
(b) Provide copies of any agreements entered into by the United States concerning payments to foreigners for services rendered in or in behalf of Cambodia and the source of the funding.
8. Number of U.S. personnel involved:
(a) Number of U.S. personnel attached permanently or temporarily to the U.S. Embassy in Cambodia—civilian, military;
(b) Number of visits in Cambodia by U.S. personnel in a TAD or other temporary status and total number of days of such duty by all personnel during the month;
(c) Number of U.S. personnel in South Vietnam, Thailand, or Laos whose duties relate to operations in Cambodia, including training and logistics operations.
9. U.S. Naval operations:
(a) Number and type of U.S. ships operating in or near Cambodian waters during the month engaged in operations relating to Cambodia;
(b) Number of visits to Cambodian ports by U.S. naval vessels engaged in supply or transport operations.
10. Estimated number of U.S. prisoners held in Cambodia:

Laos

1. Number of United States personnel in Laos:
(a) Civilian (government employees);
(b) Military;
(c) Personnel on temporary duty, civilian and military (total number of man-days);
(d) Contractor employees (Air America, etc.).
2. Number of friendly military forces:
(a) Regular Laotian Armed Forces;
(b) Irregular Forces;
(c) Thai Forces in Laos;
(d) Other Forces in Laos (Cambodian, South Vietnamese, etc.).
3. Enemy forces in Laos:

(a) Pathet Lao;
(b) North Vietnamese;
(c) Viet Cong.
4. Air Operations in Laos:
(a) U.S. air sorties over Northern Laos and munitions expended;
(1) B–52;
(2) Other aircraft.
(b) U.S. air sorties over Southern Laos and munitions expended;
(1) B–52;
(2) Other aircraft.
(c) Air sorties by Laotian forces and munitions used.
5. Casualties—killed or wounded:
(a) United States;
(b) Laotian;
(c) Other friendly;
(d) Enemy.
6. Incursions into Laos from South Vietnam or Cambodia:
(a) Purpose, date and number of U.S. and foreign personnel involved in each incursion;
7. Please provide copies of any contracts or agreements entered into during the month between the United States and other countries or private parties relating to military operations in Laos.
8. Estimated number of U.S. prisoners held in Laos:

North Vietnam

1. U.S. air operations over North Vietnam:
(a) Number of reconnaissance flights flown;
(b) Number of escort sorties flown;
(c) Number of helicopters or other manned aircraft sorties flown.
(d) Number of drone flights.
2. Enemy actions and U.S. losses:
(a) Number of times U.S. aircraft were fired upon while over North Vietnam.
(b) Number of times U.S. aircraft were fired upon from North Vietnam while over Laos;
(c) Number of U.S. aircraft lost (by type) over North Vietnam due to enemy fire;
(d) Number of U.S. aircraft lost over North Vietnam (by type) not as a result of enemy fire;
(e) U.S. personnel losses.
3. Retaliatory action taken:
(a) Number of times North Vietnam targets were attacked;
(1) Number of aircraft involved in retaliatory actions;
(2) Quantities of munitions used in retaliatory action.
4. Description of actions by South Vietnamese or other forces in North Vietnam.
5. Estimated number of U.S. prisoners held in North Vietnam.

ASSISTANT SECRETARY OF DEFENSE,
INTERNATIONAL SECURITY AFFAIRS,
Washington, D.C., April 14, 1971.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Secretary Laird has asked me to respond to your letter of 27 January in which you requested that the Senate Committee on Foreign Relations be furnished, on a continuing basis, a detailed monthly report on military operations in Southeast Asia.

I regret that we are unable to comply with your request in this instance. Deputy Secretary Packard's letter to Senator Symington of 11 June 1970, a copy of which Senator Symington forwarded to you, pointed out that it would not be at all appropriate to discuss or disclose outside the Executive Branch highly sensitive information on military combat operations of the kind which your questions would elicit if answers were to be provided.

Sincerely,

G. WARREN NUTTER.

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., June 11, 1970.

Hon. STUART SYMINGTON,
Chairman, Subcommittee on U.S. Security Agreements and Commitments Abroad, Senate Committee on Foreign Relations, Washington, D.C.

DEAR SENATOR SYMINGTON: I understand that when Generals Burchinal and Polk appeared as witnesses before your Subcommittee in late May, they were requested to make available to the Subcommittee copies of written instructions they had received both in connection with the European trip of staff members Pincus and Paul and with reference to their testimony before your Subcommittee.

I am sure you will appreciate that those instructions, by definition, were documents intended solely for internal use within the Department of Defense and I would hope that you would agree with me that such documents should not be distributed outside the Executive Branch.

From your personal experience as a former Secretary of the Air Force, you are well acquainted with the fact that, on the basis of custom, tradition, usage and precedent, the Legislative and Executive Branches have come to accept and recognize that there are certain matters which, for varying reasons, are not normally discussed outside the Executive Branch. The instructions in question contained topics meeting that general description for the most part and included such items as military contingency plans. National Security Council documents, Inspector-General Reports of Investigations, matters still in the planning, proposal stage upon which no decision has been reached, operational procedures and methods involving the risk of life or safety of military personnel and so forth.

Early in the Subcommittee hearings, a misunderstanding apparently developed in connection with the handling or manner of treatment of information on nuclear weapons, a misunderstanding which, as I understand it, has been resolved by the briefing given to the Senate Committee on Foreign Relations on 27 May 1970.

These categories of information are those which have become widely accepted and generally recognized as topics which in the national interest, should be strictly limited in either dissemination or discussion. Be assured that any prohibitions against discussing such topics apply to all testimony and were not, of course, restrictive solely to witnesses appearing before your Subcommittee.

Secretary Laird asked me to convey his apology for the delay in responding to your request, a delay which was occasioned by the urgency of preparing for his trip to Europe.

I trust that you will find this responsive to your Subcommittee's interest in this matter.

Sincerely,

DAVID PACKARD.

APRIL 20, 1971.

Hon. G. WARREN NUTTER,
Assistant Secretary for International Security Affairs, Department of Defense, Washington, D.C.

DEAR MR. NUTTER: I wish to acknowledge your letter of April 10 in reply to the Committee's request for a monthly report on certain developments in Cambodia and Laos.

You state that the information requested would involve "highly sensitive information on military combat operations" which would not be "appropriate to discuss or disclose outside the Executive Branch." Would you please provide the Committee with a list of the items requested which you consider to be in this category. In order to avoid further delay and without passing on the merits of the Department's position on those items, I would appreciate your providing the Committee with monthly reports on the other items not in this category.

Sincerely yours,

J. W. FULBRIGHT, *Chairman.*

ASSISTANT SECRETARY OF DEFENSE,
INTERNATIONAL SECURITY AFFAIRS,
Washington, D.C., May 5, 1971.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge the receipt of your letter of April 20, 1971, relative to our exchange of correspondence in connection with the request of the Senate Committee on Foreign Relations to be provided a monthly report on a continuing basis of certain military combat operations conducted by U.S. forces and the indigenous forces of the governments of Laos and Cambodia.

The information required to respond to questions concerning the size and combat readiness of indigenous armed forces, their air and ground combat operations, the enemy forces they encounter and the casualties they inflict and sustain, etc., is normally provided through U.S. military personnel acting in a military advisory assistance role who accompany the host country forces on combat operations. However, the Geneva Accords, the so-called Cooper-Church Amendment and certain other restrictions imposed by the Congress in enacting the Defense Authorization Bill have, in combination, prohibited by law the presence of U.S. military advisory personnel in Laos and Cambodia which, in turn, effectively precludes reliable reporting to the Department of Defense of information of that nature.

Additionally, there are a number of other questions that were posed such as those relating to U.S. civilian personnel in Laos and Cambodia who are employed either by other U.S. Government agencies or by private contractors that do not fall under the cognizance of the Department of Defense.

Finally, the possibility that identical or similar missions or military operations may be required in the same general geographical area at some indefinite future date creates a sensitivity that precludes discussing, outside the Executive Branch, specific details with respect to cross border incursions by allied forces, intelligence gathering operations, frequency and area of coverage of reconnaissance and attack sorties, types of aircraft employed and types and tonnages of ordnance expended, etc.

Again I regret that we are unable to respond to your Committee's request in this instance.

Sincerely,

G. WARREN NUTTER.

AUGUST 9, 1971.

Mr. G. WARREN NUTTER,
Assistant Secretary for International Security Affairs, Department of Defense, Washington, D.C.

DEAR MR. NUTTER: On January 27, 1971, I wrote Secretary Laird, noting that the Department of Defense had been supplying the Committee for some time with monthly statistical data relating to the situation in Vietnam and asking for a monthly report relating to developments in Cambodia, Laos and North Vietnam. You replied, for Secretary Laird, on April 14 and said that you were unable to comply with my request because "it would not be at all appropriate to discuss or disclose outside the Executive Branch highly sensitive information on military combat operations of the kind which your questions would elicit if answers were to be provided."

I then wrote you on April 20 and asked whether you could provide the Committee with a list of the items requested which you considered to be in the category of "highly sensitive information on military combat operations" which would not be "appropriate to discuss or disclose outside the Executive Branch."

You replied on May 5, saying in your letter:

"The information required to respond to questions concerning the size and combat readiness of indigenous armed forces, their air and ground combat operations, the enemy forces they encounter and the casualties they inflict and sustain, etc., is normally provided through U.S. military personnel acting in a military advisory assistance role who accompany the host country forces on combat operations. However, the Geneva Accords, the so-called Cooper-Church Amendment and certain other restrictions imposed by the Congress in enacting the Defense Authorization Bill have, in combination, prohibited by law the presence of U.S. military advisory in Laos and Cambodia which, in turn, effectively precludes reliable reporting to the Department of Defense of information of that nature."

I now renew my request for the information on Laos on a monthly basis requested in my original letter of January 27, 1971. Since our exchange of correspondence, two members of the Committee staff have visited Laos and they have obtained the answers to virtually all of the questions regarding the situation in Laos in the enclosure to my letter of January 27. Furthermore, as you know, their report has now been declassified and published, after review by the Departments of State and Defense and the Central Intelligence Agency. Thus, it does not seem to me any longer credible to claim that you cannot provide answers to these questions on the ground that "it would not be at all appropriate to discuss or disclose outside the Executive Branch highly sensitive information on military combat operations of the kind which your questions would elicit if answers were to be provided." Nor, it seems to me, can you sustain the argument that "The information required to respond to questions concerning the size and combat readiness of indigenous armed forces, their air and ground combat operations, the enemy forces they encounter and the casualties they inflict and sustain, etc., is normally provided through U.S. military personnel acting in a military advisory assistance role who accompany the host country forces on combat operations."

Semantic arguments aside, the fact of the matter is that the information I have requested is available because it has been provided to members of the Committee staff. I would now like to receive this information on a monthly basis.

I am enclosing a copy of the questions I sent the Department of Defense regarding Laos as an enclosure to my letter of January 27.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

PAYMENT OF COMPENSATION AND ALLOWANCES OF PERSONNEL EMPLOYED TO CARRY OUT PROVISIONS OF FOREIGN ASSISTANCE ACT OF 1961 AND THE FOREIGN MILITARY SALES ACT

Mr. FULBRIGHT. Mr. President, I merely want to say one word about the bill which I had intended to submit. I do not wish to press it unless it is acceptable to every Senator. I did not anticipate any controversy over it. It was intended to be offered because of the time limitation. Here it is the 10th of November. The continuing resolution expires on the 15th, which is 5 days from today.

I have not heard whether the House has acted today on the continuing resolution. It has not come to the Senate. All I intended by this bill was to provide for the payment of salaries of personnel who work in administering the foreign assistance program. That was the only purpose.

I ask unanimous consent to have printed in the RECORD, simply for the information of the Senate and anyone else who is interested, the text of the bill which I had intended to offer.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are authorized to be appropriated to the President such amounts as may be necessary to pay the compensation and allowances of personnel of the United States Government employed to carry out the provisions of the Foreign Assistance Act of 1961 and the Foreign Military Sales Act. This Act shall expire at such time as there are enacted after the date of enactment of this Act provisions of law authorizing appropriations to pay the compensation and allowances of all such personnel.

Mr. FULBRIGHT. Mr. President, again, I want to say I do not wish to press it. If it is not acceptable to every Senator, I shall not press the matter. I merely intended to deal with the inconvenience involved in this case.

Mr. SCOTT. Mr. President, will the Chair recognize me?

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCOTT. We all want to see that the AID employees are paid, and no one in the Senate would wish to be responsible for any delay of their payment. The foreign aid bill—the economic assistance aspect of it—has been passed.

The difficulty here is a perfectly simple one. We are suddenly confronted, at the end of a bill, with a proposed unanimous consent, which we have not had a chance to study, which most of our Members have not seen and which most of the members of the Foreign Relations Committee have not seen, which would apparently preclude action on certain other legislation, including the extension of the broad continuing resolution. And that may be the purpose of offering this as a shortcut—we do not know.

We have taken a good deal of time on the bill. We will take a good deal of time on the other bill tomorrow. I for one do not see any reason at all why we should not discuss the whole question of how we go about paying the employees. We do not have to do it in such a fashion as to preclude the action of the Senate on the proposed extension of the other continuing resolution. We do not even know whether the other body has passed it, and we are asked to take definitive action on something which all the members of the Appropriations Committee have not been consulted, and when the members of the Foreign Relations Committee on this side do not know what is involved.

We are all asked to act in the dark. It may be all right as far as we know, but it does have a faint air about it of not being entirely kosher, and we would like to have an opportunity to really sniff around it and see what is really contemplated. I think we have taken a lot of time to talk, and we could take a little time tomorrow to sniff about.

Mr. CASE. Mr. President, will the Senator yield?

Mr. SCOTT. I yield.

Mr. CASE. I credit my chairman not only with good faith, but with every sound intention of making possible something that he personally is not interested in. I think that is a fine attitude, but I think I speak for the members of our committee—I am glad to see the ranking member from our side, the Senator from Vermont (Mr. AIKEN) present—when I say I think we would rather look at it overnight and see whether it might be tailored to meet whatever appropriation measure we might have to act on.

Mr. SCOTT. My concern is that we were confronted with a situation that if we did not take this, we would not get anything. I am willing to have the country make a judgment on that. We were told that we will take it as it is or get nothing. I am not saying that the chairman of the committee said that to me, and I am not referring to him, but that is the position we find ourselves in tonight. We in the minority have certain rights, and I want those civil rights preserved, and one of those civil rights is the right to know what in the dickens we are acting on. Among those is the question, "What is the import and impact of the resolution?"

We might resolve it quite quickly tomorrow, but until we know, we do not want to act. Senators may wish to act on matters that they do not know about, but I do not want to act that way, and the distinguished Senator from New Jersey does not want to act that way. Members of the Appropriations Committee need to be brought up to date on it.

I would suggest that we bring it up some time tomorrow, talk it over, and see if we cannot work something out.

Mr. FULBRIGHT. Mr. President, first, for the RECORD, before I forget it, I ask unanimous consent to have printed in the RECORD at this point a letter I addressed to the chairman of the Appropriations Committee on November 8, 1971, calling his attention to section 10 of the Military Sales Act Amendments of 1971.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
November 8, 1971.

The Honorable ALLEN J. ELLENDER,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In connection with your Committee's consideration of H.J. Res. 946, to authorize continuing funds for several programs, including foreign assistance and military credit sales, I call your attention to Section 10 of the Foreign Military Sales Act Amendments of 1971 (P.L. 91–672).

This restriction was drawn as tightly as possible in order to prevent any appropriations for foreign assistance, including foreign

military credit sales, without an authorization. For your convenience, I include Section 10 in its entirety:

"(a) Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for foreign assistance (including foreign military sales) shall be available for obligation or expenditure—(1) unless the appropriation thereof has been previously authorized by law; or (2) in excess of an amount previously prescribed by law.

"(b) To the extent that legislation enacted after the making of an appropriation for foreign assistance (including foreign military sales) authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

"(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of this section which specifically repeals or modifies the provision of this section."

As you know, this requirement has been waived by prior continuing resolutions for this fiscal year. I have refrained from asking that this provision be invoked on the earlier resolutions because, at those times, authorizing legislation was being considered in both the Senate and the House and neither body had rejected a foreign aid bill. However, in view of the Senate's defeat of H.R. 9910 and the great uncertainty surrounding the future of the entire foreign aid program, I believe that the requirements of Section 10 should now be enforced. To allow continuation of appropriations for foreign aid and military sales under the circumstances would make this restriction a nullity and create precisely the type of situation which the provision was designed to prevent.

In view of these considerations, I respectfully request that the Committee delete any provision in H.J. Res. 946 for additional funding of the foreign assistance or military sales programs until Congress has enacted an authorization bill. I understand that, because of the lag between the end of pay periods and actual payment of salaries, the expiration of funding authority on November 15 will still permit A.I.D. to meet its regularly scheduled November 23 payroll.

Sincerely yours,

J. W. FULBRIGHT, *Chairman.*

Mr. FULBRIGHT. Mr. President, I have put this letter in the RECORD for the information of the Senate. This is not something that I just suddenly sprung on the Senator from Pennsylvania. He is a very busy man, and not always around. I showed it to the Senator from Vermont this morning, and discussed it with him before I drew it up. He said he thought it was a good idea to have it in reserve.

I think it would be remarkable, even though we have made great progress, to actually get the full authorization through before the 15th. The Senator from Vermont thought it was a good idea, and I told the staff to proceed with the writing. I showed it to him in writing, and he thought it was a good idea. I showed it to the Senator from Montana, who was here. I am sure I would have shown it to the Senator from Pennsylvania, who is a very busy man and has many duties, but I do not believe he has been here all day.

Mr. SCOTT. The Senator from Pennsylvania has been here virtually every minute of the day. I have been in and out at 2- or 3-minute intervals.

Mr. FULBRIGHT. I believe the Senator from Vermont will certify that I discussed it with him earlier this morning, and showed it to him later.

It is a very simple matter. The Senator from Montana read, I believe, the letter received from the GAO, which he requested, giving the GAO's views as to whether or not there is authority to pay the salaries of the people who would administer, we will say, the AID pipeline while we finish whatever legislation we are going to enact. The majority leader, I believe, put that material into the RECORD about noon today.

The whole purpose of his reading from the GAO letter was to alert the Senate to this potential problem. The GAO ruled that in their view, there was limited authority to pay salary expenses for all of the AID programs. Under the economic program—it is too complicated to try to explain here—there were classes of employees for whom there would be no authority to pay after the 15th, unless something was done.

My proposal would remedy this but I certainly do not wish to press it on the Senator from Pennsylvania or anyone else. I thought I was performing a proper function in having it ready for the Senate to act upon. It is certainly all right with me to go over until tomorrow or the next day, or I will forgo it entirely. I do not want to make an enormous issue of it. The Senator is making the point that I am trying to put something over on him. If he has the slightest doubt about it, I am willing to drop it now.

Mr. SCOTT. Mr. President, if the Senator will yield, I have made a point, which I thought was clear enough, that the minority members of the Appropriations Committee had not been consulted, and that this is a fundamental matter affecting the Appropriations Committee.

Mr. FULBRIGHT. This is an authorization bill. It is not the appropriation bill.

Mr. SCOTT. Even so, it has an impact on the continuing resolutions before the Appropriations Committee. The chairman was asked what he thought about it a few minutes ago, and as I recall, he indicated that that was the first he knew about it. The Senator from Kentucky (Mr. COOPER) was not aware of it. The Senator from New Jersey (Mr. CASE) was not aware of it. I was not aware of it, and all we are requesting is, give us an opportunity to see what is in it.

Mr. FULBRIGHT. Well, I surely do not object to that. The Senator is putting me in the position of objecting to his request for information. He can have a week, if he wants it. I am not pressing him. As I said a moment ago, I was not in the least disposed to force any action tonight. I was just making it available for the Senate, if it wanted to work on it and consider it, and Senators could pass it if they wanted to. If they do not want to consider it at all, it is perfectly all right with me. I shall not urge its passage tomorrow unless the Senate wants to. From here on, it is your baby, and if you do not want it, I will not ask that it be called up.

Mr. SCOTT. Mr. President, I yield to the Senator from Vermont.

Mr. AIKEN. I would like to state for the RECORD that the distinguished chairman of the Foreign Relations Committee did show this to me twice today, once about an hour and a half ago, and I told him I had no objection to his having it, if it appeared to be necessary to insure that the employees of the AID program would get their pay. Nothing was said about when it would be taken up, or even if it would be taken up.

I still think that the employees of AID, and particularly the employees who are engaged in administering the bill which has just passed——

Mr. FULBRIGHT. That is right; this bill here is what it relates to.

Mr. AIKEN. I take it the military assistance does have more in the pipeline, and probably could run awhile. But it is the administrative personnel of the economic programs who would be left high and dry if we did nothing at all.

I hope it is not necessary to go through a lot of special legislation, and so forth, and I would like to see the House go to work on this. I would like to see them accept the bill which we have passed; but the House is not noted for accepting Senate bills without question.

I told the Senator from Arkansas I had no objection to his offering the bill if he felt it was necessary.

Mr. SCOTT. I am very glad the distinguished Senator from Vermont has helped clarify the matter.

I make it clear again I have been requested to protect the right to know of some Senators on the Foreign Relations Committee and other Senators on the Appropriations Committee. They have indicated to me very strongly that at this hour of the night, there has been no opportunity to acquaint themselves with the full import of the proposal. As I have said several times, it may be a perfectly proper one, but it does have its impact on possible action of the Senate Appropriations Committee, and we ought to know what that impact is.

We can do tomorrow much better, in a cooler atmosphere, what we can do at 8 o'clock tonight, with the very Members who are most concerned now compelled to leave.

That is all I propose. I thank the Senator. I was not accusing him of putting anything over on us. I am saying the proposal is one which can have effects which, as experienced as the Senator is, he might not have seen. I am sure I have not seen all of the possibilities in the proposal. I will see more by tomorrow. That is all.

I suggest we bring it up again tomorrow.

Mr. FULBRIGHT. That is all right with me. Whatever would please the Senator. I anticipate if anyone really objected to this, he would be present. There is no controversy; we can have a showdown vote any time; it is all right with me.

Mr. SCOTT. Mr. President, I do not want to reverse our roles. The Senator wanted to terminate the whole program and all the employees. I wanted to keep the program and most of the employees. I still do. So I appreciate, as the Senator from New Jersey says, the solicitude of some who voted against the bill desiring

to preserve, even for a short time, the pay of employees who may later be shut off.

Mr. FULBRIGHT. I voted for this bill.

Mr. SCOTT. I am delighted that the Senator did.

Mr. FULBRIGHT. I voted against the old bill. I think this bill is sufficiently different from the bill we defeated to justify support. It has some very significant policy statements in it; if they stay in after conference with the House of Representatives, I could even vote for the conference report.

You have to take these things as they go. But this has always been a bill which has so many different facets, you have to weigh the good with the bad.

As the Senator knows, I presented three bills to the committee, trying to disentangle these matters; but under the influence of the Senator from Pennsylvania that was overridden. It was a marginal case whether I could support this measure or not. But I figured that in this bill, with these amounts, there was more good than bad, whereas in the old bill the bad outweighed the good.

I do not like bills so complicated that you have to make such choices, because I never like to be charged with having voted against the children's fund, for example, or one of these other activities the Senator from Vermont was so very eloquent about a moment ago. But nevertheless, I had to make that choice earlier, and I was damned by both sides.

It is not as good as it could be, but it is better than the old bill.

Mr. SCOTT. I am glad that the committee unanimously reported the bill, and I think it is a little better now than the way it was reported out. But in any event, it has passed.

Mr. FULBRIGHT. Voting out does not mean approval by the Senate. As the Senator knows, we always report the bill out reserving the right to vote against it. But I have decided, that the good in this bill outweighs the bad.

Mr. BYRD of Virginia. Mr. President; I again invite the attention of the Senate to the fact that the Federal Government for this fiscal year will have a Federal funds deficit of $35 billion.

PRESIDENT NIXON AT FORT DETRICK, MD.

Mr. MATHIAS. Mr. President, the President of the United States is a frequent visitor to the State of Maryland for many different occasions. But we were particularly pleased and proud to welcome him when he visited Fort Detrick, at Frederick, Md., on October 18 to announce the conversion of Fort Detrick into a cancer research center.

For years, Fort Detrick has been known as a center for research on bacteriological warfare weapons. But in November 1969, President Nixon decided that the United States would take the leadership among nations in discontinuing such weapons research. It has been pointed out in this Chamber on numerous occasions since then, that the unique research laboratories at Fort Detrick are ideally suited for public health and environmental research.

Now the President has assigned a new mission to Fort Deterick: Finding ways stopping the scourge of cancer.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of President Nixon's remarks at Fort Detrick on October 18.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

CENTER FOR CANCER RESEARCH

(The President's remarks at the dedication ceremony at Fort Detrick, Md., Oct. 18, 1971)

Senator Beall, Senator Mathias, Congressman Byron, ladies and gentlemen:

I am glad to see that, despite what happened to the Orioles yesterday, everybody is happy here today in Maryland.

I have come here today for the purpose of making an announcement with regard to this facility, which has, of course, an effect on all of the people who live in this area; but it also has an enormous effect in terms of the future of the people of the United States, and probably the future of the people of the world.

As I flew over this facility—and I have flown over it many times on my way to Camp David—I was impressed by its size. As I looked down upon it today, I realized that up until 2 years ago this facility was one of the most highly classified top secret facilities in the whole United States. As all of you who live in this part of Maryland know, there was no way you could get into this area without a top secret clearance. The reason was that this facility was being used for the purpose of research in biological warfare weapons.

In November of 1969, I made a decision that the United States would take the leadership in discontinuing research in the development of weapons for biological warfare. And as a result of that decision, this facility, therefore, no longer could be used in that way. But it was one of the finest facilities in the world, and consequently, we found that, in January of this year when I made an announcement with regard to a new initiative for conquest of cancer, we needed just what this facility had to offer.

Consequently, today we are making an announcement that, where we have previously had scientists, some of the best people that we could possibly find in the United States, working on weapons of war, we now have scientists devoting their efforts toward saving life, rather than destroying life.

So I think all Americans are very appreciative of the fact that, in terms of our Conquest of Cancer Program, we have one of the best facilities in the world right here which will be used for the purpose of making progress in that area.

I think all of us, too, are very happy that we have here an indication of how the genius of man which could be used to destroy life, that same genius can better be used to save life.

And I would finally say this: This facility which once was so top secret, which was closed not only to Americans, but, of course, to anybody from foreign lands, now is open to all people in the world. Wherever scientists or doctors may be, whether in Europe, or Latin America, or Africa, or Asia, they can come here. They are welcome to come here to see what we have done, just as we hope they will welcome us, so that we can see what they have done. And whether they come from the Soviet Union, or perhaps later from Mainland China, we want people from all over the world who are working on what is one of the great initiatives for mankind, finding some way that we can have a conquest of cancer, a cure for it and a prevention of cancer, so that scientists from all over the world can share the information and work together toward that end.

I am confident that this day, therefore, is a very significant day, significant in terms of the people who live in this area, and whose Senators and Congressmen were so anxious to have us not simply say that this is surplus, and that would mean that the jobs that were available here, that were caused by this facility, would be gone; but you are also happy that this facility is being used for a cause that helps not only the people in this community, but in the future may help the people of all the United States and all of the world.

Thank you.

RICHARD ALLEN HULT, JR.

Mr. MATHIAS. Mr. President, we read often of the misdeeds and escapades of youth. But it is a pleasure to report an act of good citizenship by a youth.

Fifteen-year-old Richard Allen Hult, Jr., of Hagerstown, Md., discovered a $1,500 cache of drugs earlier this year and promptly reported it to authorities for their continuing pursuit of the dealers in such commodities.

Young Mr. Hult's actions were duly reported by his local paper, the Hagerstown Morning Herald. I ask unanimous consent that the Herald's report be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BOY SCOUT IS COMMENDED FOR REPORTING CACHE OF DRUGS

A local Boy Scout who promptly reported to authorities his discovery of a cache of drugs has received commendation from his troop officials and a state policeman.

Richard Allen Hult Jr., 15, happened across $1,500 worth of marijuana, LSD, and barbiturates months ago. The episode was not publicized at the time for investigative purposes.

Young Hult, who also has a local newspaper route, found a metal container hidden under the Marshall Street bridge of Interstate 81. When he opened it, he saw brown leafy weeds inside. He immediately called state police from a neighbor's telephone.

Cpl. Robert B. Spickler of the Maryland State Police investigated and asked the youth why he thought the stuff was marijuana.

"He stated he was a Boy Scout and a few months before his scout troop received a lecture from the Hagerstown City Police on Drugs and was shown what Marijuana looked like," Cpl. Spickler recalled.

"I lecture for the state police in drugs and was quite pleased to find an individual such as Scout Hult who received knowledge from a lecture on drugs to do such an invaluable service to the Maryland State Police and citizens of Washington County, as I feel these drugs were going to be sold into our schools."

Besides Marijuana, the state policeman found a large quantity of barbiturates, LSD, and "enough marijuana seeds to plant a five acre field."

Three state policemen staked out the area, to no avail.

Cpl. Spickler wrote to Thomas E. Young, scoutmaster of Troop 3: "I commend you as scoutmaster for initiating such a program as I know you receive little recognition for the hours of work given in scouting, but when one of your boys steps forward and does such a fine job for the community and you know that it was because of your guidance, time and patience you cannot help but feel proud."

Troop 3 is sponsored by Grace United Methodist Church.

THEODORE ROOSEVELT McKELDIN ON "WHAT'S RIGHT WITH AMERICA"

Mr. MATHIAS. Mr. President, one of the Marylanders of whom I am most proud is Theodore Roosevelt McKeldin, of Baltimore, twice mayor of his city and twice Governor of Maryland.

Governor McKeldin recently addressed the annual meeting of the Baltimore Bank for Cooperatives, held in Cockeysville, Md., on "What Right With America."

Mr. President, I ask unanimous consent that Governor McKeldin's speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

WHAT'S RIGHT WITH AMERICA

(Address of Theodore R. McKeldin)

Like all of you, in the last few years I have read countless pages, in newspapers, in magazines, and in books, about what is wrong with America. Some of it is nonsense, but the bulk of it is accurate. Furthermore, if you had, as I have, spent eight years trying to administer the affairs of a great American city, and eight more responsible for the business of a medium-size state, you could tell these pessimistic writers more than they have ever imagined about what is wrong with America.

Yet that same experience, at the same time, taught me also a great deal about what is right with America, and I assure you that if I started in right now listing all the things that I know are right with this country, I should still be talking when the sun rose tomorrow morning. And for that you would not thank me.

Furthermore, there is a category—and a large one—of things about this country that are both right and wrong. I mention only one. It is the fact that at this moment honest men in this country are sharply divided and deeply disturbed which, everyone will admit, is a bad thing. But if there are evils that threaten the very life of the country, and assuredly there are, it is inevitable that we should be divided and right that we should be disturbed. So there you are. Contention and strife are bad, but to sit motionless and dumb when danger threatens is very much worse.

Therefore I shall brush aside the million particulars that I believe are right with America and devote my time exclusively to the one that I believe far surpasses all the rest in its potential value, although it is at the same time the one that lays the heaviest burden of responsibility upon us. That thing is the opportunity now within our grasp to rise to a level of greatness so far seldom attained and never maintained by any nation in the history of the world.

Some people are scornful of this. They hold that nothing is of real value if it cannot be perceived by at least one of the five senses, and cannot be counted, or weighed, or measured by any instrument of science. That materialist view I do not share, but one incident that to me seems highly significant is not viewed in the same light by some Americans who are not materialists and I respect their view even if I do not accept it. The incident to which I refer was the recent meeting in Alaska of the President of the United States and the Emperor of Japan.

Some say that the President overdid it. They admit that when the official head of a foreign nation with whom the United States is at peace sets foot on our soil, even in merely passing through, it would be scandalous to treat him as if he were an ordinary tourist or commercial traveler, but they contend that the requirements of protocol would have been satisfied if the commander of the air base at Anchorage had turned out an honor guard and the Governor of Alaska had paid his respects in person.

All that I admit, but I maintain that the circumstances in this case were exceptional. Japan is a very ancient, very proud, and for the past quarter of a century a very humiliated nation. We fought her and won, but it was no pushover.

I have yet to meet an American soldier who was at Bataan, or Guadalcanal, or Iwo Jima, or an American sailor who fought in the Coral Sea, or near Midway, or in the Leyte Gulf who doesn't admit that Japan can produce first-class fighting men. We took plenty of punishment before we landed the knock-out blow, and any American who actually wishes for a return match must be out of his mind. It is a small-souled winner who doesn't respect an opponent who put up a terrific fight before he was beaten. For us to hate the Japanese is no affront to their dignity, but to treat them contemptously would reflect upon us, more than upon them.

Therefore if the President overdid the usual courtesies in this case, he had a reason. Various tensions have made our relations with Japan very delicate at this moment, and the revengeful element in that country disliked the fact that the Emperor set foot on our soil. But all Japan knows that the President of the United States does not undertake a long and fatiguing journey attended by a tremendous ceremonial entourage, to meet what he regards as an insignificant personage.

Of course it was merely a gesture. No great problems were settled or as much as mentioned. But it was a gesture in the grand manner, and to an old, proud nation smarting under a recent defeat such a gesture is more gratifying than anything else.

But it was more than merely balm applied to many feverish inflammations. The set speeches were merely polite verbiage, but two things about them were highly significant. The President tactfully ignored the past and expressed his hope that the two nations are destined in the future to work together to bring peace and prosperity not to themselves alone, but to all the Pacific region. The Emperor, on the other hand, raked up the past, but only to assert that Japan remembers that, in the hour of victory, the United States used its overwhelming power, not to load additional burdens on a prostrate foe, but to help him get up on his feet again.

Very subtly, the Emperor reminded the American people of a moment when they rose to the greatness of using the imperial power that had come into their hands in the manner of the magnanimous, not the vicious emperors of the past, imitating Trajan, the Antonines, Saladin, nor Alaric the Hun, Attila the Scourge of God, or Genghiz who converted the Fertile Crescent into the desert that it largely remains today.

The depressing truth is that we did not remain on that high level very long but, not entirely by our own fault, have too often followed the line of the worst, not the best of our predecessors as wielders of imperial power. But the Emperor's words are a reminder that we did attain it once, and what men have done once can never again be called impossible. The opportunity still exists. It has been demonstrated that imperial power can be wielded in such a fashion as to extend, not to diminish, the rule of justice and the spirit of magnanimity among the nations of the earth, thereby promoting the spread of peace and prosperity, rather than war and devastation over the whole earth.

I am no perfectionist. I realize that we are only human, and it is not reasonably to be expected that we shall realise our opportunity to the full. But the words of our imperial visitor remind us that immediately after our war with Japan, we grasped the opportunity, partially and momentarily, to use great power to act greatly, and our visitor was polite enough to say that that temporary achievement remains a shining moment in the memory of the people of Japan.

That is no proof that we shall ever do it again, and it is in fact very unlikely that the same circumstances will ever be repeated. But it is proof that we have the opportunity, if we can summon up the will and the energy, to give a new meaning to the word "imperialism" which half the world today regards as a synonym for extortion, tyranny and oppression.

Of all the things that are right with America, I regard that opportunity as the greatest and the best. It is nothing to be complacent about because while it is great and good, it is in exactly the same measure hard to achieve, even partially. Yet history offers evidence that in the past there have been times when the advance of the imperial power, whether Athenian, Roman, or British, meant the extension of the rule of reason over some area of the earth's surface that had been plunged into anarchy. In those periods, along with the imperial power came, not death and devastation, but more security for the common man, more even-handed justice as between high and low, more of the material benefits of civilization for everyone.

None of the great empires of the past has been able to maintain this state of affairs indefinitely, but while it lasted the imperial power had little reason to worry about its own security, for the tributaries defended it zealously. Only when the empire began to cost them more than it was worth did their loyalty fade. I do not know that Americans can do any better than their predecessors, but I do know that they have the opportunity to try and I regard that opportunity as the best thing in the realm of politics that they have.

I do not believe for a moment that any nation, or any man, can stand indefinitely on the highest level of achievement. But I do believe that any man or any nation that makes an honest and persistent effort to do so can touch that level from time to time and every such touch is an addition to the honor of the race. For each is one of those flashes of glory that irradiate history and save it from being entirely that "register of the crimes, follies and misfortunes of mankind" that Gibbon said most of it is.

But the United States is a democracy in which, in the words of Jefferson, "the will of the majority is in all cases to prevail." While every nation needs great leaders, for a democracy they are not enough. They will accomplish little unless they lead a great people. We have the opportunity to become great. That does not mean that it is possible for us to become perfect, but it does mean that it is possible for us to make our history a string of flashes of glory that Mother Earth can wear like a diamond necklace for ages to come.

ORDER FOR RECOGNITION OF SENATOR PERCY TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, following the remarks of the distinguished Senator from Florida (Mr. GURNEY), the distinguished Senator from Illinois (Mr. PERCY) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the conclusion of the remarks by the Senator from Illinois (Mr. PERCY) on tomorrow, there be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes; and that at the conclusion of morning business, the Chair lay before the Senate the then unfinished business, which will be S. 2819, the foreign military and related assistance authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m. Following the recognition of the two leaders, Senators HARRIS, GURNEY, and PERCY will be recognized, each for not to exceed 15 minutes, and in the order stated, after which there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Following the morning business, the Senate will resume its debate on the pending business, which will then be the unfinished business, S. 2819, the foreign military and related assistance authorization bill. Action is expected to be completed on that bill tomorrow. There is a time agreement thereon, and there will be rollcall votes tomorrow.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and (at 7 o'clock and 53 minutes p.m.) the Senate adjourned until tomorrow, Thursday, November 11, 1971, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, November 10, 1971*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The fervent prayer of a righteous man availeth much.— James 5:16.

Almighty and eternal God, during the hours of this day may we be mindful of Thy presence filling our minds with light and our hearts with love. Grant that the life of Thy spirit in us may guard us from wrongdoing and guide us in Thy true and living way.

Give us to feel how wonderful it is to be alive in Thee, to live day by day under Thy loving care, to receive grace sufficient for every need and strength adequate for every task, making us ready to be of help to our fellow men and to serve our country with all our hearts.

Grant that we may keep on pursuing the best until the best comes to greater life in us, in our Nation, and in all men. Now and always may we be strong in faith, steadfast in freedom, and steady in fellowship with Thee and with one another.

In the spirit of Christ, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 588. An act to increase the authorization for the appropriation of funds to complete the International Peace Garden, North Dakota.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 11418, MILITARY CONSTRUCTION APPROPRIATIONS, 1972

Mr. SIKES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 11418) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 92-664)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11418) "making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows: That the Senate recede from its amendments numbered 4, 7, and 9.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$355,500,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$289,189,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$933,955,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendments of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$55,776,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$109,045,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendment numbered 1.

R. L. F. SIKES,
EDWARD J. PATTEN,
CLARENCE D. LONG,
JULIA BUTLER HANSEN,
K. GUNN MCKAY,
GEORGE MAHON,
E. A. CEDERBERG,
CHARLES R. JONAS,
BURT L. TALCOTT
(except for amendments 1, 2, and 3),
FRANK T. BOW,
Managers on the Part of the House.

MIKE MANSFIELD,
ALLEN J. ELLENDER,
WILLIAM PROXMIRE,
JOSEPH M. MONTOYA,
ERNEST F. HOLLINGS,
MILTON R. YOUNG,
EDWARD W. BROOKE,
J. CALEB BOGGS,
CHARLES H. PERCY,
STUART SYMINGTON,
HOWARD W. CANNON,
JOHN TOWER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11418) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1, military construction, Army: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment to appropriate $438,316,000 instead of $437,274,000 as proposed by the House and $432,946,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

XUM

This would provide the following changes to the amounts and line items as proposed by the House:

Fort Campbell, Ky.: Airfield complex, CAAF, phase I	+$2,000,000
Yuma Proving Ground, Ariz.: Weapons evaluation facility	+2,921,000
Redstone Arsenal, Ala.: Bachelor officer quarters	−879,000
Fort Wainwright, Alaska: Sewage disposal contribution	−2,000,000
NATO infrastructure	−1,000,000

The conferees have denied two turbine engine test cells which the House deleted at the Aeronautical Depot Maintenance Center, Corpus Christi, Texas. The conferees are in agreement as to the continuing importance of the Army's aeronautical depot repair operations at Corpus Christi to the national defense. However, they feel that this particular item can be deferred without prejudice.

The conferees are in agreement that the weapons evaluation facility provided at the Yuma Proving Ground, Arizona, is not to be used in any way to support the future relocation of any personnel, personnel positions, or functions from Aberdeen Proving Ground, Maryland.

Amendment No. 2, military construction, Navy: Appropriates $355,500,000 instead of $343,766,000 as proposed by the House and $357,536,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Naval Shipyard, Portsmouth, N.H.	+$360,000
Naval Underwater Systems Center, Newport, R.I.: Underwater weapons reliability laboratory	+655,000
Naval Home, Philadelphia, Pa.: Naval Home modernization (1st increment)	+550,000
Naval Shipyard, Charleston, S.C.: Engineering management complex (1st increment)	+6,067,000
Naval Air Station, Meridian, Miss.: Outdoor recreation facilities	+$188,000
Naval Air Test Center, Patuxent River, Md.: Theater/auditorium	+508,000
Naval Shipyard, Long Beach, Calif.: Cafeteria No. 1 replacement	+1,272,000
Culebra Island: Planning funds	+2,500,000
Naval Station, Norfolk, Va.: Gate 4 improvements	−74,000
Naval Amphibious School, Coronado, Calif.: School ventilation improvements	−137,000
Naval Communication Station, San Francisco, Stockton, Calif.: Potable water well and tank	−155,000

The conferees have allowed the full $991,000 requested for the Naval Home as provided by the Senate. However, the conferees are in agreement that not more than $441,000 may be spent to make essential improvements to the Naval Home at its present location.

The conferees understand that the Navy is studying the relocation of this facility. When the Navy has reported its plans in this respect to the Committees on Appropriations of the Senate and House of Representatives and these plans have been approved by such committees, the full amount available may be expended for construction at the new location.

The conferees deleted $100,000 added by the Senate for a memorial standard for the submerged USS Utah in Pearl Harbor, Hawaii. This item was deleted without prejudice, and the conferees expect the Navy, through the reprogramming of funds, to take such steps as it legally can to provide a suitable memorial standard.

Amendment No. 3, military construction, Air Force: Appropriates $289,189,000 instead of $273,081,000 as proposed by the House and $291,954,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Mather Air Force, Calif.: Navigator academic training facility	+$1,726,000
Pease Air Force Base, N.H.: Composite medical facility	+8,128,000
Aircraft engine test facilities: Spangdahlem Air Base, Germany	+92,000
Zweibrucken Air Base, Germany	+115,000
Aircraft runup facilities: Ramstein Air Base, Germany	+66,000
Spangdahlem Air Base, Germany	+84,000
RAF Alconbury, United Kingdom	+77,000
Aviano Air Base, Italy	+104,000
Incirlik Air Base, Turkey	+75,000
Lackland Air Force Base, Tex.: Academic language training facility	+1,064,000
Sheppard Air Force Base, Tex.: Theater	+739,000
Westover Air Force Base, Mass.: Noncommissioned officers open mess	+945,000
Various locations, inside United States: SAC satellite basing facilities	+5,300,000
Andersen Air Force Base, Guam, Mariana Islands: Rescue helicopter support facility	−350,000
Ellsworth Air Force Base, S.D.: Aircraft engine shop	−693,000
Myrtle Beach Air Force Base, S.C.: Taxiway lights	−446,000
Shaw Air Force Base, S.C.: Addition to warehouse	−$531,000
Wildwood Air Force Station, Alaska: Add to and alter electric power plant	−100,000
Hickam Air Force Base, Hawaii: Fire protection sprinkler system	−237,000

Amendment No. 4, military construction, Air Force Reserve: Appropriates $6,581,000 as proposed by the House instead of $5,700,000 as proposed by the Senate.

Amendment No. 5, family housing, Defense: Appropriates $933,955,000 instead of $938,238,000 as proposed by the House and $900,620,000 as proposed by the Senate.

Amendment No. 6, family housing, Defense: Authorizes not to exceed $55,776,000 for the construction of Army family housing instead of $58,277,000 as proposed by the House and $44,941,000 as proposed by the Senate.

The Senate deleted $900 of the $2,324,900 allowed by the House for 88 family housing units at Camp Drum, New York. The conferees agreed to allow $2,324,000 for these houses.

The conferees did not allow $2,500,100 for funding of new construction authorized under prior authorizations, but did approve $5,000,000 for minor construction, which amounts were proposed by the House.

The Army requested $5,835,000 for the conversion of heating plants from coal to oil for 16,400 housing units in Germany. These funds were approved by the House but deleted by the Senate. The conferees agreed to restore the funds for other overall improvements required in the Army family housing program. However, the conferees direct that none of these funds be used for the conversion of any heating plants from coal to oil in Germany.

Amendment No. 7, family housing, Defense: Authorizes not to exceed $135,717,000 for the construction of Navy and Marine Corps family housing as proposed by the House instead of $120,717,000 as proposed by the Senate.

The conferees agreed on the House allowance, which would provide $15,000,000 for minor construction, urgent improvements, and the highest priority new construction for which prior-year authorization remains available at the following locations: Naval Complex, Philadelphia, Pennsylvania; Naval Complex, Norfolk, Virginia; Naval Complex, Long Beach, California; and Naval Base, Guantanamo Bay, Cuba. In addition, savings from fiscal year 1972 and prior programs may be applied to construction or improvements for which valid authorization is available and to minor construction.

Amendment No. 8, family housing, Defense: Authorizes not to exceed $109,045,000 for the construction of Air Force family housing instead of $110,827,000 as proposed by the House and $101,545,000 as proposed by the Senate.

The conferees approved a project of 90 new housing units at Woomera, Australia. However, the Senate proposed that the amount of $1,782,000 which the House had proposed be appropriated for this project be funded from balances of prior-year funds available to the Air Force. The conferees concurred in the Senate position.

The conferees agreed on the House allowance which would provide $7,500,000 for minor construction, urgent improvements, and the highest priority new construction for which prior-year authorization remains available at the following locations: Ent/Peterson Air Force Base, Colorado; Tinker Air Force Base, Oklahoma; Vandenberg Air Force Base, California; and Kadena Air Base, Okinawa, Ryukyu Islands. In addition, savings from fiscal year 1972 and prior programs may be used for minor construction, improvements, and new construction for which prior-year authorizations remain available.

Amendment No. 9, general provisions: The conferees have not included in the general provisions Section 111 which was added by the Senate. However, both the House and the Senate conferees agree with the intent of this provision to reduce the cost of construction and to encourage more efficient management of construction within the Department of Defense.

The conferees feel that a complete and unbiased investigation of the efficiency of construction management and the equitableness of charges by construction agencies for construction supervision, inspection, and overhead, as specified in Department of Defense Directive 7040.2, be conducted by the General Accounting Office and that a report to the conferees be made within 10 months, with an interim report to be provided within 6 months. In conducting this study, the conferees direct the General Accounting Office to investigate the rates charged for similar work in private industry and to compare them with those charged by Department of Defense construction agencies.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1972 recommended by the committee of conference, with comparisons to the fiscal year 1971 total, the 1972 budget estimate total, and the House and Senate bills follows:

New budget (obligational) authority, fiscal year 1971	[1] $1,704,074,000
Budget estimates of new (obligational) authority, fiscal year 1972	[2] 2,129,805,000
House bill, fiscal year 1972	2,012,446,000
Senate bill, fiscal year 1972	2,002,312,000
Conference agreement	2,037,097,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1971	+333,023,000
Budget estimates of new (obligational) authority, fiscal year 1972	−92,708,000
House bill, fiscal year 1972	+24,651,000
Senate bill, fiscal year 1972	+34,785,000

[1] Excludes $334,000,000 for Safeguard construction and family housing.

[2] Excludes $183,570,000 for Safeguard construction and family housing not considered in this bill.

R. L. F. SIKES,
EDWARD J. PATTEN,
CLARENCE D. LONG,
JULIA BUTLER HANSEN,
K. GUNN MCKAY,
GEORGE MAHON,
E. A. CEDERBERG,
CHARLES R. JONAS,
BURT L. TALCOTT
(except for amendments 1, 2, and 3),
FRANK T. BOW,
Managers on the Part of the House.

MIKE MANSFIELD,
ALLEN J. ELLENDER,
WILLIAM PROXMIRE,
JOSEPH M. MONTOYA,
ERNEST F. HOLLINGS,
MILTON R. YOUNG,
EDWARD W. BROOKE,
J. CALEB BOGGS,
CHARLES H. PERCY,
STUART SYMINGTON,
HOWARD W. CANNON,
JOHN TOWER,
Managers on the Part of the Senate.

NATURAL GAS CRISIS

(Mr. BOGGS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BOGGS. Mr. Speaker, I have in my hand a news release from the Washington Gas Light Co. of yesterday announcing a rather severe restriction on the sale of natural gas for the District of Columbia and the area served by that company.

Mr. Speaker, I have said on this floor for the last several years that we were in an energy crisis in the United States. This is particularly true as applied to natural gas, which is the most desirable of fuels in a present ecology-conscious society.

Mr. Speaker, natural gas is vital to this Nation, its consumers, its economy, and its environment. Natural gas powers 43 percent of our industry, and provides some 28 percent of our electric power. One-third of our country's total energy requirements are now met by natural gas.

Accordingly, many of us have long been concerned about the growing natural gas supply problem, and our capacity to meet our country's growing demand for clean, efficient energy.

The paradox is that we now face an actual shortage of natural gas while there is a potential of plenty.

Between 1956 and 1968, wildcat drilling and geophysical activity—considered the most sensitive measures of exploration operations—dropped 40 percent and 56 percent respectively. Exploratory wells completed as gas producers dropped drastically from 909 in 1959 to 429 in 1968—a decline of 53 percent.

By 1968, it was clear to everyone that the Nation's gas supply was diminishing to critical levels in relation to demand.

In 1969, for example, is was estimated that production was 20.7 trillion cubic feet, while new reserve additions amounted to only 8.4 trillion cubic feet. This was the second consecutive annual deficit.

This means that in 1969 we used up two and one-half times as much natural gas as we found.

In 1970, production of natural gas amounted to 22 trillion cubic feet; and, excluding the large estimated reserves in Alaska which are not available for delivery new reserve additions in the lower 48 States were only 11.6 trillion cubic feet. This resulted in a third consecutive annual deficit.

In other words, in 1970, we again used far more natural gas than we found.

This reason for this shortage is not too hard to come by. For many years the regulatory agencies have sought to artificially depress the price of gas so that today gas produced in Louisiana is going into the pipelines for a price a great deal less than the cost of gas going into the same pipelines, brought into the United States in liquefied form from other places in the world. In addition to that, for 2 years the Department of the Interior refused to grant offshore leases off the coast of Louisiana, the one place in the United States where we know we have large proven reserves of natural gas.

I regret to say, Mr. Speaker, that I think we are only now beginning to see the impact of this problem, and that within the next several weeks similar announcements will be made in many other places in the United States and, believe it or not, within one of the largest natural-gas-producing States in the Union, Louisiana, where we are also, because of these policies, experiencing a gas shortage for our industrial users.

I hope that the Congress will take due notice of this, and that the appropriate committees of the Congress will take a look at the energy crisis facing our country.

Early this year we considered a proposal by the gentleman from Tennessee (Mr. FULTON), to create a special committee to look extensively into the energy crisis in our country. The House did not see fit to accept that proposal, and I would hope that the standing committees would make the type of inquiry that is very much required at this time.

The news release from the Washington Gas Co. follows:

WASHINGTON GAS LIGHT COMPANY TO RESTRICT NEW SALES OF GAS

WASHINGTON, D.C., November 9.—Washington Gas Light Company announced today that to assure an adequate supply of gas for all present customers, it will confine new sales of gas to single-family residential consumers. For an indefinite period of time, the company said, commercial and industrial customers, including apartment buildings, will be limited to their present gas usage, and no new customers in those categories can be accepted.

Paul E. Reichardt, president of the company, said that its new limitation policy responds to "a gas supply situation that can change at any time, for better or worse, depending on many factors." He explained that the shortage of natural gas is not simply a local situation. Most pipeline suppliers, he reported, are having difficulties in meeting growth requirements and contractual commitments to gas companies.

Washington Gas' major supplier, Columbia Gas Transmission Corporation, announced last month that it will be able to supply only enough gas for present customers and a portion of normal growth. Transcontinental Gas Pipe Line Corporation, the other supplier of Washington Gas, recently has been unable to deliver as much gas as the company had contracted for, according to Mr. Reichardt. "These very recent actions," he explained, "have forced Washington Gas into the new limitation policy. Accordingly formal approval is being requested from the appropriate regulatory commissions."

"Although there's plenty of natural gas in the ground," said Mr. Reichardt, "there just isn't enough available right now for everyone who wants it, and there probably won't be for the next few years. Faced with this situation, we're doing what we consider the fairest thing—making it available to present customers and to people who want it for use in their homes. Commercial and industrial buildings can more readily use substitute fuels, and large users can better arrange for the pollution-control devices which other fuels often require.

"In this ecology-conscious society," said Mr. Reichardt, "the clean-burning qualities of natural gas make it a premium fuel. It is by far the least polluting of all fossil fuels, and much sought after. Ironically the big jump in demand for natural gas has come at just the time when new supplies are trending downward. The reduced availability of gas supply has been occasioned largely because prices of natural gas in the producing fields in the past have been kept unreasonably low by regulation."

Since April 1970, Washington Gas has limited new business to a maximum of 300,000 cubic feet per customer per day. This has eliminated the largest potential new users of gas. Also, since last August, the company has not taken on any additional business on its "interruptible" rate schedule (a special rate designed for commercial and industrial customers who agree to forego the use of gas when the demand from other customers is at a peak).

Mr. Reichardt observed that "the nation faces a critical energy situation, in which all fuels are feeling the pinch of short supply." But the natural gas industry and the government, he said, "are taking steps to find solutions, and we believe that the shortage will be of limited duration."

The Federal Power Commission now is allowing wellhead prices of gas to rise, providing new incentive for producers to accelerate exploration for new gas supplies. Leasing of potentially gas-rich Federal lands located in the Gulf of Mexico is being stepped up. Arrangements are being made for the importation of liquefied natural gas by ship, some of which is expected to be available for the Washington area. The prospects of gas from Alaska and Northern Canada look promising. Plants are being designed for the manufacture of synthetic "natural gas" from petroleum products. And a joint industry-government project to develop a commercial process for the chemical transformation of coal into "natural gas" offers one of the most hopeful long-range solutions.

Over the years, to supplement its normal supply of gas from its pipeline suppliers, Washington Gas has developed limited supplies of its own, upon which it can draw during critical periods of demand. Natural gas is stored nearby; substitute gas can be

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manufactured at the company's plants using propane and oil; and a storage field in West Virginia has been developed by the company and will be in operation for the first time this winter.

Gas limitations also are being experienced in parts of Pennsylvania, Ohio, New Jersey, Michigan, and Illinois. Many utilities now have waiting lists for new gas customers, and just recently the New York State Public Service Commission established its own priorities, with residential customers having first claim.

ENERGY CRISIS

(Mrs. HANSEN of Washington asked and was given permission to address the House for 1 minute.)

Mrs. HANSEN of Washington. Mr. Speaker, with great interest I listened to the gentleman from Louisiana.

The Interior Appropriations Committee has been working on the subject of this energy crisis for several years. We have warned this Congress over and over that it was necessary for us to spend more money in supplying knowledge to to the Department of the Interior before the leases were made. The Office of Management and Budget can be held solely responsible for the inadequate budgets that have come before this Congress. We have increased them repeatedly. We have asked the Office of Coal Research to increase their research funds. These people have not done it because of budget limitations and I, therefore, place this energy crisis squarely on the Office of Management and Budget.

FISHING RIGHTS ON THE HIGH SEAS

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VAN DEERLIN. Mr. Speaker, shortwave radio reports reaching the American Tunaboat Association within the last half-hour reveal that five more American-flag tuna boats have been seized off the coast of South America, and one Canadian-flag vessel.

The incident of this morning occurred 65 miles southwest of the Ecuadorian port of Salinas. A converted American Coast Guard vessel flying the flag of Ecuador and having the designation LC61 rammed the San Diego-based tuna boat *Venturess*, then backed off and fired across the bow. The *Venturess* and four other vessels are on their way to, or have already arrived at the Port of Salinas with skippers and 14 crewmen aboard each vessel, under escort.

I think once again we are going to have to look at this policy of providing surplus American vessels on loan to Latin American nations. Too many are being used against American citizens fishing in areas which we regard as the high seas.

CAPT. FLOYD THOMPSON, PRISONER IN SOUTHEAST ASIA

(Mr. WHITEHURST asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITEHURST. Mr. Speaker, on March 26, 1964, Capt. Floyd Thompson was taken prisoner in Southeast Asia. I want to take this opportunity to remind my colleagues today of the great sacrifice made by Captain Thompson and his fellow prisoners, who have suffered the ordeal of imprisonment by the Communists for so long. Lest any person dismiss this lightly, let him consider his own life span and remember all the joys and adventures he has experienced over the last seven and a half years. Captain Thompson has known nothing but the dreary existence of incarceration for all those months and days. Hopefully, now, as we end our involvement in Vietnam, release is in sight for this brave man and the hundreds of others who have shared his fate. Our paramount responsibility is to work toward their speedy release.

BLACK LUNG BENEFITS

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9212), to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

CALL OF THE HOUSE

Mr. MIZELL. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. BOGGS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 373]

Abourezk	Findley	Pelly
Addabbo	Foley	Pepper
Alexander	Ford,	Pryor, Ark.
Anderson, Ill.	William D.	Railsback
Arends	Frelinghuysen	Rangel
Ashley	Gallagher	Riegle
Baring	Gettys	Rosenthal
Barrett	Goldwater	Sandman
Blackburn	Goodling	Schwengel
Brown, Mich.	Gubser	Shipley
Camp	Halpern	Springer
Celler	Jonas	Stanton,
Chisholm	Jones, Ala.	J. William
Clancy	Kee	Stanton,
Clark	Landgrebe	James V.
Clawson, Del	Link	Stuckey
Clay	Lloyd	Teague, Calif.
Collier	Long, La.	Veysey
Collins, Tex.	McClory	Vigorito
Derwinski	Madden	Whitten
Diggs	Michel	Wydler
Dowdy	Mills, Ark.	Wyman
Edwards, La.	Obey	
Elberg	Patman	

The SPEAKER. On this rollcall, 363 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CAPTAIN SAYLOR, U.S. NAVY, RETIRED, WISHES THE "M DIVISION" A HAPPY BIRTHDAY

(Mr. SAYLOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, unemployment is not a recent phenomena. One hundred ninety-six years ago today, the U.S. Navy took upon itself the responsibility for solving one of the Nation's first critical unemployment situations, to wit: What to do with men too weak to be sailors and too bright to be soldiers. The solution was the formation of the Navy's "M Division."

In the ensuing years, the M Division has distinguished itself on every occasion when it was called upon by the U.S. Navy to protect the Nation's interests. From its largely ceremonial beginnings, the U.S. Marine Corps has grown to an effective, efficient, and dependable fighting force of 209,000 men.

The corps has been idealized, glorified, and magnified in song and story in the past 196 years, but in spite of the superhuman tales of valor which one must suffer when listening to any and all marines, it, the corps, is truly dedicated to a spirit of service to our country.

Mr. Speaker, the stories I could tell of the marines I have known are not fit for the delicate ears of those present in this revered House, so I will relate one fact that is worthy of the spirit of the USMC and outshines all the "puffery" of the image makers. It is simply this—from private to general, from aviator to supply clerk, and including congressional liaison types, every marine is a rifleman first, last, and always. And because of this singlemindedness in training, combined with a consistent dedication to excellence, the Nation has always been able to depend on the Marines in time of need.

It is a pleasure to wish the U.S. Navy's Marine Corps a very happy birthday on this, its 196th anniversary.

BLACK LUNG BENEFITS

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 9212, with Mr. STEED in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Pennsylvania (Mr. DENT) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 30 minutes. The Chair recognizes the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. PERKINS).

The CHAIRMAN. The gentleman from Kentucky is recognized.

Mr. PERKINS. Mr. Chairman, the enactment of H.R. 9212 is essential for four reasons. First, title IV of the act dealing with benefits to miners totally disabled because of the occupational disease, pneumoconiosis, or black lung, now provides that benefits may be paid only to miners or their widows whose entitlements may be increased by dependent children. However, the present law does not now permit payments to dependent, surviving children of a miner if both the miner and his spouse are deceased. These double orphans are not now under the law entitled to benefits. This, indeed, was a grave legislative oversight when the black lung benefit provisions were first enacted into law. This legislation remedies that defect.

Secondly, section 2 of the existing law specifically states that:

> The black lung benefits program shall not be considered a workmen's compensation law for purposes of the disability insurance provisions of the Social Security Act.

Under the disability insurance provisions of the Social Security Act disability benefits to a worker and his family must be reduced under certain circumstances if he is also entitled to workmen's compensation and if the combined benefits exceed 80 percent of the worker's average predisability earnings. Let me be more specific as to the effect of this application of the black lung benefit provisions. The Social Security Administration is setting off black lung benefits against social security disability payments even though the law states that the payments are not to be treated as workmen's compensation. The effect in many cases reported to me is that a miner receiving social security benefit disability before he filed a black lung claim received less total funds after his black lung claim was allowed than he received before. Let me give you an actual example of one miner. Prior to black lung, he was drawing $257 a month in social security disability payments. He filed a claim for black lung benefits which the Social Security Administration found he was eligible to receive black lung disability payments of $98.30 a month. The Social Security Administration deducted his black lung benefits from his social security disability entitlement and he actually wound up with 50 cents less than he had when he got his social security benefits.

By setting off black lung benefits against disability payments the Administration is taking away with the left hand what Congress granted with the right. H.R. 9212 would remedy this.

Thirdly, despite a wealth of medical evidence to the contrary, the Administration is denying pneumoconiosis claims solely on the basis of negative X-ray examinations. Let me recite some of the testimony on this point.

EXCERPTS FROM WRITTEN STATEMENT OF THE SURGEON GENERAL OF THE UNITED STATES

> Coal miners' pneumoconiosis is a distinct clinical entity, resulting from inhalation of coal dust. Physicians diagnose it on the basis of X-ray evidence of nodules in the lungs of a patient with a history of long exposure to coal dust. *However, it should be pointed out that data from postmortem examinations indicate a higher prevalence of the disease than can be diagnosed from X-ray examinations.* (*Italic supplied*).

TESTIMONY OF DR. DONALD L. RASMUSSEN, CHIEF, PULMONARY SECTION, BECKLEY APPALACHIAN REGIONAL HOSPITAL, BECKLEY, W. VA.

Of interest is the fact that those miners who have worked primarily at the face in mechanized operations become impaired on an average of 5 years earlier than men engaged in all other mining jobs. These face workers also show somewhat more X-ray abnormality, *although there is little relationship between impairment and X-ray category pneumoconiosis* • • • (Italic supplied).

TESTIMONY OF DR. H. A. WELLS, DIRECTOR, PULMONARY RESEARCH LABORATORY, CONEMAUGH VALLEY MEMORIAL HOSPITAL, JOHNSTOWN, PA.

But I would hasten to interject here that X-ray alone without being coupled with functional testing is going to be a poor indicator of the disease (pneumoconiosis) • • •

EXCERPTS FROM THE ANNUAL REPORT 1967–68, MEDICAL SERVICE AND MEDICAL RESEARCH, NATIONAL COAL BOARD, GREAT BRITAIN

• • • Secondly, it was also rapidly apparent that the X-ray film was not, by itself, a reasonable measure of disability • • •

• • • The disease (pneumoconiosis) is difficult to diagnose, especially in the early stages, and accurate diagnosis depends on three essentials—a high quality full size radiograph of the chest, a full clinical examination (including lung function tests) and complete industrial history • • • The radiograph remains the most important single factor in the diagnosis of pneumoconiosis, as defined • • • *on the other hand the opacities seen in the radiograph are not in themselves diagnostic and must be interpreted in the light* of a detailed occupational history and clinical examinations • • • (emphasis supplied)

H.R. 9212 in this regard provides that claims for benefits may not be denied solely on the basis of the results of a chest X-ray.

And, Mr. Chairman, H.R. 9212 would continue the timetable under the act for 2 additional years, permitting an additional period for the States to prepare to assume responsibility for providing black lung benefits to beneficiaries under the act.

Finally, Mr. Chairman, I ask leave to have printed in the body of the RECORD an article by Estie Stoll from the August–September 1917, issue of The Sciences, published by the New York Academy of Sciences.

This article, entitled "Coal Mining: The Way to Dusty Death," deals with the major problem of coal workers' pneumoconiosis, or black lung, as it is commonly called.

One of the features of this bill would eliminate a negative X-ray as the sole basis for denial of a victim miner's claim for benefits. As this article so clearly demonstrates, X-ray is not effective in detecting the disease until it is far advanced. To quote:

> Unfortunately, by the time lung pathology becomes visible on X-ray CWP (coal workers' pneumoconiosis) may be irreversible.

COAL MINING: THE WAY TO DUSTY DEATH

(By Estie Stoll)

In 1661, John Evelyn wrote that coal "causeth consumptions, phthisicks and the indisposition of the lungs . . . speedily destroy[ing] those who dig it in the mines . . ." After coal was first used to generate electricity in 1880, the demand for carbonaceous fuel increased sharply and mines were deepened; later, continuous-mining machines added to respirable dust concentrations. By 1950, the U.S. Public Health Service had found that coal miners were five times more prone to fatal respiratory disease than other workers. Some current estimates suggest that 125,000 active and former U.S. miners have X-ray evidence of coal workers' pneumoconiosis, or black lung disease, and more than a third of them may be severely disabled.

CLINICAL PATTERNS

Coal workers develop pneumoconiosis from prolonged inhalation of coal dust particles that saturate mine air. They cough up coal-stained sputum, may have chest pain and dyspnea, or shortness of breath; if dust exposure continues, symptoms can become incapacitating.

After ten years' exposure, simple pneumoconiosis, the first stage of disease, may show up on X-ray, generally as widely scattered fine nodules. They represent coal-dust aggregates around bronchioles whose associated air spaces are usually dilated. Clinical symptoms and lung-function abnormalities usually appear later, but in West Virginia—with one of the highest rates of coal workers' pneumoconiosis (CWP) in the U.S.—many men with "simple, nodular pneumoconiosis . . . were significantly disabled," says Dr. Donald L. Rasmussen, Director of the Pulmonary Research Laboratory, Appalachian Regional Hospital, Beckley, West Virginia. (*Med. Tribune*, Mar. 13, 1969)

More advanced or complicated pneumoconiosis develops in about three per cent of active soft-coal miners and in up to 25 per cent of hard-coal miners, usually appearing radiographically after 20 years of work underground. As fibrosis of coal-dust nodules progresses, the nodules grow and coalesce, destroying large portions of lung tissue. Viable tissue is distorted by scarring and contraction, and there are changes in pulmonary function. Impaired oxygen transport increases disability; destruction of small pulmonary blood vessels often leads to right-side heart strain and enlargement—*cor pulmonale*—and death from cardiac failure.

THE PROGRESSION OF X-RAY CHANGES

CWP is diagnosed by X-ray abnormalities and a history of coal-dust exposure. The International Classification of Radiographs of Pneumoconioses—a standard description of X-ray changes—was formulated at an ILO conference 20 years ago and revised most recently in 1968. The Classification divides CWP into seven categories of progessive dust opacity. Though significant ventilatory changes almost never occur before grade 3 simple pneumoconiosis, initial X-ray signs are infallible precursors of later disability, says Dr. Lorin E. Kerr, Director of Occupational Health for the United Mine Workers of America. (*Industrial Med. and Surgery*, Aug., 1956) If their exposure to mine dust is stopped, workers with grade 1 simple pneumoconiosis are rarely disabled; once more massive X-ray shadows have appeared, deterioration continues even after the worker leaves the mine.

DISCREPANT SYMPTOMS AND SIGNS

Unfortunately, by the time lung pathology becomes visible on X-ray, CWP may be irreversible, and radiologic category does not always correlate with disability. "Some miners with massive pulmonary fibrosis are doing their full eight-hour shift, while others with seemingly early pneumoconiosis are on their deathbeds," Dr. Kerr says. (*Medical World News*, Mar. 27, 1970.) The disparity between disability and objective signs of illness was highlighted in a study of 16,000 soft-coal miners from Central and Western Pennsylvania. Conducted ten years ago by Dr. Jan Lieben and his associates at the Pennsylvania Department of Health, it revealed that nearly a third of Central Penn-

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sylvania miners with coalescent lesions denied shortness of breath, but nearly half the miners *without* X-ray signs complained of it. Among the Western Pennsylvania miners with advanced lesions, nearly two-thirds denied breathlessness.

Dr. R. Krémer of the Universitié Catholique de Louvain, Belgium, has investigated the relationships between obstruction, X-ray findings and prognosis in 100 CWP patients. He found that clinical health is closely related to pulmonary obstruction as determined by the amount of air that can be forcibly expelled in one second, the $FEV_{1.0}$. Forty per cent of the men unable to expel more than 1,000 ml of air in one second were dead within a year; 80 per cent were dead within five years. Pulmonary arterial hypertension, caused by increased pulmonary vascular resistance, was also a poor prognostic sign; 70 per cent of the CWP patients whose mean pulmonary arterial pressure exceeded 30 mm/Hg at rest died within a year. When pressure was 15 mm/Hg or less, patients were likely to do well *regardless of the X-ray stage of pneumoconiosis*, Dr. Krémer reported. Thus, measurements of pulmonary function are often more accurate than X-rays in evaluating CWP. (*Apport de L'Hémodynamique Pulmonaire a L'Etude de la Pneumoconiosis des Houilleurs*, 1969.)

In the U.S., autopsy studies confirm that right heart hypertrophy, rather than the amount of pulmonary coal dust seen on X-ray, is critical in evaluating CWP. Dr. Richard L. Naeye, Chairman of Pathology at Pennsylvania State University, recently performed autopsies on 175 Appalachian soft-coal miners. Half of the men who'd been dyspnea-free had nearly twice as much tissue containing coal dust macules as dyspneic miners. But breathless miners had thicker heart walls, more abnormal air spaces, and a higher ratio of bronchiolar goblet cells to non-goblet cells than the non-dyspneics. These results "weaken the value of X-rays as an evaluating tool and strengthen the case for lung function studies," according to Dr. Kerr.

COAL DUST: A COMPLEX PATHOGEN

Although simple pneumoconiosis is apparently caused by accumulation of coal-dust particles smaller than 5 microns in diameter, the pathogenesis of complicated pneumoconiosis is uncertain. Massive coal-dust accumulation appears to alter tissue response so that the disease progresses independently of dust inhalation. But CWP's initial stages are directly related to both quantity and duration of exposure to mine dust. The Lieben study revealed that in Central Pennsylvania, 16 per cent of soft-coal miners under the age of 45, 41 per cent aged 45–64, and 55 per cent of retired miners had X-ray signs of pneumoconiosis; in Western Pennsylvania, incidence rose from four to 15 to 29 per cent, respectively, for these same age groups. Mine workers with the dustiest jobs also face the highest risk. A U.S. Public Health Service study by Dr. William S. Lainhart, of nearly 4,000 bituminous coal miners from Utah, Appalachia, Southern Illinois and Indiana, revealed that cutting and loading machine operators were twice as vulerable as other coal-face workers; motormen and brakemen were four times more disease-prone than other transportation workers. (*J. of Occ. Med.*, Aug., 1969)

Geographic differences also contribute to CWP risk. A four-year study of nearly half a million British miners showed that prevalence varies regionally from 5.8 to 25.3 per cent; regardless of mine dustiness, South Wales' CWP rate is consistently higher than England's. Central Pennsylvania's rate is almost 2.5 times higher than Western Pennsylvania's CWP affects only four per cent of Utah miners compared to 10 per cent of those in Appalachia.

COMPLEXITY OF COAL COMPONENTS

Type of coal mined affects coal dust potency and, therefore, CWP incidence. The higher a coal's rank the "greater the prevalence of disease," according to Dr. William K. C. Morgan, Director of the USPHS laboratory in Morgantown, West Virginia. (*Am. Rev. Resp. Dis.* Vol. 98, 1968) Anthracite, a high-rank coal is older, less volatile, contains more carbon and releases more heat when burned than lignite, a low-rank coal. CWP incidence rates may jump from ten per cent, for men who have worked low-grade coal for twenty years, to nearly 50 per cent for men who have worked high-rank coal for the same length of time.

Because in one form or another, coal contains nearly half the known elements, its constituents have clouded the picture of CWP. Silica, a major coal component, was once held exclusively responsible for all coal miners' respiratory disease. Anthracite, higher in silica content than bituminous coal, causes more severe and extensive CWP. Progressive massive fibrosis appears earlier, afflicting 25 per cent of hard-coal miners compared with only three per cent of bituminous miners, Dr. Charles E. Myers, Director of the Anthracosilicosis Treatment Project, Wilkes-Barre General Hospital, Pennsylvania, told The Sciences. After World War I, anthracite was largely replaced by such cheaper fuels as soft coal, gas and oil; today anthracite mining is a dying industry, virtually limited to five Northeastern Pennsylvania counties. But the hazard of CWP in anthracite mines is still staggering: in one Pennsylvania anthracite county, miners spent 23,000 patient days in the hospital in 1969, at a cost to the county of $1.25 million. Dr. Myers fears that extensive anthracite mining may be revived when other fuel reserves are depleted.

Although silica contributes heavily to pulmonary pathology in anthracite workers, CWP also strikes carbon-electrode workers, coal-loading longshoremen and others exposed to virtually silica-free coal dust. Silicosis and CWP are now recognized as clinically separate diseases which may co-exist and interact in the same individual; on autopsy, they are usually distinguishable.

Miners, too, vary in their response to apparently identical mining conditions, leading some investigators to speculate about the possible roles played by individual susceptibility and auto-immunity. Nearly 20 years ago, Dr. A. Caplan discovered a predisposition to rheumatoid arthritis in Welsh miners with CWP. Caplan's syndrome has since been reported in patients with other pneumoconioses. In the mid-sixties, Swedish researchers found that individuals lacking serum alpha-sub-one antitrypein factor, which prevents trypsin from digesting protein, are more prone to chronic respiratory illness than those with adequate antitrypsin factor; they may also be more susceptible to CWP. Miners speak of "Coal fever," a response in some men new to the mines who are apparently sensitized to coal dust. Dr. Warfield Garson, of the UMWA Welfare and Retirement Fund, reports a response resembling coal fever in test animals; the reaction may indicate a predisposition to CWP.

The role of air pollution and smoking in CWP pathogenesis is ambiguous. In 1968, the USPHS compared respiratory disease rates in miners and non-miners in two West Virginia coal towns with high dust pollution levels. In one town, 15 per cent of 200 miners had X-ray evidence of CWP, compared to less than one per cent of 200 non-miners in the same town. (*Mining Congress J.*, Aug. 1965) Other studies indicate that coal-dust exposure for nonminers may be much less benign. "In hundreds of autopsy reports, not of miners but their families, I noted a high degree of lung involvement . . . (suggesting) a community problem," says pathologist Richard Naeye. (*Medical World News*, Mar. 27, 1970) Soft-coal miners who smoke have more bronchitis, emphysema and *cor pulmonale* than non-smoking miners. Because miners cannot smoke at work, their smoking time is more compressed than that of smoking non-miners, perhaps with greater adverse effects, says Dr. Morgan. (*Va. Med. Monthly*, Dec., 1969)

"Although coal dust may be the specific cause, the expression of disease is the summation of all of the physical, emotional and social stresses [fatigue, heat and humidity, noise, isolation, etc.] to which the miner is exposed," stated Dr. Irving R. Tabershaw, Professor of Occupational Medicine at the University of California, Berkeley. (National Conference on Medicine and the Federal Coal Mine Health and Safety Act of 1969, Washington, D.C., June 1970) High on the list of stresses are respiratory infections, which may co-exist with, contribute to, or occur more often because of CWP. Minor respiratory infections often precipitate dyspnea in miners afflicted with CWP, resulting in serious acute illness.

EUROPE'S LEADERSHIP

Although the U.S. has been very slow to acknowledge CWP as a distinct disease entity, Western Europe and Great Britain have been working on CWP for decades. In 1937, the British Medical Research Council initiated a comprehensive CWP study; six years later, the British government declared CWP a compensable disease, distinct from silicosis. From 1955 to 1965, preventive medicine—diligent X-ray check-ups and early transfer of affected miners from hazardous dust areas—reduced the number of new compensation awards in Britain by four-fifths. When the European Coal and Steel Community was established 20 years ago, financing and co-ordination of CWP research took a great leap forward. Nine million dollars went for CWP research in Europe in 1963, in sharp contrast to the $100,000 granted to the USPHS that same year for a single CWP study. By 1968, when *cumulative* United States appropriations had just passed $1 million, the *annual* research budget in Europe was nearly $20 million.

RESISTANT U.S. PHYSICIANS

"The attitude of the medical profession in the U.S. to the problem of CWP has been . . . characterized by obscuratism and a persistent refusal to face the facts," Dr. Morgan asserts, and history bears him out. Coal dust was recognized as a health hazard in American mines early in the twentieth century, but the solution was seen as improved ventilation. Britain's CWP incidence was attributed to English climate and urbanization, both unmatched in rural U.S. coal towns. Public attention was also directed away from coal dust to silica, and silicosis was soon considered "the only important dust disease," writes Dr. Kerr. (Arch. Env. Health, Apr., 1968) State and Federal compensation laws covered silicosis but excluded other industrial dust diseases. Until its tenth edition in 1959, Cecil's influential Textbook of Medicine denied the danger of "anthracosis," and stated that coal dust benefited the miner by modifying silica's effect and slowing the progression of silicosis. Mine employed physicians failed to appreciate the occurrence of CWP; in one state, the chairman of the silicosis board threatened to resign if CWP became compensable. Death certificates were often incomplete or misleading; heart disease was listed as the cause of death, without mention of CWP as the cause of cardiac failure.

MINE ACCIDENTS—TRIGGER FOR ACTION

Eventually, mine accidents rather than dust disease aroused public ire and forced Congressional action. Coal mining is the most dangerous occupation in the U.S.; a man who enters the mines at 20 runs a 25 per cent risk of death from lung disease or mine accident. On any day of the year, 28 miners suffer disabling injuries; each month, 100 miners die of accidents, a total of 120,000 fatalities in the past century.

In one West Virginia county, there were 11 major mine disasters in 20 years. Three years ago, after 78 men died in a coal-mine explosion at Farmington, West Virginia, Congress began to act. Supposedly safe, the Farmington mine spewed out 8 million cubic feet of methane a day—enough to supply the cooking and heating needs of a small city!

BELATED FEDERAL LAW

The Federal Coal Mine Health and Safety Act of 1969 sets mandatory health and safety standards for underground mines, appropriates aid to the States to help establish or improve local programs for protection and compensation, and provides for Federal funding of CWP research. The Act limits average concentrations of respirable dust in the mines to 3.0 mg per cubic meter of air; in 1973, it drops to 2.0 mg per cubic meter. Unless adequate respirators are provided, mechanical ventilators must remove harmful gases from the mine and maintain an atmospheric content of at least 19.5 per cent oxygen and no more than .5 per cent carbon dioxide. Mine operators must submit dust samples for government analysis, Interior Department officials must make at least four unscheduled mine inspections annually, and penalties are established for offenses.

Mine owners, especially the marginal operators, claim that they cannot comply with the Act and remain in business. "We believe that most mines can comply with the 3.0 standard with presently available technology," Henry P. Wheeler, Jr., Acting Deputy Director of Health and Safety, Bureau of Mines, told the Washington Conference in June, 1970. To facilitate compliance, the Bureau is investigating the use of electrostatic devices to collect dust, foaming agents or steam and water sprays with wetting agents to suppress it, and chemicals to reduce the surface hardness and friability of coal. Dust-producing factors related to mine-machine design are being evaluated. The Bureau is also investigating such innovations as a high-powered waterjet to replace the saw-wheel, transport methods that scatter less dust, effective respirators and life support systems. But "ventilation is the single most important factor affecting the concentrations of dust in coal mines," Mr. Wheeler stresses. Mine owners pump fresh air in to avoid methane buildup but the air either dilutes coal-dust concentrations or stirs up settled particles, Dr. Welby G. Courtney, of the Bureau's Safety Research Center, told *The Sciences*. In fiscal 1972, the Federal government will spend about $6 million on dust control.

The new law also entitles miners to free, periodic chest X-rays and gives those with radiologic signs of pneumoconiosis the option of transferring to less dusty work without reduction in pay. At the end of 1970 the USPHS, the American College of Radiology and the American College of Chest Physicians co-sponsord brief teach-ins on CWP X-ray diagnosis for physicians in several cities.

COMPENSATION FOR CWP

The Black Lung Benefits section of the Act guarantees compensation to miners disabled by pneumoconiosis or to their widows, if the disease was definitely caused by underground mining. Disability is established by evidence of complicated pneumoconiosis on chest X-ray, biopsy or autopsy. A miner with X-ray signs of simple pneumoconiosis is also considered disabled if demonstrable lung function impairment rules out continued mine work, and if age, work experience or educational limitations preclude other employment. Within a month after the law was passed, the Social Security Administration, which will administer compensation claims until 1973, received 100,000 compensation applications. By June of this year, SSA had received 297,162 claims and processed 267,042 of them; disability payments to the 126,396 miners or their widows whose claims were approved range from $158 to $306 per month. SSA's cumulative total of payments is more than $313 million, but 102,000 miners' claims have been disallowed, nearly half because CWP did not appear on X-ray. After 1973, administrative responsibility shifts to the Department of Labor and to state compensation agencies; only eight of the 23 coal-mining states offer compensation for CWP.

OBSTACLES TO ACTION

But law and implementation are still far apart. "The men for whom this statute was enacted are even more outraged today by what they consider inadequate administration of the law than they were months ago before the new law was enacted," Mr. Gerald M. Feder, Associate Council for the Senate Subcommittee on Labor, told the Washington Conference in June, 1970. The Appalachian Research and Defense Fund, a public service law firm in Barbourville, Kentucky, accused the Social Security Administration of dealing inequitably with CWP disability payments. The Fund asserted at a mock trial that only 20 per cent of claims were refused nationally, but 32 per cent were disallowed in West Virginia and 57 per cent in Eastern Kentucky, regions that account for one third of all claims. The Bureau of Mines has been under fire for having too few inspectors, for permitting mines to continue operating with known violations and for excessive identification with the owners.

INHERENT WEAKNESSES IN THE LAW

President Nixon described the Black Lung Benefits section of the law as "temporary, limited and unique, and in no way should it be considered a precedent for future federal administration to workmen's compensation programs . . . all federal responsibility in this area will expire in seven years." Continued miner protection, therefore, depends on state programs—traditionally weak in the past—or on new Congressional legislation. Significantly, the current law applies only to underground mines; strip or surface mining, the fastest-growing branch of the coal industry, goes unregulated.

Because miners who have inadequate X-ray evidence of CWP but are severely disabled by obstructive airway or cardiac disease are excluded from compensation, the "law must already be judged a failure," says Dr. William H. Anderson, Chief of the Pulmonary Diseases Section, University of Louisville School of Medicine. Faced with a mine shut-down, he points out, a miner untrained for other work may be virtually unhirable because of early pneumoconiosis signs on a pre-employment X-ray. He is also ineligible for CWP compensation and may be too young for social security or a miner's pension. Because many physicians are still unconvinced that CWP exists, "to make this law work . . . [you must] gain the interest and the cooperation of physicians who are actually out in the field," Dr. Naeye told the Conference.

Despite these problems, the Act has been hailed as the most comprehensive health and safety law in U.S. history Because of cooperation between several Government agencies and departments—including HEW, Interior and Labor—it may serve as a problem-solving model in such other areas as Medicare and Medicaid, says Dr. George James; President and Dean of the Mt. Sinai School of Medicine, New York. "Federal law has, for the first time, focused national attention on pollution of the working environment of a major industry in so clear a way that it becomes imperative that *all* major industries, and, eventually, all cities, improve the quality of their environments."

Because better health and safety may be the only way to attract new miners to an industry already faced with severe manpower shortages, both miner and owner may benefit from the Act. Though improved technology has steadily reduced labor requirements—one-fifth the number of miners produced the same amount of coal in 1969 as in 1920—workers will always be needed to run increasingly complex machinery. By the mid-1970s, 50,000 new mine jobs will be available; by the turn of the century—when coal demand is expected to be four times current annual coal production—manpower needs will be much higher.

The U.S. has about a third of the world's supply of recoverable coal; each U.S. miner produces about 20 tons of coal per day, compared with three tons in West Germany and Britain, and two tons in the U.S.S.R. Greater productivity has led to more dust and higher health risk. CWP disability, once rare in men under fifty, now strikes 35-year-old miners. "The time has come to replace . . . fatalism with hope by substituting action for words," President Nixon told Congress in March, 1969. "Catastrophes in the coal mines are not inevitable. They can be prevented and they must be prevented."

Mr. ERLENBORN. Mr. Chairman, I yield myself 10 minutes.

The benefit program we are talking about here—the black lung benefit program—was presented and passed in 1969 as a sort of small residual program. It was designed to let Federal general revenues pay monthly checks to a relatively small group of ex-miners and their widows who had generally been bypassed by other benefit programs. The point made was that in some coal-mining States the workmen compensation laws had failed to recognize in an adequate way the lung and related problems that miners can develop from coal dust.

Of course, compensation for disease and injury caused workers by their employment in private industry has been handled by the respective States usually through their workmen compensation programs. But in this instance, it was argued that there was an unmet need that the Federal Government should take care of temporarily. Under the law as passed, the Federal Government would take care of black lung claims filed during the first 2 or 3 years. Then the whole thing would revert to the States. The whole Federal cost of the benefits was said to be around $40 or $50 million a year.

Now let us see what has happened since the bill was enacted in 1969.

First. We are already paying out of general revenues over $300 million a year in the black lung benefits. The total outlay under existing law will have reached close to $1 billion by the end of 1972.

Second. About three out of every four of the people drawing these benefits also get social security benefits. Many get a monthly check from the union pension fund. Some get a veteran's payment, or a railroad retirement payment. So, for the greatest part this has been an add-on benefit that goes to one particular group. For the quarry workers, the ore miners, the textile workers, the grain elevator people, the farmers—along with countless other groups who do work involving risk—for none of these is there a special add-on Federal benefit program on top of social security.

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Third. Despite the claims being pushed by special-interest groups—and despite the news stories—the administering Federal agency has taken a rather liberal approach in carrying out the law. Bear in mind that the benefit payments are already running 5 or 6 times what was supposed to be the cost of the program.

Notwithstanding these facts—which come as a big surprise to those who had not looked into the situation thoroughly—we now have before us Mr. PERKINS' bill to greatly expand this payment of benefits to one special group in the country. Let me point out briefly what it would do.

First. It would say—I think rather incredibly—that the Social Security Administration is forbidden to deny claims on the basis that the X-ray of the miner's chest shows no black lung disease. Remember that the law on the books says the miner—to get the money—must be totally disabled due to black lung, or pneumoconiosis as it is termed. Now, if the claims—still coming in, incidentally, at a great rate—cannot be denied where the X-ray as interpreted by highly competent radiologists shows no black lung problem, on what can a denial be based? How could the agency tell which person is disabled of black lung and who is not? Remember that to qualify under the law the applicant must be totally disabled due to black lung. If he is disabled from other causes, he is no doubt getting benefits under the regular social security program like other disabled people.

The backers of the Perkins bill say there is medical opinion that maybe a miner could have black lung that would not show on the X-ray. But the question is not whether a person has black lung in some minute degree, but whether he has it to a fully disabling degree. The black lung starts like everything else from nothing, and it may go from a hint of something in the lung, then a barely perceptible degree, and so on. Until it reaches at least the point that it shows up on the X-ray, there is no accepted medical basis for finding that the individual is really suffering from black lung, let alone being disabled from it. A great many people who have never seen a mine have some degree of something in the lung that should not be there—from smoking, from emphysema, and so on—and they are not treated as disabled.

But the Perkins bill would say the man may be totally disabled—due to black lung, remember—even when the radiologists say they see no black lung problem and in fact there may be nothing at all unusual in his lung X-ray. What would be the practical effect of this? The backers of the bill say, well, you would have to give him other tests before you conclude he is not disabled of black lung. What tests? You could give him exercise tolerance tests or various others—at heavy expense and a lot of trouble or even danger to the applicant. But what would they prove as to whether the man is or is not totally disabled due to black lung—when you start from the knowledge that an X-ray of his chest shows no black lung? You might get a doctor's report from the difficult tests that the man has this or that problem. But the same kind of problems could be found in all kinds of people who would not know a coal mine if they saw one. So, how could you make a finding that this ex-miner with no black lung showing on his X-ray is disabled of black lung because he has some physical problem similar to what nonminers often have? The simple fact is the overwhelming consensus of medical authority holds that, in the absence of an X-ray showing of black lung in the living miner, there is no sound medical basis for determining what the law requires to be determined—namely, that the miner is disabled due to pneumoconiosis.

You can see from this what the direction of the bill actually is. It is to greatly broaden the program by making tens of thousands of people eligible for benefits who have ailments not peculiar to miners. In other words, these people, the great majority of whom are already eligible for social security benefits, would be paid a special extra benefit whereas large numbers of people throughout the country with the same kinds of physical problems get social security only. Where is the justice or reason in that?

The proponents of the bill say "Oh, no, we can show you doctors who assert they can take a man with a clear chest X-ray, give him some exams, and if a physical problem is found—a problem like those found in nonminers—tell you whether that problem is due to black lung." But let us see what the weight of medical authority is. In 1970, a group of physicians eminent in the field assembled at Spindletop, Ky., to explore this and related matters. Among them were Dr. Benjamin Branscomb, professor of medicine, University of Alabama; Dr. Charles E. Andrews, provost for health sciences, University Medical Center, W. Va.; and Dr. William H. Anderson, professor of medicine, University of Louisville. I will quote from their findings:

"Coal worker's pneumoconiosis cannot be diagnosed in the living in the absence of radiographic changes." Also, the British have been in the black lung matter for over a generation. Their official publication contains this wording: "From a radiograph it is possible to say that a worker is not suffering from the disease."

No, the Perkins bill would not, as it is claimed, correct error in the administration of the law. It would instead open up the special benefit program to many thousands of additional persons whose claim to added tax-free payments cannot be greater than would be the claims of hundreds of thousands of nonminers all across the country. The extra outgo would be well over $1 billion through the next 6 years alone.

One part of the bill would change the whole set of ground rules on how long the Federal Government is to continue to receive and handle these claims for black lung benefits. As I indicated, the law is that the Federal Government is to be responsible for continuing payment of all claims made through 1971. For these, the responsibility for Federal payment continues for the lifetime of the miner, of course. But, for claims made after 1971, the States and the employers are liable for long-term payment. This bill would make the Federal Treasury responsible for continuing payment on all claims made in 2 additional years—through 1973.

You have no doubt seen a letter from coal mine operators on this feature of the bill. They endorse it, and you can readily see why. It shifts a financial burden to the Federal Government involving many millions of dollars.

A third part of the bill would even tap the social security trust funds. At present, in some cases, if a miner is getting social security disability payments and then qualifies for black lung, the total of the two benefits paid him may not be more than 80 percent of his usual earnings when he worked. This rule, which is in the social security law, has limited application but it says—where it does apply—that a person, whether or not he has ever been near a coal mine—cannot get a combined amount in workmen's compensation and social security disability checks that would be unduly large in relation to his usual earnings. This bill would give the miners an advantage over everyone else, so that many miners could get considerably more per month in combined social security disability benefits and black lung payments than they earned by working full time. I do not see how people from all other walks of life—with their own financial problems—can view that as fair or reasonable. They will surely ask why they have to pay taxes for this special treatment of a particular group. And, as I indicated, the provision would have a cost to the social security trust funds. Why? Because at present if a miner's social security disability benefits plus his black lung benefits are more than 80 percent of his usual earnings, the social security part is reduced in some cases to bring the total down to 80 percent. Under the Perkins bill, the full social security disability benefit would have to be paid regardless. This would cost the trust funds $20 million in the first year.

Let me conclude this by making a few special observations:

One. What this bill brings into sharp play is a major public policy question—not a minor question of paying some added miners. By providing these payments to the additional people who cannot be shown by any of the accepted rules to have become disabled by black lung, what we would do is actually to provide extra payments pretty much on the basis that everyone who has worked in the mines and who has problems like the common ones of emphysema, asthma, and so forth, is eligible. This is to say that we would provide a double layer of benefits to a selected group largely because they are members of that group and not because they have problems different from those of other people across the country. The question, then, is how far can we go in providing an extra benefit beyond the social security benefits? Can you expect people in all the nonmining areas—people who have health problems similar to the ones on which the extra benefits to miners would be paid—to do other than demand equal treatment? What of the ore miners, sulphur miners, grain elevator workers, textile workers, and all the other groups I have mentioned? As a matter of fact, are there not even white-collar workers who could get medical testimony that the stress conditions of their jobs had a bad effect on their health? So, I say to you that the bill involves much more than appears on its face.

Two. The section of the Perkins bill dealing with so-called double orphans is one that the administration supported in hearings on the bill. I support it and I know of no one who does not. It has never been in question. It merely corrects what must have been an oversight in the bill. We can take care of this quickly by another approach. The strategy to add on three very undesirable and major changes in the program and to get them through on the back of the widely-accepted double orphan correction ought to be defeated.

I ask that you join in an effort to do justice by insuring that we turn down this unfair, costly, and dangerously implicated bill.

Mr. DENT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, we have very limited time on this piece of legislation. However, we have hashed it out pretty well on this floor on previous occasions.

If I sum up the statement of the gentleman who preceded me on the floor, it comes down to dollars. Regardless of how you might disguise it or try to make out some logical reasoning for his opinions and for the amendments that he is going to offer, it just comes down to dollars.

Mr. Chairman, I would like to clear up one thing for the record. In order that there be no mistake about what I might have said while debating this bill before the House on its first go-around about the cost being estimated at $40 million a year, I researched the whole legislative history of the program, going through the committee reports, conference reports, debates and hearings in the Senate, and so forth. Very few references were made to cost, but this much of a reference was made.

During the House debate on the bill the gentleman from New Jersey (Mr. DANIELS), who had held hearings before his subcommittee on this legislation, got an estimate from the Public Health Service through a survey that they made that there would be 22,300 coal miners in the Nation who would and could possibly be candidates for these payments. That was because at that time no State except Pennsylvania had legislation that was enacted. Moreover, we were only discussing miners suffering from complicated pneumoconiosis.

And, so, therefore the Health Department could not get a more accurate estimate of the number of persons, and we said at that time that it would go to $40 million and possibly $50 million a year.

I would say that based upon the estimates we had, we do have to come down to the fact that 323,000 claims have been processed under this act. That is 14 times as many miners as we estimated. So, when come up with the figure of $400 million-plus the cost, we are only dealing with the original estimate.

But, Mr. Chairman, who in this House or who in this Nation had any idea that that many miners were suffering from black lung.

Certainly, it is a matter of conscience more than it is a matter of dollars.

I have stood on this floor and I have voted repeatedly for farm subsidies, and what is the cost of farm subsidies for this year

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield to me at that point?

Mr. DENT. I shall be glad to yield to the gentleman later under the 5-minute rule.

Mr. STEIGER of Wisconsin. On this question of the numbers?

Mr. DENT. Of what?

Mr. STEIGER of Wisconsin. On this numbers question.

Mr. DENT. Go ahead.

Mr. STEIGER of Wisconsin. You have indicated a total of 323,000 miners would be eligible; am I correct.

Mr. DENT. Yes; I said 323,000 claims were filed but 147,000 were receiving compensation when this figure was given to us, and that was in September.

Now, what of the rest of the hundred-and-some-odd thousand who are still to be reprocessed because of the fact that science has come up now with the statement that the examination by X-ray alone is not conclusive and should not be used to deny the right of a coal miner who is suffering from black lung to be paid if he indeed has black lung that is discovered through a number of other examinations?

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield further?

Mr. DENT. Now, let me finish my statement.

Let me give you some figures. For instance, you are interested in figures.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the chairman of the full committee.

Mr. PERKINS. First, I wish to compliment the subcommittee chairman on his statement and ask the gentleman in the well if it is not a fact that we have had millions of people working in the coal mines over a period of years. When I first came to the House in 1949 we had more than 800,000 people working in the coal mines, is that not correct?

Mr. DENT. It is correct. But, when you are talking about numbers, and especially when it comes to dollars, we cannot afford to talk in terms of dollars when it comes to human beings.

One additional matter, and let me just read a statement from the Secretary of Agriculture, Secretary Clifford Hardin, when he said that the 1972 farm program would cost $2 billion, I voted for that and yet it comes out of the Treasury of the United States. It is paid for by the coal miners and every taxpayer in the confines of this country through taxes because we think it is essential to the welfare of the farming communities of this great country.

Therefore, can we do any less for the coal mining community?

The gentleman scoffs at the idea of continuing this legislation for 2 more years so that the States can pass a State plan. Of course, the mine operators would be happy because it shifts the burden. Do you believe that any person, any group of examiners, any Member of Congress could have determined that 323,000 miners and widows who have now applied and another 150,000 who may well apply, that we can allow the responsibility for the payment of these black lung payments to any individual to the State government. We have had miners who have worked 15 or 20 years in different mines. You will find very few who have worked their entire time in one mine or have worked in one mine all of their lives, because coal mines have a habit of running out of coal.

So they moved to another vein, or they moved to another location, and your people either move with you or they move to another operation. This is not a question of dollars, but simple justice, and it is the responsibility of the people of the United States just as much, or even more so, as it is the responsibility of the people of the United States to pay farm subsidies or any other subsidy.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, it is with deep and sincere concern that I must express my dissatisfaction with certain provisions of H.R. 9212—the bill to amend the Federal Coal Mine Health and Safety Act of 1969. Title IV of this act provides for payment of cash benefits to coal miners—and their dependents—who were found to be "totally disabled" due to pneumoconiosis—black lung disease—and for survivors of coal miners who died from this disease. While I find considerable equity and humanitarian justification in one provision of this bill—the one which permits payment of black lung benefits to dependent surviving miner's children who have lost both parents—this redeeming provision does not favorably alter my opinion that the bill should not be approved. I would strongly urge that we consider this particular provision independently so that it may be singularly and positively acted upon.

Mr. GROSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 374]

Abourezk	Gallagher	Pelly
Ashley	Gettys	Pryor, Ark.
Barrett	Goldwater	Rangel
Blackburn	Goodling	Rees
Blanton	Gubser	Riegle
Brown, Mich.	Halpern	Satterfield
Buchanan	Hansen, Wash.	Scheuer
Camp	Horton	Schwengel
Carey, N.Y.	Jones, Ala.	Smith, Calif.
Clancy	Karth	Stanton,
Clark	Kee	J. William
Clawson, Del	Keith	Stanton,
Clay	Landgrebe	James V.
Collier	Link	Stokes
Derwinski	Lloyd	Stuckey
Dickinson	Long, La.	Ullman
Diggs	McKinney	Vander Jagt
Dorn	Madden	Veysey
Dowdy	Mann	Vigorito
Dwyer	Melcher	Whitten
Eckhardt	Mills, Ark.	Wilson,
Edwards, La.	Morse	Charles H.
Evins, Tenn.	Mosher	Wydler
Frelinghuysen	Patman	Wyman

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Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. STEED, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 9212, and finding itself without a quorum, he had directed the roll to be called, when 361 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of order was made that a quorum was not present, the gentleman from Ohio (Mr. ASHBROOK) had the floor; and the gentleman has 4 minutes remaining.

Mr. ASHBROOK. Mr. Chairman, the first provision to which I offer strong objection permits exemption of black lung benefits from the existing provision of the Social Security Act that requires offset of workmen's compensation payments. This change is entirely inappropriate since the black lung program is, by design, a workmen's compensation benefit program. To exempt black lung benefits from offset when they are paid by the Federal Government but offset them when paid by a State would be most inequitable. I fully believe that this provision serves as an unjustified duplication of workmen's compensation benefits. In addition, this same offset exists for those receiving social security disability benefits and this provision would be prejudicial to these beneficiaries.

Second, this bill provides that a finding of pneumoconiosis may be made even though X-ray evidence does not demonstrate the presence of the disease. Presumption that the disease exists would be an unusually precarious conclusion since the majority of medical authorities accept X-ray evidence as the only valid means of verifying the presence of pneumoconiosis. While further testing would be nesessary to establish the degree of respiratory impairment, the cause of this impairment could be due to emphysema, asthma, chronic bronchitis, or a combination of any conditions other than pneumoconiosis. To permit a finding of this disease in the face of negative X-ray evidence would alter the specialized nature of the original act and, in fact, would permit payment for pulmonary conditions other than pneumoconiosis. This represents unreasonable and unjustified permissiveness which would defeat the purpose of the black lung benefit program and would greatly increase its costs. It is virtually impossible for any miner to have pneumoconiosis to the degree necessary to qualify him for benefits under this bill—disabling black lung, but just some trace of black lung—and not have it detected by X-ray.

Finally, the bill permits an extension of the Department of Health, Education, and Welfare administration of the black lung program by 2 years. It would delay transfer of responsibility for this program to the States, under the administrative guidance of the Department of Labor. Federal administration of this program by DHEW was intentionally temporary in order to permit States an opportunity to take appropriate legislative action for the proper and justified improvement of workmen's compensation programs to cover pneumoconiosis. Many States have taken or are taking this legislative action and to further defer transfer of this responsibility to States would be entirely unwarranted.

This bill is an undue subsidy to coalmine operators. By bypassing workmen's compensation laws and paying these benefits out of the Federal Treasury, they go scotfree—an unequitable bonanza for them.

I fully recognize the fine intent of this bill. However, it unduly delays the acceptance by the States of responsibility for workmen's compensation programs. The merits of this bill are extremely questionable and I am, therefore, definitely opposed to its passage.

Mr. DENT. Mr. Chairman, I yield myself 1 minute in order to make a quick response to the gentleman from Ohio.

I might say that if a State elects to take the action that would save the State money in offsetting the State compensation, all you are doing in the State is saving money for the operators who pay the workmen's compensation on the basis of hourly payments, and on the basis of hourly earnings, because the coal miners who are suffering from pneumoconiosis are going to be asked to pay or give money to the rest of the workers in the State in other industries. That is all you are doing, you are not saving one red cent from the State treasury. All you are doing is taking that out of the coal miner's pocket who is injured.

Secondly, medical evidence has proven that it requires more than X-rays to determine the full impact of pneumoconiosis, or miners' asthma. The record is clear on that point.

Why are you worried about another examination for a determination of disability if that examination would show proof that the miner has pneumoconiosis to the extent of total disability? He is then entitled to benefits. If you are confident that X-ray examination is absolutely accurate in every case, why are you fighting another supplementary test? If the X-ray is all that you say it is, then the additional testing will also correlate with the X-ray findings. We are not proposing to pay benefits to ineligible miners. We just want them to have the benefit of the doubt, and the benefit of the division of medical opinion on this subject.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I recognize and appreciate that there have been many considerations that have gone into the preparation of this bill and at this time I want especially to commend the gentleman from Illinois (Mr. ERLENBORN) for the efforts he has made to write sound legislation affecting black lung. A bill assisting people who are ill and who contracted this disease because of their employment in the coal mines is difficult to oppose because you want to help the men who suffer from pneumoconiosis and their families.

However, the gentleman from Illinois has pointed out some shortcomings in the legislation, and I support his position. However, before I go into that I do want to express definite interest in and support of one provision in the bill.

As you know, the existing act does not permit benefit payment to surviving dependent children of a deceased miner whose widow is also deceased. In fact, if a widow and a child or children of a deceased miner are receiving black lung benefits and the widow dies, the surviving child or children can no longer receive benefits. This is an unusually harsh and inequitable position. For that reason, I would fully support this relief provision which would recognize the extended and continuing dependency needs of a miner's surviving children.

My opposition to H.R. 9212 is in connection with the other provisions in the bill—exemption of black lung benefits from workmen's compensation offset, prohibition of denial of black lung claims based on negative X-ray evidence, and extension of Federal administration for 2 additional years.

I particularly object to the 2-year extension of Federal administration by HEW and their Social Security Administration. The original purpose of permitting Federal administration of this benefit program was to give States an opportunity to modify their workmen's compensation laws and programs so that adequate coverage for disablement due to pneumoconiosis could be developed. By 1973, when transfer of responsibility to States is scheduled to occur, the States will have had 3 years to develop and modify their workmen's compensation laws. I consider this ample time for States to take appropriate and needed action. To delay this transfer would defy the recognized principle of State administration of workmen's compensation programs. In addition, this provision would further encourage Federal involvement in an administrative area which has traditionally belonged to the State.

Again I strongly object to this particular provision, and then to the bill in general the way it is written and, therefore, recommend that we adopt the amendments that are going to be offered by the gentleman from Illinois and the gentleman from Wisconsin. If these amendments are accepted I would surely support the bill.

Mr. QUIE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Minnesota has consumed 3 minutes.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Chairman, on a subject like this, because of the House rules—in 2 minutes—it is almost presumptuous and impertinent for me to even appear on this subject.

I could take the time of this Committee and the time of the House ad infinitum on this. I was born and raised in the hard coal fields. My family on both sides for three generations worked in the hard coal fields—and now I come here.

I first appeared in this well in 1945, and year after year since then in defense of the farmer and his appropriations and

laws—and in defense of cotton growers, in defense of wheat, in defense of rice, in defense of rivers, in defense of harbors, in defense of all these interests because you, my colleagues, told me it was essential for the welfare of your people and of your district—and I believed you, because I know that you knew more than I did.

So today my reputation, my integrity in this House, since the 79th Congress is on the line. I have IOU's through this House without number—blue chips—and today I collect them for this bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DENT. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Chairman, I rise in support of H.R. 9212. As I indicated at the time H.R. 13950 was debated here on the floor, I worked in a coal mine. My father before me and his father before him worked in the anthracite region in eastern Pennsylvania. I do not know of any more hazardous job, unless it is as a member of the combat forces in our Armed Forces.

I can tell you that in eastern Pennsylvania where I spent part of my life, if a man wanted to get out of the mines, he was not able to get a job in any other industry because of an unwritten law under which they would not hire anyone who worked in the mines. My father worked there, starting at the age of 9, and he died at the age of 35. During the last 4 or 5 years of his life he never slept in bed, because if he did he would choke from the dust that he had inhaled since he was 9 years old.

I heard the gentleman from Illinois (Mr. ERLENBORN) say that the cost of the program went five or six times over what was intended. That only goes to show that the committee did not do an effective job. They underestimated the problem. We have had cost overruns before.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MINISH. I am happy to yield to the gentleman from Illinois.

Mr. ERLENBORN. I would point out to the gentleman that the estimate of cost of $40 or $50 million came from the other side of the aisle, the proponents of the bill. I must also point out that at that time HEW estimated it would run $300 to $400 million, which merely proves that their estimate was correct and false estimates were given to the House to help pass the bill.

Mr. MINISH. I do not know that I would agree that false estimates were given. Possibly, it was the best available information they had at the time.

As I said, we have had cost overruns before. The one that comes to mind, of course, is the C–5A.

If this legislation is passed, I do not see that it is going to increase the cost beyond $700 million, because if we do a job and police the mines the way they should be policed under this law then this ought to diminish the need for workers to get black lung benefits.

So far as this legislation is concerned, anyone, I am sure, who has worked in a mine or who has seen people who have worked in the mines—and I recall what the gentleman from Pennsylvania (Mr. SAYLOR) said, that many of his friends who worked in the mines would have to take a rest before they got home—I have seen that happen a thousand times in the anthracite region.

Mr. Chairman, this is legislation that any Member here could support. As the previous speakers have said, we support appropriations for farm subsidies, and since 1964, they have amounted to $19 billion. We have provided foreign aid in a total of $149 billion from the year 1945 to 1971. We have loaned Lockheed $250 million.

I hope we can support this legislation and do something for the men who made their tax money available for farm and business subsidies.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER of Wisconsin. Mr. Chairman, it is exceedingly difficult to have to come to the well of the House this afternoon and talk about this bill. Frankly, the Committee on Education and Labor ought to take a rest from its labors for a period of time, and I hesitate to enter into the continuing saga of controversy surrounding every bill that we report to the floor. There are some who have argued that once a week the House ought to have the privilege of having a bill from the Education and Labor Committee just so that Members might have a greater sense of participation in the legislative process. I am as yet unpersuaded that that would be in the best interests of the Congress or the country.

The bill that is before us today, H.R. 9212, makes various amendments to the black lung benefit provisions of the Federal Coal Mine Health and Safety Act of 1969. I wholeheartedly believe in the purpose of the provisions; namely, to recompense, at least in some small measure, those brave and industrious men who toil underground to provide this Nation with sinews of our industrial progress, and many of whom pay with their health or their lives for this progress.

At the same time I recognize that the black lung disease is an industrial hazard peculiar to the coal mining industry and that, in the long run, compensation costs arising out of employment in a specific industry should be borne by that industry.

Beyond that, Mr. Chairman, I am one of those who, at the time we argued about the Scherle amendment at the time the Coal Mine Health and Safety Act was passed, disagreed about removing the pneumoconiosis provisions from that bill. One of the reasons I did was I did have confidence that the integrity of that program would not be undermined.

Clearly those on the majority side of the aisle were not being fair with the Members of this House at the time this bill was being considered. Some of us did raise the question about the potential cost of the program. That cost analysis is being borne out by the $500 million that has thus far been paid, and the effort of this bill to expand and modify the black lung benefit provisions so as to make them available to people on other than strictly a pneumoconiosis basis would be a serious mistake.

The black lung benefit provisions, as President Nixon pointed out when he signed the act on December 30, 1969, are of a temporary nature. As Members know, they are designed to bridge a time period of 3 years so that those States whose workmen compensation programs do not now adequately cover pneumoconiosis will have an opportunity to improve their programs accordingly. Mr. Chairman, the very temporary nature of the black lung benefits provisions suggest that it would be unwise to attempt to make more than the most needed changes in them.

A most desirable change in this, of course, is the provision in H.R. 9212 under which "double orphans" would become eligible for benefits. I am happy to applaud the distinguished chairman and the members of the Committee on Education and Labor for the bipartisan support they have given to this provision, and I wholeheartedly join them in urging its passage, with technical amendments to be offered by the gentleman from Illinois.

On the other hand, I am chagrined that the majority of the committee has seen fit to support the remaining provisions of the bill. Let me elaborate on one specific provision: The bill would enjoin the Social Security Administration from denying claims for black lung benefits solely on the basis of a negative X-ray. Mr. Chairman, the Social Security Administration's first annual report on the black lung benefits program gives not only an impressive account of the Agency's efforts to get the program off to a quick start and to handle expeditiously the unexpectedly large volume of claims, but it also describes significant problems and issues that have come to the fore in the administration of the program. The report states clearly that the Agency's regulations which require X-ray evidence of pneumoconiosis before a claim can be allowed are based on "the prevailing medical judgment that in the absence of positive X-ray evidence, the disease does not exist or exists to a degree that would have no significant effect on the claimant's functional capacity."

Mr. Chairman, I submit that in its zeal to get the black lung program off to a quick start the Social Security Administration may have alerted not only miners and their widows rightfully entitled to benefits but may have also unfortunately raised the hopes of a disproportionately large number of persons who just could not qualify for benefits under the law. No matter where we draw the line in any law, there will always be people who fall just short of meeting the requirements. But it seems absurd to me to deprive the Agency of the one tool which in prevailing medical judgment enables it to effectively administer the black lung program. Without the screening and diagnostic device of an X-ray we can expect to see the Social Security Administration award black lung bene-

fits to many people who have lung problems not connected with pneumoconiosis. Let us not make the mistake of blowing apart a limited program designed to temporarily alleviate a specific inequity.

Furthermore, Mr. Chairman, another section deserves modification. Under the workmen's compensation offset provisions, the social security disability benefits of a worker and his family must be reduced under certain specified circumstances if the worker is also entitled to workmen's compensation, and if the combined benefits to him and his family exceed 80 percent of the worker's average predisability earnings. The principle behind the workmen's compensation offset provisions is to prevent duplication of benefits to the extent that combined benefits equal or even exceed the worker's earnings before he became disabled. The rationale is, of course, to avoid creating a situation where it is more profitable to collect benefits than to attempt to become rehabilitated and return to work. Because the offset provision is limited to applicants under age 62 who became disabled after June 1965, it has resulted in a reduction of social security benefits for only a small percentage of those awarded black lung benefits. Data from the Social Security Administration show that less than 5 percent of black lung benefits have been affected. However, even though the impact is limited, I believe that the principle involved is sound and should apply to black lung benefits. H.R. 9212 would eliminate the workmen's compensation offset for black lung benefits and should be modified.

Mr. DENT. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BURTON).

Mr. BURTON. Mr. Chairman, I rise in support of the legislation reported out by the Committee on Education and Labor. As the author of this basic section of the Coal Mine Health and Safety Act, I must commend again the chairman of the subcommittee, the gentleman from Pennsylvania (Mr. DENT), for his courageous leadership on this question when the matter was dealt with in the last Congress as well as the distinguished chairman of our full committee for propoding a number of needed strengthening and improving amendments this year.

Mr. Chairman, there are one or two amendments that have been suggested from the other side that I would hope the House would adopt. One would be a clarification by the gentleman from Illinois on the orphans' section and a second is the suggestion by the gentleman from Illinois (Mr. MICHEL) that we extend equity to the surface as well as the underground miners.

Mr. DENT. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to say just in passing that there seems to be a penchant around this House always to kick the Committee on Education and Labor around.

In my 40 years of being a legislator I have never seen a piece of legislation come to the House or the Senate, to a congressional floor, from the Committee on Education and Labor, or from Agriculture, that did not invite everybody to become an expert and get in on it.

We have come in with a clean bill. If there is this disturbance, it is a disturbance of the poor people over there who do not understand it. They put amendment after amendment before the subcommittee and were defeated decisively. The trouble is, they do not know when they are licked. If they would only find out there is a limit to where they can go with futile attempts to do what they want to impose on the majority, the Committee on Education and Labor would go as smoothly as the Committee on Ways and Means.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. Has the gentleman so soon forgotten the 2:30 in the morning session, when we wound up rewriting a bill out of the House Committee on Education and Labor?

Mr. DENT. Yes, and I can remember when we stayed all day on a little thing called insecticides. Everybody knows what insecticide is. It is not hard to understand.

Mr. GROSS. We did not go until 2:30 in the morning.

Mr. DENT. If the gentleman will look up the RECORD, he will find that more time was spent answering useless quorum calls than there was in debate.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?,

Mr. DENT. I am happy to yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate the gentleman's comment. I might remind the gentleman that this bill as it comes to the floor is an example of the way the committee works.

The CHAIRMAN. The time yielded by the gentleman from Pennsylvania has expired.

Mr. DENT. Mr. Chairman, I yield myself 2 additional minutes.

Mr. STEIGER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield.

Mr. STEIGER of Wisconsin. What started out to be a simple bill to insure equity for double orphans suddenly blossomed into a wholesale rewriting of the black lung provisions of the Health and Safety Act.

It seems to me if the gentleman from Pennsylvania had been willing to stay with that portion readily agreeable, instead of attempting to goof up the works by adding in this bill extraneous matter which makes it so much more difficult, we would all get along.

Mr. DENT. I want to say to the gentleman that what makes a horserace is that no two fellows agree which horse is going to win. When you have lost the horserace you cannot respend that money. You fellows keep trying to spend the same money at the same window all the time.

There never has been a bill dealing with justice and equity for the little people ever acceptable to the minority in our committee. Somewhere along the line there has to be a lobby for those who cannot lobby for themselves, so we are here as a lobby for the poor people, the downtrodden, the sick, the halt, and the weary.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Iowa.

Mr. GROSS. I cannot think of a committee that more richly deserves the reputation of being the most rewritten committee in the House of Representatives.

Mr. DENT. I think it does good, because in the end we get all of the ideas and come out with good legislation. That is why today we have aid to education for general and higher education. That is why today we have the best social legislation on the face of the earth in this country, because the Committee on Education and Labor had the courage to bring it out.

Mr. ESCH. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Michigan.

Mr. ESCH. I appreciate the gentleman's yielding.

I strenuously personally object to the chairman of the subcommittee even facetiously suggesting that there is a difference between sides of the aisle when it comes to humanitarian causes.

I will not support this legislation——

The CHAIRMAN. The time yielded by the gentleman from Pennsylvania has expired.

Mr. DENT. Mr. Chairman, I yield myself 1 minute, so that the gentleman may proceed.

Mr. ESCH. I will not support this legislation even though my father was a coal miner at the age of 14 and contracted the disease that this legislation deals with.

I seriously object to the subcommittee chairman's suggesting this even facetiously, or questioning the motives of Members of the committee and Members of this body, the House.

Mr. Chairman, it is with some reluctance that I must speak against H.R. 9212, a bill to amend the Coal Mine Health and Safety Act. I recognize that Chairman PERKINS and our committee have worked long and hard to bring out a bill which would be of aid to the coal miners. Unfortunately this bill does not do this, although it has some excellent features. My father was a coal miner at the age of fourteen, so I have a personal interest in this matter.

The coal miner who spends his life below the surface of the earth, who faces dangers every day of his working life, whose earnings are often insufficient to sustain his family and who may have his work life cut short by the horrors of black lung disease deserves our most serious consideration. Although the well-meaning sponsors of this bill feel they are aiding the coal miners I believe they are misleading themselves, the miners, and the public by promising too much.

Under present law, benefits are payable to a miner only if he is totally disabled due to pneumoconiosis, that is, if he has pneumoconiosis and such functional breathing limitation, or other impairment due to pneumoconiosis, as to prevent him from engaging in any type of substantial gainful activity.

Diagnostic X-ray evidence is the primary source in determining if a miner has pneumoconiosis. If positive X-ray evidence of complicated pneumoconiosis is found, no further evidence is required and the claim is allowed. If negative X-ray evidence is ascertained, the individual's claim is denied. If positive X-ray evidence reveals simple pneumoconiosis, other medical tests are needed to determine the level of severity of the impairment.

If H.R. 9212 is enacted the Social Security Administration, in administering its program, would be required to abandon the position that coal worker's pneumoconiosis can be diagnosed in the living person only by chest X-ray. The consensus of expert medical judgment is that no means, other than chest X-ray, is presently available to diagnose coal worker's pneumoconiosis, as distinguished from other respiratory ailments. Thus the bill would include other lung diseases not related to the coal mining occupation. This clearly is not the purpose of the legislation, it would be costly and would compensate coal miners for impairments not at all related or caused by coal mining. In addition, there are other ill-conceived and poorly thought out provisions which makes this bill clearly undesirable and I, therefore, request my colleagues to reject it.

Mr. DENT. I might say to the gentleman there is no other way to determine how a man feels about an issue in a legislative body except to look at the books. I stand on the record of the votes on any statement I have ever made.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Chairman I rise in enthusiastic support of this bill as it has been reported by the committee.

It seems to me that the time has long since passed when we can argue whether or not the Federal Government has a responsibility for trying to make right some of the wrongs that have occurred in the past.

One of these wrongs which did occur and which has occurred is whether or not people suffering from pneumoconiosis or black lung ought to be compensated in a special Federal program. It seems to me there cannot be any argument on that point.

I have talked to people in my State, which is a major coal producer in the United States, and whether you talk to the producers or whether you talk to the men who mine the coal or to those in the State government, all of them favor extending this program for an additional 2 years, until the end of 1974, before the State responsibility reasserts itself to take over the program.

The men we are talking about are mostly aged. I see them in my office every time I go back to my district. They are 60 or 65 or 70 years of age and are barely able to walk up a flight of steps because they mined the coal that made this Nation great in its very beginnings. It seems to me only just and responsible that we should pass this bill today without amendment by an overwhelming vote.

Mr. Chairman, the legislation before us today is a significant and positive contribution to a better Coal Mine Health and Safety Act, with specific reference to title 4 of that act.

It would, in the first place, correct an obvious inequity in granting benefits to those who should receive benefits under the black lung program. It was certainly never the intent of those of us who sponsored the Coal Mine Health and Safety Act, nor of Congress as a whole, to take any action which would deprive orphans of benefits under the act. Through a legislative oversight, however, the language of the act does not provide for such benefits for orphans. My own bill, H.R. 4236, was placed before Congress this year, and the provisions of that bill have been incorporated here as part of the black lung amendments.

In the second place, the legislation before us would extend for 2 years the timetable for transferring the black lung program from the Federal Government to the States. My own bill, H.R. 9130, which I placed before Congress this year, proposed to do precisely that, and I am pleased to see it included in the black lung amendments presently before us. This seems to me to be a very responsible proposal. In the creation of the black lung program, with its eventual transfer to each of the States which might be involved, we were well aware that the transfer could be accomplished only after the States had modified their own workmen's compensation laws, had established administrative procedures for handling the working of the act, and had provided sufficient funding for the not insubstantial payments which would have to be made. All of us are aware of the great financial burdens which many of our States bear today, and it does not seem unreasonable to give them additional time to prepare for this increased caseload and the additional disbursal of money.

As a third provision, the legislation would exempt the benefits from black lung payments from the computation of income for the purpose of drawing social security benefits. The action of Congress in creating title 4 of the Coal Mine Health and Safety Act seems to me to be a clear expression of congressional intent to make black lung benefits a very special case. To permit the reduction of social security disability benefits when a miner is qualified for black lung payments would, in my opinion, negate the intent of Congress in writing the original act. This section, too, is worthy of support by my colleagues.

Finally, the legislation removes the requirement that X-ray evidence, or the lack of it, be the sole determining requirement in the affirmation or the denial of black lung benefits. Testimony was heard by the committee to the effect that experts in the field of disabling pneumocconiosis judge that this situation may indeed be present in a miner even in the absence of positive X-rays. Studies in Germany, where mining is also a major industry, have been publicized in a recent magazine article, and the experts in that country agree with our own American authorities on the subject.

Because of this, I placed before the House this year H.R. 5472, which would grant a presumption of the existence of disabling pneumoconiosis in any miner who had worked a specific number of years in the mines. The present legislation does not go that far, but I believe this amendment to title 4 is a desirable change, and will receive my support as it deserves the support of my colleagues here in the House.

In summary, therefore, I would urge the passage of this legislation by the House today. The great industrial empire which we know as America today has been fueled by the product of the work of countless of thousands of miners. We have taken the fruit of their industry, the hard and soft coal of America, and we have translated it into the greatest industrial nation on the face of the earth. But in producing the coal that gave us the energy needs we required, many of those miners suffered disease known as pneumoconiosis.

It seems to me that America has a real debt which we owe these miners. The legislation before the House today is a just payment of that debt, and I urge its passage.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield to me?

Mr. McDADE. I am delighted to yield to my colleague from Virginia.

Mr. WAMPLER. Mr. Chairman, I rise in enthusiastic support of this legislation as it was reported by the committee, and I also desire to associate myself with the remarks of my friend and colleague from Pennsylvania.

Mr. McDADE. I thank the gentleman.

Mr. WAMPLER. Mr. Chairman, I wish to call the attention of the Members to H.R. 9212 that would extend Federal benefits to black lung victims in the coal industry under the Federal Coal Mine Health and Safety Act of 1969 for 2 years.

The problem, simply stated, is that very few coal mining States have so far enacted necessary State legislation to take over benefit payments. The possibility is that thousands of black lung victims may be deprived of benefits unless this Congress acts.

When the Congress enacted the health and safety law for coal miners, we directed that the Federal Government would pick up the great backlog of black lung victims and pay them disability benefits for the fact that they are no longer able to work because of their ravaged lungs. The job of paying such benefits was gradually to be assumed by the several coal mining States. I must report to you that the States, so far, are not assuming their responsibilities.

H.R. 9212 also makes other changes and improvements in the law as it affects black lung victims so that, for example, the 2,000 children who are double orphans and whose fathers died of black lung may receive benefits.

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Mr. Chairman, in the course of working in behalf of this vitally needed legislation I have been in continual contact with representatives of the coal miners of this country, including James Kmetz, a legislative representative for the United Mine Workers of America. I am convinced on the basis of my discussions with these representatives that the amendments to the black lung section of the health and safety law are necessary to protect the victims and their families of this dread occupational disease of our coal industry. I am told, for example, that Dr. Lorin E. Kerr, director of the union's department of occupational health, has conservatively estimated that as many as 4,000 coal miners a year are dying as the result of this illness.

It has come to my attention that some misinformed reporter has published a report that Mr. Kmetz has not been working for the passage of H.R. 9212 because he felt that if the bill did not pass his union would be blamed. This is a completely fallacious report because I know personally that Mr. Kmetz has worked and continues to work most diligently in behalf of H.R. 9212—and I might say all similar legislation for the benefit of the coal miners he represents.

As a part of my remarks, I include the following news release from the United Mine Workers of America:

UMWA News

The United Mine Workers of America today called upon the U. S. House of Representatives to enact H.R. 9212 as quickly as possible without crippling amendments as "a matter of social justice and humanity for the nation's black lung victims."

The Union's call came in the wake of an unsuccessful effort several days ago to win adoption of the legislation under a suspension of the rules. The effort failed to obtain the required two-thirds majority by eight votes. The legislation is expected to be returned to the floor under an open rule in the next several days.

H.R. 9212 would extend federal benefits to black lung victims under the Federal Coal Mine Health and Safety Act for two years. Few states have so far enacted necessary legislation and the benefits of thousands of black lung victims will soon be endangered unless Congress acts.

Despite the legislative history of the Federal Coal Mine Health and Safety Act, the Department of Health, Education and Welfare has insisted upon interpreting black lung benefits as workmen's compensation. As a result, benefits due disabled miners under the Social Security Act are deducted from black lung payments. H.R. 9212 specifically would provide that black lung benefits shall not be considered workmen's compensation for purposes of the disability provisions of the Social Security Act.

H.R. 9212 would also authorize the use of techniques other than X-rays to determine the presence of black lung. Under the existing provisions of the law, thousands of black lung victims are denied benefits because X-ray tests are not conclusive. The U. S. Surgeon General has testified that miners who have shown no evidence of the disease with the use of X-rays were frequently found to have contracted it upon autopsy.

The proposed legislation would provide black lung benefits to some 2,000 children who are "double orphans" as a result of the deadly affliction. The present law continues benefits to widows when black lung victims die, but denies them to the children when both parents become deceased.

"The provisions contained in H.R. 9212 are overdue. They would provide essential directives to HEW which has used all kinds of technicalities to refuse black lung benefits, and which has ignored the history of the law in denying social security disability benefits due black lung victims. In establishing payments for minor children, the legislation would make some amends for the death of the family bread-winner as a result of black lung. Finally, the need to continue the federal program at this time is imperative to insure continued benefits to thousands who have contracted terminal black lung and who can no longer hold gainful employment," W. A. (Tony) Boyle, UMW president said.

Mr. ERLENBORN. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. REID).

Mr. REID of New York. Mr. Chairman, I thank the distinguished gentleman from Illinois for yielding to me.

I would like to rise in support of this bill and particularly to discuss title IV. I will endeavor to try to bring a little clarity to a subject that I think has gotten somewhat confused.

Earlier this year I wrote to the Secretary of HEW, Mr. Richardson, specifically on this legislation. He replied under date of September 29, referring with his letter a report from the Director of the Bureau of Disability Insurance in the Social Security Administration. This report in turn said several things. This relates to title IV.

First it acknowledged that—

In establishing criteria for evaluating total disability due to pneumoconiosis we were directed by Congress to use the best medical means available.

Second, it indicated that the regulations as published provide that there must be X-ray evidence of pneumoconiosis, thus reflecting a prevailing medical judgment that pneumoconiosis can be diagnosed in a living person only by use of the X-ray. But then it added this:

There is some minority medical opinion to the effect that disabling pneumoconiosis may exist in the absence of positive X-ray evidence thereof.

The report pointed out that the department was trying to carry out a pilot project in conjunction with the Public Health Service in order to determine "the effectiveness and feasibility of developing a simplified exercise test," and that Dr. Rasmussen had agreed to participate in this pilot project. The project the report notes, "is expected to lead the way to establishing additional methods and criteria for evaluating total disability under the black lung program, as well as to the availability of more adequate medical facilities in the coal mining areas to perform this testing."

I in turn have been in touch on the phone and in writing with Dr. Rasmussen. He points out very explicitly that—

No objective, informed member of the medical profession would suggest that the chest x-ray has greater validity in diagnosing occupational lung disease than the GI x-ray in diagnosing peptic ulcer, the ECG in diagnosing myocardial infarction or the sputum examination in diagnosing tuberculosis. The point which, in my opinion is crucial, is that the tenacious clinging to x-ray evidence of pneumoconiosis is *medico-legal, not medical.* It is . . . not scientific medical judgment.

He goes on to say:

I challenge the statement that the prevalent medical judgment places this reliance on the chest X-ray, regardless of its practicality . . . I have been anxious to begin a study suggested by HEW and I will do so eagerly when the first patient has been referred to our facility.

Unfortunately, Dr. Rasmussen points out, the SSA has not awaited the results of this study before continuing the practice of denying requests for reconsideration without additional information. He notes that there are a number of factors that can lead to an overall diagnosis and that the X-ray is one, but definitely not the only one.

He believes in an overall professional diagnosis before making the judgment.

I think, accordingly, that section 4 is simple justice.

Mr. Chairman, the gentleman from West Virginia (Mr. HECHLER) has pointed this out time and time again and the subcommittee has pointed it out, that to permit the X-ray to be the sole basis is an injustice.

Mr. DENT. Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. HECHLER).

Mr. HECHLER of West Virginia. Mr. Chairman, the gentleman from New York (Mr. REID) has made a very significant statement. I also subscribe to the sentiments of the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from Virginia (Mr. WAMPLER).

I do not understand why there is such lavish devotion exclusively to X-rays in diagnosing pneumoconiosis; X-rays are helpful but not conclusive, and they are only one tool in the diagnosis. Pneumoconiosis simply interferes with the ability of the lungs to transfer oxygen into the bloodstream. I know of totally disabled living miners whose X-rays do not show up any evidence of pneumoconiosis. Subsequently, these miners have had a few ribs removed by surgery—a painful operation—and then they have had biopsies, where pieces of their lungs were taken out. The biopsies have then conclusively proven that these totally disabled miners have pneumoconiosis.

Obviously, Mr. Chairman, we cannot force every living miner to have a biopsy. Yet Dr. Donald Rasmussen has indicated conclusively that the use of the arterial blood gas test with exercise is frequently the most reliable means of measuring whether or not a miner has pneumoconiosis, because such a test measures the oxygenation of the blood.

Mr. Chairman, section 4 of this bill is sound. This entire bill is sound. It will bring justice to the coal miners and to the families of the coal miners of this Nation.

Of course, I would like to see additional improvements which would enable widows to utilize testimony of friends and relatives where medical records have been destroyed. The Social Security Administration should be doing this already under the existing law.

But I feel that the many crippling amendments proposed should be defeated.

Therefore, I urge that this bill be adopted without amendment.

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have no desire to go over ground already covered. However, let me make just one or two additional points.

The gentleman from West Virginia (Mr. HECHLER) points out the fact that there is another alternative test in the living person to the X-ray and that is a biopsy. I would hope that they would look at this problem in this fashion: If you outlawed the use of the X-ray, you would be mandating the use of the biopsy. Do you want every coal miner to have a biopsy in order to determine whether or not he has this disease?

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I cannot yield to the gentleman from Kentucky at this point.

Secondly, if you are going to expand these benefits and give them, in effect, to those with emphysema and with other lung-related diseases because you cannot use the X-ray any longer, you will increase the burden on the States when they ultimately take over.

Third, this legislation contemplates the benefit being paid in the future through workmen's compensation laws. If you limit the workmen's compensation setoff, then the men who are getting Federal benefits will get greater benefits than the man who is getting the State workmen's compensation benefits. The man who qualifies in the third year or fifth year, which is the year in which the claims are determined by the Federal Government would ultimately affect the obligation of the State government in having the burden to meet matching payments without the offset, and then when the State workmen's compensation takes over and the offset applies, he will have his pension reduced.

Mr. Chairman, in my opinion this points up the fact as to how ridiculous is the approach contained in the bill before us.

I submit there are really one or two things being attempted here. First of all, to extend benefits to those who are disabled from something other than pneumonoconiosis by denying the diagnostic tool, the X-ray, and, secondly, to expand the benefits to the point where it would be unfeasible for the State to take it over under workmen's compensation. I believe if this passes, the States will never take it over.

Mr. MORGAN. Mr. Chairman, I rise in strong support of H.R. 9212. Those of us who represent coal mining areas have too long been aware of the meaning of black lung not only to the miners who suffer it, but also to their families.

There are few who disagree with the provision the bill makes for taking care of the double orphans. This is a situation which obviously requires new legislation.

I believe that the Congress should make clear that we do not want black lung benefits to be considered as a workman's compensation plan. Coal miners are subject to this danger, and most other workers are not. This is a special hazard, and we should make special provision for those who suffer from black lung.

I urge particularly that we provide for some flexibility in the Social Security Administration's requirements with regard to X-rays. The purpose of this bill and of legislation previously passed is to take care of the people who in the normal course of their work have contracted this disease. The important thing is to take care of those who have black lung, not to establish diagnostic procedures by Government regulation or by legislation.

Finally, Mr. Chairman, let me say a word about the cost of doing what should be done and has to be done for the victims of black lung.

As long as those who mine coal are threatened with black lung, society ought to pay as much of the cost as it can.

The heaviest cost will always rest on the miners and their families. Men whose lives are shortened and who are physically unable to earn a living will always bear most of the cost.

Every man, woman, and child in the United States benefits from coal even though most of us have no occasion to buy it. Just as we benefit indirectly from coal as a source of power, light, and manufactured products, we ought to share the indirect cost of mining coal, such as the care of the miners who contract black lung and their dependents.

Mr. Chairman, I urge passage of this bill.

Mr. PRICE of Illinois. Mr. Chairman, we are in the midst of an emergency. The inequities that face thousands of coal miners and their dependents have not been alleviated adequately by the Coal Mine Health and Safety Act of 1969, the bill that was designed to help these people live with the debilitating reality of pneumoconiosis or black lung disease.

I do not mean to say that the act of 1969 was totally ineffective. On the contrary, I am merely saying that we now can see from subsequent medical evidence that black lung disease symptoms are not so easily detected by the use of a simple X-ray. Too many times have autopsies shown what X-ray did not.

The legislation we are considering today—H.R. 9212—is designed to modernize the 1969 act, bring it up to date in the light of its workings over the past 2 years. H.R. 9212 would prohibit automatic denial of benefits solely on the basis of chest X-ray results. Other additional methods, such as the arterial blood gas test, would have to be used to prove more conclusively whether or not the miner has the disease. The Congress must clarify its original intention by reducing the power of the X-ray in final determination of physical condition, thereby restoring just administration of benefits to black lung victims formerly barred from relief by unfortunate interpretation of the law.

Mr. Chairman, I have been aware of the problem of inequitable administration in my home State of Illinois. According to the Social Security Administration, which handles the claims, the following figures have been cumulated to October 8, 1971. I think they may serve to shed light on the problem. Of the 19,493 claims filed and 18,204 claims processed in the State of Illinois, only 4,248 have been paid to miners, 3,648 to miners' widows, and 3,672 to additional dependents; 6,493 miners' claims and 3,369 widows' claims were denied. The total allowance/denial ratio was 45/55; for widows the ratio was 52/48; and for the miners themselves, the ratio was 40/60. These figures indicate the tragic insufficiency of the X-ray determination, for as the program has thus far been administered, a black lung victim too often has to be dead before he can receive any benefits. Mr. Chairman, I think my point is clear enough.

Furthermore, today's bill extends benefits to approximately 2,000 so-called "doube orphans," the dependent children of a miner who died of black lung disease and his widow who is also deceased. The 1969 act provided that benefits be paid only to the minor or his widow, with supplemental sums allowed for the care of dependent children. But experience has shown the hardships resulting from the lack of any provision for the care of double orphans.

In the interest of justice to sufferers of black lung disease—the miners and their families—I urge my colleagues to lend this legislation their enthusiastic support.

Mr. HELSTOSKI. Mr. Chairman, the legislation before us today goes a long way toward clearing up many of the administrative difficulties and inequities contained in the original black lung benefits program adopted by Congress in 1969. A much more compassionate approach to this problem should result from passage of H.R. 9212.

However, I would also like to associate myself with the separate views expressed by my colleague (Mr. REID) of New York in the committee report. As he points out, the Social Security Administration must recognize the human problems involved here and compassionately assist miners and their families in trying to prove their eligibility for black lung benefits.

After decades of neglect by coal mine operators, company doctors, and lax State officials, it is no surprise to find that miners in States such as Kentucky and West Virginia have difficulty in proving their eligibility for the benefits program. Testing facilities usually did not exist and medical records have often been scanty or misleading. The Social Security Administration must, therefore, bend over backwards and give the benefit of the doubt to the miner or his survivors. It would be most inequitable to deny benefits to eligible persons simply because, through no fault of their own, they have been the victims of neglect on the part of the coal bosses and State authorities.

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Mr. Chairman, the legislation before us today is needed and overdue. Congress has done its part; now it is up to the Social Security Administration to exercise the maximum compassion in carrying out the provisions of this bill and the 1969 legislation. If that agency is not fully responsive to the needs of black lung disease victims and their survivors, then we must be prepared for further legislative action.

Mr. DENT. Mr. Chairman, this bill was before the House on October 18. At that time, it was considered under suspension-of-the-rules and did not receive the required two-thirds vote.

Although 227 Members voted "aye," 124 voted "nay." Most of the "nay" votes were inspired, I am certain, by the cost estimates thrown around on that day. We were told that the bill would cost $1.2 billion over the next 6 years; that comes to $200 million a year, or an average of $16.6 million a month. Even though we disagree with those estimates, and consider them deliberately inflated, we are not troubled by them. After all, we are talking about compensating orphans of coal miners who have died from black lung, or who suffered from the ravages of that dread disease. We are talking about modifying the existing law with respect to their tragic plight, and that of their widows.

In any event, the bill—although receiving a substantial majority—was not approved at that time because two-thirds of us apparently did not agree on the priority of recognizing and reacting to destitution, despair, and human misery.

It was coincidental but fitting, Mr. Chairman, that the edition of the Washington Post on the morning following our action carried two stories of particular relevance to that action.

On page 3 of that edition, an article entitled "Farm Aid In '72 May Hit $2 Billion" appeared. The entire article will appear at the conclusion of my remarks, but a few excerpts are quite appropriate at this point. In fact, the first two paragraphs tell enough:

Candidly acknowledging he hoped it would help President Nixon's re-election, Agriculture Secretary Clifford M. Hardin yesterday announced a 1972 farm program designed to slash feed grain surpluses and boost their sagging prices.

Hardin, who has been under heavy political fire because record-breaking 1971 grain production has depressed prices, told a news conference that next year's program of supports and production control for corn and other feed grains may cost $1.8 billion and perhaps as much as $2 billion. This compares with this year's estimated cost of $1.2 billion.

Mr. Chairman, I can appreciate the fact that the expenditure of $2 billion next year on supports and production control for corn and other feed grains might enhance President Nixon's re-election possibilities, as Secretary Hardin has acknowledged; but when I compare that $2 billion for crops, with the $135 million this bill will provide desperate people in fiscal 1973, I cannot help but be concerned about the lack of compassion and wisdom in this Congress.

The second story in the Post I referred to, which appeared on the back pages of that day's edition, was entitled, "Miners Work To Keep Children From Mines." It was datelined Grundy, Va.

Mr. Chairman, I could not find Grundy, Va., on a map, but I know where it is and what it is like because I have seen a hundred little coal towns just like it.

Grundy is the home of Virginia Pocahontas Mine No. 1, and near six other mines just like it. And the Dismal River—quite appropriately named, I might add, for the benefit of those of you who have never seen a coal town—winds its way by.

Grundy is also the home of Robert Musick, a coal miner for more than 20 years.

I've got five children, two of them in college,

The article quotes Mr. Musick as saying.

I can't make ends meet,

He continues:

I've got everything I own in hock to get them an education so they won't have to go through in the mines what I went through.

If I can get these two through, they might help me with the other three. That's what I'm hoping.

Mr. Musick earns $7,500 to $8,500 a year—average for a miner—depending on overtime and how many days he can not work. And when he leaves for work each day during the twilight hours—unlike the farmer on the other end of a Federal subsidy—he is not sure he will be coming home that night.

The article also quotes Ray Thompson, a coal miner for 27 years:

You need some things right away. Then it grows on you. And you have to eat. If you were to eat, you had to go to work in the mines.

Mr. Thompson is out of work waiting for the coal strike to be settled. He is hoping for a contract, as he says:

Will help you pay all your bills—provided the people that run the stores don't raise their prices and eat it all up.

About two weeks before a new contract, the stores raise their prices.

He said, and also added that it costs him $12.37 just to go to work each day—his car, lunch, clothes, and taxes.

Maybe it was Chris Deel, however, who summed it up the best. Chris is 46 years of age, and first went into the mines at 18. He said:

A coal miner's got the most dangerous job in the world.

The younger generation don't want to go into the mines. They've heard about black lung. It's slow, but it's a killer.

Mr. Chairman, I have no eloquence beyond that simple statement of truth.

[From the Washington Post, Oct. 19, 1971]

FARM AID IN 1972 MAY HIT $2 BILLION

Candidly acknowledging he hoped it would help President Nixon's re-election, Agriculture Secretary Clifford M. Hardin yesterday announced a 1972 farm program designed to slash feed grain surpluses and boost their sagging prices.

Hardin, who has been under heavy political fire because record-breaking 1971 grain production has depressed prices, told a news conference that next year's program of supports and production control for corn and other feed grains may cost $1.8 billion and perhaps as much as $2 billion. This compares with this year's estimated cost of $1.2 billion.

But Hardin said the new plan—which calls for a sharp increase in land retirement plus higher direct payment to farmers—would bring higher market prices for feed grain by next fall.

Hardin also announced that the 1972 government support plan for cotton will be basically unchanged from this year's program and that soy bean supports will be kept unchanged at the 1971 level.

Under the 1972 feed grain program, Hardin said he hoped to get producers of corn, sorghums and barley to idle a total of at least 30 million acres of crop land—more than double this year's retirement of 18.2 million acres by corn and sorghum growers.

[From the Washington Post, Oct. 19, 1971]

MINERS WORK TO KEEP CHILDREN FROM MINES—8,500 OUT IN SOUTHWEST VIRGINIA

(By William Nye Curry)

GRUNDY, VA.—Except for the whine of the ventilators still drawing the deadly fumes from the mine shafts, Virginia Pocahontas Mine No. 1, like six other mines near here, is closed, shut down by the United Mine Workers.

Along the Dismal River, threading through Buchanan County, long lines of empty coal cars stand idle, for the biggest industry in Southwest Virginia has been halted by 8,500 striking miners who say, "No contract, no work."

Among the reasons for a new contract cited by the miners are rising prices, making enough to give their children a chance to escape the mines, and obtaining better benefits for those who stay and bring up coal from the earth.

New talks begin Tuesday between the United Mineworkers Union and the coal mine operators, who have been accused of stalling by UMW president W. A. (Tony) Boyle. Negotiations in the 18-day-old strike broke off last Thursday.

"I've got five children, two of them in college," said Robert Musick, 40, a miner since he finished high school, who was sitting in the John L. Lewis Union Building near here.

"I can't make ends meet. I've got everything I own in hock to get them an education so they won't have to go through in the mines what I went through.

"If I can get these two through, they might help me with the other three. That's what I'm hoping."

Earning $37 a day under the old contract, Musick makes $7,500 to $8,500 a year—average for a miner—depending on overtime and how many days he can't work.

He, along with 8,500 striking miners in Southwest Virginia and 72,000 others nationwide, want higher pay and more money to fatten the union's welfare fund for men stricken with various mining ills, and for their widows. The UMW has proposed a $50-a-day wage and a doubling of the 40-cents-a-ton royalty the mine owners pay to the union's pension and welfare fund.

The miners get no strike benefits from the UMW until they have been out four weeks; until then, they dig into their savings and stretch their credit.

It is unknown what effect, if any, President Nixon's Phase II economy controls would have on a new contract. When the men talk of it here, they talk only of equitable controls—ones that include profit and interest rates.

Technically, the men are not on strike; they just don't have a contract under which to work, and are operating under the principle of "no contract, no work."

Musick works in Buchanan County, one of 4,200 miners in the county situated 350 miles southeast of Washington. Buchanan is the biggest producer of coal in the state, but getting at that coal is considered the most dangerous occupation in the country.

"You need some things right away," mused 51-year-old Ray Thompson as he reflected on the day 27 years ago that he started mining. "Then it grows on you. And you have to eat. If you were to eat, you had to go to work in the mines. There were no jobs in the city then."

"They had the key to your belly," said Arthur Welch of the coal companies. He has been a miner for 33 of his 50 years, and he says that "if I were to choose to leave here with no more skill than I have, I'd be a low-paid man at a factory." Even that would mean retraining, he said, and another miner observed to him that "nobody would retrain you at your age."

So they stayed with the mines, and now they're waiting for a new contract to be negotiated.

Some passed their days watching the World Series. Others went fishing or hunting in the rocky streams and mountain woodlands. This is rugged but scenic land—except for the great, black slag heaps of coal-mine wastes dumped over the years in the hollows among the hills.

A group of miners killing time in the Lewis Building talked of what they would do with money won under a new contract. Thompson, who has helped one son through college and hopes to do the same for three others, said it "will help you pay all your bills—provided the people that run the stores don't raise their prices and eat it all up."

"About two weeks before a new contract, the stores raise their prices," Thompson said. He added that it costs him $12.37 just to go to work each day—his car, lunch, clothes and taxes.

"We've come a long way," said Welch, "but we've got a long way to go."

The men talked of black lung—coal dust in the lungs—and the general hazards of working in the nation's most dangerous industry. As they spoke, a miner who lost an eye to coal chip a year ago haggled in a little office with a UMW attorney over what compensation he would get for the injury, if any.

Four men sitting together—Thompson, Musick, Welch and Beecher Elswick—are all sons of miners; among them they have 15 children, and so far only one has become a miner. Others have grown up and left the area; the men hope the boys remaining at home will not have to work in the mines, and that means moving away.

From 1960 to 1970 Buchanan County recorded a 17 per cent drop in its population, from 36,724 to 30,490. The state's five other major coal-producing counties also sustained population losses.

All told, the six counties lost 32,520 people in the 10 years between censuses.

"A coal miner's got the most dangerous job in the world," says Chris Deel, 46, who first went into the mines at 18. Of his six children, three have moved to Michigan for factory work.

"The younger generation don't want to go into the mines. They've heard about black lung. It's slow, but it's a killer," said Deel.

Elswick, 45, who started work as a miner in 1948, said, "There's nothing else for them to do, but leave to get a job. And I don't want to see our kids get cut up, butchered up (in the mines)." He has a son in the Navy and a married daughter.

"That's the reason I'm in hock," Musick said. "So I don't have to send my children to the mines."

Mr. BLATNIK. Mr. Chairman, it is most unfortunate that our distinguished colleague, JIM KEE, is absent on official business, on the authority of the House Public Works Committee, and cannot vote for the black lung bill. JIM fought long and hard for this bill, which is of great consequence to the people of West Virginia, and to coal miners everywhere.

Several weeks ago, before we had any idea this legislation had been scheduled for this week, I, as chairman of the House Public Works Committee, approved a series of important out-of-town hearings on watershed development, by the Conservation and Watershed Development Subcommittee, of which JIM KEE is chairman.

Up until the very last moment, we were juggling the timing of the trip around the bill's possible scheduling. When, at last, we were advised on sound authority that the bill would be delayed until later, we went ahead with the plan for the subcommittee's trip.

After the hearing had been scheduled and announced, the black lung legislation was brought to the floor this afternoon.

But for these pressing and long-promised hearings, JIM would have been here to vote on this extremely important legislation.

Mr. KEE. Mr. Chairman, as a representative in this great legislative body, and as a member of the House Committee on Interior and Insular Affairs, our honorable chairman some time ago, and before H.R. 9212 was scheduled for consideration on the floor at this time, extended an invitation for me to represent the majority at a Lead and Zinc Conference in Malaga, Spain, beginning October 28, 1971, and ending November 5, 1971. I accepted this invitation and honored my commitment.

When H.R. 9212, now under discussion, was brought up under suspension of the rules on October 18, 1971, I rose on the floor of the House and strongly urged my colleagues to support it. When the roll was called, I voted for its passage. The vote was 227 ayes and 124 nays. Under the parliamentary rules a two-thirds majority was required, therefore, the bill failed of passage by seven votes.

Once again it is before the House for consideration. This time the Rules Committee has recommended an open rule with 1 hour of debate. Once again I strongly urge my colleagues to support this badly needed legislation.

In my remarks on October 18, 1971, I stated that as the Representative from the largest coal-producing congressional district in the United States I had felt for some time that some of the provisions of the Federal Coal Mine Health and Safety Act of 1969 needed clarification to make it more equitable. In my judgment, H.R. 9212 does correct some of the inequities that we have found in this act.

I supported enthusiastically the Federal Coal Mine Health and Safety Act of 1969, which is now Public Law 91-173. I had long been an advocate of legislation to give the disabled miner relief from the rigors of his hazardous employment and it was for this reason that I introduced H.R. 9850, the very first bill introduced in the Congress for those suffering from black lung, and their families.

We have since learned that the black lung disease benefit program as established by title IV, does not always give the coal miners with this disease the benefits to which they are entitled. In some instances it is found that this injustice is caused by placing too much emphasis on X-rays. It seems to me that to deny claims for black lung benefits solely on an X-ray examination was never intended by the Congress, and is a most unfortunate situation insofar as justice is concerned to the coal miners in this country.

At the time I testified during the hearings on this legislation in May 1971, I stated that in my own State of West Virginia, there were claims filed amounting to 58,300. According to the latest black lung statistics that figure has now risen to 59,234. About 32,981 of these claims were made in my district. Claims paid for the entire State of West Virginia are 24,491. The claims paid in my district amount to 14,501.

On the other hand, the statistics show that there were 15,513 denials. I have no way of knowing whether or not all of these denials would be approved, but I do state that under this new legislation which prohibits the use of chest X-rays as the sole basis for denial of claims, I am reasonably sure that quite a few of them would.

Likewise, a third of the black lung benefit claims which have been turned down to date have been disallowed, because the miner was not totally disabled. In fact, what the Federal Government is saying to these miners is that they do not qualify, because they are not totally dead. I have contended from the very beginning that the requirements for determining "total disability" should be made more realistic. It seems to me that any miner who is rendered incapable of performing his usual mining job should be considered "disabled" under the Federal black lung compensation provision. I feel that this bill recognizes this phase.

I am also pleased that under this legislation the Federal Coal Mine Health and Safety Act will be amended to extend black lung benefits to orphans whose fathers died of pneumoconiosis; that the existing black lung program shall not be considered a workmen's compensation law or plan for purposes of the disability insurance provisions of the Social Security Act; and, that the existing program for payment of black lung benefits will be extended for 2 years.

With these thoughts in mind, and on behalf of the deserving coal miners, I strongly endorse the passage of this bill, which will rectify some of the inequities that have arisen over the past 2 years.

I am glad to have had a part in developing this legislation.

Mr. DENT. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The Chair will state that the gentleman has 2 minutes remaining.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, the purpose of H.R.

9212 is to correct certain defects in the administration of the Federal Coal Mine Health and Safety Act of 1969 and to provide for the extention of benefits in that act to the orphans of workers who die of pneumoconiosis.

If the act has not been imperfectly administered. It has at least not accomplished the intent of Congress when it was passed. What we are trying to accomplish here is a clarification of intent by certain amendments to title IV of the original act. For example, we did not intend the desperate need of individuals eligible for benefits under the act be set off against social security disability payments, thus neutralizing or decreasing one of the prime purposes of the act. It was our intent that "black lung" benefits be over and above those provided under workmen's compensation payments, otherwise the provision for special disability benefits would not have been written into the legislation in the first place.

In another amendment proposed under H.R. 9212, we are simply but importantly extending the timetable for certain provisions under section 3 for 2 additional years in order to permit the States an additional working period to assume their responsibilities under the act. While this will extend the time of Federal responsibility, we recognize the problems inherent in some States in coming to grips with the benefit provisions of the program. We hope the States will use this additional period for resolve rather than delay.

The amendment to the first sentence of section 413(b) that "no claims for benefits under this part shall be denied on the basis of the results of a chest roentgenogram" is absolutely necessary. The fact that the Social Security Administration utilizes the services of a group of eminent radiologists in X-ray classification to reinforce the accuracy and consistency of X-ray readings under the black lung program is good but beside the point. They are still X-rays with their controversial and time-proven limitations in diagnosis for pneumoconiosis. As Dr. May Mayers states in his book on Occupational Health (William and Wilkins, 1969):

> Physicians in general tend to place too great reliance upon the x-ray picture alone, and give too little weight to the clinical picture . . . That extent of medical disability can only be determined, with any degree of accuracy, by cardiorespiratory function tests, with which some physicians are still unfamiliar.

The amendment does not deny the usefulness, nor does it call for the elimination, of X-rays in the adjudication of claims for benefits; it calls by implication for an accurate medical diagnosis based upon all relevant medical tests in the disposition of claims.

Finally, while the original act permits augmented benefits to a miner or his widow for the support of their dependent children, there is no provision for support of the children should the father and mother die. While I am not now aware of a large number of such "double orphans," there is a great disadvantage created in such youngsters and the national responsibility for them as defined in the paragraphs in H.R. 9212 related to this problem. From a social consequence point of view the detailed provisions on this matter are clearly the most important components of the four-amendment legislative package.

If the health standards prescribed in title II of the Federal Coal Mine Health Safety Act are effective in eliminating the cause of lung disease, the personal burden of incapacitation as well as the burden of benefit payments will be reduced in the future. However, irreversible damage has already been done to miners, and we mean to correct that so far as it affects their dependent children. We should not allow conditions which have disabled the miner to also disable his children, either with respect to the necessities of life or educational opportunity. H.R. 9212 provides the necessary prescription and guidelines for preventing the conversion of occupational disease of the miner into socio-economic "disease" for his children. This spirit of this amendment is the spirit of the entire bill; I strongly urge the passage of H.R. 9212.

Mr. DENT. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, it has been said, and repeatedly said throughout history, that if a person lies that it is not bad if it is not believed, but when you get to believing a lie, then it becomes wrong, and everybody comes to think that it is right.

We are not in any sense or by any means even advocating the outlawing of the X-ray examination. We are adding to that, new scientific, medical, and science improvements.

The second lie which is deliberate, in my opinion, and ought not to be brought back time after time into this controversy, is that there is no such thing——

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I do not yield to the gentleman because I have only about 1 minute remaining.

Mr. ERLENBORN. If the gentleman refuses to yield, then, Mr. Chairman, I demand that the gentleman's words to be taken down.

Mr. CHAIRMAN. Does the gentleman insist upon his request?

Mr. ERLENBORN. Yes, I do, Mr. Chairman, where the gentleman said that it is a deliberate lie.

Mr. DENT. You do not know what the lie is yet, I have not repeated it. Read the RECORD, and let him get the words from the RECORD.

Mr. ERLENBORN. Mr. Chairman, I demand that the gentleman's words be taken down.

The CHAIRMAN. The Clerk will report the words objected to.

The Clerk read as follows:

> Mr. DENT. The second lie which is deliberate, in my opinion, and ought not to be brought back time after time into this controversy, is that there is no such thing——

The CHAIRMAN. The Committee will rise.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. STEED, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, certain words used in debate were objected to and on request were taken down and read at the Clerk's desk, and he herewith reported the same to the House.

The SPEAKER. The Clerk will report the words objected to.

The Clerk read as follows:

> Mr. DENT. The second lie which is deliberate, in my opinion, and ought not to be brought back time after time into this controversy, is that there is no such thing——

The SPEAKER. The Chair will state that the words "second lie" are not parliamentary, and without objection will be stricken from the record.

Mr. DENT. Mr. Speaker, what part of that was being stricken?

The SPEAKER. The Chair will state that the words are "the second lie."

Mr. DENT. Mr. Speaker, I have not said what the second lie is. How can you strike it?

The SPEAKER. The manner in which the gentleman referred to the words in the following statement: "the second lie which is deliberate." Without objection, the gentleman may explain his statement.

Mr. DENT. But I have not said what the lie is. I have not accused anybody here of lying. I have accused the second lie of being propagandized all over the State, and through different individuals, and the third lie and the fourth lie. I have not accused the gentleman. There have been many persons on this floor—not many on the floor—but many persons who have put out the word that this deliberately wipes out X-rays as a means of determining pneumoconiosis, and the bill does not do that. And if it does not do that it is all untrue.

The SPEAKER. The Chair will request the gentleman from Pennsylvania to state whether the gentleman was referring to any Member of the Congress.

Mr. DENT. Absolutely not, Mr. Speaker. I will be glad to have that cleared up. But I have not said or named a Member's name yet.

The SPEAKER. If the gentleman was not referring to a Member of the House——

Mr. DENT. I was not. I was referring to two lies, and they are lies, and they have been put out all over the State in letters and newspaper items.

The SPEAKER. But the gentleman from Pennsylvania states that he was not referring to a Member of the House?

Mr. DENT. The RECORD will show that I did not refer to a Member of the House.

The SPEAKER. Does the gentleman state again that he was not referring to a Member of the House?

Mr. DENT. Yes; if I said it, it would have been in the RECORD.

The SPEAKER. Then the Chair will state that the gentleman's words are not unparliamentary, and the Committee will resume its sitting.

Mr. HALL. Mr. Speaker, a point of order. I make the point of order that a quorum is not present.

The SPEAKER. The Chair is of the opinion that the point of order cannot be made at this point.

The Committee will resume its sitting.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 9212, with Mr. STEED in the Chair.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. DENT) has 1 minute remaining.

Mr. DENT. Mr. Chairman, in order that there be no mistake about what we are doing here, what I intended to refer to is a second lie that has been put in all the newspapers by the facts and figures that have gone out—I was going to say that there is no such thing as doing too much for a victim of pneumoconiosis by way of payments. That is all I was going to say. If that is something that is objectionable to anybody, I am sorry for that. But that is the way I feel about it. You cannot do too much for a man who is suffering after working for the benefit of this great Nation, with a disease that leaves no measure for relief whatsoever.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 412(a) of the Federal Coal Mine Health and Safety Act of 1969 is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) In the case of the child or children of a miner whose death is due to pneumoconiosis or of a miner who is receiving benefits under this part at the time of his death, and who leaves no widow, and in the case of the child or children of a widow who is receiving benefits under this part at the time of her death, benefits shall be paid to such child or children as follows: If there is one such child, he shall be paid benefits at the rate specified in paragraph (1). If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 per centum of such rate if there are two such children, by 75 per centum of such rate if there are three such children, and by 100 per centum of such rate if there are more than three such children."

(b)(1) Section 412(b) of such Act is amended by inserting after "widow" each time it appears the following: "or child".

(2) Section 402 of such Act is amended by adding at the end thereof the following new subsection:

"(g) The term 'child' means an individual who is unmarried and (1) under eighteen years of age, or (2) incapable of self-support because of physical or mental disability which arose before he reached eighteen years of age, or in the case of a student, before he ceased to be a student, or (3) a student. Such term includes stepchildren, adopted children, and posthumous children. For the purpose of this subsection the term 'student' means an individual under twenty-three years of age who has not completed four years of education beyond the high school level and who is regularly pursuing a full time course of study or training at an institution which is—

"(1) a school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

"(2) a school or college or university which has been accredited by a State or by a State-recognised or nationally recognized accrediting agency or body;

"(3) a school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

"(4) an additional type of educational or training institution as defined by the Secretary of Health, Education, and Welfare.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than four months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration in which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A student whose twenty-third birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period."

(3) Section 413(b) of such Act is amended by adding at the end thereof the following new sentence: "In carrying out his responsibilities under this part, the Secretary may prescribe regulations consistent with the provisions of sections 204, 205(j), 205(k), and 206 of the Social Security Act."

(4) Section 414(a) of such Act is amended by inserting "(1)" after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a claim by a child; this paragraph shall apply, notwithstanding any other provision of this part.

"(A) If such claim is filed within six months following the month in which this paragraph is enacted, and if benefit payments are made pursuant to such claim, such benefit payments shall be made retroactively from December 30, 1969, or from the date such child would have been first eligible for such benefit payments had section 412(a)(3) been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible during the period from December 30, 1969, to the date such claim is filed, benefit payments shall be made for the duration of eligibility during such period.

"(B) If such claim is filed after six months following the month in which this paragraph is enacted, and if benefit payments are made pursuant to such claim, such benefit payments shall be made retroactively from a date twelve months preceding the date such claim is filed, or from the date such child would have been first eligible for such benefit payments had section 412(a)(3) been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible during the period from a date twelve months preceding the date such claim is filed, to the date such claim is filed, benefit payments shall be made for the duration of eligibility during such period.

"(C) No claim for benefits under this part, in the case of a claimant who is a child, shall be considered unless it is filed within six months after the death of his father or mother (whichever last occurred) or by December 31, 1974, whichever is the later.

"(D) No benefits shall be paid under this part to a child after December 31, 1974, if the claim therefor was filed after December 31, 1973."

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendment.

Mr. HALL. Mr. Chairman, I was on my feet to reserve the right to object. My sole purpose is to know whether the entire bill is to be considered as read and printed in the RECORD and open to amendment, or just the first section?

The CHAIRMAN. Just the first section.

Mr. HALL. Thank you, Mr. Chairman.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: strike out the language beginning on line 3, page 1, through line 2, page 6, and insert in lieu thereof the following:

That (a) section 412(a) of the Federal Coal Mine Health and Safety Act of 1969 is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) In the case of the child or children of a miner whose death is due to pneumoconiosis or of a miner who is receiving benefits under this part at the time of his death, and who leaves no widow, and in the case of the child or children of a widow who is receiving benefits under this part at the time of her death, benefits shall be paid to such child or children as follows: If there is one such child, he shall be paid benefits at the rate specified in paragraph (1). If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 per centum of such rate if there are two such children, by 75 per centum of such rate if there are three such children, and by 100 per centum of such rate if there are more than three such children: *Provided*, That benefits shall only be paid to a child for so long as he meets the criteria for the term 'child' contained in section 402(g)."

(b)(1) Section 412(b) of such Act is amended by inserting after "widow" each time it appears the following: "or child".

(2) Section 402 of such Act is amended by adding at the end thereof the following new subsection:

"(g) The term 'child' means an individual who is unmarried and (1) under eighteen years of age, or (2) incapable of self-support because of physical or mental disability which arose before he reached eighteen years of age or, in the case of a student, before he ceased to be a student, or (3) a student. Such term includes stepchildren, adopted children, and posthumous children. For the purpose of this subsection the term 'student' means an individual under twenty-three years of age who has not completed four years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is—

"(1) a school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

"(2) a school or college or university which has been accredited by a State or by a State-recognised or nationally recognised accrediting agency or body;

"(3) a school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

"(4) an additional type of educational or

training institution as defined by the Secretary of Health, Education, and Welfare. Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than four months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration in which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A student whose twenty-third birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period."

(3) Section 413(b) of such Act is amended by adding at the end thereof the following new sentence: "In carrying out his responsibilities under this part, the Secretary may prescribe regulations consistent with the provisions of sections 204, 205(j), 205(k), and 206 of the Social Security Act."

(4) Section 414(a) of such Act is amended by inserting "(1)" after "(a)" and by adding the following new paragraph at the end thereof:

"(2) In the case of a claim by a child, this paragraph shall apply, notwithstanding any other provision of this part.

"(A) If such claim is filed within six months following the month in which this paragraph is enacted, and if benefit payments are made pursuant to such claim, such benefit payments shall be made retroactively from December 30, 1969, or from the date such child would have been first eligible for such benefit payments had section 412(a)(3) been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible during the period from December 30, 1969, to the date such claim is filed, benefit payments shall be made for the duration of eligibility during such period.

"(B) If such claim is filed after six months following the month in which this paragraph is enacted, and if benefit payments are made pursuant to such claim, such benefit payments shall be made retroactively from a date twelve months preceding the date such claim is filed, or from the date such child would have been first eligible for such benefit payments had section 412(a)(3) been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible during the period from a date twelve months preceding the date such claim is filed, to the date such claim is filed, benefit payments shall be made for the duration of eligibility during such period.

"(C) No claim for benefits under this part, in the case of a claimant who is a child, shall be considered unless it is filed within six months after the death of his father or mother (whichever last occurred) or by December 31, 1972, whichever is the later."

Mr. DENT (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE COMMITTEE AMENDMENT

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the committee amendment: Beginning at page 9, line 6, strike the language through page 10, line 10, and in lieu thereof substitute the following language:

"(A) If such claim is filed within six months following the month in which this paragraph is enacted, and if entitlement to benefits is established pursuant to such claim, such entitlement shall be effective retroactively from December 30, 1969, or from the date such child would have been first eligible for such benefit payments had section 412(a)(3) been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible during the period from December 30, 1969, to the date such claim is filed, entitlement shall be effective for the duration of eligibility during such period.

"(B) If such claim is filed after six months following the month in which this paragraph is enacted, and if entitlement to benefits is established pursuant to such claim, such entitlement shall be effective retroactively from a date twelve months preceding the date such claim is filed, or from the date such child would have been first eligible for such benefit payments had section 412(a)(3) been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible during the period from a date twelve months preceding the date such claim is filed, to the date such claim is filed, entitlement shall be effective for the duration of eligibility during such period.

"(C) Any benefit under subparagraph (A) or (B) for a month prior to the month in which a claim is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior month.

"(D) No claim for benefits under this part, in the case of a claimant who is a child of a miner or widow (as described in section 412(a)(3)), shall be considered unless it is filed within six months after the death of such miner or widow (whichever last occurred) or by December 31, 1972, whichever is the later.

"(5) Subsections 422 (c) and (d) of such Act are amended by striking out 'section 412 (a)' wherever it appears and inserting in lieu thereof 'section 412(a) (1), (2), and (4)'."

Mr. ERLENBORN (during the reading). Mr. Chairman, in view of the fact that I have made a copy of the amendment available to the other side, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. BURTON. Reserving the right to object, is this the 2-page amendment that, in the last paragraph of page 2, states:

(5) Subsections 422 (c) and (d) of such Act are amended by striking out "section 412 (a)" wherever it appears and inserting in lieu thereof "section 412(a) (1), (2), and (4)".

Is this the amendment that the gentleman left at the Clerk's desk, and conforms in all respects with the amendment that he previously gave to our side?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. BURTON. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding. The gentleman is correct. It is identical with the amendment that I gave to the staff of the subcommittee some days ago. It is identical to the amendment that I gave to the gentleman today.

Mr. BURTON. Mr. Chairman, as for this one Member, I think the amendment clarifies the double orphans section and eliminates any ambiguities that the committee amendment may have contained. I withdraw my reservation.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. DENT. We have looked the amendment over, understand it perfectly, and we will accept it.

Mr. ERLENBORN. Mr. Chairman, I do not desire to take any more of the time of the House in debate. I ask that the amendment be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. Are there further amendments to the committee amendment?

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA TO THE COMMITTEE AMENDMENT

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia to the committee amendment:

Page 6, line 3, insert "(1)" after "That (a)".

Page 6, after line 23, insert the following new paragraph:

(2) Section 412(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) If an individual's benefits would be increased under clause (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this clause, if otherwise valid under this title, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment."

The CHAIRMAN. The gentleman from West Virginia is recognized in support of his amendment.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Chairman, I understand the amendment. However, if I am not mistaken, apparently there is an error in the draft.

Mr. HECHLER of West Virginia. Mr. Chairman, I beg the gentleman's pardon, but that has been corrected in the official copy.

Mr. DENT. It has been corrected in the gentleman's copy? The copy I have is not so corrected.

Mr. HECHLER of West Virginia. The copy as read by the Clerk was correct, I will advise the gentleman.

Mr. DENT. Mr. Chairman, if I may address the gentleman from Illinois, does the gentleman have a copy of the amendment?

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am advised by the Social Security Administration that they are well aware of this language and indeed I believe gave the gentleman in the well help in drafting the language. It accomplishes a good purpose, which is to protect the rights of the dependent minor children where there is some past disability on the part of the main recipient of the fund, be it the retired coal miner with the disease or the widow of the retired coal miner, and the Social Security Administration has no objection to this language and believes it will be helpful.

Mr. HECHLER of West Virginia. Mr. Chairman, the gentleman from Illinois has described my amendment much better than I could.

Actually, as the gentleman from Illinois indicated, it merely provides that the entire benefit should not be paid to the coal miner where dependents may be separated from the coal miner, or where it would be in the interest of dependents to have payments made in such a way to benefit the dependents. For example, if a coal miner is incompetent to care for his dependents, it is logical that he should not receive the increases the law now gives him by reason of additional dependents.

This amendment does not raise the total cost of the program, but merely brings justice into its administration.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. HECHLER of West Virginia. I yield to the gentleman from California.

Mr. BURTON. Mr. Chairman, I think it is a good amendment and I think we ought to accept it.

Mr. DENT. Mr. Chairman, if the gentleman will yield, the gentleman from California has said we should accept it, and we accept it.

Mr. HECHLER of West Virginia. Mr. Chairman, I quit while I am ahead.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER) to the committee amendment.

The amendment to the committee amendment was agreed to.

PARLIAMENTARY INQUIRIES

Mr. BYRNES of Wisconsin. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BYRNES of Wisconsin. Mr. Chairman, I have an amendment to page 10, lines 11 through 17. Is that to be presented at this time?

The CHAIRMAN. No.

Mr. BYRNES of Wisconsin. Then, the committee amendment has to be acted on first?

The CHAIRMAN. The gentleman is correct.

Are there any further amendments to the committee amendment to section 1?

Mr. BYRNES of Wisconsin. Mr. Chairman, another parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BYRNES of Wisconsin. Mr. Chairman, is my understanding correct that the committee amendment is one whole amendment to the whole of the bill, or are there several committee amendments pending?

The CHAIRMAN. This is the committee amendment to section 1.

Mr. BYRNES of Wisconsin. I thank the Chair.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. (a) Section 412(b) of the Federal Coal Mine Health and Safety Act of 1969 is amended by adding at the end thereof the following: "This part shall not be considered a workmen's compensation law or plan for purposes of section 224 of such Act."

(b) The amendment made by this section shall be effective as of December 30, 1969.

AMENDMENT OFFERED BY MR. BYRNES OF WISCONSIN

Mr. BYRNES of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BYRNES of Wisconsin:

Page 10, strike out lines 11 through 17 and insert in lieu thereof the following:

SEC. 2. (a) Section 412(b) of the Federal Coal Mine Health and Safety Act of 1969 is amended by adding at the end thereof the following: "In applying section 224 of such Act with respect to benefits payable to an individual under this part, such individual's 'average current earnings' shall be considered to mean the larger of (1) his average current earnings as determined under the next to last sentence of subsection (a) of such section, or (2) one-twelfth of the total of his wages and self-employment income (computed under title II of such Act without regard to the limitations specified in sections 209(a) and 211(b)(1) thereof) for the calendar year in which he had the highest such wages and self-employment income during the period consisting of the calendar year in which he became disabled (as defined in section 223(d) of such Act) and the five years preceding that year; and the reference to 'clause (B) of the preceding sentence' in the last sentence of such subsection (a) shall be considered to include a reference to this sentence."

Mr. BYRNES of Wisconsin. Mr. Chairman, it is with some trepidation that I involve myself in a matter brought to the floor by the Committee on Education and Labor. However, my amendment relates not so much to the black lung disease or to the legislation which is currently before us as to the Social Security Act.

Let me say at the outset that neither the language to be stricken, nor the replacement language, would in any way affect the amount of black lung compensation. That amount is going to be paid regardless of the addition I would make.

Recipients of black lung compensation can apply, as can other people who have injuries and are receiving compensation from other source, for disability benefits under social security. And it is only the benefit payable under the Social Security Act that I would affect in any way with this amendment.

The Committee on Education and Labor, in acting in this area, has affected the law as it exists under the Social Security Act. Therefore, I believe that is justification for injecting myself into this debate and suggesting what I consider to be an improvement in the bill as it relates to our treatment of people who are beneficiaries under disability provisions of the Social Security Act and other State or Federal acts as well.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from California.

Mr. BURTON. I am constrained not to express my own view on the gentleman's amendment, but I should like to applaud and note that the gentleman from Wisconsin most accurately stated that under the basic black lung benefit bill we would change the law as it affects social security. The Social Security Administration has not been recognizing that change, and that hence gave rise to the proposed amendment of the distinguished chairman of our full committee.

Mr. BYRNES of Wisconsin. Mr. Chairman, it seems to me that section 2 could be subject to a point of order because it does affect payments made under the disability provisions of the Social Security Act. I did not pursue that course because I believe, first, that the matter should be faced on its own merits here in the House, and second, that the situation as it relates to the so-called disability offset provision can and should be improved.

This House passed H.R. 1, which provides a liberalization in that offset provision, and I think we have now a real opportunity to update that liberalization, in enacting this particular provision.

Mr. BURTON. Will the gentleman yield?

Mr. BYRNES of Wisconsin. I yield to the gentleman from California.

Mr. BURTON. As I understand the effect of the amendment, in virtually all cases, by bringing this act in conformity with the social security amendments that were sent to the other body, this would result in almost all cases in some increase in the social security disability payments and in no way would it in any possible respect result in any diminution of total benefits.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. BYRNES of Wisconsin was allowed to proceed for 5 additional minutes.)

Mr. BYRNES of Wisconsin. Let me explain the situation in this way. As I do so, bear in mind that this amendment in no way affects the amount of the check for

black lung, or the eligibility for black lung payments. The amendment relates only to the social security disability benefit payments which individuals might be otherwise entitled to.

Under present law the social security disability payment is limited in cases where the recipient is receiving additional disability payments of some kind under another Federal or State program.

In these cases, the social security disability payments are reduced by the amount that total monthly benefits under the two programs exceed 80 percent of the individual's average current earnings before he became disabled.

There have been two ways of determining an individual's average current earnings: By using the average monthly earnings for purposes of social security benefit computation; or by using his average monthly earnings over his 5 highest earnings years.

In H.R. 1, we liberalized this provision by adding a third alternative, under which an individual's average earnings could be based upon his highest year's earnings in a period consisting of the year in which he became disabled and the 5 preceding years.

This is a definite improvement, and my amendment would insure that this liberalization would apply in the case of black lung benefits regardless of what is done in connection with H.R. 1.

Let me suggest that by approving the bill before us without also approving this amendment, we would be saying that a person with black lung disease is in a different, and a more favored, situation, as far as social security disability payments are concerned, than any other individual in the country, no matter how disabled he may be. The "basket case" in an industrial accident, who is getting compensation under a State law and who is getting social security disability payment because he is totally and permanently disabled, would have a stricter rule applied to him.

We would put him in a less favored position than the black lung victim.

I have the greatest sympathy for black lung victims, but I wonder if we want to carve out a special treatment niche for them as far as the Social Security Act is concerned. Should not disability payments be on the same basis?

My amendment would provide for equalized treatment under the law, and I do not know, Mr. Chairman, what could be fairer, both to black lung victims and to other people in this Nation who are disabled and who are receiving benefits in addition to social security benefits.

Mr. Chairman, I hope this amendment is adopted.

Mr. PERKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. HALL. Mr. Chairman, reserving the right to object, I wish the gentleman would withhold that until the completion of his first 5 minutes; otherwise, I will be constrained to object.

Mr. PERKINS. Yes.

The CHAIRMAN. The gentleman from Kentucky is recognized for 5 minutes.

Mr. PERKINS. Mr. Chairman, when we enacted the so-called pneumoconiosis statute in 1969 we spelled out clearly in the report the fact that this statute, or the so-called black lung statute was not workmen's compensation.

H.R. 9212 establishes again in even stronger terms what the House said on December 17, 1969. That is all we are trying to do.

In the report back in 1969, on page 13, let me read this language:

> This program of payments—maintained in the bill by a committee vote of 25 to 9—is not a workmen's compensation plan. It is not intended to be so and it contains none of the characteristic features which mark any workmen's compensation plan. Moreover, it is clearly not intended to establish a Federal prerogative or precedent in the area of payments for the death, injury, or illness of workers.

Mr. Chairman, it was not until the President signed the bill that the Social Security Administration could find something to hang its hat on insofar as construing the black lung statute to be a workmen's compensation act so that it could reduce social security benefits in conformity with section 224 of the Social Security Act. I am sure you will see what a difficult task the Social Security Administration had in finding a legislative intent that black lung benefits were workmen's compensation, and to get down to it here is what they say—

> DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, SOCIAL SECURITY ADMINISTRATION,
> *Baltimore, Md., August 4, 1970.*
>
> Hon. CARL D. PERKINS,
> *House of Representatives,*
> *Washington, D.C.*
>
> DEAR MR. PERKINS: This is in further reference to your letter of July 6 concerning the reduction in social security disability benefit payments in some cases when the beneficiary also receives federal black lung benefits.
>
> I appreciate having the benefit of your point of view on this subject, and can assure you that careful consideration was given to the legal issues involved. A copy of our ruling being published on this matter is enclosed for your information.
>
> As you know, the reduction provision does not apply where the miner has reached age 62, or where his disability began before June 1965. We estimate that only about five percent of black lung beneficiaries will be affected by this reduction provision, and many of these will have their social security disability benefits only partially reduced.
>
> Hugh Johnson and Bernie Popick have told me of their recent meetings with you. I understand that it was agreed that in the near future they will meet again with you to discuss in more detail our experience in the payment of black lung claims in Kentucky, as well as the extent to which reduction in disability benefits has occurred in these claims.
>
> I will be following closely these developments of special interest to you and will review with them fully the results of your further discussions.
>
> Sincerely yours,
>
> ROBERT M. BALL,
> *Commissioner of Social Security.*

SECTION 224(a).—DISABILITY INSURANCE BENEFITS—REDUCTION FOR WORKMEN'S COMPENSATION—BLACK LUNG BENEFITS (PNEUMOCONIOSIS) 20 CFR 404.408

Held: Black lung payments under Title IV, Part B, of the Federal Coal Mine Health and Safety Act of 1969 constitute "periodic benefits" under a Federal workmen's compensation law, thus requiring the application of the reduction provision of section 224 (pertaining to disability insurance benefits) of the Social Security Act.

Advice has been requested as to whether payment of Federal Black Lung benefits[1] under Title IV, Part B, of the Federal Coal Mine Health and Safety Act of 1969[2] constitutes payment of benefits under a workmen's compensation law or plan for the purpose of offset under section 224 of the Social Security Act.[3]

Section 224(a) of the Social Security Act provides for reduction of an individual's disability insurance benefits (and other benefits based on the individual's earnings), in accordance with a statutory formula, for months for which the individual is entitled to periodic benefits (or their equivalent) for a disability "under a workmen's compensation law or plan of the United States or a State * * *."[4]

That Federal black lung benefits are periodic benefits for a disability requires no discussion.[5] Whether they are paid under a "workmen's compensation law or plan of the United States" is not wholly clear from the legislative history. Neither the committee reports on the bill (S. 2917) that was finally enacted, nor the debates in the Senate on the bill, offer an authoritative basis for determining the congressional intent regarding the nature of black lung benefits. In the debates in the House of Representatives, there are expressions both ways.

The question, however, appears to be clarified in some measure by the following excerpt from the statement by the President on December 30, 1969, when he signed the Coal Mine Health and Safety Act:

> "First, workmen's compensation has been and should be a State responsibility. Title IV of this Act gives the Federal Government responsibility in this area. I want to emphasize very strongly that Title IV is temporary, limited and unique and in no way should it be considered a precedent for future Federal administration of workmen's compensation programs. With the exception of continuing benefit payments to claimants establishing eligibility during the period prior to December 31, 1972, all Federal responsibility in this area will expire within seven years.
>
> "Next, this Act creates confusion about the consistency of standards in Federally administered disability programs. I have therefore instructed the Secretary of Health, Education, and Welfare in administering this program to apply wherever possible standards consistent with those under the existing Social Security Act disability program."

The quoted passages in the President's statement give direction for the treatment of black lung benefits for purposes of the disability program, strongly indicating that such benefits should be viewed to be comparable to benefits for other occupational diseases for offset purposes under Title II of the Social Security Act. The Administration's regulations treat injury and occupational disease both as bases for workmen's compensation offset. See Social Security Administration Regulations No. 4, section 404.408(d).[6] Next, it is clear from the legislative history of section 224 that the basic purposes of the enactment of that section were twofold: one, to prevent erosion of State workmen's compensation programs, the other, to prevent duplication of benefits to the extent that it would be more profitable for a beneficiary not to work than to work. Neither of these purposes would be served by differentiating out occupational diseases.

Also bearing on the classification of black lung benefits for purposes of section 224 of the Social Security Act is the characterization given like diseases under other Federal statutes providing benefits which would be offset against Title II disability benefits.

Footnotes at end of article.

Thus, in *Urie* v. *Thompson*, 337 U.S. 163 (1949), the Supreme Court considered whether an occupational disease—silicosis—was a compensable injury under the Federal Employer's Liability Act, or whether only accidentally caused injuries were covered. The court held (pp. 186–7):

> "While no decision of this Court involving the Federal Employers' Liability Act has dealt specifically with silicosis, the New York Court of Appeals, as we have indicated above, has sustained recovery under the Act for that disease when resulting from the carrier's negligence. * * * Moreover, other state and federal decisions have authorized recovery under the Act for injuries not caused by accidental or violent means. * * * Not all of these decisions could be sustained if the statutory term 'injury' were held to require that the harm suffered from the employer's negligence must be confined to that inflicted by 'external, violent and accidental' means or be an 'accidental injury,' as respondent's narrow view of the statute's coverage seems to contemplate.
>
> "We would be most hesitant to adopt a construction of 'injury' as used in this Act which would overrule the decisions last cited or seriously impair their authority. We think they were made in the spirit the statute contemplated for its administration and application. That spirit is one not in conformity with importing nice distinctions in applying the Act's broad and general terms or cutting down their full scope by inference or implication.
>
> "In our view, when the employer's negligence impairs or destroys an employee's health by requiring him to work under conditions likely to bring about such harmful consequences, the injury to the employee is just as great as when it follows, often inevitably, from a carrier's negligent course pursued over an extended period of time as when it comes with the suddenness of lightning. Silicosis is as much 'injury,' leading in time as certainly to permanent disability, as scalding from a boiler's explosion. We do not think the mere difference in the time required for different acts of negligence to take effect and disclose their harmful, disabling consequences would justify excluding the one type of injury from the Act's coverage or that such an exclusion would be consistent with its language, purposes, or unvarying standards of construction."

See also *A. T. and S. F. Ry Co.* v. *Preston*, 257 F.2d 933 (10 Cir., 1958).

The designation of the Federal black lung benefits as workmen's compensation would appear to be consonant with the pattern of Title IV in its entirety. The purpose of this title is to provide a benefit program, in cooperation with the States, for miners totally disabled due to pneumoconiosis and their surviving dependents (section 401 of the Act). Part B is an interim and short-term part of this program. The longer-term program is contained in Part C. This part provides that, beginning January 1, 1973, claims for benefits based on total disability or death due to pneumoconiosis shall be filed pursuant to the applicable State workmen's compensation law; but that if and when the State law does not provide adequate coverage (as defined by the statute), each operator of an underground coal mine in the State shall be liable under the Federal Longshoremen's and Harbor Workers' Compensation Act, and shall secure the payment of the benefits by either obtaining insurance or qualifying as a self-insurer. The Federal Government's involvement in this program is to set the standards for adequate coverage under the State workmen's compensation laws, and to pay benefits in cases in which the mine operator has failed to pay them or provide insurance to pay them (in which cases the Government may recoup the payments from the operator) or there is no operator required to secure the payment of the benefits.

The benefits provided by Part C clearly are workmen's compensation, payable under either a State or a Federal workmen's compensation law. The benefits are payable to the same class of beneficiaries as, and in amounts the same as or greater than, those specified in Part B (for a period of 4 years), for the same causes (sections 421(b)(2), 422).

Parts B and C thus seem to be complementary parts of a single program to provide compensation to miners and their dependents for the consequences of occupational disease sustained in the course of their employment.

Accordingly, it is held that the black lung benefit provisions in Title IV, Part B, constitute a Federal workmen's compensation law within the meaning of section 224 of the Social Security Act.

FOOTNOTES

[1] These benefits are designated *Federal* Black Lung benefits to distinguish them from those authorized by Part C of Title IV, which are designed in the main as State benefits.

[2] The Federal Coal Mine Health and Safety Act of 1969, hereinafter "the Act," was enacted as Public Law 91–173 on December 30, 1969, 83 Stat. 742 ff. Title IV of the Act is to be codified beginning at section 901 of title 30, United States Code.

[3] 42 U.S.C. 424(a)

[4] Section 224 of the Act, as pertinent here, provides that social security disability benefits must be reduced where the total of the applicant's benefits from sources specified in the statute would otherwise exceed the greater of either 80 percent of his "average current earnings," or the total social security benefits payable to the beneficiary and his dependents based on his disability. This provision does not apply where the beneficiary has reached the age of 62, or where his disability began before June 2, 1965. About 90 percent of black lung beneficiaries will not be affected at all by this reduction provision. The social security disability benefit of those who are affected will usually be only partially reduced.

[5] Title IV, Part B, Section 412(a) (P.L. 91–173) provides that: "(a) Subject to the provisions of subsection (b) of this section, benefit payments shall be made by the Secretary under this part as follows:

(1) In the case of total disability of a miner due to pneumoconiosis, the disabled miner shall be paid benefits during the disability at a rate equal to 50 per centum of the minimum monthly payment to which a Federal employee in grade GS–2, who is totally disabled, is entitled at the time of payment under chapter 81 of title 5, United States Code * * * The latter constitutes the Federal Employees' Compensation Act."

[6] 20 CFR 404.408(d).

Mr. BYRNES of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. Wait just a moment and then I shall yield to the gentleman.

But, Mr. Chairman, here we have as many as 7,000 miners adversely affected by this erroneous interpretation.

Mr. BYRNES of Wisconsin. Mr. Chairman, will the gentleman now yield to me?

Mr. PERKINS. I yield briefly; yes.

Mr. BYRNES of Wisconsin. I think the gentleman recognizes the fact that when I addressed the committee I intentionally tried to avoid the use of the word "compensation." I did so because I knew it was a sensitive word.

But I would call the gentleman's attention to the fact that the offset provision under the Social Security Act is not called into play only under workmen's compensation cases, because—and let me read to you section 281——

Mr. PERKINS. I am well acquainted with that.

Mr. BYRNES of Wisconsin. If the gentleman will just let me finish this.

Mr. PERKINS. Certainly.

Mr. BYRNES of Wisconsin. It says that a workmen's compensation—and this is the important part—plan of the United States or a State for the payment of periodic benefits for a total of partial disability—and it seems to me that that certainly indicates a plan for black lung, for the payment of periodic payments for a total or partial disability, and that is what the law says when the offset provision is triggered, and that is what you have in the Social Security Act by section 2.

Mr. PERKINS. Let me say to my distinguished colleague, the gentleman from Wisconsin, that we held a conference report up some 3 weeks in 1969 to make sure that this offset provision was not applicable to people receiving disability payments under the Social Security Act.

Now, I am well aware——

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. PERKINS was allowed to proceed for 5 additional minutes.)

Mr. PERKINS. Mr. Chairman, we have 7,000 miners affected here, and if a miner qualifies for black lung benefits, and earns more than $1,680 a year, his monthly benefits under this statute will be reduced $1 for every two earned between $1,680 and $2,880.

The benefits are further reduced by $1 for every $1 earned over $2,880. To be more direct to the point, it is wrong to offset workman's compensation against social security benefits. Workmen's compensation is a payment to a worker in lieu of his common law right to sue in court for his injury, a right which he surrenders under workmen's compensation coverage. Social security disability compensation is insurance for which the recipient has paid a premium.

Mr. Chairman, I hold in my hand here letters——

Mr. BYRNES of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. Please let me continue. I have only a short time remaining.

Mr. BYRNES of Wisconsin. But the gentleman is referring to the Social Security Act.

Mr. PERKINS. That is correct, certainly I am referring to the Social Security Disability Act because it is social security disability checks that are reduced, it is not the black lung checks that are reduced. Certainly I am referring to the social security disability checks.

Now, it was intended that the individual entitled to black lung benefits, because of that relationship of coal miners working in the mines and contracting this disease, that they would be paid these benefits in addition to the social security disability benefits, and never was it intended that the social security disability benefits would be reduced.

But as the Black Lung Law is being administered, these payments are being reduced. This legislation will stop the reduction.

XUM

In numerous cases in my congressional district, and I think it is the same all over the Nation, where a coal miner is disabled and receives the benefits under the disability statute of the Social Security Act, and is entitled to black lung benefits, after he becomes entitled to black lung benefits he is receiving even less today from both laws than he was receiving before he became entitled to the black lung benefits. I will cite some random cases, and will put them in the RECORD.

For example, here is the case of Gulf Newsome of Dema, Ky., and here is what he writes to me:

This was the way I was receiving social security checks before I got my black lung:—

And I am quoting from his letter, and Mr. Newsome states under that before his black lung claim was approved he was getting under social security:

Gulf, $178.20; my wife, $30.30, children, $90.90.

A total of $299.40, in social security.

He says:

I now receive a total of $299.10 a month. I have not received fair treatment.

Thirty cents less.

And there are numerous cases of injustice where the Social Security Administration is simply not carrying out congressional intent.

I can read on here about cases of this type. I think it is terribly unfair to let the Social Security Administration itself rewrite a law so as to reach a result never intended by the Congress.

We made our intention clear in plain language in this report that I have read. All we are trying to do here, Mr. Chairman, is to clarify this situation and give justice to some 7,000 coal miners. It is not a big item—but there is a big principle involved.

Mr. Chairman, I ask that the amendment of the gentleman from Wisconsin be defeated.

Mr. ERLENBORN. Mr. Chairman, I move to strike out the last word.

(Mr. ERLENBORN asked and was given permission to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Chairman, the chairman of our committee continually makes the point that the present pneumoconiosis benefits were not intended to be workmen's compensation. He continually points to statements in the RECORD when we were considering the bill in the last Congress. As the gentleman from Wisconsin has so aptly pointed out, that is completely immaterial. It makes no difference whether workmen's compensation or any other plans for compensation on a periodic basis for disability—if it is such a plan for periodic benefits, the Social Security disability offset should and does apply under the present law.

What the gentleman from Kentucky is trying to do is to get a special benefit for one particular class. Those who are getting pneumoconiosis compensation will be able to also get full social security disability payments, without offset, a dual benefit that is not available to anyone getting workmen's compensation or disability compensation under any other type of plan.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman, if the gentleman from Kentucky can say that this is going to treat these men the same as all other workers who are getting disability compensation.

Mr. PERKINS. I will say to the gentleman, you should understand the statute as we wrote it 2 years ago, 1969.

Mr. ERLENBORN. Mr. Chairman, I will not yield to the gentleman unless he is going to address himself to that particular point.

Mr. PERKINS. I am going to address myself to your question—and this is, in general, we are saying that these benefits were not treated as workmen's compensation benefits legislatively in 1969 and the administration should not administer it so as to reduce Social Security benefits. That is what this argument is about—and everyone so understands it.

Mr. ERLENBORN. Mr. Chairman, I refuse to yield to the gentleman any further.

I have already pointed out that that is completely immaterial.

Any periodic benefits whether they are called workmen's compensation or not are subject to the disability offset. The gentleman continually drags a red herring in front of the House. I think the gentleman, and I do not think there is any question about it, is attempting to get a special benefit for a certain class of workers.

When we were considering this in committee 2 years ago, what the cost of this program would be, one of the things the people on the other side of the aisle pointed out was that the actual cost of black lung benefits should be reduced because there was going to be an offset of savings in the social security funds because of the disability offset provision.

Now they come here and say that this was unintended. How did this happen? They computed that when they were determining the cost on the original bill.

This is going to have the ridiculous effect of saying that a man who is injured and is drawing State workmen's compensation is subject to a disability offset and a man who is drawing pneumoconiosis compensation is not.

Think of two coal miners who are working together side by side. One man is injured by a roof fall and has both legs cut off—he gets State workmen's compensation. He gets disability compensation from social security and the offset applies to him.

But the other man working alongside of him who has pneumoconiosis—or maybe under this bill has emphysema from smoking too much, and because we cannot use the X-ray for diagnosis he gets pneumoconiosis benefits—he gets more than the worker alongside of him who had two legs cut off. How ridiculous can you get? I think that points out how foolish this provision is.

Mr. Chairman, this is a good amendment offered by the gentleman from Wisconsin. It treats everyone equally and fairly. I hope that it is adopted.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

(Mr. DENT asked and was given permission to revise and extend his remarks.)

Mr. DENT. Mr. Chairman, I think it is a question that this House has to determine, and maybe at some future date it may have to go into the broader question of disability benefits under compensation laws and their relationship to social security. Social security in reality is an insurance plan. There is a specified amount of return for a specified amount of payment into the fund. Your benefits depend upon how much you have to your credit in social security. There is nothing anywhere in that fund that says because you happen to be injured somewhere along the line under another act, which is in essence a property right, because while an individual receives compensation payments under workmen's compensation, he has given away his rights in court by agreeing to come under the act, so therefore it develops into a property right. How can we in good conscience cut a man's insurance rights and benefits away, because he is receiving something that is a property right to him? This is a question of whether or not we understand what we are saying and doing here.

Besides, the gentleman talks about the individual who has workmen's compensation and gets periodic payments. Under this particular act every miner receives exactly the same amount for the same injury. There is no such thing as being paid like, in some States, a total of 6 years limitation for any crippling injury under the Compensation Act or payment for life on either partial or total disability, as it is in my State of Pennsylvania. There are differing laws in differing States.

A person under social security receives a certain amount according to what he has paid in. We have payments under social security, because an individual has paid in for a number of years. In higher salaried positions he may receive a considerable amount. But then we have others who have worked in low income brackets and who receive $70 a month. I checked recently and I found that in a year or so I shall be eligible for $70.40 a month, because I have not been under the coverage of social security for a great number of years, having served in legislative bodies most of my life. However, a miner receives a minimum of $306.10 if he has 3 children or 10 dependents. He receives the same amount, and that is the top limit under the law.

So then you say to this miner, "For your disability compensation you receive a certain amount, but it will be cut if you receive $306.10 a month, and you get so much off the top here." I applaud the action of the gentleman from Wisconsin in moving to the single-year base. I think it is a step in the right direction. I think the bill that passed the House deservedly should be credited with that reform. But I do not agree with it in this specific legislation dealing with a permanent total injury that has only one ending, and that ending is in death.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. BYRNES).

TELLER VOTE WITH CLERKS

Mr. ERLENBORN. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ERLENBORN. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. BYRNES of Wisconsin, DENT, PERKINS, and ERLENBORN.

The Committee divided, and the tellers reported that there were—ayes 158, noes 225, not voting 48, as follows:

[Roll No. 375]

[Recorded Teller Vote]

AYES—158

Abbitt	Frey	Nelsen
Abernethy	Gettys	Nichols
Alexander	Gross	Pettis
Andrews, N. Dak.	Grover	Peyser
Archer	Haley	Pirnie
Arends	Hall	Poage
Ashbrook	Hamilton	Poff
Baker	Hammer-schmidt	Powell
Belcher	Hansen, Idaho	Preyer, N.C.
Bell	Harvey	Price, Tex.
Betts	Hastings	Purcell
Bow	Heckler, Mass.	Quie
Brinkley	Henderson	Railsback
Broomfield	Hillis	Rarick
Brotzman	Hogan	Reid, N.Y.
Brown, Mich.	Hosmer	Rhodes
Brown, Ohio	Hutchinson	Roberts
Broyhill, N.C.	Jarman	Robinson, Va.
Broyhill, Va.	Jonas	Robison, N.Y.
Burke, Fla.	Jones, N.C.	Rogers
Burleson, Tex.	Jones, Tenn.	Rousselot
Byrnes, Wis.	Keating	Runnels
Cabell	Keith	Ruppe
Caffery	Kemp	Ruth
Cederberg	King	Satterfield
Chamberlain	Kuykendall	Scherle
Chappell	Kyl	Schmitz
Clausen, Don H.	Latta	Scott
Cleveland	Lent	Sebelius
Collins, Tex.	Lujan	Shoup
Conable	McClory	Shriver
Conte	McClure	Smith, Calif.
Crane	McCollister	Smith, N.Y.
Daniel, Va.	McCulloch	Spence
Davis, Wis.	McDonald, Mich.	Springer
Dellenback	McEwen	Steiger, Wis.
Dennis	McKevitt	Stuckey
Devine	McKinney	Talcott
Dickinson	Mahon	Taylor
du Pont	Mailliard	Teague, Calif.
Edwards, Ala.	Mann	Terry
Erlenborn	Martin	Thompson, Ga.
Esch	Mathias, Calif.	Thomson, Wis.
Findley	Mathis, Ga.	Thone
Fish	Mayne	Vander Jagt
Fisher	Michel	Whitehurst
Flynt	Mills, Md.	Wiggins
Ford, Gerald R.	Minshall	Wilson, Bob
Forsythe	Mizell	Winn
Fountain	Montgomery	Wyatt
Frelinghuysen	Morse	Wylie
Frenzel	Mosher	Young, Fla.
		Zion
		Zwach

NOES—225

Abourezk	Bolling	Culver
Abzug	Brademas	Daniels, N.J.
Adams	Brasco	Danielson
Addabbo	Bray	Davis, Ga.
Albert	Brooks	Davis, S.C.
Anderson, Calif.	Buchanan	de la Garza
Anderson, Ill.	Burke, Mass.	Delaney
Andrews, Ala.	Burlison, Mo.	Dellums
Annunzio	Burton	Denholm
Ashley	Byrne, Pa.	Dent
Aspin	Byron	Dingell
Aspinall	Carey, N.Y.	Donohue
Badillo	Carney	Dorn
Begich	Carter	Dow
Bennett	Casey, Tex.	Downing
Bergland	Celler	Drinan
Bevill	Chisholm	Dulski
Biaggi	Clark	Duncan
Biester	Clay	Dwyer
Bingham	Collins, Ill.	Eckhardt
Blanton	Colmer	Edmondson
Blatnik	Conyers	Edwards, Calif.
Bogga	Corman	Eilberg
Boland	Cotter	Fahleman
	Coughlin	Evans, Colo.
	Daniel, Robert W., Jr.	Evins, Tenn.
	Davis, Wis.	Fascell
	de la Garza	Flood
	Delaney	Flowers
	Dellums	Foley
	Denholm	Ford, William D.
	Dent	Fraser
	Dingell	Fulton, Tenn.
	Donohue	Fuqua
	Dorn	Galifianakis
	Dow	Gallagher
	Downing	Garmatz
	Drinan	Gaydos
	Dulski	Giaimo
	Duncan	Gibbons
	Dwyer	Gonzalez
	Eckhardt	Grasso
	Edmondson	Gray
	Edwards, Calif.	Green, Oreg.
	Eilberg	Green, Pa.
	Fahleman	Griffin
	Evans, Colo.	Griffiths
	Evins, Tenn.	Gude
	Fascell	Hagan
	Flood	Hanley
	Flowers	Hanna
	Foley	Hansen, Wash.
	Ford, William D.	Harrington
	Fraser	Hastha
	Fulton, Tenn.	Hathaway
	Fuqua	Hays
	Galifianakis	Hechler, W. Va.
	Gallagher	Heinz
	Garmatz	Helstoski
	Gaydos	Hicks, Mass.
	Giaimo	Hicks, Wash.
	Gibbons	Holifield
	Gonzalez	Horton
	Grasso	Howard
	Gray	Hull
	Green, Oreg.	Hungate
	Green, Pa.	Hunt
	Griffin	Ichord
	Griffiths	Jacobs
	Gude	Johnson, Calif.
	Hagan	Johnson, Pa.
	Hanley	Karth
	Hanna	Kastenmeier
	Hansen, Wash.	Kazen
	Harrington	Kluczynski
	Hastha	Koch
	Hathaway	Kyros
	Hays	Leggett
	Hechler, W. Va.	Long, Md.
	Heinz	McCloskey
	Helstoski	McCormack
	Hicks, Mass.	McDade
	Hicks, Wash.	McFall
	Holifield	McKay
	Horton	McMillan
	Howard	Matsunaga
	Hull	Mazzoli
	Hungate	Meeds
	Hunt	Melcher
	Ichord	Metcalfe
	Jacobs	Mikva
	Johnson, Calif.	Miller, Calif.
	Johnson, Pa.	Miller, Ohio
	Karth	Minish
	Kastenmeier	Mink
	Kazen	Mitchell
	Kluczynski	Mollohan
	Koch	Monagan
	Kyros	Moorhead
	Leggett	Morgan
	Long, Md.	Murphy, Ill.
	McCloskey	Myers
	McCormack	Natcher
	McDade	Nedzi
	McFall	Nix
	McKay	Obey
	McMillan	O'Hara
	Matsunaga	O'Konski
	Mazzoli	O'Neill
	Meeds	Passman
	Melcher	Patten
	Metcalfe	Pepper
	Mikva	Perkins
	Miller, Calif.	Pickle
	Miller, Ohio	Pike
	Minish	Podell
	Mink	Price, Ill.
	Mitchell	Pucinski
	Mollohan	Quillen
	Monagan	Randall
	Moorhead	Rees
	Morgan	Reuss
	Murphy, Ill.	Riegle
	Myers	Rodino
	Natcher	Roe
	Nedzi	Roncalio
	Nix	Rooney, N.Y.
	Obey	Rooney, Pa.
	O'Hara	Rosenthal
	O'Konski	Rostenkowski
	O'Neill	Roush
	Passman	Roy
	Patten	Roybal
	Pepper	Ryan
	Perkins	St Germain
	Pickle	Sarbanes
	Pike	Saylor
	Podell	Scheuer
	Price, Ill.	Schneebeli
	Pucinski	Selberling
	Quillen	Sikes
	Randall	Sisk
	Rees	Skubitz
	Reuss	Slack
	Riegle	Smith, Iowa
	Rodino	Snyder
	Roe	Staggers
	Roncalio	Stanton, James V.
	Rooney, N.Y.	Steed
	Rooney, Pa.	Steele
	Rosenthal	Stokes
	Rostenkowski	Stratton
	Roush	Stubblefield
	Roy	Sullivan
	Roybal	Symington
	Ryan	Teague, Tex.
	St Germain	Tiernan
	Sarbanes	Udall
	Saylor	Van Deerlin
	Scheuer	Vanik
	Schneebeli	Waggonner
	Selberling	Waldie
	Sikes	Wampler
	Sisk	Ware
	Skubitz	Whalen
	Slack	Whalley
	Smith, Iowa	White
	Snyder	Widnall
	Staggers	Williams
	Stanton, James V.	Wilson, Charles H.
	Steed	Wolff
	Steele	Wright
	Stokes	Yates
	Stratton	Yatron
	Stubblefield	Young, Tex.
	Sullivan	Zablocki
	Symington	
	Teague, Tex.	
	Tiernan	
	Udall	
	Van Deerlin	
	Vanik	
	Waggonner	
	Waldie	
	Wampler	
	Ware	
	Whalen	
	Whalley	
	White	
	Widnall	
	Williams	
	Wilson, Charles H.	
	Wolff	
	Wright	
	Yates	
	Yatron	
	Young, Tex.	
	Zablocki	

NOT VOTING—48

Anderson, Tenn.	Hawkins	Pelly
Baring	Hébert	Pryor, Ark.
Barrett	Jones, Ala.	Rangel
Blackburn	Kee	Sandman
Camp	Landgrebe	Schwengel
Clancy	Landrum	Shipley
Clawson, Del	Lennon	Stanton, J. William
Collier	Link	Steiger, Ariz.
Derwinski	Lloyd	Stephens
Diggs	Long, La.	Thompson, N.J.
Dowdy	Macdonald, Mass.	Ullman
Edwards, La.	Madden	Veysey
Goldwater	Mills, Ark.	Vigorito
Goodling	Moss	Whitten
Gubser	Murphy, N.Y.	Wydler
Halpern	Patman	Wyman

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: Page 10, after line 17, insert the following new section:

SEC. 3. (a) Sections 401, 411(c)(1), 411(c)(2), and 422(h) of the Federal Coal Mine Health and Safety Act of 1969 are each amended by striking out "underground".

(b) Sections 402(b), 402(d), 422(a), and 423(a) of such Act are each amended by striking out "an underground" and inserting "a" in lieu thereof.

(c) The amendments made by this section shall be effective as of December 30, 1969.

And renumber the succeeding sections accordingly.

Mr. MICHEL. Mr. Chairman, the provisions of the Federal Coal Mine Health and Safety Act relating to the black lung program currently limit the program to underground miners. This means that those who have worked exclusively in surface mines—the strip miners—are presently ineligible for program benefits.

Now, this would be fair if we knew that strip miners cannot be afflicted with pneumoconiosis—new-mo-cone-e-osis—but the fact of the matter is that we have no idea whether or not those who work only in surface mines can contract this disabling disease.

While the very limited prevalence studies conducted by the Public Health Service have shown little incidence of pneumoconiosis among surface miners generally, and no evidence of it among those miners who had worked exclusively above ground, no one has ventured to contend that strip miners are not subject to the disease.

On the contrary, it would seem reasonable to assume that those strip miners who have worked in extremely dusty situations—at the tipple, for example—for long periods of time, might be subjected to conditions similar to those which result in the development of black lung among underground miners.

In any case, where the possibility of the disease exists, a miner should not be denied the benefits of the black lung program because of circumstance—simply because he has always worked above the ground rather than below it. The amendment I am offering would correct this inequity by striking the word "underground" from the present law, so that the program would apply to all coal miners, regardless of the physical characteristics of the mine.

This does not mean, of course, that all strip miners would automatically become eligible for black lung benefits. Like all other coal miners, they would have to undergo the same tests, the same examinations, and would be diagnosed on the same criteria applicable to other coal miners.

The Public Health Service prevalence studies I mentioned indicate that we could expect few, if any, strip miners to qualify for benefits under the program. But, if even one coal miner has been excluded from the program because he worked only above the ground, then I believe equity demands that we change the law to include him. Following, Mr. Chairman, are excerpts from the memo I referred to:

MEMO IN RE PREVALENCE OF COAL WORKERS' PNEUMOCONIOSIS AMONG U.S. STRIP MINERS

Data were obtained from the Public Health Service and from *Pulmonary Reactions to Coal Dust* (Academic Press, 1971), edited by Dr. Marcus M. Key, Director, Bureau of Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, and Lorin E. Kerr, United Mine Workers of America, and Merle Bundy, U.S. Steel Corp.

In the above publication, the editors cited prevalence studies conducted between 1963 and 1965 on 3,602 coal miners in the U.S. Of these, some 617 were surface miners, including 67 strip miners. Radiological findings indicated definite pneumoconiosis in 11 of the 617 surface miners—1.8%—compared with positive findings in 267 or almost 10% of the 2,978 underground miners tested (see attached tables).

Prevalence studies conducted this year by the Public Health Service found no evidence of pneumoconiosis among exclusively surface

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miners. Miners were ranked on a scale of 0 to 4, with category 3 indicating simple pneumoconiosis.

A. Of 523 Pennsylvania anthracite miners, 53, or 10.1% had worked only above ground. None of these were included in categories 3 or 4.

B. Of 1,461 Pennsylvania bituminous miners, 94, or 6.4% had worked only on the surface. None were included in categories 3 or 4.

C. Of 2,216 West Virginia bituminous miners, 211 had worked only on the surface. None were included in categories 3 or 4.

The data indicates, therefore, that the incidence of pneumoconiosis among surface miners could range up to 1.8%. Using the rough estimate of 25,000 surface miners in the U.S., the number affected could range as high as 450 individuals. Since only a portion of surface miners are strip miners, the number of strip miners affected would probably be considerably less.

Mr. DENT. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. DENT. I will say to the gentleman that we do not intend in any manner to change the criteria for payments.

Mr. MICHEL. Excuse me?

Mr. DENT. We do not intend to in any way change the criteria for payments. In other words, a man must have pneumoconiosis in order to qualify under the act.

Mr. MICHEL. I have no intention to change the criteria for eligibility in any way whatsoever.

Mr. DENT. Mr. Chairman, the gentleman's amendment is satisfactory to me and I am sure the committee on our side will accept it.

Mr. MICHEL. I thank the gentleman from Pennsylvania.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I shall be happy to yield to my colleague from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. I thank the gentleman for yielding.

Mr. Chairman, I simply wish to commend my colleague for his amendment. There are many people who would not otherwise be covered by legislation were it not for this amendment. I know that the gentleman has many strip miners in the district which he represents. There are also many in the 19th Congressional District, which I represent and which happens to be contiguous to that of the gentleman from Illinois (Mr. MICHEL). Such strip miners deserve to be protected. I want to congratulate the gentleman from Illinois for his much-needed amendment.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

I believe the amendment offered by the gentleman from Illinois (Mr. MICHEL) is good. I would point out that in England, for instance, they refer to the disease not as coal miners' pneumoconiosis, but coal workers' pneumoconiosis, because they work with coal whether underground, or in a ship being loaded with coal, or at the tipple, as the gentleman referred to, and are subject to the same disease, pneumoconiosis.

I commend the gentleman for this amendment.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Iowa.

Mr. SCHERLE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of this amendment.

We all support safety legislation; however, to inject Federal workmen's compensation would be wrong.

This section of the bill would establish a special system of Federal workmen's compensation payments for a small group of employees in one industry who are affected by one specific disease. For humanitarian reasons alone we are all sympathetic with any employee who is afflicted with an occupational disease—or, for that matter, with any disease, whatever its origin. Everyone is in agreement that the victims of occupational diseases should be adequately compensated; however, this historic, far-reaching proposal for disabled miners is the wrong way to solve this problem.

The great dangers with this bill are twofold. First, it would undermine our State workmen's compensation system. Second, it would begin a new special social security disability program on top of our existing Federal system.

The State workmen's compensation system was our first form of social insurance. Every State has its own system of providing benefits for work-connected injuries and diseases. Such systems have been functioning successfully for over 50 years. They are still being refined and perfected. This is a continuing process.

There is universal agreement that our State workmen's compensation laws should provide adequate compensation for on-the-job diseases as well as on-the-job injuries. Thirty-eight of our States have broad occupational disease coverage for disabled employees. The remaining States list a schedule of compensable diseases. Improvements are being made in these laws by the State legislatures whenever necessary.

Section 112(b) of this bill would start a new system of Federal workmen's compensation payments for retired or active coal miners with pneumoconiosis. If this section is not struck, it will be the first step toward the ultimate federalization of all workmen's compensation.

This bill offers no incentive or encouragement to the States to further improve their occupational disease laws for coal miners. In fact, if the Federal Government is going to foot the bill, the States will be encouraged to do nothing.

The payments made would be discriminatory. They would apply only to workers suffering one specific disease in one specific industry. This is a step backward. For 50 years we have been working in this country for broad occupational disease or disability benefits. It would be a mistake to begin legislating special payments for this or that group of employees, in this or that industry, for this or that particular disease.

The other great problem to consider is whether this type of legislation would not start a second fragmentary Federal social security disability program. We already have a broad disability program under our social security system. Our citizens are entitled to payments when they are totally disabled without regard to whether the disability arose on or off the job. Section 112(b) of this bill takes no recognition of the fact that coal miners who are totally disabled from black lung disease can apply for disability under the Social Security Act. In fact, a number of the disabled coal miners who appeared at the hearings stated they were receiving monthly social security disability payments.

The great danger here is that we would be starting a third system of governmental disability insurance on top of the already existing State workmen's compensation system and Federal social security disability system. We begin with coal miners with black lung, but where do you stop? The list of industries and occupational diseases is endless. If this legislation is adopted each Congress from now on will be faced with special pleas for special workmen's compensation payments to special categories of employees in various industries for specific diseases. Without question, workmen's compensation should remain the responsibility of the States.

This section of the bill would set an unwise precedent. For the reasons cited, I strongly urge that we not start down this dangerous road.

Mr. MICHEL. Mr. Chairman, I ask for a favorable vote on my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 3. Title IV of the Federal Coal Mine Health and Safety Act of 1969 is amended—

(1) by striking out "1971" where it appears in section 414(b), and inserting in lieu thereof "1973",

(2) by striking out "1972" each place it appears and inserting in lieu thereof "1974",

(3) by striking out "1973" each time it appears and inserting in lieu thereof "1975", and

(4) by striking out "seven" where it appears in section 422(e) and inserting in lieu thereof "nine".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Beginning at page 10, line 18, strike the language through page 11, line 2, and renumber the subsequent sections accordingly.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to section 3, and in support of my amendment to delete this section from the so-called double-orphans bill. My reasons are three-fold, but before enumerating them let us carefully examine what section 3 would do.

It would extend Federal participation in the black lung program an additional 2 years. Under present law the program will be shifted from the Social Security Administration and Federal responsibility to the States and to the mine operators for claims that are filed after January 1 of 1973.

This extension called for in section 3 should be rejected because there is no evidence in the RECORD or the hearings, or elsewhere, that such an extension is needed.

This extension represented in section 3 of the bill represents a backward step, since the program was inaugurated with the view that the States would take it over. In my view an extension of Federal participation of this program is the first step in federalizing the entire program. It is an indication that we never intend to turn it over to the States, even though it has cost so far some $500 million, and will be extended at a much greater expense, an annual expense to the general funds of the U.S. Treasury.

There is no separate fund involved here. There are no payments by the States, no payments by the coal mine operators.

On January 22 of this year the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS) introduced H.R. 18 to extend for an additional year the existing program for black lung benefits. This has already been supplanted by requests for this 2-year extension.

You do not need a crystal ball to predict 2 years from now the gentleman will be back asking for still another extension. It is about time that Congress got out of the workmen's compensation program.

No one disputes that both the proponents and opponents of the original program understood that Federal participation was to be an interim measure, and the payments for work-related injuries fall properly within the realm of State workmen's compensation laws.

Finally, it should be noted that the failure to grant this extension does not mean that payments to black lung sufferers will cease.

They will continue. If the State does not have a comparable workmen's compensation benefit for black lung, the victims will then still be entitled to have Federal participation to the extent of having their claims adjudicated and payments made on their behalf if the States do not have a program and the cost then would be borne by assessments by the Federal Government against the coal mine operators.

With the Federal Government's deficit running as large as it is, I see absolutely no reason why we should extend payments from our general revenue funds. These benefits are occupationally related and ought to be treated the same as all other workmen's compensation benefits.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield for a question?

Mr. ERLENBORN. I yield to the gentleman.

Mr. ANDERSON of Illinois. Does the gentleman have a breakdown as to what this would mean for the States financially? We are experiencing, as the gentleman well knows, in our own State of Illinois at the present time something of a financial crisis. Welfare cuts have had to be made and other cuts have had to be made.

What would this add to the State's financial burden if we were to turn it back to the States?

Mr. ERLENBORN. My understanding, I would say in response to the gentleman, is that workmen's compensation is not paid for out of the State's general fund but is paid for through premiums paid for by the employer.

So, in my opinion, this would not be an expense to the State.

Mr. ANDERSON of Illinois. It would not exacerbate the financial crisis that is faced by many States?

Mr. ERLENBORN. That is exactly right. What this provision really does is grant relief for the coal mine operators who would otherwise be paying the cost of the workmen's compensation program, at a time when the coal mines are operating at maximum capacity. The cost of coal has been increased and there has been an ever-increasing demand for coal and I see no reason to bail out the coal mine operators in this fashion by the utilization of the taxpayers' funds from the general treasury.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman.

Mr. ASHBROOK. I am particularly glad that the gentleman from Illinois made this point because in the previous colloquy, I should say, the rebuttal that the gentleman from Pennsylvania made to my remarks, he talked in terms of savings of money. I never at any time mentioned savings. I talked in terms of where the burden should properly be. If the gentleman recalls correctly, I stated that this approach would remove the burden from the coal mine operators.

Mr. ERLENBORN. Mr. Chairman, I am glad the gentleman from Ohio has set the record straight in that regard.

An awful lot of debate here today has entailed answering comments that were never made or questions that were never asked. I would not accuse the gentleman from Pennsylvania of purposefully twisting the remarks of the gentleman from Ohio or deliberately in any fashion doing that, but I am afraid that he has not been listening as carefully as he might and he is only too ready to assign motives to other people.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would say to the gentleman from Illinois that if what you accuse me of are faults—I deny them. If they are credits—I accept them.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I do not yield at this time.

Mr. Chairman and members of the committee, apparently the amendments that have been defeated in committee time and again are to be repeated here so we can look forward to at least 2 or 3 or more amendments on this subject.

I only intend to say to the House that the committee has reviewed this amendment. We know that not one single State in the Union has been able to swing their legislative operation into gear since March when the record contained the criteria set up for compliance by the States.

We are meeting here today—right on Capitol Hill—with a committee of Pennsylvania legislators and those who are involved in this particular division of the Pennsylvania State government, for the 4th time, trying to work out some kind of plan so that Pennsylvania, which is the most advanced State in the Union in the matter of payments for black lung, can work its laws and change its legislative enactments in order to comply with and come under the Federal act

No matter when the responsibility is turned over to the States, all of those who are included in the Federal list will continue to be paid out of the Federal Treasury. The only new payments that will be made by the States will be those that come after the Federal obligation expires.

The House in its wisdom accepted the responsibility for that great population of miners who drifted from State to State but were eligible for payments, and we are paying it out of the Federal Treasury. The payments, when the program reverts to the States, will come, yes, in some instances, from a payment of employer to employee, but in our own State, when we started the act in Pennsylvania, we paid it out of the public treasury of Pennsylvania until we were able to ascertain the responsibility per miner, per operator, per employer. We could not do it in any other way. That is the only manner in which you can do it. In 2 years we fully expect that every State in the Union will be able to implement their laws in complying with the mandate that the States takes over all new claims.

There is a bright side of this thing. This is a disease that will die out with the present victims of pneumoconiosis. We have reached the 3 milligrams of dust level in most of the mines of the United States. We have reached 2 milligrams, which the English said could never be reached. We have reached a virtual zero point in dust in some of the mines in this great country of ours.

There is only one way a person can get black lung and that is from dust, and we are eliminating the dust. There will not be any big load on the States when eventually the States comply with the law. Right now it is impossible. They do not have the law or the machinery to do so. They need time. I beg of you to defeat the amendment.

Mr. GREEN of Pennsylvania. Will the gentleman yield?

Mr. DENT. I yield to the gentleman from Pennsylvania.

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Mr. GREEN of Pennsylvania. Will the Federal Government continue to pay the claims filed in 1972, and through what department, since the responsibility of the Department of HEW ends on December 31, 1972?

Mr. DENT. Yes. The Department of HEW, under current law, is responsible for those claims filed only during 1972, and the Labor Department is ultimately responsible for all those filed after 1972.

Mr. GREEN of Pennsylvania. Will the U.S. Department of Labor accept claims filed after January 1, 1973, from claimants who are disabled but were employed years ago and have no current employer to hold responsible?

Mr. DENT. Yes.

Mr. GREEN of Pennsylvania. Will the U.S. Secretary of Labor, in approving a State plan, require total funding by employers or can funding be shared by the employer and the State?

Mr. DENT. The Secretary will require total funding. If a State makes payments as well as an employer, the State share can reduce the operator's obligation that amounts to joint funding.

Mr. GREEN of Pennsylvania. Will the Federal Government continue payments after 7 years if, first, a State has an approved plan, and, second, if a State does not have an improved plan?

Mr. DENT. Yes, in either situation, provided the claim was filed during the eligible period.

Mr. GREEN of Pennsylvania. On and after January 1, 1973, must a State that has a statutory black lung program provide benefits equal to Federal payments for claimants rejected or terminated under the Federal program but eligible under a State program?

Mr. DENT. No. If a State wants to provide benefits for claimants other than those in the Federal law, the State is not obligated to provide equal benefits for those other claimants as well.

Mr. GREEN of Pennsylvania. I thank the gentleman.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from California, if I have any time remaining.

Mr. BURTON. Is it not a fact that if this provision as reported out by the committee is not sustained, that starting January 1 the Secretary of Labor will have to directly go to every coal operator individually in the country to enforce the provision which will require those coal operators to comply with the terms of the bill and work out payment arrangements for direct workmen's compensation premiums through the Secretary of Labor? Those who operate the coal mines state there has not been a single large coal mining State legislature that has been able to comply with the terms of the bill, and they are asking for only enough time for the State legislatures to enact wise legislation.

Mr. DENT. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. FLOOD. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. FLOOD. Now, I did not intend to do this, but I would like to talk to my friends on the other side of the aisle. I have a right to. I have both nominations. Everybody in a sense is really trying to draw blood here, and so will I. I have a very long fuse, after nearly 30 years here. I do not get mad much about anything any more, except when Mrs. Flood says, when she gets mad at me, she is going to cut off half of my mustache. That would be a dirty trick—cut off half. But let me show how far some of these people have gone in their deadpan, sanctimonious, glib presentation. Hold your watch, boys, and if you have gold in your teeth, keep your mouth shut.

The gentleman from Illinois (Mr. MICHEL)—and it is "Mishel" and not "Mikel"—is the ranking Republican on the Appropriations Subcommittee that handles this bill, and I am the chairman. If the gentleman from Kentucky (Mr. PERKINS) and the gentleman from Pennsylvania (Mr. DENT)—and the Members are going to defeat this amendment and pass their bill—come back to MICHEL and FLOOD and we are here, with the help of God, 2 years from now, and they think they are going to get any more extension of time to file under the Federal funds section at the end of that period, they are out of their individual and collective heads, I am telling the Members that now. So scratch that. This will not be extended. It was never intended to be, and it is not going to be.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. Mr. Chairman, I have something more to say, and then, of course, I will yield. I will get the time to do it. The gentleman is all right. He is now the new conscience of the House, and I understand my friend, the gentleman from Michigan (Mr. FORD) approves it. The gentleman is all right. He is getting in on the gentleman from Missouri (Mr. HALL) and the gentleman from Iowa (Mr. GROSS) here, but that is all right.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. Just a minute.

Now there is a second point, and the gentleman from Pennsylvania (Mr. DENT) did not mention this. Now hear this.

My friend, the gentleman from Illinois, is a conservative Republican at heart, and he is bleeding now for the taxpayer, but the coal companies—ai, yi, yi. The Republican coal companies are going to benefit, and he is going to break down and cry when they do? He is going to have to see the priest if he says that out loud.

The coal companies. Can the Members imagine JOHN FRANCIS ALOYSIUS FLOOD in the well of this House defending the coal companies and in favor of the coal companies? Do not be ridiculous. And go back to my district and say that. Why, the coal companies have held meetings since 1924, when I had 66,000 men—of course, I have no great interest in this fight. In 1924 I had 66,400 men in the hard coal working underground in my county. Today I have got 1,200. And yet I vote for the gas people and I vote for the oil people for 25 years. I have no great ax to grind here, as the soft coal people do. But the coal companies held meetings every morning before elections for 25 years and called in their fine boys and their mine boys to beat FLOOD in a Republican district, and they could not do it. And I am for the coal companies? No. That is the second "truism" that the Members have heard today. We cannot say "lie," because somebody will take down my words.

No, there are other things, my friend says.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. FLOOD. I was sure the gentleman would.

Mr. ERLENBORN. The gentleman has said after next year he would not appropriate funds.

Mr. FLOOD. After this bill is passed there are 2 years more.

Mr. ERLENBORN. If the gentleman will yield, I wonder if the gentleman will tell this House about it.

Mr. FLOOD. I am telling the gentleman, and next year he can back me up on it.

Mr. Chairman, I am doing a monolog here.

Mr. BURTON. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. Oh, yes, all right, I yield to the gentleman from California (Mr. BURTON).

Mr. BURTON. As I understood the gentleman, he was not saying he was going to cut off those claimants whose claims were filed or approved under the law.

Mr. FLOOD. Of course, the gentleman knows that.

As a matter of fact my friend from Illinois came down here when we were on suspension and had me in tears. His heart was bleeding for the double orphans. Sacre bleu, mon Dieu. He is going to hell for it. Well, imagine.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding.

Let me say I enjoyed the performance of the gentleman who preceded me in the well, a minute ago. I believe the Shakespearean stage has been the loser and the House the gainer by having his presence here.

Let me make clear to the Members of the House what this provision will do. In the law today those who qualify for Federal benefits continue to be the responsibility of the Federal Government. For a period of 2 years we were to pick up the backlog of all those who contacted this disease over the past 40 or 50 years. Then, having taken care of the great bulk of those who suffer from the disease, the law was designed to say that in the future those who contact this disease should be compensated under State workmen's compensation law; if the State has no appropriate compensation law, however, the Federal Government will continue to adjudicate and pay legitimate claims.

What the existing law does is create a cause of action by the Federal Government against the coal mine operator.

There can be only one result of the extension of Federal responsibility; that is, to wipe out for that 2-year period the cause of action against the coal mine operator.

If the States adopt the program the coal mine operators will pay for it through workmen's compensation insurance premiums.

If we do not extend this and there is no State workmen's compensation law governing it, the Federal Government will sue the coal mine operator to cover.

In no event does it cost the miner The State does not bear a share of the cost as the bill is. So extending the Federal responsibility saves nothing for the States and simply imposes the costs on the Federal Government. It spares the coal mine operators and puts the burden on the taxpayers out of the Federal general funds.

Members should understand that when they vote on this. If they believe we need a greater drain on our Federal general funds so that we can save the coal mine operators this cost, they should vote against the amendment. If they believe it is fair for the coal mine operators to pay for this type of workmen's compensation, as other employers do pay for it, they should vote for my amendment.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me state that I will take only 1 minute.

We are talking about legislating for the welfare of human beings here, not for cold and impersonal statistics. It is a matter of justice to extend this act from January 1, 1973, to January 1, 1975; to strengthen the legislative mandate to the administration to assure benefits to thousands of people who have been denied them; to let the State legislatures have time to enact appropriate statutes providing pneumoconiosis benefits.

The 2-year extension is the minimum time that should be provided.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. ERLENBORN. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. ERLENBORN. Mr. Chairman, I demand tellers with Clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. ERLENBORN, DENT, QUIE, and PERKINS.

The Committee divided, and the tellers reported that there were—ayes 133, noes 246, not voting 52, as follows:

[Roll No. 376]

[Recorded Teller Vote]

AYES—133

Abbitt	Gross	Pirnie
Abernethy	Grover	Poage
Anderson, Ill.	Haley	Powell
Andrews, N. Dak.	Hall	Price, Tex.
Archer	Hammer-schmidt	Purcell
Arends	Hansen, Idaho	Quie
Ashbrook	Harvey	Railsback
Belcher	Hastings	Rarick
Bell	Henderson	Rhodes
Betts	Hosmer	Roberts
Bow	Hunt	Robinson, Va.
Brinkley	Hutchinson	Robison, N.Y.
Broomfield	Jarman	Rousselot
Brown, Ohio	Jonas	Runnels
Broyhill, N.C.	Jones, N.C.	Ruth
Burke, Fla.	Jones, Tenn.	Sandman
Burleson, Tex.	Keith	Satterfield
Byrnes, Wis.	Kemp	Scherle
Cabell	King	Schmitz
Cederberg	Kuykendall	Scott
Chamberlain	Kyl	Sebelius
Cleveland	Latta	Shoup
Collins, Tex.	Lennon	Shriver
Colmer	Lent	Sikes
Conable	McClory	Smith, Calif.
Conte	McCollister	Smith, N.Y.
Crane	McCulloch	Spence
Davis, Wis.	McDonald, Mich.	Springer
Dellenback	McEwen	Steiger, Wis.
Dennis	McKevitt	Talcott
Devine	Mahon	Taylor
Dickinson	Maillliard	Teague, Calif.
du Pont	Mann	Terry
Dwyer	Martin	Thompson, Ga.
Edwards, Ala.	Mathias, Calif.	Thomson, Wis.
Erlenborn	Mathis, Ga.	Thone
Esch	Mayne	Vander Jagt
Fish	Michel	Widnall
Flynt	Mills, Md.	Wiggins
Ford, Gerald R.	Minshall	Wilson, Bob
Forsythe	Mizell	Winn
Fountain	Montgomery	Wyatt
Frelinghuysen	Morse	Wylie
Frenzel	Nelsen	Young, Fla.
Frey		

NOES—246

Abourezk	Clay	Giaimo
Abzug	Collins, Ill.	Gibbons
Adams	Conyers	Gonzalez
Addabbo	Cotter	Grasso
Albert	Coughlin	Gray
Alexander	Culver	Green, Oreg.
Anderson, Calif.	Daniel, Va.	Green, Pa.
Andrews, Ala.	Daniels, N.J.	Griffin
Annunzio	Danielson	Griffiths
Ashley	Davis, Ga.	Gude
Aspin	Davis, S.C.	Hagan
Aspinall	de la Garza	Hamilton
Badillo	Delaney	Hanley
Baker	Dellums	Hansen, Wash.
Begich	Denholm	Harrington
Bennett	Dent	Harsha
Bergland	Dingell	Hathaway
Bevill	Donohue	Hawkins
Biaggi	Dorn	Hays
Biester	Dow	Hechler, W. Va.
Bingham	Downing	Heckler, Mass.
Blanton	Drinan	Heinz
Blatnik	Dulski	Helstoski
Boland	Duncan	Hicks, Mass.
Bolling	Eckhardt	Hicks, Wash.
Brademas	Edmondson	Hillis
Brasco	Edwards, Calif.	Hogan
Bray	Eilberg	Holifield
Brooks	Eshleman	Horton
Brotzman	Evans, Colo.	Howard
Brown, Mich.	Evins, Tenn.	Hull
Broyhill, Va.	Fascell	Hungate
Buchanan	Findley	Jacobs
Burke, Mass.	Fisher	Johnson, Calif.
Burlison, Mo.	Flood	Johnson, Pa.
Burton	Flowers	Karth
Byrne, Pa.	Foley	Kastenmeier
Byron	Ford, William D.	Kazen
Caffery	Fraser	Kluczynski
Carey, N.Y.	Fulton, Tenn.	Koch
Carney	Fuqua	Kyros
Carter	Galifianakis	Leggett
Casey, Tex.	Gallagher	Long, Md.
Celler	Garmatz	Lujan
Chisholm	Gaydos	McCloskey
Clark	Gettys	McCormack
		McDade
		McFall
		McKay
		McKinney
		McMillan
		Matsunaga
		Mazzoli
		Meeds
		Melcher
		Metcalfe
		Mikva
		Miller, Calif.
		Miller, Ohio
		Minish
		Mink
		Mitchell
		Mollohan
		Monagan
		Moorhead
		Morgan
		Moss
		Murphy, Ill.
		Myers
		Natcher
		Nedzi
		Nichols
		Nix
		Obey
		O'Hara
		O'Konski
		O'Neill
		Passman
		Patten
		Pepper
		Perkins
		Peyser
		Pickle
		Pike
		Podell
		Poff
		Preyer, N.C.
		Price, Ill.
		Pucinski
		Quillen
		Randall
		Rees
		Reid, N.Y.
		Reuss
		Riegle
		Rodino
		Roe
		Rogers
		Roncalio
		Rooney, N.Y.
		Rooney, Pa.
		Rosenthal
		Rostenkowski
		Roush
		Roy
		Roybal
		Ruppe
		Ryan
		St Germain
		Sarbanes
		Saylor
		Scheuer
		Schneebeli
		Seiberling
		Sisk
		Skubitz
		Slack
		Smith, Iowa
		Snyder
		Staggers
		Stanton, James V.
		Steed
		Steele
		Steiger, Ariz.
		Stephens
		Stokes
		Stratton
		Stubblefield
		Stuckey
		Sullivan
		Symington
		Teague, Tex.
		Tiernan
		Udall
		Ullman
		Van Deerlin
		Vanik
		Waggonner
		Waldie
		Wampler
		Ware
		Whalen
		Whalley
		White
		Whitehurst
		Williams
		Wilson, Charles H.
		Wolff
		Wright
		Yates
		Yatron
		Young, Tex.
		Zablocki
		Zion

NOT VOTING—52

Anderson, Tenn.	Goodling	Mosher
Baring	Gubser	Murphy, N.Y.
Barrett	Halpern	Patman
Blackburn	Hanna	Pelly
Boggs	Hébert	Pettis
Camp	Ichord	Pryor, Ark.
Chappell	Jones, Ala.	Rangel
Clancy	Keating	Schwengel
Clausen, Don H.	Kee	Shipley
Clawson, Del	Landgrebe	Stanton, J. William
Collier	Landrum	Thompson, N.J
Corman	Link	Veysey
Derwinski	Lloyd	Vigorito
Diggs	Long, La.	Whitten
Dowdy	McClure	Wydler
Edwards, La.	Macdonald, Mass.	Wyman
Goldwater	Madden	Zwach
	Mills, Ark.	

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 4. The first sentence of section 413(b) of such Act is amended by inserting before the period at the end thereof the following: ", but no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram".

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Beginning at page 11, line 3, strike the language through line 7.

Mr. ERLENBORN. Mr. Chairman, let me first of all announce, because I know it will please the membership, that this is the last amendment I have to offer today. As far as I know it may be the last one that is offered on the bill.

This would strike the last section of the bill, section 4 relative to the prohibition of the use of the X-ray.

On initial examination the insertion of this language that "no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram," seems innocuous and an attempt to give fair and just evaluation of a claim for black lung benefits. But a more thorough analysis of the ef-

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fect of such language discloses a far different result. It is important to keep in proper prospective the original purpose of the benefit program. It was to provide benefits for miners who were totally disabled due to black lung as a result of many years of exposure in the coal mines. The program was not designed or intended to give benefits to miners who become totally disabled from other causes. Thus, a miner who develops emphysema, a lung disease that is contracted by people irrespective of their particular occupation, or bronchitis or pneumonia or any of an innumerable list of other ailments would not be eligible for benefits under this program even if they became totally disabled as the result of such a disease, and even though he may have worked in the coal mines for 20 years. In effect, just being a coal miner for a long period of time does not qualify an individual for benefits under this program.

If a chest X-ray discloses black lungs, benefits can be paid solely on the basis of such an X-ray. If the X-ray discloses some evidence of black lung, additional tests are made to determine its severity and its degree of disability. If an X-ray discloses no evidence of black lung, claims have been denied.

The Social Security Administration report explains the use of the X-ray in this way—this establishment of claims by X-ray is based on the prevailing medical judgment that in the absence of positive X-ray evidence, the disease does or does not exist to a degree that would have a significant effect on the claimant's functional capacity.

Moreover, where other diseases exist like emphysema or chronic bronchitis which have some similarity to black lung, a consensus of medical expert judgment is that there is no other means than the X-ray presently available to diagnose and distinguish black lung from other respiratory diseases in a living person with the exception of a biopsy.

Now there is a great misunderstanding due to a great deal of publicity that has been given on this subject, that some people who have lung troubles have been denied pneumoconiosis compensation, and where such claimant later died and an autopsy shows that there was evidence of pneumoconiosis. However, none of this evidence shows there these cases involved pneumoconiosis that was totally disabling—and that is the basis that is established in the legislation for compensation. Eliminating the X-ray will extend benefits to those who were never meant to be covered. Again that will put a greater burden on those who are supposed to take over this program if it ever becomes anything other than a Federal program.

Contrary to what some would have you believe, social security has been administering this program in a very fair and liberal way. Many claims have been denied. All this means is not everyone who has filed a claim is totally disabled due to pneumoconiosis. Approximately half of the claims have been allowed. A greater number of them have been allowed in Pennsylvania where a great number of coal miners have retired who have worked many years in the anthracite fields. The elimination of the X-ray as a means for diagnosis and a reason for denial of the claim will do nothing to improve this program. It will only extend benefits to those who are suffering from diseases that are not and should not be compensable.

Mr. DENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and Members, I will not read the entire correspondence from the American College of Radiology, but I will read what they recommended to the committee—and the committee followed their recommendations. I believe it is important to know that these are the top experts in the entire United States on the diagnosis of the disease through the use of X-rays, radiology. They recommended to this committee—and I quote from their correspondence—

Rather, we would suggest language which would direct the Secretary to take into consideration any and all clinical findings which would be provided by the miner or his physicians—including the X-ray findings.

I include the entire letter in the RECORD.

The letter is as follows:

AMERICAN COLLEGE OF RADIOLOGY,
Chicago, Ill., June 30, 1971.

HON. JOHN H. DENT,
Chairman, General Subcommittee on Labor, House Committee on Education and Labor, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment upon the language in H.R. 9212 which is now pending before your committee. As the representative body of the nation's medical specialists in the uses of x-rays for diagnosis of diseases, we are most concerned with the implications in Section 4. This current language would have the effect of disqualifying the one objective medical examination now available to physicians and government officials in determining the condition of a miner or former miner with regard to his status under the law.

It is axiomatic in good medical practice that x-ray examinations are requested and performed as part of a clinical process which leads to a diagnosis and possible treatment of a patient's health problem. For some conditions, the x-ray finding is the definitive evidence for the physician managing the case. In others it is contributory to his conclusion and in still others it provides little or no helpful information. In perhaps a majority of all x-ray examinations, a negative finding (i.e., the part examined appears to be normal) can be vital in ruling out a myriad of possible causes of a patient's complaint.

In the instance of coal workers' pneumoconiosis, the patterns of dust retention in the lung make extremely difficult a positive diagnosis of the disease in its early stages. In the later stages, the accumulation of foreign matter usually becomes more evident on well executed x-ray examinations. However, not all persons exposed to concentrations of coal dust respond in the same way. It has been demonstrated that miners with x-ray evidence of advanced pneumoconiosis are still functional and seemingly have unimpaired lung function. Conversely, other miners with no x-ray evidence of pneumoconiosis are by any clinical standards disabled. There is a further problem in that miners with emphysema, bronchitis, lung tumors and other respiratory ailments will suffer more from an accumulation of coal dust in their lungs than will their colleagues who do not have these basic problems.

In addition to x-ray examinations, physicians attempting a medical diagnosis of pneumoconiosis would ordinarily rely upon a patient history, a physical examination and, where available, a pulmonary function study. Unfortunately, facilities for pulmonary function studies and physicians skilled in making them are not available to the extent that these can be utilized as a routine procedure in most mining communities. In most cases, reliable efforts to determine the cause of the respiratory disability demonstrated by the minor is still dependent upon the findings of the chest x-ray examination.

There is a further problem in that the production of a roentgenogram which can demonstrate pneumoconiotic lesions requires a level of skill which was not always found in the persons performing such duties in mining communities. Likewise, physicians not specially trained in radiology or chest disease may fail to appreciate the subtle markings which distinguish pneumoconiosis from other lung conditions. Thus, while the x-ray examination is an essential part of the diagnosis of pneumoconiosis, its contribution and reliability could be enhanced by greater attention to the inherent problems in the procedure.

During the months since the passage of PL 91-173, this organization has been working with the National Institute of Occupational Safety and Health of the Public Health Service and the Bureau of Disability Insurance and the Bureau of Hearings and Appeals of the Social Security Administration on an intensive program to acquaint physicians in the mining areas with the special responsibilities under the act. Through this program, more than 850 physicians in the mining areas have become qualified by the PHS for participation in its program and most of these doctors have participated in SSA efforts as well. The training, in seminars and home study materials, has stressed the need for good films and for an appreciation of the type of pathology seen in black lung problems plus the use of the standardized system of reporting findings. In addition, special efforts have been made to improve film quality by instructing the x-ray technologists and other physician's assistants who make the exposures. These efforts not only contribute to the effectiveness of the act but also provide a solid base for better x-ray examinations in the communities served by these physicians.

Thus, we would argue that the language of Section 4 would be detrimental to the purpose of the amendment and of the basic act. Rather, we would suggest language which would direct the Secretary to take into consideration any and all clinical findings which would be provided by the miner or his physicians—including the x-ray findings. Where a miner is deceased, the existing x-ray examination may be the only objective evidence subject to review by the Secretary. The language might more appropriately read, "but a claim for benefits under this part shall be denied solely on the basis of a chest roentgenogram only when no other clinical findings are available or can be provided to the Secretary."

You can appreciate that this brief discussion is necessarily general. It cannot reflect the total subject or the differences of interpretation and opinion held by physicians and others concerned with the black lung problem. We do hope that it has been responsive to your request and that you will feel free to use this material in any way or to call upon us for additional assistance.

Sincerely,

SEYMOUR P. OCHSNER, M.D.,
Chairman, Board of Chancellors.

Mr. Chairman, that is exactly what the legislation before you does. We do not in any way prohibit the use of X-ray, nor do we curtail the use of it. We merely say that there are other examinations that can be conducted to make a complete and honest diagnosis of the case and they can be used. We simply do not want a claim denied solely on the basis of an X-ray.

This is a peculiar thing. Here we are in the United States arguing about a condition that has been known to us for years and which we have done little about. But in Germany, in 1929, they passed the first law on black lung as an occupational disease, and they have been operating under it ever since. It is probably the most advanced legislation in the field of occupational disease in the entire world.

Hopefully, this bill will enable us to have the best piece of legislation in the entire world for the unfortunate victims of black lung.

Let me read what the Germans have said.

The Germans say that X-rays often fail to show the presence of black lung disease. Even without reliable X-rays, German doctors can detect black lung disease in its early stages. That is one of the difficulties with X-ray. One of the difficulties with the X-ray is that it will not, in many cases, detect the disease in its early stages, and it is imperative not only to the health of the miner but to the workings of this legislation that the early stages be detected, because when we detect the early stages, we prohibit the man from working in a place where there is dust. He must be put into a position where there is relatively little dust in order that no further damage will be done to his lungs, and therefore he cannot become a victim of black lung.

So they can use other clinical tests, such as reliable blood tests. They can discover by breathing tests early stages of the disease. Sometimes by their treatment they can prevent further stages of the disease which bring a man to a fatal end.

We have here the testimony of our own Surgeon General before our committee. The Surgeon General said—

• • • Coal miners' pneumoconiosis is a distinct clinical entity, resulting from inhalation of coal dust. Physicians diagnose it on the basis of X-ray evidence of nodules in the lungs of a patient with a history of long exposure to coal dust. *However, it should be pointed out that data from postmortem examinations indicate a higher prevalence of the disease than can be diagnosed from X-ray examinations.*

I would much rather take the opinion of the Surgeon General of the United States than some bureaucrat working in some section of the social security group.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DENT. I am happy to yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman. That does not say "complicated pneumoconiosis" that is totally disabling. The only thing that is compensable under this law is complicated pneumoconiosis which is totally disabling. There is no medical opinion that says this cannot be seen by X-ray. The gentleman is talking about the early stages which are not compensable.

Mr. DENT. I thank the gentleman, for that points up what I said. We do not want to wait until the later stages to make it compensable. We want to discover it in its early stages.

Moreover, the law provides benefits to miners who are totally disabled due to pneumoconiosis without regard to whether the disease has yet reached the complicated stage.

Mr. REID of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment and state at the outset that there is a difference of opinion on this question. I have sought both through the Secretary of Health, Education, and Welfare, Elliot Richardson, and the Bureau of Disability Insurance, to try to get to the truth of the matter. Let me report to the Members from the report the Secretary sent to me, and I will read just one section.

This report stated:

There is some minority medical opinion to the effect that disabling pneumoconiosis may exist in the absence of positive X-ray evidence thereof.

Further, the Secretary, in this report he has sent to me, pointed out:

We are currently carrying out a pilot project in conjunction with the Public Health Service to determine the effectiveness and feasibility of developing a simplified exercise test for individuals who have "simple" pneumoconiosis but whose ventilatory capacity does not demonstrate total disability on the basis of conventional pulmonary function tests. The project is expected to lead the way to establishing additional methods and criteria for evaluating total disability.

The doctor they have selected to participate in this test is Dr. Rasmussen, whom I have been in touch with both on the phone and in writing. He says there are tests that can detect total disability, that is complicated pneumoconiosis, that is serious, that does not show up on X-rays, that can be made by drawing blood samples and determining the amount of oxygen in the blood of an individual as he runs on a treadmill. Dr. Rasmussen strongly feels that using X-rays alone is a mistake and a grave injustice, and that while X-rays will show some black lung, it has been proven that they do not always register the existence of black lung.

Therefore, I am urging that other professional diagnostic techniques and approaches be allowed by the Federal Government in order to determine these benefits.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I yield to the chairman of the committee.

Mr. PERKINS. Mr. Chairman, first let me compliment the gentleman from New York for opposing this amendment. We are only proposing that negative X-rays shall not be the sole basis for denial?

Mr. REID of New York. That is correct.

Mr. PERKINS. And if we did not protect the individual to that extent, since we have had several millions of individual coal miners in this country who have worked in the mines, and the majority of denials, or over 150,000 have been solely on the basis of X-rays, if we let a condition like that exist in the law, I personally feel we would be doing a great injustice. If the gentleman who has expressed it so clearly will permit me to read one paragraph of a letter from Dr. Neal Calhoun of Hopkinsville, Ky., to the Honorable FRANK STUBBLEFIELD, he says:

The Social Security Administration refuses to accept the clinical impression of the patient's family physician; they refuse to accept anything except drastic reduction of pulmonary function and pneumoconicels on the chest X-ray, or autopsy findings, or biopsy findings. This prevents thousands of people from obtaining their benefits who are justly due them. I have several patients who have such poor pulmonary functions that they cannot undergo open lung biopsy because they would die with pneumonia from such a minor procedure. The people in the Social Security Administration know this, and consequently they feel safe in rejecting these individuals, knowing that the physician will not jeopardize their lives in order to obtain their benefits. Therefore, we, the practicing physicians, and the patient are forced to wait until he does and get an autopsy.

Mr. Chairman, I compliment the gentleman.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. REID of New York was allowed to proceed for 3 additional minutes.)

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

First of all, the gentleman read from the report of HEW only one sentence of a paragraph. I should like to have the balance of that paragraph in the RECORD. It says:

However, this issue was thoroughly considered by the Social Security Administration, through extensive consultation with a wide range of medical specialists, and the requirement was included in the regulations as reflecting the overwhelming consensus of medical judgment on the issue.

The gentleman in the well, as well as the gentleman from Pennsylvania, has spoken in terms of allowing the Social Security Administration to use other diagnostic techniques. There is nothing in the act which requires them to use an X-ray or any other type of diagnostic technique. They can use any that are, within current medical usage according to the consensus of medical judgment, proper ones.

The first step we are going to take toward dictating to Social Security how they are to engage in these medical tests is the one proposed in this bill; that is to say, against the greater weight of medical evidence we are going to supplant our judgment and say that the X-ray cannot be used as the sole basis for denying a claim. This is the first intrusion into the Social Security Administration's ability to determine how to administer this law.

Mr. REID of New York. I appreciate

the gentleman's comment, but he did not have in his possession the analysis of the Secretary's document from Dr. Rasmussen, who had been asked by the Department to be part of the study. He said in this analysis that—

The continuing reference to "majority medical opinion" or "prevailing medical judgment" impunes the integrity of the medical profession and implies gross incompetence among specialists in pulmonary diseases.

It might be well to offer some parallels in the pseudoscience of medicine which could impart some degree of understanding into the problems of diagnosis of occupational lung diseases.

In the diagnosis of, for example, peptic ulcer of the duodenum, it is fully recognized by virtually every member of the medical profession that an absolute diagnosis may not be made in the absence of x-ray evidence or anatomic evidence. However, it is known that in perhaps 20% of patients suffering from severe peptic ulcer, the x-ray may not be diagnostic. Few qualified physicians, would, on the basis of negative x-ray evidence, fail to (a) diagnose the disease and (b) treat the patient as though he had a peptic ulcer in light of the patient's symptoms.

In the same light, in a patient whose symptoms strongly suggest a heart attack, the electrocardiogram may not be diagnostic. The electrocardiogram may not reveal evidence of a definite heart attack in perhaps 5 to 10% of affected subjects. No qualified physician would dismiss the patient or fail to treat him as if he had suffered a heart attack, until additional studies were performed.

In establishing a diagnosis of active tuberculosis of the lung, no physician in the entire world would be willing to say the disease did not exist if one, two or three examinations of the patient's sputum failed to reveal mycobacterium tuberculosis. In fact, the diagnosis might well be made and the patient given therapy, in spite of the fact that an absolute diagnosis was not proven.

These departures from the subject of "black lung" are made in order to attempt to understand the peculiar emphasis placed on the diagnosis of occupational lung disease in the United States. The same medical profession which makes diagnoses of peptic ulcer, myocardial infarction and pulmonary tuberculosis, makes diagnoses of occupational lung disease. No objective, informed member of the medical profession would suggest that the chest x-ray has greater validity in diagnosing occupational lung disease than the GI x-ray in diagnosing peptic ulcer, the ECG in diagnosing myocardial infarction or the sputum examination in diagnosing tuberculosis. The point which, in my opinion, is crucial, is that the tenacious clinging to x-ray evidence of pneumoconiosis is *medico-legal, not medical*. It is a conditioned reflex, resulting from the impact of judicial and legalistic actions, not scientific medical judgment.

The fact that the United States Public Health Service currently uses x-rays "to establish the presence of pneumoconiosis", is hardly a valid argument, and hardly portrays that agency as anything more than a rubber stamp for a regressive Administration.

The statement in paragraph 1 on page 2 is totally without foundation in any published or unpublished medical report. It implies, in fact, that x-ray evidence of CWP identifies a miners occupation as being responsible for his "bronchitis, emphysema, and a variety of neurological, infectious, muscular and degenerative diseases". I challenge the statement that the prevalent medical judgment places this reliance on the chest x-ray.

In other words, one of the experts called in differs as to making the X-ray the sole basis for the judgment.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. REID of New York. I yield to the distinguished chairman.

Mr. STAGGERS. I want to congratulate the gentleman from New York on the statement he has made and the position he has taken.

The gentleman mentioned the name of Dr. Rasmussen. I should like to say to him that my son-in-law, Dr. Wells, along with him, first started the study of pneumoconiosis. Those two were sent out by the Public Health Service to study pneumoconiosis among miners in West Virginia. I have heard him say one cannot tell this disease solely from an X-ray. For that reason, the amendment should be defeated.

I should like to say further that while my son-in-law was on that study $1 million was granted by HEW, and never got to the laboratories in West Virginia where it was supposed to be used, so they were not funded too much.

Mr. GRAY. Mr. Chairman, I move to strike the requisite number of words.

The purpose of H.R. 9212 is to correct certain defects in the administration of the Federal Coal Mine Health and Safety Act of 1969 and to provide for the extension of benefits in that act to the orphans of workers who die of pneumoconiosis, better known as black lung.

The act has not fully accomplished the intent of Congress when it was passed. What we are trying to accomplish here is a clarification of intent by certain amendments to title IV of the original act. For example, we did not intend the desperate need of individuals eligible for benefits under the act be set off against social security disability payments, thus neutralizing or decreasing one of the prime purposes of the act. It was our intent that "black lung" benefits be over and above those provided under workmen's compensation payments, otherwise the provision for special disability benefits would not have been written into the legislation in the first place.

In another amendment proposed under H.R. 9212 we are simply but importantly extending the timetable for certain provisions under section 3 for 2 additional years in order to permit the States an additional working period to assume their responsibilities under the act. While this will extend the time of Federal responsibility, we recognize the problems inherent in some States in coming to grips with the benefit provisions of the program. We hope the States will use this additional period for resolve rather than delay.

The amendment to the first sentence of section 413(b) that "no claims for benefits under this part shall be denied on the basis of the results of a chest roentgenogram" is absolutely necessary. The fact that the Social Security Administration utilizes the services of a group of eminent radiologists in X-ray classification to reinforce the accuracy and consistency of X-ray readings under the black lung program is good but beside the point. They are still X-rays with their controversial and time-proven limitations in diagnosis for black lung. As Dr. May Mayers states in the book on "Occupational Health," Williams & Wilkins, 1969:

Physicians in general tend to place too great reliance upon the X-ray picture alone, and give too little weight to the clinical picture . . . The extent of medical disability can only be determined, with any degree of accuracy, by cardiorespiratory function tests, with which some physicians are still unfamiliar.

The amendment does not deny the usefulness, nor does it call for the elimination of, X-rays in the adjudication of claims for benefits; it calls by implication for an accurate medical diagnosis based upon all relevant medical tests in the disposition of claims. Many southern Illinois miners and widows are being denied benefits because of the present law. From a social point of view the detailed provisions of this matter are clearly the most important components of the four-amendment legislative package before us.

If the health standards prescribed in title II of the Federal Coal Mine Health Safety Act are effective in eliminating the cause of lung disease, the personal burden of incapacitation as well as the burden of benefit payments will be reduced in the future. However, irreversible damage has already been done to miners, and we propose to correct that so far as it affects their dependent children. We should not allow conditions which have disabled the miner to also disable his children, either with respect to the necessities of life or educational opportunities. H.R. 9212 provides the necessary prescription and guidelines for preventing the conversion of occupational disease of the miner into socioeconomic "disease" for his children. The spirit of this amendment is the spirit of the entire bill; I strongly urge the passage of H.R. 9212 and the defeat of all the Erlenborn amendments that are designed to gut the bill. If the bill is passed and signed into law in its present form, thousands of southern Illinois coal miners and their widows will receive justice.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 38, noes 131.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. THOMPSON OF GEORGIA

Mr. THOMPSON of Georgia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMPSON of Georgia: (A) "Pneumoconiosis" as used in this act means any respiratory deficiency caused by the repeated inhalation of coal dust, marble dust, rock dust, other quarry dust or man made or natural textile fibers.

(B) "Miner" as used in this act includes any individual who as a result of the working conditions related to his employment in any industry contracts pneumoconiosis as is defined in (A) above.

Mr. THOMPSON of Georgia. Mr. Chairman, what I am attempting to do by this amendment is, by means of defining pneumoconiosis in a broad term, to include those workers in other industries who suffer a similar fate as do coal miners.

Pneumoconiosis as I am defining it would include quarry workers, men who work in granite and marble quarries, asbestos workers, and indeed textile workers.

I know many of my colleagues from the South have seen textile workers as they come out of the textile mills completely covered with lint. They have inhaled the lint and it becomes imbedded in their lungs. It is not soluble and it does not go out of their lungs. Indeed it has the same symptoms and problems and in time death is caused by the inhalation of it just as it is by the inhalation of coal dust.

I am also defining "miner" so as to include an employee in any industry who is affected by the working conditions so as to cause pneumoconiosis as defined in the broad term of this amendment.

Granted it is a sweeping amendment, but it is certainly one that deserves the consideration of the House, and I hope that the House will adopt it.

Mr. DENT. Mr. Chairman, I rise to oppose the amendment.

As much as I would like to assist the gentleman in what he is trying to do, I would suggest that it is not a proper part of the legislative process here. He can pinpoint exactly what he wants done, and if he comes to our committee, I will guarantee him that I will give him hearing and give him every opportunity to make his point. However, at this stage of the game it is completely wrong to suggest that we should include textile workers and workers in these other industries in a bill which is designed for relief of coal mining occupational disease. I prefer to keep it that way.

Mr. MICHEL. Mr. Chairman, as we close the debate on this legislation, I would like to first express my appreciation to members of the Education and Labor Committee on both sides of the aisle for accepting my amendment that would wipe out the requirement that a miner be engaged in work underground as a condition precedent to eligibility for benefits under this program. I am glad to see that Members were in general accord in recognizing the equity of all types of miners being treated the same, whether they work above or below ground and suffer from pneumoconiosis.

I do regret, Mr. Chairman, that several very significant amendments offered by Mr. ERLENBORN and Mr. BYRNES of Wisconsin were not adopted, for I believe they were good amendments, and I am afraid because they were not adopted, I will be forced to vote against the bill on final passage.

And finally, Mr. Chairman, to clear up some of the confusion that might reign as a result of an earlier exchange in the debate, relative to what Chairman FLOOD and I might do when the time comes for us to appropriate funds for this legislation, may I make it quite clear that passage of the original act supplemented by these amendments will require vast expenditures of Federal funds for many years to come.

Members should know that while time for filing is being extended for 2 years, we are going to be obliged to pay for many years to come, and I would like to give you just a little bit of an idea of the best estimates of costs given to us in a recent hearing before our Labor-HEW Subcommittee on Appropriations. They are as follows:

BENEFIT PAYMENT DISBURSEMENTS FOR SPECIAL BENEFITS FOR DISABLED COAL MINERS

Fiscal year	Benefit payments (millions)	Number of miners and widows (and their dependents) at end of year (thousands)		
		Miners	Widows	Dependents [1]
1970 actual	$7	12	1	10
1971 actual	297	68	57	73
1972 estimate	548	109	89	117
1973 estimate	538	101	105	112
1974 estimate	515	92	106	107
1975 estimate	491	84	107	103
1976 estimate	468	76	108	99
1977 estimate	447	69	109	95

[1] Represents dependents for whom additional payments are made to the miner or widow.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia.

The amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. STEED, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 9212) to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes, pursuant to House Resolution 658, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will then en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ERLENBORN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ERLENBORN moves to recommit the bill (H.R. 9212) to the Committee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. ERLENBORN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 311, nays 79, not voting 40, as follows:

[Roll No. 377]

YEAS—311

Abbitt	Dulski	Landrum
Abernethy	Duncan	Latta
Abourezk	Dwyer	Leggett
Abzug	Eckhardt	Lujan
Adams	Edmondson	McClory
Addabbo	Edwards, Calif.	McCloskey
Anderson, Calif.	Eilberg	McCormack
Anderson, Ill.	Esheman	McCulloch
Anderson, Tenn.	Evans, Colo.	McDade
Andrews, Ala.	Evins, Tenn.	McDonald, Mich.
Andrews, N. Dak.	Fascell	McFall
Annunzio	Findley	McKay
Ashley	Fish	McKevitt
Aspin	Fisher	McKinney
Aspinall	Flood	McMillan
Badillo	Flowers	Mahon
Baker	Flynt	Mailliard
Baring	Foley	Matsunaga
Begich	Ford, William D.	Mazzoli
Bell	Forsythe	Meeds
Bennett	Fountain	Melcher
Bergland	Fraser	Metcalfe
Bettis	Frelinghuysen	Mikva
Bevill	Fulton, Tenn.	Miller, Calif.
Biaggi	Fuqua	Miller, Ohio
Biester	Galifianakis	Mills, Md.
Bingham	Gallagher	Minish
Blanton	Garmatz	Mink
Blatnik	Gaydos	Minshall
Boggs	Gettys	Mitchell
Boland	Giaimo	Mollohan
Bolling	Gibbons	Monagan
Bow	Gonzalez	Moorhead
Brademas	Grasso	Morgan
Brasco	Gray	Morse
Bray	Green, Oreg.	Mosher
Brooks	Green, Pa.	Moss
Broomfield	Griffin	Murphy, Ill.
Brotzman	Griffiths	Myers
Brown, Ohio	Gude	Natcher
Broyhill, N.C.	Hagan	Nedzi
Broyhill, Va.	Hamilton	Nelsen
Buchanan	Hammer-schmidt	Nichols
Burke, Fla.	Hanley	Nix
Burke, Mass.	Hanna	Obey
Burlison, Mo.	Hansen, Idaho	O'Hara
Burton	Hansen, Wash.	O'Konski
Byrne, Pa.	Harrington	O'Neill
Byron	Haraha	Passman
Caffery	Harvey	Patten
Carey, N.Y.	Hastings	Pepper
Carney	Hathaway	Perkins
Carter	Hawkins	Pettis
Casey, Tex.	Hays	Peyser
Cederberg	Hébert	Pickle
Celler	Hechler, W. Va.	Pike
Chamberlain	Heckler, Mass.	Pirnie
Chisholm	Heinz	Poage
Clark	Helstoski	Podell
Clay	Henderson	Poff
Collins, Ill.	Hicks, Mass.	Powell
Conyers	Hicks, Wash.	Preyer, N.C.
Corman	Hillis	Price, Ill.
Cotter	Hogan	Price, Tex.
Coughlin	Holifield	Pucinski
Culver	Horton	Purcell
Daniel, Va.	Howard	Quillen
Daniels, N.J.	Hull	Railsback
Danielson	Hungate	Randall
Davis, Ga.	Hunt	Rangel
Davis, S.C.	Ichord	Rees
de la Garza	Jacobs	Reid, N.Y.
Delaney	Jarman	Reuss
Dellums	Johnson, Calif.	Riegle
Denholm	Johnson, Pa.	Roberts
Dent	Jones, Tenn.	Rodino
Dingell	Karth	Roe
Donohue	Kastenmeier	Rogers
Dorn	Keating	Roncallo
Dow	Kluczynski	Rooney, N.Y.
Downing	Koch	Rooney, Pa.
Drinan	Kuykendall	Rosenthal
	Kyros	Rostenkowski
		Roush

Boy	Stanton, James V.	Waldie
Boybal	Steed	Wampler
Buppe	Steele	Ware
Byan	Steiger, Ariz.	Whalen
St Germain	Stephens	Whalley
Sandman	Stokes	White
Sarbanes	Stratton	Whitehurst
Saylor	Stubblefield	Widnall
Scheuer	Stuckey	Williams
Schneebeli	Sullivan	Wilson, Charles H.
Seiberling	Symington	Wolff
Shipley	Teague, Tex.	Wright
Shoup	Thompson, N.J.	Wyatt
Sikes	Thomson, Wis.	Yates
Sisk	Tiernan	Yatron
Skubitz	Udall	Young, Tex.
Slack	Ullman	Zablocki
Smith, Iowa	Van Deerlin	Zion
Smith, N.Y.	Vander Jagt	Zwach
Snyder	Vanik	
Springer	Waggonner	
Staggers		

NAYS—79

Archer	Gross	Robinson, Va.
Arends	Grover	Robison, N.Y.
Ashbrook	Haley	Rousselot
Belcher	Hall	Runnels
Brinkley	Hosmer	Ruth
Brown, Mich.	Hutchinson	Satterfield
Burleson, Tex.	Jonas	Scherle
Byrnes, Wis.	Keith	Schmitz
Cabell	Kemp	Scott
Cleveland	King	Sebelius
Collins, Tex.	Kyl	Shriver
Colmer	Lennon	Smith, Calif.
Conable	Lent	Spence
Conte	McClure	Steiger, Wis.
Crane	McCollister	Talcott
Davis, Wis.	McEwen	Taylor
Dellenback	Mann	Teague, Calif.
Dennis	Martin	Terry
Devine	Mathias, Calif.	Thompson, Ga.
Dickinson	Mathis, Ga.	Thone
du Pont	Mayne	Wiggins
Edwards, Ala.	Michel	Wilson, Bob
Erlenborn	Mizell	Winn
Esch	Montgomery	Wylie
Ford, Gerald R.	Quie	Young, Fla.
Frenzel	Rarick	
Frey	Rhodes	

NOT VOTING—40

Alexander	Goodling	Mills, Ark.
Barrett	Gubser	Murphy, N.Y.
Blackburn	Halpern	Patman
Camp	Jones, Ala.	Pelly
Chappell	Jones, N.C.	Pryor, Ark.
Clancy	Kazen	Schwengel
Clausen, Don H.	Kee	Stanton, J. William
Clawson, Del	Landgrebe	Veysey
Collier	Link	Vigorito
Derwinski	Lloyd	Whitten
Diggs	Long, La.	Wydler
Dowdy	Long, Md.	Wyman
Edwards, La.	Macdonald, Mass.	
Goldwater	Madden	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Kee for, with Mr. Chappell against.

Mr. Link for, with Mr. Jones of North Carolina against.

Mr. Diggs for, with Mr. Dowdy against.

Mr. Halpern for, with Mr. Goldwater against.

Mr. Goodling for, with Mr. Collier against.

Mr. Murphy of New York for, with Mr. Veysey against.

Mr. Kazen for, with Mr. Wydler against.

Until further notice:

Mr. Whitten with Mr. Camp.

Mr. Barrett with Mr. Clancy.

Mr. Madden with Mr. Landgrebe.

Mr. Macdonald of Massachusetts with Mr. Don H. Clausen.

Mr. Pryor of Arkansas with Mr. Derwinski.

Mr. Alexander with Mr. Blackburn.

Mr. Jones of Alabama with Mr. Lloyd.

Mr. Mills of Arkansas with Mr. Del Clawson.

Mr. Vigorito with Mr. Pelly.

Mr. Patman with Mr. Gubser.

Mr. Long of Maryland with Mr. Schwengel.

Mr. J. William Stanton with Mr. Wyman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DENT. Mr. Speaker, I ask unanimous consent that all Members of the House may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERSONAL STATEMENT

Mr. DENT. Mr. Speaker, may I have the privilege of saying for the RECORD that I am very proud to be a Member of this House.

FURTHER CONTINUING APPROPRIATIONS, 1972

Mr. COLMER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 693 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 693

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 946) making further continuing appropriations for the fiscal year 1972, and for other purposes. After general debate, which shall be confined to the joint resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Mississippi is recognized for 1 hour.

Mr. COLMER. Mr. Speaker, I yield one-half of that hour to the able and distinguished gentleman from California (Mr. SMITH). Pending that, I yield myself such time as I may consume.

Mr. Speaker, the time I shall consume will be brief.

Mr. Speaker, this resolution simply provides for 1 hour of debate on the resolution (H.J. Res. 946) extending the time for the continuing resolution that was adopted at an earlier date because of certain legislative bills not having been enacted into law. That is about all there is to it, Mr. Speaker, so far as the rule itself is concerned.

The resolution of the Committee on Appropriations provides for extending that time from November 15, 1971, until sine die adjournment of this session, which we all hope and pray will come at an early date, but we have some misgivings, I must confess.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as stated by the distinguished gentleman from Mississippi, the chairman of the Rules Committee Mr. COLMER, this resolution will provide for 1 hour of general debate under an open rule to consider House Joint Resolution 946. After that hour has expired then the resolution will be open for amendment in any way.

Mr. Speaker, it is completely open.

Mr. Speaker, I would like to commend the Appropriations Committee, the distinguished chairman, and the ranking minority leader on the approach which they have requested to be taken.

These measures most always in the past have been handled on the floor by unanimous consent. I think we have had two or three of them already this year. They realized that in this particular instance there were several items which have not been finally authorized. I think the items have to do with OEO, Headstart, Manpower Administration, Defense, the District of Columbia—as well as foreign aid. Some may be controversial.

Mr. Speaker, we know what happened in the other body with reference to foreign aid. They felt that the Members should have an opportunity to express their opinions and the only manner in which that could be done would be to have a rule and have it debated under the 5-minute rule.

Mr. Speaker, I urge the adoption of House Resolution 653 so that we can proceed toward the disposition of the business of the Congress and toward adjournment at as early a date as possible.

Mr. Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Speaker, this, I believe, is about the fourth continuing resolution this year. The stopping and starting on this continuing resolution business is out of hand, I would think.

The gentleman from Mississippi, my good friend (Mr. COLMER), says he prayerfully hopes that sine die adjournment will come soon. I hope his prayer today will be better answered than I think it will be.

However, we are here today to consider this resolution and I hope with all my heart that we will not be here until 2:30 in the morning.

I noticed on the United Press wire a little while ago an item that reads:

> Shortly before it met at noon, leaders announced that the House would not take up the stop-gap resolution until the House first disposed of two other, unrelated pieces of legislation, raising the possibility that the aid question would not be dealt with until Thursday.
>
> The absence of any sense of urgency by House leaders appeared to stem from Senate intentions not to act on the resolution until Friday or Monday.

Mr. Speaker, Members of the other body are responsible for this continuing resolution being brought before the House this afternoon because of the fact that they have failed to act on legislation which the House has sent to them.

What we are called upon to do here this afternoon is to bail out the other body.

Mr. Speaker, a week ago last Friday, the Senate defeated the foreign handout program and we are here today in this continuing resolution called upon to bail them out by authorizing continuance of funds for this program. Continuing to read:

> "I guess there is a crisis," said Speaker Carl Albert replying to a reporter's question, "but it's not a crisis of which one day will make any difference."

Said the distinguished Speaker:

> Republican Leader Gerald R. Ford of Michigan saw in the postponement of a schedule that originally called for House action last Monday as an opportunity to work on Members in an effort to beat back damaging amendments he assumed would be offered.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I am a little bit confused. Is the gentleman upset by the action of the Senate of a week ago Friday? I did not quite understand.

Mr. GROSS. I was delighted when the Senate ended the foreign giveaway program, but I am laboring under no illusions here this afternoon. The Senate is already considering new legislation to spend additional billions on foreign handouts. I hope this continuing resolution will be voted down, and let the Senate live with the situation it created even though it may be only temporary.

Yes, I am delighted the Senate took the action it did, but I cannot support this effort to keep foreign aid alive for altogether too many billions have already been wasted in foreign aid.

I am interested, too, in how and why the green light on legislation is turned off and on with such facility these days in the House of Representatives.

The SPEAKER. The time of the gentleman has expired.

Mr. COLMER. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Mrs. ABZUG).

Mrs. ABZUG. I regret that we find ourselves again in a position where we have to act on yet another continuing appropriations resolution, the largest part of which concerns itself with military appropriations. The largest part we will be appropriating under this resolution is for defense measures.

As I have said before, I do not think that anybody in this House can continue voting for appropriations for defense until this House of Representatives acts to set a date for ending the war in Indochina, and acts to stop financing this most expensive and most destructive of American wars which the American people have overwhelmingly rejected.

Only the other day in one of his polls Mr. Harris informed us once again of the sentiments of our constituents, and still we ignore them.

Fifty-three percent of our constituents feel that the pace of withdrawal is too slow. Fifty-five percent oppose a residual force in Vietnam. Fifty-seven percent oppose continuing air support, and 70 percent oppose our continuing expenditure of the billions we give to the South Vietnamese.

Yet in the House of Representatives many seem not even to know the opinions of their constituents or, once informed, do not care. We once again continue a routine appropriation for the Department of Defense to keep its monthly programs—programs which continue dropping bombs on Indochina at the same intensity as in the peak years of the war, 70,000 tons a month—programs which increase the bombing of the Ho Chi Minh Trail steadily so that 1971 will see approximately 400,000 tons of explosives dropped there.

Continuing the war is continuing the war. The fact that we continue the war in the air is no less a war than if we were conducting it on the ground. We continue appropriations and we continue to subvert the will of our constituents, and fail to fulfill our responsibilities as representatives of the people by refusing to set a date for the termination of this massive war and by refusing to adopt the Senate's 6-month date in the successive versions of the Mansfield amendment.

I serve notice that I will not be a part of this callous unconcern. I will vote "no" and continue to vote "no" on any continuing or other appropriations for the military until the House of Representatives sets a date, as the American people want, and as I believe a growing number of Members of the Congress want. I oppose this continuing appropriation for the Department of Defense.

I attach for your information the conclusions of the Harris survey as they were reported in the Washington Post of November 8 and the summary of the Cornell study of the air war in Indochina as reported in the New York Times on November 8:

[From the Washington Post, Nov. 8, 1971]

THE HARRIS SURVEY: PUBLIC BACKS VIET PULLOUT BY MAY, 3-1

(By Louis Harris)

By nearly 3 to 1, the American people favor "getting completely out" of Vietnam by next May. The public is looking for an intent to liquidate U.S. involvement rather than an immediate withdrawal.

Between Oct. 26 and Oct 31, a cross section of 2,004 households was asked:

If it meant keeping the communists from taking over Vietnam, would you favor or oppose the following?

[In percent]

	Favor	Oppose	Not sure
Leaving 50,000 noncombat troops there	32	55	13
Continuing to use U.S. bombers and helicopters to support the South Vietnamese army	29	57	14
Continuing to send over $1,000,000,000 a year in military aid to the South Vietnamese	16	70	14

Even at the risk of a Communist takeover, sizable majorities of the public want the United States out completely from Vietnam.

For the first time, a clear majority of Americans say they feel that the pace of withdrawal of U.S. troops from Vietnam is "too slow." The cross section was asked:

Do you feel the pace of withdrawal of U.S. troops from Vietnam is too slow, too fast, or at about the right pace?

[In percent]

	Too slow	Too fast	About right	Not sure
Late October 1971	53	3	38	6
July	42	4	48	6
April	45	5	45	5
March	34	3	53	10
February	46	4	42	8
January	33	5	55	7
July 1970	32	8	48	12
May	27	13	46	14
April	34	8	47	11
December 1969	26	5	56	13
October	30	9	51	10

The main segments of the public where the pressure is greatest to disengage from the war as opposed to a further "winding down" of the war are in the East, among women, among young people under 30 and among blacks.

By contrast, the last-ditch supporters of the war, now a distinct minority, are most often located in the South in small towns and areas, and among persons 50 years of age and older.

Asked if they favored or opposed the United States "getting completely out of Vietnam by May, including all combat and non-combat troops," the vote was 62 per cent in favor and 21 per cent opposed.

[From the New York Times, Nov. 7, 1971]

STUDY SHOWS UNITED STATES PRESSES AIR WAR—CORNELL TEAM SEES CONTRAST WITH CUT IN GROUND ACTION

(By Neil Sheehan)

WASHINGTON.—A comprehensive study of the air war in Indochina by a Cornell University group concludes that while the Nixon Administration drastically curtailed American ground combat, it is maintaining a high level of bombing and, in Cambodia and Laos, has in fact intensified the air war.

The study acknowledges that the Administration has roughly cut in half the intensity of the air war in Indochina from the peak years of 1968 and 1969, when the United States was waging the most intensive bombing campaign in history.

But the study says the average tonnage being dropped is at about 70,000 tons a month, almost the same level as in 1967, when the American public was more aware of a major war in Indochina because of the direct involvement of American ground combat troops.

SIX MILLIONS DROPPED

By the end of 1971, the United States will have dropped on an area about the size of Texas six million tons of bombs and other aerial munitions, three times the total tonnage used in World War II. The Nixon Administration, in its three years in office, will have loosed as much as and possibly more explosive power than did the Johnson Administration—about three million tons, the study says.

The reduction of area-obliteration raids by B–52 bombers has not been nearly as marked as the cut in strikes by smaller fighter-bombers. These area-obliteration raids are still estimated to run 30,000 tons a month, the study says compared with 40,000 tons monthly during the 1968–69 peak.

The Administration plans to continue the air war through 1972 and beyond at a cost that could range from $1.2-billion to $4-billion a year, depending upon the amount of force required by policy needs, the study states. Citing "sources close to the Pentagon," the study says plans appear to call for keeping 50 B–52's in Thailand and 300 fighter-bombers there and on carriers offshore.

XUM

STUDY TOOK 5 MONTHS

The five-month study, begun in May, was sponsored by Cornell's Center for International Studies. The preliminary version of the report runs about 200 pages. It has extensive footnotes and is illustrated with graphs. The group hopes to publish a fuller report by the end of the year.

The team of 19 professors and students involved, headed by Prof. Raphael Littauer, a 45-year-old nuclear physicist, drew its findings from source materials that included official Pentagon statistics and reports, newspaper articles, interviews with approximately 80 defense and foreign-policy specialists and former military and civilian officials, as well as the once top-secret history of the air war contained in the Pentagon papers.

In a telephone interview, Professor Littauer said the study team had access to the volumes of the Pentagon papers dealing with the air war from the time articles and excerpts were published in The New York Times last summer to the publication at the end of September of the declassified version by the Government Printing Office.

He said the study was initiated from anti-war sentiments, but that the team had attempted to be as fair and scholarly as possible. "We decided to let the chips fall where they may," he said.

ESCALATION CHARGED

The report states that bombing of the Ho Chi Minh Trail supply roads through southern Laos, a relatively unpopulated area, has been increased steadily by the Nixon Administration and is now running at 400,000 tons of explosives a year.

Bombing in Cambodia, with serious civilian casualties resulting, the report asserted on the basis of Congressional testimony, has also climbed steadily since the American incursion in the spring of 1970 and is now running at 90,000 tons a year. This figure approaches the 124,000 tons dropped on North Vietnam in 1966 when an intensive air war was under way there.

In South Vietnam, nearly 300,000 tons of air explosives a year are still being dropped, now mainly by the South Vietnamese air force, which has been greatly expanded. This is equal to the level of 1966.

The report argued that the continued heavy use of air power was not stopping enemy advances in Indochina and that the destruction it was causing actually made the achievement of peace more difficult by disrupting the societies the United States says it is attempting to stabilize.

Despite a scorched-earth bombing campaign against enemy-held towns and villages in northern Laos and the Plaine des Jarres possibly a third of the estimated total of 2.5 million Laotians have become refugees and the enemy forces "now control a greater fraction of Laos than ever before," the study said.

Mr. COLMER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 946) making further continuing appropriations for the fiscal year 1972, and for other purposes.

The motion was agreed to.

IN THE COMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 946), with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. MAHON) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. BOW) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, we have had three continuing resolutions to cover the period since the beginning of the current fiscal year and this would be the final continuing resolution for the session.

We have had over the years a very orderly way of bridging the gap when the Congress has not taken final action on appropriation bills. We have done that by passing continuing resolutions which have enabled the departments and agencies to run at the level of the previous year or the budget level, whichever was lower. The object is to hold the line until the regular appropriation bills are finalized.

That is all that we propose here—to allow certain agencies and departments of Government to operate until the remaining regular appropriation bills are completed.

Mr. Chairman, statements have been made that some Members may offer amendments. One amendment would deny funds for the Department of Defense. One of the speakers this afternoon has said that she would oppose the continuing resolution because of the Department of Defense issue.

Other Members object to foreign aid.

Mr. Chairman, I voted against the poverty program this year. This continuing joint resolution provides funds for the continuation of the poverty program. Following the logic of those who would undertake to offer amendments, maybe I ought to object to the resolution because it provides funds for the continuation of the poverty program, which I opposed.

But if we want to destroy the legislative process of the House of Representatives and preclude deliberation on the issues at hand in an orderly and prudent fashion then we would vote in opposition to the continuing resolution. But we would find that everybody would be in trouble because we would have wrecked the regular order.

So what I propose is that we follow the regular order—that we pass the continuing resolution and send it to the other body and enable the Department of Defense to continue to operate and to pay personnel and to perform necessary functions; to enable the poverty program to continue and to allow the foreign aid program to continue until in the regular order we have modified it or abolished it.

I think the foreign aid program will be modified and continued. But let us allow the legislative committee and the House an opportunity to act on legislation. Under the continuing legislation, if nothing is done by the end of the session, then foreign aid dies. That would be the end.

Further, the District of Columbia must continue to operate—and that is provided for in this joint resolution.

The Headstart program and certain manpower training programs lack final authorizing action and have not been provided with appropriation. The resolution provides funds to continue these activities.

So my plea is that we pass this continuing resolution.

Mr. Chairman, there have been intimations here that as a result of some action in the other body we ought to modify our routine procedures. Well, I am not myself willing to let the other body write the ticket for the House of Representatives. Here we have the standard, routine continuing resolution. To change it because of something that is done in the other body would not be a prudent action on the part of the House of Representatives. We send a resolution to the other body and it is up to the other body to decide what steps it will take on it. Certainly, for us as a result of action taken by the other body to violate our time-honored procedure of handling these matters would be a great mistake.

The issue before us is not a question of whether we are for the poverty program or not.

It is not a question of whether we are for the war in Vietnam or not.

It is not a question of whether we are for the Defense Department or not.

It is not a question of whether we are for foreign aid or not.

That is not the issue. The question is, Shall we proceed in an orderly way to carry on the functions of the Government and show the people that we have a stable, sane, and orderly House of Representatives that knows how to do business? It is that simple.

The foreign aid program has been referred to. It was killed in the other body. A motion to reconsider was laid on the table. This resolution would continue appropriations for that program only temporarily. There will be an authorization bill and there will also be an appropriation bill. These bills can be amended. Amendments can be offered to the bills line-by-line and program-by-program. The legislative committees can serve their functions, and we shall not be attempting to write basic legislation in a continuing resolution. If we ever start that, we shall be in serious trouble.

Would it not be ridiculous, with this seven-line joint resolution which is before us today, to undertake to legislate on the war, on defense, on poverty, on foreign aid, and on a number of other subjects that would be covered? Of course, it would be ridiculous.

Mr. ROONEY of New York. Mr. Chairman, will the distinguished gentleman from Texas yield?

Mr. MAHON. I yield to the distinguished gentleman from New York.

Mr. ROONEY of New York. Is it not the fact that adoption of House Joint Resolution 946, this so-called continuing resolution, would not set in motion any new activity of Government at all? Is that not the fact?

Mr. MAHON. The gentleman is correct.

Mr. ROONEY of New York. Is it not the further fact that all this resolution would do would be to keep in status quo the agencies affected by it, with a view to saving as much money as the House Appropriations Committee can save until such time as the House Appropriations Committee gets an opportunity to look at the subject in proper perspective and in line with the legislative authorization bills?

Mr. MAHON. The gentleman is eminently correct. Legislative bills that relate to appropriations for the rest of the session would be looked at very carefully. In my opinion, there will be—and should be—some sharp reductions and modifications in the foreign aid program. But to do it in this measure would be utterly impractical. To bypass the other committees of Congress in amending this seven-line joint resolution would be intolerable, and I do not think the House is about to do it.

Mr. ROONEY of New York. Mr. Chairman, will the distinguished gentleman from Texas yield once again?

Mr. MAHON. I am glad to yield to the gentleman from New York.

Mr. ROONEY of New York. Mr. Chairman, with regard to contributions to international organizations, many of which are in one bill not yet passed, to wit, the foreign aid bill, all of which are voluntary contributions. The others are in a bill which has already been passed and signed into law by the President, the regular contributions or dues owing by the United States for membership in these international organizations. I assure you that all of these contributions are going to be subjected to the greatest scrutiny ever given with a view to saving as much of the taxpayer's money as possible.

From the President of the United States on down it has been recognized that entirely too much of our money is being paid to the United Nations for that organization as well as all the affiliated organizations. We have to have an ample opportunity to do something about this, however, in committee. We cannot do it here on the floor in connection with this continuing resolution.

Mr. MAHON. The gentleman is correct. Every Member of the House will have an opportunity to express and vote his views when the authorizing legislation and the appropriation bill come before us.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to my friend, the distinguished gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding.

The gentleman speaks of orderly procedure. Is it not the fact that a succession of continuing resolutions such as we have had this year is about as unorderly a procedure as a legislative body could indulge in?

Mr. MAHON. We are acting in accordance with the Rules of the House of Representatives.

Mr. JONAS. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the distinguished gentleman from North Carolina.

Mr. JONAS. Without getting into any argument with other committees, is it not a fact that we have been waiting on authorization bills to become law, and that we cannot bring out appropriation bills for programs that are not yet authorized? Is that not true?

Mr. MAHON. The gentleman is correct.

Mr. JONAS. We have completed our hearings on all of these bills that still remain unenacted.

Mr. MAHON. Yes, all the regular bills. It is apparently impossible for some of the programs to be authorized in time, but if they are not authorized and appropriated for by the end of the session they die.

Mr. FINDLEY. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. FINDLEY. Mr. Chairman, I congratulate the chairman of the Appropriations Committee for initiating this move. It is entirely in order. It is especially appropriate because I think it is the most practical way to avert what might become a most serious crisis for the President in his dealings with foreign policy. He has some very important missions coming up and it would be a very grave setback for him if there were to be any interruptions in foreign aid matters.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from California.

Mr. WALDIE. Mr. Chairman, I ask the Chairman's indulgence for not fully understanding what the consequences might be in the event we do not adopt this resolution. Can the gentleman describe those?

Mr. MAHON. Portions of the Government would come to a screeching halt on November 15, which is next Monday.

Mr. WALDIE. What portions would they be?

Mr. MAHON. There would be no authority for the expenditure of money for the responsibilities of the Department of Defense, for programs of the District of Columbia, for the Headstart program, for certain manpower training programs, and also the foreign aid program.

Mr. WALDIE. If this resolution is not adopted, do I understand the chairman to say all expenditures on behalf of the Department of Defense would be terminated?

Mr. MAHON. It would be illegal for them to operate.

Mr. WALDIE. Is it the chairman's belief that rather than risk illegality, they would not spend the money?

Mr. MAHON. We have never failed to authorize the continuation of an important program through a continuing resolution until the Senate and House have worked their will and determined what should be done about the program. The continuing resolution hopefully will only run for about a month—until the sine die adjournment—and whatever is not authorized or appropriated for at that time will automatically cease to exist.

Mr. WALDIE. May I ask one further question?

There has been confusion in my mind relative to foreign aid moneys that are in the so-called pipeline. Were we not to extend the authority that this resolution provides for the foreign aid program, then would the moneys in the pipeline be permitted to be expended?

Mr. MAHON. If there is not a continuing resolution adopted by the Congress, the funds in the so-called pipeline would be meaningless because there would legally be nobody to serve to administer the programs.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman from Texas yield on that point?

Mr. MAHON. I yield to the gentleman.

Mr. GERALD R. FORD. Mr. Chairman, let me say to the gentleman from California, I have in my hand a copy of two letters from the Comptroller General of the United States addressed to Senator MANSFIELD precisely on the point that the gentleman made inquiry about. The Comptroller General has ruled in both of these letters that without a continuing resolution, the AID pipeline money would be unavailable for purposes other than for those that they were already committed.

Mr. WALDIE. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I will be glad to yield to the gentleman from California in just a moment.

I have the letter of the Comptroller General but the situation is elementary. If there is no authorization for the personnel and for the operations, they cannot legally carry on a function.

Mr. WALDIE. The letter, Mr. Chairman, brings this question to my mind. I am one of those who happen to favor the option the other body took.

If the authorization on a continuing resolution were limited to the expenditure only of moneys in the pipeline, that would then permit the pipeline moneys to be spent but no moneys above and beyond the pipeline moneys; is that correct?

Mr. MAHON. Well, if the moneys were available there would be nobody to spend the moneys or to husband the program, because there would be no authority for the foreign aid program as such to continue. It would go out of existence legally.

Mr. WALDIE. I thank the gentleman.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Chairman, I just want to establish a little bit of legislative history and perhaps recall some of this same question.

I am not speaking particularly in the interest of continuing the procurement authorization for the military or foreign aid or anything else, but does the gentleman not recall, having stated himself in his opening remarks that this is a rather awkward way of continuing appropriations, that in years gone by and throughout history in the Congress we have had payless paydays for Government workers because of the failure of Congress to act? Would the gentleman like to develop that a little further? It was certainly long before I came to the Congress.

We have used this "awkward device" of continuing resolutions since that time.

The Government does not then cease. There were some payless paydays for those under civil service, and Govern-

ment functionaries and even Congressmen, for all in the legislative, judicial and executive branches of our Government.

Although it is not now desirable, and although we have become over sophisticated, and I would be willing to stipulate it is not desirable, but it has happened, and historically, in order to be correct, sometimes there have been people who have considered this a good "catharsis" for the Nation.

I wonder if the gentleman would like to correct one or two of his statements about whether or not we could function legally and whether or not there has ever been such an incident in the history due to lack of appropriations?

Mr. MAHON. I am not aware of any incorrect statement I have made. If I have made any, I apologize.

There have been some payless paydays. And that is a possibility that we could face with respect to this measure. But if we have a hassle of as much as a week or more, there would be no authority to operate.

In other words, we must not tempt officials to make illegal obligations, and we must not welsh on our responsibility to provide for pay for the people who are employed by the Government in a timely manner.

Mr. HALL. I believe as memory serves the general reaction of the public was to admire those who continued to work for the Government without pay and to castigate the Congress.

Mr. MAHON. If the continuing resolution is not enacted in a timely manner the agencies affected would have no legal authority to employ people or make other obligations to continue their operations pending final action on the regular appropriation bills involved.

Mr. BOW. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the continuing resolution is brought about, because of the fact that about $80 billion of budget requests have not yet been budgeted because of lack of authorization.

In this resolution are the Department of Defense, the District of Columbia, foreign assistance, the antipoverty program, certain health manpower programs, Radio Free Europe, and military construction.

The military construction conference has been adopted, and that probably will get to the President in time for signature, but there may be a timelag there.

It seems to me the real question here in what we are considering is the question of the foreign assistance program. I can be very frank about that. I have voted against the foreign assistance program in the years I have been in the Congress except on one occasion.

But I do not feel that we can stop foreign aid in the manner in which it has been done by the other body or by what would happen if we eliminated it from the continuing resolution. We cannot just cut it all off. It seems to me the responsible and proper way to handle this is to have an authorization bill come in where the House can work its will on specific items—not on a general reduction or a cutting out of all foreign assistance.

I should like to read, if I may, Mr. Chairman, a statement made by the President of the United States last night. I think it is apropos to our discussion here today:

EXCERPTS FROM AN ADDRESS BY THE PRESIDENT IN NEW YORK CITY, NOVEMBER 9, 1971

Governor Rockefeller referred to the trips to Peking and to Moscow. No one should be so naive as to assume that these two journeys are going to settle great philosophical differences between our nation and theirs. Those differences will remain and peace will not be a reality simply because there has been a meeting at the highest level.

But I think we can say this with regard to such meetings between the leaders of the United States of America and the leaders on the one hand of the Soviet Union, and on the other hand, of the Peoples Republic of China. With continued confrontation between the United States and the Soviet Union and the Peoples Republic of China, there would be an unacceptable risk of war in the years ahead. With negotiation between the United States and the Soviet Union and the Peoples Republic of China, there is a chance for peace, and we owe it to future generations to seize that chance and that is what we have done.

But as we think of that peace, let us remember that great as the challenges of war are, the challenges of peace can even be greater, because once peace comes, and even as it comes, there is a tendency to let down. There is a tendency for a great people to retreat from responsibilities in the world and that would only lead to increasing the dangers of another war. That is why at this point I speak of the challenges of peace in several respects.

First: Particularly now, at a time that we are attempting to negotiate a limitation on nuclear arms, it is essential that the United States maintain its military strength at an adequate level. We must do this because of the accident of history. We did not ask for this responsibility, but it is ours whether we want it or not. Because of that accident of history—what happened in World War II—the United States is the only one of the free nations that has the strength or the potential strength to carry the responsibilities of freedom. If we do not carry those responsibilities, the possibilities of keeping peace in the world will be greatly diminished.

It goes beyond simply maintaining military strength at home. I know how easy it is for Members of Congress—I was once in the House. I was once in the Senate. I know how easy it was then to try to find a reason to vote against those programs of mutual assistance for countries abroad—foreign aid for countries that needed aid, aid for the purpose of helping other countries to help themselves, to create a more stable world.

There are no constituencies for foreign aid. We know that. *But let us recognize this: If the United States at this particular time should determine that it will discontinue its programs of mutual assistance for countries abroad—helping them so that they can help themselves—it can only mean that the world will become much more unstable, that the dangers of war in the world will greatly increase and that the United States will no longer be a world power respected in the world, no matter how strong we are at home.* (Emphasis supplied.)

That is why tonight I speak of the challenges of peace not only in maintaining our strength at home, but in meeting our responsibilities abroad. This is above partisanship because Republicans have joined with Democrats through the years to see that these programs, whereas they have no constituencies in this country, because they are essential to maintain the peace of the world, that these programs are continued—and I trust they will be, by this Congress.

I agree with what the President said last night—that this is not the time for us to do this.

Let me state this also: There has been some question about what can be paid and what cannot be paid if we cut out the defense money.

Mr. PUCINSKI. Will the gentleman yield?

Mr. BOW. I cannot yield to the gentleman at this time.

It has been suggested here that Federal employees would be very fine if they would continue to work without a payday. Are you going to suggest to the Armed Forces in Vietnam that they go on payless paydays? Are you going to suggest with regard to the medical supplies for Vietnam, where we have an opportunity to purchase them and send them abroad, that we stop the medical supplies for hospitals in Vietnam as of December 15?

The CHAIRMAN. The time of the gentleman has expired.

Mr. BOW. I yield myself 3 additional minutes.

I do not believe this committee or this House of Representatives will do that.

I am not trying to bail out any other body. I am trying to ask the House of Representatives to act responsibly. I am not concerned about the other body. I am concerned about the House of Representatives. I would like to see it act responsibly.

Later in my remarks I shall state a number of reasons why, with regard to American business, as the gentleman from Texas pointed out, we should pass this, because much of this money is spent right here in the United States in our own economy.

Now, I shall be glad to yield to the gentleman from Illinois (Mr. PUCINSKI).

Mr. PUCINSKI. I thank the gentleman from Ohio for yielding and I thank the gentleman for his explanation.

Mr. Chairman, I intend to vote for this continuing resolution.

How does the gentleman's consistent vote against this program over the years differ from his support of the program now? Were not those votes you cast against this program tantamount to cutting this program off as it was cut off in the other body?

Mr. BOW. I said I voted for this program once and I voted against it the other times. My vote against it was a protest vote. I thought it was too much, wasteful, and should be reduced.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield further?

Mr. BOW. Just a minute. I am going to answer your question. I still feel that way. I shall vote to reduce some of these programs when we get the proper vehicle with which to do it. However, this is not the one. The gentleman asked me for an explanation. At the time I voted for this bill, I stood here in the well—I had voted against it, but it looked as though it might lose and I did not want to see all of it go down the drain, and I never have. I have been in favor of reductions, but at that time I changed my vote from "nay" to "yea" in the hope of saving the program from utter destruction, and that is the reason I did it.

Mr. PUCINSKI. Mr. Chairman, will the gentleman yield further?

Mr. BOW. I cannot yield further at this time. I desire to read a letter from the Secretary of Defense. Also Mr. Chairman, may I point out details as to the effect of aid termination in some regards.

The items follow:

THE SECRETARY OF DEFENSE,
Washington, D.C., November 9, 1971.

Hon. FRANK BOW,
House of Representatives,
Washington, D.C.

DEAR FRANK: As you and other members of the Appropriations Committee are aware, there is a very close relationship between our own military force structure and the President's program for foreign assistance. Our planning for security has been based on a total force concept and one key element of this total force concept is the military assistance program. Substantial reductions in the military assistance program would result in deficiencies to our own security.

In this context, both grant assistance and foreign military sales credit authority are equally important. In large measure grant aid and foreign military sales credits have been planned in order to permit a reduction in forward deployments of our own reduced forces.

In addition to the military assistance program, it is vital that the requested economic assistance for South Vietnam be approved. As our withdrawal from Southeast Asia proceeds, it is necessary for South Vietnam to assume the burdens of its own defense. As I have reported publicly, the military aspects of the Vietnamization program are proceeding on or ahead of schedule, but unless we are able to assist the South Vietnamese with the increased economic burden of assuming their own defense, our withdrawal rate could be affected.

I am sure that you and the other members of the House Committee on Appropriations will appreciate the necessity from a security standpoint for congressional approval of appropriations for our military assistance program, foreign military sales credits, and for economic assistance, particularly as requested for South Vietnam.

Sincerely,

MELVIN R. LAIRD.

EFFECT OF NO CONTINUING RESOLUTION ON U.S. BUSINESS

Foreign aid provides important business for U.S. companies and manufacturers. In FY 1971, funds from the economic assistance portion of the aid program financed the purchase of $976 million in commodities from more than 4000 U.S. firms in all 50 states.

In addition there were $632 million in technical service contracts with U.S. companies, consulting firms, and institutions.

AID's purchases included $128 million in chemicals, $145 million of iron and steel products, $90 million in motor vehicles, $62 million in electrical machinery, $22 million of petroleum products, $41 million of engines and turbines, and $55 million in non-ferrous metals and products.

These purchases were distributed as follows: $328 million in the Middle Atlantic States, $230 million in the North Central States, $186 million in the South, $122 million in the Pacific States, $27 million in New England, and $6 million in the mountain States.

Abrupt termination of the AID program would cause a loss of business orders which would hardly serve our economy well at this particular time.

EFFECT OF AID TERMINATION ON U.S. EXPORTS

Failure to pass a Continuing Resolution would have an immediate adverse effect on U.S. exports.

In FY 1971, AID loans and grants financed U.S. exports totaling $972 million. This includes:

16.4% of all U.S. exports of iron and steel mill products.

25% of all U.S. fertilizer exports.

15.7% of all U.S. exports of railroad equipment.

8% of all U.S. rice exports.

8.5% of all U.S. exports of basic textiles.

7.3% of all U.S. exports of non-ferrous metals and products.

Elimination of AID financing would also have a significant effect on the U.S. shipping industry. Over the period FY 1964–FY 1969, the cargo financed under Foreign Assistance Act programs has ranged from 22–30% of the total cargo moving on U.S.-flag shipping.

In addition, we would lose the market building potential which foreign aid has by introducing U.S. products to foreign countries and strengthening their economies to make them better customers. U.S. exports to these countries have more than doubled in the past ten years.

EFFECT OF NO CONTINUING RESOLUTION ON AGRICULTURE

Failure to pass a continuing resolution will have harmful consequences for export of U.S. farm commodities and agri-business products.

In FY 1971, the U.S. exported $300 million in agricultural commodities under Title II of P.L. 480. It provided direct loans to finance an additional $50 million worth of rice and tallow. The tallow—an important by-product of the meat packing industry—amounted to 12% of all U.S. tallow exports. AID also financed purchases of $44 million in fertilizer and about $31 million in agricultural equipment and tractors. AID has also been instrumental in encouraging sales under Title I of P.L. 480 for developmental purposes. Total Title I sales amounted to $760 million last year.

Without a continuing resolution, AID will be unable to administer the Title II program. It would be unable to provide loans for purchases of farm products or machinery. Its work to develop low-cost, high nutrition foods based on corn and wheat would be stopped with further disruptive effects on export opportunities for farm products.

The farmers of America have a direct stake in the extension of the aid program under the proposed continuing resolution.

EFFECT OF FAILING TO PASS CONTINUING RESOLUTION ON U.S. UNIVERSITIES

If a Continuing Resolution is not passed, contracts with 120 U.S. universities will have to be suspended or prematurely terminated.

The total cumulative value of these contracts is $232,165,442. In FY 1971, $50,000,715 was obligated for new contracts or extensions of existing ones.

These contracts are widely distributed across the U.S.:

$64 million in the North Central States including the major land grant colleges and universities in Nebraska, Minnesota, Iowa, Illinois, Wisconsin, Michigan, Indiana, and Ohio.

$59 million in the South including virtually all major State-supported universities from Texas, through the deep South and the border states.

$42 million in the Middle Atlantic and New England States including the State Universities of Connecticut, Maryland, Pennsylvania, New York and Massachusetts.

$27 million in the Mountain States including the Universities of Arizona, Colorado, New Mexico, Nevada, Idaho, Utah, Wyoming and Montana.

$14 million in the Pacific States including the University of California, Oregon State and University of Washington.

These contracts not only permit the universities to carry out development programs in the LDCs, they expose university faculty and staff to problems overseas and thus help build balanced and comprehensive teaching programs. Many thousand AID-financed students at U.S. universities would also be sent home, thus depriving their campuses of the cross-cultural enrichment which these students represent.

IMPACT ON AID STAFFING IF CONTINUING RESOLUTION IS NOT EXTENDED

1. Staff would have to be separated. A.I.D. has 6,500 U.S. employees, of which 3,400 are overseas, and 6,800 third country nationals.

2. There are no funds to meet U.S. obligations with respect to related personnel costs, such as allowances, transportation of employees and dependents, transportation of household effects and autos, termination of storage contracts of household effects, lump-sum leave payments and severance pay guarantees.

3. Various degrees of disruption would arise, such as bringing home large groups of children in mid-term and the necessity of closing or seriously affecting the operation of schools in areas where we have substantial numbers of American children in attendance.

4. The separation of local employees would create political problems in a number of countries.

5. Special problems would involve:

(a) A.I.D. employees serving temporarily with International organizations (providing the benefits due them at the conclusion of their services with these organizations when A.I.D. has become non-existent.)

(b) A.I.D. employees on detail to other organizations such as Office of Economic Opportunity and Department of State.

(c) A.I.D. employees serving on assignments under the Intergovernmental Personnel Act.

(d) A.I.D. employees in long-term training.

6. Departure of A.I.D. staff would, of course, terminate U.S. capacity to assist or monitor activities still funded from the pipeline or other programs administered by A.I.D.

EFFECT OF TERMINATION OF FOREIGN AID ON JOBS

Termination of foreign aid could cost about 70,000 U.S. jobs in the first year following termination.

Termination would mean:

Loss of $900 million of A.I.D. commodity purchases, which would, on average, affect 50,000 jobs directly, in the first year, and probably over twice that many in subsequent years;

The loss of $650 million of technical service contracts, which would affect about 10,000 other jobs, many in already strapped universities;

About one-quarter of the cargo on U.S.-flag ships will be eliminated, with an obviously major impact on U.S. merchant seamen employment.

The direct effects of termination are clear.

A.I.D. has 6,500 employees, of whom 3,400 are overseas.

A.I.D. finances about 2,000 contractor personnel overseas.

A.I.D. finances about 700 employees of other U.S. Government agencies overseas.

IMPACT ON HUMANITARIAN AND PRIVATE PROGRAMS

Failure to pass a continuing resolution will severely disrupt the programs of many private voluntary agencies and institutions in this country.

A.I.D. supports a wide variety of private humanitarian and technical programs. Its assistance has a catalytic effect on private programs: it supports and strengthens the many U.S. voluntary agencies programs operating at the grass roots level in more than 100 countries and territories. These agencies carry on activities in health, education, agriculture, vocational training, as well as coping with simple and pervading hunger. A.I.D. support thus reinforces the expression of millions of Americans who contribute to such private humanitarian and technical assistance organizations. For example:

82 private voluntary organizations are

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registered with A.I.D. and are eligible to apply for PL 480 excess food, commodities, overseas ocean freight reimbursement for privately donated supplies and U.S. excess property. (In 1970 the value of the U.S. Government support along these lines totaled $193 million.)

These same organizations received from private sources $71 million in the form of donated commodities and equipment and $293 million in other income.

In 1970 there were 51 disasters in 36 countries including such major catastrophies as the Peru earthquake and the East Pakistan cyclone. U.S. official and private emergency assistance to victims of disaster and civil strife totaled $60.9 million. Of this amount, $12.2 million was provided by private organizations.

Without a continuing resolution, many of these voluntary agencies will be unable to carry on their programs and the U.S. will weaken a vital force for international understanding and good will.

EFFECT OF FAILURE TO EXTEND THE AID PROGRAM IN SOME SAMPLE COUNTRIES

Indonesia—U.S. assistance has been a critical element in the success of the multilateral assistance effort which has underwritten Indonesia's own highly-effective self-help measures and enabled the country to make outstanding progress in rehabilitating the country's economy following Sukarno.

Failure of the United States to continue as an active donor would:

Undermine the Indonesian people's confidence in their government's stabilization program, with exceedingly serious potential domestic, economic and political repercussions.

Risk lost of support of Indonesia's many other donors, casting into serious doubt the validity of multilaterally-coordinated aidgiving as a sound foundation on which a country can have a disciplined economic policy.

Lead to a resurgence in inflation—reduced to 2% a year from an annual rate of 600% in 1965—which ultimately could undermine all development efforts.

Turkey—We could not fulfill our offer of assistance to help Turkey cope with the problems resulting from its agreement to eliminate the production of poppies. Secretary Hardin is currently in Turkey reviewing Turkey's plans for assisting its farmers and identifying potential areas of U.S. assistance.

The planned expansion of the Eregli Steel Mill would be delayed. A carefully developed financial plan, involving a cooperative World Bank and AID financial effort, could not be realized. The expansion will reduce Turkey's need for future steel imports and for future aid.

Ghana—During the past two years, the U.S. has played a major role in building a multilateral framework for helping Ghana restore its economic health which will permit not only an acceptable rate of growth for Ghana but enable her to play its traditional key role in West African trade and commerce. The first stage of the recovery was a major stabilization program under the leadership of the IMF which brought Ghana's domestic and external economic problems under control. The second stage, now in progress under the leadership of the World Bank Consultative Group, focuses on accelerating Ghana's growth through improved domestic investment and savings programs, as well as a substantial increase in net foreign resources flowing into Ghana.

In FY 1972 the U.S. intends to increase its aid to Ghana as part of a package of a substantial increase of World Bank aid to Ghana, including for the first time a program loan, as well as increases in Canadian, West German and British aid. The failure of the U.S. to be able to make its major contribution to Ghana's development in FY 1972 and thereafter could lead to an economic and political tragedy in Ghana.

Panama—Failure to extend the Continuing Resolution will, within a short period, effectively halt work in developing a water system for Panama City, in agriculture development, in malaria eradication and in education. It would weaken the credibility of U.S. commitments to Panama at a time when sensitive U.S.-Panama Canal Treaty negotiations are in progress.

Failure to continue implementation of the $8.5 million Education loan will impede the progress of Panama's highly publicized education expansion and reform program, the product of four years' effort. Any interruption in implementation of the $20 million Panama City potable water loan could lead to severe rationing of water supplied from the Canal Zone, thereby increasing tension between the Zone and Panama.

Indus Basin—The Indus Basin Development Fund Agreement is an agreement between the United States, the IBRD and six other nations (New Zealand, Pakistan, United Kingdom, Canada, Germany and India) to finance a construction program equitably dividing waters of the Indus Basin between India and Pakistan. Without a Continuing Resolution it is not possible to meet our obligations under this international agreement.

The October 1 IBRD requests exceed the amount we are now able to provide under the current Continuing Resolution. We are now technically in default of our commitment to the Indus Basin Development Agreement Fund and the World Bank Administrator of the Agreement. Failure to appropriate the full amount requested of Congress in FY 1972 could result in contractor claims and, should the construction schedule be jeopardized, increased construction costs, and if work is suspended, heavy contractor cancellation fees.

EFFECT OF FAILURE TO EXTEND THE AID PROGRAM IN SOUTH ASIA—HUMANITARIAN RELIEF

1. Pakistan Refugees in India: We could not make dollar contribution needed to help India finance costs of shelter, sanitation, medical care, administration for refugees. Have just participated in India Consortium meeting involving major industrialized countries under World Bank auspices which concluded members should be prepared to make maximum refugee contribution. We cannot expect others to substitute for us. Lifting some of the financial burden from India can help keep the situation from exploding.

2. Assistance in East Pakistan: Our funds are a mainstay of the relief effort, under UN auspices, which is aimed at reducing refugee flow to India. We are now providing support for UN administration, assistance in the transportation of food, and for special dollar costs related to child feeding programs. Looking ahead, there will be a need to assure the availability of adequate agricultural supplies, like fertilizer and pesticides and pumps, to assure that food production is maintained, that food supplies in the future are not so poor as to stimulate further refugee movement. Without new funds we cannot continue to assist.

EFFECT OF FAILURE TO EXTEND THE AID PROGRAM IN VIETNAM

Failure to extend the Continuing Resolution would have the following effects on the Vietnam economic program:

Since the Government of South Vietnam (GVN) relies on U.S. support to finance a major share (over 50 percent) of its budget, it would be necessary to cut back drastically on budget expenditures for its military forces, land reform payments, support for refugees, and Veterans benefits. These cutbacks would greatly reduce the GVN's ability to carry on the war effort.

No conceivable amount of budget reductions could, however, be sufficient to prevent rapid and spiraling inflation, which would lead to economic chaos, increased military desertion rates (since public sector salaries would be penalized the most), and political instability.

The reduction in GVN military effectiveness would slow down the orderly turnover of military operations to the South Vietnamese Army, and would impair our ability to withdraw U.S. troops. Thus, a cutoff of the $565 million economic request would have a disproportionately adverse effect on U.S. military expenditures.

Vietnam relies heavily on A.I.D.-financed imports. Failure to provide continued funding for imports would trigger speculation, hoarding and shortages immediately—well before the last commodities in the pipeline are delivered.

Volunteer doctors now providing medical care for war casualties and refugees would be withdrawn.

Medical supplies such as pharmaceuticals and surgical equipment for Vietnamese hospitals would be terminated.

Commodities and technical assistance for refugees, including aluminum roofing and tents for shelter, would be cut off.

Technical assistance for development (agriculture, education, industrial development, public works, and rural development projects) would be terminated, reducing Vietnamese capacity to achieve economic self-sufficiency.

Civilian inputs to the Pacification Program would be eliminated.

EFFECT OF FAILURE TO EXTEND THE AID PROGRAM IN LAOS

Termination of U.S. Supporting Assistance to Laos would affect the following activities:

Stabilization: The core of the stabilization effort is the Foreign Exchange Operations Fund (FEOF), supported by the U.S., U.K., Japan, Australia, and France, which finances virtually all of Laos' imports. If the U.S., the major contributor, were to cut off funds to FEOF, inflation would almost immediately assume such proportions as to destroy the monetary system in Laos. It would be impossible for Laos to sustain its military effort, or support its civilian government, in the chaotic conditions that would ensue.

Refugees: A.I.D. is the sole provider of food (rice and protein supplements), for about 150,000 Lao refugees, more than half of them women and children. These war victims, without jobs and permanent homes, would be forced into a struggle for survival without A.I.D. support. Rice supplies for these people will run out at the end of December, and procurement plans for the succeeding six months must be made firm by that time if there is not to be a lapse in the food supply. In addition, an estimated 60,000 persons who lost their total food crops in the recent Mekong River flood will require about nine months of food aid beginning next February.

Public Health: We would have to end a program providing medicine, medical supplies, equipment, and training for up to 260 dispensaries, mainly in areas where they are the only source of medical care. We would also have to interrupt the transfer to the Laotian Government of the operation of seven municipal hospitals caring for about 240,000 people a year, now being operated under an A.I.D. contract with Operation Brotherhood of the Philippines. Medical supplies for these hospitals would soon be exhausted, and the Operation Brotherhood contract would terminate at the end of the year.

Development: The effort to make Laos self-sufficient in rice and other basic foods production would have to be terminated.

We would have to abandon our support for the development of a Lao-language secondary education system and building of an adequate teacher-training system. Our vital support for an elementary system of over 218,000 pupils, would have to be abandoned.

Training programs in Laos, Thailand and the United States in education, public administration and agriculture would have to be phased out.

EFFECT OF FAILURE TO EXTEND THE AID PROGRAM IN CAMBODIA

1. Pipeline: The full $70 million of FY 1971 supporting assistance funds has been obligated. These funds are tied up in the process of commercial licensing for commodities for Cambodia, or for commodities being produced, or for those on the docks or already en route. Deliveries will occur from the pipeline from now through about June 30, 1972. Unless new obligations are made now, imports into Cambodia except P.L. 480 will rapidly fall off after that date, and the flow of commercial imports needed to sustain the economy and dampen inflationary pressures will be cut off.

2. Effect of Failing to Pass Continuing Resolution:

(a) The *economic reform program* which the Cambodian Government has just launched October 29 will be aborted. The Government has devalued the riel by more than 120% and we have agreed to support these reforms with economic aid. Unless the Continuing Resolution is passed, we will not be able to live up to this commitment. Furthermore this would render impossible the Cambodian effort to get *multilateral support* for an Economic Stabilization Fund as part of their effort to stabilize the Cambodian economy.

(b) No new commodities under the U.S. commodity import program will enter the economy after what is now in the pipeline is delivered. There will be no petroleum products; hence no electricity, no convoys bringing rice from the provinces, no gasoline for jeeps, trucks, helicopters, and domestic airlines. There will be no imports of textiles, machinery, drugs, chemicals, canned foods, milk, and beverages. The government has no foreign exchange reserve left to use for such imports.

THE SECRETARY OF STATE,
Washington, D.C., November 10, 1971.

HON. GERALD R. FORD,
House of Representatives.

DEAR GERRY: I want to let you know personally the Administration's concern over the really disastrous consequences of not getting a Continuing Resolution authority (CRA) passed to provide for our foreign aid programs after November 15th.

The most serious consequences would be felt almost immediately in the Agency for International Development. We are informed that the effect of a ruling just made by the Comptroller General is that no administrative expenses of the Agency may be paid for work performed after November 15th in the absence of a Continuing Resolution. This of course includes salaries. The net result of this could cause a wholesale departure from the government of the entire staff operating our foreign assistance programs. The programs themselves would come to a halt through a failure to be able to administer them. This means that almost $3 billion in continuing AID programs will cease. AID has analyzed the impact of this and believes that a total of over $2.5 billion would be subtracted from the U.S. economy. Five thousand American companies employing more than 60,000 persons would be affected. AID has over 260 contracts with U.S. universities and firms; 61 of these would run out of funds before December 31 and a further 137 before March 1972. Contractors under these conditions will have to bring their personnel home leaving many projects unfinished. I need not point out that the total impact in the U.S. would be most serious, particularly at a time when our efforts to reduce unemployment are vitally important.

Overseas, the consequences will be equally serious. In Cambodia where the cut off in funds will be felt first and most severely, ammunition supplies will run out in thirty days following a cut off of funds. Over 50% of our program to Cambodia is for ammunition. The Cambodian Army could not longer fight without it. The net effect will be to free some four North Vietnamese Divisions to return to battle in Vietnam and to deprive Cambodia of the resources which its Army urgently requires to defend the country and maintain security for its people.

Directly in Vietnam, a cut off in funding may require somewhat more time to have a direct impact, assuming personnel problems could be solved. However, shortly following failure of the U.S. to provide the imports required, there will be serious disturbances in the economy of Vietnam. Speculation, shortages and rapid price increases are inevitable. Political turmoil and a loss of military strength would not be far behind. The end result would be to negate the massive efforts in Vietnam in the past and even more importantly to nullify this Administration's strenuous and successful efforts at Vietnamization and U.S. withdrawal.

Elsewhere in countries like Laos, Thailand, Jordan, Turkey and Indoesia, our ability to fund vitally important programs will stop when Continuing Resolution authority runs out on November 15. Funds already obligated for programs under the present CRA cannot be moved to other programs because AID will have no authority to make new commitments. In Laos, for example, assistance to over 300,000 refugees would begin to run out and soon stop. Existing supplies and pending orders would hold off for a short time the final discontinuance of support, but it would occur within the next six to nine months.

I cannot emphasize enough the importance which this Administration attaches to the continuing funding of the foreign assistance programs under CRA. Of course, we recognize that CRA is not a substitute for final legislation authorizing and appropriating money which must necessarily come before the House of Representatives in the near future. Nevertheless, legislation is clearly going to require more time and in the interim we must have a CRA to continue the programs. Any disruption could be doubly costly both at home and abroad, as I believe the above examples indicate.

In closing, I believe the President made clear this Administration's concern as succintly as possible last night when he said:

"If the United States at this particular time should determine that it will discontinue its programs of mutual assistance for countries abroad—helping them so that they can help themselves—it can only mean that the world will become much more unstable, that the dangers of war in the world will greatly increase and that the United States will no longer be a world power respected in the world, no matter how strong we are at home."

Sincerely yours,

WILLIAM P. ROGERS.

DEPARTMENT OF STATE, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., November 10, 1971.

The Comptroller General has today issued an opinion which will prevent the Agency for International Development from obligating any funds for operating expenses after November 15, 1971 in the absence of a continuing resolution. The result is that, unless Congress adopts a satisfactory continuing resolution on or before November 15, A.I.D. will be unable to incur the obligations needed to continue operations after that date. There is attached a more general discussion of the Comptroller General's ruling.

DEPARTMENT OF STATE, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., November 10, 1971.

Today's rulings of the Comptroller General on A.I.D.'s obligational authority concern both of the statutory provisions which have been suggested as possible sources of funds for A.I.D. operating expenses in the absence of a Continuing Resolution.

The first provision is Section 617 of the Foreign Assistance Act, which authorizes the expenditure of funds after "termination of assistance under this Act." The Comptroller General has ruled that Section 617 is directed to the termination of particular projects or programs in any one foreign country, not to termination of the overall foreign assistance program. He has also ruled that, in any event, there has been no termination of assistance within the meaning of Section 617 since the President has not terminated assistance and since Congress has not terminated assistance "by concurrent resolution," the form of Congressional action expressly required by Section 617.

The second possible source of funding for A.I.D. operations considered by the Comptroller General is the reobligational authority set forth in the Foreign Assistance and Related Programs Appropriations Act of 1971. The Comptroller General has ruled that the reobligational authority in the 1971 Appropriations Act is not available to fund expenses in fiscal year 1972, the current fiscal year.

The Comptroller General noted that authority is available under the Mutual Security Appropriations Act, 1956 to use military assistance funds appropriated in prior years to fund administrative expenses for military assistance in this fiscal year. Those military assistance fund are not available for administration of the economic assistance programs conducted by A.I.D.

Mr. MAHON. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. EVINS).

Mr. EVINS of Tennessee. I thank the distinguished gentleman for yielding. Mr. Chairman, I shall support the continuing resolution. As we consider the pending resolution I should like to state that I am pleased that we in the Congress are now receiving some cooperation at this time from the other end of Pennsylvania Avenue.

Mr. Chairman, earlier this year I joined with others in vigorously protesting the excessive impoundment of funds by the Office of Management and Budget for public works projects for the last fiscal year.

At the conclusion of the year our Subcommittee on Public Works Appropriations had a most extensive and I trust helpful hearing with officials of OMB in which we explained the position and point of view of the Congress for appropriating funds for needed public works projects for the Nation which had been impounded. At this time I am pleased to advise that virtually all appropriated funds have been apportioned and released for priority projects appropriated by the Congress.

This year I am advised that there will be no freezing and impoundment of public works funds by OMB.

Mr. Chairman, the Congress added $104 million in appropriated funds for some 94 projects—either new projects or increases in on-going projects. They have now released over $100 million of this amount, added by the Congress, to the U.S. Corps of Engineers, Bureau of Recla-

mation, Tennessee Valley Authority and other power and water resource development agencies of the Government throughout the Nation.

Mr. Chairman, I believe that our appropriations hearings held this year have resulted in a better understanding concerning the wishes of the Congress, concerning the impoundment of funds, and I am pleased that other add-on's have been approved and released.

This action by OMB is recognition of the fact that Congress does have the prerogative to make adjustments in the budget request and to establish its own priorities to the extent that it believes necessary in the public interest.

Mr. Chairman, I include a list of the projects that were frozen but that have been released, 134 for fiscal year 1971 in the amount of $64,509,000 and 175 in the amount of $113,997,000 for this fiscal year.

So, we have the release of funds from the other end of Pennsylvania Avenue for public works projects in this country.

The list referred to follows:

CORPS OF ENGINEERS AND BUREAU OF RECLAMATION PROJECTS

FISCAL YEAR 1971 PUBLIC WORKS APPROPRIATION ACT

	Number	Amount
Release of congressional add-ons impounded during fiscal year 1971:[1]		
New planning starts	16	$1,385,000
New land acquisition starts	7	2,500,000
New construction starts	31	7,975,000
New loans	3	750,000
Additional amounts for projects underway	77	51,899,000
Total	134	64,509,000

FISCAL YEAR 1972 PUBLIC WORKS APPROPRIATION ACT

Congressional add-ons apportioned for obligation during fiscal year 1972:[2]		
New planning starts	25	$2,616,000
New construction starts	20	9,820,000
New loans	2	600,000
Additional amounts for projects underway	128	100,961,000
Total	175	113,997,000

[1] A total of $2,288,000 is still held in reserve involving 5 projects.
[2] A total of $980,000 is still held in reserve involving 3 projects.

Mr. BOW. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. JONAS).

Mr. JONAS. Mr. Chairman, I take this time in order to concur in the remarks of the distinguished gentleman from Texas (Mr. MAHON), chairman of the House Committee on Appropriations, and also with the remarks of the distinguished gentleman from Ohio (Mr. BOW), the ranking member of that committee.

I do not really understand how it could seriously be argued that this is the time or the place to get into an argument about foreign aid or military assistance or the Defense Department.

If the committee today rejects the continuing resolution or emasculates it with amendments, you will be destroying the committee system of the House. You will, in effect, be expressing lack of confidence in your own Committee on Appropriations—because you will take away from the subcommittees of that committee, who still have work to do on bills that have not yet become law, the opportunity to mark up their bills and bring in bills that represent their best judgment on the amount of money that ought to be recommended for appropriation.

I really do not see how anyone in the House who understands this proposition would want to express such lack of confidence in one of your own standing committees, because you will be given an opportunity on each one of these bills to have the House work its will.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. JONAS. I will be glad to yield to the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Does not the gentleman think that this would be an indication of lack of confidence in the legislative committees as well as the Committee on Appropriations?

Mr. JONAS. The gentleman is absolutely correct. I am sorry I restricted my remarks to the Committee on Appropriations, because I stated in my earlier colloquy with the distinguished gentleman from Texas that we have been delayed awaiting authorization bills.

But if this committee today, as I have said—and I hate to repeat myself—defeats this resolution or emasculates it with amendments, it will be repudiating two of its standing committees, and I really do not believe Members want to do that.

I say again, that every member in this committee and in the House who wishes to oppose some parts of the bills that have not been enacted upon, will have ample opportunity to do it, because those bills will have to go through the Committee of the Whole, and there will be record votes, teller votes, and votes on final passage.

I plead with the members of this committee today not to repudiate two of your standing committees. If you want to attack any of the programs involved, will you not be willing to wait until the regular bills come to the floor, and make your attacks then?

The CHAIRMAN. The time of the gentleman has expired.

Mr. MAHON. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. DOW).

Mr. DOW. Mr. Chairman, the measure now before us will, among other things, accomplish the extension of the foreign aid program which has already been voted down by the Senate and which passed this house by the slim margin of 200 ayes to 192 nays.

It seems incongruous to me that we are today being asked to go around to the back door and extend this defeated program through the vehicle of a continuing resolution.

There is a way out of this, however. I would like to call to the attention of my colleagues section 10 of the Military Sales Act of 1970 as Public Law 92–672. This act contains language which prevents the spending of appropriations for foreign aid without authorizing legislation. Yet the requirement for express authorization is waived in the continuing appropriation of July 1, 1971, which we are asked now to continue further.

The amendment I am introducing today would delete this waiver and reinvoke section 10 of the Military Sales Act.

The effect of this would be to bar the expenditure of funds appropriated by this resolution for foreign aid only. It would have no effect on the expenditure of funds provided in the resolution for the defense or District of Columbia budgets. The requirement for authorizing legislation extends only to foreign aid program expenditures.

What would happen to employees of the foreign aid program if we were to reinvoke section 10 of the Foreign Assistance Act? My amendment has made provision that the administrative expenses for the salaries of these employees be continued. This employment issue should not be used as a bludgeon to coerce Congress into continuing a multi-billion-dollar program. If all this program is good for is to employ people, then it is truly useless. Nevertheless, my amendment would allow these salaries to be met until the sine die adjournment of this session.

Over half of the budget of our foreign aid program is spent for military purposes. For this and a variety of other reasons many in this body feel that foreign aid, as presently constructed is an idea whose time has gone.

The program transforms our military attachés overseas into sales agents for the American arms industry, allowing poor nations the means to make war with each other, and to crush democratic movements which threaten the authorities. The terms of credit which we so generously extend—10 years—are probably longer than the life of the weapons which we sell them. Yet our ally, Israel, badly in need of economic assistance, receives practically nothing in this foreign aid program.

I have no quarrel with the concept of foreign aid, if properly conceived and redirected. I believe my amendment would compel a reformation of the program.

A new foreign assistance program is in the making, but it may be subverted and emasculated if pressure for reform is not exerted by withholding further assistance funds until a reconstruction is achieved.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. DOW. I yield to the gentleman.

Mr. LONG of Manyland. The gentleman knows there is no question I am just as strongly opposed to military aid and military sales as the gentleman.

I have voted against them for years. Military aid is what really soured me on foreign aid.

But I am puzzled as to the gentleman's purpose. The gentleman recognizes in his remarks that foreign aid is going to continue in some form and, therefore, I would think the gentleman would agree with most of us that what we need——

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LONG of Maryland. Mr. Chairman, I would ask that the gentleman be given a couple of additional minutes.

Mr. MAHON. Mr. Chairman, I yield the gentleman from New York (Mr. Dow) 2 additional minutes.

Mr. LONG of Maryland. Mr. Chairman, so I believe the gentleman more or less agrees that the program is going to be continued.

Would the gentleman not agree that if we are going to continue our foreign aid program and it is going to be restructured, it is going to take careful work to do it? Certainly, the purpose of the gentleman's amendment will be to put us under the gun and to deprive us of the time we need to do the kind of restructuring that needs to be done.

I am wondering whether the gentleman's amendment does not do harm rather than good?

Mr. DOW. I wish you would allow me time to say that with the defeat of foreign aid in the Senate and the close vote in the House, there is a current feeling running opposed to foreign aid in its present form.

Now is the critical moment to go after it and now is the time. The only way to do it is perhaps to use a gun—to use that metaphor—to cut off the operation of this program, aside from the administrative expenses.

Mr. LONG of Maryland. A couple of weeks in any case.

Mr. DOW. The gentleman knows that the reform of foreign aid has been in the pipeline just as the funds have been there for a long time. These ideas have germinated and many have come to fruition. I think it would take just a few days for this or the other body to develop or change or improve the program.

Mr. LONG of Maryland. Would the gentleman be satisfied with the restructuring of a vast complicated foreign aid system—that can be done in a few days or a week.

Mr. DOW. The idea is for a change in foreign aid, I will say to the gentleman, that most of the needed reforms have been suggested. They are in line and it would take just a few days to put them on paper.

Mr. BOW. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I want to express my unequivocal support of the continuing resolution as it affects the foreign aid program.

I have supported this program on this floor under four Presidents.

There is no question that the entire program needs thorough examination and revision. I have worked for this goal during my 12 years on the Foreign Operations Subcommittee. However, our frustration with its shortcomings should not lead us to the irresponsible action of cutting off funds completely after next Monday.

We must remember that our foreign assistance supports many important activities. The Asian Development Bank, Disaster Relief, the International Development Association, the Export-Import Bank, the Overseas Private Investment Corporation, and the Development Loan program have all proven their worth and effectiveness. This last program, in particular, by loaning money to developing countries to help them achieve the economic self-sufficiency they require, is of vital importance.

Nor can we ignore the tremendous health programs bolstered by these funds. We provide relief for victims of countless diseases. We support the work of the World Health Organization, the U.N. children's fund, and the U.N./FAO world food program, to mention only a few.

The controversy surrounding our military assistance should not obscure the benefits of our economic and humanitarian aid. While I welcome this controversy as providing the necessary impetus for a reduction of our goals in this area, I will not support an attempt to throw the baby out with the bathwater.

As President Nixon stated yesterday:

> There are no constituencies for foreign aid, we know that. But let us recognize this: If the United States at this particular time should determine that it will discontinue its programs of mutual assistance for countries abroad—helping them so that they can help themselves—it can only mean that the world will become much more unstable, that the dangers of war in the world will greatly increase.

Let us work for reform. But let us have the wisdom to reject draconian measures in the process.

Thank you, Mr. Chairman.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. BOW. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas (Mr. SHRIVER).

Mr. ROONEY of New York. Mr. Chairman, will the distinguished gentleman from Kansas yield to me?

Mr. SHRIVER. Very briefly.

Mr. ROONEY of New York. It would seem to me that the gentleman from New York (Mr. Dow) might throw out the baby with the dirty bath water.

Some of the items not mentioned by the distinguished gentleman from Massachusetts in listing some of the many good parts of the program which have to be appropriated for and for which there must be a bill are items such as the funds for refugees and migrants, which would be included by this resolution and which are very much the subject of concern of all religious faiths. CARE, the Catholic Relief Services, Church World Service, and the American Jewish Joint Distribution Committee, all voluntary agencies, are very much concerned that we have a foreign aid bill.

I thank the gentleman.

Mr. SHRIVER. I thank the gentleman from New York.

Mr. Chairman, I shall speak to the continuance of the aid program. I have never voted in favor of foreign aid authorization bills since I came to Congress in 1961. I did not vote for the authorization earlier this year.

But I do support President Nixon's progress in withdrawing American soldiers from the conflict in Southeast Asia. I do support the Nixon doctrine of a more realistic American presence in the world. I do support the concept of Vietnamization as an alternative to previous American involvement in the war.

To me, this continuing resolution, at least the foreign aid part of it, is an "end the war" bill. It is a "bring the boys home" bill.

It is not a vote on the merits and failings of our fragmented foreign assistance programs. This House will have an opportunity later this year to vote on the future of our military and economic aid efforts. This continuing resolution is the traditional and time tested method by which we avoid total chaos which would result from the immediate dismantling of the program while Congress debates its future.

We have to keep one thing clearly in mind today. If this continuing resolution is not passed, the Agency for International Development will cease to exist on November 16. There is no authorizing legislation—the Senate defeated the House-passed bill on October 29.

The only way AID can pay its personnel, even to dismantle the program in an orderly way, is if the authorization to do so is enacted by Congress in this bill.

We have heard a lot about the so-called "pipeline." Agency spokesmen tell us this is obligated, and thus unavailable for administrative purposes.

We all want to get out of Vietnam as soon as possible, and we are getting out. But if this aid program which finances over half of South Vietnam's badly needed imports is stopped on November 16, the effect on the south's economy and war efforts in its own behalf will be fatal. Would that really be in our national interests? With a shortsighted negative vote on this resolution today, do you want the sacrifices of American and allied lives and resources during the last decade to go down the drain—to be for naught?

In a letter dated yesterday to the ranking member of the Appropriations Committee, our former colleague and now Secretary of Defense, Mel Laird, explained the importance of military grant and sales assistance to our own defense posture. The Secretary wrote:

> In large measure grant aid and foreign military sales credits have been planned in order to permit a reduction in forward deployments of our own reduced forces.

The Secretary also stated:

> There is a very close relationship between our own military force structure and the president's program for foreign assistance.

We normally think of Vietnamization in military terms, but the principles of Vietnamization are being applied to the economic assistance program as well. The dollar figures are very high—$565 million for economic supporting assistance for Vietnam—but practically the entire amount is to make up for the loss of foreign exchange earnings which had been coming to the Vietnamese indirectly through our Armed Forces presence in their country.

But while these dollar figures are high, our direct involvement in Vietnam's economic and social affairs is on the decline. More Vietnamese are doing the jobs which were being done by Americans. This will continue, as it should, but the Vietnamese war-inflated economy cannot do it alone.

Ending our involvement in the war is the main reason I support this continuing resolution, but there are other substantial reasons.

We face a high unemployment situation in our country—5.8 percent overall,

and much worse in certain areas and in certain groups.

The immediate loss of $900 million of aid commodity purchases would affect 50,000 jobs directly in the first year and probably twice that many in later years.

The loss of $650 million of technical service contracts would affect about 10,000 other jobs, many of these in universities which are already in financial trouble.

The elimination of AID-financed shipments would curtail about one-quarter of the cargo now shipped on U.S.-flag vessels, with obvious effects on our merchant fleet and seamen.

AID itself has 6,500 employees, 3,400 of whom are overseas. In addition, AID finances 2,000 contractor personnel and 700 employees of other U.S. Government agencies overseas. These people, of course, would be affected immediately by negative action in the House today.

Yesterday, I inserted five tables in the RECORD on page H10791 which show the financial impact of AID expenditures in our own country. The impact is substantial in many of our districts and States, reflecting the fact that most of our foreign aid spending is done right here at home.

There are many serious shortcomings in our past foreign aid policies, many of which I have pointed out myself here on the House floor since becoming a member of the Appropriations Committee. Our subcommittee will continue to investigate these programs and eliminate selectively those programs which are not working and are not in our national interest. Judging from statements of the Senate Foreign Relations Committee and the chairman of our Foreign Affairs Committee, we will all have the opportunity to debate these programs when considering totally new authorizing legislation.

But in spite of various items included in this program which we know should be discontinued, there are others which dictate a responsible affirmative vote here today. Vietnamization. Unemployment. Humanitarian disaster relief. American schools and hospitals abroad. Project hope. American exports. Assistance to Turkey to help eliminate the production of poppies, which are made into heroin. Supporting assistance to Laos and Cambodia for the safety of our servicemen in Vietnam. Aid to Korea, so that we can continue to bring our troops home from that country where they have served for far too long. Aid to the peacekeeping force in Cyprus, which has successfully kept the lid on that explosive situation. The green revolution. Population control.

For these reasons I strongly urge all of you to cast a difficult but responsible and very necessary "yea" vote on this continuing resolution.

Mr. BOW. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan, the distinguished minority leader, GERALD R. FORD.

Mr. GERALD R. FORD. Mr. Chairman, really there are two issues involved in our consideration of House Joint Resolution 946. One is the question of orderly responsible legislative procedure, and the other is the substance of the foreign program and others affected by the resolution.

I would doubt that many in the Chamber or many Members of the House have actually taken a look at House Joint Resolution 946. It is five lines—and here is a copy. It involves the continuing authority for appropriations in the magnitude of $80 billion between now and when we adjourn sine die.

We have had continuing resolutions in the past in many, many instances—too many—but, be that as it may, never to my knowledge has the House ever amended a continuing resolution, and for good reason. A continuing resolution is an interim vehicle to provide obligation authority for the Departments that prior to that time have not had an appropriation bill approved into law. Here we are threatened with one or more amendments on a continuing appropriation bill for an interim period of time in the 1971 session of the Congress.

Mr. Chairman, if we do that, I think we are establishing a bad precedent, and also if we do it we are undercutting responsible committee activity. It means that the Committee on Foreign Affairs will be precluded from working its will and the House from working its will on the authorization bill for the foreign aid program.

I have in my hand here a copy of H.R. 9910 which was the foreign aid authorization bill we passed in the House August 3, 1971. There are 40 pages involved in this bill. The House over a 2-day period read every paragraph, passed judgment on every paragraph, and finally August 3, passed it by a vote of 200 to 192. That was the responsible way to act on the legislation—far more responsible than trying to amend a five-line continuing resolution.

If we amend this resolution we may be compounding irresponsibility. Every year, in the ordinary course of events, after an authorization has become law we consider an appropriation bill for the Foreign Aid program. I have in my hand here the Foreign Aid Appropriation bill for the last fiscal year. It is seven pages long, and in every instance there is a line item for every program. When that legislation went through the House a year ago the House of Representatives worked its will on every line item.

That makes sense. How we could go from that kind of responsible activity to consideration of amendments on a five-line resolution is beyond my comprehension. I say to those who want to do it, if you do you are establishing a very bad precedent that will come back to haunt you.

I have in my hand a letter from the Secretary of State which indicates that in his judgment any action on the continuing resolution not following the proper authorizing and appropriation procedure would be very, very serious. Let me read an excerpt from that letter. I quote:

> AID has analyzed the impact of this and believes that a total of over $2.5 billion would be subtracted from the U.S. economy.

That would be the impact if the foreign aid portions of this resolution were deleted or were severely restricted.

The Secretary of State goes on and points out in a number of instances the specific harm that would come to the implementation of our foreign policy if the continuing resolution were amended to reduce funds substantially.

It seems to me at this critical juncture in our foreign policy to use a meat axe on either the military assistance or the economic assistance would be disastrous. I am willing to rely on the good judgment of the Committee on Foreign Affairs on the authorization and how the House works its own will on the authorization. And I will do the same so far as the appropriation bill is concerned.

But I believe it would be unwise from a parliamentary point of view, from a legislative point of view, and from a substantive point of view for us on this occasion to cut the program or to hamstring it or to do anything other than to pass it as it has come from the Committee on Appropriations.

Now let me give one or two specific instances where a serious cut or a serious limitation would have a disastrous effect.

According to the AID Administrator, if a termination should come today, or on November 15, it would result in the loss of $900 million of AID commodity purchases, which would, on average, affect 50,000 jobs directly in the first year.

Or if we were to terminate the program it would result in the loss of $650 million of technical service contracts, which would affect about 10,000 other jobs.

Furthermore, for those who are concerned about the American merchant marine, if we were to terminate the foreign aid program on November 15, as some apparently want it terminated, one-quarter of the cargo on U.S. flagships would be eliminated.

The disastrous complications would be, I believe, serious; and in my opinion we should not amend and we should not terminate the foreign aid program at this point.

Mr. FRELINGHUYSEN. Mr. Chairman, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from New Jersey.

Mr. FRELINGHUYSEN. I thank the gentleman. I should like to commend the gentleman for his statement.

The gentleman mentioned the Committee on Foreign Affairs several times. As a Member of the Committee on Foreign Affairs I would say that we have been ready to discharge our responsibility. As the gentleman pointed out, an authorization bill recommended by our committee has been considered. The reason there is a problem today regarding foreign aid is the action taken by the other body.

We are ready to move again when the time is appropriate, but the only responsible way now is to have a continuing resolution, to enable us to proceed with another authorization and an appropriation bill in due course.

So I also hope that we have no amendments—we cannot prevent them from being offered, of course, but I trust that no amendments are adopted to this continuing resolution, I hope that we can proceed in an orderly fashion.

I thank the gentleman for yielding.

Mr. GERALD R. FORD. I know the Committee on Foreign Affairs and the Committee on Appropriations are ready, able, and willing to bring the proposed bills to the floor of this House for consideration and under the orderly procedure. Let us wait until these opportunities present themselves instead of operating on a five-line resolution. House Joint Resolution 946 ought to be approved as is so that we can operate in the best legislative way at a subsequent time.

Mr. JONAS. Will the gentleman yield?

Mr. GERALD R. FORD. I am glad to yield to the gentleman.

Mr. JONAS. Is it not true that every opponent of either one of these programs will have his day in court when the regular bills are on the floor of the House for action and that any action anybody wants to take against any of these programs should more properly be taken when those bills are there instead of on this continuing resolution?

Mr. GERALD R. FORD. Yes.

I yield to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. I want to say to the gentleman I am in sympathy with his statement and plan to support the position that he has taken, because I think continuing authority for the AID agency along with the Department of Defense is a responsible position to take.

Moreover, I am concerned that certain parts of our foreign policy are a little ragged. We need to work in order to try to keep the country on the right track.

There will be other issues tonight or tomorrow that also relate to American foreign policy, and I appeal to the gentleman to help in those efforts, also, if he can find his way to do so, to help the United States to live up to its international obligations. It seems to me that it is part and parcel of a responsible posture in the foreign policy field.

Mr. GERALD R. FORD. I thank the gentleman from Minnesota. I will do my best and I will exercise whatever judgment I have on some of these tough foreign policy issues. I think we have to take them one at a time and let the House work its will and let each of us exercise our best judgment as our conscience dictates.

Mr. MAHON. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, the gentleman from New York, my colleague (Mr. Dow) said a moment ago that we should not be sending military help to Israel but, rather, should be sending economic help.

The fact of the matter is that I had the privilege of chairing a subcommittee that went to Israel a year ago. We met with the Prime Minister and also with the Deputy Minister of Defense. They made it clear to us that what they wanted desperately and urgently was military help. In fact, we brought back to this House a request for $800 million for credit sales of military equipment which was later included in unlimited amounts in the defense authorization bill last year.

There is another $300 million in the 1972 foreign aid bill to help Israel. She desperately needs it. She needs the Phantom jets and other weapons to deter aggression against her in that area. If the position of the gentleman from New York were to prevail, we would be encouraging aggression in the Middle East.

Mr. VEYSEY. Mr. Chairman, today the House is being asked to keep alive a system of foreign assistance that scarcely anyone can defend in its present form. We are told it is necessary to line up and go along with this so that something better can be developed in due time.

I am not persuaded.

The people in my district and across the country have wells of generosity they are willing to dip into for almost any worthy cause. But there comes a time when even the most dedicated philanthropists take stock of the good they have done. That time is with us, and we find we have little concrete to show for 25 years of altruism.

The present aid program is universally recognized as inefficient and wasteful. Although I certainly favor some parts of the program there is no way to justify others. I am convinced that the best way to expedite reform of this program is to call a halt to it as it now stands. This is especially true at a time when our Federal budget is running a record deficit and we would in effect have to borrow the money to continue this program.

Therefore, I do not support the continuing resolution for foreign aid.

Mr. BOW. Mr. Chairman, I have no further requests for time.

Mr. MAHON. Mr. Chairman, the hour is late; the issue is very clear; namely, whether we shall take action to provide for the continuation of several departments and agencies of the Government, including the Department of Defense and others for this interim period. I do not have any doubt but that the House will approve this continuing resolution.

I know we are going to have an amendment to cut out funds for the Defense Department. And we are going to have an amendment to cut out funds for the foreign aid program, including the Export-Import Bank—which if adopted would also seriously affect both business and labor.

Mr. Chairman, I would urge that we move along as rapidly as we reasonably can. I have no further requests for time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (c) of section 102 of the joint resolution of July 1, 1971 (Public Law 92-38), as amended, is hereby further amended by striking out "November 15, 1971" and inserting in lieu thereof "the sine die adjournment of the first session of the Ninety-second Congress".

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: Page 1, line 7, after the end of the sentence strike out the period and insert a semicolon and add the following: "provided that notwithstanding any other provision of law no funds shall be available under this joint resolution after November 15, 1971 for activities of the Department of Defense."

Mr. SEIBERLING. Now, Mr. Chairman, despite the mutterings that you hear, this is not an amendment to prevent our acting on funds for the Department of Defense. It is an amendment to give us an opportunity to vote on that as a separate issue.

I note that this continuing resolution not only covers funds for the Department of Defense, but it covers the District of Columbia appropriations, the foreign assistance appropriations, the antipoverty program, the economic opportunity authorization, health manpower programs, Radio Free Europe, civil rights education and emergency school assistance and even the American Revolution Bicentennial Commission.

Now, I made a pledge to my constituents and I made a statement at the start of this session that I would not vote for any appropriation or authorization to continue the war in Vietnam until we put a specific cutoff date on further American involvement in that war. I consider this a pledge that I am bound to keep. There are other Members of this House in this same position.

I do not think it is right to compel us to vote against antipoverty programs and all these other things in this kind of grab-bag resolution in order to carry out our honored pledge.

So, this does not prevent a continuing resolution for the Department of Defense but it does provide an opportunity for us to vote on that as a separate continuing resolution. That is the sole purpose of my amendment and I urge its adoption.

Mr. RHODES. Mr. Chairman, would the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. RHODES. Do I understand the gentleman's amendment correctly that he would strike the Department of Defense from this resolution and hope—I guess he hopes, at least—that there would be another resolution which would provide funds for the Department of Defense? So now I ask the gentleman will he support such a resolution if it is brought to the floor?

Mr. SEIBERLING. It depends entirely on the form of the resolution, and whether it provides for carrying on the war without a cutoff date.

Mr. RHODES. And the gentleman then would, as I gather, vote to cut off all funds for the Army of the United States, the National Guard, the Marine Corps, and so forth, unless he gets his way as far as this is concerned?

Mr. SEIBERLING. We have not gotten that far yet.

Mr. RHODES. I think we have, because this is the 10th of November.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment.

The amendment simply provides for the elimination of all funds for the Department of Defense after November 15, which is next Monday. That is completely impractical. Surely the House would not embrace this amendment.

Mr. Chairman, I ask unanimous consent that all debate on this amendment

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and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mrs. ABZUG. Mr. Chairman, I object.

The CHAIRMAN. There being no objection, it is so ordered.

Mr. BINGHAM. Mr. Chairman, I rise to a point of order. The Chair evidently did not hear the gentlewoman from New York when she objected to the unanimous consent request.

The CHAIRMAN. The Chair will state that the Chair heard no objection.

Mrs. ABZUG. Mr. Chairman, I did object.

Mr. HAYS. Mr. Chairman, the gentlewoman from New York was objecting; not that I favor her position on this bill, but the gentlewoman did object.

The CHAIRMAN. Was the gentlewoman from New York (Mrs. ABZUG) on her feet?

Mr. MAHON. Mr. Chairman, she was on her feet.

Mrs. ABZUG. Mr. Chairman, I was on my feet.

The CHAIRMAN. And the gentlewoman from New York objects?

Mrs. ABZUG. Yes, that is correct.

The CHAIRMAN. Objection is heard.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 10 minutes.

The motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman and Members of the House, you have just heard the gentleman from Ohio (Mr. SEIBERLING) in offering his amendment, make the statement to you that he made a pledge to his constituents not to appropriate nor vote to appropriate any funds for the military until a date certain had been established for getting our troops out of Vietnam.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I do not have time to yield to the gentleman.

Mr. Chairman, I would like to remind the Members that every one of the Members at the opening of the 92d Congress raised their hand and took an oath under the Constitution of the United States to defend the United States, and you cannot do it by doing away with the financial support for the military.

You all have an oath, including the gentleman from Ohio, to defend the United States.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. WAGGONNER. I will be happy to yield.

Mr. RONCALIO. Mr. Chairman, I gave the same promise to the people of Wyoming when I was campaigning up and down the State of Wyoming, that I would vote for no further military funds until we get out of Vietnam. And I am as good an American as the gentleman from Louisiana.

Mr. WAGGONNER. I will tell you one thing, and you will have to live with it, but you decide which oath means the most: the oath you took on the floor of the House of Representatives with your hand up, when you came to take this job, or that foolish one you made back in your home State.

Mr. RONCALIO. Mr. Chairman, I demand that those words be taken down. Please take down the words. I resent the implication on my patriotism, and I defend my right to do what my conscience tells me to do.

So, Mr. Chairman, I demand that the words be taken down.

The CHAIRMAN. The gentleman from Wyoming insists upon his request that the words be taken down?

Mr. RONCALIO. Mr. Chairman, I demand that the words be taken down.

The CHAIRMAN. The Clerk will report the words objected to.

Mr. RONCALIO. Mr. Chairman, I withdraw the request.

The CHAIRMAN. The request is withdrawn.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Mrs. ABZUG).

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Mrs. ABZUG. I yield to the gentleman.

Mr. SEIBERLING. I just want to correct the RECORD and I think the stenographic record will show that I did not say I would not vote for any military appropriation. I said I would not vote for any military appropriation to continue our involvement in Vietnam. Our involvement in Vietnam does not advance the defense of the United States. In fact, it has impaired our ability to defend the real interests of the United States against very real threats elsewhere in the world.

Mrs. ABZUG. Mr. Chairman, I think it is important for the men and women in this House to recognize that the questions of patriotism posed are as follows: the continued violation of the will of 75 percent of the American people, the continued sending of our young men to be slaughtered and the continued killing of innocent people abroad without the consent of the American people. For when a House of Representatives refuses to withhold the funds from an Executive who unlawfully conducts a war without regard to the will of the people or our own obligation to exercise the power rendered us by the Constitution and the people then it may be that our course has been unpatriotic.

I think there is nothing wrong with this House pausing and saying we have not acted to set the date. We have not acted to reflect the will of the American people. In view of the fact that we have sat by as the President continues this war, perhaps what we now must do is to take very strong action to cut off the funds from this war by cutting off the funds of the Department of Defense.

I support this amendment. We must not allow ourselves to continue funding the war to kill innocent people, to plunder the energies and resources of our Nation, and to deny the hopes of all Americans for peace.

Mr. BINGHAM. Mr. Chairman, I support the amendment proposed by the gentleman from Ohio (Mr. SEIBERLING) as a purely procedural matter. As I understand it, he wants to have the question of a continuing resolution to carry on the Defense Department programs taken up separately, and I believe that is a reasonable request.

My vote in support of his amendment does not mean that I am opposed to all the items in the Defense Department's continuing programs.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, I think we have to look at what the effect of the amendment that has been offered is and not what the gentleman from Ohio thinks it is.

The effect of the amendment, whether the gentleman understands it or not, would be to cut off all funds for the military services of the United States of America. I cannot imagine that the gentleman is serious in wanting to do this. But there it is. This is the proposal that is now before the House of Representatives.

The idea that at this particular time in our history that we have a proposal not to support the Marine Corps, not to support the 6th Fleet which is in the Mediterranean eyeball to eyeball with Russian ships, protecting the lands of the Mediterranean littoral, including Israel, from invasion, not to support the Navy, Army and Air Force is, to me, absolutely unbelievable.

Mr. Chairman, I hope the gentleman withdraws his amendment. I cannot imagine that he can be serious about it.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman.

Mr. SEIBERLING. Mr. Chairman, today is the 10th of November. We have until the 15th of November to make whatever disposition we want on the continuing resolution. After the discussion we have had on my amendment, can there be any doubt that the Congress can and will pass any necessary continuing defense appropriations by November 15? All I am trying to do is to get a separate vote on that issue.

Mr. RHODES. The gentleman is indulging in wishful thinking, and is playing Russian roulette with the safety and welfare of this country and he knows perfectly well it is not possible to do as he suggests.

If this resolution passes the House tonight and goes to the other body, it will obviously be some time before it can be adopted. If we had to start a separate resolution, addressed only to the funds for our Armed Forces, there would probably not be time to accomplish the purpose before November 15. All of the Armed Forces would be out of money.

Combat forces would have payless paydays. Many hardships would be suffered by our men in uniform. They deserve better of us.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Bow).

Mr. BOW. Mr. Chairman, I am opposed to this amendment.

I yield back the remainder of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I just want to make one thing clear. Any time the leadership of this House wants to vote money to continue the Defense Department, it will have no trouble getting a resolution passed, and the kind of debate we have heard here tonight makes it clear why. All I am asking is for a separate vote, and we could get a separate vote in the next 5 days if the people who run this establishment want one.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, the gentleman wants a separate vote as an expression of opinion of the House on this subject. I think we are about to have it. If the House defeats the pending amendment, it will, of course, mean that the House does not wish to cut off all funds for the Department of Defense. I am certain the House will defeat the amendment as, of course, it should.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

TELLER VOTE WITH CLERKS

Mr. SEIBERLING. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. SEIBERLING. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. SEIBERLING, MAHON, BOW, and Mrs. ABZUG.

The Committee divided, and the tellers reported that there were—ayes 10, noes 356, answered "present" 5, not voting 60, as follows:

[Roll No. 378]

[Recorded Teller Vote]

AYES—10

Abzug	Dellums	Seiberling
Bingham	Rangel	Stokes
Burton	Roncalio	
Chisholm	Ryan	

NOES—356

Abbitt	Badillo	Bray
Abernethy	Baker	Brinkley
Abourezk	Baring	Brooks
Adams	Begich	Broomfield
Addabbo	Belcher	Brotzman
Albert	Bell	Brown, Ohio
Anderson, Calif.	Bennett	Broyhill, N.C.
	Bergland	Broyhill, Va.
Anderson, Ill.	Betts	Buchanan
Anderson, Tenn.	Bevill	Burke, Fla.
	Biaggi	Burke, Mass.
Andrews, Ala.	Biester	Burleson, Tex.
Andrews, N. Dak.	Blanton	Burlison, Mo.
	Blatnik	Byrne, Pa.
Annunzio	Boggs	Byrnes, Wis.
Archer	Boland	Byron
Arends	Bolling	Cabell
Ashbrook	Bow	Caffery
Aspin	Brademas	Carney
Aspinall	Brasco	Carter
Casey, Tex.	Henderson	Pucinski
Cederberg	Hicks, Mass.	Purcell
Chamberlain	Hicks, Wash.	Quie
Clark	Hillis	Quillen
Clausen, Don H.	Hogan	Railsback
	Holifield	Randall
Cleveland	Horton	Rarick
Collins, Ill.	Hosmer	Rees
Collins, Tex.	Howard	Reid, N.Y.
Colmer	Hull	Reuss
Conable	Hungate	Rhodes
Conte	Hunt	Riegle
Corman	Hutchinson	Roberts
Cotter	Ichord	Robinson, Va.
Coughlin	Jacobs	Robison, N.Y.
Crane	Jarman	Rodino
Culver	Johnson, Calif.	Roe
Daniel, Va.	Jones, Tenn.	Rogers
Daniels, N.J.	Karth	Rooney, N.Y.
Danielson	Kastenmeier	Rooney, Pa.
Davis, Ga.	Keating	Rosenthal
Davis, S.C.	Keith	Rostenkowski
Davis, Wis.	Kemp	Roush
de la Garza	King	Rousselot
Delaney	Kluczynski	Roy
Dellenback	Koch	Roybal
Denholm	Kyl	Runnels
Dennis	Kyros	Ruppe
Dent	Landrum	Ruth
Devine	Latta	St Germain
Dickinson	Lennon	Sandman
Donohue	Lent	Sarbanes
Dorn	Long, Md.	Satterfield
Downing	Lujan	Saylor
Duncan	McClory	Scherle
du Pont	McCloskey	Schmitz
Eckhardt	McClure	Schneebeli
Edmondson	McCollister	Scott
Edwards, Ala.	McCormack	Sebelius
Eilberg	McDade	Shoup
Erlenborn	McDonald, Mich.	Shriver
Esch	McEwen	Sikes
Eshleman	McFall	Sisk
Evans, Colo.	McKay	Skubitz
Evins, Tenn.	McKevitt	Slack
Fascell	McKinney	Smith, Calif.
Findley	Mahon	Smith, Iowa
Fish	Mailliard	Smith, N.Y.
Fisher	Mann	Snyder
Flood	Martin	Spence
Flowers	Mathias, Calif.	Springer
Flynt	Mathis, Ga.	Staggers
Foley	Matsunaga	Stanton, James V.
Ford, Gerald R.	Mayne	Steed
Ford, William D.	Mazzoli	Steele
Forsythe	Meeds	Steiger, Ariz.
Fountain	Melcher	Steiger, Wis.
Fraser	Metcalfe	Stephens
Frelinghuysen	Michel	Stratton
Frenzel	Mikva	Stubblefield
Frey	Miller, Calif.	Stuckey
Fulton, Tenn.	Miller, Ohio	Sullivan
Fuqua	Mills, Md.	Symington
Galifianakis	Minish	Taylor
Gallagher	Mink	Teague, Calif.
Garmatz	Minshall	Teague, Tex.
Gaydos	Mizell	Terry
Gettys	Mollohan	Thompson, Ga.
Giaimo	Monagan	Thomson, Wis.
Gibbons	Moorhead	Thone
Goldwater	Morgan	Tiernan
Gonzalez	Morse	Udall
Grasso	Mosher	Ullman
Gray	Moss	Van Deerlin
Green, Oreg.	Murphy, Ill.	Vander Jagt
Green, Pa.	Myers	Vanik
Griffin	Natcher	Waggonner
Griffiths	Nedzi	Waldie
Gross	Nelsen	Wampler
Grover	Nichols	Ware
Gude	Nix	Whalen
Hagan	Obey	Whalley
Haley	O'Hara	White
Hall	O'Konski	Whitehurst
Hamilton	O'Neill	Widnall
Hammer-schmidt	Passman	Williams
	Patten	Wilson, Bob
Hanley	Pepper	Winn
Hanna	Perkins	Wolff
Hansen, Idaho	Pettis	Wright
Hansen, Wash.	Peyser	Wyatt
Harrington	Pickle	Wylie
Harsha	Pike	Yates
Hastings	Pirnie	Yatron
Hathaway	Poage	Young, Fla.
Hays	Podell	Young, Tex.
Hébert	Poff	Zablocki
Hechler, W. Va.	Preyer, N.C.	Zion
Heckler, Mass.	Price, Ill.	Zwach
Heinz	Price, Tex.	
Helstoski		

ANSWERED "PRESENT"—5

Clay	Drinan	Scheuer
Dow	Mitchell	

NOT VOTING—60

Alexander	Goodling	Mills, Ark.
Ashley	Gubser	Montgomery
Barrett	Halpern	Murphy, N.Y.
Blackburn	Harvey	Patman
Brown, Mich.	Hawkins	Pelly
Camp	Johnson, Pa.	Powell
Carey, N.Y.	Jones, Ala.	Pryor, Ark.
Celler	Jones, N.C.	Schwengel
Chappell	Kazen	Shipley
Clancy	Kee	Stanton, J. William
Clawson, Del	Kuykendall	Talcott
Collier	Landgrebe	Thompson, N.J.
Conyers	Leggett	Veysey
Derwinski	Link	Vigorito
Diggs	Lloyd	Whitten
Dingell	Long, La.	Wiggins
Dowdy	McCulloch	Wilson, Charles H.
Dulski	McMillan	
Dwyer	Macdonald, Mass.	Wydler
Edwards, Calif.		Wyman
Edwards, La.	Madden	

So the amendment was rejected.

AMENDMENT OFFERED BY MR. DOW

Mr. DOW. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dow:

On the first page, after line 7, add the following:

SEC. 2. Section 101(b) of such joint resolution of July 1, 1971 (Public Law 92-38), is amended by striking out "activities for which provision was made in the Foreign Assistance and Related Programs Appropriation Act, 1971, notwithstanding section 10 of Public Law 91-672" and inserting in lieu thereof "administrative expenses for which provision was made in the Foreign Assistance and Related Programs Appropriation Act, 1971, notwithstanding section 10 of Public Law 91-672".

Mr. DOW. Mr. Chairman, the amendment I am offering to House Joint Resolution 946 addresses itself only to the foreign aid part of the joint resolution, and not to any other.

Mr. Chairman, back in January of this year a bill was passed which is now Public Law 91-672 which said that any appropriations for foreign assistance must be preceded by the proper authorization.

In July of this year there was passed a bill which is now Public Law 92-38 which takes this restraint off insofar as foreign aid is concerned or the assistance programs.

Now, what my amendment would do is very simple. It would remove this waiver insofar as salaries and administrative expenses are concerned, so that the people in the foreign aid program would continue to receive their pay, but it would retain the waiver insofar as the foreign assistance itself is concerned.

That is the simple part of it. In other words, it would discontinue foreign assistance for the period from now until the end of this session, but not cut off salaries and administrative expenses.

Now, a great many distortions have been uttered here in the course of debate relating to this resolution. There was some suggestion that we are in favor of cutting off all foreign aid. That is not true. We merely want, through the adoption of this amendment which I have offered, to bring pressure to see that the foreign aid bill is reformed in some degree, and in particular that the military

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portions of it be cut back and the amounts are spent for policing and that kind of thing around the world are reduced.

Another point was made against my amendment to the effect that it would cut off funds for Israel. However, hardly any funds for Israel would be cut off because the military assistance for Israel is handled under another bill.

The leader of the minority, the distinguished gentleman from Michigan, seemed to make a case that there would be an immense amount of unemployment resulting as a result of my amendment.

Well, let me say that the amendment specifically exempts the people who are employed under the foreign aid bill and that this unemployment, in the manner that the gentleman from Michigan puts it, is greatly exaggerated.

There has been a great deal said here to the effect that my amendment would cut off funds for migrants, for school aid, for all kinds of programs overseas, but nothing is said about the appalling military aid that this bill is channeling in the wrong directions under this bill. Just as soon as those who support this military aid are challenged they get out the crying towel and talk about migrants, the poor children, education and similar such as SANE. This is the argument they use.

Of course, under a restructured foreign aid bill which could be handled very shortly a great deal of this tyoe of good aid could be restored very easily.

Mr. Chairman, the time has come to take advantage of the current trend in this country which calls for the reconstruction of our program of foreign aid, and to see that we take advantage of the situation in the other body and go forward with this amendment.

Mr. PASSMAN. Mr. Chairman, I move to strike the last word.

Mr. LONG of Maryland. Mr. Chairman, I ask unanimous consent that the gentleman from Louisiana be allowed to proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. ROUSSELOT. Mr. Chairman, I object.

Mr. PASSMAN. Mr. Chairman, many years ago when I accepted the chairmanship of the Foreign Operations Subcommittee on Appropriations, I did so with a firm determination that I would, insofar as possible, keep before the membership and the public complete facts and figures on the foreign aid program. I hope you will agree that I have performed reasonably well in fulfilling this determination.

It has never been my purpose to eliminate all foreign aid and assistance, but to contain it, which means, in effect, control it. I believe this goal has been accomplished to a very large extent.

Now, with respect to the continuing resolution before you, here are the facts:

We are asking you to fund the foreign aid program through this continuing resolution for a few more days at a level of $2.8 billion. This is $750 million below the funding level requested by the budget and covers both title I and title II.

By your action you have already funded the foreign aid program at this $2.8 billion level for 4½ months, and upon the basis of your action contracts have been entered into and, in some instances, work started. So, if we are to reshape the aid program in an orderly manner, it would appear to me that we should fund the aid program at the same level for a few more days.

Mr. Chairman, members of your Subcommittee on Appropriations have in mind a certain funding level which we hope to accomplish. If a new authorization bill is approved and our plans are carried out, we will later recommend for your consideration a level of funding that will be retroactive to the first day of this fiscal year, July 1.

As an example, if you approve a funding level for 6 months at $2.8 billion, and the Congress should finally approve a new bill at a funding level of $2.4 billion, it simply means that you have funded at a $2.8 billion level for the first 6 months of this fiscal year and that the funding level would drop to $1 billion for the second 6 months of the fiscal year. In other words, the agencies would operate at a level of funding of only $2.4 billion for the full year if the recommendations of the subcommittee should be approved at the $2.4 billion level.

May I reemphasize, Mr. Chairman, that when you finally get a new reduced foreign aid authorization bill, and the subcommittee which I have the honor to Chair arrives at a figure, it will cover a full year. And, the second 6 months' funding will be extremely low because of the high funding level during the first 6 months which you have already approved with the exception of the few days assistance requested in this continuing resolution.

Mr. Chairman, if you will continue the funding of the AID agency for a few more days at the rate you have already approved for 4½ months of this fiscal year, and your Subcommittee on Appropriations is given an opportunity to mark up a new bill from a new authorization bill, we believe we will delight you by our actions which will be based on our knowledge of the program.

No Member can get hurt very badly by dealing with the facts as they are, and in the case of foreign aid, good, bad, right, wrong or indifferent, there are certain programs it would be a terrible mistake not to fund.

For instance, let me insert in the RECORD at this point the total U.S. investment in Korea:

U.S. Investment in Korea

Cost of Korean War (FY 1950–1954)	$18,000,000,000
Cost of maintaining U.S. military forces in Korea (FY 1954–1970)	8,600,000,000
Military assistance grant aid program (FY 1950–1970)	3,000,000,000
Economic assistance programs (FY 1946–1970)	5,100,000,000
Total	34,700,000,000

U.S. troop statistics applicable to the Korean war

Killed in action	23,300
Missing in action	5,866
Dead from other than war connected causes	10,329
Subtotal	39,495
Wounded in action	105,785
Captured or interned	7,140

We are concluding the war in Vietnam because in the past 34 months, the troop level has fallen from 543,000 to 189,000, with the cost of this conflict falling from an annual rate of $29 billion to approximately $9 billion. This was brought about mainly by the Vietnamization program. It just cannot be cut off without doing untold damage. Conceivably it would stop the withdrawal of our troops from Vietnam and Korea, and it would certainly create chaos in these countries unless supporting assistance is continued in Vietnam and military assistance is continued in Korea.

Mr. Chairman, I include a breakdown as to our foreign assistance, showing the 1971 fiscal year appropriation, the 1972 fiscal year requests, and the continuing resolution level.

FOREIGN ASSISTANCE

FY 1971 appropriation

Title I—Economic and military assistance	$2,442,685,000
Title II—Military credit sales	700,000,000
Title III—Peace Corps, international financial institutions, etc	669,572,000
Title IV—Export-Import Bank (limitation)	(4,082,531,000)
Total	3,812,257,000

FY 1972 requests

Title I—Economic and military assistance	$3,085,218,000
Title II—Military credit sales	510,000,000
Title III—Peace Corps, international financial institutions, etc	747,417,000
Title IV—Export-Import Bank (limitation)	(3,641,012,000)
Total	4,342,635,000

Continuing resolution level

Title I—Economic and military assistance	$2,366,465,000
Title II—Military credit sales	510,000,000
Title III—Peace Corps, international financial institutions, etc	204,600,000
Title IV—Export-Import Bank (limitation)	(3,639,988,000)
Total	3,081,065,000

Mr. LONG of Maryland. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the amendment offered by the gentleman from New York is an amendment that has been shopping around. It comes from the Senate side. I, for one, was asked to introduce it myself. After thinking it over, I rejected the proposal.

Now I am opposed to our foreign aid program, as it has existed for a good many years. I have been opposed to military aid—at least a large part of our military aid program. I have been opposed to the military sales program. I have also been distressed by our economic aid program. Much of our economic aid has gone to the well-to-do—the modern sectors of the foreign economy rather than to the poor, humble people that it was supposed to benefit.

I think it is time that we developed an AID program that goes for what it really is intended, and that is to raise the standard of living and to help the poor people in the world.

It is time that we stopped using foreign aid to buy friends and influence people for the support of the U.S. foreign policy.

Also, I think we need a foreign aid program that would be kept under closer congressional oversight. But for this fundamental restructuring of our foreign aid program, we need time.

There is a rumor that the leadership in the Senate wants to deny us this time because they hope that, if we have to do it under the gun, our aid will be poured into multilateral organizations. This is a device, in my mind, to escape the oversight of the U.S. Congress.

Whether we can restructure our foreign aid along sound lines is a matter of votes and not of time.

If we have the votes, we can get a proper restructuring, but we cannot accomplish this by creating chaos. That is what voting for this gentleman's amendment will do.

If ever haste meant waste, it is right now in any proposal to vote down or amend this continuing resolution.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman.

Mr. PASSMAN. Mr. Chairman, because of the time limitation, I was precluded from making what I considered to be a very important statement.

Thirty-four months ago we had 543,000 troops in Vietnam. Today we have 189,000 troops in Vietnam.

Thirty-four months ago it was costing $29 billion to finance this operation in Vietnam. It is now down to $9 billion and if we do not have this continuing resolution, the supporting assistance in South Vietnam goes down the drain and there will be chaos in that country.

PREFERENTIAL MOTION OFFERED BY MR. HAYS

Mr. HAYS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. HAYS moves that the Committee do now rise and report House Joint Resolution 946 back to the House with the recommendation that the resolving clause be stricken out.

Mr. HAYS. Mr. Chairman, I do this in order to get some time in order to find out what the amendment is about. I have not been able to find out from hearing the speeches of the proponents of the foreign aid legislation, Mr. PASSMAN and Mr. LONG.

Do I understand that the gentleman's amendment exempts all of the employees of the foreign aid program?

Mr. DOW. Yes, that is correct.

Mr. HAYS. That is the reason I cannot support your amendment.

I want to say something—and if anybody here ought to know it, Mr. PASSMAN ought to know if nobody else does—that the AID agency is the most inefficient and ineffective do-nothing organization in the U.S. Government.

I think I have told some of you once before what Calvin Coolidge said when somebody asked him how many people worked in the White House, and he said about half of them. Well, if somebody asked me how many people work down in the Foreign Aid Agency, I would say almost none of them. I would go beyond Calvin Coolidge. They are interested in continuing this because of one reason and one reason only. They want to stay on the payroll in their easy chairs. That is about all they do. I can name you names. I know who they are. There are people down there drawing the maximum salary of $30,000 who have not put their names on a piece of paper in the last 2 or 3 years.

Do not get upset, you Republicans. Some of them are holdovers.

SEVERAL MEMBERS. All of them.

Mr. HAYS. No, not all of them. Mark Hannah's nephew, John Hannah, is not a holdover. He would surely be unemployed if he did not have that job, because Michigan State got rid of him. If he has done anything since he has been in Washington, I have not heard about it, and I am the chairman of the subcommittee that has oversight down there.

Do not tempt me too far or I will name some more names.

I am not going to vote for the gentleman's amendment, but I am saying to you that it is time we cut that outfit down to size. I am not for an indiscriminate ax to chop out the whole program. There are a few good items in it—not many, but a few—and I hope to have the opportunity sometime to go to conference with the other body and decide which few we should continue. But it is not easy to get to conference with the other body. You know, we almost have more communication these days with Peiping than we do with the other side of the Capitol.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. HAYS. I yield to the gentleman from Louisiana, the "father" of foreign aid.

Mr. PASSMAN. I am sure the gentleman would like to keep the record straight. I have been here 25 years. I have never voted for one penny of foreign aid authorization, but I must point out I have no veto power over the authorization.

Mr. HAYS. Just a minute, I am going to correct the record a little. The gentleman is exactly correct. He has never voted for the authorization, but ever since I have been here he has always come down with money to keep it going. Now, an authorization does not mean anything if you do not get the dough, and I hope all those people will come by your office tonight, if this resolution passes, and thank you because if it were not for you, they would not have been on the payroll this long.

Mr. BOW. Mr. Chairman, I rise in opposition to the motion, and yield back the balance of my time.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Ohio (Mr. HAYS).

The preferential motion was rejected.

Mr. FLYNT. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Georgia is recognized.

Mr. FLYNT. Mr. Chairman, my feelings on the subject of foreign aid I am sure are well known to this body. However, I am not going to support the amendment offered by the gentleman from New York. As much as I would like to support it, I feel that the time to strike at foreign aid is when and if we get an appropriations bill from the Foreign Operations Subcommittee of the Committee on Appropriations.

Before my 5 minutes are up and before I discuss the foreign aid bill further, I want to appeal to the gentleman from Louisiana (Mr. WAGGONNER), to voluntarily take his words out of the RECORD when he attacked the patriotism of the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Wyoming (Mr. RONCALIO).

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Mr. Chairman, the gentleman from Louisiana has not attacked anybody's patriotism and the gentleman from Wyoming and I have talked about it, and I think if the gentleman is trying to create confusion he had better talk to me in private, but if there is any further reference to it I will object, Mr. Chairman.

Mr. FLYNT. Mr. Chairman, I do not yield any further, but I talked to the gentleman in private about it. Mr. Chairman, I frequently disagree in voting with the gentleman from Ohio (Mr. SEIBERLING), but I know of no finer American in this House than JOHN SEIBERLING is. He and the gentleman from Wyoming each have outstanding war records in defense of this country, and while neither of them needs any defense at my hand, I cannot let this debate be closed without saying I would hope those words would be taken out of the RECORD.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Mr. Chairman, I think the RECORD should be kept straight. Let us be completely realistic about this foreign aid program. I have tried very hard to contain this program, and when we have reduced the President's budget by $13 billion, as this subcommittee has done in a period of 16 years, I think the Committee on Appropriations is entitled to some commendation. I know the gentleman from Georgia will agree. He served on the committee. We cut it just as far as we have the votes to cut it.

Mr. FLYNT. Let me say one word and then I will yield if I have the time. I

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hope, when the time comes to appraise the foreign aid appropriation bill and when it comes from the subcommittee of the gentleman from Louisiana, at that time we can do to it exactly the same thing the Senate did to the authorization bill on the 29th of October. I agree with the gentleman from Maryland that the time has come for a thorough reappraisal and restructuring of this entire foreign aid program. If I had my way about it I would phase it out just as quickly as possible. However, I recognize the fact that we must take an orderly approach to it, and while I am in great sympathy with the objectives of the gentleman from New York (Mr. Dow) I am going to reluctantly oppose his amendment.

I hope that the concept of foreign aid will be totally changed and restructured. If there is no such change and restructuring, I hope that it will be totally phased out and totally eliminated as a part of the foreign policy of the United States.

In my opinion the manner in which the foreign assistance program has been administered has been a major contributing cause of the war in Vietnam and our tragic involvement there. The ideal and the objective of foreign assistance is a noble one and it is certainly a worthwhile objective on the part of any country, especially the United States, to offer and to provide needed assistance to other countries. The manner in which the foreign assistance program has been administered has often been just the contrary. In all too many instances we have provided "aid" and "assistance" when it was neither requested, needed, wanted nor desired.

In my opinion, since 1950 the manner in which the foreign assistance program has been administered has created and compounded more problems throughout the world than it has solved. If the thrust and direction of such a program is not drastically changed, the damage done to this country will be irreparable. As much as I would prefer to eliminate this program at this time, I believe it should be done by the defeat of either the authorization or appropriation bill rather than to create the chaotic conditions which might result from adopting such action in the nature of an amendment to a continuing appropriation.

Mr. RONCALIO. Mr. Chairman, with reference to my earlier colloquy with the gentleman from Louisiana (Mr. WAGGONNER), I want to make clear that I requested the words be taken down with a hope that in the future Members of the House of Representatives would stop the practice of impugning a man's patriotism purely on his position with the terms of this Nation's military continuance in Vietnam.

I state to the gentleman from Louisiana that I campaigned for my job in the U.S. House of Representatives, to the people of Wyoming, on the grounds that I would in no way vote for any funds that would permit our continued warfare in Vietnam. I voted in support of Mr. SEIBERLING'S amendment as a fulfillment of my promise to the people of Wyoming.

Mr. Chairman, again I assert that I will yield to no Member of the House of Representatives nor to any other citizen of this Nation in my devotion to the Constitution of the United States of America and to my oath to uphold and defend her against all of her enemies.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. Chairman, President Nixon, as I understand it, has called for a cut in Federal personnel and I join with the gentleman from Ohio (Mr. HAYS) in suggesting that there is no better place in the Federal Government to cut than from the foreign aid outfit with its thousands of employees.

I was somewhat surprised that the gentleman from Louisiana (Mr. PASSMAN) would plunk for this continuing resolution. I call attention to the CONGRESSIONAL RECORD of December 9, 1969, when the foreign handout appropriation bill was before the House, and I would like to qoute a few excerpts from that RECORD. The gentleman from Louisiana (Mr. PASSMAN) said:

> We are spending money we do not have for things we do not need trying to be everything to everybody all over the world.

Again the gentleman said:

> I want to say that it has been my privilege to walk into the well of this House for the 15th year to handle the foreign aid appropriations bill . . . each and every year, without exception, we left the foreign aid bill overfunded.

And it is overfunded now.

Again he said:

> What are we confronted with? We have permitted something to grow up in our Government over which we have lost control. We have 51,936.

Listen to me—

> We have 51,936 individuals drawing monthly stipends from the AID Agency—U.S. personnel, foreign nationals, and participants.

That is 51,936, not 51,937.

And again he said:

> Some of us must assume the responsibility of facing up to the serious situation that we have in America.

Then the gentleman from Louisiana went on and pointed to the billions upon billions of debt and deficit, and asserted:

> The only apology I have is the fact that without exception during my 14 years serving as chairman of this subcommittee we have overfunded the entire program.

Today he wants to continue this monstrosity through this continuing resolution.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. In just a minute.

And then he said in a publicity release to us this year, on July 1:

> This is the 5-F formula: Frustrating, fanatical, frightening, foolish and factual.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I have also read that mimeographed formula, and I think that has changed into the five R's: Reverse, regroup, retreat, resurrect and then regret.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio.

Mr. HAYS. I believe the gentleman and I are not lawyers, as the gentleman knows, but I am told by one of my legal friends that we can hold the gentleman from Louisiana (Mr. PASSMAN) guilty of being the father of foreign aid under the Negotiable Instruments Act; if you cannot find the maker, you hold the endorser.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Louisiana.

Mr. PASSMAN. I thank the gentleman for restating the facts. I am proud of the facts, and I am glad to have them in the RECORD twice. I have always tried to contain the aid program over the years and I feel this objective has been accomplished.

We have tried to follow the leadership of the gentleman from Iowa and the leadership of the gentleman from Ohio. When an inflated budget request for foreign aid is submitted, we have an obligation to make reductions and we have made substantial reductions over the years.

Mr. GROSS. I have the first part of your speech. Let me answer. I cannot speak for the gentleman from Ohio (Mr. HAYS), but I can tell you I have never voted for this program because it has been beyond any comprehension of fiscal sanity, since I have been a Member of Congress.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. In just a minute.

I am not like some of the others who have voted against this foreign handout program but who now find it expedient, in order to serve somebody, somewhere, in this Government, by voting for a continuation of it.

Mr. PASSMAN. Have my statistics on foreign aid assisted you in making your case? In the newsletters you sent back to Iowa you commended me time and time again for pointing out the amounts spent for foreign aid.

Mr. GROSS. Yes, I have. I just wish you would get right with your Maker on this subject and vote against it just once.

Mr. HAYS. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Ohio.

Mr. HAYS. The gentleman talks about an authorization bill. The very fact of the matter is that there is no authorization bill now.

Mr. GROSS. The gentleman is absolutely right.

Mr. HAYS. That is why the gentleman from Louisiana is trying to keep this thing alive by artificial respiration.

Mr. GROSS. That is exactly right. The Senate took the House authorization bill and sank it without a trace.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

I am very soon going to ask unanimous consent to limit debate, or move to limit debate. I wonder if there are any other amendments to be proposed.

Does the gentleman from Missouri have an amendment to offer?

Mr. HALL. I do, Mr. Chairman. I have an amendment at the desk in the nature of a substitute to the Dow amendment.

Mr. MAHON. Mr. Chairman, I withdraw my motion to strike the last word.

SUBSTITUTE AMENDMENT OFFERED BY MR. HALL

Mr. HALL. Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

> Amendment offered by Mr. HALL in the nature of a substitute for the amendment offered by Mr. Dow:
>
> On the first page, after line 7, add the following new section:
>
> SEC. 2. Section 101(b) of such joint resolution of July 1, 1971 (Public Law 92-38) is amended—
>
> (1) by inserting "(1)" immediately after "(b)";
>
> (2) by striking out "activities for which provision was made in the Foreign Assistance and Related Programs Appropriation Act, 1971, notwithstanding section 10 of Public Law 91-672;"; and
>
> (3) by adding at the end thereof the following new paragraph:
>
> "(2) Notwithstanding section 10 of Public Law 91-672, such amounts as may be necessary for continuing projects or activities conducted in the fiscal year 1971 for which provision was made in the Foreign Assistance and Related Programs Appropriation Act, 1971—
>
> (A) for expenses authorized by section 402 of the Foreign Assistance Act of 1961 (relating to supporting assistance);
>
> (B) for expenses authorized by section 637(a) of the Foreign Assistance Act of 1961 (relating to administrative expenses of the agency primarily responsible for administering part I of that Act);
>
> (C) for expenses authorized by section 637(b) of the Foreign Assistance Act of 1961 (relating to administrative expenses of the Department of State);
>
> (D) for expenses authorized by section 305 of the Mutual Defense Assistance Control Act of 1951 (relating to administrative and other expenses of the Secretary of State to carry out that Act);
>
> (E) for expenses authorized by section 504 (a) of the Foreign Assistance Act of 1961 (relating to military assistance); and
>
> (F) for expenses necessary to enable the President to carry out the provisions of the Foreign Military Sales Act;
>
> at a rate for operations not in excess of the rate provided for in the Foreign Assistance and Related Programs Appropriation Act, 1971, and subject to the limitations and restrictions applicable to the obligation and use of funds provided for in such Act."

Mr. HALL. Mr. Chairman, in brief, having established questionable parentage and having a continuing resolution again before us; as a result of much research, this amendment evolves and is within the spirit of a continuing resolution which will allow a nonauthorized program to continue with marked reduction by (a) continuing the political stability required for supporting assistance; (b) maintaining staff for supporting assistance to administer under section 637(a) so that expenses can be met; and (c) so that under section 637(b) there is kept in effect the State Department administration of the Battle Act, Public Law 87-195, which controls and establishes an embargo on arms and strategic materials that might go to countries that pose a threat to the U.S. security; (d) maintains the portion of the amendment providing for the expense inherent in the Battle Act; (e) retains section 504(a) of the military assistance portion of the appropriation; and (f) finally, Mr. Chairman, it retains that appropriation for the provision of the Foreign Military Sales Act—or Public Law 92-672—with the provisions as read in the amendment at the rate of obligations not in excess of the rate provided for in the Foreign Assistance and Related Programs Appropriation Act of 1971 already passed by this body and subject to the limitations and restrictions applicable to the obligation and use of funds provided for in such act.

I submit that this can be passed; the continuing resolution can then be passed and we will still have a chance to work our will.

Mr. Chairman, I recommend that it be accepted.

Mr. HOSMER. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from California.

Mr. HOSMER. How would the gentleman's amendment affect aid to Vietnam, military aid and civilian aid?

Mr. HALL. Of course, it would have no effect whatsoever on military aid in any part of Southeast Asia because that is under the Department of Defense appropriation bill.

Mr. BOW. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the distinguished gentleman from Ohio.

Mr. BOW. As the gentleman from Missouri said, it would not affect military aid to South Vietnam. What effect would it have on the economic aid to South Vietnam?

Mr. HALL. The amendment is very carefully drawn so that prior commitments can be met and the staffs would continue to be paid and they could carry out any commitments that we have in winding down the war, in Vietnamization, or the withdrawal of our personnel or troops engaged in support in that area.

Mr. BOW. Mr. Chairman, if the gentleman will yield further, would that be in the military section or would it be on economic aid?

Mr. HALL. The support would be in the economic aid, as the exclusion of the military assistance program is as the gentleman knows, carried under the Department of Defense appropriation bill in all of Southeast Asia.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Massachusetts.

Mr. CONTE. However, it would cut out economic assistance to Southeast Asia for new obligations?

Mr. HALL. It certainly would.

Mr. CONTE. And it would——

Mr. HALL. Of course, we have no authorization at this time anyway.

Mr. CONTE. And you also would cut out technical assistance, economic assistance, disaster relief and so forth?

Mr. HALL. This does not stop all of the technical assistance programs. It leaves the staff available but would wind them down so they are subject to the final action of the Congress after November 15 and as pointed out by others, before we adjourn sine die.

Mr. CONTE. You would leave these boys in there to wind down the program with no new obligational authority whatsoever?

Mr. HALL. Yes; unless new obligational authority is voted between November 15 and the adjournment of the Congress sine die. This is a continuing amendment to a continuing resolution that is workable insofar as we can determine.

Mr. PASSMAN. Mr. Chairman, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Louisiana.

Mr. PASSMAN. Would this affect our military assistance programs for Thailand and South Korea and the other nations in that part of the world?

Mr. HALL. No. I went over that twice. It is in the amendment. There is a copy of the amendment at the gentleman's desk.

As I said before, it leaves all the operations under military assistance workable within the prescription prescribed by the Congress or within the proscription on the President legislated by the Congress.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the issue before us tonight is procedural, that is, whether or not we want to follow the pattern of orderly procedure.

The pending resolution is simply a continuing resolution for the next few weeks during which the Congress will have further opportunity to work out, through the regular processes, what it wants to do with respect to full year funding for defense, foreign aid, and certain other programs for which the annual authorization-appropriation processes have not been concluded.

The most dedicated opponents of foreign aid could, it seems to me, very logically vote against this amendment and vote for the continuing resolution.

The vote on these amendments cannot properly be interpreted as a vote for or against foreign aid. The time for that decision will be when the new authorizing legislation is before us at a later date. It appears that the other body will shortly authorize a revised foreign aid program for the current fiscal year. I am told by the chairman of the Committee on Foreign Affairs of the House of Representatives, the distinguished gentleman from Pennsylvania (Mr. MORGAN), that if and when the other body takes action, his committee plans to take action toward bringing a new foreign aid authorization bill to the floor. Then the House can amend it, change it, modify it, or defeat it, line by line, as a majority may determine.

Mr. Chairman, I would like to yield to the gentleman from Pennsylvania, the distinguished chairman of the Committee on Foreign Affairs (Mr. MORGAN).

Mr. MORGAN. Mr. Chairman, I shall

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of course, not vote for the pending Dow amendment, or for the pending Hall substitute. The Hall amendment would in effect undertake to virtually write a new foreign aid bill. As I understand, it cuts out practically all economic assistance but retains military assistance.

The other body is going to pass two separate authorization bills—one on economic and humanitarian programs and one on military programs. The other body is considering an economic aid bill today, and then they will take up a military bill. The total package involves about $2.3 billion for the current fiscal year.

When those bills reach us the Committee on Foreign Affairs of the House is not going to hold long hearings. We plan to report a bill to the House which the House can debate and vote upon, one on which I believe we can confer with the other body and work out an acceptable agreement.

I would not like to see us adopt either one of the pending amendments. Both amendments would be disruptive. This resolution needs to be enacted by early next week, in the interest of orderly procedures. We should pass it as reported and wait for the legislative committees and the two bodies to work out a new foreign aid bill.

I understand that both of the new foreign aid bills are going to pass in the other body.

We are not planning to follow that precedure. We will bring a new foreign aid authorization to the House—a good bill on which the House can work its will and have something reasonable to send to conference.

So, Mr. Chairman, I would hope that we can get on with the job and pass the continuing resolution unchanged so that we can go to work on the new foreign aid authorization.

Mr. MAHON. Mr. Chairman, I would like to say it is my understanding that if a new foreign aid authorization bill cannot be agreed to in conference, then we might be able to arrange to bring in the foreign assistance appropriation bill under a rule and let the House work its will.

Mr. MORGAN. If the gentleman will yield further, I want to assure the chairman of the Committee on Appropriations that I believe we can agree in conference on a new foreign aid authorization bill.

Mr. MAHON. I would hope the matter can be satisfactorily concluded but if no such conference agreement can be reached it would then be a matter of whether or not a foreign assistance appropriation bill should be considered. The point is, Members will have an opportunity at a later time to vote on a new foreign aid program.

Tonight is not the time. This stopgap continuing resolution is not the place.

Mr. GERALD R. FORD. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Michigan.

Mr. GERALD R. FORD. Mr. Chairman, I appreciate the fine position taken by the gentleman from Pennsylvania, the chairman of the House Committee on Foreign Affairs, Mr. MORGAN, on the commitments that have been made between the gentleman and the chairman of the House Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

On the basis of those two commitments I believe the reasonable thing to do under the circumstances is to defeat the amendment offered by the gentleman from New York (Mr. Dow), as well as the substitute offered by the gentleman from Missouri (Mr. HALL).

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on the pending amendments and all amendments thereto close in 10 minutes.

Mr. ROUSSELOT. I object, Mr. Chairman.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Chairman, I move that all debate on both of the pending amendments and all amendments thereto close in 10 minutes.

The motion was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I hope we will pass the continuing resolution as it has been offered by the gentleman from Texas (Mr. MAHON).

We are scrambling enough eggs along the way and we do not need to scramble any more tonight by voting to cut out any portion of the on-going program in the foreign assistance field.

There is a lot of work to be done by both the House and Senate to reconcile their differences and come forward with some acceptable program. I fear that a negative vote tonight would only compound our difficulties.

I think we need to keep some kind of sensible program going forward and I hope the House will vote against both of these amendments.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MAILLIARD).

Mr. MAILLIARD. Mr. Chairman, I rise to support the statement made by our chairman, Mr. MORGAN, and to say that in my judgment both of these proposals are mischievious.

The Hall amendment attempts to rewrite a legislative program in a continuing resolution which I think is not only bad legislating but a very bad precedent for the House.

I hope both of these amendments will be voted down and that we can support the continuing resolution as presented by the Committee on Appropriations.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Chairman, I listened to the ranking minority member of the Committee on Appropriations who outlined what I think at the time is an irresponsible course of action—although I am no longer certain that that is the case.

He said in previous years in the House of Representatives, he had never voted for a foreign aid bill except one time. The only time he did so was when the bill was in danger of being lost and he then changed his vote so that it would pass. He said the reason he took that stance was that he wanted to express to his constituency his concern with the program of foreign aid and the excesses in that program and by casting a negative vote when it would not defeat the program it was consistent with what he felt was a responsible course of action.

It seems to me that would be equally responsible or irresponsible as the case may be tonight and that is the leadership I intend to follow.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. RIEGLE).

Mr. RIEGLE. Mr. Chairman, I rise in opposition to both amendments. I think we ought to legislate in a more reasoned way and that cannot be done tonight by tinkering with this continuing resolution.

Also I want to take exception to the remarks of the gentleman from Ohio (Mr. HAYS). I think John Hannah is a good and decent man. I think he has tried very hard to do a good job with the AID program. I think he has done well—just as he did when serving as president of Michigan State University. Maybe the gentleman from Ohio (Mr. HAYS) is a little sensitive about the beating Michigan State gave Ohio State last Saturday in football.

Having served 5 years on the Foreign Operations Subcommittee of the Appropriation's Committee, I want to also come to the defense of my subcommittee chairman OTTO PASSMAN. I do not think any chairman in the House works any harder than OTTO PASSMAN does. Whether you agree with the way he does or not is beside the point.

He works hard and effectively at it, and I think his efforts have probably saved the country many billions of dollars.

I think it is important that we take account of these facts in light of some of the harsh statements made earlier.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. RIEGLE. I yield to the gentleman.

Mr. ANDERSON of Illinois. Mr. Chairman, today we are considering what would normally be a routine piece of legislation—a continuing appropriations bill for those programs and activities which have not yet received their fiscal 1972 funds. And yet, certain recent developments have made this bill the focus of attention and controversy, indeed, the target of those who are bitter or frustrated for one reason or another. The prime target for opposition to this continuing resolution is the foreign assistance component of this bill which provides funds for both our international development and security programs. It is caught in a savage cross-fire from those, on the one hand, who consider our development assistance programs to be a waste, and on the other, those who consider our security assistance programs to be a waste. And the combined firepower from this curious coalition threatens to sink the entire ship, the theory being that we can somehow salvage certain parts from the wreckage at a later date.

Mr. Chairman, it is not difficult to understand how it is that we have arrived at this state of affairs. We are just emerging from the most painful and tragic experience of our brief history as a republic, and the temptation is great to just keep on withdrawing. We have poured tens of billions of dollars into foreign development assistance since the close of the Second World War, and there are some who say that we have put other nations on their feet, only to have them kick us in the shins, little realizing that the independence being exhibited by these nations is a healthy sign of the success of our efforts. Surely we did not expect the same degree of love, gratitude and fealty from these nations once they achieved a measure of self-reliance.

But what I do find difficult to understand, Mr. Chairman, is how we can even begin to consider just dropping our entire foreign assistance effort at this critical juncture in world affairs. I don't think anyone would argue here today that we should continue to pursue the policies and forms of assistance of the past two decades. The world of the 1970's is different from the world of the 1950's and 1960's, and our place and role in it should be reshaped accordingly. This is what President Nixon is attempting to do through his Guam doctrine of promoting greater self-reliance and self-help among our friends and allies around the world. But this process will only be accomplished by continued American support for these self-help and self-defense programs. And by refusing to play a constructive role during this difficult transition period, we are risking the collapse of all that has been built to date and the creation of a dangerous international power vacuum.

Perhaps the key test of the Nixon doctrine is what is taking place in South Vietnam today. And while I realize that there is disenchantment in some quarters because we could never achieve a military victory, and there is disenchantment in other quarters that we could not score a victory for democracy as we know it, the fact remains that the Vietnamization program has been progressing, they are developing increasing capabilities for military and economic self-sufficiency, and we are consequently able to reduce our own direct involvement. I think it is especially ironic that we may be called upon today to let these assistance programs expire on the same day President Nixon will make his next Vietnam withdrawal announcement which is so dependent on the continuation of these very programs.

I would ask my colleagues if they are willing by their actions today to jeopardize the carefully planned and executed Vietnamization program and thereby undermine any plans the President might have for future American withdrawals. For surely the President's November 15 announcement will be predicated on what funds will be available for the Vietnamization program.

Let me say that those who would cut these funds at this time, are attacking the wrong program, in the wrong way at the wrong time, for rather than reducing our involvement in the world, they are only delaying the day when other nations can realistically stand on their own. In the interim, our refusal to fund these development and security programs will only feed the twin-headed monster of world poverty and aggression, and our shores will not remain secure for long from its wild rampages. Surely the lesson of our previous affair with isolationism has not been completely lost on us.

In conclusion, Mr. Chairman, I urge my colleagues to vote for this continuing appropriations resolution as reported from committee. This is no time to take symbolic swipes at our foreign assistance program because of past failings and disappointments; for what is meant as a symbolic swipe will more likely than not inflict a deep and dangerous wound in our international relations which can only be injurious to our own health and security as a nation. I fully support efforts to reform our foreign assistance programs, and the President has presented us with a comprehensive program for doing this based on the recommendations of the Peterson Development Task Force. But let us not confuse killing the foreign assistance program with reforming it.

All we are asking in this continuing appropriations resolution today is that these programs which are so vital to world peace and development receive continued funds until such time that we can reform them in new authorizing legislation—hopefully in the immediate future, and hopefully along the lines suggested by the President. I do not think that is asking too much, and yet it is so essential to ending our involvement in Vietnam and to the conduct of our trade and aid relations with the rest of the world.

I do not think that we want to signal by our actions here today that the United States, which has been so willing to lend a helping hand in the past, now wishes to wash its hands of the rest of the world. Such action would be reckless, irresponsible, and extremely dangerous, and I will have no part of it. I hope this body will be able to rise above the disappointments, frustration, and bitterness of the hour and recognize that the United States does have a continuing though changing role to play in this world, and that we cannot, by a vindictive vote or two, become international dropouts. I urge passage of this resolution without amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. SHRIVER).

Mr. SHRIVER. Mr. Chairman, as a member of the subcommittee, I worked hard all along with the very able chairman to reduce this program and contain it. I support his position in connection with this matter and the amendments before us.

This is no way to act on a foreign aid bill here on the floor of the House. We do not even know the effect of the amendment and particularly the last amendment.

I believe it would have a damaging effect on the Vietnamization program and upon the withdrawal of our troops and especially as it relates to our supporting assistance which is very important in connection with the withdrawal program.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Chairman, I rise in opposition to the amendment and to the substitute, and in favor of the continuing resolution. If the debate has proven nothing else, it proves we must take a careful look at what we are legislating about. I doubt if there are many Members on the floor who know the significance of the amendment offered by the gentleman from Missouri. In fact, from his long explanation I have my doubts whether he understands it himself. I would trust we would vote for the continuing resolution because we do have the serious problem in front of us, as do the authorizing committee and the appropriations committee.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. GROSS).

(By unanimous consent, Mr. GROSS yielded his time to Mr. HALL.)

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. HALL) for 1½ minutes.

Mr. HALL. Mr. Chairman, I should not bow to either the descendants of General Frelinghuysen of New Jersey or those who say the well-researched amendment as a substitute is mischievous. It has been well written and stated. Indeed, the amendment itself, which is available, and which was read by the Clerk and repeated by myself, maintains assistance. I shall not go through that again. But I am amazed at those who decry legislation on a continuing resolution. Indeed, it is the only parliamentary procedure that is left available, when we are bereft of authorization by the other body in this Congress. In spite of all the protestations that there will be action instanter if and when the other body acts, they do not call the turn for the people's House of Representatives.

We have said and preached for years, and it has been known to them, that if military assistance was once separated from economic assistance in the foreign aid assistance program, it would fall sheerly of its own weight. Those of the committee know this to be true. Hence it has not been done.

I say the solution here is available. It will act in the spirit of a continuing resolution. It will continue the appropriations that are necessary. It is openfaced and forthright and will not hide behind anyone or anything. I recommend that the substitute be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. TERRY).

Mr. TERRY. Mr. Chairman, most of us in this Chamber have had the experience with a small child who has come running home from school because his friends would not play ball the way he wanted to. I would suggest that the proposal to immediately discontinue our foreign aid funds is a similar type of action.

Shortly before the Congress recessed in August, I voted against the foreign aid authorization because I felt at that time, as I do now, that we have wasted hundreds of millions of dollars through a variety of misconceived investments. There is absolutely no question in my mind, and if I have any feeling for the sense of this Chamber, there is little

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question in most of our minds, that our entire foreign aid proposal needs revision and reductions.

We have deluded ourselves that funneling dollars and materials into foreign nations will buy us friends. We have thought that the benevolence of Uncle Sam would result in a constant quid pro quo from the recipients of this money.

The alinement of nations has changed; partially as a result of our own international policies, but also because of the increased independence of many new nations. Therefore, we cannot count on many old friends, and some allegedly new ones, to support our position on vital questions.

It really should not surprise us that we lost the U.N. General Assembly vote on the expulsion of Taiwan. All that we have to do is look at the early days of Vietnam involvement. Such former stalwarts as France and Great Britain absolutely refused to come to our assistance, much less suspend trade with Hanoi.

Today we have a critical question to consider. Do we, in the face of the first major rebuff this country has ever experienced in the United Nations react, like the little child who could not get his playmates to accept his rules of the game? Do we, in a fit of pained withdrawal from reality, remove ourselves precipitously from the international arena through an abrupt suspension of foreign aid? Do we, without careful thought and examination of the impact of our action, cancel all of our commitments to nations throughout the world?

It is interesting to me that a number of individuals now espousing cessation of foreign aid without further consideration, are the same individuals who have criticized recent foreign policy initiatives by the administration for their sudden reversal of previous policies. Is there anything more abrupt than a total cessation of foreign aid to all nations?

The debate on the resolution for continued operation if foreign aid is being billed by many people as an attempt by the Congress to reassert its control over foreign policy. It most certainly is a potential reassertion. But if in the name of congressional preeminence we adopt a policy which is dangerous, disruptive, and detrimental to the interests of the United States, we will be saying in an unmistakable voice to the American people, "we are not capable of constructive involvement in the foreign affairs of the United States." A vote to discontinue foreign aid would accomplish just that.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I rise in support of the continuing resolution and in opposition to the amendments.

(By unanimous consent, Mr. BUCHANAN yielded his time to Mr. GERALD R. FORD.)

The CHAIRMAN. The Chairman recognizes the gentleman from Michigan (Mr. GERALD R. FORD).

Mr. GERALD R. FORD. Mr. Chairman, I do not know why a graduate of the University of Michigan should speak on behalf of a onetime president of Michigan State University, but I happen to believe that John Hannah was one of the Nation's outstanding educators in the last three decades. In my judgment, he has done a fine job in a most difficult responsibility as head of AID. It is not an easy job. It is a most difficult one, and he has given maximum time and attention to it. I commend him for his outstanding efforts and the constructive results he has achieved.

I have had my differences with the gentleman from Louisiana (Mr. PASSMAN) in the past, when I served on that Subcommittee on Appropriations, but I admire him for his diligence and vast knowledge on the subject of foreign aid. I appreciate his help in some of the tough floor fights we have had. I think he deserves our commendation and not our condemnation.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. PASSMAN).

(By unanimous consent, Mr. MAHON yielded his time to Mr. PASSMAN.)

Mr. PASSMAN. Mr. Chairman, I rise in opposition to the amendments. I have profound respect for my very good friend, Mr. HALL. But if you really want to compound confusion, you adopt this amendment. You would be administering the program at one level for 4½ months. If this amendment is adopted, you would be administering the same program on another level for the duration of this resolution. You would then be administering the program at another level after the authorization and appropriation bills are reported out. This amendment is not retroactive. The resolution would cover the interim period from November 15 to the sine die adjournment, and if that should come on December 1, it means only 15 days.

I am going to join my distinguished friend, the gentleman from Michigan (Mr. FORD) in his praise for Dr. Hannah, the Administrator of the AID agency. I have never met a finer gentleman or a man who has worked longer or harder to give me the correct answers to my questions than Dr. Hannah. He has been the only Director of the AID agency I could get along with, and I found his answers made sense. He is always willing to sit down and take out projects if they are no good, and I have nothing but commendation for this great American.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, the distinguished gentleman from Louisiana (Mr. PASSMAN), in handling foreign assistance appropriation bills through the years, has served the overall best interests of the Nation. He is an able and devoted and effective public servant. The country is indebted to him for his diligence and for his successful efforts in saving billions of dollars.

Mr. PASSMAN. I thank the gentleman.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. PASSMAN. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I join the gentleman from Louisiana (Mr. PASSMAN). The gentleman from Louisiana has taken some ribbing as the so-called father of foreign aid. The truth is that in 15 years between 1956 and 1971, OTTO PASSMAN has taken the leadership in cutting $12 billion in foreign aid below the budget estimates.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I rise in opposition to both amendments.

I usually agree with my friend and colleague, the gentleman from New York (Mr. Dow) and I certainly agree with him in his intense opposition to the war in Vietnam, but I think that he has been misled on this occasion by the vehemence of his opposition to that war. What he advocates here would produce chaos and would lead toward a fortress America concept, which I know the gentleman from New York would regret.

I also want to say that I disagree vehemently with the comments that have been made here today about the personnel involved in the aid program. From my experience, they are dedicated to a very important task and by and large they do it very well.

I hope both amendments will be voted down.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Dow).

Mr. DOW. Mr. Chairman, I would say to the Members if they are confused by the amendment to my amendment which was offered by the gentleman from Missouri—and with the best of intentions, I am sure—they can repair to my amendment which is simplicity itself.

I would like to say I think this debate has been healthy and I hope it has brought to the Congress and to the people the intense need for a renovation of the foreign assistance program.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Missouri (Mr. HALL) for the amendment offered by the gentleman from New York (Mr. Dow).

The question was taken; and on a division (demanded by Mr. HALL) there were—ayes 34, noes 175.

Mr. SCHMITZ. Mr. Chairman, I demand tellers.

Tellers were refused.

So the substitute amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. Dow).

The amendment was rejected.

Mr. VAN DEERLIN. Mr. Chairman, I move to strike the last word. I take this time not to propose an amendment, because I think an amendment is unnecessary to make certain that none of the funds provided under this continuing resolution shall be used to help underwrite piracy against American fishing boats.

The subject is a timely one. Only this morning, five more American-flag tunaboats, and one boat of Canadian registry were seized upon the high seas 65 miles southwest of the port of Salinas, in Ecuador. One of these, the San Diego-based *Venturess*, was rammed, then fired upon by a converted American Coast Guard cutter which we have put out on loan to Ecuador.

It is not the first such incident. Time and again, vessels built and maintained by U.S. taxpayers have been used, under foreign flags, to harass my constituent boat owners beyond the 12-mile limit in southern waters.

It happens that Ecuador is using nine American vessels currently on loan to her navy. Two of these are patrol boats, such as the LC–61, which perpetrated this morning's attack.

Terms of our loan agreement provide for their return on 30-day notice. I hope the State Department will not let another day pass before calling for the return of all nine vessels.

As to foreign aid, however, I can report that $25½ million in loans already authorized have been held up by AID since the first of the year. Our military mission to Ecuador was recalled as of February 1. Quite clearly, then—and quite properly—AID officials have no present intention of further rewarding Ecuador or any of her neighbor nations who have habitually harassed American citizens on the high seas.

Of incidental interest has been Ecuador's ability, in recent months, to acquire three more patrol boats from West Germany. However, these were not sent on loan. West Germany's contribution was a cash-on-the-line sale.

And so, while no amendment to the present resolution seems necessary, I trust that I am expressing the will of the House that no softening of AID's recent firmness in regard to Ecuador will be tolerated in light of today's continuing piracy.

Mr. HALL. Mr. Chairman, will the gentleman yield?

Mr. VAN DEERLIN. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman's statement and I thank him for yielding. For the benefit of the Members, I have just been advised that the other body has passed the Economic Relief portion of a new Foreign Aid authorization bill by a vote of 61 to 23 in the amount of $1,144 million.

Mr. RUPPE. Mr. Chairman, during this important period when the Congress and the Nation are seriously questioning the purposes and the structure of our foreign assistance programs, I would like to share with my colleagues an experience I encountered earlier this week.

The Honorable V.C.R.A.C. Crabbe, Justice of the Supreme Court of the Republic of Ghana, paid a visit to my office. More than a mere courtesy call, Mr. Justice Crabbe had a message which he wanted to convey to me and which I would like to pass along to my colleagues in the Congress.

His message was this: Before we in the Congress act to drastically curb or end our foreign assistance programs, we must bear in mind what those programs are doing in the recipient nations. Specifically, he was referring to the Peace Corps. Justice Crabbe said that the Peace Corps volunteers were filling an extremely important role in his nation.

The American volunteer, he implied, is doing more than supplying some lacking technical skills to his host nation. More importantly, he is teaching, on a man-to-man basis, his counterpart to perform those skillful tasks. Justice Crabbe used a familiar but still true Chinese proverb to explain what the Peace Corps meant to his countrymen: "Catch me a fish and I will eat for a day; teach me to fish and I will eat for a lifetime."

As those of us in Congress vote on the foreign aid and Peace Corps measures, we tend to consider the effect of those programs on our districts and on this Nation as a whole. It was refreshing and enlightening to receive an unsolicited and candid endorsement of our efforts from someone who lives with those programs every day, and who can truly measure, perhaps much better than we, their effectiveness.

I firmly believe that we must remake our foreign assistance programs, and the Senate rejection of the foreign aid bill is an opportunity which must not be lost. However, in our zeal to improve the performance of our overall efforts abroad, we must not automatically reject all that we have done. We must carefully examine those efforts and determine where we are most effective. Mr. Justice Crabbe has reminded me that in terms of cost and effectiveness, the Peace Corps is one program which retains its importance. Its flexibility, its quick response to the individual needs of the developing nations, and its emphasis now on providing qualified technicians with the volunteer incentive have combined to keep the Peace Corps a timely part of our overall efforts to assist the developing world.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the joint resolution (H.J. Res. 946) making further continuing appropriations for the fiscal year 1972, and for other purposes, pursuant to House Resolution 693, he reported the joint resolution back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members speaking on the joint resolution just passed may have permission to revise and extend their remarks in the RECORD and that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. I take this time to verify whether we will initiate the consideration of the military procurement conference report.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Louisiana.

Mr. BOGGS. In response to the inquiry of the gentleman, the answer is "yes." We plan to do so immediately. The gentleman from Louisiana (Mr. HÉBERT) is here.

MILITARY PROCUREMENT AUTHORIZATION, 1972

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 696 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 696

Resolved, That immediately upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 8687) to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, and all points of order against said conference report for failure to comply with the provisions of clause 3 of rule XX and clause 3 of rule XXVIII are hereby waived. It shall also be in order, pursuant to clause 1 of rule XX, for a separate vote to be had upon demand on those individual parts of the Senate amendment now contained in the conference report and numbered as sections 503, 505, and 601.

The SPEAKER. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from California (Mr. SMITH), pending which I yield myself such time as I may consume.

Mr. BOLLING. Mr. Speaker, I would like to explain this rule. It is a most unusual rule. I think the Members may be interested in what it contains. It was reported by the Rules Committee, I believe, unanimously.

It seeks to give all Members interested in this matter a fair opportunity under the rules of the House. The Reorganization Act which was passed by the House and become law last year provided for a new treatment of nongermane matter adopted in the other body which would not be germane when considered in the House when that matter is brought back in conference.

The other body originally had six such amendments in the bill that passed the other body on the military procurement matter. When the conferees returned to

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the House, three had been eliminated and three were left.

There was a provision dealing with chrome, a provision limiting the amount of assistance that could be given to Laos, and a modified version of the—whatever number it is—Mansfield amendment which the other body had adopted previously.

The Rules Committee provided a rule which would protect the conference report from any point of order which would have eliminated the consideration of the conference report.

As I said, I believe the Rules Committee acted on this rule unanimously.

The Rules Committee felt that it should protect the rights of all Members under the rules of the House which were adopted last year in effect in the reorganization plan as to the procedure on nongermane substance. The Rules Committee wrote the rule so as to accomplish that. So, there could be debate of 40 minutes—20 minutes on a side—on each of the matters that I have detailed.

I repeat, the question of chrome from Rhodesia, the question of the limitation of assistance to Laos, the question of the modified so-called Mansfield amendment.

There could be under this rule debate of 40 minutes on each of those questions. The Rules Committee did this, and I hesitate to speak for the other 14 of my colleagues, but it seems to me important to do so—and I can be corrected if I am in error—because we thought this was a fair way to protect all of the different points of view in the House of Representatives and those who represented them, and the fair way to preserve the integrity of the rules of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hesitate to take too much time at this late hour in the night to explain this rule, but as the gentleman from Missouri has stated, this is an unusual rule, and once again I want to make my remarks for the record because in all probability we will be referring back to this rule in the future on nongermane amendments.

Mr. Speaker, as has been stated by Mr. BOLLING this is an unusual rule. Let me give some background which bears upon the problem faced by the House tonight, in order to lay a foundation for future problems.

Early last August the House conferees on the Military Selective Service Act appeared before the Rules Committee asking for a rule on the conference report. Some seven items were included in the conference report, each of which was subject to a point of order. A general waiver of all points of order was requested. As you will remember, the Rules Committee was most reluctant to grant such a waiver, but finally did so. On August 4 the rule on the conference report was brought to the floor. At that time Chairman COLMER, Mr. SISK, and myself pointed out the rather unique situation facing the House; what the new House rules did in fact require; why the waiver was granted; and that none of us looked upon our granting of such a rule in that particular case as a precedent. Publicly and on the record, we tried to let all committees of the House know that the rules of the House applied to the conference procedure and that House conferees—and particularly conferees of the other body—must recognize this fact. A number of House Members stated their agreement with the position expressed by members of the Rules Committee.

Last month, after the other body passed the military procurement bill with a number of nongermane amendments, a similar problem developed. In order to eliminate the problem of having to deal with nongermane Senate amendments in the conference, the ranking minority member of the Committee on Armed Services (Mr. ARENDS) offered a motion to instruct conferees. That motion was to instruct the House conferees not to agree to any nongermane Senate language. The gentleman from Illinois, in support of his motion, stressed the need to conform to the House rules and quoted the remarks made on August 4 by members of the Rules Committee. That motion was defeated on a vote of 192 to 215. As a result, the House conferees went to the conference uninstructed. But it did not mean that they were to be free to consider nongermane amendments on their merits. The rules of the House expressly forbid this.

What was the situation then confronting the House conferees? Within the Senate-passed bill there were some six items which would have been nongermane if offered as amendments to the bill when it was under consideration by the House. Three of these items were considered on the merits and deleted by the conference. These included:

First. Section 507, relating to military operations and activities at the U.S. Naval Station at Los Alamitos, Calif.

Second. Sections 701–704 which provided for an additional military pay increase, and

Third. Section 801 which authorized comparability pay adjustments between Federal civilian and military personnel.

As I have said, Mr. Speaker, the conferees considered these nongermane amendments on their merits and agreed to delete them. This they were required to do under the rules of the House. Clause 3 of rule XX reads as follows:

> No amendment of the Senate which would be in violation of the provisions of clause 7 of rule XVI, if such amendment had been offered in the House, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

The rules are clear: No conferees of the House may agree to nongermane language until and unless the House tells them to do so. Any other course is a violation of the rules of the House.

We all know what happened in the conference: Three nongermane amendments in modified form were agreed to by the House conferees. No Member of the House can be unaware of the particular problems faced by our conferees in this instance. Testimony before the Rules Committee touched upon the extreme difficulty encountered by our conferees. I am certain they achieved all that was possible to achieve in their attempt to sustain the House position and abide by the rules of the House in all instances. The gentleman from Louisiana (Mr. HÉBERT), the gentleman from Illinois (Mr. ARENDS) and their colleagues did their utmost; of that I am sure.

However, the fact remains that, in order to reach agreement with the conferees of the other body, they had to knowingly and deliberately violate the Rules of the House of Representatives.

As it comes from the committee on conference, the report is clearly subject to a point of order in several instances.

Because of this situation, yesterday the chairman and ranking minority member of the Armed Services Committee appeared before the Rules Committee. They carefully and accurately presented their problem to the committee. Although neither gentleman specifically requested a general waiver of points of order, a request was made for "a rule recognizing the difficulties confronting your House conferees." The Rules Committee has attempted to comply with that request while at the same time upholding the letter and spirit of the Rules of the House of Representatives.

What does the rule on the conference report provide? First, it provides for the consideration of the conference report today. It waives the requirement that a conference report be printed in the CONGRESSIONAL RECORD for 3 calendar days prior to its consideration by the House. Because of a clerical error, the report, which was available for printing on Friday, November 5, was not printed in the RECORD until Monday, November 8. The conferees did all that could be required of them and the leadership scheduled the conference report for floor consideration today. The Rules Committee believes this waiver is fully justified and reports it to the House.

Second, the rule reported by the Rules Committee waives all points of order against the conference report arising under clause 3 of rule XX and under clause 3 of rule XXVIII. The first clause, as previously mentioned, prohibits conferees of the House agreeing to any nongermane language. Clause 3 of rule XXVIII has somewhat the same intent, although the language is different. These waivers were granted because the Rules Committee did not believe that the conference report should be removed from consideration by a single point of order. As I stated earlier, all Members are aware of the peculiar problems and pressures faced by our conferees in this instance. The Rules Committee did not believe that it was in the best interests of the House or the country that the conference report be subject to a point of order. For, if one part of a conference report is out of order, the whole report is out of order. The committee sought to guard against this problem when it granted the specific waivers of points of order provided for in the rule.

The Rules Committee went further. Members will remember that last year during the consideration of the Legislative Reorganization Act of 1970, many Members expressed strong opposition to the practice of the other body in adding nongermane amendments to House bills, then obtaining the agreement to such amendments by House conferees, and then securing House acceptance of such nongermane amendments when overall approval of the conference report was voted by the House. Because of the widely held opinion in the House that some procedure should be devised to deal with these activities by the other body, the Rules Committee recommended to the House a procedure known as the Colmer amendment. That procedure, incorporated into clause 1 of rule XX, provides for the disposition of nongermane amendments by the House. Each such amendment may, upon the demand of any Member, be subject to a separate vote in the House. Each separate vote may be preceded by a debate of up to 40 minutes, equally divided between supporters and opponents of the nongermane language.

The rule reported by the committee, for the first time, gives life to this provision of our rules. It specifically provides for the possibility of a separate vote upon the three nongermane provisions contained in the conference report on the military procurement bill. These provisions are numbered in the report as section 503, dealing with the importation of chrome from Rhodesia; section 505, which sets a ceiling on U.S. expenditures in Laos; and section 601, the Mansfield amendment.

This rule represents the first effort by the House to insist that this provision of the rules of the House be abided by. This is the first time that the House will have an opportunity to require a separate vote on nongermane language added by the other body. If we do not stand up here, we are giving notice to the other body that they can continue to run over the House whenever the notion strikes them and they can think up a nongermane rider to add to a House bill. It does no good to pass rules providing for the handling of nongermane amendments if we do not use the procedure provided by our rules. If everytime a hard case comes up we say that it should be an exception to the rule and a waiver of the rule should be granted, we shall have taken a major step along the road of waiving our constitutional right to determine our own rules of procedure. The same considerations which compelled the House to adopt the procedure of the separate vote last year today requires that this procedure be implemented and that separate votes be made possible with respect to nongermane amendments.

Mr. Speaker, I urge the adoption of the rule.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Ohio (Mr. LATTA) a member of the Rules Committee.

Mr. LATTA. I wish to commend the gentleman on a very excellent statement. Is it not true that had the House in its wisdom adopted the motion offered by the gentleman from Illinois (Mr. ARENDS) when this matter was before the House earlier, his motion to instruct the conferees not to accept these nongermane amendments, we would not be here tonight with this situation?

Mr. SMITH of California. I think that is probably true, but I do not think it helps to cry over spilled milk. I want the matter to be handled according to our rules, and I think we can do so correctly.

Mr. LATTA. If the gentleman will yield further, I do not think we ought to cry over spilled milk, but I think we should uphold the Rules of the House on the subject of nongermaneness. We have passed the rules, and when we have a situation such as the one presented now, we must support the rules of the House and instruct the conferees not to accept the nongermane amendments.

Mr. SMITH of California. I appreciate the gentleman's statement.

Mr. TEAGUE of California. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to my colleague from California.

Mr. TEAGUE of California. First, let me also commend the gentleman for his excellent presentation.

Will the gentleman yield for a parliamentary inquiry?

Mr. SMITH of California. I yield for that purpose.

PARLIAMENTARY INQUIRY

Mr. TEAGUE of California. As I understand, the rule would make three nongermane amendments in order for debate with 40 minutes of time given to each. I address this question to the Chair: Under the rule could the time be shortened by unanimous consent or by motion?

The SPEAKER. The Members in charge of debate could use or not use the time as they see fit.

Mr. TEAGUE of California. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TEAGUE of California. Since the rule provides 40 minutes on each of the nongermane amendments, under the circumstances of each amendment, would the amendment be subject to a limitation of debate?

The SPEAKER. No, except by those Members who have charge of the time.

Mr. SMITH of California. On the conference report, may I say to the gentleman from California, the rule provides 1 hour of debate. On the three separate sections of the bill, sections 503, 505, and 601, you are going to have 40 minutes of debate, 20 minutes for the proponents and 20 minutes for the opponents. This applies to each section where a separate vote is demanded. Then there can be a vote at the end of that particular time on each of those three sections.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I wish to join my colleague from Ohio in commending the gentleman in the well for making what I believe is an unusually lucid and informative statement on this whole issue of protecting the integrity of the Rules of the House. When our colleague on the committee, the gentleman from Missouri (Mr. BOLLING) said that he would not presume to speak for all of us, I therefore think it is incumbent upon other members of the committee to say that we did agree that this was an eminently fair procedure, fair from the standpoint of individual Members of the House as well as important from the standpoint of protecting the so-called Colmer amendment, which was adopted in connection with the Legislative Reorganization Act.

I do have one question that I would address to my colleague from California. The only other alternative to writing a rule of this kind would have been for the Members of the House who were serving on the conference committee to come back during the time that the conference was meeting, while the conference was in progress, and at that time inquire of the House and solicit instructions as to what action they should take on these nongermane amendments. Is that correct?

Mr. SMITH of California. Under the rules, yes. I thank the gentleman from Illinois.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. I, too, wish to join in commending the gentleman for the statement he has made. But this will put some in the House in a rather untenable position. There are some amendments here that Members will want to support, and yet with any regard for germaneness cannot support. I just do not understand why the House conferees capitulated to the other body on these nongermane amendments.

Mr. SMITH of California. In that instance I will have to disagree a little bit with my friend, the gentleman from Iowa. We had a chance to tell them not to do that, and we voted here and that was voted down.

I think, as I said in my statement that the Chairman and the ranking minority member and the committee did the very best they could with the body on the other end of the Capitol. Now I think we should get to work on this and get it adopted or rejected.

Mr. GROSS. But the fact remains we are confronted with a very sorry situation tonight.

Mr. SMITH of California. But the Members can vote on the nongermane amendments.

Mr. GROSS. I understand we can do that, but if we vote to accept an amendment then we violate our rule of germaneness.

Mr. SMITH of California. Under clause 1 of rule XX, the so-called Colmer amendment, we are giving the Members of the House the opportunity to say if they want to vote for the nongermane amendments. We have been trying to do that since I have been here, and I am tickled to death that we have been able to do it tonight.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Missouri.

Mr. HALL. Mr. Speaker, I join those of

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my colleagues who spoke in praise of the erudite and forthright statement the gentleman made on this important rule.

Secondly, I want to ask, for the legislative record, if I understand correctly that if any one of the amendments provided for as introduced by the other body and accepted in conference, known as sections 503, 505, and 601, is voted down, then the entire conference report is voted down.

Mr. SMITH of California. Not in my opinion, no, and I think if one is voted down, then we will face that procedure in the Rules Committee tonight or tomorrow, and we will take care of it.

Mr. HALL. Mr. Speaker, will the gentleman yield for a parliamentary inquiry in order that this important question might be determined by the Chair?

Mr. SMITH of California. I do not think it is necessary to determine that inquiry now.

The SPEAKER. Does the gentleman yield for a parliamentary inquiry?

Mr. SMITH of California. I yield.

The SPEAKER. The gentleman will state the parliamentary inquiry.

Mr. HALL. Mr. Speaker, my parliamentary inquiry is simply if House Resolution 696, now before the House, is adopted or not, it is provided that it shall also be in order, pursuant to clause 1 of rule XX, for a separate vote to be had upon demand of any individual on those individual parts of the Senate amendment now contained in the conference report and numbered as sections 503, 505, and 601. My inquiry, Mr. Speaker, is, in the event that such a vote was demanded on those separate sections and it was not agreed to by this body, would the entire conference report be rejected and returned to the conferees or the other body?

The SPEAKER. The answer to the gentleman is that the conference report would be rejected.

Mr. HALL. I thank the Speaker.

The SPEAKER. If the first section is rejected, that is the end of the conference report. A provision of Jefferson's Manual—found in sections 542 and 549 of the House Rules and Manual—holds that conference reports must be acted on as a whole, being agreed to or disagreed to as an entity.

The House by its action in rejecting any one of the sections on which a separate vote may be demanded would nullify the agreement between the managers on the part of the House and the Senate, and the conference report would therefore fall.

Mr. HALL. I thank the Speaker.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Speaker, I simply think probably the best way out of a real puzzle is for us to take into consideration that each House is master of its own rules, and then we get to the point where the rule of germaneness in one House is different from the other—and there is no rule of germaneness in the other body—we come to an impasse. I would say to the Members of the House that they may never have sat across the conference table from Members of the other body, but we could very well say we should not make any kind of concession on a nongermane amendment, but the actual practical effect of that is that we kill our bill. We kill the bill as it was passed by the House unless there is a meeting of minds in the conference.

Of course we can take action here which will not be satisfactory to the other body, and we have got the problem then of either continuing the conference or not having any more conference and letting the bill die.

There is a problem then of whether or not to continue the conference, or not to have any more conference and let the bill die.

We are faced with a real situation here. As I say, unless a Member has sat across the table day after day in conference with an unyielding group from the other body he will not really understand. One has to make up his mind whether or not to make some concession to the sovereignty of the other body, as well as the sovereignty of our own, or give up the bill. That is the position we are in.

Mr. THOMPSON of Georgia. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from Georgia.

Mr. THOMPSON of Georgia. I thank the gentleman for yielding. I, too, would like to congratulate the gentleman for a very clear statement on a most complicated problem and a most complicated rule.

However, with the parliamentary situation we seem to find ourselves in, it is my understanding if we reject any one of the three nongermane amendments then we reject the conference report in its entirety, and it appears to me that what we are doing is acting after the fact.

When the Arends amendment instructions were defeated several weeks ago the House conferees then were bound by the House rules. The House rules provide they could not accede to any nongermane amendment unless there had been prior authorization. We are coming in after the fact now.

It appears to me, if we are going to preserve the rules of the House, we are going to have to insist that none of these amendments be accepted; and the conferees would probably have to go back to conference.

Mr. STEIGER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. SMITH of California. For a question or a statement?

Mr. STEIGER of Wisconsin. For a brief statement and question.

Mr. SMITH of California. I yield to the gentleman from Wisconsin.

Mr. STEIGER of Wisconsin. I appreciate very much the gentleman's yielding.

I just want to join others in commending the gentleman from California for an extraordinarily good statement. I must admit to be amazed, frankly, by what I understood to be the ruling of the Chair.

Might I direct a question to the gentleman from California? The precedent cited by the Speaker, in determining the ruling that if one of the nongermane amendments is voted down the conference report falls, is based on Jefferson's Manual as well as the precedents of the House established before the adoption of the Colmer rule.

In the Rules Committee decision to grant a rule which allowed the House to have the implementation of clause 1 of this rule, was consideration given by the Rules Committee to a procedure which might enable the House to reject a nongermane amendment without rejecting the total conference report?

Mr. SMITH of California. I do not intend to get into any argument here on the floor of the House with the Speaker, who has answered the parliamentary inquiry, nor do I speak for all the members of the Rules Committee.

I will state my opinion that if one, two or three is voted down I believe we can get back to conference on one, two or three. I believe the Rules Committee can write any rule it wants to write so long as it is not unconstitutional and so long as the Members sitting on this floor agree with what we send to them.

Mr. Speaker, I reserve the remainder of my time.

Mr. BOLLING. Mr. Speaker, I should like at this time to yield to the chairman of the Committee on Armed Services to explain the procedure which will actually take place when he controls the time.

Mr. HÉBERT. Mr. Speaker, I thank the gentleman from Missouri for yielding this time in order to explain what the situation will be.

I pause to congratulate both the gentleman from California and the gentleman from Missouri for their very lucid explanation of the situation.

This is the procedure we will follow, and I hope I will make clear exactly what the situation will be. To begin with, let me say so far as I am concerned, on the time I control, there will be a minimum amount of time with a minimum amount of words used, because I do not believe anything said in this body tonight is going to change the mind of anybody. Everybody knows what it is all about. Everybody has his mind made up and knows how to vote. The hour is late. I want to get out of here as quickly as other Members do. With their cooperation we will be out of here very quickly.

This is the procedure: After the rule is adopted I will call up the conference report and ask unanimous consent that the statement on the part of the managers be read in lieu of the report.

At that particular time, the Speaker, as I understand the parliamentary situation, will ask if a separate vote is demanded on any of the three matters before the House for a separate vote. If any individual asks for a separate vote on any one of those three items—and again let us take them one, two, three—we will follow this procedure: We will take one and 40 minutes will be allotted to the consideration, 20 minutes to the proponents, and 20 minutes to the opponents, the opponent being the chairman of the House Committee on Armed Services, and we will vote on that. After that matter is concluded and the conference report is sustained, we go to the second item on which a separate vote is demanded. If the second item is sustained, we go to the third item. If that is sustained, then we can consider the conference report.

According to my understanding and the understanding from the statement of the gentleman from California, if any one of the three is rejected, then the conference report fails. In a preliminary opinion, the Speaker has ruled thus, so we have to anticipate that is what the ruling will be. So, if the conference report is not approved on any one of these three items, it means then that you have no conference report. That is the situation.

If we are sustained—and I hope we are sustained, because we went through many agonizing moments and many moments of anguish in trying to bring this conference report to you—then we will have a conference report.

I must again state that we came here under the instructions of the House. Mr. ARENDS made the motion, as you well know, to instruct the conferees not to recede on germaneness but to insist on the rules of the House as they related to germaneness, and I personally voted for that. I wanted the House to tell me not to recede. I just wanted to stand there until hell froze over, and refuse to accept any nongermane language. However, the House in its wisdom refused to instruct the conferees to do this and, in effect, it said go on and deal on the merits of the nongermane Senate amendment, which we did and we did the best we could.

We succeeded out of six nongermane amendments to eliminate three, but we could not do so on the other three.

Of these three amendments, one relates to chrome, one of them relates to a ruling on expenditures in Laos and finally the so-called Mansfield amendment. We have come back with these three propositions, and I hope that the House will sustain the conference report so that we can get on with our business and get out of here as quickly as you want to.

I tell you that I will not use any significant time on my side.

Mr. DELLENBACK. Will the gentleman yield for the purpose of an inquiry?

Mr. HÉBERT. I yield to the gentleman.

Mr. DELLENBACK. I appreciate very much your very clear explanation of the procedure. I am left with one question, which is, in the event there should be a rejection by the House of item No. 1, for example, will we then proceed to item No. 2, anyway, or will the defeat of item No. 1 and thus the defeat of the conference report by the ruling of the Chair and the statement of the chairman, make us stop at that particular point?

Mr. HÉBERT. I do not know. I do not think we would stop there. I do not believe in playing games. If the conference report is rejected, I will immediately rise and make a motion to accept the Senate amendment with an amendment, which would be the conference report.

Mr. DELLENBACK. So we would proceed?

Mr. HÉBERT. Yes. But you would have to go from there. Here is the way it would probably develop. If we do that and it goes back to the Senate, only God knows, if He knows, whether it will ever get out of the Senate, because then it becomes a new bill and it is open to any amendment, any nongermane amendment, in the Senate. We can have it changed again and it comes back to conference, and we will go over to the next session before we get to that.

However, this is a simple matter, and the most simple way is to dispose of the entire matter in order to help us resolve this, because it has been a long, hard pull and we have held many sessions on this. We have come up with the best deal we can make.

Mr. TIERNAN. Mr. Speaker, will the gentleman yield?

Mr. HÉBERT. I yield to the gentleman from Rhode Island.

Mr. TIERNAN. It is my understanding that the Chair has already ruled that——

Mr. HÉBERT. The Chair has not ruled.

Mr. TIERNAN. The Chair in response to a parliamentary inquiry from the other side stated that if on the first proposition that were voted down, then the conference report would fail and the conferees would have to go back to conference.

Mr. HÉBERT. No, no. I will then move to recede and concur in the Senate amendment with a House amendment, because there again you are caught in a tight parliamentary situation. We have before us only one amendment.

Mr. TIERNAN. Then, I assume that the gentleman would proceed to section 505?

Mr. HÉBERT. No. If we lose the first amendment, it is all over as far as the conference report is concerned. If we are sustained, we will go to the second item.

Mr. BOLLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to attempt to clarify one thing.

The gentleman from Louisiana will ask unanimous consent that the statement on the part of the managers be read in lieu of the report. If there is no objection to that, at that point the statement will be read and after the statement has been read, the Speaker will then make inquiry, is a separate vote demanded?

In the event that objection is heard to the statement being read in lieu of the report, the report will be read, and when the report has been completed, then the Speaker will ask if there is a separate action demanded. That is not a modification of what the gentleman said. It is merely clarification.

Mr. BINGHAM. Mr. Speaker, will the gentleman from Missouri yield to me?

Mr. BOLLING. I yield to the gentleman from New York.

Mr. BINGHAM. I thank the gentleman for yielding. I would just like to say, as one who appeared before the Rules Committee, that I think the committee has shown the wisdom of Solomon. I think the committee has come up with a very ingenious solution which protects the interest of the House and protects the interest of the Members who want to see separate votes on the nongermane amendments.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HÉBERT. Mr. Speaker, I call up the conference report on the bill (H.R. 8687) to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk proceeded to read the statement.

Mr. HÉBERT (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

(For conference report and statement, see proceedings of the House of November 5, 1971.)

The SPEAKER. House Resolution 696 provides that a separate vote may be demanded on those individual parts of the conference report numbered as sections 503, 505, and 601.

Is a separate vote demanded on any of these sections?

Mr. FRASER. Mr. Speaker, pursuant to the rule adopted, and pursuant to clause 1, rule XX, I demand a separate vote on section 503.

The SPEAKER. Is a separate vote demanded on any other amendment? The Chair hears none.

Under clause 1 of rule XX, 40 minutes of debate are permitted before a separate vote is taken on a nongermane Senate amendment, one-half of such time in favor of, and one-half in opposition to the amendment.

Pursuant to that rule, the gentleman from Louisiana (Mr. HÉBERT) will be recognized for 20 minutes, and the gentleman from Minnesota (Mr. FRASER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. HÉBERT. Mr. Speaker, I reserve my time at this time.

The SPEAKER. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I urge you to vote to strike this nongermane amendment known as section 503 in the conference report.

There are several reasons why I think the House should reject this section.

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First, this matter originally came before the House Committee on Foreign Affairs, and came before the subcommittee of which I am the chairman. It came in the form of several bills offered by several Members of this House.

We held hearings on the question of whether we should amend our sanctions on Rhodesia with respect to the importing of chromium ore.

Here are the hearings. We had Members testify. We had representatives from the steel companies testify. We had the State Department testify. When we were through, at a meeting of the subcommittee, the conclusion was reached, among the Members present, that there was no justification for going forward with any of the bills which would amend sanctions on Rhodesia so far as importing chrome ore is concerned.

Mr. Speaker, let me dispose of certain issues which have been raised along the way. These sanctions are being undertaken by the U.S. Government by the President pursuant to international treaty obligations. There are only two countries in the world today who are openly defying their treaty obligations in this respect, and those are the countries of Portugal and South Africa. If we accept this nongermane amendment we will join South Africa and Portugal and be the third country to openly ignore their international treaty obligations.

It is abundantly clear that if we pass this provision and begin to import chrome ore from Rhodesia that we will be in violation of international law.

I do not believe that this is the time to argue whether there should have been sanctions against Rhodesia in the first place or not. The most important fact on this score is to know that the Conservative Party in Great Britain is trying to reach a conclusion with Rhodesia, and Lord Hume, the Foreign Minister of Great Britain, is headed for Salisbury, Rhodesia, within the week to try to conclude some kind of a settlement with Rhodesia that will lead, hopefully, to the end of international sanctions. But from the point of view of the U.S. Government there could not be a worse time to be saying that we are going to violate international law and turn our back on international treaty obligations because we want to import chrome ore.

There is no shortage of chrome ore. In fact, we have a stockpile that is in excess of our needs, and part of this stockpile is being released for domestic consumption.

The SPEAKER. The time of the gentleman has expired.

Mr. FRASER. Mr. Speaker, I yield myself 1 additional minute.

We are going to use this because we do not have the need for such a large stockpile.

Now the argument is made that we have become too dependent upon the Soviet Union for ore. But the fact is in 1963, 49 percent of high grade metallurgical chrome ore was coming in from the Soviet Union and today it is 58 percent, or 9 percent higher than it was in 1963, several years before the sanctions began.

So this is really a false issue. The fact is that the Soviet Union has only a limited supply of high grade ore and the fact that they are willing to ship it to us means that they are depleting their own resources.

If there should be an international emergency of some kind, of course, then we can change whatever restrictions we have on importations from Rhodesia. But there is no such emergency. We have an excess in our stockpile so I believe that this House should support the President and the Secretary of State who have asked that we turn this amendment down and stay in compliance with our international obligations.

Mr. HÉBERT. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, let me tell you some of the background of this bill and to tell you something about Russia.

We did buy from Russia. But one interesting thing about the time we brought from Russia is that we were paying $30 a ton. But we are no longer in a free world competitive business and the price has gone up to $72 a ton.

Also, let me say in discussing this particular bill that we seem to have a surplus available, but the surplus seemed to have developed last year when we were short on our domestic needs in this country. Suddenly we say we have a surplus.

Chromium is a metal, a material that makes stainless steel stainless. It is a basic strategic material to this country. The free countries in the world that have great reserves are Rhodesia, South Africa, and Turkey. Now Turkey has tied in with Japan and they are more or less looking to work up a close relationship with them, but in the free world Rhodesia is the country with a tremendous surplus.

Now that we have taken Rhodesia out, we have become dependent upon Russia.

It seems to me when we are talking about a bill that has to do with military procurement, we would start first thinking of what is good for the United States and what is essential for the United States, and on whom are we depending in the matter of chrome, this material that we do not have in this country.

We are so proud of the United States and we think we have everything. But on chrome, less than one-half of our domestic needs are produced internally which means that all chrome comes in.

All that this bill does is to set the law straight. This is to do what is lawful. I agree with my colleague that it should be done according to the terms of the law. It will amend the United Nations act and states that if a Communist country can send goods into the United States that a free country can send goods into the United States.

The reason that this sanction exists, and I want to remind you that in the history of the United Nations, this is the only sanction that the United States ever imposed—this is the only sanction that they imposed and it is on Rhodesia. As you know, the rules of the United Nations state that you cannot determine the internal policy of any country.

When this country left the British Commonwealth, they imposed it. But they did not say that was the reason. The reason they imposed it was for world safety—for the safety of the world.

Here is a little country with 5 million people in a continent of 350 million people, and the only time they became interested in world safety was on Rhodesia. They did not even know that Vietnam even existed.

Here this country has been working on this, as it has gone along. As we go through it, another interesting thing comes up. That is this matter of who owns the chrome in Rhodesia.

You know, it is interesting that the two big producers over there are American companies—the Mineral and Union Carbide Co. are the two big chrome manufacturers over there. We want to buy from our own companies, because when they ever turn in a profit, the profit is all coming to the United States.

Mr. CHAMBERLAIN. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman.

Mr. CHAMBERLAIN. I am in doubt about this. I wonder if the gentleman can advise me as to whether or not the Soviet Union is under the same sanctions as to the buying of ore from Rhodesia as we are?

Mr. COLLINS of Texas. This is interesting because we do not know what standards they are under. But I want to say one thing about who is buying. Rhodesia today is selling 100 percent of its chrome. We used to buy from Rhodesia. They say—Who is buying the chrome? I do not know who is buying the chrome.

We know that Japan is now consuming more steel than they used to use.

We know that Red China is buying steel and if you go across the world, you will see they are all buying chrome from somewhere.

We know that Red China is buying steel. As you go across the world, you will see they are all buying chromium somewhere. So with Rhodesia selling 100 percent of its production we wonder where all of it is going.

Mr. CHAMBERLAIN. Mr. Speaker, if the gentleman will yield further, it is my understanding, then, we cannot buy chrome from Rhodesia, but the Rhodesians are selling to the Soviet Union and we are buying it from the Soviet Union. Is that correct?

Mr. COLLINS of Texas. That might well be. It is not completely definite, but one of the steel companies in this country, in checking the analysis and running grade samples, said that the grade samples they were buying from Rhodesia compared very similarly to what they were buying from Russia. They were buying chrome from Russia. When they ran the analysis, they found that the analysis was very similar—in fact, identical—with the analysis of the chrome that they had bought from Russia.

Mr. CHAMBERLAIN. Then the gentleman's conclusion is that this is being done, is that correct?

Mr. COLLINS of Texas. I believe it might be going through Russia. I know definitely it is going through other countries. It is the most ridiculous thing in world trade.

Mr. FRASER. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, and Members of the House, shortly we will vote upon an amended version of the Byrd amendment that would end the embargo on Rhodesian chrome. I join with the gentleman from Minnesota and my colleagues of the Congressional Black Caucus in urging the House to defeat this amendment that would put us in violation of our international legal obligations and which can only be interpreted as a victory for the forces of racism and reaction. Can this country, committed as it states to racial equality and justice, feel comfortable in the company of South Africa and Portugal, the only other countries to defy openly the U.N. embargo? Why should the United States take the blame that properly belongs to other countries by breaking the Security Council sanctions against the Smith regime?

The Congressional Black Caucus has strongly opposed this nefarious amendment—nefarious because not only is it dealing with an illegal regime, not recognized by any state, not even South Africa, but it is in violation of U.N. sanctions which the United States voted for and supported.

If the attempt to lift the embargo is successful, it will confirm the pattern we have seen lately in domestic policy of indifference or even open hostility to the claims of the poor and underprivileged. It is obvious that the motivation for this action cannot be need for chrome, since the executive branch has introduced a bill to unload 1.3 million tons of excess chrome from our stockpile.

The bill to which I refer is presently in the other body. It is identified as Senate bill 773, of which I have a copy. It states—

A bill to authorize the disposal of metallurgical grade chromite from the national stockpile and the supplemental stockpile.

I have also in my possession a letter from Mr. Oliver Thurman, Deputy Assistant Administrator of the General Services Administration to Senator Cannon, the Chairman of the Subcommittee on National Stockpile and Naval Petroleum Reserves, Committee on Armed Services. He outlines in this letter that the GSA has submitted to the Congress a draft bill to authorize the disposal of 1.3 million excess tons of chrome. That is Senate bill S. 773.

I also have a long-range plan dated December 22, 1970, in which it is pointed out that the total inventory of chromite is 4,454,004 tons. They point out that there is an excess of 1,353,004 tons.

I also have the report of the hearings on the bill. So it seems clear that the issue is not one of need.

Mr. Speaker, the congressional black caucus urges its colleagues to reaffirm the historic and legal commitment of this country to law and self-determination, and I ask that all of you join in opposing the amended version of the Byrd amendment that would end the embargo on Rhodesian chrome.

Mr. Speaker, I submit the material referred to earlier in my remarks for inclusion in the RECORD:

S. 773

A bill to authorize the disposal of metallurgical grade chromite from the national stockpile and the supplemental stockpile.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of approximately one million three hundred and thirteen thousand six hundred short dry tons of metallurgical grade chromite (chromite ore equivalent) now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98-98h) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistance Act of 1954, 68 Stat. 456, as amended by 73 Stat. 607. Such disposition may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

SEC. 2. (a) Disposals of the material covered by this Act may be made only after publicly advertising for bids, except as provided in subsection (b) of this section or as otherwise authorized by law. All bids may be rejected when it is in the public interest to do so.

(b) The material covered by this Act may be disposed of without advertising for bids if—

(1) the material is to be transferred to an agency of the United States;

(2) the Administrator determines that methods of disposal other than by advertising are necessary to protect the United States against avoidable loss or to protect producers, processors, and consumers against avoidable disruption of their usual markets; or

(3) sales are to be made pursuant to requests received from other agencies of the United States in furtherance of authorized program objectives of such agencies.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., Apr. 2, 1971.

Hon. HOWARD W. CANNON,
Chairman, Subcommittee on National Stockpile and Naval Petroleum Reserves, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: On January 26, 1971, the General Services Administration (GSA), submitted to the Congress a draft bill "To authorize the disposal of metallurgical grade chromite from the national stockpile and the supplemental stockpile," which has been referred to the Senate Committee on Armed Services. The draft bill covering 1,313,600 short dry tons of metallurgical grade chromite (chromite ore equivalent), was accompanied by a long-range disposal plan.

The disposal plan, which was signed on December 22, 1970, indicates the quantities of stockpile grade and nonstockpile grade metallurgical grade ore, high and low carbon ferrochromium and silicon ferrochromium included in the proposed disposal. On March 5, 1971, the Director of the Office of Emergency Preparedness (OEP), revised the holding of specification quality high and low carbon ferrochromium against the metallurgical grade chromite ore objective. As a result, the excess quantities of the forms of metallurgical grade chromite included in the disposal plan must be adjusted. This adjustment does not require a change in S. 773 which is now pending before your Committee.

In view of this action by OEP, GSA is enclosing for your information, an amendment to the long-range disposal plan for metallurgical grade chromite with the revised excess quantities of ore and ferrochromium included therein.

Sincerely,

OLIVER THURMAN,
Deputy Assistant Administrator.

GENERAL SERVICES ADMINISTRATION AMENDMENT TO METALLURGICAL GRADE CHROMITE DISPOSAL PLAN DATED DECEMBER 22, 1970

5. Background information.—a. Inventory, stockpile objective, cost, and market value.

METALLURGICAL GRADE CHROMITE

Chromite ore equivalent—Uncommitted, February 28, 1971

[In short dry tons]

National and supplemental stockpiles:	
Inventory	4,452,126
Excess	1,353,004
Defense Production Act:	
Inventory	878
Excess	0
Total inventory	4,453,004
Total excess	1,353,004

Objective (Established March 4, 1970—3,100,000)

This plan is limited to approximately 1,313,641 short dry tons (chromite ore equivalent) of metallurgical grade chromite in the national and supplemental stockpiles, of which approximately 994,257 short dry tons are ore; approximately 41,800 short tons (104,500 short tons chromite ore equivalent) are high carbon ferrochromium; approximately 84,300 short tons (210,750 short tons chromite ore equivalent) are low carbon ferrochromium; and approximately 2,756 short tons (4,134 short tons chromite ore equivalent) are silicon ferrochromium. An additional 39,363 short dry tons of metallurgical grade chromite ore remain available for disposal under previous authorizations.

The average acquisition cost of metallurgical grade chromite in the national and supplemental stockpiles was $47.04 per short dry ton for ore, $365.24 per short ton for high carbon ferrochromium, $453.52 per short ton for low carbon ferrochromium, and $324.21 per short ton for silicon ferrochromium. The current market price for standard, commercial type metallurgical grade chromite is estimated to be $55.00 per short dry ton for ore, $500.00 per short ton (chromium content) for high carbon ferrochromium, $760.00 per short ton (chromium content) for low carbon ferrochromium, and $320.00 per short ton (alloy) for silicon ferrochromium. Stockpile metallurgical grade chromite, high and low carbon ferrochromium, and silicon ferrochromium, may or may not be of the same quality or grade as the material quoted above.

6. *Quality and form of stocks.*—Approximately 1,077,408 short dry tons (chromite ore equivalent) of metallurgical grade chromite are stockpile grade, of which approximately 810,588 short dry tons are ore; approximately 41,126 short tons (102,815 short tons chromite ore equivalent) are high carbon ferrochromium and approximately 65,597 short tons (163,993 short tons chromite ore equivalent) are low carbon ferrochromium and 8 short tons (12 short tons chromite ore equivalent) are silicon ferrochromium. Approximately 296,233 short dry tons (chromite ore equivalent) of metallurgical grade chromite are nonstockpile grade, of which approximately 183,569 short dry tons are ore; approximately 674 short tons (1,685 short tons chromite ore equivalent) are high car-

bon ferrochromium; approximately 18,703 short tons (46,757 short tons chromite ore equivalent) are low carbon ferrochromium; and approximately 2,748 short tons (4,122 short tons chromite ore equivalent) are silicon ferrochromium.

Approved:

WALTER C. MOERLAND,
Acting Commissioner, Property Management and Disposal Service.

Mr. HÉBERT. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Speaker, I rise in support of section 503, and urge that it be kept in the conference report.

Mr. Speaker, ever since President Lyndon Johnson issued an Executive order in 1966 pursuant to United Nations sanctions barring all trade with Rhodesia, the United States has been confronted with the gnawing problem of being able to obtain a very vital and necessary defense commodity—chromium.

Up until 1966, we were receiving nearly 40 percent of our total chromium imports from Rhodesia through the auspices of two American-owned chromium mines. At the same time, Communist Russia was supplying us with about 27 percent of our chromium at a healthy competitive price of about $30 to $33 a ton.

Since the advent of this embargo, we have been forced to channel more than twice that price to Russia which now is furnishing us with about 65 percent of our chromium needs. Compounding this dilemma is the suspected fact that the chrome ore we are purchasing from Russia is actually Rhodesian chrome which is being trans-shipped by an intermediary nation to Russia. I cannot say categorically that this is true, but I believe it is true. At any rate, the conference report refers to several U.N. nations who have purchased chrome ore from Rhodesia.

Mr. Speaker, I cannot think of a more absurd position for this Nation to be in. To have to rely on Communist Russia to furnish us with a vital defense commodity is beyond all sense of reason. To see other U.N. nations buying from Rhodesia while this great Nation doggedly abides by the U.N. sanctions is unbelievable.

Because of our need for chrome we find ourselves dipping into our chrome ore stockpile. If we continue to do this at the present rate our chrome stockpile could vanish within 3 years.

Nor does it help matters to learn that the Russians, fully aware of our predicament, have planned on raising their price on the chrome ore they supply us with from $72 to $82 per ton next year!

There is no secret about the fact that this Nation cannot easily function without chromium. Not only is it essential in the production of our military jet aircraft, missiles, and satellites, it is the all-important ingredient which makes stainless steel "stainless," and which is also vital in the production of everything from industrial tools, to automobiles, to home construction, to kitchen items.

By the same token, it is no secret that we are courting national disaster by continuing to depend on the Russians for our defense needs. This is an incredible situation. It runs afoul of what should be the first two words in all our foreign policy: "America First."

Mr. Speaker, the answer to solving this discouraging problem is as plain as the sun in the sky.

It can be accomplished simply by making certain that section 503 of the Conference Report is approved. If we are willing to buy chrome ore from a Communist nation, then it certainly should be proper for this country to buy chrome ore from a friendly free nation such as Rhodesia.

As far as I can tell, the only thing wrong with Rhodesia is that England is not happy with it, and there are some in our own country who disagree with some of its internal policies.

Mr. Speaker, we have delayed too long. I urge full approval of this provision so that we may once again resume the importation of chrome ore from Rhodesia for the good of our own Nation.

Mr. HÉBERT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, I hesitate to take the floor after the gracious treatment I had today on this floor, but I just cannot stand aside on this particular amendment.

I just talked today to the representatives of the steel companies of America. The difference in price for a ton of steel between American steel and foreign steel, on the basis of chrome coming from Rhodesia, is $35 to $40. That is $35 to $40 difference in price.

The entire American steel industry last year had an average profit on a ton of steel of $12. Believe me when I say to these Members, there was a difference of 115,555 steel workers between July and August of this year. That many steel workers were out of work between July and August.

I have the greatest respect for the man who preceded me. I have absolutely the greatest respect for him. His position is based on a social basis, but tonight I am talking to the Members on an economic basis. I say to the Members of this Congress, both the Senate and the House, this country must start to look inward, toward its own welfare, keeping in mind that only the inward welfare of this country can make us strong enough to help those countries who need help. If we go further down the drain in our economic standing we cannot do that.

Today the stock market industrial index of the United States lost 12 points. Maybe that does not mean anything to the Members, but it means this to me: We are in a very serious situation. Please do not vote for this.

Mr. ROUSH. Mr. Speaker, I rise in support of the Senate amendment. I appreciate the intent of the sanctions imposed by the United Nations against Rhodesia. I am in sympathy with the motives which prompted the imposition of those sanctions. But I am in sympathy with the minorities of this country as well as the plight of all those who work in the specialty steel plants of this country. They are being driven out of their jobs by reason of unfair competition.

I am informed that Japan buys chrome for $31.50 a ton and we pay Russia $72 a ton for a poor quality of chrome. Is it any wonder we cannot compete with Japan? The gentleman from Pennsylvania (Mr. DENT) has pointed this out very clearly. Is it any wonder that the tradition of free trade is under assault? If free trade is not accompanied by fair trade then it cannot survive.

Now concerning Russia's sale of chrome to this country: The argument has been made that the chrome we buy from Russia is not Rhodesian chrome. Russia imports steel from Rhodesia for $31.50 a ton. I would acknowledge that they are not selling us Rhodesian chrome. Is there any doubt as to what Russia is doing? I would surmise that they are using the high quality chrome of Rhodesia which can be purchased for $31.50 a ton for their own purposes and selling the inferior Russian produced chrome to us for $72 a ton. This increases the cost of our specialty steel and makes it impossible for us to compete with other nations—such as Japan.

The gentleman from Massachusetts tells us the administration is imploring us not to buy steel from Rhodesia and thus protest certain policies of that government. Within the past few days the administration has asked us, as a people, to approve the sale of 20 million bushels of grain to Russia for the going price. Well, I do not approve of the oppression that takes place in Russia, but I do approve of that proposed sale of grain, because it is in the best interest of this country. I do not approve all that goes on in Rhodesia, but I approve of the purchase of chrome from Rhodesia, because it is in our best interest.

Mr. HÉBERT. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I thank the gentleman.

Mr. Speaker, the Rhodesian sanctions I have always felt were unfortunate. They were ill considered. Yet they were invoked through the procedure to which our Government had committed itself under the United Nations Charter. I think it is unfortunate we are using this device to set aside an agreement to which our Government has bound itself.

Another unfortunate aspect of this is, it is my understanding that the State Department is opposed to this provision. I would be glad to yield to the chairman of the subcommittee for clarification on that point. I realize the parliamentary dilemma we face. I simply regret that we find ourselves in that fix. Can the gentleman clarify the attitude of the State Department on this point?

Mr. FRASER. Mr. Speaker, the State Department appeared before our subcommittee and opposed this, and we have a letter in the CONGRESSIONAL RECORD from David Abshire, liaison for the State Department. I understand the White House itself has made their view known as in opposition on this. It is clear the State Department and White House are opposed to its retention in the bill.

Mr. FINDLEY. Is there any attitude on the part of the administration to this as far as other Members know? I have not heard anything contrary to what the gentleman from Minnesota has stated. If any others want to clarify that, I will yield.

We certainly pride ourselves as a nation that agrees on a rule of law. This situation is most unfortunate, and causes us to damage our posture as far as world opinion as a nation committed to the rule of law.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield to the gentleman from Pennsylvania.

Mr. DENT. Mr. Speaker, evidently there was some misunderstanding as far as what some of us want. I am voting to sustain the chairman in the amendment.

Mr. FINDLEY. Yes, I understand the gentleman's position.

Mr. FRASER. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, first I should like to point out that the issue here is not, as it was stated in the conference report, whether the United States needs the chrome ore, both from an economic and national security standpoint, or whether this should be subordinated to the policy position established by the United Nations in its sanction against Rhodesia.

The issue is, very simply, whether we are going to live up to a treaty obligation entered into freely; and particularly the issue is whether there is any pressure on us to do so at this time.

The stockpile is adequate, and more than adequate. If some crisis arises in the future when we absolutely need Rhodesian ore we can reexamine the situation at that time. For us to move to do so now would be a violation of our treaty obligation with the United Nations.

On the question dealt with rather lightly here as to whether there has been some transshipment of ore from Rhodesia via the Soviet Union to us, there is a statement which has been in the CONGRESSIONAL RECORD from the U.S. Geological Survey stating on microscopic analysis that this is simply not the fact, that the ore we receive from the Soviet Union is not produced in Rhodesia.

It is interesting to note that the conference committee made no such claim.

Finally, with respect to the very persuasive appeal Members have heard from the gentleman from Pennsylvania about the position of the steel industry, I believe it should be noted that there is also in the CONGRESSIONAL RECORD, on page S15319, a letter from Mr. I. W. Abel, president of the United Steel Workers of America, in which he indicates his opposition to any change at this time in the sanction program unilaterally by the United States. He says, among other things:

> The United Steel Workers of America supports the intent of the embargo and its continuation. We feel that as a nation and in conjunction with other nations we must be concerned about basic human justice and if need be sustain an economic price for that conviction. Furthermore, this is one of the few occasions on which the United Nations acted as the moral conscience of the world.

That is the president of the United Steel Workers, Mr. Abel, speaking.

I would urge Members not to take this position at this particular time, when the British are in negotiation with the Rhodesian Government and when there is a very good chance that there may be a settlement of the problem. This would be the worst possible time for us to take this step, and there is no need for it at this time.

Mr. DENT. Mr. Speaker, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Pennsylvania.

Mr. DENT. I happen to have been in contact with the steel workers today. The situation is one as to whether we decide whether the social aspect of legislation at this point in our economic situation shall take precedence over the serious economic problem we face.

I agree with the gentleman on the question of the treatment of the social aspects with respect to the Rhodesian Government, but there is also this fact: There are only two nations in the entire international agreement which are living up to the unanimous vote of the U.N., Great Britain, and the United States. West Germany is buying Rhodesian ore. Japan is buying Rhodesian ore. Every steel producing nation that signed and voted on the sanction against Rhodesia is buying Rhodesian ore.

Mr. HÉBERT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I rise in support of the conference report.

I can sympathize with many of the arguments put forth by the gentleman, particularly with regard to the denial of voting rights to the black majority in Rhodesia. However, I believe we can better bring about our goal of democratic practices in that country as a friend of Rhodesia rather than an enemy. Moreover, I cannot ignore the overriding national defense considerations involved here.

The United States has been dependent on the Soviet Union for more than 60 percent of its chrome ore since the embargo was placed against Rhodesia in 1967. During this time the Soviet Union has raised the price 288 percent from the presanction level of $25 per ton to the present price of $72 per ton.

At the same time, the U.S.S.R., no friend of the United States, has been purchasing high grade Rhodesian chrome ore from other nations violating the embargo and selling the United States its poorer grade chromite at substantially higher prices. In the interests of national security, the United States cannot continue to be dependent upon the Soviet Union as a major source of a critical defense material. Moreover, it is highly hypocritical for the United States to get its chrome ore in this underhanded manner. The sanctions, frankly, are not working.

The arguments put forth that the stockpile of chrome ore is in surplus is not acceptable. The purpose of the stockpile is to have a reserve and this Nation should not be using its stockpile supplies as a regular source of chrome ore as some have advocated.

The high price of chromite has placed the U.S. steel industry in an unfavorable competitive position relative to other nations who are importing the Rhodesian ore.

As a result many Americans are unemployed, because of the increased importation of low-cost steel and steel products. While this problem could be alleviated through import controls, we have at hand today a ready means of accomplishing the same end.

To give you an example of the degree of penetration of the U.S. markets by foreign producers, I would like to quote a few figures from the conference committee report:

> Imports of specialty steels are at an all-time high—20 percent of the total domestic market in the first quarter of 1971. For some individual specialty steels, the penetration is even greater; 35 percent of stainless cold rolled sheets, 68 percent of the market for stainless wire rods, and 54 percent for stainless wire.

This is a shocking set of figures and the cause can be directly traced to the embargo on Rhodesian chrome ore.

I can understand the desire of those who wish to maintain our strong support of the United Nations in this matter. However, the U.N.'s demonstrated lack of interest in fair play by rejecting Nationalist China makes one question whether the United States should continue to jeopardize its national defense interest to support the world body.

Mr. Speaker, I am pleased the House conferees have accepted the Senate amendment permitting the importation of Rhodesian chrome ore as I had urged last month. I believe this provision and the entire military procurement bill conference report deserves adoption by this body in the form finally agreed upon by the conferees.

Mr. FRASER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MORSE).

Mr. MORSE. Mr. Speaker, I rise in support of the effort of Mr. FRASER to delete section 503 from the military procurement bill. This is a nongermane amendment approved by the Senate providing for the importation of Rhodesian chrome. A resumption of chrome ore importation by the United States is clearly opposed by the Nixon administration. It has so advised many of the Members of this body on both sides of the aisle and, believe me, it would represent a clear violation of our international legal obligations as a signatory to the United Nations Charter.

Looking at the strategic considerations: Proponents of section 503 to resume importation of chrome ore from Rhodesia claim that the United States, as a result of the embargo, has become dependent on the Soviet Union for its supply of chrome ore. Mr. Speaker, this is simply not valid. A significant U.S. trade with the Soviet Union in chrome ore existed long before the Rhodesian sanctions went into effect.

Additionally, large quantities of chrome ore are simply not necessary to maintain our defense requirements. This has been made unmistakably clear by the unqualified support of the administration—for S. 773 which would authorize the release of 1.3 million tons of chrome ore over the next 3 years from the U.S. stockpiles, on the grounds that our current

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stockpiles of chrome ore do in fact exceed our national security requirements.

With regard to the current negotiations between Britain and Smith's government, it is clear that U.S. action to resume importation of chrome ore from the Smith regime at this time would undermine these ongoing efforts to reach a settlement by encouraging the Smith regime to hold out indefinitely, thus canceling whatever progress has been made in the talks.

Mr. Speaker, I urge Members on both sides of the aisle who are aware of some of the things that happened in the other body to recognize their responsibilities to respect the sanctions which are embodied in international law and which would be restored by the action of this House.

Mr. HAYS. Will the gentleman yield?

Mr. MORSE. I yield to the gentleman from Ohio.

Mr. HAYS. Are you asking us to support the United Nations sanctions against Rhodesia?

Mr. MORSE. I am.

Mr. HAYS. After the way they supported us there

Mr. MORSE. I yield back the balance of my time.

The SPEAKER. The time of the gentleman has expired.

Mr. HÉBERT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. HAYS).

Mr. HAYS. Mr. Speaker, I support the committee position and the conference report on Rhodesia and simply submit to the membership the fact that it is a rather simple proposition: Do we continue, because the U.N. said so, to buy our chrome from Russia which is an inferior grade of chrome, while they buy the superior chrome? They are a member of the United Nations. Yet they buy their chrome from Rhodesia and use it themselves.

Now, that is just the way the ball bounces. That is what the story is.

I certainly feel no compulsion whatever to penalize the citizens of the United States for the sanctions placed on them by an organization of which we pay 30 percent of the cost and have 1 percent of the influence.

Mr. Speaker, I support the committee position on this amendment.

Mr. FRASER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, let me just straighten out a couple of facts.

The first is that the Soviet ore is a superior ore to that of Rhodesia and has always demanded a higher price.

Second, Mr. Speaker, the continent of Africa supported us on the China issue. The majority of the nations of Africa were with us as were a majority of the nations in Latin America. I say that where we lost on the China issue was in Europe. We lost the vote of every one of our NATO allies, and to penalize the area where the majority of them voted with us, I think is the height of irresponsibility.

I think what we have before us is a solemn treaty obligation. Many people do not take that treaty obligation lightly. But it seems to me that it is important for us to observe the rule of a treaty obligation in our country's conduct with other nations around the world. That is the fundamental issue. This is what the President has asked for, this is what the Secretary of State has asked for and this is what I asked the chairman of the subcommittee that held the hearings on this issue.

Mr. Speaker, we have a letter from the head of the Steelworkers Union which says these import sanctions have nothing to do with the unemployment situation in the steel industry.

I think that we have to fully understand what our obligations are as a responsible people, leaders we like to think in the free world. I think we will make our true selves known in a way of which we can be proud in the Congress of the United States on this issue.

Mr. DENT. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. FRASER. Yes, I yield to the gentleman.

Mr. DENT. I admire your position on treaty obligations, but I would like to say to all of you that we are in Vietnam because of a treaty obligation. Yet the gentleman for whom I have great admiration, as a person, is one of the greatest fighters on this floor against our participation in Vietnam, and that is a treaty obligation.

Mr. FRASER. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. Mr. Speaker, I intend to be brief, but think this is a very troublesome time.

The issue that this Congress faces and that the United States faces tonight is in my opinion not an economic issue, important though that is. It is not a social issue, important though that is. The basic issue that the United States faces tonight is its own credibility in the world. I say this because we are here facing the question of whether or not we will live up to a solemn commitment made through a treaty.

Mr. Speaker, if there is to be long-term peace in this world, it will not come through an escalation of arms. The long-term peace of this world depends upon our maintaining a military strength now which in the long run depends upon commitments between nations, which nations will believe the other nations intend to adhere to and which we in America will indeed adhere to.

If at this time for reasons that are not matters of law and order, not matters of national commitment, but matters of what we consider short-term self interest, we go back on this commitment, then what is to say to any other nation with which we may ever make a commitment that we will live up to it? What is to lead Germany to feel that we will obey our commitments to her? Or if we come out of the SALT talks with an agreement with Russia, how can she believe we will live up to those commitments? If we cannot live up to this commitment when, indeed, are our commitments to be trusted by any nation with which we may deal?

The SPEAKER. The time of the gentleman has expired.

Mr. HÉBERT. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. EDWARDS).

Mr. EDWARDS of Alabama. Mr. Speaker, as far as the committee report goes, Germany is buying chrome from Rhodesia. If we are supposed to be so concerned about our own commitments, I wonder what the gentleman from Oregon would say about Germany? There are many of us who believe, although it is hard to prove, that Russia is buying chrome from Rhodesia. I do not know why we should be so concerned about our commitments in view of Russian action. Or how about France or some of the other U.N. countries. Commitments?

I believe we have been Uncle Sap too long in this whole procedure.

The thing that has bothered me is this. It has been argued that we do not need to worry about this, if at some time in the future we get in trouble then we can go to Rhodesia for chrome. But I can tell you that if I were Rhodesia, and we got into that position, I would tell the United States to go jump in the lake—to go some place else to get its chrome. Mr. Speaker, we cannot have it both ways. It is time we cut out this foolishness and start dealing with our friends.

The SPEAKER. The time of the gentleman has expired.

Mr. HÉBERT. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER. The Chair will state that the gentleman from Louisiana has 5 minutes remaining.

Mr. HÉBERT. Mr. Speaker, I yield 5 minutes to myself.

Mr. Speaker, I will not use the full 5 minutes. I merely take this time so that the Members will understand exactly what the situation is, and so that there will be no doubt in anyone's mind, although there seems to be some confusion. Therefore I want it clearly understood that on this vote hangs the conference report.

If you do not vote a green card, which is "yes," sustaining the conference report submitted to you, the conference report goes down the drain.

If you do vote a green card it means that the conference report stands up, and we shall have a vote upon that immediately.

As I said before, I have used a minimum amount of time and a minimum amount of words, but I do want this clearly understood, and in order to clarify it I shall ask a parliamentary inquiry of the Speaker.

Mr. Speaker, a parliamentary inquiry.

PARLIAMENTARY INQUIRIES

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. HÉBERT. Mr. Speaker, the parliamentary inquiry is this: In order to sustain the conference report, the vote is an affirmative vote on a green card, if a teller vote is taken?

The SPEAKER. The Chair will state that the gentleman is correct.

Mr. HÉBERT. And, in other words, a red card would be a negative vote against the committee and the conference report?

The SPEAKER. The Chair will state

that if a teller vote is taken with clerks, then a vote taken on a green card will sustain section 503, which is the position of the committee, as advocated by the gentleman from Louisiana (Mr. HÉBERT). A vote taken on a red card is a vote against the position of the committee, as urged by the gentleman from Minnesota (Mr. FRASER).

Mr. HÉBERT. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. HÉBERT. Mr. Speaker, on a voice vote, or a rollcall vote, a "yea" would be to support the conference report, and a "nay" would be to vote down the conference report, in effect, because then the conference report would die?

The SPEAKER. The Chair will state the gentleman from Louisiana is correct in his statement.

Mr. HÉBERT. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House agree to the language contained in section 503 of the conference report?

TELLER VOTE WITH CLERKS

Mr. FRASER. Mr. Speaker, I demand tellers.

Tellers were ordered.

Mr. FRASER. Mr. Speaker, I demand tellers with clerks.

Tellers with clerks were ordered; and the Speaker appointed as tellers Messrs. FRASER, HÉBERT, ARENDS and DELLUMS.

The House divided, and the tellers reported that there were—ayes 251, noes 100, not voting 80, as follows:

[Roll No. 379]

[Recorded Teller Vote]

AYES—251

Abbitt	Clark	Goldwater
Abernethy	Clausen, Don H.	Gonzalez
Anderson, Tenn.	Cleveland	Gray
Andrews, Ala.	Collins, Tex.	Green, Oreg.
Andrews, N. Dak.	Colmer	Griffin
Annunzio	Conable	Griffiths
Archer	Conte	Gross
Arends	Cotter	Grover
Ashbrook	Crane	Hagan
Aspinall	Daniel, Va.	Haley
Baker	Daniels, N.J.	Hall
Baring	Danielson	Hammer-schmidt
Belcher	Davis, Ga.	Hanna
Bell	Davis, S.C.	Hansen, Idaho
Bennett	de la Garza	Harsha
Betts	Delaney	Hastings
Bevill	Denholm	Hays
Biaggi	Dennis	Hébert
Biester	Dent	Heinz
Boggs	Devine	Henderson
Bow	Dickinson	Hicks, Wash.
Bray	Dorn	Hillis
Brinkley	Downing	Hogan
Brooks	Duncan	Holifield
Broomfield	Edmondson	Hosmer
Brotzman	Edwards, Ala.	Hull
Brown, Mich.	Eilberg	Hunt
Brown, Ohio	Erienborn	Hutchinson
Broyhill, N.C.	Fisher	Ichord
Broyhill, Va.	Flood	Jacobs
Buchanan	Flowers	Jarman
Burke, Fla.	Flynt	Johnson, Calif.
Burleson, Tex.	Ford, Gerald R.	Johnson, Pa.
Burlison, Mo.	Fountain	Jonas
Byrne, Pa.	Frey	Jones, Tenn.
Byron	Fulton, Tenn.	Karth
Cabell	Fuqua	Keating
Caffery	Gallifianakis	Kemp
Carter	Garmatz	King
Casey, Tex.	Gaydos	Kluczynski
Cederberg	Gettys	Kyl
Chamberlain	Giaimo	Kyros
	Gibbons	Landrum
Latta	Price, Ill.	Stanton, James V.
Lennon	Price, Tex.	Steed
Lent	Pucinski	Steele
Lujan	Purcell	Steiger, Ariz.
McClory	Quie	Steiger, Wis.
McClure	Quillen	Stephens
McCollister	Railsback	Stratton
McDade	Randall	Stuckey
McDonald, Mich.	Rarick	Sullivan
McFall	Rhodes	Symington
McKevitt	Roberts	Talcott
Mahon	Robinson, Va.	Taylor
Mann	Rogers	Teague, Calif.
Mathias, Calif.	Rooney, N.Y.	Teague, Tex.
Mathis, Ga.	Rooney, Pa.	Terry
Mayne	Rostenkowski	Thompson, Ga.
Mazzoli	Roush	Thomson, Wis.
Melcher	Rousselot	Thone
Michel	Roy	Ullman
Miller, Calif.	Runnels	Van Deerlin
Miller, Ohio	Ruppe	Vander Jagt
Mizell	Ruth	Vanik
Mollohan	Sandman	Waggonner
Monagan	Satterfield	Wampler
Moorhead	Saylor	Ware
Murphy, Ill.	Scherle	Whalley
Myers	Schmitz	White
Natcher	Schneebeli	Whitehurst
Nelsen	Scott	Widnall
Nichols	Sebelius	Williams
Obey	Shipley	Wilson, Bob
O'Konski	Shoup	Wilson, Charles H.
O'Neill	Shriver	Winn
Passman	Sikes	Wylie
Patman	Sisk	Yatron
Perkins	Skubitz	Young, Fla.
Pettis	Slack	Young, Tex.
Peyser	Smith, Calif.	Zablocki
Pickle	Snyder	Zion
Pike	Spence	Zwach
Poage	Springer	
	Staggers	

NOES—100

Abourezk	Findley	Mitchell
Abzug	Fish	Morse
Adams	Foley	Moss
Addabbo	Forsythe	Nedzi
Anderson, Calif.	Fraser	Nix
Anderson, Ill.	Frenzel	O'Hara
Ashley	Grasso	Patten
Aspin	Green, Pa.	Podell
Badillo	Gude	Preyer, N.C.
Begich	Hamilton	Rangel
Bergland	Hanley	Reid, N.Y.
Bingham	Hansen, Wash.	Reuss
Boland	Harrington	Riegle
Bolling	Hathaway	Robison, N.Y.
Brademas	Hechler, W. Va.	Rodino
Brasco	Heckler, Mass.	Roe
Burke, Mass.	Helstoski	Roncalio
Burton	Hicks, Mass.	Rosenthal
Carney	Horton	Roybal
Chisholm	Howard	Ryan
Clay	Hungate	St Germain
Collins, Ill.	Kastenmeier	Scheuer
Corman	Keith	Seiberling
Culver	Koch	Smith, Iowa
Dellenback	Leggett	Smith, N.Y.
Dellums	Long, Md.	Stokes
Dow	McCloskey	Thompson, N.J.
Drinan	McCormack	Tiernan
du Pont	McKinney	Udall
Eckhardt	Matsunaga	Waldie
Edwards, Calif.	Meeds	Whalen
Esch	Metcalfe	Wolff
Fascell	Minish	Yates
	Mink	

NOT VOTING—80

Alexander	Edwards, La.	McEwen
Barrett	Eshleman	McKay
Blackburn	Evans, Colo.	McMillan
Blanton	Evins, Tenn.	Macdonald, Mass.
Blatnik	Ford, William D.	Madden
Byrnes, Wis.	Frelinghuysen	Mailliard
Camp	Gallagher	Martin
Carey, N.Y.	Goodling	Mikva
Celler	Gubser	Mills, Ark.
Chappell	Halpern	Mills, Md.
Clancy	Harvey	Minshall
Clawson, Del	Hawkins	Montgomery
Collier	Jones, Ala.	Morgan
Conyers	Jones, N.C.	Mosher
Coughlin	Kazen	Murphy, N.Y.
Davis, Wis.	Kee	Pelly
Derwinski	Kuykendall	Pepper
Diggs	Landgrebe	Pirnie
Dingell	Link	Poff
Donohue	Lloyd	Powell
Dowdy	Long, La.	Pryor, Ark.
Dulski	McCulloch	Rees
Dwyer	Sarbanes	Wyatt
Schwengel	Veysey	Wydler
Stanton, J. William	Vigorito	Wyman
Stubblefield	Whitten	
	Wiggins	
	Wright	

(By unanimous consent, Mr. HAYS changed his vote from "no" to "aye.")

So the House agreed to the language contained in section 503 of the conference report.

The SPEAKER. The gentleman from Louisiana (Mr. HÉBERT) will be recognized for 30 minutes and the gentleman from Illinois (Mr. ARENDS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. HÉBERT. Mr. Speaker, I rise in support of the conference report on H.R. 8687 and urge its approval by the House.

H.R. 8687 is the bill which provides the authorizations for annual appropriations for the armed services for the procurement of hardware, R.D.T. & E., and certain related activities of the Department of Defense during fiscal year 1972.

The bill as presented to the Congress by the President included programs totaling $22,188,337,000;

The bill as passed by the House totaled $21,252,682,000;

The bill as passed by the Senate totaled $21,016,442,000;

The bill as agreed to in conference totals $21,316,870,000;

The figure arrived at by the conferees is $871,467,000 less than the amount requested by the President.

I will not attempt to make a line item review of the action taken by the conferees. That has been adequately taken care of in the conference report and the Joint Statement of Managers which has been available to the Members, and which has been printed in the CONGRESSIONAL RECORD. However, I think it pertinent that I review some of the highlights of the Conference Committee action.

In respect to the money differences, the following actions were taken:

Safeguard antiballistic missile: Approved Senate funding of $1.1 billion and Senate language restricting deployment authority to two sites and advanced preparation to two others.

C–5A transport: Approved a Senate total of $374 million, incorporating a Senate-approved reduction of $72.2 million.

C–130 transport: Approved House total of $40.8 million, rejecting a Senate deletion.

Main battle tank: Approved $62.8 million research and development effort, designed to produce six prototypes as voted by the Senate, rejecting a House reduction.

F–14 Navy fighter: Approved $801.6 million in 48-plane program which had been approved by the Senate and had been rejected without prejudice by the House, pending Pentagon clarification, which was later supplied.

Replenishment oiler: Approved House authorization of $56.5 million for replenishment vessel which was rejected by the Senate.

Nuclear attack submarine: Approved $22.5 million authorization for long lead-

time items for an additional nuclear attack submarine as added by the Senate.

Nuclear frigate: Approved House language to require that contracts for advanced procurement for the DLGN-41 shall be entered into as soon as practicable, unless the President advises Congress that construction is not in the national interest.

Unlike previous years, the dollar differences in the House-Senate versions of this bill were relatively simple of resolution. However, I can not say the same in respect to some of the language differences which occurred in the two bills. These differences posed very great problems for the conferees.

As you will recall, the Senate in acting on the House bill struck all after the enacting clause and substituted new language in the form of an amendment. Thus, the Senate technically had only one amendment to the House bill.

Included in that amendment were several provisions incorporating subject matter which, under the rules of the House and the Reorganization Act of 1970, were nongermane and therefore subject to possible points of order.

It was this consideration which prompted my colleague and distinguished ranking minority member of the Committee on Armed Services, Mr. ARENDS, to offer in the House a motion to instruct the conferees. This motion, which was made on October 19, 1971, would have required the conferees on the part of the House "not to agree to any portion of the text of the Senate amendment that is not germane to the House bill, H.R. 8687."

If the motion to instruct had carried, House conferees on H.R. 8687 would have had no problem since they could have, with appropriate and adequate justification, refused to consider any of the nongermane provisions of the Senate amendment. However, unfortunately, the motion to instruct was, as you know, voted down.

As a consequence of this official House action, the House conferees were, in effect, told by the House to consider the Senate provisions on their merits despite their being subject to a possible point of order.

The House conferees, therefore, in response to the apparent wishes of the House, did consider in conference the entire Senate amendment, including the so-called nongermane provisions and resolved them on their merits.

There were six specific provisions in the Senate amendment which, in my judgment, were nongermane and subject to possible points of order. These six provisions included three which, after a full discussion of the provisions on their merits, were completely rejected by the House conferees and the Senate receded thereon. These included:

First, section 507—relating to military operations and activities at the U.S. Naval Air Station, Los Alamitos, Calif.

Second, sections 701 through 704—which proposed an additional increase in military pay, and

Third, section 801—which would have authorized comparability adjustments of Federal pay for civilian and military personnel.

On the other hand, after a full discussion of the merits of the other three provisions of the Senate amendment, which were subject to a possible point of order, the House-Senate conferees agreed to accept each of these three amendments with some modification. These provisions in the Senate amendment are as follows:

First, section 503—relating to the importation of chrome from Rhodesia;

Second, section 505—relating to the ceiling on U.S. expenditures in Laos, and

Third, section 601—the so-called Mansfield amendment, establishing a final withdrawal date of our military forces from Indochina.

The conference report explains in very positive detail the effect of the action taken by the conferees on each of these last three provisions—that is, section 503, section 505, and section 601.

I believe that your House conferees have very diligently and faithfully reflected the views of this body in its conference with the Senate on this bill, H.R. 8687. Therefore, without qualification, I urge its approval.

The controversy we do now have on this conference report arises because of the failure of the House to support the motion to instruct previously made by Mr. ARENDS.

Before going to conference, both Mr. ARENDS and I were acutely aware of the difficulty we would have in conference with the Senate if we did not have a clear mandate from the House in respect to the latitude and action we could take on the nongermane provisions in the Senate amendment.

It was this consideration which prompted Mr. ARENDS to offer the simple solution to the problem: the motion to instruct conferees not to accept nongermane Senate provisions. The House refused to endorse that motion to instruct, and we therefore went to conference directed to confer and to resolve all of the provisions included in the Senate amendment.

We have today brought you that compromise as outlined in the conference report. However, unfortunately, there was no way in which the House conferees could bring you a compromise resolution of the differences in H.R. 8687 without including in those differences these specific provisions which, admittedly, are, under the House rules, subject to a possible point of order.

These are the facts surrounding the conference report and the action of your conferees.

It is legislation sorely needed by the Department of Defense. Therefore, I urge you, my colleagues, to support your conferees and adopt the conference report.

(Mr. HÉBERT asked and was given permission to revise and extend his remarks.)

Mr. ARENDS. Mr. Speaker, I have no requests for time.

The SPEAKER. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

FAVOR IMMEDIATE WITHDRAWAL FROM VIETNAM

(Mr. HELSTOSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HELSTOSKI. Mr. Speaker, in last week's election the citizens of the city of Englewood, N.J., had the opportunity to vote on a referendum calling for a cessation of all American involvement in Vietnam by December 31, 1971. I am happy to report that, by a margin of almost 2 to 1, the voters of Englewood supported the call for immediate withdrawal from Vietnam.

Yesterday, copies of the city council resolution incorporating the sentiments of the voters of Englewood were delivered personally to me by Councilman Ken King, a constituent and a good friend. I wish to congratulate Ken and his coworkers whose efforts in connection with the referendum led to such a resounding repudiation of our current Vietnam policy by the citizens of Englewood. And, Mr. Speaker, I would like to take this opportunity to assure the citizens of Englewood that my views on the war parallel theirs and that I will continue to vote against further funding of American involvement in Vietnam.

Mr. Speaker, I include at this point in the RECORD the documents from the Englewood City Council relating to the Vietnam referendum.

RESOLUTION

Whereas, the Council of the City of Englewood has been requested, both formally and informally, by citizens, residents and taxpayers of the City of Englewood to express to the federal government, as the elected representatives of the citizens, residents and taxpayers of the City of Englewood, the sentiment of said citizens, residents and taxpayers against the present American involvement in the war in southeast Asia; and

Whereas, the Council of the City of Englewood has from time to time adopted resolutions for the purpose of bringing the public sentiment of the City of Englewood on various public questions to the attention of the state and federal governments; and

Whereas, American involvement in the war in southeast Asia affects the citizens, residents and taxpayers of the City of Englewood in that they and their relatives and friends are required to serve a period of military service in southeast Asia, thereby disrupting their lives and the lives of their families in fulfilling a commitment which they believe to be in violation both of their consciences and the best interests of national policy; and

Whereas, all citizens, residents and taxpayers of the City of Englewood are affected by the American involvement in the war in southeast Asia by reason of the fact that substantial federal funds representing, in large part, federal revenue obtained from payment of federal income taxes are being diverted for the prosecution of said involvement from a multitude of urgent and high priority domestic needs; and

Whereas, the City of Englewood has many public and social problems, the solution of which require federal financial assistance; and

Whereas, the Council of the City of Englewood deems it appropriate that it should make no expression of municipal sentiment with respect to the continued American involvement in the war in southeast Asia without first having determined the sentiments of a majority of the voters of the City of Englewood; and

Whereas, N.J.S.A. 19:37-1 et seq. provides a mechanism whereby the Council of the City of Englewood can determine public sentiment on the question of whether or not such an expression should be made by the governing body of the City of Englewood to the federal government; and

Whereas, the proponents of the point of view that American involvement in the war in southeast Asia should be terminated at the earliest possible time have requested the seeking of the expression of public sentiment on the question of whether or not all American troops should be withdrawn from southeast Asia and all federal appropriations for prosecuting American involvement in said war should cease no later than December 31, 1971

Now, therefore, be it resolved by the Council of the City of Englewood, pursuant to N.J.S.A. 19:37-1 et seq.:

That the Clerk of the County of Bergen is hereby requested to print upon the official ballot, to be used at the General Election to be held on November 2, 1971, in the City of Englewood, the following proposition:

"Shall the Council of the City of Englewood petition the United States Congress for the removal of all American troops from southeast Asia and for the termination of all appropriations for the prosecution of American involvement in the war in southeast Asia no later than December 31, 1971?"

JOSEPH T. CARNEY, *City Clerk.*

THE CITY OF ENGLEWOOD,
Englewood, N.J., November 8, 1971.

Re Public Referendum on ending American involvement in the war in southeast Asia.

HONORABLE SIR: Attached please find a copy of a Resolution which was unanimously adopted by the Council of the City of Englewood, County of Bergen, New Jersey, on November 4, 1971.

This is being sent to you in accordance with Section 4 thereof.

Sincerely yours,

JOSEPH T. CARNEY,
City Clerk.

RESOLUTION

Whereas, the Council of the City of Englewood, by resolution duly adopted on June 15, 1971, caused to be placed on the ballot for the General Election held on November 2, 1971, the following referendum question:

"Shall the Council of the City of Englewood petition the United States Congress for the removal of all American troops from southeast Asia and for the termination of all appropriations for the prosecution of American involvement in the war in southeast Asia no later than December 31, 1971?" and

Whereas, the official tally of the balloting on said question has been reported by the Clerk of the City of Englewood as: 4,573 in favor; 2,347, opposed.

Now, therefore, be it resolved by the Council of the City of Englewood, in accordance with the directive set forth in said adopted referendum question, as follows:

1. The City of Englewood by this Resolution hereby petitions the United States Congress for the removal of all American troops from Southeast Asia and for the termination of all appropriations for the prosecution of American involvement in the war in southeast Asia no later than December 31, 1971;

2. The Resolution adopted June 15, 1971, hereinabove referred to, directing the placement of the referendum question on the ballot, is hereby annexed hereto and made a part hereof by reference;

3. The Clerk of the City of Englewood shall forthwith transmit a certified copy of this Petition by Resolution, together with the Resolution amended, to United States Senators Harrison A. Williams, Jr., and Clifford P. Case, and to Representative Henry Helstoski, with the request to each of them that he spread this Petition and Resolution annexed hereto upon the Senate and House records respectively.

4. The Clerk of the City of Englewood shall forthwith transmit a copy of this Resolution to each United States Senator; to each member of the House of Representatives; to the President of the United States; and to each member of the Joint Chiefs of Staff of the United States of America.

JOSEPH T. CARNEY,
City Clerk.

BILL TO SUSPEND DUTIES ON FLUORSPAR

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DUNCAN. Mr. Speaker, I have today introduced a bill to suspend the duties on fluorspar until the close of January 1, 1974.

The mineral fluorspar is essential, among others, to the aluminum and plastic industries; no other satisfactory substitutes are known. The three major uses of fluorspar are, as a fluxing agent in steel production, as a raw material in the manufacture of hydrofluric acid, which is used to make aluminum, and in making fluorcarbon chemicals, used in plastics. Demand has completely outpaced the production capacity of the domestic fluorspar industry with the result that U.S. self-sufficiency has declined from about 70 percent in 1950 to only 20 percent in 1970. Currently, the domestic producers can supply only 200,000 to 250,000 tons per year; consumption in 1969 was 1,357,000 tons.

Obviously, the American industries that must have fluorspar in their operations are dependent on imported ore. This dependence will increase in the future as demand is expected to continue to increase and the U.S. producers are lodged on a production plateau because of their limited, low-grade reserves.

In spite of the U.S. dependence on imported fluorspar, the tariff schedule applies duties ranging from $2.10 to $8.40 per long ton on imported fluorspar. The effect of the tariff is, of course, to increase the cost of fluorspar from overseas sources. This inflationary aspect of the Tariff Schedule appears to be clearly unnecessary as the U.S. fluorspar producers can sell every ton they produce at premium prices because of the freight advantage they enjoy in serving the domestic market.

Suspension of the customs duties on imported fluorspar would greatly aid domestic industries using this material, with resulting benefit to the Nation's economy generally. At the same time, the loss of revenue from the suspension would not be significant. Duties on fluorspar imports in 1969 totaled approximately $4,700,000.

RUSSIAN-BUILT AIRCRAFT LANDS AT NEW ORLEANS INTERNATIONAL AIRPORT WITHOUT PERMISSION

(Mr. CAFFERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CAFFERY. Mr. Speaker, on Tuesday, October 26, 1971, a Russian-built aircraft, carrying 19 Cubans and a crew of three, landed without permission at the New Orleans International Airport. The 19 Cubans were ostensibly sugarcane technologists who were coming to New Orleans to attend a meeting of the International Society of Sugar Cane Technologists. In September the Cubans attempted to get visas to come into this country. In accordance with American policy and agreement of the Organization of American States, the Cubans were denied visas. The flight of this airplane from Havana to New Orleans and the mysterious events surrounding it constitute one of the more baffling international incidents in recent times. Many questions have been asked but no questions have been answered.

The scant information available is revealing. The facts show that a flight plan was sent by international teletype out of Havana on Tuesday morning, October 26, indicating a Cubana Airlines flight from Havana to New Orleans. The usual flight-plan information was included and, although the departure time was given as 9 a.m., no day of departure was given. Since regulations of the Federal Aviation Administration provide that 5 days notice must be given for flights of aircraft of Cuban registry, Havana was contacted concerning the day of departure. However, Havana would give no further information.

What events transpired after this is not known. What is known is that this Russian-built aircraft next appeared within the Air Defense Identification Zone without further warning or notice and, apparently, without interception.

The plane landed in New Orleans, and by all reports the Cubans received courteous and hospitable treatment during their stay in New Orleans. On Friday, November 5, the plane left New Orleans with the Cubans and returned to Havana.

While the question of whether the Cuban technologists should have been permitted to attend the New Orleans conference may be subject to debate—that is not the principal issue involved, and for purposes of this discussion it is not an issue at all. My concern is that despite the enormous amount of money this country spends on the military system, despite our supposedly advanced and up-to-the-minute detection equipment, a Russian-built plane flew into the United States on October 26 without interception. It is evident that when the message came over international teletype out of Havana on the morning of October 26, it was not known and there was no way of knowing whether the airplane in fact carried 19 Cubans and a crew of three to attend a sugar meeting, or whether it contained other things and for other purposes.

The event is over and it might be said no harm was done. But I think the American people have the right to know why this incident was permitted to occur and to receive a thorough accounting from all agencies of the U.S. Government, including the Department of Defense. I do not charge that there has been gross neglect

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or dereliction of duty on the part of anyone or any agency. I do respectfully submit that the American people are entitled to nothing less than a full and lucid explanation.

THE POLITICS OF FOREIGN AID LEGISLATION

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, because of the great attention which is presently being paid to the issue of foreign aid, I take this time to make the following analysis of what I should like to call "the politics of foreign aid legislation."

In offering this analysis, for whatever value it may be for my colleagues, I should note that it is almost entirely based on a paper I prepared for a conference on foreign policy held in May-June 1971.

Although I have made no effort to revise my analysis as a result of the recent vote of the Senate to kill the Foreign Assistance Authorization Act for fiscal 1972, I do not believe that I would in any way change the analysis.

THE POLITICS OF FOREIGN AID LEGISLATION

Mr. Speaker, foreign aid has become an outcast of American public policy. The politics of the passage of foreign aid legislation through Congress has become ritualized, with friends offering perfunctory support and enemies grudgingly accepting its inevitability. As early as 1965, Theodore H. White could describe the politics of foreign aid as "mechanical orthodoxy." Today, the Agency for International Development—AID—chief administrator of bilateral aid projects, maintains one of the lowest profiles in Washington. AID understands the meaning of "benign neglect."

The current condition of foreign aid is, for several reasons, embarrassing. First, the aid program is the heir of such proud ancestors as the Marshall Plan, Point Four, and the Alliance for Progress. This tradition, which once represented unique American leadership in the world, is slowly expiring from a general lack of interest.

Second, the decline of the U.S. foreign aid effort comes at the very time that a series of blue-ribbon commissions is urging the developed countries to allocate even more resources to the developing world. While varying in emphasis and coverage, all these reports conclude that the economic condition of most developing countries is getting worse. And all agree further that the rich countries have an obligation to do more to assist the poor countries.

Third, although the United States still contributes half the world's foreign aid, both its absolute contribution and its percentage of the world's contribution are declining. On the last day of 1970, Congress cleared a bill appropriating $1.94 billion in fiscal 1971 for foreign economic and military assistance, $200 million for foreign military credit sales and $394 million for other foreign assistance programs such as the Peace Corps and various international financial institutions. Almost simultaneously, the U.S. gross national product passed the trillion-dollar mark. The economic and military assistance figure represents only about 40 percent of the sums appropriated at the height of the Marshall plan. The United States gave over 2 percent of its gross national product for Marshall plan programs at a time when per capita income here was only 40 percent of its present level. The trends in most other donor countries are in the opposite direction. France already devotes a larger share of GNP to foreign aid than any other major country. Support for overseas development is growing significantly in West Germany, Japan, and, to a lesser degree, in the United Kingdom. In such smaller countries as the Netherlands, Canada, and the Scandinavian lands, the recent support for foreign aid has reached remarkable proportions.

The sharp contrast between the foreign aid commitments of the United States and those of other developed countries brings into focus the current political situation of the American foreign aid program. To some extent, the political difficulties of foreign aid are not of its own making. The war in Vietnam can hardly be overemphasized in this context. It dominates the foreign policy debate; absorbs the time and energies of top policymakers. At home, social unrest in the cities and other pressing domestic problems inspire a compelling urge to "put our own house in order first." These factors help explain why foreign aid is now regarded as a kind of sideshow—ignored by those normally concerned with foreign policy and disparaged by many of those dedicated to domestic reforms.

But not all the political problems of foreign aid can be attributed to external circumstances. The proponents of a substantial foreign aid commitment have failed in the past few years to develop a clear rationale and then to communicate it to a wider audience. It should occasion no surprise then that many in Congress now believe that AID is politically inept, the program ineffective, its underlying assumptions and implications basically unexamined and that nobody in the executive branch really cares much any longer about the future of foreign aid. Those of us who have traditionally supported foreign aid find ourselves increasingly ill at ease in justifying our positions. Indeed, our support is no longer automatic and, consequently, the politics of foreign aid has recently become an even more discouraging exercise for its friends. In attempting to explain why support for foreign aid has declined, I shall focus on the roles played by public opinion, pressure groups, the executive branch and the Congress.

PUBLIC OPINION

Mr. Speaker, both Congress and the executive branch perceive the American public, if not hostile to, certainly not enthusiastic for, foreign aid. This simple fact helps to explain why the aid program has recently been subjected to dozens of limiting amendments, blue-ribbon reviews, reorganizations and a series of rationales designed to appeal to differing political viewpoints.

Public opinion surveys show that only about two out of five adult Americans in recent years have said they have "heard or read" about our foreign aid program. Less than one adult out of ten has guessed within a billion dollars of the correct figure for the overall annual aid budget. Similarly, very few have known that foreign aid constitutes less than 5 percent of the Federal budget, or far less than 1 percent of the GNP in recent years. Majorities have grossly overestimated the real amount of resources devoted to foreign aid. Even smaller minorities—3 to 7 percent—know that most economic assistance in recent years has been in the form of loans rather than grants, or that it has been concentrated in relatively few recipient countries, or that most of it is provided in the form of American-made goods and services rendered by American experts. The surveys show that considerably fewer Americans hold personally significant opinions of foreign aid than on such domestic issues as race relations, inflation, medicare, and welfare.

On the whole, survey results have shown slight majorities in favor of aid as a general proposition. Small, but quite consistent, majorities of between 51 and 58 percent have on successive occasions since 1958 said they were "in general for foreign aid"; between 31 and 35 percent have replied that they were "against it." Above-average support for aid is found among professionals, white-collar workers, the better educated, and the higher salaried; in other words, those groups in society which are generally the most active and articulate in promoting their political views.

What these surveys suggest is the existence of a substantial incongruity between the reality of the public mood toward foreign aid and Washington's perception of it. Indeed, I would suspect very few Congressmen get much mail at all these days on foreign aid. Even as long ago as 1963, President Kennedy said:

> Contrary to repeated warnings, in the seventeen years since the Marshall Plan began, I have never heard of a single politician who lost his office by supporting foreign aid.

The importance of public opinion—or rather the lack of it—toward the issue of foreign aid is somewhat less puzzling; because the public is generally apathetic, its influence on the politics of foreign aid is negligible. With the public removed from the battle, the foreign aid struggle is largely confined to Washington.

PRESSURE GROUPS

Mr. Speaker, in the past, issue-oriented pressure groups were occasionally able to give significant support to the passage of foreign aid legislation. In general, however, these groups were organized with the tacit approval and direction of the White House. The National Conference on International Economic and Social Development, originally established in 1952 as the Point Four Information Service, operated during the late Eisenhower and early Kennedy years as a forum for those interested in improving

the foreign aid program. The Citizens' Committee for International Development was incorporated in the District of Columbia during the summer of 1961 with the sole purpose of securing the passage of that year's Foreign Assistance Act. Leaders of this group included former Senator Herbert H. Lehman and Oveta Culp Hobby, publisher of the Houston Post and first Secretary of Health, Education, and Welfare. Along with the usual range of lobbying activities, the Citizens' Committee held meetings which provided President Kennedy with the opportunity to make important speeches on foreign aid.

Today, pressure groups are remarkably passive factors in the political universe of foreign aid. To take just one indicator, there does not exist in the area of foreign aid—as there does in education—an umbrella lobbying organization that might be called the Emergency Committee for the Full Funding of Foreign Aid Programs. To the extent that proforeign aid pressure groups are active now, they seem to lack coordination and often work at cross purposes. Where lobbying takes place, it is likely to concern a particular aspect of the foreign aid bill which an interest group will want modified. Lobbying activity of this type is facilitated by the fact that Congress authorizes general programs and makes appropriations by function. Groups can thus support only those segments of the program in which they have a particular interest. Farm organizations can support food assistance, while business organizations can lobby for loans to exporters or investment guarantees. Such support, narrowly focused on one aspect of the legislation, has tended to be passive or even negative with respect to other parts of the program in which the organization has a lesser stake. One reason the functional rather than the country approach is taken is fear of uninhibited lobbying of Congress by representatives of developing nations.

Such groups as the League of Women Voters and some national church-related organizations have consistently supported the foreign aid program. The churches, in particular, have reflected the evangelical strain in the American character and have emphasized the moral imperatives of foreign aid, that is, the rich should help the poor. But the support from these kinds of groups tends to be uneven—both in intensity and in geographical distribution.

The national labor unions have long been identified with a strong pro-aid position. In testifying for the 1961 Foreign Assistance Act, Andrew J. Biemiller, chief lobbyist for the AFL–CIO, said that foreign aid funds should be considered "investments rather than expenditures" for the U.S. security. In a January 1971 policy statement, the AFL–CIO reaffirmed its support for "a substantial foreign aid program to help developing nations achieve decent conditions of life and labor and thus to help world peace and freedom." Labor's support, however, has lately been somewhat more rhetorical than real. Even this support has been largely based in the national leadership rather than in the rank-and-file local unions. A Congressman need not be overly clever to conclude that foreign aid is not a vital issue for labor.

Corporations with a direct economic self-interest in aid have recently been distracted by other issues, such as trade and the nationalization of foreign holdings which are felt to be more pressing concerns than foreign aid. It should be noted that American business reaps immediate economic benefits through the expenditure of foreign aid funds to purchase American-made goods. For example, AID recently informed me that Indiana manufacturers received AID-financed orders totaling almost $7.4 million during the last 6 months of 1970. During the same period, AID-financed purchases worth $287,459 in my own third congressional district.

Business leaders are now involved in a number of groups that give general support to foreign aid. The Committee for Economic Development is such a group, but it is known more perhaps for the quality of its research and educational activities than as a spokesman for business as an interest group. The Overseas Development Council, formed in 1969 and supported by the heads of powerful international corporations, is a similar group that brings together various individuals from Congress, business, law and the academic world for discussions on foreign aid. The so-called foreign policy establishment, made up largely of senior business people and academics, and epitomized by the membership of the prestigious Council on Foreign Relations, has been a positive constituency. But its central interests tend to be East-West and Atlantic relations, so that it has not, by and large, accumulated the development expertise necessary to weigh in heavily on operational questions. In any event, these groups are not organized in such fashion to assist Congress on programmatic issues.

The organizations which are most active in behalf of business, the Chamber of Commerce, and the National Association of Manufacturers, both support aid in principle, but that support is tempered by concern over the size of the Federal budget and philosophical opposition to "unnecessary Government spending." In short, fiscal policy takes precedence over foreign policy, and neither organization usually lobbies strenuously for an aid bill.

Finally, it should be noted that American universities have been traditional sources of support for foreign aid. Over the years, universities have received numerous grants to provide overseas technical assistance. They have also educated thousands of new leaders for the developing countries. But even more important, they have consistently supplied the liberal rationale for foreign aid. Liberal support now seems to be eroding and Vietnam is the chief catalyst in the process. A growing segment of the intellectual community views foreign aid as simply another variety of American imperialism. A smaller group questions the underlying assumption of foreign aid: that economic development is good per se.

To summarize, many organized groups still give nominal support to foreign aid. Yet both the making of policy and the relevant discussion and debate on policy come almost exclusively from the formal decisionmakers in Congress and the executive branch.

EXECUTIVE BRANCH

Mr. Speaker, President Nixon's Task Force on International Development—chaired by Rudolph Peterson, former president of the Bank of America—submitted its final report in March, 1970. It was the 14th such group since 1950. From the Marshall plan's Economic Cooperation Administration in 1948 to the establishment of AID in 1961, there have been eight successive foreign aid agencies and ten different aid administrators. Thus, President Nixon's proposal to split AID into smaller units is really little more than another chapter in an old story.

The reports and the reorganizations are partly responses to changing ideas as to how aid policy should be conducted. But they are also in large measure designed to indicate that the President and his advisers are keeping a close watch on the program. More generally, the periodic changes in the foreign aid apparatus are external manifestations of an ultimately more important factor in the politics of foreign aid: the central role played by presidential leadership. If he is willing to spend some of his political capital, a committed President can overcome the obstacles of public apathy, ineffective pressure groups and congressional deadlock in determining the final form, substance and direction of the foreign aid program.

Presidential rhetoric has remained remarkably constant since the end of the Second World War. Every post-war President has endorsed by principle of foreign aid. Presidents, of course, have a much broader constituency than do Members of Congress. A President must concern himself with other nations; a Congressman need not. Foreign aid is one of the many levers that Presidents can use to influence foreign policy, and thus they are usually reluctant to have foreign aid reduced or limited in any substantial way. Nevertheless, external circumstances have affected the degree of commitment and the effectiveness of Presidential leadership over the years. For example, Truman and Eisenhower had, generally speaking, a relatively easy time with Congress and the country on the issue. They enjoyed bipartisan support for their foreign policies, and the early success of the Marshall plan insured a period of goodwill for other foreign aid ventures. Johnson and Nixon, on the other hand, have been absorbed by the problems of Vietnam and social unrest. Thus, they have never really had the opportunity to exert full Presidential leadership on the foreign aid issue.

In retrospect, Kennedy's term stands out as an unusual period in which a President's personal sense of priorities coincided with the political needs of the foreign aid program. Kennedy monitored the creation and progress of AID. The two administration officials most closely identified with the early work on AID were among his inner circle of advisers and had ready access to the Oval Office—

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a privilege that often gives a rough indication of a President's priorities. The President did not hesitate to make personal appeals to the pivotal Senators and Congressmen. Press briefings on foreign aid developments were frequent. Coalitions of pressure groups were organized through the White House. At critical points in the political process, Kennedy and his staff would seek out unusual political levers.

In 1961, for example, the congressional relations staff of the State Department requested the assistance of the Postmaster General's office in trying to secure support for the Foreign Assistance Act. It was thought that the lure of postmasterships might be enlisted in behalf of foreign aid. The Kennedy administration was also mindful of the Congressman's relations with his constituents. The White House requested considerably larger funds for foreign aid than it expected the Congress to provide. Such requests were founded on the theory that Congressmen would find it easier to explain votes for aid if they could tell constituents that they had voted for less than the executive branch sought. Such explorations into the realm of practical politics were common—and they paid off. Foreign aid funds reached post-Marshall plan highs, and morale at AID was at a commensurate level.

The favorable political atmosphere for aid soon turned sour. In 1965, the year of escalation in Vietnam and riots in Watts, President Johnson announced his "barebones" budget for foreign aid. This amounted to a reversal of the previous strategy of seeking far more money than Congress would probably allow. The new strategy was successful the first year: Congress cut the budget request only 6.9 percent. But in succeeding years, the old patterns of budget cutting reappeared, eventually reaching an alltime record of a 3.9 percent cut for fiscal 1969.

Despite this trend, Johnson and Nixon continued the strategy of asking for low foreign aid budgets. Without apology President Nixon described the 1970 foreign aid budget recommendations as "the lowest proposed since the program began." The lack of interest in foreign aid showed in other ways. President Johnson, the master arm-twister, failed to twist many arms in behalf of foreign aid after the watershed year of 1965. President Nixon's staff expert on foreign aid is reportedly an obscure official who works out of Henry Kissinger's basement. The current AID Administrator is seldom seen on Capitol Hill; indeed, he has been out of the country on occasions when Congress was considering important aspects of his agency's legislation. By way of contrast, many of us will recall numerous discussions on Capitol Hill during the early sixties with previous AID Administrators.

Friends of AID in Congress would actively counsel with the director of AID and his congressional relations staff on ways to win more votes. Yet another indication of the waning interest in foreign aid is the fact that President Nixon delayed commenting on the Peterson Report for over half a year after it landed on his desk. The conclusion seems inescapable: the rhetoric continues, but the excitement—and commitment—are gone.

CONGRESS

Mr. Speaker, the problems of foreign aid are greatly aggravated by the nature of the legislative struggle: an all-out annual confrontation, incorporating everything from basic philosophy to operating details, in which the proponents must be mustered and induced to declare themselves at a dozen distinct crisis points in the legislative process each year.

Yet somehow AID has managed to survive. The coalition in Congress supporting AID is composed, broadly speaking, of three parts: First, a few members of both Houses—perhaps 25 Congressmen and 20 Senators—who are relatively junior or of middle-level seniority and who have a thorough understanding and appreciation of aid programs; second, another small group, generally conservative, who still view economic aid as an effective short-term tool in worldwide confrontation with the Communist world; and third, a much larger group who do not know much about development but harbor vague humanitarian concerns about world poverty.

Steady erosion within this last group is causing many of foreign aid's present difficulties. The pull of domestic priorities—particularly the decline of the cities and the existence of crushing poverty within the borders of the United States—is felt strongly by the members of this group. They are also influenced by the "Fulbright Thesis," which holds that American economic aid has come to carry an implicit commitment of other forms of assistance, including direct military intervention, in times of emergency. Senator FULBRIGHT's ideas are particularly persuasive in the Senate, where he heads the Foreign Relations Committee. In addition, there is a growing feeling among the members of this largest group of aid supporters that foreign aid does not make much of a difference in determining the kind of world that is emerging. As the current situation in Pakistan seems to confirm, domestic tranquility in recipient countries is certainly not assured by massive doses of foreign aid.

The erosion is perhaps most evident in "liberal revolts," a new phenomenon in which traditional liberal supporters of foreign aid are found voting against the program. Philosophical disenchantment with the goals, costs and operations of aid plays a large part in the revolts. Many liberals are particularly upset by the mixing of economic and military assistance in the same legislative package. But political tactics also play a part. With a Republican President in office, liberal Democrats are in an excellent position to test the President's influence with congressional Republicans who have traditionally criticized liberal Democrats for supporting "foreign giveaways." Thus, on November 20, 1969, a foreign aid authorization bill passed the House by a vote of only 176–163.

The position of the liberal Democrats, who had always supported the bill in the past, was clearly dependent on the position of the Republican leadership. The intent of the liberals was to support the bill only if there was substantial Republican support. The Democratic liberals proceeded to withhold their votes and in many cases voted against final passage. All the while, they closely followed the votes of the Republican Members. When it became apparent that the bill was in grave danger of defeat, a sufficient number of Republicans finally changed their votes—and thereby attracted some of the dissident Democrats. It was a lesson to the Republican leaders: They could continue their ritual opposition to foreign aid only at the cost of embarrassing a Republican President. Indeed, many Republicans were forced to vote for the program for the first time.

I voted against final passage of that bill because I specifically objected to an amendment—which was attached on the House floor without any committee hearings whatsoever—adding $54.5 million for jets to Taiwan. This money was not originally budgeted by the President; the minority leader was openly in league with the amendment's sponsor, a conservative Southern Democrat; and the White House was silent on the matter. Those of us who had traditionally supported foreign aid resented the fact that our support was obviously being taken for granted.

More generally, I objected to the increasingly military coloration of the economic assistance program. My own position has changed substantially since my first term in Congress. In one of my first constituent newsletters, I proudly reproduced a letter to me from President Eisenhower thanking me for my efforts in rounding up 28 Democratic Congressmen to support his mutual security program. As an indication of how attitudes and circumstances change, there are now many who argue that it would be good politics for a Republican President to separate economic and military aid—as indeed President Nixon is proposing to do.

In a Democratic administration, where a Kennedy or Johnson has a core of some 150 liberal Democrats as supporters of foreign aid, and must pick up his additional votes from conservative Democrats and Republicans, it may be shrewd politics to combine military and economic aid. The military aid will attract the extra votes. But this tactic does not apply to an administration headed by a Republican who has only a moderate interest in foreign aid as a foreign policy tool. Such a President would attract for a separate economic bill his 150 progressive Democrats and he could add, for an overwhelming majority, the 80 to 100 Republicans who will vote on the basis of loyalty to their administration. For his military aid appropriation, he could rely on the traditional Republican-Southern Democrat coalition—again, a substantial majority. Combining military and economic aid endangers economic aid rather than helps its prospects, since the combination angers enough liberal Democrats to threaten foreign aid's precarious majority. The same pattern would hold true in the Senate, where Senator FULBRIGHT and his Democratic colleagues are distressed by the military uses of economic assistance and the ways in which foreign aid to developing countries has been followed by U.S. military involvement in them.

The internal structure and processes of Congress also tend to work against foreign aid. Congress does much of its work through its committees and subcommittees. Consequently, expertise on specific issues is usually found among the members of the committees that handle each issue. Committee and subcommittee chairmen—by present definition those committee members who have the greatest seniority and exposure to the committee's area of jurisdiction—enjoy great prestige and power throughout the legislative process. Restraints on chairmen exist largely in the process of "anticipatory bargaining," or the possibility of being overridden on the floor.

The executive branch must also indulge in "anticipatory bargaining." Thus, the administration, in submitting the annual foreign aid bill, must calculate how large an authorization bill the House Foreign Affairs Committee and the Senate Foreign Relations Committee will accept, and how much the authorization will be cut by the Subcommittee on Foreign Relations of the House Appropriations Committee. Under the U.S. Constitution, the House originates all revenue bills. Thus, the Foreign Operations Subcommittee has first crack at the foreign aid appropriation bill. This subcommittee, under the chairmanship of Congressman OTTO PASSMAN of Louisiana, generally takes an adversary stance with regard to the foreign aid money bill. On the other hand, the two authorizing committees—House Foreign Affairs and Senate Foreign Relations—customarily serve as protagonists for foreign aid. The Senate Appropriations Committee is essentially an appellate body for decisions taken in the House. An examination of the amounts recommended by the House Foreign Affairs Committee and the House Appropriations Committee indicates that the latter almost invariably recommends a lower amount than the former. To cite just a few recent years: for fiscal year 1967 Foreign Affairs authorized $3.6 billion, but Appropriations cut the figure to $3.1 billion; for fiscal 1969 Foreign Affairs recommended $2.4 billion, but Appropriations allowed $2.3 billion. In both years, the final amount was closer to the lower figure.

The spring 1970 issue of the journal, Public Policy, carries an article entitled "The Price of Power: The Appropriations Process for Seventeen Foreign Affairs Agencies." The author, David Howard Davis, provides an overview of the appropriations process for various foreign affairs agencies during the years 1957–68. Davis' analysis ranks the agencies according to two characteristics—esteem and growth. Congressional esteem for an agency is a measure of the degree to which Congress supports the agency in its request for funds. Mr. Davis writes:

> It is a measure of the agency's good relationship with its subcommittee, cultivated through good liaison, responsiveness to subcommittee wishes, and the conservative, businesslike mode of operation so prized by Congress.

Growth is a measure of external support, a measure of the degree to which factors in the agency's environment act on Congress, creating demands for the services of that agency.

In order to establish the relative ranking of the 17 foreign affairs agencies in terms of congressional esteem, Davis averaged the percentages of the annual appropriations cuts over the 12-year period. He also averaged, over the same period, the annual percentage rate of increase in the agencies' final appropriation to arrive at a relative ranking of the agencies' growth. Davis found that AID ranked dead last in congressional esteem, averaging an annual appropriations cut of 19 percent. AID also ranked 15th out of the 17 foreign affairs agencies in the growth index, attaining only a 5.9 percent average annual rate of growth. This occurred in spite of the fact that AID enjoyed some of its best years during the same time span.

The highest esteem was accorded the three international banks, largely because they are more businesslike, are theoretically capable of making profits and thus fit more neatly into the prevailing scheme of congressional values. Congress is oriented toward the cost side of the governmental equation. The President, on the other hand, is usually more concerned about fulfilling needs and goals. This, in capsule form, is the essence of the tension between Congress and the President—and the final reason for the decline of foreign aid. Congress tends to demand hard indicators of success. AID can supply in the nature of its operations only soft rationales and vague faith. In the face of a multitude of competing forces, confidence in AID and its goals is slowly withering away.

OUTLOOK

Mr. Speaker, several months ago, President Nixon submitted a reorganization package that could have considerable long-range significance. The President wants to separate military assistance from economic aid. He proposed a limited "untying" of aid, which means that recipient countries could use our funds in the competitive world market instead of only in the United States. He also endorsed the concept of channeling more of our development resources through multilateral agencies. He further proposed to vest our remaining bilateral development aid in three new institutions that would replace AID: an International Development Corporation, which would be concerned primarily with the means of transferring capital resources; an International Development Institute, which would be concerned with the creation and transfer of technology and the application of new ideas in the developing world; and an Overseas Private Investment Corporation—established in 1970—which would assist in the channeling of private investment.

The President's desire to separate military assistance from economic aid is likely to become just as important an issue as the level of aid. The Senate Foreign Relations Committee, while generally in favor of separating military and economic aid, will undoubtedly be concerned about the President's failure to define more carefully the relationship between the two types of foreign assistance and the extent to which one type might or should substitute for the other. As Setting National Priorities: The 1972 Budget, a Brookings Institution publication authored by Charles L. Schultze and others, puts it:

> Either form of assistance would contribute resources that the—recipient—country could then use in accord with its own priorities. But the form of assistance is in fact not neutral. Military assistance is often designed to maximize domestic expenditures for defense, and economic assistance to maximize domestic expenditures for development. This means that our military and economic development programs can have competitive effects—which underlies the importance of reaching the right decision about the mixture of these kinds of aid.

The President's other proposals may—because the two major congressional authorizing committees are at loggerheads with each other on some of these issues—also encounter difficulties. Untying aid may please most of Senator FULBRIGHT's Foreign Relations Committee, but will probably prove unpalatable to its House counterpart. The proposal for more multilateral aid will be received enthusiastically by the Senate committee, but Members of the House committee are reluctant to allow more aid funds to escape their jurisdiction. After all, foreign aid is one of the few pieces of major legislation that is considered by the House committee. This same committee is dubious about dividing AID into smaller units. It is particularly worried about coordination problems that might arise from such a split authority.

The President's proposals will not be addressed during the first session of the 92d Congress. Members of the House Foreign Affairs Committee say they need more time to consider the proposals than the waning fiscal year permits. The prevailing sentiment in both Houses is now heavily in favor of a simple 1-year extension of the existing foreign aid authorization. It would appear, then, that the foreign aid program will continue to muddle through the next year or so on the firm foundation of pure inertia.

NEW APPROACHES

Given the demoralized state of foreign aid politices, it is not surprising that aid proponents are now devoting a great deal of time and discussion to devising new means of stimulating interest in the program. For purposes of discussion, I submit that all conventional efforts to generate popular enthusiasm and form new pressure groups are doomed to failure for as long as the Vietnam war continues and domestic needs are left unsatisfied. Two recent approaches, however, deserve more than cursory attention.

First, Edward K. Hamilton, writing in the March 1970 World Affairs, develops the thesis that public and Congressional support for development aid is highly sensitive to the structures and criteria created to monitor and administer it. Hamilton would rely for support on the strength of the "long-term factors which tend to make internationalists of Americans." He believes that these factors will express themselves in a new wave of political support only if the U.S. Govern-

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ment commits itself to "building an international aid system which provides reasonable assurance that development aid will be circumscribed, internationalized, and made clearly contingent on local efforts." To this end, Hamilton would internationalize everything in the foreign aid process: funds, decisionmaking, and implementing operations. Thus, the only rationale for foreign aid would be satisfying the needs of the recipient countries—and most emphatically not the short-term political objectives of the donor countries. Congress and the public would be spared the conflicting claims and rationales that undermine support for the program at the present time. Above all, the American commitment would be clearly labeled "long-term."

The second approach is authored by Samuel P. Huntington and it appears in the first two issues of the new journal, Foreign Policy. Huntington flatly rejects the notion that foreign aid is an end-in-itself or a good-in-itself. He writes:

> The discussion of policy, should be in terms of, first, the desirability and importance of the goals which may be served by foreign aid, and, then, the relative effectiveness of aid as against other means for achieving those goals. By focusing on these purposes, the supporters of foreign aid would shift the focus of attention from a means which has politically negative connotations to ends which are more likely to have positive appeal.

Huntington insists that the United States has real short-term goals of supporting certain governments, rewarding certain kinds of behavior and solving certain problems. Huntington emphasizes selectivity and believes that foreign aid should be the servant of American interests and not a remote concept that has little meaning for Congress or the public.

Mr. Speaker, although I have not attempted in these remarks to comment on the foreign aid legislation now under consideration in Congress, I hope that this analysis will be of some interest as Members of the House and Senate—and the administration—seek to shape a foreign aid program that will command the support of both Democrats and Republicans and serve the best purposes of the United States.

NOTE

In preparing this paper, I have relied heavily on Edward K. Hamilton's excellent article, "Toward Public Confidence in Foreign Aid," March 1970, World Affairs v. 132: 287–304. The following books and articles also proved useful:

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CONCERN OVER DENIAL OF RIGHTS TO SOVIET JEWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, from the earliest days of man's presence on this earth, he has been free to travel from one part of a continent to another and across the seas to another continent.

The great and small nations came into being by the migration of tribes, by the movement of the oppressed and dissatisfied who sought to express their particular beliefs and skills or to escape the tyranny of masters.

America, the Nation of greatest opportunity and greatest riches, was founded by emigrants. The countries of Southeast Asia abound with citizens of Chinese ancestry. And in this contemporary time, Jews from the corners of the globe are transforming the arid desert into the lush productive nation of Israel, a country where their ancestors had their beginning.

From Europe, the Russians have moved to Siberia where industrial centers now dot a former wasteland. Europeans have carved new nations across the face of South America. Since World War II, a whole new family of nations have sprung up in Africa.

Thus, in recent and modern times, the right to leave one's country and to seek a new life somewhere else has not only continued but has accelerated. And because distances have shrunk with advances in transportation, greater numbers of people not only leave but are able to return to countries of origin with greater ease and speed than ever before.

Historically and by law, then, the right to leave one's country and return is probably one of the more basic human rights aside from the right of life itself.

Viewed in this context, the refusal of the Soviet Union to allow its citizens, particularly the Jews, to emigrate, is contrary to the flow of history and the very tenets of the Soviet Constitution which legally, recognizes the right of all nationalities within the U.S.S.R. borders to cultural freedom and the concept of national determination.

In the United States, we strongly believe that the right to leave and to return is the constituent element of personal liberty, and thus all Americans—except those under some kinds of legal due process—may leave and may return for good reason or bad or no reason at all.

It is important to note that both authoritative world opinion and international law consider the right to leave and to return as a fundamental human right binding on all governments.

I do recognize that there are universal reasons for refusal to grant an exit visa or reentry. But it is significant that the Soviet Union has assumed binding and even contractual obligations under international law to fulfill the right to leave and to return.

It proclaims itself to be a strong adherent to the universal declaration of human rights. The Soviet Union also actively endorsed a 1963 U.N. Declaration on Racial Discrimination which called upon "every state" to observe "fully and faithfully" the provisions of the universal declaration of human rights.

It has also voted for and signed two binding international treaties which carry specific reference to the right to leave—the International Convention on the elimination of racial discrimination and the covenant on civil and political rights.

The Soviet Union has also obligated itself to observe the humanitarian principle that specific consideration be given to the reunion of families. In 1960, Mr. Khrushchev stated that:

> We do not object to the reunion of any persons if this is what they want.

In some instances, the Soviet Government goes beyond the principle of the reunion of families and endorses the principle of the reunion of entire ethnic groups. Spaniards, Russo-Poles, and Greeks have been allowed to emigrate.

It is regrettable, however, to note that while the Soviet Government has been sympathetically disposed to the principle of reunion of families and to some ethnic groups, it has made an exception in the case of Soviet Jews. This inconsistency between general policy and their position with regard to Soviet Jews is certainly a cause for embarrassment to the Soviet Union.

We have a situation, then, in which the Soviet Union has obligated itself in a variety of ways to international standards which require it to give effect to the right to leave and return; and, it has accorded recognition to the humanitarian principle of reunion of families and even ethnic groups. Hence, it appears that those who seek to emigrate to Israel and elsewhere are merely seeking implementation of this legal and moral right.

It has always struck one as the height of hypocrisy for the Soviet Union to profess, before the world, adherence to the United Nations Declaration of Human Rights and then systematically to harass and persecute Jewish minorities within the Soviet Union and to officially announce on October 6 that emigration is a privilege, a decision to be made by the state, not a right of the individual. This pronouncement reemphasized how far the Soviet Union has progressed in terms of spiritual and human progress.

As of last week, the flow of Jews from Russia to Israel, which was almost nonexistent, has now become steady. I feel that the moral outcry raised by those of us around the world who cherish freedom has been probably the greatest contributing factor to this new flow of Jewish emigrants from Russia.

However, we must not forget that many of these new arrivals have paid for their Soviet exit permit dearly, with several years of persistent effort, short jail terms and forfeiture of much of their worldly goods.

Many of the emigrants in absorption centers in Israel live alongside American families who have brought with them, tax-free, virtually all the material comforts of home.

The difference in the respective situation of the new emigrants is striking.

Furthermore, the Russian Jews—unlike their western counterparts—know that they have made a final break and cannot return if they do not like Israel.

Not unlike other victims of the repressive Soviet policy is Mrs. Rita Gluzman, who testified today before the Europe Subcommittee of Foreign Affairs.

A former citizen of the Soviet Ukraine, she emigrated to Israel in February 1970.

Before that time, and since, she made repeated but unsuccessful efforts to win Russian permission for her husband, Yakov Gluzman, to emigrate from Russia to join her, and their infant son he has never seen, in Israel.

Mrs. Gluzman first brought her tragic problem to my attention during a trip I made to Israel late this past summer.

Since September 1969, more than 2 years ago, she and her husband have sought, to no avail, an exit visa for Mr. Gluzman.

At the beginning of those efforts, Soviet authorities hinted to her that, if she left Russia with her parents and sister, it would be easier for her husband to receive an emigration permit.

At the time she left the Soviet Union with her family, she was with child. On October 10, 1970, she gave birth in Tel Aviv to a son, Ilan.

Again, her application for Yakov to leave Russia was refused by Soviet authorities on August 6, 1971. On that occasion, Russian authorities explained the visa was refused because she had concealed her August 1969, marriage.

Yet, her marriage is noted on her passport, is officially registered in Russia and her husband gave officials his written consent for her emigration to Israel.

More recent attempts to obtain an exit visa for Mr. Gluzman have also been turned down.

In effect, the Soviets are denying the very basic right of a husband, his wife, and their child to live together.

How important is Mr. Gluzman to the Soviet Union? Although he is a university trained biologist, he is now working as a carpenter.

We can only guess how many human beings are tragic victims of such Soviet policy.

We do know that these victims are worthy of whatever help we and others in the world can provide them; that in the name of humanity, we must assist them.

Because the Soviet Union has not adhered to this basic and internationally recognized human right to leave one's country and return, it is my belief that this Nation's regretful actions should be brought to the attention of not only the people of the United States but to the whole world at the United Nations.

Hence, I have submitted a concurrent resolution which was drawn up with the concurrence of our Ambassador to the United Nations, George Bush. It presently has 48 cosponsors. If passed, it will be indicative of the attitude of the American people in clear terms toward this important moral issue and will express the unequivocal desire of the Congress to have this issue brought before the U.N. General Assembly by Mr. Bush.

Mr. Speaker, I will reintroduce my bill again next week and I invite all my colleagues to join me on this resolution which was endorsed today before the Europe Subcommittee by the American Jewish Conference on Soviet Jewry. I also testified before this subcommittee this morning and urged prompt action on my resolution in order that this issue be brought to the attention of the United Nations with the full knowledge that the U.S. Congress is vitally concerned.

At this point, I include a list of the cosponsors. I also think it is fitting to include the very scholarly report, "The Treatment of Jews in the Soviet Union," prepared by Barbara Mihalchenko of the Library of Congress.

LIST OF COSPONSORS TO HOUSE CONCURRENT RESOLUTION 426

Mr. Lent, Mr. Goldwater, Mr. McDade, Mr. Brasco, Mr. Addabbo, Mr. Whitehurst, Mr. Thompson of Georgia, Mr. Morse, Mr. Crane, Mr. Keating, Mr. Halpern, Mr. Thone, Mr. Young of Florida.

Mr. Frenzel, Mr. Koch, Mr. Rhodes, Mr. Ellberg, Mr. Rangel, Mr. Archer, Mr. Blackburn, Mr. Terry, Mr. Bob Wilson, Mr. Wyatt, Mr. Railsback.

Mr. Michel, Mr. Harrington, Mr. Derwinski, Mr. Baker, Mrs. Hicks, Mr. Forsythe, Mr. Ryan, Mr. Hogan, Mr. Buchanan, Mr. Coughlin, Mr. Rosenthal, Mr. Schwengel, Mr. Mazzoli.

Mr. Biaggi, Mr. Pike, Mr. Yates, Mr. Helstoski, Mr. McCloskey, Mr. St Germain, Mr. Denholm, Mr. Podell, Mr. Kuykendall, Mr. Steele Mr. Vander Jagt.

THE TREATMENT OF JEWS IN THE SOVIET UNION: A LOOK AT THE CURRENT SITUATION

(By Barbara Mihalchenko, Foreign Affairs Analyst)

I. INTRODUCTION

Discrimination against Jews continues in the Soviet Union, although more than fifty years have passed since the Bolshevik Revolution, with its promise to full equality for all citizens. The treatment of Jews in the Soviet Union must be considered within the framework of the Soviet nationalities policy. This policy, reflected in Communist Party directives, the Soviet Constitution, and public law, is based on the ideological acceptance of the concept of national self-determination, and on the legal recognition of the right of all nationalities within Soviet borders to cultural freedom. Actual Soviet policy clearly violates these principles, by denying certain ethnic-cultural rights to the Jews, generally accorded to other nationalities.

From the earliest times, Jews in Russia have been subjected to various pressures and forms of discrimination. In the hands of the Russian rulers, anti-semitism often proved to be a convenient instrument of policy. During the Tsarist era laws and crude, degrading police measures culminated in widespread pogroms directed towards the Jews and other national minorities, the ultimate goal being assimilation. Under the Tsars, Jewish life survived but the personal prejudice of the ruler also survived—culminating at the beginning of the twentieth century in events which foreshadowed Stalin's anti-Jewish campaign.

The printing and publication of the fabricated "Secret Protocols of the Elders of Zion," an anti-Jewish document which appeared in 1903, was not only another attempt to discredit the Jews, but at the same time was designed to justify the pogroms which had become a characteristic feature of Tsarist Russia in the late nineteenth and early twentieth centuries.

Anti-semitism continued to be a political tool with which the Tsars aimed to convince the uneducated Russian worker and peasant that the Jew, not the ruler, was the cause of all their problems. The turmoil and insecurity which the Russian state found itself in following the Tsar's downfall greatly contributed to the fact that anti-semitism almost entirely disappeared. As the Bolsheviks took power, they were confronted with a basic problem—the majority of the people were against them. In order successfully to take and maintain control, Lenin and his associates needed to mobilize the support, sympathy, and cooperation of all the national minorities. The majority of the Jews, as well as other national minorities, were reluctant at first to support the Communists. However, soon after the civil war broke out, attacks on the new regime by former Tsarist generals who mobilized armies to fight the Bolsheviks resulted in savage attacks and pogroms on Jews in the Ukraine and White Russia. Nearly a quarter of a million Jews were killed or maimed, events reminiscent of the worst days of Tsarist rule. As a result, more and more Jews turned to the Bolsheviks for protection.

II. DEVELOPMENT OF SOVIET POLICY TOWARD JEWS

The October Revolution brought emancipation and equality to most of the Jews. Restrictions to which Jews had been subjected for centuries under the Tsars had been removed from the Russian statute books by the Provisional Government after the February 1917 Revolution. After the October 1917 Revolution Lenin granted full citizenship rights to the Jewish minority and abolished close to 500 anti-Jewish laws and restrictions which had accumulated during the Tsarist years.[1] Political equality was also granted, with all offices in the Party and government open to Jews. Lenin's policies clearly offered new hope to the Jews, who energetically began to contribute to the building of the new society.

Within a few years of the Revolution, Soviet Jewry established an impressive network of Jewish schools and cultural institutions which became a valuable asset to the development of Jewish culture in the post-revolutionary period in Soviet Russia. However, the ultimate goal of the new system was basically the complete assimilation of all minorities, and the dream of a new life for the Jewish minority within the new economic and political framework was, in fact, doomed. The Jews, as well as all other nationalities, came to realize that to enjoy the new emancipation they would have to abandon most of their traditions, customs, and beliefs. The old patterns of Jewish life were particularly regarded as "bourgeois evils" with "counter-revolutionary influence."[2]

Although the official policy immediately after the Revolution was to counteract anti-semitism, it was in fact, half-heartedly carried out and was considered but a means to an end. The degeneration of the spirit of the Revolution and Lenin's death marked the beginning of a more difficult period for Soviet Jews.

Under Stalin the Soviet people suffered tremendously, yet the Jews, being a religious

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as well as a national minority, appeared to fare even worse. After Stalin's abortive attempt in 1936 to resettle most Jews into an autonomous Siberian province, Biro-Bidjan, followed by the 1937–1939 purges of progressives in the Party who could have countered the discriminatory policies, Stalin turned specifically against the Jews. During World War II, when Stalin needed to rally the support of all segments of the population, the pressure was somewhat eased; however, it was again intensified during the post-war years. Stalin implemented his own solution to the Jewish problem during the post-war years by abolishing all Yiddish cultural institutions and executing or imprisoning Jewish leaders, in the expectation of accelerating the assimilation of the Jews. Stalin's death in 1953 marked yet another end of an era, yet the Jewish problem persisted and was inherited by the new Soviet leadership.

The Jewish problem in the Soviet Union is a dilemma for the leadership-politically and ideologically the Jewish minority does not fit into the socialist framework on which the Soviet system is based. Official recognition and/or acceptance of the problem would negate the very principles on which Soviet system professes to be based—hence, a vicious circle results. Forced assimilation of the Jews creates and promotes Jewish consciousness which in turn forces the leadership to intensify further its program of assimilation. Two alternatives appear obvious: mass emigration or successful assimilation. The former would again point to the failure of the "ideal" society, the latter appears impossible. Consequently, the current treatment of the 2.15 million Jews in the Soviet Union has taken a different, but not a new twist. The series of trials which began in December 1970, justified by accusations of attempted hijacking, were but a renewed attempt to deal with a basic, historical problem. However, the trials, reminiscent of the Stalinist show trials, have not had the effect desired by Moscow. Rather than solving the problem or silencing the Jewish voice within the Soviet Union, the trials and the publicity they received abroad have resulted in the embarrassment of the Soviet Union in the international sphere. International public outcry against the harsh sentences handed down in the December trial pressured the Soviet Union into commuting the death sentences. However, the mere fact that the Soviet Union is not insensitive to international public opinion has not necessarily alleviated the discrimination to which Soviet Jews are currently subjected.

The ban on emigration, which does exist despite Soviet insistence to the contrary and despite the April–May upsurge in emigration, is in fact not discriminatory. Non-Jewish citizens are also not allowed to leave the country. Consequently, emigration of Jews poses a dual problem—if Jews are allowed to leave, then others within the Soviet Union will demand the same right.

Although current discrimination against the Jewish population in the Soviet Union cannot be compared to the open persecution during the Tsarist or Stalinist periods, the extent to which anti-semitism is promoted and exploited by the state should be viewed with concern. However, it should also be viewed within the historical context and within the political-ideological framework of the Soviet system, rather than as blatant, indiscriminate persecution directed at a religious-cultural minority group.

III. CURRENT SITUATION: THE TRIALS

Officially promoted discrimination against the Jews has in recent months culminated in a series of trials which have, however, been justified by Soviet officials as being legitimate actions against individuals for attempted hijacking, for promoting anti-Soviet activities, and for various other crimes included in the Soviet Criminal Code.

The Leningrad case and those which subsequently followed were based on the alleged attempt by twelve persons to seize an airplane on June 15, 1970, at Leningrad's Smolny Airport. Initial reports by Western Jewish organizations indicated that on the date of the airport arrests, between 30 and 40 persons were also arrested in Leningrad, Moscow, Riga, Odessa, and Kishinev. Charged with banditry and treason under the Soviet Criminal Code, the twelve arrested at the airport were to go on trial on November 20, 1970. However, at that time the trial was postponed until December 15th for unknown reasons.

A. The December 1970 trial

Jewish sources claimed that the defendants were being prosecuted solely for their desire to go to Israel. A month after the arrests, Viktor Boguslavsky, a Russian Jew, accused the Soviet Secret Police (KGB) of concocting the plot in order to round up innocent Jews.[3] Mr. Boguslavsky made his charge in a letter sent on July 8th to the Procurator General of the Soviet Union. The following day he too was arrested by the KGB. The details of the arrests, compiled by Mr. Moshe Decter, director of the Jewish Minorities Research of Hadassah, offers the most comprehensive description of the incident. (See appendix A).

Although Soviet officials claimed that the trial was fair and just, foreign correspondents were not allowed at the trial and, consequently, information regarding details was rather sparse. However, the Washington Post reported on December 18, 1970, that most of the twelve defendants on trial had pleaded guilty and admitted to working for "international Zionism." Later reports indicated that only eleven persons were on trial in Leningrad, while the twelfth was understood to be a former army officer who would later stand court martial.

Mark Dymshits, Eduard Kuznetsov, Iosif Mendelevich, Silva Zalmanson, Izrael Zalmanson, Anatoli Atman, and Leib (Ayre) Khnokh were charged with committing crimes under Articles 64 (statutes 1–15), 93 (statutes 1–15), 70, and 72. Article 64 covers high treason, listed in the Soviet Criminal Code as the first of the "especially dangerous crimes against the State." The maximum penalty is death. Article 93 covers stealing state property, with a maximum penalty of death. Article 70 covers "anti-Soviet agitation and propaganda," another "especially dangerous crime against the State." Maximum penalty is seven years imprisonment plus five years of exile. Article 72 is "organizational activity directed to commission of especially dangerous crimes against the State and participation in anti-Soviet organizations," punishment in accordance with Articles 64–71 [4] (See appendix B for an account of the trial as compiled by the Washington Post).

Yuri Fyodorov, Alexei Murzhenko, Boris Penson, and Mendel Bodnia were charged with the violation of Articles 64 and 93, but not with 70 and 72. All of the defense lawyers were hired by relatives, except for Dymshits, whose lawyer was appointed according to Article 49 of the Criminal Code.

The beginning of the trial immediately generated public protest abroad which greatly increased when the sentences were announced on December 25, 1970. Eduard Kuznetsov and Mark Dymshits were given the death sentence while the other nine were sentenced to various terms of imprisonment. Under Soviet law the defendants were able to appeal the sentences to the Supreme Court of the Russian Federation.

B. World reaction and the appeals

Widespread foreign criticism of the death sentences was rejected by Tass, the Soviet news agency, which dismissed the protests as "another fit of anti-Soviet hysteria."[5] Tass charged that "Zionist circles in the U.S." were "interfering in Soviet judicial procedure." Furthermore, Tass maintained that the foreign protest was instigated by Israel in order to divert attention from its "sinister doings." However, although rejecting American and Israeli protest and criticism, Tass did not mention the criticism expressed by the French and British Communist parties.

Worldwide reaction and protest included appeals by the French and Belgian governments to have the death sentences commuted as well as a personal appeal by Secretary of State Rogers to Soviet Foreign Minister Andrei Gromyko, urging that the harsh sentences be reduced. Acting with unusual speed, the Soviet government scheduled a hearing for December 30th on appeals from the eleven defendants. Reports indicated that the speed-up in the procedure which normally takes 6–8 weeks was an attempt to end the worldwide furor which had been created.

Foreign newsmen were again barred from the hearing but Andrei Sakharov, founder of the Russian H–bomb and co-founder of a Committee for Human Rights, attended the hearing and appealed to President Nikolai Podgorny for clemency. Tass continued to publish articles vigorously defending the harsh verdicts. Daily World, the American Communist newspaper, published an editorial which said that evidence at the Leningrad trial points clearly to a widespread plot whose direction came from outside the Soviet Union. The eleven were recruited by Tel Aviv and the CIA not to fulfill their alleged yearnings for Israel but as cannon fodder in the war against the Soviet Union and socialism.[6]

The Supreme Court of the Russian Republic of the Soviet Union commuted the death sentences of Eduard Kuznetsov and Mark Dymshits on December 31st. The sentences of the two men were reduced to 15 years each, the maximum possible under Soviet law. Three other co-defendants had their sentences reduced. The decision came less than a day after Generalissimo Franco had commuted death sentences passed on six Basque nationalists. Tass said the court had taken into account that the hijacking had been averted in time, although previous commentaries had stressed that planning and committing a crime were one and the same under Soviet law. Kuznetsov was sentenced to serve under "especially strict" conditions, which means only one visit a year from relatives, a subsistence diet of approximately one-third the calories required to maintain good health, and no food parcels from outside his labor camp. Dymshits was sentenced to "strict regime" which is somewhat less severe than "especially strict." [7] The decision of the court was received with relief by leaders and concerned people throughout the world.

The court martial of Lt. Vulf Zalmanson, a Soviet officer and the twelfth person arrested at the Leningrad airport, reportedly began on January 5, 1971. He was charged with treason and desertion.

Usually reliable Jewish sources reported that the Leningrad military court had on January 7th sentenced Lt. Vulf Zalmanson to ten years in prison on charges of participating in the alleged June 15th hijacking attempt. No other details were available.

The second trial of nine Jews allegedly connected with the June 15th hijacking attempt which was to have begun on January 6th was suddenly halted ten minutes after it began. Court officials said the trial had been postponed because one of the defendants had influenza.[8] Western Communist correspondents suggested that Soviet authorities were seeking to avoid another outcry abroad which arose during the Leningrad trial. The nine defendants had reportedly been charged under Articles 70 and 72 of the Soviet Criminal Code.

Jewish sources in Leningrad reported that the defendants had criticized restrictions on Jewish cultural life and had sought to emigrate and, consequently, were being tried for these "offenses." However, Soviet authorities charged the defendants with Zionist activities.

C. The Brussels Conference and Soviet reaction

The indefinite postponement of the trial, which had originally been scheduled to begin on January 6th, seemed, at the time, to indicate a softening or some uncertainty in Soviet policy regarding its Jewish minority. However, the Brussels Conference on Soviet Jews, scheduled for February 23–25, was vigorously attacked by Tass and Novosti, the two Soviet press services. Both charged that the Conference was but another anti-Soviet provocation. On February 19, 1971, the Soviet Union made a formal protest to the Belgian government for allowing the Jewish Congress to be held in Brussels.[9]

The Communist newspaper, Pravda, warned Soviet Jews that anyone espousing Zionist beliefs would automatically become an agent of international Zionism and hence an enemy of the Soviet people.[10]

The article, the last in a series, warned Soviet Jews who had criticized Soviet policy and who had openly agitated for emigration rights to curtail their activities.

Apparently frustrated by the charges of discrimination and the escalated campaign at home and abroad for emigration rights and cultural-religious freedom, the Soviet Union during March initiated a new strategy. While more Jews, particularly the activists, were allowed to leave, the harassment of Western correspondents was stepped up, and public attacks on world Zionism continued. The harassment of American newsmen was viewed essentially as retaliation for anti-Soviet activities of Jewish extremists such as the Jewish Defense League in the United States. However, Soviet authorities appeared to be using these circumstances as an occasion to intimidate foreign correspondents from contacts with members of the Soviet dissident political community.[11]

In an attempt to counteract the wave of protest abroad regarding Soviet policy towards its Jewish minority, Soviet authorities staged a one-day conference of Soviet Jewish congregations on March 23, 1971. The conference adopted a resolution reflecting official policy:

We decisively reject the claim of international Zionist circles and the rulers of Israel to speak in our name and to defend us against nonexistent wrongs or restrictions.[12]

D. The New Emigration Policy

Contrary to fears of an emigration crackdown following the 24th Party Congress, the Soviet Union continued to allow an unprecedented number of Jews to emigrate. Reliable Western sources announced that Soviet authorities had permitted more than 1300 Jews to emigrate to Israel in April. Although the exact figures were not officially disclosed, Western diplomats estimated that about 50 left in January, 130 in February and 1,000 in March. The total of 2,500 for the first four months of 1971 indicated a substantial increase when compared to the previous average of an estimated 1,000 per year. In 1969 an estimated 2,000 left; in 1970 an estimated 1,000 were allowed to emigrate.[13]

Recent reports based on U.N. sources quoting Israeli data, show that the number of Jews leaving the Soviet Union has declined somewhat from the April peak of 1,300 but continues at a comparatively high level. Different estimates showed that from 700 to 1,000 left in June, 300 to 500 in July, and 400 to 600 in August. The unofficial figures indicate that total arrivals in Israel for 1971 are already in the 5,100 to 5,700 range.[14] Western correspondents in Moscow give slightly lower figures based on diplomatic sources there. However, those figures reflected the number of exit visas rather than actual departures and may not have given an accurate picture of emigration from the Baltic states and the Ukraine.

E. The May 1971 Trials

The trial of nine Jews, which had been postponed since January, began on May 11th in Leningrad. Tass said that eight of the nine defendants, charged with organized anti-Soviet activity, were accomplices of the twelve hijackers convicted in December. The long-delayed trial was restricted to people with special passes and, again, foreign newsmen were not allowed to attend the court proceedings. Most of the defendants had been arrested around the middle of June. At the same time, nine Jews were awaiting trial in Kishinev and four in Riga on similar charges connected with the hijacking attempt.

Although not specifying the charges, Tass said two of the defendants, Gilya I. Butman and Mikhail L. Korenblit, were charged with treason under Article 64–A of the Soviet Criminal Code. According to Tass they were actively involved in preparing the seizure of the plane and had financed the hijacking operation. Tass later said that when Butman testified he admitted involvement in organizing the criminal group. Tass further quoted Butman as stating that the group used their contacts with foreign tourists for communication with Israeli authorities so as to coordinate with them the criminal actions.[15]

Tass identified the seven other defendants as: Vladimir O. Mogilever, Solomon G. Dreizner, Lassal S. Kaminsky, Lev N. Yagman, Viktor N. Boguslavsky, Viktor Shtilbans, and Lev L. Korenblit. Most of the defendants had actively pressed for Jewish cultural-religious rights and had expressed the desire to leave the Soviet Union.[16]

Tass's second day of trial coverage included charges of alleged Israeli involvement in the hijacking attempt. This report explicitly linked the on-going trial and the December trial with Israel and Zionism. On the fourth day of the trial Tass reported that four Soviet Jews (Mark Dymshits, Eduard Kuznetsov, Silva Zalmanson, and Iosif Mendelevich) convicted last December had taken the stand as witnesses. Reports from usually reliable Jewish sources in Moscow said that Mendelevich and Kuznetsov had actually refused to testify on the grounds that the trial was illegal.[17]

Reliable sources further reported that Dymshits told the Leningrad court that he was solely responsible for organizing the hijacking attempt and that the defendants on trial had nothing to do with the attempt. However, Tass in its report on the testimony implied that Dymshits actually implicated Butman and Korenblit in an earlier hijacking plan, although it did not in fact say that he had done so.[18]

On May 18th the New York Times reported that the Soviet prosecutor had asked for prison terms ranging from one to ten years for the nine defendants. According to Tass the length of the terms sought reflected the nature of the activities of the defendants, their personality, and the extent of their regret. The prosecutor summed up the case for the Government on May 17th after the last thirteen of a total of 46 prosecution witnesses had been called. The court expected to hear witnesses for the defense the following day. Tass reported that the prosecutor contended that Butman and Korenblit had recruited participants and supplied money for the preparation of the hijacking plot and that testimony in the five-day-old trial had supported these charges.

Defense lawyers asked for milder sentences than those demanded by the prosecutor and said one of the extenuating circumstances was that the nine "pleaded guilty of criminal offenses and felt repentance." [19] The Tass report quoted lawyer Yuri Buzinier as saying that all the defendants were "pawns in the speculative gamble" played by Israeli Zionists.

On May 20th the Leningrad court found the nine defendants guilty of organized anti-Soviet activity and sentenced them to prison camp terms ranging from one to ten years. The most severe sentences were given to Gilya I. Butman, ten years, and Mikhail L. Korenblit, seven years, who were charged with playing leading roles in the hijacking attempt. The other sentences were: Lassal S. Kaminsky, 5 years; Lev N. Yagman, 5 years; Vladimir O. Mogilever, 4 years; Solomon G. Dreizner, 3 years; Lev L. Korenblit (Mikhail's brother) 3 years; Viktor N. Boguslavsky, 3 years; and Viktor Shtilbans, 1 year. Tass said Dreizner, Korenblit, and Mogilever had received lesser sentences because of their "sincere repentance and the fact that they helped uncover the crime at the stage of preliminary investigation." [20]

On May 24th four Soviet Jews went on trial in Riga, the capital of Soviet Latvia. They were charged with organizing anti-Soviet activity, i.e., printing and circulating anti-Soviet material, and transmitting anti-Soviet propaganda to Israel. Unlike the Leningrad nine, the four in Riga were not charged with having participated in the June 15th hijacking plot. Tass said the four were accused of fabricating and circulating slanderous materials for subversive purposes and attempting to draw their acquaintances and colleagues into their activities hostile to the State.[21]

The indictment charged that the four defendants had taken part in anti-Soviet propagandizing together with those convicted in Leningrad. The defendants, facing sentences of up to seven years, were identified as Boris Maftser, Arkady Shpilberg, Mikhail Shepshelovich, and Ruth Aleksandrovich. Prior to the trial Jewish sources identified the four as Jewish activists who were extremely interested in Jewish culture and traditions and had sought, unsuccessfully, to emigrate to Israel.

On May 27 the Latvian Supreme Court found the four defendants guilty and sentenced them to prison camp terms ranging from one to three years. The sentences were: Arkady Shpilberg, 3 years; Mikhail Shepshelovich, 2 years; Boris Maftser and Ruth Aleksandrovich, one year. The sentences were milder than those handed down in the earlier trials, presumably because the Riga defendants had not been charged with participating or assisting in the June 15 hijacking plan.[22]

F. U.S. protests against the trials

Although the United States had thus far refrained from issuing a condemnatory statement regarding the series of trials, following the Riga trial State Department spokesman Charles W. Bray called the trials "abhorrent" and a violation of human rights. He said, ". . . the continued practice of trying people in secret is a matter of deep concern to us." [23] Bray noted that the court proceedings had been closed to impartial observers and that foreign newsmen had been refused admission to the court. Bray continued by saying:

"It would appear that the defendants were tried for an action or actions which are not even considered a crime in most countries. . .

We trust that the Soviet government realizes that Americans of every political persuasion and religious belief deplore the persecution of persons simply for studying a foreign language, in this case Hebrew, and for running materials off on a mimeograph machine, as seems to have been the case judging from Tass reporting of the Riga trial." [24]

Bray further stated—

These trials and previous trials at Leningrad are abhorrent on three grounds: the denial of the right to an open trial; persecution of people for their beliefs; the denial of the right of people freely to leave any country and to travel or reside abroad in the country of their choice." [25]

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The statement concluded—

"We deeply regret these deprivations of fundamental human rights, rights that should not be in question anywhere in the second half of the 20th century."[22]

The State Department statement prompted a response from the USSR Ministry of Foreign Affairs, which reprimanded the United States for interfering in the internal affairs of the Soviet Union.

The Soviet statement further maintained that the U.S. statement regarding Soviet justice encouraged the criminal activities of extremist elements which in no way aided the improvement of relations between the two countries. The statement concluded by saying that such acts, for which the United States was fully responsible, could only complicate these relations.

G. The June 1971 trial

On June 21st Jewish sources reported that nine Soviet Jews accused of anti-State activities went on trial in the Moldavian capital of Kishinev. The sources reported that all nine were charged with the violation of Article 70 of the Moldavian Criminal Code, which prohibits "agitation or propaganda carried on for the purpose of subverting or weakening Soviet authority."[27] The defendants were identified as David Chernoglaz, accused of being the ringleader; Anatoly Goldfeld, Hillel Shur, Alexsandr Galperin, Harry Kirshner, Arkady Voloshin, David Rabinovich, Abraham Trakhtenberg, and Semyon Levit.

On June 30th the Moldavian Supreme Court found all the defendants guilty of anti-Soviet actions and sentenced them to prison camp terms ranging from one to five years: Chernoglaz, 5 years; Goldfeld, 4 years; Galperin, 2½ years; Shur, Kirshner, Voloshin, Levit, and Trakhtenberg, 2 years; and Rabinovich, one year.[28] The Kishinev trial was believed to be the last in the series of trials which had begun with the December Leningrad case.

IV. CONCLUSION

Although the series of trials appears to have ended, for the present at least, the Jewish question continues to be an explosive problem for the Soviet leadership. Rather than silencing the Jewish voice within the USSR, the trials inspired a re-awakening of Jewish consciousness and determination. They have boldly petitioned for emigration rights, staged sit-ins, and publicly demonstrated for civil liberties. Soviet policy towards its Jewish minority appears, at present, to be clouded by confusion and uncertainty, yet the desire to keep things as quiet as possible remains prevalent.

Official suppression of the Jewish movement, or other forms of dissent which have increasingly become obvious, would involve a return to Stalinist methods, which could ultimately threaten the regime itself. It appears that the leadership prefers to use established legal procedures together with persuasion and coercion, not only to intimate Jewish activists, but to also justify its policies to the international community.

The most recent appeal by Soviet Jews was made by more than 900 Jews who signed an open letter to Soviet leaders and to the United Nations General Assembly. The appeal, representing Jews from 20 Soviet cities and towns, was believed to be the most widely coordinated signature-collection effort since the campaign for emigration rights began. The petition clearly expressed the frustration felt by a minority group which had been unable to affect a change through legitimate channels:

The issue of free emigration of Jews to Israel is not a new one and is becoming more acute with every passing day. More and more Jews realize and then openly proclaim that they do not want to assimilate with other peoples. This movement has its historical causes and cannot be stopped by administrative directive.

Here, in the USSR, where there is no Jewish culture or national life, where there are no Jewish schools or Jewish theaters, where there is no possibility of studying Yiddish or the culture and history of the Jewish people, where the unprecedently low percentage of Yiddish-speaking Jews is declining from day to day, in this country there is no future for us as Jews.[29]

Thus, despite official denial of a Jewish problem, the obviously unhappy situation continues. While other nationalities have schools and publications in their own languages, Yiddish and Hebrew are banned.

Anti-semitism as a historical problem has, over the centuries, become institutionalized within the Soviet system and, therefore, exploited and manipulated by the leadership. Soviet policy in the Middle East since the Six Day War of June 1967 could not fail to have repercussions on the nation's Jewish population. The anti-Israel campaign in the Soviet media quickly acquired anti-semitic overtones, although always being officially justified as anti-Zionist. As time went on, other uses were found for this reservoir of anti-semitism. It could conveniently be used as a weapon in the struggle against liberal forces at home and in the satellite countries, particularly Poland and Czechoslovakia. While suppression of Jewish culture and the intimidation of the Jewish minority has taken its toll over the years, recent events do offer hope not only to Soviet Jews, but to other dissident groups as well.

The fact that Jewish emigration is steadily continuing offers encouragement that Soviet-Israeli relations may be improving, and that international protest and criticism may have had an influence on Soviet leaders. However, despite persistent official denial the basic problem, complicated by historical circumstances, remains and the Soviet system and leadership continue to deny cultural-religious rights to the Soviet Jewish minority.

FOOTNOTES

[1] Cang, Joel. The Silent Millions. New York: Taplinger Publishing Company, 1969, p. 61.
[2] Ibid., p. 66.
[3] London Times, November 13, 1970.
[4] Washington Post, March 27, 1971.
[5] Washington Post, December 27, 1970.
[6] New York Times, December 31, 1970.
[7] Washington Post, January 1, 1971.
[8] Washington Post, January 7, 1971.
[9] New York Times, February 20, 1971.
[10] Ibid.
[11] Christian Science Monitor, March 4, 1971.
[12] New York Times, March 24, 1971.
[13] New York Times, May 1, 1971.
[14] Washington Post, September 11, 1971.
[15] New York Times, May 12, 1971.
[16] Ibid.
[17] New York Times, May 15, 1971.
[18] New York Times, May 17, 1971.
[19] Washington Post, May 19, 1971.
[20] New York Times, May 21, 1971.
[21] New York Times, May 25, 1971.
[22] New York Times, May 28, 1971.
[23] Washington Post, May 28, 1971.
[24] Ibid.
[25] Ibid.
[26] Ibid.
[27] New York Times, June 22, 1971.
[28] New York Times, July 1, 1971.
[29] New York Times, September 21, 1971.

[From the CONGRESSIONAL RECORD, vol. 116, pt. 29, pp. 39431–32]

APPENDIX A

ANTI-JEWISH ACTIVITY IN THE SOVIET UNION

(By Hon. WILLIAM G. WHITEHURST, of Virginia, Tuesday, December 1, 1970)

Mr. WHITEHURST. Mr. Speaker, recently, Mr. Paul Grob, cantor of the Gomley Chesed Synagogue in Portsmouth, Va., contacted me about the anti-Jewish activity which has been occurring in the Soviet Union. Mr. Speaker, news of this has appeared from time to time in our press, but I think that my colleagues would be interested in knowing some of the particulars. Therefore, I would like to insert in the RECORD a fact sheet prepared by Mr. Moshe Decter, director, Jewish Minorities Research of Hadassah. It is clear that the Soviet Government is pursuing anti-Semitic tactics all too familiar to those of us who remember what happened in Nazi Germany during the 1930's.

MOSHE DECTER, DIRECTOR, JEWISH MINORITIES RESEARCH

November 20 is the date set for the trial of thirty-one Soviet Jews, held incommunicado since their arrests within the past five months—in Leningrad, Riga, Kishinev and Thilisi. They face the imminent prospect of trials that can lead to life imprisonment, and even the death penalty.

Substantial circumstantial evidence, filtered out to the outside world by close relatives and friends, leaves no reasonable doubt that, regardless of the legal specifications that may be brought at the trials, the thrust will be anti-Jewish.

In the context of recent Soviet policy, it is clear that the immediate purpose of the arrests and trials is to crack down on the many Jews who persist in an overt struggle to leave the USSR for Israel in order to maintain their Jewish identity. The long-range objective is to crush the renascent Jewish national consciousness of scores of thousands of Soviet Jews.

All the available information leads inexorably to the conclusion that a high-level policy decision was made last spring to undertake a nationally coordinated, concerted KGB (secret police) action, employing entrapment and provocation and involving large-scale searches and seizures, confiscation of printed matter, interrogations and, ultimately, forced confessions that can be used as incriminating evidence in public trials.

THE KNOWN FACTS

At 8:30 A.M. on June 15, 1970, nine Riga Jews were apprehended at Leningrad's Smolny Airport as they were walking from the terminal to an airplane. That afternoon, *Vecherny Leningrad*, the main afternoon paper, carried a brief announcement of the action, indicating that the arrestees had planned to hijack the plane out of the country. The same item appeared the next day in *Leningradskaya Pravda*, the main morning newspaper.

The Soviet press, as a matter of policy, rarely publishes crime news. When it does, it is not until long after the event. The fact that these papers carried this report within less than twenty-four hours suggests that they were alerted in advance.

That the Jews were arrested while walking on the tarmac is a sure sign of the KGB's advance information and planning.

The probability of a meticulously coordinated police provocation is enhanced even further by virtually simultaneous actions that day.

At about the same hour of the arrests at Smolny Airport, eight Leningrad Jews were arrested in a wide variety of places: at work in the city; at home in the city or in the suburbs; on assignment some distance from the city; on vacation as far away as Odessa.

Later that same day, searches were carried out in dozens of homes in Moscow, Leningrad, Riga and Kharkov; scores of people were detained for questioning and then released. Since June there have been more arrests—in Tbilisi, Kishinev, Riga and again in Leningrad, brining the number of Jewish political prisoners to thirty-one.

The Man in Charge of the Leningrad case, involving at least the prisoners from Riga and Leningrad itself, is the chief city prosecutor, S. Ye. Soloviov, well known to the Jews there as an anti-Semille.

In 1961 he served as a judge in the city's criminal court and as such presided over two notorious trials involving Jews. In one case he handed down a series of death sentences for alleged economic crimes to a group of Jews. In another, he sentenced Leningrad synagogue leaders, including an 84-year old, to lengthy prison terms on charges of subversion, which actually reflected their determined efforts in behalf of Jewish religious observances and their active contacts with synagogue leaders in other cities.

These arrests and the forthcoming trials must be understood within the context of official Soviet policy as reflected in the massive winter propaganda campaign during January-March 1970, against Israel. What began as a concerted nationwide chorus of condemnation of Israeli policies swiftly degenerated into a hysterical anti-Jewish campaign. Articles, editorials, pamphlets, letters to the editor, caricatures, publications in the thousands all over the country, assumed an anti-Semitic tone and character.

This campaign was an expanded, intensified version of the by-now common Soviet line that views Judaism as the ideological progenitor of Zionism, and Zionism as the equivalent of Nazism the whole amalgam being a key element in the doctrine of "International Zionism" as the Jewish ally and servant of Western imperialism—an updated and refurbished adaptation of the Tsarist "Protocols of the Elders of Zion."

A number of Jews, both prominent and obscure, were pressed into service in this campaign, to proclaim their undying loyalty, reiterate official apologetics about Soviet Jewry, sign attacks on Israel and world Jewry, and brand as betrayal the desire to leave for Israel. The crescendo was reached at a press conference in Moscow by fifty-two prominent Jews on March 4.

What must have shocked the authorities, however, was the instantaneous reaction of dozens of Soviet Jews, as individuals and in groups, in Moscow, Leningrad, Riga and elsewhere, repudiating the assertions of the "housebroken" Jews and their right to speak for all of Soviet Jewry. It was very likely in reaction to this unprecedented audacity that the regime decided to turn the screw.

Of course, the authorities have been aware for some time of the growing frustration and resentment of many Soviet Jews at the discrimination they face in higher education and employment, the anti-Jewish propaganda, the hostility they and their children frequently encounter in the streets, at school or at work, and, not least, at the deprivation of their cultural rights, foreclosing the possibility of perpetuating their heritage and maintaining their group identity.

Furious with official anti-Semitism and inspired by the spiritual self-regeneration which Israel represents to them, a rising generation of young Soviet Jews rejects this situation as intolerable. Tens of thousands have applied for exit permits to emigrate to Israel. With few exceptions, their applications have been turned down time and again.

Several hundred of the more daring have circulated appeals and open letters addressed to the Soviet leadership, to the UN Human Rights Commission, to Secretary General U Thant, the International Red Cross, President Nixon, Israel Premier Golda Meir—in effect, to the public opinion and conscience of the world. Such letters have been written by individuals and by groups in every major Soviet center.

This wholly unanticipated upsurge of pride and national consciousness has manifestly so upset the regime that it has resorted to severely repressive measures. The striving for Jewish National identity has begun to be treated like something criminal or anti-social, with procedures of intimidation used against many who applied for exit permits: interrogation by the KGB; expulsion from the Party; suspension from university; discharge from employment; general social hostility at work.

In order better to understand what may happen in the course of the forthcoming trials it must be borne in mind that there are basically two separate groups involved in what may be called the Leningrad case—the dozen Riga Jews arrested at the Leningrad airport, and the ten residents of Leningrad proper.

We know precious little about their fate. No indictment has been issued. The prisoners have been kept incommunicado. Relatives, friends and even potential defense counsel have been forbidden to visit them. They have evidently been under intensive interrogation. But we have no precise idea of how they will be charged. And it is only possible to speculate on the circumstances in which they will be tried and the penalties they are likely to incur.

About the Riga group, relatives and friends living abroad but in the closest feasible contact at home believe that the Riga Jews were entrapped by an informer planted in their midst. Privy to their passionate desire to emigrate to Israel and their repeatedly frustrated applications for exit permits, this informer gained their confidence by posing as a pilot offering to fly them out of the country in the airplane he claimed he was normally scheduled to pilot on a routine domestic flight.

About the Leningrad group, we have just learned in a letter from the wives, mothers and sisters of eight of them that police interrogators informed the women that the prisoners have confessed to anti-Soviet activity and attempted hijacking of a plane. The women make it clear that they believe these were forced confessions.

Conspiracy to hijack an airplane falls under the category of treason and is subject to the death penalty. Even knowledge of such a plan and failure to report it can be subsumed under a charge of anti-Soviet activity and entail life imprisonment. Attempted hijacking can be treated as a plot to damage or steal State property and may also entail the death penalty.

Forced confessions raise the ominous specter of show trials. Such staged trials, using forced confessions as decisive evidence are, tragically, no innovation in Soviet law and public life, even though they have been in disuse in the last few years. This sad tradition goes back to the early 1920s and culminates, of course, in Stalin's notorious Great Purges of 1936–40.

Directly relevant to our present concern is the case of Boris Kochubiyevsky, the first of the Soviet Jewish political prisoners—a 33-year-old electronics engineer of Kiev, in the Ukraine, Kochubiyevsky was arrested in December 1968, tried and sentenced to three years of forced labor for "anti-Soviet slander" at a trial in May 1969. His slander consisted of a public defense of Israel in June 1967, his assertion in September 1968 that Babi Yar, the ravine outside Kiev where the Nazis slaughtered scores of thousands of Jews in 1941, was a tragedy for the Jewish people, and his statements, in a letter to the Soviet leadership in November 1968, that it is impossible for him to live as a Jew in the USSR since there are no Jewish educational, cultural or communal institutions there—and consequently he wants to go to Israel.

The accusations against Kochubiyevsky were in essence identical with the regime's real grievances against its present Jewish prisoners. His trial is a harbinger of gloom for the trials to come.

The Kochbiyevsky Case is documented in *Khronika*, the consistently reliable "Chronicle of Current Events" disseminated by the Soviet democratic underground, which brings segments of the trial transcript as well as reports by persons present at the trial. (All the documentation is available from the Conference on the Status of Soviet Jews. 16 East 85th Street, New York, New York 10028.) In brief, the following picture emerges:

Some prosecution witnesses were provocateurs; several repudiated the testimony they gave at the preliminary hearings; one admitted to having given his testimony while drunk; others said they testified under pressure from the KGB interrogators.

The general public was kept out of this "public" trial; friends and even relatives were not permitted inside the court room. At the same time, the KGB packed the court room with its own members, as well as with members of the "public" who were mobilized and instructed to act hostile to the defense. Witnesses were sent out of court immediately after their testimony, which is against Soviet legal procedures. The judge acted more like the prosecutor than the prosecutor himself, allowing himself to indulge in remarks that were hostile to the defense in both tone and substance and generally permitting anti-Semitic and hooligan behavior in his court. And the defense counsel assumed the role of assistant prosecutor, not only accepting the basic validity of the charges against his client but actually indicating his disbelief of Kochubiyevsky's own defense.

If this be a precedent, as well it might, it augurs ill for the Jewish prisoners of conscience.

It is, of course, entirely conceivable that the Soviet authorities will attempt to underplay or perhaps even avoid in any direct way the essentially anti-Jewish character of this case. Very likely apprenhensive about an outcry of protest in the outside world over a mass anti-Jewish trial *a la* Kochubiyevsky, they may skillfully seek to divert attention—through emphasis on forced confessions—to the narrow legal question of a hijacking plot. And this would serve them especially well at a period when much of the civilized world has just gone through a period of shock and disgust with airplane hijackings.

But regardless of how the trial is conducted and how Soviet propaganda handles it, the focus simply cannot be shifted away from the irreducible fact that people are on trial for their convictions, that Jews are being persecuted as Jews. They had no desire to criticize, attack, change, subvert or overthrow the Soviet system. On the contrary, their only desire was to leave that system alone—in fact, to leave it altogether, to exercise their elementary human right to leave the country and settle in Israel, which they regard as their ancestral homeland.

All the materials confiscated from all those interrogated and arrested all over the country demonstrate conclusively that this is a Jewish case. Hebrew grammars, Jewish history books, open letters of appeal for help to leave for Israel, postal cards from Israel, Jewish encyclopedias. In short, as some of them and their relatives have written: Everything with the words "Jew," "Jewish," "Judaism" was confiscated.

Within days after the June 15 KGB action, a young Leningrad Jew, Viktor Bogualavsky, wrote an impassioned letter to the Soviet Prosecutor-General, Rudenko, pleading the innocence of his arrested friends. He wrote:

"A lively interest in the fate of one's people and love for one's people cannot be considered an offense. Their only crime was that they were born Jews and they sought to remain Jews."

In July, Viktor Bogualavsky was arrested.

[From the Washington Post, Mar. 27, 1971]

APPENDIX B

This account of the Leningrad trial of December, 1970, was compiled by persons in Russia and translated from the Russian by The Washington Post. It is published nearly in full. Two kinds of material are omitted: certain sections of text which lacked sense or context, and the testimony of some witnesses which seemed to be repeti-

tive. All statements and reports attributed to the defendants are here. In some places, there are references to persons or events not otherwise identified; in those cases identification was not possible.

On December 15, 1970, at 9 a.m. the hearings at Leningrad began.

The court composition:

Chairman: Ermakov, chairman of the City Court.

Prosecutor: Solovev, procurator of Leningrad City.

Assistant prosecutor: Katukova, deputy procurator of Leningrad City.

Public prosecutor: Hero of the Soviet Union, air pilot Metanogov.

The People's Jurors: two (one in reserve).

The following persons are charged at the present court session with committing crimes under Articles 64 (statutes 1–15), 93 (statutes 1–15), 70 and 72.

Mark Dymshits, Eduard Kuznetsov, Iosif Mendelevich, Silva Zalmanson, Izrael Zalmanson, Anatoli Atman, Leib (Ayre) Khnokh.

[Editor's note: Article 64 covers high treason, listed in the Russian Criminal Code as the first of the "especially dangerous crimes against the State." The maximum penalty is death. Article 93 covers "Stealing of State property." Maximum penalty is death. Article 70 covers "Anti-Soviet agitation and propaganda," another "especially dangerous crime against the State." Maximum penalty is seven years imprisonment plus five years of exile. Article 72 is "Organizational activity directed to commission of especially dangerous crimes against the State and participation in anti-Soviet organizations—punishment in accordance with Articles 64–71.]

Charged with violation of Articles 64 and 93, but not 70 and 72, are:

Yuri Fyodorov, Alexei Murzhenko, Boris Penson, and Mendel Bodnia.

[Editor's note: The Russian text listed the last name of each defendant's lawyer.]

All of the defense lawyers were hired by relatives, except for Dymshits whose lawyer was appointed according to Article 49 of the Criminal Code.

Arrested on June 15, 1970, at 8:30 a.m. at the Smolnoye airport (at Leningrad) were Dymshits, Kuznetsov, Mendelevich, Izrael Zalmanson, Vulf Zamalson, Fyodorov, Murzhenko, Altman and Bodnia.

[Editor's note: Vulf Zalmanson, brother of Silva, was an officer on active duty and was tried and sentenced separately by a military tribunal.]

Also arrested at the airport were Dymshits' wife and his two daughters, age 18 and 15. They were released and not mentioned in the charges.

Arrested in a forest near Priozersk at 4 a.m. on the same day were Khnokn, Meri Khnokh (who was not tried at this proceeding), Silva Zalmanson and Penson.

On questioning by the bench, Dymshits and the Zalmansons, pleaded guilty. The others except for Fyodorov, pleaded partial guilt. Fyodorov denied he was guilty under the statutes cited.

The court chairman familiarized the defendants with the court's composition and asked if there were any objections. Mendelevich asked about the nationalities of the chairman and the people's jurors, and was told that there were three Russians and one Ukranian.

[Omitted here are a few paragraphs dealing with technicalities of court procedure largely concerning the order of interrogating defendants.]

DYMSHITS' TESTIMONY

The first to be interrogated was Dymshits (born in 1927). He related three motives for wishing to leave for Israel: (1) anti-semitism in the Soviet Union, (2) Soviet foreign policy in the Middle East, and (3) Soviet internal policy on the nationality problem concerning Jews.

The USSR supported the establishment of Israel in 1948, and when the war started, the Arabs were the aggressors. That war is continuing, and the aggressor cannot change. The question is only who violated the truce.

He was not allowed to work in his profession (as an engineer) in Leningrad (after the second world war), and worked instead as a pilot in Bukhara. He was a member of the Communist Party of the Soviet Union until his (earlier) arrest, when he was expelled by the Party.

He studied at the G.B. (state accounting) school, later at summer school, and he entered the Agricultural Institute after his service as a pilot, then finally worked as an engineer.

He came to the conclusion that he had to leave the USSR. He has never applied to the OVIR (emigration office).

He wanted to build a balloon, later to construct an airplane, in order to escape. But he realized that he would not be able to do it himself and he so started to search for helpers.

At this time, he began to study Hebrew.

All these plans ripened in the years 1967–68. In the autumn of 1969, he became acquainted with Butman (who was also arrested near Priozersk) and was introduced to the ulpan (a school for the study of Hebrew). Butman knew his plans and both started looking for people.

Dymshits's wife disagreed in the beginning, but he "created in the family an atmosphere of despotism and preesure" (the prosecutor's words), persuaded her and the children. The daughters were introduced to the plan of escaping.

There were three successive plans of escape:

PLAN NO. 1

Hijacking of the TU 124 (48–52 passenger plane) that followed the Leningrad-Murmansk route. This plan was called Operation Marriage. It was to take place on May 1–2, but was rejected in late April.

At that time, the Leningrad cell decided to ask the Israeli State for its opinion, and Dymshits was forbidden to act further until the reply was received.

In connection with this plan, Dymshits received from Butman 50 rubles, flew to Moscow, but had a free flight in the pilot's cabin (the pilot was one of his former coworkers in Bukhara). He became familiar with the handling of the plane. He returned 35 rubles to Butman, and spent 15 rubles on drinks. Butman did not know that he had flown free of charge.

Asked by the prosecutor what he would have done in Israel, Dymshits answered he would have served in civil aviation, or worked as a chauffeur or tractor driver.

PLAN NO. 2

Dymshits worked out this plan at the end of May, and asked Kuznetsov to come to Leningrad to check it. The plan was to hijacking an AN–2 (12-seat) airplane at night at the airport.

Dymshits, Kuznetsov, and Kuznetsov's wife, Silva Zalmanson, went at the end of May to the Smolnoye Airport, and decided that it would be impossible (because of watch dogs, searchlights, etc.)

Kuznetsov went to Riga, thinking all was lost. But on June 5, Dymshits phoned Kuznetsov in Riga saying he had another plan. Kuznetsov returned, asked Fyodorov to come to Leningrad, and on June 8 all three flew to Priozersk and scheduled the third plan for June 15.

PLAN NO. 3

This was to hijack an AN–2 at the Priozersk airport. The problem was that all the 12 passengers (Dymshits, Kuznetsov, Mendelevich, the Zalmansons, Dymshits' wife and daughters, Fyodorov, Murzhenko, Altman, Bodnia) had to fly to Priozersk.

After the plane's stopover in Priozersk, the pilot and co-pilot were to lie bound, without physical harm, and put into sleeping bags under a tent, the four passengers waiting in Priozersk—the Khonokhs, Silva Zalmanson and Penson were to be taken aboard and all were to fly to Sweden.

But the escape never began. The 12 were arrested at 8:30 a.m. at the Smolnoye Airport, and four near Priozersk at 3 a.m.

The only pistol in the group, found on Fyodorov, belonged to Dymshits. He had made it himself in Bukhara.

ZALMANSON'S TESTIMONY

She stated that she is a Zionist. Asked by the prosecutor if she knows that Zionism is hostile to the Marxist-Leninist ideology, she said that there were aspects of Zionism that are not hostile to our ideology, chiefly the reunion of Jews in one state. She applied to emigration office in 1968, was refused. In 1970, she received a visa for herself and her husband, Kuznetsov, but was refused the character references that a visa required.

In about the year 1968, in the absence of Shpilberg (who is one of the accused in a related trial in Riga) she printed Zionist materials. She used to bring to Leningrad, to a man named Drezner, a suitcase full of literature, whose contents she did not know.

When Butman and Dymshits came to Riga with the escape plan, she introduced Kuznetsov to them and others who wanted to escape.

Kuznetsov was a newcomer to Riga and did not know anyone.

She was very close to her younger brother, Izrael, but she and Izrael agreed to rely on Kuznetsov.

In May her second brother, Vulf, arrived and after a short discussion with her, he also agreed to escape.

Asked again if she recognized how hostile the Zionist ideology is to us, she replied that up to now she had not considered this and remains a Zionist.

In general, she spoke little and indistinctly, and mostly in response to questions. Asked what she would have done in Israel, she answered "Anything."

MENDELEVICH'S TESTIMONY

He said he grew up in a family where Jewish traditions were in great esteem. He has always been deeply interested in Jewish history and the fate of the Jewish nation, and he and his family have decided that Israel is their spiritual and historical fatherland.

He and his family had repeatedly received entry permits from Israel. They applied to the Soviet emigration office (OVIR), but were refused.

When he was told about the planned flight, his family had their documents in the OVIR and he decided that in case of another refusal, he would participate. The refusal was received in a few days.

He was a third-year student at the Polytechnical Institute, and he left, despite his longing for education, because he considered it amoral to study at Soviet expense.

He did not consider that a great sacrifice, because by submitting his application (for an exit permit) he expected to be expelled just the same.

He published the journal Iton (a Hebrew newsletter) in Riga, wrote articles, and kept a card index. He also wrote an explanatory pamphlet to be distributed in case their escape failed. This work is considered by the prosecutor as an anti-Soviet document full of lies.

Asked by the prosecutor if he considers himself "a person of Jewish nationality" or a Zionist, he replied: "I am a Jew." He said that he has no grudge against the USSR and that the state is of no interest to him. His only wish was to reach his fatherland.

The prosecutor replied that the Russian people had put aside Birobidjan (in Siberia) for them and he should go there.

Mendelevich replied, "please allow me to decide what state, and not a province, appears to be my fatherland."

He replied to many brusque and rude questions by the prosecutor, and to the questions of the lawyers. He carried himself with great dignity, without excusing himself or accusing anybody.

Asked his motive for escaping, he answered, "My goal was to go to Israel. About the others I don't know." Asked what he would do in Israel, he said he had no financial interest, only that Israel was the only place he could live.

During the examination it was disclosed that he had been sent to Riga for one month during the investigations for psychological examination.

The court session of Dec. 16 began at 9 a.m. with the examination of defendant Kuznetsov (born 1939).

KUZNETSOV'S TESTIMONY

During the testimony, he was asked his nationality. He answered, "Jew."

The prosecutor noted that in his passport is written "Russian."

Kuznetsov answered, "You ask me not about my passport but about my nationality."

He tried to describe the circumstances of his arrest. His group wanted to cross the Finnish border, go to Sweden, and he talked about that plan.

"My views about (the indictment) have a universal human character. Many things led to the charges, among them the distribution of anti-Soviet literature. In connection with Litvinov's memoirs (known in the West as a forgery) I can say that the authorship has never been proved and I don't consider this document anti-Soviet . . . the document is no less accusing than the materials of the 20th Communist Party Congress.

Question: Where and in what circumstances and why have you made photocopies of (David) Shub's "Political Leaders of Russia?"

Answer: "I made a copy, having received a film from a friend, but I don't consider it especially interesting."

Question: "Do you consider it anti-Soviet?"

Answer: "Yes."

Question: "To whom did you give it in Leningrad?"

Answer: "To Abram Shifrin, who is now in Israel."

[Editor's note: A question about "casualties" at this point is not decipherable.] Kuznetsov continued:

"I didn't consider Butman as a representative of an organization but as an honest man. Sometimes his attitude was not very serious, but I agreed to travel to Leningrad in order to discuss the plan with him . . .

"The first plan was rejected because it was impossible to hijack a plane in the air. We didn't reject the concept. We started on the second plan, hijacking on an airfield at night. This plan also fell through. At that time we invited (the state of) Israel to comment on our plans and Israel asked us not to do it.

"At that time . . . we decided on the third plan. Dymshits telephoned on June 5 and I came to Leningrad. Three of us flew to Priozersk—Dymshits, I and Fyodorov. We picked the 15th of June. I convinced Fyodorov during late April and I asked him to call Murzhenko.

"What aroused me to do all this was that I considered myself a Jew. My father died in 1941. My mother 16 years ago persuaded me to register in the census as a Russian. At that time it was all the same to me. In the (labor) camp this problem for me arose for the first time. After leaving, I asked to register as a Jew, but was refused.

Question: "Do you consider yourself a Soviet citizen?"

Answer: "Formally."

Question: "During the pre-trial investigation, you said you don't consider yourself a Soviet citizen and don't want to live by the law of the land. Is this true?"

Answer: "In essence, yes."

Question: "But you have lived and worked in this country."

Answer: "Yes, I lived and worked and sat in jail! After the camp, I worked under constant surveillance in Strupino. I wanted to see my sick mother, but was refused.

"In January, 1970 I married Silva Zalmanson and went to Riga. Later I decided to take advantage of our Soviet Constitution and go abroad (but) the visa office refused to give the necessary character references to me and my wife. And so the right exists only on paper. It turned out that I was not the only martyr to the cause of wishing to emigrate to Israel."

He said that the charge that he sought to divulge Soviet military information abroad was incomprehensible to him because he had no information to impart. He said that the state's prestige, not its security, was the issue. An escape is a crime only in countries of the Socialist bloc. . . .

Regarding the charge (Article 93) of stealing state property, Kuznetsov said:

"You could have applied (this statute) to us if we had completed our deed, but we did not commit any crime. If a crime has not been committed, then there's no cause to bring that charge. An old Jewish law says: if there's no crime, there's no punishment.

"I want to discuss the statute about conducing anti-Soviet agitation and propaganda. This is nonsense. This is just what I used to discuss with my friends.

Question: "Did you serve in the army?"

Answer: "Yes."

Question: "Do you know your character references?"

Answer: "Yes."

Question: "'No attendance at political meetings.' What do you think? Is this typical for a Soviet citizen?"

Answer: "I didn't try to be a typical citizen and I didn't like the barracks. I used to avoid political duties, because in the army they were conducted by illiterates."

Question: "What did you intend to do in Israel?"

Answer: "It didn't make any difference to me."

Question: "What can you say about packages you received from abroad?"

Answer: "We received some from my relatives in Israel, with whom we have sporadic contacts. I was surprised and I didn't know what to do with those packages."

Question by his lawyer: "You committed this crime for political motives?"

Answer: "No, I was lead by spiritual and moral considerations."

Lawyer: "Did you intend harm to the Soviet Union?"

Answer: "No, not at all."

Lawyer: "Did you worry that you were working as an enemy of the Soviet Union?"

Answer: "I'm not guilty and I don't aid enemies."

Lawyer: "You intended to organize a conference in Sweden?"

Answer: "Butman mentioned this, but I considered this a game and nothing concrete; there were no serious talks on it." . . .

Prosecutor: "Explain the meaning of Zionism."

Answer: "I don't agree with the general Marxist-Leninist definition that Zionism is an agency of imperialism."

Question: "Don't you think anti-Semitism originates in Zionism?"

Answer: "Zionism has existed only since the 19th Century, and anti-Semitism is eternal. You know it."

Question: "Where have you gotten legal instructions?"

Answer: "In Soviet literature. Let me cite it (He takes our notes)."

The prosecutor says, "Nothing has to be cited."

Kuznetsov replies: "I wanted to cite the Nuremberg Trial, Moscow, 1970, edited by Rudenko (the chief Soviet legal officer).

Prosecutor: "You are angry at the Soviet state. You were judged for crimes and you have not corrected them. Your character references from the jail report that you were lazy, didn't work, and therefore they put you in a special jail."

Kuznetsov: "I like to occupy myself with self-education. There are people who don't like that, and in jail there's a wonderful library and time to read."

[Editor's Note: There followed a brief discussion about a crude weapon found on the group and about why two non-Jews, Fyodorov and Murzhenko, had participated.]

IZRAEL ZALMANSON'S TESTIMONY

A 21-year-old student, he explained why, as a Jew, he wanted to go to Israel. His family had received exit permits in 1965 but his father decided not to go.

Izrael didn't think the escape would harm the Soviet Union, financially or otherwise, and he didn't see any other way to get out. The airplane would have been returned.

He tried to spare his sister Silva blame for printing literature and to spare Kuznetsov for his role.

MURZHENKO'S TESTIMONY

He began by blaming his participation on his instability, his lack of education, his bad family life. He said that after his release from labor camp, he had never distributed anti-Soviet literature.

He had never expressed anti-Soviet opinions. He did not write underground literature.

He denied that he acted from an anti-Soviet position—"My reasons were only personal." He said he was sure the plane would be returned.

"My unsuccessful attempts to establish my life after the labor camp were decisive in my decision to leave the Soviet Union," he said. "I received no instruction. When Kuznetsov gave me clubs (weapons), I asked him, 'What for?' and Kuznetsov answered, 'So that you'll be able to get around (in Priozersk).'"

The judge said that "it wasn't that," and Murzhenko replied, "but it was."

PENSION'S TESTIMONY

"I shall give my motives. My father, 72, is retired and ill, and his close relatives are in Israel. He dreams to be reunited with them before his death. My mother was born in a small Jewish town, speaks Russian very badly and can't assimilate or adopt to the climate of the Soviet Union.

"We applied several times to the emigration office but were rejected. I am the only one in my family who is young and healthy and the only support of the old people. Later, they would have been allowed to go out not me. At first I didn't agree to remain here in my fatherland and to let the old people go. But at the end of May and beginning of June I tried to join the Priozersk group, thinking that if I can leave with them, that would not harm anybody. I asked Izrael Zalmanson to sign me up."

Prosecutor: "Where did you get those two clubs which you put in your window, and what did you intend to do with them? You were not supposed to tell the court that Kuznetsov gave them to you."

Answer: "I probably put them in my rucksack by mistake thinking they were sausages, and wrapped them in a newspaper. All the time while we were in Priozersk in the forest I was afraid to leave because I was guarding the campfire."

He admitted his crime partially according to Article 64 (treason). In regard to Article 93 (stealing state property), he said that in

general there is no case at all: "Who can prove that we wanted to steal an airplane?"

BODNIA'S TESTIMONY

"In 1944 our family was dispersed, and my mother and brother disappeared. I stayed with my father, who remarried. My stepmother is a Russian woman whom I adore for her care and kindness, but all the time I looked for my mother and brother.

"In the 1950s we found out after a long search that they were in Israel. Since that time I have tried several times to submit an application for a permit to go to Israel and several times I was refused, the last time only recently."

He said that he was a metallurgical worker, an invalid in one eye and nearly blind in the other, retired on a pension of 35 rubles. He has many letters and recommendations for his years of work in the factory; he was chairman of the local sport club.

"I didn't want to exchange fatherlands but I wanted to be reunited with my mother," he said.

Court session of December 18, 1970.

FYODOROVA'S TESTIMONY

Pelgeya Fyodorova, mother of Yuri Fyodorova, said:

"After his first imprisonment Yuri was ill, he did not leave home, his sleep was disturbed, occasionally he would leave without reason (he travelled south to the sea), and he was complaining that he was being pursued on streets."

She said she thought that this fear was in part sickness but in part was founded in fact. She herself checked on this and saw that he was being followed in the streets. "A doctor at the peychiatric hospital where Yuri was hospitalized for more than a month, and where he was discharged with a diagnosis of mental disturbance (after camps this appears to be a norm), said that Yuri needed only peace and quiet." In connection with this she went to Lyublyanka and asked that her son be left in peace.

"He has a good character and he is inclined to busy himself with books."

Once, after she had been cleaning a fish and hitting it on the head, Yuri said that preparation of the fish was ugly and that he was not going to eat fish, meat, although he did not become a vegetarian.

Fyodorova requested that the court order a new psychiatric test. The court accepted her plea and her questions to the experts were:

1. Does he need a hospital test?
2. Is he psychologically ill and what is his illness?
3. Is he sane?

MRS. DYMSHITS' TESTIMONY

Alevtina Ivanovna Dymshits, of Leningrad, works as a laboratory technican. She talked a great deal about how her husband was trying to talk her into leaving, but she did not agree because she was "Russian and my fatherland is here."

"That was the reason for our separation," she said, adding she was always very happy with her husband (although he lived at Bukhara, and she in Leningrad).

Normally, such things don't happen, she admitted. "My husband loved his summer work very much," she said. She was afraid (of work), and wanted to "live on the earth and not in the air." On April 19 her husband came on her birthday (it's unclear whether by himself or whether she invited him) and she agreed to go with him "only in order to reestablish the family."

She told her daughters about the trip. She read in a book by (David) Shub and in (former Foreign Minister Maxim) Litvinov's memoirs, which she got from Kuznetsov, that Lenin talked about the nationality question.

Answering Kuznetsov's question, did he give her the book or was it otherwise, she said that "somehow he did not give it but he took it out of a briefcase and left it on the table when he went shopping" "and that I took a look to find out what kind of a book it was."

After her questioning there was much perplexity. Why all of a sudden she agreed to leave (Russia), why she was not arrested if she knew about the flight (compare with Mary Khnokh) and it's unclear why the prosecution needed her testimony when she didn't add anything to it. On question if she knew the route she said she knew—"we were flying to Priozersk."

Prosecutor: "But Priozersk is far from Israel?"

Witness: "Yet, it is far."

From her testimony it became clear that she and her husband were formally divorced and that her name was not Dymshits anymore.

OTHER WITNESSES

Elizabeth Dymshits, 19, who works as a seamstress, didn't add anything new, but said she knew about the flight.

Julia Dymshits, 15, high school student said she knew about the flight. She flew to Priozersk when asked by her father to make reservations for the flight and "to look over the situation."

Olya Kozlova, a friend of Julia, flew with her to Priozersk (she was not asked if she knew why, and it's not clear why she was called to testify since she was asked no questions).

A middle-aged man, identified as a teacher at the technical school where Dymshits studied, testified that he occasionally met Dymshits. Dymshits brought him two or three suitcases with various things in the spring and asked him to take care of them for a while since he was going to the south with his family.

"He was afraid to leave it at home—they live on the first floor," the witness said. He said Dymshits took from him a loan of 500 rubles in three per cent state bonds, saying that he needed money to buy a visa for Israel at Tbilisi (this was again unclear).

An unidentified middle-aged woman testified that she was an acquaintance of Bodnia. "He spent the night at my place, saying that he came to Leningrad on official business," she testified. On November 13 they walked around the city and dined together. About the flight he did not tell her anything (why was she called?)

PILOT'S TESTIMONY

The pilot of the AN–2 plane testified about technical data regarding the craft. The prosecutor then asked him to speak about "the issue."

Pilot: "About the issue? I prepared for the takeoff, and passengers were brought up to the plane and they were arrested inside the plane. That is everything." (Laughter in the hall.)

Prosecutor: "How would you like to be gagged?"

Pilot: "And would you?"

Kuznetsov: "I will put a more concrete question. Can you say when the second pilot comes out to meet or escort passengers, do the cabin doors remain open?"

Pilot: "That depends."

Q: "And according to your instructions?"

A: "They should be closed." (Reaction in the hall.)

In general the testimony of the pilot produced an impression that the defendants did not evoke in him any irritation while the prosecutor did, possibly because of the clumsiness of his questions. Also he answered to the question of the prosecutor that he thought it entirely possible that they would overcome him "without shedding blood, taking into account the factor of unexpectedness." (Earlier in the testimony of the defendants there was talk that if the door were closed they would call off the operation.)

ANOTHER PILOT

Another pilot who flew with Dymshits said nothing new, but gave testimony about Dymshits' being "a very good pilot." This assessment was based on their joint service in Bukhara.

The pilot said that when some aviation groups in Leningrad needed pilots, he went with Dymshits (to these groups) and "I can't understand why he was not accepted when there were other Jews who work in the field of aviation."

A girl who said she knew Dymshits for two weeks before Nov. 15 testified that Dymshits told her about the flight and invited her to join him. She turned him down. She said she liked Dymshits "because of his passion for aviation."

DENTIST'S TESTIMONY

Boris, identified as a dentist, about 26, was asked by the prosecutor: "Are you a member of an anti-Soviet organization?"

Boris: "I am a member of an educational organization whose goal is the study of language, history and culture of the Jewish people."

He said he met Dymshits at the end of 1969, knew what was being prepared but he did not intend to join him. At Dymshits' request he bought a starter's gun.

Prosecutor: "Lethal weapon?

Boris: "It was a starter's gun—that's sports equipment and can be as good a weapon as a stick."

Murzhenko's wife, Lyuba, testified she did not know about the flight.

She said she received a farewell letter after November 15 from Moscow.

On that same day the material evidence was introduced—several pieces of white rope and two gags. Pistols and other weapons were not shown.

FINAL PLEAS

The defendants said their last words:

DYMSHITS: (AGE 43)

"Obviously, every criminal considers his punishment too severe. However, I still wish to express my opinion concerning the proposed punishment. I think that what the prosecutor has asked is too cruel. The prosecutor often used the word 'if'. I think he has exhausted all his reserves of the most frightful suppositions. If we had landed in Finland . . . what then? . . . If there has been passengers?

"I understand very well what struggle is. Such severe punishment is needed by you so that others should not want to do the same thing. I myself had proposed the first plan, but we ourselves had rejected it.

"Citizen Public Prosecutor spoke in the name of the pilots. It is a pity that next to him did not sit some of the people from the personnel department, to whom I had unsuccessfully applied for work. They would have been able to stop me, up to the autumn of 1969. After that date, I could be stopped only by the organs of the KGB.

"We, the group of defendants, are people different in character. Many of us made acquaintance with one another in the last days. It is good that here, too, we have not lost our human image. We have not started to bite one another like spiders in a jar. I thank the court organs for the humaneness shown to my wife and daughter. I ask the Court to treat me with justice and with humaneness."

SILVA ZALMANSON: (AGE 27)

"I am stunned by the terms that the prosecutor demands for us. The prosecutor has now suggested that heads be taken off for something that has not been done. If the court agrees, then such remarkable people as Dymshits and Kuznetsov will perish.

"I think that the Soviet law should not consider as treason someone's desire to live in another country, and I am convinced that in accordance with the law it is those who

unlawfully violate our right to live where we wish that should be brought to court.

"Let the court at least take into consideration the fact that had we been permitted to leave, this "criminal plot", which has caused us so much pain . . . and even more pain to our families, would not have existed. Israel is a country with which we Jews are tied spiritually and historically. I hope that the Government of the USSR will soon solve this question in a positive manner. The dream of uniting with our ancient homeland will never leave us.

"Some of us did not believe in the success of this plan, or believed very little in it. We noticed that we were being followed when we were still at the Finland Station (a railroad station in Leningrad). But we could no longer go back. To return to the past, to the waiting, to life with valises.

"Our dream of life in Israel could not be compared to the fear of the pain that could be caused to us. By our departure we were causing no harm to anyone. I wanted to live there with my family and to work. I would not have engaged in politics. My whole interest in politics is exhausted by my simple desire to go away.

"Now, too, I do not doubt for a minute that some day I shall still live in Israel. This dream, sanctified by 2000 years of hope, will never leave me. Next year in Jerusalem! And now I repeat:

"If I forget thee, O Jerusalem,

"May my right hand wither!"

(She repeats these words in Hebrew. The prosecutor interrupts her).

"I have finished."

MENDELEVICH: (AGE 23)

"I would like to tell you once more that I admit that my actions, directed towards the hijacking of the plane and the violation of the state border, were criminal. But my guilt lies also in the fact that I had permitted myself to become careless in the methods to attain my dream. These six months have taught me that emotions should be controlled by reason. I understand that I should be punished, and I call upon the Court to show mercy to my comrades."

KUZNETSOV: (AGE 31)

"The State prosecutor proceeds from the supposition that abroad I would have engaged in activities hostile towards the Soviet Union. But in this he proceeds from my allegedly anti-Soviet convictions that I, however, had never expressed to anyone. I had no intention of causing harm to the Soviet Union. All I wanted was to live in Israel.

"A possible request for political refuge was not considered by me as a hostile political act. This is stated incorrectly in the charge sheet. I did not express a desire to speak anywhere at a press conference and did not discuss this matter with anyone.

"Without going into other reasons for the absence of such intentions on my part, I shall only say that my ironical turn of mind has effectively insured me for such political appearances. I sincerely regret that I agreed to take part in this matter, and I consider myself as only partly guilty according to Article 64 and Article 72 of the Criminal Code. I ask the Court for leniency for my wife Silva Zamanson. I also ask for justice for myself. After all, one lives but once."

ISRAEL ZALMANSON: (AGE 21)

"The only thing that has driven me to this was the desire to live and to work in the State of Israel, my spiritual fatherland. This desire has become the chief aim of my life. During the investigation, I understood the error of my act. I wish to assure you that in the future no circumstances will ever force me to violate the law."

MURZHENKO: (AGE 28, A UKRAINIAN)

"Before talking about myself, I ask the court for leniency for Kuznetsov and Dymshits.

"I fully agree with my lawyer. The prosecutor asserts that I am anti-Soviet and that this was the reason for my taking part in this action. But this is wrong.

"My first conviction has been the reason that my life has been totally unsettled. And my taking part in this undertaking is the result of my inexperience in life. My life is 8 years of Suvorov's school, 6 years of camp for political prisoners, and only two years of freedom. Living in the wilderness, I had no opportunity for using my knowledge and I had to bury it.

"You are deciding my fate, my life. The 14 years of imprisonment that the prosecutor demands means that I am considered incorrigible and that it has been decided to cross me off. I had never followed criminal aims. I ask the Court to give me a term of punishment that would leave me hope for happiness, hope for my future and for that of my family."

FYDORV: (AGE 27, A RUSSIAN)

"Thinking over what we have done, I have become convinced that we had only one aim—to leave the USSR. None of us had any intention of harming the USSR. I think that we had taken all the necessary measures to ensure the life of the pilots.

"I admit only that I am guilty of the attempt to violate the state border and I am ready to bear responsibility for this. However, in truth I don't consider myself guilty. I didn't do anything.

"The prosecutor was not sparing of terms of punishment, but does he know what even three years in a camp mean.

"The speech of the public prosecutor is directed against the hijacking of planes, and one can agree with it. As for the pistol, it had been taken in case of the Finnish version. I parted with anti-Soviet convictions when I was still in the camp.

"When we went to hijack the plane, we did not suspect that one of us is more guilty and one is less so. Everyone did what he could. Suddenly, it transpired that in this action Dymshits and Kuznetsov are more guilty than the others. Dymshits at least intended to pilot the plane, but I cannot understand why it transpired that Kuznetsov is more guilty than the rest of us.

"As for the possible results, I can say that as long as the action did not take place, there is no sense in making guesses as to what would have happened. I ask the court to show mercy to Kuznetsov and to Dymshits. I want to stress that I myself insisted on taking part and that Murzhenko had been drawn in by me even contrary to Kuznetsov's wishes."

ALTMAN: (AGE 26)

"Citizens Judges, I appeal to you with the request to preserve the life of Kuznetsov and Dymshits and to give the minimum punishment to the only woman among us, Silva Zalmanson. I express my deep regret. I sincerely regret that my comrades and I have found ourselves in this dock. I hope that the Court will find it possible not to punish us too severely.

"I have no possibility of avoiding punishment for taking part in a crime, but one circumstance confuses me. The thing is that in 1969 I made an application for departure to Israel; that, is, I wanted to change my homeland. At that time, my desire brought scorn on me and that is all. But this time it brought me to trial.

"My confusion is not idle, because it is the matter of isolation, of deprivation of freedom and of the pain caused to our near ones. I was born in Soviet times and all my life I spent in the Soviet country. I have had no time to study the class essence of Zionism, but I know very well that peoples and countries at various times pass through various political stages and do not become better or worse because of that.

"Today, on the day when my fate is decided, my heart is both elated and heavy. I express the hope that there will be peace in Israel. And today, I am sending you my wishes for this, my land, Sholom Aleichem! Peace to you, the land of Israel!"

KHNOKH: (AGE 26)

"Citizens Judges, I ask you to show mercy to two of our comrades and leniency to the only woman among us. I can only say once more that my actions had not been directed against the state security of the USSR. My only aim was to live in the State of Israel, which I have long considered my native country, the country where my people had once appeared as a nation, where there had been and is now developing the Jewish State, the Jewish culture, where my native language is spoken, and where my near and dear ones live. I have no anti-Soviet views. Two witnesses have incorrectly interpreted my views. They evidently live in those regions of the USSR where Jews do not apply to the OVIR (the emigration office). Both of them told the Court that I had not touched upon the essence of the socialist system. My only aim was to live in Israel, the true fatherland of the Jews."

PENSON: (AGE 23)

"In the process of the entire investigation I testified about my intentions, and it is in vain that the citizen prosecutor asserts that I have allegedly changed them. This is not so. It is simply that in the first days I gave no testimony at all, and after giving them I did not change them.

"I doubted all the time the success of the action and I doubted whether it was worthwhile to do such a thing in general. But my desire to make my family happy was great, and I did not understand the degree of risk and so I decided to do it. However, when I found myself in the forest, I decided to go away. But it was too late, we were arrested.

"I ask the Court to take into consideration the fact that I repent my actions. I should have endeavoured to achieved departure in a lawful manner, even though the organisation that is in charge of this leaves no hope for emigration to Israel. I am ready to bear responsibility for what I have done. I beg the Court to take into account that my parents are very old. I ask the Court for leniency for Silva Zalmanson and for mercy for Kuznetsov and Dymshits."

BODNIA: (AGE 23)

"I ask the Court for mercy and leniency. I only wanted to see my mother. I ask the Court to take into consideration the fact that I have promised never to violate the law in the future."

The Judicial Board of the Leningrad City Court has sentenced:

Dymshits, M. Yu., to the supreme punishment—death—with confiscation of property.

Kuznetsov, E. S., to the supreme punishment—death—without confiscation of property because of the absence of such. To be recognised as an especially dangerous recidivist.

Mendelevich, I. M., to 15 years of strict regime without confiscation of property, in the absence of such. ("Regime" refers to limitations on diet, visiting hours, recreation and receipt of parcels during imprisonment.)

Fedorov, Yu. P., to 15 years of special regime without confiscation of property in the absence of such. To be recognised as an especially dangerous recidivist.

Murzhenko, A. G., to 14 years of special regime without confiscation of property in the absence of such. To recognise as an especially dangerous recidivist.

Khnokh, L. G., to 13 years of strict regime without confiscation of property in the absence of such.

Altman, A. A., to 12 years of strict regime without confiscation of property in the absence of such.

Zalmanson, S. I., to 10 years of strict re-

gime without confiscation of property in the absence of such.

Penson, B. S., to 10 years of strict regime without confiscation of property. (At the very beginning of the preliminary investigation all Penson's pictures, etudes and drawings were confiscated from him as his personal property.)

Zalmanson, I. I., to 8 years of strict regime without confiscation of property in the absence of such.

Bodnia, M. A., to 4 years of intensified regime without confiscation of property in the absence of such.

After the proclamation of the sentence there were heard applause from the "public" and shouts from the relatives: "Fascists! How dare you applaud death sentences!" "Good fellows!", "Hold on!", "We are with you!", "We are waiting for you!", "We shall be in Israel!". After this the applause stopped.

APPENDIX C

[From the New York Times, Feb. 26, 1971]

BRUSSELS DECLARATION ON SOVIET JEWS

BRUSSELS, Feb. 25—*Following is the text of a declaration issued in English today by the World Conference of Jewish Communities on Soviet Jewry:*

We, the delegates of this conference, coming from Jewish communities throughout the world, solemnly declare our solidarity with our Jewish brothers in the Soviet Union.

We want them to know that—and they will take encouragement from this knowledge—that we are at one with them, totally identified with their heroic struggle for the safeguarding of their national identity and for their natural and inalienable right to return to their historic homeland, the land of Israel.

Profoundly concerned with their fate and future, we denounce the policy pursued by the Government of the Soviet Union of suppressing the historic Jewish cultural and religious heritage. This constitutes a flagrant violation of human rights which the Soviet Constitution pledges to uphold and which is enshrined in the Universal Declaration of Human Rights. To cut them off from the rest of the Jewish people, as the Soviet authorities are attempting to do, is a crime against humanity.

Soviet spokesmen claim that there is no need for Jewish culture and education, that there is no Jewish problem in the Soviet Union and there is no anti-Semitism. These assertions have been proven false by the Soviet Jews themselves. The entire world has heard their protests.

Tens of thousands of Jews have petitioned the Soviet authorities for the rights to settle in Israel and raise their children in the Jewish tradition and culture. Letters, messages and petitions, sent at the signatories' peril from the Soviet Union to individuals, to governments, to the United Nations and other international organizations, all demand recognition of these rights.

The reaction of the Soviet authorities to this Jewish awakening has been to mount a campaign of harassment, arrests and virulent anti-Jewish propaganda. The Leningrad trial, shocking to the world, was but one manifestation of such persecution. Far from being crushed by such intimidation, Soviet Jews today demand their rights with ever greater courage and determination.

This conference urgently calls upon the civilized world to join with us and with the Jews of the Soviet Union in urging the Soviet authorities:

¶To recognize the right of Jews who so desire to return to their historic homeland in Israel and to insure the unhindered exercise of this right.

¶To enable the Jews in the Soviet Union to exercise fully their right to live in accord with the Jewish cultural and religious heritage and freely to raise their children in this heritage.

¶To put an end to the defamation of the Jewish people and of Zionism, reminiscent of the evil anti-Semitism which has caused so much suffering to the Jewish people and to the world.

We, assembled in this conference, commit ourselves by unceasing efforts to insure that the plight of Soviet Jewry is kept before the conscience of the world until the justice of their cause prevails.

We will continue to mobilize the energies of all Jewish communities. We will work through the parliaments and governments of our countries, through United Nations and other international bodies, and through every agency of public opinion.

We will not rest until the Jews of the Soviet Union are free to choose their own destiny.

Let my people go!

YOUTH APPRECIATION WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. SHOUP), is recognized for 5 minutes.

Mr. SHOUP. Mr. Speaker, I wish to join the President in recognizing the youth of this great Nation in the proclaiming of November 8–14, 1971, as "Youth Appreciation Week."

Our young Americans have frequently heard persons in my age group say that they are the future leaders and, therefore, they should act accordingly. While I recognize they are, indeed, our future leaders, I also believe they should be given credit now for their many diverse interests and predominantly helpful efforts throughout our society.

I call on this body and the Nation to be more appreciative of such efforts as the local newspaper boy or girl, the babysitters, and those youth who assist with recycling centers for bottles and paper, and the providing of important information on drugs and other problems to needy young people through hotline type programs.

Most, if not all, the Members of the House of Representatives and the Senate, owe their election to the volunteer help from our young Americans.

In addition each Congress, each year, is blessed with many young citizens in the summer, coming to Washington, D.C., to work in the summer intern programs and in some cases volunteer for work in both Washington, D.C., and individual congressional district offices.

I am principally directing my personal appreciation to the girls and boys who are under the newly authorized voting age. I do this because they have not been greatly recognized like their older brothers, sisters, and friends.

Since I have a 13-year-old daughter still at home, I believe I can speak with some authority.

Mr. Speaker, let me summarize by saying: God bless all our young Americans.

LEGISLATION TO DELAY ALASKA PIPELINE DECISION 1 YEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 10 minutes.

Mr. ASPIN. Mr. Speaker, today I have introduced in the House a joint resolution that would both delay Federal approval of an Alaska pipeline until at least January 1, 1973, and would require the Interior Department to conduct a comprehensive study of a Canadian pipeline as an alternative to the proposed trans-Alaska line.

Construction of a Canadian pipeline would mean savings of $4 billion per year to Midwest and east coast consumers in lower fuel costs. The savings in oil costs for residents of my State of Wisconsin, for example, would be $49.5 million per year. That would result in savings of $49 per year in lower fuel costs for the average family of four in Wisconsin. Consumers and businesses in Wisconsin, for example, would save almost four times as much in lower oil costs as the State would receive from a 12-percent increase in the State corporate income tax rates.

I believe that the evidence is clear that the final environmental impact statement, which the Interior Department is expected to issue before 1972, will not contain a truly thorough and honest evalution of a Canadian pipeline as an alternative to the trans-Alaska pipeline. In fact, it would be impossible for Interior to include a thorough environmental study of a Canadian alternative in its final environmental impact statement for the simple reason that research now being conducted in Canada on a Canadian pipeline is not expected to be completed until sometime next year.

The evidence now available, however, clearly leads to the conclusion that a Canadian pipeline would be both economically and ecologically superior to the trans-Alaska pipeline. The economic benefits to Wisconsin consumers from a Canadian pipeline, which I just talked about, are pretty typical of the benefits that would accrue to consumers and businesses in other Midwestern and Eastern States and, I believe, many Congressmen from those States are beginning to realize both the viability of constructing a Canadian pipeline and the enormous economic benefits that such a pipeline would mean for their States.

As you know, Mr. Speaker, the proposed 780-mile trans-Alaska pipeline, if approved, would run from Alaska's North Slope to Valdez, a southern Alaska port. The oil would then be tankered from Valdez to west coast ports for consumption there. A Canadian pipeline, which would terminate near Chicago, would route the oil totally overland. Oil from it would service both Midwest and east coast consumers.

A Canadian pipeline would make economic sense because it would bring oil into the Midwest and East where the price of oil is much higher at present than on the west coast. The following chart shows the present prices of oil in the West, Midwest, and East and what will happen to those prices if the Alaska pipeline is built, or if the Canadian pipeline is built.

Where should the North Slope oil go?

(Prices per barrel)

Prices now:	
West coast	$3.17
Midwest	[1] 3.82
East coast	4.07
Prices if Alaska pipeline is built:	
West coast	2.40
Midwest	[1] 3.82
East coast	4.07
Prices if Canadian pipeline is built:	
West coast	$3.17
Midwest	[1] [2] 3.40
East coast	[2] 3.60

[1] Prices in the Midwest should be normally 20¢ per barrel higher than the west and east coast because of increased transportation costs.

[2] This assumes that half the oil from the North Slope—one million barrels per day—would be shipped to the east coast.

Ecologically, the evidence is very strong that a Canadian pipeline would do much less damage than a trans-Alaska pipeline primarily because it would avoid large earthquake zones and would not require the use of tankers, as would the trans-Alaska pipeline. It is certainly noteworthy that the Canadian Government itself, as well as every environmental organization involved in the issue, prefer a Canadian pipeline over the trans-Alaska pipeline for environmental reasons.

I want to emphasize that the legislation that I am introducing today calls only for a thorough and independent study of a Canadian pipeline to be conducted before a decision is reached on development of the North Slope oil. Support of this legislation would not indicate either opposition to or support of the proposed trans-Alaska pipeline; it would simply assure that an adequate study is made of a highly feasible alternative to the Alaska line.

With your permission, Mr. Speaker, I would like to include in the RECORD, following these remarks, a copy of a New York Times editorial of September 27, 1971 which states in part that:

No one argues that oil from the North Slope is vital to this country's welfare this year, next year or even in the next decade. The armed forces have raised no question of national security.

The decision on whether an Alaskan or a Canadian pipeline will be built will have enormous impact, both economically and ecologically, not only for Alaska, but for the rest of the United States as well. A Canadian pipeline alternative must receive more than superficial and reluctant consideration by the Interior Department. This legislation is designed to insure that.

Mr. Speaker, with your permission, I would like to include at this point the full text of the resolution I introduced today, followed by the text of the New York Times editorial of September 27.

JOINT RESOLUTION DIRECTING THAT NO FURTHER ACTION BE TAKEN WITH RESPECT TO THE DEVELOPMENT OF THE TRANS-ALASKA PIPELINE UNTIL A COMPREHENSIVE AND INDEPENDENT STUDY IS MADE OF THE ECONOMIC AND ECOLOGICAL ASPECTS OF A TRANS-CANADA PIPELINE

Whereas, construction of a Canadian pipeline, as an alternative to the proposed trans-Alaska pipeline, would save Eastern and Midwestern consumers a total of about $4 billion per year in lower fuel costs, and

Whereas, the present price of oil on the West Coast, where much or all of the oil from the trans-Alaska pipeline would be shipped, is already substantially lower than the present price of oil in the Midwest and East, and

Whereas, construction of the trans-Alaska pipeline will further sharply increase the disparity between what West Coast consumers pay for oil as opposed to what Midwest and Eastern consumers pay for oil, and

Whereas, the decision as to how Alaska's North Slope oil will be developed is an important decision affecting the Nation's future energy policies, and

Whereas, many independent economists believe that construction of a Canadian pipeline as an alternative to the trans-Alaska pipeline would be in the country's best economic interests, and

Whereas, virtually every major environmental organization concerned with the Alaska pipeline believes that a Canadian pipeline would be ecologically superior to the trans-Alaska pipeline, and

Whereas, the Department of the Interior has not undertaken a comprehensive and independent study of a Canadian pipeline, and, in fact, could not as yet do so because the research being conducted in Canada on the Canadian pipeline is not expected to be completed until 1972, and

Whereas, a delay of one year in the development of the North Slope oil would not in any significant way adversely affect either the energy policies or the national security of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That no permit which is related to the development of Alaska's North Slope oil shall be issued by the Department of the Interior until after December 31, 1972. Before any such permit may be issued after December 31, 1972, the Department of the Interior shall first have completed and made available to Congress and the public a comprehensive and independent study of both the ecological and economic aspects of a Canadian pipeline as an alternative to the proposed trans-Alaska pipeline.

THE OIL CAN WAIT

President Nixon's recent statement in Anchorage about the proposed trans-Alaskan oil pipeline had the ring of a comment designed to mollify some of the local citizens, in haste to get on with that project, rather than to indicate a final commitment on his part to the building of the line. It promised to reconcile the exploitation of natural resources and protection of the environment without quite saying that this could be done with a pipeline carrying oil from Prudhoe Bay in the Arctic to Valdez on Alaska's southern coast.

What offered hope that Mr. Nixon's mind is still open on the subject was his reference to "alternative means for the movement of Arctic oil"—and, even more, the emphasis on such an alternative in a U.S. News & World Report interview with Secretary of the Interior Rogers C. B. Morton. The possibility the Secretary dwelt on was the suggested route from Alaska's North Slope, up the Mackenzie River valley in Canada, all the way south to Edmonton, Alberta, whence some of the oil would move in pipelines, to the Pacific Northwest and some to refineries in the Midwest.

The advantages of such a line would be the complete elimination of overwater hazards and the fact that a pipeline is almost sure to be built in the Mackenzie Valley in any case in order to carry natural gas from the North Slope. As Mr. Morton suggests, "that raises the question: Why not bring the oil out that way, too?"

The answer to that question requires time. The Canadian route *could* endanger the Wildlife Refuge in northeastern Alaska and it could prove a hazard to the Canadian terrain, although that land is considerably less subject to the kind of seismic disturbances that add so greatly to the risks of the trans-Alaskan scheme.

President Nixon's statement did pledge that *if* a pipeline is built from Prudhoe Bay to Valdez the job would be done with the greatest concern for the environment, but opponents of the trans-Alaskan line can take little comfort in such a prospect. Even if the pipe could be guaranteed against the kind of rupture that would pour oil over miles of tundra, there would be no assurance against spills and leaks in the beautiful waters of King William Sound, where the oil would have to be transferred to tankers—or along the scenic coasts of British Columbia en route to Pacific Coast refineries.

All of which raises once again the question of timing. No one argues that oil from the North Slope is vital to this country's welfare this year, next year or even in the next decade. And the armed forces have raised no question of national security.

On this major aspect of the matter there is less cause for cheer in the President's suggestion of a decision this fall than in Secretary Morton's disinclination to act until he is "sure that the total spirit of the Environmental Policy Act has been complied with" and that there are no alternatives that would better serve this country's interest.

OEO'S MIGRANT FARMWORKERS DIVISION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. DAVIS) is recognized for 10 minutes.

Mr. DAVIS of South Carolina. Mr. Speaker, I wish to point out a problem people of South Carolina are facing as they try to deal with the OEO's migrant farmworkers division. Apparently, they feel that South Carolinians are not worthy of their time and effort. As previously mentioned, we are not being put off, we are being ignored.

I am not sure if the OEO's migrant division is planning to acknowledge there are migrant farmworkers in South Carolina let alone aid them. Goodness knows they act like we have some terrible disease and they are staying as far away from South Carolina as possible. Even when we have been fortunate enough to gain an audience with these noble bureaucrats, the meetings have been strained. I have been worrying about my hospitality because I have repeatedly tried to get someone, anyone, from the OEO to meet with me at my office. No dice. I have even gone as far as to send directions on how to get here in the event they did not know.

Quite frankly, Mr. Speaker, I have begun to harbor serious doubts about the competence of this outfit. South Carolina depends upon agriculture to a great extent. We must use the migrant farmworkers to harvest the crops. We use as many if not more than a lot of other States. The migrant farmworker is a vital cog in the machinery that runs the State and its economy. South Carolina, with it's pleasant autumns, has several growing seasons. The migrants spend a goodly number of months in the State. Now I ask, with a background like this, why is the OEO so reluctant to deal with the people of South Carolina. I seriously believe the only word Mr. Richard Anderson has ever learned in his whole life is "no." At least that is the only word I

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have ever heard him use. Really, Mr. Speaker, I sometimes believe Mr. Anderson feels he is funding the program for the migrant workers out of his own pocket instead of the taxpayers of South Carolina and the Nation—taxpayers who, I might add, are keeping him in work. I would be interested to know if Mr. Anderson ever worked with the circus—and Emmett Kelly.

Mr. Speaker, we still have not had any satisfaction. The people of the First District are growing restless and concerned. I might add, so am I. Some of the people affected by the OEO's migrant division in South Carolina are growing hungry because this tight-knit band of brainstormers has not even sent money for payrolls. They have even gone as far as to violate the law of the land in rescinding a letter of credit without due process.

Mr. Speaker, we have on our hands a mindless monster—a negative monster, I might add—who is about to devour the entire South Carolina operation for the relief of poor, innocent men, women, and children. Migrants are perhaps the easiest people in the world to please. They have never had much—going through life scratching out a bare existence—just living from day to day. Finally, with the migrant division, the programs of the OEO, some thought the light could be seen at the end of the tunnel. Apparently, the southeast migrant division is intent on extinguishing that light—at least that is the impression they give me. Until something happens to change my mind, I have only one recourse, and that is to fight to kill the monster and replace it with a fresh organization.

The problem is not only in the First District, but throughout South Carolina. I feel it is time to begin slapping hands. I say we should not let the awesome bureaucratic machine chew away at this program and destroy many good people in the process. I say the time has come to take a stand. I have told my people in the First District that that is what we are going to do.

SPEECH BY THE COMMISSIONER OF COMMERCE FOR MASSACHUSETTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 10 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to take this opportunity to insert in the RECORD the excellent speech delivered by the commissioner of commerce for the Commonwealth of Massachusetts, Mr. Carroll P. Sheehan, at Boston College in October. Commissioner Sheehan speaks of the need for a balanced view of environmental protection in Massachusetts and I am sure that all assembled here will benefit from the viewpoint expressed therein. I commend his remarks to the attention of my colleagues:

A BALANCED VIEW OF ENVIRONMENTAL PROTECTION WITHIN THE COMMONWEALTH OF MASSACHUSETTS

(By Commissioner Carroll P. Sheehan)

I appreciate the opportunity which has been extended to me today to come before you and discuss the need for a balanced program of environmental controls for our society. My colleagues in government speaking here today have specific responsibilities defined by law which they must carry out to the best of their ability. I, too, have a responsibility under the law which must be carried out.

As Commissioner of the Department of Commerce and Development, I accept the need for environmental control in this most complex society. Today I would like to review with you my experience with environmental control and attempt, if possible, to bring about a marriage between environmental control and the other needs of our society, such as the maintenance and growth of a healthy economy.

I share the fear of many of those engaged in the field of environmental control, both in and out of government, that in some instances we are bordering upon environmental control overkill with our economic well-being as the victim. I am interested in making certain that a credibility gap does not become a reality between the general public and those interested in the protection of the environment.

You who are so vitally interested in the environment must understand that the most basic parts of any man's environment, more basic even than clean air and clean water, are man's ability to feed his family and provide adequate shelter for them. It is, therefore, imperative in the equation of environmental control that the economic impact upon the individual be part of that equation. It would be tragic indeed if all of the environmentalists in our nation were eventually faced with a hostile public scorning their efforts because of their failure to take into consideration the economic impact of environmental regulations.

This does not have to be the case, but we are already seeing examples of job loss through the lack of cost efficiency methods being applied to the science of ecology.

In the case of air pollution regulations here in the Commonwealth there is no direct relationship between air quality control and the use of low sulphur fuels by the consumer. Without a program of cost efficiency being applied to air quality standards, we have brought unnecessary costs to industry, the government and the general consumer. Those with the responsibility for air pollution control within the state government have made it clear that, except in certain specific areas of the state, the standards set by the national government for SO_2 pollutants have been met prior to the imposition of new lower sulphur content in fuels beginning October 1. In spite of the overwhelming evidence to the contrary, the Massachusetts Public Health Council, without regard for the total needs of our economy, have imposed strict regulations in this matter. What are the results of this action?

In increased fuel costs alone, we in the Department of Commerce and Development say that, in the coming year in Massachusetts, consumers, whether a public utility, an industrial user of fuel or the general consumer, will bear an increased cost of more than seventy million dollars. The imposition of a 1% sulphur content outside the greater Boston area, where much of the state's industrial potential is located, has caused power companies to abandon established fuel purchase contracts, thus causing them to pay a higher price for fuel. It is estimated that power company costs passed along to the consumer will increase electrical energy bills to the consumer between 15% and 20%. These increased costs to an already overburdened industrial community will cause a number of companies to close or to remove their operation from our state.

As part of my responsibility to the people of Massachusetts, I must say that in all candor a good part of this loss of industrial employment is unnecessary. To be specific, some of the largest employers in the state have informed me that a number of their operations will be curtailed or removed from Massachusetts to areas not only in other states but throughout the world. It is a sad fact that in air quality control, without cost efficiency being applied, the greater degree of enforcement overkill which is applied the less the desired results are obtained.

I would like to cite one particular example of one industry in our state which for more than 75 years has employed upwards of 7,000 people in one location. Its present employment is 2,200. It is located in an area which for ten miles around has very little industrial activity. If we keep in mind that the desired result is to bring down the SO_2 content in the air to managable levels, then it does not make any sense to take one industry in a very isolated area and cause mechanical compliance having nothing to do with the air pollution in the area. The cost to this company for mechanical compliance is approximately a half million dollars.

This same company has a newer and more efficient foundary unit in a southern state which can do the work being done presently in Massachusetts. The management informs me that they are coming very close to a decision which will cost the loss of jobs to 600 people employed in this Massachusetts foundary. If we multiply these 600 jobs by the thousands of others who will be affected by job losses, it will not be long before favorable public opinion is lost for the desired portions of environmental air pollution standards.

Let us consider the matter of water pollution control. I have had occasion to work very closely with the water pollution control personnel of our state government. We have considered the plight of many companies and their employees related to the enforcement of water pollution control standards. With their cooperation and that of the Legislature, we caused to have passed a twenty-five million dollar bond issue so that loans could be made to Massachusetts companies unable to finance the cost of water pollution control equipment. It is unfortunate that this legislation was found to be unconstitutional. We hope that other legislation may be passed to bring relief to some of those companies and therefore save jobs within Massachusetts.

A very important aspect of water pollution control is the regulation being established for the use of sewers in the state. It is my opinion that in the promulgation of these regulations, particularly by the MDC, inadequate consultation was held between the MDC and industry. The end result is open-ended regulations more stringent than any in the country, but more important leaving Massachusetts industry in the position where what are adequate standards today may not be tomorrow. Again we run into the problem of cost inefficiency being applied to the enforcement of water purity standards in the state.

I would like to speak for a moment about the manufacture of power within our state. Seventy percent of all the power manufactured in the United States is produced through the use of oil. It is my opinion that we in Massachusetts, being a high energy intensity state, related to industry and general consumer use have been victimized by the major oil companies of the nation. We control the level of electrical energy on both the state and national levels, and yet seventy percent of the fuel used to make that power is controlled by no one.

I note with interest a move by certain people in the environmental field to prevent the opening of atomic power energy plants in New England. At the same time there is opposition to the continued use of fossil fuels by the electrical energy business. We must agree on some form of energy which is presently available to do the job. New England, in order to remain competitive, must have oil refinery facilities. It is time that we realized the complexity of our society demands immediate decisions concerning the growth of the electrical energy business in New England.

I should like to conclude by making certain points of fact which should be obvious to all who wish to give thought to the problems of our total environment.

It is desirable that we have clean air and clean water in this nation. In this regard it is desirable that cost efficiency methods be determined prior to the enforcement of regulations. It is basic to a man's environment that he have bread on the table and a roof over his head. The most efficient method found for giving him these goods in a complex environment is his employment at the highest level of his ability in the industrial community of our state.

Based on studies and interviews with those who manage industries in Massachusetts, they will not continue to function in Massachusetts if their operations become unprofitable due, not to compliance with reasonable cost efficiency regulations in the environment, but to thoughtless actions taken by those in a position to promulgate and enforce environmental regulations. As long as industry has the right to close, move or transfer its operations to any other state or throughout the world, the bottom line of the annual statement of such companies must show a profit or they will cease to provide employment in the state.

In conclusion, I believe it is desirable that we have clean air and clean water. My reasons are very practical reasons. During the next ten to twenty years those who make decisions related to locating industrial operations will not locate in areas where clean air and clean water are not important. No responsible industrialist in this state does not desire to comply with reasonable cost efficient standards of air and water pollution standards, but he must be convinced that government, the press and the general public are treating him and his stockholders with fairness, intelligence and equity.

To me the frontier of today is not in some wilderness or in space. The frontier is all of us in government, in industry and the general public working together to solve the environmental problems which have grown so quickly in our complex society. In every crusade such as that for a clean environment there is a fringe involved in the cause which is not concerned with the just solution to problems, but in the chaos which can be created through an unintelligent approach to the problem. It is time for those who have given so much of their lives to the desire for a better environment to disassociate themselves from those who wish no solutions other than the total breakdown of our complex society.

I would ask you all who have engaged in this environmental crusade to act wisely during the period immediately ahead and to preserve the credibility of your effort until it has accomplished its goal.

NIXON'S PAY BOARD PENALIZES LABOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. ABZUG) is recognized for 5 minutes.

Mrs. ABZUG. Mr. Speaker, President Nixon's Pay Board has predictably come up with a phase 2 attack on the living standards of working people. I say predictably because the so-called public members of the tripartite board chosen by President Nixon are about as detached as are his selections for the U.S. Supreme Court. Whether in university gowns or judicial robes, these are men of deeply conservative orientation whom the President knows he can count on to share his views and industry's. They are usually one and the same.

In the Pay Board's ruling on November 8, the "public" members lined up with industry members in a decision to limit wage increases, on the whole, to 5.5 percent a year after the expiration of the wage freeze next week. The board also ruled out retroactive payment of wage increases lost during the freeze, with some minor exceptions.

AFL-CIO President George Meany's initial reaction was that the board's action had "abrogated our contracts." Other representatives of organized labor have also reacted bitterly, as well they might.

The board's virtual ban on retroactive payment of wage increases due to working people during the August 14–November 15 period means a staggering loss of income for workingmen and women. Congress must not allow this injustice to be visited upon workingmen and women, who have been consistently singled out by the President as sacrificial victims of his misguided and discriminatory economic policies.

Accordingly, I introduce yesterday a bill (H.R. 11634) to amend the Economic Stabilization Act of 1970 to permit the maintenance of wages and salaries at levels contracted for prior to August 15, 1971. The intent of my bill is to restore the integrity of labor contracts duly negotiated and signed prior to the beginning of the freeze.

In New York City, where residents have to contend with the highest cost of living in the continental United States, it has been estimated that hundreds of thousands of workers have lost millions of dollars in pay increases to which they were entitled under their contracts. These increases must be restored to them.

Tens of thousands of teachers, postal workers, hospital and nursing home employees, cotton garment workers, city employees, retail employees, and workers in the commercial printing industry were among those cheated of their contractual wage and salary increases.

Teachers, for example, would have received $7 million in pay increases this fall, had it not been for the freeze. Recently, a delegation of members of the United Federation of Teachers, led by Legislative Representative Alice F. Marsh, met with me in my New York office to protest the denial of retroactive pay. Under a 3-year contract entered into in 1969, the city's teachers were due to get an increase of $950 on October 1 of this year. An increase in the contribution to the welfare fund in order to implement a dental plan was also agreed to.

A contract for UFT paraprofessional employees, who work as teacher's aides and perform other auxiliary duties, is scheduled to raise their pay 30 to 55 cents an hour in January 1972. If the 5.5-percent pay increase ceiling is allowed to stand, the paraprofessionals, who now are paid between $2.80 and $4.50 an hour, will be seriously affected; their welfare fund benefits have already been impaired.

Other unions such as District Council 37, American Federation of State, County, and Municipal Employees, District 65, Distributive Workers of America, and Hospital and Drug Employees Local 1199 report that denial of retroactive pay means severe hardship for their members.

More than 8,000 hospital and nursing home workers lost out on 10-percent increases due October 1, and 8,000 retail and distributive workers have been deprived of wage and cost of living increases.

Twenty-thousand workers in the cotton garment, retail, neckwear, and other industries were scheduled to receive a 12½-percent increase September 1 under terms of contracts negotiated last year. In a statement issued by President Jacob S. Potofsky and Secretary-Treasurer Frank Rosenblum of the Amalgamated Clothing Workers, the union pointed out:

Losing these weeks of a previously negotiated increase will make life just that much harder for workers who have already suffered from the effects of inflation.

Mr. Speaker, although the Nixon administration has tried to place the blame for inflation on working people and to make them bear the major burden of his so-called cure, the fact is that most working people are just barely getting by. In New York City, 25 percent of the work force earns less than $100 a week, and thousands of others earn much less than the $6,950 a year which the Bureau of Labor statistics says is the minimum budget needed by an urban family of four. To deprive men and women in such low wage categories of retroactive pay or of substantial pay increases in the future is to condemn them to mere subsistence living while the big corporations and banks get the high sign from the Nixon administration to profiteer.

The unfairness of the wage freeze is compounded by the Nixon administration's decision to leave profits, mortgage, and interest rates uncontrolled and to make only the slightest pretext at controlling prices. Indeed, the so-called price freeze has proved to be such a farce that unions and consumers have set up their own "price watch" teams to monitor prices.

They have found, not surprisingly, that prices have been going up steadily. In New York, members of District Council 37 carried out a 1-day lightning check of Manhattan supermarkets. They discovered hundreds of instances of prices being raised despite the freeze. They also discovered that 98 of 102 stores had failed to make pricelists available to the public. Although this was in flagrant violation of the law, none of the stores were being prosecuted by Federal agencies that are supposed to be supervising prices. In any case, the Nixon administration has now told businesses that they do not have to post pricelists. If a customer asks for a list so that she can compare prices while shopping, the store management can now simply tell her, "We will mail you one." This is what passes for a price freeze.

It has been my position since the President announced his new economic pro-

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gram in mid-August that there was no national emergency of any kind that would justify President Nixon's authoritarian wage freeze. I intend to vote against extension of the Economic Stabilization Act, particularly if the boards which the President has set up continue to show bias against working people and consumers.

As I said in my testimony before the House Ways and Means Committee on September 16, I would support controls only if "voluntary controls on wages, prices, profits, interest rates and dividends were instituted as part of a great national effort to redirect our priorities away from military spending and toward the real needs of our people—if this Congress addressed itself to the question of curbing monopoly or so-called managed pricing which costs American consumers over $45 billion a year—and—if an effort were made to correct the maldistribution of income in our economy, which now sees the top 20 percent of all U.S. families cornering 41 percent of the income while rising numbers of Americans are forced on to the jobless or welfare rolls."

Instead of denying workers retroactive pay and limiting wage increases to 5.5 percent, which has the effect of freezing inequities, the Government, and we in the Congress, should be concerned with ending the war in Vietnam, which has been a major cause of inflation, strengthening the purchasing power of the poor and lower middle classes, and creating programs to rebuild our cities, provide jobs for the unemployed, and meet the demand for low-cost mass transit facilities, housing, antipollution facilities, and drug rehabilitation.

President Nixon is asking millions of Americans to make unnecessary sacrifices to sustain a war-oriented economy. It is time that the Pentagon, the banks and corporate profiteers be asked to make some sacrifices. For more than 25 years they have been plundering the wealth of our country while the urgent needs of our people have been neglected. I suggest that the Members of Congress reject President Nixon's economic policies and help lead our Nation toward peaceful priorities and an economy in which the people who make our Nation work can share equitably in the wealth they create.

I include the text of H.R. 11634 in the RECORD at this point:

H.R. 11634

A bill to amend the Economic Stabilization Act of 1970 to permit the maintenance of wages and salaries at levels contracted for prior to August 15, 1971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(c) Effective November 14, 1971, the authority conferred on the President by this section shall not be exercised to limit the level of any wage or salary (including any fringe benefit offered in connection with an employment contract) to a level below that which has been agreed to in a contract which (1) relates to such wage or salary, as the case may be, and (2) has been executed prior to August 15, 1971."

SPOT ZONING OF PROVIDENCE HOSPITAL SITE WOULD BLOCK VIEW OF CAPITOL—AMENDMENT TO DISTRICT OF COLUMBIA REVENUE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, tomorrow when the House considers H.R. 11341, the District of Columbia Revenue Act of 1971, I shall offer an amendment to eliminate section 708. The text of the amendment follows:

Page 15, strike out lines 12 through 18.

SEC. 708 should be eliminated because it is an unwise effort to have Congress overrule the Zoning Commission of the District of Columbia and force upon a residential area Commercial zoning to permit a 90 foot high-rise building rather than the present Residential zoning which is limited to town-house type buildings of 3 stories or 40 feet.

The National Capital Planning Commission opposes section 708.

The District of Columbia Zoning Commission has refused to make this change on four different occasions.

The Architect of the Capitol, George M. White, opposes section 708. As Mr. White says:

My primary concern, of course is not only for the preservation of the historic dignity of the Capitol in terms of the general vista surrounding it, but also the long-range development of Capitol Hill which should be accomplished in the best interests of the Congress.

I hope that Members of the House will vote against the committee amendment to section 708 and support my amendment to strike section 708 when it comes to the floor Thursday.

DANIELSON CALLS FOR PRISON REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

Mr. DANIELSON. Mr. Speaker, the need for prison reform throughout our country has existed for a long time, but it has not become the subject of great public interest until recently. My concern is that Congress take action with all possible haste—hopefully before the close of the 92d Congress.

Uprisings in prisons from California to New York have focused public consciousness on a number of the problems in our penal system and on the urgent need for solutions. The public has been outraged by the turmoil existing in many prisons. People are alarmed and angered by the very fact that rebellions take place within our prisons, they are worried about the safety of prison guards and concerned that our prisons are not truly rehabilitating the prisoners.

More than 20 bills have been introduced in this session of Congress proposing various kinds of penal reform. The majority of these measures have been referred to the Committee on the Judiciary, of which I am a member. A Judiciary subcommittee has begun hearings on this subject and further hearings will be held during the months to come.

Legislation for penal reform will need to maintain protection for society while assuring that confinement does not destroy the capacity of an inmate to find a place in society when he is released after serving his term.

We constantly hear the statement that the purpose of prisons is the rehabilitation and correction of criminals. In California we have even named our prison department "The Department of Correction." This is an ironic misnomer and I am afraid we are deluding ourselves, for very few convicts are "rehabilitated" and in very few instances are we successful in "correcting" their antisocial behavior patterns.

One of the greatest problems in criminal justice is recidivism, which is the technical word used to describe the fact that many convicts become "repeaters." Seventy percent of all inmates are repeaters, and 80 percent of all serious crimes are committed by former prisoners. Thus, it is clear that while imprisonment punishes the criminal, it often does not correct or rehabilitate him. The Bureau of Prisons estimates that more than 95 percent of imprisoned persons are eventually released and returned to society. If we are to have any success in preventing these people from returning to a life of crime we must make it possible for them to find jobs, so that they can earn a living and find some kind of an acceptable place in society.

Another area needing attention is the jail system. The Law Enforcement Assistance Administration conducted a census of 4,000 jails and reported a daily average number of 160,000 persons in jail. More than half of this number have not been convicted of any crime; they have only been arrested and are awaiting trial, some have not even been formally charged with a criminal offense. Many of these will eventually be found to be not guilty, and will be released. Meanwhile, they will have been forced to spend weeks, sometimes months, in the miserable and often degrading confines of a jail.

Proposals pending before Congress cover various aspects of the problem. To strengthen penal and correctional systems, there are bills providing for creation of innovative programs of vocational training, job placement, and on-the-job counseling; development of specialized curriculums; training of educational personnel; and construction and modernization of correctional institutions. One proposal provides that 60 percent of the earnings of the Federal prison industries shall be used for vocational and rehabilitation training of prisoners.

Other bills would strengthen supervision over persons released on bail, probation or parole; encourage States to adopt special probation services; and make specific provisions for rehabilitation of drug dependent Federal offenders.

Some measures would strengthen police protection; require accreditation of law enforcement agencies; improve prosecution of offenders; and expedite overcrowded court criminal calendars.

Let us hope that out of these proposals we may be able to bring about changes in our prison system which will help it to more nearly serve its purpose.

THE CANNIKIN PAPERS

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, all of us who opposed the Cannikin nuclear test in Alaska are glad that there was no immediate disaster.

The test took place on Saturday following the Supreme Court, 4 to 3, decision not to permit environmentalists a few days to present their legal arguments against Cannikin. The explosion demonstrates again the inexhorable momentum of weapons development under governmental secrecy.

We should not take at face value the administration's pious claims that there never was any danger. The fact that no disaster took place does not lessen the argument that Cannikin should not have been conducted.

There was never a belief that earthquakes, tidal waves, and other effects were probable. Our contention was that they were possible. It was a matter of the odds for or against a disaster, and the nuclear dice turned up favorable this time. They could just as easily have had other results.

The point of the opposition to Cannikin was that it was a gamble—the administration and the Atomic Energy Commission were unable to make a definite, positive statement that no disaster would take place. All they said was that it was unlikely.

Despite the good fortune on the gamble, the fact remains that the administration did tamper recklessly with the environment. There was no military need to, but the administration chose to put the lives and property of our people, and those of other nations, on the luck of its wager.

So the administration must be denounced for placing us in jeopardy no matter what the results.

As evidence that there were serious questions among reputable scientists, we have the Cannikin papers—a group of documents which the administration savagely fought to keep secret from the Congress and the American public. The administration had good reason to fear the wrath of our people if the dangers of this misdeed could be fully disclosed.

Authority and funds for Cannikin were obtained from Congress while information on its potential effects was cynically withheld. Nevertheless, the administration had in its possession at the time secret documents which proclaimed the vast destructive dangers of this immense nuclear explosion.

It was necessary to seek the release of this information by court decree, so that the Congress and the American people could be informed of the possible consequences of Cannikin. Fortunately, we have been able to obtain at least some of the Cannikin papers.

While these portions of the Cannikin papers which have been released by court mandate are probably not the most revealing of the papers, they do disclose that the opponents of Cannikin have strong support in the administration.

Chairman Russell E. Train of the Council on Environmental Quality, the highest environmental adviser to the President, warned of the dangers of Cannikin in a memorandum on December 2, 1970—but only released nearly a year later after diligent legal efforts. The memorandum was prepared for Mr. John N. Irwin II, Under Secretary of State, who was acting as chairman of the Under Secretaries Committee of the National Security Council. The committee is the body that prepared the Cannikin papers as the basis for advising the President whether to proceed with Cannikin.

Mr. Train warned of effects from the Cannikin blast that "would raise the probability of triggering a large earthquake." He further stated that a tidal wave, or tsunami, could thus be generated, and reminded Mr. Irwin that such giant waves can travel thousands of miles over the ocean as the one in 1946 that killed 159 people in Hawaii.

Another portion of the Cannikin papers is a study by M. L. Merritt describing the leakage of radioactive tritium into the sea around Amchitka Island. A statement by Mr. J. W. Hadley describes the possibility of a major earthquake as "remote, but real." Dr. William G. Van Dorn discusses "Probability of Tsunami Generation in Connection with Cannikin."

Because of wide congressional and public interest in these papers which the Nixon administration has sought to withhold from public disclosure. I am inserting them at this point in the RECORD. Additional portions of the Cannikin papers released by court action will be inserted later, and I will continue my legal efforts to obtain full disclosure of all the Cannikin papers. I am also including a memorandum by Mr. Irwin providing a description of the Cannikin papers. The memorandum was prepared as part of the administration's defense in the U.S. District Court for the District of Columbia to prevent release of the Cannikin papers.

The material follows:

MEMORANDUM FOR THE HONORABLE JOHN N. IRWIN II: POTENTIAL ENVIRONMENTAL HAZARDS ASSOCIATED WITH CANNIKIN

Earthquake Generation. The mechanism of an earthquake is still a matter of some speculation. In brief, the earth's crust is thought to be made up of numbers of rigid blocks generally of continental dimensions bounded by regions in which seismic activity is high. The blocks move relative to each other, but the cause of the motion is unknown. The scraping of one block against another leads to a concentration of energy in the form of elastic strain energy. The regions between blocks are characterized by fault or tears in the crust. An earthquake occurs when the strains in the crust build up to such an extent that the frictional forces along the faults are overcome. A large amount of strain energy is released and this produces the damage, though probably only a small fraction of the stored energy is tapped even in the great earthquakes.

Recent studies of both the Chilean earthquake of 1960 and the Alaskan earthquake of 1964 suggest that great earthquakes consist of a superposition of smaller quakes. The smaller quakes trigger each other like a line of falling dominoes, the combined effect being that of a great earthquake. The individual earthquakes making up a large earthquake have a magnitude of six to seven on a logarithmic scale. In the great earthquakes, having a magnitude intensity of eight, motion along the fault extends as far as a thousand kilometers. The energy released in the largest earthquakes is equivalent to several hundred megatons while the energy released in the postulated smaller component earthquakes is on the order of one to ten megatons.

Because of the vast energies involved in earthquakes, it had been thought until recently that man could not artificially produce an earthquake. Now there are three well-documented ways in which man is known to have triggered earthquakes.

A series of earthquakes were observed near Denver in a region that had previously been aseismic. The best interpretation of this phenomena is that waste fluids from the Rocky Mountain arsenal were pumped deep into the earth and lubricated a previously existing fault. Slippage along the fault was thus possible and strain that had previously accumulated in the adjacent rock over ecologic time was liberated in the form of earthquakes.

A second example is found in the case of earthquakes associated with large lakes or reservoirs. As a result of loading of the earth's crust by these large bodies of water or by the modification of the groundwater flow or for some other reason not yet understood, substantial earthquakes have been associated with construction of large artificial lakes. A recent earthquake near Koyna Dam in India located in an area that is not normally seismic killed about 200 people. Similarly, many small earthquakes occurred when Lake Mead was filled.

A third example and one most relevant to Cannikin is the triggering of earthquakes by motion along known faults in Nevada by large underground nuclear explosions. Fault scarps over six feet in maximum height and several miles in length have resulted from fault movements initiated by underground explosions. The evidence is strong that natural strain energy stored in the earth has been released in the Nevada test site by the underground explosions.

An underground explosion can affect the strain field within the crust in a number of ways. The large amplitude surface waves generated by the underground explosion can dynamically overload near surface breaks or fractures within the crust and bring about a strain adjustment. The creation of a large cavity together with a later collapse of the chimney produces permanent changes in the strain field. Observations in Nevada of the Benham event of about a megaton produced strain changes of sufficient magnitude to trigger an earthquake along previously existing faults of a distance of about 15 kilometers. However, the strain field resulting from an underground explosion cannot be calculated with any precision because of the dependence of the field on the detailed geology which is largely unknown at any given location.

In addition to the direct effects of the blast

on the strain field, the explosion will alter the pressure regime in the groundwater. The water pressure in the rocks interstices will increase due to the compaction of the ground around the cavity. This overpressure might be as large as 10 bars at a radius of 18 km. This increase in the fluid pressure will reduce the friction between fracture separated blocks. The effect would be greatest on faults oriented parallel to the residual compressive stresses resulting from the test explosion. Thus, it is possible that the mechanism involved in the Denver earthquake would raise the probability of triggering a large earthquake.

All the earthquakes triggered by underground explosions in the various Nevada tests released substantially less energy than the explosion itself. If one could establish that this is a necessary condition then there would be no apprehension with regard to the Cannikin event. Unfortunately, this is not the case. The magnitude of the triggered earthquakes will depend on the state of strain in the crust in the general region at which the underground explosion is set off. Extrapolation from the Nevada experience is uncertain because of the fundamentally different geologic setting between Nevada and the Aleutians. Further, experience with Milrow does not provide a sure basis for extrapolation. In the highly nonlinear phenomena involved in earthquake generation, there may be a threshold value of the strain that must be exceeded prior to initiation of a large earthquake. The suggested explanation of the Chilean and Alaskan earthquakes in terms of a succession of smaller earthquakes would support this interpretation. In this model a number of lock points stabilize a fault. Once one lock point is broken, sufficient energy may be released to break other lock points. If the stored strain energy is large, then the triggered earthquake could be of much greater magnitude than the triggering event. The underground explosion could serve as the first domino of the row of dominoes leading to a major earthquake. The major fault in the general region of Amchitka is thought to be some 40 km. beneath the test shot. This strain field will certainly be altered at this depth by the underground explosion. Observations on the Benham event showed strains exceeding tidal strains at 29 km.

Potential Effects of a Triggered Earthquake. The population density in the Aleutian area is very low so even a major earthquake would cause little damage and little loss of life as a result of the direct impact of the earthquake itself. This would not be true if the generated earthquake were so large as to extend towards mainland Alaska. While this is improbable since the largest known earthquakes have extended along the faults on the order of a thousand kilometers but not two thousand kilometers, there are uncertainties with regard to fault lengths associated with earthquakes.

The real danger from the triggering of a large earthquake by the nuclear explosion is in a tidal wave or tsunami. Tsunamis generated in the Eastern Aleutians by earthquakes have had damaging effects at great distance. For example, a tsunami in 1946 killed 159 people in Hawaii and was observed in Peru. The potential long-range effect emphasized by the fact that the Chilean earthquake of 1960 caused loss of life in Japan. The mechanism by which a tsunami is generated is still uncertain; tsunamis are probably due to movements of the sea floor associated with fault motion. Large earthquakes in the near vicinity of Amchitka have not caused destructive tsunamis in the past. However, as in the case of earthquakes it is not possible at this time to assess quantitatively the probability of a tsunami following the explosion.

Effects of Explosion on Groundwater Movement. The explosion resulting in a cavity, followed by a collapse of the overlying rock forming a rubble chimney will affect the groundwater flow in several ways. The initial shock wave and accompanying water overpressure may open up new fractures which could alter rates of flow.

The formation of the chimney will probably lead to a saucer-like depression even though the true rubble chimney does not extend to the surface. Since the groundwater level almost reaches the surface the depression will fill with water.

The chimney itself will be relatively permeable to water movement and there will be a tendency for the warm water near the cavity to move upward through the rubble. In this way radioactive nuclides, principally tritium, can be mixed throughout the chimney. The time scale for such mixing is not known but could be as short as a few years or less.

Water in the chimney would move to the sea at a rate dependent on the hydraulic head, the permeability of existing aquifers and permeability of any new fractures opened up by the explosion. USGS calculations indicate a time for such movement might be as short as one to two years. These are short times and are inconsistent with estimates made by AEC that tritium will be discharged into the ocean only 145 years after the explosion. At that time the concentration of tritium in the groundwater is expected to be at a level close to the maximum permissible concentration for water. If the shorter times (5 to 10 years) postulated above are correct then the level of radioactivity in the groundwater entering the ocean would be in excess of ten thousand to one hundred thousand maximum permissible concentration for water.

Effects of Groundwater Relase of Radioactivity into the Ocean. The waters adjacent to Amchitka hold rich fisheries. Pacific salmon that migrate through the area are important commercially. Japanese, Soviet and American fishermen take salmon, ocean perch and limited amounts of king crab.

The tritium released through groundwater motion will be diluted by the ocean currents. Even if the dilution is as great as a hundred thousand, there is the possibility of concentration of tritium well above background levels in various steps of the food chain. The detailed behavior of tritium in the food chain is uncertain though it is not generally thought to be concentrated. However, the possibility remains of fish being caught having higher than the background levels of radioactivity.

RUSSELL E. TRAIN,
Chairman,
Council on Environmental Quality.

THE GROUND WATER PROBLEM AT AMCHITKA

(By M. L. Merritt)

Let us stipulate at the beginning that ground water will be able to get to the radioactive material formed by the Cannikin explosion, and that essentially all the tritium and noble gas isotopes so formed will be available for the transport in that ground water. This is because the underground cavity formed by the explosion will collapse and form a chimney which will probably reach the surface, there manifesting itself as a collapse sink. Other isotopes, such as ^{90}Sr and ^{137}Cs, will be in part tied up in resolidified rock glass, and in case will travel much more slowly than the ground water because of chemical and physical ad- and absorption.

The natural ground water flow on a long narrow island such as Amchitka is one driven by rainwater. A small fraction (one to ten percent) of the precipitation infiltrates the surface and flows downward and outward to the sea, forming a fresh water lens over salt water, and flowing more quickly near the surface than at depth. Hydrological measurements at the Cannikin sites imply that the fresh-salt water interface is at a depth of about 1200 m (4000 ft) below the surface, or 4–600 m (1300–2000 ft) above the shot point and the initial position of the radioactivity. It might also be noted that ground water flow is slow by many standards. A sample of water taken from 1000 m depth in the test hole had a carbon-14 date of 10,000 years, meaning it had left the surface that long ago. Pre-shot flow velocities at shot depth are estimated at 15 m/year. On the other hand, it must also be admitted, and this is the basis for the Council on Environmental Quality's comments on Cannikin, that the rubble chimney constitutes a highly permeable vertical short circuit of the ground water system, and that the hydrological measurements indicate zones of fairly permeable rock higher in the section. In particular at a depth of 760 m (2500 ft) there appears to be such a zone.

After the chimney forms—probably a matter of days at most—ground water and surface water will pour into it. Calculations of flow indicate an equilibrium will be reached at a depth of 60 ft. Thus it is improbable that there will be a residual surface pool of water, provided the collapse sink is broad and shallow as at Milrow, rather than deep as at Bonham. The filling may take anywhere from 3 to 18 months; Milrow, it might be interjected, now seems to be full as indicated by stream flow measurements.

When the chimney is full, ground water flow will tend to resume its pre-shot pattern, except within a very few radii of the chimney where measurements on Hardhat and Piledriver indicate increased permeability as a result of the disturbance. The shot point is, as we have seen, below the basic flow pattern, though it may be in a fluctuating boundary region and hence be influenced by that flow. Therefore the basic and probable flow is outwards to the sea in a slow and tortuous path, one estimated to take a century or more.

Nevertheless the worrisome suggestion is made that there may be mixing back up the chimney, a mixing driven by the fact that the rock around the shot point will be hot, and that warm water is less dense than cold and therefore tends to rise in colder water. But salt water is 2–3% more dense than fresh water, and if even half the energy of the explosion (5×10^{14} calories/mt) went to heating water (4×10^{19} gm/mt) the temperature rise would only be enough to overcome this difference in density. Even then in rising it would tend to heat the rock of the rubble through which it would be rising, and thus lose buoyance in the process. Altogether it is quite unlikely that there would be appreciable mixing up the chimney to the more permeable zones 1000 m above.

Nevertheless if tritiated water did mix up even in part, what then? *If* this zone is continuous out to and up to the sea, and *if* its permeability is all or largely due to fracture porosity (this is important because the thing measured in hydraulic tests is the ability to take water, and lower porosity means faster flow), then tritiated water would reach the sea very rapidly. However, in no case can the concentration there be greater than at the source or about 2.5 μ Ci/cm^3 (from 7–10,000 curies/kt of fusion and 4×10^{19} cm^3 water/mt), which is to say 2500 times the Radiation Concentration Guide for human drinking water. But there is no potential for this water to be used for drinking water; and moreover, it is easy to show that dilution in the ocean is in the order of 10^5 or greater. Then too, fish move about, so that different fish would be exposed at different times, and the time scale for fish to throw off any tritium taken in is of the order of hours or days. Finally, biological systems do not concentrate tritium as they do isotopes such as ^{65}Zn or ^{55}Fe whose sizable equivalents are scarce in sea water. This latter point is now only an assertion from chemical and biological principles but a point confirmed experimentally as a by-product of several studies of tritium toxicology in marine organisms.

In conclusion, I believe that the probable fate of the tritium remaining after the Cannikin explosion is slow migration to the sea, where it will arrive late, and be so quickly diluted as to be undetectable. The worry over mixing up the chimney and flow to the sea through "aquifers" near the surface is worry over a very improbable train of circumstances.

STATEMENT BY J. W. HADLEY AT CANNIKIN BRIEFING, NSC UNDER SECRETARIES COMMITTEE, DECEMBER 15, 1970

The triggering of a major earthquake by the Cannikin test has been posed as a possibility. This earthquake in turn is considered as the potential source of a destructive tsunami (giant sea wave). I will review briefly the information in hand which bears on the triggered earthquake, and will state the conclusions which have been drawn without trying to justify them in detail in the short time available here. Dr. Van Dorn, following, will review the tsunami issue.

NATURE OF THE EFFECTS

An underground explosion produces more than one kind of ground motion. First, a strong vibration of the earth results directly from the explosive forces. This effect, which for a one-megaton test resembles the motion of a magnitude 6 earthquake, always occurs and can reliably be calculated. The "triggering" hazard refers to a postulated secondary effect, stimulation of a large "natural" earthquake which might cause substantially more damage than the direct effects of the explosion would. Such an event would probably involve random processes, and the likelihood of its occurrence is not subject to exact calculation. It has never happened in connection with any previous underground test, and it is not expected to happen following Cannikin, although in principal it could. While a numerical figure for the probability of that occurrence cannot now be determined, the scientific community agrees that the probability is very small, and that it relates only to premature stimulation of a latent quake in the western Aleutians which would be expected to occur in natural course even without Cannikin.

Smaller triggered earthquakes regularly follow large underground tests, sometimes in very large number and extending over a period of weeks or months after the test. These occur within a ten-mile radius or so, and the largest of them releases no more than about one percent of the energy of the associated test. In addition, some evidence indicates that local fault slip within a few seconds time interval and a few miles distance from large tests may have taken place, and this could be described as a variety of triggered earthquake. Neither of these very local effects involve any hazard. They can be regarded as "caused" by the explosion, since they would not have been expected to occur otherwise; a large and destructive quake could only be a "triggered" event, not a "caused" one.

MECHANISM FOR ALEUTIAN EARTHQUAKE GENERATION

Figure 1 shows the position of the Amchitka Island test site toward the western end of the Aleutian chain. This island chain appears in the world map of Figure 2 as the northern boundary of the Pacific Ocean. Locations of earthquakes occurring between 1961 and 1969 are shown as dots, and their concentration in a narrow belt running around the shores of the Pacific is quite apparent. A general explanation for this pattern lies in a model now generally accepted by geophysicists: To describe this model in the simplest terms, new rock constantly rises from a system of mid-oceanic ridges through the south and eastern part of the Pacific and then moves as a rigid plate across the ocean floor toward the northwest, at a rate of about an inch per year.

Arriving at island arcs there, the plate turns downward and plunges back into the earth. The process of impaction of the plate along the Aleutians results in the buildup of high stresses. When these become sufficiently great in a particular region, slippage takes place and an earthquake is generated. The process proceeds rather erratically, and slippage at a given time seems always to be confined to a zone of limited extent along the island chain. Zones in which major releases have taken place appear as block-like patterns of dots in the Aleutians, each corresponding to the region of principal influence of one major quake. The zone including Amchitka is the westernmost, and is separated by two or three other zones from the Alaskan mainland. If a large quake were to be triggered by Cannikin, it would be near Amchitka. The only populations exposed to the resulting strong ground motion would be those of the U.S. Naval stations at Shemya and Adak Islands, and neither injury nor significant damage would be expected.

OTHER TRIGGERING EXPERIENCE

We know that triggering of earthquakes does occur. The easiest instances to identify are those where some definite action by man has been followed by quakes in a region where they previously had not occurred, or had occurred only very infrequently. Examples are series of tremors following the filling of Lake Mead on the Colorado River, and following the injection of fluids into the ground at the Rocky Mountain Arsenal and at the Rangely oil field in Colorado. Small local aftershocks from underground tests were mentioned before.

Cases of triggering of earthquakes by other earthquakes are more difficult to identify, since there is no sure way to discover whether a particular quake is truly triggered by another quake or merely happened to occur near it in time and location, or if they both followed from a common cause. Some cases can be cited that do have the appearance of triggering. The stimulation of a fault slip in Southern California at a distance of 70 kilometers from an earthquake epicenter should be included in this category.

A published analysis of seismic data from the 1964 Good Friday earthquake in Alaska identifies a number of successive epicenters along the zone of rupture, indicating that the breaking of a succession of "lock points" was involved. This has been cited from time to time as evidence for triggering as a sort of falling-domino process. We do not believe that this interpretation should be extended to imply an important triggering risk from Cannikin, however. The effect of an initial fault break on further motion of the same fault would be quite different from the effect of an explosion at a different location.

IMPLICATION OF HIGH NATURAL SEISMICITY

Earthquakes occur very frequently in the Aleutians. There have been 4 quakes of Richter magnitude greater than 7½ within a distance of 100 miles or so from Amchitka since the start of reliable records in 1905. These are very large as earthquakes go. The number of smaller quakes is much greater: for every decrease of one unit of magnitude, about ten times as many quakes occur in a given period, so that events of magnitude 5 and greater are commonplace.

On first thought, this suggests that the risk of triggering in the Aleutians would be high. After more careful consideration, though, the risk appears lower, and indeed there is reason to believe that the risk of triggering a damaging quake may be lower at Amchitka than if the proposed test were conducted in some less seismically active regions.

The steady incidence of earthquakes in the Aleutians means that accumulated stress energy is regularly being released. The system is in a kind of dynamic equilibrium, and should be rather insensitive to outside disturbance. Seismologists have pointed out the significance of the magnitude-frequency relationship to this issue: Some physical process works to maintain a fixed distribution of the sizes of quanta in which energy is released. These observations apply in a probabilistic sense, and must be used with caution in speaking of a single event, but they do lend weight to the expectation that no dangerous triggering will result from Cannikin. To state these ideas in a somewhat different way, even if triggering can play an important role in the release of earthquakes in the Aleutians, the effect produced by the Cannikin explosion will be a relatively slight disturbance in comparison with the steady background of disturbances provided by natural quakes.

The high natural frequency of Aleutian earthquakes has another important significance to the Cannikin test. Whether or not it takes place, earthquakes will continue along the island chain and indeed, all around the shores of the Pacific. There could well be a large and damaging quake soon after Cannikin, and since no quake is labeled as to the manner of its origin, there would surely be a tendency to assign responsibility to Cannikin.

RESULTS AND IMPLICATIONS OF MILROW

The Milrow test was conducted on Amchitka, October 2, 1969, at a yield of about one megaton.

Observation of the local and regional rate of occurrence of earthquakes before and after Milrow showed no change between the two periods. Some small aftershocks occurred within a three-mile radius of the test location, but they were fewer in number than the expectation based on Nevada experience. Patterns of change in earth crustal strain on the island were consistent with obeervations after Nevada tests. There was no indication of any kind of an increased sensitivity to earthquake triggering compared with the Nevada Test Site.

This result is very encouraging and is consistent with our expectations for Milrow and with the expectation that Cannikin will not result in seismic damage. It cannot be used in a calculational sense for extrapolation to determine Cannikin results, though, because the required theoretical basis has not yet been developed. We do not have the necessary information to identify a yield which might represent a "threshold" for triggering.

Admitted inability to calculate a numerical probability of triggering a large quake by Cannikin should not be taken to imply that the subject is inaccessible to scientific understanding. The nature of the processes that would be involved in a triggering occurrence is fairly well known, and physical laws can be applied in a general way to distinguish a range of likely behavior. The reasoning applied to the Cannikin earthquake triggering issue is based on knowledge of the structure of the Aleutian chain, of the history of seismicity there, experience with many underground tests in Nevada, and on the consistency of Milrow results with expectations. It leads to a confident conclusion that the likelihood of hazard is very low.

PUBLIC AND SCIENTIFIC EXPOSURE

At one time responsible concern was expressed that information on seismic hazards of underground testing was inaccessible to the public, and that there was insufficient participation by the scientific community at large in judging the degree of such hazards. Indeed until about two years ago, very little broad discussion of the issue had taken place either within or outside of AEC test circles. At that time a number of experimental and analytical programs were started to identify and interpret triggering and re-

lated phenomena. Since then an increasing number of scientific workers, both independent and under AEC and other government sponsorship, have become active in this area. Many published articles and papers delivered at professional meetings have described the results of these studies, and there can no longer be any doubt that the information is accessible.

Qualified scientific opinion is in good agreement that the possibility of triggering a large earthquake by Cannikin is remote, but real, and that this quake, if it took place, would be one which would have appeared later in the natural course of events, on a nearby fault, even without Cannikin. Variation of technical opinion from this position is minor. Because of the remoteness of Amchitka, the triggered quake would not cause important direct damage, but the possibility of its generating a tsunami must be considered.

The advice of scientists as to whether or not the seismic hazards of Cannikin are acceptable has been somewhat more diverse, largely as a result of their varying assessment of what constitutes acceptability.

SOVIET TEST

A large Soviet test fired on October 16, 1970, at Novaya Zemlya, with a yield announced by the AEC as 6 megatons, has attracted questions as to its possible implications toward the triggering issue. No aftershocks have been seen by the World-Wide Network of Standard Seismic Stations, which has a detection threshold at Richter magnitude about 4.5 for the Novaya Zemlya region.

The fact that no large quake was triggered is simply another piece of somewhat negative evidence. Natural quakes do not normally occur in the Novaya Zemlya region nor within a range of hundreds of miles from it. Small aftershocks of the kind that usually occur within a few miles of the largest Nevada tests (and Milrow) may or may not have taken place; that none should be large enough to exceed the detection threshold would cause no surprise.

PROBABILITY OF TSUNAMI GENERATION IN CONNECTION WITH CANNIKIN

(By Dr. William G. Van Dorn, Scripps Institution of Oceanography, University of California, San Diego, December 15, 1970)

Gentlemen, a good fraction of my scientific career has been concerned with tsunamis—both natural and man-made. I was responsible for measuring and evaluating the hazard from water wave effects for nearly all of the Pacific nuclear tests, and for many subsequent related studies. My investigation of natural tsunamis have led to a number of recommendations for improving public safety, only a few of which have been adopted.

I would like to emphasize here that I am as deeply concerned with the safety aspects of underground testing at Amchitka as the well-qualified geophysicists whose opinions are represented by the recent Train memorandum.

However, there are certain mitigating circumstances not mentioned in this memorandum which suggest that the risk of a destructive tsunami being generated in association with the proposed Cannikin test is not as great as implied. These circumstances have emerged fairly recently, as a result of studies initiated by the AEC, acting on recommendations of the Panel of Consultants, of which I am a member.

In order to properly qualify them, I would like to give you a perspective of what tsunamis are like, what factors combine to produce a destructive tsunami, and to what extent the probability that such a combination might occur in conjunction with Cannikin can reasonably be assessed.

A tsunami can be defined as any localized, impulsive deformation of the free ocean surface, whether produced by a volcanic or artificial explosion, a submarine landslide, or (most commonly) a sea floor dislocation accompanying an earthquake. Tsunamis come in all sizes, limited only by water depth and available energy, but we are concerned here only with potentially dangerous events.

However generated, the initial disturbance propagates radially away from its source region as a system of free gravity waves. A good example of a miniature tsunami is the familiar pattern of concentric rings of waves produced by dropping a pebble into a pond: the waves are highest and shortest near the source, and become lower and longer as they travel outward, somewhat like the extension of an accordion bellows. Upon entering shallow water near shore, this process is reversed; the waves grow higher and shorter again, until they eventually run up against the shoreline and are partially reflected—or scattered—back out to sea.

Most of the damage from destructive tsunamis occurs during the first 5 or 6 hours after the first waves reach shore, although diminishing activity ensues for several days. The severity of local wave effects at a remote place depends in a complicated way upon several factors: the height and shape of the initial deformation, the distance the waves have traveled, and the local coastal topography. Irrespective of other factors, there is a relatively sharp distinction between damage and no damage, depending upon whether or not local runup heights exceed the normal wave and tide range.

Owing to their complexity, most of these effects were long thought not to be realistically calculable on a deterministic basis. Within the past several years, however, significant advances have been made. First, extensive, post-event geophysical surveys after the great earthquake of March 28, 1964, in Alaska, have for the first time permitted a fairly complete picture of the source characteristics of a large tsunami. Second, comparative seismological, tectonic, and/or hydrodynamic data from Alaska, and the tsunamis of 1946 and 1957 (Aleutians), and 1960 (Chile) suggest that large tsunamis originating along the Pacific trench system have common generic features. Third, AEC and DOD-sponsored studies have resulted in the development of hydrodynamic computer codes for the deterministic calculation of wave systems produced by known sources, their propagation across the ocean, and the local wave response at remote points.

These codes are necessarily complex, fairly expensive to run, and are still incomplete; but present results include a convincing reconstruction of the generation of the Alaskan tsunami. Although the calculations covered an area only ten times that of the source, simplified geometric extrapolations to greater distances give wave heights that agree with observations at small islands within a factor of two. The calculations are now being extended to arbitrary distances on a spherical ocean, and the critical response factors will be computed at one or two more complex locations where comparative wave observations are available. These studies should be completed within three or four months.

As a result of these and previous studies, the present status of tsunami phenomenology might be summarized as follows.

1. Tsunamis seem principally to originate from elongate sources that parallel the trench systems ringing the Pacific Basin. These trenches are considered to be zones of crustal plate abutment, whose relative motions accumulate strain that is discontinuously released in the form of earthquakes. These zones are also characterized by volcanic activity and a long geologic history of large-scale accumulative dislocations. Only zones of vertical dislocation appear to be productive of tsunamis.

2. Historically, an average of 100 detectible tsunamis per country has occurred in the Pacific Basin, of which roughly 10 percent might be classed as widely destructive. Of the latter, eight have occurred since 1900, and five since 1945. According to recent statistics, a rough classification relating tsunamis to Richter earthquake magnitude is:

Richter M<6.0 non-detectible.
6.0<M<6.5 barely detectible.
6.5<M<7.5 moderate.
M>7.5 severe.[1]

In all the above classes, the majority of earthquakes in tsunamigenic regions have not produced tsunamis.

3. The Alaskan earthquake involved a vertical seafloor uplift of from 6–30 ft over 40,000 square miles; the potential energy of the deformed water surface was 1–3 megatons, or roughly an equal percentage of the strain energy released during the parent quake. Fragmentary uplift data from Chile, and the above-cited similarities in aftershock patterns and tide-gage records, suggest that the 1946, 1957, and 1960 tsunamis involved similar volumetric displacements.

4. Two geometrical effects govern the radial flux of wave energy. Elongate sources are somewhat directional. For Alaska, the aspect ratio (length:breadth) was about 4:1, and, although the wave pattern reconstruction was almost circular in midocean, the wave heights were twice as high normal to the longer axis of the source than parallel to it. Secondly, the radial attenuation of wave height with distance is the product of two factors: radial stretching and lateral spreading. The former persists at all distances, but the latter reaches a minimum at one-quarter of the earth's circumference and again increases; their product has a minimum at about 8000 miles. Thus, wave heights actually increase at greater distances, which accounts, in part, for the severity of damage in Japan from Chilean tsunamis, and conversely.

With respect to the probability of tsunami generation in association with the proposed Cannikin test the following statements apply:

I. DIRECT EFFECTS

During the Milrow test, surface doming due to cavity expansion produced a maximum of 8 inches of uplift along less than a mile of shoreline, and no measurable offshore fault displacements were observed. No anomalous waves were recorded by an array of bottom-mounted sensors within 5–15 miles of the shot point, and having a threshold resolution of about 1 cm. Thus the maximum volumetric sea surface displacement during this event was substantially less than one-millionth of that accredited to large tsunamis. No significant alteration of these circumstances is implied by the Cannikin test, or any nominal extrapolation thereof.

II. INDIRECT EFFECTS

Principal public and scientific attention has been directed toward the possibility that a Cannikin-triggered earthquake might generate a destructive tsunami. This would require the coincidence of two apparently unprecedented events: the triggering of an earthquake along the Amchitka fault block west of Amchitka Pass having a Richter magnitude of at least 7.3, and whose vertical dislocation is six feet or larger. The first possibility has been discussed by Dr. Hadley, and I will address my remarks to the latter problem

Despite the fact that there are no recognizable dissimilarities in the frequency or intensity of seismic activity along the Aleutian Arc, or in tectonic structure and incidence of vulcanism, there is no historical record of a destructive tsunami having been generated west of Amchitka Pass.

Since 1900, there have been about 60 earthquakes of magnitudes 6.75<M<7.5, and 14 of magnitude 7.5 or larger. Three of the latter events have generated destructive tsunamis. Their rupture zones—as defined by the after shock perimeters of their parent earthquakes—lie elbow to elbow, and encompass the entire Aleutian Arc from Prince William Sound to Amchitka Pass. Aside from the above-cited directional differences, remote wave effects from these three tsunamis were statistically indistinguishable.

The Rat Island Quake of February 4, 1965, had a magnitude of 7.5, an aftershock perimeter comparable to the above three tsunamigenic earthquakes, and encompassed the bulk of the Aleutian Arc west of Amchitka Pass. This earthquake generated a "moderate" tsunami, in that local tide gage heights of 8–10 feet, and extreme runup heights of 6–50[2] feet, were reported within the epicentral region, but no significant remote waves were observed.

Taken together, these factors imply that vertical dislocations associated with large Aleutian earthquakes west of Amchitka Pass are inherently smaller than those to the east. This view is also suggested by the directions of crustal plate movement in the North Pacific, which normally abut the eastern portion of the Aleutian Arc, but trend more tangentially in the western sector, such that lateral shear forces—rather than normal forces—can be expected to prevail.

To further explore these implied differences, the U.S. Geological Survey has recently conducted a field survey of the Island groups on both sides of Amchitka Pass, looking for specific evidence that might confirm or deny the hypothesis of relatively long-term vertical stability of the Amchitka sector. The following—still incomplete and unreported—results tend to support this hypothesis.[3]

1. There is a general concordance of the levels of the submarine and sea level terraces within and between the islands of the Rat Islands group and the Delarof Islands group. A 10- to 15-foot uplift in the last 3,000 to 4,000 years of the Delarof group (east of Amchitka Pass) is indicated by the fact that sea cliffs are inactive and above wave action and the modern sea-level terrace is emergent, whereas in the Rat group (west of Amchitka Pass) sea cliffs are being actively eroded.

2. The elevations with respect to sea level of these marine terraces in the west-central Aleutian Islands roughly correlate with world-wide sea-level changes during the past 240,000 years postulated by Fairbridge.

3. A 1200-foot-wide block-slump of about 100 feet near South Bight, Amchitka Island, postdates older, transcurrent faults. This slump comprises unconsolidated, multilayer, fossiliferohs sediments that show no evidence of susbequent fractures. Two proactinium dates of about 130,000 years from this slump place an upper limit on significant fault activity on Amchitka.

4. There is no evidence of fault displacement of any of the marine terraces.

5. Local recent faulting was observed on some of the active volcanoes; this appears to be restricted to the volcanoes and is inferred to be unrelated to regional tectonic processes.

6. It is safe to conclude that the west-central Aleutians have not undergone isostatic adjustments within the past 2,000,000 years at the magnitude or frequency seen to the east in the coastlines of the islands and mainland in the Gulf of Alaska.

Further evidence regarding the timescale of prehistoric changes in the geomorphology of this region should be provided by 35 samples currently being processed for radioactive dates. Additionally, a 4 station-array of sensitive wave recorders is currently being installed on Western Pacific Islands, with the object of monitoring small or moderate tsunamis from the Aleutian group. These stations, combined with siesmic data should provide data whereby Aleutian tsunami sources can be defined and compared for regional differences—if any.

Convincing differences between the long-term vertical stability of the geologic structure east and west of Amchitka Pass can be demonstrated, this evidence and the historical lack of destructive tsunamis from the western sector would provide considerable support to the arguments against significant tsunami risk in conjunction with Cannikin—whether or not a larger earthquake might be causatively imputed to this test.

It would be highly desirable to extend the field surveys to the central Aleutian Arc, so far unstudied, looking for specific evidence of recent vertical dislocations of 6–16 feet, as implied from the tsunami-producing earthquakes of 1946 and 1957.

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[1] The large 1946 Aleutian tsunami was anomalously low at M7.3.

[2] Single observation at Shemya.

[3] Notes from discussions of 12/8/70 between U.S.G.S. representatives and Dr. W. G. Van Dorn.

[U.S. District Court for the District of Columbia Civil Action No. 1614–71]

AFFIDAVIT OF JOHN N. IRWIN II

(Patsy T. Mink, et al., Plaintiffs, v. Environmental Protection Agency, et al. Defendants.)

I, John N. Irwin II, being duly sworn, do depose and state as follows:

1. I am the Under Secretary of State of the Department of State. The facts stated in his affidavit have come to my knowledge in my official capacity.

2. President Richard M. Nixon established on January 20, 1969, a Committee of which the Under Secretary of the Department of State was appointed Chairman by virtue of his position. This Committee is known as the Under Secretaries Committee and is a constituent part of the National Security Council system. This system was shaped in its present form by the President so that he could use it as an instrument for obtaining advice on important questions relating to our national security. Excerpts from a report to the Congress by the President, dated February 18, 1970, describing the National Security Council system are attached hereto as Exhibit A. By a further report to the Congress dated February 25, 1971, excerpts of which are attached as Exhibit B, the President informed Congress that the Under Secretaries Committee, of which I am currently Chairman, "links the process of policy formulation to the operations of the Government."

3. On June 27, 1969, the President directed the Under Secretaries Committee to review the annual underground nuclear test program and to encompass within this review requests for authorization of specific scheduled tests. He directed that the Committee consider the policy and technical justification for the proposed tests to determine whether they are consistent with the requirements of national security and foreign policy. He requested that the results of the Committee's review of the underground nuclear tests programs and its recommendations be transmited to him in time to allow him to give them full consideration before the scheduled events.

4. On August 12, 1970, the Under Secretaries Committee sent its review of the fiscal year 1971 underground test program to the President and pointed out that it would begin early consideration of the proposed Cannikin underground test proposed for the 1972 fiscal year.

5. In accordance with the foregoing directions from the President, the Under Secretaries Committee has prepared a report upon the proposed underground nuclear test known as Cannikin consisting of the following:

A. A memorandum prepared by me to the President dated July 17, 1971. This memorandum is classified as Top Secret and as Restricted Data.

B. Attached to that memorandum to the President was a report of the Under Secretaries Committee on the proposed Cannikin test. This report is classified Top Secret and as Restricted Data. The following documents were attached to this report:

1. A letter from the Chairman of the Atomic Energy Commission to the Chairman of the Under Secretaries Committee, myself. This letter is separately classified Secret and separately as Restricted Data.

2. A report of the Defense Program Review Committee, the Chairman of which is Dr. Henry Kissinger. This report is separately classified as Top Secret and separately as Restricted Data.

3. The Environmental Statement Cannikin, dated June 1971, by the United States Atomic Energy Commission. This document is publicly available and a copy is attached as Exhibit C.

4. A transcript of a briefing by the Atomic Energy Commission on Cannikin given orally to the Under Secretaries Committee. This document is separately classified as Secret and separately as Restricted Data; and

5. A memorandum to me from the Council on Environmental Quality. This memorandum is an attachment to the classified report and is separately unclassified.

C. In addition, letters containing recommendations were transmitted to me regarding the proposed test known as Cannikin by Mr. William D. Ruckelshaus for the Environmental Protection Agency, by Mr. Russell Train, for the Council on Environmental Quality and by Dr. Edward E. David, Jr., for the Office of Science and Technology. Each of these three letters is classified Top Secret and a Restricted Data.

The documents described in this paragraph, except for item B3 above, were prepared solely for the purpose of giving advice to the President and involve, except for Item B5 above, highly sensitive matter that is vital to our national defense and foreign policy. They were prepared and used solely for transmittal to the President as advice and recommendations and set forth the views and opinions of the individuals and agencies preparing the documents so that the President might be fully apprised of varying viewpoints and have been used for no other purpose.

6. The documents described in the preceding paragraph as Top Secret and Secret are and have been classified pursuant to Executive Order No. 10501, and the documents described as Restricted Data are and have been classified pursuant to the Atomic Energy Act of 1954, as amended, (42 USC 2014(Y), 2161 and 2162). The classified documents so described make use of data which have been identified by the Atomic Energy Commission as Restricted Data and of data classified by other agencies as Top Secret and Secret. Only persons with a "Q" clearance, or a comparable Department of Defense clearance, may have access to information which is Restricted Data. Attached as Exhibit D is an Atomic Energy Commission pamphlet which applies to State Department employees and others and details the handling of Restricted Data. I am advised that the Atomic Energy Commission is reviewing the relevant documents to determine whether or not the Restricted Data classification can now be removed.

7. As Chairman of the Under Secretaries Committee, I sought to make publicly available as much information as possible consistent with the needs of national defense and foreign policy. For instance, by letter dated January 8, 1971, attached as Exhibit E, I sought to have certain information declassified. The Defense Department subsequently agreed and the information referred to in my January 8, 1970 letter has been made

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public. The information in the documents described in this affadivit which is not public necessarily is held in strict confidence by the Government in order to prevent grave damage to our national defense and foreign policy interests.

PUBLIC BROADCASTING UNDER FIRE

(Mr. VAN DEERLIN asked and was given permission to extend his remarks at this point in the RECORD to include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, the time has come for a clearing of the air, here in Congress, on the problems of public broadcasting.

Of late, the news media—the general circulation as well as broadcast trade press—have been carrying frequent reports of an impending rift between the President's Office of Telecommunications Policy—OTP—and the Corporation for Public Broadcasting—CPB—the entity established by Congress to guide and promote the growth of noncommercial radio and television.

Dr. Clay T. Whitehead, the energetic and able young OTP Director, has made known his concern that CPB may be trying too hard to ape the commercial networks while depriving local educational stations of both initiative and no-strings funding.

Top officials of the CPB, meanwhile, have interpreted Whitehead's moves and statements as the possible beginning of an administration campaign to force public broadcasters to knuckle under.

The first apparent casualty of this dispute have been the legislative proposals, long promised by the administration, to provide long-range financing for the Corporation for Public Broadcasting.

More than 9 months ago, in its budget message to Congress, the administration pledged that "legislation will be proposed to establish improved financing arrangements for the Corporation."

This is a goal we could all wholeheartedly support, to end the dangerous dependency of CPB on annual authorizations and appropriations from Congress.

But what has happened? Nothing. Drafts of bills have been moving in the maze of the White House-Budget Bureau bureaucracy, but so far none of these has made it through all the filters for introduction, with administration blessing, in House or Senate.

In all of this, Congress, which set up the CPB in the first place, seems to have been largely ignored. Able and articulate as he is, Dr. Whitehead seems at times to forget that Congress is, or at least should be, in this act too. It is possible, in fact, that Congress will not be willing to wait forever for the administration to make up its mind on the type of long-term financing to be recommended.

Likewise, I am certain that Congress will not countenance even the suggestion that any official of the Government may be trying to intimidate or otherwise erode the integrity of the corporation.

This is not to say that I disagree with everything Dr. Whitehead has been saying about public broadcasting. As I see them, many of his points are well taken. I, too, feel most strongly that local nonprofit broadcasters should retain a full measure of initiative in creating programing tailored to serve their own communities. But Congress clearly intended CPB to have a major role also, in shaping policies and providing network services, and not merely to act as a conduit for the dispersal of Federal funds to educational stations.

As a former broadcaster, as a present member of the Commerce Subcommittee on Communications, and as an original sponsor of the 1967 act which established the corporation, I have enjoyed a cordial and generally productive relationship with this promising new entity.

But at times, even one's best friends can be exasperating.

For several weeks now, I have tried unsuccessfully to learn the salaries of newsmen hired by the National Public Affairs Center for Television (NPACT), a CPB offshoot for news and public affairs services.

I have asked CPB to verify reports from a trusted broadcast industry source that Sander Vanocur and Robert MacNeil, the top reporters for NPACT, are each under contract for about $70,000 a year.

CPB, maintaining that NPACT is a separate corporate entity, has been unable or unwilling, thus far, to comply with my request. According to a report in the Washington Post this morning, CPB was similarly uncommunicative with a reporter from that newspaper who tried to ascertain Mr. Vanocur's salary.

Mr. Speaker, I assume many of our colleagues would also like to know how much these men are paid. Their pay, after all, comes in part from appropriated funds. And there is no reason I can see for CPB having to compete with the commercial networks in the salary department. They are not in a ratings war with CBS or NBC, fighting for the sponsor's dollar.

Why the secrecy?

In balance, though, the Corporation for Public Broadcasting has done a superior job, and I would like to include at this point an excellent article from the current issue of "Broadcasting" magazine on the first 4 years of the embattled organization. The article, which follows, was written by Steve Millard, Washington-based associate editor of the publication.

THE STORY OF PUBLIC BROADCASTING

Four years into its modern history, public broadcasting has come up against the facts of life. Hard.

The new medium—and a new medium it indeed is—was assigned the destiny of becoming a powerful source of alternative programing, something never before attempted on a major scale in this country, and put under a spotlight of attention and prestige appropriate to that role. It assumed the mantle with many of its leading players acting, speaking and presumably thinking they could somehow please everybody—as though the very name "public" and an obvious attempt to do something worthwhile and different in broadcasting would be enough to induce a warm glow in the nation's collective soul.

Their reward—and the medium's—has been the discovery that it doesn't work that way. If public broadcasting draws large audiences, it is attacked for seeking the masses; if it programs for small, select groups, it is damned as an insufferable snob. If it tackles a tough issue, it is trendy, leftwing, unrepresentative and misusing the taxpayers' money; if it presents fine drama and stimulating discussion, it is aloof and uninvolved. If it moves toward centralization, the specter of autocracy is raised; if it does not, there is the accusation that it is frittering away its public money without seizing the chance to make an impact on the national consciousness. Anything it does, in any realm, is sure to be attacked by someone as contrary to the spirit of the Carnegie Commission report or the Public Broadcasting Act—both of which mean many different things to many different people. Meanwhile, the struggle for federal funding limps along: federal appropriations increase, but freedom from annual accounting does not.

In television and radio, there is no way to be both a Good Guy and a tough, visible force. Whether or not all of public broadcasting's leaders have recognized that truth, the choice has been made. Public broadcasting—identity crisis, critics and all—has crashed upon the American scene as a major force in television and radio. It has produced and distributed programs that matter, both for their quality and for their influence, while simultaneously attempting to carve out a structure unlike any other in world broadcasting. Now it is learning to live on a height that is also a precipice.

"We're pioneering in an institutional sense," says Ward Chamberlin, executive vice president of New York's Educational Broadcasting Corp. "There's never been even a remote analogy." That is undeniable: There is no precedent for the structure of the Corporation for Public Broadcasting, or for the Public Broadcasting Service with its production centers and its federated elements. But institutional innovation is a means, not an end. "You can't just let the general idea of 'public broadcasting' or 'educational broadcasting' lie there," says Robert Larson, general manager of WGBH-TV Boston. "You have to make it work."

The real story of the medium in 1971 is not the occasional wrath it generates at one end or another of the political spectrum, but what public broadcasters themselves are doing to "make it work"—to evolve their unique system into an effective program vehicle. The noncommercial medium is not torn to shreds by strife, as some reports might indicate, or whipped into submission by external pressures, as others suggest. There is even—surprisingly enough—something approaching a broad consensus within the medium on what its components ought to be doing and where they ought to be headed. There are, however, honest disagreements among practitioners and the resolution of these basic issues is the key to the medium's present and immediate future.

These exchanges are typical.

"There should be a direct line in terms of program contact between the various centers that make up the production centers and the stations themselves," says Alvin H. Perlmutter, executive producer of *The Great American Dream Machine*.

"In the long run," says James Day, president of the Educational Broadcasting Corp., "television programs require that one person lay his talents on the line."

"There are people in the system who think the Public Broadcasting Service is supposed to be a mail drop for producers' programs," says PBS President Hartford Gunn. "But somebody's got to make choices. Somebody's got to say: 'This goes, and that doesn't go.'"

That is one kind of debate: argument over program control, over centralization, whether it should exist and what form it should take.

"Is it you [station managers] or PBS who has been taking the networks' approach and measuring your success in rating points and audience?" asks Clay T. (Tom) Whitehead, director of the Office of Telecommunications Policy, as prelude to an accusation. "You check the Harris poll and ARB survey and point to increases in viewership. Once you're in the rating game, you want to win. You become a supplement to the commercial networks and do *their* things a bit better in order to attract the audience that wants more quality in program content."

"It doesn't do any good to be different," says EBC's Ward Chamberlin, "if you don't get a substantial number of people looking in. And being so goddam deadly serious in programing isn't going to do it."

David Ives, president of WGBH-TV responds with one word when asked how he would react if that station suddenly found itself ranked second in its market; "Yippeeee!"

That is another kind of debate: What audience should public broadcasting seek, and what specific programing mission should it set for itself in contrast or complement to the commercial networks?

"We're running on a budget of $600,000, yet we need everything a commercial station needs," says Charles Vaughan, president and general manager of WCET(TV) Cincinnati. "You say, 'Well, what about the sales staff?' We have a development division for precisely the same purpose. Sooner or later, we have to drive home the fact that it takes every bit as much money and talent to operate a noncommercial station successfully as it does to operate a commercial one."

THE PROBLEM OF FUNDING

"We have three legislative charges," notes John Witherspoon, director of television activities for the Corporation for Public Broadcasting, "diversifying and expanding national production, interconnection, and expansion of stations. There is no predetermined order of importance there—but two of the three are off/on. Either you're going to have a PBS, or you're not. Either you're just going to add a little bit of programing to NET [National Educational Television], or you're going to diversify. We've made headway in those areas, and our principal commitment now is to raise the level of support for local stations."

That, of course, has to do with the oldest and still strongest debate: money—where it is to come from, how it is to be used. It is less a debate than a continuing process of communication; Charlie Vaughan and John Witherspoon are certainly not in constant disagreement the way that, say, Hartford Gunn and Jim Day are. Everyone agrees that the time has come to pump money into the stations; the questions now are when it will happen and what the mechanism will be. But the questions remain.

Thus the basic issues—structure, audience, money. They cannot be neatly separated; there is, for example, no sensible way to part the question of how money is to be used from the problem of structure. But they are the problems that must be faced—by people inside the medium, not outside. They are the issues that underlie a lot of sloganeering about "the fourth network," "the Eastern elite" and the "bedrock of localism."

The existence of these problems in their present forms is itself evidence of public broadcasting's new influence. Without the presence of a going network, feeding national programs of some substance, there would be no debate over the possible dangers of centralization. Without programs that draw, not just the elite that once kept "educational" television alive, but a consistently larger and more diverse audience, there would be no debate over the merits or demerits of going after the "masses." And although there have been money problems ever since there was educational broadcasting, they now attract national attention and acquire a sense of urgency because of the widespread perception that something of special, major significance is being *done* with the money.

To identify these as the principal problems is automatically to eliminate two others: programing and politics. If there is a "programing" problem, it is a function of these more fundamental issues: The character of programing on public stations is determined by the structures through which it passes, the audiences for which the media are reaching and the money available for programs. (It is also determined by the presence of creative talent, which is not so much a problem to be solved as a gift to be nurtured.)

As for politics, it is not an "issue" to which someone in public broadcasting might say Yes or No. It is the very fabric of the business. And to understand that point, it is necessary to distinguish the internal and external "politics" of public broadcasting.

Of all the words that have been said about internal politicking in public television, few have been very specific, and most have been worded as if to throw a cloak of intrigue over the subject. In reality, politics is public broadcasting's substitute for the marketplace. There is no impersonal economic process in public television, nothing that even pretends to be an Invisible Hand. All the hands are giving or reaching for available money of one kind or another, and all are quite visible and personal. In the absence of commercial economic mechanisms, there are only two possible paths for public broadcasting: autocracy, in which centralized controllers dole the funds and dictate the programing; or something resembling democracy, in which the various factions seek their share of money and influence. Public broadcasting—the statements of administration spokesmen to the contrary notwithstanding—is still far closer to the democratic model than to the autocratic one.

External politics—the relationship of public broadcasting to Congress and the executive branch—is a different story altogether: It is the long-range attempt of public broadcasters to use politics to transcend politics. By obtaining through the government, some day in the probably distant future, a means of permanent financing, public broadcasters hope to insulate themselves once and for all from the vagaries of political life. At this stage in public broadcasting's history, internal politics is (up to a point) a sign of health; external politics is the mark of a job unfinished.

Most of the attention goes to external politics, usually on the assumption that every unkind murmur from a government official sends public broadcasting into frenzied terror. The reality is somewhat different: that the medium is still struggling to find the combination of money, target audience and workable structure that will permit it to function as an independent system.

OTP Director Whitehead had his finger on a portion of that struggle when he spoke to the National Association of Educational Broadcasters' convention last month (BROADCASTING, Oct. 25). He charged public television, in particular, with becoming a "centralized national network" and with adopting the commercial networks' concern for "rating points and audience." There are station people who would agree with that analysis to some extent, but its significance to them pales by comparison with what he left out. There was not a specific word in his speech about a funding bill, long-range or otherwise. The message was unmistakable, although Mr. Whitehead never made it explicit: If you expect a satisfactory funding bill from this administration, *watch it*.

Does this mean that public broadcasters will now stumble all over themselves in an effort to get the money they need so desperately? "Look at it this way," responds a CPB spokesman. "Suppose we said: 'Let's do it. Let's pattern ourselves along these lines, because we, by God, need the money.' Then what happens? Then you get another administration in office—Ed Muskie, John Lindsay, whoever—and that administration says: 'Hey, guys, we want it done *another* way.' Once you get started along that road, you become like a ping-pong ball, and there's just no end to it."

This does not mean that public broadcasting's leaders belong on the pages of "Profiles in Courage," nor does it mean that there have been no instances of apparent buckling under political pressure. It does mean that there is a set of serious, sometimes undramatic core issues that *must* be resolved if public television is to flourish, and that these issues exist independently of whatever political winds may be blowing.

The noncommercial media have traveled a long road to confront problems and opportunities of such magnitude.

IT USED TO BE DULL

Remember educational television? Before there was public television, there was educational television—impoverished, noble and often deadly dull. It was heavily tied, formally and in spirit, to educational institutions and/or an intellectual elite. The results were sometimes an intriguing contrast to commercial fare, often a numbing series of pedantic duds, and always cursed with negligible audiences.

Whatever else it was or was not, however, educational television was at least a potential alternative to the commercial networks. The existence of that alternative and the efforts of NAEB contributed to the creation of the Carnegie Commission on Educational Television. Arthur L. Singer Jr., who was instrumental in establishing the Carnegie Commission, recalls conditions of that time. "Irresistibly one could see, in primetime television, a vacuum that commercial TV was not designed to fill, and had moreover no desire to fill, and in educational television an instrument that could be shaped to fill that vacuum."

In a sense, the Carnegie Commission report was an attempt to help "educational" broadcasting overcome its own past. The local stations were licensed almost exclusively to educational institutions, state school systems or school boards, and their purposes were correspondingly educational in nature: to expand or enrich the classroom experience. (Many of the stations had stumbled into areas other than instructional programing almost by inadvertence, when the Ford Foundation—the earliest and best friend the educational system ever had—began diverting some of its money out of instructional programing and into more general material.) More important, their presentation smacked of the classroom rather than the broadcast media: The "performers" were usually print-oriented educators with little feel for the special possibilities of television and radio. One fair measure of public broadcasting's development is the considerable distance between Miss Pringle's second-grade reading class and *The Electric Company*, which serves the same purpose in an incredibly different way.

The commission felt it necessary to note this problem. "Education is not always somber or laborious," it said. "It is co-extensive with the full range of human experience and includes joy and gaiety as well as hard intellectual endeavor." And, of course, it was the Carnegie Commission that rejected the very name "educational broadcasting" as too suggestive of classrooms and other things not likely to compete successfully with *Bonanza*—or, for that matter, with *My Mother, the Car*. It divided the field into "instructional" programing, which is what the name says it is, and "public" broadcasting, which is everything else.

But the point to remember about the Carnegie Commission is that it was not striving only for a stronger system founded upon

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the "bedrock of localism," although it went to great lengths to drive that point home. It was not simply proposing the replacement of poor local stations with rich local stations. The central conclusion of the commission which is not exactly buried in its report (the statement turns up in the first sentence, is this: "A well-financed and well-directed system, substantially larger and far more pervasive and effective than that which now exists in the United States, must be brought into being if the full needs of the American public are to be served." Whatever else the Carnegie report may have been—and it was something a little different to almost everyone who read it—the report was first of all a conclusion that the system it christened "public" broadcasting should become high-powered enterprise of national significance, and that the first requirement in reaching that goal was to develop at least some national leadership.

The Carnegie Commission made its report public and disappeared into the sunset, but its recommendations (expanded to include radio) were central to the Public Broadcasting Act of 1967, which marks the beginning of the medium modern history. As CPB's Mr. Witherspoon noted earlier, two of the three legislative directions to the corporation were national and go, no go in significance: It was to provide interconnection and to develop outlets for national programing. A third and equal responsibility, but only one of three, was to increase the support given to local stations.

CPB was created by law late in 1967, but did not acquire a chairman (Frank Pace, a former secretary of the army and business executive, now head of the International Executive Service Corps) and a board of directors until early in 1968 and did not find a president until February of 1969 (John W. Macy Jr., who had been chairman of the Civil Service Commission for eight years under Presidents Kennedy and Johnson). Shortly thereafter, CPB announced its plan to establish a Public Broadcasting Service to manage the interconnection. That service did not become operational until 18 months later, in October of 1970. The establishment of production centers became a reality with the launching of PBS. National Public Radio, a noncommercial radio interconnection service—which, unlike PBS, produces some of its own programs—came into being in May 1971.

As it crossed each major divide, public broadcasting came face to face with its own diversity; many of the fiercely independent local operators, expressed reservations about the effect these new organizations might have on "local autonomy." When CPB was first formed, there were rumblings from the ranks about the dangers of centralized control by an "Eastern establishment." These gradually subsided, and the debates became centered on specific policies rather than on the institution itself. Then PBS came along, and the old feelings were expressed again. "We are really concerned with the erosion in local production and control," one said. "We must watch that centralization of control in Washington doesn't happen," said another. That was the majority view at the time (BROADCASTING, April 14, 1969).

Time altered these difficulties, although it never erased them. The fundamental disagreements no longer involve the findings of goblins at the national level, but rather the search for a balance that will make the system work—of locating the right mix of central and federated control, determining the appropriate audience, and obtaining enough no-strings-attached funding.

The debate over centralization has centered on the creation and operation of the two networks, PBS and National Public Radio.

TO AVOID A CONFLICT

When the Public Broadcasting Service was created, the question was not whether interconnection should exist, but what form it should take. National Educational Television, which for years had been the principal supplier of programs, argued that it should continue to serve as a principal production center while at the same time exercising control over the distribution of programs, but the idea at the time was that such a division of functions would create a hopeless conflict of interest.

The decisive fact was that NET was not a membership-governed organization. For years, it had been the almost exclusive supplier of whatever national programing public television had commanded. At the same time, it had been the source of enormous discontent among station people in public broadcasting, both because it was an Eastern-oriented, liberal outlet and because stations had felt no voice in the programing process. Donald Quayle, now president of National Public Radio and previously a consultant to CPB while PBS was being formed, says: "If NET had been a membership organization, there might never have been a PBS. That's all speculation, but its possible."

That was a large part of why PBS came into being. It was not just that public television people wanted a strong interconnection service; they wanted a service they could reasonably expect to control. They got it.

As it was created and now exists, PBS is unlike any other national broadcasting network. It is far more federated, far more loosely organized. The programs it distributes are produced by the major centers and funneled through the network, but the final responsibility for clearance and scheduling still rests with the local stations. To facilitate that process, PBS is organized so as to permit screening of programs by local stations before they go on the air.

Most important, the governing body of PBS is a board of directors that is dominated by station types. The network's policy is made by that organization. And no other network president but PBS's Hartford N. Gunn Jr. would be likely to tell a business meeting: "Do not entrust more power to [the network] than is absolutely necessary."

So where is the tension between PBS and its affiliates? It does not come principally from the medium and smaller-sized stations; they control the board, and whatever specific disagreements they may have, they generally like the idea of PBS as it now exists. When confronted with the notion that PBS might compensate its stations for carrying programs as a means of encouraging greater carriage, a broadcaster such as Robert Ellis—director of broadcasting and general manager for Arizona State University's noncommercial KAET-(TV) Phoenix—will reply. "I'm already compensated. Where else can a local station get programs like *Sesame Street?*"

The real dispute is between PBS and NET. PBS is the incumbent, the national network that must select and distribute programs to a nationwide group of stations. NET is the displaced king; once the pre-eminent leader in providing national programs for educational television and still the principal source of prime-time evening programing, it is no longer the heart of the national system. It is one of several production centers that supply programs for national distribution.

There are two lines of dispute—one largely fading from view, the other very much alive. The first has already been mentioned: NET felt, as an experienced source of programing, that it should be both a center of production and a source of distribution—a national center of expertise. It has not been permitted to assume that role, and although EBC President James Day still makes the argument academically, he no longer presses it as an important live issue. The more important question is whether NET, or any other production center, should enjoy a direct line of access to the stations. It is the view of Jim Day and the people who work for him that it should—that, once a program has been produced and cleared by management, it should be fed through PBS without interference, leaving the individual stations to decide whether or not they will run it. The opposing position, as laid out by PBS's Hartford Gunn, goes this way:

"I certainly agree that the final decision rests with the stations, as to whether or not they should run it. But there are very real problems; a number of our stations, probably 20 to 30 stations on the average, cannot see a preview prior to broadcast, because they get the signal off air by their relay system. It's a technical problem. In effect, there are a number of stations that are not directly interconnected at the time we can preview programs . . . and so they have to look to PBS to provide them with some guidance.

"The second reason is that it's purely one of our mandates from our own board of directors, the majority of whom are station managers." At one of their board meetings, the managers adopted their position: "Adherence to standards of fairness, objectivity and balance must be a joint process by the producing agencies such as NET and PBS, with the former having the initial responsibility, and PBS having final responsibility for the program service."

That is the essence of the difference between PBS and a commercial network. The former is far more subject to the decisions of its managers about what programs it will run, what times it will run them, and what programs will be transmitted in the first place, because the members have a large voice in managing the network, and because there is no economic penalty for anything.

What about radio? The answer is that National Public Radio, the newest noncommercial organization, is more like PBS than unlike it. Both are membership organizations managed by the members; both draw from local sources in their programing. There are two basic differences. The first is that NPR produces a 90-minute daily newsmagazine program, *All Things Considered* (for which some of the material is drawn from local stations), and is planning two other programs of its own; PBS itself produces nothing. The second involves the method of getting local programs. PBS draws from local stations, particularly the specified production centers, which get their national programing funds principally and directly from CPB. National Public Radio gets its basic funding from CPB, then contracts out with local stations for the specific programs to be carried on the network. The results, in terms of centralization, are not that much different; both are far more decentralized than any commercial counterpart.

At one point, it was proposed that PBS manage the radio interconnection as well as the television one, but the differences between the two media led to the scuttling of that idea. As NPR President Quayle puts it, "Radio is much more a series and a process than a group of neatly packaged programs. You can't operate it on television principles."

MACY'S THANKLESS JOB

There is one problem that both networks, all stations and everyone else in public broadcasting share, and they will confront it as long as any funding system other than an impersonal mechanism exists. One top broadcaster expressed it this way. "When there's a crisis in the system, like the *Dream Machine* dispute, people outside the system don't think that Hartford Gunn did that or the PBS board did that. People think: John Macy did that." Another leader in the system says, "John Macy has the most thankless, grueling job in the United States, bar none. Hartford Gunn isn't too far behind, but Hartford can please some of the people some of the time. John can't please *anybody*."

That is both a slight exaggeration and an excellent point. Hartford Gunn and Don Quayle, for all their assorted problems, are providing a free service, under guidelines established through a painfully democratic process and directly involves the stations themselves. John Macy and CPB are (1) providing money, of which there is never enough to satisfy everybody, and (2) involved in granting funds for programming, which immediately raises the specter of benevolent despotism. Let one person say, "even the production centers are onto the fact that they're being told what to produce," and all the denials in the world never seem to obliterate the stigma.

The problem is not simply one of influence, but of the appearance of influence, and it does not begin and end with CPB, which is acutely conscious of its own delicate situation. It is axiomatic that strings are attached to money, no matter who gives it away. CPB does not "tell" people what to produce, but it consults with every production center about program plans before awarding money. It has to; the corporation can't spin a roulette wheel or pick a figure out of a hat. But, having talked about programming, it has by definition placed itself in the business of setting priorities.

So it is with the Ford Foundation, which has always had a thorough centralist bias that only added to some local managers' distaste for anything associated with New York. So it is also with school boards, which by definition are first of all in the business of instruction, or with state governments, which are generally rather conservative funding sources. (At times in the history of the medium, idealistic station staffs have collided with station managers who answered to more conservative boards of directors and funding sources; it is said that Boston, New York, Los Angeles and Pittsburgh have at one time or another seen such upheaval, unseating boards or unseating station managers.) About the only no-strings-attached funding to be obtained comes from station "auctions" (a popular public fund-raising device), which exist more to keep stations alive than to help them grow rich and prosperous.

However, CPB's money is relatively free of ideological strings, simply because the corporation operates under those specific legislative mandates. There are certain things it must do and must not do under the law. Those requirements make CPB different from any broadcast organization anywhere on the globe. It was established by the government, but it is an independent, private corporation that draws funds from both federal and nonfederal sources. It was to pave the way for interconnection, but not to operate the network. It was to encourage the diversity of program sources and increase support to local stations, but it was not to engage in any programing ventures of its own.

The corporation has what initially appears to be a lot of money to distribute. After struggling into existence in 1967 with slightly more than $2 million in grants from private sources, it reached the $40 million mark in this fiscal year. Nearly all of that amount goes back out. (The largest single chunk of that amount goes to PBS—$9 million.) The more revealing figures, however, are yielded in a breakdown by station of the approximately $7.5 million CPB is doling out in general station support—aside from the national program production. Spread that across the spectrum of public broadcasting, and nobody gets too much. A typical example is WKNO-TV Memphis, which operates on a budget of $450,000, and which received $22,500 in general support money from CPB—5% of its total operating costs. Across the board, CPB contributes only about 16% of its total funds to general support for stations. The pressure is on to raise that figure dramatically.

CPB's John Witherspoon, who recently talked with nearly all of the nation's public television managers in a series of meetings, says there is hardly any point in constructing a hierarchy of concerns at the local level: Money overshadows everything else. There is no need to invoke the Carnegie Commission; it is simply that the people need money, they know where to find it, and they want more.

In fiscal 1970, the most recent year for which comprehensive figures are available, the largest single source of funding for local stations in the system was state governments, which pumped in over $19 million. Behind them were local schools and boards of education ($17.5 million), state boards of education ($10.7 million), and, in fourth place, "intra-industry sources"—principally CPB—which contributed $8.2 million.

FORD FOUNDATION MONEY

The Ford Foundation, which over a 15-year period has poured over $200 million into the noncommercial media, is also the principal reason that NET exists at all. Even today with CPB a going concern, Ford is the largest contributor to the New York production center; its $6 million still surpasses the $4 million delivered by CPB—and the latter figure represents CPB's largest single contribution to any station or national production center.

The other principal source of funding is the Office of Education, which in this fiscal year has $13 million in federal money to distribute in the form of facilities grants. OE also contributes $7 million to the Children's Television Workshop, and is looking around for other instructional projects to fund.

There are assorted other sources of income: underwriting by private corporations, auctions, subscriptions from listeners and viewers—none of which can do more than help keep individual stations afloat while they await the big national paymasters.

Until they arrive, public broadcasting will have to cope with image-killers like the recent flap over a segment of *The Great American Dream Machine*. NET came up with a 12-minute piece in which the FBI was accused of encouraging or actually instigating violence within radical organizations. To simplify a long and already told story, PBS suspended broadcast of the segment, contending that it was insufficiently documented and too brief to carry such sensitive charges. NET, of course, stood by the piece and maintained that PBS had no business making editorial decisions. Ultimately, the network ran a two-hour discussion of the entire incident, during which the original piece and a later, revised version were shown.

The problem was that, while PBS and NET were agonizing over the film, FBI Director J. Edgar Hoover wrote a letter to NET. Based upon his understanding of the piece, Mr. Hoover said, it was "totally inaccurate." (Mysteriously, Mr. Hoover wrote the letter on stationery marked "Department of Justice," to inform NET that he had "referred the matter to the Justice Department." "Maybe Mr. Hoover has taken to talking to himself," Hartford Gunn mused at a PBS business meeting.) Since the suspension—it was not an outright cancellation—followed close behind receipt of the letter, there was an immediate suspicion that someone had been intimidated. As it happened, the matter had been a source of internal dispute for days before that letter was received, and Mr. Gunn was still insisting, two days after the event, that he had not even seen the letter. Apparently, nobody involved heard anything from John Macy, who is understandably wary of appearing to have any connection with such a dispute. Before the *Dream Machine* dispute was anything else, it was one of those internal disagreements that are the stuff of public broadcasting's existence. Nevertheless, the widespread suspicion persists, and will continue to persist at least until permanent financing is produced.

The most widely discussed proposal toward that end is still the Carnegie Commission's plan for an excise tax on the sale of television sets. But, as John Macy points out, "this isn't exactly the ideal time to talk about adding a new excise tax, with the government repealing excise taxes." The interim proposals that have been kicked around by OTP provide for much more money than the medium now receives, but they are not a permanent, insulated approach. The administration, which at the NAEB convention measured public broadcasting by the standards of the Carnegie Commission report, still is not ready to implement the funding recommendations that were central to that report. And public broadcasting is still dangling from all those strings.

DEVOTED 4-YEAR-OLDS

The one structurally independent programing organization associated with public broadcasting is the Children's Television Workshop, producer of *Sesame Street* and *The Electric Company*. CTW is sometimes listed as an "eighth production center," but is actually a nonprofit corporation with no ties to anybody except in the area of funding (CPB, the U.S. Office of Education and the Ford Foundation contribute much of its money). If the entire noncommercial broadcasting establishment were to go up in flames tomorrow morning, CTW is the one organization that might survive the wreckage. It is distributing foreign-language children's programs, conducting research into further programing, looking into the future-film market, and exploring the possibility of gaining control of cable franchises in major cities.

But if CTW never made another contribution to public broadcasting, it would be remembered as the organization that brought the first flood of audience and recognition to public television. It was not just that the medium suddenly acquired a devoted band of 4-year-old viewers (and a devoted group of adults who thrilled to the Cookie Monster on the sly); there was also as CTW President Joan Ganz Cooney remembers it, "a flood of grateful letters from parents, many of whom sent in a lot of money" and many of whom gained a new perception of the fare on their educational channel. (In the spring of 1970, after *Sesame Street* had made its big splash, spokesmen for the noncommercial media went to Capitol Hill for their annual hat-in-hand ritual, and sold the program's virtues so often and so hard that House Communications Subcommittee Chairman Torbert H. Macdonald (D-Mass.)—a strong advocate of long-range funding—finally threw up his hands in despair and groaned: "One program does not a network make. . . . I'm *tired* of hearing about *Sesame Street*.")

That one children's program brought public television's audience problem into sharp focus, because nothing else on the schedule has yet matched its impact. And the programs that have have only made the dilemma more apparent. Small audiences mean small impact; larger ones means visibility and a large political problem.

That such a problem may already have arrived is demonstrated by the Nixon administration's displeasure over the formation of a news and public affairs center in Washington, the National Public Affairs Center for Television—the medium's first attempt to mount "major news coverage," although its approach to news is expected to differ from that of the commercial networks.

Moreover, the nature of public television has led it to adopt a special measuring stick. What public television uses to gauge its success is not standard ratings (which would still be an embarrassment, comparatively speaking), but the number of people who

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watch public television at least once a week. At last count, the number had reached 30 million, although the average weekly viewing time was only 1.9 hours. In part, this reflects a conviction that any system as varied as public television can succeed only by drawing different sets of people to different kinds of programs. Devoted, all-evening viewers are generally regarded as both unobtainable and probably undesirable. "The [traditional] assumption," says WGBH's David Ives, "is that the ideal person is someone who has his television set on 18 hours a day. We don't buy that."

In order to draw such an audience, however, public television needs to overcome such mundane problems as accumulated habit—people still think of the commercial networks as "television"—and its own image. The approach has been to mount a vigorous promotional campaign, stretching all the way to the commercial networks, and to place a lot of emphasis on polish. Absolutely everybody in public broadcasting comments on the latter point—the quest for smoothness of production is at opposite poles from the old the-world's-the-thing approach.

There is, in fact, no evidence at all to support the popular conclusion that people in public television associate virtue with small audiences. The trick is to win those audiences without sacrificing the commitment to a distinctive and varied breed of programing. Perhaps the best illustration of how complicated that quest can be is the success of *The Six Wives of Henry VIII*—on CBS. The program not only won critical acclaim; it cleaned up in the summer ratings in a way that was impressive even by commercial standards, and dwarfed any audience ever attracted by public television. Yet the program itself was just the kind normally associated with public television. Quite apart from the question of quality or singularity, there is a conditioning problem to be overcome, and the solution may take years.

The ultimate answer, if there is one, may be provided as much by technology as by programing. When NAEB President William G. Harley proposed earlier this year that public broadcasting stations begin planning to become "telecommunications centers," employing all available means of distribution, he was not speaking entirely without precedent, nor was he merely marching along with fashionable discussions about tomorrow's hardware. He was articulating what may be a key to the effective survival of local public television. If the real mission of public stations is programing, and if the costs of being a station operator cut too deeply into the quality of that programing, then station operators will ultimately have to concentrate their energies on being programers and leave management of the technology to others. That is an extreme version of the case, but not an unthinkable one.

The recognition of this problem is not confined to station operators and their representatives. It is also expressed by people like Lloyd Morrisett, president of the John and Mary R. Markle Foundation. That organization, which until recently poured all its resources into medical causes, has shifted entirely into communications, and now distributes about $2 million to communications research. Action for Children's Television and, most recently, into programing: a series of media criticism, *Behind the Lines*, on New York's WNET(TV). Its principal interest, however, is in cable television, which Mr. Morrisett sees as the key to public television's future. "I don't see much prospect of long-term insulated federal financing," he says. That to him makes cable all the more important, as a bridge between public programing and the audience. "The public broadcaster," Mr. Morrisett says, "simply doesn't *need* to operate a facility."

It cannot be said that cable and other developing technologies are perceived by station people as part of their immediate future. In other quarters, however, there is almost a sense of urgency about the subject. Michael Dann, who left CBS last year as chief of television programing to become vice president and assistant to the president of Children's Television Workshop, speaks as if the question were beyond debate. "Obviously," he says, "from 1978 to 1983 we will move into a wired society, with a corresponding fragmentation of the audience"—which can only benefit public broadcasting. Then, with a glance downtown toward the CBS building, he reads signs in the present:

"When CBS moves its base from the 60-second to the 30-second spot; when there is no regular documentary series in prime time; when the basic profits are from daytime programing; when you're almost *glad* that the FCC saved your skins by cutting back a half-hour of prime time; when there's not a single new live variety show; when William S. Paley, perhaps the most professional broadcaster in the history of broadcasting, picks a new president with no broadcast background—then you can be certain that these changes are already under way."

Not everyone is as certain as Mr. Dann, but there is widespread agreement with his general scenario, and growing realization of its implications for public broadcasting. In the meantime, the medium waves its flag and shouts its name in an attempt to change the viewing pattern of 20 years.

TOUGHEST TASK EVER

The managerial task here is the toughest I've ever faced," says EBC's Ward Chamberlin, whose background includes private business. "We're technically in a noncommercial business—but it's commercial in every way except the sources of funds. You're in a business that devours money, where cost control is terribly difficult—and without the ruthlessness that's inherent in the commercial system."

That kind of talk is heard more and more frequently as public broadcasting grows away from its origins and assumes new forms. The attempt to program conspicuously and well for different audiences, to evolve a complicated system into something both workable and democratic, and to amass enough money to do anything at all, does indeed have more in common with big business than might be suspected. Less and less audible are the voices of people like Vernon Bronson, winner of this year's NAEB Distinguished Service Award and an instructional pioneer with 30 years of experience, who two years ago told this magazine. "We spent a decade getting the educational community together for ETV channels. And we got them for education—not social causes or culture." Today, the more widely accepted notion is that instructional programing (funded principally by educational organizations) can co-exist quite legitimately with a far wider range of programing (funded principally by national organizations).

There are other broad areas of agreement. It is generally conceded that anything so big and increasingly powerful must stay democratic or die. There is recognition that more national money must be funneled to the stations. There is virtually unanimous agreement that the quest for larger audiences—not as large as the commercial networks, but larger than public broadcasting is accustomed to—is legitimate and necessary, so long as that growth is coupled with both diversity and the exercise of independent standards. The differences involve the precise balances to be struck in each area.

But what about "localism"? What about that element in the Carnegie report, so important to many station people and so prominent in the Whitehead speech to NAEB? The answer depends on your use of the word. "Localism" may mean: Give the stations a hefty cut of available funds, don't tell them what to do, increase their options, and give them a powerful voice in whatever national organizations may be developed. In this sense, "localism" is the opposite of centralization, and is a part of the blueprint for American public broadcasting.

There is another use of the word, however, and it is more dangerous. There are times when the call for localism, whether it comes from inside or outside the media, sounds dismayingly like an attempt to keep the idea of national service at arm's length. When Tom Whitehead called PBS an emergent "centralized, national network," he used the words almost as synonyms. Nobody has taken exception to the idea.

They are not the same thing at all, and must not be confused. Centralization is a way of operating, a structure; it was clearly unacceptable to those who framed public broadcasting's charter. National service, on the other hand, defines a kind of reach and impact; it is absolutely fundamental to the goals those who initiated this new medium hoped it would reach.

Whether or not the present configuration of public broadcasting happens to align in all respects with the Carnegie report may not be the most important of all criteria. Whether that configuration points the medium toward its assigned role is critical.

Public broadcasting will not suffer in the long run because its critics shoot from more than one direction, or because one administration is made nervous by Sander Vanocur. It will betray the dream only if it forgets one inescapable mandate: that it make a difference.

ADDRESS OF CONGRESSMAN BRADEMAS

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, on November 6, 1971, I had the privilege of addressing the 11th National Conference of the Central Opera Service, sponsored by the Metropolitan Opera National Council. The conference was held at the John F. Kennedy Center for the Performing Arts in Washington, D.C.

Mr. Speaker, I insert at this point in the RECORD the text of my remarks on this occasion:

ADDRESS OF CONGRESSMAN JOHN BRADEMAS

I count it an honor to have been invited to address the 11th National Convention of the Central Opera Service, and I am especially pleased to be with you here in the John F. Kennedy Center for the Performing Arts.

It was, I remind you, ten years ago that President John Kennedy spoke at the ground breaking for this building. On that occasion he spoke of the role of the Arts in a free society and the role of government in the Arts: and he gave us a history lesson. He said:

"Aeschylus and Plato are remembered today long after the triumphs of imperial Athens are gone. Dante outlived the ambitions of 13th Century Florence. Goethe stands serenely above the politics of Germany, and I am certain that after the dust of centuries has passed over our cities, we too will be remembered not for victories or defeats in battle or politics, but for our contribution to the human spirit."

It is ironic that we meet today in a monument to the man who spoke those words, and that we may in time recall John Kennedy not for his "victories or defeats in battle or politics" but for the stimulus he gave to the cultural life of this Nation.

And I must here not fail to pay tribute to my distinguished colleagues in Congress whose inspiration and leadership there helped make possible the Kennedy Center, Senator J. William Fulbright of Arkansas and Congressman Frank Thompson of New Jersey.

Already this Center has contributed to the life of the Nation's Capital and if the building in which we meet does little to heighten one's regard for some of American architecture, I am none the less greatly impressed by what is going on within these walls.

For it is no minor advance in this town that within the coming days one may see Cat Stevens, the New Orleans Jazz and Ragtime Festival, the B Minor Mass, Tony Bennett, Rudolf Serkin, and Roberta Peters, and I have not mentioned Claire Bloom or Wingy Manone.

THE VITALITY OF THE ARTS

I have been invited to address you, the nation's top leaders in opera, not because I am an expert on opera, for I am not, but because I am a politician who shares with you a concern for the vitality of the arts in our society.

As you know, the education subcommittee I have the honor to chair has jurisdiction over the programs of the National Arts and Humanities Foundation—but I must tell you that my subcommittee handles a variety of other legislative areas as well.

We also write bills touching on educational technology, child day care and preschool programs, drug abuse education, educational research, public libraries, education of the handicapped, and the older Americans programs.

And it has been enormously fascinating to me to see the ways in which what we do in one area dovetails with our legislative activities in others.

So it will not perhaps surprise you when I tell you that in the last Congress, when several of my colleagues and I decided to write legislation providing funds for elementary and secondary schools for offering courses about the environment, I picked up the phone in Washington and called Robert Motherwell to ask him to be a witness on the first day of our hearings.

He said, "Why do you want me to testify on environmental education; I'm a painter."

I said, "Because we want to establish at the outset that in discussing the environmental crisis, we are talking about far more than clean air, land and water. We are talking about the fundamental values of human life."

Motherwell said, "I'll come," and his eloquent testimony that day provides the text for my sermon to you here.

Said Motherwell, "I speak only as an artist, but to speak as an artist is no small thing. Most people ignorantly suppose that artists are the decorators of our human existence, the esthetes to whom the cultivated may turn when the real business of the day is done. But actually what an artist is, is a person skilled in expressing human feeling."

Motherwell went on to demonstrate his own skill in expressing human feeling when he voiced his horror at what we have made of much of our environment:

"One's mind reels at what men without an aesthetic sensibility have been capable of. Far from being merely decorative, the artists' awareness, with his sense of proportion and harmony, is one of the few guardians of the inherent sanity and equilibrium of the human spirit that we have."

It is to help assure that we do not lose—indeed that we expand—the efforts of these guardians of the human spirit that we meet here today.

THE ECONOMICS OF THE ARTS

So I want, from my perspective as a legislator, to talk to you today about some of the efforts of the Federal Government in the arts, including the art of opera, that deserve our attention and concern.

First, I want to talk to you about money.

Unfortunately the activities through which artists live and communicate tend to be left behind by our society. The dance and music, opera, drama, sculpture and the new realms of multi-media work tend to miss out in the progress of our economy.

A brief descent into economics will indicate why this is so.

First, the arts are labor-intensive. A sculptor's time and thought and imagination are the main ingredients in his work, and no breakthroughs in the price of rock will make his output cheaper or more efficient.

Clive Barnes of the New York Times has said that in the dance, one of the arts in which America is clearly ceded international leadership, world acclaimed figures may earn as little as $5,600 a year. Juniors in a major company may take home *only* $4,200. Yet even on these wages the pay of dancers will make up 30% to half of a company's budget.

The same kind of situation confronts the opera. According to a study by the *Twentieth Century Fund*, 41¢ of every opera dollar goes to performers, but is spread unevenly. A few stars on top command up to $10,000 a performance, while professional cast members at a lower level may barely make a subsistence living.

But while labor intensive, the arts are not amenable to increases in productivity. A 45-minute Schubert string quartet still takes three man-hours to play, someone recently observed, the same as it did 150 years ago.

Finally, the arts can rarely take advantage of the economies of scale. There is a size beyond which no auditorium can convey the experience of opera or theater.

While modern techniques of reproduction can to some extent take painting to wider audiences, graphic art remains intimate and personal, not something to be appreciated by vast audiences at once.

Thus even without inflation, the economic structure of the arts is such that their costs would stay constant while increasing productivity in other fields made the price of enjoying them seem high. So in a dynamic or inflationary economy, inflation strikes hardest at the arts, ever widening the gap between costs and income.

Typically, according to Amyas Ames of the Lincoln Center, the cost of operating any enterprise in the arts rises by about 10% a year. For a $40 million operaton like the Lincoln Center, this means expenses this year will be $4 million more than last. Even on a small budgetary base, such a proportionate increase is hard to bear in El Paso or Indianapolis.

While statisticians can have a field day estimating what goes into expenditure on the arts nationwide, a conservative estimate of $2 billion a year suggests that the climb in expenses every year must reach a frightening $200 million *without the provision of any new performances*.

And we know that new performances must be added in all the arts to meet the demands of increasing leisure, the desire for the arts in education, and to meet the need for cultural expression among America's minority groups.

Indeed, I might take advantage of this forum to tell you that my friend and distinguished colleague, and the ranking minority member of my subcommittee, Congressman Ogden Reid of New York, and I have tentatively decided to take our subcommittee to New York City sometime in the Spring of 1972 to spend several days touring institutions of art there—big institutions and small ones, established ones and experimental ones—in order to learn as much as we can about the situation of the arts in the capital of the arts and in order as well to dramatize to the general public the rising awareness in Congress of the role of the arts in the American Society.

THE ROLE OF BUSINESS, FOUNDATIONS, AND GOVERNMENT

What is to be done about the economic plight of the arts in America?

Here are a few observations: In the first place, it seems obvious to me that American business and industry can do far better than they have done to nourish the arts; and I say this without in any way denigrating the support they have so far given. Since only 5% of corporate contributions go to the arts, however, there is surely room for improvement here.

I do want to pay particular tribute to some of the private foundations in our country; they clearly deserve it.

In particular, I must commend the Ford Foundation and its able Vice President for Humanities and the Arts, W. McNeil Lowry, for the imagination and economic horse sense they have employed in support of the arts in recent years.

You all know, of course, of the 1966 Ford Grant in excess of $80 million to symphonies, and I am sure you join me in applauding the announcement last month by the Ford Foundation of a series of new grants to theaters, dance companies and opera companies.

As a Member of Congress hungry for accurate information about the arts, may I say that I am also looking forward with intense interest to the results of a Ford Foundation study of the economic needs of the Performing arts. When the study is published in March of next year, I am sure it will enable my colleagues in both the House and the Senate to be able to legislate more thoughtfully and effectively for the arts.

Yet you and I know that the combined efforts of business and the foundations—even if greatly expanded—will not be adequate to meet even a ballpark estimate of the needs of the arts in contemporary America.

We have therefore in recent years come more and more to realize that it is both appropriate and wise for the National government to lend its support to the arts.

Now, as some of you may know, I am a Democrat, and I find little difficulty in restraining my enthusiasm for the works of this Administration.

But I am pleased indeed to praise President Nixon for his budget request this past year of the full $60 million Congress authorized for the Arts and Humanities Foundation—$30 million for each field.

And I am equally pleased to say that Congress appropriated the money. One reason, let me here take a moment to say, that I believe Congressional support for the National Arts Endowment will continue is the effective leadership that Nancy Hanks is bringing to it.

Now let me here observe that I believe it is most important that the goal of full funding for the arts was reached this year. It is important not only because the money will be put to good use all over the country; but also because reaching that goal was necessary groundwork for a more ambitious objective. If—and I cite this only by way of example—we were to adopt the target of Amyas Ames and his Partnership for the Arts we will aim for $200 million annually in government support for the arts, about one federal dollar per capita.

But with $30 million a year for the arts, or even $200 million, we must still consider the question of what is to be done with the money we generate, public and private. And this is in some ways a still more fundamental question.

Let me then pass from a discussion of the economics of the arts to talk about this other problem.

EDUCATING AUDIENCES FOR THE ARTS

And let me here confess the prejudice of a Congressman concerned with education. For

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while I favor greater support of education at every level, I also favor far more attention to the education of audiences for the arts—and I believe, in respect of the particular art form you represent, that we should do a far better job than we have done to educate an audience for the opera.

It was, you will recall, Walt Whitman who said that "To have great poets, there must be great audiences, too."

Few of you, I think, would disagree that great audiences are educated, not born. But how to educate people for the arts? Surely, it seems to me, the beginning of wisdom here is the realization that, as the Calvinists say of sound religion, art must be related to every dimension of man's—and woman's—existence.

Let me illustrate what I am trying to say by telling you of some of the other areas of which the Select Education Subcommittee is concerned; and I think you can then begin to imagine how the arts can be brought to bear on each of these areas.

For example, Congress will shortly take final action on a major child day care and preschool bill initiated in my subcommittee. What ought to be the role of the arts in the development of children in their earliest years? Have music, and painting and poetry anything to say to children in their preschool years, and, for that matter, to their parents?

One year ago last month Congress passed the Environmental Education Act, written in my subcommittee, a measure aimed at stimulating ecological education for elementary and secondary school students. Is there not a role for the arts in sensitizing both children and adults to the environment of which they are a part?

And I remind you that the Environmental Education Act also provides support for developing materials through which the mass media can teach about the environment.

Let me turn to another area in which we are now working, the problems of older Americans, and put to you this rhetorical question: How can the arts, how can music, and how can opera play a role in the lives of the older citizens of our society? Have you thought about that?

We have also in my subcommittee the job of writing vocational rehabilitation legislation and other measures that touch upon the lives of the handicapped. Have you given much systematic and imaginative thought to the meaning of the arts to those who are mentally or physically afflicted?

I cite another field of burgeoning concern wherein members of my subcommittee have sought to provide some modest leadership—the increasing problem of drug addiction in modern America. Some months ago we sent to the President the Drug Abuse Education Act, which has two aims: producing scientifically objective teaching materials concerning the dangers of drug abuse, and encouraging drug abuse education programs in our school systems. Has not so powerful a vehicle for human expression as the arts nothing to contribute to communicating with humans scarred by addiction?

To this litany of opportunities with which I am seeking to challenge your imagination I will add the men and women in the prisons of this land. What can the arts do to make their lives more humane and, hopefully, enhance the prospect of their living lives more sane once free?

This week the House of Representatives passed another bill, of which I am a sponsor, to establish a National Institute of Education, to support research and development at every level of education, preschool through postgraduate school, in formal institutions of learning and outside them. Surely, it seems to me, the place of the arts, not only as a subject of, but as a vehicle for, teaching and learning, ought to be part of the research agenda of the new Institute.

And next year, my subcommittee will resume consideration of legislation in the field of educational technology. We know that Robert Rauschenberg, Claes Oldenberg and Billy Kluver are working on marrying the resources of American technology to the visual arts. Is there not a frontier here for opera as well?

In all these areas, then we in Congress earnestly solicit your ideas, your suggestions, and indeed your exhortations.

Of course, we in Congress who are champions of the arts want you who labor in the vineyards of the arts to be vigorous workers for increased financial support of the National Arts Endowment.

But we hope you will do more than lobby for more money from the government.

We seek as well the fruits of your thinking, your training, your experience and your imagination.

Earlier I said we must do more to educate audiences for the arts, specifically for opera. I have given you a number of areas to which, I have suggested, we need to bring the arts as a new dimension.

EDUCATING AN AUDIENCE FOR OPERA

I want now to focus some comments on the field which brings us all together in Washington this weekend—the opera.

When asked to make this speech by my good friend, Eva Popper of the Metropolitan Opera, I thought immediately of a book that I found in my grandfather's library in a small town in Indiana over 35 years ago, *The Victor Book of the Opera*.

I recall still those marvelous photographs of Martinelli and Caruso as Rhadames, of Galli-Curci as Rosina, of Chaliapin as Boris Gudonov, and I read the summaries and looked at the photos of the stage sets of Rigoletto, Othello, and Der Rheingold.

So my education in the opera, though modest and fitful, began at a fairly early age.

As a Congressman who is a rigorous advocate of Federal support for the arts and as a democrat with a little "d" (as well as a big one) I must tell you that I strongly disagree with those who hold that opera is solely for an elite. I believe they are mistaken, for there is a vast potential audience for opera today and, as with other major art forms—theater, dance, symphony, painting—we must help make it possible for all our citizens who wish to do so to have access to them.

The National Arts Endowment and a number of private foundations have been pioneering in this respect.

But we have a long way yet to go to insure, in the world's wealthiest democracy, that access to art is not for the affluent alone. Building an audience for art through the nation's schools, colleges and universities and through community education is one way for us to begin.

SOME EXAMPLES OF EDUCATING FOR OPERA

Let me assert then that we must educate not only the singers, the stage directors, and conductors of opera; we must begin to pay more attention to creating educated audiences for opera, especially among young people. Let me offer a few illustrations of how, it seems to me, we can bring an opportunity to know opera to many persons now denied access to it.

I give you but three examples. We should it seems to me,

Encourage opera companies to increase their public service performances both in their home communities and on tour to other communities where live opera is not available. School children and college students as well as senior citizens should be enabled to attend and, where possible, speakers and demonstrations should be provided.

We should develop video tapes and films of live opera for use in schools and colleges and the general community.

And we should provide financial help for increasing both the number of operas produced and the number of performances.

A concrete instance of the kind of effort I am here urging is a program sponsored by the San Diego, California, Opera Guild and the San Diego school system which, with a $50,000 grant from the National Arts Endowment, is providing classroom instruction in opera combined with student attendance at live performances.

I hope very much that some of the leadership for educating an audience for opera in America will come from the National Opera Institute, which was created in 1970, with support from the National Arts Endowment, to increase the growth of opera in this country.

With the appointment of George London as new executive director, I hope the Institute will begin to contribute significantly in the areas it has marked out for itself: (1) supplementing production costs of new or unproduced works; (2) commissioning new operas; (3) studying the best methods of developing opera for television, aimed at broadening the audience for opera; (4) bringing professional opera to sections of the country that would not ordinarily have this exposure; and (5) providing a limited number of individual grants to outstanding young singers.

And I must also note, by the way, that since 1965 the Arts Endowment has given a total of $3.1 million to opera activities. Opera grants for fiscal '72, I understand, are expected to approach $1.5 million, almost triple that of the year before.

A SUMMARY

Let me summarize what I have tried to say to you.

I have spoken of the economic condition of the arts in America today, and I have told you of the increasingly significant role that the Federal government is playing in supporting them.

I have urged you to exercise your imagination and your experience in relating the arts, including opera, to a wide variety of persons and problems—from preschool children to older Americans, from the challenges of the environment and drug abuse and of prisons and modern technology.

And I have pressed upon you the responsibility to help educate new audiences for the arts and especially for opera.

Your mission is, I believe, a most enviable one. Again to quote President Kennedy:

Behind the storm of daily conflict and crisis, the dramatic confrontations, the tumult of political struggle, the poet, the artist, the musician, continues the quiet work of centuries, building bridges of experiences between peoples, reminding man of the universality of his feelings and desires and despairs, and reminding him that the forces that unite are deeper than those that divide.

In a time in which the forces that divide are perhaps as strong as ever before, both at home and abroad, in such a time, I say, we need all the more the work of the poets, the painters and the singers.

For, to return to the text of my sermon, "To speak as an artist is no small thing."

Let me here add how pleased I was to learn here today from the distinguished new general manager of the Metropolitan Opera Association, Mr. Göran Gentele, of his own deep interest in and commitment to the work of educating a wider audience for opera in the United States.

MESS IN FOGGY BOTTOM

(Mr. GROSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GROSS. Mr. Speaker, there is some faint and outrageously belated evidence that the pompous bureaucrats who run the Department of State are showing signs of making changes in some areas of their dictatorial personnel policies—policies which have too often been brutal, totally one-sided and unfair.

For far too long the Department has subjected its employees to almost criminally inadequate grievance and appeals procedures, presided over by men who had no more judicial bent than a jackrabbit and who took pains to favor the Department in almost every instance.

Two recent articles serve to point up the deporable situation in this Department. One is by Clark Mollenhoff, bureau chief of the Des Moines, Iowa Register and the other appears in the November 15 issue of Time. I include them for insertion in the RECORD at this point.

[From the Des Moines Register, Nov. 8, 1971]

DELAYS ACTION ON ENVOY POST

WASHINGTON, D.C.—The Senate Foreign Relations Committee last week passed over President Nixon's nomination of Howard Mace as ambassador to Sierra Leone pending completion of an investigation of charges that he gave false and inaccurate testimony before the Senate Committee.

Indications are that Chairman J. William Fulbright (Dem., Ark.) considers the charges to be of considerable importance.

Mace, former director of personnel for the State Department, was nominated by President Nixon as ambassador to Sierra Leone in July on the recommendation of deputy undersecretary of state William P. Macomber. They had worked together at the State Department for more than 12 years.

The State Department and White House have been told that the Mace nomination probably will die in the Foreign Relations Committee unless it is withdrawn by President Nixon.

There are charges that under Mace's direction the State Department personnel division has engaged in manipulation of rating boards, engaged in forgery and other falsification of personnel records, and permitted perjury in State Department and Civil Service Commission grievance hearings to go unchallenged.

In the Mace hearings, Macomber, who is in charge of State Department administration, has been forced to admit that a large number of cases resulted in injustices, but he has argued that Mace should not be held accountable for the faults in the system.

But critics say a review of four of the most publicized cases indicate some allegations of direct responsibility for Mace as well as Macomber:

Alison Palmer, a 39-year-old foreign service officer reportedly was discriminated against because of her sex. Now, Mace admits sex discrimination exists on assignments, but denies that he had any role in the illegal discrimination found by an Equal Employment Opportunities (EEO) board. The recommendations of that EEO board was held out of the file by Mace despite a specific recommendation that it be made a part of the file.

Miss Palmer says the story Mace told the Senate Foreign Relations Committee is untrue on a number of points. She said Mace had an active role in discrimination against her, and that she had personal conversations with him in connection with his decision to refuse to sign the findings of the EEO recommendations, and the refusal to make those recommendations part of her file.

John Hemenway, a 46-year old honor graduate of Annapolis and a Rhodes scholar, currently is involved in the only State Department grievance hearing permitted by Mace to challenge the decision to fire Hemenway. Hemenway contends that Mace gave untruthful and inaccurate testimony in connection with the handling of his case.

He charges Mace acted illegally to remove two members of the three-man panel that had indicated a willingness to permit Hemenway to call State Department witnesses over the objection of Mace's office.

Stephen Koczak, a 54-year-old former foreign service officer now employed by the American Federation of Government Employees, was denied a grievance hearing, but was subject to a special panel made secret to former Secretary of State Dean Rusk. Koczak was barred from having an open hearing, cross examining witnesses, or even communicating with other State Department employes during the hearing.

A letter he wrote to the panel pointing out some of the discrepancies in his file was not entered into the official record. Mace reportedly has continued to refuse Koczak access to his hearing record and reportedly has permitted forged and post-dated documents to be made a part of his record.

Charlee W. Thomas, 47-year-old foreign service officer, killed himself last April as a result of his frustration in seeking a hearing. He had no promotion in eight years and was refused a hearing by Mace despite admissions that a highly laudatory report by an inspector general was misfiled under another Charles Thomas.

This report recommended immediate promotion for Thomas and assignment to the National War College, in line with the opinions of two ambassadors under whom Thomas had served.

The Thomas case has raised the greatest number of problems for Mace and raises some of the most serious questions about the inconsistency of the rulings that have been revealed in the personnel division while Mace and Macomber have been in charge.

Action on Mace's nomination to the ambassadorial post will await an investigation by the Senate Foreign Relations Committee.

THE STATE DEPARTMENT

UNDIPLOMATIC REFORMS

Charles W. Thomas was a desperate man. A lawyer and a career diplomat, Thomas, 45, had been "selected out" of the Foreign Service. Reason: he had not been promoted from the Class 4 level to Class 3 within the mandatory eight years. He was dismissed with only one year's salary and $323 a month (money he had himself put into a retirement fund) to support a wife and two children. In nearly three dispiriting years Thomas endured nearly 2,000 job rejection letters; he was "too old" or "too qualified," and anyway, he had been fired by the State Department. Finally on an April afternoon in Washington, Charles Thomas took up a gun and shot himself to death.

There is a Kafkaesque cast to the Thomas tragedy. Try as he might, Thomas could not get his day in court to determine whether his selection-out was based on the fact that he had received poor performance ratings or that the State Department had somehow failed to consider his highly favorable ratings. In fact, it was the latter. Thomas had carved a distinguished career in posts such as Tangier, Port-au-Prince and Mexico City, where he became a specialist in Mexican radical politics. Indeed, he had high marks from his superiors and colleagues alike; the explicit blemish on his record was an observation by a Mexico City superior that Thomas did not exercise proper "control" over his secretary.

In contrast, a laudatory report from the Foreign Service Inspector, Ambassador Robert McClintock, was accidentally misfiled under the name of another Charles W. Thomas, then Consul General in Antwerp. The report was eventually logged into its proper place, two days after Thomas had been turned down by the promotion board. The board deemed it too much bother to reopen the case.

FANG AND CLAW

The Thomas affair is certainly the most shocking to occur within the labyrinth of Foggy Bottom personnel practices, but it is by no means the only one of its kind. Willard Brown, a class 2 officer, discovered after his selection-out that the State Department had lost all of his personnel records and that consequently his name had not been considered for promotion for several years. Nor are good men being passed over just for clerical errors. The' section process in the department has traditionally been the last word in Darwinistic elitism. McClintock, although a highly regarded professional, had a reputation for sending overly favorable reports on many officers. With little negative to go on, promotion boards used the tiniest criticisms as justification for passing over a candidate. Hence Thomas' dismissal.

There are 3,000 field officers and aides serving in the Foreign Service, and around 100 are weeded out every year. Two hundred more resign annually. The process follows a fundamental Government pattern. Every man is rated at least once a year by his superior, who then passes his reports on to a departmental reviewing officer, who in turn presents his recommendations to the reviewing boards. While no one in the department argues that incompetents should not be winnowed out, the feeling is that the rating system has deteriorated into an endless round of pettifoggeries and petty jealousies, where too frequently the men who do not play up to their superiors' vanities wind upon the short end.

This fang-and-claw attitude has prompted a thorough reappraisal of the State Department's personnel system. Rather belatedly, Deputy Under Secretary William Macomber Jr., the department's top administrative officer, called in Thomas' widow Cynthia and offered her virtually any job she wanted. More broadly, the selection-out rules have been changed to prevent the flagrant injustice in the systems. Now an officer who achieves Class 5 cannot be fired until he has reached age 50 or served 20 years. This way, at least, he is entitled to retirement pay.

Scornful. Further, the State Department has set up new, formidably titled Interim Grievance Procedures, the first major amendment to the Foreign Service Act since it was passed in 1946. These procedures are to last until employee-management relations are reformed under a plan projected by President Nixon. However, many officers are scornful of Macomber's new measures, since they stipulate that an employee must first take up his grievance with his superior—against whom the grievance is usually brought in the first place—and can only appeal to a board picked by the department. Says one legal official at State: "I don't care if a grievance panel is headed by Charles Evans Hughes or Jesus Christ, it still remains an in-house procedure without any chance of outside appeal."

Help is forthcoming from the outside. The Senate Foreign Relations Committee last week refused to report the confirmation of Howard P. Mace, 55, as U.S. Ambassador to Sierra Leone, which is tantamount to defeat of his nomination. As director of personnel for four years, Mace was the source of much of the department's interior turbulence. He was known behind his back as the "executioner," the man primarily responsible for the selecting-out process. Officers also noted that under his segis men with high diplomatic potential were often bypassed for plush jobs in favor of men little experienced

in diplomacy from his department. Congress is also taking more direct measures. There are two bills pending before Congress that would overhaul and codify the grievance system.

Concerned DOS officers are seizing their own initiative. A group has banded together to launch a class action against the Secretary of State; to raise money for this expensive exercise, they have instituted the Charles W. Thomas Fund. One junior officer invoked a more primitive grievance procedure. Furious over what he considered an unfair performance rating, he stopped his superior in a corridor of the State Department and cut loose a smacking right cross to the nose.

TALE OF TWO FACES

(Mr. BLANTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BLANTON. Mr. Speaker, this is the tale of two faces.

The two faces of the Nixon administration in busing.

We are all aware of the President's recent statements that there should be only "minimum busing necessary" to achieve racial desegregation in public schools. The President's press secretary told the national news media that the Nixon administration expected to summarily dismiss Federal employees who exceeded the "minimum necessary" policy.

Mr. Speaker, a situation in my district in Tennessee only points out what I, and most of my colleagues in this body have long known. What the Nixon administration says is not what it does when it comes to busing. It wears two faces—one face vigorously prosecuting desegregation cases with an eye on massive busing, the other trying to convince the people that it is apalled at the use of busing.

I am afraid the Nixon administration has been caught with its pants down in Memphis, Tenn., and I want to share with you the inside story on how the administration works its will.

The Memphis city school system has been a defendant in a desegregation case in the U.S. District Court for west Tennessee. Last July, Federal District Court Judge Robert McRae ordered the school board to secure Federal consultants to assist it in drawing plans for desegregating their schools.

Under court order, the school board requested the Division of Equal Education Opportunity in the Office of Education, Department of Health, Education, and Welfare for consultants.

Dr. Jesse Jordan, Deputy Director of the Office of Education in charge of the EEO office, appointed a seven member team of consultants to assist the school board. Named to head the consulting group was Dr. Josiah Calvin Hall, a professor at the University of Miami, and a member of the staff of the university's center for desegregation.

The center received a Federal contract from HEW for $610,732 for fiscal year 1971, under sections 403–404 of title 4 of the Civil Rights Act of 1964.

The staff members of the center receive funds from this Federal appropriation when they are working on desegregation matters. About 20 percent of the funds, or roughly $125,000, is used as salaries for consultants.

In a pretrial conference last week in Memphis, a sworn deposition from Josiah Calvin Hall indicated that "a minimum of 40,000 students will have to be bused," in Memphis. Dr. Hall also said that upon his appointment, he was told by Dr. Jordan that the Memphis study should be as thorough and complete as possible, for it could be used as a model for desegregation cases in northern cities.

On Monday, November 8, Representative DAN KUYKENDALL, who represents Memphis in this body, issued a public statement to the news media, and said it was issued on his behalf and his two Republican Senator colleagues, Senators HOWARD BAKER and WILLIAM BROCK. The statement was, according to press accounts of the story, "cleared and has the approval of HEW Secretary Elliot Richardson.

The statement reads:

An unfortunate and erroneous impression has developed in regard to the participation by the Department of Health, Education and Welfare in the Memphis desegregation plan.

It should be clearly understood that the City of Memphis has not been selected by any official of the Department of Health, Education and Welfare as a model for desegregation for any other schools system.

No two cities are exactly alike. Consequently, no city could be a model for another to follow.

In his press statement, Congressman Kuykendall also disavowed the consultants as federal employees, and emphasized that they were "independent consultants."

Mr. Speaker, this only indicates the politics of the Republican administration in regard to busing. While the administration agencies are working tooth and nail to bus our children as much as possible, their spokesmen are out trying to leave the public with an erroneous impression. In Tennessee, a highly controversial busing plan in Nashville, Tenn., has gotten the Republican administration in deep trouble in Davidson County. The Memphis Republicans do not want the same situation in our State's largest city—and that is why the Monday statement was issued.

It is clear to me that Congressman KUYKENDALL called and talked with HEW Secretary Richardson about this matter—not the center for desegregation. They all march to the same drummer.

Now about this center for desegregation.

I directed my staff to do some investigation. The results were stunning.

The director of this federally funded center is Dr. Gordon Foster. Dr. Foster was in Memphis only last week. He happens to be the expert witness for the NAACP's Legal Defense Fund—the plaintiffs in the Memphis desegregation case. His assistant, Dr. Josiah Calvin Hall, is the consultant for the Memphis School Board, appointed by HEW. The school board is the defendant.

Mr. Speaker, this is a direct conflict of interest.

I submit that these federally funded desegregation experts are working on both sides of this case—and the case then is prejudiced by this conflict of interest. I believe this shows to the American public why these city schools systems around the country cannot seem to win their court cases in busing matters. Because the Federal Government appoints consultants to work with the defendants, and yet the plaintiffs are getting assistance from the same sources.

It is interesting to note that Dr. Hall, the federally appointed consultant for the Memphis school system, is the same consultant who helped draw up the controversial Nashville busing plan, and the Mobile plan. Dr. Hall is the Nixon administration's Johnny Appleseed of busing plans.

Mr. Speaker, Dr. Gordon Foster told my staff assistant by telephone this morning that the center obliges the Federal Government in supplying "consultants" because, and I quote him:

The Justice Department called me last year and said that since we fund the center, the center is obligated to provide this type of assistance.

Again I assert that the Memphis School Board is under court order to accept these consultants, and the Federal Government, through the HEW, knowingly appointed a consultant who is the assistant to the plaintiff's chief expert.

Dr. Gordon Foster admitted to my staff assistant that "the question of a conflict of interest is a legitimate one, and I am now considering not testifying for the plaintiff."

The Federal Government, in my view, has been a willful and knowing partner to a fraud on the courts of this country. I demand an explanation from Secretary Richardson. I demand to know how many other incidents like this have occurred throughout the South where these "consultants" have been used, and their fellow workers have been assisting the opposing parties in the suits.

I believe this is a matter the Justice Department should investigate, and also an appropriate congressional committee.

Mr. Speaker, this is how the Federal executive branch works on busing. The public statements by the President and his spokesmen have been shams. They have been outright deceitful statements. The real story lies within HEW, how they "make sure" that busing plans will be made. The courts, unknowingly, have been used by the administration. For the very people who advise the school boards have conflicts of interest.

TAKE PRIDE IN AMERICA

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a Nation.

The average potato caloric consumption per day for the U.S. citizen is 107 calories per day as compared to six calories per day for the resident of El Salvador and seven for the country of Iran.

COMMUNITY SCHOOL CENTER DEVELOPMENT ACT

(Mr. RIEGLE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RIEGLE. Mr. Speaker, today, I have introduced the Community School Center Development Act. This will serve as the House version of the same act recently introduced in the Senate by Senators CHURCH and WILLIAMS. I congratulate them for their initiative in this matter.

The crisis in our schools is an acknowledged fact, particularly in our city schools and schools in low-income and rural areas. The problems are manifold—outdated curriculum and teaching materials, inability to attract and keep good teachers, lack of public support and willingness to pay for improvements, the dilemma of community participation and control, inadequate tax base, the unfair financing reliance on property taxes, educational experience not adequately personalized to the needs and potential of individual children, and so forth.

In short, the relationship between the school and the individuals and groups who make up the community around the school is confused and inadequate for the needs of our time. As a result, not enough young people are realizing the potential they must if they are to be productive and involved citizens in the 1970's, 1980's and 1990's. Another widely documented condition in today's society is the loss of a sense of community. The forces which fragment and divide a community are greater than those which bring people together to participate and share in larger common interests. This problem can and must be overcome.

One encouraging response to these problems is the community school concept—where the school becomes a fully utilized, decentralized community center, open from early in the morning until late at night, 6 of 7 days a week. The community school concept was pioneered and developed in Flint, Mich., over 30 years ago under the leadership and direction of Charles Stewart Mott and the Mott Foundation. Mr. Frank Manley, of Flint, first organized the concept which the Mott Foundation carried forward.

Under the community school program, the school becomes a neighborhood facility serving not only schoolchildren but adults, senior citizens, community groups and the like with a full array of services: educational, social, recreational, health, local government, public safety, vocational and, in general, whatever the community wants and needs. Everybody in the community gives something to the effort and everybody gets something.

Although there is no pat formula which can be uniformly applied to all communities, there are some battle-tested ways of helping communities to establish their own particular kind of community education as a function of their own special needs, problems, and resources. There is good evidence that this approach can help to make education more responsive to the community, more meaningful to both children and adults, and in the process give a neighborhood a rallying point around which to form a new sense of mission and involvement which cuts across age and interest groups.

The Community School Center Development Act which I have introduced today is aimed at expanding the community school program nationally. It will provide every community throughout the United States with the opportunity to become a part of an educational program which has not only demonstrated its success in over 600 school districts across the United States, but also has unique cost effective benefits which make it attractive to our taxpayers and school systems which are already financially strapped. We have found for example that we can increase facility utilization by 150 percent with a 5-percent increase in operating expenses. This is a bargain that the country desperately needs.

This act is designed to promote the expansion of the community school program in several ways: First, it authorizes Federal grants to be made to colleges and universities interested in developing or expanding community education centers for the training of community school directors. Second, it will make Federal funds available to school districts wanting to establish new community school programs—or expand ongoing programs. These grants may also help cover the cost to communities or school districts for the training and salaries of community school directors.

In order to promote the adoption of community school programs across the Nation, the Commissioner of Education is authorized to distribute information on these programs to local communities as well as appoint up to 25 four-man teams to assist interested communities in program development. Finally, a Community School Advisory Council will be appointed to advise the Commissioner of Education on policy matters relating to community schools.

As a product of the Flint community school system, I have long supported this concept and have worked jointly with the Mott Foundation to encourage its development. Since coming to Congress in 1967, we have worked to acquaint Members of Congress as well as various Federal officials with the unique advantages of this program. While a member of the District of Columbia Subcommittee on the Appropriations Committee—in September of 1967—the Mott Foundation—working together with our District of Columbia Subcommittee of Appropriations, its Chairman WILLIAM NATCHER, and District of Columbia school officials for a pilot project involving two District of Columbia schools—an elementary and a junior high school. More important than the financial support, the Mott Foundation and the Flint school people shared their experiences, technical assistance and expertise with District of Columbia citizens, educators, and students to see if this concept could work in a major urban center. The results have been so positive that the program has grown to 13 community schools with further plans for expansion. The evidence takes the form of such things as:

Overall increase in average daily attendance.

Improved attendance at PTA meetings.

Window breakage decreased and illegal entries into the school was reduced.

Library book circulation increased.

Elementary school children's reading score levels improved.

Recently, a group of District of Columbia senior citizens and blind people—who attend adult education classes sponsored by the District of Columbia Community School program—visited the White House to explain to President and Mrs. Nixon how Flint schools and the Mott Foundation have helped District of Columbia start its own community school program—and how this type of program could help other cities and other senior citizen groups around the country.

In addition, we have discussed the community school concept with HEW Secretary Elliot Richardson who indicated his support for the concept and stated that—

We are assessing ways in which the Federal Government might contribute to strengthening the community school concept.

Both the Economic Opportunity Act and the Elementary and Secondary Education Act have identified the community school concept as an integral part of any community action program designed to help a disadvantaged area. However, I feel very strongly that the time has come for the Federal Government to go beyond passively applauding the merits of the community school program and actively contribute to its further growth and expansion.

In addition to the many social and educational advantages stemming from the community school program, there are a number of unique economic advantages worth mentioning:

In Flint alone—which has a population of approximately 200,000, 92,000 people use our schools after school hours; 80,000 adults are presently enrolled in 1,200 adult education classes; a millage election has not been defeated since 1950; no community school program involves expenditures of more than 5 percent of the school's total operating budget—and utilization of the facility is increased by 150 percent; 4,200 adults are now enrolled in high school credit classes—aimed toward graduation; and 230 adults graduated from the adult high school in 1971.

In conclusion, the reasons and advantages for the Federal Government to undertake leadership in encouraging the community school program include the fact that: it attacks multiple community-related problems; it uses existing systems and facilities and thereby avoids duplication; remains flexible and reflects the needs and wants of the local area each of which are different; it is a cost-effective investment; and it helps build a sense of neighborhood and community which is so badly needed in today's fragmented society.

Education is not a partisan issue—and

I would like to urge all of my colleagues here in the House to join in supporting the Community School Center Development Act. I am hopeful that we will see the same kind of enthusiastic support for this program here in Congress as has been shown in so many communities throughout the United States.

I attach the bill so that it can be printed in full at this point in the RECORD.

H.R. 11709

A bill to promote development and expansion of community schools throughout the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Community School Center Development Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide recreational, educational, and a variety of other community and social services through the establishment of the community school as a center for such activities in cooperation with other community groups.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "Commissioner" means the Commissioner of Education;

(2) "State" includes, in addition to the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(3) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of State elementary and secondary education or if there is no such officer or agency, an officer or agency designated by the Governor or State law;

(4) "Council" means the Community Schools Advisory Council;

(5) "institution of higher education" means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, (i) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (A), (B), (D), and (E). For purpose of this subsection, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered;

(6) "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school; and

(7) "community school program" means a program in which a public elementary or secondary school is utilized as a community center operated in cooperation with other groups in the community to provide recreational, educational, and a variety of other community and social services for the community that center serves.

TITLE I—COMMUNITY EDUCATION CENTER GRANTS

SEC. 101. (a) The Commissioner shall make grants to institutions of higher education to develop and establish programs in community education which will train people as community school directors.

(b) Where an institution of higher learning has such a program presently in existence, such grant may be made to expand the program.

APPLICATIONS

SEC. 102. A grant under this title may be made to any institution of higher education upon application to the Commissioner at such time, in such manner, and containing and accompanied by such information as the Commissioner deems necessary. Each such application shall—

(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) describe with particularity the programs and activities for which such assistance is sought;

(3) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

(4) provide for making such reasonable reports in such form and containing such information as the Commissioner may reasonably require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 103. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—GRANTS FOR COMMUNITY SCHOOLS

SEC. 201. (a) The Commissioner may, upon proper application, make grants to local educational agencies for the establishment of new community school programs and the expansion of existing ones.

(b) Grants shall be available for the training and salaries of community school directors as well as actual and administrative and operating expenses connected with such programs.

APPORTIONMENT

SEC. 202. (a) The number of project grants available to each State, subject to uniform criteria established by the Commissioner, shall be as follows:

(1) States with a population of less than five million shall receive not more than four projects;

(2) States with a population of more than five million but less than ten million shall receive not more than six projects;

(3) States with a population of more than ten million but less than fifteen million shall receive not more than eight projects; and

(4) States with a population of more than fifteen million shall receive not more than ten projects.

(b) Grants shall be made to the respective State educational agencies for payment to the appropriate local educational agencies.

CONSULTATION WITH STATE EDUCATIONAL AGENCY

SEC. 203. In determining the recipients of project grants the Commissioner shall consult with each State educational agency to assure support of a program particularly suitable to that State and providing adequate experience in the operation of community schools.

PAYMENTS

SEC. 204. Payments under this title shall be made from a State's apportionment to any State educational agency which has been selected by the Commissioner in accordance with section 203.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE III—COMMUNITY SCHOOL PROMOTION

PROMOTION

SEC. 301. In order to promote the adoption of community school programs throughout the United States the Commissioner shall—

(1) accumulate and disseminate pertinent information to local communities;

(2) appoint twenty-five teams, consisting of not more than four individuals on each team, to assist communities contemplating the adoption of a community school program; and

(3) establish a program of permanent liaison between the community school district and the Commissioner.

ADVISORY COUNCIL

SEC. 302. (a) There is hereby established in the office of the Commissioner a Community Schools Advisory Council to be composed of seven members appointed by the President for terms of two years without regard to the provisions of title 5, United States Code.

(b) The Council shall select its own Chairman and Vice Chairman and shall meet at the call of the Chairman, but not less than four times a year. Members shall be appointed for two-year terms, except that of the members first appointed four shall be appointed for a term of one year and three shall be appointed for a term of two years as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office. A vacancy in the Council shall not affect its activities and four members thereof shall constitute a quorum. The Commissioner shall be an ex officio member of the Council. A member of the Council who is an officer or employee of the Federal Government shall serve without additional compensation.

(c) The Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities.

FUNCTIONS OF THE COUNCIL

SEC. 303. The Council shall advise the Commissioner on policy matters relating to the interests of community schools.

COMPENSATION OF MEMBERS

SEC. 304. Each member of the Council appointed pursuant to section 302 shall receive $50 a day, including traveltime, for each day he is engaged in the actual performance of his duties as a member of the Council. Each such member shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties.

AUTHORIZATION OF APPROPRIATIONS

SEC. 305. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE IV—MISCELLANEOUS

PROHIBITIONS AND LIMITATIONS

SEC. 401. (a) Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system.

(b) Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for the construction of facilities as a place of worship or religious instruction.

JUDICIAL REVIEW

SEC. 402. (a) If any State or local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of applications submitted under title II, or with his final action under section 405, such State or local educational agency may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such agency is located a petition for review of that action. A copy of that petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner shall file promptly in the court the record of the proceedings on which he based his action, as provided for in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

ADMINISTRATION

SEC. 403. (a) The Commissioner may delegate any of his functions under this Act, except the making of regulations, to any officer or employee of the Office of Education.

(b) In administering the provisions of this Act, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

PAYMENTS

SEC. 404. Payments to a State under this Act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or both.

WITHHOLDING

SEC. 405. Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to a grant recipient under this Act, finds—

(1) that the program or activity for which such grant was made has been so changed that it no longer complies with the provisions of this Act; or

(2) that in the operation of the program or activity there is failure to comply substantially with any such provision;

the Commissioner shall notify in writing such recipient of his findings and no further payments may be made to such recipient by the Commissioner until he is satisfied that such noncompliance has been, or will promptly be, corrected. The Commissioner may authorize the continuance of payments with respect to any programs or activities pursuant to this Act which are being carried out by such recipient and which are not involved in the noncompliance.

AUDIT AND REVIEW

SEC. 406. The Commissioner and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination, to any books, documents, papers, and records of a grantee, under this Act, that are pertinent to the grant received.

REPORTS TO THE CONGRESS

SEC. 407. The Commissioner shall transmit to the President and to the Congress annually a report of activities under this Act, including the name of each applicant, a brief description of the facts in each case, and the number and amount of grants.

DISCRIMINATION AGAINST WOMEN IN FEDERAL EMPLOYEE INSURANCE COVERAGE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to bring to the attention of Federal employees the fact that there is a decided difference in terms of the coverage they will have when they choose between two medical plans offered to them by the Federal Government. A Federal employee may now choose between the Blue Cross and Blue Shield Federal employee program and the governmentwide indemnity benefit plan offered by the Aetna Co. A constituent brought to my attention the fact that the Aetna Co. discriminates against women in the scope of its coverage by not covering the costs of a breast prosthesis for women after radical mastectomy. This is an allowable expense under the provision of the Blue Cross plan. Before releasing the correspondence which is appended, I urged the Aetna Co. to change its policy and have been advised by its most recent letter that it does not intend to do so. Federal employees have an option and should consider a company's attitude when they make their decision as to which company they will choose for the purposes of medical coverage.

The correspondence follows:

DEAR CONGRESSMAN KOCH: I would like to bring to your attention a case, that I feel, to be blatant discrimination against women by the U.S. Government!

My husband is a chemist, employed by the government. As such, under the medical plans given, he chose the Government-Wide Indemnity Benefit Plan, by the Aetna Company.

The various items given coverages are all listed in a booklet distributed to members. I am covered as his spouse. But, I have had cancer surgery, and had to have a breast removed (radical mastestom). Now, I must wear an artificial breast (prosthetic device). This is vital both to my physical and psychology health.

The medical coverage will not pay for these needed prosthetic devices. They will pay for arms, legs, and neck braces, for eyes, hearing aids, etc. All the items they include are applicable to men. But, the one item that is for women—is not covered!

Where does a woman fit into this scheme? Women are under the plan as employees or spouses. Yet, a vital need is not covered.

I have written to the Civil Service Commission Policy Division, and was told that prosthetic devices for breast surgery are not covered. Now, this is a flaw in the plan. This is a flaw against women. This is an outright case of discrimination.

I am writing to you, as your constituent, and hope that action can be taken to correct this matter.

Yours truly,

Mrs. X.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 30, 1971.

CONGRESSIONAL LIAISON,
CIVIL SERVICE COMMISSION,
Washington, D.C.

DEAR SIR: I am writing to you about a matter brought to my attention by Mrs. X.

I have received the enclosed letter from Mrs. X concerning the fact that prosthetic devices for breast surgery are not covered under the Government-Wide Indemnity Plan. Subject to your existing procedures, I would appreciate receiving your comments on this matter and informing me if this policy will be revised to give this type of coverage.

Thank you for your interest in this matter.

Sincerely,

EDWARD I. KOCH.

U.S. CIVIL SERVICE COMMISSION,
BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH,
Washington, D.C., September 2, 1971.

HON. EDWARD I. KOCH,
House of Representatives

DEAR MR. KOCH: This is in reply to your letter of August 30, 1971, in behalf of Mrs. X, New York, New York.

The Indemnity Benefit Plan contract covera "Prosthetic devices . . . which replace all or part of an internal body organ . . ." The contract also covers "Leg, arm, back, and neck braces, and artificial legs, arms and eyes . . ." A breast prosthesis is neither a replacement for an internal body organ, nor a brace, nor an artificial limb or eye, and the contract does not therefore cover breast prostheses. We do not anticipate that the contract will be amended, at least for 1972, not to cover such devices.

We do not understand Mrs. X's conclusion that arm, leg, back, and neck braces and artificial eyes are items applicable only to men. There are many women who use braces and artificial eyes and limbs, too.

If you have more questions about this matter, feel free to call on us.

Sincerely yours,

ANDREW E. RUDDOCK,
Director.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 14, 1971.

ANDREW E. RUDDOCK,
Director, Bureau of Retirement, Insurance, and Occupational Health, Civil Service Commission, Washington, D.C.

DEAR MR. RUDDOCK: I have received your letter of September 2 concerning my inquiry on behalf of Mrs. ———.

I am most distressed with the decision of the Civil Service Commission in this matter. Obviously, as your letter states, "A breast prosthesis is neither a replacement for an internal body organ, nor a brace, nor an artificial limb or eye." Yet the breast is a glandular organ and the point of my inquiry was to ascertain if such breast prosthesis might be considered for coverage by the insurance contract. Since many prosthetic devices are covered by the policy, and a prosthesis is by definition an artificial device to replace a missing part of the body, it seems to me that serious consideration should be given to this matter.

I am sure Mrs. ——— realizes as I do that braces and artificial eyes and limbs are applicable to women as well as men. The issue is rather that breast prosthesis which are used solely by women are not covered by the policy which is consequently discriminatory to women who are in need of such devices.

I would appreciate your informing me if this problem might be taken up for consideration as soon as possible to see if the contract might be amended to include the coverage of breast prosthesis. Thank you for your interest in this matter.

Sincerely,

EDWARD I. KOCH.

UNITED STATES CIVIL SERVICE COMMISSION, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH,
Washington, D.C., September 20, 1971.

Hon. EDWARD I. KOCH,
House of Representatives.

DEAR MR. KOCH: This is in reply to your letter of September 14, 1971, in behalf of Mrs. X, New York, New York.

The breast prosthesis could not be allowed as a covered expense under the Indemnity Benefit Plan contract as presently written because it is not listed as one of the covered expenses. We will, I assure you, take up the matter of coverage of breast prostheses with the Aetna Life and Casualty during our next contract negotiations. Any contract amendment would be prospective in its effective date and could not be applied retroactively to permit coverage of Mrs. X's breast prosthesis.

If you have more questions about this matter, feel free to call on us.

Sincerely yours,

ANDREW E. RUDDOCK,
Director.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 14, 1971.

OLCOTT D. SMITH,
Aetna Life and Casualty,
Hartford, Conn.

DEAR MR. SMITH: It has been called to my attention by a constituent that the indemnity insurance provisions of your coverage to government employee does not include furnishing an artificial breast (prosthetic device) whereas the policy will pay for other prosthetic devices such as arms, legs, eyes and for items including neck braces and hearing aids.

The constituent takes the position and I think it is clearly correct that anyone undergoing a radical mastectomy suffers both physical and psychological damage which is reduced to some extent by the use of the prosthetic device. It is inconceivable to me that you would exclude such a device from coverage where you include other prosthetic devices as detailed above.

The constituent makes the point that your practice is discriminatory against women and I believe that in a sense she is right although you may undoubtedly never have intended it that way. I suggest to you that the policies be changed so as to cover this prosthetic need and would appreciate having your comments on whether you will accede to that request.

Sincerely,

EDWARD I. KOCH.

BLUE CROSS ASSOCIATION,
Washington, D.C., October 8, 1971.

Hon. EDWARD I. KOCH,
1134 Longworth Office Building,
Washington, D.C.

DEAR MR. KOCH: In order to expedite our reply, Walter McNerney has asked me to respond to your recent letter concerning one of your constituents who complained that the Federal Employee Program does not cover the provision of a breast prothesis following a radical masectomy. I have discussed this question with the National Office of the Federal Employee Program and they have provided the following information.

The Blue Cross and Blue Shield Federal Employee Program operates under the following guidelines with respect to prosthetic devices:

1. *Benefits Are Provided*—

a. For those which restore function (such as an artificial arm or leg), or

b. For those which prevent or retard further physical deterioration (such as insertion of an artificial eye into a vacant eye socket).

2. *Benefits Are Not Provided*—For those items considered to be primarily cosmetic (such as a wig).

Technically, the breast prothesis is primarily cosmetic. However, several years ago because of the same considerations listed in your letter, the Program made an exception to permit extending benefits for the purchase of a breast prosthesis. This also includes fitting and construction of the prostheeis, and the insertion into the appropriate undergarments (including alterations). The undergarment itself is not a covered supply since this would be required with or without a prosthesis. Within reason, there is no limit on the number of such prosthesis which can be provided.

Although we don't have full details on the particular case that came to your attention, it appears likely an error was made in the handling of your constituent's claim. We suggest she contact our National FEP Office (address shown below) and they will be happy to investigate the case.

We can assure you that within the terms and intent of our Contract for Federal Employees, we make every effort to establish reasonable guidelines, both as to the delivery of benefits and the administration of the limitations and exclusions. If you have additional comments or questions, please let us know. We welcome your interest.

Very truly yours,

GEORGE J. KELLEY,
Vice President,
Washington Representative.

SEPTEMBER 24, 1971.

Re government-wide indemnity benefit plan.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR SIR: Your recent letter addressed to the Chairman, Mr. Olcott D. Smith, has been referred to me since claims administration for this Plan falls within my area of responsibility.

The provisions of the Government-Wide Indemnity Benefit Plan are contained in the U.S. Civil Service Commission brochure BRI 41-24. For your convenience I am enclosing a copy.

The specific basis of denial for the particular type of claim cited in your letter can be found on Page 14 under the caption "Charges for Services and Supplies" which states as follows:

"Not reasonably necessary for treatment of pregnancy, illness, or injury, or to improve the functioning of a malformed body member."

An artificial breast is not functional and is not required for the treatment of an illness or injury, therefore, has never been included as a covered expense under this Plan. Other types of prosthetic devices as specifically enumerated in the brochure, i.e., leg, arm, back and neck braces and artificial arms, legs, and eyes, are devices which are either necessary for the treatment of an illness or for the improvement of the functioning of a malformed body member. Our basis of not including an artificial breast as a covered expense under this Plan is consistent with the majority of other health insurance plans including Medicare. While we certainly understand an individual's desire to wear this type of prosthesis, the majority are used for cosmetic reasons and are not covered under health insurance contracts as stated above.

Mr. Malcolm J. McIntyre, located at the Commerce Building, 1700 "K" Street, North West, Washington, D.C. 20006, Telephone 296-3700, is our Coordinator of the Indemnity Plan. If you desire further clarification, please feel free to contact Mr. McIntyre.

I regret that our reply is not favorable.

Sincerely yours,

C. DEAN KREBS,
Assistant Secretary, Group Health Division, Claim Department.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 14, 1971.

MALCOLM J. MCINTYRE,
Coordinator, Indemnity Plan, Aetna Life and Casualty, Washington, D.C.

DEAR MR. MCINTYRE: I have received the enclosed letter from Aetna Life and Casualty Assistant Secretary C. Dean Krebs. This was in response to my inquiry on behalf of a constituent who complained that the Indemnity Benefit Plan does not cover the cost of a breast prosthesis following a radical mastectomy. I was also in touch with the Blue Cross Association regarding this matter. I quote from their letter:

Technically, the breast prosthesis is primarily cosmetic. However, several years ago because of the same considerations listed in your letter, the Program made an exception to permit extending benefits for the purchase of a breast prosthesis. This also includes fitting and construction of the prosthesis, and the insertion into the appropriate undergarments (including alterations). The undergarment itself is not a covered supply since this would be required with or without a prosthesis. Within reason, there is no limit on the number of such prosthesis which can be provided.

I would appreciate your informing me whether Aetna will consider revising its policy. If not, it is my intention to alert government employees of the differences in the benefits available from these two government policies.

I appreciate your attention to this matter.

Sincerely,

EDWARD I. KOCH.

AETNA CASUALTY & SURETY DIVISION,
Washington, D.C., October 19, 1971.

Hon. EDWARD I. KOCH,
1134 Longworth Office Building,
Washington, D.C.

Re Government-Wide Indemnity Benefit Plan.

DEAR CONGRESSMAN KOCH: Thank you for your letter of October 14, 1971 relative to our not considering as an allowable expense the cost of a breast prosthesis following a radical mastectomy, and providing us with the reply you received from the Blue Cross Association concerning this matter.

As outlined in Assistant Secretary C. Dean Krebs' letter of September 24, 1971, we cannot consider such a prosthesis as an allowable expense under the provisions of this Plan. At this time, we are not able to revise the Plan's provisions to provide coverage for such a prosthesis.

I am sorry that my reply could not be more favorable; however, if I may be of further assistance to you, please do not hesitate to contact me.

Sincerely yours,

MALCOLM MCINTYRE, JR.,
Coordinator.

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, there are proposals now being advanced in New York City to legalize the dispensing of heroin on a test basis. I am distressed to see that the city administration is giving support to these proposals by creating a committee to advance them. I am opposed to the legalization of heroin. Legalization in effect means that we are throwing in the towel and saying to the estimated 200,000 addicts in New York City "you can go on ruining your lives and the lives of your families and we the public will help you do exactly that." Not me.

I have been in communication with Dr. Vincent P. Dole who is the originator with his wife, Dr. Marie Nyswander of the methadone program and I have asked his opinion on the advisability of the proposed free heroin test program advocated by New York City's administration. For the interest and information of our colleagues, I am appending the correspondence with Dr. Dole.

Mr. Speaker, a board of education report in New York City shows that more than 25,000 youngsters are on heroin and I find it indefensible that anyone would suggest that we follow that habit.

The correspondence follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., June 30, 1971.

Dr. VINCENT DOLE,
Beth Israel Hospital,
New York, N.Y.

DEAR DR. DOLE: I hope you will recall that we met when I was in the City Council. At that time, I requested your assistance in obtaining a methadone bed for a young man who desperately wanted to go into your program. My recollection is that at the time you had 43 such beds. He was fortunate and went into the program in, as I recall, 1968.

About a month ago, I was standing at a subway at 8th Avenue and 57th Street handing out reports to my constituents. This young man came out of the subway and introduced himself to me and told me how his whole life had been changed. He has since married and is now working in the building construction trade. He is doing very well and is still, of course, on methadone maintenance.

I have taken a position in opposition to the Mayor's Committee which has proposed heroin maintenance. Aside from every other argument which one might use in opposition to heroin maintenance, my major argument is that there are thousands of heroin addicts who are standing in line waiting to get into the methadone program. And before we begin a heroin program, we ought to at least give to everyone eligible for methadone that opportunity.

I would appreciate your advising me as to how many methadone beds now exist, how many people are waiting to get into the program and how long one must wait before he or she is accepted. Whatever else you might give me by way of information in support of extending and funding the methadone program would be very much appreciated.

With the thought it might be of interest, I am enclosing a recent statement I made on the subject of drug addiction.

Sincerely,

EDWARD I. KOCH.

THE ROCKEFELLER UNIVERSITY,
New York, N.Y., August 17, 1971.

DEAR CONGRESSMAN KOCH: I am very glad that you are taking a position in opposition to the Mayor's Committee on the issue of heroin maintenance. This proposition is wholly unjustified in terms of social need or scientific merit. There are at least five thousand heroin addicts who have applied for methadone maintenance and are forced to remain on the street as heroin addicts for lack of facilities. Basically, this means lack of about $1,000 per man-year to provide maintenance treatment and the essential minimum of social supports.

As you probably know, I have been working in the Detention Prisons for the past five months. Here we have started an interview system to enable prisoners, while still in detention, to apply for aftercare in a treatment program of their choice. The great majority of these criminal addicts have asked for methadone maintenance treatment. All that we can do at present is to put their names on a list and assure them that we are trying to expand facilities to provide treatment in the future. If adequate facilities were available to meet the needs of every criminal addict who applied to us for treatment, I believe that within a two year period we could make a substantial impact on the problem of criminal addiction.

Scientifically, the only justification offered by proponents of heroin maintenance is that it is an experiment. This label is hardly justification for doing something foolish. What we know from past experience is that it is not possible to stabilize an addict on heroin. With this drug he requires several injections per day and his need for the drug constantly increases. If he is not given increasing doses, he feels symptoms of abstinence and, of course, will go back to the street to seek supplementary drug. Moreover, it would be necessary to give large amounts of heroin and needles and syringes to addicts to take home to the neighborhoods. Experience in England has left no doubt that this procedure leads to a spread of heroin addiction.

I do not see any merit in distributing heroin, but if any competent professional feels that more pharmacological studies of heroin maintenance are indicated, the way is open to him now, and he need only follow normal procedure for research on human beings: He prepares a careful protocol of the proposed experiment, submits it to his institutional review group and then, with their support, makes application to a medical granting health agency, such as New York City's Health Research Council, or the National Institutes of Health. These agencies again subject the application to review, and if it meets their standards, funds and support are forthcoming. This is the procedure that I followed when, in a quiet, unpublicized series of experiments at Rockefeller University Hospital, I actually tested the effect of administering narcotic drugs in different doses and by different routes to volunteer addict subjects. It was clear to me from these experiments, as it has been clear to previous investigators at the Lexington Hospital in Kentucky, that heroin maintenance has no promise as an answer to our social problem of heroin addiction. I am afraid that the proposals generated by the Mayor's Council were more political than scientific.

I do indeed remember our first meeting when you were in the City Council and have followed with interest your career in the House of Representatives. It is good to know that you are there and although it has not been necessary to put the matter to test, I have always felt confident that you were there as a strength if I needed you.

With best wishes.

Sincerely yours,

VINCENT P. DOLE, M.D.
Professor and Senior Physician to the Hospital.

SECRETARY MORTON OUTLINES ENVIRONMENTAL PROBLEMS FACING NATION, IN PRINCETON UNIVERSITY ADDRESS

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, an outstanding address was made recently by the Honorable Rogers C. B. Morton, Secretary of the Interior, for the distinguished lecture series at Princeton University.

Secretary Morton, in his impassioned discourse upon the environmental challenges facing the Nation, says that all the indicators point to a new era of conservation and environmental conscience in this country. He states his optimism over the trend and change and discusses some of the steps necessary if we are to successfully manage our natural resources and protect and preserve our environment.

I commend to the attention of all our colleagues in the Congress and to the public the penetrating commentary of Secretary Morton in his address at Princeton University.

The full text of the address follows:

ADDRESS BY THE HONORABLE ROGERS C. B. MORTON, SECRETARY OF THE INTERIOR

In early May of 1967, in the primeval forest along Lost Man Creek in the Coast Range of California, a lumbering crew laid its chain saws to the bark of a magnificent tree. As the roaring machines chewed into a trunk

broader than the encircling arms of five men, they spat out the chips and the dust of three thousands years growth. This cutting marked the end of a long and bitter struggle, by man for the life of a unique natural asset found nowhere else in the world.

The heap of sawdust at the foot of the stump was more than the debris of a few minutes' work, more even than the symbol of defeat for those who had fought to save the tree. It was the transect of three millennia through which man has steadfastly and passionately wrestled with nature for supremacy . . . and it was an exemplary instance in the never-ending tug-of-war between civilized man and the natural resources which support his civilization.

In the beginning, the steps of man were very soft upon the Earth. Early man was a hunter. He filled his belly by stalking animals and gathering wild plants. He was brighter than most of the species but for two million years he created no more impact upon his environment than did other animals, probably less than herds of elephants or towns of prairie dogs. He drew his milk from the great breast of nature. Though most of the secrets of the Earth were a mystery to him, he lived in the knowledge that he was dependent upon them for survival.

The changes that man has wrought, to secure comfort, pleasure, and wealth for himself since that primordial era are incredible. From the flint and shards of the stone age, we have leapt to the labs and reactors of the computer age. The productivity of our time is immense, bringing its wonders and benefits to more of our people than ever before. Its ingenuity is acute, delivering us plastics and lasers, contact lenses, and TV dinners, nuclear spectre, and man on the moon . . . and, above all else . . . speed, fantastic speed, in its many forms.

But our chart and graphs can certainly be elusive. They often make the net gains seem greater than they actually are. For they fail to take into account the environmental costs which have accumulated unpaid. The leeched-out farmland, the smog and the sludge, the enormous piles of waste, the cacophony of noises, and th darkening of our waters. These are the exhausts of 20th century technology. They are the effiunt of our affluence.

To put all this into perspective, will you go back with me now to the day that a small timid band of pilgrims first glimpsed the bleak shoreline of Cape Cod. On the other side of this new, foreboding continent, the venerable redwood was looking down on 2000 years of its own biography.

The new colonists feared the mystery and darkness of the new world but their vitality was challenged by its gargantuan stores of natural resources, and their own hope for riches . . . the wilderness was for the plucking and its dismemberment began almost immediately.

The same marvelous abundance had always been a fact of life for the primitive peoples of North America who predated the colonists for thousands of years. But the Earth developed few scars from the Indian, who had no conception of Anglo-Saxon private ownership, but felt he was merely one part of a vast land-nature equation into which he was woven. His life style was interlocked with his world in a struggle for existence and his only riches were his skill and his strength.

As soon as the beachhead of American life became established, the eyes of those first citizens turned to the West. Sodbuster, trapper, prospector, and trader and buffalo hunter, pioneer, explorer and lumberman . . . all immediately began to extend the boundaries of the Nation ever westward . . . this was manifest destiny.

The new government assumed the role of promoter and in 1803 we acquired our first great piece of real estate . . . The Louisiana Purchase.

In 1804, President Jefferson sent Lewis and Clark up the Missouri River to report first hand what lay to the northwest.

Then . . . Texas and Oregon were acquired in 1846;

California in 1848;

The Gadsden Purchase in 1853;

Alaska in 1867;

And Hawaii in 1898;

So that by the end of the 19th century, geographic expansion of the Nation was essentially complete. Now, there is no more land to buy.

Masses of sodbusters and homesteaders migrated to the grasslands and prairies of Middle America with plows in their hands and wheat in their dreams. The Homestead Act of 1862 had traded them title to quarter sections of ground in exchange for the promise to plow and to farm . . . but there was no contract to preserve it from the wind and the erosion which it brought.

As the prairie states opened, were fenced, and then plowed; the West was opened by the new attraction of gold. Within two years following the 1848 Gold Strike at Sutter's Mill in California, the population of that state jumped from 14,000 to a quarter of a million.

Again, Washington took an active role and the Mining Law of 1872 was established. This act provided that prospectors had free access to search for minerals on the public lands . . . it established the doctrine of finders-keepers. If valuable mineral deposits were found, they became the private property of the prospector. In many cases, this law has allowed the mineral industry to go in, excavate thousands of acres of land . . . and then abandon the hole to the government . . . to the people . . . unreclaimed.

We have progressed, through the 60's, in the spirit of this early legislation. We have been living as if the sun would burn out in 2071 . . . using our resources as if they were going out of style . . . leaving no need for conservation. But if we continue to attack the stock piles of nature with no thought for the future, we will come to a screeching halt in far less time than it took us to get here from the day we declared our independence.

This is not to say that human life, in some numbers will not survive in the biosphere, but rather that the dynamics upon which cultural expansion depends, will have eroded away.

In spite of this bleak record . . . I am optimistic.

In my view, all the indicators point to a new era of conservation and environmental preservation. The signs of a dawning enviromental conscience are appearing. Its seeds are being sown throughout the land . . . in government . . . in industry . . . in the universities . . . in the home . . . everyone is an environmentalist.

Very few of us know what to do with our new conscience, but the motivation for change is with us. It is electrifying. It is gratifying.

My optimism is well-founded. In the last three years we have made more progress toward controlling the geometrically escalating degradation than in all our past political history.

But the methods by which we have hacked our civilization out of the wilderness have established strong and hard-to-change patterns. Reform will not come easily. We will experience some discomfort in the land. New values must be accepted. New self-discipline must be a part of our life-style.

The new values will be based on the sum of what man is paying for the conversion of natural resources and what the environment is paying. If the environment is to remain qualitatively constant, man must pay the entire bill. We can no longer allow the quantitative progress which we achieve in meeting the material demands of a higher civilization to eclipse the qualitative values of the environment . . . and the very spirit of man.

To begin, we must have orderliness. Orderliness in the use of our land is foreign to us. If we are going to stabilize the environment, we can no longer proceed without a sense of order in how we lay out our occupancy of the land. Where the critical factor has always been a quick buck, it must now be environmental quality . . . and conservation of resources.

I am convinced that land use planning and positive implementation is paramount not only to environmental management but also to the development of a higher social order and a broader cultural opportunity.

The President has initiated a concept of land use policy which includes methods for power plant siting; . . . for strip mine reclamation; . . . for the protection and management of the public lands on the basis of multiple use and sustained yield; . . . and for repeal of the 1872 Mining Act, substituting procedures which will eliminate indiscriminate mining practices and ensure environmental control.

Our system of government is now facing the great test. The Congress will prove whether it is partisan or responsive. I have always believed that partisan politics are a secondary consideration . . . but if Congress does not act on these proposals, the truth will out.

Man's environment in the world is an ecological system. It is the sum of all of the living and nonliving. Its components support the chain of life. Some natural resources have been depleted, and foreign sources of supply have become less plentiful and more insecure. Thus the environmental problems become more evident. The Nation suddenly has become aware of the full importance and significance of the need for the conservation. Management of natural resources and the protection and preservation of the environment are instituted not only to sustain and provide for continued social and economic growth and the quality of life, but for man's well-being and survival.

The natural resource and related environmental challenges facing the Nation are:

To extend the life of our finite resources through more efficient development, secondary recovery, prudent use, and recycling.

To efficiently manage our renewable resources through multiple use and sustained yield.

And to preserve natural assets for the sake of preserving them . . . for posterity rather than material gain.

In short, we must begin to appreciate the blinding speed at which our civilization and its works are now developing. We must not fail to proceed with caution for quality • • • in spite of our velocity • • • a velocity which often seems overwhelming.

If the redwood tree, during whose lifetime most of the important history of the world has transpired, could somehow momentarily blink its eyes, it would miss more than it had witnessed in all of the previous years of its existence. For the biography of the redwood has centuries for pages. It is a chronicle whose inscriptions were engraved by nature. Man and machine took her pen for their own and wrote a new evolution which compressed the courses of millennia into a single century and begat both the marvels and the horrors of our technic age.

The redwood is actually a symbol of our time. It is the old man of the biosphere, threatened by machines, the love children of the technosphere. The truth of the redwood has eluded us in the past. Our faith in the machine has tricked us into the belief that we are free of natural law. We now are aware that this is simply not the case, for a world with no room for its redwoods is a world that will return to the sands.

NEW IDEAS FOR BETTER SCHOOLS

(Mr. BELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BELL. I insert in the RECORD the text of an interview with our eminent commissioner of education, the Honorable Sidney P. Marland, which recently appeared in U.S. News & World Report.

Commissioner Marland makes several points which are extremely significant for every Member of the House of Representatives. I single out as particularly relevant his recommendation for expanded career education opportunities for those young people who do not elect to pursue the 4-year, degree-granting program that has become, as he terms it, "a kind of folklore."

His discussion of this as well as various other aspects of our educational system deserves more than a cursory examination.

NEW IDEAS FOR BETTER SCHOOLS—INTERVIEW WITH THE U.S. COMMISSIONER OF EDUCATION

Q. Commissioner Marland, how would you describe the state of American education today?

A. One could be very pessimistic about education in this country today. There are many grave problems surrounding it. But I am not among the doomsayers.

I think that this is perhaps the beginning of the most exciting period in the history of education in this country. I say that after 34 years in which I've viewed the schools from the inside—as a schoolteacher and as a school administrator. Never before have I seen the spirit of reform so high among the practitioners, among young people and, indeed, in our society as it looks at its schools.

We are ready, as never before, for major improvements in education. So I am optimistic.

Q. Is teaching in the public schools better or worse than it was, say, 10 years ago?

A. Without any hesitation, I say it's far better. Teachers are better trained and classes are smaller. Resources for supporting the teacher are better. By this I mean psychological services, medical and dental services for children, reading specialists, science consultants, equipment for teaching. While we're far from utilizing all of the technology that we might, the fact remains that teachers are better trained and they're doing a better job.

And notwithstanding some of the ugly statistics which continue to embarrass us, the great majority of young people in America are learning better than they ever have. There are facts that demonstrate this. For example, there is the need to upgrade constantly our standardized achievement tests to stay abreast of the increased performance of young people, and the need to reform the college curriculum—the freshman courses particularly—to accommodate the increased effectiveness, scope and quality of high-school teaching.

Q. What are some of the ugly statistics to which you refer?

A. We're failing to meet the needs of perhaps 18 to 20 per cent of the young people in this country.

Q. Is that a larger percentage than in the past?

A. It's a larger percentage of those attending school than has been true in the past. Our great persuasion as a people to "stay in school" has served to keep in the classroom, as we should, a great many young people who in the past dropped out for one reason or another and were no longer a responsibility of the school. Therefore the statistics show embarrassingly larger numbers of failures, since larger numbers of high-risk boys and girls are in school. Sometimes in the past they were pushed out, but more often they chose to opt out.

There are still too many young people leaving school because the schools simply are not providing a satisfactory experience for them. So we see clearly the unhappy statistics surrounding the dropout, the ugliness of drug abuse in our schools, the children from disadvantaged backgrounds who are failing to learn adequately, and the young people who just become disenchanted with the institution of education. I can't give you hard statistics, but I can assure you that not only young people from disadvantaged environments or from minority groups are asking more of the schools than we're giving them. This is part of my concern as I speak favorably of the other side of the coin—the side that shines—the side that shows we're doing a pretty good job for the great majority of our young.

Q. Is there anything that can be done about these young people who have become disenchanted with formal schooling?

A. I recommend a very substantial reform in education. I call it "career education." It's only the beginning of an idea now, but it's an idea for which the time may have come.

From the extraordinary vantage point that I have in Washington, I see ways in which the Federal Government—through its initiative, through its leadership, through the modest amount of leverage that we have with federal funds—may be able to change the universe of education in favorable ways to respond to this challenge.

Q. What do you mean by career education? Is that a euphemism for vocational training?

A. An emphatic "No!" This is anything but a trading of names, although I would be quick to say that vocational and technical education has a very large part to play in career education. But let me tell you a little bit more about the idea:

To begin with, our society has developed a kind of folklore that says to be good you must go to college—to be somebody you must have at least an A.B. degree. For many years, that was a very appropriate goal, and it served as a world model to increase the intellectual, social and economic level of our country.

But we have come to the point where a kind of self-hypnosis has set in. People are convinced that this is the only way to glory. And I hold that it is not true. I'm not talking only about differences in intellect. I'm talking about differences in aspiration, in goals; differences in human needs and what people want to do with their lives. I think there is a false set of values surrounding the whole theme of vocational-technical education that says, "That's for the other people, but my children are going to go to college."

REPLACING USELESS COURSES

Q. Grease education, it used to be called—

A. Yes, the dirty-hands school. That's the idea that's been held by many people. And if anything can come of my time of service in Washington, I hope it will be to correct that.

At present, about 54 per cent of high-school graduates go on to higher education. And if you look closely at the average high-school graduating class, you will see that no more than about 10 to 12 per cent studied vocational-technical programs leading directly to salable skills. And in between for all the rest of the young people there is that dubious euphemism, the general curriculum—which is a put-on. It doesn't lead to anything.

I hold that we should do away with the general curriculum, which young people in our high schools now find to be a put-on. It contains no intrinsic motives, no tangible goals. It does not lead to college, and it does not lead to satisfying and rewarding employment.

In talking about career education, I'm not trying to discourage young people from going to college—quite the contrary. What we must do is create social value and prestige in a wholly different kind of education for the nearly 50 per cent of young people who choose not to enter college, and for the much larger percentage which includes those who enter but soon exit. I want to give exposure to what the world of work is all about to all children.

You see, a career is something that you and I were trained for one way or another, just as did your doctor and your architect and your attorney and the man who prints your magazine. Many of us have come upon it accidentally, without very much planning and without very much information on which to make very important life choices, and, by chance or by the grace of the Almighty, we found ourselves where we are.

Now, that's a haphazard way to go about planning a life, notwithstanding the Almighty's wisdom. I hold that along about fifth, sixth or seventh grade, along about age 12 or 13, there ought to be some systematically planned information made available to young people through the curriculum so they can have a hand in shaping their own lives in a thoughtful and informed way.

Q. Do you have a plan to accomplish this?

A. We're now developing in the Office of Education 15 clusters-of-work categories—or curricular systems. One cluster, for example, is the health sciences, ranging all the way from the hospital orderly up to and including a highly specialized surgeon.

Then there is the electronic cluster. That has to do with everything from how to put in an electric socket to the construction and operation of a very sophisticated computer.

Those are just two examples. All the way through career education there must be the underlying academic learning that supports the specific or the generalized cluster of jobs.

This idea is far from jelled. It would be a mistake for me or for anybody in Washington to declare it as a fixed or final concept, although there is considerable enthusiasm for the idea across the country, as we explore the possibilities with school leaders, teachers and citizens at large.

Q. How would career education work in actual practice?

A. The concept is that the student should be ready when he leaves school—I didn't say graduate, necessarily—either to enter postsecondary education or to go directly into the world of work with pride, satisfaction and competence. He may want to be a service station attendant at age 15, and leave school to do that. A year later he may want to come back and study about transmissions; he becomes a transmission expert for his community. Then perhaps he comes back again for some business courses. By the time he is 30 or 35 years old, he owns a garage and has become a businessman as well as a skilled craftsman.

In career education, the school system is constant, and students spin off from it and spin back onto it.

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A young woman at age 14 or 15 may begin to think seriously about the health sciences. She graduates from high school and has, let's say, a year in community college and becomes a licensed practical nurse. After three or four years of earning money and finding satisfaction, she says, "I think I'll go back." So back into the system she goes and becomes a two-year or a four-year graduate nurse.

The point is that the system is always there supporting her or him.

I believe that one of the very important aspects of career education is that we will suddenly and finally begin to motivate young people with perfectly good minds who are not now learning effectively in school. As an educator—a teacher—that is one of my overriding hopes for the future, as I try to lend the power and influence of my office toward better schools for America.

Q. Dr. Marland, do you think, as some critics charge, that Americans have lost confidence in public education?

A. We're going through a period of serious soul-searching about education, both inside and outside the system. But I don't think our people have lost confidence in education—no.

There are serious questions being asked about what the schools should be doing right now. The many bond issues and tax referenda that have failed of passage in the past 2 or 3 or 4 years are increasing testimony—not necessarily that the people are opposed to education, but that they're asking us to give a better accounting of how we're using their money and how we are serving society's needs and how we are justifying the very swiftly rising costs of education.

A few years ago, typically 75 to 85 percent of local school-bond issues passed; last year only 48 percent passed. This is, in part, a reflection of discontent with education, but it should not be overemphasized as a measure of public feeling toward education. We must remember that the local real estate tax is about the only tax left to the discretion of the weary taxpayer. He is probably declaring his frustration toward taxes altogether—not only those for the schools.

At the same time, I can tell you that the people of our country are looking to the schools to fill a much larger role than they have in the past. Within the past five or 10 years, the expectations for education have increased by leaps and bounds.

We're expected now to resolve some of the great social issues of our time. Racial equality is now an essential burden of the schools. The problems of unemployment and underemployment now rest upon the schools. The schools are expected to deal with mental health, family relationships and child nutrition. A very real responsibility of many schools is to see that a child has a full stomach when he arrives at the classroom.

Q. Are these responsibilities that families have shrugged off to some extent? In other words, are people asking too much of their schools?

A. In many places the schools are not ready to accept and to respond quickly and productively to all of the things that society is expecting of them. But I think most are willing to try, even though it is going to take some time to solve these problems.

Take, for example, the matter of racial integration. The schools have no ready answers. In spite of the best efforts of men of good will, black and white, the solution eludes us in many parts of the country, North and South.

Now, one can say: "The schools have been asked to do too much." I have to answer that it is a credit to the education system in this country that the people have turned to the schools in times of dire social stress. But society must be a little more patient in letting us work out the solutions. And I must add that we must have more resources than we now have to work them out.

CITY SCHOOLS: "IN GRAVE TROUBLE"

Q. Some educators told President Nixon recently that so many problems are being piled on inner-city schools that they are in danger of complete collapse—

A. Our urban schools are in very grave trouble. I started teaching in 1937. In those years we looked to the big cities as the lighthouses of educational excellence—New York City, Chicago, Pittsburgh—and indeed they were. The resources were there: the great universities, the money, the citizen leadership. That is no longer true.

Now the other burdens of the city—health and sanitation, drug abuse, welfare, crime—preoccupy its officials, both in terms of its social concerns and in terms of demand for funds. Now fully two thirds or more of the average big-city budget has to go for noneducational things.

At the same time, across the city line in a relatively exclusive suburb, you find the exact reverse. Two thirds of the money from that favored environment is available for education while only one third is needed for other services.

Q. The city has lost its more affluent citizens to the suburbs—is that the problem?

A. It is certainly a large part of it. Some call this the flight of the white. It is more accurately the flight of the favored. Black and white and other races are a part of this trend. We must reverse it, and I would say that it can be reversed.

Q. How?

A. We must bring such excellence to the inner-city environment and schools that our cities will be restored to the great places that they have always been throughout civilization. We must provide enrichment in the cities that can't be found in the suburbs, in terms of opportunities for young people to grow and to learn to live in a new kind of society, where people with children of different races and different economic circumstances will learn to work and live together because that is the way the world is. And that is the way the valid life of the future will unfold.

Q. Will this require rather large amounts of money?

A. I'm sure that we are going to have to find ways greatly to increase the dollars for our cities. I have been there. I know what it is like to try to raise money for schools in a city such as Pittsburgh, with the same municipal overburden that I described a moment ago, where two thirds of the resources of the city are required for maintaining basic services—whereas just across the river, in a very-favored environment of residential homes, two thirds of the money from the real estate tax base is available for the schools.

Now, that cannot continue, and that is what the California supreme court said in the recent decision in that State. I applaud that decision: The court found that the system of inequities in the funding of education in the State of California is totally inequitable.

Q. The California court held that relying on property taxes to finance schools is discriminatory because it enables affluent communities to spend more money on education than poor communities. Is that decision going to lead to a reshaping of the way education is financed in this country?

A. I think it will. Certainly the California decision, if sustained by the U.S. Supreme Court, will point the way to general fiscal and revenue reform within all of our States. And I think that the so-called equalization formula—which each State has in one form or another—will have to be completely reworked to comply with this court order.

Q. In Maryland, the State has taken over all financing of school construction. Now there is pressure for the State to take over the whole business of financing education. Is this likely to happen in other States?

A. I think it is quite feasible. A number of States have explored it. Hawaii has this system now. And, of course, the California ruling will tend to tip things that way, too. There is only so much taxpayer money, whether you collect it at the drugstore counter with a sales tax or whether you collect it at the county clerk's office for your real estate or whether you collect it as income tax at State or Federal level.

UNIQUE WISDOM OF LOCAL BOARDS

Q. What rights and responsibilities will be left to local communities if States take over financing of schools?

A. I would expect that the whole business of curriculum, of faculty selection, of program planning within the resources provided by the State—indeed, the whole substance of teaching—would still be left to local discretion. I would hope so.

In my home town of Danielson, Conn., a small town, the board of education has unique wisdom concerning the life and needs of the children in that community, and a corresponding wisdom exists in New Haven, Conn., a big city. But these boards operate under quite different circumstances, and I don't think that the State—and certainly not the Federal Government—should attempt to pre-empt or prescribe the circumstances of learning in such widely different communities, even in the same State.

Q. Would this result in a leveling of support for education? In other words, will communities that now are taxing themselves heavily for school funds be forbidden to spend more than a certain amount?

A. I have thought about that question since the California ruling, and I am not sure how it will work out. But the California ruling presumes that there will be an equal base for all. It may be $800 a year per child or $1,000 a year per child or some other figure determined by competent State authority. But whatever the sum, it is presumed by this ruling that money will be made available on that basis for all children.

That raises the question: Taking California as an example, can San Mateo raise another $100 per child if it wants to, while San Francisco has only $800? Can Berkeley or Los Angeles do something different through their own initiative? Will this ultimately bring back the inequities that now prevail?

I would guess that some court, in all of its wisdom, will say that a community may, by an amount not to exceed a certain figure, increase some aspects of its educational offering. I think it would be quite unlikely in America to forbid a community to tax itself to educate its children.

This remains a sticky feature of the California case that must be faced.

AS COSTS AND PROBLEMS MOUNT

Q. Dr. Marland, the cost of education has gone up tremendously in terms of dollars. Has it also increased as a percentage of the nation's total income?

A. In terms of the gross national product, we are now spending 8 per cent annually on education—a greater proportion of our national income than formerly.

Q. And yet the problems seem to proliferate. Where is this going to lead in the long run?

A. If education were expected to do only what it used to, our schools would be doing much better than they used to do—and probably would be doing it for much less than we are now spending on education. But we come right back to the fact that Americans have increased expectations for their schools. The complexities of our society are mounting, and the schools mirror these complexities.

Q. Meanwhile there are charges that children can't be taught to read——

A. A very small percentage of our children are not being taught adequately to read. The great majority of our children are reading better, with greater comprehension and speed than they ever have. And the success of our reading program, as a nation, is very significant.

The fact remains, much to my embarrassment as a schoolteacher, that there are significant numbers of illiterate adults in this country—that significant numbers of children are reading far below the expectations for their age, and are indeed graduating from high school with very marginal literacy.

This is bad. But please don't make the assumption that we aren't teaching reading. We are teaching reading very well to the great majority of our young people. And I would guess that those whom we were talking about—dreadful as the numbers are—are somewhere in the neighborhood of 10 to 15 per cent.

It is inexcusable in our society, with the resources we have, with the teachers and the technology we have, that significant numbers of children are not reading successfully. But I would say that reading and writing are not an end in themselves. They are the tools with which one becomes a fulfilled human being. And the fulfillment of a human being, to me, is a larger and more fundamental purpose of education than reading and writing.

Today we are talking about a wide range of human beings, from the humblest, with an I.Q. of 80, to the most able.

In our inner-city schools we have concentrations of children, many of whom have migrated to the cities over the past 10 years. They are often from minority groups, from quite different cultures. They come from families in desperate economic conditions who are reproducing themselves as they are and continuing in a cycle of poverty. And we must find some way of breaking this cycle, of breaking the sequence of generations of children in poverty, facing the ugliness and despair of life in the "ghetto."

Q. Are the schools having any success in doing this?

A. It is difficult, but some progress is being made. We find teachers who in all deep commitment go to teach in the inner city, pour out their concern and their talent, and become frustrated and discouraged and sometimes quite deeply shaken. We must work harder. We must increase the resources, both human and material. But let me say, we are having some success on this.

The Teacher Corps, now in its sixth year, engages just such young people who have committed themselves either to the inner city and its problems or to equally depressing circumstances in rural areas. Our retention rate among those young people is tremendous. It is higher than the retention rate of conventional teachers in conventional situations. We have also found that the paraprofessional—the devoted man or woman from the local environment working as a companion to the inner-city teacher—is also making a difference.

It shows that someone is concerned about "little Harry," and Harry begins to perceive himself as a valuable person. A valid and honest concern for the learner—I call it love—must underlie all good teaching. It must especially be believable and real. It is an inescapable part of the inner-city teacher's character if he or she is to succeed.

Q. What you have been discussing here—is this what is known as compensatory education for the inner-city children?

A. In part, yes. We have as a nation poured out more effort, more money, and I hope more expertise in working with the disadvantaged child. Compensatory means "more than equal."

That, of course, has been going on since the Elementary and Secondary Education Act of 1965 was passed by Congress, and has had great beneficial effect. But many of its effects are still not measurable in the inner city. Well over a billion dollars a year has been spent in compensatory education, but by the time this gets to the child in poverty in a "ghetto" classroom, it is about $140 extra per year, or perhaps 18 to 20 per cent.

Maybe we can add the time of a paraprofessional to that classroom with that added money. Maybe we can add a few more appropriate teaching tools. Maybe we can add breakfast in the program, so that the child starts his day's work without hunger. But we have not had, in spite of the large sums, sufficient money to concentrate on the disadvantaged in depth. In some situations around the country where the added funds amount to not just 18 or 20 per cent, as it typically is, but 100 per cent, we can see real progress.

The case can be made, in terms of national values, for doubling the cost of educating the child in poverty, to break that cycle, and to take him out of dependency at age 14 and 15 and 16, rather than to continue another cycle of dependency with all of the implicit costs to society.

Q. How can this be done if the rule laid down by the California supreme court is adopted nationwide, and there has to be equal spending in every school?

A. I would hope that Congress will be able to legislate so that those schools that need more resources to provide compensatory education can have them, apart from the equalization feature. Remember, I said "more than equal" for the disadvantaged.

Q. Should big-city schools be nationalized—taken over by the Federal Government? Mark Shedd, superintendent of Philadelphia schools, has proposed that to Congress and to President Nixon——

A. Well, I sympathize with Mark—and at times I have felt that way as a big-city school superintendent. But I'm sure he would be the first to say that we should preserve the historic foundations of American education, which establishes the schools as a product of their immediate environment—that they should serve the people close at hand and be governed by the people close at hand.

While we look for ways to increase the fiscal support from the Federal Government, we know that if that support increases, the controls will very likely increase. This would go dead against the history and philosophy of American education. Schools are a property of the people, and the more they are removed from the people, I'm afraid, the more we destroy the greatness of what has so far been America's principal asset among nations—namely, a free-public-school system for all.

The secret to unlock here is how to increase federal financial support without relinquishing local control.

BUSING OUT OF THE NEIGHBORHOOD

Q. Does busing to achieve integration destroy this idea of schools? Can you have compensatory education, involving the family of the child, when he is bused out of the neighborhood where he lives?

A. There is no simple answer to that. But we must ask ourselves: What is the mission of the schools?

The mission is to bring this nation forward, through education, to a more just and effective and whole life for everybody. And the evidence shows us that so long as we segregate races, then that life is something less than just and effective and whole for all of those children. You have to make trade-offs, and you have to decide what the transcending values are in the American ideal. You can't necessarily pursue all those values at the same time.

In our nation the courts, the Administration, the Congress have said, "Let us find ways to bring about genuine opportunities for children to live together and grow up together and understand each other in ways that heretofore, since the beginning of this country, we have not done."

That means redefining some of our traditional beliefs. The neighborhood school in which I grew up calls up a very happy memory. But what is a neighborhood today? Need it be racially and economically isolated? Are we going to have the convenience of parents being physically close to the school and enjoy all of those good, nostalgic things which we recall in a small neighborhood territory when time and space factors have markedly changed? Or are we going to find ways to capture the best of both worlds and reach out and invent new ways to engage parents with their schools—to invent new ways for communities to be larger geographically but smaller in terms of the spirit of that community?

A neighborhood needs more than geographic proximity to achieve neighborliness, and that has to do with our feelings and beliefs as a people. That is where the schools come in, as we search for ways to reach out for true brotherhood not only down the street, but across our land and throughout the world.

We don't yet have all the answers, but we must, as President Nixon has stated, achieve "a system in which education throughout the nation is both equal and excellent, and in which racial barriers cease to exist."

Q. Mr. Commissioner, what future do you see for parochial schools, many of which are finding it difficult to survive?

A. I am very concerned about the parochial schools because they are an important educational arm—serving 10 or 11 per cent of our young people in elementary and secondary schools in the United States. And I think that they should be sustained, but not in such a way as to breach the law. The law says that there will not be federal funds furnished to nonpublic schools. I think that's a good law. And, therefore, my position is that we must find ways to better the things that the law permits us to do.

For example, the Elementary and Secondary Education Act of 1965 mandated the provision of services to disadvantaged children in nonpublic schools from the public treasury as long as those services were provided for the disadvantaged in forms that were distinct from dollars. We've not done as well as we should have done in the public schools with the opportunities under that law. We've done quite well under Title II, which has to do with the distribution of textbooks and library books. Books are loaned to the nonpublic schools, and they have the right to choose their books from master lists that are so liberal as to impose virtually no constraint on them. This is working well.

The second approach is through Title III of that Act, which provides funds for reform and renewal in education. On that we've done fairly well, sharing at the local level with curriculum development, experimentation, and planning jointly between the nonpublic and the public schools at the local level. And one could say that about 50 per cent effectiveness has been attained in this as compared with 100 per cent on the book side.

But in the area that perhaps has the most money and the most opportunity for helping poor children in the nonpublic schools, we still have a long distance to go, and that's the Title I part of the law. This title provides increased services to children who meet the eligibility terms for compensatory education. Both public and nonpublic schoolchildren are supposed to share equitably in such benefits as teacher aides, smaller classes, supporting services and improved material resources. And while people of good will have been searching for ways of delivering such services to nonpublic schoolchildren on the same scale as to public schoolchildren, practical obstacles have been a deterrent to getting this part of the law implemented fully.

And in this connection, I will be convening a meeting of public-school leaders from the 40 largest cities of the United States—the cities of over 300,000 population—this autumn for three days. We'll go off out of town somewhere and get into a quiet environment and live and work together with the 40 counterpart leaders of

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the key nonpublic schools in those same communities.

Many of those participants, of course, will be the parochial-school leaders—very often a priest or a bishop—together with the other nonpublic schools, who are also in many cases having serious problems. The public-school spokesmen will be local school superintendents.

Q. Will the so-called "independent" schools be included?

A. Yes. And we'll spend two or three days together trying to find ways to increase the opportunities for the public schools in the 40 largest cities to extend themselves through collaboration with the nonpublic schools within the law and within the rulings of the courts to provide and improve the circumstances for some of those dangerously threatened nonpublic schools.

VALUE OF A YEAR-ROUND PROGRAM

Q. Many school systems are now experimenting with year-round operations. Is that a good idea?

A. The original school year was essentially the product of an agricultural economy, allowing young people to be available for work in the fields during the growing season. It no longer has relevance for the great majority of our society. Nonetheless, the habits and traditions of family living continue to impose a substantial overlay of "summer vacation."

There is clear evidence that many school systems are conducting successful summer programs for large numbers of children, particularly those with learning difficulties and those with exceptional talent.

Further, the implicit freedom of a summer program—that is, its optional nature—tends to produce an affirmative effect on the attitudes of teachers and learners.

There is no question that substantial improvements in efficiency can derive from the 12-month year, particularly in the utilization of facilities. The administrative problems are cumbersome, but they are surmountable. Faculty attitudes must be considered, particularly attitudes of teachers who, like many of our citizens, are accustomed to the summer holiday for physical renewal, for continued professional study, travel and the recharging of batteries. There are good arguments on the side of the *status quo*, but I hope we can find better arguments for installing change.

I would add that not only can the 12-month school year greatly loosen up the system of education with perhaps scattered periods of holiday and optional school attendance, but the school day itself has much to offer in the way of freeing up all concerned. The school day should have no particular beginning or end. The schoolhouse is there—the laboratories, classrooms, libraries, auditoriums are there, as well as the playing fields and gymnasiums. A system of coming and going, both for faculty and students, would free the schools from the implications of a lock-step, five-hour compulsiveness that we may have outlived as an unnecessary formalization of the learning process.

PROMISES AND PITFALLS OF NEW IDEAS

Q. Do you see any value in a voucher system that would let parents "buy" their children's education at any public or private school they might choose?

A. The voucher system may have some attractions, particularly in the form of stimulating new methods and materials in the interest of profit-making or in the interests of developing alternate choices for parents and young people. I have serious misgivings about the system, however, if it implies that ultimately all children would have the option throughout all parts of our nation to choose between the public-school system and something else. While the "something else" may here and there pop up, either in a profit or non-profit context, and even be successful for the limited scope of programs and people it can accommodate, I see little promise of this being capable of extension in sufficient capacity to be a truly viable option.

I must therefore say that for experimental purposes, for the discovery of new methods and materials, the voucher plan may be useful. As a universal enterprise, I'm afraid it would be another put-on, especially for the poor and the disadvantaged. We may give them a check with no place to cash it.

I might add that the voucher system is only a fractional part of a wide variety of revolutionary forces at work, many of which are sponsored and initiated by the Office of Education.

I would suggest that such enterprises as experimental schools, Right to Read, career-education models, the many educational research labs and centers which are sponsored by the Office of Education—not to mention the exciting forthcoming National Institute of Education—are developing and will develop many other alternatives than those implicit in vouchers.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ADAMS, for November 11 to 15, on account of official business.

Mr. KAZEN, after 4:15 today and tomorrow, November 11, on account of death in the family.

Mr. CHAPPELL (at the request of Mr. BOGGS), from 3 p.m. today, through Monday, November 15, 1971, on account of official business.

Mr. PATMAN (at the request of Mr. BOGGS), for today, on account of official business.

Mr. PIRNIE (at the request of Mr. GERALD R. FORD), from 7 p.m. today, and the balance of the week, on account of death in family.

Mr. KEE (at the request of Mr. BOGGS), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MIZELL) to revise and extend their remarks and include extraneous matter:)

Mr. VEYSEY, for 10 minutes, today.

Mr. KEMP, for 30 minutes, today.

Mr. SHOUP, for 5 minutes, today.

(The following Members (at the request of Mr. DENHOLM) to revise and extend their remarks and include extraneous matter:)

Mr. ASPIN, for 10 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

Mr. DAVIS of South Carolina, for 10 minutes, today.

Mr. BURKE of Massachusetts, for 10 minutes, today.

Mrs. ABZUG, for 10 minutes, today.

Mr. FRASER, for 5 minutes, today.

Mr. DANIELSON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HELSTOSKI.

Mr. BINGHAM to revise and extend his remarks prior to vote on Seiberling amendment.

Mr. ROUSH to extend his remarks following those of Mr. DENT, today during debate on the conference report on H.R. 8687.

(The following Members (at the request of Mr. MIZELL) and to include extraneous matter:)

Mr. QUILLEN.

Mr. GUDE.

Mr. HOSMER in two instances.

Mr. GROVER.

Mr. BIESTER.

Mr. PETTIS.

Mr. MCDADE.

Mr. SCHMITZ in two instances.

Mr. BAKER.

Mr. FISH.

Mr. BROTZMAN in two instances.

Mr. VEYSEY in two instances.

Mr. ASHBROOK in three instances.

Mr. MICHEL in five instances.

Mr. BROYHILL of Virginia in two instances.

Mr. DERWINSKI in two instances.

Mr. ROUSSELOT in two instances.

Mr. COUGHLIN.

Mr. MORSE.

Mr. BELL.

Mr. GERALD R. FORD in two instances.

Mrs. HECKLER of Massachusetts.

Mr. NELSEN.

Mr. COLLINS of Texas in six instances.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous matter:)

Mr. EDWARDS of California.

Mr. GONZALEZ in two instances.

Mr. RARICK in three instances.

Mr. ROGERS in five instances.

Mr. HAGAN in three instances.

Mr. RODINO in two instances.

Mr. DINGELL in two instances.

Mr. FOUNTAIN in two instances.

Mr. KLUCZYNSKI in three instances.

Mr. LINK.

Mr. DANIEL of Virginia in two instances.

Mr. BARING.

Mr. MURPHY of New York.

Mr. JACOBS in two instances.

Mr. CORMAN.

Mr. DULSKI in six instances.

Mr DOWNING in two instances

Mr. ANNUNZIO.

Mr. ANDERSON of California in two instances.

Mrs. ABZUG in 10 instances.

Mr. MINISH.

Mr. DENT in two instances.

Mr. JAMES V. STANTON in two instances.

Mrs. SULLIVAN in two instances.

Mr. BROOKS.

Mr. FAUNTROY in five instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 588. An act to increase the authorization for the appropriation of funds to complete the International Peace Garden, North Dakota; to the committee on Interior and Insular Affairs.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 8629. An act to amend title VII of the Public Health Service Act to provide increased manpower for the health professions, and for other purposes.

H.R. 8630. An act to amend title VIII of the Public Health Service Act to provide for training increased numbers of nurses.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Thursday, November 11, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1277. A letter from the Secretary of State, transmitting the 19th report on the extent and disposition of U.S. contributions to international organizations, covering fiscal year 1970, pursuant to section 2 of Public Law 806, 81st Congress (H. Doc. No. 92–173); to the Committee on Foreign Affairs and ordered to be printed.

1278. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report for the first quarter of fiscal year 1972 on various support furnished from military functions appropriations; to the Committee on Appropriations.

1279. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on contracts negotiated by NASA during the 6 months ended June 30, 1971, for property or services determined to be for experimental, development, or research work, or for making or furnishing property for experiment, test, development, or research, under 10 U.S.C. 2304 (a)(11), and a report that no contracts were entered into during that period under the authority of 10 U.S.C. 2304(a)(16), pursuant to 10 U.S.C. 2304(e); to the Committee on Science and Astronautics.

RECEIVED FROM THE COMPTROLLER GENERAL

1280. A letter from the Comptroller General of the United States, transmitting a report on the opportunity for savings in providing war risk insurance for contractor property and employees, Departments of Defense, State, and Commerce; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TEAGUE of Texas: Committee on Veteran's Affairs. H.R. 11651. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes (Rept. No. 92–656). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE of Texas: Committee on Veterans' Affairs. H.R. 11652. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation (Rept. No. 92–657). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11302. A bill to amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order to conquer cancer as soon as possible; with amendments (Rept. No. 92–659). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURKE of Massachusetts: Committee on Ways and Means. H.R. 3544. A bill to amend section 5701(a)(2) of the Internal Revenue Code of 1954 so as to adjust the rates of tax on cigars; with an amendment (Rept. No. 92–660). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 3599. A bill to modify ammunition recordkeeping requirements; with an amendment (Rept. No. 92–661). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11080. A bill relating to the income tax treatment of just compensation received from the United States with respect to property taken under the act of the Congress which established the Redwood National Park; with an amendment (Rept. No. 92–662). Referred to the Committee of the Whole House on the State of the Union.

Mr. POAGE: Committee on Agriculture: S. 2559. An act to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans; with an amendment (Rept. No. 92–663). Referred to the Committee of the Whole House on the State of the Union.

Mr. SIKES: Committee of conference. Conference report on H.R. 11418. (Rept. No. 92–664). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAYNE: Committee on Veterans' Affairs. H.R. 8540. A bill for the relief of Elenora G. Mpolakis; with an amendment (Rept. No. 92–658). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 11681. A bill to amend the Fair Packaging and Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business, and packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. BROTZMAN:

H.R. 11682. A bill to change the name of the Department of Commerce Laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories; to the Committee on Interstate and Foreign Commerce.

By Mr. BURLISON of Missouri (for himself, Mr. ALEXANDER, Mr. ANDERSON of Tennessee, Mr. BEVILL, Mr. BRINKLEY, Mr. CAFFERY, Mr. DORN, Mr. EDWARDS of Louisiana, Mr. FLOWERS, Mr. GETTYS, Mr. HAGAN, Mr. JONES of Tennessee, Mr. MATHIS of Georgia, Mr. MILLS of Arkansas, Mr. NICHOLS, Mr. PICKLE, Mr. PURCELL, Mr. RARICK, Mr. RUNNELS, Mr. STEIGER of Arizona, Mr. TEAGUE of Texas, and Mr. WAGGONNER):

H.R. 11683. A bill to require the Secretary of Agriculture, in the event of a natural disaster, to make adjustments in payment yields for producers of cotton; to the Committee on Agriculture.

By Mr. CARTER:

H.R. 11684. A bill to amend the Public Health Service Act to support research and training in diseases of the digestive tract, including the liver and pancreas, and diseases of nutrition, and aid the States in the development of community programs for the control of these diseases, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. CLARK:

H.R. 11685. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil service.

By Mr. DENT:

H.R. 11686. A bill to require the Secretary of Labor to collect and disseminate employment information regarding local law enforcement agencies; to the Committee on Education and Labor.

By Mr. DULSKI:

H.R. 11687. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970; to the Committee on Public Works.

By Mr. ESCH (for himself, Mr. STEIGER of Wisconsin, Mr. FORSYTHE, and Mr. FINDLEY):

H.R. 11688. A bill to assure an opportunity for employment to every American seeking work and to make available the education and training needs by any person to qualify for employment consistent with his highest potential and capability, and for other purposes; to the Committee on Education and Labor.

By Mr. LENT (for himself, Mr. BYRON, Mr. ADDABBO, Mr. HECHLER of West Virginia, Mr. ROSENTHAL, Mr. HALPERN, Mr. OBEY, Mr. FORSYTHE, Mr. BRASCO, Mr. HELSTOSKI, Mrs. GRASSO, Mr. BIAGGI, Mr. BOLAND, Mr. PODELL, Mr. RANGEL, Mr. BURKE of Massachusetts, Mr. MORSE, Mrs. ABZUG, Mrs. HICKS of Massachusetts, Mr. CAREY of New York, Mr. O'NEILL, Mr. BIESTER, Mr. GUDE, Mr. BADILLO and Mr. WOLFF):

H.R. 11689. A bill to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. LENT (for himself, Mr. PIKE, Mr. MITCHELL, Mr. FISH, Mr. PEYSER, Mr. KEMP, Mrs. CHISHOLM, Mr. WIDNALL, Mr. SCHEUER, Mr. GROVER, Mr. SAYLOR, Mr. GALLAGHER, Mr. KOCH, Mr. DELANEY, Mr. TERRY, Mr. HASTINGS, Mr. TIERNAN, Mr. BINGHAM, Mr. MCKINNEY, Mr. HORTON, Mr. STEELE, Mr. SARBANES, Mr. ROE, Mr. DU PONT, and Mr. ST GERMAIN):

H.R. 11690. A bill to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. LENT (for himself, Mr. COTTER, Mr. KYROS, Mr. MURPHY of New York, and Mr. HATHAWAY):

H.R. 11691. A bill to amend the Outer Continental Shelf Land Act, to establish a National Marine Resources Trust, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. MCCLURE:

H.R. 11692. A bill to permit the Secretary of the Treasury to purchase mined silver at such prices as he may deem appropriate; to the Committee on Banking and Currency.

By Mr. RODINO:

H.R. 11693. A bill to amend the National Flood Insurance Act of 1968 to increase flood insurance coverage of certain properties, to

authorize the acquisition of certain properties, and for other purposes; to the Committee on Banking and Currency.

By Mr. ROONEY of Pennsylvania:

H.R. 11694. A bill to restore and maintain a healthy transportation system, to provide financial assistance, to improve competitive equity among surface transportation modes, to improve the process of Government regulation, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 11695. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. SCHNEEBELI:

H.R. 11696. A bill to suspend the duties on fluorspar until the close of January 1, 1974; to the Committee on Ways and Means.

By Mr. THOMPSON of New Jersey:

H.R. 11697. A bill to amend the National Flood Insurance Act of 1968 to increase flood insurance coverage of certain properties, to authorize the acquisition of certain properties, and for other purposes; to the Committee on Banking and Currency.

By Mr. ZWACH:

H.R. 11698. A bill to amend sections 9 and 11 of the Clayton Act, as amended, to provide for the continuance of the family farm and to prevent monopoly and for other purposes; to the Committee on the Judiciary.

By Mrs. ABZUG:

H.R. 11699. A bill to amend the U.S. Housing Act of 1937 to provide for grants to local public housing agencies to assist in financing security arrangements designed to prevent crimes and otherwise insure the safety and well-being of low-rent-housing tenants; to the Committee on Banking and Currency.

H.R. 11700. A bill to provide for police and security protection for persons living in low-rent housing; to the Committee on Banking and Currency.

By Mr. CAREY of New York (for himself, Mr. ADAMS, Mr. ANNUNZIO, Mr. BEVILL, Mr. BINGHAM, Mr. CELLER, Mr. BEGICH, Mr. EILBERG, Mrs. GREEN of Oregon, Mrs. HANSEN of Washington, Mr. LEGGETT, Mr. MANN, Mr. NIX, Mr. PRICE of Illinois, Mr. RODINO, Mr. STEPHENS, Mr. ST GERMAIN, Mr. THOMPSON of New Jersey, Mr. RANGEL, Mr. VAN DEERLIN, and Mr. CHARLES H. WILSON):

H.R. 11701. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax to a taxpayer who pays the tuition and certain related items of a student at an institution of higher education, where the taxpayer and the student agree to repay the credit (with interest) to the United States after the education is completed; to the Committee on Ways and Means.

By Mr. CELLER:

H.R. 11702. A bill to amend the act of August 6, 1956, 72 Stat. 497, relating to service as chief judge of a U.S. district court; to the Committee on the Judiciary.

H.R. 11703. A bill to authorize additional judgeships for the U.S. courts of appeals; to the Committee on the Judiciary.

By Mr. CHAPPELL:

H.R. 11704. A bill to amend the Economic Stabilization Act of 1970; to the Committee on Banking and Currency.

By Mr. FLOOD:

H.R. 11705. A bill to amend title 5, United States Code, with respect to the creditable service of Members of Congress for civil service retirement purposes; to the Committee on Post Office and Civil Service.

By Mr. PURCELL:

H.R. 11706. A bill to require the Secretary of Agriculture, in the event of a natural disaster, to make adjustments in payment yields for producers of cotton; to the Committee on Agriculture.

By Mr. QUILLEN:

H.R. 11707. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11708. A bill to increase the contribution of the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. RIEGLE:

H.R. 11709. A bill to promote development and expansion of community schools throughout the United States; to the Committee on Education and Labor.

By Mr. CHARLES H. WILSON:

H.R. 11710. A bill to permit suits to adjudicate disputed titles to lands in which the United States claims an interest; to the Committee on the Judiciary.

By Mr. ABBITT:

H.R. 11711. A bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to specify that emergency loans for annual operating expenses may be payable for periods up to 7 years; to the Committee on Agriculture.

By Mr. ASPIN:

H.J. Res. 956. Joint resolution directing that no further action be taken with respect to the development of the trans-Alaska pipeline until a comprehensive and independent study is made of the economic and ecological aspects of a trans-Canada pipeline; to the Committee on Interior and Insular Affairs.

By Mr. DENNIS (for himself, Mr. WIGGINS, Mr. MAYNE, and Mr. BETTS):

H.J. Res. 957. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary

By Mr. FOLEY (for himself, Mr. POAGE, Mr. ABERNETHY, Mr. BELCHER, and Mr. TEAGUE of California):

H.J. Res. 958. Joint resolution to amend the Sugar Act of 1948, as amended; to the Committee on Agriculture.

By Mr. ASPIN:

H. Res. 700. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. MURPHY of Illinois:

H. Res. 701. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

By Mr. CAREY of New York (for himself, Mr. DANIELS of New Jersey, Mr. GARMATZ, Mr. RODINO, Mr. HAWKINS, and Mr. EILBERG):

H. Res. 702. Resolution calling for peace in northern Ireland and the establishment of a united Ireland; to the Committee on Foreign Affairs.

By Mr. McCLORY:

H. Res. 703. Resolution calling for the shipment of Phantom F-4 aircraft to Israel in order to maintain the arms balance in the Middle East; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEVILL:

H.R. 11712. A bill for the relief of Hassan Abai, Mehri Abai, Abrahim Abai, Afshin Abai, Mehran Abai and Mohammad-Hussein Abai; to the Committee on the Judiciary.

By Mr. BYRON:

H.R. 11713. A bill for the relief of Kenneth R. Eteon; to the Committee on the Judiciary.

By Mr. McCULLOCH:

H.R. 11714. A bill for the relief of Alaine Ferris; to the Committee on the Judiciary.

By Mr. ROBISON of New York:

H.R. 11715. A bill for the relief of Opl. Paul C. Amedeo, U.S. Marine Corps Reserve; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

A FREE-NATION WORLD ORGANIZATION

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 10, 1971

Mr. THURMOND. Mr. President, in the Sunday, October 31, 1971, State newspaper, of Columbia, S.C., contains a timely editorial entitled "Free Nations Should Form One World Organization."

In view of the deterioration of the U.N. into a Communist-influenced, anti-American gathering place, the suggestion in this editorial deserves serious consideration. The U.N. has been effective as a world problem solver, and with the increasing influx of Communist domination, it has become less and less the representative of peace and independence.

Mr. President, the U.N. has as its pledge the goal of establishing the independence of nations and peace on earth. The stated goal of communism is world domination. Thus, with the change in the U.N. comes the fear that the U.N. will become a tool for the spread of international communism.

Two-thirds of the world's population and 60 nations still believe in the freedom of man. The time has come when these free nations must band together to preserve this freedom and stand up to communism. An organization of free nations deserves the consideration of Congress. I have long favored this.

Mr. President, I ask unanimous consent that the editorial be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FREE NATIONS SHOULD FORM ONE WORLD ORGANIZATION

The time has come for the people of the United States to recall the sage advice of the late President Herbert Hoover and contemplate a world organization of free, non-Communist nations.

As long ago as 1950, Mr. Hoover realized that Communist involvement and obstructionism would prevent the United Nations from achieving the high aims set forth in its charter. He was proved right when the Soviets walked out of the Security Council at the outset of the Korean War, thereby permitting the only effective action ever undertaken by the United Nations against an aggressor nation.

He was proved right by the Communists' role in Southeast Asia, and by Communists we refer not only to the North Vietnamese but to the Chinese and Russian Communists who have sustained and abetted the conflict there during all these long bloody years.

Now that Communist China has been admitted to the United Nations, there is all the more reason to take stock of Mr. Hoover's prophetic words. Listen to his message (of July 1950) with respect to Russian participation in the United Nations:

"The purpose of Soviet Russia is not to carry out the four times repeated pledge in the United Nations charter to establish the independence of nations and peace on earth. Forty-two times Soviet Russia has used its veto to thwart important efforts toward peace. The Kremlin representatives have denied membership in the United Nations to nine anti-Communist nations.

"Thirty-four times they have walked out of meetings in an effort to coerce the members into accepting Communist China into its very seat of power—the Security Council—which would further communize the organization . . .

"Yet, if we survey the world, we find that although one-third of the people on Earth have been subdued to Communism, there still remain 60 non-Communist nations, comprising two-thirds of the people on the Earth who yet cling to belief in God and the independence of nations."

Mr. Hoover proposed then and later that "the United Nations Communist nations in it. If that is impractical, then a definite new united front should be organized of those peoples who disavow Communism, who stand for morals and religion, and who love freedom."

The thrust of the Hoover argument was essentially that of Woodrow Wilson in the formative days of the ill-fated League of Nations:

"A steadfast concert for peace can never be maintained except by a partnership of domestic nations. No autocratic government could be trusted to keep faith within it or observe its convenants."

There is every reason to fear that the United Nations, now that it embraces numeroua nations imbued with the essence of Communism, whether of Russian or Chinese extraction, will become less and less the guardian of peace, liberty, and independent sovereignty. Indeed, it is well within the range of possibility that the United Nations could become an instrumentality for the spread of international Communism.

Look now to Mr. Hoover's suggestion of August 10, 1962, made on his 88th birthday, two years before his death:

"The time is here when, if the free nations are to survive, they must have a new and stronger worldwide organization . . . the 'Council of Free Nations'." It should include only those who are willing to stand up and fight for their freedom.

"The foundations for this organization have already been laid by the 40 nations who have taken pledges in the five regional pacts to support each other against aggression . . ."

Perhaps Mr. Hoover was overly optimistic about the willingness of nations other than the United States to stand up against Communism. Indeed, the vote on seating Red China and ousting Nationalist China would indicate a lessening of such resolve on the part of many countries, including some within those very defense pacts cited by the former President.

Yet the idea of an organizaton of free nations, by whatever name it may be known, deserves the most serious consideration by the government—and by the people—of the United States.

JOHN J. RHODES REPORTS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. RHODES. Mr. Speaker, following is a reprint of my newsletter—the "John J. Rhodes Reports" of November 12 which will be sent to my constituents in the First District of Arizona later this week:

JOHN J. RHODES REPORTS

UNITED NATIONS VOTE IN PERSPECTIVE

On October 25 the General Assembly of the United Nations voted to admit the government of Red China as a full member, and to disenfranchise the government of the Republic of China which is now located on the island of Taiwan. This vote came after many days of hard campaigning on both sides. The resolution finally adopted was offered by Albania. We opposed it, but many of our traditional friends and allies worked and voted against our position. We had agreed to the admission of Red China to the United Nations, but insisted that the Republic of China should not be excluded. The final vote was overwhelmingly against our position.

Many of the nations who voted and worked against us have pointed out that the choice was really between a government which actually represented mainland China, and another government which only pretended to do so. The fact is that at no time did the Nationalists seek to keep their place in the United Nations solely as a representative of the island of Taiwan, but insisted that they are the representatives of all China, including the mainland portion. Thus, these nations who opposed us will maintain, with some credibility, that they were merely voting to recognise the world as it is, not as many of us would like it to be.

No matter who is right or wrong concerning the reasoning behind the vote in the United Nations, the facts are that a significant majority of the members of the United Nations failed to sustain a position which the United States pressed with great vehemence. The open glee of many of the members of the General Assembly when the vote was announced was probably not due to the results of the vote as much as to the defeat of the United States. It comes as a shock to many Americans that our estate in international circles has sunk so low.

It is time for us to review the evolution of our present international position. We have certainly tried to win friends among the world's nations.

In the area of foreign aid for instance, the United States has been exceedingly generous to the other nations of the world. Since 1946 we have spent $138 billion in foreign aid to 135 countries. Much of this aid was necessary and accomplished much good for the world. However, we have been so free-handed with economic aid that in many instances we have lost the respect of the very nations we tried to help.

Certainly, much of the blame for our loss of favor must rest on our participation in the Vietnamese war. The Communist nations have very successfully exploited the fact we are fighting non-white populations in Indochina. This has given us a racist tinge which we do not deserve.

It is a fact that we entered the Vietnamese conflict commonly acknowledged to be the most powerful nation in the world. It was assumed we would do those things which were necessary to bring the Vietnamese war to an early and successful conclusion. Instead, the world saw us temporize with the war, then escalate in response to the escalation of the North Vietnamese.

At the same time, we failed to recognise the drain on our economy caused by the Vietnamese war. Fighting that war with "business as usual" as our watchword, we started a "demand-pull" type of inflation which was fed by tremendous deficits in the federal government; deficits caused in part by contemporaneously undertaking the largest so-called "social reform" program in history.

As a result, when President Nixon came to office the American people had already tired of the whole sorry mess, and he had no choice but to get us out of it as rapidly as possible. This he is doing. Although we certainly are not "cutting and running", neither are we getting out with our pre-war national prestige intact. It seems that our conduct of the Vietnamese war has given us the reputation in many parts of the world as being racist, bumbling and lacking in resolution. This is hardly calculated to lead to increased international respect.

Clearly another factor contributing to our image around the world is our economic program. The pay per hour of the American industrial worker has been rising at an average annual rate of 6.8 percent for the past five years, while ouput per hour has been increasing by only 1.6 percent per year. This has added a "cost-push" inflation to the "demand-pull" inflation already discussed, resulting in the phenomenon of unemployment and increasing prices.

At the same time, the trade balance which had been favorable enough to the United States to finance our many commitments abroad has turned to the unfavorable side. Our lower volume of exports was largely caused by higher prices, without any appreciable superiority in quality. The results were huge increases in dollar balances in central banks, and a run, or a threat of a run, on gold.

These factors, and the resulting economic crisis, forced President Nixon to take steps to stabilize the nation's economy. I do not intend to go into all of the reasons why it was necessary to freeze wages, demonetise gold and impose a surcharge on imports. Suffice it to say, I agree with the President's actions. These actions should not have shocked the rest of the free world—but much of the free world was shocked, and people who are in shock are often hostile, at least temporarily. So, this by itself may have cost us some votes in the United Nations.

In summation, the whole situation, oversimplified, boils down to this: in the Sixties, we tried to rewrite all of the economic rule books. We tried to fight a war out of the petty cash fund, and at the same time we tried to provide ourselves with all of the good things of life immediately, while having no cogent, coherent plan of achieving our national purposes. In other words, we have failed to exercise the type of responsible conduct expected of a great nation, and our conduct has had a tremendous impact on our world prestige.

Certainly, I am not suggesting that the whole world has fallen apart because we lost a vote in the United Nations. I do, however, intend to point out that this loss was not an isolated phenomenon but came as the logical and foreseeable consequence of the drifting course we followed in the 1960's.

Action is being undertaken to stop this tragic drift. In the last two years, we have done several things which will be of great aid in restoring our position in the world.

First, under the Nixon Doctrine we have made it clear that we will continue to support the freedom-loving nations of the world,

but only to help them to help themselves. We do not intend to continue to act as the world's policeman.

Second, we are winding down our participation in Vietnam, and trying to minimize the economic dislocations at home which always appear when defense expenditures are slashed and men are released from the armed services.

Third, through the Nixon economic plan, we are at last acting to curb runaway inflation in the private sector.

Fourth, we have made it clear to our trading partners that we are no longer in any position to give them the favored treatment which they have received since World War II, and that we must now insist on equal treatment.

I certainly am not in favor of our retiring from the rest of the world and setting up a "fortress America" here in the Western Hemisphere. To do so would be shortsighted and futile, since it would ultimately endanger our security to a far greater degree than is currently the case. I do feel, however, that our relations with other nations, both diplomatic and economic, should now be conducted on the basis of an enlightened self-interest, with hard bargaining on both sides. I think the peoples of the world will understand this approach much better than they have understood or appreciated the free-handed manner in which we have given away our goods, services and wealth ever since 1946.

Neither do I believe we should get out of the United Nations. We should, however, in furtherance of the new policy of enlightened self-interest, insist upon a new formula for our participation in the financial burdens of the United Nations. Certainly, we have been paying more than our share for the upkeep of the United Nations and its various agencies. We should immediately insist that each nation of the world pay its share, and do so promptly, and that our share be reduced to an appropriate figure. We should do this out of a sense of enlightened self-interest, not in a fit of pique following the loss of an important vote in the United Nations.

We often complain because the rest of the world does not understand us. The facts are that many of our citizens do not even understand our own political and economic system. They expect things of the economy and the government which are out of reason and impossible of attainment at this stage of our development. As we try to make ourselves more credible and understandable to the rest of the world, let us also try to reeducate our own people as to our capabilities and limitations.

We are the greatest nation in the world. I am pleased at the signs that we are, at long last, beginning to act the part.

HOUSE RESOLUTION NO. 630

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. JACOBS. Mr. Speaker, I was wondering, in view of the events of the past few weeks in Saigon, if any Member of Congress or any member of the executive branch would care to say he or she is willing, from this day forward, to give his or her life, limb, sanity, or freedom—POW even for another day—further to prop up the Saigon dictatorship.

Other Americans are being ordered to do so today.

Following is the language of House Resolution 630, which I introduced on September 30, 1971:

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madame Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Vietnam stated on July 1, 1971, that the policy of her government is: "If the United States Government sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of United States forces and those of the other foreign countries in the United Sates camp, the parties will at the same time agree on the modalities:

"A. Of the withdrawal in safety from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp;

"B. Of the release of the totality of military men of all parties and the civilians captured in the war (including American pilots captured in North Vietnam), so that they may all rapidly return to their homes.

"These two operations will begin on the same date and will end on the same date.

"A cease-fire will be observed between the South Vietnam People's Liberation Armed Forces and the Armed Forces of the other foreign countries in the United States camp, as soon as the parties reach agreement on the withdrawal from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp."

Resolved, That the United States shall forwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from South Vietnam within sixty days following the signing of the agreement: *Provided*, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

QUESTIONNAIRE RESULTS

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Wednesday, November 10, 1971

Mr. GRIFFIN. Mr. President, in July my office sent out a questionnaire which provided a convenient way for many Michigan people to register their views on a wide variety of important issues.

While such questionnaires cannot substitute for professional and more scientific public opinion surveys, nevertheless, the responses are very interesting and informative.

Mr. President, I ask unanimous consent that a tabulation of the responses be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

RESULTS OF QUESTIONNAIRE

Question	Response (percent) His	Hers	18–21	Total
1. One of the most difficult tasks facing Congress is to design a welfare system that will help the deserving needy and still provide incentives for the poor to improve their economic position—without overburdening the taxpayer. Most people agree that our present welfare system needs reform. Do you favor:				
(a) Requiring 1-year residence in a State before welfare payments are made:				
Yes	79.6	80.0	64.2	78.6
No	11.3	10.8	22.9	12.0
No opinion	9.1	9.2	12.9	9.4
(b) Federal assumption of all welfare costs to be covered by increased Federal taxes:				
Yes	14.1	12.8	12.8	13.4
No	66.5	66.1	62.8	66.0
No opinion	19.4	21.1	24.4	20.6
(c) Requiring able-bodied on welfare to accept whatever work is available:				
Yes	92.2	92.9	81.6	91.6
No	2.5	2.6	8.3	3.0
No opinion	5.3	4.5	10.1	5.4
(d) Guaranteeing a minimum income to all families with children:				
Yes	22.1	22.1	35.0	23.1
No	58.7	57.4	41.5	56.8
No opinion	19.2	20.5	23.5	20.1
2. Do you believe the New York Times was justified in publishing classified documents from the Pentagon papers:				
Yes	37.9	39.9	58.5	40.4
No	52.6	48.0	29.0	48.7
No opinion	9.5	12.1	12.5	10.9
3. Do you think the Federal Government should:				
(a) Underwrite health care for the total population to be paid for through additional payroll taxes:				
Yes	17.1	17.1	21.2	17.4
No	67.7	66.9	59.9	66.7
No opinion	15.2	16.0	18.9	15.9
(b) Require employers to provide and pay 75 percent of health insurance costs for employees, while the Government provides coverage for those who cannot get it through employment:				
Yes	35.2	34.3	30.7	34.4
No	49.8	48.2	49.1	49.0
No opinion	15.0	17.5	20.2	16.6
4. Prices at the supermarket and in other stores continue to climb higher. In your view, who is most responsible for this situation:				
(a) The businessmen	19.3	18.6	23.3	19.3
(b) The unions	54.4	58.0	49.8	55.6
(c) The President	10.6	11.0	15.2	11.1
(d) The Congress	15.7	12.4	11.7	14.0
5. Prices on consumer goods would probably go down if we imported even more foreign-made products. But imports made with cheap foreign labor already threaten many U.S. jobs. What do you think Congress should do:				
(a) Increase tariffs and keep more imports out	14.2	15.1	10.5	14.3
(b) Lower tariffs and encourage more imports to come in	3.2	3.7	3.5	3.4
(c) Toughen labor-management laws to hold U.S. wages in line	56.5	58.3	43.3	56.1
(d) Do nothing and rely on competition to force U.S. industry and labor to do a better job in keeping prices down	15.5	11.7	14.6	13.7
(e) Other	3.5	2.5	5.3	3.2
No opinion	7.1	8.7	22.8	9.3
6. Most people agree that more must be done to fight the drug menace. Which of the following would you support:				
(a) Legaliza marihuana	3.6	2.6	7.5	3.6
(b) Broaden methadone treatment under safeguards	3.6	2.6	1.9	3.0
(c) Crack down harder on drug peddlers	35.5	34.9	18.9	33.3
(d) Crack down harder on drug users	1.4	2.6	3.8	2.1
(e) Cut off foreign aid to countries that refuse cooperation in curtailing the international drug traffic	27.3	32.3	15.1	27.9
(f) Other	3.6	2.6	1.9	3.0
No opinion	25.0	22.4	50.9	27.1
7. The Nixon administration wants legislation to eliminate national emergency strikes in the transportation industry (railroads, airlines, trucking and maritime) by allowing a Presidential panel to impose a final settlement when negotiating parties cannot reach agreement. Do you favor such an approach:				
Yes	76.6	75.8	56.9	74.7
No	15.9	14.1	25.0	15.8
No opinion	7.5	10.1	18.1	9.5
8. As a step in the fight against pollution, do you believe phosphates should be banned from all detergents:				
Yes	69.9	71.1	74.2	70.7
No	15.6	15.6	7.8	15.0
No opinion	14.5	13.3	18.0	14.3
9. Effective antipollution programs can be costly. Are you willing to pay increased taxes and higher prices to support them:				
Yes	53.7	48.6	61.6	52.0
No	33.9	36.8	23.1	34.3
No opinion	12.4	14.6	15.3	13.7
10. Some people support a proposal in Congress to increase the Federal minimum wage from $1.60 to $2 an hour. Others say this would be inflationary, and that it would create more unemployment. Do you favor raising the minimum wage to $2 an hour:				
Yes	33.0	32.0	32.1	32.5
No	60.0	59.2	53.7	59.1
No opinion	7.0	8.8	14.2	8.4
11. If the minimum wage is increased to $2 an hour, would it make sense to have a lower minimum wage for inexperienced teenagers who want to work:				
Yes	64.4	65.6	47.7	63.6
No	26.0	25.5	40.4	26.9
No opinion	9.6	8.9	11.9	9.5
12. When workers go on strike, should they be eligible to receive:				
(a) Food stamps:				
Yes	19.7	19.2	26.7	20.0
No	72.7	72.3	59.9	71.5
No opinion	7.6	8.5	13.4	8.5
(b) Unemployment benefits:				
Yes	7.8	9.1	14.9	8.9
No	80.8	79.3	70.2	79.3
No opinion	11.4	11.6	14.9	11.8
(c) Welfare payments:				
Yes	7.2	5.7	7.8	6.6
No	80.2	80.8	75.2	80.1
No opinion	12.6	13.5	17.0	13.3
13. So far as our Vietnam policy is concerned, which of the following comes closest to your view:				
(a) Immediately withdraw all U.S. troops, regardless of the consequences	10.0	12.1	19.1	11.6
(b) Announce a December 31 withdrawal date and cut off funds thereafter	17.0	20.4	27.9	19.4
(c) Support the President's withdrawal policy so he can negotiate with maximum effectiveness	63.9	57.8	35.3	59.0
No opinion	9.1	9.7	17.7	10.0
14. When the U.N. reconvenes in September, the United States will have to take a position on admitting Red China. Which of the following policies do you favor:				
(a) Stand pat against admitting Communist China to the U.N	15.4	17.6	9.7	15.9
(b) Vote to admit Communist China and expel Nationalist China	3.3	2.8	5.1	3.2
(c) Vote to admit Communist China to the U.N. in addition to Nationalist China	71.8	67.8	64.4	69.4
No opinion	9.5	11.8	20.8	11.5

THE AMCHITKA QUAKEMONGERS: WHERE ARE THEY NOW?

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. HOSMER. Mr. Speaker, with as much restraint as possible I am including in the RECORD an editorial from the Anchorage Times, titled "The Sky Did Not Fall":

THE SKY DID NOT FALL

It would be nice to think that all of those who participated in the quakemongering of recent weeks would stand up today and confess that they were wrong.

It would be a good thing if they would apologize for scaring some people half to death over fears of earthquakes, tidal waves, radiation destruction and other horrible consequences they said would result from Cannikin, last Saturday's nuclear test at Amchitka.

It would be a happy thing if all the noisy, publicity seeking participants in the Greenpeace mission would send a note to the President of the United States saying that they were sorry that they failed to recognize that the American scientists were telling the truth.

It would be a great day for Alaska if Senator Mike Gravel would take a picket in hand again and stand in front of the White House, this time with a poster admitting that he made a fool of both himself and the people of Alaska.

It would be an even greater thing if all the network and television crews who spent countless days roaming through Alaska, chattering up a doomsday storm until listeners and viewers outside must have thought the world was coming to an end, would have guts enough to confess on a prime time that they made a mountain out of a molehill.

It would be good if the so-called environmental coalition of the Sierra Club and its sisters of sob and fear would appear before U.S. District Judge George Hart in Washington, D.C., and compliment him for his judgment in describing the whole Cannikin ecological protest as "a tempest in a blinking teacup."

We would like to see somebody high in the Government drop a memo to Russell Train, head of the Council on Environmental Quality, and ask him whether he still believes himself qualified to hold that post in the light of the total inaccuracy of his super secret report indicating that vast tidal waves and earthquakes were likely if Cannikin were fired.

Our faith in the future of the younger generation, and the credibility we grant some of their concerns, would soar if those youngsters who marched in silly circles in front of the Federal Building here last week would turn their energies to constructive things.

Instead of being duped and made to follow the pattern of equally outlandish exhibitions which seem to get so much public attention elsewhere, Anchorage youngsters who want to do something useful could find many challenges at hand.

Rather than march in circles, they could volunteer their youthful energies to a number of projects around town—shoveling snow or scrubbing hallways for the Alaska Crippled Children's Center, helping in the Community Chest drive, assisting with Boys Club or Scout work, working at the hospitals as volunteers, or almost any other like task.

Most of all, perhaps, we wish people who were upset by all the wild, erroneous and phony charges against the Amchitka test had reminded themselves last week that the attempt to generate hysteria was exactly what happened before in the last Atomic Energy Commission project in the Aleutians.

And next time, in whatever similar circumstances that might arise, maybe more people will think of what is vital to America's defense—and ignore the voices of dissension among us.

LIBERALS IGNORE GUILT OF ALGER HISS

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 10, 1971

Mr. THURMOND. Mr. President, James J. Kilpatrick, syndicated columnist, recently authored an article entitled "Hiss Guilt Is Ignored by Liberals."

Mr. Kilpatrick recalls some history that Congress and the people of the Nation would be well advised not to forget.

Mr. President, I ask unanimous consent that the article published in the Augusta, Ga. Chronicle of October 31, 1971, be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HISS GUILT IS IGNORED BY LIBERALS

(By James J. Kilpatrick)

Alger Hiss turned up in England last week, launching a five-week lecture tour. And sure enough, Alfred Friendly, senior correspondent for the Washington Post, promptly

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turned up to write a friendly piece about him.

There is one thing to say for the old Libs: They never quit. They will go to their graves defending Hiss. For nearly a quarter of a century, this has been their ultimate touchstone. One imagines that whenever the Bilderbergers meet or the Council of Foreign Relations convenes, a guard is posted to question arriving guests: "Do you believe in the innocence of Alger Hiss?" "I believe." "Then enter the inner sanctum."

Yet it is a curious thing—one of those rainy-day reminders of approaching age—that a whole generation has grown up that knew not Alger Hiss. I put the question to a young lady of 25. She thought he was the Nazi, you know, who had escaped and spent so many years in prison. And Chambers? Whittaker Chambers? A dead blank.

Friendly's interview brought it all flooding back. For the record, my children, Hiss was the impeccable young lawyer who emerged from Johns Hopkins and Harvard Law to become secretary to Mr. Justice Holmes, later a high-ranking attorney in the State Department, adviser in 1945 to Roosevelt at Yalta, president of the Carnegie Endowment for World Peace. In the summer of 1948, when the drama began to unfold, he was 43; and the world was his beautiful oyster.

Whittaker Chambers was known that summer, to the extent he was known at all, as a senior editor of Time. He was a pudgy man, squat and homely; his background was obscure. He had joined the Communist Party as a young intellectual in 1925; he had repudiated the party in 1937. For the last three years of his membership, he had served in Washington as a secret courier and minor functionary, attached to what was known as the Harold Ware cell.

On Aug. 3, 1938, Chambers testified before the House Un-American Activities Committee, which then was investigating Communist infiltration of government. Chambers came unwillingly, in one sense, for he knew he himself would be doomed; but he came also from a powerful motivation to bear witness, to make atonement: "I sensed, with a force greater than any fear or revulsion, that it was for this that my whole life had been lived."

Chambers publicly identified Alger Hiss as a member of the Harold Ware cell. Four days later, in executive session, Chambers described his relationship with Hiss in meticulous detail; he told of the Hiss apartment, the Hiss cars, the Hiss dog, the Hiss hobbies. He recalled that Hiss, an amateur ornithologist, once had seen a rare prothonotary warbler.

But Chambers at first was not believed. Hiss denied everything; and Hiss was—well, he was Alger Hiss. The whole liberal establishment leaped to his side. Then Hiss came before the committee in executive session on Aug. 16. Congressman John McDowell put the question casually: "Did you ever see a prothonotary warbler?"

"I have," said Hiss, "right here on the Potomac."

It was the beginning of the end. In January of 1950, Hiss was convicted on two counts of perjury; he served three and a half years at Lewisburg. Chambers died in 1961. To this day, the record still rings with the truth of Chambers' testimony; and it still reeks with the stench of Hiss's lies.

The revisionists hint at nothing of this. To them, Hiss remains a man of "rather charming gravity and grace." He is gentle of manner, soft of voice. A sense of injustice and outrage still burns within him, but he is filled with consuming hope of ultimate vindication. He is still bewildered at what he believes was a monstrous and deliberate frameup. He surmises that Chambers was psychotic. Or perhaps Chambers rigged a certain Woodstock typewriter that figured significantly in the trial.

It won't do. Chambers was among the sanest, purest, and noblest men of America in this century. And it wasn't the typewriter that trapped Alger Hiss. It started with a tiny warbler, "beautiful yellow head, a gorgeous bird." And so long as professional paintbrush artists defame the memory of Whittaker Chambers, those of us who respected that brave and brilliant man will remember that warbler and bear our own witness to the guilt of Alger Hiss.

THE PACE OF MIDEAST DIPLOMACY

HON. JAMES V. STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. JAMES V. STANTON. Mr. Speaker, a just solution to the Mideast crisis can be achieved only if the Israelis are permitted to maintain a strong bargaining position. Should the United States falter in its support of Israel, the only result would be to force Israel to make possibly damaging concessions. It is for these reasons that I cosponsored the recent House Resolution urging the sale of F-4 Phantom jets to Israel.

I would like to commend to the attention of my colleagues an editorial from today's Washington Post which describes the situation in the Middle East, expounding a point of view to which I too subscribe.

The editorial follows:

THE PACE OF MIDEAST DIPLOMACY

"I shall not allow 1971 to pass without the battle (with Israel) being resolved, either by war or by peace," Egypt's President Sadat said July 23. But of course he will. Peace by year's end is out of the question: nobody's ready to compromise. And there is, by Mideast standards, no more than routine danger of war.

Israel, enjoying both the possession of Egyptian territory and an American-made cease-fire, simply has no logical incentive for war. Some partisans of President Sadat insist that he is the prisoner of his rhetoric and cannot much longer hold his champing army back, but his record belies that belittling judgment. Since replacing Gamal Nasser, he has undone a serious political challenge, turned his people's attention toward domestic reform, and made more effective arrangements with Russia for the defense of Egypt against Israeli air strikes. The result is that he is freer than ever from a compulsion to lead Egypt to a fourth defeat, as the experts agree another war would be. A policy combining ardent slogans and prudent acts seems to suit his diverse political needs. Certainly that's better than the other way around.

The attitude of the superpowers is also relevant. Moscow, by agreeing to receive Mr. Nixon next May, has in effect said it won't precipitate a Mideast collision before then. Moreover, the deeper the Russians penetrate into the Egyptian military, the more they presumably discover its inadequacies relative to Israel. Moscow could compensate by accept before next May. Soviet policy comes down to waiting.

Waiting for what? For the United States to force Israel to withdraw to pre-1967 borders on terms acceptable to Egypt. The U.S. wants suming an even larger direct combat role than it had before the cease-fire started in August, 1970, but that would involve political and military risks it can hardly wish to a settlement in a hurry: there lie easier relations with the Kremlin, political rewards in 1972. To a settlement pressed by Washington, however, Israel prefers a peace fashioned with Egypt. In pursuit of a made-in-America settlement, Secretary Rogers is trying to compromise Egyptian-Israeli differences. The Egyptians stand firm, so the compromises now all involve Israeli concessions. In an interim settlement, Mr. Rogers argues, Israel should let Egyptian forces cross the Suez Canal, accept a certain time limit on the cease-fire, and agree to move on to complete withdrawal from Sinai. To overcome Israel's reluctance to accept these points, the United States is withholding Phantoms, which are militarily, politically and psychologically Israel's critical weapon.

The pressure is not working. American undercutting of its negotiating position while cutting off its Phantoms has stirred Israel's deepest fears and alarms and has frozen its Mideast diplomacy. The way to thaw it is for the United States to open the Phantom pipeline—what goes through it may not be so important as Israel's knowing that it's open—and to back off and let Egypt and Israel reach toward each other at their own pace.

VENTURE CAPITAL: A GUIDEBOOK FOR NEW ENTERPRISES

HON. ROBERT T. STAFFORD

OF VERMONT

IN THE SENATE OF THE UNITED STATES

Wednesday, November 10, 1971

Mr. STAFFORD. Mr. President, I am impressed by a recent publication entitled Venture Capital, A Guidebook for New Enterprises, sponsored and funded by the New England Regional Commission. This volume was prepared for the commission by the Boston College School of Management as a part of the commission's New England Industrial Resource Development program. The able director of that program, Mr. Roland A. Loveless, has recently been appointed secretary, Agency for Development and Community Affairs, to Gov. Deane C. Davis of Vermont.

In my judgment, Venture Capital is a practical, useful handbook for business entrepreneurs in the best sense of that word. As the Federal cochairman of the commission, Chester M. Wiggin, Jr., said to me:

New enterprises face a serious gap between their need for new investment capital and its availability.

This document represents a constructive effort to bridge this gap and, I might add, it reflects the kind of imaginative and, more frequently than not, effective approach taken by the New England Regional Commission and its sister economic development commissions.

It indicates to me that Congress wisely invested the commissions with a flexible capacity to meet current problems with imagination, a flexibility which is so often lacking in many of our Federal grant-in-aid programs.

Mr. President, I ask unanimous consent that an article commenting favorably on Venture Capital, which was written by Donald White, and published in the financial pages of the Boston Globe on November 3, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

NEREM's JOBLESS—READ THIS BOOK

(By Donald White)

The technologists are in town today—the ones who are working and a good many who are not.

They are here for the 25th NEREM electronics show but not all of them—particularly the ones who are jobless—care about the aisles of esoteric gadgetry and the heady technical sessions. Having raided the family's petty cash for the registration fee ($50 for members, $65 for non-members), they will have more important things to do finding a job, for example, perhaps even discussing with others of their ilk the unlikely prospect of turning entrepreneur and starting their own business.

Such talk is not altogether outrageous. Some pretty successful businesses have been founded in less auspicious circumstances. Desperation can occasionally trigger entrepreneurial urge in persons who might otherwise have shrugged it off.

Those in whom the entrepreneurial bug is beginning to bite could not have arrived in Boston at a more auspicious time—"Venture Capital, a guidebook for new enterprises" is hot off the press.

This locally-produced how-to-do-it was prepared by Albert J. Kelley, dean of Boston College School of Management; Frank B. Campanella, an assistant professor at the BC School of Management, and John J. McKiernan, a research associate in the BC Management Institute. It was funded by the New England Regional Commission.

It is, the foreword states, designed as an entrepeneur's handbook. "The authors and sponsors felt there was a need to remove some of the aura of 'black art' or mysticism from the entrepreneurial process, especially the financing aspects."

What makes the book of particular interest to the visiting NEREM conferees is that much of the advice offered results from information gleaned among technologically-oriented companies, the high-growth companies that have been "the glamorous high-flyers in the investment community."

The book cites a technology company as an example in listing those things a venture capitalist likes to know about a situation, though it adds that the same concepts apply to any new company. Here are the questions would-be investors are most likely to ask:

Is the company in an area of emerging technology?

Is there a market for the technology or product?

Why didn't an established company decide to exploit and market the product?

Is there a natural product line or follow-on technology?

Does management have corporate experience?

What are management's goals?

Does management have a ten-year objective and a five-year operating plan?

Does management understand and have capabilities for all phases of its operations, from research through production and marketing, as well as support functions—comptroller, accounting, legal and so forth?

Does management understand the nature and use of money?

Does management have a competent recognized leader and decision maker?

Having had all those questions answered to his satisfaction, the potential investor will still face the fundamental question of whether he feels comfortable with the company. "If his own intuition or gut reaction makes him feel uncomfortable, he should and probably will stay away from the company."

A word of warning about the venture capitalist: If he tries to tie up the company with too many financial gimmicks or penalty clauses, have second thoughts about dealing with him. As the guidebook states: "If a new company is going to fail extra penalty clauses aren't going to help the situation. They will only put more pressure on the entrepreneurs, causing their performance, in fact, to be reduced in a down-side situation."

One section of the book that will be prized by latent entrepreneurs is that which lists sources of capital—about 100—in the U.S. Venture capitalists seldom advertise—they have no need to because they are deluged with propositions—so this becomes a valuable source of information, something that no unemployed or disillusioned technologist can afford to miss.

M-16 DOCUMENTS REVEALED

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. ASPIN. Mr. Speaker, on November 5 I told my colleagues about a report released by the Connecticut Citizens Action Group that charged the Colt Arms Manufacturing Co., of Hartford, Conn., with subversion in its quality control program in the manufacture of the M-16 rifle. Today I am releasing to the public the text of seven affidavits signed by Colt workers which detail their charges against the company. Some of the affidavits also indicate that there may have been some form of collusion between Government officials and the Colt Arms Manufacturing Co.

The report and these affidavits have raised such serious questions and doubts about the integrity of both the Government's inspection system and Colt's quality of program control that I have written the Secretary of Defense and Attorney General requesting a complete and thorough investigation.

The Government has a responsibility to deliver only the best equipment to our men in the field. Both Colt's management of the quality control system and the Government inspectors' lack of vigilance may have endangered the lives of American fighting men in the field.

I call to the attention of my colleagues these affidavits which follow, and congratulate the Colt workers who have shown the courage and the integrity to speak out.

The affidavits and letters follow:

AFFIDAVIT

I, Wayne Handfield, do hereby swear that all the following information is the absolute truth, to the best of my knowledge.

I am a citizen of the United States, and I reside at 17 Bristol Street, Wilson, Connecticut. I am thirty-one years old.

In March, 1964, I was first hired by Colt Industries, as a filer in the Hartford plant, on Huyshope Avenue. In 1968, I was transferred to the West Hartford plant on Talcott Road, where I was trained for the position of weapons tester. From 1968 to the present time I have been a weapons tester in the firing range at the West Hartford Colt's Firearms Division plant.

When I first came to the West Hartford range, I worked in the second shift, from three-thirty P.M. until twelve o'clock midnight. My immediate supervisor at that time was Frank Holledrofer. The second shift was later eliminated, and I was assigned to the regular day shift, the only shift which is presently scheduled, which works from seven o'clock A.M. until three-thirty P.M. My immediate supervisor on the day shift has always been Oliver Ivy. I have always been under the direct orders and supervision of either Mr. Holledrofer or Mr. Ivy. In June, 1971, I was removed from the range by management when high lead concentration was found in my system. I worked in the packing department at the plant until September 20, 1971, when I returned to my regular duties at the range.

My duties at the range have not changed since I began work there in 1968. I test-fire and repair military and civilian rifles manufactured by Colt's and designated M16A1, M16, and XM177. I have participated in the three types of tests conducted at the test range. They are: function-firing, target and accuracy-firing, and endurance testing. Random assignment of range personnel to a specific test area is made at the start of each day by the range supervisor. Once assigned to an area, I remain at that test for an entire day.

The firing range in which I work is actually a large steel shell, designed to contain both noise and lead dust. Inside, centered near one end of the rectangular shell, is a concrete block-house, in which most of the work is done, and from which the rifles are fired. Extending from the block-house toward the near end-wall of the rectangular shell are the baffle boxes for the function-firing tests. Extending outward from the opposite side of the block-house, toward the far end-wall of the shell, are the one-hundred yard target and accuracy tubes. The endurance gun tube is on the functioning side of the range. In one corner of the block-house is a glass-enclosed office used by the supervisor.

Rifles are brought into the range in racks of eighty. Every rifle has a distinguishing serial number, and has a "traveling card" attached. The rifles of each shipment, consisting of approximately six thousand weapons, are all tagged with a distinguishing color-coded traveling card. Rifles of one shipment cannot be transferred to another shipment. No shipment can leave the plant until all rifles originally tagged for that group have either been approved, repaired and approved, or permanently rejected. We run complete three phase testing on approximately one shipment per week, or twelve hundred rifles per day.

A rack of incoming rifles is first function-fired, to assure that the weapon operates safely. Twenty rounds are put through each rifle on full automatic fire. The rifles are individually mounted on a concrete and steel stand, and fired through a hole in an armour shield. The bullets, traveling about thirty-two hundred feet per second, travel three feet before striking a series of armour plate baffles. The rounds disintegrate into dust and grass and perhaps tiny pellets. If malfunctions occur here, rifle parts are changed and the rifle is immediately re-tested. If the rifle passes the test, we stamp the travel card with our name, indicating that it passed. The rifle is replaced on the rack, and the procedure is repeated for all eighty weapons. The tested rack is wheeled to the target and accuracy area.

There are seven target tubes, each one hundred yards long. The rifles are fired on semi-automatic, only, into the tubes from the block-house. An area about four feet square is partitioned off at the port of each tube, to separate the firing stations. A concrete and steel rifle mount stands on the floor at one side of each booth, so that

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the rifle, when mounted and braced by suction clamps, will protrude just into the long tube. The worker stands to the left of the mount. He peers through the mounted rifle's sights to zero the weapon in on the distant target. The target is a bull's eye printed on a paper roll of some one hundred such bulls' eyes. A closed circuit television camera is fixed on the target over the tube, and the image is displayed on a monitor mounted on the firing booth wall, to the left of the rifle mount and in front of the worker. The tester pushes a button in the booth which activates the target mechanism, rolling up a fresh target. On the left side partition of each booth is a government specification sheet, mounted under clear plastic. It indicates the precise operation to be performed at the target range, and outlines special tests to be applied in case of inaccuracies.

To test the weapon, the rack or rifles is wheeled to within four feet of the rifle mounting. The weapon is mounted and visually sighted; a point just under the bull's eye is aimed at, to compensate for the rising trajectory. The worker checks the sights alignment with a hand held rear sight gauge. We make sure the front sight is flush with the front sight assembly. We load the gun with a magazine. The charging handle is pulled back; the breech plug is removed from the chamber; the charging handle is allowed to travel forward, engaging the bolt and stripping one round from the magazine; the round passes into the chamber, and is ready for firing. We proceed to fire ten rounds, semi-automatic only. One shot is fired at a time.

Government regulations specify that we are to shoot ten rounds, with three shots to zero the rifle in. That is, if the first round hits outside the acceptable target area, I stop firing, recheck the sights, and, depending on where the round fell, I move the sight up to two clicks to the left or right to compensate. Only one such adjustment is allowed by the posted government rules. If the next two rounds fail to strike within the bull's eye zone, the rifle is rejected. If all ten rounds, or eight rounds after an adjustment, fall within the specified area and form a group on the target no larger than four and eight tenths inches in diameter, then the rifle is accepted. The travel card is stamped with worker's name and marked accepted. If any round falls outside the four and eight tenths inch area, the rifle is rejected. The card is marked to indicate gun "shoots high;" "shoots low;" "shoots right;" "shoots left;" "failed to hit the target." Rejected rifles are put on special racks marked "Repair" in the back of the range room near the Talcott Street wall.

Only a very limited number of rifles from each shipment of six thousand is subjected to the endurance test. Accepted rifles are sent to the wash room, in another part of the plant, and then to an adjacent room. There a government inspector randomly selects four rifles to be endurance tested. Note that rifles rejected for repairs remain on special racks within the range room for up to three days before being repaired and then removed for cleaning. The odds of a repaired rifle being in the group from which the endurance guns are chosen are terribly small. To my knowledge, a repaired rifle, that is, one having been rejected from the target test and barrel-straightened, has never been subjected to the endurance test. Each of the four endurance rifles are fired nearly continuously, one each for eight hours a day. We test one rifle on each day, Monday through Thursday. If at any time one of the four guns has to be rejected, the whole group of four is rejected and four new rifles from the same shipment are randomly selected for similar testing. Endurance rifles are fired in cycles of semi- and full-automatic, but are cooled periodically, and cleaned. It is not uncommon for parts to be substituted on the endurance rifles, in order to avoid rejection of the whole series.

Repair rifles rejected from the target and accuracy range sit on special racks for three to four days, depending on how fast they accumulate. The average reject figure per day from target and accuracy is a hundred rifles, with a minimum of sixty and a maximum, to my knowledge, of two hundred and forty. Repairs are initiated generally before three racks, which can hold two hundred and forty rifles, are full. The range supervisor decides when repairs are to be made.

When I worked on the second shift most repairs were performed during a two hour over-time period from midnight until two A.M. There was no third shift, so that government inspectors, who were assigned to the area during normal work hours, were absent during the major repair period. Since I have been with the day shift it has been the only work shift for the rifle range. The majority of repairs are performed during over-time hours, usually from three-thirty in the afternoon until five-thirty. Sometimes we have worked over-time on repairs from five A.M. until seven A.M. Government inspectors keep regular hours, and thus are absent from the range during over-time periods. During the heavy production period roughly from 1968 through 1970, we worked at repairs over-time nearly every day, plus some Saturdays and Sundays. Now I do over-time repair work about once a week. During the heavy period, the supervisor frequently, nearly daily, assigned repairs during the regular work hours, although it has been a consistent policy throughout my experience on the range to perform all barrel repairs out of the sight of government employees of all designations, including regular inspectors and visiting officials.

On the day shift, Mr. Ivy, the supervisor, has always announced when repairs are to be started. Around two-thirty or two-forty-five he approaches all the range personnel and asks them individually whether they would like to work over-time. I generally ask what sort of work we are going to do. The answer is one of two things: either new work, or "T.R.'s." T.R. designates target repairs, or repair of target and accuracy rejects.

There are fifteen men assigned to the range, including the supervisor, and acting assistant supervisor, ten range personnel or weapons testers, and three ammunition loaders. All ten of the current range personnel have performed barrel straightening as described below. Generally, all but one, Robert Morin, stay during over-time repair work. Infrequently, Mr. Ivy leaves the range after initiating repairs. He is replaced by James Hollis as supervisor.

We take the repair racks to the target ports of the accuracy range where we prepare to fix them. If they are few in number, we split them up, distributing them so that each man has an equal share of the work. Sometimes, Mr. Ivy hands repair rifles to workers at around five o'clock to occupy the men during the last minutes of overtime. We go through the same procedure with these weapons as earlier, verifying the discrepancy noted on the travel card by firing a couple of shots. The gun is then unloaded and the breech plug is inserted. The rifle is freed from the mount, and the muzzle is pointed toward the floor and placed between two steel I-beams which extend aft-ward from the firing mount. The beams are anchored in concrete. The muzzle is lowered to the front sight assembly. We grab the butt stock and pull down on it, straining the muzzle against the beams, and bending it in the opposite direction from which the off-target rounds were flying. The hand-bent gun is remounted and test fired twice. If the rounds still fall outside the acceptable area, the rifle is again removed and hand-bent. Once the two rounds are accurate, the rifle is fired ten times at each of two targets on semi-automatic. The travel card is stamped "Adjusted" and the target numbers and group sizes are noted. The rifle is returned to the rack, sent to the washroom, and rejoined with the shipment.

During my training in the range in 1968, the supervisor, Mr. Holledrofer, ordered Mr. Donald Swanson, a weapons tester, to instruct me in "barrel calibration." Mr. Swanson proceeded to show me the hand bending technique. This was obviously the accepted method, as it was witnessed constantly by Mr. Holledrofer. Once I nearly hand bent a rifle in front of a government inspector, but was severely rebuked by all the plant personnel present, who advised me it was O.K. as a normal procedure, but it was never to be done in front of government personnel. On several occasions I saw Mr. Holledrofer hand-bend rifles for workers who were having a difficult time of it. My experience in Mr. Ivy's shift has been the same, with Mr. Ivy actually hand-bending rifles on innumerable occasions. At least five or six times he has hand-bent rifles at my station when I have had a problem. The most recent such occurrence was in the last week in May, just before the lead poisoning incident.

I have seen the following men witness the hand-bending process: Mr. Ivy; Mr. Holledrofer; Mr. Robert Craig, the acting assistant supervisor; plant manager Carl Mara, who has on many occasions walked through the area during over-time bending work; and Mr. Harry Spilline, supervisor in charge of first and final inspection. Mr. Spilline was formerly a weapons tester himself, and had experience in hand-bending. He was later a range supervisor, and was subsequently made a supervisor in another department. Ray Myatt has also witnessed the process. He was quality control inspector for the company, assigned to the range, before his position was dissolved, and he has since become a weapons tester.

On Friday, October 1, 1971, Mr. Dick Welsh, a weapons tester, and a union (UAW) department steward, was told by Mr. Ivy that when he, Welsh, ran out of new work, he was to do repairs as best he could without being seen by the Federal inspector who was present in the range. I overheard the conversation and saw Mr. Welsh work on repairs the rest of the day. The repairs were in the form of hand-bending barrels.

During regular work hours on Wednesday, October 6, 1971, I witnessed the following scene at the targeting area in the firing range. Ray Myatt was testing and hand-bending M177's which were known to be destined for a foreign power (Thailand). A U.S. government inspector, passing through the area on his normal rounds, was heatedly told by Mr. Myatt that the bending was none of the inspector's business, as the rifle wasn't for U.S. troops. The inspector took no action and walked away. Mr. Myatt continued bending.

Shortly after I arrived in the range in 1968, I saw an unused piece of equipment in the range repair crib. It was explained to me at my request by a fellow targeter. It is a straightening machine made especially for the range by Colt's at a reputed cost of many thousands of dollars. It consists of a steel slab about twenty-one inches long, eighteen inches wide and two inches thick. Pegs inserted in it position and brace the deficient barrel which is first removed from the upper receiver assembly of the rifle, and from which is removed the gas tube. Thus only the barrel itself is subjected to the stress applied by the machine. A constant pressure, measured by a torque gauge built into the machine, is applied, over a six to eight hour period, to the barrel. Hand bending of a fully assembled gun, as we normally do it, takes forty to fifty seconds. The machine can only repair barrels shooting left or right; not high or low. I have never seen the machine used in

my entire period of employment. Sometime since 1968, the machine has been removed to the junk heap in back of the ammunition loading dock. With it are broken TV monitors, discarded mounts, and the like. Because the machine, which is approved by the government for repair work, is never used, no repairs are performed in government employees.

STATE OF CONNECTICUT,
County of New Haven, ss:

Then and there personally appeared the above-named subscriber, Wayne L. Handfield, who made solemn oath to the truth of the foregoing statements by him subscribed, before me.

[SEAL]

JONATHAN JAY EMBERS,
Justice of the Peace.

AFFIDAVIT

I, Richard J. Welch, do hereby swear that all the following information is the absolute truth, to the best of my knowledge.

I am a citizen of the United States and I reside at Cobb City Road, Colebrook, Connecticut. I am twenty-nine years of age.

I was hired by Colt's Firearms Division of Colt Industries on March 28, 1966, as a first and final inspector of M16 rifles. On November 2, 1966, I became a targeter in the West Hartford firing range, I still work in that capacity. I have always worked on the day shift, formerly under Gordon Johnson, and after him, Ora Ivey.

The prime method I was taught and which I have used to repair inaccurate rifles is to bend the barrel either by straining the muzzle between the mounting beams or by striking the flash suppressor against the floor. I have used the barrel bending machine once or twice.

Bending is done during early or lats over-time periods. Once in a while, we are told by Mr. Ivy to bend a few in any port while the government men are out of the range at the wash rack, with the endurance gun. Mr. Ivy had us do this just last week. I have also worked in booth seven during the day, performing repairs of the above described sort behind the closed door. Two hundred to six hundred repair rifles might stack up before general repairs are initiated.

Government inspectors have seen the bending of foreign guns. Last week I was bending a rifle that didn't say "Property of U.S. Government" on the lower receiver. The inspector saw me bending the barrel, but he didn't say anything. He didn't question me as to whether or not it was a U.S. gun.

Ed Foley and Carl Mara have both seen the bending during the last two weeks, as well as innumerable times earlier. Paul Masocott, the quality control head after Mr. Foley, also saw us bending. Mr. Ivy has himself bent rifles on the range.

I have also worked with the endurance guns. Around 1968 we were getting a large number of guns which didn't have a chamber on the bolt; failure to feed malfunctions were regularly occurring in the endurance weapons. We were covering these malfunctions, on orders, while the government men stood or sat behind us. We could take the magazine out and clear the weapon without their seeing us. Last year we had a recurring problem in the form of a bolt stop failure after the last round. We were regularly covering that malfunction. We are still clearing the weapons during endurance testing, without the government men knowing.

After every thousand rounds or so we tell Mr. Ivy, usually in his office, what sort of problems we have covered up in the last series. Parts, including carriers, extractor springs, and bolts, are switched on the endurance gun, out of sight of the government men. All such switches are against government rules, due to the point in testing at which they are made, or the nature of the malfunction. For thousand round regular wash break the spring is switched by the targeter or by Mr. Craig, the quality control analyst. Sometimes the quality control analysts will distract the government man long enough for us to clear the gun while it is in the mount.

The endurance test is run in a five magazine, one hundred round sequence:

A—four five round bursts.

B—full-automatic, one magazine (all twenty rounds at once).

C—semi-automatic, one shot every two seconds.

D—repeat A.

E—repeat C.

After each sequence, compressed air is pumped through the barrel from the breech, out the muzzle, in the same path a round would follow. The barrel is cooled in this manner for some two minutes, until it is cool enough to be held in the hand.

RICHARD J. WELCH.

STATE OF CONNECTICUT,
County of Hartford, ss:

Then and there personally appeared the above-named subscriber, Richard J. Welch, who made solemn oath to the truth of the foregoing statements by him subscribed, before me.

ALBERT R. MAULE,
Notary Public.

[SEAL]

AFFIDAVIT

I, Victor L. Martinez, do hereby swear that all the following information is the absolute truth, to the best of my knowledge.

I am a citizen of the United States and I reside at Cobb City Road, Colebrook, Connecticut. I am fifty-four years of age.

I was hired by Colt Industries on October 9, 1961, as an archery inspector at the Huyshope Avenue, Hartford, main plant. I became a leadman in the grenade launcher section, in charge of firing and inspection, and then a layout inspector, working with crew serve weapons. In February or March of 1968, I was transferred to the West Hartford plant on Talcott Road, where I was a process inspector working on M16's. In May of 1968, I was assigned to the firing range as a targeter. I was temporarily transferred out of the range in July of 1971 when excessive lead concentration was found in my blood. I will be returned to the range as soon as the doctors are satisfied with my blood tests. I have always worked on the day shift, and have always been supervised by Oliver Ivy, range master.

Prior to my employment with Colt Industries, I served twenty-two years with the Marines, retiring with the rank of Master Sergeant.

When rifles prove inaccurate at the target area, we isolate them in repair racks. I have participated in the normal repair process, which involves bending fully assembled weapons between steel beams at the targeting mounts, or whacking the muzzle end on the floor of the firing booths. I was originally instructed in these methods of repair in 1968 when Mr. Ivy ordered one of the targeters to break me in. I have only done such repair work on U.S. government weapons during overtime periods, on weekends, or during normal work hours in the privacy of the enclosed firing booth, number seven. Mr. Ivy comes around in the afternoon, offering overtime work to the targeter according to the worker's seniority.

Booth seven was enclosed and had a window-less door installed about 1969 or 1970, when it was designated for special evaluation of the Sharp's Rifle, to be done by a well known gun authority, Lester Bowen. Since the remodeling, it has been infrequently used by the Sharp people, and never by the range personnel for normal testing. However, on occasion when there is a sizable back-log of repair weapons and a shortage of new work, Mr. Ivy assigns a man to bend rifles during the regular shift, behind the closed door of the booth, out of sight of the government inspectors. The person in seven fires a few rounds, verifying the inaccuracy, bends the rifle in the above noted fashion, then fires a few more rounds. If the bent rifle lands the test rounds anywhere on the target, the rifle is sent down to an open booth and put through the regular government approved postrepair test sequence—two targets, twenty rounds.

I, and the other targeters, have hand bent during regular hours and in the open, rifles belonging to foreign nations and rifles of the non-military sports model. U.S. military weapons are stamped with a government identification.

Everyone in the range has seen hand bending at one time or another. Whenever Mr. Ivy wants the work pace accelerated during overtime repairs, he bends the guns himself, and passes them out to targeters to be test fired. He started this practice just during the last year. Plant manager Mara has been in the range during over-time bending operations. Government inspectors have witnessed bending of commercial and foreign rifles. Bob Craig, now a technician in the range working for management with government men at the endurance gun, has bent rifles himself, in his former position as targeter. I have seen Ed Foley and Cliff Allen witness the bending. Former plant manager Paul Masocott walked through the range during bending operations while I was there on over-time.

There is a machine which is designed to straighten disassembled barrels, correcting either right or left inaccuracies only. On one occasion a couple years ago, Bob Gregorie and I were assigned to use it for the better part of a day. On Mr. Ivy's orders, the two of us broke down repair weapons, positioned the barrels, one at a time, applied the required pressure momentarily, and reassembled the weapons. That was the only time I ever used it; I saw it used one other time, by Herbie Lenholtzer, a repairman.

I have frequently been assigned to test fire the endurance gun. These weapons are supposed to be fired six thousand rounds, with only specifically designated, and limited, malfunctions. Joe Tomasselli, a targeter who has been assigned to the gun with me, and I have been instructed by Ed Foley and Oliver Ivy to cover up malfunctions. For instance, it is standard practice that if the gun should fail to feed and fail to fire, we pull back the charging handle, recharge the gun, and continue firing without the government man detecting it. The Colt's weapons technician would keep the government agent occupied during the cover-up. We are reminded prior to shooting the gun that we are to cover up malfunctions, or, if too many of a particular type of malfunction have occurred, we are told not to reveal any more. The latter instruction might apply to bolt stop failures. If a weakened extractor spring is causing trouble, the Colt's man might give you a new spring without the government agent knowing it. Specifically, Ray Myatt and Bob Craig actually handed me parts while they were assigned as technicians. They have also changed parts themselves, including bolts and carriers. Their boss, Tony Kasminsky, told me once to change a part—a spring or bolt or the like.

In another government supervised test called the Ten Gun Interchange, ten randomly selected weapons are broken down and then ten weapons are rebuilt from the mix of these parts. The weapons are then tested. The test usually requires two days. Now the government locks up the test group of parts or rifles during over-time periods, but formerly, the range-master had access to them after the government inspectors left for home. I have seen the whole upper receiver—the barrel—changed during over-time, with

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the new receiver selected from outside the test group. I have seen the guns test-fired during over-time, and corrected, to insure that good results would be had during the government-witnessed regular test-firing. I myself have test fired such interchange rifles in the early morning over-time hours, under the direction of Mr. Ivy.

STATE OF CONNECTICUT,
County of Hartford, ss:

Then and there personally appeared the above-named subscriber, Victor L. Martinez who made solemn oath to the truth of the foregoing statements by him subscribed, before me.

[SEAL.]

ALBERT R. MAULE,
Notary Public.

AFFIDAVIT

I, Robert J. Gregoire, do hereby swear that all the following information is the absolute truth, to the best of my knowledge.

I am a citizen of the United States and I reside at 45 Joyce Street, Bloomfield, Connecticut. I am thirty-eight years of age.

I was hired by Colt's Firearms in November 1963, as a cleaner and loader in the small-arms range at the main Hartford plant. In February of 1964 I became a weapons tester of the AR–15 in the main plant, in Department 152. In May of that year the whole group was moved to the new facility at the West Hartford plant. I have worked there in the same capacity continuously, except for three months this past summer, when I was temporarily removed to another department due to lead poisoning from range work.

I have always been on the day shift, due to my seniority. My range masters have been Gordon Johnson and Ora Ivey.

I have been doing bending repairs, forcing the barrel between steel rods on the firing mounts, ever since I started range work with the AR–15 in 1964. I remember Ora Ivey showing me how to do it then. When we moved to the new West Hartford range, they installed a bending machine for the barrels, but it was used as a front. Only when there was a large accumulation of repair guns and the range master had to have some done while government men were around, we used the machine. I used it occasionally with Vic Martinez. It's been several years since I saw the machine used at all.

Between 1964 and 1966, government men used to stay with us during over-time periods to check our work. The range master or his assistant, the lead man, would tell us at 3:30 to walk out of the range, and leave the company grounds for a half hour or so, to give the impression that we were not staying for over-time. This would deceive the inspectors; they would leave for the day; we would return and bend. We were all on the clock the whole time, as was the approved arrangement. Twice I was caught doing bending during such secret over-time periods. Once an agent named Tom O'Connel found me; he took the rifle out of my hands, recorded the serial number, and reported it to the range master, Johnson, who took the gun himself. Sometimes, if we stayed right through 3:30 for regular testing work, around 5:30 we would be told to bunch up near the time clock to give the government men the impression that we were about to leave for good. The government would check out, and we would stay all hours to bend. This was all before a second shift was put on.

I worked at the interchange test from 1964 up until about a year ago, when the job was given to the repairmen. We used to do the interchange mixing in a room called the process room or the parts inspection room. We did a "dry run" before and after the disassembly. This consisted of a check of indent, head space, and trigger pull. Although these weapons came straight out of the final inspection room, we often found improper fits on these checks. We always changed the part, whether it was before the break down, or after reassembly. Orders for switches were given by the quality control man, like Ed Foley, or the range master. Many a night I or someone in the second shift sneaked into the room to shoot, change barrels, and even target the test weapons.

I also did a lot of work with the spare parts test. This test was to determine whether shipments of thousands of parts should be brought by the government. Five weapons were taken off the final inspection racks by the government men. Each was fitted with any number of different parts from the barrels of parts being considered. If twenty different parts were under consideration, then each of the five guns had twenty new parts fitted on it. The guns were then function fired for forty rounds. If any malfunction occurred, the quality control man had to convince the government man of the reason. If the government man approved the reason, he could accept the whole shipment of parts. We regularly covered malfunctions in this test. For instance, I remember having jammed keys, which I was told to unplug anywhere I could without being seen by the quality assurance representative of the government. The company quality men always provided distraction so we could cover or make adjustments. This test was run from 1964 until a few months ago.

Cover ups have always been done on the endurance gun. Fail to feeds and fail to rejects are common problems that we are told to cover, and which we usually succeed in covering. Broken parts are switched during washing, when government aren't looking. Sometimes the government men don't even stay to observe the process.

Ivey has bent barrels many times by hand.

STATE OF CONNECTICUT,
County of Hartford, ss:

Then and there personally appeared the above-named subscriber, Robert J. Gregoire who made solemn oath to the truth of the foregoing statements by him subscribed, before me.

[SEAL]

ALBERT R. MAULE,
Notary Public.

AFFIDAVIT

I, Wayne Handfield, do hereby swear that all the following information is the absolute truth, to the best of my knowledge.

I am a citizen of the United States, and I reside at 17 Bristol Street, Windsor, Connecticut.

When I was being broken in at the interchange test in 1968, in the Colt's Firearms testing range for M–16 rifles, I damaged the barrel nut and was tube on several weapons. I was told by the quality control man to replace the damaged parts with fresh pieces from the assembly line.

When the weapons are disassembled for the interchange, the parts are placed in numbered boxes. Frequently a box is upended and some of the parts are lost. We take new parts from the assembly line to replace them. Government agents are not told.

Sometimes a piece won't fit when we try to reassemble from the parts. Through a magnifying glass we can see it is damaged, so we switch it for a new one. This happens mostly with small parts, such as the bolt rings, extractor springs, the paw, frequently the firing pins and the disconnects, and occasionally the buffer.

All the above activities occur during normal work hours, while government inspectors are preoccupied.

The interchange guns are reassembled, function-fired, checked for cycling rate, and targeted. Since we are not closely watched during interchange targeting tests, we have been instructed to cheat in that area. The traveling card, which remains attached to the serial numbered lower receiver throughout the test, indicates the group size, in inches, that the gun scored during previous normal target and accuracy testing. If the post-interchange group is an inch or two larger than previously recorded, we wheel in the gun so the group size figures match.

Before the interchange weapons were locked up over-night, we were frequently told during over-time to function fire and target those interchange guns which had already been reassembled. Of the ten, at least three or four were usually reassembled before the day shift ended. These we tested, to assure good results in the following day's government-monitored tests.

Two weeks ago I was assigned to the endurance gun. Every time I fired it, it malfunctioned, usually due to a failure to feed, which reflects a basic weapon failure. I covered once or twice, as instructed by the range master and quality control officers. But three or four times the government agent, Roland Sharon, looked up from his crossword puzzles and caught the malfunction. He and the quality control representative blamed the problems on the magazine, a squashed round, etc. These were not the causes. Finally Bob Craig, management's technician at the endurance gun, pulled me off the test, accusing me of purposely jamming the gun. During the twenty round full automatic part of the endurance cycle, the gun is supposed to be "adversely handled," ie. held loosely with no firm support. Craig wanted me to brace the weapon.

Due to the sludge that forms from lubricants and dirt when the barrel is forced cooled on the endurance test, the first few rounds on full automatic after cooling regularly jam. I have seen the gun force cooled for five minutes; it wouldn't fire on full automatic until it warmed up.

Parts are regularly switched on the endurance gun. I've been told by Craig to switch a whole bolt. I have seen Craig change bolts, extractor springs, bolt rings, and, often, the disconnect, which is vital to the full automatic mechanism. When we take the gun to the washroom, the government man comes in to check the bolt rings and the extractor spring. He leaves when that is done. We then inspect these and all the other sensitive parts, replacing those that look weakened.

Two weeks ago, between October 11 and 23, a shipment of M–16's marked with yellow traveler tags had a common problem of slow cyclic rate of fire. Instead of meeting the government standard of 700–900 rounds per minute, full automatic, they were hitting 585–680. For the first half of the shipment, range master Ivey told us that plant manager Mara wanted them accepted as long as they touched 700 rpm. That meant taking weapons when they registered 701, 702, etc. Finally it was found that the locking lugs on the bolts were one one-hundred-thousanth of an inch too large, and that was the problem with every gun. A new order of bolts were substituted for insertion on the second half of the 6,000 gun shipment. No attempt was made to correct the first 3,000 that will surely jam after any amount of usage.

STATE OF CONNECTICUT,
County of Hartford, ss:

Then and there personally appeared the above-named subscriber, Wayne Handfield who made solemn oath to the truth of the foregoing statements by him subscribed, before me.

[SEAL]

ALBERT R. MAULES,
Notary Public.

AFFIDAVIT

I, Wayne Handfield, do hereby swear that all the following information is the absolute truth, to the best of my knowledge.

I am a citizen of the United States, and I reside at 17 Bristol Street, Wilson, Connecticut. I am thirty-one years old.

On October 6, 1971, M16A1 rifles with the following serial numbers were in the rejected group of rifles, awaiting repairs to bring them up to target and accuracy standards:

4–596–221	4–594–476
4–592–319	4–596–160
4–596–364	4–596–410
4–598–338	4–596–180
4–595–687	4–598–390
4–593–485	4–595–238
4–596–581	4–591–880
4–594–568	4–594–985
4–593–127	4–596–299
4–594–483	4–596–383
4–595–844	4–596–767
4–576–489	4–595–507 (or 307)
	4–579–073

On October 6, 1971, I rejected the following M16A1 rifles at the target and accuracy range for the accompanying reasons (all data on this affidavit refer to the weapons firing and testing range at Colt's Firearms Division of Colt Industries, Inc., West Hartford, Connecticut):

4–596–851—left; off target
4–599–672—high 3''; right 2''
4–599–708—high; off target; right 3''
4–595–645—low; off target
4–599–651—left; off target

The latter group of rifles, as of October 6, 1971, was on a repair rack at the range.

STATE OF CONNECTICUT,
County of New Haven, ss:

Then and there personally appeared the above-named subscriber, Wayne L. Handfield who made solemn oath to the truth of the foregoing statements by him subscribed, before me.

[SEAL.]

JONATHAN JAY EMBIN,
Justice of the Peace.

AFFIDAVIT

I, Shaun E. Brown, do hereby swear that all the following information is the absolute truth, to the best of my knowledge.

I am a citizen of the United States, and I reside at 419 Main Street, East Hartford, Connecticut. I am thirty years old.

In February 1964, I was first hired by the Colt's Firearms Division of Colt Industries. From 1959 until 1963 I served with the Navy, attaining the rank of Second Class Aviation Ordnance Man. I was hired by Colt's as a first and final rifle inspector, but within six months I was assigned as a proof house tester, and then, still in 1964, as a targeter in the firing range. I worked in the day shift at the range from 1964 until 1967, when I quit. In 1968 Colt's rehired me with no cut in pay. I worked seven or eight months in the same capacity as before but in the second shift, and quit finally in 1968.

I tested M16A1 and M16 Colt manufactured rifles. When rifles were rejected for inaccuracy on the target range, they were repaired in one of two ways. The vast majority of the repair weapons were set aside to be bent by hand during over-time work period when no government inspectors were in the range. We never took the risk of bending a barrel during the regular work shifts, since it was perfectly understood by all range employees that the practice, while approved by the company, was strictly against government regulations. Bending was supervised by the regular supervisory personnel, and was carried out at the target mounts, where the barrels were levered between two steel beams. Occasionally, if the fault was only a slightly low trajectory, the rifle was held by the stock and the flash suppressor at the muzzle end was knocked on the rubber floor mat in the shooting booth. The second manner of repair was to send the rifle back to the assembly area to be recalibrated, that is, retorqued. Practically all were hand bent. The rifle that was returned to assembly was very rare.

When I began with the company, on their day shift, there was no other shift on the range. Repairs were done following the normal seven A.M. to three-thirty P.M. work period, and usually lasted two hours. The company paid time and a half for the over-time. My direct superviser, the range master, was Gordon Johnson, who was later replaced by Ora (Sonny) Ivey; he reported to Ed Foley, who in turn reported to Dan Grove, head of the quality assurance inspection department. All these men witnessed the hand bending process.

When I returned to the range in 1968, I worked in the second shift, where Cliff Allen was the range master. Since government agents were assigned in both the day and night shifts, repairs, which were still limited to over-time periods, were made only in the early morning, before the day shift, and in the late night, after the departure of the three-thirty to midnight government men. Mr. Allen, of course, witnessed the hand bending, and I saw on occasion the plant manager, Mr. Mara, witness the process. There was unlimited over-time available to range personnel who wanted it. Twelve hours a week is a conservative estimate of the over-time I averaged per week. That time was spent on both new pieces and repairs. I sometimes saw Mr. Allen and Mr. Ivy take whole racks of repair weapons and hand bend them themselves, particularly when there was a shortage of men. That practice was stopped when the union (UAW) complained that the two were salaried workers.

One night in 1968, while I was targeting rifles, Mr. Allen conducted a group of military officers through the complex. Upon the conclusion of the tour. I walked up to a Colonel White, and asked whether he would like to see how the guns were recalibrated so that they could pass the targeting qualifications. Over the protests of Mr. Allen, the Colonel and the others accompanied me to the shooting booth, where I demonstrated the normal hand bending technique. I remember questioning aloud whether this process would permanently correct the barrel's inaccuracy. I have always felt that the barrel would return in time to its former misalignment. The officers seemed interested, and asked many technical questions about the rifle. An hour and a half after their departure, I was informed by Mr. Allen that I was indefinitely suspended from work. Two weeks later I was put back on the payroll, though I was never told anything about the reason for the suspension. I had not disparaged the company or the weapon. From that day on I never bent another rifle, although I was asked repeatedly to do so. Two other targeters refused to bend barrels after the incident: Pete Taylor and "Smokey" Corlis. I quit some two months later. Hand bending was still the standard mode of repair.

STATE OF CONNECTICUT,
County of Hartford, ss:

Then and there personally appeared the above-named subscriber, Shaun Edward Brown who made solemn oath to the truth of the foregoing statements by him subscribed, before me.

[SEAL] JOB L. EMERSON,
Notary Public.

AFFIDAVIT

I, Vearon S. Corlis, do hereby swear that all the following information is the absolute truth, to the best of my knowledge.

I am a citizen of the United States, and I reside at 38 Zwicks Farm Road, Southington, Connecticut. I am thirty-nine years of age.

I was first hired by Colt's Firearms as a first inspector in May of 1967. Two months later I was transferred to the firing range to be a targeter of M–16 rifles. I worked on the second shift under range masters Cliff Allen and Frank Holledofer, and then on the first shift under Ora Ivey. I quit at the end of November 1969.

Although I never test fired the interchange rifles, I was assigned to work at the disassembly and reassembly of the weapons on two or three occasions. (Second shift personnel were rarely allowed to do interchange work, and I wasn't shifted to first shift until 1969.) On one occasion I was told by one of my supervisors to take a spare part from outside the interchange group and switch it with a group part, in order to avoid rejection of the group. There was a bench in the interchange room with a couple of drawers in it; the drawers contained a variety of spare parts, that could be secretly switched into the test group. (I switched front sight taper pin.)

I have seen "Elbow" Adams, a targeter, take reassembled interchange weapons out of the interchange room during the second shift, behind the backs of inspectors (government men) in order to test fire them. He often put them through both function fire tests and target and accuracy tests, to insure high performance the following day, when the government inspectors would be observing. This was done for just about every shipment, i.e., about once a week. Sometimes first shift men would perform the job during over-time period, into second shift hours. There was usually only one government man on the second shift for the range area, and he would spend most of his time with the first or final inspection, which was done outside the range.

I have seen other targeters change parts during the interchange test, usually when the government man left the room for coffee or such, and always under the orders of or with the standard approval of the range master or company quality control man. We would change any part that threatened the acceptance of the test group. This included parts with burrs, or those that showed "skipped operations," which meant that a machining requirement had not been met during production. Parts that wouldn't interchange, either because they were too loose or too tight would be substituted for. When we found alignment problems, which was very frequent, we would either bend the barrel, or replace the barrel, or the front sight group, or even both.

I never fired the regular endurance gun. However, after the 1967 hearings, special endurance tests were run weekly for my remaining years, and I participated in two of these. Government inspectors randomly selected from two to six final inspected weapons, and these were subjected to endurance tests of about 10,000 rounds. One failure to extract and one failure to eject were allowed. In one of my tests in 1969 the gun jammed with the cartridge stuck in the chamber. The government man told me to take the weapon apart, and we found a broken spring (ejector spring). After the test, Ora Ivey wanted to know why I let the man see the malfunction; it was normal procedure to cover the malfunctions. Government men were very often persuaded by Ed Foley, the Colt's quality control engineer, to accept a company excuse for malfunctions, and thus allow the defective weapons to be accepted, and the whole lots delivered.

I quite often heard other targeters describe cover-ups and switches performed at the endurance guns. Usually switches took place in the wash room. Targeters carried spare parts in their pockets, and these were secretly switched into the endurance test weapon. If a man didn't have the appropriate part, he would excuse himself to visit the men's room, but would in fact get the required part from the assembly area or from a repairman. Such switching occurred on about half of the endurance tests.

The only way we ever repaired weapons

that were inaccurate was to bend them, either by wedging the barrel at the firing mount, or by banging the muzzle on the floor. Rifles were almost never sent back to repairman for such repairs. I bent barrels in the two inch gap in the steel mounting casing, at the firing mount. Others used the larger space between the mount's two rails.

I would estimate that a conservative figure for the daily number of target and accuracy rejects which I had was 20%. I recall a low of about 5% and sometimes highs of 50%. These were the rifles that had to be bent.

Sometimes during the regular day shift we were supposed to bend rifles while we were targeting them and while the government man was out of sight. This not only reduced the accumulation of rejects but it also reduced the figures of rejects appearing on the company's books—it made it appear that we had a lower rejection percentage than actually occurred. Bending usually was done during over-time.

In 1968 I witnessed Shawn Brown's demonstration of the bending for Colonel White. I was at the next firing station. Cliff Allen objected to Brown's offer to demonstrate, telling Brown he should keep out of it (the official tour). Brown told the colonel that he doubted the value of the bending process in terms of a permanent repair. A little while later, Brown was escorted off the company grounds. After that, neither I nor Shawn nor Peter Taylor ever bent a rifle again. We weren't allowed to do any over-time work as long as we refused to bend.

I told several supervisors on many occasions that I disapproved of the company's policies regarding the performance tests, and the bending procedures. I spoke about these things with Holledofer, Allen, Ivy, Ed Foley, and a government quality assurance inspector whose first name was Jerry, and who was from the Springfield Armory. I didn't believe that bending actually fixed the weapons. Often we would bend a rifle and target it. It would hit the target after bending, but wouldn't group within the 4.8 inch area specified. Later we would chamfer the muzzle (an approved countersinking action performed on the end of the barrel) and refire the weapon, only to find it had returned to its original inaccuracy—completely failing to hit the target. This led me to believe that bending was ineffective.

STATE OF CONNECTICUT,
County of Hartford, ss:

Then and there personally appeared the above-named subscriber, Vearon S. Corlis who made solemn oath to the truth of the foregoing statements by him subscribed, before me.

[SEAL.] FLORENCE R. GILLETT,
Notary Public.

NOVEMBER 10, 1971.

Hon. JOHN MITCHELL,
Attorney General, Justice Department, Washington, D.C.

DEAR MR. MITCHELL: On November 1, the Connecticut Citizens Action Group released a study detailing a program of systematic subversion by Colt Industry of their own program of quality control in the manufacture of the M–16 rifle. In this study not only has the integrity of a major arms manufacturer been called into question, but serious doubts have been expressed about both the effectiveness and seriousness of the government program of inspection.

I have released today the text of seven affidavits of Colt workers which details their case against Colt and the government.

One of the affidavits charges that a government inspector worked on newspaper crossword puzzles while the M–16 rifles were being test fired. Another affidavit asserts that an inspector who saw workers bending rifle barrels said or did nothing. One worker has stated in his affidavit that government men were often persuaded by Colt's quality control engineer, to accept a company excuse for malfunctionings and thus allowed defective weapons to be accepted, and whole lots delivered. Another worker claimed that he informed a government inspector of Colt's policy of bending weapons by hand or pounding them on the floor. Nothing, the worker reported, was ever done.

On the basis of the charges in these affidavits I am requesting a complete and thorough investigation of the systematic subversion of the M–16 quality control program and possible collusion between company officials and government inspectors. An investigation should be undertaken to determine (1) the adequacy of the government's program of inspection, (2) means of eliminating Colt's policy of subverting its own quality control system and (3) the rate of failure of the M–16 rifle in the field.

The government has a responsibility to deliver only the best equipment. Both Colt's management of quality control system and the government inspectors lack of vigilance may have endangered the lives of American fighting men in the field.

Sincerely,

LES ASPIN,
Member of Congress.

NOVEMBER 10, 1971.

Hon. MELVIN LAIRD,
Secretary of Defense, The Pentagon, Washington, D.C.

DEAR MR. LAIRD: On November 1, the Connecticut Citizens Action Group released a study detailing a program of systematic subversion by Colt Industry of their own program of quality control in the manufacture of the M–16 rifle. In this study not only has the integrity of a major arms manufacturer been called into question, but serious doubts have been expressed about both the effectiveness and seriousness of the government program of inspection.

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Sincerely,

LES ASPIN,
Member of Congress.

RESERVE ROLE IN TOTAL FORCE CONCEPT AS EXPRESSED BY DR. TED MARRS

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 10, 1971

Mr. THURMOND. Mr. President, the November 1971, issue of the Officer, the official magazine of the Reserve Officers Association, contains an interview-type article concerning Dr. Theodore C. Marrs, Deputy Assistant Secretary of Defense for Reserve Affairs.

In the interview, Dr. Marrs is asked some important questions about the future of the Reserve forces and how the increased emphasis on Reserves is being implemented.

Mr. President, Dr. Marrs offers a lucid and frank explanation of these matters. I ask unanimous consent that his answers be included in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DR. MARRS CITES ADVANCES IN TOTAL FORCE PLAN

TOTAL FORCE CONCEPT PRESENTS NEW MISSIONS, NEW RESPONSIBILITIES

Dr. Marrs, the members of ROA heard with hope and pleasure the statements by you and other officials of OSD that the Reserves are being given a larger share of the Defense mission and greater support to accomplish the task. Although the statements sound good, we would like to know what actions are being taken to make stated policy a reality.

When you are seeking to attain reality, you must be realistic in your assessment of progress and must recognize that major changes do not occur overnight. On the other hand, a look at the record will show that the actions to date by OSD and the Services are in consonance with the stated policies of Secretary Laird and that the first steps toward reality of the Total Force have been taken.

One indicator is the manner in which policy has been interpreted in governing policy directives. While a listing of all the revisions pertaining to the Guard and Reserve would be too long for the editor to handle, some samples may serve to show the type of changes which are being made.

Changes being made

DoD Directive 1225.6 now requires that the Guard and Reserve units be issued combat-serviceable equipment in quantities and in accord with priorities required for the performance of training and accomplishment of mobilization missions. In the Army Components, this means Standard A and B equipment as opposed to the contingency and training standards which once characterized the bulk of the Guard and Reserve inventories. In the Navy, it means fleet-compatible ships, aircraft and other unit equipment which can be used in concert with that of the Active Force. In the Air Force, it means combat-capable, mission-effective aircraft and support equipment of all types.

DoD Directive 1235.10 incorporates the lessons learned in past mobilizations into a new compilation of procedures and standards for the mobilization of all Reserve Component units and individuals.

DoD Directive 7180.1 establishes controls and procedures for the identification and use of moneys earmarked for the Reserve Components and places the budget reins in the hands of the Chief of each Component.

But application and implementation of new Guard/Reserve policies have not awaited the publication of new directives, and there are solid, measurable impacts of the Total Force concept. One of these was the share of the Defense Budget for Fiscal Year 1972 which was requested for support of the Guard and Reserve. The Guard/Reserve budget of $3.1 billion for FY 1972 is almost 50 percent greater than the $2.1 billion figure of FY 1969—an increase which occurred while the total Defense Budget showed a decrease. This is significant.

Total force steps

Other actions by the Services illustrate realistic implementation of the Total Force policy:

Army issues of combat serviceable equipment to the Guard and Reserve during the past two years had a value of more than a billion dollars—a far cry from the five-year period ending in 1969 when the value of assigned combat serviceable equipment decreased by $72 million. And these issues include M–16 rifles, M–60 tanks, modern vehicles, new generation radios and late model aircraft—both fixed-wing and rotary. To expedite the equipment flow, the Army has budgeted special funds for depot rehabilitation of additional first-line equipment for issue to the Reserve Components.

The Navy has accomplished the first increment of its program to replace older ships assigned to the Reserve with fleet-compatible, modernized vessels which greatly increase the productivity of training as well as combat capability. The Naval Air Reserve reorganization has resulted in better equipment levels and quality as well as new concepts of training and operations which produce combat capable units. And proof of this is the fact that operational readiness inspections during carrier operations have confirmed the air crew readiness of the first Naval Air Reserve squadrons to undergo testing.

The Marine Corps continues to modernize its 4th Division right along with the active force, and to bring more capable aircraft (including new OV–10s) into the 4th Air Wing.

The Air Force is performing conversion, modernization and mission changes in the Guard and Reserve at the fastest rate in history * * * the associate unit program is being expanded to include the C–5 as well as the C–141 and C–9, and involvement of the Reserve Components in active force operations continues to characterize the training emphasis.

The record contains many other developments, but those I mentioned should be sufficient to show that actions are truly speaking with the same volume as words. We recognize the existence of additional problem areas—and we shall pursue actions in these areas to eliminate or minimize problems which hamper our progress.

Changes create problems

Is it not a fact that "modernization" of Air Force Reserve units has actually reduced capability?

It is an historic fact that, whenever you change missions or equipment in a military unit, there is a period when capability and readiness drops as people are trained in new skills, transition is completed, and readiness training reaches desired standards. The rapidity with which changes are taking place in the Air Guard and Air Force Reserve today has created some special problems which are delaying the reconstitution of combat readiness.

Required construction and modification of facilities have not been able to keep pace with the receipt of newer aircraft. Some support equipment is in short supply. Requirements for retraining of personnel (including technicians) have exceeded the programmed availability of school spaces. It has been necessary to limit the numbers of aircraft authorized for certain types of units in order to maintain required organizational structures until additional aircraft become available. These difficulties are being met by the units with their usual great enthusiasm for doing the impossible, but they are bound to cause drops in current capability and in some cases extended delays in the reattainment of standard readiness levels. It is the Air Force opinion, and OSD concurs, that the resultant and eventual increase in total force capability through modernization of the Guard and Reserve is worth the temporary decrease in current capability.

We have heard reports that Secretary Laird's repeated emphasis on the Total Force concept and the Williamson Study which he directed have met with resistance on the part of the Service staffs. Is this an indication that Active Force attitudes toward the Reserves oppose any increase in Reserve roles or readiness?

Total force acceptance

It has been my experience that there are always elements of any organization which are reluctant to accept change. I can remember Air Force Reservists who didn't want to give up their C–119s and change to four-engine aircraft—others who didn't want any part of the associate unit program.

The degree to which the OSD and Service staffs have accepted the Total Force concept and are implementing it is almost without parallel. The increases in equipment flow and the other actions we can see are only secondary to the change in thinking which has taken place.

Acceptance has not been unanimous or total, and I think this is both normal and healthy. New ideas and new initiatives should be subjected to severe questioning—thoroughly evaluated and, if necessary, field tested—before they become an accepted program. We have, in fact, built into our guidance regarding the OSD Reserve Components Study a requirement for such evaluation.

Part of the task of the Guard and Reserve under the Total Force concept is to prove their eligibility for increased reliance—to accept the new missions, new equipment and new responsibilities which are being thrust upon them and demonstrate their ability to measure up.

Markedly improved support

The Active Forces are making available markedly improved support of all types. If some Active Force members are waiting to see how well the Guard and Reserve do with this unaccustomed wealth of assistance, then my advice is to show them. As leaders of the Reserves, the members of the Reserve Officers Association have an unequalled opportunity to demonstrate the effectiveness of Reserve leadership in dispelling any doubts the Active Force may entertain.

Does the full application of the Total Force Concept include expansion of the individual Reservist's role as well as that of combat and combat support units?

The simple answer to this question is "yes"—the Total Force concept applies the full resources of the Guard and Reserve components to the requirements of national security.

Taking into consideration the hows and whens, however, makes the answer somewhat more complex. I think we all understand that there are priorities and that the first priority in application of the Total Force Concept must be increasing the capability and readiness of the units which comprise the force structure required to meet mobilization needs. Another priority is to reorient some of our people-holding programs into unit structures designed to fill unmet mobilization needs.

These priority emphases do not by any means preclude expansion of the individual mobilization assignment programs or other individual training elements. If the Services show us a training program which will produce needed and real personnel readiness and hold interest, and propose funding which will support Service efforts to obtain the resources necessary.

No made positions

It should also be clearly understood, however, that the effort to structure the Total Force which will most effectively and economically meet national security needs does not allow for the creation of jobs or programs to "make a position" for anyone—GOs or GIs—Regular, RAD Reservist, or member of the nonactive duty components.

We have stated and restated that our policy is to make maximum use of our highly skilled manpower resources—and, in accord with priorities. We hold firm to this policy.

We recognize that steps toward Total Force reality must be taken in order of priority and that readiness of the existing Reserve Forces structure is the primary objective. What do you see as the principal constraints to attainment of this goal?

One ever-present constraint is the availability of funds. Within the Total Force framework, the Guard and Reserve expenditures are justified on the basis of the same priorities as Active Force expenditures. Admittedly, the Guard and Reserve enjoy an advantage in the present Defense climate because of the recognition that sustaining a given peacetime structure is less expensive in the Reserve Components than in the Active Forces. However, the Guard and Reserve have to prove by their own performance a useful and credible military force.

Public acceptance problem

Another constraint is the degree of public acceptance of the military in general and of the Guard and Reserve specifically as an honorable and necessary part of society. While the problem involved here is national and regional as well as local, it shows most vividly at the unit level where decisions on enlistment, reenlistment and participation depend to a great extent on the attitude of peer groups neighbors, families and employers. We are initiating an effort to mobilize the business community nationally in support of the Guard and Reserve program. Our ability to obtain general adoption of personnel policies and practices which will recognize and encourage the citizen-soldier role of the Reservist-employee will depend largely on the degree to which we are supported by ROA and other national organizations.

Perhaps the major constraint to the full realization of the Total Force reality is the receptiveness of Guard and Reserve leaders to the new challenge and broad opportunities for service contained in the Total Force concept. Leadership is the real key. And while I do not advocate blind, unquestioning acceptance of new ideas by Reserve leaders any more than by Active Force leaders, I strongly urge receptiveness to good new ideas.

The accelerated flow of equipment to the Reserve Components is creating real and pressing problems, but the best guarantee of obtaining the technicians, facilities and other support requirements generated by the flow is to invoke the principle of field expediency if necessary to put this equipment to work and build combat readiness. Streamlined organizational structures, tailored to specific mobilization needs, are causing some dislocations, but such dislocations are being held to a minimum, and the talents and training of these people must be used by

the Services to the maximum extent in the development of reserve organizations to meet new requirements generated by the Total Force concept.

Dissension aids opponents

Fighting among ourselves about the details of program implementation, complaining about the demands created by equipment flow, or trying to obtain "make job" programs under the guise of Total Force will provide ammunition to those who have doubts about the capability of the Guard and Reserve to be part of the Total Force.

Balanced against these constraints is the most potent array of sincere and dedicated leadership which has ever been brought to bear on improvement of the Guard and Reserve: Secretary Laird and Secretary Packard—the signers of the Directives and decisions which make Total Force an attainable objective; Secretary Kelley—whose support of the Guard and Reserve has been evident, within the corridors of the Pentagon and also in the halls of the Congress.

And speaking of the Congress, there is no more outstanding example of leadership than that demonstrated by the Armed Services Committees of the Senate and the House, their distinguished and dedicated Chairmen, and the many other members of the Congress and staff members who not only provide the support for accomplishment of Guard and Reserve objectives but also encourage us to attempt and attain new heights of achievement.

When I speak of constraints and challenges, I do not minimize the job that lies before us in living up to the role which Secretary Laird has set forth for the Guard and Reserve. But I believe that our leadership—and I count Jerry Hart and his team in the Reserve Officers Association as an essential part of that leadership—is equal to the task.

PROBLEM OF SOVIET JEWRY

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. MINISH. Mr. Speaker, under the able direction of the chairman, the Honorable BENJAMIN ROSENTHAL, of New York, the Subcommittee on Europe of the House Committee on Foreign Affairs has held extremely useful hearings this week on the problems of Soviet Jewry.

Among the distinguished witnesses was Rabbi Zev Segal, chairman of the Essex County Conference on Soviet Jewry—New Jersey—who has labored unceasingly to secure redress of the grievous wrongs suffered by Soviet citizens of the Jewish faith. It was my privilege to introduce Rabbi Segal at the hearing and to witness the profound impression his testimony made upon the committee and audience. Since it merits the attention of all Members of the Congress, I am pleased to insert into the RECORD Rabbi Segal's statement at the session on November 9.

STATEMENT BY RABBI ZEV SEGAL

Mr. Chairman, and distinguished members of the House subcommittee on Europe. My name is Rabbi Zev Segal and the testimony which I am privileged to present for your consideration is on behalf of the Essex County Conference on Soviet Jewry. This organization, which I have served as Chairman for the past three years, comprises some 26 local religious and secular organizations which embrace all of Essex County's Jewish population totalling some 100,000 persons.

It would be gratuitous on my part to recount for you the tragic nature of what it means to try to live as a Jew in the Soviet Union today. The grim features of the religious, cultural and physical persecution perpetrated by the Soviet Union upon its Jewish citizens have been thoroughly researched and carefully documented by scores of objective observers as well as by those Jews who have managed to flee to Israel and other parts of the Western World.

Just a few weeks ago, the Essex County Conference held a Rally of Concern for Soviet Jewry in South Orange, N.J. For this occasion, Seton Hall University, a distinguished Catholic center of higher education, offered its facilities. The audience heard messages of concern from the University President, Msgr. Thomas G. Fahy, The Reverend Paul Stagg, General Secretary of the New Jersey Council of Churches, our own distinguished Congressman from New Jersey, Joseph Minish, and Mr. Gustav Heningburg, President of the Greater Newark Urban Coalition. I call your attention to copies of news stories reporting this remarkable demonstration of religious and racial solidarity with Soviet Jewry. I cite this event because to me it is a most heartening and significant evidence that the plight of our fellow Jews is of real concern to all men of good will.

Let me quote a few excerpts from Mr. Heningburg's remarks which interpret my feeling in a most eloquent manner. He said, "I am a black American, preoccupied since birth with survival in a nation which has not yet, even in 1971, abandoned its efforts to destroy or inhibit my freedom, history and cultural heritage. Given that reality, it may be reasonable for some to wonder why I am here tonight, joining with you in an expression of concern about Jews halfway around the world. The answer is so obvious as perhaps not to be obvious. They are the same as those which brought so many to the march on Washington on behalf of American Blacks. It would be the height of hypocrisy for me to demand freedom from all forms of oppression for myself, my brothers and my children, while being unconcerned about the freedom of others . . . What a charade it would be for me to challenge and attack racism in America and sit complacently by while three and a half million Jews face physical, spiritual and religious persecution in Moscow and Leningrad and Kiev and Vilna, and Minsk and Odessa."

At the same Rally, Dr. Mikail Zand, the internationally known Soviet Jewish scholar, was our guest speaker. Dr. Zand who for years has been an active spokesman for those Russian Jews wishing to depart for Israel, said this, "We are no longer the Jews of silence," referring to his brothers and sisters in the Soviet Union. "But many people who have to help us are now silent."

And this brings me to the heart of what I wish to discuss with you. Soviet Jews have seized the initiative in demanding their right to either live fully Jewish lives in the Soviet Union—or, failing this, their right under Soviet law and the Universal Declaration of Human Rights, to depart for Jerusalem. Those of us who remember the tragedy of the Warsaw Ghetto Uprising and the thousands of Jewish lives that were lost in that heroic encounter with the Nazis are fearful that history may repeat itself. I think it is fair to say that the new, vigorous, outspokenness of Russian Jewry has been, at least in part, fanned and encouraged by demonstrations of support and concern voiced by a myriad of groups and individuals, large and small, throughout the civilized world. It would be a disaster, ladies and gentlemen, if the worldwide outcries in which we have been participating were to diminish or regress. Its inevitable result would be to isolate and make most vulnerable those Russian Jews who are now demanding their human rights.

We are deeply grateful for recent statements in behalf of Soviet Jewry by Mrs. Rita Hauser, U.S. Representative to the U.N. Human Rights Commission and Mr. George Bush, U.S. Ambassador to the U.N. We are equally appreciative of the concern voiced recently by Mr. Fletcher, the United States representative on the Third Commission on "Elimination of all forms of Racial Discrimination."

Similarly, I must applaud the recent statement by Attorney General John Mitchell concerning our government's new parole policy in regard to those Jews able to obtain exit visas to the United States. These actions by our government's ranking officials make it clear that the United States government fully accepts its responsibility, not only to focus world attention on the Soviet Jewish issue, but to take concrete steps to persuade the Soviet authorities to release those Jews who wish to emigrate.

Finally, I would respectfully suggest some specific actions which I hope will receive your thoughtful consideration: 1. In order to sustain the morale of Soviet Jewry, I urge that America's broadcast facilities, particularly the Voice of America, increase substantially the number of Jewish cultural programs beamed to the Soviet Union and other Iron Curtain Countries. 2. America's concern with Soviet Jewry can and should be more forcibly voiced in the United Nations. I am not referring to the UN's special subcommittees, but rather its highest councils. For too long the pleas and messages from responsible organizations urging full rights for Soviet Jewry have been pigeonholed and are gathering dust in committee folders in the UN basement. Several months ago, thanks to Congressman Minish's good offices, thousands of petitions addressed to President Nixon and pleading for his intercession in behalf of Soviet Jewry, were delivered to the State Department. We have yet to learn whether President Nixon or any of his staff have received these documents. I would hope that Secretary of State Rogers, in his consultations with the President, would suggest to him that it is vital to negotiate in behalf of Soviet Jewry on all levels of intercourse with the diplomatic arms of the Soviet Union.

In closing, let me again express my deep appreciation for the honor and privilege of bringing these heartfelt feelings and concern to your attention. I can assure you that America and the free world are counting on your moral leadership in this valiant struggle for human freedom.

Thank you.

DEATH OF ROBERT H. PORTERFIELD

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Wednesday, November 10, 1971

Mr. SPONG. Mr. President, the recent death of Robert H. Porterfield is a loss to the country, particularly to Virginia, where Mr. Porterfield organized the now world-known Barter Theater during the height of the depression.

Mr. Porterfield was a good and kindly man, who dedicated his life to the theater. He provided entertainment for many thousands who, otherwise, may not have been given the opportunity to see live theater. In the process, he gave opportunity to many young people who later became famous actors and actresses after learning the profession under Mr. Porterfield's guidance. Mr. Porterfield is memorialized in Virginia through the pleasure he gave so many.

Much-deserved tributes have been paid Mr. Porterfield in editorials published in Richmond Times-Dispatch and the Washington Evening Star and in a feature article published in the Norfolk Virginian-Pilot. I ask unanimous consent that these items be printed in the Extensions of Remarks.

There being no objection, the editorials and article were ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star]

A VISION THAT SUCCEEDED

"The State Theatre of Virginia" it is called, and at first glance that seems presumptuous for an establishment with such a modest marquee, on a small-town street far down in the hills. But the Barter Theatre at Abingdon is something very special to Virginians. And the man who founded it, and who died last week, was someone very special.

When Robert H. Porterfield moved back to his home area in 1932 to start a professional stage theater, few people thought he would last more than six months. The depression had thrown scores of New York actors, himself included, out of work, and also had made it hard for rural Virginians to sell their farm products. So he conceived of a barter theater, in which hungry actors would perform for payment in produce.

The amazing thing is that it worked. Bacon and beans flooded in and toil-weary farmers watched Shakespeare. Then a trickle of hard money began coming (including some from the legislature), and many young actors who later became renowned received their first chances at the Barter. Its stage was honored by such famous people as Ethel Barrymore and Helen Hayes.

It is nationally known and acclaimed now, but its main contributions are to Virginians, as a cultural asset and tourist attraction. A memorable ambience envelops it. On a certain summer evening not long ago, for example, a visitor would have found Macbeth playing, and Porterfield taking tickets at the door, and high school students pouring out of buses to fill the theater. They listened raptly, and when the play was over they departed into a quiet and flower-scented night. Across the street, a historic antebellum inn with tall columns was bathed in moonlight and memories.

To this small town Robert Porterfield brought a fine vision that flourished because of his untiring work and his warm and powerful personality. The theater is a living legacy, and we trust that its curtain will go up on schedule for next year's season, and for many more after that. There is nothing else like it in the nation.

[From the Richmond Times-Dispatch, Oct. 30, 1971]

ROBERT PORTERFIELD

The death of Robert Porterfield, Barter Theater's founder, has cast a pall of genuine, affectionate sorrow over thousands throughout the nation. Some have known him only as the charismatic person whose potent drawl charmed nightly audiences with witty curtain speeches at his Abingdon playhouse. Others of the theater world feel deeply indebted to the man who created the concept of regional theater when he took Depression-plagued actors out of New York and bartered their performances for produce, tendered at the box-office of the erstwhile Town Hall. Others, now stage and screen stars of international repute, credit him and giving them their first chance to learn their craft.

It may come as a surprise to those who consider Bob Porterfield only in the context of show business that his dedication to theater largely grew out of his love for his home state. Born and reared in tiny Glade Springs on acres that had been in his family for 200 years, his life-long dream was to bring attention to Virginia in general and the Virginia Highlands in particular.

A few years after the 1932 formation of Barter Theater, he toured his companies to every available hamlet, auditorium and meeting hall in the state because he had learned that 90 percent of the people of Virginia had never seen a live actor. Later, when costly out-of-state tours were planned, he importuned the Virginia Legislature to grant appropriations and to acknowledge the Barter as the official State Theater. True, the annual subsidy scarcely paid for one week's touring expenses, but it was a source of pride to Bob Porterfield that he could boast of his state as the first in the nation to support its own theater.

The famous Barter Theater Awards also had their element of chauvinism. They were presented annually for an outstanding contribution during a New York theater season and consisted of "a Virginia ham, a platter to eat it off of, an acre of land on the mountains of the Virginia Highlands and the right to award scholarships to two deserving young actors." The platter came from the Cumbow China Shop in Abingdon and the acre of land was mostly perpendicular, but that didn't deter award winners from coming to Abingdon to view their property and, under Porterfield's persuasive enthusiasm, to decide that his Virginia Highlands were about the most enticing acres in the world.

In later years, Porterfield also directed his energy into affairs of the Virginia Travel Bureau, the State Conservation Commission and the State Department of Education.

There is little doubt that he turned modest Abingdon into the home of a nationally recognized phenomenon of the theater world or that his contributions to that world can be reckoned in the myriad delights he produced for audiences and the scores of careers he aided. But his service to his state through his talents and persistence is incalculable.

[From the Norfolk Virginian-Pilot]

THE SHOWMAN THEY CALLED "MR. P"

Bob Porterfield used to have a group of well-heeled friends he called his "in-the-hole-committee." That consisted of people like Lady Astor and Eleanor Roosevelt, he didn't want broadcast too widely. He often called on them for help when things at his Barter Theater were in a bad way. They knew this and almost without fail responded with a check.

"Bob Porterfield was the Barter Theater," Governor Holton said at his death last week.

"Mr. P," as he was known to hundreds of actors, directors, and producers in the theater, had a way of making friendships easily and keeping them. You might not always like Mr. P's casual way of doing things (hundreds of letters from important people would pile up on his desk unread) or the way he occasionally mistreated actors. For many years he would not allow members of the acting company to go into Abingdon for fear the townspeople would revolt against the odd costumes and manners and throw the Barter out of town. But you never lacked respect for the courage he had shown in trying what many people believed impossible, starting on a shoestring a professional theater in a rural Southwest Virginia town of about 5,000 and making it work.

The memory of people in the theater is shortlived. Yesterday's hit is today's college literary exercise, a dull fate for the playwright's craft forged as it is in the heat of battle; or, worse, yesterday's hit is today's late movie. Mr. P's career spanned a great many years, nearly all of them taking place in the heat of battle. The one man in the theater he used to talk about more than any other was David Belasco, the great showman. Mr. P met Belasco once, had read at an impressionable age Belasco's pronouncements on the theater, and kept his admiration for Belasco's belief in the importance of theatrical illusion—that which separates the stage from and makes it bigger than everyday reality.

This was what Mr. P wanted the theater to be. He wanted it bigger, filled with a magic beauty that would give people a feeling of being involved in something larger than themselves.

Mr. P's showmanship was evident in a multitude of ways. There was the incredibly naive idea of doing "Romeo and Juliet" (with him doing Romeo) in rural Abingdon during the Depression, when people had no money and couldn't be bothered with star-crossed lovers, or at least thought they couldn't. Weren't many of the people in Southwest Virginia not only poor but illiterate as well?

There was the shrewd idea of mixing Shakespeare with folk plays about the mountain people themselves. Mr. P, who was born and grew up about 30 miles from Abingdon, especially liked these plays. He played the title role in "The Virginian," a play in the same genre if not about mountain people, hundreds of times, and the people would come back to see it a second, third, and fourth time.

To gain publicity for the Barter, there was his idea to give an award, a Virginia ham and an acre of Southwest Virginia land (actually land on a scrubby mountainside on Mr. P's farm), to the best Broadway actor and actress each season—long before the Tony Awards came into existence.

There was also his annual Ground Hog's Day newsletter, received by Kings and Queens as well as the humble.

Mr. P has never received full credit for being the first modern producer to dare step out of New York to present a season of plays, in repertory, with a full professional company. The Arena Theater in Washington, the Guthrie Theater in Minneapolis, and the Alley in Houston, and all the others took the Barter Theater as their model.

Every night, Mr. P. delivered a curtain speech. After introducing himself, he would give away a pair of Mary Gray nylon hose to the person in the audience who had come from the greatest distance. When a man won the hose, it was always time for a terribly corny and vaguely risque joke followed by Mr. P's rolling laugh which immediately wiped out any hint of the risque.

He always ended his speech with the same two-liner:

"If you like us, talk about us. If you don't, just keep your mouth shut."

His voice would crack like a teenager's voice in transition at the word "just." It was the same every night and people who knew it was coming waited for it eagerly and always laughed in the same place. They knew and liked Bob Porterfield. You couldn't help but like him.

FOREIGN AID TO ICELAND

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. RARICK. Mr. Speaker, Iceland, population 203,400, is scheduled to receive $802,000 worth of wheat, flour, and tobacco from the United States under a Food for Peace agreement. This figures out just under $4 in U.S. taxpayers' money for every Icelander.

This announcement follows Iceland's vote to seat Red China in the United Nations. It cannot be considered a bribe nor a peace offering for alinement with the free world.

I insert a news clipping:

[From the (Washington, D.C.) Evening Star, Oct. 29, 1971]

UNITED STATES TO AID ICELAND

The United States will furnish Iceland with $802,000 worth of wheat, flour and tobacco by next June 30 under a Food for Peace agreement, the Agriculture Department announced yesterday.

A spokesman said the agreement is the first for Iceland under the aid program.

INFLATION—CAUSE AND EFFECT

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. ROUSSELOT. Mr. Speaker, one of the major problems, we are told, confronting this Nation today, is inflation. Ludwig von Mises, a classical economist, has written many books and documents clearly outlining the causes and effects of inflation. At the close of World War II, this Congress was wrestling with the question of whether wage and price controls should be continued at the conclusion of the war. On December 20, 1945, Ludwig von Mises wrote an article in the Commercial and Financial Chronicle, which is a very concise and to-the-point document on the causes and effects of inflation. He spoke very directly to the issue as to whether wage and price controls really do solve the problem of inflation.

I commend this article to my colleagues' attention because it directly applies to the very issue that we are now considering as a Congress, that is, whether or not we will extend Federal wage and price controls:

[From the Commercial and Financial Chronicle, Dec. 20, 1945]

EFFECTS OF INFLATION

(By Ludwig von Mises)

Inflation is the process of a great increase in the quantity of money in circulation. Its foremost vehicle in continental Europe is the issue of non-redeemable legal tender notes. In this country (the U.S.) inflation consists mainly in government borrowing from the commercial banks and also in an increase in the quantity of paper money of various types and of token coins. The government finances its deficit spending by inflation.

Inflation must result in a general tendency towards rising prices. Those into whose pockets the additional quantity of currency flows are in a position to expand their demand for vendable goods and services. An additional demand must, other things being equal, raise prices. No sophistry and no syllogisms can conjure away this inevitable consequence of inflation.

The semantic revolution which is one of the characteristic features of our day has obscured and confused this fact. The term "inflation" is used with a new connotation. What people today call inflation is not inflation, i.e. the increase in the quantity of money and money substitutes, but the general rise in commodity prices and wage rates which is the inevitable consequence of inflation. This semantic innovation is by no means harmless.

First of all there is no longer any term available to signify what "inflation" used to signify. It is impossible to fight an evil which you cannot name. Statesmen and politicians no longer have the opportunity to resort to a terminology accepted and understood by the public when they want to describe the financial policy they are opposed to. They must enter into a detailed analysis and description of this policy with full particulars and minute accounts whenever they want to refer to it, and they must repeat this bothersome procedure in every sentence in which they deal with this subject. As you cannot name the policy "increasing the quantity of the circulating medium," it goes on luxuriantly.

The second mischief is that those engaged in futile and hopeless attempts to fight the inevitable consequences of inflation—the rise in prices—are masquerading their endeavors as a fight against inflation. While fighting the symptoms, they pretend to fight the root causes of the evil. And because they do not comprehend the causal relation between the increase in money in circulation and credit expansion on the one hand and the rise in prices on the other, they practically (i.e. as a practical matter) make things worse. . . .

. . . The problems the world must face today are those of runaway inflation. Such an inflation is always the outcome of a deliberate government policy. The government is on the one hand not prepared to restrict its expenditure. On the other hand it does not want to balance its budget by taxes levied or by loans from the public. It chooses inflation because it considers it as the minor evil. It goes on expanding credit and increasing the quantity of money in circulation because it does not see what the inevitable consequences of such a policy must be.

There is no cause (in 1945) to be too much alarmed about the extent to which inflation has gone already in this country. Although it has gone very far and has done much harm, it has certainly not created an irreparable disaster. There is no doubt that the United States is still free to change its methods of financing and to return to a sound money policy. The real danger does not consist in what has happened already, but in the spurious doctrines from which these events have sprung. The superstition that it is possible for the government to eschew the inexorable consequences of inflation by price control is the main peril. For this doctrine diverts the public's attention from the core of the problem. While the authorities are engaged in a useless fight against the attendant phenomena, only few people are attacking the source of the evil, the Treasury's methods of providing for the enormous expenditures. While the bureaus make headlines with their activities, the statistical figures concerning the increase in the nation's currency are relegated to an inconspicuous place in the newspapers' financial pages.

Here again the example of Germany may stand as a warning. The tremendous German inflation which reduced in 1923 the purchasing power of the mark to one billionth of its prewar value was not an act of God. It would have been possible to balance Germany's postwar budget without resorting to the Reichsbank's printing press. The proof is that the Reich's budget was easily balanced as soon as the breakdown of the old Reichsbank forced the government to abandon its inflationary policy. But before this happened, all German would-be experts stubbornly denied that the rise in commodity prices, wage rates, and foreign exchange rates had anything to do with the government's method of reckless spending. In their eyes only profiteering was to blame. They advocated thoroughgoing enforcement of price control as the panacea and called those recommending a change in financial methods "deflationists."

The German nationalists were defeated in the two most terrific wars in history. But the economic fallacies which pushed Germany into its nefarious aggressions unfortunately survive. The monetary errors developed by German professors such as Lexis and Knapp and put into effect by Havenstein, the Reichsbank's President in the critical years of its great inflation, are today the official doctrine of France and of many other European countries. There is no need for the United States to import these absurdities.

BLUNDERING AMERICAN POLICY IN ASIA

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. HELSTOSKI. Mr. Speaker, one of the most perceptive and resourceful diplomats our Nation has produced, Chester Bowles, recently wrote an article on American policy in Asia which appeared last week in Saturday Review magazine.

In this essay, Mr. Bowles examines "Five Major Blunders by the U.S. in Asia" during this century. One of the most important of these disasters has been the continued, benighted American policy in the Indian subcontinent. For almost 20 years now the United States has callously peddled all manner of arms to the repressive government of Pakistan. With incredible naivete the Eisenhower administration accepted Pakistan's pledge that the millions of dollars worth of arms we were supplying, presumably to block a Soviet or Chinese thrust through South Asia, would never be used against India. The chickens of this myopic policy came home to roost in 1965, when, during the brief but bloody India-Pakistan War, ". . . every Indian casualty in the conflict was caused by an American bullet, bombshell, or hand grenade."

And, until this past Monday the administration allowed the supply of spare parts for these American-supplied weapons to continue despite the Pakistan dictatorship's genocidal military policy in East Bengal and the threat of renewed war between India and Pakistan. As we review the sorry record of American policy in South Asia set forth by Ambassador Bowles, it should no longer remain a mystery why American-Indian relations are at their lowest point in the last 20 years or why the world's largest democracy felt compelled in September to enter into a friendship and cooperation pact with the Soviet Union.

Mr. Speaker, as I include the Bowles article at this point in the RECORD, I would also like to remind my colleagues that I will be reintroducing with cosponsors next Monday a resolution on the Pakistan situation. The text of that resolution also follows:

RESOLUTION

Whereas there is tragic suffering and loss of life in Pakistan and India caused by starvation, disease and civil war in and about the eastern Indian states and East Pakistan and these conditions prevail today;

Whereas this situation has been caused and aggravated by the Pakistani Government in pursuit of genocidal military policies which constitute a crime against humanity;

Whereas increased shipments of food and medical supplies are needed to reduce the tragic rate of starvation and related deaths: Now, therefore, be it

Resolved, That it is the sense of the House that: (1) the President should act to increase significantly the amount of surplus stocks, relief moneys, noncombat aircraft, medical personnel and other such supplies and personnel as may be necessary for relief purposes; and that (2) this relief assistance should be made available to international relief organizations directly involved in the alleviation of conditions within that Asian sector and proportionate amounts should be made available to the Government of India; and that (3) the President should immediately suspend all forms of assistance to the Government of Pakistan, save humanitarian relief supplies, pending a peaceful settlement of the civil war in that country; and that (4) the President urge the Pakistani Government to end the strife in that country, such urging being undertaken through direct diplomatic channels and through the offices of the Southeast Asia Treaty Organization; and that, (5) the Government of the United States should solicit the cooperation of other nations in this humanitarian effort.

[From Saturday Review magazine, Nov. 6, 1971]

FIVE MAJOR BLUNDERS BY THE UNITED STATES IN ASIA

(By Chester Bowles)

(NOTE.—Chester Bowles retired from governmental service in 1969 after a long and distinguished career during which he twice served as U.S. Ambassador to India; from 1951 to 1953 and from 1963 to 1969. His political memoirs, *Promises to Keep*, were published this spring by Harper & Row.)

At the end of World War II, American prestige and influence in Asia were at their peak. We had liberated nearly a billion people from Japanese rule and followed our military victories with a flood of economic assistance for relief, rehabilitation, and development. The massive amounts of capital and technology that we provided for our former enemy—Japan—helped it to become within a single generation the third most productive nation in the world.

After this brilliant beginning, however, we appeared to lose our way. Greatly underestimating the revolutionary new mood in Asia in which people and ideas provided a powerful motivating force, we clung doggedly to the assumption that our enormous military capacity would enable us to write our own political ticket.

Let us examine our five most costly blunders and then consider what lessons may be learned from them.

1. China. Dr. Sun Yat-sen's emergence as President of China, following the collapse of the Manchus before World War I, provided us with a unique opportunity and challenge. But his pleas to the United States and the nations of Western Europe for economic and technological assistance were ignored, and in 1923 Dr. Sun reluctantly turned to the Soviet Union.

In the succeeding years China was torn by civil war between Nationalist forces under Chiang Kai-shek and the Communists led by Mao Tse-tung. During World War II, we helped train and equip twenty Nationalist divisions to oppose the Japanese and following the war helped train and equip forty more to oppose Mao Tse-tung. However, while Mao Tse-tung was offering each Red Army recruit five acres of land, we were supporting the old regime dominated by war lords, landlords, and monopolists who had been exploiting the Chinese people for centuries. At no time during those critical years did the U.S. government indicate a genuine understanding of the powerful political, economic, and social forces that were gradually creating a new China.

In the summer of 1951, General Albert Wedemeyer stated to a Senate committee, "China fell not for lack of military manpower or equipment, but for lack of spirit. The Nationalist armies could have defended the Yangtze with broomsticks if they had had the will to do so."

On December 7, 1949, just eight years after the Japanese attacked Pearl Harbor, Mao Tse-tung in Peking proclaimed the People's Republic of China. Our abortive effort to bolster a corrupt, reactionary, and ineffective government that had almost no following among the Chinese people thus came to a dismal end. With Senator Joe McCarthy leading the way, we then embarked on a bitter political witch hunt to determine who had "lost China," which further weakened our ability to deal effectively with new problems to come. Our traditionally close relationship with China makes our dismal record in dealing with modern China all the more tragic.

2. Korea. In January 1950, Secretary of State Dean Acheson in a speech before the Press Club in Washington drew a line defining our "national interests" in East Asia. The Philippines, Taiwan, and Japan were placed within that line, but South Korea was placed outside of it.

Six months later, when the Soviet-trained North Korean Army moved across the 38th parallel boundary line to invade South Korea, the U.S. government, no doubt to the surprise of China, the U.S.S.R., and North Korea, asked for and received a U.S. mandate to organize a United Nations army ot halt the invasion.

On September 15, General Douglas MacArthur landed U.N. forces at Inchon just below the 38th parallel borderline and cut off and largely destroyed the North Korean Army, which by that time had occupied most of South Korea.

But instead of halting the advance of the U.N. armies at the border from which the North Koreans had launched their attack, MacArthur, with no clear political guidance, proceeded rapidly to move his forces north. As the U.N. armies neared the Chinese border along the Yalu River, the Chinese launched a massive attack, precisely as they had threatened to do. The U.N. forces, caught by surprise, were forced to retreat 250 miles to positions below the 38th parallel.

In July 1953, two years and ten months later, we agreed to a ceasefire on roughly the 38th parallel, where the U.N. forces could have stopped in September 1950, with its stated mission accomplished. In the interim, some 25,000 additional American soldiers had been killed, plus many other officers and men of the U.N. army, and no one knows how many Koreans and Chinese. The cost was an additional $45-billion.

3. Taiwan. When Chiang Kai-shek with the remnants of his forces retreated to Taiwan following his crushing military defeat in 1949, we offered a security guarantee and generous economic assistance. Under the circumstances, this was a reasonable position. Unfortunately, our government then went much further and agreed to retrain and re-equip what was left of the Nationalist forces, not simply to protect Taiwan from invasion but to land on the mainland, "liberate" China from Communist rule, and re-establish Chiang Kai-shek's Nationalist government in Peking.

This bizarre undertaking was vigorously supported by the White House, the Pentagon, the State Department, and many influential members of Congress as "essential to our security." The relatively few American leaders who understood the military absurdity of this exercise were quickly cowed by the China lobby, spearheaded by the Committee of One Million.

4. Southeast Asia. During World War II, President Roosevelt often expressed his determination to keep the French from reestablishing their colonial position in Indochina. However, official papers in his library indicate that he was undercut by the Joint Chiefs of Staff, who were encouraged by the British to take a totally different position.

As a consequence, in May 1950, we agreed to underwrite the French effort to maintain their colonial position in Indochina as a *quid pro quo* for a French agreement to contribute twelve divisions to the recently organized NATO defenses in Europe. The purpose of this military aid, according to Secretary of State Acheson, was to assist France "in restoring stability and in permitting the Associated States of [French] Indochina to pursue their peaceful and democratic development [*sic*]."

In August of 1952, on my first visit to Saigon, an average of one freighter loaded with U.S. military equipment was arriving daily. Although the equipment we provided under this agreement amounted to $2.3-billion before the collapse of the French stronghold at Dienbienphu, the promised French divisions for NATO never appeared.

On February 4, 1954, less than two months before this disaster brought an end to the French military effort, Admiral Arthur W. Radford, chairman of the Joint Chiefs of Staff, told the House Foreign Affairs Committee that "the development of a broad strategic concept by the French and Vietnamese commanders in Indochina, supported by the United States' financial and military assistance, should ensure within a very few months a favorable turn in the course of the war. . . . Communist prospects of achieving any decisive immediate successes are nonexistent."

Following the French defeat, from which we appeared to learn nothing, we assumed a series of self-selected obligations that led to a new succession of errors. First, we helped sabotage the free elections in Vietnam that had been agreed to at the Geneva Peace Conference of 1954. We then poured in large amounts of military and economic assistance to prop up the new South Vietnamese government, with no serious effort to press that government to make essential reforms in land ownership and taxation, the lack of which had been a major factor in Chiang Kai-shek's failure in China. In 1961 we introduced U.S. Air Force and Army ground training units, followed in 1964 by a major commitment of American ground forces, plus air and naval support. In 1970 we invaded Cambodia and, in early 1971, Laos, in order, we explained, to "assure the peace."

The direct cost to the American people of the Vietnam debacle thus far is estimated by the Foreign Affairs Division of the Congressional Research Service at $120-billion in addition to the combat deaths (as currently reported) of more than 45,000 American soldiers and the destruction of the country and the people we had set out to "save."

5. South Asia. This blunder is now being compounded by the same kind of military and political miscalculations that have cost us so dearly elsewhere in Asia.

The sequence of errors began in the fall of 1953, six months after I resigned as U.S. Ambassador to India, when Ayub Khan, then Chief of Staff of the Pakistani Army, came to Washington with a proposal of Pakistani military and political "support" for U.S. policies in Asia in return for a large grant of military assistance.

On December 23, 1953, I wrote Secretary of State John Foster Dulles describing what I believed to be the danger of a U.S. military

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pact with Pakistan. Such an arrangement, I wrote, would exacerbate relations between India and Pakistan, divert their resources from economic development to an arms race, increase the possibility of war, and ultimately lead to much closer relations between India and the U.S.S.R. It was no more sensible, I said, than an attempt by France or the Soviet Union to build up Mexico's military capacity vis-a-vis the U.S., or that of Denmark vis-a-vis Germany.

In a speech to the Indian Parliament in February 1954, Nehru described the proposed U.S.-Pakistani agreement as "a step that will bring the threat of war to our frontiers." He also pointed out that the military equipment that the Pakistanis had requested from us had no relevance to our stated objective, i.e., the creation of a Pakistani Army and Air Force capable of opposing a Soviet or Chinese military movement through the Himalayan or Hindu Kush passes. The tanks, fighter planes, and motorized artillery that the United States had agreed to give Pakistan were unsuitable for mountain warfare. They were designed for use on flat terrain; in other words, on the plains of northern India.

But this was only the first scene in a play that has continued for seventeen years. And, as each argument in support of U.S. military supplies for Pakistan has been challenged, its proponents have quickly and adroitly substituted a new explanation.

By the late 1950s, Mr. Dulles's assumption that West Pakistan (East Pakistan was 1,200 miles to the east and not a factor) could play a significant role in blocking a Soviet or Chinese military move into the Middle East and South Asia, began to be questioned by Congress, the press, and the public. The influential Pakistan lobby in the Pentagon and the State Department then quickly shifted its rationale. This aid, they said, was essential to ensure our continued access to the U.S. military base at Peshawar in Pakistan, from which the U-2 flights over the Soviet Union took off, thus providing the Pakistani government with one more lever with which to influence U.S. policy in South Asia.

In August 1965, some 5,000 Pakistani guerrillas infiltrated the Kashmir Valley and the brief but hard-fought Pakistani-Indian war began. Although President Eisenhower's pledge that we would never allow U.S. equipment to be used by Pakistan against India (later reaffirmed by Presidents Kennedy and Johnson) was broken, our government refused even to make a public protest. Since every Indian casualty in the subsequent conflict was caused by an American bullet, bombshell, or hand grenade, the Indian government, public, and press were predictably bitter. By then our military assistance to Pakistan totaled more than $1-billion.

Ironically, the political and military price that the Pakistanis exacted for our "indispensable" Peshawar base was spent in vain. In 1968, under pressure from the U.S.S.R., Pakistan refused to renew our agreement, and we were forced to leave the base the next year.

But the resourceful advocates of military assistance to Pakistan promptly pulled another rabbit out of the hat. American military equipment, it was now argued, must continue to go to Pakistan because "the Chinese will provide it if we don't," a rationalization that might be used with equal validity by a drug peddler selling heroin on a street corner.

In late March 1971, when the bloody upheaval occurred in East Pakistan, American military equipment was used by the Pakistani government to subdue its citizens in the eastern part of the nation whose crime was the overwhelming vote they had cast for greater autonomy within the Pakistan union in the December 1970 election—the first democratic election ever held in Pakistan.

Shortly after the fighting began in East Pakistan, the State Department and the Pentagon assured the Congress, the press, and the public that there would be no further deliveries of military equipment to West Pakistan until the political situation had settled down. But a few weeks later, an alert Congress and press disclosed that Pakistani ships loaded with military equipment for Pakistan were still quietly leaving American ports. By mid-July it was clear that this decision had been made in the White House, presumably as a *quid pro quo* for Pakistani assistance in setting up Mr. Kissinger's visit to Peking.

In September 1971, the Indian government, fearful of a combined attack by West Pakistan and China and convinced that now (unlike 1962) it could expect no help from the United States, signed a treaty of friendship and cooperation with the Soviet Union.

As this is written, the one man who might still make peace in South Asia is Mujibur Rahman, the charismatic president of the Awami League, which won 167 out of 169 seats in the East Pakistan constituent assembly in the elections of December 1970. But Mujibur is now languishing in a West Pakistan prison, having been charged with treason, the penalty for which, the Pakistani authorities emphasize, is death.

Without massive economic and military assistance from the United States, it is unlikely that West Pakistan can reassert its authority over East Pakistan. For better or for worse, the die has been cast; East Pakistan will eventually win its independence.

This series of blunders constitutes a shocking record of miscalculations, mismanagement, and a lack of understanding within our government of the tidal wave of political and economic change that is sweeping Asia. How can this be explained?

World War II left the United States in a position of substantial military and economic hegemony over a large portion of the globe, and this position of temporary predominance quickly became the basis for our expectations about how events in all parts of the world should proceed. Our policies were further distorted by our failure to recognize the new dimensions of power in the developing countries and by our conviction that a monolithic, worldwide Communist movement directed from Moscow was about to destroy the U.S. and take over the world.

As we felt threatened by military power, our response became more and more militarily oriented. In spite of our long anti-military tradition, military men on active duty began for the first time in our history to play key roles in formulating American foreign policy during what was generally considered a period of peace.

In arguing their case before the President, Congressional committees, or in day-to-day dialogue within our own government, the military has had important advantages.

Political, social, and economic forces, no matter how important, are often difficult to define and even more to evaluate, while the case for military action can be stated in much more precise terms, e.g., such and such number of ground troops, so many air strikes, so many tons of bombs, and so many "body counts" will provide such and such a result.

This tactical advantage of the military in the bureaucratic give-and-take is increased by its near control over 25 per cent of our vast national budget and by its power to allot contracts and to locate thousands of military installations in areas where members of Congress have a major political interest; a substantial Pentagon public relations budget has been thrown in for good measure.

This is not to imply that advocates of our disastrous military-oriented policies in Asia all wear military uniforms; a great many do not. Among the most articulate and dogged are civilians in the White House and the State Department as well as the Pentagon who are eager to prove to the President, to their associates, to the press, and to the world at large that they are "tough-minded realists" who are prepared to "face the hard facts." In fairness to the military, it may be pointed out that the White House and the State Department, by failing to provide clear political guidelines for our armed services to follow, have created the political vacuums that the military have attempted at such heavy costs to fill.

In Korea, as we have seen, General MacArthur was allowed to use his own judgment, which on most political questions turned out to be bad. The result was a needless prolongation of the war, a needless loss of life, and the transformation of a brilliant military victory into a costly military and political stalemate.

In China and later in Taiwan it was again the military-minded men, in the absence of clear *political* direction from the White House and the State Department, who led us to support Chiang Kai-shek and then to avoid putting him in a politically embarassing position by exerting pressure for the economic and social reforms that alone could have saved him.

In Indochina the military pressed for more and more logistical support for the French forces even when the French were clearly doomed to defeat. Before and again just after the collapse at Dienbienphu, high officials in the State Department and the White House in addition to the Pentagon seriously advocated American intervention with nuclear weapons.

Many high-level civilians as well as military policy makers still can't understand how a motley army of undernourished Vietcong and North Vietnamese, armed with only the conviction that they were fighting for their freedom, could for eight years successfully cope with our best U.S. Army and Marine units supported by a large Air Force and nearly a million well-equipped South Vietnamese troops.

In South Asia it was the support of two Presidents and two Secretaries of State that for seventeen years enabled the strong Pakistan lobbies in the Pentagon and the State Department to keep large quantities of arms flowing to Pakistan, even after it had become evident that this was not only a bottomless pit but that it jeopardized our relations with democratic India, with its 500 million people, and may create new tensions in South Asia that could easily erupt into war.

Among the most critical foreign policy questions that the American people and their government are now called upon to answer are: 1) Can we understand, while there is still time, the political, economic, and social forces that are now shaping the future of Asia, Africa, and Latin America, where two-thirds of mankind live? 2) And if we do understand those forces, can we create a governmental structure capable of dealing effectively with them?

Unless we can answer those two questions affirmatively and abandon our present tough guy posture in world affairs (which frightens our remaining friends at least as much as it frightens our enemies), the American government and people will increasingly find themselves cut off from and at odds with a sizable majority of mankind.

AMERICA WE LOVE YOU

HON. W. C. (DAN) DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. DANIEL of Virginia. Mr. Speaker, it may be stating the obvious, but the one common thread which binds all of us in this body is a genuine liking for people. I am not speaking of a love of mankind, which often is a thing apart, but a liking, a feeling of warmth, toward those with whom we come in contact.

In my district, in the city of Danville, dwells a fine lady who also shares in this liking for her fellow man, and who puts her beliefs in practice every day. Retired from that city's schools, Mrs. Alice Haden Merritt, who resides at 1245 West Stokes Street, now devotes much of her time to visiting the sick, the elderly, the shut-ins, and inmates at the city's jail. Mrs. Merritt passes along a word of encouragement, and a smile, as we all might do. But she does something more. For Mrs. Alice Haden Merritt is a talented poet, a published author, and an accomplished composer as well.

Recently it has been my good fortune to obtain a copy of a patriotic song, "America We Love You," which Mrs. Merritt has written. It is an inspiring tribute to her country from one whose life displays the virtues we all associate with the word "American." I insert the lyrics to this song in the RECORD at this time. Hopefully, after reading the lyrics, Members will encourage its use.

The lyrics to the song follow:

AMERICA WE LOVE YOU

(Words and Music by Alice Haden Merritt)

We love your walls of service,
And monument that stands
For him, who saved his country
With strength and eager hands.

America, we love you . . .
You taught our hearts to dream
Among your hills and mountains,
Beside your crystal streams.

America, we love you . . .
We pledge so faithfully
To cherish one another
With faith and loyalty.

STATEMENT FOR NATIONAL YOUTH APPRECIATION WEEK

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. FOUNTAIN. Mr. Speaker, this week is National Youth Appreciation Week, and I think it is an ideal time to express our appreciation of the vast majority of young people who are leading constructive lives, making outstanding contributions in home, school, church, and community.

Never before in the history of mankind has life so challenged a nation's youth as America in the decade of the seventies. And, I believe, never before has a generation of young people been so eager and so well prepared to meet that challenge. Young Americans graduating from our high schools and colleges today are better educated, more aware of the significance of national and international events, and more sensitive to the needs of their fellow human beings than any previous generation.

In recent years our young people have been in the forefront in the ongoing task of evaluating our national goals, priorities, and institutions. This is as it should be, because, 100 million strong, they have the greatest stake of all in our Nation's future. There is, unfortunately, a highly vocal and activist minority which is sworn to the project of liquidating American society and starting anew, but it is a distinct minority. The great majority of our young people is preparing to undertake the awesome tasks of our time constructively, and with quiet dedication to the American ideals we cherish.

The thrill of our era is the new hope that technology, subordinated to the search for dignity and quality in human life, can now provide the tools which will make the American dream a reality for all Americans. The frontiers of our technological knowledge will yield the means to preserve and protect our magnificent natural heritage, revitalize our rural areas and the cities, make available the resources of the seas, and lay before us the mysteries of the solar system and the universe beyond.

Today our young people are asking that our technological accomplishments lead to a new emphasis on the dignity of the individual and the quality of human life. They are asking that our institutions be as responsive as possible to individual wants and needs. Surely we could ask of them no finer quest. We are rightly proud of their efforts, which reflect the finest ideals of patriotism and citizenship.

INCREASE IN DAIRY IMPORTS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. OBEY. Mr. Speaker, over 3 months ago the U.S. Tariff Commission recommended to the President the establishment of absolute quotas on imported cheese selling for over 47 cents per pound. I was hopeful the President would act quickly on that recommendation. Unfortunately, to date no positive action has been taken.

During this delay imports of these cheeses have been increasing. Department of Agriculture figures show that imports from January 1 to August 30, 1971, of Swiss-Emmenthaler, Gruyere process and other varieties selling for over 47 cents per pound grew by 107 percent, 108 percent, and 111 percent over this same period in 1970. Between August 30 and September 30, these imports grew even more—to 113 percent, 110 percent, and 115 percent to their 1970 levels.

This increase in dairy imports is a burden to the American taxpayer because imports displace from normal market channels domestically produced dairy products which are then purchased by the Federal Government under our dairy price support programs. With domestic production itself increasing, it is obvious that the Tariff Commission recommendations should be implemented soon—because both the taxpayer and our domestic dairy farmers are now the losers.

Action should no longer be put off. Imported cheeses selling for over 47 cents accounted for almost 25 percent of all dairy imports in 1970. The figures I cite above indicate this situation may even be getting worse. Certainly if it is the intention of the President to support the dairy industry and keep the cost of dairy support programs down, he must take action now.

TWO SIDES TO THE INDIA-PAKISTAN DISPUTE

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. SIKES. Mr. Speaker, the American public has heard Indira Gandhi, Prime Minister of India, on a nationwide broadcast conducted by one of the major networks. These broadcasts by distinguished visitors serve a useful purpose. However, in this case, only one side of a major controversy has been given. It is equally important and the fair thing to present the other side in the dispute between India and Pakistan. A very considerable part of the recent broadcast had to do with the difficulties between these two nations. A leading Pakistani official should have equal time on a program of equal prominence to discuss Pakistan's views on the questions which were discussed.

It is regrettable, but it has been consistently true, that only one side of the India-Pakistan controversy has been given to the public by the news media. I doubt that anyone really knows the truth about what is happening over there. Possibly an unbiased congressional team should visit the area and attempt to ascertain the facts. Many of the statements which have been made are extreme and controversial. It is almost certain that the truth about the problems in East Pakistan is somewhere between the claims of the anti-Pakistan groups and the statements made in defense of Pakistani policies by friends or officials of that country and that neither is entirely correct.

There is now serious threat of war between India and Pakistan. It would be a grievous mistake if it were to break out. It would settle nothing. It would produce only more deaths and more suffering. The war probably would be fought largely on East Pakistani soil where there already has been trouble enough. Pakistan's forces are heavily outnumbered by Indian forces and they also are lacking in modernization. Pakistan has had to rely largely upon Red China for military equipment and the quantities of such equipment have been limited. India has had the benefit of generous supplies of armaments, principally from Russia. It could be a one-sided war and result in the occupation by India of parts or all of East Pakistan, just as Kashmir which is claimed by both nations also has been occupied in part by Indian forces. India's

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interest in East Pakistan apparently is in seeing that independence or self-government is gained by this part of Pakistan. Thus war would add to and aggravate rather than solve the already existing problems.

All in all, it is a very complicated question and one which is not clearly understood by the American people. This much is certain: If the United Nations is to exercise any worthwhile influence as an organization, this is a fertile area in which its efforts can be expended. The major nations of the world, including the United States and Russia, should also be bending every effort to restore order in this troubled part of the world.

GLENN ELLIOTT, OLD-FASHIONED FLAG-WAVING AMERICAN PATRIOT

HON. THOMAS N. DOWNING

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. DOWNING. Mr. Speaker, at a time of apparently diminishing patriotism in our Nation, I am most proud to bring to my colleagues' attention the activities of one of my constituents, Lt. Col. W. Glenn Elliott, retired. Colonel Elliott is the founder of the American Society of the Golden Horseshoe, an organization dedicated to reviving and stimulating patriotism in our land and to honoring and aiding the many veterans who have served our Nation well in its time of need.

Colonel Elliott himself began his military service as an ambulance driver in France during the First World War, and he is preceded by a long list of patriots dating back to the Revolutionary War. I feel that he should be highly commended for his benevolent and patriotic activities which have continued over his lifetime, and I wish to insert the following articles outlining his efforts in the RECORD:

[From the Virginia Beach Sun, July 29, 1971]

GLENN ELLIOTT—OLD-FASHIONED, FLAG-WAVING AMERICAN PATRIOT

(By Howard Swindle)

W. Glenn Elliott, 74, white-haired and bowtied, had just finished telling about driving a Model-T Ford ambulance through the ruts of a war-torn France in 1918 and about his mule named Maude.

Elliott's experience sounded much like those of novelist Ernest Hemingway, also an ambulance driver, during his tour in Italy. Perhaps it was these experiences, encountered more than 50 years ago, that led Elliott to his "labor of love"—the American Society of the Golden Horseshoe.

Navy Lieutenant Philip Heth, Elliott's next door neighbor and close friend, describes the society as "an organization dedicated to good, old-fashioned, flag-waving American patriotism."

And, if ever there was an old-fashioned flag waver, it would have to be W. Glenn Elliott, World War I ambulance driver, World War II lieutenant colonel in the Virginia State Guard and current advocate of anything patriotic.

Hanging in a prominent place in Elliott's home within earshot of Oceana Naval Air Station is a plaque from a naval evacuation hospital in DaNang, Vietnam. The hospital, along with other military and veteran hospitals throughout the world, has reaped the benefits of Elliott's flag-waving brand of patriotism. Since he founded the Society of The Golden Horseshoe in early 1966, the organization has sent more than $16,000 in cigarettes, tobacco, peanuts, candy and books to servicemen everywhere.

About every 10 days, Elliott gets in his nine-year-old Chevrolet for a tiring trip that takes him through Chesapeake, Suffolk, Petersburg, and Richmond collecting money from nearly 100 quart jars he has placed in restaurants, small grocery stores and other businesses. It is the pennies, nickles, dimes and sometimes quarters left in these jars by customers that finance a pack of cigarettes, a bar of candy or a can of peanuts for a GI in Vietnam.

True to Elliott's lifestyle, every jar has a small red, white and blue flag taped to it. Elliott's den, or "office" as he calls it, is covered with small flags and boxes of jars. On a cluttered cot lies a large, faded flag. I've got to get another flag," Elliott said "This one's getting pretty old." He flies it in front of his house every day, and he says he'll continue to fly it until the war in Vietnam ends.

Of his cross-country-fund-raising trips, Elliott says, "We do anything and everything we can possibly do to revive patriotism in Americans." Though the American Society of The Golden Horseshoe (the name comes from an event in development of colonial America) concerns itself primarily with servicemen overseas, it also attempts to have the flag flown from as many places as possible.

The society lists as honorary life members former Alabama governor George C. Wallace, Senator Harry F. Byrd, Jr., Virginia Beach councilman Frank A. Dusch and former Senator A. Willis Robertson who suggested the society's name.

One of the society's most recent campaigns revolves around gaining support "for our leaders in their defense of J. Edgar Hoover and the FBI." But a talk with the society's founder leaves little doubt as to the primary aim of the society—helping the serviceman.

Elliott, a former adjutant of the Virginia American Legion and a civil service worker, speaks proudly of his family's military service. "One of my forefathers fought in the Revolutionary War," he said. Since then, there have been relatives in the War of 1812, the Civil War, the Spanish American War, World Wars I and II, the Korean Conflict and Vietnam.

At the age of 69, Elliott exhausted all avenues trying to volunteer for duty in Vietnam so his grandson wouldn't have to go. He told a neighbor, "That's one less young man who'd be shot at—I've already lived a full life."

A small picture frame with an American flag and three rows of ribbons hangs in Elliott's den-office. "Those belonged to my son Jack," he says. "Raising children you can be proud of is one of the most noble things a parent can do." His son, a member of a flight crew during World War II, was killed during a mission over Germany.

Elliott's campaign to send gifts to servicemen dates back to World War II when a cigarette salesman told him he could send tobacco overseas tax free. He took time off from his post as editor and business manager of the Virginia Legionnaire magazine to pass out containers for the funds.

Today, Elliott has an agreement with several tobacco companies in which they pack the cigarettes and send them directly from their factories. "Since they're sent tax free," Elliott says, "we only pay about 11 cents per pack." He has similar agreements with peanut and candy manufacturers.

To pacify one woman who was "hard against tobacco," Elliott changed the sign on his cannisters from "Send Tobacco to Men in Vietnam" to "Send Goodies to Men in Vietnam." "After I changed the sign, she let me put a jar in her store," he said.

He said a few gift packages sent to individuals in Vietnam have come back stamped KIA (Killed in Action) and MIA (Missing in Action).

Elliott's cannisters also serve as a pretty good barometer for public opinion on the war in Vietnam. "When Lieutenant Calley was being tried, donations went up quite a bit," Elliott said. Thinking people might give more money if they were contributing to veterans in government hospitals, Elliott changed a few of his signs, emphasizing the veteran. "Those cannisters with Vietnam written on them drew quite a few more donations than the others (those emphasizing the veteran)," Elliott said.

"You'd be surprised how many (jars) are tampered with," Elliott said. "Some are gone. Some are broken. I'm sometimes lucky if a third aren't broken or stolen."

Occasionally when he packs a box of gifts for men in Vietnam, Elliott encloses a letter asking the GI's to write businessmen who have allowed him to put cannisters in their stores. "That's just so they (businessmen) will know the money is going where I say it's going," Elliott said. As treasurer of the society, he keeps records of incomes and expenditures which he makes available to members periodically.

"About 90 percent of our dues goes for sending items to Vietnam," Elliott said. "Postage is one of the big things."

Though Elliott won't admit it, his travel expenses every 10 days are another big expense—an expense not completely covered by donations. "Oh, I dip into my jeans every once in a while," he said. "I've got clothes to wear, food to eat and a place to sleep and I just thank the Lord that I can spend my time doing something to help, however small it might be."

[From the Virginia Beach Beacon]

GOLDEN HORSESHOE FLAG FLIES HIGH

(By Jim Stiff)

VIRGINIA BEACH.—Everytime W. Glenn Elliott tucks his American flag under his arm and heads for a flagpole, you know another load of books, candy or cigarettes is winging its way to America's fighting men.

That is how Elliott commemorates the occasions.

Elliott, at 74, is one of our staunchest patriots. He is founder of the American Society of the Golden Horseshoe, an organization devoted to the pursuit of patriotism.

It numbers 200 and has members in almost all states. Virginia is the most active, Illinois second and California third, according to Elliott.

Elliott, who lives on Indiana Avenue in Oceana, founded the Society of the Golden Horseshoe on Washington's birthday, Feb. 22, 1966.

The name for the society came from former U.S. Sen. A. Willis Robertson, who is one of six honorary members of the society.

Robertson was telling Elliott about the time in Colonial days when Alexandria Spotswood, governor of Colonial Virginia, took a group known as the Golden Knights and went inland into Virginia to discover the Valley of Virginia.

Elliott liked the name.

"The idea was to try to do something to revive the old time patriotism as it was known from the time of our founding fathers," said Elliott.

"Naturally, we needed a flag, so I wrote to Sen. (Harry F.) Byrd Jr. and he presented us with this one," said Elliott, unfurling an eight by five foot American flag.

Byrd was no stranger to Elliott. "I have known him since he was 12 years old and I had an office on the first floor of the capitol building. His father was governor then," recalled Elliott.

That was in 1928 when Elliott was Virginia State Adjutant of the American Legion.

The flag was presented to Elliott by Byrd on Oct. 31, 1966, and on that day it was flown from the State Capitol Building, the first of many times and places the flag has been flown.

Elliott flies the flag to commemorate the days on which he gets together a load of items for GIs overseas and in the hospitals.

So far the flag has flown over:

Virginia Beach City Hall Dec. 7, 1966 (Pearl Harbor Day).

MacArthur Memorial in Norfolk, Feb. 6, 1967.

The Virginia Capitol again, Feb. 22, 1967, (Washington's Birthday).

Fort Story, March 22, 1967.

National Guard Armory in Norfolk, April 27, 1967.

Norwegian Lady Shrine, Virginia Beach, May 30, 1967, (Memorial Day).

First and Merchants Bank, Virginia Beach, May 16, 1969.

Vepco Building, Virginia Beach, June 2, 1969.

Oceana Naval Air Station, June 5, 1969.

USS Enterprise, Gulf of Tonkin, Viet Nam, Sept. 5, 1971.

The flag will fly next over the Veterans Administration Hospital in Richmond where the Society of the Golden Horse-Shoe has deposited books for the patients.

The flag is flown only briefly so it will remain in good condition for future ceremonies.

The Gulf of Tonkin in Vietnam was the most distant point the flag has been flown. It was arranged to be flown aboard the Enterprise by Lt. Philip Heth, Elliott's next door neighbor who is legal officer aboard the USS Forrestal.

The society gets its funds from dues and from collections. Elliot has about 100 quart jars decorated with the American flag placed in restaurants and stores in Chesapeake, Suffolk and Petersburg. Every two or three weeks, he makes the rounds to collect from the jars.

"We've never actually solicited, except for the jars," said Elliott. "The trouble is, so many of them are stolen or broken."

Elliott was unhappy over the fact patriotism is not an "in thing" with some of today's younger generation.

"It better be," warned Elliott. "One of these days they will wake up and it will be too late."

As for the present membership, Elliott said, "Most of them are my old friends. Some of them are 80 years old or more."

Elliott formed the friendships in his years in civil service and the Virginia State Guard in which he served as a lieutenant colonel. He retired from civil service in 1960.

Membership in the American Society of the Golden Horseshoe is by invitation only and by honorary membership.

"We haven't been pushing it too hard because we want the right people. We don't want any radicals," said Elliott.

Elliott identified the honorary memberships as belonging to former U.S. Sen. Robertson, U.S. Sen. Byrd, Alabama Gov. George C. Wallace, Charles (Mike) Houston, columnist for the Richmond News Leader, and Virginia Beach City Councilman Frank A. Dusch, former mayor.

One of the aims of the society is to encourage everyone to fly the American Flag daily.

As an example of the society's influence, Elliott said the Chicago society has gotten the Chicago Cubs baseball club to have the Star Spangled Banner printed on the backs of the programs sold at their games.

"So you see," said Elliott, "we are succeeding."

[From the Morning Call (Allentown, Pa.), Sept. 22, 1971]

LITTLE CHRONICLES

(By John T. Cathers)

Lt. Col. W. Glenn Elliott, Virginia Beach, Va., founder and treasurer of the American Society of the Golden Horseshoe, thinks the original Liberty Bell should be taken on a tour of the 50 states to "reawaken the patriotism of the nation." Glenn isn't exactly a stranger to Allentown—he served with author Ernest Hemingway and actor Adolph Menjou at Camp Crane in the Allentown Fairgrounds in 1918. Ambulance drivers for the American Expeditionary Forces in France were trained at the camp.

STOP SALT

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. SCHMITZ. Mr. Speaker—

"It is certainly a very striking combination of circumstances that within four days of the United States committing itself to major defensive systems (ABM) the Soviet government seized upon the option which had lain dormant for almost a year of starting joint arms limitation talks (SALT)."—John Erickson, *Soviet Military Power*, Royal United Service Institute.

Mr. Erickson, one of the foremost authorities on Soviet military development in the world, identifies the key point in the strategic arms limitation talks (SALT). The Soviets agreed to start talking only after we decided to start building the Safeguard anti-ballistic-missile system—ABM—to protect our land-based Minuteman missile force. Now, after 2 years of negotiation, there are those who advocate stopping, or limiting, our ABM system to show that some good has come out of all the talking.

In fact, extremely deceptive and dangerous propaganda is creating a climate to prime the public to look with favor on an agreement with the Soviets to limit ABM's only.

My newsletter No. 71–23 explained why the United States must not stop deploying the ABM. To review this briefly, we began construction of Safeguard because the Soviets were deploying the missiles necessary to destroy our Minuteman force. The threat to Minuteman made the construction of this defensive system imperative. Any reasonable arms agreement would therefore necessarily have to assure a reduction of the threat which made the ABM necessary in the first place.

This was confirmed by Dr. John Foster, Director of Defense Research and Development, in testimony before the Senate Armed Services Committee in April of this year, eventually declassified after pressure from a Senator. Dr. Foster stated that:

Until we can obtain an arms-control agreement that will constrain the threat to Minuteman solely through offensive force limitations, we must continue with the deployment of Safeguard and the development of Hardsite defense [a follow-on ABM] for the protection of Minuteman.

The Soviets have not stopped building the massive first strike force which made the ABM necessary. All evidence indicates that they are moving in this direction faster than ever. Since the SALT talks began, the Soviets have increased their land and sea based missile force by 70 percent. Our force level has been fixed since 1967 and the Soviets now have over a 50-percent edge in land based missiles. Just 3 weeks ago, Secretary of Defense Laird announced that they would match us in numbers of Polaris-type missile submarines by 1973, 1 year earlier than his own prediction of last February.

The threat which necessitated the ABM is therefore growing at a faster than expected rate. It will not be reduced but rather substantially increased by a mutual limitation of ABM systems. Increasing the danger to ourselves is the exact opposite of what negotiations are supposed to achieve.

For this reason, in normal times, we would probably assume that the Congress would not consent to any such agreement. But the 1972 presidential elections are approaching. Where presidential politics are involved, as we saw in the case of China, the critical judgment of many good men tends to be severely impaired. The President would like to go into the 1972 race with a major arms limitation agreement. The pressure will mount to accept any Soviet proposal the American people will buy. Powerful bipartisan disarmament groups are lobbying hard for an arms limitation agreement for ABM's only.

There is one way to assure that this type of disastrous agreement does not sneak in through the back door of politics or serve as a campaign weapon of disarmament-minded office seekers. Stop SALT until after elections. Since we are supposedly basing our own defenses on Soviet capabilities rather than Soviet intention, and negotiations signify nothing more than possible intentions, this will not in any way jeopardize our national security.

SECRETARY OF THE INTERIOR MORTON SPEAKS BEFORE THE AMERICAN MINING COMPANIES

HON. WALTER S. BARING

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BARING. Mr. Speaker, I insert in the RECORD the speech delivered by Secretary of the Interior, Rogers C. B. Morton, before the American Mining Congress in Las Vegas, Nev., on October 11, 1971, for the benefit of my colleagues:

REMARKS BY ROGERS C. B. MORTON

I want to begin by saying that it is both a pleasure and an education to be here for the 1971 Mining Show. I have had the opportunity to see all the many mechanical marvels

developed by this industry and now I want to talk with you about some other forms of progress and the prospects for America's mining future.

A major theme of your meeting is communications . . . finding ways of improving communications within the industry . . . between industry and government . . . and between industry and the public at large.

I congratulate you for your emphasis on this critical area. Like the shifting surfaces of the sea, the field of communications is constantly changing. It will behoove everyone of you to determine whether his point of view is being received . . . and understood . . . by the people who should be aware of your position. Anything less would indicate a failure in communications . . . and in your obligation to the mining industry.

I don't need to communicate to you that the future holds exciting promise for this industry. The United States is fast approaching its 200th birthday and is still a growing Nation . . . not only in numbers but in expectations. In the next few years we will need tremendous amounts of the materials which provide all the underpinnings of our civilization. Mineral resources make up a major segment of those materials.

The construction business alone during the coming decade will absorb an estimated 4 million tons of aluminum and copper . . . 16 million tons of clay and cement . . . and nearly 200 million tons of sand and gravel. Telephones, TV sets, and other furnishings in the American home will make massive requirements of your industry . . . not to mention the wire and piping which carry water and power. I predict that needs will increase so profoundly that the demand for minerals may double or triple in the next 30 years.

In addition to technological developments as exhibited in your show, there must be a sound policy for the relationship between mining and the public, between mining and the government and between mining and the environment.

In this context, I want to tell you how the programs of this Administration in economic policy, minerals policy, environmental quality. . . . and proposed mining legislation for the public lands relate to these overall concepts.

First and foremost, this Administration is working to create an atmosphere of economic stability and growth. Two months ago, President Nixon announced a plan to shape the Nation's economic future by coming down hard on inflation and achieving a refreshing degree of stabilization.

The initial phase of the President's 90-day program is about two-thirds complete. Now, we have had the opportunity to look at his program for the future.

The new economic policy is not designed to favor any segment of the economy. Its purpose is to create jobs. . . . to increase industrial productivity. . . . to stabilize consumer prices. . . . and to encourage capital investment.

These initiatives, in my opinion, must be matched by the leadership in business and by efforts in your own country. In a free country, economic stabilization must be a joint venture between industry and government.

While we have begun to turn the economy around, we must also take a look at where many of our valuable raw materials are coming from.

As all of you know, there are certain minerals, such as tin, for which we are almost wholly dependent upon foreign mines. The total value of minerals and fuels consumed in 1969 exceeded American production by more than eight billion dollars. This gap may widen.

This increasing reliance on foreign production runs head-long into the ever-increasing demands by developing countries for their own mineral resources to use in their expanding economies.

We must realistically face the possibility that the availability of foreign sources of minerals, as well as of other materials, may become restricted.

It is essential that we increase exploration for new mineral deposits both at home and abroad. . . . and that we step up our capability to meet more of our mineral needs through recycling and reclamation of mineral products.

I know that secondary recovery is considered by many of you as competitive. But don't stiff-arm it. The country that best husbands its mineral resources will umpire the international ball game. Secondary recovery will soon become a great economic opportunity. Don't pass it by!

The escalating demand for minerals and fuels which are essential to our economy and security have had the attention of Congress for some time. As a first step Congress enacted the Mining and Minerals Policy Act last December. . . . with the strong support of this Administration. The objective of this legislation is to encourage the utilization of domestic mining and mineral sources to the fullest extent practicable.

This act imposes upon the Secretary of the Interior the responsibility for reporting annually to the Congress on the state of the domestic minerals and fuels industries . . . and for formulating recommendations under which private enterprise would be encouraged to find and develop our mineral resources.

We are currently in the process of developing data for the first report, which is due early next year. This report will determine the exact state of our minerals industries and delineate the problems which face them.

We expect to supplement the first report with recommendations for action to meet domestic mineral problems. This document should be completed in 1972.

Congress has also created an independent task force called The National Materials Policy Commission. This body is charged with the responsibility of reviewing overall materials requirements for the Nation except for food. I am a member of this commission and will participate actively in its deliberations and determinations . . . particularly with respect to mineral resources.

I want to go on record this morning by saying that we need plenty of help from the industry to insure that these various policy reports will be factual, helpful, and beneficial to the American people.

As we go forward at this point in time, it's important that we recognize we're in a new ball game . . . old standards are not good enough . . . old practices won't do. Let's face it squarely and not dodge the issue.

The mining industry and mineral processing companies have not in the past been in the vanguard of effort to clean up the environment. They have concerned themselves with meeting a steadily rising demand for mineral resources. That's all that was asked of them for many years.

But times have changed. We have come to realize that nature's bounty is *not limitless*, and that the actions of industry, as well as of government, can seriously affect the quality of our air, water and land.

Environmental concern has aroused the American public to action . . . intensive action. If the minerals industry does not begin to respond to the public demand for clean energy and a clean mining industry, then the public will lose faith in the great industry which did so much to build America.

No one has convinced me that the mining industry cannot be a clean industry, nor that the mining industry cannot be clean *and* profitable.

When this becomes your attitude, when these become your convictions, we will truly have reached a new plateau in the relationship of this industry and the environment.

The seriousness of pollution is now being recognized throughout the world and the American Mining Congress has responded in at least one key area. Your recent decision to endorse *Federal* guidelines for mined land reclamation was a responsible and welcome action. I trust that you will continue to support the efforts of this Administration to impose environmental quality.

Now let's look at mining on the public lands.

I believe that the prospector who discovers a valuble hardrock mineral deposit should be entitled to the first crack at its extraction.

This Nation's economic system was built on the profit motive. Individual initiative will be encouraged . . . not stifled. This will be done while, at the same time, protecting the quality of the lands and resources involved.

Another Administration proposal that will profoundly influence mineral policy is the President's plan for reorganization of the Executive Branch. A major component of this plan provides for creation of a Department of Natural Resources into which all major responsibilities for energy and mineral resources would fall.

The Mining and Minerals Policy Act of 1970 would be profoundly affected by executive reorganization. A key phrase in this act reads ". . . it is the continuing policy of the Federal Government in the national interest to foster and encourage private entreprise . . ." . . . surely a clean restatement of traditional American economic philosophy. The Department of Natural Resources will not only stimulate industrial productivity but provide the scientific capability and regulatory responsibility to insure that environmetnal considerations are accounted for.

Your conference theme, "From the Earth . . . A Better Life" is appropriate. But I would add: from the earth responsibly . . . so there can be a better life.

The things man has needed to create his society have come from the earth, in large measure through the minerals industry. But the better life we seek today includes beauty as well as affluence; clean air and water as well as efficient transportation; and playgrounds as well as shopping centers.

The stewardship of America's natural resources is an awesome responsibility and an immense public trust.

If our stewardship is wise, we can have both aesthetic pleasures and creature comforts. We are capable of such stewardship. The mining industry can play a major part in that stewardship. No other objective outweights the need to balance the development of our mineral and fuel resources with a clean, healthy, and enudring life for all Americans.

HOUSE JOINT RESOLUTION 191 PRAYER AMENDMENT

HON. RALPH H. METCALFE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 8, 1971

Mr. METCALFE. Mr. Speaker, there has been much discussion recently about the proposed constitutional amendment which, according to the sponsors, would permit nondenominational prayer in the public schools. I signed the discharge petition and voted for the motion to debate the question because I know this proposal is of concern to very many Americans. The question should be discussed in these chambers and decided in an open and recorded vote by the Members of the House.

However, I voted against House Joint Resolution 191. I agree with the philosophy that was the basis of the first amendment and I happen to think that the first amendment should remain intact. The colonists when they ratified

the first 10 amendments, the Bill of Rights, were well aware of what could happen when the State became involved in the religious sector. They had but to look at the religious strife and tension which existed in Europe. They did not want any possible repetition of this strife in the United States. Therefore, they adopted the first amendment to the Constitution which is an unequivocal stand in favor of a separation of these two entities, the church and the state. I think the separation should continue.

The other day I listened to a very sincere woman who was concerned about the social problems that confront us. She came into my office to ask my support for this amendment. She thought that prayer in public schools, in her words, would restore a sense of respect for the law and give us, as a people, a sense of national purpose. I agree with her objectives but not her means.

There are many religious groups who have expressed their objections to this amendment. They, too, fear that the proposed legislation would not bring about any constructive change within the country.

I see the word nondenominational in the amendment and I see the possibility of countless school boards across the country attempting to determine what constitutes a nondenominational prayer. This will add to the strain and tension which already exists in many school districts and I think they can very well do without this. I think this process of having local governmental bodies decide such issues is what the colonists, based upon their experience, wanted to avoid. At a time when we are attempting to forge a new unity in this country we should not attempt to pass legislation which could possibly became a cause of division within communities throughout the country.

I think the separation of church and state as established by the First Amendment has served us well. I do not see any cogent reason why the Constitution should be amended. I think that the objectives of those who sponsor House Joint Resolution 191 can be achieved in other ways.

I think that the views of President John F. Kennedy on this issue are as applicable now as when he first stated them in June 1962:

> We have in this case a . . . remedy, and that is to pray ourselves, and I would think that it would be a welcome reminder to every American family that we can pray a good deal more at home and attend our churches with a good deal more fidelity, and we can make the true meaning of prayer much more important to the lives of all our children.

DEMISE OF U.S. FILM INDUSTRY DUE TO UNIMAGINATIVE FOREIGN POLICY

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. DENT. Mr. Speaker, recently my General Subcommittee on Labor heard testimony from employer and worker representatives of one of our vital but threatened industries—the American film industry. The preponderance of views underscored, once again, how our foreign trade posture has allowed foreign nations and "run-a-way" American enterprise to undercut the foundation of an industry and displace thousands of workers.

One such statement by Donald P. Haggerty, executive secretary of the Film Technicians Local 683, cogently set before the subcommittee the continuing demise of our film industry due largely to our unimaginative, and capitulatory foreign policy. I am inserting Mr. Haggerty's statement into the RECORD for the information of my colleagues.

The statement follows:

STATEMENT OF DONALD P. HAGGERTY, EXECUTIVE SECRETARY, FILM TECHNICIANS LOCAL 683 AND FIRST VICE PRESIDENT, HOLLYWOOD AFL FILM COUNCIL

Mr. Chairman and Members of the Committee: As 1971 draws to a close, the decline of all forms of domestic film production activities in the United States has reached alarming proportions. It has been reliably estimated that more than half of the labor force in Hollywood is jobless and, some local union memberships have suffered an average unemployment in excess of 80% during 1971. Many of the Hollywood craftsmen, technicians, and artists whose jobs have been "exported" to other countries have already suffered the ravages of "runaway" to the extent of losing their homes, their cars, their hospital and medical coverage, and their retirement pension credits. Meanwhile, the Federal Government has not taken a single step in the direction of altering its outdated, unrealistic and irrelevant trade policies and negotiating postures in the film field. It continues to permit the unrestricted importation of foreign-produced motion pictures and television films, on a non-reciprocal basis.

Notwithstanding concern expressed by the White House for "the economic well-being of this vital industry" as recently as last month; the fact remains that the critical unemployment situation brought about by unrestricted importation of foreign-made films for exhibition on U.S. theatrical and television screens, accompanied by the unfair and discriminatory treatment afforded films produced here in the United States by foreign governments, still remains unchecked. The number of films made annually in this country for exhibition at home and abroad continues to decline. The number of American-interest films made abroad annually continues to sharply increase, with larger aggregate investment and mostly financed by American companies, either through their foreign subsidiaries or under some involved type of co-production or co-financing arrangement.

The so-called "Major" motion picture studios that once provided regular gainful employment for thousands of skilled and talented studio employees are today waning shadows of their once-prosperous past; when Hollywood was recognized as the international film capital. Companies like RKO Pictures, Republic Studios, and Hal Roach Studios have vanished completely. 20th Century Fox and Metro-Goldwyn-Mayer Studios have disposed of their "back lots" resulting in the elimination of "standing sets" and other essential facilities for healthy film production activities. Columbia Pictures Corporation and Warner Brothers are in the process of completing arrangements to give up their separate studio holdings and to jointly share a single set of production facilities now occupied in Burbank, California by Warner Brothers alone. Mass lay-offs of key employees and reduction, or even elimination of key departments have taken place at leading film studios.

The failure of the United States Government to take effective steps to equalize the competitive position of domestically-produced motion pictures with foreign-made motion pictures, which receive governmental subsidies or other forms of state aid from all other significant film-producing countries, has inflicted ever-increasing economic loss upon many long-time American film workers; reduced job opportunities for new, younger workers; and slashed the annual earnings of most American film workers.

The plight of American film workers due to the skyrocketing rise of "runaway foreign film production" has been observed in detail by both the Congress and the Executive Department for years and years; without any branch of the Federal Government doing anything affirmative to stop this trend.

As long ago as 1962, the Subcommittee on the Impact of Imports and Exports on Employment of the House Committee on Education and Labor found that "the strongest inducement to foreign production is subsidy" and declared that "if our Government demanded an end to subsidies, the so-called American motion picture runaway production problem would become minuscle."

In the years that followed, the OECD forum was never properly utilized. U.S. Government agencies continued to work actively and closely with the Motion Picture Export Association of America for the reduction of specific trade barriers to the distribution activities of the MPEA companies on a bilateral basis, but obtained no concrete results in multi-national bodies by way of eliminating foreign film production subsidies, screen-time quotas, and other forms of state aid, favoring foreign-made films in violation of the principles of free reciprocal trade.

The passive attitude of the State Department, supported by the Commerce Department, Treasury Department, the Office of the Special Representative for Trade Negotiations, and the White House staff in the Nixon Administration, as in prior administrations, has been to tolerate and virtually ignore the direct and indirect foreign film production subsidies offered by other governments.

This weak negotiating posture taken by U.S. spokesmen in such international forums as the GATT and the OECD stems from the openly-expressed fear of the State Department, the Special Representative, and the White House staff that a strong stand or aggressive opposition in "defense of parity" for our domestic film production would adversely affect MPEA private negotiations with foreign governments for "distribution rights" in other countries would irritate foreign producers; or might disturb the relations of U.S. film companies with their foreign customers in essence saying to "Hell" with the thousands of unemployed workers in the Motion Picture Industry but protect the "runaway" producers' investment in exports at all costs.

Existing U.S. trade policies and attitudes have sought a solution through half-hearted proposals, mild protests, and pale suggestions for gradual dismantling of existing foreign film trade barriers and reduction or elimination of foreign film trade restrictions.

Many unemployed American film workers are unable to understand why, at this late date, the Nixon administration still responds to their desperate plea for governmental assistance, by what Mayor Yorty has accurately described as "a monotonous re-wringing philosophy that has marked the lack of effort by previous administrations to adequately cope with the problem."

Many U.S. film workers are absolutely disgusted by the fears and hesitations expressed by some highly-placed spokesmen

for the Nixon administration who oppose the adoption of more affirmative policies to offset the "commercial protectionism" being practiced by foreign governments under the guise of supporting their domestic film industries on the ground that a more positive stand might provoke "emotional responses" or even "retaliatory measures" abroad.

The United States is the only important film-producing country in the world which extends no governmental assistance—either in the form of subsidies, low interest loans, investment guarantees, or other types of state aid—to help provide adequate economic encouragement for domestic film production. (While the United States Government imposes no limitations on the import of foreign-made films into this country.)

Traditional bilateral and multilateral approaches in international trade discussions have produced no immediate prospect for relief. (For example, the United States stood alone among member governments in the OECD in maintaining the position that film production subsidies "significantly distort international competition" and must be abolished in compliance with Article 2 of the OECD Films Annex. As a matter of fact, other member governments have even attempted to persuade the OECD Invisibles Committee to actually endorse film production subsidies over U.S. opposition.)

The United States Government must reexamine its policies and attitudes regarding foreign trade with respect to films, in the face of the realities of the present-day situation. At a time when our domestic film production activities are threatened with virtual extinction and mass unemployment confronts American film workers, there is no legitimate excuse for our Government's failure to protect the domestic film worker.

The inadequacy of the existing foreign trade policies and attitudes of the American government to cope with unfair restrictive trade devices in the film field is underscored by the rising importation of foreign-made television films.

A series of "voluntary cooperation" conferences during 1966–1967 between representatives of Hollywood unions and guilds with key executives of the American Association of Advertising Agencies, the Association of National Advertisers and the three nationwide television networks (NBC, CBS and ABC) failed to head off the rising tide of imported foreign-made television films. In fact these same agencies and Television networks are not only purchasing foreign TV episodes, foreign-made Motion Picture and commercial products but are directly and indirectly involved in financing and/or producing these products in foreign countries.

In November of 1970, the AFL–CIO Executive Council went on record officially condemning the growing importation of foreign-made television productions by American commercial sponsors for use in the United States.

Earlier this month, the *Hollywood Reporter* described one of the latest such developments in a news story headlined "MORE BRITISH TV SERIES ARE SET TO INVADE U.S." Humphrey Barclay, producer of the British-made television series entitled "Doctor in the House" was making a tour of 10 key American cities on behalf of the imported program, being distributed in 41 U.S. TV market areas by Westinghouse Broadcasting Company, and announced that he had "completed 52 half hour shows in England and plans to make another 26 next year." NBC, CBS and Westinghouse are showing the English-made TV program in various U.S. cities where prime time became available locally on network stations because of the so-called "prime time access rule" adopted by the Federal Communications Commission as a supposed stimulant to "local" programming. (I have been reliably informed that KNXT, a CBS owned-and-operated television station, purchased the right to televise "Doctor in the House" in the Los Angeles market from Westinghouse and sold participating advertising on that foreign-made program to a number of national and local concerns, including *Safeway Stores*, and the manufacturers of *Best Foods Mayonnaise, Breck Shampoo, Maybelline, Carnation, Friskies, Olympia Beer* and *Pfizer Visine*. When W. S. Mitchell President of Safeway Stores, received union protests over his company's sponsorship of this English-made TV program in the face of the mass unemployment of American Film Workers, Safeway's president responded that it had nothing to do with the production of this film series and "would not deliberately do anything to deprive American craftsmen and technicians of jobs or job opportunities.")

Last month, the *Hollywood Reporter* carried a banner headline on its front page reading "Canada production up 100%." According to the trade paper story, datelined Montreal, production of features, TV series and shorts in Canada has increased 100% over the same time in 1970. Some of these independent productions were reportedly being made with grants from the Canadian Film Development Board, a governmental agency, while others were "being financed and co-financed by American film companies and other American business firms." Also last month, the 30% import quota allowable by Canada was emphasized in a feature story on the radio-television page of *Daily Variety* as one of the advantages of "runaway" production "across the border." The feature story deals with Four Star International shooting a 90-minute film in Canada for CBS entitled "The Deadly Hunt". It reports the building of a two-stage studio in Vancouver for interiors; and indicates that Four Star has three "development deals" for CBS and ABC which will also be produced in Canada.

The United States Congress can no longer justify the continued loss of job opportunities at home by the short range financial advantages being gained by greedy, selfish American film production and distribution companies who qualify for foreign subsidies, screentime quotas and other forms of aid from foreign governments. Congress must immediately provide U.S. trade policies that will serve the best interests of all the American people. Such policies must be initiated promptly before the long time battle of the American film worker is lost through more passiveness, indifference and frustrating delay on the part of the Executive Branch of the Federal Government.

WHICH ARE YOU, DON QUIXOTE OR SANCHO PANZA?

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. JACOBS. Mr. Speaker, nothing need be added to the following, which says it all:

". . . which are you, Don Quixote or Sancho Panza?

Almost certainly you are both. There is one part of you that wishes to be a hero or a saint, but another part of you is a little fat man who see clearly the advantages of staying alive with a whole skin. He is your unofficial self, the voice of the belly protesting against the soul. His tastes lie towards safety, soft beds, no work, pots of beer and women with "voluptuous" figures. He it is who punctures your fine attitudes and urges you to look after No. 1, to be unfaithful to your wife, to bilk your debts. Whether you allow yourself to be influenced by him is a different question.

GEORGE ORWELL.

What should be made of that? Perhaps only that Orwell had won out against the fat man within, a victory that is crucial for everyone to try for, even if we are the only ones to celebrate it, in our dying days with a child who knows nothing of our struggle.

COLMAN MCCARTHY.

AIRMAN OF THE MONTH

HON. JERRY L. PETTIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. PETTIS. Mr. Speaker, on the evening of October 23, 1971, George Air Force Base, Calif., Tactical Air Command celebrated its 7th year of involvement in the program known as Airman of the Month. The banquet for this affair was held at the NCO open mess.

The program referred to herein is basically standard within the Air Force. It seeks to recognize one outstanding member of the service among many on a competitive basis, within the confines of a given cantonment. Each Air Force installation has a similar program.

The uniqueness of the program at George Air Force Base stems from the outstanding civilian-military rapport which has developed through the efforts of a group of interested people.

The program began with an idea on the part of a military member, M. Sgt. Delmar J. Urich—now retired—who was an instructor at the George Air Force Base NCO leadership school, and a member of the Noncommissioned Officer Academy Graduate Association. His idea, which was simply for some of the merchants to donate a small sum, either in cash or trade to the Airman of the Month, received instant acceptance at the next business meeting of the association. Shortly thereafter, he and another member contacted a local Victorville merchant, Mr. William C. Melton.

Mr. Melton, a very public-spirited individual, contacted several merchants, and received a modicum of support. The members of the NCOAGA arranged for a luncheon, and a program was tentatively arranged. Eight business firms each provided $5 gift certificates to the winner. Response to the publicity which followed was gratifying. The next luncheon saw the addition of more merchants. Over the ensuing months, the movement gathered impetus until sheer numbers dictated a shift to the evening banquet. Almost imperceptibly, the NCOAGA became the liaison between the base and the local community. Efforts have been directed toward injection of new ideas into the program, and equal efforts have been made to schedule the banquets at various clubs throughout the Victor Valley. Additionally, procedural changes have also been made, including civilian sponsorship on a 1 for 1 basis—merchant and wife paying the dinner cost for one military man and wife—military sponsorship on a 1 for 1 basis, cosponsorship and no-host. Master of ceremonies duties are jointly shared, with a merchant acting in that capacity for one banquet, a member of the NCOAGA for the next, in a rather loose, alternating fashion.

From the original eight business firms participating, the program has grown to its present status wherein over 100 firms in the communities of Adelanto, Apple Valley, Hesperia, and Victorville are actively participating. Moreover, in several cases private citizens having no commercial ties have donated small cash gratuities to the winners. The banquet of October 23, 1971 included 128 firms.

The fame of the program has kept pace with the program itself. The NCOAGA has received requests from widely separated points in the United States for information about the program. These include Edwards Air Force Base, Calif., Fairchild Air Force Base, Wash., Pope Air Force Base, N.C., and Pensacola Naval Air Station, Fla.

BLOOD BANKS—A MATTER OF LIFE AND DEATH

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. VEYSEY. Mr. Speaker, this month's issue of Changing Times contains a useful discussion of blood banking in the United States. The article describes the life or death importance of blood banks, and some of the problems that need attention. Next week I plan to introduce legislation to deal with the unnecessary dangers now present in the blood we receive. I commend the Kiplinger article to the attention of my colleagues:

BLOOD BANKS—A MATTER OF LIFE AND DEATH

The need for blood may be sudden. Will it be there? Here's how to make sure.

Last January a 29-year-old woman with a bleeding ulcer was rushed to the hospital in Milford, Del. During the next three days doctors transfused 13 pints of blood into her veins, enough to save her life. Fortunately, her type of blood in the amount needed was on hand in the hospital, which is served by the Blood Bank of Delaware. The bank, which she had joined just six months before, replaced the blood, which otherwise would have cost her $25 a pint, in addition to hospital service charges that were covered by medical insurance. Altogether she saved a total of $585.

Early in 1967 another woman, the wife of a man from a small Pennsylvania coal mining town, entered a district hospital to have a baby. She hemorrhaged severely during delivery and required transfusions. Her blood, a rare type unavailable locally, had to be sent from a central blood bank miles away. By the time it arrived she had lost the baby and had barely survived the ordeal herself. There is nothing to assure her that she would have any better luck if she should need blood today.

How is it that one community can meet an emergency need for blood while another is unable to? What about your town? Could any family get blood if an illness required it? Would it be safe? What if a number of people in the community needed transfusions the same day?

Keeping an adequate supply of blood available is a complex business. Consider these basic problems:

DEMAND

The need for blood grows every year. In 1968 blood banks drew from donors about 6,600,000 pints, representing an increase of 2,000,000 over 1958. About one in 17 hospital patients gets a transfusion, and modern operations such as open heart surgery can take up to 20 pints. Your own chance of needing a transfusion anytime is about one in 80.

Yet all this blood comes from a small group of people who are willing to give, fewer than 3% of the 100,000,000 eligible donors aged 18 through 65, not really enough to give blood banks much of a margin. A year ago in New York City, supply during one week dropped to less than enough blood for a single day.

SPOILAGE

After three weeks whole blood begins to deteriorate, so by federal regulation blood can be kept only 21 days and then it must be discarded or separated into plasma and components (see box at the right). Unfortunately, a certain amount of outdating occurs, with anywhere from 3% to 20% spoiling on the shelves, mostly in more remote hospitals.

INFECTION

Hepatitis, a viral disease that can damage the liver and cause death among the aged and debilitated, is an ever-present risk for patients receiving transfusions. Ordinarily, donors who have had jaundice or a diagnosed case of hepatitis are turned down. But hepatitis isn't always detected or reported and some tainted donors slip by, accounting for an estimated 30,000 cases of the disease among the more than 2,000,000 persons receiving transfusions each year.

No doubt the riskiest blood is that purchased for a few dollars from skid-row denizens and drug addicts. And, although a new procedure called the Hepatitis-Associated Antigen test can intercept about a quarter of the disease carriers, something needs to be done about the other three-quarters whom the test overlooks.

MANY WAYS OF GIVING

Technical problems aside, blood banking tends to confuse donors and patients because there are so many banks and transfusion facility services—nearly 6,000 in all—and because they have overlapping and sometimes conflicting activities. The Red Cross, the biggest single agency, accounts for half of all the blood collected. But there are localities where it doesn't operate at all. In addition to the Red Cross, there are community blood banks, hospital banks, commercial blood banks, nonprofit insurance plans and commercial plans.

Sometimes several of these agencies function in the same place, though not always under the same rules. For example, banks belonging either to the Red Cross or the American Association of Blood Banks handle most of the blood collected, and they must meet the standards of these organizations. But nonmember banks may operate pretty much as they choose. And those that limit their activities within a state are exempt from the federal licensing that covers agencies that ship blood around the country.

Blood donations can be made in several ways. One method is to give an advance donation with no specific person or medical case in mind. A second is to replace blood that has been used by a relative, a friend, a fellow employe or a fellow club member.

Advance donation is a way of both giving to others and helping yourself. In many plans if you donate a pint of blood, the immediate members of your family are eligible to receive blood for a specific period, usually one year.

In replacement donation, when someone receives a transfusion, the hospital or blood bank requests the patient's family to replace the blood. If this is impossible, and you live outside an area of total Red Cross coverage, there will likely be a charge for the blood, usually $25 or, if the blood is rare, much more. To encourage replacement, the price is set high; if medicare applies, the patient is still responsible for payment or replacement of the first three pints.

Some hospitals require a replacement rate of two and even three for one, while others apply the two-for-one replacement only to the first pint, with additional pints being replaced one for one. The two-for-one policy is intended not only to replace blood actually transfused but also as a hedge in case blood is spilled, rejected or outdated or given to charity cases. In some specialized hospitals replacements must be on hand before elective surgery is performed. Note that a donor can ask that his donation be credited to a person in another part of the country.

Whether the blood is replaced or not, there are processing fees involved in a transfusion. Both the patient's and donor's blood must be tested and typed by a laboratory. The samples must be merged or crossmatched to assure perfect compatibility. Charges for the infusion itself include the price of the needle, tray and professional time. Altogether these costs average around $32 and are often paid by medical insurance.

DIFFERENT PLANS

Blood bank plans vary from town to town and from hospital to hospital.

The Red Cross program operates 59 blood centers, some of which cover entire states. But the program has never become the single collection agency that health and medical groups expected it would after World War II. Critics say its failure to campaign aggressively for donors at the start left some regions without blood. So hospitals and communities began setting up their own blood banks. Also, venturesome laboratories have established a commercial business in blood that now provides 15% of the nation's requirements and as much as 40% in many large metropolitan areas.

Today the Red Cross blood program stresses advance donation by unpaid volunteers. Patients who receive blood and have none to their credit are asked to have it replaced on a one-for-one basis. There is a processing charge, which hospitals collect from patients and reimburse in part to the Red Cross.

Community blood banks emphasize advance donations much the same as the Red Cross. But many community banks do use paid donors to make up deficits, and they do charge a "responsibility" fee, usually $25 to patients unable to supply a replacement. Some plans, called "blood assurance" programs, work this way: Companies, clubs, unions and other organizations are assigned a quota asking that 20% of the participants donate once a year. If the quota is met, all members of the organization and their immediate families are covered for a year.

Hospital blood banks are independent and range from those with a few pints on hand in a refrigerator to full-fledged blood bank operations. A patient who receives blood but lacks credit with a donor group is asked to replace it, sometimes on a two- or three-for-one basis, or, if that is not feasible, to pay for it.

Blood insurance plans may be either nonprofit or commercial. Nonprofit plans are associated with hospital or community blood banks. An applicant can join one nonprofit plan, for example, by donating a pint of blood or paying a $7.50 annual family premium. Paid donors make up the blood deficits and, except for certain exclusions, all

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blood needs of a member are met for a specified period. Commercial health insurance policies sometimes make cash payments for blood used. The trouble with these plans is that they relieve the insured person of the responsibility for finding blood replacement and thereby hurt efforts to line up volunteer donors.

THE FUTURE OF BLOOD BANKS

No reasonable person would deny that there is room for improvement in blood banking. Most groups relying on volunteer donors say the best thing to do is to strengthen their approach and eliminate the practice of paying for blood.

The Red Cross, the American Association of Blood Banks and the AFL–CIO Committee of Community Services, while they have their differences, see an all-volunteer program as about the only way to rule out derelicts and drug addicts who sell their blood for $7 to $20 a pint to commercial "walk-in" banks operating in virtually every big city.

Dr. J. Garrott Allen, professor of surgery at Stanford University School of Medicine, a critic of blood selling, says an all-volunteer system will wipe out 90% of all transfusion hepatitis. And until a reliable test for the infection is devised, he says, every physician should ask that blood come from volunteer donors.

Not everyone agrees that all paid donors are the menace they are made out to be. And a distinction should be made between "safe" donors associated with community blood banks—teachers, hospital workers, medical students and the like—and the risky "walk-in" clients of profit-making commercial banks.

Also, the argument goes, paid donors are better than no donors at all. They will be needed at least until we can improve the efficiency of the system and until more of us overcome our apathy or our fear of being drained every now and then of a pint of blood, a gift that only the human body can manufacture.

STORING BLOOD

With modern technology, blood can be separated into various parts, which can be used independently for different diseases. Plasma, for example, has a factor useful in treating the bleeding disease hemophilia, and platelets are given to patients with platelet deficiency. People suffering from anemia can be infused with red cells.

More than half of the whole-blood transfusions being done today could be replaced with red cells. This would make remaining components available for specific uses as needed and thereby spread the supply of blood further.

Another important feature of red cells is that they can be frozen and stored until required, a technique that has two advantages: It preserves the life of the cells beyond the customary 21 days and provides a supply relatively free of the risk of hepatitis.

There is nothing new about freezing red cells, but recently the American Red Cross said it had found a better way of removing the preservative from the stored blood. The method has the advantage of sparing more of the red cells for transfusion into the patient. As a result, the Red Cross Blood Research Program is expanding its freezing facilities in a number of cities and expects a supply of 50,000 units by the end of the year.

Wider use of freezing and components is also recommended by such groups as the American Medical Association's Committee on Transfusion and Transplantation, the Component Therapy Institute of Washington, D.C., and the American Association of Blood Banks.

PLANS THAT GET THE JOB DONE

Nobody can arbitrarily say which is the best method of providing blood. Here's how two successful organizations do it.

The Delaware blood insurance plan now has 85,000 members and, counting dependents, covers over 250,000 people, or 50% of the state's population. Each participating member agrees in advance to donate, or to recruit someone to donate, a pint of blood when called upon.

This unusual nonprofit arrangement does away with imbalance of voluntary plans where a few members give all the blood while the rest get a free ride. Because nearly everyone gives in the Delaware plan, members are now called no more than once every five years. Moreover, the Delaware plan eliminates "crash" recruiting that sometimes loads hospitals with more blood than they can use before it spoils. Operating on the principle that the donor's body is the best storage place, the Delaware plan calls upon members as requested by the hospitals. That way supply stays more nearly even with demand.

To join the Delaware plan, a subscriber agrees to give one pint when called upon. If this is not feasible, he has a friend or relative supply it, or he must pay $25. Each member pays $1 initiation fee and $1 a year dues. Then all dependents listed on his income tax are covered for as much blood as they may need. One member got 348 pints. Neither sickness nor age is a bar if the applicant pays the $25 or gets a healthy substitute.

Since it began in 1955, the Blood Bank of Delaware has reimbursed hospitals of the state with 100,000 pints.

The Irwin Memorial Blood Bank of San Francisco is the blood bank for 59 hospitals and 1,300,000 people in eight counties. This 30-year-old nonprofit bank employs nearly 200 persons and uses the aid of 300 volunteers.

Open seven days a week, the Irwin Bank draws 100,000 units a year, mostly in advance donations, from 40,000 donors in a variety of donor groups. Strict inventory control and active, coordinated appeals to bring in donors account for its success as a nearly all-volunteer blood bank. Its losses have been minimal—just 50 pints of a total of 8,030 collected in July, for example. No quota of blood is set for volunteers, but the Irwin Bank soon plans to request donations of 10% above the amount used by members of donor groups.

THE NORTHERN IRELAND SITUATION: A REPORT, NO. 14

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BIAGGI. Mr. Speaker, perhaps the most graphic of my reports over the last several weeks have been those that detail cases of British atrocities that arise under the use of the infamous Special Powers Act. This "law" permits the internment of citizens without charge or trial for indefinite periods of time.

Jim Hagen, president of the Irish American Club of Washington, D.C., has just secured additional affidavits from the Association for Legal Justice. Through the club's legislative chairman, John F. Grant, I now have these affidavits and will include them in my series in the CONGRESSIONAL RECORD.

Amnesty, International on the basis of similar affidavits, has called for an international commission of inquiry into the violation of the Universal Declaration of Human Rights. I have called for just such an investigation time and time again for over a year now. Hopefully, action will be taken soon or the killing and terrorism will continue to take its toll.

Mr. Speaker, I will include at this point in the RECORD the affidavit of Mr. James Magilton:

INTERNMENT—NORTH IRELAND 1971: REPORT ON ARREST, INTERROGATION, AND TREATMENT OF JAMES MAGILTON, 68 CLOWNEY STREET, BELFAST 12

Age: 60.

Occupation: Mechanical Clerk of Works with Building Design Partnerships.

Health: Diabetic, Hypertension, 2 minor strokes.

On August 13, 1971 at 5 a.m. soldiers hammered at my door. My wife opened it and soldiers met me on the stairs. I was dressed in pants, undershirt, pullover, shoes without socks. The soldiers began to search. They found 1 old radio receiver from my former days as a ham radio operator. In order to avoid a search which might ransack the house, I told them that I had a licensed pistol and a licensed rifle, the licenses being at the moment renewed at R.U.C. Barracks Springfield Road. The soldiers went almost berserk, and said I had been sniping. They also said "this is all we want, we've got you now." They refused to listen to my explanation that the articles were licensed.

They took me out in a saracen on the Falls Road (almost 400 yards). There I was savagely beaten by soldiers and military police with fists, batons, rifle butts and kicked. On the journey with John Murphy, a neighbour, I was given occasional blows by fists.

When I arrived at Girdwood Barracks I was thrown out of the jeep and made crawl on all fours into the corridor. I was abused physically while I crawled. My hair was pulled.

I was placed against a wall with finger tips only giving me support. Military police kicked my shins and I fell flat on my face. This action was repeated several times with the variation of punches to the stomach and kicks on the shins. I don't remember how often. They tested me with the "gelly sniffer" and the results were negative.

I was taken immediately for interrogation by two Special Branch men. They gave me a cup of tea heavily sugared. As a diabetic I refused it. They sent for an army sergeant who first took me to a doctor and who later promised to get my tablets from the house. I was merely questioned about the licenses for my guns and radio and got absolutely no abuse from the Special Branch men. The sergeant returned and he said that the tablets were unobtainable. I learned later they hadn't come to my home, they had contacted my doctor.

After this I was taken to the gym and seated in a chair in the middle of the gym with 14/20 others widely spaced, also spaced on chairs. I sat there staring ahead. Talk was not allowed. The army sergeant came with my tablets and I took two and water. Another Military Policeman gave me a blanket for my shoulders. The army sergeant came back and asked to be notified immediately if I felt any diabetic symptoms. He offered me a cigarette which I refused although I am a chain smoker. I did this as I was sickened and disgusted at my own treatment and the treatment of others. I was told that contacts were being made with police officers who knew me as a competitor in shooting competitions and whose names I gave during interrogation.

I was taken to another room and given the paraffin test on my hands and face for evidence of recent use of guns. I hadn't fired a shot for over two months due to the disturbed situation. (Fortwilliam Rifle and Pistol Club.)

I was taken back to the gym. Some time later the sergeant said confirmation of licenses and Gun Club Membership was being confirmed.

I had a second interrogation a little later re name, address and personal details. I was asked to sign the answers. It was read to me as I couldn't read without my glasses and I signed it.

A sergeant gave me back my pocketbook and small change. He told me my guns would be given back later. I was taken in a jeep and left in Beechmount Avenue, about 200 yards from my home.

A neighbour, Marie McNeill met me and was horrified at my condition. I was hardly able to walk, My pullover was torn and my pants were dirty. She asked two men to carry me home. I got in about 1 p.m. to my own home.

My wife sent for Dr. Jim Ryan who examined me and took details of my multiple bruises and abrasions. He has been my doctor since 1934 and only yesterday did he realize that I was a Protestant living in a totally Catholic neighbourhood. The one and only time I was ever beaten was on August 12, 1971 and that was by the British Army. Today I am confined to bed unable to walk and I don't know when I shall be able to.

I am a diabetic and suffer from hypertension. About a year ago I had two minor strokes and was confined to bed for a month. I have since been attending clinics of Dr. Boyle in the Royal Victoria Hospital. I am on constant medication for both complaints.

To the best of my knowledge the information which I have given above is a true and accurate account of what happened.

Signature: J. Magilton.

Witness: Rev. B. J. Brady.

Date: 14 August 1971.

ENVIRONMENTAL PESTICIDES CONTROL ACT

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BROOMFIELD. Mr. Speaker, I was pleased to support the Federal Environmental Pesticides Control Act which regulates the production and sale of potentially dangerous chemical compounds.

The fact that there are presently over 60,000 pesticides on the market demonstrates a clear need for some form of regulation. These products could pose a serious threat to the health of our environment. While it is true that the vast majority are quite safe, there is always the possibility that some may have undesired and as yet unknown side effects. Therefore, it is reasonable and perhaps necessary that we require the closest possible scrutiny of these compounds before they are sold.

Mr. Speaker, I am proud to say that my home State has been a leader in controlling the sale and use of pesticides. Michigan has recognized that the health and safety of her people demands government standards that are set and reviewed by, a neutral third party.

Unfortunately, the dangerous effects of these pesticides often spreads far beyond the boundaries of the States where they are initially applied. Carried by winds and streams, they pose a threat to many neighboring States. This is one reason why individual State regulations are not enough. Complete security can only be assured through federally enforced national guidelines.

I was encouraged that a provision which would allow stricter State laws to stand even if Federal ones are weaker was added to the legislation. Surely it would be ironic if under the banner of environmental protection this measure would operate to dilute strong State laws now in effect. In this way, those States which have recognized the critical need for review and licensing of pesticides will not be reduced to a lowest common denominator.

HOUSE OF REPRESENTATIVES—*Thursday, November 11, 1971*

Rev. V. Frederick Halboth, Jr., pastor, Grace Lutheran Church, Detroit Mich., offered the following prayer:

In the name of the Father, and of the Son, and of the Holy Spirit. Amen.

Our Heavenly Father, we give Thee thanks for our country, for those who laid its foundations, and for those who have sacrificed their lives in its service. Strengthen those who now labor to keep it strong.

Heavenly Father, you know the problems of our world better than we do. Decay in morals, hunger of spirit and stomach, pollution of mind and air, broken relationships between generations and classes, crime in the streets, and the war in distant lands.

Heavenly Father, give wisdom and courage to these leaders of our beloved land as they grapple with these pressing problems. Give them counsel and defense, health and patience to bear the heavy burdens of their office.

We are grateful to them, Heavenly Father, as they serve us with ready hearts and willing minds. Amid the turbulent tenor of these troubled times, we seek Thy security and shelter.

Bless all citizens of this our native land. Make of us a nation and a people who do justly, love mercy, and walk humbly with Thee, their God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2820. An act to provide foreign economic and humanitarian assistance authorizations for fiscal year 1972, and for other purposes.

SOUTH CAROLINA NO. 1 IN NATION'S BOND MARKET

(Mr. DORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, South Carolina is No. 1 in the Nation's bond market. A $37.5 million State bond issue, the proceeds of which will in large part be used for education, recently sold in New York at the fantastically low interest rate of 3.867 percent. Mr. Speaker, this is a splendid tribute to the Democratic Party of South Carolina. The South Carolina Democratic Party has for more than 100 years provided our State with progressive and efficient good government.

This good government makes it possible for our State to sell its bonds at the lowest interest rates, rates that each year save South Carolina taxpayers millions of dollars. Good government has made it possible for South Carolina to make a splendid investment in tomorrow at the lowest possible costs. In the words of South Carolina's very able and dynamic State treasurer, Grady L. Patterson, Jr.:

This sale is another chapter in the continuing story of sound fiscal management and financial responsibility in South Carolina.

Yes, Mr. Speaker, South Carolina is truly No. 1; and South Carolinians point with great pride to the fact that our State's splendid credit rating makes possible new investments for education and a better tomorrow.

PERSONAL ANNOUNCEMENT

(Mr. MIKVA asked and was given permission to address the House for 1 minute.)

Mr. MIKVA. Mr. Speaker, I was necessarily absent when the House voted yesterday on whether the United States should violate the international boycott of Rhodesia by importing Rhodesian chrome—roll 379. Had I been present, I would have voted "no."

AN FBI INVESTIGATION

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, today's Washington Post contains a confirmed story about an FBI investigation of a national television correspondent, Mr. Daniel Schorr of CBS.

The investigation, which involved the questioning of Mr. Schorr's friends and neighbors, was allegedly conducted, because Mr. Schorr was being considered for a "position of trust and confidence" in the Government. This explanation is not credible. In fact, the story suggests to all but the most naive that the investigation was conducted, because the White

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House did not like Mr. Schorr's coverage of the news.

If this is so, this misuse of the FBI, this attempt to intimidate newsmen, is outrageous and must be the subject of a thorough and searching investigation by this body.

It comes dangerously close to the manner in which the Greek junta suppresses the press and intimidates reporters by the arbitrary use of police power. The use of the FBI for political purposes is reminiscent of the use of arbitrary police power to intimidate and throttle the free press and free exercise of dissent during the dozen years of Nazism and the half-century-long history of Soviet dictatorship. It does the FBI a grave disservice as a totally nonpolitical law enforcement investigatory body. It sets a precedent which threatens both the integrity of the FBI investigating process, and the integrity of the first amendment and must be stopped now.

In addition to the investigation of Mr. Schorr, this administration has attempted to have reporters such as Mr. Dan Rather transferred from his position as White House correspondent, attempted to control the policies of the Corporation for Public Broadcasting and, of course, attempted to erase the first amendment from the Constitution through the first Government suit in our nearly 200-year history to control the content of a newspaper prior to publication.

In, short, this administration is trying to prevent the emergence of a "credibility gap" not by telling the people the truth but by preventing them from discovering the truth.

The time has come to say "enough." A pattern is now all too clear. In this government of checks and balances, this body must play its rightful constitutional role. The time for a public investigation of the administration's actsions in this area is long past due. I have urged the distinguished chairman of the Judiciary Committee to undertake such an investigation immediately and, in fact, he has informed me that he has already communicated with the Attorney General requesting an explanation of the events surrounding the FBI investigation of Mr. Schorr. The right of the people to know and the right of the media to report without fear of official police-state harassment is at stake.

A STEP TOWARD A POLICE STATE?

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, it is not only appalling but frightening to pick up this morning's Washington Post and read that acting on orders from the White House the FBI has been investigating veteran CBS newsman Daniel Schorr.

I can recall in 1962 when President, then candidate, Nixon was concluding his unsuccessful campaign for Governor of California. In a now famous speech containing remarks directed at the news people who had covered his campaign, he stated that no matter how unfair he thought they were, he did not cancel his subscriptions to any of their newspapers. This was an obvious reference to the fact that President Kennedy had.

I would much prefer frankly that he did cancel his subscriptions or turn off an offending program, that is his individual right. But, to use the intimidation of an FBI probe in utter disregard for the first amendment of our Constitution does not set an example of understanding and devotion to the principles of the Bill of Rights which we have a right to expect from our highest elected official.

PROVIDING FOR CONSIDERATION OF H.R. 11341, DISTRICT OF COLUMBIA REVENUE ACT OF 1971

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 698 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 698

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, and all points of order against said bill for failure to comply with the provisions of clause 27(b) of rule XI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the District of Columbia, the bill shall be read for amendment under the five-minute rule by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Massachusetts is recognized for 1 hour.

Mr. O'NEILL. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 698 provides an open rule with 1 hour of general debate for consideration of H.R. 11341, the District of Columbia Revenue Act. All points of order are waived for failure to comply with clause 27(b) of rule XI—for failure to set forth the committee vote in the report—and the bill shall be read for amendment by titles instead of by sections.

The principal purpose of H.R. 11341 is to provide additional revenue for the District of Columbia.

The annual Federal payment to the District of Columbia will be increased to $170 million—an increase of $44 million. In addition, there will be an increase in inheritance taxes, motor vehicle fuel tax, corporate income tax, real property tax, and advertising tax. The present business inventory tax will be phased out over the next 3 fiscal years and will be replaced in part by an increase in the rate of tax on taxable income of corporations.

The existing loan authority for the District Sanitary Sewage Works Fund will be increased from $72 to $106 million.

Title VII of the bill makes a number of changes in existing law which propose to decrease expenditures and/or increase efficiency. Among other things, they deal with the disposition of real property, dual compensation, the District budget and Federal grant funds, public assistance rent allotments, personnel limitations, and welfare recipients.

Mr. Speaker, I urge the adoption of the rule in order that the bill may be considered.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

Would the gentleman again state why section 27(b) of rule XI is being waived in connection with this bill?

Mr. O'NEILL. Because the report failed to set forth the committee vote and under the Legislative Reorganization Act such a vote is required, and they neglected to put it in the report.

Mr. GROSS. Mr. Speaker, a few days ago I commended the Committee on Rules for having brought out a completely open rule for the first time in I cannot remember when. I do not want to have to withdraw that commendation of the Committee on Rules, and I would hope that we could again get one rule that did not waive points of order, or otherwise inhibit the Rules of the House.

Mr. O'NEILL. May I say that the Committee on the District of Columbia came before the Committee on Rules and said it was caused through an error on their part and, therefore, for that reason they asked for this rule.

Mr. GROSS. I can understand that there would be an excuse of some kind.

Mr. MARTIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the gentleman from Massachusetts has explained, House Resolution 698 provides for 1 hour of general debate, under an open rule, except far waiving points of order, to comply with the provisions of clause 27(b) of rule XI of the Rules of the House. I would like to speak on that for just a moment to the gentleman from Iowa because of his recent colloquy with the gentleman from Massachusetts.

As I understand it, and as it was explained to us in our hearings in the Committee on Rules, the waiver is necessary because the Government Printing Office inadvertently failed to include in the report the vote of the committee on reporting out this legislation. It was simply a printing error, and that is why it had to be waived in that one particular instance.

Mr. Speaker, I will not go into the details of the bill's provisions of the Revenue Act for the District of Columbia, since the gentleman from Massachusetts (Mr. O'NEILL) has adequately covered that. I would, however, like to address myself for a moment or two to one provision of the bill—and remember, this is a revenue act—which I very strongly object to being included in this legislation. That is section 708, the provision that would reclassify on a zoning basis the Providence Hospital site located within about four blocks of the Capitol between C and D, and Second and Third Streets, to rezone that so that the developers of that property could put up an apartment house.

These developers attempted to make a fast buck out of this operation when they bought the property in 1962. They applied to the zoning board in the District of Columbia, requesting that it be rezoned so that an apartment building could be constructed on that site.

After a hearing by the zoning board, which was opposed by the residents of the Capitol Hill area, their request was rejected.

Since that time the District of Columbia Committee has included in the legislation, at the latest time, last year, provisions to allow these developers to proceed to build an apartment house on that site.

During debate on that proposal last year, the Speaker of the House, Mr. McCormack, spoke in the well in opposition to the provision. It was a very similar provision—slightly different—but very similar to what we have at the present time in this legislation.

Mr. Speaker, I do not feel that the Congress should enact legislation to allow a few real estate developers to proceed to build an apartment house on this site when they have been turned down by the Zoning Board of the District of Columbia. Also, when there has been generated a great deal of opposition on the part of the residents of Capitol Hill.

I am informed that no hearings were held on this provision and that it was put in at the last minute in this revenue bill which we have before us today.

I understand that an amendment will be offered during debate to remove this provision from the legislation. I strongly support that effort to remove this section from the bill which would rezone the Providence Hospital site.

Mr. Speaker, I am happy to yield to the gentleman from South Carolina (Mr. MCMILLAN) if he wishes me to yield.

Mr. MCMILLAN. The gentleman has covered the matter I was going to mention.

Mr. MARTIN. Mr. Speaker, I yield to the distinguished minority leader, the gentleman from Michigan (Mr. GERALD R. FORD) such time as he may consume.

Mr. O'NEILL. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HOSMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 359, nays 8, not voting 63, as follows:

[Roll No. 380]

YEAS—359

Abbitt	Edmondson	McKevitt
Abernethy	Edwards, Ala.	McKinney
Abourezk	Edwards, Calif.	McMillan
Abzug	Eilberg	Mahon
Addabbo	Erlenborn	Mailliard
Alexander	Esch	Mann
Anderson, Calif.	Evans, Colo.	Martin
Anderson, Ill.	Evins, Tenn.	Mathias, Calif.
Anderson, Tenn.	Fascell	Mathis, Ga.
Andrews, Ala.	Findley	Matsunaga
Andrews, N. Dak.	Fisher	Mayne
Annunzio	Flood	Mazzoli
Archer	Flowers	Meeds
Arends	Flynt	Metcalfe
Ashley	Foley	Michel
Aspin	Ford, Gerald R.	Mikva
Aspinall	Forsythe	Miller, Calif.
Badillo	Fraser	Miller, Ohio
Baker	Frenzel	Mills, Md.
Baring	Frey	Minish
Begich	Fulton, Tenn.	Mink
Bennett	Fuqua	Minshall
Bergland	Galifianakis	Mitchell
Betts	Garmatz	Mizell
Biaggi	Gaydos	Mollohan
Biester	Gettys	Monagan
Bingham	Giaimo	Montgomery
Blatnik	Gibbons	Moorhead
Boggs	Goldwater	Morgan
Boland	Gonzalez	Morse
Bolling	Grasso	Mosher
Bow	Green, Oreg.	Moss
Brademas	Green, Pa.	Murphy, Ill.
Brasco	Griffin	Murphy, N.Y.
Bray	Griffiths	Myers
Brinkley	Grover	Natcher
Brooks	Gude	Nedzi
Broomfield	Hagan	Nelsen
Brotzman	Haley	Nichols
Brown, Ohio	Hamilton	Nix
Broyhill, N.C.	Hammer-schmidt	Obey
Broyhill, Va.	Hanley	O'Hara
Buchanan	Hanna	O'Konski
Burke, Fla.	Hansen, Idaho	O'Neill
Burke, Mass.	Hansen, Wash.	Passman
Burleson, Tex.	Harrington	Patten
Burlison, Mo.	Harvey	Perkins
Burton	Hathaway	Pettis
Byrne, Pa.	Hawkins	Peyser
Byrnes, Wis.	Hays	Pickle
Byron	Hébert	Pike
Cabell	Hechler, W. Va.	Poage
Caffery	Heckler, Mass.	Podell
Carey, N.Y.	Heinz	Poff
Carney	Helstoski	Powell
Carter	Henderson	Preyer, N.C.
Casey, Tex.	Hicks, Mass.	Price, Ill.
Cederberg	Hicks, Wash.	Price, Tex.
Celler	Hillis	Pryor, Ark.
Chamberlain	Hogan	Pucinski
Clark	Holifield	Purcell
Clausen, Don H.	Horton	Quie
Clay	Hosmer	Railsback
Cleveland	Howard	Randall
Collier	Hull	Rangel
Collins, Ill.	Hungate	Rarick
Collins, Tex.	Hunt	Reuss
Colmer	Hutchinson	Rhodes
Conable	Ichord	Riegle
Conte	Jacobs	Roberts
Corman	Jarman	Robinson, Va.
Cotter	Johnson, Calif.	Robison, N.Y.
Coughlin	Johnson, Pa.	Rodino
Crane	Jonas	Roe
Culver	Jones, Tenn.	Rogers
Daniel, Va.	Karth	Roncalio
Daniels, N.J.	Kastenmeier	Rooney, N.Y.
Danielson	Keating	Rooney, Pa.
Davis, Ga.	Keith	Rosenthal
Davis, S.C.	Kemp	Rostenkowski
Davis, Wis.	Kluczynski	Roush
de la Garza	Koch	Roy
Delaney	Kuykendall	Roybal
Dellenback	Kyl	Runnels
Dellums	Kyros	Ruppe
Denholm	Landrum	Ruth
Dennis	Latta	Ryan
Dent	Leggett	St Germain
Devine	Lennon	Sarbanes
Dickinson	Lent	Satterfield
Donohue	Long, Md.	Scherle
Dorn	Lujan	Scheuer
Dow	McClory	Schneebeli
Downing	McCloskey	Scott
Drinan	McCollister	Sebelius
Duncan	McCormack	Selberling
du Pont	McCulloch	Shipley
Dwyer	McDade	Shoup
Eckhardt	McDonald, Mich.	Shriver
	McEwen	Sikes
	McFall	Sisk
		Skubitz
		Slack
		Smith, Calif.
		Smith, Iowa
		Smith, N.Y.
		Snyder
		Spence
		Springer
		Staggers
		Stanton, James V.
		Steed
		Steiger, Ariz.
		Steiger, Wis.
		Stephens
		Stokes
		Stratton
		Stubblefield
		Stuckey
		Sullivan
		Symington
		Talcott
		Taylor
		Teague, Calif.
		Teague, Tex.
		Terry
		Thompson, Ga.
		Thompson, N.J.
		Thomson, Wis.
		Thone
		Tiernan
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Waggonner
		Waldie
		Wampler
		Ware
		Whalley
		White
		Whitehurst
		Wiggins
		Williams
		Wilson, Bob
		Winn
		Wolff
		Wright
		Wyatt
		Wydler
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Tex.
		Zablocki
		Zion
		Zwach

NAYS—8

Ashbrook	Gross	Rousselot
Bevill	Hall	Schmitz
Camp	Quillen	

NOT VOTING—63

Adams	Frelinghuysen	Mills, Ark.
Barrett	Gallagher	Patman
Belcher	Goodling	Pelly
Bell	Gray	Pepper
Blackburn	Gubser	Pirnie
Blanton	Halpern	Rees
Brown, Mich.	Harsha	Reid, N.Y.
Chappell	Hastings	Sandman
Chisholm	Jones, Ala.	Saylor
Clancy	Jones, N.C.	Schwengel
Clawson, Del	Kazen	Stanton, J. William
Conyers	Kee	Steele
Derwinski	King	Veysey
Diggs	Landgrebe	Vigorito
Dingell	Link	Whalen
Dowdy	Lloyd	Whitten
Dulski	Long, La.	Widnall
Edwards, La.	McClure	Wilson, Charles H.
Eshleman	McKay	Wyman
Fish	Macdonald, Mass.	
Ford, William D.	Madden	
Fountain	Melcher	

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Barrett with Mr. Saylor.
Mr. Adams with Mr. Eshleman.
Mr. Link with Mr. Belcher.
Mr. Charles H. Wilson with Mr. Bell.
Mr. Chappell with Mr. Blackburn.
Mr. Dingell with Mr. Brown of Michigan.
Mr. Dulski with Mr. Goodling.
Mr. Gray with Mr. Clancy.
Mr. Macdonald of Massachusetts with Mr. Gubser.
Mr. Jones of Alabama with Mr. Landgrebe.
Mr. Kazen with Mr. McClure.
Mr. McKay with Mr. Lloyd.
Mr. Madden with Mr. Pirnie.
Mr. Blanton with Mr. Pelly.
Mr. Vigorito with Mr. Conyers.
Mr. Rees with Mr. Del Clawson.
Mr. Diggs with Mr. Derwinski.
Mr. Gallagher with Mr. Widnall.
Mr. Fountain with Mr. Harsha.
Mr. Jones of North Carolina with Mr. Reid of New York.
Mr. Whitten with Mr. Hastings.
Mr. William D. Ford with Mr. Fish.
Mrs. Chisholm with Mr. Halpern.
Mr. Melcher with Mr. King.
Mr. Mills of Arkansas with Mr. Frelinghuysen.
Mr. Pepper with Mr. Schwengel.
Mr. J. William Stanton with Mr. Wyman.
Mr. Steele with Mr. Veysey.
Mr. Kee with Mr. Whalen.
Mr. Gray with Mr. Gubser.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Committee on Ap-

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propriations may have until midnight tonight to file a privileged report on the Department of Defense appropriation bill for the fiscal year 1972.

Mr. MINSHALL reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

FACILITATING THE TRANSPORTATION OF CARGO BY BARGES SPECIFICALLY DESIGNED FOR CARRIAGE ABOARD A VESSEL

Mr. GARMATZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 155) to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, lines 5 and 6, strike out "this section shall not apply" and insert: "the Secretary of the Treasury may suspend the application of this section".

Page 2, lines 7 and 8, strike out ", including districts, territories, and possessions thereof embraced within the coastwise laws," and insert: "(excluding transportation between the continental United States and noncontiguous states, districts, territories, and possessions embraced within the coastwise laws)".

Page 2, after line 16, insert:

"SEC. 2. For a period of five years following the enactment of this Act, the Secretary of the Treasury shall at the beginning of each regular session make a report to the Congress regarding activities under this Act, including but not limited to the extent to which foreign governments are extending reciprocal privileges to the vessels of the United States."

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA REVENUE ACT OF 1971

Mr. CABELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11341, with Mr. MCFALL in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. CABELL) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. NELSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CABELL. Mr. Chairman, I yield myself 10 minutes.

The CHAIRMAN. The gentleman is recognized.

Mr. CABELL. Mr. Chairman, I first would like to commend the excellent efforts of the Subcommittee on Commerce, Trade and Fiscal Affairs for the tremendous amount of effort and time put in on trying to bring to you this revenue bill. There were 13 days of hearings, consuming nearly 60 hours, including 30 hours of open hearings and 30 hours of executive hearings.

I certainly wish to compliment and thank the members of the subcommittee for their patience and for their diligence. I was privileged to conduct these hearings on the revenue proposals of the District of Columbia, and I should like to point out again that our subcommittee held over a dozen hearings on these proposals in order to attempt to thresh out and agree upon proposals to assist the District of Columbia insofar as humanly possible, and at the same time do justice to the millions of taxpayers all over the United States for carrying such a huge part of the tax revenue requirements of the District of Columbia.

Our committee has long felt that it has a dual obligation. It has an obligation to the people of the District of Columbia to provide them with the necessary facilities, the necessary programs to keep them on a par with any similar community in the United States or elsewhere. It also has an obligation to the general public, that is, the American public, to maintain this, their Nation's Capital, in the finest possible posture. We have an obligation to those people also, both in the District and the Nation at large, to see that their costs are held at the most efficient level consistent with services rendered and required as is possible.

Likewise, it is also necessary that the Congress protect tax moneys provided through the terrifically large Federal contributions for these various programs. Our committee feels, and I am sure most Members will agree, that we have a right to see to the judicial spending of our tax dollars.

I will very briefly go into and briefly discuss the titles of the bill, and then I will be glad to yield for any questions that may be presented.

Title I is an increase in the inheritance tax within the District as requested by the District government—however, not to quite the same extent. This is an increase that ranges from 1 percent on certain categories, to as much as 8 percent in those inheritances in excess of $1 million. A summary of the rates is indicated as follows:

H.R. 11341—D.C. REVENUE ACT OF 1971

TITLE I—INHERITANCE TAX:

50 percent increase over present rates:
1 percent over $5,000 to $25,000
2 percent over $25,000 to $50,000
3 percent over $50,000 to $100,000
5 percent over $100,00 to $500,00
6 percent over $50,000 to $1 million
8 percent in excess of $1 million

(Foregoing is for father, mother, husband, wife, children or other lineal decendents, or adopted children, of the decedent.)

For other persons than those named above the tax is as follows:
5 percent from $1,000 to $25,000
10 percent from $25,000 to $50,000
14 percent from $50,000 to $100,000
18 percent from $100,000 to $500,000
22 percent from $500,000 to $1 million
28 percent in excess of $1 million

It is estimated that the additional revenue to be derived from this increase will be approximately $2.8 million per year.

Title II provides for the phasing out and ultimate repeal of the business inventory tax which the committee believes is a regressive tax in that it withholds revenues from the District government. This will be phased out beginning in 1973, and the phasing out will be wound up in 1975, as indicated in the summary following:

Title II—Repeal of Business Inventory Tax—Said tax to be phased out as follows:
Two-thirds of present rate for fiscal 1973.
One-third of present rate for fiscal 1974.
Entirely repealed as of July 1, 1974.
Resulting tax loss $2.6 million for 1973; $5.3 million for 1974; and $8.b million for 1975.

This will mean by 1975 a decrease of approximately $8 million, but this will preclude the habit that merchants properly have of keeping their inventory at a bare minimum or else storing their inventory outside the District. Since our neighboring districts do not have this business inventory tax, we feel it is only fair to the business people and merchants of the District to phase this tax out.

Title III is an increase of 1 cent per gallon on motor fuels, from 7 cents to 8 cents per gallon. Both Maryland and Virginia apparently have 7 cents per gallon, but it is quite possible and probable that they will raise to 8 cents. This also is estimated to yield approximately $1.5 million, and it also repeals the exemption for existing tax for "nonhighway use."

Title IV on corporation income tax increase from 6 to 7 percent whereas the Maryland rate is presently 7 percent, and the Virginia rate 5 percent. The estimated yield on this is $3 million annually.

Title V is an increase in the special funds borrowing authority of the District of Columbia. This is highly necessary in their capital improvements work with reference to the sanitary sewer works by increasing their borrowing capacity from $72 to $106 million. These public works projects are or should be self-liquidating.

This provision also increases the borrowing capacity of the funds by $10.5 million for the sanitary sewer works.

Title VI is that portion of the revenue bill for the District that comprises the Federal contribution to the District government, which, under the provisions of this bill, increases the Federal contribution by $44 million to a total of $170 million.

Title VII authorizes the disposition of some District of Columbia land in Prince Georges County, Md., at a market value of approximately $572,000. This land has been declared unusable and unneeded for

District purposes. Therefore, it was not considered necessary or even expedient to continue to hold, when a half million dollars could be put into the general fund.

Section 702 prohibits dual compensation from grant funds received by the District of Columbia which would be in addition to regular salary payments from appropriated funds. I believe that is more or less self-explanatory.

Section 703 requires the District government to submit to Congress, along with its own budget proposals, a schedule showing all funds available to the District from grants from any Federal agency, department, or instrumentality, or any private source. This does not in any way reduce those funds, nor does it put them under the control of the Appropriations Committee, but it does allow both the authorizing committee and the Appropriations Committee an opportunity to see the total amount of money that is being expended for various District projects.

Mr. Chairman, as chairman of the Subcommittee on Business, Commerce, and Fiscal Affairs of the Committee on the District of Columbia, I was privileged to conduct hearings on the revenue proposals of the District of Columbia, and I should like to point out that our subcommittee held over a dozen hearings on said proposals during the months of June and July; and thereafter held over six executive sessions in an attempt to thrash out and agree upon proposals to assist the District of Columbia insofar as humanly possible and at the same time do justice to the millions of taxpayers all over the United States for carrying such a huge part of the tax revenue requirements of the District of Columbia.

Our committee has long felt that it has a dual obligation. It has an obligation to the people of the District of Columbia to provide them with the necessary facilities, the necessary programs, to keep them on a par with any similar community in the United States or elsewhere. It also has an obligation to the general public, that is the American public, to maintain this, their Nation's Capital, in the finest possible posture. We have an obligation to those people also, both of the District and the Nation at large to see that their costs are held at the most efficient level consistent with the services rendered and required that is possible.

Likewise, it is also necessary that the Congress protect tax moneys provided through the terrifically large Federal contributions for these various programs. Our committee feels and I am sure most Members will agree that we have a right to see to the judicial spending of our tax dollars.

PRESENT SITUATION

The District of Columbia government is in a fiscal hiatus of its own making and in such dire financial straits that it has in effect asked the Congress to bail it out.

In the words of one top District official, "The District faces a desperate fiscal crisis" and in the words of the District Commissioner:

Our tax base is not sufficient to support our needs. Even to meet our mandatory costs alone, would require more revenue than the District currently can produce from present sources and existing rates.

Two years ago, before our committee requesting additional revenue for its 1970 budget of $712.3 million, the Commissioner testified: "We are at the bottom of the barrel."

The situation has not changed, insofar as the District Government is concerned, and it is not only at the bottom of the barrel, but it is trapped at the bottom because by reason of its gargantuan appetites for devouring funds, its girth has expanded to such a size it cannot extricate itself from the barrel, much less stand on its own feet, or much less pull itself up by its own bootstraps.

The District is like the reaper cutting his harvest, who garners in not only the grain, but every straw and weed in sight, and when the same are threshed he ends with more chaff than he does wheat; and while he has expended considerable efforts and money in sowing and cultivating, the crop harvested is completely inadequate to meet his payroll needs, and he finds himself in debt.

How has this fiscal hiatus come about? The only explanation is that there has been lacking that prerequisite financial responsibility and that willingness on the part of the local residents in the District of Columbia to carry their full share of the tax burden to support the programs, facilities, benefits, wage scales, and cultural advantages existing in Washington, not enjoyed in the surrounding area, nor in any other cities in the Nation.

REAL PROPERTY TAX

Our committee has been much disturbed over the schism between the District Commissioner and the City Council over the setting of the tax rate on real property in the District of Columbia. As has been pointed out, the District Commissioner prepared his budget and his revenue requests of the Congress upon the assumption, among others, that there would be imposed a 30-cent increase in the real property tax rate, to provide $11.7 million additional revenue to the District, out of the $91.8 million allegedly required for fiscal 1972.

It is within the experience and knowledge of many members of our committee that the real property taxes in the various States are much higher than those in the District of Columbia, and it was the considered judgment of your committee that the District of Columbia real property taxes should be increased and that the 30-cent increase requested by the Commissioner was reasonable and appropriate under the circumstances.

The District of Columbia City Council has authority under delegation by the Congress in 1922 to the District Commissioners—and by the Reorganization Act to the Council—to determine the rate of taxes necessary to pay the District's share of the cost of local government. The delegation of taxing authority by the Congress in 1922 (D.C. Code Title 47, sec. 501) is stated in the Act of June 29, 1922, as for the purpose of producing "a tax at such rate as will, when added to the other taxes and revenues of the District, produce enough money to enable the District to pay promptly and in full all sums directed by the Congress to be paid by the District, and for which appropriation has been made."

With this authority, the Congress gave the District Government substantial flexibility so that it could present budget requests which would balance against its anticipated revenues and permit adjustment of the tax rates by the District government on real and personal property.

Our committee continues to be much disturbed over the prevalent practice of the District Government in submitting unbalanced budgets, not submitting them until April, later than was the practice prior to the reorganization of the District government, and attempting to put the onus on the Congress and the committees charged with District matters for failure in the very brief time elapsing before the end of the fiscal year to approve the next year's budget and any additional revenues necessary to balance the same, or wield the axe to achieve a balanced budget.

The District of Columbia itself refuses to increase even its own taxes toward meeting the common need for additional expenditures it claims are justified. While the District of Columbia Commissioner recommended an increase of 30 cents, namely, from $3.40 per $100 of assessed valuation, the District of Columbia City Council refused to approve the same and only approved an increase of 10 cents per $100, or to $3.20 per $100. So that although the District Commissioner was depending upon his recommendations being adopted, to provide a total $11.7 million toward the $90.3 million claimed need, the District government through the Council has only provided a 10-cent increase, to yield an estimated $3.8 million.

Neither the Council nor the Commissioner proposed any other tax to make up the deficit of $8 million. The Council's only action is to provide a 3.2-percent increase in the real estate tax, as against the 10-percent increase requested by the Commissioner, a modest increase particularly since the District's effective tax rate is lower than that in both Maryland counties adjoining the District; and lower than that for the cities of Alexandria and Fairfax in Virginia.

Following is a tabulation showing the effective real property taxes in the District of Columbia as compared with the surrounding jurisdictions.

It will be noted therein that both the adjacent Maryland counties have a considerable higher effective tax rate than does the city of Washington.

Also the city of Alexandria and Fairfax City in Virginia have a higher effective rate, whereas the adjacent Virginia counties have rates that are lower than that in the District of Columbia.

It is the judgment of our committee therefore that any increase such as that requested of the Council by the District Commissioner, namely, a 30-cent increase which is only a 10-percent increase, is reasonable and therefore recommended by our committee as appropriate action to be taken by the city council.

Effective real property taxes (1971)

	Per $100
District of Columbia	[1] $1.68
Prince George's County (Md.)	2.22
Montgomery County (Md.)	1.98
Alexandria (Va.)	1.75
Fairfax County (Va.)	1.45
Fairfax City (Va.)	1.75
Falls Church (Va.)	1.44
Arlington County (Va.)	1.37

[1] Effective rate for 1972 will be $1.73½ due to the City Council's 10 cent increase (from $3.10 to $3.20) on the actual tax rate—compared with $5.52 actual rate in nearby Baltimore (to go up $5.83 in 1972).

Source: D.C. Government, Dept. of Finance and Revenue, July, 1971.

Our committee feels strongly that the council is not meeting its obligations, and it is the sense of our committee that the council levy such property tax rates at levels to produce the District's share of additional revenues allegedly necessary to maintain the District's operation.

In the District of Columbia Revenue Act of 1969, our committee included a provision, which was approved by the House, withdrawing the delegation of taxing authority to the council and restoring this power to the Congress. Your committee did not go that far in this measure, but if the council fails to carry out its responsibilities in this regard our committee will have no choice but to recommend to the Congress that it resume its taxing authority on local real property to help meet the District's budget.

The CHAIRMAN. The gentleman has consumed 10 minutes.

Mr. CABELL. Mr. Chairman, I yield myself an additional 5 minutes.

Section 704 is to assure public assistance given in the nature of rent allowances received by recipients for public funds shall be payable as rent and not be retained by the individual for his own purposes or withheld from the landlord or lessor by action of the tenant alone.

May I make clear to this committee that the moneys are not arbitrarily or automatically turned over to the landlord. It means they will be put in escrow. If the withholding is legal because of noncompliance with landlord contracts then that money would be retained. There have been so many instances over the past several years where literally hundreds of thousands of dollars have been withheld—a great amount of it from the public housing units—where the money was spent, and then HUD had to turn around and appropriate more money to pay the service charges of this public housing.

The recipient of such public assistance must continue to maintain his eligibility, and provision is made under the Commissioner's direction for the withholding and retention of such funds if there is any dispute because of alleged violations of housing codes and so forth.

Section 705 requires all persons who are recipients of the public assistance under welfare or social services programs to carry positive identification cards containing photograph, social security number, and other identifying information, as is required in other jurisdictions, and which is being put into effect here already. If Members will read our report, they will notice we put a great deal of emphasis on a better policing effort on the nearly 100,000 recipients of welfare in this District, to see that fraud is prevented or, if fraud is there, fraud is detected and acted upon accordingly.

Section 706 provides that there shall be a freeze on the level of employment in the District of Columbia Government at 39,613 jobs.

Section 707 provides that interstate motor carriers, subject to regulations of the DOT should not be subjected to the Wage and Hour provisions of the District of Columbia law.

Thus enabling the 31 local carriers—of more than 250 carriers in the metropolitan area—to compete with these other carriers in contracting for and carrying out their business although based in the District of Columbia.

Section 708 provides for the construction of buildings on the Providence Hospital site, of a commercial nature, such as would be allowable under the zoning classification C-4, and not limited to residential construction only.

Section 709 permits use by the Commission on the Organization of the District of Columbia Government to use employees of the District of Columbia and Federal governments and also to provide for printing the Commission's report when filed March 22, 1972.

Section 710 imposes an advertising tax on all forms of commercial advertising at a rate of 4 percent, estimated to produce $2 million per year.

Real property tax, while the committee itself did not resume authority to levy the real estate tax—presently invested in the City Council—the committee expressed grave concern over the failure of the District of Columbia Council to increase the tax by 30 cents—namely, from $3.10 to $3.40 per $100 of the assessed value—as requested by the District of Columbia Commissioner and intended to provide $11.7 million in additional revenue.

The Commission had only increased the tax by 10 cents, or to $3.20, to yield an estimated $3.8 million.

The committee expressed the sense of the committee that the entire increase should be effected in order that the District may help to carry its fair share of the tax burden in revenue required for the District.

Gentlemen, I believe I have tried to provide Members with as brief but as accurate a résumé of the contents of this bill as possible.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CABELL. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. Can the gentleman amplify to some extent the necessity for increasing the handout on the part of all the taxpayers of the country to the District of Columbia to the tune of $44 million, in other words from $126 million to $170 million?

Mr. CABELL. I will say to the gentleman from Iowa I find myself in the position of not agreeing with certain provisions of the bill—I feel constrained, as floor leader to sustain the position of the committee,

Mr. GROSS. I hope I never arrive at that state of affairs on any committee on which I serve, but I guess we all operate differently. However, the gentleman has my sympathy in that respect if he cares to accept it.

Mr. CABELL. I think you will find that the position of the gentleman in the well is very clearly stated in the record and in the statements in the hearings.

Mr. GROSS. Now, with respect to this title V, I am not sure I understand what is proposed to be done. This is another $34 million increase, beginning on page 6 of the bill. I have read page 7 of the bill, and I do not know what is proposed to be done under this title and these various sections. Can the gentleman amplify briefly what is proposed?

Mr. CABELL. Yes. This is to take care of the highly essential expansion of facilities for sewage disposal. It takes care of completing the Dulles interceptor line, and by virtue of service fees collected it will be self-liquidating.

Mr. GROSS. You hope.

Mr. CABELL. But the District is handling the sewage and a great deal of the water resources for the area, including particular States and counties. They are charged a user fee, which is estimated to be set at an amount sufficient to amortize the cost of that portion of those facilities required for the neighboring communities.

Mr. GROSS. Does the gentleman say that it is in the realm of cold, hard fact that this money will be paid back, or does he just hope that it will be paid back?

Mr. CABELL. I find it difficult to answer that question.

Mr. GROSS. I thank the gentleman for yielding.

Mr. HOLIFIELD. Will the gentleman yield for a question?

Mr. CABELL. Yes. I yield to the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CABELL. Mr. Chairman, I yield myself 1 additional minute.

Mr. HOLIFIELD. On page 15 there is section 708 in the bill which is a matter of controversy and it was a matter of controversy 2 years ago. It was withdrawn 2 years ago. Would the gentleman tell me what the disposition of the committee is with regard to this section?

Mr. CABELL. Is that Providence?

Mr. HOLIFIELD. Yes, it is.

Mr. CABELL. Would the gentleman permit me to yield to the distinguished chairman of the committee who has a statement which I think he wishes to make on this subject.

Mr. McMILLAN. I would like to state that I have a committee amendment prepared to take this portion out of the bill.

Mr. HOLIFIELD. I thank the gentleman.

Mr. NELSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BROYHILL).

Mr. BROYHILL of Virginia. Mr. Chairman, I wish to voice my support for the bill H.R. 13411, as amended and reported by the Committee on the District of Columbia, which is designed to afford additional revenues for the District of Columbia and a number of other purposes. In its present form, this is a good bill and deserves the support of this body.

The provisions of H.R. 13411 which will produce additional revenues for the Nation's Capital, and the estimated amounts of these increased yields, are as follows:

Estimated yield per full fiscal year

Item	In millions
Increase authorization for the annual Federal payment from $126 million to $170 million	$44.0
4 percent sales and use tax on all commercial advertising	2.0
Increase gasoline tax from 7 cents to 8 cents per gallon	1.5
Increase corporate franchise tax from 6 to 7 percent	3.0
Increase inheritance tax rate	2.8
Recommended increase in real property tax rate by 20 cents per hundred dollars of assessed value.[1]	7.6
Total	60.9

[1] This increase is contingent upon action by the D.C. City Council. It has been recommended also by the D.C. Commissioner.

I realize that certain of these increases, such as the recommended increase in the real property tax rate and the increase in inheritance taxes, cannot produce any new revenues during the present fiscal year. Also, other items cannot produce more than a partial yield for this fiscal year. However, there is certainly an increase of at least $46 million for the present fiscal year available from these items.

In the District of Columbia budget request as submitted to the Congress for fiscal year 1972, the total amount requested for operating expenses was $719.2 million, or an increase in operating funds alone over the preceding fiscal year of some $83 million. In testimony at our hearings on District of Columbia revenue needs for fiscal year 1972, conducted last June, the Commissioner of the District of Columbia advised us that his recommendation for additional needed revenues was $90.3 million. In August, however, we were advised by the District of Columbia Budget Office that after completing a comprehensive reexamination of the budget they had concluded that if the District of Columbia commitments for fiscal year 1972 were to be substantially realized, they would need $72 million of additional revenue. At the same time, they advised us further that the amont which they would need to "meet mandatory and uncontrollable costs" would be $61 million.

Quite recently we were sent a list detailing the mandatory increase requirements for fiscal year 1972, and this latest and most up-to-date estimate of needed additional revenues was $60 million. While the increased revenues which may be expected to accrue during this fiscal year from the enactment of H.R. 11341, listed above, will fall some $14 million short of this latest estimate of needed additional funds, I feel that this represents a rational and appropriate amount at this time. In the first place, I believe that some further curtailments may well be found possible in this estimated need for $60 million. For example, I do not believe that this estimate takes into account the provisions of section 706 of the bill, which will limit the number of authorized permanent full-time positions which may be filled in the District government during this fiscal year to 39,619. This, I am informed, will achieve a reduction of at least 500 such positions, and a consequent very considerable saving. In addition, I believe that other savings may be feasible. Furthermore, from my years of experience in this area of legislation, I am convinced that the provisions presently in this bill will not constitute the final form of the legislation when it is enacted into law, and that the final amount of the additional revenues will be appreciably higher as a result of Senate action and House-Senate conference on the bill. For these reasons, I am confident that the District government will receive sufficient revenues to meet their obligations for the present fiscal year, even though the full amount necessary does not appear to be provided by the bill presently under consideration.

I wish to state unequivocally that I and my colleagues on the District of Columbia Committee are fully cognizant of the responsibility of the Congress to assure adequate financing for the District of Columbia government. This city cannot be financially self-sufficient. It is the Federal City, and belongs to every citizen of the United States; and for this reason, it is the obligation of all American citizens to provide, through the Federal payment to the District, all the funds the city needs, over and above the revenues which its own citizens are reasonably able to contribute, to maintain the standard of government and services properly commensurate with its status as our Nation's Capital.

I fully appreciate the fact that to a very large degree, the unprecedented increases in the District's budgets over the past several years actually reflect the national trends in this respect. The specter of inflation haunts this entire Nation, as the value of the dollar has continued to decline. And in all our large cities, the problem of drug abuse has spawned a terrible increase in street crime, which in turn has triggered a multitude of social evils. In their efforts to combat these problems, every city has had to spend ever-increasing sums of money. The District of Columbia, in the past 5 years, has added some 2,000 police officers to its force—with the result that the incidence of crime in the city has begun to decrease. In addition, a highly effective narcotics treatment program has been developed, with the result that some 3,000 persons are presently receiving treatment in various forms. And the expanded court system, which was made possible by the crime bill which we enacted into law in the last Congress, is now beginning to exert a beneficial effect on the crime problem in the city. All these factors are contributing to a very real degree to a breakthrough in reducing crime in the Nation's Capital. In addition, there is no doubt that other needs and problems exist—in health, institutional services, recreation and culture, community and economic development, physical facilities, and ecological programs. We in the Congress are aware of these needs, and stand ready to provide what is necessary in the way of funds to serve them.

At the same time, however, I must state that the District of Columbia also has a responsibility, to exert every feasible economy in the operation of its government and to forgo or defer those programs which, while they may be highly desirable, are of lesser immediate importance than other more essential items of expense. Again, the District of Columbia is not unique in this respect either. The fact is that the taxpayers in this entire Nation are rapidly reaching a limit in their ability to support further increases in their tax burden. For this very grim reason, the necessity for austerity in funding new programs in the governments of every county, city, and State in this entire Nation has become absolutely essential.

The District of Columbia government has a responsibility also to produce all possible and reasonable revenue from its own citizens. Actually, I believe that this has virtually been achieved, except for one item of local taxation, and this is the tax on real property. For the past 2 years, the District of Columbia Commissioner, who recognizes this responsibility, has requested the District of Columbia City Council to increase the tax rate on real property by 30 cents per hundred dollars of assessed value. However, the Council has refused to take this step, although they did reluctantly grant a 10-cent increase this year. I sincerely hope the Council will respond to the recommendation in H.R. 11341, and act to increase this tax rate by an additional 20 cents, as the Commissioner has requested. This increase will result in an effective tax rate in the city which will not exceed the average such rate in the metropolitan area, and I feel that the property owners in the District should assume this degree of fiscal burden of the city.

Within the framework of these mutual responsibilities as I have outlined them, I feel that we in the Congress can assure the District of Columbia of adequate financing, now and in the future, for the proper operation of its government.

I wish particularly to express my support for the provisions of title V of this bill, which will increase the maximum limit for borrowing for two special funds—the D.C. sanitary sewage works fund and the metropolitan area sanitary sewage works fund. The former will be increased from $72 million to $106 million, and the latter from $25 million to $35.5 million. Both of these increases in loan authorizations will be for the purpose of increasing the capacity of the D.C. treatment facility at Blue Plains, and also the ability of that plant to achieve higher degrees of purity in its operation. I have taken a strong interest in the problem of pollution of the Potomac River, and was the author of the provision in the D.C. Revenue Act of 1970, which required the Environmental Protection Agency to study this problem from the standpoint of relief for the entire metropolitan area, and to report its findings and recommendations to the

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Congress. This study was completed and the report filed; and further legislative action will undoubtedly be forthcoming. Regardless of this action, however, the Blue Plains treatment plant is the heart of the sewage treatment program for the area, as it handles effluent from considerable parts of nearby Virginia and Maryland as well as the District of Columbia. Its facilities are now badly overtaxed, and it is presently treating about 265 million gallons per day, to about 70 percent purity. The plan is to increase the capacity to the maximum of 309 million gallons per day, at 96 percent waste removal. The loan authorizations in this bill will provide the District's share of the cost of this essential project, and the cost of these loans, both principal and interest, will be paid from the fees charged to the users of this sewage system. Thus, there will be no additional burden on the taxpayers as a result.

Another provision of H.R. 11341, which will be removed from the bill by committee amendment, and on which hearing will be held in the future, was designed to correct an inequity of long standing with regard to the site of the old Providence Hospital, located between D and E Streets and Second and Third Streets, Southeast. For a period of some 80 years, a Catholic order of nuns known as the Daughters of Charity operated the Providence Hospital on this square. When they acquired property elsewhere in the city and built the new Providence Hospital, the old buildings were leased to the General Services Administration.

In 1962, a group of private investors known as the Providence Associates of Washington, D.C., purchased this property, with the intention of continuing to lease the buildings to the Federal Government. Soon thereafter, however, the Government canceled their lease. Then the buildings fell into disrepair, condemnation proceedings were brought by the District of Columbia government, and in 1965 the structures were razed. Since that time, the site has stood empty.

This land is situated only two blocks distant from the present east boundary of the U.S. Capitol, and thus is within the territorial jurisdiction of the House Office Building Commission. At the time the property was purchased by the present owners, there was interest on the part of the House Office Building Commission to acquire this site as a part of the Capitol Grounds, possibly as the location for a Capitol Police Academy or for other future needs; and this interest continued for some years, until very recently.

When the present owners of this site were faced with the prospect of not being able to realize any revenue whatever from the property, they were obliged to seek some means of protecting their investment. They were impressed with surveys which indicated a real need for modern apartment facilities, with offstreet parking and adequate shopping area, in the Capitol Hill area. Hence, they applied to the District of Columbia Zoning Commission for a rezoning which would make such an enterprise possible. This application was rejected, however, largely because of the influence of the Architect of the Capitol, who is also a member of the Zoning Commission.

As a matter of fact, the Architect of the Capitol consistently opposed any rezoning or other efforts which would make it possible for private investors to make any practical use of this property. His position in this matter was perfectly proper, of course, as he was protecting the interest of the Congress in acquiring this site for use in connection with the U.S. Capitol. And I wish to emphasize the fact that the owners of the property were perfectly willing to sell the land to the Capitol. This situation came to a climax, however, in October of 1968, when the House Office Building Commission approved the acquisition of this property and directed the Architect of the Capitol to request the funds for this purpose in his regular budget estimate for fiscal year 1970. Unfortunately, however, the funds were denied.

Thus, the Providence Associates, through no fault of their own, were obliged to continue to pay taxes on this valuable property and yet were denied any opportunity whatever to realize any income from it—simply because the Congress wanted to acquire ownership of the land, and yet would not approve its purchase in appropriation legislation.

I felt strongly that this situation should not be allowed to continue, and was the author of a provision in a bill in the 91st Congress which would simply have forbidden the acquisition of square 764 by the Congress. This bill was considered in the House on May 11, 1970, and on that occasion the Speaker of the House took the floor and asked that this provision be deleted from the bill, stating that he hoped the Committee on Appropriations would approve the next request for funds for this purchase, and that he would instigate a renewal of such a request at an early date. In deference to the Speaker, we acceded to this request.

As a result of the Speaker's interest, the House Office Building Commission did take action again on September 14, 1970, and ask for this item in a forthcoming supplemental appropriation bill. Again, however, the Committee on Appropriations refused to allow the item.

In a subsequent action, the House Office Building Commission has directed the Architect of the Capitol to take no further action on the matter of purchase of this property. At last, thereafter, the issue has been resolved, and it is now definitely established that the Capitol will not acquire this site.

In light of these developments, the time has come to extend some measure of equity to these frustrated property owners. The language in section 708 of this bill would do exactly that, by providing that buildings may be constructed on square 764 which may be used for any purpose allowable under zoning classification C-4—with the very important restrictions that no such building may be more than 90 feet in height and that the plans and specifications for any building be subject to the approval of the Architect of the Capitol.

This would be in no way an arbitrary use of the power of Congress, nor a derogation of any authority of the D.C. Zoning Commission. It is true that the Zoning Commission could consider an application for zoning classification C-4 for this property. In granting such an application, however, the Zoning Commission could not impose the special restrictions provided in this bill—and both are essential for the protection of the interests of the Congress to assure the fact that no buildings may ever be constructed on square 764 which will be esthetically incompatible with the Capitol Buildings.

The commercial use of buildings on this site is amply justified, of course, by reason of the fact that the three former buildings located there were in nonresidential use for at least a century. As I have pointed out, however, this proper usage can be granted, together with adequate special conditions for the protection of the Capitol Hill area, only by action of the Congress. I am confident that our future hearings on this subject will serve to remove the confusion and misunderstanding which presently prevail on this matter.

I wish also to express my support for section 707 of H.R. 11341, which will exclude employees of motor carrier companies in the District of Columbia who engage in interstate operation and thus come under the regulations of the U.S. Department of Transportation, from the provisions of the D.C. Minimum Wage Act as far as overtime hours are concerned. The Fair Labor Standards Act provides, on a realistic and practical basis, regulation of hours for such interstate carrier employees—and this includes only drivers, drivers' helpers, loaders, and mechanics in such operations—and these regulations apply to such employees of all motor carrier companies in the United States, except those located in the District of Columbia. Through an erroneous interpretation of certain provisions in a bill amending the D.C. Minimum Wage Act in 1966, an interpretation which was never the intention of the Congress, the D.C. Minimum Wage Board has decided that these employees must be entitled to overtime pay for work in excess of 40 hours in any work week. This has caused an unfair hardship for the local trucking companies engaged in interstate operation, of course, because their competitors elsewhere are controlled only by the Fair Labor Standards Act and do not face the burden of this additional pay for their employees.

We attempted to correct this inequity in our D.C. Revenue Act of 1970, but as a result of some misunderstanding in conference with the Senate, language was agreed upon which in no way solves this problem.

It is my opinion that taxpaying businesses are leaving the District in all too great a number, for a number of reasons, and that it behooves us in the Congress to remove this further stimulus to such defections, for the benefit of the city.

There are a number of minor provisions in the bill, all of which will be beneficial. These include a ban on dual compensation for employees of the District of Columbia government; a requirement that the expenditure of all funds, including private grants and those obtained from the Federal Government as well, must be included in the District of Columbia budget each year and approved by the Congress; a stipulation that rent subsidy payments to persons on public assistance in the District may be withheld for proper payment if the recipient fails to pay his rent; and a provision that recipients of public assistance in the city be provided with identification cards.

Mr. Chairman, we on the District of Columbia Committee have worked long and hard on this proposed legislation, which is a compromise of conflicting points of view among our members. It is a highly constructive bill, and I urge its favorable consideration at this time.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield to me on one point?

Mr. BROYHILL of Virginia. I would be glad to yield to the gentleman from Mississippi.

Mr. ABERNETHY. The gentleman goes to some length and says that the Congress is responsible for a considerable amount of the increase in the cost of the local government. He overlooks the fact that the District government comes here seeking these increases in salaries and so on. Now, would the gentleman agree with me that the revenues, the source of revenues—the possibility of obtaining revenues in the District of Columbia is not adequate for it to keep pace salary-wise for its employees with the employees of the Federal Government? Does the gentleman agree with me on that?

Mr. BROYHILL of Virginia. I do not understand the gentleman's question.

Mr. ABERNETHY. Does not the gentleman agree that the District government is just not capable of paying salaries to its employees comparable to those paid by the Federal Government?

Mr. BROYHILL of Virginia. No, they are required by law to do so.

Mr. ABERNETHY. No. They come to the Hill and say, "We have to keep pace for the District government," but, actually, they do not have the revenue with which to keep pace.

Mr. BROYHILL of Virginia. May I say to the gentleman that we have provided by law the increases for the District of Columbia employees. About 90 percent of these increases are automatic, when we increase the salaries of Federal Government employees.

Mr. ABERNETHY. Mr. Chairman, if the gentleman will yield further, does the gentleman think we should do that when the people who pay the taxes here are not able to pay that kind of tax?

Mr. BROYHILL of Virginia. I think we have to pay the employees of the District government salaries comparable to those received by employees of the Federal Government and of private enterprise.

Mr. ABERNETHY. Does the gentleman feel that the salaries of employees throughout the Nation should be comparable to those paid by the Federal Government?

Mr. BROYHILL of Virginia. May I say to the gentleman from Mississippi, my time is running out. We can discuss this matter further under the 5-minute rule.

Mr. Chairman, I say this is a good bill. It is a compromise bill.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. NELSEN. Mr. Chairman, I yield the gentleman 5 additional minutes.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the gentleman.

Mr. ABERNETHY. As I understand it, this is called a District revenue bill. This bill raises—how much money—about $50 million; does it not?

Mr. BROYHILL of Virginia. It raises actually $53.3 million and recommends other revenues which can be raised by action of the D.C. Council.

Mr. ABERNETHY. That includes taxes on advertising too; does it not?

Mr. BROYHILL of Virginia. That is correct—$2 million is the estimated annual yield from that proposed tax, and the newspapers here want this provision taken out of the bill.

Mr. ABERNETHY. There will be an effort made to take that out and it will probably prevail which will leave $51 million that will be in the revenue bill. Now of that $51 million, $44 million of it will come out of the taxpayers of the 50 States; is that not true?

Mr. BROYHILL of Virginia. That is correct.

Mr. ABERNETHY. In other words, we are getting $7 million out of the District and $44 million will come out of the rest of the taxpayers of the United States—yet, they call this a District tax bill.

Mr. BROYHILL of Virginia. I think you can put this another way. We are faced with a D.C. budget of approximately $700 million. The Federal Government owns approximately half of the land here in this city—this is the Nation's Capital, and we propose that the Federal Government pay $170 million, and the people of the District of Columbia are paying the rest.

Mr. ABERNETHY. I am reliably informed that if taxes were paid by the Federal Government on every piece of property it owns in the District assessed at the same value or at the same percentage as they assess private property, the Federal taxes would only be $106 million and not $170 million.

I offered a proposal in committee for the Government to make that kind of arrangement and the gentleman voted to table it.

Mr. BROYHILL of Virginia. There is no way that you can practically or properly arrive at an assessed tax value of this building, the Rayburn Building, or any of the other monumental shrines here in the Nation's Capital.

Furthermore, it makes no difference what the assessed value or the alleged assessed value may be. If we do not make Federal payments sufficient to support this city, and a deficit budget results, we are going to have to raise the difference in some way.

Mr. NELSEN. Mr. Chairman, I yield such time as he may require to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Chairman, I would just like to add to the gentleman's comments when he was talking about the assessed value of the real estate. If the Government real estate were assessed and taxed in this city, we would pay well over $130 million. I think the Members should keep it clearly in their minds that the Government's real estate does not contribute any other form of taxes to this city. It does not contribute corporate taxes or any type of business or real estate tax which business does contribute.

Yet, we take a massive land area and this Congress, in this wisdom, has limited the height of buildings in this city so that the city cannot get the maximum use of the real estate in the downtown business area that most cities would get. All of these things added together, even more increase the lack of revenue that comes into the city because of the Federal Government being here.

Mr. NELSEN. Mr. Chairman, I have just returned from the District Committee. We had a bill there for improving the hospital facilities of the District of Columbia. This runs into many millions of dollars.

But I notice there are 20 sponsors on the bill already to support that expenditure. I think this has been a process that we have sort of followed a little bit, not taking into account that when the revenue bill comes along that you add costs here and there to the District's operation—authorizations for many programs—and then we complain about the fact that the District cannot always meet the costs of the many programs Congress votes for them.

I might point out further I would like to have you keep in mind that we are really dealing with an authorization. Individual items will be reviewed line-by-line by the Appropriations Committee. I am sure Mr. NATCHER's committee will do a fine job of examining each item, and if there is any item in the bill that needs further examination, I am sure Mr. NATCHER will give it the close examination required. But I might point out that if you read the report accompanying the bill, especially my supplemental views, you will find that the proposed tax increases that were offered by the committee—gasoline tax, inheritance tax, sales tax, real property tax, increased Federal payment, reciprocal income tax—those items, had they passed—and they were recommended by the chairman of the subcommittee—this would have totaled $50 million—not $44 million, but $50 million. So I presume there is recognition by virtue of this of the total budget needs of the District of Columbia.

However, may I say that never has our committee under any leadership done a better job of holding hearings than has Mr. CABELL carefully done relative to the revenue bill. So I want to say I compliment him highly for what he has done, and I think he has put in long and arduous hours. Our relations have been very good and very friendly dealing with this whole proposal. We may criticize, and usually we wind up in the committee with somebody complaining about the cost, that it is too high, and I have asked the question: "What do you do about it?" Usually, mostly nothing, except criticize.

My contribution, a constructive one I think, is the Little Hoover Commission. The name has now been changed to "the

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Nelsen Commission," and I hope we can do a good job. We are sitting in a meeting this afternoon in public hearings and I am sorry I cannot be there for those hearings. We are examining the operation of the city government in every detail, hopefully to bring about some reorganization that will move in the direction of greater economy.

We have had some criticism of the Commission, I understand, that we have been sitting behind closed doors in our monthly meetings. You may ask the question, Why? So do I because as we go along and find critical items, it is not my purpose, nor is it the purpose of other members of the Commission I believe, to embarrass the Mayor in any way, but merely to do a careful study so that finally we can come up with a recommendation, not with the idea of grabbing headlines each day as we go along, but with the idea of coming up with something that will result in a good job.

I am going in some detail to point out where the costs have gone up so terrifically for the District. For example, I remember when we considered in the committee need for additional policemen: One thousand policemen for President Johnson at an annual cost of $9,800,000, and another 1,000 policemen, under President Nixon's crime program which costs $9.8 million a year.

The court reorganization—everybody knows that we needed that change in that area, and I joined with other members of the committee to effect this. May I say one of the greatest champions and most effective men on this floor in bringing about this necessary legislation was my colleague, Mr. ABERNETHY. You will recall the job he did, the great job on court reorganization, and the reports we get show that court is doing better, the backlog has been cut. But that bill cost us $13 million annually.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I am happy to yield to the gentleman from Mississippi.

Mr. ABERNETHY. The gentleman has overlooked the fact that we had a tax bill here last year that increased the Federal payment, and also increased income taxes and other taxes, which more than took care of the very thing, the gentleman is now talking about. Is that not correct?

Mr. NELSEN. I thank the gentleman. But may I point out, as we go down this list, when the request came in for money from the District, we saw that they asked for, I think it was, a $90 million increase. I said, "Forget it, as far as I am concerned, because I have seen budgets back home. I have seen budgets down here. Usually you can show to the agency that there is a little padding in there with the idea that it will be cut." I said, "Forget it." I am proceeding on a minimum need standard.

What did we get a year ago? What was the figure that the Natcher committee approved for the District; it was $126 million. So the items that have been added as annualized increases are $38 million. We in the Congress of the United States are responsible by acts of the Congress of the United States for $38 million in District increases. We in Congress have approved in effect within-grade increases of $6.1 million for the District employees. Annualization of pay increases of $6.3 million have been provided for District employees in our pay acts. Two extra days because of leap year coming up—think of this—$1,800,000 additional costs, because of those 2 extra days. And our pay acts provide for this pay and while the District has absorbed some of these costs, as have other Federal agencies, they cannot absorb it all.

We go down the line, through the court reorganization, drug treatment centers, and so on, and all of it adds up to $38 million, plus items of police and others, which total $44 million.

I went down and talked to the chairman of the committee, Mr. MCMILLAN, and said, "Here is what I come up with, $44 million, and I have not found anybody that has broken down or discredited it, and found those figures to be out of line." We talked about it. The gentleman from South Carolina (Mr. MCMILLAN) offered the amendment for the $170 million in committee. I know he feels as I feel, that the total cost of running this city government is too high. I know everyone in this room would feel that something ought to be done about it, but I want to say in defense of my own position that at least I am trying to do something about it with the efficiency commission we have formed.

In the report it says the District government has not come up with any recommendations on how to raise more money. They have come up with some recommendations, but the Congress has turned them down. This is not a city with industry or city with a tax base, such as many others may have. The Government of the United States is the industry of this District and we must recognize this.

I would say that in many areas the costs are way out of line, but I hope when we get through with our Commission study that we may come up with some answers that can reduce costs.

May I say, it is a very uncomfortable position for me to be in—to push for an increase in payment—because I am basically conservative, and I feel there is nobody conservative who is not careful and who is not concerned with the costs of local government. But, I feel there is no other place to go with a budget of this size. It is not my intention, if I am on the conference committee, to budge on this figure. I think this figure will cover their needs. The figure of the Office of Budget and Management was higher than mine. I want to say the District government did review their budget with the Office of Budget and Management of the U.S. Government. Mine is lower than the Office of Management and Budget and the District's.

So this is my argument, as I see it. I sometimes wonder why any one of us should even take the punishment we often get for being on this committee, but if I am on a committee, whether it be this one or any other one, I intend to exercise my best judgment and be fair in dealing with the problems. I am being fair and I am exercising my best judgment.

I might point out in this bill there are items I did not support, and one of them has traditionally been in the area of advertising.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, on the point of the proposed advertising tax, does the gentleman really feel that is justified?

Mr. NELSEN. I think the gentleman will find in the RECORD a paper that will be submitted by the gentleman from Ohio, Congressman HARSHA, in which he takes the view, and I support it, that it would be an unproductive thing as far as the District of Columbia certainly, because we need always to have in mind what Maryland is doing and what Virginia is doing as respects taxes. Too often we overlook that. As a result we chase industry out of the District of Columbia, and their tax base gradually is reduced by our actions.

Mr. ROUSSELOT. In other words, they would just move across the various lines?

Mr. NELSEN. That is my feeling, yes, or the business would go to the suburbs.

Mr. ROUSSELOT. Will the gentleman yield on a further point? I suppose this is an oversimplification, but the gentleman asked the question, what do we do about the tremendous increase in the cost of this government? Other local governments, when they face this problem, usually are forced to reduce expenditures. Has considered reducing expenditures?

Mr. NELSEN. I certainly hope it will be. This is what we are trying to do with the recommendations we are going to get from our commission and I also might point out that there has been some, action taken by the District, but perhaps not enough.

Mr. ROUSSELOT. Has there been any attempt by the local government to reduce present high expenditures like on other local governments?

Mr. NELSEN. There has been, yes.

Mr. ROUSSELOT. An attempt to systematically reduce expenditures?

Mr. NELSEN. To some degree.

Mr. ROUSSELOT. Have they been successful?

Mr. NELSEN. To some degree, but they have not gone as far as I think they may have gone.

Mr. ROUSSELOT. Maybe the gentleman in the well can put some examples in the RECORD. I thank the gentleman for yielding.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Maryland.

Mr. HOGAN. With respect to the comments made by the gentleman from California, I would like to say that the same concern which he has expressed here today was one which motivated the Congress to enact the Nelsen Commission bill, the so-called Little Hoover Commission which is more accurately called the Nelsen Commission.

The purpose of the act was to study the District of Columbia government comprehensively to see if there are ways economies can be effected. I do not know of anyone who would be more zealous in that regard, or more capable in that function, than the gentleman from Minnesota (Mr. NELSEN) who is now in the well.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Kentucky.

Mr. SNYDER. Being in the real estate business, my fancy was sort of taken by section 701, which appears on page 48 of the report, and says that 143-plus acres of land in Prince Georges County is to be disposed of. Apparently this is authorizing the sale of this land at $4,000 an acre, for $572,600.

I just wonder if the committee took some testimony on this value?

Mr. NELSEN. I believe a response to the gentleman's question needs to be made by the chairman, because I am not familiar with the details. It is my understanding there is some need of some clarification relative to the local community having a first choice, which I certainly would agree they should have. I am sure the gentleman from Maryland (Mr. HOGAN) will take care of the problems in his district.

Mr. SNYDER. I understand the gentleman has an amendment to offer to the bill, for this land to be offered to Prince Georges County. Even if it is offered to Prince Georges County, I would want them to pay the fair value.

The report indicates that the value of $572,600 is in excess of $2 million less than the valuation figure attached to the property many years ago. Knowing property values generally around the Nation's Capital, $4,000 an acre for land does not seem like much money.

Mr. NELSEN. I might comment, that is what I am asking for land back home on the farm, I doubt it is that low.

Would the gentleman from Texas (Mr. CABELL) care to comment on that? Maybe it is $4,000 an acre?

Mr. CABELL. In order to conserve time, if the gentleman will withhold, I will try to clarify that under the 5-minute rule.

Mr. SNYDER. I thank the gentleman. I will be glad to do so.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Maryland.

Mr. HOGAN. With reference to the amendment alluded to, I do in fact intend to offer an amendment at the appropriate time, calling for an offer to sell the land to Prince Georges County before it is offered to the public. My amendment would require that this land first be offered to the Prince Georges County government, and only upon refusal of that county to purchase it, could it be offered to other would-be purchasers.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from California.

Mr. ROUSSELOT. How much land was taken off the tax rolls?

Mr. NELSEN. I do not believe I could answer that. The gentleman from Texas (Mr. CABELL) has more detail than I do.

I include the further remarks and insertions in the RECORD:

Section 709 of H.R. 11341 relates to the Commission on the Organization of the Government of the District of Columbia, also referred to as the Nelsen Commission, of which I am the Chairman. It amends Public Law 91-405, our enabling Act in two important respects:

(1) It clears up any ambiguity there may be about the fact that the report of this Congressional Commission will be printed as a Congressional document. As the author of the bill that was enacted into law as Public Law 91-405, certainly that was my intent, and I feel sure that was the intent of Congress. However, this clarifies the matter, I understand, for our planning purposes.

(2) It permits the Commission to obtain some experts in areas such as budgeting, management and systems analysis, etc. from other agencies on terms as agreed to between the Chairman of the Commission and the head of the agency or department. In other words, if another Federal agency has a person with some special expertise in an area that will help the Commission staff in conducting our study, this will permit that agency to detail their employee to our Commission on either a partial or non-reimbursable basis as agreed to by me and the head of that agency. Here again, we believed we had this authority, but the amendment clarifies the situation and makes it clear that such authority rests with the Commission.

With respect to section 710 of H.R. 11341, I voted against including this measure in the Bill in Full Committee and I will vote in favor of removing it now. It will, I believe, on balance not appreciably help the revenue picture of the District and may in fact hurt it. Radio stations located outside the District for instance could offer lower advertising rates to those who wish to reach the District consumers and listeners. We could thus drive business or businesses to the suburbs which is a flow I believe we are trying to stem if not stop.

I further extend my remarks with information provided me by the District government relevant to this debate:

Section 601 of H.R. 11341, as amended, provides for a Federal Payment of $170 million.

I supported this amendment in Full Committee and I would oppose any attempt to lower it.

The Federal Payment we set here today is nothing more nor less than a ceiling authorization. The D.C. Appropriation Subcommitte has already had hearings and will go through the District's budget in a more detailed way. I have confidence that my good friend Congressman Natcher will not reach the ceiling we set here today unless there is good reason for it.

For my part, I must believe the District officials when they say that anything less than $170 million will result in cuts in their base budget. That existing, rather than new programs, will have to be cut back. If they must be cut back, I for one would rather that that task be assumed by the D.C. Appropriations Subcommittee which is better prepared by reason of their extensive "line item" type hearings to make those judgments. On the other hand, I do not wish to force that Subcommittee to do so by recommending such a low Federal Payment that they have no choice but to cut or force non-selective cutbacks.

I want to say that my good friend and colleague, Congressman CABELL, the chairman of the District of Columbia Committee's Business, Commerce and Fiscal Affairs Subcommittee that held hearings on this revenue bill did a fine job. I believe the extent of effort and time spent in these hearings was as extensive as any held in recent years. He is to be commended for this fine job. Certainly, as the former mayor of a large city, he is conversant with many of the problems which exist in large urban areas, and his experience was of great value to the full committee in considering this bill.

However, we are here again on the floor this year as we were last year and the year before agonizing over the Federal payment. Is it too much, is it enough, is the District raising enough of its own revenue, is the District government efficient or not?

Now it is true that I have voted for and support the higher payment but, and this is a mighty big and important but, 2 years ago after we considered the 1969 revenue bill I decided that something further should be done for the District government as was done by former President Hoover for the Federal Government in the late 1940's and early 1950's.

The Evening Star newspaper in an editorial of November 10, 1971, which apparently followed our hearings closely considers that the $44 million dollar increase in Federal payment is a responsible act. But, like myself, they feel the city is long overdue an examination by an outside group like our Commission. The editorial follows for insertion in the RECORD in its principal parts:

The committee responsibly voted a $44-million increase in the payment, brightening the District's fiscal outlook considerably. In the absence of a big boost in the federal sharing of costs, the city could not hope to struggle through another year at even a minimum level of survival. . . .

But that is not to say that questions of local governmental efficiency should be, or can be, brushed aside. If the city is to look, as it must, to Capitol Hill for aid, its firm obligation is to trim every possible ounce of fat from its spending programs. Furthermore, a long-overdue outside probe of how that might be done is under way right now by the congressionally authorized Nelsen Commission. And it is a happy circumstance of timing that District citizens will have an opportunity to participate directly in the process this week.

The commission's first public hearings will begin at 2 p.m. tomorrow in Room 2125 of the Rayburn House Office Building, and continue through Friday. Chairman Ancher Nelsen advises a substantial turnout.

We join in that suggestion. Left to its own devices, the commission no doubt could produce some valuable proposals for organizational changes and administrative revampings. It is a rare opportunity, however, that is offered citizens to criticize or constructively suggest changes in their own government. For who should know better where the areas of waste and faulty operations are?

The commission's final report is due next March. If it should develop that this week's hearings produce no worthwhile ideas, there will be few grounds for public complaint about faults left uncovered.

Turning again to the important matter of the Federal payment, I have asked the District government to provide me with information relating to what the Congress has done by way of enactments to lay a funding requirement on the District government that annualizes itself each year.

The District's position is stated below:

The question raised was as to the extent of D.C. budget increases over the past five years which have resulted from legislative action by the Congress. In responding to this question, it should be stressed that most new programs or major new efforts of the District of Columbia must originate with enabling legislation enacted by the Congress, inasmuch as the Congress acts as the primary legislative body for the District. It is also important to note that new thrusts are not conceived of separately and apart from the desires and policies of the District government. The Congress, the Federal Government, and the District were all actively concerned and seeking legislative authority to modernize and expand the District's judicial system. The result is the enactment of the 1970 Court Reform and Criminal Procedures Act.

As a result of these relationships, legislative actions often have a pervasive budgetary impact and it is difficult to separate a specific impact from the ongoing program at a particular point in time and budget of the responsible District agency. In many cases, a new law may expand the responsibilities or workload of a particular agency to meet that responsibility. In almost every budget year, this kind of impact is felt in various areas of District operations. For example, the Minimum Wage and Industrial Safety Board is requesting additional funding (6 positions and $75,200) in fiscal 1972 to meet increased inspections and related workload principally due to amendments of the Industrial Safety Act. These amendments were enacted in the 1970 Revenue Act and expand the law's coverage to all places of employment in the District.

From year to year there are many such budget requests, some approved and some denied, which are related to Congressional actions. Because of the broad ranging and pervasive impact, however, it would be nearly impossible to trace out over a five year period the total amount of cumulative funding added to the D.C. budget in response, directly or indirectly, to legislative actions of the Congress. There are however some cases which should be highlighted because of the major impact and direct relationship of the increased funding required.

PERSONNEL COSTS

The District of Columbia personnel system operates under the jurisdiction of the Federal Civil Service System and as such the increases in salaries and benefits which have been enacted over the last several years have sharply affected the District's budget. The pay and benefits systems for District police, firemen, teachers and judicial employees are separate from the Civil Service System. However, in order to maintain a competitive pay scale, in line with the rising cost of living, comparable increases have been approved for these classes of employees. A study of the total effect of "General Actions on Personnel" has shown that these actions account for an increase of $97,227,600 of the FY 1970 budget over the FY 1964 budget; 37.8% of the total budget increase for those years is due to general actions on personnel. The detail follows:

	Increase fiscal years 1964–70	Percent of total
Salary increases to classified employees	$21, 853, 000	8.5
Salary increases to wage board employees	13, 353, 400	5.2
Salary increases to policemen and firemen	13, 302, 700	5.2
Salary increases to judicial employees	73, 000	0
Salary increases to school teachers and officers	22, 648, 800	8.8
Reclassification of positions	2, 609, 800	1.0
Within-grade salary advancements	10, 826, 300	4.2
Personnel benefits (Health Benefits Act)	237, 900	.1
Police and firemen's pension and relief fund	$8, 457, 800	3.3
Employees' compensation and unemployment compensation	704, 300	.3
Administrative expenses, workmen's compensation	92, 900	0
Teachers' retirement fund	1, 159, 900	.5
Judicial retirement	37, 600	0.0
Other	1, 870, 200	.7
Total	97, 227, 600	37.8

SCHOOL TRANSIT SUBSIDY

Public Laws 87–507 and 90–605 authorized the District of Columbia to implement a school transit subsidy program to subsidize the difference between the reduced fare for school children and the regular adult fare as set by the Washington Metropolitan Area Transit Commission. This program has received appropriations as follows: $34,472 in 1967; $32,000 in 1968; $1,227,000 in 1969; $1,487,000 in 1970; and $3,203,035 in 1971. In FY 1972 the request is for $212,300, with a reserve established of $2.3 million for this program if the authorizing law is extended by the Congress.

METRO

The National Capital Transportation Act, as amended, authorized the planning and construction of the regional rail rapid transit system. Funds appropriated thus far are:

	Operating funds	Capital funds
1966		$2, 000, 000
1967	$257, 300	4, 527, 500
1968	921, 300	
1969	1, 135, 345	3, 150, 000
1970	1, 298, 855	41, 615, 000

The fiscal 1971 request of $34.2 million and the fiscal 1972 request of $38.3 million are presently pending before the Congress.

HUMAN RESOURCES

Public Law 90–227, authorized the District of Columbia's participation in the Title XIX Medicaid program of medical services to persons eligible for any of the four Federally-assisted categories of public assistance. Incremental funds approved for Medicaid totalled $500,000 in FY 1970, a net additional amount of $2.1 million in FY 1971 ($2.7 million approved; $600,000 redirected), and an increase of $4.9 million is pending in the FY 1972 Budget.

Public Law 90–452, the D.C. Alcoholic Rehabilitation Act of 1967, recognized alcoholism as a public health problem, not a criminal problem, and formed the basic legislative authority for the District's residential treatment and rehabilitation program for alcoholics. In FY 1972, the budget request for this program is $3.9 million, an increase of $171,000 over 1971.

The Social Security Amendments of 1967 required every state to implement a program of income supplementation to supplement the income of AFDC mothers working full-time, but earning less than they would receive if they were on welfare. This program was begun in Fiscal Year 1971 with an appropriation of $175,000. In FY 1972, the request is for $4.8 million.

For the public assistance programs, OAA, AFDC, AB, and APTD, eligibility requirements are set by Federal law. The intake of new cases is a direct factor in the expenditure levels for welfare. The District's caseload has risen substantially in recent years following a nation-wide pattern influenced by Federal administrative requirements, court actions and economic conditions. The rise in D.C. appropriations resulting from this trend is as follows:

[In thousands of dollars]

	OAA	AFDC	AB	APTD
1965	$502	2, 949	65	1, 031
1966	422	3, 185	62	1, 098
1967	507	3, 935	74	1, 484
1968	685	5, 079	89	1, 894
1969	834	6, 696	87	2, 085
1970	1, 312	11, 449	108	2, 936
1971	2, 025	20, 265	126	5, 179
1972	2, 844	30, 626	150	7, 795

PUBLIC SAFETY

In the area of public safety, considerable program expansions and increases in expenditures have resulted from Presidential recommendations and Congressional approval of enabling legislation.

In 1966, the President's Commission on Crime in the District of Columbia made public its findings and recommendations on law enforcement in the Nation's Capital. The recommendations were very extensive and dealt with the full range of District responsibilities and functions. They involved the activities of 30 D.C. operating agencies. Many of the findings were policy oriented, or related to organizational issues which may or may not have had budgetary impact. In addition, many new programs and new emphases were recommended and have formed the basis for District agency program planning and operations since that time, as for example the Department of Recreation's Roving Leader program. The recommendations of the President's Commission on Crime have had a significant and all-pervasive influence on budgetary and program increases for the District operating agencies.

Three specific examples in the public safety area are the expanded police force, the 1970 Crime Program and the 1970 Court Reform Act. In May, 1968, President Johnson called for an increase in the D.C. police force from 3,100 officers to 4,100. The annual cost of the additional police officers is $9.8 million.

In 1970, following President Nixon's speech of January, 1969, the District undertook the implementation of the President's Crime Program for D.C. This program included an increase in the authorized level of the police force from 4,100 to 5,100 officers and an increase in police cadets and civilian employees; Youth Group Homes, a Diagnostic and Evaluation Program and Pre-Delinquency Program of the Social Services Administration; improved departmental administration, community correctional programs, a Youth Crime Control program, a narcotics program, improved security and improved medical and classification services for the Corrections Department; expansion of the Human Relations Commission; and increased staff for the U.S. Attorney's Office and the U.S. Marshal's Office. The appropriations for the 1970 Crime Program are as follows:

	Fiscal year 1970	Fiscal years 1971 and 1972
Corrections Department	$2, 300, 000	$4, 200, 000
Justice Department	990, 000	1, 180, 000
Social Services	560, 000	1, 460, 000
Human Relations	120, 000	270, 000
Police Department	4, 340, 000	10, 040, 000
Total	8, 310, 000	17, 150, 000

Public Law 91–358, the Court Reform and Criminal Procedure Act, was approved in July 1970 and authorized many significant and thoroughgoing reforms of the District's court and judicial system. The implementation of this Act will require extensive programs and services not only in the traditional Public Safety agencies, but also in such agencies as the Department of Human Resources which provides important services in the areas of rehabilitation, institutional services, job training, education, psychiatric care.

These services are especially important to the effective operation of the total criminal justice system and to the prevention of criminal activity. The estimated annual cost of programs which implement the provisions of this Act is $13 million, once the total program is underway. Initial programs to implement the mandate of the Court Reform Act were funded in the Fiscal Year 1971 Supplemental appropriations acts.

The 1971 first supplemental expenses related to court reform

[Total—$3,830,000]

Office of the Corporation Counsel:	
Special Litigation Division, Juvenile Division, and Administrative Support	$225, 000
Department of General Services:	
Space Rental for judicial activities	551, 000
District of Columbia Superior Court:	
Ten additional judges and staff, Executive Office, Social Services Division, Clerk's Office, Data Processing	2, 329, 000
District of Columbia Court of Appeals:	
Three additional judges and staff	280, 000
District of Columbia Bail Agency:	
Strengthened services	170, 000
Public Defender Service:	
Strengthened legal services, Offender Rehabilitation Division, Coordination of Appointments of Private Attorneys	275, 000

The 1971 second supplemental expenses related to court reform

[Total—$1,044,000]

Department of General Services:	
Increased security in the courts	$12, 000
District of Columbia Commission on Judicial Disabilities and Tenure	11, 000
U.S. Courts:	
The District's share of the increased costs of Federal Court operations	906, 000
Department of Human Resources, improving education at the receiving home	85, 000
Department of Human Resources psychiatric services to emotionally disturbed youths	30, 000

The 1972 budget requests related to court reform

[Total $4,621,986]

District of Columbia Superior Court:	
Seven additional judges and staff, support staff for the Criminal, Civil, Family Divisions and the Probation Department	$743, 000
District of Columbia Court of Appeals:	
Increased workload; handling bar admission-grievances	191, 500
U.S. Courts:	
Reimbursement of Federal court costs	622, 400
Public Defender service:	
Appellate Division	153, 100
Annualization requirements of 1971 supplemental appropriations	2, 911, 986

The recommended increase of $44 million in the Federal payment consists primarily of increased costs resulting from previous actions of the Congress. Included also are the increased costs of the medicaid program and the Narcotics Treatment Agency. A discussion of each item contributing to the $44 million requirement follows:

1. Within grades $6.1

Agencies submit their total within grade funding required for all employees eligible for within grade increases for the fiscal year under consideration. These requirements are documented by position within the budget request. The total funding requirement is then added to the personnel compensation required for the authorized positions within the base. A lapse rate based upon experience factors is then applied to this combined requirement to arrive at the personal services money requested.

2. Annualization of Government-wide pay increases $6.3

Public Law 91–656, effective January 10, 1971, authorized salary increases for classified employees; Wage Order 70–6, effective November 11, 1970, authorized salary increases for wage board employees; and an increase for GS–085 guard positions, effective November 11, 1970, to meet the special minimum salary rate and rate change established by the U.S. Civil Service Commission provided additional supplemental funds in Fiscal Year 1971. In order to assure full funding for Fiscal Year 1972 to meet these mandatory salary increases, agencies requested $7,506,800. The 1972 budget submitted to the Congress contains only $6,262,600, a reduction of $1,254,800 or approximately a 17 percent decrease of the original agency request.

3. Payment for 2 extra weekdays $1.6

Estimates for personnel compensation are based on a 40-hour workweek and a total of 52 workweeks, plus two extra days for those positions where the administrative workweek results in two extra days in Fiscal Year 1972. Most Federal agencies are requesting compensation for one extra work day in Fiscal Year 1972 because the 1972 base includes funds for one extra day requested in Fiscal Year 1971. The District in Fiscal Year 1971 did not request funds for the extra day. This extra compensation was absorbed by the District in Fiscal Year 1971 and therefore requires an increase to meet the two extra days in Fiscal Year 1972. Many District agencies are absorbing the two extra days pay.

4. Compensation payments $500, 000
Employee disability compensation 220, 000

Enactment of P.L. 89–488 approved July 4, 1966, substantially liberalized benefits under the Federal Employees' Compensation Act. The most significant provisions of this amendment were: (1) increased the maximum compensation from $525 to 75 percent of the highest step of GS–15 (making current maximum $1,970 per month); increased the minimum payment per month from $289 to $306 per month; the compensation payment will be automatically increased with each legislative pay increase approved by the Congress; and (2) provided that future increases be based upon Consumer Price Index use of 3 percent for three consecutive months.

Thus, this mandatory program provides: Medical treatment and care for employees injured in job performance including hospitalization, doctors, private duty nursing, medical supplies, compensation for permanent disability, partial or total; burial expense in case of death on the job; compensation to surviving widows and children; and expense of vocational rehabilitation when practicable. Funds appropriated for this program are solely for the payment of compensation and related expenses, and remain available until needed.

Operating expenses for Personnel Office employees engaged in this work are included in fund for the Personnel Office, D.C. This Unit processes all employee injury and occupational disease reports and claims within the purview of the Federal Employees' Compensation Act (FECA): studies, interprets and recommends proposed legislation in the disability compensation field; trains compensation representatives in the operating departments.

The $220,000 requested is to cover increases in medical costs, cost of living increases, legislative pay raises, and heavier claim loads.

Employee Unemployment Compensation, $267.0 thousand.

This is a required program which provides unemployment compensation benefits for eligible former District Government employees. Under law, since October 1, 1955, any former District employee who qualified has been eligible to draw unemployment compensation benefits. The District Government includes in its annual budget request funds estimated necessary to pay these benefits for the succeeding year. These funds are expended through the District Unemployment Compensation Board.

Public Law 87–424, approved March 30, 1961 substantially liberalized the unemployment compensation benefits. The most significant provisions of this Act were: (1) increased the maximum benefit payment from $30 to a current $73 per week, with benefit payments being computed on an annual basis, based on a rise in the consumer price index, and (2) increase the maximum length of duration payment time from 26 to 34 weeks.

The $267,000 requested will be used to pay the increase in benefit payments and the increase in number of claimants.

Workmen's Compensation—Administrative Expenses, $44.5 thousand.

Administration of this program for the District of Columbia is vested in the Bureau of Employees' Compensation, U.S. Department of Labor. Administrative expenses are included in the District's appropriation even though actual administration and disbursements of funds rests with the Bureau of Employees' Compensation. The annual District budget requests for these funds is based upon an estimate of administrative costs provided by the Department of Labor for the budget year.

Funds contained in the increase of $44,500 for fiscal year 1972 are: within grade advancements ($15,000) and the classified pay increase which became effective January 10, 1971 ($29,500).

5. Retirement and Relief Payments $2.6

Public Law 91–297 (approved 6/30/70) raised policemen's and firemen's salaries an average of 13 percent and similarly raised pension benefits. Public Law 91–509 (approved 10/26/70) substantially increased payments to beneficiaries and allows retirement after twenty years service. Public Law 91–532 (approved 12/7/70) makes widows who married pensioners after they retired eligible for pensions. Increased cost of this legislation is reflected as both changes and increases in fiscal year 1972 budget.

6. Juror Fees $0.2

1972 Estimate 1,244.5.

Justification: Public Law 90–274, effective December 22, 1968, provided an increase in the fee paid to jurors, from $10 to $20 per day. During the 1970 fiscal year, the Court of General Sessions disbursed $546,453 to jurors and the Juvenile Court disbursed $55,280, totaling $601,733. This amount surpassed the combined allotments for jurors fees by $91,683. In view of the increase in the number of jurors paid, payment of jurors serving on the Grand Jury, and the addition of seven judges in 1972, as provided in Public Law 91–358, a corresponding increase of $234.5 is required to pay jurors the fee to which they are entitled by law.

7. Reimbursement to U.S. Courts $0.6

This amount is needed in fiscal year 1972 to annualize a fiscal year 1971 supplemental which added 70 positions to the Office of the U.S. attorney, and 56 positions to the U.S.

marshal's service and to provide for an expected increase in the number witness fee payments.

8. Teachers salary increases $0.7

The District of Columbia Teachers Salary Act Amendments of 1970, Public Law 91-297 of June 30, 1970 provides higher compensation for employees in Class 15 grade who have earned a bachelor's degree plus a minimum of 15 additional graduate credit hours. It is anticipated that 2,800 or 40 percent of the D.C. School Teachers will be eligible to receive this benefit. The budget item in fiscal year 1972 is for the required costs of the additional employees who became eligible in this year. The average increment is about $400. Provision was made in the 1971 Supplemental for the first group.

9. Prepayment of Loans and Interest ... $8.0

Public Law 451, 85th Congress (as amended), authorized a loan for a program of construction projects to meet immediate public building construction needs in the District of Columbia. Moneys advanced under this authority were to be repaid, including interest beginning July 1 of the second fiscal year following the date on which each advance is credited to the General Fund. The total funds advanced under this authority is to be repaid within thirty years. Public Law 91-650, dated January 5, 1971, authorized public building construction on a formula basis related to the general fund taxes. Of this authorization the following amounts have been appropriated, requisitioned, and repaid:

Appropriations for loans	$352,014,500
Unadvanced loan appropriations	107,389,500
Loans to date	244,625,000
Principal payment to date	5,350,321
Principal balance outstanding	239,274,679
Accrued interest to date	31,180,900
Less interest payments to date	17,466,339
Liability to United States as of June 30, 1971	252,989,240

10. Board of Elections $0.2

As a result of the 1968 amendments to the Election Act which provided for an elected Board of Education, and the act of 1970 which provided for the election of a Delegate to the House of Representatives, elections will be held in the District each year.

Additional funds will be required to conduct an election in November 1971 for one at large and five ward members of the Board of Education, with a run-off election possible for each office. In May 1972, part elections will be conducted for Delegate, local political party officials, and delegates to the national Presidential nominating conventions.

MEDICAID PROGRAM—FISCAL YEAR 1972

Cost of program	Fiscal agents— 1971	1972	Increase
Estimated population to be serviced	125,213	138,522	13,309
Fiscal year 1971 estimated cost per person	$290	$290	$290
Total cost resulting from estimated increase population	35,311,770	$40,171,380	$3,859,610
Estimated cost resulting from estimated increase in cost per person ($32x138,522)			4,432,704
Total increase funding required			8,292,314
Estimated increase in District of Columbia portion of increase funding requirement			4,883,439

11(c). Narcotics Treatment Agency $0.9

The increase of $924,500 and 7 positions is for funding of the Law Enforcement Assistance Administration Discretionary Grant which will not be available in fiscal year 1972. This grant provides funds which can be used in a flexible manner to contract with local organizations to provide treatment and other services of a nature and in areas where they are not otherwise available.

12. Court Reform $3.9

To implement Public Law 91-358 District of Columbia Court Reform and Criminal Procedure Act of 1970 the Supplemental Appropriations Act, 1971 (Public Law 91-665) provided partial year funding in fiscal year 1971 for the following agencies, to annualize these items the following is needed:

Corporation Counsel:	
Special Litigation Division	$0.1
Juvenile Division	0.1
Department of General Services: Space rental-expanded activities relating to the Court Reform Act	0.8
Court of Appeals: Judges, staff and other objects (telephone, printing, contracts and supplies)	0.1
Superior Court: Staffing, supplies and equipment	0.5
District of Columbia Bail Agency: Staff and other objects (communication, printing, reproduction, supplies, notification expenses, travel and transportation)	0.2
Total, Court Reform	*1.8

Other annualization required because of partial year funding of items in the First and Second Supplemental Appropriations Act, 1971:

Sanitary Engineering: Additional staff for development and implement training programs and a skills bank, equal employment opportunity program, and additional custodial workers	$0.1
Safety equipment, uniforms, raingear and laundry service	0.1
Department of General Services: Annualize cost of greater guard security in buildings and parking lots occupied by local courts	*0.1
Human Resources: Annualization of additional staff at Receiving Home to provide education to children held in detention and residential psychiatric service to emotionally disturbed youths when ordered by judges and child's condition warrant immediate attention	*0.2
Total, First and Second Supplemental Annualizations	0.5

Miscellaneous

Metropolitan Police: Increased cost of medical bills	*0.1
Fire Department: Columbus Day holiday	*0.1
Superior Court: Benefits to former personnel	*0.1
Recreation Department: Personnel compensation above basic rates	*0.1
Hospital and Medical Care Administration: Nurses and nursing assistants reclassification	*0.2
Mental Health Administration: Nurses and nursing assistants reclassification	*0.1
Sanitary Engineering: Equipment	0.1
Public Library: Increased cost of building repairs	0.1
Department of Highways and Traffic: Electrical energy, equipment and vehicles	0.1
Department of Sanitary Engineering: Land rental—Cockpit Point Corp	0.1
Department of Finance and Revenue: Annualization of prior year approved positions related to changes in sales tax law providing for taxpayer sales tax credit on income tax returns and tax collection enforcement	*0.4
Department of Corrections: Provide for inflationary increase in supplies and materials related to increase of prison population resulting from court reorganization	*0.2
Federal City College: For additional space required for 3d and 4th year programs	*0.5
Total, Miscellaneous	2.2
Grand Total, Other	4.5

* Related to congressional action.

13(a). Minimum Wage $0.1

H.R. 19885 (Revenue Act of 1970) passed the 91st Congress and included in this legislation are amendments to the Industrial Safety Act (D.C. Code, Sections 36, 431-442).

The legislation makes the industrial safety law applicable to all places of employment. Since 1965, 10,000 (hotel) employees had been exempted. The legislation will also make public hearings by the Board a possibility when an application is made for a variation of a safety regulation. It will also increase fines from a minimum of $100 to a maximum of $600.

This legislation will immediately place 10,000 hotel employees and approximately 3,000 other employees who work within hotel buildings under the jurisdiction of the Industrial Safety Board. These workplaces have been neglected since 1965. Inspection procedures must be reinstituted and injury analysis and safety program supports must be made and designed for the hotel industry.

13(b). Commission on Judicial Disabilities and Tenure $0.1

The Commission on Judicial Disabilities and Tenure was established by Title I of the Court Reform and Criminal Procedure Act of 1970. The Commission shall have the power to suspend, retire, or remove a judge of a District of Columbia Court. One of the first duties of the Commission will be to review the reports of personal financial interest of all judges in the District of Columbia Courts. Thereafter, the Commission will review on an on-going basis the conduct and health of the judges to insure proper performance of judicial duties in the administration of justice. It shall conduct investigations as it deems necessary and shall institute hearing proceedings before final determination is made.

13(c). To implement P.L. 91-358 "District of Columbia Court Reform and Criminal Procedure Act of 1970," the Supplemental Appropriations Act, 1971 (P.L. 91-665) provided partial year funding for fiscal year 1971, the following amounts are required for annualization:

Superior Court

Judges and staff	$0.8
Financial Operations	0.1
Social Services Division	0.6
Clerk's Office	0.1
Data Processing	0.1
Clerk, Juvenile Court	0.1
Other Objects (communications, printing, reproduction, supplies, notification expenses, travel, transportation, and equipment)	0.3

Public Defender Service

Staff and other objects (travel, communication, utilities, printing, reproduction, supplies, and materials)	0.3
	2.4

SUMMARY OF DISTRICT OF COLUMBIA GOVERNMENT FISCAL YEAR 1972 BUDGET INCREASES RELATED TO CONGRESSIONAL ACTION, "THE $38 MILLION"

Within Grade Advancements—$6.1 million: U.S. Code, Title V, Chapter 53, Subchapter 3, Section 5335 (Periodic Step Increases) (P.L. 89-554, as amended).

Annualization of Pay Increases—$6.3 million: P.L. 91-656—salary increases for classified employees Wage Order 70-6—salary increases for wage board employees.

Two Extra Days Compensation—$1.8 million: Estimates for personnel compensation are based on a 40 hour work week and a total of 52 work weeks plus two extra days for those positions where the administrative work week results in two extra days in FY 1972.

U.S. Code, Title V, Chapter 55, Subchapter 1, Section 5504 (Biweekly Pay Periods, Computation of Pay) (P.L. 89-554, as amended).

Compensation Payments—$.5 million:

1. Employees Disability Compensation Payments—$220,000:

U.S. Code, Title V, Chapter 81 authorizes the program, "Compensation for Work Injuries" (P.L. 89-554, as amended).

P.L. 89-488 substantially liberalized benefits under this Act, increasing costs to the District.

2. Employee Unemployment Compensation Payments—$267,000:

The Act of August 28, 1935, as amended authorized D.C. Unemployment Compensation.

P.L. 87-424 substantially liberalized benefits under this Act, increasing costs to the District.

3. Workmen's Compensation—Administrative Expenses—$44,500:

The Act of May 17, 1928 (Workmen's Compensation Extended to D.C. Employees).

The Act of May 29, 1928 (Required D.C. Reimbursement to Labor for Administrative Expenses).

Retirement and Relief Payments—$2.6 million:

Increased costs are related to:

P.L. 91-297 increased pension benefits for policemen and firemen.

P.L. 91-509 increased payments to beneficiaries and allowed retirement after 20 years.

P.L. 91-532 makes widows who married pensioners after they retired eligible for service.

Juror Fees—$.2 million: P.L. 90-274 provided an increased fee for jurors. There has also occurred an increase in the number of jurors paid.

Reimbursement to U.S. Courts—$.6 million:

Title 28, Chapter 5, (P.L. 86-3) assigns U.S. Marshals and U.S. Attorneys to the District Court in D.C.

P.L. 86-84 establishes a formula for D.C. reimbursement to the Department of Justice.

Teachers Salary Increases—$.7 million: P.L. 91-297 provides for higher compensation for employees in Class 15 grade with a Bachelor's degree plus 15 additional hours service.

Repayment of Loans and Interest—$8 million:

The Act of May 18, 1954—loans for water, sewerage, highway construction.

The Act of September 7, 1957—loans for D.C. Stadium.

The Act of June 6, 1958—loans for public works construction.

The Act of June 12, 1960—loans for Potomac Interceptor construction.

Board of Elections—$.2 million:

Increased costs related to:

Voting Rights Amendments of 1970.

P.L. 91-405 authorizes the elections for Delegate.

P.L. 90-292 authorizes an elected School Board.

Annualizations—$7.1 million:

Minimum Wage—to annualize positions approved in FY 1971 to implement the Act of January 5, 1971, amending the D.C. Industrial Safety Act.

Commission on Judicial Disabilities—to annualize program approved in FY 1971 to implement P.L. 91-358.

Court Reorganization—to annualize programs approved in FY to implement P.L. 91-358.

Higher Education—to annualize programs approved in FY 1971 to implement P.L. 89-791.

ADDITIONAL INCREASES RELATED TO CONGRESSIONAL ACTIONS

Public Assistance Payments—$15.3 million: The increased costs and caseload are a result of many judicial, administrative and social factors.

The welfare program is a national program, established in the 1930's and liberalized by the Social Security Act Amendments of 1967.

Medicaid Program—$4.9 million: Increased costs due to D.C. implementation of Title XIX of the Social Security Act, as amended.

School Transit Subsidy—$.7 million: P.L. 92-90 extended the program's authority for three years.

Income Supplementation—$1.2 million: Increased costs due to D.C. implementation of 1967 Social Security Act Amendments requiring income supplementation.

Mr. CABELL. Does the gentleman mean for nonprofit organizations and the like?

Mr. ROUSSELOT. Yes.

Mr. CABELL. It is my recollection it is not less than $250,000 and certainly not more than $500,000 of potential taxes for properties that have been declared exempt.

Mr. ROUSSELOT. In other words, the loss of revenue was almost $500,000?

Mr. CABELL. It occurs to me it is more nearly $250,000 of potential taxes to be derived from those buildings which have been declared exempt.

Mr. ROUSSELOT. Who took this action; that is the Congress?

Mr. CABELL. That has to come from the Congress.

Mr. ROUSSELOT. In other words, we are partially responsible for the reduction of revenue?

Mr. CABELL. Bear in mind, a great deal of that is for chanceries.

Mr. ROUSSELOT. I understand that; but we have been responsible for reducing the revenue; is that correct?

Mr. CABELL. That is correct.

Mr. NELSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. GUDE).

Mr. GUDE. Mr. Chairman, I thank the gentleman for yielding.

I rise in opposition to the provision which would extend the District of Columbia sales tax to the sale of advertizing at the rate of 4 percent.

I have always been more than sympathetic to the critical revenue needs of the District, and I have supported all legislation which would truly aid the District in meeting its needs. However, I feel very strongly that this tax would be counterproductive.

Since the city relies heavily on the sales tax as a source of revenue, and sales tax obviously is a product of sales, the logic of imposing a tax on advertising, a primary promoter of sales, escapes me. Advertising brings the buyer and seller together and the local government is a silent partner in every sales transaction, taking its 4½-percent profit off the top, and in the process benefiting from the merchant's advertising without paying a single cent. Therefore, I ask, why bite the hand that feeds you?

To the extent that advertising is diminished as a result of the substantial cost which would be incurred by this amendment, fewer retail sales will be generated and two principal sources of revenue to the District—the sales and income tax—are likely to produce less revenue. Therefore, the advertising tax is likely to result in less, rather than more, income to the city.

Furthermore, since this proposal was put through the committee in the last day of markup session, without any hearings, I am skeptical of it as I would be of any proposal which was to be considered with the same lack of investigation and/or discussion before the vote.

Mr. CABELL. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the committee, the gentleman from South Carolina (Mr. MCMILLAN).

Mr. MCMILLAN. Mr. Chairman, again, we are asking you to approve another revenue bill for the District government. Immediately after the suggested budget for the District of Columbia was referred to the House District Committee, I requested the gentleman from Texas (Mr. CABELL), chairman of the Business Subcommittee, to conduct hearings in an effort to find out the reasons for the continued increase of expenditures in operating the District of Columbia government.

Congressman CABELL and his subcommittee spent approximately 2 months conducting hearings and questioning the individual District government agencies as to why the budget for the District of Columbia continues to increase every year. We have found it absolutely impossible to retard the District government expenditures since we only have jurisdiction over legislative matters and cannot control the appropriations.

When I first became a member of the House District Committee, the Federal payment was $9 million annually. I have used every effort in my power to hold the expenditures down to the extent that it would not be necessary to increase the Federal payment; however, when the District Commissioners and the present Commissioner present facts showing that numerous new Government agencies have been created causing additional expenses, I have continuously asked that the Federal payment be increased.

Last year we increased the Federal payment from $90 million to $126 million. This year I first asked the committee to increase the Federal payment from $126 to $140 million due to additional expenditures made necessary by acts of the Congress. The House increased the salaries for all employees of the District of Columbia. The House District Legislative Subcommittee placed a ceiling last year on the employees of the District of Columbia government for 1 year; however, since the expiration of that date, numerous employees have been added. Also, since the Reorganization Act of 1967 was passed by this Congress, the employees for the District of Columbia have increased from approximately 27,000 to 41,000, even though the population of the District of Columbia has decreased by

approximately 60,000 during the past 10 years.

I must confess that my committee and I, after using every effort possible to curve the expenditures of the District of Columbia government, and find ourselves unable to prevent the district government from creating new indebtedness causing additional expenses. Our only hope is to hope and pray the House and Senate Appropriations Committees will thoroughly check the District expenditures and see if the continued increase in expenditures can be retarded.

The District government first requested in the original budget that the Federal payment be $190 million; however, since no pay raises of any kind can be made to the District employees, the original request of the District officials was reduced to $170 million. I do not quite understand how expenses continue to increase when the government is supposed to be operating on a continued resolution passed by the Appropriations Committee. I believe that the average businessman in the District of Columbia is paying more than the average businessman in other cities comparable to the size of Washington. I am not certain that the property and real estate taxes are as high as they are in some cities, as this is a matter over which the Congress has no jurisdiction since many years ago the Congress gave the Commissioners authority to levy taxes on real estate. I can assure the Members of the House that we could have reported a revenue bill to the floor of the House 3 months earlier; however, we spent many days and weeks studying the District of Columbia government in an effort to see if this proposed budget could not be reduced; hence, that is the reason we are late in reporting the bill to the floor of the House.

Very few Members of Congress realize that the Federal Government is contributing some $400 to $500 million in grants through the individual Government agencies to assist the District government, and this is in addition to the regular Federal payment.

We are making an effort to have some record made of these grants so that the Appropriations Committee will be in a position to know the amount of Federal funds being spent in operating the District government.

PURPOSE OF THE BILL

The purpose of H.R. 11341 is to provide some additional revenue to the District of Columbia, as well as other much needed and justified legislation.

Again the Congress is faced with and asked to bail the District government out of its fiscal distress.

For the eighth consecutive year the District has come to Congress with an out-of-balance budget. The District's estimates of expenditures as submitted for fiscal year 1972 totaled $1,045 million of which $725.9 million represents the operating budget for 1972.

The government of the District of Columbia continues an accelerated rate of spending, all out of proportion, in the judgment of a majority of the House District Committee members, to the city's declining population, its needs, or its ability to finance such expenditures. Few if any economies or efficiencies have been achieved in the expansion of the city government departments, agencies, and programs. Yet no other city in the Nation is annually treated so generously with hundreds of millions of dollars in Federal grants, in addition to the annual generous Federal payment.

The House District Committee is of the opinion that it has met all the established needs of the Nation's Capital by enacting the necessary legislation.

During the past 7 years your committee has reported and the Congress has approved five revenue acts for the District.

In these 7 years, the Congress has:

First. Increased the Federal payment authorization from $32 to $126 million.

Also, in addition, authorized were one-time Federal contributions of $5 million for combating crime, $5 million as costs of the expansion and reorganization of the local court system and programs to reduce the drug problem, and $8 million toward salary increases for police, firemen, and teachers; to make a total increase in annual Federal payment authorizations to the District during these 7 years of $112 million—from a lumpsum $32 to $126 million, plus $18 million for special purposes.

Second. Raised various District tax rates to provide an estimated $62.4 million of additional annual revenues to the District of Columbia General Fund.

Third. Increased certain motor vehicle registration and other fees, in the Revenue Act of 1969, so as to provide an additional $6 million annually to the Highway Fund.

Fourth. Increased the District's borrowing authority to the General Fund, for capital improvements, from $75 to $610 million.

Fifth. Also increased the District's borrowing authority to provide $72 million for the Sanitary Sewage Fund, $110 million for the Highway Fund, and $57 million for the Water Fund.

Sixth. Provided $300,000 revenue for highway repairs from truck fees; also $200,000 from a tax on the rental of linens; and a $200,000 saving to District by inspection of milk and dairy products under standards of the Department of Health, Education, and Welfare.

Seventh. Authorized a Federal contribution of not to exceed $1,147 million—and increased the District's borrowing authority to cover its share of $216.5 million—of the net project cost of a regional rapid rail system, with total estimated cost of $2,494.6 million.

During the 10 years' construction of the subway now underway, it is estimated that 12,000 to 15,000 workers will be employed with an estimated $1 billion payroll.

Eighth. Authorized $50 million for construction of the Federal City College and the Washington Technical Institute—$10 million of this was an outright grant, and $40 million another additional borrowing authorization.

Ninth. Qualified the Federal City College as a land-grant college, thereby authorizing it to receive a capital grant of $7.2 million as an endowment. Provided that land-grant funds shall be equally divided between the Federal City College and the Washington Technical Institute.

Tenth. Authorized $40 million in Federal project grants for modernization of hospital plants and construction of health facilities, and another $40.5 million in Federal loans—at 2.5 percent interest repayable in 50 years—for institutions not having the required matching funds.

Eleventh. Authorized a $6.2 million subsidy for the benefit of the District's Medical and Dental Schools of Georgetown and George Washington Universities, respectively, for grants not to exceed $5,000 per medical student, and not to exceed $3,000 per dental student for fiscal years 1971 and 1972.

Twelfth. Provided an additional $25 million, annually, to the District's revenues, through increases in the personal income tax, when enacting the police, firemen, and teachers' salary bill of 1970.

The mean average household income for 1969, as reported by te District of Columbia government, was $10,500.

Thirteenth. Other approved legislation authorized 20-year leases for space for the District of Columbia government, thereby saving the District an estimated $1 million over a 20-year period, and provided for a study of Potomac River pollution and resources.

REORGANIZED D.C. GOVERNMENT COST INCREASES

Fiscal year 1972 will make the fourth fiscal year since the change over from the Commissioner government established in 1878 to the present "reorganized" District government which was launched during the 1968 fiscal year. A majority of your committee was firmly convinced that Reorganization Plan No. 3 would solve few, if any problems of the District government, and to the contrary would result in increased costs and inefficiencies. As an alternative to Reorganization Plan No. 3, your committee in 1967 reported to the House a modified Commissioner government to continue the local system which had given the District nearly 90 years of stable and effective government.

The study in depth of the District government budget request for 1972 fiscal year which has been conducted by your committee has provided a better informed legislative base for action in providing new funds for estimated budget needs during fiscal 1972. To see the fiscal direction the local government appears to be taking, a comparison is presented here showing the trends during the last 4 years of the three-Commissioner government and the 4 years, including the 1972 fiscal estimates, since the reorganization of the District government in 1967.

DISTRICT GOVERNMENT EXPENDITURES BEFORE AND AFTER REORGANIZATION

This table presents a comparison of District of Columbia fiscal year government expenditures for the 4-year period preceding the Reorganization Plan No. 3, and the expenditures during the 4 years succeeding the plan, including 1972 fiscal estimates. Totals do not include principal and interest payments on borrowed funds.

[In millions]

	Operating expenses	Capital improvements	Appropriated expenditures	Grant funds
D.C. government prior to reorganization (1964–67):				
1964	$262.9	$46.6	$309.5	$57.4
1965	288.5	59.6	347.1	43.6
1966	309.4	53.6	363.0	63.0
1967	345.5	71.6	467.1	80.3
Total	1,206.3	231.4	1,486.7	247.3

	Operating expenses	Capital improvements	Appropriated expenditures	Grant funds
Reorganization of D.C. government—1968:				
1969	$465.8	$109.1	$574.9	$120.4
1970	560.9	128.3	589.2	142.7
1971	620.8	71.0	691.5	171.8
1972 (estimate)	691.8	261.0	952.8	268.3
Total	2,339.0	569.4	2,908.4	703.2

NOTES

All funds total—grant and appropriated—1964–67, $1,734.
All funds total—grant and appropriated—1969–72, $3,611.6.

Figures from District of Columbia Financial and Statistical Report, 1969–70 and supporting materials—Revenue Hearings 1971.
Principal and interest figures on borrowed funds not included in above totals.

During the period of years shown, there has been a decline in the total population of the District and nearly 10 percent decline in school attendance. The per capita income has continued at the level above any State at $5,519.00, or $22,076.00 for a family of four. Yet District of Columbia government operating costs show nearly a 100-percent increase for the 4 years since the present government was installed, compared to the 4 years preceding that change. A similar showing is made in connection with the expenditures for capital improvements and the combined totals again show a 100-percent increase. When grant funds to the District government are added to other funds, the comparison results in still greater increase of about 125 percent during the 4 years since reorganization.

From 1923 until 1956, the District of Columbia operated without any public debt. The last year before the change in the District government, the authorized debt ceiling for various funds was $290 million. The first year following reorganization the authorization increased under formula to $333.8 million for general borrowing, which under the formula reached $402 million, and was exhausted, in 1970. The total borrowing authority for all funds totaled $741 million and the appropriations against the borrowing authority reached $645 million in 1971. The revenue request of the District government for fiscal year 1971 recommended changing the formula to increase the total borrowing authority. The all fund total borrowing today stands at $1,118 million, and the total funds appropriated, if the 1972 budget is fully approved, will be more than $900 million. The District is rapidly reaching a point where its insufficient revenues will be called upon to reserve about 10 percent of the funds to meet interest and principal payments on its debt.

DISTRICT GOVERNMENT'S EXTRAVAGANCE

The District of Columbia government, in the judgment of your committee, has rapidly become the most extravagant government in the entire Nation. Despite a declining population—1950 census: 802,178; 1960 census: 763,956; 1970 census: 756,510—with need for fewer services and fewer government employees, local costs in the District of Columbia continue to spiral upward at an alarming unjustified rate.

The 1970 census figures revealed the population of the District of Columbia to be 756,510. Yet after the 1960 census—763,956—District officials projected their estimates of population—based on their own computations of population increase—to a high figure of 860,000, and the city has since received corresponding but unearned Federal grants and benefits computed on such higher figure. In the intervening years, the District's yearly testimony and representations to the Congress for need for additional revenue have been predicated upon the claimed population of 860,000, for which projected services and programs were submitted for approval. The city's estimate, based upon a much-inflated figure, as a matter of fact was more than 100,000 persons in excess of the actual population of the city.

The following tabulation shows at a quick glance the untoward dollar increases in the District's budget over a 10-year period. The 1963 budget of $295.9 million jumped to $1,045.3 million—an increase of $749.4 million, or a 253-percent increase—for 1972. Ever since the reorganized District of Columbia government took office, there has been a 100-percent increase in the budget—from $520.4 million in 1968 to $1,045.3 million for 1972.

On the other hand, the total resources—for spending—budget of the District has increased even more alarmingly; namely, by 312 percent since 1963—from $351.7 million in that year to an estimated $1,450.1 million for 1972. And this is a 108-percent increase in spending under the reorganized District of Columbia government, largely due to increased Federal grants during this period to the District.

However it is viewed, the fact is inescapable that the taxpayers all over the United States are picking up the tab for over 25 percent of the government expenditures made in the District of Columbia for or on behalf of the local residents.

DISTRICT OF COLUMBIA BUDGET, ALL FUNDS—NEW AUTHORIZATIONS 1963–72

[In millions of dollars]

	1963	1964	1965	1966	1967	1968	1969	1970	1971	Estimate 1972	Percent increase 1972 over 1971
General operating expenses:											
Operating	16.4	17.9	19.4	20.5	23.2	28.1	34.1	47.6	55.3	61.0	10.3
Capital outlay	1.6	1.1	5.0	2.1	.9	13.6	7.5	1.7	4.7	11.4	142.5
Public safety:											
Operating	60.5	66.1	73.7	80.0	90.4	99.0	114.7	141.5	163.1	174.2	7.8
Capital outlay	1.1	.6	.3	1.6	1.2	3.0	4.0	12.8	4.3	12.4	188.3
Education:											
Operating	59.5	63.9	72.0	75.6	86.1	103.3	123.2	151.8	161.7	178.5	10.3
Capital outlay	7.7	15.6	14.4	17.6	30.1	54.3	41.6	36.8	30.7	93.4	204.2
Recreation:											
Operating	8.6	9.1	10.2	11.1	12.9	15.7	17.8	19.2	11.8	12.8	8.4
Capital outlay	.3	.4	.7	1.0	1.1	2.7	2.8	1.4	1.9	9.1	378.9
Human resources:											
Operating	65.9	70.5	76.2	81.1	90.8	107.1	125.1	144.6	168.6	207.0	22.7
Capital outlay	13.7	1.3	.5	6.0	2.6	2.0	7.2	1.6	1.7	21.5	1,164.0
Highways and traffic:											
Operating	11.5	12.4	13.7	14.2	15.3	16.8	18.0	19.4	21.0	21.3	1.4
Capital outlay	10.0	11.3	13.8	9.8	15.5	18.3	11.2	3.6	2.6	6.7	157.7
Sanitary engineering:											
Operating	21.1	22.0	22.4	23.3	25.1	28.0	32.4	36.8	39.0	40.7	4.3
Capital outlay	15.0	15.4	23.0	12.5	14.3	17.7	30.6	27.2	23.9	98.0	310.0

DISTRICT OF COLUMBIA BUDGET, ALL FUNDS—NEW AUTHORIZATIONS 1963-72—Continued

[In millions of dollars]

	1963	1964	1965	1966	1967	1968	1969	1970	1971	Estimate 1972	Percent increase 1972 over 1971
Payment D.C. share of Federal capital outlays (Federal obligations)		0.9	1.9	1.0	1.4	1.2	1.1	1.6	1.2	1.2	
Contributions to rail rapid transit				2.0	4.5		3.1	41.6		72.5	
Repayment of loans and interest	2.5	5.0	5.6	5.7	6.1	7.8	8.8	10.8	15.6	23.6	51.2
Judgments, refunds, and other expenses	.5	1.0	.9	3.6	1.6	1.8	.5	.1			
Operating	244.0	262.9	288.5	309.4	345.5	399.8	465.8	560.9	620.5	695.5	12.0
Capital outlay	49.4	46.6	59.6	53.6	71.6	112.8	109.1	128.3	71.0	326.2	359.4
Repayment of loans and interest	2.5	5.0	5.6	5.7	6.1	7.8	8.8	10.8	15.6	23.6	51.2
Subtotal	295.9	314.5	353.7	368.7	423.2	520.4	583.7	700.0	707.1	1,045.3	57.8
Reserves										10.5	
Appropriated budget and reserves	295.9	314.5	353.7	368.7	423.2	520.4	583.7	700.0	707.1	1,055.8	39.7
Federal grants	55.8	57.4	43.6	62.4	79.8	103.5	119.2	142.0	171.3	268.0	56.4
Private grants	(1)	(1)	(1)	.6	.5	1.1	1.2	.7	.5	.3	−40.0
Total resource budget	351.7	371.9	397.3	431.7	503.4	625.0	704.1	842.7	878.9	1,324.1	50.6

DISTRICT IS NO. 1 RECIPIENT PER CAPITA OF FEDERAL EXPENDITURES

In view of the liberal—$405,134,161—allocation and distribution of Federal funds to the District of Columbia, shown below, it is not surprising to note from the Treasury Department tabulation that while the population of the District of Columbia—756,510—amounts to only .0037 of the 203,165,699 population of the United States, nevertheless the District of Columbia in 1970 received by way of Federal aid .0167—or $405,134,631—of the total $24 billion Federal largesse distributed throughout the entire United States.

Even if the per capita comparisons are disregarded, looking at the dollar figures alone there are 31 States which received less in Federal funds in 1970 than the $405,153,631 granted to the District of Columbia; namely:

Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming.

The citizens of the rest of the country are being treated most unfairly when compared to the generous treatment accorded the citizens of the District of Columbia, insofar as the expenditure of Federal funds is concerned. The citizens in the States, then, receive a disproportionate and lesser part of the Federal dollar, whether viewed as a return from Federal taxes, as Federal grants or aids, or otherwise, which is manifestly unfair no matter how viewed.

The total Federal aid to each of the 50 States, its population, and per capita aid, are shown in the following excerpts from the Treasury Department's 1970 report.

FEDERAL AID TO THE STATES AND TO THE DISTRICT OF COLUMBIA, FISCAL YEAR 1970—SUMMARY

State	Population	Grand total	Per capita aid
Alabama	3,444,165	$523,507,981	$151
Alaska	300,352	115,929,874	385
Arizona	1,772,432	237,166,021	133
Arkansas	1,923,295	274,819,307	160
California	19,953,134	2,998,345,571	100
Colorado	2,207,259	282,261,439	127
Connecticut	3,032,217	$295,488,191	97
Delaware	548,104	51,110,807	93
District of Columbia	756,510	405,134,631	535
Florida	6,789,443	509,409,287	75
Georgia	4,589,575	553,793,855	120
Hawaii	768,561	123,581,986	160
Idaho	712,567	95,290,069	133
Illinois	11,113,976	950,808,806	85
Indiana	5,193,669	352,223,807	67
Iowa	2,825,041	244,345,207	86
Kansas	2,249,071	231,665,571	103
Kentucky	3,219,311	456,588,491	141
Louisiana	3,648,180	526,971,861	144
Maine	992,043	112,485,425	113
Maryland	3,922,399	395,030,686	100
Massachusetts	5,969,170	715,829,951	121
Michigan	8,875,083	786,758,072	88
Minnesota	3,805,069	407,361,699	107
Mississippi	2,216,912	413,042,046	186
Missouri	4,677,369	502,013,222	107
Montana	694,409	135,491,316	195
Nebraska	1,483,791	129,782,934	87
Nevada	488,738	76,827,951	157
New Hampshire	737,681	72,187,892	97
New Jersey	7,168,154	619,739,332	86
New Mexico	1,016,000	218,814,942	215
New York	18,190,740	2,365,629,042	130
North Carolina	5,082,059	507,067,589	99
North Dakota	617,761	87,724,591	142
Ohio	10,652,017	888,453,481	83
Oklahoma	2,559,268	403,759,349	157
Oregon	2,091,385	297,955,602	142
Pennsylvania	11,793,910	1,343,171,041	113
Rhode Island	949,723	132,680,617	139
South Carolina	2,590,516	278,078,087	107
South Dakota	665,507	103,685,545	155
Tennessee	3,924,164	487,031,456	124
Texas	11,195,730	1,153,404,525	103
Utah	1,059,278	173,846,992	164
Vermont	444,732	77,105,186	173
Virginia	4,648,494	465,682,360	100
Washington	3,400,169	400,451,472	117
West Virginia	1,744,237	303,098,149	174
Wisconsin	4,417,933	386,704,092	87
Wyoming	332,416	83,296,080	250
Puerto Rico	2,712,033	325,426,747	119
Virgin Islands	62,468	27,091,995	433
Total	203,165,699	24,194,090,576	

Source: Department of the Treasury, Fiscal Service, Bureau of Accounts, Division of Government Financial Operations document entitled "Federal Aid To States, Fiscal Year 1970."

ALTERNATE TAXES

The District has failed for several years to come up with any tax proposals levied upon District of Columbia residents and property which would make up the deficiency between the District of Columbia expenditures and the present revenue availability, despite the fact that these ever-increasing benefits inure to the benefit of the local residents.

Annually, at your committee's revenue hearings, the Commissioner and his staff are pressed to recommend or propose alternate taxes to provide the additional wherewithal which the District claims it needs for survival; but no such alternate tax proposals are forthcoming. Such is the case this year as it was in 1969 when the commuter tax was first proposed and defeated; $51.6 million is the supposed increment to the District should the reciprocal income tax be adopted. And yet despite the failure of the Congress to support it—the other body has already passed legislation prohibiting the District from imposing such a tax—the District has not submitted any other tax proposal in its place. In all its representations to various members of your committee, the District has only urged that the Federal payment increase which it had requested as a part of its proposals; namely, $27 million—an increase from $126 million currently authorized to $153 million—be further increased to make up the deficit from lack of revenue which it will not realize with the defeat of the commuter tax proposal.

In effect, the District of Columbia is expecting the Federal taxpayers, through their representatives in Congress, to approve in 1971 a Federal payment in excess of $200 million, or a 158-percent increase over the presently authorized $126 million Federal lump sum contribution to the District which is over and above the Federal grant and aid programs to the District far in excess per capita the Federal expenditures in every State of the Union.

Mr. CABELL. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, since general debate time is drawing to a close, I will only take a portion of my time, because I would like for my distinguished colleague from the District of Columbia to have more than his allocated 3 minutes. Therefore I would like to address myself to one issue, House Report 598 of the District Committee.

Mr. Chairman, it is my considered opinion that this report is a travesty. The committee has violated its own rules by issuing this report without allowing individual Members to have a chance to read it before it was issued.

I assure you that had some of us been able to see this report prior to its being released, it would have been quite different.

Mr. Chairman, as a member of the committee, I am, frankly, ashamed to be associated with House Report 598. It is nothing more than a negative, degrading and misguided document.

Mr. Chairman, if ever this body can be accused of harboring a "plantation" attitude toward the District, this report indeed is very heavy evidence.

Mr. Chairman, I once had the very strange notion that the Congress and the District Committee were constituted to serve the needs of the District of Columbia. However, judging by the debate in the committee and by the committee report, my view was wrong.

Mr. Chairman, I yield back the balance of my time.

Mr. CABELL. Mr. Chairman, I yield 3 minutes to the gentleman from the District of Columbia (Mr. FAUNTROY), plus the unused time which was yielded back by the gentleman from California (Mr. DELLUMS).

Mr. FAUNTROY. Mr. Chairman, I obviously rise in strong support of the action of the House District Committee in approving the revenue generating provisions of H.R. 11341. The central provision of the bill authorizes an increase of $44 million in the Federal payment to the District of Columbia. An overwhelming majority of the committee—by a 19 to 7 vote—supported this increase as I did. The chairman of the committee supported the action. The ranking minority member, Mr. NELSEN, supported the action, and a large majority of the Democrats and Republicans on the committee supported the action. I am informed that the President is prepared to sign a revenue bill containing even more than what was approved by the committee. In short, the Federal payment figure approved by the committee enjoys broad support.

I personally do not believe that it is large enough, but I voted for it because it is a reasonable accommodation of widely differing views held by members of the committee.

Now, admittedly gentlemen, as the first elected representative of the people of our Nation's Capital to stand in this Chamber in nearly 100 years; I bring to this awesome responsibility for the present only an outsider's knowledge of the inner workings of the Congress. But these are two things that I bring to your consideration of this bill today that are absolutely essential to your proper evaluation of what is presented here. The first is the truth. I, perhaps as no one else in this Chamber know the truth about the city. I was born here, I grew up on its streets, I attended its public schools; I have wrestled exhaustively with its most crippling problems as a pastor, as a community developer, and as a vice chairman of its city council. I know the truth about this city.

Secondly, gentlemen, I know what is right. My professional training like that of only two other Members of the Congress has been in the field of ethics and morals; in the discipline of identifying the truth and arriving at what is therefore right. In short, gentlemen, I bring to your deliberations on the bill the truth about the city and I am here to remind you of what is right.

The truth is that the increase of $44 million in the Federal payment is not large enough. I voted for the bill because it is a reasonable accommodation of widely differing views held by members of the committee. But the truth is that the $44 million increase does not begin to provide sufficient revenue to fund many programs in which the Congress has shown great interest. The truth is that this bill will not fund seven new judges which were to be added to the local trial courts to expedite criminal trials authorized in the Criminal Justice Act. The truth is that it will deny the Federal City College its 4th year program authorized by an act of Congress to commence this year. The truth is that it denies us funds to maintain an outstanding narcotic treatment program after expiration of a Federal grant for the vital program. This is the truth and I therefore remind you that it would be both wrong and disastrous to approve anything less than the $44 million increase; that the right thing to do is to support this bare bones measure.

I must hasten now to tell you the truth and to remind you of what is right with respect to the erroneous allegations of the staff or the District Committee as contained in the so-called committee report on this bill that the District government is extravagant and financially irresponsible. I emphasize "staff" allegations because the committee was never given the opportunity to review the report. I raise this point because I would be astonished if a majority of the committee would concur in the intemperate language, the gross distortions, and the hostility to the nearly 800,000 people in the District of Columbia expressed in the report. Let me give just one glaring illustration. The reports states:

It is not the Congress, or the Federal establishment, which is the interloper here—as some District spokesmen maintain—but rather the thousands of persons who have swarmed here, most of whom add little or nothing to the day by day operations of the Federal government, who are "local" in character and needs, who are the intruders and who are not vital to the Federal government's operations.

I think that I know my colleagues on the committee well enough to say that most would not join in characterizing the people of the District as "interlopers" or "intruders." I believe that members of the committee share a concern about the city and its people that this statement does a grave injustice to.

Now the committee staff suggests that by comparison with other cities, District government is extravagant and irresponsible. To substantiate their argument they cite statistics that are grossly misleading and misrepresentative of the truth.

The staff states that the District's budget, general expenditures, annual payroll and number of employees are higher than other cities.

This is a gross distortion of the facts. It is true that the District government employs more people than other cities of similar size, but this completely ignores the fact that the District operates as a county, city, State, and special jurisdiction government. The truth is that most cities in their comparisons do not carry full responsibility for education, public welfare, health, and urban development employees on the local city payroll. Such employees are generally paid by either State or county governments. All of these are in the District budget. Let me cite some specific examples. The staff reports that District expenditures for highways were higher than any other city but New York. The truth is, however, in the District, highway expenditures include not only the construction, maintenance, and operation of city streets and bridges, but also the interstate system and other major arterials which are normally the responsibility of a State highway department.

The staff reports that police expenditures also are higher in the District of Columbia. But the truth is it is misleading to compare per capita costs of District of Columbia police services with San Antonio, as the staff report does—police services relate not only to the resident population—as implied by a per capita measure of costs—but also to approximately 300,000 nonresident employees, visitors, businessmen and shoppers from the metropolitan area, and almost 18 million tourists per year. In addition, District of Columbia police are called upon in times of national demonstration—for just the 1 week of demonstrations in May 1971, the cost of police services was $3,586,836. That is the truth and it is highly misleading to add such costs into a per capita cost relating to District of Columbia residents. Also, a significant reason for the increased size of the police budget in recent years is the addition of 2,000 police officers to the force pursuant to President Johnson's call in May 1968 and President Nixon's crime program in 1970. The cost of these additional officers is almost $20 million annually.

The fact is that a joint study undertaken by the District government and the Census Bureau shows that when only municipal functions are considered the District's level of local government employment is not out of line with other cities. Indeed, the District employs fewer employees with strictly local functions on a per capita basis than Boston—56 per 1,000 population—or Baltimore—51—about the same number as Atlanta—49—and slightly more than Cleveland—44—or San Francisco—45. The District's figure is 49 employees per 1,000 population. That, gentlemen, is the truth about the city. That is why it is not right to base your judgments on the misleading statistics provided you by the committee staff.

The committee staff alleges that the District spends more money per pupil on education than any other city in the country. This is simply not true.. The committee report cites the figure of $13,000 per student. The actual figure is closer to $1,300 per pupil. Now let me tell you the whole truth about our school spending. The truth is that last year, the

Distric spent $971 per pupil based on operating expenses on an average daily membership. This compares to a 1971 figure of $1,256 in New York City, $1,109 in San Francisco, $1,073 in Philadelphia. The District unfortunately is not No. 1, but is in line with spending elsewhere.

The staff says that the District government receives more Federal grants per capita than any other States. Again, this simply is untrue. The basis for this statement is apparently a report issued by the U.S. Treasury Department. But anyone who has actually examined the report ought to know that the Treasury report covers grants to all recipients located in the District whether or not the grants benefit the people of the city. That is the truth.

For example, the Treasury report incorrectly credits the District of Columbia with a $27.6 million grant for the Teacher Corps and the education profession development program. See page 32 of House District Committee report. According to staff members of the Office of Education, $27.2 million of the total grant represents an advance payment from the Office of Education to the National Institutes of Health. NIH was to use these funds to make later grants to all the States. Because the official government address of NIH is in the District of Columbia, a computer credited this advance payment to the District. This entry is clearly an error and can in no way be considered as Federal grant assistance to the District of Columbia.

In addition, the Treasury data most likely contain grants to groups that are based in the District but that are actually national in scope so that the funds they receive are spent thoughout the country. This is true of national organizations with headquarters in the District. The only truly reliable figure is direct Federal assistance to the District government. When this figure is isolated, the per capita level falls to $192, which is considerably below the essentially meaningless figures thrown around in the committee report. Using this figure, the District is not No. 1, but more in line with other States. This is surprising since by every standard the District should be first in Federal grants because it is the only totally urban jurisdiction among the States. It is well known that urban jurisdictions generally receive a higher proportion of Federal aid because of the way Federal programs are structured.

The committee staff suggests that the District is a welfare "heaven." The District, like other cities, has suffered large increases in welfare. But the truth is that even today, the District has a lower percentage of its population on welfare than several other cities. The figure for the District as of February, 1971 was 10.5 percent. This compares with 16.6 percent in Boston, 15 percent in New York, 15.2 percent in Baltimore, 12.7 percent in Los Angeles.

In short, the District government is not extravagant or financially irresponsible. Such a charge is utter nonsense, and anyone who takes the trouble to look at the facts knows that. I am afraid that the staff report accompanying this bill does not state the truth in this regard. Since 1966, the District budget has increased roughly 131 percent. This compares to 183-percent increase in New York State's budget between 1965 and 1972, and increases of 110 percent in Atlanta, 109 percent in Baltimore, and a similar boost in New York City. The fact of the matter is that almost all local governments have faced dramatic budget increases, and the District is no different.

It is important to remember that the people of the District carry their own weight in financing the District budget. Based on the 1971 budget, the people of the District pay 70 percent of the costs of local government. As is true in all of your districts, the people here have been taxed to the limit. Even more significantly, further tax increases would weaken the District's competitive position in relation to the surrounding jurisdictions, threatening to drive business out of the city and further eroding the District's tax base. As matters now stand, the District taxpayer pays slightly more taxes than the Virginia taxpayer and slightly less than the taxpayer in Maryland.

The District's operating budget is an austerity budget reflecting primarily mandatory increases over the 1971 level. There was and is no flexibility to provide for new and badly needed programs in such areas as education, health, corrections, and housing. In short, the budget was and is absolutely bare bones.

I cite these facts not to claim that the District government is perfect or cannot be made more efficient or less wasteful. Obviously, improvements can be made. In the last year alone, the District government has made some progress. Over 1,000 employees have been trimmed from the employment base. In addition, the District govemert has embarked on a rigorous program to cut 5 percent of its employment base over the next 2 years.

I do not believe these are the earmarks of an extravagant or irresponsible government. But this is a government that cannot afford urgently needed new programs, a government facing a huge housing crisis, or a government facing a health crisis, and a government facing an education crisis. But it has no funds to tackle these problems head on. The Federal payment approved by the committee will not make inroads into solving these problems; it will simply allow the District government to limp along with most of its critical needs still unmet. But the additional revenue will help in making sure that no new crises develop, as would certainly be the case if any lower amount of Federal payment were to be provided. I hope you will join me and the overwhelming majority of the members of the District Committee in approving the $44 million increase in the Federal payment.

At the appropriate time in these proceedings, I shall ask that the detailed documentation supporting my statement be placed in the RECORD.

Mr. CABELL. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the Committee on the District of Columbia, as I have remarked before in the House, is unique in that I think everybody in the House and in the media knows how to run the District of Columbia, but nobody wants to serve on the committee. So we suffer from that, I suppose, and the attitude as to the situation in Washington as it affects your home is a great deal like having the measles twice, because there is not a great deal of political credit received at home for what you do for the District of Columbia, although probably there should be more national concern.

I would like to say that the chairman of the committee, the gentleman from South Carolina (Mr. MCMILLAN) and the ranking minority member, the gentleman from Minnesota (Mr. NELSEN) have put in a great deal of time and effort on this work, and they work on it I think in a rather nonpartisan way. I will also say that you might be surprised that there may be more due process in the Committee on the District of Columbia, and certainly more written rules, than there are in some of the other committees of the House. Again I would compliment the gentleman from Minnesota (Mr. NELSEN) on the bipartisan and dedicated way in which he approaches the problems in the District.

I think it should also be said that, since we have a nonvoting Delegate from the District (Mr. FAUNTROY) on this committee, that it has improved the work of the committee. It has made the work of the committee, I believe, somewhat easier and somewhat more useful, because we have a man in there with us who is responsible directly to the people of the District, and I believe this gives a far more balanced approach on the problems here.

Insofar as the District taxation and the Federal payment and the Federal buildings are concerned, I have a standing offer from my district to take all of the Federal buildings without payment. I think we can work it out. Certainly there would be less difficulty in building the subway if we select some of the areas we have in my district.

As to the various parts of the bill:

Mr. Chairman, section 101, the part dealing with inheritance taxes, I think is a helpful provision.

Section 201, the provision involving the business inventory taxation problem, I think that should be supported by the House.

The motor vehicle fuel tax, section 301, I would urge support of that.

And support section 401, the corporate income tax, also.

Then we have the special fund borrowing authority, and while I was not on the subcommittee that took the testimony on this matter, I would rely on the judgment of the committee in this connection.

The principal thing I see here is I think the size of the Federal payment is too large, and I think that the reciprocal tax should have been adopted and should be adopted. The judgment of the chairman of the subcommittee, the gentleman from Texas (Mr. CABELL), I think should be one that would be most respected. He is one of the soundest fiscal conservatives in this House, and he recommended that we take this action, by adopting the reciprocal or commuter tax.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. CABELL. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, I would first like to address myself to the gentlemen on the other side who have purported to be the watchdogs of the Treasury, but let me say that a great deal of the hue and cry for more money for the District has come from that side of the aisle.

Next, with reference to this old saw we have heard so many times about this being in the nature of a State rather than a municipality:

For your information, I would refer you to the report where it compares the total employment, both State, municipal and county of 14 subdivisions of States of 1 million or under population, and you will find the District of Columbia ranks No. 2 in the total number of employees insofar as State operations are concerned. Those are States with hundreds of thousands of square miles and we have 10 miles square.

As for this business of—oh, well, we get nothing out of these Government buildings—that again, as Mr. HUNGATE mentioned—there are many, many cities that would be delighted to have that payroll in their community. There are many that would like to have the impacted aid school funds that would accrue, because of that.

There are many of them that would like to have these buildings even if they did not produce the tax revenues but would be buying their water and helping to amortize their water and sewer bonds and that would use great quantities of electricity from their local power company and who would be paying gross receipt taxes and pay other taxes on the utilities use for heating, lighting, cooling, and ventilation of these buildings.

So I ask you, friends, do not get sucked in by all of these tears about the unusual expenses involved in the District of Columbia.

Also I would call your attention to the fact that in addition to the budget, the appropriated budget of almost a billion dollars, the District of Columbia receives from the Federal Government slightly more than $500 per capita in direct Federal grants in 1970 that do not go through the appropriation process. That is more than double the amount per capita that any other State in the Union gets.

The next is West Virginia at less than $200 per capita.

So, gentlemen, all we are asking when we try to talk a little economy into these people is to stop this constant escalation of their costs. We are burdened with it at the moment and we are trying to do the best we can.

The CHAIRMAN. All time has expired.

Under the rule, the Clerk will read the bill by title.

Mr. HALL. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Sixty-eight Members are present, not a quorum. The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 381]

Abourezk	Frenzel	Pepper
Adams	Gettys	Pirnie
Alexander	Goodling	Powell
Archer	Gray	Preyer, N.C.
Ashley	Gubser	Railsback
Barrett	Halpern	Riegle
Bell	Hanna	Rosenthal
Blackburn	Harsha	Schwengel
Blanton	Hébert	Selberling
Blatnik	Hillis	Smith, Iowa
Byrne, Pa.	Howard	Springer
Carey, N.Y.	Jones, Ala.	Stanton,
Chappell	Kazen	J. William
Chisholm	Kee	Steele
Clancy	Keith	Stephens
Clark	King	Taylor
Clawson, Del	Kuykendall	Teague, Tex.
Clay	Landgrebe	Terry
Conyers	Landrum	Thompson, N.J.
Corman	Link	Veysey
Dickinson	Lloyd	Vigorito
Diggs	Long, La.	Whalen
Dingell	McClure	Whitten
Dow	McKay	Widnall
Dowdy	Macdonald,	Wilson,
Duluski	Mass.	Charles H.
Edwards, La.	Madden	Wright
Eilberg	Melcher	Wyman
Eshleman	Metcalfe	
Evins, Tenn.	Mills, Ark.	
Ford,	Murphy, N.Y.	
William D.	Pelly	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MCFALL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11341, and finding itself without a quorum, he had directed the roll to be called, when 341 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 11341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Revenue Act of 1971".

TITLE I

AMENDMENTS TO DISTRICT OF COLUMBIA INHERITANCE TAX

SEC. 101. (a) Section 1(a) of article 1 of title V of the District of Columbia Revenue Act of 1937 (D.C. Code, sec. 47–1601) is amended to read as follows:

"(a) All real property and tangible and intangible personal property, or any interest therein, having its taxable situs in the District of Columbia, transferred from any person who may die seized or possessed thereof, either by will or by law, or by right of survivorship, and all such property, or interest therein, transferred by deed, grant, bargain, gift, or sale (except in cases of a bona fide purchase for full consideration in money or money's worth), made or intended to take effect in possession or enjoyment after the death of the decedent, or made in contemplation of death, to or for the use of, in trust or otherwise (including property of which the decedent has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death (1) the possession or enjoyment of, or the right to the income from such property, or (2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom), to the father, mother, husband, wife, children by blood or legally adopted children, or any other lineal descendants or lineal ancestors of the decedent, shall be subject to the tax as follows: 1 per centum of so much of said property as is in excess of $5,000 and not in excess of $25,000; 2 per centum of so much of said property as is in excess of $25,000 and not in excess of $50,000; 3 percentum of so much of said property as is in excess of $50,000 and not in excess of $100,000; 5 per centum of so much of said property as is in excess of $100,000 and not in excess of $500,000; 6 per centum of so much of said property as is in excess of $500,000 and not in excess of $1,000,000; and 8 per centum of so much of said property as is in excess of $1,000,000."

(b) Section 1(b) of article 1 of title V of the Act is repealed, section 1(c) of article 1 of title V of the Act is redesignated as (b), and is amended to read as follows:

"(b) So much of said property so transferred to any person other than those included in paragraph (a) of this section and all firms, institutions, associations, and corporations shall be subject to a tax as follows: 5 per centum of so much of said property as is in excess of $1,000 and not in excess of $25,000; 10 per centum of so much of said property as is in excess of $25,000 and not in excess of $50,000; 14 per centum of so much of said property as is in excess of $50,000 and not in excess of $100,000; 18 per centum of so much of said property as is in excess of $100,000 and not in excess of $500,000; 22 per centum of so much of said property as is in excess of $500,000 and not in excess of $1,000,000; and 23 per centum of so much of said property as is in excess of $1,000,000."

Mr. CABELL (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 8, strike out "Section 1(a)" and insert in lieu thereof "Paragraph (a) of section 1".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 3, insert "SEC. 1.".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 9, strike out lines 9 through 11 and insert "(b) Paragraph (b) of such section is repealed and paragraph (c) of such section is amended to read as follows:"

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 14, strike "(b)" and insert "(c)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 19, strike out "11" and insert "10".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 3, line 24, strike out "23" and insert "22".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, after line 3, insert the following:

"(c) The amendments made by this section shall apply with respect to property in the estates of persons who die on or after the date of enactment of this Act."

The committee amendment was agreed to.

Mr. MIKVA. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I take this time before we get into the meat of the bill to call the attention of the committee to a few items.

First of all, you will have heard quite a bit about the report. You notice I did not say the committee report—I think it is more accurate to call it a staff report.

I would urge the members of the Committee to take what you read in the report with a special grain of whatever you take reports with because there are a substantial number of errors in the report.

For example, you will find on page 18 that the population of Washington, D.C., decreased 63 percent in 10 years. At the very least, there is a misplaced decimal point there.

Or you will find on page 37 the per capita expenditure on pupils for public school education is $13,000. Once again, I think it is a case of misplaced emphasis on decimal points.

I cite only these two examples to underscore the irony of a report which complains about inefficiency of a governmental unit and then turns out to be much less than totally efficient when it comes to writing a report. But I cite the examples mainly to urge members to view with caution some of the comparisons made in there.

First of all, in most places the report is comparing apples with oranges. We are talking about a stateless city and comparing it with cities that are parts of counties and parts of States.

Second, I would point out to those of you who come from urban areas that Washington is in many instances unique and in many places it suffers from the same kind of problems that grieves every other part of urban America. I refer to a tremendous increase in problems that increase geometrically even as their populations decline.

I would point out, for example, that just as the Washington budget has gone up, so, when you look at a city like Dallas, you find that their budget has gone up even more drastically. Even a town like Florence, S.C., has a budget that has increased higher than has the Washington budget.

Mr. McMILLAN. Mr. Chairman, will the gentleman yield?

Mr. MIKVA. I yield to my distinguished chairman.

Mr. McMILLAN. The gentleman is pointing out errors in the report and I certainly agree with him. I think every chairman in this House would agree with me that the Government Printing Office has made more errors this year in reports and in reprinting bills than at any time in its previous history. I think about two-thirds of these errors are Government Printing Office errors.

Mr. MIKVA. I thank the gentleman.

Mr. Chairman, let me say one last thing. At the appropriate time, I intend to offer an amendment, referring to one of these wonderful riders in the night: Mine is not to the so-called Providence Hospital rider, but there are three riders on this bill, ladies and gentlemen, and they all suffer from the same set of problems. Some may be not quite as notorious as others, but none of them have had the benefit of hearings. None of them can really stand on their own bottoms which is why they are being offered as riders to a revenue bill.

This House has expressed itself quite recently and frequently on the problem of germaneness, it is kind of odd that we should place in a revenue bill several amendments or riders that have nothing to do with revenue.

I intend to offer a motion to strike one of them and I am glad that my colleague, the gentleman from Indiana, will offer a motion to strike another and I am relieved to know that the chairman of our committee intends to offer a motion to strike the third.

I am afraid that even though some have received more newspaper publicity than others, all of them are riders in the night and ought to be defeated. If they are good ideas, they ought to come out as separate bills from the Committee on the District of Columbia.

Mr. JACOBS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, nearly a year ago considerable publicity was given in the District of Columbia to the treatment of children at the facility known as Junior Village. Of particular concern to some members of the District of Columbia Committee was the coldness of institutional care for very small infant children who, under the existing situation, were and are entering Junior Village as early in life as 6 months of age.

After protracted ad hoc hearings, before the Congress had actually organized its committees, and after considerable negotiation with the District of Columbia government by those of us who were particularly concerned about this problem, the city council of Washington, D.C. eventually enacted a plan for phasing out the coldness of institutional care for children between the ages of 6 months and 6 years at Junior Village. It is this particular group of children that I think we should be particularly concerned about.

Therefore, I was more than just a little distressed to hear on the news this morning that a very high-ranking official in the District of Columbia government indicated a strong probability that the plan for phasing out that activity of Junior Village relating to 6-year-old children and younger would not be carried out, notwithstanding the fact that the city council had very thoughtfully studied the problem and given a very reasonable phasing-out plan to be followed. For that reason I hope that this official will reconsider, and consider that there is only one thing to be said for any institutional care, really, but particularly the kind of care that of necessity we found at Junior Village for those children in the very early years of life.

There is only one thing that can be said for it and that is, "it is wrong."

Therefore, I hope the District of Columbia government will react to the needs of these children and will phase out those activities at Junior Village that relate to them. If they do not, then when the appropriation bill comes before the Congress, I shall offer an amendment to the bill which will require them to do so. If they say they do not have enough money, I suggest that a chauffer be put on sabbatical or maybe even that a limousine of the District of Columbia government be sold. But let us put first things first, and I mean these young children. This has more to do with future crime and future welfare than many people might suspect.

Mr. SCHERLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, although I am not a member of the District of Columbia Legislative Committee, I am a member of the District of Columbia Appropriations Committee, and compliment my colleague, Chairman McMILLAN, and his committee for this outstanding report. There may be a few insignificant mistakes in the report, but when you get to the meat of the thing, you get the true facts.

The chairman has done an outstanding, masterful job in bringing these facts to the attention of this body. I just wish there were more Members present to hear it.

I want to take a moment or two of your attention to bring a few things before the Committee that are pertinent to the bill before us today.

On July 1, 1970, the debt-infested Washington, D.C., government, at the utopian urging of welfare apologists and umbilical-cord philosophers, eliminated the investigative Department of the city's Social Services Administration. The investigators had reviewed the eligibility of welfare applicants and recipients to insure that only the needy were collecting public funds. At that time, fewer than 20,000 welfare cases were receiving about $35 million a year in tax money.

Since welfare investigators were expunged from the city's budget, the number of welfare cases has jumped astronomically, even though the District's population declined in the same period.

One year later welfare cases had increased about 50 percent to just under 30,000 at a cost of over $57 million. By September of this year the caseload catapulted to more than 37,000 with an estimated yearly outlay of $76 million. District officials expect the welfare cases to exceed 50,000 with an estimated expenditure of close to $124 million by fiscal year 1973.

Mr. ZION. Mr. Chairman, would the gentleman yield briefly?

Mr. SCHERLE. I yield to the gentleman from Indiana.

Mr. ZION. Mr. Chairman, I would comment to the gentleman in the well that much of this welfare is apparently elective. I live in an apartment hotel, and I am unable to find anybody to come down and dust and make the beds. I find in the newspapers many job opportunities. I suspect the laboring people of this country who pay the taxes would have less obligation to the District of Columbia if the residents here were willing to do some more work for themselves.

Mr. Chairman, I appreciate the comments of my friend, the gentleman from Indiana. When we make welfare so lucrative that people do not have to work, they are not going to work. That is the problem we have in the District of Columbia.

Based on the current average of 2.5 persons per case, the number of welfare recipients in the Nation's Capital will then total more than twice the population of Council Bluffs, Iowa, which is the largest city in my district.

These catastrophic figures clearly indicate the urgent need to reinstate the investigative Department. It is evident that the laxness of the city's supervision of welfare cases has encouraged people of doubtful eligibility to apply for relief. The bread-and-butter issue is that welfare "rolls" are made with the taxpayer's "dough," and they are entitled to a reasonable assurance that their money is not being squandered on cheats.

It is not only the taxpayer's interest which is at stake here, however. Limited fiscal resources have forced the District of Columbia government to cut back the individual welfare recipient's allotment to 75 percent of need. Thus eligible beneficiaries are as much the victims of welfare fraud as the hapless taxpayers. If the cheaters could be weeded out, the available funds could be more equitably and honestly distributed, and the legitimate interests of both groups would be better served.

I would like to point out further what took place in the District schools last year. In the 1970 fiscal year, the repair bill for broken windows alone amounted to $732,558.

There were 391 illegal entries, and $350,000 worth of equipment disappeared, such as typewriters, shop tools, and adding machines. Over $1 million was lost in 1 year, money that could have been spent to purchase books or pay teachers' salaries.

I would like to call attention to crime in District of Columbia which has moved off the streets and into the Government's own office buildings. Violent assaults are on the increase. Just recently a Government executive was stabbed to death in the men's room of the New Executive Office Building, and two women were raped in the White House area restrooms of a building occupied by Federal agencies. Thefts are up, too. Last year over one quarter of a million dollars worth of equipment and $150,000 in cash were taken from Federal employees in their own offices. At the Department of Agriculture, $7,918 worth of office equipment has been stolen within the last 2 months alone. Most of the items were thousand-dollar calculators, but electric typewriters, dictating machines, and computer tapes were also victims of the heist.

I have in my hand a copy of the Washington Daily News, dated November 4, 1971, with a headline which reads "Murder Pace Here 'Epidemic' " and "7-in-10 D.C. Slay Suspects Go Free."

To quote from the article, by Patrick Collins:

The homicide rate in the District is more than twice that of New York City, and the man who kills here has a seven out of 10 chance of getting away with murder.

Though the District homicide squad boasts of the fact it solves 90 percent of its cases, only half of the suspects captured get indicted and only a third of the suspects indicted get convicted.

So far this year homicides (236) have passed last year's total and are increasing at a rate that could match or surpass the record 292 homicides recorded here in 1969.

I will place this article in the RECORD, along with a few others which give a true picture of life in Washington, D.C. Many more could be added to the list.

The material mentioned follows:

[From the Washington Daily News, Nov. 4, 1971]

MURDER PACE HERE "EPIDEMIC": 7-IN-10 D.C. SLAY SUSPECTS GO FREE—BIGGEST DEATH CAUSE IN 15-TO-44 AGE GROUP: HOMICIDE

(By Patrick Collins)

The homicide rate in the District is more than twice that of New York City and the man who kills here has a seven out of 10 chance of getting away with murder.

Tho the District homicide squad boasts of the fact it solves 90 per cent of its cases, only half of the suspects captured get indicted and only a third of the suspects indicted get convicted.

So far this year homicides (236) have passed last year's total and are increasing at a rate that could match or surpass the record 292 homicides recorded here in 1969.

The Health Department, which charts the mortality rate, says that District residents between the ages of 15 and 44 have a better chance of being murdered than of being killed by a heroin overdose, automobile accident or any natural cause.

The city medical examiner has called the homicide rate "epidemic" and the U.S. Attorney calls it "alarming."

These are some of the findings of a two-week study of District homicides conducted by The Washington Daily News.

The study shows:

In an eight-year period here 1,361 homicides were reported and police say they solved 1,230 of them by arrests. But of the 1,230 homicide suspects arrested 534 were never indicted by a grand jury and another 115 were released after the indictment when the U.S. Attorney decided the case was not strong enough to take to court.

The U.S. Attorney's office has obtained convictions of only 444 of the 1,230 homicide suspects.

The District averages 37 homicides per 100,000 people while New York reports 17 homicides per 100,000.

Police say murders are becoming more complicated and in some cases they say murders are planned in great detail. They say in the past the majority of homicides were committed by suspects who were related to or knew the victim, but say this is not the case today.

In the eight years from 1963 to 1970 the number of murders has increased 250 per cent while the number of convictions has climbed 95 per cent.

MATTER OF EVIDENCE

The disparity between the number of homicide arrests and the number of homicide convictions is explained as "a matter of evidence" by U.S. Attorney Thomas Flannery.

"There is an obvious difference of evidence required to establish probable cause for arrest and the evidence required for indictment and the evidence required to convict beyond a reasonable doubt."

To illustrate this, one attorney said if a murder suspect confesses police have probable cause for arrest. But if the confession is the strongest piece of evidence the government has "it's a good possibility that the case will never go to trial because it's almost impossible to get the confession admitted as evidence in court. So the case is dropped."

Mr. Flannery said his office "must traditionally assemble a heavy burden of proof," as to the guilt of the suspect. "The murder cases are more complicated, the murder suspects more sophisticated and the trials more difficult.

"I'm proud of my staff and the manner in which they prosecute murders and all the cases—despite the handicaps we have in assembling the evidence."

Mr. Flannery refused to discuss the 1966 Miranda decision—which gives the suspect the right to remain silent—a decision which many police officers feel "handicaps" their investigation of the case.

The 444 convictions in the eight-year period, Mr. Flannery said, do not include some 50 cases where the suspect was found not guilty by reason of insanity. "That's as good as a conviction, because the man does not return to the street."

"The murder rate is an alarming fact," Mr. Flannery said, "but it is a situation that exists in most major urban areas. We have an excellent police force and an excellent homicide squad and frankly I feel safer walking the streets here than any of the other cities I have visited."

The low conviction rate, Mr. Flannery said, "is one of the prices we pay for a free society . . ."

Lt. Joseph O'Brien, who spent 11 years as a homicide detective before becoming chief of the squad last June, said he feels the low conviction rate is not the fault of the homicide squad.

"If we have enough evidence to make an arrest," Lt. O'Brien said, "there should be enough evidence to get a conviction. When we go to court we present the facts we have. There is no effort to stage the case. We do get some weak cases but most of them are solid."

SENSELESS, IMPORTANT

"All homicides are senseless," Lt. O'Brien said. "They are all of great importance to some one. Every victim has a loved one somewhere no matter who he is. And all our homicides get the same amount of attention."

Investigations of homicides have become more difficult, Lt. O'Brien said, and last year five more detectives were added to the 34-

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man squad in an attempt to lighten a work load which kept the homicide detectives on the job for 18 hours a day.

"The job is a hard one," Lt. O'Brien said. "The cases are more complicated. It used to be when we arrived on the scene of a homicide the suspect would still be there with the gun dangling from his hand. Now—more often than not—that suspect ducks out the back door, gets rid of the gun and gets out of town."

Increased drug traffic and the easy availability of guns are two causes for the increase of homicides according to Lt. O'Brien. "If there were not as many guns available there would not be as many homicides. But, on the other hand, there are a lot of people who two years ago would have been homicides. The hospitals are saving more potential homicides than people realize."

Describing the number of homicides here as "astronomical" and the rate of murder as "epidemic," District Medical Examiner James Luke says the right people don't care about the homicide problem.

GHETTO PROBLEM

"Homicide is still a ghetto problem," Dr. Luke said, "Like the drug problem was years ago. There have ben very few homicides of whites here and until the homicides affect the people of influence, the people who make decisions, nothing will be done. Homicide is a problem that has not been dealt with at all.

"Our job is to have a dialogue with the dead," Dr. Luke said, "and many people would expect us to be hardened to it. But these are real people who are brought in here. We see their faces. We see their families and we see a potentially productive life wiped out each day. It's not a game. The more we see, the more we become sensitized to the problem."

Dr. Luke says that, by far, hand-guns are used in most of the murders. "There is something impersonal about a gun. When a person uses a gun he doesn't think of himself as the killer. He thinks the gun did it. We've got to get the guns off the street and people who don't believe this are just looking at the leaves.

"Each day residents of this city face potential violence . . . Something must be done."

UNSOLVED CASES

This year 236 homicides have been reported, six more than the 1970 total of 229. Of the homicides reported this year, 24 remain unsolved.

Here are four of the homicide squad's most puzzling unsolved cases.

Diane Johnston, 27, wife of a laundry truck driver who was kidnapped along with her husband in the parking lot of Hogate's Restaurant.

The gunman forced them to drive to an alley near The Evening Star building. Mr. Johnston was pinned to the ground by one of the men while the other tied Mrs. Johnston's arms and neck and tried to sexually assault her. Then the two ran off.

Strangled by the rope around her neck, Mrs. Johnston was pronounced dead in the alley.

Since April, four young District girls have been found dead on the shoulders of area highways.

Carol Spinks, 13, of 1058 Wahler Place se who left home April 30 to buy TV dinners for her mother, was found near the junction of the Anacostia Freeway and the Suitland Parkway.

Darlenia Johnson, 16, of 3922 Wheeler Road se, was found dead in July near the Naval Research Laboratory after she left home to go on an overnight trip.

Brenda Fay Crockett, 10, 2214 12th Place nw, whose body was found off Route 50 near the Kenilworth-av exit in July.

Nenomosia Yates, 12, of 4952 Benning Road se, found alongside Southern-av on Oct. 1.

Police suspect that a "freeway Phantom" has lured these girls to their death, but they say there are really no solid clues.

Ritchie Reed, 30, economic analyst found stabbed 33 times in the washroom of the New Executive Office building with a "racial note" left beside his body.

Police say they have systematically eliminated all the obvious suspects in the case. They say there were no eyewitnesses to the stabbing and no clues other than the note which was scrawled on a piece of notebook paper.

Two Australian girls bound, gagged and shot in the head, found dead in their apartment at 2714 Quarry Road nw. The police say the girls had been dead for at least four days.

The police say they have uncovered no motive, no clue for the girls death.

"Some of these murders may seem easy," said Lt. O'Brien. "But none of them are easy. They're different, they're complicated and they're senseless. We can't predict them, we can't prevent them. We just work like hell to try and solve them."

UNSOLVED 1971 MURDERS

Date, name, location, and cause.

Jan. 19—Satterwhite, Russel D.—3727 Jay-st ne, Shooting.

Jan. 20—Lee, Rudolph—#11 Ridge Road se, Shooting.

Jan. 28—Williams, Idell A.—1236 11th-st nw, Beating.

Feb. 17—Hymes, Victor—907 Florida-av nw, Shooting.

April 7—Lowery, Simon—416 21st-st ne, Beating.

April 12—Stroud, Amy—646 Newton Place nw, Stabbing.

April 13—Williams, James E.—1126 11-st nw, Stabbing.

May 1—Gibson, John—1908 17th-st se, Beating.

May 11—Sprink, Carol—Route 295, Strangulation.

May 17—Brown, Marshall—1326 U-st nw., Shooting.

May 19—Dick, Harry—1734 20th-st nw, Strangulation.

May 23—Lewis, Nathan—311 L-st se, Shooting.

June 9—Smith, Leslie—1733 N-st nw, Stabbing.

June 25—Frye, George—2615 Bladensburg Road ne, Beating.

June 25—Jones, Warren—922 New York-av nw, Stabbing.

June 26—Johnson, Diane—120 Canal-st Strangulation.

July 2—Kotler, Stanley—1269 23rd-st nw, Shooting.

July 23—Messick, Frederick—473 I-st nw, Beating.

Aug. 9—Proctor, Wilton—3424 A-st se, Shooting.

Aug. 14—Kemtz, Ralph—Columbia Island, Shooting.

Aug. 16—Stankovich, David—1255 New York-av nw, Beating.

Aug. 28—Sanchez, Gilberto—1814 Irving-st ne, Shooting.

Aug. 28—Sanchez, Teresita—1814 Irving-st ne, Shooting.

Sept. 2—Brady, Christopher S.—Bldg. 58, Navy Yard, Stabbing.

Sept. 7—Jackson, Albert W. Jr.—1317 South Capitol-st, Shooting.

Sept. 8—Parham, Abraham M.—Portland-st and South Capitol-st, Shooting.

Oct. 1—Reed, Ritchie H.—726 Jackson Place nw, Stabbing.

Oct. 17—Martin, James—4504 Lee-st ne, Shooting.

Oct. 17—Pannell, Normal—12th-st and U-st nw, Shooting.

Oct. 26—Wila, Peter D.—1447 Chapin-st nw, Strangulation.

Oct. 27—Lee, John P.—Seventh-st and North Carolina av se, Beating.

Nov. 2—Tapp, Sharon—2714 Quarry Road nw, Shooting.

Nov. 2—Fraham, Sheral—2714 Quarry Road nw, Shooting.

Nov. 3—Davis, Allen—Harrington Motel, Shooting.

CHARTING THE COURSE OF MURDER

Fiscal year	Homicides reported	Homicide arrests	Homicide indictments acted on by court	Homicide indictments dismissed by U.S. Attorney	Homicide acquittals
1963	82	81	61	9	49
1964	109	106	79	17	56
1965	163	156	81	21	46
1966	157	148	67	11	44
1967	158	128	65	6	44
1968	179	162	128	17	68
1969	233	193	99	17	55
1970	280	256	115	17	77

Note: These statistics were prepared from information provided by the District Police Department and the Administrative Office of the U.S. Court.
They represent a survey of 8 fiscal years from 1963 through 1970.

[From the Washington Daily News, Nov. 9, 1971]

THIEVES SCORE IN PROPERTY AND CASH—GOVERNMENT OFFICES ARE LOOTED

(By Patrick Collins)

Eluding a complex network of guards, alarms and closed circuit television, sneak thieves have walked off with more than a quarter of a million dollars of equipment from government offices and snatched another $150,000 from federal employes in the past year, according to a Washington Daily News survey.

From October, 1970, thru this September the federal government reported 2,493 thefts including $383,033 in property and cash from its offices and employes.

It was in October, 1970, that the Federal Protective Service, charged with the security of the 501 government buildings here, took "sweeping steps" to safeguard federal equipment and employes.

To tighten security here the protective service

Added 200 guards to its force of 2,000 men.

Began "intensified" four week training programs for its guards.

Closed off all unnecessary entrances to government buildings.

Began package inspection at the exits to the buildings.

Installed alarms and closed circuit cameras in the federal credit unions.

Increased the number of patrol cars, walkie talkies and building patrols.

As a result of this action, the Federal Protective Service says, the number of thefts of government property this year has dropped 31 per cent and the number of personal thefts has fallen 10 per cent.

"But they still get to us," a spokesman for the protective service said. "You'll never put a stop to all the theft—people being people—all you can do is concentrate on keeping the rate of theft down. . . ."

IBM—HOT

"Take the IBM typewriter," he said. "It's a hot item and I don't know where they are going. It's worth $400. It's big and it's hard to get out of the building. Yet they still disappear. It gets aggravating."

Eventually, the Federal Protective Service says it hopes "to change the image of the routine old-time guard to a younger, smarter and better trained officer—like a Metropolitan policeman."

It says that in addition to securing property, the protective service is responsible for the safety of federal employes.

The service says it employs five female guards to patrol the women's washrooms. "Now obviously that's not enough to give protection in all the bathrooms," the spokesman said. "But we hope to get more washroom guards soon."

Last week there were two rapes in women's rooms in White House-area buildings occupied by federal agencies, and a government executive was stabbed to death recently in the men's room of the New Executive Office Building.

LOCAL CASH CROP

Here is a list of items stolen from the Agriculture Department in two months:

Date, Item, and Cost.

Aug. 2, Singer Calculator, $779.
Aug. 2, Cannon Calculator, $880.
Aug. 3, Monroe Electronic Calculator, $980.
Aug. 4, Remington Calculator, $250.
Aug. 6, Electronic Desk Calculator, $250.
Aug. 10, Smith-Corona Electronic Calculator, $612.
Aug. 13, Olivetti Electric Typewriter, $310.
Aug. 18, Magnetic Computer Tape, $15.
Aug. 18, Olivetti Calculator, $1195.
Aug. 18, Olivetti Calculator, $790.
Aug. 18, Olivetti Calculator, $790.
Aug. 21, IBM Portable Dictating Machine, $25.
Aug. 26, Monroe Adding Machine, $250.
Sept. 4, Norelco Dictating Machine, $80.
Sept. 9, Cassette Recorder, $122.
Sept. 25, IBM Electric Typewriter, $486.
Sept. 25, Portable Tape Recorder, $25.
Sept. 28, Norelco Tape Recorder, $69.
Total, $7,918.

I am not completely critical. This is a Federal City which belongs to every person in the United States. It should be a model city.

But, Mr. Chairman, there is something wrong with the operation of this government in Washington, D.C. Why in the world, with a declining population, should we be forced to increase the budget by $50 million? Can anybody give me a good reason for that I should like to know?

I compliment the Metropolitan Police and the police on the Hill. They are placed in an untenable position, largely because of the actions of the courts. However, we can not solve the problems of Washington with money alone. We have laws on the books. We have to enforce them.

This $50 million I believe is in excess by at least 50 percent of the amount needed. It is my intention, when the proper portion of the bill is reached, to offer an amendment to cut this amount in half.

The city officials in Washington should reexamine their record and do a better job. The money is provided not only by Washington, D.C., taxpayers, but by all the citizens of the United States. We should all regard the Capital as a model city, but we must make some changes at the roots of government.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I would say to the gentleman, if he would be willing to cosponsor a bill with me that would provide adequate money to put a District of Columbia policeman on each floor of each school, I would support it with him.

I would also stand on the floor and be willing to support a bill to have the Federal Government properly police the office space it has.

And I would be willing to support a bill, unpopular as it might be, which required that Federal and Capitol Hill employees live within the District of Columbia, so that we could bring back some moderate income population to this city.

Mr. SCHERLE. I would go along, perhaps, with the first two, but the last request is totally impractical. American citizens must be free to live wherever they wish and can afford.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE II

TAXATION OF BUSINESS INVENTORY

SEC. 201. Paragraph 2 of section 6 of the Act of July 1, 1902 (D.C. Code, sec. 47–1207), is amended by adding at the end thereof the following sentence: "Effective July 1, 1972, the rate of tax applicable to the average stock in trade of dealers in general merchandise shall be two-thirds of the rate of tax established by the District of Columbia Council for application generally to personal property subject to taxation for the fiscal year ending June 30, 1972; and effective July 1, 1973, the rate of tax applicable to the average stock in trade of dealers in general merchandise shall be one-third the rate of tax established by the District of Columbia Council to be applied generally to personal property subject to taxation for the fiscal year ending June 30, 1973; and effective July 1, 1974, the tax on the average stock in trade of dealers in general merchandise is repealed."

Mr. CABELL (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. If there are no amendments to be proposed to title II, the Clerk will read.

The Clerk read as follows:

TITLE III

MOTOR VEHICLE FUELS TAX

SEC. 301. (a) The first section of the Act entitled "An Act to provide for a tax on motor vehicle fuels sold within the District of Columbia, and for other purposes," approved April 23, 1924 (43 Stat. 106; D.C. Code, sec. 47–1901), as amended, is amended by striking the figure "7" and inserting in lieu thereof the figure "8".

(b) Section 2(b) of such Act (D.C. Code, 47–1902 (b)), is amended to read as follows:

"(b) The term 'motor vehicle fuels' means gasoline, diesel fuel, and other volatile and flammable liquid fuels produced or compounded for the purpose of operating or propelling internal combustion engines. It also includes benzol, benzene, naphtha, kerosene, heating oils, all liquified petroleum gases, and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles when advertised, offered for sale, sold for use, or used, alone, or blended or compounded with other products, for the purpose of operating or propelling internal combustion engines."

(c) Section 10 of such Act (D.C. Code, 47–1910) is repealed.

(d) Section 14 of such Act (D.C. Code, 47–1912), as amended, is amended by striking out "of 7 cents per gallon".

SEC. 302. The amendments made by this title shall take effect on the first day of the first month which begins more than thirty days after the date of enactment of this Act.

Mr. CABELL (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. If there are no amendments to be proposed to title III, the Clerk will read.

The Clerk read as follows:

TITLE IV

CORPORATE INCOME TAX

SEC. 401. Section 2 of title VII of article I of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 47–1571a) is amended by striking out "6" and inserting in lieu thereof "7".

SEC. 402. The amendment made by this title shall apply with respect to taxable years beginning after December 31, 1971.

Mr. CABELL (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any amendments to be proposed to title IV? If not, the Clerk will read.

The Clerk read as follows:

TITLE V

INCREASE SPECIAL FUND BORROWING AUTHORITY

SEC. 501. Section 214 of the District of Columbia Public Works Act of 1954 (D.C. Code, sec. 43–1613) is amended by striking out the figure "$72,000,000" and inserting in lieu thereof the figure "$106,000,000".

SEC. 502. The Act entitled "An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system", approved June 12, 1960, as amended, is further amended (1) by striking out in section 4 (D.C. Code, sec. 43–1623 (a)), the figure "$25,000,000", and (2) by adding at the end of section 2(b) (D.C. Code, sec. 43–1621(b)) the following: "Lump-sum payments made by an agency or local authority pursuant to the provisions of this section, and as reimbursement to the United States of funds loaned in compliance with section 4 of this Act, need not be appropriated, and may be made by the agency or local authority to the Secretary of the Treasury.".

Mr. CABELL (during the reading). Mr. Chairman, I ask unanimous consent that title V may be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 7, strike out line 3 and insert the following:

"1623(a)) '$35,500,000' and inserting in lieu thereof '$35,500,000', and (2) by adding at".

Mr. CABELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this was a technical amendment because it was printed in the original bill, and we are asking in the committee amendment to have it restored. This is another case of a typographical error.

Did the gentleman from Iowa wish to oppose the amendment as it was supposed to be in the bill?

Mr. GROSS. Will the gentleman yield?

Mr. CABELL. Yes.

Mr. GROSS. I thought the Clerk read $35 million. Is that what the gentleman is addressing himself to?

Mr. CABELL. $35.5 million. That is the increase in borrowing.

Mr. GROSS. The Clerk read "$30 million." Is it $30 million or $35 million?

Mr. CABELL. Thirty-five million, five hundred thousand is the correct amount. There was an error in the bill as printed. Therefore, this is a committee amendment to correct that error.

Mr. GROSS. I will say to the gentleman there is no error in the bill I hold in my hand. It provides for $35.5 million.

Mr. CABELL. The $35.5 million is the committee amendment.

Mr. GROSS. I see.

Mr. ANDREWS of Alabama. Will the gentleman yield?

Mr. CABELL. I will be glad to yield to the gentleman?

Mr. ANDREWS of Alabama. Could the gentleman tell the House how many city employees are using chauffeur-driven automobiles? I saw in the paper, oh, it was a fantastic number. I hope we could stop some of it. I do not mind the Mayor having an automobile, but I saw where the chauffeur of the superintendent of schools got $17,500 a year, which is more than the superintendent of education in many States gets.

Mr. CABELL. I would just like very much to take issue with the gentleman. It was not $17,000 a year.

Mr. ANDREWS of Alabama. That is what the paper says.

Mr. CABELL. Computed on an annual basis, it is $22,000.

Mr. ANDREWS of Alabama. That is even worse. That is more than a lot of Governors get. I do not know. I am sure the gentleman does not even attempt to justify it. But how do the witnesses who come before the committee justify fabulous salaries like that for driving automobiles like that? Of course, it is worth an awful lot to drive a car around in Washington, because you take your life in your hands every time you get into one.

Mr. CABELL. May I remind the gentleman the Committee on Appropriations has the ability and the authority to line veto some of these appropriations, and in the authorization we are not in a position to dictate that.

Mr. ANDREWS of Alabama. Would it be in order to offer an amendment to this bill to limit the number of chauffeur-driven automobiles that can be used by city employees?

Mr. CABELL. I would hope the gentleman would reserve that for the appropriations where it can be done very expeditiously and without taking the chance of encroaching upon the prerogatives of the Committee on Appropriations.

Mr. ANDREWS of Alabama. Well, I am not surprised that we do not have enough money to make ends meet with the welfare rolls rising, as the gentleman from Iowa said.

You have 50 or 60 chauffeur-driven automobiles where the chauffeur receives $22,500 a year.

I wonder if he is on welfare in addition to the salary which he receives?

Mr. CABELL. If he has enough children it is possible that he is drawing some welfare payments.

Mr. ANDREWS of Alabama. Well, I am sure he has a lot of children.

I thank the gentleman for yielding.

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

Mr. GROSS. Mr. Chairman, I am still not satisfied with this title V and the building of sanitary facilities out in Virginia in connection with Dulles Airport.

I frankly admit that I know too little about the sanitary disposal laws, but why are we financing in this bill, the District of Columbia bill, a sewer system or disposal system miles and miles out in the State of Virginia? I just do not understand why.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes, I yield to the gentleman.

Mr. McKINNEY. I believe the gentleman will find we are supporting that by an act of this very body. They put that particular job on the city of Washington when the airport was built.

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield further?

Mr. GROSS. Yes, I yield further to the gentleman from Virginia.

Mr. BROYHILL of Virginia. A number of years ago when the construction of the Dulles International Airport was authorized—and it was authorized by this Congress, not at the request of the people of Virginia or Maryland—it was authorized at a cost of $100 million.

Mr. GROSS. Yes, and you were glad to get it, were you not?

Mr. BROYHILL of Virginia. We opposed it for a number of years.

Mr. GROSS. But you finally capitulated and accepted it with open arms.

Mr. BROYHILL of Virginia. Mr. Chairman, if the gentleman will yield further, when the airport was authorized it was proposed that the sewage effluent be dumped into the Potomac River above the city water intake for the Nation's Capital. However, it was later proposed by this Congress that we construct a sewage interceptor system that would bring the effluent down to the Blue Plains treatment plant, and that there a user's fee be charged sufficient to pay for the cost of the construction of that plant.

The only thing that this language does is increase that authorization. There is still provision for repayment of the additional funding through the user charges over a period of years. We propose this increased borrowing authority in order to assure protection against the pollution of the Potomac which is being corrected now by the construction of this facility at the Three Sisters Bridge.

Mr. GROSS. Does the House District Committee handle requests for sewage disposal systems all over the country? Are you getting any in Florida from the House District Committee?

I do not know how it ever got into this committee. It had to be by some kind of fast footwork on the part of someone.

I do not understand why the House District Committee should be providing this kind of money for a sewer system in northern Virginia.

Mr. BROYHILL of Virginia. Mr. Chairman, if the gentleman will yield further, I think the gentleman has a very good point, and that is that the expense of the Blue Plains treatment plant which is operated by the District of Columbia is included in the budget of the District of Columbia, but I think it should be a separate item. I think the Blue Plains plant should be federally operated for the treatment of this sewage as well as to protect the water supply not only of the District of Columbia but the surrounding areas, as well, because the Federal Government owns half of the property in the District of Columbia anyway.

This provision is in this bill because the District of Columbia has jurisdiction over the Blue Plains treatment plant.

Mr. GROSS. The taxpayers of the country build all of these free bridges across the Potomac River to Virginia. I still think we ought to drain the Potomac River, pave it, and use it for traffic.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes; I yield to the gentleman from Maryland.

Mr. GUDE. I can appreciate the gentleman's concern.

Let me say that the underwriting of the Blue Plains treatment plant is being done by the District of Columbia, Maryland, and Virginia through user charges.

After extensive discussion and negotiation all of the jurisdictions have come to an agreement to pay their fair share of cleaning up the river. This is a cooperative arrangement, and let me assure the gentleman——

Mr. GROSS. I hope the gentleman is not about to say that Maryland now wants some kind of free ride from the taxpayers of the country.

Mr. GUDE. No; Maryland citizens are willing to pay their fair share of cleaning up the Potomac.

I thank the gentleman for yielding.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 7, line 12, after the word "Treasury", insert: "The second sentence of section 4(a) of such Act is amended by striking out 'Any loan advanced' down through and including 'from the receipts credited to said fund' and inserting in lieu thereof the following: 'Any loan advanced under this section shall be credited to the Metropolitan Area Sanitary Sewage Works Fund, and—

"(1) in the case of any loan advanced under this section before July 1, 1971, 50 per centum of such loan shall be repaid to the Secretary of the Treasury, and

"(2) in the case of any loan advanced on or after July 1, 1971, 100 per centum of such loan shall be repaid to the Secretary of the Treasury,

from the receipts credited to such fund'."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VI

INCREASE IN AUTHORIZATION OF THE FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

SEC. 601. Section 1 of article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47–2501a) is amended (1) by striking out "1971", and inserting in lieu thereof "1972", and (2) by striking out "$126,000,000" and inserting in lieu thereof "$150,000,000".

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, line 8, strike out "$150,000,000" and insert in lieu thereof "$170,000,000".

AMENDMENT OFFERED BY MR. GROSS TO THE COMMITTEE AMENDMENT

Mr. GROSS. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Gross to the committee amendment: On page 8, line 7, after the figure 2 in parentheses, strike the remainder of the line and all of lines 8 and 9 and insert the following: "$126,000,000".

Mr. GROSS. Mr. Chairman, I would recommend to the Members of the House that they get a copy of the report, turn to pages 27 and 47, and take a look at the tables printed on those pages, and also look at the source of the figures given.

There has been some question expressed about the authenticity of some of the figures in this report. I would think that the source of these figures would be authentic, coming as they do from the U.S. Treasury in one instance, and in——

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes; I yield to the gentleman from Illinois.

Mr. MIKVA. As I understand, just as an example, that very $35.5 million you were just asking about is included in here as part of the per capita aid given to the residents of the District of Columbia. I think the gentleman from Iowa will agree that it certainly does not benefit very many residents of the District of Columbia.

Mr. GROSS. What $35 million?

Mr. MIKVA. The $35 million we were talking about in the preceding title—the sewer money.

Mr. GROSS. I agree that most of the benefit will go to and ought to be financed by Virginia.

Mr. MIKVA. That is treated as per capita aid going to the District of Columbia residents.

Mr. GROSS. However, I think the District of Columbia will pick up some revenue from the tourists and others who come through Dulles Airport.

But getting back to this amendment, there is nothing complicated about it at all. It would simply throw out the $44-million increase to the District of Columbia.

The report accompanying this bill is a real indictment of the management and operations of the government of the District of Columbia.

Questions have been raised this afternoon about the operation of the fleet of limousines with chauffeurs, on which thousands upon thousands of dollars have been spent to haul city officials hither and yon.

Look in any direction you want—there is mismanagement, extravagance, waste, and worse all through the District of Columbia government and yet the committee has the colossal gall to come in here and ask for a $44-million increase, or to a total of $170 million from your taxpayers and mine.

Turn to page 27 of the report and see what you get in your State by way of Federal aid as compared to the $535 per capita in the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. Yes; I yield to the gentleman if he can make a contribution.

Mr. FAUNTROY. Mr. Chairman, the gentleman from Iowa has referred to page 27 of the report, which is an error. The truth is that the District of Columbia receives from the Federal Government closer to $140 million and not $405 million as suggested by this Department of the Treasury report or the higher amount suggested by the GAO report included in this report of the staff.

The fact is that this figure includes funds not unlike the $35.5 million.

Mr. GROSS. You are making it even worse because the table on page 47 shows you are now getting $126 million and you say it is $140 million. According to your figure, and with the proposed increase of $44 million, the District would get $184 million from the taxpayers of my State as well as from the other States.

Mr. FAUNTROY. The figures included here include the Federal payment of $405 million. The $405 million cited here includes the Federal payments. When we compute the Federal payment, it comes up to only $140 million.

Mr. GROSS. You can jockey the figures around all you want to, but you are in too deep right now—you already had your hands too deep in the pockets of the taxpayers of the Third District of Iowa to suit me. You had better learn to operate on your $126 million, for the day will come when the District of Columbia will have to learn to live as other cities do.

All I am trying to do is to cut off some of the fat around here—that is all.

Mr. ANDREWS of Alabama. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman.

Mr. ANDREWS of Alabama. I would like to ask the gentleman from the District of Columbia: Do you have at your service an automobile and a chauffeur?

Mr. FAUNTROY. No, I do not; no.

Mr. GROSS. Did he ever have?

Mr. ANDREWS of Alabama. Did you ever have?

Mr. FAUNTROY. No; I did not—when I was vice chairman of the city council.

Mr. ANDREWS of Alabama. Oh, you had one then?

Mr. FAUNTROY. No, I did not.

Mr. ANDREWS of Alabama. And you do not have one now?

Mr. FAUNTROY. The answer is "No, I do not."

Mr. GROSS. How many limousines and chauffeurs has the District of Columbia government been maintaining—19, 20?

Mr. FAUNTROY. Mr. Chairman, I had no chauffeurs or limousines.

Mr. GROSS. Mr. Chairman, the District of Columbia government has a payroll of more than 41,000 employees. This is ludicrous for a city of less than 800,000 population. There has been no justification for this proposed raid on the Federal Treasury of $170 million—an increase of $44 million over the amount that was lifted from the Treasury last year.

In all conscience I insist—I insist that my amendment be adopted and this increase of $44 million be denied.

I submit the following tables, taken from the committee report, for printing in the RECORD at this point:

FEDERAL AID TO THE STATES AND TO THE DISTRICT OF COLUMBIA, FISCAL YEAR 1970—SUMMARY

State	Population	Grand total	Per capita aid
Alabama	3,444,165	$523,507,981	$151
Alaska	300,352	115,929,874	385
Arizona	1,772,432	237,166,021	133
Arkansas	1,923,295	274,819,307	160
California	19,953,134	2,998,345,571	100
Colorado	2,707,259	282,261,439	127
Connecticut	3,032,217	295,488,191	97
Delaware	548,104	51,110,807	93
District of Columbia	756,510	405,134,631	535
Florida	6,789,443	509,409,287	75
Georgia	4,589,575	553,793,855	120
Hawaii	768,561	123,581,986	160
Idaho	712,567	95,290,069	133
Illinois	11,113,976	950,808,806	85
Indiana	5,193,669	352,223,807	67
Iowa	2,825,041	244,345,207	86
Kansas	2,249,071	231,665,571	103
Kentucky	3,219,311	456,588,491	141
Louisiana	3,648,180	526,971,861	144
Maine	992,043	112,485,425	113
Maryland	3,922,399	395,030,686	100
Massachusetts	5,869,170	715,829,951	121
Michigan	8,875,083	786,758,072	88
Minnesota	3,805,069	407,361,699	107
Mississippi	2,216,912	413,042,046	186
Missouri	4,677,399	502,013,222	107
Montana	694,409	135,491,316	195
Nebraska	1,483,791	129,782,934	87
Nevada	488,738	76,827,951	157
New Hampshire	737,681	72,187,892	97
New Jersey	7,168,164	619,739,332	86
New Mexico	1,016,000	218,814,942	215
New York	18,190,740	2,365,629,042	130
North Carolina	5,082,059	507,067,589	99
North Dakota	617,761	87,724,591	142
Ohio	10,652,017	888,453,481	83
Oklahoma	2,559,268	403,759,349	157
Oregon	2,091,385	297,955,602	142
Pennsylvania	11,793,910	1,343,171,041	113
Rhode Island	949,723	132,680,617	139
South Carolina	2,590,516	278,087,087	107
South Dakota	665,507	103,685,545	155
Tennessee	3,924,164	487,031,456	124
Texas	11,195,730	1,153,404,525	103
Utah	1,059,278	173,846,982	164
Vermont	444,732	77,105,186	173
Virginia	4,648,494	465,682,360	100
Washington	3,400,169	400,451,472	117
West Virginia	1,744,237	303,098,149	174
Wisconsin	4,417,933	386,704,092	87
Wyoming	332,416	83,294,080	250
Puerto Rico	2,712,033	325,426,747	119
Virgin Islands	62,468	27,091,995	433
Total	203,165,699	24,194,090,576	

Source: Department of the Treasury, Fiscal Service, Bureau of Accounts, Division of Government Financial Operations document entitled "Federal Aid to States, Fiscal Year 1970."

RECENT FEDERAL PAYMENTS TO THE DISTRICT

	Authorized (millions)	Percent of general fund revenues
1956	$20	18.1
1957	23	18.5
1958	32	23.7
1963	50	25.3
1966	60	21.0
1967	70	25.0
1968	90	28.0
1969	[1] 105	30.7
1970	[2] 105	26.1
1971	126	28.7
1972 (as reported in H.R. 11341)	170	35.3

[1] Plus $5,000,000 for crime.
[2] Plus $5,000,000 for salary increases; plus $5,000,000 for court system and drug problem.

Mr. McKINNEY. Mr. Chairman, it is very easy for us to sit and to nit-pick at the District of Columbia government. There is no question in my mind that the government of the District of Columbia needs a very big shakeup. I think you will find the ranking member of the District of Columbia Committee, now that the Senate has finally acted to go ahead, is spending every effort so that he can bring back to this Congress a comprehensive report as to where cuts can be made in running this city.

But to center the problem of this city on limousines and chauffeurs is to be ludicrous.

First of all, I would like to answer the gentleman from Iowa whom I greatly respect. I wish, as I am sure the gentleman from Iowa does, that we could get correct information out of this Federal Government. But, as the gentleman and I know, trying to get it is very difficult. If you will stop and take a careful look—and I will personally see that these figures are delivered to the gentleman when I finally get them—you will see that the District of Columbia does not get a disproportionate share of Federal aid when you consider three things: It is one of the largest cities in our country with large problems. It is a State and must carry on all State functions. No. 3, it has to sit and exist and pay the terrible price for the operation of this Federal unit within its boundary.

Most people stand and say, "Look what we bring to the city." I hear over and over again the statement, "Look at the employment we bring to the District of Columbia."

Well, I have asked for a computer printout. I intend to get it, and I intend to read it into the record in this House as to just how many employees of the Federal Government in totality live within the District of Columbia and contribute to its well-being.

On top of that, let us stop and look at the other things that add to the financial condition of the city. Today, at the office of a Congressman, a minister arrived with 15 children, saying that they are going to lie down in the street in front of the White House. Immediately the District of Columbia government will have to change its whole police scheduling operation for that area to cooperate with with the White House Police to make sure that the White House stays open.

Time after time matters of that kind occur.

There is the extra crime lighting that we have put in this city. That is an extra burden to it.

On top of that, this Congress in its wisdom has taken action with respect to the city. Think of some of the things we have done. We have taken $46 million of real estate and more off the tax rolls because in our District we have a group that has a headquarters in Washington, D.C., and which wants to be safe from the real estate tax.

In the District of Columbia we have a law that says you cannot build your buildings higher than the top of the Capitol dome. Therefore, you cannot possibly get taxing value out of the real estate we have downtown.

We provided a subway system for the District of Columbia, but then we said, "No, you will not have a subway system." So we have left half the city torn up and we have depreciated the whole tax base structure downtown into which we have moved.

We have never determined exactly what the corporate and business taxes are that are lost on the mammoth amounts of property within the District that we keep open for Federal use—Federal parks and Federal monuments.

Gentlemen, there is no question in my mind that the District of Columbia is not run properly. There is no reason to wonder why. It is run by 535 people who do not live here. We can expect some degree of responsibility out of the District of Columbia when we learn that the United States in 1970 should not have what amounts to a colony within its midst. I suggest that if we are to criticize what the District of Columbia spends of Federal money, we look around at the Guams, the Virgin Islands, and the other Territories that we keep in the same state that we keep the District of Columbia.

It is very easy to criticize. We can talk about limousines, talk about chauffeurs, and talk about sewer connections, but the whole problem is that the very sewer connection you talk about was not put on the District of Columbia because they wanted it or needed it, but it was put on by this body.

Mr. FAUNTROY. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. FAUNTROY. Mr. Chairman and Members of the full Committee, I promised you earlier that I would be here to tell you the truth about the city, on the basis of which you could make right judgments.

The gentleman from Iowa has offered an amendment based on information provided us in the report, information which I submit is erroneous and misleading in its comparisons of the costs of the District of Columbia government with that of other cities in our country.

The truth is that any effort to compare the cost of District government with other cities in the Nation becomes an effort to compare apples with oranges.

Such a comparison ignores the multiple functions of the District which, as a single entity, are the full responsibility, as opposed to being shared among county, city, State, and special jurisdictions.

The truth is that we in the District do not have the privilege of sharing with county, State, and other special jurisdictions surrounding us the cost of running our local government. There are many cities in this country which have little or no public welfare expenses in their budgets, cities like Phoenix and Philadelphia, Seattle and San Diego, which share their responsibilities largely with the county and State jurisdictions surrounding them. We do not have that privilege here.

It has been suggested on page 27, referred to by the gentleman from Iowa and by the gentleman from Texas, that the District receives a larger share of Federal grants than any other State in the Union. That simply is not true. The Treasury figures and those of the GAO include Federal grants that do not relate to services delivered in the District of Columbia. I cite as one case in point the fact that included in this figure is the $35 million mentioned earlier as being spent on the Dulles, Va., intercepter sewer. A $27.8 million grant from the Office of Education to NIH is ascribed to the District simply because the NIH has a Washington address. The grant money accrues to people all over the Nation.

There are a number of items included in the Department of the Treasury computation and that of the GAO we will find having to do with nongovernmental groups which receive grants that are not available at all to service the needs of residents of the District of Columbia.

Mr. GUDE. Mr. Chairman, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman from Maryland.

Mr. GUDE. Mr. Chairman, I commend the gentleman and the previous speaker for very forthright statements. The gentleman has been interrogated about chauffeur-driven cars and I would suggest that the proper forum for that discussion is in the Appropriations Committees of the House and the other body. I know that the Subcommittee on District of Columbia Appropriations of the other body has already made a thorough investigation of the use of chauffeur-driven cars by District of Columbia officials.

The Delegate from the District of Columbia has a heavy caseload or workload which is much larger than those of other congressional representatives. He alone represents the District of Columbia citizens whereas other States in some cases with a population smaller than the District of Columbia have two Senators and a Congressman to handle a much smaller workload. The gentleman is doing a fine job, and I commend him for his statement.

Mr. FAUNTROY. I thank the gentleman.

It has been suggested that our police costs in the District are by comparison

the highest in the Nation. Again, there is no way in the world that you can compare the cost of police services in San Antonio, for example, as the committee would have us compare them, with those required for the Nation's Capital. The fact is that our police force must service the needs of more than 300,000 nonresidents, employees, visitors and shoppers who come into the city, into the metropolitan area. In addition, they must service 18 million tourists per year. We spent over $3 million dealing with one series of national demonstrations for one week in May. Across the board we cannot compare the costs of government in the District of Columbia with those of any other city across the Nation.

If we act on the basis of that erroneous information we will find we will not be doing what is just and fair and right for the citizens of the District of Columbia.

Mr. NELSEN. Mr. Chairman, I rise in opposition to the amendment.

First I want to make it very clear that my colleague, the gentleman from Iowa (Mr. GROSS)—and I think all of my colleagues join with me in saying this—consistently performs a great service in the intensive examination that he pursues on all the business of his Government. I have no criticism whatever.

But, Mr. Chairman, I want to say that striking this budget to $126 million—if there is any fat in this budget, it is in the $126 million, because every item in the additions of at least $38 million are items that we added by law.

Here are listed the $38 million we have added: within-grade increases, the crime fight items, court reorganization, higher education, narcotics treatment, the board of elections, teacher salary increases, and reimbursement to the U.S. courts. This added up to $38 million and more that we enacted by law.

I am sure that many who are critical here of the $44 million increase voted for those increases in District costs on the floor when those bills were considered.

I did not take the $90 million handed to us from downtown. I took the $126 million and added only those items for which we are responsible, here in the Congress of the United States.

I hope the amendment will be defeated.

Mr. JACOBS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, one learns something new all the time when one serves in the Congress of the United States.

One can see a Cadillac limousine sitting in one stall, and it does not offend anyone; or one can see a Cadillac limousine sitting in another stall and it does offend people.

Personally, when they are paid for by my taxpayers, all of the limousines offend me with the exception of the limousine provided for the President of the United States, and one each for each Department for its Cabinet member, and one for the Speaker of the House of Representatives, and one for the Vice President of the United States.

For 3 years now I have introduced a bill here in the Congress to accomplish that very goal, to eliminate all of the rest of the servant-driven automobiles in which public servants ride. So I am against those servant-driven automobiles in the District of Columbia, for everybody.

I have the opinion that if a man is not capable of steering a car he ought not to try to steer the affairs of government, unless he is physically disabled, such as unable to see. That would be another exception.

I just hope that after all this discussion with regard to limousines we might generate a little support for my bill to eliminate these limousines in the District of Columbia and out beyond the District of Columbia, even all those limousines I see parked in the big horseshoe driveway out in front of the Rayburn Building every day, with the chauffeurs leaning up against them, pulling handkerchiefs out of their hip pockets, shining a little bit on the fenders, as they wait for their masters to return to the carriages and to drive back wherever they go, a mile or two away.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from California.

Mr. ROUSSELOT. Is the gentleman also suggesting he will offer an amendment to this bill to eliminate these, in the same way he opposes them for the general Federal Government? Would he do the same in the District of Columbia? I compliment him for his position.

Mr. JACOBS. I wish my good friend from California would take me more seriously, because I just got through saying I am in favor of eliminating every one of them in the District of Columbia.

Mr. ROUSSELOT. The gentleman will offer an amendment?

Mr. JACOBS. I just said that.

I have an idea. Why do I not just file a discharge petition on that bill. It has been in the committee, I believe, 3 years. The gentleman from California and I have different basic persuasions. Why do we not troop up together to sign that petition first off? All the other Members are invited.

Mr. Chairman, I yield back the remainder of my time.

Mr. BROYHILL of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Iowa to the committee amendment.

Mr. Chairman, for years in the House of Representatives it has been the tradition that all bills reported out of the Committee on Ways and Means, because they involve legislation affecting revenues, are considered on the floor of the House under a closed rule.

The reason for that, I presume, is that you cannot properly write a revenue bill on the floor of the House. And I do not think you can properly write or amend this District of Columbia revenue bill on the floor of the House.

We have worked for weeks on this bill. As I said before, we held weeks of hearings and spent hours in deliberations in executive sessions to come out with a compromise bill, one that we thought would do the job and which we felt was a very tight and close-budgeted bill.

Why should we bring the bill up here, after all this work, only to have it arbitrarily cut back to a figure that does not mean a thing, and say that such a figure will do the job?

As pointed out by the gentleman from Minnesota (Mr. NELSEN) a large part of this increase in cost to the District of Columbia has resulted from our own actions. We provided for salary increases for the policemen, firemen, and teachers, and justly so. We provided for additional policemen in the District of Columbia in order to protect ourselves and our own constituents as well as the citizens of the District of Columbia. We provided for an expanded District of Columbia court system last year, which also cost a substantial amount of money.

Furthermore, Mr. Chairman, a large part of this increase in operational costs is caused by the fact that this is the Federal City. As was pointed out by the Delegate of the District of Columbia a few moments ago, a cost amounting to approximately $3 million resulted from the last demonstration in the city. Those people came here not to demonstrate against the District of Columbia government or its citizens, but to demonstrate against the Federal Government and to some extent against the Congress of the United States.

So I say that we bear a large and substantial share of the responsibility of assuring that this Government in the Capital City is able to function properly. I suggested to the gentleman from Iowa, or to any other Member who would like to cut back on the operations of the city government to suggest where its services should be cut. As far as I am concerned, I do not think we can afford to risk the loss or curtailment of some of these services that all of us think are needed, in order simply to cut back on the city's expenses by arbitrarily reducing this necessary Federal payment.

There is no question about the fact that we should improve the efficiency of operation of the D.C. government. That is what the Little Hoover Commission, chaired by the gentleman from Minnesota (Mr. NELSEN) is attempting to do. I am very optimistic and hopeful that they will come forth with some real constructive suggestions. That is the proper way to accomplish some reforms and accomplish some reductions in expenditures. But this should not be attempted by a meat-ax approach, which is what the amendment offered by the gentleman from Iowa proposes.

Mr. GROSS. Will the gentleman yield?

Mr. BROYHILL of Virginia. I am glad to yield.

Mr. GROSS. Thank you.

The gentleman from Mississippi (Mr. ABERNETHY) very well pointed out a few moments ago that the District got an increase last year to take care of the very things you are talking about now.

Mr. BROYHILL of Virginia. We have other mandatory increases in the city's budget which have occurred for the first time in this fiscal year, and that is why we now propose this increase in the Federal payment.

SUBSTITUTE AMENDMENT OFFERED BY MR. SCHERLE FOR THE COMMITTEE AMENDMENT

Mr. SCHERLE. Mr. Chairman, I offer a substitute amendment for the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Scherle, as a substitute for the Committee Amendment:
Strike out "$150,000,000," and insert "$151,000,000".

Mr. SCHERLE. Mr. Chairman, if you would look at your bill, on page 8, title VI, you will see where the original proposal of the committee was $150 million. I have increased it by an additional $1 million.

My colleague from Iowa (Mr. GROSS) has advocated in his amendment that we roll this back to $126 million. I have no objection to that, really. Members of the House should have an additional opportunity to decide how much they want to cut this. But my amendment raises the amount from the initial appropriation of last year of $126 million to $151 million, or a $25 million increase.

Now, can anyone tell what other agency of the Government has received such an enormous increase in its appropriations this year?

Not one. We did not even raise the Defense budget by that great a percentage. I propose $25 million more, from $126 million to $151 million, which would be adequate.

However, it is high time that we gave the government downtown an opportunity to operate fiscally in a stable manner.

Mr. Chairman, the sum of $25 million is all that is needed for this fiscal year.

Now, if you would look at your report, you will see an item entitled "District Government's Extravagance." Read that and then compare Washington residents' taxes, which are appreciably lower than those paid in Montgomery County and Prince Georges County.

Did you know that we even finance the minibuses which run downtown? Did you know also that the D.C. Teachers College under LEAA receives an appropriation of $250,000, which is paid to an organization called the "Trojans" to parade up and down the street to observe crimes?

Mr. Chairman, we have reached a point where a sensible amendment like this is necessary. If you cut the budget back, it will teach those people downtown to operate within the confines of the money which we appropriate. If they cannot do that, then we can handle it later on in a supplemental appropriation bill.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. I yield to the gentleman from Florida.

Mr. HALEY. It might be surprising to some people here to know that only 16 years ago the Federal contribution to the District of Columbia was only $20 million. We started this contribution just a few years prior to that at $2 million. Now we are getting up beyond all reason and I just wonder about it.

I know that my people are fed up to here in paying this bunch of people here who are parasites on the rest of the Nation and yet they continue to hear that they have got to do this and they have got to do that because of the conditions of the Federal City.

Mr. SCHERLE. We have an expression back in Iowa: "They are living pretty high on the hog in Washington."

The CHAIRMAN. The time of the gentleman from Iowa has expired.

(By unanimous consent (at the request of Mr. BROYHILL of Virginia) Mr. SCHERLE was allowed to proceed for 2 additional minutes.)

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield?

Mr. SCHERLE. Yes, I yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. I would like to ask the gentleman two questions.

First of all, let me commend the gentleman for being willing to increase the figure over that which has been proposed by the gentleman from Iowa (Mr. GROSS).

Mr. SCHERLE. The sum of $25 million is just chickenfeed compared to this overall operation.

Mr. BROYHILL of Virginia. On what basis does the gentleman propose to increase the payment by $25 million more than was proposed by the gentleman from Iowa (Mr. GROSS)?

Does the gentleman have any facts to substantiate that $25 million?

Mr. SCHERLE. It is the same decision that was made in arbitrarily raising the appropriation in the individual agencies that you are now asking me to cut. Let them take this and then decide where cuts are necessary elsewhere. This is an increase of $25 million over the last fiscal year. No other agency of the Federal Government has received this much of an increase over its prior fiscal year appropriation. The people in my part of the country are darn tired of having to support the excesses of the Nation's Capital.

Mr. BROYHILL of Virginia. Mr. Chairman, if the gentleman will yield further, I still suggest that the gentleman is being arbitrary, and he has just proved that by his statement.

However, regardless of what we authorize in this bill, the committee of which the gentleman is a member will be called upon to appropriate for these items, and if the gentleman thinks any of these items should be eliminated, he will have an opportunity to do so by line-item cuts in the Appropriations Committee, and then he can come to the floor and show us how to save money.

Mr. SCHERLE. What we are trying to do is to advise the House about the many inequities contained in this bill and the fiascos which are perpetuated by this bill. The taxpayers of this country are entitled to some redress.

However, this bill arbitrarily raises the amount of money in every one of these agencies, and you do not have the justification for this.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GIAIMO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment to the committee amendment.

I think the bill as reported by the committee, with the $170 million Federal payment should stand, and should not be reduced.

It is all well and good to get up on the floor of the House and talk about waste in the city government—and there is no question that there are wasteful activities in the city government of the District of Columbia, just as there are in every city in this land. The fact of the matter, however, is that when you are talking about cutting the Federal payment, you are doing so in the face of the demands of people, legitimate demands for expenditures, and increased expenditures, for salaries, for police service and protection, for schools, for health services, and for welfare payments.

If you are going to cut this Federal payment you are going to have to cut each and every one of these services.

The District of Columbia is not any different from other cities in the United States, and we are facing the same problem which every city in the Nation is facing, and that is a shortage of tax money with which to do the necessary job. We have got to find the means to accomplish these tasks, but the way to do it is not to just arbitrarily cut funds irresponsibly. That is what we would be doing if we would cut the Federal payment, and then just forget about the problems of the District of Columbia. Those people who are charged with the supervision of those services and who must work with them every day of the year cannot just ignore the effects of such a cut however. Cutting the Federal payment is not an answer, and not a solution to our problem.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Chairman, does the gentleman from Connecticut know of any city in Connecticut that can fall back on the Federal Treasury when it finds that it can no longer eat T-bone steak on a hamburger income?

Mr. GIAIMO. The gentleman from Iowa is absolutely correct, there is no city in Connecticut that can get a Federal payment from the U.S. Treasury. But the fact is that the Federal payment is a payment in lieu of taxes by the Federal Government for Federal activities in this city.

This payment in lieu of taxes is something that happens to be well established in American municipal law and it happens in many instances in other parts of the country.

But I can tell you one of the problems that the State of Connecticut is faced with, and that is the 15-percent cut in its welfare budget which is creating havoc in the State of Connecticut. Needless to say, the same thing can happen in the District of Columbia.

We want to revise and revamp our welfare laws, and I can assure the gentleman that I shall work in that regard, and we want to try to help people to get off of welfare, but the solution to it is not by suggesting this very easy and casual cut in the Federal payment, and then by not concerning ourselves about how the administrators are going to administer the programs.

Mr. SCHERLE. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Iowa.

Mr. SCHERLE. Mr. Chairman, I appreciate the gentleman yielding.

Then perhaps I am right in my initial statement—and we both serve on the same committee—that when the investigators were taken off of welfare here in the District the cost to the welfare beneficiaries zoomed right up to the roof, did they not?

Mr. GIAIMO. The welfare costs, I will say to my friend, the gentleman from Iowa, are zooming in every State in the Union and in every city in the Union, and they are certainly zooming in the District of Columbia as they are in New York, in New Haven, and Chicago and Dallas, and Detroit and wherever.

Mr. SCHERLE. But when they had investigators the costs were arrested; they did not zoom.

Mr. GIAIMO. I will not dispute the question of the investigators with my friend, because he does make a point there. But under a new solution that we are looking to this Congress for, and that the Nation as a whole is looking for, concerning welfare and welfare reform, perhaps we can get some decent management and perhaps we can ameliorate the welfare situation in this country.

I am merely saying that the way to do it is not with a meat ax applied at this time to the Federal payment as it applies to the District of Columbia.

Mr. CABELL. Mr. Chairman, I think this amendment and this substitute have been pretty well wrung out. I ask unanimous consent that all debate on this amendment, and all amendments thereto, be concluded in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Chairman, I want to reemphasize the point that the gentleman from Minnesota (Mr. NELSEN) made. In trying to determine what a minimum increase in the Federal payment had to be, I know he sat down, because I was there with the budget authorities to look at the increases that the Congress has mandated the District of Columbia to expend.

There are in the list he describes increases that we are requiring the District to spend for court reorganization, for better police protection and for the narcotics treatment program and for other items. This figure that is in the bill now is well below what the District had asked for. It is, as I recall, some $24 million under what the District had asked for initially.

We have made a major cut and the figure that the committee has recommended is just those items that the Congress has already required the District to assume. I think we would not be discharging our responsibility if we were to cut this Federal payment further.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. SCHERLE).

Mr. SCHERLE. Mr. Chairman, no one gave me the figures of what was involved in the $170 million.

Last year the Congress provided $29 million, $21 million permanent and for $8 million temporary.

This year we offered them another $25 million, but they are asking for $44 million. That exceeds any amount of reasonableness.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. WILLIAMS).

Mr. WILLIAMS. Mr. Chairman, I think we should really put this whole question in its proper perspective. The Federal Government occupies a large part of the valuable land in Washington, D.C. The only thing we are doing with this $170 million payment is making a payment in lieu of real estate taxes. This is something that is common all over this country. The State of Pennsylvania does the same thing so far as its capital city of Harrisburg is concerned.

My own county of Delaware, Pa., makes a payment in lieu of real estate taxes to Media which is the county seat.

We all want to see this city improved. We know that the budgets of all major cities are drastically increasing. I think this $44 million proposed increase in the Federal payment is entirely reasonable.

I can tell you in many major cities the budget has increased by a quarter of a million dollars more this year than last year.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. CABELL).

Mr. CABELL. Mr. Chairman, I dislike to find myself in this position because no one here in this House is any more conscious of the waste and everything that has been going on.

I sincerely feel, however, that while what we have from the committee here at this moment is probably better than what we are going to get by the time we go to conference with the folks next door.

I would say further, if I have the honor and the somewhat dubious privilege, as I sometimes think of it, of chairing this subcommittee and continuing to do so, that we will come back here to you with some very concrete proposals, some of which are going to put some of the burden on the shoulders of the folks who are enjoying this fine life at the expense of the Federal Government.

By the same token, I am depending on Mr. NELSEN to come up with some good old fat slicing that we can take action.

So I hope we can pass this bill, as it is presently written.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. GROSS) to the committee amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. GROSS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. GROSS. Mr. Chairman, I demand tellers with Clerks.

Tellers with Clerks were ordered.

PARLIAMENTARY INQUIRIES

Mr. GERALD R. FORD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GERALD R. FORD. Will the Chair clarify for the Members the amendment upon which we are voting?

The CHAIRMAN. The Chair will state that the vote is on the amendment offered by the gentleman from Iowa (Mr. GROSS), to the committee amendment. Following that vote, the committee will vote on the substitute amendment offered by the gentleman from Iowa (Mr. SCHERLE), for the committee amendment. Following that the committee will vote on the committee amendment to the bill.

Mr. BROYHILL of Virginia. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROYHILL of Virginia. Was not the amendment offered by the gentleman from Iowa (Mr. SCHERLE) the last amendment offered as a substitute?

The CHAIRMAN. The Chair will state, in answer to the parliamentary inquiry, that the Chair has consulted the rules of the House and advises the gentleman from Virginia that the order of voting is as the Chair has stated. The first vote occurs on the amendment offered by the gentleman from Iowa (Mr. GROSS), to the committee amendment, the second vote occurs on the substitute offered by the gentleman from Iowa (Mr. SCHERLE), and then the final vote will recur on the committee amendment to the bill.

The Chairman appointed as tellers Messrs. GROSS, CABELL, FAUNTROY, and NELSEN.

The Committee divided, and the tellers reported that there were—ayes 79, noes 263, not voting 89, as follows:

[Roll No. 382]

[Recorded Teller Vote]

AYES—79

Abbitt	Gaydos	Nichols
Abernethy	Goldwater	O'Konski
Andrews, Ala.	Griffin	Patman
Archer	Gross	Price, Tex.
Baker	Haley	Quillen
Baring	Hall	Randall
Belcher	Hammer-schmidt	Rarick
Betts	Henderson	Robinson, Va.
Bevill	Hull	Roncalio
Brinkley	Hungate	Rousselot
Burke, Fla.	Hunt	Runnels
Burlison, Mo.	Hutchinson	Ruth
Camp	Johnson, Pa.	Satterfield
Clausen, Don H.	Jones, N.C.	Scherle
Collins, Tex.	Jones, Tenn.	Schmitz
Colmer	Kyl	Sebelius
Crane	Latta	Skubitz
Daniel, Va.	Lujan	Smith, Calif.
Davis, Wis.	McCollister	Snyder
Delaney	Mathis, Ga.	Spence
Derwinski	Mayne	Steed
Dickinson	Michel	Terry
Duncan	Miller, Ohio	Thompson, Ga.
Edwards, Ala.	Mills, Md.	Waggonner
Fisher	Misell	Yatron
Flynt	Montgomery	Young, Fla.
		Zion

XUM

NOES—263

Abourezk	Fuqua	Passman
Abzug	Galifianakis	Patten
Addabbo	Gallagher	Perkins
Albert	Garmatz	Pettis
Anderson, Calif.	Gettys	Pike
Anderson, Ill.	Giaimo	Poage
Anderson, Tenn.	Gibbons	Podell
Andrews, N. Dak.	Gonzalez	Poff
Annunzio	Grasso	Preyer, N.C.
Aspin	Gray	Price, Ill.
Aspinall	Green, Pa.	Pucinski
Badillo	Griffiths	Purcell
Begich	Grover	Quie
Bennett	Gude	Railsback
Bergland	Hamilton	Rangel
Biaggi	Hanley	Rees
Biester	Hanna	Reuss
Bingham	Hansen, Idaho	Rhodes
Blatnik	Hansen, Wash.	Riegle
Boggs	Harrington	Roberts
Bolling	Harvey	Robison, N.Y.
Bow	Hathaway	Rodino
Brademas	Hawkins	Roe
Brasco	Hechler, W. Va.	Rogers
Brooks	Heckler, Mass.	Rooney, N.Y.
Broomfield	Heinz	Rooney, Pa.
Brown, Mich.	Helstoski	Rosenthal
Brown, Ohio	Hicks, Mass.	Rostenkowski
Broyhill, N.C.	Hicks, Wash.	Roush
Broyhill, Va.	Hogan	Roy
Buchanan	Holifield	Roybal
Burke, Mass.	Horton	Ruppe
Burleson, Tex.	Hosmer	Ryan
Burton	Howard	St Germain
Byrne, Pa.	Jacobs	Sandman
Byrnes, Wis.	Jarman	Sarbanes
Byron	Johnson, Calif.	Scheuer
Cabell	Jonas	Schneebeli
Caffery	Karth	Scott
Carey, N.Y.	Kastenmeier	Shipley
Carter	Keating	Shoup
Casey, Tex.	Keith	Shriver
Cederberg	Kemp	Sikes
Chamberlain	Kluczynski	Sisk
Clay	Koch	Slack
Cleveland	Kuykendall	Smith, N.Y.
Collier	Kyros	Staggers
Collins, Ill.	Leggett	Stanton, James V.
Conable	Lennon	Steiger, Ariz.
Conte	Lent	Stephens
Corman	Long, Md.	Stokes
Cotter	McClory	Stratton
Coughlin	McCloskey	Stubblefield
Culver	McCulloch	Stuckey
Daniels, N.J.	McDonald, Mich.	Sullivan
Danielson	McEwen	Symington
Davis, Ga.	McFall	Talcott
Davis, S.C.	McKevitt	Taylor
de la Garza	McKinney	Teague, Calif.
Dellenback	McMillan	Thompson, N.J.
Dellums	Mahon	Thomson, Wis.
Denholm	Mailliard	Thone
Dennis	Mann	Tiernan
Donohue	Martin	Udall
Dow	Mathias, Calif.	Ullman
Downing	Matsunaga	Van Deerlin
Drinan	Mazzoli	Vander Jagt
du Pont	Meeds	Vanik
Dwyer	Metcalfe	Waldie
Eckhardt	Mikva	Wampler
Edwards, Calif.	Miller, Calif.	Ware
Eilberg	Minish	Whalley
Evans, Colo.	Mink	White
Evins, Tenn.	Minshall	Whitehurst
Fascell	Mitchell	Wiggins
Findley	Mollohan	Williams
Fish	Monagan	Wilson, Bob
Flood	Moorhead	Winn
Flowers	Morgan	Wolff
Foley	Morse	Wright
Ford, Gerald R.	Mosher	Wyatt
Forsythe	Murphy, Ill.	Wydler
Fountain	Myers	Wylie
Fraser	Natcher	Yates
Frelinghuysen	Nedzi	Young, Tex.
Frenzel	Nelsen	Zablocki
Frey	Nix	Zwach
Fulton, Tenn.	O'Hara	
	O'Neill	

NOT VOTING—89

Adams	Brotzman	Dingel
Alexander	Carney	Dorn
Arends	Celler	Dowdy
Ashbrook	Chappell	Dulski
Ashley	Chisholm	Edmondson
Barrett	Clancy	Edwards, La.
Bell	Clark	Erlenborn
Blackburn	Clawson, Del	Esch
Blanton	Conyers	Eshleman
Blatnik	Dent	Ford, William D.
Boland	Devine	Goodling
Bray	Diggs	Green, Oreg.
Gubser	McClure	Reid, N.Y.
Hagan	McCormack	Saylor
Halpern	McDade	Schwengel
Haraha	McKay	Selberling
Hastings	Macdonald, Mass.	Smith, Iowa
Hays	Madden	Springer
Hébert	Melcher	Stanton, J. William
Hillis	Mills, Ark.	Steele
Ichord	Moss	Steiger, Wis.
Jones, Ala.	Murphy, N.Y.	Teague, Tex.
Kazen	Obey	Veysey
Kee	Pelly	Vigorito
King	Pepper	Whalen
Landgrebe	Peyser	Whitten
Landrum	Pickle	Widnall
Link	Pirnie	Wilson, Charles H.
Lloyd	Powell	Wyman
Long, La.	Pryor, Ark.	

So the amendment to the committee amendment was rejected.

The CHAIRMAN. The question is on the substitute amendment offered by the gentleman from Iowa (Mr. SCHERLE) for the committee amendment.

PARLIAMENTARY INQUIRY

Mr. SCHERLE. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. SCHERLE. The amendment that I offered increases the appropriation by $25 million rather than $44 million as expressed by the committee. Is that correct?

The CHAIRMAN. The Chair is aware of the gentleman's amendment.

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. SCHERLE. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. SCHERLE. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. SCHERLE, CABELL, NELSEN, and FRASER.

The Committee divided, and the tellers reported that there were—ayes 119, noes 210, not voting 101, as follows:

[Roll No. 383]

[Recorded Teller Vote]

AYES—119

Abbitt	Fisher	Michel
Abernethy	Flynt	Miller, Ohio
Andrews, Ala.	Frey	Mills, Md.
Andrews, N. Dak.	Gaydos	Minshall
Archer	Gettys	Mizell
Baker	Goldwater	Mollohan
Baring	Griffin	Montgomery
Belcher	Gross	Natcher
Betts	Grover	Nichols
Bevill	Hagan	O'Konski
Bow	Haley	Poage
Brinkley	Hall	Poff
Burke, Fla.	Heckler, Mass.	Price, Tex.
Burlison, Mo.	Henderson	Quillen
Camp	Hull	Railsback
Chamberlain	Hungate	Randall
Clausen, Don H.	Hunt	Rarick
Cleveland	Hutchinson	Rhodes
Collier	Jarman	Robinson, Va.
Collins, Tex.	Johnson, Pa.	Roncallo
Colmer	Jonas	Rousselot
Crane	Jones, N.C.	Runnels
Daniel, Va.	Jones, Tenn.	Ruth
Davis, Ga.	Kemp	Sandman
Davis, S.C.	Kuykendall	Satterfield
Davis, Wis.	Kyl	Scherle
Delaney	Latta	Schmitz
Dennis	Lennon	Schneebeli
Dickinson	Lent	Scott
Downing	McCollister	Sebelius
Duncan	McEwen	Shoup
Dwyer	McKevitt	Skubitz
Edwards, Ala.	Mann	Slack
	Mathis, Ga.	Smith, Calif.
	Mayne	Snyder
Spence	Thone	Wylie
Stubblefield	Waggonner	Young, Fla.
Taylor	Whalley	Zion
Terry	Whitehurst	Zwach
Thompson, Ga.	Wiggins	
Thomson, Wis.	Winn	

NOES—210

Abourezk	Frelinghuysen	Nelsen
Abzug	Frenzel	Nix
Addabbo	Fulton, Tenn.	Obey
Anderson, Calif.	Fuqua	O'Hara
Annunzio	Galifianakis	O'Neill
Aspin	Gallagher	Passman
Aspinall	Giaimo	Patten
Badillo	Gibbons	Perkins
Begich	Gonzalez	Pike
Bennett	Grasso	Podell
Bergland	Gray	Preyer, N.C.
Biaggi	Griffiths	Price, Ill.
Biester	Gude	Pucinski
Bingham	Hamilton	Purcell
Blatnik	Hanley	Quie
Boggs	Hanna	Rangel
Bolling	Hansen, Idaho	Rees
Brademas	Hansen, Wash.	Reuss
Brasco	Harrington	Riegle
Brooks	Harvey	Roberts
Broomfield	Hathaway	Robison, N.Y.
Brown, Mich.	Hawkins	Rodino
Brown, Ohio	Hechler, W. Va.	Roe
Broyhill, N.C.	Heinz	Rogers
Broyhill, Va.	Helstoski	Rooney, N.Y.
Buchanan	Hicks, Wash.	Rosenthal
Burke, Mass.	Hogan	Rostenkowski
Burleson, Tex.	Holifield	Roush
Burton	Horton	Roy
Byrne, Pa.	Hosmer	Roybal
Byrnes, Wis.	Howard	Ruppe
Byron	Jacobs	Ryan
Cabell	Johnson, Calif.	St Germain
Caffery	Karth	Sarbanes
Carey, N.Y.	Kastenmeier	Scheuer
Carter	Keating	Selberling
Casey, Tex.	Keith	Shipley
Cederberg	Kluczynski	Shriver
Clay	Koch	Sisk
Collins, Ill.	Kyros	Smith, N.Y.
Conable	Leggett	Staggers
Conte	Long, Md.	Stanton, James V.
Corman	McClory	Stephens
Cotter	McCloskey	Stokes
Coughlin	McCulloch	Stratton
Culver	McDonald, Mich.	Stuckey
Daniels, N.J.	McFall	Sullivan
Danielson	McKinney	Symington
Dellenback	McMillan	Talcott
Dellums	Mahon	Teague, Calif.
Denholm	Mailliard	Thompson, N.J.
Donohue	Martin	Tiernan
Dow	Mathias, Calif.	Udall
Drinan	Matsunaga	Ullman
du Pont	Mazzoli	Van Deerlin
Eckhardt	Meeds	Vanik
Edwards, Calif.	Metcalfe	Waldie
Eilberg	Mikva	Wampler
Evans, Colo.	Miller, Calif.	Ware
Evins, Tenn.	Minish	White
Fascell	Mink	Williams
Findley	Mitchell	Wilson, Bob
Fish	Monagan	Wolff
Flood	Moorhead	Wright
Flowers	Morgan	Wyatt
Foley	Morse	Wydler
Ford, Gerald R.	Mosher	Yates
Forsythe	Murphy, Ill.	Yatron
Fountain	Myers	Young, Tex.
Fraser	Nedzi	Zablocki

NOT VOTING—101

Adams	Dent	Hastings
Alexander	Derwinski	Hays
Anderson, Ill.	Devine	Hébert
Anderson, Tenn.	Diggs	Hicks, Mass.
Arends	Dingell	Hillis
Ashbrook	Dorn	Ichord
Ashley	Dowdy	Jones, Ala.
Barrett	Dulski	Kazen
Bell	Edmondson	Kee
Blackburn	Edwards, La.	King
Blanton	Erlenborn	Landgrebe
Boland	Esch	Landrum
Bray	Eshleman	Link
Brotzman	Ford, William D.	Lloyd
Carney	Garmatz	Long, La.
Celler	Goodling	Lujan
Chappell	Green, Oreg.	McClure
Chisholm	Green, Pa.	McCormack
Clancy	Gubser	McDade
Clark	Halpern	McKay
Clawson, Del	Hammer-schmidt	Macdonald, Mass.
Conyers	Haraha	Madden
de la Garza	Melcher	Mills, Ark.
Reid, N.Y.	Steiger, Wis.	
Rooney, Pa.	Teague, Tex.	
Saylor	Vander Jagt	
Schwengel	Veysey	
Sikes	Vigorito	
Smith, Iowa	Whalen	
Springer	Whitten	
Stanton, J. William	Widnall	
Steele	Wilson, Charles H.	
Steiger, Ariz.	Wyman	

So the substitute amendment was rejected.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VII

GENERAL PROVISIONS

SEC. 701. (a) The Commissioner of the District of Columbia is authorized and empowered, in his discretion, for the best interests of the District of Columbia, to sell and convey, in whole or in part, to the highest bidder, at public or private sale, for not less than the fair market value thereof, certain real estate now owned in fee simple by the United States of America comprised of approximately 143.15 acres of land, located in Prince Georges County in the State of Maryland, and more particularly described in the deeds conveying said land to the United States recorded on November 7, 1923, in liber 206, folio 384, on August 28, 1923, in liber 206, folio 17, in the land records of Prince Georges County, Maryland.

(b) The Commissioner is further authorized to pay the reasonable and necessary expenses of the sale or sales of such land, and shall deposit the net proceeds of any such sales in the Treasury of the United States to the credit of the District of Columbia.

SEC. 702. Any compensation received by an officer or employee of the District of Columbia government, the direct or indirect source of which is a grant from any Federal agency, department, or instrumentality shall, for the purposes of section 5533 of title 5 of the United States Code (relating to dual compensation) be held and considered to be compensation paid to such officer or employee from regularly appropriated funds.

SEC. 703. Along with, and in addition to, all other financial and budgetary information and data which the Commissioner of the District of Columbia is required annually to submit to the Office of Management and Budget by section 214 of the Budget and Accounting Act, 1921 (31 U.S.C. 22), the Commissioner shall prepare and submit to that Office a schedule showing an estimate of all funds which will be available to any agency, department, or instrumentality of the District of Columbia government, during the fiscal year for which such financial and budgetary information and data are submitted, from grants from any Federal agency, department, or instrumentality, or from any private source. Such schedule shall include such additional information as the Office of Management and Budget deems necessary and appropriate to fully indicate the purposes for which such grants will be made, the scope of the programs funded by such grants, and the relationship between the grant funded programs and the programs of such agency, department, or instrumentality funded by money appropriated directly to the District of Columbia. Such schedule, and such additional information as the Office of Management and Budget may include, shall be transmitted to the Congress along with the annual budget request from the District of Columbia government.

SEC. 704. Section 16 of the District of Columbia Public Assistance Act of 1962 (D.C. Code, sec. 3-216 is amended by inserting "(a)" immediately after "SEC. 16.", and by adding immediately thereafter the following:

"(b)(1) If a recipient fails to make his regular rental payment for a period of ten days after the date such payment was due then the lessor (including a sublessor) of such recipient may send written notice of such failure to the Commissioner. Upon receipt of such notice the Commissioner shall deduct from the monthly public assistance grant for such recipient for the next month following such notice an amount equal to the monthly shelter allotment for such recipient. Such deducted amount shall be disposed of by the Commissioner according to the following provisions of this subsection.

"(2) If it is determined that there is no legal basis for the recipient's failure to make such regular rental payment then the amount deducted and held by the Commissioner shall be paid to the lessor legally entitled to receive such payment. The Commissioner shall continue to deduct such amount from such grant for each month thereafter for so long as such recipient receives such grant, and to pay such amount directly to the lessor of such recipient.

"(3) If it is determined that there is a legal basis for the recipient's failure to make such regular rental payment then the Commissioner shall pay to the lessor legally entitled to receive such payment such part of the amount deducted and held by him as is determined to be owed to the lessor. The Commissioner shall restore to the monthly public assistance grant for such recipient such shelter allotment for each month thereafter for so long as the recipient receives such grant and makes his regular rental payments.

"(c)(1) If any lessor, receiving payments from the Commissioner under subsection (b) fails to maintain the premises of the recipient according to all applicable laws and regulations of the District of Columbia, then the recipient may send written notice alleging such failure to the Commissioner. Upon receipt of such notice the Commissioner shall suspend such payments for such recipient for each month thereafter, and shall hold and dispose of such amount according to the following provisions of this subsection.

"(2) If it is determined that there is no basis for such allegation by the recipient the Commissioner shall pay such amount to such lessor and continue to make such payments for such recipient.

"(3) If it is determined that there is a basis for such allegation by the recipient the Commissioner shall pay to the lessor such part of the amount suspended as is determined to be owed to him. The Commissioner shall restore to the monthly public assistance grant for such recipient the monthly shelter allotment for each month thereafter for so long as the recipient receives such grant and makes his regular rental payments.

"(d) Suspension of rental payments under subsection (b) or (c) above shall not be cause for eviction of any recipient.

"(e) For the purpose of any regulations of the Secretary of Health, Education, and Welfare, or of any other requirement of law, the total amount of assistance given to a recipient shall include that amount suspended and held, or paid by the Commissioner as authorized under subsections (b) and (c). Nothing in this section shall operate to deny to the District of Columbia any funds from any program of the Federal Government relating to public assistance which are paid to the District of Columbia on the basis of the funds appropriated directly to the District for programs administered under this Act."

SEC. 705. (a) Section 7 of the District of Columbia Public Assistance Act of 1962 (D.C. Code, sec. 3-207 is amended by adding the following new subsections:

"(b) After determining that a person is eligible to receive public assistance, the Commissioner shall issue to such person a public assistance identification card which shall be used by such person, in obtaining any public assistance, as a means of identifying him as the proper recipient of such public assistance. The public assistance identification card shall contain the name, social security number, and account or case number of the recipient to whom such card was issued.

"(c) The Commissioner may by regulation prescribe additional uses and requirements with respect to the issuance and use of the public assistance identification card as he deems necessary. Nothing in this section shall be construed to require recipients of public assistance to receive their monthly allotment checks in person at one central location. The Commissioner shall by regulation establish such means of distribution of such checks which, utilizing the public assistance identification card, will insure the least amount of fraud and loss of such checks without unduly burdening the recipients of such checks.

"(d) Any person who sells a public assistance identification card, or otherwise permits any person other than the recipient to whom it was issued to use such card to obtain public assistance to which such user is not otherwise eligible to receive, shall be fined not more than $500, or imprisoned for not longer than one year, or both."

(b) Section 16(a) of such Act is amended by striking out the "or" at the end of clause (2) and inserting immediately after clause (3) the following: "or, (4) a public assistance identification card;".

SEC. 706. During the fiscal year ending June 30, 1972, no person shall be appointed—

(1) as a full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than 39,619; or

(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.

SEC. 707. Paragraph (6) of section 4(b) of the District of Columbia Minimum Wage Act (D.C. Code, sec. 36-404) is amended to read as follows:

"(6) any employee with respect to whom the Secretary of Transportation has power to establish qualifications and maximum hours of service pursuant to the provisions of section 304 of title 49, United States Code."

SEC. 708. On square 764 located between D and E Streets and Second and Third Streets South East, in the District of Columbia (the former site of Providence Hospital) there shall be permitted to be erected a building not to exceed in height 90 feet above the D Street curb. Any building erected on such square shall be erected according to specifications prescribed by the Architect of the Capitol.

SEC. 709. Section 106(b) of title I of the Act of September 23, 1970 (relating to the Commission on the Government of the District of Columbia) is amended to read as follows: "The head of any Federal agency or department or agency of the District of Columbia is authorized to provide for the Commission such services as the Commission requests on such basis, reimbursable or otherwise, as may be agreed between the department or agency and the Chairman or Vice Chairman of the Commission. All such requests shall be made by or in the name of the Chairman or Vice Chairman of the Commission. The Administrator of General Services shall provide financial and administrative support services for the Commission on a reimbursable basis."

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the first committee amendment to this title.

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The Clerk read as follows:

Committee amendment. On page 10, line 14, strike out "3–216" and insert in lieu thereof "3–215".

PARLIAMENTARY INQUIRY

Mr. HOGAN. Mr. Chairman, I have an amendment at page 8.

The CHAIRMAN. The Chair would ask the gentleman whether it is an amendment to the committee amendment or to the section.

Mr. HOGAN. It is to section 7, Mr. Chairman.

The CHAIRMAN. If the gentleman will allow the Chair to dispose of all the committee amendments to the section, then the gentleman's amendment will be in order at that time.

Mr. HOGAN. I thank the Chairman.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Chair will report the next committee amendment.

The Clerk read as follows:

Committee amendment. On page 10, line 16, strike out "immediately thereafter" and insert in lieu thereof "at the end of the section".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment. On page 10, line 20, strike out "or" and insert in lieu thereof "of".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment. On page 13, line 6, strike out "3–207" and insert in lieu thereof "3–206".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment. On page 13, strike out amended by adding the following new subsections:, and insert the following: amended by inserting "(a)" immediately after "SEC. 7." and by adding at the end of the section the following:

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment. On page 14, line 11, strike out "16(a)" and insert in lieu thereof "17(a)", and insert "(D.C. Code, sec. 3–216(a))" after "Act".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment. On page 15, line 9, strike out "section 304 of title 49, United States Code" and insert in lieu thereof "section 204 of part II of the Interstate Commerce Act (49 U.S.C. 304)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: On page 15, strike out lines 12 through 18 and insert in lieu thereof the following:

SEC. 708. On square 764, located between D and E Streets and Second and Third Streets Southeast in the District of Columbia (the former site of Providence Hospital), buildings may be erected which may not exceed in height 90 feet above the D Street curb, and which may be used for any purpose permitted under the zoning classification C–4, as that zoning classification is defined by regulations of the Zoning Commission of the District of Columbia in effect on the date of enactment of this Act. Any building erected on such square under this section shall be erected according to specifications approved by the Architect of the Capitol.

Mr. McMILLAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from South Carolina is recognized.

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield?

Mr. McMILLAN. I yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Does the gentleman from South Carolina, the chairman of the committee, intend to offer another amendment to strike all of section 708?

Mr. McMILLAN. Yes.

Mr. Chairman, I voted for this amendment in the committee with the thought that we could increase tax revenues for the District of Columbia as a result of developing the property which is referred to. Since the committee reported the bill there seems to be a great deal of confusion. I believe it would be best for the amendment to be stricken from the bill and hearings held on the subject. I think the Housing Commission has had an opportunity during the past 10 years to use this property if they expected to use it. If the Capitol Housing Commission does not want to use this property, they should permit private enterprise to go in and develop it so that we can get three times the tax revenues out of this property. That is my reason for asking that this item be stricken from the bill. I will call further hearings on this proposal. I am opposed to the amendment.

Mr. FRASER. Mr. Chairman, I rise for purposes of clarification with respect to what procedure we will follow. Let me preface my question. We are now considering that part of the bill which deals with the so-called Providence Hospital site. As I understand, the Chairman wishes to oppose the committee amendment——

The CHAIRMAN. Does the gentleman from Minnesota seek recognition on his own or does he ask the gentleman from South Carolina to yield?

Mr. FRASER. I understood that the gentleman yielded the floor. I was going to ask for time of my own.

The CHAIRMAN. The gentleman from Minnesota is recognized for 5 minutes.

Mr. FRASER. As I understand it, the Chairman is opposing the committee amendment, which rewrites the provision that is found in the bill, but it would still leave the old provision in the bill. My question is, If the committee amendment is turned down, would it be in order to consider at this point a further amendment to strike the old language so there is no reference to this particular piece of property in the bill?

The CHAIRMAN. The Chair will inform the gentleman that a motion to strike would be in order.

Mr. FRASER. I would just say, Mr. Chairman, that if the Chairman's position is consistent; namely, to vote down the committee amendment, I understand he will then offer a further amendment at that point to strike the whole section.

Mr. McMILLAN. That was my intention, but if the gentleman wishes to do so——

Mr. FRASER. I would just as soon that the Chairman do it.

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. It is my understanding that there was a poll of the members of the committee, and it was the consensus of those on the minority side that a committee amendment would be offered by the gentleman from South Carolina to strike section 708 in its entirety because there had been a great many objections raised due to the fact that we had not held hearings on this particular subject. The Chairman has promised us that hearings will be held, and that we will have the matter back before the House in the near future.

Mr. FRASER. I wanted to make clear what we were dealing with in the bill, namely, the Providence Hospital site, and also to clarify the procedure we would follow, and determine that if the Chairman's position is consistent urging the House to vote down the amendment, he will offer a further amendment to take out the whole section.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was rejected.

AMENDMENT OFFERED BY MR. M'MILLAN

Mr. McMILLAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McMILLAN of South Carolina:

On page 15, strike line 12 through line 18, as follows:

"SEC. 708. On square 764 located between D and E Streets and Second and Third Streets South East, in the District of Columbia (the former site of Providence Hospital) there shall be permitted to be erected a building not to exceed in height 90 feet above the D Street curb. Any building erected on such square shall be erected according to specifications prescribed by the Architect of the Capitol."

The amendment was agreed to.

PARLIAMENTARY INQUIRY

Mr. HOLIFIELD. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOLIFIELD. As I understand it, the two votes that have just been taken have stricken the language which occurs on page 15 from line 12 over to page 16, line 4.

The CHAIRMAN. The gentleman is correct.

Mr. HOLIFIELD. I thank the gentleman.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committe amendment: Page 16, strike out lines 5 through 17, and insert in lieu thereof the following:

SEC. 709. (a) The last sentence of subsection (b) of section 103 of title I of the Act of September 22, 1970 (relating to the Commission on the Government of the District of Columbia), is amended by inserting immediately before the period a comma and the following: "and such report shall be printed as a House document".

(b) Subsection (b) of section 106 of title I of such Act is amended to read as follows:

"(b) The Administrator of General Services shall provide financial and administrative support services for the Commission on a reimbursable basis. The head of any Federal agency or department, or agency of the District of Columbia, is authorized to provide for the Commission such other services as the Commission requests on such basis, reimbursable or otherwise, as may be agreed upon between the department or agency and the Chairman or Vice Chairman of the Commission. All such requests shall be made by or in the name of the Chairman or Vice Chairman of the Commission."

Mr. CABELL (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 17, after line 11, insert the following:

SEC. 710. (a) Subsection (a) of section 114 of the District of Columbia Sales Tax Act (D.C. Code, sec. 47–2601, par. 14(a)) is amended by adding after paragraph (11) the following new paragraph:

"(12) The sale of or charges for the service of preparing, supplying, or providing advertising and the sale of or charges for the service of advertising by means of television, radio, periodicals, circulars, billboards, magazines, films, motion pictures, directories, shoppers guides, and newspapers, or by any other means."

(b) Subsection (a) of section 201 of the District of Columbia Use Tax Act (D.C. Code, sec. 47–2701(a)) is amended by adding after paragraphs (9) the following new paragraph:

"(10) The sale of or charges for the service of preparing, supplying, or providing advertising and the sales of or charges for the service of advertising by means of television, radio, periodicals, circulars, billboards, magazines, films, motion pictures, directors, shoppers guides, and newspapers, or by any other means."

(c) The amendments made by this section shall take effect on the first day of the first month which begins on or after the thirtieth day after the date of enactment of this Act.

Mr. CABELL (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment may be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. FRASER. Mr. Chairman, I rise in opposition to the adoption of the committee amendment, which is to be found on page 17, line 12.

Mr. Chairman, this is a so-called advertising tax which Members may have heard about in the last few days. I only want to say I opposed this amendment in committee on the same ground I am opposing it now. We did not really consider it very carefully. There were no hearings held on this proposal. There was no real discussion. It is a mischievous tax unless we really search out all its implications, because it deals very much with the interstate character of the printed word and the electronic media.

Mr. Chairman, I think it would be a mistake to try to impose this tax on such a small geographic area, particularly in the absence of hearings to explore the impact it would have on national publications that are centered here and on electronic media, part of which are found in the District and part of which are found outside the District.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Chairman, in the committee there were three votes against this, and two of them were from gentlemen from Minnesota, incidentally.

Mr. Chairman, I want to explain that it was the intention of the gentleman from Ohio (Mr. HARSHA) to speak in opposition to the amendment, but he had to leave town and he left with me a statement which he wishes to have printed in the RECORD.

Mr. Chairman, also I should say at this time I join with the gentleman from Minnesota (Mr. FRASER) in his opposition.

(Mr. HARSHA (at the request of Mr. NELSEN) was granted permission to extend his remarks at this point in the RECORD.)

Mr. HARSHA. Mr. Chairman, I rise in opposition to the amendment.

Supposedly, this tax will bring in added revenue for the District of Columbia, but a careful look at the facts clearly indicates that it will do just the opposite. Ultimately, it can only result in a net loss of revenue to the District of Columbia.

Proponents of this amendment contend that advertising should be taxed because there is a sales or use tax on other commodities or services in the District. This ignores, however, the basic differences in the nature and purpose of advertising and, more importantly, the depressing effect which a reduction in advertising would have on the level of retail sales of such commodities or services and the health of the local economy in general.

Since Maryland and Virginia impose comparable taxes on most of the other commodities and services taxed by the District, there is no possible diversion of business from the District as a result of those taxes. But, this clearly would not be the case with respect to the advertising tax. This would put the District's advertising media, printing establishments, advertising agencies, and advertising service companies at a distinct competitive disadvantage since their rivals in the suburbs and elsewhere are not subject to such a tax.

Specifically, the added cost to their services as a result of the tax, and the competitive disadvantage at which they would be placed, might well compel many of these companies to move their operations to the suburbs thereby reducing job opportunities in the city. Any move outside of the District would result in substantial loss of revenue. The decline in the volume of business that would occur from increased taxes might well force companies to reduce employment levels as well. Finally, the tax would discourage new firms from locating in the District, thus further restricting job opportunities and economic growth in the District of Columbia.

Undoubtedly, the diversion of advertising to non-District media to avoid the tax would diminish the income of the metropolitan media subject to the local income tax and result in less revenue to the District.

The proposed sales tax on advertising would become an additional cost burden attached to the underlying services and commodities purchased by consumers. Most products advertised are necessities—food, clothing, and shelter—rather than luxuries. Since the great majority of advertising space purchased from the daily newspapers of the District of Columbia is related to these essential products and services, this added cost burden would fall most heavily on consumers. An advertising tax, therefore, constitutes a "double dip" into the consumer's pocket.

The final contention in the House report that advertisers should pay an advertising tax in order to share equitably the tax burden of the District fails to consider that the retail businesses in the District which would be the primary advertisers affected, already bear a major share of that tax burden. The sharply accelerating decline in the percentage of total metropolitan retail sales accounted for by the District—down 37 percent in 1967 to 31 percent in 1970—demonstrates that it is already difficult enough for retail businesses to survive in the District. To hobble these businesses with an added cost not imposed on their suburban competitors does not make sense from the standpoint of maintaining the District's revenue base.

We must not overlook the important pump-priming effect advertising has upon the profits of the advertisers. These sales and profits constitute the bases of the two prime private revenue sources of the District government—the income tax and the sales tax. The proposed new tax would add materially to the cost of advertising to the advertiser. If this added cost is passed on to the consumer, it may well result in a decline in retail sales and thus revenues from sales taxes and income taxes.

Or, if it is not passed on to the consumer, the added cost of advertising can be expected to result in less advertising—which in turn will still generate less sales. In either case, the effect will be to restrict the general level of business in

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the District and its traditional sources of revenue.

Thus, it is apparent that an advertising tax of this nature would have a detrimental effect on the advertisers, the consumers, and the District's revenue in general. It would also dangerously affect the revenue sources of the District's news media.

Quite obviously, in the advertising business in which highly competitive and pragmatic ratings, percentages, and discounts play vital roles in "time" and "space" purchases, even the 4 percent, which if imposed as an "advertising tax" would have to be reflected in increased "time" and "space" rates, would make a great difference in how, with whom, and whether many lucrative advertising contracts would be placed.

District of Columbia businesses operating with small advertising budgets could, understandably, be encouraged, even compelled, to limit, if not cancel, their advertising schedules with District of Columbia stations and place their advertising with those which, just over the boundary, would "cover the market" at lesser cost to the advertisers. In varying degrees, so might national advertisers upon whom all metropolitan area stations and newspapers must depend for their major source of revenue.

Such institutions, in turn, might well be encouraged, if not compelled, to remove their base of operations across the District of Columbia line into Maryland or Virginia to avoid the tax and remain competitive. Certainly, none of this would do the District of Columbia a bit of good. Quite the contrary, it would do the District a great deal of harm, including ironically, the loss of major property, income, sales, and business tax revenue.

Therefore, it is obvious that the proposed tax would be an unwise exercise of legislative discretion and I urge my colleagues to defeat the amendment.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I associate myself with the remarks of the gentleman from Minnesota.

Mr. HOGAN. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Maryland.

Mr. HOGAN. Mr. Chairman, I associate myself with the remarks the gentleman from Minnesota made. This tax is inherently inequitable inasmuch as TV and radio stations outside the area beam into the same area, and we would put them at an unfair competitive advantage with those located within the District of Columbia.

Mr. MAYNE. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Iowa.

Mr. MAYNE. Mr. Chairman, I rise in opposition to the Committee amendment, section 710 of H.R. 11341, which would extend the 4-percent District of Columbia sales tax to "The sale of or charges for the service of preparing, supplying, or providing advertising and the sale of or charges for the service of advertising by means of television, radio, periodicals, circulars, billboards, magazines, films, motion pictures, directories, shopper guides, and newspapers, or by any other means."

While I recognize the critical revenue needs of the District, I believe experience will show that the proposed advertising tax would be counterproductive. My own State of Iowa experimented with such a tax several years ago, when the junior Senator from Iowa—Senator HUGHES—was Governor. It was immediately contested in extensive and expensive litigation. Many national advertisers and advertising agencies refused to pay to Iowa advertising media the increased costs caused by the tax.

Advertisers generally have set advertising budgets, inclusion of the advertising tax thus lowered the net funds allocated for advertising itself. We found that consequent reduction in net spending for advertising had an immediate effect on Iowa advertising media operations, and many Iowa advertising agencies and media had to cut back on personnel. In consequence the State lost the income tax it would have been able to collect on the salaries of these advertising agency and advertising media employees.

Advertising is the seed producing sales. The cutback in advertising caused by the advertising tax was soon reflected in diminished sales. This in turn reduced the revenues from State sales taxes that higher sales would have produced. Reduced sales also resulted in cutbacks in sales personnel and other expenditures by would-be advertisers. This further diminished the income taxes and other taxes these employees and companies would have paid to the State.

Since no States adjoining Iowa had any tax on advertising, both national and Iowa advertisers began to place their advertising with media located in the adjoining States. This further reduced not only the revenue that could be expected from the Iowa advertising tax, but also the revenues from income taxes and other taxes that these Iowa advertising media would otherwise have paid into the treasury of the State of Iowa.

The squeeze on advertising income caused by the advertising tax also affected the quality of the services performed for the public. Advertising operation profits help subsidize the other operations of the media, and reduction of these profits adversely affects a television or radio station's ability to hire quality news and program staffs and to produce public service and educational programs. Newspapers losing advertising revenues must cut costs elsewhere through reducing the quality and/or quantity of their news coverage or special features—or by raising the charge for the newspaper to the public. If the medium's operation is already financially marginal, the new tax and the consequent hardships it invokes upon the news medium can force it to close its doors—contributing further to the centralization of news and information sources in fewer and fewer hands with the media farther removed from the people. Certainly this is not in the public interest.

A tax on advertising may seem attractive to States and local governments desperate for revenues—but in practice we in Iowa have found such a tax is difficult and expensive to collect. The tax in actual operation proved to be counterproductive and even destructive.

As a result of this sad experience, the Iowa General Assembly under the leadership of Governor Ray quickly repealed the Iowa tax on advertising. I understand most other jurisdictions which imposed such taxes have regretted this action and repealed the tax.

For all the above reasons I am strongly opposed to the 4 percent advertising tax which would be imposed by section 710 of H.R. 11341, a provision adopted by the House District of Columbia Committee without benefit of hearings. It is of particular importance that our Nation's Capitol be served by strong, intensely competitive, quality media and I believe the adoption of the proposed tax could not help having a damaging effect on these media, and on their ability to render adequate service to the public.

Mr. Chairman this tax is not in the best interest of the people of the District of Columbia or the Nation. It would establish a poor precedent, encouraging other jurisdictions to enact or reenact similar taxes. It will tend to restrict our economy. I urge my colleagues in joining with me to defeat this unwise proposal, and to strike section 710 from the District of Columbia Revenue Act.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Ohio.

(Mr. BROWN of Ohio asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BROWN of Ohio. Mr. Chairman, I rise in opposition to Section 710 of the District of Columbia Revenue Act. That section amends the District of Columbia sales tax to include a tax on advertising whether it be by means of television, radio, periodicals, circulars, billboards, magazines, films, motion pictures, directories, shopping guides, and newspapers.

No large State or urban area in the country imposes such a modern day stamp act. It is well known that the States of Maryland and Virginia do not have such a tax, and so a District of Columbia tax will divert advertising revenues to the suburbs.

Even of more importance is that the advertisers who pay this tax will be for the most part retailers, and they already bear a major share of the tax burden. Thus, this is not a tax on the media; it is a tax to be borne by retailers and consumers.

This is, I believe, a subtle effort to subdue institutions which inform people and criticize government. Advertising is necessary to help people know where they can purchase particular goods or services for what price; and many of those goods and services are essential.

This tax is not needed, it will not raise substantial revenue, and it is unfair.

Mr. FRASER. Mr. Chairman, before my time runs out, I wish to say we will be in a position of voting down the committee amendment—that is a no vote—

in order to prevent this tax from going into effect.

Mr. THONE. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Chairman, the District of Columbia revenue bill (H.R. 11341) contains an amendment to levy a 4-percent tax on the sale of advertising and related services including printing. The proposed tax on advertising should be eliminated from the bill.

Advertising stimulates the economy. Therefore, any tax on advertising is counterproductive. The tax would stifle advertising that would promote sales to help create additional jobs and income. All knowledgeable businessmen agree that profitable merchandising requires advertising to aid consumers in selecting between products and in stimulating interest in the goods or services the businessmen have to offer. It is advertising that primes the pump to keep the retailers of Washington going. And it is these retailers who pay most of the sales and income taxes of the District. A tax on advertising could cause revenues from District sales and income taxes to decline.

In 1969, when the House and Senate held hearings on the possibility of a tax on advertising in the District, both bodies rejected the proposal.

While a tax on advertising is unwise anywhere, it would have particularly adverse effects in Washington. One of the area's greatest problems is the flight of business to the suburbs outside the District. A tax on advertising within the District could cause advertising agencies, artists' studios, typesetters, engravers and printers to leave Washington. A tax on advertising would cause more advertising to be placed with news and entertainment media in Virginia and Maryland and less with those physically headquartered in Washington.

National organizations representing labor, business, civic and professional associations produce in Washington magazines, newspapers and newsletters for distribution to their members. It would be particularly unfair to tax the printing done for members of these associations, almost none of whom live in the District.

Currently, the Nation is operating under a price freeze. It appears that it will be difficult to obtain price increases during phase II. Therefore, it would be unfair to place the added cost of an advertising tax on District of Columbia merchants and businessmen without evaluation of their ability to pass on these costs.

There are also serious legal questions involved in the proposed tax on advertising. If any State would attempt to tax advertising involved in interstate commerce it would be in violation of the commerce clause of the Constitution. Such a tax for the District of Columbia would be in contravention of the codified policy that Congress will not impose a tax that a State would be without power to enact.

The proposal does not attempt to apportion intra-District and interstate advertising, in order to tax only the portion of revenue derived from intra-District advertising.

Thirty-five years ago in Fisher's Blend Station, Inc. against the Tax Commission, the court ruled that:

> By its very nature, broadcasting transcends state lines and is national in its scope and importance—characteristics which bring it within the purpose and protection, and subject it to the control, of the commerce clause.

Let me summarize the principal reasons why I believe a tax on advertising should be stricken from the District of Columbia revenue bill. The tax on advertising would produce less total revenue for the District instead of more. The tax would drive advertising businesses and retail establishments from the District to the suburbs. The tax might cause many national associations to move their headquarters out of Washington. And finally, there are serious legal questions concerning the legality of a tax on advertising. This proposed tax must be stricken from the District revenue bill.

Mr. McKEVITT. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Colorado.

Mr. McKEVITT. Mr. Chairman, I also rise in opposition to the committee amendment.

Mr. Chairman, I also rise in opposition to the committee amendment. Over the past 2 years or so, no less than 18 State legislatures have defeated similar attempts to tax advertising. But even beyond this, it appears the courts would declare this proposed 4-percent tax to be unconstitutional, at least on the basis of rulings in similar cases.

But despite this, enactment of a tax against advertising in the District of Columbia would set a precedent at the congressional level and might stimulate new attempts to levy such taxes throughout the Nation which would harm the advertising media, agencies, and suppliers.

I urge my colleagues to strike section 710 of H.R. 11341.

Mr. HORTON. Mr. Chairman, I rise in favor of the Fraser amendment and in opposition to section 710 of the District of Columbia Revenue Act as reported out of committee. This section proposes a 4-percent tax on the sale of advertising and related services.

Having had the privilege to serve on the House District Committee from 1963 to 1969, I am acutely aware of the District's critical financial plight stemming primarily from the high proportion of Federal and non-Federal tax-exempt property in the city. Congress has long recognized the necessity of helping the District make up for these lost tax funds.

The 4-percent tax on advertising has been offered as one means of bolstering the city's revenue. In my view, however, the proposed sales tax on advertising could have a serious adverse effect on the economy of the District.

By assisting consumers in selecting between products and creating new demand for products, advertising increases the level of retail sales in the District as well as the profits of the advertisers. These sales and profits constitute the bases of the two prime private-revenue sources of the District government; namely, the sales tax and the income tax.

The proposed new tax would add significantly to the cost of advertising. To the extent that this added cost is passed on to the consumer, it may well result in a decline in retail sales. To the extent that this added cost of advertising is not passed on to the consumer, it can be expected to result in less advertising, which will generate less sales. In either case, the effect will be to restrict the general level of business in the District and its traditional sources of revenue.

It should also be noted that Maryland and Virginia impose comparable taxes on most of the commodities and services taxed by the District and there is no diversion of business from the District as a result of those taxes. The proposed advertising tax, however, would place the District under a distinct competitive disadvantage with the suburbs and other areas where such a tax does not exist. Retail businesses have enough trouble trying to survive in the District. From the standpoint of maintaining the District's revenue base, it does not make sense to hamper these businesses with an added cost which their suburban competitors will not face.

In the past 2 years, 18 State legislatures have defeated similar efforts to tax advertising in recognition that such a tax would be counterproductive. An advertising tax of only 2 percent was rejected by the House District Committee in 1969 and no hearings were held on the 4-percent tax before us today.

Mr. Chairman, in light of the serious economic pitfalls involved in the tax on advertising and the fact that little consideration was given this proposal in committee, I believe it is imperative that we reject section 710 of the bill under deliberation.

Mr. ABERNETHY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have no illusions about what is going to happen to this provision. I know of the pressures you have been under.

In 1969 the government of the District of Columbia sent its tax bill to Capitol Hill. This was an item in the bill. After hearings on the bill, the subcommittee included the item in the bill—and then the roof fell in, just as it has in the past few days.

I offered this amendment in the committee. It was overwhelmingly and enthusiastically received. Although there were 15 members of the committee present at the time the vote was taken. The vote was 12 to 3. With the announcements Members have heard on the floor here today, this is about the 19th vote I have heard said to have been made against the bill, and I can find none who say they were for it.

I am sure we are not going to find any member who voted for this amendment, although it came out of the committee 12 to 3. They have all joined the church; and I cannot much blame them.

I have in my pocket a letter which came to other Members and to me, from a representative of America's press, the

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National Newspaper Association. They have 6,600 members belonging to this association. This is in addition to the several thousand radio and television stations in the United States. Of course they do not want to collect the tax that their neighboring business houses next door to them are collecting. No one wants to be taxed. And we always fight back at such.

There are eight States in the United States which have this tax.

Some of these people have written in and said that this tax interfered with freedom of the press.

I talked with the editor of one of my papers, and asked him if he paid income taxes. He said "Yes." I asked if that interfered with freedom of the press, and he said "No." I asked if he paid corporate taxes, and I asked if he paid ad valorem taxes on his real estate, and he said, "Yes." I asked if he paid personal property tax on his equipment in the plant, and he said "Yes." But the contention is these other taxes do not interfere with freedom of the press.

Why then does the sales tax interfere with freedom of the press I cannot understand such logic.

Next door to this particular newspaper is a merchant. Upon what he sells he is required to collect a sales tax. This merchant offers merchandise for sale. Sales taxes are collected on everything in that town, except on advertising. Advertising space is merchandise.

Why should they not pay the same tax the merchant pays? Why collect the tax from everyone else in the community, on sales, except advertising sales? Frankly, I cannot see it. Perhaps after this vote is taken I will be able to see it, but up to now I just do not see it.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from Indiana.

Mr. JACOBS. I ask in all seriousness whether advertising, for example, sold to a corporation is a retail sale or a wholesale sale?

Mr. ABERNETHY. I do not know what it is. It is a sale if he makes a sale. He has advertising space in his paper to sell. If he sells it, just like a merchant sells a suit, why should he not pay the same sales tax?

Mr. JACOBS. I just do not know whether we are dealing with a retail sales tax or a wholesale sales tax.

Mr. ABERNETHY. This is retail sales. I do not see that there is any distinction between sales, such as the sale of advertising or the sale of a suit of clothes from a store. Both are sales.

I full well know what the Members are going to do. At the same time, I am not trying to present myself as any brave person. I believe it is wrong to require a person who sells clothing or one who repairs a watch, as they have to do in the District, or one who sells food, to collect sales taxes, and yet not collect the same tax from the man who sells advertising.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman from California.

Mr. ROUSSELOT. Did I correctly understand the gentleman to say this was recommended by the city government of Washington, D.C.?

Mr. ABERNETHY. Yes, sir.

Mr. ROUSSELOT. In other words, in their great effort to be sure to protect civil liberties they recommended it?

Mr. ABERNETHY. In their effort to go as far as they could in providing revenues from their own sources of revenue they recommended that this tax be invoked.

Mr. ROUSSELOT. Yet we are being asked to accept a bill here today that increases the cost to this Government by $44 million and includes chauffeurs who get $22,000 a year——

Mr. ABERNETHY. Now, just wait a minute before you leave the wrong impression. I did not vote for that. I have been voting with you against such all afternoon. Regrettably we did not have enough votes.

Mr. ROUSSELOT. But my point is this is a responsible government that set this kind of thing up.

Mr. ABERNETHY. I am not saying whether it is or not. I am speaking of the fairness of the tax. If the sales tax is to be applied to one person who sells something, I think it ought to be applied to all.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent (at the request of Mr. CABELL) Mr. ABERNETHY was allowed to proceed for 2 additional minutes.)

Mr. CABELL. Will the gentleman yield?

Mr. ABERNETHY. Yes. That is the least I can do considering the situation I am in.

Mr. CABELL. I think the record ought to reflect that when the rather extensive hearings were held on this bill not a single member of the operational organization of any of the local media appeared in person to protest the placing of this tax.

Mr. ABERNETHY. Will the gentleman let me say something right there?

Mr. CABELL. I will be glad to.

Mr. ABERNETHY. The only protest that has been made by any newspaper or radio station or television station in the District of Columbia is radio WMAL. They have been running a radio editorial for the last 2 days about every 30 minutes against this tax. They were hoping you would hear it, and I am sure you did hear it.

When we had the hearings on this the reporters for the newspapers and news media were sitting at the press table in the committee room. I called their attention to the fact that they were there and suggested that if their employers opposed this tax, we would be glad to have them appear in the well of the committee and testify. Not one of them appeared. Not one.

Mr. CABELL. Will the gentleman yield for a further brief observation?

Mr. ABERNETHY. Surely.

Mr. CABELL. I believe that the question has been definitely settled as to the power of the press.

Mr. ABERNETHY. Oh, listen. I know the pen is more powerful than the sword. I have found that out in the last few days.

Mr. HOGAN. Will the gentleman yield?

Mr. ABERNETHY. I yield to the gentleman.

Mr. HOGAN. I would like to make one comment.

I think in all fairness—and I have been as harsh in my criticism of mismanagement in the District of Columbia government as anyone—I think the gentleman from California was really unfair when he criticized the District of Columbia government for opposing such a tax when seven other States already had it.

Mr. ABERNETHY. I think there are eight such States.

Mr. HOGAN. I think it was unfair, I want to say that for the record.

Mr. HUNGATE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not believe that there were any hearings held on this issue in this Congress. I would like someone to correct me if I am wrong about that. I do not think that we had any hearings on this bill in this Congress or that the District government recommended this tax in this Congress. Am I incorrect about that? I do not think I am.

That, as I understood it, was put in the bill at the last mark-up. Zip. We were looking for money and we did not get a commuter tax, which a lot of us think would be great. This advertising tax went in at the last minute.

So it seems to me it is worthy of more consideration than if we were to impose such a tax in this Congress.

Mr. FRASER. Will the gentleman yield to me?

Mr. HUNGATE. I yield to the gentleman from Minnesota.

(By unanimous consent (at the request of Mr. FRASER) Mr. ROONEY of Pennsylvania was allowed to extend his remarks at this point in the RECORD.)

Mr. ROONEY of Pennsylvania. Mr. Chairman, section 710 of the District of Columbia Revenue Act would impose a 4-percent sales tax on advertising in newspapers, magazines, billboards, radio, and television in the District. I strongly object to the proposed tax, both because it would pose a serious economic threat to the competitive commercial standing of the city and because attempts by other cities to impose a similar tax have shown such revenue measures to be administratively and legally unsound.

Money is spent on advertising for only one reason, to persuade potential customers to purchase goods and services. Sales are generated through advertising, and the more advertising is used the more likely sales will be increased. This in turn should produce lower product cost and more tax dollars for the taxing authority from its sales tax and other income and revenue taxes imposed upon producers, distributors, retailers, the advertising media and all their employees. Discouraging advertising, by taxing it and raising its cost, can in reality be a shortcut to reaching a point of diminishing return, independent of any adverse impact reduced product and service demand can have on our economy.

Although advertisers purchase a service, they never acquire possession of the actual means utilized to disseminate their advertisements. Advertising is the cheapest and most effective substitute for personal selling to potential customers. Buyers rely on it for information on prices, products, and where to buy. There is no more justification for a tax on advertising than there would be to tax every salesman for each call he makes on a prospective customer, or to tax store clerks when they wait on customers.

Experience has shown that advertisers usually cannot and will not absorb the increased cost of a tax on their advertisements. Budgets are allocated and fixed. This means merchants must either reduce their selling effort by working less advertising copy or pass the cost on to consumers in increased prices. If the tax is passed on, customers pay twice—both the advertising tax and the sales tax on the merchandise.

I believe the most unfair feature of such a tax is its devastating adverse impact on local commerce, and advertisers and communications media physically located within the geographic boundaries of the taxing jurisdiction. The tax would force local people to compete with merchants and members of the communications media located outside the District who do not pay an advertising tax and can sell and deliver advertisements for less. Local advertising service businesses will either move out of the District to permit clients to avoid the tax or will reduce their advertising budgets to allow for the tax allocation, resulting in decreased sales and thereby slowing the city's economic growth.

Mr. Chairman, I see no justification for imposition of this tax and strongly urge my colleagues to delete section 710 of the bill.

Mr. GRAY. Will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Illinois.

Mr. GRAY. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Illinois.

Mr. GRAY. I thank my friend for yielding. Mr. Chairman, I rise to ask someone on the committee as to how much this proposed amendment would raise in the form of new revenue. I have not heard that figure mentioned and it might be of some help to Members who are undecided on the question.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Mississippi.

Mr. ABERNETHY. I checked with the District officials and they indicated to me that it would raise $2 million.

Mr. HUNGATE. Mr. Chairman, I urge defeat of this advertising tax as an impost on free speech and yield back the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the committee amendment, section 710 of H.R. 11341.

Section 710 subjects all advertising by means of television, radio, periodicals, circulars, newspapers, and all other forms of advertising media to the 4-percent District of Columbia sales and use tax.

The cost of preparing and supplying such advertisement is also subjected to the same tax.

It has been estimated that this tax on advertising will yield a return of approximately $2 million annually. However, this anticipated revenue will never materialize.

What this tax on advertising will do will be to drive radio and television stations out of the city so that the District of Columbia will actually lose its present real estate tax revenues from these stations, as well as losing some jobs. These radio and television stations could reach the people in the District of Columbia and the surrounding suburbs without paying the District of Columbia sales and use tax.

This tax on advertising can result in the move of local industries to another area, where to meet competition, an advertiser does not have to pay such a tax on his advertisements. This could also involve trade and other publications headquartered here in Washington.

A prime example of the detrimental effects of this tax on advertising is the analogy of the Philadelphia Stock Exchange. When Philadelphia announced that it was going to place a tax on the trading of shares, the Philadelphia Stock Exchange announced that it was moving to a nearby Philadelphia suburb. Needless to say, the tax on the transfer of stock shares was quickly eliminated.

Further, no State or municipality currently has a sales tax on advertising. In the few instances where it has been tried in the past, it has been found to be unworkable and illegal.

The proposal contained in section 710, which my amendment would strike, does not provide for the apportionment of intra-District and interstate advertising services to the end that only that portion of advertising revenues which is derived from local sevices is to be taxed. Nor do the provisions of section 710 obviate the possibility of multiple-taxation by States into which go the TV and radio broadcasts, newspapers and magazines.

In *Fisher's Blend Station, Inc.* v. *Tax Commission*, 297 U.S. 650 (1936), the State of Washington had levied an occupation tax measured by gross receipts upon a radio station whose revenues came entirely from broadcasting advertising programs. Some of the programs originated in the State of Washington. Other programs were received by wire from other States, and the station merely sent out over its transmitter the out-of-State advertisements. The United States Supreme Court held that

> As appellant's income is derived from interstate commerce, the tax, measured by appellant's gross income, is of a type * * * to be an unconstitutional burden on interstate commerce.

This case, and a number of other similar cases, clearly prove that the provisions of section 710 are unconstitutional.

There are numerous publications with the principal place of business in the District but with circulation either chiefly or substantially outside the District. It is this substantial interstate character of many of the publications which would be subject to the District of Columbia tax which distinguishes the impact of this tax from a tax on a publication which is wholly prepared, edited and published within the District of Columbia.

I urge my colleagues to support my amendment and strike section 710 of H.R. 11341.

Mr. CABELL. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

MOTION OFFERED BY MR. CABELL

Mr. CABELL. Mr. Chairman, I shall not use the 5 minutes. However, due to the very obvious fact that we are whipping a dead horse, I move that all debate on this amendment and all amendments thereto cease as of now.

The motion was agreed to.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was rejected.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: On page 15, strike lines 6 through 11 and insert: "(6) any driver, driver's helper, loader, or mechanic (A) engaged in work which directly affects the safety of operation of a motor vehicle, and (B) who is employed by an employer for whom the Department of Transportation has issued a certificate of authority pursuant to Section 204 of part II of the Interstate Commerce Act (49 U.S.C. 304)."

Mr. JACOBS. Mr. Chairman, earlier in the proceedings today reference was made by a number of Members about the welfare situation in the District of Columbia. If I am not mistaken, the record will show that more than one Member complained about people who do not or will not work in the District of Columbia. One reference was made to an apartment building which happens to be located right across the street from where I live. I believe that Member suggested that the situation was so bad that maids could not be found to take jobs to make beds in that apartment building. As it happens, I live across the street from that apartment building and I make my own bed every morning.

So I would like to say just a word for the people who work in the District of Columbia, the truck drivers. This section of the bill deals with whether these truck drivers are going to be paid overtime for the work they do. It simply provides that any trucking company in interstate commerce which the Department of Transportation "can" certificate will not be subject to the wage and hour laws of the District of Columbia.

My amendment simply says that exceptions to the District of Columbia wage law will be made for any trucking company in the District of Columbia which the Department of Transportation "does" certificate, not "can" certificate. If we leave it as it stands you will have a no-man's land in the law, no regulation by the Interstate Commerce Commission, and no regulation by the wage and hour people of the District of Columbia.

Let me just give you a little profile of the fellow who hops in that truck at 6

o'clock in the morning, and starts making deliveries around this town—he works.

I figured out what the average wage in the District of Columbia was for the truck driver. He averages, without overtime, $116 a week.

Do you know what I did? I took $42,500 and I divided it by 365. That is the salary of a Member of Congress—$42,500. Do you know how that came out? That came out to $116 a day.

Now, somebody ought to jump up right now and say, "Yes, but that is 7 days a week, and the other thing is for 5 days."

Now, my dear colleagues, all in God's world I am asking you to do is let this truck driver be protected, either by the Interstate Commerce Commission or by the wage and hour laws in the District of Columbia. Do not leave him suspended in no-man's land with no kind of protection at all for his wages.

I cannot think of anything worse than for politicians to pass any kind of legislation that would do a man or a woman out of his or her just reward for honest toil.

So I urge that this, what I must call a perfecting amendment, be accepted.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman from Minnesota.

Mr. NELSEN. Mr. Chairman, I am not sure I understand exactly what the gentleman is saying.

A year ago, in the conference committee we found that the trucking industries that were domiciled here, but engaged in interstate transportation, found themselves in a situation where their wage levels had to comply with those in the District of Columbia, which were higher than the Federal regulations provided, with respect to overtime pay. Therefore, they were not in a position to compete in interstate commerce.

Mr. JACOBS. Does the gentleman really believe that $116 a week for hard work all day is not a competitive wage for a businessman to have to pay?

Mr. NELSEN. I might point out that what we did a year ago was to provide that drivers who worked in excess of x hours in interstate operations came under the Federal wage and hour law.

I am only asking whether what you are doing really is to put them all under the District of Columbia minimum wage law even if they are in interstate commerce?

Mr. JACOBS. No, no, the gentleman misunderstands.

All I am saying is that they must either be afoot or on horseback. If they are regulated by the Interstate Commerce Commission, that is to say, if the commission actually certificates that particular company it is exempt from the wage and hour law of the District of Columbia.

The amendment as it stands now merely says—"if they" can "be certificated" by the Interstate Commerce Commission, they will not be subject to the wage and hour laws of the District of Columbia.

I do not see how anybody can find fault with this amendment, which says they actually must be regulated by the ICC.

Mr. NELSEN. I thank the gentleman.

Mr. CABELL. Mr. Chairman, I rise in opposition to the gentleman's amendment to the committee amendment.

Mr. Chairman, I call attention first to the fact that we are not talking about the payment of minimum wages. This involves, if I understand it correctly, only the payment of premium overtime. The gentleman's arguments have a certain validity, but I think he has overlooked this situation—that a small company doing packing or moving, even though it is not interstate in its operation, still has to compete with those operators who are certificated for interstate operation and, therefore, if he is hit with premium overtime in competition with a certificated carrier, he is completely out of competition and instead of this amendment helping the local worker, it can only work to hurt him. If his employer cannot compete, he is going to lose business and if he has to comply with this premium overtime provision that would be applied in the gentleman's amendment, then he will reduce to the 40-hour week and then the worker will not get the overtime that he would earn on a straight time basis.

Mr. Chairman, I sincerely hope that the committee will take into consideration this aspect of it.

Now this provision of the bill was passed by the 91st Congress in virtually the same form as is being presented here today. This was done after very extensive hearings. There is a very comprehensive description of the situation in the committee report.

I will say that hearings on this subject were not held in the 92d Congress, but were held just a year ago. The hearings were quite exhaustive, and I believe we are bringing to you an amendment, the committee amendment to this bill, that will redound to the benefit of the workers in the District of Columbia, rather than to hurt him.

In the 91st Congress, the House approved language similar to the provisions of the pending bill to reassert the right of interstate motor carriers to operate under the provisions in the Fair Labor Standards Act and the Motor Carrier Act. Hearings were held on this matter in September 1970, and were printed.

The committee report shows in detail the distortion of the 1966 Minimum Wage Act maneuvered by the District agency to change the authority of law and impose regulations on locally based carriers which are not applicable to their competitors. Since 1938, local carriers operated without competitive disadvantage until the recent ruling by the local Wage Board. In the immediate area, Maryland has no similar restrictions and Virginia has no such provisions of law. Local carriers, being unable to compete on even terms, have been moving to the suburbs where they can come and go in the District, free from the local regulations.

Printed hearings on the bill show clearly that nothing in the legislation was intended to affect interstate carriers. The chairman of the subcommittee, Mr. Multer, of New York, stated:

Let's get it clarified on the record. The Fair Labor Standards Act is Federal statute that applies throughout the country, generally speaking, to all interstate commerce workers, including those in the District of Columbia. Neither the Multer bill (H.R. 648) nor the Commissioners' bill (H.R. 6404) affects that in any way whatsoever, nor does it intend to.

There are only 31 certificated interstate carriers who have their base operations in the District. Most of these are in process or contemplating leaving the District because of agency harassment under its unwarranted interpretation of jurisdiction.

The Motor Carrier Act regulations and the Fair Labor Standards Act exemption apply only to a very limited number of employees performing functions related to safety of lives and property moving across State lines. In any case, all the usual local employees—maintenance men, laborers, clerks, typists, stenographers, bookkeepers, and others—are fully subject to local regulations of the District as similar employees are in other jurisdictions.

Had it not been for the District government action, most of the 250 carriers having offices in the metropolitan area might be centrally located in Washington. Certainly most of those who have moved would have remained in the District. Approval of this bill with section 707 included will open the way to remedy the damage done.

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CABELL. I yield to the gentleman.

Mr. BROYHILL of Virginia. The purpose of this section of the bill has an effect somewhat similar to that of the advertising tax amendment that was taken out, in that we are trying to increase the revenue in the District of Columbia or rather we are trying to prevent the loss of revenue.

This language does not hurt any individual. It does not take any rights away from any individual. It helps to encourage this industry to stay in the Nation's Capital and not to move to the suburbs where the workers will have the same protection that we are trying to provide them in the District of Columbia.

Mr. CABELL. I thank the gentleman.

Mr. Chairman, I do want to commend the gentleman from Virginia because he is working against his own best interests because if this amendment is not passed; he is going to get some more employment over in Virginia.

Mr. BROYHILL of Virginia. I am glad the gentleman has made the observation that we in the suburbs are generous people.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. CABELL. I yield to the gentleman.

Mr. JACOBS. Just for the purpose of bringing my own amendment back into focus—I could have voted in opposition to the committee amendment, but I did not do that.

All I am saying is—let them be regulated either by the Interstate Commerce Commission or the wage and hour division.

Let the Interstate Commerce Commission issue a certificate and they are not under the wage and hour law.

I am just asking that we not leave these workers in a no man's land.

Mr. FRASER. Mr. Chairman, I move to strike out the last word and rise in support of the amendment.

Mr. Chairman, I would not take the time of the Committee, but the problem is that the gentleman from Indiana (Mr. JACOBS) was proposing an amendment to clarify certain language and the gentlemen from Texas and Virginia were talking about an entirely different problem. They were not connecting.

Let me just explain what is involved here. The last time around on the revenue bill there was an effort made to say that any of these truckers who are in interstate commerce would not be subject to the District's fair labor standards law, particularly the overtime provision. We got a compromise so that if a worker spent half of his time in the District, then he would be covered by overtime.

What the committee amendment does is to wipe out that compromise and say that an employee in a trucking firm that is in interstate commerce will not get any overtime protection.

Mr. JACOBS is not proposing to disturb that. He is not trying even to go back to last year's compromise. He, in effect, is accepting the Committee position, with one exception. What he is saying is that the carrier ought to be actually certificated by the Interstate Commerce Commission if the exemption is to prevail, rather than letting the standard be that the carrier would be eligible for certification.

With that explanation I wonder if the Committee would not be willing to accept the amendment because it only says that the carriers ought to have gotten the approval of the ICC.

Mr. CABELL. Mr. Chairman, will the gentleman yield?

Mr. FRASER. I yield to the gentleman from Texas.

Mr. CABELL. It was felt that the amendment would actually have the results that the gentleman stated. Many of these small operators have no occasion to go into interstate commerce. Therefore, they have no occasion to carry an ICC certification. So the mere fact that this would be confined to those holding certificates still leaves the little man who has no occasion to go interstate outside the metropolitan area out in the rain, so far as his being able to compete with certificated carriers is concerned.

Mr. FRASER. But the point is that if any interstate commerce is involved, they should not be entitled to the exemption of the Interstate Commerce Act. All we are saying is that if they are certificated, they should get the exemption. If they are not certificated, they do not have to. That seems to be very plain and simple. It is a very simple amendment, and I would think the chairman would want to take it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The question was taken; and the Chairman announced that the noes appeared to have it.

TELLER VOTE WITH CLERKS

Mr. JACOBS. Mr. Chairman, I demand tellers.

Tellers were ordered.

Mr. JACOBS. Mr. Chairman, I demand tellers with clerks.

Tellers with clerks were ordered; and the Chairman appointed as tellers Messrs. JACOBS, CABELL, NELSEN, and FRASER.

The Committee divided, and the tellers reported that there were—ayes 139, noes 179, not voting 112, as follows:

[Roll No. 384]

[Recorded Teller Vote]

AYES—139

Abourezk	Gaydos	Obey
Addabbo	Giaimo	O'Hara
Anderson, Calif.	Grasso	O'Konski
Anderson, Tenn.	Gray	O'Neill
Annunzio	Gude	Passman
Aspin	Hall	Perkins
Baker	Hamilton	Pike
Baring	Hanley	Podell
Begich	Hansen, Wash.	Price, Ill.
Bennett	Harrington	Pucinski
Bergland	Hathaway	Rangel
Bevill	Hawkins	Rees
Biester	Hechler, W. Va.	Reuss
Bingham	Heinz	Riegle
Blatnik	Helstoski	Rodino
Boggs	Hicks, Mass.	Roe
Boland	Hicks, Wash.	Roncalio
Bolling	Holifield	Rosenthal
Brademas	Horton	Rostenkowski
Brinkley	Howard	Roush
Burke, Fla.	Hull	Rousselot
Burke, Mass.	Hungate	Roybal
Burton	Jacobs	Ryan
Byrne, Pa.	Johnson, Calif.	St Germain
Caffery	Karth	Sarbanes
Carey, N.Y.	Kastenmeier	Scheuer
Conte	Klucsynski	Seiberling
Cotter	Koch	Slak
Coughlin	Kyros	Smith, Calif.
Culver	Leggett	Stanton, James V.
Daniels, N.J.	McCloskey	Steed
Danielson	McDonald, Mich.	Stokes
Dellums	McKinney	Stratton
Donohue	Matsunaga	Sullivan
Dow	Meeds	Symington
Drinan	Metcalfe	Thompson, N.J.
Duncan	Mikva	Tiernan
Eckhardt	Miller, Calif.	Udall
Edwards, Calif.	Minish	Ullman
Eilberg	Mink	Van Deerlin
Fascell	Mitchell	Vanik
Flood	Monagan	Wolff
Foley	Moorhead	Wright
Fraser	Murphy, Ill.	Yates
Fulton, Tenn.	Natcher	Yatron
Gallagher	Nedzi	Zablocki
	Nix	

NOES—179

Abbitt	Crane	Haley
Abernethy	Daniel, Va.	Hansen, Idaho
Anderson, Ill.	Davis, Ga.	Harvey
Andrews, Ala.	Davis, S.C.	Heckler, Mass.
Andrews, N. Dak.	Davis, Wis.	Henderson
Archer	de la Garza	Hogan
Arends	Delaney	Hosmer
Aspinall	Dellenback	Hunt
Belcher	Denholm	Hutchinson
Betts	Dennis	Jarman
Biaggi	Dickinson	Johnson, Pa.
Bow	Downing	Jones, N.C.
Brasco	du Pont	Jones, Tenn.
Brooks	Dwyer	Keating
Broomfield	Edwards, Ala.	Keith
Brown, Mich.	Evans, Colo.	Kemp
Brown, Ohio	Evins, Tenn.	Kuykendall
Broyhill, N.C.	Findley	Kyl
Broyhill, Va.	Fish	Landrum
Burleson, Tex.	Fisher	Latta
Burlison, Mo.	Flowers	Lennon
Byrnes, Wis.	Ford, Gerald R.	Lent
Byron	Forsythe	Long, Md.
Cabell	Frelinghuysen	McClory
Camp	Frenzel	McCollister
Carter	Frey	McCulloch
Cederberg	Fuqua	McEwen
Chamberlain	Garmatz	McFall
Clausen, Don H.	Gettys	McKevitt
Cleveland	Gibbons	McMillan
Collier	Goldwater	Mahon
Collins, Ill.	Gonzalez	Mann
Collins, Tex.	Green, Oreg.	Martin
Colmer	Griffin	Mayne
Conable	Gross	Mazzoli
	Grover	Michel
	Hagan	Miller, Ohio
	Mills, Md.	Rooney, N.Y.
	Minshall	Roy
	Mizell	Runnels
	Montgomery	Ruppe
	Morgan	Ruth
	Murphy, N.Y.	Sandman
	Myers	Satterfield
	Nelsen	Scherle
	Nichols	Schmitz
	Patten	Schneebeli
	Poage	Scott
	Poff	Sebelius
	Preyer, N.C.	Shipley
	Price, Tex.	Shoup
	Purcell	Skubitz
	Quie	Slack
	Quillen	Smith, N.Y.
	Railsback	Snyder
	Randall	Spence
	Rarick	Springer
	Rhodes	Steiger, Ariz.
	Robinson, Va.	Stephens
	Robison, N.Y.	Stubblefield
	Rogers	Stuckey
	Talcott	
	Taylor	
	Teague, Calif.	
	Terry	
	Thompson, Ga.	
	Thomson, Wis.	
	Thone	
	Vander Jagt	
	Waggonner	
	Wampler	
	Ware	
	Whalley	
	White	
	Whitehurst	
	Wiggins	
	Williams	
	Winn	
	Wydler	
	Wylie	
	Young, Tex.	
	Zion	
	Zwach	

NOT VOTING—112

Abzug	Fountain	Mosher
Adams	Gallifianakis	Moss
Alexander	Goodling	Patman
Ashbrook	Green, Pa.	Pelly
Ashley	Griffiths	Pepper
Badillo	Gubser	Pettis
Barrett	Halpern	Peyser
Bell	Hammer-schmidt	Pickle
Blackburn	Hanna	Pirnie
Blanton	Harsha	Powell
Bray	Hastings	Pryor, Ark.
Brotzman	Hays	Reid, N.Y.
Buchanan	Hébert	Roberts
Carney	Hillis	Rooney, Pa.
Casey, Tex.	Ichord	Saylor
Celler	Jonas	Schwengel
Chappell	Jones, Ala.	Shriver
Chisholm	Kasen	Sikes
Clancy	Kee	Smith, Iowa
Clark	King	Staggers
Clawson, Del	Landgrebe	Stanton, J. William
Clay	Link	Steele
Conyers	Lloyd	Steiger, Wis.
Corman	Long, La.	Teague, Tex.
Dent	Lujan	Veysey
Derwinski	McClure	Vigorito
Devine	McCormack	Waldie
Diggs	McDade	Whalen
Dingell	McKay	Whitten
Dorn	Macdonald, Mass.	Widnall
Dowdy	Madden	Wilson, Bob
Dulski	Mailliard	Wilson, Charles H.
Edmondson	Mathias, Calif.	Wyatt
Edwards, La.	Mathis, Ga.	Wyman
Erlenborn	Meicher	Young, Fla.
Esch	Mills, Ark.	
Esthleman	Mollohan	
Flynt	Morse	
Ford, William D.		

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MIKVA

Mr. MIKVA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MIKVA: On page 10, strike out line 13 and all that follows down through and including line 4 on page 13.

Mr. MIKVA. Mr. Chairman and members of the committee, this is the last of the extraneous riders, at least as far as I know, that are in this bill.

What this rider I am seeking to strike out would do—and it would do a very poor job of doing it—is to try to set up a landlord-tenant law in a revenue bill. It is aimed at the problem of rent strikes, which is a problem that does confront most municipalities in the country. Most State legislatures have been wrestling with this problem and have tried to come up with some way of seeing to it that a landlord is not overwhelmed by the nonpayment of rent and at the same time not put the State or the city in the position of being the protector of the slum landlords.

The rider that has been attached to

the revenue bill never had one moment of hearings before our committee. We never had any witnesses called to testify for or against it.

The first time I saw the language of the rider was in the markup session of the full committee. As a result of this lack of hearings, the rider does not do what it was intended to do.

If this rider stays in the bill and my amendment is not agreed to, the D.C. government will become one of the great protectors of slum landlords in the city and one of the great gougers of good landlords in the city.

I know that was not the intent of the people who put this section in. I know what they intended to do was to set up a system whereby the D.C. Welfare Department would see to it that the tenant did not unlawfully refuse to pay the rent. However, I assure any of you who have ever had experience with these problems that if you would take a look at the section that starts at 704 on page 10 of the bill or read that part of the report that starts at page 50 of the report, you will see a classic case of why legislation by riders is not a good way to legislate in the people's House or any place else.

I would like to see a landlord-tenant code revision accomplished in the District of Columbia, one that would protect landlords against overreaching tenants and one that would protect tenants against overreaching slum landlords. However, we cannot do it by a rider on a revenue bill.

Mr. Chairman, I hope the amendment which I have offered will be agreed to. The vote in the committee was 12 to 11. It was not something that came through with overwhelming approval.

The committee can take a long, hard look at this matter, rather than the time it took, some 20 minutes, during the markup of the bill. If we want to find the answer to this very complicated problem, that is what we will have to do.

Mr. McKINNEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I shall be very brief because I think this is a very simple problem. I am well aware, as I stated before, I think on the floor of this House, of the problems with reference to this particular bill as it is now written.

Mr. Chairman, if this amendment is not passed we will be in violation of three rulings of the Supreme Court. It is in violation of HEW's regulations. But more important than that it is turning around to a department that we have already deemed to be almost universally inefficient, the Welfare Department. It is requiring that they take on a task that they are in no way ready to handle, nor do they have the expertise.

It is very simple. If tenants withhold their rent, a landlord may go into court and the court will take the money and hold it until the dispute is adjudicated. The court has the machinery and the system works. It is a recognized system in most of our cities. It allows the landlord the protection of the court and it allows the tenant the protection of the court and due process of law.

Last, but not least, it assures that the money is there for whichever party should get it, and, quite frankly, that the money is there with interest.

Mr. Chairman, I would hope that the amendment would be agreed to.

Mr. CABELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I must take issue with my good friend, the gentleman from Illinois (Mr. MIKVA) with reference to his statement that this matter was not gone into either during the hearings or the mark up of the bill to the extent to which he thinks was necessary.

Mr. Chairman, this matter was discussed at the first markup meeting of the subcommittee and it was agreed to. Granted, there were not extended public hearings held on it, but I think it was a foregone conclusion as to who would have been there to testify. They are the ones drawing rent checks and housing checks and refusing to pay but yet putting the money in the bank.

I do not believe that anyone in this committee feels that a person who is being provided with taxpayers' money for the purpose of paying rent for shelter intends that such a person could put that money in his pocket and just go on his merry way.

I call your attention to the fact that for the period including the past fiscal year occupants of approximately 2,400 units of public housing joined in rent strikes for up to 19 months and refused to use their rent allotments to pay rent.

The statement that there is recourse in the courts, might hold some water if the courts acted immediately the first time that they were in arrears, but if it is going to take 3 to 6 months as do most of these cases require, at that time neither the courts nor the tenant has that money. In other words, how are you going to get blood out of a turnip? They have already spent that money.

Mr. Chairman, the provisions have been set up whereby the Commissioner can set up the machinery for the administration of this program. Under the bill, the money can be impounded. It is not paid to the landlord arbitrarily. It is not handed over to the landlord, but it is held as a public fund by the Welfare Department until it is determined whether there is a legal, valid claim for nonpayment of rent.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. CABELL. Not for the moment.

There has to be a determination if rent allotment was legally withheld by the public assistance tenants.

Let us not kid ourselves. What has been happening in many cases is deliberate destruction of property in order to have an excuse to claim a housing code deficiency and not pay rent. As long as that situation is possible you are not going to have very good compliance with the intent of the law which provides public assistance recipients with these rent payments.

You are not dealing with private money here, you are dealing with public money, and I think it behooves us to do everything we can to protect the interests of our taxpayers where it does not hurt the recipients of these checks. Because when they receive that money for rent, and then do not use it for that purpose but put it in their pockets, then in my opinion it is conversion of funds to improper and illegal purposes.

I do not want to belabor this point. I know the hour is getting late, but that is the whole simple problem in a nutshell.

This whole situation has become so intolerable that even at privately owned rental projects the destruction has been so great that many, many units of their housing have been taken out of service that could supply shelter that we need, and do not have.

But when they are constantly wrecked, and many times deliberately, then how can you expect the landlord to keep on repeating his maintenance and his refurbishing when he cannot even get the cost of that, or the cost of his taxes, out of those rental units?

Substantially in excess of $1 million in losses have been suffered by the National Capital Housing Authority. It put them into bankruptcy, which meant that then HUD had to come back in with another $1 million to bail them out in order to keep those public housing units open.

I beg of you, Members of the House, if you have the interests of your taxpayers' pockets in mind, and if you want to maintain some honesty and decency among our people, then vote down this proposition

PUBLIC ASSISTANCE RENT ALLOTMENTS

The committee provisions related to rent allotments should be approved.

The purpose of section 704 of the bill is to prevent the loss of public funds made available as rent allotments by the Public Assistance Agency for recipients of public assistance. Millions of dollars of such funds are diverted from their proper use. There can be no justification of a system under which tenants may engage in a rent strike and use their rent allotments for personal disposition for long periods.

RENT STRIKES

This is no imaginary problem. Thousands of recipients of rent allotments have withheld their rent payments in rent strikes against both the public housing agency and against private lessors. For the period including the past fiscal year, occupants of about 2,400 units of public housing joined in rent strikes for up to 19 months and refused to use their rent allotments to pay rent. Substantially in excess of $1 million in losses are still outstanding on the books of the National Capital Housing Authority. Such losses were an important factor in forcing the Housing Agency into bankruptcy requiring the Federal Government to bail it out so that it could continue to operate its nearly 12,000 dwelling units.

The amount of funds provided for rent allotments but withheld and used for other purposes by recipients of public assistance can only be estimated. The losses to private lessors substantially exceeds the losses suffered by the Public Housing Agency. A direct result of such action was the reported withdrawal from the rental market of thousands of housing units. Neither private nor public housing can be furnished for any length of time where the system permits the diversion of public funds to other purposes and the costs of maintaining public and private housing cannot be met.

The provisions of the bill do not deprive the public assistance recipient of any right to which he is entitled.

As a part of public assistance, he is eligible to receive such rent allotment for the public purpose of providing shelter as the Assistance Agency establishes as proper.

The withholding of rent by a tenant or the filing of a complaint for housing code deficiency does not provide an automatic basis for eviction.

The public assistance tenant will be eligible to receive any rent allotment as determined by the Assistance Agency so long as he applies the money to the public purpose or otherwise acts in good faith.

If housing code enforcement officials find a code deficiency or such a deficiency complaint is filed by the tenant or if the tenant withholds the rent payment, the Assistance Agency will withhold the rent allotment until the amount of any lawful payment for shelter can be determined and made.

The withholding of public funds allotted for rental payments does not constitute an escrow as to which the claimants are the public assistance tenant and the lessor. Such funds can be applied for rent only when rent is lawfully due. If only part of the rent is lawfully due, a proportionate payment may be provided for by the Assistance Agency. If the tenant has acted in full good faith, the rental allotment due and payable may be supplied by the Agency to the tenant for that purpose. If the tenant has not used the rent allotment for its intended purpose or complained of a deficiency without justification as a reason for the withholding of rent, the Assistance Agency will pay the amount of rent allotments lawfully due to the lessor.

The operation of this system should help to prevent the unwarranted eviction of a tenant who files a complaint. It should benefit the public housing agency by insuring that rent payments will be made. It should bring about a decrease in acts of vandalism to create a housing deficiency complaint. It should reduce the number of cases in landlord and tenant court from the number of about 125,000 per year being experienced at the present time.

Mr. BROYHILL of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to take the full 5 minutes. I rise in opposition to the pending amendment, and I want to associate myself with the remarks made by the gentleman from Texas (Mr. CABELL).

The language in the bill that this amendment seeks to strike out does not deny and I repeat, does not deny any payments to any of the individuals who are entitled to it. It does not interfere with the relationship between the tenant and the landlord.

What the language of the bill does do is to assure the proper use of the funds that are paid to individuals for use as a rent supplement.

Mr. FAUNTROY. Mr. Chairman, would the gentleman yield?

Mr. BROYHILL of Virginia. If the gentleman will wait until I have completed my statement, then I will be glad to yield to the gentleman.

The tenant can withhold these funds under present law, and not pay them to the landlord if he feels that the landlord is not keeping his property in proper repair. Under the language of the bill, the payments can still be withheld under those circumstances, but they cannot be used by the tenant for some other purpose. In other words, under the language of the bill the individual cannot short-circuit the funds and refuse to pay the landlord, as an excuse for using those funds for something else.

I say the language of the bill protects the tenant from a liability that he would bear if he withheld rental subsidy funds from the landlord under the pretext that the landlord had not kept the property in proper repair.

Now those of us who support the language of the bill are just as interested and just as anxious to help the poor as are the sponsors of the amendment to take this language out of the bill. We do not want to deny the poor and those who are entitled to these funds of the right to such relief. But at the same time, we want to protect the taxpayer. What is wrong with that? That is all the language of the bill seeks to do.

Mr. MIKVA. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the gentleman.

Mr. MIKVA. This is an example of what is wrong with trying to write this complicated kind of bill without hearings and without giving it the necessary time.

Let me explain to the gentleman, if one tenant who is on welfare writes that his landlord is in violation on that building and even though the building could have been completed yesterday and is in compliance with every law that the District of Columbia has, then the welfare authority must withhold the rent and the tenant cannot be evicted until this is determined. It does not say anywhere in here who is going to make the determination.

My quarrel, I will say to the gentleman from Virginia, is not with the end result that you seek to achieve because I think there ought to be an orderly basis for resolving the disputes. My quarrel is with some of the language that was thrust at us in the markup session.

The gentleman will agree that we did not spend much time in debating the language, and it is going to work exactly the reverse of the results that the gentleman from Virginia and every other Member want.

I do not want to continue the situation where tenants can withhold the rent indefinitely, and using welfare funds for other purposes. I would like to have a rational system that protects both sides of the bargain and puts it in the courts where it has to be decided ultimately anyway.

Mr. BROYHILL of Virginia. Let me say this to the gentleman in response. I agree with what the gentleman said earlier in the debate today about writing a bill like this on the floor of the House. I do not agree with the gentleman, however, about the committee writing this legislation in executive session. I disagree with the gentleman that this language was thrust at us. We discussed this provision at great length, and we had the matter before us for several days; and the gentleman had every opportunity to offer a motion to have this language stricken from the bill on its merits in executive session, but he failed in that effort. So, I say that the committee knew exactly what it was doing, and the provision was adopted to protect both the taxpayer and the landlord.

Mr. FAUNTROY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, again I want to remind the Members of this body of the truth in order that we might do the right thing. The truth is that contrary to the statement of the gentleman from Texas, the landlords do now, in fact, have access to immediate relief when a tenant fails to pay his rent. He may secure a protective order from the courts which will require the tenant to pay the prescribed rent until such time as the litigation is resolved.

The truth is, that if the committee rider is sustained, we will be clearly in violation of the Constitution. Only last year the Supreme Court ruled that public assistance is to be considered as a property subject to the protection afforded by the due process clause of the Constitution.

Moreover, it has already been pointed out by the gentleman from Connecticut that the committee rider would violate the HEW regulations which again require due process before a person may be denied public assistance.

So, Mr. Chairman, it would be wise to support the Mikva amendment not only because it sustains the Constitution of the United States, but also because the landlords in question already have, through the courts, immediate access to relief should they feel that a person was withholding his rent without just cause.

Mr. HALEY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I think this matter can be resolved very simply. Here is all that is involved here. In the first place, you put a roof over people's head with taxpayers' money. You then appropriate money to pay the rent to bring it up to where it would be a going concern; and the tenant puts the money in his pocket.

I think it is just that simple—how stupid can we get?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MIKVA).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HOGAN

Mr. HOGAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOGAN: Page 8, line 12, is amended to read as follows:

"SEC. 701. (a) Except as provided in para-

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graph (2), the Commissioner of the District of".

Page 8, line 16, strike out "or private".

Page 8, immediately after line 24, insert the following:

"(2) The Commissioner shall, before offering to sell such real estate at public sale, offer to sell and convey all of such real estate, for not less than the fair market value thereof, to the Prince Georges County Government, Prince Georges County, Maryland. Only after such County Government has had a reasonable time not to exceed six months to consider and accept or reject such offer (in whole or in part) may the Commissioner sell and convey such real estate or the remaining portion of such real estate, as the case may be, at public sale."

The CHAIRMAN. The gentleman from Maryland is recognized in support of his amendment.

Mr. HOGAN. Mr. Chairman, this is a very straightforward, noncontroversial amendment as far as I am concerned, and very reasonable.

Mr. CABELL. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Texas.

Mr. CABELL. As I understand your amendment—and you were kind enough and courteous enough to provide us with advance copies—you are merely asking that Prince Georges County be granted a reasonable time to exercise a right of refusal for the purchase of the property referred to, and that it does not necessarily imply that Prince Georges County would be in a position to buy the land any cheaper than if a transfer were made at a private sale by the District of Columbia. Am I correct in that statement?

Mr. HOGAN. The gentleman's understanding of my amendment is correct.

Mr. CABELL. I should like to ask the gentleman whether he inserted in the amendment the 6-month provision rather than "a reasonable time"?

Mr. HOGAN. Yes. The gentleman will be interested in knowing that following "reasonable time" there is a parenthetical clause which states "not to exceed 6 months to consider and accept or reject such offer".

Mr. CABELL. Mr. Chairman, the members of the committee on this side of the aisle are ready to accept the amendment.

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. I yield to the gentleman from Minnesota.

Mr. NELSEN. I just want to say that we on our side have no objections. I also wish to compliment the gentleman for doing his usually extensive, good job.

Mr. HOGAN. I thank the gentleman. It should be obvious to the Members that this 143-acre parcel of land is located in Prince Georges County and I feel that the Prince Georges County government should have the right to purchase it before it is offered to other would-be purchasers. I am grateful for the support of members of the committee for my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. HOGAN).

The amendment was agreed to.

Mr. HENDERSON. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from North Carolina is recognized.

Mr. HENDERSON. I should like to have the attention of the chairman of the subcommittee relative to section 702 of the bill. It is my understanding that this section is intended to apply to officers and employees of the District of Columbia as their compensation is affected through the use of Federal funds, in order that there will not be compensation from regular appropriated funds and also compensation from funds that might be granted through the Federal grant programs. Is that correct.

Mr. CABELL. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from Texas.

Mr. CABELL. I think that is correct. For example, cases have been brought to our attention that a salaried employee of the District of Columbia is paid from appropriated funds, but under present regulations could accept a grant or accept additional compensation for some purpose through some Federal program which, in our opinion, it encompasses.

Mr. HENDERSON. I certainly want to commend the gentleman for this action. It is long overdue. I hope the gentleman will see, after this provision becomes law, that it is enforced throughout the Federal Government.

With regard to section 106, it is my understanding that the committee, in an attempt to limit the ever-expanding employment of the District of Columbia government, has placed a ceiling or a limitation on the number of employees within the District of Columbia. I would point out that if it was the intent—and I would assume it was—of the committee to save money for the taxpayers and to really bring economies in employment, that this is one way that so often we in the Congress do it that is absolutely ineffective as it relates to emplacement grades and increases in salaries, and really there is a greater expenditure of money.

I would like to suggest to the committee if in the future they intend to save money by limiting the employment, that they do it by putting monetary limitations on and not just merely employment ceilings. I commend the committee for this effort, but I predict unless the committee rides herd they will find in the next fiscal year that even though they have put this limitation on employment, the District of Columbia will have spent more money for personnel costs than they have in past years.

Mr. CABELL. Mr. Chairman, will the gentleman yield?

Mr. HENDERSON. I yield to the gentleman from Texas.

Mr. CABELL. Mr. Chairman, I commend the gentleman for his contribution. I think he has taken the point well. Under the existing rules and regulations, under which we operate, the authorizing committee at this time is almost hamstrung when it comes to setting up line item limitations. The Appropriations Committee can do that.

Mr. HENDERSON. The gentleman is correct, and I hope the colloquy here today will encourage the Appropriations Committee to put the limitations on the expenditures of funds in this regard.

Mr. CABELL. Mr. Chairman, will the gentleman yield further?

Mr. HENDERSON. I yield to the gentleman from Texas.

Mr. CABELL. Mr. Chairman, may I say we recognize very clearly that this is only one step of a limitation, and it is not the final answer by any means. No, very frankly. What the District will do is lay off five laborers and put on one more chief, and we have to find a way to cut some of the chiefs out of the wigwams.

Mr. HENDERSON. I commend the committee for their effort in this, because for those of us who have tried to bring about some sense in manpower in the Federal Government, we can certainly understand the committee has been into this matter very seriously. I commend the committee.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VIII

MISCELLANEOUS PROVISIONS

SEC. 801. SEPARABILITY CLAUSE.—If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 802. EFFECT UPON REORGANIZATION PLAN NUMBERED 3 OF 1967.—Nothing in this Act, or any amendments made by this Act, shall be construed so as to affect the authority vested in the Commissioner of the District of Columbia or the authority vested in the District of Columbia Council by Reorganization Plan Numbered 3 of 1967. The performance of any function vested by this Act in the Commissioner of the District of Columbia or in any office or agency under his jurisdiction and control, or in the District of Columbia Council, may be delegated by the Commissioner or by the Council, as the case may be, in accordance with the provisions of such plan.

SEC. 803. EFFECT OF REPEAL OR AMENDMENT.—(a) EXISTING RIGHTS AND LIABILITIES.—The repeal or amendment by this Act shall not affect any other provision of District law, or any act done or any right accrued or accruing under such law, or any suit or proceeding had or commenced in any civil cause before repeal or amendment of such law, but all rights and liabilities under such law shall continue, and may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

(b) CRIMES AND PENALTIES.—All offenses committed, and all penalties incurred, under any provision of law hereby repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if this Act had not been enacted.

SEC. 804. Except as otherwise provided, the provisions of this Act shall take effect upon the date of enactment of this Act.

Mr. CABELL (during the reading). Mr. Chairman, I ask unanimous consent that title VIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 18, line 12, strike out "SEPARABILITY CLAUSE.—".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 18, beginning in line 17, strike out "EFFECT UPON REORGANIZATION PLAN NUMBERED 3 OF 1967.—"

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 19, line 4, strike out "EFFECT OF REPEAL OR AMENDMENT.—".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 19, line 5, strike out "EXISTING RIGHTS AND LIABILITIES.—".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 19, line 14, strike out "CRIMES AND PENALTIES.—"

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: Page 19, after line 21, insert the following new title: new title:

TITLE IX—NONRESIDENT INCOME TAX

SEC. 901. (a) The District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, secs. 47–1551–1595a) is amended by adding at the end of that Act the following new title:

"TITLE XVII—NONRESIDENT INCOME TAX

"SEC. 1. Imposition of tax.—There is hereby imposed and levied for each taxable year beginning after December 31, 1971, upon the taxable income of every nonresident derived from sources within the District of Columbia, a tax at a rate equal to 40 percent of the tax levied and imposed for such taxable year under title VI of this article (D.C. Code, secs. 47–1567—47–1567e), on the taxable income of every resident. The tax imposed and levied on such taxable income of any nonresident shall be determined under the provisions of this title.

"SEC. 2. Computation of tax.—

"(a) In the case of the income of a nonresident subject to tax under this title, the amount of the tax for any taxable year shall be computed on the taxable income of such nonresident derived from sources within the District of Columbia in the same manner as if such nonresident were a resident, except—

"(1) the amount allowed as a credit against net income under section 2 of title VI of this article (D.C. Code, sec. 47–1567a) shall be reduced to an amount which bears the same ratio to the full credit provided for in such section as the adjusted gross income of such nonresident derived from sources within the District of Columbia for the taxable year bears to the total adjusted gross income of such nonresident for such taxable year;

"(2) in computing the net income of such nonresident for such taxable year, deductions from gross income allowed under section 8 of title III of this article (D.C. Code, sec. 47–1567b) shall be allowed only if, and to the extent that, they are directly connected with income derived from sources within the District of Columbia; and

"(3) no credit for sales tax paid in the District of Columbia as provided under section 6 of title VI of this article (D.C. Code, sec. 1567e) shall be allowed in the case of such nonresident.

"(b) The proper apportionment and allocation of the deductions with respect to income derived from sources within and without the District of Columbia as provided under clause (2) of subsection (a) of this section shall be determined under regulations prescribed by the District of Columbia Council.

"SEC. 3. Definitions.—For the purposes of this title—

"(1) The term 'taxable income' means the entire net income of every nonresident derived from sources within the District of Columbia in excess of the personal exemptions and credits for dependents allowed by section 2 of title VI of this article (D.C. Code, section 47–1567a) as determined in accordance with the provisions of this title.

"(2) The term 'nonresident' means every person who is not a resident and who has income derived from sources within the District of Columbia."

(b) The first sentence of paragraph (z) of section 4 of title I of such Act (D.C. Code, section 47–1551c) is amended by inserting immediately before the period the following: ", and to every nonresident who has income subject to tax under title XVIII of this article".

(c) The table of contents for such article 1 is amended by adding at the end of that table the following:

"TITLE XVII—NONRESIDENT INCOME TAX

"SECTION 1. Imposition of tax.
"SEC. 2. Computation of tax.
"SEC. 3. Definitions."

Mr. JACOBS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JACOBS. Mr. Chairman, this is indeed the reciprocal income tax that has been discussed earlier in the general debate. I might say at the outset that this is an opportunity to cut the increase in the Federal payment to the District of Columbia by either $20 million or up to $50 million, I do not know which, but I am sure it is not less than $20 million according to all the information that has come to me.

During the course of the discussion on this amendment, it will be alleged that the neighboring States of Virginia and Maryland will simply enact reciprocal taxes themselves to tax the residents of the District of Columbia who work in Maryland or in Virginia, and that this will simply wash out and wipe out any gain the District of Columbia might make in the revenue situation.

I submit that is inaccurate, if anyone would say that. Obviously there are far more people at far higher salaries, who come into the District of Columbia and collect paychecks, from the two surrounding States, than there are who leave the District of Columbia and work in the surrounding States.

What does it come down to? It seems to me it comes down to a very simple question. Either your constituents throughout the United States are going to pick up $20 million of the $44 million increase in the Federal payment, or whatever the Appropriations Committee allows, or that $20 million is going to be paid by the people who live in this metropolitan area and come in here and get their paychecks here. It is just about that simple.

I said earlier in the committee, and I repeat for the records, I am most fond of my colleague, Mr. BROYHILL, and I am very fond of my colleague, Mr. GUDE, and I do not believe it is surprising that they would be representing their constituents by opposing this tax which their constituents would pay. The fact that they are opposing this provision indicates that the District of Columbia would gain in this formula in terms of the tax that their constituents from the suburbs would pay. I expect them to do that.

But they are two Representatives representing those people. The rest of us represent people in other parts of the country. It seems to me the best way to represent my constituents is to take $20 million of this Federal payment off their backs, that ought to be paid by the people in this area who come into the District and make money here.

Unless some Member wants me to yield, Mr. Chairman, I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. BROYHILL OF VIRGINIA TO THE AMENDMENT OFFERED BY MR. JACOBS

Mr. BROYHILL of Virginia. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL of Virginia to the amendment offered by Mr. JACOBS: Immediately after the end of section 901 insert the following:

SEC. 902. (a) The last sentence of paragraph (s) of section 4 of title I of article 1 of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, sec. 1551c) is amended to read as follows: "The word 'resident' shall include any elective officer of the Government of the United States and any employee on the staff of an elected officer in the legislative branch of the Government of the United States, and any officer of the executive branch of such Government whose appointment to the office held by him was by the President of the United States, and subject to confirmation by the Senate of the United States and whose tenure of office is at the pleasure of the President of the United States."

(b) The last sentence of paragraph (z) of such section is amended to read as follows: "The term 'employee' shall include an officer of a corporation and shall also include any elective officer of the Government of the United States and any officer or employee in the legislative branch of the Government of the United States whose compensation is paid by the Secretary of the Senate or the Clerk of the House of Representatives, and any officer of the executive branch of such Government whose appointment to the office held by him was by the President of the United States, was subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States."

(c) Any elective officer of the Government of the United States, and any employee on the staff of an elective officer in the Legislative Branch of the Government of the United States employed in the District of Columbia, and any officer of the Executive Branch of such Government employed in the District of Columbia whose appointment to the office held by him was by the President of the United States, and subject to confirmation by the Senate of the United States, and whose tenure of office is at the pleasure of the President of the United States, who resides outside of the District of Columbia shall be taxed under this title in the same manner and to the same extent as a nonresident receiving income from sources attributable to the District of Columbia.

(d) The amendments made by this section shall apply with respect to any taxable year beginning after December 31, 1971.

Mr. BROYHILL of Virginia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD. I will explain the purpose of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

(By unanimous consent, Mr. BROYHILL of Virginia was allowed to proceed for an additional 5 minutes.)

Mr. BROYHILL of Virginia. Mr. Chairman, the amendment to the amendment has two objectives.

First, it would provide that all commuters working in the District of Columbia, receiving paychecks in the District of Columbia, would be subjected to this so-called reciprocal commuter tax, including Members of Congress and their staffs.

Second, it would provide that all residents living in the District of Columbia and who are now exempt from any District of Columbia income tax would be liable to pay the full income tax of the District of Columbia, including Members of Congress and their staffs, as well as appointed Government officials who are now exempted by law.

When I offered this amendment in the committee in connection with a pending reciprocal tax amendment—which was defeated—it was charged that I was offering the amendment in the form of blackmail or to embarrass my colleagues.

I want to assure you, Mr. Chairman and all of my colleagues, that I offer this amendment in good faith and all sincerity.

I do oppose the amendment offered by the gentleman from Indiana (Mr. JACOBS) and I would oppose his amendment even if my amendment were approved by my colleagues in the House.

I oppose that amendment in any form because I think it is improper, I think it is unfair, and I think it is the wrong approach to this particular problem with which we are confronted.

If the Congress disagrees with me and feels it is a fair and a proper tax, then I say that we should make no exceptions whatsoever. We should tax everyone—all the people who work in the District of Columbia.

If a suburbanite's merely coming across the river or the State line and working in the District of Columbia and receiving a paycheck is an expense to this city, then most certainly living here, as some of our colleagues and staff members do, entails even a greater expense to this city. These residents should be subjected to the same tax.

In other words, what I am trying to say, Mr. Chairman, is why make an exception for ourselves and the members of our staffs? If we are going to use this source of revenue in the future, then let us bring everyone under the same blanket.

Let me explain my opposition to this reciprocal tax proposal. I said it was improper because I think it improper to have to pay for the privilege of working in the Nation's Capital, and particularly for the privilege of working for our Federal Government. Of course, this particular provision should include all temporary visitors, summertime interns, college students, and everyone else who comes here or who has the privilege of coming to work in the Nation's Capital. This is an improper approach.

Second, it is unfair. Why is it unfair? It is unfair because the place of employment and the place where a party works does not mean that he is an expense to the community. His presence is not a loss to the community. The taxes received from a person's place of employment, whether it is in industry or retail establishments or even Federal facilities, far exceed the cost to that community resulting from that facility being in the community. In most communities, the business establishments and industrial establishments have to pay for trash removal. Actually, they get very little services whatever from the community. The financial loss to the community is in the residence where a person lives. Schools alone cost a great deal more than the revenue received from the parents' places of abode. This is recognized in the whole concept of Public Law 815–874, the aid to impacted areas, where we recognize that Federal industry in a community provides an impact and does not provide a fair share of taxes. The community or the residence which is provided for the people who work in the nontaxable Federal establishments provides a liability to the community. The Congress recognizes that, and provides a payment in lieu of taxes for that nontaxable Federal industry.

The employees working in the District of Columbia would actually receive nothing for the tax that we would be subjecting them to. They pay taxes on the food that they buy in the District of Columbia, on the gasoline that they buy, and on all of the shopping that they do in the city. But, more importantly than anything else, the place where the people work is paying a substantial tax for the privilege of having that business located in the District of Columbia.

If we subject commuters to this tax, the loss will be to the community of residents. Here we are providing service for the homes and providing schools in the suburbs, but yet the District of Columbia, where they work, will be getting the lion's share of the income tax.

Mr. Chairman, I say this is the wrong approach because, as I said earlier during the day, it is the Federal responsibility to see to it that this city is properly operated and properly financed and maintained. If it is not being properly operated, we should do something about it. We should have investigations made. We are having a study made by the Little Hoover Commission right now, and I hope their findings will be significant.

We should seek more efficient and more effective ways of operating this city. Certainly, we should not rubberstamp the District budget and we have not rubberstamped the District budget in this instance. We have made cuts in this particular bill, but to say that we can discharge our obligation by cutting the Federal payment and then soaking the people who live in the suburbs, I say that is wrong.

And, Mr. Chairman, make no mistake about it—if we raise an additional $20 million by a reciprocal tax provision in this bill, do not think that the other body will keep such a provision in the bill. They have already acted on this matter. They are going to substitute the extra $20 million, not as a part of the Federal payment but as an addition thereto. You are not going to be soaking the people in the suburbs in order to save your people back home.

Mr. Chairman, the commuter tax was not proposed to start with because it was fair and proper. If it was fair and proper we would have had it a long time ago. It was proposed in this bill this year, and on the floor of the House today, as a substitute for part of the Federal payment, not because it is fair and proper. I say that if you think it is fair to put this form of taxation into this bill and get by with it over in the other body, then what is fair for the goose is fair for the gander.

If you think this is going to save the Federal Government any money, then there is no reason why we should exclude ourselves and our own employees—the Congressmen who live in the District of Columbia and their employees who live here are using all of the city's facilities, and to exclude ourselves would be selfish and unconscionable.

So, I hope that the Committee of the Whole will adopt my amendment to the Jacobs amendment, and then if it is adopted that the whole amendment will be defeated.

Mr. FAUNTROY. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the Delegate from the District of Columbia.

Mr. FAUNTROY. I was quite inspired and intrigued as to the manner in which the gentleman's amendment was prepared and was prepared to associate myself with it, because as I understand the gentleman's amendment, the gentleman would be for a reciprocal tax.

Mr. BROYHILL of Virginia. I certainly would not be for a reciprocal tax. I just got through saying that if we are going to adopt it, let us include ourselves and everyone else, but that I am emphatically opposed to it even if we include ourselves.

Mr. FAUNTROY. The reasoning of the gentleman from Virginia is difficult to follow.

Mr. BROYHILL of Virginia. No, it is not difficult to understand. If we are going to have such a tax, even though I oppose it, let us include everyone and not exempt anyone.

Mr. FAUNTROY. If that is what the gentleman wants and if the gentleman wants everyone included, I would be willing to do a little horse trading, as the gentleman has often said—if I vote for you on this, will you vote for me upon that?

Mr. BROYHILL of Virginia. Let me say to the gentleman that the gentleman has said publicly we had one agreement that I did not live up to. Would the gentleman like to repeat that charge right now, that I have gone back on my word or failed to meet any commitment which I have made to the gentleman?

Mr. FAUNTROY. Mr. Chairman, I made it clear that through some of our colleagues——

Mr. BROYHILL of Virginia. That you and I had any such agreement, and that I did not abide by it?

Mr. FAUNTROY. Will the gentleman let me answer the question? We do not have time for an argument and we are not going to have an argument. However, I want to make it very clear that I support him in a reciprocal tax such as the State of Virginia has with some other 26 States, if he is willing to support the amendment, if amended.

Mr. BROYHILL of Virginia. I am not making that commitment. I have made myself clear on that.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. McMILLAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment and the original amendment. Both of these amendments were discussed earlier in the committee and voted down.

Mr. Chairman, I move the previous question on the amendment.

The CHAIRMAN. The Chair will state to the gentleman from South Carolina that the gentleman's motion is not in order.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words. There is no such thing as moving the previous question in the Committee of the Whole.

The CHAIRMAN. For what purpose does the gentleman from Indiana rise?

Mr. JACOBS. Mr. Chairman, I would defer to the gentleman from Iowa.

PARLIAMENTARY INQUIRY

Mr. GROSS. Mr. Chairman, first of all I would like to address a parliamentary inquiry to the Chair.

The CHAIRMAN. The gentleman from Iowa will state his parliamentary inquiry.

Mr. GROSS. Mr. Chairman, I assume that we will vote first on the amendment of the gentleman from Virginia (Mr. BROYHILL). Is that correct?

The CHAIRMAN (Mr. MCFALL). The Chair will state to the gentleman from Iowa that he is correct in his assumption.

Mr. GROSS. Then we are faced with a strange situation. The gentleman from Virginia (Mr. BROYHILL) does not want his own amendment, and of course we do not know whether the amendment offered by the gentleman from Indiana (Mr. JACOBS) will be adopted or not.

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Virginia.

Mr. BROYHILL of Virginia. Mr. Chairman, the gentleman from Iowa misunderstood the gentleman from Virginia. I do want my amendment adopted. I feel that if we are going to have a reciprocal tax——

Mr. GROSS. But we do not know whether we are going to have a reciprocal income tax until we vote on the amendment offered by the gentleman from Indiana. This places the Members of the House in a strange situation, since the gentleman from Virginia does not want the proposed tax and does not even want his own amendment.

Mr. BROYHILL of Virginia. If the gentleman will yield further, this would give us an opportunity to vote on the amendment offered by the gentleman from Indiana (Mr. JACOBS) and tax ourselves at the same time. What is wrong with that?

Mr. GROSS. But your amendment goes much further, it seems to me, than does the amendment offered by the gentleman from Indiana.

Mr. BROYHILL of Virginia. The only thing the amendment does is add the Members of Congress and their employees, and all Federal officials who are now exempted from any income tax in the District of Columbia.

Mr. GROSS. That is exactly the point, but you do not want it.

Mr. BROYHILL of Virginia. I do want it.

Mr. GROSS. It is the worst of the two, yet we first vote on yours.

Mr. BROYHILL of Virginia. That is correct.

Mr. GROSS. Not knowing whether the House will adopt the other amendment.

Mr. Chairman, I really arose to ask the chairman of the subcommittee, the gentleman from Texas (Mr. CABELL) if he believes District of Columbia officials, who will extract $170 million—a $44 million increase—will be satisfied with this raid on the Nation's taxpayers? Will this satisfy the money hunger of the District of Columbia?

Mr. CABELL. Mr. Chairman, if the gentleman will yield, the bill as it stands would satisfy the hunger to a certain extent, but that hunger has a bad, bad habit of progressing, and a desire to go from chitlins to a sirloin steak, and I fear we will be up against that by next year.

Mr. GROSS. I would ask the same question of the gentleman from Minnesota (Mr. NELSEN).

Does the gentleman from Minnesota, the ranking minority member, think that the appetite for money for the District of Columbia will be satisfied with the $170 million, a $44 million increase over last year's expenditure?

Mr. NELSEN. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I am delighted to yield to the gentleman from Minnesota.

Mr. NELSEN. If the Congress of the United States would quit voting for more things to add to the others, I would say that the objective that the gentleman from Iowa seeks has some possibility of being a fact.

Every item that is in this bill today is an item that we voted for, every item.

Mr. GROSS. But the increase approved last year paid for all those items to which the gentleman refers. The gentleman from Mississippi (Mr. ABERNETHY) a member of the committee, says that is the case.

Mr. NELSEN. If the gentleman will yield further, it was authorized, but that does not mean it was funded. And in the Committee on Appropriations the $126 million was appropriated, and it was carefully gone over. That is the figure that we worked from this year.

Mr. GROSS. What I am trying to get at is whether you will go over to that other body known as the U.S. Senate, and cave in and give them another $20 million.

Mr. NELSEN. That is one question I am delighted to answer, because I do not intend to cave in. I hope some of the rest of the Members who are talking will stand with me on that premise.

Mr. HALEY. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Florida.

Mr. HALEY. Mr. Chairman, may I say to my colleagues that about the only thing I think that will satisfy the people of the District of Columbia is to give them a lot of trucks and open up the vaults of the U.S. Treasury, and let them move out anything they find there in the way of money.

Mr. GROSS. The gentleman from Florida is exactly right.

Mr. JACOBS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, to bring the proposal to closer focus, the reciprocity tax would be 40 percent of the tax paid by local residents in the District of Columbia.

In the case of a salary of $42,500, as nearly as I can figure, that would be about $680 in a year's time.

Secondly, on the question of schools and support for local schools, and the fact that the residents of Virginia and the residents of Maryland obviously do not have children in schools here, let me point out that these schools are supported by a real property tax in the District of Columbia, and by 100 percent of the income tax in the District of Columbia and the reciprocity tax 40 percent.

So obviously all that has been taken into account.

As to the question as to whether it should apply to Members of Congress as it applies to other residents of the two surrounding States, it should be considered in light of the fact that some States of the Union do not have an income tax and do not have, therefore, a reciprocity for this kind of tax to be paid.

You must decide for yourselves whether that would be fair to the Members of Congress who live in the District of Columbia and who draw a salary here.

I, for one, shall support the amend-

ment of the gentleman from Virginia to my own amendment, but I remind you once again that, if you are not interested in constituents participating in a huge Federal payment, you can reduce that Federal payment of your own constituents by about $20 million a year. It seems to me the best way to represent your constituents here is just to vote for this amendment to the amendment if you want to. I am going to. You can vote as you see fit.

As I have said, in order to represent properly the people back home, you take $20 million off their backs and let the people who work every day draw their salaries and pay their taxes.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman.

Mr. MYERS. What would happen to Members who pay income tax in the various States who now have income tax; would that require a reciprocity agreement to be entered into between the District of Columbia and the States?

Mr. JACOBS. Yes, that is exactly the case.

Mr. MYERS. Until that time that a reciprocity agreement is entered into, those Members and their staff would have to pay two taxes?

Mr. JACOBS. No, that is not correct. In most cases where there is an income tax, reciprocity exists such as in the State of Virginia and Maryland.

Mr. MYERS. But suppose a State does not have that now?

Mr. JACOBS. That will be the minute this becomes law.

Mr. MYERS. Is it automatic as to the reciprocity on this?

Mr. JACOBS. Yes, the gentleman is correct.

Mr. BROYHILL of Virginia. Mr. Chairman, will the gentleman yield?

Mr. JACOBS. I yield to the gentleman.

Mr. BROYHILL of Virginia. The gentleman's amendment does not in itself define reciprocity. We can only assume that the State of Virginia and the State of Maryland would give credit to their residents for taxes paid to the District of Columbia and would, in turn, tax people who live in the District of Columbia and work in the neighboring States.

Mr. JACOBS. That is the arrangement between Virginia and Maryland and other jurisdictions—that is correct.

Mr. BROYHILL of Virginia. I thought the gentleman proposed the amendment because it would help the people working in the Nation's Capital, and who would pay for the privilege of working here, in paying their income tax.

Mr. JACOBS. I am supporting the gentleman's amendment and I am supporting my own amendment. I am trying to represent my constituents the best way I can.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BROYHILL) to the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The amendment to the amendment was rejected.

Mr. HOGAN. Mr. Chairman, I rise in opposition to the Jacobs amendment.

Mr. Chairman, I understand that the Members are impatient and it is late on this Thursday evening but I ask your indulgence to listen to the arguments in opposition to the Jacobs amendment because this is of tremendous importance of those of us who border the District of Columbia.

The Delegate from the District of Columbia has today, numerous times, said he was coming to the well to speak the truth. Well, I would like to speak the truth about this amendment. The commuter tax is not a reciprocal tax. It would not become reciprocal until the Legislatures of Maryland and Virginia allow the proposed tax to be written off against the State income tax, and I predict that that is not going to happen. Maryland's revenue needs are just as pressing as those of the District of Columbia. Under this proposal the District of Columbia would take an additional $51.6 million in taxes, while Maryland would stand to lose $28 million and Virginia $17 million.

Marylanders would in most cases have to pay income taxes in both the District of Columbia and Maryland, because Maryland income taxes, except for very low earning brackets, are higher than those of the District.

As the gentleman from Iowa (Mr. SCHERLE) pointed out earlier, the residents of Montgomery and Prince Georges Counties in Maryland already pay a higher rate of tax than do the residents of the District of Columbia. The commuter levy on a Marylander working in the Capital City would greatly exceed the cost of the services provided to him by the city. Education, sewerage, roads, police and fire protection, and any other services are rendered to Maryland residents by State and county governments, not by the District of Columbia.

What is the primary service which the District of Columbia does render to commuters? It is in roads and in the incipient rapid rail transit system. Where did the money come for those? For rapid rail transit, the money comes from the Federal Government.

Earlier today we were talking about mismanagement downtown, and I would like to point out the situation with respect to roads. At the present time the District of Columbia Highway Department stands to lose $2.1 million in regular highway funds and $63 million in interstate funds unless this money is obligated by June 30, 1972. We argued a great deal about a $44 million Federal payment increase. What about the $63 million that they are eligible for that they have not even applied for at the present time?

Most of the 280,000 commuting "nonresidents" who work in the District of Columbia spend most of their time within the confines and protection of Federal buildings. These commuters already pay taxes to the District in the form of sales taxes.

Let me emphasize just one statistic to you. Last year Maryland commuters spent some $360 million in the District of Columbia for food, clothes, cars, and other items, thereby contributing taxes to the District of Columbia.

The daily presence of Maryland commuters in the District of Columbia creates 13,505 jobs in establishments that serve those people.

Mr. Chairman, 54 percent of the District of Columbia capital program and 55 percent of the District of Columbia operating budget are for social problems and social programs, health, education, and welfare services, and none of these services are available to the commuter. Thus the Maryland commuter would be robbed of the value of his tax moneys on two counts. Not only would he have to pay taxes to a city which provides him virtually no services but, in addition, the services he receives from the State would be sharply curtailed due to the decreased revenue which the State would receive from the suburban residents. The only way to replace this loss in revenue would be to raise Maryland taxes, and Marylanders are already overburdened with Federal, State, and local taxes.

MOTION OFFERED BY MR. CABELL

Mr. CABELL. Mr. Chairman, I move that all debate on the amendment of the gentleman from Indiana and all amendments thereto close in 5 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

The CHAIRMAN. The Chair recognizes the delegate from the District of Columbia (Mr. FAUNTROY).

Mr. FAUNTROY. Mr. Chairman, I simply want to remind the Members of Congress that the reciprocal tax is a common practice among many of our States; that it is just and fair and right; and that if it is not passed in this session, I hope the day will come when the burden of running the city of the District of Columbia will be shared by those who make their money in it and live outside it.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. SMITH).

Mr. SMITH of New York. Mr. Chairman, I rise in support of the Jacobs amendment.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. MIZELL).

(By unanimous consent, Mr. MIZELL yielded his time to Mr. HOGAN.)

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. HOGAN).

Mr. HOGAN. Mr. Chairman, I would like to reiterate that the so-called reciprocal tax will not be reciprocal until the Legislatures of Maryland and Virginia enact it into law, and under the present revenue crisis situations they are unlikely to do so.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. GUDE).

RECIPROCAL INCOME TAX STATEMENT

Mr. GUDE. Mr. Chairman, I know that the idea of a reciprocal tax has a lot of appeal to some of the membership. It is easy to say sock it to the suburbanites. But if we examine the consequences of this tax rather than the popularly promoted idea that nonresidents should pay income taxes to their place of employment, we will see that the money will not be coming out of the suburbanite's pocket but primarily out of the Treasury of Maryland. I am sure all of the Representatives from Virginia feel the same way. Therefore, it will not be only the residents of Prince Georges and Montgomery County affected by this tax, but the coal miner in western Maryland and the steel worker in Baltimore and all the other residents from one end of Maryland to the other—many of whom have never even been inside the District. The loss of money from the Maryland treasury will be made up by all of Maryland citizens.

This would mean a net loss of millions of dollars for Maryland—a State that includes a city, Baltimore, with problems and needs similar to the District's, and in some areas the problems are worse. Housing is one such matter. Baltimore has a terrible shortage, horrible slums and insufficient redevelopment programs as I know my colleagues from the city would certainly agree. Therefore, I ask: What is the logic of robbing Peter to pay Paul?

In addition, let me point out another fact that the proponents of the reciprocal tax fail to mention: Suburban residents already pay considerable taxes to the District—paying for the city highways they use for example, every time they fill up with gas in the city. Of course, like the District of Columbia residents the suburbanites also pay an amusement tax on all entertainment, a 4 percent sales tax on any item bought here as well as business and property taxes that many outsiders pay who own their own business or property in the District and a liquor and beer tax on any alcohol purchased in the city.

I might add that the District and Congress should also work to phase out tax exemptions that have been granted to nongovernmental organizations here and develop ways to indirectly tax other groups that have no property taxes. But we have national headquarters of organizations—the NAACP, the DAP, and the National Rifle Association in the District. I do not see any Members of the House lining up to levy a tax on them.

There are many ways the city could raise its local revenue base, but we in Congress would prohibit it. Think what would happen if the District tried to develop high employment potential, as a revenue-producing means, by means normal to other all other communities—attracting heavy industry or building huge complexes to encourage relocation of a large company's main office. As we all know, most of us are quite sensitive to proposals to the Federal city's building height limit or change its basically residential character. But is it fair to expect the residents of Maryland and Virginia to pay for our hesitations about allowing the city to take the numerous steps that it could in an effort to raise its local tax base—I think not.

Maryland and Virginia residents are certainly willing to share, with the other 48 States, the support of increases in the Federal payment. But, the residents of these two States should not be singled out. They should not be asked to shoulder the inequitable burden of a reciprocal income tax. They, because of their proximity contribute more to the District revenue than any of the other States.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, the committee held extensive hearings. I testified in opposition to this so-called commuter tax. The reasons why it is unfair are stated on pages 40 and 41 of the committee report. I urge that the committee action be confirmed by the House and that the amendment be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. CABELL).

Mr. CABELL. Mr. Chairman, I recognize the fact that the amendment is very strongly opposed by the chairman of the full committee. In fact, it failed in the full committee by a vote of only 13 to 12. I further call the attention of Members to the fact that if this amendment is adopted, it will put the House conferees on a much, much better footing to work down this $170 million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. JACOBS. Mr. Chairman, I demand tellers.

Tellers were refused.

So the amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BOGGS) having assumed the chair, Mr. MCFALL Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, pursuant to House Resolution 698, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate voice demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. GROSS. Unequivocally, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GROSS moves to recommit the bill H.R. 11341 to the Committee on the District of Columbia.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GROSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

Two hundred one Members are present, not a quorum.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 248, nays 50, not voting 132, as follows:

[Roll No. 385]

YEAS—248

Abourezk	Drinan	Keith
Alexander	du Pont	Kemp
Anderson, Calif.	Dwyer	Koch
	Eckhardt	Kuykendall
Anderson, Ill.	Edwards, Ala.	Kyros
Anderson, Tenn.	Edwards, Calif.	Landrum
	Eilberg	Latta
Annunzio	Evans, Colo.	Leggett
Arends	Evins, Tenn.	Lennon
Aspin	Fascell	Lent
Aspinall	Fish	Long, Md.
Begich	Flood	McClory
Bennett	Foley	McCloskey
Bergland	Ford, Gerald R.	McCollister
Biaggi	Forsythe	McCulloch
Biester	Fountain	McDonald, Mich.
Blatnik	Frelinghuysen	
Boggs	Frenzel	McEwen
Boland	Frey	McFall
Bolling	Fulton, Tenn.	McKinney
Bow	Fuqua	McMillan
Brademas	Gallagher	Mahon
Brasco	Garmatz	Mann
Brinkley	Gaydos	Martin
Brooks	Gettys	Matsunaga
Brown, Mich.	Giaimo	Mazzoli
Brown, Ohio	Gibbons	Meeds
Broyhill, N.C.	Goldwater	Mikva
Broyhill, Va.	Gonzalez	Miniah
Buchanan	Grasso	Mink
Burke, Fla.	Gray	Minshall
Burke, Mass.	Green, Oreg.	Mitchell
Burleson, Tex.	Gude	Mollohan
Burlison, Mo.	Hagan	Monagan
Burton	Hamilton	Moorhead
Byrnes, Wis.	Hanley	Morgan
Byron	Hansen, Idaho	Morse
Cabell	Hansen, Wash.	Mosher
Carter	Harrington	Murphy, Ill.
Cederberg	Harvey	Murphy, N.Y.
Chamberlain	Hechler, W. Va.	Myers
Clausen, Don H.	Heckler, Mass.	Natcher
	Heinz	Nedzi
Cleveland	Helstoski	Nelsen
Collier	Henderson	Obey
Conable	Hicks, Mass.	O'Hara
Conte	Hicks, Wash.	O'Konski
Conyers	Hogan	O'Neill
Corman	Holifield	Passman
Cotter	Horton	Patman
Coughlin	Hosmer	Patten
Daniels, N.J.	Howard	Perkins
Danielson	Hull	Pike
Davis, Ga.	Hutchinson	Poage
Davis, S.C.	Jacobs	Podell
de la Garza	Jarman	Poff
Delaney	Johnson, Calif.	Preyer, N.C.
Dellenback	Johnson, Pa.	Price, Ill.
Dellums	Jones, N.C.	Pucinski
Denholm	Jones, Tenn.	Purcell
Dennis	Karth	Quie
Donohue	Kastenmeier	Railsback
Dow	Keating	Rangel

Rees	Smith, Calif.	Ullman
Rhodes	Smith, N.Y.	Van Deerlin
Riegle	Springer	Vander Jagt
Robison, N.Y.	Staggers	Vanik
Rodino	Steed	Wampler
Roe	Steiger, Ariz.	Ware
Rogers	Steiger, Wis.	Whalley
Rooney, N.Y.	Stephens	White
Rosenthal	Stokes	Whitehurst
Rostenkowski	Stratton	Williams
Roush	Stubblefield	Wilson, Bob
Roybal	Stuckey	Winn
Ruppe	Sullivan	Wolff
Ryan	Symington	Wright
Sarbanes	Talcott	Wydler
Scheuer	Taylor	Wylie
Schneebeli	Teague, Calif.	Yates
Scott	Terry	Yatron
Seiberling	Thompson, N.J.	Young, Tex.
Sisk	Thomson, Wis.	Zablocki
Slack	Udall	Zwach

NAYS—50

Abbitt	Fisher	Robinson, Va.
Abernethy	Griffin	Roncalio
Andrews, Ala.	Gross	Runnels
Baker	Grover	Ruth
Baring	Haley	Sandman
Belcher	Hunt	Satterfield
Bevill	Kyl	Scherle
Broomfield	Michel	Schmitz
Camp	Miller, Ohio	Sebelius
Collins, Tex.	Mills, Md.	Shoup
Colmer	Mizell	Skubitz
Daniel, Va.	Montgomery	Snyder
Davis, Wis.	Nichols	Spence
Devine	Price, Tex.	Thompson, Ga.
Dickinson	Quillen	Waggonner
Downing	Randall	Zion
Duncan	Rarick	

NOT VOTING—132

Abzug	Ford, William D.	Miller, Calif.
Adams	Fraser	Mills, Ark.
Addabbo	Galifianakis	Moss
Andrews, N. Dak.	Goodling	Nix
Archer	Green, Pa.	Pelly
Ashbrook	Griffiths	Pepper
Ashley	Gubser	Pettis
Badillo	Hall	Peyser
Barrett	Halpern	Pickle
Bell	Hammer-schmidt	Pirnie
Betts	Hanna	Powell
Bingham	Harsha	Pryor, Ark.
Blackburn	Hastings	Reid, N.Y.
Blanton	Hathaway	Reuss
Bray	Hawkins	Roberts
Brotzman	Hays	Rooney, Pa.
Byrne, Pa.	Hébert	Rousselot
Caffery	Hillis	Roy
Carey, N.Y.	Hungate	St Germain
Carney	Ichord	Saylor
Casey, Tex.	Jonas	Schwengel
Celler	Jones, Ala.	Shipley
Chappell	Kazen	Shriver
Chisholm	Kee	Sikes
Clancy	King	Smith, Iowa
Clark	Kluczynski	Stanton, J. William
Clawson, Del	Landgrebe	Stanton, James V.
Clay	Link	Steele
Collins, Ill.	Lloyd	Teague, Tex.
Crane	Long, La.	Thone
Culver	Lujan	Tiernan
Dent	McClure	Veysey
Derwinski	McCormack	Vigorito
Diggs	McDade	Waldie
Dingell	McKay	Whalen
Dorn	McKevitt	Whitten
Dowdy	Macdonald, Mass.	Widnall
Dulski	Madden	Wiggins
Edmondson	Mailliard	Wilson, Charles H.
Edwards, La.	Mathias, Calif.	Wyatt
Erienborn	Mathis, Ga.	Wyman
Esch	Mayne	Young, Fla.
Eshleman	Melcher	
Findley	Metcalfe	
Flowers		
Flynt		

So the bill was passed.

The Clerk announced the following pairs:

Mr. James V. Stanton with Mr. Mathias of California.
Mrs. Abzug with Mr. Badillo.
Mr. Bingham with Mr. Clay.
Mr. Dorn with Mr. Mayne.
Mr. Hathaway with Mr. Pelly.
Mr. Hanna with Mr. Metcalfe.
Mr. Nix with Mr. Collins of Illinois.
Mr. Caffery with Mr. Pettis.
Mr. Casey of Texas with Mr. Powell.
Mr. Carney with Mr. Peyser.
Mr. Hawkins with Mr. Carey of New York.
Mrs. Chisholm with Mr. William D. Ford.
Mr. Galifianakis with Mr. Schwengel.
Mr. Melcher with Mr. Rousselot.
Mr. Smith of Iowa with Mr. Shriver.
Mr. Ichord with Mr. Pirnie.
Mr. Kee with Mr. Reid of New York.
Mr. Culver with Mr. Steele.
Mr. Clark with Mr. Thone.
Mr. Pryor of Arkansas with Mr. Veysey.
Mr. Edmondson with Mr. Whalen.
Mr. Whitten with Mr. Young.
Mr. Dowdy with Mr. Wiggins.
Mr. Flynt with Mr. Wyatt.
Mrs. Griffiths with Mr. Widnall.
Mr. Pepper with Mr. Wyman.
Mr. Mills of Arkansas with Mr. Fraser.
Mr. Reuss with Mr. Madden.
Mr. Shipley with Mr. Vigorito.
Mr. Dent with Mr. Chappell.
Mr. Hébert with Mr. Hall.
Mr. Hays with Mr. J. William Stanton.
Mr. Teague of Texas with Mr. Hammerschmidt.
Mr. Charles H. Wilson with Mr. Landgrebe.
Mr. Adams with Mr. Brotzman.
Mr. Addabbo with Mr. Harsha.
Mr. Ashley with Mr. Betts.
Mr. Blanton with Mr. Bell.
Mr. Byrne of Pennsylvania with Mr. Andrews of North Dakota.
Mr. Celler with Mr. Halpern.
Mr. Dingell with Mr. Clancy.
Mr. Diggs with Mr. Derwinski.
Mr. Flowers with Mr. Blackburn.
Mr. Dulski with Mr. Esch.
Mr. Hungate with Mr. Ashbrook.
Mr. Jones of Alabama with Mr. Lloyd.
Mr. Kazen with Mr. Archer.
Mr. Kluczynski with Mr. Erienborn.
Mr. Link with Mr. Crane.
Mr. McKay with Mr. Hastings.
Mr. Mathis of Georgia with Mr. Del Clawson.
Mr. McCormack with Mr. Hillis.
Mr. Tiernan with Mr. Bray.
Mr. Macdonald of Massachusetts with Mr. Mailliard.
Mr. Miller of California with Mr. Jonas.
Mr. Moss with Mr. Lujan.
Mr. Pickle with Mr. Eshleman.
Mr. Roberts with Mr. Findley.
Mr. Rooney of Pennsylvania with Mr. Goodling.
Mr. Roy with Mr. McClure.
Mr. St Germain with Mr. McDade.
Mr. Barrett with Mr. Saylor.
Mr. Green of Pennsylvania with Mr. McKevitt.
Mr. Waldie with Mr. Gubser.
Mr. Sikes with Mr. King.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8687) entitled "An act to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1026. An act to amend the Small Reclamation Projects Act of 1956, as amended.

The message also announced that the Senate had passed a bill of the following title in which the concurrence of the House is requested:

S. 2819. An act to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

PERMISSION FOR COMMITTEE ON RULES TO FILE A PRIVILEGED REPORT

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker, I take this time for the purpose of asking the distinguished majority whip the program for the remainder of the week, if any, and the schedule for next week.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, there is no further legislative business for today, and upon announcement of the program for next week, I will ask unanimous consent to go over until Monday.

The program for next week is as follows:

On Monday we will have the consent calendar and nine suspensions, as follows:

H.R. 11302—Cancer Attack Act.

H.R. 11350—Membership in International Criminal Police.

Senate Joint Resolution 132, Copyright Protection.

H.R. 11651, Disability and Debt Pension.

H.R. 11652, Dependence and Indemnity Compensation.

H.R. 5068, Navajo Community College.

H.R. 11080, Redwood Tracts Taken for Parks.

H.R. 3599, Modifying Ammunition Recordkeeping.

S. 2559, Insured Emergency Loans.

Then we will have S. 18, Radio Free Europe and Radio Liberty, under an open rule with 1 hour of debate.

On Tuesday we will have the Private Calendar, and the Defense Department appropriation bill, which was granted a rule today, with 3 hours of debate.

Then we will have H.R. 11589, foreign sale of passenger vessels, under an open rule with 1 hour of debate.

On Wednesday and the balance of the week, we will have H.R. 11060, Federal election reform, under an open rule with 2 hours of debate.

Conference reports may be brought up at any time.

Any further program will be announced later.

Mr. Speaker, there will be no legislative business for the week of November 22.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. GERALD R. FORD. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I thank the gentleman for yielding.

When, Mr. Speaker, is it proposed to bring up the bills to provide for additions to the House of Representatives, in other words, the Delegate bill?

Mr. O'NEILL. If the gentleman will yield, the Delegate bill will be brought up after the Thanksgiving vacation.

Mr. GROSS. Mr. Speaker, I thank the gentleman.

DISPENSING WITH BUSINESS IN ORDER UNDER THE CALENDAR WEDNESDAY RULE ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ADJOURNMENT OVER TO MONDAY, NOVEMBER 15, 1971

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ROGERS CHARGES HEW WITH DECIMATING HOSPITAL, CLINIC HEALTH SYSTEM

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROGERS. Mr. Speaker, creditable sources inform me that HEW officials are proceeding to decimate the Public Health Service hospital and clinic system by ordering, in effect, a cutback of between 65 and 90 percent of the physicians which man the facilities.

I have learned that Dr. Vernon Wilson, Administrator of the Health Services and Mental Health Administration approved an order which is a first step to take 200 of the general medical officers out of the eight hospitals and 30 clinics. Estimates differ on the number of physicians in the system. If the figure of 300 is valid, then it will be a 66-percent cut, if it is 220, as some maintain, then the figure would be 91 percent.

This order comes under the guise of allowing these physicians to volunteer for the emergency health personnel service. But the fact is they want 200 physicians, and if no one volunteers, then they will be assigned and no one will be brought in to take their places in the hospitals and clinics.

Tragically, the Department of HEW has not used the Emergency Health Personnel Act. Nor really tried to implement it although it was signed by the President 11 months ago to send physicians and other medical personnel into medical shortage areas.

But this latest act is robbing Peter to pay Paul. This is an ill-conceived plan to give life to one program while sapping it from another. One can help the other. But not in this vampire fashion. The transfer of these physicians will ruin the hospital operations and undoubtedly close many of the clinics. On its face, this order reflects the administration's low interest in providing health care services and is a defiant effort to close the hospitals after both the House and Senate passed resolutions and appropriated money specifically to keep them open and operating.

Attempts to close the hospitals has already resulted in two hospital directors being relieved of their positions in Seattle and Baltimore because they objected to the proposed closings. In addition, Dr. Jack Butler, director of the Federal Health Programs Service, has also been relieved of his position.

The majority of the clinics have but one physician. Take that physician and the clinic is closed.

An action such as this dramatically points to the absolute lack of commitment on the part of the administration to providing health care service for the American public.

The hospitals affected are located in San Francisco, New Orleans, Baltimore, Boston, Staten Island; Galveston, Norfolk, and Seattle. The clinics are: Jacksonville, Miami, Tampa, Fla.; Atlanta, Savannah, Ga.; Honolulu, Hawaii; Chicago, Ill.; Portland, Maine; Detroit, Mich. St. Louis, Mo.; Buffalo, New York City, N.Y.; Cincinnati, Cleveland, Ohio; Portland, Ore.; Philadelphia, Pittsburgh, Pa. San Juan, Puerto Rico; Charleston, S.C.; Memphis, Tenn.; Houston, Port Arthur, Texas. and Washington, D.C.

BACKGROUND INFORMATION ON TARIFF COMMISSION ACTION ON "OVER-47-CENT" CHEESE

(Mr. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS. Mr. Speaker, I present to the House this background information on Tariff Commission action on "over-47-cents" cheese.

Starting in about 1966 there has been an increase in dairy imports, primarily because importers have found ways of legally evading the various quotas which apply on many dairy import items. During that time the Tariff Commission has held at least four hearings on these products. In each instance Presidential action followed which tended to close the latest import loophole. However, immediately thereafter the importers would find some other means of evasion.

In January 1969 a number of cheeses were placed under quota, but it was decided that any cheese in these categories which cost 47 cents or more would be exempt from the quota. This was intended to permit specialty cheeses, which are not normally manufactured in the United States, to be imported. In fact, at the time the U.S. Department of Agriculture stated in a press release:

These are the high priced miscellaneous specialty cheeses such as are normally found in gourmet food counters and stores.

Again the importers found means of increasing imports in this quota-free category, so that by 1970 the "over-47-cent" cheeses accounted for nearly 25 percent of all dairy imports.

As a result the President, on March 12, asked the Tariff Commission to hold hearings and make recommendations on this type of item. Subsequent to the hearings the Tariff Commission made its recommendation to the President on July 28.

They recommended that the 47-cent price break be abolished and that a quota be established for the various types of cheeses involved regardless of prices. Actually there are three quota groups involved—swiss cheese, gruyere-process cheese, and certain other cheese. The Commission recommended that the present quotas for each of these three categories, which had previously applied only to "under-47-cent" cheeses, be increased by taking into account recent imports of "over-47-cent" cheeses. In effect the new quota, which was to cover regardless of purchase price, would be based on the past shipment of both over and under 47-cent cheeses.

Though the President made his request 8 months ago and the Tariff Commission made its recommendation over 3 months ago there has been no further action.

During this delay the imports of the cheeses in question which are outside of quota—over 47 cents—have been increasing. Latest USDA figures which cover the period from January 1 through September 30 show:

Swiss-Emmenthaler, 113% of same period in 1970.

Gruyere process, 110% of same period in 1970.

Other, 115% of same period in 1970.

In every instance this is an increase over what had shown a month earlier.

I hope the President will soon take action on this. As you are aware domestic dairy production is up this year over 1970. In the light of this we would like to see this import matter resolved.

The President is to be commended for calling for these hearings, which the Tariff Commission promptly held. There appears to be nothing to be gained by delay in taking final action on this matter, but we recognize the inherent harm in this delay to the domestic dairy industry.

THANKSGIVING DAY SALUTE TO SENIOR AMERICANS

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute and to revise and extend

his remarks and include extraneous matter.)

Mr. GERALD R. FORD. Mr. Speaker, one of the greatest problems of the 20 million senior citizens in this country is loneliness—the feeling that they are not wanted. And more than half of them say they do not have enough money to make ends meet—cannot afford to buy the food they like.

I feel very deeply about our senior citizens. That is why I was most pleased when Miss Carmella LaSpada, representing a nonprofit voluntary organization known as VIP, asked me to call the attention of the House to VIP's plans for a salute to senior Americans on Thanksgiving Day.

I am sure we all agree that we have not been doing enough to involve older people in the activities of our American society. This is a tragedy because it means that our senior citizens become isolated and withdrawn from society instead of feeling themselves a part of it.

VIP has suggested a way to start correcting this shortcoming, an effort in which I am pleased to join. With Miss LaSpada as the national coordinator, VIP is asking Members of the House to visit one of the homes for the aging in their districts on Thanksgiving Day. I will be most happy to do so, and I hope every other Member of the House who has the opportunity will also make such a visit.

We must make Thanksgiving as meaningful and enjoyable as possible for our senior citizens, especially those millions who live alone or in homes for the aging. I might mention in this connection that VIP has asked the Governors of the 50 States and their wives to host Thanksgiving Day dinners for the elderly in their areas who are living alone.

We can all help to make Thanksgiving Day a memorable occasion for elderly Americans who otherwise would spend the day feeling uncared for and lonely.

I would like to insert at this point in the RECORD the letter to me concerning the Thanksgiving Day salute to senior Americans from Miss LaSpada and from Johnny Unitas, president of VIP.

THANKSGIVING DAY
SALUTE TO SENIOR AMERICANS,
Washington, D.C.

DEAR CONGRESSMAN: This is to thank you for your reply to the VIP invitation requesting your participation in the Thanksgiving Day Salute to Senior Americans.

We are sincerely appreciative of the response from Senators and Congressmen who have enthusiastically agreed to participate by including older Americans in their own holiday festivities or by visiting a home for the aging in their State or District. We hope this "Salute" will become an American tradition.

This tribute is not meant as a token recognition but as a sincere acknowledgement of the debt we owe our older citizens and the affection we have for them. At the same time this annual event, remembering the older Americans amongst us, is symbolic of the continuing care we have for them throughout the year.

On behalf of VIP, we wish to express our gratitude to you. We believe that many more Americans will have a happy Thanksgiving Day this year because of your concern and your personal efforts.

Wishing you and your family a very happy Thanksgiving, we remain

Sincerely,

MRS. DWIGHT D. EISENHOWER,
Honorary National Chairman.
JOHNNY UNITAS,
President, VIP.
(Miss) CARMELLA LASPADA,
National Coordinator, Thanksgiving Day Salute to Senior Americans.

Mr. FULTON of Tennessee. Mr. Speaker, I am today pleased to join my distinguished House colleagues in asking that Thanksgiving Day be a day for saluting senior citizens.

That nearly 10 percent of America's citizens are 65 or older indeed makes them a group due our acknowledgment. That they have for so long contributed to building our Nation, carrying us through earlier times of trial and crisis to our current role of prominence deserves, in fact demands our deepest tribute. That they still have much to offer in future days commands our fullest attention.

On this Thanksgiving Day, a day on which all Americans look back to our Pilgrim heritage and the tasks which those before us faced and mastered, we would do well to seek the counsel of those whose experience and know-how helped us come so far. Ours are troubled times, times in which the judgment and ideas of those surviving past troubles can stand us in good stead.

I know that many of my colleagues will spend part of this Thanksgiving holiday visiting our senior citizens, seeking their advice, weighing their remarks and the actions they would have this body undertake. I would urge that more take similar action—try, as I do, to meet with the elderly as often as possible.

For their problems are our problems and their thoughts should be in our thoughts. And the Thanksgiving season is a time most fitting for extending to them our thanks for their contributions—past, present, and future.

Mr. CRANE. Mr. Speaker, as we reflect upon what we can do for our senior citizens which will, in the long run, be of most benefit to them, the answer, it seems to me, is clear. That answer is this: Provide senior citizens who depend upon their pensions and social security payments with a dollar that is really worth a dollar. Give them back a dollar which is worth the same amount it was worth when they initially deposited it in social security and pension plans.

In recent years our mounting inflation has done its most damage to our senior citizens. These men and women have had to pay more in rent, in food prices, in health costs, and in expenses in every area of their lives, while their pension payments have remained either the same or have increased at a far slower pace.

As anyone with even a basic knowledge of economics understands, every price is simply the terms of an exchange on the market. The key to what makes prices high or low is the relationship between the supply of goods available and the supply of money. If, for example, the supply of money in the country were to double overnight and the supply of goods remain the same, we would all enter the market with twice as many dollars as compared with yesterday. The result would be that we would pay twice as much for the available goods.

In recent years the supply of dollars has continued to accelerate. As the supply of dollars has risen, prices have risen with them. The culprit in this area has been the Federal Government, which has absolute control of the supply of money, and regulates it. The Government, and many Members of this body, have been increasing the supply of money for a variety of reasons, either to "stimulate" the economy, to finance its own enormous budget deficits, to help our favored borrowers, to lower interest rates, and for a variety of other reasons.

Such deficit spending may bring benefits for a short time to favored groups, but it does so only at the expense of others and the first to be harmed are our senior citizens. In the long run a policy of deficit spending brings ruinous consequences to the whole community.

America's senior citizens are very much like the "forgotten man" discussed by William Graham Sumner in his essay written in 1883. He wrote:

As soon as A observes something which seems to him to be wrong, from which X is suffering, A talks it over with B, and A and B then propose to get a law passed to remedy the evil and help X. Their law always proposes to determine what C shall do for X or, in the better case, what A, B, and C shall do for X . . . What I want to do is look up C . . . I call him the Forgotten Man. He is the man who is never thought of. He is the victim of the reformer, social speculator and philanthropist, and I hope to show you before I get through that he deserves your notice both for his character and for the many burdens which are laid upon him.

It is C, the forgotten man, who is always called upon to pay for the vicarious generosity of others.

As we consider the plight of our senior citizens we should avoid the platitudes so often heard on such occasions. If we want to be of real assistance to this group of forgotten Americans the best way we can do it is to restore the integrity of the dollar and create a situation in which men and women can grow old gracefully, certain that a dollar saved today will be worth having tomorrow.

GENERAL LEAVE TO EXTEND REMARKS

Mr. GERALD R. FORD. Mr. Speaker, I ask unanimous consent that all Members may have permission to extend their remarks on the Salute to Senior Americans.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

MR. FINCH'S TRIP TO LATIN AMERICA

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, some time today, Mr. Robert Finch, a counsellor to the President, accompanied by Charles Meyer, the Assistant Secretary of State for Inter-American Affairs, and other officials, will depart on a trip to six Latin American countries.

According to newspaper reports, Mr. Finch will carry with him President Nixon's personal greetings and letters of friendship to the presidents of Peru, Ecuador, Argentina, Brazil, Honduras, and Mexico.

That, in itself, appears to be an important mission when one considers the unsettled condition of our Postal Service and the difficulties which some of our Ambassadors must encounter in trying to explain the recent U.S. initiatives affecting our foreign policy toward the other countries of this hemisphere.

Yet I wonder if there is more to Mr. Finch's mission than that.

The other day, Mr. Finch was quoted as saying—

It is fair to say that the general state of relations between the U.S. and Latin America has been at a pretty low ebb for some time . . .

With that, I most heartily agree.

Mr. Finch went on to say that his trip—

Is a step toward restoration of those relations.

If that is the case, then the trip must involve a bit more than just the delivery of "letters of friendship."

Surely our neighbors to the South have been exposed to enough verbal assurances of U.S. friendship.

What they may prefer at this point is some concrete manifestation of the "special relationship" which is supposed to bind the countries of this hemisphere.

A repeal of the 10-percent import surcharge, or some progress in carrying out commitments entered into during the past 2 years, may be more conducive to the restoration of improved relations in this hemisphere than just plain words.

I wonder, therefore, whether there is not more to Mr. Finch's trip than meets the eye.

Unfortunately, the Subcommittee on Inter-American Affairs, which I have the honor to chair, has received no indication of what the President's emissary may be carrying in his travel bag.

We live in a time when presidential assistants play important roles in the formulation and execution of U.S. foreign policy. Such use of their talents is, of course, fully within the realm of the President's prerogatives.

But it would be nice if, once in a while, the Congress were included in those processes.

For the time being, all we can do is wait and see what surprises will come out of Mr. Finch's travels south of our borders.

TRIBUTE TO TRENT C. ROOT, SR.

(Mr. CABELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CABELL. Mr. Speaker, just recently a very fine tribute to Trent Root, Sr. by Dr. Fred W. Bryson has been brought to my attention. I ask permission to include this eulogy in the CONGRESSIONAL RECORD.

Trent Root was vice president and treasurer of Southern Methodist University and in 1966 retired and became vice president and professor of finance emeritus.

Trent was a member of Highland Park United Methodist Church. He was past president of the Rotary Club of Dallas, former governor of Rotary District 581, and a counselor and member of the Rotary Foundation Committee of Rotary International. In addition, he served on various civic boards and committees of the YMCA, American Red Cross, Camp Fire Girls, and the North Dallas Chamber of Commerce.

It is readily apparent that Trent Root was not only a great educator and dedicated Christian, but a fine citizen of his community who worked for its betterment at all times.

Mr. Speaker, the eulogy is as follows:

A EULOGY

We are here in this special service of worship to express to God our thanksgiving for the bountiful blessings brought to us, individually and to our country, through the remarkable and generous life of Trent Root.

We are here not because a life has ceased but to honor a life that was lived fully and beautifully. Trent Root will continue to influence and inspire us in the future as he has in the past.

We have gathered here, then, not because of an event but because of a person—a great person. I can speak of Trent Root only in a very personal way. I respected him for his great intellectual and professional abilities; I loved him as a person. So this eulogy is personal, joyfully so, because of what Mr. Root has meant to me. It will be brief—he never made a long speech.

Trent Root was a personable man—a dynamic influence in the life of everyone who knew him. Each of us can recount the person he was to us. We knew him in different ways as a loving husband, father, and grandfather; as a distinguished educator, administrator, and teacher; as a churchman who gave unselfish leadership in many areas of the church; as a citizen and soldier who served his country in peace and war; and as a community and national leader in many worthy causes—clubs and professional associations. Yet, in these many fields of activity there was the person who was not only exceptionally able and devoted but one who was warm and gentle, and one who gave his life in service to others . . . all who knew him as a friend are richer for it.

Professionally, Trent Root was a nationally prominent educational financial officer. He was very astute at employing the available resources in the most effective way. Yet, his real wisdom was his recognition that resources are nothing unless invested in people. He showed a great stewardship not just of material resources but of human life. Many here can tell how Trent Root has blessed their lives through trust, encouragement, and direct help; through wise counsel, loyal friendship, and support in so many ways—the timely anecdote, the spoken commendation or the handwritten note when we needed it most and then those countless times and ways he commended us to others.

He has been and will continue to be an inspiration because of his example as a loving, devoted husband and father. His extended illness in recent years showed the love for his wife and children. The loving care of his wife during his illness reflected the deep relationship between these two. Today, when family life is being questioned as a viable social unit the Root home quietly demonstrates the joys of marriage and family life. Yes, Trent Root was a devoted family man and enjoyed the blessings of a happy home.

We will remember this man most perhaps for the great gift of humor he shared with us. He has been lovingly referred to as the "Will Rogers of West Texas." He had a way of making a point more vivid with his humor and wit. He would put on a straight face, tell a funny story, and then his eyes would begin to sparkle and that famous smile would warm the heart of his listeners. He shared his delightful humor with countless thousands in churches, civic clubs, educational and professional groups and colleagues, young and old throughout the country. In these times of great crisis and strain, we would do well in our concern with current problems to apply the creative humor of this truly remarkable man.

In the private study at his home the walls are covered with pictures, and the bookshelves contain many collections that reflect his lifelong involvement with people in countless worthy programs. This was the life he lived—significant experiences with others—in the home with his wife, children and grandchildren; in the church as teacher of a Sunday school class and church board member; in the community with the Red Cross, Campfire Girls, Chamber of Commerce, YMCA, the Rotary Club; and with educators throughout the nation. He reflected the philosophy that one becomes immortal in the lives of people he knows and serves. So he lives in our lives . . .

His collections show his sense of history. He was grateful for the heritage that was his from his parents, his state and nation. He lived in such a way as to leave us, his family and friends, and his country a greater heritage.

In Proverbs we read, "The Spirit of man is the candle of the Lord." The spirit of Trent Root has been a candle of the Lord to many of us. His life has brought more of the light of faith, hope and truth to us. His example of love for his wife and family, for his church, profession and country and for his work with others has brought a brighter light to all who knew him.

A parable of Jesus tells how different people used, wisely or foolishly, that which was entrusted to them. Trent Root used wisely, productively and humanely that which God gave to him. God has surely said to him:

"Well done, thou good and faithful servant; enter thou into the joys of Thy Lord."

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation.

In this age of modern technology the number of man-hours to produce the agricultural goods and services necessary has steadily decreased.

In 1948, the number of man-hours used for all farm work totaled about 16.5 billion. In 1963, the number was 8.8 billion. By 1970, it had dropped to 6½ billion.

AMEND THE RAIL PASSENGER SERVICE ACT OF 1970

The SPEAKER pro tempore. Under a previous order of the House, the gentle-

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man from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, I commend the Subcommittee on Transportation and Aeronautics of the House Interstate and Foreign Commerce Committee for holding hearings on the problems and potential of intercity rail passenger service. I have been following closely the progress of Amtrak from its legislative beginnings and I have been both encouraged and concerned by developments to date.

In fairness, I believe that Amtrak has not yet had time to barely begin the monumental task the Congress has assigned to it, but in summing up all the plusses and minuses I believe a good start has been made. I favor prompt and increased funding for the National Railroad Passenger Corp., and I am here to urge enactment of authorizing legislation. At the same time I favor certain changes in Amtrak's basic legislative charter. As you know I have introduced House Joint Resolution 613 with 51 cosponsors that would make a number of such changes.

But rather than confine myself to the details of the specific legislation I have introduced, I would like to touch briefly on what I believe are the general problems that Amtrak faces, which seem to call for legislative solution.

Fundamentally, of course, the basic problem is money. I think it is fair to say that the case has already been established that support for intercity rail passenger service is in the national interest. It has been decided that intercity rail passenger service should not only be saved but drastically improved and that funds should be provided to this end. This in fact is the conclusion embodied in the Rail Passenger Service Act of 1970, and I regard that legislation as a credit to the House Interstate and Foreign Commerce Committee and the Congress.

Rails can provide an attractive alternative to other modes of travel that are increasingly reaching the limits of congestion and uneconomic costs, both in dollars and in other values important to maintaining and improving our quality of life.

The proper investments now will pay large future dividends and permit important benefits today as well. Insufficient financing will court failure and close the doors on a transportation option that needs much more attention now than it has received in the recent past.

Accordingly, I support the authorization of the additional funding that is under consideration, and I would support the commitment of larger amounts as well. I do not propose that Amtrak or any other organization be given a blank check, however, and the funds provided for should, I feel, be accompanied by the appropriate congressional guidance.

As matters now stand, the Amtrak system is a mixture of basic routes provided for in the act and some so-called provisional or experimental routes. One of these provisional routes, between Buffalo and Chicago via Cleveland, directly affects my constituents. On all the routes that have been added to the basic system, there hangs a threat of a discontinuance of service that can only inhibit potential ridership and must adversely affect decisions by all concerned regarding investment in badly needed improvements and promotion.

I believe, and I know many others agree, that the basic system as originally established under the terms of the act was inadequate to the national need. In addition to routes omitted and since added on a provisional or experimental basis, there are large areas of the Nation still unserved, including whole States. The legislation I have previously introduced spells out a number of routes whose addition would better fill out the Amtrak service map.

One suspects that the provisional routes Amtrak has already added are a great deal more permanent than Amtrak is willing at this time to admit. Nevertheless, their second-class status jeopardizes the steps that need to be taken to insure the development of these routes, and without a full commitment to seek substantial ridership growth it could well be that the money now being spent for these added routes will just be money wasted. First-class status for these and other needed routes could and should be written into the law.

By the same token, the unrealistic matching requirement for State support of added routes should be reduced from the present two-thirds to one-third, and Amtrak's ability to add still other experimental routes without State support should be clarified. I have no real quarrel with the experimental service as such that have already been set up, for I believe it can be shown that the added trains increase Amtrak service to the public or at least have the potential to do so. Amtrak should remain free to experiment, but I do believe that the present mixture of State support for some added routes and not for others can only cause problems.

A reduced level of the State support to be required should also reduce the pressure for some routes to be added that are exempt from the requirement. To preserve Amtrak's flexibility to conduct research, an amendment to the Act requiring advance public notice of wholly-Amtrak-supported route additions could insure that any proposed experimentation can stand on its merits, thus reducing suspicion and bad feelings among the states supporting other routes.

Perhaps some legislative attention could be paid as well to Amtrak's capital and equipment budget. I also note with some concern that Amtrak's proposed budget does not contain much provision for research and development, although I realize that advanced rail research is being federally funded through programs within the Department of Transportation. Nevertheless, there seems to remain a considerable need for research and development directly related to Amtrak's mission, which would best be conducted by Amtrak itself.

I have in mind a number of areas that ought to be given priority, including the development of advanced reservations and train information communications systems, as well as new trains that can bridge the gap between the presently available equipment and the more futuristic approaches being studied by the Department of Transportation's Office of High Speed Ground Transportation.

With the funds Amtrak is requesting there is not clear amount to be earmarked for either research or vitally needed new equipment and facilities. In fact, funds that were thought to be devoted to capital improvements are instead to be applied to operating expenses as well. The distinction may be one of bookkeeping, but I believe that in passage of the original act the Congress in setting up the loan guarantee provisions intended that adequate funds be available and set aside for capital improvements.

It may be necessary for the Congress to speak again on this matter to insure that the funds provided for improvements actually be applied to that purpose and not be dissipated in simply making ends meet. Also, I see an immediate need for more capital funds than the Amtrak budget projects through June of 1973. The cost of new cars and locomotives is high, but modern and faster trains are what will attract passengers and provide the most realistic hope for reducing losses. It seems clear that Amtrak could put to good use more new equipment than the present budget would allow for.

In summary, therefore, I urge the following actions. First, the funds requested should be authorized. Second, if possible the funds authorized for new equipment should be increased, but at the least a separate category for such funds should be clearly provided in the law, so that the Congress may be assured that authorized funds will be in fact used for such improvements.

Third, I urge that the present provision of the law concerning State support of added routes be changed so that States, localities, or regional groups need only contribute one-third of the actual operating deficits, instead of the present two-thirds. Perhaps an authorization should also be provided Amtrak to make up any additional cash losses resulting from this change.

And fourth, I would seek a requirement that Amtrak give adequate advance notice of all services it proposes to add or subtract, so that all affected groups and regions will have an opportunity to examine and question the allocation of resources involved, and so that Amtrak can be given an opportunity to make a clear record and justification of its decisions.

I believe that continued funding is essential if we are not to lose the modest investment we have made to date and especially if we are not to lose the opportunity of building a better-balanced transportation system adequate to tomorrow's needs. The other changes I advocate will better help us develop a truly innovative and useful system, and help speed the arrival of better passenger train service than the Nation has ever known.

I am sure the committee will give close consideration to the problems we are now facing, and I hope the committee will report legislation to the House in the near future. I am pleased I had an opportunity to testify before the committee on what I regard as one of the more far-reaching initiatives that the Congress has taken in the field of America's national transportation needs.

Mr. Speaker, I urge the cosigners of my resolution and all of my colleagues to follow through on their desire to make Amtrak a success. I am hopeful they will evaluate the hearings and express themselves on the need to provide adequate financial assistance to the National Railroad Passenger Corp. At this point I include a list of the cosponsors to the Kemp resolution.

LIST OF COSPONSORS TO HOUSE JOINT RESOLUTION 613

Andrews of North Dakota, Aspin, Baker, Bennett, Brademas, Brinkley, Carney, Collins, Conable, Conte, Diggs, Donohue, Dow, Dulski, Duncan, Fish, Grasso, Gubser, Halpern, Hansen of Washington, Harrington, Hicks, Hillis, Horton, Keating,

King, Lent, Link, McCloskey, McClure, Mckevitt, McKinney, Minshall, Morse, O'Konski, Podell, Powell, Quillen, Reid of New York, Roe, Roush, Roybal, Schwengel, Seiberling, Smith of New York, J. William Stanton, Stratton, Terry, Ullman, Whitehurst.

PARAPOLICE PERSONNEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ROSENTHAL) is recognized for 10 minutes.

Mr. ROSENTHAL. Mr. Speaker, today, I am introducing legislation which would provide Federal grants to State and local police departments for the recruitment, training, and utilization of para-police personnel—civilians who would assume police department functions totally unrelated to the prevention and control of serious crime, but which are now performed by regular and highly trained police officers. It is my judgment that enactment of this legislation would go a long way toward making our police forces much more efficient as a first line of defense against the ravages of violent crime.

Mr. Speaker, crime is a subject about which all Americans—and their elected representatives—are vitally concerned. A poll that I conducted in my own congressional district shows that crime is the No. 1 concern of my constituents. The Federal Bureau of Investigation reported recently that between January 1 and June 30, 1971, violent crime in America—murders, rapes, aggravated assaults and robberies—rose 11 percent. During the same period, crime in our Nation's six largest cities—New York, Chicago, Los Angeles, Philadelphia, Detroit, and Houston—was up 7 percent.

Everyone agrees, and properly so, that crime prevention and control is and should continue to be a matter for local units of government. However, the Federal Government has a grave responsibility to assist local governments in securing for our citizens the precious right of freedom from criminal conduct.

All thoughtful Americans are mindful, I am sure, of the social, physical, and psychological deprivations that cause criminal behavior. And all Americans of good will are committed, I believe, to eliminating the inequities in education, housing, employment, and environment that breed so much of our crime.

But until sociological change can be achieved, society must utilize all the constitutional tools at its command to protect itself from the death, destruction, and suffering brought about by the violent acts of criminals.

The immediate line of defense against such crime is, of course, our law enforcement agencies—most particularly our local police forces. It is apparent that the problems of local police departments are varied and complex: many are understaffed; some are inefficient; pay is often too low; some departments have inequitable hiring practices; some are too aloof from the problems of the cities; a few suffer occasionally from corruption.

The solutions to these problems are difficult and expensive. But it seems to me that it is foolish to talk about the need for more and better police, when far too much of the existing manpower and resources of many departments are committed to the performance of functions that in no meaningful way meet the security needs of our citizenry.

In his book "Crime in America," former Attorney General Ramsey Clark observed that—

> Law enforcement was once a relatively simple task, but today no activity in our society is more complex or requires a greater bundle of professional skills for effective performance.

And yet, Clark continues:

> Often police operate animal pounds and handle auto, bicycle, pet and other registrations. These functions have no real relationship to the policeman's central purpose. To use officers for such purpose impedes professionalization. This is true of most aspects of urban traffic control, such as regularly assigned rush hour intersection direction and giving parking tickets.

For several months I have carefully studied the nature and extent of the use of highly trained regular police officers for tasks which have little or nothing to do with the central purpose of police work—the prevention and control of felonious crime.

I have exchanged correspondence and information with a number of the leading chiefs of police across the country, and I have come to this startling conclusion: Many police departments expend far more of their professional police effort on non-crime-related activities, such as traffic control, than they do on efforts to control drug traffic—even though recent data suggests that as much as 80 percent of all felonies may be drug related.

While the need to civilianize many functions now performed by highly trained sworn police personnel is well known to law enforcement administrators across the country, the general public and Members of Congress are not sufficiently aware of the serious damage done to our crime-fighting effort by this misallocation of resources.

It is not generally known, for example, that regular and expensively trained police personnel in most local police departments perform the functions of bicycle registration, property custodian, clerical tasks, and the like. This is in addition, of course, to the regular use of police personnel for traffic control and traffic violations functions.

In St. Louis, regular police are used on emergency ambulance runs and to investigate sanitation complaints.

Regular police in Seattle, Wash., are used to supervise dance halls, to recover lost bicycles, and to serve traffic warrants.

In Los Angeles, a police sergeant serves as a school crossing guard coordinator; a policeman works as an abandoned vehicle appraiser; another patrolman is a bail accounting officer. In addition, policemen there serve as metal shop and carpenter foremen and as display artists and speech writers.

In New York City, many uniformed patrolmen are assigned to the personnel and staff services bureau; there are 402 patrolmen assigned to the communications division; there are many patrolmen assigned to the lost property section; 60 uniformed policemen are in the motor vehicle operator coverage section; and, incredibly enough, five members of the uniformed force are assigned as hostlers—men who take care of horses and mules.

In New York City, there are more than 800 uniformed policemen performing functions that have no relation to the direct enforcement of the criminal laws.

The numbers of highly trained uniformed patrolmen performing non-crime-related functions across the country is alarming. What is equally alarming, Mr. Speaker, is that many uniform patrolmen across the country who are assigned to regular crime-related work, spend a majority of their time on non-crime-related matters.

A comprehensive year-long study in 1967–68 by the New York City Police Department of the types of incidents with which policemen are involved demonstrates this fact. This study of the 20th Police Precinct in New York showed that while there were 6,157 incidents of a serious or felonious crime-related nature occupying 5,177 man-hours of time, there were 15,359 non-crime-related incidents occupying 10,660 total manhours. In other words, a typical New York City uniformed patrolman spends twice as much time dealing with non-crime-related incidents than with serious crime incidents. This startling fact is detailed in the following table:

Incident Type	Number of incidents	Total time (in minutes)	Average time (in minutes)
1. Other	5,629	162,310	28.8
2. Unfounded	5,132	102,881	20.0
3. Sick	4,552	202,143	44.4
4. Dispute	3,582	106,016	29.6
5. Burglary	2,518	104,881	41.7
6. Disorderly groups	1,693	37,780	22.3
7. Intoxicated person	1,555	41,830	25.9
8. Other misdemeanors	1,190	106,034	89.1
9. Injured	1,170	46,063	41.1
10. Alarm of fire	1,013	30,483	30.0
11. Auto accident	547	32,943	60.2
12. Larceny from auto	514	17,579	34.2
13. Robbery	512	33,476	65.4
14. Malicious mischief	435	16,261	37.4
15. Dead on arrival	402	60,216	149.8
16. Utility trouble	378	14,502	38.4
17. Felonious assault	309	26,982	87.3
18. Auto accident injury	286	25,334	88.6
19. Traffic violation	270	7,201	27.1
20. Accidental alarm	264	6,873	26.0
21. Grand larceny	235	11,598	49.4
22. Vehicle mechanical trouble	201	7,201	35.8
23. Grand larceny pocketbook snatch	130	6,366	48.9
24. Auto safety check	126	4,175	33.1
25. Prowler	121	3,549	29.3
26. Auto larceny	104	12,556	120.7
27. False alarm of fire	86	1,865	21.7

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Incident Type	Number of incidents	Total time (in minutes)	Average time (in minutes)
28. Arrest-serving summons	81	2,480	30.6
29. Dangerous condition	81	3,510	43.0
30. Motor vehicle recovered	73	7,211	98.8
31. Other felonies	64	9,559	148.4
32. Narcotics	59	13,562	230.2
33. Found person	46	2,802	60.9
34. Traffic warrants	40	713	17.8
35. Property recovered	35	1,848	52.8
36. Rape	29	1,622	55.9
37. Missing persons	24	1,098	45.7
38. Auto accident, serious injury or death	13	2,587	199.0
39. Attempt suicide	13	1,056	81.2
40. Weapons	9	1,298	144.2
41. Prostitution	7	1,090	155.7
42. Gambling	7	813	116.1
43. Homicide	6	1,744	290.6
44. Suicide	6	607	101.2
45. ABC violation	5	160	32.0

There is something terribly wrong with our police department personnel system when highly and expensively trained police officers spend more time dealing with things like traffic violations, vehicle mechanical troubles, illnesses, utility troubles, and other such non-crime-related incidents than with things like burglaries, larcenies, robberies, felonious assaults, prowlers, narcotics, gambling, and other serious crime-related matters.

These startling facts become all the more dramatic when viewed against the rising tide of felonious crime across the Nation.

In Seattle, Wash., only 917 police department employees out of a total of 1,528—about 60 percent—are routinely available for duties directly related to the prevention and control of felonious crime. Police officers in Seattle's patrol division expend 8,117 man-hours per week on the prevention and control of felonious crime. This figure represents only about 38 percent of the total man-hours potentially available for such crime-related work.

In Los Angeles, Calif., there are 793 police officers assigned to traffic regulation, but who are otherwise available for crime-prevention duties. Each of these officers spends approximately 29 hours out of 41 hours per week—71 percent—on noncrime matters. In other words, of the 32,513 total weekly hours available to members of the traffic regulation branch, 22,759 hours per week are not related to crime control. Moreover, a special study performed for the Los Angeles Police Department identified 64 assignments involving 418 positions now performed by police officers but which do not require sworn police personnel.

In St. Louis, Mo., a 1967 police car activity report for the Ninth Police District, showed that there were 10 crime-related incidents consuming 365 minutes and 10 non-crime-related incidents consuming 367 minutes. With the exception of one larceny case which consumed 180 minutes of time, the St. Louis data shows that approximately half of a typical police car's time is consumed by non-crime-related incidents. A table detailing this study appears below:

FIGURE 7.—SUMMARY QUEUEING TABLE FOR THE 9TH DISTRICT FOR THE SATURDAYS DURING MAR. 6–26, 1967

Units	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Hours, 7 to 11:														
Total predictions	59	59	59	59	59	59	59	59	59	59	59	59	59	59
No delay	46	53	57	58	59	59	59	59	59	59	59	59	59	59
Delay	13	6	2	1										
Percent no delay	77	90	96	99	100	100	100	100	100	100	100	100	100	100
Percent delay	23	10	4	1										
1 more unit	8	3	1	1										
Hours, 11 to 15:														
Total predictions	92	92	92	92	92	92	92	92	92	92	92	92	92	92
No delay	35	62	77	85	89	90	91	91	91	92	92	92	92	92
Delay	56	30	15	7	3	1								
Percent no delay	38	67	84	93	97	99	100	100	100	100	100	100	100	100
Percent delay	62	33	16	7	3	1								
1 more unit	26	15	8	4	2	1								
Hours, 15 to 19:														
Total predictions	116	116	116	116	116	116	116	116	116	116	116	116	116	116
No delay	3	42	74	94	105	111	114	115	116	116	116	116	116	116
Delay	114	75	42	22	11	5	2	1						
Percent no delay	2	36	64	81	91	96	98	99	100	100	100	100	100	100
Percent delay	98	64	36	19	9	4	2	1						
1 more unit	39	33	20	11	6	3	1	1						
Hours, 19 to 23:														
Total predictions	116	116	116	116	116	116	116	116	116	116	116	116	116	116
No delay	2	39	72	93	105	111	114	115	116	116	116	116	116	116
Delay	114	77	44	23	12	5	2	1						
Percent no delay	2	33	62	80	90	95	98	99	100	100	100	100	100	100
Percent delay	98	67	38	20	10	5	2	1						
1 more unit	37	33	20	12	6	3	1	1						
Hours, 23 to 3:														
Total predictions	93	93	93	93	93	93	93	93	93	93	93	93	93	93
No delay	32	59	76	85	89	92	93	93	93	93	93	93	93	93
Delay	61	34	18	9	4	2	1							
Percent no delay	34	63	81	91	96	98	99	100	100	100	100	100	100	100
Percent delay	66	37	19	9	4	2	1							
1 more unit	27	17	9	5	2	1								
Hours, 3 to 7:														
Total predictions	37	37	37	37	37	37	37	37	37	37	37	37	37	37
No delay	35	37	37	37	37	37	37	37	37	37	37	37	37	37
Delay	2	1												
Percent no delay	94	98	99	100	100	100	100	100	100	100	100	100	100	100
Percent delay	6	2	1											
1 more unit	1	1												

Note: These predictions are for all Pauly areas in the 9th district—Prediction period—3 weeks starting Mar. 6, 1967; 7 days, 24 hours, Monday through Sunday. This page is for all Saturdays in the prediction period.

In the District of Columbia, only 76 percent or 3,808 sworn uniform personnel out of 4,994 are routinely available for duties directly related to the prevention and control of felonious crime.

In Los Angeles, Calif., if you exclude the 793 policemen assigned to the traffic detail—and we have seen earlier that most of their time is not available for direct crime-related work—only 4,765 employees out of 6,963 sworn personnel are routinely available for duties directly related to the prevention and control of felonious crime. In other words, approximately 32 percent of the uniformed force is not directly available for crime-related purposes.

In St. Louis, Mo., only 57 percent of the entire police department budget goes for salaries to sworn police personnel. In Seattle, Wash., only 65.7 percent of the total police department budget was utilized for the direct prevention and control of felonious crime.

Mr. Speaker, I think that this data shows incontrovertibly that far too much of the resources of typical police departments across the country and far too little of the police officer's actual time are devoted to safeguarding the lives and property of our citizens. It is for this reason that enactment of the bill I am offering today is so vital to the cause of domestic tranquility.

My bill would amend title I of the Omnibus Crime Control and Safe Streets Act of 1968. It would authorize grants directly to State and local units of general government for the development and implementation of programs and projects for the recruiting, training, and utilization of parapolice personnel. These parapolice personnel would assume certain police department duties which are now performed by regular police officers, and which are not directly related to the prevention and control of felonious crime. My bill authorizes the appropriation of 100 million dollars for a 4-year period beginning on July 1, 1972, for such grants. It further authorizes grants of $85 million for a second 3-year period, and $70 million for a third 2-year period. For the first grant period, grants can be made up to 80 percent of the cost of the parapolice program; for the second grant period, funds are authorized for up to 65 percent of the cost of the program; and for the third grant period, funds are authorized for up to 50 percent of the cost of the grant program.

These grant periods of 4 years, 3 years, and 2 years are designed to encourage long-term planning. They are designed to encourage, at the end of the 9-year period, a complete financial assumption by the States and localities of the costs of the program.

Mr. Speaker, the concept of civilianizing many responsibilities on our police forces and instituting a parapolice program are not new. Many police departments have recognized the deficiencies of assigning regular police personnel to non-crime-related functions, and have struggled to civilianize these jobs. Many police administrators know that the taxpayers, funds are wasted when highly trained and expensively trained police officers are forced to perform functions which, though important in and of themselves, do not deal directly with the problems of violent crime. A police trainee in New York City, for example, receives 560 hours of curriculum before he is eligible to become a full-fledged police officer. In Los Angeles, police officer recruits spend a total of 20 weeks in training before becoming a police officer. Prospective Washington, D.C., policemen receive an 18-week training course at the department's new academy and training school. It is tragic when such highly trained personnel are used to perform functions such as bicycle registration, property custodian, supply operations, emergency ambulance runs, and public information.

Many cities now have police cadet and meter-maid programs. New York City and Los Angeles have gone to considerable lengths to implement civilianization and parapolice programs. It is instructive, for example, that the New York City Police Department in its 1971–72 budget, requested a total of 796 civilian positions for their civilian replacement program. These 796 positions costing $5.7 million—which were not approved—would have resulted in 796 uniformed police being assigned to regular law-enforcement duties. The Los Angeles Police Department has civilianized personnel in the following areas:

Administrative staff personnel; jail and property personnel; scientific investigation; and parking control and traffic direction. The Los Angeles Police Department has plans in its 1972–73 budget to civilianize others. But much more needs to be done.

Mr. Speaker, it is my urgent hope that the legislation I am introducing today will receive quick attention from the appropriate committee of the House so that this serious problem can be more fully explained and developed. I am inserting in the RECORD at this point additional documentation including a letter I sent and answers received from various police departments across the country:

H.R. 11727

A bill to provide Federal financial assistance to local governments for the training of parapolice personnel

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens;

(2) crime is essentially a local problem that must be dealt with by States and units of general local government if it is to be controlled effectively;

(3) to prevent serious crime and to insure the greater safety of the people of the United States, the resources of law enforcement agencies should be applied primarily to aid in the prevention and detection of felonious crime;

(4) the utilization of parapolice personnel could assist in the more efficient administration of law enforcement operations and free more highly trained law enforcement officers for duties relating directly to the prevention and detection of felonious crime.

(b) It is the purpose of the provisions of this Act to encourage States and units of general local government to prepare and adopt plans to utilize parapolice personnel for carrying out responsibilities not directly related to the prevention and control of felonious crime.

SEC. 2. (a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting immediately after part E the following:

"PART F—GRANTS RELATING TO PARAPOLICE PERSONNEL

"SEC. 461. (a) It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the recruiting, training, and utilization of parapolice personnel who can assume certain law enforcement duties which are now performed by regular police officers and which are not directly related to the prevention and control of felonious crime.

"(b) Grants under this part shall be made directly to State government, units of general local government, and combinations of such units of general local government. No grant under this part shall be made directly to a State planning agency.

"SEC. 462. Any State government, unit of general local government, or combination of units of general local government desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria established by the Administration under section 464 of this title, file an application for such grant within six months after the effective date of this part.

"SEC. 463. The Administration is authorized to make grants under this part to any applicant whose application for any such grant—

"(1) provides satisfactory assurances that the control of the funds and title to property derived therefrom, if any, shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;

"(2) provides satisfactory assurances that the availability of funds under this part will not reduce the amount of funds under part C of this title which would, in the absence of funds under this part, be allocated for the purposes of this part;

"(3) provides for advance techniques in the utilization of parapolice personnel;

"(4) provides satisfactory assurances that the personnel standards and programs will reflect advanced practices;

"(5) provides satisfactory assurances that the applicant will engage in projects and programs to improve the recruiting, organization, training, and education of parapolice personnel;

"(6) provides satisfactory assurances that the applicant will budget each grant so as to expend approximately equal amounts during each successive 12-month period throughout the life of the grant; and

"(7) complies with the same requirements established for comprehensive State plans under paragraphs (4), (5), (8), (10), (11), and (12) of section 303 of this title.

"SEC. 464. The Administration shall by regulation prescribe basic criteria for applicants and grantees under this part.

"SEC. 465. (a) Within twelve months after the effective date of this part (and thereafter as provided for in this part), for the purposes of carrying out this part the Administration shall award grants to qualified applicants in such amounts as the Administration determines to be appropriate, taking into account the available resources, the law enforcement needs, and the population of each such applicant.

"(b) The first grant to each grantee under this part shall be for the purpose of carrying out the provisions of this part during the 48-month period beginning on July 1, 1972. Any grant made from funds available under this subsection may be up to 80 percent of the cost of the program or project for which such grant is made.

"(c) For the purpose of continuing to carry out the purposes of this part during the 36-month period beginning on July 1, 1976, the Administration may award a second grant to any grantee who has received assistance under subsection (b) of this section. Any grant made from funds available under this subsection may be up to 65 percent of the cost of the program or project for which such grant is made.

"(4) For the purpose of continuing to carry out the purposes of this part during the 24-month period beginning on July 1, 1979, the Administration may award a third grant to any grantee who has received assistance under subsections (b) and (c) of this section. Any grant made from funds available under this subsection may be up to 50 percent of the cost of the program or project for which such grant is made.

"(e) Each grant awarded under this section shall be in such amount and be paid in such periodic installments as the Administration determines to be appropriate. The Administration may condition the payment of any grant or any portion of any grant upon a showing on the part of the grantee that it is complying with the terms of its application and such conditions as may have been set down by the Administration.

"(g) If the Administration determines, on the basis of information available to it, that a portion of the funds granted to an applicant will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under this section.

"SEC. 466. For the purpose of carrying out the provisions of this part, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973; $85,000,000 for the fiscal year ending June 30, 1977; and $70,000,000 for the fiscal year ending June 30, 1980. Funds appropriated for any fiscal year may remain available for obligation until expended."

(b) Section 520 of title I of such Act is amended by adding at the end thereof the following: "The authorization contained in this section shall not apply with respect to the carrying out of part F."

(c) Part F and Part G of title I of such Act are redesignated as part G and part H, respectively.

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR CHIEF OF POLICE: I have been concerned for some time over the utilization of highly trained regular police personnel for purposes than the direct prevention and control of felonious crime. As you know, some police departments hire cadets, meter-maids and other lesser-trained and lower-salaried persons to perform duties not directly related to such crime (i.e., traffic violations; issuance of licenses and tags; handling of misdemeanor warrants; motor vehicle inspections; paperwork administrative functions, ambulance services, etc.). The use of such "parapolice" personnel would seem to free regular law enforcement officers for work more immediately related to crimes of violence against persons and property.

I am presently considering the introduction of legislation in Congress, which would provide federal grants-in-aid directly to local units of government and state governments, for the recruitment, training and utilization of parapolice personnel. In this regard, I would greatly appreciate your providing me with the following information:

(1) Please list the types of functions and responsibilities performed by your Department which do not relate directly to the prevention and control of felonious crime.

(2) a. What is the total number of persons employed by your Department and paid out of the police department budget?

b. How many of these employees and what percentage of the total police budget are available *routinely* (civil disorder duty would not be "routine"), for duties *directly* related to the prevention and control of felonious crime? (A mechanic in the police garage or a statistician would not be "directly" involved. A regular policeman who spends part of his day directing traffic or ticketing cars or who lectures at a local high school, but who is otherwise available to the crime-prevention effort, would be directly involved).

(3) a. For all those employees who are routinely available for duties directly related to the prevention and control of felonious crime, please state or approximate the average number of total man-hours spent on duty each week.

b. Of this number, please state or approximate the average number of total man-hours devoted to the performance of duties not directly and routinely related to the prevention and control of felonious crime (see first paragraph of this letter for a partial description of such duties).

(4) Does your department presently have a program which approximates the "parapolice" concept embodied in the legislation I am drafting, (i.e., meter maids, permanent "cadets" for traffic control, all administrative functions performed by non-police civilian employees etc.)? If so, please describe your program as to training and numbers of parapolice.

(5) Please describe briefly the type of training required for the regular policeman who is involved directly with the prevention and control of felonious crimes.

If there are any questions regarding this communication, please contact my Legislative Assistant, Peter S. Barash, (202) 225-2001. A response by September 3, 1971, would be greatly appreciated.

Sincerely,

———— ————,

POLICE DEPARTMENT,
New York, N.Y., September 7, 1971.

HON. BENJAMIN S. ROSENTHAL,
Congress of the United States, House of Representatives, Rayburn Building, Washington, D.C.

DEAR CONGRESSMAN ROSENTHAL: This letter is in answer to your communication dated August 11, 1971 relative to the use of "parapolice personnel" to free regular police officers for work immediately related to crimes. In addition to answering the five questions posed by you, I have enclosed a copy of our Civilianization Program that appeared in our 1971-1972 Budget submission prepared by the Planning, Programming and Budgeting Section of our Planning Division. The underlined material is the information that you requested, followed by my answer.

(1) *Please list the types of functions and responsibilities performed by your Department which do not relate directly to the prevention and control of felonious crime.*

A study made by our department in the 20th Precinct in 1967-1968 disclosed that 85% of a patrolman's time was spent on preventive patrol while the remaining 15% is devoted to answering calls for services, 30% is associated with crime while 70% is non-criminal in nature. Of the criminal category, crimes against property consumed the most time while in the non-criminal category, aid to sick and injured consumed the most time.

The time spent by the police on preventive patrol can be considered in the category of prevention and control of felonious crimes. In the area of called for services which consumes the remaining 15% of the officers time, it is difficult to determine the exact amount of time that can be considered to be for the prevention and control of felonious crime. For example, a disorderly group may be one in which a number of people are, or about to commit some type of felonious crime, or the call may be one where a group of people are acting in a disorderly manner, but no felonious • • •

(2) a. *What is the total number of persons employed by your department and paid out of the police department budget?*

30,726—All paid out of the police budget.

b. *How many of these employees and what percentage of the total police budget, are available routinely for duties directly related to the prevention and control of felonious crime?*

30,200—Approximately 83%.

(3) a. *For all those employees who are routinely available for duties directly related to the prevention of crime, please state or approximate the average number of hours spent on duty each week.*

Sworn members of the department work 40 hours a week.

b. *Of this number, please state or approximate the average number of total manhours devoted to the performance of duties not directly and routinely related to the prevention and control of felonious crime?*

Here again, I refer you to the table on page 2 which shows 45 incidents with the average time in minutes for each incident.

(4) *Does your Department presently have a program which approximates the "parapolice" concept embodied in the legislation I am drafting, (i.e. meter maids, permanent "cadets" for traffic control, all administrative functions performed by non-police civilian employees etc.) If so, please describe your program as to training and numbers of parapolice.*

At the present time there are 315 meter maids assigned to the Department of Traffic. Our department has 388 police trainees who perform non-enforcement police tasks. The administrative functions performed by non-police civilian employees are described in the enclosed copy of our Civilianization Program.

(5) *Please describe briefly the type of training required for the regular policeman who is involved directly with the prevention and control of felonious crime.*

The current academic curriculum in the recruit training program is divided into seven divisions. I have enclosed an outline of five of these divisions. Almost all the training given to the recruit is either directly or indirectly related to the prevention of felonious crimes. In addition to this, the recruit is given 105 hours of college level courses.

Incident type	Number of incidents	Total time (in minutes)	Average time (in minutes)
1. Other	5,629	162,310	28.8
2. Unfounded	5,132	102,881	20.0
3. Sick	4,552	202,143	44.4
4. Dispute	3,582	105,016	29.6
5. Burglary	2,518	104,881	41.7
6. Disorderly groups	1,683	37,780	22.3
7. Intoxicated person	1,555	41,830	25.9
8. Other misdemeanors	1,190	106,034	89.1
9. Injured	1,170	46,063	41.1
10. Alarm of fire	1,013	30,483	30.0
11. Auto accident	547	32,943	60.2
12. Larceny from auto	514	17,579	34.2
13. Robbery	512	33,476	65.4
14. Malicious mischief	435	16,261	37.4
15. Dead on Arrival	402	60,216	149.8
16. Utility trouble	378	14,502	38.4
17. Felonious assault	309	26,982	87.3
18. Auto accident injury	286	25,334	88.6
19. Traffic violation	270	7,201	27.1
20. Accidental alarm	264	6,873	26.0
21. Grand larceny	235	11,598	49.4
22. Vehicle mechanical trouble	201	7,201	35.8
23. Grand larceny pocketbook snatch	130	6,366	48.9
24. Auto safety check	126	4,175	33.1
25. Prowler	121	3,549	29.3
26. Auto larceny	104	12,556	120.7
27. False alarm of fire	86	1,865	21.7
28. Arrest-serving summons	81	2,480	30.6
29. Dangerous condition	81	3,510	43.0
30. Motor vehicle recovered	73	7,211	98.8
31. Other felonies	64	9,559	149.4
32. Narcotics	59	13,582	230.2
33. Found person	46	2,802	60.9
34. Traffic warrants	40	713	17.8
35. Property recovered	35	1,848	52.8
36. Rape	29	1,622	55.9
37. Missing persons	24	1,096	45.7
38. Auto accident-serious injury or death	13	2,587	199.0
39. Attempt suicide	13	1,056	81.2
40. Weapons	9	1,298	144.2
41. Prostitution	7	1,090	155.7
42. Gambling	7	813	116.1
43. Homicide	6	1,744	290.6
44. Suicide	6	607	101.2
45. ABC violation	5	160	32.0

Please feel free to contact my office if you have any questions relative to the enclosed material.

Sincerely,

PATRICK V. MURPHY,
Police Commissioner.

SUPPLEMENTARY—PERSONAL SERVICES BUDGET 1971-72

CIVILIAN REPLACEMENT PROGRAM

The Department's Civilian Replacement Program, as structured by the Personnel and Staff Services Bureau from its inception on July 1, 1965 through October 30, 1970, has resulted in the employment by the Department of twelve hundred twelve (1212) civilian employees, other than Police Trainee and School Crossing Guard, a replacement basis.

Over the years, aside from the prime Civilian Replacement Program, other avenues for the replacement of uniformed members performing non-enforcement duties were explored and implemented by the Personnel and Staff Services Bureau. These included the use of a) Police Trainees both as replacements and assignments in lieu of the assignment of uniformed members; b) the Civilian Administrative Employee Up-grading Program; c) the Cut-Back and Job Elimination Program in May 1967; d) and the equated uniformed manpower saving effected by the School Crossing Guard Program.

The following is a recapitulation of the Department's efforts and achievements in the area of replacing uniformed members engaged in non-enforcement tasks with civilian employees under the above mentioned programs:

Civilian replacement program: From July 1965 to October 30, 1970	1212
Police trainee program: From December 1964 to October 1968:	
Number of patrolmen replaced	859
Number of police trainees assigned in lieu of the assignment of patrolmen	244
Total	1108

It will be noted that further replacement in this area was curtailed during the 1969-70 and 1970-71 fiscal period by mandatory budget freeze of these positions.

Civilian administrative employee upgrading program: Number of superior officers replaced to October 30, 1970	14
Cutback and job elimination program: Number of uniformed members who were returned to regular patrol in May 1967	656
School crossing guard program: Based upon 2113 School Crossing Guards employed on an average of four hours daily, for nine months of the year, equates to the actual replacement of 792 patrolmen who were relieved of this nonenforcement duty and returned to full enforcement patrol duty	792

In passing, it should be noted that in connection with the Civilian Replacement Program, between fiscal period of 1967-68 and the present fiscal period, the Personnel and Staff Services Bureau has been successful in obtaining the following Federally and State funded contracts to assist the Department in defraying required training costs.

Number of positions and program	Date of contract	Number of training weeks	Funding: Amount	Funding: Cumulative total
60—Fingerprint technician trainee	10/67	26	$49,313	$49,313
350—Police administrative aide	5/68	26	272,961	322,274
60—Fingerprint technician trainee	1/70	26	55,886	378,160
150—Police administrative aide	2/70	26	125,039	503,199
500—Police trainee	(1)	39	493,000	996,199

[1] Pending approval expected January 1971.

Once these funded programs are approved and found to be successful, recycling is more easily obtainable. This point is emphasized in connection with the 1971-72 Supplementary Personnel Services Budget request which includes six hundred (600) new positions for Police Administrative Aide and thirty (30) new positions for Fingerprint Technician Trainee under the Civilian Replacement Program.

During the 1969-70 and the present 1970-71 fiscal periods, the hiring under the Civilian Replacement Program has been greatly curtailed due to the following mandatory restrictions:

a) Fiscal period 1969-70—Emergency Budget Restriction of ten (10) million dollars.

b) Fiscal period 1970-71—Emergency Budget Restrictions eleven point one (11.1) million dollars.

c) Selective Vacancy Freeze effective October 1, 1970 which in effect provides for no filling of vacancies except for twenty five (25) percent dollar value, of job vacancies accruing each month.

PERSONNEL REQUESTS FOR THE CIVILIAN REPLACEMENT PROGRAM

Police administrative aides—600 positions

In the last two (2) fiscal periods the submitted requests in the Supplementary Personal Services Budget for the required personnel were not approved by the Bureau of the Budget.

With the advent of the computerized SPRINT System and the installation of the centralized Emergency Call Number 911, in the Communications Division, the demand for required personnel to man these operations has increased the complement of this Division from six hundred ninety eight (698) in March 1969 to eight hundred eighty five (885) in August 1970.

In the interim, to cope with the problems of manning, the Personnel and Staff Services Bureau had to supply a mix of uniformed members, Police Trainees, and Police Administrative Aides by reassignment from other units and commands, both administrative and patrol, thereby reducing the efficiency of these units and commands. The assignment of Police Trainees and Patrolmen was mandatory even though our experience has indicated that such personnel are not suitable for the work involved. The tenure of the Police Trainee is short in that as he nears his 21st birthday he must be withdrawn to take recruit training to qualify him as a Probationary Patrolman. This situation creates a recurring need for training personnel as replacements and turn-over which creates an unstable force as opposed to the career long-term type of employee which is required. Many of the patrolmen who have been assigned from field commands are not desirous of the assignment which has resulted in a morale problem.

Communications division assignments—400 positions

At present, among other uniformed and civilian personnel, there are four hundred two (402) patrolmen and two hundred fifty two (252) Police Trainees assigned to the various functions within the Communications Division and it is deemed necessary that Police Administrative Aides who perform duty on rotating tours, seven (7) days per week, as required by this division, be obtained to replace this personnel to the extent possible. To implement this replacement for reasons cited above, it is requested that four hundred (400) Police Administrative Aide positions be made available for the replacement of two hundred fifty two (252) Police Trainees and one hundred forty eight (148) patrolmen.

Field command assignments—159 positions

To expand the civilian replacement of uniformed members performing non-enforcement tasks in field commands which require the performance of duties on odd hour tours, seven days of the week, it is requested that one hundred fifty nine (159) Police Administrative Aides positions be made available. These Aides will replace thirty two (32) uniformed members in Patrol Divisions and one hundred twenty seven (127) patrolmen in Patrol Precincts.

Administrative unit assignment—41 Positions

In the Information and the Lost Property Sections of the Central Records Division there are certain functions which required the performance of duty on rotating tours, on a seven (7) day basis; a total of forty one (41) positions are involved. These positions are currently manned by patrolmen and Police Trainees. The relative short term of the Police Trainee assignments, due to their attaining twenty one (21) years of age and Probationary Patrolman status, creates a condition where these Sections must continually train newly assigned Police Trainees in their attempt to maintain efficient operation. To provide a stable civilian work force in these Sections and the replacement of uniformed members of the department, it is requested that forty one (41) Police Administrative Aide positions be made available.

Senior police administrative aide—40 positions

The department has requested the establishment of a supervisory position entitled "Senior Police Administrative Aide", as an initial promotional step for the present Police Administrative Aides. As structured, this title was approved by the City Personnel Department and the Office of the Mayor. Under the requirements for this title, six (6) months of satisfactory performance must precede filing for the examination and two (2) years of satisfactory performance is required prior to promotion. In that the first Aides were employed in the department in January, 1968, the first group of Aides has completed the time requirement for promotion as of January, 1970. In this regard, a civil service examination for this title has been requested on the impending Department of Personnel Calendar.

It is requested that forty (40) Senior Police Administrative Aide positions be established in the 1971-72 budget to provide the necessary civilian supervisory personnel for the Communications Division, where they will be initially assigned to replace a like number of sergeants who will be reassigned to primary full enforcement field patrol.

It should be noted that until an opportunity for a promotional step is provided for Police Administrative Aide personnel, this will remain in effect a dead end position which is contrary to agreement between the Labor Union and the City.

Motor vehicle operator (patrolwagon)—60 positions

At the direction of the then Police Commissioner, the Technical Services Bureau in 1968 conducted an in-depth study of the department's Patrolwagon Program. This survey disclosed the following information:

The actual annual work days performed by Motor Vehicle Operators assigned to patrolwagons after deduction of annual vacation and a mean of six of twelve allowable sick days:

Normal annual work days (tours)	250
Less twenty seven (27) annual vacation days	−27
Total	223
Less a mean of six (6) of the twelve (12) allowable annual sick days	−6
Tours performed per annum	217

The following computations indicate the annual man-days required to operate thirty-six (36) patrolwagons on a three (3) tour daily basis, and three (3) patrolwagons on a two (2) tour daily basis.

	Tours
36 P.W. × 3 tours daily × 365 days annually	39,420
3 P.W. × 2 tours daily × 365 days annually	2,190
Annual Tours Required	41,610

217 actual M.V.O. annual tours, divided into 41,610 annual tours required equal 191 Motor Vehicle Operators required to operate all patrolwagons annually.

142 present M.V.O. (FW) quota; less 11 M.V.O. (FW) medically disqualified to drive equals 131 active M.V.O. (FW).

191 M.V.O. (FW) required for full annual coverage, less 131 active M.V.O. (FW) in quota indicates that sixty (60) additional M.V.O. (FW) are required for full coverage.

It will be noted, that the authority for medically disqualifying Motor Vehicle Operators is dictated by the Mayor's Executive Order No. 31, dated October 19, 1966.

According to the above statistical data indicating the minimal Motor Vehicle Operator Coverage required to man all patrolwagons

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on an annual basis, it must be noted that in the absence of these civilian operators, some sixty (60) uniformed members must be withdrawn from the effective patrol force annually to perform this required service.

Therefore, it is requested that funds be provided for the employment of sixty (60) Motor Vehicle Operator-Patrolwagon, in the 1971–72 budget under the Civilian Replacement Program.

Hostler—5 positions

To avoid and correct the present hazardous practice of assigning Hostlers to work alone in stables tending large numbers of horses, it is requested that funds be provided for the employment of five (5) Hostlers under the Civilian Replacement Program. In the absence of the required civilian Hostlers members of the uniformed force are assigned for the safety of the present employees.

Fingerprint technician trainee—30 positions

As an innovation, this department in fiscal 1967–68 employed sixty (60) Fingerprint Technician Trainees (a new title), who were trained by Identification Section personnel under a Federally funded contract.

In continuance of this program, thirty (30) positions were approved in the 1968–69 budget, thus allowing for a total of ninety (90) positions in this title. Upon completion of their training these Trainees replaced a like number of Patrolmen and Detectives who were performing this fingerprint classification function.

To continue replacement of uniformed personnel in this important area, it is requested that thirty (30) additional Fingerprint Technician Trainee positions be established in the 1971–72 budget.

Other civilian titles—59 positions

Based upon evaluations from the current desk audit of the Department of Personnel, it is recommended that the remaining fifty-nine (59) requested positions itemized in Appendix I, be included under the Civilian Replacement Program in the 1971–72 budget.

It is therefore requested that the total of seven hundred ninety-six (796) positions listed heretofore be included in the 1971–72 budget to effect the replacement of members of the uniformed Force under the Civilian Replacement Program at a cost of $5,776,281.

A summary of the various titles, corresponding entrance salaries, specific commands of assignment and total annual costs are indicated in Appendix I. Placement by Budget Programs will be found in Appendix III.

SUPPLEMENTARY—PERSONAL SERVICES BUDGET REQUEST 1971–72

REQUEST FOR ADDITIONAL PERSONNEL

Additional civilian personnel

Over the past five years the Personnel and Staff Services Bureau has received repeated requests from the various commands and units of the Department seeking additional personnel. Some of the factors which generate this need have been described heretofore. (See pages 112–113) all of which have evolved without a corresponding increase in staff. Cognizance *must* be taken of the Department's need for additional civilian personnel if its commands and units are to maintain efficient operations without drawing upon uniformed personnel to meet the demand.

In September, 1970, all commanding officers and unit heads were directed to submit proposals under Chief of Personnel Memo No. 58, specifically indicating both the number and title of additional civilian personnel required by their respective commands or units to effectively meet current or contemplated workload requirements, as above described. They were also requested to include pertinent data which would objectively and concisely substantiate the need for personnel requested.

All commands and units requesting additional personnel were canvassed and their reports compared with the personnel records of the Personnel Service and Records Division to insure that no requests were made where present civilian vacancies exist.

Job study and evaluation team—3 positions

Annually, the Personnel and Staff Services Bureau receives numerous requests for additional personnel based upon increased workload, new functions undertaken, and organizational changes within the Department, as above noted.

Such requests require in-depth analysis to verify the need for and validity of positions requested, the measure of efficiency of present employees, present work methods, the possible need for work and time-saving equipment, position classification and evaluation; and the establishment of improved work-flow charts.

To more effectively accomplish this analysis, the Personnel and Staff Services Bureau will require the following professional personnel:

One (1) Senior Methods Analyst.
One (1) Methods Analyst.
One (1) Personnel Examiner.

The establishment of this team should vastly facilitate future budget preparation and provide a more accurate evaluation of the personnel needs of the Department.

Vehicle repair and shop maintenance personnel—38 positions

The Motor Transport Division has the responsibility for the servicing, repair and maintenance of two thousand nine hundred and forty-one (2,941) vehicles of all types operated by the Department. Since August, 1966, there has been an unusually large increase in the Department's fleet, which has not been accompanied by an increase of personnel to properly maintain these vehicles.

Fleet expansion not accompanied by an increase of personnel consists of the following vehicles:

Number, type of vehicle, and remarks

20 Broncos—Delivered August, 1966.
42 Tow Trucks—Delivered March, 1967.
4 T.P.F. Couriers—Delivered May, 1967.
10 Sedans—Delivered July, 1967.
300 Scooters—Delivered July, 1967.
300 Scooters—Delivered May, 1968.
40 R.M.P. Cars—Delivered August, 1968.
36 R.M.P. Cars—Refurbished—Placed in service 1968.
31 Tow Trucks—Delivered September, 1969 (Without relinquishment of older vehicles).
3 Station Wagons—Delivered June, 1969.
1 Unmarked Sedan—Delivered June, 1969.
10 Various Type Trucks—Expected during 1969–70 Fiscal.

Total number of vehicles, 787.

Prior to August, 1966, the Department's fleet ran at a constant level of 100% effectiveness, that is, the assigned vehicle or a replacement vehicle was constantly in service. Since the above date, the effective level is at 92%. This effects the availability of Radio Motor Patrol Cars, scooters and motorcycles, as well as, the efficiency of auxiliary services which require motorized equipment.

There is presently a backlog of one hundred and fifty (150) "running repairs", that is, repairs to vehicles damaged in accidents which remain in service until time and personnel are available for their repair. To compensate in part for the needed personnel, seven (7) members of the uniformed force have been temporarily assigned and are engaged in full-time mechanical repair, thus depleting effective patrol strength. With the above mentioned expansion of the fleet, mileage has increased from forty-eight million five hundred seventy seven thousand three hundred sixty nine (48,577,369) miles in 1966 to fifty-four million one hundred eighty six thousand seven hundred tweny two (54,186,722) miles in 1969. This increased mileage results in increased collision and other repairs. In terms of collision repair there were one thousand one hundred and seventy two (1,172) accidents in 1966 compared to two thousand seventy one (2,071) in 1969; and accidents in the first six (6) months of 1970 total one thousand fifty nine (1,059).

The repair and maintenance problems are further complicated by an increase in acts of vandalism resulting in damage to Department vehicles. In 1968, there were one hundred and eighty one (181) such incidents which required repair of the concerned vehicles, and in 1969 there were two hundred six (206) such incidents.

The "down time" of vehicles due to reasons cited above has increased 10% over the period prior to the expansion of the fleet.

It is, therefore, requested that one (1) Foreman of Auto Mechanics, twenty (20) Auto Mechanics; four (4) Assistant Stockmen and four (4) Clerk positions be provided as additional personnel in the budget for adequate servicing of the above mentioned vehicles.

As previously mentioned, the new Central Repair Shop has been placed into operation. This enlarged facility requires additional personnel for the maintenance of the complicated machinery and equipment, as well as for normal maintenance and security. To maintain this new facility it is requested that four (4) Maintenance Men, three (3) Custodial Assistants and two (2) Laborer positions be provided for in this budget.

It will be noted that the only measure the Department could take to relieve this serious personnel shortage was by a modification of the 1968–69 budget to provide six (6) Auto Mechanic positions, thereby deleting six (6) other needed positions from the Civilian Replacement Program.

Electronic data processing personnel—27 positions

The dramatic increase in work load and the continual receipt of new requests by the Electronic Data Processing Division for the programming and retrieval of computerized data is cause for concern inasmuch as required increase in personnel has not kept pace with the output demands.

Indicated below is a table comparing current work load with that of the year 1963. These applications are only a *representative sample* of work load increases.

Document	1963	1968	1969
U.F. 61	495,878	2,654,385	2,710,102
U.F. 6b	98,000	137,430	139,093

In the year 1963, nineteen (19) Key Punch Operators were assigned to process the work load. In 1966, Key Punch personnel was increased to twenty-five (25) as a result of budget modification. The need for Key Punch Operators is creating a serious backlog of documents to be punched in the Computer Operations Section.

In addition, the efforts toward the expansion of the Electronic Data Processing capabilities currently under way in this Division will require even more extensive data conversion.

It should also be noted that the Key Punch machines are in operation on two (2) shifts daily and could be in operation on three (3) shifts with sufficient personnel.

It is therefore requested that ten (10) additional Alpha Key Punch Operators and ten (10) Senior Alpha Key Punch Operator positions be established to alleviate the abovementioned backlog, and seven (7) Clerk positions be established to allow for the accompanying increased clerical workload.

Microfilm project personnel—8 positions

Since the latter part of 1968, one (1) Civilian Photographer and seven (7) Police Trainees have been assigned in the initiation of the first phase of the Microfilm Project. This personnel currently performs on the 8:00 A.M. to 4:00 P.M. tour. Since no additional Police Trainees can be spared for this assignment and in an effort to reduce the time required to complete microfilming of these records thereby advancing the date when leased storage facilities may be vacated, which will coincide with the relocation of the Old Records Section into the new Police Headquarters Building now under construction it is requested that seven (7) additional Clerk positions, and one (1) Photographer position be provided for in the 1971–72 budget. This personnel will allow for the continuance of this microfilming process on the 4:00 P.M. to 12:00 Midnight tour.

CITY OF LOS ANGELES, CALIF.,
September 1, 1971.

Hon. BENJAMIN S. ROSENTHAL,
Rayburn Building,
Washington, D.C.:

I am pleased to hear of your concern about the misuse of highly trained police officers. The Los Angeles Police Department has recognized this problem, and over the past several years has been engaged in a program of "civilianizing" a number of police jobs. However, the Department has not been able to implement portions of this program due to the lack of funds. I believe that the passage of the legislation that you are considering will be of great benefit to all local law enforcement agencies and the communities which they serve.

I hope the following answers to your questions will be helpful.

(1) The following is a list of functions performed by the L.A.P.D. which are not directly related to the prevention and control of crime.

(a) Administrative Staff Research
(b) Personnel Selection and Training
(c) Public Information and Youth Services
(d) Support and Auxiliary Services
(1) clerical
(2) property custody
(3) supply operations
(4) transportation services
(5) booking and custody of arrestees
(6) information processing

(2) (a) The total authorized strength of police officers in our Department is 7155, with 6983 positions currently filled. For civilians, 2390 positions are authorized, with 2295 currently filled.

The 1971–72 L.A.P.D. Budget is $131,100,542, of which $102,495,861 (includes regular salaries, overtime, unused sick time and marksmanship bonuses) are for police salaries and $21,372,336 are for civilian salaries and overtime.

(b) The number of employees and percentage of budget directly related to prevention and control of felonious crime are as follows:

Function	Number of employees	Percent of budget
Crime repression and response	3,064	33.6
Investigation and detection of crime	1,701	22.1
Traffic regulation	793	9.0
Total	5,558	64.7

(3) (a) The average number of hours worked per week (including overtime) per police officer directly or routinely involved in the prevention or control of crime is 41.35.

(b) The average number of manhours devoted to the performance of duties not directly and routinely related to the prevention and control of felonious crime is as follows:

Function and hours per week not involved with crime prevention

Crime Repression and Response	0
Investigation and Detection of crime	0
Traffic Regulation	
Traffic Enforcement	20.7
Accident Investigation	27.3
Parking and Intersection Control	38.0

(4) On January 1, 1971, the Los Angeles Police Department implemented a new classification and salary structure that was devised by the Jacobs Company Incorporated of Chicago, Illinois, called the "Jacobs Plan". Under this plan, a total of 262 police jobs were earmarked for "civilianization" over the next three years. However, even before this plan, the L.A.P.D. has been in the process of "civilianizing" a great number of jobs previously held by police officers. Our civilianization program includes the following:

(a) *Administrative Staff Personnel*—There are presently 92 administrative civilian personnel working in staff, analytical, financial and planning functions. These people are required to have a four-year degree from an accredited college or university, receiving on-the-job training, and a two-week orientation training session at the Police Academy.

(b) *Jail and Property*—Presently 200 Station Officers (civilians) are working as booking officers in the divisional jails and as property officers in the Property Division. These personnel are required to have a high school diploma, or equivalent, and receive on-the-job training. In addition, Police Cadets are used in conjunction with these station officers in both functions. As funds are available, the program will be expanded to civilianize the entire jail and property functions except for a few police supervisors.

(c) *Parking Control and Traffic Direction*—There are presently 142 Parking Control Checkers and 81 civilian Traffic Control Officers in our Department. These employees receive a two-week course at the Police Academy which includes instruction on the operation of 3-wheeled motorcycles and parking and traffic laws.

(d) *Scientific Investigation*—Currently, 41 positions within the Scientific Investigation Division are civilians. These include Criminalists, Latent Fingerprint Experts and Photographers. The Criminalists are required to have a four-year college degree in chemistry, physics, or a related field. Latent Fingerprint Experts and Photographers must each have a high school diploma and prior full-time paid experience of two and three years respectively. All positions receive additional on-the-job training.

Plans are in the 1972–73 Budget to civilianize 47 of the remaining 58 police officers in this Division.

(5) Police Officer Recruits spend a total of 20 weeks in training before becoming a police officer.

The first 12 weeks are spent on classroom, physical, and firearms training. This includes comprehensive studies in law enforcement, criminal law, self-defense, physical conditioning, and the use of firearms and their safety.

The next four weeks are spent in various field duties. For two of these weeks, the recruit is assigned to a patrol division for on-the-job training. The remaining two weeks of this period are spent either assigned to a detective unit or security functions at the Police Academy.

The final four weeks (The Advance Phase) are again spent in intensive classroom training.

Our civilianization program has met with great success. It has not only increased the number of police officers on the street and the service to the community but has also increased the morale of the officer by taking him from behind a desk or other less police-oriented task and putting him in a position for which he was trained. I strongly encourage more programs of this type.

E. M. DAVIS,
Chief of Police.

DISTRICT OF COLUMBIA,
POLICE DEPARTMENT,
Washington, D.C., August 31, 1971.

Hon. BENJAMIN S. ROSENTHAL,
Congress of the United States, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN ROSENTHAL: I was very gratified to receive your letter of August 11, 1971, which revealed some insight into legislation you are drafting to provide grants-in-aid for the recruitment, training, and utilization of parapolice personnel. In my judgment, it would appear that your proposal offers substantial benefits to many agencies and would augment existing programs in our effort to contain and reduce crime.

Following are answers to the inquiries contained in your letter:

(1) List types of functions and responsibilities performed by this Department which do not relate directly to the prevention and control of felonious crime.

a. Traffic control.
b. Issuance of parking traffic violation notices.
c. Clerical duties.
d. Radio dispatching.
e. Statistical analysis.
f. Management analysis.
g. Radio-electronic repair.

(2) a. What is the total number of persons employed by the Police Department Budget?

	Actual	Authorized
1. Police officers	4,994	5,100
2. Civilian personnel	741	787
3. Police cadets	215	300
4. School crossing guards	192	225
Total (as of July 31, 1971)	6,142	6,412

b. How many of these employees, and what percentage of the total police budget, are available routinely for duties directly related to the prevention and control of felonious crime?

Of the total number of uniformed (sworn) personnel, approximately 3,806 are available routinely for duties directly related to the prevention and control of felonious crime. That number does not take into consideration members on day off, annual leave, sick leave, suspended status, etc.

It is estimated that 61% of the funds allocated for the prevention and detection of crime is expended for personnel whose duties are directly related to the prevention and control of felonious crime.

(3) a. Approximate the average number of total manhours spent on duty each week for all those employees who are routinely available for duties directly related to the prevention and control of felonious crime.

Approximately 128,886 manhours.

b. Of this number, state or approximate the average number of total manhours devoted to the performance of duties not directly and routinely related to the prevention and control of felonious crime.

This inquiry cannot be answered with any degree of accuracy. We are unable to ascertain the accumulative time lost by members in performing duties which include preparation of reports and other documents, attendance at various schools, and participation in conferences and meetings, in addition to time spent on such assignments as traffic control and school crossings.

(4) Describe, as to training and numbers, Department programs which approximate the "parapolice" concept.

Cadet Program: The authorized strength of the cadet corps is presently set at 300 positions and, as of July 31, 1971, there were 215 cadets on board.

After a cadet is sworn in, he is assigned to one of the organizational elements of the Department, where his instruction consists of on-the-job training. The cadet can be utilized in any assignment within the police department which does not involve a need for exercising the power of arrest or pose a significant danger to the individual. Types of assignments which the cadet could receive involve such duties as school crossings and traffic details, station house clerical duties, assisting in traffic accident investigation, bicycle registration, dog beat surveys, field aide to criminal investigators, parking violation enforcement, radio dispatching, abandoned auto impoundment and police service for rush-hour cranes.

In addition to the above training, cadets are required to attend classes at either the Washington Technical Institute or the American University during the fall and winter terms as long as they remain in cadet status. These courses are on preparatory school or college level and further the development of the individual for a more effective role as a police officer.

School Crossing Guard Program: The authorized strength for crossing guards is 225 and as of July 31, 1971, there were 192 on board.

Training of crossing guards consists of instruction in the following subject areas:

1. Crossing Guard Manual of the Metropolitan Police Department.
2. Traffic Regulations of the District of Columbia.
3. Community Relations.
4. Recognition and activities of sexual deviates in the vicinity of schools (lecture by member of MPD Sex Section).

The training course for crossing guards covers a period of two weeks, the first week of which is confined to classroom instruction, and the second week is utilized in giving the guards on-the-street experience in directing traffic.

(5) Describe briefly the type of training required for the regular policeman who is involved directly with the prevention and control of felonious crime.

New recruits are required to satisfactorily complete an eighteen-week training course at the Department's new Police Academy and Training School which is equipped with an indoor swimming pool, pistol range, and gymnasium, in addition to the classrooms and administrative offices.

The recruit receives instruction in the subjects listed below:

1. Manual of the Metropolitan Police Department.
2. District of Columbia Code.
3. District of Columbia Traffic Regulations.
4. District of Columbia Police Regulations.
5. Rules of Evidence.
6. First Aid.
7. Driver training (scout car).
8. Physical fitness, including techniques of life saving (swimming) and self-defense tactics.
9. Community relations, including a course on the "Emerging Role of the Professional Police Officer in Contemporary Society."
10. Use of the service revolver.

In addition, the new officer is detailed for a period of time to one of the patrol districts where he receives on-the-job training and orientation for his eventual assignment as a graduate police officer.

The training outlined above is augmented by periodic in-service training schools and by one-hour each week training sessions.

I am hopeful that the foregoing information meets your needs and proves to be of value in the formulation of the legislation you are considering. If you find that you need additional information please let me know how I can be of assistance.

Thank you for your interest and support of law enforcement matters.

Sincerely yours,

JERRY V. WILSON,
Chief of Police.

METROPOLITAN POLICE DEPARTMENT,
St. Louis, Mo., August 20, 1971.

Hon. BENJAMIN S. ROSENTHAL,
Member of Congress,
Rayburn Building,
Washington, D.C.

DEAR SIR: In reply to your request for information regarding the possible utilization of "Parapolice" personnel, the following data is submitted for your intent and purposes.

1. The following list, although not all inclusive, illustrates functions and responsibilities performed by our Department which do not relate directly to the prevention and control of felonious crime:

a. Emergency ambulance runs for victims of accidents and crime related incidents.

b. Administration and control of towed vehicles (including derelict and abandoned autos).

c. General traffic control in the downtown business district.

d. Police service to state and local offices.

e. License application investigation for various business, (e.g., liquor establishments, bath house employees, etc.).

f. Security of prisoners at hospitals.

g. Sanitation complaints (e.g., rubbish, weeds, etc.).

2. a. We have 2,809 persons employed by our Department, all of whom are paid from the Department's budget. This total includes 577 civilian employees.

b. Our present commissioned strength of 2,227 police officers, are routinely available for duties directly related to the prevention and control of crime. (Copies entitled *"Present Commissioned Strength of Department-Authorized District Commissioned Positions"* are furnished for your study.) Approximately 57% of the total budget is used in salaries for these officers.

3. a. Our Department employees, both civilian and commissioned, are working a scheduled forty (40) hour week.

b. Statistics are not available at this time to enable us to answer this complex question. However, this Department realizing the need for efficient utilization of manpower, conducted an experiment under the office of Law Enforcement Grant #39, July 1966, and a copy of the final report entitled *"Allocation of Patrol Manpower Resources in the Saint Louis Police Department"* is enclosed for your reference. Since that time this program serves as our basic patrol plan. This report gives a comprehensive insight into the number and type of calls for service processed by this Department.

4. The following is a list of programs that have been implemented by our Department, which seem to approximate your "Parapolice" concept.

a. Police Cadet Program. At present we have fifty-three (53) cadets in the program.

b. Citizens Police Reserve Program. We have eighty-six (86) currently enrolled in this program.

c. Complaint Evaluation Program. Nineteen (19) officers are assigned to this unit. (Copy of Manual enclosed)

d. St. Louis Detoxification and Diagnostic Evaluation Center. Administrated and staffed by the Missouri Division of Mental Diseases.

e. Meter Maid Program. This program is administrated and staffed by the City of St. Louis Treasurer's Office.

Find enclosed literature describing the functions and training of each of the aforementioned Programs.

5. An enclosed copy entitled *"Greater St. Louis Police Academy—Basic Police Training Program"* describes the training required by our officers. Since the described programs, implemented by the Board of Police Commissioners of the City of St. Louis parallels your thinking in this matter, we would certainly endorse the concept that you propose to introduce as legislation in Congress.

I hope that this material will be beneficial to your study, and if I can be of any further assistance please do not hesitate to contact this Department.

Very truly yours,

ROBERT W. MATTESON,
Lieutenant Colonel,
Acting Chief of Police.

THE CITY OF SEATTLE,
DEPARTMENT OF POLICE,
Seattle, Wash., August 24, 1971.

Hon. BENJAMIN S. ROSENTHAL,
House of Representatives,
Washington, D.C.

DEAR MR. ROSENTHAL: The answers to your questions about the Seattle Police Department are as follows:

1. Functions and responsibilities performed by Seattle Police Officers which do not relate directly to the prevention and control of felonious crime within the community. *Security Unit*—aids business by suggesting anti-crime procedures, dance hall supervision, juvenile services—runaway cases, traffic safety education, traffic warrant service, accident investigation, parking enforcement, public information, human relations, program development, industrial relations, recovery and followup on found bicycles, gun licenses.

Functions and responsibilities performed by Seattle Police Officers within the Department: Internal investigations of complaints against police officers; administrative assistants to the Chief and Assistant Chiefs; Police Academy and in-service training; Inspections—(include staff inspections, procedure evaluations, safety inspections); recruiting, police examinations; research and development of new procedures and equipment; supervision of the city jail; police radio dispatchers; supervision of data processing; Crime Lab photographers, polygraph examiners and document examiner; supervision of Information Division; supervision of Court Unit.

2a. Total number of persons employed by the Seattle Police Department and paid out of the budget:

1,528 (actual)
1,597 (authorized)
Source—1970 Statistical Report

b. 65.74% (approximate) of the total police budget was used in 1970 for the direct prevention and control of felonious crime. The total operating budget for 1970 was $18,260,405.

Source: 1970 Statistical Report and 1970 Budget Appropriations

3a. 917 employees are available routinely for duties directly related to the prevention and control of felonious crime:

537 Officers in Patrol Division
95 Officers in Special Patrol Operations
81 Officers in Traffic Division
214 Detectives

b. Patrol Division (537 men) expends 8,117 manhours (approximately) weekly on the prevention and control of felonious crime.

4. The Seattle Police Department does not have a parapolice program as such. However, Seattle does have a police cadet program. Cadets, age 18–21, wear special uniforms, are non-sworn, and are rotated throughout the Department performing various administrative paperwork jobs. When cadets reach age 21, they compete in the Police Officer Civil Service Exam. There are 31 Police Cadets at present.

Seattle has meter-maids who work for the City Treasurer's office and who write overtime parking tickets. They may not impound cars and have no police power.

The Seattle Police Department has 278 civilian personnel working a wide range of job titles, such as accountant, clerk, criminalist, warehouseman.

The Seattle Police Department has two new programs that approach the parapolice concept. The College Summer Officer and the Community Service Officer. The College Summer Officers, twenty in number, are non-sworn personnel employed for twelve weeks and intended as full-time replacements for vacationing patrol officers. These college students were hired to ride as the second man in 2-man patrol cars.

The Community Service Officers are non-sworn personnel who wear blazers with a special patch. They are assigned to patrol a specific area of the city to look for hazards, check on sick persons, secure premises, etc. 45 Community Service Officers are programmed. As yet, none have been hired.

In addition, the Seattle Police Department has Custody Officers in the Jail, Dispatchers and emergency phone answerers in the Communications Division, all employed in non-sworn status.

To summarize, many tasks not related *directly* to the control of felonious crime are best performed by either sworn personnel (experienced), or, in some cases, by a 50–50 mix of sworn and civilian specialists. We have attempted to examine these supporting tasks on a function-by-function basis to determine the necessary qualifications and background.

5. Seattle Police Officers are required to attend the Police Academy for twenty-one weeks. Some college credit is given. The classes are organized as follows:

	Hours
(1) Administration	96
(2) Basic Skills	355
(3) Community Relations	112
(4) Law	59
(5) Outside Agencies	40
(6) Practical Application	178
Total	840

For a further breakdown of class subjects, see the enclosure on the Seattle Police Academy for Class #67.

Also enclosed are copies of the Seattle Police Department's 1970 Statistical Report and 1970 Annual Report.

Very truly yours,

GEORGE P. TIELSCH,
Chief of Police.
Captain C. R. CONNERY,
Research and Development Division.

THE HEALTH MAINTENANCE ORGANIZATION ACT OF 1971

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. ROY), is recognized for 20 minutes.

Mr. ROY. Mr. Speaker, today I join with seven of my distinguished colleagues from the Interstate and Foreign Commerce Subcommittee on Public Health and Environment, Mr. ROGERS, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SYMINGTON, Mr. NELSEN, Mr. CARTER, and Mr. HASTINGS, in introducing the Health Maintenance Organization Act of 1971. This is a major proposal, as it will effect significant changes in our third-largest industry. It has important implications for every American. In such instance, it deserves close scrutiny and careful consideration—by our subcommittee to which it will be referred, by this entire House, by those associated with the health care industry, and by the American people.

My colleagues and I, of course, are eager for this scrutiny and consideration and plan to participate fully in it. For only with the active participation of everyone involved and affected, will the legislation, as it finally emerges, be of the high quality necessary to solve the complex problems to which it is addressed.

It is in anticipation of such consideration, then, that I make the following remarks, well aware that they serve not as a summary or conclusion but as a preface.

This Nation is today faced with problems of major proportions in its health care industry. This is the central theme of all that I will say this afternoon, and it must be the basic background for consideration of the Health Maintenance Organization Act. But for these urgent problems, we might act differently or not at all, we might deliberate more slowly or not at all, we might even choose to address different problems or different questions. But the problems are both major and urgent. To set the stage for an explanation of what an HMO is and what benefits are to be derived from the establishment of HMO's, I would like to begin by describing these problems.

Basically there are three problems which together define this crisis. The three elements are to an extent interrelated, but for the purposes of this analysis, I should like to discuss them separately. The three basic problems, then, are: First, the shortage and inappropriate nature of health care services; second, the escalating costs of health care services; and third, the variable quality of health care services.

THE SHORTAGE AND INAPPROPRIATE NATURE OF HEALTH CARE SERVICES

This problem focuses on the inability of American people to receive care where they need it, when they need it, and how they need it. This problem can best be discussed if subdivided into three distinguishable, subareas: First, availability; second, accessibility; and third, continuity.

(a) Availability. The problem of availability of health care is essentially one of manpower and facilities. In its simplest terms, it means that there are men, women and children for whom doctors and nurses, clinics and hospitals, simply do not exist. This problem is best described, given the present delivery system, in terms of doctor to population ratios. The national average physician to population ratio is 150 to 100,000. This is the number once cited by a Surgeon General as that necessary to protect the health of the people. But in many areas of our Nation, mostly in inner-city and rural areas, there are far fewer than 150 physicians per 100,000 people. In the Kenwood area of Chicago, for example, there are five physicians per 100,000 people. And in the South Bronx in New York City, in East Los Angeles, and in central St. Louis, the ratios are less than 50 to 100,000. In the rural areas similar situations prevail. In all of Kansas there are only 108 physicians per 100,000 population. In one five-county area, this decreases to less than 45 to 100,000. In Mississippi the figures are 88 to 100,000, with certain areas decreasing to less than 20 to 100,000. The facts are then quite clear—health care is simply not available to many Americans

(b) Accessibility. The problem of accessibility is one step beyond that of availability. Health care may be available, that is the doctors, nurses, clinics, and hospitals may exist, but they be so poorly located and managed that those that need the services are unable to receive them. Such factors as the lack of public transit systems, the threat to personal security, language barriers, and inconvenient hours of operation, all impinge on accessibility of health care. These factors may, in fact, make care that is theoretically available, in reality, in real human terms, unaccessible to those who need it most.

(c) Continuity. The problem of continuity of health care is yet one more step beyond that of accessibility. Care may be available and accessible, but over a period of time, discontinuous. This means that the single patient may not be treated as a single person with a continuing or variety of health problems, but may become in the eye of the provider, and even himself, not a single patient, but a mere multiplicity of health problems, each one unrelated to any previous or simultaneous other. The implications for this for the individual patient are enormous. The health care system may become a maze—a maze without meaning—one filled only with different people, institutions, and facilities, too often indifferent to the real personality, the real humanness of the patient.

The question must, then, be why. Why does our health care system have problems with availability, accessibility, and continuity? The answer must be one of responsibility—for no one, no group, no agency, no individual in our society today is responsible for assuring that health care is delivered to our people. No one is responsible for securing doctors for our rural and inner-city populations. No one is responsible for assuring that services—doctors, nurses, clinics and hospitals—are located, operated, and supported by other social services in such a manner that all of those that need health care can receive it. And too often no one is responsible for assuring that the individual patient is approached and managed as an individual person, with a history and a personality, not merely a discontinuous, unrelated number of physical problems.

THE ESCALATING COSTS OF HEALTH CARE SERVICES

Over the past two decades, the cost of health care has increased dramatically. Health spending today totals $67.2 billion, five times the spending of 20 years ago. As a percentage of gross national product, health costs have increased from 4.6 percent in 1950, to 7 percent of the GNP in 1970. This increased aggregate expense means, of course, increased expenses for the individual. In 1950, the average personal health bill was $79; in 1970, this had risen to $324. This growth represents an average increase of 7.3 percent per year. During this same period, the average increase in wage levels was

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only 4.3 percent per year. The cost to the Federal Government for the provision of health care has also greatly increased during this period. The cost, for instance, of hospital insurance for medicare beneficiaries, for fiscal year 1971 increased from a 1965 estimate of $2.9 billion, to an actual $5.5 billion. The hospital insurance trust fund for medicare now has an estimated 25-year deficit of $242 billion. The cost of care to medicaid beneficiaries has increased from $1.3 billion in 1965 to $6.8 billion in 1972.

Rapidly increasing prices for health care must result from certain factors. Basically, two factors seem most responsible. The first, and most important, is the limited supply in the current health care system which has recently been confronted by expanding financing mechanisms. Indeed, of the total increase in health care costs, $47.5 billion, over 47 percent, is attributable to an increase in prices, with only 17 percent a result of population growth, and 36 percent due to increased use of health services and the introduction of new medical techniques. That is a result of the fact that when the dollars to purchase health care exceed the services available for purchase, the price of services may, as predicted by classic market theory, serve to some extent, to ratio the delivery of those services in favor of those with greater financial resources. This is a model inflationary situation, and in the future can be expected to continue, unless the supply is increased, or the financing of care is decreased. Since the demand for Federal financing—fueled by the recent inflation—will increase rather than decrease in the foreseeable future—the question of increased resources must prevail. This, then, leads to the second factor in the increased price of health care; that is, the uncontrolled, disorganized nature of the current health financing mechanism. The system is uncontrolled in that the major purchasers of health care—the third-party indemnity insurance plans and the Federal Government—have traditionally paid for services without exercising any cost review or control. They have simply been a pass-through mechanism, taking dollars from a first source, the consumer—providing them to a second source, the provider—with only minimal involvement on the part of the so-called third party. The system is unorganized in that there is no basis for the rational distribution or use of scarce and expensive manpower and facilities. In such instances, services and facilities are duplicated, are used inefficiently in that more expensive individuals and facilities are often used when less expensive ones would be sufficient, and the introduction of new management and cost saving techniques have been delayed.

The question must again be why. Why has the health care system witnessed an increase in a cost of care? Why does the health care system remain inflationary and inefficient? The answer must be incentives. There is not an individual, or group, or corporation, or governmental agency in our society that is responsible for controlling health care costs. Instead, the more services a provider's patient uses, the more it is paid. And those who pay, primarily third-party indemnity insurance, the more they pay, the more they charge their customers. Without incentives, the system remains inflationary and inefficient.

THE PROBLEM WITH QUALITY CARE

There can be no doubt that the quality of health care delivered in the United States today varies widely. It is incontestable that, at best, our medical care system provides the highest quality of care in the world. Most of our community physicians and hospitals provide care of high quality. But some physicians and facilities provide care of less than optimal quality. Peer review studies and medical audits have indicated serious deficiencies in quality of care in some instances and areas.

Again, the question is why. Why does the quality vary, why does the incidence of a variety of treatments vary? The answer must be that the care system in the United States is not structured to assure quality. Specifically, two elements are involved. The first is quality assessment. Quality assessment is a process through which medical care is measured. But in most areas of the United States there is no locus for the assessment of either health care process or outcomes. While peer review of process has been established in some areas, notably California, it is too often minimal or absent altogether. Review of outcomes of health care, that is the effect of the health care process on the health of the consumers, is virtually lacking altogether. As a result of the lack of quality assessment, both of process and outcomes, there is little knowledge of the quality of care provided on the part of either an individual or group of health providers.

This implies the second feature of quality assurance, quality achievement. That is, the process by which shortcomings measured in the quality assessment process are rectified by such means as continuing education, administrative, or manpower changes. It is evident that if assessment without achievement is futile, achievement without assessment is impossible. Therefore, the minimal to absence of quality assessment has major implications for quality achievement.

In sum, the health care provided to Americans is of varying quality. This variance in quality is due to the lack of commitment to quality assurance procedures.

Mr. Speaker, if these are the problems with the health care system, how does the Health Maintenance Organization Act propose to solve them? At this time I should like to discuss this legislation in terms of the three problem areas presented above.

THE SHORTAGE AND INAPPROPRIATE NATURE OF HEALTH CARE SERVICES

The problem of the shortage and inappropriate nature of health care is the single problem most explicitly addressed by an HMO. This is because an HMO is a health delivery system. That is, an HMO, in addition to accepting payment for health care, assumes responsibility for actually providing health care services to its members. This is the major difference between an HMO and traditional indemnity health insurance such as Blue Cross/Blue Shield and Aetna. Indemnity insurance pays for health care if it can be found; an HMO provides the services itself. Since it controls the delivery mechanism itself, an HMO, unlike indemnity insurance, is in a position to guarantee the availability, accessibility, and continuity of care.

An HMO deals explicitly with the problems of availability, accessibility, and continuity of care. Availability: since an HMO is a health delivery organization, it can assure the availability of care above all. That is, it can insure that adequate numbers of doctors and outpatient and inpatient facilities are available to provide care to its members. The management of an HMO must place primary importance on planning and insuring the availability of care, since without care, an HMO cannot operate. The availability of care is the sine qua non of an HMO. Accessibility: an HMO, because it has both a defined membership and control over provision of care, can be concerned with the problem of accessibility of care. The HMO can study utilization patterns, and survey its members to determine what deficiencies exist and what changes in services or conveniences are necessary to insure easy accessibility of the health care to all of its members. Continuity: the problem of continuity of care can be addressed by an HMO because of the defined interrelationships between providers and agencies in the HMO system. This means that active responsibility can be assumed for insuring that all the various parts which make up the rational health system focus on the patient, and treat each patient as human, not as a disease manifestation.

The legislation which has been introduced today deals with the problem of the shortage and inappropriate nature of health care by insuring that the HMO is both responsible and accountable for the availability, accessibility and continuity of care. A variety of legislative techniques are used.

An initial requirement is that an HMO deliver comprehensive services, including at a minimum physicians' services, including consultant and referral services; inpatient and outpatient hospital services; extended care facility services; home health services; diagnostic laboratory and diagnostic and therapeutic radiologic services; rehabilitation services, including physical therapy; preventive health services; emergency health services; out-of-area emergency health services; and such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance, and support of human health. This requirement means that virtually all, not just some, health care services that a patient may need will be available and accessible.

The second requirement is that an HMO must be responsible for the delivery of care. An HMO must "demonstrate to the satisfaction of the Secretary, proof of ability to assure that comprehensive health care services are available and accessible to all its members promptly and appropriately." This means that an HMO must, as a major condition of its formation and existence, be concerned about how, where, and when its members will receive care.

A third requirement is that an HMO must provide services as appropriate 24 hours a day, 7 days a week. While this does not mean that an HMO must provide all services at all hours, it does mean that an HMO must confront the problem of accessibility directly. It must provide services in a manner convenient to its members.

The legislation finally requires that care be provided "in a manner which assures continuity." Thus, the HMO is further required to be actively concerned that the care its members receive is continuous—this means the HMO, not the patient, is responsible for ordering for every patient the maze that various physicians, laboratories, and institutions represent to the patient. In many instances, this requirement of continuity of care will mean that a "managing or personal physician"—one responsible for ordering, following, and explaining the patient's progress through the various health delivery entities—will be chosen by each member.

The language of the bill thus requires that an HMO be responsible for making health services available and accessible to its members.

But, mandating responsibility is not adequate to assure that services will actually be available, accessible, and have continuity. For an HMO may find it inconvenient or difficult to provide care that is available, accessible and continuous, and Federal surveillance of these provisions may be less than perfect. For this reason, two provisions of the bill require that an HMO be accountable to its members.

The first provision states that the HMO must be "organized in accordance with the regulations of the Secretary in such a manner that assures its members a meaningful role in the making of policy for the health maintenance organization." This statement means that, without prescribing any single model, members are to be involved in the decisionmaking process of the HMO. This requirement is especially relevant to questions of availability, accessibility, and continuity, for while consumers may not have the background and sophistication to address problems of quality of care, which should and must, therefore, be left primarily to professionals, they can certainly consider and insist upon availability, accessibility, and continuity of care. These factors are, after all, problems that confront consumers, not providers.

The second manner in which the HMO is required to be accountable is that it must develop data on "the availability, accessibility, and acceptability of its services." Further, once this data is developed, it "shall be disclosed to its members and to the general public at least annually." Here the basic analysis is that information, especially information in the public sector, demands response. If the HMO knows, as a result of a membership survey or other data generating techniques, that it is not meeting members' expectations with respect to availability, accessibility, and continuity of care, and is further aware that consumers occupying the "meaningful role" in the decisionmaking process have this information, it may be anticipated that appropriate adjustments will be made.

In summary, then, an HMO described by this act must be both responsible and accountable for making comprehensive health services available, accessibly, and continuous.

THE ESCALATING COSTS OF HEALTH CARE SERVICES

In dealing with the problem of rapidly escalating costs, the HMO derives a basic advantage from its structure as a defined and limited financial system. That means that the HMO has a limited membership who pay predetermined sums of money to a specific provider group who are obligated to deliver a specified set of comprehensive health services. The defined nature of this system thus allows careful cost analysis of all income and expenditures of the HMO. This occurs because, first, the income for the HMO is fixed, more dollars cannot be generated after the members' premiums or "dues" are set; and second, the source of expenses are identified and controlled. Thus, fixed income provides an HMO with the incentive to limit its expenses, and identifiable and controllable outgo allow the HMO to analyze its operation and implement all possible economies and efficiencies. For these two reasons, then, HMO's have a solid record for economies of many kinds—managerial, integrational, scalar, motivational—and for implementing efficiencies in such areas as duplication of facilities, inappropriate use of highly trained and expensive physicians, and implementation of new cost-saving technologies.

The bill we have introduced today deals with the cost problem by requiring an HMO to "assume full financial risk on a prospective basis with provisions of the comprehensive health services, except for first, catastrophic health services, and second, out-of-area emergency services." This means that the HMO will be a closed financial system for over 90 percent of the services provided to its members. In this case, the HMO will be required to have control over its own financial arrangements, and will not be, as third-party insurance so often is, at the financial mercy of other individuals and institutions to determine its costs.

Two further legislative provisions are important. First, an HMO must keep accurate records of its costs and make full disclosure to the Secretary and its members at least annually. Again, as with the problem of availability, accessibility and continuity, this accountability should serve as an influence to keep the HMO functioning at optimal efficiency, since the disclosure of abnormal or excessive operating costs should prompt those members in meaningful roles to ask penetrating questions concerning the fiscal operation of the HMO.

Second, the HMO must be able to demonstrate financial responsibility through proof of adequate provision against the risk of insolvency. In many instances today, HMO's have been forced to demonstrate financial responsibility and capital reserves of the same extent and manner as indemnity-type insurance corporations. This is, of course, unfair and unnecessary. However, an HMO should be able to demonstrate in a manner appropriate to an operating organization that the members can be assured of continued operation and actual availability of services during the period of time covered by premiums.

A final comment is warranted with reference to the inflationary status of the health care industry today. While a single HMO may contribute only marginally to the alleviation of inflation in this industry, a national HMO strategy may well serve this purpose extremely well. This is because the more efficient use of health services by hundreds of HMO's would, in effect, increase the total health care resources of this country. If this country were then to have effective additional resources, additional financing might well be absorbed and result, as desired, in the additional appropriate delivery of services rather, than has been the sad experience to date, merely in the delivery of the same amounts of services at a higher cost.

THE PROBLEM WITH QUALITY OF CARE

The problem with quality of health care is a difficult one. In the current health care system, there are, short of malpractice suits, virtually no quality regulation or monitoring devices. With respect to an HMO, this void is not acceptable for two reasons. First, it is, no longer acceptable in the general medical community; it now appears likely that a nationwide quality monitoring system will be mandated with the establishment of professional standard review organizations as an aspect of title XVIII reimbursement. Second, an HMO, with its fixed budget, has an incentive for underutilization of services. That is, since the number of dollars in the system are fixed, the provider group stands in a position to receive bonus dollars at the end of the year if services are not rendered. In most instances it is anticipated that the services not rendered are of an unnecessary nature. However, this tendency may be projected along a continum to underutilization of so-called "necessary" services. This tendency, therefore, must be checked by organizational arrangements to assure that all appropriate necessary care is in fact delivered to its members.

As previously discussed, there are two ways to assure quality of care. These are quality assessment and quality achievement. Further, there are two ways to assess quality of care. The first is to monitor outcomes and the second is to monitor process. The current state of the art in outcomes review is such that it is only minimally possible to measure outcomes, that is, the real effect of the health service system on the health of its members. In this case, outcomes monitoring, while desirable, is impossible to mandate. Process monitoring, then, becomes the most reliable quality standard that we have; that is, the evaluation by

physicians of the activities, treatments, and diagnoses made by their colleagues. The HMO is in a position to actively and constantly assess the quality of care provided. This occurs because the HMO is a closed system. It can thus define and study the health of its members and has available and can review the records of treatment received by its members. It can thus do both process and outcomes monitoring of a high standard.

An HMO is also in a position to achieve quality of care, for it has a defined, control provider group. It can therefore identify deficiencies in care, modalities, and implement improvements. Again, the defined nature of an HMO is important.

The legislation introduced today deals with the problem of quality assurance in three ways. First, it requires an HMO to have organizational arrangements for an ongoing quality assurance program which stresses health services process and outcomes. The importance of the phrase "organizational arrangements" is that an HMO must have a locus of concern about quality. That is, it must have a person or group, an office or committee, whose concern it is to watch the remainder of the organization and insure that all care provided is of high quality. It is anticipated that this arrangement will, at the current time, deal mostly with process review, by so-called peer review. But these "organizational arrangements" are to be flexible and at such time as more sophisticated outcomes monitoring techniques are perfected, it is anticipated that those responsible for quality assurance in an HMO will advocate that the HMO develop newer, more sophisticated outcome techniques.

The second manner in which the legislation deals with quality is with respect to quality achievement. For the definition of a group requires an HMO to arrange for and encourage the continuing education of its members in the field of clinical medicine and related areas. Thus deficiencies detected in quality assessment can be remedied through education. This is quality achievement.

The third way in which this legislation assures that an HMO will provide high quality of care is contained in the disclosure provisions. For although members' input is appropriately minimal in this area, the HMO will, in fact, be required to develop and publish information about patterns of utilization and the effects of its services on the health of its members. Again, one anticipates that if the data so generated in any HMO are excessively negatively deviant from those gathered by other HMO's, the members in "meaningful roles" in the decision-making process, will ask appropriate questions.

In sum, then, an HMO will provide quality of care because it is an organized closed system with organizational arrangements concerned with assessment of and achievement of quality of care.

In conclusion, let me say that my colleagues and I realize that this legislation which we have introduced today is not a panacea for all the problems which beset our health system today, for that system is intricate, and its problems are complex. The resolution of the health crisis will require major improvement in many areas: First, manpower; second, facilities; third, biomedical knowledge; fourth, financing; and fifth, organization.

Let me say, however, that this proposal is important, and may, in fact, even be the sine qua non of the resolution of the health crisis. For without a reorganization of our health care delivery system, manpower will continue to be maldistributed and inappropriately employed, facilities will remain poorly located and inefficiently managed, knowledge will fail to affect those who need it most, and additional financing will be inflationary.

Mr. Speaker, the bill and a section-by section analysis follows:

H.R. 11728

A bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Health Maintenance Organization Act of 1971".

SEC. 2. (a) The Congress finds that—

(1) there is a serious insufficiency and maldistribution of health care resources which has resulted in limited access to health care in rural areas and certain residential areas within cities;

(2) the present health care system is not organized in a manner which encourages the efficient and economical provision of health care;

(3) the present health care system is oriented toward providing care to those manifesting disease, rather than toward providing preventive services and maintaining good health;

(4) the establishment of health maintenance organizations will aid in alleviating the maldistribution of health care resources, in providing health care in an efficient and economical manner, and in reorienting the health system toward preventive services; and

(5) there is a need to provide technical assistance and resources to individuals and groups, including health professions schools, undertaking the planning, development, and initial operation of health maintenance organizations.

(b) The purpose of this Act is to assist in improving the system for the delivery of health care through encouragement of and support for the planning, development, and initial operation of health maintenance organizations, particularly with the intent of improving the health of populations in medically underserved areas.

SEC. 3. The Public Health Service Act is amended by inserting after title X the following new title:

"TITLE XI—HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"SEC. 1101. For purposes of this title:

"(1) The term 'health maintenance organization' means a public or nonprofit private entity which—

"(A) provides, as a minimum for all its members, comprehensive health services, directly or indirectly, through a medical group or groups and other health delivery entities, for a payment which (i) is to be paid on a periodic basis without regard to the dates health services (within the comprehensive health services) are provided; (ii) is fixed without regard to the extent or kind of health service (within the comprehensive health services) actually furnished; (iii) is uniform for all its members, except for persons entitled to benefits under titles XVIII and XIX of the Social Security Act, and such other variations as the Secretary may by regulation authorize; and (iv) may be supplemented by such additional nominal payments which may be required for the provision of specific services (within the comprehensive health services) and which are to be fixed in accordance with the regulations of the Secretary;

"(B) may provide services in addition to the comprehensive health services for payments fixed in accordance with regulations of the Secretary;

"(C) demonstrates to the satisfaction of the Secretary proof of ability to assure that comprehensive health services are available and accessible to all its members promptly and appropriately, and in a manner which assures continuity;

"(D) demonstrates to the satisfaction of of the Secretary financial responsibility through proof of adequate provision against the risk of insolvency;

"(E) is organized in such a manner (as prescribed by regulations of the Secretary) that assures its members a meaningful role in the making of policy for the health maintenance organization, and provides meaningful procedures for hearing and resolving grievances (i) between its members and the health maintenance organization (including the medical group or groups and other health delivery entities providing health services) and (ii) between the medical group or groups providing health services and other employees and the health maintenance organization;

"(F) encourages and actively provides for its members (i) health education services, and (ii) education in the appropriate use of health services;

"(G) has organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program which stresses both health services processes and outcomes; and assures that health services provided meet quality standards established in accordance with regulations of the Secretary;

"(H) provides in accordance with regulations of the Secretary an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, data (which the Secretary shall publish and disseminate on a periodic basis) relating to (i) the cost of its operations, (ii) the patterns of utilization of its services, (iii) the availability, accessibility, and acceptability of its services, (iv) the effects of its services on the health of its members, and (v) such other matters as the Secretary may require, and discloses, at least annually and in a manner acceptable to the Secretary, such data to its members and to the general public;

"(I) assumes full financial risk on a prospective basis for the provision of the comprehensive health services, except for (i) catastrophic health services, and (ii) out-of-area emergency services;

"(J) has an open enrollment period (of not less than thirty days) at least every year during which it accepts, up to the limits of its capacity and without restrictions, except as may be authorized by regulations of the Secretary, individuals in the order in which they apply for enrollment (unless to do so would result in failure to meet any requirement pertaining to the number of characteristics of its enrollees imposed under the Social Security Act as a condition of eligibility for payments under title XVIII of such Act);

"(K) provides, in accordance with regulations of the Secretary, health care services to its members twenty-four hours a day, seven days a week, as may be appropriate;

"(L) to the extent practicable, and in accordance with regulations which the Secretary shall prescribe, provides emergency health services to individuals residing within the area served by the entity; and

"(M) meets such other criteria for its organization and operations as the Secretary may by regulation prescribe.

"(2) The term 'comprehensive health services' means (A) physician services (including consultant and referral services); (B) inpatient and outpatient hospital services; (C) extended care facility services; (D) home health services; (E) diagnostic laboratory and diagnostic and therapeutic radiologic services; (F) rehabilitation services (including physical therapy); (G) preventive health services; (H) emergency health services; (I) out-of-area emergency health services; and (J) such other personal health services as the Secretary may determine are necessary to insure the protection, maintenance, and support of human health.

"(3) The term 'medical group' means a partnership or other association or group of persons who are licensed to practice medicine, osteopathy, or dentistry in a State and who (except for exceptions that the Secretary may allow in the initial three years of operation) (A) as their principal professional activity and as a group responsibility, engage in the coordinated practice of their profession; (B) pool their income from practice as members of the group and distribute it among themselves according to a prearranged plan, or enter into an employment arrangement with a health maintenance organization for the provision of their services; (C) share medical and other records, and substantial portions of major equipment and professional, technical, and administrative staff; (D) utilize within the group such additional professional, allied health professional, and other health personnel (as specified in the regulations of the Secretary) as are needed to provide comprehensive health services; and (E) arrange for and encourage the continuing education of their members in the field of clinical medicine and related areas.

"(4) The term 'member' when used in connection with a health maintenance organization means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision of comprehensive health services and additional health services to such individual, as defined by the regulations of the Secretary.

"(5) The term 'medically underserved area' means an urban or rural area or population group designated by the Secretary as an area or population group with a shortage of personal health services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each State comprehensive health planning agency designated pursuant to section 314(a) of this Act, covering (in whole or in part) such area, and (B) each area-wide comprehensive health planning agency designated pursuant to section 314(b) of this Act, covering (in whole or in part) such area.

"(6) The terms 'construction' and 'cost of construction' include (A) the construction of new buildings, and the acquisition, expansion, remodeling, replacement, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land (except in the case of acquisition of an existing building), and (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"(7) The term 'catastrophic health services' means those comprehensive health services delivered to a member within any twelve month period after that member has previously received, during the same twelve month period, comprehensive health services valued at $5,000.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1102. (a) The Secretary may make grants, subject to the general provisions of this title, to public or private nonprofit entities, to assist in projects for planning or studying the feasibility of developing or expanding health maintenance organizations. No project may receive more than $250,000 in grants under this section. Funds awarded under such grants shall be available for expenditure by the grantee for such period (not to exceed one year from the date of award) designated by the Secretary. In exceptional circumstances, the Secretary may, with the concurrence of the National Advisory Council on Health Maintenance Organizations, award a second grant under this section for one project.

"(b) The Secretary, in making grants under this section, shall give priority to those entities which demonstrate that assistance and consultation in the planning or feasibility study will be provided by individuals and organizations with previous experience and expertise in the health maintenance organization field.

"(c) In making grants under this section, the Secretary shall insure that the grantees shall, in the aggregate, be reasonably expected to enroll at least 40 per centum of their total anticipated members from medically underserved areas, irrespective of the number of members from a medically underserved area anticipated by any single entity.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1103. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit entity to assist it in meeting the costs involved in a project for the initial development or expansion (prior to its first day of operation) of a health maintenance organization. No project may receive more than $1,000,000 in grants under this section. In exceptional circumstances, however, the Secretary may, with the concurrence of the National Advisory Council on Health Maintenance Organizations, award a second grant under this section for one project.

"(b) In making grants under this section, the Secretary shall insure that the grantees shall, in the aggregate, be reasonably expected to enroll at least 40 per centum of their total anticipated members from medically underserved areas, irrespective of the number of members from a medically underserved area anticipated by any single entity.

"(c) Sums awarded under such grant shall be available for expenditure by the grantee for not more than two years, and shall be utilized for such purposes as may be prescribed in regulations of the Secretary, including (but not limited to) (1) implementation of an enrollment campaign; (2) detailed design of and arrangements for the health services to be provided; (3) development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures and the development of a capital financing program; (4) recruitment of personnel and the conduct of personnel training activities; and (5) payment of architects' and engineers' fees.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"CONSTRUCTION GRANTS

"SEC. 1104. (a) The Secretary may make grants, subject to the general provisions of this title, to assist any health maintenance organization, or entity intending to become a health maintenance organization, in meeting the cost of construction of facilities for ambulatory services, or portions of facilities for ambulatory services, to be used by it for the provision of health services to its members who reside in medically underserved areas. The Secretary shall give special consideration to applications for grants for the acquisition or renovation of existing facilities. No grant under this section for any project may exceed 75 per centum of the cost of construction (as determined by the Secretary) of such project. No project may receive more than $2,500,000 in grants under this section. In exceptional circumstances, however, the Secretary may, with the concurrence of the National Advisory Council on Health Maintenance Organizations, award a second grant under this section for one project.

"(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"GRANTS FOR INITIAL COSTS OF OPERATION

"SEC. 1105. (a) The Secretary may make grants, subject to the general provisions of this title, to health maintenance organizations to assist them in meeting, for the period prescribed in subsection, (b), a portion of that portion of its initial operating costs (determined under regulations of the Secretary) incurred as a result of its operation in, or expansion into, a medically underserved area.

"(b) Grants under this section for initial costs of operation in a medically underserved area may be made only for the period beginning with the first day of the first month for which such grant is made and ending with the close of three years after such first day; and such grant with respect to any project may not exceed $750,000 or 60 per centum of such costs of operation, whichever is lesser, for the first year after such first day; $500,000 or 40 per centum of such costs, whichever is lesser, for the second year after such first day; and $250,000 or 20 per centum of such costs for the third year after such first day. In exceptional circumstances, however, the Secretary may, with the concurrence of the National Advisory Council on Health Mainteance Organizations, award additional grants to any project under this section, up to a total of $1,000,000 in any year, or a total of $2,500,000 for the three years.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"CONSTRUCTION LOANS

"SEC. 1106. (a) The Secretary may make loans, subject to the general provisions of this title, to any health maintenance organization, or any entity intending to become a health maintenance organization, to assist it in meeting the cost of construction of facilities for ambulatory services for the provision of health services to its members. The Secretary shall give special consideration to applications for loans for the acquisition or renovation of existing facilities. No loan under this section for any project may exceed 90 per centum of the cost of construction (as determined by the Secretary) of such project. No project may receive more, when added to the funds received by it under section 1104, than $2,500,000 in loans under this section. In exceptional circumstances, however, the Secretary may, with the concurrence of the National Advisory Council on Health Maintenance Organizations, award a second loan under this section for one project.

"(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall

be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section.

"LOANS FOR INITIAL COSTS OF OPERATION

"SEC. 1107. (a) The Secretary may make loans, subject to the general provisions of this title, to any health maintenance organization to assist it in meeting, for the period prescribed in subsection (b), a portion of its initial operating costs, determined under regulations of the Secretary.

"(b) Loans under this section for initial costs of operation may be made only for the period beginning with the first day of the first month for which such a loan is made and ending with the close of three years after such first day; and such loans with respect to any project may not exceed, when added to grants provided under section 1105, $750,000 or 60 per centum of such costs of operation, whichever is lesser, for the first year after such first day; $500,000 or 40 per centum, whichever is lesser, when added to grants made under section 1105, for the second year after such first day; and $250,000 or 20 per centum, whichever is lesser, when added to grants made under section 1105, of such costs for the third year after such first day. In exceptional circumstances, however, the Secretary may, with the concurrence of the National Advisory Council on Health Maintenance Organizations, award additional loans to any project under this section up to a total, when added to the grants under section 1105, of $1,000,000 in any year, or a total when added to the grants under section 1105 of $2,500,000 for the three years.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Sums so appropriated, together with repayments of loans made under this section and any other receipts in connection with the program under this section, shall be placed in and constitute a revolving fund which shall be available to the Secretary for use in making loans and other expenditures in the exercise of his functions under this section.

"GENERAL PROVISIONS FOR LOANS

"SEC. 1108. (a) Any loan by the Secretary shall bear interest at a rate comparable to the current rate of interest prevailing with respect to loans which are guaranteed under section 1109. No payment of principal on a loan shall be required for the first two years after such loan is made.

"(b) No such loan may be made unless—

"(1) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

"(2) the applicant provide the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project with respect to which such loan is requested.

"(c) Any such loan shall have such security, have such maturity date, be repayable in such installments, and be subject to such other terms and conditions (including provisions for recovery in case of default) as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

"(d) No such loan shall have a term in excess of fifteen years.

"(e) The Secretary may, for good cause, waive any right of recovery which he has by reason of the failure of a public organization to make payment and interest on a loan under this section.

"LOAN GUARANTEES AND INTEREST SUBSIDIES

"SEC. 1109. (a) In order to assist private nonprofit health maintenance organizations, or private nonprofit entities intending to become health maintenance organizations, to carry out construction projects for facilities for ambulatory services to be used by it for the provision of health services to its members or to meet their initial development costs (for not more than two years) or to meet their initial costs of operation (for not more than three years), the Secretary, during the period beginning January 1, 1972, and ending with the close of June 30, 1974, may, in accordance with the provisions of this section, and subject to the general provisions of this Act, (1) guarantee to non-Federal lenders making loans to such organizations for such purposes, payment of principal of and interest on such loans which are approved under this section, and (2) pay to the holder of such loans (and for and on behalf of the organization which received such loan) amounts sufficient to reduce, but not to exceed, 3 per centum per annum the net effective interest rate otherwise payable on such loan. No loan guarantee or interest subsidy under this section may, except under such special circumstances and under such conditions as are prescribed by regulations, apply to or be made for an amount which, when added to any grant or other loan under this or any other law of the United States, is—

"(1) with respect to any construction, in excess of 90 per centum of the cost of such construction,

"(2) with respect to initial development costs, in excess of 90 per centum of such costs, or

"(3) with respect to initial operating costs, in excess of 90 per centum of such costs.

No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

"(b) The Secretary may not approve the application of a health maintenance organization unless—

"(1) he determines, in the case of a loan for which a guarantee or an interest subsidy payment is sought, that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States;

"(2) the term of a loan for which a guarantee and interest subsidy is sought does not exceed twenty-five years if for construction, or fifteen years if for operating costs, or such shorter period as the Secretary prescribes: and

"(3) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require.

"(c) Guarantees of loans and interest subsidy payments under this section shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interests of the United States.

"(d) In the case of any loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to such guarantee unless the Secretary, for good cause, waives his right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(e) Any guarantee of a loan under this section shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"(f) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under this section may not exceed such limitations as may be specified in appropriation Acts.

"(g)(1) There is established in the Treasury a health maintenance organization loan guarantee fund (hereafter in this section referred to as the 'fund') which shall be available to the Secretary without fiscal year the fund from time to time such amounts as may be required to time in appropriation Acts, (A) to enable him to discharge his responsibilities under guarantees issued by him under this section, and (B) to make interest subsidy payments on such loans. There are authorized to be appropriated to the fund from time to time such amounts as may be required for the fund. To the extent authorized from time to time in appropriation Acts there shall be deposited in the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other money, property, or assets derived by him from his operations under this section, including any moneys derived from the sale of assets.

"(2) If at any time the moneys in the fund are insufficient to enable the Secretary to discharge his responsibilities under this section to meet the obligations under guarantees of loans under subsection (a) or to make interest subsidy payments on such loans, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

"SPECIAL PROJECT GRANTS AND CONTRACTS

"SEC. 1110. (a) The Secretary may make grants to or contracts with health maintenance organizations to assist them in meeting the costs of special projects to—

"(1) develop, operate, and evaluate programs which (A) substantially involve present professionals in new roles and relationships, or (B) encourage new roles, types, or levels of health personnel;

"(2) develop and institute new and improved health information systems which

shall include (A) uniform systems for recording and retrieving diagnostic and therapeutic data, or (B) the transmitting of such data within and between such organizations for the purpose of effective and efficient patient care;

"(3) develop and institute new and improved systems for transporting patients receiving health care services;

"(4) effect significant improvements in programs of health education for the organization members;

"(5) develop and institute innovative programs to educate members with ongoing decisionmaking responsibilities in health maintenance organization management and operation;

"(6) develop, institute, operate, and evaluate programs to periodically screen and assess the level of health of persons obtaining health care from such organizations;

"(7) develop, institute, and evaluate innovative programs of initial medical screening of persons seeking health care; or

"(8) develop and institute methods to assure appropriate levels of care for the convalescent, chronically ill, and aged through prediscbarge planning, home care, and periodic member evaluations;

"(b) Any grant or contract in this section shall not exceed $1,000,000 in amount and four years in duration. Application for and administration of such grants and contracts shall be according to regulations prescribed by the Secretary. There are authorized to be appropriated such sums as may be necessary for the purposes of making grants and contracts under subsection (a).

"(c) The Secretary may make grants to or contracts with any public or nonprofit private entity to study, initiate, operate, and evaluate projects which deliver, especially in rural areas, comprehensive health services on a prepaid basis and which are not otherwise eligible for grants or assistance under this title. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"GRANTS FOR HEALTH MAINTENANCE ORGANIZATION MANAGEMENT TRAINING

"SEC. 1111. (a) The Secretary may make grants to public and nonprofit private educational entities with approved professional training programs in the management and administration of health maintenance organizations to assist them in meeting the costs of providing such training and of fellowships and traineeships. No such program of an educational entity may be approved unless the educational entity has a contractual arrangement with an operational health maintenance organization under which the organization will provide practical training to the fellows and trainees enrolled in such program. Not less than 75 per centum of any grant under this section to any entity shall be used by it for traineeships and fellowships.

"(b) Payments by recipients of grants under this section for (1) traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the trainees; and (2) fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"GRANTS FOR CLINICAL TRAINING PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1112. (a) The Secretary may make grants to health professions schools which provide clinical training in health maintenance organizations to students and postgraduate trainees and fellows in schools of medicine, osteopathy, nursing, and other health professions. Health professions schools receiving such grants must either (i) operate their own health maintenance organizations, or (ii) have contractual arrangements with operational health maintenance organizations for such clinical training. Priority in giving grants under this section shall go to health professions schools which operate their own health maintenance organizations.

"(b) Such grants may be used to cover the costs to the health professions schools and the health maintenance organizations of providing such clinical training, including (but not limited to) the reasonable costs of program administration, and faculty salaries for health professionals practicing in the health maintenance organizations.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"PROGRAM EVALUATION

"SEC. 1113. The Secretary shall evaluate (directly or by grant or contract) programs assisted under this title. Such evaluation shall be concerned with the operation of individual health maintenance organizations, with the operation of distinct categories of health maintenance organizations in comparison with each other, with health maintenance organizations as a group in comparison with other health delivery systems or organizations, and with the impact that these organizations, individually, by category, and as a group, have on the health of the public. The results of such evaluations shall be made available to the general public and to the Congress on at least an annual basis. To make such evaluations, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

"GENERAL PROVISIONS

"SEC. 1114. (a) No grant, contract, loan, loan guarantee or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, consistent with subsection (b)(1), as the Secretary shall by regulation prescribe.

"(b)(1) An application for a grant, loan, loan guarantee or interest subsidy under section 1102, 1103, 1104, 1105, 1106, 1107, 1109 shall include in such manner and among such other matters as the Secretary may by regulation prescribe, satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed health maintenance organization described in the application, (B) enrollment for such organization, (C) methods, terms, and periods for the enrollment of members, (D) nature and estimated costs per member of the health care and educational services to be provided, (E) sources of professional services, and organizational arrangements for providing health care and educational services, (F) organizational arrangements for an ongoing quality assurance program, (g) sources of prepayment and other forms of payment for the services to be provided, (H) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members, staff, and employees, and (L) evaluation or evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or who would be affected thereby. An organization making multiple applications for assistance under this title simultaneously or over the course of time shall not be required to submit duplicate or redundant information but shall be required to update the description of the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe.

"(2) Upon completion of assistance under section 1102, 1103, 1104, 1105, 1106, 1107, or 1109, the recipient of assistance shall make a full and complete report to the Secretary, in such manner as he may by regulation prescribe. Each such report shall include, among such other matters as the Secretary may by regulation prescribe, descriptions of plans, developments, and operations in those areas enumerated in paragraph (1) for specification in applications for assistance.

"(c) A health maintenance organization receiving assistance under section 1103, 1104, 1105, 1106, 1107, or 1109, shall submit to the Secretary as a condition of its continued assistance, satisfactory assurances, in accordance with such regulations as the Secretary shall prescribe, of, among such other matters as the Secretary may by regulation prescribe, (1) financial responsibility, and (2) development and operation consistent with the terms of this title and the plans contained in such organization's application or applications for assistance.

"(d)(1) An application for a grant under section 1102 or 1103, or for a loan, loan guarantee, or interest subsidy under section 1106, 1107, or 1109, shall contain assurances satisfactory to the Secretary that the applicant will, in accordance with such criteria as the Secretary shall by regulation prescribe, (A) enroll persons who are representative of the various age, social, and income groups in the area to be served by the applicant, and (B) enroll the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve.

"(2) No grant may be made under section 1104 or 1105, and no loan, loan guarantee, or interest subsidy payment may be made under section 1106, 1107, or 1109, unless the applicant demonstrates to the satisfaction of the Secretary that (A) the persons enrolled or to be enrolled with the applicant are (as determined under regulations which the Secretary shall prescribe) representative of the various age, social, and income groups in the area served by the applicant, and (B) the applicant has enrolled, and will maintain an enrollment of, the maximum number of persons that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve.

"(e) No application for a grant, loan, loan guarantee, or interest subsidy under section 1102, 1103, 1104, 1105, 1106, 1107, or 1109 may be approved unless the applicant has provided an opportunity for review of and comment on its application to each State comprehensive health planning agency designated pursuant to section 314(a) of this Act, and to each area-wide comprehensive health planning agency designated pursuant to section 314(b) of this Act, covering (in whole or in part) the area or areas served or proposed to be served by the health maintenance organization for which application is submitted. The Secretary shall consider such reviews and comments in deciding whether or not to approve applications under section 1102, 1103, 1104, 1105, 1106, 1107, or 1109.

"(f) The Secretary shall have the authority to terminate or cancel any grant, loan, loan guarantee, or interest subsidy to any health maintenance organization in substantial non-compliance with any material provision of this title.

"NATIONAL ADVISORY COUNCIL ON HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1115. (a) There is established in the Public Health Service a National Advisory Council on Health Maintenance Organizations (hereafter in this section referred to as the 'Council') consisting of twelve members appointed by the Secretary (without regard to the provisions of title 5 of the United States Code relating to appointments in the competitive service) from persons who are not officers or employees of the United States Government, and who include representatives of health maintenance organization programs, the medical sciences, medical education, hospital or medical administration, the health insurance industry, labor and management, and public affairs. Three of the members shall be physicians engaged in medical practice and at least three shall be members of health maintenance organizations not themselves engaged in the provision of health services. The members of the Council shall select a chairman from among their own number.

"(b) Each appointed member of the Council shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall hold office for the remainder of such term, and (2) the terms of office of the members first taking office shall expire, as designated by the Secretary at the time of appointment, four at the end of the first year, four at the end of the second year, and four at the end of the third year, after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms.

"(c) Appointed members of the Council, while attending meetings or conferences thereof, or otherwise serving on business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding for any day the daily equivalent of the effective rate for grade GS–18 of the General Schedule, including travel time and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5 of the United States Code for persons in the Government service employed intermittently.

"(d) The Council shall advise and assist the Secretary in the development of policy and preparation of regulations relating to programs under this title. The Council shall consider applications for grants, loans, loan guarantees, and interest subsidy payments under this title and shall make recommendations to the Secretary with respect to approval of applications for assistance under this title and to amounts of grants, loans, and loan guarantees under this title.

"RESTRICTIVE STATE LAWS

"SEC. 1116. If any organization meets the requirements of a health maintenance organization as defined herein, but cannot be incorporated or otherwise do business in a State in which it proposes to furnish services because the law of the State requires that a medical society approve the incorporation of such an organization, requires that physicians constitute all or a majority of its governing body, requires that all physicians or a percentage of physicians in the locale be permitted to participate in the services of the organization, requires that such organization submit to regulation as an insurer of health care services, requires that only unincorporated individuals or associations or partnerships may provide health care services, or makes any other requirement which the Secretary finds incompatible with the purposes of this title, the law of any such State shall not apply to the health maintenance organization and the Secretary may issue a certificate of incorporation to the organization and it shall thereupon become a body corporate. The powers of the corporation shall be limited to carrying out its function as a health maintenance organization, and the doing of things reasonably necessary or incident thereto. In the issuance of such a certificate, the Secretary shall provide among other things for the appropriate regulation of any such health maintenance organization to insure the efficient and economical provision of quality health care services, as conditions of issuance of any such certificate. If the Secretary issues any such certificates of incorporation, the Secretary shall by regulation provide other conditions and requirements generally imposed upon corporations under the laws of the States. Notwithstanding the existence of the law of a State to the contrary, nothing in this section shall be construed to prevent any such State from issuing a certificate of incorportaion or otherwise permitting a health maintenance organization to do business otherwise in compliance with this section in which case the Secretary shall not issue a certificate under the authority granted in this section."

SEC. 4. (a) Section 1 of the Public Health Service Act is amended by striking out "Titles I to X" and inserting in lieu thereof "Titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended, is further amended by renumbering title XI (as in effect prior to the date of enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to such date), and references thereto, as sections 1201 through 1214, respectively.

DETAILED SECTION-BY-SECTION ANALYSIS OF THE HEALTH MAINTENANCE ORGANIZATION ACT OF 1971 (H.R. 11726)

INTRODUCTION

The Health Maintenance Organization Act of 1971 is intended to encourage the formation of health maintenance organizations through grants and loans for their initial planning, development and operating costs, and through related measures. The sponsors of the Act hope to achieve several goals by encouraging the formation of HMOs, including:

1. Expansion of health care resources in existing medically underserved areas;
2. Control of rising health care costs;
3. Reorientation of our existing health care system from the treatment of disease to the maintenance of health; and
4. Initial reorganization of our present health care system in preparation for effective health care financing.

The support of HMOs, as a means for achieving these goals, is only one of multiple and related means that warrant support. Others have been considered by the House Subcommittee on Public Health and Environment, such as increasing health manpower, or may be considered in the future, such as the problems of health care delivery in rural areas.

One key characteristic of the HMO program deserves comment prior to a section by section analysis of the proposed legislation. In preparing HMO legislation, an attempt has been made not to describe exhaustively, or in detail, a single "proper" system for the delivery of health services. Rather, this legislation defines desirable qualities of any system for health care delivery and offers support to any organization (HMO) which included these qualities, however it is structured in detail. Thus the HMO program sponsored by this legislation would not be a single, monolithic, or Federally controlled health system, but a modification of our existing pluralistic system. The general characteristics which would make an organization an HMO regardless of its particular make-up include:

1. Open enrollment of a defined, heterogeneous population which receives its health services from the HMO;
2. Assumption by the HMO of the responsibilities and risks involved in caring for the enrolled population;
3. Prepayment by enrolled members for their health services;
4. Provision by the HMO of a standard package of benefits (comprehensive health services) to all members for a common prepayment;
5. Quality assurance programs for health services provided;
6. Provision of health education, health maintenance and preventive health services to all members;
7. Provision for meaningful grievance procedures and policy making roles for members; and
8. Evaluation of its performance in key areas.

The following detailed analysis of the legislation will enlarge on these and related themes and will show how organizations with these characteristics, if developed and operated effectively, will achieve the above stated goals.

Congressional Findings [Sec. 2a].

This section states some of the goals enumerated above. It is left implicit that the proposed changes in the health system will help prepare that system for the impact of effective health care financing, and made explicit that support for HMOs will help to achieve the stated goals. The Congressional findings include:

Sec. 2 a 1. A serious insufficiency and maldistribution of health care resources.

It is widely agreed that many of our citizens lack access to adequate health care because it simply is not available. There are hundreds of rural counties in this country that do not have doctors or other health services or adequate transportation to existing—often distant—services. Similarly, there are many urban areas, particularly poor and inner-city communities, without health services. The extent and effects of this maldistribution of our resources has been well documented on many occasions, including hearings before the Subcommittee on Public Health and Environment and other Committees of the Congress, and in standard works on the subject.

Sec. 2 a 2. Lack of organization for efficient and economical provision of health care.

Again, it is common knowledge that the costs of health care in this country are not only rising rapidly, but are also rising more rapidly than the costs of other goods and services, and have now risen beyond the means of many citizens. It has been well established for some years that this rise in costs is attributable not only to inflation and rising labor costs, but also to structural deficiencies in our system. For example, present fragmentation of health services and existing insurance mechanisms often force providers to care for patients in more sophisticated and more expensive facilities than is actually necessary. The providers of health care do share the financial risks of illness with their patients; they are paid for curing disease, not for preventing it and maintaining health. The system must be restructured to give providers financial incentives for keeping people well and doing so in an efficient and economical manner.

Sec. 2 a 3. An inappropriate orientation toward sickness and its treatment at the expense of health and its maintenance.

If health maintenance and preventive services were always economically rewarding, and the value of an ounce of prevention is well known in our culture, this finding would be repetitious of the preceding one. However, the provision of preventive services is not necessarily cheaper in dollars in the long-run than merely waiting for disease to become manifest. Their provision is a worthwhile goal, however, whatever the cost, because prevention reduces unnecessary suffering and death for a significant number of people.

Sec. 2a4. Appropriate support for HMOs will assist in correcting maldistribution, inefficiency, and inappropriate orientations in the existing health care system.

Support for HMOs authorized by this legislation will achieve these goals by directing at least 40% of the effort into medically underserved areas, by sponsoring organizations which reward efficient and economical operations, and by requiring supported organizations to provide full preventive services to their members. Each of these and related subjects are described in more detail below.

Sec. 2a5. A need on the part of proposed and developing HMOs for support in the form of technical assistance and resources.

HMOs will fail to develop in necessary numbers and with desired rapidity if financial support is not made available to them. This is evidenced by the fact that in the past four decades, without Federal support, the development of HMOs has been steady, but very slow. At the same time, monetary support without technical assistance would run an inordinate risk of sponsoring HMOs of low quality and high risk of failure.

Congressional Purpose [Sec. 2b].

This section states that the purpose of the Act is to attempt to achieve the goals discussed above.

TITLE XI—HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"Health Maintenance Organizations" [Sec. 1101.1].

Part 1 of Section 1101 defines and describes the attributes of organizations which will be considered HMOs for purposes of the support authorized by this legislation. Clearly, the term HMO is a generic term in common usage at the present time. There are both existing and anticipated organizations commonly thought of as HMOs, which may or may not meet the definition used in the legislation. It should be recognized that HMOs which do not meet this definition are, nevertheless, for general purposes, entirely legitimate and proper organizations for the delivery of health services. They merely would not qualify for the support authorized by this legislation. They might or might not qualify as HMOs under the differing terms of other Federal legislation, such as H.R. 1.

HMOs are defined here as either public or private non-profit organizations. Thus the support for HMOs authorized by this legislation is directed only to public and non-profit private organizations. This position is taken because it is felt by the sponsors of the Act that developmental Federal health monies should go only to non-profit organizations, as has generally been the case to-date (e.g., neighborhood health centers, C & Y projects, RMP programs, migrant health projects). Non-profit HMOs are both more likely than profit-making HMOs to be able to be formed only if they receive Federal support, and to locate in the medically underserved areas to which this Act gives priority. This does not mean that there are not and cannot be profit-making HMOs or that the Federal government might not work with them in other instances, such as contracting for services to beneficiaries under Titles XVIII and XIX of the Social Security Act. It is anticipated that profit-making HMOs will be formed. However, they are better able to find capital resources in the private marketplace, to which they will presumably return their profits.

Sec. 1101. 1 A. This part of the definition requires that in order to qualify for support as HMOs, organizations must provide a minimum set of health benefits, the comprehensive health services defined below, to all enrolled members for the same annual fixed payment, except as authorized by the Secretary. The payment is to be periodic, usually monthly, quarterly, or annually. It is to be unaffected by, and unrelated to, the amount or types of health services actually received by a member from among the services included in the comprehensive health services. This means it is to be a true prepayment calculated on the basis of the HMO's total costs for delivering comprehensive health services to all its members.

The services may be provided to members either directly or indirectly. Direct provision of services will be through physicians or other health professionals actually employed by the organization or in hospitals and other facilities actually owned or directly operated by the HMO. Indirect provision of services occurs in a variety of forms, including: provision of services by a medical group (defined below) with which the HMO has contracted for services; hospitalization of members in facilities which the HMO has privileges to use, but does not own; payment by the HMO for emergency care given a member when in another geographic area; or purchase by the HMO of certain specialty services on a fee-for-service basis. In each such case the HMO, not the member, is responsible for the payment for the service. The member receives the services without special or direct payment unless the services are not included in the comprehensive health services.

HMOs provide health services through a medical group or groups (defined below) and other health delivery entities. Other health delivery entities include hospitals, extended care facilities, independent home health agencies, multiphasic screening organizations, or laboratories with which the HMO would contract for services.

The payment for comprehensive health services provided may be supplemented by additional nominal payments in accordance with regulations of the Secretary. Examples of this are a payment of one dollar by a member for each physician visit, two dollars for each emergency room visit, or one dollar for each home health service visit. These additional payments are intended to be truly nominal so as never to constitute a barrier to needed services for any member. The use of nominal payments may allow the HMO to reduce somewhat the total prepayment for comprehensive health services and is not viewed as a method to control unwarranted utilization of services.

Sec. 1101. 1 B. This section of the definition of HMOs makes it clear that they may provide members with benefits over and above those included in the comprehensive health services. These might include pharmaceutical services, psychiatric care, dental benefits, transportation programs, or optometric care. The payments for these services might be through additional prepayments, traditional insurance mechanisms, fee-for-service, or other methods.

Part A of the definition requires all Federally supported HMOs to provide the same basic benefits to all their members (for payments that may vary among HMOs, but be uniform within each). This means that the real differences among the benefits of different HMOs will be in the benefits and payments for them, supplied under Part B of the definition, over and above the uniform floor of benefits required for all members. It is anticipated that much of the competition among HMOs for membership will focus on the different choices of extra benefits and methods of payment for them.

Sec. 1101. 1 C. HMOs are actual health care delivery organizations which take the responsibility to provide health services to enrolled members. This part of the definition requires HMOs seeking support under this legislation to show evidence that they are or will be able to provide health services to their members in a satisfactory manner. This will require HMOs to define and set standards for the availability and accessibility of health services and to develop ways of assuring that such services are appropriate and promptly obtainable. Issues involved might include asking whether services are provided at locations and during hours which are convenient for members and whether or not members understand how and where to obtain services. HMOs will also be required by this section to provide continuous care to their members. This means that a person being seen on multiple occasions for health maintenance or curative services would generally receive these services from the same place and health professionals. HMOs could generally comply with these requirements by encouraging each member to choose a personal or family physician, and arranging that that physician have ongoing responsibility for managing the member's care.

Sec. 1101. 1 D. This requires HMOs seeking support under this legislation to demonstrate fiscal responsibility. This includes showing what measures have been or will be taken to protect against insolvency, and whatever other matters the Secretary may require. Other considerations might include demonstrating actuarial or accounting competence, possession of sufficient assets, or submission to periodic audits. In developing measures of fiscal responsibility, it will be important to remember that HMOs are organizations for the delivery of health care, and are not insurance companies. HMO activities may overlap and in some ways resemble those of insurance companies, but they also go substantially beyond simple insurance. Specifically, HMOs, unlike insurance companies, are responsible for the health of their members and the delivery of health services to all members. This means that many criteria of fiscal responsibility appropriate to insurance companies may not apply to HMOs. Similarly, there are criteria applicable to HMOs that are not relevant to insurance companies. Clearly the requirements for fiscal responsibility could become more stringent as a proposed HMO moves from feasibility studies through development into actual operation. The authors of this legislation realize that not all feasibility studies will yield HMOs, but would like to minimize the number of failures of operating HMOs.

Sec. 1101. 1 E. Various authors, particularly J. S. Schwartz in his book, Medical Plans and Health Care: Consumer Participation in Policy Making (Springfield, Ill.: Charles C. Thomas. 1968), have shown the value to HMOs of meaningful grievance procedures for members and of giving members meaningful roles in policy making for the organization. These studies show that member participation in policy making makes HMOs more responsive to member needs, improves benefit structures, and increases accessibility without detrimental effects on professional income or the quality of services. Part E of the definition will insure that HMOs provide their members with policy making roles and grievance procedures. DHEW will need to define "meaningful" as applied to policy making and grievance procedures in a manner acceptable to it, and develop ways of ascertaining whether or not it is being achieved.

As examples, a member controlled HMO would certainly be one which gives members meaningful policy making roles, although this is by no means required in the legislation. One that gives 20–50% of the seats on the board of directors to members would suffice. An HMO with a members' advisory council to the board of directors would qualify if the HMO was shown to be responsive to their advice. Likewise, grievance procedures would be meaningful if ways existed of assuring that a grievance was heard and adjudicated.

It is not expected that all HMOs will use the same means for giving members policy making roles, nor that they will all handle grievances in the same fashion. In fact, HMOs serving members with differing social,

economic, or cultural backgrounds may well need to develop different mechanisms for bringing members into policy making to assure that members with differing cultural experiences gain equally effective roles.

In addition to grievance procedures for members, this section also calls for such procedures for employees of the organization whether or not they are members of the medical group.

Sec. 1101. 1 F. HMOs qualifying for support must provide two somewhat different kinds of education for their members. The first, traditional health education, aims at helping members understand health and disease, how to care for themselves and their families, and how to prevent accidents and unnecessary disease. The second, education in the proper use of health services offered by the HMO, will help members understand what benefits they are entitled to, when, where and how to obtain services, and which services to utilize at given times or in given situations.

Sec. 1101 1 G. This legislation offers unparalleled opportunities to measure and improve the quality of American health care. While the medical profession has traditionally been involved with peer review, medical audit and utilization review, these functions have rarely received the attention they have merited. This lack of attention has resulted because of a variety of difficulties such as the gathering and storing of data and to an extent technical and methodological constraints. However, the major reason why the assurance of quality medical care has not received proper attention is the lack of ongoing organizational arrangements to bring about continuous quality assurance.

What is quality assurance? Quality assurance is composed of two components, the first being quality assessment, the second being quality achievement. Quality assessment is the process through which medical care is measured. The HMO makes possible a major advance in quality assessment in that the enrolled population will be defined clearly and thus allow the development of denominator data essential to the calculation of rate and ratio measures of quality. Quality achievement is the process by which shortcomings measured in the quality assessment process are rectified by means such as continuing education, adminstrative or manpower changes.

Quality assurance systems must stress both process and outcome measures. Process measures are those documenting which preventive, curative, and rehabilitative health services have been provided for each member during the course of an interaction with the HMO. These process measures must include criteria for defining underutilization.

A peer review approach to quality assurance has already been demonstrated by Dr. Donald Harrington at the San Joaquin Foundation in California and by Dr. C. R. Brown at Chestnut Hill Hospital in Philadelphia.

Outcome measures are the most appropriate performance measures for HMOs as they focus on the actual health of the patient. It is possible to monitor a series of parameters (disability days, symptomatic condition, ability to carry out major activities, etc.) which can measure the health benefits the HMO provides its members. Strategies developed by Dr. John Williamson and Dr. Lawrence Weed's problem oriented record both facilitate this approach.

The development of a full quality assurance program may take an HMO two to three years. Such development is encouraged and expected during the course of planning, development, and initial operation. It is expected that the development of an HMO quality assurance program will take into account issues such as: the role of external health professionals in the review process; the relationship of HMO quality assurance programs to geographically oriented review organizations such as the proposed Peer Review Organizations and Professional Standards Review Organizations, and the possible role of members in the quality assurance program. It is also expected that the Secretary will develop organizational arrangements within DHEW for administering the quality assurance aspects of the HMO program.

Sec. 1101. 1 H. HMOs seeking Federal support must provide the Secretary of DHEW, members, and the public with various kinds of information about their operations at least annually. This will serve several related purposes, including: assisting Congress in evaluating the HMO effort (as required by Section 1113); helping members, particularly those involved in policy making roles, to understand the HMOs' operations; and aiding people in choosing among alternative systems of health care available to them through such programs as Medicare, Medicaid, or employee health programs. It is anticipated that means of public disclosure can be developed which make the costs, operations and benefits of HMOs well-known and easily understood by the general public. DHEW, which is required to make public and disseminate the data furnished by HMOs on a periodic basis, will thus assist in making HMOs widely understood.

The particular kinds of data required to meet the purposes listed above would include information on the costs, utilization availability, accessibility, acceptability, and effects on members' health of the services provided along with whatever other matters the Secretary might require. Since collection of all such data in detail would obviously entail significant cost and manpower investments, it is expected the Secretary will develop discrete and minimal data sets and thus provide constraints to the total amount of data required. HMOs involved in activities under Sections 1110 (Special Projects) and 1113 (Program Evaluation) may, when collecting data under those provisions, concurrently apply applicable data elements to meet the provisions of this section.

Sec. 1101. 1 I. The greatest incentive an HMO will have for maintaining the health of its members and for efficient, economical operations, lies in the fact that it will have both a fixed budget and the full contractual responsibility for providing all members with comprehensive health services. The HMO thus has a financial interest in keeping its members well and doing so in an efficient and economical manner for fear of exceeding its present budget. This part of the definition requires HMOs to bear this financial risk in full rather than pass it on to others through such mechanisms as reinsurance. This requirement is established since HMOs that pass on the risk can be expected to operate less efficiently and economically because they will have also passed on a major incentive for efficient operations.

This provision also means that HMOs are closed financial systems generating both their own income and expenses. This will give them the incentive for efficient operation inherent in having a limited income. It also means that HMOs will have actual control, whether by direct operation or contract, over the health resources used to deliver services. They can thus control the costs and operations of those resources.

Two exceptions are made to these rules: catastrophic illnesses, because although they occur infrequently, when they do occur, they may well be an unmanageable burden for any organization, particularly a small, new one; and out-of-area emergency services, because an HMO cannot be expected to bear risks for services over which it does not have some measure of control.

Sec. 1101. 1 J. HMOs must have at least annual, thirty-day period of open enrollment. During this enrollment period the HMO would enroll all comers without restrictions. The Secretary would be authorized to make exceptions, such as not requiring HMOs to enroll people who are ineligible for the community's health insurance programs like Blue Cross or Blue Shield. No HMO would be required to enroll people beyond its capacity (although capacity could not be arbitrarily defined at a low level to prevent enrollment). Nor would an HMO be expected to enroll people who would change its total membership so as to cause conflict with the requirements of other Federal laws, such as the requirement in H. R. 1, Section 226, for a membership over 50% under 65 years of age.

The requirement for a uniform payment for all members for the comprehensive health services (Section 1101. 1 A iii) would apply to individuals enrolling under open enrollment although their payments for other services (provided under Section 1101. 1 B) would not necessarily be uniform with those of other members.

Periods of open enrollment will aid HMOs in meeting the requirements in the General Provisions of this Act for a membership which reflects the social, age and income make-up of the organization's service areas. In fact, this provision is included to insure access to HMOs for all residents of areas served by them, and to help prevent HMOs from limiting their membership to young, healthy, working people since this would impose an unreasonable burden on the other health care providers in the area which would be left to care for older, sicker, unemployed persons.

DHEW will define in regulations ways of assuring that enrollment is truly open and without restriction through such means as requirements that HMOs make their open enrollment widely known to the public and reasonably straight-forward.

Sec. 1101. 1 K. HMOs must make services available to their members at all appropriate times so that members will not have to seek services outside the HMO. Clearly, there is no requirement for an HMO to provide all services at all times to all persons, but certainly emergency services should always be available and other services, within reason, should be available through evening or week-end hours to members who work during the regular work-week.

Sec. 1101. 1 L. HMOs must provide primary, true emergency services to non-members residing in their geographic areas who need emergency care and seeks it at the HMO facility because of its proximity. There is no intended obligation for HMOs to provide non-emergency services at any time to non-members. HMOs would not be expected to accept transfers of non-members, who had not gone for their initial emergency care to the HMO, from other health care facilities (so-called "dumping"). HMOs could charge non-members for emergency services in any fashion they choose.

Sec. 1101. 1 M. An effort has been made in this legislation to describe what HMOs must do (provide comprehensive health services, with quality assurance, etc.), but not to say how these general characteristics are to be achieved by any given organization. Thus there will be different kinds of HMOs, organized and run in different ways, employing different mixes of health manpower and resources, but all meeting the broad criteria for an organized system of health care set out here.

This section allows HEW to extend or clarify the definition and criteria for Federally supported HMOs in future years as experience dictates. The qualifications described in A through L would always need to be met, but additional ones could be added if it was considered necessary. Thus, if experience with HMOs showed that an HMO could effectively conform with parts A through L of the definition only if it had a minimum enrollment of a given magnitude, than that minimum could later be made part of the definition itself.

"Comprehensive Health Services" [Sec. 1101.2].

In general, "comprehensive health services" means all those services necessary to maintain the health of members and to make ill patients well. Provision of all these services rather than a more limited set of benefits will allow the HMO to move members in appropriate fashion from one level of or setting for care to another. For example, inclusion of extended care services assures that HMOs will not have to keep members who can be cared for in extended care facilities in more expensive, acute care hospitals. Thus, the use of a comprehensive set of benefits will allow the HMO to provide both continuous, unified services and the most economical mix of services possible in a given situation. Under this Act comprehensive health services will include:

Sec. 1101. 2 A. Physician services—includes all physician-patient contacts from primary care to sub-specialty and referral care. At the same time, this definition is not meant to limit initial patient contact wth other health professionals, nor does it exclude the payment of nominal amounts at the time of physician contacts (Sec. 1101. 1 M iv).

Sec. 1101.2 B. Inpatient and outpatient hospital services—includes all acute general hospital admissions and outpatient clinic visits which in turn includes (but is not limited to) these services: blood bank, inhalation therapy, coronary and intensive care services, occupational therapy, premature nursery services, obstetrical and gynecological services, and social services.

Sec. 1101. 2 C. Extended care facility services—includes facilities capable of providing both skilled nursing services and intermediate care as defined by the Social Security Act. This provision insures that HMOs will qualify for Title XVIII reimbursement.

Sec. 1101. 2 D. Home health services—includes skilled nursing care and such other services as physical therapy, speech therapy, occupational therapy, medical social services and home health aid services provided in the homes of members. The provision of home health services and extended care services will help make it possible for the HMO to care for members at the most appropriate level of care.

Sec. 1101. 2 E. Diagnostic laboratory and diagnostic and therapeutic radiologic services—the full range of these services, including their professional component, either individually or in multiphasic combinations.

Sec. 1101. 2 F. Rehabilitative services—includes physical therapy and occupational therapy with an emphasis on those aspects fostering the reemployment or maintenance of employment of the HMO's members.

Sec. 1101. 2. G. Preventive health services—includes services which maintain the personal, mental and physical well-being of individual members. This may include multiphasic screening, crisis and suicide intervention, dietary and obesity consultations, genetic counseling, individual health risk rating, and member education programs.

Sec. 1101. 2 H. Emergency health services—includes all services for conditions of immediate and severe threat to the health of members.

Sec. 1101. 2 I. Out-of-area emergency health services—HMOs will provide full coverage for out-of-area services to members traveling away from the areas served by the HMOs.

Sec. 1101. 2 J. The Secretary may make arrangements with specific HMOs for personal health services not specified above. Such services might include renal dialysis, open heart surgery, outreach services, or employment services for members.

"Medical Group" [Sec. 1101. 3].

HMOs may provide comprehensive health services to members directly through physicians, osteopaths, dentists, or other health personnel who are employees of the organization. Alternatively, they may provide services indirectly by contracting for the services with groups of health professionals not under their employ. Such a group of health professionals is, for the purposes of this legislation, called a "medical group" and this definition provides criteria with which such contracting groups must conform if an HMO is to receive Federal support. Exceptions to these criteria are provided for at the Secretary's discretion during the initial three years of an HMO's operations so that the criteria will not prove burdensome to fledgling operations. It is not anticipated, however, that many exceptions will be made since the medical group is integral to the operation of an HMO and its definition is effectively an extension of the HMO definition itself.

The definition specifies that the medical group must: coordinate the practice of the individual members; pool its income and distribute it according to a set arrangement (an annual salary, a capitation rate, fee-for-service, etc.); share records and equipment (a requirement aimed at efficient and economical operations); use whatever health manpower (nurses, physicians' assistants, optometrists, etc.) as are necessary for effective provision of services; and provide its members with regular opportunities for continuing education. It is anticipated that medical foundations, patterned after the one at San Joaquin, will have little difficulty meeting these conditions. Clearly all of these subjects will require further definition by DHEW in regulations.

"Member" [Sec. 1101. 4].

A member is any person who enters into a contractual arrangement, or on whose behalf such an arrangement is entered into, with an HMO for the provision by the HMO to the person of comprehensive and other health services. These arrangements will place the responsibility for the provision of these services on the HMO. The inclusion of people in whose behalf contractual arrangements are entered into in the definition of members will require the HMO to record and be knowledgeable of each member's health needs and services received whether the member is the head of a household or a member of a household. Only if such information about each member is maintained will it be possible for an HMO to develop the kinds of data called for in Section 1101. 1 H and run the quality assurance program described in Section 1101. 1 G.

"Medically Underserved Areas" [Sec. 1101. 5].

A large portion of Federal support for HMOs in other sections of this legislation is directed into areas which lack adequate health resources at present. This part of the Act defines such "areas" for purposes of the HMO program. Such an "area" might be either urban or rural and in fact might be either a geographical area (such as several rural counties) or a particular population. In either case, the "area" will qualify only if it has a shortage of personal health services. "Shortage" will be defined by the Secretary along such lines as are now being developed by the National Health Service Corps. In developing a definition of "shortage" the Secretary may well seek the assistance of the National Advisory Council on Health Manpower Shortage Areas created by the Emergency Health Personnel Act of 1970.

The Secretary will be required, in designating "areas" as medically underserved, to consider the comments of all State and areawide comprehensive health planning agencies covering the area in question. The State agency for the State including the largest part of the area in question could well be given the responsibility for collecting the reviews of other state and areawide agencies and preparing a single submission to DHEW. In preparing their reviews, the CHP agencies would be instructed to consider such matters as the area's existing supplies of health manpower and facilities, its health status and needs, and its plans to meet these needs and their likelihood of success.

It is anticipated that within a reasonable period of time, DHEW will publish criteria for defining medically underserved areas and a list of those areas which meet the criteria.

"Construction" and "Cost of Construction" [Sec. 1101.6].

This part defines "construction" as being the construction of new buildings; the acquisition, expansion, remodeling, replacement, and alteration of existing buildings (including architects' fees, but excluding land except for land beneath existing buildings); and the equipping of buildings, new or old. "Cost of construction" is defined as the costs of the construction defined above.

"Catastrophic Health Services" [Sec. 1101.7].

Catastrophic health services, which with out-of-area emergency services are the only ones an HMO will be allowed to reinsure, are here defined as the comprehensive health services given to a member in any 12-month period after that member has already received $5,000 worth of comprehensive health services. The HMO will thus have the full responsibility for providing each member with up to $5,000 of comprehensive health services per year before it can limit its risks through reinsurance.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

This section, 1102, provides grants for HMO planning and feasibility studies to public and private non-profit entities, either to assist in developing new HMOs or in expanding existing HMOs. These grants would be made to a variety of different kinds of entities, including consumer groups, medical societies, health profession schools (especially in medically underserved areas), and local governments. Since these grants will fund planning and feasibility studies it is not expected that every grant will result in an operational HMO. It is hoped, however, that applications can be reviewed so that a large percentage of grants (as many as 80 per centum) will actually yield HMOs. Grants shall be of one-year duration and shall not exceed $250,000 except under unusual circumstances, e.g., size factors or exceedingly heterogeneous populations in terms of either socioeconomic parameters or illness patterns. In such exceptional circumstances, the Secretary, with the concurrence of the National Advisory Council on Health Maintenance Organizations, may award a second grant for any single project. A given entity or HMO may receive multiple grants under this section for the planning of different HMO projects or the expansion of an HMO into different areas.

In making these awards, the Secretary shall consider the sources from which developing HMOs will gain consultation, and give priority to organizations expecting to enroll significant numbers from medically underserved areas. In the aggregate, 40 per centum of the potential members anticipated by these organizations shall be from medically underserved areas. This does not mean that each HMO will need to enroll 40 per centum of its members from medically underserved areas. Some HMOs may well enroll few members from such areas. Others may be located in them and draw all their members from them. This provision is intended to direct 40 per centum of the entire HMO effort under this section into medically underserved areas. This requirement is of high priority as numerous inner-city and rural areas have too long been denied access to comprehensive and quality health care services.

Authorization is given for the appropria-

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tion of such sums as may be necessary to achieve the purposes of this section.

GRANTS FOR INITIAL DEVELOPMENT COSTS

This section, 1103, provides grants to organizations intending to become HMOs for their initial development. The development of any organization requires substantial investments before it can become operational; the HMO is no exception. The history of the development of prepaid groups and the recent experiences of Kaiser/Denver and Johns Hopkins/Columbia make clear the need for developmental support. It is also the purpose of this section to encourage the development of HMOs in medically underserved areas. Thus the Secretary will be required to assure that 40 per centum of the aggregate anticipated membership of potential HMOs supported by this section will be from medically underserved areas.

While development grants will focus in a number of areas, experience and sound management principles dictate that particular concern be paid to a series of issues. A relatively rapid enrollment of a large number of members is essential for both the financial and operational viability of the organization, in that only when a sufficient number of members have enrolled will organizational economies be feasible, and only then can health care be provided in ways which facilitate and support the concepts of health maintenance. Similarly, a detailed and rational design for providing health services should be developed, otherwise the benefits to be accrued from the organization of these services will not occur. Developing HMOs are encouraged and expected to demonstrate an awareness and understanding of financial monitoring and accounting methods already in use by HMO-like organizations and then to develop improved and modified methods to meet their individual needs. During the developmental period, consideration shall also be given to the recruitment and training of personnel and the unique situation of each HMO as it relates to the health and socioeconomic characteristics of its potential members. The health needs of potential members shall be one major determinant in the recruitment of personnel and in the development of objectives for training activities.

Grants are limited to a maximum of $1,000,000 and to two years of development, except in special circumstances, in which case a second grant may be made with the concurrence of the National Advisory Council on Health Maintenance Organizations.

Authorization is given for the appropriation of such sums as may be necessary to achieve the purposes of this section.

"CONSTRUCTION GRANTS

This section, 1104, provides funds for the construction of ambulatory facilities which will serve, in whole or in part, in medically underserved areas. The rapid increase in the number of emergency room visits (from 20 to 40 million from 1962 to 1969) indicates the magnitude of need for ambulatory services and for the construction of such facilities, particularly in medically underserved areas. In addition, many medically underserved areas are in urban areas where antiquated facilities are presently in use; under this section such facilities could be renovated and are given priority consideration. Support under this section will be available for the construction of facilities which do not serve solely residents of medically underserved areas, but that support will be limited in proportion to the percentage of people to be served by the facility who will be from underserved areas. It is recognized that in particular medically underserved areas the need for such facilities may be extreme; in such case the Secretary may award a second grant with concurrence of the National Advisory Council on Health Maintenance Organizations.

Grants are limited to a maximum of $2,500,000 and up to 75 per centum of the costs of construction.

Authorization is given for the appropriation of such sums as may be necessary to achieve the purposes of this section.

GRANTS FOR INITIAL COSTS OF OPERATION

This section, 1105, provides grants to defray a portion of that portion of the initial operating costs incurred by HMOs in medically underserved areas. It is generally accepted that there is a minimum enrollment necessary for a self-sustaining HMO, and that such enrollment may be achieved only after one to three years of operation. Initial operational cost and risk is further accentuated by operation or expansion into medically underserved areas which may contain persons with greater than average health risks.

Grants awarded under this section shall not exceed $750,000 or 60 per centum of operating costs during the first year of operation by an HMO, $500,000 or 40 per centum of operating costs during the second year of operation, and $250,000 or 20 per centum of operating costs during the third year. While grants are limited to $1,500,000 over a three-year period, again it is recognized that the operation of an HMO in severely medically underserved areas may require additional support in time and/or amount. Such additional support may be allowed by the Secretary with the concurrence of the National Advisory Council on Health Maintenance Organizations.

Authorization is given for the appropriation of such sums as may be necessary to achieve the purposes of this section.

CONSTRUCTION LOANS

Loans, under section 1106, shall be available to extant or developing HMOs for the construction of ambulatory care facilities, e.g., clinics, multiphasic screening centers, and dental clinics. For efficient utilization of funds in this section, priority is given to acquisition and renovation of existing facilities. The Secretary may, with concurrence of the National Advisory Council on Health Maintenance Organizations, award a second loan for construction to any one project in exceptional circumstances. Such circumstances might include: HMOs developing services for an especially large number of members, or HMOs in geographically large areas which may require a series of ambulatory facilities and cannot lease facilities.

Loans are limited to a maximum of 90 per centum of construction costs, and (when added to grants made under Section 1104) to $2,500,000.

For this and the other loan sections of this title, provision is made for the creation of a revolving loan fund whereby loan repayments would return to the fund for use in making further loans.

Authorization is given for the appropriation of such sums as may be necessary to achieve the purposes of this section.

LOANS FOR INITIAL COSTS OF OPERATION

This section, 1107, provides for loans to meet a portion of initial operating costs. These initial operating costs may stem from factors such as low enrollment, investment in equipment, marketing costs, and necessary but initially inefficient arrangements for medical services.

HMOs in medically underserved areas may qualify for both grants and loans while HMOs serving areas of adequate medical service may receive only loans. Again, under exceptional circumstances, the Secretary may award additional loans to any project.

The combined assistance received by an HMO under Sections 1105 and 1107 is never to exceed $1,000,000 in any one year or $2,500,000 in three years, and generally not to exceed $750,000 or 60 per centum of operating costs in the first year (whichever is lesser), $500,000 or 40 per centum of costs in the second year, and $250,000 or 20 per centum of costs in the third year.

This section has authorization for appropriations of such sums as may be necessary to carry out the purposes of the section and provisions for the creation of a revolving loan fund.

GENERAL PROVISIONS FOR LOANS

This section, 1108, allows the Secretary to charge interest on any loan at a level comparable to the prevailing rate under Section 1109. Payment on the principle of loans shall not be due for two years. No loans may have a term greater than 15 years. Before the Secretary makes such loans he must be assured of the applicant's ability to provide security for such loans, to repay them and to meet such terms and conditions as the Secretary determines are necessary.

LOAN GUARANTEES AND INTEREST SUBSIDIES

Section 1109 provides for assistance to private non-profit HMOs and entities intending to become HMOs in the form of loan guarantees and interest subsidies. These loan guarantees and interest subsidies will be for construction projects for ambulatory service facilities, initial development costs (with a two-year limitation) and initial operating costs (with a three-year limitation). The loan guarantees and interest subsidies are not available to public HMOs or public entities intending to become HMOs because public organizations should not need such support in order to get loans. Interest subsidies may reduce interest rates by, but not more than, 3 per centum per annum. All loan guarantees and interest subsidies are limited to amounts which do not exceed 90 per centum, when added to the grants and loans made under other sections, of the costs of construction, development, or initial operations.

Extensive provisions are included in Section 1109b through Section 1109g describing the terms of loans to be guaranteed or subsidized, the United States' rights of recovery, the contestability of the guarantees, limitations on the total principle of loans guaranteed, and a Health Maintenance Organization Loan Guarantee Fund to be used in achieving the purposes of this section.

SPECIAL GRANTS AND CONTRACTS

Innovations and advances in health care will be made by HMOs. Existing HMO-like organizations such as Kaiser/Oakland and Kaiser/Portland have demonstrated an ability to plan, develop, implement and evaluate projects which have contributed to our knowledge of health care. This section, 1110, provides the opportunity for, and encourages but does not require, HMOs to engage in special projects particularly facilitated by the HMO environment. These project areas include:

1. The exploration of new roles for health professionals, e.g., pharmacists, nurses, home health aides. etc., which can provide for the more efficient use of our limited health manpower;

2. The development of new health information systems which focus on diagnostic and therapeutic data and facilitate the unit record;

3. The development of patient transportation systems to increase access to health care, particularly for rural and inner-city enrollees;

4. The improvement of patient education programs which will lead to greater understanding of health maintenance concepts and thus lead to more effective care;

5. The training of HMO members with organizational policy making responsibilities in the concepts of HMO administration and management;

6. The development of programs which periodically assess the level of health of enrollees;

7. The development and evaluation of programs for initial medical screening;

8. The development of methods to evaluate types of care required by patients during the course of an illness. Such evaluation will lead to proper institutional placement of patients and thus to more effective and efficient care.

These projects may be carried out either through grants or contracts which may not exceed $1,000,000 in amount nor four years in length. Such allowance of time and funds will meet the need for funds of projects with high start-up costs, such as health information systems while at the same time providing adequate time for projects such as patient education programs and periodic health assessment which may need a four-year period to assess their impact.

The Secretary may also give grants or make contracts with non-profit organizations for the delivery of comprehensive pre-paid care in rural areas if these organizations are not otherwise eligible for grants and contracts under this section. This reflects the fact that insufficient attention has been focused on the complex problems in providing comprehensive health services to rural areas. Full solutions to these problems will be developed from efforts in health manpower, e.g. correcting the maldistribution of health professionals and efforts such as this legislation in modifying the organization of the health care system. Because current experience with HMO-like entities has been almost exclusively in urban areas, this provision provides the Secretary discretionary power to expand those experiences by encouraging and initiating rural HMO-like projects.

GRANTS FOR HEALTH MAINTENANCE ORGANIZATION MANAGEMENT TRAINING

This section, 1111, recognizes the shortage of managers, administrators, actuarians, and others with the various management expertise needed for the successful operation of HMOs. It will therefore provide Federal moneys for the training of such people in HMO settings for the management and administration of HMOs.

Support under this section will normally go to colleges and universities, but may also go to any other approved public or private non-profit educational entity such as research institutes or HMOs themselves. The programs receiving support would require "approval" by DHEW in conjunction with the granting process. Approval would be limited to programs which provide practical experience for their students in HMO settings. The approval process would also consider such other matters as the qualifications of the programs' instructors, the contents of the curriculums, and its responsiveness to student needs, the duration of training, the nature of practical experiences offered, and, in due course, the results of the programs as reflected in the job performance of the students.

Grants under this section may well go to a variety of professional training programs. Thus both full courses of study leading to degrees, such as bachelor or masters degrees, and short-term or continuing education courses could be supported. In addition, courses in HMO management in general could be supported along with programs limited to the special aspects of HMO work that exist for certain disciplines (hospital administrators, actuarians, accountants, etc.) All recipients of these training grants would be expected to have contractual arrangements with HMOs which made on-the-job experience in HMO management available to the students.

Not less than 75 per centum of these grants are to go into actual traineeships or fellowships. Thus educational entities are limited to using a maximum of 25 per centum of the grants to help defray the costs of running the approved programs. Provision is made for funding, in whatever amounts the Secretary finds necessary, both traineeships in degree programs and fellowships for advanced studies.

Authorization is for such sums as may be necessary for carrying out the provision of the section.

GRANTS FOR CLINICAL TRAINING PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS

At present very few health professional students are trained all or in any part in HMOs. The natural result is that these students fail both to understand and to accept HMOs, while developing an intimate knowledge of and faith in the systems for health care delivery in which they are generally trained (primarily acute, general hospital inpatient and outpatient services). This section recognizes the fact that recruiting by HMOs of physicians, nurses and other health professionals will be easier if they are trained in HMOs. Thus, this section authorizes for appropriation the sums necessary for grants to health professions schools to cover the costs of providing clinical training to students in HMOs which the schools own and operate, or with which they contract for services. Priority is to be given to schools which operate their own HMOs. These grants are to be used to cover the costs of program administration, faculty salaries for health professionals working in HMOs, and other relevant program costs.

PROGRAM EVALUATION

Section 1113 indicates the evaluation of the HMO program should be full and rigorous. The performance of the varied components of the health care system is of vital interest to the Congress as it prepares to make health care decisions in the 1970's which will affect future decades. Aggressive evaluation of the HMO effort should begin to provide information on that performance and is thus an essential part of this title.

Evaluations may include:

1. Project evaluations to provide indications of the relative success of individual HMOs in meeting specific local objectives;

2. Program strategy evaluation which compare efficiency and effectiveness of differing types of HMOs (e.g., Kaiser, San Joaquin, Puget Sound, Columbia, etc.) and also compare HMOs with other types of medical practice including fee-for-service arrangements;

3. Program impact evaluations which assess the impact and extent to which the total HMO program achieves the goals indicated in the introduction of this analysis.

It is expected that the Secretary will define distinct and responsive organizational arrangements for the purpose of carrying out these evaluations and for reporting to the Congress and the public on a regular basis. It is anticipated that evaluation expenditures will be 0.5% of the total HMO assistance in the initial year and 2.0% during the third year of this program. Experience with the evaluation of other government health programs indicates that such investments are mandatory in a new program of this scope.

GENERAL PROVISIONS

This section, 1114, describes certain general provisions applying to all or large parts of the HMO effort that this Act would support.

Sec. 1114. a. This empowers the Secretary to require an application for any form of assistance under any part of this Act. The application is to be submitted in such form and manner and with such contents as the Secretary may require. It must be approved by the Secretary before any form of assistance can be given.

Sec. 1114. b. This part further specifies the contents of applications for assistance in Section 1114. b 1, and progress reports on Section 1114. b 2, planning, developing, constructing, and operating HMOs themselves. This part thus does not apply to the special projects or management and clinical training parts of the Act. A list of various aspects of an HMO's planning and operations (based upon the various parts of the definition, Section 1101. 1) is given as the minimum areas that an HMO application for assistance must describe. These include: (1) population group or groups to be served by the existing or proposed health maintenance organization described in the application; (2) enrollment for such organization; (3) methods, terms and periods for the enrollment of members; (4) nature and estimated costs per member of the health care and educational services to be provided; (5) sources of professional services, and organizational arrangements for providing health care and educational services; (6) organizational arrangements for an ongoing quality assurance program; (7) sources of prepayment and other forms of payment for the services to be provided; (8) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed; (9) administrative, managerial, and financial arrangements and capabilities of such an organization; (10) role for members in the planning and policy making for such organization; (11) grievance procedures for members, staff and employees; and (12) evaluation or evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or who would be affected thereby. DHEW is given authority to add to this list and to specify the manner and form of applications.

It is recognized that over the space of several years a single HMO will usually make multiple applications for different types of assistance and it is stated that in doing so an HMO will not meed to make repeated submissions of the same information as long as they keep their descriptions of themselves up-to-date in a manner satisfactory to the Secretary. It is anticipated that for simplicity's sake DHEW will use standardize application forms and procedures for the various types of assistance available.

Progress reports are required of assisted HMOs upon completion of periods of assistance under Sections 1102–1107 and 1109. These progress reports shall be submitted in a manner satisfactory to the Secretary. More important, they are to cover, at a minimum, the same aspects of HMO operations specified for description in applications so that evaluative comparisons can be made between the plans specified in applications and the progress subsequently reported. To facilitate this, it is hoped that progress reports will follow the formats used in applications.

Sec. 1114. c. This part of the General Provisions requires HMOs assisted under Sections 1102–1107 and 1109 (support for planning, development, construction, and initial operations) to submit assurances, at such times and in such manner as DHEW requires, of financial responsibility and operations consistent with both the terms of this Act and their own plans as submitted in applications. Clearly, such assurances could be incorporated into the progress reports described above, but this part permits the Secretary to go beyond them if he feels it necessary. HMOs which fail to provide such assurances could, under this part, have their assistance terminated at whatever time the Secretary deemed appropriate.

Sec. 1114. d. Part d of the General Provisions limits planning, development, construction and initial operating assistance of all kinds to HMOs which can show they will, or will continue to: enroll members who are broadly representative of the age, social and income make-up of the areas to be served by the HMO; and enroll the maximum number of members that their available and potential resources will allow them to serve effectively. The Secretary is given the obligation to define, in regulations, these various terms and criteria for judging whether or not an HMO meets these conditions. Thus, the word "social" will need detailed interpretation reflecting the inclusion in it of such matters as the area's economic and racial make-up.

These conditions are included in the legislation for several important reasons. The sponsors of the Act do not envision HMOs

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as being uniquely suited to any one age, social or income group and do not intend them as one part of a two-class system of health care. Thus this provision is included to insure that the membership of HMOs remain heterogeneous and open to all people. It is further hoped that this provision will prevent HMOs from serving only the young, healthy, employed or other desirable parts of their communities, thus placing an undue burden for care of the older, sick and unemployed on the remainder of the communities' health systems.

Sec. 1114. e. This part requires the Secretary to consider prior to approval, the reviews and comments of State and areawide comprehensive health planning agencies upon all applications from potential or existing HMOs for all forms of assistance in planning, development, construction, and initial operations. The Secretary might reasonably arrange for the State CHP agency covering the largest part of the HMO's service area to receive the reviews and comments of other State agencies, and the areawide CHP agencies, and coordinate them in a single submission to DHEW.

DHEW will need to specify in regulations the kinds of things to be considered by CHP agencies in their reviews of HMO applications. These might include: the need of the area to be served for the proposed HMO, whether the HMO's plans are consistent with other health plans for the area, whether the area has the health resources needed for a successful HMO operation, as well as the aspects of HMO operations enumerated in Section 1114. b 1.

Sec. 1114. f. The Secretary is given the authority in this part to terminate or cancel any form of assistance to any HMO found to be in substantial non-compliance with the various terms, provisions, and conditions of the legislation.

NATIONAL ADVISORY COUNCIL ON HEALTH MAINTENANCE ORGANIZATIONS

This section will create in the Public Health Service a National Advisory Council on Health Maintenance Organizations. Parts a, b, and c of this section describe respectively, the make-up, terms of office, and reimbursement of the Council. Briefly, there are to be twelve members, serving overlapping four-year terms, who choose their own chairman and are to be compensated at rates fixed by the Secretary. The council membership is to include representatives of HMO programs, the medical sciences, medical education, the health insurance industry, labor and management, hospital and medical administration, and public affairs. Three members of the Council are to be physicians, and three are to be consumer members of HMOs. Clearly, in some cases, it will prove possible to represent more than one of the listed interests with a single member of the Council.

Part d describes in general terms the duties of the Council. These include, but would not be limited to: advising the Secretary on the preparation of regulations and policies under this title; consideration of applications for assistance from HMOs; and recommendations, either general or specific (in the case of a second loan or grant under the same section to a single HMO project) for the approval of applications.

RESTRICTIVE STATE LAWS

Many states have laws which restrict, in various different ways, the corporate practice of medicine. Over the last 30 years, these laws have been tested in various parts of the country and have been consistently struck down by the courts on various grounds, typically that they constitute an illegal restraint of trade. However, these laws remain in approximately 20 states and would constitute a serious barrier to the HMO effort since HMOs will be, legally, corporate entities engaged in the practice of medicine.

This section would remove this barrier to an effective Federal HMO effort by allowing the Secretary to issue a certificate of incorporation to any HMO which is prevented by State laws from incorporating for various listed reasons, even though the HMO fully meets the requirements of an HMO as defined in Section 1101. HMOs thus incorporated would be limited to the performance of the functions of an HMO and things necessary to those functions. The Secretary will be responsible for the regulation, in addition to other things, of HMOs thus incorporated, in the manner that corporations are ordinarily regulated in the State in which the HMO is located.

Section 4. The legislation ends with minor technical amendments to the Public Health Service Act designed to preserve the proper numbering of its Titles and Sections.

CANAL ZONE SURRENDER PROPOSAL: THREAT TO FREE WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD), is recognized for 10 minutes.

Mr. FLOOD. Mr. Speaker, since the publication on page 1 in the October 19, 1971, issue of the New York Times of a newsstory supporting the program of certain elements in the Department of State for the surrender of U.S. sovereignty over the Canal Zone to Panama there has been an overabundance of newsstories and editorials in the mass news media of the United States to the same effect. These writings have not been aimed toward objective clarification of crucial canal issues and their solution but at conditioning the people of our country to accept the projected surrender of the Canal Zone and the eventual giving away of the Panama Canal. Evidently there has been a studied propaganda campaign by the executive branch of our Government to sway our people to acquiesce in the monstrous proposal.

For example, it was the commanding influence of Herbert L. Matthews of the New York Times that led to the overthrow of the pro-U.S. Government of Cuba in 1959 and the buildup in the so-called free press of our Nation of the Communist Fidel Castro of Cuba as that country's George Washington. Nor has the Times ever painted Castro in his true colors. (Mario Lazo, Dagger in the Heart, New York: Twin Circle Publishing Co., 1968, pp. 120–34.)

Fortunately, there have been patriotic, well informed, and articulate citizens of the United States at home and in the Canal Zone who understand the situation at Panama from personal observation and long association with the canal problem who have written letters to editors in various newspapers. Among recent letter writers are Jacqueline Overstreet of Albrook Air Force Base, C.Z., and William B. Collier III of Santa Barbara, Calif.

As to the mention by Mr. Collier of Secretary Taft's use of the term "titular sovereignty," I wish to stress that this can only mean a reversionary interest on the part of Panama in the sole event the United States should abandon the Panama Canal.

From a reading of various recent newsstories and editorials following the October 19 New York Times newsstory on the Panama Canal it is clear that certain officials in our Government in the past have made serious policy errors as regards the Isthmian question and that present officials are compounding the evil by persisting in error, in many respects repeating what occured in Cuba. When the facts are fully understood by our people, who are rapidly learning them, they will never stand for the projected surrender at Panama and any administration responsible for the planned catastrophe for the free world will be in serious error. Moreover, should the projected surrender treaties be submitted to the Senate for approval many Members of the House on both sides of the aisle stand ready to march four abreast to the Senate Committee on Foreign Relations and to testify in opposition.

Mr. Speaker, as regards the Isthmian situation the canal policymakers in our Government through ignorance, weakness, or design, are undertaking to repeat at Panama the same stupid blunder as was perpetrated concerning the Taiwan question. Certainly the time has come to terminate the current negotiations with Panama, to serve notice that U.S. sovereignty over the Canal Zone is not negotiable, and to fire our Chief Negotiator Robert B. Anderson, and his chief assistant, John C. Mundt. The dismissal of these figures is justified not on the ground of differences of opinion but because the policy that they advocate is based on provable slanted press reports and official subservience to these reports. For example, I refer to the frequent reference to the "lease" by the United States of the Canal Zone territory. There is not nor was there ever any "lease" of the zone for canal purposes in Panama. The Canal Zone is deeded and paid for United States soil as definitely as the Louisiana Purchase of 1803 or the Alaska Purchase of 1867. It is totally false to use Panama's reversionary interest with any imputation of the right of any power to this bona fide territorial acquisition of the United States.

The required notice of our Government's determination to retain its full sovereign control over the Canal Zone and Panama Canal can best be given by prompt adoption by the House of the pending resolutions on Panama Canal sovereignty.

Two recent letters to the editor of the New York Times follow:

[From the New York Times, Oct. 31, 1971]

CANAL ZONE TALKS

TO THE EDITOR: On Oct. 11, I listened as Gen. Omar Torrijos told his country—indeed the world—that he will take control of the Panama Canal Zone. He seems to believe the treaty negotiations now in progress will give him sovereignty of the Zone. If this fails, he says, he will enter the Zone ahead of his 6,000 guardsmen.

General Torrijos does not want to operate the Canal. He has stated many times Panama does not have the ability to do so. He does, however, want to abolish the office of Governor of the Zone; to have a Panamanian mayor, and to have Panama police patrol the Zone. In other words, he wants to rule the Canal Zone in the same way that he rules Panama.

Those of us now living in the Zone know the rule of terror under which the people of Panama exist. The general has complete control of radio and TV stations and of the press. He has stopped freedom of speech. In the last few months he has begun to harass the church.

Is this the kind of life we are expected to live in the Canal Zone? Are the Americans, who have fought for freedom since the birth of our country, going to surrender now?

Now is the time for each citizen to decide. It must be decided before the new treaty is signed. Will we keep the "Crossroads of the World" free? Or will we give it to a leftist dictator named Omar Torrijos?

JACQUELINE OVERSTREET,
Albrook Airforce Base, C. Z.

OCT. 13, 1971.

EDITOR,
New York Times.

DEAR SIR: Referring to the report by Benjamin Welles in your Oct. 19th issue, I take exception to the conclusions that the United States leases the Canal Zone, pays rent, and that the Convention of 1903 did not grant exclusive sovereign jurisdiction to the United States.

Article II of the Convention of 1903 reads: "The Republic of Panama grants to the United States in perpetuity" and goes on to describe the Canal Zone, the boundaries of which are more precisely defined in a later treaty and include all of the land under the waters of Gatun Lake and the land around it up to the 100 foot contour line in addition to the ten mile strip of land established in the popular mind.

After consulting with Republican leaders including Elihu Root and leading Democrats including Senator John Tyler Morgan of Alabama, Secretary of State John Hay insisted on the words "grants to the United States in perpetuity" to comply with the Spooner law of 1902. Congress had authorized the President to build the Panama Canal only if he acquired "perpetual control" of a strip of land across the Isthmus and clear title to the French Canal property and approval of the sovereign of the Isthmus of Panama to transfer the Canal from a private company to the Government of the United States. The law appropriated $40 million to purchase the French Canal and Panama Railroad and $10 million to start the project.

According to Art. XIV of the 1903 treaty, "As the price or compensation" for the land and exclusive U.S. sovereign jurisdiction, the United States paid $10 million gold to the Republic of Panama. The $250 thousand annual payment "in like gold coin" was compensation for loss of the annual franchise payment of the Panama Railroad, which can be confirmed by reading Art. XXII of the treaty. In 1967 Colombia had renewed the franchise of the Panama Railroad Company for 99 years on payment of one million dollars cash and an annual payment of $250 thousand. The financial terms were originally negotiated with Colombia, and the Colombian Charge d'Affaires had been demanding $600 thousand per annum to compensate Colombia not only for the loss of the revenue from the railroad but also for loss of customs duties, taxation, etc. which Colombia was asked to give up by granting a ten kilometer strip of land to the U.S., but Secretary Hay who began negotiations with a very inconsequential annuity would assume only the financial obligation of the Panama Railroad and that was the final figure agreed upon. Colombia than rejected the terms offered when many legislators in Bogotá decided that Colombia should be paid $10 million by the French Canal Company for approval of the tranafer of the franchise and $15 million by the United States for the land. This is the $25 million finally paid to Colombia by the United States for a quit claim in the Thomson-Urrutia Treaty whereby Colombia recognized the Independence of Panama and recognized that title to the Panama Canal and Panama Railroad is "vested entirely and absolutely in the United States without any encumbrances or indemnity whatsoever."

When Colombia rejected the Hay-Herrán Treaty, the Spooner Act required the President to build the Nicaragua Canal. The people of Panama did not wish to lose the canal to Nicaragua and sent emissaries to the United States seeking aid for Panamanian Independence. They wrote letters to Secretary Hay complaining that the Colombian troops in Panama had not been paid for three months and were pillaging and living off the people of the Isthmus. The French Panama Canal engineer Phillipe Bunau-Varilla advanced one hundred thousand dollars to pay the back wages of the officers and men of the Panama garrison and President Roosevelt sent U.S. Navy vessels to Panama to prevent landing of troops with hostile intent. Panama gained its long sought independence and offered a treaty to the United States at the same financial terms which the United States had offered Colombia but which embodied all of the amendments proposed by Senator John Tyler Morgan of Alabama. It is very doubtful if a treaty less favorable to the United States than the Convention of 1903 could have been approved by the United States Senate. The group of Senators led by John Tyler Morgan favored the Nicaragua Canal because of the shorter sailing distances from Gulf Coast ports to Pacific ports, and the opposition to the Panama Canal was too strong. The Hay-Bunau-Varilla Treaty was ratified first by Panama before being submitted to the United States Senate. At law a contract is always construed against the party which drew up the contract.

Article III of the Convention of 1903 grants exclusive sovereign jurisdiction to the United States in the following words: "The Republic of Panama grants to the United States all the rights, power and authority within the zone (described in Art. II) which the United States would possess and exercise if it were sovereign . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The intent of the high contracting parties was made clear in a note dated May 25, 1904 from Tomás Arias, Minister of Government of Panama, who had been a member of the Independence Movement which gave birth to the Republic of Panama, to General George W. Davis, United States Army, Governor of the Canal Zone: "The Government of the Republic of Panama considers that upon exchange of ratifications of the treaty for opening an interoceanic canal across the Isthmus of Panama its jurisdiction ceased over the Zone."

William Howard Taft's theory of "titular sovereignty" was based on a rule of English grammar not on the usual meaning of the words or the intent of the high contracting parties. He, himself characterized "titular sovereignty" as a "barren ideality" and Secretary of State John Hay defined it as a "barren sceptre."

In a letter dated January 12, 1905 to President Roosevelt, Mr. Taft wrote: "The truth is that while we have all the attributes of sovereignty necessary in the construction, maintenance, and protection of the canal, the very form in which those attributes are conferred in the treaty seems to preserve the titular sovereignty over the Canal Zone in the Republic of Panama, and as we have conceded to us complete judicial and police power and control over the zone and the two ports at the ends of the canal, I can see no reason for creating a resentment on the part of the people of the Isthmus by quarreling over that which is dear to them but which to us is of no real moment whatever."

April 18, 1906, in a statement before the Senate Committee on Interoceanic Canals, Mr. Taft quoted Article III of the Convention of 1903 and said: "It is peculiar in not conferring sovereignty directly upon the United States, but in giving to the United States the powers which it would have if it were sovereign. This gives rise to the obvious implication that a mere titular sovereignty is reserved in the Panamanian Government. Now, I agree that to the Anglo-Saxon mind a titular sovereignty is like what Governor Allen, of Ohio, once characterized as a "barren ideality", but to the Spanish or Latin mind poetic and sentimental, enjoying the intellectual refinements, and dwelling much on names and forms, it is by no means unimportant.

Very respectfully yours,
WILLIAM B. COLLIER III
Santa Barbara, Calif.

October 23, 1971.

ANOTHER INCIDENT OF INTIMIDATION BY FEDERAL POLICEMEN, WITH JEOPARDY TO THE BILL OF RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. JAMES V. STANTON) is recognized for 10 minutes.

Mr. JAMES V. STANTON. Mr. Speaker, on November 2, 1971, on page 38707, I inserted in the CONGRESSIONAL RECORD a letter I had written to President Nixon regarding certain acts of intimidation by the U.S. Secret Service, the target of these un-American actions being one of my constituents, Mr. Borivoje M. Karapandzich of Cleveland, Ohio. Mr. Karapandzich is an outspoken foe of Marshal Tito of Yugoslavia, a recent visitor to our country. At the same time, I inserted other material in the CONGRESSIONAL RECORD, dealing with other developments along these lines.

On November 8, I received the following letter from the White House:

THE WHITE HOUSE,
Washington, November 4, 1971.

Hon. JAMES V. STANTON,
House of Representatives,
Washington, D.C.

DEAR MR. STANTON: This will acknowledge your letter to the President presenting a report of an interview with Mr. Borivoje M. Karapandzich by agents of the United States Secret Service. You may be assured this matter will receive prompt consideration.

With cordial regards,

Sincerely,

WILLIAM E. TIMMONS,
Assistant to the President.

In the meantime, pending a more detailed reply from the White House, I urge my colleagues to keep Mr. Karapandzich's complaint in mind, and I urge them, too, to give heed to the following

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article which appeared this morning on the front page of the Washington Post:

FBI PROBES NEWSMAN CRITICAL OF PRESIDENT

(By Ken W. Clawson)

Acting on orders from the White House, the FBI has been investigating veteran CBS correspondent Daniel Schorr.

The investigation started Aug. 20 in the midst of one of Schorr's frequent clashes with White House aides over the quality and accuracy of his reporting.

FBI agents called on Richard Salant, president of CBS; Bill Small, CBS Washington bureau chief; Fred Friendly, former president of CBS, and even neighbors of Schorr, who lives in Georgetown, and those of his brother, Alvin, who lives in New York.

In each instance, agents said that Schorr was being considered for a "position of trust and confidence" in the government. An agent told Salant, who was suspicious of the reason for the probe, that Schorr had been proposed for a "very important job" and the White House had asked the FBI to expedite the investigation.

Most of the interviews took place during the weekend of Aug. 20.

No job offer was ever made to Schorr, but a White House official said last night that Schorr "was under consideration, among others, for a high position in the environmental area. The consideration was terminated, not for any reason that turned up in the FBI investigation, but for other reasons with respect to him and the position for which he was being considered."

The official refused to identify the environmental post.

"I now believe there was never a job to be offered," Schorr said yesterday. "Out of curiosity mostly, I have checked every source who might know without the slightest indication that I was ever considered for any post."

It was learned that the White House indeed sought from the FBI a field investigation on Schorr and, as is usual in these cases, indicated it was because Schorr was under consideration for employment in a substantial government post.

The investigation started three days after President Nixon made a speech to the Knights of Columbus in New York in which he indicated he strongly supported financial aid to parochial schools despite political and constitutional barriers. On the night of the speech, Schorr reported the President caught Catholic educators and even some HEW officials by surprise because they didn't know of any programs or initiatives in progress that could accomplish the President's apparent goal.

The following day, Aug. 18, Schorr was called by Al Snyder, an aide to White House communications director Herbert G. Klein, and asked to a meeting "to get all the facts" on White House initiatives on parochial schools.

Present were presidential speechwriter Pat Buchanan, Terry Bell, then an assistant commissioner of education, and Henry Cashen, an aide to Charles Colson, special counsel to the President.

Schorr said the quartet reeled off information so rapidly that he could not absorb it. He asked them for a simple statement of the facts, and promised he would try to air their position after checking it with his original sources.

Although his sources dismissed much of the subsequent statement as "pie in the sky," Schorr said he went on the CBS Evening News with Walter Cronkite Friday, Aug. 20, with a story giving the White House position as well as a partial knockdown by his own sources.

The FBI investigation was started earlier the same day. Schorr's bureau chief, Bill Small, refused to turn over the correspondent's personnel file to the FBI agent in view of the fact that he could not learn what job might be in the offing.

But Schorr himself answered several routine questions about his background and then ended the interview. He said he told the agent: "This is funny. If a job is going to be offered, shouldn't I know about it?"

In addition to a background check by the FBI, standard procedure prior to a high government appointment is an investigation of the prospect's back tax records. It was learned that no such check was made on Schorr.

Schorr became more and more curious as the days went by, as friends and associates called him to report contacts with the FBI. Marjorie Hunter, a New York Times reporter and Schorr's neighbor, was queried.

Irving R. Levine, an NBC correspondent, was asked by agents about Schorr's behavior when he was CBS's Moscow correspondent from 1955 through 1957. Schorr's nephew, Ken, 18, said neighbors in New York were being asked about Schorr.

The White House official said last night that the FBI probe was initiated routinely by the office of Frederic V. Malek, chief White House recruiter.

Coincidentally, Malek and Schorr attended a dinner party together after the FBI investigation was begun. The correspondent asked Malek at the dinner if he really was under consideration for a job. Malek's reaction, Schorr said yesterday, was one of surprise. Malek told Schorr he would look into the matter and call him. Malek didn't call.

Schorr and the White House, and especially Colson, the President's special counsel, have been on the outs over Schorr's coverage of the wage-price freeze and Phase II of the government's economic plans.

Last Wednesday, after Schorr reported that the Pay Board was about to explode because of labor members' reaction to proposed guidelines, Colson called Frank Stanton, vice chairman of CBS, and complained that the report was inaccurate.

One version of the call is that Colson charged that Schorr had personally fed the story to the Washington Post and the New York Times, thereby compounding the inaccuracy. This version further alleges that when AFL–CIO President George Meany heard the Schorr television report he became so angry that he boycotted the Thursday session of the Pay Board.

Labor sources said yesterday Meany did miss the morning session, but it was because he had a doctor's appointment. The Washington Post story, written by Frank C. Porter, did not come from Schorr, according to Porter.

Stanton himself said he didn't recall enough of the conversation with Colson to be precise about it. But he said that he didn't think it would be fair to say that Colson complained vigorously about Schorr's report.

Following the coverage of the acceptance of mainland China into the United Nations, however, Colson complained to a Washington CBS official that the network had failed to show the jubilation of pro-Chinese nations after the crucial vote.

Sargent Carlton, director of governmental relations for CBS, said Colson's complaint was relayed to Salant in New York. Earlier that day, the White House had denounced as "shocking" the "demonstration of undisguised glee shown by some" U.N. delegates.

All that was clear last night was that Schorr was secure in his job at CBS, and that his chances, if he ever had any, for a high position of "trust and confidence" in the government, were dead.

BLASTS POSTAL SERVICE INTERFERENCE IN INVESTIGATION OF SECAUCUS BLUNDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. NIX) is recognized for 10 minutes.

Mr. NIX. Mr. Speaker, as the Members of the House know, my subcommittee is conducting an investigation into the $60,000,000 cost overrun in the Secaucus, N.J., postal project. The Postal Service, according to the General Accounting Office, has managed in percentage terms to spend 109 percent more than it planned for the Secaucus project.

On November 9, General Rebh of the Army Corps of Engineers testified before my Subcommittee that the presence of methane gas which is highly explosive and inflammable has been discovered on the site and provision is now to be made to get rid of such gas. What is shocking about this disclosure is that the presence of gas was not discovered until a third of the cement floor of this project was laid down and no provision for the presence of this dangerous gas was made by the architect.

General Rebh testified that two individuals, who were employed by the Postal Service, a Mr. Garcia and a Mr. Cole, raised the question of methane gas with the Lester B. Knight Co., the architectural firm, very early in the history of the project.

The subcommittee asked for copies of documents which would show that this had happened. General Rebh promised on Tuesday to provide them. We have received them today.

These documents show that the architect should have known about methane gas and events prove that nothing was done about it.

But, we received a further surprise when the documents were handed over to us. They came to us, not from General Rebh, but were delivered by hand by a postal official. We have learned further that Mr. Henry Albert of the Postal Service congressional liaison staff insisted that the Army Corps of Engineers deliver these documents to the Postal Service under a previous agreement between the Postal Service and the Corps of Engineers.

This means that we do not know whether we have received the full information requested or not. We do not know whether this material has been censored by Mr. Albert.

I would like to remind the Postal Service that my subcommittee has the subpena power and we have the right to this information.

We will obtain all such information in the future by the subpena power to avoid the tainting of documents.

Subpenas will now be issued by myself as chairman of the subcommittee as a matter of course. I will not tolerate any interference with this investigation by anyone, including the Postal Service.

We will not stop searching for information until the entire Secaucus story is known.

U.S. FOREIGN AID: MYTHS AND REALITIES

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, the Nixon

administration solemnly promised the American people it would introduce creative new priorities. Belying that promise, the administration submitted to the Congress this year a foreign aid package which would perpetuate and further institutionalize a series of aged myths on foreign assistance which have made America a laughing stock in all corners of the world.

Myth No. 1 of the foreign aid establishment is the idea that the best way to combat Communist dictatorship is to shore up every non-Communist government with generous infusions of military and economic assistance. This myth takes no account of whether the government which is to receive the aid is itself repressive, reactionary, and a hindrance to economic and social justice in its country. It takes no account of whether a democratic government which was receiving U.S. aid was taken over by a clique of colonels in a military coup. In the name of fighting communism, our aid program has bolstered any dictator who was willing to mouth the necessary anti-Communist rhetoric and who automatically labeled as Communists any progressive, pro-democratic political opponents who sought to improve the living conditions of the country's impoverished masses.

This first myth on foreign aid conforms to a basic rule of "The Game of Nations" as set forth in an uncommonly perceptive article of that title by Richard Barnet in the current (November) issue of Harper's magazine. According to Barnet—

> All the world is the playing field. There are no spectators. Every nation, no matter how small, is a potential member of somebody's team. If it has not yet been chosen, then there is a "power vacuum" that you must exploit before the other team does.

This misguided theory holds that every anti-Communist regime, and every potentially anti-Communist regime, deserves American help.

The second myth on foreign aid states that the United States should provide recipient countries not only with money and hardware but also with a military assistance advisory group consisting of members of the U.S. Armed Forces. Give the dictators guns and planes, this theory says, and send American technicians and pilots to show them how to defend the existing government against what is glibly termed "Communist subversion." This myth has led us down the perilous path of military involvement in Indochina, the Dominican Republic, and elsewhere.

According to the third myth of the aid program, money given to the government of a foreign country will inevitably benefit broad segments of the country's population, including its submerged millions living at the subsistence level as serfs who labor and toil in order that a tiny minority of wealthy families may continue to enjoy their traditional luxuries. The meager results of the Alliance for Progress in raising the standards of living of peons in Latin America have punctured this myth beyond repair.

Myth No. 4 on foreign aid is the hypothesis that if you will only provide military and economic help to a country, that country's government will surely support you in the council chambers of the family of nations, will vote for your resolutions in the United Nations and will subscribe to your public policies on global issues. In the recent fiasco in the United Nations on the China question, recipients of U.S. aid not only voted against us—which was their privilege—but marked our stunning defeat with unseemly celebrations.

Indeed, the recent U.N. vote highlights an interesting phenomenon of the foreign aid game—that the recipients of foreign aid often harbor feelings of resentment against the donor. They express their feelings by attempting to publicly demonstrate their independence and freedom from the economic apron strings of the donor just as a small child will sometimes attempt to show his independence and prove his stature by disobeying his parents before members of his peer group.

I believe that the United Nations is big enough to accommodate mainland China and also the opponents of mainland China on the island of Taiwan. The people of Taiwan do not want to be represented by the followers of Mao Tse-tung, and I do not think their voice should be excluded from this international forum.

In the first U.N. vote this year on the admission of mainland China, a vote on the U.S. resolution declaring the expulsion of Nationalist China to be an important question, 74 member nations voted against the resolution or abstained. For 42 of these 74 nations, the administration's fiscal year 1972 foreign aid bill, defeated recently in the Senate, contained authorizations totaling approximately $1.5 billion.

During the last 25 years, the United States has given or loaned $9.5 billion to India in a special, large-scale effort to help that giant nation achieve economic takeoff. Despite the aid and attention we have lavished on her during the last quarter century, India has entered into close cooperation with the Soviet Union and taken numerous antiwestern stands. Currently, India is in the midst of a 5-year bilateral trade arrangement with the U.S.S.R., and on August 9 of this year, India signed a treaty of peace, friendship, and cooperation with Russia. Most of India's military hardware, including air force planes, come from Russia. India has taken a strong anti-Israel stand in the Middle East and maintains close relations with the United Arab Republic. During the same quarter-century, the United States gave or loaned $5.5 billion to Turkey and almost $4.5 billion to Pakistan. India, Turkey, and Pakistan all voted against the U.S. position on China.

With the announcement of the results of the vote in the United Nations, Myth No. 4—the myth that aid recipients will vote with you—came crashing to the ground. No one will ever be able to put this Humpty Dumpty back together again.

Myth No. 5 is the notion that the United States not only should contribute foreign aid but should be the prime contributor for our multilateral defense alliances, notably NATO. Our North Atlantic defense contribution is far out of line with what a fair distribution would call for. Other members of NATO are capable of coughing up a higher percentage of the organization's expenses. That only we can pay a high percentage is an outmoded illusion. We can no longer afford to play Santa Clause in this area of international life.

It is time that we faced up manfully to the falsity of these myths of foreign assistance. It is time to establish a genuine reordering of priorities in our overseas and domestic expenditures. We need to confront the realities of the United States role in world affairs in the 1970's.

The most important reality is that first call on our resources should be the improvement of the quality of life in America by the solution of the problems of poverty, unemployment, pollution, lowered standards of education, drug abuse and crime in the streets. We need to look inward first and foremost, and provide solutions primarily for our own pressing national problems.

To achieve this, we must become far more circumspect in our foreign aid program, rendering assistance to those nations that are truly our friends. Israel, a Western-oriented democracy surrounded by hostile authoritarian Arab regimes which are subsidized by the Soviet Union, is America's only true friend in the Middle East and is especially worthy of aid. The recent defeat of the foreign aid bill in the Senate deprived Israel of a $200 million grant-in-aid which would have been its first since 1964. It also killed House-approved individual allocations amounting to $20 million to be distributed among a dozen Israeli educational and civic institutions. I am hopeful that this aid will be restored in whatever foreign aid legislation is proposed for debate and vote.

The second reality of America's role in today's world is that the time is long past for the establishment of a multilateral international aid program in which the rich nations of the world will work together to offer humanitarian aid to the poor nations. An intergovernmental joint appeal with the great powers of the world—capitalist and Communist alike—contributing amounts proportional to their gross national product, would provide a far more effective approach than rival aid programs, which pit the Western world against the Communist nations. A joint multilateral foreign aid program of this kind could also play a role in establishing a basis for unity in our one-world spaceship.

Realizing the intransigence of the Soviet Union, we must be realistic enough to be aware that it is doubtful that such an idealistic program could be launched. If the Communist nations refuse to cooperate in such an endeavor, the United States would do well to organize and implement an intergovernmental joint appeal in conjunction with our Western allies. Such a program would place a less onerous burden of foreign aid on the already sagging shoulders of the American taxpayer. The Atlantic community of nations could administer this aid program through an already existing multilateral organization such as NATO.

The third reality is the experience we have had with our past military aid

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policy, which clearly shows that U.S. defense assistance to foreign countries should be drastically reduced.

We should continue military aid to nations and international organizations such as NATO, that are necessary for maintaining our own strong defense posture. In addition, we need to provide military assistance for those nations that have shown themselves truly worthy of our support.

A sound basis for a revitalized and rational aid program can only be built if we are ready to recognize these realities and firmly reject, once and for all, the fatuous myths on foreign aid that have grown up since World War II.

SECOND THOUGHTS ON FOREIGN AID

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, I am pleased to see that the Senate has begun debate on a revised foreign aid bill and is therefore reconsidering its complete dismissal of the aid program. The bill passed by the Senate will most likely take a different shape from the House version—the Foreign Relations Committee has already separated economic assistance from military assistance—but it will assure that foreign aid will not die overnight. The Senate will now have a vehicle with which to go to conference with the House, and a temporary compromise measure can be devised. This compromise will allow the Congress to conduct a thorough examination and revision of the entire foreign aid program in terms of long-range goals and needs, which I have long advocated.

The Hartford Courant recently printed an excellent editorial on the status of foreign aid in the Senate. I offer that editorial, entitled, "Second Thoughts on Foreign Aid," for the consideration of my colleagues:

SECOND THOUGHTS ON FOREIGN AID

Whatever it was that the Senate was trying to get off its chest by rejecting the Administration's foreign aid authorization bill last week, that body now seems to be having second thoughts.

Despite prophecy that nothing would be done this session to revive the United States aid program, the Senate Foreign Relations Committee apparently is agreed some kind of stop-gap legislation is necessary, after all—that "presto-chango" is not the answer to issues and problems of foreign aid.

This of course is what President Nixon and the Pentagon both are saying and urging. The two pleas are going to be listened to somewhat differently. That is already plain. Senators are already drawing distinctions between economic and military aid. Indeed, it was partly the argument by liberal Senators that military aid is tending to cause wars and American involvement in them, which resulted in the Senate rejection of the aid bill the first time around.

It is the Pentagon's contention on the other hand that military aid is essential to American strategic planning. It is pointed out that the rejection of the aid bill will weaken President Nixon's hand as he prepares to visit Peking and Moscow. Or, as it was worded, "It is particularly important at this time in history when we are moving toward an era of negotiation that we cannot and should not dilute the incentive of those negotiating," by ending foreign assistance.

Whether these arguments are totally convincing to critics of foreign aid, they will probably come around to the view that such assistance cannot be ended chop-a-block, at least. Thus the prediction now is that some short-range aid will be continued, while long-range policy is being battled out in later Congressional sessions. That opponents of military-aid spending will continue to try to cut this to the bone, is obvious. That moves will be revived to embody in the bill some sort of Vietnam withdrawal date, can also be expected, even though similar moves in connection with other appropriations bills have been defeated.

But while it is entirely possible that varied sorts of Congressional "disillusionment" will radically alter foreign aid in the future, a Senate-House compromise on what to do for the moment is certainly in order. Even given the best of reasons, the Senate's utter dismissal of aid was an act of haste. Now is the time to have second thoughts, and if they are good ones, last week's no-aid stampede perhaps can be filed and forgotten.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. MCKEVITT (at the request of Mr. GERALD R. FORD), from 5:15 p.m. today, through November 17, on account of official business.

Mr. MOSS, for period from 4 p.m., November 11, 1971, through November 15, 1971, on account of official business.

Mr. BARRETT (at the request of Mr. NIX), for Thursday, November 11, 1971, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. MCCOLLISTER), to revise and extend their remarks and to include extraneous matter to:

Mr. MILLER of Ohio, today, for 5 minutes.

Mr. KEMP, today, for 15 minutes.

The following Members (at the request of Mr. DENHOLM), to revise and extend their remarks and to include extraneous matter to:

Mr. ROSENTHAL, today, for 10 minutes.

Mr. ROY, today, for 20 minutes.

Mr. FLOOD, today, for 10 minutes.

Mr. ASPIN, today, for 15 minutes.

Mr. GONZALEZ, today, for 10 minutes.

Mr. JAMES V. STANTON, today, for 10 minutes.

Mr. NIX, today, for 10 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks, was granted to:

Mr. ASPINALL and to include an address by Representative WRIGHT.

Mr. ROGERS and to include extraneous matter.

Mr. GROSS to revise and extend his remarks on the District bill and include tables.

(The following Members (at the request of Mr. MCCOLLISTER), and to include extraneous matter:)

Mr. BURKE of Florida.

MRS. HECKLER of Massachusetts.

Mr. DERWINSKI in four instances.

Mr. HILLIS.

Mr. THOMSON of Wisconsin.

Mr. HOSMER in two instances.

Mr. KEATING.

Mr. SCHMITZ in two instances.

Mr. BRAY in two instances.

Mr. WYATT.

Mr. ZWACH.

Mr. PRICE of Texas in four instances.

Mr. BROYHILL of Virginia.

Mr. SMITH of New York.

Mr. HUTCHINSON.

Mr. BOB WILSON in three instances.

Mr. ARCHER.

Mr. MCEWEN in five instances.

Mr. HANSEN of Idaho.

(The following Members (at the request of Mr. DENHOLM), and to include extraneous matter:)

Mr. RANGEL in three instances.

Mr. ICHORD in two instances.

Mr. COTTER in six instances.

Mr. DENT.

Mr. JACOBS.

Mr. BOLLING.

Mr. GONZALEZ in two instances.

Mr. FLOOD.

Mr. RARICK in three instances.

Mr. HELSTOSKI in five instances.

Mr. METCALFE.

Mr. FULTON of Tennessee in three instances.

Mr. ANDERSON of California in six instances.

Mr. ROGERS in five instances.

Mr. BROOKS.

Mr. BERGLAND.

Mr. MANN in six instances.

Mrs. SULLIVAN in three instances.

Mr. EVINS of Tennessee in two instances.

Mr. MAZZOLI.

Mr. FASCELL in two instances.

Mr. PURCELL.

Mr. VANIK.

Mr. RYAN in three instances.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, November 15, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1281. A letter from the Attorney General, transmitting a report for fiscal year 1971 on the enforcement of title II (extortionate credit transactions) of the Consumer Credit Protection Act of 1968; to the Committee on Banking and Currency.

1282. A letter from the Acting Secretary of the Treasury, transmitting a report on foreign credits by the U.S. Government as of December 31, 1970, pursuant to section 634 (f) of the Foreign Assistance Act of 1961, as amended; to the Commmittee on Foreign Affairs.

1283. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain federally owned lands are held by the United States in trust for the Covelo Indian Community of the Round Valley Indian Reservation, Calif.; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOLIFIELD: Committee on Government Operations. H.R. 8708. A bill to extend the authority of agency heads to draw checks in favor of financial organizations to other classes of recurring payments, and for other purposes; with an amendment (Rept. No. 92-665). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 11731. A bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes (Rept. No. 92-666). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 704. Resolution providing for the consideration of H.R. 11731. A bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes (Rept. No. 92-667). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of Illinois:

H.R. 11716. A bill to authorize a review of collective bargaining in the construction industry; the broadening of the geographical scope of collective bargaining for construction affecting interstate commerce; and the establishment of a Construction Industry Bargaining Commission; to the Committee on Education and Labor.

By Mr. ARCHER (for himself, Mr. COLLINS of Texas, Mr. ESHLEMAN, Mr. SCHMITZ, Mr. PRICE of Texas, and Mr. HALL):

H.R. 11717. A bill to repeal the Davis-Bacon Act and the Contract Work Hours Standards Act, and related provisions of law; to the Committee on Education and Labor.

By Mr. BERGLAND:

H.R. 11718. A bill to amend sections 9 and 11 of the Clayton Act, as amended, to provide for the continuance of the family farm and to prevent monopoly and for other purposes; to the Committee on the Judiciary.

By Mr. CHAMBERLAIN:

H.R. 11719. A bill to amend the Internal Revenue Code of 1954 so as to permit certain tax exempt organizations to engage in communications with legislative bodies, and committees and members thereof; to the Committee on Ways and Means.

By Mr. HELSTOSKI:

H.R. 11720. A bill to amend title 38 of the United States Code to authorize the enrollment of eligible veterans in a course offered by an educational institution which has moved to another location, provided certain conditions are met; to the Committee on Veterans' Affairs.

By Mr. KARTH:

H.R. 11721. A bill to amend the Postal Reorganization Act of 1970, Title 39, U.S.C. to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. KEATING:

H.R. 11722. A bill to guarantee the right of criminal defendants to a speedy trial and to reduce crime and injustice by improving the supervision of persons released on bail and probation, and for other purposes; to the Committee on the Judiciary.

By Mr. MATSUNAGA (for himself, Mr. RHODES, Mr. STEIGER of Arizona, Mr. TEAGUE of Texas, Mr. UDALL, Mr. ANDERSON of Tennessee, Mr. BURTON, Mr. CASEY of Texas, Mr. COLLIER, Mr. DORN, Mr. DULSKI, Mr. GALLAGHER, Mrs. GRASSO, Mr. HALPERN, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mr. HUNT, and Mr. JOHNSON of California):

H.R. 11723. A bill to authorize the Secretary of the Navy to provide shoreside facilities for the education and convenience of visitors to the United States Ship Arizona Memorial at Pearl Harbor; to the Committee on Armed Services.

By Mr. MATSUNAGA (for himself, Mr. STEIGER of Arizona, Mr. TEAGUE of Texas, Mr. UDALL, Mr. RHODES, Mr. KYROS, Mr. LATTA, Mr. LEGGETT, Mr. NIX, Mr. PICKLE, Mr. PIKE, Mr. PODELL, Mr. ROBERTS, Mr. RODINO, Mr. STRATTON, Mr. WIGGINS, Mr. WRIGHT, and Mr. YOUNG of Florida):

H.R. 11724. A bill to authorize the Secretary of the Navy to provide shoreside facilities for the education and convenience of visitors to the United States Ship Arizona Memorial at Pearl Harbor; to the Committee on Armed Services.

By Mr. MAZZOLI:

H.R. 11725. A bill relating to withholding, for purposes of the income tax imposed by certain cities, on the compensation of Federal employees; to the Committee on Ways and Means.

By Mr. PRICE of Texas:

H.R. 11726. A bill to provide for national cemeteries in the northwestern area of the State of Texas; to the Committee on Veterans' Affairs.

By Mr. ROSENTHAL:

H.R. 11727. A bill to provide Federal financial assistance to local governments for the training of parapolice personnel; to the Committee on the Judiciary.

By Mr. ROY (for himself, Mr. ROGERS, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SYMINGTON, Mr. NELSEN, Mr. CARTER, and Mr. HASTINGS):

H.R. 11728. A bill to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE of Texas:

H.R. 11729. A bill to provide for the conversion of Servicemen's Group Life Insurance to Veterans' Group Life Insurance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. THONE:

H.R. 11730. A bill urging units and individual members of the armed services to engage in civic works; to the Committee on Armed Services.

By Mr. MAHON:

H.R. 11731. A bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

By Mr. BINGHAM (for himself, Mr. BURTON, Mr. MIKVA, and Mr. MOSS):

H.R. 11732. A bill to amend the Fair Packaging and Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business, and packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. CRANE (for himself, Mr. WAGGONNER, Mr. SIKES, Mr. BIAGGI, Mr. CHAPPELL, Mr. DULSKI, Mr. GOODLING, Mr. NICHOLS, Mr. POAGE, and Mr. THOMSON of Wisconsin):

H.R. 11733. A bill to limit U.S. contributions to the United Nations; to the Committee on Foreign Affairs.

By Mr. DONOHUE:

H.R. 11734. A bill to amend title 38 of the United States Code to increase the maximum burial and funeral expense payment for a veteran to $400 and to provide an additional allowance of not to exceed $150 for the purchase of a burial plot; to the Committee on Veterans' Affairs.

By Mr. DUNCAN:

H.R. 11735. A bill to suspend the duties on fluorspar until the close of January 1, 1974; to the Committee on Ways and Means.

By Mr. FISH:

H.R. 11736. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. HAWKINS:

H.R. 11737. A bill to amend the tariff and trade laws of the United States to promote full employment and restore a diversified production base; to amend the Internal Revenue Code of 1954 to stem the outflow of U.S. capital, jobs, technology, and production, and for other purposes; to the Committee on Ways and Means.

By Mr. HÉBERT (for himself and Mr. ARENDS):

H.R. 11738. A bill to amend title 10, United States Code, to authorize the Secretary of Defense to lend certain equipment and to provide transportation and other services to the Boy Scouts of America in connection with the Boy Scout Jamborees, and for other purposes; to the Committee on Armed Services.

H.R. 11739. A bill to authorize the Secretary of Defense to lend certain Army, Navy, and Air Force equipment and provide certain services to the Boy Scouts of America for use in the 1973 National Jamboree, and for other purposes; to the Committee on Armed Services.

By Mr. JACOBS:

H.R. 11740. A bill to amend section 135 of title 4 of the District of Columbia Code to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection; to the Committee on the District of Columbia.

By Mr. PRICE of Texas:

H.R. 11741. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works.

By Mr. ROGERS (for himself, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, and Mr. HASTINGS):

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H.R. 11742. A bill to provide for the prevention of sickle cell anemia; to the Committee on Interstate and Foreign Commerce.

By Mr. SAYLOR:

H.R. 11743. A bill to amend title III of the act of March 3, 1933, commonly referred to as the Buy American Act, with respect to determining when the cost of certain articles, materials, or supplies is unreasonable; to define when articles, materials, and supplies have been mined, produced, or manufactured in the United States; to make clear the right of any State to give preference to domestically produced goods in purchasing for public use, and for other purposes; to the Committee on Public Works.

H.R. 11744. A bill to provide incentives for the establishment of new or expanded job-producing industrial and commercial establishments in rural areas; to the Committee on Ways and Means.

By Mr. SPRINGER:

H.R. 11745. A bill to amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order to conquer cancer as soon as possible; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Florida (for himself, Mr. GIBBONS, and Mr. HALEY):

H.R. 11746. A bill for the relief of certain cities, counties, and government agencies of the State of Florida to compensate them for costs in connection with a "red tide" occurrence; to the Committee on the Judiciary.

By Mr. BYRON (for himself and Mr. TEAGUE of Texas):

H.J. Res. 959. Joint resolution designating November 11 of each year as "Armistice Day"; to the Committee on the Judiciary.

By Mr. CARTER:

H.J. Res. 960. Joint resolution designating the American rose as the national floral emblem of the United States; to the Committee on House Administration.

By Mr. DRINAN (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. ASPIN, Mr. BADILLO, Mr. BEGICH, Mr. BINGHAM, Mr. BURTON, Mrs. CHISHOLM, Mr. CONYERS, Mr. CORMAN, Mr. DELLUMS, Mr. DOW, Mr. ECKHARDT, Mr. EDWARDS of California, Mr. EILBERG, Mr. ESCH, Mr. WILLIAM D. FORD, Mr. FRASER, Mr. FRENZEL, Mrs. GRASSO, Mr. GUDE, Mr. HALPERN, Mr. HARRINGTON, and Mr. HAWKINS):

H.J. Res. 961. Joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Mr. HECHLER of West Virginia, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, Mr. JACOBS, Mr. LUJAN, Mr. MATSUNAGA, Mr. METCALFE, Mr. MIKVA, Mrs. MINK, Mr. MITCHELL, Mr. MOSS, Mr. PEPPER, Mr. PREYER of North Carolina, Mr. RAILSBACK, Mr. RANGEL, Mr. REES, Mr. REID of New York, Mr. ROSENTHAL, Mr. ROY, Mr. RYAN, Mr. SCHEUER, Mr. SEIBERLING, Mr. UDALL, and Mr. VANIK):

H.J. Res. 962. Joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress; to the Committee on the Judiciary.

By Mr. DRINAN (for himself, Mr. WALDIE, and Mr. WOLFF):

H.J. Res. 963. Joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress; to the Committee on the Judiciary.

By Mr. FISH:

H.J. Res. 964. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on the Judiciary.

By Mr. PURCELL:

H.J. Res. 965. Joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress; to the Committee on the Judiciary.

By Mr. YOUNG of Florida (for himself, Mr. ASHBROOK, Mr. ASPIN, Mr. BIAGGI, Mr. BURKE of Florida, Mr. CHAPPELL, Mr. COLLIER, Mr. DAVIS of South Carolina, Mr. DEVINE, Mr. EILBERG, Mr. ESHLEMAN, Mr. FISHER, Mr. FLYNT, Mr. FREY, Mr. HALPERN, Mr. HILLIS, Mr. HUNT, Mr. HUTCHINSON, and Mr. JOHNSON of Pennsylvania):

H.J. Res. 966. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on the Judiciary.

By Mr. YOUNG of Florida (for himself, Mr. KEATING, Mr. KYL, Mr. MCCOLLISTER, Mr. MILLS of Maryland, Mr. MIZELL, Mr. MYERS, Mr. PERNIE, Mr. POWELL, Mr. ROBERTS, Mr. RUNNELS, Mr. SAYLOR, Mr. SCHERLE, Mr. SEBELIUS, Mr. SHOUP, Mr. THOMSON of Wisconsin, Mr. THONE, Mr. WARE, and Mr. WRIGHT):

H.J. Res. 967. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on the Judiciary.

By Mr. HUNGATE (for himself, Mr. ANDERSON of California, Mr. ANDREWS of North Dakota, Mr. BRASCO, Mr. BROWN of Michigan, Mr. BURLISON of Missouri, Mr. DANIELS of New Jersey, Mr. DENHOLM, Mr. DENT, Mr. DULSKI, Mr. EVINS of Tennessee, Mr. FASCELL, Mr. FOLEY, Mr. FULTON of Tennessee, Mr. GALIFIANAKIS, Mr. GETTYS, Mr. HAGAN, Mr. HANSEN of Idaho, Mr. HASTINGS, Mr. HATHAWAY, Mr. HELSTOSKI, Mrs. HICKS of Massachusetts, and Mr. HOGAN):

H. Con. Res. 454. Concurrent resolution urging review of the United Nations Charter; to the Committee on Foreign Affairs.

By Mr. HUNGATE (for himself, Mr. KEMP, Mr. KUYKENDALL, Mr. LENT, Mr. LINK, Mr. LONG of Maryland, Mr. MCCLORY, Mr. MATHIAS of California, Mr. MASSOLI, Mr. MICHEL, Mr. MORSE, Mr. MURPHY of New York, Mr. PIKE, Mr. PREYER of North Carolina, Mr. ROY, Mr. RUNNELS, Mr. STEELE, Mr. VEYSEY, Mr. CHARLES H. WILSON, Mr. WYDLER, and Mr. YATES):

H. Con. Res. 455. Concurrent resolution urging review of the United Nations Charter; to the Committee on Foreign Affairs.

By Mr. RODINO:

H. Con. Res. 456. Concurrent resolution to relieve the suppression of Soviet Jewry; to the Committee on Foreign Affairs.

By Mr. RANDALL:

H. Con. Res. 457. Concurrent resolution requesting the President to proclaim the third Sunday of July in each year as Foster Parents' Day; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRASCO:

H.R. 11747. A bill for the relief of Anthony M. Dalco; to the Committee on the Judiciary.

H.R. 11748. A bill for the relief of I. Allen Hanover; to the Committee on Post Office and Civil Service.

By Mr. DONOHUE:

H.R. 11749. A bill for the relief of 1st Lt. Thomas J. Tremba, U.S. Army; to the Committee on the Judiciary.

H.R. 11750. A bill for the relief of Lt. Col. Robert J. Grady, U.S. Air Force (retired); to the committee on the Judiciary.

By Mr. FUQUA:

H.R. 11751. A bill for the relief of the estate of Russell J. Davis; to the Committee on the Judiciary.

By Mr. RONCALIO:

H.R. 11752. A bill for the relief of Juan Leo De Herrera; to the Committee on the Judiciary.

SENATE—*Thursday, November 11, 1971*

The Senate met at 9 a.m. and was called to order by Hon. HAROLD E. HUGHES, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, who art above all and through all and in all, without whom life has no divine meaning or destiny, but with whom there is light and leading, power for the present and hope for the future, enter our waiting hearts and be near us when we need Thee throughout this day. As Thou didst guide our fathers, be to us a pillar of fire to guide us through the perils and darkness of the age to the haven of hope which is Thy kingdom. We pray now that the words of our mouths and the mediations of our hearts may be acceptable in Thy sight in this place on this day.

In the name of the Master of Life. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 11, 1971.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. HAROLD E. HUGHES, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. HUGHES thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, November 10, 1971, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADJOURNMENT SINE DIE 1971

Mr. SCOTT. Mr. President, I have only one comment to make: I hope we can get out of here by December 1.

If we work hard, I think that we can.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

VACATING OF ORDER FOR RECOGNITION OF SENATOR HARRIS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order granted by the Senate, allowing the distinguished Senator from Oklahoma (Mr. HARRIS) to proceed for 15 minutes today, be vacated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HAPPY BIRTHDAY TO THE REPUBLICAN LEADER

Mr. MANSFIELD. Mr. President, it has just come to my attention that my distinguished colleague, the Republican leader in the Senate, the Senator from Pennsylvania (Mr. SCOTT), has a birthday today.

As a friend, as a close associate, and as one who admires and respects the distinguished Senator, I take this occasion to extend to him my heartiest felicitations and best wishes, and to express the hope that he will be in his present position for many years to come—and that means being in the Senate as well.

It is a pleasure to work with Senator SCOTT, an old pro, who is understanding, who always puts his cards on the table, and who has been responsible in large part for the most pleasant and personal relationship and friendship which exists between the two leaders.

I salute you, sir. You have done a great job as a Member of the House and the Senate, as a member of the Armed Forces of our country during the Second World War, and as a man who has represented his State, his country, and this body with distinction and integrity.

Mr. SCOTT. Mr. President, I would not ruin the thoughtful and kind comments of the distinguished majority leader by any reply of mine, other than to say that I appreciate very much the complimentary words of my good friend, the distinguished Senator from Montana (Mr. MANSFIELD).

I am delighted that we have been and will be able to work closely together on the basis of mutual trust and understanding. There will be no question of that.

I wish that all human relationships were as good as mine with the distinguished majority leader. I thank him very much for his kindness.

As with all birthdays, I regret them sincerely.

Mr. MANSFIELD. The older one gets, the shorter time becomes.

AUTHORIZATION FOR SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN S. 2820

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2820, which was passed by the Senate last evening.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Florida is now recognized for a period not to exceed 15 minutes.

THANKSGIVING DAY SALUTE TO SENIOR AMERICANS

Mr. GURNEY. Mr. President, I should like to spend a few minutes this morning to discuss a program which I think is worthy of the highest commendation.

Mr. President, a nonprofit voluntary organization known as VIP, Very Important Patients, whose honorary chairman is Mrs. Dwight Eisenhower, has established a project to encourage visits on Thanksgiving Day by Members of Congress to those of our senior Americans who are unfortunate enough to be institutionalized. They have received the full cooperation of the American Association of Homes for the Aging and that organization is to be commended as well.

I can think of no single group of persons more deserving of a heartfelt, national expression of thanks. I, personally, am grateful for this opportunity to emphasize the worth of older Americans to our society. Too often, even in these Chambers where the meaningful, cherished elements of American life are daily reflected in the deliberations of my able colleagues, we tend to forget senior citizens and their contributions to this country. We seldom pause to recognize the determination of our elders to continue to be active in a stream of social life, to be integral members of the human race, and to maintain their independence and self-respect. Our failure to demonstrate our affection for our elderly and our concern for their happiness is regrettable. As a nation, we have, in recent years, promoted the elements of a youth culture. We have applauded as virtues the activity, the freshness, the exuberance, and the excitement of youth. We have attributed much of the success of our national endeavors to the drive of a youthful spirit. We have assumed a psychology of youth orientation which is important but which has all but obscured the light of wisdom and the view of experience that older Americans have shed on our country's problems.

The contributions of our parents and our grandparents cannot be measured. Each of our own lives demonstrates the direct influence of today's elderly citizens; more importantly, the very character of this Nation has been formed largely through the efforts of persons who now find themselves in the shadows of American life, watching the fruits of their efforts and ambitions from standpoints of isolation and separation.

Strong, enthusiastic support of the Thanksgiving Day salute to senior Americans can mark a national commitment to give our elders the opportunities to enjoy and to continue to lead useful, happy lives. It can erase from their minds the memories of solitude and mere toleration. Our country does itself a disservice by overlooking the talents of older citizens and by failing to recognize the tremendous debt that is already owed them.

I heartily endorse this Thanksgiving Day salute as an activity of utmost importance, and I urge all Senators to lend their energies and support on this day to convince our older Americans that they are the very foundation of our country's future accomplishments.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a letter from Miss Carmella LaSpada, national coordinator of the Thanksgiving Day salute to senior Americans and Johnny Unitas, president of the VIP, and also a statement prepared by the distinguished Senator from Hawaii (Mr. FONG).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THANKSGIVING DAY SALUTE
TO SENIOR AMERICANS,
Washington, D.C.

DEAR SENATOR: This is to thank you for your reply to the VIP invitation requesting your participation in the Thanksgiving Day Salute to Senior Americans.

We are sincerely appreciative of the response from Senators and Congressmen who have enthusiastically agreed to participate by including older Americans in their own holiday festivities or by visiting a home for the aging in their State or District. We hope this "Salute" will become an American tradition.

This tribute is not meant as a token recog-

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nition but as a sincere acknowledgement of the debt we owe our older citizens and the affection we have for them. At the same time this annual event, remembering the older Americans amongst us, is symbolic of the continuing care we have for them throughout the year.

On behalf of VIP, we wish to express our gratitude to you. We believe that many more Americans will have a happy Thanksgiving Day this year because of your concern and your personal efforts.

Wishing you and your family a very happy Thanksgiving, we remain

Sincerely,

JOHNNY UNITAS,
President, VIP.
(Miss) CAMELLIA LASPADA,
National Coordinator, Thanksgiving Day Salute to Senior Americans.

STATEMENT OF SENATOR FONG, THANKSGIVING DAY SALUTE TO SENIOR AMERICANS

Mr. FONG. Mr. President, it gives me great pleasure, as ranking Minority Member of the Senate Special Committee on Aging, to add my voice of praise for the "Thanksgiving Day Salute to Senior Americans", sponsored by VIP.

VIP is a voluntary organization, the full name of which is Very Important Patients, and is devoting its efforts to increasing opportunities for enjoyment of life among the elderly who reside in homes for the aging and other institutions caring for older persons, especially the infirm and sick. Led by famous football player, Johnny Unitas, VIP is doing a great work.

When one considers the magnificent contributions which older Americans have made to our Nation, it is only fitting that those among them who are least able to care for themselves should be given special recognition by an organization such as VIP. They are truly Very Important Patients. We should all do all we can to add a bit of joy and pleasure to their lives. That many live most sheltered lives, and are severly restricted in their ability to mingle freely in society, make it most appropriate that we pay the debt our society owes them collectively in every way we can and at every opportunity. That they are wonderful human beings individually doubles our obligation.

In the work of the Special Committee on Aging, we have learned poignantly that many older persons are sorely in need of efforts by their juniors to brighten their lives and reduce their loneliness. The Thanksgiving Day Salute is a worthy innovation in bringing such extra joy into their lives.

Appreciation should also be expressed to the American Association of Homes for the Aged, the national organization of non-profit homes, for its operations with VIP in this endeavor. AAHA thus continues a splendid record, pioneered for decades by religious, fraternal and other organizations, of showing that some one truly cares. We who are more fortunate, of all ages, should emulate their concerns for the aged—to whom we owe so much—whenever we can.

Mr. PEARSON. Mr. President, the Thanksgiving Day salute to senior citizens gives all Americans a chance to show their deep appreciation for all the contributions which they have made to this Nation. In this regard, I would like to express my gratitude to Johnny Unitas, the president of the Very Important Patients program, and to Miss Carmella La Spada, coordinator of the Thanksgiving Day salute, for giving us this opportunity.

Certainly we cannot deny the debt we owe the Nation's elderly. Many of those now retired have lived through two world wars, suffered through the greatest depression in our history, and raised families in a time when there was inadequate supplies of money, food, or clothing.

Yet they also displayed the fortitude and courage to overcome adversity by contributing to an unprecedented advance in all facets of human endeavor, resulting in a society which knows no peer in the quality of life it can offer its members.

Mr. President, we owe these Americans a great debt. Yet now they face a crisis. Many of the Nation's elderly are isolated in nursing homes and retirement centers, far from the society they helped to shape. Many are forced to live a lonely, reclusive existence because of inadequate transportation, lack of funds, or poor health.

The VIP program, with the Thanksgiving Day salute, seeks to bring the plight of the Nation's elderly to the attention of all Americans by arranging for interested persons to visit residents of nursing homes or convalescent centers. The program will help demonstrate to these people how grateful all Americans are for all that we have today. The Thanksgiving Day salute to senior citizens gives us all the opportunity to share our freedom with someone who helped preserve and strengthen it during America's leanest years.

Mr. BIBLE. Mr. President, I should like to add my comments to those of my distinguished colleagues regarding the Thanksgiving Day salute to senior Americans.

Thanksgiving Day is one of the oldest traditions of our American heritage, a tradition which is still meaningful to all Americans because we, as individuals, and as a nation, have much to be thankful for. The original Thanksgiving Day, as our history books remind us, was an expression of thanks and gratitude on the part of our Pilgrim Fathers for the bounty of their new home and the friendship and assistance of their Indian friends.

The Indians helped the first settlers, who in turn have blazed the trails for the generations of Americans after them. As we today remember those who have helped and guided us, there is one special group which, I feel, deserves special recognition and consideration. Our senior Americans have blazed the trail for us, they have made it possible for us to enjoy a land of freedom and progress which is second to none.

In view of this, it seems deplorable that many of our older citizens should have to spend this traditional day of togetherness alone and forgotten in institutions and nursing homes.

That is why I am wholeheartedly endorsing the VIP project to pay special tribute to our older Americans, and I encourage all Senators to do the same.

We owe our senior Americans a debt that money and simple words cannot repay. We owe them a tribute of personal respect, a tangible sign of caring and appreciation.

I commend the sponsors and director of this program and I hope that all Americans will adopt this special way of giving thanks to those who gave us what we have to be thankful for.

THANKSGIVING SALUTE TO SENIOR AMERICANS

Mr. FANNIN. Mr. President, an organization known as VIP—Very Important Patients—has initiated something I believe deserves an expression of congressional approval here on the floor of the Senate.

VIP has established a campaign to encourage Members of Congress to visit institutionalized senior Americans on Thanksgiving Day.

A great lady, Mrs. Dwight David Eisenhower is serving as honorary chairman of this organization. And the president of VIP is Mr. Johnny Unitas, perhaps the greatest football player of all time.

Mr. President, I think that VIP has a fine idea. I can think of no better day on which to personally express our appreciation for the elderly whose work and perseverance have built this Nation into the strongest and most prosperous on earth.

It is most unfortunate that so many Americans have taken the senior citizen for granted and have ignored his needs. It is tragic that in so many cases senior citizens have been shunted aside, removed by their problems from the rest of society.

All too often one sees our senior American, alone and isolated from his family and loved ones, who exists but truly does not live.

And so, Mr. President, while I regret that such a campaign is necessary in today's America, I recognize that it is in fact necessary. I, therefore, commend Very Important Patients organization for what I believe to be a fine effort in establishing what hopefully may become a tradition. Hopefully, all of us, not just Members of Congress but every American, will become more aware of the debt to the generations that have contributed so much to our current well-being.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Illinois is recognized for not to exceed 15 minutes.

THE SALT TALKS

Mr. PERCY. Mr. President, President Nixon's initiatives in foreign affairs are heartening to those of us who place high priority on attaining a world without war.

In this Administration the foreign policy emphasis is on reducing world tensions by improving U.S. relations with all countries.

As the President himself said in his report on foreign policy of February 25, 1971, he seeks to "build . . . mutual respect with our friends, without dominating them or abandoning them" and he strives for "mutual respect with our adversaries, without compromising our principles or weakening our resolve."

This is a wise policy which requires much patience, understanding, wisdom, and skill to achieve. Yet already the Administration has demonstrated what can be done with a wise policy:

The NATO partnership has been strengthened.

The Indochina war is being deescalated rapidly.

U.S. relations with Eastern Europe are being improved.

A fresh start has been made on the problems of international economic policy.

For almost 16 months the guns at Suez have been silent.

Rapprochement with Mainland China has begun.

A Berlin settlement is being negotiated.

Talks on mutually reducing troop levels in Central Europe are in prospect.

Serious talks on nuclear arms limitations give promise of agreement in the not-too-distant future.

For these reasons I submit that the administration is doing extremely well in foreign affairs and has earned our confidence.

It is in this context that I turn to consider our relations with the Soviet Union, and more particularly the negotiations on strategic arms limitations which will resume in Vienna on November 16, 1971. While it is not known exactly what numbers would be involved in the limitation of offensive and defensive strategic missiles under the terms of the most recent U.S. proposal, it is my understanding that the overall numbers of missiles on both sides would be approximately the same, although the mix would be different.

I believe that the approach of President Nixon in this respect is both realistic and equitable. This Nixon initiative would halt progress on the very systems which are powering the arms race, the anti-ballistic missile and the offensive ballistic missile systems. These are the weapons which today contribute to the possibility of a first-strike capability, with all the horrors for mankind such a capability can entail. As I said last March, the action-reaction cycle of the arms race must be broken. The Nixon initiative would do just that.

The logical starting point in reducing strategic arms is with those weapons which by the nature of their mission or their technical attributes can most readily be employed in a first or preemptive strike. These are the relatively accurate and vulnerable land-based missiles of both sides. To illustrate: From the Soviet viewpoint, reductions in U.S. ICBM's and in the ABM's which defend them would have a stabilizing effect in that the primary targets of a Soviet first-strike would be decreased, the U.S.'s most credible first-strike weapons would be decreased, and the U.S. ABM—which the Soviets see as potentially useful to defend against a Soviet retaliatory strike—would be decreased also.

The same reasoning also holds from the U.S. viewpoint, with the proviso that, for technical reasons, the new and large Soviet ICBM's appear more destabilizing than their ABM. The SS–9's are known to have great payload and accuracy, while the Soviet ABM at this stage of development is evaluated as relatively ineffective.

There would appear to be a significant range of limits which might be agreed to, all consistent with the deliberately ambiguous language of the joint announcement of the two Governments on May 20, 1971. Therefore it is appropriate at this time to examine the possible outcomes of SALT and their implications.

Since the United States is committed to efforts to halt the arms race—and about this there is no question—the most important unknown in any assessment of the negotiations is the ultimate goal of the Soviet Union. We do know that since World War II and especially since the Cuban missile crisis the primary strategic goal of the Soviet Union has been to catch up with the United States in every way, but especially in terms of military power. There has been no reason to believe that this Soviet objective has changed; in fact, recent statements by Leonid Brezhnev reiterate the objective.

Because the Soviet Union has delayed serious discussion of limits on offensive missiles and has unrelentingly continued its deployment of offensive systems, it is assumed by many observers that the U.S.S.R. may be using the SALT talks to make further gains in relative military power. One cannot wish away the fact that the Soviet Union continues to deploy SS–9's and Y-class nuclear submarines.

In contrast, President Nixon's foreign policy initiatives have shown a U.S. willingness to meet any nation halfway in the quest for peace and security. The President is acting in good faith; it also behooves the Soviet Union to act in good faith if it wishes to have an arms limitation treaty acceptable to the U.S. Senate. If the Soviets wish to use the strategic arms limitation talks to achieve an advantage in the power balance, their effort will serve to fuel the arms race, not halt it.

If the Soviet Union takes into consideration the fact that neither side can achieve unilateral advantage from the SALT talks, the new round of talks could culminate in an agreement which would truly be a step toward peace. This would be cause for satisfaction by both countries, but not for complacency or relaxation. While the strategic arms race would be largely halted, we would still live under the shadow of potential nuclear destruction. So even as we seek ways to reach the first accord, we must also search for ways to further reduce the levels of strategic armaments and the tensions between nations which make them appear necessary.

It seems to me, therefore, that it would be advisable in this situation to press ahead beyond the current negotiating position and ask the Soviet Union to accept an agreement for zero ABM, that is, to agree to dismantle ABM emplacements on both sides. Such an agreement, reached in conjunction with limits on offensive missiles, would be an effective brake on the arms race. It would make possible the deferral of new offensive systems. It would signal other nations that SALT is not being directed against them. It would prevent an erosion in the deterrent capabilities of our allies. And it would allow budgetary savings of billions of dollars for both the United States and the Soviet Union.

When the SALT talks resume in Vienna, I would hope that the Soviet Union would face the reality that any agreement must be based on mutual advantage and that no unilateral gain in strategic power will be acceptable to the United States. I would hope, too, that the United States might propose a dramatic step toward reduction of armaments and the staggering cost of armaments by suggesting an agreement for zero ABM jointly with equal limits on offensive missile systems.

Mr. President, I feel that a great deal has been said in the Nation about national priorities, and I have no doubt that the same debate carries on inside the Soviet Union. I think many of us realize the utter futility of both nations continuing to escalate the nuclear arms race and to raise the level of terror. It seems quite immaterial to have to decide whether we can destroy the Soviet Union 25 times over while they can destroy us only 17 times over. "Sufficiency" is the word both nations should use in determining their future military procurement policy, and certainly both countries have a sufficiency of nuclear weapons at the present time.

Talks were entered into by both sides in good faith. They have been business-like and straightforward. Unlike the talks in Paris, they have not been used for propaganda purposes. When I visited the negotiating team in Helsinki last November, I was impressed by the fact that at no time did they recall when either team had used these talks for any purpose other than to see if a sensible arrangement could be made between both countries.

I hope the Soviet Union will never mistake the fact of a strong resentment in this country against the Vietnam war as a lack of will on the part of the people of the United States. Many of us have felt that this war was quite irrelevant to our own national security; that our own national security was not involved in Southeast Asia; and that we should not have massively moved American men and materiel into that area of the world.

But let the Soviet Union not, in any respect, misunderstand our intention and desire to provide whatever measure of security is absolutely needed for the security of the United States. If the Soviet Union wants to enter into an accelerated

arms race, the full force of this country could be empowered and put behind that race. We do not think it is sensible. We have served adequate notice that we think it is not. The executive branch and the legislative branch of the Government have made it perfectly clear to the Soviet Union that if they wish to halt the arms race and make a responsible agreement that can be enforced, we are willing to enter into such an agreement.

But should the negotiations break down or should there not be sufficient progress—material progress—after all the talks that have been carried on, then I for one would simply assume that the growth, once again, of offensive and defensive nuclear systems in this country would be authorized by Congress.

This is the time to see whether we can reach an accord, and this is the time for this Nation to take the initiative in boldly and imaginatively moving toward such an agreement. We had better try to see whether we cannot have a zero ABM, for if we have that, for the reasons I have tried to outline today, we feel neither country would be worse off. We think both countries would be better off, and we think the world would be better off if we can get this kind of accord.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. HUGHES) laid before the Senate a message from the President of the United States submitting the nomination of James S. Holden, of Vermont, to be U.S. district judge for the district of Vermont, which was referred to the Committee on the Judiciary.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period not to exceed 30 minutes, for the transaction of routine morning business, with a limitation of 3 minutes for each Senator who is recognized.

The Chair recognizes the Senator from Virginia.

FISCAL CONDITION OF THE UNITED STATES

Mr. BYRD of Virginia. Mr. President, for the fiscal year which ended this past June, the Federal Government had a Federal funds deficit of $30.2 billion. The Federal fund receipts for fiscal 1971 were $133.6 billion, and the outlays were $163.8 billion.

For fiscal 1972, the current fiscal year, the Joint Committee on Internal Revenue Taxation estimates that the Federal funds deficit will be $35 billion. It is estimated that the receipts will be $143 billion, up $10 billion from last year; and that the expenditures will be $178 billion, up $14.2 billion from last year.

I have prepared three tables dealing with the Nation's financial situation. I ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FISCAL TABLES—OCTOBER 1971

TABLE 1.—U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS AND LIQUID LIABILITIES TO FOREIGNERS

[Selected periods, in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
1957	22.8	24.8	15.8
1970	10.7	14.5	43.3
August 1971	10.1	12.1	[1] 46.0

[1] Estimated figure.

Source: U.S. Treasury Department.

TABLE 2.—DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1963-72 INCLUSIVE

[Billions of dollars]

	Receipts	Outlays	Deficit (−)	Debt interest
1963	83.6	90.1	−6.5	10.0
1964	87.2	95.8	−8.6	10.7
1965	90.9	94.8	−3.9	11.4
1966	101.4	106.5	−5.1	12.1
1967	111.8	126.8	−15.0	13.5
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1970	143.2	156.3	−13.1	19.3
1971	133.6	163.8	−30.2	20.8
1972 [1]	143.0	178.0	−35.0	21.2
10-year total	1,152.7	1,304.0	151.3	150.2

[1] Estimated figures.

Source: Office of Management and Budget, except 1972 estimates.

TABLE 3.—FEDERAL FINANCES, FISCAL YEAR 1971

(Billions of dollars)

	Revenues	Outlays	Deficit (−) or surplus (+)
Federal funds	133.6	163.8	−30.2
Trust funds	54.7	47.8	+6.9
Unified budget	188.3	211.6	−23.3

Source: U.S. Treasury Department.

Mr. BYRD of Virginia. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTES TO SENATOR SCOTT ON HIS BIRTHDAY

Mr. GRIFFIN. Mr. President, today is the birthday of a very beloved American and the great leader of the minority in the Senate of the United States. I wish to make a matter of record sentiments I have already conveyed in person to the distinguished Senator from Pennsylvania, HUGH SCOTT, wishing him a very happy birthday today, and many more happy birthdays hereafter.

We know in this body, on both sides of the aisle, that HUGH SCOTT is a very remarkable person. Not only is he a very great and skilled legislator, which he has demonstrated over the many years of his service in Congress, both in the House of Representatives and in the Senate, but we know that he is a man of many other talents, qualities and characteristics which make him a very unusual man.

He is a student and expert on foreign affairs and on such matters as Chinese art; he is a profound student of American history; he is the collector of more than 500 pipes from all around the world, to mention just a few of his many and varied interests.

He is a good friend to every Member of the Senate, but I am particularly privileged to work very closely with him day in and day out. I cherish his warm friendship and the generous counsel and assistance he has provided me as I have tried to follow and support his able leadership.

I ask unanimous consent to have printed in the RECORD a biographical sketch of Senator SCOTT, of Pennsylvania.

There being no objection, the biographical sketch was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH OF U.S. SENATOR HUGH SCOTT OF PENNSYLVANIA

Serving his third term as a Senator from Pennsylvania, Hugh Scott is also serving his second term as the elected leader of the Republican Party in the Senate. He is the first Pennsylvanian to be elected to three terms in the Senate and the first of either party to hold a leadership position in the U.S. Senate.

In 1970 he won his Senate seat by more than 220,000 votes—a wider margin than any other Republican senatorial candidate in the nation.

A native of Virginia, a graduate of Randolph Macon College and the University of Virginia Law School, and a member of the University's Board of Visitors, he has been in the Congress since 1940, except for World War II service with the U.S. Navy.

A member of the Foreign Relations, Judiciary and Rules Committees, Senator Scott plays an important role presenting the views of the minority party in the U.S. Senate.

With a lifelong ambition to be a member of the U.S. Senate, Senator Scott first achieved his goal in 1958 after serving eight terms in the U.S. House of Representatives. He was re-elected in 1964 and 1970.

Senator Scott favors newsmen's "right to know." Daily before the opening of the Senate he meets with those who cover Capitol Hill and is always accessible to them.

An author, a student of American history and an authority and collector of Chinese art, Senator Scott has more than 500 pipes from around the world.

The books he has written include: How to Run for Public Office and Win, 1968; Come to the Party, 1969; How to Go Into Politics, U.S.A., 1960; and The Golden Age of Chinese Art, 1966.

He served as Vice Chairman of the Platform Committee of the 1968 Republican National Convention. He was General Counsel for the National Committee from 1955 to 1960. In 1948, while a member of Congress he also served as Republican National Chairman.

A former Assistant District Attorney for the City of Philadelphia, he is a member of the Philadelphia, Pennsylvania and American Bar Associations and the American Bar Founders, a group of top-ranking lawyers. He is Counsel to the firm of Obermayer, Rebmann, Maxwell and Hippell of Philadelphia.

Senator Scott has been awarded honorary degrees by: Randolph Macon College, 1955, LL.D.; La Salle College, 1955, L.H.D.; Dickinson College, 1959, LL.D.; Temple University, 1959, LL.D.; Suffolk University, 1959, D.Pub. Adm.; Ursinus College, 1960, LL.D.; Philadelphia Textile Institute, 1960, LL.D.; Philadelphia College of Osteopathy, 1960, Litt.D.; Washington and Jefferson College, 1961, LL.D.; Lebanon Valley College, 1962, LL.D.; Delaware Valley College, 1962, LL.D.; Lincoln University, 1963, LL.D.; Westminster College, 1964, LL.D.; University of Pennsylvania, 1966, LL.D.; Waynesburg College, 1966, LL.D.; Susquehanna University, 1966, D.C.L.; Franklin and Marshall, 1966, LL.D.; Union 1968, LL.D.; Albright College, 1969, LL.D.; Hahnemann Medical College and Hospital, 1969, LL.D.; Drexel University, 1970, LL.D.; Thomas Jefferson University, 1970, L.H.D.; Lafayette College, 1971, LL.D.; Dropsie University, 1971, LL.D.

He holds the rank of a retired captain in the U.S. Naval Reserve. He saw active World War II service in the Atlantic Fleet and was aboard the U.S.S. Missouri when the Japanese surrender was accepted. He also served in the Korean War, aboard the carrier U.S.S. Valley Forge.

Senator Scott is a member of the American Legion, V.F.W.; Amvets; Sons of St. Patrick; Alpha Chi Rho (national president 1942–1946); Phi Beta Kappa, Tau Kappa Alpha, Phi Alpha Delta (legal) fraternities; Philadelphia Cricket Club; Germantown Lions Club; Pennsylvania Society (N.Y.); Asia House, N.Y.C.; Oriental Ceramic Society (U.K.); Advisory Committee on Oriental Art; Philadelphia Museum of Art; Board of Governors, American Council of Young Political Leaders and he has been a visiting fellow at Oxford, England.

Senator Scott, an Episcopalian, is married to Marian Huntingdon Chase, an alumna of Germantown Friends School. They have one daughter, Marian Scott Concannon and eight grandchildren, Anne, Mary, Thomas Scott, Sean, Susan, Carol, Brian, and Steven Concannon.

Mr. GRIFFIN. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I am very happy indeed to join today in paying tribute to our distinguished minority leader. I shall not dwell on his biography, because that has already been made a part of the record. I would only say that, as I have observed him through the years, HUGH SCOTT has fought very hard for his State of Pennsylvania, is deeply identified with its people and its interests, and has represented the full spectrum of his constituency.

He has fought hard for his party and for the President, whether that President be a Republican or a Democrat, but he has fought particularly hard when the President has been of his own party. He has fought hard for his country. His leadership was early recognized within his own State of Pennsylvania, as his biography shows.

The most recent example of his alertness to the needs of Pennsylvania was demonstrated in the Appropriations Committee, when we were alerted to the possibility that an appropriation would be sought to convert to the use of Mideast oil the furnaces that burn Pennsylvania coal in the German barracks which house American military men. The cost would have been $580,000, borne entirely by the United States. Through the altertness of the distinguished Senator from Pennsylvania, HUGH SCOTT, it was developed that such a conversion would cost 4,000 jobs in Pennsylvania, would be a drain on the balance of payments of the United States, and would cost the taxpayers $5,800,000, in order to build furnaces to be installed in German barracks, the title to which is owned by Germany. That is just one instance of his day-by-day altertness to the needs of his own constituency.

Whether it be labor or management, whether they be urban dwellers or suburban dwellers, whether they be black or white, rich or poor, young or old, Senator SCOTT has always protected the interests of the people of his own State.

He has also, right here, in his party work and in his work on behalf of the President, earned the respect of his colleagues on both sides of the aisle. He has been a great Senator, a great campaigner, and I think we would have to say one of the hardest workers in the Senate. He loves party work. He has written books about the Republican Party. He has been the chairman of our national committee. I can recall the deep respect I developed for HUGH SCOTT when, in 1960, he was made the general counsel of the platform committee.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. MANSFIELD. Mr. President, I ask recognition and yield my time to the Senator from Illinois.

Mr. PERCY. I thank the distinguished majority leader.

I remember, in 1960, when he served as the general counsel for the platform committee of the Republican National Convention, of which I was chairman, that on innumerable occasions he assisted and helped that committee formulate what we like to look upon as a great platform.

His service to Presidents through the years is a matter of record, and his service to the incumbent President has been distinguished in his strong support for those things that he believed in, always giving the benefit of the doubt to the administration, but clearly indicating that—if he sharply disagreed on an issue—he could not lead the fight for it.

He has earned the respect of the White House. He has earned the respect of all of his colleagues. His devotion to his country has been very great.

I think this country is very fortunate, indeed, as we move into a whole new era of trying to understand better the people of Asia, to have as the minority leader of the Senate an expert on China and Chinese culture and art, and in having as majority leader a man who has spent a great deal of his life in trying to understand Asia better. The Senate is distinguished in its leadership; and we are very proud indeed of the great leadership of our distinguished minority leader, as we all join in offering him our very best wishes on his birthday.

I would say, looking at him as a man, that above all we can say of HUGH SCOTT: He is a good friend and a good man.

Mr. GRIFFIN. I thank the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. SCOTT. Mr. President, as one who is not too accustomed to any accumulation of accolades, I am grateful, and most appreciative indeed of the remarks made by the distinguished Senator from Michigan, the assistant minority leader (Mr. GRIFFIN), and the distinguished senior Senator from Illinois. These are very kind things to do, and I am indeed very thankful. I promise not to let kind words go to my head.

I hope I may continue to show a willingness to learn, and strive, as always, to move from the politician's status to the statesman's stance. Again, I am very appreciative.

Mr. SPONG. Mr. President, somewhat belatedly, I should like to join my colleagues in wishing a happy birthday to the distinguished minority leader. I do not think the occasion should pass on this day without the RECORD showing that he first saw the light of day in the Commonwealth of Virginia. Whereas our loss may have been Pennsylvania's gain, those of us in Virginia still treasure the fact that we have on occasion a third Senator in this body.

Mr. SCOTT. I thank the distinguished Senator. I said to him the other day that this day marks the anniversary of my admission to the Virginia bar; and while I may have raised the level of the practice of law in the State of Virginia, I hope I did not lower it too much in the State of Pennsylvania. [Laughter.]

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. HUGHES) laid before the Senate the following letters, which were referred as indicated:

REPORT OF ATTORNEY GENERAL

A letter from the Attorney General, transmitting, pursuant to law, his report on the enforcement of Title II of the Consumer Credit Protection Act of 1968, for the fiscal year 1971 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION RELATING TO CERTAIN LANDS TO BE HELD IN TRUST

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain federally-owned lands are held by the United States in trust for the Covelo Indian Community of the Round Valley Indian Reservation, California (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SYMINGTON, from the Committee on Armed Services, without amendment:

S. 1466. A bill to authorize the Secretary of the Army to grant certain rights-of-way for road improvement and location of public utility lines over a portion of Fort DeRussy, Hawaii (Rept. No. 92-439).

By Mr. BYRD of Virginia, from the Committee on Armed Services, without amendment:

H.R. 8656. An act to amend titles 37 and 38, United States Code, relating to promotion of members of the uniformed services who are in a missing status (Rept. No. 92-446).

H.R. 8356. An act to make permanent the authority to pay special allowances to dependents of members of the uniformed services to offset expenses incident to their evacuation (Rept. No. 92-445).

H.R. 7950. An act to repeal sections 3692, 6023, 6025, and 8692 of title 10, United States Code, with respect to pilot rating requirements for members of the Army, Navy, Marine Corps, and Air Force; and to insert a new section 2003 of the same title (Rept. No. 92-444).

H.R. 6724. An act to amend section 209(a) and (b) of title 37, United States Code, to provide increased subsistence allowances for Senior Reserve Officers' Training Corps members (Rept. No. 92-443).

H.R. 6723. An act to provide subsistence allowances for members of the Marine Corps officer candidate programs (Rept. No. 92-442).

H.R. 4729. An act to amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force, and for other purposes (Rept. No. 92-441).

REPORT ON POSSIBLE CONFLICT OF INTEREST INVOLVING CENTER FOR NAVAL ANALYSES—REPORT OF A COMMITTEE (S. REPT. NO. 92-440)

Mr. BYRD of Virginia. Mr. President, on November 11, 1971, the Committee on Armed Services approved the "Report on Possible Conflicts of Interest Involving Center for Naval Analyses."

I submit to the Senate this report and ask that it be printed.

The PRESIDING OFFICER (Mr. STEVENS). The report will be received and printed.

TEMPORARY EXTENSIONS FOR CERTAIN HOUSING LAWS (REPT. NO. 92-448)

Mr. SPARKMAN. Mr. President, I report from the Committee on Banking, Housing and Urban Affairs a joint resolution (S.J. Res. 176) to provide temporary extensions for certain housing laws and to provide for certain exemptions from housing and other acts.

In order that Senators may have the opportunity to understand the provisions of this committee joint resolution before it comes before us for consideration, I ask unanimous consent that a section-by-section analysis of the joint resolution be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF RESOLUTION

Flexible interest rate authority

Sec. 1.—Amends section 1709-1, Title 12 United States Code to extend for 6 months, from January 1, 1972 to June 30, 1972 the time in which the Secretary of HUD may set the FHA mortgage interest rate at levels he determines necessary to meet the mortgage market. (Under existing law the rate set for FHA mortgages also governs the VA rate.)

Extension of provision for emergency implementation of flood insurance program

Sec. 2.—Amends section 1336(a) of the Housing and Urban Development Act of 1968 to extend for 2 years, from December 31, 1971 to December 31, 1973 the authority to continue the Emergency Flood Insurance Program without actuarial determination of risk.

Suspension of the requirement pertaining to the availability of flood insurance as a condition of Federal disaster assistance

Sec. 3.—Amends section 1314(a)(2) of the HUD Act of 1968 to suspend for 2 years a prohibition against disaster assistance in areas where flood insurance was available for a period of one year.

Temporary waiver of certain limitations applicable to the purchase of mortgages by the Government National Mortgage Association

Sec. 4—Adds a new provision to Title III of the National Housing Act providing 6 months' authority for the President to suspend the existing mortgage limit ($22,000) governing GMNA purchases of mortgages under its special assistance function.

Extension of dates applicable to certain provisions of law relating to the taxation of national banks

Sec. 5.—Amends sections 2(b) and 3(a) of the Act entitled "An Act to clarify the liability of national banks for certain taxes" to delay for one year, from January 1, 1972 to January 1, 1973 the authority of States to levy certain taxes on national banks.

Requirement affecting the prepayment of premiums by insured institutions to the Federal Savings and Loan Insurance Corporation

Sec. 6—Amends section 404(g) of the National Housing Act to change the ratio of insurance reserves held by the FSLIC to insured savings held by member savings and loan associations from 1¾ to 1⅔ percent.

CREDIT UNION SHARE INSURANCE AMENDMENTS (REPT. NO. 92-449)

Mr. SPARKMAN. Mr. President, from the Committee on Banking, Housing and Urban Affairs, I report favorably the bill (H.R. 9961) to provide Federal credit unions with 2 additional years to meet the requirements for insurance, and for other purposes.

I ask unanimous consent that the report be printed, together with individual views, and that the committee have until midnight, tonight, to deliver the copy for printing purposes.

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. ERVIN, from the Committee on Armed Services:

Brig. Gen. Ferd L. Davis, Army National Guard of the United States for appointment as a Reserve commissioned officer of the Army, in the grade of major general.

Mr. SYMINGTON. Mr. President, from the Committee on Armed Services, I report favorably on the nomination of Mr. Elmer F. Bennett, of Maryland, to be an Assistant Director of the Office of Emergency Preparedness. I ask that this nomination be placed on the Executive Calendar.

The PRESIDING OFFICER (Mr. GAMBRELL). The nomination will be placed on the Executive Calendar.

Mr. SYMINGTON. Mr. President, in addition, I report favorably 127 appointments in the Army in the grade of major general and below; one appointment to admiral and one appointment to vice admiral in the Navy; 963 temporary promotions to captain and below in the Navy; and 25 appointments to major and brigadier general in the Marine Corps. Since these names have already appeared in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, ordered to lie on the desk, are as follows:

Adm. Jackson D. Arnold, U.S. Navy, for appointment to the grade of admiral, when retired;

Vice Adm. Arthur R. Gralla, U.S. Navy, for appointment to the grade of vice admiral, when retired;

Louis H. Wilson, Jr., and sundry other officers for promotion in the Marine Corps;

John R. Blandford, and sundry other officers, for promotion in the Marine Corps Reserve;

Anthony B. Herbert, for promotion in the Regular Army of the United States;

Woodrow W. Stromberg, and sundry other persons, for appointment and reappointment in the Regular Army; and

Joseph P. Barreca, Jr., and sundry other officers, for promotion in the U.S. Navy.

By Mr. MAGNUSON, from the Committee on Commerce:

Abram Y. Bryson, Jr., and Warren K. Taguchi, for permanent appointment to the grade of lieutenant in the National Oceanic and Atmospheric Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CURTIS:

S. 2834. A bill to designate November 11 of each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

By Mr. PERCY:

S. 2835. A bill to amend the Internal Revenue Code of 1954 to disallow any deduction for depreciation for a taxable year in which a residential property does not comply with requirements of local laws relating to health and safety, and for other purposes. Referred to the Committee on Finance.

By Mr. INOUYE:

S. 2836. A bill to provide more effective means for protecting the public interest, health, and safety of the people of the State of Hawaii during strikes, lockouts, or other forms of labor strife or discord in either the maritime or longshore industry, or both industries, which obstruct or close the major seaports of either the State of Hawaii or of the west coast of the United States, thereby disrupting the normal flow of maritime interstate commerce by means of surface water transportation both to and from the State of Hawaii. Referred to the Committee on Commerce.

By Mr. PELL:

S. 2837. A bill to improve museum services. Referred to the Committee on Labor and Public Welfare.

By Mr. HUMPHREY:

S. 2838. A bill to amend title II of the Social Security Act to institute a system of general revenue financing, to raise the wage base, to raise to $100 the amount of the minimum monthly benefit, and to provide a 10 percent across-the-board increase in other monthly benefits. Referred to the Committee on Finance.

By Mr. CHILES:

S. 2839. A bill for the relief of the estate of Russell J. Davis. Referred to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. HUGHES, Mr. CRANSTON, Mr. SCHWEIKER, Mr. BUCKLEY, and Mr. PACKWOOD):

S. 2840. A bill to amend the Public Health Service Act so as to authorize emergency assistance for States and nonprofit private agencies in the establishment of centers for maintenance, treatment, and rehabilitation of drug addicts. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2841. A bill to assist railroads in acquiring and utilizing rolling stock, to proscribe disproportionate taxation of certain interstate carriers' property by State or local governments, and for other purposes; and

S. 2842. A bill to amend the Interstate Commerce Act, as amended, and Acts amendatory and supplemental thereto to provide for increased reliance on competition in the establishment of carrier rates, charges, and practices; to liberalize entry and exit in the several modes of surface transportation, and for other purposes. Referred to the Committee on Commerce.

By Mr. DOLE (for himself, Mr. PEARSON, Mr. MILLER, and Mr. DOMINICK):

S. 2843. A bill to designate November 11 each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

By Mr. JAVITS:

S. 2844. A bill for the relief of Sonja M. Gozum. Referred to the Committee on the Judiciary.

By Mr. HATFIELD (for himself and Mr. Moss):

S. 2845. A bill for the relief of United States Pumice Co., Los Angeles, Calif., and for other purposes. Referred to the Committees on the Judiciary and Interior and Affairs, jointly.

By Mr. YOUNG of North Dakota:

S. 2846. A bill to establish more orderely bargaining procedures and market conditions in the dairy industry. Referred to the Committee on Agriculture and Forestry.

By Mr. STEVENS:

S. 2847. A bill to amend title XVIII of the Social Security Act to provide for coverage, under part A of such title, of emergency hospital services provided in Canada to traveling U.S. nationals between Alaska and another State. Referred to the Committee on Finance.

S. 2848. A bill to authorize the conveyance of certain lands to Kristjan Helgason and Clara Helgason, Kodiak Island, Alaska. Referred to the Committee on Interior and Insular Affairs.

By Mr. HATFIELD (by request):

S. 2849. A bill to amend the Internal Revenue Code of 1954, as amended. Referred to the Committee on Finance.

By Mr. ANDERSON (for himself, Mr. FULBRIGHT and Mr. SCOTT):

S.J. Res. 173. A joint resolution to provide for the appointment of A. Leon Higginbotham, Jr., as Citizen Regent of the Board of Regents of the Smithsonian Institution;

S.J. Res. 174. A joint resolution to provide for the appointment of John Paul Austin as Citizens Regent of the Board of Regents of the Smithsonian Institution; and

S.J. Res. 175. A joint resolution to provide for the appointment of Robert Francis Goheen as Citizen Regent of the Board of Regents of the Smithsonian Institution. Referred to the Committee on Rules and Administration.

By Mr. SPARKMAN (from the Committee on Banking, Housing and Urban Affairs):

S.J. Res. 176. An original joint resolution to extend the authority of the Secretary of Housing and Urban Development with respect to interest rates on insured mortgages, to extend and modify certain provisions of the National Flood Insurance Act of 1968, and for other purposes. Ordered placed on calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY:

S. 2835. A bill to amend the Internal Revenue Code of 1954 to disallow any deduction for depreciation for a taxable year in which a residential property does not comply with requirements of local laws relating to health and safety, and for other purposes. Referred to the Committee on Finance.

SLUM PREVENTION ACT OF 1971

Mr. PERCY. Mr. President, a few weeks ago I went on a walk of one of the most depressed and devastated neighborhoods in this Nation—Woodlawn, Chicago. I once lived in this neighborhood and was shaken by what I returned to find. Accompanying me on this most depressing tour were Congressman ABNER MIKVA, who instituted the visit, and Assistant Secretary of HUD, for model cities, Floyd Hyde. What we saw was perhaps the worst of urban America. In many ways the physical destruction of Woodlawn is not unlike that of London after the blitz. The main difference is simply that Woodlawn has decayed of its own accord in a pattern begun in the past few decades with overcrowding and continued by too many acquisitive landlords seeking to reap tax benefits.

Woodlawn is a relatively small community of about 35,000 people and about 1 square mile in area. It is next to the University of Chicago and only a few miles from the Loop. Yet last year there were 1,600 fires in Woodlawn, six people died in them, and more than $1 million in insurance claims were paid. In the last 18 months, 362 buildings have been abandoned, burned or demolished. More than 30,000 people—about 46 percent of the community—have fled the neighborhood since the plague of decay and fires hit late in 1967. Despite the critical housing shortage in the Nation, 2,000 living units stand empty in Woodlawn.

No housing loans are being made in Woodlawn by downtown savings and loan institutions. Woodlawn property owners have not been eligible for Federal section 312 rehabilitation loans, because in order to secure one of these loans an owner must live in an area designated for conservation by city urban renewal officials. No section of Woodlawn, including the blocks of well-kept homes in the southwest area, has been designated for conservation.

One of the root causes of this decay is the problem created by absentee landlords seeking to make a quick profit from a knowledgeable use of our tax laws. As my distinguished colleague Congressman MIKVA said in the House recently when he introduced remedial tax legislation, current Federal laws actually encourage "speculative investment by slumlords, granting substantial tax incentives to them and encouraging them to purchase rental housing, reap the tax benefits of accelerated depreciation, and then sell the property after permitting it to deteriorate, taking capital loss benefits in the process." The result of this process has been to discourage long-term investment in housing thereby further destabilizing the community.

To remedy just this one aspect of urban decay, I am introducing an amendment to the Internal Revenue Code, the Slum Prevention Act of 1971. Our bill would go directly to the heart of the housing decay and abandonment crisis in our cities. The proposal would withdraw tax depreciation allowed under existing law from real property which fails to comply with the health and safety provisions of local housing and building codes. This would occur after adequate judicial determination. Furthermore, another provision of the bill would disallow a capital loss writeoff for abandonment of property which is in violation of such codes at the time it is abandoned. Thus instead of using the Federal income tax laws as an incentive for urban decay they would be converted to an incentive for urban stabilization and growth.

This bill attacks only one aspect of the problem causing areas such as Woodlawn to reach its current status. Hopefully this measure will help in the fight to save our cities from creeping urban destruction. We have given the people of Woodlawn and other neighborhoods like it too many broken promises.

Congressman MIKVA has already begun efforts to seek constructive solutions and available programs to prevent the further decay of Woodlawn. This measure is just the beginning.

By Mr. INOUYE:

S. 2836. A bill to provide more effective means for protecting the public interest, health, and safety of the people of the State of Hawaii during strikes, lockouts, or other forms of labor strife or discord in either the maritime or longshore industry, or both industries, which obstruct or close the major seaports of either the State of Hawaii or of the west coast of the United States, thereby disrupting the normal flow of maritime interstate com-

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merce by means of surface water transportation both to and from the State of Hawaii. Referred to the Committee on Commerce.

HAWAII PUBLIC INTEREST PROTECTION ACT OF 1971

Mr. INOUYE. Mr. President, today I wish to introduce for proper referral a bill to provide more effective means for protecting the people of the State of Hawaii from the grave consequences of certain strikes, lockouts, or similar labor disputes involving the maritime and longshore industries. After protracted discussions during recent months with both constitutional lawyers and experts on management-labor relations, I now feel more convinced than ever before that strong and responsible new legislation designed to protect the people of Hawaii from further economic strangulation by another west coast shipping strike must be enacted. The people of my State have been the innocent third parties and helpless victims of the recent west coast shipping strike, and I cannot in good conscience condone the continuation of their unfair suffering any further. I am, therefore, now introducing the Hawaii Public Interest Protection Act of 1971.

Mr. President, I am well aware that at least eight Senate bills have already been introduced concerning emergency labor disputes in transportation industries. These bills are S. 560, S. 594, S. 832, S. 1093, S. 1934, S. 2060, S. 2583, and S. 2655. All of these measures amend existing labor legislation, particularly the Taft-Hartley Act—that is, the Labor-Management Relations Act of 1947. While these proposals introduced by my colleagues are certainly welcome, I nevertheless feel compelled to now introduce my own bill for the following reasons:

First, as is the case with Taft-Hartley, some of the proposed bills apply only to national emergencies. They neither resolve the basic problem of defining a national emergency, nor do they respond sufficiently to the problem of clearly resolving regional or other emergencies. Second, some bills apply only to airlines and railroads, while neglecting the maritime and longshore industries. Third, some of these bills go too far—that is, permitting a Presidential appointed board to impose a final settlement and thereby undermine the collective bargaining process—and some do not go far enough; that is, merely extending the so-called cooling off period or permitting a selective or partial strike—in providing additional substantive powers for the President to employ during emergency labor disputes.

In sum, in building upon existing legislation, the above measures do not remove those limitations inherent in Taft-Hartley which render Taft-Hartley largely inadequate for Hawaii's purposes. Taft-Hartley too often provides too little too late for the people of Hawaii. Like Taft-Hartley, all of the above measures also provide for discretionary and not for mandatory Presidential action. As a result of the discretionary nature of the President's power under Taft-Hartley and legislation grounded thereupon, Federal preemption of State court jurisdiction to issue injunctions in labor disputes has ironically left and will continue to leave the States of this Nation powerless to act meaningfully in their own behalf during those emergencies which the President simply chooses to ignore. These consequences are magnified in the case of Hawaii because of its unique geographical location and its dependence upon a single mode of surface transportation.

Mr. President, existing case law strongly suggests that the President should have sought a Taft-Hartley injunction to halt the recent west coast shipping strike much sooner than he finally did. See *United States* v. *National Marine Engineers' Beneficial Association*, 294 F. 2d 385; *United States* v. *Seafarers International Union of North America, Pacific District*, 204 F. Supp. 686; *United States* v. *National Maritime Union of America*, 196 F. Supp. 374; *United States* v. *International Longshoremen's and Warehousemen's Union*, 78 F. Supp. 710. Despite repeated pleas from various concerned parties, including myself, the President belatedly invoked Taft-Hartley for the west coast points only after the east and gulf coast ports had also been closed.

If existing case law does not require Presidential action during west coast shipping strikes, since such strikes alone are not deemed to constitute national emergencies, can there really be any reasonable question or doubt that the people of Hawaii suffer much more drastic injury and grievous harm during a west coast shipping strike than do the people of any mainland State along the west coast? While the general public of Hawaii suffers major and irreparable injury during a west coast shipping strike, its suffering alone apparently does not qualify as a national emergency worthy of relief under Taft-Hartley or legislation grounded thereon. My bill seeks to resolve this dilemma.

Unlike the above Senate proposals, my bill does not amend Taft-Hartley. Rather, my measure recognizes the unique nature of Hawaii's problems and provides special legislation to resolve those problems. My bill simply recognizes that its unique geographical situation renders Hawaii dependent upon a constant flow of food and the essentials of life from the west coast by means of surface water transportation.

Mr. President, the Hawaii Public Interest Protection Act of 1971 is actually a rather simple document. It specifically states that when the State of Hawaii confronts a shipping strike or other labor-management dispute disrupting the free flow of maritime interstate commerce between Hawaii and the west coast for a period of at least 30 days, then such disruption shall be recognized as automatically and inevitably constituting an emergency detrimental to the public interest, health, and safety of the people of Hawaii. Commencing 30 days after the major seaports of either Hawaii or of the west coast are obstructed or closed due to a shipping strike or similar disruption, the Governor of Hawaii would be authorized by my bill to request the President of the United States to provide and operate U.S. owned or chartered vessels and seaport facilities in order to assure the earliest possible resumption of the normal flow of maritime interstate commerce both to and from Hawaii.

Upon receipt of the request for relief by the Governor of Hawaii, the President would be required to respond promptly. Unlike Taft-Hartley, whereunder a Presidential determination of a national emergency must be made before any relief may be granted, under my bill the President would automatically be compelled to act. The existence of an emergency justifying Presidential action would already have been peremptorily determined by congressional adoption of my bill itself.

My bill stipulates that those chartered vessels which the President provides could not be chartered from shipping companies involved in the maritime or longshore dispute. Also, the labor personnel who operate these chartered vessels and seaport facilities could not be members of a bargaining unit of a labor union engaged in the strike or dispute. If the President were unable to hire sufficient labor personnel to operate all such vessels and seaport facilities, he would be empowered to provide military personnel for such purposes. If the President were unable to provide sufficient chartered vessels, then the Governor of Hawaii would be empowered to outline priorities for restocking Hawaii and these priorities would govern the nature of goods transported to and from Hawaii aboard such vessels as can be made available.

In short, Mr. President, enactment of my bill would accomplish two paramount objectives. First, by providing for a timely resumption of maritime interstate commerce between Hawaii and the west coast, it would assure that the general public of Hawaii would never again become the innocent third parties and helpless victims of maritime and longshore strikes and disputes. Second, by not imposing a final settlement upon and by not forcing a resumption of operations by the direct parties to the strike or dispute, my bill would allow and encourage the collective bargaining process to continue unhampered. It would increase the motivation for settlement by both parties. Under my bill it would not be necessary to impose a Taft-Hartley injunction upon unwilling labor and management negotiators.

In conclusion, Mr. President, all of us, I believe, feel a genuine sense of frustration and helplessness when we are asked to deal with emergency labor disputes involving our own home States. In the case of my home State, this shared sense of frustration is particularly troublesome. I urge my Senate colleagues to consider Hawaii's extraordinarily unique geographical situation very carefully in evaluating my proposed special legislation. I urge my Senate colleagues to consider their own States, their own constituencies, and then to realize that a maritime strike or dispute of 30 days halting trade between Hawaii and the west coast guarantees suffering for the people of Hawaii comparable to that which the people of any other State would suffer only if an embargo were enacted against all interstate surface transportation serving that State, thereby constructing a barrier around that State, isolating that State, and prohibiting both the incursion and excursion of all goods transported thereto and therefrom by rail, truck, ship, barge, and all other means of surface transportation, permitting only extremely expensive air transportation into and out of that State. With the above comparison in mind, Mr. President, I sincerely hope that my Senate colleagues will give their most serious consideration and support to the Hawaii Public Interest Protection Act.

By Mr. PELL:

S. 2837. A bill to improve museum services. Referred to the Committee on Labor and Public Welfare.

THE MUSEUM SERVICES ACT

Mr. PELL. Mr. President, I introduce for appropriate referral the Museum Services Act.

This proposed legislation would upon adoption authorize a Federal program of assistance to meet the very real financial difficulties now being experienced by museums throughout the country. This situation is not one which has suddenly become apparent. Indeed, the museums themselves through massive fund raising efforts, and in some cases curtailment of service, have been struggling for some time to aid themselves. But help is clearly needed. It is my belief that the Federal Government has a very real responsibility in this area. Museums and what they contain are a great national resource, one which must be protected. This bill is designed to help shoulder that responsibility.

Museums are all too often taken for granted. We think of them as a nice place to visit on a rainy weekend afternoon. What we do not recognize either individually or as a nation is the educational function performed daily by our museums.

At a time when demands for an increase in educational facilities are heard from the length and breadth of our country, we can ill afford to allow an invaluable educational resource to wither and die.

Last year, I was proud to lead the successful effort to have museums included as educational institutions under the Environmental Education Act, Public Law 91-516. If museums are to continue serving the increasing numbers of visitors on a nationwide basis, museums must have support on a Federal level.

A large segment of the population that utilizes the resources provided by museums are students. According to the 1971 AAM Financial and Salary Survey prepared by the American Association of Museums, 59 percent of the total museum audience is comprised of students—24 percent of the elementary school level, 20 percent at the secondary level, and 15 percent at the college level. Right now many museums must turn away students because of lack of space or professional staff, and if Federal support were available, the public's response would be greater still, and the demand for more educational services from museums could increase.

In 1960, 200 million visits were made to museums. In 1965, 300 million visits took place. By 1967, this figure had jumped to 560 million; and in 1970, museums received more than 700 million visitors. The staggering increase in attendance is causing many museums not to prosper, but to falter. They cannot keep up with the rising costs of serving the crowds. No museum visit is "free." Recent estimates pegged the yearly operational expense of the Nation's museums at $760 million, or about a dollar a visit. If capital investment were also considered, some say that figure could rise to $8 a visit for certain institutions. If admission fees were applied at these levels, many people could not afford to attend and entire families would be excluded from the cultural and educational benefits otherwise available. Financial aid must be sought on a Federal level. With so many people using museums, and with the valuable services they receive, we cannot allow these institutions to cut back services and close because of insufficient funds.

Last year, according to the AAM survey, 44 percent of the museums in America ran a deficit. In an effort to stave off deficits, 30 percent of the museums responding to the survey reported charging an admission fee. Even with this additional source of income, 46 percent of the museums that charged a fee still reported deficits.

The traditional sources of museum support have been private contributions. In Europe, museums were created primarily at the initiative of national governments, whereas in America, museums developed through individual support. But, rising costs have exceeded the capability of private support.

The financial survey of museums indicated that 49.6 percent of museums in the United States are supported entirely by private contributions. The remaining institutions receive some form of governmental support, but only at the State or local level. Even those museums receiving State and local support still receive substantial support from private sources in a partnership relationship. This partnership should now be extended to the Federal level.

Museums should not be thought of as local institutions. The Metropolitan Museum of Art, the American Museum of Natural History in New York, the New York Botanical Garden, Chicago's Field Museum, the City Art Museum of St. Louis, the San Diego Zoo, the Los Angeles County Museum of Art, the Los Angeles County Museum of Natural History, the California Museum of Science and Indstry, and the California Academy of Sciences are examples of major museums attracting visitors from each of the 50 States each year. The museum audience comes from all parts of America, and in fact, the world. Services are provided to all, and local residents cannot be responsible for subsidizing the per visitor expenses incurred. Cities are hesitant to offer assistance and, in moments of financial crisis, usually cut back on funds creating still more problems. Last year, the cities of Newark, N.J.; New York, N.Y.; and Philadelphia, Pa., came very close to reducing the tax dollars spent to help museums meet operational costs. This year, and in the future, erosion of municipal support may be evidenced while millions of people will continue to stream into these institutions.

Although the demand for educational programs in museums is increasing, the lack of funds makes it impossible for museums to compete for the professional staffs they would like to attract. Salary levels are very modest. As reported in the AAM survey, the highest paid executive of a museum operating on a budget of $500,000 to $1 million began at as low a level as $6,800. If salaries are not competitive with universities and other similar institutions, the profession cannot be expected to attract, train or maintain staffs competent to preserve, interpret, and display the cultural heritage of our Nation. Another difficulty for museums, due to a lack of funds, is insufficient staffing. More than 34 percent of the museums in the study reported that they had either no full-time employees or an all-volunteer staff. In some institutions, as little as 2.8 percent of the total budget was allocated to salary expenditures. In comparison, a survey conducted by the American Library Association in 1968 reported an average of 54 percent of the total budget for libraries is devoted to salaries. Further study revealed that 50 percent of the museums responding to the AAM survey reported that they had no formal retirement program, 55.4 percent offered no health program and 63 percent had no life insurance program for employees.

Present Federal support of museum activities is provided by the Smithsonian Institution, under authority of the National Museum Act, the National Endowment for the Arts, and the National Endowment for the Humanities, under authority of both their enabling legislation and the National Museum Act. These programs, while most laudable, do not start to meet the needs. A program, far-reaching in scope, is necessary; one for which the Smithsonian and the endowments have neither the personnel, nor the legislative authority.

As stated in America's Museums: The Belmont Report:

> America's five thousand museums are among our most precious cultural and education resources. Their collections, their trained staffs and their facilities contribute immeasurably to the environment of the nation's life and to educational advancement at every level.

These 5,000 institutions now number 5,900 and they are in great financial straights.

These institutions that preserve and conserve our national heritage need Federal assistance to survive. It is my hope that through the Museum Services Act, we can accord museums some of the financial aid they so desperately need.

By Mr. HUMPHREY:

S. 2838. A bill to amend title II of the Social Security Act to institute a system of general revenue financing, to raise the wage base, to raise to $100 the amount

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of the minimum monthly benefit, and to provide a 10-percent across-the-board increase in other monthly benefits. Referred to the Committee on Finance.

SOCIAL SECURITY FINANCING AND BENEFIT INCREASE ACT OF 1971

Mr. HUMPHREY. Mr. President, I am today introducing a bill in the nature of four amendments to the Social Security Act that will increase benefits to our retired and decrease the financial burden of current wage earners.

The first amendment establishes a minimum social security benefit of $100. Presently the minimum retirement benefit is $70.40. Under the provisions of H.R. 1, this rate is scheduled to increase to $74. When the $100 minimum benefit is coupled with my second amendment—an across-the-board 10-percent increase in benefits—the average monthly retirement check would rise from an estimated $133 to $151; the average benefit for the aged couple would increase from an estimated $222 to $246. This $100 minimum benefit would guarantee all OASDI beneficiaries a total of at least $1,200 yearly. It should aid immeasurably in easing the poverty factor for our elderly.

The third amendment would increase the wage base from the present $7,800 to $15,000. This change will add additional resources to the trust fund, cover more of total earnings throughout the United States, and ease part of the heavy burden now falling on low income people. Furthermore, by providing a large tax collection base, this change will reflect itself in increased benefits.

The fourth amendment changes the financing mechanism of social security by substituting one-third general revenue financing for the present equal contributions from employers and employees. What this means is that social security taxes will be eased, and the tax incidence on low-income and moderate-income families will be cut in half.

Under these amendments, over 27.4 million persons will have their benefits increased and over 69 million American workers will have a reduction in social security payroll taxes. These amendments propose a new way of financing social security—a way that is fair, equitable, and maintains the actuarial integrity of the trust fund. They provide the basis for bringing the social security system into consonance with our population needs as they exist now, not as they existed 5, 10, or even 40 years ago.

Social security has been the psychological and financial breakwater against individual and family catastrophe. Millions of recipients have found their lives made more secure by it. And, since the inception of the system, over $200 billion in benefits has been distributed very efficiently and without corruption.

In 1970, more than 26 million Americans received social security benefits totaling over $35 billion. Over 20 million of these beneficiaries are over 65 years of age. These retired workers and families received almost 70 percent of the benefits. Survivors get approximately 25 percent of the benefits and disabled persons receive little less than 5 percent.

Still, much remains to be done for our retired citizens. As a recent Washington Post editorial noted:

> Today's retirees, who put aside their payroll taxes in good faith that these funds would carry them through their autumn years, have had their savings eroded by an inflation in large part caused by policies pursued by their progany. They deserve compensation through benefits geared to today's cost.

Without a doubt, the economic status of the aged is bleak. These persons have worked a lifetime—they have contributed to society, they are responsible citizens; they are deserving citizens. But, in the later life, they suffer a steady decline both in physical abilities and a depletion of savings.

Nearly 30 percent of aged are classified as poor by the Social Security Administration; median incomes for the aged are less than $3,800. The incidence of poverty among the aged, even with assets considered, remains abnormally high. Even if they wanted to work, there are few jobs available. Less than 17 percent of those over 65 are employed. And, the prospect is that by 1980 less than 15 percent will be employed.

We simply must make provisions for our retired persons that adequately support them without draining the resources of current workers.

Originally, social security legislation grew out of the studies of President Roosevelt's Committee on Economic Security. When it was enacted in 1935, the United States was already behind other individual countries in caring for its indigent, its needy, its disabled, and its aged. In many instances, it is still behind.

And, the social security system as it operates today is fundamentally different from original legislation. The 1939 amendments broke the linkage between total lifetime contributions and benefits. The idea of a self-liquidating trust fund was abandoned for a payment system under which benefits were to be financed entirely out of contributions by current workers.

Further amendments in 1950, 1954, 1956, 1960, 1965, and 1967, extended the coverage of OASDI and liberalized benefits. Amendments in these years also increased the tax rates and tax base from the 1 percent on the $3,000 collected in 1937, covering some 95 percent of all earnings to 5.2 percent in 1971 with a $7,800 base rate, covering between 75 to 80 percent of all earnings of covered workers. Increases in the tax rate and base are scheduled to reach $10,200 base with a 7.4-percent rate by 1977.

CHANGING THE FINANCE STRUCTURE

Social security, though still an insurance program in the broad sense of the term, is for the most part a method of transfering resources from a current generation of workers to those who are unable to work because of age, dependency, and disability.

Pechman et al. make a telling point: They argue that it is time to revise our thinking as to the nature of social security:

> There is only a remote connection between payroll taxes paid by the workers and the benefits that he or his family will receive.

What Pechman and his coauthors point out is that some hard critical thinking must go into financing social security. They have explicitly called into question the propriety of the payroll tax:

> The desirability of using the payroll tax for financing purposes depends on its merit relative to alternative financing sources, not on the need for maintaining a relationship between earnings and benefits.

At one time, it made sense to finance social security with payroll taxes. But lately, the payroll tax has become increasingly regressive. In effect, the lower a person's income, the heavier the rate of payroll tax.

The social security payroll tax collected over $42.9 billion in 1971—second in collections to the income tax of over $141 billion and greater than corporate tax receipts of $35 billion. Estimates for 1972 are that the payroll tax will collect $48.1 billion. Contrast this to the initial $755 million collected in 1937 via the payroll tax.

Under the most recent legislation passed by the House, the maximum tax rate and actual tax dollars will increase from 5.2 percent and $405 to 7.4 percent and $754 dollars. For the self-employed, the figures are more striking—from $585 maximum tax to $846. This increase is most onerous for the working man or the self-employed small businessman.

The average wage earner in urban America will find that $754 as a flat tax on top of income, sales, property, and school taxes doubly intolerable. And, those totals could still increase further when the yearly cost of living increase is calculated into the benefit package.

A projection by the House Ways and Means Committee indicates that through the cost of living mechanism, the wage base will reach $14,100 by 1980 and at a 7.4-percent level tax, the maximum tax would be $1,043. Obviously, this tax imposes a proportionately greater burden on those whose incomes are under the wage base than on those who have an income in excess of the wage base.

For these reasons, I have concluded that a change must be made in the financing concept of social security. The amendment I introduce today makes that change. This amendment provides that the wage base be increased to $15,000 and second that through a system of one-third general revenue financing that the OASDI tax be reduced from 4.2 percent presently to 2.8 percent on employees and employers.

Under this scheme, the OASDI would still be in actuarial balance—a balance of 0.10 percent of taxable payrolls, but the burden of the payroll tax would be greatly reduced. With the Federal Government paying one-third, the employee one-third, and the employer one-third, a worker making $5,000 in 1972 would pay $140 minimum in OASDI instead of $210. If he made $7,000, he would pay $196 rather than his present figure of $299. The social security tax for $10,000-a-year employees would be $280, and at the top of the wage base—$15,000—a $420 maximum would apply.

At the same time, the Social Security Administration estimates that, because of a higher wage base and additional Federal contribution, benefits would be equivalent to an 8 percent benefit increase over that provided in H.R. 1. Adding that increase to the 10 percent increase proposed as part of this amendment, benefits would average 18 percent higher than they presently are.

General revenue financing is a step in the right direction.

All Social Security Advisory Councils since 1935 have advocated easing the burden on the payroll tax. By adopting general revenue financing, the social security system would be placed on a different set of assumptions. Revenues would be equal to benefits paid on an annual basis. No longer would the trust fund accumulate a surplus—projected by 1973 to reach $6 billion—beyond that necessary to pay yearly benefits. General revenue financing will assist in placing the social security system on a pay-as-you-go scheme.

Mr. President, I believe that these amendments are necessary. They provide the elderly a more realistic opportunity to enjoy life and they offer the working man relief from his crushing tax burden.

Mr. JAVITS (for himself, Mr. HUGHES, Mr. CRANSTON, Mr. SCHWEIKER, Mr. BUCKLEY, and Mr. PACKWOOD):

S. 2840. A bill to amend the Public Health Service Act so as to authorize emergency assistance for States and nonprofit private agencies in the establishment of centers for maintenance, treatment, and rehabilitation of drug addicts. Referred to the Committee on Labor and Public Welfare.

DRUG ADDICT TREATMENT AND REHABILITATION ACT OF 1971

Mr. JAVITS. Mr. President, I introduce for myself, Senator HUGHES, Senator PACKWOOD, Senator SCHWEIKER, Senator BUCKLEY, and Senator CRANSTON, the Drug Addict Treatment and Rehabilitation Act of 1971, which authorizes formula grants to States to develop programs for the maintenance, treatment, and rehabilitation of drug addicts with emphasis upon the development of methadone maintenance—presently the most effective heroin addiction treatment modality.

Drug addiction knows no neighborhood lines, no county boundaries, and no racial or ethnic distinctions. As President Nixon said:

> Narcotics addiction is a problem which affects both the body and soul of America.

At the cutting edge of this epidemic is the heroin addict. My bill offers one solution—not a cure for all addicts, but rather a proven treatment modality for addicts who, in the opinion of the medical experts, are suitable for it. What we need is an interim means of dealing with thousands of addicts, and of diminishing related crime to minimal, manageable levels. Such an interim measure would be of enormous help until we can find an effective, long-term cure for drug addiction.

Methadone, like heroin, is addictive; but it at least has the capacity for restoring to an addict the freedom to determine how he wishes to lead his life. In New York City, my research discloses there are, regrettably, 7,000 addict volunteers on the waiting list for treatment in methadone maintenance programs, and the timelag into treatment varies between 2 and 6 months. Such delays, occasioned by lack of resources, is inexcusable on the part of society; the only solution is to get the Federal Government to supply the needed resources.

I recognize that methadone maintenance is both a scientific- and social-policy issue in the field of the treatment of narcotics addiction. However, we must set aside the emotional and philosophical debate of methadone maintenance versus drug-free.

At the moment, methadone programs are subject to controls exercised jointly by the Bureau of Narcotics and Dangerous Drugs and by the Food and Drug Administration, their authority being based on the proposition that the treatment is still only experimental. Privately, officials of these bureaus concede that the inherent safety and efficacy of the medication are no longer in doubt, but hold that the fiction of experimental status is needed as a legal basis for preventing misuse. There is some merit in their contention, but in any event, the IND permit which now serves as a license for methadone treatment cannot be retained indefinitely as a control device. Expansion to a caseload of 25,000 in New York, and an equal number elsewhere in the country, is inconsistent with the concept of experimental status. Either the treatment is experimental or it is ready for large-scale use—but not both.

To remedy that problem, the bill I introduce today would:

First, authorize the Secretary of Health, Education, and Welfare to make formula grants to States—to stimulate establishment of methadone maintenance treatment programs—based upon population, financial need, and the need for more effective prevention and treatment of heroin addiction. The authorization levels are left open in the bill. The precise dollar amount would be determined by the Senate upon the basis of the expert testimony received at legislative hearings and the recommendations of the Committee on Labor and Public Welfare. However, the magnitude of the funding needs is readily seen in Governor Rockefeller's remarks at United Nations Observance Day when he urged a "Manhattan project" to save our youth from drug devastation and said:

> We stand here today in the heart of a great city that has by far the worst and most rapidly spreading drug infection. As Governor of the State, I have led an all-out effort to stem this tide and to cure the affliction. During the past six years, we have expended almost three quarters of a billion dollars of state funds for this purpose—more than all the other states put together, more than our Federal government and more than all the other nations of the world.

Second, require States to submit plans assuring the Secretary that: First, methadone will be administered orally only to certified heroin addicts who volunteer for treatment—I emphasize voluntary because we cannot be sure how effective methadone maintenance is when provided under legal coercion. Treating a patient against his will, regardless of the outcome, raises very serious ethical questions—in public or nonprofit private centers or facilities operated under the Community Mental Health Centers Act or facilities operated in accordance with certain standards; second, each program will be under the direction of a licensed physician qualified to treat narcotics addiction; third, either directly or through contractual arrangements, comprehensive rehabilitative services, including vocational counseling, educational and remedial services, psychological and psychiatric therapeutic programs and legal assistance will be provided; fourth, "outrearch" efforts to the private and public sectors of the economy to recruit, train and employ participants in methadone programs and provide assistance to persons in treatment in obtaining employment are encouraged; and fifth, if possible, encourage persons in methadone maintenance programs to become drug-free.

I emphasize that along with the medication—methadone—and which programs administer it, the bill encourages the use of supportive services to help the patient in his efforts to become rehabilitated and lead a socially acceptable and productive life. I believe that providing such assistance is a responsibility we should accept in treating the "whole person."

Third, mandate all patient records to remain confidential and in the absence of a court order, to be disclosed only with the patient's consent. However, this section would not infringe upon legitimate research.

Fourth, qualify public and nonprofit private agencies to directly participate in a Federal program, in the absence of a State plan, with grant priority given to areas within States having the highest percentages of heroin addicts.

Fifth, authorize grants to medical and paramedical institutions to assure the availability of trained personnel. The provisions in my bill mandating special manpower initiatives and ancillary services in the operaton of methadone maintenance programs will, most importantly, stimulate reconciliation between therapeutic community "purists," who this year reported an increasing use of methadone, and methadone-oriented "theorists," who seemed to increasingly recognize the value of group encounter, counseling, vocational services, and the like.

It is important to understand that with the expansion of methadone maintenance programs—as stimulated by this bill—we will be dispensing millions of doses per year of a potent narcotic. I am convinced that this medication is therapeutic when taken by the right person in a good medical program. However, I also recognize the concern of Federal, State, and local law enforcement agencies and medical treatment programs—to reduce this danger to a minimum.

Narcotics addiction and the crime it

induces are clearly threatening to suffocate New York City. The magnitude and scope of the problem can readily be seen from an examination of statistics from my own city of New York. While there were less than 200 narcotics-related deaths in 1960, 10 years later, in 1970, the number of deaths increased to over 1,000—215 of these were teenagers, the youngest of whom was only 13 years old. Experts now indicate that there are 150,000 heroin addicts in New York City and it is a fact that today more people aged 25–35 in New York City die as a result of narcotics than from any other single cause. The police department indicated that of the more than one-quarter million arrests in 1970, 71,848 or 29 percent were for narcotic offenses.

From Scarsdale to San Francisco, the shattered minds and hopeless futures of thousands of our young people are grim testimony to the inadequate response to the drug epidemic.

As the Attorney General of the United States testified:

> Dependence on drugs for a person of any age is a personal tragedy—but with thousands of Americans under the age of 21 addicted to drugs, that dependence evidences a national emergency.

There is a demonstrable relationship between narcotics addiction and the commission of serious crimes, and the cost in terms of broken homes, estranged families and lost opportunities constitutes one of the most pervasive social tragedies of our times. According to officials of the National Institute of Mental Health, an estimated 40-million Americans are directly affected by drug abuse.

The individual addicts and their families are not the only ones who suffer. Addicts feed their destructive habit with acts of destruction. As the Attorney General of the United States indicated:

> There is no doubt that the increase in the number of drug addicts is reflected in the increase of street crimes and burglaries.

In my own city of New York, more than 50 percent of the jail inmates are addicts and more than 50 percent of the property crimes are committed by addicts. We need alternative methods to cope with the drug problem. Methadone does not "cure" the addict; rather, it is an addictive substitute to heroin. Yet in three-quarters of the cases in which it has been tried in New York City it has helped to stabilize the addict, and return him to his family and his job.

Is this capitulation to addiction? I say, what else do you offer? What other help can you offer on a massive scale to the thousands and thousands of "hooked" heroin addicts who want to return to jobs and family, but lack the psychological strength to shake off addiction.

We ought not to be afraid of an interim proven measure which works. Insulin is not a cure for diabetes but it keeps the sick person alive and permits him to function. The same is true of methadone.

I say interim, for I believe we must also begin a massive research effort to find other more effective long-term heroin antagonists. At the same time, we must launch assaults upon the psycho/social societal ills that let our young people turn to heroin.

Most of us know the leading experts in the field of methadone have been Dr. Vincent Dole and his wife, Dr. Marie Nyswander, who developed the methadone maintenance technique. Dr. Dole's recent volunteer detoxification program in Manhattan House of Detention—the Tombs—has attracted nationwide interest.

In testifying before the Subcommittee on Alcoholism and Narcotics of the Senate Labor and Public Welfare Committee, of which I am ranking minority member, Dr. Dole made clear that methadone "is no panacea whatsoever" but stated:

> It is a positive response in the sense that we can show rehabilitation of many thousands of people who otherwise would have been hopeless heroin addicts.

As a result of information obtained from the 7,000 patients currently under treatment in his program, Dr. Dole testified that—

> We can say unequivocably that methadone is consistently successful in stopping heroin addiction when it is given under good medical control in the routing we recommend.

I would commend to the attention of my colleagues the recently published proceedings of the Third National Conference on Methadone Maintenance Treatment. The conference provided valuable insights into the many facets of methadone maintenance treatment programs. It added much to the scientific body of knowledge on pharmacology; gave special attention to medicine, pediatrics, and obstetric treatment issues; discussed the complex issues of mapping out an epidemiology of heroin addiction and developing large systems of delivering clinical services; and reported on the problems involved in the treatment of adolescent addicts by methadone maintenance. I ask unanimous consent that the following published conference articles be printed in the RECORD at this point in my remarks, along with the text of the bill:

"Successes and Failures in Methadone Maintenance Treatment of Heroin Addiction in New York City" by Frances Rowe Gearing, M.D., M.P.H.

"The Bernstein Experiment," by Harold L. Trigg, M.D.

"Ancillary Services in Methadone Treatment: The Bedford-Stuyvesant Experience," by Beny J. Primm, M.D.

"Comparative Study of Three Groups of Patients at the Bronx State Hospital Methadone Maintenance Program," by Beatrice Berle, M.D., and Joyce Lowinson, M.D.

"Slow Detoxification of Adolescent Heroin Addicts in New York City," by Robert B. Millman, M.D., and Marie E. Nyswander, M.D.

"Court Services and Methadone Treatment: The New York City Probation Program," by Herman Joseph.

"Planning for the Treatment of 25,000 Herion Addicts," by Vincent P. Dole, M.D.

"Two Standard Data Processing Packages for Methadone Maintenance Facilities in New York: Intake and Treatment," by Alan Warner, Ph. D.

There being no objection, the articles and bill were ordered to be printed in the RECORD, as follows:

METHADONE MAINTENANCE: WHY CONTINUE CONTROLS?

(By Richard Phillipson, M.D.)

(NOTE.—Figures do not appear in the RECORD.)

I welcome this opportunity to take the chair at this session on epidemiology and methadone: Many of you may wonder what the title of my paper has to do with epidemiology which has been defined as "a science that deals with the incidence, distribution, and control of diseases" and also as "the sum of the factors controlling the presence or absence of a disease or pathogen." I have chosen it because I feel very strongly that all physicians and others who are engaged in the present struggle to combat the problem of narcotic addiction have a great responsibility; a responsibility especially to see that the mistakes made in the second decade of this century, when morphine instead of methadone was dispensed in clinics in this country, are not repeated. Before we consider what these mistakes were let us look, albeit briefly, at events on the drug scene in the United States in the last decade of the 19th century.

In the 19th century our forebears were ignorant of 20th century biochemistry. Opiate use was perceived as a "will-weakening" vice instead of a biochemical disease. It was generally known that addicts deprived of their opiates would lie or even steal to get their drug; hence there was much talk of the moral degeneration caused by opiates.

There was nevertheless very little popular support for a law banning these substances. "Powerful organizations for the suppression of sale of alcoholic stimulants existed throughout the land," but there were no similar organizations against opiate use.

The reason for this lack of demand for suppression of opiates was quite simple: These drugs were not seen as a menace to society and physicians often referred to opium or morphine as "G.O.M."—"God's own medicine." Opiates were also widely prescribed, for asthma, for cough, for diarrhea and dysentery, and for a wide variety of other illnesses. Dr. H. H. Kane's 1880 textbook entitled "The Hypodermic Injection of Morphia. Its History, Advantages, and Dangers. Based on Experience of 360 Physicians," listed 54 diseases (including nymphomania) which benefited from morphine injections.

A remarkable fact is that for the great majority of these conditions, morphine really was of significant help. For morphine is a highly effective tranquilizer and the 19th-century physicians used morphine much as the physicians today use chlorpromazine, chlordiazepoxide, and other tranquilizers.

Opium in the 19th century was used as a substitute for alcohol and Dr. J. R. Black in a paper entitled "Advantages of Substituting the Morphia Habit for the Incurably Alcoholic," published in the *Cincinnati Lancet-Clinic* in 1889, said "opium is less inimical to healthy life than alcohol." It "calms in place of exciting the baser passions, and hence is less productive of acts of violence and crime; in short, the use of morphine in place of alcohol is but a choice of evils, and by far the lesser." Then he continued: "On the score of economy the morphine habit is by far the better. The regular whiskey drinker can be made content in his craving for stimulation, at least for quite a long time, on two or three grains of morphine a day, divided into appropriate portions, and given at regular intervals. If purchased by the drachm at 50 cents this will last him 20 days. Now it is safe to say that a like amount of spirits for the steady drinker cannot be purchased for 2½ cents a day, and that the majority of them spend 5 and 10 times that sum a day as regular thing.

"On the score, then, of a saving to the individual and his family in immediate outlay, and of incurred disability, of the great diminution of peace disturbers and of crime, whereby an immense outlay will be saved the State; on the score of decency of behavior instead of perverse deviltry, of bland courtesy instead of vicous combativeness; on the score of a lessened liability to fearful diseases and the lessened propagation of pathologically inclined blood, I would urge the substitution of morphine instead of alcohol for all to whom such a craving is an incurable propensity."

Substitute heroin for alcohol and methadone for morphine in that last sentence and one could be reading exactly what one reads today in support of the methadone maintenance treatment approach to heroin addiction.

Now let us consider for a few minutes the assessment of the operations of the narcotic dispensaries between 1919 and 1923: This is not easy because of the paucity of published materials but what little there is is well summarized in "Narcotics Addiction: Official Actions of the American Medical Association 1963," pp. 2–8 which is reprinted as a chapter in "Narcotic Addiction" by O'Donnell and Ball.

Approximately 44 clinics or dispensaries were established in various cities and some operated for as long as 4 years. The clinics seemed to have had no purpose other than the dispensing of drugs to addicts and in all instances it was found necessary eventually to give drugs to addicts for self-administration.

Beneficial results claimed to have resulted from operations of the clinics included:

(a) Bringing the addict out of hiding and making him accessible to examination and efforts at rehabilitation.

(b) Curtailment of drug peddling, enabling addicts to give up commercial activities, obtain employment, support their families and in some cases, especially in the case of the New York Clinic, preparation for hospitalization withdrawal.

Evaluation of these claims of benefits from the clinics was impossible due to a complete lack of any objective criteria of success or of failure: For example no records were ever available on the number of addicts who did obtain employment and become self-supporting while receiving drugs from the clinics and the shortness of time during which the clinics operated precluded any real assessment of the results. Claims of detrimental effects were better documented and included the diversion of drugs to others, not patients of the clinics; the peddling of narcotics far from being curtailed was increased and the clinics failed to cure the addicts but even here it is impossible to evaluate the extent of these abusers as there are no quantitative statements on the number of addicts found diverting narcotics obtained from the clinics to other persons, nor were there any quantitative statements on the number of addicts who were apprehended for crimes while receiving drugs from the clinics.

Two of the major claims for the efficacy of methadone maintenance treatment is that it results in a reduction in criminality and an increase in employment. But it is difficult, if not impossible, to find today, when some methadone maintenance programs have been in operation for over 5 years, any really hard data to support the claims of a reduction in criminality or of an increase in long-term employment and support of self and family.

It surely cannot be beyond the capacity of some of the epidemiologists here today to design a study which could offer data obtained by an impeccable scientific method. It is incumbent on us to insist on this as a standard of performance. We must not be guilty of repeating the mistakes of the past.

Our panel represents the most experienced attempts to date to deal with this critical question of outcome and behavior change. We shall soon know if we are dealing with art or science.

I am indebted to Dr. Bertram Brown, Director of the National Institute of Mental Health, for permission to present this paper and to Mr. Karst Besteman, Acting Director of the Division of Narcotic Addiction and Drug Abuse. Without whose assistance it could never have been prepared.

SUCCESSES AND FAILURES IN METHADONE MAINTENANCE TREATMENT OF HEROIN ADDICTION IN NEW YORK CITY

(By Frances Rowe Gearing, M.D., M.P.H.)

October first marks the fifth anniversary of the establishment of the Methadone Maintenance Evaluation Unit and the first meeting of the evaluation committee. When our unit began operations there were 66 men and eight women in the program and there were facilities available to admit approximately seven new patients each month. As time has marched on, the progress reports from our evaluation unit have attempted to monitor the progress of the program with cautious optimism, with the result that we have been quoted and misquoted by legislators at all levels of government and by all the mass media.

Our recommendation for continued expansion of the program has resulted in a veritable population explosion in the past year. As of October 31, 1969, the methadone maintenance treatment programs under our surveillance included six inpatient induction units, and ambulatory induction was just beginning. The admission rate was approximately 50 patients each month, equally divided between ambulatory and inpatient induction with rather cautious selection of those admitted for ambulatory induction.

This year has seen an almost complete reversal in this procedure. The vast majority of patients are currently being stabilized on an ambulatory basis, and inpatient services are used only for those patients who present unusual problems.

As of October 31, 1970, we have under surveillance 13 inpatient induction units and 46 active outpatient and ambulatory units. These units cover the four largest New York City boroughs and lower Westchester County. How many patients are involved? Table 1 shows the October 31, 1970, census. There have been 4,376 admissions to date, and 3,485 patients are under treatment. This is contrasted with the census as of October 31, 1969, when there were 2,325 admissions and 1,886 patients in treatment. This highlights the rapid expansion from approximately 50 patients per month to a level of 50 new patients each week. The location of the inpatient and outpatient units are listed in appendices A and B for those who are interested. The Rapid Induction group is a relatively new unit, opened in late July 1970, to which a group of approximately 100 patients from the waiting list have been offered ambulatory induction to methadone maintenance with medication only and little or no supportive services at the outset. The success rate in this group is being followed with great interest because its initial objective is to delineate that portion of the accepted patients which can be maintained with only minimal supportive services.

TABLE 1.—METHADONE MAINTENANCE TREATMENT PROGRAM

	Census as of Oct. 31, 1970				Census as of Oct. 31, 1969			
	Number admissions	Number discharges	Percent discharges	Number in treatment, Oct. 31, 1970	Number admissions	Number discharges	Percent discharges	Number in treatment Oct. 31, 1969
Inpatient induction:								
M.B.I. and others [1]	1,506	452 (40)	30	1,054	1,222	315 (20)	26	907
Bronx State	342	59 (3)	17	283	144	17 (1)	12	127
Gracie Square	352	64 (3)	18	288	156	16 (1)	10	140
Van Etten	160	64 (5)	40	96	125	39 (2)	31	86
Westchester County [1]	64			64				
Total inpatient	2,424	639 (51)	26	1,785	1,647	387 (24)	23	1,260
Ambulatory:								
M.B.I. and others	1,579	204 (10)	13	1,375	678	72 (2)	11	606
Rapid induction	103	10	10	93				
Van Etten	52	13 (1)	25	39				
Greenwich House	138	25 (1)	18	113				
Westchester County	80			80				
Total ambulatory	1,952	252 (12)	12	1,700	678	72(2)	11	606
Total	4,376	891 (63)	20	3,485	2,325	459 (26)	20	1,866

[1] See app. A.

DESCRIPTION OF SAMPLE

The age distribution of patients in the methadone maintenance treatment program has not changed substantially over the past 5 years despite the change in age criteria for admission. This appears to be the result of two balancing forces. These are (1) the inclusion of a few 18-year-old patients, and (2) the admission of a small number of oriental patients who are in their late 50's. Therefore, the median age of all patients remains at about 33.3 years with the average age of the black patients somewhat older (35.6).

The ethnic distribution remains approximately 40 percent white, 40 percent black, 19 percent Spanish and 1 percent oriental.

We will discuss the "failures" first.

RATE OF DISCHARGE

The rate of discharge by month of observation has remained amazingly stable despite the changes in admission criteria and the change of emphasis from inpatient induction to ambulatory induction. This is illustrated in figure 1 where the rates of discharge for the two groups are contrasted. The two curves are identical. The Van Etten group, with active tuberculosis as an additional problem to heroin addiction, demonstrate a somewhat accelerated discharge rate as might be expected.

In figure 2 we contrast three cohorts of 500 patients by date of admission, and once again we find no difference in rates of discharge among these three cohorts representing the first 1,500 patients admitted to the program.

Figure 3 contrasts the discharge rate for men and women. The slight difference shown is not significant due to the much smaller number of women. The rate of discharge for men by age at time of admission is shown in figure 4 and once again shows no difference between younger and older patients. A small difference appears in figure 5 between the rate of discharge in the third year between black and white patients. This difference is not statistically significant at this point but bears monitoring in the future.

REASONS FOR DISCHARGE

As shown in figure 6, problems with alcohol abuse as a reason for discharge increases with age at time of admission for both men and women, drug abuse (primarily amphetamines and barbiturates) as a reason for discharge decreases with age and is more common among the women than among the men. Voluntarily withdrawal from the program increases with age particularly among the men.

Discharge for behavior or psychiatric reasons is more common among the younger patients of both sexes. Deaths follow the pattern in the general population.

When we look at reasons for discharge by ethnic group as shown in figure 7, we note that alcohol problems are more common among the black patients and drug abuse is more commonly a factor among the white and Spanish patients.

Voluntary withdrawals and discharge for behavioral reasons account for the majority of dropouts in the first year. Chronic problems with alcohol abuse, and continued drug abuse were the major causes of discharge in the second and third year.

FOLLOWUP OF DISCHARGED PATIENTS

With the assistance of two medical students[1] during this past summer, we completed an intensive followup on a sample of patients who had left the program. We selected all patients who were discharged alive by December 31, 1969, and who had been in the program 3 months or longer at the time of discharge. This gave us a pool of 562 persons. We divided this group into two segments: (1) those who had left the program voluntarily, and (2) those who had been discharged from the program for cause.

Our primary source of followup was the New York City Narcotics Register which receives reports from the police and correction agencies, hospitals and treatment programs, and from private practitioners. Another very useful source was a series of interviews with patients who left the program and have subsequently been readmitted. This was a major contribution by the medical students.

For the sample of 281 patients on whom we could obtain 6 months of followup the results are shown in table 2.

[1] Mr. Michael Lane, Downstate Medical School, and Miss Mary Hartshorn, Medical College of Pennsylvania.

TABLE 2.—METHADONE MAINTENANCE TREATMENT PROGRAM

Followup of 281 patients 6 months following discharge from MMTP]

	Left voluntarily (percent)	Discharged for cause (percent)	Total discharge (percent)
Arrest or jail	10	26	23
Dead	2	2	2
Detoxification	13	20	19
Other Rx program	11	4	7
Medical or psychiatric facility		3	2
Private M.D.	2	2	2
Moved	7	1	1
Readmitted	33	6	11
No reports found	22	36	33
Total sample	100 (45)	100 (236)	100 (281)
Total N	(90)	(472)	(562)

Those patients who left the program voluntarily had a lower arrest and detoxification record than the rest. They also had a larger proportion admitted to other treatment programs and one-third had been readmitted to the program, contrasted with only 6 percent of those discharged for cause. If one considers that no record found is roughly equivalent to remaining "clean," one-third of this group were still "clean" 6 months after leaving the program.

The same sampling procedure was followed for the 396 patients on whom we could obtain 12 months to followup. These results are shown in table 3. In this group only, 21 percent would be considered still "clean." The readmission rate was somewhat lower (13 percent). Except for arrests and deaths, those who left the program voluntarily are very similar to the other group.

TABLE 3.—METHADONE MAINTENANCE TREATMENT

Followup of 198 patients up 1 year after discharge from MMTP]

	Left voluntarily (percent)	Discharged for cause (percent)	Total discharge (percent)
Arrest or jail	13	28	25
Dead		2	2
Detoxification	34	23	25
Other Rx program	6	6	6
Medical or psychiatric facility	3	4	4
Private M.D.	3	1	2
Moved		2	2
Readmitted	16	13	13
No reports found	25	21	21
Total sample	100 (32)	100 (166)	100 (198)
Total N	(64)	(232)	(396)

Table 4 shows the results of the followup on our sample of 181 patients on which we had a followup of 1 year or more. Here the readmission rate is 22 percent and the proportion who appear to have remained "clean" is only 18 percent and the death rate reaches 5 percent.

These data would tend to indicate that, among those patients who withdraw from methadone maintenance treatment, only a small proportion have been able to "make it" on their own.

Because of the tremendous current interest in "criminality" associated with addiction, we looked into the previous arrest records of those patients who have remained in the programs, contrasted with those who left the program voluntarily, and those who were discharged for cause. We contrasted this, in a "before and after" picture, as shown in figure 8. It is interesting to note that the past history of those who were discharged for cause with reference to arrests is worse than either of the other two groups—and that their behavior following discharge is as poor or worse than before admission. Those who left voluntarily demonstrate a short period of improvement but also tend to return to their previous arrest pattern. Those who remained in the program show a constant and accelerated decline in criminal behavior as measured by arrests.

Enough of failures. Now let's discuss successes.

TABLE 4.—METHADONE MAINTENANCE TREATMENT PROGRAM

[Followup of 181 patients 1 year or more after discharge from MMTP]

	Left voluntarily (percent)	Discharged for cause (percent)	Total discharge (percent)
Arrest or jail	18	30	28
Dead		5	5
Detoxification	37	27	28
Other Rx program	11	11	22
Medical or psychiatric facility	6	7	7
Private M.D.	6	3	3
No reports found	21	17	18
Readmitted [1]	29	21	22
Total sample	100(28)	100(153)	100(181)
Total N	(56)	(306)	(362)

[1] Readmitted patients each had 1 or more reports of arrest or detoxification.

CRITERIA FOR SUCCESS

The criteria established by our evaluation unit with the approval of the evaluation committee for measuring success of the program has revolved around four basic measures:

1. Freedom from heroin "hunger" as measured by repeated, periodic "clean" urine specimens.

2. Decrease in antisocial behavior as measured by arrest and/or incarceration (jail).

3. Increase in social productivity as measured by employment and/or schooling or vocational training.

4. Recognition of, and willingness to accept help for excessive use of alcohol, other drugs, or for psychiatric problems.

RESULTS

1. Although many of the patients test the methadone "blockade" of heroin one or more times in the first few months, less than 1 percent have returned to regular heroin usage while under methadone maintenance treatment.

2. Antisocial behavior as measured by arrests and incarcerations (jail) have been looked at in several ways. First, the percentage of arrests among patients in the program during the 3 years prior to admission was compared with the percentage of arrests of these same persons following admission. This "before and after" picture is also contrasted with the proportion of arrests in a contrast group of 100 men selected from the detoxification unit at Morris Bernstein Institute matched by age and ethnic group and followed in the same manner. The results are illustrated in figure 9. The arrest records of these two groups are quite similar for each year of observation prior to admission. Following admission to the program, the contrast is striking for each period of observation with the methadone maintenance patients showing a marked decrease in the percentage of patients arrested, and the contrast group showing a pattern very similar to the earlier period of observation.

We have also calculated the arrests per 100-patient-years of observation for the 3 years prior to admission in contrast to the arrests per 100-patient-years of observation after admission. We have compared these data using the same computations for the contrast group. The results are shown in table 5. These results would appear to indicate that remaining in the methadone maintenance program does indeed decrease antisocial behavior as measured by arrests or incarcerations.

3. Increased social productivity can best be illustrated by the employment profiles shown in figures 10 and 11. There is a steady and rather marked increase in the employment rate with a corresponding decrease in the percentage of patients on welfare as time in the program increases. This is true both for the men and the women. These data include both ambulatory and inpatient induction groups. This accounts for the increased percentage of men employed at time of admission since this was one of the early criteria for admission to an ambulatory unit.

4. Figure 12 is an attempt to illustrate stability of employment among patients remaining in the program as contrasted with their previous employment experience. The shaded area might be considered as a measure of their increased social productivity since admission to the program.

5. Although chronic alcohol abuse continues to be a problem for approximately 8 percent of the patients (both men and women), and for some becomes the principal reason for discharge, a majority of these patients show continued improvement in their ability to handle their alcohol problem with the support and assistance of members of the program staff who recognize the problem, and are willing and able to cope with it.

6. Problems with chronic abuse of drugs each as barbiturates, amphetamines, and more recently, cocaine, are evident in approximately 10 percent of the patients. There again, for some, it has resulted in discharge from the program. For many others, the patients are able to function satisfactorily, with the assistance and support of members of the program staff.

CONCLUSIONS

On balance, the successes in the methadone maintenance treatment program far outweigh the failures. The rapid expansion of the program during the past year, and the change in emphasis to include primarily ambulatory induction under the expanded admission criteria does not appear to have made any noticeable change in the effectiveness of this treatment for those heroin addicts who have been accepted into the program. A majority of the patients have completed their schooling or increased their skills and have become self-supporting. Their pattern of arrests has decreased substantially. This is in sharp contrast to their own previous experience, as well as their current experience when compared with a matched group from the detoxification unit, or when compared with those patients who have left the program. Less than 1 percent of the patients who have remained in the program have reverted to regular heroin use.

A small proportion of the patients (10 percent) present continued evidence of drug abuse involving use of amphetamines, barbiturates, and cocaine, and another 8 percent demonstrate continued problems from chronic alcohol abuse. These two problems account for the majority of failures in rehabilitation after the first 6 months.

Methadone maintenance as a treatment modality was never conceived as a "magic bullet" that would resolve all the problems of patients addicted to heroin. For this reason, we believe that any treatment program using methadone maintenance must be prepared to provide a broad variety of supportive services to deal with problems including mixed drug abuse, chronic alcoholism, psychiatric or behavioral problems, and a variety of social and medical problems.

Many questions continue to remain unanswered with reference to the role of methadone maintenance in the attack on the total problem of heroin addiction; nevertheless the data presented on the group of patients who have been admitted to this methadone maintenance treatment program continues to demonstrate that this program has been successful in the vast majority of its patients.

After a careful review of the data related to successes and failures over the past 5 years, the Methadone Maintenance Evaluation Committee has submitted the following recommendation as of Friday, November 6, 1970:

RECOMMENDATIONS

As a result of the continued encouraging results in the methadone maintenance treatment program through October 31, 1970, the Methadone Maintenance Evaluation Committee recommends:

1. That there be continued financial support for the methadone maintenance treatment program to allow continued intake of new patients using admission criteria including a minimum age of 18 years and a history of a minimum of 2 years of addiction with care in selection of patients to prevent the possibility of addicting an individual to methadone who is not physiologically addicted to heroin.

2. That there be continued evaluation of the long-term effectiveness of the methadone maintenance treatment program for the group stabilized on an inpatient basis, the group being stabilized on an ambulatory basis, and the group undergoing rapid induction.

3. That new programs which plan to use methadone maintenance should include all elements of the program including:

a. Availability of adequate facilities for the collection of urine and laboratory facilities for frequent and accurate urine testing;

b. Medical and psychiatric supervision;

c. Backup hospitalization facilities;

d. Adequate staff including vocational, social and educational support, and counseling;

e. Rigid control of methods of dispensing methadone and number and size of doses given for self-administration in order to prevent diversion to illicit sale or possible intravenous use;

f. Staff members of potential new programs planning to use methadone maintenance be trained in this technique in a medical center which has been shown to use methadone maintenance effectively.

4. That continued research is essential particularly with reference to:

a. The role of methadone maintenance in the treatment of young heroin addicts (under 18);

b. Developing programs using methadone maintenance in combination with other approaches to the treatment of heroin addiction.

Projects in these areas should be supported and encouraged, but must be considered new research studies, and should be subjected to the same surveillance and independent evaluation as the current programs.

5. That methadone maintenance not be considered at this time as a method of treatment suitable for use by the private medical practitioner in his office practice, because of the requirements for other program components including social rehabilitation and vocational guidance.

6. That a pilot or demonstration project be developed involving the use of properly trained practicing physicians as an extension of an organized methadone maintenance treatment program to treat those patients whose needs for ancillary services are minimal. These patients should be continued under the supervision of the methadone maintenance treatment program for periodic evaluation and urine testing.

ACKNOWLEDGEMENTS

1. The members of the Methadone Maintenance Evaluation Committee both past and present with particular reference to Dr. Henry Brill who has so aptly chaired that committee since its inception.

2. All the members of the methadone maintenance treatment program staff for their devotion to their job and for their cooperation whenever needed.

3. The staff of the Rockefeller Data Bank, especially Dr. Alan Warner and Mrs. Ellen Smith, for their willingness to make available to us, whenever requested, data which has been a crucial starting point of our evaluation.

4. Those medical students who have made substantial contributions to our efforts over the past 4 years.

5. The directors of the New York City Narcotics Register who have allowed us to use their data for validation and for followup. These listed in chronological order over the past 5 years are: Dr. Florence Kavaler, Mrs. Zili Amsel, Miss Joy Fishman, and Mr. Sherman Patrick.

6. The diligence and devotion of my staff including: Mrs. Dina D'Amico, Mrs. Angela del Campo, Mrs. Freida Karen, Mrs. Elaine Keane, Mrs. Dorothy Madden, and Mrs. Inge Mayer.

7. And last but not least to the New York State Narcotic Addiction Control Commission for funding our efforts.

TABLE 5.—METHADONE MAINTENANCE TREATMENT PROGRAM

The number of arrests and incarcerations per 100-person-years for methadone maintenance patients before and after admission contrasted with patients from detoxification unit

	Methadone group	Detoxification group
Before admission:		
Arrests per 100-person-years	115	131.
Jail per 100-person-years	49	52.
n	17,500-person-years.	600-person-years.
Following admission:		
Arrests per 100-person-years	4.3	135.
Jail per 100-person-years	1	63.
n	10,800-person-years.	1,040-person-years.

APPENDIX A.—METHADONE MAINTENANCE TREATMENT PROGRAM

(Inpatient induction units by county as of October 31, 1970)

Manhattan:
Gracie Square Hospital (M & W).
Harlem Hospital (M).
Morris J. Bernstein Institute (M & W).
Riker's Island (M).
Rockefeller University Hospital (M & W).
Roosevelt Hospital (M & W).
St. Luke's Hospital (M & W).
Bronx:
Albert Einstein Medical Center (M & W).
Bronx State Hospital (M & W).
Brooklyn: Brookdale Hospital (M & W).
Westchester County:
St. Joseph's Hospital (M & W).
White Plains Hospital (M & W).
Yonkers General Hospital (M & W).

APPENDIX B.—METHADONE MAINTENANCE TREATMENT PROGRAM

(Outpatient and ambulatory induction units by county as of October 31, 1970)

	Number of units
Manhattan:	
City probation	2
Gracie Square Hospital	1
Greenwich House	1
Harlem Hospital	5
Jewish Memorial Hospital	1
Morris J. Bernstein Institute	1
Lower East Side	10
Lower West Side	2
Rapid Induction	1
Mount Sinai Hospital	1
Rockefeller University Hospital	2
Roosevelt Hospital	1
St. Luke's Hospital	1
St. Vincent's Hospital	1
Bronx:	
Bronx State Hospital	1
Lincoln Hospital	1
Van Etten Hospital	1

	Number of units
Brooklyn:	
Brookdale Medical Center	1
Coney Island Hospital	2
Cumberland Hospital	2
Lutheran Hospital	1
Methodist Hospital	1
Queens:	
Long Beach Memorial Hospital	1
Triboro Hospital	2
Westchester:	
St. Joseph's Hospital	1
White Plains Hospital	1
Yonkers General Hospital	1
Yonkers Public Health Building (WCCMHB)	1

THE BERNSTEIN EXPERIMENT

(By Harold L. Trigg, M.D.)

The current staffing pattern for the Bernstein Institute methadone maintenance treatment program is rooted in the history of the Bernstein Institute's Drug Addiction Service, which latter service concerns itself primarily with short-term detoxification.

In the process of setting up the Drug Addiction Service itself, in the early months of 1961, there occurred a rapid realization that staffing with psychiatry and other medical specialties, nursing, and social service, though perhaps adequate for simple pharmacological detoxification, was not adequate to cover other needs. One almost has to "entertain" the patient undergoing detoxification to assist him through a 2- to 3-week period of hospitalization and to control the number of premature signouts against medical advice.

At that point in 1961, the author was teaching in a local graduate school of psychology, and without any previous experience, with a nontraditional staffing pattern, selected two graduate students, both young men, with no previous experience in working with the addict population, and employed them in the capacity of general "troubleshooters" (officially named "counselors"). Their areas of functioning, though broad, did not include traditional medical and nursing responsibilities, but did include such areas as recreational therapy, issuing of phonograph records and record-players, defusing difficult relationships between patients before any altercation might occur, checking locked screens to make sure that locks had not been tampered with, and many other details.

The period of time up to February 1965 might be considered a thoroughly bleak one for any opiate addict, since the therapeutic community-abstinence programs were barely being whispered about, and one hardly knew, except through private conversations, that Dole and Nyswander were doing the initial research at Rockefeller University during the year 1964 on the high dosage Dole-Nyswander methadone maintenance treatment approach as we know it today. After spending the year 1964 doing the aforementioned initial research, Dole and Nyswander approached the officials of what is now the Bernstein Institute (then Manhattan General Hospital) stating that they needed space in which to work with more patients on the embryonic methadone maintenance treatment program. The Bernstein Institute answered in the affirmative, thus establishing a relationship with Dole and Nyswander that has led to what is today the largest methadone maintenance treatment program in the world.

However, going back to February 1965, which is the actual beginning of the Bernstein methadone maintenance treatment program, it was natural for the parents of the newborn methadone program to take meticulous measures to insure the growth of their child. I was privileged to have many discussions with Drs. Dole and Nyswander in those early days—in fact, it was Dr. Nyswander who worked so hard with me in launching the Drug Addiction Service in 1961. She was, therefore, familiar with the staffing pattern used on the Drug Addiction Service.

Drs. Dole and Nyswander had brought with them from Rockefeller a staff discipline known as the research assistant. The research assistant, as many of you know, is, by definition, a former heroin addict who has been under treatment on a methadone maintenance treatment program for a minimum of 1 year and who is deemed suitable for helping patients make the transition from the behavior of the "street addict" to that of "patient" on a medically supervised and controlled treatment program. However, during the early days and months, one of course could not have the more refined and, at the same time, relaxed view of today as to the role of the research assistant. One had no clear idea in those days as to the extent of the strength of the research assistant and whether one was simply being burdensome in asking the research assistant to undertake certain work with patients. In view of many such uncertainties, we reached a decision to introduce the category of staff referred to as counselor on the Drug Addiction Service.

Counselors, in this context, are, by and large, relatively young people, most of whom have a bachelor's degree in one of the behavioral sciences. In order to effect a smooth relationship between these two disciplines (i.e., counselors and research assistants), it became necessary to carve out some areas of responsibilities. One of the things agreed upon at the very outset, for example, was that only the research assistants would speak to patients about contaminated urine specimens in the first 6 weeks of hospitalization. It was our opinion, at that time (and still continues to be mine), that only the research assistant, by virtue of his own experience, had enough finesse to speak to such patients, during this early phase, without having the patients heighten their security operations and isolation techniques. In the early days, I might add, counselors were viewed as staff members who could keep the patient launched once the research assistant got the patient off the ground. After 6 years, we now know that the latter distinction does not seem to be warranted. What seems to me to be true is, that although the research assistant seems to be the most potent vehicle for launching the patient, once the research assistant really settles into the program, he often becomes as "square" as someone who has never used heroin and can become as effective with advanced patients as any other category of staff. In Phase II, primarily, the distinction between the counselor and the research assistant in their day-to-day functioning has undergone considerable blurring over the years, and it seems to me, all for the good.

The social service component of the Bernstein methadone program has undergone considerable change over the years, in view of the fact that all staff members, regardless of professional discipline, function more generically than otherwise—each staff member being expected to provide as wide a range of services for his patients as is possible within the limits of skill and legality; chiefs of the various disciplines are functioning primarily as resource people.

The vocational rehabilitation component of the Bernstein methadone program, which had considerable difficulty getting off the ground, has been an invaluable program component for the past couple of years. Our patients are now able to avail themselves of special vocational and educational training programs which were previously not open to them; or, if open to them, really did not understand the needs of an individual who had spent many years of his life using heroin, but who was now on methadone maintenance and had a different set of needs. Many new job areas have been opened.

In terms of the internal medical, obstetrical, gynecological, pediatric components and the ancillary services of the Bernstein methadone maintenance treatment program, there are three experts to cover those areas in more detail, later this morning. I would simply like to note, at this point, that we take great pride in these specialty services and hope to be able to expand them, not only to be able to provide continuity of services within the same medical center setting, but in order to enable us to do further evaluation and research for many years to come.

Having been asked repeatedly for the staffing pattern for a Phase II methadone outpatient clinic, the following is based on a census of approximately 100 patients:

Half-time psychiatrist.
Half-time administrative support.
2 full-time counsellors.
2 full-time research assistants.
Quarter-time vocational rehabilitation counsellor.
2 full-time nurses.
Half-time social worker.
Full-time secretary.

ANCILLARY SERVICES IN METHADONE TREATMENT: THE BEDFORD-STUYVESANT EXPERIENCE

(By Beny J. Primm, M.D.)

The Bedford-Stuyvesant experience has been a harrowing, frustrating, and thoroughly rewarding experience for me at this time. What Dr. Trigg has said is indeed true. I don't know now, when I look back, why I really took the assignment, because it was fraught with so many difficulties and frustrating patterns. There were three things, though, that I think were gleaned out of the Bedford-Stuyvesant experience that I could share with you. One of them is the political part of starting a program in an area where you are not necessarily welcome in the first place. The area itself was rather hostile to methadone maintenance. People there decided that I was the black man who had been chosen by the white man to deliver the white man's poison to that community, which sort of alienated me completely from the segment of the population that I had been identified with in the past. The medical community did not know what my feelings were about methadone as a modality of treatment. They, too, were somewhat reluctant when they heard that Dr. Beny Primm was going to take on the task of the Addiction Research and Treatment Corporation.

Politically, I was in something of a no-man's land, and this no-man's land included the community. It has welcomed us after 1 year. The medical community has presently laid out a welcoming carpet for me, and that's probably why I'm here today delivering to you some of those experiences. This is heartening. With the encouragement of Dr. Dole and Dr. Taylor, visiting from Philadelphia, we instituted in the pharmacological portion of our program technicians rather than nurses, which has helped us considerably in cutting down on expenses and, of course, in rendering a much better service. I have been encouraged as well by Dr. Lowinson's regular telephone communications and, of course, Dr. Nyswander's warm greetings and well wishes yesterday. Also heartening has been my contact with Dr. Jaffe, whom I visited in Chicago, who helped me rid myself of many frustrations, and whom I later saw in San Diego, where he shared with me a number of experiences that guided us a little better.

The Lexington experience, which no program director should exclude from his agenda, was also invaluable. And I mention all of these because initially I had not realized that all of these were important for the success of the program. The exchange of ideas among professionals is the most important aspect of starting a methadone maintenance program and making in function adequately. I think the lesson that is gleaned, the political lesson that is, out of the Bedford-Stuyvesant experience, is that we must not allow the politicians, the oft-times sensational news media, nor a frightened society and even petty jealousies, to make us look, act, or seem like enemies—especially enemies—of the community. We are together for a common cause: Curing addiction.

Administratively it is an area where it is most difficult to run a program of such enormous design as we have at the Addiction Research and Treatment Corporation. I cannot go piece by piece on the administrative chart to show you just what happens but we set the program up in a corporate manner, as seen on the lighted board to your right—during intermission you can go there and see how the program is set up in an administrative fashion. We had to go out and canvass industry for the kind of individual who would be a good administrative director, who would be welcomed by the community, and who had the skills to coordinate all the disciplines that you see listed on that board.

We have extramural based research and evaluation teams. The Harvard Law School for the Betterment of Criminal Justice does criminal evaluation; the Yale Medical School does our medical evaluation; and the Columbia School of Social Work does our social evaluation. These institutions determine the kind of impact we have in these three areas in the community in which we are located. This ongoing research and evaluation is rather unique to ARTC. We receive continual feedback from these institutions regarding their areas of concern so that we can change our program structure as the program evolves in order to be more meaningful to the patient population that we are serving. There are weekly meetings with the Board of Directors of ARTC to keep them abreast of developments so that if we have any difficulty in securing funds or problems in locating property—and the many, many other problems that I know all of you are faced with—they can be of assistance to us in getting these things done. So it is a very coordinated effort, working together to deliver the service.

The delivery of ancillary services requires dedicated, compassionate, certificated professionals from all disciplines. Their skills must be finely coordinated and their departments interrelated. The program's administrative director has this sensitive task. He must create and direct systems of communication between departments to deliver these ancillary services effectively.

We have a Department of Prevention and Education, which the community really had dire need for and requested. This department communicates with every department, feeding back gathered information from the community, i.e., how they were received, etc.

We have a Department of Job Development, where we go out to sensitive industry to take on addicts who have been rehabilitated. We help the medical professional who works in that industrial complex with problems that he might face in the industry when treating an employee who might be addicted to drugs. We follow that individual while he is working with vocational counseling, constantly talking back and forth with the medical department where he is working.

Let's take the other areas, such as social service, which is in constant communication with job development. When program participants are not doing well in their family situation, the job development people know about it. We have a combined counselor therapist. Rather than have the therapist outside the arena of social services, or the counselor outside social services, we have combined these two job slots. And the counselor and the therapist work together, so that the patient cannot manipulate two people, one person against the other, with the manipulative attitude that addicts often have.

The medical department is rather unique, in that we deliver the kind of care from head to toe that you would see in any major private medical clinic. But what is particularly unique about ARTC is the entire pediatric medical care and, of course, full-time dental care on an outpatient basis.

The podiatric medical care takes place right at ARTC, on the spot. Bert Brown made an interesting observation when he came to visit ARTC and went to a local barbershop in our area to get a haircut. The barber said to him that addicts have a tremendous "mileage" problem, because they are constantly "chasing the horse." Therefore, they have very, very bad feet, and he wondered how they even continue to do this. So, when Bert came over that morning, he was going to suggest to me that maybe we should have a podiatrist to take care of the addicts' feet. Well, I told him we had a podiatrist working there for the last year. And, we also have the senior students of the M. J. Lewi College of Podiatry, who come on a daily basis to take care of the simple foot problems. If there are operative problems of the feet, we send them to the College of Podiatry. This has a tendency to make the addicted individual feel that we are concerned with treating him as a whole, and not just with his problem of addiction. Many of them come in with feet that are filthy, and our podiatry students show them how to care for them, teach them proper hygiene, and generally dignify their medical care. The other day we had a television performance on the relationship of podiatry to a narcotics treatment program.

We have a legal service that employs two full-time lawyers. In this system we have taken one patient who was at the Bronx State Hospital, who was on their methadone program, and who was known as a "jailhouse lawyer." We call him a Legal Advocate. He works constantly in this capacity, relieving our two lawyers of a great deal of their responsibility. He is doing considerably well. We are thinking of creating an additional position in this department when we expand to the Bronx.

We started a Therapeutic Community—we now have two—for our most incorrigible patients. A patient becomes incorrigible at ARTC when he fails to respond, after many trials, to the rules and regulations we have established. Presently we have a dropout rate that is very, very small. We have lost only about 27 out of a total of 577 that we have on the program. This is because we feel that we should measure our program's success by how well the most incorrigible patient does on the program. The Therapeutic Community was established after consultation with our research and evaluation team and executive staff. The Therapeutic Community concept in an outpatient methadone maintenance program was copied after Jerry Jaffe's in Chicago. We presently have 18 people in our therapeutic community. If they don't do well there, we do not dismiss them from the program. We may suspend them for a period of 3 months, or 6 months, until their attitude becomes a little bit better or they're more positively motivated. We then take them back on the program, to try to let them function again.

There is a great deal of difference between a program that is located in an area such as Bedford-Stuyvesant and a program located, let's say, in midtown or lower Manhattan. There, in Bedford-Stuyvesant, I consider what we have a very natural laboratory. Right next door to my building is the biggest dope drop in Brooklyn. And people can walk out of my building and walk right next door and "cop." For example, across the street is also a big dope drop. I have done my damnedest to try and get the responsible authorities to come into the area and close these people up. It is impossible. They can't find the drugs within these two places of business, so they can't do anything about it.

This makes program success a limited program success. It creates an abstinence barrier for people on the program. Oft-times they have nowhere to go, and addicts who are not on the program congregate outside of the building. And the kind of peer pressure that takes place when an individual walks outside of the building makes it very difficult to look for the kind of success you might look for everywhere else.

I propose to this Conference that when you run into that kind of situation, e.g., when the program is located in a natural laboratory, that you should not use the same yardstick to measure a program as you would a program in another situation. Because you can't look for the same kind of success rate, and the patients are indeed more incorrigible.

There are a number of gleanings from the Bedford-Stuyvesant experience. On the basis of them I would like to recommend to this body that a resolution come from this Conference that gives a carte blanche for program directors to communicate effectively. That is, whenever they have a problem or are in need of information from another program. This communication should be welcomed—whether the program is located in New York or whether it is in California.

You would be surprised at how much lack of confidence I had when I saw certain things with people using illicit drugs in the program, after they were properly blockaded. I did not believe what I saw. I had subscribed to certain theories in going into a modality like methadone maintenance. I felt that once you blockaded a patient, the patient did not need drugs anymore. This is not always true. Illicit drug use was seen everyday, and I was terribly frustrated. When I talked with Dr. Jaffee and people throughout the country, particularly the people in Lexington, they reassured me that this does occur. When patients come on a program initially, especially an outpatient methadone maintenance program, 95 percent use illicit drugs, 20 percent drop out initially, another 20 to 30 percent continue to be poor program performers. They reassured me that these were statistics similar to their own and not to be frustrated. This information can only come from other experienced investigators. I think this is a most important factor: When programs are designed, provisions should be made for the technical assistants capable of communicating that kind of experience from one program to another. For example, I think funding should include a position of this sort.

We must design a new yardstick to measure a program's effectiveness and success in a natural laboratory setting, i.e., drug assessment is different is an asimilar milieu, it is different in a different ambianle. A drug's effect is different when administered in a Taj Mahal like Columbia Presbyterian than a storefront in the South Bronx or Bedford-Stuyvesant. The kind of aura that surrounds a Taj Mahal—the columns, the organized efficiency and order in the way things are done—have a tendency of predispose to good program performance by a participant in that program. A good deal of the success of a program depends upon the director, i.e., whether he is black or brown or white, professional or nonprofessional. In the climate today, the black director has to answer to the community on a one-to-one equal basis. He is confronted, threatened, and often insulted. The white program director is rarely if ever approached by the black community rebel on a one-to-one basis. I doubt seriously if Dr. Dole has ever been confronted as I have in the Bedford-Stuyvesant community. My life has been

constantly threatened face to face, i.e., "We are going to cut your head off," "We are going to blow up your car," etc. Programs outside of communities like Bedford-Stuyvesant are very insulated, and of course a different yardstick should be designed by a forum like this to measure that program's effectiveness.

COMPARATIVE STUDY OF THREE GROUPS OF PATIENTS AT THE BRONX STATE HOSPITAL METHADONE MAINTENANCE PROGRAM

(By Beatrice Berle, M.D. and Joyce Lowinson, M.D.)

The methadone maintenance program located at Bronx State Hospital has been in operation since December 10, 1968. At the time of writing, it consists of an inpatient facility (capacity 26 beds), three outpatient departments (OPD's) at Bronx State and Lincoln Hospitals and a recently established residential therapeutic community. The program is being expanded through a grant from the New York State Narcotic Addiction Control Commission (NACC) to the Albert Einstein College of Medicine (AECOM).

The expanding program will be financed through the AECOM grant. It is expected to take care of some 2,000 patients residing in the Bronx. Under terms of the grant, the Albert Einstein College of Medicine will coordinate the programs at nine Bronx hospitals, including Bronx State, Montefiore, Morrisania, Jacobi, Soundview-Throgs Neck Community Mental Health Center, Lincoln, Lincoln Community Mental Health Center, Fordham, and Misericordia. These facilities will be responsible for the medical care which these patients require as well as for the management of the methadone maintenance program with supportive services. The methods developed by Dole and Nyswander (1) will be followed in the new OPD's according to the protocol established by the methadone maintenance program at Bronx State Hospital.

The following report deals with 125 patients selected from 385 patients at the Bronx State Hospital methadone maintenance program as of October 30, 1970. No distinction has been made between patients stabilized in the hospital and those stabilized on an ambulatory basis. Patients at the Lincoln Hospital OPD are not included. Three groups will be discussed:

TABLE 1.—NUMBER OF MONTHS BETWEEN ADMISSION AND DISCHARGE FOR 54 BRONX STATE PATIENTS WHO WERE DISCHARGED FROM THE PROGRAM

N=54	Months
Mean number of months between admission and discharge	5.5
Range	0–24
Median number of months	4

Note.—Patients (31 percent) were discharged after 1 month or less on the program.

N=335		Number	Percent
Group I	The discharged	54	16
Group II	The nearly discharged	36	11
Group III	Successful patients	35	10

Group I are those patients who have been discharged from the program. Group II consists of those patients whose behavior and lack of progress would have made discharge mandatory in a less flexible program. For purposes of this discussion, the successful patients (group III) are defined as follows:

(a) One year on the program with once-a-week pickup of medication.

(b) Steady employment verified by monthly inspection of pay stubs.

(c) Stable home.

(d) No ascertainable drug use after first 2 months on program as determined by observation, urinalysis, patient's own statement.

We hope to answer the following questions through an examination of demographic data on admission in all three groups and comparing reasons for discharge or near discharge in groups I and II.

1. Can patients in group III be identified upon admission?

2. Why is one patient who breaks the rules discharged while another may be retained?

3. How can the number of discharges be reduced?

Both a more liberal admission policy and a more flexible discharge policy than those enforced on some other programs were in operation at Bronx State. Patients were admitted at the age of 18 with a 2-year history of heroin addiction. Applicants with a history of diagnosed mental disease, emotional instability, or mixed addiction were not necessarily excluded. Patients manifesting disruptive behavior, drug abuse, and apparent lack of progress were frequently given another chance before being finally discharged.

In an attempt to particularize the *reasons for discharge*, the following list was devised:

1. *No progress.*—If after a period of 3 or 4 months, an individual continues to use heroin or other drugs intermittently, maintains a drug oriented attitude toward life and appears to have made no attempt to secure a job, he may be discharged under the heading of "No Progress." This is usually associated with other reasons.

2. *Disruptive behavior.*—This is defined as creating disruption on the ward, on the hospital grounds, in the OPD or in a public place where the disruptive individual may try to involve other patients, i.e.: Bowling alley, movie theater. This may involve physical and verbal abuse of staff.

3. *Alcoholism.*—Appearing frequently and obviously intoxicated at the OPD. Lack of response to attempts to treat this condition.

4. *Selling drugs, resulting in arrest.*—This is self-explanatory.

5. *Bringing drugs on ward or OPD.*—This is self-explanatory.

6. *Criminal behavior.* (e.g., assault, robbery, homicide) resulting in arrest.

7. *Self-discharge.*—Individuals who failed to report for medication for 8 days without adequate explanation were considered to have detoxified and discharged themselves.

8. *Phycho-social pathology beyond the reach of this program.*—This includes individuals who appear to require intensive phychiatric care as inpatients or outpatients but for whom such care is not available. They also include individuals whose personal lives have been so disrupted, due to their past drug history, criminal activities and personal handicaps, that the services existing within the program are not sufficient to provide rehabilitation. Incidentally, these people are known among professionals as the multiproblem patients. They become multiple-agency problems on whom many man-hours may be spent, alas, to no avail.

9. *Mixed addiction.*—This is self-explanatory.

In reviewing the discharged and the nearly discharged, we note first that 31 per cent of the patients were discharged before 1 month on the program. This category includes individuals discharged immediately for bringing drugs on the ward. Among early discharges we find individuals admitted at the request of a housemate, (relative, spouse, friend) already on the program. The individual thus coerced by a relative or friend on the program frequently turns out not to be willing or able to commit himself to the program. At the same time, the 24-month range indicates that a number of patients were carried as nearly discharged for a considerable period of time. We can produce the record of a male patient on whom the therapeutic efforts of the staff individually and collectively were expended for the 24 months with little progress. During his third admission to the ward, he went out on a pass and was arrested for possession of drugs. This incident led to his final discharge. To try to establish a statistically significant difference between the reasons for discharge and nearly discharged would be stretching the data. These are clinical observations. Looking at table 2, one can infer that the program does not tolerate drug traffic, is not equipped to deal with severe and persistant phycho-social pathology, expects a degree of progress, endeavors to deal with alcoholism, disruptive behavior, and mixed addictions (table 2).

TABLE 2

Reasons for discharge or near discharge	Discharges N=54	Percent	Near discharges N=36	Percent
No progress	17	32	8	22
Disruptive behavior	7	13	13	36
Alcoholism	6	11	8	22
Selling drugs resulting in arrest	14	27	1	3
Bringing drugs on ward or OPD	4	8	6	17
Criminal behavior	7	13	5	14
Self	2	4	0	0
Moved	6	11	0	0
Psycho- or socio-pathology	16	30	8	22
Mixed addictions	9	17	10	28
Total	[1] 87		[2] 58	

[1] An average of 1.6 per discharge.
[2] An average of 1.6 reasons per near discharge.

TABLE 2A

Multiple reasons	N=54	Percent	N=35	Percent
1 reason	30	55	17	49
2 reasons	20	37	13	37
3 reasons	4	8	5	14
Total	54		35	

The discharged and nearly discharged frequently merge into each other. Eight of the discharged were readmitted. Six are making satisfactory progress, two have been discharged after readmission (table 3).

In a clinical review of the nearly discharged, we can pick out a number of patients who may soon fall into group I. Others for whom discharge orders were written 6 months ago and retracted at the last minute are doing well.

TABLE 3

Dispositions on discharges	N=16	Percent
Transferred	2	13
Transferred to other agency	0	0
Incarcerated	4	25
Readmitted	8	50
Discharged after readmission	2	13

	N=54	Percent [1]
Unknown	18	34
No data	20	38

[1] "Unknown" and "no data" responses have been excluded from the percentages but their percentage of the total is shown.

At present, we have only clinical impressions as to the circumstances which may intervene in favor or against a patient near discharge. These are listed in the hope that a more systematic evaluation of these factors will be made in the future.

1. *The therapeutic urge.*—A staff member may be challenged by the difficulties encountered with a particular patient whom others have failed to reach. The new approach may or may not succeed. As far as we know there is no yardstick to measure reasons for success or failure in a particular personnel endeavor of this sort. While staff are encouraged to "try their hand," the physician must set a time limit for the experiment as a counselor should not spend 90 percent of his time on one patient, neglecting the other 30.

2. *Life circumstances.*—A lucky or unlucky break in a job or family situation may tip the balance either way in the marginal patient.

3. *A supporting family or employer* may help to rehabilitate a patient at a critical moment.

4. *Patient intervention.*—On the ward, a group of patients may intercede for a patient about to be discharged and carry him through a crisis. On the other hand, a patient dealing in drugs may corrupt a marginal patient leading to the discharge of both.

Since the discharge and nearly discharged become clinically indistinguishable at a time of crisis on the program, how do they differ from each other and from the successful patient on admission?

Basic data collected on the three groups on admission and processed through Rockefeller University are shown in table 4.

The three groups are similar in age, years on drugs, age when addicted. A greater proportion of white males are found in group III than in either of the other two groups. Marriage is reported as highest in group I but the quality of marriage is not estimated. The noteworthy variables may be summarized as follows: In the Bronx State Hospital program, as constituted at present, the applicant most likely to succeed is white, is or is not married, has a high school education or better, is more apt to be laborer, clerical, or semiskilled worker, is currently employed, has never been on welfare, has become addicted between the ages of 14 and 30, has a median of three criminal convictions before coming on the program, and a median of one previous treatment for drug abuse. Previous residence in a therapeutic community is in his favor. Five of the successful patients had spent time in a therapeutic community.

Variable	Discharged N=54	Percent	Nearly discharged N=36	Percent	Doing well N=35	Percent
Sex:						
Male	47	87	30	83	33	94
Female	7	13	6	17	2	6
Ethnicity:						
Black	12	22	10	27	4	12
White	35	65	19	53	25	71
Puerto Rican	7	13	5	14	6	17
Other	0	0	1	3	0	0
No information [1]	0	0	1	3	0	0
	N=54		N=36		N=33	
Age (years):						
Median	32		30		29	
Range	21–50		25–48		27–49	
	N=54		N=16		N=21	
Longest job held (months):						
Median	16		18		21	
Range	0–72		0–120		4–60	
Marital status:						
Single	15	28	17	47	13	37
Married	32	59	14	39	16	46
Separated	4	7	4	11	5	14
Divorced	2	4	1	3	1	3
Common-law	1	2	0	0	0	0
No information	0	0	0	0	0	0
Education:						
Grades 1–7	2	4	1	3	1	3
Grades 8	3	5	3	9	2	6
Some high school	39	72	12	35	12	38
High school graduate	9	17	15	44	11	34
Some college	1	2	3	9	6	19
College graduate	0	0	0	0	0	0
Other	0	0	0	0	0	0
No information	0	0	2	6	3	9
Vocation:						
Laborer	26	50	5	14	7	21
Semiskilled	8	15	9	25	7	21
Skilled	6	12	7	19	2	6
Clerical	8	15	7	19	7	21
Professional	1	2	0	0	3	9
Sales	1	2	3	8	1	3
Other	2	4	6	16	6	6

Variable	Discharged N=54	Percent	Nearly discharged N=36	Percent	Doing well N=35	Percent
Vocation—Continued						
None	0	0	1	3	1	3
No information	2	4	1	3	1	3
	N=54		N=17		N=14	
Months since last job:						
Median	13		10		12	
Mean	22.4		19.7		12.4	
Range	1–60		3–60		2–60	
	N=54		N=35		N=34	
Age when addicted:						
Median	17.5		18.5		18	
Mean	20.3		18.2		19.2	
Range	12–30		13–27		14–30	
	N=54		N=34		N=34	
Number of criminal convictions:						
Median	6		5		3	
Mean	8.4		6.7		3.0	
Range	0–30		0–30		0–22	
	N=54		N=34		N=33	
Number of times in treatment for addiction:						
Median	2.5		2		1	
Mean	3.5		2.8		2.2	
Range	0–20		0–10		0–20	
	N=54	Percent	N=36	Percent	N=35	Percent
Work history:						
Never worked	3	6	1	3	0	0
Working now	4	8	7	21	17	49
Worked in past	44	86	25	76	18	51
No information	3	6	3	8	0	0
Welfare:						
On now	14	27	8	25	4	11
On previously	24	46	13	40	9	26
Never on	14	27	11	35	22	63
No information	2	4	4	9	0	0

[1] "No information" responses have been excluded from the percentages.

In groups I and II, there is a greater proportion of females and blacks. The same proportion of Puerto Ricans is found in all groups. Only one member of group I had some college experience although nine claimed some college in group II. The proportion of laborers (50 percent) is greatest in group I. The median number of previous criminal convictions in group I is double that in group III, as is the number of previous treatments for drug abuse. One quarter of patients in group I were receiving welfare at the time of admission. Only 6 percent of group I were working and 3 percent of group II.

CONCLUSION

1. Groups I and II present many similarities in reasons recorded for discharge and nearly discharged.

2. Group III at time of admission present a number of noteworthy differences in demographic variables compared to group I and II. Patients in group III are better educated, possess more skills, have a history of continuing employment, fewer criminal convictions, fewer treatment failures than their counterparts in group I or II.

RECOMMENDATIONS

1. Criteria need be established for selection of potential group III patients for rapid induction centers where supportive services are minimal.

2. Special rehabilitative services for group I and group II patients should be instituted as soon as possible after admission. These should include:

(a) A therapeutic community (eight of our nearly discharged patients have been selected for this experiment).

(b) Dispensing of methadone should be provided by the social or medical agency assuming primary responsibility for the care of the severely disturbed patients. A psychotic patient should be able to receive methadone while under psychiatric treatment on the psychiatric ward just as the tuberculous patient has received methadone while on a tuberculosis ward.

SLOW DETOXIFICATION OF ADOLESCENT HEROIN ADDICTS IN NEW YORK CITY

(By Robert B. Millman, M.D., and Marie E. Nyswander, M.D.)

There are no good estimates as to the extent of adolescent heroin addiction in New York City. We know that several hundred adolescent heroin users go through the courts monthly, and one prison in the area has limited itself to offenders in this age group. It has been reported that 60 percent of the enrolled students at several New York City high schools have used heroin. These facts are not surprising. Adolescents in this city with few cultural or educational options, given the exposure, might be expected to turn to heroin in increasing numbers.

The primary focus of agencies working with this age group has been education and prevention. To date, few successful treatment facilities exist in this city. Many of the street programs have terminated their services and the ongoing therapeutic communities have been unable to cope with the large number of young people requiring help.

Two years ago, in response to this problem, our group at the Rockefeller University began a study of adolescent heroin addicts, combining rehabilitative services with slow detoxification, using low doses of methadone. Beginning with two boys, the research program had admitted a total of 25 patients. The number has been kept low to permit us to make detailed observations concerning

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the problems of the patients and the rehabilitative process.

Patients were admitted to the program on an individual basis, with the stated aim of the protocol being to consider only so called "hard-core addicts." In general, patients were under 18 years of age and had a history of 1 to 2 years of continuous maintine heroin addiction. They had failed on other recognized treatment programs and had had previous arrests. All patients were selected from the metropolitan area; explicit parental consent was required in each case.

Patients were treated as outpatients at the Rockefeller University Hospital. Upon admission, all patients received a complete physical examination, X-ray of chest and laboratory workup. In selected cases, psychological testing has been performed. When necessary, further medical treatment was provided as well.

At the onset of treatment, the dose of methadone was low (10–20 mg./day in most cases), and was subsequently brought up to a maximum of 20–50 mg./day. Medical complications of the medication have been negligible. A number of patients experienced constipation, relieved in all cases with a laxative. Several complained of drowsiness early in their course. One patient developed an allergic skin reaction when begun on the medication, though this was found to be due to the Tang vehicle.

Initially, all patients were required to come to the clinic each weekday to take their medication and leave a urine specimen. They were given medication on Friday to take home for Saturday and Sunday. Five of the patients were hospitalized at Rockefeller University for short periods of special observation. The program undertook to provide a situationally oriented form of counselling, vocational and educational guidance, and recreational leadership.

Of the original 25 adolescents, 23 are currently in the program. One left because his home was in Connecticut, the other, a 13½-year-old, failed to keep his regular appointments and was therefore discharged to a treatment program providing residential control. We have continued to follow both these patients.

In the present group, the average age is 17, with a range between 13 and 22. Of these 23 patients, 11 have remained heroin free, seven have used heroin occasionally (1 to 3 times per month), and five are using the drug several times weekly. In no case, however, has a patient become readdicted to the regular daily use of heroin.

We plan to withdraw methadone from all patients who are socially stable and appear to have a reasonable chance of doing well without medication. Two patients in our group have already been detoxified. They continue to come to the clinic for consultation and to leave urine specimens. Whereas both of these patients have used heroin occasionally in the 7 months since detoxification, neither has become readdicted.

Interestingly, there has been little problem with abuse of other drugs. Two patients used amphetamines intermittently, one patient used barbiturates on weekends, and another has used cocaine on several occasions. Two patients reported single experiments with LSD.

As in the adult program, we are interested in defining the essential components of an effective rehabilitation program. To this end, we are analyzing the roles of different staff members with a view toward expansion of the program. At present, we have a staff of two full-time counselors, an exaddict research assistant who is on the methadone maintenance treatment program, a secretary, and two physicians. The ratio of staff to patients is high because of the research nature of this program; in a service program, the same staff could provide treatment for at least twice as many patients.

Coupled with the problem of drug dependence and its disabilities, our patients also face the very real problems of deprived adolescents in an urban society. Adults being treated by the standard methadone maintenance treatment programs are encouraged to get jobs and support themselves. In most cases, the formal education of these patients was interrupted quite early, and they have little opportunity to return to school. Similarly, adolescent addicts generally have left school, yet they are too young to obtain regular employment. We feel that whenever possible, patients should be encouraged to return to school or equivalently take jobs that provide vocational training.

Of the 23 patients presently being studied, 10 are attending school regularly, whereas three were attending prior to admission to the program. Seven patients are working full time. Of the six remaining patients, three are registered in school but do not attend regularly, and three are seeking employment.

We have established liaison with schools the patients attend, so as to be able to provide support when necessary, as well as maintain adequate followup. One of our counselors, a former New York City schoolteacher, frequently visits individual teachers and administrative personnel to this end. Volunteer tutors, generally Rockefeller University graduate students, have provided some individual help to the patients. Similarly, one of the counselors concentrates on vocational guidance. Contacts have been made with vocational agencies as well as individual firms. It has frequently proven helpful to accompany the patients to an interview.

As in the regular methadone maintenance programs, we have found that an ex-addict, himself on a maintenance program, may play a crucial role in counselling other patients. This may be particularly true in an adolescent program where the patients are able to identify with him. Frequently, it is this staff member who makes the initial contact with a prospective patient. One of our counselors also serves as the liaison with the probation office and courts. A good number of the patients had cases pending when they were admitted to the program, and we elected to take an active interest in these.

Court Services and Methadone Treatment: The New York City Probation Program

(By Herman Joseph)

The problem of heroin addiction has reached a crisis level in the operation of New York City's courts, jails, probation and parole departments.

In 1969:

33,934 drug related felony and misdemeanor arraignments were reported. Perhaps 60 percent of all cases known to criminal court were drug related.

15,146 prisoners were either sentenced or in detention in city jails for drug related crimes. Correction authorities estimate that 25 percent of the daily prison census of 14,000 are addicts.

Approximately 2,000 heroin addicts were under supervision to New York State Parole. Addiction cases comprised about 25 percent of the parole caseload.

An analysis of 1,977 cases active with the Bronx and Manhattan Supervision Branches of New York City Probation showed that 40 percent were involved with heroin.

As of October 13, 1970, 8,834 addicts were certified to intramural and aftercare facilities of the New York State Narcotic Addiction Control Commission. These statistics present a minimal estimate, as a coordinated method of accurately identifying heroin addicts known to the courts, jails, and affiliated agencies does not as yet exist.

During the past two decades, probation and parole departments in New York attempted to deal with the growing heroin addiction problem:

In 1956, New York State Parole established small caseloads for heroin addicts. The goals were normal community functioning and abstention, using the authority of parole coupled with casework techniques. As a result the Narcotic Offender Treatment Unit was created.

The Probation Department of Brooklyn Supreme Court was instrumental in the establishment of Daytop Village.

In 1963, the New York City Office of Probation collaborated with the Washington Heights Rehabilitation Center in a joint management program. Addicts while under probation supervision were also treated by social workers and public health nurses. Again, normal functioning and possible abstinence were the goals.

Probation and parole status, casework techniques, civil commitment and therapeutic communities in and of themselves or in combination do not appear capable of returning a substantial number of addicts known to our court system to normal functioning within the community. Only a minority of the hard-core addicts known to court affiliated agencies or civil commitment programs are capable of abstinence, crime-free lives, and employment over prolonged periods of time. Available studies indicate that three out of every four addict probationers, parolees or those on aftercare in commitment programs either relapsed to drug use, were rearrested, or reinstitutionalized on violations over varying periods of time despite legal constraints.

The emergence of methadone treatment in the past 6 years presented a viable alternative for addicts who failed in other treatment methods. A study of 2,205 methadone patients admitted to the program over a 6-year period (January 1964 to September 1969) showed that 32 percent, or 1,900, remained in treatment. Approximately two-thirds of the patients were employed, in school, or functioning as homemakers. Also, the rate of arrests for 1,870 patients had dropped 96 percent during the 3-year period following methadone treatment as compared to the 3-year period before admission to the program. From January 1964 through December 1969, 269 patients were known to the probation and parole departments in New York City. Approximately 72 percent, or 193 patients, from this subgroup made good adjustments and were retained in treatment. The reason for the lower retention rate is that some of the patients on probation and parole were among the most difficult in the program, including patients who were arrested while in treatment. With these validated results, the application of methadone maintenance to the practice of probation and parole appeared to be the next logical step.

Establishment of the City Probation Program

Successful methadone patients have been known to probation and parole in New York City since the inception of the Dole-Nyswander program. Many officers are frustrated in their supervision of potentially eligible addicts as the waiting period for methadone treatment after application is approximately 12 to 18 months. Furthermore, methadone patients on probation and parole are also under supervision to a methadone program counselor with the counselor and probation or parole officer duplicating essentially the same service—the rehabilitation of the patient in the community.

Examination of a Dole-Nyswander methadone clinic showed that it is possible to create a workable program employing court affiliated personnel in conjunction with a medical center. Beth Israel Hospital was approached with the idea. They agreed to participate in a pilot project offering the necessary medical backup service, the medication, urine testing, a nurse and research assistant.

The director of the psychiatric clinic of the courts of New York agreed to be the medical director, to assist in intake screening, to assume responsibility for stabilizing patients, and to help solve medical and psychiatric problems as they arise. Subsequently, a second court clinic doctor volunteered her services; both are now affiliated with Beth Israel. The court psychologist agreed to examine patients before entering treatment, and after 1 year's participation in the program. All probationers receive psychological projective tests during the intake process. The probation department provided officers to act as counselors and a coordinating director for the pilot project.

Probation and the court clinic undertook the admission screening process.[1] The officer discusses the program with potentially eligible probationers and those who request treatment. If methadone maintenance is agreed to, the probationer is referred to the court clinic for completion of screening, which involves projective tests, psychiatric evaluation, and establishing the addict's drug history. Completed material is submitted to the hospital, and the probationer is then notified of dates for his physical examination and the beginning of treatment.

Staff Training and Acceptance of Program

Two important factors in the success of a methadone program are staff training and acceptance of the concept of maintenance treatment.

The court clinic physicians were trained at Beth Israel Medical Center, with which they are now affiliated. The court psychologist had participated in the methadone program at Brookdale Medical Center in Brooklyn.

The probation staff was oriented by the writer through staff lectures, individual conferences, and the distribution of methadone literature.

Subjects covered were the metabolic theory of addiction, the concepts of narcotic craving, euphoria, tolerance, physical dependence, narcotic blockade, and the use of methadone as prescribed by Dole and Nyswander. Statistical material, the medication's side effects, medical safety, the stabilization process, and criteria for screening were reviewed.

Although the metabolic theory challenged embedded ideas, the program was welcomed by the staff. However, philosophical differences arose in the case of probation officers who preferred the therapeutic community type of program and participated in various encounter groups and marathon sessions. These officers were honest, hard workers, and were initially repelled by the idea of maintenance. They also verbalized the opposition's arguments—"just substituting one drug for another." However, the good adjustments on methadone of some of their own addicted probationers convinced them that the program had an important place in treatment. One previously resistant worker is now successfully supervising four patients.

I cannot overstate the need for understanding in the training of persons who were saturated with opposing viewpoints and antimethadone propaganda. Many have invested years of their professional lives espousing traditional theories about addiction, addicts, and treatment. Some with patience can be retrained, others with deeply built-in emotional biases must be kept out of programs because of their destructive potential with patients. Unfortunately, this is not only applicable to probation and parole officers, but to doctors, nurses, psychologists, social workers, researchers, etc.

Treatment Results and Methods

Twenty patients were accepted into our pilot study between February and October of 1970. Of the 20, two were discharged because of rearrests within the first 3 months of treatment. Of those remaining in treatment, 14 are working, in school or both, and four are either looking for jobs or waiting to enter a vocational training program. Prior to methadone treatment, only five were able to maintain steady employment. Almost all of the patients tried other treatment methods such as detoxification and programs which emphasize abstention; five patients had been in therapeutic communities for periods ranging from 3 months to 2½ years.

Histories of mixed drug abuse were reported by 15 of the patients, upon entering the program. Although there have been isolated instances of amphetamine and barbiturate findings in urine tests for six patients, no consistently serious mixed drug abuse pathology has been observed or reported. One probationer with a serious history of alcoholism and heroin addiction did have an acute episode with alcohol and is currently being considered for antabuse treatment.

Six patients experienced difficulty in giving up heroin euphoria although narcotic craving was relieved. This group needed a great deal of supportive help from staff. At present, there are three patients who occasionally abuse heroin. However, reports from families, probation officers, and hospital staff show that there is an improvement in functioning, and heroin abuse appears to be subsiding.

Criminal activity as measured by arrest records has ceased except for the two discharged patients. In general, the patients' lifestyles have changed in a remarkably short period. This is a relatively young methadone census group with a mean age of about 24 and an age range of 18 to 29. All had heroin histories of at least 3 years before entering the program. Five of the patients are black, 10 are white and three are of Puerto Rican extraction.

A few patients have emotional problems and were seen by the court psychiatrist. Aside from individual counseling, group meetings were organized for the patients to discuss the program, problems of community adjustments, and drug abuse. Although these meetings have been temporarily suspended, they will be reconvened under the direction of the court psychologist. Some patients have requested continuation of the groups, while others find them a waste of time.

At the present time the probation program is operating from three separate offices—the doctors located at the court clinic, the probation officers at the Manhattan Supervision Branch, and the staff at the hospital clinic. This is a workable but not ideal arrangement.

Two problems arose. The patients find traveling to the hospital clinic for their medication, and then to the probation office, inconvenient and expensive. Communication between probation personnel, the hospital, and the physicians is made more difficult than necessary. We expect these difficulties to be resolved as Beth Israel will eventually provide a clinic for the probation program.

At present, we are accepting patients into our program at the rate of one per week. After the clinic is opened, we hope to accommodate 125 patients. Plans will then be made for future expansion depending on our needs, successes, and resources.

Nine probation officers participated in the pilot project supervising the methadone patients, in addition to their regular work. Within the next month a probation officer will be assigned to the methadone patients. Eventually three officers will be working full time at the proposed clinic. After patients are discharged from probation, they will enter the regular Beth Israel program.

Research

Medical evidence accumulated over the past 6 years has shown that the Dole-Nyswander method for the use of methadone is the most effective medical treatment for the hard-core addict. Therefore, all of our patients are assured of the proper daily dosage (80 to 120 mgs.), so that heroin craving is relieved and a narcotic blockade is generated.

Experiments dealing with variations of dosage which may lessen the effectiveness of the blockade, or double-blind studies involving the use of a placebo, or removal of the medication after a period of time to test whether the patient can abstain from heroin, or other biochemical and psychosocial investigations which would interfere with the validated findings of the evaluation unit at the Columbia University School of Public Health and Administrative Medicine have no place in probation, parole or court affiliated services.

What will be studied are the adjustments of our patients over the course of a treatment year and the effectiveness of our counseling methods. In the future, the clinic doctors and psychologist will reexamine our patients, and their findings will be reported.

Discussion

Methadone maintenance is basically a medical procedure and should not be mandated by law nor made a condition of probation by the court. Addicts enter the probation program voluntarily. If they want to withdraw from methadone treatment, they are free to do so without fear of violating conditions of their probation. Therefore, possible temptations to use the medication as a means of control are eliminated or minimized. This helps to create an atmosphere of dignity which is essential if the patient is to overcome the liability of his addiction experience.

So far, none of our patients have requested to be withdrawn from the medication. They realize that methadone maintenance is a long-term treatment and have entered the program with a full knowledge of what it entails. However, an addict may be placed on probation with the condition that he enter a drug treatment program. Ideally, all referrals for drug treatment should be made in consultation with a physician. However, the limited availability to court affiliated agencies of relevant medical services and the enormity of the problem precludes this type of screening except in special cases such as the probation methadone program. Otherwise, the choice of treatment is currently being made by the probationer or parolee in consultation with his supervising officer. The final decision depends on availability of treatment, criteria for admission, plus the needs and wishes of the addict.

Recently there has been discussion about the creation of a special narcotics court in New York City. This suggestion may have some merit but, at the present time, it will only transfer the court congestion to a new

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[1] Admission criteria for probation program:

1. Over 18 with a 2-year heroin addiction history.
2. Mixed addictions are usually ineligible but will be considered.
3. Psychotic patients or those with histories of mental illness must be approved by the clinic.
4. Probationer must voluntarily agree to treatment, keep appointments and follow the program's procedures.
5. Probationers with addicted spouses (common-law and otherwise) are not eligible unless both can receive treatment.

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legal structure without solving the basic problem—the availability of effective treatment.

There are over 1,000 probation and parole officers in New York City. Except for the few who participated in the pilot study, not one has been directly involved in the medical treatment of their addicted probationers and parolees. Yet, they are faced with an unprecedented addiction epidemic. Many of these skilled professionals can be effectively brought into the treatment process. The probation-methadone project has demonstrated that a quality service can be created if court affiliated agencies pool their resources and work with a medical center. With proper planning by public health doctors and court affiliated personnel, an impact can be made on the "revolving door" which is the fate of many addicts known to our courts and jails.

Our pilot study can easily be duplicated in other locales with variations, depending on resources and the deployment of staff. Furthermore, the use of existing personnel is economical, since each participating agency contributes an aspect of treatment. Therefore, the creation of expensive treatment bureaucracies may be avoided. At the present time, our major concern is the rapid expansion of our program, so that it reaches the large number of eligible addicts on probation within a reasonable period of time.

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PLANNING FOR THE TREATMENT OF 25,000 HEROIN ADDICTS

(By Vincent P. Dole, M.D.)

Methadone maintenance programs in the United States and Canada are now treating about 9,000 former heroin addicts. The data from these studies amply document the safety of this medication and its efficacy in stopping heroin addiction when it is given under good medical control.

Detailed statistics have been collected in New York City by our central data office and made available to the independent evaluation committee directed by Dr. Frances Gearing. This committee has recommended continued support and expansion of the maintenance programs. The New York State Narcotics Addiction Control Commission has allocated an increased proportion of its next year's budget to maintenance treatment, and political leaders have called for an immediate expansion of maintenance programs in New York to a caseload of 25,000.

It would seem from all this that the only remaining problems of the methadone programs are to live with prosperity, and forget old arguments, now obsolete. The future, however, will not be this easy. The projected expansion of methadone programs to 25,000 in the next 3 years, or sooner, will confront us with difficulties of greater magnitude than any that we have met during the first 6 years of this work. The problems will be administrative, not medical. The larger the programs become, the more they will interact with other social agencies and political interests.

For example, if the programs in New York City grow to 25,000, they will be responsible for twice as many individuals with antisocial problems as the total present caseload of the Department of Correction. How are criminal addicts to be treated and under whose control? General rules for bringing 25,000 criminal addicts into methadone treatment certainly do not exist at present. Is it proper for a judge to force treatment on an addict by sentencing him to a maintenance program? Is it advisable for a physician to accept patients on these terms? I would say definitely no to both of these questions. The rights of addicts must be respected, and the importance of abstinence programs must be recognized. I would object to the imposition of methadone maintenance treatment just as strongly as I have objected in the past to its unavailability when the needs of motivated volunteers could not be met.

Our responsibilities will also have common ground with the duties of narcotics control bureaus. With a caseload of 25,000, methadone programs will be dispensing approximately 9 million doses per year of a potent narcotic. We know that this medication is therapeutic when taken by the right person in a good medical program, but we also must recognize the need for adequate control of its usage. Law enforcement agencies of Federal, State, and city governments quite properly have been concerned with the dangers of diversion and misuse of this medication. We must work with them to reduce this danger to a minimum.

So far, we have done well in our programs to insure good medical control, but I am not sure that we have solved the problem for 25,000 patients. We have efficient, computerized record systems with continuous accountability for all patients, and treatment units that are small enough for all patients to be known personally. We would welcome suggestions from concerned agencies as to how our system of followup and data control could be improved without diminishing the effectiveness of the rehabilitation program. As to the medication, we have always insisted that it be dispensed in a form suitable for oral use only, and in the past 3 years we have been testing various noninjectable tablets which, in addition to medical advantages, can be more accurately controlled by identifying code numbers.

We have given much thought to the quantity of medication that should be dispensed to patients to take at home. Unreliable patients obviously should be required to take all medication under direct observation, but to impose this rule on all patients would be counterproductive. Crime reduction is correlated with rehabilitation. Certainly it would be against the public interest to make the dispensing rules so restrictive that a responsible patient could not hold a full time job. Here again is a need for communication between law enforcement agencies and medical treatment programs.

We have in common the goal of enabling previously criminal persons to lead socially acceptable, crime-free lives. This will not be done simply by dispensing methadone. If crime is to be reduced significantly, we need an effective rehabilitation program, and this includes specifically the authority to dispense a week's supply of medication to responsible working patients whose conduct in treatment has shown that they merit this trust. At the same time, we must use this authority with good judgment, and recognize the concern of law enforcement agencies that this medication be used only as prescribed.

Under the best circumstances it will be difficult to maintain effectiveness of the rehabilitation services with a rapid expansion to 25,000. How can we be sure that the programs will continue to be as effective as they are now when the number is five times as great? Methadone programs could grow into cumbersome bureaucracies treating more patients than are now being treated by all of the Federal, State, municipal, and private programs combined; or, alternatively, methadone might be dispensed without any attempt at rehabilitation. Neither extreme would provide good treatment for addicts. How are quality standards to be maintained?

At the moment, methadone programs are subject to controls exercised jointly by the Bureau of Narcotics and Dangerous Drugs and by the Food and Drug Administration, their authority being based on the proposition that the treatment is still only experimental. Privately, officials of these bureaus concede that the inherent safety and efficacy of the medication are no longer in doubt, but hold that the fiction of experimental status is needed as a legal basis for preventing misuse. There is some merit in their contention, but in any event, the IND permit which now serves as a license for methadone treatment cannot be retained indefinitely as a control device. Expansion to a caseload of 25,000 in New York, and an equal number elsewhere in the country, is inconsistent with the concept of experimental status. Either the treatment is experimental or it is ready for large scale use—but not both.

Methadone programs have already brought out strong differences in opinion as to how the treatment should be regulated, and even as to the capacity of the medical profession to define its own standards. The pessimists see only disaster if private physicians are allowed to prescribe methadone, and therefore insist upon controls by governmental agencies with power to prosecute offending physicians. The optimists see addiction becoming part of the inventory of chronic diseases, like diabetes and arthritis, some cases needing institutional care, while other cases are treated by physicians in general practice. It is futile to argue the assumptions that underlie these positions, but this much is clearly before us: Either the leadership of the medical profession and administrators of methadone programs will work together to guide an orderly expansion of methadone services, or the pessimists that view the medical profession as incompetent will win by default.

Let us review the evolution of methadone treatment in New York to learn what we can about the administrative problems in expansion (fig. 1). During the first 2 years, a few of us working together informally provided good medical services for a small, research-sized group (10–50 patients). Like teachers in a one-room school, we knew each patient personally. The ones in trouble were seen more often; the successful ones, less often; all were followed closely enough to know what they were doing. With growth to the pilot program stage (50–500), and even more so on becoming a large service program (500–5,000), our administrative structure changed. No longer could any single person know all of the patients or have time to hear their problems. Administrators, by necessity, delegated the actual treatment to other physicians and gave their own time to budgets and the details of staff work, laboratory services, data control, and public relations.

The net effect has been a healthy decentralization of the program into small treatment units (50–150) which retain the personal qualities of the original research-sized group. The theater for the patient's rehabilitation is his own clinic. These are small enough for him to be known as an individual and independent enough for him to respect the authority of the physician in charge (fig. 2).

With decentralization, the rehabilitation techniques have also become diversified in details—another healthy trend. While general standards of medical practice have been maintained by the sharing of administrative services—data control, central laboratories, staff meetings and consultations—local units have developed their own styles of counseling. The data and laboratory services could easily be extended to private practitioners affiliated with institutional programs if administrators of existing programs and officials of government wished to encourage this trend. Many rehabilitated patients now being carried on publicly funded programs could pay a reasonable fee for continued treatment by private practitioners.

The problem before us is that decentralization of methadone programs, and specifically the inclusion of private practitioners in the system, would diminish the power of governmental agencies to regulate the treatment. At stake is control over a large program with a growing budget—for the country as a whole, perhaps $100 million per year by 1973—and with political significance at all levels of government. Decentralization of services might bring treatment to more addicts, but it would weaken the bureaus. History fails to disclose a precedent in which any bureau has cooperated in a reduction of its power.

Another concern for the future—this one internal to the medical profession—is the rivalry that has existed between different theories of addiction and different modalities of treatment. With growth to 25,000-patient size, methadone programs might be seen as a threat to the existence of programs using other techniques. This is wrong. We must find ways to work together in the public interest. Those of us who have been directly involved in methadone programs are well aware of the need for other programs, especially those that can prove effective in preventing heroin addiction.

We do not forget that 18 percent of the patients admitted to methadone programs in New York City during the past 6 years have been discharged as failures. Although this is a relatively low failure rate as compared to what appears to be the dropout from other programs, the problem becomes a major one for society as the methadone program grows. What is to be done to control the antisocial behavior of 5,000 addicts discharged as failures from a group of 25,000 admitted to methadone treatment?

Analysis of the case histories of patients discharged from methadone programs in New York City shows that few of them, if any, were pharmacological failures. These patients were discharged for persistent and disruptive antisocial behavior, or for persistent abuse of nonnarcotic drugs (alcohol, barbiturates, amphetamines) for which methadone has no blockade effect—but even in the worst cases the regular use of heroin was stopped while the patients were taking their daily dose of methadone. This means that additional techniques for control of psychopathic behavior and for treatment of nonnarcotic abuses must be developed if the overall program is to be made more effective. Combinations of methadone blockade with residential support and various psychotherapeutic techniques are now being studied by research groups in New York and other cities. We need this research, and a climate of scientific objectivity. We need reliable data on the effectiveness and the cost of nonmethadone techniques alone and in combination with blockade treatment.

All of these problems have been with us in some degree since the beginning of the methadone research. Our relation to other social agencies, the maintenance of quality standards and reliable statistics, the effort to separate medicine from politics, the rivalries and jealousies among professionals, have always complicated the basic problem of treating addicts. With growth in size of methadone programs, these divisive problems will be intensified, but can be met with good will and good medical leadership.

There is, however, a serious danger that treatment programs will become subordinated to power struggles. So far, the programs have been effective.

TWO STANDARD DATA PROCESSING PACKAGES FOR METHADONE MAINTENANCE FACILITIES IN NEW YORK: INTAKE AND TREATMENT

(By Alan Warner, Ph. D.)

The methadone data system provides computer support services for intake centers and treatment units in New York City, Westchester, and Long Island. Data system officers are at Rockefeller University and the Bernstein Institute of Beth Israel Medical Center in New York City. Operations are financed by the New York State Narcotic Addiction Control Commission.

THE INTAKE PACKAGE

Most of the patients in the methadone data system enter treatment through one of seven intake centers which have agreed to send to the data office a "Report of Initial Contact" when an individual applies for treatment. This report contains the applicant's name, birthdate, mother's first name, and social security number, as well as date of contact. Data office staff check this information against a file currently containing 9,000 records of applicants, patients, and expatients in order to determine whether the applicant is known to one or more facilities in the data system. The response is mailed back to the intake center one business day after it is received or is given by phone if the applicant is being considered for urgent admission. No clinical information is given in the response. Typically, the data office indicates either that the information received from the intake center is not in the file and will be entered or that there is a record in the file of an individual with the same identifying information as on the report and that he was admitted and discharged at a given unit in the system on the date indicated.

The intake center which sent the report may then initiate its own clinical contact with the unit named by the data office.

THE TREATMENT PACKAGE

This group of services is currently provided to 65 clinical units in the data system which now treat 4,000 patients. Admissions to treatment are recorded by the data office in a telephone census of clinical units and on backup forms. Within 1 week after the new patient is reported to the data system his name is in the computer file and will be routinely processed thereafter in the following services:

1. *Monthly clinical summary reports.*—An analysis of status data on work, school, crime, staff reported drug abuse etc., as collected for each patient on the monthly unit director report. These data are made available to the administrator of each clinic for patients in his clinic and all clinics combined.

2. *Medication labels.*—A weekly supply of labels on which patient's name, ID number, and doctor's name are printed by computer.

3. *Preprinted urinalysis and pharmacy forms for each clinic.*—Lists patients alphabetically, ID numbers and appropriate spaces for entry of drug-test and prescription data.

4. *Weekly unit director report lists.*—Alphabetical lists of all patients in the clinic last week, calling for a very brief checkoff report of attendance, location, and movement this week and for names of new patients. These reports confirm and add to data from the telephone census and are microfilmed by the data office for a permanent record on the patients.

5. *Weekly census.*—Tallies of admissions, transfers, discharges, and total patients in treatment are made weekly for each unit and for groups of units under a given administration. These census reports are available to administrators on a weekly or monthly basis.

6. *Data for Columbia University Evaluation Committee.*—The data office sends information to the committee as requested for all units in the system which are making their data available to the evaluation group.

7. *Maintenance of records.*—All machine retrievable data sent by units to the data office are maintained in a variety of files, accessible for retrieval for special research studies carried out by contributing units or by cooperating researchers.

COSTS

Costs for data operations have been found to depend on several major variables and a number of minor ones. Apart from overhead, the major ones, in order of magnitude, are data office staff, computer time, equipment rental, and card punching. These and the lesser ones vary in magnitude with such considerations as free institutional computer time, amount of systems development proceeding while the standard data packages are being maintained, and number of patients being processed routinely. Thus, for a system maintaining 1,000 patients, having 6 hours a week on a small institutional computer, in addition to commercial time, and doing some developmental and one-time research processing, our costs were $100 per patient year. With double the patient load we have estimated costs at $65 per patient year, thus showing the power of patient volume on reducing unit costs. Our most recent estimate, for a patient load of 3,000 without systems development, is $40 per patient year. We are now trying to isolate routine from special expenses, like system development, in order to advance our planning for maximum economy.

As we move ahead from a present patient load of 4,000 to a foreseeable 25,000 within 3 years we feel that the standard data packages can be maintained, with reasonable cost control, if we are conservative in the pace of new systems development, since increased numbers of units and patients in themselves oblige us to devote staff and funds to modify programs and advance our technology. Thus we must forgo special requests from units for variations in the basic package. At the same time we are in the midst of evolving the standard packages in ways that meet more universal needs.

NEW OPERATIONS

Methadone dose record.—Entry of methadone dosages into computer files, so that relationships between dosage and patient response variables may be efficiently studied.

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Computer support for intake.—Automated production of waiting lists and capabilities for retrieval of applicants by catchment areas.

Drug test system.—Use of optical scanner to read urine test data for entry into computer files and preparation of varied automated reports.

Cost control system.—A computerized accounting system for data processing expenditures, breaking out costs for sections of the standard data packages for groups of units under different administrations, and isolating developmental from routine system maintenance costs.

Private physicians in the system.—Private clinics with 25 or more patients will be offered the treatment package, providing the physician meets the commitment to reliably fulfill data requirements. The intake package, however, will be available to the private physician only if he affiliates with a treatment program or facility which has an intake office affiliated with the methadone data system; one which uses a well-defined screening procedure and is staffed to handle the multiple aspects of the intake process.

Mr. JAVITS. Mr. President, Senator HUGHES has been an outstanding leader in this effort. I feel the time has come to give effective recognition to the fact that we have no cure, and we have to find some way of taking these people off the backs of the public in terms of crime. This is a way to do it. I yield to the Senator from Iowa.

S. 2840

A bill to amend the Public Health Service Act so as to authorize emergency assistance for States and nonprofit private agencies in the establishment of centers for maintenance, treatment, and rehabilitation of drug addicts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XI—DRUG ADDICT TREATMENT

"SHORT TITLE

"SEC. 1101. This title may be cited as the 'Drug Addict Treatment and Rehabilitation Act of 1971'.

"FINDINGS; DECLARATIONS OF POLICY

"SEC. 1102. The Congress hereby finds and declares the following:

"(1) Heroin addiction is a major aspect of an acute national drug abuse and drug dependent problem and heroin addiction itself is a national problem of unparalleled gravity and growing proportions which afflicts not only inner city residents but all urban, suburban, and rural areas of this Nation;

"(2) Heroin addiction significantly contributes to an increase in crime against persons and property;

"(3) Methadone maintenance with appropriate rehabilitative service is a recognized effective interim means for treating substantial numbers of heroin addicts who voluntarily submit to such treatment for their addiction;

"(4) Heroin addiction can seriously impair health and can inflict pain and suffering on individuals, families, and communities; and

"(5) The increasing rate of heroin addiction and abuse constitutes a threat to national health and welfare and an emergency requiring an immediate and effective national commitment to increased health, education, and rehabilitation efforts for narcotic addicts, including but not limited to, the establishment of substantial numbers of community-based programs of methadone maintenance.

"DEFINITIONS

"SEC. 1103. As used in this title, the term—

"(1) 'heroin addict' means any individual who habitually uses heroin (as that specific chemical designation is applied by title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970) and who is in a state of psychic or physical dependence, or both, arising from administration of that substance on a continuing basis. The heroin addict is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects, or to avoid the discomfort caused by its absence; except that the Secretary may modify this definition by regulations; and

"(2) 'rehabilitation' or 'rehabilitative services' includes such services as professional counseling, educational and vocational guidance, education, training and job referral and placement and such other intensive, skilled services applied on an in-patient or out-patient basis, over such protracted period of time as may be necessary to assist the individual to achieve maximum utilization of his potential and to return, as soon as practicable, to his or her family and community as a productive, self-respecting, and self-sustaining member of society; and

"(3) 'State' means each of the several States of the United States, the District of Columbia, the Virgin Islands, Guam, American Samoa, Trust Territory of the Pacific Islands, and the Commonwealth of Puerto Rico.

"ESTABLISHMENT OF PROGRAM

"SEC. 1104. (a) For the purpose of enabling the Secretary of Health, Education, and Welfare (referred to in this title as the 'Secretary') to make grants to States to enable any such State to establish and carry out a program to provide medical and other assistance to heroin addicts and pursuant to which methadone (or any other drug designated by the Secretary by regulation to be an effective heroin antagonist) may be administered to any individual determined to be a heroin addict, there are authorized to be appropriated for the fiscal year ending June 30, 1972, the sum of $; for the fiscal year ending June 30, 1973, the sum of $; and for the fiscal year ending June 30, 1974, the sum of $.

"(b) Within sixty days following the date of the enactment of this title, the Secretary shall promulgate such regulations as he determines necessary, to enable him to carry out the provisions of this title. Such regulations shall include—

"(1) the method or methods to be employed and the manner and conditions under which the physician in charge of any treatment facility established under any program pursuant to this title shall determine an individual to be a heroin addict;

"(2) the method or methods and the manner and conditions under which methadone may be administered in any treatment facility established under any such program and for what period of time, but in no event shall any methadone be administered under any program pursuant to this title in any manner other than orally;

"(3) the criteria for administering heroin antagonist drugs other than methadone in such treatment facilities and the conditions under which such drugs may be administered to heroin addicts.

"ALLOCATION OF FUNDS

"Sec. 1105. (a) For each fiscal year referred to in section 1104, the Secretary shall, in accordance with regulations, allot the sums appropriated for such year pursuant to such section among the States on the basis of the relative population, financial need, and need for more effective prevention, treatment, and rehabilitation programs for heroin addicts; except that no such allotment to any State (other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, for any fiscal year shall be less than $200,000.

"(b) Any amount so allotted to a State during any such fiscal year (other than the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of Puerto Rico) and remaining unobligated at the end of such year shall remain available to such State, for the purposes for which made, for the next fiscal year (and for such year only) and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that any such amount remaining unobligated at the end of the sixth month following the end of such year for which it was allotted which the Secretary determines will remain unobligated by the close of such next fiscal year may be reallotted by the Secretary, to be available for the purposes for which made until the close of such next fiscal year; to other States which have need therefor, on such basis as the Secretary deems Equitable and consistent with the purposes of this title, and any amount so reallotted to a State shall be in addition to the amounts allotted and available to the States for the same period. Any amount allotted under subsection (a) of this section to the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Commonwealth of Puerto Rico for a fiscal year and remaining unobligated at the end of such year shall remain available to it for the purposes for which made, for the next two fiscal years (and for such years only), and any such amount shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that any such amount, remaining unobligated at the end of the first of such next two years, which the Secretary determines will remain unobligated at the close of the second of such next two years, may be reallotted by the Secretary, to be available for the purposes for which made until the close of the second of such next two years, to any other of such named States which have need therefor, and such basis as the Secretary deems equitable and consistent with the purposes of this part, and any amount so reallotted to any such named State shall be in addition to any other amounts allotted and available to it for the same period.

"(c) At the request of any State, a portion of any allotment or allotments under this title shall be available to pay that portion of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under this title, except that not more than 10 per centum of the total of the allotments of such State for a year, or $50,000, whichever is the lesser, shall be available for such purpose for such year.

"(d) Funds authorized under section 1104 of this Act which are not expended in developing or modifying the State plan shall be available only to provide maintenance, treatment, and rehabilitation in accordance with the requirements of this Act, on a priority basis in areas within the State having the highest percentages of population who are heroin addicts and where practicable, to community-based drug treatment programs which have been in successful operation prior to the enactment of this Act.

"STATE PLANS

"SEC. 1106. (a) Any State desiring to participate in the program established by the Secretary pursuant to this title shall submit to the Secretary a State plan for carrying out its purposes. Such plan must—

"(1) designate a single State agency as the sole agency for the preparation and administration of the plan, or designate such agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) (hereafter in this section referred to as the 'State agency') will have authority to implement such plan in conformity with this title and with Federal policy established pursuant thereto;

"(3) authorize the administration of methadone and any other drug designated by the Secretary, to individuals who voluntarily submit to treatment and are determined under regulations to be heroin drug addicts, only in public or nonprofit private centers or in facilities established or operated under the Community Mental Health Centers Act, as amended or in facilities operated or controlled in accordance with standards or criteria established by State, City, or local authority in substantial compliance with the provisions of this Act;

"(4) require that each drug program in each center or facility be: (A) under the supervision of a licensed physician qualified to treat narcotic addiction; (B) provide directly or through contractual arrangements for the benefit of addicts in such program, vocational counseling, education and services, psychological and psychiatric therapeutic programs and services, appropriate educational programs, legal assistance, and other necessary rehabilitative services; (C) directly or through contractual arrangements encourage efforts by the private and public sectors of the economy to recruit, train, and employ participants in methadone maintenance programs; (D) provide assistance directly or through contractual arrangements to addicts in such treatment programs in obtaining employment; and (E) by appropriate procedures and programs, encourage participants in methadone maintenance programs, if possible, to become drug free;

"(5) require that methadone and other heroin antagonist drugs designated by the Secretary be administered in such centers or facilities only to individuals who are determined under regulations as provided in section 1104(b)(1) to be heroin drug addicts and who are required by the center or facility to participate regularly in appropriate rehabilitation programs;

"(6) require that before methadone is administered to an individual, a licensed physician qualified to treat narcotic addiction shall determine that the individual's addiction is such that other treatment is not likely to be successful;

"(7) require that each center or facility be open at reasonabe times and hours for the administration of methadone or other heroin antagonist drugs designated by the Secretary;

"(8) require that each center or facility keep appropriate records concerning persons receiving methadone or other drugs at such center or facility in accordance with subsection (b)(1) of this section;

"(9) set forth, in accordance with criteria established by the Secretary, a survey of the local and State needs for the prevention and treatment of heroin abuse, including a survey of the health facilities needed to provide services for heroin abuse and heroin dependence, and a plan for the development and distribution of such facilities and programs throughout the State;

"(10) provide such methods of administration of the State plan, including methods relating to the maintenance of records and to the establishment and maintenance of personnel standards on a merit basis (except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods), as are found by the Secretary to be necessary for the proper and efficient operation of the plan;

"(11) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

"(12) provide that the Comptroller General of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the records required pursuant to paragraph (11);

"(13) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary an analysis and evalutaion of the effectiveness of the treatment programs and activities carried out under the plan and any modifications in the plan which it considers necessary;

"(14) provide reasonable assurance that Federal funds made available under this title for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local and other non-Federal funds that would in the absence of such Federal funds, be made available for the programs described in this title, and will in no event supplant such State, local, and other non-Federal funds;

"(15) provide for the designation of a State advisory council on heroin addiction which shall include individuals and representatives of nongovernmental organizations or groups and of public agencies concerned with the prevention and treatment of heroin abuse, and heroin dependence, from different geographical areas of the State, to consult with the State agency in carrying out its plan; and

"(16) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purpose of this title.

"(16) contain such additional information and assurance as the Secretary may find necessary to carry out the provisions and purpose of this title.

"(b)(1) A complete medical, social, occupational, and family history shall be obtained as part of the diagnosis, classification, and treatment of each patient in a drug program established pursuant to this title, the purpose of which shall be to develop a complete and permanent confidential personal history for purposes of the patients treatment. All patient records (including all records relating to any commitment proceeding) prepared or obtained under this section or in connection with any treatment authorized pursuant to this title and all information contained therein, shall remain confidential and may be disclosed, with the patients consent only, to medical personnel and then only for the purpose of diagnosis and treatment of the patient, or to Government or other officials for the purpose of obtaining benefits due the patient as a result of his drug abuse or drug dependence. Disclosure may be made for purposes unrelated to such treatment or benefits upon an order of a court after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information sought to be disclosed against possible harm of disclosure to the person to whom such information pertains, the physician-patient relationship, and to the treatment services, and may condition disclosure of the information upon any appropriate safeguards. No such records or information may be used to initiate or substantiate any action or charges against a patient or a former patient under any program pursuant to this title under any circumstances.

"(2) Nothing in this section shall be construed to limit the use of information by persons engaged in research provided that the confidentiality of patient records is preserved by withholding names or other identifying characteristics thereof.

"(c) The Secretary shall approve any State plan and any modifications thereof which complies with the provisions of this title and regulations issued pursuant thereto.

"SEC. 1107. (a) In any case in which a State has not submitted a State plan within one hundred and twenty days following the date of enactment of this title, or in any case in which a State plan or modification thereof has been finally disapproved by the Secretary, funds allocated to such State under section 1105(a) of this title may be made available to qualified public or nonprofit private agencies within that State directly by the Secretary in accordance with subsection (b) of this section.

"(b) The Secretary, within the limits of any such State's allotment referred to in subsection (a), is authorized to receive, consider, and act upon any application from any such public or nonprofit private agency referred to in subsection (a) which contains such information and assurances as the Secretary shall by regulation prescribe. Grants made to any such approved applicant pursuant to this section shall be made for purposes of carrying out programs comparable to those provided for in section 1106 of this title and subject to such conditions as the Secretary shall by regulation prescribe.

"(c) In making grants under this section the Secretary shall provide priority for grant applications in States and in areas within the States having the highest percentages of population who are heroin addicts and where practicable, to community-based drug treatment programs which have been in successful operation prior to the enactment of this Act.

"REPORTS

"SEC. 1108. The Secretary shall conduct periodic surveys to evaluate the effectiveness of the program established under this title and he shall make comprehensive reports to Congress of his findings and recommendations resulting from such surveys. Such reports shall be made not less often than twice each fiscal year beginning with the fiscal year ending June 30, 1972.

"EFFECT OF OTHER FEDERAL LAWS

"SEC. 1109. On and after the effective date of this title, no provision of Federal law shall be construed to prohibit the administration of methadone or any other heroin antagonist drug designated by the Secretary, under any program established pursuant to this title.

"VOLUNTARY SERVICE

"SEC. 1110. Notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665 (b)), the Secretary is authorized to accept and employ in furtherance of the purpose of this title, and in connection with any drug abuse training, education, rehabilitation, research, prevention, or treatment program thereunder, voluntary and uncompensated services.

"SHORT TERM GRANTS TO ASSURE AVAILABILITY OF PERSONNEL

"SEC. 1111. To assure the availability of trained medical and other health profession personnel for facilities participating in programs established under this title, the Secretary may, under such regulations as he may prescribe, make grants to medical schools and other appropriate public or nonprofit private educational institutions to establish and operate short-term educational programs including programs of continuing education to train such personnel. There are authorized to be appropriated $ for the fiscal year ending June 30, 1972, and such sums as may be necessary and for the

next two succeeding years thereafter such sums as may be necessary to make grants under this section.".

Mr. HUGHES. Mr. President, I am pleased to join with my colleague, Senator JAVITS, in introducing the "Addict Treatment and Rehabilitation Act of 1971." The senior Senator from New York, as the ranking minority member of the Labor and Public Welfare Committee and as a member of the Subcommittee on Alcoholism and Narcotics, has spent many long hours working to find solutions to the drug problem. I value his counsel and experience in this area.

It is very appropriate, I think, for Senator JAVITS to introduce this legislation, which is directed primarily toward hard core heroin addicts. While the heroin problem is one that affects all parts of the country—including my own rural State of Iowa—it affects the large urban areas of the country most of all. The toll that this epidemic takes in these cities in terms of human suffering and crime is nearly beyond belief.

We have worked hard to keep our efforts in the drug area bipartisan ones. This joint action today reaffirms that commitment as well.

The exact size of the heroin problem in the country is unknown. HEW states that there are 250,000 addicts. I understand that the Justice Department states that the figure is more like 300,000 or 350,000. Yet I have been told that there are that many addicts in New York City alone. A broad range of figures are also quoted on the social costs per day of heroin addiction in various cities. And there is a running debate over whether 40 percent, 60 percent or 90 percent of the prisoners in our various prison institutions are there for drug-related crimes.

We are presently working, in a modification to the President's drug bill, to give States enough funds to determine more precisely the extent of this problem. But out of all the inconsistency and confusion one thing is clear. What we have on our hands is an epidemic of tragic proportions with ramifications affecting nearly every American.

With this sort of a situation confronting us, we must take concrete action now to change those drug prevention and treatment policies which thus far simply have not been sufficiently effective. Along these lines this bill calls for increased support for an emphasis on methadone maintenance and similar programs approved by the Secretary of Health, Education, and Welfare. Mandating this increased emphasis will involve a good deal of controversy and, frankly, some risk.

I touched on this subject in speaking at the Chicago Conference on Brotherhood in February of this year. I would like to ask that excerpts from that speech be placed in the RECORD at this point:

Frankly, to act involves taking some risk.

We cannot wait for sure-fire solutions to complex social problems—because there are none.

We do not hesitate to take staggering risks in war—why should we hesitate to take equal risks to preserve our free society?

Let me give you a concrete example.

We all know that the present heroin epidemic in this country is one of the deadliest plagues that has ever confronted us. We have tightened up enforcement, made the laws more severe; the problem still grows. Something has to be done—and there is no answer on which everyone can agree.

I believe the time has come for the government to move into the drug scene with controlled distribution of Methadone or some comparable synthetic drug to counter the growing heroin addiction and the crime it inevitably causes.

All people knowledgeable in the field have apprehensions about substituting one dangerous narcotic for another. Methadone is a dangerous substance that can and does kill people when taken in overdosage. Like other dangerous substances, it can and does get into the wrong hands at times.

But the blunt fact is that heroin addiction and the vast crime that it creates are simply unacceptable to our society. We must move with the best alternative available.

Heroin Boulevard is a one-way street to national disaster.

We should continue efforts to do what can be done about the poppy culture in the Middle East and Southeast Asia and most assuredly about continuing our efforts to cut off the illegal imports.

But realistically, we can see by this time that we are not going to shut down the illegal and immensely profitable traffic in heroin in this country until the demand for it is diminished.

Methadone is addictive and dangerous. But it has proved effective in withdrawal from heroin addiction. It also has been shown that a heroin addict can and will change to Methadone and still have a meaningful family life and work and perform usefully.

It has been shown that it will reduce crime sharply, because it is cheap and can be made available to addicts by the government. It has been shown to be an effective way to get narcotic addicts off the streets, where they are committing crimes to support their habit, and into treatment, rehabilitation, and job training programs.

It isn't a perfect solution by any stretch of the imagination, but it is the best that has yet appeared—and we can't risk continuing our present course.

I still feel today the same way I did when I made those remarks 9 months ago.

Thus far the executive branch has not forthrightly faced the methadone issue, though statements a few days ago indicate that they are finally being forced to do so. The FDA has approved the use of methadone for the treatment or containing of heroin addiction only for "research" or "investigative" purposes. Consequently, the FDA only approves projects, pursuant to a permit procedure, which theoretically constitute research on the drug. But they have approved 298 such projects—far more than are actually needed for research purposes. So at the present time the investigative procedure is being distorted and misused to regulate de facto treatment programs—because of a lack of a forthright policy on methadone by the executive branch.

The Veterans' Administration is using methadone to treat veterans. The Administration is asking Congress to approve its use at the Federal treatment program at Lexington, Ky. Yet the policy of the FDA is that it is not an approved drug for this purpose. This makes no sense. It is time we in Congress, at least, moved toward a unified, forthright policy on this front. The Congress and the American people have continually led the executive branch in the drug area and this particular area is likely to provide no exception to that rule.

I would like to make a few final comments that are directed more specifically at the legislation. First, the methadone question is part of a much broader issue concerning the direction that this country will take on the drug problem. We intend to have an intensive look at that broad policy question in the coming months. It covers the use of methadone and similar substances, the system of controls for those substances which can be most useful and responsive to the varying kinds of hard drug usage in the country, and the impact which the successes and failures in the so-called British system and similar systems might have upon drug policy here. So we will be exploring this broad issue, and the methadone question is a critical part of that.

Second, it is clear that we should be talking about the establishment of a system of health services for addicts which will be channeled in such a way that areas with most of the addicts receive most of the services. The formula and training grants established by the bill would take us a long way in that direction, but I am not convinced that this should be our final answer—or at least constitute my final view as to how this should be done. We do not, it seems to me, want services channeled to areas which do not want or cannot use them. Nor do we want services to go only to five or six areas when, as a practical matter, more areas than that need them. I am confident, however, that, with the help of witnesses and advisers, we can come up with a fair system for doing something along these lines which is fair and workable.

Finally, I would say that I conceive of this bill only as a starting point. We will receive many worthwhile and valuable suggestions as we continue to work on it, I am sure, and we will look at them all with an open mind. I look forward to taking action in this area at the earliest practicable time.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2841. A bill to assist railroads in acquiring and utilizing rolling stock, to proscribe disproportionate taxation of certain interstate carriers' property by State or local governments, and for other purposes. Referred to the Committee on Commerce.

TRANSPORTATION ASSISTANCE ACT OF 1971

Mr. MAGNUSON. Mr. President, I introduce on behalf of Senator COTTON and myself, by request, for appropriate reference, a bill to assist railroads in acquiring and utilizing rolling stock, to proscribe disproportionate taxation of certain interstate carriers' property by State or local governments, and for other purposes, and ask unanimous consent that the letter of transmittal and section-by-section analysis be printed in the RECORD with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2841

A bill to assist railroads in acquiring and utilizing rolling stock, to proscribe disproportionate taxation of certain interstate carriers' property by State or local governments, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Transportation Assistance Act of 1971."

TITLE I—RAILROAD SERVICE IMPROVEMENT

PURPOSE

SEC. 101. The purpose of this title is to assist railroads and their car furnishing subsidiaries in acquiring and utilizing rolling stock, and thereby encourage the maintenance and growth of a private national transportation system adequate to meet the needs of the commerce of the United States, and of the national defense.

DEFINITIONS

SEC. 102. For the purposes of this title—

(1) "Secretary" means the Secretary of Transportation.

(2) "Railroad" means a common carrier by railroad, as defined in section 1(3) of the Interstate Commerce Act, as amended, and includes, where determined appropriate by the Secretary, any railroad controlled by a railroad within the meaning of section 1(3)(b) of the Interstate Commerce Act.

(3) "Car furnishing subsidiary" means a corporation at least 80 percent of the voting stock of which is owned by one or more railroads and which furnishes rolling stock to one or more railroads owning the voting stock.

(4) "Rolling stock" means new or rebuilt standard gage railroad freight cars, including cabooses, suitable for use by more than one railroad in normal interchange under the Interchange Rule of the Association of American Railroads, and standard gage railroad locomotives.

(5) "Equipment obligations" means bonds, notes, conditional sale agreements, equipment trust certificates, and other obligations issued or guaranteed by railroads or car furnishing subsidiaries to finance or refinance rolling stock.

(6) "Holder" means the holder of an equipment obligation, except that where a bank or trust company is acting as agent or trustee for the holder of the equipment obligation, the bank or trust company shall be deemed to be the holder.

(7) "Obligor" includes the original borrower under an equipment obligation and his successors and assigns approved by the Secretary. An obligor must be a railroad or car furnishing subsidiary.

FEDERAL RAILROAD EQUIPMENT OBLIGATION INSURANCE FUND

SEC. 103. There is created a Federal Railroad Equipment Obligation Insurance Fund (hereafter in this title referred to as the "fund") which shall be used by the Secretary as a revolving fund for the purpose of carrying out sections 104 through 107 of this title. Moneys in the fund shall be deposited in the Treasury of the United States to the credit of the fund or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States for the account of the fund.

AUTHORIZATION TO INSURE EQUIPMENT OBLIGATIONS

SEC. 104. (a) The Secretary is authorized to insure the interest on, and the unpaid principal balance of, any equipment obligation offered to him which he determines is eligible for insurance under this title. The Secretary also may make commitments to insure any equipment obligation prior to the date of execution or disbursement thereon. Such insurance and commitments shall be extended in such form, on such terms and conditions, and pursuant to such regulations, as the Secretary considers appropriate and which are not inconsistent with the provisions of this title.

(b) Each insurance contract made under this section shall run to and be for the benefit of the holder of the equipment obligation.

(c) The aggregate unpaid principal amount of equipment obligations insured under this title shall not exceed $3,000,000,000 at any one time.

(d) Each equipment obligation insured under this section shall bear interest (exclusive of premium charges for insurance and service charges) at a rate not to exceed such percent per annum on the principal obligation outstanding which the Secretary determines to be reasonable taking into account the range of interest rates prevailing in the private market for similar obligations.

LIMITATIONS AND CONDITIONS; PREMIUM CHARGES

SEC. 105. (a) Before insuring any equipment obligation under section 104 of this title, the Secretary shall find in writing that—

(1) The equipment obligation is secured by rolling stock to be financed or refinanced thereby;

(2) The terms of the equipment obligation require full payment within 15 years from the date thereof;

(3) The financing or refinancing of the rolling stock is justified by the present and future demand for transportation services to be rendered by the railroad for which the rolling stock is procured;

(4) The common carrier operations of the railroad are sufficiently efficient at the date of any such financing or refinancing to assure economic utilization of any rolling stock in which the obligor then has a beneficial interest or in which the obligor may obtain such an interest as a consequence of such financing or refinancing

(5) The probable value of the rolling stock will provide reasonable protection to the United States in the event of repossession of the rolling stock by the holder of any equipment obligation insured under this title.

(b) The Secretary shall fix a premium charge for the insurance of equipment obligations under this title of not to exceed one percent per annum of the principal amount of the equipment obligation outstanding. Premium payments shall be made when moneys are first advanced by the lender under the equipment obligation and on each anniversary date thereafter.

(c) All moneys received under sections 103 through 107 of this title shall be deposited in the fund. Not to exceed five percent of the sums collected each year under subsection (b) of this section may be used to pay administrative expenses incurred by the Secretary incident to the administration of sections 103 through 107 of this title.

ISSUANCE OF NOTES OR OBLIGATIONS

SEC. 106. (a) If at any time the moneys in the fund are not sufficient to pay any amount the Secretary is required to pay under an agreement made under section 104 of this title, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. The notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued hereunder and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Funds borrowed under this section shall be deposited in the fund and redemptions of such notes and obligations shall be made by the Secretary from the fund.

(b) Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary shall have the right in his discretion to perform such acts as may be necessary to complete, recondition, renovate, repair, maintain, and manage, lease, rent, sell or otherwise dispose of any property or other interests acquired by him under an agreement made under section 104 of this title.

(c) Any contract or commitment of insurance entered into by the Secretary under the provisions of this title shall not be terminated, canceled, or otherwise revoked, except as provided by the terms and conditions prescribed by the Secretary under section 104 of this title; and shall be conclusive evidence that the obligation complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the obligation; and any contract or commitment of insurance so entered into shall be valid and incontestable in the hands of a holder from the date as of which such contract or commitment is entered into, except for fraud, duress, mutual mistake of fact, or material misrepresentation on the part of such holder.

MODIFICATIONS

SEC. 107. The Secretary may consent to the modification of the provisions of an equipment obligation as to rate of interest, time of payment of interest or principal, security, or the terms and conditions of any contract or commitment of insurance which he shall have entered into pursuant to this title whenever he finds in writing that such modification is equitable. However, such consent shall not be given unless any consent of the holder, which may be required pursuant to the provisions of any equipment obligation, shall have first been obtained.

ROLLING STOCK SCHEDULING AND CONTROL SYSTEMS

SEC. 108. (a) The Secretary shall conduct research and development into the design of a national rolling stock scheduling and control system which, utilizing advanced computer and communication techniques, will be capable of locating and expediting the movement of rolling stock on a national basis. In conjunction with this task, the Secretary shall study, in cooperation with the Interstate Commerce Commission and the railroads, the information, functions,

and procedures necessary to provide efficient and expeditious car service on a national basis. Within two years from the date of enactment of this title, the Secretary shall report to the Congress his recommendations respecting the organization, development, funding, and implementation of any national system which he may design as a result of such research and development. In arriving at his recommendations, the Secretary shall consider:

(1) The need for timely and accurate information regarding the location and movement of rolling stock on a nationwide basis;

(2) The requirements and technological standards necessary to insure the availability to each participating railroad of the advantages to be obtained from such a national system;

(3) The requirements and technological standards necessary to insure the flow of car service orders from such a national system to rolling stock scheduling and control systems of individual railroads and the compliance by such railroads with such car service orders;

(4) The uniform data and other technological requirements that must be contained in the rolling stock scheduling and control systems of individual railroads to permit efficient linkage of such systems with any national system recommended by the Secretary under this section;

(5) The economic, safety, and service benefits to be derived from such a national system; and

(6) The potential for the private financing of such a national system.

(b) The Secretary shall conduct a study respecting (1) the cost to individual railroads of installing rolling stock scheduling and control systems compatible with any national rolling stock scheduling and control system designed under subsection (a) of this section; and (2) the economic, safety, and service benefits to be derived from such systems. Not later than two years from the date of enactment of this title, the Secretary shall make public his recommendations for the installation of such systems by individual railroads. The Secretary is authorized to provide railroads technical assistance in the implementation of rolling stock scheduling and control systems designed in a manner consistent with his recommendations under this subsection.

(c) Within two years from the date of enactment of this title, the Secretary shall begin demonstrations to test the feasibility of, and the benefits to be derived from, the installation of rolling stock scheduling and control systems (including technological innovations) in railroad yards and terminals. Any railroad engaged in the transportation of freight may submit an application to participate in such a demonstration. Such applications shall conform to regulations issued by the Secretary and shall be judged by (1) the economic, safety, and service benefits to be derived from the programs proposed therein; and (2) their potential contribution to and compatibility with any rolling stock scheduling and control system designed under subsection (a) of this section, and with the rolling stock scheduling and control system of the applicant and other railroads. In exercising his authority under this section, the Secretary may enter into agreements or contracts without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529).

APPROPRIATIONS

SEC. 109. (a) There are authorized to be appropriated to the fund such sums as may be necessary to pay the principal and interest on the notes and obligations issued by the Secretary to the Secretary of the Treasury under section 106 of this title.

(b) There are authorized to be appropriated $35,000,000 for carrying out section 108 of this title, including the payment of necessary administrative expenses, to remain available until expended.

TITLE II—DISCRIMINATORY PROPERTY TAXATION OF INTERSTATE CARRIERS

DEFINITIONS

SEC. 201. As used in this title, unless the context otherwise requires—

(1) "Transportation property" means transportation property as defined in the regulations of the Interstate Commerce Commission which is owned or used by any common or contract carrier subject to economic regulation under the Interstate Commerce Act.

(2) "Assessment jurisdiction" means a geographical area, such as a State or a county, city, or township within a State, which is a unit for purposes of determining assessed value of property for ad valorem taxation.

(3) "All other property" means all property, real or personal, other than land used primarily for agricultural purposes or primarily for the purpose of growing timber.

PROHIBITION

SEC. 202. (a) Notwithstanding the provisions of section 202(b) of the Interstate Commerce Act, as amended (49 U.S.C. 302(b)), the following actions by any State, or subdivision or agency thereof, whether such actions are taken pursuant to a constitutional provision, statute, or administrative order or practice, or otherwise, are declared to constitute an unreasonable and unjust discrimination against and an undue burden upon interstate commerce and are forbidden and declared to be unlawful: (1) any assessment of transportation property for purposes of a property tax levied by any taxing district at a value which bears a higher ratio to the true market value of the transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction in which such taxing district is included bears to the true market value of that property, but only to the extent of any portion based on excessive values as determined pursuant to this clause; (2) the collection of any tax on the portion of said assessment declared to be unlawful; or (3) the collection of any ad valorem property tax on such transportation property at a tax rate higher than tax rates applicable to all other property in the taxing district.

(b) For the purposes of this section, the term "tax rate" does not include a tax rate or exemption extended to a taxpayer for the purpose of promoting the economic development of a taxing jurisdiction or district; or, in the case of a common or contract carrier subject to economic regulation under the Interstate Commerce Act, a tax rate, exemption, or concession extended to any such carrier by any State or subdivision or agency thereof for the development or maintaining of essential transportation services; or a tax rate or exemption based upon the age, physical disability, or military service of the taxpayer; the nonprofit, charitable, educational, or religious character of the taxpayer; or the homestead nature of the taxable property.

ENFORCEMENT

SEC. 203. Notwithstanding the provisions of section 1341, title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, upon complaint and after hearing, to issue such writs of injunction or other proper process, mandatory or otherwise, as may be necessary to restrain any State, or subdivision or agency thereof, or any person from doing anything or performing any act declared by section 202 of this title to be unlawful. Such jurisdiction shall not be exclusive of that which any Federal or State court may otherwise have. No relief shall be granted under this section unless the assessment percentage applied to carrier transportation property exceeds by at least 5 per centum the assessment percentage applied to all other property in the assessment jurisdiction.

EFFECTIVE DATE

SEC. 204. The provisions of this title shall not become effective until three years after the date of enactment of this Act.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 5, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill, "To assist railroads in acquiring and utilizing rolling stock, to proscribe disproportionate taxation of certain interstate carriers' property by State and local governments, and for other purposes," together with a section-by-section analysis.

This proposed bill, together with a proposed bill entitled the "Transportation Regulatory Modernization Act of 1971," is part of the Department's program to insure the existence of a safe, efficient and economic surface transportation system. This program recognizes the vital role of surface transportation in the prosperity and growth of our national economy.

The enclosed bill consists of two titles. Title I provides for railroad service improvement by empowering the Secretary of Transportation to assist railroads in acquiring rolling stock and by directing the Secretary to conduct research and development into the design of a national rolling stock scheduling and control system capable of expediting the movement of rolling stock on a national basis. Title II prohibits the establishment of discriminatory assessments and taxes on the property of common and contract carriers of all modes subject to economic regulation by the Interstate Commerce Commission.

In order to encourage the acquisition of rolling stock the bill would create a Federal Railroad Equipment Obligation Insurance Fund to be used by the Secretary as a revolving fund for the purpose of insuring equipment obligations of railroads eligible for insurance under the bill. The Secretary would be empowered to prescribe terms and conditions considered appropriate to the issuance of such insurance. The aggregate amount of unpaid equipment obligations outstanding at any one time under the bill could not exceed $3 billion.

The bill also calls upon the Secretary, within two years from enactment of the bill, to complete research and development into the possibility of designing a national rolling stock scheduling and control system. At the end of the two-year period, the Secretary would be required to report to Congress his recommendations respecting the organization, development, funding, and implementation of any national system which he may design as a result of such research and development. During this two-year period, he would also be required to begin demonstrations to test the feasibility of and benefits from, the installation of rolling stock scheduling and control systems in railroad yards and terminals. The bill authorizes the appropriation of $35 million to carry out these provisions respecting rolling stock scheduling and control systems.

Finally, the bill would make it unlawful, as a burden upon interstate commerce, for a State or locality to assess or collect a higher rate of property tax on interstate carriers than on other similarly situated taxpayers. Taxes levied or assessed on land used for agricultural purposes or the growing of timber would be excepted from this provision. The bill would allow an aggrieved carrier to bring suit in a Federal district court to challenge the excessive portion of such a discriminatory tax. Also, it would allow the States three years after enactment to adjust their practices and laws.

These provisions are designed to address three of the most critical problems facing the railroad industry: (1) the inability to secure on reasonable terms an adequate supply of freight cars and other rolling stock; (2) the lack of a modern national system for controlling the distribution and utilization of freight cars; and (3) the continued existence of discriminating and unfair taxes on the property of railroads as well as other surface common carriers by State and local governments. Adoption of these proposals should make a substantial contribution to moving the industry toward a profitable operation and yet would keep to a minimum the involvement of Federal funds and the exercise of Federal control in the direction and operation of our railroad system.

I urge early and favorable consideration of these proposals. The Office of Management and Budget has advised that enactment of this legislation would be in accord with the President's program.

Sincerely,

JAMES M. BEGGS,
Acting Secretary.

SECTION-BY-SECTION ANALYSIS

Sec. 1. *Short Title.* This section states that the bill may be cited as the "Transportation Assistance Act of 1971".

TITLE I—RAILROAD SERVICE IMPROVEMENT

Sec. 101. *Purpose.* This section states that the purpose of title I is to assist railroads and their car furnishing subsidiaries in acquiring, maintaining, and utilizing rolling stock, and thereby encourage the maintenance and growth of a private national transportation system adequate to meet the needs of the commerce of the United States and of the national defense.

Sec. 102. *Definitions.* This section contains explanations of the terms "Secretary", "railroad", "car furnishing subsidiary", "rolling stock", "equipment obligations", "holder", and "obligor".

Sec. 103. *Federal Railroad Equipment Obligation Insurance Fund.* This section cretates a Federal Railroad Equipment Obligation Insurance Fund for use by the Secretary of Transportation as a revolving fund in carrying out sections 104 through 107 of the bill. The moneys in the fund would be deposited in the Treasury to the credit of the fund or could be invested in obligations of the United States for the account of the fund.

Sec. 104. *Authorization to Insure Equipment Obligations.* This section authorizes the Secretary to insure the interest on, and the unpaid principal balance of, any equipment obligations offered to the Secretary eligible for such insurance under title I of the bill. The Secretary also could make commitments to insure any equipment obligation prior to the date of execution or disbursement thereon. The Secertary would be authorized to prescribe regulations respecting the provision of insurance and to determine in each case the appropriate terms and conditions for extending the insuance. Each insurance contract would run to the benefit of the holder of the equipment obligation. At any one time the aggregate unpaid principal amount of equipment obligations insured under this title may not exceed $3 billion.

Sec. 105. *Limitations and Conditions; Premium Charges.* This section requires the Secretary to make a number of findings in writing before insuring any equipment obligation under section 104 of the bill. Among other things, all equipment obligations would have to be secured by the rolling stock to be financed thereby, and the probable value of the rolling stock would have to provide reasonable protection to the United States in the event of its repossession by the holder. Also, the terms of equipment obligations would have to require full payment within 15 years.

The Secretary would be required to fix a premium charge for the insurance of any equipment obligation of not to exceed one percent of the principal amount of the equipment obligation outstanding. All moneys received under this and the other provisions of title I respecting the Equipment Obligation Insurance Program would be deposited in the fund established under section 103. Five percent of the moneys obtained each year through premium charges would be available to pay administrative expenses incurred by the Secretary in carrying out his functions under sections 103 through 107 of title I.

Sec. 106. *Issuance of Notes or Obligations.* This section authorizes the Secretary to issue notes or other obligations to the Secretary of the Treasury if at any time moneys in the Federal Railroad Equipment Obligation Insurance Fund are not sufficient to enable the Secretary to pay any amount he is required to pay under an agreement under section 104 of the bill. Funds borrowed under this section would be deposited in the fund and redemptions of the notes and obligations would be made by the Secretary from the fund. Section 106 also grants the Secretary specific authority to complete, repair, maintain and manage, lease, sell or otherwise dispose of any property or other interests he acquires under an agreement made under section 104. In addition, section 106 contains restrictions respecting the termination or cancellation of any contract or commitment of insurance entered into under section 104 of title I and states that such contracts and commitments would be incontestable in the hands of a holder of an equipment obligation from the date they are entered into except for fraud, duress, mutual mistake of fact, or material misrepresentation on the part of such holder.

Sec. 107. *Modification.* This section authorizes the Secretary to consent to the modification of an equipment obligation entered into under section 104, or to renew or extend a contract or commitment of insurance whenever he finds in writing such modification is equitable. However, such consent could not be given unless any consent of the holder of the equipment obligation which may be required under the provisions of the equipment obligation is obtained in advance.

Sec. 108. *Rolling Stock Scheduling and Control Systems.* This section contains three major provisions. First, it calls upon the Secretary to conduct research and development into the design of a national rolling stock scheduling and control system and to report to Congress within two years from the date of enactment of title I his recommendations respecting the development, funding and implementation of any system he may design as a result of such research and development. Secondly, it directs the Secretary to conduct a study of (1) the cost to individual railroads of installing rolling stock scheduling and control systems compatible with any national system he may design; and (2) the economic, safety, and service benefits to be derived from such systems. The Secretary would be required to make public not later than two years from the date of enactment of this title his recommendations for the installation of such systems by individual railroads. Finally, section 108 directs the Secretary to begin within 2 years from the date of enactment of title I demonstrations to test the feasibility of the installation of rolling stock scheduling and control systems in railroad yards and terminals.

Sec. 109. *Appropriations.* This section authorizes the appropriation to the Federal Railroad Equipment Obligation Insurance Fund established under section 103 of the bill of such sums as may be necessary to pay the principal and interest on any obligations issued by the Secretary to the Secretary of the Treasury under section 106. It also authorizes the appropriation of $35 million to carry out section 108 of the bill respecting rolling stock scheduling and control systems.

TITLE II—DISCRIMINATORY PROPERTY TAXATION OF INTERSTATE CARRIERS

Sec. 201. *Definitions.* This section contains explanations of the terms "transportation property", "assessment jurisdiction", and "all other property".

Sec. 202. *Prohibition.* This section declares unlawful as an unreasonable and unjust discrimination against, and an undue burden upon, interstate commerce the assessment by any State, or subdivision or agency thereof for purposes of a property tax levied by any taxing district of transportation property owned or used by any common or contract carrier subject to economic regulation under the Interstate Commerce Act at a value which bears a higher ratio to the true market value of the transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction in which the taxing district is included bears to the true market value of all other property, but only to the extent that the assessment on transportation property is based on excessive values as determined in this section. It also declares unlawful on the same basis the collection by any State, or subdivision or agency thereof of (1) any tax on the portion of such an assessment declared to be unlawful; and (2) any ad valorem tax on transportation property at a tax rate higher than tax rates applicable to all other property in the taxing district. Land used primarily for agricultural purposes or primarily for the purpose of growing timber is not to be taken into consideration in the administration of this section. Also, for the purposes of this section, the term "tax rate" is not to be interpreted as including a tax rate or exemption extended to taxpayers for certain purposes such as promoting the economic development of the taxing jurisdiction, or developing or maintaining essential transportation services by certain carriers.

Sec. 203. *Enforcement.* This section establishes in the U.S. district courts jurisdiction to issue writs of injunction or other proper process as may be necessary to restrain acts declared unlawful by section 202. No relief could be granted under this section, however, unless the assessment percentage applied to carrier transportation property exceeds by at least 5 percent the assessment percentage applied to all property in the assessment jurisdiction other than land used primarily for agricultural purposes or primarily for the purpose of growing timber.

Sec. 204. *Effective Date.* This section establishes that the provisions of title II shall not be effective until three years after the date of its enactment.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 2842. A bill to amend the Interstate Commerce Act, as amended, and acts amendatory and supplemental thereto

to provide for increased reliance on competition in the establishment of carrier rates, charges, and practices; to liberalize entry and exit in the several modes of surface transportation, and for other purposes. Referred to the Committee on Commerce.

TRANSPORTATION REGULATORY MODERNIZATION ACT OF 1971

Mr. MAGNUSON. Mr. President, I introduce on behalf of Senator COTTON and myself, by request, for appropriate reference, a bill to amend the Interstate Commerce Act, as amended, and acts amendatory and supplemental thereto to provide for increased reliance on competition in the establishment of carrier rates, charges and practices, to liberalize entry and exit in the several modes of surface transportation, and for other purposes, and ask unanimous consent that the letter of transmittal and section-by-section analysis of the bill be printed in the RECORD with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2842

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

TITLE I—SHORT TITLE

SEC. 101. This Act may be cited as the "Transportation Regulatory Modernization Act of 1971."

TITLE II—AMENDMENTS TO PART I OF THE INTERSTATE COMMERCE ACT

SEC. 201.(a) Section 1(4) of the Interstate Commerce Act (49 U.S.C. 1(4)) is amended by adding the following new sentence at the end thereof: "No carrier shall be under any obligation to establish a joint rate or division thereof which does not equal or exceed its variable costs as determined pursuant to section 15a of this part."

(b) Section 1(5) of the Interstate Commerce Act (49 U.S.C. 1(5)), is amended to read as follows:

"(5)(a) As used in this section and section 15a of this part, the term 'rates' shall mean tariffs, rates, fares, charges, and all classifications, regulations and practices relating thereto.

"(b) All rates for any service rendered or to be rendered in the transportation of passengers or property, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable rate for such service or any part thereof is prohibited and declared to be unlawful. No rate shall be deemed to be unjust or unreasonable unless the Commission finds that the rate in question contravenes the standards set forth in section 15a of this part."

(c) All functions under Section 1(14)(a) of the Interstate Commerce Act (49 U.S.C. 1(14)(a)), relating to the establishment of compensation for the use of any locomotive car, or other vehicle, are hereby transferred from the Interstate Commerce Commission to, and vested in, the Secretary of Transportation.

SEC. 202.(a) Sections 1(18)–1(20) and 1(22) of the Interstate Commerce Act (49 U.S.C. 1(18)–1(20), 1(22)) are amended to read as follows:

"(18) No carrier by railroad subject to this part shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this part over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad. Nothing in this paragraph or in section 5 shall be considered to prohibit the making of contracts between carriers by railroad subject to this part, without the approval of the Commission, for the joint ownership or joint use of spur, industrial, team switching, or side tracks.

"(19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe, and the provisions of this part shall apply to all such proceedings. Upon receipt of any application for such certificate, the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities, and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is proposed to be constructed or operated.

"(20) The Commission shall have the power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction or operation covered thereby.

"(22) No carrier by railroad subject to this part shall abandon all or any portion of a line of railroad, or the operation thereof, except in accordance with this paragraph. At least thirty days in advance of the scheduled date for any abandonment of any line of railroad or operation thereof, a carrier shall file with the Commission a notice of the proposed abandonment, under such rules and regulations as the Commission may from time to time prescribe. The carrier or carriers filing notice with the Commission pursuant to this paragraph shall annex thereto a sworn certificate of the service of notice by mail upon the governor of each State in which all or any portion of the line of railroad, or the operation thereof, is proposed to be abandoned, a sworn certificate of posting of notice in every station on such line, and a sworn certificate that notice has been published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad operates. The laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, and court or State authority to the contrary notwithstanding, abandonments pursuant to such notice shall be governed by the provisions of this paragraph. Upon the filing of any notice pursuant to this paragraph, and upon complaint demonstrating substantial economic injury to a user who has used the line or lines in question during the 18-month period prior to the filing of such notice, the Commission during said thirty days notice period shall commence an investigation of the proposed abandonment of a line or lines or railroad or the operation thereof. In the event no such complaint is filed with the Commission, it shall issue a certificate authorizing the abandonment of the line or lines in question or the operation thereof. In the event such a complaint is filed with the Commission, it may, by order served upon the carrier or carriers affected at least ten days prior to the effective date of abandonment or cessation set forth in the notice, suspend the proposed abandonment or cessation, in whole or in part, pending an investigation and hearing, but not for a period longer than six months beyond such effective date. The Commission shall issue a certificate authorizing the abandonment or cessation of operations proposed in the notice unless it finds that either (a) the line or lines in question have generated at least one million gross ton miles of traffic per mile over the last twelve months prior to the filing of a notice, and the revenues attributable to the line, lines, or operations in question have been sufficient to cover the variable costs thereof for a period of twelve months prior to the filing, or (b) that the line or lines in question have not generated at least one million gross ton miles of traffic per mile over the last twelve calendar months prior to the filing of notice or the revenues attributable to the line, lines, or operation have not been sufficient to cover the variable costs thereof for a period of twelve months prior to the filing, and the users of the line, lines or operation have no effective, alternative and competitive transportation other than over the line or lines in question. No application to abandon any line or operation thereof shall be denied if the continuation thereof would require the making of capital improvements, the economic cost of which will not be covered by an excess of revenues over the variable costs of the line or operation in question over the life of such improvement. In the event the Commission makes a finding pursuant to clause (a), it shall issue an order denying the abandonment or cessation of operation. In the case of a finding under clause (b), the Commission may retain jurisdiction for a period not to exceed an additional six months, except that: six months after the date of such finding under clause (b), the Commission shall issue a certificate authorizing the abandonment or cessation of operation, unless it finds that the revenues attributable to the line, lines or operations in question pursuant to clause (b) have become and will be sufficient to cover the variable costs thereof as a result of improved operating efficiencies, rate adjustments, direct financial compensation from users and/or any State or political subdivision thereof or other changed circumstances. In all proceedings under this section, upon notice to and receipt of a complaint by affected employees or their representatives, the Commission may attach to the issuance of a certificate hereunder such terms and conditions for job protection of said employees as in its judgment the public convenience and necessity may require. In any proceeding under this paragraph, the Commission shall apply the rules and regulations to be established pursuant to paragraph (23) of this section."

(b) Section 1 of the Interstate Commerce Act (49 U.S.C. 1) is further amended by adding the following new paragraphs:

"(23)(a) Pending the establishment of the revenue, costs, and accounting standards required by subparagraph (b) of this paragraph, the Commission shall use such information and techniques as it deems appropriate for determining variable costs and applicable revenues required by paragraph (22) of this section.

"(b) The Secretary of Transportation, within one year following the effective date of this Act, shall establish and promulgate rules and regulations prescribing uniform cost accounting and uniform revenue accounting methods by carriers by railroad subject to this part. Such rules and regulations shall prescribe the items to be included in the calculation of variable costs as required by paragraph (22) of this section. In formulating these rules and regulations, the Secretary of Transportation shall consult with and solicit the views of the Commission, other agencies and departments of the Federal Government, and representatives of the carriers, their employees, shippers and the public.

"(c) In any proceeding under this paragraph the Commission shall apply the rules and regulations to be established pursuant to subparagraphs (a) and (b) of this section. The Commission shall require all carriers by railroad subject to this part to maintain their accounts in accordance with the rules and regulations established and promulgated by the Secretary of Transportation under subparagraph (b) of this paragraph and all accounts, reports and other information required to be submitted to the Commission by any carrier shall conform to these rules and regulations.

"(24) Any construction, operation or abandonment contrary to the provisions of paragraphs (18), (19), or (22) of this section may be enjoined by any United States District Court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulatory body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of paragraphs (18), (19), or (22) of this section, shall upon conviction thereof be punished by a fine of not more than $5,000 or by imprisonment for not more than three years, or both.

"(25) The authority of the Commission conferred by paragraphs (18) to (23) of this section shall not extend to the construction, acquisition or abandonment of spur, industrial, team, switching, or side tracks, located or to be located wholly within one State, or of the street, suburban, or interurban electric railways, which are not operated as part or parts of a general railroad system of transportation."

SEC. 203. Section 13 of the Interstate Commerce Act (49 U.S.C. 13) is amended by adding the following new paragraph:

"(5) Whenever a carrier or carriers shall have filed with an administrative or regulatory body of any State any change in an intrastate rate, fare, or charge, or any change in a classification, regulation, or practice, having the effect of changing such rate, fare, or charge, for the purpose of adjusting such rate, fare, or charge to the rate charged on the same traffic moving in interstate or foreign commerce, and the State administrative or regulatory body shall not have acted finally in any regulatory proceeding involving such change within one hundred and twenty days, the Commission, upon application to it and notice to the State administrative or regulatory body, shall have exclusive authority to determine and prescribe the rate thereafter to be charged according to the standards set forth in paragraph (4) of this section. The provisions of this paragraph shall operate and apply notwithstanding the laws or constitution of any State, or the pendency of any proceeding before, any court or State authority."

SEC. 204.(a) Section 15(1) of the Interstate Commerce Act (49 U.S.C. 15(1)) is amended by adding the following at the end thereof:

"The Commission shall not prescribe any individual or joint rate, fare, or charge under this section unless it finds, in the case of maximum rates, fare, or charges, that the rate, fare or change then in effect exceeds 150 per centum of the fully allocated cost (including a reasonable return on investment), as determined under paragraph (3) of section 15a, of providing the service in question and that there is no alternative, effective and competitive service by a common or contract carrier, whether or not subject to this Act, other than a carrier or carriers subject to this part, and, in the case of minimum rates, that it finds that the rate, fare, or charge is not compensatory as determined pursuant to paragraph (2) of section 15a."

(b) Section 15(7) of the Interstate Commerce Act (49 U.S.C. 15(7)) is amended to read as follows:

"(7) Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, or charge, or any new individual or joint classification, regulation or practice affecting any rate, fare, or charge, the Commission shall have, and it is hereby given, authority either upon complaint or upon its own initiative, at once, and if it so orders without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice; and pending such hearing and the decision thereon the Commission, upon filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect. No rate proposed by any carrier or carriers shall be suspended by the Commission unless, on the basis of factual information by sworn complaint, affidavit, or other information furnished by the complainant the Commission determines, and finds in writing that (a) the rate, if allowed to become effective, would result in direct and immediate economic injury to the complainant or the class for which the complainant appears and (b) that other remedies available to the complainant would be clearly inadequate in the absence of suspension, and (c) that the proposed rate would probably be unlawful. After full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded and an order made within the period or suspension, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period; but in case of a proposed increased rate or charge for or in respect to the transportation of property, the Commission may by order require the interested carrier or carriers to keep accurate account in detail of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision may by further order require the interested carrier or carriers to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified. At any hearing involving a complaint that the carrier or carriers have established or proposed a rate, fare, or charge which exceeds 150 per centum of the fully allocated cost (including a reasonable return on investment), the burden of proof shall be upon the carrier proposing the change to show that the rate, fare, or charge does not exceed said 150 per centum level; the burden of proof shall be upon the complainant or the Commission, if it investigates on its own initiative, to show that there exists no alternative, effective, and competitive service by a common or contract carrier, whether or not subject to this Act, other than a carrier or carriers subject to this part. At any hearing involving a complaint that the carrier or carriers have established or proposed a rate, fare, or charge which is not compensatory, the complainant or the Commission, if it investigates upon its own initiative, shall have the burden of proof that the proposed rate is unjust and unreasonable. Except as otherwise provided herein, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, regulation, or practice is just and reasonable. The Commission shall give to the hearing and decision of questions arising under this paragraph preference over all other questions pending before it and decide the same as speedily as possible."

SEC. 205. Section 15a of the Interstate Commerce Act (49 U.S.C. 15a) is amended to read as follows:

"SEC. 15a(1) All rates shall be compensatory; and the Commission may require any carrier or carriers establishing any rates to furnish to the Commission, at the time of the filing of the tariff or at any other time, any information required by the Commission to establish that the rates contained in the tariff are compensatory.

"(2) A rate shall be deemed to be compensatory when it exceeds the variable cost of providing the specific transportation service to which the rate is applicable.

"(3) Where there exists no alternative, effective, and competitive service by a common or contract carrier, whether or not subject to this Act, other than a carrier or carriers subject to this part, no rate shall exceed 150 per centum of the fully allocated cost (including a reasonable return) on investment) of providing the specific transportation to which the rate is applicable.

"(4) Pending the establishment of the cost and accounting standards required by paragraph (6) of this section, the Commission shall use such information and techniques as it deems appropriate for determining variable costs and fully allocated cost (as used in sections 1(5) and 15 of this part).

"(5) The Secretary of Transportation, within one year following the effective date of this Act shall establish and promulgate rules and regulations concerning the establishment of a uniform cost accounting method by carriers subject to this part. Such rules and regulations shall prescribe the elements of cost to be included by determining the carriers' variable and fully allocated cost. The Secretary shall give due consideration to all items and factors (including the costs of capital) presently used in the ascertainment of costs for ratemaking purposes which the Secretary deems relevant to the determination of variable and fully allocated costs. In the case of fully allocated costs, the Secretary shall also establish standards for the calculation of such costs for the transportation of any commodity or group of commodities on the basis of standard weight shipments for the commodity loaded in the standard equipment used for the transportation of such commodity or commodities. In establishing these rules and regulations, the Secretary of Transportation shall consult with and solicit the views of the Commission, other agencies and departments

of the Federal Government, and the representatives of the carriers, their employees, shippers, and the public.

"(6) In any proceeding under this paragraph the Commission shall apply the rules and regulations to be established pursuant to paragraphs (4) and (5) of this section. The Commission shall also require all carriers subject to this Act to maintain their accounts in accordance with the rules and regulations established and promulgated by the Secretary of Transportation under paragraph (5) of this section and all accounts, reports and other information required to be submitted to the Commission by any carrier shall conform to these rules and regulations."

SEC. 206. Section 22 of the Interstate Commerce Act (49 U.S.C. 22) is amended to read as follows:

"(1) Nothing in this part shall prevent the carriage, storage, or handling of property free or at reduced rates for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the transportation of persons for the United States Government free or at reduced rates, or the issuance of mileage, excursion, or commutation passenger tickets; nothing in this part shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of Veterans' Administration facilities or State Homes for Disabled Volunteer Soldiers and of Soldiers' and Sailors' Orphan Homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes; nothing in this part shall be construed to prohibit any common carrier from establishing by publication and filing in the manner prescribed in section 6 of this part reduced fares for application to the transportation of (a) personnel of United States armed services or of foreign armed services, when such persons are traveling at their own expense, in uniform of those services, and while on official leave, furlough, or pass; or (b) persons discharged, retired, or released from United States armed services within thirty days prior to the commencement of such transportation and traveling at their own expense to their homes or other prospective places of abode; nothing in this part shall be construed to prevent railroads from giving free carriage to their own officers and employees or to prevent the free carriage, storage, or handling by a carrier of the household goods and other personal effects of its own officers or employees when such goods and effects must necessarily be moved from one place to another as a result of a change in the place of employment of such officers or employees while in the service of the carrier, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employees; nothing in this part contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this part are in addition to such remedies; nothing in this part shall be construed to prohibit any common carrier from carrying any totally blind person accompanied by a guide or seeing-eye dog or other guide dog specially trained and educated for that purpose or from carrying a disabled person accompanied by an attendant if such person is disabled to the extent of requiring such attendant, at the usual and ordinary fare charged to one person, under such reasonable regulations as may have been established by the carrier; except that, no pending litigation shall in any way be affected by this part; and, except that, nothing in this part shall prevent the issuance of joint interchangeable five-thousand-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand or more miles. But before any common carrier, subject to the provisions of this part, shall issue any such joint interchangeable mileage tickets with special privileges, as aforesaid, it shall file with the Interstate Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section 10 of this part shall apply to any violation of the requirements of this proviso. Nothing in this part shall prevent any carrier or carriers subject to this part from filing reduced rates for the transportation of property to or from any section of the country with the object of providing relief in case of earthquake, flood, fire, famine, drought, epidemic, pestilence, insurrection, or other calamitous visitation or disaster, if such reduced rates have first been authorized by order of the Commission (with or without a hearing); but in any such order the Commission shall (1) define such section, (2) specify the period during which such reduced rates are to remain in effect, and (3) clearly define the class or classes of persons entitled to such reduced rates (in addition, the Commission may specify the circumstances under which individual entities of the class or classes of persons are to be identified); except that, such class or classes of persons are those eligible for such aid under circumstances in which a proclamation shall have been issued by authorized agents of the United States or State Governments engaging in the relief of distress caused by such calamitous visitation. No findings of unreasonableness, discrimination, preference, prejudice, or noncompensativeness may be made with regard to shipments made under such rates. Nothing in this part shall prevent any carrier or carriers subject to this part from filing rates, rules, regulations, and charges resulting in reduced transportation charges to agencies of the United States or State Governments. The tariff so involved may be posted and made effective immediately and retroactively; no tariff or rate, fare or charge, or quotation or tender thereof, shall be subject to the suspension provisions of this Act: *Provided*, That such rates, fares or charges shall not be less than the variable costs of handling such traffic. When it is certified by the United States Government, or any agency or department thereof, that it is necessary to the national security to withhold disclosure of the movement of certain property or shipments and to withhold from public inspection the rates, rules, regulations or charges under which such property moves, as well as the volume of movements, all such data shall be kept confidential by the carriers and by the Commission.

"(2) All quotations or tenders of rates, fares, or charges for the transportation, storage, or handling of property or the transportation of persons for the United States Government, or any agency or department thereof, including quotations or tenders for retroactive application whether negotiated or renegotiated after the services have been performed, shall be in writing or confirmed in writing and a copy or copies thereof shall be submitted to the Commission by the carrier or carriers offering such tenders or quotations in the manner specified by the Commission and only upon the submittal of such a quotation or tender made pursuant to an agreement approved by the Commission under part VI of this Act shall the provisions of paragraph (10) of said part VI apply, but said provisions shall continue to apply as to any agreement so approved by the Commission under which any such quotation or tender (a) was made prior to August 31, 1957 or (b) is on or after August 31, 1957 made and for security reasons, as hereinafter provided, is not submitted to the Commission; except that nothing in this paragraph shall affect any liability or cause of action which may have accrued prior to August 31, 1957. Submittal of such quotations or tenders to the Commission shall be made concurrently with submittal to the United States Government, or any agency or department thereof, for whose account the quotations or tenders are offered or for whom the proposed services are to be rendered. Such quotations or tenders shall be preserved by the Commission for public inspection. The provisions of this paragraph requiring submissions to the Commission shall not apply to any quotation or tender which, as indicated by the United States Government, or any agency or department thereof, to any carrier or carriers, involves information the disclosure of which would endanger the national security."

TITLE III—AMENDMENTS TO PART II OF THE INTERSTATE COMMERCE ACT

SEC. 301. Section 207 of the Interstate Commerce Act (49 U.S.C. 307) is amended to read as follows:

"SEC. 207. (a) Subject to section 210 of this part, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this part and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied. No such certificate shall be issued to any common carrier of passengers by motor vehicle for operations over other than a regular route or routes, and between fixed termini, except as such carriers may be authorized to engage in special or charter operations.

"(b) No certificate shall be denied upon the grounds that its issuance would result in the diversion of traffic from any existing carrier, unless the Commission finds that granting such license would result in a diminution in the total quantity and quality of service available to the public; except that, for a period of twenty four months following enactment of this section, this subsection shall apply only with respect to an applicant which holds a certificate of public convenience and necessity issued by the Commission, and which is seeking to extend the rights accorded in such certificate.

"(c) No certificate issued under this part shall confer any proprietary or property rights in the use of public highways."

SEC. 302. Section 208(a) of the Interstate Commerce Act (49 U.S.C. 306(a)) is amended by inserting a period after the words "204 (a) (1) and (6)" and is further amended by striking the language after the words "*Provided, however,*" and adding in lieu thereof the following:

"That no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the public interest may require. On and after the sixth month following the enactment of this section the Commission shall not impose any

term, condition, or limitation in any certificate or permit issued pursuant to section 207, section 209, section 212 or section 5 with respect to commodities carried, points served, equipment used, or routes used, or otherwise, for the purpose of preventing diversion of traffic from an existing licensed carrier or carriers, unless it finds that, absent such restriction or restrictions, there would be a diminution in the total quantity and quality of service available to the public. In determining whether there is a diminution in the total quantity and quality of service available to the public, the Commission shall specifically consider the effects upon originating and terminating markets and upon the adequacy of short-haul service to, from or between points intermediate to any originating or terminating market. The Commission shall so structure its certificates as to permit the applicant to engage in efficient, flexible and economic operations. Not later than six months after the enactment of this section the Commission shall issue appropriate rules and regulations which (1) identify, by specific type or kind, geographic, commodity, operating or other restrictions and limitations imposed in certificates or permits issued pursuant to section 207, section 209, section 212 and section 5 which have the purpose or effect of preventing diversion of traffic from another carrier or carriers, or are inconsistent with efficient, flexible, and economic operations; and (2) establish procedures for the expeditious elimination of such restrictions and limitations in outstanding certificates and permits, in accordance with the tests of paragraph (a) of this section."

SEC. 303. Section 209(b) of the Interstate Commerce Act (49 U.S.C. 309(b)) is amended by deleting the words "the effect which granting the permit would have upon the services of the protesting carriers."

SEC. 304. Sections 216 (d), (e), (f), (g) and (i) of the Interstate Commerce Act (49 U.S.C. 316 (d), (e), (f), (g), (i)) are amended to read as follows:

"(d) All rates, as defined in paragraph (1) of this section, for any service rendered or to be rendered by a common carrier by motor vehicle in interstate and foreign commerce in the transportation of passengers or property as aforesaid or in connection therewith shall be just and reasonable, and every unjust and unreasonable rate for such service or any part thereof is prohibited and declared to be unlawful. No rate shall be deemed to be unjust or unreasonable unless the Commission finds that the rate in question contravenes the standards set forth in paragraph (1) of this section. It shall be unlawful for any common carrier by motor vehicle engaged in interstate or foreign commerce to make, give, or cause any undue or unreasonable preference or advantage to any particular person, port, gateway, locality, region, district, territory, or description of traffic in any respect whatsoever; or to subject any particular person, port, gateway, locality, region, district, territory, or description of traffic to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever: except that, this paragraph shall not be construed to apply to discriminations, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

"(e) Any person, State board, organization or body politic may make complaint in writing to the Commission that any such rate, fare, charge, classification, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this section or of section 217. Whenever, after hearing, upon complaint or upon its own initiative, the Commission shall be of the opinion that any individual or joint rate, demanded, charged, or collected by any common carrier or carriers by motor vehicle in conjunction with any common carrier or carriers by railroad and/or express, and/or water for transportation in interstate or foreign commerce, or any classification, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly prefrential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful classification, rule, regulation, or practice thereafter to be made effective and the Commission shall, whenever deemed by it to be necessary or desirable in the public interest, after hearing, upon complaint or its own initiative establish through routes and joint rates, fares, charges, regulations, or practices, applicable to the transportation of passengers by common carriers by motor vehicle, or the maxima, or minima, or maxima and minima, to be charged, and the terms and conditions under which such through routes shall be operated. The Commission shall not prescribe any individual or joint rate, fare, or charge under this section unless it finds, in the case of maximum rates, fares, or charges that the rate, fare or charge then in effect exceeds 150 per centum of the fully allocated cost (including a reasonable return on investment), as determined under paragraph (1) of this section, of providing the service in question and that there is no alternative, effective and competitive service by a common or contract carrier, whether or not subject to this Act; other than a carrier or carriers subject to this part; or, in the case of minimum rates, that it finds that the rate, fare, or charge is not compensatory as determined pursuant to paragraph (1) of this section. Nothing in this part shall empower the Commission to prescribe, or in any manner regulate, the rate, fare, or charge for intrastate transportation, or for any service connected therewith, for the purpose of removing discrimination against interstate commerce or for any other purpose whatever.

"(f) Whenever, after hearing, upon complaint or upon its own initiative, the Commission is of the opinion that the divisions of joint rates, fares, or charges, applicable to the transportation in interstate or foreign commerce of passengers or property by common carriers by motor vehicle or by such carriers in conjunction with common carriers by railroad and/or express, and/or water are or will be unjust, unreasonable, inequitable, or unduly preferential or prejudicial as between the carriers parties thereto, whether agreed upon by such carriers, or any of them, or otherwise establish, the Commission shall by order prescribe the just, reasonable, and equitable divisions thereof to be received by the several carriers, and in cases where the joint rate, fare, or charge was established pursuant to a finding or order of the Commission and the divisions thereof are found by it to have been unjust, unreasonable, or inequitable, or unduly preferential or prejudicial, the Commission may also by order determine what would have been the just and reasonable divisions thereof to be received by the several carriers, and require adjustment to be made in accordance therewith. The order of the Commission may require the adjustment of divisions between the carriers, in accordance with the order, from the date of filing the complaint or entry of order of investigation or such other date subsequent as the Commission finds justified and, in the case of joint rates prescribed by the Commission, the order as to divisions may be made effective as a part of the original order.

"(g) Whenever there shall be filed with the Commission any schedule stating a new individual or joint rate, fare, charge, or classification for the transportation of passengers or property by a common or contract carrier or carriers by motor vehicle, or by any such carrier or carriers in conjunction with a common carrier or carriers by railroad and/or express, and/or water in interstate or foreign commerce, or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Commission is hereby authorized and empowered upon complaint of any interested party or upon its own initiative at once and, if it so orders, without answer or other formal pleading by the interested carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the Commission, by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer the use of such rate, fare, or charge, or such rule, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect: except that, no rate proposed by any carrier or carriers shall be suspended by the Commission unless, on the basis of factual information by sworn complaint, affidavit or other information furnished by the complainant the Commission determines, and finds in writing that (a) the carrier or carriers proposal, if allowed to become effective, would result in direct and immediate economic injury to the complainant or the class for which the complainant appears and (b) that other remedies available to the complainant would be clearly inadequate in the absence of suspension, and (c) that the proposed rate would probably be unlawful. After full hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto as would be proper in a proceeding initiated after it had become effective. If the proceeding has not been concluded by final order within the period of suspension, the proposed change of rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period. At any hearing involving a complaint that the carrier or carriers have established or proposed a rate, fare, or charge which exceeds 150 per centum of the fully allocated cost (including a reasonable return on investment), the burden of proof shall be upon the carrier proposing the change to show that the rate, fare, or charge does not exceed said 150 per centum level; the burden of proof shall be upon the complainant or the Commission, if it investigates on its own initiative, to show that there exists no alternative, effective, and competitive service by a common or contract carrier, whether or not subject to this Act; other than a carrier or carriers subject to this part. At any hearing involving a complaint that the carrier or carriers have established or proposed a rate, fare, or charge which is not compensatory, the complainant or the Commission, if it investigates on its own initiative, shall have the burden of proof that the proposed rate is unjust and unreasonable. Except as otherwise provided herein, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare charge, classification, rule, regulation, or practice is just and reasonable. The Commission shall give to the hearing and decision of questions arising under this paragraph preference over all other questions pending before it and decide the same as speedily as possible.

"(i) (1) When used in this section the term 'rates' means rates, fares, and charges, and all classifications, regulations and practices relating thereto.

"(2) All rates of common and contract car-

riers shall be compensatory; and the Commission may require any carrier or carriers establishing any rates to furnish to the Commission, at the time of the filing of the tariff or at any other time, any information required by the Commission to establish that the rates contained in the tariff are compensatory.

"(3) A rate shall be deemed to be compensatory when it exceeds the variable costs of providing the specific transportation service to which the rate is applicable.

"(4) Where there exists no alternative, effective, and competitive service by a common or contract carrier, whether or not subject to this Act, other than a carrier or carriers subject to this part, all common carrier rates shall not exceed 150 per centum of the fully allocated cost (including a reasonable return on investment) of providing the specific transportation to which the rate is applicable.

"(5) Pending the establishment of the cost and accounting standards required by paragraph (7) of this section, the Commission shall use such information and techniques as it deems appropriate for determining variable costs and fully allocated cost (as used in this section).

"(6) The Secretary of Transportation, within one year following the effective date of this Act, shall establish and promulgate rules and regulations concerning the establishment of a uniform cost accounting method by carriers subject to this part. Such rules and regulations shall prescribe the elements of cost to be included in determining the carriers' variable and fully allocated cost. The Secretary shall give due consideration to all items and factor (including the costs of capital) presently used in the ascertainment of costs for ratemaking purposes which the Secretary deems relevant to the determination of variable and fully allocated costs. In the case of fully allocated costs, the Secretary shall also establish standards for the calculation of such costs for the transportation of any commodity or group of commodities on the basis of standard weight shipments for the commodity loaded in the standard equipment used for the transportation of such commodity or commodities. In establishing these rules and regulations, the Secretary of Transportation shall consult with and solicit the views of the Commission, other agencies and departments of the Federal Government, and the representatives of the carriers, their employees, shippers, and the public.

"(7) In any proceeding under this paragraph the Commission shall apply the rules and regulations to be established pursuant to paragraphs (5) and (6) of this section. The Commission shall require all carriers subject to this part to maintain their accounts in accordance with the rules and regulations established and promulgated by the Secretary of Transportation under paragraph (6) of this section and all accounts, reports and other information required to be submitted to the Commission by any carrier shall conform to these rules and regulations."

SEC. 305. (a) Section 216(b) of the Interstate Commerce Act (49 U.S.C. 316(b)), is amended to read as follows:

"(b) Whenever, after hearing, upon complaint, or upon its own initiative, the Commission finds that any minimum rate or charge of any contract carrier by motor vehicle, or any rule, regulation, or practice of any such carrier affecting such minimum rate or charge, or the value of the service thereunder contravenes the minimum criteria set forth in paragraph (1) of this section, the Commission may prescribe a just and reasonable minimum rate or charge, or rule, regulation, or practice consistent with paragraph (1) of section 216. All complaints shall state fully the facts complained of, the reasons for such complaint, and shall be made under oath."

(b) Section 218(c) of the Interstate Commerce Act (49 U.S.C. 318(c)) is hereby repealed.

TITLE IV—AMENDMENTS TO PART III OF THE INTERSTATE COMMERCE ACT

SEC. 401. (a) Section 305(a) of the Interstate Commerce Act (49 U.S.C. 905(a)) is amended to read as follows:

"SEC. 305. (a) It shall be the duty of every common carrier by water, with respect to transportation subject to this part which it undertakes or holds itself out to perform, or which it is required by or under authority of this part to perform, to provide and furnish such transportation upon reasonable request therefore, and to establish, observe, and enforce just and reasonable rates, fares, charges, and classifications, and just and reasonable regulations and practices relating thereto and to the issuance, form, and substance of tickets, receipts, bills of lading, and manifests, the manner and method of presenting, marking, packing, and delivering property for transportation, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with transportation in interstate or foreign commerce. All rates as defined in section 307(g) made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful. No rate shall be deemed to be unjust or unreasonable unless the Commission finds that the rate in question contravenes the standards set forth in section 307(g) of this part."

(b) Section 305(b) of the Interstate Commerce Act (49 U.S.C. 905(b)) is amended by adding at the end thereof the following sentence:

"No carrier shall be under any obligation to establish a joint rate or division which does not equal or exceed its variable costs as determined pursuant to section 307(g) of this part."

SEC. 402. (a) Sections 307 (a), (b), (f), (g), and (h) of the Interstate Commerce Act (49 U.S.C. 907 (a), (b), (f), (g), and (h)) are amended to read as follows:

"SEC. 307. (a) Any person, State board, organization or body politic may make complaint in writing to the Commission that any rate, fare, charge, classification, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this part.

"(b) Whenever, after hearing, upon complaint, or upon its own initiative, the Commission shall be of the opinion that any individual or joint rate, fare, or charge, demanded, charged, or collected by any common carrier or carriers by water this part or any classification, rule, regulation, or for transportation subject to practice whatsoever of such carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum, or maximum and minimum rate, fare or charge thereafter to be observed, or the lawful classification, rate, regulation, or practice thereafter to be made effective. The Commission shall not prescribe any individual or joint rate, fare, or charge under this section unless it finds, in the case of maximum rates, fares, or charges that the rate, fare, or charge then in effect exceeds 150 per centum of the fully allocated cost (including a reasonable return on investment), as determined under paragraph (g) of this section, of providing the service in question and that there is no alternative, effective and competitive service by a common or contract carrier, whether or not subject to this Act, other than a carrier or carriers subject to this part; and, in the case of minimum rates, that it finds that the rate, fare, or charge is not compensatory as determined pursuant to paragraph (g) of this section.

"(f) Whenever there shall be filed with the Commission any schedule by any common or contract carrier by water (except a schedule referred to in section 322) stating a new rate, fare, charge, classification, regulation or practice for the interstate or foreign transportation of passengers or property by a common or contract carrier or carriers by water the Commission may upon protest of interested parties or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by such carrier or carriers, but upon reasonable notice, enter upon an investigation concerning the lawfulness of such rate, fare, charge, classification, regulation, or practice, and pending such hearing and the decision thereon, the Commission, by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing of its reasons for such suspension, may from time to time suspend the operation of such schedule and defer use of such rate, fare, charge, classification, regulation, or practice, but not for a longer period than seven months beyond the time when it would otherwise go into effect; except that, no rate proposed by any such carrier or carriers shall be suspended by the Commission unless, on the basis of factual information by sworn complaint, affidavit or other information furnished by the complainant, the Commission determines, and finds in writing that (a) the carrier or carriers proposal, if allowed to become effective, would result in direct and immediate economic injury to the complainant or the class for which the complainant appears and (b) that other remedies available to the complainant would be clearly inadequate in the absence of suspension, and (c) that the proposed rate would probably be unlawful. After hearing, whether completed before or after the rate, fare, charge, classification, regulation, or practice goes into effect, the Commission may make such order with reference thereto, as would be proper in a proceeding instituted after such rate, fare, charge, classification, regulation, or practice had become effective. If the proceeding shall not have been concluded and an order made within the period of suspension, the proposed rate, fare, charge, classification, regulation, or practice shall go into effect at the end of such period. At any hearing involving a complaint that a common carrier or carriers have established or proposed a rate, fare, or charge which exceeds 150 per centum of the fully allocated cost (including a reasonable return on investment), the burden of proof shall be upon the carrier proposing the change to show that the rate, fare, or charge is just and reasonable; the burden of proof shall be upon the complainant, or the Commission if it investigates on its own initiative, to show that there exists no alternative effective, and competitive service by a common or contract carrier, whether or not subject to this Act, other than a carrier or carriers subject to this part. At any hearing involving a complaint that a common or contract carrier or carriers have established or proposed a rate, fare, or charge which is not compensatory, the complainant shall have the burden of proof that the proposed rate is unjust and unreasonable. Except as otherwise provided herein, the burden of proof shall be upon the carrier to show that the proposed changed, rate, fare, charge, classification, rule, regulation, or practice is just and reasonable. The Commission shall give the hearing and decision of questions arising under this paragraph preference over all other questions pending before it and decide the same as speedily as possible.

"(g)(1) When used in this section the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices relating thereto.

"(2) All rates of common and contract carriers shall be compensatory; and the Commission may require any carrier or carriers establishing any rates to furnish to the Commission, at the time of the filing of the schedule or at any other time, any information required by the Commission to establish that the rates contained in the schedule are compensatory.

"(3) A rate shall be deemed to be compensatory when it exceeds the variable cost of providing the specific transportation service to which the rate is applicable.

"(4) Where there exists no alternative, effective and competitive service by a common or contract carrier, whether or not subject to this Act, other than a carrier or carriers subject to this part, all common carrier rates shall not exceed 150 per centum of the fully allocated cost (including a reasonable return on investment) of providing the specific transportation to which the rate is applicable.

"(5) Pending the establishment of the cost and accounting standards required by paragraph (7) of this section, the Commission shall use such information and techniques as it deems appropriate for determining variable cost and fully allocated cost (as used in this section).

"(6) The Secretary of Transportation, within one year following the effective date of this Act, shall establish and promulgate rules and regulations concerning the establishment of a uniform cost accounting method by carriers subject to this part. Such rules and regulations shall prescribe the elements of cost to be included in determining the carriers' variable and fully allocated cost. The Secretary shall give due consideration to all items and factors (including the costs of capital) presently used in the ascertainment of costs for ratemaking purposes which the Secretary deems relevant to the determination of variable and fully allocated costs. In the case of fully allocated costs, the Secretary shall also establish standards for the calculation of such costs for the transportation of any commodity or group of commodities on the basis of standard weight shipments for the commodity loaded in the standard equipment used for the transportation of such commodity or commodities. In establishing these rules and regulations, the Secretary of Transportation shall consult with and solicit the views of the Commission, other agencies and departments of the Federal Government, and the representatives of the carriers, their employees, shippers, and the public.

"(7) In any proceeding under this paragraph the Commission shall apply the rules and regulations to be established pursuant to paragraphs (5) and (6) of this section. The Commission shall require all carriers subject to this Act to maintain their accounts in accordance with the rules and regulations established and promulgated by the Secretary of Transportation under paragraph (6) of this section and all accounts, reports and other information required to be submitted to the Commission by any carrier shall conform to these rules and regulations.

"(h) Whenever, after hearing, upon complaint, the Commission finds that any minimum rate or charge of any contract carrier by water, or any rule, regulation, or practice of any such carrier affecting such minimum rate or charge, or the value of the service thereunder contravenes the minimum criteria set forth in paragraph (g) of this section, the Commission may prescribe a just and reasonable minimum rate or charge, or rule, regulation, or practice consistent with paragraph (g) of this section. All complaints shall state fully the facts complained of and the reasons for such complaint and shall be made under oath."

(b) Section 307(i) of the Interstate Commerce Act (49 U.S.C. 907(i)) is hereby repealed.

SEC. 403.(a) Section 309(c) of the Interstate Commerce Act (49 U.S.C. 909(c)) is amended to read as follows:

"(c) Subject to section 310 of this title, upon application as provided in this section, certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied. No certificate shall be denied upon the grounds that its issuance would result in the diversion of traffic from any existing carrier unless the Commission finds that granting such license would result in a diminution in the total quantity and quality of service available to the public; except that, for a period of twenty four months following enactment of this Act, his proviso shall apply only with respect to an application which holds a certificate of public convenience and necessity issued by the Commission, and which is seeking to extend the rights accorded in such certificate."

(b) Section 309(d) of the Interstate Commerce Act (49 U.S.C. 909(d)) is amended by adding the following at the end thereof:

"On and after the sixth month following the enactment of this Act, the Commission shall not impose terms, conditions, or limitations in any certificate or permit issued pursuant to this section with respect to commodities carried, ports served, equipment used, or routes used, or otherwise, for the purpose of preventing diversion of traffic from an existing licensed carrier or carriers, unless it finds that, absent such restriction or restrictions, there would be a diminution in the total quantity and quality of service available to the public. In determining whether there is a diminution in the total quantity and quality of service available to the public, the Commission shall specifically consider the effects upon originating and terminating markets and upon the adequacy of short-haul service to, from or between ports intermediate to any originating or terminating market. The Commission shall so structure its certificates as to permit the applicant to engage in efficient, flexible and economic operations. Not later than six months after the enactment of this section, the Commission shall issue appropriate rules and regulations which (1) identify, by specific type or kind, geographic, commodity, operating or other restrictions and limitations imposed in certificates or permits issued pursuant to this section which have the purpose of effect of preventing diversion of traffic from another carrier or carriers, or are inconsistent with efficient, flexible, and economic operations; and (2) establish procedures for the expeditious elimination of such restrictions and limitations in outstanding certificates and permits, in accordance with the tests of this section."

TITLE V—AGREEMENTS BETWEEN CARRIERS

SEC. 501. Section 5a of the Interstate Commerce Act (49 U.S.C. 5b) is repealed, and the following is enacted in lieu thereof:

"SEC. 601. This part may be cited as part VI of the Interstate Commerce Act.

"SEC. 602.

"(1) As used in this part—

"(a) The term "Commission" means the Interstate Commerce Commission.

"(b) The term "person" means any individual, firm, copartnership, corporation, company association, or joint-stock association; and includes any trustee, receiver, assignee, or person representative thereof.

"(c) The term "carrier" means any common carrier subject to part I, II, or III, or any freight forwarder subject to part IV, of this Act; and

"(d) The term "antitrust laws" has the meaning assigned to such term in section I of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914.

"(2) Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, may under such rules and regulations as the Commission may prescribe, apply to the Commission for approval of the agreement, and the Commission shall by order approve any such agreement (if approval thereof is not prohibited by paragraphs (4), (5), (6), (7) or (12)) if it finds that, by reason of furtherance of the national transportation policy declared in this Act, the relief provided in paragraph (10) should apply with respect to the making and carrying out of such agreement; otherwise the application shall be denied. The approval of the Commission shall be granted only upon such terms and conditions as the Commission may prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph.

"(3) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission, and all such accounts, records, files and memoranda shall be subject to inspection by the Commission or its duly authorized representatives.

"(4) The Commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that such agreement is of the character described in paragraph (2) of this section and is limited to matters relating to transportation under joint rates or over through routes; and for purpose of this paragraph carriers by railroad, express companies, and sleeping-car companies are carriers of one class; pipeline companies are carriers of one class; carriers by motor vehicle are carriers of one class, carriers by water are carriers of one class; and freight forwarders are carriers of one class.

"(5) The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction, to which section 5 of this Act is applicable.

"(6) The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure.

"(7) The Commission shall not approve under this section any agreement to the extent that it provides for or establishes procedures for joint consideration or other action protecting or otherwise seeking the suspension of any rate, fare or charge pursuant to section 15(7), 216(g), 307(g), 307

(1), and 406(e) of this Act when such rate, fare, or change is established by independent action; notwithstanding any other provisions of this Act, all such agreements among carriers shall be hereafter subject to such antitrust laws as may be applicable.

"(8) The Commission is authorised, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standards set forth in paragraph (2), or whether any such terms and conditions are not necessary for purposes of conformity with such standard, and after such investigation, the Commission shall by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

"(9) No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

"(10) Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraphs (4), (5), (6), (7), or (12), hereby relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with its provisions and in conformity with the terms and conditions prescribed by the Commission.

"(11) Any action of the Commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (10).

"(12) On and after the effective date of this Act, the immunity from the operation of the antitrust laws conferred by paragraph (10) shall not be applicable to agreements that permit participation in discussions, agreements or voting on single-line movements or that permit any carrier not physically participating in a particular joint line or interline movement to participate in discussions or agreements, or vote on matters relating to that movement. Copies of all correspondence and writings of any kind made pursuant to all agreements approved by the Commission under this section shall be promptly transmitted to a representative designated by the Commission and said representative shall be furnished notice of and may attend all meetings conducted pursuant to the agreements approved by the Commission. All agreements contravening this paragraph are hereby declared null and void and such agreements henceforth shall not be approved by the Commission under this section.

"(13) All agreements other than those relieved from the operation of the antitrust laws under paragraphs (10) and (12) shall be hereafter subject to such antitrust laws as may be applicable. Enforcement of the antitrust laws as to such agreements shall be vested exclusively in the several district courts of the United States; such enforcement proceedings may be commenced only by the Attorney General. Any agreement among two or more competing carriers relating to rates, fares, classifications, allowances, or changes on competitive traffic, or rules and regulations pertaining thereto, not permitted under this section is prohibited and declared to be unlawful. Any person who shall be injured by any such agreement may file a complaint with the Commission setting forth such violation and asking for damages, costs and attorneys fees as provided herein. A final judgment or decree hereafter rendered in any civil or criminal proceeding brought by the Attorney General under the antitrust laws in connection with an agreement prohibited by this section shall be prima facie evidence in any proceeding brought before the Commission by any person under this part as to all matters respecting which said judgment or decree would be an estoppel as between the parties thereto, except that a consent judgment or decree entered in action under section 4a of the Clayton Act, as amended, section 15 U.S.C. 15a, or entered before any testimony has been taken shall not constitute prima facie evidence and estoppel as between the parties, and except that this paragraph shall not apply to agreements among carriers described in paragraph (7).

"SEC. 603. That in case any common carrier subject to the provisions of this part shall do, cause to be done, or permit to be done any act, matter, or thing in this part prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing in this part required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this part, together with a reasonable counsel or attorney's fee, to be fixed by the Commission in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

"SEC. 604. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this part may make complaint to the Commission. Actions brought by private parties complaining of violations of this part shall be solely within the jurisdiction of the Commission.

"SEC. 605. So far as may be necessary for the purposes of this part, the Commission and the members and examiners thereof shall have the same power to administer oaths, and require by subpena the attendance and testimony of witnesses and the production of books, papers, tariffs, contracts, agreements, and documents, and to take testimony by deposition, relating to any matter under investigation or complaint, as the Commission has in a matter arising under part I of this Act; and any person subpenaed or testifying in connection with any matter under investigation under this part shall have the same rights, privileges, and immunities and be subject to the same duties, liabilities, and penalties as though such matter arose under part I of this Act, unless otherwise provided in this part.

"SEC. 606. The Commission, after hearing, may make an order directing the payment of damages and fees, and such order shall have the same force and effect and be subject to the same requirements as orders made under part I of this Act.

"SEC. 607. All complaints against carriers under this part shall be filed with the Commission within four years from the time the cause of action accrues, and not after; and except, that whenever any civil or criminal proceeding is instituted by the Attorney General to prevent, restrain, or punish as violations of the antitrust laws, any agreements among carriers, but not including an action under section 4a of the Clayton Act, as amended, section 15 U.S.C. 15a, the running of the statute of limitations in respect to every private right of action arising under this part and based in whole or in part on any matter complained of in said proceeding shall be suspended during the pendency thereof and for one year thereafter."

TITLE VI—EFFECTIVE DATE AND TRANSITIONAL PROVISIONS

SEC. 601. The amendments made to parts I, II, and III of the Interstate Commerce Act shall, except as provided otherwise in this Act, become effective on enactment.

SEC. 602. (a) Notwithstanding the provisions of this Act, no carrier or group of carriers shall increase or reduce any rate, as defined in parts I, II and III of the Interstate Commerce Act by more than twenty per centum of the base rate in the first twelve calendar months following the enactment of this Act or by more than twenty additional per centum of the base rate during the thirteenth through twenty-fourth months; except, this paragraph shall not apply unless complaint is made protesting said increase or decrease; and except, this section shall not apply to rates, fares, or charges tendered or quoted to the United States, State or municipal governments.

(b) Each carrier's "base rate" under this section applicable to transportation of a particular commodity between particular points shall be such carrier's tariff, rate, fare, or charge published and on file with the Interstate Commerce Commission ninety days prior to the date of enactment of this Act pertaining to the transportation of such commodity between such points.

(c) The "base rate" for any carrier which had no tariff, rate, fare, or charge published and on file with the Interstate Commerce Commission ninety days prior to the date of enactment of this Act applicable to transportation of a particular commodity between the particular points, or within the year prior to the date of enactment of this Act, did not perform any transportation service pursuant to such tariff, rate, fare or charge, shall be the lowest tariff, rate, fare, or charge published and on file with the Interstate Commerce Commission of any carrier of the same mode ninety days prior to the date of enactment of this Act at which the commodity involved was transported pursuant to such tariff, rate, fare or charge.

(d) In the event no shipments of a particular commodity were transported by any carrier between particular points in the year previous to the date of enactment of this Act, this section shall not apply.

SEC. 603. Nothing in this Act shall affect any rate or tariff filed with the Commission or any action heretofore undertaken pursuant to any agreement approved by the Commission under section 5a of the Interstate Commerce Act, and lawfully in effect on or before the date of enactment of this Act; nor shall this Act, without further application to and disposition by the Commission, affect any outstanding orders of the Commission or any proceeding in which a final order of the Commission has been entered. Any proceeding commenced on or before the date of enactment of this Act, but not subject to a final order of the Commission as of the date of enactment thereof, shall be conducted in accordance with the provisions of this Act.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., November 5, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill, the short title of which is "Transportation Regulatory Modernization Act of 1971," together with a section-by-section analysis of the bill.

This proposed bill, together with a proposed bill entitled "Transportation Assistance Act of 1971," is recommended by the Department as part of its program to insure the existence of a safe, efficient and economic surface transportation system. This program recognizes the vital role of surface transportation in the prosperity and growth of our national economy.

There is perhaps no single industry upon which the economy depends as much for its growth and even its continued functioning as surface freight transportation. Yet, the performance of this industry has become increasingly unsatisfactory; price increases have accelerated while service has deteriorated often to the detriment of the shipping and consuming public. Some carriers, notably railroads, are in severe financial straits. A major cause of the industry's unsatisfactory performance appears to be the presence of outmoded regulatory constraints. The allocation of resources is inefficient due to regulatory requirements that are doubtful relevance considering the abundant and diverse competition between carriers of the same and different modes that characterizes the present domestic surface transportation industry.

The proposed bill addresses these concerns by making a number of amendments to the Interstate Commerce Act, the basic governing regulatory statute for domestic surface transportation. In general, the purpose of these amendments is to modify and modernize a number of existing regulatory constraints. The premise of the bill is that increased reliance on competitive forces and the ability of the carriers to respond to these forces free of unneeded constraints is an essential prerequisite to the revitalization of a privately-owned transportation system that is capable of providing efficient and economical service to its users. The bill also reflects the need for greater precision and certainty in the regulatory process in that it contains more explicit standards and limitations in the regulatory laws than have generally existed in the past. These standards, in turn, reflect an increased understanding and knowledge of the economic characteristics and performance of the several modes of domestic surface transportation.

The need for revising and modernizing the regulatory laws affecting surface transportation has been recognized for many years, and numerous proposals for such revision have been advanced and considered by the Congress. Few specific changes have been made, however, due to the complexities of the regulatory laws themselves and the equally complex interplay of the regulatory laws and the numerous investments, arrangements, and commitments that have been made under the present regulatory system.

This proposed bill is sent forward to provide for explicit public and Congressional focus on the most immediate and pressing issues in surface transportation regulation within the context of the present regulatory system. We are confident that the basic elements embodied in this bill are sound and will materially improve the Nation's surface transportation industry. Certainly, we appreciate that, because of their impact on established practices of both shippers and carriers, many of its specific details are controversial. Some parts are complex. However, resolution of these questions can come about through a full public discussion of the issues involved and the options for change. We would therefore urge prompt and early hearings on this proposal in order to begin this needed examination.

SUMMARY OF BILL

The following outlines the major regulatory problems with which the bill is concerned and the way in which the bill deals with these problems. The provisions of the bill are concerned solely with revisions in the regulation of direct common and contract carriers subject to parts I, II, and III of the Interstate Commerce Act. No changes are proposed in the regulation of domestic surface freight forwarders or other indirect carriers subject to the Commission's regulation under part IV of the Act.

I. Rates

The Problem

The current regulatory structure severely limits the scope of individual carrier initiative in rate setting. This has produced a rate structure often unrelated to the costs of the most efficient carriers, with consequent misallocation of resources in transportation. There are two important manifestations of the inefficiency produced by current rate regulation. First, regulation reduces competition among carriers and modes. As a result many rates are above the costs (including reasonable return on investment) of the most efficient carriers. This causes shippers and ultimate consumers to pay more than is required for transportation services and prevents traffic from flowing to the most efficient carriers. While the precise cost involved is difficult to quantify, it is estimated that the cost runs into billions of dollars annually. Second, for a number of reasons, some rates are or appear to be below the cost of the particular transportation service involved. This serves as a financial drain on the carriers involved, with consequent deterioration of their overall service capability, and it forces other rates above cost to offset this financial drain. This rate structure creates distortions not only in transportation, but in the rest of the economy as well; the inefficient producer who enjoys a below-cost rate is maintained, while the efficient producer with an excessive rate is held back.

Rate regulation appears to have had a particularly unfavorable effect on the financial condition of the railroads. The incidence of below-cost rates is preponderantly on the railroads with perhaps as much as twenty percent of their traffic moving under such rates. And, because the railroads' cost advantage lies in frequently highly priced long-haul traffic, they have also been hurt by regulatory inhibitions on their ability to attract this traffic by reducing rates. Both from the standpoint of overall efficiency and the need to improve the financial condition of the rail carriers, an environment conducive to rate making more heavily premised on costs is a first priority.

Rate provisions of the bill

Given the transportation alternatives available to most shippers in today's transportation market, a more cost-based rate structure could be achieved by permitting competitive forces to substitute for rate regulation. This bill provides for such a substitution, with appropriate safeguards. Individual carriers are permitted to change rates up or down without regulatory approval, subject to the following limitations:

1. Rates must not be preferential or discriminatory as these terms are now defined in the Interstate Commerce Act.

2. In monopoly situations where there exists no alternative competitive service, other than another carrier of the same mode as the carrier publishing the rate in question, the ICC is empowered to establish a maximum rate at fully allocated cost plus fifty percent. In other words, a shipper must have a choice of mode, not merely the choice of another carrier of the same mode, for rates to exceed such maximum rate.

3. A carrier cannot set rates below the variable cost of moving the traffic. This provision will prevent predatory rate reductions designed to eliminate competitors from the market and prevent the impairment of the financial position of carriers proposing non-compensatory rates.

4. Rate freedom is introduced gradually. If protested, rates may change by no more than twenty percent in the first year after enactment and an additional twenty percent in the second year. This provides carriers and users time to adapt to the new rate structure.

The ICC's power to suspend rate changes for a hearing on their lawfulness is retained; however, the bill precludes the ICC from suspending a rate unless it finds that the complainant (a) will be directly injured by the change, (b) has no alternative remedy, (c) will probably sustain his complaint. In addition, the burden of proof that a rate reduction is predatory falls on the complainant. No change is being made in the existing law permitting any industry association, agricultural or manufacturing society, governmental entity or other persons from appearing in a representative capacity before the Interstate Commerce Commission in rate making procedures.

II. Rate bureaus

The Problem

Under section 5a of the Interstate Commerce Act, carriers subject to the Commission's regulation are permitted to make agreements respecting the collective establishment of rates, interchange of equipment and similar matters. Upon compliance with the provisions of section 5a and approval of such an agreement by the Commission, the agreement and joint actions by the carriers under it are granted immunity from the antitrust laws. The principal vehicles for these concerted activities are carrier rate associations and bureaus which have been established on an intramodal and intermodal basis.

While carrier rate bureaus do perform a number of important functions, particularly in the establishment of rates and regulations for the interchange and facilitation of traffic moving over the lines or routes of two or more carriers, it appears that the activities of rate bureaus and associations have a retarding effect on carrier competition by discouraging flexibility and innovation in carrier pricing and services. Thus, to the extent increased reliance on competitive forces and the ability of the carriers to respond to these forces free from unnecessary constraints are deemed desirable, the retention of section 5a and carrier agreements established under it in their present form would be inconsistent with that policy objective. Moreover, a basic justification for the departures from a national policy favoring free and open competition as expressed in the antitrust laws authorized by section 5a has been the existence of extensive regulatory authority over carrier rates and practices. Inasmuch as other sections of the bill are designed to lessen regulatory supervision in this area, a principal justification for collective carrier pricing would be removed.

Rate Bureau Provisions of the Bill

For reasons mentioned above, section 5a of the Interstate Commerce Act has been revised and for reasons of legal clarity recast into a new Title VI of the Act as follows:

1. Antitrust immunity will no longer extend to agreements which permit discussions, voting, or any other concerted action with respect to any rate or any other matter which applies to only the traffic or routes of a single carrier. Immunity would also no longer extend to concerted action by any carrier or carriers who physically participate in the joint movement under discussion.

2. No agreement could be approved by the Commission which authorized a rate bureau to protect or otherwise seek the supervision of any rate proposed by an individual carrier. Such activity would be made subject to the antitrust laws insofar as they are applicable.

3. All correspondence and other documents concerning any meeting of a rate bureau must be transmitted to the ICC and an ICC representative may attend all such meetings.

4. All rate bureau agreements not made immune by this Title are subject to the antitrust laws and the prosecution for violations is vested in the Attorney General.

5. A private action is created for shippers and carriers before the ICC for single dam-

ages caused by a violation of these provisions. Additional civil remedies and all criminal actions would be available only in court and then only to the Attorney General under the antitrust laws. A final judgment in favor of the Attorney General could, however, be used as prima facie evidence of a violation by a private party before the ICC.

In connection with this provision of the bill, several matters should be made clear. First, rather than attempt to indicate all of the many rate bureau activities which might be permitted under a Commission-approved agreement, the thrust of these changes is to indicate those specific rate bureau activities that cannot be approved by the Commission and will no longer be immunized from the operation of the antitrust laws. The Commission retains its present authority to approve all rate bureau agreements and to impose such *additional* limitations and conditions on the activities of rate bureaus as it believes are reasonable and necessary. Second, a single carrier will often be in competition with a joint rate and through route offered by two or more carriers for the same traffic. So long as no concerted action was involved, nothing in this proposal would prohibit a single-line carrier from individually establishing a rate competitive with a joint rate established through the rate bureau mechanism.

Third, the feature of this proposal that prohibits the Commission from approving rate bureau agreements that allow the rate bureau to protest or otherwise seek the suspension of an individual carrier's rate does not preclude one or more carriers from exercising their right of petition under other provisions of the Interstate Commerce Act and is not meant to repeal the decision of the Supreme Court in *Eastern Railroad Presidents Conference* v. *Noerr Motor Freight Lines, Inc.*, 365 U.S. 127 (1961). To the extent the antitrust laws are applicable in this area, however, this feature of the bill will permit their operation.

III. Railroad abandonment

The Problem

With the growth of the highway network, the railroads' major cost advantage lies in long-haul movements. In spite of this, rail system mileage is only slightly smaller than in 1900. Much of this is in light density branch line whose maintenance and operating cost constitute a major financial drain on the railroads. It is notable that the railroads in greatest financial difficulty all have substantial amounts of branch line relative to main line, while the strongest railroads have little branch line trackage. Abandonment of much branch line trackage appears essential to restoration of the railroads' financial health and to concentration of their resources where they are most efficient.

However, regulatory procedures have discouraged rail abandonments. Under current procedures, the Commission may require continued operation of an uneconomic line if it determines this to be required by the "public convenience and necessity." There are no explicit economic standards for defining this term. As a result, abandonment cases often entail protracted hearings, and the prospect of going through the expense, delay and uncertainty of this regulatory process discourages the filing of abandonment applications.

Abandonment Provisions of the Bill

The bill seeks to speed up the regulatory process in abandonment cases and to provide concrete standards for adjudicating them. At the same time, the right of the users to adequate notice, and, in some cases, to the continued operation of the line, on a compensatory basis for the carrier, is maintained. In addition, the job protection provisions of the current Act are retained.

The bill requires a railroad to give three weeks' public notice prior to the filing of any abandonment application to the Commission and permits the railroads to abandon the line thirty days after the filing, if there is no complaint. If, upon complaint to the ICC by a user, it is determined that the abandonment would substantially injure the user, the abandonment may be suspended for six months. During this period, the Commission must determine whether the line lost money in the past twelve months. In determining losses, the bill adopts a standard based on the variable costs of the line or operation in question.

For light density lines or operations, defined in the bill as those failing to generate at least one million gross ton miles of traffic per mile over the twelve-month period prior to the application, where losses can be presumed, the bill does not require that the railroad initially demonstrate losses. Where the Commission finds that a particular line or operation is covering its variable costs, the application must be denied, except that no application shall be denied if the continuation of such line or operation would require the making of capital improvements, the economic cost of which will not be covered by an excess of revenues over the variable costs of such line or operation over the life of such improvements. If the railroad did lose money, and shippers have effective substitute service available, the application must be granted. If no effective alternative transportation service is available for a money-losing line, the Commission may delay the abandonment for an additional six months. At the end of this period, the Commission must grant abandonment unless revenues are then found sufficient to meet variable costs, through, for example, improved operating efficiencies, rate adjustments, or direct financial compensation from private or governmental entities.

The sequence of steps outlined above and the precise standards required for settling abandonment cases should reduce the expense and delay of abandonments, while protecting the interests of users substantially affected by an abandonment.

IV. Entry of trucks and water carriers

The Problem

The entry of a common carrier into a new market (both as to routes and commodities which may be carried) requires operating authority from the ICC. In the case of common carriers, this takes the form of a certificate of public convenience and necessity. At the same time, larger shippers have been encouraged to use their own trucks or contract carriers, even though these may be more expensive to operate than common carrier trucks. The commodity and routing restrictions on the common carriers appear to have kept their costs higher than seems desirable.

In addition to these considerations, modernization of regulation over entry seems desirable in light of the bill's provisions for speeding up rail abandonments. An accelerated pace of rail abandonment should cause substantial increases in the demand for trucking in areas suffering loss of rail service. However, it would appear that unless entry restrictions are revised, shippers in these areas may not receive adequate substitute service in a timely fashion. Revised entry in trucking and water carriage is also desirable because of rate flexibility granted the carriers. Any tendency for existing carriers to use rate making freedom to exploit a strong market position could be checked by a potential for new entry. Further, as below-cost rail rates rise, there may be an increased demand for substitute truck and barge service for these commodities. Thus, the rate provisions of the bill may generate considerable shifts in the demand for truck and barge resources.

ENTRY PROVISIONS OF THE BILL—MOTOR AND WATER CARRIER

In addition to the basic statutory requirement that the applicant is fit, willing and able to perform the service in question the Commission applies the following criteria in determining whether the public convenience and necessity require new entry:

1. the degree to which the new operations will serve a useful purpose responsive to a public need;

2. whether the public need can or will be served as well by existing carriers; and

3. whether this need can be served by the applicant without endangering the operations of existing carriers contrary to the public interest.

The bill seeks to revise entry restrictions while retaining certification requirements and the present process. The requirement for an ICC certificate to enter new markets is retained as is the present requirement that an applicant be "fit, willing and able" to perform common or contract carriage. The present criteria for determining public convenience and necessity are modified only to preclude denying entry because of any adverse effect on the traffic of a competing carrier. The Commission may deny an application for entry on these grounds only if a protestant carrier can demonstrate that, as a result of certification, total quantity and quality of service in the market to be served would be reduced.

In addition, the bill precludes the Commission from imposing restrictions in such areas as commodities carried, points served, equipment or routes used or otherwise in grants of new entry on the grounds that the restriction is necessary to prevent adverse effect on a competing carrier unless such adverse effect would impair the overall quantity or quality of service in the market to be served. In determining whether such an impairment occurred, the bill requires the Commission to consider specifically the effects of a change upon originating and terminating markets and upon the adequacy of short-haul service to, from, or between points intermediate to an originating or terminating market. If impairment would occur either in the market in general or in short-haul service to, from, or between points intermediate to an originating or terminating market, the Commission retains the authority to maintain commodity, points served, equipment or route restrictions.

In order to permit orderly implementation of these changes, the bill provides for the following transitional provisions:

1. The provisions precluding the Commission from denying an application because of adverse effect on a competing carrier will apply for a twenty-four month period after enactment only to applications of existing regulated carriers which seek to extend their operating authority. Applicants holding no previous authority to operate from the Commission would be subject to the present standards for this period.

2. Because of the complexities involved, the prohibition against imposing restrictions to prevent harm to a competitor would not become effective until the ICC established, within six months of the bill's enactment, procedures for identifying these restrictions (as distinct from restriction imposed for other reasons) and for purging outstanding certificates of such restrictions.

V. Freight car supply

The Problem

There are today frequent shortages of freight cars, especially at periods of peak demand, even as the average freight car moves less than three hours each day. One reason for this is that the rental rates paid by one railroad to another (per diems) for use of freight cars and the rates paid by shippers for keeping freight cars on their sidings (demurrage) have both been held down by the ICC. This discourages rapid turn-around of freight cars and reduces the incentive to build and maintain freight cars. Also, the per diem and demurrage structure does not adequately reflect the different costs of the various types of freight cars.

Per diem and demurrage provision

Under the Interstate Commerce Act demurrage is treated the same way as other freight rates, and charges, so that rate flexibility provided by the rate provisions of the bill will govern the level of demurrage charges. The bill proposes to shift the regulatory authority over per diems from the Interstate Commerce Commission to the Department of Transportation. The Department is currently studying desirable revisions in the per diem structure, and this provision will enable quick implementation of the results of that study. No change is made in the provisions of the Interstate Commerce Act dealing with the issuance by the Commission of emergency freight car service orders or other matters relating to freight car service.

VI. Other provisions

Other rate provisions of the bill are:

1. State regulatory agencies are given four months to adjust intrastate railroad rates to interstate rates, after which the Interstate Commerce Commission may acquire exclusive jurisdicion. This is designed to counter the tendency of some states, by inaction, to hold up changes in intrastate rates, some of which are now below cost (and so burden interstate rates.)

2. The requirement for railroads to establish joint rates for through movements with other railroads or water carriers is retained, but only where the division of the rate is compensatory to all participants.

3. The ability of government agencies (federal and local) to obtain free or special reduced rates is modified in order to remove a source of competitive inequality among shippers.

In view of the importance and difficulty of the problems addressed by this proposed legislation, the Department of Transportation respectfully urges that these proposals be given full and timely consideration and discussion by the Congress.

The Office of Management and Budget has advised that the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely,

JAMES M. BEGGS,
Acting Secretary.

SECTION-BY-SECTION ANALYSIS

TITLE I

Section 101. This Act may be cited as the "Transportation Regulatory Modernization Act of 1971."

TITLE II

Section 201. Subsection (a) amends subsection 1(4) of the Interstate Commerce Act (49 U.S.C. 1(4) to provide that no railroad is obligated to establish a joint rate or division which is not compensatory. The determination of whether such rate would compensate the carrier—i.e., equal or exceed its variable costs—is made in accordance with the standard established under section 205 of this Act.

Subsection 201(b) amends subsection 1(5) of the Interstate Commerce Act (49 U.S.C. 1(5)) to provide a general definition of the term "rate" to be used throughout part I of the Interstate Commerce Act. A rate is defined to include all tariffs, rates, fares, charges, and classifications, regulations and practices which relate to tariffs, rates, fares, or charges. Subsection 1(5) is also amended to provide that no rate shall be deemed to be unjust or unreasonable unless the Commission finds, under the new standard set forth in section 205 of this Act, either that there is no alternative, effective, and competitive service by a common or contract carrier of another mode and the rate exceeds 150 percent of the fully allocated cost (including a reasonable return on investment) of providing the specific transportation service involved or that the rate in question is so low as to be noncompensatory.

Subsection 201(c) of this Act amends subsection 14(a) of the Interstate Commerce Act (49 U.S.C. 1(14)(a)), by transferring the authority to establish the compensation paid by one railroad to another for the use of freight cars and other equipment from the Interstate Commerce Commission to the Secretary of Transportation.

Section 202. Subsection (a) amends subsections 1(18)–1(20) and 1(22) of the Interstate Commerce Act (49 U.S.C. 1(18)–1(22)), to provide a completely new procedure for railroad abandonment. Subsections 1(18) through 1(20) of the Interstate Commerce Act are amended to exclude abandonments from the operation of those subsections. Subsection 1(22) of the Interstate Commerce Act is completely rewritten to establish a clear procedure for Commission handling of proposed abandonments of unprofitable rail lines. Under the provision, carriers are prohibited from abandoning any portion of a line of railroad unless the abandonment complies with the new procedures. A new system of notice to the public is established. To abandon any line, or operation therefore, a railroad must, 30 days before the scheduled date of the proposed abandonment, file with the Commission a notice of the proposed abandonment, attaching a sworn statement that the notice has been served by mail upon the governor of each state in which any portion of the line or operation is proposed to be abandoned; a sworn statement that the notice of abandonment has been posted in every station on the line; and a sworn statement that, for three consecutive weeks prior to the filing of notice with the Commission, the carrier has published notice of abandonment in a newspaper of general circulation in each county in or through which the railroad operates.

Any shipper who has used the line or lines proposed for abandonment during an 18-month period prior to filing, and can demonstrate substantial economic injury if the line or operation is abandoned, may protest the abandonment by a filing of a complaint with the Commission. In the event no complaint is filed, the Commission shall issue a certificate permitting the abandonment as requested. In the event such complaint is filed, the Commission shall have authority to investigate the proposed abandonment, and can suspend the abandonment for six months beyond its originally scheduled date. The Commission must upon investigation approve the abandonment *unless* it finds that (a) either the line or lines in question have generated at least one million gross ton miles of traffic per mile over the last 12 months prior to the filing of a notice, and the revenues attributable to the line, lines, or operations in question have been sufficient to cover the variable cost thereof (including a reasonable return on investment) for a period of 12 months prior to the filing, or (b) that the line or lines in question *have not* generated at least one million gross ton miles of traffic per mile over the last 12 calendar months prior to the filing of notice or the revenues attributable to the line, lines, or operation have not been sufficient to cover the variable costs thereof (including a reasonable return on investment) for a period of 12 months prior to the filing, and the users of the line, lines, or operation have no effective, alternative and competitive transportation other than over the line or lines in question. No application for abandonment shall be denied if the continuation of the line or operation in question requires the making of capital improvements, the economic cost of which will not be covered by an excess of revenues over the variable costs of such line or operation over the life of such improvement.

In the event the Commission makes a finding pursuant to clause (a), i.e., that the line is generating sufficient traffic and is bringing in revenues sufficient to cover its variable cost, the Commission shall issue an order denying the abandonment. In the case of the finding under clause (b), i.e., that the line is not generating sufficient traffic or has not brought in sufficient revenues *and* the users have no other effective, competitive service, the Commission may retain jurisdiction an additional six months. At the close of such additional six-month period, the Commission shall issue a certificate authorizing abandonment unless it finds that, as a result of changed circumstance, such as improved operating efficiencies, rate adjustments, or direct financial aid from users and/or States or their political subdivisions, revenues then cover variable costs. When the Commission makes findings regarding variable costs, all costs determinations will be made in accordance with the rules established by section 202(b) of this Act. Section 202(a) also provides that upon the complaint of affected employees or their representatives the Commission may attach terms and conditions for job protection to any certificate of abandonment as in its judgment the public convenience may require.

Subsection 202(b) adds a new subsection 1(23) to the Interstate Commerce Act, which requires the Secretary of Transportation within one year of enactment to promulgate rules and regulations prescribing uniform costs accounting and revenue accounting methods to be used by rail carriers. These rules are to be used by the Commission in calculating variable cost under subsection 202(a). The Secretary of Transportation must solicit the views of the Interstate Commerce Commission, other agencies, carriers, their employees, shippers and the public before promulgating these rules. Prior to the establishment of the cost accounting rules by the Secretary of Transportation, the Commission is to use such information and techniques as it deems appropriate for determining variable cost.

Subsection 202(b) also incorporates the enforcement provision previously found in subsection 1(20) of the Interstate Commerce Act, providing for injunctions for unauthorized construction, operation or abandonment along with criminal penalties of $5,000 or three years in prison, or both.

Section 203. This section adds a new subsection 13(5) to section 13 of the Interstate Commerce Act (49 U.S.C. 13), and is designed to encourage prompt State action on rates which give undue preference to intrastate movements to the detriment of interstate or foreign commerce. It provides that when a rail carrier has applied to a State regulatory body for a change in an intrastate rate, or a practice affecting a rate, for the purpose of adjusting the intrastate rate to that charged on the same kind of traffic moving in interstate or foreign commerce, and the State regulatory body has not acted finally within 120 days, the Interstate Commerce Commission, upon application to it and notice to the State regulatory body, shall have exclusive authority to determine and prescribe such rate, fare or charge.

Section 204. Subsection (a) limits the power of the Commission in prescribing rates to the new standards established under the broad zone of reasonableness.

Subsection 204(b) amends subsection 15(7) of the Interstate Commerce Act to provide for new standards for ICC rate suspensions, and for a more equitable and realistic burden of proof in rate proceedings. The amendment provides that no proposed rate by a carrier may be suspended by the Com-

mission unless the Commission finds, on the basis of factual information by sworn complaint, that (a) the rate would result in direct and immediate economic injury to the complainant or the class for which it appears, (b) that other remedies available to the complainant would be clearly inadequate and (c) the proposed rate would probably be unlawful.

At any subsequent hearing the burden of proof is carefully tailored by the amendment to conform to equitable principles of modern jurisprudence and to reflect the ability of the parties to come forward with evidence relevant to the ultimate issues. The amendment thus provides that at any hearing involving a complaint that a railroad has proposed a rate, fare or charge exceeding the maximum criteria established by Section 205 of this Act, the burden of proof is upon the carrier proposing the change to show the rate, fare, or charge does not exceed the cost related boundaries set forth in this Act. The carrier challenged will be in possession of the requisite data relating to this issue. The burden of proof on the additional ultimate issue that there is no alternative, effective and competitive service is placed on the complainant, since the complainant, usually a shipper, a shipper association, or the Commission, will be in the best position to know who might provide competitive service in moving the traffic.

At a hearing on a complaint that the railroad has established or proposed a rate, fare or charge which is not compensatory under the test established by section 205 of this Act, the burden of proof is on the complainant (usually another carrier), or the Commission if it initiated an investigation without a complaint, to prove the rate is below variable cost. These parties should have sufficient data augmented by discovery to meet this burden. At the same time harassment of carriers desiring to lower rates for shippers within the legitimate zone of reasonableness under section 205 will be discouraged.

Section 205. Insofar as the legislation deals with present regulatory constraints upon ratemaking, this section contains the key feature of the Act. The section establishes a broad "zone of reasonableness' within which rates cannot be challenged as "unreasonable." Of course, rates in this broad range would still be subject to challenge under the antidiscrimination provisions of the Interstate Commerce Act, sections 2, 3 and 4 (49 U.S.C. 2–4). This new provision will, it is believed, facilitate rapid response by carriers to changing market conditions—both in the transportation market and also in the markets of their customers. Ratemaking under the new test will be streamlined, rely more upon the private mechanisms of competition and innovation, and encourage rates which are more cost-oriented.

The zone of reasonableness established by section 205 provides that on the low side all rates must be compensatory. To be compensatory the rate must exceed the variable cost of providing the specific transportation service involved.

On the high side of the zone, section 205 provides that where there is no alternative, effective, and competitive service by a common or contract carrier, other than by a carrier subject to part I of the IC Act (i.e. railroads, express companies, and oil pipeline companies) the rate shall not exceed 150 percent of the fully allocated cost, including a reasonable return on investment, of providing the specific transportation service involved. The alternative service must not represent a hypothetical alternative, it must provide adequate rate and service competition to the carrier desiring to exceed the upper cost limit so that the shipper can move his goods by another reasonable means of transportation. This section also provides that the Secretary of Transportation will, within one year, promulgate rules and regulations prescribing uniform cost and revenue accounting methods which are to be used by the Commission in determining variable and fully allocated cost. In the case of fully allocated costs, the Secretary shall also establish standards for the calculation of standardized costs of transporting commodities or groups of commodities. The Secretary is instructed to consult with and solicit the views of the Commission, other agencies, carriers and their employees, shippers and the public before the rules are promulgated. Rail carriers are required to maintain their accounts in accordance with these rules. The Commission shall use such information and techniques as it deems appropriate for determining costs under this section.

Section 206. This provision repeals that portion of section 22 of the Interstate Commerce Act (49 U.S.C. 22) which had permitted carriers to provide transportation to Federal, State, and municipal governments at no cost or at rates below those charged to private shippers on comparable traffic. This will place private and public shippers on a more equal footing and require government, as a shipper, to pay its share of the nation's transportation bill, instead of placing a subsidy burden on private shippers or carriers. Other provisions of section 22 would remain intact, permitting special rates for eleemosynary activities and for other limited purposes. The new provision would continue to permit government rates to be negotiated to apply retroactively and to be removed from the suspension powers of the Commission.

TITLE III

Section 301. This section amends section 207 of the Interstate Commerce Act (49 U.S.C. 307) to provide that a motor carrier shall not be denied a certificate of public convenience and necessity on the grounds that it would divert business from any existing carrier unless the Commission finds that the grant of the certificate would cause a diminution in the total quantity and quality of service then enjoyed by the shipping public. For the first two years following enactment of this Act only a carrier already holding a certificate may take advantage of this liberalized certification standard. For the first two years following enactment of this Act any previously uncertificated carrier would be required to follow those procedures which now apply under the current language of section 207 of the Interstate Commerce Act.

Section 302. This provision amends subsection 208(a) of the Interstate Commerce Act (49 U.S.C. 308(a)) to specify that, beginning six months after enactment of this Act, no limitations may be placed in any certificate or permit so as to limit the commodities carried, points served, routes used, or otherwise impose limitations for the purpose of preventing the diversion of traffic from an existing carrier unless the Commission finds that there would be a diminution in the total quantity and quality of service to the shipping public. The Commission is directed to structure certificates so as to permit efficient, flexible and economic operations by the applicant.

Section 302 provides further that the Commission issue rules and regulations which identify by specific type, kind, commodity or geographic origin any restrictions or limitations imposed in certificates or permits which have the effect of preventing diversion of traffic or are inconsistent with efficient, flexible, and economic operations. The Commission is also directed to establish procedures to expedite the elimination of restrictions in outstanding certificates and permits.

Section 303. This section amends subsection 209(b) of the Interstate Commerce Act (49 U.S.C. 309(b)) to remove the requirement that the Commission consider the effect on protesting carriers of granting an application for a permit by a contract carrier. This amendment will conform with the intent of the bill to liberalize entry in surface transportation and to remove barriers to entry conceived solely to protect the traffic of a particular carrier.

Section 304. This Act amends subsections 216(d), (e), (g), and (i) of the Interstate Commerce Act (49 U.S.C. 316(d), (e), (g), and (i)) dealing with motor carrier ratemaking. These amendments are made largely to establish the similar procedures for motor carrier cases and the same "zone of reasonableness" test as that provided for rail carriers under sections 204 and 205 of this Act, discussed above.

Section 305. Subsection 305(a) amends subsection 218(b) of the Interstate Commerce Act (49 U.S.C. 218(b)) to provide that if the Commission finds any minimum rate, fare or charge or rule, regulation or practice affecting a minimum rate or charge of a contract carrier by motor vehicle is not compensatory in accordance with subsection 216(i) of the Interstate Commerce Act, as amended by this Act, the Commission may prescribe a just and reasonable minimum rate, charge, rule, regulation, or practice consistent with redrafted subsection 216(i).

Subsection 305(b) repeals subsection 218(c) of the Interstate Commerce Act. This Act incorporates those provisions in subsection 305(a).

TITLE IV

Sections 401–402. These sections, amending sections 305 and 307 of the Interstate Commerce Act (49 U.S.C. 905, 907), are designed to establish parallel procedures and the same rate standards for common and contract water carriers as for rail and motor carriers, discussed previously. Comparable rail and motor carrier provisions are found in sections 201, 204, 205 and 304 of this Act.

Section 403. This section amends subsection 309 of the Interstate Commerce Act (49 U.S.C. 909) to provide revised tests for the granting of certificates of convenience and necessity and permits comparable to those established for motor carriers by sections 301, 302 and 303 of this Act, discussed previously.

TITLE V

This title provides for a new part VI of the Interstate Commerce Act and amends section 5a of the Interstate Commerce Act (commonly referred to as the Reed-Bulwinkle Act) (49 U.S.C. 5b), to provide for increased pricing initiative on the part of individual carriers by rail, motor vehicle, and water. This amendment would remove antitrust immunity from agreements among carriers which permit participation of competitors in horizontal rate and service discussions and agreements. Also Title V makes any joint action to protest or seek the suspension of any rate, fare, or charge established by independent action subject to such antitrust laws as may be applicable. (New section 602(7) set forth in Title V).

The immunity provisions are narrowed by new subsection 602(12) set forth in Title V. That subsection provides that immunity from the antitrust laws shall not extend to agreements permitting participation in discussions, agreements, or voting on single-line movements or that permit any carrier not physically participating in a particular joint line or interline movement to participate in negotiations, agreements, or voting relating to that movement. This subsection also requires that a copy of all writings pertaining to the agreements be transmitted to a representative designated by the Commission and a representative of the Commission shall be furnished notice of and may attend all meetings conducted pursuant to agreements approved by the Commission.

Enforcement of the antitrust laws with respect to conduct no longer immunised is vested exclusively in the district courts of the United States, and such proceedings may be commenced only by the Attorney General. A private individual, however, is provided a right of action before the Interstate Commerce Commission and may recover damages, costs and attorneys fees in that forum under new section 603 set forth in Title V. A final judgment in any court proceeding in an action brought by the Attorney General shall be prima facie evidence in any proceeding before the Commission and serve as an estoppel between the parties. A consent judgment, a judgment entered before any testimony has been taken, or a judgment entered under section 4a of the Clayton Act which allows the United States to sue for actual damages to the Government, shall not be deemed a "final judgment" for these purposes.

New section 604 set forth in Title V provides that the Commission shall have exclusive jurisdiction over claims of private parties under this title.

New section 605 set forth in Title V gives Commission members and examiners the power to administer oaths, require attendance and testimony of witnesses, require the production of documents and take depositions in actions under this Title.

New section 606 set forth in Title V provides that orders of the Commission awarding damages shall have the same force and effect as other orders issued under part I of the Interstate Commerce Act.

New section 607 set forth in Title V adopts the antitrust statute of limitations for private complaints under this Title. Complaints must be brought within four years from the time the cause of action accrues. However, the statute of limitations is tolled during the course of any proceeding instituted by the Attorney General, except no tolling operates in the event of a proceeding brought by the Attorney General under section 4a of the Clayton Act to recover actual damages for the Government.

TITLE VI

Section 601. All sections of this Act become effective on enactment unless otherwise indicated.

Section 60. This section provides for a transition period to permit an orderly adjustment to the new regulatory system.

Subsection 602(a) provides that for one year after enactment there can be no rate changes of more than twenty percent of the applicable base rate. During the second year, an additional twenty percent rate change may be made. Section 602 will not apply to rates, fares or charges of the United States, State or municipal governments.

Subsection 602(b) defines "base rate" as the individual carrier's rate on file with the Commission 90 days prior to enactment of this Act.

Subsection 602(c) establishes a procedure for determining a "base rate" for a carrier which had no rate on file 90 days prior to enactment for transporting a particular commodity between particular points or for those who may have had a rate on file but for the previous year had not physically transported any goods of that particular type over that particular route. The "base rate" for these carriers will be the lowest rate on file with the Commission 90 days prior to enactment at which the particular commodity was actually transported.

Subsection 602(b) provides that if no shipment of a particular commodity over a particular route occurred within the previous year then section 602 of this Act will not apply and rates may be set subject only to the maximum and minimum criteria set out in section 304 and subsection 401(a).

Section 603. This Act shall not affect any rate lawfully in effect at the time this Act is enacted nor shall any rate approved by the Commission under the current section 5a and lawfully in effect prior to enactment be affected. This section also provides that any proceeding commenced before enactment of this Act but not finally decided by the Commission shall be subject to this Act.

By Mr. DOLE (for himself, Mr. PEARSON, Mr. MILLER, and Mr. DOMINICK):

S. 2843. A bill to designate November 11 of each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

VETERANS DAY

Mr. DOLE. Mr. President, today, November 11, is a day of great significance to America. It is the day on which in the year 1918 the armistice ending World War I was signed. It is the day which, until this year, was set aside to honor the men and women who have served America's Armed Forces in defense of freedom.

Millions of Americans have sacrificed of their service, their limbs and bodies, and of their lives to secure and strengthen the ideals of liberty, freedom, and democracy which gave birth to our Nation.

These Americans—our veterans—have earned in fullest measure the respect, gratitude, and recognition of their fellow countrymen. Their contribution to America is unique; and, likewise, America's tribute to them should be unique. For years, that tribute, falling on the 11th day of November, was unique and appropriate.

In 1954—in response to the efforts of Kansas Congressman Ed Rees—the name was changed from "Armistice Day" to "Veterans Day," retaining the date of November 11. The change was signed into law by President Eisenhower in June of that year. But recently, another change was made, and a new holiday was created to fall on a Monday in October with an ever-changing date and without historic or symbolic significance. Thus the date of November 11 was stripped of its officially sanctioned recognition leaving neither a unique nor an appropriate national day of recognition for our veterans.

Today, November 11, is Veterans Day and always will be in the hearts and minds of millions of Americans. The change in the legal holiday cannot erase the significance of this date, even though it defeats the reason and the purpose of observing Veterans Day. An extra 3-day weekend is little justification for slighting this Nation's tribute and homage to the men and women who have made free holidays possible at all. So, Mr. President, with these thoughts in mind, I am today introducing legislation to reinstate the date of November 11 as Veterans Day, a legal holiday and once again provide a fitting and unique day of recognition for America's veterans.

I would welcome the cosponsorship of my colleagues in the Senate. And I would hope the Congress will act swiftly to correct this situation and restore November 11 as our official national day of salute and recognition to the men and women who have so proudly worn the uniform of the United States.

By Mr. HATFIELD (for himself and Mr. Moss):

S. 2845. A bill for the relief of United States Pumice Co., Los Angeles, Calif., and for other purposes. Referred to the Committees on the Judiciary and Interior and Insular Affairs, jointly.

Mr. HATFIELD. Mr. President, I introduced a bill for the relief of United States Pumice Co., and for other purposes. Because section 3 of this bill involves the withdrawal of any lands and minerals within the Three Sisters Wilderness in Oregon from appropriation under the U.S. mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto, I ask unanimous consent that the bill be jointly referred to the Senate Committee on Interior and Insular Affairs and to the Senate Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. YOUNG of North Dakota:

S. 2846. A bill to establish more orderly bargaining procedures and market conditions in the dairy industry. Referred to the Committee on Agriculture and Forestry.

DAIRYMEN'S BARGAINING ACT

Mr. YOUNG. Mr. President, I introduce for appropriate reference a bill, Dairymen's Bargaining Act. The bill is designed:

To enable dairy cooperatives supplying milk to the market to negotiate more effectively for the terms and conditions of the sale of milk;

To provide compensation for services performed in connection with the market of milk; and

Generally to establish more orderly bargaining procedures and market conditions.

Through the years, cooperatives have been able to bargain relatively well on behalf of dairy farmers.

With ever greater competition from larger organizations, however, new tools are needed by farmers and their cooperatives for carrying on such self-help programs as bargaining.

With experience we have learned that effective bargaining by groups—whether for products or services—often determines their ability to obtain adequate returns for their productivity.

In principle, the proposed legislation has the following objectives: First, bargaining effectively for the price of milk. Within the last 4 years prices paid by the farmers for equipment, services, interest, taxes, farm labor wages, and other expenses have increased about 20 percent. By comparison, however, prices received by dairy farmers for all milk wholesale have increased only by about 12 percent. Dairy farmers therefore need improved prices for milk. Second, dairy farmer cooperatives are not paid adequately for performing services essential to operations of a market. A milk price can be meaningful only in relation to compensation for such services.

In today's complex marketing, for example, handlers may require delivery of milk only 4 or 5 days a week. Since cows give milk 7 days a week, however, there is a need to cover related costs for storage, transportation, and processing.

Milk delivered with a specified butterfat content, also, involves greater costs than milk delivered direct from the farm.

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Cooperative associations should be encouraged to provide such services to improve marketing efficiency and demands. This benefits all dairy farmers, milk plants, and the consuming public. If the cooperatives provide such services, however, they should receive adequate compensation.

I request consent to have printed at this point in the RECORD a summary of the Dairymen's Bargaining Act; and (2) a copy of the act itself.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

DAIRYMEN'S BARGAINING ACT

I. PURPOSE

The Dairymen's Bargaining Act is designed:

To establish more orderly bargaining procedures;

To enable dairy cooperatives supplying milk to the market to negotiate more effectively for the terms and conditions of the sale of milk;

To provide compensation for services performed in connection with the marketing of milk;

To eliminate inequities in existing marketing practices; and

To ensure stable marketing conditions for consumers.

II. ADMINISTRATION OF THE ACT

The Act would be administered by a National Milk Marketing Board, established as an independent agency of the United States.

The Board would be comprised of twelve directors to be appointed by the President after giving consideration to seven nominations by cooperative associations; four nominations by handlers regulated by the milk marketing order system, and one nomination by the Secretary of Agriculture.

III. CERTIFICATION OF BARGAINING AGENCY

To qualify for certification, an agency consisting of cooperatives would be required to show that:

It represented more than half the producers and more than half the milk subject to a milk marketing order;

It has offered membership in the agency on a reasonable basis with proportionate representation to all cooperatives qualified under the marketing order;

It will be capable of performing, or of having performed, all services for producers, handlers, and the market included in its request for certification.

IV. FUNCTIONS OF BARGAINING AGENCY

Upon certification, the bargaining agency would be responsible for performing a variety of functions in support of the market. The agency would:

(a) Bargain with handlers for prices to be paid for all producer milk delivered to a market (except prices for lowest use classification);

(b) Bargain with handlers for services to be performed, and the minimum rates to be paid for such services;

(c) Provide essential services which benefit all producers, and the market;

(d) Collect from handlers all prices for milk negotiated by their bargaining agency, and all charges for services;

(e) Pay producers either directly, or through their respective cooperative, or through handlers, out of funds collected by the certified agency;

(f) Utilize a portion of such collected funds to pay compensation and expenses necessary to the functioning of the bargaining agency.

The certified agency would be authorized to use the facilities of the market administrator of an order marketing area to collect funds, and disperse payments under marketing agreements.

V. TERMS AND CONDITIONS OF NEGOTIATIONS

Agreements between the certified agency and handlers receiving more than 50 percent of the producer milk received by all handlers would be binding on all milk under the market.

Negotiated prices will also be applicable to milk received by handlers from sources other than producers.

Negotiated prices may be applicable to producer milk disposed of outside the marketing area, or a negotiated agreement may exclude such milk.

Rates for services negotiated by the certified agency shall not be discriminatory to any handler, taking into consideration variations in service, costs, and circumstances.

VI. LEGAL ACTIONS

Under this Act, all complaints would be brought first to the National Milk Marketing Board for its consideration and decision. Actions may be instituted by any handler, producer, cooperative or certified agency affected under this Act.

Appeals from decisions of the Board would go directly to the U.S. Court of Appeals.

The Act would make it permissible for cooperatives, through the certified agency, to bargain for prices and rates for services with handlers, singly or in groups, with immunity from the antitrust laws.

To protect the public, the Secretary of Agriculture would have authority to initiate action if he believes that bargaining for prices has resulted in an undue enhancement of the price of milk; and if this happens, he may cause to have issued a cease and desist order against such activities.

S. 2846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the Dairymen's Bargaining Act.

SEC. 2. Disorderly conditions in the marketing of milk, inadequate prices paid dairy farmers for milk, inadequate compensation for services performed in connection with the marketing of milk, unequal distribution of the costs of providing such services, the lack of adequate provisions concerning responsibility for the performance of such services, and the lack of adequate bargaining power of dairy farmers and dairy cooperatives, adversely affect interstate and foreign commerce, impede the free and orderly flow thereof, and interfere with the production of goods for such commerce. It is the purpose of this Act to mitigate or eliminate these conditions by providing orderly bargaining procedures whereby dairy cooperatives supplying milk to a market can negotiate effectively for the terms and conditions under which milk will be supplied and for the terms and conditions under which services will be provided in connection with the marketing of milk.

SEC. 3. For the purposes of this Act—

(a) "Commerce" means interstate and foreign commerce as covered by the Marketing Agreement Act and the interpretations and applications of that Act with regard to such commerce shall be applicable to this Act.

(b) "Board" means a National Milk Marketing Board established under the authority of this Act.

(c) "Marketing Agreement Act" means the Agricultural Marketing Agreement Act of 1937, as amended, and as the same may be further amended.

(d) "Marketing order" means a Federal milk marketing order in effect under the Marketing Agreement Act.

(e) "Cooperative" means a cooperative marketing association as defined in the applicable marketing order. It includes also a federation, or marketing agency in common, of such cooperatives.

(f) "Person" means any individual, partnership, corporation, association, cooperative or other business unit.

(g) "Certified agency" means an agency, organized by one or more cooperatives, which has been certified by the Board as the bargaining agent for an applicable marketing order for the purposes of this Act.

(h) "Producer" means a producer as defined in the applicable marketing order.

(i) "Producer milk" means milk received from producers.

(j) "Handler" means a handler as defined in the applicable marketing order.

(k) "Negotiated price" means that portion of the price, terms, and conditions of sale for milk which is over the minimum price established by the applicable marketing order for any use classification.

(l) "Department" means the United States Department of Agriculture.

(m) "Secretary" means the Secretary of Agriculture of the United States.

(n) References herein to a handler, plant, cooperative, certified agency, board, the Department, the Secretary, or any other person or entity to which this Act applies includes any officer, employee or other person authorized to act for such respective principals in any matter under this Act.

SEC. 4. There is hereby created a National Milk Marketing Board which shall be an independent agency of the United States. The Board shall consist of twelve directors to be appointed by the President of the United States after giving consideration to the nominees selected in the following manner. One director shall be nominated by the Secretary. Seven directors shall be nominated by cooperatives qualified under the several marketing orders in effect at the time of their election. Four directors shall be nominated by handlers regulated under the several marketing orders in effect at the time of their election.

SEC. 5. The Secretary shall conduct all proceedings for nominations for directors and shall certify all such nominations to the President. Voting by cooperatives and by handlers shall be related to volume of milk regulated under applicable marketing orders. The Secretary shall divide the marketing orders into seven producer districts, giving consideration to volume of milk marketed, geography, types of operations of cooperative associations and other factors. Each such producer district shall be entitled to nominate one director. The Secretary shall divide the marketing orders into four handler districts, each of which shall be entitled to nominate one director. Such districts may be revised from time to time. All such districts shall be designated, and the method of conducting all proceedings for nomiations, shall be prescribed by regulation promulgated by the Secretary.

SEC. 6. The terms of directors shall be three years, except that the Secretary shall provide, by regulation, for staggered terms. Vacancies shall not impair the authority of the remaining directors to act. Seven directors shall constitute a quorum. The Board shall elect its own officers, may employ necessary staff, may utilise the services and facilities of the Department, and shall be authorized to do all things necessary to carry out its functions under this Act. The compensation of directors shall be prescribed by the Secretary by regulation.

SEC. 7. The Board shall:

(a) Designate certified agencies pursuant to this Act;

(b) Receive, investigate, hear, and adjudicate complaints under this Act;

(c) Enforce prices and the payments of rates for services determined in accordance with bargaining agreements entered into with handlers by certified agencies under this Act;

(d) Have the cooperation of the Secretary in making available necessary information relative to milk marketing orders pertinent to investigations, hearings, or enforcement actions of the Board;

(e) Promulgate regulations to effectuate the purposes of this Act; and

(f) Do all things necessary or incidental to the performance of its functions under this Act or which are necessary to accomplish the objectives of this Act.

SEC. 8. When requested to do so by one or more cooperatives, which represent substantial amounts of producer milk supplied to handlers regulated by a marketing order, the Board shall hold a public hearing to determine whether an agency is entitled to be certified as a certified agency.

SEC. 9. The Board shall certify such agency as a certified agency if the Board finds:

(a) That such agency, through its member cooperative or cooperatives, will represent more than 50 percent of the producers, and more than 50 percent of the producers milk, under such marketing order;

(b) That all of the cooperatives represented in such agency will be cooperatives qualified under such marketing order;

(c) That such agency will be capable of performing, or of having performed under its direction and as its responsibility, all of the services for producers, handlers, and the market, which it includes in its request for certification; and

(d) That such agency offers membership in the agency on a reasonable basis with proportionate representation to all cooperatives qualified under the marketing order, and will notify all qualified cooperatives of agency meetings.

Such representation shall be related to number of producers, or to volume of producer milk, or a combination thereof, as prescribed in the applicable certification. Those cooperatives which accept such offer shall become members of the agency.

The Board may, in any such certification, include conditions and limitations consistent with this Act and with the purposes and objectives of this Act. Certifications issued by the Board may be amended.

The name of the certified agency shall be related to the applicable marketing order and not to any cooperative.

SEC. 10. The certified agency shall have authority:

(a) To bargain with handlers for prices to be paid for all producer milk in excess of the minimum prices prescribed in the applicable marketing order, except prices for producer milk in the lowest use classification under the marketing order.

Prices negotiated by the certified agency shall be uniform as to all handlers to the same extent that uniform prices are required under the Marketing Agreement Act.

Prices for producer milk in any use classification, except the lowest use classification, negotiated by the certified agency with handlers receiving more than 50 percent of the producer milk received by all handlers in any such use classification shall be binding on all handlers in the same manner and with the same force and effect as minimum prices prescribed in the marketing order.

Negotiated prices shall be made applicable on equal basis to milk received by handlers in bulk form from sources other than producer milk. Negotiated prices shall be made applicable to milk received by handlers or otherwise entering the marketing area in packaged form from sources other than producer milk to the same extent that such packaged milk is subject to regulation under the terms of the applicable marketing order. Negotiated prices may be made applicable to producer milk which is disposed of outside of the marketing area or the negotiated agreement may exclude such milk. This Act shall not preclude any cooperative or producer from bargaining for a price above the negotiated price for any use classification.

(b) To bargain with handlers for services to be performed and the minimum rates to be paid for services related to the marketing of milk. The certified agency shall be primarily responsible for the performance of any services negotiated by it but it may have any or all of such services performed by others. The certified agency shall have no power to require any cooperative or other person to perform services, unless such cooperative or other person shall agree to do so. The negotiated agreement shall not preclude any cooperative from performing services for any handler, except that the rate charged shall not be less than the negotiated rate for similar services.

Rates for services negotiated by the certified agency shall not be discriminatory as to any handler, taking into consideration variations in service, cost, and circumstances.

Minimum rates for services relating to producer milk in any use classification, negotiated by the certified agency with handlers receiving more than 50 percent of the producer milk received by all handlers in any such use classification shall be binding on all handlers in the same manner and with the same force and effect as the minimum price prescribed in the marketing orders.

Rates for services negotiated by the certified agency shall not be binding on milk received by handlers from sources other than producer milk, except to the extent that any handler shall agree to pay the same.

(c) To provide services for producers and to pay for such services, including payment to itself. The certified agency may not preclude any cooperative from performing services for its members.

(d) To provide services for the market generally and to pay for such services, including payment to itself. Except with respect to its bargaining operations, the certified agency shall not provide representation for any producer or any cooperative at any hearing, or proceeding where statements may be filed, if it is notified not to provide such representation. In the absence of such notice, the certified agency may represent all producers and all cooperatives.

(e) To collect from handlers all prices for milk negotiated by the bargaining agency in excess of the minimum prices provided in the marketing order and all charges for services negotiated by the certified agency in excess of any charges provided in the marketing order, except that the agency shall not collect from a handler, including a cooperative operating in its capacity as a handler, for services performed on its own behalf.

(f) To use any funds arising under this Act to pay such compensation and expenses as may be necessary to provide any of the services authorized by this Act, including compensation and expenses allowed and paid to the certified agency or to any of its members. This shall include operating costs, staff, and all other costs and expenses related to the performance of the functions of the certified agency.

Reasonable reserves and capital may be accumulated by the certified agency.

All such payments, allowances, reserves, and capital shall be reasonable, shall be subject to demonstrated cost, shall be subject to review by the Board upon the complaint of any interested party and may be limited in the certification of the agency.

(g) To pay producers, either directly, or through their respective cooperatives, or through handlers, the respective amounts due such producers out of any funds collected by the certified agency under the authority of this Act. Any cooperative may request that such payment be made through it. The amount due producers shall be the balance remaining from collections on the milk supplied by them less authorized deductions.

In the case of milk received by handlers from other than producer sources, the amounts collected, less authorized deductions, shall be paid to the sellers of such milk by the certified agency either directly or through the handlers acquiring such milk.

In no case will the certified agency bind any cooperative to any action which will interfere with any marketing contract or membership agreement between the cooperative any any of its members.

The certified agency may use the facilities of the market administrator of an order for a marketing area to collect funds, pool proceeds, and disburse funds in payment of prices and services negotiated under this Act.

SEC. 11. All decisions of the certified agency shall be supported by a vote of two-thirds or more of the votes represented through the certified agency.

SEC. 12. Each certified agency shall be adequately bonded.

SEC. 13. In the case of a cooperative which does not process milk, other than preliminary processing prior to shipment or sale to a processor as bulk milk, the producers and producer milk represented by such cooperative shall be counted in determining whether a certified agency represents more than 50 percent of the producers and more than 50 percent of the producer milk.

In the case of a cooperative which does processing other than preliminary processing, the cooperative may elect to be counted on the producer side or on the handler side under this Act. If it elects to be counted on the producer side, its processing volume shall not be counted in determining the percentage of producer milk received by all handlers. If it elects to be counted on the handler side, its producers and producer milk shall not be counted in determining the percentage of producers and producer milk. If it elects to be counted as a handler, it shall be considered a handler for bargaining purposes and shall not participate in the certified agency.

SEC. 14. The certification of a certified agency shall be terminated by the Board (1) if the Board finds that the certified agency is not operating in a manner consistent with the objectives of this Act or (2) if the certified agency requests such termination or (3) if the certified agency, through its member cooperative or cooperatives, shall cease to represent more than 50 percent of the producers, and more than 50 percent of the producer milk, under the applicable marketing order. The effective date of such termination shall be set by the Board, and equitable provisions shall be prescribed by the Board for the adjustment and settlement of any outstanding contracts and accounts.

SEC. 15. All contracts and commitments entered into under this Act shall be subject to modification or cancellation (1) by the Secretary in a proceeding for undue enhancement of prices, (2) by the Board upon termination of the certification of the certified agency, and (3) by the Board upon a determination that the contract or commitment is contrary to the purposes and objectives of this Act or is unlawful. Equitable conditions for any such modification or cancellation may be prescribed. The provisions of this section shall be deemed a part of each contract and commitment entered into under this Act.

SEC. 16. This Act shall be applicable to producer-handlers to the same extent that the Marketing Agreement Act shall be applicable to producer-handlers.

SEC. 17. It shall be lawful for a certified agency, or for any cooperative or group of cooperatives, to meet at the same time and place with one or more, or with all, handlers for the purpose of bargaining in good faith and at arms-length with such handlers;

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and any one or more, or all, handlers may meet at the same time and place with a certified agency, or with any cooperative or group of cooperatives, for the purpose of bargaining in good faith and at arms-length in the respective individual capacities of such handlers.

SEC. 18. All actions concerning the legality of this Act, or of any provision thereof, or of any action taken or contract or commitment entered into pursuant to this Act, and all actions and complaints arising under this Act, shall first be brought before the Board for its consideration and decision. This section shall not apply to enforcement actions brought by the Board or the certified agency or to proceedings for undue enhancement of prices.

SEC. 19. The procedures provided in the Marketing Agreement Act (7 U.S.C. Sec. 608c (15)) for actions before the Secretary shall apply under this Act to actions before the Board, except that actions before the Board under this Act may be instituted by any handler, producer, cooperative, or certified agency, directly affected under this Act, and except that appeals from decisions of the Board shall go directly to the United States Court of Appeals.

SEC. 20. All of the enforcement powers, and all of the actions and procedures, available to the Secretary under the Marketing Agreement Act are made applicable to this Act and shall be available to the Board and to certified agencies under this Act.

SEC. 21. Pending a final decision in any enforcement action or in any action brought before the Board, including appeals, any payments being contested shall be paid.

SEC. 22. If the Secretary shall have reason to believe that the activities of any certified agency have unduly enhanced prices for milk, he shall initiate a proceeding to determine whether such activities have, in fact, unduly enhanced such prices; and, if so, he shall cause a cease and desist order to be issued against such activities as are found to be resulting in such undue enhancement of prices.

The procedures provided in section 2 of the Capper-Volstead Act (7 U.S.C. Sec. 292) shall be applicable to proceedings under this section.

SEC. 23. The Secretary may prescribe regulations relating to his responsibilities under this Act, after notice and hearings, in the same manner that regulations are prescribed under the Marketing Agreement Act. The Board may prescribe regulations relating to its responsibility under this Act, after notice and hearing, in the same manner that regulations are prescribed under the Marketing Agreement Act.

SEC. 24. This Act does not amend, alter, or repeal any provision of the Marketing Agreement Act.

SEC. 25. If any of the provisions of this Act or any of the applications thereof are held invalid, the remainder of this Act and other applications shall not be affected but shall remain in full force and effect.

SEC. 26. There is hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

By Mr. STEVENS:

S. 2847. A bill to amend title XVIII of the Social Security Act to provide for coverage, under part A of such title, of emergency hospital services provided in Canada to traveling United States Nationals between Alaska and another State. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, since statehood, we in Alaska have had many problems arise which, due to our geographic separation from the lower 48, require a modification in Federal programs if they are to equitably service Alaska. The bill which I introduce today as an amendment to the medicare program is a sterling example of the kind of inequity toward Alaska that I feel certain we all wish to see discontinued.

Elderly people traveling to or from Alaska have no choice but to travel through Canada on such a trip. Yet as medicare legislation now reads, these people, if they fall ill while making this totally necessary trip through Canada because Alaska is not contiguous to the lower 48, are not eligible for medicare benefits if they are hospitalized in Canada en route to or from Alaska. Mr. President, I believe this is so obviously unjust to Alaska that it is my feeling it was likely just an oversight when this legislation was enacted by Congress.

I owe a deep sense of gratitude to one of our Alaskans, Mrs. Manila Talley, who brought this problem to my attention. Many elderly Alaskans have had a totally unfair financial hardship because of this blackout in medicare coverage due to our State's location and I deeply appreciate her initiative in bringing this to my attention.

I believe the amendment I offer today to title XVIII of the Social Security Act will solve Alaska's problem. It is only fair and right. I deeply hope there will be no difficulty in its rapid consideration and approval by the committee.

I ask unanimous consent that the bill be inserted in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1814(f) of the Social Security Act is amended—

(1) in paragraph (1) thereof, by inserting "(A)" immediately after "(1)";

(2) in paragraph (2) thereof, (A) by striking out "(2)" and inserting in lieu thereof "(B)", and (B) by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraphs:

"(2)(A) at the time that the emergency which necessitated such inpatient hospital service occurred such individual was in Canada traveling without unreasonable delay by the most direct route (as determined by the Secretary) between Alaska and another State; and

"(B) such hospital was closer to, or substantially more accessible from, the place where such emergency occurred than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury.".

SEC. 2. The amendments made by this Act shall apply to services furnished with respect to admissions to hospitals occurring after the month in which this Act is enacted.

By Mr. HATFIELD (by request):

S. 2849. A bill to amend the Internal Revenue Code of 1954, as amended. Referred to the Committee on Finance.

Mr. HATFIELD. Mr. President, it has been brought to my attention that the Commissioner of the Internal Revenue Service on August 25, 1971, proposed amendments to regulations previously issued by the Commissioner under authority granted to him by Congress to prepare and issue regulations in connection with the administration of section 1502 of the Internal Revenue Code.

Section 1502 pertains to regulations applicable to the filing of consolidated returns by certain affiliated groups. The Commissioner was originally granted this broad authority to prepare regulations under this section because Congress recognized that the administration of that provision would require complex and technical rules.

Regulations under this section were first promulgated in 1955 and subsequently amended on September 7, 1966. It must be realized that complex regulations of this type, which in many cases are radically new in their treatment of tax matters, would not be perfect when initially promulgated and therefore must be subject to clarification. In such cases, however, taxpayers should not be penalized by imperfect regulations which are later changed and therefore changes should in most cases be retroactive to afford all taxpayers equal protection.

This is particularly so when certain regulations proposed by the Commissioner in section 1502 are subsequently found to override or exclude the application of other sections of the code. It is my intention, therefore, in offering this bill not to be critical of the actions of the Internal Revenue Service, but rather to afford the protection of knowing clearly the intent of the Congress and also to afford all taxpayers equal, fair, and just treatment.

I am introducing this bill today, by request, in hopes it will correct this situation. I will consider calling it up as an amendment to H.R. 10947, the Revenue Act of 1971.

By Mr. ANDERSON (for himself, Mr. FULBRIGHT, and Mr. SCOTT):

S.J. Res. 173. A joint resolution to provide for the appointment of A. Leon Higginbotham, Jr., as citizen regent of the Board of Regents of the Smithsonian Institution. Referred to the Committee on Rules and Administration.

Mr. ANDERSON. Mr. President, section 42 of the United States Code provides that the business of the Smithsonian Institution shall be conducted at the city of Washington by a Board of Regents composed of the Vice President, the Chief Justice of the United States, three Members of the Senate, three Members of the House of Representatives, and nine other persons, other than Members of Congress, two of whom shall be resident in the city of Washington, and seven of whom shall be inhabitants of some State, but no two of them of the same State. Appointments to the Board of the class other than Members of Congress are made by joint resolutions of the Congress for 6-year terms. Board members serve without compensation, but receive reimbursement for traveling and other expenses incurred in attending meetings of the Board.

The number of regents of the class other than Members of Congress was increased from six to nine by Public Law 91-551, approved December 15, 1970. The Board of Regents of the Institution has nominated Mr. A. Leon Higginbotham, Jr., of Philadelphia, Pa., to be one of the new appointments to the Board.

I ask unanimous consent that a short biography of Mr. Higginbotham be printed in the RECORD at this point.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

SHORT BIOGRAPHY OF A. LEON HIGGINBOTHAM, JR.

Judge Higginbotham was born in 1928. He received his Bachelor of Arts from Antioch College in 1950 and his Bachelor of Laws from the Yale University Law School in 1953.

He was admitted to the Pennsylvania Bar in 1953 and appointed that year as Assistant District Attorney for Philadelphia County. He served in that position very briefly, turning to the private practice of law in Philadelphia in 1954.

In 1962, he became the first Negro to be appointed to the Federal Trade Commission. He served with the Commission until January 1964, when he was appointed Judge of the U.S. District Court for Philadelphia. He is presently serving in that capacity.

He has been a member of the NAACP, Philadelphia branch, since 1959; and also served with the Pennsylvania Fair Employment Commission. In 1968, he was appointed to President Johnson's National Commission on Violence.

By Mr. ANDERSON (for himself, Mr. FULBRIGHT, and Mr. SCOTT):

S.J. Res. 174. A joint resolution to provide for the appointment of John Paul Austin as Citizen Regent of the Board of Regents of the Smithsonian Institution. Referred to the Committee on Rules and Administration.

Mr. ANDERSON. Mr. President, section 42 of the United States Code provides that the business of the Smithsonian Institution shall be conducted at the city of Washington by a Board of Regents composed of the Vice President, the Chief Justice of the United States, three Members of the Senate, three Members of the House of Representatives, and nine other persons, other than Members of Congress, two of whom shall be resident in the city of Washington, and seven of whom shall be inhabitants of some State, but no two of them of the same State. Appointments to the Board of the class other than Members of Congress are made by joint resolutions of the Congress for 6-year terms. Board members serve without compensation, but receive reimbursement for traveling and other expenses incurred in attending meetings of the Board.

The number of Regents of the class other than Members of Congress was increased from six to nine by Public Law 91-551, approved December 15, 1970. The Board of Regents of the Institution has nominated Mr. John Paul Austin of Atlanta, Ga., to be one of the new appointments to the Board. I ask unanimous consent that a short biography of Mr. Austin be printed in the RECORD at this point.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

AUSTIN, JOHN PAUL

Beverage co. exec.; b. La Grange, Ga., Feb. 14, 1915; s. Samuel Yates and Maude (Jernigan) A.; A.B., Harvard, 1937, LL. B., 1940; m. Jeane Weed, July 14, 1950; children—John Paul, Samuel Weed. Admitted to N.Y. bar, 1940; practiced in N.Y.C., 1940-41, 45-49; mem legal dept. Coca-Cola Co., 1949-50, exec. v. p., 1961-62, pres., dir., 1962—, chief. exec. officer, 1966—; exec. v.p. Coca-Cola Export Corp, 1958-59, pres., dir., 1959—; dir. Continental Oil Co., Morgan Guaranty Trust Co., N.Y.C., Gen. Elec. Company. Trust Company of Georgia, Atlanta, Ga. Served as comdr. USNR, 1942-45. Clubs: Racquet and Tennis, Links, (N.Y.C.); Blind Brook Golf (Purchase, N.Y.); Capital City, Peachtree Golf (Atlanta). Office: P.O. Box 1734, Atlanta, Georgia.

By Mr. ANDERSON (for himself, Mr. FULBRIGHT, and Mr. SCOTT):

S.J. Res. 175. A joint resolution to provide for the appointment of Robert Francis Goheen as Citizen Regent of the Board of Regents of the Smithsonian Institution. Referred to the Committee on Rules and Administration.

Mr. ANDERSON. Mr. President, section 42 of the United States Code provides that the business of the Smithsonian Institution shall be conducted at the city of Washington by a Board of Regents composed of the Vice President, the Chief Justice of the United States, three Members of the Senate, three Members of the House of Representatives, and nine other persons, other than Members of Congress, two of whom shall be resident in the city of Washington, and seven of whom shall be inhabitants of some State, but no two of them of the same State. Appointments to the Board of the class other than Members of Congress are made by joint resolutions of the Congress for 6-year terms. Board members serve without compensation, but receive reimbursement for traveling and other expenses incurred in attending meetings of the Board.

The number of Regents of the class other than Members of Congress was increased from six to nine by Public Law 91-551, approved December 15, 1970. The Board of Regents of the Institution has nominated Mr. Robert Francis Goheen, of Princeton, N.J., as one of the new appointments to the Board. I ask unanimous consent that a short biography of Mr. Goheen be printed in the RECORD at this point.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

GOHEEN, ROBERT FRANCIS

Univ. pres.; b. Venguria, India, Aug. 15, 1919; s. Robert H. H. and Anne (Ewing) G; B. A., Princeton, 1940. M. A. (Woodrow Wilson fellow), 1947, Ph. D. (Procter fellow), 1948; LL. D., U. Madras, Rutgers U., Harvard, Yale University, 1957, Temple, Columbia, U. Pa., 1958, State U. N. Y., 1960, Hamilton Coll., 1961, U. N. C., 1962, Notre Dame, U. Denver, N. Y. U.; Litt. D., Brown U., Trinity Coll., 1958; L. H. D., St. Mary's College, 1963. Coll. of Wooster; L. L. D. (hon.), Hofstra University; L. C. D., Middlebury Coll.; m. Margaret M. Skelly, June 21, 1941; children—Anne. (now Mrs. Thomas R. Crane, Junior), Gertrude, Stephen, Margaret, Elisabeth, Charles. Part-time tchr. classics Princeton; 1945-48. Instr. classics, 1948-50, asst. prof., 1950-57, prof., 1957, pres., 1957—. Arthur H. Scribner bicentennial preceptor, 1951-54; sr. fellow classics Am. Acad. in Rome, 1952-53; dir. Nat. Woodrow Wilson Fellowship program, 1953-56. Chmn. Citizens Com. for Higher Edn. in N. J.; mem. Nat. Council on Humanities, mem. adv. panel Bur. Near East and South Asian Affairs, Dept. State; mem. U. S. com. Dag Hammarskjold Found. Mem. bd. African-Am. Inst., Belgian-Am. Edni. Found., Carnegie Found. Advancement Teaching (chmn. 1965-66). Edni. Testing Service, Albert Parvin Found., Rockefeller Found., Equitable Life Assurance Soc. U. S., Woodrow Wilson Found., Robert Coll., Istanbul, hon. trustee Inst. Internat. Edn. Served from pvt. to lt. col. AUS, 1941-45. Decorated Legion of Merit, Bronze Star. Mem. Am Philol. Soc., Am. Archeol. Soc., Am. Council Edn. (chmn. 1961-62), Council Fgn. Relations, Am. Acad. Arts and Scis., Phi Beta Kappa. Clubs: University (N. Y. C. and Washington); Princeton, Century Assn. (N. Y. C.); Cosmos (Washington); Nassau (Princeton), Author: The Imagery of Sophocles' Antigone, 1951. Address: Princeton U., Princeton, N. J. 08540.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2709

At the request of Mr. HATFIELD, the Senator from New York (Mr. BUCKLEY), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors to S. 2709, to permit American citizens to hold gold in the event of the removal of the requirement that gold reserves be held against currency in circulation.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 639

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 640

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself and Mr. JAVITS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10947), supra.

AMENDMENT NO. 641

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. STEVENSON, and Mr. WILLIAMS), submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 10947), supra.

AMENDMENT NO. 642

(Ordered to be printed and to lie on the table.)

Mr. ROTH (for himself, Mr. BROCK, Mr. BUCKLEY, Mr. DOLE, Mr. FANNIN, Mr. GURNEY, and Mr. PROXMIRE) submitted an amendment intended to be proposed to the bill (H.R. 10947), supra.

AMENDMENT NO. 643

(Ordered to be printed and to lie on the table.)

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TAX CREDIT FOR POLITICAL CONTRIBUTIONS

Mr. KENNEDY. Mr. President, I am pleased to join with Senator HOWARD CANNON and Senator JAMES PEARSON in sending to the desk an amendment to establish a tax credit for political contributions. The amendment is being offered to H.R. 10947, the Revenue Act of 1971, and we intend to call it up at an appropriate time during the coming debate.

The tax credit we are proposing would contain the following principal provisions:

The amount of the credit would be one-half of a person's political contributions up to a maximum credit of $25 a year for a single person, or $25 for a married couple, or $12.50 for married persons filing separately.

Contributions qualifying for the credit may be made to any candidate for public office—Federal, State, or local.

Contributions qualifying for the credit may be made in connection with any election—general, special, or primary.

Last August, the Senate voted overwhelmingly to pass S. 382, the most comprehensive election reform and campaign financing bill in nearly four decades. Because of parliamentary considerations, one of the few areas not included in the bill was a measure to encourage political contributions. We believe that the time is now especially ripe to take up this issue, and that the tax credit does the job in the most effective possible way.

The concept of tax credits for political contributions has had a distinguished history of support over the past decade. In 1962, President Kennedy's Commission on Campaign Costs issued its report, entitled "Financing Presidential Campaigns." One of the major recommendations in the Commission's report was the enactment of a tax credit for political contributions. As the report stated:

> The recommended credit is intended to encourage large numbers of small gifts. The bulk of * * * campaign funds available to both parties is now supplied by a relatively small group of contributors, giving sums ranging from a few hundred to several thousands of dollars * * *. We hope that this * * * incentive to small gifts will stimulate the massive giving needed by the parties. If it does not, other forms of government subsidy may be inevitable.

Virtually every major study of the political process in recent years has endorsed the concept of the tax credit, and the idea has also been pursued extensively in Congress.

In his message to Congress on "The Political Process in America," in May 1967, President Johnson recommended that Congress undertake an extensive review of the methods of financing election campaigns by means such as direct appropriations, tax credits, tax deductions, Treasury vouchers, and various matching grant plans.

Then in November 1967, after comprehensive hearings and executive sessions by the Senate Finance Committee on numerous proposals, the committee favorably reported H.R. 4890, the "Honest Elections Act of 1967." As recommended by the committee, the bill contained a number of major provisions, including an income tax credit of up to $25 for one-half of the political contributions made by a taxpayer. All but one of the 17 members of the committee supported this provision.

Subsequently, in the 91st Congress, Senator PEARSON and I offered a tax credit amendment on the Senate floor during the debate on the Tax Reform Act of 1969. The amendment was narrowly defeated by the margin of 50 to 45, but the vote was complicated by the fact that the amendment had itself been amended on the Senate floor to add provisions for the reporting and disclosure of campaign contributions, so that no full debate on the merits of the tax credit was possible.

Now, those reporting and disclosure provisions have been passed by the Senate after full debate, and it is entirely appropriate for us to turn our attention to the tax credit.

In light of this prior history, I am confident that a majority of the full Senate favors a tax credit for political contributions. In view of this broad support, I hope that such a provision may become part of our Internal Revenue Code in time for the 1972 election campaign.

The tax credit approach to financing political campaigns has several major advantages over all other methods that have been proposed for financing such campaigns.

First, the tax credit will provide a significant new incentive for participation in the political process by a large proportion of the electorate. One of the most important goals in recent proposals to reform the political process has been to stimulate greater public participation in election campaigns. I believe that the modest tax credit we have proposed will significantly encourage political parties to solicit contributions from small donors. In recent election years, for example, there have been millions of individual campaign contributors, the overwhelming majority of whom were $1 or $2 contributors. By offering a tax credit for half of the contributions by small donors, we will encourage many more individuals to contribute, and we will encourage existing small contributors to raise their contributions to a more substantial level.

Second, by encouraging contributions from small donors, the tax credit will help break down the excessive reliance by candidates on personal wealth or on large contributors. As a result, the tax credit will help to restore public faith in the integrity of the election process. It will help to eliminate the ambiguous relationships created for the successful candidate, in which he is obligated—or at least appears to be obligated—to his large contributors.

Third, the tax credit leaves the decision on the allocation of public funds, through the tax subsidy mechanism, to the choice of the individual taxpayer himself. This point is the central distinction between the tax credit approach and the various proposals made in recent years for direct Federal financing of political campaigns. Both approaches involve a Federal subsidy for political campaigns. Under the tax credit approach, however, unlike these other proposals, the Federal Government plays no part in determining which candidates or committees are to receive public funds or the amount of public funds to be made available to particular candidates. It is the citizen, and the citizen alone, who makes this determination.

Fourth, the tax credit offers financial assistance to candidates not only at the general election stage, but at the primary stage as well, where such assistance can often be of crucial importance.

Fifth, the tax credit offers assistance to candidates not only at the presidential level, but at the congressional, State, and local level as well. This point is especially important. As Senator Robert Kennedy stated in 1967:

> Presidential candidates do not spring, like Minerva, from the brow of Jove. Men earn consideration for the Presidency by their performance in other public office—most often governor or Senator. The expense of nomination to a governorship or a Senate seat—especially in the large states from which most Presidential candidates are drawn—is by itself a substantial barrier to all but men of wealth or their favored candidates. Thus, fair consideration for the Presidency itself requires public support for campaigns for lesser offices at all levels. This support can only come from tax incentives to individual contributions.

Before proposing this legislation, we gave serious consideration to including a tax deduction as an alternative to the tax credit. A tax deduction approach would have many of the advantages of a tax credit, especially with respect to the encouragement of individual choice and participation to the political process, and the avoidance of a Federal role in allocating public funds to political campaigns. However, a tax deduction would cause substantial inequities and disparities in the benefits afforded contributors. Those in the highest tax brackets, at whom the incentive should be least directed, would receive the greatest benefits, whereas taxpayers in the lowest brackets would receive the smallest benefit. By contrast, the benefit of the tax credit is greatest for those in the middle and lower income brackets—precisely those we wish to bring into the political process.

In sum, we believe that the tax credit we are proposing can become one of the major pillars of reform of the political process in America, and we hope that it will have broad support in the Senate.

Mr. President, I ask unanimous consent that the text of the amendment may be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 643

TITLE VIII—INCOME TAX CREDIT FOR POLITICAL CONTRIBUTIONS

SEC. 801. ALLOWANCE OF CREDIT.

Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by renumbering section 41 as 42, and by inserting after section 40 (as added by section 701(a) of this Act) the following new section:

"SEC. 41. POLITICAL CONTRIBUTIONS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to one-half of so much of the political contributions as does not exceed $50, payment of which is made by the taxpayer within the taxable year.

"(b) LIMITATIONS.—

"(1) MARRIED INDIVIDUALS.—In the case of a joint return of a husband and wife under section 6013, the credit allowed by subsection (a) shall not exceed $25. In the case of a separate return of a married individual, the credit allowed by subsection (a) shall not exceed $12.50.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property).

"(3) VERIFICATION.—The credit allowed by subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"(c) DEFINITIONS.—For purposes of this section—

"(1) POLITICAL CONTRIBUTION.—The term 'political contribution' means a contribution or gift of money to—

"(A) an individual who is a candidate for nomination or election to any Federal, State, or local elective public office in any primary, general, or special election, or in any National, State, or local convention or caucus of a political party, for use by such individual to further his candidacy for nomination or election to such office;

"(B) any committee, association, or organization (whether or not incorporated) organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any Federal, State, or local elective public office, for use by such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to such office;

"(C) the national committee of a national political party;

"(D) the State committee of a national political party as designated by the national committee of such party; or

"(E) a local committee of a national political party as designated by the State committee of such party designated under subparagraph (D).

"(2) CANDIDATE.—The term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) has publicly announced that he is a candidate for nomination or election to such office; and

"(B) meets the qualifications prescribed by law to hold such office.

"(3) NATIONAL POLITICAL PARTY.—The term 'national political party' means—

"(A) in the case of contributions made during a taxable year of the taxpayer in which the electors of President and Vice President are chosen, a political party presenting candidates or electors for such offices on the official election ballot of ten or more States, or

"(B) in the case of contributions made during any other taxable year of the taxpayer, a political party which met the qualifications described in subparagraph (A) in the last preceding election of a President and Vice President.

"(4) STATE AND LOCAL.—The term 'State' means the various States and the District of Columbia; and the term 'local' means a political subdivision or part thereof, or two or more political subdivisions or parts thereof, of a State.

"(d) CROSS REFERENCES.—

"For disallowance of credits to estates and trusts, see section 642(a)(3)."

SEC. 802. CLERICAL AND TECHNICAL AMENDMENTS.

(a) The table of sections for subpart A of part IV of subchapter A of Chapter 1 is amended by striking out the last item and inserting in lieu thereof

"Sec. 41. Political contributions.

"Sec. 42. Overpayments of tax.".

(b) Section 642(a) (relating to credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(3) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the credit against tax for political contributions provided by section 41."

SEC. 803. EFFECTIVE DATE.

The amendments made by sections 801 and 802 shall apply to taxable years ending after December 31, 1971, but only with respect to political contributions, payment of which is made after such date.

AMENDMENT NO. 644

(Ordered to be printed and to lie on the table.)

Mr. NELSON. Mr. President, I submit an amendment to H.R. 10947.

This amendment would provide a major stimulus to consumer spending in 1972.

The amendment would give everyone filing a joint return a $100 tax cut—tax credit—in 1972. Those filing a nonjoint return would receive a $50 cut. This would be in addition to the personal tax cuts in the House-passed bill—H.R. 10947.

This proposal would cost the Treasury $4.85 billion in 1972. These funds would have a quick impact on the economy since the tax credit could be taken into account in computing withholding. Consumers would receive increased spending money starting January 1.

The following tables show the effect of this proposal on different kinds of families.

Table I shows that in almost every case, the tax credit proposal more than doubles the consumer tax relief in the committee bill. Thus, a family of four earning $7,500 receives a $75 tax cut as a result of the committee bill, and $100 from the tax credit. The single individual earning $10,000 receives $36 from the committee bill and $50 from the tax credit. Table I also shows that the tax credit gives relatively larger tax cuts to people in the lower- and middle-income brackets.

Table II compares the tax relief resulting from the $100 tax credit with that from an increase in the personal exemption to $900. These alternatives are compared because their cost is roughly equal—the $100 tax credit would cost $4.85 billion in 1972, whereas increasing the exemption to $900 would cost $5.14 billion a year. Table II shows that the $100 tax credit proposal would give a bigger tax cut at the lower-income levels than the exemption increase.

Table III compares the tax relief in 1972 going to taxpayers in the different income categories as a result of the $100 tax credit and of the exemption increase from $700 to $750. This table again shows that relatively more of the tax credit goes to low- and moderate-income people. Thus, 49 percent of the tax credit goes to taxpayers earning $10,000 or less, whereas 39.7 percent of the revenue from the exemption increase goes to this group.

I ask unanimous consent that the tables be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—$100 TAX CUT PROPOSAL

MARRIED COUPLE, 2 DEPENDENTS, 1972

Adjusted gross	Present law	Committee bill	$100 tax cut (percent)
3,000			
4,000	28		
5,000	170	98	(100)
7,500	561	484	384 (21)
10,000	962	905	805 (11)
12,500	1,371	1,309	1,209 (8)
15,000	1,864	1,820	1,720 (5)
17,500	2,435	2,385	2,285 (4)
20,000	3,060	3,010	2,901 (3)
25,000	4,296	4,240	4,140 (2)

MARRIED COUPLE, NO DEPENDENTS, 1972

Adjusted gross	Present law	Committee bill	$100 tax cut [1] (percent)
$3,000	84	28	
$4,000	230	170	[2] 70(59)
$5,000	386	322	222(31)
$7,500	820	753	653(13)
$10,000	1,228	1,190	1,090 (8)
$12,500	1,677	1,628	1,528 (6)
$15,000	2,172	2,150	2,050 (5)
$17,500	2,785	2,760	2,660 (4)
$20,000	3,428	3,400	3,100 (3)
$25,000	4,732	4,700	4,600 (2)

[1] The credit would be in addition to the committee bill.
[2] This column gives the $100 tax cut as a percentage of the tax liability under the committee bill.

SINGLE PERSON, 1972

Adjusted gross	Present law	Committee bill	$100 tax cut (percent)
2,000	42		
3,000	193	138	88(35)
4,000	367	302	252(16)
5,000	557	491	441(10)
7,500	1,058	995	945 (5)
10,000	1,566	1,530	1,480 (3)
12,500	2,104	2,059	2,009 (2)
15,000	2,717	2,703	2,653 (2)
17,500	3,458	3,443	3,993 (1)
20,000	4,272	4,255	4,205 (1)
25,000	5,914	5,895	5,845 (1)

TABLE II.—FEDERAL INDIVIDUAL INCOME TAX BURDEN, 1972 COMMITTEE BILL, $900 EXEMPTION PROPOSAL, AND $100 TAX CREDIT PROPOSAL

MARRIED COUPLE, 2 DEPENDENTS

Adjusted gross income	Committee bill	$900 exemption [1]	$100 tax credit [2]
$5,000	$98	$14	0
$7,500	484	386	$384
$10,000	905	791	805

MARRIED COUPLE, NO DEPENDENTS

$5,000	$322	$275	$222
$7,500	753	686	653
$10,000	1,190	1,133	1,090

TABLE II.—FEDERAL INDIVIDUAL INCOME TAX BURDEN, 1972 COMMITTEE BILL, $900 EXEMPTION PROPOSAL, AND $100 TAX CREDIT PROPOSAL—Continued

SINGLE PEOPLE

Adjusted gross income	Committee bill exemption [1]	$900	$100 tax credit [2]
$3,000	$138	$115	$88
$5,000	491	462	441
$7,500	995	963	945
$10,000	1,530	1,494	1,480

[1] Cost: $5,146,000,000 (at 1971 income levels).
[2] Cost: $4,850,000,000 (at 1971 income levels).

TABLE III.—DECREASE IN INDIVIDUAL INCOME TAX LIABILITY

[Dollar amounts in millions]

Adjusted gross income	At 1971 income levels resulting from—Advancing 1973's $750 exemption to 1972 [1] Amount	Percent	$100 tax credit proposal, 1972 Amount	Percent
0 to 3,000	$44	2.4	$145	3.0
3,000 to 5,000	126	7.0	476	9.8
5,000 to 7,000	179	9.9	632	13.0
7,000 to 10,000	370	20.4	1,123	23.2
10,000 to 15,000	543	30.4	1,426	29.4
15,000 to 20,000	267	14.8	614	12.7
20,000 to 50,000	231	12.8	389	8.0
50,000 to 100,000	39	2.2	38	.8
100,000 plus	11	.6	9	.2
Total	1,811	100.0	4,852	100.0

[1] As in the committee bill (H.R. 10947).

Some form of stimulus to consumption is badly needed.

The tax package passed by the House is not nearly stimulative enough. Consumers receive a tax cut of $3.2 billion, but this is a drop in the bucket compared to present after-tax personal income of $750 billion.

Moreover, the $3.2 billion figure is misleading. For in 1972, a $3 billion social security tax increase is scheduled to take place. Table IV compares this tax increase to the tax cuts in the Committee bill. The table shows that for every category from $9,000 to $20,000, the social security tax increase more than cancels out the tax cut in the Committee bill.

TABLE IV.—INDIVIDUAL INCOME AND SOCIAL SECURITY TAX CHANGES, FAMILY OF FOUR, 1972

Adjusted gross income	1972 tax reduction in committee bill	Social security tax increase, 1972 [1]
3,000		
5,000	72	
7,500	77	
9,000	55	62
10,000	57	62
12,500	61	62
15,000	44	62
20,000	50	62
50,000	100	62

[1] The social security tax base increases from $7,800 to $9,000. The tax rate remains at 5.2 percent.

The corporations receive a real tax cut. If we add the investment credit to the accelerated depreciation system (ADR) and the DISC proposal, it comes to about a 20 percent tax cut—the largest cut in one year in American history.

But with business operating at 72 percent of capacity, few people believe that these business tax cuts will have much short-term impact on the economy. The surveys of businessmen support this conclusion.

Recently, 605 randomly-selected members of the American Economic Association were asked to give their views on the President's economic program. 61 percent were in favor of the program; 66 percent felt that it would reduce inflation; but only 27 percent believed it would reduce unemployment.

The opinion of these economists is fully borne out by the statistics for the July–September quarter. GNP (in real terms) grew at an annual rate of 2.9 percent (see table V).

TABLE V.—GROWTH (IN REAL TERMS) OF GNP AND CONSUMPTION, 1968–71

[In percent]

Year	GNP	Consumption
1968	4.9	5.2
1969	2.8	3.4
1970	−.4	2.0
1971:		
1st quarter	7.7	9.0
2d quarter	4.8	6.2
3d quarter	2.9	3.6

Since the economy must grow by at least 4 percent every year simply to keep up with productivity and the growth of the labor force, the third quarter performance can only mean one thing: more unemployment.

The amendment I am proposing today would give a $4.8 billion boost to consumer spending—more than double that contained in the Committee bill.

As a measure to encourage spending, it has a number of significant virtues.

First, it is a temporary tax cut. It would only apply to 1972, and thus would not further erode the federal tax base. Table VI shows that H.R. 10947 already cuts federal revenues by $109 billion over the next 10 years—money that is badly needed for welfare reform, better medical care, fiscal relief for state and local governments, and many other priority needs.

TABLE VI.—DISTRIBUTION OF REVENUE LOSS, REVENUE ACT OF 1971 (H.R. 10947)

[Billions of dollars]

Calendar year	Total business	Total individuals	Excise [1]	Total revenue loss
1971	$2.2	$1.3	$0.9	$4.4
1972	5.4	3.2	2.6	11.2
1973	6.5	1.1	2.3	9.9
1974	7.3	1.1	2.2	10.6
1975	8.2	1.2	2.3	11.7
1976	8.8	1.2	2.4	12.4
1977	8.8	1.3	2.5	12.6
1978	8.9	1.3	2.0	12.2
1979	9.3	1.4	1.6	12.3
1980	9.6	1.4	1.2	12.2
Total	75.0	14.5	20.0	109.5

[1] These estimates reflect revenue changes over those which would have occurred under existing law.

Second, it is progressive. Half the money would go to people earning less than $10,000. Since these people save relatively little, the boost to spending would be considerable.

Third, it is simple. It would be easy to administer. Its effect would be felt quickly. Moreover, it does not create one of those new tax incentives that invariably tend to become popular tax loop-holes.

The American economy can not stand another year of stagnation. The American people deserve better. This proposal will bring tax relief where it is most needed, and thus help to return us to full employment and prosperity.

AMENDMENT NO. 645

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENTS NOS. 646 THROUGH 649

(Ordered to be printed and to lie on the table.)

Mr. MONDALE submitted four amendments intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENT NO. 650

(Ordered to be printed and to lie on the table.)

Mr. MONDALE (for himself and Mr. BROOKE) submitted an amendment intended to be proposed by them, jointly, to the bill (H.R. 10947), supra.

AMENDMENT NO. 651

(Ordered to be printed and to lie on the table.)

Mr. GURNEY. Mr. President, today I am submitting an amendment to H.R. 10947, the Revenue Act of 1971. My amendment embodies basically the same provisions that are contained in my social security and medicare improvements bill, S. 2512.

The amendment consists of three basic parts: Part A contains provisions relating to old age, survivors, and disability insurance; part B contains provisions relating to medicare, medicaid, and material and child health; part C contains provisions relating to welfare.

I do not believe anyone can deny the absolute necessity of passing some social security and medicare legislation in this Congress.

The history of this area of legislation does not cast credit on the Congress. In past years needed reforms were held hostage to other and unpopular provisions. Rather than proving the savior, social security reforms died.

Once again this session, all important social security reforms have been attached to controversial provisions such as the family assistance plan.

My hope in introducing earlier in this session, S. 2512, which contains substantially similar provisions to this amendment was that by freeing these provisions from the family assistance plan we could at least get on with the correction of an unconscionable postponement of social security reform.

The provisions contained in this amendment are not controversial. Virtually all of them have been treated favorably by the Senate in the past.

The amendment provides firstly for a 5-percent increase in benefits, effective July 1, 1972. Additionally, it removes some of the political football aspects of social security by granting to the Secretary of Health, Education, and Welfare the authority to increase benefits when rises in the cost of living occur.

Also, the amendment provides for an increase in widow's benefits from the present amount of 82.5 percent of a deceased husband's benefits to an amount equal to 100 percent of those benefits. In view of the actuarial fact that the life expectancy of women is longer than that of men, this provision assumes great importance. There are today thousands and thousands of widows across this Nation suffering from this unfair provision.

Taken together, these provisions would mean that a widow who presently receives $146.70 a month in social security would receive an additional $8.80 a month from the 5-percent benefit increase and an extra $31 per month in widow's equity. The total of $39.90 per month represents over a 20-percent increase in benefits.

The amendment also provides an age 62 computation point for men. This provision will allow a man to have his social security benefits computed on the same basis as those of a woman. Present law allows women an age 62 computation point, while giving men an age 65 computation point. The result is that a woman with precisely the same earnings record as a man would draw benefits approximately 8 percent higher than a man. This amendment provides equal benefits for equal earnings.

Another sore spot for many of our social security annuitants has been the earning limitation set at $1,680 per year; this limitation deters a retiree from continuing to lead a productive life. I have long felt that we should do away with this earnings limit altogether, and my bill S. 2512 contains a provision to raise the earnings limit to $3,000. In view of the fact that this $3,000 earnings limit has not been acted upon by the Finance Committee or the Senate, and in line with my hope that we can limit this amendment to noncontroversial items, I have lowered the figure from the $3,000 per year in S. 2512 to $2,400 in this amendment. This is the figure the Senate approved last year, and I am sure the Senate can agree on it again.

This amendment also provides entitlement to a child's insurance benefits based on a disability which began between age 18 and 22; continuation of child's benefits through the end of a school semester; and improvements in children's benefits in case of children entitled on more than one wage record.

This amendment also provides for a reduction in the waiting period for disability benefits. In my bill, S. 2512, we had reduced the waiting period to 4 months. I have in this amendment set a period of 5 months in order that there might be agreement.

Under present law, a person who becomes disabled must wait 6 months from the time he notifies the Social Security Administration of his disability to the date he can begin to draw benefits. The benefits are not retroactive, and a 6-month wait before one can begin being compensated for the benefits rightly due is entirely too long. In reducing the waiting period to 5 months, we are in effect granting a month of benefits over and above that provided by present law.

The remainder of part A of this amendment is comparable to provisions which were agreed upon in the Senate last year. These additional changes were added to this amendment in order to take care of several minor, but necessary changes in social security law, which would otherwise call for additional legislation.

Part B of my amendment contains provisions relating to medicare, medicaid, and maternal and child health. Virtually every provision was included in H.R. 17550, which was approved by the Senate last December. The only major change from the previous legislation is the provision for medicare coverage for the disabled. Surely we all realize the difficulty those who are disabled have in finding insurance in the private sector.

Subpart 2 of this part provides improvement in the operating effectiveness of the medicare program. Among other things, it provides for experimental and demonstration projects to develop incentives for economy in the provision of health services. This section will give us a vehicle whereby we may test out new money-saving plans, before they are applied to a system as large as medicare.

Part B provides a limitation on coverage of costs under medicare, limits prevailing charge levels, and payments to health maintenance organizations.

Another important section allows for equitable payment under medicare for services of physicians rendered in a teaching hospital. This amendment has previously been approved by the Senate along with the other.

Part B of this bill also establishes a provider reimbursement review board. This provision is to be established to check the medicare providers in each State. Presently there is no appeal from the decision of the insurance company which happens to be handling the medicare accounts for a specific State. This board will provide a much needed appeal mechanism.

Subpart 3 of part B improves the means of providing physical therapy services and other therapy services under medicare. This provision allows physical therapy services to be given by a registered physical therapist in a home or in an office. It will assist the patient in paying for these necessary services and is overdue.

The amendment further provides for an extension of the grace period for termination of medical insurance coverage where the failure to pay premiums is due to good cause. I have many instances in my files of elderly persons, living alone, who forgot or were unable to pay their premium. This provision gives the Social Security Administration a little leeway before withdrawing coverage, in order to allow for these occasional difficulties.

This amendment also adopts the provision of the professional standard review organization developed by the distinguished senior Senator from Utah (Mr. BENNETT). This approach appears to be the most feasible and professional means of bringing commonsense into medicare and medicaid.

Simplified reimbursement of extended care facilities, and the use of consultants for ECFS are also permitted.

In deference to the President's recent criticism of the care in many of our nursing homes, I have added a provision included by the Senate Finance Committee in last year's social security bill. This provision allows for public access to records concerning an institution's qualification. This means that should an institution fail to meet medicare qualifications, and fail to correct itself within 90 days, the fact that the institution is not qualified shall be made public. Such public access to these records is desirable if we are to maintain our good nursing homes, and raise the quality in some of our poorer institutions.

Part C of the amendment contains provisions relating to welfare. Once again, my files are full of letters from persons in my own State of Florida who see their social security benefits increased by 10 percent, only to find their welfare benefits, their aid to the aged, blind, and disabled benefits, lowered by an equal amount. These people who are receiving aid from two sources find themselves no better off after a social security increase than they were before it came about. One section of my amendment provides in effect, that should an individual receive an increase in social security benefits, the State may not reduce his welfare or aid to the aged benefits by the same amount. The Federal Government will pay the additional cost for the States.

In summary, I would like to say that I have kept this bill as completely noncontroversial as I can. Basically it contains only two major provisions that have not already been passed unanimously here in the Senate: a 5-percent social security benefit increase, and an inclusion of the disabled under medicare. We cannot any longer put off absolutely vital changes in the social security system while our elderly and disabled are biding time without enough money, and without enough services. We cannot delay any longer that which we have already delayed for 2 years. We must get on with the business of making our social security system more equitable.

AMENDMENT NO. 652

(Ordered to be printed and to lie on the table.)

Mr. RIBICOFF. Mr. President, on behalf of Senators JAVITS, PELL, and myself, I introduce a much needed amendment to H.R. 10947, the Revenue Act of 1971.

During consideration of this legislation, the Senate Finance Committee repealed the 10-percent excise tax on light trucks. In order to replace the resulting loss of funds to the highway trust fund, the committee directed that 7 percent of all the revenues from Federal alcohol taxes—approximately $350 million per year—be diverted to that fund.

When H.R. 10947 becomes the pending business, a motion will be made to strike this provision which I shall support. However, in the event that such a motion fails, we shall call up our amendment which provides that such funds are to be used by the Secretary of Transportation to develop and support urban mass transportation programs.

This amendment would help correct a great distortion in our present transportation systems. While the highway trust fund continues to have a surplus, our rail passenger and mass transit systems are dying.

Millions of Americans depend upon and want clean, efficient rail transportation systems. Our amendment would help meet this need.

ALCOHOL AND TRANSPORTATION

Mr. PELL. Mr. President, I understand that a provision of the upcoming tax bill will divert the revenue from the excise tax on alcohol to the highway trust fund.

While there is some logic, I suppose, in using revenue from alcohol to make roads safe for drunken drivers, I believe it would make more sense to use that revenue to take drunken drivers off the road and to have them use mass transit where the driving is not left to them.

Moreover, I am concerned about the

already existing surpluses in the highway trust fund and the parallel shortage of funds for urban mass transportation.

Consequently, I am joining with Senator RIBICOFF in sponsoring an amendment to allow the alcohol revenues to also be used for mass transportation.

Mr. JAVITS. Mr. President, the States and local governments and indeed the country itself are strapped with fiscal problems. At such a time, especially, I do not think it appropriate for moneys from the general fund of the Treasury, raised in this instance from taxes on alcohol, to be transferred to the already bulging highway trust fund. These moneys are needed urgently for some of the other critical problems we face. For this reason I have joined with Senator PERCY in an effort to delete that provision of the tax bill—H.R. 10947—which would authorize 7 percent of the alcohol taxes to be transferred permanently into the highway trust fund without any specific direction on how the moneys are to be spent.

In addition, Senator RIBICOFF and I are introducing an amendment which we will call up if the amendment to delete the alcohol provision fails. This amendment would require that the moneys from the alcohol taxes transferred into the trust fund be used on urban mass transit facilities and commuter lines, that is, to further the aims of the Urban Mass Transportation Acts of 1964 and 1970. Certainly this is one of those critical uses to which general revenues should be put.

The country is facing a mass transportation crisis. In New York State we are at a moment when we face a very real fiscal crisis and, in New York City, serious jeopardy to the subway system because of the failure to pass the transportation bond issue 2 weeks ago. This amendment may add a measure of assistance to New York City and other urban areas in a similar situation.

AMENDMENTS NOS. 653 AND 654

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENT NO. 655

(Ordered to be printed and to lie on the table.)

Mr. SPARKMAN (for himself, Mr. ALLEN, Mr. BAKER, Mr. MCCLELLAN, and Mr. TALMADGE), submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10947), supra.

AMENDMENT NO. 656

(Ordered to be printed and to lie on the table.)

Mr. MILLER submitted an amendment intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENT NO. 657

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself, Mr. JAVITS, Mr. WEICKER, Mr. MCGOVERN, Mr. NELSON, Mr. HARTKE, Mr. KENNEDY, and Mr. RIBICOFF), submitted an amendment intended to be proposed to the bill (H.R. 10947), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 533

At the request of Mr. JAVITS, the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of Amendment No. 533, to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 628

At the request of Mr. MAGNUSON, the Senator from Michigan (Mr. HART), and the Senator from Minnesota (Mr. MONDALE) were added as cosponsors of Amendment No. 628, to the bill (H.R. 10947), supra.

NOTICE OF HEARINGS ON THE OFFENDER REHABILITATION ACT

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee's Subcommittee on National Penitentiaries, I wish to announce hearings for the consideration of S. 2732, the Offender Rehabilitation Act, beginning at 10 a.m. on November 18, 1971, in room 6206 of the New Senate Office Building.

The purpose of this legislation is the quieting of old criminal records that serve as a barrier to the employment of rehabilitated first offenders. I believe it represents a vital step needed to begin facing the problem of recidivistic crime in our Nation.

This is the first scheduled hearing on this legislation, and I would anticipate that several additional days will be necessary to carefully consider this proposed legislation. These additional days will be scheduled as time permits.

Any person who wishes to testify or submit a statement for inclusion in the RECORD should communicate as soon as possible with the Subcommittee on National Penitentiaries, room 6306, New Senate Office Building.

CORRECTION OF HEARING ANNOUNCEMENT

Mr. RIBICOFF. Mr. President, the Committee on Government Operations will hold public hearings on S. 1430, a bill to establish a Department of Community Development on November 16, 17, and 18, 1971. The hearing will begin at 10:30 a.m. on Wednesday, November 17, instead of the time reported in yesterday's RECORD. On both November 16 and 18 the time remains as previously announced, 10 a.m. They will be held in room 3302, New Senate Office Building, all 3 days.

ADDITIONAL STATEMENTS

RELIGIOUS LIBERTY ALIVE AND WELL AFTER HOUSE VOTE

Mr. ERVIN. Mr. President, I was extremely pleased to learn Monday afternoon of the abundant courage and infinite wisdom displayed in the House by its vote on House Joint Resolution 191, the so-called prayer amendment. The vote defeating that proposed amendment echoed the venerable and fundamental truth that religious freedom cannot exist where the State controls religion and that political freedom cannot exist where religion controls the State.

Many of the brave men and women who settled this land came here specifically to escape from crown-imposed religious doctrine and practice. They longed ardently for freedom of belief and worship and risked their lives to secure the simple right to bend their own knees and raise their own voices to their own God in their own way. That right was soon established in America, and the wise men who framed our Constitution sought to preserve it for posterity by making religious freedom a keystone of the Bill of Rights. The religious liberty guarantee of the first amendment was intended to insure forever that the state would not undertake to control religion and that religion would not undertake to control the state.

The recently proposed constitutional change, so wisely laid to rest by the House on Monday, would have fundamentally altered our hard won and traditional principle of separation of church and state. As presented to the House, the amendment said:

> Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer.

That language was avowedly designed to circumvent several Supreme Court rulings which I fear have been greatly misunderstood. In reality those decisions did nothing more than prohibit the state from requiring students in public schools to recite prayers dictated by the state. They did not prohibit any person from making a voluntary prayer according to his own creed.

The proposed amendment, however, would have impliedly prohibited any person in any public school or other public building from saying a denominational prayer. Hence, it would have impliedly prohibited Protestants from saying Protestant prayers, Catholics from saying Catholic prayers, Jews from saying Jewish prayers, and Mohammedans from invoking the aid of Allah. It would even have prevented one from voluntarily praying the Lord's Prayer because that is a prayer which has been adopted by the various denominations which call themselves Christian.

In addition, the proposed amendment undoubtedly would have led to the widespread institution of compulsory prayer ceremonies in the public schools. While compulsory school prayer could certainly be accomplished by constitutional amendment, I believe such a step would deal a mortal blow to the principle of religious liberty. Those of us in the Senate who have worked over the years to preserve that principle owe the House an enthusiastic vote of thanks for maintaining a vital tradition of more than 180 years.

Mr. President, I was delighted to learn a few days ago that my views on the prayer amendment are in harmony with those of Prof. Philip B. Kurland, of the University of Chicago Law School. His lucid comments on this subject appeared in the Los Angeles Times of October 31. I ask unanimous consent his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ON SCHOOL PRAYER—A THREAT TO RELIGION

(By Philip B. Kurland)

Certainly the American people can, by constitutional processes, choose to allow compulsory prayer ceremonies in their public schools. That is what the proponents of the constitutional amendment now pending in the House of Representatives are seeking to accomplish.

But before the American people or their representatives make that choice, they ought to be informed of the issues so that the choice may be a reasoned one and not simply a matter of emotional response to irresponsible rhetoric. The question is not whether we "restore God to the classroom."

The proposed amendment, House of Representatives Joint Resolution 191, is itself short if not clear. It reads: "Nothing contained in this Constitution shall abridge the rights of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in nondenominational prayer."

While the language is vague, its apparent purpose is to permit schools to impose a requirement of prayer ceremonies on students, although it could be interpreted to allow students who dared to do so to remove themselves from the company of their fellows while such school exercises took place. There is also a negative pregnant in the proposed language that could expand the present constitutional inhibition. Should the amendment become law, *denominational* prayers in legislative halls and executive mansions would become at least constitutionally suspect.

The reason for the existent constitutional rule that now prevents such school ceremonies was stated by Mr. Justice Frankfurter in his opinion in McCollum v. Board of Education.

"The secular public school did not imply indifference to the basic role of religion in the life of the people, nor the rejection of religious education as a means of fostering it. The claims of religion were not minimized by refusing to make the public schools agencies for their assertion. The non-sectarian or secular public school was the means of reconciling freedom in general with religious freedom. The sharp confinement of the public schools to secular education was a recognition of the need of a democratic society to educate its children, insofar as the State undertook to do so, in an atmosphere free from pressures in a realm in which pressures are most resisted and where conflicts are most easily and bitterly engendered.

Designed to serve as perhaps the most powerful agency for promoting cohesion among a heterogeneous democratic people, the public school must be kept scrupulously free from entanglement in the strife of sects. The preservation of the community from divisive conflicts, of Government from irreconcilable pressures by religious groups, of religion from censorship and coercion however subtly exercised, requires strict confinement of the State to instruction other than religious, leaving to the individual's church and home, indoctrination in the faith of his choice.

But, say the supporters of the proposed amendment, these defects implict in the utilization of the public academy for instilling religious faiths are not relevant to the proposed amendment. First, they say, because there is no coercion on the public school student authorized by the amendment. Second, they say, because the only prayers authorized are "nondenominational" prayers, thereby eliminating fear of sectarian conflict.

Neither answer is accurate. There is coercion and there is an invitation to sectarian strife. For we must remember that if public education is free it is also compulsory except that students may attend private schools, most of which, at the elementary and high school level, are religiously controlled.

The coercion may be more subtle than physical compulsion to be present during the engagement in these exercises. As the same justice pointed out in the same case:

"That a child is offered an alternative may reduce that constraint; it does not eliminate the operation of influence by the school in matters sacred to conscience and outside the school's domain. The law of imitation operates, and non-conformity is not an outstanding characteristic of children . . ."

That there will be sectarian strife is almost as readily assured. What is a "nondenominational prayer"? Who will frame it? What religions can accommodate their teachings to it? As the American Council on Education noted some years ago: "The notion of a common core suggests a watering down of the several faiths to the point where common essentials appear. This might easily lead to a new sect—a public school sect—which would take its place alongside the existing faiths and compete with them." Do we want a state religion? No one reading today's newspaper headlines should think so.

At least some leaders of some of the churches recognize the dangers and deplore the possibilities of "nondenominational prayer." In 1962, Father Gustave Weigel, a learned Catholic student of the problem, pointed out: "The moral code held by each separate religious community can reductively be unified, but the consistent particular believer wants no such reduction."

And the official magazine of the United Presbyterian Church said at the same time: "If you have faith-in-general, you have no faith to speak of. Faith has to be something-in-particular. A nondenominational prayer is doomed to be limited and circumscribed. If prayer starts soaring, it starts to be controversial, which is the one thing a nondenominational prayer dares not to be."

The Supreme Court, in the Vitale case, which the proposed amendment seeks to overturn, said: "It is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government."

Are the American people, who have already turned over control of so much of their activities to government, prepared to reject this precept about the proper role of government in specifying religious activities? Thoughtful evaluation rather than visceral reaction suggests that the Vitale rule is one of the bulwarks of America's freedom from the ills that continue to plague those countries where "toleration" rather than "freedom" is the guide to government action in the field of religion.

If, as has been suggested, the churches are losing their holds on the minds and hearts of young Americans, they will not be succored by rote recitations of "nondenominational" prayers which can reflect neither the words nor the spirit nor the teachings of any religion. "Nondenominational" prayer will not "restore God" to the classroom; it will degrade religion not exalt it.

If this is what the American people want, but only then, they should support the proposed amendment. If they have any notion of the real meaning of religious belief and our history of developing religious freedom, they will recognize the proposed amendment as antireligious, not pro-religious.

At best, the proposed amendment invites state-imposed religious dogma and religious strife; at worst, it assures them.

NATIONAL BIBLE WEEK— NOVEMBER 21–28

Mr. GAMBRELL. Mr. President, November 21–28 is National Bible Week throughout the United States, and I think it is certainly appropriate that it coincide with the Thanksgiving season.

America has much to be thankful for, not the least being our Judeo-Christian heritage as described in the Bible. Through story and lesson, the eternal truths of men and nations are revealed in the pages of the Old Testament. The New Testament has taught us better to live with others and ourselves.

In the South, we are especially at home with the Bible, and the "Bible Belt" is a name we are not ashamed to have earned.

National Bible Week will refocus the need for each of God's children to draw on the Bible, to share it with others, and to grow together in the understanding of its treasures.

I urge all Americans to observe National Bible Week as they celebrate Thanksgiving. We will all be richer for the experience.

CANCER RESEARCH CENTER, FORT DETRICK, MD.

Mr. SCOTT. Mr. President, a historic decision was reached late last month when President Nixon dedicated the onetime biological warfare research center at Fort Detrick, Md., as a cancer research center. The full utilization of the exceptional facility for peacetime purposes is a trend that I hope can be continued in other areas. Maryland's Senators CHARLES MATHIAS and J. GLENN BEALL saw the logic of this conversion sometime ago and pressed for favorable consideration. They have been successful. Their farsightedness has been credited by newspaper editorials throughout the area. Mr. President I ask unanimous consent that these editorials be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, Oct. 22, 1971]

DETRICK'S NEW MISSION

To hear President Nixon explain it the other day, nothing could be more logical than the conversion of Fort Detrick, Maryland, from biological warfare research to a shiny new focal point of cancer research. And that's the case.

Up to the point of the national moratorium on biological weaponry development a couple of years ago, about $185 million of the taxpayers' money had been spent on sophisticated laboratories and equipment, of which some $100 million worth could be easily adapted to cancer research. That consideration alone, as the President seemed to imply on his visit to Detrick this week, was enough to convince anyone of the common sense of the switch.

Don't believe it. Maryland Senator Mathias, joined later by Senator Beall, saw the logic

from the outset, and almost no one else did. The National Institutes of Health, encapsulated in its campus greenery in Bethesda, never cottoned to the idea of a research satellite way out there in Frederick. Besides, Detrick, while moribund, remained under military control, and what respectable scientist wanted to embroil himself in *that* kind of messy tenant-landlord relationship. Downtown, meanwhile, the budget brains of the administration tended to view the whole proposition as another spending obligation to be avoided.

Two developments, however, turned things around. More and more scientists came to the view that if Detrick's labs weren't converted to cancer research, they would have to be duplicated elsewhere at far beyond their initial cost. Then, last January, came Mr. Nixon's pledge to make the cancer fight an all-out effort. With that, prodded by Mathias and Beall, the bureaucratic apathy began to crack up.

The research, as outlined by the President, will heavily involve microbiology, including virus research for which the safety-oriented labs are especially adapted. The spending, under private contracts, ultimately will exceed $15 million, involving some 600 researchers.

The thought persists, though, that it might not have happened but for the perseverance of Mathias and Beall, who were motivated in the first place by the problem of job losses among their unemployed Frederick constituents. As things turned out, a greater debt is owed them by the nation's citizens as a whole.

[From the Baltimore News-American, Oct. 19, 1971]

FORT DETRICK

Marylanders are naturally pleased at President Nixon's announcement that Fort Detrick will be converted into a center for cancer research because it means the facility will remain an important part of the economy in that part of the state.

Even more pleasant is the realization that Fort Detrick, once a center of research into ways of disabling or killing human beings, will be known henceforth as a place where scientists work to prolong life.

The reversal of roles will increase the value of Fort Detrick as a Maryland asset, one which harmonizes with Johns Hopkins University medical institutions, the University of Maryland School of Medicine, the National Institutes of Health at Bethesda and other components of the state's medical research industry.

Sens. Charles McC. Mathias and J. Glenn Beall Jr., R-Md., along with members of the Maryland delegation in the House of Representatives, worked tirelessly to convince their colleagues and the administration that Fort Detrick was worth saving.

They were successful. Maryland will be the better for their effort—and so will victims of the dread disease who will benefit from the work at the new Fort Detrick.

[From the Thurmont (Md.) Catoctin Enterprise, Oct. 22, 1971]

HATS OFF TO MATHIAS, BEALL, AND BYRON

If any credit is to be given to any single personality or any group of individuals for the successful achievement of rescuing Frederick's Fort Detrick from oblivion, it should go without question to Maryland's two United States Senators, Charles McC. Mathias and J. Glenn Beall and their colleague in the United States House of Representatives, Frederick's own Goodloe E. Byron. These three men have worked indefatigably to influence whatever authorities might have any part in determining the future of the former bacteriological warfare installation and to bring pressure wherever possible upon those upon whom the ultimate decision would finally rest, even the President of the United States. The many millions of dollars which have heretofore, annually poured into the Frederick community as a result of the employment of the personnel at the post, many of them highly skilled and highly paid individuals, might have been irretrievably lost had it not been for the herculean efforts of these three stalwart sponsors of keeping the facility open and converting it to an even more useful purpose is serving the cause of humanity.

President Nixon is to be congratulated for his eventual determination that the potential benefits of this multi-million dollar installation should not be abandoned and charged off as a total loss. But it is to these three men, who never lost hope in their continuing campaign for salvaging Detrick, that the local community as well as the general public owes a debt of gratitude and profound thankfulness for saving the situation. It is doubtful if another opportunity will be presented them during their terms of office for a genuine service to their constituents of equal value to this one they have now accomplished.

[From the Frederick (Md.) News, Oct. 18, 1971]

WELCOME, MR. NIXON!

Without speculating on what President Nixon's announcement will be today concerning Fort Detrick and its future . . . which is another way of saying Frederick and its future, all of Frederick County welcomes this visit by the President of the United States to Frederick.

Naturally, we join with all residents of the county and the state in anticipation of an announcement which will launch this impressive research facility into a new era of service to this nation and to mankind in general.

We cannot agree with recent statements in metropolitan newspapers that Detrick's was an "infamous past." On the contrary, Fort Detrick had a mission and performed that mission well.

Who is there to say that had it not been for Detrick's outstanding record in biological warfare that this nation would be free today?

Who is there to say that without the success of Fort Detrick in its—we feel—glorious past that other enemy nations may not have flexed their biological warfare muscles and wreaked havoc the globe over?

Is there anyone who will say that awesome offensive capability Detrick offered this nation in biological warfare was not the foremost deterrent to a war of germs?

We join in the statement of Sixth District Congressman Byron that—assuming that President Nixon today announces a peacetime use of Fort Detrick, such as a major role in Nixon's Conquest of Cancer Program—that the President will be speaking from a position of strength when he visits Peking and Moscow in the months ahead and is able to point to Fort Detrick as an example, and say that not only has the United States done away with its arsenal of biological warfare, but we have mobilized the entire effort toward peaceful goals for the benefit of all mankind.

Should Detrick's mission be in the area of Nixon's Conquest of Cancer, a great deal of credit should go to Maryland's two United States Senators, J. Glenn Beall Jr. and Charles McC. Mathias.

The position was well stated by Francis W. Bush Sr., past president of the Frederick County Unit of the American Cancer Society, in a letter to the Senators and President Nixon in July when he expressed the appreciation of his organization "for the vigorous and effective efforts you have expended on the nonpartisan creation of an independent agency charged with making a final breakthrough in the war on cancer.

"Your efforts have really been fruitful and the lives of thousands of present and future American citizens, as well as people throughout the world, will be lengthened and brightened when this breakthrough is made."

Bush had joined with Dr. Morris Wiesenberg, Maryland Cancer Division president, "in urging the immediate assignment of the facilities and the expert team of scientists at Fort Detrick to the Conquest of Cancer. It would be a pity to see such facilities and such a team of dedicated scientists overlooked in what is such a vital need—an immediate cure of cancer."

Sadly, much of that fine team has been dispersed, but the outstanding facilities, valued at $185 million, are in hot standby to be put to use in the Conquest of Cancer or any related effort that hopefully President Nixon will announce here today.

Welcome to Frederick, Mr. President!

[From the Hagerstown (Md.) Morning Herald, Oct. 21, 1971]

A WISE DECISION

Conversion of the former biological warfare research center at Ft. Detrick in Frederick into a centerpiece of the government's crusade against cancer should meet with general approval.

Not only will it mean that Fort Detrick facilities will still be used and the economy of Frederick not seriously impaired, but there's always the chance that a cure of the dreaded disease can finally be found.

Thus the fort's reputation for secretive and unsavory research is wiped out, and in its place will be a laboratory complex in which scientists can try to solve the mystery of a disease second only to heart ailments as the principal cause of deaths.

At one time there was little hope that Fort Detrick could be saved, but persistence paid off for Senators Mathias and Beall and Congressman Byron.

Some months ago President Nixon announced an all-out war against cancer. His trip to Frederick to announce the transition may eventually bear fruit.

[From the Gaithersburg (Md.) Gazette, Oct. 21, 1971]

FORT DETRICK

For several months there has been concern over the ultimate fate of the federal government's facility at Fort Detrick. For several years the complex had been the scene of the U.S. Army's biological warfare development, but when President Nixon took the armed forces out of that particular research program the citizens of this area wondered what was coming next.

The speculation is definitely over and much of the credit goes to Maryland's two United States Senators, both of whom are well known to Montgomery County.

Recently President Nixon, with the encouragement of Senators Beall and Mathias visited Ft. Detrick to announce the conversion of the former biological warfare center into a cancer research facility that, as reports indicated, will be a focal point of the administration's campaign to conquer cancer.

As the President stated the scientists who will work at the facility will be carrying on a different kind of warfare, a series of battles that will be waged to stamp out cancer and save lives rather than destroy them.

We commend Senators Beall and Mathias for the significant leadership roles they played in making this possible.

SOCIAL SECURITY REFORMS

Mr. MUSKIE. Mr. President, low income in retirement continues to be the number one problem confronting 20 million older Americans.

Today 4.7 million persons 65 and older fall below the poverty line, nearly 100,000 more than in 1968. More than 2 million older Americans are on welfare. And 60 percent of all elderly persons living alone are classified as poor or marginally poor.

In March, a badly needed 10-percent increase in social security benefits was approved, bringing some relief to 27 million recipients. But even with the 10-percent raise, social security benefits for the typical retired worker still fall about $300 below the poverty threshold of $1,852.

The net impact of these statistics is that older Americans are more than twice as likely to be poor as younger Americans Today 1 out of every 4 persons 65 and older—in contrast to 1 in 9 for younger individuals—lives in poverty.

But these statistics, depressing as they are, can never express in human terms what it means to live in deprivation. They can never capture the frustrations of an elderly person who did not become poor until he became old. And statistics can never convey the daily critical decisions which they must make—whether they should buy food for the table or medicine to maintain their health.

However, these statistics clearly underscore the need for major reforms in our social security program. They also demonstrate that piecemeal, stop-gap proposals are just not going to solve the retirement income crisis now affecting millions of older Americans, and threatening to engulf many more nearing retirement age. The Senate Special Committee on Aging—of which I am a member—has conclusively made the point, in its report on the "Economics of Aging," that a retirement income crisis exists, and that it is deepening. It is high time that we heed that warning.

Quite clearly, comprehensive reforms in social security are essential if the elderly are to share in the abundance, which they have worked most of their lives to create. And the House-passed social security-welfare reform proposal, H.R. 1, provides a foundation for making many of these changes. Several provisions in this measure—such as cost-of-living adjustments; full benefits for widows at age 65; a liberalization of the retirement test; significant increases in minimum monthly benefits; an age-62 computation point for men; and others—are identical or similar to proposals I have advanced.

But, today's retirement income problems cannot be solved by adding a few dollars every 2 years to the elderly's social security payments. Immediate, imaginative and far-reaching action is needed on a number of fronts to modernize social security and medicare.

HIGHER AND EARLIER BENEFIT INCREASE

The proposed 5-percent increase in the House bill, though welcome, is simply not enough for coming to grips with the retirement income problems of the aged. Moreover, the effective date for this raise is next June.

Quite clearly, a more sizable increase is essential if the elderly are to stay ahead in their desperate race with inflation. And with poverty on the rise for older Americans, a more substantial increase, I believe, is urgently needed this coming January.

For these reasons, I am proposing as I did in S. 1645—a bill which I cosponsored with the chairman of the Senate Committee on Aging, Mr. CHURCH—across-the-board benefit increases for all social security recipients. Under this measure, the social security raise would average nearly 15 percent. But it would be weighted to provide higher percentage increases for persons who need them the most—individuals with low lifetime earnings between $150 and $200 would be entitled to an increase which would average about 21-percent under my proposal. Workers with creditable monthly earning from $200 to $300 would receive approximately an 18-percent increase.

The advantages of this approach, I believe, are compelling. First, it recognizes that persons who receive low social security benefits are less likely to have other supplementary resources than higher income beneficiaries. Equally important, this measure can enable large numbers of older persons to move out of poverty without the necessity of resorting to welfare.

In terms of dollars and cents, this approach will provide an additional $130 more per year, on the average, for social security recipients than is authorized under H.R. 1.

GENERAL REVENUE FINANCING

Another major area for reform is provision for well timed and well-conceived use of general revenues. Our present method of relying almost entirely upon payroll taxes leaves much to be desired.

It places a regressive burden on today's workers because the existing tax is uniformly applied to all covered wages. As a consequence, individuals with lower wages pay a proportionately larger tax on their earnings than do higher paid persons.

A few weeks ago I introduced legislation to make the existing payroll tax more progressive and to provide greater tax relief for lower- and middle-income persons. Under this proposal, 63 million workers would pay lower taxes than they would under H.R. 1.

But steps must be initiated now to insure the future growth of our social security program. And general revenue financing can help make this goal a reality. It can also help assure that the elderly will share in our abundance and in the growth of our economy.

MEDICARE

Important as adequate social security benefits are for the elderly, we must still not overlook the drains upon their limited pocketbooks. Today a major threat to the economic security of the aged is the high cost of illness, despite the valuable protection provided by medicare.

For persons 65 and older, annual health care expenditures now average about $791—three times that for a person in the 19 to 64 age category and six times that for a youth. Older Americans now account for 27 percent of all medical expenses in the United States, although they comprise only 10 percent of our total population.

Unfortunately gaps still exist in medicare coverage. For example, medicare now covers only about 43 percent of the elderly's health care expenditures.

PRESCRIPTION DRUGS

One major gap in coverage is out-of-hospital prescription drugs. For older Americans, prescriptions average about three times as high as for younger persons. And they are six times as great for elderly individuals with severe chronic conditions, about 15 percent of all persons 65 and older.

In fact, out-of-hospital prescription drugs represent their largest personal health care cost which they must meet almost exclusively from their own resources. This cost alone accounts for approximately 20 percent of their out-of-pocket health care expenditures.

Several distinguished panels have already recommended that medicare be broadened to include this very essential expenditure for the elderly. Most recently, the 1971 Social Security Advisory Council proposed that this measure become law. For these reasons, I again urge the Senate to extend medicare coverage to include out-of-hospital prescription drugs.

The need for this coverage was also demonstrated at a recent hearing in Los Angeles before the Subcommittee on Health of the Elderly, of which I am chairman. For example, Mrs. Agnes Brewster, who is a health economist, pointed out that out-of-pocket medical payments can make a serious dent in the typical pension for a retired worker. She also added—

An unavoidable reason for the aged spending so much themselves relates to drugs, which averaged over $70 of private costs to the aged, and would be more if all who need prescribed drugs could afford to purchase them.

PART B PREMIUM

Another major out-of-pocket cost for the elderly is the $5.60 monthly premium charge for part B supplementary medical insurance. On an annual basis this amounts to $67.20 for a single person and $134.40 for an elderly couple. Moreover, this constitutes a significant expenditure for the vast majority of older Americans living on limited, fixed incomes.

Under my proposal, this premium charge would be eliminated for the elderly. Instead, this cost would be financed partially out of general revenues.

For the typical retired worker, this measure would be almost equivalent to a 5-percent boost in benefits. It would also help assure that protection under part B would be automatically available for all eligible individuals. Under existing practice, the $5.60 monthly premium charge is automatically deducted from the monthly social security check for persons who elect coverage under part B of medicare. The Social Security Advisory Council also has supported the adoption of this proposal.

NEED FOR A GENUINE NATIONAL COMMITMENT

Despite the magnitude of the retirement income problems of the aged, our Nation still lacks a genuine national commitment for dealing with this crisis.

But in this year—the year of the White House Conference on Aging—it is absolutely essential to produce this commit-

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ment if we are to develop a long-awaited national policy on aging.

The enactment of these proposals, I strongly believe, can be a major step forward in advancing toward this goal.

SPESSARD L. HOLLAND

Mr. GRIFFIN. Mr. President, I wish to join with my colleagues in expressing deep sorrow over the death of our former colleague, Florida's distinguished Senator Spessard L. Holland.

A part of the basic strength of our Nation has been the willingness of men like Spessard Holland to devote their lives to public service. For more than a half a century, our departed colleague served his State and the Nation—as a prosecuting attorney, as a county judge, as a State Senator, as Governor and, for 25 years, in the U.S. Senate.

For me, it was a great privilege to have the opportunity to serve in this body with one so devoted to the principles of democracy and representative government. His abiding sense of the dignity of the Senate and its unusual character as the people's forum were reflected in all his actions on the Senate floor and off.

He was most formidable in debate, yet he was always fair and considerate with those with whom he differed on the issues coming before the Senate.

As we all know, he was a tireless worker who stood unflinchingly for what he believed was right and in the national interest. While he had intense loyalty to his State and to his constituency, he also afforded national leadership on many issues of major importance.

One of his most notable accomplishments in the U.S. Senate was in the enactment of the 24th amendment to the Constitution banning poll taxes as a qualification for voting. He supported such a move long before it became popular and the final approval of the amendment came as a personal tribute for Spessard Holland. As former President Johnson said the amendment represented "the triumph of liberty over restriction."

Spessard retired voluntarily at the end of the last Congress saying that at 78 years of age:

I thought it foolish to think of 6 more years of vigorous activity in the Senate.

We shall remember him for the example he set for us of public service in the Senate's finest tradition.

FORMER SENATOR EUGENE McCARTHY WRITES ABOUT NEW HAMPSHIRE

Mr. McINTYRE. Mr. President, our former colleague, Senator Eugene J. McCarthy, has written in last Sunday's New York Times a gracious and poetic memoir about my home State of New Hampshire. His essay is graced with the gentle wit and humane eye that those of us who worked with him here in the Senate came to love best about him.

It is clear from his essay that Senator McCarthy acquired a respect and affection for my home State; and we all know that New Hampshire learned to have an affection and respect for him.

Mr. President, I ask unanimous consent that the essay be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 7, 1971]

LET ME TELL YOU ABOUT NEW HAMPSHIRE

(By Eugene J. McCarthy)

All New Hampshire is divided into three parts: Massachusetts, Maine and Vermont. And into two seasons: winter and fall.

One should enter New Hampshire from each of its neighboring states in succession, if that is possible. For a first visit to southeastern New Hampshire, come from Massachusetts; for the first time into northern New Hampshire, enter from Maine; and to central and western New Hampshire, by way of Vermont. And as to seasons, one should visit first in the winter, whether one comes to ski, buy antiques or just look around.

New Hampshire of the southeast is an extension of the old manufacturing and mill areas of Massachusetts. On the Massachusetts side of the line are towns like Lowell and Lynn and Lawrence, and on the New Hampshire side Manchester, Concord, Nashua and Dover. Whereas the industry in the towns of Massachusetts has moved away from the traditional textiles and shoes, these things are still made in the adjacent New Hampshire towns and cities.

CROSSING THE BORDER

One can scarcely tell when he has left Massachusetts and entered southeastern New Hampshire. The towns look somewhat older, the abandoned mills slightly more abandoned. But along with the highway signs noting the passage into another state, there is one other set of distinguishing signs—those advertising chiropractors and chiropractic offices. I assume that chiropractors are banned in Boston and chiropractic in all of Massachusetts, but this is not the case in New Hampshire. New Hampshire is willing to have the business and is considerate of the skiers in need of adjustments going to and from the hills of New Hampshire and Vermont, and also of the Irish in Massachusetts—a race with notoriously bad backs.

Manchester, the largest city in New Hampshire, is the home ground of The Manchester Union Leader. Its publisher, William Loeb, drives the meanest pen or typewriter in the East, if not in the whole country. When in the 1968 primary he referred to me as a "skunk," people of Manchester concluded that he was somewhat friendly to my candidacy. He draws a hard line. Although his paper is reportedly financed to a large extent by money borrowed from the Teamsters Union, he has few kind words for organized labor or for its friends. Anyone who visits southeastern New Hampshire should read The Union Leader over a two-day or three-day span to get the flavor of the paper but also to develop a respect for the people who can tolerate it day after day and stand against its editorials.

Visitors to southeastern New Hampshire should make a point of going into at least one shoe factory, a textile mill and a sweater factory. Most factories welcome visitors if you call or write ahead. I know they are quite willing to admit Presidential candidates in the right season for such candidates—namely, January and February of every fourth year.

Shoe factories are both old and new and working conditions both good and bad, but the workers seem much happier than those working in textiles or in clothing. Five thousand pairs of shoes without feet or legs on a rack are quite purposeful and look confident, as though destined to belong to someone. Five hundred sweaters in flat piles give no hint as to the person who may own or wear them. Textile mills are best visited in the winter, when all is drab and gray outside, for even then they turn out cloth in all the colors of New Hampshire in the fall.

The Doehla Greeting Cards factory in Nashua is, unfortunately, not normally open to visitors, although I saw it from the inside as a Presidential candidate. Nevertheless, it is important for New Hampshire visitors to know that it exists and be aware of what goes on within. It is a place of great confusion of both seasons and emotions. In January and in February, cards for the Christmas of next December are being printed and packed. Balancing each other are cards of congratulation and of condolence, notices of birth and death produced in batches of 10,000 or more. This is the New Hampshire of the southeast.

Northern New Hampshire, beyond the White Mountains, is Maine or better—a land of lakes, of forests of pine and balsam and cedar and birch, of pulpwood and paper mills, with the smell of sulphur hanging over the towns.

The inhabitants are either what are called native whites or French Canadians. Wood and the woods are their livelihood. In Berlin and Groveton and other places the people are silent, purposeful and committed; their winter wear, as they go to the woods or to the mills, red caps and plaid shirts under padded blue jackets, is almost a uniform. No singing voyageurs, but men knowing the hard life, near poverty, they pay little attention to visitors and have little regard for the recreation or resort trade.

Then there is western and central New Hampshire, which should be entered from Vermont. A land of high hills, mountains some of them, open valleys, sheltered farms, and near perfect towns and villages—Peterboro, Claremont, Lebanon, Littleton, Franconia and smaller towns like Lost Nation, Antrim, Bungy, Still Corners, Hart's Location, and Waterville Valley—the struggle for existence here is real, too, but somehow seems in better balance than in the southeast or in the north. Wood smoke is reassuring as it rises from the farmhouses and lies over the towns.

There really are four seasons in New Hampshire, but spring is largely the end of winter and summer preparation for the fall. A visitor to New Hampshire should, if possible, make his first visit in the winter and follow the seasons through until the fall. Certainly this should be the rule for Presidential candidates, who this year seem to have ignored the order and begun their campaigns in September rather than in January.

The winter is black and white but mostly gray. Its end is signaled not in bursting leaves and sudden change of color, but in the movement of sap in sugar maple trees. New Hampshire people know when the time has come. Sleds and the more modern snowmobiles are readied for the rounds; trees are tapped and the sap pails hung; fires burn in the sugar sheds, and smoke and vapor rise. The people trust that it will be green again. Storm windows come down; plastic is taken off doors and screened-in porches. The winter underwear hangs limp on clotheslines, not frozen stiff and rattling as it did in January.

Then comes a quick spring, with slight promise of the fall in the color of the buds and the early breaking leaves of chokecherry and sumac, elderberries, oak and maple.

Then a fast, hard summer of green for growth and preparation for an autumn of orange and red and brown leaves—the final comfort and contentment that all three seasons labored for. There is in New Hampshire in the fall an air of certainty like that of a woman who knows in maturity she is more beautiful than she has ever been before.

New Hampshire is a modest state and lives carefully, not trusting anyone with too much power. Although one of the smallest states, it has the largest legislative body of all the states.

It seems that most people in New Hampshire can do at least two things. The signs indicate such combined talents: digging and cabinet making—one for summer and one for winter; and real estate and saws sharpened; or, in the case of women, alterations and preserves.

It finances its state government principally by taxes on the vices or near vices of its own people or of visitors to the state; namely, on beer and hard liquor, on tobacco, on bets placed on horse races, and through a twice-a-year state-administered lottery, plus a tax on hotel and motel rooms and restaurant meals.

New Hampshire likes to clear things up early if it can. It holds its Presidential primary in March. There are good reasons for the early primary. It is held before the sap begins to rise in maple trees. There are no serious distractions and not much else to do in these months but think of politics, make a decision and be free of distraction through spring and summer and the early fall.

In the "Information Please Almanac," New Hampshire lists fruit and potatoes among its principal crops, but makes no special claim, whereas Maine asserts that it produces one out of every seven potatoes raised in the United States and 19 out of every 20 blueberries, to say nothing of 200 million canned sardines. Massachusetts is, by the book, a leading manufacturer of electronics, has at Logan Airport an airfield of 10,022 linear feet, and boasts one of the largest Irish populations in the nation. New Hampshire simply says it manufactures electrical goods and produces machinery, leather goods, textiles and pulp and paper products. New Hampshire also produces maple syrup and sugar, and is called the Granite State. But Vermont, by the Almanac, leads the nation in both granite and in maple syrup production. The state tree of Massachusetts is the "majestic" elm; that of Maine the "giant" white pine; New Hampshire's tree is unassuming—the modest and scarcely useful birch. It does claim to have the highest among the lowest mountains in the country, Mount Washington.

New Hampshire is not for sale nor does it seek approval. Taken altogether, New Hampshire, if we accept a poet's judgment, is one of the two best states in the Union. This is the case for New Hampshire made by Robert Frost:

The only person really soiled with trade
I ever stumbled on in old New Hampshire
Was someone who had just come back ashamed
From selling things in California. . . .

Just specimens is all New Hampshire has,
One each of everything as in a showcase,
Which naturally she doesn't care to sell. . . .

She has a touch of gold, New Hampshire gold—
You may have heard of it. I had a farm
Offered me not long since up Berlin way
With a mine on it that was worked for gold;
But not gold in commercial quantities,
Just enough gold to make the engagement rings
And marriage rings of those who owned the farm. . . .

Apples? New Hampshire has them, but unsprayed,
With no suspicion in stem end or blossom end
Of vitriol or arsenate of lead,
And so not good for anything but cider. . . .

She's one of the two best states in the Union.
Vermont's the other. And the two have been
Yokefellows in the sap yoke from of old
In many Marches. . . .

Anything I can say about New Hampshire
Will serve almost as well about Vermont. . . .

As Robert Frost has suggested—"It is restful just to think about New Hampshire"—it is restful to write about it and more restful to be in New Hampshire. New Hampshire is a good place to live and also a good place to visit.

TRANSPORTATION INDUSTRY LABOR DISPUTES

Mr. PERCY. Mr. President, labor disputes in the transportation industry have had a serious disruptive effect on the marketing of this year's agricultural crops. Some of the damage will probably never be corrected. For example, the west coast dock strike alone cut our agricultural exports by over $200 million between July 1 and early October. During September most of the grain port facilities in Chicago were on strike. Grain backed up through the heart of the Corn Belt and prices were well below what they otherwise would have been. The same problem is being repeated on the gulf coast where the strike has backed up hundreds of barges containing grain and soybeans.

The direct financial losses suffered by our farmers, as great as they are, do not begin to tell the story of what these transportation strikes are costing American agriculture. Other countries—especially our best customer, Japan—are beginning to question whether or not this country is a dependable supplier of agricultural products. Therefore, they are looking toward other countries—which are apparently better equipped to deliver these products when and where they are needed.

On November 8, Mr. Kenneth E. Frick, Administrator of USDA's Agricultural Stabilization and Conservation Service, addressing the Senate Agriculture and Forestry Committee's Subcommittee on Agricultural Exports, offered documentary evidence of the immediate financial damage caused to agriculture by these strikes as well as the long-range and perhaps permanent damage to our exports. I feel his statement will be interesting and informative to all Senators and ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF KENNETH E. FRICK

Any disruption of normal marketing channels will reduce farm prices and be reflected in lower farm income and higher government costs. Certainly, the dock strikes are a major disruption and a major threat to our entire farm marketing system.

The dock strikes and the threat of new strikes reduce, and in some instances, foreclose on our ability to compete in the international agricultural market. Hence, they place in jeopardy an important part of our agricultural income. Last year production from one out of every four acres was exported. Foreign markets account for over half of the wheat, soybeans and rice produced, nearly two-fifths of the cattle hides, over one-third of the tallow, tobacco and cotton produced, and about one-fifth of total feed grain sales by U.S. farmers.

Farmers have long known that they must compete. And they know how to compete, as indicated by the fact that we are the world's largest exporter of farm products. Agricultural exports reached a new high of $7.8 billion last year. And farm exports contributed more than $6 billion to the nation's commercial trade balance last year. Without the favorable ratio of farm exports to imports, our balance of trade (payments) would have reached the crisis stage long ago.

But farmers are aware that their competitive position is in jeopardy—through no fault of theirs—if they cannot depend on our transportation industries to move their farm products. In world markets, our crops have to compete directly with commodities from other countries . . . and if buyers cannot depend upon getting a dependable quality and quantity of U.S. products, they will buy what they need from others.

This is not only an export problem but a domestic one as well. We know from experience that a strike of this kind will seriously affect domestic transportation needed for internal shipments of agricultural commodities both during the strike and for a period following the strike. All forms of transportation—rail cars, barges and trucks—are tied up in the temporary storage of commodities loaded for movement to ports. Since these carriers cannot immediately be re-routed to domestic traffic, there follows a prolonged period of severe shortages of rail cars, trucks, and barges—even after the strike has ended.

This transportation and storage problem is especially difficult this year due to the large grain crops. Our marketing system is at present being called upon to handle large additional quantities of grain. Corn production, the largest crop in history, is up 31 percent, sorghum 28 percent, and wheat 18 percent from last year. This increase in production would be hard to handle even under normal conditions, but the situation is critical now because of the uncertain conditions and work stoppages in our nation's ports.

During the October-December quarter we normally ship about 28 percent of our annual exports of agricultural products, $2.2 billion last year. About two-thirds of our exports move out of East and Gulf coast ports which are now either closed or under the threat of being closed by strikes. These ports are especially important outlets for the major export commodities, including wheat, corn, sorghum, rice, soybeans, soybean meal, cotton, tobacco and animal products, especially hides and skins. Closing of these vital arteries would cost the American farmer $100 million per week in export sales. Some of these lost sales would be recovered after the strike, but it is certain that many will be permanently lost. This is a year when unusually large supplies of feed grains, wheat, rice, protein meals and oils are available from other countries.

Even in our concessional export sales program under Public Law 480 the effect of the strike is severe. While the concessional terms tend to assure that many of these buyers will eventually take the commodities, that is not always the case. A strike that is unduly prolonged creates scheduling and supply problems for recipient countries that can cause them to buy elsewhere. During the 100-day Pacific Coast strike, for example, we know of scheduled P.L. 480 shipments of both white wheat and rice that were lost.

Throughout the West Coast strike substantial tonnage of P.L. 480 cargo was lying in Pacific ports awaiting shipment. Presumably most of it has moved since the Taft-Hartley action, but the future is uncertain.

Normally, approximately 1,800,000 metric tons of agricultural commodities would have been shipped under P.L. 480 during the October-December quarter from the Pacific, Gulf and East coasts, most of it wheat, feed grains, cotton, and tobacco. With the strike situation as it is, this quantity is almost certain to be drastically reduced, contributing to the clogging of transportation channels that is hurting farm marketing conditions and prices.

The West Coast stoppage showed in a dra-

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matic way what a dock strike can do to our farmers. On the West Coast between July 1 and early October agricultural exports were cut by over $200 million from a year earlier level. While the West Coast accounts for less than 20 percent of our agricultural exports, it is a vital outlet for certain key commodities.

Western wheat growers this year harvested a near record crop. Transportation and storage facilities from farms to Pacific Coast ports are still clogged as a result of the West Coast strike. At the peak of harvest about 30 million bushels were on the ground in the Pacific Northwest.

Northwestern wheat is produced largely for export. So, the impact of the strike on those farmers is especially great. During the July-September period last year our sales of wheat and flour off the West Coast were 58 million bushels. During the same period this year they were less than one million bushels. The bulk of this wheat normally moves to Japan. Since Japan prefers to buy its wheat from West Coast ports, those sales were immediately affected by the West Coast strike.

The Japan Food Agency has just released figures on its purchases of wheat for the April-October period, which includes the three months of the West Coast stoppage. Purchases during that period totaled 2.8 million metric tons, about the same as last year. The tragedy for the American wheat grower is that last year more than 58 percent of these purchases were U.S. wheat, while this year the percentage dropped to 42 percent. This is a decline of approximately 15 million bushels, worth roughly $25 million. All of that business went to Canada and Australia, our major wheat competitors.

The Japanese are beginning to question the dependability of the United States as a supplier. In recent bilateral discussions with the Japanese, we learned that they are sending missions to other supplying countries to urge that they increase their output especially of grains in order to reduce Japan's dependence on the United States.

We also suffered losses in other agricultural products due to the West Coast strike. Rice exports were down from 157,000 metric tons to 35,000 metric tons. Cotton exports were down by 85 percent. Fruits and vegetables were down 55 percent. In addition to losses in sales, we are witnessing a decline in the quality of our products offered for export, and this is directly attributable to the strike.

California alfalfa producers are an example of what can happen to a small but important industry when a dock strike occurs. Exports usually account for about two-thirds of the California output of alfalfa meal. But during the longshoremen's strike, ten alfalfa meal dehydration plants in California were closed as a direct result. This led to the domestic market being flooded with alfalfa that normally would be dehydrated for exporting. Furthermore, alfalfa pellets and cubes destined for export and held by the strike were exposed to the sun, which reduces carotene content to no more than that of ordinary hay. As a result, their value dropped to $30 per ton compared with the pre-strike price of about $50 per ton.

In other areas too, the dock strikes have played havoc with our agricultural markets. During September most of the grain port facilities in Chicago were on strike. This was a period when the harvest of soybeans and corn began, a time when all marketing and storage facilities were desperately needed to handle the large incoming crop. Thus, the lack of an outlet for corn and soybeans in Chicago, the major terminal market for this area, became extremely serious. Grain backed up through the heart of the corn belt, and prices were well below what they otherwise would have been. As an example, the normal spread between Chicago corn December futures and Central Illinois cash prices is about 8 cents per bushel. The differential this year jumped to 18–20 cents. This increased spread in prices reflected the storage and transportation tieup caused by the strikes. The Chicago strike has important overtones, especially for soybeans and corn, because Chicago is the basing point for prices both for domestic and for international trade in these commodities.

The same problem has been repeated in the Gulf. We are informed that the strike has backed up 800 barges of grain and soybeans in the New Orleans area. Because of the strike and consequent stoppage of barge unloading and the shortage of barges, there has been an increase in grain barge rates from Peoria to New Orleans from 11 cents per bushel in mid-September to 18 cents in mid-October. In that area, the crushing of soybeans for meal and the exporting of oil have come to a virtual standstill. Meal is not easily stored for extended periods and consequently these sales are not being made.

Farther East, we understand that soybean producers in Northwestern Florida and Alabama are hard hit by the shutdown of the Port of Mobile. Soybean farmers in those areas have little storage available and are dependent upon sales through Mobile to move their soybean crop.

Soybean farmers have a particular reason to be anxious as they survey the loss of export outlets. Soybeans are the big success story of recent years in the U.S. farm export picture. In this fiscal year, we have been counting on soybeans and products to provide about one-third of all commercial exports of U.S. farm products. But time is an important element.

In general, the most favorable export demand for U.S. soybeans and products will exist during the months immediately ahead. As the season progresses, supplies of both oils and meals from other countries will become increasingly plentiful. Thus, the best potential for U.S. exports of soybeans and products, both in volume and price levels, is in the early part of the current marketing season.

These are some of the problems which farmers face due to the dock strikes. There are many other segments of our economy which are dependent upon agriculture and which are also suffering economic losses. The small town businessman who is dependent upon the cash flow from agriculture, the trucker who is dependent upon seasonal business, and many others are sharing the farmers' pain. The dock workers themselves are a vital part of the system and are also dependent for their livelihood on export sales of agricultural products. At a time when we are desperately trying to get our nation's economic house in order, we all need to work together instead of pulling apart, in order that we may all benefit from a strong economy and a unified nation. It is for this reason that the Department of Agriculture urges an immediate end to the dock strikes and their threat to the agricultural economy.

PROPOSED REFORM IN THE ACTUARIAL CALCULATION

Mr. MUSKIE. Mr. President, I wish to express my support for the reforms in the actuarial assumptions and purposes recommended by an eminent panel of actuaries and economists appointed by the Advisory Council on Social Security to evaluate the reasonableness of the assumption and methodology of the long-range actuarial calculations. These reforms are badly needed to prevent unnecessary imposition of social security taxes and the accumulation of large and unneeded surpluses in the trust funds.

These reforms are embodied in S. 2656 which the Senator from Minnesota (Mr. MONDALE) and I introduced on October 5. Those reforms would result in the trust funds with reserve funds equal to approximately 1 year's reserve rather than trying to accumulate huge surpluses to pay benefits in the next century. Putting social security on a pay-as-you-go basis recognizes a basic truth about the system—the currently retired population is supported by the currently working population. It is a basic economic fact in our economy, and it is a moral and ethical right of our senior citizens. Before the social security system was started, children supported their elderly parents. The social security system has institutionalized an existing situation, assuring that everyone share the burden and that the beneficiaries were treated equitably.

A basic element of the recommended reforms was to change the assumption about the course of future wages. In the past, the actuarial calculation has assumed wages would not rise for the next 75 years.

The level wage assumption underestimates both future expenditures and future revenues, but it tends to understate the revenues by more than the expenditures. This has resulted in tax rate schedules that are in excess of what were required to finance benefits. S. 2656 incorporated the recommendation that the "level wage" assumption be replaced with reasonable assumptions concerning the future growth in average covered wages.

Everyone recognizes the right of our elderly population to a decent level of living. But there is no point in taxing the working population in excess of the amount needed to support the elderly. S. 2656 not only proposes reform of the actuarial calculations that are direly needed, but also proposes a more equitable distribution of the existing burden. S. 2656 would remove the wage ceiling on wages subject to tax and convert what is currently a regressive tax falling most heavily on the middle-income families into a proportional tax on all earned income. Credit would be given for future retirement benefits for earnings up to $20,000. Personal exemptions and a low-income allowance would be introduced to reduce the burden on the low and middle-income groups.

The recommended actuarial reforms could be used to delay scheduled increases in tax rate until the year 2010 and still finance the present program along with the automatic cost-of-living increase. But it would be necessary to successively raise the wage ceiling. It is the wage ceiling, however, that makes the social security tax regressive. Removing the wage ceiling as proposed by S. 2656 would make the tax more progressive.

I heartily endorse and hope the actuarial reform will be accepted. It is a first step in the right direction. The other provisions of S. 2656 are a much needed second step.

COAL STRIKE VIOLENCE IN OHIO

Mr. TAFT. Mr. President, on October 23, after having received reports of violence and turmoil in portions of eastern Ohio, I visited the State and found that these reports were not exaggerated.

I talked with sheriffs' deputies who had been confronted by a caravan of approximately 500 armed men who roamed the countryside bringing terror and destruction. I visited the James Bros. mine, where a band of miners blew up an office building, blew up a building with machinery that ran the coal tipple, destroyed a part of the tipple, and destroyed trucks. I met with the Governor, to whom I strongly suggested that the National Guard should be called out. However, he declined to do so.

On November 3, I was notified that the nonunion mines, which had been closed because of this intimidation would reopen. The following day widespread reports of renewed violence appeared in the press. I ask unanimous consent that these newspaper articles be printed in the RECORD. How long will this illegal and deplorable situation be allowed to continue? The Governor of Ohio must decide.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Times-Reporter, Dover-New Philadelphia, Ohio, Nov. 5, 1971]

PUSKARICH SUES SHERIFF—EXPLOSION DAMAGES PERRY COUNTY MINE

An explosion, believed caused by dynamite, ripped a Perry County mining firm's offices and weighing facilities Thursday night and another mine owner, threatening to arm his coal trucks, has filed suit to force the Belmont County sheriff to provide protection for his trucks and mine site.

These are the latest state-wide developments in the continuing dispute between striking United Mine Workers and non-UMW mines which continue to operate in the eastern and southern part of the state.

There were no injuries resulting from the explosion at New Lexington in southern Ohio where the Star Mining Co. reopened Wednesday. Perry County Sheriff Tom Wilson said damage was extensive. The firm had been closed since Oct. 1 when the UMW went on strike.

"This looks like it might be labor related," Wilson said of Thursday night's blast.

Wilson said the explosion at the mine, located between the villages of Shawnee and McCuneville, apparently was caused by dynamite either thrown against the office building or placed alongside it.

"Shortly after the explosion I talked with one of the owners, Jim Brown, and he told me he could tell by the smell that it was a dynamite blast," Wilson said. "We're going to search the area to see if we can find any fuses."

The blast, which occurred about 7:30 p.m., could be heard several miles away.

William Griffiths, attending a meeting of the Shawnee water board about one mile away, said he heard the blast clearly.

"It sounded like a car crash," Griffiths said.

Wilson said the small, frame office building "was just about totaled." The blast also destroyed scales where coal trucks are weighed and knocked out a gasoline pump, but there was no fire.

"We have no suspects," Wilson said early today. "But we're going to continue the investigation."

Wilson said he had a report a pickup truck had been seen in the area shortly before the explosion, "but it's nothing I can confirm.

"There was so much coal traffic in and out of there during the day we can't get any clues from tire tracks," Wilson said.

In Belmont County, Michael Puskarich, owner of the Cravat Coal Co., filed Thursday for a writ of mandamus in common pleas court asking protection from Belmont Sheriff George Neff.

Represented by the Thomas and Thomas law firm at Bridgeport, Puskarich asks "protection for property, employees, agents and officers (of Cravat) and to insure the provision of a permanent injunction (restraining pickets issued this week) by a sufficient number of deputies as permitted by law to accomplish this, or that (the sheriff) show cause by the 10th day of November, 1971, at 9 a.m. why he does not do such."

Puskarich says his mine and coal hauling trucks at Bellaire repeatedly have been the target of harassment from pickets.

"Deputies always show up 30 minutes to two hours after the action is over," says Puskarich. "When they arrive, they look around and say, 'We don't see any trouble,'" the mine owner says.

He said two deputies were at his Bellaire mining site this morning and read the court order to eight or 10 pickets. "This was the first time deputies ever arrived before there was a chance for trouble," said Puskarich.

He said his employees were harassed by pickets brandishing guns on Wednesday and many of his truck drivers refused to haul coal, forcing him to halt operations Wednesday afternoon and Thursday.

Today, he said his mine resumed operations with new drivers.

Puskarich vowed to arm his trucks and the mine site if he does not receive protection from Sheriff Neff.

"What will it take for the sheriff to take action?" asks Puskarich. "Will he wait until someone is killed?

NO CLUES IN MINE BLAST; OFFICIALS' TIRES PUNCTURED

Tuscarawas County sheriff deputies today said they have no clues in connection with an explosion at Puskarich Mining Co. of Sherrodsville, which was reported Thursday at 1:40 a.m.

The blast occurred on an access road some 30 to 40 yards from a crane, which was not damaged.

Four men reportedly fled from the scene when two mine employes who were watching the pit area from a high vantage point, fired at them.

The Puskarich mine was one of about a dozen mines not affiliated with United Mine Workers which resumed operation last week after being shut down because of harassment by roving UMW pickets.

Three other incidents, believed related to the UMW strike, occurred last night and early today.

Deputies were called Thursday at 11:06 to the Wallick Coal Co. when occupants of an auto driven along County Rd. 102 shouted obscenities at Wallick personnel.

This morning at 3:09 Glenn Carlisle of RD 4, New Philadelphia, county commissioner chairman, reported all four tires on his station wagon were punctured while the vehicle was parked on N. Broadway near public square.

Carlisle was instrumental in approving Sheriff A. J. (Tony) Young's call for assistance from surrounding counties and arranging lodging for deputies who helped patrol the county last week.

Two tires were cut on Chief Deputy John Barlock's cruiser last night while it was parked at his home at E. 3rd and Cross sts. in Dover. It marked the second time in recent weeks that the tires on his cruiser had been slashed.

The windshield in Capt. Earl (Lefty) Doriche's cruiser was smashed recently while it was parked in Dennison.

Tires on an auto owned by Judge Raymond C. Rice's wife were cut a few weeks ago while it was parked at their home on Fair Av. NE and a barn owned by the judge was leveled by fire the night of Oct. 15. Rice had earlier issued a restraining order to control UMW picketing.

UMW TERRORISM RECOUNTED FOR RICE

(By Ron Callahan)

"One individual had a 20-guage shotgun and he started to shoot, 15 feet on the ground to my right. . . He walked toward my property. He fired a second shot about 8 feet from me. . . a third right beside me and a fourth on the ground in front of me so that the debris hit me in the stomach."

That was part of the testimony of Raymond (Bud) Lahmers, owner of Empire Coal Co. at Gnadenhutten, given during a preliminary injunction hearing Thursday in Tuscarawas County common pleas court. The hearing resumed this morning.

Lahmers was describing the events which he says took place at his mine site off County Rd. 16 on Oct. 1, the first day of a nationwide strike by the United Mine Workers Union.

The request for the injunction, to prevent UMW pickets from harassing employes and operations at 10 non-UMW mines, was made Oct. 8. A restraining order was issued by Judge Raymond Rice on that date and it later was extended to Nov. 4 by Judge J. H. Lamneck.

When asked if the restraining order had been extended or still was in effect, Judge Rice said something to the effect that the answer lies in "muddied waters."

Also pending before Judge Rice are motions to cite four UMW pickets for contempt of the Oct. 8 order and a claim for $2 million in damages sustained by the 10 mines because of a forced shutdown under threat of UMW violence and other incidents.

The contempt action, filed as a result of UMW picketing by 300 to 500 men on Oct. 16, and the $2 million claim will be heard after Rice rules on the injunction.

On Wednesday, Atty. Danny Johnson of New Philadelphia, on behalf of the UMW, filed an appeal with the Fifth District Court seeking to knock out the entire action on the grounds the local court has no jurisdiction.

Others called to testify Thursday were:

James Rogers of RD 1, Dennison, a driver for the BMW Truck Co., hauling coal for Alexander Brothers Inc. of Mineral City; Dennis Pringle of RD 1, Beach City, driver for Sugarcreek Cartage Co., hauling coal for Hardy Coal Co. of Sugarcreek; Gilbert Ankrom of RD 1, Bolivar, mechanic for Eberhart Coal Co. near Dover; Tom Beitzel of Mineral City, mechanic for Eberhart Coal; Vic Alexander, vice president of Alexander Coal and Supply Co. of Bolivar.

Phillip Eberhart of Canton, vice president of Eberhart Coal Co.; Paul Jones of RD 2, Sugarcreek, superintendent of Hardy Coal Co.; John Barlock, chief sheriff's deputy; James A. Russell of 214 2nd st. SE, New Philadelphia, UMW organizer for District 6, and Clarence Morgan of Midvale, an employe of the Midvale Coal Co.

All witnesses were called by the attorneys for the coal firms, Frederick Gromen of Bellaire and Ed Wright of Dover.

However the two witnesses associated with the UMW, Russell and Morgan, refused to testify on the grounds that they might incriminate themselves. They were advised not to testify by their attorneys, Danny Johnson of New Philadelphia, representing Russell, and James Cross of Akron, representing Morgan.

Russell presently is under seven criminal indictments in Carroll County, including inciting to riot, stemming from the Oct. 16 destruction at the James Brothers Coal Co. east of Mineral City. Three deputies were injured and damage was estimated at $250,000 after about 300 to 500 roving pickets stormed the mine.

Johnson was to be the attorney of record for Thursday's hearing, but at the last minute was allowed to withdraw and be replaced by Cross. However, Johnson said he would be representing Russell in criminal proceedings.

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Russell, along with Morgan, William Bonnell of 231 3rd st. NW and Mike DeTorio of 1310 Kaderly st. NW, both New Philadelphia, are charged in the contempt action.

Lahmers, in the remainder of his testimony, said, Russell was at his mine the day of the shooting. Also present, he said, was Bonnell.

Bonnell did most of the talking, Lahmers said, yelling obscenities. Eventually another picket in a group of about 80 disarmed the man with the shotgun and the pickets left. Lahmers quoted Russell as saying: "We'll be back to get you tonight."

Lahmers said he shut his operation down until Oct. 11. Then on Oct. 16, the day the James Brothers Coal Co. mine near Magnolia was destroyed, the witness said that a caravan of 80 vehicles arrived at his mine with Russell in the lead car. He also identified Bonnell, Russell, Morgan and Detorio.

After threats to burn his home down and destroy his property and in the presence of deputies Lahmers agreed to close his operation. He said Russell was carrying a gun strapped to his waist.

Bablock was at the scene when the pickets arrived and testified that he tried to calm a "pretty touchy" situation. He confirmed there were threats made against Lahmers from the crowd and that "Russell made a few statements—threats of violence."

Barlock said he saw that pickets had guns, but that he didn't think Russell had a gun. He stated Russell was the apparent leader of the pickets and that the organizer was wearing a stocking mask.

The chief said he didn't ask for an explanation for the mask, but that he had no trouble recognizing Russell.

The deputy said he talked Lahmers into letting the pickets dump coal from the tipple into the bins "to avoid violence and destruction."

Present with the chief was Capt. Earl Doriche and lawmen from surrounding communities.

Rogers, the coal hauler for BMW Trucking, testified he was stopped Oct. 1 by about 70 pickets as he was driving north on Rt. 21. He identified Russell, Bonnell, Bruce Ickes, James Burlinson, James Hanlon and Henry Miller Jr. The latter four were identified as employes of Penn Ohio Coal Co., a UMW mine near New Philadelphia.

Rogers said the pickets threw rocks at his truck, smashing the windahield.

Pringle, the driver for Surgarcreek Cartage, said he also was attacked by four pickets while he was driving north on County Rd. 93 on Oct. 1. He did not identify anyone, but did recognize Russell's car, a 1968 model, blue and white with a convertible top. He said his employer shut down operations for three days "because most drivers thought it was unsafe to go on the road."

At that point Cross interrupted the hearing to note that the county grand jury was meeting in the adjacent courtroom and that the two proceedings were calling similar witnesses, which could prejudice the case in hand.

Rice took note of the point and termed it an argument for better courthouse facilities.

Testimony continued with Ankrom and Beitzel reporting they were threatened by pickets on Oct. 1 at the Eberhart Coal garage at Lawrence Township Rds. 387 and 379.

Ankrom said that Russell and Bonnell arrived at 9 a.m., along with about 80 others, and that Bonnell ordered that coal be dumped from a truck that was in for repairs.

Again on Oct. 4, the pickets arrived at the garage and Russell was recognized by Ankrom. He said he (Ankrom) stood at the door of the garage and when the pickets were 20 feet away he shouted that he had a shotgun.

He said Russell shouted back that his men had guns, also, and Ankrom added: "He (Russell) said he'd kill us all."

The mechanic said that after that he and his co-workers packed up and left. He said he found his car's windshield had been smashed.

Beitzel said he was at the garage wtih Ankrom on Oct. 1 when the pickets arrived and demanded they shut down. He said he tried to call his supervisor on the radio phone, but that a picket "jerked" it out of his hand and threw it on the floor. He also recognized Bonnell and Russell.

He said the two men returned on Oct. 4 at 8 a.m. in a caravan of about 50 cars. He said the pickets had rifles and shotguns and ordered the employes out. "What could you do," Beitzel said, 'I'm not going to argue with 100 to 150 guys."

Three coal operators Eberhart, Jones and Alexander and Lahmers, too, gave figures on the amount of coal they produce prior to the strike and that produced since Oct. 1 in an apparent attempt to show damages.

Eberhart testified that Chief Barlock and Capt. Dorich and four UMW representatives met with him at his office on Oct. 18 to get him to agree to shut down operations. He said he did not remember the names of the UMW representatives, only that he had seen Russell with one of them two years ago. He said he told the men he was shut down already and one said: "Well, you just stay that way."

Jones said Russell appeared at his mine on Oct 16 wearing a mask and that he (Jones) agreed to dump his coal and shut down. Deputies also were at the scene.

Attorneys for both sides made a number of motions with Cross asking for a continuance until he could familiarize himself with the case. That motion was denied.

Then in succession he asked that Bonnell be withdrawn as a defendant because he was named as a representative of the UMW, which Cross said was not true.

He also moved to have the complaint dismissed for a "misjoinder of parties" since Pringle of Sugarcreek Cartage cannot be linked to the case.

He added that Hardy Coal and Wallick already have an injunction in effect granted Aug. 9. He wanted the injunction dismissed because the temporary injunction of Oct. 8 was continued "without reference to just cause and simple procedure."

Rice did not rule on whether Bonnell should be a party to the case, but Atty. Paul Redinger of Dover, co-counsel for the mining firms, moved that Bonnell, Morgan, and Detorio be made defendants individually.

Cross then decided to proceed with the injunction hearing and not ask for a continuance.

Redinger asked that injunction requests filed separately by Lahmers and the 10 coal firms be consolidated and that contempt charges against the defendants not be heard at this time. Rice agreed.

Attorneys for the coal firms rested their case Thursday.

[From the Times-Reporter, Dover-New Philadelphia, Ohio, Nov. 4, 1971]

HARRISON MINE VIOLENCE DENIED, DETAILED

(By Ron Callahan)

Members of the United Mine Workers Union testified in Harrison County common pleas court Wednesday that they have engaged only in "peaceful demonstrations" since the UMW went on strike Oct. 1 and that they gather for such demonstrations, not on orders from the UMW, but by "word-of-mouth" communications with other union miners.

The testimony was given at a hearing on a preliminary injunction requested by the R & F Coal Co. of Cadiz. The firm, in essence, is asking the continuance of an Oct. 7 restraining order granted by Judge John G. Worley.

Atty. Ed Mosser of Cadiz, representing R & F Coal, called 12 witnesses yesterday, while the UMW's attorney, Paul Pachuta of Columbus, called none.

Testimony was to continue today.

In his opening statement, Mosser said that R & F employes have been prevented from working by union pickets and that there has been extensive damage at a Harrisville mine site caused by roving pickets on Oct. 8 and 12.

Pachuta retorted that the pickets were not UMW members and that any pickets were demonstrating peacefully and on their own.

The UMW attorney also contended there is a labor dispute between the union and R & F. The National Labor Relations Board has jurisdiction and not the county court, he said.

Witnesses called Wednesday by Mosser included UMW members and individuals associated with R & F who were:

UMW—Carroll Kennedy of Hopedale, employed by an unnamed Harrison County Coal firm; Marty Litten of Flushing, Hanna Coal Co.; Thomas Van Horn of Bethesda, Allison Mine of the Y & O Coal Co.; Robert Thompson of Barnesville, Vail Coal Co.; Joseph Oboy of Maynard, Hanna Coal Co.; Jay Kolene of Rayland, an organizer for District 6 UMW.

R & F—Rudy Bisic of St. Clairsville, scale master; Atty. William Spiker of Cadiz, co-counsel for R & F, John Frollini of Lafferty, tipple foreman; Ernest Rensi of Hopedale, safety patrolman; Lee Conway, general manager, and Miss Carol Casteel of Adena, daughter of an employe.

Kennedy, Litten, Van Horn, Thompson and Oboy admitted they were "peacefully demonstrating" Oct. 5 at the Glen Castle Mine off County Rd. 36 in the pre-dawn hours.

The number of pickets was estimated at from 50 to 150.

The five men said they had met other miners at Fairpoint and that they went from there to the mine. Four railway cars were derailed, with two dumping coal on the ground and two other blocking the main line of the N & W Railroad.

The UMW miners said they did not see how the cars broke loose from moorings and that they (the demonstrators) just stood on the road. Except for Thompson and Van Horn, who said they drove to the site together, the men said they did not recognize any of the other pickets.

The five UMW members also noted that they had "heard" there would be a demonstration on Oct. 5, but that they did not get their orders from UMW officials. They said the word was passed by miners in the communities in the county.

Both Conway and Atty. Spiker testified as to the extent of damage at the mine. Spiker had taken photos on Oct. 5 of the dumped rail cars and the scale office where all the windows were broken and a door battered. He also presented photos of a truck with a smashed windshield and dented body; a tractor with its window and lights broken and two fuel tanks from which fuel was draining, apparently because the valves were opened.

Conway detailed the damage to equipment Oct. 12. On that day he said an HD 41 dozer and a fuel truck were set afire. They were located at a reclamation site at a farm off Maynard road at the county lines of Harrison, Jefferson and Belmont counties.

Conway said the tractor was destroyed and that its replacement would cost $70,000. He set the fuel truck damage at $2000

The general manager also noted on the stand that Judge Worley's restraining order was posted at the mine site and that R & F had taken advertisements announcing the order in the Steubenville and Martins Ferry newspapers on Oct. 7.

Both Bisic and Frollini were on duty at the scale house Oct. 5 at the mine when pickets arrived. They said they did not see the rail cars dumped, but did see a number of pickets break the windows and bang on the side of the building.

Rensi said he drove his van truck up to the mine entrance that day and while he was talking to the pickets a tire valve was cut. Rensi and Conway later took the license numbers of cars coming from the site, they said.

Miss Casteel, whose father, Max, as a job foreman for R & F, took license numbers of cars congregating on Maynard Rd. Oct. 12 where the dozer was ablaze.

She got numbers of four Ohio registrations, including that of a truck owned by Kolenc, the UMW organizer. She said she and her father had heard there were pickets at the reclamation site and that her father had asked her to take down the numbers. They got to the site about 6:30 or 7 p.m., she said.

Miss Casteel reported that one of the cars in the group cut out in front of her father's in an attempt to block the road.

When asked if he was there at the time, Kolenc said no, but later said it was "possible". He said he could have possibly driven past the area, but that he did not see anything unusual, such as a burning dozer or a group of cars and men.

Mosser asked that Kolenc bring his mileage report, submitted to District 6 each month, to court today.

The organizer admitted he could have been at the Harrisville mine on Oct. 5 as well. He said he did not organize the demonstration, nor did he receive orders to be a part of it from this superiors at District 6.

He said, "Miners have a way to get the word along," but that he did not assist in passing the word.

At one point he said he gave instructions to "30 or 40 men" not to violate the law.

[From the Times-Reporter, Dover-New Philadelphia, Ohio, Nov. 4, 1971]

UMW OFFICIAL SAYS: MINE VIOLENCE NOT AUTHORIZED

(By Jerry Armstrong)

CADIZ.—Thomas Williams, president of District 6 of the United Mine Workers union, testified in Harrison County common pleas court Thursday that there was no union authorization of violence at R & F Coal Co. of here and that any which did occur, involving UMW members, was strictly by individual acts.

Judge John G. Worley, upon hearing the final two witnesses at a hearing for a preliminary injunction against the union, filed by the coal company, said he would study testimony from the two-day proceedings prior to making a ruling next week.

In the meantime, a temporary restraining order will be continued, with Worley ordering all directives be complied with.

During Tuesday's testimony, it was noted damage was inflicted on the firm's scale office, a truck, tractor and rail cars on Oct. 5 and damage to a dozer and fuel truck Oct. 12 at a reclamation site off Maynard rd. near the Harrison, Jefferson and Belmont county lines. Total damage has been set at $350,000.

Williams said neither he nor the union ever made arrangements for anything but "peaceful demonstrations." The district president testified he had advised representatives not to engage in any type of demonstration "of violence or not law-abiding."

He also indicated all representatives were ordered to comply with several court orders issued following disturbances at several mines after UMW members went on strike Sept. 30.

He said a meeting was called with district staff members of the Cadiz area on Oct. 13, at which time district representatives were informed that locals must all comply.

Williams also pointed out he had recommended in an Oct. 7 issue of the Wheeling Intelligencer that all union members refrain from picketing. He said the union had decided on a policy of cooperation with non-union mines, asking employes and management to discontinue operations in sympathy with the UMW members.

However, Williams did say district organizers were instructed to continue to urge non-union miners to join the UMW.

Atty. Ed Mosser of here, representing R & F, asked Williams if any union members were involved in vandalism Oct. 5 at Glen Castle Mine off County rd. 36. Williams replied there may have been union men involved, but if they were, they were not authorized. Mosser stated the auto of Robert Mayhew of St. Clairsville, field organizer of Local 9992, was among those of which pictures were taken.

Mosser asked if roving pickets were being paid mileage to participate in mine violence. Williams denied any such setup, saying possibly members passing through those areas on official business may have been paid mileage.

When asked by Mosser if the UMW would back members if they attempted to stop work at non-union mines, Williams replied it would depend on the manner and "if it were a peaceful demonstration." Williams said there had never been any union organization or authority for violent tactics.

Mosser then asked Williams about a statement made by Tom Stark, a District 6 executive, which appeared in Thursday's Harrison News-Herald. The newspaper account of a meeting called by officers of the Egypt Valley Local 1506 to explain UMW strike benefits said "one young miner asked if the UMW would back union miners in stopping the non-union operations. Stark stated, 'Yes, but I'll say no more,'" the newspaper reported.

Mosser asked Williams if he supported the statement. UMW Atty. Paul Pachuta of Columbus objected after Williams said he was not aware of the item.

"It appears the organization can not be responsible for acts of violence, if it happens to be the UMW," Mosser noted. He then asked if there were any union procedures taken against members involved in violence. "I have made inquiries," Williams said.

Mosser then pointed out some union organizers seem to attract unusual amounts of attention. Williams stated several times, facts are "blown out of proportion and are not what they appear to be," presumably referring to the news media.

Williams also testified about attempts to get R & F Coal employes into the UMW and said no authority "above or below me" had ever condoned picketing violence.

Judge Worley asked Williams about the loss of union membership over the years, the union's image and its workings with local authorities. Williams replied the union had always attempted to work with local authorities.

The only other witness to testify was Jon Fleagane, 26, of here, vice president and supervisor at R & F. He testified that windows were broken out of his truck Oct. 12 near the Harrisonville mine site. He said there were several demonstrators on and off the roadway, with at least seven cars present.

Pictures of that incident were submitted, as evidence, and Pachuta objected, saying the pictures were "irrelevant" and some demonstrators could not be identified.

Worley said he was reluctant to make a ruling on the matter, noting there was "a lack of statesmanship for the general welfare of the public." He also noted several denials of involvement by the UMW.

FREE PRESS HEARINGS: TESTIMONY—II

Mr. ERVIN. Mr. President, upon previous occasions I have placed in the CONGRESSIONAL RECORD statements of several witnesses who have testified before the Senate Subcommittee on Constitutional Rights hearings on freedom of the press. I now ask unanimous consent to have printed in the RECORD the statements of two additional witnesses who appeared before the subcommittee on October 20, 1971.

One of the major purposes of the hearings is to examine the complex relationship between the broadcast industry and the Federal Government in the context of the first amendment's guarantee of a free press. In my judgment, it is especially important at this time to measure the impact of Government regulation on the broadcast media and the first amendment problems it presents to a free society. In this connection, the subcommittee invited Mr. Dean Burch, Chairman of the Federal Communications Commission, and Mr. Nicholas Johnson, a member of the Commission, to testify before the subcommittee. Their statements set forth many of the problems surrounding the first amendment's guarantee of a free press.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF CHAIRMAN BURCH, FEDERAL COMMUNICATIONS COMMISSION BEFORE THE SENATE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS, OCTOBER 20, 1971

The Commission appreciates the opportunity to present its views on the important subject of FCC policies relating to broadcast journalism. I think the best way for me to proceed is to describe first the general statutory scheme for regulating broadcasting. Then I will review the way in which the Commission has applied this statutory scheme with respect to broadcast journalism. I shall necessarily paint with a broad brush, but I shall be glad to supply additional details in answer to questions today or by letter if you wish.

THE GENERAL REGULATORY SCHEME

Broadcast stations are licensed by the government. In contrast, newspapers are not. Government licensing of newspapers has been and continues to be abhorred. In this nation because the power to license carries with it the threat of government control of news, a circumstance well-known to totalitarian nations. While it is undoubtedly "old hat" to all of you, I think it is essential to repeat here this reason for this distinction between newspapers and broadcasting stations—why the government must license broadcast stations.

The Supreme Court stated the reason 28 years ago: "Unlike other modes of expression, radio inherently is not available to all. That is its unique characteristic, and that is why, unlike other modes of expression, it is subject to government regulation.[1] Conflicting demands for many uses of radio, both broadcast and nonbroadcast, require that the frequencies which comprise the radio spectrum must be allocated to various uses or services. Once segments of the spectrum have been allocated for a service—here broadcast service—the frequencies within that segment must be assigned to specific users in a way that prevents destructive interference. Otherwise, interference could effectively preclude the public from hearing any broadcast. Once

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Footnotes at end of article.

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television broadcast channel 4 has been licensed to one person in Washington, for example, no one else can be licensed to use that channel. The Commission accomplishes this result in the broadcast field by following the licensing scheme embodied in the Communications Act of 1934, as amended.[6]

Congress clearly stated the purpose of the Act—"[T]o maintain the control of the United States over all the channels of interstate and foreign radio transmission; and to provide for the use of such channels, but not the ownership thereof, by persons for limited periods of time, under licenses granted by Federal authority • • •"[6] The standard Congress established to govern such licensing is the "public convenience, interest, and necessity." [6]

It is by now beyond dispute that the Act's comprehensive scheme for regulating the use of radio in the larger interest of the public is not inconsistent with the First Amendment. This is not because the First Amendment is inapplicable to radio—the protections of the First Amendment certainly do apply to broadcasting. The Supreme Court has so stated on several occasions; [6] Section 326 of the Communications Act so states.[6] Rather government regulation is permissible because different standards are appropriate for different media of expression in light of their differing natures.[7]

Thus, since radio is inherently not available to all, regulation of the use of radio in the public interest does not violate the First Amendment. That is the holding of *NBC* v. *United States* in 1943,[8] and it was repeated only two years ago in the landmark decision, *Red Lion Bcstg. Co.* v. *FCC*.[9]

I believe this decision to be so important to the subject of this hearing that I have attached a copy of the unanimous opinion to this Statement.

Mr. Chairman, you may hear the argument that there are far more broadcast stations than newspapers of daily circulation—that it is much more difficult to start a newspaper than it is a broadcast operation: This is true. But no one will stop you from putting out a newspaper. Only one person can operate on Channel 4 here in Washington, and all others will be prevented from doing so.

In short, despite the argument as to numbers of stations, the vital consideration is that the radio spectrum remains a precious, scarce resource. In view of the demands pressed upon us by those applying for spectrum space, I can assure you that this is so. And when we revoke or deny a station license, we find eight, ten, sometimes as many as 16 applicants for the frequency. The Supreme Court recognized the limits on spectrum space and rejected this "no scarcity" argument in *Red Lion*.[10]

Chief Justice Burger, in his last opinion as an Appeals Court judge,[11] said:

"A broadcaster has much in common with a newspaper publisher, but he is not in the same category in terms of public obligations imposed by law. A broadcaster seeks and is granted the free and exclusive use of a limited and valuable part of the public domain; when he accepts the franchise it is burdened by an enforceable public obligation. A newspaper can be operated at the whim or caprice of its owner, a broadcast station cannot."

What, then, is the "public obligation" imposed upon broadcast journalism?

THE PUBLIC INTEREST STANDARD AND BROADCAST JOURNALISM—THE FAIRNESS DOCTRINE

The first obligation of the broadcaster is to engage in broadcast journalism—to devote a reasonable amount of time to informing the public on controversial issues of public importance. A democracy cannot function without an informed electorate. Because of the contribution broadcasting can make to an informed electorate,[12] we have allocated a relatively large amount of spectrum space to this service. To justify that allocation of scarce radio frequencies, broadcasters must act (in the words of the *Red Lion* case) "as proxies for the entire community, obligated to give suitable time and attention to matters of great public concern • • • •"[13]

The Commission has also stressed the need for the licensee to discharge this obligation by presenting partisan voices, rather than "always itself presenting views in a bland, inoffensive manner." [14] For, such a licensee policy, we noted, "would run counter to the 'profound national commitment that debate on public issues be uninhibited, robust, and wide-open debate'." [15]

In line with that objective, the Commission believes that the broadcaster cannot properly present only one side of the debate—the side with which he agrees. The Commission therefore early developed the fairness doctrine as a necessary corollary of the public interest standard of the Communications Act. The doctrine emerged in a series of early cases and then was enunicated in considerable detail as the result of a proceeding initiated by the Commission to clarify its position with respect to the obligation of licensees in the field of broadcasting news commentary, and opinion. That proceeding culminated in the issuance of the 1949 Report on Editorializing by Broadcast Licensees.[16]

Simply stated, the fairness doctrine requires that where a broadcaster has covered one side of a controversial issue of public importance, he must afford reasonable opportunity for the discussion of contrasting viewpoints. He cannot sit back and wait for someone to knock on his door and offer to present the other side. He must affirmatively encourage and implement the presentation of other sides—by making offers over-the-air or to specific groups of persons representing other viewpoints. In presenting other viewpoints the broadcaster has considerable leeway to make good faith, reasonable judgments as to the viewpoints to be presented, the appropriate spokesmen, the format of the program, and many other similar programming decisions. Thus, fairness, that is, affording "reasonable" opportunity does not mean the mathematical precision of "equal" opportunities—a concept which is applicable only to broadcasts by legally qualified candidates.

The Commission's role in enforcing the fairness doctrine is limited. The Commission determines, upon appropriate complaint, whether the broadcaster's judgment can be said to be unreasonable. The Commission does not, I stress, determine whether it is a wise journalistic judgment or one with which this agency would agree.

That is a thumbnail sketch of the Commission's fairness doctrine. It was expressly codified in the 1959 amendments to the Communications Act. Section 315(a) now imposes upon broadcast licensees the obligation ". . . to afford reasonable opportunity for the discussion of conflicting viewpoints on issues of public importance." [17]

In the 60's the Commission adopted two specific rules within the fairness doctrine field—the rules applicable to personal attacks and to political editorials. I have attached these rules as Appendix B. Under these rules, the Commission requires the broadcaster to give timely notification to a person or group attacked and to the candidate opposed or not supported and to make an offer of comparable time for a response.

These rules and the general fairness doctrine were challenged in litigation culminating in the Supreme Court's 1969 decision in *Red Lion*. Mr. Chairman, their invalidity was urged principally on First Amendment grounds. The Court affirmed the Commission. I believe the *Red Lion* opinion is therefore of special interest to the Subcommittee. I shall quote here only one portion of it:[18]

"• • • There is nothing in the First Amendment which prevents the Government from requiring a licensee to share his frequency with others and to conduct himself as a proxy or fiduciary with obligations to present those views and voices which are representative of his community and which would otherwise, by necessity, be barred from the airwaves.

This is not to say that the First Amendment is irrelevant to public broadcasting. On the contrary, it has a major role to play as the Congress itself recognized in § 326, which forbids FCC interference with "the right of free speech by means of radio communications." Because of the scarcity of radio frequencies, the Government is permitted to put restraints on licensees in favor of others whose views should be expressed on this unique medium. But the people as a whole retain their interest in free speech by radio and their collective right to have the medium function consistently with the ends and purposes of the First Amendment. It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount [cases omitted]. It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be the Government itself or a private licensee [citations omitted]. "[S]peech concerning public affairs is more than self-expression; it is the essence of self-government." [Citations omitted]. It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here. That right may not constitutionally be abridged either by Congress or by the FCC."

Except for the two rules on personal attacks and political editorializing, the Commission has implemented the fairness doctrine by *ad hoc* rulings on complaints. These rulings have resulted at times in important declarations. The *Cullman* ruling,[19] for example, established that the broadcaster must present the other side free, if the American public would otherwise be left uninformed. Rather than discuss these many other important *ad hoc* rulings, I should like to submit for the record our Fairness Primer, which contains a compilation of the more important rulings up to 1964.[20]

There are advantages to acting only in concrete factual cases—the equivalent of the "case or controversy" requirement for the judiciary. Thus, this *ad hoc* way of proceeding should not be disparaged. But there are also disadvantages. In an *ad hoc* proceeding, we have before us only the few parties involved in the case, and we do not receive the comments of all persons interested in the underlying principle. Further, the problem may be treated only within its narrow adjudicatory context rather than on an overall basis. The agency may thus not foresee the twists and turns of the road it is going down.

An administrative agency may therefore opt for an over-all view of a subject in a general rule making or inquiry. In the fairness area, we have just recently opted for such an inquiry [21]—the first since 1949.

Our reasons for initiating an inquiry into our fairness doctrine are stated in some detail in the Notice—a copy of which I also offer for the record. I will not go over all of them but rather will focus on the general concern of the inquiry. As I have already explained, the purpose of the doctrine is to promote robust debate, not stifle it. As stated by the Court of Appeals in a recent case,[22] "the fairness doctrine must be administered by the Commission to enhance, not inhibit, the rights secured by the First Amendment."

The critical issue of our Inquiry is whether our administration of the doctrine, since its inception over two decades ago, has enhanced these rights, or whether we need to make minor or major revisions. Just as one example of the problems the Commission must resolve, I should like to call the Subcommittee's attention to the recent ESSO ruling [23] and particularly the concurring and dissenting statements. Again, I have copies for the Subcommittee's study.

I am not now prepared to indicate where our Inquiry will lead. The comments on this phase of the Inquiry are not yet in. But I stress that we view this matter most seriously. We plan to allocate special staff resources, employ special procedures, and devote a number of Commission meetings to the subject.

There is no retreating from the fairness doctrine. The doctrine is the law and indeed may well be constitutionally required in light of the *Red Lion* holding. Rather, the Commission must consider and determine those policies and procedures under the fairness doctrine which effectively advance the First Amendment goal of robust, wide-open debate.

OTHER COMMISSION POLICIES IN THE FIELD OF BROADCAST JOURNALISM

Other important Commission policies directly concern broadcast journalism. First, there is the matter of deliberate distortion or staging of the news. I am not referring to mistakes, which, while regrettable, are bound to occur at times. I mean actions that are deliberate. Evidence that a licensee directed his newsman to slant the news would raise a grave issue as to the licensee's character qualifications.[24] Such an issue would have to be thoroughly explored by the Commission; and it would be contrary to the public interest for the Commission to renew the station's license until and unless the issue were resolved favorably to the licensee.

A charge of distortion or staging of the news raises a most important question: When should the Commission conduct an investigation or hold a hearing? For example, we may get a complaint of news distortion based on the claim that the facts of some matter are different from those presented over the air. We have absolutely refused to act there. Very simply stated, deliberate distortion cannot be established by determining what is "true" and then comparing it with what was broadcast. The Commission is not the national arbiter of "truth." Similarly, when a person quoted on a news program complains that he very clearly said something else, the Commission cannot investigate and weigh the credibility of the newsman and the interviewed party. We refer the matter to the licensee for its own investigation and appropriate handling.

Having now given you these two examples in which the Commission will not act, I should like to stress two points. First, I am not saying that the press is above criticism and critical analysis on how it fulfills its journalistic functions. On the contrary, the Commission has stressed that the press, like all other institutions—including of course Government—can benefit from critical analysis.

Second, I am in no way diminishing the gravity of the issue. Staging or slanting the news is flagrantly contrary to the public interest—indeed, it is difficult to imagine a more effective way to destroy the public's ability to understand and participate in public affairs and thus to destroy the very essence of democracy. The integrity of the press is a linch-pin of the republic. Every act of deliberate distortion—in some senseless race for ratings—not only diminishes the profession of journalism or broadcasting, but also impoverishes the nation.

In every case where we may appropriately do so—where there is, for example, extrinsic evidence that a newsman has been directed to slant the news—we shall act to protect the public interest in a responsible press. But in this democracy, no Government agency can, or should try, to authenticate the news. Therefore, in a series of recent cases [25] we have consistently and repeatedly stated that we will shun the censor's role and will not try to establish news distortion in situations where Government intervention would constitute a worse danger than the possible rigging itself.

[Mr. Chairman, I have brought with me copies of these recent rulings. I do not want to over-burden your record, and I shall therefore leave them with your counsel, so that you may consider whether you want to have them placed in the record].

There is one other area which directly concerns broadcast programs dealing with controversial issues. We have at times received complaints that such programming has, for example, presented patently anti-Semitic material and requests that the Commission should take action against the licensee on the ground that the carriage of such material is inconsistent with the public interest standard. The lead case is *Anti-Defamation League of B'nai B'rith* v. *Radio Station KTYM*.[26] In refusing to take action, the Commission stated that "its function is not to judge the merit, wisdom or accuracy of any broadcast discussion or commentary" [27] but rather to insure that reasonable opportunity is afforded for the presentation of contrasting viewpoints on controversial issues of public importance. The Commission further stated: [28]

"It is the judgment of the Commission, as it has been the judgment of those who drafted our Constitution and of the overwhelming majority of our legislators and judges over the years, that the public interest is best served by permitting the expression of any views that do not involve "a clear and present danger of serious substantive evil that rises far above public inconvenience, annoyance or unrest." [citations omitted] This most assuredly does not mean that those who uphold this principle approve of the opinions that are expressed under its protection. On the contrary, this principle insures that the most diverse and opposing opinions will be expressed, many of which may be even highly offensive to those officials who thus protect the rights of others to free speech. If there is to be free speech, it must be free for speech that we abhor and hate as well as for speech that we find tolerable or congenial."

And in this same case, the Commission refused to impose a verification process which would be inconsistent with the fundamental goal of robust, wide-open debate. The Commission's position was supported by several precedents in the courts.[29] The Court of Appeals affirmed the Commission decision and the Supreme Court did not grant certiorari.

RELATED POLICIES

I should like merely to mention some Commission actions which are pertinent although tangential to broadcast journalism. I will not develop these subjects here but, as I mentioned before, I will be glad to supply additional information or answer questions concerning them.

First, for many years we have had rules to prevent undue concentration of ownership of broadcast facilities either locally or on a national basis.[30] These rules obviously pertain to the First Amendment issue under consideration because their basic purpose is to diversify the sources of information broadcast to the American people.

Second, we have rules [31] that assure the right of network affiliates to substitute local programming; prohibit restraints on taking programming from non-network sources; and indeed require that at least one quarter of the time period, 7-11 p.m., be of a non-network nature. These rules also seek to diversify the sources of material broadcast to the American people.

In addition we have applied the fairness doctrine to the advertising of one product—cigarettes. In 1967 the Commission issued a ruling that required licensees carrying cigarette commercials to inform their listeners to some significant extent of the hazards of cigarette smoking.[32] In doing so, the Commission stressed the unique nature of cigarettes as a health hazard authenticated by the Congress and other Governmental entities. The Court of Appeals, however, in a recent decision, *Friends of the Earth* v. *F.C.C.*[33] extended this ruling to ordinary commercials on behalf of high-powered cars and leaded gasoline. The Court's decision raises the issues of whether virtually all commercials are included and whether such a result would undermine the commercial broadcasting system and the contribution which it makes to an informed electorate on matters of great public concern. We are now studying these questions particularly in the overall Inquiry.[34] Again, I cannot tell you at this time what course we will follow—I can say only that we recognize the need for both expeditious and careful action that will best serve the public interest.

Other Court developments are also pertinent in relation to the object of the fairness doctrine that the people be informed. I refer to the Court's recent decision in *Democratic National Committee* v. *FCC*.[35] The case concerns editorial advertising and the Court of Appeals decision postulates a First Amendment right of access by *some* individuals or groups to *some* time on broadcast stations. The opinion opens a host of issues, and we are considering requesting review by the Supreme Court.

I will stop here in my list. I hope that I have indicated that some of our policies in the broadcast field are in a state of flux. Our goal, however, is firm. We seek to promote robust debate to the end "that the *American public must not be left uninformed*." [36] We must reach this goal with procedures that do not interfere improperly with the freedom of broadcast journalism. That may be a difficult task, but we must meet it, if we are to discharge our responsibilities under the Communications Act.

FOOTNOTES

[1] NBC v. United States, 319 U.S. 190, 226 (1943).
[2] 47 U.S.C. §§ 151–609 (1970).
[3] *Id.* § 301.
[4] *Id.* §§ 307(a), (d), –309(a), –310(b).
[5] *E.g.*, Rosenbloom v. Metromedia, 29 L. Ed. 2d 296 (1971); Red Lion Broadcasting Co. v. F.C.C., 395 U.S. 367, 386 (1969); United States v. Paramount Pictures, Inc., 334 U.S. 131, 166 (1948); Winters v. New York, 333 U.S. 507, 510 (1948).
[6] 47 U.S.C. § 326 (1970).
[7] Red Lion Broadcasting Co. v. F.C.C., 395 U.S. 367, 386 (1969); Joseph Burstyn, Inc. v. Wilson, 343 U.S. 495, 503 (1952).
[8] The Court there stated (319 U.S. at 227): "• • • The right of free speech does not include, however, the right to use the facilities of radio without a license. The licensing system established by Congress in the Communications Act of 1934 was a proper exercise of its power over commerce. The standard it provided for the licensing of stations was the "public interest, convenience, or necessity." Denial of a station license on that ground, if valid under the Act, is not a denial of free speech."
[9] 395 U.S. 367, 389 (1969).
[10] *Id.* at 396–400.
[11] Office of Communications of United Church of Christ v. F.C.C., 359 F. 2d 994, 1003 (D.C. Cir. 1966).
[12] *E.g.*, Report on Editorializing by Broadcast Licensees, 13 FCC 1246 (1949); Storer Broadcasting Co., 11 FCC 2d 678 (1968).
[13] 395 U.S. at 394.
[14] *See* Democratic National Committee, 25 FCC 216, 223–24 (1970).
[15] *Id.* at 222–23, quoting from New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964).
[16] 47 U.S.C. § 315(a).

Footnotes at end of article.

[17] *Cf.*, Report on Editorializing by Broadcast Licensees, *supra* note 12.

[18] 395 U.S. at 389–90.

[19] Cullman Broadcasting Co., 40 FCC 576 (1963).

[20] Applicability of the Fairness Doctrine to Broadcast Licensees, 29 Fed. Reg. 10415 (1964).

[21] Notice of Inquiry on the Handling of Public Issues under the Fairness Doctrine, 30 FCC 2d 26 (1971).

[22] Larus Bros. v. F.C.C., No. 15382 (4th Cir., August 20, 1971).

[23] Wilderness Society, 31 FCC ——, FCC 71-971 (Adopted Sept. 17, 1971).

[24] *See, e.g.*, KMPC, Station of the Stars, Inc., 14 Fed. Reg. 4831 (1949).

[25] *E.g.*, Democratic National Convention, 16 FCC 2d 650 (1969); Hunger in America, 20 FCC 2d 143 (1969); Selling of the Pentagon, 30 FCC 2d 150 (1971).

[26] 4 FCC 2d 190 (1966), *aff'd. on reconsideration*, 6 FCC 2d 385 (1967), *aff'd*, 403 F. 2d 169 (D.C. Cir. 1968), *cert. denied*, 394 U.S. 930 (1969).

[27] *Id.* at 191.

[28] *Id.* at 191–92.

[29] *E.g.*, Smith v. California, 361 U.S. 147 (1959); Bantam Books v. Sullivan, 372 U.S. 58 (1963); Washington Post v. Keogh, 365 F. 2d 965 (D.C. Cir. 1966), *cert. denied*, 385 U.S. 1011 (1967).

[30] *See, e.g.*, 47 C.F.R. § 73.636 (1971).

[31] *Id* § 73.658.

[32] Applicability of the Fairness Doctrine to Cigarette Advertising, 9 FCC 2d 921 (1967).

[33] No. 24, 556 (D.C. Cir., August 16, 1971).

[34] Notice of Inquiry on the Handling of Public Issues under the Fairness Doctrine, *supra* note 21.

[35] No. 24, 537 (D.C. Cir., August 3, 1971).

[36] Green v. F.C.C., No. 24,470 (D.C. Cir., June 18, 1971) (emphasis added).

TESTIMONY OF COMMISSIONER NICHOLAS JOHNSON, FEDERAL COMMUNICATIONS COMMISSION, BEFORE THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS OF THE SENATE JUDICIARY COMMITTEE, OCTOBER 20, 1971

"There is no sanctuary in the First Amendment for unlimited private censorship in a medium not open to all. . . . It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount."—Justice Byron White for the Court in *Red Lion Broadcasting Co.* v. *FCC* (1969)

"In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. The Government's power to censor the press was abolished so that the press would remain forever free to censure the Government."—the late Justice Hugo L. Black, concurring in *New York Times* v. *United States* (1971)

Mr. Chairman, I cannot overemphasize my commendation of you, and enthusiasm for the task you have undertaken.

Caught up in the day-to-day business of governing, it is all too easy for those of us in the legislative and executive branches of government, and the regulatory commissions, to lose sight of the bedrock foundations of the institutions we temporarily occupy.

Ours is an exciting experiment here in America. We believe that if an entire people are well educated and fully informed they will be able to govern themselves—to identify and analyze the issues, to articulate their desires, and to carry them to fulfillment.

That proposition is at once the most conservative, and the most radical, of our distinctively American articles of faith. It is sometimes hard for us to greet with enthusiasm someone else's freedom to express "the thought that we hate." And yet that is what the First Amendment is all about. For there is no need to protect one's right to utter the platitudes that are widely accepted.

It is little wonder that freedom of speech is often misunderstood, ignored or abused. But it is especially unfortunate that there is often an almost inverse relationship between power (office, wealth, education, social status) and a marrow-deep commitment to the logical extensions of democracy and free speech. One need only begin to list the examples to dramatize the point—the Administration's intimidation of the media and suppression of dissent, the occasional arrogance of the wealthy and educated towards the views of the working class and poor, the impediments in North and South alike to the basic rights of registration and voting, and the energetic opposition of broadcasters to the airing of sentiments they would prefer to censor. The list could go on and on.

So in the midst of hearings on ABMs, SSTs, Lockheed loans, and other programs of socialism for the rich, it is refreshing to see distinguished Senators—to borrow from the language of radio and television—pause for a word on behalf of the principle that makes it all possible.

In your opening statement, Mr. Chairman, you raised a number of specific issues: (1) the subpoenaing of newsmen, their notes and filmed "outtakes," (2) the government's efforts to enjoin publication of newspapers, and the intimidation of the broadcast media, (3) the use of false press credentials by government investigators, and (4) regulation of the broadcasting industry.

I have written at length on some of these issues. Rather than take up your time merely repeating statements, I am attaching some, summarizing others, and merely listing some more. In addition to this opening statement I will, of course, be pleased to try to respond to whatever questions or comments you may have.

(1) On February 12, 1970, I addressed the Nieman Fellows of Washington, D. C. ["Subpoenas, Outtakes, and Freedom of the Press: An Appeal to Media Management"] urging a constitutional theory that the threat of sanctions, such as subpoenaing reporters, "may stem the free flow of information and news to the public." That speech is attached. I have also urged the FCC to refrain from asking for newsmen's notes and filmed "outtakes" on a number of occasions—such as *Democratic National Convention*, 16 F.C.C. 2d 650 (1969); *Hunger in America*, 20 F.C.C. 2d 143 (1969); *Selling of the Pentagon*, 30 F.C.C. 2d 150 (1971).

(2) This Administration's intimidation of the print and broadcast media should be a matter of great concern to all Americans of both parties. The full force of its power can only be appreciated, however, when one reviews the sweeping range of its efforts to bend the media to its will. I tried to provide some samples of this range in a paper prepared for the International Association of Political Consultants, entitled "Government by Television." That paper, as published in the March 1971 issue of *Earth* magazine is attached.

(3) The matter of police or government use of false press credentials has never—or only rarely and tangentially—arisen before the FCC.

(4) The matter of broadcast industry regulation is, I presume, the principal reason why you have asked FCC Chairman Dean Burch and me to appear before you. I will spell out some thoughts in a moment, but first let me summarize my position.

a. There are occasions when Chairman Burch and I disagree, but this is not one of them. I fully concur in his explanation of the Commission's view as to the background and need for the Fairness Doctrine.

b. I also agree with Fred Friendly, who testified before you on October 12, 1971 that:

"I perceive very little FCC meddling in newsroom activities. The chilling hand that concerns me far more is the corporate concern for maximizing profits."

Two chapters of my book, *How to Talk Back to Your Television Set* (Atlantic-Little, Brown-Bantam, 1970) are relevant to this problem. (Chapter 2, "The Media Barons" and Chapter 3, "The Silent Screen"). Mr. Richard Salant answered my charges of corporate censorship in an article in *TV Guide*, "He Has Exercised His Right—To Be Wrong," September 20, 1969. My reply is attached. It was delivered to the Radio and Television News Directors Association Conference on September 26, 1969, "Is There a Salant in the News?" It was printed in the *RTNDA Bulletin*, January 1970, and the *Congressional Record*, 115 *Cong Rec.* E10178 (daily ed. Dec. 1, 1969). Other relevant dissenting opinions and statements are cited.

c. The problems of "access" to the mass media were ably discussed before your Committee by, among others, Professor Jerome Barron on September 30, 1971. His early views on this subject [Barron, Access to the Press—A New First Amendment Right, 80 Harv. L. Rev. 1641 (1967); Barron, Access—The Only Choice for the Media?, 48 Tex. L. Rev. 766 (1970)] have already gone a long way to becoming law. See, *e.g.*, *Red Lion Broadcasting Co., v. F.C.C.*, 395 U.S. 367 (1969); *Business Executives Move for Vietnam Peace v. F.C.C.*, ——F.2d—— (D.C. Cir. 1971). I have written of these issues in a number of dissenting opinions, which are collected in the bibliography. A recent article, which I co-authored with a brilliant young lawyer and former legal assistant, Tracy Westen, is attached. [N. Johnson & T. Westen, A Twentieth-Century Soapbox: The Right to Purchase Radio and Television Time, 57 Va. L. Rev. 574 (1971).]

Let me begin my discussion by emphasizing that I join in most of Chairman Burch's statement to you. He has ably outlined the premises and issues underlying the Fairness Doctrine as it applies to broadcasting. I fully agree with him that the leading constitutional teaching on this question is to be found in the *Red Lion* decision.

There are a great many people who will applaud these hearings on so vital a subject. As a former law professor, and having only seen the press reports of your session, I very much look forward to seeing the full printed hearing record. It should become a bestseller at law schools and journalism schools throughout our nation.

The importance of these hearings, not only for those who participate in them, but for the entire nation, was underscored by some comments that Senator Goldwater made on the floor of the Senate in April of 1970. In discussing a public opinion poll that CBS' "Sixty Minutes" had sponsored, he said:

"The findings of the poll were extremely interesting and, to quite an extent, disturbing and frightening. What it shows is that a rather large percentage of our people think that there are amendments incorporated in the Bill of Rights which should be repealed." 116 *Cong. Rec.* 13137–8 (April 27, 1970).

On freedom of the press the poll results showed:

"[W]ell over one-half of the people (54%) would not give everyone the right to *criticize* the government, if the criticism were thought to be damaging to our national interest; and, a comparable number (55%) feel newspapers, radio and television should not be permitted to *report* some stories considered by the government to be harmful to our national interest (wartime censorship was excluded in the question)."

I would share Senator Goldwater's characterization of these results as "disturbing and frightening." If we truly believe that freedom of speech and press are important constitutional liberties—important to the functioning of a representative democracy—then surely we should be concerned if the general populace finds them unnecessary. I am confident that most Americans would support the guarantees of freedom of speech and press—*if* the issues were ever presented and considered thoughtfully.

I hope that your hearings, and the dialogue they stimulate, will encourage this thoughtful consideration. Those of us who support these great freedoms, in government, in journalism and elsewhere, need to tell the American people by words and actions why these guarantees are important—not because they protect the right of businessmen to make money, or to pour abuse on someone, but because they protect the right of the American people to know. It is ironic that the media is now suffering, in part, because it has not done this educational job as well as it might have.

It is useful quickly to sketch how the system of broadcasting was established in this country, why the system of regulation was adopted, and why the Fairness Doctrine was devised.

The radio spectrum and the right to broadcast were considered a national resource, owned by the people as a whole. In deciding how that national resource was to be used, a number of alternatives were considered. A governmental broadcasting system could have been established, on the model of the French system, or a more independent public corporation like the British Broadcasting Corporation. Each special interest group could have been given its own station. Instead, this national resource was not given to private users, nor was it sold. Under the Communications Act of 1934, Congress determined that private licensees would be chosen by the FCC to operate stations as fiduciary trustees of the American people as a whole. Private profit would be permitted, but Congress clearly contemplated that non-remunerative programming would also be required. The public was thought to be entitled to a public service in exchange for the profitable use of its property. It is essential to grasp this idea of a fiduciary trust that underlies the scheme of broadcast regulation in this country. The act expressly spells out that a broadcaster does not own a license in the way that a newspaper company owns its "right" to print.

I do not mean to suggest that the regulation of broadcasting could never involve the use of unconstitutional methods. That has been the issue in a number of court decisions, including *Red Lion*—where the industry unsucessfully argued the unconstitutionality of the Fairness Doctrine. One of the series of FCC decisions of which I am proudest is our steadfast refusal to discipline the networks in any way in response to charges of distortion in news and documentaries. These decisions, most of which have been unanimous, are something for which I have worked very hard within the Commission. Chairman Burch has noted most of them in his footnote 25, and the only one that I would add is the Commission's unanimous action on complaints regarding the networks' November 3, 1969 analysis of President Nixon's Vietnam speech [*Letter to Mrs. J. R. Paul*, FCC Public Notice No. 41437 (Nov. 20, 1969).]

I believe it would be unconstitutional for the FCC to engage in the task of validating the news performance of licensees. But I can't help but speculate what would have happened had the Pentagon Papers story been broken by a broadcaster. What would have been the governmental reaction? What would have been urged on the FCC? What would have been the FCC reaction? I would like to think the FCC would have affirmed the right of the broadcaster to broadcast any story and viewpoint he wished, subject only to the Fairness Doctrine. I would like to think the actions of the FCC would have been as sound as the view Justice Black expressed.

This discussion leads me to a fundamental issue. Why should the Fairness Doctrine, or for that matter, the provisions on equal time in political campaigns, apply to broadcasting when they do not apply to the print media? As Chairman Burch has pointed out to you, the right to broadcast is controlled by the government, and is not available to all. Of course, there are technological and economic barriers to entering any of the media. But there is no comparable *governmental* barrier in any other field. Moreover, as a 1964 note in the *Harvard Law Review* pointed out, there is also a distinction in the way in which newspapers and broadcast stations make decisions vital to the exercise of First Amendment freedoms:

"Perhaps the most satisfactory distinction lies in the nature of the two types of communication organs. Free competition in broadcasting would probably result in the presentation of only the most popular views and programs; newspapers, on the other hand, are sold as a unit rather than by time. There is far less economic impetus for publishers to maximize their audience for each page than there is for broadcasters to maximise their audience for each time period. Indeed, economic motivation might lead publishers to give space to less popular topics, since those who are specially interested in these areas will be encouraged to buy the entire publication. Thus minority interests and the general public interest in the free exchange of information and ideas—protection of which underlie the first amendment—are fostered by FCC regulation."

Note, Regulation of Program Content by the FCC, 77 Harv. L. Rev. 701, 714 (1964); and see Young, Fairness Doctrine: Television As a Marketplace of Ideas, 45 New York Univ. L. Rev. 1222 (1970). Even after you exclude advertising, news and public affairs in broadcasting are not more than 10–15% of the programing. Broadcasting is basically an entertainment business. In newspapers the reverse is true.

Since *Red Lion* the courts have continued to stress that fairness and access may be constitutionally compelled. A Second Circuit case decided in May of this year has received less attention than I think it deserves. In 1970 the FCC decided that television stations of a certain class would be required to take one of their four prime time hours from a source other than the other major networks. This was a decision by a divided Commission, although those who dissented did so on policy grounds. On appeal, the argument was made that this decision was an unconstitutional abridgment of a station's right to program what it wished. Judge Hays, speaking for the court in *Mt. Mansfield Television v. F.C.C.* relied on *Red Lion*, and wrote:

"When viewed in the light of these principles, the prime time access rule, far from violating the First Amendment, appears to be a reasonable step toward fulfillment of its fundamental precepts, for it is the stated purpose of that rule to encourage the diversity of programs and development of diverse and antagonistic sources of program services and to correct a situation where 'only three organizations control access to the crucial prime time evening television schedule.' The specific arguments raised by the petitions reflect basic misconceptions of that purpose and of the First Amendment principles outlined above.

* * * * *

"Thus, while the rule may well impose a very real restraint on licensees in that they will not be able to choose, for the specified time period, the programs *they* might wish, as a practical matter the rule is designed to open up the media to those whom the First Amendment primarily protects—the general public.

* * * * *

"To argue that the freedom of networks to distribute and licensees to select programming is limited by the prime time access rule, and that the First Amendment is thereby violated, is to reverse the mandated priorities which subordinate these interests to the public's right of access. The licensee is in many ways a 'trustee' for the public in the operation of his channel."

Judge Hays has provided us a very good statement of the purposes behind both the prime time access rule and the Fairness Doctrine.

Please note, because it is an essential that is often ignored or misrepresented, that no broadcaster is denied the right to put on any person or viewpoint that he wishes because of the Fairness Doctrine. I understand that the Pentagon Papers story was presented to the networks and refused. It was not the Fairness Doctrine that prevented their breaking it. The Fairness Doctrine *only* requires that *diverse* views are also presented on controversial issues of public importance. It guarantees the public's right to know. The Fairness Doctrine keeps no ideas or voices from the audience—quite the contrary.

Recently Dr. Clay Whitehead, Director of the President's Office of Telecommunications Policy, recommended the Fairness Doctrine be abandoned. Even he, however, recognized the need for a statutory right of access for pay to be applied to broadcasting. I do not believe he recommends such a statute to be applied to newspapers; and thus he also finds some relevant differences between newspapers and broadcasting.

Some suggest that entry into the newspaper business is just as economically and technologically difficult as entry into broadcasting, and therefore the same governmental standards on regulation should apply to broadcasting as they do to print. That view was demolished by the *Red Lion* decision, and simply will not withstand scrutiny. There is no right to start a broadcast station, absent governmental permission. No governmental license is required to publish or to write. There is nothing comparable to the growth of the underground press in broadcasting, and indeed there could not be. Two fellows who tried now find themselves confronting indictment. Entry into broadcasting requires governmental permission to use a public resources, and this fact totally distinguishes broadcasting from newspapers.

In a radio station libel case before the Supreme Court last term, Mr. Justice Brennan wrote for the Court:

"If the States fear that private citizens will not be able to respond adequately to publicity involving them, the solution lies in the direction of ensuring their ability to respond, rather than in stifling public discussion of matters of public concern.[1]

"One writer, in arguing that the First Amendment itself should be read to guarantee a right of access to the media not limited to a right to respond to defamatory falsehoods, has suggested several ways the law might encourage public discussion. Barron, Access To the Press—A New First Amendment Right, 80 Harv. L. Rev. 1641, 1666–1678 (1967). It is important to recognise that the private individual often desires press exposure either for himself, his ideas or his causes. Constitutional adjudication must take into account the individual's interest in access to the press as well as the individual's interest in preserving his reputation, even though libel actions by their nature encourage a narrow view of the individual's interest since they focus only on situations where the individual has been harmed by undesired press attention. A constitutional rule that deters the press from covering the ideas or activities of the private individual thus conceives the individual's interest too narrowly."

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[1] Some States have adopted retraction statutes or right of reply statutes. . . . Cf. Red Lion Broadcasting Co. v. F.C.C., 395 U.S. 367 (1969).

Rosenbloom v. Metromedia, 403 U.S. 29, 47 (1970) (footnote in original).

It is not difficult to conceive what the result would be without a Fairness Doctrine. Broadcasters, acting as public trustees of a publicly owned resource, would be free to present only their viewpoint, or viewpoints they wished to present, and could censor out all others. In a political campaign a broadcaster would be able to present and report only one candidate—his candidate—to the exclusion of all others. He could give free time only to one; or sell time at low rates to one and at exorbitant rates to the other. And there would be no resource for those who were excluded.

If the broadcast campaign reform legislation becomes law, we will remove some of the equal time restrictions. But one of the reasons the Congress and the FCC have been willing to consider such a change has been the restraints of the Fairness Doctrine. I think the American people, through their elected representatives, have decided they want their public resource used fairly. I think it would be bad policy to do otherwise. And I believe the Constitution requires that this public resource be used fairly, with the public being afforded the guarantee to hear diverse viewpoints and information on controversial issues, without worrying whether an individual broadcaster will give them that opportunity.

There are other systems which would help guarantee the public's right of access and right to know—rights protected by the First Amendment. If cable television were a reality for the vast majority of the population, and included the opportunity for any citizen to get access to express his views, for free or by paying a small sum, then rights the First Amendment seeks to protect could very well be achieved in an alternative way, and the guarantees of the Fairness Doctrine might be less necessary. But I don't think broadcasters can have it both ways.

Today they oppose the expansion of cable television as a threat to their rights to make money from their control of access to the public. They oppose the public's efforts to gain access to their own stations. And at the same time they want us to do away with the fairness doctrine. Such a posture is not only internally inconsistent and unjust, it raises some very serious questions about the motives of the broadcasting establishment. Their position is simply intolerable; but they have urged it again and again before the Commission, the courts, and in Congress—so far, I am pleased to say, in largest measure unsuccessfully.

My affirmance of the Constitutional importance of the Fairness Doctrine does not mean that the Commission has perfected its administration. You have heard a lot of complaints, and have raised some questions. Frankly I think the broadcasters are crying "wolf" again. As Fred Friendly told you, it is not the FCC that is censoring broadcasting. The limited intervention of the FCC through the Fairness Doctrine is to insure that, after broadcasters have wielded their censor's knife the public at least gets the right to hear diverse and antagonistic viewpoints with regard to what *is* on the air. But all agree that the administration of the Fairness Doctrine can be improved. As the Chairman has told you, the FCC is presently undertaking that very task. What the Chairman has not told you is that he is the one who has exercised the leadership in getting this proceeding going.

No, it is not the FCC or the Fairness Doctrine that stands in the way of the broadcaster's First Amendment freedoms as a trustee for the public. It is the broadcaster himself who censors—censors in the name of saving money, censors in the name of currying favor with advertisers, politicians, or others whose predilections he would rather not offend. The Fairness Doctrine stands as a constitutionally required protection to the public. I am perfectly willing to consider alternatives that would retain this protection for the public, of the kind I have mentioned. But I am unwilling to give up the protection of the Fairness Doctrine without a substitution for it. I do not believe that Dr. Whitehead's proposals, as initially put forward, would retain the full protection the Constitution requires.

There is one other major subject that I would like to touch upon. There can be no doubt that broadcasting, and especially television, is an extremely important aspect of achieving and retaining high political office, and indeed in the resolution of political issues in this democracy. When we examine broadcasting and the First Amendment, we must inquire into broadcasting as it functions in our political life. Nor is it any criticism to observe that the role of the Presidency and the Executive Branch has become totally intertwined with a concern over the way that the media reports and comments on the political decisionmaking in our nation.

I have reviewed the recent history of this phenomenon in a speech and article written last December that I am offering for the record. But the basic conclusion I reach is that there is a tremendous imbalance in the ability of the President and the Executive Branch to gain access to the media unbalanced by opposing views. This imbalance is manifested in two ways. There is an imbalance for the President as the political leader of one party vis-a-vis the opposing parties who are out of power. And there is an imbalance between two supposedly co-equal branches of government, the Executive and the Congress. I do not say that a President ought not to be able to speak to the American people when he feels it appropriate. But I do wonder about the justice of permitting the President to seize all three networks, as well as the radio networks, to force the American people to hear him to the exclusion of everything else at no cost to himself, when we then turn around and forbid 14 U.S. Senators to answer, at their expense, on one network.

During the past three years we have witnessed increasing proficiency in Executive control of broadcasting. As Larry Michie in Variety put it last week:

"As has been the case since Vice President Spiro T. Agnew began criticizing the network news, the theory goes, the Administration has kicked broadcasting in the news department while patting them on the bottom line."

Eliminating the Fairness Doctrine will not make broadcasters any less vulnerable. We can only rely on the professionalism of the broadcasters, the protections of access and the Fairness Doctrine, and the good sense of the American people.

I would like to conclude by again telling you how important I believe these hearings are. There is no subject of more importance to the functioning of a free society. If you have questions, I will try to be as helpful as I can.

THE PURPOSE OF FOREIGN ASSISTANCE

Mr. PEARSON. Mr. President, the Senate vote last week to end our foreign assistance program has stunned America and left in many minds a sense of disorientation over the purpose of this 25-year-old element of our foreign policy. Among the response to this vote from my own State of Kansas, I have received a letter signed jointly by former U.S. Senator Frank Carlson, who served as a member of the Foreign Relations Committee until his retirement in 1968, and James A. McCain, president of Kansas State University, at Manhattan.

The letter conveys the resolution adopted November 3 by the Senator Frank Carlson Forum on World Food Problems in support of a continuation of a comprehensive foreign assistance program. This forum brings together annually at Manhattan leading members of agricultural production, research and marketing groups from across the Nation, and a number of university faculty and students concerned with the problems of world food production and population growth. In addition, recommendations adopted by the conference on steps for the future of our foreign assistance program, particularly in the area of technical assistance, were attached to this letter. I note the attention of both documents to the humanitarian goals of the United States, and the support expressed for a clear distinction between our military aid and other forms of foreign assistance in the conference resolution.

These two documents represent the views of men and women who understand the achievements of our foreign assistance program, and the dangers of a return to isolationism if such policies should be allowed to lapse. I think the documents will be of interest to the Senate and ask unanimous consent that they be printed in the RECORD.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

KANSAS STATE UNIVERSITY,
Manhattan, Kans., November 3, 1971.

U.S. Senate,
Washington, D.C.

DEAR JIM: We thought you would be interested in the following resolution, approved by participants in the Senator Frank Carlson Forum on World Food Problems at Kansas State University, November 3, 1971:

"1. Foreign assistance serves vital United States national interests and the cause of world peace.

"2. Terminating foreign assistance at this critical point in world affairs would jeopardize the accomplishments of 25 years and pose a grave threat to world peace.

"3. We, therefore, urge the Congress of the United States to take all necessary steps to continue a comprehensive foreign assistance program. The recent action of the United States Senate affords the opportunity to change the program so it will better serve the needs of the 1970's."

We also wish to convey our conviction that the people of Kansas have a major stake in the continuation of our humanitarian efforts to assist the peoples of less fortunate countries.

Sincerely yours,

FRANK CARLSON,
Former U.S. Senator.
JAMES A. MCCAIN,
President.

P.S. For your more complete information, we are enclosing herewith the text of the specific recommendations adopted by the Forum.

SENATOR FRANK CARLSON FORUM ON WORLD FOOD PROBLEMS RECOMMENDATIONS

1. USAID is to be commended for the new directions it is taking, particularly the increased emphasis on research and the multinational approach.

As new legislation is drafted, the Carlson Forum recommends that military aid be separated from technical assistance and that the new thrust emphasize contractual technical assistance programs in agricultural production and marketing.

2. The Land Grant Universities represent the largest single pool of scientific and technical personnel whose training and experience qualify them for carrying out programs of training and technical assistance directed toward the solution of the world's food problems. As the new foreign aid program develops, it is recommended that the association between AID and the Land Grant Universities in these programs be continued and strengthened.

3. The Food for Peace Act (PL 480) as amended in 1966, besides serving a humanitarian interest, has built new markets for U.S. agricultural products and has served the security and foreign policy interests of the U.S.

It is recommended that this be continued in its present form.

4. The Carlson Forum supports the involvement of USAID in the World Consultative Group and endorses the list of high priority research items established by that group as follows:

1. Food legumes
2. Upland crops, including corn, sorghum, millet
3. Livestock production in Africa
4. Soil and water
5. Farm management

In addition it is recommended that high priority also be given to studies related to marketing, processing and distribution of foods.

5. Producer groups in the U.S. are commended for taxing themselves to provide funds to promote, educate, sponsor research, and otherwise develop grain trade.

It is recommended that these activities be continued.

6. The Forum recommends a congressional investigation into labor disputes that are disrupting the handling and transporting of grains so that procedures may be developed to resolve these disputes quickly and fairly in the public interests.

7. It is recommended that grades and standards for the evaluation of grain quality be kept under close scrutiny and modified in accordance with world demands.

CONSEQUENCES OF WAR IN INDOCHINA

Mr. HUGHES. Mr. President, a detailed and valuable report has just been released by the Center for International Studies at Cornell University. This 200-page report examines the nature, extent, costs, and consequences of the air war in Indochina.

Although many of the official data remain classified, the Cornell scholars have developed plausible estimates and extrapolations from official sources. I commend the entire report to my colleagues, but I wish to draw attention to some of the facts and conclusions which it presents.

The level of U.S. activity has declined in recent years, as measured by both sortie rates and bomb tonnages. The prolongation of the war, however, has meant that the Nixon administration has now dropped a larger total tonnage of bombs in Indochina than did the Johnson administration. For the years 1965–68, the total was 3,141,000 tons of bombs. By the end of this year, the total since 1969 will be 3,304,000 tons.

Distribution of bombing has changed with the expansion of the war along the Ho Chi Minh trails and into Cambodia and with the reduction to sporadic bombing of North Vietnam. Bombing in South Vietnam and northern Laos has gone down steadily since 1968, while that along the trails and in Cambodia has grown substantially. The overall level of bombing is about at the level this year that it was in 1967.

One notable change has been in the increased use of B–52's for bombing. Although the total B–52 tonnages have dropped about 40 percent over the past 3 years, the share of the total bombing done by B–52's has increased from 43 percent in 1969 to 47 percent in 1970 to an estimated 50 percent for 1971.

What these figures mean is that the war has become more mechanized and less subject to control. One may criticize the so-called pinpoint accuracy of some of our fighter-bombers, but the nature of B–52 attacks makes them far less accurate. According to the study, a single mission of six B–52's would saturate an area 3 miles long and half a mile wide with 150 tons of bombs. In a matter of seconds, therefore, such a raid would level all structures along the Mall, from this Capitol to the Lincoln Memorial.

Such an example may bring home the nature of this devastation much better than any comparison with gross tonnages dropped in previous wars. But even those comparisons are shocking. In all of World War II, the United States dropped about 2 million tons of bombs; in Korea the total was about 1 million tons. Both the Johnson and Nixon administrations have dropped equivalent amounts on Indochina. To put it another way, we have subjected an area about the size of Texas to twice as much bombing as we did in both World War II and Korea.

In waging their successful counter-guerrilla campaign in Malaya, the British used only 33,000 tons of bombs.

The costs of our air war have been substantial, particularly when considered next to the results which have been achieved. Since fiscal 1966, the air war has cost over $20 billion in direct operating costs and nearly $7 billion in aircraft destroyed, a total of $27,580 million.

What have we gained from this tremendous expenditure? According to the Cornell study:

Air power has been escalated far beyond the point of greatest effectiveness.

The specific conclusions are these:

1. Almost all air missions can be called successful in terms of their immediate operational criteria.

2. Air war is economical in terms of American lives and dollars; it is flexible and domestically unobtrusive.

3. The costs of the air war to the people of Indochina are very high.

4. While the costs of the war mount cumulatively, military actions—though successful individually—may in the aggregate fail to achieve the overall policy objectives they serve.

These conclusions require some further comment. No one can deny that the bombing does significant damage or that aerial warfare is less costly, in lives and dollars, than ground combat. But those factors must be weighed against the tremendous costs to the people of Indochina, both our supposed friends and our alleged enemies. Saturation bombing brings indiscriminate terror and destruction and no amount of verbal juggling—such as renaming free-fire zones as specified strike zones—can change that fact. The report cites documents from the Pentagon papers which concluded that the air-only war over North Vietnam produced 36,000 casualties in 1965 and 1966, 80 percent of whom were civilians. In 1967, Secretary McNamara wrote that U.S. bombing in the North was killing or seriously injuring 1,000 noncombatants a week.

Bombing must also be judged in terms of its contribution to the achievement of stated U.S. objectives in Indochina. On this basis, the report concludes that the air war has had beneficial effects on South Vietnamese morale, but has neither reduced the enemy's will to fight nor cut supplies below the level needed to maintain an effective combat role. Only time will tell the consequences on friendly populations.

When we look to the future, we see the likelihood of a continued, substantial air war. Although bombing may be reduced still further, the United States will still have the capability—and may well have the plans—to conduct bombing campaigns at least on the level of that waged against North Vietnam, which dropped 100,000 to 200,000 tons of bombs each year and resulted in the casualties I mentioned. If the United States retains a residual force of Air Force personnel of between 20 to 40 thousand, the report estimates that a continued air war will cost between $2 to $4 billion each year for as long as it lasts. Even these levels and costs, of course, could be rapidly escalated if the President made such a decision.

One more fact in this study surprised me. It was that less than 10 percent of the sorties flown in South Vietnam were in the nature of close air support. All the rest went for interdiction, harassment, and retaliation.

I hope, Mr. President, that this report will receive careful attention and study by the Armed Services Committee and by all Members of Congress. It shows in a balanced and scholarly way what the air war has accomplished and what it is likely to accomplish in the future.

I ask unanimous consent that two items be printed in the RECORD: a table showing the yearly bomb tonnages by area, admittedly based on rough calculations; and a summary distributed with the report.

There being no objection, the report

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was ordered to be printed in the RECORD, as follows:

THE AIR WAR IN INDOCHINA

This research report prepared by a group at Cornell University presents for the first time a comprehensive examination of the American air war in Indochina. The report contains an historical account and detailed statistical data for the air war in each of the countries of Indochina. A separate chapter is devoted to an analysis of the technical problems in the deployment of air power, including the scattering of ordnance which results from limited targeting accuracy, from target misidentification, from ground-fire suppression, and from such specialized missions as armed reconnaissance.

The presentation provides the basis for a more accurate interpretation of the present level of deployment of American air power and for a study of the trends for the immediate future. The data reveal that, despite a significant reduction in the amount of American air power in Indochina, very substantial forces remain in the theater and continue to be used at a high level. By the end of this year, the Nixon Administration will have deployed in three years as much bomb tonnage as the Johnson Administration did in five. It appears that the policy of withdrawal-without-political-compromise leaves the U.S. still boxed in by the enemy's military initiatives; as American ground forces are withdrawn, the only response available will be massive retaliation from the air. The report examines the characteristics of this type of response in the light of past experience and concludes that it is badly mismatched to the challenges of guerrilla warfare with which it may have to contend.

To illustrate the high intensity of the American bombing, tonnage figures for air munitions deployed may be compared with a case which has been studied in detail. The war against North Vietnam, waged almost exclusively from the air, used 100,000–200,000 tons of bombs per year; it was a lavish and hard-hitting campaign which, despite exceptionally strict controls on the targeting, caused widespread devastation and entailed as many as 50,000 casualties a year, 80 per cent of whom were civilians. This tonnage rate has been equalled or greatly exceeded in several theaters of the Indochina war. Even at present, in the first eight months of 1971, more than 500,000 tons of bombs were dropped by U.S. planes. The large scale of this effort is further emphasized if one realizes that the British, in their successful counterinsurgency war in Malaya, used only 33,000 tons of air munitions in the whole period of ten years.

In South Vietnam alone, the U.S. has already dropped 3.6 million tons of bombs. The report presents a study of the impact of an air war conducted on such a massive scale. Only 5 to 8 percent of the air sorties flown in South Vietnam were in direct support of American or allied troops in battle; the rest were for interdiction, harassment, and retaliation—missions which, in a country being defended not attacked from the air, result in widespread civil destruction among the population whose allegiance is being sought. The motivation for many of the air strikes is documented by the leaflet drops which preceded or followed them; the texts of several such leaflets are cited. In South Vietnam to date, it is estimated that there have been over one million civilian casualties, including 325,000 deaths, while over 6 million people (one-third of the population) have become refugees.

U.S. air activity in South Vietnam itself has been cut back, with the South Vietnamese Air Force taking up some of the tactical bombing assignments. U.S. emphasis is now more on saturation bombing by B–52 Stratofortresses. A typical mission of six B–52s drops 300,000 pounds of high explosive in a fraction of a minute. (A hand grenade contains less than one pound.) Such bombing without a detailed target demolishes an area corresponding to 200 city blocks. Over half the tonnage dropped in South Vietnam has been in such massive saturation raids.

Bombing of North Vietnam between 1964 and 1968 failed to achieve significant results. Economic damage and civilian casualties were very heavy, as noted above, but CIA and Defense Department studies at the time showed no measurable reduction in North Vietnam's will or capability for contributing to the war in the South. The statistics cited in the present report show that the 1968 bombing "halts" did not actually reduce air activity in Indochina, but only shifted its focus—first to below the 20th parallel, and then to Laos and the Ho Chi Minh Trail.

Despite Administration denials, a major air effort has been carried out in northern Laos to support ground activities of the Royal Laotian Government, which are totally unconnected with the conflict in Vietnam. U.S. bombing there during 1969 was as intense as that during the attack on North Vietnam (200,000 tons per year into an area the size of Kentucky), and even fewer restrictions were placed on the use of air power than in South Vietnam. The recurring reports of widespread devastation of Laotian society are credible in the light of these facts. Despite the massive bombing effort the Pathet Lao now control more territory than ever before.

In Cambodia, American air operations have been conducted with sustained intensity since 1970. They have included not only interdiction missions against supply and troop concentrations in the northeast, but also close-support operations for Cambodian and South Vietnamese troops. At present Cambodia has joined the list of Indochinese countries totally dependent on the U.S. for their military and economic survival.

The air war over the Ho Chi Minh Trail in southern Laos has been steadily escalating since 1966, with 400,000 tons of munitions expected to be dropped this year. This interdiction campaign has become the focus of the U.S. air war in Indochina; it has also served as a laboratory for the improvement of air-war technology. Elaborate and expensive electronic devices are being developed as instrumentation for an "electronic battlefield," the goal of which is automated and computerized warfare, providing an all-weather, day-night interdiction capability. This development is a further step in the depersonalization of war: "Machines fight the gooks, and no human beings are involved on either side!"

The air war has also resulted in a direct and massive onslaught on the ecology of Indochina. More than one-third of the forest area of South Vietnam has been sprayed with defoliants, one-half of the country's mangrove forests have been killed off, and enough food has been destroyed by herbicides to feed 600,000 people for one year.

Various examples point to the paradox inherent in the mechanized American response to guerrilla warfare. For instance, one Defense Department analysis showed that the extensive American bombing provided the enemy with more than enough explosives from dud bombs, 27,000 tons in 1966 alone, to make his mines and booby traps. Such devices killed over 1,000 U.S. soldiers that year, while the air strikes were estimated to to have killed no more than 100 of the enemy.

The direct budgetary costs of the air war thus far have been about $25 billion, or about one-quarter of the cost of the Indochina war; the total U.S. economic costs are estimated at more than $50 billion. The immense cost to the people of Indochina cannot be put in such precise figures, but it must be taken into account in evaluating the air war.

The credibility of U.S. government statements about the air war is called into question by numerous discrepancies. The Pentagon Papers have now revealed developments through early 1968; this report draws attention to events since that time. In 1969, when 200,000 tons of bombs were dumped on northern Laos, Washington officially admitted only to flying "reconnaissance" missions. B–52 raids in northern Laos went on for more than a year before official acknowledgement. It was stated that U.S. planes were not giving close support to Cambodian troops when in fact they were. "Protective reaction" raids against North Vietnam strike a wider range of targets than their official description implies.

In surveying the present trends in the air war, the report finds that there has indeed been a significant withdrawal of American air power from Southeast Asia. Despite this relative decrease in the number of U.S. aircraft deployed in the theater, more than enough remain to permit a continuation of the air war on a massive scale. American attack planes are being withdrawn primarily from bases within South Vietnam; substantial numbers remain in operation from bases in Thailand and carriers in the South China Sea. At the same time, the South Vietnamese Air Force is being built up to take over many of the in-country operations, while relying, however, on U.S. aircraft for the maintenance of air superiority and for missions in other parts of Indochina.

In terms of military effectiveness, the study finds that although air power has been able to achieve narrowly defined military missions, such mini-successes have not added up to yield an overall position of strength. Close air support of friendly troops has a definite advantage—but only a small fraction of the U.S. air effort has been devoted to that mission. Interdiction is a valid objective—but it has yet to be shown that air power under Indochina conditions can reduce the flow of men and material enough to curtail guerrilla activities.

While aerial bombing has undeniable military advantages in conventional warfare with massed troop concentrations, in guerrilla warfare the American capital-intensive response, substituting lavish firepower for manpower, is both inefficient and indiscriminate. Military gains, which at most buy time, are mitigated by heavy civilian damage from air war, the consolidation of enemy morale which frequently results, and the unfavorable image of the U.S. projected abroad. Indiscriminate destruction resulting from the use of air power amidst civilian populations contributes to the continuing weakness of friendly regimes in Indochina. U.S. political aims in Indochina are hardly more secure today than ten years ago.

In sum, the study concludes that, while the use of air power is tempting because of its relatively low cost in dollars and American lives, in the Indochina setting its military effectiveness is restricted and its indiscriminate devastation is politically counterproductive. The report suggests that the air war was prosecuted in the face of these facts not because American politicians were knaves or fools, but rather because of a failure of the imagination: a failure to develop policies more complex, but at the same time more humane and politically appropriate, than routine application of the massive firepower available to the United States through its advanced technology.

TONNAGE OF AERIAL MUNITIONS

Year	South Vietnam	North Vietnam	Trail	North Laos	Cambodia
1965	252,000	33,000	30,000		
1966:					
F–B	160,000				
B–52	140,000				
Total	300,000	128,000	67,000		
1967:					
F–B	357,000				
B–52	260,000				
Total	617,000	207,000	101,000		
1968:					
F–B	436,000				
B–52	550,000				
VNAF	30,000				
Total	1,016,000	164,000	156,000	20,000	
1969:					
F–B	434,000		215,000		
B–52	500,000		30,000		
VNAF	50,000				
Total	984,000		245,000	210,000	
1970:					
F–B	235,000		190,000		43,000
B–52	272,000		138,000		
VNAF	50,000				14,000
Total	557,000		328,000	120,000	57,000
1971:					
F–B	64,000		210,000		64,000
B–52	160,000		160,000		
VNAF	45,000				25,000
Total	269,000		370,000	75,000	89,000

THE CONFIDENTIAL PENTAGON PAPERS

Mr. SCOTT. Mr. President, the recent late sessions of the Senate make it impossible to see the evening news and particularly listen to the editorial comments offered by newsmen. Therefore, something has been missing. Now, thanks to the Christian Science Monitor, an outstanding editorial aired on the ABC network November 5 has been produced. It is entitled "How Come?" It has to do with the confidential Pentagon papers and their subsequent release by Dr. Daniel Elisberg. Howard K. Smith of ABC presents an interesting analogy, and I would like to share it with the Senators.

Mr. President, I ask unanimous consent that the editorial commentary by Mr. Smith be printed in the RECORD, and I thank the Christian Science Monitor for helping me in supplementing the day's news coverage.

There being no objection the commentary was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Nov. 11, 1971]

HOW COME?

(By Howard K. Smith)

Here is a sequitur I have a little trouble following.

A lot of officials discussed contingency plans for Vietnam for years under the assurance that their words were confidential. Indeed, confidentiality was legally guaranteed by classifying the papers secret—it was illegal to reveal them.

Dr. Daniel Elisberg got the papers and decided, assurance or none, law or not, he had the right to publish them. Thus, the Pentagon papers appeared . . . which I was glad happened.

Now, the said Dr. Elisberg has taken part in a seminar for the Council on Foreign Relations. It is the practice of the council to keep such matter confidential. But the government asked to see what he said, and got a subpoena from the court to acquire his remarks. With, I thought, a certain logic the council handed over his statement.

But now, Dr. Elisberg is in a state of high dudgeon. They have no right to see my paper, he says in effect, for it was confidential, my constitutional rights are violated.

I take no sides. I am just puzzled. If Elisberg can publish confidential papers despite the law, why cannot the government see his confidential paper by process of law?

I am as stern a defender of law and rights as any man. But until I hear more coherent argument than Elisberg and friends put forth, this sounds like a claim not of rights, but of very special privilege.

TENTH ANNIVERSARY OF THE ENVIRONMENTAL HEALTH LETTER

Mr. MUSKIE. Mr. President, on October 15, the Environmental Health Letter celebrated its 10th anniversary. It is an anniversary worth noting and praising.

For 10 years, Gershon W. Fishbein has published his twice a month newsletter as a source of information on what is happening in environmental protection, what isn't happening, and what should happen. His is one of the first of a new generation of environmental publications, and it is one of the best. In its first decade, the Environmental Health Letter has maintained the editorial maxim "that the problems of the environment are interrelated and must be treated together rather than fragmented." Time and again, Mr. Fishbein has reminded us that the object of pollution control is not simply to reduce this or that discharge to a certain level, but to improve the health of men and women through an improvement of the environments in which we live.

I want to take this opportunity to express my gratitude to Mr. Fishbein for the challenge he has provided to me and my colleagues on the Senate Subcommittee on Air and Water Pollution. I know he will continue to challenge us to do better than we have.

I ask unanimous consent, Mr. President, that a paper delivered by Mr. Fishbein at a symposium on environment, health, and population at the 99th Annual Meeting of the American Public Health Association, in Minneapolis, Minn., October 13, 1971, be printed in the RECORD at this point. That paper, "Environmental Health: Does It Have a Future?" provides an eloquent statement of Mr. Fishbein's philosophy, and I commend it to the attention of Senators.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL HEALTH: DOES IT HAVE A FUTURE?

(By Gershon W. Fishbein)

Presentation at Symposium on Environment-Health-Population, 99th Annual Meeting of American Public Health Association, Wednesday Morning, October 13, 1971, Convention Hall, Minneapolis, Minn.

An old Arab proverb reminds us that "he who has health has hope, and he who has hope has everything."

It tells us that all of man's endeavors, all of his aspirations, can be achieved only if his health—physical and mental—is protected. It is the indispensable base on which all else in life rests.

Although obvious, it merits restatement today as very relevant to our theme of "Environment-Health-Population," and especially to my discussion of the future of environmental health.

Environmental health is considered to be a relatively recent phenomenon by many. Yet Hippocrates is known to have counseled young physicians, seeking a locale for practice, to consider "the purity of the airs and the waters" in determining the presence of disease in the community.

If we believe that water pollution and supply are the products of 20th century technology, we should remember that the Roman Emperors were much aware of the problem, as their elaborate underground aqueducts, uncovered in archeological expeditions, attest.

Mindful of the adage that fools rush in where angels fear to tread, I nevertheless feel privileged to appear before you today to peer into the future of environmental health and perhaps to foresee some trends. In so doing, let us honor and respect the past—not because it is the past, but because it shapes the present and illuminates the future.

The late Professor Winslow of Yale was the unquestioned giant of environmental health and sanitation in the first three decades of the 20th century. To a degree unmatched by any of his colleagues, I suspect, he expounded the concept of personal sanitation and hygiene as the primary means of preventing disease.

He invites our study and commands our respect for many reasons. So pervasive was his influence that it extended into the 1950's, the era of communicable diseases when medicine turned its attention to viruses and bacteria, seeking to isolate and identify their pathogens and to develop vaccines and antibiotics for their prevention and cure.

By precept and example, through his many students still very active in the field, his contributions represented the forerunner of

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the present philosophy of environmental health control.

Parenthetically, I might say that the American Public Health Association meeting is an ideal setting to remember the contributions of Prof. Winslow. As many of you know, he served APHA for some time as editor of the American Journal of Public Health.

In the United States, environmental health activities have contributed to virtual elimination of many once-dreaded epidemic diseases such as typhoid fever, cholera, malaria, yellow fever and endemic typhus. In lesser degree, the incidence of the dysenteries and other filth-borne diseases has been greatly reduced by environmental controls.

Originally, these environmental controls developed as a result of social dissatisfaction with urban sanitary conditions following the industrial revolution. At first, the methods used were largely empirical, but improved knowledge of specific diseases etiology and sanitation technology gradually established bases for more scientific and effective procedures.

Come forward to our times. By 1960 it became evident that national programs in air pollution, water pollution, radiation, occupational health, pesticides and food protection were gaining increasing public attention—particularly water pollution, which has had the longest history of any environmental health problem and served as the training ground for many of the environmental technologists of today.

The rapid spread of industrialization and the coalescence of urban areas into large metropolitan complexes gave rise to many of the environmental health problems which existed then and still persist today. New patterns of living, extending into suburban and ex-urban communities, compounded the sources of environmental hazards and concentrated into a relatively small land area the people affected by them.

While the extent of the problems were recognized, if not fully appreciated by the powers that be, it became equally evident that the organizational capacity of the U.S. Public Health Service, where most of the programs were lodged, to cope effectively to meet them was greatly limited.

The programs themselves rose somewhat independently of each other, usually in response to a specific urgency—a fish kill, a pesticide poisoning, an industrial accident, etc. There was recognition even then that the problems of controlling environmental health hazards were interrelated and must be administered as a whole rather than fragmented.

A 1960 report of the Surgeon General to the House Appropriations Committee noted that this fragmentation has "resulted in a loose grouping of related, but independently treated problems, programs and activities associated with the essential elements of our surroundings—the water we drink, the air we breathe, the food we eat, the shelter which protects us—or with action taken by man in pursuit of a fuller life: his occupation, recreation, transportation and social organization."

To help the Public Health Service provide a central focus for its environmental health responsibilities, Surgeon General Luther L. Terry convened an advisory committee headed by Dr. Paul M. Gross of Duke University.

Ten years ago this month the Gross committee submitted its report recommending several major steps to provide such a centralized focus, including the establishment of a Bureau of Environmental Health, a national center for environmental health research in the Washington area, and a number of other categorical recommendations designed to strengthen and enlarge the Service's responsibilities.

Rereading the Gross committee's recommendations ten years later, considering what has transpired in the last decade, seems almost like a venture into Alice-in-Wonderland. The recommendations seem Utopian.

This is not the proper time or place for an autopsy to determine who killed environmental health, or even if there is a corpse. It would be unproductive, I believe, to sort out heroes and villains. Suffice it to say that the environmental health problems of 1961 are still with us—multiplied a thousandfold, of course—and many new ones not foreseen then are in evidence. And, more significantly, the concept of an integrated attack on the problems remains today more valid than ever before.

Environmental health seeks to orchestrate a unified approach to the conflicting claims imposed on man's health from many sources in that environment—air pollution, pesticides, noise, crowding, solid wastes, to name but a few.

Environmental health today is everybody's business. Although it is perhaps the ancestral home of the sanitary engineer, environmental health is now embraced by many disciplines sharing a common objective—protecting man's health and welfare from the deterioration of an environment which is becoming increasingly hostile to his aspirations for a better life.

More than waste treatment facilities, much more than monitoring sulfur dioxide, much more than any technological innovation, environmental health is a sociological phenomenon. It shapes man, and in turn is shaped by him.

The late Whitney Young told the story of how, in ancient Greece, a wise philosopher was once despairingly asked: "When will justice come to Athens?" And he replied that justice would come only when those who are not wronged become more indignant than those who are.

So it is with environment. It is everybody's bag, not just the poor and the dispossessed, not just the aggrieved and the alienated, but also the well adjusted and the comfortable.

Given these forces, is it any wonder that environment has been labeled the issue of the '70's?

Although health protection, in the traditional sense, is now interwoven into environmental agencies at the federal level, and at many state levels, there is still ample opportunity for the environmental health specialist to play an active, if not leading role.

Health may have sacrificed its place in the top box of some organizational charts—but it has not surrendered its prestige or its influence, especially in time of crisis.

Mercury has been in the nation's waters for many years, but only when it entered the food chain and became a threat to public health did it command the headlines and, consequently, the public attention.

Many exotic chemicals which can be assimilated safely in the environment become danger signals when health is at stake. Health is the flesh word of the environment, the point at which the public rises in wrath and says "stop, now."

Agencies which contemplate further subordinating health in their environmental structures should pause and consider this reality.

Beyond this, the future of environmental health lies in fostering alliances with other groups with similar objectives—public works agencies, housing agencies, medical care organizations, etc. In advocating this step, I know that history places odds against it. But I sincerely believe that the time has come to bury past differences and to consider how much more unites the disciplines than divides them.

Neither health nor any other aspect of environmental control can prosper in isolation from each other. The complexities of environmental control today are well known to all of you, and it would be presumptuous of me to dwell on them before this sophisticated audience.

There is a place for everyone—and yet I continue to cling to the view that the contribution of health can be uniquely significant, if only for the importance of the target, namely, man. By training and by instinct, the true environmental health specialist understands and appreciates man's diversity and his role in helping nature to cope with it.

To illustrate this point, I should like to quote briefly from one of America's most gifted newsmen, William V. Shannon, writing last week in the New York Times:

"In the whole mysterious gift of life, what most astonishes and excites is diversity. No two human beings are the same. The tiniest snowflake, the most distant star, the intricately veined leaf of a tree are each unique. From jackrabbit to giraffe, from crocodile to swan, from tiger to hummingbird, nature delights in varieties of form and phenomena.

"Overwhelmed by this profusion, man's deepest intellectual drive is to understand, to classify, to find self-consistent structures. But from this drive also springs man's menacing will to power.

"In the realm of understanding, there is always the indeterminacy, the random event, the inexplicable phenomenon which frustrates and beckons. But in the realm of power, human beings know quite enough to exert control and to make themselves and their man-made environment conform to abstract patterns. This human effort moves strongly toward suppressing variety. In law, politics, technology, economics, education and even the ephemeral world of fashion, the greatest danger is always the tendency toward a deadening sameness, toward a loss of variety for the sake of control."

He concludes by saying that "the worldwide ecological movement is not only a response to the life-threatening dangers of pollution but also a belated affirmation of the importance of diversity. Man, the giant predator, has destroyed countless other species. He menaces every creature from the mighty blue whale to the humble butterfly. Only now does man realize that if he is nature's sole survivor, he will not long outlast his victims."

The future of environmental health lies in broadening its base to include the social consequences of its solutions. The environmentalist must not be content at looking at the automobile through the tailpipe, but must consider the total impact of the automobile on the entire social fabric of our lives. In this context, he may find that pollution is the least objectionable aspect of the automobile. Environmental health must not confine itself to lead in auto exhaust, but must also consider lead in the blood of hungry children eating lead-based paint off the walls of broken-down housing.

Environmental health cannot consider auto pollution without involving itself with mass transit. You cannot be for one and against the other.

We should not diminish our efforts to understand and control such problems as air pollution, radiation and pesticide exposure, and so forth. But we should not forget that two of our biggest environmental health problems are crime and poverty. The relationship is obvious: Pollution fouls man's environment, and poverty chains him to it.

The city will be the arena of the new environmental health action. Crowded, tense, teeming with narcotics and many other manifestations of a turned-off sub-culture, today's city embodies much that is gone wrong in our lives.

Our quest must be to make our cities more hospitable—to ideas as well as to men, to innovation as well as to immigration. Just as urbanization has given rise to many of the environmental health problems of today, so too is the urban area the proving ground for their solutions.

Martin Luther King was fond of reminding audiences of Washington Irving's delightful fable of Rip Van Winkle, who, when the cares of the world became too much for him, simply fell asleep. He slept for 20 years and when he awoke, the American Revolution had taken place.

Today, in the ferment we call our American cities, another environmental revolution is taking place. None of us—physicians, lawyers, engineers or newspapermen—can afford to emulate Rip Van Winkle. We must not, we dare not, sleep through *this* revolution.

CONTINUATION OF BREEDING IMPORT PROGRAM

Mr. SAXBE. Mr. President, one of the greatest challenges now facing the American beef cattle industry is to increase the efficiency of high protein beef production. Cattlemen can no longer rely on showring records or on-the-hoof appearance of an animal. They must use accurate data to establish the efficiency of the conversion of crops to beef and base bloodlines on production rather than conformation to supply consumers with high quality lean beef at the lowest possible price.

To meet this challenge, beef cattle breeders in this country have, since 1966 increasingly relied on the cross-breeding of so-called exotic European breeds with our traditional domestic bloodlines. These breeds are extremely fast growing and when they are crossed with good domestic cattle they produce hybrid calves that are ready for market much sooner. However, no live animals can be imported directly to the United States from countries that are not hoof-and-mouth free. Most of the exotic breeds come from such countries. Presently, American breeders can import these breeds through Canada or import semen through the Plum Island, N.J., testing facility. Since 1966, 530,940 ampules of Charolais, 836,153 of Simmental, and 569,518 of Limosin semen have passed through this laboratory. Many other breeds have also been imported; however, these three have been the most popular.

As an example of the anticipated advantages of using exotic breeds in a cross-breeding beef program, I would like to present the following figures compiled by Dr. James K. Davis, of Schearbrook Land & Livestock, Inc., which is based in my home State. The figures are based on performance data of a breed that is gaining increasing popularity with American breeders, the Chianina. The breed is quite old, dating back to before the time of Christ. And, knowledgeable cattlemen feel that it will instill tremendous hybrid vigor in the feedlot. Dr. Davis' conclusion was based on the Chianina bull Diaceto, who reached the weight of 900 pounds in 205 days, 1,247 pounds in 365 days, and currently weighs over 3,500 pounds at 3 years. His calves from replacement females where no selection was made would have an added weight of 60 pounds at weaning. Which in turn, at an estimated 33 cents per pound, would equal $19.80 more per calf sold. Assuming a herd that produces an average yearling weight of 1,000 pounds when no selection is made in the replacement groups, the dollar advantage per calf from using this particular bull would be $24.42. I use these figures to illustrate the importance of cross-breeding to produce low cost high protein beef for the American consumer as well as for export to other countries. Also, I cite the figures to illustrate why it is important to import these breeds to establish hybrid fast-growing steers in American feedlots.

To further complicate the importation of these exotic breeds, an advisory board of scientists recently recommended to the U.S. Department of Agriculture that no semen from bulls obtained in countries which are not hoof-and-mouth free be imported into the United States. They recommend that this be effective for projects beginning after January 1, 1972. The Department of Agriculture has not acted on the recommendation of this group as yet.

I am completely aware of the risk that importation from hoof-and-mouth countries presents. However, I feel that we now have the technology to minimize this risk for the importation of semen, as well as live animals if and when an adequate quarantine station is constructed for use by the American cattle breeders.

I urge the Department of Agriculture, especially the Division of Animal Health, to quickly evaluate this scientific recommendation because of the demand on the Plum Island facility as well as the pending construction of a quarantine station. After their evaluation it is my hope that they will establish policy that would continue to allow the importation of the exotic breeds from hoof-and-mouth countries with adequate protection to minimize the risk of an epidemic to the American cattle industry.

But, if in their best judgment they feel that importation of semen or live animals severely jeopardize American herds, I hope that they will take steps to protect the industry from the economic pitfall of allowing the exotic breeds to be brought through Canada. The Canadians sensing a monopolistic advantage in this regard will certainly increase their prices disproportionately to the value of the cattle sold. Without any competition Canadian breeders would be free to charge exorbitant prices for breeding stock and semen.

There is precedent for this. Prior to the approval of a project to import Chianina semen through Plum Island the Canadians were prepared to sell semen from bulls of this highly sought after breed at between $150 to $200 per ampule. The price after the American project is finished should be between $20 to $30 per ampule. As an illustration of the cost to the American cattleman, I ask that the Department of Agriculture consider these figures. Since 1966 approximately 2,306,000 ampules were imported, based on an average $3.50 markup, this semen of exotic breeds cost the cattleman over $8 million. Our beef industry must update their commercial breeding procedures to produce competitive, low-cost beef. To force this industry to pay monopolistic prices to accomplish this seems unfair when this country possesses the technology to continue the semen importation program and provide for the importation of live animals.

In short, if the Department of Agriculture sees fit not to provide the American cattleman with a way to import exotic breeds either in the form of live animals or semen, I sincerely hope the Department will also recommend a way to prevent the Canadians from monopolizing this vital market. It is my opinion that the technology is available to minimize the risk of a hoof and mouth outbreak in this country. And, such technology should be used to the advantage of the American beef breeding industry.

REFORMS REQUIRED IN CORPORATE PENSION PLANS

Mr. HUMPHREY. Mr. President, recently it was my privilege to address the eighth annual corporate pension conference of Donaldson, Lufkin & Jenrette, Inc., a major pension fund management firm, in New York City.

In my remarks to this distinguished gathering of corporate financial executives, I emphasized the rising concern among America's workers about the denial or inadequacy of retirement income under the pension plans of their respective employers. I urge the multi-billion-dollar pension fund industry to launch a major program of reform and warned that unless it puts its house in order, it will face strong Federal regulation.

I ask unanimous consent that the text of my remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY

I am a layman. You are the professionals in handling daily the complexities and heavy responsibilities of managing a multi-billion dollar financial sector commonly known as private pension funds on behalf of corporations and millions of employees.

But I am here precisely to give voice to the concerns of the laymen. I am here to present some of the problems and hardships workers report they are experiencing in private pension plans in our country. I am here to help you get at the facts of these vital human and economic problems and to plan corrective actions that are at once progressive, financially responsible, and sensitive to a real and growing social concern.

Perhaps it is entirely appropriate that your conference program has me bracketed between your hearing, for the first time, the "view from the executive branch", and a discussion of legislation and labor union negotiating proposals on private pension plans. For there seems to be no other place on this program to talk about the men and the women on whom all these viewpoints and activities will have a direct impact.

I am talking about over 30 million workers covered under more than 34,000 pension plans. That's one-half of the private work force, depending upon private pension benefits, along with Social Security and hopefully insurance and some savings, to help them get through the years after they must stop working.

But we all know how costly those years are becoming for rapidly increasing numbers of people on fixed incomes. Let me remind you of some harsh statistics: Every tenth American today is over 65, but one of every four elderly persons lives in poverty. Then look at the commonly reported figures on those who are depending on help from pri-

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vate pension plans. Up to one-half of all persons participating in private pension plans may not receive pension benefits when they retire. More than one-half of those who do get these benefits will receive less than $1,000 a year. And there is a disturbingly high frequency of benefit cut-offs upon the death of the beneficiary, leaving the widow to fend for herself.

Now what will be your response to these statistics? Will you continue to answer with figures from industry-related studies demonstrating a record of good performance by private pension funds? I suggest, respectfully, that while it is vitally important to recognize the increasingly progressive actions by private pension funds to strengthen their financial position, to avoid potential conflicts-of-interest, and to increase and expand benefits, that the reciting of such reports simply is not good enough any more.

It is almost an American maxim that businessmen do not let slogans or doctrinaire ideologies get in their way or confuse their judgment, but go straight to the facts of the situation.

What are the facts today that explain a rising public concern over private pension plans?

First, there is the sheer fact of potential economic power concentrated in pension funds. In only three decades, there has been a 4,500 percent growth in private and government pension funds, to over $220 billion, with private pension plan assets alone accounting for about $136 billion.

Second, despite recent improvements, unilateral terminations of private pension plans continue to be reported. The United Steelworkers of America, with about one million members covered by pension plans, has seen over 70 pension funds stopped within the last five years because of plant shutdowns, bankruptcy or merger.

The beginning of widespread public concern about this problem can probably be pinpointed at the time of the Studebaker plant closing. But you all know of the Labor Department study showing the termination of 4259 pension plans from 1955 through 1965, and affecting some 225,000 employees. It is not enough to point out that many workers were transferred to other pension plans, because thousands upon thousands of others have seen their future security wiped out.

Third, there is a rising public awareness that private pension plans have been subjected to relatively little regulation. As Fortune Magazine commented in its October issue, "Few powerful financial institutions, indeed, function with so little control."

You have all taken due note of the public hearings over the past few years focusing on the alleged misapplication of pension fund assets by trustees of certain union as well as corporation plans. Pension fund trustee names that appear simultaneously on the board roster of depository banks or as officers of parent holdings companies, while not constituting illegal conduct, have been cited in instance after instance of conduct that is unethical.

But finally, and most importantly, you are dealing today with an aroused and far better informed general public.

The American people are scrutinizing as never before the conduct both of corporations and government, a development that I welcome and one that is healthy for both our public and private institutions.

Public interest and awareness have been heightened by the unprecedented economic situation in America of continuing inflation and high employment. The working people of America, confronting critically high living costs and the constant anxiety of job insecurity, while the lid is clamped down on wage increases, are watching very closely where every dollar taken from their paychecks goes. They are deeply concerned about actually obtaining the future security benefits negotiated on their behalf in place of higher increases that might have been obtained in current wages. Men and women thrown out of work by plant layoffs, when they are within a few years, or even months or days of earning a vested right to future retirement benefits, are angry and feel betrayed.

Now this is the situation as it is actually perceived by millions of Americans who have suddenly found themselves thrown out in the cold. This is hard fact, whatever arguments might be put forward in defense of progressive actions taken over the years by private pension plans.

What actions, then, must be taken by you who are directly responsible for the management of private pension plans, to meet this serious public concern?

I call upon you today to launch a major effort to accomplish vital reforms in private pension plans and in the management of pension fund assets. Put your own house in order. I can promise you that if this action is not taken quickly, Congress will demand that it be done by government.

You can rely on solid precedent for in-house reform, in the case of the securities industry. Recently, we witnessed a serious slump in the stock market, despite Administration promises that economic conditions are going to improve. Almost a decade ago, when the same situation occurred and loud protests were heard about stock manipulation, I went to New York for a private and very frank discussion with members of the New York Stock Exchange. I proposed that they set up a blue ribbon commission to clean up their own house, and I warned that the alternative would be extensive public regulation. This private sector action was taken, and substantial improvements were made toward enhancing efficiency and responsibility in the securities industry.

Such reforms in private pension funds will not be accomplished so long as red flags are waved that private pension plans are being called upon to demonstrate social responsibility at the expense of assuring a maximum profit on invested funds.

The basic social problem confronting you right now is that increasing thousands of Americans are finding it impossible to live on their limited retirement income. And the social responsibility for which the American people are calling is the effective management of private pension plans.

You must bring every possible pressure to bear to meet these needs. I propose that you begin right now to draft and promulgate an industry-wide code of standards on the funding of private pension plans. Corporations ought not be permitted to enjoy a windfall by withholding contributions to worker pension plans, and instead applying them as interest-free plant investment or as stock dividends, or for management salary increases. Where a pension plan's growth results primarily only from additional worker contributions, rather than from effective investment, or where accrued benefit liabilities far exceed fund assets, then the spotlight should be focused by the private pension plan sector itself on the activities of the trustees of this plan that are undermining standards of fiduciary responsibility.

Should the private pension fund section fail to make these actions, the only alternative must be strict disclosure and reinsurance requirements under public law.

And there must be an industry-wide emphasis upon continuing education program for workers about their private pension plan rights and benefits. Time after time, we hear worker complaints about benefit denials, which were in fact the result of the beneficiary never having been adequately informed about the requirements or benefits of that pension plan.

You must also face the fact of increasing labor mobility that repeatedly cancels out a worker's time credits toward earning vested rights to future retirement benefits under a particular pension plan.

Isn't it time for all pension plan managers in similar types of business and industry to work out pension portability arrangements? Should we not move forward with the establishment of pools of separate plan funds, under which computerized accounts are maintained of debits and credits transferred under these respective plans as a worker changes his place of employment?

And can you continue to be satisfied with the argument that there is an offset between earlier vesting rights and higher retirement benefits—that to promote the one you must deny the other? Why should we not enable a worker to retire with two or three reduced pensions under plans with earlier age and service vesting rights, rather than tell him after he has worked hard for 20 years that he has no right to any deferred income because his plan has a longer vesting period?

These are questions to which there must be a positive response. While on the one hand, private pension plans are being acclaimed as the hottest investment frontier today, they are also being increasingly regarded as a social instrument for helping an employee provide for his future. A heavy responsibility has been laid upon you to prevent any conflict in the objectives that are implied in these viewpoints.

Almost ten years have passed since the appointment of the President's committee on Corporate Pension Plans, whose 1965 report focused public attention on areas in vital need of reform. I suggest to you, in all frankness, that the march of time is now accelerating. Will you respond? Will you demonstrate to America a genuine concern to meet the income need of people? For they are what private pension plans are really all about.

FORTY-FOUR YEARS OF "THE AMERICAN FORUM"; A TRIBUTE TO THE LATE THEODORE GRANIK

Mr. JAVITS. Mr. President, some 44 years ago the late Theodore Granik, my good friend, founded "The American Forum" radio discussion show on station WOR in New York City. This was radio's first discussion program, and it returned to the air on October 17—the first time it was aired since Mr. Granik's passing late last year. Ted Granik was a creative genius in establishing and helping to develop the public affairs format for radio and television. American Forum and Youth Wants to Know are two landmark tributes to his memory.

His widow, Hannah Granik, now takes over as associate producer and coordinator, working with Robert C. Cody, executive producer, in carrying on the great tradition of "The American Forum." The first show of the new season concerned itself with an issue that troubled Mr. Granik as well as all public-spirited Americans—the issue of hunger in America.

So that Congress is aware that the American Forum continues, I ask unanimous consent that the transcript of the first program, which features a dialog between two experts on hunger—the Assistant Secretary of Agriculture for Marketing and Consumer Affairs, Richard E. Lyng, and the national correspondent for the Washington Post and Pulitzer Prize winning author of "Let Them Eat Promises," Nick Kotz—be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

[WAVA-FM, Oct. 17, 1971]

AMERICAN FORUM

VOICE. How can an administration, that's fully committed to feeding hungry children at school, draw up new guidelines as the agriculture department did last week that would knock a million children out of the school lunch program?

ANNOUNCER. From Washington, D.C., the Mutual Broadcasting System presents the award-winning "The American Forum" . . . the nation's first discussion program . . . now returning to the air for the first time since the death last year of its founder-producer Theodore Granik. Every week at this time the American Forum presents all sides of current issues of vital importance.

The subject this week: "Hunger in America." Moderator for the new American Forum series is Robert C. Cody. Mr. Cody will introduce this week's guests in one minute . . . (Spot.)

ANNOUNCER. Now here is your moderator, Robert Cody . . .

CODY. Before introducing our guests on the first program in this new American Forum series, a word is in order about broadcast pioneer and innovator Theodore Granik . . . the founder-producer of the American Forum, Youth Wants To Know and other public affairs programs which have made broadcast history winning for Mr. Granik, broadcasting's highest accolades and profound respect and admiration among his colleagues in broadcasting and journalism. It can be said that Theodore Granik was truly a pioneer in utilizing the broadcast media for public service . . . creating formats for an informed public opinion, through free and open discussion of important issues facing the nation. He founded this program, The American Forum in 1928, forty-four years ago on station W-O-R in New York, broadcast nationally by the Mutual Network and later by NBC. Many of the world's outstanding leaders in many fields: including presidents, statesmen and heads of foreign governments . . . A virtual roll-call of history down through the years . . . appeared before Theodore Granik's microphones. In this new American Forum series we shall carry on the policy of free and open, pro and con discussion in the democratic tradition . . . probing into the controversial, significant problems challenging this country and seeking meaningful answers from the knowledgeable, the experts, and those public officials responsible to the American people for their actions or inaction. I think Ted Granik would feel that this week's program falls within his original concept of The American Forum . . . and would approve of the subject: "Hunger in America." Our guest authorities are the Assistant Secretary of Agriculture for Marketing and Consumer Services, Richard E. Lyng, and Mr. Nick Kotz . . . National correspondent for the Washington Post and Pulitzer Prize winning author of "Let Them Eat Promises" . . . We'll begin with a quote from Mr. Kotz' book:

"Many Americans . . . including county health officials and congressmen have denied the existence of serious food problems because they associated hunger only with India style famine . . . emaciated people dropping like flies in the streets. Of course, if they looked in the right places," Mr. Kotz continues, "they would find cases of starvation: Small children with wasted bodies and empty bellies dying from hunger in Arizona . . . in South Carolina . . . in the slums of New York City. For most of the ten to fifteen million who suffer from hunger in this country, the effects are more insidious. The ravages go on within the human body, and the body adjusts to it, sacrificing vital brain and body growth and energy."

Considering our affluence, and leading position in the world, Mr. Lyng, do you think that's a fair statement of conditions in this country today? . . .

LYNG. No, I don't think it's a precise definition today because I think we've made great strides and tremendous changes have been made since the time that Nick Kotz wrote the book. Even then there was some controversy as Nick himself will recall about the accuracy of some of the statements in the book, but apart from that we have made tremendous progress in terms of eliminating hunger and poverty caused hunger and malnutrition in the country. There is no excuse for this country with our ability to produce more food than we can consume, to have the paradox of hungry people, so I would certainly agree that we should not have hungry people due to poverty, in the United States.

CODY. Would you disagree with in that statement as of the number of people that Mr. Kotz says are starving that's in the 15 million?

LYNG. I only disagreed with your statement when you said today because the book was written a couple of years ago.

CODY. Yes; that's right, 1969. Well Nick, what do you think? Do you think the statement holds true?

KOTZ. I agree with Mr. Lyng that there has been tremendous progress; thanks to this administration and thanks to Congress, 10 million people today are getting benefits from food stamps, where there were only a million or two a few years back. The same thing applies as to the school lunch program.

However, I'd make two points very strongly. One, there are still millions of Americans who simply do not have enough income to buy an adequate diet. Second, we are at a turning point as to whether we're going to really fulfill a social commitment in this country, namely to feed the hungry or whether we're going to forget about it and go on to a new fad, whether it's environment this year, or a welfare reform plan the next. So I think the issue is still very much in doubt as to whether we are going to fulfill President Nixon's commitment that the time has come to put an end to hunger in America.

CODY. Where do you think the program is bogging down?

KOTZ. There are administrative problems with both the food stamps program and with the school lunch program.

CODY. Where?

KOTZ. There are administrative problems in the delivery of services, but the biggest problem in terms of reaching people today is a problem over which Mr. Lyng does not have any control, and that's the problem of money, because as these feeding programs have become successful, as they have started to fulfill the objectives for which they were designed, suddenly we are getting resistance from the White House, resistance from the budget bureau to spend the amount of money that it's going to really take to do this job. That's one problem. The second problem is that at the same time the Nixon administration has done a very good job in at least moving forward to feed the hungry, it is proposing welfare legislation which will eliminate food stamps and would leave potentially 90 percent of people on welfare today with less in terms of welfare and food stamp benefits than they now get. That to me would be an enormous step backwards in terms of feeding hungry people.

LYNG. Well, if I might not respond but augment that perhaps, I'm pleased, Nick, that you recognize that I don't have control over all the money. And we perhaps never have enough money to satisfy those of us that are involved as closely as we are in a program like this, but the administration and the Congress have been generous in this program. This year we have a budget of over 4 billion dollars in our total feeding programs. It's a huge amount. We're spending over 10 million dollars a day. This compares with less than a fourth that much just two and a half years ago. So the program has moved forward very rapidly. There are administrative problems in such a gigantic delivery system. We have some tremendous imperfections. We have people who are deserving who for one reason or another are not aware of the program or not in a location where it's working as well as it should so they can't benefit. These are some of the things that we need to do things about, and we're trying. In addition we have some abuses as we've all heard about, abuses of food stamps, abuses of school lunch and others. These we must correct. No one defends ineligible people taking advantage of these programs, but this takes some administrative skills and we haven't been perfect in that; we hope we're improving them.

As far as the welfare problem, the family assistance proposal that Mr. Kotz referred to, the bill as it passed the House of Representatives did call for the cashing in of food stamps. This was really something that was the desire of the Ways and Means Committee to include and the administration conceded to that, but that was not a part of the original proposal of the administration. This has been a point of controversy now for many many months and I predict that it will be for some months to come.

KOTZ. Well I'd like to ask you a question, Secretary Lyng. Do you think a family of four that is left with only a $2400 federal welfare grant can possibly feed themselves an adequate diet that is defined by the Agriculture Department and also meet their other needs for housing and clothing?

LYNG. No, I think that it would be impossible and yet we know that there are people on welfare today in the country that the welfare combined with the food stamp allotment are still not receiving that much. Our minimum food stamp allotment under our current regulations of a family of four is a hundred, not minimum allotment, our allotment is $108, and we know that that is difficult for a family; they have to be extremely careful. If they spent that much on food out of $2400 it wouldn't leave an adequate amount for other costs. But the Family Assistance Plan as you know calls for this to be a floor and its hoped that the states would augment it. And then there are work programs in addition. The main thing about the Family Assistance is that it permits the working poor to participate and gives them an opportunity to bring their income up to a minimum livable standard. When you get into the very bare minimums, the $2400 you talk about, if that were all there was it would be a very difficult figure.

KOTZ. Well the issue of welfare reform is a complicated one. There are new concepts, there are new ideas, in this welfare bill which are interesting and which may prove good in the long run. There are also concepts that I happen to very strongly disagree with. But the thing that disturbs me is that this country never can seem to make a social commitment and to follow it all the way through until it delivers on its promises, and that is the danger that I see in the food programs today. We have made great progress and I think there are millions of poor people in America who are getting food today who were not two or three years ago, but I see a growing resistance in this administration to spend the money necessary to fully deliver that promise and at the same time I see a diversion into new programs and new ideas. However fine they might be that are going to leave us right back where we were in terms of poor children with not enough to eat.

LYNG. Well I hope you're wrong and I think you're wrong. I think we're, and I'm sure you hope you're wrong, because I think

we are, we have a real chance to fulfill this social commitment. I agree with Mr. Kotz that it's an important one and that its one that we should fulfill. The progress that we've made only proves to me that we have the ability to do it. As a matter of fact, the cost of finishing off the job is not going to be that great in terms of dollars. I think that we have, we're way past the half way point. We have now 14½ million people participating in our needy family programs. This is fully 50 percent of those that the census bureau would say are living below the poverty level. Now I'm not sure that in a perfect program you could get 100 percent, who would be participating. So I don't think that we have as many to go, I think we've already reached many many of the poorest of the poor.

KOTZ. Well let's talk about the sense of commitment. How can a committed administration first draw food stamp guidelines that would knock five hundred thousand people out of a food stamp program, on an arbitrary basis that they have a hundred or two hundred or three hundred dollars too much money to participate. Knowing full well that a family can't live on four thousand dollars a year in New York. How can an administration that's fully committed to feeding hungry children at school draw up new guidelines as the Agriculture Department did last week that would knock a million children out of the school lunch program because their families had income of $4500 or $5000 dollars a year rather than less than $3900 dollars a year.

LYNG. Well taking your first question first the food stampe, the administration very greatly liberalized the benefits of the program to the poorest of the poor and in order to make some effort to maintain some kind of limit on the total spending, because this program has been leaping in terms of literally millions of dollars per day. An effort was made to tighten the program at the upper income level. The bonus was reduced and in a few instances people in states where welfare is high were eliminated from the schedules. Similarly, in school lunch where it was apparent that the local school districts continue to pay their share, what had been their share of the cost of particularly among the poorest people we give highest priority to those below the poverty level of $3940 dollars a year and we added a great deal to that in terms of the federal participation. One hundred thirty-five million dollars addition announced last week making a total now of five hundred million dollars. A hundred times as much being given to the programs in 1968. No mandatory elimination was made of those above it but we felt that we're relieving those states and local communities of a heavy burden at these lower levels, and if they wished because of the affluence in the local area to take care of people in the higher income level, they still are permitted to do so.

CODY. Well this has been sort of a political football in other administrations as well as this one. Isn't this what's held up taking care of these 10 to 15 million people who have been starving at least up until 1969 and possibly a good many of them still . . .

KOTZ. I'd like to make a comment on that. I think that the political football on hunger up until the last 4 years was a political football in which the government cooperated with plantation owners, with coal mine owners, with people with vast vineyards in California.

CODY. How do they do this?

KOTZ. To keep people very very poor and poor to the point where they would work for whatever wages were offered them. The only time they got a pittance of food from the government was when it served the growers advantage to keep his cheap labor in place during the winter. That was the original political football, political economic football. As I see the political football of the last 4 years there has been a healthy sense of competition between a Republican president and a Democratic Congress. There has been a healthy bi-partisan political sense moving forward on this issue and I think Mr. Lyng probably more than anybody else in the Nixon administration participated in moving it forward.

CODY. Well on that note I'm sorry I'll have to interrupt. We'll return in one minute with some closing remarks from our guests.

Mr. Lyng, could you summarize your position on the status of hunger in America in about 40 seconds, please?

LYNG. Well I think we've made great progress in eliminating poverty caused by hunger and malnutrition, we still have some pockets of it and wherever it exists, wherever there are poor people who don't have enough to eat this nation should do something about it. The federal role in it has been large, in some ways I think too large, I think that people have a responsibility and its so easy in most communities to move in a circle where you never see poor people, that you fail to recognize that they exist and when you don't see them you believe they don't exist.

CODY. Nick Kotz. Excuse me.

LYNG. I think that we have a chance and we must join together to do it.

CODY. All right Nick we'll have to give you 45 seconds.

KOTZ. That's fair enough. I also think that we've made progress, basically through the food stamp program and the school lunch program to help many millions of hungry Americans. I think that the progress that has been made will all be lost if this country adopts a regressive welfare bill which leaves the poor with less in total resources then they now have and I hope the country will fulfill its commitment at least to feed the poor if nothing else.

CODY. Thank you gentlemen for your participation in the American Forum. Our guests today were Richard E. Lyng, Assistant Secretary of Agriculture for Marketing and Consumer Services and Mr. Nick Kotz, National Correspondent for the Washington Post and author of "Let Them Eat Promises". Join us again next week at this same time when the topic for discussion will be "Drug Addiction In The Armed Forces, What's Being Done About It." Our guest will be congressmen Robert H. Steele of Connecticut and Doctor Lyndon Lee, Director of Professional Services of the Veterans Administration. This is Robert Cody in Washington.

ANNOUNCER. The American Forum. The Nation's first discussion program . . . is a Granik-Cody production in association with the Mutual Broadcasting System.

Executive Producer: Robert C. Cody.

Associate Producer and Coordinator: Hannah Granik.

Engineering by: Daniel Breckner.

EQUAL EMPLOYMENT OPPORTUNITY ENFORCEMENT ACT

Mr. MUSKIE. Mr. President, by enacting title VII of the Civil Rights Act of 1964, Congress acknowledged the unfortunate fact of employment discrimination in the United States. The Equal Opportunity Commission was established as the primary Federal agency responsible for eliminating discrimination in employment in the United States. Since then the EEOC has never ceased from trying to achieve the goal of equal opportunity for all Americans.

Unfortunately, the Commission has been badly handicapped by not having the necessary tools to get the job done. The EEOC was not granted the authority to issue judicially enforceable orders to correct the discrimination it has found. In prohibiting discrimination in employment based on race, religion, color, sex, or national origin, the 1964 Act limited the Commission's enforcement authority to "informal methods of conference, conciliation, and persuasion." This approach has failed. Since its inception, the EEOC has not been able to resolve satisfactorily even 50 percent of the charges brought to its attention.

The EEOC must record evidence of job discrimination without being able to do much about it. While Congress has committed the country to a national policy of ending economic discrimination, the individuals subject to such discrimination are still very much on their own. It is up to aggrieved individuals to initiate legal proceedings, to retain council, to bear the cost of litigation and to devote their time to fight for justice. Usually these are the very members of our society least able to afford the expense of achieving justice and least able to wait patiently for it. Individuals trying to seek an end to job discrimination by the present cumbersome legal procedure have been aptly recognized by one court as entering into "a modern day David and Goliath confrontation."

We must make our policy of economic equality and opportunity for all a reality. We must give the EEOC the tools necessary for its job. Therefore, I fully support the new enforcement procedures provided in S. 2515, the Equal Employment Opportunity Enforcement Act of 1971. To accomplish the stated purpose of title VII of the Civil Rights Act of 1964, S. 2515, while retaining the private right of action, provides for the elimination of unfair employment practices through a system of administrative hearings, Commission decisions and orders, and ultimate court review in appropriate cases—a method of enforcement which has long been authorized for other regulatory agencies. As Father Theodore Hesburgh, Chairman of the U.S. Commission on Civil Rights has testified, cease and desist authority, provided for the EEOC for the first time in this bill, is the most effective and expeditious enforcement device available for use against employment discrimination. Experience with the administrative cease-and-desist approach reveals that it encourages early settlement of claims, thereby providing relief to congested courts and quicker justice for those who have suffered discrimination.

This legislation is especially needed to overcome job discrimination practices against both minorities and women. We can no longer ask Spanish Americans, blacks, women or other groups in our society to wait for an equal chance for a decent job.

Blacks constitute about 10 percent of the labor force; they account for only 3 percent of all jobs in the high-paying professional, technical, and managerial positions.

This consistent pattern of job discrimination of course results in economic disparity. While some progress has been made, the economic position of the Nation's black population still falls tragically short of our goal of social and economic equality. The median income for a black family in 1970 was $6,279, while the median income for whites during the same period was $10,236. And this economic disparity continues in the rate of unemployment. Black unemployment still remains almost twice that of whites.

Spanish-speaking Americans, the second largest ethnic group in this Nation, are victims of the same form of economic discrimination. Only 25 percent of employed Spanish-speaking males are in white-collar jobs, compared to 41 percent of men for all other origins. On the other hand, 58.8 percent of Spanish-speaking males are concentrated in blue-collar occupations. In 1969, the median family income for Spanish-speaking American families was only $5,641.

Employment discrimination against women increases with each new economic crisis. An analysis of the complaints recorded by the Equal Employment Opportunity Commission shows a consistent pattern of discrimination against women. In its first year of operation, the Commission received a total of 6,026 charges of employment discrimination, of which one-third alleged discrimination because of sex. Of the 3,733 charges recommended for investigation, 43.2 percent were sex discrimination cases. In fiscal year 1971, allegations of sex discrimination continued to constitute a major percentage of charges filed. The nearly 16,000 charges filed in that year alleging racial discrimination were largely filed by female members of minority groups.

Discrimination is always unfair and unjust, but it is particularly tragic when it is practiced against single, widowed, divorced, or separated women who must support themselves and frequently a family. Discrimination is also unfair to women who want to supplement family income. Discrimination, besides being unjust to the people involved, is unfair to our country. Our national prosperity depends upon the maximum use of all our resources; discrimination in pay and employment opportunity prevents us from achieving this. And more importantly, discrimination prevents this country from reaching its true greatness, from achieving its highest goals.

To end discrimination against women there are many things we must do. We must eliminate sex discrimination in public education. Extension of title VII of the Civil Rights Act of 1964 to the field of education is an important improvement contained in S. 2515. Women comprise the majority of elementary school teachers; yet they comprise less than 20 percent of supervisory principals. In higher education, for those few women who teach, the chances for promotion or full professorships are extremely rare.

S. 2515, by extending the coverage of title VII to all State and local governments, should help to remedy the very low percentage of participation by women in the medium- to high-level positions in State and local government.

S. 2515 also strengthens the obligation of the Civil Service Commission to guarantee equal opportunity for the advancement of women into the higher levels of the Federal Government. If we need to be reminded of discrimination against women in the Federal Government, we have only to look at Commission statistics which show that women constitute an average of 75.2 percent of grades 1 through 5; 30 percent of grades 6 through 9, and 9.2 percent of grades 10 through 13. Only 2.3 percent of those in grades 14 and above are women.

In view of an employment market that is closed in so many areas to women, and the current widespread practice of sex discrimination, based on outmoded concepts about the role of women in our culture, only cease-and-desist powers will enable the EEOC to perform its duties to curtail employment discrimination on the basis of sex.

S. 2515 will also give women continued access to the remedy of back pay. It should be remembered that discrepancy in salaries is widespread—until recently women's earnings averaged 60 percent of salaries paid to men.

S. 2515 represents a major step forward in providing EEOC with the tools to accomplish the tasks it was assigned. Women, along with the minority groups, need this bill to make our national goals of equal opportunity a reality. I think that it is time to indicate to women, as well as to those employers who continue to discriminate, that the Congress was serious when it added the word "sex" to title VII. It is time to prove to blacks, to Mexican Americans, to other minorities that this country is serious about achieving economic equality.

We can no longer delay in providing a remedy for job discrimination. There is no further excuse for continuing to provide an institution that promises people equal job opportunities, but cannot fulfill those promises. We must pass the Equal Employment Opportunity Enforcement Act immediately to provide the EEOC with cease-and-desist powers.

The Senate will end its first session in 3 or 4 weeks. Only a few major pieces of legislation can be handled in those weeks. I believe this legislation has to be among those that are considered before we end this session. It is "must" legislation.

ALBIA, IOWA, TYPICAL OF RURAL AMERICA

Mr. MILLER. Mr. President, rural America, some believe, is dying. There are pessimists who have written off rural America as a relic from the past; and cynics would add that the sooner the end comes, the better.

Coming from a State with a blend of agriculture and industry, where urban and rural people live in harmony, each in need of the other, I naturally do not share such viewpoints. Neither does anyone else who understands human nature. I believe the hope and future of this great pluralistic Nation depend on the preservation of rural America, and that more efforts should be made to develop this part of our country in order to put a stop to further congestion in our metropolitan areas.

Urban America, whether one wishes to admit it or not, has much to learn from rural America. That opinion, by the way, is held by Ada Louise Huxtable, Pulitzer Prize-winning architecture critic for the New York Times.

In a perceptive article published in the Times of October 24, Miss Huxtable wrote of the qualities of Albia, one of Iowa's many progressive smaller communities. She took a look at what Albia has done to renew its business district and concluded that "Albia, Iowa, has a lesson to teach city and suburbs."

She wrote:

The chief tool in Albia has been simple, sensitive, common sense restoration. . . . Albia's hopes are pinned on a kind of renewal that comes from more than a pot of paint. It combines a cultivated eye for the past with a careful eye on the future. New York and its suburbs could look, and learn.

The article is a deserved recognition of the faith in their community, their State, and America on the part of Albia's civic and government leaders, and the people of that community. And, I might add, it's typical of rural America.

I ask unanimous consent that the New York Times article and an editorial published in the Albia Union-Republican of November 4 be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 24, 1971]

ALBIA, IOWA, HAS LESSON TO TEACH CITY

(By Ada Louise Huxtable)

In southern Iowa there is a town called Albia, pop. 4,500, founded in 1859. To Albia has been vouchsafed a truth still little acknowledged in the city and its suburbs: all change is not progress.

What Albia has done is to renew its central business district through a $150,000 paint-and-fix-up project called Operation Facelift. In a complete reversal of accepted methods of commercial revitalization in which "modernization" is the key word, the chief tool in Albia has been simple, sensitive, common sense restoration. Albia has taken a new look at Main Street.

It is the kind of thing that could be done in those Long Island and Westchester towns where the village Main Street has been downgraded for the miracle mile or the new shopping center, losing the solvency and sense of community that made it work and gave it life. And Albia's lesson should be borne in mind as physical renovations are made under the city's own Operation Mainstreet. This is a city-sponsored program whose goal is the revitalization of about 40 aging commercial streets in all five boroughs.

Albia's lesson to New York City, pop. 8 million, and all older suburbs is the environmental and economic value of historic continuity and architectural esthetics. The lesson looks, and is, relatively easy, but it adds up to a complex, subtle and sophisticated environmental discipline called urban design.

Although it is becoming fashionable now among avant garde architects to say that "Main Street is almost all right," most small towns have felt that Main Street is all wrong.

Running scared of shopping centers, they have done their best to disguise or destroy Main Street and copy competition. In West Bend, Ind., or Hewlett, L.I., the attitude is the same: old is bad and new is good and if it looks new its got to be better.

The panacea of "modernization" has consisted of blanking out old building fronts with flat, bland sheets of aluminium, plywood or plastic for a matched, cross-country anonymity.

This has been completely successful as a building products sales campaign and as architectural and neighborhood character assassination. It has been a total disaster en-

vironmentally, if you define environment as a sense of place, or knowing where you are and liking it.

Albia knows where it is. It also knows, in its own words, that "a community cannot separate its past from its future."

In Albia, "Main Street" is the area around its Town Square, centered on the Monroe County Courthouse. It contains stores, banks, commercial, professional and government services.

As a county seat, it offers a wider variety of activities than a shopping center. Like most Main Streets, it consists of rows of two- and three-story buildings in a range of Victorian and turn-of-the-century and later styles.

Albia's buildings have been neither false-fronted nor Williamsburged. There has been minimum sneaky "colonializing" or touches to make Victorian "respectably" fake-Federal. There may be some overshuttering, but it is tasteful.

The important thing is that the buildings are looked at with fresh and appreciative eyes for what is really there. As much is made of the rectilinearity of the near-Prairie Style of 1900 to 1905 (underrecognized and underappreciated in its vernacular and commercial versions) and of the kind of brickwork decoration Albert Kahn added to his 1900 factories, as of the elaborate Victorian cornices and lintels of the eighteen-eighties and nineties.

There is a progression of curved, pointed, pedimented, molded, cutwork rhythms above windows and against the sky that makes small museum of architectural styles and a richness of color, pattern and form unreproduceable by anything except history and art.

We are just learning that art is in Main Street as well as in museums. These are America's hidden assets. Kawneer-covered on every business block. (A bank in Greenfield, Mass., has just demolished a fine pair of Gothic and classic facades for a "modern" front. More of America down the drain.)

In Albia, the old buildings have been cleaned and sandblasted, their masonry cut and pointed, cornices and windows scraped and painted, walls grouted and silicone treated, trim matched and occasionally reproduced.

Nowhere, however, have the shops and stores on the ground floor been forced to conform to a false idea of "suitability to period," or to have fancy dress "historical" lighting or signs, with the morass of anachronisms that this brings. Many a restoration has gone wrong at the ground floor and the 20th century. Albia's shops and services are strictly commercial and contemporary in use and appearance, as they should be.

This is no charade. The past is respected and the present is unhobbled. That is among Albia's more important lessons.

The entire operation has been carried out privately, under the direction of the nonprofit Albia Area Improvement Association. The Association is now exploring available Federal and state funds for programs concerned with bettering "economic and social conditions and educational opportunities for citizens in the Monroe County area."

Operation Facelift has been financed completely by $25 membership certificates, an initial planning grant by the Iowa Southern Utilities Company, and loans from the Peoples National Bank and First Iowa State Bank, which agreed to provide financing for their customers in connection with the project. There are 83 properties involved and individual building renovations have run from $200 to $6,822.

The association's largest expense has been $3,544 in planning fees to the coordinating architectural firm of Steffen-Stoltz of Ottumwa, Iowa.

Stephen M. Stoltz and Robert T. Bates, an interior decorator who has come back to Albia to live and work, collaborated on details. One paint company furnished colors mixed to specification. A single contractor was employed for the restoration. A maintenance rather than a construction contractor was selected, the J. and R. Building Maintenance Company of Des Moines.

Robert W. Larson of the Albia Newspapers has given support and leadership. Other credits go to the Iowa Development Commission and the Northern Natural Gas Company.

The work has been done as tax-deductible maintenance and repair.

There has been little trouble convincing property owners to join Operation Facelift. The chief problem has been to get anxious owners to wait as contracts were organized and executed for an efficient sequence of jobs.

As a result of the renovation, the Iowa Highway Commission canceled three proposed routes through town last July. There will be a bypass road instead.

Like many heartland communities, Albia is concerned about a declining population and uncertain economics. It was a stagecoach stop in 1853, and a railroad town in 1866, with 29 daily passenger trains. By 1909, it had grown to 5,000. Now it looks to tourism for growth, as the center of a 30-mile lake area.

Albia's hopes are pinned on a kind of renewal that comes from more than a pot of paint. It combines a cultivated eye for the past with a careful eye on the future. New York and its suburbs could look, and learn.

[From the Albia Union-Republican, Nov. 4, 1971]

WE HAVE MADE A START—BUT ONLY A START

In The New York Times of Sunday, Oct. 24 appeared an article by Ada Louise Huxtable, architecture critic of that newspaper, in which she evaluated the renovation of the Albia business district and pointed out its implications for other communities, large and small.

Those who have shared much of the responsibility for the renovation and restoration of the Albia business district are particularly appreciative of the evaluation made by Mrs. Huxtable. For the perusal of those who may not have seen it we're reproducing the article and also a page—primarily of letterheads—indicative of the world-wide interest this renovation has sparked.

We're happy to call attention to the uniqueness of this project and the attention it had brought to the community. It's been an exciting community project and the recognition it has brought the community is just as exciting.

But—the project isn't completed and we hardly dare rest on our laurels. Like most bouquets, those received by the community on this project wither and die and they lose their meaning unless the project is kept alive, improved upon, and extended.

We're reprinting the two pictures at the head of this column for a definite reason. The man was a recent visitor to the community. He came with a Chamber of Commerce group to look over the renovation project. And he asked representatives of the Albia Chamber "when you've spent so much time and effort in a project like this, why are you allowing a few weeds to detract from an otherwise pleasing appearance of your business district".

There are about 60 businessmen around the square who better answer that one and start a bit of weed pulling, cleaning up the trash from behind their buildings, and doing a bit better job of housekeeping or everything accomplished by this project will be diminished.

We should point out, too, that there are several buildings in the business district which detract appreciably from the restoration of the other buildings. On Washington Avenue East is a burned out building which should either be torn down or built up, but not left in the half-way state as it has been for the past several years with floors rotting, trees and shrubbery growing within its walls, and a sagging second story about to give up and join the first floor.

On Benton Avenue East is a building which a good rock band could shatter with its music. It was fixed temporarily three or four years ago and had been an eyesore since that time. It needs to be replaced. There are other buildings in the business district which need to be improved upon.

But we feel that the real impact of this renovation project must now be transferred to the residential areas. We need a lot of outbuildings torn down. We need sidewalks repaired. We need buildings painted.

We need a great deal of planting. And we need a lot of diseased trees removed.

We need to push this renovation and restoration project out to the city limits in each direction, removing junk cars, fixing streets, continuing the paving program. And it needs to be done on a coordinated community basis, just as the business district was done.

We aren't thinking of the usual cleanup, paintup, fixup campaign.

These are ineffectual unless they're well organized and unless they're sustained by a year-around effort.

Rather we're thinking in terms of a community wide improvement program with substantial prizes for the best job of landscaping, for the best job of exterior remodeling, but the best job of restoration of some of these older homes, and for the best cleanup job—the removal of outbuildings, junk cars, etc.

It's got to be organized. It must be community effort. And it can't be a weekend affair. It must be planned now, given a kick-off shortly after the first of the year, and the results judged next November.

Albia is luckier, and perhaps even pluckier, than most communities in the things that have happened to it and that it has caused to have happen in the past five years. New schools, industries, paving, renovation, businesses—they're all indicative of a community working together.

We as a community have received much recognition for what has been accomplished. These plaudits can affect us in two ways. We can sit placidly in our rocking chairs, re-read the clippings, and keep reminding ourselves of the good things we have accomplished.

Or we can re-read these clippings, remind ourselves that the defeatest attitude of the community has been licked, and that even greater things are in store for us if we want to work at it.

We've come a long way as a community.

But, like most in the community we refuse to believe that we're reached the end of the road, that we have achieved all of the goals we have set for ourselves as a town. We have a ways to go. And we might just as well start in by pulling a few weeds, picking up a bit of trash, and then organizing to spread the renovation project to the city limits in each direction.

Failing to do this the booklet, "Once Upon a Town . . ." becomes simply a piece of memorabilia and no longer a "how-to-do-it" booklet for an up-and-coming community.

LATIN AMERICA

Mr. KENNEDY. Mr. President, I am truly stunned by the remarks of Mr. Finch before his trip to Latin America, as reported in the New York Times today. To imply that the term "Banana Republic" was a part of the Alliance concept is an insult both to the dedicated Americans and the dedicated Latin Americans who have struggled over the past decade to improve life in Latin America. We have not totally succeeded in our goals but the Alliance was a coherent policy at its inception and honest efforts were made to implement it.

I cannot understand why, at the outset of his trip to Latin America, Mr. Finch has decided to slander the motives of those who designed the Alliance. The statement by Mr. Finch also is somewhat incredible coming as it does from an administration that has failed to provide any policy toward Latin America in almost 3 years.

This administration sent Governor Rockefeller to Latin America when it took office, and now, almost 3 years later, it is sending Mr. Finch. In between, the administration has ignored Latin America, ignored its needs, ignored its aspirations. It has adopted a policy of malign neglect.

In Latin America, the closest ties of this administration have been with the military government of Brazil, a government which has been under attack from a host of international human rights groups for condoning the torture of political prisoners as an acceptable instrument of political retaliation. Now the head of that government, rather than those of other Latin nations which are far more concerned about social justice and civil rights, is being invited to Washington to be feted by the President. That is the evidence of the only policy this administration has been able to devise in its 3 years in office.

I regret that Mr. Finch has taken this view of the Alliance for Progress and the attempts by previous administrations to respond to the needs of the nations of Latin America.

Mr. President, I ask unanimous consent that the New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FINCH, ON EVE OF SIX-NATION TRIP, ATTACKS EARLIER LATIN PROGRAMS

(By Benjamin Welles)

WASHINGTON.—Robert H. Finch, counselor to President Nixon, charged here today that those who designed the Alliance. The President Franklin D. Roosevelt's Good Neighbor policy and the Alliance for Progress under Presidents Kennedy and Johnson "lumped the Latin-American countries together as banana republics."

By contrast, Mr. Finch declared at a White House news conference, the Nixon Administration treats the Latin-American countries individually "as we find them."

Mr. Finch, a former Secretary of Health, Education and Welfare, is due to leave tomorrow on a two-week trip to represent President Nixon in six Latin-American countries.

"We don't have any litmus paper tests as to whether they're democracies or republics or dictatorships," he said. "They make decisions on their economic and political systems for themselves."

EX-OFFICIALS CONTEST CHARGES

Four of the countries that Mr. Finch will visit—Peru, Ecuador, Argentina and Brazil—have authoritarian governments, heavily influenced by the armed forces. The two others—Mexico and Honduras—have elected governments.

Former officials closely associated with the Roosevelt Good Neighbor policy or with the Alliance for Progress assailed Mr. Finch's charges.

Philip W. Bonsal, a specialist in Latin-American affairs who was United States Ambassador to Cuba when the Castro regime seized power, described the Good Neighbor policy as "recognition of the sovereign equality of all Latin-American countries and a renunciation of the right of intervention in their affairs."

Sol M. Linowitz, who was representative to the Organization of American States under President Johnson, declared that "anyone familiar with Latin America should realize that the Alliance for Progress was not a United States program but a genuine partnership between the United States and Latin America for economic and social development.

"During its last 10 years, for instance, Latin America itself contributed about 90 per cent of the funds for the Alliance goals," Mr. Linowitz said in an interview.

ALLIANCE IS DEFENDED

In the decade from the inception of the Alliance in 1961, experts here said, the United States contributed more than $11 billion and the Latin countries more than $90 billion to the joint development goals of the program.

Asked whether the United States had treated all Latin American nations together as "banana republics," Thomas C. Mann, former Assistant Secretary of State for Inter-American Affairs and coordinator of the Alliance for Progress, commented in a telephone interview:

"Certainly not. It was an endeavor to treat them as the law provided as equals of the United States and as entitled to consideration."

William D. Rogers, a coordinator of the Alliance during the Kennedy and Johnson Administrations, termed Mr. Finch's statement "preposterous" and a "discouraging beginning for his trip."

"Evidently he intends to milk that trip for domestic political purposes and to make up for the Nixon policy vacuum by saying whatever ridiculous things pop into his head about earlier programs," Mr. Rogers said.

"This is hardly likely to create a healthy impression in Latin America."

Mr. Finch said that he would not announce the lifting of President Nixon's 10 per cent import surcharge during his trip. Nor, he said, would he attempt to express the Administration's views on the expropriation of private United States assets during his discussions with Latin heads of state.

BETTER UTILIZATION OF NURSES

Mr. JAVITS. Mr. President, I have long advocated the utilization of the more than 30,000 medical corpsmen returning each year, veterans with training in military medical service, as a vital adjunct to America's health personnel, now marked by severe shortages. I authored the Veterans in Allied Health Professions and Occupations Act of 1969 in the 91st Congress, and was pleased to see it enacted as a part of the Health Training Improvement Act—Public Law 91-519. This year I played an important role in the Comprehensive Health Manpower Training Act of 1971, which includes among its many important provisions, authorization for capitation grants of $1,000 to medical schools for each student enrolled in a program for the training of physicians' assistants.

I believe there is another vast reservoir of health manpower which should be utilized as physicians' assistants. These are our nurses, the often unsung heroes of health care. I am convinced that registered nurses with clinical experience, after an additional period of comprehensive training, can be even more valuable assistants to attending physicians as physicians' assistants. One such program which I commend to the attention of Senators was reported in the Highland Hilites, the news magazine of the Highland Hospital, of Rochester, N.Y.

I ask unanimous consent that the article entitled "Experiences of Highland's First Physician's Assistant" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPERIENCES OF HIGHLAND'S FIRST PHYSICIAN'S ASSISTANT

(By Miss Diane Petrovich, R.N., P.A.)

There are a growing number of programs for the training and utilization of physicians' assistants throughout the nation. The majority of these programs vary widely in their prerequisites, curriculum, duration of course, subsequent duties, licensure and legal limitations.

Highland Hospital initiated a pilot program for the position of Physicians' Assistants in September of 1970, functioning under the premise that registered nurses with clinical experience can be instructed to function as valuable assistants to attending physicians after an additional year of comprehensive training.

As a diploma school graduate nurse and assistant head nurse on a medical unit, I was introduced to the position of Physicians Assistant by Dr. Holler, the former chief of the medical service at our hospital, who told me of his plans to initiate such a program in the Rochester area. Basic format and expectations were discussed and independent research was encouraged. I was enrolled in the General Clerkship exercises for third year medical students at the University of Rochester Medical Center. In the subsequent months, I attended sessions in interviewing technique, physical diagnosis, complete case write-up format, x-ray interpretation and hematology and urinalysis classes and laboratories. The total number of practice interview and physical examination sessions equaled those of the clinical clerks, as did the complete supervised patient interviews, examinations, case write-ups and presentations which were scheduled at the conclusion of the program.

Interest in the concept of a medical assistance is quite intense, both on the professional and nonprofessional levels. Fellow nurses, doctors, associates and patients alike all express interest in the formulation and progression of the project.

The majority of physicians seem appreciative of the fact that an adequately trained assistant can relieve them of a portion of the duties involved in rendering health care to a large population. The Board of Medicine of the National Academy of Sciences endorses the use of Physicians' Assistants as a rapid means of alleviating the medical manpower shortage.

Patient response has been enthusiastic. Without exception, patients express interest in the concept of a medical assistant and offer no refractoriness. I routinely informed each patient of my status during the introduction, and when rapport was later established after the initial interview and examination, the vast majority of patients spontaneously questioned in further depth the title and responsibilities of a Physicians' Assistant. In subsequent followup sessions, I have noted that these patients continued to question me concerning their illnesses, activities, medications or discharge plans without apparent lack of confidence in the fact that I am an assistant and not a physician.

As I leave Highland for personal reasons, it is with sadness and regret that I say goodbye to all my friends and associates here. I can only render a true "thank you" to all

those who have shown me such kindness and infinite patience.

Ed. note: In less than six months' time on D-4 acting as a trained Physicians' Assistant, Diane Petrovich was asked to care for over 125 patients. Most of her work involved doing admission histories and physical exams and work rounds. She was also asked to perform pelvic exams, bone marrow aspirations, lumbar punctures, draw arterial blood and many other miscellaneous tests.

Almost without exception, her work was evaluated as being extremely satisfactory, equal at times to an intern's performance and she received many, many excellent reports.

NOMINATION OF LEWIS POWELL TO THE SUPREME COURT

Mr. BAYH. The President has said that few decisions are as important as the nomination of a Justice for the Supreme Court of the United States. I agree. And no less important is a Senator's decision whether to advise and consent to such a nomination. With this in mind, and in light of the difficult struggles we have had in recent years over nominations to the High Court, I have devoted my most careful attention to the two nominees presently before the Senate. I have today concluded that I will support the nomination of Lewis Powell.

I have stated what I felt were the three qualities the Nation demands of a nominee to the Supreme Court: Outstanding legal ability, unimpeachable integrity, and a demonstrated commitment to fundamental human rights. In the course of the Senate hearings on the Powell nomination no question was raised concerning his competence as a lawyer or his personal integrity. Few men or women in America could earn the active support of as many leading lawyers and legal scholars, many of whom have testified or written about their personal knowledge of the nominee's qualifications and their enthusiastic support for him. The American Bar Association not only found that Mr. Powell "meets high standards of professional competence, judicial temperament and integrity," the highest rating given to Supreme Court nominees by the ABA Committee on the Federal Judiciary, but voted unanimously that Mr. Powell meets this standard "in an exceptional degree."

The focus of the Senate hearings on Mr. Powell's nomination has been a discussion of the third criterion I mentioned earlier, demonstrated commitment to fundamental human rights. In exploring the nominee's commitment, the committee has properly inquired into his judicial philosophy. I believe that the power and the responsibility of the Senate to make such inquiry is now generally accepted—and the President himself encouraged an investigation of judicial philosophy by announcing that these nominees had been selected because of their philosophy. Mr. Powell cooperated fully with the Judiciary Committee in this inquiry, and is to be commended for his candor.

Lewis Powell and I disagree on some matters of judicial philosophy. Were the power of nomination mine, I might well have nominated someone whose views coincide more nearly with my own. But that is not the issue here. Based upon my investigation of Lewis Powell's record and his testimony to the Senate Judiciary Committee, I am convinced that he is within a great American tradition of legal philosophy—the tradition of Holmes and Frankfurter and Harlan. This tradition has often been called conservative. But whatever it is called, it has played a vital role in preserving and protecting the fundamental liberties of the Bill of Rights and according equal justice to all Americans. For these reasons, I will vote for the confirmation of the nomination of Lewis Powell.

I have not come to this decision without careful thought and some hesitation. Because of specific questions that have been raised, I have undertaken a careful review of the record before us, especially in the areas of civil liberties and civil rights.

For me the most serious question about Mr. Powell's civil liberties views was raised by an article he wrote originally for the Richmond, Va., Times-Dispatch, which has been reprinted in other publications, including the New York Times. In that article Mr. Powell appeared to defend certain positions of the Nixon administration which I consider dangerous, including wire-tapping without a prior court order. But I have found upon consideration of the entire record that this question is less serious than had originally been thought. First, Mr. Powell testified that the article was written not as a careful analysis of the legal problems involved, but rather as an effort to counteract what he believes are unwarranted charges among the young of systematic and widespread repression in the United States. Thus the article cannot be taken as expressing Mr. Powell's considered legal views. Moreover, Mr. Powell clarified in his testimony before the committee several aspects of the article. For example, he acknowledged that, notwithstanding a contrary implication in the article, "in most cases it would not be difficult to draw" the line between foreign threats and alleged domestic threats to the national security. Finally, Mr. Powell both on other occasions and in his testimony has expressed strong dedication to civil liberties. In 1967, for example, he said:

We rightly cherish the privacy of citizens in their conversations. Indeed, unless substantial privacy exists the very fundamentals of free speech are threatened. • • • Certainly, no serious thought should be given to granting an unlimited right to eavesdrop.

And while testifying on Monday, Mr. Powell said:

I would not trust any government to self-discipline, Senator BAYH. I think the purpose of the Bill of Rights was to assure there are limitations on what the government can do.

I have also been troubled by questions concerning Lewis Powell's record in the area of civil rights. In particular, I was disturbed by the eloquent testimony presented to the Committee by Representative JOHN CONYERS and by Attorney Henry Marsh of Richmond. There are certainly decisions which Lewis Powell made over the course of his career on the Richmond and Virginia school boards with which I disagree; there may be some which, in the bright light of hindsight, seem unjustifiable. Perhaps Lewis Powell did not do everything humanly possible to end segregation in Virginia during the troubled decade following Brown against Board of Education. But if that were the test for appointment to the Supreme Court, few in public life, North or South could pass it. Unfortunately, we must all share that indictment.

I wonder how many of us can recall the climate of that period in the South, how many of us are aware of the tremendous pressures on those who sought in good faith to abide by the decisions in Brown against Board of Education. Perhaps Armistead L. Boothe put it best in his testimony in support of Mr. Powell when he said:

From July 1954 onward the issue in the State was just as sharp as a new knife blade between an assignment—or freedom of choice—plan, to keep the schools open, or massive resistance, to cripple them.

Lewis Powell, like my friend and colleague BILL SPONG, was one of the courageous men in Virginia who were determined to obey the law of the land, and not to engage in massive resistance to the school desegregation cases. As he told the committee this week:

The task of my board, and my task as I conceived it, was to keep the schools open, and that we did, and finally they were integrated.

There may be some who think that his opposition to massive resistance was simply a subterfuge designed to perpetuate segregation. But as one who knows Lewis Powell, who listened to him testify, and who remembers the difficult times during which he sat on the school boards, I believe he is dedicated to equal justice under law.

My belief is confirmed by the statements of other concerned persons. Mr. Powell's nomination is supported by several leaders of the black community in Richmond, including the first black member of the Richmond School Board, who served in that capacity with Mr. Powell from 1953 to 1961. The Leadership Conference on Civil Rights, which has opposed William Rehnquist, has taken no position with respect to the Powell nomination. Mrs. Jean Camper Cahn, an outstanding black lawyer who played a leading role in creating the OEO Legal Services program, has written concerning the crucial role of Lewis Powell in implementing that program. In addition, Mrs. Cahn said:

My support is based upon the fact that I am drawn inescapably to the sense that Lewis Powell is, above all, humane, that he has a capacity to empathize, to respond to the plight of a single human being to a degree that transcends ideologies of fixed positions. And it is that ultimate capacity to respond with humanity to individualized instances of injustice and hurt that is the best and only guarantee I would take that his conscience and his very soul will wrestle with every case until he can live in peace with a decision that embodies a sense of decency and fair play and commonsense.

But perhaps no one has said it more plainly than Lewis Powell himself, who said on Monday:

I had a mother and a father who had a deep conviction that all human beings were equal and that no one was better than anyone else; and I inherited that and have never departed from it.

That inheritance will serve Lewis Powell well on the Supreme Court.

SOLUTIONS TO U.S. AGRICULTURE PROBLEMS

Mr. HUMPHREY. Mr. President, I recently testified before the Subcommittee on Agricultural Production, Marketing and Stabilization of Prices, of which the distinguished Senator from North Carolina, Mr. JORDAN, is chairman, on two emergency legislative measures which, I feel, are crucial to the future economic well-being of our Nation's wheat and feed grain producers. The two measures I am referring to are S. 2729 and Senate Joint Resolution 172 which I introduced to improve the income prospects for these producers in 1971 and 1972.

S. 2729 would establish strategic reserve inventories of these commodities, thereby insulating from the marketplace the huge carryover of these stocks that were created as a result of the 1971 set-aside programs.

Senate Joint Resolution 172 provides for a return to a base-acreage program for feed grains in 1972 and an additional acreage diversion program for wheat in 1972. Senate Joint Resolution 172 also provides for an increase of 25 percent in the 1971 loan levels for both wheat and feed grains.

As I indicated in my testimony regarding these two measures, it is essential that Congress enact both of them before adjourning this year. If they fail to do so, many wheat and feed grain producers will likely not be around next year to find out whether the 1972 set-aside programs are going to work any better than the 1971 set-aside programs. The carryover stocks created as a result of the 1971 set-aside programs must be removed from the marketplace to eliminate the price depressing effects they are now having on prices received by farmers. The Federal Government designed these 1971 programs. Therefore, they must shoulder the burden of removing these carryovers from the market. The Government asked farmers to produce these commodities, therefore they should not be asked now to pay for the Department of Agriculture's miscalculations in this regard. S. 2729 provides the Department with the means of accomplishing that objective.

However, while quick enactment of S. 2729 would bring some immediate relief from the price-depressing effects that current carryover stocks of these grains are having in the marketplace, it would not correct the shortcomings of the set-aside programs that already have been announced for these commodities in 1972. In that the set-aside programs permit farmers to increase their plantings of wheat and feed grains on non-set-aside acres and in that over 50 million additional acres will be available for non-set-aside plantings next year due to changes that have occurred in recent years relating to the definition of conservation acreage, production levels for these commodities next year are again likely to exceed utilization demands by at least 100 million bushels for each commodity.

And, it should be noted at this point that the Government cost of these programs next year, particularly the feed grains program, will reach an all-time high. However, should Congress enact and the President sign into law the two measures that I have introduced to correct this situation, the value of these two crops could be increased by $1.5 billion in both 1971 and 1972—and at no additional program cost to the Government.

On November 9, a major private crop reporting firm in Chicago reported that this year's feed grain harvest was 147 million bushels above USDA's October 1 estimate. This increase amounts to about 4 million tons, or 1 million more tons than was just sold to Russia—who certainly knew when to buy grain from the United States; namely, when prices are at all-time lows. Unfortunately, their good fortune in this instance, is coming out of the pocketbooks of our farmers, not the U.S. Government, the administration, or the Congress. While I am generally pleased with the sale, I think everyone must recognize our Nation's feed grain farmers will receive little economic benefit from it in view of the low prices being paid by Russia to acquire these stocks.

Farm exports have played, and hopefully will continue to play, an important part in providing our grain producers with needed outlets for their production. However, let us keep in mind that it cost a certain amount of money to produce each acre of wheat or feed grains, no matter who buys it or into which market it finds its way. Exporting these grains at or below cost does not benefit the farmer. It may help our Nation's balance of trade, but it does not help the farmer when the prices he receives are at such low levels.

The announced programs for wheat and feed grains in 1972 can and must be changed. Given the U.S. carryovers and the increase in world production of these crops this year, market demands for these crops over the next year are not likely to increase sufficiently to absorb available supplies. Therefore, action should be taken immediately to make the necessary adjustments in the 1972 programs and to insulate 1971 carryovers from the marketplace. S. 2729 and Senate Joint Resolution 172 provide the means of accomplishing those objectives.

Mr. President, I have examined the dimensions of this entire matter very carefully. The study and analysis that preceded the preparation of my testimony on these legislative measures was thorough. I am therefore convinced that the actions that I am calling for are the right ones—actions which must be taken immediately if we are to avert a major economic disaster among our Nation's food and feed grain farmers.

Mr. President, I ask unanimous consent that my testimony before the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices be printed at this point in the RECORD and I urge every Senator to review it carefully.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR HUBERT H. HUMPHREY

Mr. Chairman, the October crop report tells us that 1971 was a record crop production year. Farmers produced 12 percent more than a year earlier, 8 percent more than in 1969, the previous record crop year.

Food grain production, mostly wheat was up 15 percent, and feed grains production was 25 percent higher than in 1970.

This should be cause for rejoicing. It assures livestock feeders, domestic consumers and exporters ample supplies in the months ahead.

Unfortunately, prices have fallen even more than production increased. The farm value of the 1971 record crops of food and feed grains is even less than for the smaller 1970 crops.

Although the prices farmers have to pay for production supplies, interest, taxes and farm wage rates are 6 percent higher, all farm prices including prices paid for livestock and livestock products, as well as crops, are no higher than a year ago.

It is the feed and food grain producers, however, who are the worst off, and who are taking it on the chin *now*.

In spite of the higher prices paid just for living items, and higher costs of cultivating and harvesting more acres, the market value of their record 1971 crops is less than the value of the smaller 1970 crops.

Unless Congress takes decisive action now, many will likely not be around next year to see if the 1972 programs work better than those of 1971.

A year ago the United States average farm price of corn was $1.34 a bushel. Today it is $1.00 a bushel—and much less in many areas. I've heard of prices as low as 80 cents.

A year ago the United States average farm prices for wheat was $1.43 a bushel. Today it is $1.30—and again much less at many country points throughout the wheat region of our country.

This is the first year's result of the Nixon-Hardin set-aside program. It is a rude shock to grain producers.

Secretary Hardin is to be commended for his early announcement of the 1972 set-aside programs for wheat, cotton and feed grains.

He continued the cotton set-aside at 20 percent of the allotted acreage; increased the wheat set-aside from 13.5 to 15 million acres; and announced a feed grain set-aside goal of 38 million acres.

But let's recall he made *no* announcement with respect to loan level adjustments in the 1971 wheat and feed grain programs. And, Mr. Chairman, an upward adjustment of at least 25 percent in those loan levels is needed—and needed now!

If Congress and the Administration fail to agree on this upward adjustment before adjournment of this session of Congress, many wheat and feed grain producers will be forced out of farming as a result of the Nixon-Hardin Administration 1971 set-aside programs. It is for this reason, Mr. Chairman, that I have introduced S. J. Res. 172 in addition to S. 2729.

I intend to testify on both pieces of legislation today.

In announcing the 1972 programs for wheat and feed grains, Secretary Hardin assured producers that they would cut back production sufficiently to result in improved prices and a reduction carry-over stocks.

Producers were told current low grain prices should move higher as a result of the projected increases in the set-aside acreages in 1972.

Reseal programs for the grains now under CCC loans are expected by the Administration to have a market price strengthening effect.

Mr. Chairman, I have followed Secretary Hardin's announcements of the 1972 programs with great interest. I wish I had more confidence in their adequacy.

Unfortunately, my own judgment supplemented by staff analyses and reports from producers and traders forces me to conclude that unless more decisive actions are taken, grain prices will continue at current depressed levels and producers will experience even lower incomes in 1972.

Because of the inadequacy of the current and announced Administration programs for 1972, I introduced S. 2729, a bill to authorize a Strategic Storable Agricultural Food Commodities Reserve, to be made up of up to 30 million tons of feed grains; 300 million bushels of wheat; 100 million bushels of soybeans; and dairy and poultry products at levels determined by the Secretary of Agriculture. And, as I have already indicated, I have introduced S. J. Res. 172 which would provide more effective 1972 adjustment programs for feed grains and wheat.

If enacted S. 2729 would give the Secretary of Agriculture authority and require him to buy sufficient wheat and feed grains, at prices approximately $1.20 a bushel for corn, and $1.40 a bushel for wheat, to lift market prices close to those levels.

If passed in the next six weeks it would *increase* the market value of the 1971 crops of wheat and feed grains about *$1.5 billion*. It could take the extra 1971 grains, resulting from an expanded acreage to compensate for corn blight uncertainties combined with a favorable growing season, and put them in a strategic reserve, with farmers receiving at least normal to moderate, rather than depression level prices.

By buying commodities at prices equivalent to those which have prevailed if the crops had only equalled expected utilization and exports, government costs of acquiring a strategic reserve are moderate, yet farm income would be increased by several times the amount of the increased government expenditures.

I have no doubt that the Administration will object to S. 2729 on the basis that it would increase governmental expenditures. With this in mind I asked my staff to make the best possible estimates of the additional governmental costs which might be expected if S. 2729 were enacted promptly into law.

They advise me that the first 5 months of the wheat marketing year will be completed at the end of this month, and that the additional payment making up the difference between market prices the first 5 months of the year and full parity on the domestic allotment of 535 million bushels will be about 45 cents a bushel.

Had this bill been enacted a few months earlier, wheat prices might have averaged 10 cents a bushel higher and this final supplemental payment might have been $53.5 million less than now projected.

Under the 1971 feed grain set-aside program producers have been paid 32 cents a bushel for corn (and a comparable payment on grain sorghums) on 50 percent of their production bases.

The government is obligated to make another payment equal to the difference, if any, between the average market price in the first 5 months of the marketing year, October through February, and $1.35, less the payments already made of $.32. This additional payment on the 1971 program may total $150 million if no further price boosting activities are undertaken.

If, however, S. 2729 were enacted promptly, the market price of feed grains would rise above the level of $1.08 per bushel for corn and no further payments would be needed.

Under the current market price support loans for feed grains and wheat, several hundred million bushels of these 1971 grains will be pledged for CCC loans.

I am advised that if the Secretary of Agriculture would use the authority granted him in S. 2729 to announce a program of buying about 26 million tons of feed grains and 250 million bushels of wheat it is doubtful that he would have to purchase that much to raise market prices well above price support loan levels. (Since the soybean crop is short this year in relation to projected utilization, no soybeans would be purchased).

Much of the cost of the grain purchases would be offset by the smaller CCC loan programs and reduction of up to $150 million in final feed grain program payments. The net increase in government costs would probably be between $200 and $300 million, which is only a fraction of the $1.5 billion estimated increase in the market value of the 1971 grains.

The strategic reserve created by S. 2729 is only a part of total desirable reserves that should be carried over from year to year to assure a smooth flow of grains in domestic and international markets. The total reserves of feed grains probably should be 40 to 50 million tons. The total reserves of wheat probably should be 2 to 3 times the 300 million bushels authorized in the strategic reserve.

It is only reasonable and fair that this part of the carry-over should be insulated from the market to such an extent that it would not depress future prices. S. 2729 provides a number of limitations on the use and disposal of this reserve which do not apply to other Commodity Credit Corporation inventories.

The principal provisions are that this strategic reserve could not be sold for less than 105 percent of the maximum acquisition prices and that sales during any marketing year would be limited to the net quantities by which estimated domestic consumption and exports exceed estimated domestic production and imports.

In the light of these restrictions on the disposition of a strategic reserve as authorized in S. 2729, we are assured that it will not have a future depressing effect on market prices, yet it will provide a reserve which could be called on when needed at any future time.

From the standpoint of stabilization policy, note that the U.S. average price of corn and wheat on August 15, 1971 was $1.19 and $1.26 respectively. If no new policies are initiated it is probable that the 1971–72 seasonal average price of corn will be about $1.00 a bushel, well below the price when the freeze was announced and even further below the 1970–71 seasonal average of $1.35 a bushel. If S. 2729 and S.J. Res. 172 are approved, promptly a seasonal average price of about $1.15 might be expected.

The 1971 wheat harvest was well under way at the time of the August 15 price freeze and the U.S. average price at that time of $1.28 a buahel would normally be at or near the seasonal low point.

If no new policies are initiated it is probable that wheat prices will continue at about that level throughout the season.

If a strategic reserve of up to 300 million bushels were acquired under S. 2729, the seasonal average might rise to $1.35 a bushel or about the same as the 1970–71 seasonal average price of *$1.34* per bushel.

I cite these detailed comparisons to counter the charge that acquiring a strategic reserve at these prices would tend to be inflationary. Nothing could be further from the true situation.

It also may be charged that domestic use and exports would be restricted by the higher market prices resulting from the creation of a strategic reserve of grains. It is true that if market prices of grains are prevented from continuing at distress levels throughout the season, domestic use and exports will be reduced modestly.

The amount of the reduction cannot be estimated accurately since in any case market prices would be lower than in the previous year and only slightly higher than 2 years earlier.

At the moderately higher market prices for wheat and feed grains which would prevail if S. 2729 and S.J. Res. 172 were enacted, export prices would be substantially lower than a year earlier and their competitive position would be further improved by the decline in the value of the U.S. dollar in relation to foreign currencies.

I am confident that if the Congress and the President will approve S. 2729 and S.J. Res. 172 market prices in the remaining months of the 1971–72 feed grain and wheat marketing years could be increased about 15 and 10 cents a bushel, respectively.

The strategic reserve created would be insulated from market supplies to such an extent that it would not depress market prices in future years, the modest improvement in market prices would have little adverse effect on domestic utilization and exports and no adverse affect on national price stabilization activities.

The passage of S. 2729 by itself, however, would not provide a long-term solution to the economic problems facing grain producers. Unless more effective adjustment programs are developed to restrict 1972 production of wheat and feed grains, if normal weather prevails, production will again be excessive. And it is principally for this reason that I also have introduced S.J. Res. 172.

The 1972 wheat and feed grains set-aside programs announced by Secretary Hardin call for an increase from 31.5 million in 1971 to 53 million acres set-aside in 1972.

The Administration professes to believe that an increase in the set-aside of 21.5 million acres together with an expected increase in the acreage of soybeans will restrict grain plantings to desired levels.

I do not share this view.

I would remind you that since 1956 about 30 million acres which were designated as conservation reserve acres at that time, have been released for general cropping under the current set-aside program regulations.

I also call your attention to the fact that Department of Agriculture statistics show that in 1969, 50 million acres of cropland were still available for cropping after taking account of the acreage diverted in 1968–69; the 1969 conserving bases; and the 1968–69 harvested acreage of 59 crops, less hay.

Since the conservation bases have been reduced about 8 million acres since 1969 there may be some 55 to 60 million "phantom" acres of cropland available to go into future increased set-aside programs.

When one considers the inherent looseness of the set-aside regulations and the lack of an upper limit on the planting of grains on cropland not set-aside, I do not share the administration's confidence in the adequacy of the announced 1972 set-aside programs.

In my view the only way to avoid a repeat of the 1971 experience of excessive grain production and distress prices is to return to the proven effective feed grain adjustment program which resulted in a genuine balance between supply and utilization demands.

It is probably too late to change the 1972 wheat set-aside program as much as needed. Yet, it is possible and desirable to offer wheat producers an opportunity to divert additional wheat acreage on a voluntary basis, with appropriate supplemental payments.

These adjustments in the 1972 feed grain and wheat set-aside programs are provided for in S. J. Res. 172.

Mr. Chairman, as mentioned earlier the additional government costs associated with the creation of a strategic storable farm commodities reserve, might total $200 million to $300 million in Fiscal Year 1972.

I am convinced, however, that if more effective 1972 wheat and feed grain adjustment programs were put into effect, as provided for in S.J. Res. 172, Fiscal Year 1973 savings would equal or exceed the additional costs of creating the strategic reserve.

Taken together these proposals *would not* involve extra costs for the government, yet would increase the farm value of the 1971 and 1972 grain crops about $1.5 billion each year or a total of $3.0 billion.

In the absence of base acreage limitations in the 1972 feed grain and wheat programs it is probable that production will exceed projected market requirements by 100 million bushels under each program.

A more effective feed grain program in S.J. Res. 172 might be expected to reduce feed grain production by 300 million bushels of corn equivalent. This would reduce CCC inventories and loans by about 315 million (at $1.05 per bushel for corn.

Voluntary additional diversion under the 1972 wheat program, might cost $50 million in additional payments but reduce CCC wheat inventories and loans by 100 million bushels or $125 million.

In other words the combination of a strategic reserve program plus more effective 1972 supply adjustment programs for feed grains and wheat *would not* result in additional costs to the government, yet they *would* increase the farm value of the two year's grain crops by $3.0 billion.

Mr. Chairman, this statement is more than a brief in support of S. 2729, because I am convinced that unless similar legislation is enacted, together with passage of S.J. Res. 172, directing the Secretary of Agriculture to amend both his 1972 wheat and feed grain set-aside announcements grain surpluses will accumulate and prices will continue at their current distress levels throughout both the 1971 and the 1972 marketing years.

President Nixon has demonstrated that he can reverse his field when conditions justify. Surely it is not too much to ask Secretary Hardin to make a similar about-face before the Nixon-Hardin Set-Aside Program creates more economic distress for grain farmers.

Mr. HUMPHREY. Mr. President, as you might have observed from my testimony, I am no newcomer to the farm debate. I started listening to agricultural lectures and farm speeches back in the days of the McNary-Haugen bill.

I remember only too well how farmers had been driven to desperation in the early 1930's. I remember very well, too, that there was a new dawn of hope for farmers when the AAA Act of 1933 was approved by the Congress.

But, I do not see the same concern today that I saw then among people on main street, among Government officials and in the Nation's press. There was no neutrality then in Washington about saving the family farm system.

During the decade of the 1950's, I fought for five farm bills.

With the leadership of the distinguished former chairman of the Committee on Agriculture and Forestry, today our President pro tempore Mr. ELLENDER, we helped to manage five farm bills through the Senate

Congress passed those five farm bills, which would have meant hundreds of millions of additional farm income. And all those five farm bills were vetoed and we had to pass watered down versions that the President would sign just to keep the program alive.

Former Chairman ELLENDER and members of the Committee on Agriculture and Forestry, with the support of a majority of the Senate, tried again in 1970.

Last year, Members of Congress were again advised that a farm bill like the coalition farm bill, which would have established a more adequate farm income program and which required use of effective support and supply management methods, would be vetoed.

And last year, the veto threat was enough. Furthermore, it should be noted that this administration did not even bother to send an agricultural message to Congress.

If anyone ought to be demonstrating today—it ought to be the Nation's farmers.

There are a number of things which could be done which would not add a red cent to the USDA budget; yet each would be very helpful.

I would not have to cite the facts of today's farm crisis—but there is a conspiracy of silence—or at least a media.

The farmer spends over $40 billion a year for goods and services to produce crops and livestock; another $16 billion a year for the same things that city people buy—food, clothing, drugs, furniture, appliances, and other products and services.

Each year the farmer's purchases include—

Nearly $5 billion in farm tractors and other motor vehicles, machinery, and equipment—$2.2 billion was spent in 1966 by the primary metals industry for equipment and new machinery; $4.2 billion for fuel, lubricants, and maintenance of machinery and motor vehicles; farming uses and more petroleum than another single industry; $2.1 billion for fertilizer and lime; products containing 360 million pounds of rubber—about 7 percent of the total used in the United States, or enough to put tires on nearly 7½ million automobiles; 32 billion kilowatt-hours of electricity—about 2½ percent of the Nation's total, or more than is needed annually by Baltimore, Chicago, Boston, Detroit, and Washington, D.C.; and 6½ million tons of steel in the form of farm machinery, trucks, cars, fencing, and building materials; this is one-third as much steel as the automotive industry uses.

Three out of every 10 jobs in private industry are related to agriculture.

Eight million people have jobs storing, processing, and merchandising the products of agriculture.

Six million people have jobs providing the supplies farmers use.

Here are a few examples from the 1967 Census of Manufacturers:

Meat and poultry, including meatpacking, prepared meats, and poultry dressing plants—309,900 employees and a payroll of nearly $2.0 billion.

Dairy, including fluid milk, concentrated and dried milk, natural cheese, creamery butter, ice cream, and special dairy products—235,700 employees and a payroll of more than $1.4 billion.

Baking, including bread and related products and biscuits and crackers—264,700 employees and a payroll of more than $1.6 billion.

Fruits and vegetables, canned, frozen, and processed as pickles and sauces—186,100 employees and a payroll of $800 million.

Cotton weaving mills—203,500 employees and a payroll of $942 million.

One hour of farm labor produces nearly seven times as much food and other crops than it did in 1919–21. Crop production per acre and output per breeding animal have doubled.

Productivity of the American farmworker in the 1960's has increased by 6 percent a year. Output per man-hour in nonagricultural industry increased only 3 percent a year.

One farmworker produces food, fiber, and other farm commodities for himself and 45 others.

In 1970:

Farm real estate taxes totaled $2.5 billion;

Tax on personal property on farms was another $446 million;

Federal and State income taxes paid by the farm population amounted to about $1.9 billion; sales taxes totaled about $350 million.

The United States is the world's largest exporter of agricultural products.

About 60 million acres of our 300 million harvested acres produce for export. The land producing for export represents about the same acreage of cropland as that harvested in Nebraska, Kansas, and North Dakota—$7.2 billion in farm products were exported in 1970. The value of our farm exports since World War II exceeds $100 billion.

American agricultural abundance is a powerful force for world peace. Our food and other farm products are helping to relieve hunger and to promote economic growth in the developing countries of the world.

We accept foreign currencies from countries that need our farm products but are short of dollar exchange. We also barter or trade our agricultural products for essential foreign goods and services needed abroad.

There can be no prosperity—there can be no hope of overcoming either inflation or unemployment or of stimulating production—of getting this country on the move again economically until farm income is up, until we have decent farm prices.

Yet the administration and the press are silent—or indifferent—while the true parity ratio is near the lowest point since the middle 1930's.

In our State of Minnesota, corn at the country elevator is selling as low as 90 cents a bushel. Wheat in our neighboring State of North Dakota is as low as $1.10 a bushel.

These are depression prices. And yet we have no action from the administration.

Like an echo from the USDA of the 1950's, the officials are saying that nothing is basically wrong. The program is working, they say. They claim it is things beyond their control which are hurting farmers. They ironically blame wage increases for America's workers, the inflation spiral or the dock strike for their own errors.

Like the apostle of flexible supports two decades ago, spokesmen today are adept at complaining about symptoms but skirting the basic causes of farm trouble.

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It is said, for example, that "farmers are faced this year with an abundance of corn due to circumstances beyond the control of both farmers and the Government."

Some of the policymakers seem to be genuinely puzzled by the unrest among farmers who they feel ought, at all odds, be happy. As one has said:

It all adds up to unhappy farmers in the corn-belt States even though a majority will make use of the depressed corn prices to profitably feed their cattle and hogs.

Frankly, this is no great secret. Anyone who ever spoke to a farmer knows only that he is unhappy. He is unhappy because his income is unfairly low.

When all the cliches about market-oriented programs, about price geared to export development, and freedom to plant are stripped away, the truth is that the administration is spending more to help farmers less.

Prices are where they are today because that is where the administration's set-aside was designed to bring them.

We do not fault the USDA officials for being concerned about the possibility of shortages in the event of another short corn crop in 1971.

But we do fault them for encouraging a vast expansion of production without any provision whatsoever to prevent farmers from being punished by low prices for their expanded production.

It was not wrong to be concerned that a carryover of 34 million tons of feed grains was well below a desirable carryover level.

But, it was and is wrong to swing to the other extreme and allow a vast increase in the carryover, without ever tumbling to the wisdom of establishing a national strategic reserve of farm commodities.

Instead of aiming for a desirable carryover of about 45 million tons, this year's production will result in a 60 million ton carryover—the highest since 1964.

But, if there are problems right now in the Corn Belt and the wheat areas of the Nation, they are nothing compared to what will happen next year unless the Secretary's new program is reversed by the President.

Left as it is, this year, the set-aside could move in only one direction—the direction of greater and greater surpluses and lower prices.

And, although the Secretary proposes to use the land retirement provisions he opposed last year, he will use them in a clumsy way that can only injure farmers.

I would have thought that the Nation would have learned its lesson in the Benson years.

Farmers, without Government help, can never win the race between expanded production and falling prices.

Yet, the Secretary seems determined to persist in that disastrous course again.

Either the administration or the Congress must now take action to protect farm prices and income.

Recently, some estimates were made as to the loss of farm income because the Agricultural Act of 1970—the administration farm bill—was adopted instead of the coalition farm bill.

This was a sobering set of figures. Yet, it understated the situation. The full and real extent of what the set-aside has cost us must be measured against what agriculture should have received if farmers had shared fully in the national income.

Farmers cannot stand still economically any more than the rest of us. Yet, farm prices are scarcely above the level of 20 years ago, while costs are up more than 50 percent.

I said a moment ago that, without a redirection of the farm programs, we are in for even greater trouble next year.

We already know that in some areas the plantings of winter wheat may be up as much as 20 percent over a year ago.

It is extremely doubtful that, even if the feed grains set-aside program is increased to 35 percent for 1972, that corn production will be reduced enough so that there will be no addition to the carryover.

I maintain that it is time to bring agriculture into the mainstream of the national economy. But we certainly cannot do it by bringing the national economy down to the depressed situation of agriculture.

The farmer has become the forgotten man in the national economy. You simply do not find him in the administration's new economic game plan. But better farm income ought to be in phase II.

Agriculture is absolutely essential in any program to revitalize the American economy.

The set-aside, of course, is intended to refer to the setting aside of acreage—in reality is more a program for farmers to "stand aside" as full partners in the American economy.

If farmers were compensated for their input and labor, based on what nearly every economist feels should be the ruling guide for wages and prices, namely productivity gains, farmers would not only be getting full parity prices, but more nearly returns almost double honest parity prices.

We must start rewarding the farmer for his efficiency. Otherwise, the Nation must be prepared to live with the consequences of a major transformation in American agriculture. The course charted now by the administration leads directly toward a takeover of the commercial family farm by nonfarm conglomerates operating factory interests.

This year's mismanagement of our national agricultural programs through the set-aside programs for feed grains and wheat has propelled us into a new cycle of surpluses and a new era of catastrophic prices and a new era of monitoring Government costs.

The administration's farm policies are turning the great crop-producing areas of the Nation into a vast economically depressed area.

Although there had been ample warnings last year about where the set-aside program might lead, now there is no longer any question about the results. However, there is now a frantic effort to blame something else for today's grain price collapse.

The Nation is paying a fearful price for the shortfall in farm income. If farm income had increased in the past 11 years as much as our overall national income, total net farm income for 1970 should have been about $22.5 billion, about 43 percent above what it actually was last year.

Think how that additional $6.8 billion would have made the cash registers ring in towns and cities of our farming communities—and the demand which would have been registered for industrial and consumer goods.

The drop in farm prices and income has choked off hundreds of millions of dollars of investments which farm families would otherwise have made for farm machinery and equipment, new buildings, household goods, and appliances and many other items.

There has been a double drain on farm purchasing power because besides the loss in farm income, the continuing tight money hemorrhage has drained away hundreds of millions of dollars of farm purchasing power.

The hardship and distress farmers are going through is not necessary. Worse than unnecessary—it is senseless and inexcusable.

Our agricultural economy can be managed so that it will provide equality of opportunity for farm people to enjoy their fair share of the national income if we have the determination to do so and apply some commonsense.

There is no excuse for anyone to pretend that the farm problem will work itself out if we just go along a little further with the set-aside and its surpluses and low prices.

Although there is a virtual news blackout on the dimensions of the farm depression, I noted recently in Portland, Oreg., where an ASCS official said that Secretary Hardin is "extremely concerned about the current prices of agricultural products."

This official said that—

Farm programs must be designed to help producers survive and make a fair return on their huge investments.

He further declared:

That is exactly what Secretary of Agriculture Clifford M. Hardin is going to do.

Well, if the Secretary is determined to help farmers survive and make a fair return, he will get all the cooperation he needs from Congress—and from me.

But I am not at all sure that the Secretary is willing to make an about-face on the set-aside and take the strong steps that are needed to do the job. I am inclined to believe after his announcement regarding the 1972 programs, that the President will have to take charge.

I am aware that the administration may have tried to design the 1972 feed grains and wheat programs with the goal of obtaining a diversion of perhaps 55 to 60 million acres, but I am not sure that they are going to be willing to offer the incentives necessary to get that much participation, nor that they will offer the price assurances that they should.

On October 5, I urged the Secretary to announce as soon as possible a reduction in wheat and feed grains acreages for next year.

I pointed out that Congress—in the Agricultural Act of 1970—gave him authority to return to a base acreage program for feed grains and to institute an acreage diversion payment program for wheat in order to bring about the acreage adjustment needed to bring supply closer in line with demand.

At the same time I called attention to the fact that right now, given the surplus situation into which we have moved, is an ideal time to establish a national inventory reserve of wheat, feed grains, and other food commodities.

Had such a national inventory reserve existed last year, the corn leaf blight epidemic would not have provoked such hysteria.

Had such a national inventory reserve existed last fall, there would have been no need for the overexpansion of production which was encouraged for 1971.

I may be dealing a little harshly with my friends in the communication media for their indifference to agricultural problems. But, while I am at it, let me express the wish that some budding journalist will dig into this paradox—that we have hundreds of millions of dollars in various strategic materials and minerals in our Federal stockpiles—and rightly and properly so—but we have no consumer food reserves.

Yes, we have some farm commodities in Government hands as a byproduct of the farm support programs. But, they are not technically a reserve and they are apt to be depleted at the very time that reserves would be vital.

The CCC holdings of farm commodities do not therefore fit the need for a safety inventory.

So, I hope that the experience of this year will convince the administration to work with us in Congress on the reserve legislation, which has now advanced through the House Agriculture Committee and is now before a Senate subcommitteee.

We ought to have some food in the deep-freeze to protect us against shortages, and we ought not let our cupboards run bare.

Is there someone among our TV documentary experts—or our radio commentators—or our newspaper and magazine writers—who will tackle this assignment?

Here is an almost scandalous oversight—we take our abundance so much for granted that we have no Federal stockpiles except some very modest civil defense caches for emergency purposes.

Yes, we have plenty of magnesium, plenty of quartz, plenty of tin—but how much is there in the cupboard or in the deepfreeze when we get hungry?

I can no longer allow the premise to be made that this farm debate is merely over differences as to how we can best achieve the same objectives for farm people.

If we were really in accord on the purposes and objectives of farm policy in this country, reasonable men of good will could have long ago resolved their differences.

Had they been headed in the same direction in farm policy, reasonable men of good will could last year have used the Senate adopted coalition farm bill as the nucleus of an effective new farm program.

Had the objectives been the same, reasonable men of good will could last month quite readily have agreed on a course to enhance the market and bargaining power of agriculture.

The fact that it has been impossible to do so, brings us face to face with the inescapable conclusion that much more is involved than the best methods of achieving common objectives.

The truth is that behind all the smoke screen and camouflage we are getting from high places, fundamental differences do exist over the objectives themselves—over the pattern of agriculture we should have in America.

And until we flush those differences out into the open and discuss them frankly, we will remain unable to cope with the agricultural crisis.

The real issue is the right to economic survival of America's traditional family farm system of agriculture. This is what is at stake.

We are being led down a path that threatens the extinction of the owner-operated family farm—and this despite the fact that the Congress has never encouraged or sanctioned such a course. In fact, provisions of the Food and Agricultural Act of 1961, that have never been repealed states the flat policy of the Federal Government to encourage the family farm pattern of American agriculture.

I seriously challenge the thought that the "bigness" of mass corporate conglomerate factory farming activities may be the answer.

I challenge the complacent attitude of high officials that the family farm is in no danger from the inroads of factory-type farming. They are just plain wrong.

The time has come to put an end to the situation which places the burden of our Nation's cheap food policy almost completely on the back of the American farmer.

Make no mistake about it—better solutions can be found and must be found. A Government that cannot find better ways to provide economic justice for its agricultural producers is simply bankrupt of ideas.

To cope with what is wrong in rural America, we should be developing a comprehensive approach. All phases of the farm programs are interrelated, each dependent upon the others for effective results.

For that reason it makes sense to approach our agricultural problems broadly and in a comprehensive manner. And then fund them and administer them in the spirit which the Congress has intended.

We should have no more of the irresponsible executive conduct in which billions of dollars of funds expressly voted by the Congress for vital programs is held back by the Office of Management and Budget, with the concurrence of the White House.

It is not enough to amend the Agricultural Act of 1970 on a piecemeal basis.

We need to do many things, some of which require new authority, some which do not; some which require additional funding, some which do not.

These are some of the steps which we might consider:

Reiteration of our dedication to the family farm ideal.

Retention of an honest farm parity as the goal of farm programs and the basis for establishing support levels.

Establishment of a National Strategic Reserve of Food Commodities, insulated so that it does not destroy the market.

Extension of the extended loan program—or reseal—so that farmers can put the product under loan for 3 years.

Strengthen the on-farm storage program and not release from seal big volumes of grain at harvest season.

Approval of bills to increase support levels when Federal policies encourage production at levels which will add to the carryover.

Use more effectively the acreage diversion payment available to USDA under the Agricultural Act of 1970 in a way that will improve rather than decrease the income of cooperating farmers.

Establishment of a base-acreage program for feed grains and wheat.

Increase the loan levels for wheat and feed grains which save CCC money in the long run.

Extend authority for use of Federal marketing orders to the producers of any commodity who wish to use it, including the power to invoke supply management measures, or use bargaining techniques.

Continue to expand farm exports, but not on the basis of farmers subsidizing U.S. balance of trade through low prices being paid to U.S. producers.

Provide enabling legislation for farm collective bargaining including supply management and with provisions to help producers attain a position of equality with handlers, to require bargaining in good faith, and to provide a procedure for setting of fair prices by mediation, arbitration, and other methods if bargaining fails to reach a settlement.

Include oats and barley regularly in the feed grains program and support them on a basis to their relationship to the total support on corn.

Increase the amount of funds to REA to meet the growing needs of distribution and generation cooperatives.

Establish fair and reasonable wages and working conditions for farm labor.

Provide for free school lunches for all children attending schools, camps, or nonprofit day-care centers. A wholesome, nutritious school lunch should be the right of every child—regardless of ability to pay, just as we never require the student to take a poverty test in order to receive free textbooks. This is long overdue.

Maximize the use of county and community ASCS committeemen in the administration of farm programs. I have had to go to bat on several occasions during my years in the Senate for the farmer-elected committee system. Now, there is a move afoot to consolidate community committees on a massive scale. This is another effort to take the program further away from the farmer and the local rural neighborhood and to downgrade the local committeemen in inter-

est of the mistaken enthrallment with efficiency, bigness, and centralization.

Increase the Federal funding for Federal cost sharing with farmers on conservation measures—the basic program as well as the new programs which are necessary for pollution control safeguards. I hope that Representative POAGE is successful in his effort to smoke the truth out of the Department of Agriculture on this matter.

Continue our efforts to extend the Federal Crop Insurance program to all major crops and counties; to have the Federal budget absorb the administrative costs of the program; and to authorize the writing of coverage higher than the existing limits, so that farmers could pay for and obtain more adequate coverage that will come closer to covering their investment costs.

Expand and adequately fund the various Federal farm credit programs—including a vast new program of beginning credit for young farmers.

We should be done splitting hairs and nursing nickels and dimes at the expense of our young people.

Adoption of S. 2223 which will provide the capital for a revitalization of rural America—and to make it a place where our people can have freedom of choice to live where they wish.

SENATOR McGEE PRAISES YOUTH AND THE GIRL SCOUTS OF THE U.S.A.

Mr. McGEE. Mr. President, Youth Appreciation Week is drawing to a close, but our appreciation of the thousands upon thousands of young Americans who demonstrate a willingness and even an eagerness to grow and develop as good citizens should never be limited to the second week of November, or any other special week.

Nonetheless, I want to take this occasion of Youth Appreciation Week to pay my respects, not only to the youth of America, but to the many very worthwhile organizations which serve youth by helping channel its tremendous energy into public service and personal development. There are many such organizations, of course, from the Boy Scouts, the Girl Scouts, and Campfire Girls to the numerous groups organized by religious denominations, service clubs, PTA's, and the young people themselves.

In Wyoming, where we are graced by the activities of many such organizations, we are increasingly proud of the Girl Scouts of America, which is developing the National Center West, a tremendous outdoors areas for use by Girl Scouts from all over America and from foreign lands. This is not just a recreation center. It is much more. Its purposes are many, but among them is the aim of affording girls with a wilderness experience and with an understanding of the importance our land and water resources, wildlife and vegetation included, hold for us, even in the latter part of the 20th century.

Since my wife, Loraine, is a member of the Girl Scouts' National Properties Board and thus involved with National Center West and the other properties of the Girl Scouts, I have had an unusual opportunity to survey and assess the workings of this great organization. I find it more relevant today than perhaps ever before. The same can surely be said for other organizations like it which also serve the youth of America, our future. But it is particularly so for organizations which stress the outdoors and attempt to teach young people to live in harmony with nature.

For me, Mr. President, it is highly encouraging to know, for instance, that 3 million girls and young women in this Nation are being taught leadership, the principles of service, and an appreciation for this land we call America as members of the Girl Scouts of the United States of America. Would that even more were so involved in this and other groups which provide a wholesome modern-day life.

SENATOR EAGLETON PRAISES HOUSE COMMITTEE FOR KILLING COSTLY TANK

Mr. EAGLETON. Mr. President, I am extremely pleased with the action the House Appropriations Committee took today regarding the MBT–70/XM–803, the main battle tank.

In effect the committee has recommended what I have been advocating for the past 3 years: That the Pentagon be forced to give up this "dream tank" which long ago turned into a nightmare.

The House committee has deleted all the funds requested by the administration—$86.6 million—for the MBT–70/XM–803 program and recommended that $20 million be spent in search of ways to improve the current generations of tanks. I certainly hope that the Senate will follow the House action.

Over the years blind congressional acceptance of bland Army assurances have kept the highly questionable tank project rolling along despite skyrocketing costs and the continued degrading of its original capabilities.

I am hopeful that the House Appropriations Committee's action marks the end of this kind of blind acceptance of Defense Department requests.

Many of us in Congress have been saying during the last 3 years that more costly and technologically fancy weapons do not necessarily add to our security—that, in fact, wasteful military spending seriously can impair our overall ability to defend ourselves.

It is true that during this time none of us who has questioned certain weapons systems has won a major floor fight. In fact, other than the ABM vote in 1969, the 42 to 51 defeat of my amendment to reduce funding for the MBT–70/X–803 earlier this year was the high-water mark.

And yet, I believe there has been a change. We have had an effect. Congress after all is a responsible body. Although it does move slowly, it responds—not only to constituent pressure but to pressures from within itself as well.

As a result, congressional committees have begun to scrutinize closely military demands for ever more costly weapons systems. Granted, much more must be done. But by deleting funds for the MBT–70/XM–803 program, the House Committee has taken an important step toward reestablishing sanity to our search for security.

Mr. President, during the debate over the MBT–70/XM–803, several statements have been made by the Army and others on behalf of the program that I believe deserve a reply.

Therefore, I ask unanimous consent that a compilation of statements made in behalf of the MBT–70/XM–803, and my comments on those statements be printed in the RECORD.

There being no objection, the compilation was ordered to be printed in the RECORD, as follows:

Statement:

The MBT–70/XM803 is a quantum jump in tank technology. (1)

Comment:

The original MBT–70 concept might have been a quantum jump in technology. Reverting to the austere XM803, however, has eliminated the majority of the "quantum jump" features so that the XM803 mainly reflects current technology, the majority of which is being incorporated in the current product improved M60 series tanks.

The following are among the features which have been eliminated from the MBT/XM803 or changed with reduced capability.

1. 20-mm pop-up cannon changed to fixed .50 cal. machine gun. As a result, the commander must expose himself to change the rate of fire. (2)

2. Retractable commander's night sight now consolidated with his day sight and with the nonretractable .50 cal. machine gun mounted on top. (2)

3. Missile transmitter moved from side of turret to top of main weapon barrel preventing moving gun for reloading during missile flight—thereby reducing rate of fire. (3)

4. Capability for commander to drive and/or fire on the move eliminated. (4)

5. The ability to change silhouette while moving and with turret in any position has been eliminated. Silhouette can be changed only when the tank is stationary and with the turret pointing straight ahead. (4)

6. The auxiliary driver's controls, eliminated from the commander's station, now located in the hull and accessible only when the turret is properly aligned. (4)

7. The automatic fire detection system replaced by a manual system. (5)

8. Navigation kit and driver's T.V. eliminated. (5)

9. Positive overpressure system eliminated. (5)

10. Double actuator hydropneumatic suspension system reduced to single actuator system, reducing capability. (5A)

11. Digital ballistic computer replaced with an analog computer requiring manual in lieu of automatic sensor inputs resulting in reduced HEAT round accuracy. (6)

12. Power operated fording system reduced to manual, requiring crew members to dismount to prepare for fording. (7)

13. Hi-hardness light weight steel armor eliminated and replaced by heavier steel armor with resulting vehicle weight increase. (8)

14. The nuclear flash safety protection system has been eliminated. (9)

15. The environmental control system for crew protection from chemical, radiological and biological hazards has been eliminated. (10)

16. The turret liner for crew radiological protection has been eliminated.

17. Range was reduced due to increased vehicle weight and reduced fuel capacity. (11)

18. It is planned that missile capability will not be built into all XM803 tanks, although it may be available as a kit. (12)

Comments on other features:

1. Superior missile and APFDS rounds:—

The M60A1E2 fires the identical missile as the XM803 and ET/ST results exceed all requirements. The M60A1 APDS round is acknowledged as superior to the APFDS round. The APFDS round is still having problems after 7 years in development. The exact same main weapon could be provided in the M60/K tank as in XM803. In addition, the M60/K tank could, as an alternate, use other guns such as 120MM–105MM, etc.

2. Variable height hydropneumatic suspension systems:—

This is old technology available for years on construction equipment. The tube-over bar suspension provides equivalent roadability with far less complexity but does not include the variable height feature.

3. Spaced armor:—

This is under consideration for the Product Improved M60A1.

4. Automatic loader:—

Reliability and maintainability—still to be proven. If the automatic loader fails in a combat situation, the driver has to assist the gunner in loading, thus making the XM803 a standing target as he cannot load and drive simultaneously. The commander cannot drive as his driving controls have been eliminated.

A simple semi-automatic loader, such as was proposed for the M60/K tank, may be a better solution.

Statement:

The MBT–70 is a more cost effective tank than the M60A1. (13)

Comment:

An OASD–SA study shows that the MBT–70 tank was less cost effective than the M60A1 if the United States wanted to continue to spend the same amount of money on tanks as it had been spending. If the U.S. wanted to more than double the spending rate, the MBT–70 would be slightly more cost effective than the M60A1 but it would be less cost effective than the M60A1 Product Improved or M60/K tank by high-payoff, low-cost modifications. (14)

Statement:

The M60A1 is only 20%–30% as effective as the MBT–70.

Comment:

Statements, such as the above, do not consider the potential capabilities of the Product Improved M60A1 or the M60/K tank. The Product Improved M60A1 with the addition of the 900 HP engine and new transmission replacing the 750 HP engine in the M60 series tanks, will give this tank a mobility capability exceedingly close to that of the XM803.

While some of the Product Improved items have been included in some of the tank comparisons, none except the attached reflect the increased mobility capability provided by the 900 HP engine and new transmission.

The House Appropriations Committee's Surveys and Investigations Staff report of July 1971 discusses the Army's reluctance to consider alternatives to the XM803. The report says, "Other improvement alternatives in the M60 series are also available that seem to offer capabilities closely comparable to the XM803 at substantially less money."

Statement:

The existing M60A1 tank represents a design technology of the early 1950's.

Comment:

While the basic M60 tank may be of the '50's, the main capabilities of the M60A1 were incorporated in the 60's. The Product Improvement items which are to be incorporated in the M60A1 and possibly in the M60A1E2 are definitely of the 1970's and will provide the M60 series tanks with a capability close to that of the XM803.

Following are some examples of this technology to be incorporated in the M60 series tanks:

1. Gun Stabilization:

Provides accurate fire-on-the-move. Reduces combat loses. Studies show 15–20% reduction in combat losses in stabilized vs. unstabilized main gun tanks.

2. Crew Served Weapon Sight:

Permits commander to passively conduct area surveillance and target acquisition. Permits engagement of targets with cupola machine gun without compromising tank's position with a display of visible or IR light.

3. Oil Cooled Generator/Solid State Regulator:

Provides 62½% increase in generator output and 300% increase in regulator life with improved voltage regulation.

4. Passive Night Vision:

Permits target engagement with all weapons under starlight conditions—Passive observation without revealing position. Drive NV periscope provides 100% greater ranges.

5. Tube-Over-Bar Suspension:

60–80% increase in speed over rough cross-country terrain. Smoother ride reduces crew fatigue and vehicle shock loads—More stable gun platform enhancing fire-on-the-move capability.

6. Laser range Finder:

Permits faster operation and ranging—Increased accuracy at all ranges—Adaptable to night operations.

7. Solid State Computor:

Enables gunner to engage moving targets with increased probability of first round hit due inclusion of correction factors. Can accept either manual or range finder input. Self testing circuits for trouble shooting—Improved reliability—Growth potential.

8. Engine/Transmission:

Horsepower increase from 750 to 900. 33% increase in vehicle speed. 33% increase in acceleration in 0–30 MPH range. 60% top speed increase on 60% grade. Automatic shift with drive override. 50% increase in maximum braking deceleration—Combination provides greater tactical mobility.

Statement:

The MBT/XM803 can move across country 50% more rapidly than the M60A1.

Comment:

This may be true of the M60A1 but definitely is not fact for the Product Improved M60A1 with the 900 HP engine, new automatic shift transmission and tube-over-bar suspension. The Product Improved M60A1 will have the same cross-country speed and stability as the XM803 and its acceleration will be within 10% of the XM803.

Statement:

The XM803 is first of all an entirely new tank—not a product improvement such as is offered in the M60A1 and M60A1E2.

Comment:

What is wrong with product improvement if it results in an end product which is cost and combat effective in meeting the military requirement? Experience has shown that the chances of success in a development program are far greater when using as much proven hardware and technology as possible than when using all newly developed hardware. Mixing the old with the new so long as it produces the desired end result is also the most economical.

At least an additional $225.0M will be required (starting with FY72 funds) to complete the RDT&E on the XM803. To Product Improve both the M60A1 and the M60A1 and the M60A1E2 which will give this combination a combat effectiveness of between 90% and 95% of the XM803 will require approximately $40.0M or less than 20% of the additional RDT&E funds required for the XM803.

Another alternative is to develop the M60/K tank with the M60A1 Product Improvement items with the new compact turret which will use the identical XM150–152MM gun as is used in the XM803, fire the same ammunition as the XM803, or, as alternates, other guns including the 120MM, and will incorporate a semi-automatic loader. The RDT&E estimate on the Product Improved M60/K is $63.6M which is less than ½ the RDT&E funds required for the XM803. The M60/K will have a combat effectiveness of at least 95% that of the XM803.

Estimated production costs are also considerably less for the Product Improved M60 series tanks, as is shown below:

	Product improved			
	M60A1	M60A1E2	M60/K	XM803
R.D.T. & E to completion (fiscal year 1972+)	$37.6M	$30. M(1)	$63.6M	$225.0M plus.
Production cost (assuming 1971 economics and 30/month rate)	$300.0K	$435.0K	$449.0K	$825.0K (min.)
First production	Fiscal year 1976	Fiscal year 1976	Fiscal year 1976	Fiscal year 1976.

Note (1): R.D.T. & E. covers cost of duplicate mobility items of those in M60A1. Both vehicles can be product improved for $40.0M.

Statement:

The crew reduction from four to three in addition to exposing fewer men to combat provides a significant personnel cost savings. (13)

Comment:

No one will argue that exposing fewer men to combat is not desirable, however, to say that reducing the crew of as complex a vehicle as the XM803 from four to three will result in a significant personnel cost savings is absurd.

Experience and records show that the services of all four crew members of the comparatively simple M60A1 tank are required to perform the daily maintenance on this vehicle.

The MBT–70/XM803 is a far more complex vehicle than the M60A1 and will undoubtedly require more maintenance than the M60A1. There is no question but that added maintenance personnel will be required on at least a 1-for-1 basis and possibly as high as 3 to 1. This produces no personnel cost savings.

Only time will tell whether the reduced crew resulting from the use of the automatic loader will result in the reduction of tank crew losses in combat. It should be remembered that the driver has to assist in loading in the event of a breakdown of the automatic loader and he has either to drive or to load. If he loads, the tank becomes a sitting target as the commander's driving controls have been eliminated. Auxiliary driving controls are located in the hull but can be operated only when the turret is properly aligned which greatly reduces the ability of the tank to maneuver and to defeat the enemy.

It should also be noted that with one possible exception, all new tank development by foreign powers maintain the four man crew. Should the loader be killed in action, one of the other crew members can load and the vehicle can maintain its combat capability.

The same cannot be said if the XM803 automatic loader should fail or be knocked out.

Statement:

The M60A1E2 will not be as reliable a vehicle as the XM803. (19)

Comment:

All comparisons of maintainability and reliability result in paper objectives for the XM803 against ET/ST actual test results for the M60A1E2.

The XM803 maintainability ET/ST goal (objective) is 2.0 hours and the production goal (objective) is 1.4. (19)

The M60A1E2-TECOM ET/ST test results show a figure of 2.66 hours; the goal for the M60A1E2 was 4.5 hours.

The reliability goal for the XM803 is predicted at 100 mean miles below failure (MMBF), with a requirement that only a 58 MMFB be demonstrated in the ET/OST. (18)

Seven M60A1E2 tanks in the recently completed ET/ST accumulated a total of over 28,000 miles. The results of this test show the MMBF to be 128.1 with mission reliability factor (MRF) against a goal of 110 and 89.2 without MRF against a goal of 70.

It is difficult to conclude that the above statement can be true in view of the predicted lower reliability goals of the XM803 vs. the actual test results of the M60A1E2.

A decision to develop and produce a Product Improved M60 series vehicle (M60A1, M60A1E2, M60/K) would provide the potential of substantially upgrading the entire M60 tank fleet in the field at the least cost. All of the product improvement items under development and those under consideration can be installed by retrofit on the existing M60 tank fleet. Such a program would substantially increase our total tank fleet capability and would reduce to a large degree the recognized superiority of the Warsaw Pact tank threat.

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(15) FY71 Hearing Report, SASC, 722.
(16) Congressional Record, 9–30–71, pp. 34214, 34218, 34219, 34222.
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AMERICAN JEWISH COMMITTEE HONORS MR. BEN FIXMAN WITH THE NATIONAL HUMAN RELATIONS AWARD

Mr. HUMPHREY. Mr. President, I recently had the fortunate experience of attending a most moving and inspiring event in St. Louis, a dinner to honor one of America's truly great citizens, Mr. Ben Fixman.

The evening was a moving one because of the fine statement of personal commitment to humanity which Mr. Fixman presented.

And I found the evening inspiring because it was a warm demonstration by the sponsoring group, the American Jewish Committee, of its leadership since 1906 in combating bigotry and advancing the cause of human rights for all.

To be recognized for humanitarian leadership by the American Jewish Committee, Mr. President, is a high honor, indeed. Founded in 1906 to protect the civil and religious rights of Jews in the United States and abroad, then particularly against the oppression of Czarist Russia, the American Jewish Committee has fought to protect the enjoyment of human rights of all people in nearly every forum and every battle. And the American Jewish Committee has always had in its leadership the most distinguished humanitarians.

I think Senators will appreciate a brief review of the history of the AJC, so I ask unanimous consent that there be printed at this point in the RECORD a chronological summary of its leadership and a list of its present officers and the names and terms of service of its presidents.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

MILESTONES OF THE AMERICAN JEWISH COMMITTEE

1906

Czarist Russia's oppression of Jews spurs creation of American Jewish Committee to protect the civil and religious rights of Jews in the United States and abroad. Founding leaders—men such as Dr. Cyrus Adler, Jacob H. Schiff, Cyrus L. and Mayer Sulzberger and Louis Marshall—vow to "alleviate the consequences of persecution and to afford relief from calamities affecting Jews wherever they may occur."

Within months of its establishment, the Committee had helped rebuild Jewish institutions leveled by earthquakes in San Francisco and Sicily and initiated plans for mass protest against Russian anti-Semitism.

1907–13

AJC assumes responsibility for preparing *American Jewish Year Book*, the standard, authoritative record of events and trends in world Jewish life.

AJC opposes discriminatory and restrictive immigration policies of U.S.

Four-year fight—led by Louis Marshall—opposing Czarist Russia's discrimination against Americans of Jewish faith results in U.S. abrogation of 1832 Russo-American Treaty of Commerce. Integrity of American citizenship vindicated.

Amendment to New York Civil Rights Law, supported by AJC, prohibits advertisement hotels and other public places. Other states later follow suit.

1914–20

Following outbreak of World War I, AJC provides relief for isolated Palestine Jews and plays major role in creation of Joint Distribution Committee for rescuing Jewish war victims in Europe.

Upon U.S. entry into the war, AJC leaders help create National Jewish Welfare Board to minister to needs of Jewish members of the armed forces.

New immigration law—advocated by AJC—accepts Yiddish and Hebrew as languages in literacy tests for immigrants to U.S.

AJC endorses Balfour Declaration, to establish Palestine as Jewish homeland.

Committee delegation, led by Louis Marshall, plays leading role in Paris Peace Conference decision to include minority-rights provisions in peace treaties.

AJC exposes the spurious anti-Semitic *Protocols of the Elders of Zion*.

1923–27

AJC plea in Oregon school case before U.S. Supreme Court helps establish right of Catholic parents to send children to parochial schools and defeats discriminatory law passed under KKK influence.

AJC joins in emergency relief activities to alleviate plight of more than 10,000 Jews stranded in European ports enroute to U.S. by sudden passage of U.S. Immigration Act of 1924, based on national-origin quotas.

AJC spurs enlargement of Jewish Agency for Palestine to include non-Zionists.

In letter to AJC President Louis Marshall, Henry Ford retracts anti-Semitic statements and publicly apologizes for slandering Jews by circulating *Protocols of the Elders of Zion*.

1933–40

AJC urges U.S. intervention to protect the civil and religious rights of Jews in Nazi Germany; exposes Nazi persecution of Jews and other minorities; aids refugees; presses educational campaign in U.S. to counteract anti-Semitism and Nazi propaganda.

AJC initiates public opinion polls on attitudes toward Jews in the U.S.

AJC issues *Contemporary Jewish Record*, a periodical of events and digest of opinion in Jewish life, later succeeded by *Commentary* magazine.

AJC establishes Library of Jewish Information to service individuals and organizations with objective information about Jews.

AJC opposes British White Paper restricting Jewish immigration to Palestine; pledges cooperation with Jewish Agency "to help bring about a just, equitable and workable solution to the present Palestine problem . . ."

1944–45

AJC convenes conference of social scientists to chart unprecedented research at major universities into prejudice, its roots, its effects on personality. Committee thus pioneers recruitment of social sciences in combating intergroup hostilities and advancing human relations.

Chapter movement founded to strengthen and expand AJC constituency and community relations programs.

At UN founding conference in San Francisco, AJC delegation, led by Judge Joseph M. Proskauer and Jacob Blaustein, helps secure inclusion of human-rights clauses in UN Charter.

AJC inaugurates *Commentary* magazine, a journal of independent thought and opinion on Jewish affairs and contemporary issues.

1946–47

AJC President Proskauer, at Anglo-American Committee of Inquiry, urges admission of 100,000 DP's to Palestine.

AJC supports Palestine partition plan.

AJC, Alliance Israélite Universalle and Anglo-Jewish Association form Consultative Council of Jewish Organizations, accredited to the UN, to safeguard rights of Jews, and human rights generally.

AJC opens European headquarters in Paris to help protect rights of Jews in Europe and North Africa, speed their integration, strengthen communal life.

AJC files brief in U.S. Supreme Court on released-time program. Court bars religious instruction in public schools.

AJC and Anglo-Jewish Association of Great Britain sponsor London Conference on needs of Jews in postwar Europe.

AJC delegation led by Jacob Blaustein, at Paris Peace Conference, successfully advocates human-rights guarantees and restitution provisions in peace treaties.

1948–50

AJC establishes office in Buenos Aires to help protect rights of Jews in Latin America. Program supports democratic institutions and fosters integration of Jews into Latin American communities.

AJC President Blaustein urges U.S. recognition of Israel.

In U.S. Supreme Court, AJC opposes enforcement of racial restrictive covenants. Court's ruling is first victory against such covenants.

Premier Ben-Gurion and AJC President Blaustein, in historic meeting, agree on principle that "Israel represents and speaks only in behalf of its own citizens [and] has no intention to interfere in any way in the internal affairs of Jewish communities abroad."

AJC-sponsored five-volume *Studies in Prejudice* (Harper & Brothers) is hailed by nation's social scientists. *The Authoritarian Personality*, basic volume in the series, has stimulated more than 1,000 further studies.

1951–52

Publication of AJC's *Jews in the Soviet Union* (*Syracuse University Press*) marks first exposure of Soviet anti-Semitism. Second volume, *Jews in the Soviet Satellites*, follows two years later.

AJC President Blaustein plays vital role in negotiation of $822,000,000 restitution settlement with Federal Republic of Germany in behalf of Israel and Conference on Jewish Material Claims against Germany; similar agreement is negotiated with Austria two year later.

AJC files brief in U.S. Supreme Court to stop state courts from granting damages for breach of racial restrictive convenants. Court affirms Committee's stand.

1954–55

AJC delegation, led by President Irving M. Engel, surveys problems confronting 500,000 Jews of Morocco, Algeria and Tunisia; Committee fights for their right to choose citizenship with full equality, as well as to emigrate unhindered.

Committee brief in Supreme Court and AJC-sponsored research on effect of prejudice on personality contribute to decision banning school segregation.

AJC co-sponsors second London Consultative Conference of Jewish Organizations to determine program for insuring Jewish continuity in Western Europe and North Africa, and to discuss relation of Jews there to Israel.

1956–58

President Engel urges U.S. action to end discrimination by Arab League nations against citizens of Jewish faith.

Pioneering AJC "Riverton Study" reveals attitudes of Jews toward themselves and their neighbors.

Pope Pius XII, addressing AJC delegation in his first private audience with a Jewish group, urges nations to provide haven for refugees fleeing persecution; condemns racial and religious persecution.

Ground is broken for Institute of Human Relations, AJC's permanent headquarters and hub for research and practical application in human relations.

With Anglo-Jewish Association and Alliance Israelite Universalle, AJC launches Community Service program in Europe to foster religious, cultural and educational cooperation among Jewish communities.

1959–60

AJC leaders meet in New York with Soviet Deputy Premier Mikoyan to protest situation of Soviet Jewry.

Week-long series of conferences, attended by more than 200 leading Americans, marks dedication of AJC's Institute of Human Relations.

Studies of "executive suite" discrimination in American industry are initiated by AJC at Harvard University Graduate School of Business, University of Michigan and University of California at Los Angeles Graduate School of Business.

AJC stimulates program which brings teams of West German educators to study U.S. teaching methods in education for democracy. Project continues in cooperation with West German Government, Institute of International Education, Ford Foundation, New World Foundation.

1961–62

Premier Ben-Gurion and Jacob Blaustein, in a joint statement, strongly reaffirm their 1950 understanding on relations between Israel and American Jews.

AJC submits to Vatican Council three memoranda, covering image of the Jew in Catholic teaching and liturgy, and suggesting ways to relieve religious tensions between Catholics and Jews.

AJC's Buenos Aires office mobilizes Argentine community and religious leaders to fight mounting anti-Semitism.

Faith and Prejudice (Yale University Press) reports findings of seven-year Yale Divinity School study, in cooperation with AJC, examining bias in Protestant teaching materials.

AJC opens office in Israel to help interpret the U.S. to Israel and clarify relationship between Israel and Jews in other lands.

President Kennedy confers with AJC delegation on wide range of human rights issues.

1963–64

AJC welcomes Augustin Cardinal Bea—one of the main architects of the Vatican Council resolution condemning anti-Semitism—to Institute of Human Relations. Pope Paul VI, in audience with AJC delegation, praises Committee's work.

AJC accords civil rights top program priority, convenes 125 business and industrial leaders for Washington meeting on responsibility of industry in race relations.

AJC's exposure of discriminatory patterns in utility industry spurs major U.S. Corporations to eliminate discrimination in the "executive suite."

Three-year Catholic self-study of bias in religious texts—encouraged by AJC—is completed at St. Louis University.

AJC President Morris B. Abram exposes anti-Semitic Soviet publication; world-wide protest causes its withdrawal.

AJC leaders complete three-week fact-finding mission to Latin America; report on anti-Semitism in Argentina, situation of Jews in Brazil, Chile and Peru.

1965–66

AJC hails Vatican Council declaration on Jews as "an act of justice long overdue," starts implementation program that includes institutes on Judaism at Catholic schools, conferences on changes in religious texts and interreligious dialogues in the local community.

AJC asks U.S. Government to insist that companies holding Government contracts end religious discrimination in filling top-management jobs.

AJC initiates pilot workshops in police-community relations. New York Police Commissioner and top officers attend first meeting at Institute of Human Relations.

AJC reveals virtual absence of Jews at administrative levels in U.S. colleges and universities. Report calls for end to bias.

AJC announces study at Louvain University, Belgium, of French-language Catholic religious materials used by 60 million people throughout the world.

Discrimination barring Jews from executive positions in savings and commercial banks is hit by AJC report.

1967–68

AJC helps mobilize American public opinion in behalf of Israel's security during Middle East crisis; moves to relieve plight of Jews in Arab countries; transfers office in Israel to Jerusalem and inaugurates human relations project there seeking better Jewish-Arab relations.

AJC Lakeville studies profile attitudes of Jews in suburbia toward their own identity and to Christians.

AJC moves to help implement major recommendations of Kerner Report on causes of civil disorders; spurs efforts to provide jobs, education, housing for urban poor.

AJC sharply condemns anti-Semitic policies in Poland; continues to focus world public opinion on fate of Soviet Jews.

Nationwide study prepared for AJC on apostasy among college students.

AJC announces establishment of Oral History Library to chronicle modern American Jewish history.

1969–70

AJC sponsors major interfaith dialogues with Baptists, Lutherans, Presbyterians.

Executive suite program to open management posts to Jews and members of other minorities expanded to all major industries in U.S.

Shaping Safer Cities program launched aimed at security without repression in major urban areas.

AJC launches nationwide program to meet needs of ethnic white minorities and counteract efforts of race-baiters.

AJC inaugurates community programs to reform welfare systems; embarks on local activities to meet needs of Jewish poor.

1971

AJC plays a pivotal role in organization of protests and free-world action in defense of rights of Soviet Jews. AJC leaders confer with President Nixon, high administration officials. Worldwide reaction to trials of Jews in Leningrad leads to commutation of death sentences.

National Project on Ethnic America receives two-year Ford Foundation grant for new action projects for white working-class ethnic Americans.

Permanent interreligious consultation is organized between Vatican officials and International Jewish Committee on Inter-religious Consultations, of which AJC is constituent. Action follows similar permanent consultation arranged with World Council of Churches.

AJC focuses major world attention on long-standing anti-Jewish content of Oberammergau Passion Play, pledges 10-year effort to effect changes by 1980.

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Louis Marshall, 1912–1929.
Cyrus Adler, 1929–1940.
Sol M. Stroock, Jan.–Sept. 1941.
Maurice Wertheim, 1941–1943.
Joseph M. Proskauer, 1943–1949.
Jacob Blaustein, 1949–1954.
Irving M. Engel, 1954–1959.
Herbert B. Ehrmann, 1959–1961.
Frederick F. Greenman, Apr.–June 1961.
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Mr. HUMPHREY. Mr. President, Mr. Fixman richly deserved this award and he presented to those in attendance a most moving statement of personal commitment to humanity.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD excerpts from the program of the dinner including the citation for the presentation of the 1971 Human Relations Award to Mr. Fixman.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

The American Jewish Committee Appeal for Human Relations cordially invites you to attend a dinner marking the presentation of its National Human Relations Award to Ben Fixman, chairman of the board, Diversified Industries, Inc.

Keynote Address—Senator Hubert H. Humphrey.

Dinner Chairman—Morris A. Shenker.

Toastmaster—George Jessel.

Distinguished Guests—Senator Thomas F. Eagleton, Congressman James W. Symington.

Sunday, October 31, 1971, Chase-Park Plaza Hotel, St. Louis, Mo.

The American Jewish Committee: Philip E. Hoffman, President; David Sher, Chairman, Board of Governors; Max M. Fisher, Chairman, Executive Council; and Elmer L. Winter, Chairman, Board of Trustees.

Previous Award Recipients: Willard F. Rockwell, Jr., Chairman of the Board, North American Rockwell Corp.; Edgar B. Speer, President, United States Steel Corp.

Founded in 1906, the American Jewish Committee combats bigotry and advances the cause of human rights for all. Its national headquarters in New York is the Institute of Human Relations, a worldwide center for research, training and action for intergroup relations. It has an extensive overseas service with offices in Paris, Rio de Janerio, Buenos Aires, Sao Paulo, Mexico City and Jerusalem and correspondents in many other cities.

In the United States, it has chapters and units in 100 principal cities and members in more than 600 American localities. Twenty-three regional offices throughout the country carry out AJC programs in cooperation with local community relations groups. The Committee is an accredited, non-governmental agency to the United States Mission to the United Nations.

The American Jewish Committee is privileged to present its 1971 Human Relations Award to Ben Fixman, a distinguished industrialist whose career has been marked by an abiding desire to help his fellow human beings.

In his rise from impoverished beginnings to business and financial success, Ben Fixman has never forgotten the less fortunate or those in need of a helping hand. He views communal service as an obligation and philanthropy as a sacred trust. He was Chairman of the 1970 Jewish Federation Fund Drive in St. Louis. He is a member of the Advisory Committee of the American Jewish Committee's St. Louis Chapter. Among the other causes he had aided are State of Israel Bonds and the Anti-Defamation League of B'nai B'rith.

He and Mrs. Fixman have been honored for their communal leadership by B'nai B'rith and Bonds for Israel, and were awarded a citation from the State of Israel for their efforts on behalf of Jewish survival.

We of the American Jewish Committee are proud to honor this warm and compassionate humanitarian and to have his name linked with ours in the effort to drive prejudice from the works and heart of man. We present him with this award in the knowledge that men often emulate those whom they honor.

Andrew Goodman, *National General Chairman, Appeal for Human Relations.*

Robert J. Jacobson, *New York Chairman, Appeal for Human Relations.*

Mr. HUMPHREY. Mr. President, as I said in my own remarks, Mr. Fixman epitomizes the sense of civic consciousness and personal commitment which is essential if we are to make progress in solving the crucial questions facing our society today. Mr. Fixman's personal account of how he moved from the position of one persecuted to a greater defender of the persecuted deserves reading by every concerned American. I ask unanimous consent that Mr. Fixman's address be printed at this point in the RECORD.

SPEECH BY MR. BEN FIXMAN

Mr. Chairman, Senator Humphrey, Senator Eagleton, Congressman Symington, Mayor Cervantes, Lt. Gov. Morris, Rabbi Rubin, Rabbi Lipnick, our great Toastmaster, George Jessel, distinguished guests and friends:

Tonight I want to talk about people—people from all walks of life—people who show a deep concern for humanity and some people who couldn't care less about others. Be it good or bad . . . this is human relations—this is what it's all about. In our lifetime, we have all seen human relations from both sides of the fence. We have seen men try to help others and we have seen men try to destroy others.

So, I ask myself tonight, what makes a man reach out to touch other men . . . to bring hope and purpose into their lives? What makes a man understand the needs of other people? What makes a man feel compassion toward other people, a compassion born not of pity, but a compassion that motivates a man to act for the betterment of other men?

I think it is somewhat of a paradox that the man you are looking at now—the man who so proudly and humbly accepts this Human Relations Award—was so injured by acts of inhuman relations that as a young man he was forced to hide the very thing he treasures most today—his religious heritage.

My life is a story of a deep and profound change in outlook. The reason for this change can be summed up in two sentences taken from the Talmud: "If I am not for myself, who is for me? And if I am only for myself, what am I?".

In my early years, I was far more concerned about the first question than the second. The world of my boyhood was a world of rampant bigotry . . . a world in which many families experienced bitter poverty . . . lack of education . . . and, perhaps worst of all . . . constant gnawing fear—all because of their race, color or creed.

My family was such a family. We lived through hard times and we experienced in our own bodies and souls the ravages of prejudice and the anguish caused by man's inhumanity to man. These terrible experiences led me to become a member of what I call the "Invisible Minority" . . . these were people of my faith who tried to escape the afflictions of anti-Semitism by hiding their religious heritage. Without deliberately planning it and without stopping to analyse what I was doing . . . I took the safe, easy, convenient way out. And, so I thought of those two Talmudic questions again: "If I am not for myself, who is for me? And if I am only for myself, what am I?". As a young man, I was for myself. I answered the first question without ever stopping to consider the consequences of the second.

Many times since then, I have looked back on my early experiences and wondered why I acted as I did. What force motivated me to emerge from the hidden depths of this invisible minority? What made me stand up and say I am a Jew? And I think I have the answer. I now know that deep down inside himself, every person must exist in his own identity or he cannot exist at all—whether he be Catholic, Jew, Protestant, Black or White. So, I finally learned from my own experience that a person who has pride in himself can respect pride in others. I know the answer to that question in the Talmud. "If I am only for myself, what am I?" My friends, the answer is obvious, nothing.

I would like to tell you a heartbreaking story that I can never forget. At the end of World War II, when Allied troops were sweeping through Germany, some GI's entered a basement of a home in the City of Cologne to see if any Nazis were hiding there. They didn't find the enemy, but they did uncover an unforgettable inscription on the walls of this basement which turned out to be a hiding place for Jews . . . a place where terrified families tried to escape from the troops who filled the streets above. Sometime during those grim years before 1945, an unknown Jew had written these three sentences on the cellar wall:

"I believe in the sun even when it is not shining."

"I believe in love even when not feeling it."

"I believe in God even when he is silent."

For many of us . . . for the Jews living in the Soviet Union . . . for the Hungarian Freedom Fighters . . . for the valiant Czechoslovakians . . . for the Blacks and impoverished people who live in our ghettos . . . for many of these people the sun has never shone in their lifetime . . . love has not been felt very often . . . and God has seemed to hide his face. Instead of sunshine, they have encountered ominous clouds . . . and instead of love they have felt maniacal hatred. But despite all of this, they will never stop believing. Therefore, we are often inspired by the man who rises from the depths of great adversity through his heroism and faith.

We must all believe. We must try to translate our belief into compassion. We must try to remember the common humanity that unites us all.

Why do some men judge other men not by what they are, but by their race, religion or their background? Why do some men judge other men by the way they talk or the way they dress? And there are those who judge men only by what they have in their pockets and not in their hearts.

I prefer to judge men by their deeds, not their backgrounds. I look at men and women of accomplishment and see only men and women. My friends are my friends. Having a certain religious belief was never a condition of my friendship.

In the past 10 years the main thrust of my efforts has been directed toward helping the State of Israel. Let us deal with human relations as it applies to this country. Here we have a nation of three million people drawn from all parts of the world all having come to this desert wasteland to make a better life for themselves and their families and to live in peace.

Even though they have lived almost continually in the shadow of wars and death, these valiant people have offered their Arab neighbors the benefit of their technical knowledge to better their education, to improve their medical facilities, to find jobs and to raise the efficiency of their backward industries.

How often in history has a conqueror so surrounded by blood enemies offered an olive branch of peace and said: "Come let us share and grow together."

This is truly human relations at its finest.

Without Israel the plight of those Jews who hid in that basement in Cologne becomes a mockery. Without Israel all our noble words about human relations become ashes in our mouths. And I repeat what Senator Humphrey said, For without Israel there is no Democratic government in the Middle East.

My goal, my dream is to contribute to a world of better human relations—a world which has been enriched by actions of men and women like yourselves—people who have dedicated their lives to creating a better understanding between all religions, all races and all nations.

This is the kind of world I want my children and your children and their children to grow up in.

Today the words of those who advocate bigotry, hatred and prejudice are more often falling on deaf ears. Today in America we hear the voices of the minorities and the oppressed. We are listening. We are acting. We are making progress. We will solve their problems. We must have faith in our country.

And so these are some of my thoughts tonight as I look back upon my years of working toward improving human relations. As I accept this award, I can only try—although I cannot possibly succeed—to tell you how humble I really feel. There are two reasons why:

One is that a Jew who practices good human relations is not really doing anything special—he is simply being in our tradition—a Jew.

The second reason is that this honor comes from the American Jewish Committee, an oragnization that actually deserves the award itself. For 65 years, the American Jewish Committee has fought for better human relations—it has battled to eliminate prejudice and bigotry—it has resisted every form of man's inhumanity to man—and it has never forgotten that in Judaism—religiousness is social action.

It may seem strange in an era that has seen holocaust and genocide—to remain optimistic. It may seem strange—in a century that has seen massive persecutions—to remain hopeful. But that is what we must do. For we cannot lose hope—all of our faiths forbid it. In Judaism, despair is considered a grave sin—an affront to God and His creation. So let me close by repeating to you the words of a great but little known scholar. These words deserve to be engraved on the hearts of all men—prophetic words that give means and significance to life itself. And I quote: "I do not know what despair is. Despair means utter futility, being utterly lost. I will never be lost." And, so we must never lose hope—we must never give up.

But to make improved human relations a fact of life, all of us in this room have a very hard task ahead. And this task was summed up very appropriately in the words of Charles DeGaulle who said:

"We have been to the moon, but that really isn't very far . . . for the greatest distance we have to cover still lies within ourselves."

Thank you.

Mr. HUMPHREY. Finally, Mr. President, I ask that my remarks of the evening in tribute to this great American and his leadership be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR HUBERT H. HUMPHREY HONORING BEN FIXMAN

I have come here tonight to honor one of St. Louis' great civic leaders and a great family. In his capacity as a leading industrialist and citizen, Ben Fixman has well earned the National Human Relations Award. It is an honor richly deserved. I personally view this award with great respect because it represents a crowning effort on the part of a single individual to generate the kind of citizen responsibility which can make this country pulsate with vitality and renew our sense of justice and decency.

What disturbs me is that there is not enough of this kind of personal commitment nationwide. It's so needed.

It is this sense of civic consciousness and personal commitment that motivates me to discuss with you what I think are some of the crucial questions facing our society today—questions on which the work of the American Jewish Committee and B'nai B'rith have concentrated their activities for so long and so well.

As I see it, each one of us should have at least three levels of concern in our relations with other human beings.

First, each one of us should be concerned with the welfare of those people affecting him the most—his family, friends, and the city in which he lives. But is he?

He should be concerned with the future of his country—the human progress of American society. But is he?

He should be concerned as a citizen of the world with the whole human family—the social and economic condition of human beings everywhere. But is he?

There was a time when my answers to all these questions would have been in the affirmative. I thought that every city, and every country was blessed with Ben Fixmans. I still think they are. But now I am less certain that there are enough of them to go around. And I am less convinced that our own government or any contemporary government has taken full advantage of them.

Perhaps, in our race for technological gains, we have forgotten what society is all about—the people—their welfare—their safety and their freedom.

In a Gallup poll undertaken for a comparative study of American public opinion by the International Institute for Social Research, a cross-section of the American public expressed a new and urgent concern over where our country, our society was going—concern for the future. It was found that there was a pervasive sense of national worry and fear that the nation was disunited and its institutions were unresponsive to the needs of people. The study concludes, and I quote, "Americans sense that their country has lost rather than gained ground over the past five years." The recurrent explanation?—"Our traditional way of doing things is not working and some basic changes are needed if we are to work together."

There is a deep and profound gap between ideals and reality. There is glowing rhetoric about all the people and yet neglect of so many people; job opportunity, and yet so much unemployment; wealth and yet so much human poverty; justice, and yet so many social inequities, economic development, and yet the dwindling of foreign economic assistance.

We have serious troubles.

Our economy is lagging and unemployment stays around 6 per cent. Discriminatory practices against racial and ethnic groups still deny many Americans equal opportunities for self-development. Our government on the federal and local levels has not yet responded imaginatively to the urgent needs.

Where are the programs for hunger, poverty, unemployment, health, poor housing, and inadequate education? We have a huge defense budget, and a spiralling arms race. Peace is still not within our reach, not when there is Vietnam, Pakistan, and the Middle East.

The subject of foreign aid and the U.N. has again become news. The entire legislative history of foreign aid has shown that it has always been difficult to get passage of these measures. This problem becomes more acute in times of domestic economic difficulty and recession. When the Congress is concerned with the lack of jobs and rising inflation, the passage of a foreign aid bill requires delicate and full cooperation between the Executive branch and the legislative leadership. Yet, what has been the case in this instance?

We find the President maintaining little or no contact with the Congressional leadership for over several weeks prior to action on the bill. Then, when the Administration did give a nod to the Congress regarding the foreign aid bill it was a "scruff of the neck, back of the hand" approach, wherein the President held up to the Senate the threat of a veto if the bill should contain any amendments which he did not want. This coupled with the President's intemperate remarks following the ouster of Nationalist China from the United Nations put fuel on the fires of neo-isolationism. The President's threats to those liberal members of the Senate who wished to assure no further expansion of our war efforts in Indo China coalesced with his harsh statements against the United Nations, to defeat this foreign aid bill.

But, there will be American aid—we cannot retreat from responsibility—we cannot refuse aid to refugees, to economic development, the U.N., to Israel.

To possess the goal of peace does not produce its realization anymore than the ideal of justice and freedom brings its instantaneous accomplishment. The Middle East is a case in point. Here is an example of the human dilemma. The seemingly insurmountable gap between the idea and reality. Israel's requests are modest—a right to live in peace—certainly, a reasonable goal for any nation. Yet because of Arab hostility, a lack of understanding, and intolerance, that goal has so far proved illusory. Israel has been fighting for its life—its right to live, to be free and independant, to develop its physical and human resources. Let Israel know we care. Let the Soviets know we care.

The Middle East is a powder keg with a very short fuse, ready to explode if any one of the participants strikes the match of revived hostility. While the Middle East conflict began as a confrontation between the Arab countries and Israel, it now threatens to spark a confrontation between the two powerful nuclear Goliaths of the earth, the United States and the Soviet Union.

For the hope of peace to become a reality, the United States must be steadfast. We must assure that Israel is well equipped with the defensive weapons necessary to deter any attack. A balance of power in that part of the world provides the kind of stability which is ultimately conducive to reaching a negotiated settlement. The prospect of peace through negotiation is jeopardized when our government refuses or delays to act on Israel's request for Phantom jets and other badly needed economic and military assistance.

I mentioned the ideals of justice and freedom, but what do they mean when persecution of a religious minority is on the rise in the Soviet Union and when we at home still face the unfinished business of almost two

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centuries—the task of securing full rights of citizenship and human dignity for all races and creeds.

In the Soviet Union today there is an organized effort to suppress an entire Jewish community. The systematic assault on their dignity and their freedom is not a problem for Russian Jews alone—nor a problem only for Jews.

It is a situation in which the United States should use official channels in an attempt to curb the persecution, and permit the right of Soviet Jewry to emigrate to any land. It is an example of the kind of human bond I have been talking about, hoping for, and seeking my entire life to secure.

It is certainly plausible that our country and individual Americans can do a great deal to pressure Soviet leaders. I myself am doing what I can through personal and official channels and through legislation in the Senate, but more can be done. This government of ours and the American people should speak up for freedom wherever freedom is denied.

We should speak up for human dignity wherever people are victims of indignity and of humiliation.

We must do all we can to disarm the world of its prejudice and bigotry. This kind of disarmament needs to take place in America just as it does in the Soviet Union. This is the work of the American Jewish Committee.

We can close the gap between myth and reality. We can reshape the reality to restore the faith in our institutions. All this can be done and more, but the essential ingredient is leadership. That is what we need.

ELECTRIC UTILITIES SPEND SEVEN TIMES AS MUCH ON ADVERTISING AND PROMOTION AS ON RESEARCH AND DEVELOPMENT

Mr. METCALF. Mr. President, I was pleased to read of the recommendation by the cost of living council that utilities and other regulated industries are not exempt from phase II of the Nixon administration's economic program. With pending rate increase requests totaling an estimated $3 to $4 billion annually, it is of utmost importance that this particular inflationary trend be held in check.

Last week—November 4—I placed in the RECORD the current figures from the Federal Power Commission on utilities' return on common stock equity. Twenty-six of the 184 major electric utilities serving residential customers earned more than 15 percent on their common stock in 1970.

Major electric utilities last year spent seven times as much on advertising and sales promotion, despite their monopoly position, as they spent on research and development, even though R. & D. costs are fully recoverable.

To the extent that wage-price controls succeed, and the cost of money decreases, many of the pending requests for rate increases should be turned around to rate decreases by the Price Commission. Furthermore, the priorities between R. & D. and advertising and sales promotion should be reversed. If the utilities quit overpromoting their scarce product, they would not need as much additional new plant capacity, and research and development could lead to more pollution-free production of power.

Today I ask unanimous consent to have printed in the RECORD the current figures, supplied by the Federal Power Commission from the companies' annual reports to that agency, on expenditures for advertising, sales promotion, and research and development. The figures speak for themselves. I hope they will be helpful not only to Senators but also to the members of the cost of living council and the Price Commission as they continue their consideration of these regulated industries.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ADVERTISING EXPENSES, 1970

Company	Advertising expenses account 913	Institutional advertising expenses account 930	Total advertising expenses
Alabama Power Co	$1,084,906	$261,398	$1,346,304
Alaska Electric Light & Power Co		8,349	8,349
Alcoa Generating Corp			
Alpena Power Co	3,922		3,922
Appalachian Power Co	472,903	63,852	536,755
Arizona Public Service Co	724,165	56,186	780,351
Arkansas-Missouri Power Co	58,213		58,213
Arkansas Power & Light Co	696,666	481,025	1,177,691
Arklahoma Corp., the			
Atlantic City Electric Co	276,265	813	277,078
Baltimore Gas & Electric Co	622,277	329,771	952,048
Bangor Hydro-Electric Co	44,579		44,579
Black Hills Power & Light Co	68,386	41,629	110,015
Blackstone Valley Electric Co	115,778	8,909	124,687
Boston Edison Co	715,073	461,593	1,176,666
Boston Gas Co			
Brockton Edison Co	59,100	11,020	70,120
California-Pacific Utilities Co	28,997		28,997
Cambridge Electric Light Co	9,371	1,507	10,878
Canal Electric Co			
Cape & Vineyard Electric Co	15,573	2,374	17,947
Carolina Power & Light Co	561,281	537,072	1,098,353
Central Hudson Gas & Electric Corp	199,952	45,736	245,688
Central Illinois Light Co	103,690	148,374	252,064
Central Illinois Public Service Co	486,214	127,335	613,549
Central Kansas Power Co., the	23,643		23,643
Central Louisiana Electric Co., Inc	177,556		177,556
Central Maine Power Co	95,697	14,901	110,598
Central Power & Light Co	514,845	50,051	564,896
Central Telephone & Utilities Corp	123,070		123,070
Central Vermont Public Service Corp	21,395		21,395
Cheyenne Light, Fuel & Power Co	34,573	7,666	42,239
Cincinnati Gas & Electric Co., the	545,529	216,411	761,940
Citizens Utilities Co	42,667		42,667
Cleveland Electric Illuminating Co., the	1,169,619	836,590	2,006,209
Columbus & Southern Ohio Electric Co	408,565	151,860	560,425
Commonwealth Edison Co	2,643,738	397,316	3,041,054
Commonwealth Edison Co. of Indiana, Inc			
Community Public Service Co	567,309		567,309
Concord Electric Co	2,487		2,487
Connecticut Light & Power Co., the	366,644	170,351	536,995
Connecticut Valley Electric Co., Inc	1,503		1,503
Connecticut Yankee Atomic Power Co			
Conowingo Power Co	7,625	1,199	8,824
Consolidated Edison Co. of New York, Inc	336,862	622,603	959,465
Consolidated Water Power Co			
Consumers Power Co	879,239	646,027	1,525,266
Dallas Power & Light Co	933,484	3,802	937,286
Dayton Power & Light Co., the	437,699	135,549	573,248
Delmarva Power & Light Co	82,114	73,867	155,981
Delmarva Power & Light Co. of Maryland	41,040	24,175	65,215
Delmarva Power & Light Co. of Virginia	4,951	3,854	8,805
Detroit Edison Co., the	860,514	339,027	1,199,541
Duke Power Co	1,070,933	365,398	1,436,331
Duquesne Light Co	1,179,727	572,976	1,752,703
Edison Sault Electric Co	9,733	429	10,162
El Paso Electric Co	147,142		147,142
Electric Energy, Inc		8,982	8,982
Empire District Electric Co., the	64,130	1,490	65,620
Exeter & Hampton Electric Co	13,413		13,413
Fall River Electric Light Co	56,837	6,534	63,371
Fitchburg Gas & Electric Light Co	19,959	6,330	26,289
Florida Power Corp	$273,016	$319,911	$592,927
Florida Power & Light Co	1,605,832	71,764	1,677,596
Florida Public Utilities Co	6,010	51	6,061
Georgia Power Co	2,080,018	223,640	2,303,658
Granite State Electric Co	4,777	4,907	9,684
Green Mountain Power Corp	39,537	10,055	49,592
Gulf Power Co	148,599	138,942	287,541
Gulf States Utilities Co	637,825	235,641	873,466
Hartford Electric Light Co., the	134,254	258,862	393,116
Hawaiian Electric Co., Inc	203,131	78,203	281,334
Hershey Electric Co	4,145		4,145
Hilo Electric Light Co., Ltd	11,365		11,365
Holyoke Power & Electric Co			
Holyoke Water Power Co		8,914	8,914
Home Light & Power Co	14,061	548	14,609
Houston Lighting & Power Co	1,780,813	305,147	2,085,960
Idaho Power Co	140,888	23,561	164,449
Illinois Power Co	272,158	168,543	440,701
Indiana-Kentucky Electric Corp			
Indiana & Michigan Electric Co	370,783	146,149	516,932
Indianapolis Power & Light Co	613,393	31,950	645,343
Interstate Power Co	155,503	120,682	276,185
Iowa Electric Light & Power Co	171,478	140,890	312,368
Iowa-Illinois Gas & Electric Co	61,234	89,707	150,941
Iowa Power & Light Co	335,176	129,401	464,577
Iowa Public Service Co	162,401	78,570	240,971
Iowa Southern Utilities Co	47,128	57,147	104,275
Jersey Central Power & Light Co	294,794	77,042	371,836
Kansas City Power & Light Co	456,944	85,222	542,166
Kansas Gas & Electric Co	320,187	94,584	414,771
Kansas Power & Light Co., the	143,418	26,314	169,732
Kentucky Power Co	92,038	8,081	100,119
Kentucky Utilities Co	243,682		243,682
Kingsport Utilities Co	37,654	3,952	41,606
Lake Superior District Power Co	10,909	5,714	16,623
Lockhart Power Co	2,668		2,668
Long Island Lighting Co	247,965	170,297	418,244
Long Sault, Inc			
Louisiana Power & Light Co	878,089	303,590	1,181,679
Louisville Gas & Electric Co	81,223	18,339	99,562
Madison Gas & Electric Co	18,571	4,635	23,206
Maine Public Service Co	44,567		44,567
Massachusetts Electric Co	498,202	242,287	740,489
Maui Electric Co., Ltd	11,164	2,333	13,497
Metropolitan Edison Co	214,189	142,104	356,293
Michigan Power Co	48,531	3,776	52,307
Minnesota Power & Light Co	180,374	75,395	255,769
Mississippi Power Co	158,996	115,771	274,767
Mississippi Power & Light Co	362,903	254,018	616,921
Missouri Edison Co	25,450		25,450
Missouri Power & Light Co	92,879	4,487	97,366
Missouri Public Service Co	46,422		46,422
Missouri Utilities Co	17,942		17,942
Monongahela Power Co	345,395		345,395
Montana-Dakota Utilities Co	99,482	7,299	106,781
Montana Power Co., the	163,398	29,123	192,521
Montaup Electric Co			
Mount Carmel Public Utility Co	17,753		17,753
Nantahala Power & Light Co		1,736	1,736
Narragansett Electric Co., the	188,337	97,647	285,984
Nevada Power Co	118,072	28,571	146,643
New Bedford Gas & Edison Light Co	16,363	3,914	20,277

ADVERTISING EXPENSES, 1970—Continued

Company	Advertising expenses account 913	Institutional advertising expenses account 930	Total advertising expenses
New England Power Co	$1,301	$94,400	$95,701
New Jersey Power & Light Co	116,521	31,667	149,188
New Mexico Electric Service Co	11,574		11,574
New Orleans Public Service Inc	275,412	187,209	462,621
New York State Electric & Gas Corp	269,506	152,356	421,862
Newport Electric Corp	18,715	1,030	19,745
Niagara Mohawk Power Corp	321,772	113,105	434,877
Northern Indiana Public Service Co	47,710	106,545	154,255
Northern States Power Co. (Minnesota)	1,138,334	519,754	1,658,088
Northern States Power Co. (Wisconsin)	139,962	2,342	142,304
Northwestern Public Service Co	37,402	44,628	82,030
Ohio Edison Co	1,495,803	106,259	1,602,062
Ohio Power Co	685,999	87,247	773,246
Ohio Valley Electric Corp			
Oklahoma Gas & Electric Co	1,140,830	118,101	1,258,931
Old Dominion Power Co	13,128		13,128
Orange & Rockland Utilities, Inc	62,305		62,305
Otter Tail Power Co	341,627		341,627
Pacific Gas & Electric Co	1,247,648	515,816	1,763,464
Pacific Power & Light Co	999,770	365,884	1,365,654
Pennsylvania Electric Co	235,241	97,912	333,153
Pennsylvania Power Co	229,118	19,500	248,618
Pennsylvania Power & Light Co	891,404	46,182	937,586
Philadelphia Electric Co	1,238,913	832,655	2,071,568
Philadelphia Electric Power Co			
Portland General Electric Co	458,267	140,929	599,196
Potomac Edison Co., the	181,666	17,354	199,020
Potomac Edison Co. of Pennsylvania, the	41,832	3,912	45,744
Potomac Edison Co. of Virginia, the	51,268	5,862	57,130
Potomac Edison Co. of West Virginia	58,127	5,643	63,770
Potomac Electric Power Co	1,370,322	309,935	1,680,257
Public Service Co. of Colorado	489,537	205,153	694,690
Public Service Co. of Indiana, Inc	676,934	251,707	928,641
Public Service Co. of New Hampshire	66,543	139,775	206,318
Public Service Co. of New Mexico	175,079	52,752	227,831
Public Service Co. of Oklahoma	683,705	73,878	757,583
Public Service Electric & Gas Co	665,578	788,651	1,454,229
Puget Sound Power & Light Co	393,328		393,328
Rochester Gas & Electric Corp	309,261	193,573	502,834
Rockland Electric Co	11,812	14	11,826
Rumford Falls Power Co			
Safe Harbor Water Power Corp			
St. Joseph Light & Power Co	77,595	193	77,788
San Diego Gas & Electric Co	250,836	196,642	447,478
Savannah Electric & Power Co	$135,891		$135,891
Sherrard Power System	2,707		2,707
Sierra Pacific Power Co	119,224		119,224
South Baliot Water, Gas & Electric Co	3,329		3,329
South Carolina Electric & Gas Co	218,818	$240,725	459,543
Southern California Edison Co	4,659,097	1,746,138	6,405,235
Southern Electric Generating Co			
Southern Indiana Gas & Electric Co	92,300	847	93,147
Southwestern Electric Power Co	412,234	29,022	441,256
Southwestern Electric Service Co	50,020	7,564	57,584
Southwestern Public Service Co	567,409	31,591	599,000
Superior Water, Light & Power Co	17,087	2,464	19,551
Susquehanna Electric Co., the			
Susquehanna Power Co., the			
Tampa Electric Co	491,757		491,757
Tapoco, Inc			
Texas Electric Service Co	1,047,235	5,758	1,052,993
Texas Power & Light Co	866,648	12,624	879,272
Toledo Edison Co., the	605,984	197,751	803,735
Tucson Gas & Electric Co	84,948		84,948
UGI Corp	102,394	6,209	108,603
Union Electric Co	773,313	456,813	1,230,126
Union Light, Heat & Power Co., the	104,243	39,648	143,891
United Illuminating Co., the	218,621	45,621	264,242
Upper Peninsula Generating Co			
Upper Peninsula Power Co	91,303	6,238	97,541
Utah Power & Light Co	595,654	364,790	960,444
Vermont Electric Power Co., Inc			
Virginia Electric & Power Co	2,187,735	4,590	2,192,325
Washington Water Power Co., the	188,036	132,177	320,213
West Penn Power Co	629,227	15,633	644,860
West Texas Utilities Co	210,288	22,187	232,475
Western Colorado Power Co., the	25,492	11,708	37,200
Western Massachusetts Electric Co	160,171	227,211	387,382
Wheeling Electric Co	44,751	3,366	48,117
Wisconsin Electric Power Co	1,000,767	247,015	1,247,782
Wisconsin Michigan Power Co	79,279	4,695	83,974
Wisconsin Power & Light Co	130,589	219,998	350,587
Wisconsin Public Service Co	218,537	70,083	288,620
Wisconsin River Power Co			
Yadkin, Inc			
Yankee Atomic Electric Co		8,073	8,073
Total	67,040,392	21,683,833	88,724,225

TOTAL SALES EXPENSES—1970

Classes A and B privately owned electric utilities

Alabama Power Co	$6,345,041
Alaska Electric Light & Power Co	
Alcoa Generating Corp	
Alpena Power Co	21,883
Appalachian Power Co	6,159,717
Arizona Public Service Co	1,903,639
Arkansas-Missouri Power Co	136,052
Arkansas Power & Light Co	2,962,589
Arklahoma Corp., The	
Atlantic City Electric Co	1,565,637
Baltimore Gas & Electric Co	2,411,029
Bangor Hydro-Electric Co	75,023
Black Hills Power & Light Co	248,201
Blackstone Valley Electric Co	464,351
Boston Edison Co	2,309,663
Boston Gas Co	2,090
Brockton Edison Co	435,842
California-Pacific Utilities Co	144,716
Cambridge Electric Light Co	255,456
Canal Electric Co	
Cape & Vineyard Electric Co	588,420
Carolina Power & Light Co	3,142,398
Central Hudson Gas & Electric Corp	787,548
Central Illinois Light Co	439,369
Central Illinois Public Service Co	2,098,378
Central Kansas Power Co., The	42,571
Central Louisiana Electric Co., Inc	598,287
Central Maine Power Co	1,427,870
Central Power & Light Co	2,512,491
Central Telephone & Utilities Corp	403,435
Central Vermont Public Service Corp	340,659
Cheyenne Light, Fuel & Power Co	101,065
Cincinnati Gas & Electric Co., The	1,998,094
Citizens Utilities Co	85,626
Cleveland Electric Illuminating Co., The	$6,403,797
Columbus & Southern Ohio Electric Co	2,290,302
Commonwealth Edison Co	9,598,887
Commonwealth Edison Co. of Indiana, Inc	
Community Public Service Co	716,815
Concord Electric Co	40,682
Connecticut Light & Power Co., The	3,265,751
Connecticut Valley Electric Co., Inc	34,501
Connecticut Yankee Atomic Power Co	
Conowingo Power Co	109,660
Consolidated Edison Co. of New York, Inc	2,674,925
Consolidated Water Power Co	
Consumers Power Co	5,857,815
Dallas Power & Light Co	3,206,890
Dayton Power & Light Co., The	2,601,327
Delmarva Power & Light Co	562,224
Delmarva Power & Light Co. of Maryland	275,262
Delmarva Power & Light Co. of Virginia	59,641
Detroit Edison Co., The	5,377,555
Duke Power Co	3,902,729
Duquesne Light Co	3,406,207
Edison Sault Electric Co	89,555
El Paso Electric Co	506,188
Electric Energy, Inc	
Empire District Electric Co., The	545,558
Exeter & Hampton Electric Co	78,590
Fall River Electric Light Co	182,117
Fitchburg Gas & Electric Light Co	144,273
Florida Power Corp	2,485,165
Florida Power & Light Co	7,664,540
Florida Public Utilities Co	83,933
Georgia Power Co	8,246,864
Granite State Electric Co	79,081
Green Mountain Power Corp	177,616
Gulf Power Co	824,881
Gulf States Utilities Co	2,887,280
Hartford Electric Light Co., ing Co., The	$1,368,152
Hawaiian Electric Co., Inc	1,286,115
Hershey Electric Co	5,219
Hilo Electric Light Co., Ltd	121,475
Holyoke Power & Electric Co	1,145
Holyoke Water Power Co	21,065
Home Light & Power Co	21,209
Houston Lighting & Power Co	4,141,136
Idaho Power Co	1,273,310
Illinois Power Co	1,491,244
Indiana-Kentucky Electric Corp.	
Indiana & Michigan Electric Co	4,404,316
Indianapolis Power & Light Co	2,033,912
Interstate Power Co	784,329
Iowa Electric Light & Power Co	960,454
Iowa-Illinois Gas & Electric Co	386,811
Iowa Power & Light Co	606,765
Iowa Public Service Co	523,431
Iowa Southern Utilities Co	401,378
Jersey Central Power & Light Co	1,723,443
Kansas City Power & Light Co	1,981,532
Kansas Gas & Electric Co	1,357,153
Kansas Power & Light Co., The	616,362
Kentucky Power Co	916,758
Kentucky Utilities Co	1,647,000
Kingsport Utilities Co	223,552
Lake Superior District Power Co	34,647
Lockhart Power Co	2,668
Long Island Lighting Co	944,198
Long Sault, Inc	
Louisiana Power & Light Co	2,835,292
Louisville Gas & Electric Co	259,478
Madison Gas & Electric Co	87,474
Maine Public Service Co	178,427
Massachusetts Electric Co	3,078,904
Maui Electric Co., Ltd	128,933
Metropolitan Edison Co	1,531,849
Michigan Power Co	187,517
Minnesota Power & Light Co	1,047,339
Mississippi Power Co	907,622

XUM

TOTAL SALES EXPENSES—1970—Continued

Classes A and B privately owned electric utilities

Mississippi Power & Light Co	$1,704,072
Missouri Edison Co	100,065
Missouri Power & Light Co	276,846
Missouri Public Service Co	327,687
Missouri Utilities Co	27,757
Monongahela Power Co	2,923,360
Montana-Dakota Utilities Co	563,340
Montana Power Co., The	530,202
Montaup Electric Co	----------
Mount Carmel Public Utility Co	16,677
Nantahala Power & Light Co	847
Narragansett Electric Co., The	910,275
Nevada Power Co	298,982
New Bedford Gas & Edison Light Co	491,179
New England Power Co	35,500
New Jersey Power & Light Co	691,780
New Mexico Electric Service Co	160,054
New Orleans Public Service Inc	1,247,617
New York State Electric & Gas Corp	2,073,540
Newport Electric Corp	105,936
Niagara Mohawk Power Corp	3,946,246
North Indiana Public Service Co	296,369
Northern States Power Co. (Minnesota)	5,353,755
Northern States Power Co. (Wisconsin)	712,107
Northwestern Public Service Co	196,498
Ohio Edison Co	5,472,784
Ohio Power Co	5,262,970
Ohio Valley Electric Corp	----------
Oklahoma Gas & Electric Co	3,848,610
Old Dominion Power Co	123,150
Orange & Rockland Utilities, Inc	708,521
Otter Tail Power Co	790,697
Pacific Gas & Electric Co	5,118,718
Pacific Power & Light Co	3,747,000
Pennsylvania Electric Co	$2,335,309
Pennsylvania Power Co	847,685
Pennsylvania Power & Light Co	5,920,999
Philadelphia Electric Co	7,386,972
Philadelphia Electric Power Co	----------
Portland General Electric Co	2,717,732
Potomac Edison Co., The	999,082
Potomac Edison Co. of Pennsylvania, The	260,039
Potomac Edison Co. of Virginia, The	339,343
Potomac Edison of West Virginia	385,616
Potomac Electric Power Co	3,578,756
Public Service Co. of Colorado	1,883,077
Public Service Co. of Indiana, Inc	3,858,487
Public Service Co. of New Hampshire	1,097,277
Public Service Co. of New Mexico	623,783
Public Service Co. of Oklahoma	2,971,858
Public Service Electric & Gas Co	3,616,870
Puget Sound Power & Light Co	1,569,772
Rochester Gas & Electric Corp	1,208,675
Rockland Electric Co	226,487
Rumford Falls Power Co	----------
Safe Harbor Water Power Corp	----------
St. Joseph Light & Power Co	309,518
San Diego Gas & Electric Co	799,604
Savannah Electric & Power Co	544,604
Sherrard Power System	2,082
Sierra Pacific Power Co	372,322
South Beloit Water, Gas & Electric Co	32,169
South Carolina Electric & Gas Co	966,317
Southern California Edison Co	9,275,556
Southern Electric Generating Co	----------
Southern Indiana Gas & Electric Co	218,711
Southwestern Electric Power Co	2,228,127
Southwestern Electric Service Co	139,460
Southwestern Public Service Co	1,888,084
Superior Water, Light & Power Co	105,512
Susquehanna Electric Co., The	----------
Susquehanna Power Co., The	----------
Tampa Electric Co	$1,670,857
Tapoco, Inc	----------
Texas Electric Service Co	5,419,038
Texas Power & Light Co	5,553,449
Toledo Edison Co., The	2,075,797
Tucson Gas & Electric Co	135,747
UGI Corporation	246,068
Union Electric Co	4,223,624
Union Light, Heat & Power Co., The	333,055
United Illuminating Co., The	1,904,266
Upper Peninsula Generating Co	----------
Upper Peninsula Power Co	290,926
Utah Power & Light Co	2,272,550
Vermont Electric Power Co., Inc	----------
Virginia Electric & Power Co	7,742,126
Washington Water Power Co., The	870,572
West Penn Power Co	3,617,634
West Texas Utilities Co	830,899
Western Colorado Power Co., The	126,219
Western Massachusetts Electric Co	1,245,565
Wheeling Electric Co	891,809
Wisconsin Electric Power Co	3,040,017
Wisconsin Michigan Power Co	399,698
Wisconsin Power & Light Co	1,275,058
Wisconsin Public Service Co	1,113,902
Wisconsin River Power Co	----------
Yadkin, Inc	----------
Yankee Atomic Electric Co	----------
Grand total	$96,386,371

RESEARCH AND DEVELOPMENT

Total expenditures by electric utility companies in 1970 for research and development in areas of interest and importance to the industry amounted to $46,087,000. Of the total $25,536,000 or 55.5 percent, was expended for research and development performed by the companies and $20,501,000 or 44.5 percent, for the support of research and development by others.

The general areas of expenditures in 1970 and 1969 were:

RESEARCH AND DEVELOPMENT PERFORMED

	1970 Amount	1970 Percent	1969 Amount	1969 Percent
Within the companies:				
Powerplants:				
Hydro	$862,526	1.9	$1,261,909	3.1
Fossil fuel steam	6,522,763	14.2	4,979,007	12.1
Internal combustion	545,166	1.2	27,014	.1
Nuclear	7,383,251	16.0	4,516,074	11.0
Direct conversion	26,142	.1	13,010	0
System planning, engineering, and operation	2,157,945	4.7	2,571,919	6.3
Transmission	2,835,129	6.1	1,521,512	3.7
Distribution	1,754,135	3.8	1,285,184	3.1
Other	3,449,189	7.5	2,270,440	5.5
Total	25,536,246	55.5	18,446,069	45.0

	1970 Amount	1970 Percent	1969 Amount	1969 Percent
Research support to—				
Electric Research Council	$4,789,303	10.4	$5,840,161	14.2
Edison Electric Institute	7,046,286	15.3	11,962,832	29.2
Nuclear power groups	8,665,144	18.8	4,776,571	11.6
Others				
Total	20,500,733	44.5	22,579,564	55.0
Grand total	46,036,979	100.0	41,025,633	100.0

Expenditures by each of the companies for the years 1968 through 1970 are shown in the following table. The expenditures of 77 companies were higher in 1970 than in 1969, 79 were lower, 2 remained unchanged and 52 reported none. In aggregate, expenditures in 1970 were some 12.2 percent greater than in 1969 and 6.9 percent greater than in 1968.

The Commission in its review of its accounting and ratemaking treatment of expenditures made by natural gas and electric utility companies for research and development found an apparent low level of such expenditures, in relationship with total utility operating revenues. The Commission in its belief that technological advances must be made by the respective industries, issued Order No. 408 August 26, 1970, adopting policies to encourage a greater research commitment by industry.

In addition to expenditures for research and development made by the electric utilities substantial additional expenditures in areas of interest to the electric utility industry are also made by manufacturing firms who are suppliers of equipment to the industry.

FEDERAL POWER COMMISSION: PRIVATELY OWNED ELECTRIC UTILITY COMPANIES—CLASSES A AND B RESEARCH AND DEVELOPMENT EXPENDITURES

Company	1970 Total	1970 Percent of total utility operating revenues	1969 Total	1969 Percent of total utility operating revenues	1968 Total	1968 Percent of total utility operating revenues
Alabama Power Co	$177,384	0.06	$233,119	0.09	$233,822	0.11
Alaska Electric Light & Power Co						
Alcoa Generating Corp						
Alpena Power Co						
Appalachian Power Co	736,871	.36	398,503	.22	635,349	.38
Arizona Public Service Co	186,593	.17	119,447	.09	104,307	.09
Arkansas-Missouri Power Co	3,612	.01	22,757	.10	26,217	.13
Arkansas Power & Light Co	151,630	.10	175,542	.12	251,526	.21
Arklahoma Corp., The						
Atlantic City Electric Co	58,560	.07	66,559	.09	25,547	.04
Baltimore Gas & Electric Co	638,551	.27	1,050,580	.35	1,078,670	.39
Bangor Hydro-Electric Co						
Black Hills Power & Light Co	7,033	.03	6,770	.04	6,570	.04
Blackstone Valley Electric Co	2,061,765	.98	1,946,699	.97	1,195,846	.63
Boston Edison Co						
Boston Gas Co	7,429	.03	7,000	.04	6,799	.04
Brockton Edison Co						
California-Pacific Utilities Co	17,065	.10	5,138	.04	4,897	.04
Cambridge Electric Light Co						
Canal Electric Co	5,311	.03	8,805	.07	4,626	.04
Cape & Vineyard Electric Co	54,436	.02	56,681	.03	746,130	.44
Carolina Power & Light Co	186,579	.32	180,385	.28	244,438	.41
Central Hudson Gas & Electric Corp	42,247	.08	37,477	.05	43,087	.06
Central Illinois Light Co	76,698	.07	106,982	.09	101,777	.09
Central Illinois Public Service Co	2,846	.04	8,135	.10	9,289	.13
Central Kansas Power Co., The	6,684	.01	31,200	.07	31,200	.08
Central Louisiana Electric Co., Inc	26,790	.03	25,139	.04	24,030	.04
Central Maine Power Co	85,618	.07	96,727	.09	60,444	.06
Central Power & Light Co			20,377	.03	24,348	.04
Central Telephone & Utilities Corp	10,486	.04	10,000	.04	6,642	.03
Central Vermont Public Service Corp	1,704	.03	1,617	.02	1,535	.02
Cheyenne Light, Fuel & Power Co	189,647	.11	227,814	.10	263,053	.13
Cincinnati Gas & Electric Co., The						
Citizens Utilities Co	521,458	.21	664,117	.30	479,414	.24
Cleveland Electric Illuminating Co., The	82,294	.07	101,180	.10	66,120	.07
Columbus & Southern Ohio Electric Co	3,445,703	.39	1,791,739	.23	2,421,360	.32
Commonwealth Edison Co						
Commonwealth Edison Co. of Indiana, Inc	24,627	.07	22,313	.08	21,459	.07
Community Public Service Co			29		5	
Concord Electric Co	435,729	.28	233,925	.14	86,608	.06
Connecticut Light & Power Co., The						
Connecticut Valley Electric Co., Inc	214,341	.97	172,683	.85	150,488	.81
Connecticut Yankee Atomic Power Co						
Conowingo Power Co	1,558,759	.16	1,343,528	.16	1,418,855	.11
Consolidated Edison Co. of New York, Inc						
Consolidated Water Power Co	1,822,703	.54	2,292,544	.42	2,167,298	.43
Consumers Power Co	169,338	.14	181,842	.16	235,739	.24
Dallas Power & Light Co	296,465	.24	131,279	.08	91,795	.06
Dayton Power & Light Co., The	89,720	.13	90,255	.11	80,478	.11
Delmarva Power & Light Co			35,000	.19		
Delmarva Power & Light Co. of Maryland						
Delmarva Power & Light of Virginia						
Detroit Edison Co., The	3,800,802	.73	4,611,311	.96	3,506,366	.79
Duke Power Co	1,308,854	.33	752,997	.22	576,658	.18
Dusquesne Light Co	136,980	.08	140,261	.10	125,532	.09
Edison Sault Electric Co						
El Paso Electric Co	27,427	.07	23,990	.07	21,509	.07
Electric Energy, Inc						
Empire District Electric Co., The	1,142		31,168	.12	34,029	.15
Exeter & Hampton Electric Co	73		1,407	.04	1,261	.01
Fall River Electric Light Co	3,700	.02	3,512	.03	3,355	.03
Fitchburg Gas & Electric Light Co						
Florida Power Corp	281,938	.17	173,973	.12	42,000	.03
Florida Power & Light Co	750,143	.18	89,500	.02	84,636	.03
Florida Public Utilities Co						
Georgia Power Co	309,094	.08	279,834	.08	485,538	.16
Granite State Electric Co	1,109	.02	1,517	.03	936	.02
Green Mountain Power Corp	5,073	.03	4,511	.04	3,882	.03
Gulf Power Co	46,680	.09	54,854	.11	54,490	.11
Gulf States Utilities Co	474,315	.26	258,531	.14	272,042	.16
Hartford Electric Light Co., The	273,585	.29	114,780	.12	52,652	.07
Hawaiian Electric Co., Inc	351,200	.53	813,400	1.35	460,711	.83
Hershey Electric Co						
Hilo Electric Light Co., Ltd			2,000	.02		
Holyoke Power & Electric Co			9,904	.07		
Holyoke Water Power Co	16,829	.11	1,950	.02	1,818	.04
Home Light & Power Co	3,158	.05	741,039	.28	411,426	.18
Houston Lighting & Power Co	539,415	.19	618,473	.89	606,985	.91
Idaho Power Co	241,748	.32	77,602	.04	69,558	.05
Illinois Power Co	225,586	.15				
Indiana-Kentucky Electric Corp	935,532	.57	371,248	.25	453,003	.32
Indiana & Michigan Electric Co	106,078	.10	121,448	.13	95,812	.11
Indianapolis Power & Light Co	24,181	.05	24,253	.04	17,137	.04
Interstate Power Co	7,693	.01	7,693	.01	6,102	.01
Iowa Electric Light & Power Co	31,116	.06	76,345	.08	76,838	.19
Iowa-Illinois Gas & Electric Co	56,262	.10	67,055	.09	30,004	.06
Iowe Power & Light Co	21,040	.05	24,099	.04	18,470	.05
Iowa Public Service Co	17,136	.06	9,402	.03	1,961	.01
Iowa Southern Utilities Co	177,946	.14	177,220	.16	199,360	.20
Jersey Central Power & Light Co	105,437	.08	41,689	.04	36,660	.04
Kansas City Power & Light Co	22,000	.03	74,400	.11	99,903	.16
Kansas Gas & Electric Co	46,826	.06	4,060		4,960	.01
Kansas Power & Light Co., the	156,918	.49	119,694	.42	54,525	.21
Kentucky Power Co	78,020	.09	50,210	.07	47,286	.07
Kentucky Utilities Co	19,790	.19	14,720	.15	17,034	.19
Kingsport Power Co	3,844	.03	4,173	.03		
Lake Superior District Power Co			747,097	.26		
Lockhart Power Co	586,952	.27			778,155	.40
Long Island Lighting Co						
Long Sault, Inc	216,509	.15	282,578	.21	326,589	.29
Louisiana Power & Light Co	101,683	.11	48,721	.04	21,567	.03
Louisville Gas & Electric Co	7,314	.03	12,880	.04	10,986	.07
Madison Gas & Electric Co						
Maine Public Service Co	50,254	.02	54,283	.03	51,785	.02
Massachusetts Electric Co						
Maui Electric Co., Ltd						

XUM

FEDERAL POWER COMMISSION: PRIVATELY OWNED ELECTRIC UTILITY COMPANIES—CLASSES A AND B RESEARCH AND DEVELOPMENT EXPENDITURES—Continued

Company	1970 Total	1970 Percent of total utility operating revenues	1969 Total	1969 Percent of total utility operating revenues	1968 Total	1968 Percent of total utility operating revenues
Metropolitan Edison Co	$323,585	0.29	$443,981	0.50	$465,993	0.56
Michigan Power Co	10,968	.17	6,860	.12	8,842	.16
Minnesota Power & Light Co	20,576	.03	18,058	.04	15,624	.04
Mississippi Power Co	185,345	.32	65,415	.11	92,435	.17
Mississippi Power & Light Co	53,790	.06	91,359	.10	128,790	.18
Missouri Edison Co						
Missouri Power & Light Co	4,810	.01	4,821	.02	4,755	.02
Missouri Public Service Co	15,444	.03	40,215	.11	31,689	.14
Missouri Utilities Co	6,535	.05	15,722	.07	17,699	.18
Monongahela Power Co	67,084	.09	69,596	.11	69,596	.11
Montana-Dakota Utilities Co						
Montana Power Co., The	33,712	.05	34,841	.04	23,443	.05
Montaup Electric Co	8,002	.03	1,645	.01		
Mt. Carmel Public Utility Co						
Nantahala Power & Light Co						
Narragansett Electric Co., The						
Nevada Power Co	23,839	.03	26,792	.05	19,486	.04
New Bedford Gas & Edison Light Co	17,202	.04	11,900	.03	16,520	.05
New England Power Co	7,540	.02	7,023	.03	6,390	.03
New Jersey Power & Light Co	256,827	.20	153,655	.14	61,618	.06
New Mexico Electric Service Co	42,914	.09	64,136	.16	51,499	.14
New Orleans Public Servic Inc	2,223	.03	2,103	.04	2,008	.04
New York State Electric & Gas Co	75,940	.10	120,277	.17	157,407	.24
Newport Electric Corp	435,689	.27	620,642	.45	717,284	.57
Niagara Mohawk Power Corp	2,616	.03	2,441	.04	2,267	.04
Northern Indiana Public Service Co	502,824	.15	711,384	.21	887,898	.29
Northern States Power Co. (Minnesota)	321,431	.25	315,779	.26	202,942	.18
Northern States Power Co. (Wisconsin)	1,119,579	.42	707,256	.29	432,309	.20
Northwestern Public Service Co	14,241	.03	18,401	.05	12,365	.04
Ohio Edison Co	4,798	.03	2,631	.02	30	
Ohio Power Co	253,467	.10	259,404	.11	142,330	.07
Ohio Valley Electric Corp	840,841	.31	639,251	.26	593,890	.22
Oklahoma Gas & Electric Co						
Old Dominion Power Co	133,168	.09	234,681	.18	237,137	.21
Orange & Rockland Utilities, Inc	1,597	.03	1,486	.04	1,400	.04
Otter Tail Power Co	96,973	.22	120,517	.31	138,980	.42
Pacific Gas & Electric Co	79,495	.23	71,583	.23	16,532	.06
Pacific Power & Light Co	4,200,293	.59	1,151,586	.11	807,749	.08
Pennsylvania Electric Co	297,068	.19	131,564	.09	376,344	.27
Pennsylvania Power Co	320,394	.23	2,076,438	1.63	1,881,897	1.57
Pennsylvania Power & Light Co	65,212	.17	32,639	.01	25,032	.07
Philadelphia Electric Co	94,402	.03	697,008	.31	580,700	.28
Philadelphia Electric Power Co	1,244,000	.30	1,653,200	.38		
Portland General Electric Co						
Potomac Edison Co., The	126,539	.14	320,179	.38	453,609	.60
Potomac Edison Co. of Pennsylvania, The	37,185	.07	56,087	.13	87,716	.23
Potomac Edison Co. of Virginia, The	2,028	.02	3,265	.04	5,075	.08
Potomac Edison Co. of West Virginia, The	4,263	.03	4,516	.04	8,364	.08
Potomac Electric Powar Co	3,096	.02	5,026	.04	7,829	.07
Public Service Co. of Colorado	545,089	.24	768,937	.41	720,767	.43
Public Service Co. of Indiana, Inc	171,916	.13	262,620	.14	141,173	.08
Public Service Co. of New Hampshire	221,128	.12	195,820	.11	231,880	.15
Public Service Co. of New Mexico	513,061	.71	362,077	.54	68,220	.11
Public Service Co. of Oklahoma			12,662	.03	18,420	.05
Public Service Electric & Gas Co	98,227	.08	260,506	.27	156,805	.18
Puget Sound Power & Light Co	598,768	.12	473,529	.07	941,174	.15
Rochester Gas & Electric Corp	89,214	.10	167,644	.21	188,357	.26
Rockland Electric Co	250,802	.26	218,020	.16	596,577	.48
Rumford Falls Power Co			143		134	
Safe Harbor Water Power Corp						
St. Joseph Light & Power Co						
San Diego Gas & Electric Co	7,236	.05	10,256	.07	9,798	.07
Savannah Electric & Power Co	440,310	.40	130,362	.09	41,509	.03
Sherrard Power System	8,595	.03	7,710	.03	6,678	.03
Sierra Pacific Power Co						
South Beloit Water, Gas & Electric Co	24,633	.08	17,710	.05	20,045	.06
South Carolina Electric & Gas Co						
Southern California Edison Co	55,462	.05	62,274	.05	243,520	.23
Southern Electric Generating Co	3,593,872	.49	1,147,104	.18	1,050,578	.18
Southern Indiana Gas & Electric Co	2,000		2,229		2,148	
Southwestern Electric Power Co	47,822	.14	42,013	.10	40,339	.11
Southwestern Electric Service Co	51,673	.05	148,539	.18	205,840	.23
Southwestern Public Service Co	2,606	.03	2,250	.03	2,123	.04
Superior Water, Light & Power Co	41,798	.04	44,358	.05	47,688	.06
Susquehanna Electric Co., The						
Susquehanna Power Co., The						
Tampa Electric Co	72,545	.07	56,608	.07	121,007	.15
Tapoco, Inc						
Texas Electric Service Co	197,053	.11	218,939	.14	228,134	.17
Texas Power & Light Co	158,813	.09	186,611	.12	208,395	.16
Toledo Edison Co., The	43,271	.04	40,931	.05	147,019	.18
Tucson Gas & Electric Co					9,100	.02
UGI Corporation	3,997	.03	3,572	.01	3,183	
Union Electric Co	481,232	.17	551,134	.21	1,256,471	.53
Union Light, Heat & Power Co	24,088	.11	29,862	.09	36,233	.12
United Illuminating Co., The	224,923	.29	15,311	.11	98,436	.15
Upper Peninsula Generating Co						
Upper Peninsula Power Co	1,600	.01	1,600	.01	1,600	.02
Utah Power & Light Co	113,958	.13	120,587	.14	83,048	.11
Vermont Electric Power Co., Inc	4,500	.02	4,000	.04	4,000	.05
Virginia Electric & Power Co	779,362	.22	478,094	.15	387,708	.13
Washington Water Power Co., The	2,329		74,385	.11	1,596	
West Penn Power Co	95,609	.06	245,496	.19	320,489	.27
West Texas Utilities Co	37,602	.08	35,256	.08	34,352	.09
Western Colorado Power Co., The						
Western Massachusetts Electric Co	121,075	.21	70,317	.13	30,497	.06
Wheeling Electric Co	29,131	.17	21,028	.14	24,728	.18
Wisconsin Electric Power Co	213,220	.09	229,944	.11	171,863	.10
Wisconsin Michigan Power Co	19,703	.05	24,704	.06	10,689	.03
Wisconsin Power & Light Co	161,645	.21	96,602	.10	153,939	.19
Wisconsin Public Service Co	37,550	.05	63,777	.07	33,191	.04
Wisconsin River Power Co						
Yadkin, Inc						
Yankee Atomic Electric Co						
Total	46,036,979		41,025,633		38,389,361	

KEEP AMERICA BEAUTIFUL

Mr. GRIFFIN. Mr. President, earlier today I was privileged to attend an awards luncheon held by Keep America Beautiful, Inc., a national public service organization for the prevention of litter.

The luncheon was a highlight of the organization's 18th annual meeting, now in progress in the Nation's Capital.

Michigan was scheduled to receive recognition as the most beautiful State—which it is—and I was on hand to witness the presentation of the top State award to Michigan's great Governor William G. Millikin.

An extra bonus for me and for all who attended the luncheon was the opportunity to hear our colleague, the Senator from West Virginia (JENNINGS RANDOLPH), who delivered the principal address. His remarks were most appropriate and inspiring.

I ask unanimous consent that the text of Senator's RANDOLPH'S excellent address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

KEEPING AMERICA BEAUTIFUL CALLS FOR PERSONAL COMMITMENT

(By Senator JENNINGS RANDOLPH)

Our appreciation to the Keep America Beautiful organization is genuine because it is composed of citizens who are firmly committed to a clean environment. It is gratifying to work with you as you provide worthwhile contributions to the cause for a cleaner and better America.

I am pleased that you give honor, particularly, to the people of Michigan, who have been selected to receive the Keep America Beautiful state award of 1971. I was privileged last week to address the meeting of Keep Michigan Beautiful. I report to you of other states that your co-workers in Michigan are carrying forward an effective program with great enthusiasm. They are deserving of this award.

I have been a Member of Congress for 27 years. In that time, many laws have been passed, and many improvements have been made in our beloved country. While much of my life has been devoted to law-making, I have learned that improvements do not necessarily follow the enactment of laws.

Long ago, I learned that citizen concern and citizen involvement are necessary if our country is to be a better and more beautiful place in which to live. This is true of our battle against pollution as it is in other critical areas. While governments must pass laws and provide money to eliminate pollution, individuals must perform an important role in keeping our communities clean and beautiful.

This can take many forms. In the section of Washington where I live, a young man organized citizens to plant 18,000 jonquils and tulips along two streets. The fruits of their work make our city even more beautiful and urban life more enjoyable.

Most people, I hope, are truly concerned about the environment and sincerely want a clean world in which to live. But too many of our citizens are simply thoughtless in their everyday actions.

A small scrap of paper may seem insignificant. We should stop to think, however, that there are more than 210 million people living in the United States, and if each of us carelessly threw away just one small piece of paper a day, our collective carelessness would amount to a huge quantity of trash.

While involvement of everyone is needed, we realize that it is not easy to change old habits. Abraham Lincoln made a statement in 1862 that is applicable to the environmental challenge we face today. He said:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled with difficulty, and we must rise with the occasion. As our case is new, so we must think anew, and act anew. We must disenthrall ourselves, and then we shall save our country."

Lincoln did not overstate the case for a clean environment. The challenge today is, as he declared, to save our country.

Those of you attending this meeting have come to Washington, D.C. from all parts of the United States. Each of you could tell stories of environmental abuse and neglect that have taken place in your own communities. Fortunately, the damage has not been as extensive in some sections as in others. We all know of the big, dramatic examples where pollution has taken a heavy toll. The dead waters of Lake Erie and the heavy concentrations of poisonous smog in Los Angeles are familiar. But we must remember that the cumulative affect of smaller cases is just as damaging.

The City of Washington is perhaps typical of the country's large metropolitan centers in the nature and extent of its environmental problems.

Several months ago, new construction was halted in several suburban areas because sewer systems are inadequate to meet current needs, much less the additional demands that would be imposed by continued building. Millions of gallons of raw sewage is dumped daily into the Potomac—which I consider to be our National river, just as Washington is our National Capital. The situation is so critical that 174 million dollars in Federal aid are needed in just the next two years to expand and improve the district's Blue Plains Plant, which treats a major portion of the sewerage.

Washington is a city of commuters, many of whom travel to work by private car. Although we do not have heavy industry, air pollution problems are serious. Recent proposals were made to discourage cars coming into the city by such means as high parking fees, sharply reduced parking facilities, and even a tax on cars entering from outside the city.

Fortunately, we are already doing something to reduce air pollution and at the same time make commuting easier. Two years ago, exclusive bus lanes were opened on a major highway leading to Washington from the Virginia suburbs. It was an instant success even though the highway is still being reconstructed. Commuter bus ridership rose by two-thirds in the first six months and more recently was as much as 80 per cent higher in some areas. This highway also has recorded a decline in rush hour car traffic.

The environmental situation is critical. It weakens our national economy and undermines the structure of our society. I do not exaggerate the gravity of the problem when I emphasize that ending pollution is a matter of life and death.

I am encouraged, however, that American determination and American inventiveness are rising to the challenge. Much of my encouragement is based on the continuing concern of the American people for the environment. The ecological explosion that took place a couple of years ago was no passing fad. We have awakened to the enormity of our past sins against nature.

History has taught us that an aroused public can accompliah many positive results. Our people are now alerted against pollution and I welcome the pressure being exerted.

The Senate Committee on Public Works for most of the past decade, has been involved in the development of legislation to protect and enhance our air, water, and land resources. Progress has been made, and we have learned much. We know, for instance, that the solutions that were adequate a mere ten years ago are frequently invalid today.

Last year we developed major legislation to help resolve air pollution and solid waste problems. This year our main environmental effort has been directed toward development of the most comprehensive water pollution bill ever placed before the Congress.

Last week this bill was passed by the Senate by a vote of 86–0. When this bill becomes law we will have established a goal of clean water throughout our country by 1985, and provided the mechanisms for reaching it.

You may have read in the press this week that there is dissatisfaction with this measure and the course it charts to end water pollution.

Throughout the development of this bill, I was aware that various provisions were not to the liking of some groups. This, of course, is a familiar situation, particularly on legislation of such broad scope to cope with water pollution.

This bill was not assembled hastily. Our Subcommittee on Air and Water Pollution, chaired by Senator Muskie, conducted 30 days of public hearings on the problems of water pollution. Before the Committee were 16 bills addressed to various water pollution questions. The provisions of all of these were open for discussion, and many additional ideas were elicited during the hearings. The bill reported from the Committee was a composite measure, incorporating provisions from all of these sources.

It is gratifying to report, as I have often done in the past, that there is an almost complete lack of political partisanship as we draft environmental legislation for the welfare of our country as a whole. Provincialism has been kept at a minimum. We have worked together, Democrat, and Republicans, to strengthen this Nation and provide for the well-being of our people. I express special thanks to my counterpart. Mr. John Sherman Cooper, of Kentucky, senior member of the minority. His leadership and cooperation have been the very best.

The Subcommittee and the Full Committee held 45 executive sessions on this single bill before we were satisfied that it was the best legislation on which we could agree to end pollution of our country's water.

Members of the Committee and staff had a continuing dialogue with representatives of government agencies, industry and other concerned groups. EPA Administrator William D. Ruckelshaus, Russell E. Train, Chairman of the Council on Environmental Quality, and others met with us in executive session to review the pending bill. We attempted to accommodate our thinking when possible.

The provisions under consideration were given broad exposure so that details could be worked out with all concerned. At one point, information comments by government agencies were solicited and made available to all committee members.

Eliminating water pollution on a national scale is a complex undertaking. I make no pretense that the bill passed unanimously by the Senate is perfect, but it is the most advanced such document yet developed. This bill is strong, tough, and will be effective, but it is also fair legislation that neither makes excessive demands on anyone nor favors any particular group.

There are many dramatic examples of the progress people are making in resolving environmental questions. Innovations in environmental technology are an almost daily occurrence.

At the University of Missouri and elsewhere, experiments are underway in the use of glassphalt, a substance containing reclaimed glass, in the paving of roads. In Los Angeles and in West Virginia, industry is developing ways to effectively and profitably reclaim aluminum and steel cans so they will not be left to rust along our roadsides and elsewhere.

Just a month ago, the people of Mis-

souri approved $150 million in state bonds to help build sewage treatment plants.

Industry, on which some people want to place the blame for all pollution, is making large investments in a cleaner world. In one case with which I am familiar, a medium size paper mill on the Potomac River in Maryland has spent $34 million during the past 10 years to install equipment for environmental protection.

The American people are willing to pay the cost of a clean environment, but this does not mean that they *would* or *should* pay excessively. We have the technical know-how to halt environmental abuses in many areas now, but some of it is so costly that serious question of economics must be resolved before it is placed in use.

Even by the most economical means, the cost of cleaning up pollution will be high. The Environmental Protection Agency estimates that between 1970 and 1975 we must spend $105 billion dollars in public and private funds to meet anticipated requirements.

This total amounts to 10 per cent of America's gross national product, and is not unreasonable when we consider the need and the benefits to be obtained.

We must not view these massive expenditures as simply money spent without any return. They are public investments that will not only create a cleaner environment, but will have a substantial economic impact through the manufacture of new equipment, the construction of new facilities and the stimulus resulting from operating expenditures.

How to produce a clean environment is one of the most hotly debated issues. While everyone maintains that a clean environment is essential, there is a wide diversity of opinion on how it should be brought into being.

This is a proper subject for debate in a democratic society, but I hope that in our discussions we do not lose sight of the basic goal.

As with other public questions, the environmental issue has produced extremists on both sides. It is obvious, though, that we can no more continue unrestricted polluting than we can halt environmental abuse by shutting down the industrial complex that sustains our way of life.

We can do better than we have done, and we can make our peace with nature. Keep America Beautiful has made contributions to environmental enhancement. I thank you and urge you not to become weary in well doing.

FEDERAL GOVERNMENT ACCOUNTING AND BUDGETING

Mr. FULBRIGHT. Mr. President, Mr. Louis Fisher has written a most interesting article which was published in The Nation magazine for November 15.

This article is the second in a series of three which The Nation is running in its fall issues. These articles deal with the elusive ways the Federal Government keeps its accounts and budgets its expenses.

Mr. Fisher emphasizes the fact that, although Congress still retains the power to appropriate money, it is fast losing control over how it is spent. He points out how the executive—through its ability to transfer funds, impound money, create unauthorized commitments, and engage in covert financing—has usurped Congress' traditional "power of the purse."

For a Senate which is becoming increasingly conscious of the need to reassert its constitutional role in our governmental process, this article is must reading.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXECUTIVE SHELL GAME—HIDING BILLIONS FROM CONGRESS

(By Louis Fisher)

(Mr. Fisher is the author of President and Congress: Power and Policy, to be published by the Free Press in January.)

According to the Budget and Accounting Procedures Act of 1950, it is the policy of Congress that the accounting of the government provide "full disclosure of the results of financial operations, adequate financial information needed in the management of operations and the formulation and execution of the Budget, and effective control over income, expenditures, funds, property, and other assets." Despite that general policy, it has been estimated that, in a budget for fiscal 1972 of $229.2 billion, secret funds may amount to $15 billion to $20 billion.

The financing of the war in Vietnam illustrates how billions can be spent for programs known to relatively few Congressmen. In September 1966, President Johnson expressed his "deep admiration as well as that of the American people for the action recently taken by the Philippines to send a civic action group of 2,000 men to assist the Vietnamese in resisting aggression and rebuilding their country." Other announcements from the White House created the impression that not only the Philippines but Thailand, South Korea, and other members of the "Free World Forces" had volunteered troops.

However, hearings held by the Symington subcommittee in 1969 and 1970 revealed that the United States had offered sizable subsidies to countries that involved themselves in Vietnam. It was learned that the Philippines had received river patrol craft, engineering equipment, a special overseas allowance for its soldiers sent to Vietnam, and additional equipment to strengthen Filipino forces at home. It cost the United States $38.8 million to send one Filipino construction battalion to Vietnam. Senator Fulbright said that as he saw it, "all we did was go over and hire their soldiers in order to support our then administration's view that so many people were in sympathy with our war in Vietnam."

The Philippine Government denied that U.S. contributions represented a subsidy or a fee in return for the sending of the construction battalion, but an investigation by the General Accounting Office confirmed that "*quid pro quo* assistance" had indeed been given. Moreover, there was evidence that the Johnson administration had increased other forms of military and economic aid to the Philippines in exchange for its commitment of a battalion to Vietnam.

The Symington subcommittee also uncovered an agreement that the Johnson administration had made with the Royal Thai Government, back in 1967, to cover any additional costs connected with the sending of Thai soldiers to Vietnam. The State Department estimated that U.S. support to Thai forces including payment of overseas allowance—came to approximately $200 million. A number of other expenses were also involved, such as modernization of Thai forces and the development of an antiaircraft Hawk battery in Thailand. The Foreign Ministry of Thailand denied that the United States had offered payments to induce Thailand to send armed forces to Vietnam, but GAO investigators revealed that U.S. funds had been used for such purposes as the training of Thai troops, payment of overseas allowances, and payment of separation bonuses to Thai soldiers who had served in Vietnam. An interim GAO report estimated that the U.S. Government had invested "probably more than $360 million in equipment, allowances, subsistence, construction, military sales concessions, and other support to the Thais for their contribution under the Free World Military Assistance program to Vietnam."

U.S. subsidies were used once again to facilitate the sending of South Korean forces to Vietnam. Assistance included equipment to modernize Korean forces at home, equipment and all additional costs to cover the deployment of Korean troops in Vietnam, additional loans from the Agency for International Development, and increased ammunition and communications facilities in Korea. To assure that the dispatch of men to Vietnam would not weaken the defensive capabilities of the Republic of Korea, the Johnson administration agreed to finance the training of forces to replace those deployed in Vietnam and to improve South Korea's anti-infiltration capability. From fiscal 1965 to fiscal 1970, Korea's military presence in Vietnam was estimated to have cost the United States $927.5 million.

The legal basis for this assistance to free world forces in Vietnam derives from authorization and appropriation statutes of 1966. Funds were made available to support Vietnamese "and other free world forces in Vietnam, and related costs . . . on such terms and conditions as the Secretary of Defense may determine." In 1967 assistance was broadened to include local forces in Laos and Thailand. Reports on such expenditures were submitted only to the Armed Services and Appropriations Committees of each house. One would not know from the general language of the statutes what type of financial arrangement the Administration might enter into, or with what country. Even staff people who had access to the reports said that they did not know the nature and dimension of financing the free world forces until hearings were held by the Symington subcommittee.

Legislation in 1969 and 1970 tightened up the language of the statutes somewhat by placing a ceiling on the funds that could be given to free world forces. Standards were also established for payments of overseas allowances. The "ceiling" of $2.5 billion exceeded the amounts spent in previous years, and did not constitute much of a restriction. The fiscal 1970 appropriation bill for the Defense Department included a proviso stating that nothing in the Act should be construed as authorizing the use of funds "to support Vietnamese or other free world forces in actions designed to provide military support and assistance" to the governments of Cambodia and Laos. The force of that restriction was diluted by another provision which declared that nothing in the Act should be construed "to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war." On February 8, 1971, after the United States had granted support to South Vietnam's intervention in Laos, the State Department justified the U.S. support partly on the ground that it "will protect American lives."

Presidential spending discretion has been used in the last two years to spread the costs of the Vietnamese War to Cambodia and Laos. It was by exercising his transfer authority that President Nixon could extend financial assistance to Cambodia after his intervention there in the spring of 1970. At the end of the year, he appealed to Congress for $255 million in military and economic assistance for Cambodia. Of that amount, $100 million was to restore funds which the President had already diverted to Cambodia from other programs. Under Section 610 of the Foreign Assistance Act, the President may transfer up to 10 per cent of the funds of one program to another, provided that the second program is not increased by more than 20 per cent. Taking advantage of that authority, the Nixon Administration borrowed $40 million from aid programs originally scheduled for Greece, Turkey and Taiwan; took another $50 million from funds that had been assigned largely to Vietnam; and diverted still other funds, until a total of $108.9 million in military assistance had been given, or committed, to Cambodia.

In the waning days of the 91st Congress, legislators attempted to place two restrictions on Presidential actions in Cambodia. The Special Foreign Assistance Act of 1971 barred the use of funds to finance the introduction of U.S. ground troops into Cambodia, or to provide U.S. advisers to Cambodian forces in Cambodia. But in its bombing operations in Cambodia and in its subsequent "incursion" into Laos, the Administration interpreted air power in such broad terms as to circumvent much of the legislative restrictions. When helicopter gun ships can patrol at treetop level, the distinction between "air power" and "ground troops" begins to disappear.

The Special Foreign Assisance Act of 1971 also stipulated that military and economic assistance to Cambodia "shall not be construed as a commitment by the United States to Cambodia for its defense." This amounted to whistling in the dark, for it is clear that a commitment has nonetheless been made. As Secretary Rogers explained to the Senate Foreign Relations Committee, on December 10, 1970: "I think it is true that when we ask for military assistance and economic assistance for Cambodia we do certainly take on some obligation for some continuity." In an interview with Henry Bradsher of the Washington *Evening Star*, the Cambodian Foreign Minister said that he felt there was an unwritten treaty between the two countries: "I am convinced that there really is a moral obligation of the United States to help. We are confident that the United States will continue to help us."

The extent of this support was indicated in October 1971, when the Senate debated an amendment to the Foreign Assistance Act which would limit the total authorization to Cambodia to $200 million. The Administration opposed the restriction, contending that it would threaten the capacity of the Cambodian Government to defend itself. John N. Irwin III, Acting Secretary of State, offered Senator Fulbright this appraisal in a letter dated October 13, 1971: "We believe that with continued United States assistance at the levels requested by the Administration, the Cambodians with some external logistics and maintenance support will continue to make progress in defending their country from foreign invasion."

Thus our commitment is twofold: continued U.S. assistance and "some external logistics and maintenance support." Contemporary regulations on unauthorized commitments are explicit. The U.S. Code contains the following admonition: "No officer or employee of the United States shall make or authorize an obligation under any appropriation or fund in excess of the amount available therein; nor shall any such officer or employee involve the Government in any contract or other obligation, for the payment of money for any purpose, in advance of appropriations made for such purpose, unless such contract or obligation is authorized by law" [31 USC 665(a)]. Despite that rigorous language, the Administration can present Congress with a *fait accompli* and in effect compel it to appropriate the necessary funds.

Covert financing has also been used to support, through the CIA, such diverse activities as military operations in Laos and the broadcasting of U.S. information to Eastern Europe and Russia. The CIA can do this because of extraordinary authority over the transfer and application of funds. Section 10(b) of the Central Intelligence Act of 1949 provides that the sums made available to the CIA "may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds. . . ." For objects of a confidential nature, such expenditures are accounted for solely on the certificate of the CIA director, with each certificate deemed a sufficient voucher for the amount certified. Section 6 (a) of the Act authorizes the CIA to transfer to and receive from other government agencies "such sums as may be approved by the Bureau of the Budget" for the performance of any functions or activities authorized by the National Security Act of 1947. Other government agencies are authorized to transfer to or receive from the CIA such sums "without regard to any provisions of law limiting or prohibiting transfers between appropriations."

During February 1967 it was reported in the press that the CIA had been secretly subsidizing religious organizations, student groups, labor unions, universities and private foundations. President Johnson appointed a three-member committee, headed by Under Secretary of State Katzenbach, to review the relationships between the CIA and private American voluntary organizations. On March 29 the committee reported that covert CIA assistance had been made available by the last four administrations, dating back to October 1951. The committee recommended that "No federal agency shall provide any covert financial assistance or support, direct or indirect, to any of the nation's educational or private voluntary organizations." President Johnson accepted the committee's statement of policy and directed all agencies of the government to implement it fully.

A footnote to the committee's report explained that its statement of policy did not entirely close the door to covert financing of private voluntary organizations. Exceptions might be necessary: "where the security of the nation may be at stake, it is impossible for this committee to state categorically now that there will never be a contingency in which overriding national security interests may require an exception—nor would it be credible to enunciate a policy which purported to do so."

The CIA continued to finance the broadcasting that had been conducted by Radio Free Europe to Eastern Europe and by Radio Liberty to Soviet Russia. The continuation could have been justified either on the ground of national security or by identifying RFE and RL as foreign-based institutions as distinct from "any of the nation's educational or private voluntary organizations." The latter had been the thrust of the Katzenbach report.

In an address delivered in January, Senator Case said that several hundred million dollars had been expended from CIA budgets over the previous two decades for RFE and RL broadcasting. He introduced a bill to require that future financing of the two stations be subject to annual authorizations passed by Congress. President Nixon recommended in May 1971 that Congress create a tax-exempt nonprofit corporation to finance and supervise the two stations. The Senate Foreign Relations Committee rejected the President's recommendation. The full Senate, on August 2, upheld the committee. If the House goes along with this position, covert financing will be replaced by an open budget procedure of annual authorizations and appropriations for Radio Free Europe and Radio Liberty.

Senator Case, who sits on both the Appropriations and the Foreign Relations Committees, apparently had to rely on an article in *The Christian Science Monitor* to learn that the Administration had agreed to finance Thai troops in Laos. Further investigation by Senate staff members disclosed that the CIA was covertly financing 4,800 Thai troops fighting in northern Laos in support of the Laotian Government. The cost of the operation was initially estimated at between $10 million to $30 million a year. A staff report prepared for the Senate Foreign Relations Committee later disclosed that the CIA had spent at least $70 million in Laos during fiscal 1971.

In a letter to Secretary Rogers, Case asked whether the Administration considered the financial support of Thai troops in Laos to be in accord with the Cooper-Church provisions in the 1970 Defense Appropriations Act, which banned the payment of mercenaries except to protect a safe and orderly American withdrawal from Southeast Asia or to aid in the release of United States prisoners. The State Department replied that "nothing is being done that is not within present legislative auhority."

Senator McGovern introduced a bill last July 7 to require that proposed appropriations, estimated expenditures and appropriations for the CIA shall appear in the budget as a single item. His bill would also prohibit the use of funds appropriated to other departments or agencies from being spent by the CIA. McGovern explained that a single sum in the budget would permit members of Congress to judge whether that amount was too small, too large, or fully adequate to meet the needs of intelligence gathering. It would, in short, enable Congress to do what it is supposed to do: decide priorities. Moreover, Congress and the taxpayer would know for the first time the exact amount of money going into other government programs. The current practice is to inflate certain agency and departmental budgets in order to conceal CIA money. "As a result," McGovern observed, "we are led to believe that some programs are better financed than, in fact, they are. We have no way of knowing what these programs and agencies might be."

On the basis of a GAO report, Sen. Edward Kennedy charged that money appropriated for refuge programs, for public health, agriculture, economic and technical projects, and for the "Food for Peace" program, had been diverted to pay for CIA-directed paramilitary operations in Laos. During hearings held in January, the Joint Economic Committee noted that nearly $700 million in Food for Peace funds, over the past six years, has been channeled into military assistance programs. Since 1954, when Public Law 480 was enacted, $1.6 billion of funds generated by Food for Peace have been allocated to military assistance.

Statutory authority exists for this purpose, but few members of Congress were aware that Food for Peace was such a capacious vehicle for military assistance. Nor could they have gained that understanding by reading the budget, which describes Food for Peace in these terms: "The United States donates and sells agricultural commodities on favorable terms to friendly nations under the Agricultural Trade Development and Assistance Act (Public Law 480). This program combats hunger and malnutrition, promotes economic growth in developing nations, and develops and expands export markets for U.S. commodities."

Senator Proxmire castigated this use of rhetoric to conceal the nature of the Food for Peace program. "This seems to me," he said, "to be kind of an Orwellian perversion of the language; food for peace could be called food for war." He joined with Senators Humphrey, McGovern and Mansfield in introducing S.906, a bill to repeal certain provisions relating to the use of Food for Peace funds for military purposes.

No one can determine from a present-day budget how much is spent for military assistance. For instance, the budget for fiscal 1973 estimates 1971 outlays for military assistance at $1.175 billion in Defense Department funds, plus an additional $504 million in supporting assistance. The total is apparently $1.679 billion. This past January,

however, Senator Proxmire obtained from the Defense Department its estimates for the military assistance program and foreign military sales. The amount of military assistance for fiscal 1971 was as follows: (1) $3.226 billion in MAP, military assistance service funded and related programs; (2) $600 million in supporting assistance; (3) $7 million in additional public safety programs; (4) $143 million in Food for Peace funds for common defense purposes; and (5) $2.339 billion in military export sales. The total: $6.315 billion.

Several months later Senator Proxmire introduced S.1129, which would remove from the Defense Department its present involvement in service-funded military aid ($2.5 billion). All remaining military assistance programs would be put under the Department of State. The effect would be to return the responsibility for authorizing military assistance funds to the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

The war in Southeast Asia has emphasized the fact that, although Congress still retains the power to appropriate money, it is fast losing control over how it is spent. The executive branch—through its ability to transfer funds, impound money, create unauthorized commitments, and engage in covert financing—now holds a substantial portion of the spending power. It does no good to bemoan that fact or complain of executive usurpation. Congress will have to legislate back into reality its traditional "power of the purse." In the steel seizure case of 1952, Justice Jackson reminded Congress of the maxim, "The tools belong to the man who can use them." His parting observation then is pertinent still: "We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers."

WHO WILL BE THE JUDGE OF GENOCIDE?

Mr. PROXMIRE. Mr. President, the fear has often been expressed that if the United States ratifies the Genocide Convention American citizens will be arrested and hauled into foreign courts for alleged acts of genocide in the United States. Is this a justified concern?

The Interim Convention on Conservation of North Pacific Fur Seals provides a useful precedent. The Fur Seal Convention also attempts to deal effectively with potential violators. Article VI of the Fur Seal Convention outlines a detailed procedure to be followed. Among other things it gives the Soviet Union the right to board American fishing vessels on the high seas, to search the vessels, to arrest people on board and seize the vessel for any treaty violation, and to take those persons and the vessel to a Russian port until such time as they are turned over to American officials. This provision is enacted into law in 16 U.S.C. 1151 and 1155.

The Senate in ratifying the Fur Seal Treaty and the Congress in enacting the above named legislation believed that the safeguards provided—that the Soviet Union would not arrest our citizens or seize our vessels without probable cause and in any case would return them to the United States for trial—were adequate.

The Genocide Convention is far short of the Fur Seal Convention in the powers it accords foreign jurisdictions over American nationals. In fact, the Genocide Convention explicitly states that persons charged with genocide are to be "tried by a competent tribunal of the state in the territory of which the act was committed." This clearly denies foreign courts the authority to try Americans for acts allegedly committed in the United States.

There is, of course, nothing we can do to prevent another country from seizing visiting Americans indiscriminately and trumping up false charges against them. But this could happen whether or not we ratified the Genocide Convention. As to possible extradition, there should be no concern about our Government turning Americans over to foreign courts who will not give them a fair trial; it is a firm policy of the United States to refuse extradition unless the person is guaranteed a trial with all the protections of the Bill of Rights.

Mr. President, the safeguards in the Genocide Convention are more than adequate. The Senate should ratify the Genocide Convention without delay.

NOMINATIONS TO THE SUPREME COURT

Mr. FANNIN. Mr. President, during the past 2 weeks the Committee on the Judiciary has been holding hearings on the nominations of William H. Rehnquist and Lewis F. Powell as associate justices of the Supreme Court.

The committee members have had an ample opportunity to look into the background of the two nominees, and there was extensive questioning by committee members at the hearings. Witnesses for and against the nominations have appeared.

Now there will be a brief delay before the next step in the confirmation process is taken.

When all the returns are in, I am confident that both men will be confirmed overwhelmingly.

Meanwhile, I invite the attention of Senators to two articles published in the press today.

Mr. President, the first article is from the New York Times, and I ask unanimous consent that it, at this point, be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 11, 1971]

THE REHNQUIST DILEMMA

(By Tom Wicker)

The spectacle of Senator Edward Kennedy defending the reputation of William Rehnquist against allegations by Joseph Rauh of the A.D.A. suggests the painful dilemma in which liberals and civil libertarians have been placed by Mr. Rehnquist's nomination to the Supreme Court.

This nomination is not like that of Clement Haynsworth, whom President Nixon earlier tried to put on the Court. Judge Haynsworth was not confirmed by the Senate on the ostensible ground that his record on the bench showed a lack of perception of possible conflict-of-interest situations.

Nor is the Rehnquist case similar to that of Mr. Nixon's other rejected nominee, G. Harrold Carswell. Judge Carswell was found to have made misstatements to a Senate committee, and his confirmation hearings disclosed a glaring lack of qualification for the Supreme Court.

The Rehnquist matter is not even like that of Lewis Powell, whom Mr. Nixon has also named to the Court.

Mr. Powell is a pillar of the Southern establishment, a good credential in the Senate; he is 64 years old and his tenure on the Court will be limited by that; he is not expected by most observers to become a powerful leader within the Court.

Mr. Rehnquist is a horse of a very different color. At 47, he can look forward to a long and active tenure on the bench. Moreover, his record is that of a hard-working and vigorous champion of conservative political causes, both in Arizona and within the Nixon Administration. Persons in and out of the Administration who know his work credit him with superior intellect and skill in the law.

Thus Mr. Rehnquist on the Court is altogether likely to become a driving force for the principles he espouses. There are those who believe that as the years go along he will be a more formidable leader than Chief Justice Burger in the conservative wing of the Court—a wing that may already be in the majority on some issues and will almost surely become dominant if Mr. Nixon wins another term in the White House.

It is no wonder, then, that liberals and libertarians are desperately casting about for means of defeating the Rehnquist nomination in the Senate. Mr. Rehnquist's record of opposition to civil rights measures, his strong advocacy of state powers that would threaten Bill of Rights guarantees—at least what many people passionately believe to be guarantees—his youth and his obvious leadership qualities might alter the course of the Supreme Court for decades to come.

But the hard fact is that no one has as yet produced any evidence of the kind of ethical tangles that ruined Judge Haynsworth's chances—and before that led to the resignation of Abe Fortas from the Court; nor has anyone been able to identify misstatements like those that sank Judge Carswell, let alone a lack of legal or intellectual qualifications.

It was, in fact, on the matter of Mr. Rehnquist's integrity that Senator Kennedy rebuked Mr. Rauh. The latter had suggested that the nominee had been less than candid in denying ever having been a member of the John Birch Society. The Senator could hardly be sympathetic to a man of Mr. Rehnquist's views, but he insisted that the nominee's basic integrity was unchallenged.

So the real question before the Senate is whether it can, or should, reject Mr. Rehnquist solely because of his political views. On the one hand, the writers of the Constitution, in giving the Senate the power to confirm or reject Presidential nominees to the judiciary, clearly meant the legislative branch to play a substantive role with the executive branch in this process. The Senate has the right, therefore, to judge for itself the qualifications of a man to sit on the Supreme Court.

On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous business. It presumes some kind of rightful political orthodoxy; it would tend to politicize the courts according to the temporary political coloration of Congress; it could punish some individuals for their ideas and frighten others out of having any.

Moreover, it is bound to lead to retaliation, as it did when Republicans and conservatives defeated President Johnson's nomination of Justice Fortas to be Chief Justice, at least partially on political grounds. Paying off that score had a good deal to do with Judge Haynsworth's subsequent rejection.

It may be argued that Mr. Nixon should not have handed Senators this dilemma by appointing an activist political figure to a nonpolitical court; but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist his Court seat solely because of his political views.

Mr. FANNIN. Mr. President, the second article is an editorial in today's Washington Evening Star. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Nov. 11, 1971]

THE ADVOCATE

Since our original conditional endorsement of the nominations to the Supreme Court of Lewis F. Powell Jr. and William H. Rehnquist, we have made no further comment on President Nixon's choices. Our reticence was based both on the two men's obvious intellectual credentials and on the failure of their opponents to produce anything untoward in their judicial or personal backgrounds.

We break this silence now on the basis of no new evidence either for or against Powell and Rehnquist. But we cannot remain mute in the face of the campaign of innuendo and smear, ineffective as it has been, against Rehnquist.

On Tuesday, in joint testimony before the Senate Judiciary Committee, Clarence Mitchell and Joseph L. Rauh Jr., of the Leadership Conference on Civil Rights (a pressure group of 127 labor, religious and civil rights organizations), launched an attack against the assistant attorney general the vagueness of which was matched only by its intemperance.

The 47-year-old Arizonan, Mitchell and Rauh maintained, was "a laundered McCarthyite" whose confirmation would be "an insult to Americans who support civil rights." By Rehnquist's appointment, Mitchell said, "the foot of racism is placed in the door of the temple of justice." An affidavit by Rehnquist to the effect that he is "not now and never has been a member of the John Birch Society" drew from Rauh the remarkable statement that this served only to raise fresh doubts about Rehnquist's possible association, a remark which even Senator Kennedy, who marches to the civil rights drum, could not stomach.

To the extent that one can determine what it is that Rehnquist's foes are driving at, it seems that they charge him with opposing a Phoenix open accommodations ordinance in 1964, of denouncing civil rights marchers in the same year and of fighting efforts to wipe out de facto school segregation in Phoenix in 1967.

The curious thing about the entire exercise is that Powell, who has come in for virtually no criticism, almost certainly is just as conservative as Rehnquist. One is left with the distinct impression that the civil rights lobby has decided to stage a symbolic fight to prevent Rehnquist's confirmation because his more active judicial role—his function as a Justice Department advocate—makes him more vulnerable than the Virginian.

What Mitchell and Rauh are saying is roughly similar to the dictum of the East European Stalinists: "If you are not with us, you are against us." What they fail to see—or pretend to fail to see—is that the actions and statements of Rehnquist (like those of Powell) stem less from any anti-civil rights or anti-Negro animus than from a consistent and overt conservative judicial philosophy which holds that there are principles of equal or greater importance than those to which Mitchell and Rauh give their exclusive and sectarian devotion.

We are unaware of any constitutional prohibition against the presence of a conservative on the Supreme Court. Nor can we find in the small print of the Bill of Rights any requirement that appointees subscribe to the dictums of the American Civil Liberties Union, the Leadership Conference on Civil Rights, or any other pressure group.

On the basis of all the testimony to date, Powell and Rehnquist emerge as men of integrity, consistency, professional competence and intellectual distinction. The attack by Rauh and Mitchell, itself a classic example of "laundered McCarthyism," was, to say the least, bush league. If that is the best (or worst) their opponents can produce, both men should be speedily approved by the Senate, as indeed they almost certainly will be.

WATER POLLUTION CONTROL BILL REFLECTS SENATE RESPONSIBILITY IN PASSAGE OF WELL REASONED LEGISLATION

Mr. RANDOLPH. Mr. President, only a few days ago the Senate passed, 86 to 0, the water pollution control bill. It is well reasoned legislation, and I hope there will not be an attempt to turn aside from the thrust of this needed measure. In an effort to clarify the situation, and also to set forth my feelings on this subject, I ask unanimous consent to have printed in the RECORD a release I gave to the news media earlier today.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

Sen. Jennings Randolph (D-W. Va.), Chairman of the Committee on Public Works, today issued the following statement:

On November 2, the Senate passed the Federal Water Pollution Control Act Amendments of 1971 by a vote of 86–0.

Since that time there have been disturbing reports that the Administration is dissatisfied with the contents of this bill to the extent that it is reportedly mounting a campaign to drastically change its provisions during consideration by the House of Representatives.

We are told that insufficient attention was given to fundamental changes in existing law and that the states should play a greater role in enforcing anti-pollution requirements. This indicates a lack of knowledge of both the provisions of the bill and how they were developed by the Committee on Public Works.

It is incredible how much misinformation is being circulated by people who apparently have not even taken time to read the bill or the debate on it prior to passage.

Throughout the development of this bill, I was aware that various provisions were not to the liking of numerous interests. This of course, is a familiar situation, particularly on legislation of such wide impact as that concerning water pollution.

The measure was not hastily assembled. Our Subcommittee on Air and Water Pollution, chaired by Senator Edmund S. Muskie, conducted 30 days of public hearings. Before the Committee were 15 bills addressed to various water pollution questions. The provisions of all of these were open for discussion and many additional ideas were elicited during the hearings.

The bill reported from the Committee was a composite measure, incorporating provisions or ideas from all of these sources.

The subcommittee and the full committee met in 45 executive sessions on this single bill before we were satisfied that it was the best legislation on which we could agree to end pollution of our country's waters.

Members of the Committee and staff conducted a continuing dialogue with representatives of government agencies, industry and other concerned groups. William D. Ruckelshaus, Administrator of the Environmental Protection Agency, Russell E. Train, Chairman of the Council on Environmental Quality, and others met with us to review the then pending bill. We attempted to understand their viewpoints and to accommodate our thinking to theirs where possible.

The provisions under consideration were given broad exposure so that details could be worked out with all concerned. At one point, informal comments by government agencies were solicited and made available to all Committee Members.

We knew that in some areas the Administration disagreed with the Committee. I had no indication, however, that its disagreement was as intense as that indicated in subsequent news reports. I am frankly disturbed by the apparent attitude adopted by the Administration, particularly since the Committee felt it had a good working relationship in an area of common concern and one that should not be subjected to partisan maneuvering.

Administration spokesmen encouraged us to write a bill with strong authority over pollution control vested in the Federal government. We did so, reserving to the states a significant responsibility in control activities and primary authority in planning.

The insistence of the Administration now for greater state authority is inconsistent with what the committee was earlier led to believe was its position. It causes me to wonder if there is any agreement within the Administration on how best to eliminate pollution.

Eliminating water pollution on a national scale is a complex undertaking. I make no pretense that the bill passed unanimously by the Senate is perfect, but it is the most advanced such document yet developed.

This bill is strong, tough and will be effective. It is also generally fair legislation that doesn't make unreasonable demands or grant exceptions where they are not warranted.

At the time the bill was ordered reported by the Committee, we received a number of inquiries from Governors. I am sending to each Governor a copy of the Senate debate on the water pollution bill so they can read for themselves the attention that was given to state responsibility in this legislation.

During its consideration by the House of Representatives, I hope the Administration will openly and precisely state its objections to the bill so they can be properly considered.

MANCHESTER, N.H., A CITY THAT WOULD NOT DIE

Mr. COTTON. Mr. President, one of the proud chapters in the history of the State of New Hampshire took place in the 1920's when the Amoskeag Manufacturing Co., the world's largest cotton mill, closed its doors precipitating a crisis of a magnitude that has been faced by few communities in this Nation. Amoskeag had furnished employment to 17,000 persons, most of them heads of families in a city of only 80,000 population.

How Manchester met this challenge is ably described in an article entitled "A City That Wouldn't Die," written by Lindley H. Clark, Jr., and published in the Wall Street Journal of November 9, 1971. The author draws some conclusions from the story of the city that lifted itself by its bootstraps with little or no outside aid that should be of interest to all of us.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 9, 1971]

A City That Wouldn't Die

(By Lindley H. Clark, Jr.)

MANCHESTER, N.H.—Like many New England communities, Manchester offers glimpses of America's past. In Manchester's case, though, the past that's recalled is the roaring industrial growth of the 19th Century, not the relative calm of Colonial days.

The area along the Merrimack River was settled as early as 1722, but there was no more than a tiny village here until early in the following century. Then Judge Samuel Blodgett built a canal to bypass the Amoskeag Falls and turn the river into a waterway leading to Boston. And Benjamin Prichard, who hadn't had much luck with a cotton mill at New Ipswich, N.H., decided to try again at Manchester.

Poor Benjamin didn't fare very well here either, but he started something. The business was reorganized and reorganized again, and finally in 1831 it became the Amoskeag Manufacturing Co.

One by one the company built the huge four-and-five-story brick mills that now march down the banks of the Merrimack for more than a mile. When the final mill was constructed, early in the present century, the vast complex contained some 8 million square feet of floor space, more than double the floor space in the Pentagon. At its peak the Amoskeag was the world's largest cotton mill, employing 17,000 persons in a city of around 80,000.

The Amoskeag not only dominated the city; in a sense it was the city. The company recruited its population, sending its agents to England, Ireland, French Canada and southern Europe to enlist workers. To accommodate employes who could not build their own homes the company put up row after row of three-story "corporation houses," also of red brick and flanking the sprawling mill yard.

In the 1920s, however, this textile empire began to come apart. Perhaps size made the company's managers complacent. In any case, machinery was allowed to become obsolescent. Silk and rayon began to win business from cotton, but the Amoskeag went right on producing only cotton. Southern textile mills paid lower wages and began taking business from New England. Import competition grew. Finally came the depression and, in 1935, the Amoskeag filed for bankruptcy.

Seldom has one city been hit so hard. Aside from the usual relief programs government did little to soften the blow. Instead, a group of Manchester citizens somehow managed to scrape together $5 million to buy the company properties, from Amoskeag Industries Inc., and set out seeking new tenants for the now-darkened mills.

It was slow, painful work, but gradually new companies came. As a recent Chamber of Commerce brochure puts it, "No longer did the city's future hinge on the fortunes of one immense company . . . and today there are some 250 industrial establishments in the city."

Yet multistory mill buildings, some of them a century old, cannot alone sustain a modern industrial city; many companies prefer spread-out single-story plants. So Manchester, having overcome disaster, now is trying to adjust to the future.

Close to 20% of the mill buildings, those that are least adaptable to current needs, have been or will be razed. The space freed in the mill yard provides room for improved receiving and shipping facilities and modern utilities. The buildings were almost fully occupied before the razing began, so a new industrial park was built nearby primarily to accommodate the firms displaced.

A local military air base was acquired and now is the site of an industrial air park, an attraction to aviation-oriented companies. The old corporation houses, which easily could have become slums, have instead been lovingly preserved.

Even the current economic uncertainty has touched Manchester relatively lightly, at least up to now. Area unemployment is only 4.4% of the labor force, compared with the nearly 6% national average.

Yet there is a change of attitude, and to some extent the change seems to trouble the city. New Englanders always have prided themselves on their self-reliance, the sort of spirit that pulled Manchester through the collapse of the Amoskeag. And local businessmen now are a little apologetic when they note that rehabilitation of the mill yard, as well as some other local improvement projects, is being achieved only with sizable federal financial help.

Federal financial aid is too common around the country for it to be any cause for shame, here or anywhere else. Moreover, the visible evidence at least seems to indicate that the federal funds have been and will be well spent. Nonetheless, the idea of federal subsidies creates a little discomfort in Manchester, which was pleased with the title of "the city that refused to die."

No such discomfort shows up, however, in talk of another sort of federal subsidy—the textile import quotas recently negotiated with Japan and other Asian countries and the Nixon administration's 10% import surcharge. As far as Manchester businessmen are concerned, these arrangements are merely provisions to assure "fair" trade.

Despite the city's energetic efforts to diversify, close to two-thirds of its manufacturing still is in the "soft goods" category. That includes shoes and—despite the death of the Amoskeag—textiles, two types of products that have been especially affected in recent years by import competition.

Like their counterparts elsewhere in the nation local business executives talk of the wide gap in wages between the U.S. and foreign countries. More discouragingly, some of them seem to believe that foreign nations have so surpassed the U.S. in efficiency that even more equal wages wouldn't solve all the problems.

The feeling in Manchester is that even a national return to more prosperous times won't be a tremendous help, unless some ways are found to keep imports from absorbing most of the growth in the domestic market. The textile quotas, businessmen say, are fine as far as they go but they may be too little and too late, even for the textile industry. Their answer? Obviously, more and broader protection.

There's nothing unusual in this sort of attitude, of course; it's shared by other import-affected towns around the land. Here in the city that would not die, though, it can make a visitor feel a little sad.

DEEP UNDERCURRENT OF DISTRUST FOR STABILIZATION PROGRAM

Mr. PROXMIRE. Mr. President, last Sunday I attended a most salutary meeting in Milwaukee. I expected to speak for 30 or 40 minutes before a group of 100 to 200 trade unionists on the wage-price freeze and the steps now being undertaken under Phase II of the President's program.

Instead of 100 to 200 people, the audience, in my judgment, numbered at least 400 to 500. The room was packed. Instead of a normal speech with polite questions which lasted 40 minutes or so, I was there for about 3 hours.

Contrary to the public opinion polls which tell us that the stabilization program has almost unanimous support in the country and that the feeling in its favor is both strong and deep, not one single person at that meeting last Sunday stood up to support the freeze or Phase II of the stabilization program. And member after member of the trade unions represented there came forward to the microphone to express his opinion.

FEELING OF UNFAIRNESS

There was widespread feeling that the freeze worked with respect to wages, because the employers enforced it by refusing to grant any increases. But there was equally wide feeling of distrust and suspicion that this was a one-way street and that prices were still going up. The most recent Consumer Price Index release for September, when the frozen prices rose by an annual rate of 4.8 percent while the unfrozen prices actually dropped, did nothing to dispel this overwhelming feeling.

There were strong and heated views that fairness dictated that the agreements entered into before the freeze, which called for raises between August 15 and November 13, should be put into effect. There was both fear on the part of these men and women that their retroactive increases would not be allowed and outrage that this was the case. And their suspicions were confirmed on Monday when a split vote of 10 to 5 the Pay Board refused to make good these retroactive increases.

RANK AND FILE SUSPICION

What I am trying to convey to the Senate and to the public is that there is a far deeper feeling of suspicion and distrust among the rank and file of the American people over the essential fairness of the freeze and of the Pay Board and Price Board decisions than statements by the administration, political pundits, editorial writers, and pollsters would indicate.

I am trying to warn the administration and Congress that the sense of suspicion and resentment can only be put to rest if we legislate in a responsible and intelligent way.

MUST LEGISLATE CAREFULLY

We must make certain that the freeze against prices is as effective as the freeze on wages.

We must be certain that legal contracts, in which working men and women gave in on working rules or working conditions in return for wage increases, are not abridged or abrogated.

We must make certain that consumers have a method of bringing actions against price increases which is equal to the ability of employers to enforce wage freezes. We must be certain that standards are set by law which guarantee that American citizens cannot be acted against arbitrarily by Government bureaucrats with unchecked power.

The fact is that contrary to the general assumption there is a deep sense of unfairness based upon some very legitimate complaints against both the freeze and the stabilization program.

As proof of my statements, I ask unanimous consent that two articles, one from the Milwaukee Sentinel, the other from the Milwaukee Journal, for Monday, November 8, 1971 be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Milwaukee (Wis.) Journal, Nov. 8, 1971]

Frozen Pay Gripes Given to Proxmire

(By James W. McCulla)

If labor throughout the United States feels the way labor on Milwaukee's South Side did Sunday, Phase 2 of President Nixon's economic recovery program would appear to be in trouble.

One person after another stood up to tell Sen. William Proxmire (D-Wis.) that their families were hurting badly and desperately needed more money, despite the national effort to keep a lid on wages.

French workers knew what to do when the late President Charles de Gaulle tried to block meaningful wage increases in a similar situation in 1969, said Carlyle Shepard, a member of United Electrical Union Local 1111 at Allen-Bradley, sponsor of the meeting.

WORKERS' PLEA

"They pulled that damned country down around his ears for a few days," said Shepard, declaring that maybe President Nixon deserved the same treatment if the working man's anguished cry for relief went unheeded.

Describing how he was denied two 12 cent an hour increases and his wife—who had to go to work to help make ends meet—a 5 cent raise by the freeze, Nick Ballas, a former president of the local, declared: "We're sick and tired of it. We can't take any more of that, Bill. We're behind the way it is. We can't stand wage freezes."

The impassioned statement evoked thunderous applause from the 400 persons crowded into Machinists Memorial Hall, 1650 S. 38th St.

MEETING PRAISED

And although he was attacked several times for supporting wage curbs, Proxmire repeatedly said that the meeting was the best he had ever attended in his 14 years as a senator.

Most working families breathed a sigh of relief when Nixon announced the wage-price freeze Aug. 15 because it appeared that prices would be frozen, said Robert Esposito, president of Utility Workers Local 3 at the Wisconsin Natural Gas So.

Now labor realizes that the freeze "was a colossal fraud" because prices continued to rise steadily, given impetus by some "crass violations," Esposito charged.

Employers are doing an outstanding job of policing the wage freeze, but who is policing the price freeze? he demanded to know.

President Nixon "picked the pockets of every man and woman in this country," charged Robert A Smith, chairman of the Local 1111 legislative and public affairs committee. He noted that there had been no freeze on profits or tax increases.

"I agree that it (inflation) is a complicated problem," said David T. Silverstein, an American Motors employe. "But why take it out on people least able to take a pay cut?" Persons earning the least amount of money are asked to bear the most under the program, he said to substantial applause.

The chief cause of inflation is deficit federal spending brought on by huge military outlays, charged Ernest De Maio, Chicago, executive vice president of the United Electrical Workers International.

REAL PAY DROPS

He said the real take home pay of a manufacturing worker with three dependents had dropped $2.58 per week between 1967 and 1970 because of inflation, showing that workers were not the instigators of inflation but the victims of it.

"The corporations are slick," he said, because they always announce their price increases immediately after they negotiate wage increases to make it appear that wages are the cause.

The president's economic policy is "only one of a series of attacks on labor by the Nixon administration," De Maio charged.

PROXMIRE'S VIEWS

Disagreement with Proxmire's backing of the wage freeze was evident throughout the meeting, but it was restrained and at times even apologetic.

"You seem to be buying the concept that the cause of inflation is wages," Ballas said to the senator. "We just can't buy that. We know how we live and it's rough going."

Proxmire acknowledged his support for wage restraints.

But he shaid a labor contract was a "property right" and that increases due under it should be paid. Furthermore, he said he realized that real wages had declined "so a catchup was due."

CALLS FOR RESTRAINT

Nevertheless, it is "consistent to exercise some degree of restraint during the bargaining process," Proxmire said. "You can't have 8% to 15% wage increases without increased prices. You have to keep that in mind if you're going to be honest about this."

Proxmire said Congress should reject the president's request for continued authority to to impose wage and price restraints until it saw whether the Pay Board, established under the Phase 2 program to set pay increase policies, did its work well.

The senator acknowledged that the wage freeze meant tough sledding. The answer is strict price control, he said. He charged that the administration had done virtually nothing to control prices and he urged unions and other groups to begin policing prices with group lawsuits against alleged violators.

He got a big hand when he declared that wasteful military spending was the chief cause of inflation and that the country ought to "get out of Vietnam and get out now."

[From the Sentinel (Wis.), Nov. 8, 1971]

Labor's Ire Directed at Proxmire

(By Gordon Gottlieb)

Sen. Proxmire (D-Wis.) tasted some of organized labor's disenchantment with his recent voting record here Sunday.

But to veiled threats that some segments of labor might work against his re-election next time, Proxmire calmly observed that he did not feel he was elected "to be a rubber stamp . . . but to do what I thought was correct."

About 400 persons crowded into Cream City Lodge 1061, International Association of Machinists, 1650 S. 38th St., Sunday morning to hear Proxmire answer questions on the wage-price freeze.

On Saturday, during a press conference here, Proxmire had announced that he would not seek the Democratic nomination for president.

And one of the reasons he cited for deciding against making the race was opposition from big business and labor resulting from his campaigns against development of a supersonic transport (SST) and the government loan guarantee for Lockheed Aircraft.

Both meant thousands of jobs to labor, which has been hard hit by unemployment during an inflationary economy.

Proxmire said he could not expect either big business or labor to help finance a presidential drive for him.

Proxmire, who is chairman of the Joint Economic Committee of Congress said Sunday that the group has held five weeks of hearings on ways to control inflation and improve the job picture, but still doesn't have all the answers.

WAGE HIKE, PRICE LINK

Two things the committee has learned, he said, are that increasing employment should not be used to fight inflation, and that a connection exists between wage settlements and price hikes.

Most of those present didn't like to hear the latter from a man they had voted to keep in the Senate.

Nick Ballas, a former president of United Electrical Workers Local 1111 at Allen-Bradley Co., told Proxmire, "You seem to be buying a concept that wages bring high prices."

Proxmire said that economists are convinced that labor cannot negotiate wage settlements of 8 to 15% without "having a reflection on increased prices."

FAVORS LOWER RATE

Workers would be better off with a 3% increase in real wages, if the administration was able to hold the line on prices, he said, but the administration has not been doing this.

According to Proxmire, there has been only a single government prosecution for alleged violation of the president's freeze as it pertained to prices. That was against the Atlanta Falcons of the National Football League for increasing ticket prices.

Proxmire suggested that consumers file class action suits against businesses and industries they know have violated the price freeze.

Proxmire said he thought the Pay Board should approve all contracts that were negotiated before the freeze, but cannot take effect until it ends, provided they are not extremely inflationary.

SPENDING CRITICIZED

He agreed with Ernest DaMano of Chicago, international vice president of the UE, that wasteful government spending, including the Vietnam War, was primarily responsible for inflation.

Proxmire said he favored having Congress withhold extending President Nixon's authority to invoke economic controls until "we see how the Pay Board works.

"We should keep the president on a short leash."

Mrs. Mary Shokatz, president of Local 526 of the American Federation of State, County and Municipal Employes, which represents museum workers here, called for a congressional probe of companies that move operations to foreign soil after reaping heavy profit in US communities.

INQUIRY STARTED

Proxmire responded that he and other congressmen were already looking to the matter.

At another point, Proxmire said the city of Milwaukee probably would accept a fact finder's recommendations for settling its dispute with police, if the freeze does not interfere.

Proxmire said he felt that police here are "badly underpaid" when compared with officers in similar size cities.

Thomas P. Whelan, the fact finder, issued his advisory recommendations last week. A meeting between city and police union negotiators to discuss implementing the findings is set for Thursday.

OFFERS NEW LABEL

After a union man reminded Proxmire of Nixon's "Tricky Dick" label, the senator suggested that perhaps it should be changed to "Trickle Dick," because of the administration's theory that labor will receive trickle down benefits if no lid is placed on business profits.

Another man in the audience shouted: "In the union, we call it feeding the horses so the birds won't starve."

Proxmire blamed "a built-in bias" among congressmen for the longer time it takes to pass measures of benefit to labor, as compared with decisions to take injunctive action in some strike situations.

He said that members of Congress get very high salaries and associate primarily with representatives of big business, because despite labor's heavy financial backing of some candidates, big business contributes much more.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1971

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, which will be stated.

The legislative clerk read as follows:

A bill (S. 2819) to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be taken out of the time on the bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered. Who yields time?

Mr. HUMPHREY. Mr. President, will the Senator from Arkansas yield me 3 minutes?

Mr. FULBRIGHT. I am happy to yield 3 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes.

THE SALT TALKS AND SENATOR PERCY'S GOOD ADVICE

Mr. HUMPHREY. Mr. President, I had hoped to be in the Chamber at the time the distinguished Senator from Illinois (Mr. PERCY) addressed the Senate this morning on the subject of the SALT talks and the discussions underway in the Soviet Union directed toward limitation of the strategic nuclear weaponry, both defensive and offensive.

Regrettably, it was not possible for me to be here because of a commitment to attend another meeting.

Yesterday, I was privileged to see a copy of the distinguished Senator's speech, so I take this opportunity to commend him for his leadership and his wise counsel.

The distinguished Senator from Illinois has raised his voice, in a sense, not so much to warn but to counsel the Soviet Union that it must act in good faith in the nuclear arms limitations talks if it wishes to have an arms limitation treaty or negotiation that is at all acceptable. He has counseled and advised the negotiators at the conference table at Vienna and Helsinki who are engaged in the strategic arms limitations talks that to move ahead at an ever-increasing rate of arms deployment in the nuclear field merely threatens the possibility of any kind of agreement.

Mr. President, the Soviet Union may be engaged in a tremendous effort to deploy large numbers of its land-based missiles and to expand in substantial numbers its submarine missile fleet.

As the distinguished Senator from Illinois (Mr. PERCY) has noted, such an effort on the part of the Soviet Union, I think, would serve only to fuel the arms race, not halt it. The Senator from Illinois has called for a zero level ABM agreement and limits on offensive missile systems for both the United States and the Soviet Union.

He has noted that this approach and this goal would make possible the deferral of new offensive systems and would signal other nations that the SALT talks are not now being directed against them.

He also notes that a zero level ABM and limits on offensive weapons systems would prevent an erosion in the deterrent capabilities of our allies.

As he has stated:

It would allow budgetary savings of billions of dollars for both the United States and the Soviet Union.

Mr. President, it is my judgment that whether we can seek or obtain a zero level limitation on the ABM is highly questionable, but it is absolutely imperative that we reach an ABM agreement very soon. It is equally imperative that, with that limitation on defensive weapons, we move to the offensive area.

The Senator from Illinois has been one of the outstanding spokesmen in this body on the issue of arms control. I believe that he is making a prudent judgment. He is not given to rash statements. I would, therefore, hope that Senators would listen well to what he has to say, but more significantly, I would hope that our negotiators as well as the negotiators of the Soviet Union would understand that the remarks and the statements of the Senator from Illinois are not directed in a manner to be critical, but rather to be constructive and to lay down some perimeters of advice and counsel for successive negotiations.

I compliment the Senator. It is not a question of whether one agrees with everything he has said. As a matter of fact, I would like to see a zero limit on ABM's. It is just that I am not at all sure it can be immediately achieved. But a strict balanced ABM agreement can be achieved. I do hope, however, that the Soviet Union will get the message from a responsible Member of the Senate that any effort to seek advantage only fuels the arms race and does not halt it. I would hope that our own Government would get the message as well.

Mr. GRIFFIN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Michigan is recognized for 2 minutes.

THE GERMANENESS RULE

Mr. GRIFFIN. Mr. President, the leadership on both sides has been diligently trying to enforce the rules of the Senate. One of the rules is the Pastore rule requiring that all debate during a 3-hour period after the business has been laid before the Senate be germane.

It was the judgment of the minority whip that the remarks being made by the distinguished junior Senator from Minnesota were not unrelated to the pending matter of military foreign assistance and, accordingly, I interposed no objection.

However, because I am conscious of the fact that this was a borderline interpretation I want to make clear to all Senators that no relaxation of the Pastore rule was intended.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (S. 2819) to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

Mr. FULBRIGHT. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 11, strike out "$350,000,000" and insert in lieu thereof "$265,000,000".

On page 2, line 16, strike out $350,000,000" and insert in lieu thereof "$300,000,000".

The PRESIDING OFFICER. Does the Senator wish the amendments to be considered en bloc?

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, this is a relatively simple amendment. It would reduce the amounts authorized in this bill by a total of $185 million, bringing the amounts down to the levels I proposed in committee. It would reduce military grant aid by $50 million, supporting assistance—other than for Israel—by $85 million, and military credit sales—other than for Israel—by $50 million.

I proposed these amounts in committee in an effort to hold the overall authorization close to the amount Congress appropriated in fiscal 1970. The last fiscal year is not a proper benchmark since there was a $1 billion supplemental late in the session. In fact, I believe that the amounts I propose are actually too generous. They total $185 million more than Congress thought was warranted for these same purposes 2 years ago. Let me emphasize that this amendment will in no way affect the funds in this bill for Israel; they are specifically earmarked.

I realize that we will hear dire predictions of what will happen if this amendment is passed—that it will endanger the withdrawal of our troops from

Southeast Asia, and that it will bring about the collapse of the economies of South Vietnam, Laos, and Cambodia. We have heard such predictions in the past about proposed cuts in foreign aid. I suggest that Senators take the current crop with a large degree of equanimity. The consequences of aid cuts never seem to match the predictions.

To illustrate: A story in the November 5 Washington Post, datelined Vietiane, Laos, which reports comments by U.S. officials on the consequences of aid cuts, ends with this paragraph:

Breakdown of the economy through inflation, therefore, would leave most Laotians largely untouched. Below the country's small Lao elite, Laotians simply are not dependent on modern finance for survival.

In other words, life will go on—although the programs which serve, in large measure, to line the pockets of the rich may not.

A November 4 report from South Vietnam in the Washington Post relates that South Vietnamese businessmen "still prefer to put their money into Swiss banking accounts or short-term commercial investments rather than risk capital investments." If there were some way to make the South Vietnamese bring their money home from Geneva, Berne, and Paris and put it to work for their people, perhaps South Vietnam would not be calling for such large infusions of United States aid.

And, of course, the South Vietnamese know that there are ways, other than through this bill, to get economic aid. A news story that appeared in the September 11 Saigon Post contained an account of the comments of an unnamed "high ranking" official in South Vietnam's Economics Ministry—reportedly the Minister of Economics. The account reported that:

He said he also believes President Richard Nixon would manage to extend adequate aid to Vietnam. "He knows how much we need, to what extent we can stand alone."

President Nixon's usual recourse to increase aid to developing countries is the Department of Defense (DOD) budget. He can use part of the military budget in Vietnam for economic assistance here, the official said.

That is the key—as we have seen so often in the past—if something is wanted for Southeast Asia, just dip into the military budget.

Mr. President, I believe that the Senate should do everything possible to liquidate our involvement in Southeast Asia, where most of the money in this bill is to be spent. We do have an obligation to help repair some of the terrible damage we brought to the peoples of these countries, through humanitarian and other such assistance. But the kind of aid proposed here only enables, primarily, the continuation of the graft and corruption whose stench permeates the import programs proposed to be financed by this bill. It is time to put a stop to this Honda and Sony approach to running the economies of these foreign countries.

And it is time that we cut back on the grant military aid program and make these countries appraise their own security interests within some reasonable relationship to their own financial capacities. The extent to which we throw away money on military aid is illustrated by developments in Lebanon. It was recently reported that the United States, through the 1971 supplemental aid bill, gave Lebanon $5 million in military aid it had not even asked for. The unexpected gift, it was said, caught the Lebanese Government by surprise and "For a time it threatened United States-Lebanon relations." Now the Lebanese have turned to the Soviet Union for arms, primarily the article stated, because the U.S. gift started a chain reaction.

In Asia, where the bulk of the military aid money is to go, it makes little sense to seek normalization of relations with China on one hand and, at the same time, seek to continue to contain her through a combination of U.S. bases and U.S. supported armies throughout the region. The administration's military aid policy is quite inconsistent with—and is, in fact, in direct conflict with—the President's announced objectives of ending the war in Southeast Asia and restoring normal relations with China. This bill seeks to promote what, in practice, amounts to a policy of containment by proxy. I think it is time to take practical steps to move from the policy of confrontation to a policy of negotiation, as the President promised in his inaugural address. Reducing the funds for confrontation in this bill will help do that.

I urge that the amendment be approved.

Mr. GRIFFIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I am not a member of the Foreign Relations Committee. However, if I might do so, I wish to direct a few inquiries to the distinguished chairman of the committee so that we might better understand the effect of his proposed amendment. I might say that I was not aware of the amendment until just at the point when he offered it since no printed copies were available.

I noticed that the reduction proposed is $85 million. It is my understanding that in section 3 of the bill there is $85 million specifically authorized for Israel.

Am I correct in assuming that there is no relationship as far as the $85 million is concerned, other than being the same amount of money? Am I correct in concluding that the amendment would not affect the authorization for Israel?

Mr. FULBRIGHT. It does not. The authorization for Israel is a separate line item. The amount is purely coincidental as far as the $85 million is concerned.

The Senator will notice that on page 2, line 11, there is $350 million for economic supporting assistance and my amendment cuts that to $265 million.

I may say to the Senator that this is the amount I offered in committee in an effort to make this bill conform as close as possible to the 1970 foreign aid.

The Senator knows that under the defense procurement bill there is an additional $2.5 billion for this same area. It strikes me that is quite a lot of money for Southeast Asia.

Mr. GRIFFIN. Mr. President, if I may direct another question to the distinguished chairman, he indicated that this amendment was offered in committee. I assume that the committee rejected it. Can the chairman give us any information about what the sentiment was in committee?

Mr. FULBRIGHT. I offered this in three bills. The bill I offered in military affairs carried these amounts. These were increased by a vote of 9 to 7, with the usual vote in which two Democrats joined the Republicans in voting this out. The vote was 9 to 7. I am reminded also that one of those votes was Senator KARL MUNDT's proxy. I am not sure this illustrates anything other than that the committee was closely divided on this issue.

Mr. GRIFFIN. I thank the distinguished chairman for his responses. I am glad to know the figure of $85 million, which is the same amount as the bill provides for Israel, is only a coincidence.

Mr. FULBRIGHT. It is purely a coincidence. The staff had been told to try to make these amounts conform to the 1970 appropriation. The Senator will note that subsection (2) earmarks $85 million for Israel only. In other words, no matter what happens to the other ceiling it will not affect this authorization.

Mr. GRIFFIN. I want to register my strong opposition to the pending amendment, which has been offered by the distinguished chairman of the committee. I feel that the bill as reported by the committee is not adequate. But certainly should not cut it further. I hope the amendment will be rejected.

Pending arrival of some other interested Senators, I suggest the absence of a quorum, with the time to be taken from this side.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I yield 5 minutes to the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I view the pending amendment with grave concern. I think the Nation has fully supported President Nixon's initiative and decision to withdraw our American forces from Vietnam. As a part of that program, the Nixon doctrine was enunicated and was widely applauded on both sides of the aisle and throughout the country. The Nixon doctrine simply indicates that we are not going to be furnishing American manpower to nations fighting to defend themselves, but that we will provide material assistance and help.

I had the feeling at the time that if we could have gotten out of Southeast Asia when we had 540,000 men there, some arrangement could have been made with both North Vietnam and South Vietnam to rebuild the whole nation; that the United States would have been willing to put $10 billion into that effort if, by such a program, we could have shortened and stopped that war.

As I understand the amendment, it would cut into the heart of programs that we are carrying on for refugee assistance and relief in Vietnam. It would cut into the heart of the program that we have underway for land reform, to try to make more viable economic conditions for the people of South Vietnam so that they can actually see the end result of the struggle as beneficial to them.

After all, the Communists have moved into many areas there and have offered all sorts of panaceas to the people. An offer of hope on one side, if there is no evidence of real material benefit on the other side, could undercut our efforts. These programs have been carried on with the encouragement of our Government—reform of land ownership in South Vietnam; providing protection for refugees; money required to purchase materials, such as the distinguished Senator from Mississippi has pointed out to Senators in his letter; a program of acquiring chemicals, steels, and other basic commodities needed by these nations in their own self-interest and self-defense, 90 percent of such products being purchased from American corporations.

It would be foolhardy for us to reduce this program, to gut the Nixon doctrine, the doctrine of enabling other countries to defend themselves, and to try to skim off and cut out of this bill—and really gut the purpose of the bill—funds which are vitally needed now to carry on that program.

The state of shock the Government of Vietnam was in after the action taken by the Senate just last week, when we voted down the foreign assistance bill, and the discussion carried on since then about the rate of our troop withdrawals, are deeply involved with their own feelings about whether they can carry this load themselves. We have been encouraging them to carry it on their own backs. We have asked them to take it over as rapidly as they can. We have said we will provide material assistance and aid, but we want to pull our men out of Vietnam.

I would not want to be responsible for cutting funds if such action might endanger the speed of our withdrawal from Southeast Asia.

For those reasons, I am vigorously opposed to the pending amendment to cut $85 million out of a bill that has already been sharply reduced as it has been reported from the Foreign Relations Committee.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum, the time to be taken from the time allotted to this side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. I inquire of the Chair, how much time remains on this side on the pending amendment?

The PRESIDING OFFICER. Four minutes.

Mr. GRIFFIN. I yield the remaining time on the amendment and 10 minutes under the bill to the distinguished chairman of the Armed Services Committee.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, this field of military aid and supporting assistance is not directly in line with my ordinary obligations to the Senate as chairman of the Armed Services Committee. Over the years, however, with some slight exceptions, I have supported the military aid program in its major features, and from time to time years ago I had the privilege of being affiliated with the late Senator from New Mexico, Mr. Chavez, and others who handled appropriations bills, and in those days I would take some part in debate on these military items.

My immediate concern is with reference to the drastic nature and the immediacy of these extreme cuts in the military aid program, and also the supporting assistance program, particularly as it pertains to the war in Vietnam.

I respect the opinions of others. I know that all the members of the Committee on Foreign Relations are better prepared on these general subjects than I am. But on the area of the war, we have had a lot of coverage, in the Armed Services Committee and in the Appropriations Committee as well, as to a great deal of this military aid in connection with that war.

The amendment before us, offered by the distinguished chairman of the Committee on Foreign Relations, Mr. FULBRIGHT, as I understand, makes further reductions below the bill as reported by the committee in both direct military aid and the economic assistance program on supporting items for military aid. In fact it reduces the money in the bill to the level of approximately what has already been spent under the continuing resolution. So the net effect, those figures being approximately the same, his proposed figure and what has been spent, would be just to stop the program now. That makes the matter more acute, in my humble opinion, and more serious.

So I have an amendment, which will be voted on today under agreed time, that would make some increases, not reductions but increases, in the direct military aid figures as reported by the Committee on Foreign Relations in the new bill, and some increases in the supporting items.

If the Fulbright amendment should pass, that, in effect, would kill the amendment that I propose to offer. So let us get the issue before the Senate. If we want to consider the possibility of raising these figures, a Senator would automatically vote against the amendment now pending, and would still have his rights reserved as to what he would do with reference to my amendment.

For example, I see that the Senator from Idaho (Mr. CHURCH) is just returning to the Chamber. The figures I would propose would be the figures proposed the other day by the Senator from Idaho for military aid. I took his identical figures. I was impressed with his speech at the time, and told him so, though I voted against his amendment. I thought it went somewhat too far. But I do take his figures now, as an illustration of what I am trying to do. I am just trying to assist the Senate; I am not trying to come in here and get my will adopted over that of the Foreign Relations Committee, or anything like that. That is far from my intention, and I think that is pretty well understood.

Mr. President, on this direct military aid, the Fulbright amendment now before us would further reduce the aid. A great deal, in fact most, relatively speaking, of what is involved in my amendment deals with the situation we have in Cambodia. I shall wish to be heard on that more at length later, but now, briefly, we have this Cambodian Army that we have prompted and helped put together with our money and military aid. There are about 218,000 of those men already in uniform, and they are parts of these units. They cannot finance an army such as that. That is just commonsense. They are now holding down four divisions of North Vietnamese troops. They are pinning them down and keeping them engaged. That is directly tied into the withdrawal of our soldiers in Vietnam, and it is directly tied to whatever we decide to do about continuing military aid and economic aid to South Vietnam.

Like it or not, I have reconciled myself, in my thinking, to the fact that for some 2, 3, or 4 years more, at least, we will have to put massive amounts of economic and military aid into South Vietnam if we are going to justify the blood we have already spilled there, the lives lost, and the thousands and thousands of casualties, in addition to the billions of dollars we have already spent there.

I think it comes down to that. I do not like the idea of having to spend so much more, but I am reconciled to it, because I have seen it coming, just as certainly as day follows night. It is a part of our withdrawal program. I think we all want to withdraw; some want us to come out faster than others do. But we are faced with this condition. To be frank about it, I think that for several years we will have to pour into South Vietnam—money for economic aid and military aid, if they are going to be able to carry the burden and continue to be under pressure from North Vietnam.

That is relevant, because Cambodia is a part of that area, physically and geographically. We cannot move it. An army has been built up there that is doing some good. If we are going to liquidate it or stop that kind of assistance, we ought to do it somewhat gradually, at least.

The Fulbright amendment would stop this money now. My amendment would increase it a little—not a great deal—above the committee amendment, and would increase it to the Church level—as I will call it—as we voted on it last week.

I have spoken now of the types of aid together, but particularly about the supporting assistance. That would go to buy items of this kind. It is economic aid from one viewpoint, but it is so tied in with the war and the things that the war has caused and the destruction that the war has imposed that it is listed in a separate item called "Supporting Assistance." The amount I have decided to recommend is 8-percent below what was

in the bill we voted on last week. It goes for things other than direct military aid. It goes for gasoline and for fertilizer in the agricultural areas. It goes for a part of the cost of the land reform that has moved there so slowly. I am not quick to want land reform anywhere, but I decided years ago that it was necessary in that country, and I am disappointed that there has not been more of it. I think we could have gotten things moving in Vietnam much better if we had insisted on land reform more than we have. At any rate, these are matters that go to providing this money.

So with great deference to the Senator from Arkansas, I hope that the Senate will defer its real consideration of these matters until we reach the other amendment. The Fulbright amendment, in effect, would cut off the next amendment. The next amendment I shall offer would make modest increases in each item above the amount in the bill as presented by the committee; then the Senate will have a full choice—a "yes" or a "no" vote.

Those two items in my amendment, I assume, are open to division, if some Senator should want it that way, so that we could have an up or down vote on both, with reference to a choice between the committee recommendations and this modest increase.

I thank the Senator for yielding to me.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8687) to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to authorize real estate acquisition and construction at certain installations in connection with the Safeguard antiballistic missile system, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

The message also announced that the House had passed a joint resolution (H.J. Res. 946) making further continuing appropriations for the fiscal year 1972, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 946) making further continuing appropriations for the fiscal year 1972, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill (S. 2819) to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

Mr. GRIFFIN. Mr. President, unless the distinguished chairman of the Foreign Relations Committee wishes to yield some time that he has available on this amendment—

Mr. FULBRIGHT. I was going to say a few words.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I wish to speak to the whole question of our military assistance program, not specifically in regard to the pending amendment. I am willing to accommodate the wishes of the mover of the amendment as to whether he would prefer me to wait until after this amendment is voted, or to speak now. Personally, I would prefer the latter.

Mr. FULBRIGHT. Very few Senators are in the Chamber. I do not know why the Senator would want to speak now.

Mr. CHURCH. The reason is that I am to be host to a group of Canadian parliamentarians who are coming to the floor of the Senate at 11:30 a.m., followed by a luncheon.

Mr. FULBRIGHT. How much time does the Senator need? I will yield it to him on the bill.

Mr. CHURCH. Approximately 30 minutes.

Mr. FULBRIGHT. I yield 30 minutes on the bill to the Senator from Idaho.

CLOSING THE DOOR ON ARSENAL DIPLOMACY

Mr. CHURCH. Mr. President, 2 weeks ago, the U.S. Senate rejected the 1972 foreign aid bill. Whether this action will be viewed in future years as a beginning of the end of our "arsenal diplomacy" remains to be seen.

What can be said is that for a generation the United States, in the eyes of the world, has seemed more intent on furnishing swords than plowshares. During the last 20 years, through the military assistance component of the AID program alone, we have bestowed on foreign governments $8.1 billion in military vehicles and weapons, $7.1 billion in aircraft, $6.1 billion in ammunition, $2 billion in ships, $2.2 billion in communications equipment, $1.5 billion in missiles and $3.1 billion in other supplies. Services, granted in the form of base construction, training, repairs and spare parts, amounted to an additional $8 billion, for a staggering total of $37 billion dispensed abroad since 1950.

The armaments which these sums represent—that is, delivered weapons—are no less staggering.

Nearly 4,000 F–84 fighters; more than 2,800 F–86 fighters; nearly 3,350 aircraft trainers; 22,000 tanks; 83,000 trailers; 160,300 2½ ton trucks; 2.3 million carbines; 2.4 million rifles; 77,500 machineguns; 30,000 mortars; and 32,500 missiles.

To augment these massive gifts of arms, the Defense Department is now engaged in a rambunctious sales campaign. Our subsidized sales to foreign governments already exceed $16.1 billion, while Pentagon officials anticipate orders worth another $15 billion in the next decade.

Clearly, these Pentagon-packaged sales quite apart from ordinary commercial sales by private American manufacturers, have become a big business in which our Federal Government plays a central role. Today, the U.S. Government is the principal arms dispenser of the world—giving away, arranging credit, and promoting the sale of a volume of arms more than six times that of our nearest rival, the Soviet Union. It is estimated that, since 1945, the United States has bestowed an incredible $165 billion worth of weaponry on foreign governments, a deluge of arms unprecedented in the history of the world. However, our own Government accountants throw up their hands when asked to give us an exact figure. In January of this year, the chief auditor of Congress, Comptroller General Elmer Staats, told the Joint Economic Committee that nowhere in Government is there a complete tabulation of the billions we have spent to arm foreign nations.

Reviewed historically, this lavish dispersal of armaments is a relatively new development—a development that cuts against the grain of our national traditions. Before World War II, sentiment in this country was decidedly against export of weapons. Munition makers were suspect; their trafficking in arms condemned as mischievous, if not evil.

The shift came in 1940 with the outbreak of World War II. France was to fall in May of that year, and Great Britain brought under siege. President Roosevelt approved transfer of 50 American destroyers to the British Navy in exchange for rights to build military bases on British territory in the Western Hemisphere. The gates to the American arsenal, thus pried apart, were soon thrown open to the enormous demands of the war. Under the far-reaching Lend-Lease Act, we furnished $48.5 billion worth of weapons and supplies to 42 foreign governments—nine-tenths of which went to Great Britain, the Soviet Union and France.

The guns of World War II, however, had hardly fallen silent before we commenced a new program of arms aid. We provided Chiang Kai-Shek with arms and supplies originally worth $800 million in an unsuccessful effort to help him retain his faltering grip on the mainland. Starting in 1947, with the Truman Doctrine, we helped Greece, threatened by a Communist guerrilla war, and Turkey, then under intense Soviet pressure. The onset of the "Cold War" brought additional demands for military aid—demands which intensified with the invasion of South Korea. In 1950, Congress voted $1.3 billion in military assistance to 14 countries, thus inaugurating the postwar period of "arsenal diplomacy" for the United States.

Subsequently, the dollars rained so thick and fast, at one point, unfilled orders in the "pipeline" exceeded $12 billion, leading Congress, in some embarrassment, to level off new appropriations at about $1.5 billion a year. Even so, between mid-1950 and mid-1955, our military aid totaled $14 billion, more than one-half of the total $26 billion in foreign aid during the 5-year period. By 1963, an all-time high of 67 foreign governments were receiving some form of assistance from us; each had its own special shop-

ping list brought to our disbursement window. Currently, 46 countries are allocated assistance. And more than 8,900 Americans are engaged abroad administering our arms-disbursement programs In addition, 320,000 foreign soldiers from 70 countries have been trained within the United States or at special schools operated abroad, at a total cost of $1.4 billion.

In recent years, however, financial pressures have increased the emphasis on sales. Much of what we gave away for 20 years, we are now selling. During the past 5 years of sales for cash or easy credit, 30 countries have bought for cash and 15 for credit. Total sales to date exceed $13 billion.

"Buy American," Business Week once reported "is becoming an increasingly prevalent slogan in the world arms market." It has an Orwellian cast because even under our "Food for Peace" program approximately $700 million in military sales have been consummated through the device of counterpart funds to recipient nations.

So it has happened that, within the short span of 30 years, the pendulum of our governmental policy toward export of arms has swung all the way from naive abstention to zealous promotion. Neither extreme is acceptable; the time has come for us to recover our balance.

To be sure, our present involvement is based, like a stool, on the legs of three seductive arguments: First, that we give military aid to help foreign governments resist Communist aggression from without and subversion from within; second, that we give it to strengthen our influence with the military elite in other lands, frequently an important bulwark against Communist penetration; third, that the sale of weapons helps to redress the deficit in our balance of payments—caused, in large part, by the overseas deployment of our own troops.

These arguments grow out of our immediate postwar experience. In the wake of World War II, the westward thrust of Russian power did threaten to engulf Western Europe. The Marshall plan-NATO formula produced spectacular results in rejuvenating the war-torn economy of Western Europe and forging a common shield against the Soviet Union.

The general success of this policy in Europe inoculated our thinking on other fronts. Around the whole periphery of the Communist world, in the Middle East and Asia, we were soon applying the same formulas for assistance that had worked so well in Western Europe. But in these seething countries which had just thrown off colonial rule, conditions called for a highly discriminating kind of military aid. Instead, we slapped it on with eager hands.

We agreed to support armed force levels totally devoid of strategic reality, as though it were possible for Turkey or Iran, without American intervention, to defend themselves successfully against a major Russian attack, or for Taiwan to resist successfully an all-out invasion from the mainland of China.

Such unrealistic force levels, fed by our military assistance programs, have inevitably imposed top-heavy burdens on the fragile economies of many of these underdeveloped lands, with the result that we have had to prop them up with huge financial transfusions just to prevent their collapse. We have robbed our effort to better the threadbare life of the multitudes, as we fostered that repugnant spectacle, so familiar around the rim of Asia today, a "combination of ill-fed people and well-fed armies deploying the most modern equipment."

In the course of this policy, the scale of our military aid has led to scandalous waste. Many a country on the periphery of the Communist world has been turned into a dumping ground for American military equipment. A staff report of the Foreign Relations Committee issued this year points out that the GAO found in one country that although the military assistance program had been virtually completed in 1966, the Defense Department decided to keep the program staff in operation and not until 1969 was the staff even reduced. We also have been told, again and again, of parking lots filled with rusting vehicles and rows of tanks inoperative for lack of trained mechanics.

But these logistical excesses are more than matched by the political naivete which has characterized our military assistance programs in Asia and the Middle East. With the containment of Russia and China our avowed objective, we have been easily seduced into fueling regional arms races motivated more by ancient rivalries than by any shared concern over the threat of Communist aggression. We armed Greece and Turkey to strengthen their defenses against the Soviet Union, but they spoil over Cyprus, where U.N. troops have been sent to police an uneasy truce. We armed Pakistan that she might better resist invasion by Russia or China, but Pakistan did not reckon either Russia or China an enemy and knew, in any case, that the arms had value only as against India—and now against its own citizens in East Bengal.

All this is not to say that we should never have embarked on a military assistance program in Asia or the Middle East. In a country such as Korea, arms aid was essential to deal with the militant nature of the Communist threat, and may have to be extended to cover the withdrawal of half of our own troops. But the program should have been restricted to countries where the need was clearly apparent, and, where given, scaled to the capacity of recipient countries to absorb.

The second broad justification for serving up American military hardware on a global platter, much of it to countries far removed from Communist neighbors, is that it serves to bolster resistance to subversion from within, and gives us more leverage with the military "elite" in many foreign lands. By supplying American weapons, so the argument goes, we can win favor with the army commander and thus contribute to the maintenance of internal stability.

Our obsession with stability betrays our misconception of the dynamics of change in underdeveloped societies. Violent revolution will eventually occur wherever legitimate grievances can find no other outlet. Even if it served our interest to generally suppress revolutions elsewhere—which it assuredly does not—we have not bayonets enough in our arsenal, or money enough in our treasury, to quench the smoldering fires of revolution wherever they occur. Therefore, instead of globalizing our military assistance in pointless proliferation we should converge it on those particular fires which, in our own national interest, we must try to put out.

The revolutions which have concerned us most are those the Communists either start or try to take over. Usually they are labeled by the insurgents as "wars of liberation." When any government is so challenged, its survival depends less upon the weapons we supply than upon the willingness of the population to rally behind it. If the great bulk of the people are loyal, then the guns and ammunition we furnish can make the difference. This was the case for us in Greece, as it was for the British in Malaya. But in Cuba, where the Batista government was loathed, the weaponry we gave it proved of no avail against Castro. He did not walk over Batista's army, he walked through it.

The most poignant example, of course, is Vietnam itself. Our involvement there began with the military aid we extended to the Saigon government, equipping it with forces vastly superior to its adversaries. Yet, the Saigon government steadily lost ground. Massive injections of U.S. weapons, ammunition, equipment, and supplies failed to turn the tide against the insurgents, though they were overmatched in numbers and totally outgunned. Our own troops had to be summoned and the war converted into an American engagement.

The lesson of Vietnam should make us wary of instituting new military aid programs elsewhere. But it has not happened that way. Even now, we are rapidly expanding our military aid in Cambodia, from a modest start of $7 million 18 months ago, to $341 million for this fiscal year.

And far from the theater of war in Southeast Asia, we are busily engaged in instituting new—and perpetuating old—military aid programs, even in the most unlikely place of all, Africa. Here our favorite rationalization is that the gift of arms may gain us favor with the restless young African armies which have either seized or which threaten to seize political power. We cling to this belief despite all the evidence which has accumulated against it. As an institution, particularly in unstable lands, the military will often assert control over the government, but its allegiance can never be bought by the gift of arms.

The army we equipped in Iraq brought down the government we supported by a coup which caught us by surprise. The military assistance we furnished the armed forces of the Dominican Republic did not prevent them from overthrowing the elected regime of Juan Bosch, which we strongly favored at the time. Moreover, the same army later proved unable to put down the subsequent uprising in Santo Domingo, where the landing of American marines only underscored, as it did in Vietnam, the failure of military aid.

For that matter, the Communist powers have done no better. In Indonesia, it was a Soviet-equipped army which turned upon the Indonesian Communist Party, putting 200,000 or more of its members to the sword. In Algeria, it was Russian-furnished tanks which ringed Ben Bella's palace and helped overthrow the Soviet-supported leader. Even in Egypt, the military aid that Sadat receives from the Soviet Union equips the very security forces that regularly suppress Communist activity along the Nile.

Not only have we refused to recognize that foreign armies are a risky investment, but we seem never to take into account the political cost we bear for supporting them. In any poor country of Asia, Africa, or Latin America, where there is an unconscionable concentration of wealth in the hands of the few, where civil liberties are suppressed and despotism dominates, the army is usually the hated symbol of the status quo. Military governments, however stable they may appear, tend to be brittle as well as repressive, and lavishing upon them "Made-in-America" tanks and jet fighter planes cannot help but estrange the United States from the discontented people, thus delivering into Communist hands a lively issue to exploit against us.

For these reasons, our military grants, which have become a routine part of the foreign aid package we offer foreign governments, ought to be terminated in most cases. The giveaway arms program should be drastically curtailed.

As for our sales of the wares of war helping to alleviate our balance-of-payments deficit, we should not let such palliatives blind us to far more important long-range foreign policy considerations. It may make good fiscal sense to sell arms to developed nations—Britain or Canada or West Germany—but we should avoid export sales into troubled regions where war hangs in the balance and we should never promote sales contracts that conflict with our basic foreign policy objectives. Yet, as it now stands, the tail often wags the dog, with short-range tactics frequently usurping our long-term strategic interests.

There are the beginnings of encouraging signs of change.

The 1971 report of the Senate Foreign Relations Committee on our military-economic aid program states:

> The issue is not "should we provide aid?" It is "How?" and "How much?" The first question must be answered before the second can be approached sensibly—and the old answers of the past to "How?" are outmoded and discredited. The future of foreign aid is bleak indeed until a new program can be developed which will command greater respect and support, both with the public and the Congress, than the current program commands.

The pressures which have made the United States the leading arms merchant to the world must be thoroughly probed. The beginning of wisdom is the recognition that there is a problem, and then the search for answers can begin.

The foreign aid bill which the Senate rejected 2 weeks ago contained authorizations for 46 countries to receive military grant aid and 43 to receive military sales or credit assistance. In recent years, the committee has attempted to constrict the program, both as to the number of recipient countries and the amount of funds authorized. In the latest instance, the committee reduced from $705 to $565 million the authorization for military grant assistance. Before the bill was defeated on the Senate floor, my amendment to reduce it further by another $113 million was approved by nearly a 2-to-1 majority. The depth of the feeling against military grant aid was best expressed by the Senator from Massachusetts (Mr. KENNEDY) who said that this program is "the worst aspect of the bill now before us, contaminating what remains by its very presence."

The military assistance bill now pending before the Senate meets the essential requirements for a selective, sensible program. New obligational authority in the amount of $350 million is proposed for military grant aid, with another $435 million provided for supporting assistance. Of this latter amount, $85 million would be earmarked for Israel.

In addition, $400 million would be authorized to finance new military credit sales, an amount that can be stretched under the guarantee procedures to actually underwrite $550 million worth of new sales. Of this total, $300 million would be earmarked for Israel.

Altogether, the total military package, grants and subsidized sales combined, comes to $1,185 million.

It is enough. To allow for more would only invite a return to the wasteful and indiscriminate arms disbursal practices of the past, which have done so much to discredit the United States in the eyes of the world.

I hope the Senate will resist the pressures to enlarge this bill. The time has come for us to start closing the doors on arsenal diplomacy.

Yesterday, I said that the Committee on Foreign Relations had made a bona fide effort to trim back the aid package in the light of a realistic assessment of our current fiscal difficulties, and to remold it in such a way as to constitute a transitional step toward a new and more sensible foreign aid program.

In view of that effort, I pledged myself to support the committee, both with respect to the economic aid and the military aid programs. I intend to do that.

Therefore, I shall vote against the amendment offered by the distinguished chairman of the Committee on Foreign Relations, as I intend later to vote against the amendments offered by the distinguished chairman of the Committee on Armed Services. His amendments would have the effect of increasing further the amounts contained in the committee's military aid bill.

Should the bill be increased above the committee level, I shall vote against it on final passage.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I do not know that anything new can be said about this but I do want to call attention to one or two aspects of it.

It is true the amounts in these military programs have become so vast that we lose all sense of perspective as to their meaning. It is always in terms of hundreds of millions of dollars.

I remind the Senate that in the military procurement bill, which has already passed the Senate, and which the House passed yesterday, there is $2.5 billion authorized for this area, that is, Vietnam, Laos, and Thailand. That is a vast amount of money. It is so big none of us can realize just how big it is.

I must say that the argument of the Senator from Mississippi, the distinguished chairman of the Committee on Armed Services, did throw some light upon the administration's policy for this area. I have been trying to find out what its policy objective is. He very frankly indicated he thought in his view we would be in Southeast Asia indefinitely.

I think it is fair to say that is what he said a few moments ago. He did not foresee disengagement in this area in the near future.

I believe the people of this country have been persuaded that, on the contrary, our objective is to withdraw, to disengage, and to settle this matter by negotiations.

For whatever they are worth, recent polls indicate that this is what the clear majority of the people of this country wish—that is, to liquidate this most tragic and unfortunate war and to come back and give our attention and money to our own domestic requirements.

So I must compliment the distinguished Senator from Mississippi for making much clearer than the administration has what the objective of our policy is in Southeast Asia. He fortifies my belief, which I stated yesterday and on other occasions, that what is being done indicates there is no present intention to liquidate our engagement in Southeast Asia in the foreseeable future. If that is what this Senate wishes, contrary, I believe, to the interests of this country and the wishes of the people of this country, it is privileged to do so.

The cut I have proposed here is very modest. It is intended to try to bring this amount back in line with what was appropriated in 1970. We have to be careful where we talk about cuts; I am proposing cuts in the administration's request not in the amount appropriated for 1970. It is approximately the same; I want to get back to the 1970 level. The effect of this enormous outlay, these hundreds of millions of dollars, on these countries is simply to further a disastrous war.

Mr. President, for the information of anyone who wishes to inform himself, I shall place in the RECORD a few articles on some of the results of these enormous expenditures of money.

I ask unanimous consent to have printed in the RECORD an article which was published in the Washington Star of November 10, 1971, entitled "United States Rapped on Laos Money Crisis."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. RAPPED ON LAOS MONEY CRISIS

(By Tammy Arbuckle)

VIENTIANE.—It's time for a long cool look at the $52 million U.S. economic aid program in Laos, judging by details of Laos' current economic crisis revealed today by diplomatic and Laotian sources.

Sources charged that AID officials in Vientiane remained unperturbed during a five-month run on the Foreign Exchange Operations Fund (FEOF) until they were jolted to awareness by other donor nations—Japan, Britain, Australia and France.

FEOF is a consortium to back the kip with U.S. dollars by selling dollars through Lao banks to local importers, thus stabilizing the kip and Laos' economy.

Explaining causes of the crisis, these sources said the International Monetary Fund, which advises FEOF, planned devaluation of the Lao kip at the end of this calendar year because the Lao government is overspending and because of gold trade fall-offs resulting from the high Lao government deficit.

However, high-ranking Lao officials are said to have tipped off Chinese merchants of the plan and the merchants began hoarding imports paid for by millions of dollars drawn from FEOF.

The merchant's intent was to buy luxury imports cheap, then hoard them until devaluation so they could be sold at huge profits.

During this run on the fund, sources said, "Americans remained unperturbed until finally other donor nations warned them they better watch this."

The United States contributes most of the fund money—$18.3 million, or 72.5 percent of the total fund—but the Americans did not move til Sept. 29 when they approached Lao Premier Souvanna Phouma during his visit to Washington.

The United States waited until Finance Minister Sisouk Na Champassak returned toward the end of October to push for a new package deal on the Lao economy, but by that time—the week of October 15 to 22—there was a dramatic run of FEOF by Chinese importers who took out over $1 million in that week.

As late as Nov. 4, an American source, while admitting there had been a run and $1 million had gone in one week, tried to cover the situation up.

All this is the tail end of a story of AID's failure to press for a stop to conditions and abuses which caused the U.S. contribution to FEOF to jump from $4 million in 1964 to $18.3 million in fiscal 1971.

These conditions and abuses include overspending by the Lao government—diplomatic sources said the Lao government has three times as many people as it needs. They say 50 percent of Lao spending is on these salaries.

CORRUPTION REMAINS

Most of the remainder of the Lao budget is spent on the war. In both civil and military budgeting, large areas of corruption have yet to be eliminated such as "ghost soldiers"—non-existent soldiers slipped by pay officials onto the Lao army payroll.

Abuses refer mostly to Vientiane's wheeling and dealing Chinese merchants, Lao officials and diplomats would like to see measures to stop the Chinese importers from sending large sums of dollars abroad and from selling goods to Thailand.

These imported goods are brought cheaply into Laos through buying dollars from the FEOF, then sold to Thailand adding to Vientiane's large money supply problem.

Profiteering has sent Lao prices soaring. Merchants, for example, buy lemons at 5 cents a dozen in Thailand, smuggle them into Laos, then charge 5 cents for two.

BENEFITS LIMITED

Under existing conditions, the only people who benefit from the FEOF are several thousand Chinese and Lao elite.

The government's new package of reforms to deal with some of the problems was announced yesterday. It devalued to kip by 20 percent, increasing taxes on luxury imports by 15 percent and put in effect other measures to curb some of the worst trading abuses.

The devaluation plus the new import taxes will enable the FEOF to operate until Dec. 31.

However, the ordinary Lao which AID is supposed to be helping will suffer too.

Although the government has frosen wages for the last four months, it has not instituted price controls for essential commodities.

Mr. FULBRIGHT. Mr. President, I will read several paragraphs from the article which states:

It's time for a long cool look at the $52 million U.S. economic aid program in Laos, judging by details of Laos' current economic crisis revealed today by diplomatic and Laotian sources.

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The United States contributes most of the fund money—$18.3 million, or 72.5 percent of the total fund.

All this is the tail end of a story of AID's failure to press for a stop to conditions and abuses which caused the U.S. contribution to FEOF to jump from $4 million in 1964 to $18.3 million in fiscal 1971.

These conditions and abuses include overspending by the Lao government—diplomatic sources said the Lao government has three times as many people as it needs. They say 50 percent of Lao spending is on these salaries.

In both civil and military budgeting, large areas of corruption have yet to be eliminated such as "ghost soldiers"—the non-existent soldiers slipped by pay officials onto the Lao army payroll.

Abuses refer mostly to Vientiane's wheeling and dealing Chinese merchants. Lao officials and diplomats would like to see measures to stop the Chinese importers from sending large sums of dollars abroad and from selling goods to Thailand.

Under existing conditions, the only people who benefit from the FEOF are several thousand Chinese and Lao elite.

Mr. President, that is what this money finally ends up doing: Benefiting several thousand Chinese and Lao elite.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from committee hearings on Vietnam proposals on May 13, 1971.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COMMITTEE HEARINGS ON VIETNAM PROPOSALS

Mr. LUCE. As I understand they went around and watched people put ballots in boxes. [Laughter.]

And we can do that again. But I don't think that it would solve any problems, and by sending our observers there and by putting this kind of priority there it brings the elections into a kind of light that I think legitimizes them, and so on.

(Mr. Luce's prepared statement follows:)

STATEMENT OF DON LUCE BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE

I am Don Luce from East Calais, Vermont. I went to Viet Nam in 1958 as a volunteer in agriculture. My job was to work with people in the highlands area of Ban Me Thuot to find a better variety of sweet potato. In 1961, I was appointed Viet Nam director for IVS. In 1967, I resigned as the IVS/Viet Nam director to publicly state my opposition to the U.S. policy of refugee creation, defoliation and bombing of the countryside. During the year that I was in the U.S., I was a research associate at the Center for International Studies at Cornell University. In October 1968, I returned to Viet Nam as a free lance journalist and in June 1969 began a study on post-war reconstruction for the World Council of Churches (WCC). I was also asked to write for the Ecumenical Press Service of the WCC. I am still employed by the WCC as research officer for Viet Nam, but my testimony here is made as a private citizen and *not* as a spokesman for the World Council of Churches.

I. ECONOMIC STRUCTURE

The net effect of the United States aid program has been to create a dependence on us. The people now have Hondas, TV sets, and they know the only way to keep these is for the Americans to stay. Now, many South Vietnamese want Americans to stay so they can continue to have higher paying jobs, yet at the same time want Americans to leave because they don't want foreigners on their soil, and because they can see the tremendous social disruption that the foreigners are causing.

American aid has, in general, widened the gap between the rich and the poor. Those people who have been able to get close to Americans, particularly as contractors, to rent houses, or provide other services, have gotten much richer. The poor, by comparison, have gotten that much poorer. Corruption has become so deeply entrenched that it cannot be stopped. For example, the chief customs advisor for the U.S. Government in Saigon recently wrote that "the conditions at Tan Son Nhut Airport freely allows the smuggling of dangerous drugs and narcotics." Another advisor wrote: "The sole function of Customs at the airport seems to be to assist these smugglers to bring in their contraband without hindrance . . ."

With the breakdown of the economic side of life, there has been a corresponding breakdown of the social structure. Traditionally, the family has been the most important social unit. The whole family was involved in the planting, growing, and harvesting of the rice. But beginning in about 1965, with the large forced refugee movements, this family structure was broken down. The fathers joined one army or the other, the old women washed uniforms for the foreign soldiers, the young girls worked in the bars and brotherls, and the children shined shoes, watched cars, washed cars, and stole from cars. The members of the family found that they were no longer dependent on one another, and began to spread apart. The fact that the little children often made more money than their mothers accelerated this breakdown. It is my belief that only a return to the farm can re-establish the strength of the family. However, I don't believe this can happen as long as the U.S. is in South East Asia, bombing the countryside, or in the cities of South Vietnam providing high incomes or the promise of high incomes to people there. I believe our continued presence in Viet Nam will result in a worsening of the economic and social situation, and an increase in strikes and anti-Americanism. The frustrated people will show their anger about this situation—a situation they don't fully understand, but a situation they sense is destroying them.

II. REPRESSION

There are at least 100,000 political prisoners in the jails of South Vietnam today. Since Vietnam is a country less than 1/10 the size of the U.S., this is the equivalent of our having more than 1 million American political prisoners in jail.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Vietnam Tax Problem—Most Just Don't Pay," published in the Christian Science Monitor on January 4, 1971.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIET TAX PROBLEM—MOST JUST DO NOT PAY

(By Daniel Southerland)

SAIGON.—Vietnamese do not enjoy paying taxes.

But, unlike American taxpayers, who are largely financing the war, most Vietnamese are not even in the habit of paying taxes—at least not to the government. Tax evasion is the rule, rather than the exception.

In the rural areas of South Vietnam, most farmers do not pay any direct taxes to the government. But many do pay to the Viet Cong, even in areas under apparent government control.

One way for the Saigon government to cope with its severe financial problems—problems which could undermine President Nixon's Vietnamization program—would be to create a more effective tax system. The Saigon government has launched a door-to-door campaign to do just that, in an attempt to find out who the tax evaders are in the country's cities and provincial towns.

But this survey, which began in early December and will continue through January, is only a first step toward creating a more equitable, efficient tax system. It may be many years before South Vietnam has an effective system.

A report by a joint U.S.-Vietnamese development research team completed in 1969 said, "Vietnam began the war with a basically unproductive, inequitable, and inefficient tax system; it probably will end the war with much the same system.

"War finance has consisted of muddling through. . . ."

ADVISERS SEE PROGRESS

Nonetheless, advisers to the Saigon government from the U.S. Internal Revenue Service profess to see what could be a turning point in the current tax survey, and what they describe as a strengthened desire on the part of the government to get on with the job.

In 1971, in addition to the revenue required to maintain its huge army, the government is going to need more money for its land-reform program and for a probable new increase in wages for soldiers and civil servants.

In looking to the coming year it is no exaggeration to say that many United States and Vietnamese officials are more worried about a possible collapse of the economy than they are about a possible resurgence of the North Vietnamese and Viet Cong.

"Two or three years ago, the government was completely occupied with the military situation," said Ha Xuan Trung, Deputy Minister of Finance in the Saigon government.

"But now that the war has slowed down we've got more time to devote to peacetime problems such as taxation."

"We realize that U.S. aid will eventually be reduced and that we must rely more on ourselves," he said.

"The government is determined to push strongly on taxation."

TAX COLLECTIONS RISING

Tax collections have risen steadily in recent years, but have nonetheless accounted for only a small and declining share of the national revenue. The government withholds taxes from the salaries of its ill-paid civil servants. But the tax system has barely touched the urban rich, many of whom have grown wealthy off the war.

According to one estimate, only one-fourth of the country's taxable properties are listed on the government's tax rolls. And fewer than half of South Vietnam's importers, physicians, pharmacists, restaurant owners, and goldsmiths admitted to making any profit or paid any taxes in 1969. Most claimed they had taken losses or only broken even.

Tax officials say few businessmen in South Vietnam keep good books, and that those who do usually fail to show the "real books" to the tax assessors.

The current tax survey is supposed to reach about a million households, thus doubling the number of people on the tax roles.

One of the aims of the survey is simply "to awake the fiscal conscience of the people," said Pham Can Ich the director general of taxation.

"The people aren't educated as to their civic duty," said Mr. Ich.

Doan Van Dang, the chief tax inspector for Cholon, Saigon's predominantly Chinese sister city, puts it more bluntly:

"Most of the taxpayers in Vietnam are dishonest," he said.

OFFICIAL DISHONESTY ADMITTED

Mr. Dang also frankly admits that the tax collectors themselves have often been less than honest. ("The tax officers show you how to cheat," said a Vietnamese newsman.)

But, under new procedures, Mr. Dang hopes to do away with the system of bargaining whereby the tax assessor makes a deal with the taxpayer in return for a bribe.

Mr. Dang is particularly proud of his office for one more recent discovery of tax evasion. An employee of a fish and meat canning company which had been declaring losses turned over the company's "real books" to the tax offices. The books showed that the company had been making profits of 35 million piasters annually.

Still, the difficulties facing the government are staggering. The government has only 2,200 persons working full time on tax matters for the entire country. Workers from other ministries, as well as Army cadets and rural development cadres, had to be borrowed to help distribute the forms for the current tax survey.

BONUSES FOR COLLECTORS

The government is now giving bonuses to its underpaid tax collectors in an effort to encourage them to do a better job. The average tax collector's salary is only about 10,000 piasters, or about $36 (U.S.) a month. Mr. Dang finds that his daughter who teaches English in a private institution in Saigon, can make two to three times as much as he does each month.

The Viet Cong must be added to Mr. Dang's troubles, although he says they are not his main concern.

The Viet Cong blew up the front of his tax office in Cholon with an explosive charge a few weeks ago. The blast destroyed a hard-to-get adding machine and damaged a typewriter, which was repaired only after employees dug into their own pockets, Mr. Dang complained.

He also complained that the penalties for tax evasion are too light. Under the current laws, there are no jail penalties for tax evasion.

NEW LAW DRAFTED

The government has submitted portions of a new and tougher tax law to the National Assembly. Eventually, the government hopes to replace completely the outdated French tax code now in use. But because 1971 is an election year in Vietnam, quick action on the unpopular tax legislation is not expected.

In the meantime, one indication that the current tax survey may be getting somewhere is the howls of protest it is provoking among well-to-do businessmen, professional men, and National Assembly deputies. Some movie theaters, restaurants, gold shops, and beauty parlors in Saigon are already being asked to pay 20 to 30 times more than the token taxes they paid in the past.

Many businessmen deeply resent this, because they consider the government officials who are collecting the taxes to be corrupt.

But one businessman was somewhat hopeful.

"In a few years," he said, "we'll get used to paying taxes."

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Jack Foisie, one of the most experienced reporters in Saigon for the Los Angeles Times, entitled "Saigon Seeks Post-Pullout Aid," which was printed in the Washington Post on August 25, 1970.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SAIGON SEEKS POST-PULLOUT AID

(By Jack Foisie)

SAIGON.—Taking American troops out of the jungles is a lot easier than taking South Vietnam's economy out of the American pocketbook.

This is the simple economic fact that American tax-payers, increasingly elated as each new contingent of troops heads homeward, should consider.

Reduction of the large U.S. civilian presence in Vietnam is proceeding much more slowly than the military pullout.

While "Vietnamization" of the fighting is making steady progress, efforts to reshape the wartime economy so that it can operate without massive American support is making no progress at all.

These are general conclusions of U.S. and South Vietnamese authorities here who deal with what some of them concede has become an "economist's nightmare"; that is, a nation completely dependent upon the economic support of an ally who now wants to leave.

The most prominent Vietnamese realist on this subject is Minister of Economy Pham Kim Ngoc. He explained his country's predicament (and America's dilemma) this way:

"The United States must choose whether it wants South Vietnam to replace American troops or to replace American resources. I have made it clear we cannot do both at this time."

After hearing arguments by staff members of the American embassy and the Agency for International Development (AID) mission, Ambassador Ellsworth Bunker came to the same conclusion. As a result, it is now U.S. policy not to press President Thieu's government to make the painful economic reforms needed to set the nation on the path to self-sufficiency.

Instead, Thieu will get increased military and economic aid, and his army will continue its take-over of combat responsibility from U.S. forces.

Even before the decision to increase financial assistance to Vietnam, the United States was paying—directly or indirectly—for 53 per cent of Vietnamese government spending. Military aid alone cost $500 million during the fiscal year ending June 30.

Ngoc has estimated an extra $200 million in economic aid will be needed this year to help combat inflation and to cushion the layoffs as U.S. troops depart and military bases close.

Some officials are bitter that Bunker and the Nixon administration had decided once again to give Thieu just about all he wants. These officials sought to make Thieu enforce the new austerity measures such as cutting back on consumer spending and demanding

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efficient tax collections. There has been no meaningful progress toward these goals.

The "soft" American stand was supported by the embassy's political types more than by the economists. They argue that Thieu is faced with growing political unrest and war weariness hence this is the wrong time to impose harsh economic measures.

PHONY PROSPERITY

However the problem is to be handled, South Vietnam appears to be sinking into an economic snakepit. This is true, economists say, even though the nation's average citizens appear to be living better than ever before. "It is phony prosperity," one economist said.

There are television sets even in the most modest of Saigon homes, and there are so many motorbikes and cars that pollution, rather than the war, is causing the shade trees to die.

But there are warnings that this affluence is ending. Despite bumper crops, the price of rice has doubled in the past nine months.

Much of this was due, it is true, to inefficient distribution of the harvest and to hoarding and corruption. In one of Thieu's more viable economic actions, he increased the base price of rice to be paid the farmer in an effort to get him to use "miracle" seed, fertilizer and machinery so as to increase production.

The objective is to make Vietnam self-sufficient in rice, and eventually a rice exporter, as it once was.

The United States is the biggest employer of Vietnamese labor other than the Saigon government itself, with 150,000 working at military installations. Their wages are better than Vietnamese get for like work elsewhere.

Economists realize what lies ahead when the American rollback reaches the halfway point, perhaps next year. There will be massive unemployment, urban unrest and perhaps runaway inflation.

To control wartime inflation, a strong government normally imposes price controls and heavy taxes. But it was American reasoning that the Saigon government, still not entirely stable, would have to use other methods.

The American scheme was to import consumer goods to soak up the money gained from full employment and good wages.

American dollars indirectly underwrote the import of consumer goods. American aid money also went into another import program for improving the country's long-range well-being. Roads are being rebuilt, waterways improved, utilities upgraded and hundreds of other civic projects are underway.

The people who have suffered under the artificially cooled inflationary conditions have been the million men in uniform and the 250,000 civil servants. Even with extra jobs, their income has not been sufficient.

It is for the serviceman and civil servant that much of the added aid money is being asked. The families of Vietnam soldiers will get U.S.-financed housing near military bases and will be given American canned food as an experiment.

It is hoped that such benefits will cut down the desertion rate. Civil servants are due for a pay raise and it is believed this will increase administrative efficiency and dampen corruption.

Mr. FULBRIGHT. Mr. President, the article describes the effect of this exorbitant extravagance of the supporting assistance program, the so-called economic assistance to South Vietnam.

One paragraph is worthy of note. It states:

Some officials are bitter that Bunker and the Nixon administration had decided once again to give Thieu just about all he wants. These officials sought to make Thieu enforce the new austerity measures, such as cutting back on consumer spending and demanding efficient tax collections. There has been no meaningful progress toward these goals.

The "soft" American stand was supported by the embassy's political types more than by the economists. They argue that Thieu is faced with growing political unrest and war weariness, hence this is the wrong time to impose harsh economic measures.

There are television sets even in the most modest of Saigon homes, and there are so many motorbikes and cars that pollution, rather than the war, is causing the shade trees to die.

The whole article simply points up the corruption which these vast amounts of money cause in the economies of the countries in Southeast Asia. I do not think that these vast amounts serve any useful purpose from the point of view of the American taxpayers. I think it is simply inertia or habit that causes us to continue to supply such enormous sums for these purposes.

My amendment, as I said, approximates what we provided in 1970, and I think that is ample.

I ask for the yeas and nays on my amendment and ask that we proceed to a vote.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. FULBRIGHT. Mr. President, I yield back the balance of my time——

Mr. SYMINGTON. Mr. President, will the Senator yield to me?

Mr. FULBRIGHT. I yield 3 minutes to the Senator from Missouri.

Mr. SYMINGTON. Mr. President, my position, after studying to the best of my ability these proposed military aid programs, has to do with discrimination and national priorities incident to our increasingly limited resources.

Earlier this week the voters of former President Truman's hometown, Independence, Mo., turned down a school bond issue needed to operate the educational system in that community on a normal schedule.

This is the third time this year that the taxpayers of Independence have refused to pass a school bond issue and as a consequence on October 31 the schools were forced to close and are still closed. They will not open again until next Monday, but this only temporary, because of the availability of the limited State aid that allows them to open at all.

Unfortunately this situation is not unique. In hundreds of communities across the Nation taxpayers are rebelling at additional assessments for school costs, thus forcing a reduction in educational opportunities for a tremendous number of our youth.

According to a recent National Education Association survey, 41 of the larger school districts are making some kind of cutback this year and 13 are on a static budget permitting no additions or improvements.

A recent article in the Wall Street Journal noted that in the State of New York voters turned down 132 school budgets proposed for 1971–72, as compared with 82 budget rejects a year earlier.

That same article stated that in Louisville, Ky.—

School administrators decided against even trying for higher property taxes, after a poll showed that while two-thirds of the voters agreed school financial problems were serious, only one-third said they were willing to pay higher taxes to solve them.

Another survey shows that in 1970 voters across the land turned down some $1.6 billion in school bonds.

The overburdened taxpayer is indeed rebelling and it would appear clear that if this burden is not lightened somewhat, funds for those programs which are so vital to the maintenance of a strong and healthy America will become even more scarce.

I noticed last night that the distinguished Senator from Virginia pointed out that the deficit for this year will probably be $35 billion.

In this connection, it is particularly difficult to understand why this administration is seeking a total of some $3.5 billion for economic and military assistance when at the same time it refuses to spend some $14 billion which has already been appropriated by the Congress, the bulk of which is for important domestic programs such as model cities, low-rent public housing, medical services, water and sewer grants, and farm credit.

The term "reordering our priorities" has become a cliché, but its message is still valid.

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. SYMINGTON. Mr. President, I ask unanimous consent to have another minute.

Mr. FULBRIGHT. Mr. President, I yield the Senator 1 more minute.

Mr. SYMINGTON. We cannot continue to expect the American taxpayer to support an endless list of Government programs. Our limited resources and the current financial conditions require that choices be made; and I for one believe that domestic needs dictate a reduction of expenditures for overseas programs.

For these reasons, I urge the Senate to support reductions in military aid and supporting assistance.

Mr. FULBRIGHT. Mr. President, I yield 1 minute to the Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. Mr. President, I appreciate the remarks of the Senator from Arkansas, but just to make the record clear—and I do not know what inferences could be drawn from what has been said—I do not speak for the administration in any way about future military aid or economic aid. I just speak for the people of Mississippi as best I can and as chairman of the Armed Services Committee where I have some special responsibility.

In a letter to my colleagues yesterday I said:

I put the administration on notice that I expect to support only a minimum military program for next year, less than what they may want.

I am against this amendment for the reasons I have stated—because I think the situation is acute there. I frankly say I view several years of economic aid in South Vietnam, and perhaps in some other areas there, following our pullout, which I hope will occur as soon as reasonably possible.

I yield back the balance of my time.

Mr. KENNEDY. Mr. President, I want to strongly endorse the amendment offered by the chairman of the Senate Foreign Relations Committee to reduce the military aid budget by some $135 million.

I want to emphasize that there is no attempt here at reducing in any way the moneys that Israel would receive. However, the overall authorization for funding for military grants and supporting assistance would be brought down to a level that is far more in keeping with the barebones foreign aid package that the Senate has been considering.

It is simply inconceivable to me that we could pass a bill which provides as much military assistance as economic assistance. The less developed nations of the world would be far better off if every dime that is contained in the military aid budget were shifted to economic and humanitarian aid.

The role of the United States as the world's largest used weapons salesman is one that earns us few friends. And all too frequently, the selection of nations who will receive that aid mocks our own high principles and ideals. To send military equipment to Pakistan, to Greece, to Spain, to Brazil has always been acceptable to the Defense Department and has always been acceptable to this administration.

It is time to cease embracing the military dictators of the world.

In country after country, U.S. weapons are used not to defend a nation against invasion but to defend a repressive government against political opposition.

We are now spending at least $4 billion in military assistance for this year alone and in addition, the Defense Department has over $1.5 billion available in the pipeline from past authorizations. Thus, the Defense Department will be able to expend over $5.5 billion this year alone for foreign military assistance. I believe that is totally unjustified.

Therefore, I strongly endorse the amendment by the Senator from Arkansas and urge the Senate to approve this effort to place our priorities in foreign assistance in some perspective.

The PRESIDING OFFICER. All time has been used or yielded back.

The question is on agreeing to the amendment of the Senator from Arkansas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CHURCH (when his name was called). Mr. President, on this vote I have a pair with the Senator from Alaska (Mr. GRAVEL). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. MANSFIELD. I announce that the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), and the Senator from South Dakota (Mr. MCGOVERN), are necessarily absent.

I further announce that the Senator from West Virginia (Mr. BYRD) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from South Carolina (Mr. THURMOND) and the Senator from Connecticut (Mr. WEICKER) are detained on official business.

If present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 24, nays 64, as follows:

[No. 305 Leg.]

YEAS—24

Bayh	Hollings	Mondale
Burdick	Hughes	Muskie
Cranston	Inouye	Nelson
Eagleton	Kennedy	Pastore
Ellender	Magnuson	Pell
Fulbright	Mansfield	Proxmire
Hart	McClellan	Randolph
Hatfield	Metcalf	Symington

NAYS—64

Aiken	Eastland	Pearson
Allen	Ervin	Percy
Allott	Fannin	Ribicoff
Anderson	Fong	Roth
Baker	Gambrell	Saxbe
Beall	Goldwater	Schweiker
Bennett	Griffin	Scott
Bentsen	Gurney	Smith
Bible	Hansen	Sparkman
Boggs	Hruska	Spong
Brooke	Humphrey	Stafford
Buckley	Jackson	Stennis
Byrd, Va.	Javits	Stevens
Cannon	Jordan, N.C.	Stevenson
Case	Jordan, Idaho	Taft
Chiles	Long	Talmadge
Cook	McGee	Tower
Cooper	McIntyre	Tunney
Cotton	Miller	Williams
Curtis	Montoya	Young
Dole	Moss	
Dominick	Packwood	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Church, against.

NOT VOTING—11

Bellmon	Harris	Mundt
Brock	Hartke	Thurmond
Byrd, W. Va.	Mathias	Weicker
Gravel	McGovern	

So Mr. FULBRIGHT's amendment was rejected.

AMENDMENT NO. 631

Mr. STENNIS. Mr. President, I call up amendment No. 631 and ask that it be stated. Then I will yield to the Senator from Montana.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 11, strike out "$350,000,000" and insert in lieu thereof "$566,000,000".

On page 2, line 16, strike out "$350,000,000" and insert in lieu thereof "$452,000,000".

The PRESIDING OFFICER. Is this the amendment on which there are to be 4 hours of debate?

Mr. STENNIS. That is correct.

I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that order be vitiated, that there be 2 hours of debate, the time to be equally divided between the sponsor of the amendment, the distinguished Senator from Mississippi (Mr. STENNIS), and the manager of the bill, the distinguished Senator from Arkansas (Mr. FULBRIGHT).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that instead of taking 20 minutes for rollcall votes during the remainder of the day, the rollcalls be limited to 15 minutes. This meets with the approval of the acting minority leader and those connected with the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, reserving the right to object, just for clarification, as I understand the situation now, consent has already been given on this amendment for 1 hour on each side, rather than 4 hours.

Mr. MANSFIELD. That is correct.

Mr. STENNIS. I thank the Senator from Montana.

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from West Virginia (Mr. BYRD) be granted leave of absence for Thursday, November 11, 1971.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY A DELEGATION OF MEMBERS OF THE CANADIAN PARLIAMENT

Mr. CHURCH. Mr. President, while so many Senators are still in the Chamber, I invite their attention to a distinguished group of Canadian parliamentarians who have come to visit us today.

As you know, Mr. President, Canada is facing serious problems as a result of the repercussions which have flowed from our imposition of the 10-percent excise tax on certain imports. Canada and the United States have the highest volume of trade of any two countries in the history of the world. More than half of that trade, back and forth, has been conducted without the imposition of tariffs of any kind. As a consequence, the levying of this 10-percent surtax has occasioned serious problems for Canada and this parliamentary group has come down here to discuss those problems with us.

Mr. President, we are happy indeed to welcome them. Canada has always been, from the earliest days of our Republic, our closest and most important friend.

I shall introduce the members of the parliamentary group as soon as the distinguished dean of Republican Senators, the Senator from Vermont (Mr. AIKEN), has made his remarks of welcome, I yield to him now for that purpose, and then I shall request a 5-minute recess so that Senators may greet our distinguished visitors.

Mr. AIKEN. Mr. President, I am very glad we have in this Chamber at this moment 16 members of the Canadian Parliament from both their House and Senate.

Every Senator in this body knows that Canada is our nearest and most important neighbor. No two countries in the world are more dependent upon each other, I would say, than the United States and Canada.

Members of the Canadian Parliament speak our language. If we read Hansard every day, as I do, which is their equivalent of our CONGRESSIONAL RECORD, we know that they are frequently much more expressive than we are in talking to each other.

They also have something we do not have; namely, their Cabinet members appear on the floor of their House to answer questions of the Members. In fact their Cabinet members are also Members of their House and cannot get away from their critics, and questioners as easily as our Cabinet members.

Mr. President, I am not going to say any more right now, except that Canada has problems and the United States has problems. At the base of them all, we will find that our problems are mutual and, therefore, that we have to work together to solve them. It is extremely important that Canada and the United States work cooperatively.

We are going to talk over our problems with them at 2 p.m. this afternoon.

Just let me conclude by saying how delighted we are to have them with us today. We shall shortly have a recess so that Members of the Senate—and there are many in the Chamber at this moment—will have an opportunity to meet our Canadian friends.

Mr. PERCY. Mr. President, will the Senator from Idaho yield to me?

Mr. CHURCH. I am happy to yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I believe that this visit of the distinguished delegation from Canada comes at a most propitious moment.

Ever since the very able and distinguished Douglas Stuart of Illinois was our Ambassador to Canada, I have taken a deep interest in United States and Canadian relationships.

Many years ago, when I was in industry, we established a plant in Canada and I am happy to state that ever since that plant began full operations, it has been virtually 100 percent Canadian managed and operated by Canadian employees. I have enjoyed a wonderful business as well as personal experience in Canada through the years.

Too frequently we take our best friends for granted, in personal life as well as between countries. May we never take the relationship between Canada and the United States for granted. It stands as one of the greatest international relationships which has ever existed in the history of mankind, with no military forces on our borders other than the mutual defense forces which we commonly maintain against a potential common adversary.

Mr. President, we know that the recently imposed 10 percent border surcharge has created a tremendous economic problem for Canada. We are deeply desirous of removing that surcharge at the earliest possible time. We hope that our friends from Canada will understand and bear with us as we try to solve our own economic problems, because we know that our economic problems create and accentuate those of our friends in Canada. We hope that they will use their good offices to encourage appropriate action by Europe and Japan so essential to a restoration of more normal trading relationships.

I, for one, warmly welcome the very timely visit of this distinguished Canadian legislative delegation.

Mr. CHURCH. Mr. President, let me now introduce our guests one at a time, and I ask each to stand as I call his name.

First, the distinguished Speaker of the House of Commons, Hon. Lucien Lamoureux, who is chairman of the delegation.

Then, from the Canadian Senate:

Hon. Alan A. Macnaughton, Hon. Salter Hayden, and Hon. L. P. Beaubien.

Now, the members of the Canadian House of Commons who are present:

Jacques Guilbault, Bruce Howard, Robert Kaplan, Jacques L. Trudel, Lincoln Alexander, Hon. Marcel Lambert, James McGrath, Max Saltsman, Oza Tetrault, Grant Deachman, Thomas M. Bell, and Stanley H. Knowles.

Distinguished gentlemen from Canada, we are very happy to greet you today.

[Applause, Senators rising.]

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Mr. CHURCH. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes in order that we may greet our distinguished guests.

The PRESIDING OFFICER (Mr. GAMBRELL). Without objection, it is so ordered.

Thereupon, at 12:08 p.m., the Senate took a recess until 12:13 p.m.

During the recess, the distinguished guests were greeted by Members of the Senate.

On expiration of the recess, the Senate reassembled and was called to order by the Presiding Officer (Mr. GAMBRELL).

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum. It is my understanding that the distinguished Senator from Mississippi has the floor. So, in the meantime I suggest the absence of a quorum and ask unanimous consent that the quorum be charged to the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time? We are under controlled time.

Mr. MOSS. Mr. President, under the order agreed to, time was not to start until the Senator from Mississippi began his presentation. Therefore, I ask unanimous consent that no time be charged until the Senator from Mississippi begins his presentation.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 9212. An act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes; and

H.R. 10729. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 9212. An act to amend the provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend black lung benefits to orphans whose fathers die of pneumoconiosis, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 10729. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture and Forestry.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill (S. 2819) to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, what is the pending order of business before the Senate?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Mississippi to S. 2819.

Does the Senator wish his amendments considered en bloc?

Mr. STENNIS. Yes, Mr. President. I ask unanimous consent that the amendments may be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I yield myself 20 minutes, or so much time thereof as I may use.

Just a very brief word in partial repetition of what I said this morning. I offer the amendment solely because I think the figures that are in the bill trim in a way that is too lean and too thin the amount for direct military aid and for what we call the supporting assistance programs—programs that supplement military aid, although they are not direct military aid. They go to military purposes and include items like petroleum, hardware, steel, that are not a part of the weaponry, and related matters of that kind. Also in the supporting amount are included items like gasoline, fertilizer, and funds for land reform, as mentioned this morning by the Senator from Illinois. These items are all war related and related largely to South Vietnam.

In the direct military aid that I propose, frankly a large part of it goes to Cambodia. I selected the figures for this amendment. They are not administration figures. They are for lesser amounts. They are calculations that I made with the able assistance of the staff and consultation with others.

My amendment would merely restore the military part to the level placed in the old bill last week under an amendment offered by the Senator from Idaho (Mr. CHURCH). That amendment carried. I did not vote for it because I thought it was cutting it down too much, but it carried and it was in the old bill. I adopt that figure now and propose, through this amendment, and do ask the Senate, to put it back at the level of the Church amendment.

Let us make clear that the figures in my amendment are nothing like the budget figures. In the categories I have mentioned, the amount is approximately 36 percent below the budget figures for these items.

We have just voted on an amendment that would virtually strip all the spendable money out of the bill for these two items. In other words, the figure in the Senator's amendment was an amount that has already been spent this calendar year under our continuing resolution. That amendment was defeated.

The amendment I offer now increases the amount in the bill by these modest amounts, and I shall attempt to explain briefly what the money provided for in the amendment would go for.

Take Cambodia, because military aid for that country is the largest item. We are not in Cambodia now. There are no combat troops of ours there. There are no military advisers there. The only military men of our services that we have there are those engaged in delivering, in an orderly way, military supplies we are sending to Cambodia.

They have an army now, which has been put together in large part with our military aid, of 218,000 men. They cannot possibly support that army themselves. That army very definitely is a part of our withdrawal plans which are going on now. It is pinning down in the Cambodia area or areas adjacent thereto at least four divisions of North Vietnamese troops. They are pinned down or engaged to the extent that they cannot be used elsewhere.

Therefore, it is a part of our strategy of being able to get out of Vietnam. I favor our continuing to withdraw. This is a part of that plan.

It is like calling together an army, getting them drilled and trained, and then not letting them have any ammunition. That is exactly what this money goes for—not high-priced planes or high-priced weaponry. It goes for bullets. Over half of the money going to Cambodia will be to buy such items as cartridges for rifles and shells for small artillery. Even though we are in a spirit of trying to reduce these matters, it is contrary to commonsense to do it all at once.

I have given notice that, for my part, they cannot count on my just approving everything they might ask for next year. I quote from the letter to my colleagues of yesterday:

I have put the Administration on notice that I expect to support only a minimum military aid program for next year, less than what some may want. But I strongly feel that the minimum funds in my amendment are necessary this year as our withdrawal from Indochina continues.

Back to my more formal statement:

Over one-third of the fiscal year is gone. It is thus nearly physically impossible to force reductions of more than 50 percent—as the committee has recommended for the military assistance program—and still argue that that program is being gradually reduced. Under the continuing resolution, we have been authorized funds to be spent at the rate for the last fiscal year, and thus a cut of more than 50 percent in funds for fiscal year 1972 is really a proposal for immediate termination of the military assistance program. The Foreign Relations Committee has given us no choice at all. If we vote for the bill at these levels of funding, we essentially vote to kill military assistance immediately. If we vote against the bill, we also, obviously, vote to kill military assistance immediately. I submit that it is necessary to pass the amendment which I propose in order for the Senate even to have a choice on the issue of military aid. If this amendment is approved by the Senate, we will then at least have before us the option of voting for a reduced and minimal military assistance program. The amounts now included in the bill are, in reality, no program at all.

For military assistance, the House bill included $705 million, the figure requested by the administration. The Foreign Relations Committee, in its first foreign aid bill, recommended a reduction of 20 percent—and I approved of that 20 percent—to $565 million. On the Senate floor, as a result of an amendment by the distinguished Senator from Idaho (Mr. CHURCH), a second 20 percent cut was imposed, reducing the total further—to $452 million. I voted against this second 20-percent cut, thinking it was too severe, but I believe that second reduction expressed the will of the Senate. The Foreign Relations Committee has now, however, recommended yet a third sharp reduction of over $100 million—a total of only $350 million for military assistance. This is more than 50 percent below the total approved by the House of Representatives.

Approximately $300 million has already been obligated for military assistance under the continuing resolution, since the fiscal year is now more than one-third complete. The amount recommended by the Foreign Relations Committee thus provides only $50 million.

This is a very significant point; it is a pity there are not more Senators here to hear it. The amount recommended by the Foreign Relations Committee thus provides only $50 million for the remainder of the year for all countries to which the United States is giving military aid. I believe it is striking, Mr. President, that this $50 million is not even sufficient to cover the amount of ammunition required for military aid to the one country—Cambodia—which is receiving this aid for actual combat. It is not enough to buy the necessary cartridges and artillery shells and pay the freight on them over there, for Cambodia alone.

It is entirely erroneous, Mr. President, to argue that this type of assistance can continue under some alleged pipeline for any substantial period. It is true that some items which require a long leadtime for production—such as the F–5 aircraft we are to provide for Korea under this bill—require more than a year to produce. Funds for this type of military assistance are in a pipeline for some time. But this is not true as to ammunition.

Military assistance at the level recommended by the Foreign Relations Committee would not even permit full funding of aid to Cambodia at the level of $341 million set by the ceiling in section 655 of the same bill. This is true even if all remaining funds under the committee bill are allocated to Cambodia. Such an allocation would force immediate cancellation of important aid programs to Turkey, the Philippines, and Korea, among other countries.

There is a direct, special promise made to Turkey in connection with the opium matter. We have just concluded an agreement under which the growing of opium poppies for heroin will be halted there. Cancellation of the aid programs to Turkey could put severe strains upon the Turkish budget and force a reevaluation of this agreement. Our aid program to Korea this year, consisting largely of trucks and F–5 aircraft purchased in the United States, would be effectively canceled by approval of the total recommended by the Foreign Relations Committee.

We had the debate here yesterday about Okinawa, and agreed that we were giving up something there. All agreed that if we could not operate under the treaty in Okinawa, there is South Korea, that there would be a place where we could have the necessary fields and functions, in all likelihood. Now, today, the next day, we are considering reducing this aid figure so low, all of a sudden, that we would not have any money left to keep even a very modest amount available to Korea. The amount is $154 million for the remainder of the year, and in terms of military aid, for a country where we have the investment we have there, and military men of our own, that is certainly not a huge sum of money.

Further amounts for the remainder of the year include. Turkey $70 million, the Philippines $11 million, Indonesia $19 million, Greece $13 million, Latin American countries $6 million.

Pakistan; people ask me about Pakistan. There is no money in this measure now, and no money in my amendment; no money in the bill except $85,000 for training of present Pakistani officers already here in the United States in training. Most of that money has already been spent, and the program will be terminated when those courses are completed.

The items I have pointed out are items of direct military aid. I shall pick up the supporting assistance in a few moments. Mr. President, this shows there is no great sum of money being put out under my amendment to any country, and most of this money goes, as I say, to Cambodia.

Regardless of what you think about our having gone in there, we are out

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now. Regardless of what you think about wanting to get out of all this involvement, certainly it takes an extreme view to say that after we have built that army up—and it does have a connection with the support of our withdrawal—that we are just going to walk up to those men, to whom we have given the rifles, and not let them have any ammunition and artillery at the same time. It is unthinkable, Mr. President.

I have checked these figures out, and they bear my interpretation. I believe the only interpretation that can be given is the one I have given, because these are hard facts, as worked up by the Armed Services Committee staff themselves, not taking them from some other source.

I have already covered the point about this pipeline matter. The pipeline argument would hold, and hold well, for a number of airplanes or items of that kind that were being built. But this money is for altogether a different purpose, and altogether a different story applies. There is just no long pipeline for artillery shells and rifle ammunition, that you are buying from a cartridge company and shipping over to the countries involved.

Turning to the second phase of this amendment, supporting assistance is primarily war-related economic support for the economies of Southeast Asia. The $85 million in supporting assistance earmarked for Israel is not affected by the reduction recommended by the committee nor by the increase which I am proposing. No one touches that aid to Israel amendment. It is all directed over here to Cambodia and Southeast Asia, or most of the reductions are. My amendment would increase this assistance to $566 million.

This is considerably below the $800 million included in the House bill—which included funds for Israel—and it is also 8 percent below the $614 million first proposed by the Foreign Relations Committee. It does mark an increase from the $350 million recommended by the committee in the bill before us.

Again, over $240 million has already been obligated under the continuing resolution since more than one-third of the fiscal year is behind us. The committee's recommendation—and I speak with all deference to the committee—allows only $102 million for supporting assistance for the remainder of the year. Although I believe that some reduction below the level of supporting assistance approved by the House is in order and I also believe that a small reduction can safely be made below the total first recommended by the Foreign Relations Committee, the radical cut recommended by the committee in this bill is wholly unjustified. This shows how closely we combed through this matter. These funds are required, primarily in South Vietnam, to provide the essential ingredients—this is direct aid to South Vietnam—to keep a war-time economy operating. They are used primarily for fertilizer, machinery, iron and steel, chemicals and petroleum products. Ninety percent of these products are purchased from American companies. That is getting right down to the nub of the matter of supporting assistance—a supporting military program but not actually military hardware.

There are also significant funds under supporting assistance—about $50 million—for important refugee and land reform programs in Laos and South Vietnam.

Mr. President, I certainly am not an expert in this field, but I have said for years that if we get them to move those land reform programs forward faster and better and give those people more to fight for, they will sooner be able and willing to take over the fighting there and thus diminish the necessity for our presence. I have probed somewhat into that, but I have not kept up with it as much as others have, and I will yield in a few minutes to the Senator from Illinois on that point. But I look to this more than I do to any other one thing for the future of South Vietnam.

As I said this morning—I want to be frank with fellow Senators—I have to reconcile myself to the fact that if we get out—and I want us to get out—we need not fool ourselves; we will have to put a massive amount of economic aid in there for some years to come. I do not know how many years—2 or 3. That would be the minimum, I would think. That will also apply with respect to military aid, if North Vietnam keeps the military pressure on them. We need not be foolish. They do not have an economy that can sustain a military machine to the extent of being able to carry it alone. We might as well make up our minds to that. I think the American people, when the facts are before them, will favor a reasonable program along that line.

It will be necessary to do that to keep from letting the South Vietnamese go down the drain, with all the American lives that have been lost there—more than 50,000 killed, several hundred thousand wounded and maimed, the billions of dollars we have spent there.

Perhaps it was a mistake ever to go in there, but I do not think we can just say it was a mistake and cut and run and liquidate the whole thing. I do not think the people want that done as much as they want to get through with the fighting and the combat of our boys there.

It would be tragic if, as a result of this unreasonably low figure recommended by the Committee on Foreign Relations, our attempts to feed, clothe, and provide medical care for the victims of the tragic war in Indochina were halted. Land reform is an important example of the type of programs we have encouraged in South Vietnam for years in an attempt to make the South Vietnamese Government more responsive to the needs of its own people. It would be ironic indeed if the Senate, by reductions in these so-called military programs helped undermine the one program which promises some hope for long-range economic, social, and political reform in South Vietnam.

It has been argued, Mr. President, that vast sums totaling many billions of dollars, exist in a so-called pipeline. Thus, it is alleged a halt in the military assistance programs would not seriously jeopardize our objectives since aid would continue for some time using these funds. In the first place, the total of these funds is frequently overstated. Approximately $591 million in funds from prior years have been obligated by the United States but the projects for which they have been obligated are not completed. A good example of this is the case to which I referred to earlier: that of an aircraft being produced for delivery to one of our allies. Since aircraft production or, for example, the construction of a communications facility takes some time, it is obvious that there will be funds in such intermediate categories at any given period in time.

In addition, there is about $212 million worth of items ordered under the continuing resolution but not yet delivered. It takes several weeks to ship ammunition to Cambodia from an American factory. But the value of aircraft in production and ammunition on the high seas is not some kind of slush fund under which aid may be continued indefinitely.

Moreover, and more seriously, the pipeline will soon dry up for those items such as ammunition and petroleum which can be produced and transported relatively rapidly. Our best estimate is that, under the bill as recommended by the Foreign Relations Committee, virtually all aid to Cambodia would be terminated by January or early February. Other types of aid, such as military assistance to other countries and supporting assistance to South Vietnam and Laos, would be terminated by March or April. Approximately $620 million in supporting assistance funds which have already been obligated would keep some projects funded until early spring.

Finally, the funds in the "pipeline" for military and supporting assistance are somewhat analogous to the operating capital required by a business. If it is used for some other purpose, the programs cannot again be continued until it is replaced. Thus, if we rely on these funds to continue military and supporting assistance for a few months more, the programs could not then be reinstituted immediately. There would be a gap of several months while, for example, Cambodia attempts to continue to repel an invasion by about four North Vietnamese divisions without ammunition while we are educated about the amount of funds in this so-called "pipeline".

Mr. President, I strongly urge the acceptance of my amendment. I want to reiterate that I propose no sizable increases. On the contrary, my amendment accepts the two sharp 20 percent cuts in military assistance recommended by the Foreign Relations Committee and by the Church amendment on the floor of the Senate. It also accepts the reductions initially made by the Foreign Relations Committee in supporting assistance and includes even a further reduction of 8 percent. I believe the reductions projected in my amendment are the maximum that could be taken with prudent regard for our national security objectives in light of our obligations to our allies. I urge the Senate to accept this amendment.

I speak with all deference to the committee's action, but I believe that in their high purposes, they went too fast and too far in this bill.

So I hope we can restore these modest amounts. I told the Secretary of Defense, frankly, that I thought the utmost effort had to be made to minimize the dollar cost of these programs in fiscal years beyond fiscal 1972.

I yield 3 minutes to the distinguished Senator from Louisiana.

Mr. ELLENDER. Mr. President, the Senate completed action on the foreign economic aid authorization bill yesterday, and it is my understanding that the Senate probably will complete action today on the foreign military aid authorization bill that is pending.

I express the hope that the House of Representatives will take up those matters immediately. I understand that the House passed a continuing resolution yesterday, in the hope that this matter could go along on a continuing resolution.

I have spoken to quite a few members of the Committee on Appropriations of which I am chairman, and, judging from my conversations with them, there is no sentiment to pass a continuing resolution at this time. With reference to the question of paydays, there is no problem for several weeks. What we want to do is to have these two foreign aid bills considered by the House as soon as possible and after a conference between the two Houses for the House to consider an appropriation bill on foreign aid so that we can get out of Washington not later than November 23. I am hopeful that this schedule can be followed.

I was informed a little while ago that the House of Representatives is thinking of taking a little vacation for a week or so. I hope they will not do this, because if the House gets busy and acts on these two bills—the one we passed yesterday and the one today—dealing with foreign aid, we ought to be able to get them in shape and together with the foreign aid appropriation bill have them enacted before November 23.

It is my purpose to meet tomorrow with a few members of the Appropriations Committee, in order to make a preliminary examination of the defense appropriation bill——

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. STENNIS. I yield 2 additional minutes to the Senator.

Mr. ELLENDER. It is my plan to get action on the defense appropriation bill by the subcommittee in time so that when the House enacts the bill early next week, we will be in a position a day or so after we receive that bill from the House to present it to the Senate for consideration. We hope to complete action on that bill before November 23.

The subcommittees in the Committee on Appropriations have held exhaustive hearings since earlier this year on the foreign aid program and the District of Columbia budget estimates and I assure the Senate these two bills will be reported to the Senate within hours after we receive them from the House of Representatives. We have completed hearings in the committee on virtually all items submitted so far on the supplemental appropriations bill for fiscal year 1972 and I assure the Senate there will be no delay in the committee. The committee will act on the supplemental bill as soon as the bill arrives from the House of Representatives.

I repeat: I hope that the House Members will seriously consider taking up these two foreign aid authorization bills as soon as they receive them. I have asked at the desk that as soon as the bill now pending is passed, it be sent to the House, in the hope that it will be considered within the next two or three days. I also express the hope that the House of Representatives immediately consider the District of Columbia and supplemental appropriation bills. There will be no delay on these bills in the Senate committee on appropriations. With the enactment of these bills there is no need for a continuing resolution.

I thank the Senator for yielding.

Mr. STENNIS. I thank the Senator for his remarks.

I yield myself 5 additional minutes.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. STENNIS. I yield.

Mr. FULBRIGHT. The Senator has talked about the funds running out. What happens to the $2.5 billion that is authorized under the military procurement bill? What is that money going to be used for? What can it be used for? As I understand it, that is available for use in Vietnam, Laos and Thailand; is that not correct?

Mr. STENNIS. That is correct.

Mr. FULBRIGHT. Is it not a substantial amount? Did we not vote to approve $2.5 billion in the bill which has now passed the House and Senate?

Mr. STENNIS. That is money appropriated through our services, as the Senator knows. It is to be spent in connection with costs of battlefield operations, we might say, in Vietnam especially, and is directly connected with the operation of the war itself. Over in Cambodia, that money does not apply.

Mr. FULBRIGHT. I said Vietnam, Laos, and Thailand.

Mr. STENNIS. Yes, I know.

Mr. FULBRIGHT. For the record, I shall read a portion of the DOD Appropriation Act of 1971:

"Sec. 838. (a) Not to exceed $2,500,000,000 of the appropriations available to the Department of Defense during the current fiscal year shall be available for stated purposes to support: (1) Vietnamese and other free world forces in support of Vietnamese forces; (2) local forces in Laos and Thailand; and for related costs, on such terms and conditions as the Secretary of Defense may determine."

If that is not a broad authorization to do anything the President likes, then I do not know what is. It relates to anything that is needed in any of those countries that can be related to allied forces and activities there. I have heard that it is used for nearly everything. And it is quite a substantial amount. So I think that certainly should be taken into consideration when the Senator says that the amount in this bill is going to cripple our activities beyond repair. I think that $2.5 billion is quite a sizable sum of money for those small countries.

Mr. STENNIS. I was emphasizing the crippling effect with regard to the Army in Cambodia, not so much in Vietnam.

Mr. FULBRIGHT. Well, on that point, I remind the Senator that last year the President transferred $110 million for aid to Cambodia without any authorization. It was transferred from funds that were available for other programs. At that time there was no authority in law anywhere for operations in Cambodia.

Mr. STENNIS. I am really not familiar with the $110 million, or whatever it was the Senator referred to, but that has all been clarified now. The Senator knows, we had legislation with respect to different countries setting forth how much could be spent in Laos, for instance, when the military procurement bill passed the Senate.

Mr. FULBRIGHT. Out of the $2½ billion?

Mr. STENNIS. Out of the $2½ billion; that is right.

Mr. FULBRIGHT. That is right.

Mr. STENNIS. So it has merely been throttled down now and itemized, and we have a bill particularly in our record here holding them accountable for everything.

Mr. FULBRIGHT. This is only $350 million in comparison to $2½ billion.

The PRESIDING OFFICER (Mr. STEVENSON). The time of the Senator from Mississippi has expired.

Mr. STENNIS. I ask the Senator from Arkansas to yield himself 5 minutes.

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. FULBRIGHT. Mr. President, that $110 million was transferred under the President's authority. I think it was against the spirit of the restrictions on U.S. operations in Southeast Asia. As I said the other day, in commenting on this subject. I did not charge that it was illegal but said it was against the spirit, in that the transfers are made to countries for which no aid has been authorized.

The only point I want to make is that I think the Senator is worried about nothing. I think he goes a little bit too far; I think, when we know that we have a $2.5 billion "kitty" to fall back on plus what is in this bill, that that is a lot of money.

Mr. STENNIS. As the Senator knows, that has all been tightened up now. Those funds have been tightened up in the military procurement bill. I hope we can call up the conference report on it and have it agreed to this afternoon, after this bill has been disposed of. There has to be an accounting. In the committee we have a record of the justifications, just as we have on tanks, guns, and other items. That was not true a few years ago.

Mr. FULBRIGHT. Well, what are we going to do with all the ammunition, tanks, trucks, and guns, and everything else, if the President continues to move troops out of South Vietnam? What are we going to do with them? Are they not available to be turned over to Cambodia without any further authorization?

Mr. STENNIS. Some of those could be used that way and charged to these accounts, but there is a limit on them. We have ceilings on them now, so that is a horse of another color and is in another category.

That $2.5 billion will be spent to supply the Vietnamese troops who are fight-

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ing in Laos. We equip them. We supply them. That money is for a part of the Vietnamese troops who are fighting on their borders and beyond their borders. So that is a different account altogether. It is kept, as I say, under control. If we can use that, then we would not have anything in the Senator's bill. The Senator's bill admits that it has got to have some more money than that.

Mr. FULBRIGHT. The Senator knows that the President has authority to declare pretty nearly anything he wants to as excess to our needs and to turn it over to them. He has lots of resources. I do not wish to pursue this subject any longer. The only point is, I think, that the Senator overstates the case in pleading "poor mouth" that they do not have anything to do anything with. If this war is being wound down, we have got a lot of money. If we are not going to wind it down and expect to keep on fighting there by proxy, then the President will need a lot of money.

My plea the other day was for the administration to "come clean." What is the objective in Southeast Asia? If we are really going to wind down the war, how do we justify Cambodia and this enormous increase from nothing to $341 million in 2 years? If we are not going to wind down the war, then let us be told so and let us judge the matter on its merits. All I want is for the administration to be honest and come to the Senate and say, "Look, we are winding down the war, but we have got to stay there for *x* number of years, during which time we will need this money." The Senate could then judge whether it was in our interest to do it or not.

What bothers me is asking us to vote in a situation for a lot of money for a purpose which neither I nor, I think, the American people, support. I am trying to get this matter honestly before us.

I think, this morning, I was paying the Senator from Mississippi a compliment. I did not say he was speaking for the administration. I did say that what the Senator said when he spoke is more consistent, in my view, with what the administration is doing and recommending than what the administration is saying. They are saying things that are not consistent with what they are doing. What the Senator said this morning is in my view, more candid, more honest, and more straightforward than what the spokesmen for the administration said because the Senator from Mississippi frankly said, in my opinion—and if I misquote him, I hope the Senator will correct me—but I think the Senator said that, in his opinion, we would be there a long time or a number of years——

Mr. STENNIS. Some years.

Mr. FULBRIGHT. Some years.

Mr. STENNIS. That is right.

Mr. FULBRIGHT. That is not what is being said downtown.

Mr. STENNIS. That is with reference to economic aid.

Mr. FULBRIGHT. And some military aid.

Mr. STENNIS. And some military aid; that is correct.

Mr. FULBRIGHT. That is a large amount of dollars. It is a lot of money. We have the $2½ billion there, and half a billion dollars here. We have $3 billion, plus Public Law 480 on top of that, so that is a lot of money. I do not quite go along with the Senator when he states that these poor countries are being starved and squeezed to death. This sounds like a lot of money in Arkansas. Mississippi has gotten so rich lately that the Senator from Mississippi is not impressed, as I am, with $3 billion.

Mr. STENNIS. The $2.5 billion the Senator refers to, it is well known, goes to the South Vietnamese fighting forces, wherever they may be fighting.

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. STENNIS, Mr. President, I yield myself 5 more minutes; then I propose to yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 5 more minutes.

Mr. STENNIS. Further, the books show that these are separate items. For instance, in the amendment I propose, there would be some funds there for Korea.

Of course, that would not come out of any money that was sent to Vietnam. Turkey would have a maximum of $70 million for the remainder of the year. That is one of the key spots of the western defenses. There are no finer soldiers to be found anywhere than those men. The Philippines would get a small amount. Indonesia would get a maximum of $19 million. Latin America would get $6 million. Greece would get a maximum of $13 million.

I mentioned Pakistan previously. They would receive only $85,000. And that is for training some of their officers who are already in this country taking courses. That will be terminated, as I understand, when those courses are finished.

Mr. President, I do not want to prolong the debate. I am certain, in my mind at least, that this money for Cambodia is a part, and an essential part, of the withdrawal plans of our men from Vietnam. I would not want to be responsible in any way for what would happen there if we leave the 218,000 man army that we have helped to build up in Cambodia holding down those four divisions from North Vietnam and leave them there without proper assistance—not guidance and not supervision—from us.

Like it or not, we have to grit our teeth and muscle up to this thing and follow through on this withdrawal. Then we can take care of how much more aid may be needed in the years to come. I am frank to say that I think there will be some.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a copy of my letter dated November 10 to my colleagues concerning the amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., November 10, 1971.

Re Military Assistance Amendment No. 631 to S. 2819.

DEAR COLLEAGUE: The new bill, S. 2819, dealing only with military assistance, goes too far in its cuts. It jeopardizes what we are trying to do in Indochina in terms of withdrawal and self-sufficiency. It cuts below the bare minimum needed in help for other friends elsewhere, such as Korea, Turkey, and the Philippines.

I urge you to support my amendment, No. 631, which will probably be voted on tomorrow (Thursday). My amendment would increase military assistance from $350 million to $452 million. This is the amount adopted in the previous bill under the Church amendment, which made the second of two 20 percent cuts in military aid. About $300 million has already been obligated in military assistance under a continuing resolution. If the Foreign Relations Committee level of $350 million is retained, only $50 million will be available for the remainder of this fiscal year.

This sum, even with funds previously obligated, is less than what is required for ammunition alone for the Cambodian Army for the rest of this year. Moreover, a total of this magnitude would require cancellation of the programs for all other countries—including the Philippines, Turkey, and Korea—unless aid for Cambodia were stopped immediately. Even if aid to Cambodia were halted, the $50 million is so low a figure that it would force us to cancel either the program for Turkey or that for Korea.

My amendment also increases supporting assistance from $350 million to $566 million—still 8 percent below the figure in the earlier aid bill. These funds—essentially for war-related economic support to the economies of Southeast Asia—are vital in order to avoid hindering our withdrawal from Southeast Asia. Supporting assistance funds are used primarily for the purchase of fertilizer, petroleum products, chemicals, steel and other basic commodities for South Vietnam, Laos, and Cambodia—90 percent from American companies. Over $50 million is needed for vital refugee and land reform programs—these programs would be hard hit by the severe cut recommended by the Foreign Relations Committee.

We have lost thousands of lives and invested billions of dollars in Indochina. At this point in time we should not turn our backs on these sacrifices by denying the funds which will assist our withdrawal and, at the same time, help our friends and allies shape their own futures.

I have put the Administration on notice that I expect to support only a minimum military aid program for next year, less than what some may want. But I strongly feel that the minimum funds in my amendment are necessary this year as our withdrawal from Indochina continues.

Sincerely,

JOHN C. STENNIS.

Mr. STENNIS. Mr. President, I yield back the remainder of the time I might have remaining of the 5 minutes, and I yield the floor.

Mr. FULBRIGHT. Mr. President, I yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 5 minutes.

Mr. SYMINGTON. Mr. President, as a premise to these remarks is the fact that the estimated deficit of the U.S. Government is $35 billion for next year. One of the reasons for this, we cannot fail to note, is the fact that first, we spend tens of billions of dollars destroying various countries in the Far East, then billions more in trying to put them back together physically. We could never put them back together either morally or spiritually.

I oppose the amendment of my good friend, the Senator from Mississippi, and for the following reasons:

The thrust of the amendment offered by the distinguished Senator is to increase economic supporting assistance and military grant aid because, as he sees it, the amounts contained in this military aid bill are not adequate for the continuation of the various programs incident to the wars that are going on in Southeast Asia. I say wars, and not war, advisedly.

In effect, it would appear that he believes the amounts in the bill would leave Cambodia, Thailand, Laos, and South Vietnam helpless in the conflicts which now rage in that part of the world.

I cannot agree, and would ask my colleague to consider the following:

First, the President has almost unlimited transfer authority under the Foreign Assistance Act. Senators will recall that last year the President transferred $110 million to Cambodia when, in fact, that country had not been scheduled to receive any assistance at all. If sums of that magnitude can be transferred, then it can certainly be handled on the same basis now—if the situation is as critical as the Senator from Mississippi states.

Second, may I draw attention to the special authority given the President under section 506 of the Foreign Assistance Act, which authority permits the President in any fiscal year to draw an additional $300 million for military assistance purposes from the Department of Defense stocks. That authority is particularly pertinent at this point because over $100 million of the total amount being asked for, for Cambodia, is for ammunition alone. Think of the billions of dollars worth of ammunition already she has in stock. Again, if the situation is as urgent as has been suggested, the President could exercise this authority and provide the requirements which the Senator himself suggests are so necessary.

Third, I believe Senators ought to be aware of the fact that, as of June 30, 1971, there was a total of $4.7 billion in the total aid pipeline. It is inconceivable that a substantial part of this $4.7 billion could not be deobligated and used in order to meet the requirements in question. To argue to the contrary is to suggest that all of these funds are so solidly frozen, so solidly committed, that they could not possibly be shaken loose for an emergency of the type the Senator suggests exists.

In addition, let us remember that $2.5 billion of military assistance is contained in the Defense authorization bill for free world forces in South Vietnam, Laos, and Thailand.

In summary, it is clear that the President already has all the authority and the money he needs to provide any or all of the countries of Southeast Asia with economic supporting assistance funds or military aid if he determines that those additional funds are really necessary.

Therefore, what is being requested of the Senate in this instance is to provide additional funds for the President's use when he himself has not chosen to make use of the special authorities that already exist in law.

I have already made a talk this morning about the current pitiful condition of the schools in this country, and could go on talking about the many hard-core problems of American cities also the extreme poverty which exists today on hundreds of thousands of our farms in other words all the problems suffered by the 25 million Americans now living below the poverty line.

I pointed out that in some States two-thirds of the people agree the school situation is truly tragic; but only one-third of those people agree there should be taxes to correct that sad situation.

Under such circumstances, it is inconceivable to me that we should now raise the amount of money being asked to help natives of foreign countries kill each other 10,000 miles away from home while we turn our backs on millions of the unfortunate right here in this country. This great care for the nature of the governments in foreign lands, coupled with this obvious great carelessness with respect to our own people, is the chief reason why for the first time in our history, we are having a recession at the same time we continue to experience inflation. It is very possibly also why the American people, in the words of the President, are becoming "fed up" with government.

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. FULBRIGHT. Mr. President, I want to talk a little further about the $2.5 billion which has already been authorized in the bill which has passed both the House and Senate and will be in conference and I have no doubt will be approved. This is for fiscal 1972. $1,901,100,000 is to be allocated to South Vietnam. That is almost $2 billion.

For the support of the Korean forces in South Vietnam, $195.9 million is allocated, almost $196 million.

In Laos, $138.5 million.

Thailand, $68.1 million.

That makes a total of $2,303,000,000, leaving $200 million unallocated in their estimates. They anticipate, however, it will be used as the needs develop.

This gives the Secretary of Defense almost blanket authority to use these funds in almost any way he chooses to use it, not only in support of the free world forces, but also anything related to their support. This is in addition to the support money provided in the pending bill. So, there is an awful lot of money already authorized and available to Southeast Asia.

This is an awful lot of money that already has been authorized for this area. I do not think there is any substance to the argument that there is going to be a lack of money in this area for military and related subjects.

I was struck by a statement attributed to our former Ambassador in Korea, Since serving in South Korea, he has gone to Paris as our chief peace negotiator. This is from the Washington Post of last July. It states:

Ambassador Porter said in a recent speech before the American Chamber of Commerce here, "The time has come for Korea to assume an ever-increasing share of the cost of defense. Korea maintains the largest defense force in free Asia, enjoys the most rapid rate of economic growth of any of the developing countries of Asia and yet allocates less of its total resources to defense than the average for developing countries in this area."

The United States is, of course, picking up the bill; the support of these forces comes from our taxpayers and from this bill and other sources, such as I just mentioned.

Mr. President, any way you look at it, the activities of the military, whether they are ours or our allies, are excessive. Ambassador Porter was saying that the Koreans should cut back on their military establishment and pay more of their own costs.

Mr. President, I ask unanimous consent that the entire article to which I have referred may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNITED STATES ASKS KOREA TO CUT FORCE

(By Selig S. Harrison)

SEOUL, July 3.—The United States is urging South Korea to reduce its armed forces by 125,000 men within the next five years so that Seoul can assume an increasing portion of operational military costs now covered by U.S. grants.

Informed sources said today that the U.S. proposal has been discussed informally in meetings between Korean defense officials and Adm. John S. McCain, commander in chief of U.S. forces in the Pacific this week.

Adm. McCain came here as a member of the U.S. delegation to the inaugural of President Chung Hee Park Thursday. He is scheduled to return on July 12 with Defense Secretary Melvin Laird for intensive talks on a variety of military issues.

Aides to Vice President Spiro T. Agnew said that Agnew has not raised the reduction plan or other "substantive issues" during his meetings with Park and had come here solely to lead the U.S. delegation in the inauguration ceremonies.

Agnew and Park met for 50 minutes on Wednesday and spent four hours together on the Korean military academy golf course today, stopping for an hour-long lunch after the ninth hole.

They were accompanied by Ambassador William Porter and an interpreter. At lunch, they were joined by Gen. John H. Michaelis, commanding general of the U.S. 8th Army, his deputy, Lt. Gen. Robert Smith, and former South Korean Premier Chung Il Kwon.

PARK-AGNEW ACCORD

It was not clear whether Agnew and Park had reached agreement on the future of the 52,000-man Korean force in South Vietnam. The issue reportedly came up in their initial meeting and is due to receive detailed attention during the Laird visit.

Most indications suggested that Seoul is ready to keep a large part of its U.S.-subsidized units in Vietnam in return for a share of surplus American military stocks there.

The total strength of the Korean forces including units now in Vietnam is about 672,000.

A projected $1.5 billion, five-year U.S. program for the modernization and maintenance of the Korean forces envisages $500 million for operational costs, in addition to $750 million for new equipment financed by congressional military aid appropriations and another $250 million in surplus equipment left behind here by departing U.S. troops.

If Seoul has to pay for the petroleum, cement, uniforms and other "consumables" needed to operate its forces, American offi-

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cials reason, this would naturally make the idea of reduced forces more attractive while at the same time releasing additional U.S. funds for equipment under the modernization program.

KOREA'S SHARE

Ambassador Porter said in a recent speech before the American Chamber of Commerce here, "The time has come for Korea to assume an ever-increasing share of the cost of defense. Korea maintains the largest defense force in free Asia, enjoys the most rapid rate of economic growth of any of the developing countries of Asia and yet allocates less of its total resources to defense than the average for developing countries in this area."

Assuming that its Gross National Product grows according to expectations and that defense spending stays at past levels, Porter calculated, Seoul would have $51 million more available for defense next year than it had in 1969, and this figure would grow to $175 million in 1976.

Porter stressed that South Korea could actually afford to boost defense spending levels as a result of recent economic growth.

South Korea spends only 4.1 per cent of its GNP for defense, he said.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FULBRIGHT. Mr. President, the first paragraph states:

The United States is urging South Korea to reduce its armed forces by 125,000 men within the next five years so that Seoul can assume an increaseing portion of operational military costs now covered by U.S. grants.

I hope they achieve that purpose. I am not at all sure they will.

In view of the fact that all Senators who are now present in the Chamber have heard the arguments, I am not sure there is much point in my continuing to repeat them. I am ready to yield back my time if the Senator from Mississippi is ready to yield back his time.

Mr. STENNIS. I have requests from other Senators for time.

Mr. FULBRIGHT. Very well.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I thank the distinguished Senator from Mississippi for yielding. I would like to address myself to one point he has made with regard to land reform.

However, before doing that, let me me say that in general principle, I have supported the President's desire to reduce our Armed Forces from the 3.5 million men to the 2.5 million men level that he expects to achieve by July 1, 1972. I think we have to reduce our commitments around the world and we have fully notified our friends and allies that we are not going to police the whole world, that we are not going to bear a disproportionate share of the defense burden for the rest of the nations of the free world, and that we cannot be looked to alone to carry the kind of load we have carried for the last quarter of a century and more.

I support the President's deescalation of our effort in Vietnam. We can rejoice that from a peak of 550,000 men, we are now down by 360,000 men to about 190,000 men in Vietnam.

I do not want to be responsible for voting for a bill that I think would endanger that deescalation policy. There is little question of the shock around the world, from our action a week ago Friday, particularly in Southeast Asia. I know when Secretary Laird arrived there and heard the news that the Senate had voted down the foreign assistance bill, the military assistance portion of it, which was so important to Southeast Asia, there was a condition of shock, and during the hours he spent with the members of the Cabinet and the President, he tried to explain this sudden reversal of policy. He could only explain it by saying he was certain the Senate would follow its responsibility to carry out a consistent policy for the United States. The consistency of our present policy—the Nixon doctrine—would depend on our willingness to say that we will not furnish men but military assistance and aid, that we will help those countries, but that we will not take over their burden for them, that we will help them to stand on their own feet, but we will not be their total crutch.

That policy has been applauded by the whole country and lauded by Senators on both sides of the aisle. Suddenly then would we pull the rug out from under that policy when they are in the midst of implementing it by having our men return from Southeast Asia? I do not want to be responsible for any slow-up in that program or a delay of even a day in bringing back American men.

There is not any question that the program will be impaired unless we agree to the amendment of the Senator from Mississippi. His amendment is prudent, wise, essential, and necessary.

Two elements of that program are worthy of note. One of them deals with the assistance to refugees. This country is now reaching out to provide $250 million of assistance to refugees because of the Pakistan-India situation—I should say Pakistan situation because this is not an action of India but an action of the Government of West Pakistan in East Bengal that resulted in the exodus of over 9 million refugees. We have stepped up to help those refugees. We cannot do less for refugees that have been created as a result of our allied actions in South Vietnam in providing for assistance and help to these homeless people. We have carried on military actions there in carrying out a policy of putting South Vietnam in a position to be able to defend itself, that created many refugees and we cannot cut out funds that support those programs.

It would be unthinkable to me also, when I have heard time after time and year after year Members of this body call upon the Government of South Vietnam to make its own Government responsive to the people of South Vietnam, to then pull the rug out from under one of the most fundamental programs we have encouraged South Vietnam to institute.

We know in this country, when through the FHA in the last 30 years we have moved from a country with one-third homeowners to a country of two-third homeowners, how people love to own their own homes and the soil on which they reside.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. Mr. President, I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. PERCY. We know from the days of early settlement of this country and the Homestead Act how important it was and how much it meant for people to have their own land. And our Government provided help.

Recently the Government of South Vietnam has been responsive to this same human need and desire. In March of 1970 the Land-to-the-Tiller law was promulgated which expropriates all tenanted rice lands and all lands directly cultivated by the owner in excess of 37.5 acres as of the promulgation date.

This land reform program seeks to eliminate tenancy by vesting ownership of the land for free to the tenant farmer. The Government of South Vietnam reimburses the former owner. The total estimated cost to the Government of South Vietnam will be 200 billion piasters, and that is about $500 million.

What we contribute is about $15 million this year to offset the inflationary impact of this many piasters going into the economy.

Through September 1971, when this program was only 13 months old, 307,000 titles involving over 900,000 acres had been approved for transfer to the tenant-tiller. Landlord opposition has so far been negligible. It is so eminently right that people should own the land they live and work on and that we should have a program that would undercut the false hopes and promises offered by our adversaries in the north who try to undercut the South Vietnamese Government by these promises.

This is not a promise; this is a program. This program has already had a revolutionary effect upon that country. For us to pull the rug from under the supporting effort for that kind of program and other assistance programs to me is unthinkable.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. I yield 1 minute to the Senator.

Mr. PERCY. I would not want to be responsible for any such act.

In conclusion, I simply feel that there must be a constant policy. Let us not zigzag. That is what is upsetting our allies and friends around the world. That is what they cannot understand. We enunciated the policy of withdrawing U.S. troops but offering other kinds of help to them. Let us not reverse that policy after it was enunciated by President Nixon and was so widely applauded. Let us continue with that program and continue with the evacuation of our forces, but not do anything to endanger those forces or the stability of a government which for so many years we have been trying to make more responsive to the people. We would be pulling the rug out from under some of the very programs that go toward making it a responsible government.

Mr. STENNIS. Mr. President, I yield 1 minute in order to ask the Senator a question.

Has the Senator been to Vietnam and personally examined some of those land reforms and has he had contact there?

Mr. PERCY. I have been over there several times. I have talked to officials of the Government of South Vietnam. As the distinguished Senator knows, the first month I came to the Senate I sponsored a homeownership bill for low-income people.

I talked to officials of the Government of South Vietnam and how much it would mean to the people in their country if they could see some better end result for themselves—not just for Government officeholders and not for just the wealthy, but for the people who till the soil—the peasants of South Vietnam. I was very pleased that they adopted a land reform program and the results have already been demonstrated.

Mr. STENNIS. And this money is in response to a committal by us to make a contribution to that?

Mr. PERCY. Absolutely. It is a moral commitment. There is no legal basis for it, but it is a moral commitment, an encouragement by the Government, by the preceding administration as well as this administration—an encouragement to go into land reform, refugee assistance, and other programs to help the people.

Mr. STENNIS. I thank the Senator.

I yield 5 minutes to the Senator from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, I rise to support the Stennis amendment. For several years we have heard critics of the Vietnam war say we had no business there; we ought to get out; we ought to just provide help and let them fight their own war. That is exactly what President Nixon is doing. We are withdrawing our troops.

In 1968 we had about 545,000 troops over there. On December 1 the number will be down to about 184,000. President Nixon has been withdrawing our troops, so we are getting out. We are winding the war down. But can we just get out and leave our allies cold? Are we just going to withdraw and say, "We are going to leave you entirely—not even give you equipment"?

Even the critics of the Vietnam war have not been opposed, as I understand it, to giving them equipment to allow them to fight their own war. We are letting them fight their own war. If we are going to do that and if the 45,000 men who have been lost there and the 300,000 men who have been injured there are not to have done that in vain, we must do something to help South Vietnam, Laos, and Cambodia, if they are to remain free.

The administration requested $705 million for military assistance. The House approved the $705 million, the exact amount the administration requested.

The first Senate Foreign Relations Committee bill provided $565 million. The Senate as a whole then cut this figure to $452 million.

In the military assistance bill which came back to the Senate, the Foreign Relations Committee has cut the amount to $350 million, which is $102 million below what the Senate had originally approved in the Church amendment.

It does not make any sense that the Foreign Relations Committee cut it back to $350 million.

The distinguished Senator from Mississippi (Mr. STENNIS) is merely asking that we restore the amount to $452 million, which the Senate as a whole has already approved in the Church amendment vote. I hope the Senate will allow this $452 million.

As to support assistance, the administration requested $768 million. The House approved more than that—$800 million. The first Senate Foreign Relations Committee bill cut the amount to $614 million. The second committee bill has cut the support assistance to $350 million.

Although the Senate Foreign Relations Committee, in its first bill, included $614 million, the committee, in the second and pending bill, has cut the amount to $350 million. The Stennis amendment would merely restore it to $566 million. This ought to be the minimum. After all, how are the South Vietnamese going to carry on? How are they going to pay for strengthening their country economically while at the same time trying to conduct a war to protect themselves against the aggression of the North Vietnamese? How are they going to remain free if we do not provide the necessary military and economic assistance for that purpose?

The support assistance funds are provided essentially to keep a war economy going, and that is primarily in South Vietnam. I would also remind the Senate that the funds are used primarily for fertilizer, machinery, iron, steel, chemicals, and petroleum products. I think it is of interest, too, for the Senate to know that 90 percent of these products are purchased from American companies.

I might also mention the fact that about $50 million of these funds will go for refugee assistance and land reform programs in Laos and South Vietnam——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. THURMOND. Mr. President, I yield myself 2 additional minutes.

These funds are for refugee and land reform. That is what we have heard so much yelling about on the part of some of the critics of what is going on in South Vietnam, Laos, and Cambodia. They say, "Why don't you have land reform programs?" That is exactly what they are doing, providing land reform programs. Now they want to knock out the money with which to do it.

It is urgent that we provide the funds the administration needs. Even by approving this amendment we are not giving as much as the administration has requested.

The Senator from Mississippi is merely asking that the amount be raised to $452 million, whereas the administration requested $705 million for military assistance.

On support assistance, the Senator merely asks that it be raised to $566 million, whereas the administration requested $768 million. This is the very least we ought to do.

Mr. President, I yield 5 minutes to the Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, I rise to urge passage of our military assistance program and our supporting assistance program. I have been opposed to certain aspects of foreign aid for some time and I opposed the bill on economic aid yesterday. I did so, not because I believe we do not have such obligations, but rather because I believe there is need for careful reassessment and realinement of our foreign aid program. However, I believe that the bill pending today, and particularly as it would be amended by the Senator from Mississippi, deserves the support of the Senate

I would like to give particular attention to certain countries which today are in transition from dependence upon the commitments of the United States to self-reliance. Their success in this objective is dependent heavily upon passage of this bill.

ISRAEL

First let me discuss Israel.

No nation has so captured the interest and sympathies of the American people as has Israel. This rather small nation is surrounded by hostile and potentially hostile nations. It largely depends upon the United States for its very survival. Its population is dwarfed by that of its Arab neighbors, and the more radical of its Arab neighbors enjoy huge arms benefits which have been provided by the Soviet Union.

So I believe we must sustain Israel as linch pin for the stability in the Middle East. To achieve this objective, our policy must lead to a peaceful settlement of the political crisis in the Middle East. To date we have succeeded in both averting war and maintaining a ceasefire in this explosive region.

To sustain the Middle East ceasefire and encourage negotiations, we must also encourage a balance of power between Israel and the Arab States. To permit Israel to be weakened would be fatal to the peace and to Israel.

The administration has just completed a thorough intelligence survey of the balance in the Middle East and finds that Israel enjoys superior military capabilities to her neighbors.

Toward enabling Israel to maintain this position, we provided her with $500 million in the defense procurement bill of 1971. These funds have been spent by Israel; for F–4 and A–4 aircraft, for "Shrike" anti-SAM missiles, for M–60 tanks, and for armored personnel carriers, artillery, and various other types of equipment.

For this year, it is indicated that we need $300 million in military assistance program funds for Israel. These funds are necessary to Israel, but if we are stuck with the $350 million ceiling suggested in the Foreign Relations Committee version of the bill, we would have to destabilize our efforts worldwide, for we want to aid Israel to the extent of $300 million. Commonsense and the interest of the United States in achieving a generation of peace suggest that we must raise the MAP ceiling of the bill, in order to accommodate both Israel and our friends in other vital areas of the world.

Indeed, our concern for Israel this year has already led us to pay out over $160 million in 120-day credits—deferred

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payments—against the ceiling suggested in this bill. For both the administration's request and the SFRC version allocate $300 million to Israel. We cannot permit our genuine commitment to Israel to justify worldwide irresponsibility.

I am pleased to point out to my colleagues that Israel's armed forces have never been better equipped and much of it through our assistance. Israel spent approximately 15 percent of its gross national product on its armed forces in 1969. Today it is spending 28 percent of its GNP and yet it now has a foreign exchange balance-of-payments surplus of $714 million, almost an all-time high.

I am also happy to point out to my colleagues that just over a week ago the U.S. Department of State and the representative of Israel in New York City signed a production assistance agreement which will lead to U.S. assistance to Israel for the production of weapons and other sophisticated equipment in Israel, thus enhancing her balance-of-payments position. This again suggests the successful application of encouraging self sufficiency in our friends. Israel is important to us, she is in good shape. But let us not forget the rest of the world.

JORDAN

Let us look at another country in the Middle East to which this bill is crucial. Jordan is almost unique among the Arab States for its realism and moderation. Recently it has been threatened by Fedayeen guerrillas from within and by Syria and Iraq externally. Its government is thus under heavy political and military pressure.

We moved politically to assist Jordan when invasion threatened. We have promised her the modest aid that she requires to remain independent. We want her to be capable of contributing to dialog and, hopefully, a settlement in the Middle East.

If we are to assist Jordan in its efforts to survive as a moderate state, we must be prepared to provide her with the $40 million in military assistance required this year. These funds give Jordan F–5 aircraft—which are no threat to Israel's F–4's—tanks, small arms, and other weapons of a defensive nature. Our military commitment, to be effective must have a 3-year duration. It is a modest one, totaling $120 million. To break this commitment by the imposition of the unrealistic ceiling requested in the committee bill would be acutely destabilizing for Jordan, and ultimately for the Middle East as a whole. Again, we must work for stability, in our efforts to secure a generation of peace, in a region which is subject to a vicious arms spiral, which, if uncontrolled, works against Israel and moderate states such as Jordan. On the other hand, we must sustain a balance of power, which promotes stability. This is what the assistance requested will achieve.

SOUTH KOREA

Let me point specifically to just one other country. We have heard about our past efforts to strengthen South Korea, and this bill will further efforts toward giving that government a chance to become self-sufficient. To a remarkable degree, we have succeeded.

In fiscal year 1971, the administration withdrew one division of 20,000 men from South Korea. About 40,000 of our men remain there today, but none are subject to direct enemy fire at the demarcation line. They have been withdrawn to more sheltered areas. This is the Nixon doctrine in action.

Korea's economy today is strong and growing by 9 percent per year—GNP—but the country cannot yet sustain the burden of modernizing its armed forces in the face of a determined foe to the North. We must assist Korea in becoming strong enough to repel attacks from the North. This is especially true today, with the faint hope for conciliation appearing through Korean Red Cross contacts. Korea must be strong enough to stand up as a credible negotiator with North Korea.

South Korea needs the $254 million requested in the FMS-MAP. To undercut this nation now would again invite destabilization on a bloody peninsula, one which is strategically crucial to peace in Asia. The Nixon doctrine is working in South Korea. Let us bring it to fruition by enabling the Koreans to protect themselves. Only the new ceiling proposed in the pending amendment will permit this to happen.

The progress in the countries which I have discussed are the essence of the Nixon doctrine. To make this idea work will require the expenditure as suggested by the pending amendment.

So I join the distinguished Senator from Mississippi and others who support his amendment. We cannot afford to lend aid only to Israel, worthy and popular as that nation is. We must also look to our responsibilities and interests as a world power, with a strong desire to promote world peace and stability among nations. However, we cannot achieve this aim if we opt out of a process which has given every indication of being successful. We must assist these nations to become self-reliant. We must work toward stability in all of the regions of the world, for this planet has been dramatically shrunk by advances in science and communication for us to draw back into ourselves.

We seek a generation of peace. If we pass this amendment we will have the tools with which to build it. Successful diplomacy requires balance of power and strength in reasonable proportion. It also requires coherency of purpose. We must have the new ceiling proposed in the Stennis amendment if this purpose is to succeed.

Let me close as one who believes strongly in the Nixon doctrine. This bill, as it would be amended, is crucial to the success of the President's effort to encourage self-sufficiency among our friends around the world.

I yield back the remainder of my time, but first, I ask unanimous consent to have printed in the RECORD a document entitled "Supporting Assistance, Military Assistance Fact Sheet," dated November 11, 1971.

There being no objection, the fact sheet was ordered to be printed in the RECORD, as follows:

SUPPORTING ASSISTANCE

The bill reported by the Senate Foreign Relations Committee provides $435 million of Supporting Assistance, of which $85 million is earmarked for Israel. This leaves $350 million for all other countries.

A.I.D. has, as of November 1st, obligated $243 million under the Continuing Resolution to support its program in the current fiscal year. Thus the proposed Senate bill means that A.I.D. will only have $107 million for all of its Supporting Assistance program requirements for the remainder of Fiscal Year 1972.

What are these requirements? The Administration request was for $805 million of Supporting Assistance, 90% of which was for Vietnam, Cambodia, and Laos. Thus the Senate bill results in a shortfall for the three countries in Indo-China of approximately $400 million.

A shortfall of this dimension would be a devastating blow to each of these three countries. In Vietnam and Laos, Supporting Assistance funds provide—directly or indirectly—over half of all government expenditures; in Cambodia over one-third.

If this shortfall is not greatly reduced, the impact on the economies of these three countries will be swift and disastrous. Inflation will become rampant, hoarding will become widespread, goods will disappear from the market place and economic chaos will follow. Political instability will not be far behind. Under such circumstances the ability of these three countries to continue an effective war effort and thereby to carry out Vietnamization with U.S. troops withdrawal will be very much impaired, if not destroyed.

MILITARY ASSISTANCE

The amount reported by the Senate Foreign Relations Committee is $350 million for Military Assistance Program plus $26 million recovered (unspent) from previous years' programs.

The Administration, spending at the rate authorized by the Continuing Resolution, has already obligated $260 million this year.

The amount remaining available for the rest of the Fiscal year 1972 under these conditions would be $96 million.

Cambodia is the first priority; $65 million has already been obligated of the $200 million program, leaving a $135 million shortfall. Putting $96 million—all of our remaining funds—into the Cambodia program would still leave a $39 million shortfall. Since ammunition alone takes 50% of the Cambodia program, this shortfall would quickly imperil the ammunition supply, which in turn would seriously affect the war situation in that country and thereby also Vietnamization, the U.S. withdrawal and the prospects for peace in Southeast Asia.

In Korea, $80 million has already been obligated of a $240 million program, which leaves a $160 million shortfall. This shortfall would probably lead the Koreans immediately to recall the two divisions they now maintain in South Vietnam to fill the defense gap at home. It would drastically affect the credibility of our commitment to help defend Korea and of the pledge we made last year, when we withdrew 20,000 troops, to support Korea's military modernization program.

In Turkey, of a $100 million program, $30 million has been obligated, leaving a $70 million shortfall. Such cuts would adversely affect the maintenance of a strong southern flank for NATO with serious implications for the stability of the Middle East as a whole.

Mr. STENNIS. Mr. President, how much time do I have remaining on the amendment?

The PRESIDING OFFICER. The Senator has 2 minutes remaining on the amendment.

Mr. STENNIS. Mr. President, I yield the Senator from Hawaii 2 minutes on the amendment, and I have authority from the Senator from Pennsylvania to yield time on the bill; I yield him 8 minutes on the bill.

Mr. FONG. Mr. President, I want to commend the distinguished chairman of the Senate Armed Services Committee for his cogent and forthright analysis of the funding levels of the pending measure, S. 2819, foreign military assistance authorization.

The facts and figures he has cited are crucial to understanding the devastating impact of S. 2819 as it stands.

These facts and figures lead only to one conclusion: the funding for military and supporting assistance in the pending bill is totally inadequate.

What Senator STENNIS has said deserves repetition and emphasis before we vote on his amendment.

Here are the facts so ably presented by Senator STENNIS.

First, on military aid, the committee bill proposes $350 million, a reduction of $355 million from the administration request for fiscal year 1972.

The committee figure would reduce these grants overall by more than 50 percent.

Fiscal year 1972 is already 4½ months old. So far, $300 million have been obligated under authority Congress granted in the continuing appropriations resolution.

The pending committee bill would therefore provide only $50 million for the remaining 7½ months of fiscal year 1972.

This is not a phasing out of military assistance. It is in effect a termination of military assistance grants.

This $50 million is not enough even to buy the ammunition required for Cambodia, one of several countries we are aiding in their fight for independence and survival.

As Senator STENNIS pointed out, ammunition is not the kind of military assistance that can be funded for any length of time out of the so-called pipeline amounts. Pipeline funds primarily are for long leadtime items that take more than 1 fiscal year to produce.

Military assistance grants under the committee bill would not even permit full funding of aid to Cambodia at the level the committee agreed upon in this very bill. The committee bill set the ceiling for aid to Cambodia at $341 million. Even if the entire $50 million remaining to be obligated under the bill for military assistance grants were allocated to Cambodia, this would not bring military aid up to the ceiling the committee agreed upon.

Should the $50 million be so allocated, this would force immediate cancellation of important aid programs to Turkey, the Philippines, and Korea.

The Stennis amendment would increase military assistance grants by $102 million over the committee amount. This would permit a total of $152 million for the remainder of fiscal year 1972.

The amount Senator STENNIS is proposing is the identical amount agreed upon by the Senate, by a vote of 47 yeas to 27 nays, on October 29, less than 2 weeks ago.

The question before the Senate today is either the committee amount, which for all practical purposes means a termination of military assistance grants right now, or the Stennis amendment which would continue these grants at a greatly reduced level than in 1971, but which would avoid some difficult choices, such as halting aid to Cambodia immediately or cancelling programs for the Philippines, Turkey, and Korea.

So much for military assistance grants.

Second, let us consider supporting assistance, exclusive of supporting assistance to Israel, which would remain $85 million as recommended by the committee bill.

Supporting assistance to other nations would be slashed to $350 million under the pending committee bill. This is a 43-percent cut from the amount the Senate approved only 2 weeks ago.

The Stennis amendment would increase supporting assistance to a total of $566 million. This is 8 percent less than the Senate approved 2 weeks ago.

As in the situation on military assistance grants, we are faced with the realities imposed by the calendar. In the 4½ months of the 1972 fiscal year which have elapsed, more than $240 million have already been obligated under authority Congress granted in the continuing resolution.

Should the committee figure of $350 million be sustained today, there would be only $110 million available for supporting assistance in the remaining 7½ months of the fiscal year.

As Senator STENNIS has pointed out, more than $50 million are needed for vital refugee and land reform programs in Vietnam—programs strongly supported in America and crucial to Vietnam's future.

Mr. President, we are endeavoring with the bulk of these funds to feed, clothe, and provide medical care for the unfortunate victims of the lengthy and debilitating war in Indochina. It would be tragic if the Senate were to adopt the committee figure, which would mean that such humanitarian efforts could not be sustained.

Our Government, with strong support from Congress, has encouraged land reform in South Vietnam for years. It would be tragic if the Senate today, by reducing supporting assistance to the committee figure, would thereby help undermine the program which is a keystone to long-range economic, social, and political reform in South Vietnam.

As we all know, supporting assistance funds are required, mainly in South Vietnam, to help keep the wartime economy operating. These funds are required basically for fertilizer, machinery, iron and steel, chemicals and petroleum products. What may not be so well known is that 90 percent of these items are bought from U.S. companies.

It is estimated that, under the committee bill, supporting assistance to South Vietnam and Laos would be ended by March or April of next year.

Mr. President, it is one thing to phase down U.S. foreign aid. It is another thing to pull the rug from under our Indochina allies, who are striving so desperately to defend their homelands and to keep their economies above water.

Our Nation has a tremendous investment in behalf of self-determination, independence, and economic viability in Indochina. Shall we now, for want of a few million dollars, let this investment go down the drain?

Shall we repudiate those sacrifices just at the point when Indochina is on the threshold of carrying the entire burden of defense manpower and on the threshold of putting their economies in order?

We all know the saying, "For want of a nail a kingdom was lost."

Let us not now, by slashing supporting assistance too deeply, be in the position of losing all we have fought and sacrificed for in Indochina for want of a relatively small amount.

The funds in the committee bill for military and supporting assistance—exclusive of supporting assistance for Israel—represent a 44-percent cut compared with 1971 appropriations by this Congress.

Amounts in the Stennis amendment represent a reduction of slightly less than 20 percent.

The committee bill reduction is far too drastic in 1 year, actually in less than a year, because Congress allowed these programs to move along for 4½ months at the 1971 rate.

The Stennis amendment is a much more reasonable figure. It looks to a gradual phaseout of military and supporting assistance rather than the precipitate phaseout forced by the committee bill.

I will be among the first to admit that our total foreign aid format needs to be revised and changed in a manner that would make it more receptive and effective in light of the needs of the 1970's

At the same time, I do not believe that killing military assistance now, as the committee bill would in effect do, and slashing supporting assistance to a dangerous low, as the committee bill would do, would serve the best interests of our Nation.

We still live in a very dangerous and precarious world. This is a world in which America cannot go it alone.

Such drastic reductions as the committee bill proposes would send an unmistakable signal throughout the world that the United States is weakening in its resolve to actively help our friends and allies and to work for a safer world.

Such drastic reductions would be an ominous sign to the outside world that America is retreating from its commitment to work for a generation of peace, not only for ourselves, but for others.

The world is no less dangerous than it was in fiscal year 1971, and economic stimulus is no less necessary in many nations than it was in 1971. We in Congress cannot blind ourselves to these problems and we should not run away from them, which we would be doing if we accede to the cuts in the committee bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield the Senator 3 additional minutes on the bill.

Mr. FONG. Our President has taken many initiatives to develop a better climate for peace and prosperity both

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here at home and abroad. He is withdrawing U.S. combat forces from Vietnam and reducing U.S. military personnel stationed elsewhere abroad. America's military profile is being decidedly lowered. President Nixon has made it plain that other nations must carry more of the burden for their own defense and for the peacekeeping efforts in the world.

President Nixon will soon be journeying to Peking in a major effort to reduce tensions in Asia and to build a more realistic working relationship with a country that accounts for one-fourth of the world's population.

He will also be going to the Soviet Union next year in another effort to reduce the possibility of conflict between the two superpowers and to improve the prospects for peace for generations to come.

This is no time for the Congress to vote for precipitate retreat in our U.S. economic, military, and supporting assistance programs.

Actually, Mr. President, the amount in the Stennis amendment would bring the total authorization in the pending bill to $1,503 million.

President Nixon requested a total of $248.9 billion in new spending authority in his January budget. With the Stennis amendment, the military and supporting assistance authorization would be only six-tenths of 1 percent of all the budget authority requested for fiscal year 1972.

Mr. President, I am not unmindful of our urgent problems here in America. I know that huge sums are needed in our country's battle against poverty, unemployment, housing shortages, overcrowded cities and classrooms, polluted water and dirty air. The biggest portion of the President's budget—42 percent—is devoted to spending for human resources programs.

Our domestic needs do indeed impose heavy burdens on our Treasury and require enormous effort and sacrifice on the part of the American people. And yet, we cannot, even in our present dilemma, turn away from the crying needs of our friends abroad. We in America are somewhat like the man who wept, because he had no shoes, until he saw a man who had no feet.

In view of the President's accelerated withdrawal of U.S. troops from Vietnam, in view of the President's clear policy of encouraging other nations to recruit and train their own manpower and build up their own defense forces rather than relying on American boys, and in view of the President's initiatives for peace, I believe the American people would support an amount representing six-tenths of 1 percent of the total budget authorization requested for fiscal year 1972.

The increases in the Stennis amendment, which are the issue in the coming vote, represent only one-tenth of 1 percent of the total budget authorization requested for fiscal year 1972.

If the Senate turns down the Stennis amendment, we shall be running the very grave risk of losing the momentum we have toward the kind of world we want.

For years, we in America have believed that if we are to have the kind of world we wish to live in, we must work toward that kind of world. Our people have been willing to sacrifice much for that kind of world.

If we stop working for what we believe in, if we let down those who have trusted us and have had faith in us, if we abandon our commitments, what kind of Nation shall we become in the eyes of the world? Who will trust us? Who will believe us? Who will cooperate with us? What kind of world will eventuate?

Mr. President, I urge that the Senate adopt the Stennis amendment.

Mr. AIKEN. Mr. President, the amendment offered by the Senator from Mississippi will continue funding at such a rate as to permit the phasing out of these programs in a period of 4 to 5 years, not all at once. Inasmuch as the amounts which he has proposed are almost exactly the amounts which I insisted on in Committee on Foreign Relations before we reported the ill-fated bill a couple of weeks ago, I expect to support the amendment of the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Vermont very much for his remarks. Had time permitted, I certainly would have had a conference with the Senator before this amendment took any final form.

Mr. AIKEN. The Senator's amendment will have about the same result and effect as the proposal I made in the Committee on Foreign Relations. My proposal was to reduce funds for military grants and supporting assistance materially from what was originally requested by the administration.

Mr. STENNIS. I am most grateful to the Senator from Vermont.

Mr. BIBLE. Mr. President, will the Senator from Mississippi yield for a question?

Mr. STENNIS. I am happy to yield to the Senator from Nevada and yield myself 2 minutes on the bill for that purpose.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 2 minutes.

Mr. BIBLE. Mr. President, I have very carefully read and studied the letter which the Senator from Mississippi addressed to each of us on the pending amendment, his letter being dated November 10, 1971, and entitled, "Military Assistance Amendment No. 631 to S. 2819."

I direct the attention of the Senator to the last paragraph, two sentences there, one of which reads, "I put the administration on notice that I expected to support only a minimum aid program next year."

My question of the Senator from Mississippi is: What is the minimum military aid program for next year?

Mr. STENNIS. Mr. President, I shall be very glad to try to answer the Senator to the fullest extent I possibly can. I did not have a figure in mind when I used that term. But I want to make it clear, and did make it clear to the administration, that sponsorship of this amendment would not put me under any obligation or by implication support their program next year. This amendment is less than that program.

Mr. BIBLE. I understand.

Mr. STENNIS. I wanted it to be as low as possible in that area, but I said this morning that when we pull out of Vietnam—and I want us to—I think we might as well make up our minds about economic aid and military aid in order for them to assist themselves, and that that would last for years—plural—to come. I would think 2 or 3 years at the minimum. But it should be reduced all that time. But I have in mind that we almost have to underwrite, to a reasonable extent, their efforts to stay on their feet in order to preserve and protect the blood we have spilled. That is to justify the pain of the wounded men. We have spent millions of dollars. So, I have reconciled myself to the fact that it will involve money. We came out of Korea that way and gradually got out, and I think they are in fairly good shape.

Mr. BIBLE. But the Senator is also convinced, this seems to say, that next year there should be a reduction—I do not know whether to say—in the aid program, but at least some reduction in the military aid program.

Mr. STENNIS. I think so, as to military aid; yes. However, when we pull out our military troops, there will be another test there. More military supplies may be necessary. We are supplying this now under the military procurement bill appropriation.

Mr. BIBLE. I understand.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. FULBRIGHT. Mr. President, I was very interested in the candor of the Senator from Mississippi. He said that we are out of Korea and they have done well. We plan to give them $771 million this year and maintain 40,000 troops there, I suppose, for another 20 years.

In Laos, 20 years from now, we will be paying, I guess, several times the $350 million ceiling, allowing for inflation. This is what I object to about the program.

The Senator says it is a minimum program. What is a minimum program? Every time we ask a question about any of these programs, we are always told that they are minimum, barebone programs. I have never yet had an administrator come up and say, "I am asking for a lot more than we need. This is a maximum effort. I could take a lot less. However, this time I want the maximum."

I never heard of anyone that did not come up with anything but a barebone, minimum budget.

We are providing $771 million this year for Korea. That is the prospect we are facing in Cambodia and Laos. And the longer we go on, the more we send them, as they are seeking to do in this bill and the more likely we will get the same results.

Mr. President, there is one little item I thought might interest the Senate. The Senator from Mississippi mentioned a lot of things. They buy trucks, and they buy phonographs, and they buy all sorts of things. The Senator mentioned fertilizer. However, on page 135 of the book "Commercial Import Program in Vietnam" I thought the Senate might be interested to know that among the hundreds of commodities authorized for Vietnam for which we pay the bills, is an item that struck my attention.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 additional minutes.

Mr. FULBRIGHT. Mr. President, on the commercial import list for Vietnam are these items as well: electrical windshield wipers, horns, and defrosters for motor vehicles. It reminds me a little of a story we used to tell about the Russians who had a big program for aid to Guinea at one time. They sent them a whole shipload of snow plows. The shipload ended up on the docks in Guinea. We used to laugh about how stupid the Russians were. I wonder how much more appropriate it is to send the South Vietnamese automobile defrosters. I was under the impression that Vietnam was a warm country. I did not know they had a need for defrosters.

I do not know whether they allowed for snow tires in here. However, we give them such things as cigarette and cigar making machines. In fact, we give them almost anything one can imagine in the way of consumer goods—air conditioners—practically anything one can think of.

The Presiding Officer can see how big a book this is. It is about 300 pages. It lists various kinds of commodities. This is the warp and woof of the black market. This is where the speculators come in. This is where the real money is made. And the money they make finally ends up in Switzerland.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield 2 minutes to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I am very interested in the recitation of some of the articles we are supplying to different countries around the world. Does the Senator have any comparative figures, either by dollar or category, as to what kind of aid New Zealand, Australia, or any of the very solvent nations in that sector of the world may be supplying the South Vietnamese, either in dollars or cents, windshield wipers, or defrosters?

Mr. FULBRIGHT. Mr. President, I do not have such a list for those countries. But I know as a matter of fact, they have had a minimum program, to use the language of the Senator from Mississippi. Australia, as the Senator knows, was a supporter, perhaps reluctantly, of our country in Vietnam. They sent at the height of the activities, I think, 8,000 men. That was after much arm twisting. New Zealand sent a few hundred. It was purely a token force.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 additional minutes.

Mr. FULBRIGHT. Mr. President, we gave the Australians a nice juicy sugar quota. They owned a plantation in Fiji. It did not appear on the books. I did not know it until in discussions with someone it came out that the ownership of the plantation in Fiji was Australian. The quota was for about 80,000 tons, as I recall. And the Australians are so much better off than we are, relatively speaking.

The Australians are doing very little in Vietnam, and are withdrawing. They are now undertaking, under pressure from us, I assume, to train Cambodians in bases in South Vietnam and making available some training equipment in Australia. I do not know what kind of direct aid they give. They may give some bandages—Red Cross bandages and things like that. Many countries do that. It helps their consciences.

We gave Australians contracts for trucks which we purchased from them and paid for under the military program and then shipped to Cambodia.

This is how our business is done: We paid the Australians out of this program for trucks to go to Cambodia.

As the Senator knows, the Japanese and Koreans ship goods into South Vietnam. They have always done that. It was a part of our deal with Korea when we hired their troops that we would allow them a reasonable amount of Government-financed trade.

The Senator from Indiana was involved in the argument about Japan buying tin roofing from Indiana rather than from Korea.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 additional minutes.

Mr. FULBRIGHT. Mr. President, we had a great argument about it. We paid for the roofing regardless of where it came from. I am told by the staff that finally the United States was allowed to furnish the tin roofing.

The Senator from Mississippi is ready to vote. As no other Senator has anything to say on this, I do not see why we should go any further.

I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 2 minutes.

Mr. STENNIS. Mr. President, I want to say just a word. I am not going into a real argument on this matter. I simply wish that some other Members of the Senate could have been present to hear the brief statement of the Senator from Vermont (Mr. AIKEN) who said, as will be shown by the RECORD, in substance, that the figures in this amendment represent just about what his own calculations of this problem some weeks ago demonstrated, and that he would support the amendment for that purpose because he thought that was nearest the proper level for this support.

With reference to the Korean situation I am glad it has gone as well as it has over there. They have two divisions of their own troops fighting with us in South Vietnam and this has been true for several years. It is true we are paying the cost of that but at the same time if they had those divisions back home we could bring home more of ours, which I hope can occur before very long.

I think the facts have been developed and I hope the Senate, in its wisdom of trying to settle a sticky problem, will see fit to agree to the amendment as being the minimum necessary within reason for the rest of this fiscal year, taking into account not only Southeast Asia, but also Turkey, the Philippines, Indonesia, Greece, and Latin America for much smaller amounts.

THE NEED FOR HIGHER MAP AND SUPPORTING ASSISTANCE LEVELS

Mr. JAVITS. Mr. President, I shall vote in favor of amendment No. 631, introduced by Senator STENNIS, for two reasons. First, I believe that to carry out and implement withdrawal from Indochina and the Nixon doctrine, MAP and supporting assistance are necessary and proper instruments of U.S. international security policy. These twin policy instruments are likely to be of increasing significance in the years just ahead, as the new strategy and security posture of our Nation, based upon the Nixon doctrine, is developed and, I believe that the basic concepts of the Nixon doctrine, involving a significantly reduced U.S. military presence in Asia, commands very broad support in the Senate. But this doctrine implies clear financial support of self-help security efforts as an essential ingredient.

I believe that voting for the restoration of some of the funds which have been cut already is supportive of the basic reform contained in the Nixon doctrine. This reform is directed toward the disengagement of U.S. personnel; in place of U.S. personnel money is needed in support of self-help and self-defense efforts. Next year this basic reform must be made in a thoroughgoing and unmistakable way.

Second, in my judgment, the reductions in the funding levels for MAP and supporting assistance contained in the bill before, S. 2819, are too drastic. Cuts of this magnitude cannot be made—midyear—without posing the danger of disruption in our relations with allies with whom we have been cooperating very closely in the security field. Rightly or wrongly, these countries have made their calculations and constructed their defense postures on certain important assumptions regarding U.S. assistance.

If we look at the map, we can see where these heavy cuts are likely to fall in great measure—Korea, Turkey, Taiwan. We all

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know that the administration will not take these cuts out of the Indochina programs, where I and many in the Senate would like to see them made. Rather, they are likely to fall on programs outside Indochina. I do not think this is the proper moment for abrupt and drastic cuts in our military assistance programs on Taiwan—so soon after the U.N. vote; or in Korea—where we are reducing U.S. forces, where tensions are high, and where there are some faint signs of a possible thaw following the improvement in Sino-American relations.

Moreover, I feel that it would not be in the U.S. interest to force an abrupt contraction of the U.S. program of military assistance to Turkey, given the dangerous situation in the eastern Mediterranean, the already existing stresses in United States-Turkish relations, and the real effort by Turkey's Government to cooperate in the control of narcotics traffic.

Having expressed the reasons why I will support the Stennis amendment, I also wish to make clear my own view that a thorough overhaul is warranted in our military assistance programs, and in some of the basic concepts underlying the present programs, which are clearly obsolete today. I do not want the United States to be viewed in the world as a nation which relies excessively on military measures. Such a view is widespread today, as anyone who has had experience up at the United Nations can testify. I think the United States has been entirely too "cozy" with military dictatorships over the past decade. Many of our military assistance programs continue to be based on a misplaced cold war zeal, which certainly has lost much of whatever validity it might once have had. The basic thinking behind much of the present foreign military assistance in the Pentagon is part of the same thinking which set in motion the forces which got this Nation into the disastrous and improvident Vietnam war. Thinking which could head us into a repetition of many of the Vietnam mistakes in Cambodia.

I have fought in the Senate, with many of my colleagues, to attain a reordering of our national priorities in the world and at home. Especially, we must get the dog of war back on the leash by reestablishing Congressional controls so that war cannot be unleashed again without the full and deliberate concurrence of the Congress. A very necessary step in this direction is the overhaul of existing policies and procedures respecting military assistance programs, particularly those dealing with nations in Asia. I shall work unsparingly in this regard. Basic revisions and reforms are necessary. They are necessary in next year's program. But I do not believe that it is in the national interest to attempt to force an abrupt reduction in existing programs in the middle of the current fiscal year, because other nations having made their plans on the basis of assurance given them by representatives of the Executive Branch cannot be asked to abruptly to phase into a new situation.

The reductions which are sustained even after Senator STENNIS' amendment are sufficient, in my judgment, to inform the executive branch, and all foreign governments that commitments of the public funds of the United States cannot constitutionally be made unless and until the Congress has authorized and appropriated such funds. We should give such notice but should not use the cutoff as notice. We must note that this is a bill authorizing only until June 30, 1972—7 months. The old habit of unilateral commitments undertaken by representatives of the executive branch with foreign governments—a practice which the Congress hitherto has contributed by its passivity—those days are over. This is a good thing for our Nation and for the world.

Mr. TOWER. Mr. President, I am pleased to join in supporting the amendment of the Senator from Mississippi. This amendment would raise the authorization for supporting assistance to $566 million and the authorization for military assistance to $452 million. I support this amendment because I believe that the authorizations for these programs, which were reported out by the Foreign Relations Committee, would seriously endanger our national security.

On the military assistance side, the committee has slashed the authorization requested by the administration in half, Senate endorsement of the committee's action would have the following dire consequences.

In Southeast Asia, Cambodia would be unable to continue training and equipping its armed forces at a level which would enable the Khmer Government to hold its own against the 5 North Vietnamese divisions which control 50 percent of Cambodia's territory. This would free these enemy divisions for offensive actions either in Cambodia or in South Vietnam and would have a serious impact upon our Vietnamization program and the speed with which we can withdraw our troops from Vietnam.

In this connection, I wish to point out that the objectives of the administration's proposed military assistance program for Cambodia are modest. We are trying to help the Cambodians equip a lightly armed infantry force. Ninety-five million dollars of the projected $200 million program is for ammunition. Only 21 armed personnel carriers would be supplied and only 88 howitzers. When the Cambodian army is fully equipped, it will only have four 105-millimeter howitzers for every four infantry brigades; an American infantry brigade by comparison has direct support from eighteen 105-millimeter howitzers.

The point is that we are not proposing to create a huge army based on American standards but a modest force based upon Cambodian needs. The average North Vietnamese unit will have more firepower than the average Cambodian unit even when the Cambodians have been fully equipped. If the Senate holds the total authorization for military assistance to $350 million and all other programs were dropped, we would have a $40 million shortfall in this program.

The cuts in economic supporting assistance, which sliced the authorization to 55 percent of the $805 million requested by the administration, would have an even more severe impact. These cuts would insure a Communist takeover in Indochina. This program provides over half of all Government expenditures in Vietnam and Laos, and over one-third of these expenditures in Cambodia. If we do not continue to provide adequate amounts of supporting assistance to these nations, economic chaos, political instability and military disaster become inevitable when the AID pipeline dries up early this spring. While these nations are taking an increasing share of the military burden, we must not refuse to shore up their economics.

The impact of these program cuts would not be confined to Southeast Asia alone. We would be unable to continue to assist the Koreans in modernizing their armed forces. In 1968, there were 68,000 U.S. troops in Korea, with one U.S. Army division on the front line. Today, as a result of our military assistance programs, Korean troops man the entire forward line across the 38th parallel and the President has been able to bring one American division home. In short, our military assistance program has helped provide Korea with an armed force that can increasingly assume the primary burden of its own defense and enable us to continue to withdraw our soldiers from a zone of confrontation. If our military assistance program is cut severely, this forward movement would be gravely compromised. If we want to continue to reduce the level of American troops in Korea, we must complete the modernization of Korea's own forces by assisting the Koreans to replace their vintage World War II equipment.

In the Middle East, our assistance program to Turkey would also be severely cut back. We are attempting to help the Turks operate their present military equipment and provide some new items to replace obsolete weapons in their inventory. If the $350 million ceiling imposed by the Foreign Relations Committee is retained, the fiscal year 1972 military assistance program to Turkey will have to be slashed by 70 percent. This would, at a time of great danger, threaten the stability of NATO's southern flank and could encourage a more aggressive Soviet stance in the eastern Mediterranean. Such a precipitate U.S. action would have an adverse effect on Israeli security and there is no question that it would increase the danger of a major confrontation in the Levant.

In addition, security assistance programs to other nations such as Indonesia, the Philippines, Greece, the Republic of China, Ethiopia, and Portugal would have to be eliminated or drastically reduced if these authorizations are not raised. Many of these nations provide facilities to us which are of critical importance to our national security. It would be irresponsible for us to ignore this fact while debating this legislation.

We must remember that these security assistance programs are just that. They are not designed to assist foreign governments because we like them, but rather because we feel that their security has a direct impact upon our own. We do not scatter this assistance around the world—we concentrate it: 75 percent of our military assistance program goes to three countries—Cambodia, Korea, and Turkey—and 93 percent of our economic supporting assistance would go directly to four countries in the Southeast Asia area—Vietnam, Cambodia, Laos, and Thailand. These are countries which are threatened by external attack and/or outside supported internal subversion; countries which are bearing the economic dislocations of a war thrust upon them by the aggressors in North Vietnam.

I wish to point out that this amendment does not restore the entire amount which the administration requested for these programs, but only part of it. If it is enacted, the Senate will have reduced the administration's request by $238 million or 18 percent. This is a severe cut; but it will, I have reason to believe, give us a security assistance program with which we can live. It will enable us to keep our commitments and protect our national interests during a period of transition. The President has made substantial progress in bringing about larger participation by our allies in the mutual defense of the free world. And with our assistance, other countries are increasing their share of the burden—in Korea, in South Vietnam, in Cambodia, and elsewhere. By this December, over 420,000 American troops will be home from the Pacific—more will follow—other young men will shoulder the primary burden of defending their own nations and to be successful in their efforts, we must continue to give them the assistance which they need to do the job.

I believe that when one considers the fact that it has cost more than $4 billion a year to keep these 420,000 American troops overseas, one must conclude that our modest security assistance programs which enable us to make such withdrawals with minimal risk to our own vital interests are a good investment. There are those who believe that the era of the cold war is drawing to an end. I must admit that I have reservations about this assessment since it is, after all, only 3 years since the invasion of Czechoslovakia. But in any event, I do not believe it is at all prudent to undercut the President by eliminating programs which he believes are the foundations of our national security policy.

I am convinced that slashing these programs in the manner proposed by the Foreign Relations Committee would signal to the world—friend and foe alike—that America is retreating from its international responsibilities. This we simply must not do. The United States is the leader of the free world. We are currently the only country which can provide the much needed assistance with which other nations can defend themselves from Communist aggression and the new imperialism. Our hopes for a generation of peace lie in the ability of our friends and allies to establish successfully their economic and military viability.

Mr. BENNETT. Mr. President, last week, by a rather sizable majority, the Senate in a surprise move rejected the foreign aid bill. In the wake of that action, the Senate Foreign Relations Committee has attempted to reconstruct the program by dividing foreign assistance into economic and military assistance.

There have been drastic cuts made in the program, especially in the military field. I can understand the frustration which the American people and their elected representatives feel toward foreign aid. We have borne a heavy burden, exceeding $150 billion in the postwar period. We look around us and see our cities and rural areas with serious problems. We look at our foreign policy efforts and see some 46 nations, which have received our aid, vote to expel Nationalist China from the United Nations. We see a frustrating and long experience in Vietnam that has left America divided and bitter. So, it is not surprising that foreign assistance has gotten into difficulty in the Senate of the United States. But I question if we have made the right decision under the circumstances.

We are still the leader of the free world. We have made our stand in Southeast Asia, and the Vietnamization program there is moving into its final phases. American troop levels are at their lowest point since the mid-sixities.

American casualties are nearing the zero mark and our combat role is on the brink of being terminated. This is possible in large measure because under President Nixon's Vietnamization program the responsibilities for the combat, administrative and maintenance are rapidly being turned over to the South Vietnamese themselves. That shift of responsibility is moving swiftly and is working well. It would be very shortsighted and a serious mistake to terminate funding for the Vietnamization program at this critical point.

Also, in Cambodia, we are at a critical stage in helping that country build its armed forces to the point where it can defend itself. Cambodia is not only fighting for its national survival, it is tying down thousands of North Vietnamese troops in that country; thus, giving the South Vietnamese and the United States a great deal of freedom to develop the Vietnamization program and the withdrawal of American forces.

All this is part of the Nixon doctrine, which calls upon free nations in that part of the world to prepare for their own self-defense. Regardless of how one feels about our involvement in South Vietnam, one cannot change the fact that North Vietnamese Communist troops are still present and active in Cambodia, Thailand, South Vietnam and Laos. If we are to preserve the hard-won gains the free world has already made in Southeast Asia, we cannot and must not terminate the necessary financial support now. I call upon my colleagues in the Senate to look at this problem in the context of the Nixon doctrine and to see a continuation of needed military aid as a means of making it possible for American troops to disengage from the Southeast Asia conflict.

I urge the Senate to restore the vital funding for Vietnamization and aid to Cambodia to the necessary levels since, in the final analysis, these are the programs which make it possible for President Nixon to withdraw U.S. troops on the accelerated basis he is now following.

Mr. STENNIS. Mr. President, I yield myself 3 additional minutes on the bill.

I yield to the Senator from Minnesota.

Mr. HUMPHREY. I regret I could not be in the Chamber for the discussion. I had another engagement. I wish to ask the Senator just a couple of questions.

Does the Senator's amendment go beyond the military assistance area, beyond the Church amendment, or the bill as it came to us from the Committee on Foreign Relations?

Mr. STENNIS. That is a very good point. This amendment now is identical with the Church amendment on the military assistance fund. I adopted the figures that the Senate took when it adopted the Church amendment.

Mr. HUMPHREY. In other words, the 20-percent reduction is here.

Mr. STENNIS. It will still be in effect; yes.

Mr. HUMPHREY. On the matter of supporting assistance I believe the bill before us has $350 million.

Mr. STENNIS. Yes.

Mr. HUMPHREY. The Senator's amendment would increase that to approximately $566 million, if my calculation is correct.

Mr. STENNIS. $566 million is correct.

Mr. HUMPHREY. What do those additional dollars go toward? Who gets them?

Mr. STENNIS. Does the Senator mean country by country? We had a list of that. I am afraid I do not have the complete list here but it will be primarily for Cambodia, some for the Philippines. It reaches to gasoline, fertilizer, some for land reform in South Vietnam. The main beneficiary will be South Vietnam, where these applications will be made; some in the Philippines. The total figure is 8 percent less than was the bill that was defeated here the other day. In other words, it took the lower figure. When it is all added up it will be 8 percent less than in the bill the other day.

Mr. HUMPHREY. The total amount?

Mr. STENNIS. The total amount—not the direct military aid, but for supporting funds.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. I yield myself 2 additional minutes.

In round figures $50 million is for refugees, health, and land reform in South Vietnam.

Mr. HUMPHREY. Is there any additional money to the Middle East, for the state of Israel?

Mr. STENNIS. There is a small amount in here—and some other country—Greece. Eighty-five million dollars for Israel is the same. It remains the same in my amendment as in the bill now.

Mr. HUMPHREY. I thank the Senator.

Mr. STENNIS. I thank the Senator.

Mr. President, if the Senator is ready to yield back his time I am ready to yield back my time.

The PRESIDING OFFICER. The Senator from Arkansas has already yielded back his time.

Mr. FULBRIGHT. Mr. President, I yield myself 1 minute on the bill to remind the Senator from Minnesota, who keeps talking about the bill that was defeated, that I did not realize it was the purpose of either the Senator from Min-

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nesota or the Senator from Mississippi to create another situation that might bring about a defeat. If the Senator is going to increase the bill I would not support it.

Mr. STENNIS. I gather the Senator will vote for the bill, even though it is not the same amount that came from the committee.

Mr. FULBRIGHT. I would not vote for it if the Senator's amendment prevails. I do not think I can vote for it anyway.

I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that the Senator from West Virginia (Mr. BYRD) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN) would vote "nay."

On this vote, the Senator from Alabama (Mr. SPARKMAN) is paired with the Senator from New Jersey (Mr. WILLIAMS). If present and voting, the Senator from Alabama would vote "yea" and the Senator from New Jersey would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

If present and voting, the Senator from Tennessee (Mr. BROCK) would vote "yea."

The result was announced—yeas 46, nays 42, as follows:

[No. 306 Leg.]

YEAS—46

Aiken	Eastland	Packwood
Allen	Ervin	Percy
Allott	Fannin	Roth
Baker	Fong	Saxbe
Beall	Griffin	Schweiker
Bennett	Gurney	Scott
Bible	Hansen	Stafford
Boggs	Hruska	Stennis
Brooke	Jackson	Stevens
Buckley	Javits	Taft
Cannon	Jordan, Idaho	Talmadge
Cook	Long	Thurmond
Cotton	Mathias	Tower
Curtis	McGee	Young
Dole	McIntyre	
Dominick	Miller	

NAYS—42

Anderson	Ellender	Kennedy
Bayh	Fulbright	Magnuson
Burdick	Gambrell	Mansfield
Byrd, Va.	Gravel	McClellan
Case	Hart	Metcalf
Chiles	Hatfield	Mondale
Church	Hollings	Montoya
Cooper	Hughes	Moss
Cranston	Humphrey	Muskie
Eagleton	Inouye	Nelson
Pastore	Randolph	Stevenson
Pearson	Ribicoff	Symington
Pell	Smith	Tunney
Proxmire	Spong	Weicker

NOT VOTING—12

Bellmon	Goldwater	McGovern
Bentsen	Harris	Mundt
Brock	Hartke	Sparkman
Byrd, W. Va.	Jordan, N.C.	Williams

So Mr. STENNIS' amendment (No. 631) was agreed to.

Mr. STENNIS. I move to reconsider the vote by which the amendment was agreed to.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FULBRIGHT. Mr. President, all I wish to call to the attention of the Senate is that by the result of the action just taken on the amendment of the Senator from Mississippi, the Senate has now increased the aid bills to within less than $300 million of the bill we defeated. Otherwise, the bills are very similar. We retained the policy statements and all the peripheral material, but by this action we have now increased the total of this measure plus the bill yesterday to $2.647 billion.

So the Senate marched up the hill, and we are now marching down, or whichever way you want to put it. This bill should, of course, be defeated again if we are going down the same old road, unless the Senate was just playing games a week ago.

THE $85 MILLION ECONOMIC ASSISTANCE AUTHORIZATION FOR ISRAEL

Mr. JACKSON. Mr. President, I am pleased to report that some confusion surrounding a part of the foreign assistance program has been clarified. Earlier I wrote to Secretary of State Rogers in order to receive his assurance that an authorization for $85 million in economic assistance to Israel is intended seriously by the administration and that these funds will be expended for their stated purpose as and when appropriated.

The Secretary has been in communication with me and with the distinguished minority leader on this point, and Senator SCOTT has conveyed the administration's commitment that the funds in question will indeed be expended "as promptly as possible."

"The $85 million will be expended as promptly as possible," Senator SCOTT has said. Speaking for the administration, Senator SCOTT went on to say that "these funds will not be impounded or delayed. Their expenditure will only wait on the appropriation process."

As Senator SCOTT indicated, these assurances were in response to a bipartisan common effort by Senators JACKSON, SCOTT, and DOLE. All of us wished to ascertain that these funds, which had not been part of the original administration request, were intended for actual and immediate expenditure.

Mr. President, I am pleased that this action has been taken. These funds are vitally needed to help alleviate the severe economic problems arising from Israel's extraordinary defense burden.

Mr. President, I ask unanimous consent that my letter of November 10 to Secretary of State Rogers be included at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 10, 1971.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: In reviewing the economic and military assistance programs presently before the Senate, I note that an authorization for $85 million in economic assistance to Israel is now a part of the pending legislation.

As you know, these funds are intended to assist Israel in meeting urgent economic problems arising out of that country's extraordinary defense requirements.

In view of the fact that this appropriation was not a part of the original Administration request, I would be most grateful to receive your assurance that these funds will be expended for their stated purpose as and when appropriated.

Sincerely yours,

HENRY M. JACKSON,
U.S. Senator.

AMENDMENT OF SMALL RECLAMATION PROJECTS ACT OF 1956

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1026.

The PRESIDING OFFICER (Mr. TAFT) laid before the Senate the amendment of the House of Representatives to the bill (S. 1026) to amend the Small Reclamation Projects Act of 1956, as amended, which was to strike out all after the enacting clause, and insert:

That the Small Reclamation Projects Act of 1956 (70 Stat. 1044), as amended, is amended as follows:

(1) Subsection (d) of section 2 of such Act is amended to read as follows:

"(d) The term 'project' shall mean (i) any complete irrigation project, or (ii) any multiple-purpose water resource project that is authorized or is eligible for authorization under the Federal reclamation laws, or (iii) any distinct unit of a project described in clauses (i) and (ii), or (iv) any project for the drainage of irrigated lands, without regard to whether such lands are irrigated with water supplies developed pursuant to the Federal reclamation laws, or (v) any project for the rehabilitation and betterment of a project or distinct unit described in clauses (i), (ii), (iii), and (iv): *Provided*, That the estimated total cost of the project described in clauses (i), (ii), (iii), (iv), (v) does not exceed $15,000,000. Nothing contained in this Act shall preclude the making of more than one loan or grant, or combined loan or grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.".

(2) The first sentence of section 4(e) of such Act is amended by deleting ", whether the proposal involves furnishing supplemental irrigation water for an existing irrigation project, whether the proposal involves rehabilitation of existing irrigation project works, and whether the proposed project is primarily for irrigation".

(3) Paragraph (a) of section 5 of such Act is amended by deleting "$6,500,000 or" and inserting in lieu thereof "$10,000,000 or".

(4) Section 5(b)(2) of such Act is amended to read as follows: "(2) one-half the costs of acquiring lands or interests therein to serve exclusively the purposes of fish and wildlife enhancement or public recreation, plus the costs of acquiring joint use lands and interests therein properly allocable to fish and wildlife enhancement and public recreation;"

(5) At the end of subsection 5(b)(5), delete the word "projects" and the semicolon, and add the following: "projects: *Provided*, That the cost of constructing the project as used in this subsection shall be exclusive of the cost of lands and interests in land;"

(6) Subsection 5(c)(3) of such Act is amended to read as follows: "(3) in the case of any project involving an allocation to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation, interest on the unamortized balance of an appropriate portion of the loan at a rate as determined in (2) above;"

(7) Section 10 of such Act is amended by deleting "$200,000,000" and inserting in lieu thereof "$300,000,000".

(8) The Small Reclamation Projects Act of 1956 is amended by adding at the end thereof a new section 13 as follows:

"SEC. 13. A loan contract negotiated and executed pursuant to this Act may be amended or supplemented for the purpose of deferring repayment installments in accordance with the provisions of section 17(b) of the Reclamation Project Act of 1939, as amended (73 Stat. 594, 43 U.S.C. 485b–1)."

Mr. MOSS. Mr. President, S. 1026 passed the Senate on July 31, 1971. The principal purpose of the measure is to provide for the effective continuation of the small reclamation project loan program which was authorized by the act of 1956, 70 Stat. 1044, as amended.

S. 1026 would remove the provision of the act which has been interpreted to require eligible projects to be primarily for irrigation, thus recognizing increasing modern needs for municipal and industrial water supplies, and it would increase the amount authorized to be appropriated to carry the program forward. It would also increase the maximum cost of a project which may be financed under the program to reflect the inflation in construction costs since the act was originally passed.

The House of Representatives, on November 1, amended S. 1026 by striking all after the enacting clause and substituting the text of H.R. 7854, a bill with similar objectives. The substantive changes in S. 1026 resulting from the substitution are as follows:

First, the House version includes language clarifying the applicability of the loan program to single purpose projects for the drainage of irrigated lands.

Second, the House version eliminates the provision under which the ceiling on project costs would be based on current construction price indexes and instead increases the maximum project cost from the present $10 million to $15 million.

Third, the House version includes cost sharing provisions concerning the fish and wildlife enhancement and public recreation aspects of projects which, in most instances, will result in repayment in excess of that required by existing law or by the Senate version.

Fourth, the House version includes administrative provisions making the Secretary's authority to amend contracts under the Small Reclamation Projects Act consistent with that under the general reclamation program.

In general, I believe the House amendments are consistent with the objectives of S. 1026 as it was passed by the Senate. I am concerned that the House provisions on cost sharing for fish and wildlife and recreation purposes may prove to be unreasonable. They may, in practice, act as a deterrent to the incorporation of these very important purposes in project plans. If this proves to be the situation, the Congress may have to reexamine these cost sharing provisions in the light of experience.

At the present time, however, I believe that the importance of the major provisions of S. 1026 are vital to the continued success of the small reclamation loan program. This program meets an essential need in national water resources management which cannot be met by any other existing program.

Mr. President, this matter has been cleared with the minority side and I now move that the Senate concur in the amendment of the House.

The motion was agreed to.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill—S. 2819—to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

AMENDMENT NO. 637

Mr. NELSON. Mr. President, I call up my amendment number 637.

The PRESIDING OFFICER. The amendment will be stated.

Mr. NELSON. I ask unanimous consent that the reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON's amendment No. 637 is as follows:

On page 11, line 7, strike out "$341,000,000" and insert in lieu thereof "$263,500,000".

On page 11, line 13, strike out "$341,000,000" and insert in lieu thereof "$263,500,000".

Mr. NELSON. Mr. President, this amendment reduces the appropriation for Cambodia aid from $341 million to $263.5 million, the amount spent in the last fiscal year. The objective of the amendment is to stop the escalation of our involvement in Cambodia.

I point out to the Senate that in fiscal year 1969 we did not spend a penny for aid to Cambodia. In fiscal year 1970 we spent $8.9 million. In fiscal year 1971, the figure jumped from $8.9 million to $263.5 million. For fiscal year 1972, the amount in this bill is $341 million.

When the foreign aid bill came before the Senate on October 29, I registered a protest vote against it, mainly because it contained $341 million for military and economic aid to Cambodia, a tiny Southeast Asia nation of 6.5 million people where our commitment is escalating at a staggering rate.

My vote, along with the negative votes of the majority of the Senate rejected the foreign aid package that day. The Cambodian escalation, which has grown by $332.1 million between fiscal year 1970 and fiscal year 1972 is beyond reason and rationality.

In the clandestine world of the Pentagon, the State Department, and the Central Intelligence Agency, the Nation had gone from no aid to Cambodia to $8.9 million in fiscal year 1970 and then to $263.5 million in fiscal year 1971.

Now, for fiscal year 1972, the administration has requested $341 million for mostly military aid to Cambodia and this bill before us stands at the $341 million request.

The Foreign Relations Committee attempted to establish a $250 million ceiling on Cambodian spending because many members of the committee felt "that a reduction in the funds available for U.S. operation in Cambodia would serve to restrain what they perceived to be a tendency to duplicate in Cambodia an entire range of U.S.-supported programs of the type which have resulted in ever deeper and seemingly endless involvement in other countries of Southeast Asia."

That very reasonable amendment, which also failed to pass, was designed, the committee report argued, "to close any loopholes still remaining regarding the transferability of funds of the Defense Department and other agencies * * *"

With the foreign aid bill before us again, we have another opportunity to bring some rational direction into this Nation's foreign aid program and a rare secondary opportunity to show that we have learned the lessons of history.

We began our military involvement in the morass of Vietnam in much the same way. We lost tens of thousands of American lives and billions of dollars in a futile military adventure there that every responsible American—both in and out of Government—says must come to an end.

I argued against that involvement in 1965. I spoke on this floor, in February of 1965, when we had only 21,000 troops in Vietnam. At that time I said it would take at least 1 million troops to suppress the insurgency in Vietnam and that once it was suppressed and we left, the insurgency would begin again.

Then, in the spring of 1965, the President asked for an additional appropriation of $750 million to support the introduction of ground combat troops in Vietnam for the first time. Along with Senator Gruening and Senator Morse, I voted "no" on that proposition, on the ground that it was going to involve us in an endless ground war in that country which we could not win—and we have not, and of course will not. After all this tragedy, we are now withdrawing from Vietnam while at the same time we are mistakenly expanding our involvement in Vietnam.

The American people are assured constantly by official administrative spokesmen that there is light at the end of the Vietnam tunnel, that the troops are being withdrawn and that soon the Vietnamese will be taking over all the responsibilities of defending and ruling their own nation.

Congress and the people of this country have been very patient with all these assurances. But that patience is wearing very thin as American military adventuring expands surreptitiously into the neighboring countries of Laos and Cambodia.

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It seems to me absurd to be told that our Southeast Asian commitment is ending, when our military expenditures continue to rise, and it is unthinkable that we are expected to believe that we are bringing peace to that embroiled section of the world when we are in the business of building and financing armies that will go on fighting, raising the continual specter of war for all nations of the world.

In Cambodia, we know that the Joint Chiefs of Staff are behind an effort to expand the Cambodian military and paramilitary units to such a point that by 1977, about 10 percent of the nation's population, nearly half of the adult male population will be armed and all this will be bankrolled by U.S. dollars.

I have opposed this kind of military spending in the past and will continue to do so. I opposed the military authorization bill because it contained $252.1 million for the ever-expanding secret war in Laos, and I am against the Cambodian spending for the same reason.

I am offering today this amendment to stop the escalation of our spending in Cambodia. It does not remove all the appropriations. It simply says to the administration and to the military that, at the very least, we are not going to continue endlessly to escalate our involvement. That is all this amendment does. I am opposed to the $263,500,000 that I set as a figure here, but I know it is not possible to remove the total. But it ought to be possible and it is rational for us to say that we have gone as far as we are going to go in our military involvement in Cambodia. That is all this amendment does.

The Agency for International Development reports that this country spent $263.5 million for military and other forms of aid to Cambodia in fiscal 1971.

This amendment sets the fiscal 1972 spending at that ceiling as a point to stop the soaring escalation of our involvement there.

In addition to preventing U.S. involvement and commitment from miring this Nation ever deeper in Southeast Asia, it places a limitation on our spending during a period when this country is grappling with an economic crisis.

In view of the economic wage-price freeze Americans have been asked to bear domestically, why not ask for some fiscal responsibility in our foreign spending?

If we can't establish a ceiling on our Cambodian spending at last year's level then it is logical to raise the very serious questions of: Where are we going in Southeast Asia and are we really getting out?

We have tolerated the official government secrecy and the runaway spending too long. This amendment stops the Cambodian escalation and gives the administration time to review the situation with a view toward reducing our involvement not only in Cambodia, but throughout all of Southeast Asia.

If the administration, at a later date, believes it has some justification—adequate justification—for additional funds for Cambodia over and above the $263,500,000 that is set by this amendment, then they should come back to Congress with the request and explain why more money is necessary. We must stop this open-ended and endless escalation.

The administration argument that we have to expand our effort in Cambodia to protect our withdrawal from South Vietnam makes no sense whatsoever. We are expanding our effort to support the military government in Cambodia not to protect our withdrawal from Vietnam.

I assure you that once we become involved, as we are, we will go as we have, from zero to $341 million in 2 years. Then it will be $500 million, then $600 million, and then the argument will be that we cannot desert our client. After all, we built the army; we must support them. If we withdraw our support, they will collapse; we will have sold them out; and no country in the world will trust our commitments any more. That will be our situation and that will be the justification for further involvement.

That has been the argument throughout the whole history of the Vietnam situation, and I hope Congress is prepared now to set a ceiling, and hold to it, at the level of the last fiscal year.

[Applause in the galleries.]

The PRESIDING OFFICER. The galleries will be in order.

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. NELSON. Mr. President, I should like to read a memorandum with respect to a provision in the foreign aid bill:

The Senate Foreign Relations Committee Dec. 14 reported (S Rept 91-1437) HR 19911 with amendments.

Listen to this:

The Committee further amended the bill by including language prohibiting the introduction of U.S. ground combat troops or advisers into Cambodia, stipulating that the granting of aid should not be construed as a commitment to come to the defense of Cambodia and requiring the President to notify the Congress before providing any additional assistance to Cambodia under the special authority of the Foreign Assistance Act of 1961. The language was offered in Committee by John Sherman Cooper (R. Ky.), Frank Church (D. Idaho), Jacob K. Javits (R. N.Y.), Clifford P. Case (R. N.J.) and Mike Mansfield (D. Mont.) and accepted without opposition. The new language amended section six of the Act as follows:

"(a) In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for Cambodian military forces in Cambodia.

"(b) Military and economic assistance provided by the United States to Cambodia and authorized or appropriated pursuant to this or any other Act shall not be construed as a commitment by the United States to Cambodia for its defense."

The Committee also agreed to an amendment restricting future assistance to Cambodia. The amendment would require prior notification of future assistance under the Act to Cambodia:

"The President shall not exercise any special authority granted to him under section 506(a), 610(a), and 614(a) of this Act for the purpose of providing additional assistance to Cambodia, unless the President, at least thirty days prior to the date he intends to exercise any such authority on behalf of Cambodia (or ten days prior to such date if the President certifies in writing that an emergency exists requiring immediate assistance to Cambodia), notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority."

The Committee report said the amendment restricting U.S. involvement in Cambodia "reflects the deep concern of members of the Foreign Relations Committee over the possibility that an aid program of the size and scope proposed for Cambodia may, without effective safeguards, lead to a repeat of Vietnam.

Well, what has happened?

I want to give the figures on the number. April 30, 1970, when U.S. forces invaded Cambodia, there was no economic or military assistance program in that country. That was in 1970. In fact, there had not been any since 1963 when there were 16 American personnel in the American Embassy at that time.

Now, as of October 15, 1971, there were 143 U.S. personnel at the Embassy including 50 military personnel assigned to the military equipment delivery teams.

Mr. President, how do we square that with the specific language in the amendment, acted upon by both Houses of Congress and signed by the President, which states:

none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance introduction of United States ground troops into Cambodia, or to provide U.S. advisers to or for Cambodian military forces in Cambodia.

The introduction of those forces is contrary to the express and specific purpose of the law that we passed. If Congress does not take hold of this matter now, we will find ourselves, 2 or 3 years from now, bemoaning the fact that we did not have the good sense this year to stop escalation, as we did not have the good sense to tell President Johnson in the spring of 1965 that, "We will not give you $750 million to commence a ground war in Vietnam." If we had done it then, we would have been out of Vietnam a long time ago, without all the tragedy we have experienced. That pitiful little country that we have almost destroyed with our excessive military intrusion and bombardment would have been better off if we had never become involved there.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that the name of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Minnesota (Mr. MONDALE) be added as cosponsors of the amendment.

The PRESIDING OFFICER (Mr. TAFT). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I rise to oppose the Nelson amendment and urge the Senate to support the provision in the bill as it came out of committee.

Mr. President, the question at stake, really, is whether we support the Nixon doctrine. In part, the Nixon doctrine calls for the withdrawal of our American combat troops from Southeast Asia. But the doctrine also involves helping our friends to help themselves as they resist the forces of aggression.

Cambodia has been, and is being, invaded. There is no civil war going on in Cambodia. It is out and out aggression by North Vietnam. The Cambodians are defending themselves and are doing a rather remarkable job of it. There are no American troops in Cambodia doing the fighting for them. And this President has made it clear that no American troops will be used for that purpose. But we are trying to help the Cambodians to defend themselves.

We would be taking a serious step backward if the Nelson amendment is adopted.

Accordingly, I urge the Senate to support the committee and at least retain the amount as reported in the committee bill.

Mr. STENNIS. Mr. President, of course, I am not handling the bill. I got my hand into this thing on the other amendment. But we have just argued an amendment which was passed a few minutes ago for 4 hours, the main argument being to justify the high figures for Cambodia, $200 million for military aid. We explained over and over that it was to support the army there that we built up, which is holding down four divisions of North Vietnamese.

Another big item in the amendment was supporting aid for Cambodia, things like petroleum—$110 million. That was the main burden of the argument, as the other items in here were excess stocks, $11 million; and money for Public Law 480 which is for agricultural needs—$20 million.

The main point I make is that we have, in effect, just approved a $341 million program for Cambodia and now with this proposal, with all deference, proposing to turn around and make it $263.5 million. I hope that the former amendment will be sustained and the pending amendment will be rejected.

Mr. NELSON. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 4 minutes.

Mr. NELSON. Mr. President, the parallel between what we are doing now in Cambodia and what we did in Vietnam is very close and the justifying argument is the same.

Three Presidents of the United States—Presidents Eisenhower, Kennedy, and Johnson—said that we were not going to fight in Vietnam. As President Johnson put it, we were not going to send American boys to fight a war in Asia that Asian boys should fight themselves.

President Eisenhower said that we would give technical aid and assistance. That was his position. That was also the position of President Kennedy. The United States would provide technical aid and assistance only. That was also the position of President Johnson in 1964, when the Democrats were going around the country attacking Senator GOLDWATER on the ground that, if he won election to the Presidency, he would escalate the war in Vietnam.

At the very time President Johnson was saying that we would not escalate the war in Southeast Asia, the Democratic Party was saying, "We are not going to get involved in a ground war in Vietnam." But after years and years of giving aid and assistance and when it became apparent that the South Vietnamese Government could not stand up, the argument became, "We cannot let Vietnam fall under the control of China. If we do not stop them in Vietnam, then they will be in Hawaii next and then in San Francisco."

Mr. President, the first soldier from China has yet to show up in North or South Vietnam. At the same time, however, we can look back at our ever-expanding commitment in Vietnam. We can see that we did not have the courage to say, "We are sticking precisely with the commitment we originally made, to provide technical aid and assistance. If the war cannot be won by your own troops, under those circumstances, this country, as a matter of policy, will go no further." That was our position all the way from 1952 on up to the spring of 1965 when we made that fatal mistake of deciding that we would go in there with our own ground troops to fight a war for that country, a war which never could be won. We trusted the judgment of the military. They were proved wrong about it. Now we are being involved again. I have heard no one say on the floor, "What is the limit to this involvement in Cambodia?"

First, it was $800,000 or $900,000 in fiscal 1970. Then it was $263 million in fiscal 1971. Now it is $341 million. What is the limit? Next year it would be $400 million and the next year $500 million.

If there is any logic in going from zero to $341 million in two giant steps in 2 years, is it not just as logical to go to $400 million and then $500 million on the ground that we are supporting the Nixon doctrine, the same doctrine followed by the Johnson administration?

I would like to have someone tell me where to find the end of this involvement. There is not any end to it that I can see. That is the truth of the matter. Then we are going to be in the very difficult position of having to say that our policy is not working out, that we are going to withdraw our military, and that the country will collapse. It will then be said that we will have sold the Cambodians down the river and that we are going back on our commitment. The argument will be made that we cannot do that, that we should give them another $100 million. And, of course, our involvement then goes on and on in a country in which we should never have been in the first place.

Obviously Cambodia could not do worse in running its own show than we have done for this poor Vietnam. Vietnam is worse off, both North and South, by our involvement. Tens of thousands of Vietnamese have been killed. There have been bombings all over that little country.

Where will they be when it is all over with? In the long run, whom will we have helped?

Mr. President, I ask unanimous consent that a colloquy which I had with the Senator from Arkansas, the distinguished chairman of the Foreign Relations Committee (Mr. FULBRIGHT) on the subject of our expanding involvement in Cambodia be printed at this point in the debate.

There being no objection, the excerpt from the RECORD was ordered to be printed in the RECORD, as follows:

MILITARY AID

Mr. NELSON. Mr. President, I would like to ask the chairman of the Committee on Foreign Relations a question or two about the authorization of some $341 million in military aid for Cambodia. I did not have the opportunity to hear all of the remarks of the committee chairman who may have covered some of this, but what puzzles me is the posture of the administration in asserting that they are withdrawing from Vietnam while we are expanding our military investment in Laos in the procurement bill, and now in Cambodia in this military aid bill which has just come out of the Foreign Relations Committee.

How does the Senator reconcile the rhetoric of the administration in saying that they are withdrawing from Indochina, from Vietnam, while we are dramatically expanding our military investment there?

Mr. FULBRIGHT. The Senator raises the question which bothers me most about the military aid bill. As the Senator knows, this was the item that precipitated more arguments and more vigorous disagreement than any other single item during the earlier foreign aid debate.

The military procurement bill has a blanket or overall authorization of $2.5 billion, excluding Cambodia, for military assistance to Southeast Asia. When this authority was given to the Armed Services Committee, we were at peace with Cambodia. It was a neutral country. We had no AID program there. This program started only a couple of years ago and that is why it is under the jurisdiction of the Foreign Relations Committee, whereas Laos and Thailand and Vietnam are under the jurisdiction of the Armed Services Committee.

Out of the overall authorization of $2.5 billion, the Senate set a ceiling of $350 million for Laos, a country with a little over 2 million people—$350 million in another bill——

Mr. NELSON. That is, in the military procurement bill?

Mr. FULBRIGHT. That has already been done. The conference report has not been approved, but the Senate set the ceiling in the bill it passed. Then came the foreign aid bill with the $341 million ceiling for Cambodia.

What is the explanation of this? I asked the Secretary of State, as a policy matter, "What is the objective? What do you seek to achieve by this kind of enormous enlargement of the military aspects of our program in Indochina?" He talked a great deal around the answer, but he finally ended up with the usual statement that it was for the protection of the withdrawal of our troops in Vietnam.

To me, it just does not fit. To me, it does not make sense. We do not need this kind of involvement in Laos and Cambodia to protect the withdrawal of our troops. It must mean something else. That something else is indicated by the 5-year plan of the Joint Chiefs, as reported in the New York Times, to build up an enormous army in Cambodia, with us paying for all of it.

Mr. NELSON. Let me ask if the distinguished chairman of the Foreign Relations

Committee put that plan in the RECORD at the time of the debate on the foreign aid bill, before it was defeated?

Mr. FULBRIGHT. I mentioned it then, and I put the Times article in again today.

Mr. NELSON. Did I understand the Senator to say that it is a 5-year plan to build up the Cambodian army to 300,000?

Mr. FULBRIGHT. We are not sure of the exact period. It is apparently a long-range plan, covering the period through 1977. We are not privy to it. This is a proposal by the Joint Chiefs that was given to Secretary Laird. It was not given to us, but it was reported in the New York Times. Quite often this is the only way we can get information.

To refresh the Senator's mind, we requested DOD's 5-year plans for military assistance which it makes and which it has made for many years, and which would include Cambodia. The Pentagon flatly refused to comply with our request. When we pressed it to the point of asking the General Accounting Office to cut off the funds, the President, at the last moment, invoked Executive privilege. Does the Senator remember that?

Mr. NELSON. Yes.

Mr. FULBRIGHT. In those documents would have been the plan for Cambodia. At the time I wondered why in the world they were so reluctant to give the Senate, even on a classified basis, an indication of what they had in mind. Now it begins to come through a little. It makes some sense, because they do have plans that are contrary to what I think the American people believes to be the administration's policy in Southeast Asia.

Mr. NELSON. Did the Secretary address himself to the New York Times article or the proposal that they are building an army of 300,000 in Cambodia?

Mr. FULBRIGHT. He dismissed that. I think he pleaded ignorance of it.

Of course, it was not his plan. He could say he was not privy to it, and I could not challenge his statement.

Mr. NELSON. The Senator means that——

Mr. FULBRIGHT. The Secretary of State.

Mr. NELSON. The Secretary of State is not privy to the demands of the Pentagon, the Defense Department, for massive activities in foreign countries?

Mr. FULBRIGHT. Well, strange things happen in our Government. This whole business has a long history, and things are just now beginning to fall into place.

I think it is quite interesting to recall the following from which is not quite a year ago, the committee's report of December 14, 1970, on the supplemental foreign assistance bill, page 8. If the Senator will recall, this was just before the invasion of Cambodia by the U.S. Army. Does the Senator remember that? We had the Secretary of State before the committee 3 days prior to the invasion. I read from that report:

"When Secretary of State Rogers appeared before the Committee on Foreign Relations last April 23 to discuss Cambodia, he expressed his concern about initiating a large aid program for Cambodia."

Mr. NELSON. Does that mean interest?

Mr. FULBRIGHT. Oh, no; he was worried. "Concerned" in the sense that one would be concerned for the health of his daughter or son.

This was just 3 days before the invasion of Cambodia. The Secretary told the committee at that time:

"Undoubtedly, even though the request is for military assistance now, it would lead to a request for military advisors and if the going got tough after we had military advisors undoubtedly we would be confronted with a request for military aid in the form of troops, and it might well be that we would have a repetition of what happened in South Vietnam which, of course, would be, I think a very serious and unfortunate situation."

Mr. NELSON. Was he expressing his concern or worry about the level of the aid we were already giving to Cambodia in the spring of 1971?

Mr. FULBRIGHT. We did not have a big program in Cambodia there. We were just discussing the situation.

Mr. NELSON. This was a year ago last spring?

Mr. FULBRIGHT. A year ago last spring—April 27, 1970. The report I am reading from is dated December 14, 1970.

Mr. NELSON. Will the Senator advise me about this; maybe my memory is bad. I have no recollection about any debate or any authorization in any bill on the floor of the Senate.

Mr. FULBRIGHT. Prior to that?

Mr. NELSON. Anything that authorized us to put $100 million, or thereabouts, into Cambodia, which the administration did starting a year and a half or 2 years ago.

Mr. FULBRIGHT. There was no authorization. The administration transferred $110 million and spent it in Cambodia without an iota of authorization. They later came forward—I think this is what the Senator is talking about—5 or 6 months later and asked as I recall, for $250 million; $110 million of that amount was to repay the money they transferred from other sources earlier. There had been no authority to spend anything at all in Cambodia. We ended by giving $282 million last year, but it was in large part authorized retroactively.

Mr. NELSON. Is the Senator saying that the expenditure by the executive branch was in violation of the law?

Mr. FULBRIGHT. It was in violation of the spirit of the law, because the uniform practice with respect to foreign aid bills has been that when the administration gives a justification for a program, it usually indicates the countries that are to be assisted—A, B, C, D, and E.

The President did have transfer authority under the Foreign Assistance Act. So I should say that, strictly and technically speaking, it was not a violation of the law, but it certainly violated the customary way in which these programs have been conducted in the past.

In the old days, there used to be a high degree of trust between the legislative and executive branches. When I first came to the Senate, the executive used to have confidence in the legislative branch; and Congress reciprocated by giving broad discretionary authority in order to give the executive some flexibility.

Now, what we run into more and more is just what I am complaining about in this bill, a reluctance or a refusal on the part of the executive to inform Congress of what it has in mind, what its policy is, what it is we are being asked to vote this money for, or what objective it is sought to achieve.

I would say that started in the old days, for reasons that I suppose came out of the war and the controversy over the war, and has developed until the bureaucracy and the executive branch just do not wish to tell Congress anything. The most extreme example was their refusal to give the Senate committee the relevant documents in connection with the executive department's so-called 5-year military aid plans, despite the fact that the law specifically requires the executive to make such information available to the relevant committees of Congress. Without it, we are voting blind.

We asked for these plans. They did not answer. Finally we invoked the law that would cut off the funds if we did not get the information.

The only response they made was to plead Executive privilege. I cannot imagine how one can reasonably call a document in the Pentagon, which the President probably never saw, to come within the purview of Executive privilege. But nevertheless, the President exercised that power, however, inappropriate, at least to me it was, and therefore we did not get these plans.

A similar document, or a part of these plans. I would say, is what is reflected in the article in the New York Times.

This is a situation which disturbs me very much. It is not just the money, but the real issue is where we are going in Southeast Asia? The country thinks we are getting out. These facts are, to me, utterly inconsistent with getting out, I mean really removing our military presence from that area.

Mr. NELSON. This is the issue that concerns me: my suspicion that we are really not getting out, and that we are making substantial commitments and expanding them in Cambodia, Laos and Thailand, with the likelihood that we will be there a long time.

I am wondering, what are the establishments? What are we spending in Thailand, and what is the infrastructure there?

Mr. FULBRIGHT. We will have to look that up. Thailand, as I said a moment ago, is not in this military aid bill, because it is under the jurisdiction of the Armed Services Committee. It will get its money out of the DOD authorization bill, the $2.5 billion we have already authorized. It is not in this bill; in total, Thailand is getting $139 million this year.

Mr. NELSON. Is that in military aid?

Mr. FULBRIGHT. That is military, and economic supporting assistance.

However, this amount does not include such sums as accrue to them from expenditures by our forces in Thailand.

Mr. NELSON. That is what I meant to ask.

Mr. FULBRIGHT. We have 40,000 or more troops, Air Force people, and supporting personnel at our big air bases, of which I believe there are a number, plus the Sattahip Naval and Air Base, a very large installation.

The $139 million is the direct aid; $77 million of this is strictly military. It does not include the peripheral costs of our forces there.

Mr. NELSON. But that is to the Government of Thailand itself?

Mr. FULBRIGHT. That is correct.

Mr. NELSON. So our expenditures on our bases there and those of our personnel, and our substantial expenditures on that very large bomber force in Thailand, are all in addition to this?

Mr. FULBRIGHT. That is correct. These are the direct items, the military assistance and what they call economic supporting assistance.

Of course, as the Senator knows, we give them military assistance, and then we give them economic assistance in order to help to pay for the military.

Mr. NELSON. Back to Cambodia for a moment. What was the year in which the administration, without notice, consultation, or advice to Congress, spent that $110 or $120 million in Cambodia?

Mr. FULBRIGHT. It began in fiscal 1970 and ran into 1971. I would like to finish what I was saying earlier with reference to some of the Secretary of State's remarks about the time of our invasion of Cambodia. I read this one paragraph, and got diverted.

Mr. NELSON. Yes.

Mr. FULBRIGHT. Let me read that paragraph again, to show the Secretary's thinking about aid to Cambodia at that time.

The Secretary said, as I noted earlier:

"Undoubtedly, even though the request is for military assistance now, it would lead to a request for military advisors and if the going got tough after we had military advisors, undoubtedly we would be confronted with a request for military aid in the form of troops, and it might well be that we would have a repetition of what happened in South Vietnam which, of course, would be, I think, a very serious and unfortunate situation."

Mr. NELSON. Quite obviously, the Secretary had no notion that there was going to be an invasion at the time he was testifying before the committee.

Mr. FULBRIGHT. The Senator asked me a while ago, could I believe the Secretary was not privy to the proposals of the Joint Chiefs. It is quite evident that he was not privy to the invasion plans at the time he made the statement to the committee. The President made his announcement 3 days later.

Let me now read from a committee statement issued shortly before the invasion began:

"In a meeting with the Secretary of State last Monday, members of the Foreign Relations Committee were virtually unanimous in expressing their deep concern over the possibility of any action by the United States that might involve our Nation further, directly or indirectly, in the changing situation in Cambodia."

This is a direct indication of the committee's attitude at that time. The committee met and was virtually unanimous. I think there may have been one Member who had some reservations.

The rest were unanimous in saying, in effect, "We do not want to become involved in Cambodia."

I do not wish to drag up old ghosts, but the Senator from Wisconsin happens to have been one of the men who I think were most sensitive to the Tonkin Gulf situation in August 1964—certainly much more sensitive than I was. I was more trusting of the then Johnson administration, and I was taken in to a greater extent, I believe, than was the Senator from Wisconsin. At least, he raised some very pertinent questions.

Under the influence of the statements—assurances—of the Johnson administration, I assured the Senator from Wisconsin—because I had no sources of knowledge other than what I had been told by the administration—that, no, there was no purpose of expanding the war, that the purpose was not to have a war, that the purpose of the Tonkin Gulf resolution was to show unity between the executive and the legislative branches and to strengthen the President's hand, so that he could persuade them not to proceed with the war, and thereby be able to persuade the North Vietnamese to stop their support of the war in the south. "No wider war" was the slogan then, and the resolution was presented in that fashion.

The Senator from Wisconsin, much to his credit, raised the question and considered offering an amendment. I said that I was in sympathy with that amendment, that I thought it expressed what I understood to be the policy of the Government, but that if we approved it, we would have to go to conference on it. That would delay passage, and we would lose the psychological effect of the quick action to show our support for the President.

I think we are both entitled—I am—to learn from that experience. The Senator really does not have to learn. He already, I think, has some skepticism about what this policy is, and I am very glad he does, because I think it is healthy for us to be skeptical about such matters.

Take all things together: The refusal to submit the 5-year plan. Such documents used to be available to us. The refusal is unusual. Then the exposure of the plan, as in the New York Times, together with the vast amounts, from nothing to $341 million in 2 years in Cambodia, $350 million in Laos. Put these things together, and what does it mean? It seems to me that this is what we are entitled to know. If we are going to vote on this matter, are we not at least entitled to know what it is for? What is it really for? Obviously, it is not just to protect the withdrawal of the remaining troops in Vietnam. It must have some other purpose, because they do not need it for troop withdrawals.

With respect to the story of the bombing that I put in, they are now bombing at an enormous rate. Of course, they do not call it bombing any more. The administration does not call it bombing. They call it protective reaction strikes. But in these protective reaction strikes, they drop the same kind of bombs that they used to drop in a bombing raid.

The administration says that it is not sending advisers into Cambodia, because the law prohibits it. Rather, they send in equipment delivery teams. The law does not use the term "delivery teams." I imagine they are still human beings, American citizens, who work for the U.S. Government; but they are delivery teams, and, therefore, the administration says they are not covered by the existing restrictions on advisers.

So, really, with this kind of relationship, it is almost impossible to know what is being planned. I am raising this question because it does seem to me that we ought to know where this administration is headed in Southeast Asia. Apparently, the only way you are going to know is for you to figure it out for yourself.

I remind the Senator that the distinguished Attorney General said:

"Judge us by what we do, not by what we say."

I believe this approximates his words.

From what they do, I am trying to figure out what they really have in mind as to the policy in Southeast Asia.

Mr. NELSON. I am concerned because I think there may very well be a parallel between what happened, how the executive branch proceeded in the Vietnam situation in 1964, 1965, and 1966, and what the executive branch is now doing by expanding our involvement—in expenditures, at least—in Laos, and expenditures and advisers and assistance in Cambodia, and maintaining a large operation in Thailand.

I do not think that the Senator from Arkansas was misled by the Tonkin Gulf resolution. I think that what the administration was saying was what they thought at the time, unless we are to say that it was a massive, calculated defeat.

The disturbing thing to me is that very able writers, who are writing about that period, are now saying that Congress gave a blank check in August of 1964 to the President to commence a ground war in Vietnam, if he thought that had to be done. If one reads the broad language of the resolution, as the Senator pointed out—and it was discussed on August 6 and 7, 1964—it would authorize an assault on the moon, for that matter. But the point that the Senator from Arkansas has made is that they were trying to show the unity in this country.

When I offered an amendment to specifically delineate the language in such a way as to make it clear that it did not authorize a change in our role in Vietnam from one of technical aid and assistance to a military commitment, it was because of the interpretation of the intent of the administration, by the Senator from Arkansas, that that was all the resolution really meant.

Looking at the circumstances of the day, and the time, and the political campaign, and what the President was saying to the Nation, and the attacks that were being made upon Senator GOLDWATER for advocating an expansion of the war, I concluded that this was really a kind of cheerleader's resolution; and, therefore, if the President needed some cheerleaders cheering to convince them in Vietnam that the country was unified and that they should not be attacking us in the Gulf of Tonkin—if, in fact, they did—and we thought they did—then, fine, if that would help prevent an involvement in the war. Then I would vote for the resolution, but not to authorize the President to commence a ground war.

I did not hear anybody say that they favored a ground war at that time. In fact, within a day after that, on the floor of the Senate, I pointed out that that was not what we authorized. I stated in February, 1965, that you could not win a war over there with a million troops, and I voted against the $700 million appropriation in the spring.

What happened was that the President took a resolution which he was using to show unity in 1964, and then later decided that he would use it to prove that Congress authorized him to do what he was then doing, which had become quite unpopular.

I might say to the Senator from Arkansas that if he had stood on the floor of the Senate on August 6 and 7, when the Tonkin Gulf resolution was pending, and said, "Yes, this is the purpose, and this authorizes an all-out ground war in Vietnam," the President of the United States would have repudiated the chairman of the Foreign Relation Committee.

We were saying that Mr. GOLDWATER was going to get us into trouble, and the President was saying that. He was also saying, before and after the resolution, as the Senator well knows, that he was not going to send American boys to fight a war that Asian boys should fight for themselves. I recall that the Senator from Arkansas put in the RECORD four or five or six statements of that kind made before and after, so that if legislative intent or history mean anything, we judge the responsibility in the context of the times. If the Senator had been speaking for the administration, as he was, and said this authorized a war, President Johnson would have repudiated him out of hand because that was contrary to the political campaign he was making at that time.

Mr. FULBRIGHT. I think the Senator is quite right in his observations but I would like to suggest one correction, when he said I was not misled in the second instance, which looks as if it were minor, but what it did do was to create an emotional background which prevented the kind of discussion we are having now, which is more or less an unemotional description and analysis of what happened then, after the Johnson administration made the case that we had been attacked on the high seas. Everyone was stirred up, everyone said it was intolerable. But those reactions was based on deception.

It is quite possible—I agree with the Senator—that the Senator believed, however misguided I was in that belief, that such a resolution would strengthen the President's hand at that time, but he did not believe the President would use it to engage in a massive ground war. That I would not argue with. The only real deception created was the atmosphere which inhibited if not prevented a rational discussion of the policy involved—at least on my part it did, because I thought it was intolerable that we should be subjected to attacks on the high seas. The newspapers played this up so dramatically, as the Senator knows, about how those dastardly people dashed out when we were peacefully going our own way on the high seas. But in my opinion there were no such attacks in the second instance. I wonder what the Senator thinks——

Mr. NELSON. What I meant by that, the Senator not being misled, was, in fact, the Gulf of Tonkin resolution at the time it was asked for by the administration was not for the purpose the President claimed it was a year or two later——

Mr. FULBRIGHT. That is right.

Mr. NELSON. It was for the purpose of showing unity and not for the purpose of starting a ground war.

Mr. FULBRIGHT. That is right.

Mr. NELSON. I thought of that reason later, and that is my only point about it.

Mr. FULBRIGHT. While I think that is rele-

vant, here we are faced with these unusual circumstances of an ehormous increase in our involvement in Cambodia, together with the refusal to supply the basic information which we requested but later made public by the New York Times. All of this leads to the question—What is the purpose of this authorization of so much money for Cambodia? Is it really to protect the withdrawal of troops, or is it preparatory to the establishment of a permanent military presence there, permanent in the sense of being indeterminate—I mean by that, 5, 10, 20 years—or however long, which I do not know, but not consistent withdrawal within the foreseeable future, the next 2 or 3 years, which is what I think the people want.

This is very important It may be justified. It may be a good idea that we have a permanent military presence in Thailand, and a half a dozen more places with these enormous strategic bases in the two buffer states of Cambodia and Laos. Maybe that is a good idea. If it is, it seems to me it is up to the administration to sell the idea, and then for us to vote the money, with our eyes open. We can accept that as a proper principle. This is the real point I am making.

If it is not a good idea—as I happen to think it is not, with all the information I have—I should be entitled to make the argument, "Look, this is what they are up to. I do not approve of it," and the Senate should vote on that basis rather than do it in the dark.

Mr. NELSON. I agree with the Senator that if it is in fact a good idea to make these large investments and build an army in Cambodia of 300,000 troops and spend $350 million in Laos maintaining a big establishment in Thailand, and staying there with a strong physical presence for some years to come, I would like to hear the justification of the idea.

I think it is a bad idea. I am against it. I do not believe that they can give me any reason sufficient to cause me to support that. But it should be above board. I think the constituents in my State think we are just getting out of Vietnam, and we are all happy about that. It is believed that whatever little amounts we are spending, in Laos, Cambodia, and Thailand—and most of the people in this country do not know what those amounts are—that they are for the purpose of protecting our withdrawal; whereas I suspect, however, it is quite another matter——

Mr. FULBRIGHT. That is right.

Mr. NELSON. And that what is going to happen, as has always happened, as the Senator from Arkansas has said before, we spend and spend and spend and pretty soon the country is entirely dependent upon the United States, and we are soon deeply involved there. Then we want to withdraw and they say, "You cannot do that. You build us up. You are our only support. Now you are going to double cross us and pull out." We see many articles in the newspapers about that now.

Mr. FULBRIGHT. That is right.

Mr. NELSON. That by voting against a foreign aid bill we are cutting the ground from under our clients. So it becomes an argument for us not to withdraw. Whether a good policy or not, that is what should be out in the open, discussed, and debated, and then settled on its merits.

Mr. FULBRIGHT. The Senator is quite correct. There are one or two other things that support the thesis. Here is an article published in Newsweek for October 18 entitled "Instant Replay."

It reads in part:

"Since late last year, the U.S. Embassy staff in Phnom Penh has jumped from fewer than 60 officials to more than 150. And despite a Congressional resolution specifically forbidding the use of American military advisers in Cambodia, many more U.S. officers appear to be on their way there."

The Senator sees what I meant when I said the administration does not call them advisers, but rather equipment delivery teams, a term not used in the law.

Continuing to read from the article:

"Among other things, Mataxis favors expansion of last year's $180 million aid package and full U.S. backing for Cambodian assaults on Communist sanctuaries and supply lines."

Mr. President, I ask unanimous consent to have the entire article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD.

INSTANT REPLAY

In one official pronouncement after another, the Nixon Administration has earnestly proclaimed its determinaiton to avoid any major commitment in Cambodia. But for all that, the American presence in the once-sleepy capital of Phnom Penh has grown dramatically. Since last year, the U.S. Embassy staff in Phnom Penh has jumped from fewer than 60 officials to more than 150. And despite a Congressional resolution specifically forbidding the use of American military advisers in Cambodia, many more U.S. officers appear to be on their way there. As a result, a bitter dispute has broken out in the U.S. Embassy—a clash between U.S. civilians and military men that could well determine the shape of American involvement in Cambodia for years to come.

At the root of the debate is the question of America's military role is that beleaguered country. Arguing for a minimal military-aid program, the civilians, led by chief political counselor Jonathan F. Ladd (himself a former Special Forces commander in South Vietnam), contend that the U.S. should train an elite force of Cambodian guerrillas to harass the Communists, but should not get bogged down in support of large-unit operations. By contrast, Brig. Gen. Theodore C. Mataxis, who heads the Military Equipment Delivery Team (MEDT) in Phnom Penh, has fought for a more activist U.S. policy. Among other thing, Mataxis favors expansion of last week's $180 million aid package and full U.S. backing for Cambodian assaults on Communist sanctuaries and supply lines.

IGNORED

As of now, Mataxis & Co. seem to be in the lead. When Ladd balked at giving the relatively unsophisticated Cambodian forces expensive M–16 rifles, Mataxis pushed the M–16 order through, contending that the Cambodians should be as well armed as possible. And civilian complaints about the growing U.S. military establishment in Phnom Penh have been pointedly ignored. Just two months ago, Mataxis—who used to spend most of his time in Saigon—moved to the Cambodian capital, bringing with him his aide de camp and personal staff. At the same time, the number of MEDT personnel, whose job is to see that U.S. aid is being "properly used," has more than doubled. Many observers, in fact, believe that, despite the Congressional ban, some MEDT members are fulfilling advisory roles with the Cambodian Army.

To some experts, the growing influence of the military is an inevitable outgrowth of the slackening war in Vietnam. "The pressure to increase the military presence here is really strong," said one American diplomat in Phnom Penh. "There are simply too many officers losing their jobs in Saigon. These men are worried about their careers, and you don't become a general sitting behind a desk in Washington." Others place the blame directly on U.S. Ambassador to Cambodia Emory C. Swank. For although Swank, a 49-year-old career diplomat, is said to favor what he jokingly refers to as a "medium profile," critics have charged that he has knuckled under to the generals. "Swank claims he's not competent to assess the needs of the military," said one embassy official. "But in Fred Ladd, he's got the best adviser in Southeast Asia. By throwing up his hands, Swank is just trying to keep himself off the hook in case everything goes wrong."

Whatever the reason for the growing primacy of the military, the betting is that it will increase. For despite a pending amendment to the foreign-aid bill calling for a 1,200-man ceiling on U.S. personnel in Cambodia, the Defense Department is reportedly going ahead with plans to expand MEDT forces to an estimated 500 by the end of next year. And there are signs that the military men already in Cambodia are getting more directly involved in the fighting there. American helicopters have reportedly begun transporting Cambodian troops into battle areas and supplying them with ammunition. And at Pochentong Airport in Phnom Penh, U.S. forces recently opened a radio center (officially called a "navigation aid") to coordinate air support for Cambodian troops.

Though no one seriously suggests that the U.S. is about to slip into another Vietnam-scale involvement in Cambodia, the momentum of the buildup appears strikingly familiar. "The military are already falling all over themselves at the embassy," said one U.S. official. "Within a year, the Pentagon will have taken over our operations in Cambodia—and Swank and all the other civilians will be sitting on the sidelines just like the civilians in Saigon."

Mr. FULBRIGHT. Mr. President, it is interesting that the law forbids us from sending in U.S. advisers and training the Cambodians ourselves. This is in the article published in the Washington Post on the 11th and the 7th——

Mr. NELSON. Is the Senator referring to the resolution passed here last year?

Mr. FULBRIGHT. In the supplemental aid bill, a restriction upon our sending in ground troops and advisers into Cambodia.

Does the Senator remember that?

Mr. NELSON. I remember it very well. What is their explanation for the Thailand troops that are fighting in Cambodia and being supported by our money?

Mr. FULBRIGHT. They are called local forces. It is playing with words. The distinction is the same as between a bombing raid and a protection strike. How does the Senator from Wisconsin explain it? It seems to me it is semantic trickery.

This dispatch is dated November 7, 1971. I shall read what Adm. Thomas H. Moorer said, in the face of Cooper-Church restriction:

"Adm. Thomas H. Moorer, Chairman of the U.S. Joint Chiefs of Staff, said in Phnom Penh the Joint Chiefs planned to hire foreigners, known officially as third country nationals, to train Cambodians in American logistical systems."

I read further from the dispatch:

"At a news conference at Pochentong Airport, Moorer commended the Cambodians for progress in developing their armed forces from a prewar force of only 30,000 to an army of roughly 200,000 today."

That is the phase-in. That is the Chairman of the Joint Chiefs of Staff applauding the Cambodians for an army that is now up to 200,000. Putting all those items together from the story in the New York Times, we can see that the military hopes to have the number of troops in Cambodia up to 300,000. This is the only logical explanation of the $341 million request.

In addition, there is another article from Phnom Penh, published in the Washington Evening Star of October 15, 1971:

"The U.S. Army plans to get around the Cooper-Church amendment's ban on American military men in Cambodia by paying $200,000 to hire foreigners for noncombat work, American officials report.

" 'They are people who can do under contract what we are forbidden to do,' a U.S. source declared. Another source said they would cost less than American civilians.

"Cooper-Church, passed by Congress last year, bars American military advisers, training personnel and combat troops from Cambodia."

Further the article states:

"The foreigners would be employed in supply depots and maintenance shops behind front lines, although the sources did not rule out an eventual role as combat advisers.

"The sources said the use of foreigners had been recommended by teams of military experts who visited Cambodia to study supply snarls.

"The sources noted that a handful of foreigners are already being paid by the American Military Assistance Program to Cambodia. They include about 10 Air America maintenance crewman who keep Cambodia's T–28 fighter bombers flying, a representative from Bell Helicopters, and 3 Filipinos brought here from Laos to set up an English language school."

So the program is already underway. What is the objective of it?

Mr. President, I ask unanimous consent that the two articles in their entirety be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD.

[From the Washington Star, Oct. 15, 1971]

THE ARMY FINDS A LEGAL WAY

PHNOM PENH.—The U.S. Army plans to get around the Cooper-Church amendment's ban on American military men in Cambodia by paying $200,000 to hire foreigners for noncombat work. American officials report.

"They are people who can do under contract what we are forbidden to do," a U.S. source declared. Another source said they would cost less than American civilians.

Cooper-Church, passed by Congress last year, bars American military advisers, training personnel and combat troops from Cambodia.

LIMIT OF 50 VOTED

The sources said the foreigners, known in official circles as "third country nationals," would supplement the American military equipment team which is responsible for handing over arms and ammunition to the Cambodians but is forbidden to show the Cambodians how to use the equipment.

Headed by Brig. Gen. Theodore Mataxis, the team's current strength is 113 men, with 50 officers and enlisted men assigned to the Cambodian capital and the rest in Saigon.

The Senate Foreign Relations Committee on Thursday voted to limit to 50 the number of foreigners hired in Cambodia. Most likely they will be Koreans, Nationalist Chinese, Australians or New Zealanders experienced in dealing with the American military in South Vietnam or Laos, where some have been engaged in hazardous undercover work for the Americans.

MAY ADVISE ON COMBAT

The $200 million U.S. military assistance program for fiscal 1972, now the subject of congressional hearings, includes an item for third country nationals, a source said. He said salaries for foreigners in Cambodia might total $200,000 a year.

The foreigners would be employed in supply depots and maintenance shops behind front lines, although the sources did not rule out an eventual role as combat advisers.

The sources said the use of foreigners had been recommended by teams of military experts who visited Cambodia to study supply snarls.

The sources noted that a handful of foreigners are already being paid by the American military assistance program to Cambodia. They include about 10 Air America maintenance crewmen who keep Cambodia's T28 fighter-bombers flying, a representative from Bell Helicopters and three Filipinos brought here from Laos to set up an English language school.

UNITED STATES TO PAY OTHERS TO TRAIN CAMBODIANS

Adm. Thomas H. Moorer, chairman of the U.S. Joint Chiefs of Staff, said in Phnom Penh the Joint Chiefs planned to hire foreigners, known officially as third country nationals, to train Cambodians in American logistica. systems.

American military men have been barred from giving Cambodians any advice or training here by the Cooper-Church amendment passed by Congress last year.

At a news conference at Pochentong Airport, Moorer commended the Cambodians for progress in developing their armed forces from a prewar force of only 30,000 to an army of roughly 200,000 today.

Moorer, who has been accompanying Secretary of Defense Melvin R. Laird, flew into the Cambodian capital today from Danang, South Vietnam. After calling on Marshal Lon Nol, Cambodia's semi-invalid premier, and acting Premier Lt. Gen. Sisowath Sirik Matak, Moorer flew to the seaport of Kompong Som for a brief visit and then to Udorn, Thailand.

The U.S. Navy said today it is sending home the last Seabee construction batallion left in Vietnam. The U.S. Army said it was closing down operations of an engineer battalion that had been assigned to the Americal Division.

On battlefronts, U.S. Command spokesmen said at least one American was killed when a unit of the 3rd Brigade of the 1st Cavalry Division came under mortar barrage today 4 miles east of Saigon.

American B–52 bombers blasted a North Vietnamese truck depot near Kheeanh this morning, destroying a number of vehicles. The bombing raid was the second attack on the depot this week and followed a rocket attack by helicopter gunships on Wednesday which destroyed 10 trucks.

Mr. FULBRIGHT. What is the objective of the policy? What do we seek to accomplish? It seems to me that the Senate ought to know this before it votes. I tried to get the answer last Wednesday or Thursday when the Secretary of State was before the committee. I did not get it any more than I got when I asked for the 5-year plans.

It is not my place to advise other Senators. However, it seems to me that Senators ought not to vote in the dark. If they want us to support the measure, they ought to be willing to stand up and say what it is for.

Mr. NELSON. Mr. President, I hope that by the time we come to a vote on the military aid bill we will get an answer. I believe it is anticipated that we will vote on the day after tomorrow or that we will take up the economic assistance first and the military aid second.

Mr. FULBRIGHT. The scheduling in the Senate is beyond my responsibility. I thought today that we were going to have some votes and proceed to do business. However, for reasons that I do not understand, we stayed here last night under the pressure, I thought, of getting things done. What will happen tomorrow or the next day, I do not know. I wish I could assure the Senator of what will happen.

I have heard it discussed, without any assurance whatever, that we were going to vote on the Okinawa treaty tomorrow and that we would then be ready to vote on the economic aid bill. When that is passed, we will then proceed on to the military aid bill.

Mr. NELSON. Mr. President, in any event, it is likely that there will be no vote on the military aid before tomorrow or perhaps the day after tomorrow?

Mr. FULBRIGHT. That is a probability.

Mr. NELSON. That would give the administration time to furnish the answers to the questions we have been discussing here so that perhaps someone could explain it on the floor and give us some better justification than the mere assertion that the purpose of being in Cambodia is to protect the withdrawal of our troops.

I do not understand that answer, since the troops that are in Camobdia are Cambodian troops and are not our troops.

Mr. FULBRIGHT. Of course, recently the activity has been primarily between the South Vietnamese and whoever went into Cambodia, and they are attacking the North Vietnamese. I remind the Senator of a little history relative to this. In the old days, there has always been great rivalry between the North Vietnamese and the South Vietnamese. They are a more aggressive people than the Cambodians. The Cambodians have been a relatively quiet people. The traditional enemies have been the Vietnamese and the Cambodians. It was the same way with the Thais.

In the old days there were periodic excursions into one country or the other by the Cambodians and the Thais. They had a long fight over a border problem that went to the International Court.

I believe that the real contest is between North and South Vietnam as to which one will get Cambodia. That is the problem at the present time. Of course, one thing that the Cambodians want above everything else is to get both the North Vietnamese and the South Vietnamese out of there. They are being overrun and occupied by those two countries.

As the Senator knows, when a fight nears the end, it is like two dogs fighting over a bare bone. They fight over the remains. That is what is going on there. We are getting in the middle of it. It is much like what was going on in Vietnam. There were two different factions. There were the South Vietnamese and the North Vietnamese, the Communist and the non-Communists, remnants of the old French regime. They were fighting as to who would be the inheritor of the colonial empire. Now we have a fight in Cambodia between the North Vietnamese and the South Vietnamese as to who will inherit Cambodia. The Cambodians, of course, want to see both get out.

I hate to see us get involved. All of it is beyond our capability to deal with except by this massive military might which does not solve anything.

It of course destroys a country, as we have been destroying Vietnam and Laos.

The situation over there is something our military is not designed to cure, in my opinion. That is why we ought to know the purpose and the objective of the administration's policy.

If my experience is any guide, all the administration will say is that whatever we do in Cambodia, Thailand or Laos is to protect the withdrawal of our troops. If the Senator thinks that is a satisfactory answer, he can vote to support it. In my opinion the policy indicates a military buildup over there which I do not want to support any more than I would have supported the Gulf of Tonkin joint resolution, had I known then what I know now.

Mr. NELSON. Mr. President, I do not think it is a very convincing argument. That is why I voted against the military procurement bill.

Mr. President, I want to thank the Senator for his observation about the issue of our authorization for appropriations in Cambodia. It simply reinforces my belief that our purposes there are other than what have been publicly stated. I therefore cannot support the appropriation.

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. FULBRIGHT. Mr. President, the proposed Cambodian program, like that in Vietnam and Laos, seems predicated upon the assumption that the war will continue indefinitely. It is apparent, therefore, that the administration does not expect a negotiated settlement—why else embark upon a 5-year program—and that it is only with continued U.S. support that Cambodia could entertain any notion of creating and maintaining a defense establishment of more than 500,000 men. If such U.S. support is not forthcoming the Cambodians must make up the difference or reach a negotiated settlement. This is their affair and not ours. We have no vital interests in Cambodia.

The military component of the $341 million figure is based on a force goal of 200,000 men by the end of fiscal year 1972. It is claimed that there are now some 180,000 men in the Cambodian Armed Forces. That is up from 30,000 over 2 years ago. Hardly any knowledgeable and candid observer believes the Cambodians really have that many men under arms and available for duty. The rolls are padded and somebody pockets the difference.

If, there is no domestic insurgency in Cambodia—although there is—and North Vietnamese and VC strength does not exceed 55,000—most of whom are targeted at South Vietnam—why do the Cambodians need a force of three times that size?

The administration itself was prepared when the original aid bill was on the floor to settle for an authorization of $300 million provided this was not established as a ceiling. This means either they were originally asking for more than they needed, or they felt they could make up the difference—as the JCS proposed—if there were no ceiling and no expenditure controls.

If the Cambodians really are united and dedicated to fighting the North Vietnamese and VC, why do they not put their economy on a war time basis and accept real sacrifices instead of trying to perpetuate the illusion of a normal economy. They can only do this with massive U.S. economic aid—commodity imports and exchange support accounts for almost the entire AID program.

The Cambodians, like the Vietnamese—and the Americans—are trying to fight the war without any economic sacrifice. The reason for this is the same as in Vietnam—and the United States—that is, the Government fears it would lose popular support if it called for sacrifice. The principal effect of pursuing this unrealistic policy in Cambodia is already much like that in Vietnam—and the United States—that is, ruinous inflations.

Mr. President, one of the reasons why I will vote against the pending military aid authorization is that it contains an item placing a ceiling of $341 million on our expenditures in Cambodia.

I am opposed to any expansion of our military involvement in Indochina, including Cambodia. We have been down this road once before.

The motivations of the Senator from Missouri (Mr. SYMINGTON) and the Senator from New Jersey (Mr. CASE) in putting a ceiling on money and personnel to be used in Cambodia were of the highest. They wanted it to be clear to the American people and to the Congress just how far we have gone toward continuing a massive American presence in Indochina. They wanted to draw the line someplace.

They also wanted to require the administration to level with the Congress in the future so that we would have information about our actions in Cambodia which the administration heretofore has not seen fit to provide.

Let us not forget that this administration took us into Cambodia to help get us out of Vietnam. And now, 18 months later, we are in Cambodia to the tune of $341 million. I doubt that the Cambodian venture has promoted stability in the area or helped us get out. I do not think what we are doing or propose to do is a justifiable expenditure of such an enormous amount of money. I believe that assuming the obligation to support the Cambodian economy and underwrite a Cambodian military effort of the size and scope contemplated is inconsistent with, and in fact may preclude, a serious attempt to reach a negotiated settlement of the war in Indochina.

The administration has continually professed its wish to see the war end in a negotiated settlement. It refuses, however, to set a final date for the withdrawal of all U.S. forces—ground and air—from Vietnam, a condition absolutely essential in my view before a negotiation can be begun. It is also a condition absolutely essential before we can expect our prisoners to be released. All those I have met, with experience in dealing with the North Vietnamese, say that as soon as the United States commits itself—as did the French—to complete withdrawal of our forces from Vietnam, the timing of withdrawal and speedy arrangements for the return of our prisoners can be concluded.

It appears to me, and I dare say it must appear to the North Vietnamese, that the United States has no intention of withdrawing completely from South Vietnam. There is some speculation that on November 15 the President will announce a date on which the U.S. ground combat role will end and by which our military presence in Vietnam will be reduced to a residual force to be composed principally of air power. If he does make such an announcement, designed to test American willingness to sustain this sort of commitment indefinitely, the conclusion that must be drawn is that he is not considering setting a withdrawal date for all U.S. forces and, incidentally, that he has decided to consign our prisoners to an indefinite period of captivity.

The new U.S. commitment to Cambodia, which is contained in this legislation, is further proof that a total withdrawal of all U.S. forces is not being contemplated. The military assistance which the administration is requesting in this legislation for Cambodia implies a wish to see the Cambodians establish a military structure which will have to be supported by American air power if it is to be effective.

If this legislation is adopted, Cambodia will become totally dependent on the United States for its military and economic survival just as Laos and South Vietnam now are. Laos has been completely dependent on the United States for years but despite the enormous amount we have contributed to assist Laos, the New York Times reported on November 9 that Laos was "near bankruptcy."

The creation of another American dependency in Indochina will have the effect of making a negotiated settlement less likely, for the North Vietnamese will surely be unwilling to participate in a negotiation with the three other states of Indochina if these states are American dependencies. And without a negotiated settlement, the war will drag on with the United States continuing to devastate Indochina from the air; with American taxpayers continuing to contribute vast amounts in economic and military assistance to South Vietnam, Laos, and Cambodia; and with our prisoners still in captivity. For these reasons, I cannot support an expenditure ceiling of $341 million in Cambodia, for if I did I would be supporting a course of action that I believe will prolong the war.

Yesterday I had printed in the RECORD—on page 40419—an exchange of correspondence with the Department of Defense. That exchange of correspondence began with a letter to Secretary Laird on January 27 in which I requested that certain data on Laos and Cambodia be supplied to the Foreign Relations Committee on a monthly basis just as data on South Vietnam has been supplied for some years. I noted yesterday that I had received no reply whatsoever to my letter of August 9.

This morning the committee received a reply dated November 8 and signed by J. Fred Buzhardt, General Counsel of the Department of Defense. Mr. Buzhardt's letter, which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks together with my letters of August 9 and October 15, stated that part of the data requested was "not known to the Department of Defense because it concerns the operations of other Government departments or agencies" and that "reliable data as to other questions asked by you is not available to the Department of Defense." Mr. Buzhardt then concluded by stating that he was forwarding my request to the Department of State.

It apparently has taken Mr. Buzhardt 3 months to reach the conclusion that the Department of Defense does not have the information necessary to provide "a large part of the data requested." That fact, in itself, is eloquent testimony to the efficiency of the Department of Defense. Mr. Buzhardt's letter is, of course, also eloquent testimony to the Department's honesty, for Mr. Buzhardt is saying, in effect, that the Department of Defense does not have the information on, among other things, the number of U.S. military personnel in Laos, the number of U.S. air sorties over Northern Laos and munitions expended, the number of U.S. air sorties over Southern Laos and munitions expended, U.S. casualties in Laos and the purpose, date and number of foreign personnel involved in incursions into Laos from South Vietnam.

A Defense Department which states it does not have this information is either admitting its inefficiency or taking the arrogant position that it cannot be held accountable to anyone. For if it does not consider itself accountable to the Congress, which provides its funds, it is, in a real and disturbing sense, uncontrollable.

FROM LAOS TO CAMBODIA

Mr. President, there could be no better illustration of why the Committee on Foreign Relations has recommended sizable reductions in our supporting assistance programs than two stories concerning Laos which have appeared in the Washington Post and the Washington Star in recent days. Both papers have reported that Laotian officials and businessmen, acting on the basis of advanced knowledge of a devaluation of the Lao currency, have systematically drained millions of dollars from that country's foreign exchange reserves. The reserves in question had been donated by the United States and five other nations to the Foreign Exchange Operations Fund—FEOF. The United States provided over 72 percent of this fund in the current fiscal year, or $18 million out of a total of $24 million through the foreign aid program. The current foreign aid request for Laos also includes $18 million for this same purpose in fiscal year 1972.

According to press accounts the run on the FEOF dollar reserves began some 5 months ago when high ranking Lao officials tipped off Chinese merchants that the government planned to devalue the kip at the end of the year. Although American officials in Vientiane should have known this was going on and should have reacted, the press accounts from Ventiane say that they did nothing until prodded by the other FEOF donor countries, Japan, Great Britain, Australia and France.

According to Mr. Tammy Arbuckle of the Washington Star the run on exchange reserves was brought to the attention of the Prime Minister Souvanna on September 29 during his visit to Washington—I might note at this point that much of the Prime Minister's time in Washington was devoted to lobbying U.S. Senators in an effort to defeat the Symington amendment which placed a ceiling on U.S. expenditures in Laos.

It is further reported that even after the Prime Minister was warned of the exchange manipulation in late September no action was taken to stem the outflow of dollar reserves and that during 1 week alone over $1 million of reserves were lost. Finally, on November 4, Lao banks were closed and the kip was devalued. By that time, however, according to Mr. D. E. Ronk of the Washington Post, most of the reserves which Laos will need for the remainder of the year were gone.

This morning I sent a letter to the Secretary of State requesting, on an urgent basis, a full accounting of the facts concerning recent FEOF operations in Laos. I believe that the Senate has a right to know what our officials in Laos have reported concerning this situation and what actions they have taken. I ask unanimous consent that my letter to Secretary Rogers be inserted in the RECORD at this point.

Over the years there have been continuing reports of instances in which corrupt individuals in Laos have derived illegal profits from U.S. operations in that country. Such reports frequently involve high Laotian officials and I cannot recall any instance in which the Laotian Government is known to have punished the offenders.

American officials in Laos not only appear to have developed a high tolerance of official corruption, but they have also become quite adept at rationalizing it. I suspect that this is due in large part to the fact that in Laos, as in Vietnam and elsewhere, we have committed ourselves to the maintenance in power select group of individuals who act as the instruments of U.S. policy. As a consequence we are obliged to look the other way if such officials are discovered to be misusing our funds.

The evil consequences of this are many:

Our aid benefits the corrupt few and not the people for whom it was intended;

Programs do not accomplish their intended results; and

The United States is discredited and the Communists are the ultimate beneficiaries.

The techniques which we have used in Vietnam and Laos are now being applied in Cambodia. I fear that the results will be the same if the Congress is foolish enough to finance them.

A massive U.S.-financed commodity import program has been begun in Cambodia. This is the same type of program which has been a source of continuing scandal and corruption in Vietnam. Just last week the entire system of import and exchange regulations of the Cambodian Government was revised to conform to the requirements of our commodity import program. This illustrates how the Cambodians, who, until we invaded their country last year, had a very nearly balanced trade account, have now become totally dependent upon the United States.

Another instance of the transfer of our expertise from Vietnam and Laos to Cambodia is the establishment of a Cambodian equivalent of the Foreign Exchange Operations Fund. It is probably only a matter of time until it produces results such as those which have just been reported in Laos.

Thus it seems, on the basis of these two examples that the pattern of U.S. economic involvement in Cambodia parallels that of our deepening military involvement there. The only way in which this can be prevented is for the Congress to draw the line now and refuse to underwrite a repetition of what we have witnessed in Vietnam and Laos.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a copy of a letter I have received under date of November 10, 1971, from the General Counsel of the Department of Defense; a copy of a letter which I wrote to Secretary of Defense under date of October 15, 1971; a copy of a letter I wrote under date of August 9, 1971, to Assistant Secretary for International Security Affairs, Mr. G. Warren Nutter, together with an enclosure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COUNCIL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., November 8, 1971.

Hon. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to your letters of October 15, 1971, to Secretary Laird, and of August 9, 1971, to Assistant Secretary Nutter, reiterating your request of January 27, 1971 for monthly reports on certain statistical data regarding Laos.

As Mr. Nutter advised you in his letter of May 5, 1971, a large part of the data requested by you is not known to the Department of Defense because it concerns the operations of other government departments or agencies, and, further, because of limitations on the presence of Department of Defense personnel in Laos, reliable data as to other questions asked by you is not available to the Department of Defense. To quote from the August 3, 1971, Staff Report on Laos prepared for the use of your Committee (p. 2): "The war in Laos is run in most respects by the Embassy in Vientiane."

In the circumstances, I am forwarding your requests for the data on Laos to the Assistant Secretary of State for Congressional Relations as a matter coming within the purview of that Department rather than this Department.

Sincerely,

J. FRED BUZHARDT.

OCTOBER 15, 1971.

Hon. MELVIN R. LAIRD,
Secretary of Defense, Washington, D.C.

DEAR MEL: I am enclosing a copy of a letter I wrote Mr. Nutter on August 9 on the subject of statistical data relating to developments in Laos. I believe that the letter is self-explanatory.

I do find it difficult to understand, however, why more than two months have elapsed and I have yet to receive any reply whatsoever to the letter. I am sure you would agree that a delay of this length is not conducive to good relations between the Committee and the Department of Defense.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

AUGUST 9, 1971.

MR. G. WARREN NUTTER,
Assistant Secretary for International Security Affairs, Department of Defense, Washington, D.C.

DEAR MR. NUTTER: On January 27, 1971, I wrote Secretary Laird, noting that the Department of Defense had been supplying the Committee for some time with monthly statistical data relating to the situation in Vietnam and asking for a monthly report relating to developments in Cambodia, Laos and North Vietnam. You replied, for Secretary Laird, on April 14 and said that you were unable to comply with my request because "it would not be at all appropriate to discuss or disclose outside the Executive Branch highly sensitive information on military combat operations of the kind which your questions would elicit if answers were to be provided."

I then wrote you on April 20 and asked whether you could provide the Committee with a list of the items requested which you

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considered to be in the category of "highly sensitive information on military combat operations" which would not be "appropriate to discuss or disclose outside the Executive Branch."

You replied on May 5, saying in your letter:

"The information required to respond to questions concerning the size and combat readiness of indigenous armed forces, their air and ground combat operations, the enemy forces they encounter and the casualties they inflict and sustain, etc., is normally provided through U.S. military personnel acting in a military advisory assistance role who accompany the host country forces on combat operations. However, the Geneva Accords, the so-called Cooper-Church Amendment and certain other restrictions imposed by the Congress in enacting the Defense Authorization Bill have, in combination, prohibited by law the presence of U.S. military advisory in Laos and Cambodia which, in turn, effectively precludes reliable reporting to the Department of Defense of information of that nature."

I now renew my request for the information on Laos on a monthly basis requested in my original letter of January 27, 1971. Since our exchange of correspondence, two members of the Committee staff have visited Laos and they have obtained the answers to virtually all of the questions regarding the situation in Laos in the enclosure to my letter of January 27. Furthermore, as you know, their report has now been declassified and published, after review by the Departments of State and Defense and the Central Intelligence Agency. Thus, it does not seem to me any longer credible to claim that you cannot provide answers to these questions on the ground that "it would not be at all appropriate to discuss or disclose outside the Executive Branch highly sensitive information on military combat operations of the kind which your questions would elicit if answers were to be provided." Nor, it seems to me, can you sustain the argument that "The information required to respond to questions concerning the size and combat readiness of indigenous armed forces, their air and ground combat operations, the enemy forces they encounter and the casualties they inflict and sustain, etc., is normally provided through U.S. military personnel acting in a military advisory assistance role who accompany the host country forces on combat operations."

Semantic arguments aside, the fact of the matter is that the information I have requested is available because it has been provided to members of the Committee staff. I would now like to receive this information on a monthly basis.

I am enclosing a copy of the questions I sent the Department of Defense regarding Laos as an enclosure to my letter of January 27.

Sincerely yours,

J. W. FULBRIGHT,
Chairman.

MONTHLY DATA ON MILITARY OPERATIONS IN SOUTHEAST ASIA

Cambodia

1. Size of Cambodian Armed Forces:
(a) Trained and Combat Ready
(b) In training (specific location if outside Cambodia) or other
(c) On duty outside cambodia (other than training)
2. Number of friendly foreign troops in Cambodia:
(a) South Vietnamese
(b) Other (specify)
3. Number of enemy troops in Cambodia:
(a) North Vietnamese/Viet Cong
(b) Cambodian Communist
(c) Engaged in combat operations:
(1) against Cambodian forces
(2) against South Vietnam forces
4. Combat air operations in Cambodia:
(a) Sorties flown by:
(1) U.S. planes
(2) Sorties flown by Cambodian planes
(3) Sorties flown by South Vietnamese planes
(4) Sorties flown by Thais or other forces
(b) Ordnance expended (bomb tonnage and other) by U.S. aircraft in Cambodia:
(1) B–52
(2) other fixed wing aircraft
(3) helicopter gunships, etc.
5. Casualties (military):
(a) Enemy killed, wounded and captured
(b) Cambodian killed, wounded and missing
(c) South Vietnamese killed, wounded and missing
(d) U.S. casualties or missing as a result of air or other operations
6. Transport and Supply Operations:
(a) Number of flights flown by U.S. military transport aircraft to Cambodian airports
(b) Number of U.S. helicopter transport flights flown in Cambodia
(c) Number of air drop missions flown by U.S. aircraft in Cambodia
(d) Number of transport flights by U.S. non-military aircraft (Air America, etc.)
(e) Number of transport flights by South Vietnamese or other aircraft
(f) Number of supply missions by South Vietnamese naval vessels.
(g) Please provide copies of any contracts or agreements with foreign government or private entities relating to supply or transport operations in Cambodia, including data on amounts paid or reimbursed for such services and the sources of the funding.
7. Payments made by the United States to South Vietnam or other countries for operations in or services rendered in behalf of Cambodia:
(a) Amounts or any such payments and the purpose.
(b) Provide copies of any agreements entered into by the United States concerning payments to foreigners for services rendered in or in behalf of Cambodia and the source of the funding.
8. Number of U.S. personnel involved:
(a) Number of U.S. personnel attached permanently or temporarily to the U.S. Embassy in Cambodia—civilian, military.
(b) Number of visits in Cambodia by U.S. personnel in a TAD or other temporary status and total number of days of such duty by all personnel during the month.
(c) Number of U.S. personnel in South Vietnam, Thailand, or Laos whose duties relate to operations in Cambodia, including training and logistics operations.
9. U.S. Naval operations:
(a) Number and type of U.S. ships operating in or near Cambodian waters during the month engaged in operations relating to Cambodia.
(b) Number of visits to Cambodian ports by U.S. naval vessels engaged in supply or transport operations.
10. Estimated number of U.S. prisoners held in Cambodia:

Laos

1. Number of United States personnel in Laos:
(a) Civilian (government employees)
(b) Military
(c) Personnel on temporary duty, civilian and military (total number of man-days)
(d) Contractor employees (Air America, etc.)
2. Number of friendly military forces:
(a) Regular Laotian Armed Forces
(b) Irregular Forces
(c) Thai Forces in Laos
(d) Other Forces in Laos (Cambodian, South Vietnamese, etc.)
3. Enemy forces in Laos:
(a) Pathet Lao
(b) North Vietnamese
(c) Viet Cong
4. Air Operations in Laos:
(a) U.S. air sorties over Northern Laos and munitions expended
1. B–52
2. Other aircraft
(b) U.S. air sorties over Southern Laos and munitions expended
1. B–52
2. Other aircraft
(c) Air sorties by Laotian forces and munitions used
5. Casualties—killed or wounded:
(a) United States
(b) Laotian
(c) Other friendly
(d) Enemy
6. Incursions into Laos from South Vietnam or Cambodia:
(a) Purpose, date and number of U.C. and foreign personnel involved in each incursion
7. Please provide copies of any contracts or agreements entered into during the month between the United States and other countries or private parties relating to military operations in Laos.
8. Estimated number of U.S. prisoners held in Laos:

Mr. GRIFFIN. Mr. President, I yield 2 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 2 minutes.

Mr. DOLE. Mr. President, I oppose this amendment. I believe that it is particularly important to assist Cambodia at this time for Cambodian self-defense efforts have a direct bearing upon the Vietnamization program and on the rate at which we can withdraw our troops from Indochina. Progress in Vietnamization and in the rate of our troop withdrawal are a direct result of our assistance to Cambodia.

Cambodian forces, assisted by South Vietnamese forces in East Cambodia, tie down the equivalent of five enemy divisions and have disrupted the enemy's supply lines. A drastic reduction in our support to Cambodia would release these enemy divisions for offensive operations compromising our withdrawal rate and Vietnamization. By December, we will have withdrawn nearly 400,000 American troops from Asia—let us not risk a slowdown in this process by tying the hands of the executive branch by imposing arbitrary ceilings.

This program is not designed to involve us in Cambodia: it is designed to get our boys out of Vietnam.

Even before Prince Sihanouk was overthrown, Cambodia was caught up in the Indochinese conflict. Its territory was being used by the North Vietnamese and the Vietcong for base and supply areas. Indeed, Prince Sihanouk was attempting to secure Russian and Chinese support to prevent increased North Vietnamese use of Cambodian territory when he was overthrown for internal political reasons.

When this occurred, the North Vietnamese abandoned all pretense of respect for Cambodian neutrality and began to seek Khmer supporters to assist them in controlling Cambodia.

Faced with the onslaught, the Khmer people rallied together. Thousands of people rushed to join the armed forces which have grown from 30,000 in 1970, to 200,000 today. The peoples army is having increasing success in regaining control of populated areas previously overrun by the North Vietnamese.

Let me make it clear that Cambodia is not South Vietnam. There is no civil war in Cambodia. The Khmer people have been attacked by the North Vietnamese.

And the North Vietnamese have been unable to draw more than a small number of Khmer—approximately 18,000—to their side. Khmer nationalism is aroused against a common enemy; and even green, untrained Khmer troops—students for the most part—have taken the offensive against battle scarred enemy veterans. There is no ambiguity in Cambodia; the Khmer know that the survival of their country is at stake.

The other thing which distinguishes Cambodia from Vietnam is that there are no American ground combat troops in Cambodia. The Cambodians are fighting their own war. We seek no allies in Cambodia, we seek no geopolitical influence there—we seek merely to assist a nation in repelling a foreign invasion with its own forces.

Our own program in Cambodia is vastly different from the old Vietnam policy. The administration has been limited to supplying ammunition and equipment; in accordance with law, no U.S. military advisers can be present and no U.S. ground forces can be in combat. Personnel in Cambodia have been limited to what is necessary to insure that the Cambodians are receiving and properly caring for our assistance. On the military side, we have one man for every $3 or $4 million of the annual program. This compares favorably to ratios of one man to a million dollars and less in other areas. The management of economic assistance is similarly lean. We rely on the Cambodians to provide the manpower and direction; we are assisting with equipment and economic support.

This program is not growing at an uncontrolled rate. Last year we provided $255 million; $185 million in military grants and $70 million in economic supporting assistance. This year the President has asked for an increase of $15 million in military assistance and $40 million in economic aid; as well as $20 million Public Law 480 program. The largest increase—in economic assistance—is to help meet the problems of a war shattered economy, many of which were not present in Cambodia last year. As far as increases for the future are concerned, I too, have been troubled by the press reports. I have asked the Secretary of State for his views on the question and have received in reply a letter from which I now want to quote:

The Department of State has reviewed these press reports and is pleased to report that they do not represent planning going on in this Department. Neither do they accurately portray planning material conveyed to this Department by responsible officials of the Department of Defense. The reports are in sum misleading and inaccurate.

On last thought—in seeking a negotiated settlement in Indochina the President will be visiting both China and the Soviet Union. His chances for reaching a responsible Indochinese settlement are greatly enhanced by the success of Vietnamization and by the successful application of the Nixon doctrine in Cambodia where, with our assistance, the Khmer people are fighting and winning their own battles. Our assistance to Cambodia is being looked upon by friends and foes alike as an earnest of our intent to pursue the Nixon doctrine—as a signal that America will continue to assist those nations who are willing to accept primary responsibility for their own security. To pull the rug out from under the President now by imposing this restrictive funding would convey precisely the wrong impression—an impression of American indifference and vacillation on literally the eve of the President's momentous journeys for peace. I am convinced that American indifference would be as much a factor on the world scene as would be our overzealous participation in the Cambodian war. The question we must all ask ourselves today is what becomes of this country and of the world we live in if we react to the tragedy of Vietnam by retreating from international responsibility.

Mr. GRIFFIN. Mr. President, I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. MILLER. Mr. President, I want to add a footnote to what the Senator from Kansas has said. It seems to me that the proponents of the amendment are overlooking the fact and the very important fact that the problems we have are aided and abetted by the Soviet Union and mainland China.

The question really is not so much as to how long the United States is going to be furnishing support to Cambodia. The question really is as to how long the North Vietnamese are going to be persisting in flagrant aggression, aided and abetted by the Red Chinese and the Soviet Union.

I guess that if the amendment were adopted and if we show we are not interested in assisting Cambodia pursuant to the Nixon doctrine that this will certainly underwrite a long, continuing war. Mainland China and the Soviet Union will have the idea that we do not care what they have been doing and everything will pay off as far as aggression is concerned.

Mr. FULBRIGHT. Mr. President, I yield 2 minutes on the bill to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 2 minutes.

Mr. PELL. I think the size of the present ceiling is too high. Cambodia spent less in its governmental expenses than what we intend to give them. In 1969 the Government of Cambodia spent a total of $153 million. Under the present ceiling that the Senator from Wisconsin proposes, we would be giving them about twice what they spent for everything—schools, health, agriculture, Government salaries, and other expenses. We would still be giving them almost twice what they spent in 1969.

I think the ceiling set for the Senator from Wisconsin is too high. However, I will support it.

Mr. THURMOND. Mr. President, I rise in opposition to the Nelson amendment which lowers the Cambodia aid fund ceiling to $263,500,000 from $341 million as approved by the Senate Foreign Relations Committee.

Members of the Senate should bear in mind that if the Communist invasion of Cambodia succeeds not only will that country fall but hundreds of miles of South Vietnam's border will be exposed.

The ceiling set by the committee is restrictive enough in reference to Cambodia. Fortunately the Cambodian people have responded to this invasion and are eager to defend themselves. Why then should we refuse to provide them with sufficient aid to do so?

Mr. President, the funds in this bill provide essential items such as ammunition, clothing and personal gear, oil and fuel, communications equipment, and about $15 million for aircraft. There are no frills allowed under these expenditures, all are essential to help this small nation defend itself.

Mr. President, a word should also be said about U.S. involvement in Cambodia. We have no troops there. The total number of official Americans are 143 and they are stationed at the American Embassy at Phnom Penh. Thus, one can see this program is merely to aid our allies and these funds will not involve the United States in an escalation in Cambodia such as witnessed in Vietnam.

Mr. President, I urge the Senate to reject the Nelson amendment.

Mr. GRIFFIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Wisconsin. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

I further announce that the Senator from West Virginia (Mr. BYRD) is absent on official business.

On this vote, the Senator from Georgia (Mr. GAMBRELL) is paired with the Senator from South Dakota (Mr. McGOVERN). If present and voting, the Senator from Georgia would vote "nay," and the Senator from South Dakota would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

The result was announced—yeas 43, nays 46, as follows:

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[No. 307 Leg.]

YEAS—43

Bayh	Hughes	Pastore
Brooke	Humphrey	Pell
Burdick	Inouye	Proxmire
Case	Javits	Randolph
Chiles	Kennedy	Ribicoff
Church	Magnuson	Saxbe
Cook	Mansfield	Schweiker
Cranston	Mathias	Spong
Eagleton	McClellan	Stevenson
Ellender	Metcalf	Symington
Fulbright	Mondale	Tunney
Gravel	Montoya	Weicker
Hart	Moss	Williams
Hatfield	Muskie	
Hollings	Nelson	

NAYS—46

Aiken	Dominick	Pearson
Allen	Eastland	Percy
Allott	Ervin	Roth
Anderson	Fannin	Scott
Baker	Fong	Smith
Beall	Griffin	Sparkman
Bennett	Gurney	Stafford
Bible	Hansen	Stennis
Boggs	Hruska	Stevens
Buckley	Jackson	Taft
Byrd, Va.	Jordan, Idaho	Talmadge
Cannon	Long	Thurmond
Cooper	McGee	Tower
Cotton	McIntyre	Young
Curtis	Miller	
Dole	Packwood	

NOT VOTING—11

Bellmon	Gambrell	Jordan, N.C.
Bentsen	Goldwater	McGovern
Brock	Harris	Mundt
Byrd, W. Va.	Hartke	

So Mr. NELSON'S amendment (No. 637) was rejected.

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND and Mr. STENNIS made motion to lay motion to reconsider on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator from Arkansas yield me some time?

Mr. FULBRIGHT. Mr. President, I yield 5 minutes to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I have said very little during the course of this debate because it would only be repetition of what has been said before. I do not intend once again to list the litany of the losses—approximately 360,000 casualties—which this country has suffered in Vietnam. I do not intend to call again the attention of the Senate to the fact that we have helped create about 1 million refugees in Vietnam, 700,000 in Cambodia, and 500,000 in Laos. I do not intend to mention, except in passing, what this war has cost this country in treasure and what it is costing us now in problems.

The Senate, 2 weeks ago tomorrow night, marched up the Hill. I wonder what the Senate will do when the final rollcall comes.

What we have done so far is to bring out two bills; and we have increased the military allowance by something on the order of $318 million. Yes, we placed the emphasis once again on the area of destruction, weapons or military might.

Last night I voted against the economic-humanitarian bill which was before us. I did so with some trepidation and with some real concern, because that was a good bill, but I thought I saw the possibility of the old concept of foreign aid being recreated, the old pattern being revived, so I resolved by doubts and voted against that bill. On the basis of the way the Senate has acted so far today, I have no apologies and no regrets for my vote on yesterday. I see here the makings of what amounts to the same old game of foreign aid under new shells.

As I said 2 weeks ago, this is a watershed. What the Senate, what the Congress, what this country will do abroad is at stake in this decision.

I feel very sorry for the Laotians. I feel very sorry for the Cambodians. I feel very sorry for the Vietnamese. But I feel more sorry for the American people. I feel sorry for the American lives which have been lost, 56,000; for the wounded, 303,000; for the totally disabled, 35,000; and for the POW's and missing in action. I think we must bring this holocaust which the foreign aid program has underwritten to a halt somehow, some way; the cost has been beyond all proportions.

One American lost in war in that part of the world was one American too many, and $1 spent in war in that part of the world was $1 too many. What have we got out of it? Drug addiction, low morale, and increasing crime, just to mention a few of the results of this misadventure in a region where we had and have no vital interest.

So I would hope that the Senate would consider what it did 2 weeks ago tomorrow night—in my judgment, a wise action—and not undo it tonight. We are again on a threshold which reaches toward a new summit or a threshold of once again retreating into the same old pattern, after 25 years of programs which have steadily degenerated, and after the expenditure of $143 billion of the people's money.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield myself 5 minutes on the bill.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCOTT. There is so much that can be said critically about the condition of the world, and so much that can be said critically about our efforts to evolve a foreign policy, one of the principal underpinnings of which is our continued undertaking to aid other nations in their problems. We have faltered along the road on many occasions. All that we have done has not been efficiently done or well done. We need, next year, a complete review and reform of our entire foreign policy approach.

But I do not believe we should allow our criticism of some of the features of foreign aid to obscure the fact that we are, indeed, engaged in an ongoing program, and we do need to carry on from where we are until we get a better program.

There is a general feeling that—Mr. President, I wonder if we could have order.

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCOTT. I do not mind talking to myself, but I do it in the privacy of my office.

There is a general feeling that the United States is the leader in foreign aid activities, that we carry the whole burden for the world. I think it would help to set the record straight to point out that we are not first in foreign aid programs in the ratio of our commitment of our gross national product. We are in fact 12th in the world, and in fact the world's percentage commitment to foreign aid is led by a country that we have had, at times, our agreements and disagreements with, and that is France.

Some 93 percent of this money goes to make U.S. jobs, to create employment. We all have deplored unemployment in this country. Five thousand industries are committed to the production of these materials. Some 60,000 people are employed. And if we strike down the foreign aid bill, with all due respect to all points of view here, we have also struck down employment in this country; we have run counter to our desire to straighten out the economy; we have run counter to our desire to reduce unemployment; and we have run counter to what I believe is the general editorial opinion in this country.

We can, of course, write letters to our constituents, who, like many of us, do not always fully understand the import of the program, and say, "We will just not do anything for anybody." But when we do that, we will only have to come back here a third time and consider the program again.

So, with full awareness of the fact that all is not perfect in this most perfect of all possible worlds, that all is not perfect with this program, that all of us are free to seek revisions in the form of amendments next year, I sincerely hope that this program will be adopted by this Senate and that we can then go on to the very important tax measures which are confronting us, and to other measures, and that we can complete that part of the business which we have set for ourselves to do in this first session of this Congress.

I ask all Senators, so far as possible, to give the benefit of the doubt to this program. We in the committee have carefully considered it. This particular bill was reported out unanimously, 15 to 0. The committee indicated that they felt a good bill had been drawn. The bill is not all that different from the one we brought out. As in the economic assistance bill, some modifications were made. The bill will still go to conference, and the other body can work its will.

But I think this is a time when we ought simply to rationally face the fact that if we do not act favorably now, we will only shortly have to come back here, perhaps about the first of December, or the 15th, or the 26th, and then consider again what has not been done, particularly if we do not have a continuing resolution.

Therefore, Mr. President, I do hope that the bill will pass.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Mr. President, I yield myself 5 minutes.

I ask unanimous consent to have printed in the RECORD an excerpt from the committee report, pages 7 to 15, which sets forth the total U.S. aid package proposed for this fiscal year and some other data on our overall aid effort.

There being no objection, the excerpt from the report (No. 92-404) was ordered to be printed in the RECORD, as follows:

The United States foreign aid effort is not limited to the programs authorized by this bill. The programs funded by authorizations contained in this bill constitute only about two-fifths of the total United States foreign aid effort. The Executive Branch's program for foreign assistance this fiscal year totals $9.5 billion, as shown on tables II, III, and IV.

TABLE II.—MILITARY AND ECONOMIC ASSISTANCE DATA, FISCAL YEAR 1972 PROGRAM REGIONAL SUMMARY

[In thousands of dollars]

	Military programs						Economic programs									
							Agency for International Development program					Other programs				
	Military assistance grants	Foreign military credit sales	Excess defense articles [1]	Military assistance service funded	Ship loans [2]	Total military	Development assistance	Economic supporting assistance	Administrative and other expenses, State	Contingency fund	Total	Peace Corps	Public Law 480	Total economic	Total military and economic proposed, fiscal year 1972	Total military and economic, fiscal year 1971
All programs	731,500	582,000	324,000	2,240,800	90,100	3,958,400	1,515,285	825,000	4,400	101,300	[3] 2,445,985	71,200	1,115,260	3,632,445	7,590,845	[3] 7,325,503
LA	9,868	70,000			3,800	83,668	405,074	5,850			410,924	16,102	151,130	578,156	661,824	545,720
AFR	19,009	17,000	1,600		24,400	37,609	159,915	5,950			165,865	15,533	106,230	287,628	325,237	300,508
EUR	14,082		3,000		54,600	71,682						68	14,900	14,968	86,650	31,916
NESA	167,000	420,000	90,400		24,400	700,800	407,335	30,250			437,585	6,242	429,881	783,708	1,574,508	1,820,954
EA and PAC	501,100	75,000	[4] 209,000	446,900	3,050	1,235,050	173,825	202,750			376,575	11,100	320,124	707,799	1,942,849	1,798,503
VN				1,783,900	5,250	1,789,150		565,000			565,000		82,600	647,600	2,436,750	2,368,428
Other	20,441		20,000			40,441	369,136	15,200	4,400	101,300	490,036	22,155	10,395	522,586	563,027	459,474

[1] Exasss defense articles are shown at legal value for purposes of Section 8(c), Public Law 91-672.
[2] Valued at acquisition cost.
[3] Excludes $30,172,000 in State Department expenses and contingency fund.
[4] For Korea, in addition to $40,000,000 in excess defense articles, there is included an additional $104,000,000 estimated dollar value (at acquisition cost) of certain defense articles authorized by sec. 3 Public Law 91-652 to be transferred to that government in fiscal year 1972.

TABLE IV.—MILITARY AND ECONOMIC ASSISTANCE DATA, FISCAL YEAR 1972 PROGRAM BY COUNTRY

[In thousands of dollars]

	Military programs						Economic programs								
							Agency for International Development program								
							Economic supporting assistance	Development assistance	Total	Other programs					
	Military assistance grants	Foreign military credit sales	Excess defense articles [1]	Military assistance service funded	Ship loans [1]	Total military				Peace Corps	Public Law 480	Total economic	Total military and economic, fiscal year 1972	Total military and economic, fiscal year 1971
Latin America	9,868	70,000			3,800	83,668	5,850	405,074	410,924	16,102	151,130	578,156	661,824	545,720
Argentina	897	15,000				15,897							15,897	14,310
Bolivia	666					666	115	13,285	13,400	1,039	8,730	23,169	23,835	14,092
Brazil	892	20,000			3,800	24,692	174	70,325	70,499	2,428	55,890	128,817	153,509	127,815
Chile	856	5,000				5,856		1,310	1,310	608	6,390	8,308	14,164	10,825
Colombia	844	8,000				8,844	340	78,010	78,350	1,049	22,050	101,449	110,293	91,148
Costa Rica							198	1,205	1,403	561	270	2,234	2,234	7,211
Dominican Republic	539					539	370	16,800	17,710	464	13,900	31,534	32,073	27,769
Ecuador	645					645	135	17,718	17,853	769	6,330	24,952	25,597	20,998
El Salvador	374					374	56	12,622	12,678	417	1,620	14,715	15,089	14,708
Guatemala	336	5,000				5,336	377	18,872	19,249	477	2,430	22,156	27,492	22,741
Guyana							99	4,690	4,789	25	1,065	5,879	5,879	7,830
Haiti							3,000		3,000		3,600	6,600	6,600	6,027
Honduras	467					467	171	12,375	12,546	646	900	14,092	14,559	7,658
Inter-American organizations								17,675	17,675			17,675	17,675	13,000
Jamaica							96	11,000	11,096	1,029	1,980	14,105	14,105	13,695
Mexico	107					107							107	87
Nicaragua	568					568	91	12,490	12,581	466	594	13,641	14,209	9,694
Panama	173					173	203	28,588	28,791		603	29,394	29,567	21,736
Paraguay	387					387		8,427	8,427	390	4,475	13,292	13,679	12,374
Peru	792					792		14,100	14,100	1,785	17,690	33,575	34,367	20,045
ROCAP								13,526	13,526	220	90	13,836	13,836	10,024
Surinam											45	45	45	45
Trinidad and Tobago											99	99	99	104
Uruguay	400	2,000				2,400	225	13,406	13,631	131	2,208	15,970	18,370	26,378
Venezuela	734	15,000				15,734	200	350	550	1,465		2,015	17,749	13,344
Other West Indies											14	14	14	650
Eastern Caribbean regional								10,100	10,100	815	157	11,072	11,072	1,143
Economic regional programs								28,200	28,200	1,318		29,518	29,518	22,831
Regional military costs	191					191							191	7,438
Near East and South Asia	167,000	420,000	90,400		23,400	700,800	30,250	407,335	437,585	6,242	429,881	873,708	1,574,508	1,820,954
Afghanistan								7,018	7,018	758	4,100	11,886	11,886	13,500
Ceylon											23,420	23,420	23,420	17,406
Cyprus											360	360	360	349
Greece	19,875	60,000	38,000			117,875							117,875	118,800
India		5,000				5,000		230,050	230,050	3,032	181,670	414,752	419,752	403,605
Iran	942					942				1,081	6,400	7,481	8,423	18,130
Iraq											90	90	[5] 90	180
Israel											56,133	56,133	56,133	558,770
Jordan	9,599	(6)	(6)			(6)	30,000	750	30,750		3,088	33,838	33,838	72,414

Footnotes at end of table.

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TABLE IV.—MILITARY AND ECONOMIC ASSISTANCE DATA, FISCAL YEAR 1972 PROGRAM BY COUNTRY—Continued

[In thousands of dollars]

	Military programs						Economic programs							
							Agency for International Development program			Other programs				
	Military assistance grants	Foreign military credit sales	Excess defense articles [1]	Military assistance service funded	Ship loans [1]	Total military	Economic supporting assistance	Development assistance	Total	Peace Corps	Public Law 480	Total economic	Total military and economic, fiscal year 1972	Total military and economic, fiscal year 1971
Lebanon			(3)			(3)					3,565	3,565	3,565	13,835
Nepal								2,695	2,695	1,156	450	4,301	4,301	4,152
Pakistan		5,000				5,000	250	118,330	118,580		101,950	220,530	225,530	212,280
Saudi Arabia	(3)	(3)				(3)							(3)	30,674
Syria											72	72	72	90
Southern Yemen											45	45	45	63
Turkey	99,770		48,400		23,400	171,570		43,948	43,948	53	27,000	71,001	242,571	328,525
United Arab Republic (Egypt)														0
Yemen											738	738	738	2,390
CENTO								585	585			585	585	429
Economic regional programs								3,959	3,959	162	20,790	24,911	24,911	25,353
Regional military costs [4]	46,413	350,000				396,413							396,413	17
East Asia and Pacific	510,100	75,000	209,000	446,900	3,050	1,235,050	202,750	173,825	376,575	11,100	320,124	707,799	1,942,849	1,798,503
Burma											540	540	540	741
Cambodia	200,000		11,000			211,000	110,000		110,000		20,009	130,009	341,009	282,089
China (Taiwan)	19,500	45,000	48,000			112,500					4,500	4,500	117,000	142,017
Hong Kong											180	180	180	540
Indonesia	24,990		3,000			27,900		107,325	107,325		131,750	239,075	267,065	252,882
Korea	239,400	15,000	[4] 144,000	243,900		642,300		24,100	24,100	1,944	103,490	129,534	771,834	716,326
Laos				125,800		125,800	50,500		50,550		1,710	52,260	178,060	194,389
Malaysia	134	7,000				7,634				2,154	1,215	3,369	11,003	9,153
Philippines	17,000		3,000		1,200	21,200	800	29,100	29,900	1,890	33,760	65,550	86,750	58,295
Ryukyu Islands											1,980	1,980	1,980	
Singapore		7,500			1,850	9,350					90	90	9,440	5,612
Thailand				77,200		77,200	40,000		40,000	1,323	20,900	62,223	139,423	114,652
Western Samoa										425		425	425	492
Economic regional programs							1,400	13,300	14,700	3,364		18,064	18,064	16,370
Regional military costs	76					76							76	4,015
Vietnam				1,783,900	5,250	1,789,150	565,000		565,000		82,600	647,600	2,436,750	2,368,428
Africa	19,009	17,000	1,600			37,609	5,950	159,915	165,865	15,533	106,230	287,628	325,237	300,508
Botswana								(3)	(3)	264	1,350	1,614	1,614	1,660
Burundi								(3)	(3)		189	189	189	299
Cameroon								(3)	(3)	480	27	507	507	582
Central Africa Republic								(3)	(3)		198	198	198	177
Chad								(3)	(3)	389	148	537	537	555
Congo (Kinshasa)	477	2,000				2,477	1,016	5,543	6,559		388	1,080	8,027	10,504	15,996
Dahomey								(3)	(3)		370	405	775	775	420
Equatorial Guinea								(3)	(3)						
Ethiopia	12,790		500			13,290		16,899	16,899	1,052	630	18,581	31,871	28,240
Gabon								(3)	(3)		117	117	117	117
Gambia								(3)	(3)	354	90	444	444	887
Ghana							106	17,310	17,416	1,490	18,075	36,981	36,981	21,146
Guinea								(3)	(3)	622	7,100	7,722	7,722	5,756
Ivory Coast								(3)	(3)	639	270	909	909	1,051
Kenya								2,174	2,174	1,571	630	4,375	4,375	4,766
Lesotho								(3)	(3)	143	3,600	3,743	3,743	1,882
Liberia	500		100			600	203	8,331	8,534	1,119	441	10,094	10,694	6,989
Libya														
Malagasy Republic								(3)	(3)		180	180	180	180
Malawi								(3)	(3)	262	180	442	442	491
Mali								(3)	(3)	224	1,188	1,412	1,412	3,331
Mauritania								(3)	(3)		720	720	720	1,708
Mauritius								(3)	(3)	202	1,400	1,602	[5] 1,602	2,000
Morocco	(3)	(3)				(3)		13,350	13,350	720	31,095	45,165	45,165	46,429
Niger								(3)	(3)	449	1,368	1,817	1,817	1,943
Nigeria							4,100	24,430	28,530		5,850	34,380	34,380	36,748
Rwanda								(3)	(3)		360	360	360	450
Senegal								(3)	(3)	566	2,583	3,149	3,149	2,646
Seychelles								(3)	(3)		36	36	36	36
Sierra Leone								(3)	(3)	1,209	1,035	2,244	2,244	2,453
Somali Republic											540	540	540	540
Sudan											63	63	63	63
Swaziland										175		175	175	3,538
Tanzania								5,819	5,819		1,980	7,799	7,799	5,048
Togo								(3)	(3)	603	360	963	963	1,076
Tunisia	(3)		(3)			(3)	125	12,358	12,483	317	19,980	32,780	32,780	40,358
Uganda								4,780	4,780	380	225	5,385	5,385	3,521
Upper Volta								(3)	(3)	327	1,638	1,965	1,965	3,884
Zambia								(3)	(3)	90	90	90	90	90
Economic regional programs:														
Central West Africa								14,537	14,537			14,537	14,537	13,716
East Africa								1,745	1,745			1,745	1,745	8,665
Southern Africa							300	9,300	9,700			9,700	9,700	11,439
Africa regional							100	2,1789	21,889	1,218	1,009	24,116	24,116	19,055
Regional military costs [4]	5,242	15,000	1,000			21,242							21,242	90
Self-help projects								1,450	1,450			1,450	1,450	1,439
Europe	14,082		3,000		54,600	71,682				68	14,900	14,968	86,650	31,986
Austria														
Denmark														
Iceland											900	900	900	1,988
Malta										68		68	68	31
Norway														

	Military programs						Economic programs							
							Agency for International Development program			Other programs				
	Military assistance grants	Foreign military credit sales	Excess defense articles [1]	Military assistance service funded	Ship loans [1]	Total military	Economic supporting assistance	Development assistance	Total	Peace Corps	Public Law 480	Total economic	Total military and economic, fiscal year 1972	Total military and economic, fiscal year 1971
Portugal	1,000					1,000					4,000	5,000	5,000	2,035
Spain	13,000		3,000		54,600	70,600					10,000	10,000	80,600	28,350
Yugoslavia														
Regional military costs	82					82							82	200
Regional														

[1] Excess defense articles are shown at legal value for purposes of sec. 8(c), Public Law 91-672.
[2] Valued at acquisition cost.
[3] Classified.
[4] Includes classified countries.
[5] In addition to $40,000,000 in excess defense articles, includes $104,000,000 estimated dollar value (at acquisition cost) of certain defense articles authorized by section 3, Public Law 91-652, to be transferred in fiscal year 1972 to the Government of Korea.
[6] Self-help funds only.

TABLE III.—*Other foreign assistance programs—Not included on regional chart*

[In thousands of dollars]

	Estimate fiscal year 1972
Economic:	
1. U.S. contribution to international financial institutions:	
(a) International Development Association	$320,000
(b) Inter-American Development Bank	575,000
(c) Asian Development Bank	60,000
(d) African Development Bank	15,000
Total, U.S. contributions	970,000
2. Export-Import Bank—Long-term loans to developing countries (1968–70 average)	501,100
Total economic	1,471,100
Military:	
1. Public Law 480 grants for defense purposes	116,600
2. MAAG's, military groups, etc	262,000
3. International military headquarters	72,300
4. NATO infrastructure	20,000
Total, military	471,500
Total, other foreign assistance programs	1,942,600
Estimates from regional chart	7,590,845
Grand total, foreign assistance fiscal year 1972	9,533,445

Executive Branch officials have in recent years argued that, compared with other rich nations, the United States development aid effort is quite low. In testifying before the Committee on foreign aid legislation this year, Dr. John A. Hannah, Administrator of the Agency for International Development, when discussing the United States comparative aid effort said:

"Measuring assistance as a percent of GNP, the United States ranks 11th among the 15 major assisting countries. The U.S. share of total world assistance has dropped by half, (from) 80 percent fifteen years ago to 42 percent this year."

Dr. Hannah was, of course, referring only to the approximately $3.2 billion of official development aid, as categorized by the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD), which we now dispense each year. It does not take into account the more than $4 billion in military aid planned to be given other countries this year, humanitarian relief, and other aid outflows not incurred by other rich nations.

It also does not take into account the tremendous burden American taxpayers have assumed under treaty obligations to protect the security of 43 nations around the world. The estimated costs of maintaining forces to meet the NATO commitment alone start at $14 billion and go up from there. But, as the September 7, 1971 report of the Senate Armed Services Committee on the Defense Authorization Bill stated: "This excludes the cost of the 'nuclear umbrella' which is perhaps the cornerstone of NATO . . ." and the Committee added that "a review of selected general purpose weapons systems estimated to cost $30 billion shows that $21–$25 billion of that cost can be identified with the requirement to support NATO defense." (S. Rept. 92–359, P. 15–16)

Yet, according to London's Institute for Strategic Studies, in 1969, when the United States spent 8.6% of GNP and $393 per capita for defense, Germany spent only 3.5% and $90 per capital, Italy 2.9% and $44 per capita, France 4.4% and $128 per capita, Britain 5.1% and $100 per capita, and so on. According to the Senate Armed Services Committee the situation was no different in calendar year 1970. It reported that ". . . data for calendar year 1970 shows the NATO allies spend 4.1 percent of their GNP on military programs compared to United States spending of 8.6 percent." Under these circumstances it makes little sense for the United States to foot the military aid bill for Greece and Turkey, to cite only one small example of the inequities of the present situation. There is no reason why the other NATO nations should not assume this and other burdens now borne by the United States taxpayer. Japan, even under plans for as substantial increase in military spending over the next five years, will allocate less than 1% of GNP for defense. It now spends about $15 per capita annually for defense purposes.

Yet the United States, throughout the world, provides the defense umbrella that frees vast resources of the other rich nations which, in all likelihood, would otherwise be spent for military purposes. To the extent that the United States provides this subsidy, it permits these other nations to achieve, with relative ease, the kind of reordering of national priorities which this country has been unable to accomplish because of its huge defense expenditures. Viewed in this light it is only fitting that these nations should give a greater proportion of their resources, in the form of economic aid, to helping the developing nations. To measure only one segment of the U.S. aid effort, and by such a distorted yardstick as GNP at that, without considering the totality of United States economic and military support for both the rich and the poor is to see only a few trees and not the forest.

Mr. FULBRIGHT. I also wish to state that I think the statement of the minority leader is not quite as accurate as it might be. He refers only to the economic assistance, I believe. The fact is that the United States, in actual dollars, without relation to a GNP, which is a wholly fallacious criterion, in my judgment, spends a great deal more than any other country.

Mr. President, just to review what has happened a bit, what we have ended up doing is appropriating nearly $400 million more for military and related assistance than we did for economic and humanitarian aid, showing once again where the emphasis of our policies, as determined by this body, lies. I very much regret that. I had hoped that after the defeat of the bill before, the Senate would take a different approach, and that we could give emphasis to nonmilitary aid programs.

I am prompted to read one paragraph that I think sums up the action taken today by this body. It is a quote from the great playwright George Bernard Shaw:

In the arts of peace Man is a bungler. I have seen his cotton factories and the like, with machinery that a greedy dog could have invented if it had wanted money instead of food. I know his clumsy typewriters and bungling locomotives and tedious bicycles: they are toys compared to the Maxim gun, the submarine torpedo boat. There is nothing in Man's industrial machinery but his greed and sloth; his heart is in his weapons. This marvellous force of Life of which you boast is a force of Death: Man measures his strength by his destructiveness.

I think our actions today have demonstrated that. I think it is a great tragedy that this country, after all it has wrecked in Southeast Asia and in the world by emphasis upon its capacity for destructiveness, shows no disposition to mend its ways and begin to devote its resources and its energies to the reconstruction, not only of foreign countries, but of our own land as well.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, the Senator from North Carolina has asked for 5 minutes. I yield 5 minutes to him.

Mr. ERVIN. Mr. President, I voted against the economic aid bill on yesterday simply because I do not think that the United States was created to be an eleemosynary institution, and to scatter the resources of its people all over the face of the earth among 125 nations.

I deplore the war in South Vietnam. That war could have been won 5 or 6 years ago, but the civilian authorities in charge of the Army, the Navy, and the Air Force sent boys into battle to die in a war which they would not permit them to win. So I am anxious to get out of Southeast Asia as soon as we can get out

without further endangering the peace of the world.

We live in a precarious world. We might well pray the Lord for peace, at the same time we had better take Oliver Cromwell's advice and keep our powder dry.

I do not like many things in this bill. I do not like some of the restrictions in the bill. I do not know why we should be giving military aid to Africa and Latin America. But I do think we ought to give military aid to Korea. I think we ought to give military aid to Greece. I think we ought to give military aid to Turkey. I think that the military aid we have given those nations has made them fairly strong militarily, and as a result, this world is somewhat safer.

I note that this bill has $642.3 million in it for Korea. It has $117.8 million in it for Greece and $171.5 million for Turkey. I do think those nations need this aid to support the armed forces which they have pledged will stand on the side of the free world in any possible Armageddon with those who would destroy or extinguish the lights of freedom throughout the earth.

I would like to vote against some parts of this bill, but I have to take it as it is. My feeling is that we cannot turn our backs on Turkey and Greece and South Korea at this critical stage of the world. For that reason, my sense of responsibility to my country and to the youth of my country compels me to vote for this bill. This is so because I think military aid to Turkey, Greece, and South Korea will make our world just a little safer.

So far as the other kind of aid is concerned, I am against it. I have voted against it for 16 years. But I believe that it is necessary in this precarious world to keep ourselves and those who stand as our allies as strong as possible.

I could write a foreign aid bill that I could support all the way. I would give military assistance to those who are willing to stand on the side of the free world in any Armageddon with those who desire to subjugate all mankind to their rule. I would give economic aid to those in need of it who are willing to stand on the side of the free world. But I would not give anything to those mugwumps who sit on the fence, with their mug on one side and their wump on the other. I would not give anything at all to neutralists or to potential foes.

I think that the passage of this military assistance bill is necessary to the security of the free world.

Mr. SCOTT. Mr. President, I yield 1 minute to the distinguished Senator from Iowa (Mr. MILLER).

Mr. MILLER. Mr. President, I plan to vote for the pending bill, S. 2819.

However, in doing so, I wish to make clear that I am voting for the bill on balance—namely, that the good outweighs the bad.

One of the bad features is section 9, which represents the so-called Mansfield amendment. We have been over this ground repeatedly before. A majority of the Senate has voted for it while a majority of the House has rejected it. The result has been a compromise worked out by the conference committee between the two houses. I anticipate this will be the case again.

The fatal defect of this section of the bill is that it proposes to fix a date certain for withdrawal of all U.S. military forces from Indochina contingent upon the release of all American prisoners without insuring that, at least, our prisoners will be returned on a phased basis as our troops are phased out. The date certain is, for all practical purposes, 6 months after date of enactment of the bill.

Section 9 properly calls upon the President to negotiate an agreement under which there would be a series of phased releases of American prisoners concurrently with a phased and rapid withdrawal of U.S. troops. But the fixed date is not dependent upon such an agreement. Are we supposed to withdraw our troops at a rate which would have them all out within 6 months even though at the end of 2 months, or 3 months, or 4 months, or 5 months there have been no releases of prisoners?

I have pointed out many times before that the only sure way of approaching this problem is to make clear that any fixed date is contingent upon more than just a hope that our prisoners will be returned. U.S. troops in South Vietnam, especially those providing airpower, is the principal bone in the throat of North Vietnam; and the sooner the leaders of that country understand that the only way to get rid of that bone is to undertake an exchange of prisoners of war, the sooner our prisoners will be returned home. Section 9 of the bill, without amendment, will only prolong the agony of the prisoner of war problem, and all of the good faith in the world behind that section will not change the situation.

Mr. SCOTT. Mr. President, I yield 5 minutes to the distinguished senior Senator from Vermont (Mr. AIKEN).

Mr. AIKEN. Mr. President, I do not need 5 minutes. I simply want to ask a question of anyone who can answer it.

According to the figures I have here, in the bill passed yesterday we reduced $425 million from the President's request. On the military aid, which is now pending, I think the reduction is $480 million from the original request. This makes a total of $905 million reduction on the two bills.

Can anyone answer whether or not those figures are correct? I think they are.

Mr. FULBRIGHT. Those figures are correct. I stated a moment ago the figures with regard to the bill that was defeated. This bill is $267 million less than the bill that was defeated a week ago Friday. The figures stated by the Senator are correct.

Mr. AIKEN. I am making a comparison with what the administration requested; a cut of $905 million in the two bills—$425 million in the economic and humanitarian assistance bill and $480 million in the military assistance bill as it now stands.

Mr. FULBRIGHT. That is correct.

Mr. TUNNEY. Mr. President, it is in order to preserve for Israel the desperately needed supporting assistance and military credit sales that I have decided to vote for the military assistance authorization for 1972.

I have received assurances that the $85 million set forth in this bill for supporting assistance to Israel will, in fact, be granted to Israel by the Nixon administration. Without that assurance, I could not have voted for the final passage of this bill.

Further, Mr. President, it would have been very difficult for me to vote for the final passage of this bill if it did not specify that not less than $300 million shall be made available to Israel only. It is imperative that that amount actually be made available to Israel. Without that provision, the funds appropriated in this bill could not be justified as sound expenditures in our own national interest.

Congress in passing this bill, Mr. President, is telling the administration in the clearest possible language that our commitment to Israel has not been adequate. Seventy-eight Senators have gone on record in support of the immediate sale of additional Phantom jets to Israel. Without that sale, the balance of power in the Middle East could be irreparably endangered.

The events of the past several weeks have infused a healthy atmosphere of inquiry into the foreign aid debate. As I stated on the floor of the Senate on October 29, I am a strong supporter of our aid program. I believe that it has contributed significantly to American security and to the growth and vitality of a large number of developing nations—nations who deserve and require our assistance. I believe that constructive economic and humanitarian assistance to the developing nations is not only in their interest but is very clearly in our own interest. And, consequently, I am firmly convinced that a selective and rational program of foreign aid must be maintained and even expanded.

But the premises upon which we have developed our foreign assistance programs—and particularly our military assistance policies—must be thoroughly reexamined and reevaluated. The policies of the 1940's and 1950's are inadequate for the needs of the 1970's. I believe that the defeat of the foreign aid bill on October 29 helped that reevaluation to begin. I find that an encouraging development.

While that process is unfolding, we must not allow our friends to suffer. We must not allow our assistance to Israel and our other constructive aid programs to be impaired. It is for that reason that I have decided to vote for this military assistance act.

The VICE PRESIDENT. Who yields time?

Mr. STENNIS. Mr. President, will the Senator yield me 2 minutes?

Mr. SCOTT. I yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I got into this matter in the amendment, but I held hearings last year, all year, on military aid, the part for Indochina. All this year, we debated those matters on the floor backward and forward. I ask this question: How in the world are we going to continue to come out of there without having some foreign aid—military aid—in that area? This is the only military aid bill for this year, except that it comes around through our troops, which is another proposition altogether. It is unthinkable and unworkable and just cannot be done, I respectfully submit.

Mr. LONG. Mr. President, will the Senator yield?

Mr. STENNIS. I will yield in a moment.

Let us move this along. In a few minutes, we will get to the military procurement bill, which has a larger portion of the Mansfield amendment in it than heretofore, and that is a step forward; and I believe it will be passed this afternoon or tonight.

Let us move this bill along. It is not exactly what I want; it is not exactly what anyone wants. But let us move this bill and pass it and make room for something else. We have done our best—everyone has.

Mr. SCOTT. Mr. President, I yield 1 minute to the Senator from Louisiana.

Mr. LONG. Mr. President, I have many times voted against foreign aid bills. It seems to me that after we have sacrificed the lives of the 50,000 courageous young men and have sustained 500,000 casualties in fighting for the principles of freedom, fighting at least against communism—everyone must concede that point—to lose that struggle because we have tried to be pennywise and pound foolish, for a few dollars, when we are pulling our troops out, would be the height of folly. To do that, in my judgment, would qualify a person for an insane asylum. Why would anyone want to do that, and having done that, deny someone the little help they need to have a chance of success to defend themselves? I think that would be utter folly.

PROGRAM

Mr. SCOTT. Mr. President, I yield 1 minute to the distinguished majority leader, so that I may ask him what the further order of business is. I do this because we have a large attendance at the moment, and some important matters are coming up.

Mr. MANSFIELD. Mr. President, after the vote on the pending business, the Senate will return to the consideration of H.R. 10947, the tax package, reported by the Committee on Finance, which has been temporarily laid aside.

It is anticipated that once this bill is laid before the Senate again, the distinguished Senator from Mississippi will call up the conference report on the military procurement bill. Following the disposition of that report, we will return to the income tax bill, which will take 2 or 3 days or more, I assume.

In turn, that will be followed by the phase II economic package reported by the Committee on Banking, Housing, and Urban Affairs.

COMMITTEE MEETING NEXT WEEK

If the distinguished minority leader and the Senate as a whole will allow me, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet all next week while the Senate is in session, to complete this phase of the President's program, if possible.

Mr. SCOTT. I join in that request.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Then we have the conference report on the military construction appropriations bill, which ought to be ready Monday or Tuesday. There will be further conference reports and other privileged matters which may arise.

There is the so-called fish inspection bill, which is going to precipitate a certain amount of consideration.

In the background, there are the EEOC amendments, the National Voter Registration Act; four appropriation bills; and two Supreme Court nominations—all of which we want to get to and complete before we adjourn sine die around December 1. I certainly hope we can make it.

Mr. SCOTT. I thank the distinguished majority leader.

I yield myself 1 additional minute, for two purposes.

The first purpose is to say that, again this morning, the joint leadership has indicated a desire to adjourn this session by December 1. We can do it if we dispose of the program which the majority leader has just outlined. Therefore, when the Supreme Court nominations come in, I think it is important that we continue to sit until we have disposed of the confirmations and have voted on both.

I solicit the cooperation of all Senators in this regard as, in my judgment, it will be necessary to stay here until it is done.

The second purpose is to ask the distinguished majority leader if he will comment on the possibility of Saturday sessions.

Mr. MANSFIELD. There will be Saturday sessions from now on. I believe it is fairly certain that there will be votes on Saturday; so the Senate is on notice.

I, therefore, ask that, for the remainder of this session, no Senator make a request of the joint leadership to postpone a vote from a day certain or an hour certain, because it will take the collective accommodation of all of us to achieve the goal of December 1.

I urge, beseech, and I pray each Senator to observe that, and to help the joint leadership in its desire to accommodate themselves to the wishes of the Senate as a whole.

Mr. SCOTT. For this, we would need to enact the prayer amendment.

I thank the Senator.

SPECIAL FOREIGN MILITARY AND RELATED ASSISTANCE ACT OF 1971

The Senate continued with the consideration of the bill (S. 2819) to provide foreign military and related assistance authorizations for fiscal year 1972, and for other purposes.

Mr. SPONG. Mr. President, when debate began on S. 2819 and S. 2820, I was prepared to support the foreign aid authorization program recommended by the Senate Foreign Relations Committee on November 8 as an interim program to meet an immediate and pressing situation. My reservations over our approach to foreign aid, as expressed in an October 29 floor statement, remained. I continued to believe we needed a complete reevaluation and revision of the U.S. foreign assistance program.

At the same time, I had some hesitation over terminating abruptly, without any transitional planning and, perhaps in a moment of frustration, a program which had existed for more than 20 years and which, in many ways, had been an important tool of our diplomatic relations.

While the problems of a lack of adequate information, an absence of a clear-cut approach and undefined goals had not been resolved, the new program recommended by the committee was certainly an improvement over the one recommended originally, the program which I voted against reporting favorably. First, the $2.3 billion committee authorization was much more in line with the $1.9 billion appropriated last year than with the $3.2 billion committee recommendation in the defeated bill. It was also more in line with our spending abilities in light of recent U.S. financial difficulties.

Second, the separation of aid into two categories, economic and humanitarian aid and military assistance, allowed us to examine each of our major foreign aid categories in some detail and give attention to each as an individual matter.

Third, there were several provisions, such as those for combating the international drug traffic, for requiring that additional information on foreign aid spending be reported to Congress and for channeling additional aid through multilateral organizations, which I believed were moves in the right direction.

In my statement on the foreign aid authorization bill which was defeated and which I opposed, I noted that the United States should not embark upon a dangerous course of isolationism. I believe that our responsibilities as the leading diplomatic and economic power in the free world require that we avoid such a course. On the other hand, I felt that H.R. 9910 was ill-advised in view of our Nation's financial difficulties.

When S. 2819 and S. 2820 were reported by the Senate Foreign Relations Committee, I felt that they would provide a temporary, interim means whereby our Nation could contribute on a limited basis, to a number of humanitarian and developmental activities, and assist allies such as Israel while we sought to formulate a new concept of foreign aid, a concept in which our objectives and goals would be more clearly defined and in which there would be some standards against which to measure the success or failure of our efforts.

Last night I voted for S. 2820. Today I would have voted for S. 2819 had the vote for passage been on the bill as reported from the committee. The addition of $318 million to the bill on the Senate floor, however, bringing the total cost of the two-bill package to $2.6 billion, is too high in light of our Nation's current fi-

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nancial difficulties. Consequently, I am voting against this bill.

Mr. THURMOND. Mr. President, I rise in support on final passage of the military assistance legislation, which we have been debating today.

Over the years I have felt that foreign aid bills as a whole were not accomplishing a great deal for this country, and, therefore, I opposed these measures.

Now we have a different situation. This bill before the Senate consists mainly of military aid and some economic aid. Most of the military aid is going to countries in Southeast Asia and a great deal of the economic aid is going to South Vietnam.

Therefore, I feel a new view must be taken of this legislation because it essentially provides the funds for the implementation of the Nixon doctrine. The Nixon doctrine provides that American fighting men be withdrawn from foreign battlefields, but that this effort we have made be replaced in some degree by providing military equipment and some economic assistance to those nations still defending themselves in the face of Communist aggressors.

Much of the money in this bill would go to Southeast Asian nations. This country has seen over 45,000 of its young men die in Vietnam and we have experienced over 300,000 casualties. It would be wrong to deny South Vietnam and nearby nations some military assistance so that they would have a chance to provide for their own freedom as we withdraw. If we fail to do this, then the sacrifices of our fighting men in Vietnam would have been in vain.

Mr. President, I feel this war was improperly conducted and I have said so during the past few years. As we disengage I feel we must provide the needed support to our allies so that they can protect themselves and preserve their freedom which is vital to our national interests.

THE NEED FOR FOREIGN AID

Mr. JAVITS. Mr. President, on Sunday, November 7, 1971, the Los Angeles Times published what I consider to be a most cogent editorial entitled "The Need for Foreign Aid." I commend this editorial to my colleagues. It contains real food for tonight, in my judgment. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE NEED FOR FOREIGN AID

A chorus of cheers and an avalanche of fan mail celebrated the Senate action killing foreign aid.

The celebration must have had a curious ring as it echoed over less fortunate lands, through the refugee camps of India and war-devastated Vietnam and the slums of Rio de Janeiro.

Fortunately, the Senate is having second thoughts. The White House, the State Department and the Pentagon have all reminded the senators that their legislative mayhem of Oct. 29 is damaging both to the diplomacy and the security of the United States.

There are three things worth remembering at this juncture:

The world needs foreign aid, needs it desperately. In India alone, aid adds up to only 1% of national income. The annual economic growth rate of less than 5% is barely keeping pace with the demands of an expanding population. Now, the 8 million refugees from East Pakistan and a new wave of natural disasters have cruelly erased what had been a real hope for accelerated economic development.

The United States can afford the aid it has given in the past and the aid it has been asked to give in the future. American government aid now equals one-third of 1% of gross national product, ranking 14th among the capitalist nations on this basis. If the United States spent twice as much, it would still be spending a smaller share of its gross national product than at least two other nations.

Foreign aid can be more effective. It can never be entirely free of waste. It has been misused for missions which it cannot do well, like trying to buy friendships. Too much has been spent on the military and too little on the economic. It has been easier to explain military need to Congress. Too little has been channeled through the United Nations and other multilateral channels, but this is being corrected.

The second thoughts of the Senate include a proposal for a stop-gap $2.3 billion, more than a billion dollars less than the program approved last August by the House of Representatives. The Administration has said it is not enough. It isn't.

Apart from long-term development commitments for the developing nations, particularly America's neighbors in the Western Hemisphere, there are lingering commitments that cannot be quickly dropped. Vietnam will need massive inputs of economic assistance to patch up the ravages of a war not entirely of its choosing. The Senate acted wisely in forcing a ceiling on aid to Cambodia, a dubious program at best, but even that reduced program will eat up $341 million. The United States cannot terminate aid either to Israel or Jordan without risking new problems in the Middle East. And any cuts in the $128 million for U.N. voluntary programs, including the U.N. Development Program and UNICEF, would be punishing remarkably effective international operations.

For 25 years, America has spent an average of $6 billion a year on foreign assistance, a total close to $150 billion. One Senator called it a "sugar plum." Perhaps. But cheap in relation to the nation's wealth. And cheaper, certainly, than the consequences of a world where nothing was being done to give substance to the aspirations of the poor.

The VICE PRESIDENT. Do the Senator from Pennsylvania and the Senator from Arkansas yield back their time?

Mr. SCOTT. I yield back my time.

Mr. FULBRIGHT. Mr. President, I yield back my time.

Several Senators asked for the yeas and nays on final passage of the bill.

The yeas and nays were ordered.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

I further announce that the Senator from West Virginia (Mr. BYRD) is absent on official business.

I further announce that, if present and voting, the Senator from Texas (Mr. BENTSEN) and the Senator from South Dakota (Mr. McGOVERN) would each vote "yea."

I further announce that, if present and voting, the Senator from North Carolina (Mr. JORDAN) would vote "nay."

On this vote, the Senator from Indiana (Mr. HARTKE) is paired with the Senator from Georgia (Mr. GAMBRELL). If present and voting, the Senator from Indiana would vote "nay" and the Senator from Georgia would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK) is necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is detained on official business.

The result was announced—yeas 65, nays 24, as follows:

[No. 306 Leg.]

YEAS—65

Aiken	Fong	Pearson
Allott	Griffin	Pell
Anderson	Gurney	Percy
Baker	Hansen	Ribicoff
Bayh	Hart	Roth
Beall	Hollings	Saxbe
Bennett	Hruska	Schweiker
Bible	Humphrey	Scott
Boggs	Inouye	Smith
Brooke	Jackson	Sparkman
Buckley	Javits	Stafford
Cannon	Jordan, Idaho	Stennis
Case	Long	Stevens
Chiles	Magnuson	Stevenson
Cook	Mathias	Taft
Cooper	McGee	Thurmond
Curtis	McIntyre	Tower
Dole	Miller	Tunney
Dominick	Moss	Weicker
Eastland	Muskie	Williams
Ervin	Packwood	Young
Fannin	Pastore	

NAYS—24

Allen	Fulbright	Mondale
Burdick	Gravel	Montoya
Byrd, Va.	Hatfield	Nelson
Church	Hughes	Proxmire
Cotton	Kennedy	Randolph
Cranston	Mansfield	Spong
Eagleton	McClellan	Symington
Ellender	Metcalf	Talmadge

NOT VOTING—11

Bellmon	Gambrell	Jordan, N.C.
Bentsen	Goldwater	McGovern
Brock	Harris	Mundt
Byrd, W. Va.	Hartke	

So the bill (S. 2819) was passed, as follows:

S. 2819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Foreign Military and Related Assistance Act of 1971".

STATEMENT OF POLICY

SEC. 2. This Act is enacted as an interim measure to carry forward for fiscal year 1972 United States bilateral military assistance and military credit sales programs authorized by the Foreign Assistance Act of 1961 and the Foreign Military Credit Sales Act. The Congress intends at the earliest possible date to reevaluate the United States foreign assistance program, including foreign military sales, and to develop a new program for the future. Accordingly, this Act looks to the phase-out of the current program and to the establishment of a new one which will command the respect and the support of Congress and the American people.

AUTHORIZATIONS

SEC. 3. (a) There are authorized to be appropriated to the President for fiscal year 1972—

(1) $566,000,000 to carry out the provisions of chapter 4 of part I of the Foreign Assistance Act of 1961, relating to supporting assistance;

(2) $85,000,000 to carry out the provisions of such chapter 4 for Israel only;

(3) $452,000,000 to carry out the provisions of part II of such Act, relating to military assistance; and

(4) $400,000,000 to carry out the provisions of the Foreign Military Sales Act.

(b) The aggregate total of credits, or participations in credits, extended under the Foreign Military Sales Act (excluding credits covered by guaranties issued under section 24(b) of such Act) and of the face amount of guaranties issued under secton 24 (a) or (b) of such Act shall not exceed the amount of $550,000,000 for fiscal year 1972, of which amount not less than $300,000,000 shall be made available to Israel only.

(c) Any appropriation made under any clause of subsection (a) of this section shall be considered as an appropriation made under that provision of the Foreign Assistance Act of 1961 or the Foreign Military Sales Act, as the case may be, authorizing an appropriation for a prior year for the same purpose as such clause.

MILITARY ASSISTANCE

SEC. 4. Part II of the Foreign Assistance Act of 1961, relating to military assistance, is amended as follows:

(1) Section 505, relating to conditions of eligibility, is amended—

(A) by striking out of subsection (b)(2) the word "and" and inserting in lieu thereof "or"; and

(B) by striking out subsection (e).

(2) In section 506(a), relating to special authority, strike out—

(A) "1970 and the fiscal year 1971" and insert in lieu thereof "1972"; and

(B) "each of the fiscal years 1970 and 1971" and insert in lieu thereof "the fiscal year 1972".

(3) Section 507(a), relating to restrictions on military aid to Latin America, is amended to read as follows: "(a) Except as otherwise provided in this section, the value of defense articles furnished by the United States Government under this Act to Latin American countries shall not exceed $10,000,000. Not to exceed $25,000,000 in value of defense articles may be furnishd under this part on a cost-sharing basis to an inter-American military force under the control of the Organization of American States."

(4) At the end of chapter 2 of such part II, add the following new sections:

"SEC. 511. MILITARY ASSISTANCE ADVISORY GROUPS AND MISSIONS.—(a) It is the sense of Congress that the need for large United States military assistance advisory groups and military aid missions in foreign countries has diminished substantially during the last few years. In the words of the Peterson Task Force Report on International Development, 'The United States now can reduce its supervision and advice to a minimum, thus encouraging progress toward self-reliance. United States military missions and advisory groups should be consolidated with other elements in our overseas missions as soon as possible.'

"(b) In accordance with the provisions of subsection (a) of this section, the total number of United States military personnel assigned and detailed, as of September 30, 1971, to United States military assistance advisory groups, military missions, and other organizations of the United States performing activities similar to such groups and missions, shall be reduced by at least 25 per centum by September 30, 1972.

"SEC. 512. MILITARY ASSISTANCE AUTHORIZATIONS FOR THAILAND.—After June 30, 1972, no military assistance shall be furnished by the United States to Thailand directly or through any other foreign country unless that assistance is authorized under this Act or the Foreign Military Sales Act.

"SEC. 513. LIMITATIONS ON AVAILABILITY OF FUNDS FOR MILITARY OPERATIONS.—(a) No funds authorized or appropriated under any provision of law shall be made available by any means by any officer, employee, or agency of the United States Government for the purpose of financing any military operations by foreign forces in Laos, North Vietnam, or Thailand outside the borders of the country of the government or person receiving such funds unless Congress has specifically authorized or specifically authorizes the making of funds available for such purpose and designates the area where military operations financed by such funds may be undertaken outside such borders.

"(b) Upon requesting Congress to make any such authorization, the President shall provide to Congress a copy of any agreement proposed to be entered into with any such government or person and the complete details of the proposed military operation. Upon such authorization by Congress, the President shall provide a copy of any such agreement and thereafter of all plans and details of such operation.

"SEC. 514. SPECIAL FOREIGN COUNTRY ACCOUNTS.—(a) Except as otherwise provided by subsection (b) or (c) of this section, no defense article may be given, and no grant of military assistance may be made, under this or any other law to a foreign country unless the country agrees—

"(1) to deposit in a special account established by the United States Government the following amounts of currency of that country:

"(A) in the case of any excess defense article to be given to that country, an amount equal to 25 per centum of the fair value of the article, as determined by the Secretary of State, at the time the agreement to give the article to the country is made; and

"(B) in the case of a grant of military assistance to be made to that country, an amount equal to 25 per centum of each such grant; and

"(2) to allow the United States Government to use such amounts from that special account as may be determined, from time to time, by the President to be necessary to pay all official costs of the United States Government payable in the currency of that country, including all costs relating to the financing of international educational and cultural exchange activities in which that country participates under the programs authorized by the Mutual Educational and Cultural Exchange Act of 1961.

"(b) The President may waive any amount of currency of a foreign country required to be deposited under subsection (a)(1) of this section if he determines that the United States Government will be able to pay all of its official costs payable in the currency of that country enumerated under subsection (a)(2) of this section without the deposit of such amount and without having to expend United States dollars to purchase currency of that country to pay such costs.

"(c) The provisions of this section shall not apply in any case in which an excess defense article is given, or a grant of military assistance is made, to a foreign country under an agreement with that country which allows the United States Government to operate a military or other similar base in that country in exchange for that article or grant.

"(d) Section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), shall not be applicable to the provisions of this section."

MISCELLANEOUS PROVISIONS

SEC. 5. (a)(1) Section 652 of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is amended to read as follows:

"SEC. 652. LIMITATION UPON EXERCISE OF SPECIAL AUTHORITIES.—The President shall not exercise any special authority granted to him under section 506(a), 610(a), or 614(a) of this Act unless the President, at least ten days prior to the date he intends to exercise any such authority, notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing of each such intended exercise, the section of this Act under which such authority is to be exercised, and the justification for, and the extent of, the exercise of such authority."

(2) The last sentence of section 506(a) of such Act, relating to special authority, is repealed.

(3) The last sentence of section 634(d) of such Act, relating to reports and information, is amended by striking out "614(a),".

(b) Chapter 3 of part III of such Act is amended by adding at the end thereof the following new sections:

"SEC. 653. CHANGE IN ALLOCATION OF FOREIGN ASSISTANCE.—(a) Not later than thirty days after the enactment of any law appropriating funds to carry out any provision of this Act (other than section 451 or 637), the President shall notify the Congress of each foreign country and international organization to which the United States Government intends to provide any portion of the funds under such law and of the amount of funds under that law, by category of assistance, that the United States Government intends to provide to each. Notwithstanding any other provision of law, the United States Government shall not provide to any foreign country or international organization any funds under that law which is in excess of 10 per centum of the amount of each category of assistance which the President notified the Congress that the United States Government intended to provide that country or organization under that law, unless the President (1) determines that it is vital to the security of the United States that such country or organization receive funds in excess of the amount included in such notification for that country or organization, and (2) reports to Congress, at least ten days prior to the date on which such excess funds are to be provided to that country or organization, each such determination, including the name of the country or organization to receive funds in excess of such per centum, the amount of funds in excess of that per centum which are to be provided, and the justification for providing the additional assistance.

"(b) The provisions of this section shall not apply in the case of any law making continuing appropriations and may not be waived under the provisions of section 614(a) of this Act.

"SEC. 654. PRESIDENTIAL FINDINGS AND DETERMINATIONS.—(a) In any case in which the President is required to make a report to the Congress, or to any committee or officer of either House of Congress, concerning any finding or determination under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, that finding or determination shall be reduced to writing and signed by the President.

"(b) No action shall be taken pursuant to any such finding or determination prior to

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the date on which that finding or determination has been reduced to writing and signed by the President.

"(c) Each such finding or determination shall be published in the Federal Register as soon as practicable after it has been reduced to writing and signed by the President. In any case in which the President concludes that such publication would be harmful to the national security of the United States, only a statement that a determination or finding has been made by the President, including the name and section of the Act under which it was made, shall be published.

"(d) No committee or officer of either House of Congress shall be denied any requested information relating to any finding or determination which the President is required to report to the Congress, or to any committee or officer of either House of Congress, under any provision of this Act, the Foreign Military Sales Act, or the Foreign Assistance and Related Programs Appropriation Act for each fiscal year, even though such report has not yet been transmitted to the appropriate committee or officer of either House of Congress.

"SEC. 655. LIMITATIONS UPON ASSISTANCE TO OR FOR CAMBODIA.—(a) Notwithstanding any other provision of law, no funds authorized to be appropriated by this or any other law may be obligated or expended in any amount in excess of $341,000,000 for the purpose of carrying out directly or indirectly any economic or military assistance, or any operation, project, or program of any kind, or for providing any goods, supplies, materials, equipment, services, personnel, or advisers in, to, for, or on behalf of Cambodia during the fiscal year ending June 30, 1972.

"(b) In computing the $341,000,000 limitation on obligation and expenditure authority under subsection (a) of this section in fiscal year 1972, there shall be included in the computation the value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Cambodia in such fiscal year by gift, donation, loan, lease, or otherwise. For the purpose of this subsection, 'value' means the fair market value of any goods, supplies, materials, or equipment provided to, for, or on behalf of Cambodia but in no case less than 33⅓ per centum of the amount the United States paid at the time such goods, supplies, materials, or equipment were acquired by the United States.

"(c) No funds may be obligated or expended for any of the purposes described in subsection (a) of this section in, to, for, or on behalf of Cambodia in any fiscal year beginning after June 30, 1972, unless such funds have been specifically authorized by law enacted after the date of enactment of this section. In no case shall funds in any amount in excess of the amount specifically authorized by law for any fiscal year be obligated or expended for any such purpose during such fiscal year.

"(d) The provisions of subsections (a) and (c) of this section shall not apply with respect to the obligation or expenditure of funds to carry out combat air operations over Cambodia.

"(e) After the date of enactment of this section, whenever any request is made to the Congress for the appropriation of funds for use, in, for, or on behalf of Cambodia for any fiscal year, the President shall furnish a written report to the Congress explaining the purpose for which such funds are to be used in such fiscal year.

"(f) The President shall submit to the Congress within thirty days after the end of each quarter of each fiscal year, beginning with the fiscal year which begins July 1, 1971, a written report showing the total amount of funds expended in, for, or on behalf of Cambodia during the preceding quarter by the United States Government, and shall include in such report a general breakdown of the total amount expended, describing the different purposes for which such funds were expended and the total amount expended for such purpose, except that in the case of the first two quarters of the fiscal year beginning July 1, 1971, a single report may be submitted for both such quarters and such report may be computed on the basis of the most accurate estimates the President is able to make taking into consideration all information available to him.

"(g) Enactment of this section shall not be construed as a commitment by the United States to Cambodia for its defense."

LIMITATIONS ON UNITED STATES PERSONNEL AND PERSONNEL ASSISTED BY UNITED STATES IN CAMBODIA

SEC. 6. Chapter 3 of part III of the Foreign Assistance Act of 1961, relating to miscellaneous provisions, is further amended by adding after section 655, as added by section 5(b) of this Act, the following new section:

"SEC. 656. LIMITATIONS ON UNITED STATES PERSONNEL AND PERSONNEL ASSISTED BY UNITED STATES IN CAMBODIA.—The total number of civilian officers and employees of executive agencies of the United States Government who are citizens of the United States and of members of the Armed Forces of the United States (excluding such members while actually engaged in air operations in or over Cambodia which originate outside Cambodia) present in Cambodia at any one time shall not exceed two hundred. The United States shall not, at any time, pay in whole or in part, directly or indirectly, the compensation or allowances of more than fifty individuals in Cambodia or the United States. For purposes of this section, 'executive agency of the United States Government' means any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment within the executive branch of the United States Government."

FOREIGN MILITARY SALES

SEC. 7. The Foreign Military Sales Act is amended as follows:

(1) In section 33(a), relating to regional ceilings on foreign military sales, strike out "$75,000,000" and insert in lieu thereof "$100,000,000".

(2) Section 33 (c), relating to regional ceilings on foreign military sales, is repealed.

EXCESS DEFENSE ARTICLES

SEC. 8. Section 8 of the Act of January 12, 1971, entitled "An Act to amend the Foreign Military Sales Act, and for other purposes" (84 Stat. 2053), is amended—

(1) by striking out the first and second sentences of subsection (a) and inserting in lieu thereof the following: "Subject to the provisions of subsection (b), the value of any excess defense article granted to a foreign country or international organization by any department, agency, or independent establishment of the United States Government (other than the Agency for International Development) shall be considered to be an expenditure made from funds appropriated under the Foreign Assistance Act of 1961 for military assistance. Unless such department, agency, or establishment certifies to the Comptroller General of the United States the the excess defense article it is ordering is not to be transferred by any means to a foreign country or international organization, when an order is placed for a defense article whose stock status is excess at the time ordered, a sum equal to the value thereof shall (1) be reserved and transferred to a suspense account, (2) remain in the suspense account until the excess defense article is either delivered to a foreign country or international organization or the order therefor is canceled, and (3) be transferred from the suspense account to (A) the general fund of the Treasury upon delivery of such article, or (B) to the military assistance appropriation for the current fiscal year upon cancellation of the order.";

(2) by striking out, in subsection (b), "$100,000,000" and inserting in lieu thereof "$150,000,000"; and

(3) by adding at the end thereof the following new subsection:

"(e) Except for excess defense articles granted under part II of the Foreign Assistance Act of 1961, the provisions of this section shall not apply to any excess defense article granted to South Vietnam prior to July 1, 1972."

TERMINATION OF UNITED STATES MILITARY OPERATIONS IN INDOCHINA

SEC. 9. It is hereby declared to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces not later than six months after the date of enactment of this section subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government. The Congress hereby urges and requests the President to implement the above expressed policy by initiating immediately the following actions:

(1) Establishing a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government, such date to be not later than six months after the date of enactment of this Act.

(2) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.

(3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established by the President pursuant to paragraph (1) hereof or by such earlier date as may be agreed upon by the negotiating parties.

LIMITATION ON UNITED STATES ACTIVITIES IN CAMBODIA

SEC. 10. Section 7(a) of the Special Foreign Assistance Act of 1971 (84 Stat. 1943) is amended by striking out "Cambodian military forces" and inserting in lieu thereof "military, paramilitary, police, or other security or intelligence forces".

RESTRICTIONS RELATING TO FOREIGN TROOPS

SEC. 11. Section 401(a) of Public Law 89-367, approved March 15, 1966 (80 Stat. 37), as amended, is amended—

(1) by inserting in the second sentence of paragraph (1), after "to or for the use of the Armed Forces of the United States", the following: "or of any department, agency, or independent establishment of the United States"; and

(2) by inserting in the introductory matter preceding clause (A) of paragraph (2) of such section, after "Armed Forces of the United States", the following: "or of any department, agency, or independent establishment of the United States".

Mr. GRIFFIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the engrossment of S. 2819.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOVIET ESPIONAGE AGENT ON THE STAFF OF THE UNITED NATIONS

Mr. EASTLAND. Mr. President, one of the most important witnesses heard by the Internal Security Subcommittee was the Soviet defector, Petr Deryabin, a former officer of the KGB.

Mr. Deryabin has sent me a communication with respect to the presence of a Soviet espionage agent on the staff of the United Nations.

This is a matter which I know will be of interest to many Senators, and I ask unanimous consent that the text of Mr. Deryabin's letter to me, together with the attached enclosure, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 21, 1971.

Hon. JAMES O. EASTLAND,
Chairman, Subcommittee on Internal Security, Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am sure you followed the reporting in the press on the recent expulsion of Soviet espionage operatives from the United Kingdom. This action by the Heath government is one of the most heartening things I have seen since I left the Soviet system; it was a service and an example for the entire Western world and would awaken revolutionary sentiments if the message could be gotten to the Russian people.

The *New York Times* on 3 October 1971 presented the facts on Soviet worldwide espionage, including the United Nations, where Vidimir Pavlovich Pavlichenko was singled out as an example of a Soviet State Security officer in the S & T field. This interested me because I knew Pavlichenko well as a KGB operative before I left the service.

On 9 October I sent a detailed statement of what I knew about Pavlichenko together with comments to the Editor of the *New York Times*, with a copy to Mr. U Thant. Given the seriousness of my charges, I even included an offer to be interviewed by the *New York Times*, regarding Pavlichenko, who by this time was attempting to brazen out by denials.

The *New York Times* published a small rendering of what I said which appeared on Page 60 of the 10 October issue, but the political content of my message was totally ignored. I note, however, that a few days later the *New York Times* published an editorial comment on the latest Soviet policy discrimination against Jewish emigration to which I referred in my communication. I would like to believe that my observations had some small effect on their editorial board.

It seems to me there is a disturbing ignorance or apathy about the massive intelligence effort of the U.S.S.R. In writing to you I am seeking relief by resorting to the only remedy available to a citizen. There is no question in my mind from what I read that the Soviets and the Bloc are doing everything possible to divert attention here and abroad from the real issues in the United Kingdom's action and in the Pavlichenko affair in the United Nations. That world body has long served as a spy nest for the Soviet and Bloc Services.

I do not claim to be a universal expert but as a former KGB officer, I am an authority on Soviet espionage and subversion and its personalities and methods. I'm still sought as consultant and have of course been in touch with former colleagues who have more recently travelled the same road I myself once chose. My sources, therefore, are excellent ones. Therefore, I believe that what I have to say on these matters should be made available to the public and to friendly governments whose citizens within the U.N. Mission are unwittingly fraternizing with a very dangerous spy. Obviously, I would have no objection, in fact would welcome your making the whole of my communication to the *New York Times* a matter of public record by including it in the *Congressional Record*, together with pertinent items from the *New York Times* coverage. I enclose the full text, and selected cuttings, for your consideration.

PETR S. DERYABIN.

P.S.—I have enclosed an exact copy of my communications to the *New York Times* but I think it would be prudent to omit the New York Postal address.

To the Editors of the New York Times:

SIRS: I have read with keen interest about the Soviet Government's effort to lie to the world in order to protect a member of their elite. I refer, of course to the case of Pavlichenko.

I was a staff officer of the KGB. I refer you to my book on the life in the KGB, *The Secret World* (New York, Doubleday, 1959), which is well-known to all counterespionage services and governments in the west, and also to Pavlichenko and his organization, the KGB.

Before I bear witness to what I know permit me some general remarks which I believe grow out of specific cases like Pavlichenko's.

As a man who left the Soviet system, I have been deeply moved and impressed by the Churchillian courage, (which came as a surprise to me after the appeasment of the Wilson regime) of the British Government in facing up to reality in dealing with the Soviets. These realities were defined by Lenin in this way:

"So long as capitalism and socialism remain, we cannot live peacefully: either one or the other will conquer in the end—either a funeral dirge will be sung over the Soviet Republic, or over world capitalism."

Or, as Khrushchev said:

"We will bury you."

Or, as Mr. Brezhnev let us know recently at 24th party Congress:

"The organs of State Security (KGB) play an important role . . . they have been strengthened by particularly mature cadres . . ."

So, it is not only Pavlichenko who is important. In the wider sense, Gromyko is also a co-conspirator with Pavlichenko against the West and the Russian people in a cynical approach to foreign policy. The best evidence of that cynical approach appears on Page 665 of the Canadian Royal Commission report in which another Soviet intelligence officer and colleague, Gouzenko, recalls:

"There was one last conversation that Colonel Zabotin had with us. His was before the 5th of September (1945). He gathered us in this room at 14 Range Road and said, 'Yesterday they were allies, today they are neighbors, tomorrow they will be our enemies.'"

I am repeating all of these things because some people in the West have apparently forgotten the message.

As a Senior Soviet state security staff officer I first mentally, then physically, defected from the Police State. I could no longer tolerate, seeing the sacrifices of the Russian people, and at the same time indulge in the advantages of the elite. And this was not just a matter of personal comfort which included special commissaries, special department stores and apartments as well as advantages of every kind, reserved to the KGB and high party dignitaries and denied to the people. The Gromykos and the Pavlichenkos have lost contact with the mass base because they have chosen to continue to enjoy these privileges. Therefore, what I say is not just on my behalf, but on behalf of the Russian people, which is, believe me, the real silent majority in the world today.

Vladimir Pavlovich Pavlichenko, the Director of External Relations in the office of public information in the United Nations, denied that he is a Soviet espionage agent. Said he: "The accusations levelled against me are slanderous and false, I do not wish to dignify them by any further comment."

I agree with Comrade Pavlichenko that it is very hard to dignify one's own belonging to the Soviet espionage service, especially nowdays, when 105 Comrades in arms in London have been sent home, except to deny it as slanderous and false. But facts are stubborn things. I remember him very well, Vladimir Pavlovich Pavlichenko. In 1952–1953 we worked together in Moscow headquarters for the KGB, in what is now first Chief Directorate (Intelligence). If he forgets, at that time it was called MGB and MVD, and it was located on Tekstilshchikov St. Later, it was moved to Dzershinskiy Square, Building No. 2. At different times we had the same chiefs: Gens. Sergey R. Savchenko, Yevgeny P. Pitovranov, Col. Asdrey I. Raina, and Aleksandr S. Panyushkin, the former Soviet Ambassador to the U.S.A. He and I have even used the same cover in espionage work. In 1953, in Vienna, my work involved me with the President of the Soviet Academy of Sciences, Academician Nesmeyanov and later on Pavlichenko worked with him. Today he works with Mikhail Dmitriyevich Millionshchikov.

Sirs, I note from the most recent Soviet disinformation, which the press is unfortunately obliged to carry, that Victor Louis says Soviet "internal pressures" in the U.S.S.R. will lead to expulsion of British diplomats and other officials from Moscow. Such "internal pressures," believe me, are totally illusory, the figments of another one of Pavlichenko's friends and KGB colleagues, Vassily Romanovich Sitnikov, a disinformation specialist from way back whom I identified in my book in 1959. Pavlichenko knows Sitnikov very well and has worked with him professionally. He assisted him in 1965 in Moscow when Sitnikov used the operational alias Vassily Romanovich Sergeyev. And Victor Louis? He's just another of the same bunch!

Finally, in reference to the latest press, what can one say about a system that callously announces yesterday morning that Jews with special skills cannot leave the country. There is something of the cynicism and calculation of the Hitler regime in such a measure! But while the world may sympathize with Jews for such an abomination, I ask how much thinking is being done about the fate of other minorities in the Soviet Union—"our garden," as Elitist Malik called it? I intend to throw more light on the facts about that Soviet "garden" which flourishes in Russia and perhaps in New York. I am sending a copy of this telegram to Mr. U Thant.

PETR S. DERYABIN.

P.S.—In consideration for my personal safety and not for publication. I am prepared to be interviewed on the Pavlichenko facts by a responsible representative. You may contact me at the following address.

[From the New York Times, Oct. 10, 1971]

SOVIET PROTESTS ON PRESS REPORTS—MALIK TELLS BUSH CHARGES OF SPYING ARE SLANDEROUS

(By Benjamin Welles)

WASHINGTON, October 19.—The Soviet Union has protested vigorously to the United

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States over recent reports in the American press of espionage activities by Soviet citizens attached to the United Nations.

Yakov A. Malik, the Soviet delegate, sent a strongly worded letter, which was delivered Oct. 13, to George Bush, the United States delegate, charging that the allegations were "slanderous" and reflected "anti-Soviet hysteria."

The sending of the letter was disclosed to The New York Times by qualified sources and was confirmed by Charles W. Bray 3d, the State Department spokesman, in answer to a question. He added: "We will be replying in due course."

TYPED REPLY NOT INDICATED

Mr. Bray declined to indicate what type of response the United States might make.

The State Department recently disclosed that, since 1960, the United States has expelled 11 Soviet citizens attached to the United Nations and 11 more at the Soviet Embassy here on charges of espionage.

In his letter, which was in Russian, Mr. Malik called Mr. Bush's attention to what he termed attempts by the United States press—notably in New York—and by other unspecified circles to "evoke anti-Soviet hysteria in the U.S. and in other Western countries by exaggerating notorious spy-mania."

On Oct. 3, The New York Times published an article based on reports from its correspondents here and in 20 foreign capitals citing evidence of rising Soviet espionage.

U.S. OFFICIALS QUOTED

It quoted American security officials as having said that many of the 250 to 300 Russian citizens in the Soviet mission to the United Nations or employed in the United Nations Secretariat are known officers of the K.G.B., the Soviet civilian espionage arm, or the G.R.U., the military counterpart.

The report specifically cited Vladamir P. Pavlichenko, who since 1966 has been director of external relations in the United Nations Office of Public Information, as a veteran K.G.B. official.

Two former K.G.B. officers who defected to the United States and live here—Peter Deriabin and Yuri Rastvorov—have since written or telegraphed Secretary General Thant to confirm the reports and to offer to testify from personal experience about Mr. Pavlichenko's K.G.B. activities.

As far as is known, Mr. Thant has not replied.

Mr. Malik's letter did not mention Mr. Pavlichenko. However, it charged that the United States Government had a "responsibility" for creating "normal conditions" under which United Nations personnel can function. He stated that the Soviet Union expected that "measures will be undertaken" by the United States to create such conditions.

WORKS AT U.N.: DESCRIBED AS AGENT, RUSSIAN VISITED HERE

Vladimir Pavlichenko, a Russian working at the United Nations who was described by U.S. security experts in a recent New York Times article as a veteran Soviet intelligence agent, has visited Canada four times.

In spite of the charges, Mr. Pavlichenko's contract as director of external relations in the United Nations Office of Public Information was renewed this week for two years.

Earlier Mr. Pavlichenko termed "slanderous and false" a Times account of Oct. 2 depicting him as a spy for the KGB—Komitet Gosudarstvennoi Bezopastnosti—the Soviet Committee for State Security.

Mr. Pavlichenko has held his UN post since 1966. He first came to the UN as a translator in 1953.

The Times account quoted U.S. security forces as saying that one of Mr. Pavlichenko's key assignments is "to cultivate" scientists.

Mr. Pavlichenko first visited Canada in the summer of 1957 to attend the International Conference of Scientists sponsored by Ohio industrialist Cyrus Eaton in his home town of Pugwash, N.S.

The Pugwash conferences are designed to promote the exchange of scientific information between the West and the Communist countries and Mr. Pavlichenko attended again in 1958 and 1959.

On each occasion, Mr. Pavlichenko returned to New York via Montreal, Ottawa, and Toronto.

The 48-year-old language expert, perfectly fluent in English, has a broad and firm grasp of Canadian affairs, and of the country's history and geography.

A 5-foot-5 man of 150 pounds, Mr. Pavlichenko again visited Canada in 1966 to attend the International Assembly on Nuclear Weapons in Toronto. He was part of the three-man delegation from the Soviet Academy of Sciences to the 11-country conference, although Mr. Pavlichenko's scientific knowledge takes a back seat to his political acumen.

Time magazine quotes U.S. security sources as estimating that from 50 per cent to 75 per cent of all Soviet officials stationed abroad are KGB agents.

There are 82 diplomats in the Soviet mission to the UN, plus 227 Russians on the staff of the UN secretariat.

It is considered to be of some advantage in espionage work to have spy operations within one country handled by someone in a third country as this makes counter-espionage work more difficult.

The New York Times article said that nine of the Russians expelled from Britain had at one time served in the United States. Checks here indicate none had served in Canada.

There are 82 representatives of the Soviet Union in Canada, consisting of, in Ottawa, 28 in the Chancery, seven in the commercial division, six in the military, four in the consular service, and seven in the press, and in Montreal, of nine on the Consul-General's staff, four in the trade office, four for Aeroflot, four for Sovfracht (the shipping agency) and two for Intourist.

THE 1966 MEETING

The 1966 meeting was sponsored by respected, well-placed and influential citizens seeking through understanding to prevent nuclear confrontation, and among the speakers were then Prime Minister Lester Pearson, Sir Solly Zuckerman, chief scientific adviser to the British Government, and Mrs. Alva Myrdad, head of the Swedish delegation to the 18-nation disarmament conference.

The Times' article said that Mr. Pavlichenko also has travelled extensively through the United States, Latin America and Western Europe.

The Washington Post on Oct. 5 said that Mr. Pavlichenko "reportedly tried to introduce girl KGB agents into the UN as tourist guides."

The articles in the two U.S. newspapers are part of a swell of recent news on Soviet espionage activity, including long accounts in the latest editions of Time and Newsweek, following the mass exposure of Soviet spies in Britain late last month.

The British Government was given an extensive rundown on Russian espionage operations by director Oleg Lyalin, 34, ostensibly a hard-drinking minor trade official in the Soviet Embassy but in fact a top-ranking KGB agent.

[From the New York Times, Oct. 10, 1971]

RED DEFECTOR SAYS U.S. AIDE WAS A SPY

Peter S. Deryabin, a former Soviet secret police officer who defected to the West in 1954, charged yesterday that a Soviet member of the United Nations staff served with him as an espionage agent in Moscow in the nineteen-fifties.

Mr. Deryabin made his charges in telegrams he sent to The New York Times and to Secretary General Thant. In the telegrams he named Vladimir P. Pavlichenko, director of external relations in the United Nations Office of Public Information.

A report in The New York Times Oct. 2 said that Mr. Pavlichenko was, according to American security officers, a "veteran" officer of the K.G.B., the Soviet state security agency.

Mr. Pavlichenko described the report about him as "slanderous and false" and denied he was an espionage agent.

Mr. Deryabin ridiculed Mr. Pavlichenko's denial, saying: "In 1952-53 we worked together in Moscow headquarters for the K.G.B. in what is now First Chief Directorate (Intelligence). If he forgets, at that time it was called M.G.B. and M.V.D., and it was located on Tekstilshchikov Street."

[From the New York Times, Oct. 6, 1971]

RUSSIAN, CALLED SPY, WILL REMAIN AT U.N.

UNITED NATIONS, N.Y., October 5.—Moscow gave its formal assent today to a United Nations proposal to extend for two years the contract of a Soviet national named in a report in The New York Times as a "veteran officer" of the Soviet secret police.

The official, Vladimir P. Pavlichenko, 48 years old, director of external relations of the Office of Public Information, denied the report yesterday, terming it slanderous and false.

A United Nations spokesman, who disclosed that Mr. Pavlichenko's contract for the $27,000 a year post, due to expire Saturday, would be extended, said Secretary General Thant planned no action.

"There is no official information from the United States Government on the subject," the spokesman said, and Mr. Thant is not going to "dignify an unsubstantiated report of this kind" by starting an inquiry.

The New York Times dispatch from Washington, printed Sunday, quoted American security experts to the effect that Mr. Pavlichenko's job as a K.G.B. agent was to cultivate American scientists.

[From the New York Time, Oct. 5, 1971]

HIGH RUSSIAN AIDE OF THE U.N. DENIED THAT HE IS A SPY

(By Kathleen Teltsco)

UNITED NATIONS, N.Y., October 5.—A Soviet member of the United Nations staff denied today as "slanderous and false" allegations that he was an espionage agent.

Vladimir P. Pavlichenko, director of internal relations in the Office of Public Information, was described in a news report in The New York Times yesterday as having been identified by American security experts as a veteran officer of the K.G.B., the Soviet espionage agency.

United Nations authorities had no official comment on the allegations, which they contended had not been made officially by the United States Government or its United Nations delegation. They told inquirers that Mr. Pavlichenko's current contract in his $27,000-a-year post expires Saturday.

The United Nations asked the Soviet Government weeks ago through the Soviet mission to renew his assignment for two years, but the request has gone unanswered—a development one official said could be simply a Soviet bureaucratic slip.

Mr. Pavlichenko was in his office at an early hour today, but refused telephone inquiries, and through a United Nations spokesman issued a terse statement later in the day.

"The accusations leveled against me in the issue of Oct. 3 of The New York Times are slanderous and false." "I do not wish to discuss them by any further statement."

United Nations authorities said that in the absence of formal charges against the director, no investigation was being made, and a spokesman emphasized that the many trips abroad by Mr. Pavlichenko were explained by his duties at the overseas information centers. The Times said the American security officers had noted that Mr. Pavlichenko traveled often, became acquainted with scientists and attended the Pugwash conferences sponsored by the Ohio industrialist, Cyrus Eaton.

United Nations authorities said Mr. Pavlichenko, who is 48 years old, first came here in 1954 as a translator but after a year went home and later became Assistant Secretary General of the Academy of Sciences in the Soviet Union. He returned here in 1966 as a deputy director and in 1969 was promoted to his present post.

His office hours were erratic, beginning frequently at 11 A.M. instead of the usual 9:30 A.M., and his lunch hour on many occasions was spent outside the building and kept him away until 4 P.M. He rarely attended United Nations parties.

[From the New York Times, Oct. 4, 1971]

K.G.B.'s EFFORTS TO NEUTRALIZE A SPY'S DEFECTION ARE OUTLINED

(By Benjamin Welles)

WASHINGTON, October 3.—Within hours of the defection of a Soviet spy—such as Oleg Lyalin who defected to Britain last month—the Soviet K.G.B., or State Security Committee, begins immediate, sweeping protective measures within and outside the Soviet Union, experts here say.

The countermeasures have been worked out over 50 years of Soviet espionage experience and are effective, the experts say. They have a two-fold aim. One is to obscure the gravity of the defection in the eyes of international public opinion by quickly publishing counter-charges of "provocation" or "cold war" tactics.

The second aim is to alert subagents or contacts of the defector to disappear until the storm blows over. This behind-the-scenes effort is a race against time between the K.G.B. and Western security services.

The charges made the other day by H.A.R. (Kim) Philby in the Soviet newspaper Izvestia contending that at least seven British diplomats with Mideast experience are intelligence officers are viewed here as part of the intelligence technique known as "disinformation."

MUDDYING THE WATERS

"It's essentially muddying the waters, stirring up countercharges that attract headlines and divert attention from the defector," one specialist said. "Kim Philby is very experienced. He's giving the K.G.B. advice."

Philby, who became a Communist in 1934 during his undergraduate days at Cambridge University, defected to the Soviet Union in 1963. He penetrated British intelligence in World War II and later rose to be head of its most sensitive section—the one working to counter Soviet spies.

In 1949 Philby was sent to the British Embassy here as liaison officer with United States intelligence services. Soon after, through a high Soviet defector, the Central Intelligence Agency learned that Philby was a double agent. It was not until 1963, however, that he finally fled to the Soviet Union.

On Aug. 18 this year, Philby granted an interview to a Czechoslovak journalist in Moscow. Extracts from his forthcoming book on espionage were published. It is believed here that the K.G.B., then knew—or suspected—that Lyalin, who was drinking heavily, might be exposed and so used the Philby interview as a veiled warning to British intelligence.

"He knows a lot of secrets and he can cook up a lot," a former acquaintance of Philby said. "This may have been a warning to London to leave the Russians alone—or he'd sing."

It now appears to experts here that Philby is playing a major role in "orchestrating" the K.G.B.'s disinformation chorus against Britain. One source noted that Philby had accused the British Government of barring 105 suspected Soviet spies to "slow down the process of relaxation of tension in Europe."

Apart from the disinformation campaign when a Soviet spy defects, the experts say, the K.G.B. makes an exhaustive "damage report."

DEFECTOR'S HISTORY EXAMINED

When a defector is known or suspected, orders are flashed to the K.G.B. "residents" or spy chiefs, in key foreign posts to "neutralize" potential damage, the experts say.

In K.G.B. headquarters in Moscow hundreds of personnel are apparently drafted to examine the defector's history—who recommended him for employment, his family, friends, colleagues and background.

"Every file a defector ever signed for is examined to find out what he may have had access to," one source said.

[From the New York Times, Oct. 3, 1971]

SURVEY INDICATES INCREASE IN ESPIONAGE BY THE SOVIET

(By Benjamin Welles)

WASHINGTON, October 2.—Soviet espionage appears to be growing around the world—particularly in the West—while Western and Soviet officials negotiate about reducing tensions.

This is indicated in a survey conducted by New York Times correspondents in 20 capitals, plus extensive interviews here with American security officials. The survey was prompted by recent disclosures of persistent, large and expanding Soviet espionage in Britain.

In a countermove that Western security experts here had been expecting, the Soviet Government amplified charges today against the British intelligence service.

Pravda, the Communist party newspaper, asserted that the British had sent agents to Moscow disguised as businessmen, tourists, journalists and scientists. Some businessmen and tourists were identified, but not journalists or scientists.

Last week, Prime Minister Heath, in a crack-down unprecedented in peacetime for its severity and speed, ordered 90 Soviet diplomats of a total of 550 in Britain expelled. He also refused re-entry permits for 15 others. All were accused of espionage.

Since 1960, the State Department says, the United States has expelled 11 Soviet officials attached to the Embassy here and 11 others attached to the United Nations in New York on espionage charges.

OFFICIALS ARE HEARTENED

The British action has heartened Western security officials, particularly Americans—some of whom have feared in recent years that wide publicized efforts at détente between East and West would lead, also, to lower security standards.

"The British showed guts," one said recently. "I sometimes wish we could be as porky about this sort of thing as the British."

The United States reportedly remains the main target of Soviet espionage. Since the mid-1950's, when the K.G.B., the Soviet state security agency and chief espionage arm, had a few hundred agents in the United States with diplomatic or other official accreditation immunizing them from imprisonment here, the number is believed to have expanded steadily.

Currently the legal Soviet presence in the United States comprises 1,380 men, women and children. About half of the men are considered by the security services to be agents of the K.G.B. or G.R.U., the military intelligence. Many Soviet wives here are also believed to work for one of the services.

CONCENTRATION IN NEW YORK

In addition to these, United States authorities say, there are "illegal" Soviet agents under deep cover. If caught, they are liable to imprisonment. Their precise numbers are unknown but normally they are considered to exceed the "legals" by far.

The main concentrations of Soviet citizens officially in the United States are said to include 400 to 500 in the Soviet Embassy and its branches here; 800 to 900 in the New York area, including 120 to 150 at the Soviet Mission to the United Nations; 150 to 160 working as international civil servants in the United Nations; 10 to 20 at the Amtorg trade delegation; 10 to 20 working jointly for Aeroflot and Intourist plus 10 to 20 correspondents for Tass and other Soviet news agencies.

"There are also hundreds each year who come in and out on temporary duty to attend trade, cultural and scientific conferences," said an American security expert. "Many are known, identified, K.G.B. or G.R.U. officers."

Other points throughout in the survey and interviews were the following:

The K.G.B., and to a lesser extent the G.R.U., are reported to be expanding steadily through West Europe, in the Middle East and, especially, in Latin America.

Career Soviet intelligence officers have been observed moving with diplomatic immunity between countries, attached at various times and for varying periods to embassies, cultural, trade and scientific missions or to the United Nations. When caught spying and expelled they often turn up in another country—or even reappear years later as accredited Soviet diplomats in the country from which they were expelled.

Vladimir P. Pavlichenko, who since 1966 has been director of external relations in the United Nations Office of Public Information, is a veteran K.G.B. officer, American security experts say. They report that he travels extensively throughout the United States, Latin America and Western Europe and often returns to Moscow on home leave. One of his key assignments, has been they say, to cultivate American scientists and he has frequently attended the Pugwash meetings sponsored by the Ohio industrialist, Cyrus Eaton, to promote United States-Soviet scientific exchange.

Since the K.G.B. and 27 other Communist intelligence services met in Moscow in 1959 to coordinate activities on a basis of full equality, experts report, there has been a marked development in Soviet "disinformation," or strategic deception. For instance, they say, whenever Soviet intelligence activities are uncovered there is a flurry of inspired statements, speeches or leaks to the press charging that Western security services are reviving the cold war or sowing discord between the East and West. Yesterday, for example, Harold R. (Kim) Philby, the veteran British K.G.B. agent who fled to the Soviet Union in 1963, charged that the British Government had expelled Soviet officials to "slow down European detente."

The K.G.B., an arm of the Soviet Communist party's central committee, headed by Yuri Andropov, a close ally of that party leader, Leonid Brezhnev, dominates Soviet foreign operations, security men say. "There's no question about Andropov asking Gromyko for a number of cover-slots in some embassy or intourist office," one said. "The Central Committee tells Andropov it wants expanded coverage of the U.S., British or West Germany or some other area—and Andropov tells Gromyko how many slots he'll need."

SOME STATIONED IN UNITED STATES

Among those ordered to leave Britain last week, some have been stationed in the United

States. Following are their names and their reported espionage affiliations.

Boris G. Kolodyazhny, a G.R.U. agent who was a First Secretary in the Embassy here from 1958 to 1963.

Vladimir G. Filatov, a K.G.B. agent in the Soviet delegation to the United Nations in 1966–'67.

Anatoly I. Akimov, a G.R.U. agent in the Amtorg office in New York from 1962–1966.

Sergei N. Golubev, a K.G.B. agent in the Soviet delegation to the United Nations in 1961 and 1963–1964.

Vsevolod N. Generalow, a G.R.U. agent who served in the Soviet air attache's office here from 1959 to 1961, when he was expelled for espionage.

Vyacheslav A. Yasakev, a K.G.B. agent who attended Cornell University in 1965–1966.

Ivan P. Azarov, a K.B.G. agent who was a Third Secretary of Embassy here from 1951 to 1954 and who returned as Second Secretary in 1961–1966.

Richard K. Vaygauskas, a K.G.B. agent attached to the United Nations Secretariat in New York from 1960 to 1963.

Emilya A. Petrovicheva, a K.G.B. agent whose husband, also employed by the K.G.B., served in the Embassy here from 1962–1966.

WEST GERMANY FIRST

Of all countries affected by Soviet espionage, West Germany ranks first, in the opinion of career experts here. At least 170 Soviet "legals" have been identified. To aid them they are believed to have 10,000 "illegals" working under various covers.

The K.B.G. "resident," or chief, in Bonn is said to be Ivan J. Saizev, a tall, slender man in his mid-50's with a mustache and a waxen complexion. Despite his reticence, he is well-known to Western intelligence services. He is listed officially as First Secretary of the Embassy.

His deputy, Grman I. Vladimirov, listed as a political counselor, has specialized for 20 years in German-speaking posts and served the K.G.B. in Vienna from 1955–1958. Another K.G.B. agent, Aleksandr Bogomolov, is listed as press attaché in Bonn.

AGENTS OF INFLUENCE

In recent years the K.G.B. has developed "agents of influence" among friendly West Germans, whose task is to penetrate and influence trade unions, industrial and cultural institutions.

In France, the number of Soviet "legals" has doubled in the last 10 years and now nearing 1,000. There are 81 accredited to the Soviet Embassy in Paris, 350 to 500 under various other covers plus a Soviet Bloc contingent totaling 500.

PLAYED DOWN BY FRENCH

Although the Quai d'Orsay has sought in the interest of French-Soviet amity to play down espionage cases, at least 53 have reached the French courts in eight years. They have involved east Germans, Czechoslovaks Russians, Poles, Rumanians and Yugoslavs.

In Italy, which has a Communist party of 1.5 million, the largest in West Europe, there are about 50 K.G.B. "legals" in the Embassy in Rome plus 200 in other Soviet missions. Since the British round-up, the Italian counter espionage service, has been tightening its surveillance.

Mexico has long been a major Soviet operations center. There are 80 Soviet diplomats in Mexico City, of whom 65 are suspected agents.

Five Soviet nationals were expelled by Mexico in March.

BEIRUT REGARDED AS CENTER

In the Middle East Beirut is generally regarded as the chief Soviet operations center for the Arab world. The Soviet now is estimated to have 25,000 military and economic "technicians" in the area.

A senior Syrian officer who defected to Jordan in 1966 reported that all these technicians must report regularly to the K.G.B.

Israel is believed to be a prime target for Soviet espionage. However, the lack of diplomatic relations deprives the K.G.B. of legal cover. Moreover, the Israeli security service is regarded here as first class.

Recently Victor Louis, who is considered a K.G.B. "disinformation" specialist, and who appears to be a journalist and tipster for Western newsmen in Moscow, visited Israel and proposed closer ties. His proposals are said to have fallen on deaf ears.

Soviet espionage in Japan is said by New York Times correspondents to be largely ineffective. There are reported to be 41 Soviet "legals" in the Embassy plus 40 in other assignments, but political developments in Japan are widely reported in the press and economic statistics are also publicly available.

Despite occasional lapses, the K.G.B. is respected by Western security services.

"The K.G.B. is an underpinning of the Soviet regime—close to the Central Committee, free of criticism, furnished with enormous funds and manpower," said a Western expert. "No Western service stands a chance of being as strong as a totalitarian state service. Only an informed public opinion can even the balance."

[From the New York Times, Sept. 25, 1971]

TEXTS OF BRITISH NOTE TO SOVIET ON SPYING AND OF HOME LETTERS

Following are the texts of a British note to the Soviet Union on espionage activities, as made public in London and transmitted by Reuters, and of two letters from Sir Alec Douglas-Home, the British Foreign Secretary, to Andrei A. Gromyko, the Soviet Foreign Minister, as transmitted by the London bureau of The New York Times:

BRITISH NOTE

When Mr. Gromyko visited London in October, 1970, he spoke of the desirability of improving Anglo-Soviet relations.

It is the sincere wish of Her Majesty's Government to bring about such an improvement.

There is, however, one matter of importance which has repeatedly caused friction in Anglo-Soviet relations. This is the scale of intelligence, gathering activities by Soviet officials in this country. This subject was raised with Mr. Gromyko by Sir Alec Douglas-Home, first in conversation in London and subsequently in a letter dated 3 December 1970, written at Mr. Gromyko's suggestion, and in a further letter dated 4 August 1971.

These letters have not been answered, nor even acknowledged.

Meanwhile, inadmissible activities by Soviet officials in Britain have continued. During the last 12 months a number of Soviet officials have been required to leave the country after being detected in such activities. During the same period it has been decided not to issue visas to a number of officials nominated to Soviet establishments in the United Kingdom on account of their previous activities.

The staffs of the Soviet Embassy and the Soviet trade delegation, which form the two largest elements in the Soviet official establishment in Britain, far outnumber the British officials working in the Soviet Union.

Her Majesty's Government have tolerated the growth of these establishments. They have not sought to bargain increases in the Soviet establishments, in this country against increases in the British establishment in the U.S.S.R., nor have they, sought to establish any fixed relationship between the Soviet commercial establishment in this country and the growth of British exports to the Soviet Union. Evidence has, however, been accumulating that this tolerance has been systematically abused.

This abuse is a matter of serious concern to Her Majesty's Government as a direct threat to the security of this country. Moreover, the recurring need to request the withdrawal of Soviet officials from this country, or to refuse visas to certain officials selected for service in this country, imposes strains on Anglo-Soviet relations. So do unjustified acts of Soviet retaliation such as the recent expulsions of Mr. Miller, Mr. Nicholson and Mr. Jackson.

The Soviet Government can hardly fail to be conscious of the contradiction between their advocacy of a conference on European security and the scale of the operations against the security of this country which Soviet officials and agents controlled by them have conducted. Her Majesty's Government would like to see this contradiction resolved before the preparation of a conference on European security begins.

The Soviet Embassy is therefore requested to arrange for the persons named on the attached list [not made public], all of whom have been concerned in intelligence activities, to leave Britain within two weeks from the date of this aide-mémoire.

Henceforth:

(A) The numbers of officials in: (I) the Soviet Embassy; (II) the Soviet trade delegation, and (III) all other Soviet organizations in Great Britain will not be permitted to rise above the levels at which they will stand after the withdrawal of the persons named in the attached list.

(B) If a Soviet official is required to leave the country as a result of his having been deleted in intelligence activities, the permitted level in that category will be reduced by one.

The Soviet Embassy is also asked to take note that the Soviet citizens named on the second list attached [not made public], who are believed to have left the country but still hold valid reentry visas, will not be permitted to return to Britain on account of their participation in intelligence activities.

HOME'S FIRST LETTER

You will remember that on Oct. 28 at the Soviet Embassy in London, I mentioned to you the case of F. D. Kudashkin. As you requested, I have gone carefully into this case. F. D. Kudashkin's activities in the United States were referred to in court proceedings which were reported at length in The New York Times of March 9, 1965. I enclose a copy of that report.

If you will read it, you will certainly understand why my colleagues and I regard F. D. Kudashkin as unacceptable for any appointment in this country. I hope you will agree that in the interests of our relations, it would be better that we should both regard the visa application made on his behalf as having lapsed.

The case of F. D. Kudashkin is by no means isolated, and it is with regret that, after the enjoyable and constructive discussions I had with you in London, I find myself constrained to write to you about the scale and nature of the intelligence activities conducted by Soviet officials in this country and about the frequency of the attempts which have been made in recent months to introduce into this country officials who, in the past, have been engaged in such activities.

In 1970 alone we have refused visas to more than half a dozen Soviet officials assigned to this country because we had every reason to suspect, on the basis of what we know about their previous activities, that if they were admitted to this country they would not restrict themselves to work which we regard as legitimate and conducive to the maintenance and development of good relations.

Most of the men to whom we have refused visas had been appointed to the Soviet trade delegation. I know that the Soviet trade delegation is not directly subordinated to your ministry, but since you, as Minister for Foreign Affairs of the U. S. S. R., are concerned with all matters which affect the foreign relations of your country, I wish to invite your attention to the number of cases which have come to light of late in which members of the Soviet trade delegation have been found to have engaged in totally inadmissible activities.

This year alone, permission to stay in this country has had to be withdrawn from four members of the Soviet trade delegation. Since I had occasion to speak to you about F. D. Kudashkin, two new cases, one of them particularly serious, involving members of the Soviet trade delegation, have been brought to my attention.

And I am told that a visa application had recently been submitted for A. P. Safronov, whom we know to have engaged in inadmissible activities when he worked at the Soviet trade delegation between 1962 and 1966.

The competent Soviet authorities will be able to give you full information about the various kinds of inadmissible activities which have been conducted from the Soviet trade delegation. They have included the running of agents, instruction in the use of clandestine techniques, the offer and payment of considerable sums of money to persons resident in this country either to suborn them or to secure their help in obtaining classified information (both official and commercial) or commodities subject to embargo or other restrictions.

You will be aware that Her Majesty's previous Government felt compelled to place a limit on the growth of the staff of the Soviet Embassy in 1968. Even so, since last August we have had to request the withdrawal of L. Y. Yeshukin, and the attempt to support F. D. Kudashkin to the embassy has reawakened old suspicions.

When you were in London, you said that Anglo-Soviet relation could not be described as bad, but what more could be done for their development and improvement. In this letter I have indicated a field which is becoming an increasing obstacle to the development of our relation, and with regard to which the kind of improvement of which you spoke would be most welcome.

The representations which Sir D. Greenhill made on this subject to Vice Minister Kozirev [of the Soviet Foreign Ministry] earlier this year appear, from subsequent developments, to have been ignored. I hope that this personal letter to you will be handled in the spirit of your opening remarks to the Prime Minister and myself during your visit to London.

HOME'S SECOND LETTER

I have received with interest Sir Denis Greenhill's reports of his conversations with Mr. Kozirev and yourself, in which you both referred to the allegedly hostile and provocative activities of the "British special services" against the Soviet Union and its citizens and against Soviet agencies in the United Kingdom, and in which you argued that these alleged activities did not contribute to the creation of a favorable atmosphere for the development of Anglo-Soviet relations.

Since you have raised this matter, I think it right to tell you that I see the situation in a very different light.

The Soviet Union conducts espionage against Great Britain on a large scale. Even if I were to mention only those cases which have become public knowledge during the last few years, the list would be a long one.

Many more cases, some of them very serious, are known to me and doubtless to you also. Governments which engage in intelligence activities on such a scale as this much expect that the authorities in the countries attacked will take such precautions and counter measures as may be open to them.

I do not accept your contention that, in the interests of Anglo-Soviet relations, Her Majesty's Government should abstain from taking measures to prevent, limit or inhibit the espionage conducted by Soviet officials on such an extensive scale. It is this which places a strain upon our relations.

I take it that you yourself are fully informed of the scale of Soviet intelligence activities in this country.

You are no doubt aware that the total number of Soviet officials on the staff of Soviet diplomatic, commercial and other organizations has now risen to more than 500, and you are presumably able to ascertain what proportion of these are intelligence officers. I would ask you to consider, however, how the situation must appear to the Foreign Minister of the country against which all this activity is directed. I would add that the number of Soviet officials in the United Kingdom exceeds the number of Soviet officials in any comparable country and indeed even in the United States (excluding the U.N.).

With the information at my disposal I find it hard to interpret the remarks made by Mr. Kozirev and yourself as other than a suggestion that Her Majesty's Government should allow these intelligence agents of yours to conduct their activities in the United Kingdom unhampered lest Anglo-Soviet relations should suffer. I consider this a proposition which it is unreasonable for any government to make to another, whatever the state of their relations.

As an example of the present situation I will mention one particular case. It is in no way exceptional, but it happens to be the most recent.

Last month Her Majesty's Embassy in Moscow received an application for a visa from a man named B. G. Glushchenko, together with the statement that he had been nominated to the post of First Secretary at the Soviet Embassy in London.

This man was in Britain from 1964 to 1968. At that time he was described as the representative of Aviaexport at the Soviet trade delegation. Mr. Glushchenko's activities, however, had little to do with the sale of aircraft. He came to our notice on various occasions: For example, he offered a large sum of money to a British businessman if he would obtain details of certain British military equipment. This is the man whom some Soviet organization has nominated to serve as First Secretary at your embassy in London. You will hardly be surprised to learn that I am not prepared to permit such a person to return to this country.

This is not the first time that I have had occasion to bring such matters to your attention. I spoke to you on the subject during your visit to London in October, 1970. I did so in a manner which would have permitted the question to be pursued in a non-polemical way. You suggested that I should write you a letter, and on Oct. 3, 1970, I did so. To this date, to my surprise, I have received no reply, nor even an acknowledgment. Meanwhile inadmissible Soviet activities in this country continue unabated.

I ask you to reflect upon this and to consider the extent to which these activities are obstructing the development of Anglo-Soviet relations.

I note that Mr. Kozirev tried to obscure the central issue, namely the scale and nature of your Government's intelligence activities in this country, by dragging in the irrelevant question of the few Soviet citizens who, at various times, have sought and received permission to stay in this country and by repeating a number of unwarranted accusations against the behavior of the British authorities. The accusations which referred to past incidents were dealt with at the time in separate exchanges. As for the Soviet citizens, I again assure you that any Soviet citizen in this country who decides to return to the U.S.S.R. is free to do so.

I trust that you will now feel able to reply to my original letter and to this one, which I send in the hope that you will say that you are ready immediately to terminate such activities.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer (Mr. TAFT) laid before the Senate a message from the President of the United States submitting the nomination of Earl Lauer Butz, of Indiana, to be Secretary of Agriculture, which was referred to the Committee on Agriculture and Forestry.

REVENUE ACT OF 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business, Calendar No. 428, H.R. 10947, be laid before the Senate and again made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, it is my understanding that it is the intention of the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services, to call up the conference report on military procurement and that there will be a roll-call vote on it at the conclusion of the consideration and debate on that report. So, the Senate should be on notice of that.

It is also my understanding that, after the disposal of the conference report, the distinguished Senator from Louisiana (Mr. LONG), the chairman of the Committee on Finance, will make an opening statement and, I believe, also the ranking Republican member of the committee, the Senator from Utah (Mr. BENNETT) will make his opening statement, and the Senator from Washington (Mr. MAGNUSON) is going to offer an amendment having to do with the unemployment insurance compensation benefits.

That is for the information of the Senate.

ORDER FOR RECOGNITION OF SENATOR TAFT TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distin-

guished Presiding Officer, the Senator from Ohio (Mr. TAFT), be recognized for not to exceed 15 minutes after the conclusion of the prayer and the recognition of the two leaders under the standing order on tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILITARY PROCUREMENT AUTHORIZATION BILL, 1972—CONFERENCE REPORT

Mr. STENNIS. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8687) to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. TAFT). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of November 8, 1971, at pages 39551–39554.)

Mr. STENNIS. Mr. President, I ask for the yeas and nays on final adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, I have a very brief statement. I have been in conference with the Senator from Colorado, and I understand he will then seek the floor.

Mr. President, I ask unanimous consent that the conference report on the military procurement authorization bill, H.R. 8687, be printed as a Senate report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, the House approved the conference report yesterday as set forth in House Report 92–618 of November 5, 1971, which, of course, contains the new statutory langauge, together with the joint statement of the conference committee.

Mr. President, the matter now before the Senate is the question of agreeing to the conference report on the part of the Senate, and I would like to make several observations.

NEED FOR EXPEDITIOUS SENATE ACTION

Mr. President, as the Senate knows, this procurement bill has been before the Senate in some form for many weeks. The issues have been debated over and over. Both the Senate and House Appropriations Committees are awaiting final action on this bill in order that they may proceed on the annual defense appropriations bill. In my view, it is incumbent upon the Senate as a responsible legislative body to promptly approve this conference report. I am sure that a number of Members would have desired that the final legislative product go much further in some of the measures than the conference report, and desired other changes. The entire legislative process, however, has worked its will, and I think the results will show that this report represents a good effort insofar as the Senate's prevailing in most of the measures passed by this body.

MONEY DIFFERENCES

Mr. President, the money differences were discussed and made public on October 21 in R. & D. and procurement. By way of summary, the total funds approved by the conferees amounted to $21.3 billion as compared to a budget request of $22.2 billion. This is $906 million below the amended administration request. I shall not dwell at length on many of the specific money figures on weapons systems in view of the fact that they were made public several weeks ago.

LANGUAGE DIFFERENCES

Mr. President, the results of the conference with respect to other matters made known on November 4. I shall, however, briefly discuss this aspect of the legislation.

There were 14 language differences between the version as passed by the Senate and that of the House. The Senate prevailed on nine of these differences, the House prevailed on four, with the remaining amendment, known as the Mansfield amendment, being compromised as I shall later discuss.

Let me point out the language differences on which the Senate prevailed.

First. The provision relating to the importation of chrome sponsored by Senator BYRD of Virginia.

Second. The ceiling of $350 million on the overall expenditures in Laos for fiscal year 1972.

Third. The specific language limiting the Safeguard ABM sites to four—two for full deployment at Grand Forks, N. Dak., and Malmstrom, Mont.; and two for advance preparation only at Warren, Wyo., and Whiteman, Mo.

Fourth. The restrictive language regarding the C–5A which provides, as a matter of law, that funds can be channeled only directly to pay for the C–5A program in terms of labor and materials.

On this point, Mr. President, I would like to say that there was considerable opposition in the House to continuation of this restriction which was in last year's bill. The Senate, however, did prevail on this matter in its final resolution.

This provision carries out, in effect, a promise made to the Senate in the initial approval of the first amounts of additional money for the C–5A.

Fifth. A new provision requiring procurement reporting which attempts to provide more complete and current information for our procurement legislative program.

Sixth. The specific F–14 language requiring by law that the funds authorized purchase not fewer than 48 aircraft.

Seventh. The specific authorizing language for the minigunship program. This is a program for testing a lightweight aircraft for possible use in Vietnam.

Eighth. The Senate floor amendment regarding the Navy Sanguine program was also agreed to by the House. I would add that the Senate conferees did agree to restore $1 million of the Senate reduction in this bill.

Ninth. Also agreed to by the House was a provision limiting the period of availability for R. & D. funds to 2 years.

PROVISIONS ON WHICH THE HOUSE PREVAILED

Mr. President, the House prevailed on the following provisions:

First. The specific language regarding the nuclear frigate—DLGN–41—requiring that this construction be undertaken unless the President advises the Congress to the contrary. The language had been deleted from the bill as it passed the Senate.

Second. The Senate floor language requiring a report by the Secretary of Defense prior to using Los Alamitos Naval Air Station for aircraft flying operations was dropped. The conference report did, however, urge the Secretary of Defense to make such a report prior to use.

Third. Federal civilian pay. The Senate-approved language providing for civilian pay increases in accordance with the pay increases in the civilian economy was rejected by the House.

Fourth. The House refused to accept the military pay increase provisions known as the Allott amendment. These additional pays, all going to the lower enlisted and junior officer grades, were vigorously urged by the Senate conferees. The Senate conferees pointed out that these increases have passed the Senate on two occasions during this session, that they are supported by the President of the United States, and that they are intended to support the volunteer concept for our military forces. The House, however, was adamant in its position. The House conferees did agree, however, that should these increases be formally submitted as a legislative program by the administration and passed as legislation by the Senate, the House would give the matter consideration. A complete discussion of this matter is contained on page 29 of the conference report. The conferees regret they were unable, after all diligence, to get favorable consideration of that amendment.

Fifth. Mansfield amendment. Mr. President, the Mansfield amendment in this bill in my opinion is far stronger than the one finally adopted as part of the Selective Service law. It is true that the House did not agree to a specific date. However, for the first time we now have as a proposed law, language which makes our withdrawal from Indochina "the policy of the United States," rather than the sense of the Congress as contained in the previous version. For those who supported the Mansfield amendment, I would urge that they closely consider the meaning of this change in language. As a policy matter it binds the Congress and the President of the United States.

FINAL OBSERVATION

Mr. President, I would like the RECORD to reflect my appreciation for the cooperation of all the Senate conferees in moving this conference along, and especially the Senator from Maine (Mrs. SMITH), the ranking minority member, on whose support I lean so heavily.

I also want to especially thank Chairman HÉBERT and the House conferees for the spirit and effort in which we all worked together to come out with a final bill.

The RECORD should reflect that the House this time operated under rather severe difficulties in view of the procedural and germaneness problems which have arisen in part because of the new provisions in the Legislative Reorganization Act.

We had quite a go-round with respect to the germaneness question and the new rule of the House; but the House conferees adopted a very fine, wholesome, and reasonable attitude. They were willing to and did negotiate, confer, and exchange ideas, thoughts, and proposals very freely. I think they are to be commended.

I want to call attention of the Senate to the rules now written which provide, in substance, that House conferees are virtually precluded from adopting any amendment passed by the Senate that would not be germane under the House rules. That provision was in the new Reorganization Act of Procedures of 1971.

We have not changed our rules with reference to germaneness, and a strict interpretation of those rules would greatly modify, in effect, the Senate rules. I think this matter is going to cause trouble in the future, and I think the leadership of the two bodies should make a study of that proposition and try to arrive at a modification that would put the Senate conferees on more of an equal basis under the rules of each body.

I emphasize again that I think the conferees in this case were very reasonable indeed and were wanting to solve the problem, which was to move this legislation along.

Mr. President, as is the case in all legislation, there comes a time when we should act affirmatively and move on to other matters. This is the case with respect to this conference report. I urge its adoption.

I appreciate very much the hard work and the diligence shown by the Senator from Colorado who has worked on what became known as the Allott amendment for months and months. He is to be commended for staying with the problem as he saw it. I want to thank him for the conferees and for myself, as manager of the bill I hope that, even though he cannot agree to the provision here—and I am anxious to hear the points he may have to make—the conference report can be passed on with reasonable dispatch and we can let it go to the President.

I yield the floor.

Mrs. SMITH. Mr. President, I want to commend the junior Senator from Mississippi for his patience, dedication and excellent leadership not only as chairman of the Committee on Armed Services but as well as chairman of the Senate-House conference on the military procurement bill. He has labored long, hard and wisely on this legislation and its passage is due to his efforts.

I also want to pay tribute to my fellow colleagues on the Republican side of the committee and the conference for their dedicated efforts. I am proud to be associated with them.

Finally I want to recognize the invaluable assistance of the members of the committee staff. Without them this legislation could not have been accomplished.

The PRESIDING OFFICER. The question is on adoption of the conference report.

INTRODUCTION

Mr. ALLOTT. Mr. President, on March 25 of this year the House Committee on Armed Services issued its report (No. 92–82) on the draft extension bill (H.R. 6531). The committee called upon Congress to authorize spending $2.7 billion for military pay raises in fiscal year 1972. The committee report declared—page 21:

> The Committee believes that substantial pay raises in the amounts voted by the Committee are justified by considerations of equity, taking into view the comparable pay of civilian occupations and the exceptional commitment to their country that we ask of young men who are inducted into the Armed Forces.

I repeat the words of the House report itself, which said that "the amounts voted by the committee are justified by considerations of equity."

For reasons which are, if not inexplicable, at least unexplained, the chairman of the House Committee on Armed Services has changed his mind, disavowed his committee position, and developed a quite remarkable adamancy against the Senate's desire to implement pay raises of the size he so recently favored.

The Senate has twice voted resoundingly—51 to 27 and 65 to 4—for military pay raises at the 2.7 billion level once favored by the House chairman. There is absolutely no reason—no reason given, no reason in fact—why the Senate should abandon this wise and just decision. Yet, the House Members who participated in the conference on the military procurement bill are now insisting that we do so. They have struck—without yielding on so much as a penny—the pay raise which we endorsed in this body by a 65 to 4 vote.

In striking down this amendment the House conferees took money from the pockets of 1,694,837 servicemen.

In doing this they have struck another unnecessary blow at the men in the lower ranks. This amendment is specifically designed to help only the men in the lower ranks. In successfully opposing this amendment in conference, the House has struck the second gratuitous blow of the year against the men in the lower ranks, and has compounded a questionable congressional record—extending over two decades—of neglect for these ranks.

In successfully opposing this amendment the House conferees have struck a blow against those in the military who can least afford it. They have said that it is tolerable that we should go through another year with American military men and women living on welfare.

I disagree. It is not tolerable, and that is the principal reason why this conference report should be defeated, and why we should insist on another conference that will restore in full the pay raises which the soldiers need so urgently.

THE THREE REASONS FOR OPPOSING THE REPORT

Mr. President, with all the earnestness at my command I urge the Senate to defeat the conference report on the military procurement bill.

There are three solid reasons for defeating this conference report; any one of these reasons is sufficient to justify rejecting the report. Taken together the three reasons make it not merely wise but even imperative that we reject the report. I urge this because of what has been done—for the second time in less than 4 months—to a pay raise which the Senate overwhelmingly approved.

I urge this for the sake of the military men and women living near or below the poverty line.

I urge this for the sake of the American people who so deeply desire an intelligent effort to achieve an all-volunteer armed force.

And I urge this for the sake of the Senate itself, which will be among the big losers if this report is adopted.

The first thing at stake is basic decency in military pay.

The second thing at stake is the nope—widely cherished by the American people—that we can soon make an orderly transition to an all-volunteer armed force.

Mr. President, these two things that are at stake in this battle have been at stake since early June, when the Senate first voted for a just and sensible military pay raise. But now, as a result of two instances of totally unnecessary and inexplicable adamancy on the part of the conferees from the House Committee on Armed Services, something new is at stake.

The third thing at stake is the integrity and effectiveness of the Senate as a separate and coequal branch of this Legislature.

THE FIRST TWO REASONS: EQUITY AND AN END TO THE DRAFT

First, the crucial figures relative to my amendment to the military procurement bill, and to all the military pay measures that have come before the Congress this year, are contained in tables 1, 2, and 3, and I ask unanimous consent for them to be printed in the RECORD at this point in my remarks.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

[In millions]

TABLE I.—*Fiscal year 1972 cost of Allott amendment 430—November 16, 1971—June 30, 1972*

Basic pay	$225.4
Dependents Assistance Act	11.7
Basic allowance for quarters	1.1
Basic allowance for subsistence	0
Enlistment bonus	0
Recruiter expenses	0
Optometrists	0
DAA reservists	0
Total	238.2

TABLE 2.—COMPARISON OF THE COST OF THE ORIGINAL HOUSE AND SENATE PLANS; THE PLAN ADOPTED BY THE DRAFT BILL CONFERENCE COMMITTEE; THE DRAFT LAW PLAN AS SUPPLEMENTED BY THE ALLOTT AMENDMENT (NO. 430) TO THE MILITARY PROCUREMENT BILL

[Based on 2,553,000 average force as stipulated by the Senate and as accepted in conference]

	Administration	House (annual total)	Senate (annual total)	Draft bill conferees agreement (annual total)	Draft bill conferees agreement (cost from Oct. 1)	New draft law increases as supplemented by amendment 430 to the military procurement bill	
						Annual cost	Cost from mid-November
Basic pay	900.0	1,811.2	2,646.2	1,811.2	1,358.4	2,171.8	1,357.4
Dependants Assistance Act	78.4	182.7	78.4	105.1	[1] 105.1	123.8	77.4
Basic allowance for quarters	0	635.1	0	406.6	305.0	408.4	255.2
Basic allowance for subsistence	0	37.5	0	0	0	0	0
Enlistment bonus	40.0	0	40.0	20.0	[1] 20.0	20.0	12.4
Recruiter expenses	2.9	2.9	2.9	2.9	2.9	2.9	1.8
Optometrists	0	.5	.6	.6	.5	.6	.4
DAA reservists	20.0	20.0	0	20.0	14.9	20.0	12.4
Total	1,042.2	2,689.9	2,768.1	2,366.4	1,806.8	2,747.5	1,717.0

[1] Retroactive to July 1.

TABLE 3.—COMPARISON OF AVERAGE REGULAR MILITARY COMPENSATION [1]

Pay grade	House plan	Senate plan	Draft law conferees agreement	New draft law rates supplemented by amendment 430	Present (Jan. 1, 1971) rates
O–10	$43,872	$40,827	$42,725	$42,725	$40,827
O–9	39,169	36,319	38,107	38,107	36,319
O–8	35,772	33,042	34,751	34,751	33,042
O–7	31,654	29,065	30,689	30,689	29,065
O–6	27,197	24,850	26,389	26,389	24,850
O–5	21,821	19,796	21,122	21,122	19,796
O–4	18,234	16,527	17,630	17,630	16,527
O–3	15,025	13,591	14,501	14,536	13,516
O–2	11,474	11,138	11,045	11,754	10,166
O–1	8,985	9,611	8,659	9,782	7,807
W–4	17,653	16,088	17,074	17,074	16,088
W–3	14,537	13,097	14,023	14,023	13,097
W–2	$12,299	$11,108	$11,859	$11,859	$11,104
W–1	10,138	9,195	9,738	9,782	9,033
E–9	14,919	13,417	14,392	14,392	13,417
E–8	12,812	11,571	12,334	12,334	11,571
E–7	11,063	9,980	10,634	10,634	9,980
E–6	9,550	8,647	9,160	9,160	8,611
E–5	7,691	7,248	7,356	7,445	6,889
E–4	6,457	6,329	6,189	6,363	5,253
E–3	5,893	5,831	5,663	5,850	3,931
E–2	5,484	5,530	5,311	5,488	3,345
E–1	5,036	5,320	4,872	5,150	3,165

[1] Regular military compensation is defined as basic pay, basic allowances for quarters, basic allowances for subsistence, and the tax advantage which accrues because the allowances are not subject to Federal income tax.

Mr. ALLOTT. At this time it is necessary to recall briefly the history of military pay raise legislation in this Congress.

The crucial point about this history is that the House chairman has changed his mind and abandoned the position which he and his committee vigorously—and correctly—advocated just a few months ago.

On March 25, the House Committee on Armed Services issued its report on the draft bill and called upon Congress to authorize spending $2.7 billion for military pay raises in the fiscal year beginning July 1, 1971. The House committee report included the passage quoted above, which deserves repetition:

> The Committee believes that substantial pay raises in the amounts voted by the Committee are justified by considerations of equity, taking into view the comparable pay of civilian occupations and the exceptional commitment to their country that we ask of young men who are inducted into the Armed Forces.

On the draft bill, the House, following the lead of the Committee on Armed Services, which, in turn, was following the vigorous lead of its chairman voted that we spend at an annualized rate of $2.7 billion for military pay raises.

The Senate also voted to spend at the $2.7 rate for increases but voted to distribute it differently, placing most of the benefits—and this is the important point—in basic pay, and giving more of the benefits to the men in the lower ranks specifically the E–1's to the E–4's, and the O–1's and O–2's. That is the Senate provision was that designed by the President's Commission on an All-Volunteer Armed Force as an effective instrument for testing economic incentives for recruiting.

The conference committee which met to compromise the differences did nothing of the sort. Instead, it produced a jerry-built pay package which administered a cruel injustice to the men the Senate most wanted to help—the men in the lower ranks. The conference did not get a single penny for the Senate in basic pay. It cut the pay package to $2.4 billion—on an annualized basis—taking more than $300 million from the men in the lower ranks. That is, the conference chose to cut the spending below the level either body had voted, and it made the cuts in such a way that only the men in the lower ranks received less than either body had mandated and voted for.

This so-called compromise stipulates that six of the lower pay grades—who were the targets of the pay bills—receive a lower annual rate of compensation than they would have received in either the House or Senate versions of the bill.

In order to correct this manifest injustice, the Senate passed the Allott amendment No. 430 to the military procurement bill, putting the money back into the lower ranks. The cost of this amendment is $381 million on an annualized basis and $238.2 for the remainder of fiscal year 1972, mid-November to July 1, 1972.

Now the House conferees, forgetful of the plight of the men and women in the lower ranks, and forgetful of their own views, as cited above from their own report have become not merely doubtful of the wisdom of spending at the rate they once favored—they have become spectacularly hostile to that idea.

In short, they have struck out the Senate attempt to call the House back to its original good judgment.

This House opposition is particularly astonishing in light of the fact that the amendment in question reflects a true and substantial compromise with the House, and this is something we must not forget in this situation.

To demonstate this, it will be useful to juxtapose at this point some familiar figures. They are the figures for regular military compensation—RMC—under the original Senate proposal voted last June, the original proposal put forward by the House Committee on Armed Services, and the RMC that will be achieved this year if the Allott amendment to the military procurement bill is adopted to supplement the pay increases in the new draft law. These are the figures:

[In millions of dollars]

	Annual total		
	Senate	House	RMC Allott proposal
Basic pay	2,646.2	1,811.2	2,171.8
Dependents Assistance Act	78.4	182.7	123.8
Basic allowance for quarters	0	635.1	408.4
Basic allowance for subsistence	0	37.5	0.0
Enlistment bonus	40.0	0.0	20.0
Recruiter expenses	2.9	2.9	2.9
Optometrists	.6	0.5	0.6
DAA Reservists	0	20.0	20.0
Total	2,768.1	2,689.9	2,747.5

It will be noted that in the last version of my amendment, which I did file, we went far, in that item, to bring up and put into basic allowances and dependents' assistance the figures that the House had desired. So the figures not only represent what the House of Representatives and they wanted in the original instance, but the figures in the Allott amendment do absolutely contain a real, significant, and actual compromise with the House figures—a compromise that I was not sure, subsequently, was not justified.

Notice that the difference between the original Senate and House proposals was that the Senate chose to put most of its increases into basic pay, while the House chose to put a substantial amount into Dependents Assistance Act—DAA—basic allowance for quarters—BAQ—and basic allowance for subsistence—BAS. For a variety of reasons, not the least of which is the superior visibility of basic pay increases, I think the Senate proposal was superior. But I understand that there is a strong case to be made for BAQ and BAS—basic quarters and basic subsistence—increases.

In short, I know that this is a matter about which honorable men of good will can and do disagree, and I have been willing to defer in large measure to the House on the matter of the distribution of the increases, just so long as the amount of those increases is pretty much in conformity with the recommendations of the President's Commission on an All-Volunteer Armed Force—the so-called Gates Commission.

As the figures just cited demonstrate, in seeking to put back the money taken from the lower ranks, I have been content to compromise with the distribution favored by the House. Indeed, the plan incorporated in my amendment to the military procurement bill is rather more than a compromise.

It is more than a half-way walk down the line. It represents a virtually complete acceptance of the original House position. The significant figures here are the $408.4 million for BAQ and the increase of over $45 million for DAA.

Thus the Senate, in adopting my amendment to the military procurement bill, went most of the way down the road to the position held by the House. But now that we have reached that point, the House seems to have changed its mind, and it is hard to discern why it has done so.

What has changed in the more than 7 months that have passed since the House committee arrived at the correct—and, one would have hoped, firm—judgment that we should spend for pay raises in the amount that the Senate favors?

In the months that have passed there was wage-price inflation throughout the economy. Prices rose; many civilian wages rose. But for the men and women in the military, it was the same old story: prices rose, but their wages were—as always—frozen in a freeze that had nothing to do with the August 15 Presidential decree, but which had everything to do with misguided Government policy.

In the months that have passed since the Armed Services Committee of the House instructed us that military pay raises of the sort favored by the Senate are needed, the military men and women overseas have suffered especially severe times. The German mark has been floating up in value; the U.S. dollar has been floating down in value; and no one has frozen rents in Germany.

In the months that have passed since the House affirmed the need for spending at this level, the President has deemed it necessary to deny to the military—every last soldier, airman, sailor, and marine—the comparability—cost-of-living—increase that was scheduled for January 1 of next year.

The brutal truth is that in the months that have passed, only two things have happened—the plight of the military men and women has worsened, and the other body has changed its mind about helping them.

I do not care to speculate as to what has caused the House Members to reverse themselves. I am only sure that their motives are impeccable and their sincerity pure. Nevertheless, their reversal is unfortunate. The position which they held for many months is very defensible; their abandonment of this position is not.

We are told, more than a little derisively, that for some ranks my amendment will mean an increase of only about 50 cents a day. That is true. But it ill behooves a well-paid Member of the U.S. Congress to ridicule the usefulness to many Americans of an extra $15 a month or $180 a year. And it is especially unbecoming to belittle the usefulness of this money to those who, as a result of policies inflicted by Congress, have been living for years near or below the poverty line, and well below the level of comparability with similar civilian employees.

I should point out that my amendment will mean special assistance also for lower ranking officers. These are men whose training is especially expensive. They are men we should be especially anxious to attract to a military career, thereby improving the caliber of the Armed Forces while cutting the dreadful expense of constantly retraining a new officer corps.

These are often the kind of high-caliber men and women—with ambition and leadership ability—that we most want to staff our modern Armed Forces.

In addition, these are the people most able to compete in the civilian economy. These are the persons who particularly see and feel the slight when—as is now the case, and as has been the case for years—military pay fails the test of comparability with civilian pay. And, to repeat, the House committee report on the draft bill emphasizes that existing pay rates fail that test.

In this regard, it is instructive to note some figures for fiscal year 1970. In that year, the Army retained only 16 percent of its enlisted men at the end of their initial term of obligation, but it retained an even smaller percentage—only 11 percent—of the ROTC officers at the end of their initial obligation.

With these facts in mind, and in order to understand the significance of my amendment to this vital group of military men and women, consider table 4, which I ask unanimous consent to have printed in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—SELECTED EXAMPLES OF ANNUAL COMPENSATION FOR MEMBERS WITH LESS THAN 2 YEARS SERVICE

[For pay grade affected by Allott amendment, H.R. 8687]

Pay grade and title	Regular military compensation	
	Monthly	Annual
O–2, 1st lieutenant/lieutenant (jg.):		
Allott (H.R. 8687)	$943.73	$11,325
Present (H.R. 6531)	$838.28	$10,059
Dollar difference	$105.45	$1,266
Percent difference	12.6	12.6
O–1, 2d lieutenant/ensign:		
Allott (H.R. 8687)	$820.10	$9,841
Present (H.R. 6531)	$722.39	$8,669
Dollar difference	$97.71	$1,172
Percent difference	13.5	13.5

Mr. ALLOTT. As this table shows, the amendment against which the House is so adamant is of great significance to our vital young officer corps.

The table shows that the action of the House conferees in killing the Senate pay measure will cost a young second lieutenant a pay raise of 13.5 percent. It yanks $1,172 out of his pocket—and for no reason.

The action of the House conferees will cost a young first lieutenant in the under-2-year category a pay raise of 12.6 percent. It yanks $1,266 out of his pocket—and for no reason.

It has been said that the pay raises the Senate favors should not be passed because they cannot guarantee the achievement of an all-volunteer armed force. That argument misfires on two counts.

First. As the Gates Commission repeatedly emphasized, and as the House committee report on the draft bill affirmed, pay raises on this scale are justified on the grounds of equity alone. It cannot be reiterated too often that even under the pay scales included in the draft law, some military men and women must draw welfare. The only way to end this deplorable situation now is to insist on retention of the Allott amendment in the military procurement bill, by rejection of the conference report.

Second. Perhaps these economic incentives will not suffice to achieve the enlistment rate necessary if we are to make an orderly, prompt transition to an all-volunteer armed force. But pay raises in the amount we in the Senate favor were recommended unequivocally by the experts who have studied this matter most thoroughly—the distinguished members and highly competent staff of the Gates Commission. If someone adduces evidence as to why we should disregard the recommendations of the Gates Commission, I will be glad to examine the evidence. But until then, I see no reason to ignore the experts.

The House conferees are now saying that, in spite of their earlier endorsement of raises at the $2.7 billion annualized level, the $2.4 billion level is just dandy. They say we should be ever so delighted with the $2.4 billion pay raise because it

was the largest military pay raise in history.

This enthusiasm for that raise is a classic instance of confusing quantity with quality.

Yes, the raise is large—and it is needed. That in itself is testimony primarily to a 20-year history of shoddy neglect of the military pay.

This raise, which is supposed to kindle such delight in our hearts, gives major generals larger pay raises than recruits.

This pay raise was recommended—seriously—on the grounds that—and I quote Chairman STENNIS in defending it—it "virtually eliminates military personnel from welfare."

Is this the handiwork which is supposed to inspire us, the military and the watching country? Lavish money on the generals, keep lower ranks near or below the poverty level, disregard the clearly stated will of both Houses of Congress, and call it a job well done?

There is no longer any question as to whether we can afford this decent pay. The President favors it. The Office of Management and Budget expects and desires it to become law and favors it. And the fiscal year 1972 cost from mid-November of pay increases, including my amendment—$1.7 billion—is $100 million less than the House and Senate voted to spend this year—$1.8 billion—in the pay raises in the draft bill—which, until the wage-price "freeze" was imposed, were scheduled to go into effect October 1.

It is said that we cannot ascertain the impact of the pay raises recently passed. That is true. It is also no reason for opposing this amendment. Even if we had passed the original, much lower, administration pay raise request, we would not now know for sure the nature of the impact that would have on recruitment and retention.

But the fact remains that the assessment by the Gates Commission and the original assessment this year by the House Committee on Armed Services were the same: A pay increase of the sort the Senate now favors is needed for reasons of equity and competitiveness with the civilian economy.

The long delay in passing the draft law—with the initial pay raise—denied to the armed services a chance to try the new rates in the peak summer recruiting season. Thus, well will not have a really informative reading on the effectiveness of any new rates for nearly a year. And then once again we will be facing pressure for another extension of the draft.

Mr. President, mark my words.

In about a year and a half the draft law expires. That means that in less than a year we will have to consider whether or not the draft law should be extended. I have a prediction to make.

I predict that, barring some completely unforeseen and disastrous deterioration of the international situation, the extension of the draft again is extremely dubious.

If I am right in my prediction about the Senate then it is high time—it is past high time—for the responsible officials in this Government to begin to act with a detectable sense of urgency about the problem of making an orderly transition to an all-volunteer armed force.

Now—right now—is the time to act. In 14 months—no more—hearings will be underway on military manpower needs.

Let us not allow inaction today to put us in a position advantageous to those—and their names are famous and legion—who harbor a fierce hostility to an all-volunteer armed force.

Let us not arrive 14 months from now at a point where those who oppose the all-volunteer armed force can shed crocodile tears while they tell us that, alas, we have not been able to attract a sufficient number of volunteers.

Let us not stumble blindly—and unnecessarily—into a position where those opponents—whose enthusiasm for conscription matches their enthusiasm for using conscription as a hidden tax—are able to point with mock sorrow at the fact that we are not attracting a sufficiently high caliber of young officers.

I offer a gloomy scenario—and I offer a reasonable and attainable alternative.

The alternative is to dig in our heels; to put our energies and our votes where our constituents have clearly indicated that they want our energies and votes; to move now, with renewed vigor, on behalf of a position we have affirmed and reaffirmed.

That—the cause of justice; and the need to try to end the draft—is why we should reject this report, and allow the conferees to ponder their handiwork.

THE THIRD REASON: THE SENATE MUST ASSERT ITSELF

There are those who are filled with wonder and awe by the adamancy of the conferees from the House Armed Services Committee, on behalf of the House position. I admit that this is puzzling. But in this particular case there is something even more puzzling.

This time the House conferees were adamant against a position almost identical to the one which the House of Representatives forcefully advocated throughout the entire spring and the early summer.

But be that as it may, Mr. President, I believe that most Senators have an uneasy feeling that there is a deterioration in the relations between the Senate and the House of Representatives. I believe that this feeling is accurate; that this deterioration is unfortunate; and that now is the time to do something about it.

To put the matter simply, there is insufficient mutuality in these dealings between the two Chambers. The Senate has not been getting its fair share of the fruits of mature compromise in the conference committees for some time.

Now let me make two things clear immediately.

With regard to the House, we in the Senate harbor no ill will. In fact, we admire the steadfastness with which their positions are advocated and, so often, made to prevail.

With regard to our own conferees, we harbor no ill will. They did their best with the difficult and controversial provisions that originate in this Chamber.

But that does not alter the fact that there are many Senators besides the senior Senator from Colorado who feel a disappointment similar to mine, but a disappointment associated with repeated injustices sustained by other amendments that have been subjected to the one-sided adamancy in House-Senate conferences on bills related to the armed services.

The distinguished Senator, earlier in his opening remarks, mentioned the germaneness rule of the House and said that it had to be dealt with by the leadership of the House and Senate. With that I agree, because at least twice this year they have hidden behind that and blocked worthy and meritorious amendments which originated in the Senate. The significant part about it is that the germaneness rule of the House is ignored whenever they wish. They hide behind the rule like a little boy hiding behind his mother's skirt. When he wants to come out, he comes out; but when he does want to, he does not come out.

I am sure that many of these Senators will want to take this occasion to make their feelings known. I think a vote against this conference report will be a most graphic—not to say vivid—way of expressing this feeling and dramatizing the consequences of the repeated aggravation of this sore point.

I have gone the last mile in cooperating with all concerned about the subject of military pay.

At the request of the distinguished chairman of the Senate Committee on Armed Services, I have prepared a memorandum in support of my amendment, for his use in the conference. So that all Senators can examine this memorandum, I ask unanimous consent to have it printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

(See exhibit 1.)

Mr. ALLOTT. In addition, Mr. President, I had an interesting exchange of letters with Chairman HÉBERT, of the House Armed Services Committee, and I ask unanimous consent to have his letter and my response printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. ALLOTT. In connection with this, Mr. President, I ask unanimous consent to have printed as the last item after my remarks, the exchange of letters between myself and Gen. Leo E. Benade, an exchange prompted by some figures which I questioned in Chairman HÉBERT's letter.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. ALLOTT. Mr. President, finally, I even went so far as briefly to attend part of one session of the conference committee. I did so at the request and invitation of the distinguished chairman, the Senator from Mississippi (Mr. STENNIS) who, I might say, had previously promised me his support for the position which the Senate took on the Allott amendment. I must say that in all respects he kept and complied with his agreement. At no time did I do anything

to solicit this invention to appear before the conference committee. In fact, before accepting the invitation I emphasized to Senator STENNIS that I did not want to attend unless all members of the conference committee, from both bodies, understood that I attended only because Senator STENNIS had invited me to do so after consultation with the chairman of the House committee.

In addition, nothing that I saw or heard at the conference shed any light on the reasons for this freshly minted House hostility toward the House proposal of earlier this year.

I recount this episode simply, first of all, to emphasize the point that I, like the Senate as a whole, have been forthcoming, cooperative, and patient.

Lord knows I have been patient. Now my patience, like that of the Senate as a whole, is wearing thin.

Mr. President, I will not mince words.

When the draft bill conference report came to a vote in the Senate, we had sufficient votes to defeat it. I withdrew my opposition, and others withdrew their opposition—but I particularly withdrew mine—only after receiving from Mr. Clark McGregor the assurances that the administration was prepared to fully support my pay provision as an amendment to the military procurement bill.

I was given assurance by Mr. McGregor that the President had spoken with the appropriate congressional leaders. This time I do not intend to rely on evanescent arrangements to assure just and sensible military pay. I shall vote against the military procurement conference report, and I shall continue to vote against subsequent conferences until the will of the Senate is respected.

I know that Chairman HÉBERT of the House Armed Services Committee has given some sort of indication that he would hold some hearings if the Senate will just pass a third pay measure this year. I do not think this is the best approach to take today, for two reasons.

First, to repeat, the House committee held hearings on pay earlier this year. They came to the conclusion that we should have pay raises at the level, and with approximately the same distribution, that the Senate has voted, and that the House conferees have now refused to accept.

Second, we do not want hearings; we want justice and dignity for the military. We have said so with commendable clarity. That has done no good. There is no reason for the Senate to jump through that hoop again at this time.

The House conferees who would preside at any additional hearings have voted once this year for spending at a $2.7 billion rate; they have eloquently defended their decision and have subsequently reversed themselves for reasons that are more opaque than unconvincing. I do not see any reason to believe that further hearings will be useful.

Mr. President, I want to make one additional point in closing.

I hope and assume that the Senate will not be distracted by any reports that national security demands immediate passage of this bill.

When the draft bill conference report was before the Senate and its defeat was a real possibility, various parts of the Government competed with one another to see which could concoct the most mighty scare campaign designed to stampede us into immediate passage. We were assured that any delay of the bill would do colossal and irreparable damage to national security. We passed the draft bill—happily, for reasons unrelated to the scare campaign—and the Department of Defense immediately proceeded to issue the lowest draft calls in many years. Thus did the great manpower shortage prove to be just another of those tactics wherewith the other parts of the Government normally hector the legislative branch of Government.

I recount this tiresome bit of recent history only because we may soon be treated to another of these dramas. In fact, I would fear for the healthy spirit of the Government if, by now, it had not ginned up a few score arguments to prove that any delay in passage of this bill will drive nails in the coffin of the West. Such fecundity in giving birth to implausible scenarios is, oddly enough, one of the signs of life and attentiveness which we hope to see in other parts of the Government.

But although such arguments have a kind of charm, they are not the sort of thing to which we should conform our deliberative process.

EXHIBIT 1

PAY AMENDMENT TO THE MILITARY PROCUREMENT BILL

Analysis

The purpose of the amendment is to improve compensation for the lower ranks of officers and enlisted men. It does this by spending $238.2 million in FY 72 and $381.1 million on an annualized basis.

The amendment is designed to benefit the E–1s, E–2s, E–3s, E–4s and O–1s and O–2s. These are the ranks to which H.R. 6531 gives less RMC than either the House or the Senate voted to give them. (See Table 7 on page 17 of my October 4 remarks, enclosed.) The amendment brings these ranks up to an RMC figure that falls between the House and Senate figures voted prior to acceptance of the H.R. 6531 Conference Report. The benefits which the amendment gives to other ranks are used to maintain the integrity of the pay schedules by avoiding "inversions" and minimizing "impression."

The amendment does *not* benefit only the "under two's." In fact, the benefits break slightly the other way—48.5% to "under two's" and 51.5% to "over two's."

The amendment does *not* affect a tiny minority of servicemen. It affects 1,694,437 (as compared with the 2,053,188 affected by H.R. 6531).

The case for the amendment

The amendment is needed. Proof of the fact that substantial military pay raises were and still are needed is the following: Although H.R. 6531 contained the largest military pay raise in history, it still left some military personnel badly undercompensated, and left some military families still eligible for welfare.

We can afford this amendment. It brings spending for military pay to a level $2.7 billion annually over January, 1971, rates. But this is the level the Administration and DOD planned to reach beginning July 1, 1972. The FY 72 cost of H.R. 6531 plus my amendment is $1.7 billion. That is only $700 million more than the Administration and DOD originally planned to spend this year. And it is a full billion dollars less than both bodies voted to spend this year. Since the Administration and DOD plan to reach the $2.7 billion increases by July 1, 1972, the cost for the remainder of FY 72 is the only significant figure. The pay compromises drafted by the H.R. 6531 Conference Committee called for spending $1.8 billion in FY 72. If my amendment is accepted, spending for FY 72 will be only $1.7 billion.

Declining morale of the army, at home and overseas, constitutes a threat to national security. This decline is attributable in significant part to the practice of underpaying soldiers. This decline is especially severe and especially dangerous overseas, where recent economic developments (e.g., high inflation, combined with the upward float of some currencies and the downward float of the dollar) have made the pinch especially painful.

It should be noted that some of these developments are new since, or have been badly aggravated since, the Conference reported H.R. 6531.

Another development since the Conference reported on H.R. 6531 is that the military have lost a full half a year of their comparability cost of living increases as a result of a Presidential decision.

The most authoritative recent study of military manpower policies was produced by the President's Commission on an All Volunteer Armed Force. The members of this Commission unanimously endorsed two points:

1) Pay increases of the sort completed by my amendment are the single most important step that can be taken toward attempting to achieve an end to the draft.

2) Such pay raises are required by standards of simple justice, regardless of what one thinks of an all-volunteer armed force.

The amendment is wanted. The Senate has twice voted resoundingly (51–27 and 65–4) for the sort of military compensation increases which this amendment achieves. The President supports it. DOD supports it. OMB desires and expects it to become law.

Summary

It is hard to imagine why anyone would oppose this. Recent economic developments make the need for the amendment even more compelling. The support for it is remarkably broad. The cost is remarkably below what both bodies, and the H.R. 6531 Conference Committee voted to spend for military pay raises this year.

EXHIBIT 2

SEPTEMBER 30, 1971.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: After our conversation the other day regarding military pay, I took another look at the material which you had handed me to assess the actual impact of the military compensation increase recommended by the House-Senate Conferees and the proposed compromise increase recommended by you.

As you know, virtually all new entrants into military service will attain pay grade E–3 within one year. Moreover, many of these new entrants into service will achieve pay grade E–4 within that time frame and well before they complete two years of service. Therefore, I believe it would be reasonable to ask "what is the actual impact of the differing pay increases which are now the subject of some controversy, and what level of increases would be equitable?"

There is set out below a very brief table which compares the amount of Regular Military Compensation received by the average E–3 and E–4 with less than two years of service. The table compares his present level of compensation with that earned by his civilian contemporary in the civilian economy as well as that which he will earn under the pay increase recommended by the

Conferees, and now established in law as Public Law 92–129. Finally, the table sets out the pay increases contained in your recommendation.

I might add, parenthetically, that the civilian pay levels which are reflected in the table are those estimated to apply by studies made by the Gates Commission as well as the Bureau of the Census. The data provided in the Gates Commission material as well as the Bureau of the Census material has been adjusted upward to update the levels of pay that are presently being paid in the civilian sector.

REGULAR MILITARY COMPENSATION (PERSONNEL WITH LESS THAN 2 YEARS' SERVICE)

Grade	Sept. 30, 1971 RMC	Sept. 30, 1971 Civilian pay	RMC conference agreement Public Law 92–129	RMC allott proposal
E–3	3,715	4,389	5,603	5,789
Monthly increase			157.33	172.83
E–4	4,685	5,590	5,951	6,145
Monthly increase			105.50	121.67

An inspection of the table will show that existing pay levels for the E–3 and E–4 are obviously well below that of their civilian contemporaries. However, the table also reveals that the new rates provide a very substantial increase for these pay grades and places them well above the income level of their civilian contemporaries. Therefore, I think you must concede that the action of the Conferees resulted in the establishment of pay rates which are now truly competitive with those available in the civilian economy.

Since the pay levels established by the Conferees are higher than those in the civilian economy, you might very properly ask "how much higher must they be to insure the development of an all-volunteer force?"

Apparently, you feel that instead of an increase of $157.33 per month for an E–3, $172.83 a month will do the trick. Similarly, you would recommend a $121.67 per month increase for the E–4 as opposed to the $105.50 established by the Conferees.

I certainly don't pretend to believe that the pay rates established by the Conferees, although higher than those in the civilian economy, will result in an all-volunteer force. However, I can't believe that you would seriously contend that adding $15 or $16 per month to the compensation of an E–3 or E–4 would materially affect the decision of any young man to enter or remain in the career military force.

Setting wage levels is, of course, a judgmental matter upon which many honest men will understandably disagree. Therefore, I can appreciate your strong convictions in this matter. Nonetheless, I too have strong convictions on this subject and trust that you too will appreciate the sincerity of my views.

The further adjustments in pay recommended by you will, as I understand it, increase annual military pay costs by another $381,000,000. I have seen no evidence which would persuade me that this additional expenditure of Federal funds would be justified in terms of either enhancing the possible achievement of an all-volunteer force or eliminating an alleged inequity in the pay structure. These circumstances therefore require me to oppose your suggested compromise.

With best wishes and warmest personal regards, I remain,

Sincerely,

F. EDW. HÉBERT,
Chairman.

OCTOBER 7, 1971.

Hon. F. EDWARD HÉBERT,
Chairman, Committee on Armed Services, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you very much for your letter of September 30 concerning the matter of military pay raises.

You argue your case cogently and carefully, as always. But I must make the following seven points in response.

1) The amendment to the military procurement bill is designed to help those in grades E–1, E–2, E–3, E–4, O–1, O–2. These are the grades for which Regular Military Compensation in the Conference Agreement for P.L. 92–129 falls below the rates voted by both bodies.

I do not question your sincerity in saying that you have "strong convictions" in opposition to the Senate's proposal. But frankly, Mr. Chairman, I am baffled by these convictions because the Senate proposal so closely resembles the proposal which you, your Committee and the House of Representatives endorsed just a few months ago.

2) The original Allott pay amendment (passed by the Senate June 8) put spending at just about the level of the pay proposal you authored in the House. But unlike your proposal, it put great emphasis on basic pay. Consider the following table:

	Annual total Senate	House	Conferees agreement	RMC allotment proposal
Basic pay	2,646.2	1,811.2	1,811.2	2,171.8
Dependents Assistance Act	78.4	182.7	105.1	123.8
Basic allowance for quarters	0	635.1	406.6	408.4
Basic allowance for subsistence	0	37.5	0	0
Enlistment bonus	40.0	0	20.0	20.0
Recruiter expenses	2.9	2.9	2.9	2.9
Optometrists	.6	.5	.6	.6
DAA reservists	0	20.0	20.0	20.0
Total	2,768.1	2,689.9	2,366.4	2,747.5

You will note that this year's military pay increases that would result from accepting my amendment to the military procurement bill would include just the sort of generous spending for quarters allowances which you authored in the House.

3) You express doubts that the pay rates I favor will themselves guarantee our ability to make a swift and orderly transition to an all-volunteer armed force. I, too, have doubts on that count. In addition, you and I may differ on the question of the desirability of an all-volunteer armed force. But as I have repeatedly emphasized, support for the compensation I favor should *not* depend on whether one supports an all-volunteer armed force. *The unadorned fact is that the pay rates in P.L. 92–129 do not even raise all military personnel to a point at which no one is eligible for welfare.*

You refer in your letter to "an alleged inequity in the pay structure." I think the inequity is concrete, demonstrable and intolerable. The question of an all-volunteer armed force is secondary. The primary question concerns simple justice and respect for the military.

4) I do think you underestimate the importance of an extra $16 per month to a man earning what an E–3 earns. Sometimes we who are fortunate enough to earn substantially more find it difficult to comprehend the financial pressures felt by those less fortunate. But I would be very reluctant to tell an E–3 and his dependents that another $16 a month is a trivial matter.

In addition, Mr. Chairman, I am sure you agree with me that an armed force is only as good as its young junior officers. The caliber and morale of these men helps shape the caliber and morale of the entire force. In addition, young junior officers of high caliber face particularly difficult career choices because they can compete very well for very promising jobs in civilian life. Thus it is instructive to note the effect of my most recent amendment on O–1s and O–2s. Consider this table:

	RMC Monthly	RMC Annual
O–2 1st lieutenant/lieutenant (junior grade) (1 dependent):		
Allott (H.R. 8687)	943.73	11,325
Present (H.R. 6531)	838.28	10,059
Dollar difference	105.45	1,266
Percent difference	12.6	12.6
O–1 2d lieutenant/ensign (1 dependent):		
Allott (H.R. 8687)	820.10	9,841
Present (H.R. 6531)	722.39	8,669
Dollar difference	97.71	1,172
Percent difference	13.5	13.5

As this table shows, my most recent amendment will mean an increase of over $100 a month for a O–2 with one dependent and nearly that much for an O–1 with one dependent. There are 47,237 O–2s and O–1s in the "under two" category. I am sure you will agree that this is not an insignificant measure as regards our attempts to attract and retain the kind of high caliber young officers that are so desperately needed regardless of whether we have an all-volunteer armed force.

5) I am interested in your table showing the relation of Regular Military Compensation for E–3s and E–4s with under two years service, and civilian pay for comparably employed persons. If I am not mistaken, you are using RMC figures that reflect the assumption that all E–3s and E–4s are getting their BAQ in cash payments. But as you know, the vast majority of these men are living in barracks. I have written to Major General Leo E. Benade, Deputy Assistant Secretary of Defense for Military Manpower Policy, asking that he supply me with RMC figures for E–1s, E–2s, E–3s and E–4s "under two" that reflects this fact about living in barracks. I will pass along to you the information I receive.

6) As regards the question of economy, I would point out the following. The President says we can afford it. Spending for pay increases—including my latest proposal—will be about a billion dollars less than your Committee urged us to spend just a few months ago.

7) The amendment I offered to the military procurement bill will cost $381 million on an annualized basis. But it will cost only $238 million for Fiscal Year 1972. This is the only significant figure because, as you know, the Department of Defense has always planned to spend at a $2.7 billion level for pay increases over a two year period, and the second period has always been scheduled to begin July 1, 1972.

I hope, Mr. Chairman, that when you consider the details of my proposal and especially its close conformity to the plan you offered, that you will be more favorably disposed toward it.

I share with all members of both bodies a great admiration for your strenuous exertions on behalf of the defense of this country. I know this year's legislation has been a substantial burden to you. It is my hope, which I know you share, that we can dispose of this legislation with proper speed.

Unfortunately, many Senators have been very disappointed with the fate of measures to which they attach considerable importance. And they may be disappointed with regard to some aspects of this bill not related to military pay.

All members of both bodies realize that they must compromise. But it is my impression that the Senate, having twice voted resoundingly (51–27 and, most recently, 65–4) for pay increases of the sort you question, is very anxious to avoid another disappointment, and especially one that seems so unnecessary.

It is my earnest hope that the will of the Senate with regard to pay will be respected If it is not respected, I am certain that we will face exactly the same situation that we faced concerning adoption of the draft bill Conference Report.

I would be happy to meet with you at any time to talk about this matter.

Again, thank you for writing.

Best regards.

Sincerely yours,

GORDON ALLOTT,
U.S. Senator.

EXHIBIT 3

OCTOBER 7, 1971.

Maj. Gen. LEO E. BENADE, USA,
Deputy Assistant Secretary of Defense for Military Personnel Policy, The Pentagon, Washington, D.C.

DEAR GENERAL BENADE: I am enclosing a copy of a letter I have received from Chairman F. Edward Hébert of the House Committee on Armed Services. I have a question concerning the table on page two of his letter.

My question concerns the RMC figures for E–3s and E–4s with under two years service according to P.L. 92–129 and according to my military procurement bill.

It appears to me that Chairman Hébert is using RMC figures that are based on the assumption that all these men are receiving their Basic Allowance for Quarters in cash. But in fact the vast majority of these men live in barracks. Thus I would like to have your computation for the RMC value for E–1s, E–2s, E–3s and E–4s living in barracks.

I understand the difficulties involved in arriving at such a computation (What is the precise value of a room? A private room? An open bay?) and I hope you will give me a full explanation of the assumptions on which your computation rests.

I look forward to hearing from you.

Best regards.

Sincerely yours,

GORDON ALLOTT,
U.S. Senator.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., October 15, 1971.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: This is in response to your letter of October 7, 1971 in which you requested RMC computations for E–1s through E–4s living in barracks and an explanation of the assumptions implicit in these calculations.

RMCs for single members living in barracks are calculated using the cash rates for the quarters and subsistence allowances for single members and are as follows for the member with less than two years of service:

Pay grade	Public Law 92–129	Allott amendment
E–1	$4,811	$5,089
E–2	5,247	5,435
E–3	5,519	5,690
E–4	5,814	6,005

Using the cash rates for quarters and subsistence allowances in computing RMC is considered a reasonable and appropriate assumption where the RMC will be used to compare military and civilian wages. Admittedly, this method of calculating RMC does not produce a precise valuation of military wages for the situation each military member may be confronted with in terms of quarters and subsistence. As much as we would desire to produce a precise valuation, it is just not possible at this time.

There are several reasons for this. First, there is the question of how to value quarters for the single members serving in pay grades E–1 to E–4 who have dependent parents or other relatives and receive in cash the Dependents Assistance Act allowance while living in barracks. In effect, those members receive a quarters allowance in addition to housing in kind for themselves. Next, there is the wide variety in the quality of barracks available to the single member. At the low end of the scale we find those who live under field conditions and aboard ships. At the high end of the scale we find members residing in modern, well furnished, air conditioned, permanent type structures. Also, since the value of accommodations on base bears some relationship to the cost of housing prevailing in the local area, this factor must be included in any determination of the value of quarters. To date, we have not devised what we consider a satisfactory method of calculating RMC to accommodate these factors.

There are so many complexities involved in comparing intra-grade RMCs that the matter can best be put in perspective by an analysis of disposable income. Disposable income is important because it is what the member has left after income taxes and social security, to spend at his discretion. When accommodations are not available on military installations, single members are required to live on the civilian economy. It is therefore valid to compare their disposable incomes with those of their counterparts who reside in barracks on a military installation. The difference in disposable income between the two groups is the cash quarters and subsistence allowance. This amounts to some $106.23 for the E–1 to $127.83 for the E–4 under the provisions of PL 92–129, and from $106.23 to $132.33 under the Allott Amendment to H.R. 8687. This is the money allocated to the single member living in town to provide for his housing and food.

Data on the cost of housing and food for single individuals, military or civilian, living on the civilian economy are virtually nonexistent. However, it was reasonable to conclude that in most communities today a single member would have difficulty housing and feeding himself and covering the miscellaneous expenses associated with giving off the military base for $106.23 to $132.33 per month. We therefore concluded that some of this member's basic pay had to be used to cover housing and feeding expenses leaving him less disposable income than that of his counterpart living on base who is provided these commodities in kind. We further concluded that while the single man living in barracks and eating in the government mess received less cash pay, he probably had an economic advantage over the member who received his allowance in cash and had to purchase housing and food on the civilian economy.

In making comparisons between civilian and military wages, only one valuation method for RMC could be used without further confusing an already complex matter. After exploring several alternatives, we decided that the cash valuation for quarters and subsistence would provide results that are a fair approximation of military wages given the wide variety of factors outlined above which affect the value of quarters and subsistence to individual members.

I appreciate the opportunity to provide you with this information. Thank you for your letter.

Sincerely,

LEO E. BENADE,
Major General, U.S. Army, Deputy Assistant Secretary of Defense.

Mr. ALLOTT. Mr. President, I wish to speak just a few other words in closing. I think that my prepared text states my reasons. I conclude that I would be remiss if I did not, in addition to the chairman of the committee, also pay particular respect to my colleague from Colorado (Senator DOMINICK), who I understand, in an effort to get the House to reject just a wee bit of their adamancy offered a compromise amendment, which I would not have liked, but it was a valiant effort on his part to try to salvage a very serious situation. And to him, I am very deeply indebted and the country should also be.

Now, I dislike voting against the bill. However, I have been in this matter almost every day now for the last 5 months, since May, including the first time it came up before the Senate.

The Senate has twice voted on it overwhelmingly. And the only way I can express how deeply I feel about this and the equity that I think we should do for our lower grade enlisted men and our lower grade officers is to vote against this measure.

I not only will vote against it, but I also hope that everyone who feels as strongly about the pay raise as I do will also vote against it.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ALLOTT. I yield.

Mr. CRANSTON. Mr. President, I share the disappointment, dismay, and despair of the Senator from Colorado that this conference report came back to the Senate without the pay raise we had worked for and had so deeply hoped would be accepted in the conference.

The Senator from Colorado stated the case so fully and eloquently and forcefully that there is little I can add.

I do want to say that I share his view that the draft should and probably will expire when the current renewal runs out a little more than a year and a half from now. I believe that our country will be far better able to meet its manpower needs if we have a pay raise of the sort the Senator has worked for so that we will be able to get many more volunteers than we might be able to get under the unfair and unjust pay levels that will be paid the people in the Armed Forces unless we are successful in returning this measure to conference because of the failure to achieve the pay raise the Senator fought for so hard.

I was delighted to be able to work with him in that effort. I shall follow the lead of the Senator and vote against the conference report.

I hope that the others will do likewise.

Mr. ALLOTT. Mr. President, I thank the Senator for his support. He not only worked for the original amendment, but he was also a cosponsor of it. He was absolutely indefatigable in his efforts, and that is a mild word to use. We put forth vigorous effort on both occasions in support of the amendment and of the position we have taken on the floor.

I am deeply appreciative of his remarks. I also appreciate his support.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. STAFFORD. Mr. President, I share

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generally the feelings of the Senator from Colorado.

Mr. President, 282 days ago, this Congress began considering military pay raises which would take recruits out of the poverty level and reduce reliance on the draft.

The conference report before us today would delay even further the tools we need to accomplish those goals. Because the consequences are so serious, I rise in support of the Senator from Colorado, (Mr. ALLOTT).

Further disregard of the full first-term pay boost will jeopardize and unnecessarily postpone the single most important step this Congress can take to reach zero draft calls.

Further disregard of the full first-term pay boost will aggravate the discrimination between our career and our one-term servicemen.

Further disregard of the first-term pay boost will encourage a justified reluctance among potential reenlistees and volunteers.

Further disregard of the first-term pay boost will be tantamount to the unwillingness of Congress to match the achievements of the administrative branch toward ending the draft.

And finally, disregard of the first-term pay raise will cast a pale over the effectiveness of the legislative process itself, and the ability of Congress to carry into law the repeated expression of its will.

Mr. President, since 1967, I have studied the subject of a volunteer armed force and have been an active proponent of its implementation. The Senator from Pennsylvania (Mr. SCHWEIKER) at that time also a Member of the House, joined with me and three of our colleagues to examine in depth the steps needed to reduce draft calls to zero. The results of that study were published in a paperback book entitled "How To End the Draft: The Case for an All-Volunteer Armed Force."

We discussed some of the myths surrounding a return to a volunteer system of recruitment and presented in some detail a 31-point program to lead to the end of the draft. These included a shoring up of our recruiting practices, a careful reexamination of discriminatory entrance standards, improvement in the conditions and opportunities of service life, and a revision of the pay structure and an increase in the levels of pay.

I have watched support for the volunteer concept snowball in the last several years, as the facts and figures have been examined by more and more people.

The lengthy debate before the Congress this year has made clear that a volunteer system will lead to a more effective, efficient, and better managed armed force: That a volunteer system will eliminate an unfair burden which we now place on one segment of society—our young men.

That a volunteer system eliminates, in the words of the Gates Commission, "a costly, inequitable and divisive procedure for recruiting men;" it eliminates the problems inherent in having to chose some, from many, who are eligible; and it eliminates needless uncertainty.

We have also seen that it is the volunteer system which is most consistent with our national heritage of freedom for the individual with minimum government interference.

Back in 1967 when my colleagues and I published our study, we stated:

> The difference between a new enlisted man's annual pay and what he could receive in civilian life, works an unnecessary hardship on every young man entering military service. But the hardship is all the more repulsive when that young man is drafted for service. The difference is a hidden, implicit tax—a tax which should be shared by society generally, not by the young man who is already making a sacrifice by serving two years of his life in the defense of his nation.

That statement is, unfortunately, still applicable today. It is past the time for Congress to remove the financial penalty which we ourselves have created by ignoring for too long equitable reimbursement for the first-termer.

Mr. President, there is a second reason for not delaying any further the enactment of the pay raises proposed by the Senator from Colorado. Further delay means further discrimination against the first-termer in nonbasic pay benefits. We know, for instance, that the first-termer does not receive the dislocation benefits received by careerists: As my former colleague in the House, Mr. STEIGER has indicated:

> When making changes of station, careerists are given free travel of dependents, transportation of household effects, dislocation allowances, trailer allowances, transportation of automobile overseas, overseas allowance and evacuation allowance. If they are unaccompanied, careerists receive a $30 a month family separation allowance. But the underpaid and often removed first-termer is ineligible for all of these benefits.

We cannot ignore, either, the practical consequences of our discrimination in the morale of our servicemen. The reports I received at my request from Capt. Fletcher Hamilton, which have been presented to both Houses, attends to the psychological problems our discriminatory pay has engendered.

A third factor weighing against further delay is the uncertainty Congress is creating in the minds of those now considering either enlistment or reenlistment.

On April 1 of this year, the other body passed a $2.7 billion pay and quarters allowance package. On June 8, the Senate passed the Allott amendment, also a $2.7 billion pay package. Since that date, however, those who could benefit by the raise have been left waiting to see when and if that raise becomes effective.

And what they see is a promise unfulfilled. They see a compromise in which only they lose.

It is now November. In the meantime, many have decided upon another course of action; and many have left the service who might not otherwise have done so.

A fourth reason why further delay is inexcusable is the simple fact that Congress must meet its responsibilities as the administration has met its. The scope of reform in the military is breathtaking—ranging from institution of modern training procedures; elimination of useless and demoralising nonmilitary-related responsibilities, like KP; improvement of information systems and opportunity for the young men to be heard at the highest levels; improvement in off-duty opportunities in education and entertainment.

In addition, the Army has undertaken the challenge presented to it and vastly expanded and improved recruiting apparatus and options available to those who wish to enlist.

Lastly, this issue has been studied, restudied and studied again.

Since February 2 of this year, the Committee on Armed Services, the House Armed Services Committee, the House itself, and the Senate itself, has spent days and days of receiving testimony, hours and hours of debate, and vote after vote on this issue of increased pay for first termers in the military service.

Because of happenstance, I personally have voted—along with the majority on each occasion—both in the House and Senate this year for the provisions now being fought for by the Senator from Colorado.

The amendment offered by the Senator from Colorado (Mr. ALLOTT) does no more than create the compromise which we all could have expected from the conference on the Military Selective Service Act. We were denied that compromise despite previous approval of the basic issue by both the House and Senate.

Prepared with the assistance of the Department of Defense, favored by the administration, the proposal does no more and no less than meeting halfway the difference between the House-passed pay package and the Senate-passed pay package.

It is technically and economically sound, correct, and fair. There is no justification for further denial by the Congress of that which we ourselves have virtually promised first-term servicemen, prior to today.

Mr. ALLOTT. Mr. President, will the Senator yield?

Mr. STAFFORD. I yield.

Mr. ALLOTT. Mr. President, I commend the distinguished Senator from Vermont for his very excellent and lucid statement on the issues that are before us this afternoon. He sees them as many of us in the Senate see them. I want to compliment him not only for the clearness and conciseness of his statement, but also for the very strong stand he has taken on what I think is a very equitable and greatly moral issue. I appreciate it very much.

Mrs. SMITH. Mr. President, as the top Republican on the Committee on Armed Services I wish to state for the record, to keep the record straight, that the President never contacted me on the Allott amendment, nor did anyone on his behalf contact me on the Allott amendment at any time.

Mr. ALLOTT. Mr. President, I would like to call the attention of the distinguished Senator from Maine to the words I used. I said I was assured by Mr. MacGregor this would be done.

Mrs. SMITH. I understood the distinguished Senator from Colorado to say that he had been given assurance that the President had contacted the leaders on the Allott amendment—the leaders in this field.

Mr. STENNIS. Mr. President, I have listened carefully to the Senator from Colorado and I appreciate very much his position. I appreciate the generous remarks he made about the conference and the efforts of the conferees.

Mr. President, it is one of those things—they cannot all be settled at one time. That is one viewpoint, and we had to conclude that conference.

I have some figures. For the record, I think I ought to review the increases for our men in the military during this calendar year.

We had an automatic increase that went into effect in January 1971. That totaled $1.2 billion. Then we passed the draft bill during the year, and that carried an increase of $2.4 billion, for a total so far during the year of $3.6 billion. Had it not been for the freeze and the deferment, another increase would have gone into effect in January 1972, which would have been, in round numbers, $1.2 billion, for a total of a $5 billion increase within a 13-month period.

That is a good deal of money. Some of those increases were overdue, but even at that, the $5 billion adds up to a rather generous sum of money, from many viewpoints.

I have already mentioned the deferment. That increase was deferred only to July 1972, under the present situation. That additional increase will go into effect just 6 months later.

The Allott amendment was on top of and in addition to all the figures I have given and would have applied, not altogether but mainly, to the so-called lower grades, the first four grades of the noncommissioned officers, and the first two lower grades of the commissioned officers, and that is more in line with the so-called volunteer army plan. That part of the volunteer army plan was not adopted. But in these other increases and changes in the law, a great part, a substantial part, of the volunteer army plan has been adopted. It includes even the so-called possible bonus payments and various scales of payments, not all concentrated in those lower grades, but those other grades needed increases, too.

So I think, even though I did not favor the volunteer army concept, particularly at this time, it has a reasonable chance now, so far as money is concerned, to have a trial run during this 2-year period. I do not have any doubt about that. Since we were going to have it, I was in favor of having enough in there for it to have a fair chance.

So even though we did what we could for the Allott amendment—the Senate had agreed to it and there was a promise to try to keep it—at the same time, all is not lost in this field just because we could not get the Allott amendment.

So I commend that part of the report to the Senate and hope we will not hold up the adoption of the report. It is a reasonable achievement. The Senator from Colorado deserves a great deal of credit for his efforts. I think that part, taken along with the rest of the bill, should be accepted now and adopted by the Senate, so that this measure can move on to the President, and with the approval of the report this afternoon, which freezes all the money figures, it will result in the final groundwork for the appropriation bills that we hope to have here soon.

I do not want to extend the debate for my part, and I yield the floor.

Mr. MATHIAS. Mr. President, I rise to express my very deep disappointment with the military procurement bill which is now before us. I regret to say that I will be forced to vote against this conference bill. I know that months of deliberation and work have gone into this bill, but I deeply believe that the bill has too many serious weaknesses to warrant its passage by the Senate.

Let me just mention three changes which were made in the bill by the conference committee which I believe so alter the character of the bill as to require a negative vote.

First, the conferees deleted an amendment which I had offered, and to which 60 Senators agreed, which would have guaranteed equitable salary treatment for Federal employees during Phase II of the President's new economic program. The provision which was adopted by the Senate would not have put Federal employees in a more favorable position than other Americans, but it would have prevented discrimination against them simply because they are paid from the public purse. The provision would have affected military and civilian Federal employees, which is why I felt very strongly that it should be included with this bill. I urge my colleagues to vote against this bill until it addresses itself to the inequitable treatment of the Federal employee, civilian and military. I would like to ask unanimous consent that my earlier remarks on this subject be included in the RECORD at this point.

Second, the conferees deleted the provisions of the Allott amendment which would have provided higher pay for lower enlisted personnel and junior officers. This amendment had strong Senate endorsement and would have set the stage for the President's goal of a zero draft call, and an alternate volunteer military service.

Finally, the conferee deleted the 6-month timetable in the Mansfield amendment—a deadline by which the President was urged to implement the declared policy of ending American military presence in Vietnam.

For these reasons I find it necessary to vote against accepting the conference report.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

> I have stated often in the past weeks that I support the President's new economic policies. I believe the times call for bold, decisive action, and that the President has responded appropriately. I hope that the three major pieces of legislation which he has recommended—the job development credit, the repeal of the auto excise tax, and the acceleration of the standard personal income tax exemption—will be approved by the Congress in the very near future.
>
> I believe very deeply, with the President, that both the benefits and the burdens associated with the new policies must be shared equitably by all Americans. But it is becoming clear that under the temporary order first announced, civilian employees of the Federal government will be singled out to shoulder special burdens without commensurate benefits. The President has declared that the wage-price freeze will terminate in mid-November. Yet the freeze on the legislatively enacted raises for civilian federal employees is still slated to last until July 1 of next year. Congress provided for these pay increases to bring the level of federal salaries more in line with those of private industry. But now our public servants are asked to go to the end of the line and stand hat-in-hand for eight more months. This is unfair to the individuals and families involved who should not be favored over other Americans, but who also should not be prejudiced by the fact that they spend their lives in public service.
>
> Moreover, the Senate is now about to pour salt on the wounds. The Senate has passed an amendment offered by Senator Allott (R-Col.) to increase pay for military personnel effective at the end of the freeze. While I support the goal of this amendment—to help end the draft—its effect will be to increase the discrimination against civilian federal employees. If the Senate is going to decide that one group of federal employees, the military, deserves special consideration during these times of hardship, then it should have the opportunity to right a wrong and decide that the same consideration should be given to civilian federal employees.

Mr. THURMOND. Mr. President, I urge the Senate to give approval to the conference report of the military procurement authorization bill.

The House and Senate conferees reached final agreement on this report November 4 and the report was approved by the House yesterday, November 10.

As is the case with any conference report this bill is a compromise between the two bodies of Congress. The Senate conferees pressed for the position of the Senate but, of course, all of the Senate provisions could not be held.

The bill as agreed to in conference totals $21.3 billion. The figure arrived at by the conferees is approximately $871,000,000 less than that recommended by the President. It is about $300 million more than the bill approved earlier by the Senate.

This legislation is essential if we are to provide adequately for our national defense. It contains authorization for the procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes and other weapons. It provides for the research and development to assure this Nation moves forward in the technology of weaponry. It establishes average strength figures for our reserve forces. It also provides for the continuation of our important anti-ballistic-missile defense system.

Mr. President, in my opinion this bill is the minimum needed to provide for our national security. Today more than ever the Soviet Union is extending its influence around the world through the use of military power.

We must meet this challenge. If we fail to do so future generations will have to pay a high price for our folly. It is my hope the administration will come forward with a more realistic defense budget in fiscal year 1973. This new budget must be carefully justified as the American people are not in a mood to waste money.

It is my belief that once the American people fully realize the threat facing us, and if higher defense requests are properly justified, then the Nation will sup-

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port the necessary items needed to insure that this country remain the number one military power in the world.

Mr. President, I urge favorable action by the Senate on this conference report.

OPPOSITION TO RHODESIAN CHROME IMPORT AMENDMENT

Mr. JAVITS. Mr. President, I shall vote to reject the conference report on the military procurement authorization bill, and I urge my colleagues to do likewise. I believe that the amendment which has the effect of forcing the President to violate the United Nations sanctions against Rhodesia, sanctions which the United States voted for in the Security Council, is most unwise and constitutes contempt for international law. I feel very strongly that this is a matter of basic principle in international law and the posture of the United States with respect to the United Nations and the traditional U.S. role of world leadership in support of world law and in support of the United Nations. A number of Senators vigorously opposed this amendment on the floor of the Senate, and apparently had succeeded in having it deleted from the committee bill, only to find the issue ultimately turn in the other direction following one of the most involved and confused procedural wrangles of recent experience in the Senate. I feel dutybound to vote to reject the conference report because of the position adopted by the conference on this question.

My decision to oppose the conference report is based equally upon my opposition to the modification made in conference to the Mansfield amendment, which greatly vitiates its effect and significance of the Mansfield amendment as adopted by the Senate. I believe the time has come when the Senate must stand firm on the issue of the Vietnam war and not recede each time in favor of the position espoused by the House conferees. This is not the first time this has happened, despite the clear will and intent of the Senate, which, in my judgment, reflects the deep and heartfelt view of a clear majority of the American people. It is time for the Senate to insist on its proper role in establishing both a policy of complete withdrawal, and establishing a date by which this policy should be accomplished.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ALLOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from West Virginia (Mr. BYRD) is absent on official business.

I further announce that, if present and voting, the Senator from Texas (Mr. BENTSEN), the Senator from Georgia (Mr. GAMBRELL), the Senator from North Carolina (Mr. JORDAN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Utah (Mr. Moss) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) is absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Idaho (Mr. JORDAN), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The result was announced—yeas 65, nays 19, as follows:

[No. 309 Leg.]

YEAS—65

Aiken	Ervin	Proxmire
Allen	Fannin	Randolph
Anderson	Fong	Roth
Bayh	Griffin	Saxbe
Beall	Gurney	Schweiker
Bennett	Hansen	Scott
Bible	Hollings	Smith
Boggs	Hruska	Sparkman
Buckley	Humphrey	Spong
Burdick	Jackson	Stafford
Byrd, Va.	Long	Stennis
Cannon	Magnuson	Stevens
Chiles	McClellan	Stevenson
Church	McIntyre	Symington
Cooper	Metcalf	Talmadge
Cotton	Miller	Thurmond
Curtis	Mondale	Tower
Dole	Packwood	Tunney
Dominick	Pastore	Weicker
Eagleton	Pearson	Williams
Eastland	Pell	Young
Ellender	Percy	

NAYS—19

Allott	Gravel	Mansfield
Baker	Hart	Mathias
Brooke	Hatfield	Nelson
Case	Hughes	Ribicoff
Cook	Inouye	Taft
Cranston	Javits	
Fulbright	Kennedy	

NOT VOTING—16

Bellmon	Harris	Montoya
Bentsen	Hartke	Moss
Brock	Jordan, N.C.	Mundt
Byrd, W. Va.	Jordan, Idaho	Muskie
Gambrell	McGee	
Goldwater	McGovern	

So the conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. MILLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 155) to facilitate the transportation of cargo by barges specifically designed for carriage aboard a vessel.

ORDER FOR RECOGNITION OF SENATOR HARRIS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that following the speech by the distinguished Senator from Ohio (Mr. TAFT) tomorrow, the distinguished Senator from Oklahoma (Mr. HARRIS) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1971

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending business, which will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes to reduce certain excise taxes, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LONG. Mr. President, I am not aware of any desire of Senators to vote tonight on any amendments they may care to offer to the bill. If anyone wants to offer an amendment and have it voted on tonight, I wish he would so inform me right now. Otherwise, we will make our plans to vote on amendments tomorrow.

I ask whether any Senator here wishes to offer an amendment on which he would like to have a vote tonight, so that Senators can make their plans.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MAGNUSON. I ask unanimous consent that the names of the Senator from Michigan (Mr. HART) and the Senator from Minnesota (Mr. MONDALE) be added as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, there are a great number of committee amendments to the bill, and each Senator will find on his desk a copy of the bill with the committee amendments shown in italic.

The Parliamentarian advises me that to expedite matters, and in view of the great number and length of the committee amendments to this bill, it would be advisable to ask unanimous consent to dispense with the printing of the committee amendments in the CONGRESSIONAL RECORD.

I am advised, when we pass the bill, that it will be printed as amended and passed. Since the committee amendments are all before Senators now as part of the bill that is on each Senator's desk, this will expedite the procedure and prejudice no one.

Thus, Mr. President, I ask unanimous consent to dispense with the printing of the committee amendments in the RECORD at this time.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LONG. Mr. President, I ask unanimous consent that members of the staff of the Joint Committee on Internal Revenue Taxation, as well as members of the staff of the Committee on Finance, may have the privilege of the floor in order to advise Senators during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, in order to protect the rights of all Senators and also to expedite procedure, I ask unanimous consent that the committee amendments, copies of which are on all Senators' desks, be agreed to en bloc and that the bill as thus amended be considered as original text for purpose of further amendment but that there be reserved to every Senator the right to ask for a separate vote on any committee amendment in the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and the requests are agreed to.

AMENDMENT NO. 626

Mr. MAGNUSON. Mr. President, I call up my amendment which is now at the desk and ask that it be stated and be made the pending order of business.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the table of contents of the bill, insert the following:

"TITLE VIII—EMERGENCY UNEMPLOYMENT COMPENSATION

"Sec. 801. Short title.
"Sec. 802. Federal-State agreements.
"Sec. 803. Payments to States having agreements for the payment of emergency compensation.
"Sec. 804. Financing provisions.
"Sec. 805. Definitions."

At the end of the bill, add the following new title:

"TITLE VIII—EMERGENCY UNEMPLOYMENT COMPENSATION

"SHORT TITLE

"SEC. 801. This title may be cited as the 'Emergency Unemployment Compensation Act of 1971'.

"FEDERAL-STATE AGREEMENTS

"SEC. 802. (a) Any State, the State unemployment compensation law of which is approved by the Secretary of Labor (hereinafter in this title referred to as the "Secretary"), under section 3304 of the Internal Revenue Code of 1954, which desires to do so, may enter into and participate in an agreement with the Secretary under this title, if such State law contains (as of the date such agreement is entered into) a requirement that extended compensation be payable thereunder as provided by the Federal-State Extended Unemployment Compensation Act of 1970. Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

"(b) Any such agreement shall provide that the State agency of the State will make payments of emergency compensation—

"(1) to individuals who—

"(A) (i) have exhausted all rights to regular compensation under the State law;

"(ii) have exhausted all rights to extended compensation, or are not entitled thereto, because of the ending of their eligibility period for extended compensation, in such State;

"(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law; and

"(C) are not receiving compensation with respect to such week under the unemployment compensation law of the Virgin Islands or Canada;

"(2) for any week of unemployment which begins in—

"(A) an emergency extended benefit period (as defined in subsection (c) (3)); and

"(B) the individual's period of eligibility (as defined in section 805(b)).

"(c) (1) For purposes of subsection (b) (1) (A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

"(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

"(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

"(2) For purposes of subsection (b) (1) (B), an individual shall be deemed to have exhausted his rights to extended compensation under a State law when no payments of extended compensation under a State law can be made under such law because such individual has received all the extended compensation available to him from his extended compensation account (as established under State law in accordance with section 202(b) (1) of the Federal-State Extended Unemployment Compensation Act of 1970).

"(3) (A) (i) For purposes of subsection (b) (2) (A), in the case of any State, an emergency extended benefit period—

"(I) shall begin with the third week after a week for which there is a State 'emergency on' indicator; and

"(II) shall end with the third week after the first week for which there is a State 'emergency off' indicator.

"(ii) In the case of any State, no emergency extended benefit period shall last for a period of less than 26 consecutive weeks.

"(iii) When a determination has been made that an emergency extended benefit period is beginning or ending with respect to any State, the Secretary shall cause notice of such determination to be published in the Federal Register.

"(B) (i) For purposes of subparagraph (A), there is a State 'emergency on' indicator for a week if—

"(I) the rate of unemployment (as determined under subparagraph (C)) in the State for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 7.5 per centum; and

"(II) there (a) is a State or National 'on' indicator for such week (as determined under subsections (d) and (e) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970), or (b) there is neither a State nor National 'on' indicator for such week (as so determined), but (1) within the 52-week period ending with such week there has been a State or National 'on' indicator for a week (as so determined), and (2) there would be a State 'on' indicator for such week except for the provisions of section 203(e) (1) (A) of the Federal-State Extended Unemployment Compensation Act of 1970.

"(ii) For purposes of subparagraph (A), there is a State 'emergency off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve weeks, the rate of unemployment (as determined under subparagraph (C)) is less than 7.5 per centum.

"(C) (i) For purposes of subparagraph (B), the term 'rate of unemployment' means—

"(I) the rate of insured employment (as determined under section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970, plus

"(II) the 13-week exhaustion rate (as determined under clause (ii)).

"(ii) The '13-week exhaustion rate' shall be equal to—

"(I) 25 per cent of the sum of the exhaustions, during the most recent 12 calendar months ending before the week with respect to which such rate is computed, of regular compensation under the State law, divided by

"(II) the average monthly covered employment (as that term is used in section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970) of the State with respect to the 13-week period referred to in subparagraph (B) (ii).

"(d) For purposes of any agreement under this title—

"(1) the amount of the emergency compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law; and

"(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall (except where inconsistent with the provisions of this title or regulations of the Secretary promulgated to carry out this title) apply to claims for emergency compensation and the payment thereof.

"(e) (1) Any agreement under this title with a State shall provide that the State will establish for each eligible individual who files an application for emergency compensation, an emergency compensation account.

"(2) The amount established in such account for any individual shall be equal to the lesser of—

"(A) 100 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

"(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b) (1) (C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

"(f) No emergency compensation shall be payable to any individual under an agreement entered into under this title for any week prior to the week following the week in which such agreement is entered into, or if later, the first week beginning more than 30 days after the date of enactment of this Act.

"PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY COMPENSATION

"SEC. 803. (a) (1) There shall be paid to each State which has entered into an agreement under this title an amount equal to—

"(A) 100 per centum of the emergency compensation paid prior to July 1, 1973, to individuals by the State pursuant to such agreement; and

"(B) 80 per centum of the emergency compensation paid after June 30, 1973, to individuals by the State pursuant to such agreement.

"(b) No payment shall be made to any State under this section in respect of compensation for which the State is entitled to reimbursement under the provision of any Federal law other than this title.

"(c) Sums payable to any State by reason of such State's having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be

entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amount which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

"FINANCING PROVISIONS

"SEC. 804. (a)(1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this title.

"(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund

"(b) Section 3301 of the Internal Revenue Code of 1954 is amended—

"(1) by inserting '(except as otherwise provided in the succeeding sentence)' immediately after 'equal'; and

"(2) by adding at the end thereof the following new sentence: 'In applying the preceding sentence for the calendar year 1972 and the calendar year 1973, the rate of tax shall, in lieu of 3.2 percent, be 3.275 percent.'.

"(c) The first sentence of section 905(b)(1) of the Social Security Act is amended by striking out 'and in the case of any month after March 1972, to one-tenth,' and inserting in lieu thereof 'in the case of any month after March 1972 and before April 1974, to seven twenty-thirds, and in the case of any month after March 1974, to one-tenth,'.

"(d) Section 901(c)(1)(B) of the Social Security Act is amended—

"(1) by striking out 'and' at the end of clause (iv);

"(2) by striking out the period at the end of clause (v) and inserting in lieu thereof '; and'; and

"(3) by inserting after clause (v) the following new clause:

"'(vi) an agreement entered into under the Emergency Unemployment Compensation Act of 1971.'.

"DEFINITIONS

"SEC. 805. For purposes of this title—

"(a) the terms 'compensation', 'regular compensation', 'extended compensation', 'base period', 'benefit year', 'State', 'State agency', 'State law', and 'week' shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970;

"(b) the term 'period of eligibility' means, in the case of any individual, the weeks in his benefit year which begin in an extended benefit period or an emergency extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period or in such emergency extending benefit period; and

"(c) the term 'extended benefit period' shall have the meaning assigned to such term under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970."

Mr. MAGNUSON. Mr. President, for the information of the Senate, and I am sure that the distinguished chairman of the committee will agree with me, we expect to vote on this amendment as soon as possible tomorrow.

Mr. LONG. Does the Senator wish to set a time for the vote tomorrow?

Mr. MAGNUSON. Yes. If the Senator wants——

Mr. LONG. Might I have the attention of the distinguished majority leader? It occurs to me that in order to expedite the procedure and move ahead as the distinguished majority leader has been trying to do perhaps the Senate might come in early tomorrow at 9 o'clock or 9:30 a.m. and vote on the Magnuson amendment, say, at 11 a.m.?

Mr. MAGNUSON. That would be fine.

Mr. MANSFIELD. Yes, that would be fine.

Mr. MILLER. Mr. President, I want to make a comment, that I should like the Senator from Washington and the Senate as a whole to be on notice that I plan to offer an amendment to his amendment. I do not believe it will take very long but I do plan to propose an amendment to his amendment.

Mr. MANSFIELD. Would the Senators be able to agree on a time limitation, then? How much time would the Senator from Iowa want?

Mr. MILLER. I would need only 5 minutes on each side, but there will be an amendment to the amendment of the Senator from Washington.

Mr. MANSFIELD. Would it be all right, then, if we voted on the Magnuson amendment at 11 a.m. tomorrow, with the proviso that there be a half an hour for the offering of the amendment to the amendment to be offered by the Senator from Iowa (Mr. Miller), the time to be equally divided between the manager of the bill and the sponsor of the amendment?

Mr. MAGNUSON. I shall not take long on my amendment, but my colleague, Mr. JACKSON, wants a little time, and the Senator from Connecticut (Mr. RIBICOFF), also wishes to speak on it. I believe we ought to be able to get this out of the way before 11 o'clock tomorrow morning.

Mr. MANSFIELD. Plus discussion of the amendment to the amendment?

Mr. PROXMIRE. Mr. President, if the Senator will yield. I am confused. If we vote on the Miller amendment, which will be a vote on an amendment to the amendment of the Senator from Washington, which will come at 11 a.m., then we will have to vote on the Miller amendment to the amendment at 10:30 a.m.; will we not?

Mr. MANSFIELD. Before 11 a.m.; yes. If the Miller amendment passes, then it would be the Magnuson amendment as amended, of course.

Mr. MILLER. Maybe it will not be necessary to have a rollcall vote on my amendment, but I would be hopeful the Senator from Washington (Mr. MAGNUSON) might accept it; but I thought I should put the Senate on notice that I plan to offer my amendment to the amendment.

Mr. GRIFFIN. Mr. President, reserving the right to object, I should like to point out that, ordinarily, we agree to a limited time for debate on an amendment with a proviso that half an hour or some other provision of time is given for any amendments thereto. It is true, we know there will be one amendment to the amendment but there might be others, and I think we would be precluding other Senators who might have amendments to offer.

I therefore wonder whether we might not include in this unanimous-consent request a provision for 1 hour on the amendment and one-half hour for any amendments to the amendment.

Mr. MANSFIELD. I understand that there will be other amendments, so that I think perhaps the best thing to do would be to withdraw the unanimous-consent request entirely, see what we can work out tomorrow morning, keep in mind what the Senator from Iowa has indicated just now, and that I have been informed there may be other amendments.

Mr. MAGNUSON. In any event, that will bring us up to an early vote on my amendment, if we have a time limitation.

Mr. CASE. At the present time, there is no time limitation.

The PRESIDING OFFICER (Mr. CRANSTON). Is the unanimous-consent request of the Senator from Montana withdrawn?

Mr. MANSFIELD. Yes, Mr. President.

The PRESIDING OFFICER. The unanimous-consent request is withdrawn.

Mr. MAGNUSON. However, my amendment is the pending order of business.

Mr. MANSFIELD. That is correct.

Mr. LONG. Mr. President, we would then hope for, sometime tomorrow morning or whenever the spirit moves the Senate, to vote on the Senator's amendment, and the Senate will be on notice that hopefully there will be a vote sometime tomorrow morning.

Mr. President, H.R. 10947, which is before us, represents an important step for our economic recovery. It contains a number of important Finance Committee amendments designed to improve the bill but, the major objectives, and most of the provisions, are similar to those in the House bill.

The basic objectives are:

To put our present lagging economy on the high growth path,

To increase the number of jobs and diminish the high unemployment rate,

To relieve the hardships imposed by inflation on those with modest incomes,

To provide a rational system of tax incentives to aid in the modernization of our productive facilities, and

To increase our exports and improve our balance of payments.

The bill is vitally needed because our economy is lagging and especially because the unemployment rate is high. This bill is also needed to complement the inflation control measures—to provide stimulus to the economy to get it going again.

The economy clearly needs the stimulus that this bill will provide. We already have an unemployment rate of almost 6 percent and, in real terms, the economy grew at a rate of only about 3 percent in the first 9 months of this year—after adjustment for price increases and the delayed effects of the General Motors strike last year. If we do not take steps to increase the growth rate of our economy, we could well have unemployment rates even above the 6-percent level in the future.

The tax reductions under this bill are large enough to stimulate the economy and yet—when coupled with inflation controls—not so large as to create a new round of inflation. The effect of this bill should be to provide additional jobs and increase the Nation's output. In fact, in the long run, this increase in production will also aid in the fight against inflation. There are few things which are more effective in the long run in bringing prices down than an increased supply of goods and services flowing into the market.

The bill provides income tax relief to stimulate both investment and consumption. All in all, the measure will reduce present law tax liabilities by about $1.7 billion in calendar year 1971, $7.8 billion in 1972, and $6 billion in 1973.

The committee believes one of the main reasons for present depressed economic conditions is that investment in plant and equipment is lagging. The latest SEC-Commerce Department survey, for example, indicates an increase of only slightly more than 2 percent in plant and equipment spending in 1971. This means that after adjustment for price increases, there will be no real increase in this spending this year. This need for machinery and equipment spending is why the committee joined the House in restoring the investment credit. As is shown in the chart on page 9 of the committee report, the credit in the past has been successful in stimulating investment in machinery and new equipment and the committee believes the restoration of the credit will repeat this experience.

The new credit amounts to 7 percent of all eligible property—4 percent for public utility property—acquired after August 16, 1971. The credit is also extended to property ordered after April 1, 1971, even though delivered before August 16. This latter feature is designed to avoid discriminating against those who invested on or after April 1 on the basis of assurances made by the Secretary of the Treasury that they too would be available for the credit. The investment credit is expected to make from $1.5 billion in 1971 to $3.9 billion in 1973 available to businesses which expand and modernize their equipment and facilities.

While the committee believed that the stimulation of investment through the restoration of the credit is desirable, it nevertheless does not want the tax structure to be too stimulative. Because of this the bill before us removes a part of the liberal ADR depreciation rules the Treasury put into effect by administrative action as of the first of this year—namely, the especially fast writeoff the Treasury provided in the first year assets are acquired. This is the so-called three-quarters year convention. Removing this three-quarters year convention forestalls tax reductions which would otherwise have amounted to $2.1 billion in 1971, decreasing over later years to $1.7 billion in 1972, and $1.5 billion in 1973.

This bill also provides tax reduction for individuals by accelerating the effective dates of the increases in personal exemptions and other relief scheduled under the provisions of the 1969 Tax Reform Act for 1973. In addition, the bill increases the low-income allowance by $300 in 1972.

Also, as I will indicate in more detail in a few moments, the Finance Committee—on my motion—added to the bill a new job development deduction designed to increase jobs in household services and child care and to provide for relief for those with extraordinary expenses of this kind. These provisions grant significant tax reductions for the individuals who have been hardest hit by inflation and where the greatest impact on increased consumer spending can be anticipated.

For 1971, the personal exemption is increased from $650 to $675 and the minimum standard deduction is modified to provide additional relief in the lower income brackets. These changes will provide an immediate tax reduction this year of $1.4 billion.

For 1972 and subsequent years, the bill further increases all personal exemptions to $750. I supported a further increase in the personal exemption in 1972 to $800 but the Finance Committee was not willing to provide this further increase in the personal exemption primarily, I believe, because it would involve a further revenue loss of $1.8 billion.

However, as I indicated, the bill does increase the tax relief for low-income people by raising the minimum standard deduction or low-income allowance from $1,000 to $1,300. This action was taken because we believe that those at the poverty level should not be called up to pay income taxes and also because this is the income level where tax reductions will lead most directly to increases in consumption. In addition, the percentage standard deduction is further increased to 15 percent with a $2,000 ceiling in 1972.

As a result of the income tax relief I have described, by 1972 virtually no individual income tax will be imposed below the poverty level. In 1972, single individuals will pay no income tax until their income exceeds $2,050 and married couples with two children will pay no income tax until their income exceeds $4,300.

The bill also stimulates production in the automobile industry which for many years now has been an important provider of jobs in this country. Because of this, the bill repeals the 7-percent passenger automobile tax and the 10-percent tax on light-duty trucks effective August 16, 1971. The administration has estimated that repeal of the auto tax will result in 600,000 additional domestic automobile sales and 150,000 additional jobs, not counting dealer employees. The House bill would have repealed the tax on light-duty trucks effective September 23, 1971, but the committee thought it would be better to repeal these two taxes as of the same date.

Repeal of the auto tax and the tax on light trucks will provide some $2.6 billion of tax reduction in calendar year 1972. The auto manufacturers have given assurances that these tax reductions, which average about $200 per car, will be passed on to consumers in reduced prices.

Let me turn now to provisions designed to improve our balance of payments. In recent years, the deficits in our balance of payments have been both persistent and increasing, and it is obvious that we must do something to improve the situation. In the second quarter of this year, our balance-of-payments deficit ran at an annual rate of about $23 billion and we no longer have a trade surplus on goods and services. This resulted in the dollar crisis in August when we suspended the convertibility of the dollar into gold.

The Finance Committee is hopeful that the negotiations that the United States is now carrying on with foreign countries in regard to currency and trade will be resolved successfully. However, to help eliminate our balance-of-payments deficits, the committee accepted a number of House provisions and also added other amendments designed to aid in the same objective.

The committee believes the adoption of the investment credit, in itself, will improve our balance of payments by making our productive facilities more efficient, and in this manner help our exporters to compete in foreign markets. In general, the new credit is not to be available for property produced abroad so long as the temporary import surcharge of 10 percent remains in effect. However, the bill grants the President authority during this period to make the credit available for specified articles of foreign produced property where this is in the public interest. An amendment by the committee also gives the President the authority to continue the exclusion from the credit of property produced abroad after the 10-percent surcharge is removed if this is in the public interest. This authority may be exercised on a commodity-by-commodity and country-by-country basis.

Another form of tax incentive is provided by the bill for U.S. firms to increase their exports. This provision provides long-term tax deferral for one-half of export-related profits so long as they are retained in a new type of U.S. corporation known as a Domestic International Sales Corp., or "DISC." This DISC provision has the same objective as the comparable provision in the House bill. However, the committee version of the provision differs from the House provision in three important respects.

First, the committee version allows deferral with respect to one-half of the DISC income as a substitute for the House provision which would grant the deferral largely, though not exclusively, on the basis of incremental exports above 75 percent of the level in the base years 1968 through 1970. In practice, the House provision would have been complex and difficult to apply. The committee version in this respect provides about the same amount of deferral, but is much simpler in application.

Second, the provision under the com-

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mittee version is to continue for a 10-year period. After that time, the question as to whether it should be further extended or modified can be reconsidered. Third, the DISC deferral is to be denied where the income is used for investments abroad.

Another provision in the bill—one which was added by the committee—also is designed to help our balance of payments. This provision gives the President discretionary authority to impose selective or general import quotas and an import surcharge of up to 15 percent of the value of the imported article during a balance-of-payments emergency.

Finally, under another committee amendment, the automobile tax on imported cars is suspended instead of repealed and the President is given authority to restore the tax if he believes this is in the public interest. It is expected that he will use this authority where the country of origin significantly discriminates against the importation of automobiles or, perhaps other products, made in the United States.

In addition to the committe amendments relating to our balance of payments which I have already described, the bill now before us revises the House bill in a number of other respects.

First, I have already referred to the provision added by the committee relating to the deduction for household service and child care. Looked at one way, this is a new job development deduction provided to encourage the employment of individuals in these types of services. Looked at another way, this provision relieves hardship where one-adult families or two-adult families, but with low combined incomes, must work and, as a result, are faced with substantial extra expenses for child care and work around the house which they cannot do because of their employment. This provision permits families with only one adult—or where the spouse is disabled—and where the husband and wife are both working but have earnings which are not significantly more than $12,000 a year, to deduct up to $400 a month for payments for child care and domestic help in the home. The provision also allows up to $200 a month for child care outside the home for the first child, $300 for the second child, and $400 for three or more children.

Second, because of the lateness in the year, a committee amendment moves the withholding rates changes to January 1, 1972, instead of on November 15, 1971, as provided in the House bill. In addition, corrections in present law withholding rates—there is significant underwithholding—are made wholly effective as of January 1, 1972, instead of in two steps, partially in 1972 and partially in 1973, as provided in the House bill.

Third, the level of used property eligible for the investment credit is not to be reduced by purchases of new property as under the House bill. However, the level of used property eligible for the credit is set at $50,000 instead of at $65,000, which is the same as under prior law.

Fourth, a committee amendment takes note of the fact that since the proceeds of the tax on trucks now go into the highway trust fund, repeal of the tax on light trucks will significantly reduce the flow of tax receipts into this trust fund. To provide an approximately equal replacement of tax revenue for the fund, the committee has amended the bill to require that 7 percent of all taxes collected on alcoholic beverages go into the highway trust fund. This allocation of a modest portion of the tax on alcoholic beverages will have no effect on the taxes on that industry. It will give assurance, however, that the highway program can be carried out on schedule.

Finally, in order to help the work incentive program—WIN—in assisting welfare recipients in getting off the welfare payrolls, the committee provided a special tax credit for employers who hire individuals under such a work incentive program. This tax credit, which was sponsored by the Senator from Georgia (Mr. TALMADGE), amounts to 20 percent of the wages paid to the previous welfare recipients during the first year of employment. The committee is convinced that the small revenue loss involved in this provision will be more than offset by reductions in welfare appropriations as recipients move from welfare to productive jobs.

These then are the principal features of the 1971 revenue bill. It is, on balance, a good bill—one that is urgently needed to get the economy back on its feet again. It is for this reason that I urge you to give this bill your support.

While I can appreciate that Members may want to add amendments to this bill—and I may support a few such amendments—it seems to me that it is essential that we all exercise restraint in offering additional floor amendments to the pending bill. I might also point out that the House Ways and Means Committee has recently ordered reported close to 40 bills which the House has started to consider. These will be here before us soon and the Members will have an opportunity to offer amendments with which they are concerned to these other bills.

Mr. BENNETT. Mr. President, as ranking minority member of the Committee on Finance I would like to join the chairman of the committee in expressing the feeling that this is a good bill. The committee worked hard on it. We tried to carry out the wishes of the President and at the same time carry out some of the wishes of the members of the committee which went beyond the President's program.

Mr. President, the Revenue Act of 1971 is an essential element of the actions announced by the President on August 15 to revitalize the American economy. These actions include the imposition of a 10 percent surcharge on imports, suspension of the convertibility of the dollar into gold, and a wage-price freeze which has led to the establishment of machinery to wind down the inflation which has permeated our economic system for over 6 years.

The primary objective of the Revenue Act of 1971 is job development. The means to accomplish this result include restoration of the 7 percent investment tax credit, a codification of the asset depreciation rules of the Treasury Department, speed-up of some individual income tax cuts and enactment of others, repeal of the Federal excise tax on automobiles and light trucks, and tax incentives to spur exports.

Experience with the earlier investment tax credit demonstrates that the domestic benefits will be great. The enactment of such a credit in 1962 together with the liberalization of the depreciation schedules were vitally important in stimulating the economy to substantial economic growth without inflation until 1965.

Suspension of the credit in 1966 signaled a sharp investment decline. Its restoration in 1967 reversed the downward trend and purchases of plants and equipment soared until 1969 when the tax credit was repealed. Another investment slump followed, and it persists today.

History suggests that reinstating the credit will again point the way to an economic upturn. But it can do the job only as part of a total assault on all the causes of economic lethargy, both domestic and international.

For example, after 1965 burgeoning budget deficits and a guns and butter approach in our fiscal policies put so much steam in the boiler that the economy began racing ahead at breakneck speed. Wages and prices got out of control, the demand for civilian and military goods exceeded the supply of such goods, and this further stimulated price inflation. The "inflationary psychology" which developed became so embedded in market forces that general monetary policy no longer could cope with the situation.

At the same time, productivity dropped off sharply. This led to a deterioration in our international competitive position. In 1971, we have been running an overall deficit in our balance of payments at the astounding rate of $22 billion. The dollar has been under attack in foreign exchange markets and the President acted boldly and decisively on August 15 to throw off the shackles of the gold exchange standard by severing the direct ties between the dollar and gold.

Mr. President, this is not a partisan bill. It should be clear to everyone that the main thrust of stimulating jobs through investment and modernizing American plants and equipment is in our national interest. While this bill will lead to an increase in business investment it also will increase consumer purchasing power through higher allowances for the poor, a speedup in individual tax reductions, and the elimination of the excise tax on automobiles.

No doubt, there will be those who will argue that H.R. 10947 concentrates too much on revising the economy through investment stimuli and that it does little to reduce the tax load of individuals. Let me put the situation in perspective. Any fair assessment and comparison of tax cuts to business and individuals should include what the Congress did in the Tax Reform Act of 1969. We cannot ignore it; its provisions are still going into effect—this year, next year and 1973, as well. In that act, Congress granted a massive tax cut for individuals amounting to $36.4 billion over a 4-year period, while increasing the corporate income tax payments by $3.2 billion.

I ask unanimous consent that a table showing the estimated effects of the 1969 Tax Reform Act together with the committee's action in the Revenue Act of 1971 be included in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE II.—ESTIMATED EFFECT OF 1969 TAX REFORM ACT, ADR AND WAYS AND MEANS COMMITTEE ACTION ON CALENDAR YEAR LIABILITIES DIVIDED BETWEEN INDIVIDUALS AND CORPORATIONS

[In billions of dollars]

	Individual								Corporations						
	1969 act		Committee action						1969 act		Committee action				
Calendar year	Reform and relief	Termination of investment credit	ADR	Eliminate ADR ¼ year convention	Income tax reduction	Excise tax relief[1]	New investment credit	Total	Reform and relief	Termination of investment credit	ADR	Eliminate ADR ¼ year convention	New investment credit	DISC	Excise tax relief[1]	Total
1969		+0.4						+0.4		+0.5						+0.5
1970	−1.4	+.6						−.8	+1.0	+1.9						+2.9
1971	−5.2	+.6	−0.6	+0.4	−1.4	−0.8	−0.3	−7.3	+1.1	+2.5	−2.2	+1.7	−1.2		−0.1	+1.8
1972	−8.1	+.6	−.7	+.3	−3.2	−2.3	−.7	−14.1	+1.2	+2.7	−2.7	+1.4	−2.9	−0.1	−.3	−.7
1973	−10.9	+.6	−.8	+.3	−1.1	−2.0	−.8	−14.6	+1.3	+2.9	−3.2	+1.2	−3.1	−.2	−.2	−1.4
Total	−25.5	+2.8	−2.1	+1.1	−5.7	−5.1	−1.8	−36.4	+4.6	+10.5	−8.1	+4.2	−7.2	−.3	−.6	+3.2

[1] Split as per committee report.

Mr. BENNETT. Let me observe that $28 billion of the individual tax cuts provided by the 1969 act would come in 1972 and 1973. H.R. 10947 accelerates a good part of the 1972 cuts into 1971 and moves all the 1973 cuts back into 1972, providing a more immediate economic impact on consumer purchasing power.

Personally, I am pleased that the President recognized the importance of a balanced approach to economic recovery by recommending that higher personal exemptions go into effect in 1972. I am pleased, too, that the administration agreed to increases in the low-income allowance included in the bill. This combination—investment stimuli for business and consumption stimuli for individuals—makes H.R. 10947 a potent force in overcoming stubborn unemployment rates, which frankly are too high. At once, this bill will lead to not only greater and more efficient business productivity, but also to greater consumer purchasing power and demand.

It is a fact that increased business investment will create new jobs, improve our sagging productivity, growth, and international competitiveness. In this respect, let me point out that other governments provide their industries with more fiscal incentives to invest in modernizing plants and equipment to maintain their competitiveness than we do. In comparing the cost of capital between the major developed countries, we find the United States at the bottom of the scale. Capital costs, per dollar, today are vastly lower in other industrialized nations than they are in the United States. Compared with this country, the cost of $1 of capital is: 79 cents in the United Kingdom, 81 cents in Japan, 82 cents in Italy, 83 cents in West Germany, $1 in the United States.

These lower costs result directly from enlightened depreciation policies and investment incentives offered by foreign governments to spur their industries and create jobs.

Even with the 7-percent-job-development credit and the ADR depreciation system, U.S. industry will still not be on an equal footing with foreign competitors. H.R. 10947 is an important step in the right direction, however, in reducing our capital costs by 13 percent. While this does not close the gap between us and our major trading partners, the resulting 87 cents per dollar capital cost will go far toward making investment in this country more attractive than it is today. Hopefully, we can slow the movement of American plants abroad and keep the jobs in this country.

This same concern about runaway industry underlies the committee amendments which endorse tax incentives for exports through DISC's—the Domestic International Sales Corporations. What we hope to achieve by this amendment is to encourage manufacturing concerns to stay in this country—keep the jobs at home—and export more American goods and services. When we see the tremendous concessions foreign countries grant their industries to produce at home and sell abroad, there is little wonder why more and more American industries are moving overseas. DISC can help keep the jobs here and in my judgment that should be one of our great national goals. Today, there just are not enough jobs to go around.

The committee added four significant job development amendments to the bill. I am pleased to be the author of two of them. The first empowers the President to continue the suspension of the investment tax credit for foreign goods after the import surcharge is ended. This would strengthen the President's hand in negotiating currency realinements with our trading partners. Perhaps it will make possible the removal of the surcharge sooner than would otherwise be the case while still preserving an incentive for U.S. business to invest in U.S. plant and equipment.

The second amendment empowers the President to reimpose the excise tax on foreign automobiles if he finds that foreign countries continue to discriminate against U.S. automobiles. If we can spur auto exports, then American labor will be a principal beneficiary. I am convinced that by giving the President authority to reintroduce the excise tax, he will have an important bargaining tool in seeking fair treatment for American exports. There is no reason to believe it will be used so long as there is not a complete breakdown of trade negotiations.

The bill also contains a job development credit for employing workers trained under our welfare laws. Similarly, it contains amendments offered by the distinguished chairman of the committee to upgrade the child care provisions in existing law and allow deductions for housekeeping expenses incurred in caring for children or disabled dependents of a single parent, or a working wife if the combined income of the husband and wife is below the national medium. These two amendments can have a significant impact on welfare costs and welfare rolls. If they are successful, we will have taken a giant step toward making workfare more—more attractive than welfare.

I want to commend the chairman of the committee (Mr. LONG) for the diligence and patience with which he conducted the public hearings and executive sessions on this bill. Without his leadership, the bill might still be in committee. I want to also commend members of the committee who withheld important amendments that they wanted to offer in order that this bill and the Nation not be delayed in achieving economic recovery. I hope Senators in this Chamber will be equally responsible and restrain their amendments to those directly related to the purpose of the bill.

Particularly, let me make this observation regarding personal tax cuts. The principal purpose of the bill is job development. Cutting individual income taxes is not going to help a person who has no job. He is not paying taxes anyway. On the other hand, the job development aspects of the bill will be of immeasurable benefit to him. Let us pass it now—promptly—and make economic recovery an economic reality.

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ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ALLEN. Mr. President, acting for the distinguished majority leader and at his request, I ask unanimous consent that tomorrow after the conclusion of the remarks of the distinguished senior Senator from Oklahoma (Mr. HARRIS) there be a period for the transaction of routine morning business for not to exceed 30 minutes with speeches by Senators limited to 3 minutes at the conclusion of which the Chair will lay before the Senate the unfinished business, H.R. 10947.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. LONG. Mr. President, I have discussed this matter with those who work with and for the majority leader, and I understand it is his desire to convene at 9 o'clock tomorrow morning. That is in accordance with our desire.

The PRESIDING OFFICER. The Senator is correct. An order has been entered to that effect.

ADJOURNMENT UNTIL 9 A.M.

Mr. LONG. So, Mr. President, I move that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 6 o'clock and 30 minutes p.m.) the Senate adjourned until tomorrow, Friday, November 12, 1971, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 11, 1971:

U.S. DISTRICT COURTS

James S. Holden, of Vermont, to be U.S. district judge for the district of Vermont, vice James L. Oakes, elevated.

DEPARTMENT OF AGRICULTURE

Earl Lauer Butz, of Indiana, to be Secretary of Agriculture.

EXTENSIONS OF REMARKS

MAN VERSUS INSTITUTION

HON. EDWARD J. DERWINSKI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. DERWINSKI. Mr. Speaker, the Perspective page of the Chicago Tribune, which has gained nationwide attention for the nature and variance of its commentary, featured a column in its Tuesday, October 26, edition by columnist Ernest Furgurson of the Baltimore Sun, which highlighted two very interesting subjects which deserve our scrutiny.

One makes the point of the right a conscientious student has to receive an education without interference from social malcontents.

The other points out the proper emphasis which the Air Force Academy is placing and the necessary action being taken to prevent abuse by an individual of his service academy training and his resulting obligation.

MAN VS. INSTITUTION

(By Ernest Furgurson)

WASHINGTON.—Let's hear it for Nancy Graber, who has socked Vassar College with a million-dollar suit for tolerating her schoolmate's pot smoking to the extent that it ruined her studies.

Also let's hear it for the United States Air Force [?].

In the continuing campaign of individual vs. institution so brashly pushed by young Americans these last years, there is no more heartening intelligence than Miss Graber's individual assertion that the young ladies' institution at Poughkeepsie-on-the-Hudson has let permissiveness go a long step too far.

Unless, perhaps, it is the parallel action of the Air Force as an institution against a 24-year-old individual who has enjoyed a four-year education at government expense and now decided with exquisite timing that he doesn't really like the Air Force business after all.

Each case, you see, breaks the pattern that got to be so boring—that of freedom-loving student or other juvenile challenging stuffy conservative institution and sometimes prevailing and sometimes losing, but always drawing hosannas from the youth cultists and two minutes on the evening news.

Here we have a straight-arrow student [insofar as her attitude toward dope is concerned; I care not how she feels about sex, booze, religion, or "Oh! Calcutta!"] cast as heroine, and on the other stage the most expensive of the overabused military branches, the wielder of the big bomb itself, playing hero. Ask who cast them in these roles, and I will answer: Me.

I am qualified to, along with X-million other parents in this country who have sent, are sending, or are saving to send their children to college on their own [the parents'] hard-earned money.

That is how the 20-year-old Miss Graber went to Vassar, which is a lot more dear than your average county community college. Having shelled out for tuition, room, books, and whatall, she found herself billeted with a roommate she refers to out of legal discretion merely as "Pamela." Pamela got her collegiate career off to a fast start by taking a whiff of hemp and, in the words of the Graber suit, "quickly embraced all aspects of the drug culture" and "became a focal point of all the drug users on campus."

Well, that's Pamela's business, you may say. Perhaps so, even when it is against the law. "But being a focal point meant having psychedelic gatherings, playing loud music, and singing with abandon and all thru the night, both in our suite and elsewhere in the corridor," Miss Graber said. And since Nancy and Pamela were roomies and Nancy had this queer notion about doing her homework, they didn't precisely groove together.

Now Nancy is suing for $1 million, on grounds that the college's laissez-faire attitude toward Pamela's partying caused her failure and that this will stigmatize her in later life.

At the Air Force Academy, they don't go in for Vassar's style of progressive education in either classrooms or dorms. But that did not bother young John McCullough, from the time he signed his contract until six months after he graduated last June with a bachelor's degree financed by you and me.

His contract required McCullough to serve six years, five of them on active duty after graduation. He opted to go to law school first and do his active duty later. The Air Force agreed. While his time at law school did not count as active duty, it did add to his service longevity, and once he had six months of that, he was exempt from the draft. So six months, two weeks, and one day after graduation from the academy, McCullough notified the Air Force that he was a conscientious objector.

Pretty neat. He gets a high-class education, he beats the draft, and the taxpayers never get a day's work out of him.

He breaks his contract, which is something any ordinary workingman attempts at considerable peril. But—stroke of brilliance!—he breaks it because he disagrees with the Vietnamese war.

The Air Force, unamused, is billing McCullough for $53,575, which it figures is his prorated share of Air Force Academy expenses for four years. McCullough's senator, Mark Hatfield, calls the billing un-American and undemocratic. I call it an admirable effort to recover our good-faith investment in the young gentleman.

Good faith—sounds quaint, doesn't it?

FOR MANY AMERICANS, NOVEMBER 11 IS ARMISTICE DAY

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. SIKES. Mr. Speaker, November 11 is an appropriate day to pay tribute again to the gallant men and women of America who have worn their Nation's uniform with dignity and honor. For many Americans it is and always will be Armistice Day.

Federal law notwithstanding, this is the anniversary of the end of World War I and a day traditionally set aside to honor the veterans of the U.S. Armed Forces.

Although more and more people appear to consider it fashionable to belittle the military, it remains an unquestioned fact that it is the military might of the United States which has kept much of the world free of oppression and slavery under communism and other alien forms of dictatorship.

It is the very dedication of those who wore the uniform that has guaranteed freedom in our Nation; even freedom to abuse our country and its institutions. One need not ponder long the fate of anyone who, in 1916 or 1942, strode the streets of America waving the flag of our enemies, calling for the overthrow of our form of Government, and castigating the men and women who wear our Nation's uniform. Yet, this is exactly what occurs on our streets today. This freedom to denounce has been won and kept secure by the very men and women the radicals belittle. The tragic part is the failure of other Americans to speak out in behalf of our country, its traditions, and its veterans.

We do not today show sufficient regard for our veterans and their services, Mr. Speaker. True, many of them receive veterans benefits, but there is more to having served America than a dollar benefit. They are entitled to the respect and appreciation of their countrymen. As old fashioned as it may sound, we need a few more parades to honor veterans and a few less demonstrations against America.

Let those who would seek means to let off steam do so by being affirmative rather than negative. Let them ponder history as it would have been written had there not been Americans willing to shed their life's blood in defense of freedom.

And let us on that solemn day, November 11, reaffirm our belief that the highest call to national service is the call answered by the brave Americans who wear their uniform with pride.

THE DWIGHT DAVID EISENHOWER LABORATORIES, BOULDER, COLO.

HON. DONALD G. BROTZMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BROTZMAN. Mr. Speaker, I am today introducing legislation which would change the name of the Department of Commerce laboratories in Boulder, Colo., to the Dwight David Eisenhower Laboratories.

These laboratories, located at the foot of the Rocky Mountains, were opened during the autumn of 1954, early in the first administration of President Eisenhower. Although the facilities originally housed the radio section of the National Bureau of Standards, they have since grown to include segments of the National Oceanic and Atmospheric Administration, and numerous other Department of Commerce laboratories.

The commitment of President Eisenhower to the peaceful uses of scientific advancement is well known. The Boulder laboratories, like the atoms for peace plan and the space program, evidenced his interest. As a matter of fact, it was President Eisenhower who formally dedicated the original Boulder laboratories on September 14, 1954.

The Boulder facility was first initiated in 1950 when Congress authorized an expanded radio section for the National Bureau of Standards. A site selection committee chose Boulder when the citizens of the city gave the Government 217 acres of land for the facility.

In addition to President Eisenhower's interest in science, there was also his interest in Colorado. His wife is from Denver, and Ike often vacationed in the State. Thus, it is altogether fitting that the Government he served in war and peace permanently honor his memory at one of its many fine scientific facilities located in the State of Colorado.

I note, Mr. Speaker, that the distinguished Senators from Colorado, Mr. ALLOTT and Mr. DOMINICK, are today introducing an identical proposal in the other body. We all join in expressing the hope that Congress will act to name the Commerce Department's Boulder laboratories in honor of one of the Nation's truly outstanding soldier-statesmen.

NATIONAL ENERGY POLICY—PART XI

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. COUGHLIN. Mr. Speaker, recently, in my capacity as a member of the Science and Astronautics Committee's Task Force on Energy, I visited with some of my colleagues Princeton University's Plasma Physics Laboratory in order to understand better the problems and possibilities of fusion power. Other members of the task force also visited FMC Corp.'s Chemical Research and Development Center in Princeton to hear an explanation of the firm's plan to make synthetic fuels from coal.

The visit was instructive in many respects, but it is neither the time nor my place here to elaborate on all we learned that day.

However, I was given, as were my task force colleagues, some published, but not widely circulated, information on national energy policy matters which I believe might interest not only all my colleagues here in the House, but those citizens who seek to establish some order out of the current chaotic state of our energy system.

One of the key problems in establishing a National Energy Policy is understanding what new systems of energy conversion are possible, their feasibility, how much they may cost, and when they might be put to practical use. The information below describes in detail the current state of recommended research projects for energy conversion, their priorities, benefits, status of work, significant obstacles, and estimated costs and schedules.

I have taken the information from appendix B of the "Electric Utilities Industry Research and Development Goals Through the Year 2000," a report of the R. & D. Goals Task Force to the Electric Research Council, dated June 1971, ERC publication No. 1–71. Although written for industry, the material, I believe, is sufficiently dispassionate to warrant consideration by those in our Government charged with establishing a National Energy Policy.

The material follows:

NATIONAL ENERGY POLICY

Method of Generation: Breeder Reactors.

Priority: 1—Critically Important.

Description: Breeder reactors utilize neutrons produced in fission reactions to bombard blanket materials, thereby creating a new fissionable material. Since the schemes under investigation produce more than one neutron per fission, there are sufficient numbers of neutrons available to sustain the fission chain reaction and to produce significant amounts of new fissionable material. Power is extracted from the reactor in a conventional manner.

Benefits and Goals: Breeder reactors will have a marked impact on the fuel situation. Fuel reserves will be greatly conserved and enrichment capacity will no longer be critical as the breeder reactors will be producing fissionable fuels—enough for themselves and another reactor of equal size approximately every 7–10 years.

Status of Work: There is presently and has been for some years a good deal of work in the field of breeder reactors. Principally, the AEC and the industry have been supporting the Liquid Metal Fast Breeder Reactor (LMFBR). Other concepts have been proposed, however, and there is work going on to investigate Molten Salt Breeder Reactors, Gas Cooled Fast Reactors, and Light Water Breeder Reactors.

Significant Obstacles: The chief immediate problem is to raise funds and begin construction of a demonstration plant to prove the present technology. There will be difficult problems of site selection for breeders. Additional problems, primarily due to the higher enrichment of the fuel than for thermal reactors, are ability to license, plant safety, shipping of spent fuel, and disposal of more radioactive wastes.

Timetable and costs for development—Millions of 1971 dollars

By period:

1972	250
1973	340
1974	369
1975	427
1976	432
1977	476
1978	415
1979	331
1980	208
1981 to 1985	500
1986 to 1990	250
1991 to 2000	200

By function:

Demonstration * (three plus Fermi)	−1,250
Continuing Research	−2,948
Total (29 years)	−4,198

* Capital costs in excess of power value.

Method of Generation: Nuclear Fusion.

Priority: 1—Critically Important.

Description: Confinement of heavy isotopes of hydrogen (deuterium and/or tritium) at sufficiently high temperature and density, and for a long enough time will result in the fusion of these isotopes to produce a heavier element and the release of a large amount of energy. Conversion of this energy to electricity is the method of power production by means of a nuclear fusion reaction.

Benefits and Goals: The fuel required for the fusion reaction (deuterium) is naturally abundant. If a D–T reaction is used, the tritium required could be taken from a tritium inventory at first and, in the future, the tritium could be "bred" during the fusion reaction. Higher efficiencies are possible if topping cycles can be used to extract high quality energy and adverse environmental impact will be minimal. In addition, the chance for a nuclear excursion will be impossible.

Status of Work: In recent years, important strides have been made toward setting up the conditions required for the thermonuclear fusion reaction. Large scale efforts have been going on both in this country and abroad and the scientists seem to agree that a controlled thermonuclear reaction will be demonstrated by the mid 1970s, with satisfactory funding.

Significant Obstacles: The chief problem at this stage is to actually sustain a thermonuclear reaction. Additional problems are: design of vacuum wall, avoiding escape of

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tritium, lithium blanket design, chemical and safety aspects of handling liquid lithium, fuel injection system, spent gas removal system, magnet design and tritium handling.

Timetable and costs for development—millions of 1971 dollars

By period:

1972	50
1973	60
1974	95
1975	110
1976	135
1977	160
1978	170
1979	215
1980	245
1981 to 1985	1,000
1986 to 1990	1,000
1991 to 1995	500
1996 to 2000	500
By function:	
Basic Research	1,240
Pilots (late 1970's)	300
Demonstration (by mid-1980's)	1,000
Continuing Research	1,700
Total (29 years)	4,240

Project: R&D on Present Methods of Generation.

Priority: 1—Critically Important.

Description: Work to improve the reliability and efficiency of present day equipment must be continued. Because the units on the line today will be in our generation mix for many years to come, it is essential that all possible improvements be made on these units to make them more efficient, reliable, and acceptable to the public. This work must continue on nuclear generators as well as fossil, including fluidized bed combustion.

Benefits and Goals: Because of the heavy industry-wide investment in present day equipment, it is essential that any and all possible improvement be realized. Operating savings and reduced environmental impact would be hoped for.

Status of Work: For many years past and up to this time, leading manufacturers have been seeking ways to improve their products. These efforts have involved substantial sums of money which would be expected due to the heavy industry investment in generating equipment. It is expected that such work will continue.

Significant Obstacles: Materials problems have been defined in many instances. Work to develop materials capable of handling the severe stresses which they face in operation is underway. On the nuclear side, fuel handling and cycling problems are being investigated along with safety requirements for nuclear power plants.

Timetable and expenditures—millions of 1971 dollars

By period:

1972	165
1973	180
1974	195
1975	210
1976	225
1977	240
1978	255
1979	270
1980	285
1981 to 1985	1,650
1986 to 1990	2,025
1991 to 1995	2,400
1996 to 2000	2,775
Total (29 years)	10,875

IV

Method of Generation: Fuel Processing.

Priority: 1—Critically Important.

Description: Gasification and solvent processing of coal, and hydrogen production (to be used as fuel) are proposed to provide high quality clean fuels for generating plants. The refined coal products are projected to be economically attractive in the fuel market. Transmission of hydrogen by pipeline to the point of use could be an attractive prospect in the future as natural gas fuels dwindle.

Benefits and Goals: Greatly reduced pollution from the combustion of these refined fuels is projected. Higher heat rate and ease of transportation of the fuel to the point of use are predicted benefits which will add to the economic attractiveness of these processes.

Status of Work: There is a great deal of interest in these processes and considerable work is going on under the auspices of the Federal Government. Mid 1970 dates of development have been targeted and progress is steady.

Significant Obstacles: Gasification and solvent processing techniques are being perfected. Areas of poor understanding have been identified and work in these areas is underway to improve the techniques.

Timetable and costs for development—millions of 1971 dollars

By period:

1972	8
1973	10
1974	10
1975	15
1976	10
1977	6
1978	2
1979	2
1980	2
1981 to 1985	5
1986 to 1990	5
1991 to 1995	—
1996 to 2000	—
By function:	
Basic Research	6
Pilot Models	16
Demonstration	45
Continuing Research	8
Total (19 years)	75

Method of Generation: Magnetohydrodynamics (MHD)—open cycle.

Priority: 2—Very important.

Description: An MHD generator converts the kinetic and thermal energy of a moving plasma directly into electrical energy by passing the "seeded" flow through a strong magnetic field. Seeding is required to produce high conductivity in the gas flow. The MHD unit will probably be used to "top" a conventional steam cycle. Fully developed, 50% or more of the total output power of the combined cycle will be extracted from the MHD portion.

Benefits and Goals: MHD is proposed for fossil fired, central station, base load power production. Peaking power MHD plants would likely be spun off from an MHD developmental program. Increased cycle efficiencies are projected, resulting in significant decreases in thermal pollution. Higher combustion temperatures should facilitate flue-gas cleanup (essential to the process in order to recover expensive seed material) and could provide economies resulting from the sale of refined waste products. Increased efficiency will also help alleviate projected fossil fuel shortages by requiring less fuel for the generation of a given number of kilowatthours than present day generators.

Status of Work: MHD technology is well advanced, both in this country and abroad. Engineering solutions to many problems encountered have been found. Significant efforts have been carried on in the decade of the 60's, providing much insight into problem areas and potential problems of open cycle MHD. It has been reported that the Russians have started up the MHD portion (25 MW) of a 75 MW combined cycle plant early this year.

Significant Obstacles: Problems encountered in the burning of coal in an MHD generator are presently not well understood. The effects of the combustion products on generator performance and lifetime need to be investigated. Preheater technology and methods of highly efficient stack-gas cleaning are other areas in which significant work is required for MHD base load plants.

Timetable and costs for development—millions of 1971 dollars

By period:

1972	4.2
1973	4.4
1974	4.7
1975	9.5
1976	16.2
1977	14.4
1978	5.0
1979	4.5
1980	30.0
1981 to 1985	120.0
1986 to 1990	25.0
1991 to 1995	----
1996 to 2000	----
By function:	Million
Basic research	12.3
Pilot	39.0
Demonstration	150.0
Continuing research	36.6
Total (19 years)	237.9

Method of Generation: Fuels Cells.

Priority: 2—Very Important.

Description: The fuel cell intended for substation application and installation at isolated locations on distribution circuits would utilize a fossil fuel, air, and water. These would be processed and sent to the hydrocarbon-air fuel cell where chemical reactions would produce dc power. Resultant waste products would be air, water, and heat which could be recycled for the most part in the fully developed system.

Benefits and Goals: The chief goal of fuel cells for substation use is to provide economic generation at dispersed locations on a power system in 10–20 MW blocks. Reduced physical plant investment in transmission lines (resulting in environmental improvement), centralized base-load generating plants, and substation equipment will help provide economic incentive for this method. Air pollution problems should be eased by the employment of fuel cells because of (1) reduced emissions from the cells themselves, and (2) "scattered" sources of emissions. Because of probable modular construction, high reliability can be attained from these units. Siting problems could be minimized if, as predicted, fuel cells could be located in urban areas and areas where water is scarce.

Status of Work: Fuel cells have been developed for use in the United States space program. These were hydrogen-oxygen cells, much too costly and inefficient for power system application. The technology is, however, in hand for the development of hydrocarbon-air fuel cells, and considerable work is presently being carried on in the United States.

Significant Obstacles: Developing multifuel capabilities, achieving higher voltage output, interfacing with electric utilities, meeting desired economic design criteria and operating endurance are the areas of fuel cell development requiring the most effort.

Timetable and costs for development—millions of 1971 dollars

By period:

1972	6.5
1973	8.0
1974	4.0
1975	4.0
1976	3.0
1977	2.0
1978	2.0
1979	2.0
1980	2.0
1981 to 1985	5.0
1986 to 1990	--
1991 to 1995	--
1996 to 2000	--

By function:

Basic Research	9.4
Pilot Plants	8.6
Demonstration (by late 1970's)	10.5
Continuing Research	10.0
Total (14 years)	38.5

Method of Generation: Bulk Electric Storage Batteries.

Priority: 2—Very Important.

Description: Bulk electric storage batteries envisioned for use on power systems would serve a purpose similar to that of pumped storage. During "off-peak" hours, low cost power would be used to charge the batteries (made of materials capable of storing large amounts of power). During peak conditions, the batteries would be connected to the system for power production.

Benefits and Goals: The development of large energy storage batteries would allow more efficient use for installed generating equipment and would eliminate the need of relatively inefficient steam and gas turbines for peaking power. If charged by means of base-load nuclear plants, air pollution would not be associated with this peak power. Dispersed siting near load centers and perhaps even in the cities would be possible with bulk storage batteries.

Status of Work: Most of the work done to date on bulk energy storage batteries has been single cell experiments. Many combinations of electrodes and electrolytes are being tested for maximum energy density, acceptable high temperature performance characteristics, etc. Problem areas are still being identified and actual batteries have not as yet been built. This technology is in its infancy.

Significant Obstacles: Among those problems already identified in storage battery research are materials corrosion at high temperatures, incomplete discharge, and large voltage drops at the electrodes. Systems engineering problems have not been identified at this time, but they are expected to be encountered when we try to incorporate large batteries into our generation mix on the power systems.

Timetable and costs for development—millions of 1971 dollars

By period:

1972	5.0
1973	5.0
1974	6.0
1975	6.0
1976	4.0
1977	4.0
1978	5.0
1979	5.0
1980	5.0
1981 to 1985	5.0
1986 to 1990	10.0
1991 to 1995	----
1996 to 2000	----
By function:	
Basic research	8.0
Pilot models	15.0
Demonstration (by early 1980's)	20.0
Continuing research	17.0
Total (19 years)	60.0

Method of Generation: Unconventional Cycles.

Priority: 3—Important.

Description: The use of helium or CO_2 as a working fluid instead of conventional steam, or the use of two working fluids (e.g., potassium and steam) in the power cycle allows for the rise of higher temperatures and pressures in the plant cycle. For the case of the potassium binary cycle or the helium cycle, special turbines would be required for the power extraction from these fluids. In the binary cycles, the balance of plant is conventional steam.

Benefits and Goals: Unconventional cycles utilizing working fluids other than steam offer increased efficiencies, for the most part, for present day plant designs. Higher efficiencies result in savings of operating dollars and reduced thermal waste. Problems with corrosion are lessened or eliminated by the use of CO_2 or helium in conventional cycles. Binary plants offer increases in efficiency on the order of 15% since power is extracted from high quality heat before the fluid produces steam for the conventional steam cycle, that steam at modern day conditions.

Status of Work: A good number of studies and some tests have been performed on these unconventional cycles. Problem areas have been identified and some engineering solutions have been proposed. Much of this work is interesting because of the capability shared by several of these methods to extract power from very high temperature fluids, making the concepts applicable (perhaps) to high temperature nuclear reactors.

Significant Obstacles: Design, development, and testing of new turbines, shaft seals, condensers, etc. would be required for some of the proposed concepts. Effects of the working fluid on life-time of all equipment would require investigation. There are no apparent technological roadblocks to impede the development of any or all of these unconventional cycles.

Timetable and costs for development—millions of 1971 dollars

By period:

1972	6.0
1973	6.0
1974	9.0
1975	9.0
1976	6.0
1977	4.5
1978	3.0
1979	3.0
1980	3.0
1981 to 1985	7.5
1986 to 1990	---
1991 to 1995	---
1996 to 2000	---
By function:	
Basic Research	11
Pilot Models (by late 1970's)	30
Demonstration	--
Continuing Research	16
Total (14 years)	57

Method of Generation: Solar Energy Conversion.

Priority: 4—Desirable.

Description: Conversion of the sun's energy to electric energy can be accomplished either directly through photovoltaic cells or indirectly by means of collecting and focusing this energy to a point. In the former method, solar cells convert a portion of the energy incident to them by means of voltage differences between materials of the cell. In the latter method, the sun's energy is used to produce steam, which is then sent through a conventional steam plant.

Benefits and Goals: Solar energy conversion offers free fuel and greatly reduced environmental intrusion. Large land area requirements would be the only intrusion by a scheme utilizing photovoltaic cells for the direct conversion.

Status of Work: Virtually all of the work done on the development of solar energy conversion schemes has been done in connection with the United States space program. Satellites are currently being powered by solar cells. Only recently have the efforts of the scientists and engineers in the solar energy conversion field been turned toward the commercial application of solar cells.

Significant Obstacles: Discouragingly low efficiencies (on the order of 10%) of present day solar cells, and the very high cost of producing these cells are the two most significant obstacles. Low efficiency requires huge land area for a sizable power plant. Increasing the efficiency of the cells to 20% (as some feel possible) would reduce the land area required for the same plant by 50%. Development of auxiliary equipment for fully deveoped plants is another area where significant work is required.

Timetable and costs for development—millions of 1971 dollars

By period:

1972	3.0
1973	3.0
1974	4.0
1975	4.0
1976	4.0
1977	8.0
1978	10.0
1979	15.0
1980	17.0
1981 to 1985	45.0
1986 to 1990	30.0
1991 to 1995	15.0
1996 to 2000	10.0
By function:	
Basic research	22.0
Pilot models (late 1970's)	22.0
Demonstration (mid-1980's)	50.0
Continuing research	76.0
Total (29 years)	168.0

Method of Generation: Magnetohydrodynamics (MHD)—liquid metal.

Priority: 4—Desirable.

Description: The differences between a liquid metal MHD generator and a plasma MHD generator are basically two: (1) the working fluid; and (2) the method of power extraction. In a liquid metal MHD unit, the power is extracted as alternating current by taking advantage of the difference in velocity between the fluid and the applied magnetic field.

Benefits and Goals: Liquid metal MHD appears promising since, due to its operation at lower temperatures, no significant materials breakthroughs seem to be required for its development. Used as a topping cycle, this concept would afford increased efficiency with its related benefits.

Status of Work: Work done in the past has shown that power can be extracted from an induction liquid metal MHD generator. However, predicted efficiencies and performance have not been reached for a number of reasons. Some work on this concept is still continuing, both in the U.S. and abroad.

Significant Obstacles: Problems with generator performance have been uncovered during model testing of these generators. Failure to completely understand and compensate for these difficulties has resulted in an inability to attain the level of performance predicted for this concept. Specifically, claimed increases in efficiency have not been realized in units suitable for power system application. Increased understanding of the systems engineering problems and component problems is necessary.

Timetable and costs for development—millions of 1971 dollars

By period:

1972	0.3
1973	.8
1974	.8
1975	1.0
1976	1.0
1977	2.0
1978	2.0
1979	5.0
1980	5.0
1981 to 1985	10.0
1986 to 1990	5.0
1991 to 1995	
1996 to 2000	
By function:	
Basic research	7.4
Pilot models	3.0
Demonstration (by mid-1980's)	10.0
Continuing research	12.5
Total (19 years)	32.9

Method of Generation: Magnetohydrodynamics (MHD)—Closed cycle plasma.

Priority: 4—Desirable.

Description: The basic principle underlying the operation of closed cycle plasma MHD is the same as that for open cycle MHD—conversion of thermal and kinetic energy of the flowing plasma to electric power. Seeding of the plasma is not required (but is sometimes used) for this concept since high conductivity is attained by means of "non-equilibrium thermal ionization" of the hot gas. Lower temperatures are required for this method than are necessary for open cycle operation.

Benefits and Goals: The closed cycle concept is aimed at a central station, base load application. Its use for topping a nuclear cycle is proposed, thus allowing the use of the very high quality heat available from the reactor cores. Increased overall cycle efficiencies are, therefore, the chief benefit to be realized from this concept. Associated environmental effects (i.e. decreased thermal pollution) and economic benefits are predicted as a result of the higher efficiency.

Status of Work: Much laboratory work has been carried on in both the United States and abroad to investigate the properties of the plasma in the non-equilibrium ionization mode. Problems have been encountered in maintaining the stability of the plasma under this condition. However, recent investigations abroad have been aimed at determining the criticality of maintaining plasma stability. Early results seem to indicate operation of a closed cycle plasma MHD generator may be possible even with plasma instabilities. This work is proceeding.

Significant Obstacles: At present, the plasma stability problem is still considered to be the most difficult concern. The engineering problems associated with the topping of a nuclear reactor have not been explored in depth, and this could prove to be a difficult problem.

Timetable and costs for development—millions of 1971 dollars

By period:	
1972	1.0
1973	1.0
1974	1.0
1975	1.5
1976	1.5
1977	2.0
1978	2.0
1979	2.5
1980	2.5
1981 to 1985	25
1986 to 1990	45
1991 to 1995	20
1996 to 2000	10
By function:	
Basic Research	6.0
Pilot Models (by early 1980's)	12.5
Demonstration (by late 1980's)	66.5
Continuing Research	30.0
Total (29 years)	115.0

Method of Generation: Thermionic Conversion.

Priority: 4—Desirable.

Description: Thermionic converters utilize heat applied to an electrode to "boil off" electrons. The electrons cross a gap, usually occupied by a highly conductive vapor such as cesium, and are collected on a cooler electrode. Power is extracted from the process by connecting a load between the emitter and the collector, allowing the higher potential electrons at the collector to flow through the load back to the emitter, thus completing the circuit.

Benefits and Goals: The thermionic converter is proposed as a topping cycle for either nuclear or fossil-fired plant. In either case, the converter would be very near the heat source (in the reactor or furnace) and rejected heat (cooling the collector) would be transferred to the working fluid of a conventional cycle. Higher efficiencies are projected and the thermionic converter itself would cause no pollution problems, bringing about a reduction in overall plant waste heat, and savings in capital investment on the power system.

Status of Work: Studies have been done to show the expected magnitude of increased efficiencies when the converter is applied on a coal fired unit. 10% increases have been projected. In-core reactor studies and tests are currently underway. Similar efficiency increases are projected for this application.

Significant Obstacles: The effect of a coal environment on the thermionic converter electrodes could be a problem. Relatively few hours have been accumulated by electrodes in a coal environment, leaving an incomplete knowledge of the problem. Radiation damage to insulators and the accumulation of fission products on the electrodes are problems with the in-core approach. Fundamental tests investigating these areas could prove fruitful.

Timetable and costs for development—millions of 1971 dollars

By period:	
1972	1.0
1973	1.0
1974	2.0
1975	2.0
1976	3.0
1977	3.0
1978	2.0
1979	2.0
1980	1.0
1981 to 1985	2.5
1986 to 1990	2.5
1991 to 1995	
1996 to 2000	
By function:	
Basic research	6.5
Pilot models (early 1980's)	2.5
Demonstration	
Continuing research	13.0
Total (19 years)	22.0

Method of Generation: Geothermal and Air Storage Peaking.

Priority: Suggested for Private Support.

Description: The methods named above have a potential place in electric power generation of the future. However, due to specific requirements for the several concepts, their application is limited to certain geographic segments of the country.

Benefits and Goals: Each concept offers its own unique advantages and all appear to be feasible under the conditions dictated for their application.

Status of Work: Feasibility has been shown and work is currently underway to either sell or develop these methods.

Significant Obstacles: Suitability and applicability to relatively minor segments of the industry do not appear to warrant industry-wide participation in the development of these concepts.

Timetable and Costs for Development: No recommendation.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

GULF RESEARCH AND DEVELOPMENT TAKES THE LEAD IN POLLUTION PREVENTION

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. COLLINS of Texas. Mr. Speaker, for their positive innovations in protecting America against industrial pollution Gulf Research & Development has been awarded a first place in Petroleum Engineer's environmental control development program. Gulf was recognized for developing a process that substantially reduces the sulfur content of residual fuel burned in industrial production and power generation.

The subject of environment is becoming more and more important to Americans. We greatly appreciate the tremendous efforts of Gulf Research & Development and the petroleum industry as a whole as they develop new methods of protecting ecology.

Gulf Research & Development was recognized as follows for their new program for emissions control during processing and manufacturing:

Gulf Research & Development Co.'s residual hydrodesulfurization process (HDS) can substantially reduce sulfur content of residual fuel oil burned for industrial production and power generation.

Its original design, proved out during the last year and a half in commercial application, is capable of reducing sulfur content in Kuwait residual oil from 4% to 1%. New developments offer further reduction to .5%, well within generally established guidelines for air purity in most of the world, and possibly as low as .3%.

After 30 years of research and development, engineering design, materials study, and a total expenditure of about $20,000,000, Gulf HDS has been successfully commercialized.

Most residual fuels contain high levels of sulfur (typically, 2–5%). Burning of such fuels obviously pollutes the atmosphere with sulfur oxides and cannot be tolerated. Reduction of sulfur contents is difficult because residuals contain contaminants, principally vanadium- and nickel-organo compounds.

In the process of removing sulfur by hydrogenation, the vanadium and nickel are deposited on the catalyst. Normal desulfurization catalysts thus lost activity rapidly, cycle life is short and processing cost is prohibitive. Oxidative regeneration of these used catalysts is unsuccessful since vanadium sulfates are formed, which poison hydrogenation activity.

Thus, a catalyst was needed which would (1) tolerate a large amount of deposited vanadium and nickel without losing hydrogenation activity and (2) be cheap enough to be economically used in a single cycle and then replaced with fresh catalyst. Gulf's catalyst meets these requirements—retains activity while accumulating as much as 65% of the contaminants, the company says.

First commercialization of Gulf HDS process was made in Nippon Mining Co.'s refinery at Mitsushima, Japan. Unit was designed to process 27,760 bpsd of Kuwait atmospheric tower bottoms (4% sulfur) to produce a residual fuel of 1% sulfur. The operation was designed for a 6-month operating cycle as desired by the refiner. Started up in January of 1970, the plant has operated successfully ever since. Operations, including startups and shutdowns, have been smooth and each cycle produced 1% sulfur residual fuel for six months as designed, Gulf said. The fourth cycle has been started.

About 15 million bbl of 1% sulfur fuel oil have been produced—with potential sulfur pollutant to the atmosphere reduced by 76,000 tons.

Two additional Gulf HDS, now in design and construction stages, will have a total capacity of reducing the sulfur contents of 80,000 b/d of Kuwait residual to 1%, the company said.

Recently Gulf has developed a modification of the process (HDS-Type III) by which Kuwait atmospheric tower residual (4% sulfur) can be reduced in sulfur content to 0.5%.

BELOIT, WIS.—CANDIDATE FOR THE ALL-AMERICAN CITY AWARD

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. ASPIN. Mr. Speaker, it is my pleasure to call to the attention of the Members of the House the following article which appeared in the Milwaukee Journal on Monday, October 25, about Beloit, Wis. Beloit is an excellent candidate for the All-American City Award and I am personally delighted that Beloit has been nominated.

The article follows:

WORKING TOGETHER PAYS OFF IN BELOIT

BELOIT, WIS.—The president of the Beloit City Council, Everett C. Haskell, feels that this city was nominated for the All-American Cities Award because it is "a community that knows how to work together."

Beloit recently was named as one of a dozen or so candidates for the national award.

"We have a tremendous amount of community functions and citizens take an active part so the residents know what's going on in government," Haskell said.

He said citizen committees had helped solve problems of labor relations, urban renewal, welfare, wage negotiations and race.

"We get along very excellently with the minorities here because everyone takes part," he said.

This city of 35,000 on the Wisconsin-Illinois border is a heavy industrial town.

It has a seven man city council and has had a city manager, a position now held by Herbert Holt, for 40 years. Haskell said the city manager form of government was more efficient and business like.

The city manager has a job to do; he's not politicking from the time he gets in, and it works out better that way when it's just a job and not an office," Haskell said.

Haskell also said that the City Council regularly asked classes at Beloit College to do research for the city.

A few years ago when the city was in the midst of wage negotiations with city employes, city officials asked the school to collect statistics on pay scales in other cities.

"They got the statistics for us and it was a valuable experience for them . . .," he said, adding that citizen participation like that was the key to clean government.

The contest is sponsored by the National Municipal League. The winner will be named Nov. 15 during the league's convention at Atlanta.

PAPER ON A POPULATION DISTRIBUTION POLICY

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. ALEXANDER. Mr. Speaker, in recent years the Members of the Congress and many other national leaders have been expressing varying levels of concern over demographic patterns within the Nation. Numerous studies have been made on the crisis created within our major cities and metropolitan areas by increasing densities of population. A few of these studies have also touched on the tragic and continuing disappearance of our smaller towns and communities.

Some note has been taken of the adverse economic, social, and health effects growing populations have on metropolitan areas. There is now also some attention being given to the detrimental effect that diminished populations have on the future of community development and job opportunities in nonmetropolitan areas.

During the community development hearing which I recently held in Walnut Ridge, Ark., Dr. C. Clyde Jones, chairman of the division of political science, sociology and geography at the Arkansas State University, presented excellent testimony which bears directly on this problem.

I would like to share that information with my colleagues today.

Dr. Jones' testimony follows:

PAPER ON A POPULATION DISTRIBUTION POLICY

(Presented to Community Development Proposal Hearing, October 23, 1971, Walnut Ridge, Ark., by Dr. C. Clyde Jones, chairman of the Division of Political Science, Sociology, and Geography, Arkansas State University)

INTRODUCTION

A population distribution policy should be adopted to encourage a more rapid growth rate for the country's less densely populated regions. The question whether the United States should have a population distribution policy is relevant. There are historical precedents for such a policy. In the first hundred years of our history, the government pursued a deliberate policy of dispersing people westward. The government subsidized railroads and river navigation. It opened public lands for homestead and built roads. Once the frontier ended, governmental programs continue to encourage a balanced regional development by such programs as electric power projects and the depressed areas legislation of the 1960's. With the heavy concentration of votes in large metropolitan areas, Congress has been reluctant to pass legislation to encourage economic developments in middle-sized centers. This attitude needs to be changed.

POPULATION CONCENTRATION

The present trend in population settlement in the United States is toward a concentration in metropolitan areas and this needs to be slowed or reversed. Population concentration is the result of employer-established job patterns in which the people have been forced to follow. The job patterns have been created by considerations of economic efficiency.[3] In strictly economic terms, concentration of industry in large population centers is an advantage.[3] But in terms of social costs (crime, pollution, slums, welfare expenditures, commuting time, and loss of community), this concentration is seriously questioned.

CAUSES OF POPULATION CONCENTRATION

Some young people go to the large cities in search of adventure, entertainment, and opportunity for economic advancement. For the most part, however, the migrants have little preparation for life in the large city. Most of the uprooted rural and town people inevitably find their destination in the slums of metropolitan areas. These displaced individuals are indirectly forced into the migration stream by economic forces beyond their control. The distribution and concentration of population is largely due to the distribution of jobs.[3] Governmental policies toward agriculture, business, education, and highways give impetus to this concentration.

SOCIAL COSTS OF POPULATION COCENTRATION

The concentration of jobs in large metropolitan areas causes the migrant families to lose their most cherished associations and sense of community identity. It is time to consider the social and economic costs to the heavy concentration of our population in metropolitan areas. These social and economic costs are presented by Mr. James L. Sundquist, a Senior Fellow in the Governmental Studies program at the Brookings Institution:

It seems reasonably clear that our largest urban concentrations have grown well beyond the point at which diseconomies of scale begin to show. The costs of moving people and things within large metropolitan areas are demonstrably greater than the costs of moving them in smaller population centers. Commuting distances are obviously longer, the time loss greater, the costs higher.

There are enormous costs as well as appalling cruelties in the forced displacement and migration of populations. . . . Some of the migrants are too ill-prepared, too sick, or too poor to adjust to city life successfully; many of them wind up on welfare and they burden every kind of institution.[4]

Many of these migrants move to the slums and require a higher per capita cost for health, fire, and police protection. The per capita cost for unemployment and welfare is also higher. The highest crime rates in the country are in the slums. There are some unmeasured costs to this migration, such as urban congestion, noise, loss of privacy and freedom, reduction in security, pollution of the air and water, and destruction of wildlife and recreational opportunities.[5]

Due to these considerations it is concluded that our largest metropolitan areas are less governable, less desirable places to live, and economically less sound than smaller communities. If this is true, it is in the public interest to encourage the dispersion of our population. It is safe to assume that a majority of population migration is involuntary. A population distribution pattern could be designed to encourage people to remain where they desire to live.

Most people move to the city because of economic pressures. Many go home eagerly as soon as the economic opportunity arises. A Gallup poll in 1968 revealed that 56 percent of the American people prefer a rural life if they had a choice.[6] A governmental policy should be adopted to permit people to live and work where they desire whether it be in the big city or smaller community. With a large number of migrants to the big city, the problems of our large cities are enormous and becoming increasingly more severe with time. The solution to these problems seems to call

Footnotes at end of article.

for a reduction of the migration to our large cities.

A PROGRAM FOR NATIONAL POPULATION DISPERSION

A program should be adopted to create a rural-urban balance. In order to create this balance, towns and smaller cities must improve their offerings and amenities. This improvement should encourage an accelerated rate of growth in smaller economic centers of the less densely populated regions.

Jobs should be created where the people live and want to remain. Tax incentives have proven to be an effective method of stimulating investment for economic growth. If tax incentives were available for specified types of new industry for the desired spatial population distribution, the desired rural-urban balance could be achieved.

SIZE OF CITIES TO ENCOURAGE GROWTH

The economies of scale cannot be totally ignored. There are advantages in larger towns and cities. It is likely that the quality of service will be higher with lower prices in large towns and small cities than in small towns.[7] In 1960, 58.3 percent of the population in the United States lived in rural areas or in cities under 50,000. "At least since 1920, the class of cities with the largest single segment of the nation's urban population (and it is also the fastest growing segment) has been that of the 10,000 to 50,000 group."[8] This very well may be the size of the community that people desire most to live. If this is the case, serious consideration should be given for the government to encourage industry to locate in cities of this size. Most people in Arkansas live in or within commuting distance of a city of this size. If no city of this size exists within commuting distance, a smaller city should be assisted by the federal government to grow.

INVESTMENT IN HUMAN CAPITAL

Skills and knowledge are a form of capital. Expenditures on education and health to take advantage of better job opportunities are examples of this investment.[9] Investment in human capital can be easily justified as it strengthens the national security of the United States. The government discriminates against human capital as it permits depreciation allowances for worn out machines and investment credit for new machines. The investment in human capital, however, receives no such favored treatment. Tax credit should be available to restrain workers for new skills. It is good business to invest in human capital to make taxpayers out of welfare recipients.

Change in farm policy

Our federal government has not come to grips with the costs of off-farm migration. Our subsidy programs encourage the big farmer to get bigger and the marginal farmer to go out of business. Soil bank subsidies have reduced farm employment. This needs to be reconsidered.

Encourage youth to remain at home

The largest labor force growth in 1960's was among the 16–24 age group. During the 1970's the dramatic increase will be the 25–34 age bracket. The workers of this age bracket will be far better educated than those of the same group in the 1960's[10] It will be an economic advantage to the less densely populated areas to keep these prime age workers. The federal government should subsidize on the job training.

There is a slowed growth in overall teenage labor force which will reduce unemployment. The youth labor force (ages 16–19) increased by forty-three percent in the 1960's but will be only eleven percent in the 1970's. It is essential to devote more energy and effort to providing improved recreational facilities and programs to occupy young people. This would likely reduce drug usage, juvenile delinquency, and crime. If these young people can be satisfied, they are more likely to remain in their nature area.

Encourage women employment

The increasing number of working women indicates the need for day care and more female oriented jobs. Tax incentives should be granted to industries, employing high percentage of women workers, to locate in less densely populated areas. The proportion of women in the labor force will continue to increase, with married women accounting for most of the increase. The number of women at work in 1980 will double the 1950 figure. "Working wives make significant contributions to total family income. In each income bracket women contribute about one-fourth or more of the family income."[11] This makes it highly desirable to encourage an increasing number of jobs for women to keep the families in less densely populated areas.

Train more service workers

Employment will continue to increase in white collar and service occupations. "White collar workers will outnumber blue-collar by more than fifty percent in 1980."[12] Schools must change their emphasis to meet this need. "The largest number of employment opportunities will continue to be in the service producing industries."[13]

Before World War II more workers produced goods than provided services. By 1980 service producing industries will provide twice as many jobs as goods producing industries. In order to meet these requirements, the federal government should provide opportunities to train or retrain potential workers. Increasing emphasis should be placed on training white collar and service workers. At the present time approximately ninety-six percent of all expenditures for post-high school education is spent on college education. Many college professions are already overcrowded. Strong consideration should be given to reducing this high proportion. More efforts must be directed to vocational training with increasing emphasis on testing and counseling students to enter areas for which they have proper aptitudes. The students should be trained in fields of potential employment.

Modernize local governmental structure

City and county governments need sufficient power to carry out the desires of their people without unnecessary restrictions imposed by the State. Cities should be given increased power over their own local affairs.[14] Cities should be given increased powers to tax to meet the growing needs of government. The structure of state and local governments should be reorganized to improve efficiency.

Improve transportation system

Federal and state governments should take the initiative in the improvement of our highway system. This is essential to attract industry. It is also necessary to improve the commuting distances of workers. This will encourage individuals in less populated regions to remain in their native community.

Conclusion on national population distribution policy

It is the judgment of the author that a national population distribution policy should be established to encourage a more rapid growth rate for the country's less densely populated cities. The federal government should take the leading role in this endeavor. The above discussed programs will go a long way toward the establishment of a successful national population distribution policy to permit people to live and work where they desire.

A PROGRAM FOR ARKANSAS

Although the state had a 7.7 percent population increase in the 1960's, there was a net outmigration of 51,022 persons. A net outmigration of 433,000 persons occurred from 1950–1960.[15] Of this amount, whites accounted for 283,000. The state of Arkansas experienced during the 1960's a reversal of the white outmigration of the 1950's, and a continuation of the non-white outmigration pattern.[16] The rate of outmigration has steadily declined since 1950. There was a net in-migration of 43,036 whites in the 1960's.

The attached map of Arkansas reveals that most of the outmigration occurred in the First Congressional District. A net outmigration of 79,457 from this district in the 1960's indicates the problem for this area. Mississippi county had a net outmigration of 20,335 of which about sixty percent were white.

Feasibility of rural-urban balance in the south

Cities of the South with less dense population and smaller size can meet the tests of economic efficiency and support a way of life with access to the open country. "This balance of the urban and rural ways of life has often been advocated but rarely achieved."[17]

The feasibility of the South developing the rural-urban balance is presented by Rupert Vance and Sara Smith as follows:

It should not be forgotten that the patterning of urban location in the South took place under the domination of the cotton economy. Whereas financial control centered in several futures markets and in points of export like New Orleans, the actual buying, collecting, and storing of cotton was spread among many small communities around railroad stations, cotton gins, and crossroads stores. This has resulted in very few large cities and many towns of even size rather than the sharply competitive grading of population in an industrialized area.

Instead there has grown up a number of well spaced, fairly evenly populated, middle-sized centers which should have considerable autonomy over their surrounding areas, the pattern set down by the old agricultural economy.[18]

The South is conducive to a policy of encouraging its population to remain in their native area. Our policy should be to keep what we have and improve it. These middle-sized population centers of 10,000 to 50,000 people should be encouraged to grow. Most workers in Arkansas are within commuting distance of a city of this size. The larger cities do not need the farm migrants in their slums. The small towns are not capable of economic efficiency to cope with increased numbers. Some degree of population concentration is an economic advantage. It is, therefore, my judgment that our policy should be directed toward improving the amenities of these medium sized centers. This can be achieved by the adoption of some of the above proposals plus those suggested by those to follow. The limitations on floating industrial bonds should be reduced to permit local governments to encourage industry to locate in their area.

In order to meet the objective of rural-urban balance, it will require the support of federal, state, county, and city governments as well as the business community. Presently, our cities are in serious trouble. The solution is to stop the influx of migrants to the city slums. The best way to achieve this is to make jobs available in the less densely populated areas as Arkansas so the people may live where they want to live. It is time for Congressmen from urban districts to unite with Congressmen from the less densely settled areas to sponsor and implement a program to achieve the objective of desired population dispersion.

Footnotes at end of article.

FOOTNOTES

[1] James L. Sundquist, "Where Shall They Live," *The Brookings Institution* (Washington, D.C., 1970), p. 90.

[2] P. Sargent Florence, *The Metropolis in Modern Life*, (Garden City: Doubleday and Company, Inc., 1955), pp. 91, 93.

[3] Sunquist, *op. cit.*

[4] *Ibid.*, pp. 92, 93.

[5] *The Report of the President's Task Force on Economic Growth*, "Policies For American Economic Progress In the Seventies," (U.S. Printing Office, May, 1970), p. 7.

[6] Sundequist, *op. cit.*, p. 93.

[7] Marion Clawson, "Factors and Forces Affecting the Optimum Rural Settlement Pattern in the United States," *Resources For The Future, Inc.*, (Washington, D.C., 1966), p. 289.

[8] Daniel Elazar, "Are We a Nation of Cities," *The Public Interest*, (New York, 1966), p. 43.

[9] Theodore W. Schultz, "Investment in Human Capital," *The American Economic Review*, Vol. LI (March, 1961), p. 1.

[10] *Department of Labor*, "United States Manpower in the 1970's," (U.S. Printing Office, 1970), pp. 2–3.

[11] *Ibid.*, pp. 8–9.

[12] *Ibid.*, p. 10.

[13] *Ibid.*, p. 14.

[14] *Arkansas Constitutional Revision Study Commission*, "Revising The Arkansas Constitution," (Little Rock, 1968), p. 9.

[15] Industrial Research and Extension Center, "Arkansas Population Migration Estimates, 1960–1970," *College of Business Administration University of Arkansas* (Little Rock, 1971), p. 1.

[16] *Ibid.*, p. 2.

[17] Rupert Vance and Sara Smith, *The Urban South*, (Chapel Hill: The University of North Carolina Press, 1954), pp. 120, 122.

[18] *Ibid.*, p. 120.

APPENDIX A

COMPONENTS OF ARKANSAS POPULATION CHANGES, 1960–70, BY COUNTIES

County	1970 population	1960 population	Births	Deaths	Natural increase	Net Migration	
						Number	Percent[1]
Arkansas	23,347	23,355	5,332	2,429	2,903	−2,911	−12.5
White	18,009	17,584	3,450	1,821	1,629	−1,204	−6.8
Negro and other	5,338	5,771	1,882	608	1,274	−1,707	−30.7
Ashley	24,976	24,220	5,702	2,245	3,457	−2,701	−11.0
White	17,373	15,337	3,224	1,323	1,901	135	0.8
Negro and other	7,603	8,883	2,478	922	1,556	−2,836	−34.4
Baxter	15,319	9,943	1,669	1,607	62	5,314	42.1
Benton	50,476	36,272	7,580	5,228	2,352	11,852	27.3
Boone	19,073	16,116	3,070	1,931	1,139	1,818	10.3
Bradley	12,778	14,029	2,532	1,656	876	−2,127	−15.9
White	8,751	9,109	1,376	1,136	240	−598	−6.7
Negro and other	4,027	4,920	1,156	520	636	−1,529	−34.2
Calhoun	5,573	5,991	674	639	35	−453	−7.8
White	3,796	3,882	309	429	−120	34	0.9
Negro and other	1,777	2,109	365	210	155	−487	−25.1
Carroll	12,301	11,284	1,834	1,590	244	773	6.6
Chicot	18,164	18,990	4,479	2,380	2,099	−2,925	−15.8
White	8,311	8,179	1,343	833	510	−378	−4.6
Negro and other	9,853	10,811	3,136	1,547	1,589	−2,547	−24.7
Clark	21,537	20,950	3,506	2,248	1,258	−671	−3.2
White	16,703	15,528	2,334	1,620	714	461	2.9
Negro and other	4,834	5,422	1,172	628	544	−1,132	−22.1
Clay	18,771	21,258	3,496	2,396	1,100	−3,587	−17.9
Cleburne	10,349	9,059	1,511	1,096	415	875	9.0
Cleveland	6,605	6,944	1,131	801	330	−669	−9.9
White	5,270	5,239	765	616	149	−118	−2.3
Negro and other	1,335	1,705	366	185	181	−551	−36.3
Columbia	25,952	26,400	4,898	2,625	2,273	−2,721	−10.4
White	16,798	16,887	2,414	1,656	758	−847	−5.0
Negro and other	9,154	9,513	2,484	969	1,515	−1,874	−20.1
Conway	16,805	15,430	3,053	1,741	1,312	63	.4
White	13,871	12,003	2,190	1,384	806	1,062	8.2
Negro and other	2,934	3,427	863	357	506	−999	−31.4
Craighead	52,068	47,303	9,587	4,320	5,267	−502	−1.0
Crawford	25,677	21,318	4,537	2,470	2,067	2,292	9.8
Crittenden	48,106	47,564	13,654	4,533	9,121	−8,579	−17.9
White	25,254	19,461	4,746	1,465	3,281	2,512	11.2
Negro and other	22,852	28,103	8,908	3,068	5,840	−11,091	−43.5
Cross	19,783	19,551	4,496	1,900	2,596	−2,364	−12.0
White	14,243	13,640	2,814	1,243	1,571	−968	−6.9
Negro and other	5,540	5,911	1,682	657	1,025	−1,396	−24.4
Dallas	10,022	10,522	1,795	1,367	428	−928	−9.0
White	6,147	6,332	811	885	−74	−111	−1.8
Negro and other	3,875	4,190	984	482	502	−817	−20.3
Desha	18,761	20,770	5,120	2,025	3,095	−5,104	−25.8
White	10,557	10,784	1,973	905	1,068	−1,295	−12.1
Negro and other	8,204	9,986	3,147	1,120	2,027	−3,809	−41.9
Drew	15,157	15,213	3,011	1,598	1,413	−1,469	−9.7
White	10,596	10,052	1,653	1,057	596	−52	−0.5
Negro and other	4,561	5,161	1,358	541	817	−1,417	−29.2
Faulkner	31,572	24,303	5,076	2,523	2,553	4,716	16.9
White	28,546	21,699	4,244	2,248	1,996	4,851	19.3
Negro and other	3,026	2,604	832	275	557	−135	−4.8
Franklin	11,301	10,213	1,938	1,355	583	505	4.7
Fulton	7,699	6,657	1,019	889	130	912	12.7
Garland	54,131	46,697	8,789	7,724	1,065	6,369	12.6
White	48,772	41,691	7,344	6,852	492	6,589	14.6
Negro and other	5,359	5,006	1,445	872	573	−220	−4.3
Grant	9,711	8,294	1,353	868	485	932	10.4
Greene	24,765	25,198	4,157	2,460	1,697	−2,130	−8.5
Hempstead	19,308	19,661	3,375	2,593	782	−1,135	−5.8
White	12,862	12,330	1,780	1,756	24	508	4.0
Negro and other	6,446	7,331	1,595	837	758	−1,643	−23.9
Hot Spring	21,963	21,893	3,606	2,115	1,491	−1,421	−6.5
White	19,089	18,693	2,901	1,808	1,093	−697	−3.7
Negro and other	2,874	3,200	705	307	398	−724	−23.8
Howard	11,412	10,878	2,059	1,355	704	−170	−1.5
White	9,016	8,610	1,401	1,093	308	98	1.1
Negro and other	2,396	2,268	658	262	396	−268	−11.5
Independence	22,723	20,048	3,497	2,439	1,058	1,617	7.6
Izard	7,381	6,766	887	798	89	526	7.4
Jackson	20,452	22,843	4,439	2,304	2,135	−4,526	−20.9
White	17,392	19,373	3,498	1,822	1,676	−3,657	−19.9
Negro and other	3,060	3,470	941	482	459	−869	−26.6
Jefferson	85,329	81,373	18,745	8,306	10,439	−6,483	−7.8
White	50,198	45,915	9,501	4,108	5,393	−1,110	−2.3
Negro and other	35,131	35,458	9,244	4,198	5,046	−5,373	−15.2
Johnson	13,630	12,421	2,010	1,656	354	855	6.6
Lafayette	10,018	11,030	2,120	1,302	818	−1,830	−17.41
White	5,655	6,051	769	704	65	−461	−7.9
Negro and other	4,363	4,979	1,351	598	753	−1,369	−29.3
Lawrence	16,320	17,267	3,100	1,982	1,118	−2,065	−12.3
Lee	18,884	21,001	5,120	2,020	3,100	−5,217	−26.2
White	7,931	8,167	1,727	664	1,063	−1,299	−16.1
Negro and other	10,953	12,834	3,393	1,356	2,037	−3,918	−32.9
Lincoln	12,913	14,447	2,858	1,262	1,596	−3,130	−22.9
White	7,466	7,430	1,159	577	582	−546	−7.3
Negro and other	5,447	7,017	1,699	685	1,014	−2,584	−41.5
Little River	11,194	9,211	1,995	1,124	871	1,112	10.9
White	8,115	6,326	1,186	793	393	1,396	19.3
Negro and other	3,079	2,885	809	331	478	−284	−9.5
Logan	16,789	15,957	2,691	2,111	580	252	1.5
Lonoke	26,249	24,551	5,367	2,656	2,711	−1,013	−4.0
White	21,356	18,690	3,551	2,030	1,521	1,145	5.7
Negro and other	4,893	5,861	1,816	626	1,190	−2,158	−40.1
Madison	9,453	9,068	1,547	1,070	477	−92	−1.0
Marion	7,000	6,041	846	817	29	930	14.3
Miller	33,385	31,686	6,703	3,574	3,129	−1,430	−4.4
White	25,661	23,541	4,614	2,524	2,090	30	.1
Negro and other	7,724	8,145	2,089	1,050	1,039	−1,460	−18.4
Mississippi	62,060	70,174	18,285	6,064	12,221	−20,335	−30.8
White	45,329	49,343	11,820	3,860	7,960	−11,974	−25.3
Negro and other	16,731	20,831	6,465	2,204	4,261	−8,361	−44.5
Monroe	15,657	17,327	3,815	1,881	1,934	−3,604	−21.9
White	8,765	8,888	1,674	924	750	−873	−9.9
Negro and other	6,892	8,439	2,141	957	1,184	−2,731	−35.6
Montgomery	5,821	5,370	787	637	150	301	5.4
Nevada	10,111	10,700	1,704	1,337	367	−956	−9.2
White	6,788	6,843	886	948	−62	7	.1
Negro and other	3,323	3,857	818	389	429	−963	−26.8
Newton	5,844	5,963	946	565	381	−500	−8.5
Ouachita	30,896	31,641	5,502	3,270	2,232	−2,977	−9.5
White	19,657	19,450	2,731	1,997	734	−527	−2.7
Negro and other	11,239	12,191	2,771	1,273	1,498	−2,450	−20.9
Perry	5,634	4,927	924	587	337	370	7.0
Phillips	40,046	43,997	11,552	4,657	6,895	−10,846	−25.8
White	18,247	18,552	3,913	1,598	2,315	−2,620	−14.2
Negro and other	21,799	25,445	7,639	3,059	4,580	−8,226	−34.6
Pike	8,711	7,864	1,390	1,086	304	543	6.6
Poinsett	26,822	30,834	6,944	2,515	4,429	−8,441	−29.3
White	24,465	27,585	5,821	2,167	3,654	−6,774	−26.0
Negro and other	2,357	3,249	1,123	348	775	−1,667	−59.5
Polk	13,297	11,981	1,955	1,745	210	1,106	8.8
Pope	28,607	21,177	4,505	2,378	2,127	5,303	21.3
Prairie	10,249	10,515	1,848	1,092	756	−1,022	−9.8
White	8,517	8,571	1,374	900	474	−528	−6.2
Negro and other	1,732	1,944	474	192	282	−494	−26.9
Pulaski	287,189	242,980	61,018	24,237	36,781	7,428	2.8
White	227,175	190,777	44,245	17,466	26,779	9,619	4.6
Negro and other	60,014	52,203	16,773	6,771	10,002	−2,191	−3.9
Randolph	12,645	12,520	2,196	1,368	828	−703	−5.6
St. Francis	30,799	33,303	9,263	3,091	6,172	−8,676	−27.1
White	16,092	14,324	3,335	1,323	2,012	−244	−1.6
Negro and other	14,707	18,979	5,928	1,768	4,160	−8,432	−50.1
Saline	36,107	28,956	5,433	2,419	3,014	4,137	12.7
Scott	8,207	7,297	1,270	823	447	463	6.0
Searcy	7,731	8,124	1,262	969	293	−686	−8.7
Sebastian	79,237	66,585	16,300	7,327	8,973	3,579	4.9
Sevier	11,272	10,156	1,842	1,355	487	629	5.9
Sharp	8,233	6,319	965	859	106	1,808	24.9
Stone	6,838	6,294	937	632	305	239	3.6
Union	45,428	49,518	9,346	5,144	4,202	−8,292	−17.5
White	31,965	34,447	5,197	3,504	1,693	−4,175	−12.6
Negro and other	13,463	15,071	4,149	1,640	2,509	−4,117	−28.9
Van Buren	8,275	7,228	1,098	896	202	845	10.9
Washington	77,370	55,797	13,089	5,741	7,348	14,225	21.4
White	39,253	32,745	6,420	3,889	2,531	3,977	11.1
Woodruff	11,566	13,954	2,922	1,483	1,439	−3,827	−30.0
White	7,491	8,202	1,460	890	570	−1,281	−16.3
Negro and other	4,075	5,752	1,462	593	869	−2,546	−51.8
Yell	14,208	11,940	2,230	1,489	741	1,527	11.7
Arkansas State	1,923,295	1,786,272	381,693	193,648	188,045	−51,022	−2.8
White	1,561,108	1,395,703	271,526	149,157	122,369	43,036	2.9
Negro and other	362,187	390,569	110,167	44,491	65,676	−94,058	−25.0

[1] Percent migration based on midperiod population.

Source: Derived from U.S. censuses, 1960 and 1970, and annual vital statistics reports.

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APPENDIX B

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APPENDIX C

Observation and Recommendations for Local Government in Arkansas

The Arkansas Constitutional Revision Study Commission in its Report to the Governor and to the Sixty-Sixth General Assembly of the State of Arkansas made the following recommendations and observations pertaining to local government:

City and county governments should have sufficient power to carry out the wishes of the people whom they govern without unnecessary restrictions imposed by the State. On the basis of this goal, The Local Government Committee brought up these points:

(a) The structure of county government in Arkansas is tailored to the needs of an agrarian age and offers no flexibility to fit the great variations between population sizes and economic conditions in counties of Arkansas today.

(b) Duties of some of the numerous elected officials at the county level, such as the county coroner and the county surveyor, are technical in nature, which suggests that they should be appointed rather than elected.

(c) The county judge exercises legislative, executive, and judicial power in one office, which is contrary to the concept of separation of powers.

(d) The quorum court has little effectiveness as a legislative body and is too large to operate efficiently even if it had the power to do so.

(e) The five-mill limits on general operating revenues of cities and counties are unrealistic ceilings established in an era when most services now taken for granted—such as paved streets and full-time fire protection—were nonexistent.

(f) Cities often find themselves governed more by the state legislature and state law than by their own citizens and governing bodies.

(g) The five-mill tax limit on counties and cities for general operations is inadequate for the maintenance of local government, resulting in dependence on the legislature for turnback funds.

(h) The constitutional limitation of $5,000 on salaries for elected city and county officials tends to discourage capable office seekers. It was outdated by inflation decades ago.

(i) The Commission recommends a provision giving cities increased power over their own local affairs, encouraging the exercise of local initiative, and permitting general legislative control of all municipalities, or those of a class, only on matters as to which uniformity throughout the State is desirable.

(j) Cities and counties cannot incur short-term debt consistent with sound business principles. This sometimes leads to long delays in obtaining needed improvements and services, or makes them more costly in the long run.

(k) Many local government provisions in the Constitution, particularly those pertaining to taxation and indebtedness, are long, hard to understand, filled with statutory detail, and apply only to narrow special interests.

(l) Local government provisions in the Constitution tend to discourage assumption of local responsibilities in such a way that effective democratic government is difficult to achieve at the city and county level.

Mr. Speaker, this is the eighth insertion in the CONGRESSIONAL RECORD of testimony and other materials which I have gathered during my search for ways to assist community development in areas of low population. Other materials on this subject appear in the CONGRESSIONAL RECORDS of September 22, pages 32740–32741; October 1, pages 34505–34506; October 6, pages 35409–35410; October 13, 36133–36136; October 21, pages 37358–37361; October 28, pages 38121–38123; and November 3, pages 39156–39158.

FINANCING THE DISTRICT OF COLUMBIA—TWO VIEWS ON THE REVENUE BILL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. FAUNTROY. Mr. Speaker, the House began consideration of H.R. 11341, the District of Columbia Revenue Act. In today's Washington Post there is an excellent editorial and a splendid letter to the editor clearly setting forth the issues that the House faces in considering the bill. I want to share with my colleagues both of these items which are set out below:

THE HOUSE MONEY BILL FOR WASHINGTON

At some point today or Thursday—whenever the more worldly legislative matters of the week have been disposed of by the House of Representatives—a little floor time is to be set aside for the congressionally tedious business of dealing with matters vital to the District of Columbia. While it's unfortunate that our busy lawmakers have to knuckle down to these local chores every once in a while (and Washingtonians have thought it unfortunate for decades now), consideration of the fiscal 1972 revenue bill for this city will require serious attention.

For one thing, this is the annual legislation that is supposed to provide the means by which the District can meet its fiscal needs; to put it another way, it is the colony's allowance from the congressional overseers—for a fiscal year that began last July 1. Secondly, the bill coming before the House—contrary to what some senior members of the House District Committee would have their colleagues believe—is austere financially, but replete with irrelevant legislative provisions that have not been properly considered in the House, have not been the subject of hearings and, in our view, ought to be stricken from H.R. 11341. Finally, the bill is accompanied by an atrocious committee report loaded with paternalistic assumptions about the people who live and work in Washington but devoid of any judicious conclusions by which other members of the House might be guided.

Basically, the bill calls for an increase of $44 million in the annual federal payment to the District, which along with other revenue-raising provisions, falls $16 million shy of what the city government says it needs to balance its current requests. It is by no means a generous authorization, nor is there any guarantee that all of it will be appropriated, since spending is handled through another bill. But thanks to efforts by Rep. Ancher Nelsen of Minnesota, ranking Republican on the District Committee, the $44-million increase is a considerable improvement over the committee's original agreement on only $20 million. In effect, it is a minimum; if it cannot be raised, it certainly should not be cut by the House.

But then there are the provisions that do not belong in the bill, as nine committee members have pointed out in a minority view filed with the report. Noting that the bill began as a revenue-raising measure, these members wrote that the legislation "looked more like a Christmas tree when it was reported. In the markup session, without the benefit of any evidence or hearings, members were presented for the first time with a series of riders which bore little or no relationship to the revenue-raising provisions of the original bill, and which had never been considered during the hearings":

1. There is a provision to force rezoning of the property once used by Providence Hospital, between D and E Streets SE., from 2d to 3d Streets, for development of a high-rise complex to include apartments, stores and a 1,500-car garage. The complex would be within an area zoned for low-density, low-rise construction, and would either face or be within one block of four elementary schools. Understandably, residents of this Capitol Hill area oppose this change, but more importantly, they object to the devious way in which it is being presented.

As the dissenting committee members put it, this provision "verges on being a private bill for the relief of a group of real estate investors," which, whether one agrees with the purpose or not, does not "belong in a revenue bill, for the same reasons that the Rules of the House prohibit the inclusion of legislative provisions in an appropriations bill." Besides, there haven't even been any hearings held on this special-interest legislation.

2. There is a provision requiring the mayor to withhold shelter allotments from welfare recipients when a landlord charges that the recipients' rents have not been paid; the mayor would have to make a finding as to whether there is legal basis for the failure to pay rent, and then figure how much the landlord should receive. Quite aside from the constitutional question of whether this amounts to denying welfare recipients equal protection of the laws, it is a colossal administrative burden to heap on the mayor when there already are judicial remedies available.

3. There is a provision that would relieve area retailers and truckers from a D.C. Minimum Wage Act requirement that certain drivers, helpers, loaders and mechanics be paid overtime. This is a complicated question that ought to be considered, like the other two provisions, on its own merits, after thorough hearings.

The real question before the House, then, is not how many obnoxious local ordinances can be lumped into one big bill, but whether a pertinent, minimum fiscal authorization can be passed that will permit this city to provide essential—and necessarily expensive—municipal services.

FINANCING D.C.

On Nov. 3 The Post printed an article entitled "Hill Unit Calls City Officials 'Extravagant'", concerning a report prepared at the direction of House D.C. Committee Chairman McMillan. I was appalled at the evidence of rank antagonism toward D.C. citizens exhibited by quoted portions. I was relieved that of the 26 members on the committee, 10 dissented from the report's conclusion.

The report would have one believe that D.C. is floating on the financial good graces of the nation's taxpayers. We taxpayers in the District are among those Americans; we pay the same stiff federal taxes and a full range of local taxes. According to the latest figures available, local revenues raised in D.C. were higher per capita, by a wide margin, than corresponding receipts raised in the metropolitan jurisdictions except Falls Church. The federal payment—made only to the General Fund—was 17 per cent in FY 1970. This is *supposed* to be adequate compensation for the extensive service requirements of the federal establishment and for the fact that about 51 per cent of the District's land area is, by federal law, exempt from D.C. taxation. Washington competes for other federal monies, e.g., matching grants, like any other eligible jurisdiction. Has the committee forgotten that D.C. cannot annex territory to increase its tax base, that the locally set real estate tax cannot be used without limit?

The committee report complains that, if D.C. "wants" to crowd in 700,000 people, it is obliged to provide employment, not the federal establishment. What primarily attracts people to Washington is the presence of the federal establishment—its need for employees and the needs of groups all over the nation to do business with it. Think what would happen if D.C. tried to, let alone could, develop high employment potential by means normal to other communities, e.g., attracting heavy industry or building huge complexes to encourage relocation of a large insurance company's main office. As we all know, congressmen are quite sensitive to proposals to raise the city's building height limit, change its basically residential character.

To top it off, the D.C. public school system is attacked for "budgetary chaos." Hand in hand with such thought must go the recognition that Congress controls that budget—the entire city budget—but it has yet to pass this fiscal year's appropriations even though the year is about half over.

BARBARA H. THOMAS.

WASHINGTON.

FORCED SCHOOL BUSING: A DRASTIC ERROR

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BROYHILL of Virginia. Mr. Speaker, in the Washington Star of September 23, 1971, the eminent columnist, James J. Kilpatrick, comments upon the "drastic error" committed by the Supreme Court in its latest decisions endorsing forced schoolbusing. Concerning this Mr. Kilpatrick quotes from a major address by Senator ROBERT C. BYRD, who was "reared in the Yankee hills of West Virgina and "won his post as assistant majority leader with liberal support."

In his address Senator BYRD made some very astute and perceptive observations concerning forced schoolbusing. For example, he pointed out that busing lessens the chances for improvement of the inner city schools, and that the recent Supreme Court decisions upholding forced busing represent a "distorted, twisted interpretation of the equal protection clause."

Mr. Speaker, I insert at this point in the RECORD the text of Mr. Kilpatrick's brief but illuminating article:

A DRASTIC RESPONSE TO A DRASTIC EROR

(By James K. Kilpatrick)

It has been an exercise in futility, these past 17 years, for a Southerner to raise his voice against any requirement having to do with the desegregation of public schools. He is licked before he starts. It is as if John Roche of General Motors were to expound an objective view of Ralph Nader.

Sen. Robert C. Byrd, though he was born in North Carolina, suffers from no such bill of attainder. He was reared in the Yankee hills of West Virginia. He has devoted his life to public service in that distinctly non-Southern state. Byrd holds a rating of 65 from the AFL–CIO Committee on Political Education, which puts him in a class with such moderates as Mathias of Maryland and Case of New Jersey. He won his post as assistant majority leader with liberal support.

Byrd's speech of Sept. 3 in Houston, before the national convention of Young Americans for Freedom, thus qualifies as the expression of a veteran lawmaker whose personal or political motives cannot be challenged. His devastating attack on what he terms the "madness" of compulsory busing is clear and convincing.

Simply on its merits, apart from the law, mass busing strikes the West Virginian as a "senseless" waste of money. He deplores its effect upon the cities: "When children are going to be hauled willy-nilly away from their homes and neighborhoods, it lessens the chances for improvement of the inner-city schools which are most in need of improvement."

Far from enhancing "quality education," in Byrd's view, busing tends to destroy education—especially for the black children whose needs are paramount. He sees only "increasing mediocrity in education" as a consequence of the "nonsensical obsession these days with racial quotas." Byrd flatly denies the contention that forced integration will teach children of different races to live in harmony together. "Polarization of the races is intensified when neighborhood and school identities are destroyed."

Byrd is a lawyer. He has steadfastly supported the Supreme Court's landmark decision of 1954, holding that children cannot lawfully be assigned to schools by reason of their race. He continues to defend that proposition. But he looks at the court's recent line of decisions, upholding the busing of children by reason of their race, and he sees a perversion of the 14th Amendment. "What a distorted, twisted interpretation of the equal protection clause!"

In Byrd's view, "the equal protection clause forbids segregation but it does not command integration." That distinction seems to him fundamental. He agrees with the court—the court of 1954—that a state violates the Constitution when it undertakes to treat children differently because of the color of their skin. He is thus baffled by the court's 180-degree turn: Now the states are told they must treat children differently because of the color of their skin. This is lunacy, says Byrd; and many will agree.

What is to be done? "Voices must be raised throughout the country which will move this nation's highest tribunal to the realization that its position . . . is going to impair public support of the public school system and will continue to produce chaos in the public schools." But Byrd acknowledges that the court has been unanimous in its racial opinions. Mere protest, however widespread and eloquent, may accomplish little.

One takes a long breath. Constitutional amendment is like matrimony, not to be entered into lightly. Yet amendment may now offer the only effective recourse. Since his speech in Houston, the assistant majority leader has endorsed a resolution sponsored by Sen. William E. Brock, R-Tenn., and eight others. It would write this into the Constitution:

"No public school student shall, because of his race, creed or color, be assigned to or required to attend a particular school."

That is Senate Joint Resolution 112. It demands prayerful thought. As the "madness" spreads beyond the South, to California, to Michigan, to Indiana, perhaps the Judiciary Committee will hold hearings on the resolution's drastic response to drastic error.

THE U.S. MARINE CORPS: 196 YEARS OF SERVICE TO OUR COUNTRY

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. CORMAN. Mr. Speaker, in an ever-changing world, this Nation has had in its service an organization whose characteristics do not change, whose qualities are steadfast and constant—the courage, resolution, readiness, and faithful performance of duty of the U.S. Marines.

One hundred and ninety-six years ago today the U.S. Marine Corps was formed. And the purpose of the corps in 1775 was the same as it is today: To seek and maintain peace for the people of our country. For nearly two centuries we have had a corps of marines with small numbers and high standards. They have been, and are, a few good men—and women—who are proud of their corps and of America. On this 10th of November, the Congress and the country extend greetings and gratitude to all marines, in uniform and out, who have put their country before themselves.

OPPOSING CONFISCATION OF HANDGUNS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. DINGELL. Mr. Speaker, the board of directors of the Michigan United Conservation Clubs representing over 130,000 sportsmen, hunters and conservationists in the State of Michigan at its meeting in Harbor Springs, Mich., on October 16–17 adopted a strong resolution opposing confiscation of handguns and reiterating that fine organization's support of the constitutional right of American citizens to keep and bear arms for legitimate sporting and defense purposes.

MUCC is the official affiliate of the National Wildlife Federation and the principal sportsman-conservationist organization in the State of Michigan. I believe this resolution of Michigan's citizens, sportsmen and conservationists deserves a place in the CONGRESSIONAL RECORD and I include its text at this point:

RESOLUTION

Whereas, some elected and appointed public officials have expressed their opposition to the private ownership of not only hand guns but also long guns such as are commonly used for hunting; and

Whereas, hundreds of thousands of Michigan citizens enjoy hunting and target shooting; and

Whereas, the Constitution of the United States guarantees the right of its citizens to keep and bear arms; and

Whereas, taking guns away from law-abiding citizens would have little effect on the possession of guns by criminals; and

Whereas, crimes of violence would be committed by other means if guns were not available; and

Whereas, effective guns can be crudely made from commonly available components or well made in a home workshop; and

Whereas, people, not guns, commit crimes:

Therefore be it resolved that no laws be enacted that would dispossess law-abiding citizens of their guns; and

Be it further resolved that penalties for law violations involving the use or threat of the use of a gun be increased; and

Be it further resolved that MUCC hereby express their opposition to any governmental action that would restrict the right of law-abiding citizens to own, keep and bear arms for the purpose of hunting, target shooting

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or the defense of themselves, their families or their homes.

NOVEMBER 20 TO BE LILY PONS DAY

HON. VICTOR V. VEYSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. VEYSEY. Mr. Speaker, on November 20, the Palm Springs Opera Co. will pay tribute to the world's foremost coloratura soprano, Miss Lily Pons, with a gala Grand Opera Ball in the Riviera Hotel.

Simultaneously the mayors of Dallas, Tex., and Palm Springs, Calif., will declare the day "Lily Pons Day."

The festivities in the Riviera Hotel will be climaxed by the presentation to her by French dignitaries of the scroll appointing her commander in the National Legion of Merit, completing the rare honor conferred upon her earlier this year by order of the President of France.

Miss Pons was born in Cannes, France. At the age of 13, she entered the Paris Conservatory as a piano student, but her plans for a virtuoso career as a pianist were changed after a serious illness. She turned to singing, under the direction of the famous vocal teacher, Alberti di Gorostiaga, and developed her singing voice to the point that she was able to make her operatic debut in the Mulhouse Opera in Alsace in 1928.

She made her historical debut at the Metropolitan Opera on January 3, 1931, in "Lucia di Lammermoor." Overnight she was a national sensation, and the Metropolitan revived several operas for her. Among them were "Daughter of the Regiment," "Linda di Chamounix," "Mignon," "La Sonnambula." Probably she is most famous for her role in the opera "Lakme," for she was the first singer in half a century to render the high F in the "Bell Song" that Delibes originally indicated.

Her brilliant coloratura range—2½ octaves—led Maestro Gatti-Cassaza, the Metropolitan Opera manager, to remark that Miss Pons had the only true coloratura voice he had ever heard or hoped to hear.

During World War II, Miss Pons was active in entertaining American and French soldiers. When France was liberated Miss Pons stood beside General de Gaulle in the Place de l Opéa and led the singing of "La Marseillaise." In appreciation of her wartime activities De Gaulle decorated Miss Pons with the Legion of Honor medal. Miss Pons had become an American citizen in 1940.

In 1963, President de Gaulle created a new order in France, the National Legion of Merit, to reward distinguished services rendered in public, civil, private, or military life. The order includes the same ranks and dignities as the Legion of Honor. The President of the Republic is the Chief of the order and the Chancellor is the guardian.

On July 19, 1971, Miss Pons was awarded the rank of commander in the National Legion of Merit. It was bestowed upon her by M. Jaques Chabon-Delmas, the Prime Minister of France, whom Miss Pons personally selected, because of his closeness to the late President de Gaulle.

This is the highest national award that has ever been bestowed upon a woman The award consists of two phases, the placing of the medal about the neck of the recipient, and the awarding of the scroll, which is the official recording of the award. The scroll will be bestowed upon Miss Pons at the Gala Grand Opera Ball in Palm Springs on November 20, 1971.

It seems fitting that the United States should recognize the great honor that has been bestowed on Miss Pons by the country of her birth, and that the country of her citizenship should in like manner pay tribute to the greatest living coloratura soprano, the first lady of the opera world. Further, it is appropriate that such a tribute should be paid in the city of her winter residence, Palm Springs.

I take this opportunity to call my colleagues' attention to this important event and add my own personal word of tribute to the many fine moments of pleasure Miss Pons' gifted talents and discipline have given opera lovers around the world.

WAGE-PRICE CONTROLS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. DERWINSKI. Mr. Speaker, as one of the members who voted against the standby authority in imposing wage and price controls, which the Democrats insisted on giving President Nixon sometime ago, I take the position that the permanent maintenance of economic controls would be harmful to our economy and contrary to the free enterprise principles that have been our country's great economic asset.

I believe that figures demonstrate the success of the President's program and that the phaseout of controls can be properly implemented.

A point very effectively made by the Chicago Daily News in its Friday, October 29, edition is that the Bureau of Labor Statistics does in fact give us good reason to have confidence in the future of our country and its economic stability and strength. The point made in this editorial is, in my judgment, extremely pertinent.

The editorial follows:

NO NEED TO JUGGLE FIGURES

The pressure on the Bureau of Labor Statistics to make its employment and living-cost figures enhance the Nixon administration's image is disquieting on many counts. The BLS over the years has earned high marks for serving Republican and Democratic administrations with the same professional integrity and nonpartisan objectivity. Its statistics have been key factors in shaping government economic policy. They also play an important role in the private sector, which relies on them for cost-of-living pay hikes and for other purposes.

The AFL-CIO's George Meany has raised serious questions about the administration's attempts to "politicize" the bureau, and they merit a serious reply. In a letter to Labor Sec. J. D. Hodgson, Meany expressed proper concern over the plan to drop the Bureau's special reports on unemployment in the nation's poorest neighborhoods starting next year. That is a presidential election year, and the publication of such statistics, which generally show an unemployment rate much higher than the national average, would not put Mr. Nixon in the best possible light.

Particularly disturbing about the tampering with the BLS is that it has been for so long above politics. If the BLS can be enlisted for partisan advantage as administration aides have tried to do ever since last March, not only will the bureau lose its credibility but other government agencies hitherto thought to be above politics will likewise fall under public suspicion.

Phonying up employment figures, apart from being dishonest, is pointless. Though worrisomely large pockets of unemployment exist in many sections of the country—and being jobless is tragic business to those caught in that predicament—the picture is not as bleak as some of the administration's detractors contend. The fact is that despite the large number of people without jobs, there are proportionately more at work than ever before.

Figures compiled by the Wall Street Journal reflect a big job growth factor since 1950, lasting straight through the 1969–70 recession. The number of men working has shot up by 16 per cent, while the number of jobs held by women and teen-agers has increased an incredible 71 per cent and 65 per cent respectively. Since 1965, the number of jobs has risen by 12 per cent—twice the population growth rate in the same period. There has thus been none of the severe job contraction that took place in the Great Depression, when the number of jobs shrank 23 per cent between 1928 and 1932.

Figures like those cited by the Journal could go a long way toward restoring public confidence in the economy and persuading people to start spending some of their record savings. The administration would be better advised to recite such facts than try to convert BLS into a propaganda arm of government.

THE FARMERS HOME ADMINISTRATION IN TENNESSEE

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. QUILLEN. Mr. Speaker, the Farmers Home Administration of the U.S. Department of Agriculture is helping people make significant contributions to rural development, through its renewed efforts of placing much-needed resources at their disposal.

The assistance provided by this agency is exemplified in a small rural community in my congressional district known as Pigeon Forge. Pigeon Forge is located in Sevier County, Tenn., near the entrance to the Smoky Mountain National Park. Through the years this had been primarily an agricultural community consisting of small hillside farms. However, the local citizens realized there was a potential for attracting tourists to the area and began to plan accordingly. The town was incorporated, enabling it to take over and operate an existing water facility district assuring an adequate water supply. Rapid growth followed with motels and restaurants springing up at a rapid rate.

But rapid growth sometimes brings on problems as well, which was the case with Pigeon Forge. Sewage disposal became vital. The Tennessee Health Department was contemplating closing many of the tourist establishments because of the health hazard created by the surfacing of raw sewage. This problem had to be solved if Pigeon Forge was to continue to grow and prosper. So the town turned to the Farmers Home Administration for help. With a $544,660 loan and $90,555 grant from this agency, plus grants totaling $104,048 from the Appalachian Regional Commission and the Federal Water Pollution Control Agency, a sanitary sewage system was constructed.

This basic FHA service has contributed significantly to creating job opportunities, as exemplified by the establishment of 29 new businesses, since the sewage system was built. These include eight motels, three craft shops, two branch banks, three apartment houses, two beauty parlors, two radio and TV shops, and a warehouse. Present plans call for an icehouse, another restaurant, and a 200-unit motel. These businesses represent an increase of almost 50 percent in the number of commercial establishments in the town and provide many new jobs for the local residents, making it unnecessary for them to migrate to distant cities in search of opportunity. In addition, 60 new homes have been constructed in Pigeon Forge during the 2-year period the sewage system has been in operation.

Mr. Speaker, all this represents a much-increased tax base, which permits continued development, while, at the same time, maintains a good financial condition for the town. This development exemplifies rural development resulting from local people assuming the role of leadership and becoming determined to improve their surroundings. In such cases, the FHA is always standing by to help as it helped at Pigeon Forge.

However, FHA services are not confined to sewage systems for rural communities. It provides assistance in other areas as well. During fiscal year 1971, 30 families in my congressional district, of which a number are still in their twenties, received FHA loans in the amount of $468,000 to purchase farms; 364 rural families received housing loans in the amount of $4.2 million, enabling them to become homeowners; eight loans amounting to $1.6 million and seven grants amounting to $174,000 were made to rural communities for constructing central water systems.

Mr. Speaker, I think this provides an insight to the contributions the Farmers Home Administration is making toward helping those who desire to help themselves. It is putting the resources at the disposal of rural people when and where they are needed to help move rural America forward. I commend FHA Administrator James V. Smith and the FHA State Director Paul Koger and express to them my gratitude for the great work they are doing in Tennessee and particularly the first congressional district.

PRICE AND WAGE CONTROLS: DIVIDE AND CONQUER

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. SCHMITZ. Mr. Speaker, Prof. Milton Friedman, professor of economics, University of Chicago said:

Most discussion of the wage-price freeze and the coming Phase II controls has been strictly economic and operational: were they needed, will they work, how will they operate? . . . There has been essentially no discussion of a much more fundamental issue. The controls are deeply and inherently immoral . . . Is it morally wrong for Chile to expropriate the property of Anaconda Copper—i.e., to force it to sell its copper mines for a price less than its value; but morally right for the U.S. Government to force the worker to sell his labor for less than its value to him and to his employer?

Professor Friedman, one of the academic world's last defenders of the free market against the Keynesian prescription for a Government-controlled economy which President Nixon has now embraced, has penetrated to the heart of the issue in the administration's price and wage controls program. Yet how many readers even of this newsletter would still in defiance of all fairness and logic, answer the second part of his question with an angry "yes"?

Middle-class America has been encouraged to blame inflation on the labor unions and therefore to welcome even the most drastic Federal controls to limit pay increases. But at the very same time the workingman has been encouraged to blame inflation on "big business" and its greed for profits, and therefore to welcome even the most drastic Federal controls on prices and rents. Consequently, for opposite reasons, both business and labor—and most Americans—have been persuaded that price and wage controls are desirable. As Professor Friedman points out, opposition to them on principle is, so far, scarcely to be found. By setting class against class in America, the Government economic planners—at least for the time being—appear to have conquered.

Let there be no mistake about it: These controls are for all intents and practical purposes permanent. On September 9 President Nixon told Congress that—

The freeze will not be extended beyond 90 days.

and that—

Nothing could be more detrimental to the new prosperity in the long run than to put this Nation's great, strong free enterprise system in a permanent straitjacket of government controls.

On October 7, speaking to the Nation, he said:

I am announcing tonight that when the 90-day freeze is over on November 13, we shall continue our program of wage and price restraint.

Though he still made passing mention of an intention not to make the controls permanent. But by October 28, when Under Secretary of the Treasury Charls Walker briefed Members of Congress on the full phase II program of price and wage controls, most of the pretense was dropped.

Mr. Walker could not foresee when or how the controls would end, and explained that the freeze would in fact continue after November 13, with only such exceptions as the new Pay Board and Price Commission would in their own good time allow. It is hard to see how this can be called anything other than a direct breach of the President's promise September 9 that the freeze would not be extended beyond 90 days.

Economic columnist Sylvia Porter has stated what is almost certainly the truth:

We entered a new economic era in the United States on August 15 . . . Not in the foreseeable future will our economy be as free as it was in the weeks leading up to that fateful Sunday evening.

Lasting government price and wage controls have never worked in the whole history of the world, and can only be made to seem to work in a fully totalitarian state. The reason is simple, but needs to be repeated over and over again: The primary cause of inflation is government itself, through deficit spending and debasing the currency. Price and wage increases are the result, not the cause, of inflation.

President Lyndon Johnson's budget, for his last year in office, was $185 billion. President Nixon's budget this year is $230 billion. For next year it will be at least $250 billion, possibly as high as $275 billion, and the Treasury Department admits there will be at least a $27 billion deficit—assuring that inflation will continue, controls or no controls. Yet the American people, divided against themselves, are being taught to blame everyone for this but the real culprit.

If we do not value our free market we will lose it forever. The only alternative is full-scale socialism.

WAGE AND PRICE CONTROLS ON FREE MARKET DISCIPLINES?

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. ROUSSELOT. Mr. Speaker, many people ask what is a constructive and positive alternative to the use of wage and price controls by the Federal Government? In my opinion, and that of many constructive economists, it is to allow the discipline of the free market place and, more important, permits the consumer to make the final determination on the basis of the daily free vote of what the consumer intends to either purchase or not purchase. Leonard E. Read, in his book "Let Freedom Reign," chapter 8 entitled "Free Market Disci-

pline," very thoughtfully explores this whole area of the usefulness of the free market system and what it means. I recommend that my colleagues thoroughly consider the concepts developed in this chapter:

FREE MARKET DISCIPLINES

Contrary to socialistic tenets, the free market is the only mechanism that can sensibly, logically, intelligently discipline production and consumption. For it is only when the market is free that economic calculation is possible.[1] Free pricing is the key. When prices are high, production is encouraged and consumption is discouraged; when prices fall, the reverse holds true. Thus, production and consumption are always moving toward equilibrium. Shortages and surpluses are not in the lexicon of free market economics.

Conceded, the above is no news to those who apprehend free market economics; they well know of its disciplinary influence as regards production and consumption. This alone warrants our support of the free market. However, the free market has two other quite remarkable disciplinary possibilities which have seldom been explored.

Before making that exploration, it is necessary to recognize the limitations of the free market. The market is a mechanism, and thus it is wholly lacking in moral and spiritual suasion; further, it embodies no coercive force whatsoever. In these respects, the market is without disciplinary possibilities.

"Like all mechanisms, the market, with its function for the economizing of time and effort, is servant alike to the good, the compassionate, and the perceptive as well as to the evil, the inconsiderate, and the oblivious."[2] Scrupulosity is not among its characteristics.

The free market is a name we give to the economic activities—a short-hand term, we might say—of a people acting freely, voluntarily, privately, cooperatively, competitively. It is distinguished by universal freedom of choice and the absence of coercive force. Ideally, only defensive force—government—is employed to put down fraud, violence, predation, and other aggressions.

Given a society of freely choosing individuals, the market is that which exists as a consequence—it is a mechanism that is otherwise nondefinitive. It is the procession of economic events that occur when authoritarianism—political or otherwise—is absent.

While private enterprise is often practiced in a manner consonant with free market principles, the two terms are not synonymous. Piracy is an enterprise and also private. Many businesses when in league with unions, for instance—willingly or not—feature elements of coercion and thus are not examples of the free market at work.

The free market has only been approximated, never fully attained, and, doubtless, never will be realized. It is an out-of-reach ideal; we can only move toward or away from it. Yet, in the U.S.A., even in these days of a rapidly growing interventionism, the free market flourishes to a remarkable extent. To appreciate this, merely envision the countless willing exchanges—hundreds of millions daily—such as Mrs. Jones swapping a shawl she has made for a goose Mrs. Smith has raised, or the money you pay for a phone call or a quart of milk. In these instances, each party gains, for each desires what he gets more than what he surrenders. In a word, the free market is individual desire speaking in exchange terms. When the desire for Bibles is accommodated in noncoerced exchange, we can conclude, quite accurately, that we are witnessing a market for Bibles. Or, when the desire for pornography is being thus accommodated, we can conclude that there is a market for trash. I repeat, scrupulosity is not a feature of the market.

When the desires of people are depraved, a free market will accommodate the depravity. And it will accommodate excellence with equal alacrity. It is "servant alike to good . . . and evil."

AN AMORAL SERVANT

It is because the free market serves evil as well as good that many people think they can rid society of evil by slaying this faithful, *amoral* servant. This is comparable to destroying the sun because we don't like the shadows we cast or breaking the mirror so that we don't have to see the reflection of what we really are.

When I sit in front of a TV and view trash, I tend to rant and rave at what I'm seeing. Wake up: What I hear and see is a reflection of what's in me! Thus, my only corrective is to read a good book or otherwise cease to patronize such low-grade performances.

The market is but a response to—a mirror of—our desires. Once this harsh reality is grasped, the market becomes a disciplinary force. To elaborate: Say that a person desires, buys, and reads a filthy book. Were he to realize that what he's reading is a picture of what's in his own make-up, such a realization, by itself, would tend to change him for the better. The market would then reflect the improvement. But note that the market has no such effect on those who are oblivious to this fact. *It's the knowledge of this character-revealing fact that makes of the market a disciplinary force.* I am only trying to point out the market's potentiality in this respect.

Instead of cursing evil, stay out of the market for it; the evil will cease to the extent we cease patronizing it. Trying to rid ourselves of trash by running to government for morality laws is like trying to minimize the effects of inflation by wage, price, and other controls. Both destroy the market, that is, the reflection of ourselves. Such tactics are at the intellectual level of mirror-smashing, attempts not to see ourselves as we are. The market's potentiality as a disciplinary force is thereby removed. To slay this faithful, amoral servant is to blindfold, deceive, and hoodwink ourselves. Next to forswearing a faith in an Infinite Intelligence over and beyond our own minds, denying the market is to erase the best point of reference man can have. So much for the first somewhat unexplored possibility of the market as a disciplinary force.

IMPERFECT MAN

Now to the second. This cannot be explained unless we are aware of our numerous shortcomings, of how narrow our virtues and talents really are—everyone's, no exceptions.

Let's take, for example, the greatest mathematical genius who ever lived. He's a giant in his field. Yet, without any question, he's a know-nothing in countless other ways. This goes for outstanding generals, chemists, physicists, scientists of whatever brand. No one ever gets more than an infinitesimal peek at the Cosmic Scheme, at the over-all luminosity, even at himself. We must see that the biggest among us is tiny. And one who denies this about himself is displaying the greatest ignorance of all: he doesn't even know how little he knows! "If we wish to know anything, we must resign ourselves to being ignorant of much."[3]

Reflect on this human reality, on imperfect man, particularly on the more imaginative and brilliant individuals among us. While they possess an outstanding and remarkable aptitude or two, they, too, are daydreamers. "If only I had a million dollars," is a dream that flashes across countless minds. Many of these specialists want above all else to pursue their own peculiar bent whether it be going to the moon, genetic alteration of other human beings, releasing the atom's energy, or whatever.

Knowing so much about one thing and so little about everything else, they are unable to know what effect their ambitions, if achieved, might have on the human situation. Just as a baby with a stick of dynamite and a match is unaware of what the consequences might be!

The lamentable fact is that scientists, pseudo scientists, and other technologists have been given a wishing well: the Federal grab bag. They, thus, are encouraged to carry out any experiment their hearts desire, without let or hindrance. Leaving aside the destruction of our economy by inflation—featured in the grab bag's financing—they are alarmingly endangering all the people on this earth, even the earth itself. And primarily because they suffer no restraining and disciplinary forces; their passions and ambitions are on the loose!

THE DISCIPLINE OF THE MARKET

The remedy? Let these ambitions be submitted to the discipline of the market precisely as are most other commodities and services. Go to the moon? Of course; that is, when the market permits the venture, if enough people voluntarily subscribe the cash. Release the atom's energy? By all means; that is, when the market is ready for it.

Am I saying that the market has a wisdom superior to the President of the United States, or the Congress, or a bureaucracy? I am not. The market is a mechanism and is neither wise nor moral. I am only claiming that it has disciplinary qualities. To understand why requires no more than a knowledge of what the components of this mechanism are: millions upon millions of individual preferences, choices, desires. *The market is an obstacle course;* before I can pursue my bent or aptitude or obsession, I must gain an adequate, voluntary approval or assent! No wishing well, this! My own aspirations, regardless of how determined, or lofty, or depraved, do not control the verdict. What these others—impersonal as a computer—will put up in willing exchange for my offering spells my success or failure, allows me to pursue my bent or not.

There are exceptions to this rule, of course. For instance, some of us who may be unable to win the market will, like Van Gogh, face starvation in order to pursue our passions. The threat of starvation, however, is quite a discipline in itself; at least, not much is likely to be uncovered in these circumstances that will destroy life on earth. It takes big financing to do unearthly things.

The market very often returns fortunes for comparative junk and, on occasion, returns nothing at all for great and beneficial achievements—temporarily, that is. Eventually, in a free society, the junk goes to the junk heap and achievements are rewarded.

I believe that anyone should follow his star; but let him do so with his own resources or with such resources as others will voluntarily supply. This is to say that I believe in the market, a tough, disciplinary mechanism. I do not believe in cars without brakes, impulses without repulses, ambitions with check points, wishes run riot. Societal schemes that are all sail and no ballast head society for disaster!

The rebuttal to this line of reasoning is heard over and over again: "But we voted for it," meaning that the Federal grab bag—open sesame with other people's income—has been democratically approved. Granted! But this is nonsense: the fruits of the labor of one man are not up for grabs by others, that is, not rationally.[4] This is not a votable matter, except if one's premise be a socialistic society. What's right and what's wrong are not to be determined at the shallow level of nose-counting or opinion polls. To argue otherwise is to place the same value on the views of morons as you do on your own.

As a disciplinary force over wild aspirations, the President of the United States, a member of Congress, a bureaucrat is not only less effective than the market but less effective than any single buyer or seller in the market. An individual, when a government official, considers only how much of other people's money should be spent. The motivation in this instance favors spending over economizing. The same individual, in the free market, considers how much of his *own* property he is willing to put on the line. The motivation in this instance is self-interest. And this is tough! Ambitions as silly as tracking the meanderings of polar bears by a nimbus satellite stand a chance for satisfaction when a grab bag made up of other people's money is readily at hand;[5] whereas, the free market gives short shrift to projects that are at or near the bottom of individual preferences.

True, were personal ambitions subjected to the disciplines of the market, trips to the moon would have to be postponed. Atomic energy might be a phenomenon of the future. Many other scientific explorations—some secret—taking place today in our universities and Federally financed would, under the discipline of the market, still be safely stored in imaginative minds.

This is no argument against technological breakthroughs. It is merely to suggest that these illuminations be financially encouraged only as the free market permits. The resulting steadiness in progress might then be harmonious with an expanded understanding of what it is we really want and can live with.

I repeat, societal schemes that are all sail and no ballast head society for disaster. The free market is ballast—a stabilizer—we might well put to use if we would avoid wreckage in the stormy seas of political chaos.

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[1] Professor Ludwig von Mises establishes this point, irrefutably, in his book, *Socialism* (London: Jonathan Cape Ltd., 1969).

[2] See "Value—The Soul of Economics," by W. H. Pitt. *The Freeman*, September, 1969.

[3] John Henry Newman.

[4] For what I consider to be a rationally constructed explanation of this point, see "The Limits of Majority Rule" by Edmund A. Opitz. Copy on request.

[5] See "The Migration of Polar Bears," *Scientific American*, February, 1968.

THE GUINEA PIGS—NOBODY KNOWS IF DRUGS TESTED ON HUMANS WILL CAUSE CANCER

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BROYHILL of Virginia. Mr. Speaker, my very good friend and constituent, Dr. John O. Nestor, recently called my attention to an article which appeared in the Washington Post on October 24, 1971, concerning the testing of powerful and possibly dangerous medicines on humans before experiments with animals have proven their safety.

Dr. Nestor feels, and I agree, that the American public should be warned about the dangerous practices described in this article and that the public and the Congress should insist that the Food and Drug Administration tighten its regulations which make such practices possible.

I insert the full text of the article at this point in the RECORD:

THE GUINEA PIGS—NOBODY KNOWS IF DRUGS TESTED ON HUMANS WILL CAUSE CANCER

(By Morton Mintz and Tim O'Brien)

Pharmaceutical manufacturers are testing potent new medicines in thousands of humans every year even before they complete experiments designed to show if the same chemicals may cause cancer in laboratory animals.

In numerous cases, cancer has developed in animals after tests. The Food and Drug Administration has publicly disclosed only one such case, that of MK-665 compound—an experimental birth control pill given to more than 400 women and belatedly reported in January 1966, to have caused cancer in the breasts of beagles.

All told, more than 1,000 chemical substances, out of some 20,000 in our environment, have been shown to be carcinogenic—cancer-producing—in animals. And several individual chemicals or mixtures among them have also been shown conclusively to produce cancer in men.

Many cancer specialists apply a rule of thumb: If a chemical is reliably and definitely carcinogenic in one or two species of animals, it is very likely to be similarly active in other species—including humans.

But proof that a substance produces cancer in humans is hard to obtain. This is because such a substance takes approximately 10 years—and sometimes as much as 30 years—to bring a human cancer to the point of development where it can be detected.

Bladder cancer, for instance may be present for 20 or even 30 years before it is detected. Thus we will not know for a long, long time whether cyclamates, the synthetic sweeteners found in 1969 to be causing bladder cancer in rats, also cause it in humans.

Most always, companies experimenting in humans while animal tests are still under way are complying fully with FDA's regulations. The FDA's General Guidelines for Animal Toxicity Studies require a company starting human testing to notify the agency that it is doing so, but neither to have first completed animal testing nor first to have obtained approval before moving to humans.

The regulations permit a drug that has been used in animals for two weeks to be administered to humans, sick or well, for up to two weeks (the regulations do not apply to estrogen, progestogen and the oral contraceptives, which in every case contain these synthetic hormones).

After four weeks' use in animals, the rules permit an experimental drug to be used in humans, sick or well, for up to three months; and after a medicine has been tried in two species of animals for three months, a manufacturer is free to give it to humans for an unlimited period of time.

What all this adds up to, one disillusioned FDA scientist told a reporter, is that "the drug companies, with the collaboration and collusion of the FDA, are really doing their experimentation with new drugs on humans while simultaneously carrying on limited and minimal animal studies on the side as a facade. That is it, pure and simple."

NINE-TENTHS OF CANCERS

In the view of leading scientists, no amount of a substance that is carcinogenic in animals should be presumed safe in humans. Last January, for example, Dr. David Rall of the National Institute of Environmental Health Sciences said that it is "essentially impossible to suggest a safe dose in humans of a chemical that is carcinogenic in animals."

That view is consistent with the 1958 legislation, sponsored by Rep. James J. Delaney (D-N.Y.), which forbids the use of any food additive that has been demonstrated to cause cancer in either animals or man.

And that view is consistent, too, with an appeal made last winter by the Surgeon General of the Public Health Service, Dr. Jesse L. Steinfeld. Calling for controls on production of all known carcinogens that man has introduced into the environment, he said exceptions should be limited to substances offering "a well-defined health benefit" that "outweighs their risk."

Chemicals cause the great bulk of cancers in man; viruses and radiation together cause possibly only 10 per cent of them.

Chemical carcinogens have been shown to act by inhalation (cigarette smoking alone is blamed for most of the 68,000 deaths a year from cancers of the respiratory system), by ingestion (the foods, beverages, drugs, additives and other chemicals we take in are believed responsible for possibly most of the 45,000 fatal cancers in the intestinal tract), by surface contact with the skin and mucous tissues, and occasionally by injection or implantation.

The risks and the difficulty of control are illustrated in a hypothetical example offered by Dr. Umberto Saffiotti, an associate scientific director of the National Cancer Institute, in testimony last April before the Senate Subcommittee on Executive Reorganization and Government Research.

Suppose, he said, that thalidomide, instead of producing deformities which were obvious at birth, had produced a form of cancer which would not become manifest until adulthood.

"The lethal effects of the drug would probably still be undetected, women would possibly still be taking it during their pregnancy, and a large number of people would have been born with a built-in sentence to early death by cancer," he said.

While a chemically induced cancer escapes detection for possibly two decades or longer, it can be administered "under the false appearances of harmlessness," Dr. Saffiotti warned.

"If the effect is then detected and properly attributed to the specific chemical, and this is then removed from the environment, the cancers it induced will continue to appear for the next 20 to 30 years," he testified.

"POTENTIALLY PREVENTABLE"

Rather than seeing all of this as a cause of despair, Saffiotti expresses a view held by many cancer experts: "The majority of human cancers are potentially preventable."

The work of preventing cancer, he has suggested, can be sensibly concentrated on the "maybe just a few dozen" new environmental chemicals that, on testing, will be shown to be carcinogenic in humans.

In most cases, Saffiotti told the Senate Subcommittee, pursuit of such proof requires "extremely complex and lengthy epidemiological studies."

And in some cases, he continued, such proof actually may be "impossible to obtain . . . because of the complexity of controls that would be needed for a satisfactory demonstration."

The birth-control pills illustrate the problem. The steroid substances they contain have caused cancer in five species of laboratory animals. Millions of women, in an uncontrolled mass experiment, take them daily (and more millions have taken them and given them up, for one or another reason).

Yet controlled studies to determine if the pills do—or do not—cause, say, breast cancer have not been done. Such studies would have to enlist tens of thousands of women for approximately a decade.

In 1969, the FDA's expert outside advisers on contraception issued a report saying that "the major unsolved question" about the pills is their relation to the induction of cancer. Consequently—nine years after the FDA pronounced the pioneer pill safe and let it go on sale—the advisers were pleading

that well designed studies be initiated "to elucidate or eliminate" the relation between such products and cancer of the breast and uterus.

For Dr. Saffiotti, among other experts concerned with the whole range of cancer problems, the "only prudent course of action at the present state of knowledge is to assume that chemicals which are carcinogenic in animals could also be such in man, although the direct demonstration in man is lacking."

Another prudent course, emphasized by scientists including Sir John Eccles of the State University of New York, is to exploit our ever greater proficiency in conducting animal carcinogenicity tests meaningful to man.

". . . there will be progressively less necessity for human experimentation," Eccles said. "We must plan to minimize human experimentation and maximize animal experimentation, and we must define quite rigorously the conditions under which human experimentation can be carried out."

This was one of the major goals of the Kefauver-Harris amendments to the drug laws, which Congress, suddenly motivated by the thalidomide episode, enacted in 1962, in hopes of averting any future drug catastrophes.

With this mandate, the FDA, in January, 1963, adopted implementing regulations. Their high purpose, as expressed by the Department of Health, Education, and Welfare, was "to eliminate all unnecessary risk to the public that may attend the development of new drugs and to impose only necessary restrictions on the conduct of investigational drug research."

For about three years, so far as the public and most of the medical profession were aware, the regulations were working well.

THE MK-665 CASE

But in early 1966, serious doubts surfaced. First came the case of MK-665 compound, the experimental birth control pill, that led then FDA Commissioner James L. Goddard to make the one and only agency announcement that an investigational drug used in human beings had caused cancer in animals.

On Jan. 21, 1966, Merck & Co. had notified the FDA of the finding of breast cancer in beagles that were sacrificed after receiving large doses of MK-665 compound for 12 months.

An "alarming finding," William W. Goodrich, then FDA's general counsel, called this in hearings on the case held by the House Intergovernmental Relations subcommittee in March, 1966. And, he testified, such a finding must, under the regulations, be reported to the agency "immediately."

Merck scientists had sacrificed the dogs on July 30, 1965, but did not make microscopic examinations of tissue sections until four months later—a precedent of sorts for the Triflocin case detailed in the accompanying article.

Explaining the delay, the firm said the findings from another group of dogs sacrificed in February, 1965, had been negative, and that the tissues from the July group had become available during an inconvenient period, vacation time.

If reasons of this sort can immunize a company from the requirement to report "alarming findings" at once, W. Donald Gray, then a subcommittee investigator, told Goodrich, "a company could do animal studies and not make final tissue examinations and reports for years."

The FDA did refer the case to the Justice Department for a possible criminal prosecution, but the department declined to act.

In November 1965, while the July tissues still were awaiting evaluation, Merck had notified the FDA that it was beginning large-scale testing in women.

The notification—legally, an application to be exempted from requirements that any drug in interstate commerce be demonstrated to be safe and effective—cited the negative February results of six months' testing. The July results, covering a full year, not having been analyzed, were ignored.

On Dec. 9, 1965, however, the July tissues were analyzed and cancer was found. Merck "should have reported the results . . . immediately," but, instead, was "getting in touch with their consultants," Goodrich testified.

Not until 43 days later did the company notify the FDA. "That was a violation," the counsel told the subcommittee. Merck said it had acted "responsibly and as promptly as warranted." Soon after receiving the notification, then Commissioner Goddard announced the cancer finding at a press conference.

Merck said it had halted testing in 340 women who had been receiving the experimental birth control pills from authorized medical investigators, and in 127 others who had been getting MK-665 from two other investigators who had not been cleared by Merck.

THE NEEDED REFORMS

At the time, the FDA said Merck had initiated a program of followups for the 340 women who had gotten MK-665 through proper channels.

By replying to a recent inquiry, the FDA said that while no adverse effects in the users had been found, Merck had "lost track of many of the women." In addition, some of the follow-up tests were "inconclusive" because the women took other oral contraceptives abandoning MK-665, the spokesman said. He added that the whole matter has been referred to an FDA advisory committee.

In a follow-up of its own, the FDA ordered manufacturers of all of the marketed oral contraceptives to undertake studies of up to seven years' duration in monkeys, the species closest to man, as well as in dogs. Each of the pills contain synthetic estrogen, which, under certain conditions, can be carcinogenic.

Yet the FDA has demanded no counterpart of the monkey-beagle tests for numerous non-hormonal medicines, many of which have not been shown to provide a therapeutic advance that outweighs their hazards.

The House subcommittee also investigated the case of DMSO, an industrial solvent built by almost hysterical publicity into a "wonder drug" useful for most any affliction from arthritis to headaches. One of the distressing revelations was that several drug firms had failed to report adverse (though non-cancerous) reactions in animals, and that the FDA had failed to enforce its own experimental drug rules.

The subcommittee hearings, led by Chairman L. H. Fountain (D-N.C.), prodded the FDA to make some improvements in its investigational drug regulations, but fundamental deficiencies nonetheless went uncorrected.

The needed reforms are, in some areas, obvious: tougher regulations to implement the law, and tougher enforcement of those regulations; more congressional oversight of the FDA, and the use of substitutes for carcinogens (which is often possible), or the outright abandonment of such chemicals unless there are truly compelling justifications to use them.

A larger question arises from the legislation approved by the Senate to create a Conquest of Cancer Agency, finance it generously, and have it report directly to the President—an idea to which Mr. Nixon and the American Cancer Society attach importance.

The question is, can the conquest be achieved so long as the FDA does not routinely require that drugs be adequately screened for cancer-producing potential, and so long as it permits drugs that are carcinogenic in animals to be administered to humans?

TRIFLOCIN: CASE HISTORY OF A DRUG

In February, 1968, Lederle Laboratories, the pharmaceutical division of American Cyanamid Co., began experimenting with a medicine that rids the body of excess fluids.

Such products are called diuretics. Approximately two dozen of them long have been available to physicians.

Lederle says that Triflocin held promise of offering special advantages over rival products.

At the Food and Drug Administration, however, some scientists say that the diuretic market is saturated. "We need another diuretic like a hole in the head," one FDA scientist said.

Initially, Lederle administered Triflocin to rats and dogs. Some time after that—both the company and the FDA are vague about precisely when—medical investigators working with Lederle began administering Triflocin to human beings here and abroad.

The number of patients is uncertain. The FDA says it was "about 205," but Lederle says it was 253. The FDA says that "at least 63 non-Americans" got Triflocin; Lederle says that "98 foreign humans" were involved in the Triflocin studies.

The date when human beings began to take Triflocin has not been disclosed, but FDA regulations for "INDs"—investigational new drugs—permit clinical trials to begin after animals have received them for two weeks.

In September, 1969, some of the first rats given Triflocin were killed and autopsies performed.

In the urinary bladders of some of the rats, the FDA said, Lederle found "abnormalities." The company, replying to written questions from The Washington Post, said that it detected no cancerous tumors at that time, but neither it nor the FDA disclosed exactly what the "abnormalities" were.

According to the account Lederle gave the newspaper, the next important development came when dogs given Triflocin experienced kidney effects "unrelated to cancer." On the basis of these findings, the letter said, Lederle on Jan. 22, 1970, instructed Triflocin investigators to discontinue human trials.

The FDA made no mention of the January development and, indeed, there are signs it did not know of it.

After the rat studies disclosed unspecified "abnormalities" the obvious next step was to examine the animal tissues under a microscope to find out if the "abnormalities" were cancers. This process takes two weeks to a month, according to FDA scientists.

But the microscopic examinations actually were not completed for seven months, and during this time Triflocin was being administered to human beings. The possibility that the "abnormalities" were cancers not having been excluded, the delay was "inexcusable," one FDA scientist said.

The precise date Lederle gave the FDA for completion of the microscopic examinations was April 15, 1970. At the time, Lederle said, four out of 13 rats had developed cancer 18 months after being treated with Triflocin; seven out of 12 got the disease after 22 months. In all, 11 out of 24 became cancerous. None of the control rats—those not given the drug—developed cancer.

Lederle reported these findings to the FDA not by phone or with some other sign of urgency, but in a letter dated April 27, 1970, or 12 days later.

"During routine evaluation of slides from our chronic toxicity study in rats, we discovered changes in the urinary bladder which appear to be drug related," Lederle told Dr. Henry E. Simmons, director of the FDA's Bureau of Drugs.

Because the "changes" were cancers, "We immediately discontinued clinical studies and requested return of all outstanding drug supplies," the Lederle letter said.

The statement that "we immediately discontinued human trials" did not seem to suggest that these trials were going on in only two human beings. Yet, Lederle, in its subsequent letter to The Washington Post, said that all but two persons "had been off Triflocin for several months," as a consequence of the January, 1970, dog kidney findings "which were unrelated to cancer."

In dealing with the finding of bladder cancer in rats, Lederle proceeded differently with its eight foreign investigators than with its 10 domestic Triflocin investigators, the FDA said.

"Copies of letters to the domestic investigators, dated June 18, 1970, identified the adverse finding as papillary carcinoma," the agency said. "Foreign investigators, however, were advised in letters dated April 27, 1970, of ". . . lesions with occasional malignant degeneration."

Asked for an explanation of the April-to-June delay in notifying American investigators, Lederle said that the June 18 letter "transmitted further detailed reports of the rat bladder cancer findings . . . as a follow-up to prior notification" of these physicians "by letter and/or visit."

Between September, 1969, when the "abnormalities" were found in the test rats, and late April, 1970, when this finding was reported to the FDA, "about 205" or 253 persons—depending on whether the agency's count or Lederle's is correct—had taken Triflocin.

The conflicting statistics raise questions as to how the FDA can monitor the human subjects' reaction to Triflocin if uncertainty exists about precisely how many persons got it.

Asked how many of the human subjects were informed of the suspected toxicity of Triflocin—information which would encourage them to undergo regular examinations—the FDA said the number was "indeterminable."

The FDA made "specific recommendations" to Lederle as to procedures that would be appropriate in following up the effects the drug may have had on patients, Dr. Simmons said.

But Lederle officials "rejected some of the recommendations, stating that they would consult a 'panel' for advice," the FDA official reported.

Lederle, in its reply to The Washington Post's inquiries, said nothing about having rejected some of the follow-up procedures recommended by the FDA. Instead, the company said its recommendations were "communicated to investigators" who conducted clinical trials with Triflocin.

The Lederle panel—said by the company to be made up of scientists from an unidentified but "outstanding" medical school—concluded that Triflocin patients "are at little risk of developing bladder tumors," because the amount of the diuretic given and the duration of exposure to it "are not at all comparable to the animal dosages or durations."

The panel concluded that "no follow-up is necessary for those individuals who received the drug for less than two weeks."

The FDA disagreed, saying that all persons who got Triflocin should be followed up. And until the company panel made its recommendations, Lederle had undertaken to inform its investigators of its discussions with the FDA and had supplied them with patient follow-up sheets listing specific tests to be made.

The Triflocin case first came forcibly to the attention of FDA Commissioner Charles C. Edwards thanks to Dr. John O. Nestor, an agency medical officer and pediatric cardiologist.

Nestor told Dr. Edwards of a situation he considered "scandalous": Animals treated with an unnamed experimental drug (later publicly identified as Triflocin by a drug trade paper) had developed cancer after human testing had begun. He also questioned the adequacy of the FDA guidelines for experimental drugs, as well as the adequacy of follow-up on persons exposed to such medicines.

Nestor used the "Critical Pathway," an administrative channel specially created by the Commissioner to enable FDA personnel to slash red tape and bring urgent situations directly and promptly to his attention.

Edwards replied two months later. He implicitly recognized that drugs were being tested in humans before adequate animal studies were completed and evaluated, but said no policy changes by FDA were required. The letter mentioned neither Lederle nor Triflocin.

DANGER IN GERMANY'S OSTPOLITICK

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. CRANE. Mr. Speaker, while many in this country have hailed West German Chancellor Willy Brandt's Nobel Prize for Peace, and while our Government seems satisfied with the Big Four agreement reached on the future status of Berlin, the unfortunate fact seems to be that the West has lost and the East has gained in this entire transaction.

In that agreement, travel was simplified for West Berliners wishing to visit East Berlin, but no provision was made whatever for East Berliners wishing to visit the West. Similarly, we agreed that no sessions of the West German Parliament nor the Congress, which elects the West German President, may take place in West Berlin. In this onesided agreement, the situation in East Berlin was not even mentioned. Contrary to all previous agreements, the East German regime has installed all its governmental offices and parliament in East Berlin. In addition, East German soldiers are stationed in East Berlin, while no West German soldiers are permitted in West Berlin. This situation has now been made into a formal agreement, and incredibly is hailed as a victory and achievement in the West.

Discussing the Berlin agreement in a speech before the National Press Club here in Washington, Axel Springer, founder and owner of the leading West German publishing group, declared that—

Completely incredible is the concession to establish a Soviet consulate general in West Berlin, a concession obviously granted upon German urging. The Berliners already call this the future home of all the spies who were kicked out of Britain recently.

Mr. Springer stated that—

The West also gave a death blow to all hopes for eventual reunification of Berlin and Germany. I mean, of course, reunification in freedom. This new policy will most likely bring in its wake international diplomatic recognition for the East German regime. The run has already been started.

The treaty, it must be remembered, has greater implications for East-West relations than the status of Berlin alone. Mr. Springer places this treaty in some perspective:

These treaties, in my mind, are so dangerous, not only because they give away German rights without getting anything back in return, but because they are the first sign of a new "renversement des alliances," reversal of alliances, as Bismarck called it.

The Berlin treaty is only the first step in the Soviet timetable, a timetable which Western leaders seem eager to help them fulfill. Mr. Springer notes that—

The next step, according to the Soviet timetable, will be the so-called European security conference. Here the often-told, long-range aim is to find a political and legal justification for the demand that "all troops return home from foreign soil." This in effect would mean that the Soviet units might retire beyond the new Polish eastern border, and that the American units retire beyond the Atlantic.

Those who somehow believe that the Brandt policies and their counterpart in our own country will somehow bring peace, should carefully consider the words of Axel Springer.

I wish to share this speech, given in Washington, D.C. on October 26, 1971, with my colleagues, and insert it into the RECORD at this time:

STATEMENT BY AXEL SPRINGER

Ladies and gentlemen, your chairman asked me to be brief. I think he was right. Because as you know the Germans write the longest articles in the world and make the longest speeches—with the possible exception of the Russians and the Cubans.

The duty to be brief reminds me of a very pleasant ceremony at the Chaim Weizmann Institute in Rehovot, Israel. Before we, the designated Honorary Fellows of the Institute, got our caps and gowns, there were several speakers; they all were asked to be brief.

One of them, the British Ambassador, solved this problem in a very humorous way: he purposely spoke so fast, that nobody understood him. But he stuck exactly to the given time, and the results were waves and waves of laughter in the audience.

Don't be alarmed. I cannot speak English that rapidly.

Seriously, I am grateful and happy to be here today to talk to you about Berlin.

Before I get to Berlin allow me to introduce myself by telling you the four basic principles to which all journalists of our newspapers are bound.

1. Reunification of Germany in freedom, if possible within the framework of a United Europe.

2. Reconciliation between Jews and Germans, which includes strong support for the life-rights of the people of Israel.

3. Rejection of any kind of political dictatorship.

4. Defense of the free market economy with social responsibility.

When I said before that I am grateful to be here at this time, my main reason is that I believe we are witnessing today not the beginning of a Berlin solution, as many want us to believe, but the beginnings of a new future Berlin crisis, different from earlier ones.

Many who compared the building of the Wall in 1961 to a painful amputation, now fear that in the meantime the city has been infected by a dangerous creeping illness.

It is, therefore, not a matter of accident that people are leaving Berlin these days in great numbers. The census officials of the city are alarmed. Many more Berliners, they say, have left the city in the past months than those who left even after the building of the Wall.

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For years and years I have been calling attention to this danger.

I remember especially a dinner in Bonn, ten years ago, on Friday, August 11th, 1961. Next to me sat the late Edward R. Murrow, then head of the USIA.

At that time, once again, access routes to Berlin were under discussion, and Mr. Murrow asked for my opinion. I shocked him by saying:

"You are all looking in the wrong direction. Watch out for a move to cut off West Berlin from the East by barbed wire and military units."

Mr. Murrow seemed more than interested and urged a detailed continuation of our talk a few days later, when he planned to be in Berlin.

One night later the barbed wire was actually strung, the Western powers reacted only reluctantly, and a short while afterwards a very excited and agitated Ed Murrow sat in my Berlin home.

In a long, extremely serious talk I warned him that this period may some day be regarded as the starting point of a neutralism which might embroil Germany at some future date and break up the NATO alliance.

You all remember, that soon thereafter President John F. Kennedy sent his Vice President, Lyndon B. Johnson, and the, in Germany, very popular General Clay to Berlin, to bring reassurance to the threatened city and to its people.

But the doubts remained.

It seems that especially Willy Brandt, the former Mayor of Berlin and present German Chancellor, never got over the shock caused by Western inaction in face of the Wall. It may be that the seeds for his new dangerous policy towards the East were already laid on this fateful August 13th, 1961.

During a recent discussion in the Bonn parliament, Herbert Wehner, the strong man in the SPD, said: "We must not forget that this Wall was accepted, even though with protest, by those who solemnly signed with us mutually binding treaties:—meaning the Western powers.

Brandt underlined this statement by almost jumping from his seat and three times in a row nodding his head in approval.

Ladies and gentlemen, we spoke of the days when the Berlin Wall was built. Those were trying times. But all this did not in any way change my earlier decision to move the headquarters of my publishing group from Hamburg to Berlin. I felt at that time, as I am convinced now, that in Berlin the future not only of Germany will be decided, but the future of Europe, possibly even the future of modern Western society.

Our move to Berlin was a deliberate decision motivated by politics and not by economy. Almost five years ago we opened our 20-story publishing house, a stone's throw from Checkpoint Charlie and seemingly astride of the ugly and dangerous Berlin Wall.

West Berlin, by the way, is not a small enclave. It covers an area in which you could put the cities of Munich, plus Frankfurt, plus Duesseldorf, plus a large hunk of Hamburg too.

From my office window I look deep into the other, the Eastern part of the city, and I invite each and every one of you here to come, visit us in Berlin, and share with me this depressing but illuminating view.

A few years ago Willy Brandt said: "Berlin exists for the vision, some day once again to be the capital of a free and united people. The note of alarm from Berlin will continue to exist, even if people elsewhere should get tired."

Let me add two other quotes from earlier speeches of the present German chancellor:

"We must get used to the fact that Russia insists on treating and denouncing Berlin as an alleged focus of danger, a cancer, as they say, a fuse in the powder barrel, a foreign body. But behind the Soviet demand for a treaty with the two forms of state on German soil there is not merely the—understandable—desire on the Soviet part to pocket Berlin, immediately or bit by bit; there is also the idea of globally fixing the results of World War II as the Soviet Union sees them."

Nobody could have put it more clearly. Nor this: "For anyone who put up with the partition of Germany, Berlin would become unnecessary. Berlin upsets the all too comfortable concepts. For it is clear that that miserable Soviet satellite regime which is neither German, nor democratic, nor a republic cannot be consolidated as long as the reddening evening skies over the free part of Berlin light up the hopes of men on the other side of the Wall."

Willy Brandt spoke like this for many, many years. But in the past two years something almost unthinkable has happened in Germany:

After the last federal election campaign in 1969, during which no political party mentioned that a totally new foreign policy was planned, the traditional, generally accepted, common political basis of all three democratic parties in the Bonn parliament *vis-a-vis* the communists broke apart. (As an aside let me add, that this is reported by a man who in past elections has given his vote to everyone of these parties, as the occasions demanded.)

Let me make something else clear: I am not here to criticize my government or its policies. This my political friends and I do at home. And be assured, what I am saying here has been said and printed again and again back in Germany.

But because our papers are printed in German, I play the role of the interpreter to you today.

As to the Nobel prize given to Willy Brandt, I don't know exactly what my papers have written because I have been away from home for two weeks.

Personally, I am very happy that a German chancellor got this prize. Peace in connection with the new Germany I like very much. For me, in this respect, Willy Brandt is a link in the chain of all German chancellors since the foundation of the Federal Republic, all of whom worked for peace.

I do not like the prize, though, as approval of Brandt's new policies towards the East because I consider these policies very dangerous. I shall explain why in detail in the course of this speech.

Many are warning who, like myself, have all respect for Willy Brandt's political past.

One out of many of these I quote:

"The future of the Federal Republic is dependent upon its ties with the West. Therefore, the new Eastern policies of the present government must be criticized again and again. I foresee a sad ending."

This warning was given just last week by Margarete Buber-Neumann on her 70th birthday. Mrs. Buber-Neumann, a former communist, is an important German political writer. In 1945 she was freed from a Nazi concentration camp. She now lives in Frankfurt.

Some politicians in Germany never stop arguing behind closed doors that the United States is preparing withdrawal from Europe, and that therefore Germany must make arrangements with the Soviets. This German flirting with the communists in turn strengthens the hand of those in America who want to pull back the troops. And this again gives new arguments to the proponents of the German "Ostpolitik." This goes on and on—a vicious circle.

When I discuss today here in Washington the trends of the present West German policies towards Communist Europe, I do so, because I feel and fear that by these policies the whole West is endangered. If this goes on unchanged, the result will not be a peaceful, prosperous, quiet, united Europe, which is a partner of the United States, the result will be rather a Europe whose total resources would be at the disposal of the Soviet Union.

I know others are less alarmed and believe once again in "peace in our time."

Who is right? Those who believe that the Soviets have changed their aims and that we can trust them? Or those who, while admitting that the Soviets have at times modified their methods, are convinced that their aims are the same?

I belong to the latter group, and with good reasons. We in the West focus our eyes on measures of disarmament, arms limitations, manpower cuts, etc. The Soviets however give only lip service to such intentions, and at the same time build up their armed forces. They rearm in such a way and with such speed, that soon they may be the world's number one military power.

This, by the way, is not only the opinion of a disillusioned publisher from Berlin, it has been confirmed to me by top intelligence officers from my own country as well as from yours, from Britain, from Switzerland and from Israel.

What is to be done?

Maybe the question to be answered is a very simple one: Will we see in the last third of our century a *pax americana* or a *pax sovietia*?

One excludes the other. *Pax americana* would mean continued hope for all mankind; *pax sovietia*, new dark ages in our times.

You, our American friends, after your victory in 1945, had the wisdom to help rebuild the destroyed countries of Europe, including my own, your former enemy. This is never forgotten.

When shortly after the war the Soviet Union resumed its aggressive policies, you brought together worldwide alliances. Especially in Europe, they stopped the aims of the communists and allowed the countries protected by the NATO shield to live through years of unheard-of prosperity and growth.

The question, as I said, is: Do we want to *work* for this *pax americana*, or are we willing to let the other side win?

These are the only alternatives—a compromise is not possible. Even the Soviet term for international compromise—peaceful coexistence—does not mean cooperation, but continuation of the confrontation on other levels.

Piotr Abrassimov, until a few weeks ago Soviet Ambassador in East Berlin, calls peaceful co-existence "a form of the 'class struggle' on an international level."

"Trybuna Ludu," the communist party paper in Poland, makes it still clearer, saying:

"The policy of peaceful co-existence aims at taking away from the capitalists by peaceful means all positions they still hold."

Aggression and peaceful co-existence, disarmament talks and rapid build-up of the armed forces, subversion and cooperation, trade negotiations and trade war—all these and many other seeming opposites are for the Soviets only two different sides of one coin. As long as we refuse to realize this, we are in great danger.

In this worldwide gamble for final victory by the communists, Berlin is one of the most important pawns for the Soviet Union.

The Soviets still quote Lenin who said: "Whoever controls Berlin will rule Germany, and whoever controls Germany rules Europe."

Up to this time, in the struggle for Berlin, the communsts have not won. The blockade in 1948, the Krushchev ultimatum in 1958, the Wall in 1961, the constant intimidations and the shootings—all were a combination of naked power and blackmail. But they did not succeed.

Should the Soviets and their friends now obtain by sweet talk what they failed to get by threats.

Sweet talk? What am I saying?

In the Berlin agreement of the third of September of this year, the four powers condemned the use of force. But of course we continue to hear the shots and also the cries of those who try to flee from the East. Their number has even increased.

Ladies and gentlemen, just about ten years ago Robert Kennedy told me in Berlin that the Wall was the most effective propaganda against communism, I answered:

"I am afraid, in time, people will get used to this monstrosity. And if we keep quiet, if we fail to create permanent worldwide moral pressure, ten years from now the Wall will still be here, will be an accepted 'reality'."

Today, ten years later, the Wall is still there. Worse: its existence has been silently tolerated by the West in the Berlin agreement, which was signed only a few weeks ago.

What was really gained by the West in this agreement? I know the Western representatives invested immense good will and the greatest efforts. But the so-called concessions from the Russians are all self-understood and accepted among decent nations.

Travel simplified from and to West Berlin. Visits by West Berliners to East Berlin and East Germany, of course not vice versa. All this is emotionally important to individuals, but politically unimportant.

The West, however, conceded important political ground.

For instance, it diminished the influence of the Federal Republic in West Berlin by accepting that no sessions of the Bonn parliament nor the Congress, which elects the Federal President, may take place in West Berlin.

On the other hand, the situation in East Berlin was not even mentioned, where, contrary to earlier agreements, the East German regime has installed all its governmental offices and its mock parliament, not even to speak of the East German troops, which are stationed there. No West German soldier may—of course—enter West Berlin.

Completely incredible is the concession to establish a Soviet consulate general in West Berlin, a concession obviously granted upon German urging. The Berliners already call this the future home of all the spies who were kicked out of Britain recently.

You may be interested to hear how a member of the Western negotiation team sees the future of this institution. He said:

"At first the Soviets will do nothing. But after two years at the latest, they will press for their own liaison officer at the seat of the West Berlin government. Then we shall have Four Power Rule for West Berlin."

The West also gave a deathblow to all hopes for eventual reunification of Berlin and Germany. I mean, of course, reunification in freedom. This new policy will most likely bring in its wake international diplomatic recognition for the East German regime. The run has already been started.

This is, of course, not admitted in such terms by the involved Western representatives. But these are the facts, and the Soviets and their allies already speak and act accordingly.

Believing that self-determination is a basic political right, I, for one, would have been happier, had it been possible to put the Berlin agreement up for a referendum vote to the people of West Berlin.

Ladies and gentlemen! "Berlin exists for the vision some day to be the capital of a free, and united people," said Willy Brandt in former times, as I have quoted earlier. This has also been the policy of all American Presidents from Harry S. Truman to Richard M. Nixon.

Without this vision, what will Berlin be? To this city, also, the aphorism applies: "It shall not live by bread alone."

Are these the words of a German nationalist? Certainly not.

If I speak of reunification, I think mainly of bringing freedom and civil liberties to the Germans in the other part of my city and my country. Reunification on other terms is for me unthinkable.

For a long time I have been content, because at last Germany has found itself on the right side in world politics. It was on the side of the free world, on the side of the United States, on the side of Israel.

The German Chancellor claims that this will continue. But I am not so sure.

What will be the next moves?

The Soviets, and probably also my own government, will press for a speedy accord among the two parts of Germany to fulfill the Berlin agreement. They will also press for a speedy ratification of the Moscow and Warsaw treaties.

Concerning these treaties, a friend of mine, a high official in a country which is also under pressure from the Soviets, asked me recently: "Please explain to me the Russian 'Westpolitik,' which in your country is called German 'Ostpolitik'."

These treaties, in my mind, are so dangerous, not only because they give away German rights without getting anything back in return, but because they are the first sign of a new "renversement des alliances," reversal of alliances, as Bismarck called it.

And this would most certainly be a catastrophe. Without the alliance of the West, which was built with your help and with America as the leading member, the free world would be doomed.

The next step, according to the Soviet timetable, will be the so-called European Security Conference. Here the often-told, long-range aim is to find a political and a legal justification for the demand, that "all troops return home from foreign soil." This in effect would mean that the Soviet units might retire beyond the new Polish eastern border, and that the American units retire beyond the Atlantic.

The Russians plan to have the European Security Conference by spring 1972. During his visit in the Crimea, near Yalta, Willy Brandt accepted this timetable. Or, so I have been informed.

The Soviets expect that next spring President Nixon will be so involved in the elections that only little energy can be spared by him for other matters. This the Russians hope to exploit.

It appear that the British government has chiefly recognized this situation and tries to at least postpone this conference. I hope it succeeds.

If the Moscow and the Warsaw treaties and the Berlin agreement become effective, and if the Soviets reach their goal at a European Security Conference, Russia would become the dominant power over all of Europe.

However, the majority of Europeans and most certainly the majority of my German countrymen still hope for the *pax americana*. In a recent poll 79 per cent of all West Germans considered continued friendship with the U.S.A. as the most important foreign policy issue. And I know that the *pax americana* can only be reached with the full and enthusiastic cooperation of all the friends and allies of the United States. And this, of course, also includes the fair sharing of financial burdens.

Finally: A last word about Berlin. Almost exactly 25 years ago today the first free, secret and direct elections under the Four Power Statute were held in all of Berlin. Shortly before election day, Hans Wallenberg, then an American Major and chief editor of the "Allgemeine Zeitung," wrote an important article. It was entitled "Have No Fear" and, among other things, killed the viciously-spread rumors that American and British troops soon were to leave Berlin.

The elections brought an overwhelming victory for freedom against the darkness of a new, a Soviet dictatorship. Hopes were high.

But never again have there been free elections in all of Berlin. Instead we have had set-back after set-back.

We must recover lost ground and, once again, together build something new, so that it never again will be necessary to say: "Have No Fear."

ITALIAN PRESS REPORTS ON VISIT OF AMERICAN CONGRESSMEN TO GENOA

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. ANNUNZIO. Mr. Speaker, I want to call the attention of my colleagues an article written by Mr. Guido Mariotti, of Il Cittadino, which is one of the prominent daily newspapers serving the people of Genoa.

I had the pleasure of meeting and conferring with Mr. Mariotti at a reception given by Mr. Thomas H. Murfin, American Consul General at Genoa, in honor of the Congressmen who visited Genoa in early October on the occasion of the first celebration of Columbus Day in America as a national public Federal holiday.

The text of the article is most comprehensive and I know that many of my colleagues in the House will enjoy reading it, because it further demonstrates that the bridge and the ties between the people of Italy and the people of America are strong and enduring.

The article follows:

[From Il Cittadino, Oct. 5, 1971]

"COLUMBUS DAY" WILL BE A NATIONAL HOLIDAY IN THE UNITED STATES

To solemnize the event a delegation of American Congressmen has been hosted in Genoa—The significance of the celebrations that are now in preparation.

Christopher Columbus has received the high honor of having a national holiday of the United States of America officially dedicated to him. Until today there were eight national holidays but only one was reserved to an individual, George Washington, the Father of the nation of the Americans. The decision of Congress to declare Columbus Day a national holiday of the States of the Unione therefore takes on particular significance because it is one of the greatest honor which the great Genoese mariner could have had. The law was sponsored by United States Congressmen of Italian origin and was approved in 1968 with an overwhelming majority and great enthusiasm. According to the American legislation the law enters in force three years after its adoption so that 1971 is the first year in which Columbus Day becomes a national holiday.

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To solemnize the event a delegation of Members of Congress, many of whom of Italian origin, visited Genoa as guests. The group was led by Honorable Peter W. Rodino who worked for 23 years to obtain approval of the law. "For us it is a great honor as Americans of Italian origin"—stated Congressman Rodino—"to come to Genoa bringing the greetings of President Nixon and the Speaker of the House of Representatives Carl Albert. Columbus Day will have a special significance this year and large celebrations are in preparation in all American cities having substantial Italian or Italian-American population; above all in those cities—and there are 14—which carry the name of Columbus. If George Washington is for us Americans the Father of our country, Columbus can be considered the Father of the immigrants. With this holiday we intend to give a new impulse to the Columbian spirit and specially to strengthen the wonderful bridge of friendship and fraternity which binds the old world to the new. On October 11 at Chicago, October 6 at Washington, and also in New York, New Jersey and 100 other American cities Columbus Day will be celebrated with great ceremonies."

The family of Congressman Rodino of the Democratic Party was from Avellino. The family of the Congressman of Illinois, Frank Annunzio, a member of the Banking and Currency Committee, is originally from Cosenza but resident of Chicago. Speaking with the typical accent of Italo-Americans, he said "It's a hundred years since our paparani, that is our grandfathers and great-grandfathers who came illiterate to America, have wished to honor Columbus because they were proud of him."

The delegation met yesterday evening at Palazzo Spinola with the President of the Region Hon. Dagnino to whom Congressman Rodino delivered a personal letter from President Nixon and a framed reproduction of the law establishing Columbus Day. "For a long time" wrote the President of the United States, "we have particularly cherished the ties between the US and the City of Genoa. I am particularly pleased that this message to you can be carried by a distinguished goup of American political leaders who are of Italian descent. They are eminently representative of that special part of our national heritage that is Italian. These men embody the finest tradition of America and they also take great pride in the cultural heritage of the land of their ancestors." President Dagnino on his side stressed the "value of relations between USA and Italy" stating that "the example of Columbus is a great light which enables us to understand our world better."

Most of the Congressmen who came to Genoa are from the District of New York, Chicago, Pittsburgh, New Jersey, and Connecticut. All said they were impressed by the "rhythm" which they found in Italy both in traffic and shops and by the reception and the wonderful climate.

Yesterday the Congressmen, accompanied by their wives, were received at Palazzo Tursi by representatives of the Commune with representatives of the Region and Province present. In the evening the group left Genoa for Milan from where they depart today for the United States. In his address of farewell Dr. Carlo Pastorino, Vice President of the Regional Assembly, recalled that "in the name of Columbus we should celebrate the initiative of the great Genoese of the past and of the astronauts of today whose courageous endeavor was accompanied by an advanced technology but also by a will employed in a politic of peace and understanding." Dr. Pastorino concluded with the hope that "the political, economic and monetary decisions of the government of the United States as a consequence of the monetary situation of the entire world can be quickly overcome in a policy of progress."

A NEW NATIONAL HOLIDAY

HON. F. BRADFORD MORSE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. MORSE. Mr. Speaker, last October 11, Federal employees celebrated a new national holiday, Columbus Day. Many of those who enjoyed this new holiday may be interested in how it came to be added to the list of national holidays.

An article in the September-October 1971 issue of the Bay State Postal Worker serves well, I think, to enlighten us on the origin of Columbus Day, and on the efforts of one particular man, a determined postal worker, Mr. Mitchell Harb of Lawrence, Mass., to have his dream of making Columbus Day a national holiday become a reality. I would like to share this article with my colleagues.

The article follows:

COLUMBUS DAY—WHO REALLY GOT US THIS HOLIDAY?

(By James Smyrnios)

October 11, 1971, will be an additional paid Holiday this year for us as Postal Employees. Since the passage of this Bill through Congress, many Postal employees and Local leaders are claiming to be the one responsible for the passage of this Bill.

Well there should be no doubt in anyone's mind, that the residents of Massachusetts and the members of the Knights of Columbus were highly instrumental in obtaining passage of Columbus Day to be observed as a National Holiday.

Hearing these various claims from Postal employees, I decided to do a little research work on this matter. This research has come up with documented facts, that the Lawrence Local No. 366, in my opinion, played one of the most important roles in seeking and promoting the National observance of Columbus Day.

Mitchell A. Harb, Past President, Lawrence Local No. 366, was possibly the key figure amongst Postal Employees in Massachusetts in spearheading the drive for National observance of Columbus Day. For many years, Mitch submitted and resubmitted resolutions through his Local to the State and National Conventions for the observance of Columbus Day as a National Holiday. Through these resolutions and the help of Congressman Brad Morse, Mitchell Harb has finally seen his long dream come a reality.

One only has to look at the Resolution submitted by the Lawrence Local at the 1962 State Convention in Lowell, Mass.

RESOLUTION

Whereas, the Commonwealth of Massachusetts, has legally adopted and accepted the observance of October 12th, Columbus Day as a legal holiday, and whereas this date is partially observed by some Post Offices in the Commonwealth as a Holiday, by partially closing the office hours,

Be it resolved, that in accordance with the spirit intended by the State Legislature, that Columbus Day, October 12th be recognized as a full State Holiday observed by all Post Offices in the Commonwealth. Services to the public to be suspended and that this date to be recognized as a Paid Holiday.

I ask you now, is there any doubt in your mind, as to the fact, that the Massachusetts Federation of Postal Clerks and the determined attitude of Mitchell Harb, played a most important part in obtaining Columbus Day as a Paid National Holiday for Postal Employees?

SUPPORT GROWS FOR THE REDUCTION OF U.S. CONTRIBUTIONS TO THE UNITED NATIONS

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. YOUNG of Florida. Mr. Speaker, the people of America have expressed grave concern over the recent ouster of Nationalist China from the United Nations for, as a result of the China episode, the future of the free world has become somewhat obscure.

Of the 59 nations who defied the United States and voted to expel the Republic of China, all but six have received U.S. foreign aid totaling over $47 billion since 1946. And while there are over 125 nations participating in the United Nations with equal voting power, the United States provides 31.52 percent of the operating costs of the United Nations and over 40 percent of the funds which it uses for special projects.

In view of these alarming facts, I feel that it is definitely time for us to reassess our priorities as a Nation and to reassess the overgenerous contributions—contributions which are made up of the American taxpayer's hard earned money—from our Government to an organization which has, in effect, slapped us in the face.

It is encouraging to note this feeling is shared by the Republican Party of Florida which, on October 30, 1971, unanimously passed a resolution in support of any move which would reduce the U.S. contribution to the United Nations. For the benefit of my fellow Congressmen, I am herewith including the text of this resolution:

RESOLUTION

Whereas, the Nixon Administration desires to curb inflation and one of the cures for inflation is reduced spending, and

Whereas, the present trend in the Congress of the United States is to cut back foreign aid expenditures, and

Whereas, the General Assembly of the United Nations violated its own charter by expelling the Republic of China, since Chapter II, Article VI of the Charter makes it illegal for the General Assembly to expel a member without the recommendation of the Security Council, and

Whereas, even though each country in the United Nations has one vote, the assessments for each nation are not so equal, for instance, Albania with 2,000,000 people pays .04 percent of the United Nations budget; Cuba with 8,000,000 people pays .16 percent; the U.S.S.R. with 250,000,000 population pays 14.8 percent and the United States with 204,000,000 people pays 31.52 percent, and

Whereas, the old adages, such as "no taxation without representation" and "never bite the hand that feeds you," are still remembered in these United States of America, therefore, be it

Resolved, That the Republican Party of Florida supports and encourages those Republican Congressmen and Senators of the United States Congress who are in favor of and working to reduce the United States contributions to the United Nations.

(Passed unanimously by the Republican Party of Florida, in meeting assembled October 30, 1971.)

HON. DANIEL J. FLOOD RECEIVES THE AMERICAN CANCER SOCIETY'S AWARD FOR DISTINGUISHED SERVICE

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. McDADE. Mr. Speaker, last Saturday evening, our distinguished colleague and good friend, the Honorable DANIEL J. FLOOD, received the cancer award of the American Cancer Society for distinguished service in the fight against cancer at its annual meeting at the Waldorf-Astoria Hotel in New York City.

Congressman FLOOD was so honored for his outstanding leadership and his consistent legislative support of noteworthy health measures, as well as his wholehearted dedication to the vital programs of the National Cancer Institute.

Mr. Speaker, I wish to insert for the RECORD a copy of Congressman FLOOD's acceptance speech, for I believe it reaffirms the commitment and the leadership that he has so often displayed in the fight against cancer, as well as reflecting the commitment of all of us in Congress to cure this dread disease and to provide the best possible health care for all of our citizens.

SPEECH BY CONGRESSMAN DANIEL J. FLOOD

I am deeply honored to receive the Distinguished Service Award today from the American Cancer Society, and thank the Legislative Committee for its flattering recommendation.

For more years than I care to remember, I have been profoundly interested in cancer research. I have been fortunate for the past several years to be Chairman of Labor-HEW subcommittee of the House Committee on Appropriations, which has enabled me to take an active role in the support of the Federal cancer research effort. It is a role, ladies and gentlemen, which I treat with the greatest respect.

I think we truly live in an exciting period—possibly the most exciting period in cancer research. I can recall that in 1945—the year I first entered the House of Representatives—some of the accomplishments which we now accept as a matter of fact would have then been considered daydreams: the progress against leukemia, a disease which causes more deaths among American children than any other illness; the progress against breast cancer, the major cancer killer of women; and the advances in the treatment of Hodgkin's disease, a cruel killer of young adults.

Equalling heartening is the development of new detection techniques for breast cancer—and of immunologic techniques that may detect intestinal cancer before symptoms occur. Lung cancer prevention measures, such as your educational campaign against cigarette smoking, will save many lives. Recent findings in virus research are likely also to play a significant role in cancer prevention.

We can all thank dedicated scientists across the Nation for their outstanding contributions to the progress against cancer. But we in the Congress realize that the effort cannot be accomplished by the scientific community alone. The role of dollars—in making progress possible—is a fact of life in our society which we all recognize. In this regard I think the Congress has played a highly significant role. The recent appropriation for cancer research is an excellent example. The voice of the President, the scientific community and especially the American Cancer Society was heard loud and clear by the Committee on Appropriations. We on the Labor-HEW Subcommittee shared the Cancer Society's belief in the urgent need to increase American cancer research capabilities and resources. We shared the belief that the time was in fact ripe to exploit the many new research leads recently uncovered by cancer scientists.

We all can share a high degree of pride in the passage of the Second Supplemental Appropriation Bill, signed by the President on May 25, which is now providing an additional $100 million to the national effort to conquer cancer. This additional $100 million, when added to the regular appropriation for this year, gives the National Cancer Institute a current operating level of $337.5 million; almost double the amount available only two years ago. I think the Congress has made it clear by its action that it stands ready to support cancer research to its fullest capacity.

Once again may I say how pleased I am to accept this honor today from the American Cancer Society. Private support of cancer research, such as that provided by the American Cancer Society, has immeasurably strengthened the national effort to fight this dreaded disease. The Cancer Society's various programs of research, its extremely effective volunteer efforts, and its many programs of public and professional education, make it an important partner in the national effort to conquer cancer.

CHARLES E. PERRY, PRESIDENT, FLORIDA INTERNATIONAL UNIVERSITY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. FASCELL. Mr. Speaker, next fall Florida International University, Miami's first State-supported university, will admit its first students. As the first urban university in the State's system, FIU has the opportunity to focus its programs in economics, political science, management, sociology, and education on the immediate Dade County community which will serve as its laboratory. The university will also play an important role in the development of the permanent international cultural and trade center at the Interama site where its second campus will be located.

Named as President of this new university, with a projected enrollment of 30,000, is Dr. Charles E. Perry. Dr. Perry, at age 32, is one of the youngest college presidents in the Nation. A graduate of Bowling Green University in Ohio, Dr. Perry was named that school's admissions director at the age of 23. He subsequently came to Florida as an assistant to the chancellor of Florida's university system, and was then appointed to the new presidency at FIU.

Dr. Perry's enthusiasm and expertise have been invaluable during the university's formative period. Through his leadership the university has acquired an outstanding roster of nationally recognized educators to head its schools.

Dr. Perry is also a member of the U.S. Commission for UNESCO. Speaking before the United Nations Day Observance Dinner of the United Nations Association of the United States of America, Miami-Coral Gables chapter, Dr. Perry announced he was recommending to U.N. Secretary-General U Thant, recipient of an honorary degree of international laws from FIU, a far-reaching program for the international exchange of teachers. Dr. Perry recommended:

That there be established by the United Nations, through UNESCO, one central world clearing house for the international exchange of teachers—a function aimed at world peace and the advancement of mankind, which are the primary goals of the United Nations.

While education was the main theme of Dr. Perry's remarks, he also outlined the strengths and successes of the United Nations. I call his entire speech to the attention of our colleagues. These remarks give a glimpse of Chuck Perry's insight into international relations and the problems of education, and illustrate part of the reason Florida International University and south Florida are so very grateful for his leadership.

The remarks follow:

ADDRESS BY CHARLES E. PERRY

We are gathered here tonight to observe the occasion of United Nations Day. Similar gatherings are being held elsewhere, both in this country and throughout the world.

Obviously, all of the people who attend these meetings are supporters of the United Nations. One measure of our support is the fact that we want this observance of UN Day to have the public recognition it deserves. But beyond that, I would hope—and I believe—that all of us are taking this occasion to increase our own personal involvement with the work and goals of the United Nations.

In the preamble to the charter of the United Nations, the signatory countries pledged themselves to peace, human rights, justice and social and economic progress. True, these are ordinary words—but the goals they so briefly define are extraordinary in human history. What is even more significant is that the pledge was given not in the name of any government or any country, but, rather, in the specific words, "We, the peoples of the United Nations . . ."

Not governments, not nations, not presidents or prime ministers, but "the peoples." The founders of the United Nations saw very clearly that the goals they were setting forth could only be achieved by the united effort of the peoples of the world. And while the charter obviously refers to people in the millions and hundreds of millions and even billions, the word "peoples" also means us—you and me.

So, even though each of us is but one individual, it is up to us as individuals to do all that we can do to support and sustain the United Nations; to be involved in its work to the extent possible and to take its successes—and its failures—as uniquely personal responsibilities.

Here in South Florida, we have many opportunities to become personally involved in international affairs. Miami is rapidly becoming an increasingly significant international port of entry—a gateway both to

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and from the United States. The peoples of the Americas flow through Miami all year long—and so do citizens of many other nations.

Many large business and banking organizations now have their international headquarters in this area. More will come.

Students from all parts of the world come here to study at our colleges and universities.

The businessmen, the students, the tourists, the local population—which is constantly growing—all meet here. They mingle, they interact, they impress and are impressed. And in this jet age, the same people are often here two and three times in a single year. For many of them Miami is the United States of America.

I know that many of us who live in this community participate actively in the international sphere. I'm certain that some of you are active members of the Council for International Visitors which does such an excellent job of people-to-people work with our visitors. This is also the headquarters for "Operation Amigo" which has originated so many productive student exchanges with Latin America and this effort involves many of the people who live here. And the fact that many residents of this area have close family and business ties in other nations automatically brings all of us closer to becoming involved internationally.

While I am not here to deliver a report to you about Florida International University, I think it is appropriate to say that our planning has been designed from the inception to create a university with a major international thrust and significant international programs and participation. The University will have as part of its core a Center for International Affairs which will provide an over-all focus for our internationally-oriented programs.

In addition to what goes on at the University itself, we shall be able to play an important part in the development of the permanent international cultural and trade center that will surround our second campus at Interama. That will also be the site of Greater Miami's official role as one of the four cities selected by the president to celebrate this nation's Bicentennial in 1976.

But, above all, the University is committed to supporting the goals of the United Nations. And, as supporters of the United Nations, each of us has at one time or another been called upon to account for the supposed lack of progress of the United Nations. The most common question is, "Well, what has the United Nations accomplished, what has it done in a period of 25 years?"

The first and most obvious answer is that in no less than 70 cases involving either an outright breach of world peace or the threat of such a breach, the UN has been of direct and significant help in world peacekeeping. In a shrinking world, where even the smallest conflict carries with it the ultimate threat of nuclear extinction, this is no small achievement.

Beyond those 70 clearly identifiable incidents, the United Nations has for a quarter-century served as a forum where nations can state their case, make their arguments, and, yes, on occasion vent their spleen at one another. But far better to be the victim of a belligerent speech than the victim of an armed attack.

Those of us who live in South Florida can relate that very personally to the events of the Cuban missile crisis a few short years ago.

In that instance the United Nations joined with the United States and with the Organization of American States in asserting the rule of inernational law. The UN provided the forum in which the facts became known to the entire world. The Secretary-General personally intervened to help divert the Soviet ships while they were en route to Cuba. The United Nations also volunteered to send an inspection team to Cuba, and it was Castro's refusal of that offer that cast him in the role of the would-be war-maker.

Certainly, the United Nations has not been equally successful in all its peacekeeping efforts. But what is important is that there is an organization ready and able to attempt to keep the peace. It is quite likely that had the United Nations existed in 1914, those two quick pistol shots which killed Archduke Ferdinand and his wife might not have led directly to the First World War.

History relates that, despite all the threats and statements and despite the mobilization in Germany and Russia, both the Kaiser and the Czar, to the very end of the last hour of the ultimatum, sought desperately for a way out. But there was no forum, no international body, no place to go to still save face—so the world was at war!

So much for war and peace. Important as they are, there is more to life than soldiers and diplomats, and the United Nations is active on many fronts that the public seldom hears about. Next year in Stockholm, the UN will hold a conference on environmental abuses. Every nation is now concerned about the deterioration of the environment—and it is a problem that knows no borders and no political boundaries. Here is an ideal place for the United Nations to serve as a focus for increased knowledge and a pivot point for meaningful international action.

Do you know about UNRRA? This is the UN agency that for a quarter-century has stood between millions of refugees—or as we now call them, "stateless persons"—and extinction. There are 63 of these special UN camps in the Middle East alone where they serve as the only home for better than half a million people.

You have probably heard about UNICEF, but did you know that this UN Agency has vaccinated more than a quarter-billion of the world's children against tuberculosis. UNICEF is active in 115 countries and it is performing miracles this very minute for more than 55 million children and their mothers.

Through the UN development program, 137 of the world's "have-not nations" have taken the first, difficult steps toward the economic development they must have to survive—and to remain peaceful. A number of the poor nations wanted no part of bilateral entanglements, so they were pleased to participate in this "bootstrap-operation" under United Nations auspices.

I don't want to turn this into a statistical review, but I could go on for hours reciting facts and figures to prove beyond question that the world is a better place—and that it has prospects of becoming considerably better than it is now—as a result of the work of the United Nations. And not only the world we live in—the world of outer space that we are exploring also. The United Nations has drafted the two major treaties that are now in effect to regulate the peaceful uses of outer space.

And beyond the achievements, beyond the facts and figures, is the example set by the United Nations. Merely by existing, merely by being there, it has encouraged men of good will to move ahead. The principles embodied in the United Nations Declaration of Human Rights are now included in the constitutions of no less than 43 separate nations.

All of us have had the experience of hearing the United Nations criticised, sometimes justly, sometimes unjustly, and all of us have wanted to reply. There can, I think, be no better reply than the words of Adlai Stevenson before the American Association for the United Nations meeting in San Francisco just 10 years ago tonight. It is a fairly lengthy statement, but I think it bears repeating because it is hard to imagine that anyone could say it more effectively:

"In April, 1945, toward the end of humanity's most terrible war, but before any man had seen the atomic age, the architects of peace met in San Francisco to complete the design of a new dwelling house for the family of Man.

"I was there during those golden weeks. And no one who was will ever forget them. It was a beginning. It was the morning—fresh with the hope of a new day.

"But the house is now battered. It resounds endlessly with family quarrels. There are cracks in the walls, and inside the cold winds of war and danger and strife from every quarter of the globe rattle the doors and windows. And, as is usual in such cases, quite a number of the tenants are behind in the rent.

"But the house is still standing, and I am far from downhearted. We will meet all our problems and in time we will solve them in a way which is tolerable to the community of nations and to our own purposes. But it will be a slow game, and we are not going to score a touchdown on every play . . .

"I believe the cause of freedom and peace has a glorious future in this world. And in that future the United Nations will play a mighty part. Let none of us mock its weakness, for when we do we are mocking ourselves. It is the hope of the world; and our country's pride should be that we stood by the United Nations, the meeting house of the Family of Man, in its time of hardest trial."

So, for those who may doubt—I can only echo Mr. Stevenson's comments.

Now I come to an international subject which is nearest to my heart—education. And, in the interest of world peace and progress, I am prepared tonight to suggest a new role for the United Nations in education. Before I make my proposal, however, I feel it is necessary to delve briefly, but deeply, into history. Please bear with me for a moment.

More than 2,000 years ago, Kyan-Tsu (Kee-yan-Soo), the Chinese philosopher, is reported to have said:

"When planning for a year, sow corn. When planning for a decade, plant trees. When planning for life, train and educate people."

More recently—just about 300 years ago—Moravian Bishop Johann Amos Comenius was thinking along the same line, and had an idea which he felt would lead to world peace. He viewed education as a bridge to better understanding, and urged that it be organized and promoted on an international scale.

The Bishop's idea, spawned in an era of poor communications, was slow in moving into the world stream. The Catholic Church, of course, has been involved in international education for centuries, but it was not until 1904 that two countries, Great Britain and France, established an exchange system for teaching assistants. Then, in 1925, the International Bureau of Education was created, and it is today the oldest international organization concerned with education.

Great impetus to the Bishop's 17th Century idea was given in 1946 with the establishment of UNESCO—the United Nations Educational, Scientific and Cultural Organization. The fact that the headquarters of both UNESCO and the International Bureau of Education were located in Western Europe acted as a stimulus to international educational activities. More important, the two organizations got together in 1950 at Geneva, and submitted to the ministries of education recommendations that encouraged international understanding by having major programs for the interchange of teachers and urged that other similar programs be established to promote international peace and progress.

West Germany was quick to recognize the importance of teacher exchanges in fostering better understanding, and, by 1952, had established them with various countries. The National Education Association has informed me that West Germany is still actively recruiting teachers from other countries.

France acted, largely in its own orbit. By 1967, 21,500 teachers from France were employed in the schools of Algeria, Morocco and Tunisia, and another 6,000 were scattered throughout 12 tropical African states and Madagascar.

Recently, the Soviet Union has been engaged in a wide range of international education programs, including teacher exchanges. In one short year, 1,500 Soviet educators went abroad for 150 short-term reciprocal visits. Communist countries were mostly involved, although non-Communist nations were included.

At the 1969 Assembly of the World Confederation of Organizations of the Teaching Profession, Sir Ronald Gould, the president, declared that "we must urge the development of teacher visits and exchanges, and with them exchanges in ideas." He cited "the pioneer work so brilliantly commenced by Canada which has sent a considerable number of capable, experienced teachers to provide in-service training for our colleagues in the poor countries."

For the last quarter-century, an increasing number of United States colleges and universities have been managing programs for the sending of professors and students abroad and/or bringing their counterparts to campuses in the United States. Today, more than 20 percent of our colleges and universities are engaged in such programs.

Two-thirds of the current programs involve European countries, but significant is the fact that there has been an increase in programs on other continents. About 15 percent of the programs are now in Latin America, more than five percent in the Middle East and Africa, and more than six percent in Asia.

The international educational and exchange programs related to the Fulbright Act, started in 1949, have enabled more than 125,000 students, teachers, university professors and advanced researchers to study and teach outside their native lands—in more than 130 different countries.

The Peace Corps, born in 1961, has sent thousands of young American volunteers to other countries, with half of these volunteers directly engaged in teaching and the other half in educationally related areas.

There are many other international teacher exchange programs. In fact, UNESCO has issued a booklet containing information on agencies and organizations in 83 countries concerned in one way or another with the recruitment of staff for teaching assignments abroad. I have mentioned only a few to point out that much is being done in this area—and is being done well with untold dividends in better international understanding.

But now I come to my crucial point. Suppose you are trained as a teacher—are adept in several languages or are willing to take studies to learn another language—how do you become a participant in a teacher exchange program?

For the average person, the answer to that question is a most difficult and puzzling one. Recently, a young woman, who holds a master's degree in education, but has been doing secretarial work at Florida International University because she has been unable to get a job in her field, made many telephone calls to different organizations in Washington, D.C., and New York, asking about the possibilities of teaching in another country. The answers were indefinite and confusing. And, upon further investigation, I found that there is no single centralized system available to handle this situation. Consequently, I am taking the opportunity of this occasion to make public my recommendation for such a system, although as a member of the United States Commission for UNESCO, I have already officially asked the Secretary General of the United Nations to implement the idea. The recommendation is:

That there be established by the United Nations, through UNESCO, one central world clearing house for the international exchange of teachers—a function aimed at world peace and the advancement of mankind, which are the primary goals of the United Nations.

When the United Nations was established in 1945, such a world clearing house for the exchange of teachers might not have been practical, but, with computer and other technological advances, I submit that it can be done today.

Adding to the urgency for the need of such a clearing house is the fact that, for the first time in the history of the United States, there is a surplus of teachers in many fields. And with so many persons in the world in need of more educational assistance, the idea of a surplus of teachers—anywhere—is ridiculous.

Surpluses of both wheat and knowledge in a world with under-nourished and under-educated people should not be tolerated. Certainly better understanding and better living in the world can come only by eliminating the surplus of ignorance.

In the United States, with its nation-wide surplus of teachers, regional clearing houses to assist the United Nations may be necessary. America's colleges and universities are particularly geared to serve in this capacity. Certainly, Florida International University, at the gateway between the two Americas, would volunteer its services in this regard for Latin America. The nation's colleges and universities could also be utilized for intensive work for teachers in foreign languages, and for the specialized programs to prepare teachers for an international assignment.

Throughout the years, the United Nations, despite its frustrations and setbacks, has successfully been a clearing house for many differences and conflicts. But what I am suggesting now is an educational clearing house aimed at reducing the differences and conflicts.

The United Nations has seen this clearly from the beginning. The Constitution of UNESCO says it in these words: "Since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed."

What I have suggested tonight is, hopefully, a new and better way of moving to construct those defenses in the minds of men throughout the world.

We must all remember that we live—especially those of us who dwell in the more advanced nations of the world—amid technological and scientific breakthroughs that have come upon us so rapidly that they pose grave difficulties in their handling. Growth versus environment, mass employment versus automation, food surpluses in one nation versus starvation in another—all these are problems that must be solved in the minds of men before they can be solved anywhere else.

The peoples of the world—the peoples mentioned in the preamble to the United Nations Charter—are keenly aware of the multitude of problems. And through effective international education programs—enhanced by the development of the international teacher exchange clearing house—we can *and will* solve the problems facing mankind.

But the question may still be asked. Can the United Nations, which is only 26 years old, perform its mission of peace and progress? Can the United Nations do what we ask of it? Can any organization made up of peoples from all parts of the world create this kind of monumental achievement?

In April of 1945, Franklin D. Roosevelt was at Warm Springs, taking a brief rest before addressing himself to the problems of the coming peace and to the organization of the United Nations. Worn out physically, exhausted mentally, from the burden of leadership he had shouldered for so many critical years, this man was still the supreme optimist.

Seeing not simply the depths to which man had fallen, he looked equally upon the heights to which he was certain we had it in our power to rise. And he set down these words as part of a speech he was soon to give:

"The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith."

Death overtook President Roosevelt before he could speak these words, but they are as true today as they were then. They summon us all to the work that must be done, to the tasks that must be accomplished, if we are to survive in peace on this small space ship called Earth.

THE PACE OF MIDEAST DIPLOMACY

HON. ROBERT H. STEELE

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. STEELE. Mr. Speaker, the following editorial from today's Washington Post persuasively states the case for providing Phantom jets to Israel without further delay:

THE PACE OF MIDEAST DIPLOMACY

"I shall not allow 1971 to pass without the battle (with Israel) being resolved, either by war or by peace," Egypt's President Sadat said July 23. But of course he will. Peace by year's end is out of the question: nobody's ready to compromise. And there is, by Mideast standards, no more than routine danger of war.

Israel, enjoying both the possession of Egyptian territory and an American-made cease-fire, simply has no logical incentive for war. Some partisans of President Sadat insist that he is the prisoner of his rhetoric and cannot much longer hold his champing army back, but his record belies that belittling judgment. Since replacing Gamal Nasser, he has undone a serious political challenge, turned his people's attention toward domestic reform, and made more effective arrangements with Russia for the defense of Egypt against Israeli air strikes. The result is that he is freer than ever from a compulsion to lead Egypt to a fourth defeat, as the experts agree another war would be. A policy combining ardent slogans and prudent acts seems to suit his diverse political needs. Certainly that's better than the other way around.

The attitude of the superpowers is also relevant. Moscow, by agreeing to receive Mr. Nixon next May, has in effect said it won't precipitate a Mideast collision before then. Moreover, the deeper the Russians penetrate into the Egyptian military, the more they presumably discover its inadequacies relative to Israel. Moscow could compensate by assuming an even larger direct combat role than it had before the cease-fire started in August, 1970, but that would involve political and military risks it can hardly wish to accept before next May. Soviet policy comes down to waiting.

Waiting for what? For the United States to force Israel to withdraw to pre-1967 borders on terms acceptable to Egypt. The U.S.

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wants a settlement in a hurry: there lie easier relations with the Kremlin, political rewards in 1972. To a settlement pressed by Washington, however, Israel prefers a peace fashioned with Egypt. In pursuit of a made-in-America settlement, Secretary Rogers is trying to compromise Egyptian-Israeli differences. The Egyptians stand firm, so the compromises now all involve Israeli concessions. In an interim settlement, Mr. Rogers argues, Israel should let Egyptian forces cross the Suez Canal, accept a certain time limit on the cease-fire, and agree to move on to complete withdrawal from Sinai. To overcome Israel's reluctance to accept these points, the United States is withholding Phantoms, which are militarily, politically and psychologically Israel's critical weapon.

The pressure is not working. American undercutting of its negotiating position while cutting off its Phantoms has stirred Israel's deepest fears and alarms and has frozen its Mideast diplomacy. The way to thaw it is for the United States to open the Phantom pipeline—what goes through it may not be so important as Israel's knowing that it's open—and to back off and let Egypt and Israel reach toward each other at their own pace.

REPRESENTATIVE JAMES V. STANTON'S CALL FOR UNITY TO SOLVE CLEVELAND'S PROBLEMS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. SEIBERLING. Mr. Speaker, today our colleague, JIM STANTON, addressed the Cleveland Men's Club of Washington on the future of his home city of Cleveland, Ohio. Because of Mr. STANTON's important role in the affairs of Cleveland and the importance of the suggestion he has made, his statement will be of interest, not only to the people of Cleveland and surrounding communities, but to Members of Congress from other large metropolitan areas with similar problems.

Representative STANTON has offered to work with Cleveland's new mayor, Ralph Perts, and with all other local officials, to promote a new spirit of unity. He has also proposed a new caucus of the four U.S. Representatives from Cleveland to collaborate on matters affecting Cleveland. Earlier this year, the four Democratic and three Republican Representatives from the Cleveland and Akron metropolitan areas formed the Northeastern Ohio Congressional Council to work together on matters affecting the entire region. It seems to me that Representative STANTON's proposed Cleveland caucus could make an effective contribution working within the seven-man regional council to advance the interests of all the people of Cleveland.

The text of Representative STANTON's speech follows:

TEXT OF REMARKS BY THE HONORABLE JAMES V. STANTON

Thank you, Matt De More, for that fine introduction and biography—which I admit was fully authorized—and boldy conceived—by my highly objective office staff.

And thank you, Ed Seitz. You are not only the unofficial Secretary-for-life of this organization, but also a top-notch gentleman and scholar. (I insist on saying nice things about you, Ed, because you're a good Slovenian friend of my boss, Congressman John Blatnik, the Chairman of the Public Works Committee).

And thank you, gentlemen of the Cleveland Men's Club, for inviting me here and giving me absolute authority to make a speech in Washington, D.C., my first full-fledged effort since my arrival in the capital last January. As you people know there is an unwritten rule around here that freshmen Congressmen are supposed to be seen and not heard—but that if they find it impossible to keep quiet, and if they MUST make a speech, they had better find a more congenial forum than the House floor, where the duty of a good freshman is to sit and listen, with his hands folded.

I won't say I've been muzzled. Every now and then, I do sneak in a word or two—but then I stop when I realize that no one is listening. This is especially hard to take for a graduate of the Cleveland City Council where—I'm sure I don't have to tell you this—the First Amendment is fully exploited with freedom of speech guaranteed to the councilmen of all 33 wards and exercised on occasion, in the heat of controversy, by all 33 simultaneously.

Now that you've given me the floor, Matt, I refuse to relinquish it. I'm going to warm up, and train for that first speech I am going to give some day on Capitol Hill, as soon as I get enough seniority.

In the meantime I ask you as fellow Clevelanders to give me a break, and bear with me.

I promise not to take too long, but I do have something important to say. I'd like to talk with you about Cleveland—the city that all of us feel an attachment for—the city that brings us together around this splendid luncheon table—the place where each one of us got our start in life—and the community that, I trust, none of us will ever turn our backs on.

I haven't been away from there so long—really not at all. I've been going back there nearly every weekend, as part of my job. I've been in touch as some of you perhaps haven't, and I can report to you—or repeat to you—what you've already heard. The city has changed, and not for the best. The old neighborhoods have dispersed, or they are well along in the process of being shattered. Freeways have displaced the homes where you and your parents or grandparents used to live. The lake is filthy, and the air is fouled.

But there are two changes that are worse than all the others put together. The spirit of Cleveland has changed, and its image has changed.

The image I'm referring to is the national reputation that Cleveland once had—as the breeding ground of political progressives like Mayor Tom L. Johnson; as the home base of financial titans like John D. Rockefeller; as the community so full of compassion that it gave birth to the combined charities concept, which other cities have long since copied, but not as successfully, in the form of, say Washington, D.C.'s United Givers Fund. Cleveland had its troubles in those days too—even when we could boast of a Harold Burton, a Lou Boudreau, and a George Szell—but somehow we managed to keep our troubles to ourselves, and, outside of Cleveland, nobody heard much about them.

But what do we hear today about Cleveland? We hear this—and I quote from the Rowland Evans and Robert Novak column of October 29, on the eve of the mayoral election:

"Racial polarization is typified by murmurings in Cleveland's white neighborhoods about seceding to form a new all white town to be called Ohio City."

And we also hear, from the Washington Post of November 3—the day after the election:

"Cleveland's housing is dilapidated. The Cuyahoga River is filthy. *"Packs of vicious dogs are said to roam some neighborhoods."*

That's what you read about Cleveland these days. That's what an outsider sees—or hears—when he visits the city. That's our image now—and you can see how much we've lost—what the country thinks now about that area that we used to call boastfully "the best location in the nation."

And what about the spirit of Cleveland—the Cleveland that used to pride itself on being, if you will, a miniature United Nations—the home of a people enriched by so many races, religions, and nationality groups; where cultural pluralism prevailed and was encouraged—in fact, gloried in—while at the same time unity was achieved. Where is that Cleveland?

That Cleveland, my friends—and I tell it to you straight out, because you already know it—is gone. Something rather ugly has taken its place. It's a Cleveland broken into three parts—a black part where black people live, many of them in misery, many of them defiant because of it, and nearly all of them hostile to the whites living across the street and across the river. There's also a slightly larger white part of Cleveland, where white people live, good people and hard-working people, many of them also in need, who have come to believe that they must resist the growing black population and its political power.

We needn't go into the reasons, at least not here, for this mutual hostility. Whether the reasons are good or bad or unjustified, the fact is that they EXIST. And both sides know that this situation is tearing Cleveland apart.

And, my friends, there's a THIRD part of Cleveland—the suburban part. You can put a capital "S" on that. Today we have suburbanites who hardly ever enter the city any more, even though their livelihood ultimately depends on the city. They too feel alienated. The sad fact is that they sometimes pat themselves on the back for having—quote—"escaped," even though the truth is that they haven't escaped at all. For the problems of the city spill over into the suburbs, and catch up to the people who have fled there.

Gentlemen, we have just come through a mayoral election that reflects this division of Cleveland into three parts. I'll be blunt about it. Ralph Perk, who won the election—and I do not say this unkindly about him—was, whether he liked it or not, the candidate of the white part, and I hope he's not stuck with being the mayor of just the white part. Arnold Pinkney, also because of disruptive forces that were greater than he was, was the candidate of the black part. And Jim Carney, the duly nominated Democratic candidate whom I, as a Democrat, later supported, was in many respects the candidate of the suburban part, drawing much of his support from the downtown interests whose promoters live in the suburbs. The simple fact is that Ralph Perk won because there are more whites than blacks in the city; Arnold Pinkney lost because there are LESS blacks than whites; and Jim Carney lost because, in spite of a sizable vote from the residents of the city, which was a tribute to his hard work, many of his more ardent advocates lived in the suburbs and couldn't vote for him from that refuge of theirs.

Well, now that I've unburdened myself here—articulating what I'm sure you men have been thinking as well—where do we—where does Cleveland go from here?

I know where we ought to go. We ought to break up that street brawl we've plunged

ourselves into, and we ought to start moving. Together down a new street where we can recapture the old Cleveland spirit, and restore our once enviable national image.

I know that is Ralph Perk's goal—and good Republican that HE is, and good Democrat that I am—I want to help him all I can—for Cleveland's sake. In his quest for unity on a high plane, he has my support. We can retain our political differences but still work together toward the common goal, as all Clevelanders should while maintaining their own differences—ethnic, racial and religious, as well as political.

Yet, my friends, what must be done in Cleveland is the awsome responsibility that Ralph Perk is charged with. He's the mayor. HE has the initiative there. Much as I and my colleagues here would like to help him, there's a limit to what we can do in Cleveland. That is a hard political fact.

And yet, as a Congressman from Cleveland, I am not pretending that I am altogether helpless. There IS something that I can do here in Washington, D.C. There is something that my colleagues can do here. What WE can do in Washington—my colleagues and I—is something that I don't think any of us—or our predecessor—have ever done before. What we can do is set an example for the people back home.

That is to say, we—the four of us—could start working together right here. I submit that the best way for us to bring our people together is for the four of us—Bill Minshall, Charley Vanik, Louis Stokes and myself—to come together ourselves. I suggest, in other words, that if true unity can't be achieved immediately in Cleveland, at least it can be established instantly, painlessly—and really with no trouble at all—in Washington, where the four Congressmen representing Greater Cleveland work another street, playing—if you will—another ball game. But we do have a game going here that all Cleveland does watch, and hopefully we can give our constituents something to emulate.

If you'll bear with me, let me blunt again. I represent one part of Cleveland, Louis Stokes represents another part, Charley Vanik and Bill Minshall each has a piece of Cleveland, but they also have large suburban constituencies. Three of us are Democrats, one is a Republican. Three of us are white, one is black. If I'm not mistaken two of us are Catholics, two are Protestants. I'm Irish with a lot of ethnic constituents, Charley is an ethnic with a lot of Jewish constituents.—Need I go on? The point is that all of us are Americans, and beyond that, we're all Clevelanders. This diversity among the four of us reflects the diversity of our larger community—and that diversity can again become our greatest strength if it rises, as it used to in Cleveland, to the plateau of unity.

So my proposal is that the four Cleveland Congressmen come together in what I suggest, could be called a Cleveland caucus—a formal structure for the four of us, in which unity would become institutionalized—hopefully, in fact, surviving all four of us. Anyone elected to succeed each of us would automatically take the open chair in the Cleveland Caucus, which would be a continuing body. The Caucus chairmanship could rotate among the four of us—say, every three months or, perhaps, every six months. And we could start it on the basis of seniority, as we do everything else around here. The Caucus could meet at the call of the chair. But in between these formal meetings, our staff members could get together quietly and more frequently—perhaps every week. It would be their job to search out the issues and other matters that we are likely to agree on and act in concert on.

Now, again, I'm not at all suggesting that we surrender our legitimate differences, or that we abandon our individual constituencies. I would continue to owe my first loyalty to the 20th Congressional District. The people who live in that part of Greater Cleveland are the people who elected me, and I would never yield in my primary representation of them. Nor would I expect my colleagues to do other than the same with respect to their own districts.

But the plain facts remains, as my good friend and your trustee, Bob Crater of the Press, has told me so often—and I doubt that anyone in Cleveland would challenge it—that there are concerns which the four of us, and our four districts, do share—issues on which there is likely to be unanimity anyway. Where there is such unanimity, it could be formalized through the Caucus—and thereby enhanced.

For example, I don't think we could ever achieve a unit rule which would bind the four of us on partisan issues or matters of conscience. But there's no doubt in my mind that we could achieve a united front on those matters which affect Cleveland as a whole, if not the nation as a whole. Let me suggest a few:

The four of us would have no trouble agreeing on the need for additional federal aid for:

Cleveland crimefighting projects; for the Port of Cleveland; for cleaning up the lake and the river; for developing the two airports; for expanding the mass transit system; for modernizing mail delivery; for boosting the city's economy with public works projects; for expanding medical research in Cleveland—and other types of research; for establishing more park land along the river and more open space throughout the city; and for strengthening our cultural institutions and our institutions of higher education.

The list, as you can see, could go on and on.

On these matters, Cleveland competes with other cities for federal largesse. But should the four Cleveland Congresemen compete with each other for influence with the federal bureaucracy, and for the public credit which stems from such presumed influence?

Or in a situation that is more common, should we each go our own way, ignoring or not knowing what each of us is doing to get the federal departments to help our city? I ask you: Wouldn't it be far better if the four of us were to meet together under the auspices of the Cleveland Caucus, work out a joint strategy—and then make our approach to the bureaucracy as a TEAM, either by going in person to see the federal official involved, or by shooting off a letter signed by the four of us? We could also testify as a group before committees on Capitol Hill.

It seems to me that the administration might yield to us at least now and then if we were to show them that here is a big-city Congressional delegation that has learned to work together—and that could be counted on to stick together until its goal is achieved. My friends, I can tell you from my legislative experience that four lawmakers can be four times as insistent as one lawmaker—and four times more difficult to placate.

Another thing that the Cleveland Caucus could do would be to provide a central point of contact for the legislative representative that Ralph Perk might want to send down here on the city's behalf. The Caucus would set up procedural machinery through which he could act.

And we could also work out the same sort of relationship with Herb Jolovits, Governor Gilligan's representative in Washington. In that way, we could help Ohio in its problems with the bureaucracy, and the state could help Cleveland.

I say to you, members of the Cleveland Men's Club, in all sincerity, that if the four of us were to begin pursuing a common cause through the Cleveland Caucus, that our people back home, looking on, might be better able to perceive that their own best interest could be served by a good dose of ecumenicism at the municipal level as well.

Frankly, I float this here as a trial balloon—for what I hope is the good of Cleveland. I have not floated the idea in advance to the members of the Cleveland Caucus, because at this time, of course no such Caucus exists. The fact is that, in my time here in Washington, there has been not even one formal meeting of the four of us. I understand no such meeting ever took place, either, before I got here—or even before Bill Minshall or Charley Vanik or Louis Stokes got here. I suppose this stems from the fact that the four of us, and our predecessors, were elected from different constituencies, not having greatly helped each other and therefore owing nothing to each other afterward. But the fact that there has been no history of partnership and collaboration needn't prevent us, in my opinion, from turning the page and starting a new chapter in our relationship.

I hope you'll agree, and I'll be happy right now to answer any of your questions. But first there is one thought that I'd like to impart to you people, as members of the Cleveland Men's Club. It seems to me, that this organization could play a role of its own in this effort. You gentlemen here all feel some loyalty to Cleveland too, or you wouldn't be here. And it occurs to me that you are spread out in various positions in the federal government, and in other organizations in Washington, where you have picked up a great deal of experience and specialized knowledge that could benefit Cleveland. I wonder whether, should the Cleveland Caucus come into being, you people could serve as a sort of informal advisory group for us—giving us the benefit of your expertise, feeding us information and, in general, encouraging us to keep going. I would suggest, if you don't mind my saying so, that you DO owe that much to the city that brought you here.—Now, thank you very much and I'll try to answer your questions.

TREATMENT OF NARCOTICS ADDICTS IN THE DISTRICT OF COLUMBIA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. EDWARDS of California. Mr. Speaker, there appeared in the Washington Post of November 9, 1971, an editorial on the District of Columbia's Narcotics Treatment Administration. In view of the controversy surrounding this program and in light of the great importance of narcotics treatment efforts, I commend this editorial to the attention of every Member of Congress:

ZEROING IN ON WASHINGTON'S DRUG PROBLEMS

In a bureaucratically short span of 21 months, Washington has made waves with its rapidly expanding anti-heroin efforts, having established and built up its Narcotics Treatment Administration into one of the nation's largest treatment programs for addicts. As we noted a month ago, NTA has moved from treating 150 addicts at its inception last year to a new reorganization and expansion plan aimed at reaching 5,500 of the city's roughly estimated 17,000 heroin addicts by next summer.

Given the proportions and complexities of heroin addiction here and elsewhere in this country, NTA's swift start has won generally

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high marks in medical and law enforcement circles as an impressive initial effort to get a grip on one of the community's ugliest and least researched problems. Yet throughout this period of rapid growth, city officials have been careful to emphasize that NTA's accomplishments constitute only one part of an uncharted course toward a real solution to the ills brought on by heroin.

The operative word in this effort has been—and still is—*treatment*, for as NTA Director Dr. Robert L. DuPont has said repeatedly, his agency does not claim to be *curing* its thousands of patients, or even *rehabilitating* them to any remarkable extent. Basically, NTA's achievement has been to attract heroin addicts (three-quarters of them are volunteers) to a set of flexible treatment programs that can get them off heroin.

In the bulk of cases, it has meant getting them "on" another controversial, addictive drug: methadone. But unlike heroin, methadone does not produce a "high" when taken orally, and can allow the treated patient to work and to lead a more normal social existence if—and it's a big if—the patient has the desire and opportunity to do so. In short, NTA's objective, whether through a methadone treatment program or a straight withdrawal and abstinence plan, is to offer immediate results in stabilizing the heroin addict's chronic inability to function in a self-supportive way.

At the outset, Dr. DuPont noted, however, that any official attempt to make a dent on the heroin problem was bound to encounter misconceptions and false expectations—natural offshoots of panic over the drug problem or byproducts of the inevitable chaos in any hurry-up effort to deal wtih a scary situation.

For example, he warned that "methadone certainly is not a panacea. We still have the old problems of jobs, race, heroin supply and so on. This is only part of the attack. There remains the need to stop illegal drug traffic." In addition, Dr. DuPont has stressed, much more research needs to be done not only on methadone treatment over the long run, but on the results of other anti-heroin programs. To this end, NTA has been publishing regular patient performance studies.

Dr. Jerome H. Jaffe, director of President Nixon's newly created special action efforts for drug abuse prevention, has praised this aspect of the local agency's work, noting in a letter to Dr. DuPont that "NTA research into the dimensions and characteristics of the heroin addiction problem in Washington has been of national importance. The steps you have taken to institute a regional registry of addicts and to coordinate treatment programs in the Baltimore-District of Columbia corridor is an example for effective drug programming . . . Moreover, in view of the clinical resources available at the NTA and throughout the Washington-Baltimore axis, the Special Action Office is developing a National Training Center in the Baltimore-Washington area." All of these encouraging findings, coupled with the reservations expressed by Dr. DuPont, lead us to believe that NTA has been a fine public investment, worthy of encouragement by the entire community.

Thus, we are puzzled by a recent television program and an accompanying editorial purporting to show that NTA has not done a good job. The program, billed as a "special report" based on a year's findings by WTOP investigator George Allen, makes much of a "confidential study which [WTOP] obtained which shows that in the eight months from August, 1970, to April, 1971, more than 5,000 people signed up with NTA, but more than 4,000 dropped out."

A little checking on this "study" proved useful in putting the whole program into perspective. According to Paul Rosenfeld, the man who wrote the document, it was not a "study," but a memorandum to Dr. DuPont that, aside from being six months old, was meant merely to illustrate problems connected with the computer tabulation of weekly patient flow.

Thus the weekly figures on "new" patients included former patients returning for treatment in a given week, while not reflecting any "dropouts" who may not have required further treatment. "The figures by themselves don't indicate the quality of the program, anyway," said Mr. Rosenfeld, who had asked that his memo not be aired, and certainly not held up as evidence of any sensational failure on the part of NTA.

Besides, he said, "this was not research, simply an interpretation. Actually, it showed a normal pattern for a treatment program of this nature, which is not selective . . . the advantage of NTA is that it takes anybody who comes in the door, it reaches more people; but addicts are unstable human beings. Furthermore, it is not unusual to have a high dropout rate on the adolescent level. Despite all this, NTA has done an immense amount of good."

The television report also quoted Dr. Du Pont as having stated, "in a written response to a WTOP question," that "only 17 per cent of patients—just under 600—had been in as long as a year." Well, again, a look at the written response showed that 17 per cent of those in treatment August 15 had been in NTA programs since before August, 1970, but that another 16 per cent had stayed in the program from between nine months and nearly a year at that point. That makes 33 per cent—or more than 1,100 patients—with good track records. And the worst attendance was for those not in methadone programs.

At any rate, without going into some of the other findings (such as the fact that some methadone patients occasionally sneak heroin on the side, or find a way to cheat on their urine tests), it is dangerous to undercut public and financial support of anti-heroin programs on the basis of certain shortcomings that the director readily acknowledges, or on the grounds that the programs are failing to convert the city's street addicts into productive, solid citizens.

Just as our police departments have never been expected to "cure" crime, a city's young efforts to cope with heroin addiction cannot be expected to "cure" 17,000 addicts, when past rehabilitation programs have failed to demonstrate spectacular progress on this score. To be sure, NTA is not a flawless operation, nor is that of the police department. But the anti-heroin effort of NTA is a serious endeavor to cope with a terribly difficult medical and social problem in this community, and ought to be handled with care by critics as well as by those who administer the program.

CONGRESS IS UNDERMINING THE POWER OF PHASE II

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. GERALD R. FORD. Mr. Speaker, now that the Pay Board has ruled against retroactive pay raises, the House Banking and Currency Committee is on a collision course with that group.

As we all know, the committee has voted to direct the Pay Board to allow retroactively those raises forestalled by the price and wage freeze.

It is my view that the House should reject the committee's recommendation on retroactive pay increases—and that also is the view of the Detroit Free Press. It is particularly interesting that the Detroit Free Press is backing the President on this issue because the Free Press normally is antiadministration. The Free Press sets forth its reasons for supporting the President on retroactive pay raises in an editorial published November 6, 1971. I commend a reading of this editorial to all of my colleagues. The editorial follows:

CONGRESS IS UNDERMINING THE POWER OF PHASE II

When all the oversealous dentists in Congress get through, Phase II of the Nixon economic program won't have enough teeth left to take care of the Thanksgiving turkey.

The latest bit of tooth-yanking came Thursday, when the House Banking Committee voted to direct the President and his Pay Board to allow retroactively those raises denied during the present freeze. It is fair to say, as the President did, that this will "seriously jeopardize" the attempt to enforce restraint in Phase II.

It may also be fair to say that the administration has invited this kind of intervention by waffling on its own commitment to restraint. The question of retroactivity seems to us to be a threat to the stabilization program whoever does it. How can retroactive pay raises be granted without opening up the need for compensating price increases?

If retroactive raises are granted, are retroactive price increases to be allowed? Of course not; it cannot be done. But the government would assuredly be forced to allow compensating price increases in Phase II. Profits margins are already depressed.

Phase II cannot be as rigid as the initial freeze. Some flexibility is in order, on both wages and prices.

If the program is not tough across the board, though, it will quickly breakdown. The country must escape the inflation trap it has been in over the past several years. It cannot move effectively to create new jobs if there is no wage-price stability.

Congress puts itself in a peculiar position through actions such as the House committee's. It was Congress, after all, which gave the President the power to impose controls on the economy. The Democrats dared him to use the power, thinking it a safe bluff. He called the bluff, and the freeze affords the best chance we have had in some time to restore a measure of stability.

Now, however, the Democrats are apparently unhappy with what they have wrought. They have been catching hell from their friends in the labor movement. Hence, they are trying to gum up Phase II.

We hope Congress doesn't follow that course. The Nixon economic program had its origins in the Democratic Congress, and Congress has no right to sabotage the program now. At this point, the best course for everyone is simply to try to make the program work.

Unfortunately, interest in the best course does not seem to be especially high right now among the statesmen in Congress.

HIS WAR GOES ON

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. DULSKI. Mr. Speaker, war brings many examples of heroism, of devotion to duty, of suffering for the accepted cause.

I would like at this point to call attention to the great courage in Vietnam of

Capt. Ralph A. Sambuchi, whose mother, Mrs. Harry Sambuchi, resides in my district at 590 Willet Road, Lackawanna, N.Y.

Captain Sambuchi now is a patient at Walter Reed Army Medical Center here in the Nation's Capital. He has been hospitalized since May 18, 1969, when his unit was ambushed by the enemy.

The captain's body was riddled with bullets, shrapnel, and fire. He thought his time had come and he was left for dead by the enemy soldiers who followed up their attack. After 4 hours of suffering alone, three of his own men risked their lives to rescue him and start him on his way to his long hospitalization.

A professional soldier for 9 years, Captain Sambuchi is bitter today because he feels, as I do, that the toll in Vietnam has been so much greater for our men simply because, as he says:

The United States did not go all out to win the war. I thought before and I think now the soldiers were sold down the creek.

Mr. Speaker, we have paid a dreadful price for our operations in Vietnam. The toll of lives lost, coupled with the thousands injured in this war, many critically, is a black mark on our Nation's history.

As a part of my remarks, I include an excellent article from the Washington D.C., Evening Star of November 8 regarding the heroism and the suffering of Captain Sambuchi:

HIS WAR GOES ON

(By Michael Anders)

"The humidity was unbelievable. It was the beginning of the rainy season and we were getting ready for an inspection which never came off. I was in a sandbagged bunker and the Viet Cong started a mortar attack about 1 a.m. It was overcast. I don't know who their weather forecaster was, but they picked a good night."

Ralph A. Sambuchi sat in the middle of his hospital bed at Walter Reed Army Medical Center, his sky-blue hospital pajama top open to the waist. As he talked, he blew clouds of cigarette smoke into the antiseptic surroundings of Ward 9.

The night of May 18, 1969, is etched in the mind of Sambuchi, an Army captain who was serving with the 2nd Battalion, 35th Artillery Unit near Xuan Loc, Vietnam. That night his body was all but blown apart as an estimated three battalions of North Vietnamese Army regulars and Viet Cong rained heavy artillery fire on his unit.

Sambuchi was struck 14 times by shell fragments. A bullet from a Viet Cong rifle tore away his nose and right eye. Another severed a toe. His burning bunker caused second- and third-degree burns. And a ball of fire from a flamethrower hit him in the forehead and shaved off his hair.

THIRTY LONG MONTHS

That was nearly two years and six months ago. Now, at a time when the war in Vietnam is winding down and casualties are at their lowest in many years, Sambuchi, 29, still is recovering from the four-hour ordeal he suffered in solitary agony.

His old crewcut abandoned for long brown locks which hide the surgical scars on his forehead, he is one of many others at Walter Reed for whom the hospital is home. The war memories will never fade.

"I was giving first aid to a sergeant. I was bent over him, and he had a big shoulder wound. A lieutenant said 'Hey, you.' I stood up to look and that's when the round came in. It landed less that 10 feet away and knocked me into a corner. If I had been bending over, I probably wouldn't have got a fragment."

Sambuchi, called "Sam" by everyone, was a rugged, athletic 6-footer. Football was his sport and Rep. Robert Mathias, R-Calif., the former U.S. Olympic decathalon champion, was his idol.

Sambuchi's prowess on the football team at Lackawanna High School just outside of Buffalo, N.Y., won him an athletic scholarship to the University of Buffalo. But it was his legs which put him into the record books. His triple jump mark in track still stands in his western New York schoolboy division.

LEGS LIKE PRETZELS

"The fragments completely tore up my legs. My legs were just like two pretzels. I couldn't stand up. I said 'goddamit, I'm going to die. This is it.' When the haze cleared from my head, I was there by myself. No first aid. The guys must have thought I was dead and left."

Sambuchi said he was "extremely depressed" as he began his slow recovery. "Nobody" he recalled saying in those early dark days, "can put this body back together again and make a presentable person out of me—especially, when your face is in your lap."

"At times I felt like the guy in (the movie) 'Cat Ballou' who had the silver nose," he said. "I thought I was going to be a vegetable . . . out selling pencils."

It was during this time that Sambuchi learned to dread the one thing that could repair his disfigured body—operations and plastic surgery. Not even winning the Silver Star, the nation's third highest medal for valor, was any comfort. The hours on the operating table were lonely and many. So far, he has had 25 operations and more are scheduled.

Still sitting on his hospital bed, a paperback copy of "Patton," nearby, Sambuchi's mind went back to that night.

"A rocket hit the powder bags and set the bunker on fire. When the fire started, my legs functioned awfully good. But while I was putting the fire out, one of them shot me in the nose and it put my eye out. The first time I only thought I was dead. This time has got to be it. I thought to myself, 'What else can possibly happen?' It kept happening. An NVA soldier approached me, but figured I was dead and he shouldered his weapon. I rolled over and shot him. But when the nerve endings came back to life, I envied that corpse. He had nothing to worry about. I was bleeding from every spot you could think of."

NO SELF-PITY EVIDENT

There is no self-pity in Sambuchi's blue eyes. He can laugh easily and possess an inner strength from which springs optimism that his future has not changed drastically.

Sambuchi says he has no regrets about fighting in Vietnam. He is a career officer who loves the military. "I was a professional soldier for nine years," he said. "I was dedicated to the Army. I got a lot and I gave a lot. It was the greatest job I could have hoped for. Things come up in Vietnam that would never come up anywhere else."

But he is bitter because he believes that the United States did not go all out to win the war. "I thought before and I think now the soldiers were sold down the creek. The men weren't allowed to fight because of political hand-tying," he said.

The shot Sambuchi fired alerted the Communists and they swarmed all over the encampment. "That's when I was scaredest. I thought they would realize I wasn't dead and start pumping bullets into me. My heart was in my throat. But God was with me.

"There was another fire in the bunker and I couldn't put it out. I was crawling to another bunker and I heard a rifle shot. I felt a tingling sensation but I kept going. I found out my toe was gone. I said what the hell else is going to happen. The NVA fired a flame thrower . . . the combustible material landed on top of my head, setting my hair on fire . . . and landed on my back."

Sambuchi's adoration for Dr. Harlan Thering of Walter Reed is understandable and uncontained. Dr. Thering grew Sambuchi a new nose, using skin grafted from his forehead. A blue plastic eye matches the color of his left, and today Sambuchi's physical defects are barely noticeable without a second glance.

WONDERS OF MODERN MEDICINE

Even some of his fellow patients, who knew him when he arrived there at 129 pounds, have failed to recognize him with a new face and weighing 180 pounds. "I never knew I'd be in this good shape today," he said. "It's the greatest feeling. This hospital is fantastic. You've never seen such professionals."

"I was in that bunker over four hours. Then I heard someone calling 'Sam, Sam.' Cpl. James Barker, Pfc. John Indelicato, and Sgt. Ross Clark—these kids risked their life for me. When I found out these kids didn't get a damn thing (citations), that hurt me. I was evacuated by helicopter to Long Binh Hospital about 25 to 30 miles away. At the hospital, I had two cardiac arrests and I literally died on the table."

"I kind of look forward to it now," Sambuchi said of the daily plastic surgery session. The sessions also include progress reports, a change of dressings, and what the future "battle plans" are. But most of all, Sambuchi said he looks forward "to seeing my doctor . . . just passing the time away with him. He has the greatest attitude and he is never pessimistic."

After nearly 30 months with the sprawling Walter Reed as his home, Sambuchi expects to quit the hospital in the next few months. Maybe by Christmas. Maybe by Valentine's Day. He isn't sure.

But he is positively certain of one thing. He is going into the future—a civilian when he leaves the hospital—undaunted by Vietnam. "The job possibilities are unlimited," he said, although with one eye "I have lost my depth perception" and won't be working in his vocation as a meterologist.

However, his first plans call for him to return to college and study at the Curry School, a small institution in Milton, Mass. That, he said, is his first step towards a new life.

"I was dying. I was making a confession so maybe the old man would let me in. I was fingering my rosary of St. Christopher (which the Vatican has dropped from the liturgical calendar) and I started laughing. I said, 'Here I am dying and I've got a second-rate saint.'"

A TRIBUTE TO ARTHUR RAYMOND

HON. ALPHONZO BELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BELL. Mr. Speaker, at the annual meeting of the Aerospace Corp.'s board of trustees, September 10 and 11, 1971, Mr. Arthur E. Raymond, a charter trustee and one of the board's most distinguished members, retired after long and dedicated service. My pleasure in making these remarks is heightened in that Mr. Raymond is not only from my district, but is also a neighbor of mine.

As many of my colleagues will recall, the Aerospace Corp., was incorporated under the laws of the State of California June 3, 1960, to render scientific and engineering services to or for the U.S. Government. It was formed at the request of the Secretary of the Air Force to aid the U.S. Air Force in applying the full resources of modern science and technology to the problem of achieving

those continuing advances in ballistic missiles and military space systems which are basic to national security. In recent years, a portion of the corporation's high technical competence has been directed toward solutions of the Nation's civil problems.

The control, supervision, and direction of the general management of the corporation are vested in the board of trustees who are leading citizens selected from fields of industry, science, education, and public service, and who take very seriously their Aerospace trusteeship. The Board meets at least four times a year and its several committees hold additional meetings. I believe that those who have had the opportunity to become familiar with the work of Aerospace will agree with me that the company's technical and managerial accomplishments attest to the faithfulness of the board's administration of its responsibilities.

Mr. Raymond was elected to the Aerospace Corp.'s board of trustees on June 4, 1960. He brought to the board three and a half decades of engineering and administrative wisdom to help assure the advancement of space and missile systems. He joined the Douglas Aircraft Co. in 1925 not long after earning his master's degree in aeronautical engineering at the Massachusetts Institute of Technology. He advanced to chief engineer of Douglas in 1934, and engineering vice president in 1939. He was named senior vice president in 1958, and retired from that company in 1960. His talent has been a major force in advancing aerospace technologies from the frail "kites" of the 1920's through the long-lived DC–3 air transport plane of the 1930's, the DC–4, DC–6, and DC–7 of the 1940's and 1950's, and on to the giant airliners and powerful space boosters of the 1960's and 1970's.

In recognition of these contributions, Mr. Raymond received the U.S. Certificate of Merit for aircraft production during World War II; the Spirit of St. Louis Medal in 1954; the Daniel Guggenheim Medal in 1957; and the Sylvanus Albert Reed Award in 1964.

Mr. Raymond's service to the Nation was again recognized on the occasion of his retirement as an Aerospace Trustee when the Secretary of the Air Force awarded him the U.S. Air Force Exceptional Service Award, its highest civilian award. The accompanying citation reads as follows:

Mr. Arthur E. Raymond distinguished himself by exceptionally meritorious public service as a charter member of The Aerospace Corporation's Board of Trustees, charter member of the Board's Executive Committee from June 1960 to July 1971, and as a member of the Board's Compensation Committee from October 1964 to July 1971, and its chairman since September 1969. He also served as the chairman of the Board's Space Systems Committee for the seven year appraisal of The Aerospace Corporation which was published in 1968. During this period, Mr. Raymond devoted himself to the furtherance of the Corporation's role in aiding the United States Air Force in applying the full resources of modern science and technology to the problems of achieving those continuing advances in ballistic missile and military space systems which are basic to national security. His efforts constitute an unusually outstanding contribution by a civilian in support of the Air Force's participation in the national defense and space programs, thereby reflecting great credit upon himself and earning for him the sincere gratitude of the United States Air Force.

Mr. Speaker, I would like to add my own congratulations to this gentleman for his distinguished service and to send every good wish for the future. The Nation is fortunate to have men such as Arthur Raymond serve in these important capacities.

FIGHTING FOR 21

HON. EDWARD G. BIESTER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BIESTER. Mr. Speaker, I take this opportunity to share with my colleagues in the House a letter which appeared in the Piggy-Back Shopper on October 28, 1971. The article was authored by Sgt. Harold D. Updike, of Fallsington, Bucks County, Pa.:

FIGHTING FOR 21

Just imagine, most of the guys over here are 20, and fighting to make 21. The average man in most units is 20, and what a man! A pink-cheeked, tousled-haired, tight-muscled fellow, who under normal circumstances, would be considered by society, half-man, half-boy, still wet behind the ears, and a pain in the unemployment chart.

But here and now, he is the beardless hope of free man. He is for the most part unmarried and without material possessions, except for an old car at home and a transistor radio here. He listens to rock 'n roll, 105 millimeter howitzers, and the laughter and screams of his buddies.

He is out of high school with so-so grades, played a little football and had a girl who promised to be true. He has learned to drink beer, 'cause it is cold and the "in" thing to do.

He is a PFC, a one-year military veteran with one or possibly two years to go. He never cared for work, preferred to wax his car to washing Dad's. But now is working or fighting from dawn to dusk or often longer.

He still has trouble spelling, and writing letters home is a painful process, but he can break down his rifle in 30 seconds and put it back together in 29. He can describe the nomenclature of a "frag," explain how a machine gun operates, and use either if the need arises. He can dig a foxhole, apply first aid to a wounded companion, march until told to stop, or stop until told to march. He has seen more suffering than he should have in his short life. He has stood among hills of bodies, and he has helped to build those hills. He has wept in private and in public, and not been ashamed at doing either, because his pals have fallen in battle and he has come close to joining them. He has become self-sufficient. He gets clean clothes once a week, and shave and shower twice a month or at every stream. He sometimes forgets to clean his teeth but never his rifle. He keeps his socks dry, his canteens full, cooks his own meals, fixes his own hurts and mends his own rips, both material and mental. He will share his water, if you thirst, break his rations in half, if you hunger, and split his ammo if you are fighting for your life.

He can do the work of two civilians, draw half the pay of one, and see the ironic humor in it all. He has learned to use his hands as weapons, and his weapons as hands. He can save a life or most assuredly take one. He's 20, a veteran, fighting to make 21 . . . give him a chance, he's your son.

TITO'S RISE TO POWER

HON. LAMAR BAKER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BAKER. Mr. Speaker, on October 27, I spoke on the House floor about what I felt were some misrepresentations in CBS commentator Walter Cronkite's interview of Yugoslav President Tito. My objective in these remarks was to clarify the opening statements in which Tito was introduced as the last leader alive among those who helped to bring about the Allied victory in World War II. I felt that there were other considerations which should have been brought into the picture and facts in Tito's rise to power which needed to be presented to the American public.

Mr. Cronkite saw fit to respond and because I feel the public interest will be served by making public his letter and an elaboration of my own position, I insert Mr. Cronkite's letter at this point in the RECORD, followed by additional comments of my own:

CBS NEWS,

New York, N.Y., October 29, 1971.

DEAR CONGRESSMAN BAKER: I noted your remarks, as extended, in the October 27th Congressional Record regarding my characterization of President Tito of Yugoslavia. The thrust of your statement seemed to be that I did not properly identify him as the Communist he is.

May I suggest that perhaps you missed this paragraph in my six-paragraph introduction of our interview:

"Today he still demonstrates the self-assurance, the self-confidence, the strength of purpose and the candor that enabled him, *a Moscow-trained Communist*, to proclaim, even as his partisans battled the Germans in the thick of World War II, *that he had no intention of returning his country to its king.*"

I know that you would not intentionally have ignored such a clear delineation of President Tito's past and, since your statement and remarks clearly were based on misconception, I know, too, that you are going to want to correct the record.

Sincerely yours,

WALTER CRONKITE.

Perhaps I failed to realize the full thrust of Mr. Cronkite's statement that Tito was a Moscow-trained Communist. However, since Mr. Cronkite is aware of this detail, I am certain that he would be interested in and agree to the fact that Tito is an example of the purest form of Marxian communism and a man who massacred hundreds of thousands to establish his power. This is what needs to be brought out more completely and this was my intention in my remarks of October 27 and also today.

Many are at present labeling Tito as a daring statesman, a teacher of diplomats, a man possessed of integrity, strength, and dedication. But dedication to what? Certainly he was pledged to his own ambitions, to the establishment of a dictatorship. However, this does not make him a contributor to the allied effort in World War II because his commitment was not the same as that of men such as Eisenhower and Roosevelt.

Tito, with Russian assistance organized his partisans—the so-called Liberation Front—amidst confusion. At first, many were fooled into thinking his aim at the German occupation would help their country. However, all too soon, they realized that he intended to use this to achieve his own ends. He manipulated anti-Nazi sentiment repeatedly to rid himself of anti-Communist elements among the population. Just as Stalin in his purges, Tito realized that he would not succeed unless he destroyed his opponents.

He discredited such men as Mihajlovic, branding them as collaboraters with the Germans. Unfortunately, the Allies failed to see this cover tactic for what it was.

Tito succeeded in confusing the issue so completely that in 1944, over 12,000 Slovenian Domobranci—Home Guards—were repatriated to Yugoslavia only to be promptly executed—thrown into mass graves. This is nothing compared to the other numbers of Serbs and Croats who were also massacred. Is this a man to dignify to such an extent?

Places such as Celje and St. Vid near Ljubljana were saturated with the blood of those who sought to fight tyranny. Too late was this move recognized for what it was. There are eye witnesses alive today in the United States to testify to these facts—to astonish us with accounts of these atrocities.

Certainly, Tito was clever as a politician who capitalized on the chaos of the times. But whether or not we choose to admit it, his independent communism is no different in essence from that of the Russians and his atrocities are no less unbelievable than those of the Germans against the Jewish people.

Even today, his heart is with world communism while his empty pockets are with us here in the United States. Over the years many men have given their lives in an effort to bring peace and democracy to the peoples of the world. We owe something to these. Have we sunk so far that the future of the United States depends on close friendship and cooperation with such a man? Must we support economically a regime created in such a manner?

Yugoslavia today does enjoy some measure of economic prosperity but the traces of dictatorship linger. People do not feel free to express themselves and act as they please. There have been many examples of what would occur if one was not careful to remain silent.

The Yugoslavs were a people who believed that communism could never engulf them. Americans today feel that they have some sort of a talisman to protect them from a similar occurence. However, can we afford to be so blind to reality?

I believe that there is a strong need to emphasize this point and I am sure that Mr. Cronkite would agree with me. Too long have we courted these nonalined countries on the prer-ise that they could be won over to our side. But we cannot be so foolish—their stature and makeup prevents this. Is it not time that Americans as well as the rest of the world learn from past mistakes so that they will not happen again?

My only concern in commenting on the original interview was the fact that too often these facts are smoothed over. The past is often ignored in light of present expediency. My intention is simply to bring some of these facts to the attention of the American people.

DISTRICT OF COLUMBIA VIOLENCE REPORT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. RARICK. Mr. Speaker, today's Washington's newspapers report the continuing deterioration of law, order, and morality in the Nation's Capital.

The Washington Daily News reveals that rape has accelerated to a rate of one every 12 hours. A veteran officer on the District's sex squad claims that nearly half of the rapes committed go unreported because the woman is too embarrassed to face the police or to have her case publicized.

An account in another Washington paper indicates that behavior problems are so critical on buses transporting students that some drivers have refused to work unless there is another adult on the bus. An assistant District of Columbia school superintendent has requested 35 nonprofessional aides at $115,000 to help keep order on the buses. Earlier this year I pointed out that District school officials were seeking additional policemen to augment the 40 already assigned to the schools because of robberies and shootings.

The long-suffering, law-abiding taxpayers are asked to pay for additional policemen and now for busers' aides in an effort to curb the lawless element.

What is the answer to this crime problem? More laws are not the answer when laws on the books are not enforced. Additional massive grants of tax dollars for social programs accomplish nothing. Criminals must be punished or anarchy prevails. How much longer must the people suffer before our liberal friends admit their failures.

I insert two pertinent newsclippings at this point in my remarks:

[From the Washington Daily News, Nov. 10, 1971]

RAPE PACE HERE: ONE EACH 12 HOURS

(By Patrick Collins and Louise Lague)

Every 12 hours a woman is raped here and the frequency of attacks has startled police, frightened women and puzzled psychologists.

In the District, the number of reported rapes has climbed significantly and three of the city's suburban police departments say that the number of rapes in their jurisdictions have already equalled or passed last year's total.

RESPONSES

Officials have responded to the rash of rapes in different ways:

The District police have begun a concentrated program to counsel Georgetown girls on how to ward off rapists.

After three girl hitchhikers were raped last week-end, Montgomery police officials said they could no longer guarantee the safety of the estimated 200 girls who solicit rides on county roads each day.

Prince Georges police have enlisted the aid of a clinical pyschologist to help them "better understand the rapist and his technique."

Government officials and private offices have moved to lock doors leading to women's washrooms.

Campus security forces have increased security patrols around women's dorms and in some cases have provided an escort service for girls after dark.

These are just a few of the repercussions of the rising rape rate uncovered in a study of the crime by The Washington Daily News.

The News study shows:

Individual women have become concerned that they themselves might be raped and are thus becoming concerned with how the victims of the crime are treated by police and hospitals.

That most rapes are committed between the hours of 8 p.m. and midnight by men aged 17 to 20 who have developed some subconscious hostility toward women.

Rape is sometimes used to terrorize and embarrass women into failing to report a burglary or robbery to the police.

More often than not, a rapist is middle class man who is perfectly normal until, according to one psychologist, he gets the urge to rape and then "becomes a werewolf."

So far this year, the District has reported 97 more rapes than last year's total of 313; Montgomery county has nine more than the 28 rapes it recorded last year; Alexandria has logged eight more rapes than the 39 it reported last year and Arlington has matched last year's total of 23.

Last April Police Chief Jerry Wilson directed all policemen to include all complaints of rapes in the monthly crime reports and in the periodic crime reports to the FBI. Before the chief's order the police reported rapes only after the U.S. Attorney's office reviewed the case and decided there was enough evidence to take it to trial.

The police point to the new reporting technique in explaining away the increase in rape in April thru September. They say that since the new reporting system began, 90 rape cases have been dropped by the U.S. Attorney's office for lack of evidence.

However, an examination of the rape statistics shows that the increase in reported rapes for January, February and March (the three months before the new reporting system) was as great if not greater than the months following the change in rape reports.

And police agree that even tho the U.S. Attorney may decide not to take the case to trial does not necessarily mean no rape was committed.

"Oh, we have more rapes this year," a spokesman for the sex squad said, "But I just don't think the increase has been as great as the statistics indicate . . . We have more because the women take more chances . . . And those mini skirts and filthy movies don't help it any . . .

"A rapist is an opportunist and when the situation presents itself he takes advantage of it. They do it for a lot of reasons, but most rapists do it because they hate women—most of the time it's their wife or mother—and they want to get back at them. He wants to show his superiority so he takes it out on women."

PSYCHOLOGIST

Sheldon Freud, a clinical psychologist who is helping the Prince Georges County police explore the rape problem, agrees with the sex squad's characterization of a rapist. "They have a basic hostility for females of any age—it doesn't matter whether the woman is 70 years old or 25 years old every woman is a potential rape victim."

"The rapist is a severely disturbed person," Dr. Freud said. "And most often he has repressed a hostility for women, not necessarily a hatred for his mother but maybe an unfortunate love experience. Normally, the rapist is a pretty good guy, but when this hostility builds up he acts very much like

a werewolf and once he starts moving nothing will stop him."

Dr. Freud says that a rapist does not derive any pleasure from the act of intercourse, but from the panic he provokes in the victim. "Rape is the thing a woman is scared of most, so that's what he does. And he gets an internal orgasm of pleasure knowing that he has fulfilled his destructive need."

DIRTY BOOKS

Dirty books or obscene magazines rarely affect the rapist, Dr. Freud says, because they get no satisfaction out of "watching some one else do something . . . . In fact they don't get an erection until they actually have confronted the frightened woman. The rapist likes to reduce women to their most menial role. He likes to scare them and only he knows how far he will go to produce the fear, but most of them are capable of murder."

The increase in the number of rapes, according to Dr. Freud, is a result of a series of breakdowns within the social structure.

"Before World War II we had a Victorian attitude toward women," Dr. Freud said. "It was an unthought of act to strike a woman. But then came a general disregard for natural law and coupled with that came a period of women's liberation where they became more involved in politics and took on important jobs. And the women told us "We are no better than you." These factors along with the current women's liberation movement have created a great change in the respect of man for woman and have provoked a certain hostility toward women.

Dr. Freud says the rapist is generally middle class because "the freedom in the upper class and lower classes provide other ways for release of rapist hostility. It is the frustrated middle class man who is the rapist. The man who reaches the dead end and feels a need to release his anxiety. And when he attacks . . . he is a very dangerous man."

[From the Washington Post, Nov. 10, 1971]

SCHOOL BUS DISORDER BRINGS CALL FOR AID

Behavior problems are so severe on buses carrying Washington students to school that some drivers have refused to work unless there is another adult on the bus, an assistant D.C. school superintendent said last night.

"There is a need to keep discipline on the buses," declared Assistant Supt. Harris M. Taylor, as he asked a school board committee to approve spending $115,000 to hire 35 nonprofessional aides.

About 1,000 youngsters, most from Anacostia, ride the buses each day to elementary schools with extra space, many of them west of Rock Creek Park.

Supt. Hugh Scott has asked for another $362,000 to operate and service the buses, which also are used for field trips.

The crosstown busing, which is voluntary, was ordered several years ago by U.S. Judge J. Skelly Wright.

The request for busing money is part of the superintendent's proposal for spending $9.5 million in federal impact aid, allotted on the basis of the number of city students whose parents work for the federal government. Last night committee members questioned administrators closely about which schools would get the extra services under the proposal.

MAST IS A MUST

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. GONZALEZ. Mr. Speaker, too much of the time Americans think of the armed services as simply the troops which are constantly on alert to defend our country.

Actually all branches of the armed services are engaged in research and in cooperative endeavors with civilian units which provide answers for civilian needs other than the bearing of arms to protect our shores.

As an example of this activity, we can point to the project known as MAST—Military Assistance to Safety and Traffic—which has operated on a test basis since July 15, 1970, and now includes areas around five Army and Air Force installations.

One of the MAST programs is located in my home city of San Antonio, and it has been so successful there that the city council has asked the service be carried on "indefinitely."

Mr. Speaker, I would like to share with you and my other colleagues in the House an article which appears in the November 1971 issue of Armed Forces Journal entitled "Military Invades Civil Domain with MAST" which gives an excellent account of the success of the program.

MILITARY INVADES CIVIL DOMAIN WITH MAST

(By George Weiss)

Invasion of the civil domain by the military, usually strongly resented by the American people, has existed in five areas of the United States on a continuing basis over the past 16 months. Instead of protests, demonstrations, or litigation there have been letters of praise and appreciation.

If there has been any grumbling most of it has come from areas within the military. Suddenly the Services find themselves involved in a project with a growth potential which caused one physician interviewed by The Journal to comment, "I don't think they [the military] could get out now if they wanted to."

The project is MAST (Military Assistance to Safety and Traffic), which has operated on a test basis since 15 July 1970 and now includes areas around five Army and Air Force installations.

In each area military helicopters and medics have been made available to assist civilian authorities. They are on call for a medical emergency which can be handled by no other means.

From the inception of the program through 10 October 1971, the Air Force and Army have responded to a variety of calls ranging from highway accidents to heart attack victims in remote areas. They have flown 681 humanitarian missions to bring 881 persons to hospitals or performed emergency transfers of patients needing specialized care.

LCol William H. Smith, who monitors the project within DOMS (Directorate of Military Support) for the Department of Defense, sees it this way: "The Services learned to save lives in Vietnam with helicopters and immediate medical treatment. We have just been asked to put it to use at home."

Dr. Raymond Moore of the Department of Health, Education, and Welfare, who until recently was the HEW coordinator for MAST, sees the program as a great aid to small-town doctors who "can get emergency cases to more definitive care quickly."

The project, in fact, has uncovered a need for inter-hospital transfers little suspected when it began. Many accident cases in rural areas need to be stabilized by local physicians and then rapidly and smoothly moved to specialized hospital facilities. In many cases this could not previously be done because of the trauma of a long or rough road trip. MAST has provided fast, smooth transportation for such cases on a request basis.

One HEW official estimated that up to 70% of the patients moved by MAST helicopters have been emergency inter-hospital transfers.

Over the Labor Day weekend, one MAST unit responded to five emergency calls. Only one of them involved a highway accident. The other four were to move a burn victim and three persons with critical internal injuries from various rural area hospitals where they had been stabilized to larger hospitals where they could receive specialized treatment.

One of the best examples of the MAST program capabilities occurred 11 September, when a school bus loaded with members of the Gunnison, Colo., junior varsity football team overturned near Salida, Colo., with 42 passengers aboard. Nine of the students died in the crash and many were seriously injuried. Local ambulance and medical facilities were immediately overloaded. The local sheriff placed a call for MAST and three helicopters from the 78th Medical Detachment (Air Ambulance) were dispatched from Ft. Carson, arriving in a little over an hour at the small-town hospital. At the request of the local medical authorities 15 patients needing specialized medical care were loaded and dispatched on the MAST helicopters for St. Luke's Hospital in Denver.

En route, the medics made an evaluation of the specialized care each patient would require and the emergency equipment needed immediately upon arrival. The helicopter pilots were unable to establish air-to-ground communications as they flew through the Rockies between Salida and Denver, but a United Airlines captain and the pilot of a MAC C-5A overheard their MAST call sign and volunteered to act as airborne radio relay platforms.

An Army medic was credited with saving the life of one patient by giving him constant mouth-to-mouth resuscitation and suction to draw blood from his throat and lungs.

As result of the interaction by the Salida physicians, MAST, a passing airliner, and a C-5A, hospital attendants at St. Luke's were waiting to receive the patients and begin immediate treatment.

Another plus for the MAST program has been that, in addition to rapid transportation of accident and other emergency cases, military hospital corpsmen are, on the whole, better trained than the average (and sometimes nonexistent) ambulance attendant. The military helicopters in most cases are also better equipped to handle emergencies than the average ambulance outside of an urban area.

As it was stated by one person interviewed at HEW, "MAST is providing medical care now to persons who otherwise would not be receiving it [before death]."

HEW declined to estimate the number of lives saved in the first 15 months of operation by the MAST experiment, saying, "There is no way to make a accurate estimate."

MAST's beginnings have a long and detailed history, but there is little or no evidence as to who originated the idea. One prime mover in the project was Capt. John M. Waters, USCG, who served in the Department of Transportation's Emergency Medical Programs. It is said that Captain Waters pressed for the program three years before his suggestion finally reached the desk of Secretary of Defense Melvin R. Laird.

As a Congressman, Secretary Laird had been a member of the House Appropriations Committee and ranking member on the Health, Education and Welfare Committee. He recalled, during the public announcement of the MAST test program, that he had once written into a report a suggestion that "the federal government go forward with such a program."

The Army received the DoT proposal from Secretary Laird in August 1969 and reported back that such a program "might be possible."

GETTING STARTED

Secretary Laird then wrote to Secretaries Robert H. Finch of HEW, Walter J. Hickel of Interior, and John A. Volpe of Transportation, as well as to Attorney General John M. Mitchell and George A. Lincoln of the Office of Emergency Preparedness, to say that DoD had examined the proposal and that "the concept has merit and warrants further study and participation by other federal agencies." He requested that an Interagency Planning Group be formed to discuss the "legal status of the use of military resources and the responsibilities of state, local and federal agencies."

In December 1969 the first meeting of the interagency ad hoc study group was held, with all agencies represented.

The decision was made to explore the MAST concept through a demonstration program at some military base during the spring or summer of 1970.

ARGUMENTS AGAINST

There were groans from those in the military who foresaw a potential situation which could affect them in several ways. While trained medical technicians, pilots, and helicopters are available, they are engaged in national defense training and operations, and Congress appropriates money for that purpose—not for a far-reaching domestic program such as MAST.

Where could the military cut off such assistance once it began? Military hospital staffs and helicopters available for such tasks are planned and allotted for the estimated needs of military posts and air bases, not for an entire civilian community.

There were also legal implications. What was the military liability if a helicopter crashed while transporting a civilian to a hospital? Could a specialist 4th class be sued for malpractice if the patient he treated died? Could the government be sued if a military base refused to order a mission for one or more reasons once summoned by competent authority?

There were many complexities which had to be considered. One which everyone knew would appear was the opposition of commercial ambulance companies, which would recognize MAST as unfair competition.

In addition, there was an underlying fear among military representatives that the program might be misunderstood. Invasion of the civilian domain by the military, unfair competition, illegal medical practice, and an overall expectation that the services would be available throughout the nation, if successful, were only part of the problem. What might be involved when a helicopter or medical unit was ordered out of the local operating area or to an overseas area? Military units could not become dedicated to a particular area, since they are subject to periodic reorganization, transfers, and training operations. Political pressure might force them into difficult positions.

THE NEED FOR MAST

Each year more than 50,000 Americans die in highway accidents, a quarter of a million are permanently injured, and two million persons receive lesser injuries, according to national statistics.

A paper written by two members of the Emergency Medical Services Division of the National Highway Safety Bureau, Department of Transportation, states that many ambulances responding to emergencies are ill equipped to handle serious trauma and are manned by poorly trained attendants, primarily due to the precarious economic situation of most ambulance operators, low pay of personnel, and rapid employee turnover. Moreover, low-population rural areas are even harder hit, since they cannot support an ambulance service and have to rely on an urban ambulance system which may have to travel long distances to reach the scene.

The Department of Transportation pointed out that a multi-million-dollar rescue operation is available to any offshore boatman through the Coast Guard, while inland any private pilot down or in trouble has the rescue facilities of the combined Air Force and Civil Air Patrol to locate, rescue, and care for his injuries until he can be brought to a hospital. But that same service available to a boatman or airman is not available if they have a hunting or auto accident in the same general area.

The truth is that the Armed Forces have always extended a helping hand to civilian rescue agencies in the event of an emergency such as a flood, storm, tornado, or similar disaster. It is also true that in most areas no agreements exist between the military and local civilian authorities for assistance in the event of highway accidents. Moreover, there is a lack of common communications facilities which would enable the two organizations to communicate.

Other communications problems are more easily understood. A phone call for an ambulance to proceed to a location "half a mile south of the Old Black Place on State Highway 5" may mean something locally, but very little to a military helicopter pilot whose familiarity with the area is best expressed in map coordinates.

The appalling death and injury rate on U.S. highways is not decreasing, but is growing, along with the population and numbers of vehicles in operation. A new problem is also injecting itself into the highway situation: Many of today's superhighways find bumper-to-bumper traffic during rush hours at speeds in the 70-mile-per-hour range. The two-car accident is fast becoming an urban rarity—it isn't uncommon today to find up to half a dozen vehicles involved in a single accident. It takes 50 or more cars in a single wreck to make national news today, and the number of victims in one accident can resemble a small-scale combat operation.

If nothing else, Korea and Vietnam proved the effectiveness of the helicopter as a rescue vehicle. Combat casualties evacuated are said to have a death rate of about 2%. At the very outset it would appear that a similar program made available to U.S. accident victims would save thousands of lives a year.

The only problem is that a similar civilian rescue service is currently beyond the reach of most state and municipal governments. Comparable commercial services are still few and far between and have had economic problems since the cost of operation is naturally high and collection sometimes difficult.

Another limiting facet of a comparable helicopter ambulance service is the need for an accompanying doctor or nurse skilled in emergency treatment of serious wounds.

Recognition of the military hospital corpsman as a skilled technician capable of performing efficiently in areas of his training is now generally accepted. Most Americans have actually witnessed corpsmen working swiftly and competently on the Vietnam battlefields via their home TV screens.

The first pilot project was established at San Antonio, Tex.—chosen, in part, because of the excellent military-civilian relationship that has existed over the years. To get the project underway, on 15 July 1970 in the Alamo Area Council of Governments, which takes in 10 counties around the city, a civilian committee headed by Bernard Rappoport of San Antonio began to work out the details to assure a smooth integration of the operation.

The military organization selected to provide support was the 507th Medical Company (Air Ambulance), located at Ft Sam Houston.

On 6 August two more sites were activated. Locations were West Central Washington state, supported by the Air Cavalry Troop, 3rd Armored Cavalry Regiment, Ft Lewis, and Colorado Springs, supported first by the 283rd Aviation Company, 43rd Group, 4th Infantry Division (Mechanised), Ft Carson, Colo., and now by the 78th Medical Detachment. (Helicopter Ambulance).

Two final projects were established at Phoenix, Ariz., and Mountain Home, Idaho. Both of these were supported by local detachments of the 42nd Aerospace Rescue and Recovery Squadrom, Hamilton AFB, Calif.

The 507th Medical Company (Air Ambulance) has been the most used of all the MAST participating organizations and the two USAF units the least called on. All Air Force spokesman explained to The Journal that the Air Force accepted the mission with the understanding that it would provide requested assistance during normal duty hours and only when there was no interference with their normal detachment duties, which are operational and not training.

After a year in test, however, the Air Force agreed to increase its participation by augmenting the Air Rescue detachments at Luke AFB and Mountain Home AFB, giving each enough aircraft and personnel to provide 24-hour, seven-days-a-week alert. According to one source, police and highway patrolmen in each area were reluctant to call on the Air Force helicopters since they knew the crews were not always on duty. The Air Force points out that rescue has always been a mission of ARRS and that the Air Force has never refused a MAST mission when contacted for any reason.

The Air Force HH-43 helicopters are primarily for rescue of air crews and are short-ranged. The Army's UH-1H Hueys are larger, faster, and carry more people. The Army tries to hold missions to within 100 miles of a post and the Air Force to 75 miles. Both ranges are based on the nonrefueled radius of the different helicopters. Missions of greater range can be flown, but they may require fuel stops, which limits their effectiveness.

FUTURE?

By 1 December 1971 Secretary Laird will have on his desk a Service recommendation on future participation in the MAST project. The report will primarily cover such items as the practicality of helicopter operations in rural and urban areas of the nation, cost effectiveness, and other problems of an operational nature. But one of the big unanswered questions to be addressed is: can the military save lives, and can it do the job more economically than a similar civilian organization?

Two other effects are likely to result from any expansion of helicopter rescue services, in the opinion of Defense observers. If MAST is broadened and continued as a mission of the Services, the reserve components surely will be involved, they say. According to LGen. W. R. Peers, Chief of Army Reserve Components, the Army National Guard and Reserves will have 1,800 modern helicopters in FY 72 and 2,300 in FY 73. This represents a massive capability which must be reckoned in any MAST calculations. If the Services get out of the business and the civil sector of government gets in, says DoT, the result could be a shot in the arm for the ailing helicopter industry (Journal 13 June 1970).

Whatever the DoD findings, there is a definite opinion in San Antonio: Shortly before the program was extended to December of this year, the City Council of San Antonio adopted a resolution requesting that the service be carried on "indefinitely."

MISLEADING SCIENTISTS

HON. GERALD R. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. GERALD R. FORD. Mr. Speaker, in recent years the scientific community

has increasingly taken sides in the controversy surrounding a number of public issues—notably that of the ABM and the SST. It has long appeared to me that the opinions of many of the scientist-opponents of the ABM and the SST were clouded with emotional bias. On Monday, November 8, 1971, columnist Joseph Alsop cited an investigation made by a panel of the Operations Research Society of America which bears out my view. I call the attention of my colleagues to this column, since the views of the scientific community have of late had such a heavy bearing on issues being decided in the Congress. The column follows:

MISLEADING SCIENTISTS

(By Joseph Alsop)

The clamor surrounding the underground nuclear test at Amchitka is a very good reason for offering an extremely solemn warning. On such occasions, a great deal of the more leftwing "scientific" evidence must now be expected to be as crooked as a ram's horn.

Some attention has already been given to the so-called ORSA report that contains the proofs of the foregoing extremely grave statement. But no one has even begun to grasp the full seriousness of this solid, stolid, unimpeachably factual report. So it deserves re-examination.

ORSA, in brief, is the Operations Research Society of America, with a membership of about 8,000 scientists doing defense and industrial research and analysis. One of the society's stated original aims was to establish uniform standards and guidelines for this new and growing branch of research.

Hence, the society was interested when one of its members, Dr. Albert Wohlstetter of the University of Chicago, asked for a panel to judge the standards of research and analysis displayed in the bitter debate about the "Safeguard" antiballistic-missile system in the Senate in 1969. Essentially that meant a panel to judge between ABM supporters like Dr. Wohlstetter, and its chief scientific opponents, such as the new president of MIT, Dr. Jerome Weisner, and Drs. George Rathjens and Stephen Weinberg.

The ABM opponents were invited to make any contribution they chose, and also to nominate a member of the proposed panel. They haughtily refused to have anything to do with the inquiry. And they added a wholly groundless charge that the inquiry "could well appear to the nation as an ugly resurgence" of McCarthyism—but they ducked using the actual word.

A six-man panel of industrial and academic scientists was none the less formed, under the leadership of Thomas E. Caywood, past president of ORSA. The panel included men who had opposed the ABM in 1969, as well as men who had been for it. At least one former panel member, Dr. Howard M. Berger, of Xerox, "still hasn't made up his mind."

The results were devastating. "Analyses" that were "often inappropriate, misleading, or factually in error"; failure to meet "elementary standards for proper presentation of results to permit verification"; failure to "distinguish properly between the roles of analyst and advocate"—these were the main phrases in the summary of findings.

Dr. Rathjens was held guilty of "specific abuses of professional standards" in the ABM debate. He was further condemned for selecting his material in a most peculiar manner, mostly by omitting "data (that) would have substantially weakened his case". Other highly partisan inaccuracies were also found in his ABM testimony and in his subsequent exchanges with Dr. Wohlstetter.

Drs. Weisner and Weinberg were found to have "ascribed official validity" to calculations which had no such validity. They were further found to have made extremely nasty false charges against the chief scientist of the Defense Department, Dr. John S. Foster.

Drs. Weisner, Rathjens and Weinberg were jointly held to have been guilty of "misuse of source material" in the study of the ABM in a critique of the Pentagon's ABM position that was circulated by Senator Edward Kennedy. The same "misuse" was also found in the work done for Senator Kennedy by Dr. Weisner and ABM charges throughout the ORSA report.

Thus placed in the dock and found guilty and crooking the evidence and purposeful prevarication, the anti-ABM scientists finally condescended to notice ORSA more seriously. They issued a reply, admitting some mistakes, yet claiming they were right about what mattered. To this Dr. Rathjens added the charge that the neutral panel member, Dr. Herbert Berger, secretly harbored personal animus against himself.

To this charge, Dr. Berger has now replied, in effect, that Dr. Rathjens is again prevaricating, and again, Dr. Berger's evidence is solid, stolid and unimpeachably factual, like the ORSA report itself. No open-minded person can fail to read either report without concluding it is all too true, both in detail and in broad outline.

It needs only to be added that the supposed "mistakes" proven in the report were at the very heart of the ABM debate. In sum, warning.

HAYS GETS THINGS DONE

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. BROOKS. Mr. Speaker, for more than two decades, the House of Representatives has enjoyed the mercurial outspoken opinions of Congressman WAYNE HAYS of Ohio and today the Evening Star has joined Congress in its evaluation of WAYNE HAYS—a Congressman who gets things done. The Star does not endorse all of his statements but it does write of his courage and dedication toward getting things done as effectively and efficiently as possible, regardless of whose toes are stepped on.

I include in the RECORD the attached article appearing in the Washington Evening Star of November 10, 1971, commending the efforts of WAYNE HAYS to improve our Congress:

HAYS GETS THINGS DONE AROUND THE HOUSE

(By Shirley Elder)

Wayne Hays describes himself as a man who abhors waste, sloth, inefficiency, errant behavior of any kind. "All my life," he says, "I've had a drive to get things done."

Now, after 22 years as a Democratic congressman from Belmont County, Ohio, the 60-year-old Hays is in a unique position to get things done around the House of Representatives, and he is tackling the job with a vengeance. He is chairman of the House Administration Committee.

Never before has the Administration Committee been a very prestigious assignment. Under many of Hays' predecessors, it merely ratified decisions made by others. House rules describe its duties as policy-making.

TAKES CONTROL

But under Hays, the committee—or, more accurately, Hays himself—is well on the way towards taking over actual operations of an incredible array of Capitol activities. Hays has, for instance:

Raised the price of the formerly-bargain-rate haircuts in House barbershops from 75 cents to $2.

Removed jump-seats for operators from elevators, and ordered operators not to read on the job.

Ordered linen cloths taken off the tables in the staff dining room, and converted a basement cafeteria into a carry-out.

Tried and failed, under pressure from colleagues, to eliminate breakfast service in the members dining room.

Audited restaurant finances, collected thousands of dollars from congressmen who ran up bills, and caught (with the aid of Pinkerton men) a cashier who was accused of stealing as much as $100 a day.

Took over authority, with House approval, to increase fringe benefits for congressmen without having to go back to the House (and thus into the public view) for a vote each time. These fringes include paid trips home, stationery allowances, telephone services and office staff money.

Set aside one of the three Capitol elevators from the Rayburn Building subway for members only.

Established a firm limit of six telephone lines for each congressional office (such decisions had been left up to a staff member in the office of Clerk W. Pat Jennings. Hays said, and varied according to the whim of the staffer).

And, perhaps most significant, in a resolution adopted yesterday with no objections from the handful of House members on hand, Hays moved to run the House's IBM 360–50 computer now under Jennings command. The resolution gives the Hays committee $1.5 million to set up and staff a Computer Service Center.

The computer program is only the most recent Hays move; it certainly is not the last.

Just last week, he signed a contract to begin installing an electronic voting system in the House chamber.

And he is actively involved in an effort to clean up House restaurant kitchens so they are as spick and span as the Senate's.

STEPS ON TOES

Hays' path has not been smooth. He has, in fact, repeatedly stepped on the toes of those who think they should be running things, such as Jennings and Capitol Architect George White, who supervises restaurants and elevators, and Doorkeeper Fishbait Miller, whose office is in charge of the army of patronage jobs and, among other things, the barbershops.

Hays has an unsettling style of direct action. If he sees something he doesn't like he summons the offender, or his boss, into his private office on the third floor of the Capitol and chews him out.

He is said to remind minor functionaries around the House that he, Hays, is the man who signs their paychecks. Little things often command his attention. For instance, he ordered name plates for elevator operators after one refused to identify himself to Hays. Now, Hays said, if an operator misbehaves, his name can easily be jotted down.

"The guy's a bully," one colleague said bluntly of Hays the other day. "A tyrant. This is not a happy situation."

But even Hays critics are forced to admit that under his scrutiny restaurant deficits have been reduced and, in some cases, eliminated. Haircut charges have been placed on a more businesslike basis. Instead of barbers pocketing the 75 cents plus tip, they now split the $2 half and half with the House contingency fund.

The computer, a sophisticated machine rented for $42,000 a month, has been operated by Jennings' office at something like 10 percent of its capacity.

By moving in and taking it over, Hays promises to develop a data retrieval system that could make the legislative history of every bill instantly available to members, while simultaneously handling House bookkeeping operations such as payroll and inventory.

NOT SEEKING FRIENDS

Hays is not disturbed over reports that some people are unhappy with his actions. "I didn't come to Washington to win friends and influence people, just to influence people," he says. "Congress does a lot of talking about economy but it must start at home."

Hays has never been known as a jovial fellow. His role on the House floor often is that of a heckler, a needler. When GOP Leader Gerald R. Ford once raised the threat of a presidential veto of an appropriations bill to keep several federal agencies going, Hays said:

"I do not think he would dare because . . . what if he closed the government down and the people found they could get along without it?"

He seldom really smiles. The comments are delivered deadpan, often angrily. Persons he doesn't quite approve of are referred to as "that character" or addressed as "you people."

HE CRACKLES

Hays does not give long thoughtful speeches on the issues of the day. He takes quick verbal swipes at those he thinks are ridiculous or wrong. One observor once said Hays' anger has a certain splendor: "He snaps and crackles and flashes. If you are safe, it is pleasant to behold—like a summer electrical storm."

He has, at one time or the other, been mad at Castro, Zsa Zsa Gabor, the late Secretary John Foster Dulles, Reps. Otto Passman and H. R. Gross, everyone in the State Department, Madame Nhu, Stokely Carmichael, all liberals, President Eisenhower, President Nixon, Arthur Goldberg and Adam Clayton Powell.

It was Hays who prepared the case against Powell when the high-flying Harlem minister was a member of Congress. As chairman of the Administration Committee's subcommittee on accounts, Hays conducted the inquiry into Powell's spending sprees that led eventually to his exclusion from the House.

ROAMED THE WORLD

Hays probably spent tax money at as brisk a clip as Powell but with a totally different philosophical approach. As a member of the Foreign Affairs Committee, Hays roamed the world as he now roams Capitol corridors and when he found excuses and wrongs, then as now, he demanded corrective action.

Hays' compulsion to erase inefficiency and eliminate wrongdoing is not limited to the world and the Congress. It extends into his home district.

Just last week, Hays was elected to the Belmont County School Board, a non-paying post, with the avowed intent of finding out whether the board does anything worthwhile. If it doesn't, he said, he will march straight to the state legislature and ask that it be abolished.

TRANSMISSION LINE TESTIMONY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. FISH. Mr. Speaker, in the CONGRESSIONAL RECORD of September 14, 1971, I brought to the attention of the Members an environmental problem in my congressional district, in a statement "The Big Boys Against Prink Hill."

In that statement I covered some of the problems being encountered by the residents of my district as a result of the actions of the power authority of the State of New York. These acts of the State authority are encouraged in many ways by the Federal Power Commission's apparent indifference to the public interest and indifference to environmental guidelines as laid down by the President's Council on Environmental Quality.

On Tuesday, November 9, 1971, a hearing on the proposed transmission line was held in Albany, N.Y. For the information of the other Members of this House, I include my remarks at that hearing, in full:

STATEMENT BY REPRESENTATIVE HAMILTON FISH, JR.

I wish to apologize for not being able to be personally at this hearing, but Congressional business requires me to be in Washington. However, I appreciate the opportunity to present a statement on my position on the Gilboa-Leeds transmission lines, a subject of great importance to the people of my Congressional District, which also affects the ecology of our entire Hudson Valley region.

I formally intervened in this proceeding for two basic reasons. First, because I felt my direct participation would afford many of my constituents, who otherwise would not be represented, an avenue to express themselves in this matter. Second, I wanted to assure that recent Congressional mandates in the area of environmental decision-making are faithfully complied with by the Federal Power Commission and the Power Authority of the State of New York. In my opinion, such care of the public interest was not shown in the original licensing of the Blenheim-Gilboa pumped storage project and its attendant transmission lines. I am hopeful that this hearing will provide the proper forum for beginning an in depth inquiry into whether this power line is needed at all, and, if so, what will be the best possible route to cause the least environmental damage to a uniquely unspoiled area. Such an inquiry requires the Federal Power Commission to balance all of the elements involved: alternative sources of power, actual power resources and needs, and most importantly, any possible detrimental environmental and social effect that construction of this proposed line will have on Greene County and the Hudson Valley.

These are not idle or useless concerns. We live today in an era concerned with environmental values. This concern has been caused by our ability to view what destruction can be wrought by neglect of proper attention to the environmental impact of any project. The present destruction of our air, our water and our land stand as mute witnesses to this past neglect. This newly found concern and awareness brings with it new responsibilities for those dealing with public policy decisions such as the one at issue here today.

There are three questions I would like to raise and discuss this morning. *First*, have the basic elements of due process, adequate notice and fair opportunity for a hearing been fully complied with in this case to date? *Second*, have the Federal Power Commission and the Power Authority of the State of New York complied with both the spirit and the letter of the National Environmental Policy Act of 1969? *Third*, what is the actual scope of proper inquiry here? Realistically, is the decision that is being made on Project No. 2685 confined to one power transmission line, or are we actually opening an irreversible pandora's box of Power Authority plans that will affect the entire Schoharie and Hudson Valleys.

On October 29, 1971, the Federal Power Commission issued an order which, among other things, denied my motion for a hearing on this project in Greene County. I was extremely disappointed by the Commission's decision, for it seems to me yet another indication of official indifference to the public interest and convenience. For Greene County, as we all know, is the location of both of the two primary routes which have been proposed. It is where the real affected parties in this matter live and work. My motion did not necessitate the postponement or cancellation of this hearing. It suggested alternative Greene County sites for this hearing, but more importantly, moved for an additional hearing in the Catskill area so that those unable to be here today would be afforded an opportunity to give their views on the proposed routing.

The selection of Albany as the sole site has clearly precluded the participation of many individuals who will be affected by the decision on this proposal—individuals unable to be here for such reasons as inability to get off from work, time loss, travel difficulty, expenses involved, and general inconvenience. The denial statement by the Federal Power Commission implies that an undue and unreasonable delay would result from granting the motion. Yet I was not talking about an indefinite or unreasonable delay of these proceedings. Appropriate hearing sites in the Catskill or Greenville area can be made available on short notice. Furthermore, when we are talking of a decision that will determine the environmental future of Greene County and possibly the Hudson Valley, would a delay of one day, or one week, or even one month be unreasonable? If one wishes to be a careful preserver rather than a hasty destroyer, the answer can only be no.

Therefore, today I am renewing my motion for an additional hearing to be scheduled in Greene County in the near future. I do this for the self-evident reason that the further such hearings are from the affected area, the less influence residents of those areas have upon the final decisions reached. Through the inconvenience of distance, individual right is more easily subverted for an abstract "public" right. I urge adoption of my motion for an additional hearing in the affected area.

Other intervenors have dealt in depth with the issue of whether adequate notice was initially afforded certain parties to this proceeding. I mention this point to couple it with my concern over the decision on the hearing site. Due notice, and the opportunity to be heard are essential elements of due process under our legal system. The "fundamental fairness" of due process applies to administrative as well as judicial proceedings. It is my view that due process requirements have been given less than full consideration by the Federal Power Commission and its staff in this matter to this point.

In response to the evident deterioration of our water, our air and our land, Congress and the entire Federal government has become increasingly concerned with the environment. The National Environmental Policy Act of 1969 is the foremost statutory expression of national policy on the subject. It establishes environmental protection as part of the mandate of every Federal agency and department, and requires that they consider the environmental implications of their decisions to the "fullest possible extent." Specifically, Section 102(2)(c) requires that every agency file a detailed environmental impact statement on all projects it undertakes or licenses, with the Council on Environmental Quality for their review.

The impact statement on this particular project is currently being reviewed by the Environmental Protection Agency at the request of Environmental Quality. In September, the Environmental Protection Agency indicated that the original impact statement

filed by the Power Authority of the State of New York, and circulated by the Federal Power Commission for comment, was not as comprehensive or complete as needed. In short it was defective.

I might also point out at this time that at present, negotiations are going on between the Federal Power Commission and the Council on Environmental Quality, as the Council is not satisfied with FPC's interpretation of the Environmental Protection Act's environmental requirements. As of this moment, the FPC has filed no independent environmental statement, nor does it accept responsibility for the applicant's statement which it circulates. Following this hearing the FPC will submit a staff brief on the environmental impact of the proposed project, which has been found at fault in the past as generally a restatement of the applicant's statement.

Thus, this project's status under the criteria established by the National Environmental Policy Act of 1969 has not yet been settled. It is too early to tell whether or not environmental values have been adequately considered. Until a determination and recommendation is made by both EPA and the Council on Environmental Quality on the impact of this project, there should be no final decision by the Federal Power Commission.

In addition to the strong indications I have received from the Council on Environmental Quality that the FPC's present interpretation of the environmental guidelines are unsatisfactory, recent court decisions interpreting the intent and scope of the National Environmental Policy Act have stressed the broad responsibilities it imposes on the Federal agency involved—in this instance the Federal Power Commission. For example, in the case of *Calvert Cliffs Coordinating Committee* vs *Atomic Energy Commission* (U.S. Court of Appeals for the District of Columbia, Docket Number 24,830, decided July 23, 1971), the Court emphasized that the mere filing of the impact statement does not exhaust an agency's responsibility under the Act. They emphasized that at both the hearings on proposed licensing, that the licensing agency must conduct an aggressive inquiry on the environmental issues raised. The Court used the following language: "an agency has a responsibility to not simply sit back, like an umpire, and resolve adversary contentions at the hearing stage. Rather, it must itself take the initiative of considering environmental values at every distinctive and comprehensive stage of the process beyond the staff's evaluation and recommendation."

In spite of off-hand licensing of the Blenheim-Gilboa pumped storage station and two of three power lines, in spite of the fact that the FPC to date has filed no independent environmental impact statement but simply circulated the applicant's statement for comment; in spite of the fact that the Commission has summarily denied every motion by the intervening parties; in short, in spite of what can at best be described as a dismal track record of agency concern for the interest of the public. I hope these hearings will set the tone for such an aggressive inquiry.

Finally, the scope of this inquiry cannot be restricted to the narrow consideration of the specific power line in question. That is why, when I filed my intervention petition, I included specific language aimed at raising the broader issues of impact that this decision will have on the ecology of the entire Hudson Valley. I again urge the Commission to carefully and closely study the long range impact that approval of this proposed line will have on nearby and adjacent areas in the Hudson Valley region as well as in Greene County. By PASNY's own admission, this power line is only the beginning in the development of a vast network of interlocking energy projects.

It is, in effect, a very small part of a massive development, and to concentrate our gaze simply upon this line, while ignoring these broader considerations would be like studying a tiger cub, while ignoring that the kitten could grow into a highly destructive cat. So, properly, the Federal Power Commission should view the proposed project not only in the light of its impact on the uniquely unspoiled Durham Valley, which is important and consequential in itself, but also in the broader perspective of its growing impact on the entire region. For if, as many of us believe, this project is only a small section of a massive plan, then a "yes" or "go" decision here could mean the ecology of the entire Hudson Valley and the Schoharie Valley will be forever determined. What are the extent of PASNY's plans? Have they been fully divulged? Will they be fully explored here? It would be a dereliction of responsibility not to ask these questions, and not to ask them at this time.

Thus, as we begin this detailed inquiry into the need, propriety and location of this proposed Gilboa-Leeds power line, the Federal Power Commission should carefully consider its massive responsibilities as they reach any decision. A Federal regulatory agency has a mandate to protect the public interest. Recent legislation underlines this with a mandate to protect the environment. This is the issue of the inquiry we begin here today.

PUBLIC HEARINGS—COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

HON. ANCHER NELSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. NELSEN. Mr. Speaker, under letter dated October 15, 1971, a notice of public hearings of the Commission on the Organization of the Government of the District of Columbia was mailed to a number of groups and associations in the District who have a client relationship with the District government. Also, the notice was published in the District of Columbia Register on October 4, 1971, and all relevant House and Senate committees have been advised.

We welcome the attendance of any interested Members of the House and Senate at the hearings scheduled in room 2125 of the House Interstate and Foreign Commerce hearing room on Thursday afternoon and evening, Friday and Saturday the 11th, 12th, and 13th of November. For further information please call the Commission office at 386–5577.

I insert the letter notice sent to over 600 organizations in the District of Columbia to be reprinted in full in the RECORD:

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA,
Washington, D.C. October 15, 1971.

DEAR FRIEND: On behalf of the Commission on the Organization of the Government of the District of Columbia, I am sending this letter to many organizations in the District of Columbia to inform them of the public hearings which our Commission will hold November 11 and 12, 1971. The hearings will be held in the Interstate and Foreign Commerce Committee Hearing Room, Room 2125 of the Rayburn House Office Building (East entrance) commencing at 2:00 p.m. on November 11 and at 10:00 a.m. on November 12.

In view of your organization's interest in good government, our Commission would like to have its views about ways and means of promoting economy, efficiency, and improved service in the transaction of the public business in the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the Government of the District of Columbia. I am enclosing a copy of the Commission's Notice of Hearing recently published in the *D.C. Register* so that you may be advised of the areas of our concern and study.

I cordially invite you to submit your organization's views in writing to our Commission by November 5, 1971. Should you or your organization experience any difficulty in preparing a written statement of proposed testimony. I urge you to contact the Deputy Director, Mr. Adrian Dove (386–5577) who can assist you. Meanwhile, it would be very helpful if your statement could be prepared as a five-minute oral presentation suitable for the public hearings. Additional comments may, of course, be submitted in writing and will be made a part of the hearing record.

Naturally, because of time limitations, our Commission will not be able to hear from all organizations at the public hearings scheduled for November 11 and 12. This is why I am requesting you to submit your organization's statement in writing to the Commission by November 3 so that the staff may review them and prepare a schedule of those who will testify at our hearings. Be assured, however, that whether your organization presents its views in the form of testimony at the hearings or as a written statement to be inserted in the RECORD, our staff will carefully review all of the views submitted so that they will be available to the Commissioners.

I am appreciative of the efforts of your organization to assist in bringing about better government for the District of Columbia and I trust that you will continue in your effort by providing the Commission with your organization's views with regard to our study.

With kind regards.

Sincerely yours,

ANCHER NELSEN,
Chairman.

COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

The undersigned, as Chairman of the Commission on the Organization of the Government of the District of Columbia, established under authority of Public Law 91-405, as amended, hereby gives notice that the Commission will hold public hearings in the Interstate and Foreign Commerce Committee Committee Hearing Room, Room 2125 of the Rayburn House Office Building (East entrance), commencing at 2:00 p.m. Thursday, November 11, 1971, and at 10:00 a.m. Friday, November 12, 1971. These public hearings have been scheduled to afford interested parties an opportunity to present their views concerning matters relevant to the declared policy of Congress in establishing this Commission, that is, to promote economy, efficiency, and improved service in the transaction of the public business in the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the Government of the District of Columbia.

While the hearings will not encompass the subject of home rule, the following general functional or managerial areas of concern are being studied by the Commission and will constitute the agenda for the public hearings:

1. The organization and internal management of the District of Columbia Government;

2. The executive management processes, especially as they relate to the Mayor/Commissioner and the District of Columbia Council, and whether the local government is responsive to the needs of residents and others whom it serves;

3. The efficiency of the District of Columbia Government personnel systems, activities, functions, etc.;

4. The fiscal affairs and financial management of the District Government, including: an analysis of revenue and expenditure trends; a study of the budget process, long-term capital financing, the balanced budget concept, program budgeting, grants-in-aid, and enterprise funding; accounting and internal auditing; ADP and MIS, and financial reporting;

5. The efficiency and effectiveness of the regulatory procedures (including the issuance of licenses and permits) in effect in the District of Columbia and conformance to the D.C. Administrative Procedure Act;

6. Public education in the District of Columbia, both the public school system and public higher education; primarily as it relates to administration and management and not course content or curriculum problems;

7. A study to improve the integration/coordination/effectiveness of youth services delivery in the District of Columbia;

8. Greater utilization of private sector assistance to the D.C. Government;

9. A housing study and inquiry into functions performed by National Capital Housing Authority, Redevelopment Land Agency, Board of Zoning Appeals, and Model Cities Program, as well as the private sector;

10. A study of delivery systems for health services; and

11. A contemplated study of procurement practices in D.C. Government contracting.

UNITED STATES, KREMLIN SUMMITS CAN GIVE CASE OF JITTERS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. DERWINSKI. Mr. Speaker, as the news media looks ahead in commentary and forecast to the forthcoming trip by President Nixon to Peking and Moscow, it is well to keep in mind the pattern of previous summit meetings. This point is very properly made by international correspondent Dumitru Danielopol in the following article which appeared in the Aurora, Ill., Beacon-News on October 22:

UNITED STATES, KREMLIN SUMMITS CAN GIVE CASE OF JITTERS

(By Dumitru Danielopol)

WASHINGTON.—Every time I hear of a "summit" meeting between a U.S. president and Kremlin leaders I get the jitters.

Men from lands behind the Iron Curtain have a "Pavolvian" reaction at the word "summit."

Past meetings have proved so disastrous for our countries, for the West and the United States that our first question is:

"What are the Americans going to give away this time?"

"The trouble with these meetings," said one exile leader "is that the Americans judge the Russians by their own standards and give them the benefit of the doubt. They do not always realize, unfortunately, that the Reds are not there to negotiate honestly but to grab as much as they can."

The germ of this reflex was there when Mr. Nixon announced his visit to Peiping. But it wasn't as intense. China is a new state. Though some ethnics objected, the overwhelming majority accepted the Peiping trip. It could place the Kremlin on the defensive, we felt, weakened Moscow's political and diplomatic impact and gave them something to worry about.

Resistance to Soviet pressures increased in Eastern Europe and the Balkans.

But now comes the mission to Moscow which seems to calm all Soviet fears.

Every American President in the last generation or so has come to that moment when he convinced himself that he can "reason together," eye-ball to eye-ball with the men in the Kremlin.

Mr. Nixon's announcement that he is going to Moscow came as an anti-climax. All the psychological, political and diplomatic advantages seen in the Sino-American meeting seem to be slipping away.

Leonid Brezhnev and Alexei Kosygin can crow again that all roads lead to Moscow.

"The President took a step backwards," said one exile leader.

Back flashed pictures of Franklin Roosevelt at Yalta, Harry Truman at Potsdam, Dwight D. Eisenhower in Geneva, John Kennedy in Vienna and Lyndon Johnson in Glassboro, N.J. That President Nixon could have refused the Kremlin's invitation in an election year is a moot point.

Mr. Nixon's political adversaries are already discounting his trip as political ploys. This is hardly fair. The President deserves honest appreciation for his goal of a "generation of peace."

And perhaps the scars and memories of the last 35 years have made some of us too cynical. But when dealing with the Russians there is only one truism:

One must deal from a position of strength.

Accommodation in the Soviet mind has always been only a way-station on an inexorable march to domination.

SENIOR CITIZENS GOLD TURNS TO BRASS RING

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BURKE of Florida. Mr. Speaker, the Senate has the so-called welfare reform bill, H.R. 1 on the slow burner and as a result millions of needy retirees are stewing while waiting for the much needed social security changes and benefit increases.

H.R. 1, which passed the House on June 22, 1971, and was hailed as the welfare reform bill tied the social security amendments to this welfare bill.

The supporters of H.R. 1 did this for one reason. There is strong congressional support for increasing social security for our elderly, but there was not real great support for guaranteeing an income for those on welfare. For this reason the two programs were tied together as one package and the elderly today are the losers.

The Senate is reluctant to take up the provisions since many of the liberal block want the guaranteed income for welfare recipients increased above the established $2,400 level but do not feel they have the public's support or sufficient votes.

It is estimated that of the some 20 million Americans over age 65, 5 million are living on wages below poverty levels; another million are at the "near poor" category; while still more are reaching this state due to higher living costs and restrictions placed on senior citizens.

Thus it appears the welfare reform program is making more of our elders paupers and thereby cheating them out of what they rightfully deserve.

It is one thing to talk about guaranteeing welfare recipients a specific sum, but the financial burden placed on the working sector of our Nation is quite another. It is said, with good basis, that half of the country will be working to support the other half.

And what incentive will there be for people to work, or even be foolish enough to save, since big brother will take care of them?

The original intent of social security was to aid those who qualified for payments to an income as a supplement to a regular retirement plan. But, the socialist planners now look at social security as a welfare plan.

The social security program needs to be revised, but I suggest that it does not belong as part of any so-called welfare reform program.

I introduced a bill which would provide for at least a 10-percent social security benefit effective January 1, of this year, but it was reduced to 5 percent by a majority vote of the House when H.R. 1 passed the House last June.

I further proposed that there be an automatic cost-of-living increase clause in the program so as to provide continuous benefit increases based on the increasing living costs to be completed each fiscal quarter. This was included in H.R. 1, but now that the bill is delayed it is hard to determine its future on final passage.

Other bills I introduced or cosponsored included legislation which would award increases in benefits to a widow, from 82½ percent, which she currently receives to 100 percent. These proposals, together with the need for improvements in the medicare program and others too numerous to mention, are reasons the social security amendments should be reviewed as separate items, rather than tossing them in with welfare questions.

There are 985,690 people over the age of 65 living in Florida today, which comprises almost one-sixth of the State's population. Furthermore, our senior citizens compose one-tenth of the Nation's population, are one of our Nation's largest minority, and yet they became political pawns in the arguments on welfare.

They have been penalized for working throughout the years since the social security was a pay-as-you-work program, paid into by the employee with the hope for a chance to enjoy their golden years, but alas, they now find that the gold has turned into a brass ring which they cannot even grab, since the Senate has a hold on it.

SENATE—*Friday, November 12, 1971*

The Senate met at 9 a.m. and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Most merciful and gracious God, before we enter upon the tasks of this new day, we thank Thee for the achievements of past days and for the promise of the future. To the hard work, the concentrated endeavor, the steadfast devotion of Thy servants add Thy divine blessing. May they be God-filled, God-controlled, God-directed men and women; wise and creative, clear minded and high visioned in devising policies and programs which are just and righteous and in harmony with Thy coming kingdom. Keep them loyal to the lofty principles of the Republic, steadfast in championing the cause of freedom and peace, humble in spirit, and thankful in heart.

And to Thee we ascribe all glory and praise. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. ELLENDER).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE
Washington, D.C., November 12, 1971.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

Mr. BURDICK thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, November 11, 1971, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar, under New Reports.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar, beginning with New Reports, will be stated.

OFFICE OF EMERGENCY PREPAREDNESS

The second assistant legislative clerk read the nomination of Elmer F. Bennett, of Maryland, to be an Assistant Director of the Office of Emergency Preparedness.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. ARMY

The second assistant legislative clerk read the nomination of Brig Gen. Ferd L. Davis, Adjutant General's Corps, to be a major general.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. NAVY

The second assistant legislative clerk read the nominations in the U.S. Navy, as follows:

Adm. Jackson D. Arnold, U.S. Navy, to be admiral.

Vice Adm. Arthur R. Gralla, U.S. Navy, to be vice admiral.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The second assistant legislative clerk proceeded to read sundry nominations in the National Oceanic and Atmospheric Administration.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—IN THE ARMY AND IN THE NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the Army and in the Navy, which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

VIETNAM—LAST CHANCE FOR PEACE

Mr. MANSFIELD. Mr. President, in yesterday's New York Times, the lead editorial is entitled "Last Chance for Peace." I think it is a good summation of the situation which has developed on the eve of the President's announcement to the Nation on what the next step will be in the withdrawal of U.S. troops from Vietnam.

I would point out that the President has reduced the forces there from a high of about 450,000 men when he assumed office to under 190,000 at the present time. That is very good progress. I wish it could be done faster. We will see what the President has to say.

Let me quote one sentence from the editorial:

Mr. Laird responded, "Yes," when asked last weekend in Saigon whether South Vietnam now has "a reasonable chance to survive"—a principal condition set by President Nixon for complete American withdrawal.

So that leaves only the prisoners of war, and that matter, hopefully, may have been taken care of for the third time by the Senate in the military aid bill which passed yesterday.

Mr. President, I ask unanimous consent that the entire editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LAST CHANCE FOR PEACE

The extraordinarily optimistic claims for the Vietnamization program made by Secretary of Defense Laird after a combat zone inspection tour have opened the way for a dramatic Presidential announcement next week. Whether soundly based or not, the Laird comments seem designed to provide a rationale permitting President Nixon to step up the present pace of troop reductions in Vietnam. Since even maintenance of the present pace would terminate the American ground presence before the end of next year, Mr. Nixon is in position now, if he is so disposed, to offer the Communists a terminal date for American military withdrawal.

A terminal date would meet the precondition set by Hanoi for reviving the dormant negotiations in Paris to arrange concurrent release of war prisoners, plus a ceasefire. At the present withdrawal rate of 14,300 a month, American troops could be out of Vietnam before Christmas 1972. If the rate is stepped up to 20,000 a month, they could be out by mid-September, almost two months before the American Presidential election.

Mr. Laird responded, "Yes," when asked last weekend in Saigon whether South Vietnam now has "a reasonable chance to survive"—a principal condition set by President Nixon for complete American withdrawal. The so-called "Phase Two" of Vietnamization is under way—a phase marked by the turnover to South Vietnamese forces of increased responsibility for artillery, logistical, helicopter and air combat support.

President Thieu has indicated a desire to retain American air and logistical support into 1973. That could mean a residual force of 40,000 to 50,000 Americans, including ground combat forces to protect American installations. But Mr. Nixon has other interests to consider if he is to make such a commitment now.

Apart from the direct effect on the American Presidential campaign, there is the possibility that such a commitment would trigger an increased military effort by Hanoi to embarrass Mr. Nixon next fall. Reactivation of the Paris negotiations, by contrast, would inhibit reescalation of the war and take advantage of what little substantial leverage the United States has left in the peace talks.

It is in Hanoi's interest to terminate the American involvement before November 1972. American air operations continue at a high level, despite ground force reductions. There have been more than seventy raids against North Vietnam this year. More than 70,000 tons of American bombs—almost the same level as in 1967, the last year before the Paris talks—have been dropped monthly on Indochina targets, according to a new Cornell University study.

If Mr. Nixon is re-elected next November with large-scale American air operations still going on and a residual force of 40,000 American air operations still going on and a residual force of 40,000 Americans remaining in South Vietnam, Hanoi must calculate that the President will be under little pressure to withdraw for two to four years longer. The Communists must also reckon with the possibility that Mr. Nixon might even re-escalate if they step up the war in those circumstances.

Mr. Nixon can capitalize on this opportunity by announcing a withdrawal date next week and opening private talks in Paris, letting it be known that agreement must be reached before the withdrawals cut sharply into air operations and planned residual forces. The prospects for successful negotiations have been further increased by Peking's recent shift from opposition to support of the concept of a negotiated settlement. Soviet propaganda has exploited this shift to attack the Chinese but Moscow is believed still favorable to a political solution.

Mr. Nixon may prefer to announce an interim troop withdrawal target next week but delay negotiations until late spring, after his Peking and Moscow visits. In reality, however, he probably has already had about all the help he can expect from improved relations with the Soviet Union and China. Neither is likely to pressure North Vietnam. A settlement, if it is to be achieved, will have to be negotiated with Hanoi, not with Moscow or Peking. The sooner that negotiation is opened, the greater the chance that it will lead to termination not only of the American involvement but of the war as a whole.

MONTANA IS 82 YEARS OLD

Mr. MANSFIELD. Mr. President, I am pleased to announce that on Monday last, November 8, 1971, the State of Montana became 82 years old. At the time it was admitted to the Union in 1888, after being a Territory it became the 41st State. Its population in 1889 was roughly 131,000. The population now is about 705,000—an extraordinary growth for a State like Montana.

As I have indicated, Montana has 705,000 people ensconced in an area of 148,000 square miles, which is approximately 10,000 square miles smaller than the empire of Japan and just about the same in relation to the State of California. Japan, however, has an excess of 100 million people and California; the biggest State in the Union has a population in excess of 20 million.

In order to indicate just how new the Montana country is, it is well to note that 96 years ago last May Lt. Col. George Custer was defeated at the Battle of the Little Bighorn by the Cheyenne and the Sioux. So it is a new State, in many respects—a new country still.

This year, for the first time since Montana became a State, we are having a convention to see what can, should, or must be done to create a flexible and modern constitution.

I know that the members of the constitutional convention will do a good job. I hope that they do not move forward too rapidly because, sometimes, some of the things of the past are worth preserving. Perhaps out of the meeting will come a desirable combination which will look to the advancement of the "Treasure State," as it used to be called, but is better known now as the "Big Sky Country," because of all the States of the Union, Montana has the greatest in the way of environment and the best in the way of people. Its high plains average about 3,000 feet above sea level, its mountains are comparable to those in Switzerland and in the area of Kashmir, and its rivers furnish the source of life for much of the Northwest and much of the Middle West because the Columbia and the Missouri both originate in that part of the Nation. But the greatest asset Montana has lies in the people who inhabit it, who have made it, and who live there.

I wish to extend to them as well as to the State my congratulations on this most noteworthy anniversary and to express the hope that Montana, in the future, will progress, just as it has in the past, in a decent, equitable, and responsible manner.

Mr. President, I ask unanimous consent to have printed in the RECORD, the editorial entitled "Montana is 82 Years Old Today," published in the Great Falls, Mont., Tribune of November 8, 1971.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MONTANA IS 82 YEARS OLD TODAY

Montana's statehood birthday is more significant this year than it has been for many decades. The state, which today marks its 82nd anniversary of admittance to the union as the 41st state, may be approaching adulthood.

At least, the state has the opportunity to mature because voters elected 100 delegates to draft a new constitution. The present constitution, written by 75 delegates in a 45-day convention in 1889, is sadly out of date.

Life in Montana 82 years ago was simple, a world apart from today's complexities. In 1889, the 87,822 males and 44,277 females in the state would not have believed anyone who predicted that in eight decades Montanans would be able to fly in giant planes fast enough to allow them to enjoy breakfast at home, lunch in New York and dinner in London. What would the 1889 convention delegates have thought if someone had said that by 1971 Montana would harbor squadrons of missiles, each able to carry a nuclear warhead powerful enough to destroy an entire city to a target 7,000 miles away in 20 minutes?

Amazing strides have been made in 82 years in science, education, agriculture, medicine and in virtually every field except government. The state's governmental structure is still crippled by restrictive limitations written into the 1889 constitution.

The 1972 Constitutional Convention will give the state an unprecedented opportunity to create a flexible, modern constitution. If the convention delegates do an imaginative job and voters approve their work, the state may be able to celebrate its 83rd statehood birthday next year with a feeling of pride and confidence that the new document will allow government to meet the challenge of changing times for at least another 82 years.

Mr. SCOTT. Mr. President, I am glad that the distinguished majority leader has paid such a lyrical tribute to the august State of Montana on the 82d anniversary of its birth.

Our friend, the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), is surely the greatest asset of the State of Montana and its people. He is an outstanding avatar, to whom the people look with pride and with a great sense of satisfaction.

And I wish for the distinguished majority leader an opportunity to return to his home State not later than the first of December.

PRESIDENT NIXON'S FORTHCOMING STATEMENT

Mr. SCOTT. Mr. President, the distinguished majority leader has brought up the fact that we are on the eve of the President's statement, the contents of which we do not as yet know. However, Congress is on record with respect to the great desire to end the distress of the peoples in this area, the sadness which inflicts them beneath the cloud of war. And the President himself is on record that he will clarify what we will do to end this dread scourge, this detriment

in which men have been committed on opposite sides against each other.

I am mindful of the revival hymnal which is included in the new play Godspell. It is an old Chartist hymn of about 1848, when there was a revolt against the corn laws.

Many British people rose and demanded a better era and a happier life and more decent treatment for the disadvantaged people in the British Isles.

The hymnal contains these words:

The people, Lord, the people. Not thorns, nor crowns, but men. Let them not pass like leaves away their heritage in sunless day. The people, Lord, the people; not thorns, nor crowns, but men.

RESCISSION OF ORDER FOR RECOGNITION OF SENATOR HARRIS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for recognition of the distinguished Senator from Oklahoma (Mr. HARRIS) this morning be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Ohio will now be recognized for not to exceed 15 minutes.

(The remarks of Mr. TAFT when he introduced S. 2850 are printed in the RECORD under Introduction of Bills and Joint Resolutions.)

TRANSACTION OF ROUTINE BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. BURDICK) laid before the Senate the following letter, which was referred as indicated:

REPORT ON EXCESS DEFENSE ARTICLES

A letter from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a confidential report on excess defense articles (with accompanying papers); to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, with amendments, with concurrence of the Committee on Public Works:

H.R. 9727. An act to regulate the dumping of material in the oceans, coastal, and other waters, and for other purposes (Rept. No. 92-451).

REPORT ENTITLED "THE MULTIPLE HAZARDS OF AGE AND RACE: THE SITUATION OF AGED BLACKS IN THE UNITED STATES"—REPORT OF THE SPECIAL COMMITTEE ON AGING (S. REPT. NO. 92-450)

Mr. CHURCH. Mr. President, I submit a report from the Senate Special Committee on Aging entitled "The Multiple Hazards of Age and Race: The Situation of Aged Blacks in the United States."

The PRESIDING OFFICER (Mr. WILLIAMS). The report will be received and printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Scott P. Crampton, of Virginia, to be an Assistant Attorney General.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TAFT:

S. 2850. A bill to amend the Labor-Management Relations Act, 1947, and the Railway Labor Act to provide for the settlement of certain emergency labor disputes. Referred to the Committee on Labor and Public Welfare.

By Mr. ALLOTT:

S. 2851. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions. Referred to the Committee on Finance.

By Mr. RANDOLPH:

S. 2852. A bill to amend section 131 of title 23 of the United States Code, relating to the control of outdoor advertising along the Interstate and the Federal-aid primary systems, in order to permit certain signs for environmental and antipollution purposes. Referred to the Committee on Public Works.

By Mr. MCCLELLAN:

S. 2853. A bill for the relief of the Vladimiro Canulla family (Vladimiro, Romana Bardella, Marco Valerio, and Paolo). Referred to the Committee on the Judiciary.

By Mr. BURDICK (for himself, Mr. HRUSKA, and Mr. HARTKE):

S. 2854. A bill to amend title 28, United States Code, relating to annuities of widows of Supreme Court Justices. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2855. A bill to declare that certain federally owned lands are held by the United States in trust for the Covelo Indian Community of the Round Valley Indian Reservation, Calif. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE:

S. 2856. A bill to provide for the compensation of persons injured by criminal acts. Referred to the Committee on the Judiciary.

S. 2857. A bill to provide certain retirement benefits under title 5, United States Code, for air traffic controllers. Referred to the Committee on Post Office and Civil Service.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TAFT:

S. 2850. A bill to amend the Labor-Management Relations Act, 1947, and the Railway Labor Act to provide for the settlement of certain emergency labor disputes. Referred to the Committee on Labor and Public Welfare.

EMERGENCY LABOR DISPUTES ACT OF 1971

Mr. TAFT. Mr. President, I share with the majority leader and the minority leader the fervent hope that by the 1st of next month we may at least be in sight of returning to our homes. However, I also this morning want to call to the attention of the Senate the fact that there are certain circumstances in the overall labor-management relations area that might well interfere with that goal or, even after we have returned to our homes, might require some extraordinary action by Congress requiring Congress to return to Washington.

In particular I invite attention to the fact that on December 25, Christmas Day, the 80-day term of the injunction dealing with the west coast dock strike will expire. From all we can see at present, it seems extremely likely that the workers again will go off the docks on the west coast and that the problems there will be aggravated.

I also call attention to the fact, as I am sure all Senators know from the communications they are receiving in connection with electric power in this country, that the present coal strike in our bituminous coal industry is having a very serious curtailing effect upon the supply of electric power. It may be that this will result in a crisis that could occur within this period of the month of December, if not earlier in some areas.

It was with these problems in mind, Mr. President, that I asked for time this morning to discuss some legislation that I feel is vital.

I serve on the Labor Subcommittee. We have been, of course, considering in hearings before the subcommittee improvements in the emergency strike legislation presently pending there under a number of measures.

I have little hope, however, that there will be a reporting by that subcommittee or the committee of measures adequately approaching this problem.

For that reason, I shall speak about some legislation I expect to introduce today and about the necessity of it. It will put all concerned on notice that if the committee and subcommittee fail to report legislation which it seems may be extremely necessary during the time immediately ahead, it may seem desirable and in the public interest to have legislation of the type which I am introducing, or the various other pending bills that deal with the subject.

Mr. President, the United States has suffered a number of nationwide strikes with crippling economic consequences. These strikes have affected the railway industry, the Nation's docks, and the coal industry. Because of their nationwide impact, they have particularly critical consequences for the American economy. Such strikes result not only in economic pressure against the employer, but lead to drastic economic consequences in other sectors of our economy.

For example, the present coal strike, if allowed to continue, may result in a loss of electric power in many of our Nation's cities. This in turn could adversely affect hospitals, schools, industries, and homes. Such strikes as these can no longer be considered entirely within the context of economic leverage between employers and unions. On the contrary, these strikes necessarily involve questions of a national interest which we in the Congress are obligated to consider which affect the public very adversely.

In response to this situation a number of bills have been introduced in the Senate. These bills have been introduced by the Senator from Michigan (Mr. GRIFFIN) S. 560, the Senator from New York (Mr. JAVITS); S. 594, the Senator from New Jersey (Mr. WILLIAMS); S. 832, the Senator from Tennessee (Mr. BROCK); S. 1934, the Senator from Colorado (Mr. DOMINICK); S. 2060 and others. Earlier in the year I introduced a bill, S. 1093, which dealt with the problem for the railroad industry.

The bills to which I have referred differ widely as to their coverage, as to their procedures, and as to their remedies. I have given considerable attention to the various alternatives which have been proposed, and today I introduce and send to the desk for appropriate reference a bill which frankly is an amalgamation of what I consider to be the best provisions of these various measures.

The bill which I introduce today adopts the approach of the Senator from New York (Mr. JAVITS) that it covers all industries affecting interstate commerce. After giving this matter additional study I concluded that my earlier approach in limiting the legislation to railroads would be in error. I see no reason why emergency strike legislation should not be applicable to industries covered by the National Labor Relations Act as well as industries covered by the Railway Labor Act. In the context of national strikes, I see no valid reason for retaining this delineation in approach.

With respect to the settlement of these strikes, the bill which I now introduce adopts the alternate procedures contained in S. 560 introduced by the Senator from Michigan (Mr. GRIFFIN). In other words, this bill would afford the alternatives of an additional 30-day cooling off period, partial operation, or final offer selection.

In addition, I have included in this bill what I consider to be a vitally important provision drawn from S. 1093, which I had introduced earlier. This provision relates to the question of unproductive work rules.

If we examine the recent national strikes to which our attention has been directed, we will discover that it was the question of work rules which was at the base of the railway strike. It was the question of work rules which also has been paramount in the crippling dock strike. In my opinion we simply cannot expect to deal meaningfully with these national strikes unless we have some mechanism for coming to grips with the question of unproductive work rules.

American industry must be able to eliminate unproductive work rules, unless those work rules are solely related to the health and safety of employees. This is important because we are undertaking a great national effort to increase the productivity of American industry. American workers are fighting for their jobs in competition with workers in Germany, Japan, and other nations. Just as American industry requires modern machinery and tools of production, American industry must also be able to free itself of unproductive work rules which put a damper on productivity and thereby threaten both profits and jobs.

At the same time American labor has a vital interest in the way in which these work rules are changed. American workingmen and women should not have to suffer uncertainty as to whether or not they will be replaced by a machine. When a man has worked in a job for a number of years he has a legitimate interest in retaining his employment and not being told at the age of 55 that he must suddenly go out and sweep streets for a living.

In addition, when American industry is modernized and made more efficient, America's working men and women should have a share in the increased productivity of our Nation's industries.

For that reason I believe it is imperative that we incorporate language into our emergency strike legislation using the approach that work rules remain primarily a matter for collective bargaining. However, if an employer does not wish to utilize collective bargaining to eliminate an unproductive work rule that is not directly related to the health or safety of employees, he could eliminate it from bargaining on the following conditions:

First, the employer could eliminate jobs only by attrition. This provision would provide that no employees could lose jobs as a result of the new work rules.

Second, this bill provides that the nonsupervisory and nonprofessional employees would have their pay increased by an amount equal to 50 percent of the productivity gains attributable to the elimination of the work rule. This bill also provides a mechanism for having a disinterested third party determine the cost savings through such elimination of work rules.

I believe that we are only kidding ourselves if we think that we can deal with these national strikes without coming to grips with the question of unproductive work rules. Let me emphasize that labor has as much of a stake in this as does management. Unproductive work rules require that work be spread out more widely and that the buying power generated from that work must be paid into more pockets. If a given quantum of work must support eight workers instead of six, those eight workers will not have as high a standard of living as the six otherwise would have enjoyed.

Labor does have a proper interest in seeing that employees are not eliminated and that the buying power of the remaining employees is increased. This measure would protect that interest.

Sooner or later American business and labor must recognize that they can no longer look upon each other as opponents, but that they are both sharing the fruits of our national productivity. In short, they are both drinking out of the same well-spring. This legislation attempts to establish a legal framework within which they may both fairly share the increased benefits of American productivity.

Mr. President, I send to the desk, for appropriate reference, the bill dealing with labor-management relations in this area, and I ask unanimous consent that the entire bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Labor Disputes Act of 1971".

SEC. 2. (a) Congress hereby finds—

(1) that the present procedures established by sections 206-10 of the Labor-Management Relations Act, 1947, and section 10 of the Railway Labor Act for dealing with labor disputes which threaten the health and safety of the American people or tend to deprive any section of the country of essential transportation services are inadequate and have, in certain cases, produced a deterioration of the collective bargaining process as well as an intensification of emergencies created by such disputes;

(2) the use of present procedures for resolving such labor disputes has not prevented serious disruptions in operations and services essential to the health and safety of the Nation or a substantial part of its population or territory; and

(3) a permanent range of flexible procedures permitting prompt action to deal with national or regional emergencies created by labor disputes is necessary to prevent imperiling the health and safety of the Nation or a substantial part of its population or territory by such disputes and to encourage and maintain free collective bargaining.

(b) It is the purpose of this Act to make available a range of flexible procedures to be utilized in taking emergency action, to prevent the interruption of operations or services essential to the health and safety of the Nation or a substantial part of its

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population or territory because of actual or threatened strikes or lockouts.

SEC. 3. Section 206–209 of the Labor-Management Relations Act, 1947, are amended to read as follows:

"SEC. 206. (a) Whenever in the opinion of President of the United States, after consultation with the Director, a threatened or actual strike or lockout or other labor dispute in an industry affecting commerce may, if permitted to occur or to continue, imperil the health or safety of the Nation or a substantial part of its population or territory, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its own position, and, if the President so directs at any time, there shall be included in such report or in a supplemental report the recommendations of the board of inquiry for the settlement of some or all of the issues in dispute. The President shall file a copy of such report with the Secretary of Labor and shall make its contents available to the public.

"(b) Upon receiving a report or a supplemental report from a board of inquiry, the Secretary may initiate one or more of the following actions: (1) He may direct for a specified period not to exceed 30 days no change in the conditions out of which the dispute arose shall be made by the parties to the dispute, except by agreement. During such period the parties to the dispute shall be under a duty to bargain collectively, but neither party shall be under a duty to accept in whole or in part any recommendations of the board of inquiry.

2(a) He may issue an order specifying the extent and condition of partial operation that must be maintained; *Provided*, That in no event, shall his order place a greater economic burden on any party than that which a total cessation of operations would impose.

"(b) The parties shall not interfere by resort to strike or lockout with the partial operation ordered by the Secretary. The Secretary's order shall be effective for a period determined by the Secretary, but not to exceed one hundred and eighty days.

"(c) The Secretary's order or any modification thereof shall be conclusive unless found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"(d)(1) The Secretary shall issue his order no later than thirty days from the receipt of the report from the President, unless the parties, including the Government, agree to an extension of time but such extension shall reduce pro tanto the maximum effective period of the board's order.

"(2) On notice to the parties, the Secretary may at any time during the period of partial operation modify its order as it deems necessary to effectuate the purposes of this section.

"(e) Until the Secretary makes his determination and during the period of partial operation ordered by the Secretary, no change, except by agreement, shall be made in the terms and conditions of employment. If the Secretary determines that the implementation of any particular term of existing terms and conditions of employment is inconsistent with the conditions of partial operation, he may order the suspension or modification of that term but only to the extent necessary to make it consistent with the conditions of partial operation.

"(3)(a) He may direct each party to submit to him a final offer within three days. Each party may at the same time submit one alternative final offer. The Secretary shall transmit the offers to the other parties simultaneously.

"(b) If a party or parties refuse to submit a final offer, the last offer made by such party or parties during previous bargaining shall be deemed that party's or parties' final offer. Any offer submitted by a party pursuant to this section must constitute a complete collective bargaining agreement and resolve all the issues involved in the dispute.

"(c) The parties shall continue to bargain collectively for a period of five days after they receive the other parties' offers. The Secretary may act as mediator during the period of the final offer selection proceedings.

"(d) If no settlement has been reached before the end of the period prescribed in subsection (c) of this section, the parties may within two days select a three-member panel to act as the final offer selector. If the parties are unable to agree on the composition of the panel, the President shall appoint the panel.

"(e) No person who has a pecuniary or other interest in any organization of employees or employers or employers' organizations which are involved in the dispute shall be appointed to such panel.

"(f) The provisions of sections 207(b) and 207(c) of this Act shall apply to the panel.

"(g) The panel shall conduct an informal hearing in accordance with section 207(c) of this Act insofar as practicable, except that—

"(1) the Government shall have no right to participate; and

"(2) the thirty-day period in which the panel shall complete its hearings and reach its determination shall run from the time that the Secretary directed the parties to submit final offers.

"(h) The panel shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed by this section.

"(i) From the time of selection of the panel until such time as the panel makes its selection, there shall be no communication by the members of the panel with third parties concerning recommendations for settlement of the dispute.

"(j) Beginning with the direction of the Secretary to submit final offers and until the panel makes its selection, there shall be no change, except by agreement of the parties, in the terms and conditions of employment. In no instance shall such period exceed thirty days.

"(k) The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall be given to, nor shall any evidence be received concerning, the collective bargaining in this dispute including offers of settlement not contained in the final offers.

"(l) The panel shall select the most reasonable, in its judgment, of the final offers submitted by the parties. The panel may take into account the public interest, and any other factors normally considered in the determination of wages, hours, and conditions of employment.

"(m) The final offer selected by the panel shall be deemed to represent the contract between the parties.

"(n) The determination of the panel shall be conclusive unless found arbitrary and capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"(4)(a) He may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lock-out or the continuing thereof, and if the court finds that such threatened or actual strike or lock-out—

"(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

"(ii) if permitted to occur or to continue will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lock-out, or the continuing thereof, and to make such other orders as may be appropriate.

"(b) In any case, the provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable.

"(c) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, sec. 1254).

"SEC. 207. (a) The board of inquiry shall be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States and to conduct such hearings either in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute.

"(b) Members of the board of inquiry or panel appointed under § 206 (6)(3) shall receive compensation, at the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each working day on the board or panel, together with necessary travel and subsistence expenses.

"(c) For the purpose of any hearing or inquiry conducted by any board or panel appointed under this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C. 19, title 15, sections 49 and 50, as amended), are hereby made applicable to the powers and duties of the board and panel.

"(d) Any board or panel established under this Act shall act by majority vote.

"(e) A vacancy on any such board or panel shall not impair the right of the remaining members to exercise all of the powers of such board or panel. Such vacancy shall be filled by the same procedure as provided for initial appointment outlined in this Act.

"SEC. 208. (a) The provisions of this title and orders or determinations of the President issued thereunder shall be enforceable upon suit by the Attorney General, through such orders as may be appropriate by any court having jurisdiction of any of the parties.

"(b) Any action brought under this section shall be heard and determined by a three-judge district court in accordance with section 2284 of title 28, United States Code. The order or orders of the court shall be subject to review by the Supreme Court in accordance with section 1253 of title 28, U.S.C.

"SEC. 209. (a) Notwithstanding any other provisions of this Act, whenever any Employer proposes a change in work rules affecting employees as contained in any labor agreement, unless such work rules relate solely to the health or safety of employees, the employer may make such change effective as proposed, if (1) any cost savings realized as a result of such change affecting rules will be shared 50 per centum each by the employer implementing such a change and the nonprofessional and nonsupervisoral employees, as defined in Title I of the Labor Management Relations Act of 1947, and (2) any reduction in the number of operating employees of such employer contemplated by the proposed change affecting rules will be accomplished by attrition.

"(b) Nothing in this subsection shall be construed to prevent carriers and representatives of the employees from entering into an agreement affecting work rules.

"(b) For the purposes of clause (1) of subsection (a) of this section, payments to employees shall be on a per capita basis and shall be made not later than four months following the end of the fiscal year. In the event that any employee was not employed by an employer for the entire fiscal year preceding the payment date, the payment to such employee hereunder shall be prorated to cover the period of employment.

"(c) In the event that any representative of affected employees contests the amount of cost savings as determined by the employer under clause (1) of subsection (a) of this section, said representative and the employer shall mutually designate and compensate a certified public accountant, whether an individual, partnership, or corporation, which accountant shall make a determination of the cost savings, which determination shall thereupon be final and binding."

SEC. 4. Section 210 of the Labor-Management Relations Act, 1947, is repealed.

SEC. 5. Section 212 of the Labor-Management Relations Act, 1947, is amended to read as follows:

"REPEAL OF SECTION 10 OF THE RAILWAY LABOR ACT

"SEC. 212. Section 10 of the Railway Labor Act is hereby repealed: *Provided*, That such section shall continue in effect with respect to any emergency board in existence on the effective date of this Act. Disputes heretofore subject to section 10 of the Railway Labor Act shall be subject to provisions of this title."

SEC. 6. Title II of the Labor-Management Relations Act, 1947, is amended by adding at the end thereof the following new section:

"RIGHTS OF EMPLOYEES

"SEC. 213. Nothing in this title shall be construed to limit the right of any employee to resign from his position of employment."

SEC. 7. INAPPLICABILITY OF THE NORRIS-LA-GUARDIA ACT.—The provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable to any judicial proceeding brought under or to enforce the provisions of this Act.

Mr. TAFT. Mr. President, I shall take just a few more minutes to call the attention again to a matter I brought to the attention of the Senate yesterday, which appears on pages S18194 through S18197 of the RECORD. These remarks deal with the same general subject with which I have been dealing this morning, in that they relate to the coal strike and the effect of the coal strike in certain areas of Ohio.

For several weeks I have been deeply concerned with the outbreak of violence that has been occurring in Ohio in unorganized mines—the independent mines—without apparent effective enforcement of the law. I detailed that concern in the RECORD yesterday.

I am working with representatives of the Department of Justice, asking that a full investigation of the activities in Ohio be carried on. I met with the Governor of Ohio and suggested to him that he might well be obligated to call out the National Guard to provide protection for property and to keep the highways of Ohio open.

Last week, after the theft of some 46 cases of dynamite, four or five separate explosions in different sections of Ohio took place in unorganized mines. Despite that, no steps have been taken that I know of to bring to justice those responsible for these problems. I feel that this matter has to be dealt with.

I hope, as we all hope fervently, that there will be an early settlement of the coal strike. I hope this will result in the termination of activities of violence that have been going on in Ohio, but those responsible should not be allowed to go unchallenged and stand unprosecuted, where a case might be made, just because a settlement of the overall strike takes place.

I shall continue to review and investigate the activities going on in this area and call for appropriate action by the law enforcement authorities.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from Ohio (Mr. TAFT) for the statement he has made this morning and also for the legislation he has introduced. He is a thorough student of the subject on which he speaks. He is carrying on in the tradition of a great name, that of his father, who contributed so much to the development of the law affecting labor-management relations.

The bill which the distinguished Senator from Ohio has introduced today adds some important new concepts which deserve early and careful attention.

It is most discouraging to this Senator that neither the Senate nor the House of Representatives has addressed itself in a serious way to the problems that are so evident in the labor-management field. It has been noted before, and perhaps it might be worth noting again, that the major laws now on the books in the field of labor-management relations have been enacted at intervals of 12 years.

In 1935, Congress enacted the Wagner Act, which is often referred to as labor's Magna Carta. In 1947, 12 years later, Congress enacted the Taft-Hartley Act. In 1959, again 12 years later, Congress enacted the Landrum-Griffin Act. Twelve years have now elapsed since 1959—and in 1971 the need for revision and reform of our labor-management legislation seems very apparent to almost everybody except the committees and Congress itself.

The bill of the distinguished Senator from Ohio focuses primarily on the need to improve the means for coping with emergency strikes; and certainly we have had that need for a long time. But Congress has been turning its head, despite the fact that the administration proposed legislation more than 20 months ago. Subsequently, several other bills have been introduced.

I have been deeply concerned too about the need for reform in some other areas. I refer to what I think were scandals in connection with the 1969 United Mine Workers election.

It was my proposal at that time that Congress take action similar to the action it took in 1958 when it set up a select bipartisan committee composed of four Republican and four Democratic Senators. The chairman of that committee was the Senator from Arkansas (Mr. MCCLELLAN), and investigations were conducted in 1958 and 1959.

I think it is apparent to a great many persons that that kind of select committee and that kind of investigation is needed again. We need to take a closer look at some of the areas involving union elections and the handling of union pension funds as well as other areas of union member relations, with a view toward bringing our labor laws up to date.

So on this occasion I commend the Senator from Ohio and associate myself with his remarks. He has made a splendid contribution, and I hope that this will spur some activity in Congress.

By Mr. ALLOTT:

S. 2851. A bill to amend the Internal Revenue Code of 1954 with respect to certain charitable contributions. Referred to the Committee on Finance.

Mr. ALLOTT. Mr. President, I send to the desk a bill for appropriate reference. This bill amends the Internal Revenue Code of 1954 with respect to certain charitable contributions. My purpose in introducing this legislation is to grant certain homes for the aged the same privileged tax status extended to hospitals. My deliberations convince me that there is insufficient justification for any other treatment. The Tax Reform Act of 1969 made numerous changes in the exempt organization area. Albeit, much tax reform was needed to correct abuses that arose in connection with private foundations. Under the current law, many charitable homes providing long-term care for the aged and underprivileged are classified—by definition—as private foundations.

The adoption of this bill will relieve these homes of the burdens imposed upon private foundations by the 1969 Tax Reform Act—mainly the 4-percent excise tax on investment income and the minimum distribution requirements.

At first blush, the provisions contained in the Tax Reform Act of 1969 appeared to be reasonable obligations, even for the most charitable of institutions. But in-depth study reveals that they will lead to the eventual depletion of the assets of these charitable organizations. Let me explain why. These homes for the aging are usually classified as operating foundations under the Internal Revenue Code. They use their investment income, often supplemented by fees charged to the recipient of the care, to meet their operating costs. It is a known fact that operating costs, especially those in the area of long-term care are constantly on the increase. Most of the homes that have come to my attention have been in existence for many decades and in most instances exercise a conservative investment philosophy. They have chosen to accept a lower yield in order to maximize growth potential, to make allowances for future years—hedging against inflation,

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if you will. Siphoning off of the top 4 percent—section 4940—plus mandating that an amount equal to 4 percent of their assets be disbursed each year—section 4942—really hurts. Most Senators know the difficulty in obtaining growth investments that yield 4 percent. In order to avoid the penalties contained in the Internal Revenue Code, these homes must dip into their capital in order to meet their minimum disbursement requirements.

Last year, I introduced S. 4435, a narrowly structured bill granting similar relief to the Myron Stratton Home of Colorado Springs, Colo. It had come to my attention that the 1969 provisions could lead to the eventual demise of the Myron Stratton Home, which provides long-term care for poor children and disabled elderly persons—without charge. I therefore introduced remedial legislation inasmuch as I could not tolerate the siphoning off of money from the operations of this home, a home the benefits of which have been known to me personally for many years—the housing, feeding, and care of underprivileged children and elderly citizens.

In the past year, my research has uncovered other homes for the aged which likewise are affected to their serious detriment—and, in my judgment, to society's detriment—by the Tax Reform Act of 1969. At this point, I wish to recognize and thank the American Association of Homes for the Aging for their cooperation in my research. Homes for the aging located in: Massachusetts, Pennsylvania, Nebraska, Kentucky, Missouri, Delaware, New York, Ohio, and California—and Mr. President, I suspect in many other locations—have their very existence threatened by these tax provisions.

These nonsectarian organizations, by and large have been in existence for many, many years and are able to offer long-term care services at a reduced cost because of the existence of an endowment, the income from which is used to offset operating costs; thereby reducing the cost of care to the residents/recipients. If they were church affiliated—performing the same function—they would not be classified as a private foundation, and would not be subject to these deleterious tax provisions. Why discriminate when we are talking about care for the aged?

At a time, Mr. President, when the Congress is laboring to increase social security benefits, increase medicaid and medicare benefits, increase Federal retirement benefits, and increase the number of subsidized housing units for the elderly, we cannot permit these organizations to be penalized under our tax laws. The dissipation of resources dedicated to such a social good must be terminated. Certainly we do not want to foist upon the taxpayers burdens heretofore borne by eleemosynary organizations. We must eliminate this "penalty" imposed upon those organizations. In all likelihood, Mr. President, these are the only organizations which provide an absolutely necessary community service—which I might add, has been hit the hardest by rising costs—that of providing long-term care of the aged at a reduced fee for those who are least able to pay.

Mr. President, in my 17 years of service in the U.S. Senate, I have learned, among other things, that when the Congress enacts sweeping legislation, such as the Tax Reform Act of 1969, oversights are inevitable, provisions are enacted which in later years are discovered to cause certain inequities, and in my judgment this has happened in the instant case. This situation is an example of treatment which was not contemplated by the Congress when the Tax Reform Act of 1969 was enacted.

By Mr. BURDICK (for himself, Mr. HRUSKA, and Mr. HARTKE):

S. 2854. A bill to amend title 28, United States Code, relating to annuities of widows of Supreme Court Justices. Referred to the Committee on the Judiciary.

ANNUITIES OF WIDOWS OF SUPREME COURT JUSTICES

Mr. BURDICK. Mr. President, Senator HRUSKA, Senator HARTKE, and I join in the introduction of this bill to reform the law relating to pensions paid to widows of Supreme Court Justices.

In 1954, Congress enacted section 375 of title 28, United States Code, granting to widows of Supreme Court Justices the same noncontributory pension paid to Presidential widows; namely $5,000. In 1956, Congress enacted the judicial survivors annuity plan—section 376 of title 28, United States Code—to create a contributory plan under which benefits would be paid to the widows and dependents of our Federal judges. However, the plan included only district and circuit court judges. Justices of the Supreme Court were not included.

The purpose of this bill is to bring Supreme Court Justices under the judicial survivors annuity plan and provide for their contribution to the benefits which would be payable to their widows and dependents. The bill would also phase out the noncontributory pension under section 375 of title 28 by providing that the noncontributory pension shall not apply to the widow of any justice who became a member of the Court after enactment of this bill. Nor would the noncontributory pension apply to the widow of any existing justice who elected to enter the contributory plan. Thus, eventually, the noncontributory pension would be eliminated completely and Justices of the Supreme Court would be treated the same as other Federal judges and the same as all Federal employees, including the elected Members of Congress—all of whom are given the opportunity to contribute to the benefits which might be payable to their widows and dependents.

In drafting this bill, consideration was given to the fact that at the present time there are six widows of justices who are receiving the pension under section 375. They will continue to receive this pension. In addition, this bill would correct, with respect to the existing widows, an inequity that has existed since 1958. When enacted in 1954, the justices' widows pension was in the same amount as was then paid to Presidential widows under private law, namely $5,000. However, in 1958, Congress enacted a general law—Public Law 85-745; 72 Stat. 838—setting $10,000 as the amount of the annuity to be paid to Presidential widows. No similar increase was made in the annuity payable to widows of justices. The bill now introduced would correct this congressional oversight and would increase the annuity paid to the six existing widows from $5,000 to $10,000. The inflationary trends of the last 17 years would also justify this action.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 2855. A bill to declare that certain federally owned lands are held by the United States in trust for the Covelo Indian Community of the Round Valley Indian Reservation, Calif. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk for appropriate reference a bill to declare that certain federally owned lands are held by the United States in trust for the Covelo Indian Community of the Round Valley Indian Reservation, Calif., on behalf of myself and the Senator from Colorado (Mr. ALLOTT).

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., November 8, 1971.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft of a proposed bill, "To declare that certain federally-owned lands are held by the United States in trust for the Covelo Indian Community of the Round Valley Indian Reservation, California."

We recommend that the proposed bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The bill provides that all right, title, and interest of the United States in approximately 20 acres of land heretofore used in connection with the Round Valley Indian School shall be held in trust for the Covelo Indian Community of the Round Valley Indian Reservation, California, subject to all valid existing rights-of-way.

The property is described as Lots 59 and 60, section 19, township 26 north, range 13 west, Mount Diablo meridian, Mendocino County, California, containing 20 acres, more or less. On April 15, 1895, Lot 59 was allotted to William Swearinger, Round Valley allottee No. 199, and Lot 60 was allotted to Dollie Anderson, Round Valley allottee No. 10. The allottees sold the lands in April 19, 1911, to T. B. Wilson, Superintendent of the Round Valley Indian School, who in turn conveyed these lots by quitclaim deed to the United States on September 27, 1911. The allottees received a total consideration of $400 for the two lots.

The Indian School was discontinued many years ago and since that time the land has been used by the Covelo Indian Community. One of the tribal members is residing on Lot 59 and using Lot 60 for pasture. This land is excess to the needs of the Bureau of Indian Affairs.

The land has been appraised for its highest and best use, which is for rural homesites with limited grazing on the steeper slopes. The current estimated fair market value of the property is $10,050. There are two old frame dwellings located on Lot 59; however, these dwellings are considered to be the personal property of the occupant and not a part of the land value. There are no buildings on Lot 60. A paved county road borders the south property boundary of these lots. The road right-of-way was approved on July 21, 1960, and accepted by the Mendocino County Supervisors on July 26, 1960.

The subject property is located within the boundaries of the Round Valley Indian Reservation in northeastern Mendocino County, approximately 5 miles north of Covelo, the only town in Round Valley. The Corps of Engineers has studied a plan of water development known as the Dos Rios Dam and Reservoir Projects. If constructed, this project would flood Round Valley because the valley is in the reservoir area. However, there is no present indication that the project will be authorized or constructed in the near future.

These lots are surrounded on three sides by tribal land, and have been constantly used by the community for the benefit of its members. A resolution has been enacted by the tribe requesting the conveyance of the property, as it is considered a key tract. The tribe has been acquiring some land by purchase, however, acquisition by such means is limited because of lack of funds. It would work a hardship on the tribe should it be asked to take this parcel in fee. The tribe does not have a formal land consolidation program.

As the Covelo Indian Community has made beneficial use of this land for many years and it can be advantageously used along with tribal lands, we recommend the enactment of this legislation.

This bill does not include the usual provision regarding offsets against any judgment allowed by the Indian Claims Commission, since the Covelo Indian Community has no claims pending before the Claims Commission.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,

HARRIS LOESCH,
Assistant Secretary of the Interior.

By Mr. HARTKE:

S. 2856. A bill to provide for the compensation of persons injured by criminal acts. Referred to the Committee on the Judiciary.

CRIMINAL LOSS RECOVERY ACT OF 1972

Mr. HARTKE. Mr. President, today we as a people are reevaluating life in America. We have seen the rise of crime in the streeets do much to undermine our quality of life. Legislation has been passed, and additional legislation has been proposed, to combat both the causes and effects of crime. To ease tensions in our crime-ridden environments we must continue to deal with this cause-effect relationship.

Undoubtedly the most serious effect of crime is the loss of life and personal injury incurred by the victim of criminal attacks. Most victims have limited means to compensate for economic losses due to criminal attack and this economic penalty contributes to the already dangerous and widespread belief that crime pays for the criminal while government remains insensitive to the needs of the victim. This feeling undermines the trust citizens place in our democratic form of government: The main objective of which is to respond to the just needs, and desires of its people.

I am proposing legislation today to help eradicate this major effect of crime and hopefully ease to a major degree the oppressive economic effects of criminal conduct in our society.

There are presently pending before the Congress several proposals to provide financial compensation for victims of crime. In addition to legislation in the House of Representatives, the distinguished majority leader (Mr. MANSFIELD) introduced victim compensation legislation very early this session, and last Friday the Senator from Minnesota (Mr. MONDALE) introduced legislation compensating the victims of crime. The legislation that has been introduced is good legislation; but it is my feeling that certain additional provisions should be included in criminal victim compensation programs. Therefore, the proposal I offer differs in scope and comprehensiveness of coverage from previously introduced legislation. As I will show, I have attempted to combine the best elements of existing State programs and those of other countries to enlarge and improve upon available coverage.

Under my bill, a person injured or killed by anyone in violation of any penal law of the United States or any State shall be covered by this act. This is probably the most important feature of this legislation. Most existing and proposed compensation boards have limited the recovery of compensation to violations of certain particularized acts. This broadening of coverage is imperative because criminal injury is no respecter of legislative designation and the purpose of compensation programs should be to award those injured rather than to attempt to differentiate between types of violent crime. Most importantly, since criminal injury is one of the hazards of life in our contemporary society, the Government must recognize its obligation to protect its citizens. And, if it fails to protect, to compensate.

A shortcoming of many compensation programs has been that the number of injured who are allowed to recover is extremely limited. Under my proposal, those parties that will be covered by this act will be, the victim, his immediate family and those in a family relationship with the victim. The reasons for compensating the victim are obvious. It should also be recognized that relatives and those persons living with and dependent on the victim can also be real victims of the crime. Therefore, the criminal loss recovery commission will have authority to consider the financial loss to the family of the victim and to award financial relief where appropriate.

Most legislation dealing with crime compensation has excluded victims that are related to perpetrators from receiving compensation because of the possibility of collusive action and unjust enrichment. Victims that are family members of the perpetrator should not be outrightly excluded as a class simply because it might require close scrutiny to ascertain improper action in attempts to receive compensation. I feel close examination of such claims could overcome the possibility of collusive suits and unjust enrichment. It is too severe a remedy to provide that a child cannot receive compensation because one parent has seriously injured another and the child then finds himself without any means of support.

Under my proposal, benefits will be awarded for medical, dental, hospital, and any other services of special care necessitated by the injury. In addition to providing medical care, I have incorporated two additional features into this legislation. First, it should be noted that those eligible for compensation is a much broader class than provided for in most programs. New York law, for example, requires that the victim must show "serious financial hardship" before he will be awarded financial compensation. I feel that victims of violent crime should not be penalized simply because they have accumulated some savings. Those that lack insurance, and must personally pay for their injuries should also be compensated. Second, in addition to providing for medical expenses it is necessary that benefits in an amount equal to the "actual loss" sustained by the victims should be awarded. This would include loss of earnings, both present and future and other expenses incurred as a result of the injury. We should recognize the obligation the country has to its citizens who have been the victim of a criminal attack cannot be specifically itemized. This obligation could in some cases go far beyond the $10,000 or $15,000 limitation normally provided in financial compensation proposals.

At this point, I would like to refer to an issue that is conspicuous by its absence in my proposal. That is the right of the Federal Government to sue to recoup funds that it pays to the victims of crime. Although such is indeed desirable, I feel such provision is superfluous in that it is commonly acknowledged that the criminal element of our society is largely indigent. Assuming the criminal does have funds, then the victim can resort to suit in the civil courts for damages for personal injury and loss of income. Therefore, I feel that it is unnecessary to include provisions in this legislation to allow the recoupment of funds paid to the victims of criminal injury.

In closing, I would like to make a brief comment on the scope of this legislation. It is obviously comprehensive. It includes victims of both State and Federal

crimes. A number of States have already recognized the need and have taken corrective action. But, more still needs to be done. To do otherwise adds additional insult to the criminal injury that daily befalls too many Americans.

By Mr. HARTKE:

S. 2857. A bill to provide certain retirement benefits under title 5, United States Code, for air traffic controllers. Referred to the Committee on Post Office and Civil Service.

CIVIL SERVICE RETIREMENT FOR AIR TRAFFIC CONTROLLERS

Mr. HARTKE. Mr. President, on July 13, 1970, the Senate passed S. 3959, to amend the Civil Service Retirement Act to provide for early retirement for air traffic controllers. The bill was transmitted to the House, but no action was taken on the bill by that body before the adjournment of the 91st Congress. This was unfortunate, as it was a most worthy measure. I therefore introduce today a bill, identical with S. 3959, for the early retirement of air traffic controllers, and ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARTKE. Mr. President, the need for this legislation could not be more clear. As long ago as 1958, when the Federal Aviation Act was enacted, the Senate caused to be inserted in the legislation section 302(g), which required the new Administrator of the Federal Aviation Administration to make a study of personnel problems inherent in the functions of the agency—including special provisions as to retirement—and to make recommendations for appropriate legislation to the Congress. The Administrator's report was submitted to the Congress in 1961, entitled "Special Personnel Problems in the Federal Aviation Agency" (Senate Document No. 57, 87th Cong., 1st sess.). It is reported that the work of air traffic control was "demanding, high-stress work which necessitates special retirement legislation."

Year by year, medical research has provided additional evidence that the work of an air traffic controller is filled with stress, pressure and tension, that it is a "young man's job" that controllers "burn out" as athletes do, and it is as unreasonable to expect men in their fifties to control traffic in high density facilities as it would be to expect men in their fifties to continue to play major league athletics after their reflexes have slowed. Medical research has disclosed an unusually high incidence of stress-related disabilities and deaths in controllers—resulting from heart attacks, ulcers, and nervous breakdowns. Air traffic controllers are among the healthiest of Federal employees; they are required to pass a most rigorous examination on initial appointment, and to recurrently pass it once a year. Yet, their rate of disability and death far exceeds that of any other civil service position.

As a matter of simple justice to men who have dedicated their lives to a demanding profession, and as a matter of aviation safety, it has long been clear that provision for the early retirement of air traffic controllers is necessary. Although numerous bills to provide such relief have been introduced since 1960, no such measure passed either House until S. 3959 was approved by this body in July 1970.

In the fall of 1970, after our action, the administration modified its historic position of opposition to early retirement for any group of Federal employees, to support such legislation for air traffic controllers. From 1960 to 1970 the administration had opposed such legislation, not because it did not think it meritorious, but in pursuance of its general policy to oppose special retirement privileges for any class of Federal employees. A measure of the true worth of the legislation I am introducing today may be found in the fact that this is the only class of Federal employees for which the administration presently favors early retirement legislation.

At the beginning of the present Congress, the administration introduced legislation of its own for the retirement of controllers. At hearings which were held on the administration bill before the House Committee on Post Office and Civil Service, Secretary of Transportation Volpe and FAA Administrator Shaffer supported the legislation. The Civil Service Commission, which has historically opposed special retirement legislation for any class of Federal employees, also supported the measure. The Civil Service Commission, in explaining why it supported such legislation for controllers while opposing it for all others, used the term "burned out" and said, "It seems to be that it is a very stressful occupation that does have these unique features" and "we know of none—other—to the same extent."

In 1969 the Secretary of Transportation referred the question of the need of special legislation for air traffic controllers to a blue ribbon committee known as the "ATC Career Committee." In response to objections from controller groups that there was no such need for a committee, Secretary Volpe promised that his Department would support the committee recommendations. In its report issued in January 1970, the committee recommended an amendment to the Civil Service Retirement Act to provide for the early retirement of controllers. The committee recommended a formula which would provide that for each year of work performed in an air traffic facility, a controller shall be credited 1.4 years of creditable service for retirement purposes, and that after 30 years of service, as so computed—which would require a minimum of 22 years of actual service—the controller would be entitled to retire on an immediate annuity, regardless of age, and without reduction of annuity if under age 55.

S. 3959 in the last Congress, and the identical measure which I introduce today, are based on that proposal. They provide that a controller be granted 1.4 years of creditable service for retirement purposes for every 1.0 years of service as an air traffic controller.

The need is proved, the remedy is long overdue, and the appropriate nature of the remedy has been spelled out by an impartial committee appointed by the Department of Transportation. It has been approved by this body in the last Congress. I, therefore, urge prompt action on this measure.

EXHIBIT 1

S. 2857

A bill to provide certain retirement benefits under title 5, United States Code, for air traffic controllers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 8331 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (18);

(2) by striking out the period at the end of paragraph (19) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new subsection:

"(20) 'air traffic controller' means an employee who performs duties as—

"(A) an air traffic control specialist in the Department of Transportation or its predecessor organizations engaged in the separation and controlling of aircraft; or

"(B) a supervisor directly engaged in supervising air traffic control specialists at an air traffic control tower, center, or approach-control facility."

(b) Section 8332 of such title is amended by adding at the end thereof the following new subsection:

"(1) Service as an air traffic controller is the product obtained by multiplying the full years and twelfth parts thereof by 1.4, excluding from the aggregate fractional parts of a month, if any.

(c) Section 8336 of such title is amended by redesignating subsection "(g)" as subsection "(h)"; and adding immediately after subsection "(f)" the following new subsection:

"(g) An employee who is separated from the service after completing thirty years of service, and who has at least ten years of service as an air traffic controller, is entitled to an annuity."

SEC. 2. Section 6307 of title 5, United States Code, is amended by adding the following new subsection:

"(d) An employee who is an air traffic controller, as defined in section 8331 of this title, is entitled to sick leave in addition to any other sick leave authorized by this section for such reasonable periods as determined by the Secretary of Transportation upon a finding by the Secretary, based on sufficient medical evidence certified to by a flight surgeon and at least two medical doctors, that the employee is temporarily unable to perform his duties."

Amend the title so as to read: "An Act to amend title 5, United States Code, to provide additional civil service retirement and sick leave benefits for air traffic controllers."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1498

At the request of Mr. NELSON, the Senator from New Jersey (Mr. CASE) and the Senator from Oklahoma (Mr. HARRIS) were added as cosponsors of S. 1498, a bill to provide for the control of surface and underground coal mining operations which adversely affect the quality of our environment.

S. 1645

At the request of Mr. CHURCH, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 1645, the Social Security Reform Act.

S. 1794

At the request of Mr. NELSON, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1794, a bill to establish pilot field projects and expanded research in the principles of integrated pest control.

S. 1973

At the request of Mr. HARTKE, the Senator from Illinois (Mr. STEVENSON), and the Senator from Delaware (Mr. BOGGS) were added as cosponsors of S. 1973, to provide for the establishment of the Thaddeus Kosciuszko Home National Historic Site in the State of Pennsylvania, and for other purposes.

S. 2163

Mr. MATHIAS. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Kansas (Mr. PEARSON) be added as a cosponsor to the bill S. 2163, the Vietnam Veterans Act of 1971, to provide increased educational benefits to veterans.

Mr. PEARSON. Mr. President, I am happy to announce my cosponsorship for S. 2163, The Vietnam Veterans Act of 1971 offered by my distinguished colleague from Maryland, Senator MATHIAS. This legislation would substantially increase the benefits allowable to veterans desiring to complete their education with the GI bill by awarding them a sum of up to $1,000 in addition to the benefits they currently receive.

Previous experience has shown that an increase in benefits directly affects the number of people who take advantage of the GI bill. For example, before the last increase in 1970, only 20.7 percent of those veterans eligible took advantage of the GI allowance. Since passage of legislation approving the increase in 1970, the percentage has jumped to 35 percent, and for the first time since 1952, over 1 million persons are currently using the GI bill to help finance their education.

Despite the increase in participation since 1970, however, those who need education and training the most—high school dropouts—have participated the least. Only 9 percent of the eligible veterans who have failed to complete high school now use the educational benefits available to them. Yet, those lacking a high school education comprise anywhere from 15 to 23 percent of all those leaving the service.

The problem is not unique to just those veterans who have not completed high school. Education benefits available to veterans compare most unfavorably with those which were available to their World War II or Korean counterparts. Whereas the cost of living since 1952 has risen by about 52 percent, Office of Education figures show that estimated average charges for tuition, board and room have roughly doubled, from $986 to $1,940 for the 1971–72 school year. Figured on a dollar for dollar basis the monthly allowance available to the Korean conflict veteran in 1952 was $110. In order to attain the same coverage for the school year, 1971–72, the allowance should by now have risen to $220. Under the bill I am supporting today, the allowable benefits for a veteran with no dependents would amount to a maximum of approximately $285 per month. If the veteran had as many as two dependents, benefits could increase to $340 per month.

Mr. President, I believe that proposals such as the one offered in this bill speak to a need for providing to the Nation's 5 million Vietnam era veterans benefits which are equal to those veterans of other wars have received. It was in this spirit that I offered a bill on November 9 to provide veterans of the Vietnam era with a Government-administered life insurance policy at greatly reduced rates, and it is in this same spirit that I announce my support for the Mathias bill today. Legislation of this nature is more than just a gesture of gratitude. It is an expression of confidence in the potential of these young veterans, and it is an investment in the future of this Nation which cannot help but bring impressive and lasting returns.

S. 2454

At the request of Mr. JACKSON, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2454, a bill to amend the Youth Conservation Corps Act of 1970.

S. 2676

At the request of Mr. TUNNEY, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2676, the National Sickle Cell Anemia Prevention Act.

S. 2509

At the request of Mr. SCOTT, the Senator from New Hampshire (Mr. COTTON) was added as a cosponsor of S. 2509, a bill to incorporate Pop Warner Little Scholars, Inc.

S. 2724

At the request of Mr. JACKSON, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2724, a bill to establish a national Indian education program by creating a National Board of Regents for Indian Education, carrying out of a national Indian education program, and the establishment of local Indian school boards.

S. 2812

At the request of Mr. NELSON, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Utah (Mr. MOSS), and the Senator from Oklahoma (Mr. HARRIS) were added as cosponsors of S. 2812, a bill to amend the Federal Food, Drug, and Cosmetic Act.

S. 2828

At the request of Mr. NELSON, the Senator from Wyoming (Mr. MCGEE) and the Senator from Oklahoma (Mr. HARRIS) were added as cosponsors of S. 2828, the Family Farm Act of 1972.

SENATE JOINT RESOLUTION 15

At the request of Mr. NELSON, the Senator from Texas (Mr. BENTSEN), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Hawaii (Mr. FONG) were added as cosponsors of Senate Joint Resolution 15, designating the third week of April of each year as Earth Week.

SENATE JOINT RESOLUTION 62

At the request of Mr. GRIFFIN, the Senator from New Hampshire (Mr. COTTON) was added as a cosponsor of Senate Joint Resolution 62, to authorize the display of the flag of each of the 50 States at the base of the Washington Monument.

SENATE RESOLUTION 191—SUBMISSION OF A RESOLUTION RELATING TO TEACHERS' SALARY INCREASES UNDER THE WAGE-PRICE FREEZE

(Referred to the Committee on Banking, Housing and Urban Affairs.)

TEACHERS SALARY INCREASES

Mr. HUMPHREY. Mr. President, the President's economic policy will very shortly move into phase II. Because events of the last few days and statements by the parties involved indicate that the Pay Board will be unlikely soon to remedy the injustices which arose during phase I, it is appropriate for the Congress to direct that the gravest inequities be assuaged. I am therefore submitting a resolution which directs the Cost of Living Council and the Pay Board to give special consideration to the public school teachers of America.

When the President announced his wage-price freeze in August, public school teachers were caught up in a predicament not of their own making. Teachers have historically served on a school-year basis, which provides for a period of unemployment during the summer months although in most cases under contract to return to teach in the fall. The terms and conditions of those contracts are usually determined in early summer so that both school boards and teachers may accurately plan on their fall positions and teaching staff complement.

In applying the wage-price freeze only those teachers who had worked and accrued pay under a new salary schedule, prior to August 15, were to receive wage increases. In actual practice even this guideline was not uniformly applied. So it is through a happenstance of time and location that equally qualified teachers are being paid at different rates.

It is this gross inequity which the resolution I am submitting today attempts to rectify.

The resolution reads as follows:

S. RES. 191

Whereas the wage and price freeze and subsequent administrative interpretations thereunder have caused teachers with the same experience and responsibility, often in the same school district, to be paid according to totally different salary schedules;

Whereas adjustments in teachers' salaries

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are normally negotiated in the spring and early summer although teaching does not begin until September;

Whereas the inequitable treatment of teachers arises from the clash between the timing of the freeze announcement and the traditional fall date for starting school; and

Whereas this effect of the wage-price freeze has lowered the morale and efficiency of America's teachers: Now, therefore, be it

Resolved, That the Cost of Living Council be advised that it is the sense of the Senate that the Pay Board and the Cost of Living Council should permit any teachers' salary increases contained in contracts for the school year which began in the fall of 1971, to become effective.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 180

At the request of Mr. RIBICOFF, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of Senate Resolution 180, calling for peace in Northern Ireland and the establishment of a united Ireland.

SENATE CONCURRENT RESOLUTION 49—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO TREATMENT OF AMERICAN PRISONERS OF WAR

(Referred to the Committee on Foreign Relations.)

Mr. ALLOTT. Mr. President, on behalf of myself and Senators ALLEN, ANDERSON, BAKER, BAYH, BEALL, BENNETT, BENTSEN, BIBLE, BOGGS, BROCK, BUCKLEY, BURDICK, BYRD of Virginia, CANNON, CASE, CHILES, CHURCH, COOK, COTTON, CRANSTON, CURTIS, DOLE, DOMINICK, FANNIN, FONG, HANSEN, HARRIS, HRUSKA, HUMPHREY, INOUYE, JACKSON, JORDAN of North Carolina, JORDAN of Idaho, MAGNUSON, MCGEE, MCINTYRE, MILLER, MONDALE, MUSKIE, PACKWOOD, PASTORE, PEARSON, PELL, RANDOLPH, RIBICOFF, ROTH, SCOTT, SPONG, STAFFORD, STEVENS, STEVENSON, THURMOND, TOWER, TUNNEY, WEICKER, WILLIAMS and YOUNG, I submit for appropriate reference a Senate concurrent resolution calling for the humane treatment and release of American prisoners of war held by North Vietnam and its allies in Southeast Asia. This resolution is identical to House Concurrent Resolution 374, introduced by Congressman ZABLOCKI, which was passed unanimously by the House of Representatives on October 4, 1971.

North Vietnam has held American prisoners since 1964. Because of the inhumane and illegal treatment being given American prisoners of war in Southeast Asia, there is a clear necessity for the Congress to speak out against these outrages. The Congress should adopt this resolution to express our solidarity of support to the wives and children, mothers and fathers, brothers and sisters, relatives and friends, of men who are missing or captured and to let them know that we share their deep anguish. We must assure those families of prisoners and of the missing that we, in the Congress, continue to place the highest priority on efforts to obtain humane treatment and early release of our men.

Regardless of how individual Senators might differ in their approach to the termination of hostilities in Indochina, all Senators must join in expressing empathy for the brave Americans who are held prisoner or are listed as missing in action.

The concurrent resolution reads as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring),

Whereas more than one thousand six hundred members of the United States Armed Forces are prisoners of war or missing in action in Southeast Asia; and

Whereas North Vietnam and its allies in Southeast Asia have refused to identify all prisoners they hold, to allow impartial inspection of prisoner facilities, to permit free exchange of mail between prisoners and their families, to release seriously sick and wounded prisoners, and to negotiate for the release of all United States citizens they hold captive; and have committed other violations of the provisions of the 1949 Geneva Convention Relative to Treatment of Prisoners of War, which North Vietnam ratified in 1957; and

Whereas the General Assembly of the United Nations and the International Conference of the Red Cross have adopted resolutions calling on all parties to armed conflicts to comply with the terms and provisions of the Geneva Convention so as to insure humane treatment for prisoners of war; and

Whereas it is the policy of the United States to observe the requirements of the Geneva Convention in treatment of prisoners; and

Whereas the Congress, the executive branch, and the American people have repeatedly appealed to North Vietnam and its allies in Southeast Asia to comply with the provisions of the Geneva Convention; and

Whereas every opportunity should be pursued which will focus attention on the plight of these United States servicemen and the anguish suffered by their families and friends, and bring to bear against North Vietnam and its allies the force of world opinion on behalf of humane policies: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress strongly protests the treatment of the United States servicemen held prisoner by North Vietnam and its allies in Southeast Asia and calls on them to comply with the requirements of the Geneva Convention Relative to the Treatment of Prisoners of War.

The Congress approves and endorses efforts by the people and Government of the United States, the United Nations, the International Red Cross, and other leaders and peoples of the world to obtain humane treatment for prisoners of war and immediate repatriation of the sick and wounded; and urges that negotiations for the release of all prisoners in the Indochina conflict be given the highest priority by the governments and peoples involved, and calls upon the signators to the Geneva Convention who have relations with the parties involved in the conflict in Indochina to act as protecting powers to see to the welfare and safety of the prisoners of war and missing in action.

Resolved further, That it is the sense of the Congress that allied authorities should—

(1) Arrange the immediate, unconditional release of as many North Vietnamese prisoners of war held in South Vietnam as are willing to return to their homeland, up to a number equaling the number of Americans listed as missing in action or imprisoned in Southeast Asia.

(2) Effect the release of all such prisoners simultaneously from the same location on the demilitarized zone at the conclusion of a ceremony during which officials of allied governments would issue a supply of rations to each prisoner released and make an appropriate public appeal to North Vietnamese, National Liberation Front, and Pathet Lao leaders for similar humane treatment of prisoners they held. Prisoners would then be permitted to proceed on foot toward North Vietnam.

(3) Plan and carry out all procedures under the close supervision of the International Red Cross and take special precautions to prohibit forced repatriation. Passed the House of Representatives October 4, 1971.

EDUCATION AMENDMENTS OF 1971—AMENDMENTS

AMENDMENTS NOS. 658 THROUGH 663

(Ordered to be printed and to lie on the table.)

Mr. ERVIN (for himself, Mr. ALLEN, Mr. BAKER, Mr. BENNETT, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, and Mr. TOWER), submitted six amendments intended to be proposed by them jointly to the amendment of the House to (S. 659) a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 664

(Ordered to be printed and to lie on the table.)

Mr. CHILES. Mr. President, I am submitting an amendment to the pending bill to allow a person to deduct child care costs as business expenses. I believe major bills concerning child care expenses now pending before the Senate Finance Committee miss the target this amendment aims for. The pending proposals offer a piecemeal approach toward helping working mothers and mothers who want to work. These proposals simply increase the limitation on the tax deduction for child care expenses. They increase the limitation on income of families that may use the child care tax deduction. Or they increase the Federal share of child care expenses for welfare recipients—still setting unrealistic limitations. These measures fail to recognize the fact that because costs for child care are necessary to seek income, these costs are, in fact, business expenses.

Before legislation in 1954 permitted even limited child-care deductions, the Internal Revenue Service had not allowed these costs as ordinary and necessary business expenses that could be deducted directly from gross income at the top of the tax form. A 1939 court case backed this ruling. But the attitudes and the times have changed. The judge in the 1939 case simply said that it was not necessary for women to work. The fact is, however, that more mothers than ever are working outside the home. Between 1950 and 1970 women members of the labor force increased from 33 to 42 percent. During that same period the number of mothers in the labor force rose from 22 to 42 percent. 11.6 million women with children under age 18 are now in the labor force. The country's employment trend is clear.

Over 4.2 million mothers with preschool-age children are working outside the home. And the Department of Labor expects this figure to keep rising. The increasing cost of child care for children of working mothers causes great hardships in many cases. Federal support for child care is now authorized under the Social Security Act. It is estimated that approximately $310 million will be provided by the Federal Government for child care services under Social Security Act programs. Under existing law a woman taxpayer is eligible for a child care expenses tax deduction if the child care is necessary in order for the mother to work. This deduction is presently unrealistically limited to $600 if the woman has one child and to $900 if she has two or more children.

My amendment would consider child care costs as legitimate business expenses. A business expense is money spent to obtain or protect income. Obviously women with children cannot get that income without spending money for the care of their children.

This proposal would not give women a special exemption. Rather, it would treat child care like any other legal business expense to be deducted from income.

I want to make clear the fact that it is designed to cover child care expenses for the purpose of enabling a taxpayer to be gainfully employed. No deduction will be allowed to a married taxpayer unless the spouse is employed, incapacitated or institutionalized and the spouse's employment makes such care necessary. As a recent article in the National Observer pointed out, the entire cost of a yacht can be deducted if you can establish that it is used for your business. The dollar limitation in existing and even proposed legislation bears so little resemblance to the actual costs of child care as to be totally unjust.

Mr. President, there simply seems to be no possible way to justify the present unfair situation. If a businessman wants to take someone out to an expensive restaurant for lunch he can write it off as a business expense—because it protects his income. An individual can write off any number of expenses as business expenses if they can be seen to in some way help to seek and protect his income. Women, in particular, are seriously discriminated against in that getting someone to take care of their children is obviously necessary to protect income if they work outside the home. And yet child care is a cost that is not considered a legitimate business expense. I believe if we can write off lunches at expensive restaurants, we can certainly write off the care of the children of working mothers.

I urge my colleagues to consider the obvious merit of allowing child care expenses to be deducted as business expenses.

AMENDMENT NO. 665

(Ordered to be printed and to lie on the table.)

Mr. BYRD of West Virginia submitted an amendment intended to be proposed by him to the bill (H.R. 10947) to provide a job development investment taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 670

(Ordered to be printed and to lie on the table.)

Mr. WILLIAMS submitted an amendment, intended to be proposed by him, to House bill 10947, supra.

CHILDREN'S DENTAL HEALTH ACT OF 1971—AMENDMENTS

AMENDMENT NO. 666

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

RHODE ISLAND AND DELAWARE AND LEAD-BASED PAINT POISONING

Mr. PELL. Mr. President, this past January the Congress passed a much needed program to protect our Nation's children from lead-based paint poisoning.

Since this problem is concentrated in our Nation's cities, the law required that grants be made to local units of government.

This requirement has had an unforeseen adverse effect in the States of Rhode Island and Delaware.

The two smallest States of the Nation are, for all practical purposes, city States; and, in recognition of that fact, and, in an effort to eliminate needless fragmentation of health services, these two States merged their local departments of health into statewide health departments.

The unfortunate result of these commendatory steps by the States of Rhode Island and Delaware has been their ineligibility to receive grants for the prevention, detection, and treatment of lead-based paint poisoning.

I am today submitting an amendment for Senators PASTORE, BOGGS, ROTH, and myself to correct this oversight and to make the State departments of health in Rhode Island and Delaware eligible recipients of grants provided by Public Law 91-695, the Lead-Based Paint Poisoning Prevention Act.

I ask unanimous consent that my amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 666

At the end of the bill add a new section as follows:

SEC. 5. Title V of the Lead-Based Paint Poisoning Prevention Act is amended by adding at the end thereof the following new section:

"AUTHORITY TO MAKE GRANTS TO STATE AGENCIES IN CERTAIN CASES

"SEC. 504. Notwithstanding any other provision of this Act, grants under sections 101 and 201 may be made to an agency of State government in any case where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose; and in any such case the term 'local' when used in section 101 or 201 with respect to any program shall be deemed to read 'State'."

Mr. PELL. Mr. President, I plan to attach this amendment to another bill designed to protect the health of children, S. 1874, The Children's Dental Health Act.

In the State of Rhode Island between 1960 and 1970 there were 63 reported cases of lead poisoning treated in hospitals. Since 1970 there have been 117 reported cases of lead-based paint poisoning treated in the hospitals, and another estimated 200 children have been found to have elevated blood levels possibly related to lead-based paint poisoning. The State of Rhode Island needs the assistance of funds provided by the Lead-Based Paint Poisoning Prevention Act, and its children should not be denied that protection because of a technical deficiency in the act. It would be my hope that this amendment would be favorably considered.

Mr. President, I ask unanimous consent that letters from the Governor of Rhode Island on this subject be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS,
Providence, R.I., October 1, 1971.

Hon. CLAIBORNE PELL,
Old Senate Office Building,
Washington, D.C.

DEAR CLAI: I am enclosing for your examination a copy of a letter which I have sent to Secretary Richardson of the Department of Health, Education, and Welfare. It concerns the fact that Rhode Island will apparently be denied participation in the Federal program to combat lead poisoning because such funds are to be limited to local governmental health units. As you know, we have no such local units because the State has assumed full responsibility in the health field.

Your support for my effort to secure funding would be greatly appreciated. Also, if it becomes evident that the necessary modifications cannot be made by administrative decision, I would hope that the necessary amending legislation could be introduced in the Congress.

Kind regards.

Sincerely,

FRANK LICHT, *Governor.*

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
Providence, R.I., October 20, 1971.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR CLAI: This is to give you further information relative to our State's participation in the new Federal program to combat lead poisoning.

Unfortunately, the situation concerning our participation remains unresolved. Since the State has assumed all health responsibilities, it is not simply a matter of having the State Health Department act as the liaison for the individual communities.

The local communities do not have health officers, and therefore do not have the available mechanism for drawing applications and ultimately administering the programs in this area. Under the guidelines now in effect, the State Health Department would have to locate and train local officials in order to participate in the program. This would be not only a difficult and costly proc-

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ess, but it would be a step backwards from the unified health responsibilities now carried by the State Department of Health.

What we are asking is that the State Department of Health be granted the authority to undertake a program to combat lead poisoning on a statewide basis, which is consistent with the Department's unified, statewide services.

I remain hopeful that this additional information will be of assistance to you.

Kind personal regards.

Sincerely,

FRANK LIGHT, *Governor.*

AMENDMENT NO. 667

(Ordered to be printed, and referred to the Committee on Labor and Public Welfare.)

Mr. PELL. Mr. President, 3 months ago I brought to the attention of this Senate a Defense Department study which showed a relationship between the use of several popular toothpastes and inflammation of the mouth and gums.

When I first made public this study, I had some concern about the scientific validity of the study. I had asked the National Institutes of Health and the American Dental Association for their review of the Army study, and they indicated reservations about the validity of the study itself.

However, since my revelation of the toothpaste study, I received several letters from dentists and consumers which indicate that, notwithstanding the scientific validity of the study, a substantial portion of consumers agree with the conclusions of the study.

PROFESSIONAL COMMENT

Many professionals in the dental field who wrote me listed specific dental problems which they believe are directly related to ingredients used in certain dentifrices.

For example, a dentist from Wichita, Kans., wrote:

I applaud your efforts on behalf of the consumer public to bring to light the harmful effects of present day toothpastes. The study by the Army Institute of Dental Research may have been conducted with some deficiencies, but I am convinced their conclusions merit further investigation.

It has been my observation that toothpastes advertised as "brighteners" do in fact often cause stomatitis. The symptoms I have noticed include redness, V-shaped recession, sloughing or peeling and hypersensitivity of newly exposed root surfaces. These "brighteners" contain chloroform and I suspect this to be the causative agent.

A second dentist informed me of another problem. He stated:

Six years ago, I reported that many popular dentifrices on the American market contain detergents which, I believe, were causing gingivitis in many patients. At present, there are six brands which contain chloroform.

As you probably know, chloroform is an excellent solvent and will whiten teeth by dissolving stains from coffee, tea, and tobacco. However, it is a very toxic hydrocarbon which has a chemical formula almost the same as carbon tetrachloride, a substance the Food and Drug Administration considers highly dangerous to have around the home as a cleaning fluid.

It is doubtful that anyone can use a dentifrice without swallowing it. Chloroform is excreted in the liver. It is damaging to liver cells, just as is carbon tetrachloride. Little wonder then that the study, to which you referred revealed irritation of gingival tissue from these chloroform-containing products.

I commend you for releasing the Army study which indicated that many of the leading toothpastes on the market are causing gingival inflammation.

One dentist from Ontario, Canada was particularly concerned with the effect of dentifrices on children. He stated:

No child's mouth should ever be damaged by any cosmetic preparation. It is the grit, ground glass, caustic and cosmetic substances that damage a child's tissue in his mouth when the teeth first erupt.

Everyone is dependent on dentistry because of this and more and more people are losing their teeth with the terrible tragedy of cancer of the mouth and oral sepsis.

A professor of dentistry in Philadelphia wrote:

Within the last year, a young girl was treated in our clinic for toothpaste sensitivity. She developed a reaction to two types of toothpaste, both manufactured by the same company. This was obviously an ingredient singular to this manufacturer.

A dental hygenist from Altoona, Pa., observed:

I want to congratulate you for reporting and exposing the Army research. As a dental hygenist for many years in private practice, I can agree with the research. I have had many patients, children and adults, with definite reactions to some of the named toothpastes. The ones I have found to produce severe inflammations are McLeans, Ultra Brite, Vote and Close Up. A chemist in analyzing these found them to have peroxide. A bleach was never intended to be used in the oral tissue.

The numbers of letters I received from consumers concerned with toothpaste irritations are quite numerous.

The consumer letters I received demonstrated there is a significant amount of dissatisfaction with the current toothpastes. Allow me to cite a number of typical reactions.

A housewife from Brighton, Mass. stated:

After using some toothpastes, I had dry lips, burning gums, tongue, and roof of my mouth.

Mrs. L. S. from Florida summarizes the toothpaste consumers' problems in her letter:

The thing that is so maddening, aside from the damage done to my gums and teeth, is the attitude the company assumes in that (a) I am *making a comment* and (b) Suzie-Q-Public must take their word for their claims of innocence.

A recent letter I received from the Food and Drug Administration confirms my own findings regarding irritations caused by toothpastes; that is to say, although there may be some scientific doubt about the validity of the Army study, there is no doubt that a number of persons have adverse reactions to toothpastes and that the Food and Drug Administration has no present authority to warn such persons about the potential harmful effects of the uses of certain toothpastes.

The Food and Drug Administration indicated it could support the type of warning amendment I have suggested for toothpastes if it thought the language of the amendment was technically acceptable.

My staff has been in contact with staff of the Food and Drug Administration and language has been developed for an amendment I now submit and plan to offer in the Senate Labor and Public Welfare Committee next week.

I ask unanimous consent that this amendment be printed in the RECORD at this point.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 667

At the end of the bill add a new section as follows:

SEC. 5. Section 602 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(g)(1) If it is a dentifrice and (A) because of its nature, composition, or packaging it involves a potential risk to consumers including but not limited to its potential sensitizing, allergenic or abrasive character or (B) because of any foreseeable handling, storage or use by individuals it presents such a potential risk; then such dentifrice shall bear adequate cautionary labeling (such labeling shall be conspicuous and shall include first-aid information if appropriate). Whenever the Secretary finds any dentifrice or class of dentifrices is subject to this subsection and in his judgment a declaration to that effect will promote the objective of this subsection by avoiding or resolving uncertainty as to its application, he may by regulation declare such dentifrice or class thereof to be subject to such provision and may in such regulation specify the content of such cautionary information, the appropriate type size to be used for such warning, its placement on labels and may in pursuance of the objective of this subsection require the submission of the quantitative formula for such dentifrice or class thereof by the manufacturers of such dentifrice.

"(2) If it is a dentifrice and its labeling fails to bear cautionary information in the manner prescribed in clause (1) of this subsection.".

SEC. 6. Section 201 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new subsection:

"(y) The term 'dentifrice' means any cosmetic, drug, or other article recommended, suggested, or indicated for use by humans in the cure, mitigation, treatment or prevention of diseases of the teeth or for cleaning or beautifying teeth.".

Mr. PELL. Mr. President, my amendment simply provides that if there is a finding that a dentifrice involves a potential risk to the consumer because of its allergenic, sensitizing, or abrasive character, it may be required that cautionary labeling be placed on the dentifrice.

The Food and Drug Administration has stated to me that "It is generally well known that small number of persons appear to have an adverse reaction to any given dentifrice."

The Council on Dental Therapeutics in an article appearing in the November 1970 issue of the Journal of the American Dental Association described the abrasive contents, in order of abrasiveness, of the major toothpastes and suggested that the consumers be advised that there may be some toothpastes which are too abrasive for some soft teeth.

Dr. Alexander Fisher in his book, "Contact Dermatitis," has stated that dentifrices often include detergents and abrasives which give irritant reactions.

Despite the above evidence that tooth pastes may be harmful to some persons, the Food and Drug Administration cannot act. Its only option is to attempt to take dentifrices off the market as an adulterated product, and in most cases of allergenic reactions the dentifrice may not be found to be adulterated. My amendment would simply give the Food and Drug Administration a more reasonable means of protecting consumers who have an adverse reaction to certain toothpastes. If a warning label is attached to the toothpastes, then the consumer who has the allergy will know not to buy that particular product.

Mr. President, I have solicited comments from the major manufacturers of toothpaste regarding my amendment and the recent Army study. Some indicated support for my amendment. Some had no comment. And others were under the misimpression that the Food and Drug Administration already had authority to put warning labels on toothpastes.

To my knowledge there are only three toothpastes that are classified as drugs and, thus, declared to be effective against tooth decay—Crest, Colgate with MFP, and NDK toothpowder.

Since those toothpastes are considered drugs, the Food and Drug Administration does in fact have authority to put warnings or cautionary labels on them. However, the remainder of the toothpastes are classified as cosmetics, that is they have no therapeutic value. The Food and Drug Administration does not have authority to put cautionary labels on cosmetic dentifrices and my amendment will fill this loophole.

REGULATION OF STRIP MINING—AMENDMENT

AMENDMENT NO. 666

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. MOSS submitted an amendment, in the nature of a substitute, intended to be proposed by him, to the bill (S. 2455) to regulate the practice of strip mining, to protect the environment, and for other purposes.

AMENDMENT NO. 669

(Ordered to be printed and to lie on the table.)

Mr. BUCKLEY submitted an amendment, intended to be proposed by him, to House bill 10947, supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 617 AND 620

At the request of Mr. STEVENSON, the Senator from Minnesota (Mr. MONDALE) and the Senator from California (Mr. CRANSTON) were added as cosponsors of amendment No. 620, intended to be proposed to the bill (S. 2712), a bill to extend and amend the Economic Stabilization Act of 1970; and the Senator from California (Mr. CRANSTON) was added as a cosponsor of amendment No. 617, intended to be proposed to the bill (S. 2712), supra.

AMENDMENT NO. 630

Mr. NELSON. Mr. President, I ask unanimous consent that at the next printing of amendment No. 630, an amendment to H.R. 9727, the names of the following Senators be added as cosponsors: The Senator from Connecticut (Mr. RIBICOFF); the senior Senator from New Jersey (Mr. CASE); the Senator from Minnesota (Mr. MONDALE); the junior Senator from New Jersey (Mr. WILLIAMS); the senior Senator from Massachusetts (Mr. KENNEDY); the junior Senator from Massachusetts (Mr. BROOKE); and the Senator from South Dakota (Mr. McGOVERN).

Mr. President, this is the amendment to the Marine Protection and Research Act which has been ordered reported by the Senate Commerce Committee. The amendment would authorize the establishment of marine sanctuaries off our coasts and prohibit Federal leases for oil drilling in the Atlantic off the U.S. east coast for 2 years until the designation of sanctuaries there.

Additional cosponsors to the amendment are welcome.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

ANNOUNCEMENT OF HEARING ON THE NOMINATION OF DR. VINCENT E. McKELVEY

Mr. JACKSON. Mr. President, I announce for the information of the Senate and the public that on Tuesday, November 23, at 3 p.m. the Committee on Interior and Insular Affairs will hold an open, public hearing on the nomination by President Nixon of Dr. Vincent E. McKelvey to be Director of the Geological Survey, Department of the Interior.

Any Member of the Senate or of the general public who wishes to testify at this hearing should so advise the committee staff. The hearing will begin at 3 p.m. in room 3110, New Senate Office Building.

Mr. President, I ask unanimous consent that the biographical data concerning this nominee be printed in the RECORD.

There being no objection, the biographical data was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL DATA—VINCENT ELLIS MCKELVEY

Born—Huntingdon, Pa., April 6, 1916.

Education—Primary and secondary schools, Bellefonte, Haselton, and Everett, Pa. Dickinson Seminary, Williamsport, Pa. Syracuse University, B.A. with honors in geology, 1937. University of Wisconsin, M.A. 1939, Ph.D in geology 1947.

Family—Parents deceased. Married June 5, 1937, Genevieve Patricia Bowman of Bloomsburg, Pa. Two children, Robert B., deceased; Gregory E., 27, Bear Creek Mining Co., 7729 S. Fenton, Littleton, Colorado. Residence, 6601 Broxburn Drive, Bethesda, Md.

Professional employment—Junior Geologist, Soil Conservation Service, part-time, 1938–1940. Ass't Geologist, Wisconsin Geological and Natural History Survey, summers 1938–1940. Visiting lecturer, Stanford University, spring 1956. Geologist, U.S. Geological Survey, 1941–present.

Professional experience—Geology of manganese deposits, Nevada and Arizona, 1941–1942. Geology of vanadiferous shales, Idaho, Wyoming, and Utah, 1942–1948. Military geology, 1944–1945. Consultant, Chief of Engineers, Manila, 1945. Geology of phosphate and uranium deposits, Idaho, Wyoming, Montana, Utah, 1946–1949. U.S. Civil Service Board of Examiners for the U.S. Geological Survey, 1946–1947 (Chairman). Chief, Radioactive Minerals Office, 1950–1953. Geology of western phosphate deposits, 1954–1959. Minerals Specialists, U.S.I.C.A.-Government of Jordan, fall 1958. Ass't Chief Geologist for Interagency Programs, 1960–1962. Ass't Chief Geologist for Economic and Foreign Geology, 1962–1965. Minerals and Fuels Subcommittees, Federal Council for Science and Technology, 1961–1963. Department of the Interior Energy Policy Staff, 1961–1969. U.S. advisor to Energy Committee, Organization for Economic Cooperation and Development, 1965–1967. U.S. representative to Government Advisory Committees on Energy and Minerals, United Nations Resource and Transport Division, 1967. Advisor on phosphate exploration, Government of Saudia Arabia, 1967. Leader, Department of the Interior Study Group, Outer Continental Shelf oil, gas, and sulfur leasing policy, 1968. U.S. representative to United Nations Committee on Peaceful Uses of the Seabed and Ocean Floor Beyond the Limits of National Jurisdiction, 1968–1971. Senior Research Geologist, 1969–1971. Chief Geologist, 1971.

Scientific and professional societies—Sigma Xi. Geological Society of Washington. American Association for the Advancement of Science (Fellow). American Geological Institute (Member of Board of Directors, 1968–1971). Geological Society of America (Fellow, Member of Council, 1968–1972). Society of Economic Geologists (Member of Council, 1967–1970). American Geophysical Union (Fellow). Washington Academy of Science. Economic Geology Publishing Co. (Member of Board of Directors). Geochemical Society. Cosmos Club. American Institute of Mining Engineers.

Honors—Department of the Interior Distinguished Service Award, 1963. AIME Henry Krumb Lecturer, 1968. Seventh Hugh Exton McKinstry Memorial Lecturer, Harvard University 1971.

ANNOUNCEMENT OF HEARING ON BILLS RELATING TO ENVIRONMENTAL STUDIES

Mr. JACKSON. Mr. President, I announce for the information of the Senate and the public that on Friday, November 19, the Committee on Interior and Insular Affairs will hold an open, public hearing on H.R. 56, the National Environment Data System Act; S. 1216, the National Environmental Policy Institute Act; and S. 681, the State Environmental Center Act.

Any Member of the Senate or of the general public who wishes to testify at this hearing should so advise the committee staff. The hearing will begin at 10 a.m. in room 3110, New Senate Office Building.

ANNOUNCEMENT OF HEARINGS BY THE SUBCOMMITTEE ON PUBLIC HEALTH, EDUCATION, WELFARE, AND SAFETY OF THE SENATE DISTRICT COMMITTEE

Mr. TUNNEY. Mr. President, I am today announcing hearings on the following bills by the Subcommittee on Public

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Health, Education, Welfare, and Safety of the Senate District Committee:

S. 2429—District of Columbia Unemployment Compensation Act Amendments of 1971;

S. 1995 (H.R. 10344)—Interstate Compact on Mental Health;

S. 1982 (H.R. 9395)—Teacher Annuity Contracts;

S. 1998 (H.R. 8407)—District of Columbia Educational Personnel Act;

S. 1346—District of Columbia Personnel Act; and

Senate Joint Resolution 133—Acknowledgement of President George Washington's gift.

The hearings will be held on Wednesday, November 24, 1971, at 10 a.m. in room 6226, New Senate Office Building. Persons interested in testifying on these bills should contact Mr. Gene E. Godley, general counsel in room 6222, New Senate Office Building.

ADDITIONAL STATEMENTS

PARTNERSHIP FOR PEACE

Mr. HUGHES. Mr. President, the war in Indochina is changing, but it is not ending. Despite all the optimistic statements of our officials, despite the mercifully lower death rate for Americans, despite the prospect of continued troop withdrawals, the war continues with no end in sight.

Newspaper headlines every day, now, give us a new body count—so many more troops deactivated or returned home. The old body count is ignored. But the death lists are still long for the Vietnamese—around 300 per week for the South Vietnamese and over 1,000 per week for the enemy.

And neither body count is relevant to the declared American objective in this war: to help the South Vietnamese survive as a free and democratic people. Death and destruction continue to ravage Indochina. The recent one-man presidential election in South Vietnam made a mockery of American efforts to build democracy in that nation.

Although the war was escalated by previous administrations, the current administration has maintained and prolonged the war to the point that over one-third of the American deaths in this war have occurred since President Nixon took office—a total of 18,786. During his nearly 3 years in office, the United States has dropped more tons of bombs than during President Johnson's final 3 years in office. Such facts belie the argument that the war is winding down.

Now we are awaiting the President's statement on Vietnam next Monday. As in the past, our hopes have been buoyed by high-level hints that the pace of withdrawal will be increased and that the administration may at last proclaim the official end to the American combat role. I would welcome such steps, of course, but they are not sufficient in themselves to win my support for the President's policy. Too often in the past we have heard such hopeful noises, only to be told by the President that he would persevere in his admittedly unpopular course. We remember that a year ago the Secretary of Defense suggested that the U.S. combat role would end by the summer of 1971, but that did not happen.

There is still no sign that this administration is willing to end the war and U.S. involvement in it. The various predictions now in circulation all foresee a residual force of perhaps 40,000 Americans in Vietnam. Regardless of their official noncombat role, these men will be shot at or ambushed and will presumably fight back. Their planes will be shot down and their bases mortared. They will be at war.

Even if this war is significantly less costly in American lives, it will still be quite costly for the people of Indochina and for American taxpayers. The people of Indochina may be subjected to another quarter-century of war, with hundreds of thousands more killed, maimed, and made homeless.

To pay for this continued devastation, the American people will be asked to spend several billion dollars each year. Already our supporting assistance to South Vietnam is over half a billion dollars each year. Direct assistance to the nations of Indochina is scheduled to amount to nearly $3 billion this year and seems unlikely to decrease significantly in the near future. The air war is also likely to be quite costly—at perhaps $4 billion per year, according to the recently released Cornell University Study on the Air War in Indochina."

I do not believe, Mr. President, that the American people are willing to support a continuation of the war in Indochina at a cost of $7 billion per year for the indefinite future, no matter how low the casualty rate may be. A recent survey by Lou Harris shows that only 16 percent of the people favor even a reduced $1 billion annual cost.

That same survey shows the American people overwhelmingly in favor of a complete U.S. withdrawal by next May—the same date envisioned in the Mansfield amendment.

A majority of the people also oppose both a residual force and continued air support.

This is not isolationism, but rather an honest, rational reaction to years of overinvolvement, frustrating warfare, and domestic neglect. No longer will the American people sign a blank check for military adventures, either direct or by proxy. Nor will they tolerate billions for foreign dictators when our own people are suffering so much.

These considerations led to my own decision not to support the foreign aid bill when it came to a vote 2 weeks ago. I reached this decision reluctantly, because I know of the great need of many of the world's people for food, for advice in improving their farms and schools and hospitals, and for assistance in building those projects which might help them to alleviate some of the worst ravages of their poverty.

But in fact, that bill earmarked 65 percent of its funds for assistance to build armies and to prop up the economies of nations which have huge defense budgets. Only 21 percent of it would have gone for economic development programs.

Among less developed nations—for whom survival is more likely to be a question of stopping poverty rather than stopping aggression—$1 in every 4 we have given has gone for military aid. These facts support the conclusion of the distinguished Senator from Idaho, Mr. CHURCH—that we are engaged in "arsenal diplomacy."

As a result of our preoccupation with military needs at the expense of human needs, we have helped to arm and finance 8 of the 10 largest armed forces in the world. Only the Soviet Union and China have not received our aid. Of the others, only France no longer receives such aid directly. Yet France received over $7 billion in assistance of all kinds in the years after 1945.

Although I recognize that there have been—and are—legitimate security needs which American assistance can help other nations to meet, I still believe that the emphasis in our foreign policy has been too much on the weapons of war and not enough on the tools for peace.

The time has come to start afresh, to build a new internationalism which would stress our commitments to people and their economic and social problems, rather than to specific regimes.

When the earth's people are hungry, we should not continue to pour money into new planes and guns for nations which do not really need them. When people are struggling for democratic government, we should not continue to bolster regimes which repress their citizens' basic rights.

I was pleased that the Foreign Relations Committee reported separate bills for military and economic-humanitarian assistance. This action enabled the Senate to judge these programs by different criteria. I believe that if we seek political influence and support with our aid, we should do so openly. And if we seek economic development or provide humanitarian relief, we should not judge the results in terms of public statements or U.N. votes.

Because of the good works financed by the economic assistance bill, I voted in favor of it. The military aid bill, however, went too far, particularly with the addition of $318 million beyond the committee's recommendation. I could not support $1.5 billion to prop up economies bloated by defense expenditures and to provide more weapons for war-torn countries to continue their self-destruction. I might add that I was fully prepared to support specific assistance for Israel and some other nations, which could have been handled by this body in additional legislation.

My attitude on military aid is crucially influenced by the war in Indochina. For too many years our entire foreign policy has been thwarted, distorted, and discredited by our tragic involvement there. Until we can end that war and our involvement, we can expect little success in other important areas of foreign affairs. Continuation of foreign aid is a minor issue compared to ending the war.

We in the Senate now have an extraordinary opportunity. Already we have gone on record in support of the policy of withdrawing all U.S. forces within 6 months. Now we should take the next step to enforce that policy by requiring that funds can be spent only for the purpose of withdrawal. Without such a provision, continued military assistance to the nations of Indochina could be seen as an endorsement of protracted war.

I know that the administration strongly opposes such a provision, just as I strongly oppose any prolongation of the war without such restrictions.

The issues involved in this debate go far beyond considerations of military strategy to the basic health of our political system.

The fundamental problem facing our Government today is the need to reestablish basic trust, between the legislative and executive branches and between the Government and the people.

We see this lack of trust in the growing alienation of young people, the cynicism of many adults, and the new apathy among people who once fought for social change.

A recent attitude survey by scholars at the University of Michigan has documented this distrust and has attributed it in large part to the war in Indochina. This survey noted "a massive erosion" of trust in the Federal Government in the years since 1964.

Too often during these years, the people have been misled or deceived or shocked about what our Government was doing. The previous administration led us blindfolded into a large-scale war. The current administration has compounded the mistrust by the new and expanded wars in Cambodia and Laos and by the semantic sleight-of-hand which turns invasions into incursions, free-fire zones into specified strike zones, and bombing into protective-reaction strikes. Since our people are confused by all this, it is no wonder that our troops may be insubordinate when they are ordered on active defense patrols.

If we are to reestablish trust, we need first to gain credibility. I believe that this administration has taken many useful steps in this direction.

But we need more. In particular, we need to stand on common ground, cooperating in the effort to end the war. It does America no good when Congress and the President are at an impasse and sharply criticize each other. Many of our current difficulties could have been avoided if the President had tried to enlist the Congress in a cooperative effort to devise the policy and laws which would bring this tragic war to an end.

The opinion survey I cited earlier confirms what most of us already believe: the American people want a rapid and complete withdrawal of U.S. forces from Indochina, with no residual force and no substitution of a ferocious air war.

I believe that we in Congress stand on common ground with the American people and with the President, if he would only acknowledge the fact and join with us. Let us face the issue directly and agree on basic premises: If the war is ending, it must end completely. If it is to be continued, we must approve the duration, cost, and strategy.

Just as Congress shares responsibility for beginning and continuing this war—through the Tonkin Gulf resolution and the various appropriations bills—so now do we share responsibility for ending it. I hope that the President will join with us in a partnership for peace. I hope also that he will join with us in creating the institutions which will turn our foreign policy in a new direction.

DEATH OF FORMER SENATOR ROBERTSON OF VIRGINIA

Mr. FANNIN. Mr. President, I was saddened to learn of the death November 1, of former Senator A. Willis Robertson. I want to add my voice to those who have paid tribute to our late former colleague. I count myself fortunate that I had the opportunity to serve in the Senate with him during the final 2 years of his long career in the Congress.

Senator Robertson was a statesman who served the State of Virginia and the Nation well in his seven terms in the House of Representatives and his 20 years in the U.S. Senate.

He had a fine legal mind, was an excellent speaker, and was a deeply religious man. Today's sportsmen owe him a debt for his conservation work several decades before this became a popular cause. Senator Robertson was an authority on many subjects, including banking, trade, and tariffs.

Even more than this, he was a warm being who was respected in his home State and in the Congress.

DR. RICHARD GARWIN'S REPLY TO A REPORT BY THE OPERATIONS RESEARCH SOCIETY

Mr. SYMINGTON. Mr. President, last month an organization out of Chicago termed the Operations Research Society of America issued a report commenting on the debate on the anti-ballistic-missile system in the Congress in 1969 and on the quality of testimony presented to the Congress at that time by various scientists.

The report was particularly critical of the statements and calculations of Dr. George Rathjens, Dr. Jerome Wiesner, Prof. Abram Chayes, and Dr. Wolfgang Panofsky—all opponents of the ABM system.

I participated in these hearings and believe parts of this criticism are totally unjustified. It is regrettable that an attack of this character has been launched against scientists who have given so much of their time and knowledge in effort to present the facts as they see them about this ABM system.

Let us hope it will not preclude in the future objective comments to the Congress by experts in the scientific field.

In this connection, Dr. Richard L. Garwin, a nationally known and widely respected scientist who has served on the President's Science Advisory Board under three administrations, has replied to these charges; and I ask unanimous consent that Dr. Garwin's reply be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

YORKTOWN HEIGHTS, N.Y.,
October 28, 1971.

DR. ROBERT E. MACHOL,
Graduate School of Management, Northwestern University, Chicago, Ill.
DR. THOMAS E. CAYWOOD,
Caywood-Schiller Division, A. T. Kearney and Co. Inc., Chicago, Ill.

DEAR DRS. MACHOL AND CAYWOOD: I have read the September 1971 special issue of Operations Research, "Guidelines for the Practice of Operations Research," and believe it would be in the public interest for your society to publish the enclosed comment, which I have sent to Dr. Hugh J. Miser as Editor.

I trust that I may learn within a week or so whether and when it will be possible to publish this letter.

Thank you very much.

Sincerely yours,

RICHARD L. GARWIN.

H. J. MISER.

OCTOBER 28, 1971.

To the EDITOR,
Operations Research,
Windsor, Conn.:

As one who has not figured publicly in the Safeguard controversy, I hope I may be allowed to comment on the form and substance of your special issue of Operations Research, September 1971, "Guidelines for the Practice of Operations Research."

For more than a decade, I have had continuing official contact with the Department of Defense and other interested parts of the government in regard to both offensive and defensive strategic forces. I know and have worked with almost all of the individuals named in the "Guidelines . . ." study, and I was a member of both the Defense Science Board and the President's Science Advisory Committee during 1969. In making these comments I speak only for myself.

In general, I favor far more analysis of issues, both technical and non-technical, than is now available, and I have urged this publicly. However, I believe that the ORSA Council was unwise in committing the Society to this review, and especially to the publication of the appendices of the "Guidelines . . ." issue.

THE ORSA "GUIDELINES . . ." IS A QUASI-JUDICIAL ACTION WITHOUT ADEQUATE SAFEGUARDS

Obviously, I would have no objection to the publication by an individual or a group of individuals of a scholarly or popular article analyzing the actions of the individual proponents or opponents of the ABM. I think, however, that it was predictable that the publication of Appendix III, although opposed by five members of the Council and the content not endorsed by the Council, would be given in the popular press the authority of the Society. In fact, I think the operation, with its possible impact on the careers of the individuals involved, bears a strong resemblance to a court proceeding, but without prior limitation of jurisdiction, promulgation of rules, or provision of safeguards, all of which are thought to be necessary in a continuing and formal court and which would be even more necessary to guard against abuses of an *ad hoc* proceeding. For instance, if the ORSA is to have done more than to promulgate a "bill of attainder" from an informal court, I believe that it should institutionalize this procedure and allow it to be convened by non-members as well as members. Surely, ORSA does not intend to allow only members of the Society to call for investigations into analyses and presentations of non-members. The particular investigation of the ABM testimony seems inadequate, of itself, for the promulgation of general "Guidelines . . .", and for this purpose I believe that it would be useful for the ORSA to provide a dispassionate and detailed dis-

cussion of the adequacy of the systems analysis and operations research, and of the honesty of presentation, in the case of the supersonic transport testimony, as well as for the generally uncontested budgetary submissions to Congress by various agencies of the government including the Department of Defense.

On the general question of a court proceeding without rules, jurisdictional limitations, or safeguards, one might argue after the fact that the investigation and conclusions were fair and that justice was indeed done. This argument I believe is unacceptable, since there is always a probability, no matter how good the court, that an error will be made in its investigations or analysis. If an individual were able to convene a court repeatedly (and the argument holds with lesser strength even for a single case) against certain other individuals, there would be substantial expectation of damage to those individuals, no matter how good their behavior. I believe that safeguards important enough to have been stressed in the Constitution of our nation should be regarded more highly by the ORSA.

DOES SOME KNOWLEDGE OF SCIENCE AND ENGINEERING NECESSARILY MAKE ONE UNFIT TO JUDGE THE MERITS OF DEFENSE PROGRAMS?

I am a strong supporter of Operations Research and Systems Analysis and have had substantial experience with the conduct and results of such studies. I think in the present case, both the review and the position of the plaintiff suffer from over-professionalism. Choosing the best direction for our strategic forces involves a whole chain, or even a tree or graph, of processes, from alternative conceptions through analyses, program planning, etc. To make any single link stronger and more highly polished may contribute little to the overall strength of the chain. In medicine, the operation can be a brilliant success, but the patient may die if the diagnosis was wrong. There are many examples of disservice to the nation (and I believe to the profession) resulting from sophisticated OR techniques applied to shaky assumptions, with further simplifying and constraining assumptions made to enable utilization of existing OR methods.

For instance, I have great regard for Alain Enthoven, with whom (and with whose systems analysis staff) I had frequent contact during his service in the Pentagon, but his comments in connection with "Guidelines . . ." and quoted in the New York Times of October 1, 1971, regarding his ". . . great difficulty in getting strictly scientific advice from the scientists and strictly military advice from the military . . ." reflect a serious misunderstanding of the world and an attempt to pigeonhole an individual according to a label which may describe only a small fraction of his competence and experience. That one has once received a Ph.D. in physics or chemistry provides no basis for ignoring the competence and judgment which may have been acquired through decades of management and decision-making in technical/military fields.

Furthermore, in my experience a prime deficiency of defense-oriented OR/SA arises from excessive depth of analysis of a single or few alternatives, with complete neglect of other possibilities, which may have been less attractive to the military services and which systems analysts may not have invented for themselves. For instance, it is clear that at the time of the C–5 analysis from the Office of the Assistant Secretary of Defense, Systems Analysis, alternatives such as the fast-deployment logistic ship (FDL) should have been considered from the first. Similarly, for years analyses were made regarding the effectiveness of different mixes of ASW forces, to the almost complete neglect of mines. Other examples are detailed analyses as to the relative merits of different kinds of radar for blind bombing, to the total neglect of bombing by accurate navigation. In my experience, these major alternatives to proposed programs, as well as revelations of previously unremarked deficiencies of the proposed programs, have often come from physical scientists.

I think that individuals in the Congress want to hear judgments from those they respect, and that it does a disservice for a scientist with long experience in military technology and strategy not to give the Congress the benefit of his best judgment. If I were a Congressman, I would far rather trust an honest personal analysis than the product of a bureaucracy, since we are all too familiar with the suppression of information which has been practiced by almost every administration, and with testimony by official spokesmen which neither represents the point of view of the individual nor is in accordance with the facts at his disposal. In concentrating on the analysis of the DOD Safeguard proposals, the ORSA *Ad Hoc* Committee begs the question of the validity of the assumptions involved, both technical and strategic. Perhaps because of the mode of initiation of the investigation, the ORSA report ignores certain readily verified misstatements of fact; e.g., information presented by DDR&E to the Senate Committee on Foreign Relations to the effect that he had discussed Safeguard with the President's Science Advisory Committee before the decision, when in fact he had only brought it to PSAC on March 17, 1969, after the announcement by President Nixon on March 14, 1969.

IS THE "GUIDELINES . . ." VERDICT ON RATHJENS ET AL. JUSTIFIED?

The body of "Guidelines . . .", though innocuous, is somewhat peripheral to the investigation of the *ad hoc* committee, being oriented toward the client-analyst relationship and not addressing some of the important questions which it raises (page 1134.2*—"An analyst who wishes to disagree publicly with a client is placed in a difficult ethical position . . ."). Appendix III is the troublesome part of the volume. The difference between the results of Wohlstetter and those of Rathjens, Wiesner, and Panofsky are largely due to three points of disagreement:

1. the military utility of reprogramming ICBMs to replace failures before launch or during flight,

2. the feasibility of simultaneous missile attack on US ICBMs and bombers, and

3. the robustness of the Safeguard system; i.e., the range of enemy force levels over which it would (a) be necessary and (b) contribute substantially to the goal of preserving a specified number of Minutemen.

1. With regard to reprogramming a missile force to compensate for those missiles unready to launch, for failure during launch, and for failures after launch, there is no doubt that it is feasible in principle to do this. As Dr. John S. Foster, DDR&E, has stated, such a proposal was made for Minuteman, under the program name TAPS, but was rejected. In fact, the technical feasibility or reprogramming depends upon the details of the MIRV system, and on the availability of a reliable and adequate communications and computing system for assigning reserve missiles to replace those which have failed. For instance, it is perfectly possible that a particular MIRV design requires mechanical readjustments for retargeting, and that unlike our current Minuteman missiles, the SS–9 might have the capability to attack only a single set of three targets without hours-long readjustments and verification.

Even should an SS–9 be able to accept designation of a new target or new set of targets via electrical signals from the outside, its guidance mechanism might be such that not only the target coordinates (and, of course, its own fixed silo coordinates) but also the desired flight profile might have to be computed and transmitted to the missile. This flight profile would be dependent upon the particular target complex and on the reserved silo location. Either one might have to compute some hundreds of trajectories within a few seconds or to choose among very many precomputed and prefiled trajectories. Some of these questions as to nature of the MIRV implementation are amenable to observation and analysis. Consideration of these technical difficulties, I suppose, led Panofsky, Rathjens, and Wiesner to judge that the USSR would not rely on reprogramming for a first-strike capability against Minuteman. My own judgment is that if I were the USSR and were attempting to achieve a first-strike capability against Minuteman, I would require a force which would put two warheads on each Minuteman silo, in order that an adequate kill probability might be obtained without the complex communication, computation, and control problem involved in reprogramming. This technical-military judgment deserves more than misstatement and dismissal. The *ad hoc* committee (page 1200.7, ". . . finds no basis for Foster's statement that the book [Chayes-Wiesner] suggests that half of the silos should be attacked twice rather then [sic] all of them once . . .").

2. The *ad hoc* study ("Guidelines . . ." pages 1215–1217) takes Wiesner and particularly Panofsky to task for noting that an SLBM attack on bombers gives Minuteman at least 30 minutes firm warning of ICBM attack, and an ICBM attack on Minuteman (since we shall know of the launch of ICBM's) gives additional warning time to allow the bombers to be flushed. This simultaneous launch of ICBMs and SLBMs minimizes the time available for US decision. Thus, the bombers would be flushed when our sensors detected launch of a vast number of Soviet ICBMs. Our capabilities for detecting Soviet ICBM launch in the Safeguard timeframe will be extremely reliable, and although the bombers can return to base if the missiles do not impact in the United States half an hour later, this would be a most unlikely eventuality. So long as the bombers have reasonable assured-destruction capability, we need not energize a capability to launch Minuteman on firm warning of ICBM launch. Should SLBMs be launched against the bombers, this launch will also be detected, some bombers flushed, but the detonation of nuclear warheads near the air bases will then give confirmation and hard information upon which to base the launch of Minuteman. So goes Panofsky's argument

The *ad hoc* committee quotes DDR&E's answer in 1970 that the SLBM can be used not only to attack our bombers but also simultaneously to attack the Minuteman force *and to prevent the launch of Minuteman*. Both blast effects on the Minuteman in flight through the atmosphere and X-ray effects on the upper stages outside the atmosphere should be considered in setting a maximum separation in time and space for such an attack to be an effective means of pinning down the Minuteman force. It needs only a single Y-class submarine outside of firing position or unable to fire to cause such an attack to fail, if it were otherwise feasible. The command-and-control problems in coordinating such a simultaneous attack by submarines are very difficult, as is reprogramming from boat to boat for failures during launch. I think the "Guidelines . . ." has it backwards in stating (page 1216) "Those who wish to challenge the possibility of a pin-down attack by the Soviets must treat *all* reasonable tactics that might lead to pin-down, and demonstrate that *none* of them will succeed." Not one reasonable tactic was proposed during the discussion, and to analyze all unreasonable tactics obviously requires resources even beyond those of the Department of Defense.

3. The questions of robustness of the proposed Safeguard system is an important one. Below a certain numerical offensive force level, Safeguard is obviously not needed to insure the survival of a minimum number of Minutemen. There is some number of SS–9's in the Soviet force which clearly overwhelm Safeguard so that it can no longer ensure that the minimum number of Minutemen survive. If the difference between these two offensive force levels should be small, say 10%, it would be very difficult for the Soviet Union, even if they wanted to, to build a force which would fall precisely into the range where Safeguard would be of some value to the U.S. Indeed, that is the case, not only because the Soviet Union can use the SS–9 multiple warheads, if it so wishes, to destroy the two Safeguard radars which defend any Minuteman at all, but the Soviet Union can use also some of the many SS–11's or could build some SS–13's, or could allocate some of the vast number of SLBMs (which are supposed to be useful during a pindown attack) actually to destroy the two MSR radars without which Safeguard is useless in defending Minuteman. For instance, "Guidelines . . ." on page 1235.3 states:

"However, the opponents failed to treat the issue adequately and fairly on two counts:

"(a) They failed to discuss adequately efficient means by which the United States could expand Safeguard to restore the desired level of effectiveness.

"(b) They failed to discuss adequately the difficulties and costs the Soviets would encounter in implementing some of their proposed means of 'cheaply' overcoming the defense.

"One of their proposals was to use the SS–11s for attacks against the radars in order to exhaust the interceptor stockpiles. . . ."

The text goes on to say that the SS–11s are not a "free good," etc., etc. The criticism misses the point. It is up to the *proponents* of Safeguard as well to face these issues squarely. Furthermore, in the same way that Secretary Packard stated that the SS–9 has the capability of transporting three 5-megaton independently-targeted warheads, the SS–11 has the capability of carrying several radar-busting warheads; and a very few SS–9s, if they make use of the technology which we already have in Minuteman III or Poseidon, could be fitted with very many warheads and could do this job as well. In considering the cost of destroying Safeguard, the *ad hoc* committee should use as a reference the cost of the SS–9 force which is supposed by DDR&E to have been built especially for first-strike attack on Minuteman.

It is precisely the question whether Safeguard *as proposed* is effective against the threat which is important to the Congress. We are not talking about *development* of a technology of uncertain cost. The question was one of authorizing deployment and paying the bill. If a mountain climber is sold a 200 foot rope for making a 300 foot descent, he has every right to feel cheated, although the technology is such that paying more would have bought a system adequate to the task. Indeed, Panofsky and others claimed that for the Minuteman defense role an expansion of Safeguard would not acceptably meet the threat but that a less expensive, more tailored "hard-point" defense would be possible. I think that it must be admitted that the Department of Defense has now come to the same view, and I believe that they would have reached this conclusion several years earlier had they not been committed to selling the deployment of Sentinel-Safeguard technology.

THE AD HOC STUDY IS GUILTY OF THE SAME FAULTS OF WHICH IT ACCUSES OTHERS

While chastising Wiesner, et al, for unsubstantiated statements, "Guidelines . . ." speaks *ex cathedra* as follows (pages 1222 ff):

"(5) Suggestion of Impractical Alternatives

"Several examples are found in the record of the debate, including the following:

"(a) *The proposal to launch Minuteman on warning.* The possibility of preventing the destruction of substantial parts of the Minuteman force by merely launching it on the basis of warning of an impending attack, has been proposed by, among others, Wiesner and Weinberg in the Chayes-Wiesner book.

"(b) *Armed air alert . . .*

"(c) *The proposal to disperse B–52s widely to airports including those commercial airports near large cities . . .* would appear to create conditions conductive to nuclear accident that are more serious than those of the proposal to deploy ABM sites near cities, which created public opposition to the Sentinel System.

"(d) *Launching Minuteman. . . .*"

I can find no further discussion in the study on (a), the proposal to launch Minuteman on warning. I see no reason to regard this as "impractical". The hardware capability is easy to obtain, in comparison with the capability to reprogram missiles to account for failed missiles. Such a capability need be energized only if numbers and dispositions of Soviet submarines, numbers and accuracies of MIRVs, etc. appear to give the USSR the possibility of having a first-strike force. Moving at that time to a launch-on-warning posture (by which I mean a launch on *verified* warning, perhaps including the observation of actual nuclear weapons explosions in the Minuteman fields or at air bases) could be an effective deterrent to a first-strike on Minuteman fields. Why does the *ad hoc* committee regard this as impractical, so impractical that they give no analysis or reason for their views? In any case, in order to contemplate a strike against Minuteman, the USSR would have to be confident that we would *not* launch Minuteman on warning. I don't see how the USSR could ever obtain such confidence.

As for (c), surely the committee knows that it is quite feasible to produce nuclear weapons which can give no nuclear yield at all until a special code is set into the weapon during the flight of the aircraft. Such safety locks are widely deployed on US nuclear weapons abroad. Furthermore, weapons containing only uranium 235 and thermonuclear fuel need not constitute a radiation hazard following an aircraft crash or other accident. If this is the strongest criticism the *ad hoc* committee could make against this proposal of dispersal, the proposal should be reexamined.

"GUIDELINES . . ." NOTES THAT THE ADMINISTRATION APPEARS TO HAVE AVOIDED THE BASIC ISSUES IN THE ANALYSIS OF DEFENSES

The report, pages 1236.2 to 1237.5 at the end of Appendix III, finally gets down to te fundamental issues, noting that:

"Except for Foster's statements in his May 12 speech, the Administration appears to have avoided addressing the basic issue in the analysis of defenses—how easily can they be countered and what must we do if the opponent attempts to do so?

"If this principle is accepted, an argument that Minuteman must be defended (by Safeguard or any other defensive system) against a heavy Soviet SS–9 attack cannot be conclusive, unless, as a minimum, it shows that:

"(1) The undefended Minuteman survivors as well as all other surviving U.S. strike forces will not suffice to present a believable and adequate second-strike force, and,

"(ii) When Minuteman is defended, the total surviving U.S. strike force is sufficient to inflict unacceptable damage on the Soviets.

"Even such an argument does not suffice to demonstrate conclusively that Minuteman should be defended. It merely provides (if accomplished) an existence proof of one possible procedure to employ for preserving the credibility of the U.S. deterrent posture. Whether there exists some other procedure that may be superior has not been discussed definitely in the same context as the pro and con Safeguard arguments. . . .

"The failure of this public exchange of views to deal with this question, whether in conformity with the wishes of the Executive or Legislative branches of the government, is a basic failure to deal with a most fundamental issue."

These fundamental questions were touched on repeatedly by Wiesner, Weinberg, Rathjens, and Panofsky. I believe it is demeaning to the operations research profession for its Society to support the publication of Appendix III, 61 pages of detailed criticism of the actions of individuals ". . . all public-spirited men who gave generously of their time in performing extensive analyses and presenting them without remuneration to Congress. We owe them all a debt of gratitude that must not be obscured by any flaws to which this report calls attention. . . ." (page 1124), while devoting less than two pages (pages 1236.1 to 1237.5) to a brief statement pointing out that the Administration avoided addressing the basic issue.

THE FINAL PRESCRIPTION OF "GUIDELINES . . ." FOR THE CONDUCT OF SUCH A DEBATE IS DEFECTIVE

Finally, Appendix III ends with the following topic, which I have read and re-read (page 1237):

"C. Logical deficiencies of the debate

"It is disturbing that the following simple logical approach was not stated or followed by both sides of this debate.

"The proponents of the ABM should show that there exists a reasonable set of future circumstances for which the ABM is desirable. The opponents must show that for *all* reasonable sets of future conditions the ABM is undesirable. Desirability in both cases should be represented in terms of cost-effectiveness or cost-benefits. The postulation of a particular set of future conditions for which the ABM is undesirable cannot show that the program should not be pursued."

Try as I have, I cannot make sense out of this conclusion to the study. Certainly it is the number and fraction of the circumstances which count. Although insurance against damage to one's automobile certainly would be desirable for some sets of future circumstances, it is the cost of that insurance, the probability of being repaid, and the probability of those future circumstances which should determine the decision. In the ABM problem, one is not building a defense against random future circumstances. The question is whether the opponent can react at what he judges a reasonable cost to predictably negate the effectiveness of the ABM. The last sentence of this conclusion is a statement of principle, it has nothing to do with the cost of the USSR reaction. I read it as stating that even if the opponents had shown how the USSR could readily react to negate the ABM (rendering the ABM undesirable in that particular set of future conditions), this would not show that the program should not be pursued!

Note that Appendix III (although not refereed" in the usual sense) according to Appendix IV, pages 1257 and 1258, has been through extensive review. Furthermore, in the

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* The reference "1134.x" means page 1134, at a point approximately x tenths of the way down the page.

Foreword (page 1124.4) the President of the ORSA, speaking of the reservations of five members of the Council (pages 1255–56) that the report should have been refereed, notes that this reservation is "specious." Perhaps the members of the Society will see more sense in this concluding proclamation than I do, and perhaps in any case it might not have been caught by the referee, but one hopes that it might have.

CONCLUSION

I support the views of the five Council members (pages 1255–56) who feel strongly that "the *Society* itself should not take on the quasi-judicial function of investigating and reporting on professional behavior of individuals." I think that the appendices to "Guidelines . . ." raise far more questions than they answer and, with the exception of pages 1236.2 to 1237.6 (already discussed above) in concentrating on the detailed analysis of one aspect of the decision, compound the failure with which they charge the Administration, namely of avoiding the basic issues. I regret very much these actions of the ORSA Council inajority. Now that ORSA has established the precedent of quasi-judicial analysis of the performance of individuals, is it out of the question to ask for a Council-appointed committee to criticise the content of Appendix III? I find it to be full of those faults for which it criticises others, both in its conduct and its content. I think that it is now up to the Society to decide whether it wants to make such quasi-judicial reviews widely available, or whether it wants specifically to disown this one. I think that the appendices cannot be allowed to stand as a member-initiated, Society-published attack on individuals who are not members of the Society or of the "profession."

Sincerely yours,

RICHARD L. GARWIN,
Yorktown Heights, N.Y.

STETSON UNIVERSITY MODEL SENATE

Mr. CHILES. Mr. President, this weekend I have the privilege of participating in a unique program at Stetson University in DeLand, Fla., along with the distinguished Senator from West Virginia (Mr. BYRD), and the distinguished Representative from Florida (Mr. CHAPPELL).

The event is a model senate program that a group of students at Stetson have put together with the support and help of the school's administration. The model senate has been organized along the same lines as the U.S. Senate, including committees, party caucuses, and other structural and procedural parallels. From 50 university and colleges around the United States come 100 students to comprise this senate, to perform the role of Senators, to have learning experiences that they can take back to their schools.

It is my understanding that during the 4 days of the model senate, which started yesterday and will continue through Sunday, bills will be introduced, committees will consider them, and then there will be floor debate and final passage. In fact, they intend to take up matters such as those presently in the U.S. Senate, including the nominations to the Supreme Court.

I am looking forward eagerly to the opportunity to visit with and speak to these young people tomorrow evening on the Stetson campus. Though still in my first year in the Senate I hope to be able to provide them with some understanding and knowledge of the workings of this body and that it will benefit them and the Senate.

I wish to commend and thank the distinguished Senator from West Virginia for recognizing the value of this program and for giving it the benefit of his experience and insight. I know it took a special effort for him to make time for it.

In addition, I should like to give recognition to Dr. John E. Johns, president of Stetson; Dr. T. Wayne Bailey, professor and chairman of the political science department; Dr. Gary L. Maris; and Edward Wilde, all of whom have supported the model senate program.

Most of all, I wish to commend and congratulate the students who are responsible for putting the entire program together—John M. Fraser, Miami, chairman; Sandy McClelland, Vero Beach; Linda M. Matthlesen, Jacksonville; Army Lee Garrison, Tampa; Debbie Ervin, Jacksonville; Nancy Taylor, Jacksonville; Carol D. Ferguson, Miami; Donald Wilson, Bartow; Betty Burnett, Jacksonville; John Grubbs, Boynton Beach; Al Wills, Jacksonville; and Kathleen Kimbrough, Lancaster, N.Y.

Mr. President, I make this statement today in order that Members of Congress will be aware of the effort put forth by Stetson University and its students to broaden the understanding of our governmental process, which is so vital to the future of the Nation.

ANNIVERSARY OF ANTI-DEFAMATION LEAGUE OF B'NAI B'RITH ROCKY MOUNTAIN STATES OFFICES

Mr. ALLOTT. Mr. President, just 30 years ago the United States entered the Second World War, thereby putting its vast reserves of idealism into the fight against some of the most ruthless tyrannies ever to deface the earth.

And 30 years ago, on the homefront, a group of determined soldiers in the timeless war for democratic ideals formed an organization which is now entering its fourth decade of good health and noble service to the country.

On November 2, in Denver, the Mountain States Regional Offices of the Anti-Defamation League of B'nai B'rith observed its 30th anniversary. It was a proud moment for the ADL, and a moment in which all residents of the region could give quiet thanks for their good fortune in having such a public spirited organization at work for a better America.

The ADL's record of achievement in the Mountain States region is simply astonishing. This record has been recounted and praised in numerous news stories on the occasion of the 30th anniversary. So that all Senators can examine this inspiring record, I ask unanimous consent to have printed in the RECORD five articles and editorials published in the Intermountain Jewish News, the Denver Post, and the Rocky Mountain News.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From Intermountain Jewish News, Oct 29, 1971]

ADL—30 YEARS OF ACHIEVEMENT

Possibly the most integral unit of our Denver Jewish community is the Anti-Defamation League of B'nai B'rith. It is such a vital part that most of us automatically take it for granted and forget that without ADL our community would not have made the strides it has in social justice.

The Mountain States ADL office opened its doors thirty years ago and in those three short decades it has fought prejudice and intolerance and preserved our democratic heritage.

Colorado had already experienced a period of racial turbulence. The '20's witnessed a revival of the mass terror of the Ku Klux Klan, whose avowed purpose was to keep Jews, Catholics and immigrants subjugated under a "white supremacy" rule.

Denverites recall only too vividly the Klan-infested city, county and state government, and remember the "gentlemen's agreements" and "restrictive covenants" which were found in clubs, neighborhoods and business relationships.

As the Hitler poison seeped into the blood stream of America, the national ADL, which had begun in 1913, assumed an even more important role. Through undercover work, several Nazi agents were discovered and in Denver there was close cooperation between the ADL, Volunteer Committee of B'nai B'rith, the Denver Police and the Intelligence Division of the armed services in the Denver area.

A thorn in the side of the ADL was the strong chapter of the America First Committee. Although it officially opposed anti-Semitism, a number of known anti-Semites were within its membership. Then came the arrival of the racist Gerald L. K. Smith, and with the hate peddlers operating in Denver, he drew over 10,000 people to his week long meeting at the city auditorium.

Justice made a great stride forward in 1947 when mayoral candidate Quigg Newton proposed a city commission on human relations to deal with Denver's problems. Following his election the city was shocked at the results of a DU opinion research survey sponsored by the ADL, which revealed the poor record of advancement from the KKK days.

Educational programs stressing fair employment practices, fair housing bills, public accommodations, educational discrimination have been a major point with the ADL.

What has the ADL done? A quick look at some of the activities throughout the years is all that is necessary to make one realise the need for the ADL. In brief:

Spearheaded educational campaign pointing up the need for federal civil rights legislation in 1964, and voting rights legislation in 1965.

Initiated historic Catholic-Jewish dialogues at Regis College.

Participated in the first Conference on Race and Religion and formated new Religious Council on Human Relations for Metro Denver.

Publicly exposed extremist and bigoted supporters during the third party campaign in 1968.

Provides staff services for Mid-East Public Information Committee to coordinate support for a balanced, even-handed approach to peace in the Middle East, based upon democratic Israel's right to exist, maintenance of the balance of power as a deterrent to war, awareness of the fundamental issues and direct negotiations between the parties to the conflict.

Started Committee of Concern for Soviet Jewry.

Counteracts Arab propaganda groups on college campuses by providing accurate information on Mid-East issues.

Helped start the Metro Denver Housing Center.

Conducted vigorous educational campaign which has virtually eliminated resort discrimination (30% of resorts in three states in a 1955 study practiced discrimination.)

As not only ADL regional headquarters, but also as the recognized community relations agency for the Allied Jewish Council, the ADL is never content to rest on its past laurels, but keeps its eyes on the future.

There is a growing anxiety on the part of many, a feeling that the hard-won gains of recent years could erode. Anti-Semitism, while not at dangerous levels, is not dead, in many instances the virulent anti-Semitism of the Nazi days has only been replaced by a more sophisticated, subtle and elusive type, even though paradoxically openness towards Jews seem at an all-time high.

There is concern over public indifference to the diminishing American support for Israel. there is the current problem of support for Soviet Jewry, the alienation of many of our young from the established community and its institutions, community polarization, community and educational conflicts, civil liberties, the list of problems is endless.

Thirty years ago J. Harold Saks, now a national ADL officer, opened the local office. A series of capable directors, Rowena Tobias, Lou Sidman, Mickey Freed and Haskel Lazere were midwives as the struggling agency survived its birth pangs. For the last half of its growth, nearly 15 years, the Rocky Mountain Region has been fortunate to be under the guidance of one of the most capable and personable directors to be found anywhere, Sheldon Steinhauser.

Steinhauser is recognized not only as one of the area's most astute advocates for civil rights, justice and dignity for everyone, but has gained the respect of civic, educational and religious leaders for his forthright perseverance for justice and equality for every human being.

Standing solidly with him are Barbara Coopersmith, assistant director, and Howard Weinstein, community consultant, and the able members of the staff, Emmy Zamora and Chris Gunto.

The many achievements of the ADL could not be attained without the able lay leadership of the Executive Committee members, B'nai B'rith Women, youth leaders and Regional Board members.

To the ADL office and staff, we offer a hearty mazel tov on 30 years of progress and wish them all many more years of success in the struggle for the right of individuals.

[From the Denver Post, Oct. 31, 1971]

FIGHTERS AGAINST DISCRIMINATION

When the Mountain States Regional Office of the Anti-Defamation League of B'nai B'rith (ADL) was opened here on Nov. 2, 1941, Denver was considered by the ADL as "a center of orthodoxy" with a long way to go in the fields of human relations and minority rights.

Denver has come a long way in these areas since then and the ADL has been in the forefront of community efforts to make significant progress possible.

As the ADL's Mountain States office prepares to mark its 30th anniversary under its able and energetic director, Sheldon Steinhauser, it is reaffirming in 1971 the goals and aspirations it enunciated in 1941.

And these center on an ADL commitment that Steinhauser has expressed so effectively:

"It is a commitment to make certain that the full benefits of democracy are extended to all citizens and that no man should suffer discrimination because of race, creed or ancestry. It is a commitment to make real that dream of a nation which gives to bigotry no sanction and makes equality, opportunity and dignity every man's birthright."

We wish the ADL well in its continuing quest to make the American dream a reality.

[From Rocky Mountain News, Nov. 2, 1971]

THREE DECADES OF FIGHTING

On Tuesday the Mountain States Region of the Anti-Defamation League of B'nai B'rith will observe its 30th anniversary.

We have watched it develop since 1941 in its progressive and patient battles to erase discrimination—not only for the area's Jewry, but for other minorities. It seems a bit incredible, but even as recently as three years ago, some private clubs in the area excluded Jews. And it was only a decade ago that Jews were barred from some residential areas because of restrictive covenants.

Their battle was one experienced by most minorities in their fight for acceptance, for tolerance and for equality. In the prewar days the Jews of the area were fiercely under attack by bundists and anti-Semitic groups —some posing as religious leaders. ADL fought them in the open with words and logic.

There's a lesson in that patient opposition exemplified by people of Jewish background. For if there is a group of people cognizant of hatred, bigotry and denial of rights in thousands of years of history, it is the Jewish people.

ADL for 30 years in the area has shown the way. We congratulate the organization for its past triumphs and its push that helps make it possible to see some light at the end of the dark tunnel of discrimination.

[From Rocky Mountain News, Oct. 31, 1971]

DENVER-BASED ADL UNIT NEARS 30TH ANNIVERSARY

At the height of the youth revolution in the 1960's one modish admonition was "don't trust anyone over 30."

Yet as it approaches its 30th year, the Mountain States Region of the Anti-Defamation League of B'nai B'rith has proved itself increasingly trustworthy in its official determination to "translate democratic ideals into a way of life for all Americans," Jew and non-Jew alike.

The Denver-based unit, which marks its 30th anniversary Tuesday has persisted in this commitment when it was regarded as hopelessly idealistic in the distant past and as hopelessly outmoded more recently.

A leader in the struggle against restricted and segregated housing, resorts and social clubs in the 1950s and 1960s, the Mountain States ADL currently fights for school integration by "any means necessary," even though a sizable portion of the Jewish community complains when the necessary means is busing.

These are conclusions reached after conversations with ADL officials and Jewish community leaders and a review of the ADL's history in Denver.

In a day when minority groups are moving toward separate and often separatist positions, the ADL wins praise from Minoru Yasui, director of the Denver Commission on Community Relations, for its "continuing recognition that only broad-based coalitions can effect broadscale social change."

And in a day when "establishment" organizations often face calumny from youthful antagonists, the ADL also wins praise for its steadfast commitment to social action for the entire community from young Jews otherwise alienated from organized Jewish life.

CIVIL RIGHTS CONCERNS

Yet after more than a decade in which the civil rights of other minority groups seemed paramount, the Mountain States ADL in the 1970s is paying increasing attention to the more narrowly defined Jewish concerns which some critics say it has neglected in the past.

When Sheldon Steinhauser, director of the Mountain States ADL office, lists a current agenda of ADL concerns, the top items are of sectarian Jewish interest. The well-being of the state of Israel, the enabling of Soviet Jews to emigrate to Israel, the reaffirming of ties between younger and older Jewish generations and the welfare of the older, less affluent part of the Denver Jewish community around W. Colfax Avenue west of Federal Boulevard.

At least in part, these new priorities for the Rocky Mountain ADL are the purchase of success in community civil rights causes rather than the result of failure.

Some anti-Semitism may still exist, Steinhauser cites surveys showing one-third of the population still harboring "unfriendly attitudes toward Jews." But the blatant domestic anti-Semitism of yesteryear has faded. And the reluctance of many minority leaders to work closely with the ADL on current social justice issues is partially a measure of their new-found strength and determination to fight and win their own battles.

The new ADL emphasis on the concerns of the Jewish community also reflects a new feeling born of the Six-Day War in 1967.

"The war awakened a determined 'never again' feeling among Jews here in Denver and all over," said Steinhauser. "We were proud to be Jews, and the reluctance of most Christian clergy to support Israel made us aware that "if we were not for ourselves, who would be?'"

PURPOSE OF ORGANIZATION

This naturally gave rise to new ADL efforts to reinforce "the sense of Jewish peoplehood," in Steinhauser's phrase.

For all its various causes over the years, the ADL was originally established to resist "the defamation of the Jewish people."

The Mountain States offices was opened in 1941 to investigate and expose the "hate groups" which attached themselves to "legitimate isolationist groups," according to J. Harold Saks, the region's first director, now in ADL national headquarters in New York.

In cooperation with the Denver Police Department and various military intelligence units, the ADL infiltrated a number of these movements, such as the German-American Bund, only to find that much of their direction and financing came from Hitler's Germany, recalled Saks.

In its first years the ADL also concerned itself with indigenous anti-Semitism, such as the Englewood Tabernacle of Harvey Springer, who also "published the virulently anti-Semitic "Western Voice."

In the post-war era the ADL, as the first professionally staffed human relations organization in Denver, successfully encouraged Mayor Quigg Newton to appoint a human relations commission that has remained a Denver fixture.

In addition to its work for fair employment statutes, the ADL began a campaign in 1950 against "restrictive covenants" and "gentleman's agreements" which excluded Jews, blacks, Chicanos and Orientals from some of the city's better residential areas.

Some major builders changed their policies when the ADL publicized their allegedly discriminatory practices in 1955, according to Steinhauser. In 1959, Colorado was the first state to adopt comprehensive fair housing legislation.

The ADL also launched a campaign against resorts which discriminated against minority groups. A 1950 survey of Colorado resorts disclosed that over 50 per cent discriminated against Jews. But in 1960 such discrimination was virtually nil.

Besides its support for national civil rights efforts in the 1960s, the ADL also embarked on a major drive to eliminate discrimination in Denver social clubs.

LOBBYING FUNCTIONS

The effort climaxed early in 1969 when a group of state legislators refused to attend lobbying functions in the Denver Athletic

Club because of its refusal to admit minorities to membership. The DAC relented and most other clubs followed suit immediately.

Although often enmeshed in controversy, the ADL over the years has won generally high marks from spiritual leaders in the Jewish community, an informal poll of rabbis showed.

"I personally applaud the ADL's efforts to win equal rights for all groups," said Rabbi Earl Stone of Temple Emanuel. "I also like the ADL's preventative approach to problems rather than standing around waiting for a fire."

Rabbi Raymond Zwerin of Temple Sinai, president of the Rabbinical Council of Denver, spoke of "the great community respect for Steinhauser that makes the ADL go in Denver." He also said the ADL served "as the coordinating agency for the Jewish community in times of crisis" such as the Six-Day War.

Rabbi Norman Weitzner, director of the University of Colorado Hillel Foundation in Boulder, said the ADL had "made a great effort to reach out to the campus with speakers, films and educational material."

And Rabbi Harold Krantzler of Congregation Micah said he regarded the ADL's controversial civil rights efforts as "expressing the essence of the prophetic tradition of Judaism—to do justly."

In 1970 as part of its efforts to overcome the gap between Jewish generations, the ADL added high school youths to its executive committee. And appropriately enough the difference in student opinion highlighted the two different directions open to the ADL.

On the one hand there are those such as David Hutt, a graduate of South High School and now a Harvard freshman, who maintain that the ADL's future lies in broad-based community concerns.

Hutt emphasizes the "importance of applying the ethical lessons of Judaism to daily life—even to politics" over the "institutional Judaism" of Zionism, Jewish fraternities and Hillel on campus.

On the other hand, there are those such as Ian Gardenschwartz, now a University of Denver sophomore and president of American Students for Israel there, who insists that "Jewish problems must come first."

In its first 30 years the Mountain States ADL seems to have succeeded in its role of "anti-defamation." But now as it enters its second generation it is faced with the challenge of developing a program of "Jewish peoplehood" that does not abandon its traditional concern for the civil rights of all Americans.

[From Denver Post, Oct. 24, 1971]

ADL OFFICE 30 YEARS OLD

On Nov. 2, the Mountain States Regional Office of the Anti-Defamation League of B'nai B'rith (ADL) will be 30 years old.

The anniversary will be marked by a membership reception beginning at 8 p.m. at the home of Louis Degen, 32 Polo Club Circle.

Special guest will be Lee Schooler of Chicago, Ill., founding chairman of ADL's national Society of Fellows, a membership organization providing leadership support for the league's human relations program.

The reception will be sponsored by the local Society of Fellows.

According to Sheldon Steinhauser, regional director of ADL's Mountain States office in Denver, the goals and aspirations of the league are the same in 1971 as they were 30 years ago.

Steinhauser, who prepared a record of ADL's problems and achievements for the 30th anniversary year, said the league still is committed to making certain "that the full benefits of democracy are extended to all citizens and that no man should suffer discrimination because of race, creed or ancestry."

The national ADL was founded 68 years ago by Sigmund Livingston, an Illinois lawyer and scholar, who wanted an organized center to fight prejudice and intolerance and "answer the slanders and misconceptions then prevalent about Jews."

In 1941, when the Denver office was opened, Denver "was a center of orthodoxy" espousing a philosophy of "isolationism, conservatism and, in some quarters, overt anti-Semitism," according to Steinhauser's anniversary reports.

"Restrictive covenants and 'gentlemen's agreements' were used, causing the formation of racial and religious ghettos. In that period there was still much discrimination in hotels, resorts and restaurants. Equal employment opportunity was nonexisting. In the 1940s it was considered a great 'victory' when the Denver Tramway hired its first black driver," the report noted.

RESEARCH SURVEY

The ADL sponsored an opinion research survey through the University of Denver which pointed out the harm of the restrictive covenants.

It became the basis for a city ordinance establishing the Denver Commission on Human Relations under former Mayor Quigg Newton's administration, now called the Denver Commission on Community Relations.

ADL through the years has spearheaded public education campaigns leading to passage of fair employment practices legislation starting in 1947, and the first comprehensive state fair housing act in the nation, in Colorado, in 1959.

In 1957, the ADL led efforts to get the miscegenation statute repealed in Colorado.

OTHER ACTIONS

In the same period, ADL worked with educational organizations to eliminate the use of questions asking applicants at the University of Colorado their "race" or "religion," and state-supported and private schools followed suit.

Steinhauser, noting that the over-all achievement of Jews continues high, believes "there is a growing anxiety among adults over the future, a feeling that the hard-won gains of recent years could erode."

"The gutter type anti-Semite still epitomized in our area by the Aurora Nazis has become unfashionable, but has been replaced by the more sophisticated, subtle and elusive type," his reports noted.

The ADL is committed to ending bigotry and anti-Semitism, he said.

WILL YOUNG AMERICANS CONFOUND THE SKEPTICS?

Mr. CHURCH. Mr. President, the 26th amendment to the U.S. Constitution has extended the voting franchise to an estimated 11 million Americans, 18 to 21 years of age.

There has ensued differing views as to whether these young Americans will actually both register and vote, thereby providing a meaningful translation to the latest constitutional amendment.

Senator EDWARD M. KENNEDY has appeared before the Harvard Law School Forum to discuss the impact of these millions of potential new voters. Count your victories, not your defeats and keep pressing forward, Senator KENNEDY advises young people. He asks them to confound the skeptics who say that young Americans are too indifferent to vote in effective numbers.

At one point Senator KENNEDY, addressing the young, says:

And you have leverage they (the young of the 1960s) never had. You will be full partners in society every November from now on. In addition to your time, hands, voices, skills, hearts and minds, you have votes. It would be a national tragedy if that resource were wasted. It would be shameful if you made the Scammon and Watterberg prophesies come true, if you let the politicians travel the safe middle-ground to victory. For if they are to govern well, they need to be forced out of their safe harbours and into the storms that challenge the ship-of-state.

Mr. President, I ask unanimous consent that the text of Senator KENNEDY'S challenging speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR EDWARD M. KENNEDY BEFORE THE HARVARD LAW SCHOOL FORUM—SEPTEMBER 27, 1971

We meet tonight at the threshold of a new school year. It is a time for looking back, to draw lessons from the past twelve months. It is a time for looking forward, to think about what the next twelve months can mean.

One year from tonight, of course, the nation will be locked in its quadrennial electoral duel. The White House, the Congress, the State Houses, and thousands of other offices will be the prizes. So this is a particularly appropriate point to talk about how to prepare for that time and what your role will be.

The experience of the past year is not encouraging. We can be thankful that there was less group violence and less wanton destruction on campus, even though violence on the streets and in prisons did not abate. Yet as the few on the fringe turned away from their excesses, the many turned off altogether. The mood on most campuses was uncomfortably reminiscent of the silent generation of the '50's.

Those of us who visited and saw you returning to your books and your guitars, spending long hours in the Brattle and the Busch-Reisinger, disappearing to Mt. Holyoke and Stowe, saw the scene we had known as students here. And we were puzzled. We asked each other the obvious question: Can this be the same generation that brought down one President and, but for fate, might have elected its own candidate in 1968? Can this be the generation which through teach-ins and marches and speeches and mass gatherings brought the majority of Americans to oppose the war? Can this be the same generation that felt and expressed such outrage over Kent State and Jackson State? Can this be the same generation that was in the vanguard of the battles against pollution, against Carswell, and against the SST?

We reassured each other that somewhere in your hearts and souls the fire was still burning, but we came and surveyed the silence, and we said, it's just too quiet around here.

We heard many explanations for what Kingman Brewster so aptly termed your "eerie tranquility". They went like this:

You had spend all your energies and emotions on the enormous outpouring of feeling after Cambodia, Kent State, and Jackson State, and you were disappointed and despairing at what you saw as the failure of your massive efforts.

Th agonizingly slow, but undeniable withdrawal of Americans from Indochina had defused the war issue, and the lower draft calls had, to put it plainly, taken the heat off you as individuals.

The economic slump and high unemployment were driving you to concentrate on private concerns, on earning enough for tuition and expenses, competing for scholarships and graduate schools and summer jobs and permanent employment.

The concentrated and vigorous efforts of the Administration to ignore and insult, to investigate and incarcerate its opponents, especially the young ones, had begun to take its toll. You had watched as the President rejected the call of the Scranton Commission for reconciling leadership, as he fired the only Cabinet member who dared to suggest that the President listen to youth, and as he based a national campaign on making voters fear and hate their children. You had learned how the government sent agents to spy on ecology rallies and arrogated to itself the power, unchecked by any court, to listen to telephone conversations of dissenters. You saw it combat the lawlessness of Mayday with its own lawlessness, unconstitutional mass arrests and detention of guilty and innocent alike. You read of its attempt to resuscitate that throwback to McCarthyism, the Subversive Activities Control Board. And most disheartening, you saw its Justice Department—which has no compunctions about dragging dozens of young people before grand juries investigating anti-war activities or Daniel Ellsberg—refuse even to convene a grand jury to investigate the killings of four unarmed students protesting the invasion of Cambodia. And so you learned the lesson that the squeaking hinge, instead of being oiled, gets harassed, or prosecuted, or even shot.

Like the rest of us, your expectations had been lowered—we were told—and your threshold of outrage raised: After Carswell any candidate who was not a racist looked good; after Cambodia, the Laos "incursion" hardly excited anyone; next to John Mitchell, John Connally looked like a saint.

Finally, a tremendous bone had been thrown to you that might have satisfied your appetite for battle. Despite the opposition of the Administration, a determined effort in the Congress had made the 18 year old vote a legal reality. All of you had become men and women, not just "kids", in the eyes of the law, and that had altered your own view of your role between elections.

Those were some of the explanations for the quiescence on campus last year. But are they acceptable reasons for silence? I think not.

The massive but brief outpouring of participation at the time of the Cambodian invasion earned no one a permanent ticket as a spectator thereafter. Moreover, I think you underrate your own impact if you think you failed in that encounter. Of course, you did not achieve passage of the End-the-War Amendment. That was a goal worth striving towards, but you all knew it was unlikely to be achieved in a few weeks or months.

Yet you did, after all, secure a termination date for participation of American troops in the Cambodian adventure; you did help with passage of the Cooper-Church Amendment; you did keep American troops out of Laos. You also forced the President to dilute the rhetoric of war and much of the inflammatory jungoism that goes with it. And beyond that, in those few weeks in May of 1970, for the first time you broke through the barrier that separates many Congressmen from the People: you made them sit down face to face and listen to you; you changed a few minds, but more importantly you changed the rules of the game, and made citizen lobbying on vital issues a more viable, more effective tool.

Yet, despite these accomplishments, the war in Indochina remains a monstrous outrage. The real effects of the partial American withdrawal are far from enough to justify anyone's silence. One-third of those killed in Vietnam have been killed since a man came to the White House who said he had a plan to end the war. In fact, we have only changed the color of the bodies in Indochina as we "widen down" the war. The total of U.S. and South Vietnamese military men killed in each of the first two quarters of 1971 was still higher than in any quarter before the TET offensive. Still bombs fall on villages; still their inhabitants become homeless refugees; still the toll of civilian casualties mounts in Vietnam, Laos, and Cambodia.

And our policy continues to be based on the same kind of double-think that characterized our escalation and the Cambodian invasion. This Sunday will bring the charade of the Vietnamese presidential "election". Securing the right of the Vietnamese people to have a free choice of governments is what keeps us there we had been told. Now that it is clear that the existing government will frustrate that goal, we are told we must stay to protect the present government from being ousted. Thus the choice seems to be between giving up our goal and maintaining our presence, or giving up our presence and perhaps obtaining our goal. Faced with this choice, the President will undoubtedly choose presence over principle, so the war goes on.

The lowered draft calls, too, are little reason to rejoice or to slip into quiescence. Just as it is unacceptable if we merely substitute Asian blood for American, it is no better if we merely substitute someone else's American blood for our own. It is a selfish and shallow activism which can be bought off with a high lottery number while the killing goes on. Even if only one American boy each month is forced to go eight thousand miles to kill or be killed among an enemy he does not hate, in a war without reason, in a place we have ravished and ruined, no American of conscience can stand silent.

The recession, of course, does place very real economic pressures on many of you and your parents. But is that a reason to relent in the struggle for social justice? For the same economic forces which you feel strike a magnified blow at those who suffer most from society's ills.

Certainly there is no justification, despite the understandable mental and emotional exhaustion, for surrender to the gross Administration efforts to cajole and bludgeon you into submission. For one thing, any evidence of success encourages more such efforts. Besides, while the silencing of the messengers and advocates of truth does nothing to change the truth, it leaves the market place of ideas to those who want us to hear only good news, and truth gets lost in the shuffle.

Finally, the 18 year old vote. I shall have more to say about what is *can* be, but surely it *cannot* be a reason for complaisance. The passage of the 26th Amendment in itself changed nothing. It gives you bare rights, rights which are empty if they are not exercised. It gives you a voice, but a voice which will not be heeded unless it is heard. It gives you status, status which without use, merely adds inertia to the status quo.

So I, for one, cannot accept Time magazine's description of this past year as the "cooling of America". The anesthetizing of America—perhaps, but as William Shannon said in the New York Times, "this surface quiescence is more the apathy of the alienated than the concurrence of the reconciled."

Until there is some just cause for the concurrence of the reconciled, I say the alienated cannot afford to be apathetic. For your own apathy will surely nourish the forces that alienate you.

Richard Nixon lives in a Skinner box. He responds only to rewards and punishments that his senses can appreciate. Your silence is not neutral in his environment; it counts distinctly as pleasure. And this reinforces the rewards he gets from his own narrow constituency whenever he appeals to their basest instincts and panders to their prejudices.

If silence is unacceptable, what is the alternative?

Almost exactly a year ago, I spoke on another campus across the Charles, and I warned against destructive violence and physical coercion, against rioting, burning, occupying, bombing, and trashing, against those who seek change by the threat or use of force. Those warnings stand today. You can break the silence without breaking the peace. You can draw the lines not only between proper and improper tactics of change, but also between better and worse ones.

Last spring's Washington demonstrations provided a vivid example. On April 24, a quarter million Americans massed at the Capitol to plead for peace. It was a peaceful and calm and lawful assembly. It was not very exciting, except for the excitement of the impressive showing, but it was impressive. The President could insist that he would not be moved, but he could not ignore the fact that no pro-war rally in Washington had ever attracted one-tenth of the crowd. Members of Congress, no matter how far away they were on that sunny Saturday, still felt the presence of that mass of people when they returned on Monday. Then came Mayday itself. No one even remembers what the issues or demands of the demonstrators were, because the substance of the event was swallowed up in the debate over the procedures. As expected, the authorities were poorly prepared and their response was guided by political considerations, producing massive violations of Constitutional mandates.

Thus those of us who might have been spending our energies on the real issues had to invest our time and credibility in the difficult and complex issues of Mayday itself. The outcome was a draw at best. The courts vindicated the claims of denial of rights. Thousands of cases—at least 90% of all cases—were thrown out of court or dropped, and the police quietly admitted the need for significant changes in procedures. But at the same time, the nation's super police chief, Mr. Mitchell, was advising cities all over the country to do exactly what he had done, somehow overlooking such obstacles as the Constitution and the courts. If April 24th impressed some people and reassured others that the anti-war movement was alive and well, Mayday was about as constructive as the Madison bombing. And when I think of the organization, time, and money, that went into the planning of Mayday and what it might have meant to a lobbying, or registration, or election effort, I wonder what kind of minds are setting the priorities for the activists.

I must admit that our society's habits could certainly push a planner to the belief that only some spectacular event, or some national tragedy, or some drastic confrontation, leads to progress. For we have seen too many instances of national attention and national action proceeding from crisis to crisis, and lapsing in the absence of crisis.

Occasionally the crises beget results. It took the traumatic Southern confrontations in the early 60's to get us really started repairing centuries of institutionalized racism. Not until the tragedies of Selma would we pass a comprehensive, effective voting rights bill. It required one assassin's bullets to propel the Fair Housing Act to passage, and another's to make us adopt even minimal national gun controls. Effective mine safety legislation waited on tragic mine disasters. Urban air pollution controls came after a near catastrophe in our largest city. Attention to airport procedures came only after a giant airliner with 200 aboard nearly crashed in San Francisco on take-off from too short a runway. It took TET to shock us into reality in Vietnam, and Kent State to generate interest in National Guard training and field procedures.

More often, the traumas bring great splashes of attention, symbolic responses, but no real action. The riots of '65–'67 led to the Kerner Commission, which told us we were a racist society paying too little atten-

tion to basic social inequities. By the time it reported, the nation's attention was directed to other problems, and the Kerner warnings went largely unheeded. The tragedies of 1968 produced still another blue-ribbon study, the Eisenhower Commission. Its report, and especially its demand for still stronger gun controls, fell on deaf ears. Kent State and Jackson State brought forth a third Commission, Governor Scranton's. Its message was drowned out in the honkings of the Administration's Clarabelle.

So, too, with prison reform. There was a spate of prison riots in the 50's, and for a while the handling of such uprisings and the deeper issue of correctional reform came to the forefront of public and official concern. In a few states and at the federal level, progress followed, but elsewhere prison and jail conditions remained primitive. Most of the new state institutions continued to be built in rural areas, as Attica had been, both to gain the support of rural legislators and because it was easier to get "good guards" (which meant white guards) for low wages out in the farm areas. Anyone who bothered to look a year ago would have seen that in most of these institutions there was an unstable equilibrium—poorly trained, unsympathetic, all-white guard forces managing increasingly assertive, largely black prison populations. There was ample power to change.

The State of New York—which purports to follow fair employment practices—could have integrated the Attica guard force in a matter of days. Under the U.S. Justice Department's own rules, the Federal government should have required staff integration before it poured millions of federal dollars into the New York prison system and into Attica itself.

If either the State or the United States had just taken that one step, the likelihood of a riot at Attica would have been drastically reduced. But that basic step wasn't taken by anyone. It will be taken, now that 42 people have been killed. So will many other steps. But soon our focus will be elsewhere, and most probably prison reform and the total correctional reform that must go with it, will return to the back burner. The governors and the governed will realize that real reform requires hard choices and more resources, and until another catastrophe, the impetus to make those choices and devote those resources will be lacking, for prison reform has no continuing constituency. And the catastrophe will come, because the problems remain.

I dwell on this phenomenon because it helps suggest the nature of the more effective alternatives to silence. Which are the problems that get prompt and real responses even without traumatic stimuli? Which problems receive official attention even when the media have no dramatic event to help capture public consciousness? Or more relevantly, whose problems are these? Certainly they are not the problems of the poor, or the deprived, or the unorganized, for the powerless must wait until their plight electrifies the nation by dint of some tragedy.

Of course, it is those with continuing access to the sources of power who do not have to wait. The United States oil companies get depletion allowances, on top of protection against foreign oil, on top of artificial price-supporting production controls. The highway lobby gets ample funds each year to pave over more of the countryside.

The insurance companies, working through the state legislatures, get anything they want. The gun lobby, even after being beaten down in '68, got both the Senate Republican leader and the titular leader of the Democratic party to defect, and immediately began to emasculate the law bit by bit. The Surgeon General's office, which took so many years to say something definitive against cigarettes, provided the soap companies not merely with a quick withdrawal of its anti-phosphate position, but also with a pleasant endorsement of phosphate pollutants.

It is clear, then, that government can be extremely responsive when it wants to. For we are governed by men, sometimes principled men, always pragmatic men, whose perceptions run along easily discernable lines like campaign contributions, election-time manpower, and, above all, votes. Apart from the problem of the large contributor, which we hope to deal with in this Congress, anyone can play the game. And even a small number of organized players can win.

In the U.S. Senate we have at least a dozen men for whom a switch of fewer than 12,000 votes would have meant defeat. And yet, on issue after issue in the Senate one or two of these men make the difference on national policy. Look at our experience this summer:

The Cook Amendment, a really worthwhile end-the-war amendment, lost by one vote.

My own amendment to suspend the sugar quota to South Africa lost by one vote.

The Federal bail-out of Lockheed passed by one vote.

A switch of one vote would have denied the Subversive Board the funds for its new Nixon-Mitchell witch-hunt.

And in the House of Representatives, where the members' electoral margins are even slimmer, a switch of three votes would have prevented the Administration from destroying the Equal Employment Opportunity Commission.

Now those are real issues that you presumably care about—the war, apartheid, economic priorities, repression, civil rights.

If we take the process back still another step, the leverage of a handful of votes is even more striking. Each decade the states must draw new Congressional district lines to reflect the new census figures on population distribution. Because we have not completely eliminated gerrymandering, the power to draw those lines is still the power to determine which party gets some of the seats. In some states, that power has been granted or withheld for 1971 because of a one vote margin in one house of the state legislature or because of a slender victory in the 1970 gubernatorial race.

And yet, even when youth activism was at its height, young America just has not seen its voting power as an effective means of expression or source of change. Traditionally, the first time voters, those 21 to 24 years old, have the worst registration and voting records of any age group. In each of the last three presidential elections about half of the potential 21 to 24 year old voters did not vote while over two-thirds of those in all other age groups went to the polls.

In 1970, during the Senate and House and state legislature and governor races, which determined control of present national policies as well as Congressional redistricting and legislative reapportionment, the figures were even more pathetic. Of those 21 to 24 only 30.4 percent voted, and where 18 to 20 year olds could vote the performance was even worse—25 percent.

Let me put it bluntly. Richard Nixon was elected in 1968 because people like you sat on their hands. They did not work in the campaign because their own candidates had been lost in Los Angeles or Chicago. They did not vote because they thought they had a Tweedledum-Tweedledee choice. And so Richard Nixon won with fewer votes than he had when he lost in 1960. He won with a plurality of 313,000 votes, while 5½ million potential voters under 25 stayed home.

And so we have Warren Burger in place of Earl Warren. And so we almost had George Harrold Carswell. And so we have Otto Otepka. And we have John Mitchell and Richard Kleindienst and Will Wilson and Robert Mardian and a host of defeated Republican office-seekers sitting where John Doar, and Ramsey Clark and John Douglas and Burke Marshall once sat. And we have a return to trickle-down economics and trickle-up unemployment. We have the Southern strategy and benign neglect, the dismantling of the antipoverty program and political tests for federal employment. We have vetoes on housing and health and employment legislation. We have the Commander-in-Chief going out of his way to support both William Calley at My Lai and Nelson Rockefeller at Attica. And we have Spiro Agnew.

Perhaps none of those peculiarly Nixonian developments are important enough to you. Perhaps you do not see any of them impinging on your lives right now in any direct way. Perhaps you have not felt the pressures of recession, regression, and repression, or borne the weight of inflation, intimidation, and inaction. If so, then the womb of Mother Harvard is even thicker than I thought. For out there in the real world the workers, the elderly, the poor, the outspoken, the black, the brown, and the Indian, know that their worlds were changed on November 5, 1968, and they know that November 7, 1972 will mean either new directions or more of the same.

If your concern for social justice and for your fellow man does not move you, remember that before long all of you will be out there with them. Most of you will still be insulated by background and education from the weaker ebbs and flows of national policy. But sooner or later you will discover that you are stewing in the juice of your own electoral decisions.

It is not just the federal elections that count for young Americans. As mundane as they may seem, state and local elections are in many ways more crucial. It is the governors who choose the Board of Regents and the heads of state universities. It is the sheriffs and district attorneys who decide whether there will be an atmosphere of liberty or of gunfire. It is the city councillors and the mayors who control the availability of narcotics treatment centers and decide whether to pave over the college campuses. And especially with the specter of revenue sharing on the horizon it is increasingly the non-federal officials who decide how federal tax receipts are to be spent at home.

So to my mind your task and your challenge are clear. 14 million of you have turned 21 since 1968. Another 11 million of you were given the right to vote by the 1970 Voting Rights Act and by the 26th Amendment. 25 million potential votes altogether. That's almost one-third of the total number of Americans who voted in 1968.

You are the ones who can translate that potential into an active force for change not just a year from November but right now:

First, it goes without saying that you must register yourselves.

Second you must work to remove the sudden barriers that some local voting officials have erected to subvert the 26th Amendment, barriers which the Justice Department refuses to help tear down.

Third, you must use the leverage of the campus—the time, the money, the organizational skills, the access to media—to help register and organize the working young and the ghetto young.

Fourth, you must register soon enough and in enough numbers so that you are a credible political force now, so that you can lobby from strength on current issues, local and national, so that you can convince Presidential prospects to address themselves to your concerns, so that you can affect the party platforms and the choice of candidates in 1972.

Fifth, you must organize well enough to present cohesive positions through truly representative leaders from your own ranks.

Those are not very glamorous suggestions. They do not have the superficial excitement of demonstrations and confrontations and conflict. They are so straight and so dependent on confidence in the system that they may seem alien to some of you.

But what are your alternatives? The price of coercive tactics is surrender of your principles of peace, loss of life and limb, and backlash from the rest of society. The purer forms of civil disobedience just have not proved effective in recent years. And silence is a complete cop-out.

The time has come to face up to a new reality. You have the power to bring about drastic, even revolutionary change at every level of government in this nation, and to do it through the system itself. If you choose to stand by and watch others try to do the job for you within government and from outside, then you have no standing to complain if they fail. You are certainly free to choose to be quiescent, to turn inward, to isolate yourselves from the problems of society, but if that is your choice you must be prepared to live with the consequences. And now that you have the vote, you must also be prepared to take the responsibility for those consequences.

You should, of course, continue to pursue the best education you can get. For that education will give you both the skills you need to make the system respond, and the understanding of history and society and human nature to apply those skills wisely. And you should pursue the extra-curricular activities that make university life so rewarding.

But, I am asking you to make room in your lives for participation in governance. I ask you to recognize that the fallacy of composition applies when millions of young people say to themselves "my help will not be missed, my silence will not be noticed." I ask you to shake off your lethargy and to take a path that may seem prosaic, but is, nevertheless, the path to power and progress.

It is now late September. Registration in New York State closes on October 2nd for next spring's primary. The first primary is less than five months away. If you do not stir until a year from now, you will be too late. You will have a chance to lick stamps and address envelopes—and to vote—but you will be too late to choose the candidates or frame the issues. You will be too late to influence the President and the Senate as we choose two new Justices for the Supreme Court. You will be too late to provide jobs to all those who will spend another year without employment. You will be too late to help those whose lives may depend on quick passage of a strong national health insurance program. You will be too late to save the lives of millions of Pakistani refugees in whose suffering our government, to our shame, is an accomplice. You will, in short, be too late to present a credible political force to affect the thousands of decisions that will be made by elected officials in your cities, in your states, and in Washington in the next twelve months.

You are the heirs of a legacy left to you by your older brothers and sisters who asked themselves what they could do for their country in the 60's.

They answered clearly with sit-ins and freedom rides and voter registration drives in the South until they pierced the walls of racial segregation. They answered by offering themselves to the Peace Corps and Teacher Corps and Vista. They answered by marching to Washington with Martin Luther King in 1963, from Selma to Montgomery in 1965. They answered with the Vietnam summer. They answered by building a network of legal services programs all over the nation. They answered with their time, and their hands, their voices and their skills, their hearts and their minds.

Sure it was easier then. When Martin Luther King said "I have a dream", the man in the White House listened, and he shared that dream. When the marchers went across the Pettus Bridge in Selma the second time, Justice Department officials were there to protect them. When the Vietnam protests started, there was an Attorney General who believed dissent was healthy.

But the fact that the attitude of government has changed is all the more reason for you to carry on that legacy. The civil rights laws your predecessors fought for are being undermined. The Peace Corps and Teacher Corps and Vista and Legal Services Offices they built are being torn apart. The anti-war momentum they began is dissipating while the war goes on.

And you have leverage they never had. You will be full partners in society every November from now on. In addition to your time, hands, voices, skills, hearts, and minds, you have votes. It would be a national tragedy if that resource were wasted. It would be shameful if you made the Scammon and Wattenberg prophesies come true, if you let the politicians travel the safe middle ground to victory. For if they are to govern well, they need to be forced out of their safe harbours and into the storms that challenge the ship of state.

Rarely can we stand at a point in history and say, before the fact, this is a turning point. We are at one of those points. But whether we really turn is up to you.

DEATH OF JOHN FRANKLIN CAMPBELL

Mr. MONDALE. Mr. President, for every American who hopes that this country can restore sense and sensibility to its foreign policy—and I think that is an overwhelming majority of us—the death of John Franklin Campbell was a heavy loss.

As an independent-minded officer in a Foreign Service starved of independent minds, as a telling critic of the foreign policy bureaucracy, and finally as a gifted writer and editor who helped begin an essential new dialog on our place in the world, John Campbell had already given us contributions to grace any lifetime.

That he had done all this at the age of 31 is a measure of how painfully the Nation is now shortchanged in unfilled potential for public service.

If we are going to find our way in international affairs after the wreckage of the last decade, we will certainly need more John Campbells. Hopefully, his ultimate contribution will have been to inspire his generation and those still younger to keep up the fight.

Some of these same reflections are contained in a moving editorial in this morning's Washington Post. I ask unanimous consent that the Post's editorial on John Franklin Campbell be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

JOHN FRANKLIN CAMPBELL

A memorial service will be held today in New York City for John Franklin Campbell, who died suddenly last Saturday night of cancer at the age of 31, and while there will be distinguished elder statesmen on hand, a good number of those who gather to pay him tribute will be the New and Different Establishment. In some degree, they will be—as he was—young, bright, challenging, promising, unconventional, a little irreverent, but deeply dedicated to the study and/or conduct of foreign policy; not the least of the tributes to John Campbell, in fact, is the particular quality of those of his contemporaries who had come to admire him and to trust his judgment and to share the conviction that his would be an exceptionally brilliant career. It will be said many times today how sad it is that he should die so young with so much ahead, how large the loss—and that is true. Sometimes you can only see a certain luminescence and speculate about the success and the rich service that lies ahead; with John Campbell, you knew.

But there is more to be said than if you believe that a life should be judged not only by what is accomplished—the high honors and offices—but by what was done with the time available. At 31, there is little time for a career to accumulate the stuff of obituaries; yet the promise in John Campbell's record shines full and so do the accomplishments . . . *magna cum laude* and Phi Beta Kappa from Harvard and a masters degree in government from the University of California . . . a post in Bonn, and one in Asmara, as a junior Foreign Service officer, and successive tours as a special assistant to two different under secretaries of State . . . a year's fellowship with the Council on Foreign Relations and a solid and sensible book ("The Foreign Affairs Fudge Factory") about what is wrong with the foreign policy making machinery and how to put it right . . . the job of managing editor of a professional and provocative new magazine, Foreign Policy, and a vital role in launching it successfully.

There is nice balance here—on the one hand, the venerable Foreign Relations Council with its staid quarterly, Foreign Affairs, and on the other, the unstuffy challenger, Foreign Policy, skillfully edited and distinctively tailored long and narrow for coat pockets as well as coffee tables. On the one hand, there are the routine overseas assignments and the Seventh Floor staff jobs and, on the other, the incisive, scholarly, roundly applauded critique of the whole policymaking process. "He is a wit, a muckraker, a stable-cleaner," wrote Walter Clemons, in The New York Times. "His devastating picture of the disarray of our foreign policy is a plea to simplify, restore and strengthen a demoralised State Department."

If that plea is listened to, this would be no mean legacy for a junior Foreign Service officer of 31; the good sense and good humor of the recommendations of John Campbell will be hard to resist. But this would not replace the loss. For that we will have to look, perhaps in part, to John Campbell's friends, to the bright young companions of the New Establishment. Their shared faith in his future says something good about the future for all of us.

THE CELEBRATION IN IRAN

Mr. BENNETT. Mr. President, the recent celebration in Iran marking the 2,500th anniversary of the founding of the Persian Empire by Cyrus the Great and the Declaration of Human Rights was an event of both national and international significance.

The mammoth event which attracted heads of state from throughout the world was watched with particular interest in my home State of Utah, which has had close educational and developmental ties to Iran for many years. Peace Corps volunteers to Iran have trained in Utah; Iranian leaders in various fields have come to Utah to teach and to learn; and numerous Utahans—particularly from Utah State University in Logan—have gone to Iran to assist in such important

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disciplines to that country as engineering and agriculture.

Iranian graduates of Utah universities abound throughout that country in important positions. For example, a graduate of USU, Ardeshir Zahedi has been Iranian Ambassador to the United States and was Minister of Foreign Affairs until a recent cabinet reorganization.

In recognition of his contributions to Iran, Dr. Daryl Chase, former president of Utah State University, several years ago was awarded the Order of the Crown—Iran's highest civilian award. And, in July, Iran's current Ambassador, Amir-Aslan Afshar, was in Logan to receive USU's highest honor—an honorary doctorate.

Mr. President, all of this is meant to demonstrate that Iran's celebration was of importance not only to this Nation as a whole, but to Utah in particular. Throughout the occasion, Iran paid tribute not only to the amalgamation of many peoples into one nation many centuries ago but, equally as important, to the issuance of a declaration of rights basing a rule of law on morality and tolerance, which forms the foundation for this progressive country and friend of the United States.

Iran has focused on positive achievements to mark the celebration: A goal for new schools was set at 2,500, but in fact over 3,000 were built; the Literacy Corps spread out over the countryside, with the result that the illiteracy drastically declined; the national health system was vastly improved and the culmination of the land reform program occurred providing for redistribution of lands to the peasants. These are just a few of the significant events which were important elements of this historic celebration.

The international impact has great significance to our country and to the world. It is seldom that so many leaders from all over the world can meet without the often-present aura of tragedy or tension. There, great leaders of the world assembled under conditions which permitted them to exchange ideas and discuss new methods of achieving world peace.

I think Vice President AGNEW, this country's representative to the celebration, put it well when he said that the atmosphere provided the opportunity to meet and talk to people and exchange ideas. Surely this is the type of forum all men who desire world peace must hope will one day become commonplace and not unique. In the meantime, Iran is to be congratulated for pointing the way.

As His Imperial Majesty the Shah of Iran said in his welcoming speech with the theme that man's eternal and changeless nature is an effort toward perfection:

Each one of us must try as hard as possible, as much as circumstances allow, to turn the world into one of love, peace and cooperation for mankind, a world in which every person may enjoy the amenities of science and civilization.

NATIONAL COLLECTION OF FINE ARTS EXHIBITS WORKS OF WILLIAM H. JOHNSON, FLORENCE, S.C.

Mr. HOLLINGS. Mr. President, today is a time of growing awareness of the contribution of blacks to our history and our culture. I am proud to call the Senate's attention to the National Collection of Fine Arts, which is now exhibiting the works of the late William H. Johnson, a native and resident of Florence, S.C.

As with many great talents, Mr. Johnson in life did not receive his due acclaim. Perhaps, in his case, we sadly must attribute part of this neglect to the fact of his race. However, today we try to live more wisely and more tolerantly. I know that South Carolinians, although belatedly, wish to acknowledge a gifted man who once lived among them.

I ask unanimous consent to have printed in the RECORD, an article entitled "Spirit of William H. Johnson," written by Paul Richard of the Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPIRIT OF WILLIAM H. JOHNSON

(By Paul Richard)

Though his father was white and his mother part Indian, the National Collection of Fine Arts calls William H. Johnson a black artist. He was black, all right.

They did not let him forget it. It didn't matter much in France where, in the 1920s, he'd paint beside the Seine, but when he placed his easel in the street of Florence, S.C., he was promptly thrown in jail. Just for being uppity.

Johnson in America constantly endured such psychic degradations. Though the National Collection has now awarded him a full-dress retrospective—which he abundantly deserves—he almost never sold. Even the kindnesses that he received smacked of pride-destroying condescension. "The public generally is invited," said the Florence paper, "to inspect the work of this humble Florence Negro youth whose real genius may some day make the city of his birth famous."

It never happened. Though Johnson had devoted teachers and a remarkably happy marriage and a few good years abroad, his luck was mostly awful.

He was always poor. He earned his living as a cook, a laborer, a porter, almost never as a painter. His Danish wife died painfully of cancer in 1943. Four years later, his brain decayed by syphilis, he was picked up wandering on the street and committed to New York's Central Islip State Hospital. It took him 23 years to die.

But his exhibition is no guilt-inspired bit of homage granted a neglected black. Johnson was a fine painter. His retrospective does the National Collection proud. Some artists are remembered for the brilliance of their skills, their leaps of imagination, their technical invention. Johnson, who changed his style restlessly and often, is not one of these. It is his personality that matters. One leaves this show thinking less of the beauty of his pictures, though beautiful they are, than of the spirit of the man.

He was not an innovator. While studying with Charles Hawthorne at the National Academy of Design, he won prizes for academic paintings in the Hawthorne manner. Though later he took much from other artists he admired—Cezanne, van Gogh, Soutine—there is within his works a vitality, an integrity, that his borrowings did not diminish. Look, for instance, at the 1929 self-portrait illustrated here. It has much Soutine and some Cezanne about it, but it is a Johnson most of all.

He was searching for something. He struggled as he painted to grow increasingly honest, simple and authentic, to intentionally discard all false sophistication. His earliest pictures here are genteel and academic. His work became steadily more expressive while he lived in Europe. When he returned to the United States in the fall of 1938, his paintings abruptly changed again.

"I am a Negro, and a primitive," he liked to say. In 1939, he started painting pictures that showed he was just that.

He abandoned complex brush strokes, shading and perspective. His colors became flat and ever brighter, his forms grew harshly angular and simple. No longer did he paint European landscapes or bowls of fruit on tables. His subject matter changed. He started painting black musicians, black Christs, black prophets and black angels, jitterbugs and chain gangs.

"There is no indication that his sudden turn to subjects drawn from black culture in the United States had any social motivation," writes Joshua C. Taylor, the National Collection's director, "for he was not a social crusader. To have used his homely images to make an obvious social plea would have blunted the subtler values of his new primitivism. Out of his flat, but eloquent, patterns emerges a particular kind of awkward, unconventional beauty that sings its own song with harmonies unfamiliar to the schools. The works are expressive to be sure, but the expression springs from more than simply one individual's passion . . . He had found a union with the minds and imagination of others, as earlier he had found a union with the world he saw."

These late works will probably become the most popular of Johnson's paintings—their colors are so bright and strong their mood so "primitive" and gay—but I find them very sad.

Their gaiety seems forced. Too many of them grin too much. Beneath the brightness of their colors, these late paintings, not all of them, but many, seem darkened by defeat.

"In all my years of painting I have had one absorbing and inspired idea and have worked toward it with unyielding zeal—to give, in simple and stark form, the story of the Negro as he has existed," Johnson said. But look upon his life's work and you will not believe him. There is something false about his "primitivism," his "union with the minds and imagination" of his people, his late, triumphant return to blackness.

He had never left.

It is nice to think the world of art exists above the ugliness of life, but forget it. Johnson was trained as an academic painter. He worked three years as a stevedore to earn his academy tuition. The more he studied, the more he traveled, the more he looked and learned, the further he had moved from Florence.

The finest of his late works—"Flowers," "Nude," "Young Man in a Vest," all of 1939–40, and the extraordinary "Woman Ironing" of 1944—tell us nothing of "the story of the Negro." They are paintings about painting.

"Social art it is, then," says Taylor of Johnson's later paintings. But painting is not a social art. It is done and seen alone. Music is a social art, and the greatest black artists of Johnson's era, Charles Parker, for example, were musicians who had no fear of superhuman skill or polish or complexity. Johnson fought these things. He spent 30 years shifting styles, trying to be true to the person that he was, struggling for freedom.

It was in those years of struggle, rather than in the "primitivism" he arrived at, that his victory was won.

Lord knows his victory was not complete. When he was hospitalized in 1947, 1,154 paintings, drawings and prints were turned over to the Harmon Foundation of New York which had long given him support. No one else wanted them. They have since been given to the people of this country, and from that horde of treasures the National Collection has selected this sad, heroic show. It closes Jan. 30.

BALANCED NATIONAL GROWTH NEW DEVELOPMENTS DURING 1971

Mr. HUMPHREY. Mr. President, early this session of Congress I placed in the RECORD a study prepared by the Congressional Research Service of the Library of Congress outlining developments at both State and Federal levels of government concerning contributions being made toward the development of a "balanced national growth policy" for the United States. That particular report covered happenings regarding this issue through the end of 1970.

As chairman of the Subcommittee on Rural Development of the Senate Committee on Agriculture and Forestry, I am taking an active part in the furtherance of efforts toward achievement of such national goals. My efforts in this regard have included working with agencies of both the legislative and executive branches of the Federal Government as well as with Governors and the States.

In view of the usefulness of the earlier report issued by the Congressional Research Service of the Library of Congress, I encouraged CRS to update its earlier 1970 report to include happenings and developments which have occurred in the first 9 months of 1971 covering what further progress is being made to reach the fulfillment of these important national growth goals. The Congressional Research Service has now completed that task.

The 1970 statutory declarations of a national urban growth policy and rural development policy were the organizing framework for this new study. The basic content of this new report consists of the actions taken by congressional committees and the Congress to date, positions taken on these legislative issues by major organizations and groups affected, and presidential documents and other executive branch actions having significant implications for national urban and rural development policy.

The report was prepared by Norman Beckman, Deputy Director, Congressional Research Service, with the assistance of Bruce Langdon, research assistant.

In 1970 Congress adopted two landmark declarations of domestic national policy. Title VII of the Housing and Urban Development Act of 1970 provided for an urban national growth policy to encourage the orderly development of our metropolitan areas and communities in predominantly rural areas. In a complementary action, title IX of the Agricultural Act of 1970 committed the Congress to a sound balance between rural and urban America and declared that highest priority must be given to the revitalization of rural areas.

The Rural Development Subcommittee of the Senate Committee on Agriculture and Forestry, of which I am privileged to serve as chairman, already has held extensive hearings both here in Washington and throughout the country on these issues of national growth and rural development policy and it is the committee intention to continue with this hearing process in the future.

The 1970 acts also require the executive branch to submit the reports on the further development of urban growth policy, the location of Federal facilities, acceleration of the availability of government services and financial assistance—among other subjects—in support of rural community development.

This new report by the Congressional Research Service should assist in the conduct of these hearings and in the evaluation of these reports received from the President and executive departments and agencies. The reports' basic purpose is to place individual legislative proposals in the larger context of interrelated national urban and rural development objectives set forth by the Congress.

This 9-month survey of Federal action should contribute to our legislative deliberations by providing a common framework and relating such separate but inextricably linked subjects as rural development, special revenue sharing, distribution of health manpower, the war on poverty, open housing, the regional implications of welfare reform, new communities, housing subsidy consolidation, coastal land management and departmental reorganization. The inclusion of an annotated summary of the literature of an urban and rural development made available during this period should also be helpful to all concerned with finding new means to strengthen the economic and social health of all areas of the Nation, reduce the problems of our urban and rural communities, and point the way to a further examination of the problems and opportunities relating to urban growth.

In view of the value and usefulness to all Members of Congress and others throughout the Nation interested in following and participating in these important national policy developments, I ask for unanimous consent that this new report from the Congressional Research Service be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DEVELOPMENT OF NATIONAL URBAN GROWTH AND RURAL DEVELOPMENT POLICY: LEGISLATIVE AND EXECUTIVE ACTIONS IN THE FIRST 9 MONTHS OF THE 92D CONGRESS

Congress in passing the Housing and Urban Development Act of 1970 (P.L. 91-609) provided for development of a national urban growth policy. The Act sets forth a number of fundamental policies to serve as guides for specific decisions at the national level and for Federal policies affecting "interstate, State and local growth and stabilization." This paper is a benchmark review of significant actions taken at the Federal level affecting the development of such a national policy during the first nine months of the 92nd Congress.

The basic purpose of this review is to place individual legislative proposals in the larger context of interrelated national objectives set forth by the Congress. Hopefully this status report can contribute to legislative deliberations by relating apparently independent proposals on such disparate subjects as rural credit, education, parks, ghetto businesses, housing technology and welfare reform to each other and to the major urban problems facing the nation.

We live in an interdependent, highly specialized, urbanized society. The value of placing individual public policy actions in the larger context of a national urban growth policy was well stated by Patrick Moynihan:

"The federal establishment must develop a much heightened sensitivity to its "hidden" urban policies. There is hardly a department or agency of the national government whose programs do not in some way have important consequences for the life of cities, and those who live in them. Frequently—one is tempted to say normally!—the political appointees and career executives concerned do not see themselves as involved with, much less responsible for the urban consequences of their programs and policies. They are, to their minds, simply building highways, guaranteeing mortgages, advancing agriculture, or whatever. No one has made clear to them that they are simultaneously redistributing employment opportunities, segregating neighborhoods, or desegregating them, depopulating the countryside or filling up the slums, etc.—all these things as second- and third-order consequences of nominally unrelated programs."[1]

The basic inputs in this legislative issue tracking report are essentially three. The first and predominant source is actions taken by Congressional committees and the Congress as a whole (legislation, studies initiated, oversight and investigation activities, etc.). All legislative proposals that have a potentially significant impact on urban development and have been reported out of committee in at least one house (in a limited number of cases, bills at the hearing stage) will be described. A second major input is the positions taken on legislative issues (at hand or emerging) by major interest groups affected. Finally, appropriate notice is taken of significant Presidential documents, other executive branch actions, and additional public documents and recommendations having major implications for national urban policy.

This review of selected 1971 Federal development uses the statutory declaration of a national urban growth policy as an organizing framework. In that Act, Congress declares that urban growth policy should contain eight complementary elements:

1. favor patterns of urbanization and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;

2. foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, local neighborhoods, and rural areas;

3. help reverse trends of migration and physical growth which reinforce disparities among States, regions, and cities;

4. treat comprehensively the problems of poverty and employment (including the erosion of tax bases and the need for better community services and job opportunities)

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which are associated with disorderly urbanization and rural decline;

5. develop means to encourage good housing for all Americans without regard to race or creed;

6. redine the role of the Federal government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;

7. strengthen the capacity of general government institutions to contribute to balanced urban growth and stabilization; and

8. facilitate increased coordination in the administration of Federal programs to encourage desirable patterns of urban growth and stabilization, the prudent use of natural resources, and the protection of the physical environment.

These components of an urban growth policy will be used to analyze and appraise what has happened during the first nine months of 1971 at the national level to respond to urban growth needs and to identify emerging specific issues affecting their growth about to be dealt with in the legislative process.

Under the first element, encouraging wise and balanced use of physical and human resources on a metropolitan or urban regional basis, developments are covered in use of area-wide incentives and planning requirements contained in the President's transportation and manpower special revenue sharing proposals, funding of the 1970 mass transit legislation and proposals for new federal responsibilities for urban public transportation, Administration recommendations for new community health care delivery systems, and metropolitan-wide approaches to elementary and secondary education.

The Section on legislaton to foster economic strength of all parts of the United States and to reverse trends of migration which reinforce disparities among regions describes depressed area assistance, the new Senate rural development subcommittee, rural development special revenue sharing, Executive Branch reports on rural development, rural development banks and credit, rural telephones, rural health manpower, and manpower and its distribution.

Under the general heading of treating comprehensively the problems of urban poverty are discussed: the war on poverty, access to housing, racial impact of low-income home ownership program, and the family assistance plan.

The Section on Federal activities to provide good homes for all Americans discusses housing subsidy consolidation and the investigation of low- and middle-income mortgage assistance.

Revitalizing existing communities and encouraging new community development deals with the Administration's special revenue sharing for community development, alternative proposals in the House and Senate for community development block grants and related reforms, new communities, and community development credit.

Progress in strengthening the capacity of general governmental institutions to manage the urban environment is documented by legislative action on planning and management, state land use planning, coastal land management, use of public land, revenue sharing, and departmental reorganization.

Several subject areas not typically associated with the process of urban development are covered in this legislative review. Reflecting the changing temper of the time and an increasing sensitivity to their impacts on urban growth, (as modified by a public policy lag inherent in a responsible and deliverative legislative process) are such newly emphasized subjects as the planning implications of grant consolidation, new private health care delivery systems, metropolitan education parks, a resurgence of concern for rural growth center development and its compatability to urban growth policy, the availability of scarce professional health manpower in both rural areas and urban ghettoes, the effect of uniform welfare policies on rural-urban migration, the value of architectural and design counseling in slum areas, credit sources for both rural and urban development, strengthening state and local management capability, manpower for the public sector, and consolidation of Federally supported anti-poverty agencies at the neighborhood level.

The chronicle of urban problems to be addressed and re-addressed if a national urban growth policy is to be implemented is by now a familiar litany—poverty as a way of life for millions of Americans, decaying urban centers, inadequate housing, continued pollution of our environment, growing trafic congestion, intensifying economic and social polarization within our metropolitan areas, wider cleavages between metropolitan areas and poor rural counties, gaps in program and tax efforts between energetic and stand pat states—each continues to grow apace with urban growth itself.

Before beginning to identify the specific legislative and related executive branch developments it may be desirable to comment on what appears to be a pervasive attitude concerning the current national posture and performance regarding its urban growth reaponsibilities. There is a general dissatisfaction with current Federal practices expressed within the Congress, in the executive branch and among the major national organizations representing urban communities. While there is no consensus on how to move toward implementation of a national urban growth policy there is an expectation of major changes in Federal policy and practices to be made this year and next.

A recent *National Journal* article captured the situation within the Congress:

"Republican and Democratic policy makers are shedding old beliefs in a scramble to rebuild completely a $2-billion-a-year package of programs to help the cities. . . . Sweeping legislative and administrative reforms, all being developed by relatively independent clusters of politicians and technicians, are in the works. . . . The new urban affairs catchword in Washington is 'city strategy.' It describes a new approach to the use of Federal dollars. The goal is to promote comprehensive urban planning in city halls, not in Washington. Working drafts of various legislative proposals make it clear who will win and who will lose with a new approach. The big winners will be the Nation's hard-pressed cities, which will get more money, and their mayors, who will get more power. The big losers will be the semi-autonomous agencies which have traditionally controlled urban aid programs—the public housing authorities, urban renewal agencies, water and sewer districts, transit authorities and others. . . . [Congressman] Ashley said, 'We helped lay the cornerstone for this approach with our "Urban Growth and New Community Development Act of 1970 (84 Stat. 1770)," when we said in our "statement of findings and purposes" that our present processes of urban community development programs were wasteful and destructive and that our existing urban development programs were contributing to that waste and destruction. We never said that till last year.' "[2]

The *Third Annual Report on National Housing Goals* prepared by the Department of Housing and Urban Development and transmitted to the Congress by the President, while primarily directed to meeting the need for providing adequate shelter was relevant to the range of urban development problems. From the perspective of the executive branch several reasons were offered for increasing concern:

"These can be grouped into three broad but inter-related categories: cost, equity, and environment. . . . It is vitally important that all concerned with meeting the Nation's housing needs begin focusing on these issues so that necessary reforms in basic policy can be identified, developed, and implemented as quickly as possible."[3]

In a move to strengthen the structure within which key urban policy discussions can be made, a Committee on National Growth Policy was appointed by the President, within the Domestic Council, chaired by the Secretary of HUD, other members include the Secretaries of Agriculture, Commerce, Labor and Transportation, the Chairman of the Council of Economic Advisors and the Director of the Office of Economic Opportunity.

A resolution on national urban growth policy adopted at the 1971 annual meeting of the U.S. Conference of Mayors reflected impatience with the lack of follow through called for by the Executive on the statement of Congressional intent. In a mood of frustrated forbearance the Conference expressed its resistance to future piecemeal legislation.

"Whereas, the United States Conference of Mayors has strongly supported the development of a National Growth; and

"Whereas, the Domestic Affairs Council has, unfortunately, failed to demonstrate a sense of urgency in complying with Congress' mandate; and

"Whereas, such legislation tends to perpetuate the patchwork character already widespread among Federal programs and the irrelevant criteria based upon distinctions of size and proximity to metropolitan areas.

"Now, therefore, be it resolved that the United States Conference of Mayors calls upon the President and the Domestic Council to begin immediately to develop recommendations for a National Growth Policy; and

"Be it further resolved that the Conference urges Congress to consider all legislative proposals involving national growth questions in light of the objectives of Title VII of the Housing and Urban Development Act of 1970; and that Congress refrain from enacting piecemeal growth legislation until the Administration has submitted its report."[4]

Urban growth legislation

A number of significant legislative actions and proposals affecting key elements of the national urban growth policy were passed by at least one house during the nine-month period. Those cited here are described in more detail below.

(1) The Emergency School Aid and Quality Education Act of 1971 (S. 1557), which has been passed by the Senate, provides metropolitan areawide mechanisms and incentives to meet the special needs of schools changing from a dual to a unitary school system.

(2) P.L. 92–65 provides a $4 billion extension of the existing Public Works and Economic Development and Appalachian Regional Development Acts, extending coverage to new redevelopment and special impact areas.

(3) Early in the session, a new Subcommittee on Rural Development was created within the Senate Committee on Agriculture and Forestry. The primary focus of this subcommittee is the utilization of the Nation's countryside and smaller towns.

(4) The Farm Credit Act (S. 1483), which has been passed by the Senate, provides for an updating and moderate expansion of the cooperative farm credit system which provides approximately 20 percent of the credit used by farmers.

(5) P.L. 92–12 establishes a Rural Telephone Bank for the purpose of supplying additional capital for the rural telephone program.

(6) The Comprehensive Health Manpower Training Act of 1971 (H.R. 8629, S. 934), which has been sent to conference, includes incentives directed toward improving the availability of health personnel in rural and ghetto areas.

(7) Similar versions of the Economic Opportunity Amendments of 1971 (S. 2007) to extend the Economic Opportunity Act have been passed by the Senate and House.

(8) The Social Security Amendments of 1971 (H.R. 1), providing more uniform welfare benefits and eligibility, has been passed by the House.

(9) The House and Senate have passed bills to establish a congressional joint committee on the environment (S.J. Res. 17, H.J. Res. 3).

(10) S.J. Res. 52 to increase the authorization for comprehensive planning grants under the Housing Act of 1954 and to increase the authorization for open space land grants under the Housing Act of 1961 has been passed by the Senate.

(11) The Emergency Employment Act of 1971 (P.L. 92–54) will assist state and local governments meet public sector manpower shortages by providing staff needed for public services during times of high unemployment.

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PART I—EFFECTIVE USE OF RESOURCES IN URBAN REGIONS

Cities have pretty much given way to metropolitan areas as the centers of American life. The first of the components of a national urban growth policy calls for sounder, orderly and more balanced patterns of development within our metropolitan regions and those smaller urban places with the potential for accelerated growth to metropolitan scale and size. Local governments share many federally supported facilities that cut across local (and frequently, state) boundaries such as highway and water and sewer systems, and many other facilities that serve large segments of the metropolitan population, such as airports and hospital centers. These forms of interaction, together with the metropolitan character of housing and employment markets, create a common area of interest. The policies of any one community typically have considerable impact in other parts of the metropolitan area. Increasing attention is being paid to the interrelationship of housing, jobs and transportation within an urban area, and across jurisdictional boundaries. In at least four major urban legislative areas: special revenue sharing for transportation and for manpower, improved delivery of health services, and in amendments to the Elementary and Secondary Education Act there was significant Federal action supporting creation of comprehensive regional or areawide mechanisms.

Special revenue sharing—Planning considerations[5]

There is no statutory linkage of the planning features in any of the six special revenue sharing proposals to a national urban growth policy or to consistent regional growth policies. Nor do they overcome the present fragmentation of planning assistance programs at the Federal level or make any reference to the role of the Domestic Affairs Council as it relates to the coordination of Federal programs and the development of a national urban growth policy. On the positive side, two of the legislative plans, transportation and manpower provide specific financial incentives to areawide approaches. The following chart summarizes the implications for the planning process and reveals the lack of a uniform approach contained in the Administration's proposals with regard to areawide and local planning and development.

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COMPARATIVE PLANNING FEATURES OF THE ADMINISTRATION'S SPECIAL REVENUE SHARING PROPOSALS[1]

	Areawide and local planning							
Special revenue bills	Dollar incentive provided	Encouraged, no dollar incentive	New effort required	Dollar incentive provided	Encouraged, No. R incentive	No mention	Specific provision for new preplanning dollar assistance to ease transition	Citizen participation for involvement requirement or encouragement
Urban community development (S. 1618—Apr. 22, 1971)	No	Yes	No	No	Yes	N/A	No	No.
Rural community development (S. 1612—Apr. 21, 1971)	No	Yes	No	No	No	N/M	No	No.
Transportation [2]	Yes	N/A	Yes	No	Yes	N/A	No	No
Manpower training (H.R. 6181—Mar. 16, 1971) (S. 1243—Mar. 16, 1971)	Yes	N/A	Yes	No	Yes	N/A	No	No
Law enforcement (S. 1067—Feb. 17, 1971)	No	Yes	No	No	Yes	N/A	No	No.
Education (S. 1669—Apr. 29, 1971)	No	No	No	No	Yes	N/A	Yes	No.

[1] Ibid., pp. 8–9.

[2] Based upon review of proposed bill transmitted to the Speaker of the House of Representatives by the Secretary of Transportation, Apr. 16, 1971.

Transportation

Sec. 6(c) of the transportation revenue sharing proposal (S. 1693) would permit the Secretary to make funds, up to 10 percent not otherwise statutorily appropriated, available at his discretion. This discretion is, however, guided by "areawide stimulator that the Secretary shall make additional and sweetener" language which provides that the Secretary shall make additional commitments to a consortium of governments equal to 10 percent of the shared revenue received by such consortium through state apportionment. This areawide provision is designed to encourage State governments to "pick up the reins" of areawide planning and development through positive action that can result in the flow of greater dollar resources from the Federal level down through the state to local governments on an areawide basis. It is significant that the term "consortium of governments" is defined in the Bill as: ". . . any association which is (1) formed by general purpose governments located within a metropolitan area the combined population of which constitutes at least 75% of the total population of the metropolitan area, and (ii) recognized by the Secretary, with the concurrence of the Governor of the applicable State, as an appropriate entity to act for the metropolitan area for the purposes of this Act, except that if any portion of the population comprising the 75% minimum population set forth in clause (i) is located in more than one State, the concurrence of the Governor of each such State shall be necessary."

Section 6(c) specifically directs the Secretary to: ". . . give priority to assisting recipients in developing and implementing comprehensive transportation plans, establishing consortia of governments in metropolitan areas having powers to implement comprehensive transportation plans for the various jurisdictions comprising the consortia."

The transportation proposal also requires some form of new planning effort on the part of local governments. Prior to the receipt of transportation special revenue, commencing with fiscal year 1973, each recipient unit of local general purpose government expecting to receive grants is to publish and make available to the Secretary, the Governor and the appropriate planning board a "general local government development plan" which shall outline the transportation objectives and projected uses of shared revenue.

Manpower consolidation

The manpower special revenue sharing proposal (H.R. 6181, S. 1243) authorizes the Secretary of Labor to distribute shared revenues among: ". . . standard metropolitan statistical areas in which no single unit of government is eligible but where local units of general government with a combined population which constitutes at least 75% of the total SMSA population form a consortium."

Section 102(b) provides that funds distributed to manpower consortia ". . . which constitute a defined labor market area shall be an amount 10% greater than that to which such jurisdiction would be entitled under the formula provided in this subsection."

The law enforcement proposal (H.R. 5408, S. 1067) encourages areawide efforts by calling for the amendment of the 1968 parent act to include provision for: ". . . effective utilization of existing facilities and permits and encourages units of general local government to combine or provide for cooperative arrangements with respect to services, facilities, and equipment."

Health services and waste treatment programs

The President in his message to the Congress relative to building a national health strategy and subsequently by the introduction of implementing legislation (H.R. 5786, S. 1182) recommended providing medical care that would have a significant impact on the provision of such services in both urban areas and rural districts. The new proposed machinery is termed "Health Maintenance Organization" or "HMO's." In the words of the President these have two essential characteristics:

It brings together a comprehensive range of medical services in a single organization so that a patient is assured of convenient access to all of them. And it provides needed services for a fixed contract fee which is paid in advance by all subscribers.

Other barriers to the development of HMO's include archaic laws in 23 States. The Federal Government will facilitate the devel-

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opment of HMO's in all states by entering into contracts with them to provide service to Medicare recipients and other Federal beneficiaries who elect such programs."[6][7]

Incentive grants to accelerate new HMO's include a $23 million program of planning grants to aid potential sponsors and a program of loan guarantees to help sponsors raise the necessary capital facilities and initial operating costs to encourage HMO's in medically scarce areas, both inner city neighborhoods and rural counties. A direct $22 million grant and loan program is proposed to offset the deficits until enrollment is achieved which allows them to pay their own way in such scarcity areas.

Hearings have now been held on two sets of Administration proposals to accelerate the construction of waste treatment works. S. 1013 and H.R. 5962 would change the present allocation to more closely reflect the seriousness of an area's water pollution problem. The Environmental Financing Act of 1971 (S. 1015, H.R. 2151) would establish an Environmental Authority to insure that inability to borrow funds on reasonable terms does not prevent any state or local public body from carrying out a waste treatment works project.

Metropolitan school education

The Emergency School Aid and Quality Integrated Education Act of 1971 (S. 1557) which was passed by the Senate in April and had hearings in the House in July provides financial assistance to meet special needs of schools changing from a dual to a unitary school system. The Bill recognizes that area-wide cooperation is frequently necessary for effective integration efforts where urban school districts containing large numbers and proportions of minority group children are surrounded by suburban districts containing few such children.

Among the innovative approaches in the proposed Act are several specifically designed to utilize metropolitan areawide mechanisms. To reduce the educational disadvantages of minority group isolation, fifteen percent of the appropriated funds is reserved for metropolitan area interdistrict programs including: (1) grants to metropolitan area school districts for the joint development of plans to change from a dual to a unitary system; and (2) funds for suburban school districts with low concentration of minority group students to establish, through cooperation with urban school districts, integrated schools with student bodies of which a substantial proportion are children from educationally advantaged backgrounds and which contain a proportion of minority group students equal to one-half the proportion of minority group students in the Standard Metropolitan Statistical Area.

The Bill also authorizes the Commissioner of Education to pay all or part of the cost of planning and constructing at least two integrated education parks. The Senate Committee reported that testimony received indicated that the education park is among the most encouraging strategies for the long-term improvement of urban education. An education park consists of a school, or cluster of schools located on a common site, within a Standard Metropolitan Statistical Area, of sufficient size to achieve maximum economy of scale consistent with sound educational practice, providing the full range of pre-school elementary and secondary education. The Committee concluded, however, that without Federal support for construction costs, school districts are unable to undertake this promising concept.[9]

PART II—URBAN-RENEWAL BALANCE AND ECONOMIC GROWTH

There is increasing public debate over projected patterns of urban development. Current trends are marked by disorderly urban sprawl in our larger metropolitan regions and a gradual depopulation in the nonmetropolitan parts of the country. Is it possible and is it desirable to achieve a more balanced urban growth which provides realistic choices for people, avoids deterioration of the urban environment, and makes use of the resources of smaller cities and growth centers? Is it desirable to decelerate current migration patterns to achieve greater urban-rural balance? The 1970 Agriculture Act declared that highest priority be given in all programs of the Federal Government to the revitalization of rural areas as an integral component of a national policy of balanced growth. The long-term national debate on this fundamental component of an urban growth policy is now underway.

While the overall percentages of regional population shift were small, significant flows of population impacting on central cities, metropolitan fringes, and smaller urban places did mark the decade. Some new patterns emerged from early Census Bureau reports on the 1970 census. The South registered a gain through in-migration of about 400 thousand new residents during 1960–70—the first such increase in many decades. The increase resulted from a net gain of about 1.8 million whites through in-migration balanced against a net loss of about 1.4 million blacks. During 1960–70, blacks continued to leave the South in about the same numbers (but at a somewhat reduced rate) as in the two preceding decades, in each of which the loss of blacks was about one and one-half million. The 1960–70 estimates show that large out-migrations of white from New York and five east north central states (Ohio, Indiana, Illinois, Michigan, and Wisconsin), were countered somewhat by large in-migration of blacks. New York, for example, showed a net loss of more than a half million whites through out-migration while gaining nearly 400,000 blacks via in-migration.[9]

Although the possibilities are virtually infinite, there are essentially two basic public options dealing with methods for meeting the needs of urban growth. The first is concentrating attention on improved quality of suburban growth, new town development and redevelopment within the metropolitan region to absorb the new growth; an approach that will be dealt with below under the heading "renewing old communities and creating new communities." Here we will identify the large range of activities under way to have the Nation move in the direction of supporting the development of smaller urban centers rather than existing large metropolitan areas.

Depressed areas assistance

On June 29 the President vetoed S. 575, Economic and Regional Development Act, Public Works Acceleration Act, Public Works and Economic Development Act, and Appalachian Regional Development Act Extensions. The President voiced support for the extension of the present economic development programs and most importantly that there be ". . . no gap in service to the people in Appalachia and in the economically depressed areas served by EDA." He stated the reason for his opposition for an accelerated public works program: excessively long lead times, little effect on employment where most needed, over emphasis on the construction industry and inadequately planned projects.[10]

Congress responded on July 30 by enacting a new $4 billion extension of the existing Public Works and Economic Development and Appalachian Regional Development Acts which expand these provisions by increasing the authorization of direct grants for public work projects, it expands the definition of the redevelopment areas and contains a new category of special impact regions to include areas threatened with an abrupt rise of unemployment due to curtailment of a major employment source, regions with concentrations of low income persons, rural areas undergoing continued out migration and places where employment suffers a continuing decline. The Appalachian Regional Development Act was strengthened by adding a 4 year Appalachian airport safety program, authorization for mine drainage pollution projects, additional assistance in making low and moderate income housing available, and areawide demonstration projects for vocational and technical education. The bill was enacted (P.L. 95–65) on August 5 with the President's signature.

Rural development special revenue sharing

The President on March 10 sent a message to the Congress advocating a major consolidation of grant programs affecting non-urban areas to be administered by the proposed Department of Community Development. In the message on revenue sharing for rural community development he explains the stake that urban residents have in rural development.

"The very size and density of many of our largest cities has produced new problems; whereas in the most rural areas it is hard to achieve economies of scale in public activities, the most heavily urban areas have grown far past the size range in which a community can function most economically. . . .

"For the sake of balanced growth, therefore, but even more for the sake of the farmer and all his neighbors in rural America—first-class citizens who deserve to live in first class communities—I am proposing that the Federal Government re-think America's rural development needs and rededicate itself to providing the resources and the creative leadership those needs demand."[11]

The President's proposal calls for replacement of eleven aid programs presently in force with a new $1.1 billion revenue sharing package which, in addition to the funding presently authorized for programs affected, would include $179 million in new funds. To be included in the Rural Development Special Revenue Sharing (S. 1612, H.R. 7993) would be monies authorized for present (1) Economic Development Administration, currently funded at a $227 million level and designed to provide aid to economically depressed areas; (2) Appalachian Regional Commission, a regional aid program involving $278 million of Federal assistance; (3) five regional commissions, embracing portions of 22 States, spending $38 million per year in development programs; (as seen above, items (1), (2), and (3) have already been separately extended by Congress this year); (4) Rural Water and Waste Disposal Facilities Grants, a $42 million program of water and sewer grants to smaller communities; (5) Cooperative Agricultural Extension Service, which expends an annual $149 million for the support of some 15,000 county agents and farm specialists; and (6) Rural Environmental Assistance Program, a $140 million annual program which provides cost sharing grants to farmers for the improvement of their land.

Although states would not have to show maintenance of effort, they would have to prepare a development plan showing the proposed use of the funds. The plan would be worked out between the Governor and sub-state planning districts. Federal approval of the plans would not be required. Early opposition was voiced by the National Farmers Union which feared that the task of rural development could not safely be turned back to the states.

The Subcommittee on Rural Development of the Senate Committee on Agriculture and Forestry concluded hearings on S. 1612 on September 20. The hearing record contains a thorough examination of the issues, interest group views and options available for new directions in achieving sounder economic strength for non-metropolitan areas.[12]

Rural credit and development banks

There is a great deal of interest in the 92d Congress to date for legislation to provide publically guaranteed sources of capital to help finance the economic development of rural communities.

The Farm Credit Act (S. 1483) approved by the Senate on July 29 was justified in part on the need to reduce the pressures of population and urbanization. Fundamental to an urban growth policy is improving the quality of life in rural areas. To do so takes investment of public as well as private resources. The underlying purposes of the proposed Farm Credit Act are to modernize and remove some archaic restrictions in the authority of the cooperative Farm Credit System in order to assure an adequate flow of funds into rural areas and thereby meet the credit needs of farmers, ranchers, and cooperatives and other rural residents. In addition to liberalizing existing farm credit legislation, the Bill would grant authority to land banks to make loans on rural non-farm homes, in addition to farm homes. Loans may also be made to farm-related businesses.

At the end of September, there were three basic development bank bills before the Banking and Currency Committees of the House and Senate and one before the House and Senate Agriculture Committees. S. 742 and the identical House bill (H.R. 9630) provide for the creation of a rural community development bank to assist rural community development by making financial and technical assistance available for the establishment and expansion of commercial, industrial and related private and public facilities. The Bills would create a Rural Community Development Bank as an instrument of the United States Government.

The Bills spell out Congressional findings and a statement of purpose much like that of many narrower rural development bills. There is a need to cut back migration from depressed rural areas to cities, to achieve a better geographical distribution of our population, and to establish and expand commercial and industrial enterprises and public and related private services and facilities—including recreational and cultural institutions. Any community in a county where at least 15 percent of the families have an annual income below the OEO poverty level is eligible. Specifically excluded from the definition are areas within standard metropolitan statistical areas, metropolitan planning or development districts and areas in otherwise rural areas where adequate development resources are already available.

S. 2223 and the corresponding House bills, H.R. 9650, H.R. 9671, and H.R. 9879 would amend the Consolidated Farmers Home Administration Act of 1961 by establishing for non-farm rural development an across-the-board investment and credit system similar in purpose and operation to the combined operations of the Farm Credit Administration and the Farmers Home Administration in the farm credit field. Hearings are being held on S. 2223, and Committee action is expected before the end of this Session.

Under these Bills, any financial agency of a multi-jurisdictional planning and development district of a State may be designated, upon proper approval, as a District Rural Development Credit Agency and be chartered as an instrumentality of the United States. Then Regional Rural Development Credit Banks to be established by the bills would have the corporate power to issue various classes of voting and non-voting stock and certain evidences of indebtedness of the Banks. To be eligible for financial assistance, the application must be endorsed by the multi-jurisdictional governmental planning and development district as consistent with its plans.

S. 580 and its companion bill, H.R. 3550, introduced by the Chairmen of the House and Senate Banking Committees recognize the inadequacy of tax and other financial sources available to State and local governments to support the needs of a growing national population for employment opportunities, housing, streets, water and sewer facilities, schools, hospitals, airports, recreational facilities and pollution abatement facilities. A National Development Bank would make long-term loans at reasonable interest rates to (1) State and local governments for public works facilities; (2) individuals and corporations to establish new business and commercial institutions; and (3) public agencies and private non-profit and limited dividend corporations for the construction of low- and moderate-income housing. It would also make or guarantee loans to intermediaries who would provide construction financing for housing to be financed with mortgages insured or guaranteed by Federal agencies. The assistance will go to "depressed urban and rural areas" defined for purposes of the Bill as areas with a 6 percent rate of unemployment for the preceeding calendar year, designated without regard to political boundaries by the Secretaries of Labor and Commerce and the Director of the Office of Economic Opportunity. Areas with a high rate of unemployment or a pending drop in employment also fall under the definition.

Rural telephones

On May 7, Congress enacted the Rural Telephone Bank Act (P.L. 92–12), an Administration supported proposal. The Act establishes a Rural Telephone Bank for the purpose of supplying additional capital for the rural telephone program. The financing is an adaptation of the Federal land bank system and thus serves to free a lending program from reliance on Treasury financing over a period of years.

The Senate Agriculture and Forestry Committee in reporting out the Bill stressed the importance of maintaining basic public services in rural places. Other sources of financing must be sought to supplement the present loan program if the rural telephone systems are to meet their service responsibilities. The Act should serve to supply the supplemental financing needed for continued growth and improvement of the Nation's rural telephone system. Subsequently on July 22, Congress appropriated funds to finance the new telephone authorization and called on the Administrator of the Rural Electrification Administration "not to make loans to telephone companies or associations when there is any indication that such company or association is likely to be purchased by larger corporate interests."[13]

Rural and ghetto health manpower

The Comprehensive Health Manpower Training Act of 1971 (H.R. 8629, S. 934), passed by both houses in July and considered in Conference on September 22 and 23 but not yet reported out, provides increased support for meeting the manpower needs in the health professions and contains a number of provisions directed toward improving the geographic distribution of health personnel.

The House Committee on Interstate and Foreign Commerce cited relevant statistics on the current uneven distribution on health personnel. There are striking differences among the States. For example, New York State has a ratio of 219 active (non-Federal) physicians per 100,000 population, while South Dakota has only 77. Even those States with a relatively good supply of physicians often have serious shortages in inner cities and in rural areas. There are 134 counties in the United States with no practicing physician at all.[14]

The Act authorizes the funding of projects designed to identify individuals whose background or interests make it reasonable to assume that they will engage in the practice of a health profession in rural or other areas having a severe shortage of such personnel and to encourage and assist increased numbers of individuals with this motivation to undertake and successfully complete training in a health profession. Support may be given to students to expose them to the special problems of, and practice in, rural communities, inner cities, and other areas with severe shortages. To sustain interest and enhance preparation for service in such areas, there is also new special project authority for traineeships for full-time students to receive part of their education under preceptors in rural communities and other areas having a severe shortage of physicians.[15]

Under another provision, for Health Manpower Education Initiative Awards, it will be possible to provide specialty residency training programs in local communities away from the medical schools to expose interns and residents to a cross section of care and health problems in the community. It is also designed to attract health care personnel to practice in areas where the need for them is great. The Bill requires that each Health Manpower Education Initiative grant or contract must be coordinated with the Regional Medical Program in the area in which the project is carried out. The Health Manpower Initiative authority in the Act also includes a separate authority, substantially similar to that proposed for the health professions special projects, to encourage and assist increased numbers of individuals from minority or low-income groups to undertake training in, and successfully complete, professional courses of study in schools training the health professions.[16] Finally, the Act provides greater incentives to physicians, dentists, and other health professionals to practice in shortage areas or for migratory agricultural workers. Any such student who enters into an agreement with the Secretary to practice his profession for a period of at least three years in a shortage area may have the bulk of his education loan waived.[17]

New rural development subcommittee

Of special significance was the creation this year of an already legislatively active new Subcommittee on Rural Development within the Senate Committee on Agriculture and Forestry. The Committee Chairman, in announcing its organization, expressed the hope that the major thrust of the Committee would be to move toward revitalization of the Nation's countryside and smaller towns, "in an earnest effort to achieve more of a balance between rural and urban America."[18]

Executive branch reports on rural development

The Agriculture Act of 1970 (P.L. 91–524) calls for a sound balance between rural and urban America. Priority must be given to the revitalization and development of rural areas.

The law requires the President, the Secretary of Housing and Urban Development and the Secretary of Agriculture to submit annual reports to Congress on their efforts to provide rural development assistance.

On March 1 the President transmitted the first such annual report on the availability of government services to rural areas. The message and report are essentially a description of the Administration's domestic legislative program, with indications of the benefits expected to accrue from them for rural America. The programs cited include; general revenue sharing, the special revenue sharing program described above, welfare reform and the comprehensive health program described below, which gives special attention to the availability of medical services in remote rural areas.

As required under the 1970 Agriculture Act, the Departments of Housing and Urban Development and Agriculture identified the as-

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sistance furnished to nonmetropolitan planning districts. As of June 30, 1971, 38 States had officially delineated substate planning and development districts for all or almost all geographic areas. In fiscal year 1971, $3.4 million in HUD comprehensive planning assistance grants were made to 155 nonmetropolitan planning districts, including Economic Development Districts, in 34 States. This compares with $2.8 million for 31 districts in FY 1970 and $1.4 for 61 districts in FY 1969. About three times this amount was received by these districts from other Federal programs such as planning for air and surface transportation needs, community facilities, health facilities and services, and law enforcement.[19]

In still another accounting required under the Agriculture Act, the President reported on September 14 to the Congress on the beginnings of an organized effort to place more Federal facilities and activities in rural areas. He stated that:

"During the period covered by this report, more than 60% of all Federal workers placed in newly located activities were employed in areas of low population density . . . All of the major departments and agencies of the executive branch are now giving priority consideration to locating new facilities in areas of low population density."[20]

MANPOWER AND ITS DISTRIBUTION

Several other government reports made available during this period bear on the problems of urban-rural balance and the potential governmental role in achieving a more optimal pattern of urban growth and distribution.

Under the heading, *Rural Manpower Dilemmas*, the Second Manpower Report prepared by the Department of Labor and transmitted by the President to the Congress on April 7 contained a number of policy recommendations to meet rural manpower needs. The proposals included the following:

Aiding relocation of workers. Pressure for migration from rural areas will undoubtedly continue and, with it, the need to minimize the economic and social costs of this migration to the workers involved . . . relocation assistance projects have shown that mobility assistance can be the key to a successful adjustment of rural workers to urban jobs, when this assistance includes job finding, training, and supportive services as well as help in moving. . . .

Extending income maintenance and labor standards protections to farmworkers. The exclusion of farmworkers from most of the protective social and labor legislation has contributed to their traditionally low wages and poor working conditions . . . Still urgently needed is the extension of the Federal-State unemployment insurance system to workers on large farms; also needed is legislation to guarantee the right of farmworkers to bargain collectively regarding the terms and conditions of their employment. . . .

Developing more jobs in rural areas and nearby cities . . . Continued efforts are called for to upgrade public facilities, to stimulate private investment, and to thus encourage economic and employment development in rural areas or adjacent cities with potential for economic growth. . . .

Improving the functioning of the labor market. Rural people would be greatly aided in finding employment by the extension to rural areas of the full range of services offered in urban employment service offices.[21]

Advocates of rural development as an alternative to megalopolis could take some comfort from a June, 1971 study initiated by the Department of Housing and Urban Development and other interested Federal agencies to assess the possibilities for better application of telecommunications technology to improve city living and to stimulate favorable patterns of regional development. The project, undertaken by the Committee on Telecommunications of the National Academy of Engineering, concluded that:

"We maintain that many of cities' problems are caused by high density living conditions in an era of increasingly rapid change. Communications technology, imaginatively applied, could offset the trend in which the vast majority of Americans today, and more in the future, live on a small percentage of the available land."

The committee suggested that pilot projects be undertaken to:

Demonstrate a model Community Information Center, served with modern video, facsimile, and telephone systems, to provide improved city services to the citizen.

Explore the effectiveness of various forms of two-way instructional television.

Develop and test the operation of rugged and reliable long path sensing devices for remote air pollution monitoring.

Design and test an automated information system for transit users; develop and demonstrate an automated interchange station for automobile parking and transfer to and from mass transit.

Develop a model municipal command center for response to city emergencies; develop and test a system to locate the origin of emergency calls for city services; implement 24-hour television surveillance system to help protect citizens from crime on city streets and in public institutions.

"The panel suggested additionally that there be an exploratory program to examine how broadband communications technology could be applied to business, government, education, health care, and entertainment to stimulate the development of existing small communities, or new communities, in rural areas. As a result, people would have a viable option of settling in either urban or rural America."[22]

PART III—PROBLEMS OF URBAN POVERTY

Perhaps the most fundamental domestic problem is the poverty and social isolation of the poor and minority groups in our central cities and low-income suburban and rural enclaves. Urban policies, which are now receiving increased attention, involve encouraging the dispersal of the central city poor into suburbs where better jobs, schools, and housing are more likely to be available. Among other actions, this could mean a strategy of putting governmental resources, such as subsidized low and moderate income housing, where the solutions are rather than where the problems are. A range of Federal approaches were explored to improve the conditions of life in ghetto areas through amendments to the Economic Opportunity Act, to provide greater areawide mobility for low-income and slum populations through administrative action, to reduce the poverty universe and incentives to migrate into ghettos through welfare reform, and in other ways overcome a de facto demographic and geographic state of siege.

War on poverty

The Economic Opportunity Amendments of 1971 (S. 2007) to extend the Economic Opportunity Act was reported out by the Senate Committee on Labor and Public Welfare on July 30. It included two proposed amendments especially relevant to the poverty dimensions of urban growth problems. Especially innovative is the proposal to finance community design and planning assistance to low income persons. The Committee found that persons living in urban and rural poverty areas need improved access to professional architectural, planning, engineering and related design services in order to participate more effectively in the planning and development of the physical environment of their communities. The program proposed would make design and planning services relating to housing, neighborhood facilities, transportation and other aspects of community planning and development available to community organizations not otherwise able to afford such assistance. These services would be available through community-based design and planning organizations staffed primarily by professional persons and community residents on a voluntary basis. Priority is to be afforded to organizations which will serve urban or rural poverty areas with substandard housing, substandard public service facilities, and generally blighted conditions.[23]

The second relevant amendment is a new title which consolidates special impact and rural loan programs into a new community economic development program. Its purpose is to focus the existing program and channel other Federal aids through new urban and rural community-based corporations. Funds under the Economic Opportunity Act would be provided to supply "equity capital" to the community development corporations and make the corporations eligible for a range of programs administered by the Small Business Administration, the Department of Commerce, and the Department of Housing and Urban Development. A second part of the title provides grants as well as loans to low-income farm families and rural cooperatives. A final part provides technical assistance to train minority group members in business and management skills utilizing the economic development corporations as vehicles for such training, extends the existing rural loan revolving fund which the Administration proposed to terminate, and provides for the eventual creation of a matching urban development loan fund.[24]

The House Education and Labor Committee on September 8 reported a somewhat different OEO extension (H.R. 10351). The House version, passed on September 30, authorizes a new Environmental Action Program through which low income people will be paid for working on projects combatting pollution (e.g. clean-up and sanitation activities) and improving the environment (e.g. planting trees, constructing parks). Also created is a new Rural Housing Development and Rehabilitation self-help program. In doing so the Committee commented that, "There can be no serious argument that a disproportionate amount of [OEO] resources has been applied toward urban problem solving. . . . It is hoped that this [rural housing] amendment, adopted unanimously by the Committee, will start now to correct that imbalance."[25]

The need for technical assistance and other methods for improving the management of projects to develop business opportunities for the poor was highlighted by a July 30 Comptroller General's report to Congress.[26] The General Accounting Office found the pilot OEO economic development projects had, at least partially, achieved their objective. However, lack of managerial competence was one of the most critical problems in establishing minority businesses. Finally, neither the resources of private enterprise or other Federal agencies were sufficiently brought to bear to the extent possible.

The 1972 budgetary proposals for OEO reflected decisions to make the agency essentially ons of research, development and evaluation. The community action program is proposed at a lower level of appropriations and is marked for transfer to the Department of Community Development where presumably it would be consolidated with HUD's Model Cities program. Other major programs such as Head Start and Follow Through are contained in the Department of Health, Education and Welfare budget.

Family assistance plan

The Social Security Amendments of 1971 (H.R. 1), as reported out by Ways and Means and passed by the House contains a number of reforms relevant to urban growth and the distribution of poverty within and among urban and rural regions. These include the creation of uniform Federal standards of eligibility and minimum payment; aid to working as well as nonworking poor; financial incentives to take work, and assistance in doing so in the form of Federally supported training programs and day care centers. Moreover, a sharp rise in welfare benefits in the rural South should slow the migration of the poor in the inner city neighborhoods of the North.

The Bill gives promise of stabilizing state welfare expenditures at current levels. Fundamental to the problem of welfare reform, however, is the uneven coverage of the programs at the regional, State and local level which have created extremes of treatment and are difficult to incorporate into a uniform national system. The great differenc in payment levels are well known. It is generally acknowledged that the original purpose of the Social Security Act, to allow the States to adapt their own programs to their particular economic and social conditions, had certain adverse effects nationwide in terms of the benefits provided.

The Administration budget for 1972 funding of the existing program proposed a ceiling of 110 percent of the 1971 Federal payments for administration, training and services. The National Association of Counties consistent with other interested groups, had recommended removal of this ceiling on the grounds that costs will continue to rise and that, as a practical matter most of these costs are mandated on county governments by Federal and state statutes and administrative requirements. The effect would be that the additional costs would be passed on to already overburdened county governments.[27] The Congress in passing the social security welfare appropriation eliminated the Federal assistance ceiling thus committing the Federal Government to 75 percent of the costs incurred by State and local government for these services.

Access to housing

Open housing legislation serves as positive government intervention to provide greater housing mobility for metropolitan residents and dispersion of ghetto populations. The President in his news conference of February 17, described his position:

"First, this administration will enforce the law of the land which provides for open housing. Open cities, open suburbs, open neighborhoods are now a right for every American.

"Second, however, this administration will not go beyond the law or in violation of the law by going beyond it by using Federal power, Federal coercion, or Federal money to force economic integration of neighborhoods."[28]

This was followed up on June 11 with a detailed thirteen page, Presidential statement on the policies of the Administration relative to equal housing opportunity. The text, which elaborated on Executive Branch plans to carry out the requirements of Federal laws on this subject, began by defining equal housing opportunity.

"By 'equal housing opportunity,' I mean the achievement of a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, or national origin. . . .

"We will not seek to impose economic integration upon an existing local jurisdiction; at the same time, we will not countenance any use of economic measures as a subterfuge for racial discrimination. . . .

"It does not mean that housing officials in Federal agencies should dictate local land use policies. It does mean that in choosing among the various applications for Federal aid, consideration should be given to their impact on patterns of racial concentration.

"This administration will not attempt to impose federally assisted housing upon any community. . . .

"We will carry out our programs in a way that will be as helpful as possible to communities which are receptive to the expansion of housing opportunities for all of our people."[29]

The Department of Housing and Urban Development on June 14 issued guidelines that would limit the proposed community development special revenue sharing grants to communities that agreed to plan for low and moderate income housing. The Secretary also indicated that under existing HUD programs, communities that plan to place federally aided housing outside of ghettos or otherwise segregated areas would in the future be given priority consideration on their requests for funds.[30] Similarly, proposed guidelines requiring "affirmative action" by developers of housing carrying Federal mortgage guarantees were placed in the Federal Register for a 30 day period beginning October 2 to permit public comment before taking effect. A portion of the guideline provides that applications will be judged to determine the extent to which they provide minority families with opportunities for housing in a wide range of nonsegregated locations.

The actions taken appeared to fall short of the position taken by the U.S. Conference of Mayors at it's annual meeting in June. It called on the President to: ". . . direct Federal agencies administering programs such as, but not limited to, highway appropriations, public works projects, and FHA mortgage loan guarantees, as well as community development projects, to advise all communities that the future availability of Federal funds for these projects will depend upon the applicant-community's commitment to provide low and moderate income housing, and that to refuse to cooperate in this regard will serve to terminate all such Federal assistance."[31]

Public hearings, to begin in late October, were announced by the Civil Rights Subcommittee of the House Judiciary Committee on the Federal Government's role in the achievement of equal opportunity in housing.

Racial impact of low income homeownership program

The U.S. Commission on Civil Rights in June issued a report to the President and Congress on their investigation of the social impact of the section 235 low and middle income program. The Commission found that that program had been of substantial help to minority families. Nevertheless, because of high construction costs, only 6 percent of all such housing was provided in the Northeastern region of the country. The Commission also concluded that the traditional pattern of separate and unequal housing markets for white and nonwhite families was being repeated in the operation of "235" homeowner subsidy and related program.[32] FHA was criticised as playing a passive role, permitting abuses and the perpetuation of segregated housing.

A number of recommendations were made. The Department was urged to make advice and counseling services available to low income families and community groups on their rights and responsibilities under these programs. The Department was urged to make use of the racial and ethnic data it now collects on participation in its various housing programs to determine the effect the programs are having on racial and ethnic concentrations. Congress was called on to enact legislation authorizing the overriding of local zoning laws and other land use controls to permit the provision of low-cost housing in jurisdictions that do not have a proportionate share of such housing.[33]

Finally, in reporting out the Labor appropriation bill on July 29, the Senate Committee on Appropriations urged that Federal agencies give particular consideration in the awarding of Federal contracts to the employment needs of the area represented by each bidder. The Committee endorsed all efforts by the Secretary of Labor when other factors are apparently the same, to have the contract awarded to bidders located in the highest areas of unemployment.[34]

PART IV—GOOD HOMES FOR ALL AMERICANS

Only rarely does the Federal Government in its domestic programs explicitly set out quantifiable goals. The Nation's first such specifically measurable housing goal was contained in the Housing and Urban Development Act of 1968 in which Congress determined that by 1978, 26 million housing units should be built, 6 million of these for low and moderate income families. Housing production turned around dramatically in 1970 placing the Nation almost in line with the anticipated pace needed to meet the 10-year goal. Total production, including mobile homes, was less than the target, although the starts component was greater. Despite this, in 1971, there was explicit recognition in Congress and the executive branch of the need for a major redirection of what housing assistance programs should accomplish.

The existing housing programs were reported to be in difficulty on several grounds. There was concern over what has been described as run away housing subsidy costs. Existing programs may be contributing to certain problems of social and economic disparity since there is continuing resistance to low and moderate housing projects in suburban areas. On the other hand, cost limitations restrict the utility of current housing subsidy programs in large central cities. Finally, use of the newer programs to support the purchase of rehabilitated homes and other existing homes needing repairs came under severe critiqism for permitting sub-standard construction practices and for apparent fraudulent behavior by some private builders and Federal employees. Support is therefore growing for a drastic rewrite of Federal housing policy.

The Department of Housing and Urban Development took pride in figures showing a 700-percent increase in subsidised housing production during the Nixon years. But the President's Third Annual Report on National Housing Goals was critical of the housing industry and existing programs. The Report, submitted by the President to the Congress on June 29, confirmed the search for new directions. It was current and relevant to the housing issues facing the nation, as opposed to the Fifth Annual Report of the Department of Housing and Urban Development for 1969, which although consisting of essentially a description of the organization units of HUD with some grant statistics for calendar year 1969, was issued 18 months after the period for which it reported.[35]

The Housing Goals report noted that the housing construction outlook both for low and moderate income, as well as conventional housing, was the brightest in years. Nevertheless, in an open invitation to the Congress, the Report stated that:

"It is also necessary, however, to begin undertaking a long, deep, and searching look at the basic concept of our national housing programs and policies. Present estimates suggest that by 1978 direct commitments for budgetary outlays for subsidised housing will total around $7 billion per year, and loss of tax revenues through various credits and incentives add further to this cost. Serious questions have arisen with respect to the effects of these programs on housing costs, distribution of income, and social and physi-

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cal environment. Such questions will be a matter of intensive consideration by the administration over the coming year. It is hoped that others will join open-mindedly in a necessary re-thinking."[38]

Legislation initiated this year both by the Administration and Congress contain both major reforms in housing as well as new authorities for revenue sharing, urban renewal, new communities, etc. These latter subjects will be discussed in the next section. Here will be described proposals for private housing aid consolidation, assistance to reduce the problem of abandonment, and support for new State and metropolitan housing assistance mechanisms, as well as accelerated application of housing technology advances. A number of significant reports and appraisals of housing policy pointing to new directions in the administration of housing assistance and moving toward open housing will also be discussed.

Housing subsidy consolidation and reform

This year's Housing Goals report reminded the Congress that:

"Legislative proposals for 1971 will again seek a consolidation and simplification of the present multitude of confusing and overlapping housing programs operated by the Department of Housing and Urban Development. The Congress has now had a full year to study these proposals. There can be no excuse for further delay in bringing order to the present statutory chaos."[39]

The bill proposed by the President is the Housing Consolidation and Simplification Act of 1971 (H.R. 9381 and S. 2049). It would replace some fifty or so statutorily authorized programs of private ownership housing financed with FHA-insured mortgages with four basic programs: (1) a nonsubsidized homeownership program; (2) a subsidized homeownership program; (3) a non-subsidized rental housing program; and (4) a subsidized rental housing program. In the process, all private subsidized housing would receive an interest-rate subsidy, as under the present section 235 homeownership and 236 rental programs. All income limits for subsidized housing would be based on median incomes in local areas. All maximum mortgage limits (although different for different types of housing and programs) would be based on prototype costs for each housing market area. In addition, the Administration bill would clarify the public housing subsidy authority to permit subsidies as needed to cover deficits in operating costs, as well as to amortize the capital debt of housing projects. The basic intent is to simplify the administration of Federal housing programs for builders and project sponsors.

In a related subject area, it was announced that the Subcommittee on Housing and Urban Affairs of the Senate Committee on Banking, Housing and Urban Affairs would hold hearings on October 13 through October 15 on S. 1671, the proposed Housing Institutions Modernization Act of 1971, to amend laws relating to savings and loan associations, to broaden their mortgage credit powers, including provisions involving the Federal chartering of stock savings and loan associations and the conversion of mutual associations to stock associations. The Committee planned to consider the issues raised by the bill in conjunction with the pending report by the President's Commission on Financial Institutions and Regulations, due in December.

New housing programs

The comprehensive Housing and Urban Development Act of 1971 (H.R. 9688) sponsored by the Chairman and 16 other Democratic members of the House Banking and Currency Committee, contains several titles dealing with housing. It would amend the basic 1968 National Housing Goals statute to require that in the President's Annual reports on the goals there shall be a contingency plan to meet mortgage credit requirements, an analysis of changes in housing costs and an annual analysis of changes in the housing inventory.

A new program authorized in this Bill (H.R. 9688) would be designed to counteract the abandonment of housing. It would authorize neighborhood preservation grants for programs of various public services and public and private properties in designated neighborhoods where the potential spread of housing abandonment exists. It would also authorize the insurance of mortgages on existing properties in neighborhood preservation areas to owner-resident purchasers (of 2 to 6 unit properties) and to cooperatives and non-profit organizations (for multi-family properties). The refinancing of the existing mortgages should permit improvements to be made, while precluding rent increases.

Owner and tenant counseling services and improved management in Federally subsidized housing are authorized and the experimental housing allowances program authorized by the Housing and Urban Development Act of 1970 is expanded.

Most innovative are the provisions to completely alter the present system of allocating housing subsidy authorization, by placing control over location of subsidized housing in a metropolitan area in the hands of public bodies, instead of leaving it to the initiative of private developers and local housing authorities. Block grants of contractual Federal housing assistance authority would be allocated to Metropolitan Housing Agencies and to State Housing Agencies. These agencies, to be established pursuant to State enabling legislation, would receive such block grants on the basis of population, housing need and poverty incidence. They would determine the general (i.e., community) location of subsidized housing and the type of housing. They would also select the private developers or local housing authorities whose proposals were best suited to meet the housing needs. Thereafter, there would be regular low and moderate income project processing by the Department of Housing and Urban Development.

Local communities working under the Metropolitan or State Agencies' plans would, among other benefits, receive a metropolitan incentive grant of up to $3,000 for each planned subsidy housing unit. The purpose of this innovative and compensatory payment program is to help communities to meet the cost of providing services, such as schools and social services for the low income families they accept.

H.R. 9688 was derived in significant part from the legislative recommendations of three panels of the House Banking and Currency Housing Subcommittee which were established last fall to conduct an intensive study of the operations and effectiveness of the Federal housing and urban development programs.

The three study panels, made up of members of the Subcommittee, obtained the services of 36 expert consultants to assist them in reviewing and analyzing various housing and urban development issues. The experts met with panel members to discuss the specific subject areas assigned to them, and then prepared papers for submission to the panels in early 1971. These papers and a summary report have now been published. A sample of the titles relating to housing production are illustrative of the content: "Housing Needs and National Goals"; "National Goals and Local Practices: Joining Ends and Means in Housing"; "The Role of Nonprofit Sponsors in the Production of Housing"; "Housing and the Role of the Large Corporate Enterprise"; "Design and Production of Housing"; "Housing and Manpower in 1970's"; Abandonment and Rehabilitation: What Is To Be Done?"; "FHA Processing and Fees and Social Purposes"; "Consumer Protection—The Role of HUD in Protecting the Homeowner." The legislation resulting from these deliberations and papers prepared was an excellent illustration of the role that the social sciences can play in contributing to major new directions policy. The panel's review procedure, later supplemented by the conventional hearing process, resulted in an especially creative legislative package which should improve the quality of public debate on national housing policy within the Congress, by the Congress and executive branch, in the academic community and in the public at large.[40]

Housing technology

The proposed Building Sciences Act of 1971 (H.R. 8393) borrows ideas from bills introduced in previous Congresses and from a host of reform recommendations. These included the reports of the National Commission on Urban Problems (the Douglas Commission); the President's Committee on Urban Housing (the Kaiser Committee); the report of the Advisory Commission on Intergovernmental Relations on *Building Code Modernization* and the *Report and Recommendations of Three Study Panels*, cited above.

H.R. 8393 proposes the Federal incorporation of a National Institute of Building Sciences as a non-profit, non-governmental entity to be run by a board which shall be "reasonably representative of the various regions of the country, of the various segments of the building community including private industry and labor, all levels of government, of consumer interest, . . ." The members of the board are to be appointed by the President with the advice and consent of the Senate from lists of "highly qualified" persons recommended to him by the National Academy of Sciences, National Academy of Engineering, and the National Research Council.

The Institute is to be financed initially by Federal grants but after the first 5 years to become self-sustaining through contracts, grants, subscriptions, donations and fees.

The functions of the Institute are as follows:

(1) Development, promulgation, and maintenance of nationally recognized performance criteria, standards, and other technical provisions for maintenance of life, safety, health, and public welfare suitable for adoption by building regulating jurisdictions and agencies, including test methods and other evaluative techniques relating to building systems, sub-systems, components, products, and materials.

(2) Evaluation and prequalification of existing and new building technology in accordance with paragraph (1).

(3) Conduct of needed investigations in direct support of paragraphs (1), (2) . . .

The Institute would depend upon encouraging cooperation in most areas. However, all programs involving direct expenditure of Federal funds for construction or in developing technical requirements for such use as well as Federally-assisted programs (grants, loans guarantees etc.) would be required to accept the findings of the Institute or standards brought about by the Institute's actions.

Investigation of low and middle income mortgage assistance

On February 6 the House Banking and Currency Committee published a staff report and recommendations on their investigation and hearings on abuses in Federal low and moderate income housing programs. The conclusion reached based on the role that FHA played in allowing real estate speculation in the operation of the "235" low and moderate income homeownership and other subsidy programs was that the Department of Housing and Urban Development and its Federal Housing Administration may be well on its way toward insuring itself into a national housing scandal.[39] The recommendations included proposals for review of all existing section 235 commitments, appropriate disciplinary action, continued General Accounting Office evaluation of major housing programs and an extensive retraining program to be undertaken for all FHA appraisers.[40]

After an initial Department claim that the report was "inaccurate, misleading, and very incomplete," major elements of the program were temporarily suspended early in 1971 and a HUD investigation initiated. The HUD investigation revealed that, on a sample basis, 42 percent of existing homes and 25 percent of the new homes insured under the program did not meet basic HUD requirements.[41] Bribery indictments of certain builders and FHA appraisers were initiated by the Government, new procedures adopted, and an intensive retraining program undertaken.

Withholding of appropriated funds

In March, the Senate Banking, Housing and Urban Affairs Committee held hearings on withholding by the President of appropriated funds for housing and urban development programs. The Committee was investigating the impoundment of over one and one-half billion dollars of appropriated funds for public housing, urban renewal, model cities, water and sewer, mass transit and low and moderate income housing.[42] The Chairman in his opening statement stated his belief that these actions were an uncalled-for rebuff to the Congress and an undue use of the power of the Executive to control the appropriations and spending of Government funds which the Constitution reserves to the Congress.[43] The Office of Management and Budget representative, in his testimony, defended the action on the grounds of statutory powers granted to the President by the Antideficiency Act, problems related to budget deficits and the debt limit, statutory outlay ceilings established in the Second Supplemental Act for 1970 (P.L. 91-305), and finally, the need to combat inflation and achieve fiscal stabilization. In May, the Administration indicated that most of the funds would ultimately be made available and, subsequent to the hearings, much of the withheld funds were released for obligation and expenditure.

PART V—RENEWING OLD COMMUNITIES AND CREATING NEW COMMUNITIES

Inner city areas are in need of rational land use planning and development if their tax base is to be enhanced and if their inventories of housing are to be maintained and augmented. Similarly, development of new towns and major additions to existing communities are crucial and complementary components of any future national urban growth program.

There are three major bills before the Congress concerned with reform of existing central city renewal and metropolitan development aids: the Administration's urban community development special revenue sharing proposal; and both House and Senate initiated grant consolidation proposals. The Senate Banking, Housing and Urban Affairs Committee held hearings in August and September on the housing and community development legislation before it, as did its counterpart House Committee.

Special revenue sharing

The Community Development Act of 1971 (H.R. 8853, S. 1618), is the Administration's proposal for special revenue sharing for community development. The four programs which would be combined to form a new common fund are urban renewal, Model Cities, water and sewer grants, and loans for the rehabilitation of existing structures. Eighty percent of this special revenue sharing fund would be assigned for use in Standard Metropolitan Statistical Areas. Funds would be allocated among and within such metropolitan areas according to a formula to be written into the law. Funding would be to general governments, i.e. cities and States rather than semi-autonomous urban renewal agencies.

The President's Message on March 5, 1971 stated that cities could use their share of Urban and Community Development block grants for such purposes as acquiring, clearing, and renewing blighted areas; constructing public works; building streets and malls; enforcing housing codes in deteriorating areas; rehabilitating residential properties; funding demolition projects, and helping relocate those displaced from home or business.[44]

Initial criticism has centered on the allocation formula and the lack of planning application review or other performance requirements. Under the formula, substantial funds would go to cities that have not been previously active in HUD programs. "Hold harmless," i.e. insuring that no city get less funds than previously, may not be sufficient for cities in trouble, especially since inflation and planned expansion in these cities create the need for more funds. The revenue distribution mechanism in metropolitan areas does not include shares for urban counties, only for cities. This provision was therefore opposed by the National Association of Counties. Finally, there is little protection against the funds being used for low priority public works activities in the community.

There are no minimum or maximum standards of facilities to be provided, thereby permitting services to be dependent on local decisions as to how funds should be used. There are no incentives to overcome fragmentation of local government with all the diseconomies which that entails. In fact, the special revenue grants could tend to solidify present jurisdictional lines in the provision of public services. Finally, question may be raised as to why other programs are omitted which also are important to community development, such as open space and neighborhood facilities?

Consistent with the special revenue sharing and housing aid consolidation proposals placed before the Congress, the Secretary on March 1 functionally realigned the internal structure of the Department of Housing and Urban Development. Community development assistance programs formerly administered by three different Assistant Secretaries will be headed by an Assistant Secretary for Community Development. All planning and management assistance programs are to be administered by an Assistant Secretary for Planning and Management. Responsibility for housing management activity, which assumes much greater importance as almost a half million units of federally assisted housing are added to the Nation's housing stock each year, is placed under an Assistant Secretary for Housing Management.

Senate community development reform legislation

The Chairman of the Senate Committee on Banking, Housing and Urban Affairs has also introduced a Community Development Assistance Act of 1971 (S. 2333) which would provide for a block grant community development program embracing some eleven existing HUD programs. It would require that an application be reviewed before grants are made. Such review must be completed in a 90-day period. Its formula for allocation of authorized grant funds would involve a special preferential allocation for those communities which have hitherto been active participants in the categorical community development programs. Both the House (H.R. 9688) and Senate (S. 2333) Bills would authorize three-year funding for the programs, subject to annual review for performance and modification of funding commitments of local programs. The Administration Bill would authorize program funding year by year.

The Secretary of HUD urged approval of the Administration proposals, which minimized red tape and delay. Grant levels based on previous levels of activity were criticized on the grounds that it would result in more money going to cities that did well in the past, despite current needs and priorities. "The bill's formula appears to me to be unfair to the many communities whose urgent needs . . . have outstripped their past ability to capture Federal grant funds."[45] The U.S. Conference of Mayors passed a resolution at their 1971 meeting criticizing the Administration Bill on the grounds that it "would upset the present Federal-local ability to respond to the requirements of many smaller communities and would seriously jeopardize current expectations of future program growth in scores of other cities. . . ."[46]

Robert W. Mafin, executive director, National Association of Housing and Redevelopment Officials, endorsed S. 2333 on the grounds that

"S. 2333 meets the inadequacies and gaps in the present Federal development programs. It consolidates related programs, simplifies Federal requirements, provides linkage to other programs, increases the Federal financial commitment to communicate while guaranteeing the continuity of this commitment, and maintains the national priorities of slum removal, blight prevention and housing production while encouraging flexibility in establishing local programs. This is a different approach—and in NAHRO's opinion a far superior one—than that contained in the other major community development proposal now before the subcommittee, S. 1618, Urban Community Development Revenue Sharing."[47]

Still another Senate entry was S. 1958, a Bill to establish a National Domestic Development Bank. Its purpose is to provide an alternative source of credit to State and local governments for public facilities. Loans would be made for the following purposes:

First, cities, counties, and States would be able to borrow money for basic community facilities at rates comparable to municipal bonds.

Second, 40-year loans also will be available to non-profit or quasi-governmental organizations receiving Federal funds and pursuing public purposes for the construction of housing, medical, and other public facilities.

Third, loans over a 20-year period will be made to business organizations for economic development purposes in specially designated areas.

House community development block grant

The Chairman and eighteen other members of the House Banking and Currency Committee have proposed for consideration (H.R. 9688),[48] a block grant program which would consolidate a somewhat larger number of HUD categorical aid community development programs. A formula block grant allocation, similar to that in the Administration Bill, would be used. However, like H.R. 9688, a program application would have to be submitted for a general review to assure conformity with the broad intent as to types of activities and national priorities that are inherent in the basic Federal legislation. Provision of social services supportive of approved community development activities would be allowed. Funds could be used to match the related Federal grants. To be eligible for a block grant a community would have to have a balanced housing program, which could be part of a State or Metropolitan Housing Agency Program.

Another Title of the proposed Housing and Urban Development Act of 1971 (H.R. 9688) would assist State and Metropolitan Develop-

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ment Agencies patterned after the New York State Urban Development Corporation with organizational expenses and guarantee of their obligations. Such public corporations could develop and redevelop housing projects, neighborhoods, commercial and industrial facilities. An Urban Development Bank would be established to buy and sell taxable obligations of State and local governments. These loans would be designed to offer an alternative to tax-exempt financing by localities. The loans made by the bank would be at interest rates not to exceed two-thirds of the current cost of money to the bank. The subsidy involved would be less than the loss of Federal revenue involved in tax-exempt financing.

The House Appropriations Committee in reporting out the HUD appropriations for fiscal 1972 rejected the special revenue sharing financing package for the fiscal year.

"The course recommended by the Committee seems by far the preferable course to take at this time. The special revenue sharing legislation submitted by the Administration as a possible alternative to some of the established urban assistance programs, if enacted, would hardly be soon enough for an orderly transition in the middle of fiscal year 1972."[49]

New Communities Regulations

The 1970 Housing and Urban Development Act was possibly the most innovative piece of urban growth legislation enacted that year due to its creation of a new Community Development Corporation. Authority was provided for a full panoply of guarantees, loans, and grants to be provided for eligible new community development programs. At the end of July, 1971 the Department moved toward issuance of proposed regulations for the Community Development Corporation. The rules cover the assistance programs proposed for funding in the 1972 budget request. The draft regulations were published in the *Federal Register* to permit interested persons to make recommendations prior to final issuance some time after September of this year. Both general and specific criteria are identified. The definition of new community offered was a broad one. No minimum or maximum population size is prescribed but its size must be significant with comparison to surrounding developments. Projects must have access to other public facilities. A general internal development program must be completed which provides for internal diversity. New communities must contain an adequate range of housing. The town must have a full range of governmental powers and be provided with public services. The community need not be a separate political unit but may be governed by an existing city or county. Developers must secure all State and local approvals required by law, including adoption by the local governing body of the new community program. The project must include the use of citizen advisory groups, location of housing so as to avoid segregation, and a program of citizen participation in project activities.[50] Some initial comments in the draft regulations noted the lack of recognition of the new-town-in-town objectives of the Act, the charging of high fees to public or non-profit developers and the absence of earmarking low and moderate income housing resources of HUD to new community projects. By July of this year Federal assistance under 1970 and previously enacted authority had been pledged to 6 new community projects and over 40 applications were under consideration by the Department of Housing and Urban Development's Office of New Communities.[51]

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PART VI—STRENGTHENING THE CAPACITY OF GENERAL GOVERNMENTS TO MANAGE THE URBAN ENVIRONMENT

Increasingly recognized as fundamental to all other reforms is that component of the new national urban growth policy calling for strengthening the capacities of general government institutions.

The Ash Council in its *Memoranda for the President* on executive branch reorganization stated the essentiality of the case for Federal action to assist State and local governments in overall management.

"The need for improving the management capacity and the authority to manage State and local government extends across the entire range of Federally assisted activities. . . . We have adopted a broad definition of executive management support not merely to consolidate the various comprehensive planning grants, but because we view the failure to reconcile priorities among governments as a major impediment to the effectiveness of government at all levels. This failure produces program imbalances and non-responsiveness to local needs—both we have found are major complaints of the critics of local government."[52]

A primary objective of Federal and State governments must be to support or restore the managerial and fiscal vitality of urban government and preserve the quality of an urban environment. Without such capability, local initiative, creativity, discretion, choice, and decision-making exist only in the older text books, and responsible elected officials have little or no discretion to alter things more than trivially.

There are essentially five major entrants in the legislative field aimed at the objectives of strengthening management capacity for planning and administration at the State and local level. These are Title II of the Administration's Urban Community Development Act of 1971 (S. 1618); the Administrations' National Land Use Policy Act (S. 992); the National Land and Water Resource Planning Act of 1971 (S. 632); the Public Land Policy Act of 1971 (H.R. 7211); and the National Coastal Estuarian Zone Management Act of 1971 (S. 582, H.R. 3493).

Planning and management

The Urban Community Development Special Revenue Sharing program includes an expanded version of the traditional comprehensive Planning Assistance (701) program under a new Title II of S. 1618—Community Planning and Management Assistance. Title II, State and Local Planning and Management Programs, is, as the President has described it, a new program which significantly complements all his revenue sharing initiatives. It represents a new approach of helping States and localities to strengthen all those governmental capacities that are basic to meeting growth objectives and community needs.[53]

Community Planning and Management Assistance, administered by the Department of Housing and Urban Development, could be used for a wide variety of activities geared toward improving governmental management, policy formulation, achieving self-determined State or local objectives, and engaging in development planning that includes land use, housing, resource management, areawide and intergovernmental coordination, and economic development. Specific encouragement is given to the formulation of a statewide development plan designed to integrate all elements of community development. States are also encouraged to set standards for determining which communities or groups of communities should be considered together for purposes of carrying out local and areawide programs. All of the present activities eligible under the 701 program remain eligible under the Community Planning and Management Program. As in the rest of the special revenue sharing proposal, there would be no State or local matching.[54]

The National Governor's Conference and the Council of State Planning Agencies in testifying on S. 1618 recommended that the planning and management grants be administered by the Executive Office of the President. HUD would carry on functional planning programs for housing, urban renewal, open space, etc.; to be financed from 1½ percent earmarking of their regular community development grant programs.

State land use planning

The National Land and Water Resources Planning Act of 1971 (S. 632) would establish a more comprehensive national land use policy and set up a program to assist States in developing, implementing and administering statewide land use plans. Similarly, the National Land Use Policy Act of 1971 (S. 992) would authorize grants to encourage States to plan and regulate land use for the protection of areas of critical environmental concern and for control and direction of growth of more than local significance. The Senate Interior and Insular Affairs Committee is considering both S. 632 and S. 992. The first bill, S. 632, was introduced by the Chairman of the Committee. S. 992, proposed in President Nixon's February 8 message to Congress on the environment, was prepared by the Council on Environmental Quality.

S. 632 and S. 992 have compatible major objectives. In general: they encourage the States to take the initiative in comprehensive planning; they provide Federal assistance for the staffing, planning and data gathering as the basis for coherent decisions; they encourage or require State land use control to implement planning decisions in practice; they contemplate a higher measure of coordination and compliance of Federal actions with approved State plans; and they introduce Federal review of the State planning effort as a condition to further planning grants. The principal substantive differences in these two legislative proposals concern the territorial extent of planning. S. 632, emphasizes comprehensive statewide land use planning. The Administration Bill (S. 992) would aid States in assuming land use regulatory authority over areas of critical environmental concern—wetlands and flood plains, lands around key facilities such as major airports and highway interchanges, larger-scale development, lands surrounding new communities, and use or development of regional benefit.

Other differences include the locus of authority in the Federal Government—an interagency versus a line agency approach (upgrade the Water Resources Council in S. 632, and the Department of Interior with the advice of the Department of Housing and Urban Development, with guidelines proposed by the Council on Environmental Qualities, in S. 992). S. 632 provides interstate forums—the River Basin Commissions—for coordination of the State planning efforts; whereas S. 992 places that responsibility on the Secretary of the Interior. S. 632's incentives are more substantial ($100 million per year for not more than 90 percent of costs for first five years and 66⅔ percent thereafter) than S. 992's ($20 million per year for five years not to exceed 50 percent of costs).

Both Bills provide for penalties relative to Federal and Federally-assisted activities which have a substantial land use impact when no plan has been submitted by the end of a certain period (five years in S. 632; December 31, 1974, in S. 992). S. 632's "freeze" has a temporary suspension procedure in which the President can approve the activity as necessary for the public health, safety, or welfare; in S. 992 "freeze" public hearings are held on each activity and Federal agency findings and comments of the Secretaries of Interior and HUD are attached to the environmental impact statement for that activity.

In S. 992, approval or disapproval of a State program is made by the Secretary of the Interior with approval of the Secretary of HUD on certain items; whereas in S. 632 the Council cannot disapprove without recommendation to do so from an impartial ad hoc hearing board established by the President.

Both S. 632 and S. 992 have the potential of giving the States an active role with respect to local land use regulations. Proposed amendments by the National Association of Counties and the National Service to Regional Councils suggested the involvement of regional and local elected officials on State land use planning commissions. They emphasized that regional councils are the vehicles to assure local and regional interests and are reflected in the development of State land use policies, and should be directly funded to carry out this responsibility.

Coastal lands management

The proposed National Coastal and Estuarine Zone Management Act (S. 582) reflects the increased concern over population trends to a point where now approximately one-half the population is located within 50 miles of the coast line, including the Great Lakes. The Bill declares it to be the Congressional policy to preserve, protect, develop, and restore the resources of the U.S. coastal and estuarine zone and assist the States in the preparation and implementation of management plans and programs for these areas. The Secretary of Commerce is authorized to make annual grants administering a coastal State's management plan and program. The Bill also authorizes coastal States to review all development plans, projects or regulations proposed by any State or local authority or private developer for conformance to the State management plan and program, provided there is an opportunity for full hearings.

It permits the Commerce Secretary to underwrite coastal State bond issues or loans for the purposes of land acquisition, or land and water development and restoration projects. The Bill requires Federal agencies conducting or supporting activities in the coastal and estuarine zone to seek to make their activities consistent with the approved State management plan and program and provides that applicants for Federal licenses or permits are to provide a State certification that the proposed activity complies with the State coastal plan. State and local governments submitting applications for Federal assistance would have to indicate views of the appropriate agency as to consistency with the State coastal plan.

Hearings have been held in May before the Senate Commerce Committee's Subcommittee on Oceans and Atmosphere and in the House in June before the Committee on Merchant Marine and Fisheries.

Use of public land

The proposed Public Land Policy Act (H.R. 7211) received hearings in July before the House Interior and Insular Affairs Committee. It is designed to establish guidelines for the administration of public lands. The Bill grew out of, in part, the findings and recommendations of the Public Land Law Review Commission in 1970. The objective of the Bill is to protect and promote the interests of the Government and the public and to provide uniformity in the public acquisition and use of Government-owned lands for mining and mineral leasing claims, animal grazing leases, timber harvesting, recreational permits and leases, homesteading and similar public purposes.

In this Bill, the Congress would affirm its policy that public lands shall be planned, retained, managed, or disposed of in a manner to provide the maximum benefit for the general public.

The stated goals of the Bill include retention in Federal ownership of the bulk of the public lands; their transfer to non-Federal ownership for purposes designated by statute; their management in a manner not endangering the environment; coordination with regional, State, and local land management plans; and public participation in rulemaking and in all procedures leading to the classification of any area of public land. The Bill would require detailed regulations and rulemaking procedures, public hearings and the establishment of national and subsidiary advisory boards and committees. A national Federal Public Land Use Coordinating Committee and regional Interstate Land Use Coordinating Commissions for each of ten public land regions would be established. The committees would develop land management plans and advise the agencies in their rulemaking.[55]

The Administration in its comments on H.R. 7211 did not support its enactment but instead proposed support for the proposed National Resource Land Management Act of 1971 (H.R. 10049) which applies only to lands managed by the Interior Department's Bureau of Land Management; and the National Land Use Policy Act of 1971 (H.R. 4332) as it relates to the provisions for coordinated planning of public and non-public lands.

Revenue sharing

General Revenue Sharing remained in the center of general debate. The primary purpose proposed for sharing unearmarked Federal revenues with State and local governments is to alleviate the present fiscal crisis at the State and local level. The size of the President's General Revenue Sharing program (S. 660, H.R. 4187) would be determined by taking a fixed percentage (1.3%) of the Federal individual income tax base. Initially this will provide a full-year outlay of $5 billion. This sum is to grow with the future growth of the economy. To these economic arguments the President has added two reasons which are directed to the nature of our system of government. Given sufficient resources, our States and localities can be more responsive to the urban growth needs of the people. Revenue sharing is a proposal to reverse the trend by which the Federal government's revenue-raising powers have given rise to a heavily centralized government bureaucracy. Its goal is to restore a more proper balance to our Federal system by strengthening the capability and independence of State and local governments.

A number of objections have been cited in opposition to the revenue sharing proposals. By divorcing tax and spending authority, revenue sharing would dismantle the present "performance requirements" system and thereby encourage wasteful State and local spending. There is less assurance that Federal funds will go to the people who most need them. The proposal is somewhat regressive in economic impact. Furthermore, there are no Federal income tax "profits" to share with State and local governments now or anticipated in the near future. By earmarking a designated percentage of the Federal personal income tax base for unrestricted State and local use, revenue sharing would cut into the budgetary and tax policy flexibility of the President and the Congress. Finally, federalizing the Nation's multiplicity of State and locally administered public welfare systems has been suggested as a more viable alternative.

The President's proposal this year differed from his original 1969 recommendations:

"For one thing, this year's program is much bigger. Expenditures during the first full year of operation would be ten times larger than under the old plan. Secondly, a greater proportion—roughly half—of the shared funds would go to local governments under the new proposal. In addition, the 1971 legislation contains a new feature designed to encourage States and localities to work out their own tailor-made formulas for distributing revenues at the State and local level."[56] Hearings on the General Revenue Sharing Act of 1971 were held in June before the Senate Commerce Comimttee.

Two related bills received committee consideration. The proposed State and Local Government Modernization Act of 1971 (S. 241, H.R. 4617) has as its purpose the providing of Federal block grants for States and localities only where there is a demonstration of State intention to modernize State and local government. S. 1770, the Intergovernmental Revenue Act of 1971 would establish a system of general support grants to State and local governments, authorize Federal collection of State income taxes, and encourage modernization of State tax systems. Both Bills received hearings in June before the House Government Operations Committee.

Departmental reorganization

Of the four new departments proposed by the President consolidating seven existing departments and a few related agencies, the Department of Community Development Bills (S. 1430, H.R. 6962) would have the most impact on urban growth, improved management of Federal programs and support of State and local administration concerned with such programs. In the words of HUD's Under Secretary:

"Under this proposal a single Federal Department would be directly responsible and accountable for strengthening community institutions and for addressing the problems of community growth.

"This new department would administer Federal assistance to communities for physical and institutional development; for strengthening State and local governmental process; for enhancing the effectiveness of citizen action; and for the planning and building of highways and houses and supporting community facilities. By bringing together these programs, the Department of Community Development would be able to move beyond fragmented categorical program administration and toward a geographically based and community-oriented approach to problems. The establishment of a unified Federal Department of Community Development would greatly simplify the resolution—by both Federal and local officials—of significant issues of community growth and development."[57]

The new department would have major development-related functions now in Transportation, Commerce, Agriculture, OEO. The most massive transfer would be the Federal Highway Construction, Urban Mass Transportation and Highway Traffic Safety programs of the Department of Transportation. Highway interests have expressed opposition to integrating highway field and State operations along with other community development programs. From Agriculture would be transferred the Rural Electrification and the Farmers Home Administration programs of water and sewer grants and loans and rural housing. (The Congress on September 30 sent H.R. 10538, which extended these FHA programs permanently, to the President for signing.)

Also to be included are Commerce's Eco-

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nomic Development Administration and Regional Action Planning Commissions; the Appalachian Regional Commission and the Small Business Administration's disaster loan programs. The National Grange and the Rural Electric Cooperative Association oppose the latter transfers on the grounds that rural areas would be short changed and the Agriculture Department would begin to be dismantled.[24]

Issues would also be raised by transferring the Community Action and Special Impact Programs to the proposed Department. There is a conceivable likelihood that, since HUD, with its Model Cities organization, would be the controlling organization, Community Action Agencies with their citizen participation elements would be subordinated or deemphasized.

No effort is made, except in the field of transportation, to consolidate the many comprehensive and functional planning programs having a direct impact on the community development process. At present there are at least 33 such planning programs administered by ten separate agencies.

Several programs in the housing field are not touched by the reorganization proposals and would therefore appear to violate the concept of organization by purpose. The continued autonomy of the VA-guaranteed mortgage loan program and the Federal Home Loan Bank Board are likely to be examined to be satisfied that organizational changes are not needed to prevent overlapping and competition of Federal programs, and instability in local housing markets and in the capital funds and mortgage markets.

It has been estimated that if the President's proposal was adopted, the number of committees with major interest in the Department of Community Development would increase from two at present (with HUD) to seven major oversight committees. House and Senate Government Operations Committee hearings on the bills are scheduled for early November.

Simplifying Federal aid administration

Of special relevance to improved State and local management capacity was the Second Annual Report to the President on Federal Assistance Review.[25]

The report summarized improvements achieved in grant-in-aid administration to State and local governments during the last 18 months. Highlights included seven Federal agencies fully conforming to a new uniform system of 10 regional boundaries. Federal Regional Councils (with Office of Management and Budget leadership) were operating this year in the headquarters cities of each of these standard regions. Major decentralization of decision-making and the placing of greater reliance in State and local governments in the administration of Federal programs were reported in HEW's Emergency School Assistance program, the Juvenile Delinquency Prevention and Control Act, and Medicaid and health planning. Virtually all of the programs of the Department of Housing and Urban Development are being decentralized below the regional office level through establishment of subregional local service offices. The Office of Management and Budget established procedures for reporting information to States on all Federal grants awarded within their boundaries by Federal agencies, as required by the Intergovernmental Cooperation Act of 1968. In addition, under new governmentwide instructions, there are now 206 metropolitan information clearinghouses which review locally submitted proposed Federal grant-in-aid applications to determine their conformance with regional plans. These clearinghouses cover 1,600 counties in which live over 80 percent of the population. State clearinghouses now include all 50 states. Finally, in February, the Office of Management and Budget issued a revised A-95 Circular to expand the Federal programs reviewed at the State and metropolitan (and non-metropolitan) clearinghouse level and to implement the requirements of the National Environmental Policy Act for review of environmental impact statements to be contained in applications for Federal aid.

Support for public sector manpower

Almost all of the previous extensive Federal training and manpower programs have been directed to private sector employment. The Emergency Employment Act of 1971 (P.L. 91-54) providing public service employment and signed by the President on July 12, begins to readdress this imbalance. In doing so, the Act directly contributes to carrying out the national urban growth policy component of strengthening the capability of State and local governments.

The Mayor of Detroit, representing the U.S. Conference of Mayors, reported, in support of the bill, that local government, itself, was unavoidably adding to unemployment. "In the past year the City has not had the revenue to fill nearly 2000 vacant positions in City government. In addition, last year I was forced to lay off some 600 City employees." [26]

The Act, similar to a title of the proposed Employment and Manpower Act (S. 386), 91st Cong., which was vetoed last year by the President, recognized that as a result of a lack of revenue, many governmental units have had to curtail public services or have been unable to implement new services. The Act makes available major new resources for employing persons to meet such needs. Eligible applicants are units of Federal, State and local government, their subdivisions or institutions, and Indian tribes on Federal or State reservations. Combinations or consortia of governmental units and combinations of Indian tribes may also be eligible applicants.

There are two basic funding provisions specified in the Act. Funds are made available for public service employment programs whenever the Secretary determines that the nationwide unemployment rate equals or exceeds 4.5 percent for three consecutive months. As of August 1971 this criterion had been met, permitting obligation of the $750,000,000 authorized. A program of special financial assistance for areas with particularly severe unemployment problems provides that when unemployment has reached 6 percent or more for three consecutive months an additional $250,000,000 may be "triggered" for obligation.

In moving promptly to implement the Act, the Secretary of Labor decided [27] that only larger governmental units of specified size will be eligible for direct Federal grants. These units have been invited to apply directly for needed assistance under the Act: cities with a population of at least 75,000; counties with a population of at least 75,000, not counting the population of designated cities within such counties; all States. Examples of public services eligible include health care, education, public safety, crime prevention and control, manpower services, prison rehabilitation, transportation, waste disposal, housing and neighborhood development, rural development, and others. No more than one-third of the jobs funded can be professional positions.

Trends in the urban environment

The Second Annual Report of the Council on Environmental Policy [28] contained some useful appraisals of the inferior environment of the inner city. Documentation was provided on the severity of air pollution, water pollution, solid waste, neighborhood deterioration, lack of open space, lead poisoning, rat bites, and adverse impacts of highway construction. Another useful section documented the status and trends nationally. Here the findings were mixed with only slight increase in air and water pollution, a reduction in radiation levels. There was an increased presence of toxic substances, a runaway solid waste problem and a continued loss of wetlands especially around urban areas.

The year 1970 was a banner year for Congressional action on environmental issues. Of the 695 bills signed into law during the 91st Congress, 121 were identified as "environment oriented." Thus far in the 92d Congress, attention to urban environmental mattera has remained high. As of July 1971, the House and Senate had passed bills establishing a Joint (Congressional) committee on the environment (S.J. Res. 17, H.J. Res. 3) and appropriating money for water resources planning (H.R. 6359). The Senate also passed bills limiting public exposure to sonic booms (S. 1117) and authorizing additional appropriations to the Department of Housing and Urban Development for open space acquisition grants (S.J. Res. 52). The House moved on legislation to provide additional environmental data (H.R. 56).

CONCLUSION

In the closing days of 1970 Congress enacted the Housing and Urban Development Act of 1970 which, as we have seen, had a stated public objective providing "for the development of a national urban growth policy" and further defined some eight interrelated elements of such a policy. Adoption of such a Federal urban growth policy, by itself, does little to achieve the economies of regional service systems, ease the human costs of rural to urban migration, improve the ghetto environment, create balanced new communities, or improve the capability and accountability of local government. Nor, of course, in a large country administered under a separation of powers system, where decentralization is pursued with a vengeance, is implementation of an urban growth policy solely or even predominantly a national responsibility.

It is also instructive to note that Congress talked in terms of the *development* of such a policy—not its adoption or implementation. And indeed we are only at the beginnings of wisdom in identifying the specific legislation that would institute an urban growth policy. To illustrate, much of the early discussion of national urban policy concerned population growth. The Commission on Population Growth and America's Future, which was created by the 91st Congress, is due to make its final report in 1972. The interim statement entitled *Population and America's Future* issued in March of this year limited itself to articulating the fundamental questions that must be answered before an urban growth policy can be determined.

"The concerns of overriding importance are whether population stabilization and redistribution of the population are desirable.

". . . if population stabilization is desirable and its achievement would require more than eliminating unwanted childbearing, then additional measures can be considered, such as changes in tax laws, the elimination of pro-natalist laws and programs, and educational programs. . . .

"A principal question is the role that Federal and State governments play in population affairs. Although the Federal Government does not have an explicit, comprehensive population distribution policy, many of its policies, programs and statutes seem to have an impact on population distribution incidental to their main objectives. This inadvertent impact may be seen, for example, not only in the Federal Housing Administration program and Federal procurement policies. Others, such as the Economic Development Administration, the New Communities Act and the urban renewal program, are designed in part to redirect growth. . . .

"We also have many laws directly or indirectly affecting the growth of population, such as those governing immigration, marriage, divorce, contraception and abortion, which require examination." [29]

Despite the awful presence of these and other imponderables the survey of legislative and executive branch developments in 1971 indicates that significant action is taking place this year and will continue in the second session of the 92d Congress—action that collectively constitutes the beginning of a more reasonably consistent and coherent national urban growth policy. This year's record builds upon the events of 1970 which saw enactment of a new Federal-aid urban highway system, a major urban mass transportation act, solid waste disposal aids, uniform relocation policy, crime insurance and a comprehensive new communities assistance program.

In furtherance of recognizing that metropolitan areas, governmentally fragmented though they may be, are social and economic entities, a number of significant Federal developments are cited. These included consideration of the special revenue sharing proposals for both transportation and manpower training, improved delivery of health services through seed money grants and loan guarantees for "health maintenance organizations," and finally incentive and demonstration funds for metropolitan inter-school district programs and area-wide education parks to reduce the educational disadvantages of minority group isolation.

Perhaps the most active component of national urban growth policy this year has been concern for the development of smaller urban centers as an option to present metropolitan growth trends. The list of legislative developments is indicative of a new thrust: extension and expansion of the activities of the Economic Development Administration and the Appalachian Commission, Presidential proposals for rural development special revenue sharing, liberalization of farm credit and proposals for new public and private rural community development credit sources, financing of additional rural telephone systems, incentives to get professional health manpower to locate outside of our metropolitan areas, and creation of a new and already active Rural Development Subcommittee in the Senate Agricultural Committee.

The poor and minority groups in central cities and elsewhere received attention though the public policy directions were mixed. New provisions in the bills extending the Economic Opportunity Act ranged from self-help projects to backing for new local community development corporations. Reform of the national welfare system through the Family Assistance Plan, by upgrading minimum payments, are making eligibility more uniform, and give promise of slowing the migration of rural poor to inner city slums.

Housing, which has been suggested as the key to any national urban growth policy, was subject to intensive scrutiny by the Administration and both houses of Congress. Examination of proposals for consolidation of housing subsidy programs, use of new metropolitan and State mechanisms and accelerating the application of technological improvements in housing construction gave promise of legislative action in the second session of the 92d Congress.

Similarly, general dissatisfaction with present inadequacies and gaps in existing community development programs made major reform appear to be certain during the present Congress. The Administration's urban community development special revenue sharing proposal and House and Senate grant consolidation proposals differed only over important, but less than fundamental issues: allocation formulas, planning and application requirements, and review for performance. The concepts of consolidation, flexibility, and support of general local governments were accepted.

A final element of national urban growth policy receiving explicit recognition for the first time by the Federal Government was support for assisting State and local governments in overall management. The Administration proposed revision and doubling of the Department of Housing and Urban Development's Comprehensive Planning Assistance program to explicitly cover management assistance, program development and evaluation to chief executives at all levels of government. Other proposals, using the planning mechanism, sought to thrust upon the States an active role in local land use regulation. Grant consolidations, general revenue sharing, and creation of four super-departments to replace seven existing cabinet level agencies and a host of lesser Federal management reforms made up the rest of an ambitious agenda designed to improve State and local capability and viability.

Thus, the evidence accumulates that the Federal Government is beginning to come to grips with its most complex domestic challenge—to find effective ways of guiding and directing the inevitable migration growth and development that will occur for the foreseeable future.

FOOTNOTES

[1] Moynihan, Daniel P. Toward a National Urban Policy. *Appalachia*, v. 2, no. 10, August 1969: 3-4.

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[3] U.S. President (Nixon). *Third Annual Report on National Housing Goals*. 92d Cong., 1st Sess. House Doc. no. 92-136. June 29, 1971, p. 21.

[4] Resolutions of the 1971 Annual Meeting of the U.S. Conference of Mayors. *Congressional Record*, 92d Cong., 1st Sess., June 30, 1971: pp. 22962-22963.

[5] This analysis of the planning contained in special revenue sharing proposals is essentially taken from Nicholas P. Thomas: Administration's Special Revenue Sharing Planning Features Are Not Consistent and Do Not Lead to Coordinated National Policies, Part II. *AIP Newsletter*, v. 6, no. 7, July 1971: 8-13.

[6 7] U.S. President (Nixon). *Message From the President of the United States Relative to Initiating a National Health Strategy*. 92d Cong., 1st Sess. House Doc. no. 92-49. February 18, 1971, p. 6.

[8] U.S. Congress. Senate. Committee on Labor and Public Welfare. *Emergency School Aid and Quality Integrated Education Act of 1971. S. 1557*. Senate Report No. 92-61. 92d Cong., 1st Sess. April 14, 1971. pp 16-17.

[9] *U.S. Dept. of Commerce News* (Release CB71-34). March 3, 1971.

[10] U.S. President (Nixon). The President's Message to the Senate Returning S. 575 Without His Approval and Urging Passage of the Emergency Employment Act of 1971 and Appalachian Regional Development Legislation, June 29, 1971. *Weekly Compilation of Presidential Documents*, v. 7, no. 27: 1005-1007.

[11] U.S. President (Nixon). *Message From the President of the United States Proposing a System of Special Revenue Sharing for Rural Community Development*. House Doc. no. 92-66, March 10, 1971. p. 3.

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[14] U.S. Congress. House. Committee on Interstate and Foreign Commerce. *Comprehensive Health Manpower Training Act of 1971; Report to Accompany H.R. 8629*. 92d Cong., 1st Sess. House Doc. no. 92-258, June 9, 1971. p. 37.

[15] *Ibid.*, p. 31.

[16] *Ibid.*, pp. 34-35.

[17] *Ibid.*, p. 37.

[18] Creation of New Subcommittee on Rural Development. *Congressional Record*, February 17, 1971: p. 2852.

[19] U.S. Department of Agriculture *and* U.S. Department of Housing and Urban Development. *Annual Report of Assistance Furnished in FY 1971 by the Departments of Agriculture and Housing and Urban Development for Nonmetropolitan Planning and Development Districts*. September, 1971. p. 1.

[20] Report on the Location of New Federal Offices and Other Facilities—Message From the President. *Congressional Record*, 92d Cong., 1st Sess., September 14, 1971: p. 31680.

[21] U.S. Congress. House. *Message From the President of the U.S. Transmitting His Second Manpower Report*. 92d Cong., 1st Sess. House Doc. no. 92-86, April 7, 1971. pp. 142-143.

[22] National Academy of Engineering. Committee on Telecommunications. *Communications Technology for Urban Improvement: Report to the Department of Housing and Urban Development*. (Contract No. H-1221) June, 1971. pp. 4-5.

[23] U.S. Congress. Senate. Committee on Labor and Public Welfare. *Economic Opportunity Amendments of 1971: Report to Accompany S. 2007*. 92d Cong., 1st Sess., Senate Report no. 92-331. July 30, 1971. pp. 22-23.

[24] *Ibid.*, p. 70.

[25] U.S. Congress. House. Committee on Education and Labor. *Economic Opportunity Amendments of 1971: Report to Accompany H.R. 10351*. 92d Cong., 1st Sess. House Report no. 92-471. September 8, 1971. p. 21.

[26] U.S. General Accounting Office. *Improvements Needed in Management of Projects to Develop Business Opportunities for the Poor*. Office of Economic Opportunity. Reports to the Congress by the Comptroller General of the United States. B-130515. Washington, July 20, 1917.

[27] National Association of Counties. Welfare Recommendations Adopted by the National Association of Counties, Board of Directors. April 5, 1971.

[28] U.S. President (Nixon). The President's News Conference of February 17, 1971. *Weekly Compilation of Presidential Documents*, v. 7, no. 8: 239.

[29] U.S. President (Nixon). Federal Policies Relative to Equal Housing Opportunity. Statement by the President, June 11, 1971. *Weekly Compilation of Presidential Documents*, v. 7, no. 24: 900-901.

[30] The U.S. Department of Housing and Urban Development issued on July 26, 1971 a compilation of documents relevant to the President's June 11, 1971 policy statement. It includes statements by Administration spokesman as well as proposed HUD guidelines and criteria.

[31] Resolutions of the 1971 Annual Meeting of the U.S. Conference of Mayors. *Congressional Record*, 92d Cong., 1st Sess. June 30, 1971: p. 22965.

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[33] *Ibid.*, pp. 90-92.

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Footnotes at end of article.

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[90] U.S. Congress. House. Committee on Banking and Currency. *Papers Submitted to Subcommittee on Housing Panels on Housing Productions, Housing Demand, and Developing a Suitable Living Environment* and *Housing and The Urban Environment: Report and Recommendations of Three Study Panels.* 92d Cong. 1st Sess.

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[93] HUD Report Upholds Banking and Currency Committee on Section 235 Housing Program. *Congressional Record.* 92d Cong., 1st Sess., September 13, 1971: p. 31589.

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[96] U.S. President (Nixon). *Message From the President of the United States Proposing a System of Special Revenue Sharing for Urban Community Development.* 92d Cong., 1st Sess. House Document no. 92-61. March 5, 1971.

[97] U.S. Congress. Senate. Committee on Banking, Housing and Urban Affairs. Subcommittee on Housing and Urban Affairs. *Hearings on Proposed Housing and Urban Development Legislation for 1971.* 92d Cong., 1st Sess. August 2 and 3, 1971. p. 38.

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[105] U.S. Congress. Senate. Committee on Banking, Housing and Urban Affairs. Subcommittee on Housing and Urban Affairs. *Hearings on Land Use Planning, and Management Programs—S.J. Res. 52 and Title II, S. 1618.* 92d Cong., 1st Sess. July 12, 13, and 14, 1971. p. 45.

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[109] U.S. Congress. Senate. Subcommittee on Housing and Urban Affairs. *Hearings on S.J. Res. 52 and Title II, S. 1618, op. cit.,* pp. 43-44.

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[113] "Guidelines of the U.S. Department of Labor for Developing Programs Under the Emergency Employment Act of 1971." *Manpower Information Service, Reference File.* Bureau of National Affairs, Inc., Washington. p. 91:1325.

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APPENDIX A

HOUSING AND URBAN DEVELOPMENT ACT OF 1970—PUBLIC LAW 91-609

To provide for the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and inner city development, to extend and amend laws relating to housing and urban development, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Urban Development Act of 1970".

TITLE VII—URBAN GROWTH AND NEW COMMUNITY DEVELOPMENT

PART A—DEVELOPMENT OF A NATIONAL URBAN GROWTH POLICY

FINDINGS AND DECLARATION OF POLICY

SEC. 702. (a) The Congress finds that the rapid growth of urban population and uneven expansion of urban development in the United States, together with a decline in farm population, slower growth in rural areas, and migration to the cities, has created an imbalance between the Nation's needs and resources and seriously threatens our physical environment, and that the economic and social development of the Nation, the proper conservation of our natural resources, and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that Federal programs affect the location of population; economic growth, and the character of urban development; that such programs frequently conflict and result in undesirable and costly patterns of urban development which adversely affect the environment and wastefully use our natural resources; and that existing and future programs must be interrelated and coordinated within a system of orderly development and established priorities consistent with a national urban growth policy.

(c) To promote the general welfare and properly apply the resources of the Federal Government in strengthening the economic and social health of all areas of the Nation and more adequately protect the physical environment and conserve natural resources, the Congress declares that the Federal Government, consistent with the responsibilities of State and local government and the private sector, must assume responsibility for the development of a national urban growth policy which shall incorporate social, economic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of urban growth and shall provide a framework for development of interstate, State, and local growth and stabilization policy.

(d) The Congress further declares that the national urban growth policy should—

(1) favor patterns of urbanization and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in metropolitan and urban regions as well as in smaller urban places which have a potential for accelerated growth;

(2) foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, local neighborhoods, and rural areas;

(3) help reverse trends of migration and physical growth which reinforce disparities among States, regions, and cities;

(4) treat comprehensively the problems of poverty and employment (including the erosion of tax bases, and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline;

(5) develop means to encourage good housing for all Americans without regard to race or creed;

(6) refine the role of the Federal Government in revitalizing existing communities and encouraging planned, large-scale urban and new community development;

(7) strengthen the capacity of general governmental institutions to contribute to balanced urban growth and stabilization; and

(8) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of urban growth and stabilization, the prudent use of natural resources, and the protection of the physical environment.

URBAN GROWTH REPORT

SEC. 703. (a) In order to assist in the development of a national urban growth policy, the President shall utilize the capacity of his office, adequately organized and staffed for the purpose, through an identified unit of the Domestic Council, and of the departments and agencies within the executive branch to collect, analyze, and evaluate such statistics, data, and other information (including demographic, economic, social, land use, environmental, and governmental information) as will enable him to transmit to the Congress, during the month of February in every even-numbered year beginning with 1972, a Report on Urban Growth for the preceding two calendar years which shall include—

(1) information and statistics describing characteristics of urban growth and stabilization and identifying significant trends and developments;

(2) a summary of significant problems facing the United States as a result of urban growth trends and developments;

(3) an evaluation of the progress and effectiveness of Federal efforts designed to meet such problems and to carry out the national urban growth policy;

(4) an assessment of the policies and structure of existing and proposed interstate planning and developments affecting such policy;

(5) a review of State, local, and private policies, plans, and programs relevant to such policy;

(6) current and foreseeable needs in the areas served by policies, plans, and programs designed to carry out such policy, and the steps being taken to meet such needs; and

(7) recommendations for programs and policies for carrying out such a policy, including such legislation and administrative actions as may be deemed necessary and desirable.

(b) The President may transmit from time to time to the Congress supplementary reports on urban growth which shall include such supplementary and revised recommendations as may be appropriate.

(c) To assist in the preparation of the Report on Urban Growth and any supplementary reports, the President may establish an advisory board, or seek the advice from time to time of temporary advisory boards, the members of whom shall be drawn from among private citizens familiar with the problems of urban growth and from among Federal officials, Governors of States, mayors, county officials, members of State and local legislative bodies, and others qualified to assist in the preparation of such reports.

APPENDIX B

AGRICULTURAL ACT OF 1970—PUBLIC LAW 91-524

To establish improved programs for the benefit of producers and consumers of dairy products, wool, wheat, feed grains, cotton, and other commodities, to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1970".

TITLE IX—RURAL DEVELOPMENT

COMMITMENT OF CONGRESS

SEC. 901. (a) The Congress commits itself to a sound balance between rural and urban America. The Congress considers this balance so essential to the peace, prosperity, and welfare of all our citizens that the highest priority must be given to the revitalization and development of rural areas.

LOCATION OF FEDERAL FACILITIES

(b) Congress hereby directs the heads of all executive departments and agencies of the Government to establish and maintain, insofar as practicable, departmental policies and procedures with respect to the location of new offices and other facilities in areas or communities of lower population density in preference to areas or communities of high population densities. The President is hereby requested to submit to the Congress not later than September 1 of each fiscal year a report reflecting the efforts during the immediately preceding fiscal year of all executive departments and agencies in carrying out the provisions of this section, citing the location of all new facilities, and including a statement covering the basic reasons for the selection of all new locations.

PLANNING ASSISTANCE

(c) The Secretary of the Department of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a joint progress report as to their efforts during the immediately preceding fiscal year to provide assistance to States planning for the development of rural multicounty areas not included in economically depressed areas under authority of the Housing and Urban Development Act of 1968. The first such annual report shall be submitted not later than December 1, 1970, and shall cover the period beginning August 1, 1968, the date of enactment of the Housing and Urban Development Act of 1968, and ending June 30, 1970.

INFORMATION AND TECHNICAL ASSISTANCE

(d) The Secretary of Agriculture shall submit to the Congress a report not later than September 1 of each fiscal year reflecting the efforts of the Department of Agriculture to provide information and technical assistance to small communities and less populated areas in regard to rural development during the immediately preceding fiscal year. The first such annual report shall be submitted not later than December 1, 1970, covering the period beginning July 1, 1969, and ending June 30, 1970. The Secretary shall include in such reports to what extent technical assistance has been provided through land-grant colleges and universities, through the Extension Service, and other programs of the Department of Agriculture.

GOVERNMENT SERVICES

(e) The President shall submit to the Congress a report not later than September 1 of each fiscal year stating the availability of telephone, electrical, water, sewer, medical, educational, and other government or government assisted services to rural areas and outlining efforts of the executive branch to improve these services during the immediately preceding fiscal year. The President is requested to submit the first such annual report, covering the fiscal year ending June 30, 1970, on or before December 1, 1970.

FINANCIAL ASSISTANCE

(f) The President shall report to Congress on the possible utilization of the Farm Credit Administration and agencies in the Department of Agriculture to fulfill rural financial assistance requirements not filled by other agencies. The President is requested to submit the report requested by this section on or before July 1, 1971, together with such recommendations for legislation as he deems appropriate.

Approved November 30, 1970.

SUPPORT FOR COMPREHENSIVE CHILD DEVELOPMENT BILL

Mr. MONDALE. Mr. President, recently two very prestigious groups of individuals familiar with the needs of children and experienced in the field of child development expressed their overwhelming support for the comprehensive child development bill now in conference.

The National Association for the Education of Young Children at their recent convention in Minneapolis, Minn., adopted a resolution urging the President to support this proposal and seek adequate funding for it.

A number of leaders in education, health, day care, and civil rights signed a statement—which appeared as an advertisement in the Washington Post, sponsored by the Children's Lobby—urging Congress to finish work on the bill and the President to sign it.

Both groups called for legislation that will provide developmental day care opportunities, on a voluntary basis, with parental participation and eligibility for children from all income levels.

I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 9, 1971]

MEMORANDUM

To: The President of the United States and the Congress

Subject: The Comprehensive Child Development Act

FACTS

On February 19, 1969, President Nixon called for a "national commitment to providing all American children an opportunity for a healthful and stimulating development during the first five years of life."

On April 9, 1969, the President said, "I again pledge myself to that commitment."

This year, House and Senate action, with bipartisan leadership and support, passed Comprehensive Child Development Bills (S-2007 and H.R. 10351) and they are now in Conference Committee.

The differences between the two versions can be quickly reconciled.

The Comprehensive Child Development Act will result in one of the best investments the nation can make in its future.

It will provide a comprehensive program of educational, nutritional, and health care to those preschool children whose parents believe they need it.

It will allow a child's participation to be completely voluntary on the part of the parents.

It will give parents a real voice in the planning and operation of the programs.

It will offer quality day care service to the working women of America so that their families may have an adequate standard of living.

It will extend the enormous experience and success of the Head Start program.

It will deal with the problems of America's latch-key children.

It will reduce school failures.

It will build healthier children.

ACTION NEEDED

The Conference Committee must resolve the differences at today's meeting.

Both Houses must repass the bill.

The President must sign that bill.

We urge that the Comprehensive Child Development Act be passed to fulfill the President's pledge and the commitment by the Congress.

Robert Aldrich, M.D., Vice Pres., Health Affairs, University of Colorado; Joyce Black, Pres., New York City, Day Care Council; Arnita Boswell, Prof., Social Work, University of Chicago; Urie Bronfenbrenner, Prof., Human Development and Family Studies, Cornell University; Jerome Bruner, M.D., Director, Center for Cognitive Studies, Harvard University; Richardo Callejo, Attorney, Spanish Speaking, Sur-Named Political Assn., San Francisco; Eli E. Cohen, Exec. Sec., Natl. Committee on Employment of Youth; and Raymond Cohen, M.D., Past President, Texas Pediatric Society.

Manuel Diaz, Jr., Vice Pres., New York City, Urban Coalition; James Dumpson, Dean, School of Social Work, Fordham University; Marion Edelman, Washington Research Projects, Action Council; Donald Fink, M.D., Former Dir., American Academy of Pediatrics Consultation Service; Marcus Foster, PhD., Superintendent, Oakland Public Schools; Glenn Gibson, M.D., Pediatrician, Baton Rouge; Elinor C. Guggenheimer, Policy Council, National Political Women's Caucus; and Dorothy I. Height, Pres., Natl. Council of Negro Women.

Francis Keppel; Reginald Lourie, M.D., Pres. Joint Commission on Mental Health of Children; Sanford Matthews, M.D., Regional Pediatric Medical Coordinator, Atlanta; Joseph Monserrat, Member, Board of Education, New York City; John Niemeyer, Chairman, Day Care and Child Development Council of America; Josephine Nieves, Dir., Puerto Rican Studies, Brooklyn College; Julius Richmond,

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M.D., Dir., Judge Baker Guidance Center, Harvard University; and Mrs. Alexander Ripley, Vice Pres., California Children's Lobby.

This advertisement sponsored by The Children's Lobby, Jule M. Sugarman, President, 112 East 19th St., New York, N.Y.

NATIONAL ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN,
Washington, D.C.

NATIONAL ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN IN CONVENTION IN MINNEAPOLIS, MINNESOTA, NOVEMBER 5, 1971

RESOLUTION NUMBER 2

Whereas the President of the United States of America has voiced his commitment to meeting the needs of all young children in this country and

Whereas President Nixon has admirably placed in the Office of Child Development the position of Child Advocacy and the responsibility for implementing the recommendations of the 1970 White House Conferences on Children and Youth and

Whereas the nationwide need for comprehensive child development services for many young children can be provided only through bold Federal legislation and appropriations.

Therefore, be it resolved by the National Association for the Education of Young Children in convention in Minneapolis, Minnesota this fifth day of November, 1971.

That the President of the United States put aside the differences between his administrative proposals and the Comprehensive Child Development amendments to the Economic Opportunity bills. Specifically

(1) that programs be established to serve children from all income levels based on ability to pay

(2) that the protection of Head Start and Follow Through be assured

(3) that communities of 5000 or more be assured of having the opportunity to go directly to the Federal government for funds

(4) comprehensive standards at least equal to those provided by the 1968 Federal Interagency Standards for Day Care be upheld.

That President Nixon take a vigorously supportive posture toward the passage of this bill with the above listed components *and* the allocation of appropriations

That he advise Secretary Richardson of his determination to immediately serve the needs of young children by this most constructive action.

VETERANS MUST STILL WAIT FOR GOOD HOSPITAL CARE

Mr. HUMPHREY. Mr. President, all of us remember the shocking conditions of neglect in our veterans' hospitals that were exposed in the spring of 1970. Congress acted immediately to correct the most serious problem of totally inadequate levels of professional staff and hospital workers, to assure patients the treatment and care they deserve. However, it now appears that Congress was mistaken in its assumption that the enactment of increased appropriations would necessarily result in an improved staff-patient ratio commensurate with the serious need in our veterans' hospitals.

In 1970 it was revealed that while community hospitals averaged 2.72 staff members per patient, there were only 1.5 staff members for each patient in Veterans' Administration hospitals. It is contended that this VA hospital ratio now stands at 1:8:1 nationwide.

However, what is at first glance an encouraging improvement, proves on closer examination to result in large measure from statistical gamesmanship employed by the Office of Management and Budget. In fiscal 1971, VA hospitals operated at an average level of 84,500 inpatients per day. But for fiscal 1972, the OMB ordered the VA to reduce bed patients to an average level of 79,000 daily—meaning that almost 47,000 fewer hospital patients could be treated this fiscal year. That is one way to improve the staff-patient ratio, but a method that Congress has firmly refused to accept.

It is well recognized that the VA medical service serves as a major resource for medical education, training, and research, and that it has played a vital role in America's health care system, caring for over 7 million veterans last year through its network of 165 hospitals, 202 independent clinics, and 65 nursing homes. But it is also clearly evident that this extensive health care system has been critically underfunded and understaffed.

With the enactment of Public Law 92–78 this past summer, Congress tied a $279.9 million increase in the original VA medical care budget for fiscal 1972 to a firm mandate that the VA maintain a minimum daily patient load of 85,500. In addition, the President has called upon the VA to take the lead in rehabilitating veterans returning from Vietnam with drug abuse and narcotics addiction problems—estimated by the VA Medical Director to have reached over 50,000.

But rather than permitting an offensive to be launched to meet these health care objectives on behalf of our veterans, the OMB has repeatedly ordered a retreat. Last year, Congress increased the VA's proposed budget with the intention that an additional $105 million be used primarily to hire more staff. However, the OMB ordered the diversion of these additional funds to pay for equipment purchases, management costs, dental services, and certain salary increases.

To counter this directive, Congress rushed through an $8 million supplemental appropriation, which enabled the VA to hire 8,600 new employees, including 802 physicians.

But just as this forward step toward improved medical care for our disabled veterans was being taken, the White House and the OMB called a halt. Refusing to release $71 million of the funds appropriated by Congress for VA medical care in the current fiscal year, the OMB has prevented the VA from hiring over 11,000 more hospital personnel. And on August 15, the White House ordered a 5-percent employment reduction in the VA Department of Medicine and Surgery. This order has wiped out any significant personnel increases hoped for this year and has confronted the VA with an extensive morale problem among present hospital personnel.

But it is the patient in the VA hospital and the veteran waiting to be admitted for required treatment who have suffered from these administration actions. It is clear that, in general, our VA hospitals are making every effort to provide patients the treatment and care they need. But the odds are heavily stacked against these hospitals being able to substantially improve and expand medical care to meet the extensive health problems of our older veterans and those returning from Vietnam.

There are over 15 million World War II veterans, among whom the need for quality medical care continues to increase. And the number of Vietnam-era veterans being discharged this year is expected to increase by 300,000 over the recent annual rate of 800,000. Ten of fifteen percent of all patients treated in VA hospitals are Vietnam-era veterans.

However, it is reported that two of every five veterans applying for admission to VA hospitals are being rejected. And the admission waiting list of veterans with non-service-connected health disabilities and illnesses has more than doubled since the beginning of 1971—from 2,861 to 7,176. It is estimated that this category of health problems accounts for 65 percent of the care the VA provides.

In the face of rising public concern over this denial of hospital inpatient treatment to our veterans, the Office of Management and Budget has recently permitted a partial release of VA medical care funds appropriated by Congress. It is claimed that this action will allow the VA to raise the hospital daily inpatient load to 85,500—the level mandated by Congress for the current fiscal year. However, the 4-month delay in releasing these funds will actually result in a daily patient level average over the full year of only 83,000. And it will mean that present VA hospital staffs, already overworked, will have to care for many more patients each day, because of the continued withholding by the OMB of funds appropriated for substantial increases in hospital personnel.

I firmly believe that America has an absolute obligation to provide the best possible medical care to those who have served our country and contributed to the national defense. Long-term veterans' medical care is as much a part of our defense costs as the short-term emergency care given on the battlefield.

I call upon the Office of Management and Budget to release all the funds that Congress has felt are so vital to achieving an effective medical delivery system for our veterans. It is unconscionable that this administration should seek to achieve fiscal savings at the expense of health care for those who have put their lives on the line for their country.

FEDERAL GOVERNMENT EMPLOYMENT OF THE MEXICAN-AMERICAN IN CALIFORNIA

Mr. TUNNEY. Mr. President, on October 23, 1971, the distinguished Senator from New Mexico (Mr. MONTOYA) stated in his address before the Coalition Conference of Spanish-speaking Americans that—

> Across America, our young men return from the Indochina adventure. All have given their share and more. What rewards and responses do they find? Minimal ones. Frustrating ones. Grudging ones. They were adequate for utilization as cannon fodder in Asia, but are rarely considered good enough to qualify for equal treatment back home. . . . In higher government pay-grades, we

> are virtually ignored and unrepresented. The facts are there for anyone to obtain and study. In grades 16 through 18, we are almost totally excluded in agency after agency. Here is a true national disgrace. We qualify to die for America and be mentioned in holiday speeches, but not to rise near the top by merit in our government's Civil Service.

In addition, the California State Advisory Committee to the U.S. Commission on Civil Rights recently reported that:

> Racism has been a major factor in denying the Mexican-American access to our political and governmental institutions in California today. The Committee found much evidence that the . . . administrations at all levels of government in California have chosen to accept this condition rather than mobilize our society to combat it. For many years, in spite of large and continually growing numbers in California, the Mexican-Americans have been conspicuously absent from governmental positions in this State. This has been true at all levels of government: municipal, county, state and federal (in those instances where Federal officials work within the boundaries of California).

If the facts are correctly reported in the following monograph, Federal Government Employment of the Mexican-American in California, which I shall submit for the RECORD, I clearly do not think we can allow this deplorable situation to continue.

According to this report, 12 of the 27 largest agencies employ no Mexican Americans in even minor, bureaucratic decisionmaking positions. None of the 27 have more than 3 percent in such positions, and some employ Mexican Americans in proportion to their availability in the work force. Statewide, Anglos are 20 times more likely than Mexican Americans to be in even a minor decision-making position.

Of the 293,770 full-time civilian Federal employees in California, only 5.6 percent—16,506—are Mexican American, as compared with 14.9 percent of the work force. This results in Mexican Americans being effectively precluded from middle-class Federal jobs or from jobs affecting the economic, employment, and housing problems of Chicanos. This de facto discrimination against Mexican Americans and their virtual exclusion from better-paying, policymaking positions has produced a form of Government apartheid.

With 70 percent of the agricultural work force in California being Mexican American, it is difficult to comprehend, for example, why none of the top 500 employees in the Department of Agriculture is Mexican American.

Nationwide, Federal Government civilian employment shows a similar underemployment pattern for all Spanish-surnamed persons. Of 2,571,504 full-time employees, only 74,449 are Spanish surnamed. Although Spanish-surnamed persons represent 7 percent of the Nation's population, they constitute only 2.9 percent of all employees. This 2.9-percent Spanish-surnamed figure has remained constant over the last decade.

The absence of any Mexican Americans at agencies such as the U.S. Information Agency—0 of 52—and the Federal Trade Commission—0 of 59—are reflected in the failure of the Information Agency to achieve credibility in Latin America and the FTC to protect the rights of the Spanish-speaking consumer.

This ignominious record strains credulity in that Chicanos capable of leading combat missions should be capable of sufficient training to push papers.

Today I have written to Mr. Robert E. Hampton, Chairman of the U.S. Civil Service Commission. I have asked him whether he agrees with the findings of this report; and if he so agrees, what specific steps, and with what results, if any, have been undertaken.

The data necessary for this report was made available as a result of the assistance of my office in securing the information on Federal Government employment of Chicanos in 47 Federal agencies located in California.

In order that this matter can be brought to the attention of all, I ask unanimous consent that the monograph, prepared by Public Advocates, Inc., under the sponsorship of the Mexican-American Legal Defense and Education Fund, Inc., be printed in the RECORD.

There being no objection, the monograph was ordered to be printed in the RECORD, as follows:

MONOGRAPH

A. INTRODUCTION AND SUMMARY—DE FACTO DISCRIMINATION

The statistics in this monograph are from the official computer tapes of the United States Government, United States Civil Service Commission, Washington, D.C.

The individual agency statistics on federal government employment of the Mexican-American in California, published herein, have never been compiled before, much less published.

In the *opinion* of the organizations preparing this report, these statistics have been deliberately suppressed by the U.S. Civil Service Commission because they refute the President's possibly sincere, but definitely inadequate efforts to secure for the Chicano[1] in civilian employment the equal opportunities that presently exist in the military—that is, population parity and an equal opportunity for leadership.

In summary, these statistics show that:

I. Each of the 27 federal agencies employing 100 or more Californians is a *de facto discriminator*. None employ Mexican-Americans in proportion to their availability in the qualified work force.

II. Of the 293,770 full-time civilian federal employees in California, only 5.6% (16,506) are Mexican-American, as compared to 14.9% of the work force. (Discrimination factor of 170%)

III. If President Nixon issued an Executive Order (pursuant to his Article II Constitutional powers) to enforce population parity in federal civilian employment, 27,265 additional jobs would be created for Mexican-Americans in California and 106,556 additional jobs nationwide for members of the La Raza Community.

IV. The result of such an Executive Order would be to increase annual Mexican-American income by $245 million dollars in California and the La Raza Community by $950 million dollars nationwide.

V. This sum is greater than the annual amount of poverty funds expended for the La Raza Community.

VI. Mexican-Americans are effectively precluded from middle-class federal jobs or from jobs affecting the economic, employment and housing problems of their people. For example, twelve of the twenty-seven largest agencies have *no* Mexican-Americans in even minor bureaucratic decision-making positions, none of the twenty-seven have more than 3% in such positions, and State-wide, Anglos are twenty times more likely than Mexican-Americans to be in even a minor decision-making position.

VII. This de facto discrimination against Mexican-Americans and their virtual exclusion from better-paying, policy-making positions has produced a form of Government Apartheid.

Civil Service Commission's false elitism

In large measure Government Apartheid has been caused by the false elitism championed by the Civil Service Commission, a flagrant under-employer of Spanish-surnamed persons. [2.3% of nationwide staff (119 of 5,268) are Spanish-surnamed; and, only 1 of its top 197 persons is Spanish-surnamed.] This elitism is exemplified by favoring academic proficiency over job performance and testing punctuation instead of aptitude.

Philadelphia Plan Executive order

Unless the nation is prepared to accept continued Government Apartheid in which Anglos determine the economic, employment, educational, housing and social fate of fourteen million "disenfranchised" Spanish-surnamed "subjects," drastic, immediate action is called for.

This monograph consequently recommends immediate Presidential *action* on a nationwide basis consistent with Vice President Agnew's call for Population Parity for the La Raza Community at all levels of federal civilian employment.[2] This "Philadelphia Plan" action can best be achieved by a *specific* Executive Order establishing *specific* employment goals and time-tables for population parity for all minorities.

As one Chicano veteran leader expressed it: "Chicanos have population parity in terms of military fatalities. The Government now has an obligation to end the inequity of our being first in war and last in peace."[3]

B. METHODOLOGY

All of the individual agency statistics are from the unpublished federal government computer tapes on file with the U.S. Civil Service Commission, Washington, D.C. These statistics were secured for Public Advocates, Inc. and the Mexican-American Population Commission through the intercession of a U.S. Senator.

The significance and accuracy of the tapes is undisputed. Nevertheless, spot verifications have been made with federal government officers and at government offices during the month of September, 1971.

The statistics are as of November 30, 1970, for forty-seven (47) federal agencies and departments employing 293,770 full-time *civilians* in California.

C. CHICANOS SHORTCHANGED BY 27,000 JOBS AND $245 MILLION ANNUALLY

Largest minority in nation

As of October, 1970, California's Mexican-American [Chicano] population was 2,980,000 or 14.9% of the State's population.[4] Thus, Mexican-Americans in California constitute the largest minority in any state,[5] as well as the largest Mexican-American population in any state.[6]

The federal government, unlike the State of California, refuses to keep separate statistics on Mexican-American employees. However, they do keep statistics on Spanish-surnamed employees. Generally, this results in an exaggerated count of Mexican-American employees, particularly at higher positions, due to the inclusion of Central and South Americans, and, often, incorrectly, Portuguese and Italian-Americans. It is estimated that the use of Spanish-surnamed employment statistics, in lieu of Mexican-American statistics, results in an exaggerated Mexican-American statistic of from 5 to 30%, de-

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Footnotes at end of article.

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pending on the agency.[7] However, all statistics used herein, by necessity and government omission, are Spanish-surnamed; thus the reader should note that the actual federal government employment of Mexican-Americans is 5 to 30% *lower*, particularly at higher level positions.[8]

Largest employer and largest de facto discriminator

The federal government is California's largest private or public employer. It employs 293,770 full-time *civilians*—as of November 30, 1970. *Only 16,506 were Spanish-surnamed.* This is only 5.6% of all employees as opposed to 14.9% of all Californians who are Mexican-American and part of the qualified work force.

Thus, on its face, the federal government is a *de facto discriminator* in violation of President Nixon's November 5, 1970 Spanish-surnamed "Sixteen Point Plan." This Plan called, but without any enforcement mechanism, for population parity for Mexican-American, and other Spanish-surnames, in federal civilian employment. (Population Parity already exists in military casualties, since, for example, 15% of Vietnam combat deaths among Californians consist of Mexican Americans.)

The federal government, based on its own statistics, underemploys Mexican-Americans by more than 50%. If Mexican-Americans were employed by the Federal Government in proportion to their population, 27,265 *more* Mexican-Americans would be employed in California, for a total of 43,771, rather than the present 16,506. The present underemployment results in a net loss in salaries to California Mexican-Americans of almost a quarter of a billion dollars a year ($245,385,000.)[9]

Most of the Mexican-Americans employed by the federal government in California are in poverty-level jobs, as defined by the U.S. Labor Department for urban areas. For example, Spanish-surnamed persons constitute 17.6% of all employees in the "Wage System" earning under $5,500 and only 0.6% of those earning $18,000 or more.[10]

Nationwide pattern of exclusion

Nationwide, federal government civilian employment shows a similar underemployment pattern for the La Raza Community [all Spanish-surnamed persons]. Of 2,571,504 full-time employees, only 74,449 are Spanish-surnamed.[11] Although Spanish-surnamed persons represent 7% of the nation's population,[12] they constitute only 2.9% of all employees, for a *de facto discrimination* percentage of 140. This 2.9% Spanish-surnamed figure has remained constant over the last decade and this absence of change was reported to the President on November 5, 1970.[13]

If population parity were achieved (i.e. 7% Spanish-surnamed federal employees), more than a hundred thousand (105,556) additional jobs would be available to Spanish-surnames, providing almost one billion dollars ($950,004,000) annually in additional income, or more than received by the La Raza Community from the entire Poverty program.[14]

The previously secret federal government computer tapes [15] when analyzed by *individual* agency display a rather significant discrepancy between President Nixon's rhetoric and federal agency commitment. This is glaringly apparent at the so-called "minority-oriented" agencies such as Health, Education & Welfare and Housing & Urban Development and at the agencies that have used Chicanos "so well" in Vietnam in military roles, such as the Army and Air Force.

Footnotes at end of article.

Individual agency

Statistics on de facto discrimination

Chart I, *infra*, p. 13, provides the statistics for the eleven largest federal agencies in terms of full-time, *civilian only*, employment of Spanish-surnames in California. Each agency employs between 5,000 and 90,000 persons.

Chart II, *infra*, p. 14, provides similiar information for the next sixteen largest federal agencies employing on the average of more than one thousand employees each.

Chart III, *infra*, p. 17, provides in condensed form such statistics for the twenty smallest of the forty-seven agencies.

Subsequent to the Charts are discussions of the significance and impact of the statistics on the Chicano community.

CHART I.— SPANISH-SURNAMED EMPLOYEES FOR FEDERAL AGENCIES EMPLOYING 5,000, OR MORE, FULL-TIME CIVILIANS IN CALIFORNIA (RANKED IN ORDER OF DISCRIMINATION—NO. 1 IS THE GREATEST DISCRIMINATOR, ETC.)

Rank and department	Overall percent Spanish-surnamed employees	Percent Spanish-surnamed in decision-making	Overall percent de facto discrimination [1]
1. Transportation	2.1	0.7	610
2. Interior	2.4	0	525
3. Agriculture	2.9	0	380
4. Treasury	4.1	1.2	270
5. Veterans' Administration	4.5	3.2	220
6. Army	5.4	.7	180
7. Air Force	5.5	0	170
8. Navy	5.7	.4	160
9. HEW	5.8	1.2	160
10. Post Office	6.6	2.0	130
11. Defense Supply Agency	7.9	0	80

[1] Rounded off to nearest 10 percent.

Note: Discrimination percent based on comparison with 14.9 percent, the percent of the California work force that is Chicano.

CHART II.—FEDERAL AGENCIES EMPLOYING BETWEEN 100 AND 5,000 CALIFORNIANS (RANKED IN ORDER OF DISCRIMINATION—NO. 1 IS THE GREATEST DISCRIMINATOR, ETC.)

Rank and department	Overall percent Spanish-surnamed	Percent Spanish-surnamed in decision-making	Overall percent de facto discrimination
1. Federal Home Loan Bank Board	1.0	0	1,390
2. Selective Service	2.8	0	430
3. Commerce	2.9	0	380
4. Atomic Energy	3.0	0	360
5. Secretary of Defense	3.0	2.0	360
6. Aeronautics and Space Administration	3.3	.7	350
7. GAO	3.7	0	310
8. HUD	3.8	4.6	290
9. NLRB	3.9	0	280
10. State	4.8	6.3	210
11. Civil Service	5.4	0	180
12. Justice	5.6	.5	160
13. SBA	6.5	6.7	130
14. General Services	7.2	0	110
15. DEO	8.1	7.7	80
16. Labor	10.0	7.7	50

Summary of Chart I—Chicanos last in peace

None of the largest eleven agencies, employing, in aggregate, more than a quarter of a million Californians, has even come close to the population parity the President has sought to impose on labor unions through "Philadelphia Plans."

The federal government's employment of the Chicano represents an ignominious record in conflict with our nation's glorious record of assisting defeated nations, as the Chicano is once again last in peace but first in war. For example, the civilian employment of the Army, Air Force and Navy showed de facto discrimination percentages of 180%, 170%, and 160%, respectively. This is a far cry from the Chicano population parity reached in military casualties during the Vietnam conflict. It may explain, in part, why the minority veteran unemployment rate has hovered at 13%. This ignominious record strains credulity in that Chicanos capable of leading combat missions should be capable of sufficient training to push papers.

The abysmal Chicano employment records at the Departments of Transportation, Interior, and Agriculture are statistically impossible on a pure chance basis, (discrimination factors of 610%, 525%, and 380%, respectively). One explanation, confirming past Chicano criticisms, is that these bureaucracies are indifferent to the plight of the Chicano and their Anglo-run affirmative action programs are wholly inept.

The Treasury Department's de facto discrimination percentage of 270% gives cause to consider the applicability of our founding fathers' revolutionary cry: "No Taxation Without Representation."

HEW's 180% de facto discrimination percentage conflicts with its prominent role in eliminating de facto discrimination in the schools. It may indicate that HEW will go as slow with Chicanos in employment as it has with Blacks in white schools. Such de facto discrimination—including only 1% Mexican-American decision-makers—makes it unlikely that HEW can effectively enforce its Title VI Civil Rights Act obligations on state agencies receiving federal funds, such as the California Welfare Department.

Chicanos for stoop labor only

Perhaps, the most shocking aspect of the present de facto discrimination is the virtual total exclusion of Mexican-Americans from even minor decision-making or middle-income jobs. Four of the agencies have no Mexican-Americans and nine of the eleven have only one percent or fewer Mexican-Americans making even minor bureaucratic decisions. With 70% of the agricultural work force in California being Mexican-American, it is difficult to comprehend, for example, why *none* of the top 500 employees in the Department of Agriculture is Mexican-American.

Summary of Chart II—Government apartheid

All sixteen agencies are de facto discriminators. Only the Labor Department (10% Spanish-surnamed) appears to have made any substantial effort toward compliance with the President's commitment to population parity for labor unions and others.

The poor Chicano employment records of Selective Service and the Secretary of Defense may explain, in part, why Chicano youth are increasingly bitter about the gap between their military and civilian employment potential.

In general, the substantial *de facto discrimination* at agencies such as the Federal Home Loan Bank Board (1,360%), NLRB (380%) and HUD (290%), may, in part, explain why Mexican-Americans have the worst housing and employment of any minority in California, with the exception of American Indians on reservations.

The 180% discrimination factor at Civil Service, and the total absence of any Spanish-surnamed persons in even minor bureaucratic decision making positions, illustrates why the U.S. Civil Service system continues to frustrate President Nixon and Mexican-Americans by its non-job-related, arbitrary tests. (These punctuation-oriented, anti-ability tests are the main basis for employment and promotion of 2.5 million federal civilian employees).

Half of the sixteen agencies have no Mexican-Americans participating in any decision-making, a statistic as likely on a pure chance basis as drawing three straight royal flushes in five card stud poker.

CHART III—FEDERAL AGENCIES WITH LESS THAN 100 CALIFORNIA EMPLOYEES

The de facto discrimination pattern established by the twenty-seven larger agencies, reported in Charts I and II, *supra*, continue as to the remaining twenty agencies. However, because of the statistical unfairness of indicting agencies with such small work forces, the agencies are merely listed in the footnote [16] and some highlights are reported. (These agency statistics are open to the public at the office of Public Advocates, Inc.)

(a) Six of the twenty agencies employ no Mexican-Americans, even in janitorial or file clerk positions;

(b) Only one of the twenty (U.S. Civil Rights Commission) has a Mexican-American in even a minor decision-making position;

(c) Only the U.S. Civil Rights Commission and the Equal Employment Opportunity Commission have translated President Nixon's rhetoric into action,[17] (40% of the Civil Rights Commission's and 20.5% of the EEOC's staff are Mexican-American);

(d) The absence of any Mexican-Americans at agencies such as the U.S. Information Agency (0 of 52) and the Federal Trade Commission (0 of 59) are reflected in the failure of the Information Agency to achieve credibility in Latin-American and the FTC to protect the rights of the Spanish-speaking consumer;

(e) The virtual exclusion of Mexican-Americans at the Federal Power Commission (1 of 49), the Federal Deposit Insurance Corporation (1 of 86), the Federal Communications Commission (1 of 48), and the Interstate Commerce Commission (1 of 37), is reflected in the policies of these Commissions. The FPC grants free licenses to corporations that refuse to hire Mexican-Americans;

the FDIC guarantees deposits to banks that refuse home loans to Mexican-Americans;

the FCC grants TV licenses to stations that ignore the Mexican-American audience and problems;

and the ICC provides favorable rate structures to railroads that refuse to hire Mexican-Americans at any but track repair level positions.

D. Recommendations to end de facto discrimination

No nation founded on democratic traditions and dedicated to law and order can flourish when its survival is dependent on poorly-paid mercenaries (Chicanos and minorities) and its policies determined by, and, too, often exclusively for Anglos.

Vice President Agnew on July 7, 1970 recommended federal government employment parity for the La Raza Community of fourteen million Americans.[18] President Nixon has urged "Philadelphia Plans" for labor unions. The Director of the Office of Management and Budget (former Secretary of Labor Shultz) has instituted minority population parity at his agency. The Navy has instituted a similar program for its military employment.

The 1970 Report of the U.S. Civil Rights Commission criticized the federal government for underemployment of minorities [19] and put final responsibility for this failure with the Office of the President:

"The Constitution vests the full power of the Executive Branch of government to the President. In the final analysis it is the President who has responsibility for the success or failure of the departments and agencies in carrying out their civil rights responsibilities . . ." (at 1033).

Article II, Section I of the U.S. Constitution grants to the President plenary power over all Executive Branch employment affecting 2.5 million civilians.

The La Raza Community organizations believe that one Presidential swoop of the pen, pursuant to the above plenary constitutional power, could eliminate de facto discrimination for all minorities and produce over one hundred thousand (100,000) jobs and almost one billion dollars annually ($1,000,000,000) for the La Raza Community.

"Philadelphia Plan" Executive order

It is therefore urged that the President honor this nation's obligations to all its citizens by issuing an Executive order, within *thirty days*, as follows:

"Every federal agency shall be required to reach population parity as to all minorities [20] in employment by October 1, 1972. Further, each agency, shall reach population parity at *policy-making* levels for such minorities by no later than October 1, 1974. Non-conforming agencies shall have their subsequent fiscal year's recommended budget reduced in proportion to their failure to achieve said population parity.[21]

On August 8, 1968 President Nixon issued an Executive Order to "assure that the Executive Branch of the Government leads the way as an equal opportunity employer." (Ex. Order #11478) He contended that:

"Discrimination . . . must be eradicated completely from Federal employment. . . .

We must hold out a helping hand and imaginatively use the facilities of the Government . . ." [22]

The issuance of an Executive Order with specific goals and timetables for all minorities will allow the nation to "hold out a helping hand and imaginatively use the facilities of the Government."

Should the President from the state with the largest Chicano population fail to take such action, legal recourse may exist, pursuant to the Civil Rights Act of 1966, which guarantees to all citizens the employment and other property rights enjoyed by the most privileged group. (42 U.S.C. Sections 1981, 1982.)

E. CONCLUSION

The de facto discrimination and Apartheid of the federal government toward the Chicano brings into question the sincerity of this nation's commitment to democracy. This is particularly so since one swoop of the Presidential pen, rather than one million swords, is all that is necessary to end discrimination.

The irony and danger of the present conflict between our traditions and our treatment of the La Raza Community was poignantly expressed by a Chicano youth, a client at Centro Legal de La Raza:

"You talk of law and order. Chicano youth bleed and die for this principle. Meanwhile you eat the steak and we pay for it. Do you wonder why we view the government as a gringo government?"

FOOTNOTES

[1] Chicano is used interchangeably with Mexican-American. La Raza Community includes Chicanos *and* all other Spanish-surnames, such as Puerto Ricans and all Latinos.

[2] July 7, 1970 statement by V. P. Agnew calling for Spanish-surnamed employment in federal government in a "reasonably equivalent ratio to" their percentage of the "population." *N.Y. Times*, July 8, 1970, p. 22, Mr. Agnew further admitted that the number of Spanish-surnamed employees "was too small to represent the minority group adequately."

[3] June, 1971 statement of then California President of American G.I. Forum, emphasis added.

[4] Official Census of Mexican-American Population Commission, April, 1971. The Spanish-surnamed population was 3,140,000 or 15.7%.

[5] According to the U.S. Census Bureau, 1970, the largest number of Blacks reside in New York State—which has 2.1 million Blacks.

[6] Texas has the second largest Mexican-American population, 1.7 million. See, *The Electoral College and the Mexican-American*, June, 1971.

[7] Based on opinions of California State agency officials, U.S. Civil Rights Commission and local federal agency heads.

[8] One former Fair Employment Practices Commission member stated that as many as 50% of the higher level Spanish-surnamed positions are probably held by non-Mexican-Americans.

[9] Computed on basis of average of $9,000 per job times 27,265=$245,385,000.

[10] No Spanish-surnamed person in the "Wage System" earning $18,000 or more is believed to be Mexican-American.

[11] "Minority Group Employment in the Federal Government," U.S. Civil Service Commission, SM 70-70B, November 30, 1970, p. 32.

[12] November 5, 1970 *official* statement of President Nixon's then Chairman of the Cabinet Committee on Opportunities for Spanish-speaking People, *Washington Star*, November 6, 1970.

[13] For example, five years earlier the figure was 2.7%, *Ibid*, fn 8, 9.

[14] This additional 105,556 jobs for Spanish-Americans is feasible since federal turnover per annum is four times greater—400,000 per annum.

[15] On file for public examination at Public Advocates, Inc., 433 Turk Street, San Francisco, California, 94102.

[16] Civil Aeronautics Board; Commission on Civil Rights; Equal Employment Opportunity Commission; Farm Credit Administration; Federal Deposit Insurance Corporation; Federal Communications Commission; Federal Maritime Commission; Federal Mediation and Conciliation Service; Federal Power Commission; Federal Trade Commission; Government Printing Office; Interstate Commerce Commission; National Credit Union Administration; National Science Foundation; Securities and Exchange Commission; Office of Emergency Preparedness; Railroad Retirement Board; Renegotiation Board; Tennessee Valley Authority; United States Information Agency.

[17] The Federal Maritime Board appears to have so done, but analysis shows that it has only six employees and the only Spanish-surnamed employee is the lowest paid person.

[18] *Supra*, p. 9, part C.

[19] October 1970, at 1078.

[20] Population Parity has already been achieved for Blacks at menial level employment, but *not* at policy-making positions. Only Mexican-Americans and other Spanish-Speaking Americans, however, are substantially under-represented at both menial and policy-making positions.

[21] Precedents do exist for such Executive Orders. President Eisenhower issued a generalized Executive Order to end discrimination in federal employment (#10590, 1955). President Johnson issued a similar non-specific Executive Order in 1965 (#11246).

[22] Presidential statement of August 8, 1969 attached to Executive Order #11478.

ARE OKINAWA BASES ESSENTIAL?

Mr. MANSFIELD. Mr. President, the Philadelphia Inquirer of today contains an editorial entitled "Are Okinawa Bases Essential?" The editorial relates to the provision in the Okinawa Reversion Treaty permitting the United States to retain most of its military installations

on Okinawa, including major air bases.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ARE OKINAWA BASES ESSENTIAL?

Approval of the Okinawa Reversion Treaty by the U.S. Senate, 84 to 6, is a praiseworthy move that will, at long last, get American troops out of the military occupation business in islands of the Pacific taken over from the Japanese in the Second World War.

The treaty calls for restoration of Okinawa and other islands in the Ryukyu chain to the Japanese before the end of next year. This is in accord with a provision in the 1951 peace treaty which formally recognized Japanese sovereignty over the islands but set no date for transfer of administrative control to Japanese authorities.

Under the circumstances, since 1951 was during the Korean War, postponing the end of U.S. administrative control probably was justified for military reasons—but the delay should not have dragged on for 20 years.

Senate ratification of the Okinawa Reversion Treaty, negotiated over a four-year period ending last June, should help to improve U.S.-Japanese relations.

There is, however, a provision in the treaty that continues to arouse anti-U.S. sentiment in Japan as the Diet debates implementation of the pact. The controversial provision permits the United States to retain most of its military installations on Okinawa, including major air bases. Japanese opposition to these terms has not been entirely mollified by companion clauses that require removal of all nuclear weapons from Okinawa and forbid use of the bases for combat operations without prior permission of the Japanese government.

It is questionable whether retaining a U.S. military presence on Okinawa is vital to American security or the defense of American interests, especially since Japan will hold veto power over use of the bases for any function other than training and reconnaissance missions. The possibility of complete U.S. military withdrawal from Okinawa ought to be seriously examined as part of a comprehensive review of America's far-flung military installations and commitments abroad.

EXTENSION OF CAPE COD NATIONAL SEASHORE

Mr. KENNEDY. Mr. President, it has been about 6 weeks since I introduced S. 2605, a bill to authorize a study on extending the Cape Cod National Seashore to Martha's Vineyard, Nantucket, and certain other neighboring offshore islands. I have, in these few weeks, received considerable mail on this subject. Nearly all of it has been favorable, which indicates to me how severe is the need for immediate action to preserve the unique characteristics of those islands, before it is too late, and how widespread is the recognition of this need to move swiftly.

I have also received, from the Harvard Law School Legislative Research Bureau, a memorandum outlining the principal issues involved in such a preservation effort, and making recommendations for legislative action. It is a thorough, thoughtful analysis, and deserves the attention and thought of all of us concerned with the future of our threatened natural resources.

I ask unanimous consent that the letter and memorandum, and other material bearing on the issue, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

HARVARD STUDENT
LEGISLATIVE RESEARCH BUREAU,
Cambridge, Mass, November 8, 1971.

Senator EDWARD M. KENNEDY,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: We have completed our initial research on a bill to study whether to create a National Seashore on the islands off the shore of Cape Cod, as you proposed in S. 2605 introduced on September 29, 1971. We have had the opportunity to examine previous legislation, to visit the islands, and to discuss the proposal with several land use experts; and have put our recommendations in the enclosed memorandum. We hope that our research will be helpful to you and your colleagues in shaping your final legislation and in stimulating local and national interest in the desirability of federal legislation to preserve these islands.

Sincerely,

WILLIAM MCSHERRY,
RENWICK MARTIN,
EDWIN MILLER.

MEMORANDUM: THE PRESERVATION OF THE UNIQUE CHARACTERISTICS OF MARTHA'S VINEYARD, NANTUCKET, AND OTHER ISLANDS OFF THE COAST OF CAPE COD

I. PURPOSE OF MEMORANDUM

It is the purpose of this memorandum to explore in a preliminary fashion some of the conservation, practical and legal issues raised by extending the Cape Cod National Seashore to parts of Cape Cod's Offshore Islands. An examination of the experiences of the Cape Cod National Seashore itself, and of other National Seashore Areas in the U.S., leads to a conclusion that the complex problem of preserving the unique characteristics of these islands demands a varied and flexible mixture of land use controls. This memorandum will examine the planning and other land use techniques available and make recommendations for their application to these islands.

II. FACTORS TO BE CONSIDERED

There is increasing awareness of the pressing need to preserve, in their natural state, island and seashore areas throughout the United States because of their scenic and recreational value and unusual characteristics. Martha's Vineyard, Nantucket, and their neighboring islands have long been recognized as meriting intense consideration for preservation.[1] These islands belong to a scenically and geologically unique coastal plain, part of which is currently protected by the Cape Cod National Seashore Act.[2]

Because of their proximity to the large population concentrations of the northeast, the islands are under severe pressures for recreational, residential and commercial development. If these pressures are not stemmed, then the particularly vulnerable ecological balance of the islands may well be irretrievably destroyed and the opportunities for enjoyment of them lost to future generations. Any legislation concerning the preservation of these islands must, therefore, reconcile two conflicting goals—the preservation of open lands in their natural state, and the provision for recreational uses and other development. Both these goals are currently endangered by unguided, haphazard development activity.

It must be taken as a guiding precept that no single, heavy-handed approach to the island's preservation is either desirable or practical. The reason, simply stated, is that the very uniqueness which must be preserved is the product of a diversity of land uses, topography, and ownership. Thus whatever legislation is contemplated to encourage preservation must itself be flexible; it must use a variety of legal concepts; and it must recognize the different land uses which are now in existence on the islands.

Furthermore, there must be an acute awareness of the islands' limited sizes, and their limited capacities to absorb each and every visitor who seeks to come to the islands. Just as there are fire laws which restrict, for reasons of public safety, the number of people who can sit in, for example, a theatre, there can—and perhaps should—be some mechanism for limiting the number of visitors to the islands. This is, however, a complex question, with serious Constitutional complications. But it cannot be ignored.

It should be clearly understood that any land, or any interest in land, designated for inclusion in a national seashore area will be purchased at full and fair value from the owner. This is a long-standing principle of our system of laws, and constitutional protections. But because of the high degree of flexibility inherent in the National Seashore approach, the desire to minimize any interference with home rule and local government, and the necessary to limit commitment of government funds, it is probable that the question of outright government purchases will not be a major one.

Basically, the approach to preserving the unique characteristics of these islands:

(1) Must take into account, and if at all possible not disturb, the existing lands devoted to preservation and conservation. These would include lands held by the Nantucket Conservation Foundation; The Trustees of Reservations; The Audubon Society; land in Town, County and State parks; lands under conservation easement agreements; Historical Societies; and similar organizations or devices.

(2) Must allow for some expansion of residential and commercial uses in certain areas, but only in accordance with comprehensive planning. It is unrealistic to freeze, at a given point in time, all development in all parts of the islands. (It is interesting to note, parenthetically, that the population of Nantucket is, today, lower than it was during the peak of its whaling days.) Such expansion of residential and commercial development should, however, be restricted geographically to certain centers of gravity, in general those where development is now most concentrated.

(3) Must preserve in a forever wild or natural state certain unique topographical features, such as bluffs, moors, wetlands, hillocks, ponds, dunes, promontories, and others. While this would be the most severe of the provisions, as it would prohibit any development in the designated areas, it is essential to the islands' preservation. It should be noted, however, that this is not a hardship because most of these areas are currently without development of any kind.

(4) Must, in those areas not designated for expansion of residential or commercial development, or for preservation in a forever wild or natural state, provide for continuing the existing uses. Present ownership patterns would not be disrupted, but any further development would be restricted. This allows for preservation of much of the islands' character, keeps down densities, and maintains the integrity of local control.

(5) Must ensure public access to beaches, moors, forests, and other areas of scenic and recreational value. Good conservation practice calls for concentration of intensive uses in designated areas, while preserving large stretches in their pristine or natural states. This could mean that hiking trails, bicycle paths, and parking would be provided in some

Footnotes at end of article.

parts of the islands for public use and convenience.

If these five objectives can be reconciled, then the two conflicting goals of preserving open lands, and providing avenues for recreational uses and other future development can be achieved. And they can be achieved at minimum cost to the government, at minimum disruption to existing patterns of ownership and use, and at maximum retention of local government control.

The need for Federal legislation should by now be clear if these goals are to be achieved. The islands are a natural resource of national significance, and this resource is presently endangered by haphazard and uncontrolled development activity. Experience elsewhere in the Nation has shown that carefully devised Federal legislation can serve as the medium for successfully halting this uncontrolled development, substituting in its place planned, controlled development coupled with preservation of that which most needs preservation. Of the many legal vehicles available through Federal legislation, the ones which are recommended seek to complement the preservation and conservation activities already underway, while concurrently leaving ample room for expansion where necessary and desirable.

III. LAND USE ALTERNATIVES

(1) *Full fee acquisition of land.* Under this concept, the government purchases complete ownership of property within those areas so designated for this type of acquisition. Since the government possesses all rights in this land, there are no restrictions on public access to it, and the government retains full authority to control its development.

The major disadvantages of this scheme are: (a) the cost of acquisition may prove burdensome; (b) the costs of annual maintenance and administration, also borne by the government, may be high; and (c) the property is removed from the local tax rolls. But there are often situations where, due to the inadequacy of alternative approaches, acquisition of the full fee title by the government is the most desirable approach.

(2) *Less than fee acquisition of the land.* As property ownership is, in practical reality, ownership of a bundle of rights with respect to the land, an alternative concept involves the purchase of parts of this bundle—such as acquisition of an owner's right to develop his land. Compensation, or the purchase price, of acquiring this right to develop is calculated by subtracting the value of the land with no possibility of development, from the value with full development potential. There are considerable advantages to such a program of development rights acquisition: (a) it achieves open space objectives without the government having to bear full fee acquisition costs; (b) the land remains on the local tax rolls; (c) there is no public maintenance cost; and (d) since owners retain ownership of their land, it remains productive.

Experience with this device in other National Seashore areas has indicated the need for precision in the drafting of both the legislation and the easement agreements themselves, to assure clear understandings of the rights of both the property owners and the government.[3]

There are several disadvantages, however, to this less than fee acquisition device. Detailed easement agreements can inhibit the flexibility of the planning process. This technique also has its own peculiar cost problems; for example, the cost of purchasing development rights may sometimes approach that of purchasing the full fee title. Although there is no public maintenance cost as such, the administrative costs of valuation, condemnation and drafting agreements can be considerably greater than those of full fee acquisition. In addition, there may be a coordination problem if the less than fee device is used in conjunction with non-compensable zoning, where neighboring lands are treated differently under the two programs.

An alternative, though similar, concept is for the government to acquire the full fee, and then lease or sell back the property to the owners for a use compatible with their land. Although eliminating the flexibility problem, this concept involves an increased initial cost of purchase, and the property does not remain on the local tax rolls.

(3) *Zoning.* The federal government, while lacking the authority to promulgate local zoning laws, may use its general welfare powers to encourage and stimulate local governments to enact zoning ordinances. This preserves local sovereignty over local destiny. In the Cape Cod National Seashore Act, and similar acts, the federal government suspended its powers of acquisition of land within the Seashore area when suitable zoning laws had been passed by the local governments. The Cape Cod formula is not suitable where the objective of the zoning regulations is the absolute prohibition of development of the Seashore area. Such zoning would certainly amount to a taking which must be compensated, since the landowner is prevented from profitably using his land.

Large lot zoning, which would allow a residential use of the property but require a minimum lot size and frontage and setback restrictions, is not a method which will preserve the natural state, since it promotes scattered development in the zoned area—precisely one of the development patterns most destructive to preservation efforts. It may be a useful technique, however, for the preservation of a rural atmosphere, so long as it is in accordance with a comprehensive plan and does not violate state law.[4]

Exclusive agricultural or forest zoning for prime agricultural or forest land, in an area which has already felt pressure for development, may not allow the requisite reasonable use to the owner of the land so zoned, and hence may be invalid. Moreover, since not all of the land on the islands is useful as prime agricultural or forest land, such zoning would be effective only in a limited area even if it were otherwise found valid. Flood plain zoning, though certainly a valid exercise of the zoning power, is similarly limited in its application.

Zoning has several advantages: (a) it is a regulation, not a compensable taking; (b) it is flexible and may be changed to meet unforeseen contingencies; and (c) the zoned land remains on the tax rolls.

(4) *Compensable Regulations.* Instead of using the encouraged zoning procedure of the Cape Cod National Seashore Act, the government may also be able, in effect, to "zone" directly, constrained only by the "just compensation" provision of the Fifth Amendment. The value of the properties chosen for regulation would be calculated as of the date the regulations are to go into effect, and the aggregate value would equal the compensation payable as if the entire area were purchased in fee on that date. The value assigned to each piece of property would be guaranteed to its owner upon resale. The merits of this approach are that it postpones the costs associated with the acquisition techniques, and may even eliminate them if the land appreciates in value. It also allows a measure of flexibility since regulations could be altered as conditions change. Property remains on the local tax rolls in private ownership and the government avoids the expenses of maintenance. The disadvantages of this technique, are primarily, the administrative inconvenience and lack of experience with its use.

(5) *The Island Trust Concept.*[5] Under this approach, the federal government and the state government enter into an agreement that directs a Trust Commission, whose members are appointed by Federal, State, and local officials, to formulate zoning and acquisition plans for the purpose of providing public recreation and preserving the natural character of the islands. The agreement provides that these plans be submitted to the relevant local governments. If they are not enacted within a certain period of time by the local governments, the Commission is then empowered to enact and enforce the zoning plans and to acquire the designated property.

The novel feature of the Island Trust approach is the grant of local zoning power by the state to the Commission. Previous National Seashore legislation (the Cape Cod formula) has excluded developed village areas from being subject to its "encouraged zoning" technique, presumably because acquisition of the developed areas by the federal government would result, should the local government fail to zone. Such acquisition would be costly, disruptive to the local community, and very unsuitable for recreation or preservation. Should the local government fail to zone under the Island Trust approach, the Commission is empowered to zone, and thus shape the further development of developed land in a manner compatible with the surrounding park area, while avoiding the undesirable full acquisition of developed land.

IV. RECOMMENDATIONS

A. *Villages and Towns.* No direct interference with developed village and town areas should be considered. Included in these village and town areas would be presently undeveloped surrounding areas needed for future expansion and development. Zoning would be at the discretion and under the control of local authorities or administered under an Island Trust plan as outlined above.

B. *Beaches.* To provide public access and assure preservation, all beaches should be acquired in full fee. The government should administer the areas in such a way as to preserve those beaches which might be harmed by high-intensity public use. It may be necessary to limit the development uses of privately-held areas bordering the publicly-owned beaches, in order to ensure the scenic value of these beaches and to provide adequate public access to them.

C. *Interior Lands.* Two concepts of development can be envisioned for the remaining interior lands:

1. *Lands Forever Wild.* Certain lands would remain completely undeveloped to preserve their unique scenic and natural value. The government should ensure public enjoyment of these areas by providing for hiking trails and such other access as may be appropriate. The extent of public control necessary to administer these areas would make it desirable that they be acquired in full fee. The cost of acquisition of development rights would approach the cost of full fee acquisition, and the extent of contemplated public restrictions would make it unsuitable for private ownership. Any existing residential use in these areas would be guaranteed to the present owner for either a specified term of years, or his life or the life of a survivor, at his option; at the expiration of this term, the residential use would end.

2. *Other Lands.* Land deemed unsuitable for the above purposes, either because of the extent of existing development or because of the lack of exemplary natural characteristics, would be restricted only to the extent necessary to complement the overall purposes of preservation and public access. Full fee acquisition is unnecessary to accomplish these goals. Any of the techniques outlined in Section Three are appropriate. The end result of the program of restrictions on these lands would be to prohibit additional commercial and residential use of the property, and to establish such other restrictions which may

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be desirable to preserve the islands' interior areas and the existing residential uses on them.

In general, agricultural and forest uses should be considered compatible with the overall purposes of the plan. Land already protected by suitable conservation trusts would not be restricted further. In addition, land owned by the state or by local governments would not be purchased or restricted without the consent of the governmental body.

Under this concept of protecting all existing uses, structures already completed or under construction on the date the legislation is introduced would be considered existing uses; all those begun after this date would not be considered existing uses.

V. CONCLUSION

At this point in time, market forces are such that much land on the islands is ripe for development. On both Nantucket and Martha's Vineyard, new, large-scale tracts are either in actual development or in advanced development planning stages. These tracts are, generally speaking, completely out of character with the patterns of growth established on the islands over the centuries. The fragile beauty of the islands, once destroyed, cannot be retrieved. Neither can the lost opportunities for public recreation be reclaimed.

Only immediate action can guarantee that future generations will find Cape Cod's offshore islands almost as this generation has found them. And that is the purpose of the legislation.

FOOTNOTES

[1] Dept. of the Interior, *Islands of America* (1970) p. 20.

[2] 16 U.S.C.A. 459(b).

[3] As the result of the passage of the Conservation and Historic Restriction Act (Mass. Laws St. 1969 c. 666), many of the drafting and enforcement problems may have been eliminated in the Commonwealth of Massachusetts. By the terms of the act, easement agreements shall not be invalid due to lack of privity of estate or contract, or lack of benefit to particular land, or assignability of the benefit. Conservation and preservation restrictions are to be acquired in the same manner as other interests in land, and are to be enforcible by injunction or proceeding in equity. The dissatisfaction of the National Park Service with the less than fee acquisition device may be lessened by this statutory alleviation of many of the old problems of easement acquisition.

[4] The Massachusetts Supreme Judicial Court has invalidated a 2.5 acre minimum lot requirement (*Aronson* v. *Sharon*, 346 Mass. 598, 195 N.E. 2d 341 (1964), but upheld a one acre large lot zone (*Simon* v. *Needham*, 311 Mass. 560, 42 N.E. 2d 516 (1942)). Other states have allowed larger minimum requirements. See e.g., *Senior* v. *Zoning Commissioner of New Canaan*, 146 Conn. 531, 153 A 2d 415 (1945) (4 acre zone upheld).

[5] For a Draft bill on this proposal, see Department of the Interior, *Islands of America* (1970) p. 90.

FRAGILE OUTPOST

The following editorial is reprinted from the October 11, 1971 issue of the New York Times.

So much of the wild and the beautiful, the serene and sheltered Atlantic Coast has already gone down the drain—a polluted drain at that—that it has become of over-riding importance for the health and enjoyment of future generations to preserve what is left of it unspoiled from the depredations of the past and the present.

While only a tiny fraction of the once magnificent Eastern shoreline has managed to escape the blight of unplanned or speculative development especially during these last few frenetic years, that fraction is still worth fighting for and saving. This is particularly true of the most delicate and often most beautiful part of any coast: its islands.

Last year the Interior Department came up with a novel proposal to protect the most vulnerable to America's islands from the haphazard commercial exploitation which now is an immediate threat to practically all of them. It was suggested that Congress establish an "island trust," with state approval in each case, giving in effect an umbrella of Federal authority to locally promulgated land-use plans and zoning controls designed to preserve "the unique island environment." No such island trust has yet been set up.

Of the Atlantic islands, perhaps the most desperately in need of protection along this or comparable lines is Martha's Vineyard, off the Massachusetts coast. With a permanent population of some 6,000 people, this island is no museum piece but rather a living organism in a setting of extraordinary natural splendor and intense historic and scientific interest, now teetering on the edge of an uncontrolled speculative explosion that could destroy in a decade the delicate balance between man and nature that has evolved there in the course of three centuries.

Recognizing at last that Martha's Vineyard is not only a natural but a national resource, Senator Edward M. Kennedy of Massachusetts has just proposed a study which in effect would determine the best method of protecting the future of this and other major Massachusetts coastal islands. He specifically raises the possibility of their inclusion in whole or in part within the already existing Cape Cod National Seashore. This is not necessarily the best solution—though it must be noted that what remains of the beauty and special quality of the Cape would by now surely have been totally destroyed if the National Seashore had not been established in the nick of time just a decade ago.

The situation facing the Vineyard is quite comparable today to that of the Cape then. But there are various routes to protecting these most fragile outposts, the islands. Senator Kennedy's proposal should give both the Interior Department and State and local agencies the needed impetus for exploring them.

[From the New York Times of Sept. 24, 1971]

TO SAVE THE VINEYARD

(By Anne W. Simon)

MARTHA'S VINEYARD, MASS.—Now the offislanders have returned to what is euphemistically called civilization and from Gay Head to Cape Poge, from the pounding surf on the oceanside to the gentle shores of the sound, the Vineyard is glowing under the special light before Indian summer. Wild grasses are turning russet, cranberries are scarlet, goldenrod and asters dot the hillsides. Martha's Vineyard is going native again—but for how many Septembers in the future?

The man-land balance here, altered only imperceptibly over many centuries of exploration and development, is suddenly erupting. One of the last warm-water islands of its size left unspoiled along the historic Eastern seaboard—where Leif Ericson may have dropped anchor in the eleventh century and modest summer seafarers still sail with the wind in quiet bays and ponds—is about to sink under the weight of progress. Unless—

Unless the pristine nature of the island is safeguarded. There are proposals now for the island's first nightclub, first trailer camp, first beachfront condominium with mushrooming subdivisions of old farms into quarter-acre lots. These plus expansion of the towns and buildup around the lakes would strip the Vineyard of its character.

What is happening here is a virulent American phenomenon—attacking rural areas across the country in swift, planless fashion, shocking isolated pockets of people to protest when developments appear across the road or in their favorite view. But Martha's Vineyard is not just another place, ripe for ravaging. It is a national treasure with such geographical and geological variety that it has great scientific, archeological and historical interest as well as natural resources of enchanting beauty—wild great ponds, twisted oak woods, long curving beaches below clay cliffs.

Tamed and developed, the Vineyard's hundred-square miles will make no significant dent in the first- or second-home market. Protected, it is a remarkable asset to a society struggling to be civilized. The Vineyard, rescued, will be a highly visible example of far-sighted planning.

There is no definitive local or regional plan in effect here. Until now, the character of the land dominated the way of life, from the first-known settlers, carbon-dated to 2270 B.C., who hunted deer in what was then a great forest, to the fishermen, whalers, sheep farmers of subsequent eras, and even to the early summer visitors. Most of the present 6,000 year-round residents believe this character is indestructible and do not see that the people business—the summer tourist trade plus a growing retirement faction—is creating an explosive paradox. The people who come to the Vineyard come because of its character, the very thing which their presence in ever-increasing numbers (almost doubled in a decade to reach an approximate summertime 42,000 in 1971) must destroy. Only a handful of the many influential summer people concern themselves with the island's future, making little headway.

Vineyarders and visitors are playing a dangerous game of ostrich. They make a habit of purchasing expert studies with public funds and ignoring the results. Filed to forget are several hundred thousand dollars worth of recent fact, opinion and warnings about the island commissioned by various Federal and state governmental departments. There are a dozen viable proposals; several times the Vineyard has been recommended in whole or in part for inclusion in the Cape Cod National Seashore. In 1970, this island was singled out as a candidate for the protective "Island Trust," a new concept proposed by the Department of the Interior.

At this eleventh hour, while the island is being chewed at by mainland developers, a comprehensive plan for the Vineyard has been submitted by a professional planning firm to the county commission which ordered it. The report is blunt. It gives the Vineyard two years to limit the number of visitors, acquire permanent open space and put stringent restrictions on expansion. If a protective agency to enforce the plan is not created by the Massachusetts Legislature in its 1972–73 session, the island must appeal for immediate Federal protection under the "Island Trust" program.

If none of this is done, the island will have "contracted environmental terminal cancer" by 1975, according to this detailed study. In effect it says that Martha's Vineyard is a limited resource, determines what its limits are—how many more cars, planes, houses, people it can hold without destruction of its quality—and how these limits can be imposed and enforced.

The commission unanimously rejected the plan, did not make it public (although, again, it was paid for by public funds, in most part from the U.S. Department of Housing and Urban Development), fired the firm and decided to start again with a just-employed resident planner, proving once more that the local population will not move in time, if ever, to protect the Vineyard's natural bounty. Islanders are too close to the clinking dollars of short-term growth to recognize the rumble of long-term disaster.

The Vineyard could be a pace-setter. By being a national resource which states its limits, it would encourage citizens elsewhere to like action. Massachusetts Senators Kennedy and Brooke, and Representative Hastings Keith would make a stunning contribution to the nation's search for an intelligent land-use policy by sponsoring one of the now available Federal solutions for this endangered island.

[From the Vineyard (Mass.) Gazette, Oct. 8, 1971]

SENATOR KENNEDY'S PROPOSAL

The issue raised by Senator Kennedy is the vital one we have all been facing: what is the best method of protecting the essential character of Martha's Vineyard? Is it, he asks, through some form of an Island trust, an extension of the Cape Cod National Seashore, a combination of both, or some other form of contractual development? Or, we may well ask ourselves, can we, here on the Island, through the use of measures within our reach, meet the pressures and challenges that so gravely threaten the Vineyard?

If the latter is our choice, we shall have to do quickly what we have failed to do in the past. Up to now the Island can claim only a rear guard action, successful in isolated instances but falling short of the broad, determined measures of policy which the critical times require. The most helpful advances of our own are the Open Land Foundation, not yet past its initial phases, and the Dukes County Planning and Economic Development Commission which represents the only attempt at a comprehensive program to guide and in necessary fields to control the Island's future. Will the commission be able to agree upon an adequate program, and will the Island grasp boldly the steps such a program must demand? Answers to these questions are far from certain.

As for Senator Kennedy's initiative on behalf of the Island, the significant aspects are the complete flexibility of his approach and the fact that he proposes a study, not a foregone conclusion. Such a study promises much and endangers nothing. Out of it, perhaps may come new answers as to what the Vineyard can do itself with little federal or state assistance, or even with none.

This is not a time for apprehension lest federal power take over our beaches and make us the victim of unlimited invasion. As to the prospect of invasion, the Steamship Authority with its commitment to indefinite growth, and its greater obligation to bondholders and the state of Massachusetts than to the islands themselves, may be a great danger than some federal intervention. These dangers must be weighed. The proposed study may show a way out.

The notion that the Vineyard may be hitched on to the Cape Cod National Seashore is perhaps frightening, but the relevance of the latter successful venture in preservation on the other side of Vineyard Sound lies in what Senator Kennedy accurately describes as "a very delicate formula . . . worked out to everyone's benefit", "a delicate balance that has worked uncommonly well". These are words that reach toward some concept that will answer our great need.

In conversation with friends, Senator Kennedy has said that he can work well with Senator Brooke and Congressman Keith, and that his interest is not only in today or tomorrow but in what Martha's Vineyard and Nantucket will be a hundred years from now. And so the whole project grows in stature and assumes a shape that, until the study takes form and shows its worth, ought to command cordial support.

GENOCIDE: CONCURRENT JURISDICTION POSSIBLE

Mr. PROXMIRE. Mr. President, article V of the Genocide Convention says in part—

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention . . .

It has been argued that the Senate should not ratify this treaty because this article will take power from the States and invest that power exclusively in the Congress. But is that what the article says? No. It says that any legislation we enact is to be done in a manner in accordance with our Constitution.

It is possible, and perfectly in accordance with the intent of the treaty, for the Congress to enact a law stating that the several States have concurrent jurisdiction in this area. Then any legislation enacted by Congress would not prevent the States from acting on their own.

Mr. President, we should not assume that this treaty will automatically take from the power of the States. The Congress in its wisdom can easily protect any interest that the States may have in this area. I urge the Senate to ratify the Genocide Convention without delay.

STATEMENT ON AMENDMENT 641 TO H.R. 10947

Mr. CRANSTON. Mr. President, Senator STEVENSON and I have submitted an amendment designed to set aside revenues collected from the automobile excise tax—after a 1-year suspension of the tax—and apply these funds to the solution of serious transportation-related problems—mass transit, air pollution control and research, Amtrak, highway traffic safety, and airport development and noise control.

The President's proposal, embodied in the Revenue Act of 1971 (H.R. 10947) recently reported from the Finance Committee, would permanently repeal the 7-percent excise tax on the sale of new automobiles. Under present law, the tax which now goes almost entirely into general revenues would be gradually phased out between now and 1982. More than $20 billion of badly needed Federal revenues would be lost as a result of repeal. Our amendment would suspend the tax for a year rather than repeal it.

Under normal circumstances, I would not advocate even a 1-year suspension of the tax. But we have been boxed in by the President's announcement that he would end the tax. The President has no power to end the tax without the approval of Congress. However, some 8 million people may well think that he guaranteed them that they will get $200 off their 1972 cars retroactive to August 15. Many families are counting on that guarantee; the automobile industry has based sales campaigns and production schedules on it.

Congress cannot reverse history at this late date. All we can do is to try to set things aright for the future.

Our amendment would suspend the excise tax until July 1, 1972, in order to protect those people who purchased or plan to purchase automobiles on the basis of the President's assurance that they would shortly thereafter receive a tax refund. While the tax is suspended the Secretary of Transportation would be charged with preparing a program for use of the revenues derived from the excise tax when it is reimposed on July 1, 1972. The program would have to allocate no less than 50 percent of the funds for mass transit purposes, and the remainder for air pollution research and control, improvement of the national rail transportation system—Amtrak—highway safety and related programs, airport development and noise control, and transportation research and development. The Secretary would be charged with reporting back to Congress by April 30, 1972. At that time Congress would approve, modify, or disapprove the program.

If Congress did not approve by July 1, 1972, a program for allocating funds derived from this excise tax, the funds produced from the reinstatement of the tax would be held in escrow until Congress did pass such legislation.

We offer this proposal because immediate and permanent repeal of the excise tax represents to us a perversion of any rational set of national priorities. It would amount to a Federal program of $2 billion annually to produce more automobiles at a time when our cities are already paralyzed by traffic congestion and are choking to death on automobile-produced pollution. A much more sensible approach would be to encourage the development of a balanced transportation system by assuring increased Federal funding for other Federal transportation-related activities now receiving totally inadequate support.

I would like to give some examples of how the funds could be used. The Urban Mass Transportation Assistance Act of 1970 sets forth a Federal commitment to mass transit of $10 billion over a 12-year period. At the present time Congress has authorized only $3.1 billion for the 5-year period ending in fiscal year 1975. These funds are for capital expenditures and must be matched with a one-third local share.

However, the Urban Mass Transit Administration itself has stated:

If city residents are to be given meaningful transportation alternatives, between $28 and $34 billion will have to be spent in the next 10 years to construct new rapid transit systems, modernize existing systems, improve bus transportation, and develop new circulation for downtown and also for suburban areas.

Meeting these needs would require a Federal contribution of approximately $10 billion over the next decade in addition to the $10 billion goal already set in the 1970 act. If the auto excise tax were not repealed, but instead 50 percent of its revenues were set aside for mass transit purposes, we could meet the needs cited by UMTA.

Funds derived from the automobile tax could also be used to improve the disgraceful condition of railroad passenger service. The National Rail Transportation Act of 1970 authorized a $40 million Federal grant to the newly-organized National Railroad Passenger Corporation—Amtrak—in addition to a Federal loan of $100 million. Amtrak is currently asking Congress for an additional Federal grant of $170 million in

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order to meet its planned budget through June of 1973. However, many authorities question whether $170 million will be sufficient to do more than meet Amtrak's general operating cost deficit. If Amtrak is to succeed it must purchase new equipment to replace its aging and outmoded stock, and it must stress its research and development program. The 1970 act specfied that the $40 million in the original grant could be spent for research and development and equipment purchases, but in fact Amtrak found itself financially unable to spend its appropriation for these purposes and spent the money entirely for current operations.

Speculation also exists concerning whether Amtrak will be economically self-sufficient as planned by June of 1973. If it is not, we must make the hard decision of whether a permanent or further temporary subsidy would be desirable. By April of 1972, a clearer perspective should emerge, as well as more precise information as to Amtrak's immediate financial needs in fiscal year 1973. If Congress does decide to continue subsidizing Amtrak beyond June 1973, the automobile excise tax would present an excellent and highly appropriate source of funds for such a subsidy.

The Clean Air Act of 1970 provides that by 1975 cars and other moving vehicles must meet stringent Federal emission control standards. In order to insure that compliance with these legal requirements is possible, we should encourage research into the development of low-pollution engines. It would be impossible to find a more appropriate purpose for use of auto excise tax funds.

Federal funds have made possible the development of the Renkine external combustion steam engine. This week the first low polluting steam bus, developed by William Brobeck & Associates of California, will be demonstrated to Members of the Congress. Tests by the California Pollution Control Board show that this bus will meet the Clean Air Act standards. This experimental bus represents an important first step, but more funds will be needed to make further improvements on this test model and to develop preproduction prototypes.

Other experiments with low-polluting engines include the gas turbine system now being developed by General Motors and the liquified petroleum experiments now being conducted at the California Institute of Technology.

Federal financial assistance is essential if public institutions such as Cal Tech are to develop alternatives for the abatement of vehicular air pollution.

There is a critical need for more Federal funds for traffic safety programs. In 1970, almost 55,000 Americans died on the Nation's highways and property damage was estimated at a staggering $4.7 billion.

Revenues from the auto excise tax could augment the less than $150 million available for traffic safety programs, including the repaired city streets, traffic control devices, and research and development. The increased funding could accelerate advances in highway related research such as better engineering to reduce the likelihood of highway collisions, improved road sign systems, pilot projects to test—and if workable, put into operation on a widespread scale—computerized vehicle control systems, and expanded efforts to develop systems that will keep inebriated drivers off the road.

Finally, funds could be used for airport development and the abatement of aircraft noise. FAA Administrator John Shafer recently announced that the United States needs 100 additional airports between now and 1981. The cost of building these airports is increasing due to delays resulting from public antipathy to aircraft noise. Local resistance to aircraft noise has already blocked construction of new airports in Los Angeles, New York, Portland, Boston, and St. Louis. We must provide Federal funds for the research and development of aircraft noise suppression equipment. At the same time, we must provide cities and States with more money to pay for the increasing costs of airport construction.

This year the Federal Government will spend only $1.5 million for research and development of aircraft noise suppression equipment. Industry leaders and university spokesmen point out that at least $20 million is needed to carry out test flights to confirm preliminary findings of FAA noise research. If this research and development is successful, cities could save a substantial portion of the over $2 billion they are currently being forced to spend to buy homes in noise blighted areas.

This bill, if enacted, will assist the motorist. By funding alternative forms of transportation such as mass transit and improved rail service, it will help relieve our congested highways. By funding research in vehicular air pollution control, it will improve the environment around our highways. By providing funds for improved highway safety, computerized traffic control and highway traffic integration, it will help speed auto passengers to their destinations.

After my original mass transit proposal was introduced, the St. Louis Post-Dispatch published the following editorial. I ask unanimous consent that the editorial and the amendment be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the St. Louis Post-Dispatch, Oct. 18–24, 1971]

WHY NOT KEEP THE TAX?

Since the Administration has declared a shift in transportation emphasis from automobiles to mass transit, why does it not keep the 7 percent excise tax on autos instead of repealing it? The tax is a logical basis for mass transit funding—indeed, three bills in the Senate and one in the House all rely on the auto excise tax as an income source for a mass transit trust fund comparable to the highway trust fund.

While creating a general transportation trust fund may well be preferable to establishing a mass transit fund separate from the highway trust fund, the highway lobby is probably too powerful to permit the former but may acquiesce to the latter. Repeal of the excise tax, however, with the consequent loss of 2.2 million dollars in annual revenues, would make talk to a mass transit fund largely academic since there would be no other handy source of money.

And without an earmarked tax for a trust fund, mass transit must continue to rely on annual appropriations from the general treasury, which means, as experience has shown, that funding would be inadequate. For the five years beginning in fiscal 1971, for example, President Nixon asked for only 3.1 billion dollars for mass transit grants, though the Urban Mass Transit Administration estimates that plans already on the drawing boards will require 32 billion dollars in federal expenditures in the next 10 years.

The argument for eliminating the excise tax and thereby stimulating car sales is that it would create more jobs, but mass transit funding would do that too, and it would do it while simultaneously serving, not thwarting, the Nixon Administration's alleged realignment of transportation priorities and concern for the environment.

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NOMINATIONS TO THE SUPREME COURT

Mr. GURNEY. Mr. President, as a member of the Judiciary Committee I have had the privilege of participating in the hearings on the nominations of Mr. Lewis Powell and Mr. William Rehnquist to the Supreme Court. For this reason I read with interest the lead editorial of the Washington Evening Star of November 11 and found it particularly well suited as a comment upon the qualifications of Mr. Rehnquist and the problems of representing a view which does not agree with liberal opinions of some of our pressure groups. I commend this editorial as good reading and ask unanimous consent that it be printed in the RECORD, so that more persons who share this philosophy can enjoy the contents of the message.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Nov. 11, 1971]

THE ADVOCATE

Since our original conditional endorsement of the nominations to the Supreme Court of Lewis F. Powell Jr. and William H. Rehnquist, we have made no further comment on President Nixon's choices. Our reticence was based both on two men's obvious intellectual credentials and on the failure of their opponents to produce anything untoward in their judicial or personal backgrounds.

We break this silence now on the basis of no new evidence either for or against Powell and Rehnquist. But we cannot remain mute in the face of the campaign of innuendo and smear, ineffective as it has been, against Rehnquist.

On Tuesday, in joint testimony before the Senate Judiciary Committee Clarence Mitchell and Joseph L. Rauh Jr., of the Leadership Conference on Civil Rights (a pressure group of 127 labor, religious and civil rights organizations), launched an attack against the assistant attorney general the vagueness of which was matched only by its intemperance.

The 47-year-old Arizonan, Mitchell and Rauh maintained, was "a laundered McCarthyite" whose confirmation would be "an insult to Americans who support civil rights." By Rehnquist's appointment, Mitchell said, "the foot of raciam is placed in the door of the temple of justice." An affidavit by Rehnquist to the effect that he is "not now and never has been a member of the John Birch Society" drew from Rauh the remarkable statement that this served only to raise fresh doubts about Rehnquist's possible association with the ultra-right organization, a remark which even Senator Kennedy, who marches to the civil rights drum, could not stomach.

To the extent that one can determine what it is that Rehnquist's foes are driving at, it seems that they charge him with opposing a Phoenix open accommodations ordinance in 1964, of denouncing civil rights marchers in the same year and of fighting efforts to wipe out de facto school segregation in Phoenix in 1967.

The curious thing about the entire exercise is that Powell, who has come in for virtually no criticism, almost certainly is just as conservative as Rehnquist. One is left with the distinct impression that the civil rights lobby has decided to stage a symbolic fight to prevent Rehnquist's confirmation because his more active judicial role—his function as a Justice Department advocate—makes him more vulnerable than the Virginian.

What Mitchell and Rauh are saying is roughly similar to the dictum of the East European Stalinists: "If you are not with us, you are against us." What they fail to see—or pretend to fail to see—is that the actions and statements of Rehnquist (like those of Powell) stem less from any anti-civil rights or anti-Negro animus than from a consistent and overt conservative judicial philosophy which holds that there are principles of equal or greater importance than those to which Mitchell and Rauh give their exclusive and sectarian devotion.

We are unaware of any constitutional prohibition against the presence of a conservative on the Supreme Court. Nor can we find in the small print of the Bill of Rights any requirement that appointees subscribe to the dictums of the American Civil Liberties Union, the Leadership Conference on Civil Rights, or any other pressure group.

On the basis of all the testimony to date, Powell and Rehnquist emerge as men of integrity, consistency, professional competence and intellectual distinction. The attack by Rauh and Mitchell, itself a classic example of "laundered McCarthyism," was, to say the least, bush league. If that is the best (or worst) their opponents can produce, both men should be speedily approved by the Senate, as indeed they almost certainly will be.

OMB STRIKES AGAIN—AT ENERGY RESEARCH

Mr. BIBLE. Mr. President, the administration talks a good case when it comes to the energy crisis facing the Nation, but some of its little noticed actions—those that take place quietly within the sheltered precincts of the Office of Management and Budget and do not command headlines—tell a different story.

In his energy message to the Congress on June 4, 1971, the President spoke forcefully of the need for concerted action, including more intensive research to develop new energy sources and insure an adequate supply of clean energy for the years ahead. It was a good message and received extensive coverage throughout the Nation.

Among the subjects focused on by the President was the urgent need to supplement our present limited supply of natural gas. To augment available supplies, the President called for increased efforts on the part of the Atomic Energy Commission to demonstrate the economic feasibility and environmental acceptability of stimulating the production of natural gas through the use of nuclear devices. The Plowshare division of AEC has already done considerable work in this area. Vast amounts of natural gas lie trapped in nonporous geological formations in some of the Nation's gas-producing regions. The Plowshare technique involves the detonation of smaller sized devices to increase the porosity of such formations to permit the gas to flow and thus become available to help meet the Nation's energy requirements.

The President's message also focused attention on another potentially vast clean energy source which has long been of special interest to me—the Nation's geothermal resources. Enormous quantities of heat are locked in geothermal formations in many of our Western States. Geothermal steam energy is already being used by the Pacific Gas and Electric Co. to generate a significant amount of electric power at The Geysers in Sonoma County, Calif., some 90 miles from San Francisco. The possibility exists that through the application of Plowshare technology similar to that employed in the gas stimulation program, geothermal deposits throughout the West may be economically harnessed without hazard to the environment.

Thus, the President's message properly called for progress on the natural gas stimulation program, and for development of our Nation's geothermal power potential.

Over the years, the Joint Committee on Atomic Energy, of which I am privileged to be a member, has continuously interested itself in civilian applications of nuclear technology designed to generate electric power sources needed to meet the Nation's ever-increasing power demand. The gas stimulation program has been supported by the joint committee for many years. Given the elimination of adverse environmental effects—and according to Plowshare, the prospects look good—it appears that this program can play a very meaningful role in improving natural gas supplies.

The joint committee has also recognized that the AEC should be called upon to conduct research and experiments to ascertain the feasibility of harnessing the Nation's geothermal power through the application of Plowshare technology. Early this session I introduced S. 1349, a proposed Nuclear Geothermal Power Research and Demonstration Projects Act. My bill envisages a 5-year program under which the Federal Government and private enterprise would cooperate financially and otherwise in carrying on the necessary research and experiments.

The joint committee authorized the modest sum of $500,000 to initiate this program during the current fiscal year, and the Congress followed through and appropriated the money.

Aside from its well-chosen words, what has been the administration's record on this?

In the first place, and despite the fact that agencies of the executive branch, the Congress and various elements in the private sector are deeply concerned about the imminent shortage of natural gas, the administration requested only $5 million for the Plowshare program for the current fiscal year—a decrease of $2.4 million below the estimated costs for fiscal year 1971.

During the Joint Committee hearings last spring, it became pretty clear that the President's request represented a "bare bones" budget for Plowshare. The testimony described a concerted program of research, development, testing, and joint industry-Government ventures calculated to bring significant supplies of stimulated natural gas into consumer pipelines within 5 years. According to conservative estimates, it is possible that an environmentally clean Plowshare technology might double the current total of proven reserves of natural gas in the "lower 48" States.

But the testimony also made it clear that little real progress on such a program was likely within the confines of the administration's budget request.

The Joint Committee strongly urged the adoption and implementation of such a program, but felt the administration's request was inadequate to get the project underway in any meaningful way this year.

Accordingly, the Joint Committee recommended an additional $2.6 million for the program, and $1.9 million was subsequently appropriated for the purpose.

As I have noted, $500,000 was appropriated for the initiation of an active Plowshare geothermal program.

Then came the Office of Management and Budget.

I recently received word that OMB has not approved the expenditure of the

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additional money appropriated by the Congress. This money should have been apportioned to the AEC by now so the work can begin—so that Plowshare plans in this area can go forward.

The Office of Management and Budget says the additional money voted by the Congress will be held in budgetary reserve pending the determination of the President's 1973 budget.

In other words, the additional funds have been "frozen." The administration is unwilling to spend the modest additional sum of $2.4 million to assure meaningful progress on these two potentially invaluable energy research and experimentation programs.

Mr. President, I think I need say no more. Action speaks louder than words. This kind of negative action makes the administration's words on these two projects seem hollow indeed.

The energy crisis is said to be high on the administration's list of national priorities.

OMB's refusal to release this small amount of additional money can only make one wonder how serious they really are in developing new energy sources.

NEED FOR CONTINUING FOREIGN AID RESOLUTION

Mr. SCOTT. Mr. President, I have received a letter from Secretary of State William P. Rogers in which he states that the need for the continuing foreign aid resolution passed by the House does not rest solely on the need to pay salaries. I ask unanimous consent that Secretary Rogers' letter be printed in the RECORD and invite the attention of Senators to it.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., November 12, 1971.

DEAR SENATOR SCOTT: The justification for a Continuing Resolution, passed by the House yesterday, does not rest exclusively on the need to pay the salaries of our employees at home and abroad but also on the need to continue an orderly conduct of our affairs.

There is need for continuing operating authority in Southeast Asia—for both military supplies and economic support, in the Technical Assistance program (where over 67 contracts expire in the next six weeks), in the population program and in other areas. The responsible course is to provide the full operating authority while Congressional discussions on the authorization bills are completed. The present Continuing Resolution authority has not been abused. At the end of October, with one-third of the fiscal year passed, obligations for development and supporting assistance were at 22 percent of the FY 1971 appropriation level and obligations for the Military Assistance Program were 36 percent of the FY 1971 level. I want to assure you that the obligation of funds under the Continuing Resolution will be consistent with the stated objective of such interim legislation, which is to preserve the flexibility of Congress in arriving at final decisions on the funding levels for the fiscal year.

I hope that this assurance will facilitate the Senate's consideration and approval of the Continuing Resolution. Copies of this letter are being sent to Senators Ellender and Young.

Sincerely yours,

WILLIAM P. ROGERS.

PHASE II LEGISLATION

Mr. KENNEDY. Mr. President, the Senate will soon be considering S. 2712, the "phase II" legislation extending the Economic Stabilization Act of 1970. One item I am especially concerned about, as chairman of the Judiciary Committee's Subcommittee on Administrative Practice and Procedure, is the exemption of functions under the phase II legislation from most of the requirements of the Administrative Procedure Act. This concern is shared by several witnesses who have appeared before the House and Senate banking committees, both of which are considering the phase II proposals now. Witnesses as diverse as the American Bar Association's administrative law section, the U.S. Chamber of Commerce, and Mr. Ralph Nader have all expressed opposition to the proposed APA exemption. And when Ralph Nader and the Chamber of Commerce are saying the same thing, we should listen with special attention. I believe no one but administration representatives has spoken in favor of the exemption.

Last week I wrote to the chairman of Administrative Conference of the United States, an independent Federal body charged with improving the administrative procedures of Federal agencies, asking his views on the desirability of the proposed exemption. Yesterday I received his answer, which concludes that phase II functions should not be exempted from the APA and even recommends substitution of a provision making it clear that the APA applies. Senator STEVENSON has introduced an amendment which would accomplish precisely that purpose, and I am happy to express my support for it.

I should like at this point to ask unanimous consent to be added as a cosponsor of the amendment.

For the convenience of members of the Senate and House committees considering the phase II proposals, I have sent a copy of the letter from the chairman of the administrative conference to all the members of the Senate Committee on Banking, Housing, and Urban Affairs and to the chairman of the House Banking and Currency Committee.

Mr. President, there are many reasons for applying the Administrative Procedure Act to phase II. The common point running through several of them is that the APA provides an important minimum level of protection for the rights of the public in agency proceedings, yet it does not cause serious problems for the agency—and it even contains explicit provision for its own suspension in appropriate cases. Perhaps the most important protection is the requirement in 5 U.S.C. 553 that the agency give public notice when it plans to make a rule, and that it then let interested parties and the public participate in the rulemaking either by submitting statements or appearing before the agency.

Now administrative law is not the liveliest of areas, but what would these protections mean to our constituents? It means that when housewives and consumer organizations want to make representations to the Price Commission about proposed guidelines, with some idea what the guidelines may be so their comments can be relevant to what is being considered, they will normally be able to do so before they are confronted with a fait accompli. It means that when workingmen want to appear before the business and "public" representatives who appear to dominate the Pay Board, so that they can show rank-and-file support for their leaders' demands for fair wage increase policies, the workers will be able to appear—with the possible effect that our pay policies will be made with a more sympathetic understanding of labor's interests.

Without the APA, on the other hand, the phase II bodies can always act like black boxes, nothing coming in but surprise edicts coming out. Rules made like this are much more likely to be unfair, since they are made in a vacuum, and thus may more frequently be subject to revision, which could compound uncertainty about how phase II is supposed to work—with the undesirable effects this has on business planning and the stock market. Suspending the APA, in other words, would be just another way of setting government apart from the people, the last thing we need at a time of low confidence in government. In a program of such general interest and concern as phase II, it is vital that those directly affected and the general public have as much say as possible about decisions before they get made.

Nor are notice and hearing the only important rights protected. The APA also secures, for example, the right to appear before an agency with counsel. When ordinary people want to appear before an agency, in areas so full of technicalities and legalisms it is essential that they have the right to bring along a lawyer. And when a petition—for example, a request for a hardship exemption from a wage-hike limitation—is rejected, the APA requires the agency to give at least a brief statement of the reason. This protection is important for the people affected, since it gives some assurance their claim will get proper consideration and requires an explanation so they can understand why it was rejected. It is important also for reviewing courts, since a knowledge of the reasons for agency action is essential if the court is not to have to litigate the entire issue over again from the beginning.

Sometimes, of course, the requirements of the APA would genuinely interfere with legitimate agency proceedings. The APA itself allows for this. When speed or confidentiality is required, for example, the agency can suspend the subsection requiring notice and hearing but it has to say that is what it is doing and briefly state its reasons.

With so much flexibility built into the Administrative Procedure Act itself, it is understandable and proper that exemptions of an entire program have been rare indeed. And with the only two prior exemptions I know of—the Defense Production Act of 1950 and the Export Administration Act of 1969—Congress wrote in provisions insuring participation of

those affected. The Administration's proposed phase II legislation has no such safeguards. We are given only promises that the phase II agencies will establish their own fair procedures, but one of the thoughts behind the Administrative Procedure Act was that the public rights it protects are too important to be left to the good will of even the best-willed agency. Finally, the proposed exemption would run counter to a basic theory of the APA, which is exempting functions and not entire agencies—and the needed functional exemptions are fully available to phase II.

For the convenience of Members interested in this issue, I ask unanimous consent that several documents on both sides of the question be printed in the RECORD. I am submitting herewith my exchange of correspondence with the chairman of the administrative conference; excerpts from statements before the House Banking and Currency Committee by Secretary of the Treasury John B. Connally, Mr. Ralph Nader, and the U.S. Chamber of Commerce; and excerpts from statements before the Senate Banking, Housing and Urban Affairs Committee by Under Secretary of the Treasury Charls E. Walker, Assistant Attorney General L. Patrick Gray III—with the supplemental memorandum—Mr. David Ginsburg, and the administrative law section of the American Bar Association.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NOVEMBER 5, 1971.

Mr. ROGER C. CRAMTON,
Chairman, Administrative Conference of the United States, Washington, D.C.

DEAR MR. CRAMTON: You may be aware that S. 2712 (the so-called Phase II legislation), extending the Economic Stabilization Act of 1970, contains a section which would exempt all functions exercised under the legislation from the requirements of the Administrative Procedure Act, with the exception of the APA's freedom of information section. As chairman of the Subcommittee on Administrative Practice and Procedure, I am concerned about exempting such an important program from the safeguards of the APA. Such concern has also been expressed by several witnesses before the House Banking and Currency Committee and the Senate Banking, Housing and Urban Affairs Committee, which are presently considering the legislation. In view of the Administrative Conference's responsibilities in the area of administrative procedure, I am writing to ask your views on whether the proposed exemption appears warranted and desirable or whether the Congress should narrow or eliminate it.

Because the proposed legislation is being given expedited consideration in both Senate and House, it would be most helpful to have your views on the matter at your earliest convenience.

Sincerely,

EDWARD M. KENNEDY.

ADMINISTRATIVE CONFERENCE
OF THE UNITED STATES,
Washington, D.C., November 9, 1971.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: You have asked my views regarding the desirability and the significance of the provision of S. 2712 which would add to the Economic Stabilization Act a new section 207, excluding the administrative functions exercised under the Act from the operation of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, except as to the requirements of 5 U.S.C. 552. This letter expresses my personal views and not necessarily those of the Administrative Conference of the United States.

First, it is important to note that in the absence of section 207 or any other reference to the Administrative Procedure Act, it would be by no means clear that that statute would apply to functions exercised under the Economic Stabilization Act. The ESA would authorize and contemplate a delegation of authority "to boards • • • composed in whole or in part of members appointed by the President to represent different sectors of the economy and the general public." The APA, however, excludes from its definition of "agency," "agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them," 5 U.S.C. 551. It is, therefore, at least arguable that the wage and price boards set up to administer the ESA are excluded from the definition of "agency" and thus from the applicability of the entire APA. Resolution of this question should not, however, be left to inference. The ESA should specify to what extent the APA is applicable.

Section 207 of the ESA would make inapplicable to functions exercised under the ESA all the provisions of the APA, except those relating to public information, 5 U.S.C. 552.

In order to judge the significance of this exclusion, it is necessary to consider what these functions will be. Section 202 of the ESA would authorize the President "to issue such orders and regulations as he may deem appropriate • • • to stabilize prices, rents, wages, and salaries • • •." Section 203 provides for the delegation of this authority to agencies, boards, commissions or other entities, in the discretion of the President. Nowhere in the Act is there any specification of the procedures to be used by the President or his delegates in issuing such orders and regulations.

The Administrative Procedure Act, as you know, categorizes the agency proceedings to which it applies as either rulemaking or adjudication. It is clear that under the Economic Stabilization Act the President and his delegates would proceed largely by rulemaking, which includes agency process for formulating a "statement of general or particular applicability and future effect • • • and includes the approval or prescription for the future of rates, wages, • • • prices," 5 U.S.C. 551(4), (5). It is not clear to what extent, if at all, they would engage in adjudication.

One effect of section 207 would be to make inapplicable to functions under the ESA the provisions of 5 U.S.C. 553 for notice and public procedure in rulemaking. The significance of this result may be less than might at first appear. Section 553(b)(B) permits agencies to dispense with notice and public procedure where the agency determines that they are "impracticable, unnecessary, or contrary to the public interest." Therefore where there was a need for prompt issuance of rules or perhaps to avoid advance notice of contemplated actions, see *Atty. General's Manual on the Administrative Procedure Act* 30–31 (1947), the agencies administering the ESA would be able to invoke section 553(b)(B) if section 553 were made applicable to their functions. Agency determinations to dispense with public procedure or to provide for immediate effectiveness of a rule, 5 U.S.C. 553(d)(3), could be made only for good cause and on the basis of stated reasons; but to require the administering agencies at least to consider the feasibility of public participation in rulemaking seems reasonable and, indeed, salutary in view of the breadth of the legislative authority to be granted by the Economic Stabilization Act.

Sections 554, 556 and 557 of title 5 U.S.C. (formerly sections 5, 7 and 8 of the Administrative Procedure Act) prescribe the procedural requirements for so-called formal administrative proceedings. These sections are applicable only to adjudications and rulemaking required by statute to be determined or made on the record after opportunity for a hearing, 5 U.S.C. 553(c), 554(a). Since the ESA would presumably contain no requirement for determinations on the record after opportunity for hearing, sections 554, 556 and 557 would be inapplicable by their own terms. A possible exception might be the situation where such a procedure was constitutionally required. *Wong Yang Sung* v. *McGrath*, 339 U.S. 33, 49–50 (1950). But it is uncertain whether the exercise of the functions contemplated by the ESA will involve such a situation. See *Bowles* v. *Willingham*, 321 U.S. 503, 519 (1944).

To the extent that the Constitution requires an individualized hearing that provides at least a rudimentary opportunity to adduce evidence and cross-examine opposing witnesses, an exclusion of the more detailed APA provisions governing trial-type hearings becomes a significant matter. The constitutionally required ingredients of due process do not include all of the procedures contained in sections 5, 7 and 8 of the APA, 5 U.S.C. 554, 556 and 557. See *Goldberg* v. *Kelly*, 397 U.S. 254 (1970); *Marine Space Enclosures, Inc.* v. *Federal Maritime Commission*, 420 F. 2d 577 (D.C. Cir. 1969). In addition, section 208(f) of ESA would provide that "No order [of the President or his delegates] shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is based upon facts which are not supported by substantial evidence." The import of this language is not entirely clear but it can be interpreted as requiring that "orders" be based on a record which can be examined for the presence of substantial evidence. As such, it could possibly be viewed, if the APA were fully applicable, as a provision requiring that an uncertain class of determinations be based "on the record after opportunity for an agency hearing," the APA language that triggers the applicability of 5 U.S.C. 554, 556 and 557. Thus, there is uncertainty under the bill in its present form as to in what situations, if any, there will be a constitutional or statutory right to an individualized hearing. If the APA is excluded from application as a standard for such situations as may arise, there will be further uncertainty concerning the minimum procedures that are to apply in its place.

Section 555 of the APA contains several provisions generally applicable to formal and informal agency proceedings. Sections 555(b) and (c) deal with the rights of witnesses compelled to give evidence in an agency proceeding. Section 555(d) provides that agency subpoenas shall be issued to a party to an agency proceeding. Section 555(e) provides for prompt notice of agency action in denying applications of interested persons. Under section 207 these provisions would not be applicable to proceedings under the ESA. It is difficult to evaluate the significance of this result, since much would depend on the nature of the proceedings which are to be conducted. However, the requirements of section 555 are fair and reasonable ones, and if the agencies administering the ESA do engage in the type of proceedings to which the section applies, I do not believe that it would pose any significant difficulties.

Section 558 of the APA deals with the imposition of sanctions and determinations involving the grant, suspension, revocation and expiration of licenses. Section 558(b) merely restates existing law regarding sanctions, *Atty. Gen.'s Manual* 88. Consequently,

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enactment of section 207 would have no effect. The applicability of the remaining provisions of section 558 regarding licenses would be affected by section 207 only if the ESA were to be implemented by means of granting licenses.

It is not clear whether the reference in section 207 to the Administrative Procedure Act is also intended to include the judicial review provisions, 5 U.S.C. 701–706, which, of course, derive from former section 10 of the APA. But it is reasonably clear from proposed section 208 of the ESA that judicial review will be available only in accordance with the provisions of that section.

In sum, therefore, with the exception of the possibility that section 208(f) of the ESA would be interpreted as requiring individualized determinations to be made on a record after a hearing. I do not believe that the applicability or inapplicability of the Administrative Procedure Act is likely to have a significant effect on the administration of the ESA or the rights of the persons affected. Nevertheless, it is my view that inasmuch as Congress intended to set forth in the APA broad principles governing the administrative process, exceptions should not be carved out without persuasive reasons. Since I do not believe that any of the provisions of the APA which might otherwise be applicable to functions performed under the ESA would tend to frustrate or interfere with the implementation of that statute, I would favor substitution for section 207 a provision making the APA applicable in accordance with its terms to functions performed under the ESA.

Sincerely yours,

ROGER C. CRAMTON,
Chairman.

STATEMENT BY THE HONORABLE JOHN B. CONNALLY

ADMINISTRATIVE AND JUDICIAL REVIEW

As you know, the President has established a Pay Board and a Price Commission to promulgate standards and criteria, and to rule on individual cases in Phase II. The amendments that we propose would exempt the agencies administering the stabilization program from the Administrative Procedure Act, except for the public information section of that statute.

I assure you that every effort will be made to be fair and equitable, and to protect the rights of the individual citizens, through careful procedures for review and appeal. The ordinary procedures of the Administrative Procedure Act would involve great delay—which in itself could undermine public support for Phase II—and a large expansion in manpower. The Phase II procedures will be streamlined—but with full protection for the rights of any citizen.

These rights will be further protected by the judicial review system which is contemplated in the legislation. Even though the effective administrative review which we propose to establish will winnow out a significant number of protests, inevitably a sizable number of disputes will go to the courts for further review. In all their variety, they should not go straight to appellate courts. Such cases should be commenced in the Federal District courts. State courts will have no jurisdiction with respect to cases arising under this Act.

STATEMENT BY RALPH NADER

D. *There should be provision for participation in the Administrative process by interested persons outside of government. This Committee should not allow exemption of the Phase II organization from the Administrative Procedure Act, as is specified (except for the Freedom of Information Act) in the Administration Bill.*

As serious as is the exclusion of Congress from a role in Phase II after passage of the enabling legislation, is the exclusion of the American people from participation.

The Administration proposes exemption of Phase II activities from the requirements of the Administrative Procedure Act (except for the Freedom of Information Act). This is not proper. The A.P.A. makes only modest demands of the Executive. In rule-making, the Executive is required to issue proposed rules, with 30 days allowed for public comment except that the period may be shorter for good cause shown by the agency.

The Executive has shown no justification for this exemption from A.P.A. requirements. Without the A.P.A., if Congress delegates broad powers to the Executive, and the Executive has promised that it will permit no appeals within the Executive Branch from the Pay Board or Price Commission, then there is no way for a member of the public to have any influence at all. When the suspension of the usual rule-making procedures is observed in conjunction with the Administration proposal that Wage and Price Commission members be exempted from the usual conflict-of-interest requirements, one sees that the way is clear for a system of secret economic rulership in place of the more open rule of law towards which we usually strive in government.

STATEMENT BY DR. RICHARD S. LANDRY AND MILTON A. SMITH

A point of particular concern in this bill is section 7, under which all functions exercised under the law would be excluded from the operation of the Administrative Procedure Act.

The necessity for and the wisdom of this broad exemption should be most carefully examined.

Considering the very broad range of authority to be exercised, such an exemption does not appear to be justified. It should be borne in mind that the exemption would apply not only to rule-making, but also to adjudication and many other phases of the administrative process.

Everyone hopes that the President's repeatedly asserted intention of not creating a vast control bureaucracy will be fulfilled. But even under a limited controls system, and without a proliferation of agencies, it is not unreasonable to expect that some regional or local offices will be set up to facilitate administration and enforcement, in addition to those operating at the national level.

Agencies and offices exercising delegated authority under this law will be engaged in varying degrees of rule-making, interpretation, enforcement, and adjudication. Secretary Connally, in his testimony before this committee on October 27, acknowledged the intended establishment of "effective administrative review"—to "winnow out a significant number of protests," that might otherwise burden the courts. It is difficult to see any need or justification for making inapplicable to such a wide scope of agency actions the basic principles of due process of law which have been embodied in the Administrative Procedure Act.

It is recognized that it may be impracticable to comply with all provisions of the APA in some instances of major rule-making. Obviously some major policies will have to be given the effect of law through rule-making, without advance notice, a waiting period, public hearings, etc., under sec. 553 (Rule Making) of Title 5.

But this section presently does not apply:

"(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

"(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

It would seem that the latter paragraph would provide ample authority for waiver of sec. 553 requirements wherever an adequate public interest justification is shown for such a waiver. In this connection the proposed new findings of Congress should provide an important basis for a public interest justification.

There can be no justification for an exemption from section 554 of Title 5, which deals with adjudications; section 555, captioned "ancillary matters;" section 556, which deals with such matters as procedures at hearings, when hearings are required, including burden of proof, evidence, and record as basis of decision; 557, initial decisions, agency review, record, etc.; and 558, sanctions and licenses.

All of these sections deal with important procedural requirements which should be preserved.

For instance, in view of the broad grant of subpoena power proposed, it is especially important to preserve the applicability of provisions of section 555 which govern some aspects of use of process by agencies, and which deal with such fundamental matters as the right to counsel, and the right to prompt written notice of the denial of any application, petition, or other request, together with a brief statement of the grounds for denial.

TRANSCRIPT OF PROCEEDINGS

Testimony of the Honorable Charles E. Walker, Under Secretary of the Treasury; accompanied by: William Howard Beasley III, Assistant to Under Secretary, Department of the Treasury; Stanley D. Rose, Assistant General Counsel, Cost of Living Council, and the Honorable L. Patrick Gray III, Assistant Attorney General, Civil Division, Department of Justice.

Senator MCINTYRE. My time is nearing expiration. But I would like to read this question and ask you to answer it for the record. I have been hearing from some of my constituents who are complaining they are unable to get prompt resolution of some of the uncertainties and ambiguities of the various regulations issued during Phase I. In that connection I was happy to learn the three-judge District Court decision in the Meat-Packing Union by the Administrative Procedure Act requirements for hearing and appeals should apply to the freeze mechanism.

I note your proposed bill would have the Congress explicitly exempt the various boards and commissions from the requirements of the Administrative Procedure Act. Would you explain just what procedures the Administration expects to institute which will provide the American people with some protection against arbitrary actions, specifically, A, under your proposal, will every businessman have an opportuntiy to be heard in any proposal which will specifically affect his business? B, will the public at large have the opportunity to make meaningful comments on proposed regulations? C, will there be a method provided for making a prompt appeal of adverse decisions made at the lower administrative levels? And lastly, will all hearings be open to the public and will all communications with rule-making bodies be a matter of public record?

Mr. WALKER. We will answer that in detail for the record. Let me reiterate the statement we will do everything we possibly can to protect the rights of individual citizens consistent with the needs for speed in administration of the program.

Senator PACKWOOD. How much delay are you worried about if you were subject to the Administrative Procedure Act?

Mr. WALKER. I will ask Mr. Gray to comment on that. I think with the proposal hearings and publishing regulations and comments, it would drag the program to a screaming halt.

Senator PACKWOOD. You are worried about months of delay?

Mr. WALKER. Yes. We can't afford even weeks of delay.

Senator PACKWOOD. All right.

The CHAIRMAN. Senator Taft.

Senator TAFT. Thank you, Mr. Chairman. Just one area of questions, Mr. Secretary, with regard to the Administrative Procedure Act. I can see practical problems of having delays insofar as wage or price orders might be concerned. I take it that is what you are aiming at primarily?

Mr. GRAY. Well, delay is a part of it, Senator Taft, but there is more than that.

Senator TAFT. What are the other problems?

Mr. GRAY. I feel, and I am not an expert on the Administrative Procedure Act, but I have worked at it pretty deeply and thoroughly and I clearly feel that its major purposes are not even related to what we are embarked upon here, even though there are those who would say that indeed the President is an agency and the APA is applicable to him.

But if you go back into the history of the APA, it was designed to bring together in a uniformed standardized manner, cohesive manner, the various procedures of the various, diverse agencies that existed between the United States Government, to separate the prosecutive and judgment functions and also to insure judicial review. That is Title 5, chapter 5, and chapter 7.

Senator TAFT. And also insure adequate notice to those concerned?

Mr. GRAY. That is right. But what I am saying is we feel this bill meets all of the major purposes that the APA was designed to meet itself. We feel that you have got also a situation here, a critical national, economic emergency situation. We feel that it is as difficult a situation as we faced even in time of war when the APA was exempted from the Defense Production Act and the War Stabilization Board, in other words, the entire stabilization program during the Korean situation. We feel you have here in this, we have notice, plenty of notice. And if we can go one step further, if you are going to separate this thing out and get into the technical details with regard to rulings, regulations, as against the adjudicative process, we can show you, and I am sure you are aware of it, that a simple caveat need be placed on a ruling to the effect that it is not in the public interest under that particular section 553, I think it is of Title 5.

But what I would like to do, to answer your question here, what we have agreed to do earlier, because we feel so strongly about it, is give you for the record, give this committee for the record, our well thought out rationale. But I think we could debate here for quite a long time, Senator Taft, in response to your questions.

Senator TAFT. I think unless we have it, I fear we may prolong the question on the floor. I personally think that would be fine.

Mr. GRAY. I think you are correct.

Senator TAFT. Thank you.

The CHAIRMAN. Thank you very much.

DEPARTMENT OF JUSTICE,
Washington, D.C., November 8, 1971.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR SPARKMAN: During my testimony of November 1, 1971, before your Committee on S. 2712, I indicated that I would supply to the Committee for the record a statement on the advisability of applying the Administrative Procedures Act to the proposed Economic Stabilization Act. I have attached an explanation of our position that the Economic Stabilization Act should be exempt from the provisions of the Administrative Procedures Act, except for the requirements of 5 U.S.C. Section 552, the public information section of the Act.

Sincerely,

L. PATRICK GRAY III,
Assistant Attorney General.

ADMINISTRATIVE REVIEW UNDER THE ECONOMIC STABILIZATION ACT

Section 7 of S. 2712 provides that the functions exercised under the Economic Stabilization Act shall be excluded from the operation of the Administrative Procedures Act except as to the requirements of 5 U.S.C., the public information section of the Act.

We recognize that there must be some form of meaningful administrative review in a program of this type. However, the requirements of the Administrative Procedures Act would introduce unacceptable burdens and delays in the administration of the program. Further, the reasons underlying the applicability of the APA to agency action are just not present in view of the procedures to be followed in the administration of this program.

I. THERE WILL BE AN ADMINISTRATIVE REVIEW PROCEDURE IN THIS PROGRAM

a) The President has already directed the Pay Board and the Price Commission to establish procedures for deciding individual cases, including requests for exceptions.

b) Public support for this program will be contingent upon the assurance that individual protests over rulings and interpretations and requests for exemptions will be handled seriously, even-handedly and objectively.

c) Sound administration requires that as many problems as possible be solved at the agency level in order to avoid costly litigation in the courts. Action at the agency level must be as thorough as possible so that cases which do go into court can be tried on the record rather than by *de novo* fact finding proceedings initiated by the district court in the asserted interest of due process.

II. THE ADMINISTRATIVE PROCEDURES ACT IS NOT SUITED FOR THE REQUIREMENTS OF THIS PROGRAM

a) The Congress has recognized that the APA is not an ideal arrangement for agencies operating an emergency program. In reporting the bill which became the Defense Production Act of 1950, the Senate Report noted that the Act "contains the usual exemption for emergency legislation from the Administrative Procedures Act." S.Rep. No. 2250, 81st Cong., 2d Sess., p. 11.

b) There is other precedent for such an exemption provision. In addition to the Defense Production Act, Public Law 774, 81st Cong., such provisions were included in the Export Control Act of 1949 (now repealed) and the Export Administration Act of 1969, codified in 50 U.S.C. App. 2407.

c) The APA was just not intended to apply to the present critical economic situation. Its entire history indicates clearly that its major purposes were to introduce uniformity of procedures and standardization of administrative practice among agencies whose customs departed widely from each other, and to curtail and change practices which embodies in one person or agency the role of prosecutor and judge.

d) The bill we present today meets all the major purposes underlying the enactment of the APA and balances the major interests—the public interest and the private interest.

e) The bill provides for judicial review—the President has directed that the Pay Board and Price Commission establish standards, criteria and procedures for their implementation; thus, the prosecutor and the judge will not be bound together in either the Pay Board, Price Commission, or in the Cost of Living Council.

f) When followed strictly, the APA can be cumbersome, time-consuming, and expensive. The manpower, space, and reporting requirements for the APA-type adjudication hearing are simply incompatible with the key objectives of the program of speed combined with the smallest possible bureaucracy.

III. THE AGENCIES INVOLVED IN THIS PROGRAM WILL CREATE PROCEDURES FOR ADMINISTRATIVE REVIEW TAILORED TO THEIR NEEDS

a) The problems involved in price and wage stabilization are not identical. The Pay Board and Price Commission will each develop appropriate procedures for administrative review. A single mold should not be imposed by legislation.

b) Flexibility should be left in the agencies to tailor their review procedures to their particular problems. The agencies, pursuant to the Presidential mandate, will promulgate regulations covering their own review procedures.

c) The essential elements of administrative review under this program are—

1) Grass roots contact—there will be several hundred IRS offices around the country available for contacts with citizens for information, interpretations, and probably for the first stage of a request for exemption or exception.

2) Speed of decision—problems that will arise under the program will, of course, vary in complexity. The easier and more clearly defined of these can and should be answered locally and promptly. The winnowing process of the review procedures should bring to the national office only the more difficult and significant problems.

3) Flexibility of treatment—a further consequence of the diversity of problems that will arise under the program is that all problems do not require identical treatment. There are many forms in which review procedures may be provided—a letter written to a higher official or an interview with a higher official with authority may completely resolve some questions but not all. Where, for example, the financial condition of a business may be at issue, it may become desirable to have some sort of hearing but here again the range of possibilities is very great and we do not wish to be tied to the APA requirements of a formal hearing.

4) Hearings—it seems clear that there may be circumstances under which hearings may be desirable. We wish it to be clear, however, that hearings provided for by the Pay Board and the Price Commission will not have to be the strict formal APA type of hearing.

5) Public support—public support of this program is essential. We would therefore be inclined to encourage public participation in the rulemaking activities of the agencies. However, the desirability of public participation in a program of this sort must be balanced against the absolute need for no leakage in advance of wage or price decisions.

IV. THERE WILL BE THE FULLEST POSSIBLE PUBLIC DISCLOSURE OF INFORMATION CONCERNING THIS PROGRAM

a) The proposed limitation on public participation will not extend to any restrictions on public information about the program. We are not seeking exemption from the provision of the APA (5 U.S.C. 552) relating to publication in the Federal Register and to the availability to the public of information about the program.

b) The regulations and orders of the agen-

cies in this program will be published promptly and will be accompanied by a statement of reasons for such orders or regulations.

V. THE JUDICIAL REVIEW PROVISION (SEC. 208) IS CONSISTENT WITH AND AN EXTENSION OF THE ADMINISTRATIVE REVIEW SECTION

The administrative review section is closely related to the judicial review provision of the bill (Sec. 208). There can be no thought of depriving a person aggrieved by the program of full access to the courts for adjudication of his rights. It is expected that this review will proceed first through the administrative review steps provided by the agency regulations. When these steps are exhausted, the aggrieved person may then proceed into a federal district court for a declaration of his rights and obligations. The judicial review provision is designed to channel cases or controversies arising under this program first into the federal district courts and then into one court of appeals—the Temporary Emergency Court of Appeals. The objectives of the process are local convenience, speed, and consistency of result.

Based on the foregoing, the following are our answers to the questions asked by Senator McIntyre (Tr. p. 46):

A. Under your proposal, will every businessman have an opportunity to be heard in any proposal which will specifically affect his business?

The administrative process involves two categories of procedures: rule-making and adjudication. In rule-making, the extent to which a businessman will have an opportunity to participate will have to be balanced against the need under this program for security and speed in the agencies' rule-making process. If it seems likely that a businessman will be affected by some rule not yet issued, the businessman is free, and even encouraged, to communicate his views to the agencies. However, it is not desirable that the agencies be required to give formal advance notice of proposed rule-making, and there is no hard and fast rule under current law—the APA—that such advance notice be given.

There will be a complete review system set up for any businessman specifically affected by a published rule. This is the adjudication process described above.

B. Will the public at large have the opportunity to make meaningful comments on proposed regulations?

The answer in A above is equally applicable to the public at large.

C. Will there be a method provided for making a prompt appeal on adverse decisions made at the lower administrative levels?

The earlier description of our intentions with respect to administrative review contain the answer to this question.

D. Will all hearings be open to the public and will all communications with rule-making bodies be a matter of public record?

We have suggested that there may be some variety in the types of procedures developed for administrative review under this program. We do not think it possible to say that all adjudicative hearings will be public. It may be preferable to have a private and informal hearing. If there are hearings on rule-making, it is probable that these would be public and, of course, communications submitted for the record in such a hearing would be available to the public.

STATEMENT OF MR. DAVID GINSBURG, ATTORNEY AT LAW, WASHINGTON, D.C.

Mr. GINSBURG. A fourth area of concern is the lack of any provision for administrative review. The proposed bill would exempt price and wage actions from the Administrative Procedure Act. This exemption is contained in section 7 of the bill.

I'm not criticizing section 7; I simply don't understand the need for it. If the use of the Act is impracticable, I think the law has enough flexibility in it so that it need not be used.

My main point, however, is to stress the absence of any opportunity for hearing plus the exemption from the Administrative Procedure Act, plus the lack of any requirement obligating the Pay Board and the Price Commission to consult and advise with those affected by the regulations.

This is too broad a grant of authority. I am concerned as to the scope of this grant.

The CHAIRMAN. You would in effect provide an alternative to this?

Mr. GINSBURG. I would hope, Senator, that where it is practicable, there be hearings before regulations are announced, that people be given an opportunity to be heard, that a record be made.

This was done during wartime, during World War II and again during Korea.

Now, when we are imposing these controls during peacetime, when presumably we have somewhat more time, when there is somewhat less urgency, these safeguards are abandoned. I find this inexplicable.

Senator PROXMIRE. I am going to be very brief, because the hour is late. I would like to ask you about the answer we got from Mr. Gray on the exemption from the Administrative Procedure Act.

As I recall, and I may be unfair to him, his principal reason for not relying on this Act was the matter of time. He felt if you tied this up in hearings, if you had to go through this procedure, you would have great complexity and delay and confusion and you wouldn't have the kind of clear-cut operation that you have with this exemption.

What is your response to that?

Mr. GINSBURG. My answer is that there may very well be cases, Senator, where it is impracticable to use the provisions of the Administrative Procedure Act. But the Act itself anticipates the possibility and if a finding is made that it is impracticable to use it, then you may go forward and act.

But there are vast areas of action where more mature reflection is possible and necessary, where consultation is desirable, where hearings are useful, where the Act can be used. So that, subject again to the views of those who are actually working with this problem, I don't really understand why the Administrative Procedure Act is not made applicable.

Senator PROXMIRE. The Administrative Procedure Act contains its own remedy?

Mr. GINSBURG. It does, indeed.

Senator PROXMIRE. To take care of the time factor.

Mr. GINSBURG. Yes.

The CHAIRMAN. Would the Senator yield?

Senator PROXMIRE. Yes, sir.

The CHAIRMAN. Why not, as you suggested a minute ago, instead of placing it under the Administrative Procedure Act, set up an alternative plan along the lines you suggested, saying that hearings when requested may be held, and consultation be had and those things that you mention?

Mr. GINSBURG. I see no reason whatever, Senator. It can be done. It has been done before. The patterns are there. Consultation is simple, groups should be consulted if they are affected by these regulations and if it is impracticable, then it can't be done and the law should specifically anticipate that.

But there are the two ways, as Senator Sparkman indicated.

The CHAIRMAN. It seems to me that the Administrative Procedure Act is rather involved, it has many features to it, and if we could—I am just throwing this out as a suggestion—let it stand as it is——

Mr. GINSBURG. I would be satisfied either way.

The CHAIRMAN. But that these things we mentioned should be part of it.

Mr. GINSBURG. I think it could be done, Senator, and I see no reason why it shouldn't be done, in this statute or through the Administrative Procedure Act. One or the other should surely be done.

The CHAIRMAN. Yes.

Senator CRANSTON. I want to join my fellow Senators in expressing admiration and appreciation for your testimony. It was very very constructive and helpful.

Is there any clear-cut and satisfactory definition of the word "impracticable" insofar as its use in the Administrative Procedure Act is concerned?

Mr. GINSBURG. No, Senator, none that I can offer. However, I think that government administrators are generally responsible, and any administrator that makes a decision to forego hearings, and decides that hearings are impracticable, ultimately must defend that position. He will be challenged. He can be challenged in the courts. If he acted arbitrarily or capriciously, his decisions would be challenged and, at least, carefully watched.

I think there is a self-operating limitation here.

STATEMENT OF MILTON M. CARROW, CHAIRMAN, SECTION OF ADMINISTRATIVE LAW, AMERICAN BAR ASSOCIATION; ACCOMPANIED BY: BEN FISHER, SECTION REPRESENTATIVE TO THE HOUSE OF DELEGATES, AMERICAN BAR ASSOCIATION

Mr. CARROW. Mr. Chairman, I hope I will not repeat unnecessarily what appears in my statement. I want to add some supplementary remarks.

Senator PROXMIRE. Your statement will be printed in full in the record.

Mr. CARROW. Thank you, sir.

I have with me Mr. Ben Fisher, the Section Representative to the House of Delegates of the American Bar Association.

I, of course, appear here as the Chairman of the Section of Administrative Law of the American Bar Association and I believe what our statement contains reflects the policy of the American Bar Association.

Our focus is mainly on the legal problem of excluding the operation of the Administrative Procedure Act from the functions to be exercised under this bill. We think this is bad, we also think it is unworkable and will create a number of serious problems.

It is my understanding that the reason why this exclusion appears in the bill is that it also appeared in the Defense Production Act of 1950. That is true. However, that is only part of the story.

What is also true is that the Defense Production Act of 1950 contains a detailed set of procedures for protests against rules or orders to be issued by the President or the agencies under him. There was an opportunity for a hearing, there was also an opportunity for review within the administrative establishment, and also review by the Emergency Court of Appeals.

The other point that I understand is made in support of excluding the operation of the Administrative Procedure Act is that of course the agencies, the Pay Board and the Price Commission, under the necessity for some procedural safeguards, and they will do it, they will take care of it, they will issue regulations that will provide for appropriate reception of evidence and economic data.

I submit, gentlemen, that all administrative agencies think they know best and that they can do the best without any statutory guidelines. I submit that the Congress would be abdicating its responsibility in not setting down guidelines for the agency to follow and basic procedures that would insure the provision of appropriate economic data, the appropriate evidence, so that rules that are ultimately issued or orders that are finally made will be fairly and equitably applied.

Now as regards the specific language of the statute, I want to call your attention to certain of its provisions. I can clarify what I just said. The statute provides that rules that are arbitrary and capricious can be set aside. The statute also provides that orders not supported by substantial evidence can be set aside by the courts. That implies, it seems to me, that some procedure should be made available for the production of evidence and data that will make the rule rational, or that will make it not arbitrary and capricious, and also that evidence will be provided, substantial evidence will be provided.

There is nothing in the statute that outlines any such procedure.

I submit this lays the basis for the issuance of a great number of rules, a great number of orders, that will ultimately come into the courts and be set aside. And when they are set aside in large numbers, after a period of time, I submit that there will be a breakdown in confidence of the public and a serious reflection on the ability of this Act, this bill to do its job.

STATEMENT OF MILTON M. CARROW, CHAIRMAN, SECTION OF ADMINISTRATIVE LAW OF THE AMERICAN BAR ASSOCIATION

My name is Milton M. Carrow. I am a lawyer in New York City and chairman of the Section of Administrative Law of the American Bar Association. I have with me Franklin M. Schultz, the last retiring chairman of the Section, and Ben Fisher, the Section representative to the House of Delegates of the American Bar Association. We appear here as Section officers, and it is our understanding that this statement reflects the general policy of the American Bar Association.

Our interest in this bill centers about Section 207 which excludes the functions to be exercised thereunder from the operation of the Administrative Procedure Act. (5 U.S.C., Sec. 551 et seq.) We object to such exclusion (The bill does not exclude the operation of the public information provision of the Administrative Procedure Act, 5 U.S.C., Sec. 552, and we do not object to this.)

We recognize the importance of swift implementation of the rules and orders expected to be issued under this bill, but we believe such objections will not be effectively accomplished by excluding the operation of the Administrative Procedure Act.

The Administrative Procedure Act was enacted in 1948 after a long legislative history and after one of the most comprehensive underlying studies by an eminent committee of scholars. (Administrative Procedure Act, Legislative History, 1944-46, Senate Document No. 248, 79th Cong., 2nd Sess.; Report, Attorney General's Committee on Administrative Procedure, Senate Document No. 8, 77th Cong., 1st Sess.) In view of the diversity of subjects covered it was carefully drafted to provide for exceptions and exemptions which then seemed appropriate and for emergency action where needed. Although there was some initial opposition, the agencies accommodated their procedures to its reasonable requirements, and I believe it fair to say it is now supported throughout the federal government. It might also be noted that because of changing circumstances serious consideration is being given by the Administrative Conference of the United States and our own Section, pursuant to resolutions adopted by the House of Delegates, to proposed amendments which would eliminate some of the exceptions and exemptions and make other improvements in the Administrative Procedure Act.

To exclude the application of the minimal procedural safeguards of the Administrative Procedure Act is to invite extended litigation challenging the validity of the many rules and orders which we anticipate will be issued. The bill itself provides that rules may be challenged in the courts which are "in excess of the agency's authority," or "arbitrary and capricious", and orders may be challenged where the facts are "not supported by substantial evidence". (Section 208(f)).

The bill does not require as would be required under the Administrative Procedure Act either the President or his designated agencies (The proposed Wage Board and Price Commission) to provide for notice or opportunity to be heard to those affected by the rules or orders. In our view this increases the probability that the agencies will not have considered all the pertinent facts and data prior to the issuance of the rules or orders. This in turn could have two proximate consequences: (1) a reason on the part of those affected to comply, and (2) a constantly increasing number of enforcement proceedings. (The bill provides that these proceedings be brought in the district courts of the United States (Section 208(a)) and the sanctions sought would be either criminal fines or civil penalties (Section 204). Also, injunction proceedings may be instituted against violators upon the request of an agency to the Attorney General. This may invite selective enforcement proceedings.)

Because there is not agency hearings process, the enforcement proceedings would be tried *de novo* in the district courts. In view of the many areas, industries and individuals affected, the district courts could be inundated with enforcement proceedings.

The bill itself reflects an ambivalence on this subject. On one hand it provides that agency rules may be set aside if they are arbitrary and capricious, and that orders can be set aside if they are not supported by substantial evidence. Yet, no provision is made for any process whereby such infirmities can be avoided. On the other hand, the bill also recognizes the potential of increased caseloads by establishing on the appellate level only, a new court, the Temporary Emergency Court of Appeals, (Section 208(c)), but it ignores the far greater burden that may be thrust on the district courts.

The inequities and cumbersomeness of such developments could be serious. If a substantial number of final judgments are issued by the courts setting aside rules or orders, they would have to go back for reconsideration by the President and the agency involved. Changed rules and orders would have to be issued. During the litigation interval, which could be lengthy, the general public would be in a state of uncertainty, and the affected parties or industry would have been subjected to onerous requirements.

It is hard to see how the public interest can be served in those circumstances. Initially, the public may be temporarily lulled into a belief that effective action has been taken, but if a significant number of judicial determinations set aside the rules and orders, there could be a serious breakdown of confidence. Here truly would be an example of haste makes waste.

As regards the rulemaking functions, it may be argued that notice of intended price or wage rules could induce an upward spiral prior to issuance. However, the Administrative Procedure Act specifically provides for such contingencies in its emergency rulemaking provisions, which a number of other federal agencies have effectively employed. (Section 553(b)(3)(B) provides that the rulemaking procedures do not apply "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest".)

In view of these considerations, we recommend that Section 207 be deleted from the bill, and that to the extent it is not inconsistent with specific provisions of the bill, the Administrative Procedure Act be made applicable to the exercise of the pertinent function.

Senator PROXMIRE. Thank you very much, Mr. Carrow.

I take it that Mr. Schultz——

Mr. CARROW. This is Mr. Fisher.

Senator PROXMIRE. I beg your pardon. Mr. Schultz you mentioned in your statement.

Mr. Fisher, you have no statement?

Mr. FISHER. No statement.

Senator PROXMIRE. Gentlemen, I want to thank you very much. Unfortunately, I didn't hear Professor Miller's statement. I did, of course, have a chance to hear him when he appeared before our Joint Economic Committee and I was most impressed then.

Mr. Carrow, I think your statement is very helpful. It is along the same line as the fine witness we had yesterday, Mr. Ginsberg, who also cautioned us on the need for the kinds of protections that you suggest here with respect to the Administrative Procedure Act.

ON THE PRESIDENT'S PRESS CONFERENCE

Mr. CHURCH. Mr. President, I welcome President Nixon's announcement of further troop withdrawals, but I deplore his implication that an American residual force will be left in Vietnam. Hanoi will never give up our prisoners of war, as long as we refuse to give up the war itself.

Until we are ready to say that our national purpose is to bring out the remainder of our forces—land, sea, and air—the war will go on, American prisoners will stay captives, and the deadlock will continue at the conference table in Paris.

After all, pulling out the balance of our forces will not leave the South Vietnamese naked before the enemy. Saigon has a million men under arms. If Vietnamization is working as well as the administration claims, they no longer need to depend on our men—or our pilots—to do their fighting for them.

DOMESTIC PROGRAMS CAN MOVE AHEAD WITH RELEASE OF IMPOUNDED FUNDS

Mr. RANDOLPH. Mr. President, I am encouraged that the financial logjam that is inhibiting domestic Federal programs may be broken as the result of action by the Senate Foreign Relations Committee and the Senate.

The Senate this week passed foreign aid legislation with the provision that funds for it would not be available after December 31 unless currently impounded money for domestic activities is released.

More than $12 billion in appropriated funds are now being withheld by the administration from programs in such important areas as highway construction, public housing, urban renewal, mass

transportation, economic development, and pollution control.

The Foreign Relations Committee and the Senate have acted responsibly in attempting to give attention to domestic as well as foreign needs. It makes little sense to continue spending abroad while programs which the Congress has approved and for which it has provided money are compromised by arbitrary impoundments by the executive branch.

The $12 billion of impounded funds include approximately $5.4 billion in money authorized for highways, mainly construction of the Interstate System.

As a result of impoundments over the past 5 years, the benefits of many programs are being denied to the American people. It is time for this practice to stop so that congressional development programs is not an exercise in futility.

FINCH'S BANANAS

Mr. HUMPHREY. Mr. President, yesterday Mr. Robert Finch, counselor to the President, is reported to have charged that President Roosevelt's good neighbor policy, and the Alliance for Progress under President Kennedy and President Johnson lumped the Latin American countries together as banana republics. Mr. Finch chose the day before his scheduled 2-week trip to Latin American countries to make these comments, an indication of the constructiveness of his forthcoming visit.

Normally, I would dismiss this kind of charge as being preposterous and amusing, but it comes from a spokesman of an administration which has done nothing but let the fruit of our relations with Latin America rot on the vine. Mr. Finch went on to say that the Nixon administration treats Latin American countries as it finds them.

One thing is certain—the second statement is more correct than the first. The Nixon administration's first step was to send Governor Rockefeller on a factfinding tour, which included a warm embrace with Haiti's dictator, Francois Duvalier, and other such endearing episodes throughout Latin America. In Chile, the administration decided to deal with the Allende government by offending it through a number of abrasive actions which have contributed to the present hiatus in our relations with Chile. In Peru the government has decided to end its bilateral aid programs. In Brazil we have decided to expand our military supporting assistance programs. That is what counselor Finch calls dealing with the Latin American countries as they are. I call it a grave misunderstanding of Latin America as Latin America. Even worse, I call it a callous interpretation of the requirements of our policy toward Latin American countries in the next decade. Above all, I call it bananas.

Contrast Mr. Finch's definition or President Nixon's definition of the present policy with the good neighbor policy or the Alliance for Progress. While I would be first to recognize the defects in both, I think it only fair to defend their value in the improvement of American-Latin American relations. The good neighbor policy did much to reverse our blatant interventionist activities in the affairs of our neighbors. In that sense it recognized the right of each country to define its own identity and it respected this right—something the Nixon administration has failed to do.

The Alliance for Progress may not have achieved all that it set out to, but what it did do is to instill a commitment here and in Latin America to social equity through economic development. Both policies had a keen sense of purpose and appreciation for the sensitivities of our Latin American friends. Both policies encouraged parliamentary government. Both policies encouraged the development of the human resources—the education, the health, and the welfare of the people—yes, the people.

The Nixon administration policy does not. Mr. Finch apparently does not. While I wish him a bon voyage, I also caution him to appreciate the sensitive stage of our relations with Latin America. And I advise him to remember that many of us in the Senate are concerned about the state of our relations with Latin American countries and are none too pleased with the President's approach up to date.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

REVENUE ACT OF 1971

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, H.R. 10947, which the clerk will state by title.

The legislative clerk read the bill by title, as follows: A bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, I send to the desk two amendments to amendment No. 628, proposed by the Senator from Washington (Mr. MAGNUSON). I ask unanimous consent that they be considered en bloc.

The ACTING PRESIDENT pro tempore. The amendments will be stated.

Mr. GRIFFIN. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. TUNNEY. I yield.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GRIFFIN. Is not the amendment by the Senator from Washington (Mr. MAGNUSON) the pending business?

The ACTING PRESIDENT pro tempore. As soon as the clerk reads these perfecting amendments, the perfecting amendments become the pending business.

Mr. GRIFFIN. A further parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. GRIFFIN. I am sorry. Was the Senator from California offering an amendment to the Magnuson amendment?

Mr. TUNNEY. Yes; two perfecting amendments, which are very simple and easily understood.

The ACTING PRESIDENT pro tempore. The clerk will state the amendments.

The second assistant legislative clerk read as follows:

On page 5, lines 8 and 25 strike out "7.5" and insert in lieu thereof "7.0."

Mr. TUNNEY. Mr. President, I suggest the absence——

Mr. HANSEN. Will the Senator withhold his request for just a moment and answer a question?

Mr. TUNNEY. I yield.

Mr. HANSEN. Would this amendment lower the rate of employment at which the Magnuson amendment would be triggered?

Mr. TUNNEY. That is correct.

Mr. HANSEN. So if the unemployment rate in a State were 7 percent rather than 7.5 percent——

Mr. TUNNEY. Yes; if unemployment rose to 7 percent, then the Magnuson amendment would be triggered, rather than at 7.5 percent.

I am offering this amendment to protect hundreds of thousands of unemployed workers in California; but I would like to wait until the Senator from Washington (Mr. MAGNUSON) comes to the floor before I discuss the amendment.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a question?

Mr. TUNNEY. I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. I appreciate the Senator's decision to offer this perfecting amendment. Why did he decide on the figure of 7 percent? Why not 6 percent?

Mr. TUNNEY. The reason that I chose the figure 7 percent is that in California today the most recent available figures for unemployment, under the formula in the Magnuson amendment, show 7.1 percent unemployment. We have hundreds of thousands of people out of work. As a matter of fact, according to the latest figures, as of August 1971, 607,000 persons were unemployed statewide, and more than 200,000 were unemployed in the Los Angeles area alone. One out of eight persons are on welfare in Los Angeles.

However, the Magnuson amendment would not make relief available to those unemployed workers in California, because our overall unemployment rate under the Magnuson formula does not trigger those benefits. In absolute figures, California unemployment is disastrously high. Yet in percentages under the Magnuson formula, I understand it is slightly below 7.5 percent. This represents a slight change over the past 2 months.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. HANSEN. Mr. President, will the Senator yield for a question?

The ACTING PRESIDENT pro tempore. Does the Senator from California yield?

Mr. TUNNEY. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I was interested in the query posed by the distinguished majority whip. I am prompted to ask this question for reasons that I suspect may have been in the mind of the distinguished Senator from West Virginia. In Wyoming, as I understand the most recent figures indicate, somewhat fewer than 3.5 percent of our people are unemployed, but I feel certain that those who are out of work there are as distressed as people who are out of work in any other part of the country. Would it be reasonable to ask if there is a logical reason to exclude Wyoming, with no defense contracts, and which has not benefited from the great military spending except for the Minuteman missile installation which took place several years ago? Is there a logical reason that I could present to my constituents in Wyoming which would spell out clearly to them why an unemployed man living in a State where the rate of unemployment was 7 percent should be entitled to this added benefit, but that someone in Wyoming who was out of work and equally distressed, would not be eligible for the benefit only because his distress occurred in a State where only 3.5 percent were out of work?

Mr. TUNNEY. The Senator from Washington (Mr. MAGNUSON), the author of the main amendment, which I strongly support, is here, and he can speak for his own amendment. But I think that clearly what we are talking about is unemployment of a size to constitute a genuine emergency. The State of Washington, I know, has tremendous unemployment approaching 14 or 15 percent. I have been in that State recently joining in hearings on that very question, and I saw the unemployed workers and talked with them.

California also has tremendous unemployment. We have had an unemployment rate hovering all year close to 8 percent. In the last couple of months the overall rate has dipped below 7.5 percent in California, but many hundreds of thousands of workers—aerospace workers, unemployed farmworkers, and others—cannot find jobs.

A very critical situation exists in the Los Angeles area. In that area, 200,000 people are unemployed. I consider that to be a crisis which is putting an extraordinary drain on local government resources and property taxes, because of the increase in the welfare load.

So what I am saying is that in a State like California, over 7 percent unemployment is critical and constitutes a crisis.

Mr. MAGNUSON. It is an emergency.

Mr. TUNNEY. This is an emergency, as the Senator from Washington is suggesting by his amendment. It is not the sort of thing that we would normally do. California has an Unemployment Insurance Act that provides relief for a certain period of time, and then people go off the insurance rolls. But the Magnuson amendment would provide for an emergency extension of unemployment benefits. What I am saying is that in a State like California, which has had such extensive unemployment for the past year, it is of critical importance, in my mind, that we make allowances in this amendment for those men and women.

Mr. HANSEN. I thank the Senator.

Mr. BYRD of West Virginia. Would the distinguished Senator consider lowering the figure to 6 percent, and would the able Senator from Washington accept such a modification?

Mr. MAGNUSON. I will say, Mr. President, if I may have the floor, that theoretically when a man is unemployed and cannot find work, and wants to work, it does not make much difference to him whether the percentage is 2 or 3 percent; he is out of a job. But the reason we have these figures is that a cost element is involved.

Second, where we have, say, below 7 percent or down to 5 or 6 percent, he has a better chance of getting a job during the period of his unemployment insurance—and in many cases they do.

In my part of the country, the startling figure is still 15 percent in certain areas. In the entire State it is 10.8 percent, I think. That is due to the aerospace problem in the western part of the State.

This is almost an economy measure, and I will state why: When a person exhausts his unemployment benefits, he has no place to go but to welfare. I handle HEW appropriations, and I know what it costs. I cannot get any exact figures, but it costs us at least $4,025 a year for every family on welfare. Even that figure might be startling. But think of the humility, the loss of dignity, the embarrassment of an able-bodied American who wants to work, cannot find a job, and has to go down to a welfare line.

Many of them, if they are a little older—I have gone through this year after year in HEW, as the Senator knows—they lose their spirit. They get on welfare and they say, "What the devil, let's forget looking for a job," and they do not get off the welfare rolls.

What we are trying to do is to give them a chance, and we are asking for an emergency 6 months provision, hoping that next year the economy will improve a little.

In all fairness, I must say as to our unemployment rate, bad as it is—and, as the Senator says, regarding California it has been on a stable level—when these people exhaust their benefits, we really have a social problem. These people are put on welfare at a cost of $4,000 a year; and I think it may be more, if we start to add it up. In the county of Los Angeles more than 1 million people are on welfare.

Mr. BYRD of West Virginia. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BYRD of West Virginia. I am not against the Senator's amendment. I applaud his amendment. My question, simply, is this: Would the Senator be willing to lower the figure from 7 to 6 percent? The reason I mention 6 percent is that that is about what the national figure is at this time.

Mr. MAGNUSON. I am perfectly willing. All of us are standing here talking about a man, no matter where he is, who is out of work, who wants a job, who has exhausted his benefits. That is all I am talking about.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MAGNUSON. I do not have the floor.

Mr. TUNNEY. I just want to make one point, and then I will yield to the Senator from Connecticut.

The Magnuson amendment contains a provision for financing the amendment. Section 3301 of the Internal Revenue Code of 1954 would be amended to increase the rate of tax from 3.2 to 3.275 percent in 1972 and 1973.

Mr. MAGNUSON. May I interrupt, so that we may understand it? That is three-quarters of 1 percent up—that small amount.

Mr. TUNNEY. That is correct.

Mr. MAGNUSON. That is where the money will be saved, instead of paying $4,000 per person on welfare.

Mr. TUNNEY. That is correct.

If we have 7 percent as the triggering device, it is my information that we will not have to increase the amount of payment to be made in 1971 and 1972 in the form of taxes. But if we move below 7 percent, then we will have to increase the rate of tax from 3.275 percent to a higher percentage.

Mr. MAGNUSON. Perhaps the Senator from Connecticut, who is very familiar with this matter, can say what it would be. It would be a very small amount, would it not?

Mr. RIBICOFF. That is correct. As I indicated in the Finance Committee when this question came up and was used on the floor of the Senate, I would accede to the request of the Senator from West Virginia if he wanted to put it down closer to the national figure. This would be equitable because a person who has been out of work for a year is suffering just as much whether he is in a State with 6 percent or in a State with 7½ percent unemployment rate. So far as all of us are concerned, this is a national problem, and we should treat it nationally.

Along the line of what the distinguished Senator from Washington said, I point out something very significant. As of June 1971, 800,000 persons were receiving welfare solely because the fa-

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ther of the family was unemployed. This represents a 53-percent increase above the number of welfare recipients in July 1970, 12 months earlier.

In other words, what is happening is that once a person has been unemployed for a long period of time, he shifts to the welfare rolls when his unemployment benefits terminate. When we consider that 1.8 million people exhausted their unemployment benefits last year and that the average cost of welfare per family of four is $3,000, public assistance costs for putting these unemployed workers on welfare would amount to as high a figure as $3 billion.

Mr. MAGNUSON. When the Senator from Connecticut was the Secretary of Health, Education, and Welfare, it might have been that, but it is higher now.

Mr. RIBICOFF. Let us take the lower figure. What we are talking about is not only large fiscal savings but also preservation of the self-respect of people who are out of work, not because they want to be out of work but because they cannot find a job. The most important thing we can do in this country is to save the self-respect of people who want to work.

Another problem is this: The bill contains tax benefits for individuals and corporations—approximately $8 billion. We are giving benefits to people who are working and to corporations which are working and earning a profit. But these benefits are long term in nature, while the needs of unemployed workers are immediate and serious. This bill does not take care of the hundreds of thousands of individuals who have exhausted their unemployment compensation, and it does not save their self-respect.

While I support the objectives of the President's new economic policy—to revitalize the economy and to create more jobs—I hope that the Senate will accept an unemployment compensation amendment wholly in keeping with the thrust of H.R. 10947.

The amendment I refer to was originally proposed in July 1971 by the distinguished Senator from Washington (Mr. MAGNUSON) as S. 2321. The proposal provides 26 weeks of additional unemployment compensation to persons who have exhausted their rights to the basic 39 weeks of regular and extended benefits. The additional 26 weeks of benefits would be made available whenever a State's insured unemployment rate plus exhaustions reaches a specific percentage rate. The Federal Government would provide 100 percent of the financing until July 1973; thereafter it would provide an 80-percent share.

The President's new economic policy hopefully will create thousands of new jobs. But the sad reality is that there are over 5 million unemployed men and women in this country, many of whom have exhausted their unemployment benefits. They cannot wait until the long-term economic benefits of the President's plan take hold.

In the first 6 months of 1971 an estimated 1,062,423 workers exhausted their benefits under the regular unemployment insurance program, a national increase of 83 percent over the same time last year. Of these men and women 34,139 were in my home State of Connecticut. Thousands of other workers exhausted their regular insurance rights before that time. Since extended benefits run for only an additional 13 weeks, benefits have also now been exhausted for those whose regular insurance terminated before July.

With unemployment rates still high—in Connecticut the September 1971 figures showed 116,800 people unemployed, 8.3 percent of the 1.4 million Connecticut work force—we can be certain that most of those people whose unemployment benefits have ended are still unemployed. Their only alternative now is to accept welfare assistance.

And in fact they are going on welfare. As of June 1971 there were about 800,000 persons receiving welfare solely because the father of the family was unemployed. This represents a 53-percent increase above the number of welfare recipients in such families in July 1970, 12 months earlier. These 800,000 welfare recipients are now receiving welfare payments at an annual rate of about $480 million; there would be a substantial reduction in these costs if my amendment became law.

Few amendments to H.R. 10947 would contribute as much to the purpose of the President's program as an extension of unemployment benefits. This would provide the emergency relief necessary to help stave off the ill effects of high unemployment during the time it takes for the President's long-range economic proposals to take effect.

The President's new economic policy will cost the Federal Treasury at least $8 billion in tax relief for corporations and working individuals. I hope that the Senate will accept an amendment providing direct benefits to unemployed workers at a cost to the unemployment insurance program in calendar year 1972 of only $390 million.

I commend the Senator from California and the Senator from West Virginia for suggesting that the trigger figure be lowered to 6 percent. I certainly would accede to such a modification if the distinguished Senator from Washington would.

Mr. TUNNEY. I want to make clear to the distinguished Senator from West Virginia that I do not object to the 6-percent figure, and I do not want my remarks to be construed as opposing that proposal. I was only saying that the 7-percent figure would not result in an increase of the tax to be paid under the Magnuson formula. If we go below the 7 percent, then a slight increase in the tax will have to be made. If Senator MAGNUSON is prepared to accept it, I certainly will.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. BYRD of West Virginia. Mr. President, the increase to be made in the tax would be from 3.2 percent to 3.29 percent, if the figure were lowered to 6 percent from 7 percent.

Mr. MAGNUSON. I think that ought to be a part of the amendment. When the bill gets to conference, naturally, the so-called experts can figure one-tenth of 1 percent this way or that way.

Mr. TUNNEY. I could not agree more with the Senator from Washington and the Senator from Connecticut. It does not make any difference where one is—if he is unemployed, he is out of a job—whether the unemployment rate is 6 percent or 9 percent.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. BYRD of West Virginia. I was in error a moment ago. The amount of the tax increase would be less than I anticipated. To lower the 7-percent figure to 6 percent would be to lower it to about what the national average is now; and, really, I think it ought to be tied to the national average. Whenever the national average goes down to 5.8, as it is, that ought to be the trigger. If the Senator from California, who is offering the current amendment, would accept the modification, a 6-percent triggering would cost 3.29 rather than 3.275. That is just fifteen-hundredths of 1 percent.

Mr. MAGNUSON. Yes; it is very small. If we happen to be, say, one-tenth off one way or another in the conference, the experts can figure that out; but it is a small amount. Anyone within the sound of my voice or whomever we can talk to, when they get tax relief, which I am for, they will not mind this small tax to help people who are unemployed because that is part of their business, too. In my State, 75,000 people are affected right now, and it will be 100,000 by January. Our rise in unemployment happened so fast, it is like a basket of eggs hanging up there, and between now and March 1 it will all drop and the welfare rolls will continue to rise. I do not want to see any good American citizen, who wants to work, placed in that position. We are giving in this bill, as was pointed out, substantial tax relief to industry.

Mr. RIBICOFF. Basically, I agree with the purpose of the bill. The philosophy of the President is to try to improve the economic condition in the country and increase employment, but, when 5 million are unemployed, and before this program goes into effect—and there is not an economist in the country who does not agree it will take at least a year. What we are trying to do is put people back to work; yet 5 million people are out of work and prospects for these people in the near future are bleak.

Mr. President, I have here a complete table of the people who have exhausted their benefits. In the State of Washington, the number who have exhausted their unemployment benefits is 99,564. In the State of West Virginia, it is 7,035; in California, 326,773. We are talking about a national disaster. There is not a State that does not have a substantial number of people who have exhausted their unemployment benefits.

Mr. MAGNUSON. I would suggest to the Senator that he put that table in the RECORD, because every State in the Union has some stake in that.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the table entitled "Unemployment Insurance Regular Program Exhaustions" be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REGULAR UNEMPLOYMENT INSURANCE PROGRAM EXHAUSTIONS—FISCAL 1971

	12-month cumulative		
	Fiscal year current 1971	Year ago 1970	Percent change year ago
Alabama	23,421	14,283	64.0
Alaska	4,063	2,258	79.9
Arizona	9,351	3,975	100.0
Arkansas	14,734	9,467	55.6
California	326,773	173,794	88.0
Colorado	4,805	2,782	72.7
Connecticut	51,122	18,614	100.0
Delaware	3,918	2,293	70.9
District of Columbia	5,061	2,991	69.2
Florida	38,670	22,925	68.7
Georgia	27,619	14,972	84.5
Hawaii	6,056	2,668	100.0
Idaho	5,575	4,457	25.1
Illinois	84,762	42,921	97.5
Indiana	48,055	25,469	88.7
Iowa	17,613	9,819	79.4
Kansas	20,367	8,162	100.0
Kentucky	16,705	12,411	34.6
Louisiana	32,059	24,284	32.0
Maine	13,479	7,393	82.3
Maryland	19,599	9,414	100.0
Massachusetts	76,173	35,094	100.0
Michigan	105,046	52,343	100.0
Minnesota	35,836	15,092	100.0
Mississippi	8,509	5,790	47.0
Missouri	33,580	17,501	91.9
Montana	5,015	3,755	33.6
Nebraska	6,991	3,617	93.3
Nevada	6,935	3,808	82.1
New Hampshire	1,665	158	100.0
New Jersey	[1] 53,346	57,834	−7.8
New Mexico	5,295	2,772	91.0
New York	163,805	80,852	100.0
North Carolina	21,422	12,709	68.6
North Dakota	1,608	1,075	49.6
Ohio	53,231	18,094	100.0
Oklahoma	18,173	8,893	100.0
Oregon	21,866	10,703	100.0
Pennsylvania	64,316	29,449	100.0
Rhode Island	16,921	8,457	100.0
South Carolina	17,736	11,616	52.7
South Dakota	1,894	1,246	52.0
Tennessee	35,320	21,173	66.8
Texas	51,540	24,346	100.0
Utah	7,024	5,432	29.3
Vermont	3,384	1,096	100.0
Virginia	11,184	7,034	59.0
Washington	99,564	16,413	100.0
West Virginia	7,035	5,208	35.1
Wisconsin	25,444	12,876	97.6
Wyoming	916	686	33.5
Puerto Rico	38,272	39,849	−4.0
Puerto Rico	22,979	23,868	−3.7
Puerto Rico	61,251	63,717	−3.9
Virgin Islands	0	0	0
Total	[2] 1,797,061	930,323	89.3

[1] July through April.
[2] Includes estimated Connecticut and New York.

TABLE 8.—AID TO FAMILIES WITH DEPENDENT CHILDREN, UNEMPLOYED-PARENT SEGMENT: RECIPIENTS OF MONEY PAYMENTS AND AMOUNT OF PAYMENTS, BY STATE, JUNE 1971 [1]

[Excludes vendor payments for institutional services in intermediate care facilities and for medical care and cases receiving only such payments]

State	Number of families	Number of recipients		Payments to recipients			Percentage change from—			
					Average per—		May 1971 in—		June 1970 in—	
		Total [2]	Children	Total amount	Family	Recipient	Number of recipients	Amount	Number of recipients	Amount
Total	158,000	794,000	488,000	[3] $39,323,000	[3] $246.50	[3] $49.10	−3.7	[3] −1.0	+52.6	[3] +62.0
California	61,900	294,000	178,000	14,194,000	229.45	48.20	−6.1	+2.9	+3.58	+49.6
Colorado	2,100	10,200	5,900	569,000	265.45	55.75	−4.2	−3.7	+67.4	+114.7
Delaware	170	910	560	30,600	178.10	33.50	+16.7	+6.4	+161.9	+169.8
District of Columbia	540	2,300	1,600	107,000	197.85	46.10	+53.0	+37.8	(4)	(4)
Guam	2	20	16	750	(5)	(5)				
Hawaii	710	3,300	1,800	255,000	358.10	78.15	+2.1	+7.5	+144.2	+224.0
Illinois	15,000	77,800	48,200	4,257,000	283.45	54.75	+2.8	−1.5	+170.4	+194.9
Kansas	910	4,400	2,600	233,000	255.50	53.20	−2.5	−2.8	+132.7	+165.9
Maine	870	4,600	2,900	183,000	210.30	39.70	−2.1	−1.8	+242.0	+250.0
Maryland	640	3,100	1,900	131,000	204.20	42.35	−.6	+1.3	+120.0	+124.3
Massachusetts	2,300	12,500	8,000	[3] 910,000	[3] 254.90	[3] 48.00	+6.6	−10.7	+89.4	[3] 54.8
Michigan	9,300	46,300	28,300	2,829,000	303.95	61.10	−2.5	−1.8	+161.0	+207.4
Minnesota	1,000	4,800	2,900	325,000	315.85	67.85	−.6	+2.0	(4)	(4)
Missouri	620	3,300	2,100	106,000	172.65	31.95	−4.7	−4.9	+216.0	+228.8
Nebraska	220	1,100	680	44,400	201.85	39.80	−6.8	−6.1	+94.6	+117.0
New Jersey	15,500	97,100	64,100	3,940,000	254.20	40.55	−31.	−4.3	+31.3	+26.2
New York	18,900	95,300	58,600	5,229,000	277.35	54.90	−4.7	−6.1	+48.7	+35.5
Ohio	8,500	42,100	25,300	1,800,000	211.70	42.80	+2.6	+2.8	+169.7	+178.0
Oklahoma	360	2,000	1,300	72,700	200.75	37.00	−5.6	−5.7	+174.5	+188.7
Oregon	3,600	16,800	9,900	683,000	191.90	40.70	−21.4	−27.1	−26.4	−28.9
Pennsylvania	3,400	16,300	9,600	1,044,000	307.00	63.95	−.4	+10.5	−5.4	+10.4
Rhode Island	820	3,900	2,300	193,000	235.65	49.70	−1.9	+.7	+138.8	+185.3
Utah	1,800	8,800	5,400	440,000	247.35	49.70	+1.3	+35.8	+31.5	+56.4
Vermont	430	2,200	1,300	131,000	302.95	59.70	−5.8	−6.5	+216.1	+246.5
Washington	4,900	21,100	11,600	1,118,000	229.70	53.05	−3.7	−6.6	+62.1	+54.6
West Virginia	3,800	19,800	13,100	496,000	131.40	25.05	−5.6	−5.6	−1.6	−13.4

[1] Data for this segment of the program, shown separately here, are included in data for the total program. All data subject to revision. Data include nonmedical vendor payments other than those for institutional services in intermediate care facilities.
[2] Includes as recipients the children and 1 or both parents or 1 caretaker relative other than a parent in families in which the requirements of such adults were considered in determining the amount of assistance.
[3] Amount includes $312,000 representing grants for special needs for the quarter July–September 1971. The average payment and percentage changes exclude this amount. Including this amount the average payments, per family and per recipient, would be, respectively: U.S. total, $248.50 and $49.50; and Massachusetts, $385.80 and $73.
[4] Program initiated August 1970.
[5] Average payment not computed on base of fewer than 50 recipients; percentage change on fewer than 100 recipients.

MAGNUSON-RIBICOFF UNEMPLOYMENT COMPENSATION AMENDMENT

1. ELIGIBILITY FOR BENEFITS

Extended benefits under present law

Persons who have exhausted their eligibility for regular unemployment benefits (generally 26 weeks of benefits).

Benefits under Magnuson-Ribicoff amendment

Persons who have exhausted their rights to regular and extended benefits.

2. AMOUNT OF BENEFITS

Extended benefits under present law

Same as regular benefits under State law.

Benefits under Magnuson-Ribicoff amendment

Same as regular and extended benefits.

3. LENGTH OF BENEFITS

Extended benefits under present law

Generally 13 weeks.

Benefits under Magnuson-Ribicoff amendment

26 weeks in addition to 39 weeks of regular and extended benefits.

4. EMPLOYMENT CONDITIONS TRIGGERING BENEFIT PERIOD

Extended benefits under present law

National unemployment insurance rate of 4.5% or State insured unemployment rate of 4% (if insured unemployment rate is at least

20% higher than the same period in the preceding 2 years).

Benefits under Magnuson-Ribicoff amendment

Total State unemployment rate of at least 7.5% if there is an extended benefit period, as under present law.

(State insured unemployment rate plus exhaustions).

5. FEDERAL AND STATE SHARE

Extended benefits under present law

50% Federal—50% State.

Benefits under Magnuson-Ribicoff amendment

100% Federal share until July, 1973; 80% Federal share thereafter.

6. FINANCING PROVISIONS

Extended benefits under present law

Portion of net Federal tax earmarked for extended benefits.

Benefits under Magnuson-Ribicoff amendment

Additional Federal unemployment tax of .075% in calendar years 1972 and 1973.

Mr. MILLER. Mr. President, a parliamentary inquiry.

Mr. TUNNEY. Mr. President——

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. SPONG). The Senator from California has the floor.

Mr. TUNNEY. Mr. President, I should like to modify my perfecting amendment and strike the figure 7.0 and substitute 6.0.

Mr. MILLER. Mr. President, will the Senator from California yield before he makes his request? Will the Senator yield for just a moment?

Mr. TUNNEY. I will be glad to yield for a question; yes.

Mr. MILLER. I thank the Senator. Is the Senator familiar with my amendment No. 656, now at the desk?

Mr. TUNNEY. I am not.

Mr. MILLER. The Senator from California may know that I propose to reduce the 7.5 to 4.5, and I wanted to discuss that with the Senator before he makes his request.

Mr. TUNNEY. First, I would like to submit my modification, if I may.

Mr. MILLER. The Senator will still be able to modify his amendment later. If he modifies it now, I might be precluded from proposing my amendment.

Mr. BYRD of West Virginia. Not at all. Not at all.

Mr. TUNNEY. We can modify it as the next step.

The PRESIDING OFFICER (Mr. SPONG). The Senator from California (Mr. TUNNEY) has the right to modify his amendment, no action having been taken. A modification of his amendment by the Senator from California does not preclude further action by the Senate.

The Senator from California has the floor.

Mr. TUNNEY. Mr. President, I wish to modify my amendment, so as to strike the number 7.0 and substitute 6.0; and on page 10 of the Magnuson amendments, on line 4, to strike the figure 3.275 and substitute therefor 3.29.

Mr. BYRD of West Virginia. I thank the Senator from California for modifying his amendment in that way.

Mr. TUNNEY. I thank the Senator from West Virginia for his excellent suggestion and his helpfulness in this regard.

The PRESIDING OFFICER. Will the Senator from California please send his modification to the desk.

Mr. TUNNEY. Mr. President, I send my modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The text of the amendment as modified is as follows:

On page 5, lines 8 and 25, strike out "7.5" and insert in lieu thereof "6.0."

On page 10, line 4, strike out "3.275" and insert "3.29."

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have printed in the RECORD a number of figures and a statement which analyzes this matter in detail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President, the amendment which Sen. Ribicoff, I and other Senators are proposing to the Revenue Act is quite simple. Let me briefly outline its provisions:

It would provide 26 additional weeks of unemployment compensation benefits to eligible workers at a cost of only $338 million.

All states that have enacted an extended unemployment compensation law pursuant to the Federal-State Extended Unemployment Compensation agreement would be eligible.

Individuals in those states who have exhausted, under state law, both their regular and all extended federal and state unemployment compensation benefits would be eligible.

An unemployment rate of 7.5 per cent, computed by counting both the insured unemployed and those who have exhausted their benefits, would trigger the emergency benefits.

The federal government would pay 100 per cent of the emergency compensation paid by the State prior to July 1, 1973 and 80 per cent of the compensation after June 30, 1973.

And to finance these emergency benefits, Section 3301 of the Internal Revenue Code of 1954 would be amended to increase the tax rate from 3.2 per cent to 3.275 per cent in calendar years 1972 and 1973.

Mr. President, we have in H.R. 10947 the fiscal foundation of the President's new economic program. It is a proposal which ignores its own history. The major reason for the emergency of this legislation is the excessive rate of unemployment which has plagued the nation for the past 3 years. Despite that fact, however, the bill before us makes no provision for assisting those who lost their jobs long ago and now find themselves without unemployment benefits. Instead, it looks only to the future—and to a very distant future at that. For even if the proposed tax cuts do stimulate economic growth and create new jobs, those jobs are not going to emerge overnight. The purpose of our amendment, then, is to provide immediate assistance to those workers who have exhausted all of their unemployment compensation benefits and therefore cannot wait for the stimulative effects of tax cuts to trickle down to the job market.

In FY 1971 a total of 1.78 million unemployed Americans were out of work so long that they exhausted all of their unemployment benefits. This figure is almost double the number of people who exhausted their benefits in the previous year. The result, predictably enough, of this sudden upsurge in the number of workers exhausting their unemployment benefits was a 53 per cent increase in the number of welfare families with unemployed fathers.

In my state—which is now experiencing a seasonally adjusted unemployment rate of 11.8%—the crisis is even greater. From FY 1970 to FY 1971 the number of Washington State workers who exhausted their benefits jumped from approximately 16,000 to about 100,000.

And, Mr. President, the crisis is growing greater. Last month Washington State's emergency extended benefits program expired and another 10,000 workers were cut off the program. Furthermore, unless the federal government acts now Washington State will exhaust its entire Unemployment Compensation Trust Fund within four months.

Mr. President it is necessary to speak in terms of numbers if we are to understand the proportions of this crisis. But let's not forget that it's people we are really talking about.

We are talking about the 8,000 men, women and children who line up every week in Seattle to get food donated by more fortunate citizens and distributed by the churches. And—tragically—we are talking about the 12,000 persons who those same churches must turn away every week when the food runs out.

In a very real sense, Mr. President, we are talking about that same forgotten American about who we heard so much of about this same time of year in 1968 and then again in 1970. He is the man who has always asked for work—not welfare. He is the man who has paid his taxes and supported his country.

He is the man who lost his job when the Administration refused to alter its economic course, exhausted his unemployment benefits, and now he is the man who has been forgotten by the Administration in its effort to forget past mistakes.

Mr. President, we can forget those mistakes but we must not forget these men and women. If we can provide a tax bonus for business which will average $7 billion per year over the next ten years then we most certainly can afford $338 million to remember these jobless Americans.

I certainly am willing to consider the amendment offered by the Senators from California, Mr. Tunney and Mr. Cranston, to lower the "trigger" to either 7.0 or 6.0 per cent.

A SUMMARY OF THE PRINCIPAL FEATURES OF THE AMENDMENTS INTENDED TO BE PROPOSED BY SENATOR MAGNUSON TO H.R. 10947—EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1971

1. ADMINISTRATION (AGREEMENTS)

The program would be administered through agreements between the Secretary of Labor and State unemployment insurance agencies. The Secretary could enter into such agreements with a State only if the State had enacted the Federal-State extended unemployment compensation program provided by the Federal-State Unemployment Compensation Act of 1970. No specific changes would be required in State laws; however, states that need to obtain legislative authority for agreements that provide for states to share one-fifth of cost of the program after June 30, 1973 would have until that date to obtain the necessary legislative authority.

2. TYPE OF PROGRAM

The program would be a "trigger" type program. It would be a permanent program "in being" in Federal law, but would "trigger in" only in individual States and only when the "trigger conditions" have been met.

3. NATURE OF TRIGGER

State "on" indicator for "emergency" unemployment compensation set by the Amendments would require two conditions to be met for a week in a State, as follows:

(a) A State or National "on" indicator must exist for the week under the Federal-State Extended Unemployment Compensation Act of 1970, or an extended benefit period under such Act must have terminated within the previous 52 weeks solely by reason of the rate of insured unemployment being less than 120 percent of the rate in the corresponding periods in the prior two years, and

(b) A rate of unemployment based upon a rate of insured unemployment which, after adjustment for exhaustions of unemployment insurance, totaled 7.5 percent.

A state "off" indicator for emergency unemployment compensation would occur when the rate of unemployment used for the emergency program fell below 7.5 percent without regard for the existence or absence of a state "on" indicator under the Federal-State Extended Unemployment Compensation Act of 1970.

4. EXTENT OF "EMERGENCY EXTENDED BENEFIT PERIOD"

An emergency benefit period would begin with the third week after the week for which there was a State "emergency on" indicator for the emergency program and end with the third week after the week for which there was a State "emergency Off" indicator for the emergency program.

5. CONTENT OF PROGRAM

(a) Individual eligibility

Emergency benefits would be payable to individuals who have exhausted all rights to other unemployment compensation, including Federal-State extended unemployment compensation.

(b) Duration of benefits

An individual eligible for "emergency" benefits would receive (i) an amount equal to his total amount of State regular benefits, or (ii) an amount equal to 26 weeks of benefits for total unemployment, whichever is the lesser. The overall maximum payable to individuals in regular State benefits (26 weeks), Federal-State extended benefits (13 weeks) and emergency benefits (26 weeks) would total 65 weeks.

(c) Eligibility period

For any eligible individual, his eligibility period would consist of weeks of unemployment which begin in either an extended benefit period or in an emergency benefit period.

6. FINANCING

(a) Distribution of costs

There would be paid to each State which had entered into an agreement under the bill's provisions 100 percent of the emergency compensation paid prior to July 1, 1973 and 80 percent of the emergency compensation paid after June 30, 1973.

(b) Funding

Funds in the extended unemployment compensation account (Section 905 of Title IX of the Social Security Act established by Title III of the Federal-State Extended Unemployment Compensation Act of 1970) would be used to reimburse States for payments of emergency benefits. (The extended unemployment compensation account is at present virtually exhausted.) However, the Amendments would provide for increasing the gross Federal tax under the Federal Unemployment Tax Act from 3.2 to 3.275 percent (an increase in the net Federal tax of 0.075 percent—from 0.5 percent to 3.275 percent) for calendar years 1972 and 1973. The distribution of tax receipts between the employment security administration and extended unemployment compensation accounts after March 1972 would be changed to 16/23 to the employment security administration account and 7/23 to the extended unemployment compensation account for the period April 1972 through March 1974.

7. COSTS

Assuming that the program became effective January 1, 1972, and would be "triggered on" with a combined unemployment/exhaustion rate of 7.5 percent in Alaska, California, Connecticut, Maine, Massachusetts, New Jersey, Puerto Rico, Rhode Island, and Washington, the costs of the program would total $328 million, of which $200 million would be attributable to the last half of the fiscal year 1972 and $108 million to the first part of the fiscal year 1973. The proposed tax increase could be expected to yield additional revenue approximating $192 million for calendar year 1972 and $200 million for calendar year 1973 or a total of $392 million. Thus, the program would also provide a modest surplus to assist in restoring the extended unemployment compensation account.

SECTION-BY-SECTION ANALYSIS OF AMENDMENTS INTENDED TO BE PROPOSED BY SENATOR MAGNUSON TO H.R. 10947

The proposed amendments would add a new Title VIII to H.R. 10947.

SECTION 801. SHORT TITLE

Section 801 provides that Title VIII of the bill may be cited as the "Emergency Unemployment Compensation Act of 1971".

SECTION 802. FEDERAL-STATE AGREEMENTS

Section 802 provides that all States that have an unemployment compensation law approved under the Federal Unemployment Tax Act, and that have enacted as part of each law provision for providing extended unemployment compensation pursuant to the Federal-State Extended Unemployment Compensation Act of 1970, are eligible to enter into agreements with the Secretary of Labor under which emergency compensation would be provided to eligible individuals who have exhausted, under State law, both regular and extended unemployment compensation.

(a) The State law must contain as of the date the agreement is entered into the requirement that extended compensation be payable as provided under the Federal-State Extended Unemployment Compensation Act of 1970. A State which has entered into such an agreement may terminate the agreement upon providing 30 days notice of such termination to the Secretary of Labor.

(b) (1) The agreements shall provide that the State will make payments of emergency compensation to individuals who have exhausted all rights to regular and extended compensation under the law of such state and who are not entitled to compensation under the law of such state or under the law of any other State, the Federal Government, the Virgin Islands or Canada, or who are not entitled to extended compensation because of the ending of their eligibility period for extended compensation.

(2) Emergency benefits would be payable for every week of unemployment which begins in an emergency extended benefit period as defined in Section (c)(3) and in the individuals eligibility period for emergency compensation as defined in Section 805(b).

(c)(1) An individual will be deemed to have exhausted his rights to regular compensation under a State law when no further payments of regular compensation can be made to him because he has received all the regular compensation available to him based on employment or wages during his base period, or when his rights to such compensation have been terminated by reason of the expiration of his benefit year.

(2) An individual will be deemed to have exhausted extended compensation under a State law when no further payments of extended compensation can be made because the individual has received all of the extended compensation available to him.

(3) An emergency extended benefit period would begin in a State with the third week after the week for which there is an "emergency on" indicator and end with the third week after the first week for which there is an "emergency off" indicator except that no emergency extended benefit period would last for a period of less than 26 weeks. When a determination has been made that an emergency extended benefit period is beginning or ending with respect to any state, the Secretary of Labor shall cause notice of such determination to be published in the Federal Register.

There would be a state emergency "on" indicator for a week of the "rate of unemployment" for the period consisting of such week and the immediately preceding twelve weeks equaled or exceeded 7.5 percent and (a) there is a state or national "on" indicator for such weeks the Federal-State Extended Unemployment Compensation Program or (b) there is neither a State or national "on" indicator for such week but (i) there has been such an "on" indicator within the previous one-year period and (ii) there would be a State "on" indicator for such week were it not for the requirement of Section 203(e)(1)(A) of the Federal-State Extended Unemployment Compensation Act of 1970 that a state "on" indicator exists only when the rate of insured unemployment for the 13 week period equals or exceeds 120 percent of the average of such rates for the corresponding 13 week period ending in each of the preceding two calendar years.

There would be an emergency "off" indicator for a week if, for the period consisting of the week and the immediately preceding 12 weeks, the "rate of unemployment" is less than 7.5 percent.

The "rate of unemployment" for the purposes of "emergency on" and "emergency off" indicators shall be the "rate of insured unemployment" as determined under section 203(f) of the Federal-State Extended Unemployment Compensation Act of 1970 plus the "13-week exhaustion rate."

The "13-week exhaustion rate" shall be equal to one-fourth of the sum of the exhaustions of regular compensation during the most recent 12-month period ending before the week with respect to which the rate is computed divided by the State's average monthly covered employment as that term is used in section 203(f) of the Federal-State Unemployment Compensation Act of 1970 with respect to the 13-week period.

(d)(1) The amount of emergency compensation payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation including dependents' allowances payable to him during his benefit year under the State law.

(2) Except when inconsistent with the provisions of this title or the regulation of the Secretary promulgated to carry out the provisions of this title, the terms and conditions of the State law which are applicable to claims for regular compensation and to the payment thereof shall be applicable to claims for emergency compensation and the payment thereof.

(e)(1) For each eligible individual who files an application for emergency compensation there shall be established an emergency compensation account.

(2) The amount established in the emergency compensation account of an eligible individual shall be equal to the lesser of (a) 100 percent of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year on the basis of which he most recently received regular compensation or (b) 26 times his average weekly benefit amount (as determined for the purposes of 202(b)(1)(c) of the Federal-State

Extended Unemployment Compensation Act of 1970).

(f) No emergency compensation shall be payable to any individual for any week prior to the week following the week in which an agreement was entered into under this title or, if later, the first week beginning more than 30 days after the enactment of this Act.

SECTION 803. PAYMENTS TO STATES HAVING AGREEMENTS

Section 803 provides that the Federal Government shall pay 100 percent of the emergency compensation paid by the State prior to July 1, 1973, and 50 percent of the emergency compensation paid by the State after June 30, 1973.

SECTION 804. FINANCING PROVISIONS

Section 804(a) provides that funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for making payments to States having agreements under this title. The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State the sum payable to such State under this title. Payments to States shall be made by transfer from the extended unemployment compensation account to the account of the State in the Unemployment Trust Fund.

Section 804(b) amends section 3301 of the Internal Code of 1954 to provide for an increase of .075 percent in the Federal unemployment tax for the calendar years 1972 and 1973; the existing tax provided by section 3301 is increased from 3.2 percent to 3.275 percent. The net Federal tax, now 0.5 percent, is increased to 0.575 percent.

Section 804(c) amends section 905(b)(1) of the Social Security Act to provide that seven-twenty-thirds of Federal unemployment tax revenue for the months of April 1972 through March 1974 be allocated to the extended unemployment compensation account; for months after March 1974, the present provision for a one-tenth allocation to the extended unemployment account again becomes effective.

Section 804(d) amends section 901(c)(1)(B) of the Social Security Act to include the Emergency Unemployment Compensation Act of 1971 among the programs eligible for grants to States for the costs of administering State and Federal unemployment compensation programs.

Mr. MAGNUSON. Mr. President, I am ready with the modifications now, unless some Senator wants to speak. The Senator from California (Mr. CRANSTON), I believe, has something to say, as do other Senators. They may want to submit amendments from the floor.

Mr. MILLER. Mr. President, will the Senator from California yield to me briefly?

Mr. TUNNEY. Does the Senator from Washington (Mr. MAGNUSON) wish me to yield to him?

Mr. MAGNUSON. The Senator yielded to me only for the purpose of putting some material in the RECORD.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. TUNNEY. Mr. President, I yield to my distinguished colleague from California.

Mr. CRANSTON. Mr. President, I thank my colleague (Mr. TUNNEY) for the work he has been doing on this subject and would like to associate myself with his amendment. It is sound and constructive and I most certainly support it.

I also wish to thank the distinguished Senator from Washington (Mr. MAGNUSON) for the very important work he has done on this measure. It is a matter of justice and equity. He spotted the great inequity here and has offered his amendment, which I supported in committee. I strongly support what he is doing now.

This is, as the Senator from Washington points out, important to every State in the Union. It is probably more important in California than in any other State, because California now has 15,000 people a month exhausting what they are entitled to. Unless we now proceed to take this action, they will be forced to go on welfare.

We must take into account the fact that those people have been put out of work by Government decisions relating to the economy. If it were entirely their fault, that might be another matter, but when Government decisions have been involved in actions which have put these people out of work, it seems to me the Government has a responsibility to take their needs into account. I am therefore delighted to support the efforts of the Senator from Washington. I thank him on behalf of the people of my State and also on behalf of the people of all the States of this Union, for what he has been doing.

Mr. TUNNEY. Mr. President, I now yield to the Senator from Iowa.

Mr. MILLER. I thank the Senator from California.

Mr. President, if I may have the attention of the Senator from California, because this is crucial, as I pointed out earlier as to my amendment which is at the desk, No. 656, the Senator from California may note that I propose to reduce the triggering percentage. Does the Senator from California have the amendment before him?

Mr. TUNNEY. I was just looking for it. It is not on my desk.

Mr. MILLER. I see the Senator has it now. The Senator may note that I propose to change the triggering percentage from 7.5 to 4.5.

I was interested in hearing the comments of the Senator from California about justice and equity, and those of the Senator from Connecticut (Mr. RIBICOFF) about the comparable cost of welfare.

I would hope that the Senator from California would see fit to modify his amendment so that it will accord with the 4.5, and will add me as a cosponsor.

I discussed the amendment briefly with the Senator from Washington last evening, and I had gained the impression that he was amenable to this change.

After all, as has been pointed out, a person unemployed through the first 26 weeks and then through the next 13 weeks, whether in a State that has 4.5 or 7.5 unemployment, or 7 percent unemployment, is just as much unemployed and is subject to just as much hardship as anyone else. We established a policy at the time we adopted the Employment Security Amendments of 1970 that 4.5 should be the triggering device to provide an extra 13 weeks in order to alleviate severe hardship. The rationale was that a person in a State with 4.5 percent unemployed is hurt as badly as someone in a State with 5 or 6 or 7 percent.

I realize this would involve some additional cost. It might possibly triple the cost. However, it is for Congress to decide how far it wants to go to be fair. The point has been made that with the tax cut in the pending bill, the additional cost for unemployment compensation certainly cannot very readily be made.

If the Senator would modify his amendment, I would think that we would probably get a unanimous vote on it and could then take it to conference; and if the conferees decide that it has to be something over that, there is nothing we can do. But if the Senator modifies the amendment, the conferees might decide upon a lower figure.

Mr. TUNNEY. Mr. President, would the Senator be able to tell the Senate the additional cost of his amendment, the likelihood of the Bureau of the Budget accepting that additional cost figure, and the likelihood of the President deciding that that figure was acceptable?

Mr. MILLER. Mr. President, the Senator from Iowa cannot speak for the Bureau of the Budget. On the basis that we discussed this question in the Finance Committee the other day—and the Senator from Connecticut was there and might be able to help me on this point—it is my recollection that it was estimated that the Magnuson amendment would cost about $300 million and that the 4.5-percent figure would cost about $900 million.

My thought is that if we have to make room for this additional cost by some reductions in the tax benefits in the pending tax bill in order to make room for this provision, we ought to do it because the tax benefits are going to people who are employed and making a living, whereas the unemployment benefits are going to people who are unemployed. The same rationale that the Senator advanced with respect to the hardship of the people in States with 7.5 percent unemployed applies to the people in the States with 4.5 percent unemployed.

The reason that I picked the 4.5-percent figure was that the Unemployment Security Act accepted the figure of 4.5 percent as the one that would alleviate hardship. We accepted the 4.5-percent figure as the proper triggering device to use in that case.

Mr. TUNNEY. Mr. President, I am very sympathetic to the problem of the unemployed in any part of the country. I wonder if the Senator from Iowa can suggest how many additional States would be included if his amendment were agreed to.

Mr. MILLER. My recollection is that under the Magnuson amendment probably eight or 10 States would be covered; and that, with the 4.5-percent figure, there would probably be 30. But I suggest that the people who are unemployed in those States are hurt just as badly as the people in any other part of the country.

Mr. TUNNEY. Mr. President, I could not agree more with the Senator that the unemployed in any State are desperate, whether the unemployment in that State is 3.5 percent or 10 percent.

The problem that I have with the amendment the Senator has suggested is the additional cost factor. The original purpose of the Magnuson amendment was to take care of States having a critical unemployment problem which has the effect of dislocating industry and services in the affected communities. We might increase the cost of additional benefits to such a point that the bill would become unacceptable because of the cost factor. That is, quite frankly, the problem I have.

Mr. MILLER. Mr. President, if we get into that kind of a problem, the conferees will be quite capable of dealing with that. All I want the Senator from California to do is not to tie the hands of the conferees who are doing a job for the people of 30 States instead of 10.

Mr. TUNNEY. I certainly do not want to tie their hands. Perhaps the best way to do this would be to take a vote on my amendment; then the Senator from Iowa can offer his amendment. We will then have the decision of the Senate.

Mr. MILLER. I wish that the parliamentary rules would permit that. However, we would first have to take a vote on the 4.5-percent proposal. If the Senator's amendment were to carry with the larger figure in it, we would be locked in at that figure.

Mr. TUNNEY. Mr. President, I yield to the junior Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, I thank the distinguished Senator from California.

Mr. President, my statement is in support of the Emergency Unemployment Compensation Amendment to H.R. 10947, which I am cosponsoring with my distinguished colleague, Senator MAGNUSON.

This amendment holds out a lifeline to thousands of men and women who have no job, and no hope. It is hard to find words and statistics that fully describe the human tragedy now prevailing in many parts of the Nation, and my own State of Washington.

The tragedy can perhaps best be measured this way: The director of Seattle's manpower programs has given up trying to find jobs for people who apply. Instead, he and his staff spend their time locating food, housing, clothing, and waivers from utility charges and mortgages for the jobless. Jobs simply are not available.

In Seattle, as elsewhere in the country, citizens and their officials have been relegated to a search for basic necessities.

I point out that food stations are set up throughout the greater Seattle area, where citizens bring food and donate it. It is then handed out to qualified individual recipients. Talk about a breadline. We have a food line in the greater metropolitan area of Seattle today.

But the real tragedy is that some 60 percent of the people whose unemployment compensation has expired do not qualify for any other form of relief. They are not eligible for welfare; food stamp programs are sharply restricted; savings, friends, relatives—these resources are quickly exhausted.

This situation leads to social despair, family distintegration, mental illness, acts of desperation. It cripples an individual's spirit, and a community's livelihood. It should not be tolerated in America—the richest country in the entire world.

The emergency unemployment compensation amendment would provide immediately to several hundred thousand persons across the country, and to over 75,000 persons in Washington State, who have already exhausted their regular and extended benefits. It is the most effective way to inject some money, some basic necessities of life, and some sense of confidence into these families and their communities.

Unemployment compensation is a tried and proven form of Federal aid. Unfortunately, in this recession, it is becoming a way of life for some rather than a temporary adjustment between jobs.

Unemployment compensation is already too big a business. In Washington State it became the biggest "employer" in the State sometime last year. Tens of thousands of people in my own State and elsewhere have used their basic 39 weeks of relief, plus an additional 12 weeks. In the first 4 months of 1971 nearly half a million Americans exhausted their regular benefits. Some have been on unemployment compensation assistance for a solid year. Now, in growing numbers, their eligibility is expiring. They are losing even this form of help and minimum income.

In my judgment, this amendment is a vital extension of a successful Federal program—that is desperately needed by thousands of American citizens. It is an interim measure. It is no solution—but is a lifeline to those in need.

Of course, this amendment would not be necessary if this administration had not adopted an economic policy which rocketed unemployment from 3.4 percent in January 1969 to the present 5.8 percent—and the real unemployment is much higher than that.

Now the Congress must take direct action to create jobs through aid to depressed areas, public works programs and public service employment. We must create at least 500,000 job opportunities in the public sector.

Public service employment is not makework. It is not some new version of the dole. It is a constructive use of men and women who need and want work to fill urgent, unmet needs of the public sector.

That is the real solution. But this amendment will provide vital assistance to those already without jobs or income. I hope the amendment will be agreed to by an overwhelming majority.

Mr. TUNNEY. Mr. President, I yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, in 1970 the Committee on Finance and the Senate carefully reviewed the entire unemployment compensation program. This review resulted in the most sweeping changes to the program since its original enactment in the 1930's. Last year's unemployment bill extended unemployment insurance coverage and established a new program of extended benefits during times of high employment. Although last year's bill raised Federal unemployment taxes by about $1 billion annually, the bill had broad support.

Before acting on unemployment compensation legislation last year, the Committee on Finance held 3 days of hearings which filled hundreds of pages of hearing record. Now the amendment pending in the Senate would raise taxes on employers an additional $400 million in the 2-year period 1972–73. We have not had the benefit of hearing from the employers who would be required to pay this additional tax, nor have we heard the views of the State unemployment insurance administrators.

To my mind, this is not a good way to legislate. When this matter was brought up in the Committee on Finance, the committee rejected it by a large margin. I believe the reason was that most members of the committee did not want to impose a new tax of hundred of millions of dollars on employers without affording these taxpayers an opportunity to be heard. This is particularly significant since the pending amendment would raise the additional revenue through a flat increase in Federal unemployment tax on all employers.

The Labor Department has projected that the benefits under the original amendment would be applicable in only nine States, and even with the modification would apply in only 14 States—yet employers in all the other States would be required to pay the same taxes. An employer with no history of unemployment among his workers would have to pay the same tax as an employer with a high unemployment record.

Before the Senate approves a tax increase of hundreds of millions of dollars on employers, I believe we should have the benefit of more careful consideration of the consequences of this action.

Mr. President, I think it should be pointed out that one of the purposes of the President's announcement on August 15 of this year was to increase employment in this country. What this measure proposes to do is to provide more unemployment compensation benefits.

The PRESIDING OFFICER. The Senate will be in order. If Senators wish to converse they will remove themselves from the Chamber.

Mr. HANSEN. Mr. President, the amendment proposes to——

The PRESIDING OFFICER. The Senator from Wyoming will suspend until the Senate is in order.

The Senator may proceed.

Mr. HANSEN. Mr. President, the effect of this amendment would be to make it more expensive for employers to hire a new man, or create a new job. At the same time, the Magnuson amendment would extend the period during which unemployment compensation could be received from the present 9-month period to 15 months, or a year and one-quarter of benefits.

It is important also to note that these costs, whether they come from taxes levied by the State or by the Federal Government, are paid for entirely by employers. I do not think we are going to be giving the encouragement that I believe we all agree should be given to

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employers to open up new jobs if we increase the cost to them of having hired somebody.

Furthermore, I am distressed over the fact that by raising the funds solely and exclusively through a flat Federal tax fails to take into consideration the experience that an employer may have had in maintaining steady, stable employment for his workers. Unlike State unemployment taxes, the flat rate Federal tax does not reward this employer for his good record because it does not allow for experience rating at all.

I would point out further that the 50 States have varying tests that apply in entitling a person to receive the benefits of unemployment compensation. With respect to the State of Washington the only requirement is that the worker shall have earned $800 in the qualifying period. It could be that a person might have a job earning $80 a week for 10 weeks, and he would be perfectly eligible under the terms of this amendment to qualify for unemployment benefits for 15 months. In the State of West Virginia the test is only $700. It varies from State to State.

I do not think it is wise legislation to substitute for participation between the States and the Federal Government for a definite period of time the assumption of the payment of unemployment compensation benefits exclusively by the Federal Government.

Mr. President, I think it needs to be reiterated that this is a very costly bill. Our intention in this bill is to reduce taxes in order to stimulate the economy, create jobs, and reduce unemployment. Let us not overlook the fact that the extension of these benefits, if paid in all States with unemployment rates exceeding 6 percent, could be a billion dollars. These additional taxes would partially negate the steps we have taken so far in lowering taxes. Rather than giving the encouragement to business we had hoped we might give, we will be saddling them with an added tax burden.

It would seem at the very least we should have hearings on this kind of legislation before we adopt an amendment which cuts so broadly across the whole spectrum of industrial activity and which can affect jobs in such an important way.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I wish to make one observation.

As I understand from the Committee on Finance there is, in round figures, $18 billion in tax relief in this bill.

In my amendment we are talking about, for people walking the streets, $471 million. For $18 billion I am sure business will buy $471 million to take care of people they also want to see go to work.

Mr. PASTORE. Mr. President, will the Senator yield? I would like to get into this, if I may.

Mr. MAGNUSON. We just started and we have lots of time.

Mr. PASTORE. Yes, we have lots of time, and I think my time is now.

Mr. President, I am one of those who has always felt that unemployment is a national calamity. It is true it affects some States more than other States.

When I was Governor of my State I thought the unemployment compensation should be nationalized the way we do in the case of social security, the way we do in connection with ADC assistance, and the way we do in old age pensions. People are people no matter where they are, whether they happen to be in Washington State or the State of Rhode Island.

Now, time and time again, we have supported agriculture products; we in the East have always helped the reclamation projects in the West and Midwest; we have developed our hydroelectric power. As a matter of fact, we have been universal in our point of view and not parochial.

I realize the financial problems involved here if you go too low, but a man out of a job is a man out of a job, and unemployment is not a statistical problem, it is a human problem. It has to be met by the Nation. So much so, Mr. President, that in 1946, by national fiat, we guaranteed full employment. We assumed it as a national responsibility.

I am so happy to see that the Senator from Washington is willing to accept the 6-percent figure. What the financial problem might be if it went below that, I am in no position to say, but I do want to say here this morning that something needs to be done. Under our unemployment compensation procedures, a man who is out of job and is offered a comparable job has to take it; in other words, he has to be a legitimate unemployed. I am telling you, Mr. President, that if we do not give him unemployment compensation, we have got to give him public assistance. He has got to support his family. I do not like the idea of welfare unless it is absolutely necessary. So if anyobdy is out of work and has lost his job through no fault of his own, I repeat, somebody has to assume that responsibility, and I think that the Federal Government should do it, because, Mr. President, a State that is hard hit cannot afford to do it. It cannot afford to do it, I repeat. We have pockets of prosperity and we have pockets of poverty, and I think the time has come when we ought to level it off a little bit, because America is America, and what applies to Rhode Island applies to Washington, applies to Iowa, applies to every State in the Union.

The idea around here has been that when it comes to supporting tobacco in Kentucky, everybody has to vote for it. When it comes to supporting wheat in Kansas, everybody has to vote for it. When there is a new project on the Columbia River, everybody has to vote for it. When a poor soul has lost his job in Rhode Island, they say, "Oh, that is Rhode Island's responsibility." It is not our responsibility. What we are trying to do is achieve equality for all. "E pluribus unum." It is carved right over your chair, Mr. President—one for all, all for one. That is what it ought to be, and I hope this amendment carries.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. PASTORE. I yield. I would love to yield, but I do not have the floor.

Mr. MAGNUSON. Mr. President, may I ask a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Has the modification been accepted?

The PRESIDING OFFICER. The amendment has been modified.

Mr. MAGNUSON. It has been modified. If the Senator will allow me, I ask for the yeas and nays on the amendment.

Mr. MILLER. Mr. President, will the Senator withhold that request for a moment, because if the yeas and nays are ordered, that would preclude further modification by the Senator from California, if I understand the rules correctly, and I would like the Senator to withhold that request a little longer, hoping the Senator might see fit to further modify it?

Mr. MAGNUSON. That is what he wants to do. That is why I asked for the yeas and nays.

Mr. MILLER. Mr. President, may I ask a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. MAGNUSON. I have the floor. I ask for the yeas and nays on the modified amendment.

The PRESIDING OFFICER. Is there a sufficient second? Will Senators who second the request please raise their hands? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Iowa will state his inquiry.

Mr. MILLER. If the yeas and nays had been ordered, would that have precluded further modification by the author of the pending amendment?

The PRESIDING OFFICER. If the yeas and nays had been ordered, that would have precluded further modification of the amendment of the Senator from California, except by unanimous consent.

Mr. MILLER. I thank the Chair.

May I point out to the Senator from Washington that is precisely why I asked him to withhold his request for the yeas and nays.

Now, will the Senator from California yield?

Mr. TUNNEY. I do yield.

Mr. MILLER. I would like to comment on the remarks of the Senator from Rhode Island. As usual, they were very direct and responsive. The only thing is, I wish I could persuade the Senator from California that what the Senator from Rhode Island has said is equally applicable to the 4.5 percent which I have been asking the Senator to change his amendment to. A person who is unemployed in a State which has 4.5 percent unemployment is just as hard up as one in a State with 7 or 8 percent unemployment. That is what the Senator from Rhode Island has been emphasizing.

One might ask, why not make it 4 or 3.5 percent? As I pointed out, the reason I suggest 4.5 percent is that we adopted that as a national policy. In 1970 with the Employment Security Amendments of 1970, 4.5 percent was made the triggering percentage for the 13 weeks. All I am suggesting is that we continue that policy. I do not know why we should change it today. The basis of figuring how much more it is going to cost ignores

what the Senator from Rhode Island has said—that we are talking about a human problem, and not a statistical problem.

I ask my colleague from California to please modify his amendment, and then we will see what the conference committee wants to do on it. There has been some intimation that the House conferees might refuse to take jurisdiction over the amendment. I do not think the Senate conferees will particularly agree with that. Let us leave the conference to work out this problem, if there is one.

Mr. TUNNEY. Mr. President, I would like to make a parliamentary inquiry of the Chair on this matter. If we go to conference with a 6-percent figure as a triggering mechanism, can the conference lower that figure to 4.5 percent if the conferees in their wisdom should decide to do so?

The PRESIDING OFFICER. That item would be in conference, and the conferees could lower the figure.

Mr. TUNNEY. The conferees could lower the figure from 6 to 4.5 percent?

The PRESIDING OFFICER. That is correct.

Mr. MILLER. Mr. President, may I ask my colleague this question?

Mr. TUNNEY. I yield.

Mr. MILLER. Does he think there will be any bargaining power on the part of the Senate conferees to lower it still more when the House has not even got it in the bill? What we need is some bargaining power and leverage.

I would hope the conferees would agree to 4.5. Certainly, with the power of the Senate behind them, the Senate conferees would be in a much stronger position. I think we had better have as much bargaining power in the conference as we can get.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. BYRD of West Virginia. In response to the able Senator's statement, the conferees would have more bargaining power in the conference if the figure in the Senate goes to 6 percent than they would have if the figure were 4.5, because in the conference the figure 4.5 would adjust only between zero and 4.5. If the figure goes to 6 in the Senate, they can adjust from zero to 6 percent.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. MILLER. With all deference to the Senator from West Virginia, my understanding is the contrary, and we can get it clarified by the Parliamentarian.

Mr. TUNNEY. Yes, if we could. I would like to ask the Chair if it would be possible——

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

Mr. MILLER. Mr. President, we just went through that. Would the Senator from Washington withhold for a moment? I have been trying to get the Senator from California to modify his amendment, and if we get the yeas and nays we cannot do it without unanimous consent.

The PRESIDING OFFICER. Does the Senator from Washington withhold his request?

Mr. JACKSON. I withhold my request for the moment.

Mr. TUNNEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state his inquiry.

Mr. TUNNEY. The parliamentary inquiry is this: If in conference the conferees have a figure of 4.5 as a triggering device, would they be able to move that figure up to 6?

The PRESIDING OFFICER (Mr. SPONG). The general rule is that you go from nothing to the highest figure in the bill.

Mr. TUNNEY. So the conferees, if they had a 4.5-percent figure, would have the choice of 4.5 percent down to zero, but not above 4.5 percent?

The PRESIDING OFFICER. That is the general rule.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. HANSEN. I have a parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Wyoming to propose a parliamentary inquiry?

Mr. TUNNEY. I yield for that purpose.

The PRESIDING OFFICER. The Senator from Wyoming will state his parliamentary inquiry.

Mr. HANSEN. Do I understand, from the response to an earlier parliamentary inquiry, Mr. President, that it is the understanding of the Chair that in order to give as much flexibility as possible, the presumption is that the unemployment triggering factor at the present time is zero, and that we would fluctuate between zero and 6 percent?

The PRESIDING OFFICER. The Chair would state to the Senator from Wyoming that the Chair is not concerned with effect. We are only interpreting form. Our understanding under the general rule is that if 6 percent is the triggering device, then the conferees are limited to from zero to 6 percent. If 4.5 percent is the triggering device, the conferees are limited to from zero to 4.5 percent.

Beyond the statement of those facts, the Chair does not comment on the effect.

Mr. LONG. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Louisiana?

Mr. TUNNEY. I yield.

Mr. LONG. I suggest that this whole thing could be resolved by just redrafting the language to make the additional benefits available if the degree of unemployment exceeds the national average by more than x percent, whatever that percentage might be, whether it be 100 percent, 50 percent, or 20 percent. With this type of provision the conferees could move down on the figure, and everything would fall into place; while, if the language is drafted in the existing fashion, we get into all these different problems, because while ordinarily to reduce the figure means to make fewer people eligible and spend less money, in this case, to reduce the figure would mean to make more people eligible and spend more money.

So it works out, because of the way the amendment is drafted, to work just the opposite way and it tends to create all sorts of problems under the rules, whereas, if the same type of amendment were drafted so as to refer a degree of unemployment exceeding the national average, the conferees would be in a position to move downward and, by moving downward, they would reduce the amount of money that would be expended, and would reduce the number of people made eligible.

Mr. HANSEN. Mr. President, will the Senator from California yield?

Mr. TUNNEY. I yield.

Mr. HANSEN. I thank my distinguished colleague.

Mr. President, the distinguished chairman of the Finance Committee has made the very point I was attempting to make. I think, without regard to precedent or form, it ought not to go unnoticed that there is great merit in the observations just made by the chairman of the Finance Committee that I hope will not escape the attention of the Chair.

The PRESIDING OFFICER. The Chair is in no position to enter into the debate.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. TUNNEY. Mr. President, I think the Senator from Iowa has expressed the opinion that many of us have, that the more people we could benefit, the better it would be. Unfortunately, we are caught in a very tricky parliamentary situation, as the Senator from Iowa so well knows, and if we have the figure 4.5 percent as a triggering device, in all probability no one will accept it, because the House does not have any figure at all in there. That is what deeply concerns me.

I think the distinguished Senator from Iowa recognizes, as we all recognize, that an unemployed person, no matter in what part of the country, or what the percentage of unemployment is in his State, is unemployed and is desperate.

On the other hand, I think it is also clear that in certain States we have a critical level of unemployment, and we want to make sure that the people in those States are helped. We want to make sure we do not create a situation, by being overly generous in this bill on the Senate floor, where we see the whole proposal knocked out of the bill in conference, so that those States with this critical unemployment situation do not receive this help.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, I do not believe we would be overgenerous by locking it at a 4.5-percent figure, and I do not believe my colleagues feel we would be overgenerous. But if the Senator from California feels that way, he should leave the figure at 7.5 percent, because that would be the best way of getting through

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conference. If I follow the argument correctly, the Senator is suggesting that the farther down we go, the tougher it would be for the conferees. But I suggest, if you want to have the best chance for the States that are hurt the worst, that the modification be withdrawn and we act on the Magnuson amendment.

Mr. LONG. Mr. President, in order to seek to expedite the matter, why not ask unanimous consent that that amendment remain subject to amendment? That being the case, if we later want to change the language to meet the conference problem, we can do it without being locked in, under the rules, after the Senate votes on a particular figure.

The PRESIDING OFFICER. The Chair has previously ruled, in response to a parliamentary inquiry from the Senator from Iowa, and the Chair will repeat that ruling. The yeas and nays have now been ordered; any modification of the amendment to the amendment, as amended, now before the Senate, will require unanimous consent.

Mr. LONG. Well, I ask unanimous consent that in the event the amendment is agreed to, it remain subject to further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from California has the floor.

Mr. TUNNEY. Mr. President, I do not have anything more I want to say at this point.

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. If we now vote on the pending amendent, do I understand that the unanimous consent agreement just obtained by the Senator from Louisiana would then permit another amendment to the same section?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. Mr. President, we are voting on my amendment as modified, which sets the figure at 6 percent, is that correct?

The PRESIDING OFFICER. We are voting on the amendment of the Senator from California, as modified, and not the amendment of the Senator from Washington.

Mr. MAGNUSON. All right. But it sets the figure at 6 percent?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD of West Virginia. Mr. President, I think it was the intention of both the senior Senator from Washington and the junior Senator from California that the vote occur, by the yeas and nays, on the amendment of the Senator from Washington, as modified by the perfecting amendment of the Senator from California, and so I ask unanimous consent to that effect.

Mr. MILLER. Mr. President, reserving the right to object, I understood the unanimous consent agreement that has been obtained by the Senator from Louisiana was that after acting on the pending amendment, we could act on the same section again.

Mr. MANSFIELD. That is right.

Mr. BYRD of West Virginia. There is no question about that.

Mr. MILLER. Then why not proceed according to that, instead of getting the Magnuson amendment further involved at this time?

Mr. MAGNUSON. It is not further involved. We are going to vote it up or down, then the Senator will have a chance to present his amendment. Otherwise, he would be shut out. Is the Senator not satisfied?

Mr. MILLER. Just a moment. Mr. President, still reserving the right to object, I had understood we were going to proceed to vote on the amendment by the Senator from California.

Mr. MANSFIELD. That is right.

Mr. MILLER. And that under the unanimous-consent agreement, following the vote on that, if any other Senator wished to do so, including myself, we could then offer an amendment to the same section.

Mr. MAGNUSON. That is right.

Mr. MANSFIELD. The Senator is correct.

Mr. MILLER. What is being proposed here by the unanimous-consent request of the Senator from West Virginia?

Mr. MAGNUSON. My amendment was the original amendment. I accepted the amendment of the Senator from California. Now we are voting on the amendment that was originally proposed, as modified, and then the Senator from Iowa can call for a vote on his amendment, after this is over. I do not know why everything has to get so confused.

The PRESIDING OFFICER. The Chair would point out that that is not the parliamentary situation.

Regardless of the intent of the Senator from California and the Senator from Washington, the question before the Senate, for which the yeas and nays have been ordered, is the amendment of the Senator from California as modified by the Senator from California. Anything done with regard to the yeas and nays—anything done with regard to any future vote—must be done by unanimous consent. In the absence of that, the Senate is voting on the amendment of the Senator from California and then must later vote upon the amendment of the Senator from Washington.

Mr. MANSFIELD. Unless modified.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. I accepted the amendment of the Senator from California, and that became part of the original amendment. Then he modified the amendment. I accepted it. That is in the RECORD.

Mr. MILLER. Mr. President, a parliamentary inquiry.

Mr. MAGNUSON. Will the Senator let me finish, for a change?

The PRESIDING OFFICER. If the Senator from Washington would ask unanimous consent that the amendment of the Senator from California, as modified, be accepted by him and the yeas and nays set aside, then the Senate would be in a position to vote on the amendment of the Senator from Washington as modified by the Senator from California.

Mr. MAGNUSON. I think that will clear it up. I so ask.

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. Mr. President, I object.

Mr. BYRD of West Virginia. Mr. President, I had a unanimous-consent request before the Senate which has not been acted upon. It has not yet been objected to.

The PRESIDING OFFICER. The Senator from West Virginia is correct. The Chair was under the impression that an objection was pending by the Senator from Iowa, although he has not stated it.

At this time, if the Senator from West Virginia would repeat his unanimous-consent request——

Mr. BYRD of West Virginia. I hope the distinguished Senator from Iowa will not object to my request. It in no way will impair his right to offer further amendments to the text of the bill which will have been amended by the Magnuson amendment as modified. It will simply save time and two rollcalls.

Mr. President, I ask unanimous consent that the yeas and nays which were ordered on the modification offered by the distinguished Senator from California be transferred to the amendment in the first degree which was offered by the Senator from Washington (Mr. MAGNUSON).

Mr. MILLER. Mr. President, I regret that I must object. I think the Chair has properly stated the parliamentary situation, the understanding of the parties, the understanding of the Senator from Louisiana and his unanimous-consent request, and the misunderstanding by some of our colleagues.

The PRESIDING OFFICER. Objection has been heard. The yeas and nays have been ordered on the amendment of the Senator from California. The position of the Chair is that, based upon the unanimous-consent request of the Senator from Louisiana, the rights of no one are prejudiced in any way.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CHILES (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Maine (Mr. MUSKIE). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Missouri (Mr. EAGLETON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss) the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from South Dakota (Mr. MCGOVERN), would each vote "yea."

On this vote, the Senator from Alabama (Mr. SPARKMAN) is paired with the Senator from New Mexico (Mr. MONTOYA). If present and voting, the Senator from Alabama would vote "nay" and the Senator from New Mexico would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Utah (Mr. BENNETT) and the Senator from Ohio (Mr. TAFT) are detained on official business.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

On this vote, the Senator from Oregon (Mr. PACKWOOD) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Illinois would vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 51, nays 27, as follows:

[No. 310 Leg.]

YEAS—51

Aiken	Harris	Pastore
Anderson	Hart	Pell
Bayh	Hartke	Proxmire
Bible	Hollings	Randolph
Brooke	Hughes	Ribicoff
Buckley	Inouye	Schweiker
Burdick	Jackson	Scott
Byrd, W. Va.	Javits	Stafford
Cannon	Jordan, N.C.	Stennis
Case	Kennedy	Stevens
Church	Long	Stevenson
Cranston	Magnuson	Symington
Eastland	Mansfield	Talmadge
Ellender	McGee	Tunney
Fulbright	McIntyre	Weicker
Gravel	Mondale	Williams
Griffin	Nelson	Young

NAYS—27

Allen	Dominick	Mathias
Allott	Ervin	McClellan
Baker	Fannin	Miller
Beall	Fong	Pearson
Boggs	Gambrell	Roth
Byrd, Va.	Gurney	Smith
Cooper	Hansen	Spong
Cotton	Hruska	Thurmond
Dole	Jordan, Idaho	Tower

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Chiles, against.

NOT VOTING—21

Bellmon	Goldwater	Mundt
Bennett	Hatfield	Muskie
Bentsen	Humphrey	Packwood
Brock	McGovern	Percy
Cook	Metcalf	Saxbe
Curtis	Montoya	Sparkman
Eagleton	Moss	Taft

So, Mr. TUNNEY's amendment, as modified, was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington, as amended. The Chair recognizes the Senator from Washington.

Mr. MAGNUSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. Mr. President, do I understand that, under the previous unanimous-consent agreement, an amendment is now in order to the amended section on which we just voted?

The PRESIDING OFFICER. The part of the amendment that has just been amended by the amendment of the Senator from California is now open to amendment.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Mr. President, there is no unanimous-consent agreement with respect to the amendment; is there?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair is trying to be informed on this matter of inquiry. Will the Senators please be patient?

The unanimous-consent request that was granted was that those parts amended by the amendment of the Senator from California would remain open to amendment. That is the matter on which the Chair ruled for the Senator from Iowa.

Mr. GRIFFIN. Mr. President, I was not aware of that agreement. Is there a time limitation?

The PRESIDING OFFICER. There is no time limitation.

AMENDMENT NO. 656

Mr. MILLER. Mr. President, I call up my amendment No. 656 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 5, line 8, change 7.5 to 4.5.
On page 5, line 25, change 7.5 to 4.5.

A UNANIMOUS-CONSENT AGREEMENT—15-MINUTE TIME LIMITATION TODAY ON VOTES ON PENDING LEGISLATION

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous-consent request with the understanding that he not lose his right to the floor?

Mr. MILLER. Mr. President, I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent with the approval of the majority leader and the minority leader that on all rollcall votes from here on out today, the time be 15 minutes instead of 20 minutes, with the warning bells to ring 5 minutes prior to the announcement of the result by the Chair.

Mr. HUGHES. Mr. President, reserving the right to object, I am not positive that I can make it from my office to the Chamber in 5 minutes. However, I intend to be on the floor for the votes.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the warning bells be midway in the 15-minute period.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MILLER. Mr. President, if I can have the attention of the Senators, I do not believe this matter will take very long.

What the Senate has just done is to make a change in the Magnuson amendment. The Magnuson amendment is to provide an additional 26 weeks of unemployment compensation where there is an unemployment rate of 7.5 percent. The Senate has just voted to reduce that to 6 percent.

My amendment proposes to make it 4.5 percent, just as we did in 1970 with the 13 weeks of extended unemployment compensation.

I believe my amendment would probably affect around 32 to 34 States. I understand that what the Senate has voted for now would apply to around 14 States.

It has been well said on the floor of the Senate that someone who is unemployed for such an extended period of time in a State with 7.5-percent unemployment is no worse off than someone else in like circumstances in a State with 4.5-percent unemployment.

It seems to me that we should broaden the equity treatment just as we did in 1970. The argument could be made that we should make it 4 or 3 percent. However, I use the 4.5-percent figure because that was the policy we followed in the 1970 act. I cannot see any reason why we should change it today.

I hope the Senate will support the figure of 4.5 percent.

We should take care of these States with high unemployment. I believe we should do that but to do it equitably we should follow the policy that was followed in 1970 by extending the benefits to 4.5 percent.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, the Senator from Louisiana voted for the Tunney amendment. That amendment would increase the cost of the Magnuson amendment, as I understand it from about $300 million to about $900 million; and also it is self-financing in that it raises taxes on employers to make up the $900 million.

Generally speaking, the House is not willing to accept amendments on one of the separately financed programs to increase benefits unless the tax is there to pay for it. That is the way it is in connection with social security.

I am frank to tell the Senate that if we try to impose this new proposal on the House they are going to tell us to go fly a kite. They are not going to increase payments under the unemployment insurance program or the social security program unless we have a tax to finance it.

The House has repeatedly rejected amendments without financing provisions.

Second, the amendment, even if it did have the financing feature, would not

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make good sense as far as this Senator is concerned. The Senator said that a person unemployed is just as unemployed in a State with a low degree of unemployment as he is in a State with a high degree of unemployment.

The fact is that under the unemployment insurance program the unemployed person does not have to accept a job on penalty of losing his unemployment compensation if the pay for that job is below what he is accustomed to and if the job is something for which he has not been trained. On the other hand, if the unemployment insurance is exhausted he is expected to take any job he can get.

There is a difference between being in a State like Washington or California, and being in a State where only 4.5 percent of the people are unemployed, when a person is looking for a job. Jobs are a lot harder to find when many people are out of work than they are when only a few people are out of work.

I was willing to vote for the Magnuson amendment or the Tunney amendment. It makes sense to me to say if a State has substantially more unemployment than the national average, as it true of California, that we would pay additional benefits, even though a State like Louisiana would be paying taxes and not receiving benefits. But I do not see why this should be done for a State where there is 4.5-percent unemployment. I am not aware that anyone in the State of Louisiana would expect to pay additional taxes for this type of situation. I believe that is true of most States.

I hope the amendment is rejected. The cost would run up the cost of the original Magnuson amendment to over a billion dollars. We started out with something that makes sense but this change if approved it will not make sense and will be many times more expensive.

Under the House rules—and I did not want it to be this way—there has to be a separate agreement from the House to consider a nongermane amendment, and with something that would cost more than $1 billion as an addition to this bill we would be less likely to get House consideration than we would with something that would cost $300 million or $900 million.

So I urge the Senate to reject the amendment because we have gone far enough in what we have already approved, in my judgment. If the situation gets worse in any State, that State would become eligible under what we have already approved.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. McCLELLAN. I wish to ask a question for my information. I am having a little trouble with these amendments.

As a national policy, how can we justify a policy that favors a citizen in the same situation in one State and discriminates against a person in the same situation in another State that has the same economic problem? I do not see it.

The fact that a man lives in a State with less unemployment than in a State where there is more unemployment, and to say that those people who were unemployed have an advantage over the other people who are unemployed is difficult for me to understand. They are still unemployed. As a national policy, I do not believe it does equity.

What I am trying to ascertain is why in a State where there is heavy unemployment should those people who are unemployed get twice the benefits and consideration that those in a State where there is less unemployment will receive. They are all unemployed. As a national policy I think it does an inequity.

In wrestling with the problem of cost I do not know where we are going.

Mr. LONG. If one were to extend that principle he would logically extend it to every State in the Union, even though there might be a labor shortage in the State and jobs were begging to be filled. We have at least 5 million jobs begging for the 5 million unemployed we have in the country now. But there are not enough jobs in the State of Washington to take care of the unemployed there, and there are not enough jobs in some parts of the country to take care of the unemployed there, even though there are enough jobs in this country to provide some kind of job.

The unemployment insurance reserves the right of the unemployed to decline to accept the job and it does not even require him to accept a job that is far below the pay scale to which he has been accustomed and for which he is not trained or experienced. So he is privileged to decline to consider those jobs; and he is not referred to a job that is beneath his dignity because he is accustomed to making a lot more money and having a better job than that. When his unemployment benefits expire, theoretically he should accept any job rather than to ask for public welfare assistance.

But it can be argued, and I believe it does make sense, that in States where there is high unemployment we would extend unemployment insurance benefits for a longer time than in States with a lower degree of unemployment and we have already done that in legislation enacted last year with respect to 13 weeks of extended benefits.

Mr. McCLELLAN. From the standpoint of the economy I can see the justification for that from the standpoint of the burden on the Federal Government. But with respect to equity for the individual I feel we are establishing a national policy. When we do that, that policy should have justice and equity between all citizens. That is the problem I have.

Mr. LONG. The Senator has a good point, but the principle is already in the law with respect to 13 weeks of extended benefits, and this law is the basis on which the Senator offers his 4.5-percent amendment, because that is the triggering point under last year's new law for unemployment benefits for persons already out of work for 26 weeks. In other words, the Congress has already agreed to the principle that additional benefits be provided in States with higher than average unemployment.

For those with particularly high unemployment, the Senator from Washington is seeking to provide additional coverage, and we have been in agreement with that. I think to go beyond what has already been agreed to would greatly increase the cost. There is no provision in the pending modification to pay for this additional cost, as should be expected with respect to unemployment insurance amendments.

Mr. President, for those reasons I do not think we should accept the amendment.

Mr. MAGNUSON. Mr. President, I want to take just a few minutes. I am reluctant, as naturally any of us are, not to try to do this on a national scale as the Senator from Arkansas has just suggested.

However, that should be an amendment to the regular Federal-State Extended Unemployment Act, the main act, which would name a 4.5 percent triggering point. Perhaps some day the Ways and Means Committee of the House and the Finance Committee of the Senate will expand benefits under the Federal-State extended act. We are dealing here—and this is why I had 7.5 percent and agreed to the 6 percent—with emergencies only, for months, and the emergency requirement is not met in the Miller amendment.

I am sure we are going to come along and revise the unemployment rules in the future. We should increase the benefit period from 13 to 26 weeks, to carry out the intention under the amendment the Senator from Iowa offers, but this should not be done in this emergency amendment. Here we are dealing with emergencies, just as we deal with hurricanes or natural disasters. When it happens, it happens in places where there seems to be no chance for people to get jobs. As the Senator from Louisiana pointed out, there is a chance in other places to get jobs.

I hope the economy goes up and this bill will not cost anywhere near what it is going to cost and that people will go back to work. I do not know what is going to happen at this point in time; therefore, I was compelled to offer this important amendment.

I am reluctant to oppose the amendment of the Senator from Iowa. I am faced with the situation that we have got to do something in some areas and in some other States of the Union, and this is an emergency matter. Let us sit down and see if we can work to do something about the Federal-State Extended Unemployment Compensation Act in the very near future.

I have been around here a long enough time and have had enough experience to know, I hope, that this amendment would kill my amendment in the House. I know that because it goes below the national average on unemployment. I just do not want to lose the emergency nature of my amendment. I will join the Senator from Iowa and other Senators in amending the basic act with respect to the length of benefits and the trigger point. The States can also enact emergency plans at a lower level if desired.

I repeat, this is a bill to stimulate jobs and gives business $18 billion in tax incentives. Certainly they can put into the pot, to take care of people who are not working, about $471 million. That is our best figure for two years. The figures may vary slightly. So I think that it is

justified. Business does not want people walking around unemployed without relief.

So, reluctantly, I am going to move to table the Miller amendment, and ask for the yeas and nays.

First, Mr. President, I ask unanimous consent to place in the RECORD a telegram from the Governor of the State of Washington.

The PRESIDING OFFICER. Without objection, it is so ordered.

OLYMPIA, WASH.

Hon. WARREN MAGNUSON,
U.S. Senator, Senate Office Building, Washington, D.C.:

I have today sent this telegram to the following Senators: Howard Baker, J. Glenn Beall, Clifford Case, John Cooper, Marlow Cook, Hiram Fong, Robert Griffin, Mark Hatfield, Jacob Javits, Charles McC. Mathias, Jr., Bob Packwood, James Pearson, Charles H. Percy, Richard Schweiker and Hugh Scott.

The provisions of floor amendment 628 to H.R. 10947 fill a major income support gap now existing in Federal-State System of Unemployment Compensation. State off and on indicators adopted in Public Law 91-373 to trigger extended benefit period operate to terminate such extended benefits in individual States, contrary to congressional intent. During critical periods of prolonged high unemployment, Washington is one of these States.

Insured unemployment is now above 9 percent in Washington State. Additional State financed benefits have run out. Nevertheless, State indicators under Federal law will terminate extended benefit period early next year. At the same time over 62,000 individuals, many primary wage earners unemployed directly due to cuts in Federal spending, will have exhausted all benefits yet not qualify for public assistance.

The State Unemployment Compensation Fund, which had a $270 million reserve a year ago will be totally exhausted soon and cannot support further State financed emergency benefits.

Our need is immediate and cannot fall on Washington business alone. We urgently require help. I urge your support of this amendment in the interests of the public good and general welfare of the citizens of our Nation.

Gov. DANIEL J. EVANS,
State of Washington.

Mr. MILLER. Mr. President——

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. MILLER. Mr. President, may I have the Chair's attention?

I am sorry that the Senator from Washington intends to move to table the amendment, but before he offers the tabling motion——

Mr. MAGNUSON. Mr. President, it is not debatable. Is it?

The PRESIDING OFFICER. A point of order is made.

Mr. MAGNUSON. I will be glad to withhold that motion until the Senator can speak. I thought he was all through.

Mr. MILLER. I understand the Senator to say he intended to offer a tabling motion.

Mr. MAGNUSON. I withhold the motion at this time.

The PRESIDING OFFICER. The Chair understood the Senator from Washington to say that he intended to offer a motion to table.

Mr. MAGNUSON. Very well.

Mr. MILLER. Mr. President, something has been said about an emergency. We are talking about a human emergency in a family, and that emergency is just as acute in a State with 4.5 percent unemployment as in a State with 20 percent unemployment.

Mr. MAGNUSON. It is just as acute in a State with one-half percent unemployment or zero unemployment.

Mr. MILLER. That is the emergency.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MAGNUSON. When the figures show zero, they do not show all the people that have given up looking for a job.

Mr. MILLER. We are not interested in statistics here; we are interested in a human problem, and I think the Senator from Arkansas pointed it up very well.

Much has been said about welfare costs that would be saved. Well, the welfare costs, in my understanding, would exceed the costs of unemployment compensation provided for in this amendment with these percentages. So if we are interested in taking a human approach, is it not better to pay unemployment compensation than to pay welfare?

I believe the argument that was used with respect to the 7.5 percent is no more valid with respect to the 7.5 percent than it is with respect to the 4.5 percent. The Senator from Arkansas, I think, stated the problem. As a national policy, are we going to ignore people in a 4.5 percent State and take care of those in a 6 percent State? We decided that question here a year and a half ago, and said, "No." We said if the unemployment rate is 4.5 percent, the States are covered. That is the way we legislated. Why should we change the rules today?

There is no need for hearings on the basic act or anything else. All we need to do is to be consistent with what we did a year and a half ago.

Finally, the Senator suggests this amendment will kill the bill in the House. I give the House more credit than that. I do not think we are any more humanitarian in the Senate than they are in the House. The House itself went along with the 4.5 percent rate a year and a half ago. Why should it change today? I do not think they have changed. I think the scare talk about the House killing the bill is not responsive to the situation. I do not want to kill the Senator's bill.

Mr. MAGNUSON. Mr. President, if the Senator will yield, because there is no tax provision to take care of the Senator's amendment. That is one reason.

Mr. MILLER. We can find a tax provision very, very readily before we get through with the bill. What we need to establish first is: Is our policy going to change from what we established a year and a half ago? If it is not—and I hope it is not—then we can draft a change for the tax provision in 5 minutes. The question is: Are we going to change policies today and go away from the 4.5 percent rate which we established a year and a half ago in both the Senate and the House?

Mr. MAGNUSON. If the Senator will amend the extended unemployment compensation laws, the basic act, I will join him to keep the 1970 figure, with a tax provision to take care of it. I would join the Senator.

Mr. MILLER. As an amendment to the pending amendments?

I asked the Senator if he is suggesting that as an amendment to the pending amendment.

Mr. MAGNUSON. I did not hear the Senator.

Mr. MILLER. Did I understand that the Senator would be willing to join me in an amendment to the pending amendment along those lines?

Mr. MAGNUSON. We have the basic extended unemployment act of 1970, and that is a legitimate amendment to this bill.

Mr. MILLER. I understood the Senator was using the same language, and I believe he will find, on page 5 of his amendment, that the langauge is in identical form to the extended unemployment insurance act. All we need to do is establish the principle: Do we want to keep it at 4.5 percent, which we established a year and a half ago, or do we want to go to 6? It is that simple. I hope we will stay with the 4.5 percent.

Mr. MAGNUSON. Mr. President, when I mentioned zero, I meant zero. In the history of unemployment statistics, we find the figure about 4 percent off in every State when they establish the unemployment rate. When 1 percent or 0 is reported, there are still a great many people out of work. They just do not report for benefits or qualify for benefits. About 8 percent is the figure that should be added to the percentages given.

If all Senators are through speaking on the matter, I move to table the Miller amendment.

Mr. ALLEN. Mr. President, will the Senator withhold that motion?

Mr. MAGNUSON. I withhold it.

Mr. ALLEN. Mr. President, I do not feel that the amendment offered by the Senator from Washington (Mr. MAGNUSON) should be agreed to, and I also voted against the amendment offered by the Senator from California (Mr. TUNNEY) because it would extend the area of operation of the Magnuson amendment.

A person who is unemployed in a State not covered by the Tunney amendment or the Magnuson amendment and this includes Alabama is just as much unemployed as if he lived in a State where the unemployment is as much as 6 percent. Since these proposals give no relief to Alabamians who are unemployed, though Alabamians would have to pay their portion of the cost, I cannot support these proposals.

Reviewing the present situation, we have 26 weeks under the basic unemployment compensation law. Then there is a period of 13 weeks which is added provided the unemployment rate is 4.5 percent. Now the Magnuson amendment, as amended by the Tunney amendment, seeks to provide 26 additional weeks, making a total of up to 65 weeks. We are changing the basic unemployment compensation law by more than doubling the basic amount of unemployment compensation.

It seems to me that whatever the Senate adopts will not be agreed to by the

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House of Representatives, so we are pretty well spinning our wheels here, because this proposal is not germane to the bill as it came over from the House. Even though I voted against the Tunney amendment, I feel that I should vote to support the amendment offered by the Senator from Iowa to extend the provisions of the amendment to the other States, including unemployed Alabamians.

Then, with or without the Miller amendment, it is going to be the position of the junior Senator from Alabama that the Magnuson amendment should be defeated. I shall support the Miller amendment, but whether that is adopted or not, I shall vote against the Magnuson amendment.

Mr. MAGNUSON. Mr. President, I renew my motion to lay on the table the amendment of the Senator from Iowa (Mr. MILLER), and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the motion of the Senator from Washington (Mr. MAGNUSON) to lay on the table the amendment of the Senator from Iowa (Mr. MILLER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Missouri (Mr. EAGLETON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Minnesota (Mr. HUMPHREY), would each vote "yea."

On this vote, the Senator from Alabama (Mr. SPARKMAN) is paired with the Senator from New Mexico (Mr. MONTOYA).

If present and voting, the Senator from Alabama would vote "nay" and the Senator from New Mexico would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BAOCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Utah (Mr. BENNETT) is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 41, nays 38, as follows:

[No. 311 Leg.]

YEAS—41

Aiken	Fulbright	Pell
Anderson	Gravel	Proxmire
Bayh	Gurney	Randolph
Beall	Hansen	Schweiker
Bible	Hollings	Spong
Brooke	Inouye	Stafford
Byrd, Va.	Jackson	Stevens
Byrd, W. Va.	Long	Symington
Chiles	Magnuson	Taft
Church	Mansfield	Thurmond
Cranston	Mathias	Tower
Ellender	McGee	Tunney
Fannin	Nelson	Williams
Fong	Pastore	

NAYS—38

Allen	Gambrell	Miller
Allott	Griffin	Mondale
Baker	Harris	Pearson
Boggs	Hart	Ribicoff
Buckley	Hartke	Roth
Burdick	Hruska	Scott
Cannon	Hughes	Smith
Case	Javits	Stennis
Cooper	Jordan, N.C.	Stevenson
Dole	Jordan, Idaho	Talmadge
Dominick	Kennedy	Weicker
Eastland	McClellan	Young
Ervin	McIntyre	

NOT VOTING—21

Bellmon	Eagleton	Moss
Bennett	Goldwater	Mundt
Bentsen	Hatfield	Muskie
Brock	Humphrey	Packwood
Cook	McGovern	Percy
Cotton	Metcalf	Saxbe
Curtis	Montoya	Sparkman

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BYRD of Virginia). The question now recurs on agreeing to the amendment of the Senator from Washington (Mr. MAGNUSON) as amended.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Washington will state it.

Mr. MAGNUSON. The business before the Senate now is the so-called Magnuson amendment as modified by the amendment of the Senator from California and the yeas and nays have been ordered——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, there has been some discussion of the problem that would be involved in conference with this amendment. Our staff have some ideas as to how we might make some changes in the language without changing the purpose, intent, or effect of the amendment, so that the problem could be better worked out in conference.

For that reason, I ask unanimous consent that the amendment remain subject to amendment, in the event it is agreed to. That being the case, our staff could give their advice as to how we might resolve whatever difficulties might present themselves from a technical viewpoint in the conference.

The PRESIDING OFFICER (Mr. BYRD of Virginia). For clarification purposes, the Chair would inquire of the Senator from Louisiana whether the Senator from Louisiana means the amendment offered by the Senator from Washington as amended.

Mr. LONG. Yes.

Mr. MAGNUSON. Would that allow another vote on the amendment?

Mr. LONG. So that it could be amended subsequently, after it has been agreed to, yes. The reason I say that is I am well aware of the fact that there may be some technical problems involved here.

Mr. MAGNUSON. If my friend from Louisiana would agree to voting on this amendment, we could agree to his request afterwards.

Mr. LONG. Well, after we get that amendment agreed to, we could not amend it. We could hold off voting on the matter and work out the technical amendments that might be useful——

Mr. MAGNUSON. All right. I agree.

Mr. LONG. I think it is necessary.

The PRESIDING OFFICER. The Chair would inquire of the Senator from Louisiana, if his unanimous consent request is agreed to, would it provide for perfecting amendments to be presented at a later date?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, reserving the right to object, and I do not intend to object, may I ask the Senator from Louisiana, does his unanimous consent request apply only to perfecting amendments?

Mr. LONG. What we are talking about here might pertain to more than technical amendments, but what I am really speaking of is that, instead of talking about 6 percent unemployment, in order to have flexibility in conference, it might be necessary to draft the language so as to read "94 percent employment," rather than "6 percent unemployment." But our staff will be able to work out the amendment so that we can compromise, if need be, in the conference. We simply need that ability to do so, in the event the House does not want to accept the amendment precisely the way the Senate sends it to them.

Mr. MILLER. Mr. President, reserving the right to object, do I understand that we will proceed to vote on the Magnuson amendment now?

Mr. MAGNUSON. Yes.

Mr. MILLER. And then at such time as the staff can work out some language we will vote on that, too?

Mr. LONG. We might need more than just a technical amendment, so I do not want to limit myself to that. The Senate usually agrees to technical amendments, anyway. I am merely talking about a means of preserving to the Senate the right to make such modifications as might be necessary on this amendment, so that it will be subject to compromise in conference.

Mr. PASTORE. Mr. President, if the House bill has no comparable amendment, why is not the whole of the amendment going to be in conference and——

Mr. LONG. We discussed for a half hour earlier today the technical problems that would be involved in the conference. All I would like to do here is to reserve the right to amend the amendment so that we can eliminate whatever

technical problems might come up in the conference.

Mr. DOMINICK. Mr. President, will the Senator from Louisiana yield for a question?

Mr. LONG. I yield.

Mr. DOMINICK. My understanding, on reading the Magnuson amendment, is that the unemployment compensation benefits will remain in effect for not less than 26 months; which means they could go on indefinitely. It does not say for "not more," it says "for not less." Could I get some kind of expression on that before we know what we are agreeing to?

Mr. LONG. Mr. President, I am merely asking that the amendment remain subject to amendment. The reason I did not ask it to be subject to technical amendment only is that if the Senate finds some essential problem arising, then it could be raised. What concerns me is the fact that there appears to be some difficulty in compromising the matter with the House because of the way the amendment is drafted, and I simply want the opportunity to overcome that defect. The way to preserve the right to make changes in conference, in the fashion the Senate wants it to be in conference, is to rewrite the amendment.

Mr. DOMINICK. Can the distinguished Senator from Louisiana answer this question: Are we going to have a chance to discuss the Magnuson amendment before we vote on it, as I would like to get some answers to some questions I have?

Mr. LONG. The Senator can talk about it all he wants. I prefer not to talk about it any more myself, if we can agree it will be subject to further amendment after it has been agreed to.

Mr. CASE. Mr. President, reserving the right to object—and I am going to object——

Mr. LONG. Mr. President, I withdraw my request. The Senator will not have a chance to object.

Mr. CASE. Let me say to the Senator from Louisiana that I am not speaking out of any sense of spite, but I believe this would be a very bad practice for the Senate to follow—to consent, even once, to this kind of procedure.

Mr. LONG. Senator, I regret to say that we already did it once today, but that is behind us now. Go right ahead.

Mr. CASE. We should not rivet this to the Senate's procedures.

Mr. FANNIN. Mr. President——

The PRESIDING OFFICER (Mr. BYRD of Virginia). Has the Senator from Louisiana withdrawn his request?

Mr. LONG. I withdraw it.

The PRESIDING OFFICER. The unanimous-consent request of the Senator from Louisiana is withdrawn.

Mr. FANNIN. Mr. President, I should like to speak for a few minutes before the vote on the pending amendment. I know that we all have very great sympathy for those who are unemployed, but the pending amendment raises a very fundamental question about the nature of the unemployment insurance program. The regular unemployment program provides benefits for 6 months to persons who are involuntarily unemployed to allow them an opportunity to find another job. Last year, after lengthy and careful consideration the Congress provided for an additional 3 months of unemployment insurance in times of unusually high unemployment, either on a statewide or national basis.

The pending amendment would provide an additional 6 months of benefits beyond the nine months already provided for under present law during times of relatively higher unemployment. I do not believe anyone quarrels with a 6-month period for regular unemployment benefits. I think a good case was made for an additional 3 months in times of higher unemployment when it is more difficult for an unemployed worker to find a job. But I do not believe that even after a full year a worker can simply be considered temporarily unemployed if he has been unemployed for that length of time it seems to me a broader economic approach is necessary and this is what we are attempting to do in the Revenue Act of 1971—to stimulate the economy so as to provide more jobs. This it seems to me is the more appropriate way to deal with chronic unemployment.

Unemployment insurance benefits are financed entirely by Federal unemployment taxes and State unemployment taxes are paid by employers. We may very well ask the question: where does the employers responsibility for an unemployed person end? If a person is still unemployed after a year I would argue that we need a broader approach than simply continuing unemployment insurance payments under the guise of a temporary measure.

I strongly feel that the more appropriate way of dealing with chronic high unemployment will be to enact the Revenue Act of 1971 quickly and provide the needed stimulation for the creation of jobs for the unemployed.

Mr. President, we have in the Revenue Act of 1971 a bill to assist in putting people to work by creating jobs. I believe that the amount of money we are talking about could be more adequately utilized for that purpose than for increasing unemployment benefits.

Mr. President, I oppose the amendment.

Mr. DOMINICK. Mr. President, I wonder whether the distinguished manager of the bill could answer this question which I raised once before.

On page 4, line 21, it specifically states that an emergency extended before.

It reads:

> In the case of any State, no emergency extended benefit period shall last for a period of less than 26 consecutive weeks.

This means, as far as I can see, that it is not limited to 26 weeks, that it goes on indefinitely. I am under the conclusion that most Senators here think that this is simply a 26-week extension. It does not seem to be that at all in terms of the wording of the bill.

I would like to know what the sponsor of the amendment would have to say on that.

Mr. MAGNUSON. Mr. President, as I understand it, the Senator wants to know whether an individual could receive more than 26 weeks of additional benefits under my amendment.

Mr. DOMINICK. It specifically states on page 4, if the Senator reads the bill, lines 21 to 23, that no emergency extension of the benefit period may be for a period of less than 26 consecutive weeks.

Mr. MAGNUSON. The Senator is referring to the State emergency extended benefit period. But on page 7, on line 18, the amendment limits an individual's additional benefits to "26 times his average weekly benefit amount for his benefit year." That is all he could get, 26 weeks of additional benefits.

Mr. DOMINICK. But he could go on year after year, as long as the unemployment stays up.

Mr. MAGNUSON. No. He could not get any more than 26 weeks on the basis of his employment during one base period.

Mr. DOMINICK. So the intent of the sponsor of the amendment is to specifically say that he cannot go for more than 26 weeks.

Mr. MAGNUSON. That is our intent, and that is what the amendment provides.

Mr. DOMINICK. What is the intent of saying that it cannot be for less than 26 weeks?

Mr. MAGNUSON. That is the State emergency extended benefit period that the Senator is talking about, not the individual's benefit period.

Mr. DOMINICK. I cannot understand that either. It specifically says that no emergency extended benefit period—and that is what we are talking about—should last for a period of less than 26 consecutive weeks.

I gather that is true, even if it falls below 4.5 percent.

Mr. MAGNUSON. Once a benefit period is triggered in a State, it must last for 26 weeks, even if the State unemployment rate drops below that triggering rate before 26 weeks is up. That is what the technical language of the amendment says.

PRIVILEGE OF THE FLOOR

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Illinois (Mr. PERCY), I ask unanimous consent that Robert Vastine be accorded the privilege of the floor.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, is that to be during rollcall votes?

Mr. GRIFFIN. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, I voted for the Tunney and Miller amendments because I felt that, if we are to move in the direction of a significant Federal takeover of the burden of extending unemployment compensation, then this takeover should be more universal in its application.

I shall be voting against the Magnuson amendment, however, because I am satisfied that the Finance Committee has not had sufficient opportunity to study the full implications of the Magnuson proposal, and, while I am deeply sympathetic over the concerns which motivate that Senator from Washington, I, for one, do not feel that I can responsibly vote in its favor without a great deal more

information than the committee is able to present to the Senate at this time.

There is a second reason, however, that I will vote against the Magnuson amendment. The Senate has already enacted earlier this year legislation which is specifically designed to cope with the situation which the Senator from Washington had in mind when he introduced his amendment.

I speak of the Economic Disaster Relief Act of 1971 which provides, among a great many other things, for the extension of unemployment compensation benefits in those areas which have suffered serious economic dislocations of the kind cited by the Senator from Washington for as long as those dislocations continue to exist.

Under the circumstances I feel that the Senate has already acted to meet the kind of emergency spoken of by the Senator from Washington. I, therefore, urge the Senate to vote against the pending amendment.

Mr. BROOKE. Mr. President, I am pleased to cosponsor the amendment offered by my distinguished colleague from Washington, Senator MAGNUSON.

Unemployment has been a persistent problem in this Nation for well over 2 years. As the war in Vietnam has wound down, as we have begun to reorder our priorities from military and foreign involvement to the application of funds and technology to domestic needs, serious dislocations have inevitably occurred.

In my own State of Massachusetts, 186,000 persons are presently unemployed, and the unemployment rate as a whole has reached 8 percent in the last year.

The amendment of the Senator from Washington is designed to meet this problem. In States where the dislocations have been particularly severe—specifically, where unemployment exceeds 6 percent—any unemployed person who has exhausted both his Federal and State unemployment compensation benefits would be eligible for an additional 26 weeks of coverage, with the Federal Government paying 100 percent of the extended emergency coverage.

In these times, unemployment largely results from the changing policies of the Federal Government. Unemployment, in such instances, is not attributable either to the activities of the individual or to the programs and planning of the various companies.

It is therefore only just and equitable that the Federal Government should adopt unemployment policies adequate to the changing needs of the unemployed.

I wholeheartedly support this amendment, and urge its adoption.

Mr. KENNEDY. Mr. President, I am pleased to give my support to Senator MAGNUSON'S amendment to provide emergency relief for the unemployed, and I commend him for the contribution he is making to ease the plight of thousands of Americans across the country who have lost not only their jobs but also their lifeline to survival, their unemployment compensation checks.

This amendment will have a substantial and continuing impact in Massachusetts and many other States where unemployment has become an increasingly serious problem in recent months.

The crisis in Massachusetts is clear. Of the 150 major labor market areas in the Nation, eight are located in Massachusetts, and all eight are now classified as areas of "substantial" unemployment by the Department of Labor. Call the roll of leading communities in the Commonwealth, and you find that each has been suffering from unemployment rates in recent months that are higher today than we have known in many years.

Across the State, 188,000 citizens of Massachusetts are out of work today. According to the most recent figures, the progression is appalling:

Boston—5.6 percent unemployed; 82,100 citizens out of work;

Fall River—5.9 percent unemployed; 3,200 citizens out of work;

New Bedford—6.7 percent unemployed; 4,400 citizens out of work;

Worcester—6.7 percent unemployed; 10,000 citizens out of work;

Springfield - Chicopee - Holyoke—7.3 percent unemployed; 16,200 citizens out of work;

Brockton—7.8 percent unemployed; 5,000 citizens out of work;

Lawrence-Haverhill—8.7 percent unemployed; 8,400 citizens out of work; and

Lowell—12.3 percent unemployed; 8,100 citizens out of work.

Compounding the tragedy of losing their jobs, many of our citizens now find that their unemployment insurance has run out. At a time of high and continuing unemployment in the Nation, it is unconscionable for the country to turn its back on citizens who have lost their jobs, especially those who have been out of work the longest. That is the specific goal that this amendment is designed to achieve. It means emergency relief to thousands whose unemployment compensation has been terminated already, or will be terminated in the future, until at last we succeed in restoring the economy to full employment. As such, this action by Congress is long overdue.

One other point needs to be made. It is entirely appropriate for this amendment to be included as part of the Revenue Act of 1971, the President's tax package now being debated on the Senate floor. We do not have to look far to seek the cause of unemployment today. It is the direct and immediate result of 31 months of mismanagement of the Nation's economy by the present administration—a conscious decision made in January 1969 to halt inflation by the draconian tactic of inducing unemployment.

We know that the administration has succeeded all too well in inducing unemployment. The specter of unemployment is seen every month across the Nation in the cold statistics of jobs lost and unemployment compensation paid out. We also know that for more than 2½ years, the administration's policies were a dismal failure in halting inflation. As a result, throughout this period, we suffered through an era, unparalleled in America's economic history, of rising unemployment piled on top of continuing inflation.

We know that the problem is now persistent and severe. Yet, in spite of the freeze and the promise of phase II in the area of inflation, the administration's policies continue to relegate the unemployed to the status of second-class citizens. The administration's reaction to the monthly statistics is a clear example of its shortsighted priorities. Instead of trying to do something about unemployment, they have simply shuffled the people in the Bureau of Labor Statistics in an effort to find officials who will put a better public fact on the distressing figures.

Even the centerpiece of the present bill proposed by the administration—the so-called job development credit—is in reality the investment credit of early sixties, wrapped in a new disguise in an effort to hold out the promise of more jobs. There is not a single provision in the bill that really helps the unemployed, and that is why Congress had to act today. The emergency compensation amendment means new hope to the unemployed in Massachusetts and other States where the problem is most severe, and I hope that it will be promptly enacted into law.

Mr. BYRD of West Virginia. Mr. President, I rise to voice my support for the amendment offered by the senior Senator from Washington (Mr. MAGNUSON), as modified, to H.R. 10947, which would extend emergency unemployment compensation benefits to individuals who have exhausted, under State law, both their regular and all extended Federal and State unemployment benefits.

The emergency benefits proposed in this amendment would be extended to States having an unemployment rate of 6 percent. The Magnuson amendment, as originally introduced, proposed to extend these benefits to States having an unemployment rate of 7.5 percent. The Senator from California (Mr. TUNNEY) submitted an unprinted amendment in the second degree to lower this rate to 7 percent. However, at my request, Senator TUNNEY further lowered the rate in his amendment to 6 percent, and that is the present rate contained in the Magnuson amendment. This percentage would include insured unemployment plus exhaustions. The Federal Government would pay 100 percent of the emergency compensation paid by the State prior to July 1, 1973, and 80 percent of the compensation paid by the State after June 30, 1973. This will allow the States sufficient time to enact a matching requirement of 20 percent in order to maintain their eligibility.

This amendment would be self-financing, in that it would amend the Internal Revenue Code to provide for an increase in the tax rate from 3.275 to 3.29 percent.

Mr. President, this bill offers tax incentives of over $8 billion to business and industry. I have no criticism with this aspect of the bill, and I hope these tax incentives will accomplish their objectives of stimulating the economy, and thus creating additional jobs, which are so badly needed at the present time.

However, I feel that we have an equal obligation to assist the unemployed workers located in States with high unemployment. These individuals have also been hurt by the recent recession and certainly they are no less important to the economy than business or any other group. I want to again emphasize that I am not against the incentives offered in H.R. 10947. I just feel that the unemployed workers deserve equal consideration. The Magnuson amendment would at least be a step toward extending equal consideration to the unemployed located in these high unemployment areas. I offer my complete support to this amendment and I congratulate the Senator from Washington for offering it.

I also want to extend my thanks to the Senator from California (Mr. TUNNEY) for accepting my proposal that the rate of unemployment necessary to qualify States for these emergency benefits be lowered to 6 percent, and for modifying his amendment accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BENNETT (after having voted in the negative). On this vote I have a pair with the Senator from Oregon (Mr. PACKWOOD). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Missouri (Mr. EAGLETON), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

On this vote, the Senator from Alabama (Mr. SPARKMAN) is paired with the Senator from New Mexico (Mr. MONTOYA). If present and voting, the Senator from Alabama would vote "nay" and the Senator from New Mexico would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "nay."

If present and voting, the Senator from Kentucky (Mr. COOK) would vote "yea."

The pair of the Senator from Oregon (Mr. PACKWOOD) has been previously announced.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 47, nays 31, as follows:

[No. 312 Leg.]

YEAS—47

Aiken	Hart	Pell
Anderson	Hartke	Proxmire
Baker	Hollings	Randolph
Bayh	Hughes	Ribicoff
Bible	Inouye	Schweiker
Brooke	Jackson	Scott
Burdick	Javits	Stafford
Byrd, W. Va.	Kennedy	Stevens
Cannon	Long	Stevenson
Case	Magnuson	Symington
Chiles	Mansfield	Taft
Church	McGee	Talmadge
Cranston	McIntyre	Tunney
Fulbright	Mondale	Weicker
Gravel	Nelson	Williams
Griffin	Pastore	

NAYS—31

Allen	Ervin	Miller
Allott	Fannin	Pearson
Beall	Fong	Roth
Boggs	Gambrell	Smith
Buckley	Gurney	Spong
Byrd, Va.	Hansen	Stennis
Cooper	Hruska	Thurmond
Dole	Jordan, N.C.	Tower
Dominick	Jordan, Idaho	Young
Eastland	Mathias	
Ellender	McClellan	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bennett, against.

NOT VOTING—21

Bellmon	Goldwater	Moss
Bentsen	Harris	Mundt
Brock	Hatfield	Muskie
Cook	Humphrey	Packwood
Cotton	McGovern	Percy
Curtis	Metcalf	Saxbe
Eagleton	Montoya	Sparkman

So Mr. MAGNUSON'S amendment (No. 628), as amended, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the Senate agreed to the amendment.

Mr. MAGNUSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, this is to serve notice on the Senate that if no amendments are forthcoming, the leadership will call for third reading very shortly.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, if there are no amendments, I am prepared to call for third reading.

Mr. HARTKE and Mr. BAYH addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HARTKE. I had an amendment which I had planned to call up, which calls for an increase in the personal exemption to $800, effective January 1, 1972. Although I preferred not to bring it up at this time, under the circumstance, however, it appears that there is not much choice.

Mr. President, on behalf of the Senator from North Dakota (Mr. BURDICK) and myself, I call up my amendments and ask that they be considered en bloc.

The PRESIDING OFFICER. Is there objection to the consideration of the amendments en bloc? Without objection, it is so ordered.

The clerk will read the amendments.

The assistant legislative clerk proceeded to read the amendments.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments offered en bloc are as follows:

On page 40, line 22, strike "$750" and insert "$800".

On page 41, line 2, strike "$750" and insert "$800".

On page 41, line 6, strike "$750" and insert "$800".

On page 41, line 8, strike "$1,500" and insert "$1,600".

On page 42, line 17, strike "$750" and insert "$800".

On page 42, line 19, strike "$2,050" and insert "$2,100".

On page 42, line 21, strike "$2,800" and insert "$2,900".

On page 64, strike out the matter above line 1, and insert the following:

"Percentage method withholding table

[Amount of one withholding exemption]

"Payroll period:	
Weekly	$15.40
Biweekly	30.80
Semimonthly	33.30
Monthly	66.70
Quarterly	200.00
Semiannual	400.00
Annual	800.00
Daily or miscellaneous (per day of such period)	2.20"

Mr. HARTKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARTKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, I ask unanimous consent that I may yield to my junior colleague from Indiana without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAYH. Mr. President, we are presently in the process of considering one of the most important pieces of legislation that has come before this body during this year, or will for the remainder of the year. This is the first attention that has been given in 2½ years to the sagging economy of this country. It is an effort on the part of Congress, in cooperation with the President, to try to do something about the more than 5 million Americans who are out of work.

I do not suppose there is a single Member of this body, Republican or Democrat, who does not share this concern. Among the 100 Members, there may well be 100 formulas as to how best to deal with the problem. Each Senator, of course, has the right to propose his own plan, based on his experience and the expertise which he brings to this debate.

I have been giving this matter consideration for a long time. When the administration proposed that by executive fiat, the depreciation schedules be changed, if my memory proves correct, I was the first witness in the hearings held by the Treasury Department in opposition to that proposal. This was the first time in history that the executive branch had undertaken on its own, without coming to Congress to obtain legislative authority, to change the depreciation schedules. I thought it was wrong then, and I am even more convinced now as to the wisdom of the position which I took in January. I ask unanimous consent to have printed in the RECORD at this point the testimony that I delivered to the Treasury Department in opposition to the ADR system.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BIRCH BAYH OPPOSING THE PROPOSED ASSET DEPRECIATION RANGE SYSTEM

INTRODUCTION

I am pleased to have this opportunity to testify concerning the Treasury Department's proposed regulations, first announced on January 11, establishing a so-called Asset Depreciation Range system, eliminating the reserve ratio test, and creating new full and half year depreciation conventions. In view of the repeated statements by high Treasury officials that these regulations will go into effect regardless of what is said or done at these hearings, I strongly suspect that all of us here today merely are participating in an elaborate charade. But I cannot believe that the Treasury Department and the Internal Revenue Service can continue to depart from their long history of professional, non partisan analysis of proposed tax regulations. And I am confident that any fair, public-spirited and impartial determination will conclude that these proposed regulations are the worst of two worlds—they are wrong as a matter of law and wrong as a matter of economic policy.

In view of the sizable permanent revenue loss that would result from the proposed changes—estimated to be $3 billion in fiscal 1972 and increasing to $5 billion annually by fiscal 1975—there can be no doubt that this artificial speeding up of the period over which a deduction for depreciation is permitted in, in reality, an adjustment in the corporate tax rate. Having failed to secure Congressional approval of his 1969 recommendation that the corporate income tax be reduced by 2 percentage points, the President is now seeking to achieve a business tax cut at least *twice* as large by the backdoor of liberalized depreciation. The authority to set tax rates, however, is a Congressional prerogative and not an Executive one—under whatever guise it may take.

Even if the revenue shortfall were not as great, the Treasury Department would be overstepping its authority by attempting to establish the proposed Asset Depreciation Range system. What is at issue here is the fact that the Treasury, acting under its own rule-making powers, has proposed departing from the long-established principle that the reasonable deduction permitted for depreciation must be taken over the "useful life" of the asset to the taxpayer. Instead, the Treasury arbitrarily has selected a range from "guidelines" life of +20 percent over which an asset can be depreciated and leaves it to the taxpayer to choose whatever period may be best for him. Clearly, such a departure is beyond the scope of administrative rule-making.

There is also at issue here not only the question of whether the proposed course of action is the proper one for an economy that is suffering from 6 percent unemployment and continued softness in consumer spending but the dubious wisdom of creating a permanent special interest concession in an already fragile tax system.

THE LEGAL ISSUES

The United States Constitution provides, in Article 1, Section 8, clause 1, that "the Congress shall have the power to lay and collect taxes . . ." Historically, this has meant that the President not only has no power to impose new taxes, but he may not repeal existing ones, increase or decrease rates or exemptions or make any other substantial changes in the Internal Revenue Code. On many occasions in the past, Presidents have sought the power to adjust tax rates within specified ranges but to no avail. Congress has guarded its taxing power jealously and, except in the case of the Interest Equalization Tax, it has preserved that power for itself.

The Treasury Department now proposes to permit an arbitrary 20 percent shortening or lengthening of the useful life of an asset for depreciation purposes. That this represents a substantial change in the tax law is evidenced by the fact that it would result in annual revenue losses ranging from $3 billion in fiscal 1972 to nearly $5 billion by fiscal 1975. Furthermore, this special tax break follows Congressional action in 1969 to repeal the investment tax credit and a refusal to act on the President's proposal to reduce the corporate income tax by 2 percentage points. Yet the net effect of the Asset Depreciation Range system, it is interesting to note, is equivalent to a 4 to 6 percentage point reduction in corporate taxes. It would appear, therefore, that the Treasury Department is attempting to implement a policy of tax concessions to business that Congress recently has determined is unwarranted. What is most ironic about this "tax break" is that President Nixon, in seeking repeal of the investment tax credit, said in April, 1969:

"This subsidy to business investment no longer has priority over other pressing national needs.

"In the early 60's, America's productive capacity needed prompt modernization to enable it to compete with industry abroad. Accordingly, Government gave high priority to providing tax incentives for this modernization.

"Since that time, American business has invested close to $400 billion in new plant and equipment, bringing the American economy to new levels of productivity and efficiency. While a vigorous pace of capital formation will certainly continue to be needed, national priorities now require that we give attention to the need for general tax relief."

It is true that the present provisions of Section 167 of the Internal Revenue Code authorize the Treasury to permit a reasonable allowance for depreciation. It is also true that the Treasury is authorized to prescribe methods for determining a reasonable allowance. It is not true, however, that the Asset Depreciation Range system yields a reasonable allowance. Nor is it true that the Treasury Department has the authority to implement the proposed changes under its rule-making powers.

Historically, a reasonable allowance for depreciation has been determined by spreading the cost of a depreciable asset to the taxpayer. Once having estimated the usual life, a taxpayer can elect any one of a number of methods for specifically allocating the allowance to different years within the period of useful life. The basic assumption remains, however—the cost of the asset is to be depreciated over its useful life to the taxpayer.

For 40 years, beginning in 1931 with the Treasury Department's first set of published guidelines for determining useful lives, it has become clearly established that in order for the allowance to be reasonable, depreciation had to be taken over the estimated useful life of the asset to the taxpayer. While the guideline lives have been revised and updated in light of actual replacement experience, first in 192 and most recently in 1962, the concept of useful life was not abandoned. Why abandon it now?

No technical evidence has been presented to indicate that the 1962 guidelines are outdated.

There is no evidence that the 20 percent range selected by the Treasury Department is the proper one.

It hardly seems likely that the 1962 guidelines can be both too long and too short.

It is even less likely that each category of asset lives is outdated by the same 20 percent range.

There have been a number of occasions in the past when it was considered in the public interest to provide for exceptions to the principle of useful life. On these occasions, however, it was not the Treasury Department who implemented the changes but Congress. By specifically amending the Internal Revenue Code in the case of emergency defense facilities, grain storage facilities, and pollution control equipment, Congress has established ample precedent for the view that legislative authority is required before the historic concept of useful life can be abandoned.

The proposed Asset Depreciation Range system, the elimination of the reserve ratio test and the new full and half year conventions—as proposed by the Treasury—followed closely the recommendations sent to the President by his Task Force on Business Taxation. The Task Force strongly urged that a system of capital cost recovery—a system that bears no relation to economic income—be substituted for the present method of providing a reasonable deduction for depreciation and suggested that this could be accomplishd by establishing an asset depreciation range system of ±40 percent from the present guidelines. The Treasury Department's proposed ADR system incorporated all of the major recommendations of the Task Force but proposed a ±20 range.

The Task Force stated, in a section entitled "Implementation of Recommendations":

"We recommend that the proposals discussed above be implemented by appropriate amendments of the Internal Revenue Code. The proposals in section A for substituting in the case of machinery and equipment a system of cost recovery allowances for the present depreciation system involve some matters that have been dealt with under the present system by administrative procedures and regulations rather than by changes in the statute. For example, the reserve ratio test was formally introduced in Revenue Procedure 62-21, and, although our proposal for elimination of the test could be effectuated by administrative action, we strongly urge amendment of the statute to this end. *Moreover, since the shift from depreciation to cost recovery unrelated to the useful life concept does require amendment of the present law, we urge that all the matters covered in the recommendations which are related to such a shift be incorporated in the statute.*" (underline added.)

I do not believe that the mere difference in asset range between the Task Force's recommendation and the President's proposal is sufficient to justify the Treasury's view that these changes can be implemented by administrative fiat.

Despite the Treasury Department's claims, I find absolutely no basis in fact for the view that the 1962 revised guidelines, published as Revenue Procedure 62-21, is sufficient historical precedent for the Treasury to implement the proposed Asset Depreciation Range system on its own authority. In 1962 the Treasury Department sought to improve the procedure for determining a reasonable allowance for depreciation by updating guidelines lives in conformity with actual replacement experience. True, taxpayers were permitted to shorten asset lives for the purpose of depreciating the cost, but only if they could thereafter demonstrate—through the reserve ratio test—that the shorter life was consistent with their actual replacement practices. The proposed Asset Depreciation Range system, in marked contrast, abandons the historic principle of useful life and permits a taxpayer to select any life period within a range established arbitrarily by the Treasury Department. Under the ADR system, the deduction for depreciation will not necessarily bear any relationship to actual asset use. It is, as the President's Task Force described it, a capital cost recovery system, designed not to provide a reasonable allowance for depreciation but to improve the cash flow of corporations and, according to the President, hopefully to provide a small measure of fiscal stimulus. To replace the present law providing for a reasonable allowance for depreciation with a capital cost recovery system, obviously, requires specific Congressional authorization—not merely Congressional acquiescence in the Treasury's attempt to implement the proposed change under its own rule-making power. If that issue cannot be satisfactorily resolved here by the withdrawal of the proposed regulations then it will be decided in a court of law.

THE ECONOMIC ISSUES

The economic policy questions raised by the Treasury's proposed liberalization of depreciation are as proper a subject for the present hearings as the legal questions—and as serious. They are:

With only 75 percent of industrial capacity currently in use and a seven-year investment boom just having ended, is an investment stimulus really needed now?

With unemployment at 6 percent and consumer spending still somewhat sluggish, is a tax break to stimulate investment in plant and equipment the proper fiscal stimulant?

In terms of national priorities, is private capital spending a more pressing need or a more worthy candidate for tax concessions than public investment for improving state and local government infrastructure or increased spending on human resource programs?

If increased private capital spending is necessary now, is liberalized depreciation the most effective way to encourage such investment?

On all of these counts, the answer is definitely "no."

The main source of our present economic ills is not the moderate falling off in spending for new plant and equipment—as one might logically assume from the President's proposed remedy—but the reluctant consumer. There is still a lack of confidence, a lack of confidence reflected in a personal savings rate that continues to remain high, sluggishness in orders for consumer durables and industrial production and little demand for credit despite the precipitous decline in interest rates. Unfortunately, this lack of confidence seems to be justified by an unemployment rate that continues at or near an intolerable 6 percent. In the present situation, it should be obvious to even so recently a converted Keynesian as President Nixon that the most effective way to stimulate economic growth is to spur demand, to create markets for those goods and services that can be produced with existing facilities.

The most immediate and meaningful way for the federal government to create the necessary demand for what American industry is now capable of producing is to provide an additional 13 weeks of federally financed unemployment compensation benefits for the victims of President Nixon's economic game plan. Another meaningful solution is to create public service employment opportunities, a step the Senate took again on April 1, despite an earlier Presidential veto. And, finally the accelerated public works program would provide a more direct stimulus to employment and meet basic public needs.

These proposals would do more to stimulate economic activity than the proposed changes in depreciation allowances for business—and they have the added value of meeting basic human needs directly and not as the result of any "trickling down" effect.

According to the Treasury's own estimates of revenue loss, it is unlikely that the proposed changes in depreciation will have much of an impact now on aggregate demand—and it is now that we need the proper economic stimulus, not in 1976 when the ADR system's impact will be maximized. And while it is wrong to say that the economically appropriate amount of federal spending is reduced by an ineffective and irrelevant tax cut, it is safe to assume that, politically, it becomes more difficult to enact the necessary spending measures. This, then, is the added burden of the President's plan to cut business taxes.

The proposed changes in depreciation, it should be pointed out, are absolutely irrelevant as an effective antidote to recessions. Unlike the Nelson bill providing for public service employment and my own bill to extend unemployment compensation benefits, both of which are triggered into operation as counter-cyclical measures by a formula responsive to economic conditions, the ADR system would remain in effect in good times and bad. During booms, when investment is likely to be high naturally, the tax loss will be great and the inflationary impact of liberalized depreciation will be magnified. Hardly the proper economic prescription. During recessions, when investment falls off naturally, the tax savings to business will be small and there will be no counter-cyclical impact.

A related point about the adverse long-run impact of liberalized depreciation is that it will (1) tend to substitute more private investment for federal expenditures, since at full employment increased expenditures require higher taxes unless inflation is to result, and so a tax cut for business is likely to produce higher taxes for the rest of us and (2) tend to redistribute income in the form of corporate dividends, and not necessarily result in much increased investment, since accelerated depreciation is not tied specifically to investment but to total capital. In contrast to the investment tax credit liberalized depreciation offers only a negligible incentive to increased spending on plant and equipment.

I must admit that I am hard-pressed to see why, with industry operating at about 75 percent of capacity, industrial production off, and consumer demand soft, the President chose now to attempt to stimulate investment by making it cheaper to install new equipment. As for modernization, it is important to keep in mind that we have just ended a seven year investment boom.

It seems somewhat ironic, indeed, that the very same President who urged the Congress to repeal the investment tax credit would propose this poor substitute. If the administration believes that stimulating business investment is the best way to get our failing economy moving again—an assumption I am not prepared to accept—it ought to propose doing just that directly and not through these sleight-of-hand changes in the depreciation rules. By any standard, the investment tax credit will produce more bang for every tax buck lost.

This brings me to another point about the proposed ADR system. Contrary to the President's January 11th announcement and Secretary Kennedy's accompanying statement, liberalizing the depreciation allowances does not merely defer taxes—it reduces them and in so doing it creates a sizable, permanent revenue loss. According to estimates by Professor Robert Eisner and the Treasury Department's 1970 study on depreciation changes, the revenue loss over the coming decade is likely to be in excess of $33 billion. In the face of so many critical unmet social and human needs, should the federal government be spending $33 billion of our tax dollars to buy some modernization of American industry? Is that what the call for a reordering of our priorities is all about? I think not.

CONCLUSION

In conclusion, these regulations are unlawful. Despite the so-called assurances that Secretary Connally has said he has received from certain Members of Congress, Congressional silence does not confer statutory authority where none existed.

These regulations are unwise. They would further erode the American taxpayer's confidence in the integrity of our internal revenue system. I urge you to withdraw them.

Mr. BAYH. I am not a member of the Committee on Finance. I have discussed this problem at length with the distinguished chairman of the Finance Committee, and his judgment and his wisdom have made a significant contribution, in my mind, to what I feel would be the best solution to the problem which we presently face.

I have discussed the matter at some length with the distinguished Senator from Oklahoma (Mr. HARRIS), who is a member of the Committee on Finance, and he and I, with some of our colleagues, are prepared to offer an amendment which would repeal the ADR plan.

I think this is most important, and hope that many of our colleagues in the Senate will join us in this effort.

In addition, I have discussed a broader, more comprehensive approach to the problem with a number of other Senators. One of the other active members of the Committee on Finance who has been

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giving the matter his careful attention and consideration is the distinguished junior Senator from Wisconsin (Mr. NELSON). I understand that he is prepared to offer a series of amendments himself. One of those amendments is an amendment which would provide an additional $50 tax credit for each taxpayer, or a $100 tax credit for each couple who file a joint return. This is a proposal which was made some time ago by Mr. Walter Heller, and I feel that it has considerable merit.

It is my judgment that the best approach, now, to stimulating the economy and trying to find a way to bring more equity into the vehicle used to stimulate the economy is to join together the views of those who feel that the ADR is inequitable and that it should be repealed with the views of those who feel that the average taxpayer should be given this $50 or $100 additional tax break. An amendment to accomplish this purpose, to go forward with both of those suggestions in one vehicle, has now been drafted. I intend to offer that amendment. The Senator from South Carolina (Mr. HOLLINGS) is a cosponsor, and the Senator from California (Mr. TUNNEY), the Senator from Oklahoma (Mr. HARRIS), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Hawaii (Mr. INOUYE) have also indicated their desire to cosponsor the amendment.

Of course, sponsoring the amendment and bringing it up for floor debate is not all that I wish to accomplish. I would like to maximize the chances of passing such an amendment. So, instead of calling up the amendment today, which I had originally planned to do, out of deference to the Senator from Wisconsin (Mr. NELSON), and in the hope that he will join in the effort, because of his interest and the significant contribution he has made to this whole study within the Finance Committee, and the significant contribution he can make to the floor debate, I shall not offer the amendment today, but shall do so the first of next week.

There are a number of other Senators who are concerned that revisions be made. I have discussed with the Senator from New York (Mr. JAVITS) a formula that he proposes. My intention to put this matter off until the first of the week is not done in the desire to slow down the consideration process. I share the concern of the Senator from Montana that we move expeditiously on this measure. But I hope that by Monday we can reconcile some of the differences which exist, so that we may have a better opportunity to explain what would be accomplished by this double-barreled approach, repealing the ADR and giving the taxpayers an additional tax break, and hopefully we can then bring support behind such an amendment.

Hopefully, by the first of the week, all who are interested in this particular kind of proposal can cooperate and get it passed. Frankly, I do not care whether it is mine or somebody else's, but I think it is absolutely indispensable that this type of legislation be enacted.

The Nixon administration's revenue proposals mistake what is wrong with the U.S. economy. For almost a year, unemployment has been stuck between 5.5 and 6 percent. Unemployment among minority groups and blacks has been more than 10 percent—and among minority group youths it has been a scandalous 35 percent.

For an even longer period, moreover, our industrial plant has been underutilized—running at about three-quarters of capacity. That means that our economy has been producing approximately $70 billion per year less in goods and services than would be the case if our men and resources were fully employed.

In my judgment, the Nixon administration makes two major mistakes in trying to deal with these problems under the present suggestion. First, it is proposing permanent changes in our tax laws to deal with problems which are temporary in nature. Take the Asset Depreciation Range System—the ADR—as an example. Here we have a far-reaching change in our tax laws which will not only not have its full impact until the mid-1970's, but is no real incentive to investment at all. Yet this change is being pushed by the administration as an answer to our short run economic problems.

The second big mistake being made by the administration is its belief that the most direct way to spark a recovery is to give tax breaks for investment. But the problem we face is not an insufficient tax incentive for business investment. Investment in plant and equipment has fallen off because the economy was in a recession—and we still have not recovered. Once consumers regain their confidence and spending picks up and we can begin to cut into that intolerable unemployment rate, investment in new plant and equipment will occur naturally. So what we need to do, it seems to me, is to design a tax package that would spark a recovery of consumer spending now and into next year, but without creating any permanent revenue losses.

The administration, unfortunately, has failed to see that lack of consumer demand is the principal factor currently impeding business investment. However, distinguished economists, such as Carl S. Shoup of Columbia, Robert Eisner of Northwestern, Robert Nathan of Washington, D.C., Paul Taubman of the University of Pennsylvania, and Otto Eckstein of Harvard, have all pointed out that business investment is far less responsive to changes in cash flow, as would be produced by the ADR proposals, than to increase in consumer demand.

Therefore, I feel that the proposal I have suggested, which the Senators I have alluded to are willing to cosponsor, is much to be preferred. The matter has been discussed at some length with the distinguished Senator from Louisiana, the chairman of the Finance Committee, and although I hesitate to speak for him, I am of the opinion that he will vote for this amendment to eliminate the ADR proposal and to substitute for it a temporary income tax credit of $50 per individual and $100 per joint return. This amendment would eliminate an annual revenue loss of about $2 billion, it would redress the imbalance that now exists in the bill between the large tax cuts for business and the meager cuts for individuals, and it would provide an even greater fiscal stimulus to our stagnant economy than the present bill.

At the present time, all the risks in designing a stimulative package would appear to be on the downside—that is, that we do too little. Unemployment remains high, as does the savings rate. Capacity utilization figures reveal that one-quarter of our present plant and equipment is idle, and the economy is losing more than $1 billion weekly in potential output. In an economy so weak, the additional $4 to $5 billion provided by this amendment is not only necessary; it is vital to move us from the very fragile recovery we have been experiencing to a year of 6.5 percent real growth.

Mr. President, this proposal for a temporary cut in personal taxes is perfectly fitted to our present economic setting. It provides additional fiscal stimulus to the one sector in the economy that most desperately needs to be stimulated, it does not adversely affect the long-range budget outlook, and it will generate more bang per buck in GNP growth than anything else. This is just what is needed to provide the kind of thrust the economy requires from the American consumer.

It is clear by now that the Nixon-engineered recession has finally bottomed out. But I want to emphasize that there is no indication of a recovery as rapid as that previously predicted by the President in January—there never was—nor is there any real likelihood that this tax package can produce it even belatedly. The GNP figures for 1970 would be far, far short of the magical figure announced in the CEA's annual report; and the 1971 figures, unless some additional fiscal stimulus is provided in the right places, will be far short of the $100 billion increase now being predicted.

Mr. President, the need to redress the rather glaring imbalances in this bill between the permanent tax concessions for business and the meager temporary tax breaks for individuals becomes perfectly obvious when we compare the 1972 revenue loss from ADR and the investment tax credit against the proposed acceleration of the personal income tax cuts previously scheduled for 1973. In the case of business, tax liabilities will be reduced by approximately 15 percent and personal tax liabilities will be reduced by only 3 percent.

In addition to the inequities in this type of fiscal package, Mr. President, there is a $3 billion increase in social security taxes scheduled for January 1, 1972. What this means, if the present tax package is left intact, is that personal income taxes would be reduced $3.2 billion in 1972—but payroll taxes would go up by about the same amount. I simply cannot see how a net fiscal stimulus of $200 million for the American consumer in 1972 is going to help generate a $100 billion increase in GNP. In fact, it can not.

Now, Mr. President, I want to turn to that part of the amendment that would eliminate the administration's proposals for accelerating depreciation. Of all of the proposals I have seen surface in the current debate about how to spark a recovery, the so-called ADR system is the worst. It is beyond me why we should go to such great lengths to arbitrarily distort our tax laws on depreciation in order to permit faster write-offs when there is so much excess capacity today and when the impact of ADR will come in the long run and yet now is when we have a problem.

In effect, what ADR does is create a permanent revenue loss of about $2 billion annually—but without providing any real economic stimulus now. In addition, it has very serious income redistribution effects. The increased cash flow generated by ADR, I suspect, will find its way into increased dividends.

So I am forced to conclude that, unless the present bill is drastically modified, the same people who have paid the price of the Nixon recession—the poor and the average workingman, the average taxpayer—will also pay the price for the feeble and belated recovery to be generated by this inadequate and inequitable tax package.

Mr. President, I reiterate what I said earlier: I am hopeful that the passage of time will give us all the opportunity we need to investigate the ramifications of this proposal and that we can then go forth in harmony, supporting it, under whoever's auspices we decide.

I thank my colleague from Indiana for yielding.

Mr. HARTKE. Mr. President, the amendment I have offered, which is the pending amendment, would make a very simple change in the law.

For years, the exemption for each person, under the law, was $600. In the Tax Reform Act of 1969, we provided for an increase on a graduated level. As a net result of the action in the House of Representatives and the Finance Committee this bill now provides for an increase in the personal exemption to $750 beginning in 1972. This is an increase of $50 over the $700 exemption provided under present law.

My amendment would increase the exemption to $800 per person.

Our country is faced by a severe economic crisis. President Nixon finally recognized that fact on August 15 when he "surrendered" at Camp David, after 2¼ years of leading the country into high unemployment, and after fostering the highest rate of inflation in our history. He was faced with a monetary crisis in the middle of that week before August 15; and then he called his political and economic advisers together, and they hurriedly put together a package and presented it to the American people.

It is remarkable that such a program could be viewed with anything except alarm, but the situation had deteriorated so badly in the United States and people were so full of fear, anxiety, and frustration, that when he made his announcement, everyone gave a sigh of relief and said, "At least he has done something."

Mr. President, I talked to a little old lady next morning after the President's announcement who happened to be standing at the desk in a motel in Indiana where I was scheduled to make a speech that evening, and I said to her, "Did you hear the President's speech last night?" She said, "No, it does not make much difference. I have not read it either, but I know it is good for him and bad for me."

I think that is precisely the point here today. The President's economic policy is not a policy but a grab-bag approach which helps big business much more than it does the average taxpayer.

Mr. President, I have never been opposed to the investment tax credit. In fact, I was a cosponsor of the measure in 1962. When President Johnson, in 1965, asked for its suspension, I was the only member of the Finance Committee who opposed the suspension. I said at that time that it was a bad mistake, that we would have to reinstate it in the years to come. Six months later, President Johnson asked Congress to reinstate investment credit at 7 percent, which we did.

In 1969 President Nixon came back and asked for outright repeal of the investment credit.

I believe the President has now recognized his mistake. The same can be said of another measure in the bill, the 7-percent excise tax reduction on automobiles.

Anyone acquainted with tax policy knows that excise taxes are cruelest of all taxes, that they are regressive; they are national sales taxes, creating a heavy burden on the individual who is less able to pay.

So when President Nixon decided to change course August 15 last, and he advocated repeal of the 7-percent excise tax, I said, "Well done." I could not say, "Good and faithful servant," but I could say, "Well done." I also approved the President's decision to accelerate the increase in personal exemption.

My only difference is one of degree with the President, I believe the exemption should be at a level of $1,000—as Senator GORE and I proposed 2 years ago—but I will accept an increase to $800 as appropriate.

Consumer confidence is in a state of shock. We can shake this feeling of hopelessness only by assuring the public that they should resume spending. An increase in the exemption would furnish this assurance. It would furnish the necessary stimulus to our economy so badly needed today. Coupled with this, is that there is no direct stimulus to increase employment—not a single thing. So consumer confidence is shaken, not alone by the wage restraints but also by the threat of unemployment.

That, I suppose, is the reason the stock market slumped again today a little over 7 points and is still going down, revealing that even the big money boys are not in any way satisfied with the predicted economic revival or with the viability of the policies of President Nixon.

Frankly, there are no plans for the future. They are being formulated on a day-by-day basis. We have a government acting strictly out of reaction, not by concerted plan. No planning is being given to the long-term problems of this country's economy except for one simple thing: Everything is being done at this moment to try to assure that President Nixon can gain a temporary respite, by a temporary increase in the economic growth of the country, a temporary hold-back on inflation, a temporary increase in employment, and a temporary reduction in unemployment designed to get through the 1972 elections, with the result we are headed for one of the biggest economic hangovers this country has ever had—if it does not occur before.

This tax bill represents the typical approaches of those individuals who believe this Government is not a people's government, but belongs to a special elite. That was Herbert Hoover's concept. The action taken by President Nixon on August 15 last is similar to the action taken by President Hoover in 1931. President Hoover recognized that corporations needed to be saved and that is why he asked for the institution of the Reconstruction Finance Corporation. As everyone knows, President Hoover, by putting the money in at the top alone did not solve the problem because he ignored the average consumer, and unemployment continued to grow so that the fears, anxieties, and frustrations of the people of this country became more acute.

So what we have before us today is a tax bill in which practically all the "goodies" go to the business side of the economy.

I am saying in effect that if we take the House passed bill we will find that it comes up almost $600 million short of what should actually be withheld from the individual wage earners' salaries. Because the present tax tables result in massive underwithholding.

Some people say that is good. However, it is not good to have deception of this kind practiced on the people. This did not deal with tax liability, but only with tax exemption. I am happy that the Finance Committee accepted my amendment to correct the error.

The Treasury argued long and hard that their intentions were to ease the tax burden by not collecting in 1972—which is, of course, an election year—and delay the full correction to 1973.

We temporarily derailed that election gimmick in the bill. We provided that all deductions necessary should be deducted from the wage earner's salary as he collects his paycheck. However, something else has been practiced on the American people which cannot be so easily corrected. That is that the withholding this year proceeds on the same deceptive basis. The amount of wages being withheld from the taxpayers today is not sufficient to cover tax liability. So, at the end of the year, the taxpayer will be faced with a deficiency which he will have to make up.

The Ways and Means Committee recognized this and to a great extent they alleviated part of that impact when they changed the standard deduction and low-income allowance. They increased the amount of relief that was available to the taxpayer, but by and large all of the relief which is given by the increase in the standard deduction has already been consumed by the Treasury, because they under-withheld this year.

So, what we have is a tax package which gives all of the tax goodies and most of the benefits to the business side of the economy, and the "widow's mite"

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that goes to the poor people is already exhausted for all intents and purposes, because the amount withheld this year was insufficient.

I am trying to increase the tax exemption to $800 which, as I said before, is not enough, but as much as can be reasonably expected. The cost of my amendment would be about $1.8 billion in 1972 and $1.9 billion in 1973.

Mr. President, if the President really wants to stimulate the economy, as he has said, he should provide more benefits for the man who works for a living so that he can put his money in the stream of commerce.

Mr. President, very simply, we have witnessed a remarkable expansion of material benefits to our people. These material benefits provide houses for people that they never thought of having. They have provided more automobiles than we can use, more entertainment than we can enjoy, and more food than most people should be eating. Yet, we have frustration and anxiety and a great deal of fear in the world about our economic future.

In 1964 we demonstrated in this country that we could cut the tax rate, increase tax revenue, and provide for an expanded economy. However, when the United States got caught up in the quagmire in Vietnam, our economy was caught, too.

The thought was at that time that since we were not at war we did not have to pay for it. However, we were in a war and no one made any plans to pay for it. They thought they could institute higher interest money, tight money, and then increase the taxes with a surtax. I opposed the surtax at that time. I said it would do nothing to stop inflation. The fact is that it contributed to inflation.

Here we are again today, trying to find out how to get out of this mess and how to get our feet back on the ground.

There is a serious question whether my amendment does enough; it puts $2 million on the consumers' side. It may be said that that is not enough to stimulate the economy. But it is a beginning.

In the last 2 years, there has been 7 percent unemployment and an increase in inflation. That means that if we put those people to work and increase the wages of the working people by cutting taxes, they will spend the money.

We could add to that the social security amendments which I have pending at the desk, but which I do not intend to do that unless like amendments are offered. Let them introduce social security amendments, and I will introduce mine. We will then have a Christmas tree that will be more highly decorated than any other Christmas tree. All other Christmas trees will look small by comparison. But I do not want to do that.

The elderly people have been sacrificed on the altar of Nixon's bad judgment. So have the working people. These people did not create the conditions that existed in the country. However, they are asked to pay for the administration's bad judgment.

The $800 exemption should be coupled with the accelerated depreciation range. I tried to do that in the Finance Committee. I would still prefer to do that. If we were to do that and change it from the present 20 percent down to 5 percent, we would have almost exactly balanced the cost of the $800 exemption with the savings gained from reducing ADR.

I say to those people who make that argument, come in and take from the business side and give to the individual; I will be glad to join them. I will be glad for them to add my name to a proposal. I will put my name on it if they think it hurts them with the business community.

I would like to have a little tax justice. I am talking about getting just a little of it, not a whole lot.

I am talking about the taxpayer who is supporting a family, educating his children, paying his taxes. He should be given a decent break. The increase of exemptions by another $50 to $800 is a step in that direction.

Mr. President, I do not know of any questions or comments.

Mr. BENNETT. Mr. President, I have heard the impassioned plea of my friend from Indiana for the poor individual taxpayer who has been so badly treated in the last few years when all the "goodies," to use his phrase, have gone to the corporations.

Mr. President, I would like to read into the RECORD at this point the record with respect to comparative tax benefits that have gone to individuals and to corporations, and then, specifically with regard to this bill.

From 1962 to the present time, cumulatively, individuals have had reductions of $25.5 billion; corporations have had tax reductions of $6 billion. That is for the period 1962 up to the present time.

Now, take the 1969 act and go forward 10 years, assuming there is no change in the pattern of those two acts. By 1980 individuals will have had tax reductions, beginning in 1969, of $167 billion. That is an average of nearly $17 billion a year. Corporations will have tax increases of $55 billion.

That does not sound as though all the "goodies" have gone to the corporations.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. BENNETT. No. I would like to finish my statement, and then I will yield.

If we add the Senator's amendment, we will have increased the $167 to $185 billion of tax reductions to the individuals.

If we carry out the idea—I am not sure he said it specifically, but he discussed it in committee—of eliminating the ADR benefits or tax benefits to corporations, we will add $35 billion more taxes for corporations.

So if we follow his program, by 1980 there will be $185 billion worth of benefits to individuals and corporation taxes will have been increased $90 billion.

The Senator said he wants to be fair. He wants individuals to have tax reductions as good as those of the corporations. But on this basis we can see there are no tax reductions net for corporations over that time.

Let us look at the bill as it came from the Committee on Finance for 1971, the current year. Individual taxes will be reduced $2.90 billion. Corporation taxes will be increased $380 million.

In 1972 individual tax reductions will reach $5.935 billion, or nearly $6 billion. There will be a little decrease for corporations, one-third of that, or $1.9 billion. By 1973 they get a little closer together, with $3.6 billion in reductions for individuals and $2.3 billion in reductions for corporations.

So the idea that this bill was written to decrease the taxes of corporations at the expense of individuals, and that if the present tax system is allowed to operate individuals will be operating under a great handicap, just does not bear up under the actual figures, and these are estimates of the Treasury, based on the present law.

He has had a lot to say about his theory that the only way to get the economy moving again is to put more burdens on the corporations and to give the individuals more money to spend, and that thus they will start the pump.

He did admit as he went by—and I heard him—that the individuals are putting this money into savings. They are not spending it. They are putting it into savings and there is no way to make them spend it.

Why are we interested in some tax relief for corporations? Because it is the corporations that provide jobs; individuals do not provide jobs. Corporations must be healthy if we are to increase our employment rate and solve the unemployment rate, and part of our problem is that we are pricing ourselves out of the world market.

We have lost the battle for a balance between our imports and our exports. We are now importing more than we are exporting. We have to get American business back in a position to compete with products produced in foreign countries so that the American people will again buy American products on a competitive basis. Only by strengthening the power of business to modernize its machinery, and to do all the things necessary to make American products competitive can we hope to either have the jobs in this country or continue to maintain our position in the world against our foreign competitors, whose wage rates are so low and whose products are now coming into this country in an ever-increasing flood. This is the basis of the argument.

The Senator from Indiana feels that we can solve our problem by giving the people more money to spend while we make it harder for business to create jobs, but I believe it has to be a balanced program. We must give business a chance to recover its productive capacity, and at the same time we must be generous with the individual taxpayer. But I submit that if by 1980 we have provided tax reductions of $167 billion for individuals as against tax increases of $55 billion for corporations, then I think we have been adequately generous on the individual's side.

I recognize that my position is not so attractive politically, because corporations do not vote, and, unfortunately, there are those who go to the individual voter in the United States and say, "Vote for me, because I cut your taxes," regardless of the effect of that tax cut.

I hope the Senate will have a sense of responsibility great enough to realize that we cannot jeopardize the future of our productive ability and the ability of our corporations to provide the jobs we need in this country by further overbalancing the relationship between individual tax cuts and, unfortunately, corporate tax increases.

Mr. HARTKE. Mr. President, will the Senator yield now?

Mr. BENNETT. I yield.

Mr. HARTKE. In the first place, does the Senator contend that my amendment does anything to corporations in any way?

Mr. BENNETT. The Senator has worked very hard to reduce or eliminate the ADR.

Mr. HARTKE. I introduced that in the Senate committee. I am for that. But that is not in this amendment. I will be happy to discuss the ADR situation.

Mr. BENNETT. I was anticipating the Senator, because I know what his position is.

Mr. HARTKE. I will tell the Senator what my position is. I am not devious or deceptive in my intent. I do not mind doing that at all. I will tell the Senator what I stand for. I oppose ADR, but ADR is not part of this amendment.

The PRESIDING OFFICER. Will the Senator suspend while we have the yeas and nays ordered?

Mr. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HARTKE. As far as business is concerned, I am not antibusiness. I would like to see business have corporate profits so we could eliminate these disastrous deficits we are having, and which President Nixon said we would not have, amounting to $27.5 billion in 1969, $37 billion in 1970, and $35 billion this year. We would have had an even greater deficit except for the fact that the administration took $7 billion of social security funds and put that into the Treasury, treating it as revenue, in order to reduce the deficit this year by $7 billion. That money could have gone to elderly people, if that was what the Nixon administration was interested in doing, instead of doing a public relations job on the deficit.

Mr. BENNETT. Is the Senator asking me a question or making a speech?

Mr. HARTKE. I am asking if there is anything in this amendment that is antibusiness.

Mr. BENNETT. I have answered that I have known from the Senator's position in the committee that he would like to reduce or eliminate the ADR, and to me that is antibusiness. I agree this is another amendment. I was laying out the whole problem in order to show the effect of both of these attitudes over the long range.

Mr. HARTKE. Did the Senator support the 7-percent investment credit or a greater credit?

Mr. BENNETT. The Senator from Utah supported 10 percent, but members of the party of the Senator from Indiana cut it back to 7 percent, so I had no further choice and I supported the 7 percent.

Mr. HARTKE. I just wanted to check that point. I am really amazed over the outcry about getting American business back on its feet by those who then failed to reinstate the credit at a level of 10 percent.

Mr. BENNETT. Mr. President, do I still have the floor?

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. BENNETT. I happened to yield for a question.

Mr. HARTKE. I would like to ask how many corporations there are in America. The Senator stated $6 billion went to corporations. I wonder how many corporations there are in America.

Mr. BENNETT. The Senator from Utah is not the Encyclopaedia Britannica. He is sorry he does not have that information at his thumbtips. Perhaps the Senator from Indiana has.

Mr. HARTKE. I may point out that there are over 200 million Americans. In order to deal equitably with the numbers involved, using the Senator's own figures, which I am not sure are correct, $29 billion going to 200 million Americans and $6 billion going to corporations, that would imply that there would have to be at least 40 million corporations in the United States, and I just know there are not that many or anything like it.

Mr. BENNETT. I cannot follow the Senator's arithmetic or assumption

Mr. HARTKE. I will go over the arithmetic again.

There are over 200 million Americans. The figures the Senator from Utah used would indicate that five times as much tax relief was given to individuals—which I applaud, incidentally—as was given to corporations. The fact remains that those figures would mean there would have to be 40 million corporations. I suppose it makes little difference because it is——

Mr. BENNETT. Is not a corporation a combination of individuals?

Mr. HARTKE. That is what I thought.

Mr. BENNETT. That is what I thought, too, so the Senator is assuming 40 million one-person corporations. Corporations are made up of people. They are made up of stockholders. There are millions of stockholders. I do not have the figures at my thumbtips, but it does not compare with the totality of tax relief for individuals as against the totality of tax relief for corporations.

Mr. HARTKE. Oh, no. Let me ask the Senator how much tax relief is in this bill for corporations.

Mr. BENNETT. For 1971, an increase of $380 million. For 1972, a relief of $1.9 billion against a relief of $5.9 billion for individuals. That is on page 18 of the report.

Mr. HARTKE. As I read it, it provides $3.6 billion for the next year.

Mr. BENNETT. I am talking about the total at the bottom of page 18 of the report of the committee.

Mr. HARTKE. In 1972 it shows $2.790 billion.

Mr. BENNETT. The figure the Senator is quoting is a business figure, a combination of corporate and individual businesses that are operated not as corporations.

Mr. HARTKE. That is right. Roughly $3 billion.

Mr. BENNETT. It is still less than half of the $5.9 billion to individuals, if the Senator wants to——

Mr. HARTKE. That is individual business and nonbusiness. That is not individual tax relief.

Mr. BENNETT. Individual nonbusiness is $5 billion. Individual business is roughly $900 million.

Mr. HARTKE. Mr. President, I do not have any more questions.

Mr. BENNETT. Mr. President, I yield the floor.

ORDER FOR YEAS AND NAYS ON H.R. 10203 AND H.R. 8356

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on H.R. 10203 and H.R. 8356, both of which bills are on the calendar.

Mr. MANSFIELD. Both of which have nothing to do with the pending business.

Mr. MILLER. Mr. President, may I ask what those bills are?

Mr. MANSFIELD. One is an act to amend the Water Resources Research Act of 1964 and the other is an act to pay special allowances to dependents of the uniformed services.

Mr. MILLER. Mr. President, may I ask the majority leader a question?

Mr. MANSFIELD. Yes.

Mr. MILLER. Is it the intention to bring those bills up for a vote this afternoon?

Mr. MANSFIELD. No, not this afternoon.

Mr. MILLER. All the Senator wants to do is get the yeas and nays ordered?

Mr. MANSFIELD. That is correct.

Mr. MILLER. Does the majority leader know when we will vote on them?

Mr. MANSFIELD. Any time from tomorrow on. I will have more to say about that later.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. MANSFIELD subsequently said: Mr. President, I ask for the yeas and nays on the two bills which I mentioned earlier, on which the Senate agreed by unanimous consent that it was in order to ask for the yeas and nays at this time.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the two measures with one show of hands.

The PRESIDING OFFICER. Without objection, it is so ordered.

The yeas and nays were ordered.

MESSAGES FROM THE PRESIDENT— APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on November 5, 1971, the President had approved and signed the act (S. 137) to provide for the conveyance of certain public lands in Wyoming to the occupants of the land.

XUM

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. CHILES) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. MANSFIELD. Mr. President, if we are prepared to vote, I would suggest that the Chair direct the clerk to call the roll, and I would ask attachés on both sides to ask Senators to remain after the vote.

Mr. MILLER. Mr. President, I would like to say a word or two about the pending amendment.

I have listened to the statements made by my colleague from Indiana with considerable interest. I think he knows how I feel about the pending amendment.

For all practical purposes, I think we could say that the pending amendment would increase the personal exemption from $700 to $800. We can use that figure, I think, for the purposes of the statement I am about to make.

It seems to me that the time is long overdue to stop a regressive approach to our income tax laws. Generally, we have tried to move away from regressivism in our income tax laws, and go on a basis of relative ability to pay. But when it comes to this personal exemption, we have gone in the opposite direction, and I say that things are bad enough now without making them any worse.

What the Senator from Indiana proposes is to add another $100 to the personal exemption. For a taxpayer in the 70-percent income tax bracket, that will mean a $70 tax reduction. For the taxpayer in the low-income tax bracket, of 14 percent, it will mean a $14 tax reduction. If you want to make the rich richer and the poor poorer, I cannot think of a better way to do it than to keep on increasing this personal exemption.

We all know that no family can get by, with two children, on a $700 exemption, or $1,400 a year. They cannot raise two children on that; that is very well understood. But that does not mean that, by increasing that personal exemption, we should give a benefit of $70 to the high-income taxpayer and $14 to the low-income taxpayer.

There is only one way to get rid of that inequity, and that is to provide an across-the-board tax credit, a reduction of the tax itself, so that every child, no matter whether the child is in a poor family or a wealthy family, will be treated the same, and every individual will be treated the same.

Frankly, I am disappointed that an amendment would be offered by anyone to increase this personal exemption and just add to the existing differential between the high-income people and the low-income people. I could not possibly support the amendment, and I think, if our colleagues think the matter through, most of them are going to understand that they do not want to vote themselves a nice, big, juicy tax cut. I would guess that every Member of the Senate is in a 50-percent income tax bracket, at least on the top amount of his income. Some are higher, and some are a little lower. What that means is that, for the Senate as a whole, if we adopt the Hartke amendment, we will give ourselves a $50 tax cut, as against a cut for the people in the lower income brackets of $14; and, of course, if we have a wife, that means we get a $100 tax cut as against $28 for the people in the lowest income bracket. If we have children, it will just compound the difference.

So I would hope, Mr. President, that we could do a better job than we have been doing in recent years on this personal exemption matter, and move over to a tax credit, and the sooner the better. Because once people understand what is happening to them, if they understand that the Senate, this afternoon, votes for a $50 tax cut for its Members, which is what it amounts to, and a $14 tax cut for the great mass of our people, I do not think they will respond very well, and I do not think they should.

I believe, Mr. President, that the best way to dispose of this matter would be to move to lay it on the table. I intend to move to table, and I invite my colleague from Indiana to make any comments he wishes to make before I do so.

Mr. HARTKE. Mr. President, this is a major amendment. If the Senator wishes to move to table it, he may do so, but I would remind the Senator that the Senate voted, by a vote of 58 to 37, in favor of this proposition 2 years ago during the debate on the 1969 Tax Reform Act. The majority of Senators indicated then that they favored the amendment, but it was knocked out by the House conferees.

What the Senator from Iowa proposes is a major change in the tax laws, to eliminate all exemptions and substitute a tax credit. I am familiar with the proposal.

The suggestion of the Senator from Iowa was voted down in the committee. I would hope we could have a vote straight up or down on my amendment.

Mr. LONG. Mr. President, I hope the Senator will not insist on making a motion to table, because the amendment is 100 percent germane. The issue was before the Senate in the form of a similar amendment a couple of years ago, and the majority of Senators voted for it.

It would seem to me that an amendment of this nature ought to be voted on on its merits. There would be no point in having two rollcall votes to find out what we could find out with one.

Even if the Senate should agree to the motion to table, Mr. President, I am well aware of the fact that there are eight Senators absent who would vote for the amendment of the Senator from Indiana if they were here. Everyone can take a look at where he stands after we have voted, and even if the amendment fails by reason of the motion to table, a revised form can be offered again later.

So I hope the Senate will vote directly on the amendment.

Mr. HARTKE. Mr. President, the majority leader is present and can substantiate the fact that, while I was not prepared to call up the amendment today, the majority leader was about to ask for third reading of the bill, and in order to prevent third reading at this time, I agreed that I would go forward, although realizing, as the Senator from Louisiana has pointed out, that eight Senators who favor the amendment were absent, it was not my intention to proceed at this time.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. HARTKE. I yield.

Mr. MANSFIELD. The Senator is absolutely correct, and the majority leader is appreciative of what he has done.

The leadership was prepared to call for third reading. We think an outrageous situation is developing, and we want to see some amendments brought forth. If they are not, there will be a third reading of the bill.

Mr. HARTKE. The majority leader was that adamant. He was very kind and considerate, but he did make it clear that he would move to third reading, and in order to protect the rights of other Senators with amendments, more than anything else, I agreed to move forward at this time, although I knew full well, as the chairman has indicated, that there are eight votes absent today which would be cast for this amendment if they were here. It was not the most propitious moment for the Senator from Indiana to move forward.

Mr. MILLER. Mr. President, with all deference to my distinguished chairman, he was here this morning when one of the amendments of the Senator from Iowa was tabled. It seems to me that what is sauce for the goose is sauce for the gander. I do not see why a motion to table is not in order simply because one rollcall vote might be saved. Maybe my amendment would have survived a rollcall vote.

I think when we have a proposition before the Senate which, if adopted, would give each Senator a $50 tax break and give the great bulk of the taxpayers in this country a $14 tax break, we ought to table it. It just comes down to that. We can all talk about what the Senate has done in the past, but there are a lot of people who have not thought this thing through very well. You would be surprised how many people in this country are beginning to see what we are doing down here. We have been under enough criticism in this body for the tax breaks we have given some high-income individuals. I think we did a great job with the Tax Reform Act of 1969. and I do not think we ought to move too far from that position.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. LONG. If the Senator wants to make his motion, by all means go ahead and make it, and let us vote. Let us go ahead and turn the crank.

Mr. MILLER. I shall do so. I just want to conclude my argument, to make it clear.

I do not think Senators ought to be on record for increasing their own tax benefits disproportionately to those of the great bulk of taxpayers in this country.

Mr. President, I move to table the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

On this vote, the Senator from Nebraska (Mr. CURTIS) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Nebraska would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 37, nays 40, as follows:

[No. 313 Leg.]

YEAS—37

Aiken	Bentsen	Chiles
Allott	Boggs	Cooper
Baker	Brooke	Dole
Beall	Buckley	Eastland
Bennett	Byrd, Va.	Ellender
Fannin	Jordan, N.C.	Stafford
Fong	Jordan, Idaho	Stennis
Gambrell	Miller	Stevens
Griffin	Nelson	Thurmond
Gurney	Pastore	Weicker
Hansen	Roth	Young
Hruska	Scott	
Javits	Smith	

NAYS—40

Allen	Hartke	Pearson
Anderson	Hollings	Pell
Bayh	Hughes	Proxmire
Bible	Kennedy	Randolph
Burdick	Long	Ribicoff
Byrd, W. Va.	Magnuson	Schweiker
Cannon	Mansfield	Spong
Case	Mathias	Stevenson
Church	McClellan	Symington
Cranston	McGee	Talmadge
Fulbright	McIntyre	Tunney
Gravel	Mondale	Williams
Harris	Moss	
Hart	Muskie	

NOT VOTING—23

Bellmon	Goldwater	Mundt
Brock	Hatfield	Packwood
Cook	Humphrey	Percy
Cotton	Inouye	Saxbe
Curtis	Jackson	Sparkman
Dominick	McGovern	Taft
Eagleton	Metcalf	Tower
Ervin	Montoya	

So Mr. MILLER's motion to table Mr. HARTKE's amendment was rejected.

Mr. BENNETT. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Texas (Mr. TOWER).

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR TOWER

I would like to express my support for the excellent work of the Finance Committee in bringing out a sound tax bill to facilitate the President's program to stimulate economic activity and to raise employment. Business investment has grown very little in the last two years, and it is only through continual and increasing investment that we can achieve the economic growth we need to achieve our most important goals as a nation, such as to provide full employment, to eliminate poverty, to develop an adequate pollution control and recycling technology, to make our cities better places to live, and to provide for an adequate national defense. Hence I support the Committee's approval of increased tax incentives for investment.

In the area of tax relief for individuals, I also approve of the acceleration of tax exemption and deduction increases for individuals for two reasons: one, individuals simply pay too much of their income for taxes at this time, and second, the economy needs the additional stimulus of consumer spending which accelerated tax relief can bring. I would note, however, that federal spending should also be limited when federal revenues are reduced, and I therefore support the President's 5% federal personnel cut, which will largely be accomplished through attrition, and I also support the concept of a spending ceiling on the federal government to try to bring balance into the federal revenue-spending system. I understand that the Senator from Delaware (Mr. Roth) intends to bring up an amendment to limit federal spending, in conjunction with this tax measure. Although I would very much like to support such an amendment, I feel that the tax bill, with its very important fiscal stimuli, should be speeded through the Senate and through conference, which in effect means without the delay that such a major amendment will cause due to opposition that it would likely generate. Hence, although I encourage the Senator from Delaware in his effort to achieve a meaningful ceiling on government spending, I would urge that he utilize a later bill as a vehicle for his amendment, so that I will be able to support his effort.

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, up to this moment, five Senators have approached me wanting to make sure that we are going to stay in for a reasonable time today, and wanting to make sure that they did not make a mistake in canceling their engagements for tomorrow.

In addition, three Senators have indicated that they do not intend to bring up their amendments until next week—Monday, Tuesday, or Wednesday.

All this indicates a state of uneasiness so far as the Senate is concerned. It is something which should be put to rest.

There will be a meeting of the Senate tomorrow. There will be votes in the Senate tomorrow.

When the whips on both sides send out a notice saying that there will be a session on Saturday, there will be a session.

When they say that very likely there will be votes, or that there will be votes, then votes will occur, unless a Senator or a group of Senators withholds, postpones, or uses delaying tactics.

If the joint leadership announces that there will be a meeting on Saturday and that there are going to be votes, and then there are none, it places us in a very embarrassing position. It also embarrasses those Senators who have given up engagements to stay here to do the job which they are paid to do.

At the present time, we have 73 amendments drawn up. There are, I believe, 24 amendments at the desk. There are other amendments on the way up from the printers.

Of course, the great majority of these amendments, very likely, will not be offered; but I would hope that Senators would not hold back, or ask for a special day because on that day there will be more Senators in attendance who are favorable to what they propose.

After all, this is part of the President's proposal. This is something which the Committee on Finance spent many weeks considering. It was no easy job.

At this time, I want to express my personal thanks to the distinguished senior Senator from Indiana (Mr. HARTKE), whose amendment is now pending, for coming into the breach and offering his amendment when there was nothing but silence in this body, and that despite 73 amendments, with 24 amendments at the desk, and many more on the way.

Thanks to the efforts of the distinguished assistant majority leader, the Senator from West Virginia (Mr. BYRD), who has approached some of our colleagues, and we can say very likely that the distinguished Senator from New Jersey (Mr. WILLIAMS) will this afternoon propose one, two, or three amendments, depending on the time; that the distinguished Senator from Wisconsin (Mr. NELSON) is considering the possibility of calling up his amendment and that the distinguished Senator from Connecticut is likewise doing the best he can, to call up an amendment.

I would hope also that other Democrats, such as the Senator from Minne-

sota (Mr. HUMPHREY), the Senator from California (Mr. CRANSTON), the senior Senator from Minnesota (Mr. MONDALE), the Senator from Alabama (Mr. ALLEN), the Senator from South Carolina (Mr. HOLLINGS)—all of whom have amendments at the desk—would give consideration to calling them up.

I hope that the same would apply on the Republican side as well. Earlier today the joint leadership said that if there was a tendency to delay or postpone, it would be our intention—and my intention specifically—to ask for third reading.

So, I hope that the Senate would allow the joint leadership to get away from this posture of pleading with the membership of the Senate to do something when they have amendments. I hope that Senators would forget their personal inclinations as to a particular day or a particular hour based on the attendance and recognize the fact, as we have said time and time again, that our job is here. That is what we are being paid to do. And may I say in passing that the potential Democratic nominees on the Democratic side are absent less from their duties in this body than other Senators who have, I assume, no inclinations in that direction.

They have done a good job. They have missed very few votes. However, it is the noncandidates who cause the most trouble.

I would hope that what we have said will be taken to heart and that cooperation could be achieved, because we want to get out, if possible, on the 1st of December. And I make that statement regardless of what the House does.

We will do our job. We will face up to phase II of the economic problem hopefully next week. We will dispose of the tax package now before us. We will consider two Supreme Court nominations and the appropriations bill. But we have to have cooperation all of the way around.

Mr. SCOTT. Mr. President, if the distinguished majority leader will yield, first of all, as a point of information, I would like to indicate that so far as I know we have no presidential candidates on this side—at least for this year. We have our candidate, and we will enjoy the second term as well as the first.

In other matters, I join fully in support of what the distinguished majority leader has said. I hope that we get on with the work here.

I am glad the majority leader praised the distinguished Senator from Indiana (Mr. HARTKE) for leaping into the breach.

I would now use the adjuration used by King Henry V when he said:

Once more unto the breach; once more.

Mr. MANSFIELD. Mr. President, we also have an amendment offered by a Senator by the name of SCOTT which might be called up at the appropriate time.

Mr. SCOTT. I am ready to call it up now. I would be glad to call it up right now.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana.

Mr. HOLLINGS. Mr. President, I would like to ask the Senator from Pennsylvania if he has any more political candidates to leap into the breach.

Mr. SCOTT. My reference was to King Henry V. The Senator from South Carolina is referring to King Richard of the first term and King Richard of the second term.

I was quoting some Shakespeare just to parade some erudition in front of this body.

Mr. HOLLINGS. Mr. President, we wait around here on Tuesday when the Senate is ready to act, and we have to put off all votes on Tuesday for the Republican dinner. I do not know whether they have candidates.

I will say that the Senate is scheduled to leave on December 1. Any Senator who has been invited anywhere has made arrangements a month or two in advance. Obviously, on Saturday many of us are not in a position to call off those commitments, even though the leadership has said there will be votes on Saturday. We have stayed on Saturdays when there have not been any votes.

There is no reason that we cannot come in on Monday and do this. It is begging the question to say that one side has candidates and the other side has none.

The truth of the matter is that we did give consideration to the other side when we had a political dinner. Now, when Saturday comes, we are being looked upon as not doing the job we are being paid to do. I think the record ought to be made clear on that point.

Mr. MANSFIELD. Mr. President, I think the record ought to be made clear also. I think it was the majority leader, a Democrat, who raised this question. And he did so only because I do not recall in recent months when we have had a Saturday session. This is the first one we have had in a long, long time. And the purpose is to make sure, if at all possible, that we can dispose of the business at hand and try to get out by the 1st of December.

I did state that I, too, have been somewhat disturbed on Tuesdays when the Republicans have their luncheons and when the Republicans meet to discuss the business of the moment. However, I think in all candor that I can say that it has caused little inconvenience in doing what we have done, and in allowing this to take place, perhaps we have helped to speed up the Senate a little bit in its progress.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. BYRD of West Virginia. Mr. President, with reference to what my very good friend, the distinguished Senator from South Carolina (Mr. HOLLINGS), said a moment ago about notice being given that there would be votes on Saturdays and that there were no votes on Saturdays. I do not remember any occasion this year—and I may be in error—when the whip notice has carried a notice that there would be votes on Saturday and there were no votes on Saturday.

We try to be very careful and cautious before putting Senators on notice that there will unequivocably, indubitably, and unquestionably be votes on a Saturday.

I do not want to say that there are going to be votes on a Saturday unless I believe there will be votes. And I never say that in the whip notice unless I believe it and mean it.

I do not want to say "wolf, wolf" to Senators and have them cancel their engagements and then not have a vote on any Saturday.

We speak from the utmost sincerity of our hearts when we say there will be Saturday sessions and votes. We are not doing it just to have Senators stay here on the chance that there may be votes. We believe votes will occur when we say it.

I am only one man in the Senate. I do the best I can with the whip notices. I clear them with my leader. I hope that Senators will not believe that the leader and I just go through the motions of saying there will be Saturday sessions and votes only to keep Senators here for nothing. Unless we believe that there will definitely be rollcall votes, the whip notice is less definite.

Mr. SCOTT. Mr. President, may I clear up one matter. The distinguished majority leader pointed out that very little inconvenience that has been caused because of our luncheons. We have always suggested that during the period of time between 12:30 and 2 on Tuesday afternoons, the Republicans have their luncheons and the votes can be had before or after that time.

If we were shown at any time that it was vital to vote on a matter only between 12:30 and 2 o'clock in the afternoon, I am sure that we would be very happy to accommodate the Senate.

I think it is a very poor excuse to say that because Senators have something to eat once a week we are somehow delaying the Senator from South Carolina from keeping an appointment in his home State on Saturday. If there ever was a non sequitur, that is it.

Mr. MANSFIELD. The distinguished Senator from South Carolina does not have an appointment Saturday and he was not one of those who asked that his amendement be delayed. I think the RECORD should be straight in that respect. I think the Senator was speaking generally.

Mr. HOLLINGS. I was speaking generally. But the distinguished Senator from Pennsylvania still had his meal. I am not talking about lunch; I am talking about dinner. In our State we call it supper.

The fact of the matter is that a week ago, if I remember correctly, and I can look it up, my distinguished friend from West Virginia, and he does a superb job and we all agree on that, but in the middle of the week he said we will probably have votes on Saturday. He did not want to say wolf, wolf. I have been here Saturdays with no wolf. I have learned not to stick around here on Saturdays.

Mr. BYRD of West Virginia. Mr. President, will the able Senator yield?

Mr. HOLLINGS. If the Senator does not agree, I know he will say so.

Mr. BYRD of West Virginia. The Senator said there would "probably" be votes. In the whip notice this week I did not say "probably." I said "there will be rollcall votes Saturday, repeat—there will be," not probably. This is the difference and perhaps it has led to some uncertainty at times.

Mr. HOLLINGS. The fact of the matter is, to rectify the RECORD, everybody was ready to vote last Friday. The leadership on this side was due for dinner but we stayed until 6 o'clock and we were late making the engagement. I had to miss the vote, along with others, on the foreign aid bill.

The distinguished Senator from Massachusetts, at my request, to help me, gave a commitment for a live pair. He was present and stayed here. But there was a long and large political headline that the distinguished Senator from Massachusetts did not have the guts to vote. Who ever heard of a Kennedy who did not have the guts to vote? I have never heard such nonsense. They would not tell it like it is.

Now, when we come to the proposition of trying to get this matter going and move it along we cannot do it without fighting and getting tempers started.

Mr. PELL. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. PELL. If the gentleman who made the accusation had been carrying out his constitutional responsibility he would have observed that the Senator was here and voted and gave a live pair.

Mr. AIKEN. Mr. President, would it be possible to get on with the legislation now?

Mr. HOLLINGS. Yes. sir.

Mr. MANSFIELD. The attendance is good.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered.

Mr. MILLER. Mr. President, before we vote I would like to discuss the amendment. Let us understand what we are doing here.

In effect, we are going to vote on the question of whether we are going to increase the personal exemption by $100. As I pointed out earlier, with Senators generally in the 50-percent tax bracket, on an average they will have a $50 tax cut for each personal exemption. The poor devil in the low-income bracket, who is in the low-income area, with the 14-percent tax bracket, will get a $14 crumb.

This is not the way to handle tax equity. There has to be a better way.

If this amendment is rejected, I know the junior Senator from Wisconsin and I will try to devise some way possibly to work a combination on personal exemptions and tax credits, but I do not think we want to go back to our people and tell them that this afternoon we voted a $50 tax cut for ourselves and a $14 tax cut for the great bulk of low-income-tax people in this country.

I hope the amendment is rejected.

Mr. NELSON. Mr. President, I think that no one in this body more consistently makes proposals in the field of taxation and other fields for the benefit of low-income people than the distinguished Senator from Indiana (Mr. HARTKE). I happen to think that this is a pretty good amendment, but not one of his best. I am going to vote against it because I think there is a much better proposal that we could adopt. I think it would be much better to adopt a 1-year tax cut of $100 and $50, for married couples and individuals respectively, for 1 year to pour money into the economy to do what the administration claims it wants to do: stimulate the economy.

All the economists I have talked to feel that is a better way to do it than raising the exemption. For that reason, I am going to vote against the amendment of the Senator from Indiana.

I think the point made by the Senator from Iowa should be emphasized that, in fact, if a tax reduction is given by the device of adding $50 or $100 to the personal deduction, the person in the 70-percent bracket is getting a savings of $70 on that $100 additional deduction, but if he is in the 14-percent bracket, he gets $14. On the other hand, if a tax credit is given of $100 a couple, $50 a person, it is the same amount of money to the person in the $5,000, $6,000, $7,000 bracket as the persoon in the $100,000 to $200,000 bracket.

If money is going to be given back to people out of the tax structure it at least should give the poor as good as break as the rich. That is the main objection to the amendment of the Senator from Indiana. I hope his proposal would be rejected and that we could take up the other proposal subsequent to that.

Mr. LONG. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. LONG. Mr. President, may I say to the Senator that I am much persuaded by the argument he is making. I would like to do more for the people at the bottom of the list who would be benefited by the Hartke amendment. It occurs to me that someone should offer his amendment to amend the Hartke amendment which would have considerable appeal to the Senator from Indiana, because I know how he feels about these amendments.

Why does not the Senator get the amendment to provide an equal amount of revenue loss in terms of a tax credit instead of providing it in terms of increase in personal exemption? If it is offered in that fashion I should think the Senate might see fit to agree to it and then we could vote on the Hartke amendment as amended. I think a lot of us would prefer to do it that way but we do not want to be construed as being against the general proposition the Senator from Indiana is seeking to achieve. I urge the Senator to propose an amendment along the line he had in mind.

It would seem that an amendment that would in effect provide a tax credit of approximately $25 for a single taxpayer or $50 for a couple would cost about the same in terms of revenue impact, and I believe it would do more good for taxpayers in the zero to $3,000 bracket and those in the $3,000 to $5,000 bracket. It would be a lot better and it would provide the same $25 for someone who is also in a high tax bracket.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. McCLELLAN. I only wanted to ask, before the Senator yielded to the Senator from Louisiana, if he had the amendment ready, it seems to me it would be well to propose it as a substitute for the pending amendment. That would get the issue squarely before us, if the Senator has the amendment ready.

Mr. NELSON. The amendment has been submitted. I do not have another copy of it at hand for the moment.

In all fairness to the Senator from Indiana, I just repeat, I do not say it is a bad amendment; I think it is not the best amendment we could adopt. I am prepared to offer it as a substitute and then the Senator from Indiana and I can discuss the relative merits of the two.

Would the Senator be willing to lay aside his amendment temporarily?

Mr. HARTKE. No; I am ready to vote. This matter has been discussed in committee. It is nothing new.

We are talking about the same amount of money and we are going to run into the same problem the Senator from Iowa is talking about. It makes a basic change in the tax law of the country, and that law provides for certain benefits going to individuals, and in order to provide for the revenue loss, taxes will have to be raised for others.

As soon as we go to a family with children with an income of $7,500, it will be found that there will be an actual loss as far as that individual is concerned. The difficulty with this concept is that when we deal with percentages, they sound all right, but when we deal with the realities of American life, it is a different situation.

In substance, the Senator from Wisconsin is proposing that a person without a family, for example, is going to receive the bulk of the tax benefit. If a person is supporting a family, one might say he is doing all right. Even when we get down to the $5,000 bracket, the tax exemption under the bill, as passed by the Senate Finance Committtee, and as passed by the House, would provide for a tax exemption of $70. Under the $800 provision, it goes to $98, which means there is a $28 difference in the bill as presented to the Senate and this proposal. The difficulty is that if we are going to deal with the same amount of money, a person with two dependents will receive $3 less benefits under the amendment proposed by the Senator from Wisconsin than he will under the Hartke amendment.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. HARTKE. I want to make it perfectly clear that, when we deal with simple arithmetic, when we deal with a family with two children, and when we go to three, four, or five children of families with low income, we deal a sharp blow to them. But with the childless couple, I agree that the Senator would give them the benefit of that distribution. For those who are interested in providing some type of class relief, it is a different proposition. We are dealing here with a change in the whole concept of tax law.

The Senator can talk all he wants about it in the street and he will never convince anybody on the street of what he is talking about. I guarantee that, if

we increase the exemption from $700 to $800, the average taxpayer will know what the Senator is talking about and he will appreciate it. We are dealing here with people, rather than experts. We have all been astounded and confused by the experts who talk about discrepancies and deficits.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. NELSON. I yield.

Mr. MILLER. I am not sure my colleague from Indiana understands what we are talking about. He talks about a family of a husband and wife and six children. That means eight personal exemptions. He proposes to give an additional $800 tax deduction for tax purposes under his amendment because there are eight exemptions. They are each going to be increased $100, which means $800.

What does that mean to the one in the high bracket? If he is in the 25 percent bracket, it means $560. For the family with a low income, and with a 14-percent tax bracket, it is $112. So he wants to give the one with the larger income a $560 tax break as against the low-income tax break of $112.

The way to handle it more equitably is to take the extra $100 which would go to the benefit of the high income bracket people and give a uniform cut off their actual tax bill, and, roughly, a $25 amount would do that. Then the family consisting of husband and wife and six children, or eight personal exemptions, would have an additional $25 tax credit with those six children, $200, and that is $200 instead of $560 under the Hartke amendment with respect to the higher income and it is $200 instead of $112 for the low-income tax bracket.

Mr. HARTKE. The Senator repeatedly makes reference to the high income tax bracket. What percentage of usable income does it represent? That is what we are talking about. These arguments can be made all day long, and a lot of them deal inappropriately with low income people, but, percentagewise, the benefits are substantial to the man in the low income bracket. The Senator is talking about a man in the 50-percent bracket getting a tax break of $50 to $100. He would hardly notice it.

Mr. MILLER. We have the $100 personal exemption for wife, husband, and six children. That is $800. Under the Hartke amendment he is going to get only $112. Which is better for that family? Which is going to generate more income, where it can do the most good? The $200 tax credit or the $112 tax savings under the Hartke approach? It is practically $100 extra for that family.

I do not think we would have much difficulty in letting people know what is going on and what the difference is.

Furthermore, when they learn that Senators are voting themselves $50 additional for each exemption as against $14 for low income people, I do not think they are going to have much confidence in the Senate.

The PRESIDING OFFICER. Does the Senator from Wisconsin care to hold the floor?

Mr. LONG. Mr. President——

The PRESIDING OFFICER. Did the Senator from Wisconsin yield the floor?

Mr. NELSON. No, Mr. President. Did the Senator wish the floor in his own right or did he wish me to yield to him?

Mr. LONG. I can say to the Senator that there is an amendment being prepared to carry out the objective to which he spoke so that the Senate may vote on it. If the Senator cares to discuss the amendment a while longer, he can. Otherwise I will suggest the absence of a quorum.

Mr. BAYH. Mr. President, would the Senator permit me to ask a question or engage in a little colloquy here?

The Senator from Wisconsin has provided a good deal of leadership in the Finance Committee and in the Senate, and has brought to the attention of the Senate the equity of the tax credit. I have discussed this matter with him and appreciate his feelings, and I must say his position makes a lot of sense to me.

I have been concerned since the original implementation of the new depreciation schedule, the ADR, that this was not going in the right direction. The Senator from Oklahoma and I have prepared an amendment to repeal the ADR. But it became apparent to some of us, in discussing this matter, primarily with the distinguished chairman of the Finance Committee, that perhaps the more equitable and palatable approach would be to tie together the ADR repeal procedure with the idea of the Senator from Wisconsin of the $50 and $100 tax credits.

Could the Senator give us his thoughts as to whether, with this type of parliamentary situation, it might be possible for us to do both of those things?

Mr. NELSON. Is the Senator talking about the ADR repealer?

Mr. BAYH. Yes.

Mr. NELSON. Let me say on that point, and I think it is a very important point, and I know the Senator from Indiana (Mr. BAYH) has been concerned about it for a long time: The ADR proposal ought to be either taken out of the bill or cut to 5 percent. If we are going to give some additional individual benefits, which is what we think ought to be done, we ought to restore to the Treasury the money that is being given to big businesses under the ADR.

I do not think the Senate realizes that under the ADR proposal, in 10 years it will cost the Treasury $19 billion. Mr. Roche, the president of General Motors, stated publicly that he did not think ADR or investment credit were going to do much to induce a rapid expansion of the economy.

What we are interested in is an expansion of the economy, and equity in the tax system. I think the Senator from Indiana is absolutely right; we ought to be discussing this tax cut for individuals in association with the idea that we would either knock out of the bill the ADR, or at least set a 5-percent limit, instead of 20 percent.

If we gave $100 to a couple and $50 to an individual for one year, it would almost all go back into the economy, because it is going to the people who need to spend the money, and it would only cost the Treasury, for 1 year, $4,850 million. But if we leave the ADR in the bill, it is going to cost $19 billion in the next 10 years.

Mr. BAYH. The logic of the Senator from Wisconsin is right on the mark, as far as the Senator from Indiana is concerned. Could I ask him for his parliamentary judgment here? I find myself in a position where I have supported my senior colleague from Indiana, because I feel that to increase the exemption is better than the present position, but the logic of the Senator from Wisconsin—and I have discussed this earlier with the chairman of the Committee on Finance, and he shares this logic—that moving into the area of providing tax credit rather than an exemption gives the tax break where it is needed, would also be preferable to me.

I have shared with the Senator from South Carolina and several other Senators the feeling that if there were some way, parliamentarily, that we could put together a package that would do what the Senator from Wisconsin has suggested in providing the $50 and $100 tax credit, and with the same vehicle repeal the ADR, it would not only provide greater tax equity, but would provide greater fiscal responsibility, because we would not only be giving a benefit, but we would be returning some of the revenue that otherwise would be taken from the Federal coffers.

Does the Senator from Wisconsin have any parliamentary suggestion to the Senator from Indiana and the Senator from South Carolina as to how we can hook these two mules in the same harness?

Mr. NELSON. I think the Senator is making his parliamentary inquiry to the wrong individual. There is a parliamentarian present, Dr. Riddick, and the Senator from Louisiana (Mr. LONG) is a great expert on the rules.

I may be in error, but I do not know of any way without unanimous consent to put the two measures together and hold them together against a motion to separate the issues.

If it were agreeable to the Senate, we would put them together. But I think that if it is understood we will take them up one at a time—would there be any objection to putting them together?

Mr. HARTKE. Mr. President, we had this suggestion in the Finance Committee. None of this is new. The Senator from Wisconsin is talking about a $50 and $100 tax credit; the Senator from Iowa is talking about something entirely different. Now the junior Senator from Indiana is talking about a third item.

I am not confused; I understand what the Senators are talking about. But I say to the Senators, if you want to kill this exemption, you might be well on the road toward doing it. I do not think there is any question about that. There are a lot of people who do not want these exemptions, for reasons best known to them.

If we load this thing up, we could kill it. I know that I could not carry the measure in the Finance Committee, although the Senator from Wisconsin did support an amendment tying the two together.

I am prepared to argue the ADR amendment. But in good conscience there is no way under the sun that the Senator is going to have those proposals tied together on the the floor of the Senate. He might as well be prepared for that. if the Senator can make a good argument on the ADR, I think it should be made, and find out if there are sufficient votes to change ADR.

But if Senators want to kill this benefit to the individual taxpayer, I think they are well on their way toward doing it. I believe we have the votes, though I called my amendment despite the fact that there are 8 Senators not here today who would support it.

Mr. NELSON. Mr. President, I did not offer the ADR amendment and the tax credit amendment as one amendment. I offered them here as two amendments, for the reason that there is no way, without unanimous consent, to take up two propositions like that together, because there will be a request for a division.

I realized that such a request would lie, and so I introduced the $100 and $50 tax credit and the ADR repeal as separate amendments.

My issue with the Senator is not that his amendment is a bad one. I just think there are many better ways to do this than to keep adding increments of $50, $100, and so forth, for deduction purposes, in which case, the higher you are in the income bracket, the bigger the benefit you get. I do not think we ought to be giving $70 out of a $100 increase in deductions to people who are millionaires, and $14 on a $100 increase in deductions to people who are poor. It is as simple as that.

I realize that on any one of these proposals, if you get up to a high enough number of people, as you go up the bracket, it will change. But the fact is that under a proposal of giving an income tax credit, or a reduction in the tax, as proposed by my amendment, of the amount of money that that costs the Treasury, 49-plus percent goes to people with incomes under $10,000, whereas, under the proposal of the Senator from Indiana, 39 percent goes to the taxpayers under $10,000. So there is 10 percent more of the money, under the proposal I am making, going to people whose income is under $10,000 than there is under the proposal made by the Senator from Indiana; albeit, when you start increasing the number of dependents, the Senator is correct—the benefit is higher there. There is no question about that.

Mr. HARTKE. That happens to be America's affluent poor. The affluent poor man of America today works for a living. He supports his children and his family. There are a great deal more people in the total who are earning $10,000, and under, who are supporting five, six, or seven children. They pay their taxes and they educate their children, and this Senator is not going to slap them in the face. This is a false argument.

All I can tell the Senator, again, is that I am thinking of the affluent poor American who is not on welfare, who pays bills, who educates his children, who pays his taxes, and he has plenty of kids. Perhaps the Senator does not think he should have had so many kids, but certainly they did not increase their family size as a result of any change in the personal exemption.

Mr. NELSON. I know what the Senator's concern is about people with inadequate money to support their family at a decent standard, and I share his concern.

I think we have a second problem here that we really ought to consider: What is the best way to get money into the hands of people who need it most?

Mr. HARTKE. Will the Senator yield? I will give him the best way.

Mr. NELSON. Will the Senator wait until I finish, and then give me the best way?

I would point out that the Senator from Iowa made a proposal in the Finance Committee the other day which struck everybody there as very interesting and probably a much better way to take care of the deductions allowable for people in low income groups, with small or large families, which I wish he had made 6 months ago so that we could have had time to evaluate the proposal before this bill came to the floor.

I would regret very much to see us continue to build into the current law any additional personal deductions and then find out in a few months that there is a much better way to adjust the tax system to make it more equitable.

I think we ought to be looking at the best ways to turn money over to the poor. I am not saying that a $50 reduction for the individual and $100 for a couple is the best possible way to do it. I think it is a bit better than the way proposed by the Senator from Indiana.

Mr. BENNETT. Mr. President, will the Senator yield for a question?

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. NELSON. I yield to the Senator from Utah for a question.

Mr. BENNETT. Does the Senator from Wisconsin have an estimate of the tax loss that his proposal would create for that 1 year?

Mr. NELSON. Yes. At $100 a couple and $50 an individual, it would be $4,850 billion.

Mr. BENNETT. In other words, nearly three times the tax loss of the proposal of the Senator from Indiana for that 1 year. There is an amendment to make it 50 and 20.

Mr. NELSON. Yes, that is the purpose.

As a matter of fact, the economists I have talked to and people such as the president of General Motors do not think that what came out of that committee is going to do much to stimulate the economy. The economists I have talked to think that if you put $5 billion in the hands of people who are mainly in the low and modest income brackets, they will spend the money and it will stimulate the economy. That is the purpose of the amendment.

Mr. BENNETT. We have just been horse-whipped by the Senator from Indiana because there is a $26 billion deficit this year, and the Senator from Wisconsin would raise it to $31 billion.

Mr. NELSON. I have not finished my amendments. I would propose that we get rid of the ADR, which would save $19 billion in the next 10 years. Then I have an amendment which would set a $1 million limit on the investment credit.

What the Senator knows as well as I, if not better, is that in 1967, under the investment credit, there were 395,000 corporations and businesses and farmers in this country that took advantage of the 7-percent investment credit, and 393,500 of them would all be covered by the limitation of $1 million. The balance of the whole business, approximately $1.9 billion goes to 1,500 corporations, who the Senator knows very well are going to make that investment, anyway. General Motors has its plans. They are going to make their capital investments whether you have a 7-percent investment credit or not. So that is not doing anything to stimulate the economy.

If we set a $1 million limit we save $1.9 billion out of this bill; and then if we eliminate the ADR we would be talking about a $19 billion saving for Treasury in the next 10 years.

All I am saying here is, let us give some money to the people who need it most. Let us give some money to the poor people; let us not give it all to the rich. That is all.

Mr. BENNETT. Does the Senator think that if he gives a $5 billion tax reduction in 1 year, he can take it away the second year?

Mr. NELSON. Yes. I would make it for 1 year. Exactly.

Mr. BENNETT. But does the Senator think he could get away without repeating it the second year?

Mr. NELSON. I am proposing it for 1 year. It would terminate at the end of the year. It would help with the problem the Senator from Indiana was discussing respecting the withholding tax.

Does the Senator think that once you give this money with no termination date on ADR, it is not going to go on forever and ever?

Mr. BENNETT. There is a difference, because ADR is a device to increase and stimulate the production of jobs; but this, one might say, is a $5 billion cash dividend to the people of the United States. Does the Senator think he could take it away from them at the end of 1 year if he gave it to them? Politically, does he think he could stand up on the floor of the Senate and say, "I move we reduce the benefits that the taxpayer now has by $5 billion"?

Mr. NELSON. I simply say that it is better to have a $100 tax benefit this year for a married couple—$50 for a single person—than not to have any. The Senator seems to be saying, "Since you cannot do it forever, do not give them anything." That is not much of an argument.

Mr. BENNETT. We have already increased it from 75 to 750 in this bill, and that is just wiped out, as though there were no benefit, and you start from there.

It must be remembered that the Ways and Means Committee and the Senate Finance Committee have gone that far, and that is a very substantial tax saving.

If the Senator forced me to a choice—I would prefer to vote against both—I

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would have to stand with the Senator from Indiana.

Mr. NELSON. Which costs less money. I know the Senator from Utah would stand with the Senator from Indiana. It gives less to poor people.

Mr. BENNETT. I know human nature well enough to know that if you held out to the voters a $5 billion piece of candy, you could not turn around at the end of the year and take it away. So you are talking, then, about at least $5 billion for the next 10 years, and that is $50 billion.

Mr. HARTKE. Will the Senator from Wisconsin yield?

Mr. NELSON. I yield.

Mr. HARTKE. I say to the Senator from Wisconsin that the provision for increasing the standard deduction provided for some benefits to those who have low incomes. That is what the House did.

Mr. NELSON. I think that the point here is——

Mr. HARTKE. Well, I say to the Senate, they do not do anything——

Mr. NELSON. Did not the Senator's amendment in the Finance Committee prevail, to require the withholding to be advanced to make it current?

Mr. HARTKE. That amendment did prevail. The withholding this year, in 1971, was in error and the result was an increase in the amount under the standard deduction in the House which had, to a great extent, eliminated all need for a deficiency payment by individuals this year. But the amendment the Senator is referring to now, which I had passed in committee and is now in the bill, dealt with the years 1972 and 1973 because there was going to be a repetition of this deception.

As of January 1, 1972, with the increase in social security payments and tax deductions and the present tax law, many people in this country will have less take-home pay in their first paycheck on January 1, 1972, than they have today. I want to make it possible for them to be able to live, and to continue to send their kids to school.

The Senator, I believe, is talking about the childless couple, to a great extent. That is who would reap the real benefit under the Senator's amendment, and these are the people who get the benefits today. It is those self-supporting families with children, those who educate their children, those who pay their taxes who need the help. They need a thought now. They have been so much neglected.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TUNNEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR POWER IN BRITAIN

Mr. MAGNUSON. Mr. President, Mr. A. Robert Smith, the Washington correspondent for a group of Pacific Northwest newspapers, has written a series of four highly informative articles analyzing the British approach to nuclear reactor development for the generation of electricity. Mr. Smith points out that Britain is the world leader in generating electricity by nuclear energy. This record has been achieved because of public support and confidence in the measures taken to protect the nation's health and environment. This situation is in sharp contrast to the public protest that often accompanies a nuclear powerplant proposal in the United States.

Mr. Smith comes to the conclusion that the British success is attributable to the siting of atom plants in remote areas, the elimination of thermal pollution of waters by utilizing gas cooled plants, and the greater care exercised in establishing radiation and safety standards.

The articles also describe Britain's fast breeder reactor program and their approach toward the disposal of radioactive waste materials produced by nuclear plants.

It appears that the British, in developing peaceful uses of atomic energy, pay more attention to nuclear safety and encourage greater participation by other agencies in nuclear regulation.

Perhaps we can learn from the British experience and this will assist us in solving our own energy crisis.

At this point I ask unanimous consent to print these articles, from the Eugene Register Guard, in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BRITAIN, UNITED STATES HAVE SAME PROBLEMS—DITCHING WASTE

(By A. Robert Smith)

WINDSCALE, ENGLAND.—British officials have grave doubts about the American proposal for burying radioactive waste in a salt mine in Kansas.

But they admit they don't know what to do with their own lethal residue from the products of plutonium and nuclear energy.

For the moment, the United Kingdom is doing what the United States is doing—containing the stuff in big steel tanks located at this remote site on the west coast of England in the beautiful lake district, the favored haunt of Wordsworth, Coleridge and other romantic poets of the past.

The British are taking a wait-and-see attitude because they believe these storage tanks offer a suitable means of storing waste until an ultimate solution has been found that will guarantee that this residue won't get loose in the environment while it remains highly radioactive, which is an estimated half million years.

"These materials are such that you can't afford not to be safe," said Tom Tuohy, managing director of British Fuels, Ltd., a government corporation that runs the Windscale facility where fuel for nuclear power plants is manufactured and reprocessed. Military plutonium used to be produced here, but not nearly as much as at Hanford.

Compared to the 75 million gallons of high level waste stored at the Hanford works near Richland, Wash., the United Kingdom has a relatively small quantity—about 100,000 gallons. It is more highly concentrated than the Hanford waste, thus more highly radioactive per gallon.

This vast difference in the quantities mostly reflects the fact that the U.S. is a major nuclear-armed nation while Britain is depending on American protection rather than providing its own vast arsenal of nuclear weapons. Hence, the U.S. has much more lethal waste that must be guarded.

The British safety record nonetheless is better than the American record in handling high level waste, apparently because of different techniques. The safety comparison is emphasized by these blunt facts: (1) leaks in tanks at Hanford have resulted in a quarter of a million gallons of radioactive waste draining into the soil near Richland, Wash., which is more than twice the total waste accumulated by the British here at Windscale; (2) the British claim they have not had one leak in the nearly 20 years since nuclear program began.

This safety record helps the British to justify their wait-and-see attitude about ultimate long range storage methods.

"If we weren't satisfied that what we were doing as absolutely safe, we bloody well wouldn't be doing it," asserted Tuohy.

Eight years ago he said his research staff came up with a process for converting radioactive waste into glass. First, he explained the lethal chemicals are reduced to a dry state, then mixed with phosphates and silica, then heated until they turn to glass.

Windscale technicians produced a "glass" of solid-state radio-active materials in a cylindrical shape 8 feet long and 9 inches in diameter. The purpose of this process is to transform the waste into a form that won't leak into the air or water. Tuohy said he rejected the idea of converting all British high level waste to glass because he—a chemist by training—wasn't convinced of its safety, especially the necessity for applying very high temperatures in making glass.

"Ultimately, we'll go to solids," Tuohy predicted, but when or just how he hasn't decided.

Then, he added, he believes the best long term solution would be to store containers of solid waste in ponds or in air-cooled or water-cooled underground shafts.

He isn't convinced that the U.S. scheme for using salt mines is absolutely safe, because of the difficulty of retrieving the material if it begins to leak to the environment beyond the salt beds after the original metal containers have disintegrated due to corrosion. "I wouldn't want to be the one to try to get that stuff out of there," Tuohy said.

The techniques used at Windscale, which have proved more reliable than those used at Hanford were explained by Tuohy and T. G. Hughes, superintendent of the Windscale chemical plant.

The chief difference seems to be that the British control the temperature of their waste and don't allow it to boil at will in the storage tanks, as occurs at Hanford.

"We try to keep the temperature below 50 degrees centigrade (boiling occurs at 100 degrees)," said Hughes. This, he added, is accomplished by building cooling coils in each tank and wrapping the tank itself in a cooling jacket through which pure mountain lake water carries off excess heat. Temperature control prevents corrosion of the tank, the British believe. Hughes said the oldest tank at Windscale, in use since 1954, shows no sign of deterioration.

Hughes took me on a tour of the site of a new storage tank under construction. Windscale uses smaller tanks than Hanford. The first 8 tanks held 15,000 gallons each, the 9th tank was twice as big, and future tanks may be 60,000 gallons. The one being built will hold 30,000 gallons. Largest tanks at Hanford can hold as much as 1 million gallons each.

The difference in design is perhaps more significant than size differences.

The cylindrical steel tank is housed in a rectangular structure made of concrete lined with stainless steel. The air space between the inner tank and the outer tank is monitored to detect any leaks—and it is also great enough to contain the entire contents of the inner tank in the event it all leaked out.

As at Hanford, Windscale keeps an empty tank ready in case a leak is discovered, necessitating that radioactive waste be pumped out of the defective tank. Unlike Hanford, which has experienced a number of leaky tanks, Windscale has never had to use its emergency tank.

How long the British will stick with tank storage of liquid waste is uncertain. "The technology in this field is still very young," observed Tuohy. "We'd like to bide our time a little longer."

But highly radioactive, lethal waste is piling up at increasing rates each year here as well as in the U.S. and other nuclear countries—a dangerous condition in search of a safe solution.

BRITISH GENERATING MOST N-POWER ELECTRICITY

(EDITOR'S NOTE: For the past month the R-G's Washington Correspondent has been exploring the means by which The British have gained world leadership in development of nuclear energy without the controversies that have hampered its growth in The United States. This is the first of a series of three articles from England and Scotland covering the advent of the nuclear power age in The United Kingdom—and pointing up some possible lessons for The United States.)

(By A. Robert Smith)

LONDON.—Ever since the Suez crisis of 1956 alarmed the British over the prospect of being cut off from their oil suppliers in The Middle East, the government has moved this country pell mell into the nuclear power era.

The consequence today, 15 years later, is that Britain is generating more electricity in atomic power plants than all other countries in the world combined.

Even more astonishing to an American visitor is that this progress has been achieved without the battle royal between industrialists and environmental protectionists that has become so widespread in the U.S.

It's not because the environmental crusade hasn't reached England. Quite the contrary, this movement is very strong here—and the government appears to be most responsive and better organized than in the U.S. to take strong, effective protective measures, as demanded by the people.

The key to the British success in nuclear power development appears to be public confidence in the measures taken to assure that nuclear power plants pose no threat to the safety of the people nor to the quality of their environment.

What did the British do that was different from the American approach in order to gain the confidence of the public?

Three factors are involved: Distance from population centers; lack of thermal pollution, and safety records.

The most noticeable feature of the British program is that all the atomic power plants are located a long way from major population centers.

The first two plants were built in a remote place called Windscale on the west coast as a site of plutonium production for weapons—The British Hanford. All subsequent plants have been built along the coastal perimeter, but none in the midst of large seacoast cities.

Portland General Electric Co., is following this approach to a degree in building its Trojan nuclear power plant away from Portland on the lower Columbia River. Had Eugene Water & Electric Board chosen a site far from Eugene for its proposed plant several years ago, perhaps there would have been no public demand for postponement of construction of that project.

Sites for additional nuclear plants in the Pacific Northwest have yet to be determined, but it goes without saying that the utilities which build them will prefer sites west of the Cascades where most of the population and marketing for energy exist.

The British can readily pursue their policy of geographic dispersal of power stations by virtue of having a nationalized (government owned and operated) electric utility industry. In England it's called The Central Electricity Generating Board and in Scotland it's The Southern Scotland or The Northern Scotland Electricity Generating Board.

In either case, the Board builds its own power plants and transmission lines and sells energy to residential and industrial customers. The entire United Kingdom is served by a national grid comparable to the regional grid of Bonneville Power Administration.

Because of the existence of the Bonneville system, the Pacific Northwest is probably better equipped than any other section of the U.S. to locate its future nuclear power stations on sites best suited to public safety and environmental protection considerations however remote the sites may be.

British Atomic officials are fully aware of the controversy in the U.S. about radiation standards, but there has been little public interest in it—perhaps because most nuclear power plants, out of sight, are out of mind. If few people live near the plants, who is to worry about possible radiation hazards in the shadow of the nuclear reactor?

The second striking aspect of the British approach is that it allows for no heating of streams, rivers, bays or lakes, hence commercial fishermen and conservationists here have no objections on grounds of thermal pollution.

None of the British nuclear plants use water as a reactor coolant, as do most American plants. Most of them are gas-cooled, using carbon dioxide. Even the reactors used for producing plutonium for weapons were air-cooled, unlike the Hanford weapons reactors that utilized Columbia River water for cooling.

British gas-cooled reactors are said to cost more to build than American water-cooled reactors. Britain puts the extra costs onto its electricity bills, but the cost is rapidly being trimmed by more efficient power plants.

Indeed, the British claim that their latest gas-cooled reactor will produce electricity even more cheaply than a conventional coal-burning power plant built right at the mine shaft.

American utilities, trying to persuade the public that thermal pollution wasn't all bad, have given nuclear power a black eye in the U.S.—and in the end many have been forced to yield and build more expensive cooling towers rather than discharge heated water into rivers and bays.

Such cooling water as is used by British nuclear plants in many cases is taken directly from the sea and discharged back into the ocean without apparent harm to marine life. This is a direct benefit of locating the power stations along the seacoasts, this is much easier for the U.K. than it would be for the U.S. simply because no place in England or Scotland is further than 60 miles from the coast, whereas most of the U.S. is hundreds of miles from the nearest seacoast.

It would be more feasible in the U.S. if there were a national power grid—but here again America's private power companies have successfully resisted creating such a grid out of fear of stronger federal regulation that might weaken each utility's position of dominance in its own territory.

The third factor in developing public confidence is the good safety record of nuclear power development here.

Two men were killed recently by a British Admiralty reactor being developed for submarines—a steam line ruptured, scalding the men fatally—but nothing so serious has occurred in the commercial power reactor program.

A year after the first nuclear power plant began operations (1956) at Calder, a fire broke out in the reactor. Tom Tuohy, then manager of the plant, told me he led the fire fighting brigade that night, personally directing the first dose of water in what was admittedly a dangerous operation. There was no explosion, the fire was subdued without injury to personnel. Tuohy received more than the usually allowed radiation dose, but says he's suffered no ill effects in the 14 years since.

For 10 weeks after that accident, the milk from cows grazing in the 200 square mile district around Calder was purchased by the government, so that children wouldn't drink it just in case radioactive fall-out from the fire had contaminated nearby pastures.

After that 1957 fire, the damaged reactor was never again used—and a sister plant of similar design was shut down as a precaution against another fire. The cost wasn't available.

G. R. Howells, present general manager of the Calder Works, noted that there have been no fatalities at the plant—yet 5 workers have been killed driving to or from work at the plant pointing up the safety needs on nuclear power sites compared with highway death tolls.

"Nuclear power is one of the safest industries there is," said Howells. "I grew up in South Wales where in the coal business everybody developed silicosis. If the nuclear industry were anything like that, I wouldn't be in it."

BRITAIN WORKING ON NUCLEAR 'PERPETUAL MOTION MACHINE'

(By A. Robert Smith)

DOUNREAY, SCOTLAND.—Britain is rapidly completing construction here on a huge device that appears to be mankind's best effort to date to build a perpetual motion machine.

Once started, it could take fuel from sea water and "guarantee you cheap energy for literally hundreds of years."

So says Peter W. Mummery, director of the Dounreay (pronounced dune-ray) Experimental Reactor Establishment of the United Kingdom Atomic Energy Authority (UKREA).

The subject of his confident forecast is called the Prototype Fast Reactor (PFR) designed to generate 250,000 kilowatts of power when it is completed next year. The PFR is a nuclear power plant which is expected to "breed" more plutonium than it consumes as fuel.

If a layman finds this difficult to comprehend, perhaps it is enough to say that uranium enriched with plutonium is used to fuel a fast breeder reactor—and the breeding of more plutonium cuts the fuel cost in half as compared with conventional atomic power plants.

This saving means one of two results:

If sufficient uranium ore can be found at today's prices of $5 to $8 per pound, the PFR will produce electricity much more cheaply than any other nuclear power stations, perhaps below the cost of coal or oil fired plants.

If natural uranium ore is depleted, say in the latter part of this century, it will be economically feasible to extract uranium from sea water at a cost of $50 to $100 per pound to provide fuel for fast breeder reactors.

The combination of virtually unlimited uranium from the oceans, plus a self-perpetuating plutonium supply, are the key elements, then, in Mummery's forecast.

It is based on more than hopeful theory. Since 1959 Britain has been successfully operating a fast breeder reactor of smaller design—14,000 kilowatts—here at Dounreay.

This was the world's first such reactor—producing power and breeding plutonium. It was also the pioneer effort in using liquid sodium as the reactor coolant.

More advanced techniques are being em-

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ployed in the new PFR, for British scientists now know much more about how to handle this volatile material to obtain the desired objective.

No one knew for certain how to pump liquid sodium before the first fast breeder reactor was built—so the British used a complex system of electrical magnetic pumps. Now they know that sodium's hydraulic properties at reactor temperatures are similar to those of hot water, so that pumping either is very much the same. Sodium must be isolated from both water and air to avoid volatile reactions—but the British have experimented and found such an accidental reaction is manageable, even if unwelcome.

Because of the possible dangers from the first experimental fast breeder, it was located as far away from population centers as one can get in the UK—here on the northern tip of Scotland, where the desolate treeless moors meet the North Sea.

Population of the nearest town, Thurso, about 8 miles away, was 3,000, but has increased to 10,000 because of the influx of Dounreay workers and their families.

The new PFR is being built here, officials explained, because otherwise Dounreay would have to be practically shut down, thus hurting the economy of this area and there are practical benefits in keeping the same technical teams, with their extensive experience, together here until the PFR has been completed.

Already, the UKAEA is establishing a training school here to teach others how to maintain and operate a fast breeder reactor—but their experience thus far demonstrates, said Mummery, "no difficulty in converting fishermen and farmers into liquid sodium plant operators."

A tour of Dounreay at this moment is most opportune because the PFR has progressed far enough for the visitor to be able to see all the complex componenta being fit together.

Basically the reactor comprises a low pressure vessel, like a big kettle some 40 feet wide and 50 feet deep, made of stainless steel which is enclosed in a leak jacket and placed below ground in a concrete vault. All the components within the vessel—the reactor core, the sodium pumps, the heat exchangers—are suspended from the lid of the vessel to avoid pressing against the sides or bottom—and to afford ready access for repairs or replacement.

Pipes for the hot sodium emerge from the vessel and deliver it to heat exchangers, ultimately energizing steam generators and turbines that produce electricity. Sea water is used for cooling in the condenser of the steam generator.

Once the PFR has proved itself, British atomic officials expect to build a large commercial power plant with a capacity of over 1 million kilowatts based on this fast breeder reactor design. If this proves successful, it will mark a major turning point in mankind's quest for cheap, plentiful energy.

Britain is not alone in this quest. Russia is well along in completion of a prototype fast breeder reactor. France is also building one. Germany, Japan and the U.S. are planning to build one.

The United States has one fast breeder which hasn't turned out as well as had been expected—the Enrico Fermi plant near Detroit, built by Detroit Edison and a private consortium. In eight years since completion it operated the equivalent of only 21 days at full power—61,000 kilowatts—and brought in only $65,000 from the sale of steam compared with an expected revenue of $48.6 million by 1970.

Last spring President Nixon asked Congress for more funds to step up the U.S. effort in fast breeder reactors. The U.S. Atomic Energy Commission has indicated that the U.S. prototype fast reactor will be somewhat larger than the British project here at Dounreay. It remains to be seen whether either one will be as great a milestone as its promoters are claiming.

But even if a great commercial and engineering success, even if the fast breeder reactor comes close to being a perpetual motion machine, it will compound a problem for which none of the nuclear power nations has yet found a certain solution—the safe disposal of lethal high level radioactive wastes that will pose a danger to mankind for the next half-million years.

BRITISH N-PROGRAMS UNDER STRICT CONTROLS

(By A. Robert Smith)

LONDON.—A good many poor Welshmen enjoy a food product called loverbread, made from seaweed gathered along the coast of Wales.

No one outside of Wales paid much attention to this specialty until the advent of the nuclear age when scientists discovered that some of the seaweed contained radioactive isotopes which had been discharged as relatively harmless wastes from the Windscale Atomic works farther up the coast.

Since Windscale is the British Hanford, the place where plutonium for weapons was produced, the question of loverbread might have become something of an issue of public health vs. national security. The manner in which it was handled, however, reveals much about the checks and balances to which nuclear programs are subjected in Britain.

MAXIMUM QUANTITY

A survey of loverbread lovers was taken to determine the maximum quantity consumed. Then scientists calculated the permissible limits of ingested radioactive isotopes—ruthenium-106; cerium-144 and zirconium-95/niobium-95 are the most important—if all the seaweed used in a batch of bread were contaminated.

From this information, they calculated the maximum allowable discharges of these isotopes into coastal waters by the Windscale Atomic works. In short, public health—even to the extent of protecting eaters of loverbread—was given a higher value than permitting the atomic works to discharge its wastes at will.

YEARLY REPORT PUBLISHED

Supervision of these standards has been assigned to the Ministry of Agriculture, Fisheries and Food, which operates a Fisheries Radiological Laboratory to analyze water samples taken by its technicians from all coastal waters. Each year this agency publishes a report of its findings—and the latest report states that a large margin of safety exists between actual radioactive dumping and the tolerable limit for lover-bread consumers.

CITED AS COMPLIMENT

Walter C. Patterson, co-editor of "Your Environment," a British periodical, cites the loverbread case to compliment the British for their approach to Safety Standards.

"There's a world of difference between the Atomic Energy Authority (in Britain) and the Atomic Energy Commission (in the U.S.)," claims Patterson, who is a Canadian and an atomic scientist.

He feels that the AEC is not sufficiently selective and is less careful in determining safety standards than the AEA.

NO PATERNALISTIC ATTITUDES

A more noticeable difference to this reporter is the extent to which other government agencies are allowed to pass judgment on atomic programs in Britain. The AEA isn't allowed to have the paternalistic "papa knows best" attitude that typifies the American AEC.

In the U.S. it is hard to imagine the Department of Agriculture or the Bureau of Commercial Fisheries being given any power to supervise AEC operations affecting fish or other food products, or The Public Health Service gaining jurisdiction over radiation standards.

The AEC even resists the idea that a state might wish to set stricter standards than the AEC over commercial nuclear power plants, arguing that the AEC is the most qualified judge.

Another example of British checks and balances occurred recently at Windscale when the AEA sought permission to increase its radioactive discharges to sea via a pipe extending about a mile out from the shore. The AEA asked that the limit be raised from 450 to 2,000 curies per quarter.

The application had to go to two other departments—the Ministry of Fisheries and the Ministry of Housing and Local Government. Fisheries at length gave its consent but local government encountered a snag when it notified the local council of government for the rural district in which Windscale is located.

One member of the local council, who conceded he knew nothing about the technical significance of the request, objected because he wasn't convinced that it would be safe. The question thereupon received wide notice in the press and on the BBC.

To resolve the matter two local councils joined in hiring an independent organization, which is dedicated to preserving the English environment, to analyze the request. The verdict was that the increased discharges would pose no environmental threat. The local council accepted this, so the AEA eventually received its permit—3 years after it filed the request.

Of such delays and such checks and balances in public confidence created in Britain, currently the world leader in nuclear power development.

ADDRESS BY SENATOR CANNON BEFORE AIRCRAFT OWNERS AND PILOTS ASSOCIATION IN LAS VEGAS, NEV.

Mr. MAGNUSON. Mr. President, recently my distinguished colleague, the junior Senator from Nevada, the chairman of the Aviation Subcommittee of the Senate Commerce Committee addressed a meeting of the Aircraft Owners and Pilots Association in Las Vegas.

In that address Senator CANNON talked thoughtfully about the role of general aviation in serving the air transportation needs of the United States and of the unique public service benefits provided by general aviation which are not provided by any other form of transportation.

Senator CANNON's remarks, I am sure, will be of interest to the Senate; therefore, I ask unanimous consent that his speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SPEECH OF HOWARD W. CANNON

I want to welcome all of you to Nevada. I know this is not the first time the AOPA has met here. I am sure it won't be the last. Las Vegas, I am happy to point out, is one of the few cities in the United States that can still welcome so many visiting pilots and their planes as well.

As a pilot, I can appreciate his predicament. Although I do frequently fly myself, I flew out here from Washington for this meeting with you today in a commercial jet. It's a great way to travel when they happen to put your luggage on the right airplane. It's also great when the air traffic controllers aren't too busy to keep your flight sitting for half an hour on the ground, waiting to take off, or holding over some big city airport waiting to come down and land.

Well, we all have our troubles—the airlines, too. Business is so bad that when a friend of mine called the airport the other day and asked them when the next plane left for Paris, the ticket clerk answered, "Anytime you say; when can you get out here?"

Having flown here to Las Vegas before, you are by now familiar with the advantages we pilots enjoy throughout Nevada—clean air and a clear view of some of the greatest scenery in the world—and plenty of parking place to make up for the modest amount of turbulence over some of our hills.

I want to talk about the role of general aviation within the overall transportation system in the United States. Yours is a role little understood throughout the country.

General aviation is the only connecting air link most areas of the Nation have. There are thousands of American communities like Winnemucca with no other air service than that provided by pilots like you. And yours is no small operation.

General aviation includes all civil flying except the military and the scheduled airlines. It numbers 135,000 aircraft flown by more than 720,000 pilots flying more than 25 million hours a year, with a very commendable safety record considering the number of hours flown.

To understand the significance of these figures, and to understand the importance of general aviation today, some further comparisons have to be made with scheduled airline operations.

As chairman of the Senate Commerce Subcommittee on Aviation, as a former military pilot and as a member of the Senate Armed Services Committee, as a United States Senator representing the people of this State—and as a pilot and frequent air traveler—I am well aware of almost every facet of aviation in America today. I am familiar with a great many of its problems.

I know, for example, that to the general public, aviation generally means the scheduled airlines with whose advertising they are now very familiar. To the general public aviation also means military flight. To the public, general aviation means very little if anything at all. . . .

Yet general aviation flys thousands more aircraft than do the airlines and the military together.

While general aviation flew that 25 million hours a year I have referred to, the scheduled airlines flew only 5.6 million hours, little more than a fourth of that total.

Not only that, general aviation carries approximately seven million more persons each year than all the U.S. domestic and international airlines combined. In intercity travel alone, general aviation transports a large share of the people who travel by air.

Scheduled airlines serve about 800 airports in the 48 contiguous States today. General aviation operates out of eleven thousand airports.

Twenty percent of all airline flights and 36% of all the passengers they carry are centered at only five cities in the United States. General aviation covers the whole country, intertying towns and cities of this country with more than 3.9 billion airplane miles flown every year. The scheduled airlines fly only 1.5 billion miles a year, slightly more than a third as much.

Now it seems obvious to me that general aviation has quietly built up an extremely impressive record over the years. It is equally obvious that they shouldn't have been as quiet about it as they have.

It looks to me like it's time for your people to start blowing your own horn for a little more attention than you have been getting. Because it is obvious that the role you are playing sould be more widely recognised.

General aviation may now, in the immediate future provide some workable answers to the tangled problems of crowding and urban congestion with which the United States is faced today.

Your present role in moving passengers and goods in areas not served by the airlines should be expanded. And let us look for a moment more closely at that role.

The scheduled airlines provide important service in linking the major centers of population. The size of the aircraft involved and the economics of their operation limits the airlines to this job of connecting major metropolitan areas.

The distribution of our population acts as a further limiting factor because the airlines naturally operate most heavily between the major population centers in this country.

Five of these major urban centers, as I've said before, get the lion's share of this traffic. Nearly three quarters of all the scheduled airlines passengers enplane at 22 large hub areas. This means that the rest of the cities served—more than 800 of them in fifty states—must settle for extremely limited service by the certified air carriers.

That means that if you want to fly between New York, Chicago, Dallas, Los Angeles, San Francisco or Seattle, you've got plenty of scheduled flights to ride—the service is great. But if you want to get into Waco, Texas or Pendleton, Oregon; or Fargo, North Dakota; Knoxville, Tennessee; Harrisburg, Pennsylvania; Macon, Georgia—you can't pick and choose flight time or avoid intermediate stops. If you live in smaller towns or want to visit there—you drive, or take the bus, or fly to the nearest city and rent a car or take the bus—or—if you're really wise and you know about general aviation, you might be able to fly directly into almost any one of the 19 thousand incorporated communities that have no scheduled air service.

People do it all the time but certainly not as often as they should be able to. In domestic operations last year, general aviation carried 177,000,000 passengers of which about 92,000,000 were intercity travelers. This compares favorably with the 154,000,000 passengers carried by the certificated carriers.

General aviation can and should expand that aspect of its operations concerned with providing air commerce connections between the thousands of communities not now adequately served.

That role—tying together by air all these forgotten or inadequately served American communities is important to both the big cities and the small towns of this country. For to meet the social and economic needs of the United States, it is equally important to make both big towns and small accessible by air. That is the unique role, the great opportunity of general aviation today.

This brings up the major problem facing outlying cities and towns which general aviation can help to solve—the draining away of its youth and its talent to the big cities and the opportunities they offer today.

For some years it has been obvious that farmers leave their farms, young people leave rural communities because they can no longer make a living there. To too many of these Americans opportunity seems to have fled to the major centers of population and from all over rural America the young, the unemployed, the disadvantaged have poured into the cities to create only worse problems than those from which they have fled.

Congress is now considering programs designed to reverse this trend and help the rural areas back to economic health. General aviation, it seems to me, can make a very real contribution to this effort.

This is not an impossible dream. Indeed, we see it happening on a small scale whenever we establish or improve a local airport in any city or town that is not a major population center. The mere presence or improvement of the airport alone has a measurable, positive effect on the economic and social life of the community. As air service and commerce increases between that community and others, things look up. Business improves. New industries are made possible. Jobs are created. The drain of local talent into the city slows. For general aviation is an active force in our economic life wherever it operates.

The activities of general aviation are now responsible for the existence and operation of two thirds of all the airports in the United States.

These airports are aided by the business generated by general aviation. Privately owned, they are on the local tax rolls paying substantial taxes for the privilege of providing hundreds of communities with air service.

In addition, general aviation bears a significant share of the cost of all the remaining airports in the United States. General aviation pays a big share of airport income through charges both to the operators of its aircraft and to those airport businesses and facilities that serve them.

General aviation pays fuel taxes alone of nearly $25,000,000 to the Federal Government.

The point of all this is that wherever general aviation goes, it does more than simply provide air service. It helps build and maintain airports, business operations, opportunities, and hope for the future.

General aviation should therefore be considered a factor in any hoped for rural redevelopment and it is my hope to bring this to the attention of those committees and individuals in the Congress now concerned with the problem.

Your future therefore looks bright. General aviation will continue to serve as the only connecting air link most areas of this nation have, and it can certainly strengthen that link and broaden its coverage.

General aviation thus offers a real prospect of bringing all of this great country together into an air transportation system whose advantages are equally shared by city, town and countryside alike.

General aviation offers a good prospect of helping to reverse the drain of people from rural areas into our already overcrowded cities, thus making possible a decentralization of activities and a spread of opportunities to all the people.

Let us hope for and let us all work for that kind of a solution not only to your problems but to those of America. Let us work toward building back into the heartland of this country, always a source of strength throughout our history. General aviation can do much to restore to rural America the right of its citizens to work and prosper without having to leave home.

So, as aviation has long been doing throughout its brief fifty or sixty years of age, perhaps we can once again show this country how to get off dead center and into the air, flying toward a new frontier more promising than anyone may realise today.

Samuel Pierpont Langley, an early American aviation pioneer, once made the observation that knowledge begins with wonder. Perhaps if you set people to wondering a little more about who you are and what you can do, they will come to know and to understand the very real contribution general aviation can make to the future of this country.

Or as we've been saying out here for a century or so, remember—the wheel that squeals is the wheel that gets the axle grease.

To you who are here, to all the 160 thousand members of your organization, the Aircraft Owners and Pilots Association, let me wish you luck and thank you for this opportunity to meet with you today.

To all in general aviation, let me say again, it is high time your past accomplishments, your present services and your potential for the future development of this country were recognised.

I thank you.

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ORDER OF BUSINESS

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. SPARKMAN), the Senator from New Mexico (Mr. MONTOYA), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from North Carolina (Mr. ERVIN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

If present and voting, the Senator from Kentucky (Mr. COOK) would vote "yea."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 40, nays 37, as follows:

[No. 314 Leg.]

YEAS—40

Allen	Hollings	Pastore
Bayh	Hughes	Pell
Bible	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, W. Va.	Jackson	Ribicoff
Cannon	Jordan, N.C.	Schweiker
Case	Long	Spong
Church	Magnuson	Stevenson
Cranston	Mansfield	Symington
Gambrell	McClellan	Talmadge
Gravel	McIntyre	Tunney
Harris	Mondale	Williams
Hart	Moss	
Hartke	Muskie	

NAYS—37

Aiken	Eastland	Nelson
Allott	Ellender	Pearson
Anderson	Fannin	Roth
Baker	Fong	Scott
Beall	Griffin	Smith
Bennett	Gurney	Stafford
Bentsen	Hansen	Stennis
Brooke	Hruska	Stevens
Buckley	Javits	Thurmond
Byrd, Va.	Jordan, Idaho	Weicker
Chiles	Kennedy	Young
Cooper	Mathias	
Dole	Miller	

NOT VOTING—23

Bellmon	Ervin	Mundt
Boggs	Fulbright	Packwood
Brock	Goldwater	Percy
Cook	Hatfield	Saxbe
Cotton	McGee	Sparkman
Curtis	McGovern	Taft
Dominick	Metcalf	Tower
Eagleton	Montoya	

So Mr. HARTKE's amendment was agreed to.

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARTKE. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. MILLER. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. MILLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MILLER. Mr. President, reserving the right to object——

Mr. BYRD of West Virginia. Mr. President, there can be no reservation of a right to object to the calling off of a quorum call.

Mr. MILLER. I object. Mr. President, I would like to get the yeas and nays. There is no reason why we cannot have the yeas and nays, and if we can get them, we will go ahead.

I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, I ask for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. WEICKER). The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the amendment of the Senator from Indiana (Mr. HARTKE) was agreed to. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) the Senator from Delaware (Mr. BOGGS), and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska, (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 42, nays 35, as follows:

[No. 315 Leg.]

YEAS—42

Allen	Hartke	Moss
Bayh	Hollings	Muskie
Bible	Hughes	Pastore
Burdick	Humphrey	Pell
Byrd, W. Va.	Inouye	Proxmire
Cannon	Jackson	Randolph
Case	Jordan, N.C.	Ribicoff
Church	Long	Schweiker
Cranston	Magnuson	Spong
Fulbright	Mansfield	Stevenson
Gambrell	Mathias	Symington
Gravel	McClellan	Talmadge
Harris	McIntyre	Tunney
Hart	Mondale	Williams

NAYS—35

Aiken	Brooke	Ellender
Allott	Buckley	Fannin
Anderson	Byrd, Va.	Fong
Baker	Chiles	Griffin
Beall	Cooper	Gurney
Bennett	Dole	Hansen
Bentsen	Eastland	Hruska

Javits	Roth	Stevens
Jordan, Idaho	Scott	Thurmond
Miller	Smith	Weicker
Nelson	Stafford	Young
Pearson	Stennis	

NOT VOTING—23

Bellmon	Ervin	Mundt
Boggs	Goldwater	Packwood
Brock	Hatfield	Percy
Cook	Kennedy	Saxbe
Cotton	McGee	Sparkman
Curtis	McGovern	Taft
Dominick	Metcalf	Tower
Eagleton	Montoya	

So the motion to lay on the table was agreed to.

Mr. MOSS. Mr. President, today the Senate moves to consider H.R. 10947, a major program of tax-relief aimed at stimulating economic recovery and full employment.

I fully support the goals of this legislation. I believe that it is long past time for the Federal Government to take strong action to bring an end to the 2½ years of economic waste and human indignities resulting from massive joblessness.

Since January 1969, when the Nixon administration took office, unemployment has risen from 3.5 to 6 percent and has stayed at that tragic level for the past 12 months. In my own State of Utah, the jobless rate has climbed substantially beyond that of the national average.

The magnitude of our present economic predicament demands that the Senate look deeply into the various proposals contained in this bill. This legislation is the major thrust of Federal Government's efforts to fight unemployment. Failure to apply the correct fiscal stimulus to the economy could result in many more months of the present unacceptable rate of unemployment.

H.R. 10947 relies heavily on tax-incentives to the businessman. In addition to the 7-percent investment tax credit, the bill provides for repeal of the automobile excise tax, a liberalized method of granting depreciation allowances and a new system of tax deferrals.

On the other hand, the bill contains only a limited number of incentives directed toward the individual taxpayer, and only a fraction of these take effect this year.

I contend that as long as this tax-relief program continues to emphasize stimulants to increased investment rates as a means of creating more jobs, and ignores the importance of immediate spurs to consumer spending, it will fall short of its desired economic impact. I believe that this bill requires substantial modification before we can ever hope that it will bring about rapid recovery and increased employment.

The evidence is clear. Our main opportunity for creating more jobs in the near future lies not with increased investment in more capital and equipment but with increased consumer demand for goods and services.

Recent surveys show us that only about 73 percent of all existing industrial capacity is now being used. Business is bad in America today, not because there is a shortage of capital equipment, but because customers are not buying the goods at a sufficiently high level to keep plants and machines busy. It becomes obvious that any program to stimulate economic expansion must give the consumer at least as much attention as the investor.

A tax-relief program for 1971 should come to grips with the economic realities of the times. It should be a balanced program which offers incentives to both the business firm to invest and the individual to consume.

I support the 7-percent investment tax credit. I believe that the Federal Government should play a role in stimulating the new technology which is essential to increased productivity.

At the same time, I question the necessity of granting fast writeoffs to business in the same period in which they are eligible for the tax credit. I believe the 20-percent range on the new asset depreciation range system should be significantly modified. This program will cost the Government $35 billion over the next 10 years. It will be a permanent system. Unlike the tax credit, it will hide tax breaks to business under the illusion of increased capital costs.

I believe that the bill should do more to stimulate immediate consumption. I, therefore, will continue to sponsor amendments to make increased personal exemptions retroactive for 1971—from $650 to $750—scheduled to take effect next year. This would mean a cash refund for many taxpayers and lend an immediate boost to consumer spending.

Second, I urge that the Senate increase the 1971 low-income allowance from $1,050 to $1,300. This would have an immediate impact on families making less than $10,000 a year. By putting money in the hands of hard-pressed families of low and moderate incomes, the Senate could be sure that practically all of the new money would go to the consumption of essentials. The effects on areas hard hit by widespread unemployment would be massive.

Neither of the proposals to speed up tax incentives to individuals would have a permanent effect on the Nation's revenue base. These adjustments were already going to take effect in 1972 and 1973. My proposal would merely take advantage of these new fiscal stimulants at a time the economy could certainly use them.

Taken together, these modifications in H.R. 10947 would make for a highly balanced program of tax incentives to encourage the businessman to invest and the individual taxpayer to consume. Such a program stands the best chance of coming to grips with our current economic difficulties.

The PRESIDING OFFICER. The bill is open to further amendment.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination which was reported earlier today.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Scott P. Crampton, of Virginia, to be an Assistant Attorney General.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

REVENUE ACT OF 1971

The Senate resumed the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. TUNNEY. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. WEICKER). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment, as follows:

On page 72, before line 17, insert:

(c) Amendment to Section 62.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) Expenses for household and dependent care services necessary for gainful employment.—The deduction allowed for section 214."

On page 72, line 17, strike out "(c)" and insert in lieu thereof "(d)".

Mr. BYRD of West Virginia. Mr. President, if the Senator from California will yield to me for a moment, I ask unanimous consent, after having discussed the matter with the distinguished mover of the amendment and the distinguished manager of the bill, that time be limited on this amendment to 30 minutes, to be equally divided between the two Senators named.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, the Finance Committee amendment which would provide a new job development deduction for household services and child care is a much needed provision of law. I think that everyone feels it is quite unfair to have a situation where a mother goes out to work and has to spend a substantial portion of her income for a baby sitter.

The only trouble with the committee bill as written is that it makes household service and child-care costs a personal deduction rather than a business deduction. I think it is very important that this work-related activity be a business deduction.

The reason for my amendment and its significance is that if it is a personal deduction those families who do not itemize their personal deductions but use the standard deduction form will not be able to take advantage of the committee provision. If we take a look at the record, we find that of those families who have incomes of less than $10,000, only 32 percent use itemized deductions. That would mean that almost 70 percent of families earning less than $10,000 would not be able to take advantage of the provision in the bill which would give a deduction for hiring a babysitter so that the mother could work.

Mr. PASTORE. Mr. President, will the Senator from California yield for a question?

Mr. TUNNEY. I yield.

Mr. PASTORE. Does the mother have to be a working mother with a personal income of her own? In other words, if we had a joint tax return and the wife was not employed and she sent her child out for day care, would she still be entitled to the deduction, or must she be a working mother?

Mr. TUNNEY. The Senator from Louisiana (Mr. LONG) is now in the Chamber and perhaps he would like to answer that question.

Mr. LONG. The mother would have to be a working mother or she would have to be disabled.

Mr. PASTORE. All right. I thank the Senator.

Mr. TUNNEY. Mr. President, the point is we want to make this deduction available to those families that use the standard deduction and 70 percent of the families that earn $10,000 or less use the standard deduction. However, if it is a business deduction, then those families that use the standard deduction form would be able to take advantage of the deduction as provided for in the committee bill.

This is a simple amendment. Its purpose is to give greater effect and impact to the committee provision. I believe that the distinguished chairman of the committee, the Senator from Louisiana (Mr. LONG), is prepared to accept the amendment.

Mr. LONG. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 minutes.

Mr. LONG. Mr. President, the Senator from California has, in my judgment, a good amendment. After we voted for the relief that was provided in the committee bill for working mothers where both mothers and fathers work, which would help them in hiring someone to look after the child or to do the housework while the mother was working to help increase the family income, we were amazed to find that the revenue costs would be less than estimated. We had estimated that the cost would be around $300 million.

We found, however, that when the estimators completed their estimate, it would only cost about $110 million. The reason for this was the type of situation which the Senator from California has referred to. The people we thought would be taking advantage of this provision would be unable to do so. We thought that we had provided twice as much relief for working mothers, widows, and divorced people who had children to support as we actually did.

This is a good provision as far as it goes, but we did not do as much for working people as we thought we did because of the type of thing the Senator has in mind.

Mr. President, I do not know of anyone who is in opposition to the amendment but I would be happy to yield them the time remaining to me, if someone wishes to speak in opposition to the pending amendment.

Mr. President, I expect to vote for the amendment. I should like to ask for the yeas and nays on it because that will be an indication as to how the Senate feels on this overall proposition.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, will the Senator yield me 1 minute in support of the amendment?

Mr. TUNNEY. I yield.

Mr. BAKER. I want to commend the distinguished Senator from California for offering the amendment and also the distinguished manager of the bill, the chairman of the Finance Committee.

This is a measure that has long been needed and one I intend fully to support.

If the distinguished Senator from California is agreeable to having cosponsors, I should like to ask him to add my name as a cosponsor of his amendment.

Mr. TUNNEY. Mr. President, I will be happy to do so.

Mr. President, I ask unanimous consent that the name of the Senator from Tennessee (Mr. BAKER) be added as a cosponsor to this amendment; as well as the following Senators: Senators BAYH, CHILES, HUMPHREY, PASTORE, BIBLE, RIBICOFF, GRAVEL, JAVITS, CASE, BUCKLEY, and STEVENSON. [Laughter.] I am proving that I know all the Senators now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I would be happy to yield time in opposition to the amendment if someone wishes to speak in opposition.

Mr. RIBICOFF. If the Senator will yield me half a minute, I would like to say that, while the amendment has been offered by the distinguished Senator from California (Mr. TUNNEY), I think that the Senate should be apprised of the fact that its concept originates with the distinguished chairman of the committee, the Senator from Louisiana (Mr. LONG). To the best of my knowledge, this is the first time it was presented to the Finance Committee. We spent a great deal of time on it and the committee was in general agreement with the Senator from Louisiana.

Mr. TUNNEY. Mr. President, I should like to underline what the Senator from Connecticut has just said. It certainly was the whole concept and idea of the distinguished Senator from Louisiana.

This amendment of mine merely attempts to clarify what the Senator from Louisiana had intended all along.

Mr. LONG. Mr. President, let me say that the Senator from California has improved on what we intended to do and I congratulate him.

Mr. PASTORE. Mr. President, I wonder whether the committee—I realize that this is a complicated subject and we cannot do it on the floor of the Senate by way of amendment—but I wonder whether the committee gave some thought to families who have a retarded child and have to board that child at a terrific expense. In many instances, I have seen tragedies befall families where they had to support a retarded child and put it either in a home or in something of that kind, and I was wondering whether some thought had been given to that.

Mr. LONG. Well, that is a different problem, but——

Mr. PASTORE. I know it is a different problem, but I would hope that the committee would study that at some time in the near future.

Mr. LONG. The Senator from Rhode Island has a very good point and I would say that following the vote on this provision, perhaps we can work out what the Senator has in mind. If the Senator himself would like to draft an amendment along that line, perhaps we could consider it.

Mr. RIBICOFF. The thought occurs to me that that is an excellent idea and I would anticipate that H.R. 1, which contains many amendments to the Social Security Act, will come up early next year. And I would be more than pleased to work with the Senator from Rhode Island toward considering such an amendment during our committee and Senate floor discussion on H.R. 1 early next year.

Mr PASTORE. Mr. President, I thank the Senator. I am certainly willing to do that. I appreciate the cooperation of the Senator.

Mr. TUNNEY. Mr. President, I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 2 minutes

Mr. BENNETT. Mr. President, to be sure that we know what we are doing, the Treasury estimates that the bookkeeping change proposed by the Senator from California (Mr. TUNNEY), will cost $110 million.

We are tossing money around here pretty freely. We tossed away nearly $2 billion on the amendment of the Senator from Indiana this morning. Here is another $110 million. I am sure there will be others. I think that the Senator from California (Mr. TUNNEY) has another one that will be a little expensive.

We should just realize that it is nice to pay out these little benefits. However, I wonder when we will reach the point where we consider that we must be responsible as well as generous.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. PASTORE. Mr. President, how much will we toss away when we get to the investment tax credit and the accelerated depreciation allowance? It will run into billions.

Mr. BENNETT. The Senator was not present in the Chamber this morning when I read the comparison between the benefits we have already given to the individual taxpayers as compared to the added costs we have attached to business.

Mr. PASTORE. But the Senator has not answered my question. I asked him how much we would be tossing when we reach the investment tax credit and the accelerated depreciation allowance. How much money will that cost? If we do not have it now, we will have it later. I may be for it. I would like to know how much this will cost.

Every time we talk about little children and retarded children, we start to talk about how much money we will toss away.

How much money will we toss away on the investment tax credit and the accelerated depreciation allowance?

Mr. BENNETT. To answer the Senator's question, reinstating the 7-percent investment tax credit for corporations will cost $2,885 million in 1972.

Mr. PASTORE. $2,885 million as against $110 million.

Mr. BENNETT. The total bill has already given individuals relief to the extent of $5.9 billion and, corporations, including the investment tax credit, $1.9 billion, because there are other changes that offset part of the revenue loss from the credit.

Mr. PASTORE. The Senator is correct. And we have more people than corporations, and people make America.

Mr. BENNETT. I would like to ask my friend, the Senator from Rhode Island, what makes corporations.

Mr. PASTORE. People.

Mr. BENNETT. I thank the Senator.

Mr. PASTORE. The Senator is correct. The Senator asked an easy question and he got a fast answer.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Nevada (Mr. CANNON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Wyoming (Mr. MCGEE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Nebraska (Mr. CURTIS), the Senator from Kentucky (Mr. COOK), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 74, nays 1, as follows:

[No. 316 Leg.]

YEAS—74

Aiken	Griffin	Muskie
Allen	Gurney	Nelson
Allott	Hansen	Pastore
Anderson	Harris	Pearson
Baker	Hart	Pell
Bayh	Hartke	Proxmire
Beall	Hollings	Randolph
Bentsen	Hruska	Ribicoff
Bible	Hughes	Roth
Brooke	Humphrey	Schweiker
Buckley	Inouye	Scott
Burdick	Jackson	Smith
Byrd, Va.	Javits	Spong
Byrd, W. Va.	Jordan, N.C.	Stafford
Case	Jordan, Idaho	Stennis
Church	Kennedy	Stevens
Cooper	Long	Stevenson
Cranston	Magnuson	Symington
Eastland	Mansfield	Talmadge
Ellender	Mathias	Thurmond
Fannin	McClellan	Tunney
Fong	McIntyre	Weicker
Fulbright	Miller	Williams
Gambrell	Mondale	Young
Gravel	Moss	

NAYS—1

Bennett

NOT VOTING—25

Bellmon	Dominick	Mundt
Boggs	Eagleton	Packwood
Brock	Ervin	Percy
Cannon	Goldwater	Saxbe
Chiles	Hatfield	Sparkman
Cook	McGee	Taft
Cotton	McGovern	Tower
Curtis	Metcalf	
Dole	Montoya	

So Mr. TUNNEY's amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUMPHREY. Mr. President, I call up my amendment No. 601.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

Mr. HUMPHREY. Mr. President, I would like to ask the assistant majority leader if he would like to seek a unanimous-consent agreement on a limitation of time.

Mr. BYRD of West Virginia. Will the Senator please identify the amendment?

Mr. HUMPHREY. This amendment covers the investment tax credit on farm equipment.

Mr. BYRD of West Virginia. Mr. President, I have discussed this amendment with the distinguished Senator from Minnesota, the mover of the amendment and I believe he has indicated he would be willing to enter into an agreement for 10 minutes on a side or 15 minutes on a side.

Mr. HUMPHREY. Fifteen minutes will be more than adequate. I will, more than likely, yield back some time.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on the amendment be limited to 30 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Kansas (Mr. PEARSON) be added as a cosponsor of the amendment. Inadvertently on my part, I left his name off.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the amendment.

The assistant legislative clerk read the amendment (No. 601) as follows:

On page 3, line 22, before the period insert ", or, in the case of farm machinery and equipment, after December 31, 1970, and before August 16, 1971, pursuant to an order which the taxpayer establishes was placed after December 31, 1970".

Mr. HUMPHREY. Mr. President, the amendment will make the investment credit applicable for farm machinery orders placed from January to March 1971, as well as in the other quarters of the year.

I explained this amendment in considerable detail on the date of November 3, which explanation appears in the CONGRESSIONAL RECORD at page 38996.

The purpose of the amendment, quite simply put, is that the farmers are rather unique in their equipment purchasing. Much of their purchasing is done in the first 3 months of the calendar year.

Farmers spend a total of over $5 billion on heavy machinery each year. I call to the attention of the Senate in fact that that is a rather sizable figure. It is one of the reasons why I have said that until there is a better income level in rural America, we are not going to be able to relieve the problems of unemployment or stimulate the economy.

That figure of $5 billion includes some $1 billion for tractors, $745 million for trucks, $645 million for autos, and another $2 billion for other machinery such as combines, balers, and so forth.

This means that over 119,000 tractors, some 25,944 combines, and over 26,000 balers are purchased by American agriculture enterprise and family farms each year.

Of this number, 25,000 tractors, 2,700 combines, and 1,500 balers are purchased in the first quarter of each year—from January to March 1971.

This totals, in the first quarter, to over $942 million for all machines, including some $223 million for tractors and another $163 million for trucks.

Despite this heavy investment in the first quarter, Mr. President, the Revenue Act of 1971 does not give the farmers credit for any investment credit for these purchases. The act provides that credit

will be available for orders after April 1, but not for orders placed before that date.

My amendment will make the 7 percent retroactive and it would provide a total credit, in addition to what is in the bill, of approximately $66 million, which is not a colossal sum in light of the urgent economic needs of the agricultural sectors.

Mr. President, the American farmer has been taking it on the chin again this year. Farm income is at the lowest level in years. Parity prices are low. Farmers are hit heavily by inflation. Net farm income will drop by another $200 or $300 million for the calendar year 1971.

In short, I believe this particular amendment is an effort in the right direction. It is a beginning that would recognize the peculiar and particular conditions that are prevalent in the field of agriculture.

I think this amendment is just, fair, and needed.

I yield to the Senator from Illinois (Mr. STEVENSON).

The PRESIDING OFFICER. The Chair would like to direct the attention of the Senator from Minnesota to the fact that the amendment is not geared to the bill which has been reported to the Senate. As it reads now as to page and line, it is geared to the bill as originally referred to the committee. During the debate on the matter it seemed proper for the Chair to suggest that the Senator from Minnesota should rearrange his amendment.

Mr. HUMPHREY. It should read page 4, line 10. So I modify my amendment by changing page 3, line 22, to read page 4, line 10.

The PRESIDING OFFICER. The amendment is so modified.

Mr. HUMPHREY. I yield to the Senator from Illinois.

Mr. STEVENSON. Mr. President, I rise to commend the distinguished Senator from Minnesota for offering his amendment which I have cosponsored.

Much of the discussion on the floor of the Senate this afternoon has centered on amendments which would make structural changes in the Internal Revenue Code and provide future tax relief. I think this is the first amendment to be offered which would provide immediate relief to consumers and to workers. It would provide immediate relief to a segment of our society which is suffering as much as any other—the farmers.

The investment tax credit provisions of the revenue bill now before us effectively discriminates against the farmer, as the distinguished Senator has pointed out. Farmers typically purchase farm machinery in the early part of the year. Since August 15 no equipment is eligible for the tax credit unless it has been purchased after August 15 of this year, it would be impossible for farmers to derive the same benefits from the investment tax credit that other business operations would enjoy.

This amendment gives the farmer the benefit of the investment tax credit and in doing that it provides him with immediate relief on his 1971 income tax. It would, early next year, effectively put more cash in the pocket of the farmer, and would enable him in the early part of 1972 to purchase more farm equipment.

I would also like to point out that the effect of these purchases will not only benefit the farmer, but also farm equipment dealers and workers in the farm equipment industry, who are also suffering from the tremendous slump in agriculture and from the drastic falloff of orders for farm equipment.

So I think the Senator from Minnesota has made a very sensible and thoughtful suggestion. I intend to vote for the Humphrey amendment, and I strongly hope it passes.

Mr. HUMPHREY. Mr. President, of course the distinguished Senator from Illinois is a cosponsor, and he has been very helpful in bringing this amendment to the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, will the manager of the bill yield me 3 minutes?

Mr. LONG. I yield 3 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, as has been explained, the amendment would extend credit for farm machinery and equipment ordered in the quarter between December 31, 1970, and March 31, 1971, which was the date in the House bill. The date in the House bill was selected in order to protect tax credits of those who relied on statements of public officials concerning the restoration of the credit. There was no statement prior to that date that restoration of the credit was being considered.

So what we are being asked to do now is to provide a windfall for a selected group of taxpayers, giving them an advantage over all other taxpayers.

This amendment cannot be justified as a small business subsidy. When we talk of farmers, we are inclined to think of the man who has the small tractor—I was going to say 10 acres and a mule. That was the situation in the past. Commercial farming today is a very large part of our farming enterprises.

It is to be expected that most of that tax benefit will go to large commercial farmers, who are in a position to buy farm equipment much more frequently than the small farmer. In fact, the proposal would operate to the detriment of the small farmer, because it would give his commercial competitor that much more advantage.

I was the only Senator who voted against the last amendment, and I did it on purpose. I shall vote against this one as well, for two reasons: First for the reasons I have just stated, and second, because this represents another loss of $75 million to the Treasury, all of which would occur in the current fiscal year.

I hope, if we are going to consider ourselves fair and equitable to all taxpayers, we will not give this particular advantage to the commercial farmer in the thought that we are trying to help the small farmer.

Mr. LONG. Mr. President, the reason that the bill before us is retroactive to orders placed on or after April 1 is that at about that time the Secretary of the Treasury went before the U.S. Chamber of Commerce and told them that, while the administration was not recommending the renewal of the investment tax credit, they wanted to encourage people to go ahead and place orders rather than wait for the renewal of the credit. To accomplish that objective, the Secretary gave assurance that if at some future date in the year they decided to recommend the renewal of the investment tax credit, they would urge that it become effective as of April 1.

The reason that the investment credit was extended back to April 1 was to honor that commitment so that businessmen would feel they were not victimized or prejudiced, because they ordered equipment after that date on the basis of the Secretary's statement.

If the investment tax credit were given for orders that had been placed prior to that time, it would give a tax advantage to people who had already bought or ordered the equipment. This, of course, is completely inconsistent with the incentive nature of the credit—to encourage people to make investments they would not have made otherwise. This amendment would provide a tax advantage to farmers that it would not give to anyone else. This would be an inequitable result—a discrimination in favor of farmers.

If we are going to do this, Mr. President, it makes just as much sense for someone else to come in here with a proposal to make the entire investment tax credit retroactive for everybody back to January 1. I suspect that if this amendment carries, this will happen next. If this were to happen, it could cost a considerable sum—perhaps $500 million in addition to the $75 million this amendment would cost.

I would think, Mr. President, that insofar as there is a case for equity, it exists for those who put in orders after April 1. To pass this amendment would be, in effect, to give a tax advantage to farmers just because they are farmers.

I think there is even more appeal to give a tax advantage to a housewife just because she is a housewife, or a working man just because he is a working man.

As a politician, you want to see everybody happy. You do not want to pick out one segment of the economy. When you do it for one, you have to do it for the others, and there would be no stopping point.

I like farmers. They work very hard, and a lot of them have little to show for it when they are through. But we have passed measures to benefit farmers. We passed a good Sugar Act for them, and we will pass any agricultural measure, I think, that can be reported from the Committee on Agriculture and Forestry, to help farmers with their problems.

But I hope we do not proceed, here, to give some special advantage to the farmers, fine people that they are, just because they happen to be farmers.

Mr. HANSEN. Mr. President, will the Senator yield me 3 minutes?

Mr. LONG. I yield 3 minutes to the Senator from Wyoming.

Mr. HANSEN. Mr. President, let me say this: I think there is great merit in what has just been said by the chairman of the Finance Committee. I happen to be a farmer, but the whole idea of the investment tax credit, as I understand it, was to stimulate activity which would result in an increase in jobs. As the chairman has pointed out, to pass this amendment would give an unanticipated windfall to people who have not been encouraged to go out and make purchases. Most of it would not result in increased employment at all; it would give them something they had had no reason to expect; and it does add an increased burden to the Treasury.

Despite my complete agreement with what the distinguished sponsor of the amendment has said, I cannot see that this amendment would further the objective that the President had in mind in proposing that this investment tax credit be adopted. Therefore, I, too, shall have to oppose it.

Mr. HUMPHREY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 7 minutes remaining.

Who yields time?

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, I have great sympathy for the plight the farmers find themselves in, but after all, we must take into consideration just what is involved in this legislation.

It was very adequately stated, I think, in the report that came over from the House of Representatives. The measure was designed to put our present lagging economy on the high growth path, to increase the number of jobs and diminish the high unemployment rate, to relieve the hardships imposed by inflation on those with modest incomes, and to provide a rational system of tax incentives to aid in the modernization of our productive facilities.

Mr. President, looking at it from the standpoint of the goals that were stated for this bill, I cannot see that, much as the farmer certainly deserves consideration in many respects for the problems that he faces at the present time, this has any pertinence to this bill. It would in no way provide an incentive for additional purchases, because those purchases have already been made. They were not made in anticipation of any sort of tax incentive.

So I feel this is not the place in which we should give relief to the farmers.

The PRESIDING OFFICER. Who yields time?

Mr. MILLER. Mr. President, will the Senator from Louisiana yield me 3 minutes?

Mr. LONG. I yield the Senator 3 minutes.

Mr. MILLER. Mr. President, I well understand what the Senator from Minnesota is trying to do here. All of us understand very well the need for additional farm income. But I suggest that that would be much better accomplished by an increase in the price supports for 1971 crops. That way, we would have a much broader impact on additional income for farmers than by the selective approach which this amendment would provide.

Another thing I should point out is that the Finance Committee recognizes there is a question of inequities having to do with farm machinery and equipment which was foreign produced, or a part of which was foreign produced. The Senator from Minnesota has a great many farmers in his State, as does the Senator from Iowa, who have foreign produced tractors and equipment. The House of Representatives provided that the President could extend the investment tax credit to foreign produced items, and we received assurance from the Treasury Department that discretion would be exercised with respect to farm machinery and equipment.

The trouble is that the House of Representatives provided for this discretion to be operative only in futurity, as a prospective matter. That, of course, would have prevented the investment tax credit running to those farmers who bought their equipment before the effective date set forth in the bill. So the committee has voted to give the President discretion both prospective and retroactive.

Now, I might point out, the investment credit for the first time has been extended to breeding and dairy livestock. I know that the Senator from Minnesota has great numbers of dairy animals in his State; and now for the first time the investment tax credit has been extended to farmers who acquire such animals.

So I believe, overall, the tax bill is quite fair to the farmers, and that if the Senator from Minnesota wants to get more money into the hands of farmers—and certainly the Senator from Iowa does, too—we would be fairer to do it through the commodity approach than through this tax credit, which would only help a certain number of farmers who happened to buy their equipment after the first of the year, up to the effective date of this bill.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. I yield 2 minutes to the distinguished Senator from Georgia (Mr. GAMBRELL).

Mr. GAMBRELL. Mr. President, I had the privilege of presiding at the time this amendment was offered by the Senator from Minnesota. I thought the amendment had merit at that time, and I still think so. The purpose is to avoid a discrimination against farmers who make their major equipment purchases in the first 3 months of the year. The date which was selected did not do the farmer any good, because he was not planning to make any purchases after March 31, in any event.

It seems to me that it is purely a question of not discriminating against the farmer, rather than a bill or an amendment to discriminate in favor of the farmer. Certainly, I do not think we could say that we are giving a benefit just because someone is a farmer. We did not increase the exemption just because people have wives or just because they have children. We increased the exemption here today, because we thought that this was a segment of the economy that was entitled to some consideration, and in this particular case the consideration is not to be discriminated against in the way farmers are being discriminated against under the proposed bill.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I thank the distinguished Senator from Georgia for his remarks.

Mr. President, I have been around this city quite a while, and I do not recall with much clarity the remarks of the distinguished Secretary of the Treasury before the Chamber of Commerce. What is more, the farmers in my State do not recall them, either. If the Secretary of the Treasury wants to talk about agriculture, I suggest that he go before the Farm Bureau, or the Farmers Union, or the NFO, not before the U.S. Chamber of Commerce, a reputable, fine business organization.

The purpose of this amendment is to get some direct benefits to people on farms who have purchased farm equipment. As the Senator from Illinois has pointed out, indirectly, in the months to come, it will have, hopefully, benefits to implement the producers—that is, to farm machinery manufacturers—and to workers in those plants.

May I say most respectfully to my good friend, the Senator from Iowa, that since he has commented about helping farm income, I ask him to join me as a cosponsor of Senate Joint Resolution 172, which would increase those farm loans and farm supports by 25 percent. If we really want to get some money to farm families, that is the way to help. But this will not hurt. This will put $66 million back into the farmers' hands, and it does not mean $66 million back into the hands of the corporate farms. It means back into individual, commercial, family farms, plus others.

If you really want to do something for somebody who needs help, the family farmer needs it more than anybody else.

In addition, many farmers buy much of that equipment in the first 3 months of the year because of the unique nature of their operation. When farmers are going to plant, they plant in early spring. They make their deals for farm equipment in February and March.

All I am trying to do is to take cognizance of the facts of life.

I live in Wright County, Minn., and the people next door to me, the DeMar family, bought a bailer this year, and I will tell you when they bought it. They bought it in the spring. Most likely, they bought it before April.

If you are going to buy a plow, you buy it early. You do not buy it in the latter part of the year.

That is why I have offered this amendment. I do not think it would hurt a bit to have just a little income come back to a particular group of producers in this country who are in trouble.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. HUMPHREY. Mr. President, how much time do I have remaining?

XUM

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. HUMPHREY. I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to inquire of the distinguished Senator from Minnesota whether it is not true that farm families today are having a tougher time, a rougher time, making a living than any other segment of the population.

Mr. HUMPHREY. In my judgment, rougher than any other segment of the working population of this country.

Mr. THURMOND. Is it not true, that they do not have laws to protect them, such as the wage and hour laws, and so forth, protect the industrial workers, and that unless some step is taken by the Government to help the farmers they are almost going to become an extinct breed?

Mr. HUMPHREY. The Senator is correct. There are fewer and fewer in numbers each year, due to economic hardship in many instances.

Mr. THURMOND. Is it not true that the cost of what they buy has been going up and up continually—the price of machinery, the price of automobiles, the price of clothing, and everything else they buy; whereas, the price of the product they sell has not been increasing in proportion, in any way at all?

Mr. HUMPHREY. The Senator is correct.

The PRESIDING OFFICER. The minute of the Senator from South Carolina has expired.

Mr. THURMOND. I was going to suggest to the distinguished Senator that if he wishes to add my name as a cosponsor of the amendment, I shall be pleased.

Mr. HUMPHREY. I will be happy to do so.

Mr. President, I ask unanimous consent that the names of the Senator from South Carolina (Mr. THURMOND) and the Senator from Minnesota (Mr. MONDALE) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HUMPHREY. Mr. President, I ask for the yeas and the nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. LONG. I yield back the remainder of my time.

Mr. HUMPHREY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Minnesota. On this question the yeas and the nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. CRANSTON), are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA), the Senator from Wyoming (Mr. MCGEE), and the Senator from South Dakota (Mr. MCGOVERN), would each vote "yea."

On this vote, the Senator from North Carolina (Mr. ERVIN) is paired with the Senator from Alabama (Mr. SPARKMAN).

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Alabama would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

If present and voting, the Senator from Kentucky (Mr. COOK) would vote "yea."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 49, nays 26, as follows:

[No. 317 Leg.]

YEAS—49

Aiken	Harris	Nelson
Allen	Hartke	Pearson
Allott	Hollings	Proxmire
Baker	Hughes	Randolph
Bayh	Humphrey	Ribicoff
Beall	Inouye	Schweiker
Bentsen	Jackson	Spong
Bible	Javits	Stafford
Burdick	Jordan, N.C.	Stevenson
Byrd, W. Va.	Kennedy	Symington
Cannon	Magnuson	Talmadge
Church	Mansfield	Thurmond
Cooper	Mathias	Tunney
Fong	McIntyre	Williams
Fulbright	Mondale	Young
Gambrell	Moss	
Gravel	Muskie	

NAYS—26

Anderson	Griffin	Pastore
Bennett	Gurney	Pell
Brooks	Hansen	Roth
Buckley	Hart	Scott
Byrd, Va.	Hruska	Smith
Case	Jordan, Idaho	Stennis
Eastland	Long	Stevens
Ellender	McClellan	Weicker
Fannin	Miller	

NOT VOTING—25

Bellmon	Dominick	Mundt
Boggs	Eagleton	Packwood
Brock	Ervin	Percy
Chiles	Goldwater	Saxbe
Cook	Hatfield	Sparkman
Cotton	McGee	Taft
Cranston	McGovern	Tower
Curtis	Metcalf	
Dole	Montoya	

So Mr. HUMPHREY's amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 652

Mr. RIBICOFF. Mr. President, I call up amendment No. 652 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 122, line 21, strike the period and insert in lieu thereof a colon and thereafter the following: "*Provided*, That, notwithstanding any other provision of law, amounts transferred to the Highway Trust Fund under this subsection shall be available to the Secretary of Transportation for obligation and expenditure and under the Urban Mass Transportation Act of 1964, as amended, and such amounts shall be in addition to any amounts authorized for obligation or appropriation under such Act."

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. RIBICOFF. I will be glad to yield to the distinguished assistant majority leader.

Mr. BYRD of West Virginia. Mr. President, will the Senator be willing to enter into a time agreement on this amendment?

Mr. RIBICOFF. I will be glad to do so.

Mr. BYRD of West Virginia. Thirty minutes, the time to be equally divided.

Mr. RIBICOFF. That is agreeable to me.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on the pending amendment be limited to 30 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, during consideration of this legislation, the Senate Finance Committee repealed the 10-percent excise tax on light trucks. In order to replace the resulting loss of funds to the highway trust fund, the committee directed that 7 percent of all the revenues from Federal alcohol taxes—approximately $350 million per year—be diverted to that fund.

I opposed such a move in the committee and oppose it now.

This amendment, introduced by Senators PELL, JAVITS, and myself, would attempt to correct what will represent a gross distortion in our national priorities.

Our amendment provides that those revenues placed in the Highway Trust Fund from the alcohol tax be earmarked for use by the Secretary of Transportation under the Urban Mass Transportation Act.

There are two basic reasons why I oppose the committee's decision.

First, the Highway Trust Fund has an accumulated surplus of $3.648 billion—as of June 1971—and, even with the expected reduction on revenues from the removal of the excise tax on light trucks, a forecasted surplus of $786 million for fiscal year 1972 alone.

In a time of large deficits and critical budget cuts, funds should not be transferred from the Treasury into an oversubscribed account out of which expenditures can only be made for highway-related projects.

It is perhaps ironic that on the same day the Finance Committee voted for the diversion of an expected $350 million into the Highway Trust Fund, the Transportation Committee of the National Conference of Mayors called for an emergency appropriation of the same amount to save the Nation's urban mass transit systems.

Secondly, supporters of the Highway Trust Fund have taken great pride in the fact that no moneys have, heretofore, gone into the fund from any source other than taxes on articles directly used on the highways, such as trucks, tires, gasoline, and oil. Although alcohol is frequently used on the highways, and accounts for nearly half of all automobile fatalities, it could only be called a highway user tax" with bitter irony. Furthermore, only 2.2 percent of the trust fund goes to projects related to highway safety and the alcohol tax revenues, if devoted entirely to safety, amount to nearly three times the current trust fund expenditures for safety programs.

If we are going to rely on the Highway Trust Fund to help solve our Nation's transportation problems, let us at least put it where it is really needed.

If mass transit exists at all, it is usually inadequate and highly expensive.

Fares are rising in every urban area, but the quality of service is usually on the decline.

There presently exists a $2.6 billion backlog of applications for Federal Mass Transit assistance.

And $900 million has been provided by Congress to meet this demand.

Unfortunately, the administration is not committing the money we have appropriated.

I have joined with Senators CASE, WILLIAMS and others in petitioning the President to release these funds immediately.

By adding and spending $350 million more, we could reverse the deteriorating trend and begin to establish the transportation systems American citizens need and deserve.

In addition, if implemented these programs would provide a tremendous impetus to our urban economy.

To simply allow these funds to lie idle in the trust funds is negligent when it could be put to such beneficial use.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. AIKEN. Mr. President, would the Senator's amendment permit money transferred from the highway fund to be spent for railroad purposes?

Mr. RIBICOFF. All mass transit purposes; the Senator is correct.

Mr. AIKEN. Any other forms of transportation?

Mr. RIBICOFF. Buses, subways, and other commuter programs.

Mr. AIKEN. Air transportation?

Mr. RIBICOFF. I do not contemplate air transportation. It would be for the projects in the Mass Transit Act at the present time, rail systems, subways, buses, and transportation of that kind.

Mr. AIKEN. Not anything for air or water transportation?

Mr. RIBICOFF. The Senator is correct.

Mr. AIKEN. How would that leave the highway fund?

Mr. RIBICOFF. The Highway Fund has an unexpended balance now of $3,648 million as of June 1971. The surplus for fiscal 1972 will be $786 million.

Mr. AIKEN. How much of that fund is current and how much has been withheld?

Mr. RIBICOFF. I do not have the figure for that. I think the distinguished chairman of the Public Works Committee is present on the floor and he could supply that.

The question was how much of the surplus has been committed.

Mr. RANDOLPH. I am sorry there is a time limitation on the amendment because I think it is a matter that needs discussion. I am sure the able Senator from Connecticut realizes that the money in the highway trust fund is ready to move into construction of highways all over America, but the problem is that the President is impounding this money. He now has impounded highway funds of $5.4 billion.

I hope I shall have an opportunity later in the debate to go into detail as to how the highway program is ready to go ahead throughout the United States if the funds are made available.

Mr. RIBICOFF. It is ironic that the supporters of the highway trust fund have always boasted that the fund only uses money from highway related taxes. Now they are diverting money from the General Treasury.

Mr. CASE. Mr. President, will the Senator yield?

Mr. RIBICOFF. I am pleased to yield.

Mr. CASE. I want to join the Senator and the Senator from New York in supporting this amendment. It is illogical and contrary to textbook theory as to what is good procedure. It is absolutely necessary.

We who represent areas of the country which need mass transit are shortchanged by the legislative branch and the executive branch alike, and the only way we can get anything like the amount necessary is by some artful dodge like this. It is a shame it has to be done, but it must be done. Congress has done better than the executive branch recently in this matter.

We authorized and appropriated $900 million and we can only get $600 million released. This is too bad. Even this is far too little.

The Senator's amendment, while contrary to, as I say, textbook authority, and contrary to the kind of thing we learned at our mother's knee in the school of good government, is necessary; sometimes we have to rise above principle to get justice.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. JAVITS. Mr. President, I cosponsored this amendment with the Senator from Connecticut (Mr. RIBICOFF) because it seems almost inconceivable that the philosophy of the whole highway trust fund concept would be breached, as it is.

By the way, those who are deeply interested in the Highway Trust Fund should be worried about this concept of including unrelated general revenues, unless something like our amendment passes and suggests what should be done with the money. That which goes in irregularly can likewise come out. $350 million in alcohol taxes is going in quite against all the rules of the game. The Highway Trust Fund consists of highway user taxes—and much more could come out if people get the feeling there is nothing sancrosanct about it.

The highways are loaded enough; so the two ideas—that it is inconsistent to include general revenues and that there is nothing sacrosanct about the highway trust fund—coming together make this amendment very compelling.

Finally, it may be argued that this diversion of $350 million to the highway trust fund may be needed for safety research—safety effects, drunken drivers, and so forth. But the law now authorizes for safety research only approximately $120 million for fiscal year 1972 that is to come out of the highway trust fund. This is $350 million from the alcohol tax to be included, so it has no relation to what can be used, except the superficial excuse. So in elementary fairness to the starving mass transit needs of the country, and we have that impact in New York as everyone knows who reads the national newspapers—this is a modest contribution for mass transit.

Mr. President, in a letter circulated by Senators CASE and WILLIAMS, 38 Senators asked the President to release the $300 million he impounded. The answer was that he could not.

Here is a way to relieve the roads of a lot more rubber if we can get $300 million more for mass transit.

Mr. President, I ask unanimous consent that the letter by 38 Senators to the President may be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We urge the speedy allocation of the $900 million provided by Congress for the urban mass transit program in fiscal 1972.

XUM

There is ample justification for committing the full amount of this appropriation.

After years of neglect, the cost of revitalizing and expanding our urban and suburban transportation systems will be substantial.

One striking measure of the cost is the backlog of applications for Federal assistance placed with the Urban Mass Transit Administration. It presently totals $2.6 billion.

That the states and cities will not be able to undertake the job on their own is beyond question. They understandably must look to the Federal Government as their principal source of financing.

Under the 1970 law, which expanded the mass transit program, it will be possible to provide $3 billion over a five-year period to help finance mass transit improvement. However, if the program is to meet the need, as well as live up to the expectations it has created, it must be adequately funded.

The Administration request for a $600 million program level is a step in the right direction. Under this approach, $510 million would be allocated to capital grants, the heart of any effort to replace, improve and expand local bus, rail and subway systems.

Yet we believe that at least the full $900 million appropriated by Congress is needed. Under the Congressional figure, the allocation to capital grants will be $810 million.

The Urban Mass Transit Administration advises that it can commit the appropriated amount between now and the end of the present fiscal year next June 30. In addition, it believes a substantial portion of the $810 million can be put to use quickly on existing construction projects and thereby create jobs in this period of high unemployment.

Mass transit stands at a critical juncture. Without adequate support from the Federal Government it surely will fail in the vital job which only it can perform.

The Federal Government has made a commitment to help the thousands upon thousands of people living in our metropolitan areas deal with their serious transportation problems. We must meet that commitment.

It is essential that the $900 million be made available promptly.

Mr. PELL. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. PELL. Mr. President, I commend the Senator from Connecticut. To me it has the element of poetic justice because this revenue, as the Senator pointed out, comes from alcoholic beverages. This amendment would use the mass transit and the mass transportation facilities and persuade more people to travel on them and presumably there would be more drunks on mass transit system than on the highways.

The PRESIDING OFFICER. Who yields time?

Mr. TALMADGE. Mr. President, how much time is remaining to the opponents of the amendment?

The PRESIDING OFFICER. The opponents have 15 minutes remaining and the proponents have 4 minutes remaining.

Mr. TALMADGE. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. TALMADGE. Mr. President, the Ways and Means Committee of the House and the Committee on Finance of the Senate, when they repealed the excise tax on automobiles also repealed the excise tax on light trucks up to 10,000 pounds. That was done because many families use trucks as their only means of transportation. In the rural areas many times families will have a light vehicle which the family also uses as family transportation.

If we are going to take the excise tax off Cadillacs we should take it off of the farm trucks that are used as a family vehicle. We found when we took that action it was called to our attention by the chairman of the Committee on Public Works, the Senator from West Virginia (Mr. RANDOLPH), that it reduced funds available for the highway trust funds to the extent of $350 million.

We did not want to leave that fund without adequate revenue to continue to build roads. Unfortunately, the President to some extent impounded expenditures from that fund and it is not being used at the present time; but I am sure there will come a day when all unmet needs for roads throughout the length and breadth of this country would be realized and that fund will be released, and when it is we do not want it to be insolvent.

For that reason the Committee on Finance by a large vote saw fit to transfer 7 percent of the alcoholic beverage revenue, which amounted to $350 million, to take up the lost revenues because of the repeal of the excise tax on trucks.

That is the situation. The distinguished Senator from New Jersey refers to the amendment as an "artful dodge." I would not call it that, but I will say it was not considered in the Committee on Finance and I do not think it should be considered on the floor of the Senate without hearings and without the opportunity for people to make their case.

I have supported mass transit. I support it now, but I do not think we should destroy the highway trust funds by this method at this time of night without hearings, without notice, without opportunity for the State highway directors and the Governors of the respective States to make their case. It is that simple.

I yield 2 minutes to the distinguished senior Senator from Vermont.

Mr. AIKEN. Mr. President, I do not think we had better rob the highway fund in order to dump hundreds of millions of dollars more into the railroads, which are losing tremendous sums at the present time.

But it is my understanding that highway construction that was scheduled to be completed by 1974 will not now be completed until 1978, 1979, or 1980. In other words, the highway construction is behind, too. It is very much behind. I do not think we want to ask the rest of the country to give up construction of highways for the benefit of a few urban areas that say they would like the money.

Mr. TALMADGE. Mr. President, I yield 2 minutes to the Senator from Tennessee.

Mr. BAKER. I thank the Senator for yielding.

Mr. President, I, too, support urban mass transit. I always have, but I do not think this is the appropriate place to establish funding for urban mass transit as part of the highway trust fund.

If the distinguished proponents of this amendment would offer an amendment now, or later—and I think it would be better later—to provide, instead of a highway trust fund, for a transportation fund and provide funds for every method of trasnportation, whether it be for airplane tickets, railroad tickets, automobile sales, or even alcoholic sales, which would not be in the same arguable relationship, if that were being offered. I would view it in an entirely different way, because there is no doubt that there is an interdependence and interrelationship between the requirements of highway construction and the requirements of substantial construction of mass transit. But the highway trust fund is for the construction of a particular network of a transportation system in this country that has worked extraordinarily well and has had bipartisan support over a number of years. The end is in sight and I do not think we ought to mess up the formula in this manner.

As a member of the Roads Subcommittee, I assure the proponents of this amendment that, as far as I am concerned, I will view favorably and sympathetically a proposal for a transportation trust fund, but I do not favor the raiding of the highway trust fund as distinguished from a proposed transportation trust fund in this manner at this time.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. TALMADGE. Mr. President, I yield 2 minutes to the chairman of the Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Is that all the time?

Mr. TALMADGE. The time is limited. There are only 15 minutes and several Senators have asked for time.

Mr. RANDOLPH. I yield 30 seconds to the Senator from Alaska.

Mr. GRAVEL. The issue seems to be to get funds into mass transit. I do not understand how funds could be gotten into mass transit because the President has impounded mass transit funds and has impounded highway trust funds. How can this act of raiding the highway trust fund get those funds into the mass transit, in view of what the President has done? Why seek to develop this specific vehicle of getting funds into mass transit? I ask the question of whoever will answer.

Mr. RIBICOFF. May I point out that we are not raiding the highway trust fund. The highway trust fund has been given a boon gratuitously by the Finance Committee. By taking funds out of general revenues we are for the first time in history changing the concept of the highway trust fund. If we are going to take funds out of general revenues and put them into a trust fund, let us look at the priorities. The priorities are a starved mass transportation system. The highway trust fund has a surplus of $3.6 billion as of June 1971 and another $786 million for this fiscal year. What we are striving for is a matter of equity, and that is the objective of the amendment.

Mr. GRAVEL. I am sympathetic to that, but is there any way by this amendment to overcome the impounding of funds, either for highways or mass transit, to alleviate the mass transit problem? There is no way this money can be gotten into mass transit.

Mr. RANDOLPH. Mr. President, may I inquire how much time I have?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. RANDOLPH. Mr. President, I think it is unfortunate that our able friend from Connecticut and those who join with him express the feeling that this is a gratuitous gift which is being given to the highway trust fund. This is absolutely wrong. It is the replacement of money which would be lost because of the repeal of the tax on the light trucks, a tax which has been going into the trust fund for some time.

It is very important for us to realize that there is a real need for funds for mass transit in this country. There is a real need for further development of our airways system in this country. The Senator from West Virginia has supported funds for airways and airport development. He has supported every piece of legislation for mass transit which has come before the Senate. But he cannot, in an instance of this kind, fail to recognize that the highway trust fund is absolutely necessary to the completion of the interstate system, which will not be brought to fruition until about 1977 or 1978.

Remember that this program, which was anticipated to cost $27 billion, will cost over $70 billion. This is easily understood. There has been an increase in the cost of land for rights-of-way, materials, and manpower. The President of the United States is withholding—impounding, actually—highway funds in the amount of $3.5 billion.

We have unmet needs in our highway program throughout the United States, and these highway needs must be met, I respectfully say to the Senate, without diverting, without removing the amount of money which is anticipated in the amendment.

Very frankly, I cannot conceive that the Senate would adopt the amendment which has been suggested by its sponsors.

Mr. RIBICOFF. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Connecticut has 2 minutes and the Senator from Georgia has 5 minutes.

Mr. RIBICOFF. Mr. President, I yield 1 minute to my distinguished colleague from Connecticut and 1 minute to my distinguished colleague from New York (Mr. JAVITS).

Mr. WEICKER. I thank my colleague.

Mr. President, I ask unanimous consent to be listed as a cosponsor of the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, certainly I would hope this body will place proper emphasis on our transportation needs and on mass transportation, as embodied in the amendment of my colleague from Connecticut (Mr. RIBICOFF). If this amendment fails, it is my intention, and the intention of others, to see that this money is not applied to the highway trust fund.

I think the time is long past to do something for mass transit, when we have plastered our country with highways, and when I and everyone else pay highway taxes; and I do not want to let the construction industry feel that we are against highways—we are not—but we want to be able to move, whether it is by car or rail or plane.

Mr. JAVITS. Mr. President, the final argument was the best. The Senator from Connecticut (Mr. RIBICOFF) has put it very well. Seventy percent of the American people live in the cities. Do we hear anything about the great crisis in highways or do we hear about the great crisis in the cities? The cities are sagging and being destroyed. One of the great reasons is their great need for improved mass transit.

Here is $350 million. It is a windfall for the highway trust fund. A large amount of those funds has been "impounded" in a sense, too, in that there is a favorable balance left each year. Yet we begrudge $350 million to go to the cities for mass transit.

It does not make any sense. One wants to know who is robbing whom, to paraphase the Senator from Georgia (Mr. TALMADGE). This is a windfall. If there is going to be a windfall, certainly the people who need it most are the 70 percent of the population that is taking the worst beating in the country.

Mr. TALMADGE. Mr. President, I yield 2 minutes to the distinguished ranking minority member on the committee, the Senator from Utah (Mr. BENNETT).

Mr. BENNETT. Mr. President, I had not realized how valuable this time would become. I think I have a little chore to perform on every amendment from now on. I report to the Senate that thus far, you have given away $2.915 billion of the taxpayers' money since we met at 12 o'clock. In four amendments, you have disposed of that amount of money.

I shall continue to count noses on these amendments as the fund rises.

Mr. TALMADGE. Mr. President, I yield 1 minute to the distinguished ranking minority member of the Committee on Public Works, the Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, I am not an advocate of continuing the present pattern of highway construction. I support the completion of the Interstate Highway System, but I know that we must support different modes of transportation for the traffic-suffocated areas of our country. We must also open up rural America. I oppose this amendment, for two reasons:

First, I think it is wrong in principle to take money from the general fund and allocate it to the highway trust fund, and second, I think it is bad in principle to earmark funds.

In the Public Works Committee last year in considering and reporting the biennial Federal highway bill, we made an effort to provide funds from the highway trust fund for a study of mass transit systems for the eastern seaboard, the western seaboard, the Chicago area and other traffic impacted areas. It was my amendment. The Senator from Washington (Mr. MAGNUSON) has introduced a bill, which is now before the Senate, to establish an orderly way to provide a mass transportation fund for different modes of transportation, which ought to be supported, because the management of traffic in our great urban areas is one of the critical problems of our time."

But I oppose the pending amendment. I do not think money should be allocated to the highway trust fund, out of the general fund. It would mean the beginning of a precedent for future allocation of general funds. Secretary Volpe is working on this problem, and we must develop a program, with adequate funds, to provide appropriate modes of transportation for the choked traffic areas of our country.

Mr. TALMADGE. Mr. President, I yield myself such time as I may require.

We have heard a lot of talk about mass transit, and I concede that we are desperately in need of mass transit in this country. But Senators speak of it in terms of an idle dream.

Mr. President, in every city in America mass transit is a reality today, with the Interstate Highway System. The Interstate Highway System traverses New York City. The Interstate Highway System traverses Hartford, Conn. The Interstate Highway System traverses Atlanta, Ga. The Interstate Highway System traverses every large metropolitan city in this Nation.

Where does the money come from? Ninety percent of it comes from the U.S. Government. That is the fund the distinguished Senator from Connecticut is asking us to tap, to take away from that particular system, which is a reality, in the hope of utilizing it, at some future time, hopefully for some future mass transit systems in a few localities.

In other words, in the one case we have a reality, in the other a hopeful dream. When we talk about mass transit, the only system we have in 95 percent of America today is the Interstate Highway System. That is the system we want to complete. That is the system paid for, 90 percent, by Federal funds. And that is the system that would be hurt if the amendment proposed by the Senator from Connecticut is agreed to.

I hope it will be rejected. Mr. President, I yield back the remainder of my time.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

NO MORE MONEY FOR THE HIGHWAY TRUST FUND

Mr. PROXMIRE. Mr. President, I strongly support the amendment by the Senator from Connecticut to use a portion of the revenues from the alcohol tax for urban mass transit, rather than as a further accretion to the highway trust fund.

If there is any fund that does not need any more money, Mr. President, it is the highway trust fund. The Subcommittee on Priorities and Economy in Government of the Joint Economic Committee conducted a thorough analysis of Federal transportation expenditures last year. This investigation fully confirmed that far too much of our total transportation budget is committed to high-

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ways. This is done because we have already far too much money in the highway trust fund—as of June 1971 the fund had a surplus of $3.648 billion, and growing all the time. Under present law, this money cannot be spent for anything but highways.

What in the world would be the point of putting more money in the highway trust fund? Are we aiming to pave over the country with concrete?

In fact, the Priorities Subcommittee has recommended—and this recommendation was subsequently endorsed by the entire Joint Economic Committee—that the highway trust fund be completely phased out. This money would then become available for higher priority programs for which funding now is so scarce. One of these programs is urban mass transit, which would receive the 7 percent of the alcohol tax revenues if the amendment by my colleague from Connecticut is approved today. Urban mass transit desperately needs and deserves more funds; highways enjoy a surfeit of funds, and it is this surfeit which has led to the problems pinpointed by the subcommittee's report. I strongly urge my colleagues to support the Ribicoff amendment.

Mr. President, I ask unanimous consent that the portion of the "Report on Federal Transportation Expenditure" which relates to the highway trust fund, dated August 17, 1970, be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

II. ECONOMIC ANALYSIS OF FEDERAL TRANSPORTATION EXPENDITURE

The establishment of the Department of Transportation in 1967 was envisaged as a major step toward coordinated transportation policy decisions; decisions based on analysis of investments in different modes of transportation as alternative means of meeting the Nation's need for mobility; decisions designed to produce fast, safe, and convenient transportation in an efficient manner. The opening sections of the Department of Transportation Act state:

"Sec. 2. (a) The Congress hereby declares that the general welfare, the economic growth and stability of the Nation and its security require the development of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith and with other national objectives, including the efficient utilization and conservation of the Nation's resources.

"(b)(1) The Congress therefore finds that the establishment of a Department of Transportation is necessary in the public interest and to assure the coordinated, effective administration of the transportation programs of the Federal Government; to facilitate the development and improvement of coordinated transportation service. * * *"

As yet these goals remain far from realization. The Department of Transportation is handicapped by legislative restrictions which discourage the needed analysis of alternatives. The way in which Congress handles transportation legislation—with urban mass transit considered by the Banking and Currency Committees, highways by the Public Works Committees, other forms of transportation by the Commerce Committees, and trust fund legislation by the Ways and Means and Senate Finance Committees—places further obstacles in the way of a coordinated approach to transportation policy.

"A more unified approach to transportation expenditure decisions is needed in Congress as well as in the executive branch. The decisionmaking process should be organized so as to permit and require full review both of the relative costs of alternative ways of meeting a given transportation need and of the priority which a proposed transportation investment should be accorded relative to alternative uses of public resources."

LEGISLATIVE RESTRICTIONS WHICH DISCOURAGE ADEQUATE INVESTMENT ANALYSIS SHOULD BE REMOVED

Section 4(b)(2) of the Department of Transportation Act states:

"Nothing in this Act shall be construed to authorize, without appropriate action by Congress, the adoption, revision, or implementation of—

(a) any transportation policy, or

(b) any investment standards or criteria."

Section 7(a) reads in part:

"The Secretary, subject to the provisions of Section 4 of this Act, shall develop and * * * revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with * * * (5) water resource projects; or (6) grant-in-aid programs authorized by law."

Both the general prohibition of section 4(b) and the major specific exceptions to section 7(a) would appear to seriously restrict the authority of the Department of Transportation to conduct investment analysis. In 1968 Dr. M. Cecil Mackey, who was at that time Assistant Secretary of Transportation for Policy Development, supplied the following statement in response to questions raised by this subcommittee concerning the possible need to amend these sections of the Department of Transportation Act:

"There would not appear to be special reasons for imposing particular restrictions such as those in sections 7(a) and 4(b)(2) on DOT's authority to manage its programs * * *. The amendment of section 7(a) of the Department of Transportation Act would facilitate implementation of effective economic analysis. There does not appear to be any important administrative or noneconomic reason why the act should remain as it is."[1]

Another witness, testifying before the subcommittee in September 1969, interpreted these two sections of the Department of Transportation Act as "explicit caveats" against engaging in "economic analysis of costs, benefits, and appropriate discount rates."[2] While the present Assistant Secretary of Transportation indicated in our most recent hearings on this subject that he did not feel these provisions were "unduly restrictive," and were designed "to insure that rigid cost-benefit criteria are not * * * made a benchmark against which projects wind up on a go-no-go basis," the subcommittee feels that, at the very least, these provisions of the law should be reexamined with respect to their effect on the authority of the Department to perform needed economic analysis.

"Legislative restrictions which discourage or prohibit adequate investment analysis should be removed. The relevant provisions of the Department of Transportation Act should be reexamined. If it is found that they restrict the authority of the Department of Transportation to perform investment analysis essential to Government program efficiency, the law should be amended."

SOCIAL COSTS AND BENEFITS MUST BE FULLY INCLUDED IN INVESTMENT ANALYSIS

While cost and benefit estimation is a valuable tool in the decisionmaking process, it is subject to abuse if the concepts are applied too narrowly. Since Congress is concerned with the public value of Federal investments, the social, or external, costs as well as the direct monetary costs must be fully considered. A similarly broad concept must be applied to the estimation of benefits.

In the case of highways, for example, the social costs include such things as noise, air pollution, dislocation of homes and businesses, neighborhood disruption, creation of barriers between neighborhoods, loss of recreational land, and the like. Some of these, such as housing dislocation, are at least partially reflected in the actual dollar costs to the Government of highway construction. Others such as noise and air pollution are not (except to the limited extent that damages may have been awarded to individuals who have brought court actions). Some of the social costs, such as neighborhood disruption, are extremely difficult, and in some cases impossible, to quantify. Additional efforts to measure such costs should be undertaken. Where such costs cannot be quantified, they can and must be explicitly recognized as qualitative factors which should be fully considered in making program judgments.

In the case of benefits, such relatively simple techniques as the estimation of traffic volume obviously are not a sufficient measure of social benefit. A rural highway may have a relatively low traffic volume, but it may provide residents of the area with their only means of mobility, and hence their only access to jobs, schools, and community services. It may open up to industry and tourism areas which were previously inaccessible. By contrast, a new urban highway may bring more cars onto already congested city streets, while at the same time discouraging use of alternative means of transportation. In this latter case, the volume of traffic using the road may on balance be a cost to urban residents and commuters rather than a benefit.

It is also necessary to know how the social costs and benefits of a transportation investment will be distributed among different groups in the population. In the case of highways, for example, the benefits accrue largely to users of the highway (although many of these might prefer alternative means of transportation if adequate alternatives were available) and to owners of strategically placed commercial property. Under our present financing system, the dollar costs of highway construction are paid by purchasers of gasoline, tires, and diesel fuel, regardless of the extent to which they will benefit from the construction of a particular highway. The costs of highway maintenance and repair, as well as the cost of feeder roads, are not, however, financed from Federal gasoline taxes.

Many of the social, or external, costs of highways are paid either by those who must move out to make way for the highway or by those who must continue to live in close proximity to it. Another, more generalized type of social cost is borne by the substantial fraction of the population who are nondrivers—the young, the aged, the poor. These groups are at a growing relative disadvantage as society becomes increasingly dependent on the private automobile. Is it good public policy to assess costs against some groups in order that other groups may benefit? This is a judgmental question relating to the real distribution of income in our society. Fuller information as to the probable distribution of costs and benefits would improve the

[1] "Economic Analysis of Public Investment Decisions: Interest Rate Policy, and Discounting Analysis." Hearings before Subcommittee on Economy in Government, pp. 171–172.

[2] James Nelson, "Economic Analysis and the Efficiency of Government, Pt. 2." Hearings before the Subcommittee on Economy in Government, p. 488.

ability of the Congress to make wise judgments.

The highway "need" estimates contained in the national highway needs reports, which are required to be submitted to Congress every 2 years, are not based on these broad considerations of social cost and benefit. "Need" as used in these reports refers to "capacity adequate to accommodate the highway travel forecast for a given target year."[3]

Since funds are apportioned to the States in accordance with their estimated "needs," the financing system contains a considerable incentive to produce inflated travel forecasts. Furthermore, there is persuasive evidence that the "demand" for highways, as measured by traffic volume, is partly a function of highway availability. Increasing the highway mileage may merely stimulate more automobile travel.

Based on the misleading concept of equating need with travel forecast, the most recent highway needs report estimates that there is a "need" to devote $320 billion worth of our national resources to road construction over the next 15 years. We do not believe that anything like this enormous sum can or will be spared for road construction. The crucial question, however, is: Which parts of this total highway "need" offer a social rate of return sufficient to justify the expenditure of public funds? A more specific and pressing question which the Congress must decide is the extent to which the social value of the remaining segments of the Interstate Highway System justifies the authorization of additional funds. It is now estimated that completion of the presently designated 42,500 mile system will require approximately $12 billion in Federal funds, beyond currently authorized amounts, and this estimate contains no allowance for any future cost increases.

At our recent hearings, Assistant Secretary of Transportation Baker described to the subcommittee analytic efforts currently being undertaken by his Department which are designed to yield conclusions about the comparative value of investment in different modes of transportation. The target date for completion of this analysis is not until 1972. In the meantime, the background information needed to make a major new decision on Federal-aid highway authorizations is simply not available.

In making transportation expenditure decisions, Congress needs access to more comprehensive analysis of social costs and benefits than is currently available. The appropriate agencies of the executive branch should make such information available at the time authorization requests are introduced, and Congress should improve its capability for evaluating such information. Specifically, such analysis should include:

(1) Estimates of the full costs and benefits of proposed transportation investments. External costs and benefits should be included, and an adequate discount rate should be applied to the estimation of future benefits; (2) estimates of the distribution of the costs and benefits of the proposed project among different groups in society, together with an analysis of the extent to which fully adequate compensation of those who are adversely affected by such investment is feasible.

Adequate information of this type is not presently available with respect to uncompleted portions of the Interstate Highway System. Since existing authorizations for the Interstate System extend into fiscal 1974, we believe Congress would be well advised to postpone action on further authorizations until more adequate analysis of the social value of further Interstate Highway expenditures can be made available.

If there are proposed sections of the Interstate System which cannot demonstrate a high social value, Congress should have this information when further authorizations are considered.

FEDERAL TRANSPORTATION EXPENDITURES SHOULD BE SUBJECTED TO REGULAR BUDGETARY REVIEW

The previous two sections of this report have stressed our belief that more complete economic analysis of proposed transportation investments is essential. Such analysis will really be of value, however, only if our financing system is sufficiently flexible to permit rational use of the analytic evidence. Evidence that a particular transportation need can be met most efficiently by improving the public transportation system, for example, is apt to be ignored if funds are available only for highway construction. Similarly, evidence that urban transportation problems could best be eased by enabling people to live closer to their jobs may be primarily of academic interest if funds are available for transportation systems but not for housing and urban reconstruction.

From its initiation in 1916 until 1956, the Federal aid highway program was financed out of general revenues, so that highway appropriations were subjected to all the usual procedures of budgetary review. In the mid-1950's, it was decided to give a very high budgetary priority to the construction of a comprehensive national highway system. A special financing arrangement, the highway trust fund, was created. Revenues from the Federal gasoline tax and certain other motor vehicle-related taxes were placed in this fund, and the use of these revenues was restricted to the financing of federally aided highway construction.

The receipts of the highway trust fund now exceed $5 billion per year. Total receipts from 1956 through its scheduled expiration date in September 1972 will approach $60 billion. For 15 years now this important source of revenue has been insulated from any real consideration of the relative value of highway and nonhighway uses. We believe the time has arrived when provision should be made for Congress to again have the opportunity to review annually the uses of this revenue.

It is sometimes argued that it is somehow unfair to use revenues from the gasoline tax and other road-user charges for anything except highway construction. There are several reasons why we do not accept this argument. First, since the average family finds it very difficult to get along in today's world without an automobile, this family has little choice except to pay gasoline taxes. There is no logical basis for regarding payment of these taxes as a "vote" for more highways. Second, we do not view our other excise taxes this way. Alcoholic beverage taxes, for example, are not used to build distilleries, nor are they dedicated to use in constructing facilities for the treatment of alcoholics. Third, even if we were to accept the view that the proceeds of the gasoline tax should be expended only for the benefit of road users, new highways are clearly not the only investment from which road users might benefit. A witness at our recent hearings told of a study he had made indicating that 35 percent of the benefit of a proposed new subway line would accrue to road users, rather than subway users.[4] Yet we do not finance rapid transit from the gasoline tax. Many road users would benefit from making our central cities livable again, so that urban streets would be less clogged with commuters from the suburbs. Yet we do not finance urban reconstruction through the gasoline tax.

There have recently been a number of proposals put forward for broadening the uses to which highway trust fund revenues can be put. These range from the relatively modest proposals put forward by the administration this year to finance forest and public land highways and the highway safety and beautification programs out of the trust fund to sweeping proposals to finance Federal investment in all modes of transportation out of a general trust fund made up of receipts from all the existing Federal transportation user charges, perhaps supplemented by transfers from general revenues.

The Assistant Secretary of Transportation indicated in his testimony before our subcommittee that the Department has various proposals for a general transportation trust fund under active consideration. Several other witnesses at our recent hearings advocated this general trust fund approach. Many of their arguments are quite persuasive. A general trust fund offers one major advantage over the proliferation of separate trust funds for the various modes of transportation, a proliferation evidenced by the establishment this year of an airport-airways trust fund. With a general trust fund it would become possible to allocate funds rationally among transportation modes choosing in each individual situation the mode which will most efficiently and effectively serve our need for mobility.

The disadvantage of the general transportation trust fund approach arises when we come to the question of a rational allocation of budget resources between transportation and nontransportation uses. How can we be sure that we would not lock ourselves into a situation in which we would overinvest in transportation while underinvesting in other aspects of economic development and public well-being? There is clearly, for example, a tradeoff between patterns of residential location and our need for urban transportation. But the establishment of a general transportation trust fund would provide no incentives to analyze housing investment and transportation investment as alternative solutions to the problem of urban mobility, nor would it provide the opportunity to allocate expenditures in accordance with the results of any such analysis.

Thus, while some broader concept of a transportation trust fund would contribute to a more rational allocation of Federal expenditure than at present, this objective would be more completely realized by a return to the financing of transportation investment out of general revenues. There is, of course, need for some assurance of financing continuity where investment projects take several years to complete, but this problem is not unique to transportation investment, and we believe it can be satisfactorily handled without the segregation of revenues into special funds.

Transportation expenditures should be subjected to all the usual procedures of budgetary review. In keeping with the previous recommendation of this subcommittee, subsequently endorsed by the full Joint Economic Committee, that "the trust fund should be abolished as an instrument for financing Federal programs involving investment, construction, or the provision of facilities or services," Congress should take such legislative action as is required to provide for the orderly but expeditious phasing out of the highway trust fund and the return to the financing of transportation expenditures out of general revenues.

The PRESIDING OFFICER (Mr. TUNNEY). All remaining time has been yielded back. The question is on agreeing to the amendment of the Senator from Connecticut (Mr. RIBICOFF). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. EAGLETON), the Senator from North

[3] 1970 National Highway Needs Report, p. 11.

[4] Christopher Foster, testimony before the Subcommittee on Economy in Government, May 6, 1970.

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Carolina (Mr. ERVIN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. CRANSTON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from New Hampshire (Mr. MCINTYRE), are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), and the Senator from New Mexico (Mr. MONTOYA), would each vote "nay."

On this vote, the Senator from South Dakota (Mr. MCGOVERN) is paired with the Senator from Alabama (Mr. SPARKMAN). If present and voting, the Senator from Alabama would vote "nay" and the Senator from South Dakota would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from North Dakota (Mr. YOUNG) is detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 32, nays 39, as follows:

[No. 318 Leg.]

YEAS—32

Beall	Inouye	Proxmire
Brooke	Jackson	Ribicoff
Buckley	Javits	Roth
Case	Kennedy	Schweiker
Church	Magnuson	Scott
Fong	Mathias	Stevenson
Griffin	Mondale	Symington
Harris	Muskie	Tunney
Hart	Nelson	Weicker
Hartke	Pastore	Williams
Humphrey	Pell	

NAYS—39

Aiken	Burdick	Gurney
Allen	Byrd, Va.	Hansen
Allott	Byrd, W. Va.	Hollings
Anderson	Cannon	Hruska
Baker	Cooper	Hughes
Bayh	Eastland	Jordan, N.C.
Bennett	Fannin	Jordan, Idaho
Bentsen	Gambrell	Long
Bible	Gravel	Mansfield
McClellan	Randolph	Stennis
Miller	Smith	Stevens
Moss	Spong	Talmadge
Pearson	Stafford	Thurmond

NOT VOTING—29

Bellmon	Eagleton	Montoya
Boggs	Ellender	Mundt
Brock	Ervin	Packwood
Chiles	Fulbright	Percy
Cook	Goldwater	Saxbe
Cotton	Hatfield	Sparkman
Cranston	McGee	Taft
Curtis	McGovern	Tower
Dole	McIntyre	Young
Dominick	Metcalf	

So Mr. RIBICOFF's amendment was rejected.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAYH. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 36, beginning with "The allowance" in line 9, strike out through line 12, and in lieu thereof insert the following:

"There shall be allowed to an individual a credit of $25 ($50 in the case of a married couple filing a joint return) against the tax imposed by this chapter for the taxable year beginning after December 31, 1970, and ending before January 1, 1972, except that such credit shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property)."

Mr. MANSFIELD. Mr. President, will the Senator yield briefly?

Mr. BAYH. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 40 minutes on the pending amendment, to be equally divided between the sponsor, the Senator from Indiana (Mr. BAYH), and the manager of the bill, the Senator from Louisiana (Mr. LONG).

The PRESIDING OFFICER (Mr. TUNNEY). Without objection, it is so ordered.

Mr. MANSFIELD. It is my understanding that the Javits amendment, which fits into the same pattern, will follow the Bayh amendment. I therefore ask unanimous consent that the same time limitation, under the same circumstances, apply to the Javits amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, that will be the last vote this evening.

Mr. JAVITS. Mr. President, will the Senator from Indiana give me just 30 seconds, in view of the fact that my amendment is on the same pattern as that of the Senator from Indiana and it would be better to deal with both amendments now, to say that the Senator from Indiana (Mr. BAYH) proposes to put the additional personal allowance on the income tax. My amendment would also put a material reduction in the depreciation allowances which have recently been revised. What I propose to do is to use the same fund for the purpose of giving a credit for additional jobs, an extra employment credit, and that is why I say it will help Senators to understand this whole situation, and that the two amendments fit in the same pattern.

Mr. MANSFIELD. I appreciate what the Senator from New York has just said because it explains the reason why it is better that both amendments be considered together.

Mr. JAVITS. Right. I thank the Senator.

Mr. BAYH. Mr. President, inasmuch as I have not had the opportunity to discuss this amendment at length earlier, let me take a few minutes now to explain it in more detail.

Mr. BYRD of West Virginia. If the Senator from Indiana will pardon an interruption at this moment, I ask unanimous consent—as I have been asked by the distinguished majority leader to do—that, immediately following the disposition of the amendment which will shortly be offered by the Senator from New York (Mr. JAVITS), the Chair then lay before the Senate amendment No. 649 by the Senator from Minnesota (Mr. MONDALE), that it be made the pending question, and that time thereon not start running until tomorrow; and that time on the amendment be limited to 2 hours, with the time to be equally divided between the mover of the amendment, the Senator from Minnesota (Mr. MONDALE), and the manager of the bill, the Senator from Louisiana (Mr. LONG).

The PRESIDING OFFICER (Mr. WILLIAMS). Without objection, it is so ordered.

Mr. BAYH. Mr. President, my amendment has just been sent to the desk, cosponsored by the Senator from South Carolina (Mr. HOLLINGS), the Senator from California (Mr. TUNNEY), the Senator from Wisconsin (Mr. NELSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alaska (Mr. GRAVEL), the Senator from Hawaii (Mr. INOUYE), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Texas (Mr. BENTSEN).

The amendment would repeal the ADR, which is a continuous and permanent tax drain on the Federal Treasury. It would then provide for each taxpayer, retroactive to January 15 of this year, a $25 credit, and a $50 credit for man and wife filing a joint return. This amendment would be limited to 1 year alone.

The measure we have now would take effect next year.

It is the feeling of the sponsors of the amendment that what we need is an immediate impact on the economy, an immediate shot in the arm, and that is why we have provided this immediate 1-year credit.

I shall not go into further detail in discussing the need to eliminate the ADR. I did that earlier. It all gets down to whether we feel we need to have an equitable economic stimulus or whether we need to go ahead with the economic stimulus provided by the administration, which is very uneven in its impact, as it greatly favors business over the consumer.

What we are doing is to eliminate ADR and take the funds gained therefrom and give every taxpayer a $25 credit this year.

Mr. BENNETT. Mr. President, let me point out again that, thus far today, we have reduced the revenues of the United States by $2,915,000,000.

With respect to the year 1971, as I understand the amendment proposed by the Senator from Indiana, these would be an additional reduction of about $2.4 billion, offset by a reduction in the ADR of $0.7 billion. So, in effect, we will have added another $1.7 billion to the reductions that we have voted in the bill for this year, making a total of about $4.6 billion. In order to justify it, he would strike down the whole concept of trying to put American investment in business on any kind of equitable relationship with the investment pattern in foreign countries.

Mr. President, since the Senator from Indiana is not a member of the committee, I think he may not have realized what he is doing.

I hold in my hand a table prepared by the Secretary of the Treasury on comparative capital costs of manufacturing machinery and equipment as influenced by income tax policies, corporation income tax rates, depreciation allowances, and investment allowances and credits.

Using the United States as a base, under present law prior to ADR and without any regard to subsequent changes in the law, and using the after-tax cost in the United States as $100, the after-tax cost of the same equipment in Great Britain is $79—and I am not talking about differences in price, I am talking about differences created by the difference in the tax rates—Japan, $81; Italy $82; West Germany $83; Sweden $83.

With the 7-percent tax credit alone without ADR, the after-tax cost in the United States would be $90–$90.50. They are still all the way below us. But without the three-quarters year convention which the bill removes. ADR plus the 7-percent tax credit, we would reduce the cost to $87.

What are we worried about this for?

Because American products are being priced out of the world market and that part of the economy which depends on exports is drying up. American manufacturers face this set of facts, realizing that they can go to Great Britain and put in the same machinery at a net cost of $79 that would cost them $100 in the United States. Senators can understand one of the reasons why investors are going to Great Britain and that when they do that, they do not hire American workingmen but they hire British workingmen.

Our job, and one of the purposes of this tax bill, is to provide an atmosphere under which American manufacturers can operate in the United States, hiring American workingmen, and be in a better position to compete in the world outside.

This is another case where, on the surface, it will be argued that this is a tax windfall for business. This is a means by which business not only can become competitive but can also hold jobs in the United States.

This is an interesting trade off. In order to get money to put an additional $2.4 billion in the pockets of the taxpayers this year, we will destroy the whole system which over the years has made it possible to do these things. I think the Senate would be very shortsighted to adopt this position which is something for today at the cost of jobs for our children in the years to come.

I hope the Senate will have vision enough to reject this amendment as well as the companion amendment which will be offered later by the Senator from New York.

It is easy to say that this is for business and we do not care what happens to business because they have too many benefits now, anyway.

This is for jobs, American jobs, as against jobs that American capital may create in England, Germany, Italy, and even in Canada.

I hope that we will realize that the simple answer to the question is not a sound one. I hope that the Senate will reject the amendment.

Mr. BAYH. Mr. President, I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I join my distinguished colleague, the Senator from Indiana, and others in this amendment.

When we saw the tax package submitted by the President, the first impression was that it was a balance between business and individuals. It is obvious that business is given about a 23-percent tax break, whereas the individuals have been given about a 7-percent tax break.

The arguments of my distinguished friend, the Senator from Utah, do have merit in that we have to get business to incite production and create jobs. So, we look at it in a dispassionate way and say, "Well, how much should it be; what will make it work?"

I was very interested earlier this week to listen to Walter Heller, one of the most distinguished economists in the country, the former Chairman of the President's Economic Advisers from 1961 to 1962, state that the adoption of the tax credit in 1962 had no effect whatever on jobs until the tax cut of 1964 joined it.

So it is that I and others have sort of joined our minds together to marry together the tax credit for business and relief for individuals.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. BENNETT. On whose time is the Senator talking?

Mr. HOLLINGS. I am talking as a coauthor of the amendment.

Mr. BENNETT. Did the Senator yield time to the Senator from South Carolina?

Mr. HOLLINGS. He did.

Mr. BENNETT. I did not hear that.

Mr. HOLLINGS. So the question then is whether we can take the money—as the amendment intends to do—from business organizations in the amount of—I do not know how much because there is a question in the Finance Committee—but about $2.3 billion and give it in the ameliorated form of $25 to a single individual and $50 to a couple and withhold it until next year and balance it off economically and fiscally.

In the light of the vote on the amendment of the Senator from Indiana, we cannot only do it, but we thereby answer the immediate need of the President's program to pour this money into the economy.

It is striking strange that the opposition to the amendment was ready right off to cut back the package on the ADR's and now all of a sudden want to talk jobs.

I have heard all afternoon, "Look how you are throwing money around; you are adding this, and you are adding that."

However, once it gets into the pockets of business, everyone is going to move to England and away from our shores, they say.

We do not want to be punitive or selfish on one side or the other. We want to help business in the tax credit and we want to help the individual. We want more social sense on the one hand and more economic sense on the other.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. BAYH. Mr. President, the Senator mentioned ADR and the Senator from Utah mentioned England and how they were in a much better position with respect to capital.

However, if you look at what is happening under the British system, I do not think anyone will be ready to move to England.

The average per capita income in England is $1,690 compared to our $4,660.

The rate of GNP from 1960 to 1969 in the United Kingdom was 2.8 and in the United States it was 4.6.

So, I do not think anyone can feel so sorry for where we are competitively at the present time.

Mr. HOLLINGS. The Senator is correct. I want to cut this short because the Senator from Massachusetts wants to talk. And we are on limited time.

We have the industry operating at 73 percent of capacity. The whole idea is that no one is going to leave. We want those machines to get started. They need to start. Consumerism is really the quickest way to profit for the American businessman. We need more consumerism. This will help to give an immediate spurt, the $25 for a single individual and the $50 per couple. They will spend that amount and pour it back into our economy. It will be used to buy machinery and let industry refurbish and come up with more jobs.

Mr. BAYH. Mr. President, I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, we have heard some talk about the revenue-losing votes we have had so far.

This amendment is a revenue loser by about $1.7 billion in the first year. However, every year after 1971, this amendment would make money for the Treasury with the revenue gain increasing to $3.5 billion in 1975. If we want to balance

the budget, we ought to vote for the amendment. It saves revenue by reducing the accelerated depreciation in the ADR proposal and it would give a credit of $25 to each individual on his tax return or $50 to a couple filing a joint return.

The amendment would save money for the Treasury and help balance the budget.

In my judgment, this would help to create prosperity and jobs. I am persuaded that business needs customers and they need sales more than they need any more accelerated depreciation.

The investment credit already encourages purchases and helps the economy.

I am persuaded that the investment credit provision in the bill will do more for the people and for the economy than the accelerated depreciation, when you measure one against the other. Every time we have had it, the economy has been improved so much that we eventually had to remove it.

I think this amendment by moderating the incentive to buy and at the same time encourage consumers to buy industry's products would help spur the economy and move it in the direction of tax equity and social justice.

Mr. President, I am satisfied the amendment will be overwhelmingly approved by a tremendous majority of the American people.

Mr. KENNEDY. Mr. President, will the Senator yield me 4 minutes?

Mr. BAYH. Mr. President, I yield 4 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I want to join in commending the members of the Finance Committee and its distinguished chairman for the improvements they made in the President's tax recommendations and in bringing the proposal now pending before us. I think it is a much sounder approach toward meeting our economic crisis than was originally proposed.

I support the amendment introduced by the Senator from Indiana and the Senator from South Carolina. I think they have effectively explained the amendment, and I hope that it will carry.

Mr. President, one of the features which I find most attractive about it is that it provides a substantial immediate tax benefit to the consumer, the forgotten man in our current economic crisis.

Second, the amendment provides a significant one-shot infusion of money into the economy, and I believe this is what we need if we are to bring the economy back to health.

From both viewpoints, this amendment makes sense. It has a great deal of appeal. It eases the tax burden of the average citizen, provides a dramatic infusion of urgently needed resources into the sick economy.

Mr. President, once before in recent years, we saw the enormous impact that such a stimulus could provide for the economy. We all recall the magnificent achievement of the tax cut of 1964, which got the economy moving again. That is what we need again.

The impact of the amendment passed earlier this afternoon, which was offered by the Senator from Indiana (Mr. HARTKE) and which raised the personal exemption to $800, will not be felt until next year. By contrast, the pending amendment can have an immediate impact on the economy.

With this amendment, we can move well down the road toward restoring the confidence of the American people in the economy. I think it is needed. It is of value to the consumer and it is of enormous importance to our economy. Because of the fact that it is a one-shot, 1-year amendment it is economically sound. It will produce no continuing revenue loss. And, it will provide a much fairer balance between consumer and business interests in this bill.

Mr. President, I hope that the amendment will be accepted by the Senate.

Mr. BAYH. Mr. President, I yield 2 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I am pleased to join as a cosponsor and a strong supporter of the Bayh-Hollings amendment to the administration tax bill.

For some time now, Mr. President, I have spoken of the advantages of tax credits as a spur to economic recovery as opposed to those of accelerated depreciation. In an economic slump, tax credits can act as more of an immediate stimulus to the economy; ADR, on the other hand, spreads its benefits over a number of years and has little immediate impact.

I am not opposed to ADR; it is a useful technique which encourages investment in the long run. But Mr. President, our long-run investment outlook is not our most immediate concern. Giving this economy an upward thrust now is of more importance.

I was pleased to see the President call for an investment tax credit to stimulate business expansion, but I have been disappointed that the administration offered no similar credit to spur consumer spending. We know that increases in consumer demand stimulate cash flow and have a direct and visible effect on the economy. We know that tax credits for industry cannot do the job alone.

The Bayh-Hollings amendment is directed to remedying the oversight in the administration bill. It substitutes an income tax credit of $25 per individual and $50 per joint return for the administration's ADR proposals.

This tax credit, which will show up on the bottom line of the individual tax return, will supply the necessary balance between incentives for industry to invest and incentives to encourage consumer spending.

Moreover, I consider the Bayh-Hollings amendment to be superior to the Hartke Amendment, which would increase the individual tax exemption by $150 to $800.

The Hartke amendment, which I did not support, will give, on the average some $70 a year to the high-income taxpayer, but only $14 a year to the low-income taxpaver. The Bayh-Hollings amendment will benefit both high and low-income taxpayers in equal measure and will have the effect of stimulating the economy while treating all citizens alike.

I had previously considered supporting the Hartke amendment, but I believe we can accomplish the same goals more effectively with the Bayh-Hollings amendment.

Moreover, the Bayh-Hollings amendment, estimated at $2.2 billion for its year of operation, would more than be matched by the costs to the Treasury of ADR over a period of years.

Mr. President, it seems to me that the President's package is a halfway and discriminatory measure. It contains some necessary incentives for business without balancing the picture for the consumer. As such, it cannot offer the spur the economy requires.

I believe the Bayh-Hollings amendment is a more equitable and more effective method of achieving economic expansion.

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HARTKE. Mr. President, I support the amendment of my distinguished colleague from Indiana for two reasons. First, there is no question that this amendment does provide a tradeoff business and individual tax relief. In addition, 70 percent of the present equipment in the United States has a longer life than the rate of depreciation so there is little apparent need for this further distortion of the guideline lives.

On the other side of the coin, the amendment would provide immediate additional stimulus to the economy in the marketplace, where it is most needed. Let us not forget that incentive to industrial development does no good if the consumer cannot—or will not—buy the manufactured goods.

I hope the amendment is agreed to.

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BENNETT. Mr. President, how much time is remaining for the opponents and how much time remains for the proponents?

The PRESIDING OFFICER. The Senator from Indiana has 3 minutes and the Senator from Utah has 13 minutes remaining.

Mr. BENNETT. Mr. President, it has been obvious all day that there are those in this body who have no thought of what it takes to provide a job and develop business which will keep jobs. We have had several amendments, the effect of which has been to give us money in our hands now on the theory that we are going to go out and buy merchandise and thus create jobs.

I wonder if my friends realize that people with money in their hands have been increasing the purchase of imports much more rapidly than the purchase of American-made goods, partly because the tax rules and the subsidies that are available in these other countries which make it possible for them to undersell us in our market.

I agree that a person can be made to feel better with an injection, but we have to cure him and if no one ever has the patience to work on the long-term cure but every time the problem is presented wants to get us by with this year or next year, or tomorrow, we are going to fall further and further behind.

This is not the time or place to discuss the whole problem of the international mess we are in. That all traces back to the fact that we are not able to provide the capacity to sell our merchandise and our services on the world market. As I see it, the whole issue here is can we have something for today, never mind what happens tomorrow; we will come back tomorrow and set up more tax relief for a temporary basis, instead of trying to do as the President and the Secretary of the Treasury want to do to provide a base for long-range improvement.

Someone said the 7-percent tax credit is supposed to persuade people to buy machinery. Actually if you give some flexibility in the depreciation schedule, you will persuade people to get rid of machinery which is obsolete, not up to date, and replace it with new machinery. In committee we were told the Germans have a knitting machine which is so much better than any we have that we have to permit them to sell it to us in order that we can compete with this new double knit fabric. The Japanese steel industry is so far ahead of us that I do not know how much investment or time it is going to take us to get in a position to compete. But whenever we try to set up tax machinery so we can persuade Americans to make investments in this country and get in a competitive position, we say that is too long-range; let us give tax relief today and give them more money that they will spend to buy Toyotas, and Japanese textiles.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. PASTORE. Mr. President, I agree with my distinguished colleague on all fours. I have said this on the floor. We instituted a Marshall plan where we peddled more than $20 billion all over the world to modernize our competitors abroad. We did it willingly. We find today, as we look around, that our machinery is archaic. We need modernization. They tell us we cannot compete because we have not modernized and we have not been able to get the money to do so.

I tell you frankly, Mr. President, I am one of those who has been for the working man and I am for the working man, but let me say one thing. You have got to have jobs in order to work. Very frankly, I am for this accelerated depreciation allowance as it has been reported by the committee and I hope it will be sustained.

Argument has been made with respect to the investment credit. Fine, good thing. But we need a little cash flow, too, in order that they can go out and have the money to buy this new machinery.

I have traveled the length and breadth of my State. I have been in most textile mills in Rhode Island.

Mr. President, we cannot compare with the kind of machinery and looms they have in some foreign countries.

What has happened to us? There is not a country in the world that has not given concessions to their businesses so that they can compete in the export trade, and we are the only country that does not do it.

We have to look at this realistically. This is not a question of whether one is a liberal or a conservative—it is a question of whether he is realistic. Very frankly, Mr. President, the time has come when one has to be realistic. I am going to support the committee on this particular amendment.

Mr. BENNETT. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. BAYH. Mr. President, I would like to make one observation with reference to the argument by my friend from Rhode Island. The investment tax credit permits a great incentive for buying new machinery and building new apartment buildings, thus providing jobs, but the accelerated depreciation range means that everybody who already has a machine is going to get an additional tax break. It seems to me that kind of benefit is not going to help the economy of this country. It is giving a special break to those who do not need it.

Mr. PASTORE. Why does the Senator bring an apartment house into the picture? Why does he not bring into the picture the little mill in Rhode Island?

Mr. BAYH. I will be glad to yield——

Mr. PASTORE. I do not care who yields, but I would like an answer.

Mr. BAYH. The little mill in Rhode Island is going to be brought into the picture under the investment credit.

Mr. PASTORE. Provided it has the money to buy the machinery. Where is it going to get the money if it does not have the cash flow? That is the question. I have looked at this question over a long time, and I am not buying philosophy tonight; I am buying realism tonight.

Mr. BAYH. I think the Senator from Rhode Island is sincere in what he says. I am looking at it as realistically as he is.

Mr. PASTORE. That is right. The Senator comes from Indiana and I come from Rhode Island.

Mr. BAYH. We have some antiquated industry in Indiana that I would like to help, but not by giving an automatic tax break to somebody who is not building and who is not modernizing. That is where I differ with the Senator from Rhode Island.

Mr. PASTORE. That is right, and the investment credit goes to many who do not need it, but the fact is that somebody has to be helped, and it all depends on whose ox is being gored.

Mr. BENNETT. Mr. President, I yield myself enough time to reply to the Senator from Indiana. The investment credit in this bill does not apply to apartment houses. It does not apply to buildings. It applies only to machinery and equipment.

Now I yield 3 minutes to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I want to join with my distinguished colleague from Utah and with my distinguished colleague from Rhode Island in urging the Senate to reject this amendment. Discarding everything else and discarding every peripheral argument, I think the issue before us tonight must concentrate on the thrust of most of the proposals contained in the tax revision package. It is in that context that I speak.

Last year this country lost 100,000 textile jobs. We are talking about the kind of things that people with few skills can do. We have lost those jobs to foreign countries because we cannot make the investments necessary to provide the ability to make the kinds of fabrics sold today. If we are going to employ more black people today, many of them must be employed in these knitting industries. We have got to give this industry incentives to invest in equipment and provide jobs. I would say it would affect the people of Wyoming also, because the only market for our wool in the West is found in this country, in American textile plants.

I am concerned about our inability to keep abreast of foreign countries in the steel industry. We have a taconite plant in our State. I visited a plant in Michigan where they also have a taconite plant. This is the type of work that provides jobs for many people. When I visited one of the steelmakers in Japan in 1965, guess who was over there seeing how the Japanese make steel? Representatives from the three largest steel manufacturers in this country were there to see how the Japanese make steel better and more cheaply than we can make it here. They do it in one way: They encourage their industry over there to take advantage of the new technology that we have yet been unable to put into our mills here.

I am concerned for a third reason. We had appearing before the Finance Committee representatives of so-called multinational corporations. These corporations are leaving America. They are taking their technology and their dollars and investing them in Taiwan, Hong Kong, Southeast Asia, and Europe, where they can hire people for from 10 percent to 50 percent of what we pay American workers here. If we want to do something for American jobholders, this is the place where we can do it, and we can do it by rejecting the amendment which will make it difficult for us to compete effectively.

Mr. HOLLINGS. Mr. President, I yield myself 1 minute. Specifically, the ADR was given on September 2 to the textile industry, and it has gone broke on it. We have lost 100,000 jobs with the ADR. So it is not going to help the industry. It is the investment credit. The investment credit says, "Buy machinery so you can go ahead and invest and expand jobs."

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HOLLINGS. On somebody else's time.

Mr. PASTORE. The Senator is pointing at me.

Mr. HOLLINGS. All right. Anybody who talks about the textile industry is going to get an answer. I have never heard anybody talk about knitting machinery from Wyoming.

Mr. BENNETT. Mr. President, I will be glad to yield 3 minutes to the Senator from Rhode Island.

Mr. HOLLINGS. Will the Senator yield me some time?

Mr. BENNETT. The Senator has already had his share of time. He cannot live on mine.

Mr. PASTORE. I wanted to answer the Senator.

Mr. BENNETT. The Senator can answer on the time I have yielded to him.

Mr. PASTORE. Our opponents are saying it does not do any good. What harm does it do? The trouble with the textile industry today is that it is broke. It does not have cash, even in the petty cash. It does not have cash in the petty cash, and the ADR gives them a little cash flow.

That is not the whole answer. I realize that. I understand this is a moderated form. In the long run, it only means that a company accelerates depreciation. It does not depreciate more than what was paid for the merchandise. It only accelerates the depreciation, and it accelerates it for the reason that it brings in a little cash so that it can have some cash to put up a little deposit to take advantage of the investment credit.

I just got through talking with a gentleman in Brown and Sharpe in my State. Mr. President, they used to hire 3,000. They are down to less than 1,000. Most of the machinery and tools are coming from abroad. How do we meet this? Look at West Germany. Look at Japan. Concession after concession. Do Senators realize that a company in Japan can buy steel for export from Japan and get a cheaper price than that which he buys for domestic consumption? They have had gimmick after gimmick, and they have gimmicked us almost out of business.

That is what we are fighting for here tonight. We are fighting to put an American desk in the State Department. That is what we want—an American desk in the State Department. We have an Asian desk. We have a European desk. We have an African desk. It is about time we had an American desk.

Mr. BAYH. Mr. President——

The PRESIDING OFFICER. The Senator from Rhode Island has 1 minute remaining.

Mr. PASTORE. I still have another minute. And so I say to Senators here tonight: The time has come for America to look at itself in the mirror. The reflection is not very good. The American dollar has lost integrity in the world. That is the reason why we are taking this action tonight.

We asked the President of the United States—and we were responsible for it; Senators on the other side of the aisle may brag and take a lot of credit, and pat themselves on the back; but it was the Democratic Party that gave the President the right to freeze wages and prices. He said, at first, "I do not want it," but finally he exercised it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PASTORE. May I have another minute?

Mr. BENNETT. I gave the Senator all I had.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Indiana.

Mr. BAYH. Mr. President, I wanted to yield 30 seconds to the Senator from Louisiana so he could eloquently explain his support.

The PRESIDING OFFICER (Mr. WILLIAMS). All time has expired. The question is on agreeing to the amendment of the Senator from Indiana (Mr. BAYH). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN) and the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

On this vote, the Senator from North Carolina (Mr. ERVIN) is paired with the Senator from Alabama (Mr. SPARKMAN). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Alabama would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Idaho (Mr. JORDAN) and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT) and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 35, nays 37, as follows:

[No. 319 Leg.]

YEAS—35

Anderson	Byrd, W. Va.	Gravel
Bayh	Cannon	Harris
Bentsen	Church	Hart
Bible	Fulbright	Hartke
Burdick	Gambrell	Hollings
Hughes	Mansfield	Randolph
Humphrey	Mondale	Stevens
Inouye	Moss	Stevenson
Jackson	Muskie	Symington
Kennedy	Nelson	Tunney
Long	Pell	Williams
Magnuson	Proxmire	

NAYS—37

Aiken	Fannin	Ribicoff
Allen	Fong	Roth
Allott	Griffin	Schweiker
Baker	Gurney	Scott
Beall	Hansen	Smith
Bennett	Hruska	Spong
Brooke	Javits	Stafford
Buckley	Jordan, N.C.	Stennis
Byrd, Va.	Mathias	Talmadge
Case	McClellan	Thurmond
Cooper	Miller	Weicker
Eastland	Pastore	
Ellender	Pearson	

NOT VOTING—28

Bellmon	Eagleton	Mundt
Boggs	Ervin	Packwood
Brock	Goldwater	Percy
Chiles	Hatfield	Saxbe
Cook	Jordan, Idaho	Sparkman
Cotton	McGee	Taft
Cranston	McGovern	Tower
Curtis	McIntyre	Young
Dole	Metcalf	
Dominick	Montoya	

So Mr. BAYH's amendment was rejected.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 641

Mr. STEVENSON. Mr. President, I want to commend Senator CRANSTON for his amendment to H.R. 10947, the pending tax legislation. As he points out, the permanent repeal of the auto excise tax would make the production of more pollution-spewing automobiles for our crowded streets a high national priority. The amendment Senator CRANSTON and I are cosponsoring would reduce pollution and improve our entire transportation system.

The repeal of this tax would cost the Federal Government, already running a $28-billion deficit for fiscal year 1972, $2.2 billion dollars this year and $2 billion the following year. Such huge sums could be used to help meet our Nation's critical transportation needs.

Our amendment would suspend the tax for 1 year rather than repeal it. The 1-year suspension would allow consumers who purchased automobiles expecting an excise tax refund to receive their anticipated relief. And afterwards it would provide funds for improved mass transit facilities, better railroad passenger service, safer city streets, more rationally planned and modernized airports, and relief from air and noise pollution.

In fact, the revenues from this one source in 1973 could double Federal funding for mass transit, and still leave $1 billion for airports, city streets and traffic control devices, Amtrak, and air pollution control.

With a Nation desperate for adequate transportation facilities and services, it is difficult for me to conceive of a better use for these funds.

And it is also difficult to conceive a more striking example of our Nation's disordered priorities than congressional enactment of a $2 billion annual program to produce more automobiles—for that is what repeal of the excise tax would mean.

American consumers deserve immediate tax relief, and increased consumer spending would be the best tonic for our stagnating economy. It would be more appropriate to provide all consumers with additional income through cuts in the personal income tax instead of confining relief to those who purchase new cars. The former approach—embodied in an amendment I have introduced to increase the personal exemption from $650 to $700 retroactive to January 1, 1971—would provide all taxpayers with additional income and allow them to choose the purposes for which they wish to spend it rather than make the production of more pollution-spreading automobiles for our congested streets an overriding national objective.

AUTHORIZATION FOR STAR PRINT OF COMMITTEE REPORT

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Michigan (Mr. HART) of the Committee on Commerce, I ask unanimous consent that a star print of Report No. 92-435, Calendar No. 426, be printed. The star print will reflect technical and other minor changes in the report filed on November 8, accompanying S. 2824, the proposed Wholesome Fish and Fisheries Products Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS, Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 35, beginning with line 20, strike out through line 3 on page 40, and insert in lieu thereof the following:

(a) Section 167 (relating to depreciation) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CLASS LIVES.—

"(1) IN GENERAL.—In the case of a taxpayer who has made an election under this subsection for the taxable year, the term 'reasonable allowance' as used in subsection (a) means (with respect to property which is placed in service during the taxable year and which is included in any class for which a class life has been prescribed) only an allowance based on the class life prescribed by the Secretary or his delegate which reasonably reflects the anticipated useful life of that class of property to the industry or other group. The allowance so prescribed may (under regulations prescribed by the Secretary or his delegate) permit a variance from any class life by not more than 5 percent (rounded to the nearest half year) of such life.

"(2) CERTAIN FIRST-YEAR CONVENTIONS NOT PERMITTED.—No convention with respect to the time at which assets are deemed placed in service shall be permitted under this section which generally would provide greater depreciation allowances during the taxable year in which the assets are placed in service than would be permitted if all assets were placed in service ratably throughout the year and if depreciation allowances were computed without regard to any convention.

"(3) MAKING OF ELECTION.—An election under this subsection for any taxable year shall be made at such time, in such manner, and subject to such conditions as may be prescribed by the Secretary or his delegate by regulations."

(b) REASONABLE REPAIR ALLOWANCE.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(f) REASONABLE REPAIR ALLOWANCE.—The Secretary or his delegate may by regulations provide that the taxpayer may make an election under which amounts representing either repair expenses or specified repair, rehabilitation, or improvement expenditures for any class of depreciable property—

"(1) are allowable as a deduction under section 162(a) or 212 (whichever is appropriate) to the extent of the repair allowance for that class, and

"(2) to the extent such amounts exceed for the taxable year such repair allowance, are chargeable to capital account.

Any allowance prescribed under this subsection shall reasonably reflect the anticipated repair experience of the class of property in the industry or other group."

(c) RAILROAD ROLLING STOCK.—Section 263 (e) (relating to expenditures in connection with certain railroad rolling stock) is amended—

(1) by striking out "shall be treated" and inserting in lieu thereof "shall, at the election of the taxpayer, be treated", and

(2) by adding at the end thereof the following new sentences: "An election under this subsection shall be made for any taxable year at such time and in such manner as the Secretary or his delegate prescribes by regulations. An election may not be made under this subsection for any taxable year to which an election under subsection (f) applies to railroad rolling stock (other than locomotives)."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to property placed in service after December 31, 1970.

(2) The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1970.

(3) The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1969.

(e) TRANSITIONAL RULES.—

(1) REAL PROPERTY.—In the case of buildings and other items of section 1250 property for which a separate guideline life is prescribed in Revenue Procedure 62-21 (as amended and supplemented), the class lives first prescribed by the Secretary of the Treasury or his delegate under section 167(m) of the Internal Revenue Code of 1954 shall be the same as the guideline lives for such property in effect on December 31, 1970. Any such property which is placed in service by the taxpayer during the period beginning on January 1, 1971, and ending on December 31, 1973 (or such earlier date on which a class life subsequently prescribed by the Secretary of the Treasury or his delegate under such section becomes effective for such property) may, in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, be excluded by the taxpayer from an election under such section if a life for such property shorter than the class life prescribed in accordance with the preceding sentence is justified under Revenue Procedure 62-21 (as amended and supplemented).

(2) SUBSIDIARY ASSETS.—If a significant portion of a class of property first prescribed by the Secretary of the Treasury or his delegate under section 167 (m) of the Internal Revenue Code of 1954 consists of subsidiary assets, all such subsidiary assets in such class placed in service by the taxpayer during the period beginning on January 1, 1971, and ending on December 31, 1973 (or such earlier date on which a class which includes such subsidiary assets subsequently prescribed by the Secretary of the Treasury or his delegate under such section becomes effective), may, in accordance with regulations prescribed by the Secretary of the Treasury or his delegate, be excluded by the taxpayer from an election under such section.

SEC. 110. EMPLOYMENT INCENTIVE CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax), as amended by title VII of this Act, is amended by renumbering section 41 as 42, and by inserting after section 40 the following new section:

"SEC. 41. EXPANSION OF EMPLOYMENT.

"(a) GENERAL RULE.—For the purpose of encouraging the expansion of employment there shall be allowed to a taxpayer as a credit against the tax imposed by this chapter an amount determined by multiplying $4 by the number obtained by subtracting the total number of man-days worked by all of his employees during the base period from the number of man-days worked by all of his employees during the most recent calendar year ending during his taxable year.

"(b) LIMITATIONS.—

"(1) AMOUNT.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property).

"(2) OVERTIME.—For purposes of determining the number of man-days worked by the taxpayer's employees, no hours of work by any employee shall be taken into consideration which are in excess of 40 hours during any calendar week, except that hours worked by an employee in excess of 40 hours per calendar week during any month may be taken into consideration to the extent that the man-days worked by such employee during that month are not in excess of the number of man-days during that month which an employee working only 40 hours per calendar week would have worked.

"(3) APPLICATION WITH SUBPART C.—No man-day worked by any employee whose employment is taken into consideration for purposes of section 40 (relating to expenses of work incentive programs) for any taxable year shall be taken into consideration under this section for that taxable year.

"(c) DEFINITIONS.—

"(1) BASE YEAR.—As used in this section, the term 'base year' means—(A) For calendar year 1972, the base year shall be calendar year 1971; and (B) for calendar year 1973 the base year shall be calendar year 1972.

"(2) MAN-DAYS.—As used in this section, the term 'man-days' means a calendar day on which at least seven hours of work is performed by one employee. In the case of employees working less than seven hours per day each eight hours worked by one or more such employees shall be counted as one man-day.

"(d) SPECIAL RULES.—

"(1) NEW BUSINESSES.—A taxpayer who had no employees during the base period, or who was not engaged in business during the full base period, shall determine the credit allowable to him under subsection (a) in accordance with regulations prescribed by the Secretary or his delegates.

"(2) MERGERS, CONSOLIDATIONS, ETC.—Whenever a taxpayer increases the total number of man-days worked by his employees during the taxable year by purchasing or otherwise acquiring the business operations of another taxpayer, he shall adjust his base period in accordance with regulations prescribed by the Secretary or his delegate in order to determine the credit allowable to him under subsection (a) for that and subsequent taxable years.

"(3) No credit shall be allowed under this section for any man-day worked by any employee unless such employee was paid for his work during such man-day at a rate not less than the minimum rate of pay then prescribed under section 6(a)(1) of the Fair Labor Standards Act.

"(e) REGULATIONS.—The Secretary or his delegate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart, as amended by title VII of this Act, is amended by striking out

"SEC. 41. Overpayments of tax."

and inserting in lieu thereof:

"SEC. 41. Expansion of employment.

"SEC. 42. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1972, and before January 1, 1974.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. STENNIS). The Senate will be in order.

Mr. JAVITS. Mr. President, I yield myself 10 minutes.

Mr. President, this amendment is sponsored by such a large number of Senators that the names are worth reading: Senators BROOKE, HART, MONDALE, CRANSTON, HATFIELD, KENNEDY. MATHIAS, MCGOVERN, STEVENS, TUNNEY, and WILLIAMS; and Senator NELSON, who has been tremendously helpful in working it out with me. The amendment would cut the ADR—that is, the asset depreciation range—from 20 percent to 5 percent. I am told that that actually means a cut of between 50 percent and 70 percent in the revenue loss. I have not cut it completely. There are administration expense problems and other things which dictate that some of it should be retained.

In addition, this is only a 2-year proposition. We may very well go back to it. So it is best to keep it on the books. Reducing ADR to 5 percent raises $1.7 billion during the first 2 years. I use the $1.7 billion for the purpose of establishing a job credit.

Interestingly enough, notwithstanding the title of this bill—"to provide a job development investment credit"—there "ain't none" directly except mine. This is a direct job development credit, because it provides $4 per man day, or about $1,000 per man year, for every additional employee put on by any concern over the base period which precedes it; and the credit cannot be earned unless the employee works at least 7 hours a day, and the employee must be paid the minimum wage. The reason that there is a juxtaposition here is as follows: The position of the Senator from Indiana (Mr. BAYH) and his colleagues, which apparently the Senate by a very narrow margin did not go along with, was that we need to add more purchasing power, that that is what we need to beef up the economy, and that the more we beef up the economy the more it will produce more economic activity and more jobs.

My amendment proceeds on the theory of adding more jobs directly.

The Full Employment Act of 1946 expresses the policy of the United States to provide "conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment production, and purchasing power.

We are far short of the goal of full employment today—some millions of jobs short of it—and given the most optimistic estimates, there is little chance that we shall achieve it in the near future if we are to operate only within the general parameters of the changes proposed by the administration and embodied in the committee bill.

The amendment which we are offering today will leave ample inducement for American businessmen to modernize their plant and equipment. At the same time, and at no additional revenue cost to the Government, it will provide a direct and immediate spur to every businessman in America to increase his work force during the next 2 years through a tax credit linked directly to additional jobs.

The basic concept of such a tax credit is embodied in S. 2632, a bill which with 13 other Senators I introduced on October 1, 1971. Under it, during the next 2 years, any employer in America whose employees work more man-days in the current year than in the previous one will be eligible for a tax credit in the amount of $4 per man-day, or about $1,000 per man-year. The credit is structured in such a way as to discourage use of overtime and part-time employees. Also, because it is fixed in amount at $4 per man-day, rather than calculated as a percentage of wages, it would operate as a greater incentive in the case of low-wage, marginally skilled employees.

On the basis of computerized estimates prepared by the minority staff of the Joint Economic Committee—estimates are supported by information we have obtained from the Federal Reserve Board and the California economic forecasting project at Berkeley—this tax credit could be expected to generate at least 500,000 additional jobs by the end of the first full year, at a total cost to the Government of $1.8 billion during the first year, tapering off sharply thereafter. That sounds like and is a great deal of money, but it is actually much less expensive—$3,600 per additional man-year—than other proposals such as the investment tax credit—over $6,000 per additional man-year, as estimated by the minority staff of the JEC—or public service employment—$5,000 to $7,000 per man-year—designed to create additional employment.

To put the jobs issue in its proper perspective, I think it is useful to focus on the number of additional jobs we need to create to bring down unemployment to a level of not over 4 percent. According to the Bureau of Labor Statistics, during the coming year over 2 million additional jobs will have to be created to reach 4-percent unemployment by the end of 1972.

That is the goal which we should seek, and our amendment is designed to fit in as part of an overall plan designed to achieve it.

Until very recently, we have sought to achieve the goal of full employment, and at the same time contain inflation, primarily through the use of overall budgetary and fiscal policy. What the past decade has shown, however, is that these traditional weapons of economic management are inadequate or, at best, clumsy tools to achieve that objective. With them we have not been able to move to contain inflation without producing a substantial amount of unemployment; nor have we been able to reduce unemployment below about 4.5 percent without losing price stability.

We are now at the point of searching for more effective tools of economic management. In particular, we are concerned with shaping a new tax policy which will help stimulate economic activity, yet assure the availability of the revenues which we will need to enable us to continue to deal with our pressing social problems. Indeed, the President's economic stabilization program offers a unique opportunity to take new economic initiatives.

A tax credit along the lines proposed in this amendment can furnish a powerful new tool to stimulate additional employment without increasing inflationary pressures. It would provide a direct incentive for additional employment, yet because it would do so by reducing costs it would avoid putting any upward pressure on prices in the way that a simple increase in Government spending would. Furthermore it would have the added virtue of reducing costs in the one area—labor—where our foreign competitors generally have had their greatest advantage over us. Finally, and very importantly, it would help all industries, including service industries which now employ about 50 percent of all Americans, whereas the investment tax credit and the new ADR rules will primarily benefit the capital-intensive industries.

Mr. President, I strongly believe that incentives are necessary to spur American businessmen to modernize their capital facilities and thus remain competitive with the rest of the world. It was for that reason that I supported the original ADR regulations promulgated by the Treasury last February. The bill as reported by the Finance Committee, however, not only would permit the full 20 percent speedup under the ADR rules promulgated by the Treasury last winter, but also would provide a permanent 7 percent investment tax credit, which would do even more to spur investment than the ADR rules. In particular, enactment of the 7-percent investment tax credit would provide $45.1 billion worth of credits to the American businessman during the next 10 years, while the full 20-percent speedup under the new ADR rules would provide an additional $27.5 billion during the same period. I do not believe that both the investment tax credit and a full 20-percent ADR speedup are necessary to stimulate significant modernization of the American industrial plant; part of this money could better be used at this time, in my judgment, to fund programs which will have a more direct and immediate impact in alleviating present unemployment by producing additional jobs. The amendment we have offered today will reduce the cost of the new ADR rules by $1.7 billion during 1971–72, and by $19 billion through 1980. This will leave $53 billion still available through the investment tax credit and the reduced ADR to stimulate investment. I believe that such a sum will provide ample incentive for American business to modernize its capital facilities.

At the same time, we shall be doing something directly about the sticky 6-percent unemployment rate, by stimulating 500,000 jobs at a cost of $1.8 billion at the outside. Let me stress that the employment credit is only used if it adds employment. If not, it is not used at all. But the outside figure which I have, of $1.8 billion, results from the computerization made by the minority staff of the Joint Economic Committee, in my discussions, and theirs, with the Federal Reserve Board and the California economic forecasting project. We believe it is supported and sustained, that the tax credit can be expected to generate at least 500,000 additional jobs by the end of the first full year, at a cost to the Government of $1.8 billion. It will taper off sharply thereafter. But the first year's cost, the maximum effectiveness—to wit, 500,000 jobs—will cost $1.8 billion.

Another thing that is critically important: the investment tax credit in the bill goes as well to the people having the accelerated depreciation. It seems fair, in an emergency, to have a tradeoff, to reduce that somewhat, or considerably, if we can get a direct employment stimulus. The theory of my amendment is to give a direct employment stimulus.

The second point is that the bill seeks a stimulus of economic activity by the investment tax credit. As I said, I am for that. But let us remember, that affects only one-half the American economy, to wit, the manufacturing part of the economy. Under the investment tax credit, the essential benefits will be for equipment and machinery.

The other half of the economy is service. That will not be appreciably benefited by the 7-percent investment tax credit, but the direct employment credit which I provide in the amendment will benefit the service industries.

Indeed, I thought this up with my staff precisely because I was troubled—I know something about business, as I think all my colleagues know—because I recognized that the investment tax credit had application only to one-half. What about the other half? It set me thinking. As a result of that thinking, it resulted in this particular proposition.

Mr. President, we have only a short time for this debate, but I would like to tell my colleagues this: I have checked and rechecked this with the committees, and with many others—the Federal Reserve Board, leading bankers, leading businessmen, and so forth. People have differences with it. They may not like this or they may not like that, but no one has dented the fundamental thesis. They cannot refute the proposition that if we want to help the totality of the American economy and want a direct employment stimulus, a tax credit for jobs, this is the way to do it. Everyone has got to concede that.

So, my colleagues having rejected the other thesis, which I respect, and, as a matter of fact I encouraged the Senator from Indiana (Mr. BAYH) to precede me, although I could not be with him, for the philosophic reasons I have named—I do not believe that our problem is added purchasing power, and we have enormous idle facilities and people do have the money. The savings rate shows that. It simply is a question of their not having the confidence to spend it, or not having the confidence when they look at the unemployment figures or at the international currency situation, and so forth. People have a feeling about that.

By this amendment, on a trade off, so that it costs us no Treasury money—paying serious attention to what my colleague, the Senator from Utah (Mr. BENNETT) has argued—but that it costs no Treasury money, we have a direct relationship between the job and the tax benefit.

I respectfully submit, that is what we should do on an emergency bill, and I hope very much that the Senate will approve the amendment.

Mr. HANSEN. Mr. President, will the Senator from New York yield for a question?

Mr. JAVITS. I yield.

Mr. HANSEN. Mr. President, may I ask my distinguished colleague from New York, for whom I have considerable respect, whether it would be possible, under his amendment, for an employer to shorten the work hours of those persons presently in his employment and to take on additional employees and get the tax credit and really not, overall, put more money into employment than he is presently paying?

Mr. JAVITS. No. That is not so, because the man must work 7 hours a day in order to earn for the employer the tax credit. In other words, he has got to be a full-time employee. He has got to work 7 hours a day in order to earn that tax credit.

Mr. BENNETT. But must all the other employees work 7 hours a day?

Mr. JAVITS. Pardon?

Mr. BENNETT. Must all the other employees work 7 hours a day then?

Mr. JAVITS. Well, we deal with that—let me read the provision——

The PRESIDING OFFICER (Mr. STENNIS). The time of the Senator from New York has expired.

Mr. JAVITS. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 additional minutes.

Mr. BENNETT. That is not the same thing I was talking about.

Mr. JAVITS. I am.

Mr. BENNETT. The Senator from New York would cut everyone down to 4 hours, and then hire some more people for 7 hours.

Mr. JAVITS. That is the limitation. I did not deal with the overtime question here. That is what I was going to read to the Senate.

Each man must have 7 hours' work for the purpose of determining the number of man-days worked by the taxpayer's employees. Also, no hours of work by any employee shall be taken into consideration which are in excess of 40 hours during any calendar week.

Mr. BENNETT. We are not talking about the same thing at all. I am talking about underemployment. The employer says, "In order to get these people and get the $4-a-day benefit, I will work everyone else in the plant and will knock them down from 7 to 5 hours. Therefore, I have to have more employees."

Mr. JAVITS. The amendment cancels out that kind of employment as against the base period. Now the provision on that is the definition of the term "man day," as used in this section. The term "man day" means the calendar day in which at least 7 hours of work is performed by one employee, or, in the case of employees working less than 7 hours per day, each 8 hours worked by one or more employees shall be counted as 1 man-day.

So the purpose—and if the Senator is not satisfied with the language, he will be a conferee; I will not—is to cancel out the credit if there is underemployment; to wit, work under 7 hours a day. So we try to catch it at either side.

As I say to the Senator from Utah (Mr. BENNETT), that is my position. That is what I tried to explain. If it is artless or does not accomplish it, the Senator from Utah will have plenty of opportunity to work it out.

Mr. MILLER. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. MILLER. I am concerned about two aspects of this. First of all, we have a serious trade problem, a balance of trade which has gone from $7½ billion down to zero. No one knows that better than the Senator from New York, who has spoken out on many occasions and tried to come up with some ideas to help this problem. But when we are in a competitive situation such as we are, until the tide turns, there are some firms in this country doing all they can to maintain the employment that they have right now.

Why should they be discriminated against because some other firm that may not be in a similar position adds on people? We went through the same problem in connection with the DISC problem which is in the bill. We decided that instead of going along with the House approach, which gives a benefit only insofar as there is a substantial increase over the previous record on exports, that we had better give a benefit for the purpose of maintaining exports, too.

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I think we had better do something about the firms that are trying desperately to avoid laying off people because of the pressure of competition.

Finally—and I hate to say it—but even with the ADR's and even with the investment tax credit, I am afraid that we are not going to put the U.S. firms on a competitive basis with the overseas firms. It is the overseas firms that are giving us trouble.

We have a monetary problem now which the Secretary of the Treasury is trying to work out. However, even if we get something done there, the firms are going to need ADR's and investment tax credit to get further capital, and I am talking about jobs.

Mr. JAVITS. Mr. President, in the first place, it is perfectly true that the ones who keep their employment stable will not get the benefits. But we are not hurting them. We are talking about foreign competition. We are not hurting them. On the contrary, we are helping the firm that gets the credit, because we reduce the labor cost.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 additional minute.

Mr. JAVITS. Mr. President, one of the arguments made against my proposal by the labor people was because they were afraid that they would be hiring people in the lower wage brackets. My response was that they should think of the stimulus created by employing people and they should think of the training opportunities available when they actually put people in the jobs for on-the-job training. That is essentially the point I make.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. STEVENS. Mr. President, this is quite similar to the amendment in the last bill, an amendment I offered. We had a provision to provide new jobs by providing a $15,000 tax credit as against 7 percent.

In connection with the provision for new jobs, when the Senator from New York provides this new method, I think he has a better approach than was provided in the amendment adopted by the Senate last time.

I hope the amendment is agreed to.

Mr. LONG. Mr. President, it is estimated by the Treasury Department that the Javits amendment would cost between $5 billion and $6 billion a year.

Striking out the depletion allowance, we would have a revenue loss over the long run of anywhere from $3 billion to $4.5 billion with this amendment. It would actually be more immediate.

The Treasury points out that some businesses are expanding and some are contracting. Some businesses are capturing more markets and some are losing some. The Javits amendment is expected to lose a large amount of revenue because it helps those who are expanding even though others are contracting.

It is quite possible that even during a period of reduction in employment in the country, the Javits amendment would cost us billions of dollars a year. It also would add all sorts of incentives for concerns to find ways where one concern will go out of some product and another concern will go into the manufacture of it. One company might displace another company in the market. They might achieve a tax advantage of billions of dollars.

If this amendment were in the bill, the bill would then be guilty of economic schizophrenia. We have a tax advantage for someone to buy machinery which would make them more efficient, but would tend to displace labor. They would build a lot of plants and modernize. Every time we have used that approach, it has expanded the economy, sometimes so much that we have had to abandon it. That has happened twice already.

These are the incentives industry needs. They encourage business to build more plants and buy more equipment. We are encouraging business to modernize which tends to make them more efficient and displace people on the production line.

Then, on the other hand, the Javits amendment would cost even more money and discourage them from buying labor-saving devices.

On the one hand, we encourage them to buy machines and become more efficient, and on the other hand we encourage them not to buy new machines so that they can use more manpower.

The Senator from New York has a noble purpose in mind. However, I think that purpose has already been achieved by agreeing to the Talmadge amendment which says that if a person is hiring someone off the welfare rolls, we will give him 20-percent cash advantage for taking people off the welfare rolls and training them.

That is as far as we can safely go at this time.

Mr. President, I yield 2 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, I would like to back up what my chairman has said. The Treasury estimates that there will be a loss of $5 billion to $6 billion a year.

Apparently in his figure, the Senator from New York took the arbitrary feedback credits from the effect that employment might have on the economy generally.

The Treasury does not make estimates that way. Their estimates are kept on the same basis as are the other estimates we have talked about. We are faced with a loss of $5 billion to $6 billion a year.

There is nothing in the bill that will provide steady work for a man. The employer gets the credit even if he rolls his employees over, as long as each man works 7 hours a day. At the end of the period, when the subsidy goes off, then of course he would have no further reason to keep any of them, since he has been hiring them largely because they only cost him a small part of what the regular employees would cost him.

Mr. LONG. Mr. President, if General Motors were to engage in fierce competition, as it is able to do, and puts let us say American Motors out of business, General Motors would then get a large tax credit because they are hiring somebody that was displaced that formerly worked for American Motors. So, there is a large cash advantage in putting a competitor out of business.

Mr. BENNETT. The Senator is correct. They could actually employ the same men. I can see a situation in which a company organizes a new subsidy with a different name. It closes one plant and opens a new one, and the new one starts from scratch. So, for every employee they put to work in the new business, they get $4 a day every day.

I think this is very, very dangerous.

Mr. President, we thought about this in the committee and decided against it. I hope the Senate will back us up. I do not think it will have any permanent value in the end. All we are doing is handing $4 a day subsidy to those employers, who for any reason, increase the number of their employees.

Maybe the people we should be concerned about are those whose business is dropping off and are facing the possibility of laying employees off.

Mr. JAVITS. Mr. President, I yield myself 2 minutes.

Mr. President, the arguments made against the amendment, I think, can be answered very effectively.

First, they say that I do not take care of the mergers or consolidations. I do. The amendment gives the Treasury the power to make rules and regulations to see that the purpose and the intent of this section is not cheated by mergers and consolidations.

Second, we have the bugaboo of $4 to $6 billion a year loss. I know why they have used that figure. However, aside from that, if we spend $4 to $6 billion, the boom that would cause would end the unemployment problem in this country. The problem is 2 million jobs. That is the difference between 4 and 6 percent unemployment, 2 million jobs.

I think that Congress would be very happy to pay $4 to $6 billion for that purpose. However, aside from that, the reason for the fallacy in the figures is that they are quoting the gross figure. They do not give credit for the fact that, if 500,000 people are employed, the Treasury will get a certain amount of revenue.

Our figures have been confirmed by the Federal Reserve Board. They do not pass on the amendment, but they confirm that we are figuring correctly. This is $1.8 billion. The loopholes have been closed with respect to overtime, full time, mergers, consolidations, and new firms. If the Senate wants a tax credit, washed out by ADR, that is directly calculated to produce jobs, then we should agree to this amendment.

Mr. LONG. Do I understand the Senator would deny this to a totally new business, a totally new independent business?

Mr. JAVITS. Not at all. I said we give the Treasury authority to write regulations to take into consideration the problems of a new business.

Mr. LONG. To give a simple example, here is one fellow in a new business. It may be a textile business or any new

business. Then, here is another firm already in the business. It is an established firm. Let us say they must compete with another firm in that business that knows the business very well. Let us say that they compete very effectively with the old firm. They are doing the same thing except they are more modern.

Mr. President, the amendment has not been thoroughly considered, and after we think about these things we have concluded we better not add this provision to the bill.

But this amendment gives all kinds of advantages to the firm that puts another firm out of business and the Senate would not want to do that, and I am sure the Senator from New York would not want to do it if he considers all the ramifications. It is not as simple as the Senator thinks it is.

Mr. JAVITS. Mr. President, I yield myself 1 minute so that I may answer the Senator.

Reference was made to the provision of the Senator from Georgia (Mr. TALMADGE). The Talmadge provision applies to welfare workers and the estimate of cost there is $25 million. It is a drop in the bucket. This is a situation in which if we spend money we get results and if we do not spend money we do not get results. In the Talmadge amendment we are talking about a small number of employees. Let us not get a mote in our eyes on this substantial proposition.

The Senator from Louisiana (Mr. LONG) and the Senator from Utah (Mr. BENNETT) are distinguished and conservative men. If this goes in the bill it will be in conference. The idea will have been certified by the Senate. I believe it is the only way to get direct jobs.

EMPLOYMENT TAX CREDIT

Mr. BROOKE. Mr. President, I rise today in support of H.R. 10947, the Revenue Act of 1971. While this measure differs in certain respects from the tax proposals announced by President Nixon on August 15, 1971, it is largely a response to administration initiatives. I supported the President's new economic policy when it was announced and shall continue to do so.

The goal of continued prosperity without war is an admirable one and demonstrates the bold leadership provided by President Nixon at this crucial juncture in our history. As the President stated, prosperity without war requires that we create more and better jobs; stop the rise in the cost of living and protect the dollar from the attacks of international money speculators. Since his announcement, President Nixon has moved swiftly to achieve these three goals.

On Saturday night at midnight, phase I will end and we will embark on phase II of the new economic policy. It is fair to say that the wage-price freeze has been enormously successful because of the cooperation which millions of Americans have provided. Phase II, or the post-freeze economic stabilization program, will be just as successful if we continue to work together in a spirit of cooperation and good will.

On the international front, our problems have not been resolved; however, I am hopeful that we will be able to remove the import surcharge shortly and that other protectionist measures will not be adopted. Such positive steps can only take place, however, if other nations realize that more is to be gained from international cooperation than from diverse policies based on each nation's economic self-interest. I sincerely hope that we will move forward to realine our international economic relationships in such a manner as to prevent future crises and foster increased understanding between the trading nations of the world.

Finally, the President's August 15 message calls for the creation of more and better jobs to solve our unemployment problems and to provide for an orderly growth policy in the years to come. The tax measures before us are ostensibly designed to create a sufficient number of jobs to address these needs; however, they fall short of achieving our goals. It is for that reason that I have joined with Senator JAVITS and others in introducing the employment tax credit proposal contained in Senate bill S. 2632.

This proposal would amend the Internal Revenue Code of 1954 to provide a direct tax incentive to every business in America to expand its work force. In doing so, it is designed to produce more jobs, in less time and at a lower cost to the American taxpayer than any of the proposals currently before you.

Thus, any employer who hires additional employees during the taxable years beginning in 1972 or 1973 would be eligible for a tax credit in the amount of approximately $1,000 for each new employee. For example, if an employer hired one additional worker during 1972 at $5,000 per year, he would be entitled to a tax credit in an amount up to $1,000—or 20 percent of the worker's salary. However, the employer would not receive any credit for merely paying overtime to existing employees.

Preliminary estimates by the Joint Economic Committee, corroborated by the Federal Reserve Board, indicate that the employment tax credit would produce approximately 500,000 new jobs in the first year of operation. Furthermore, reputable economists have concluded that if an employment tax credit similar to that contained in S. 2632 were used as a supplement to President Nixon's tax proposals, employment would increase by 1.9 million workers by the fourth quarter of 1972.

While we have already begun to see considerable progress in the fight against inflation, the fact remains that over 5 million American workers, or 6 percent of our civilian labor force, are presently unemployed. According to the Bureau of Labor Statistics, over 2 million additional jobs will have to be created during the coming year to reach 4 percent unemployment by the end of 1972.

Thus, unless the employment tax credit proposal before you—or some similar job-producing measure—is adopted, we will fall short of the goal of providing a decent job for every American who is willing and able to work. It is difficult to explain to able-bodied defense and aerospace workers, to minority group workers and others—who are ready and willing to work—that jobs simply are not available. By enacting the employment tax credit, we would have made substantial progress in bringing unemployment within tolerable limits.

It should be noted that the employment tax credit is designed to complement President Nixon's tax proposals—including the job development credit—and provide a much-needed fiscal tool to deal more precisely with the problem of periodic unemployment. This proposal would create additional employment not only in capital intensive industries, but also in service industries which would not benefit from the President's job development credit.

In this respect, it is interesting to note that recent surveys of business leaders indicate that the job development credit—or the investment tax credit, as it is commonly known—is more likely to increase corporate profits than to create additional jobs for unemployed workers during the coming year. Most businesses stand to reap substantial profits if it is applied to equipment which has already been ordered or to machinery that would have been ordered even if the tax credit had not been announced.

Although the job development credit has been almost universally welcomed by business leaders, its impact on capital spending plans will be reduced substantially because of excess plant capacity and the long leadtimes involved with the purchase of capital goods. Most companies that participated in a recent New York Times survey indicated that they will replace machinery and equipment at about the same rate they had planned before the President's announcement last month. Consumer spending and the prevailing level of economic activity were generally considered to be more important in determining capital spending requirements than the job development credit.

With the exception of the railroad industry, most companies surveyed indicated that their capital spending requirements were already in place and that there was little likelihood of disturbing them. Other industries clearly do not stand to benefit from the job development credit because they are not capital intensive industries.

Fiscal stimuli of this nature do not go to the heart of the problem—that is, creating more jobs at a time when the problem of unemployment is most acute—because of the "trickle down" effect. Specifically, the job development credit is primarily designed to provide an incentive to businessmen to modernize capital facilities; but it will provide jobs only indirectly and mostly in capital goods industries.

Owing to the fact that almost half of American business is represented by service-oriented—as opposed to manufacturing—industries, a large sector of our economy will not be directly influenced by this fiscal policy tool. This is not to say that employment will not be stimulated by means of the Job Development Credit in the long run; however, our immediate needs will not be met unless more is done.

Senate bill 2632, on the other hand, would provide a direct incentive for all employers—in capital intensive as well as service industries—to expand their work forces now. It would not depend on the acquisition of capital goods and, in doing so, would benefit all industries, including those service industries which do not acquire capital equipment. Thus, a new fiscal policy tool would be created to complement, not replace, the job development credit proposed by President Nixon.

In summary, I urge the distinguished members of this committee to carefully consider adopting the employment tax credit proposals before you for three reasons:

First, it produces more jobs at lower costs to the American taxpayer than the other proposals before you.

Second, it will have a direct and immediate impact on our economy.

And third, its impact is not dependent on the acquisition of capital goods and therefore it reaches service industries which are not affected by the job development credit.

The present high level of unemployment cannot be tolerated. Not only does it represent a waste of valuable resources—both in economic and human terms—but it also constitutes a drain on the American spirit which cannot be permitted at this or any other time.

Because excess plant and equipment capacity exists in many industries and because of the leadtime involved with capital expenditures, it is imperative that we consider proposals in addition to the job development credit which are more precisely designed to eliminate unemployment today rather than waiting until the problem takes care of itself. The cost of failing to act can be seen in the faces of unemployed workers throughout the country. We can and must act tonight to address this problem.

PROGRAM—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, this will be the last rollcall vote today. The Senate is coming in tomorrow at 9 a.m.

The first matter before the Senate tomorrow will be the amendment of the Senator from Minnesota (Mr. MONDALE), which would postpone the increase in the social security wage base. There is a 2-hour agreement on that amendment.

I am informed by the Senator from Minnesota (Mr. MONDALE) that he is not likely to take all of his time and that a vote on that amendment could occur as early as 10:30 a.m. tomorrow. He indicated that he will ask for a rollcall vote.

Mr. President, I ask unanimous consent that on the disposition of the amendment of the Senator from Minnesota (Mr. MONDALE) tomorrow, the Chair lay before the Senate amendment No. 670, the amendment of the Senator from New Jersey (Mr. WILLIAMS), and that time on that amendment, which would remove the excise tax on urban transit buses, be limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. LONG. Mr. President, I would like to make one further point with respect to this matter of new businesses.

On page 3 of the Senator's amendment it is stated that a taxpayer who had no employees during the tax period but engaged in business thereafter would get the credit subject to regulation. That is the $64 question. How much would they get under the regulations? A great many other questions along this line, also are unanswered.

Mr. JAVITS. In conclusion, I merely wish to make the point that it is a 2-year bill.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BAYH. Mr. President, on this vote I have a live pair with the junior Senator from South Carolina (Mr. HOLLINGS). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Montana (Mr. MANSFIELD), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. SPARKMAN), the Senator from North Carolina (Mr. ERVIN), and the Senator from Louisiana (Mr. ELLENDER) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 22, nays 41, as follows:

[No. 320 Leg.]

YEAS—22

Aiken	Javits	Stafford
Beall	Kennedy	Stevens
Brooke	Magnuson	Stevenson
Case	Mathias	Tunney
Cooper	Mondale	Weicker
Hartke	Nelson	Williams
Humphrey	Proxmire	
Jackson	Schweiker	

NAYS—41

Allen	Fong	Moss
Allott	Gambrell	Pastore
Anderson	Griffin	Pearson
Baker	Gurney	Pell
Bennett	Hansen	Randolph
Bible	Harris	Ribicoff
Buckley	Hart	Roth
Burdick	Hruska	Scott
Byrd, Va.	Hughes	Smith
Byrd, W. Va.	Inouye	Spong
Cannon	Jordan, N.C.	Stennis
Church	Long	Symington
Eastland	McClellan	Talmadge
Fannin	Miller	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bayh, for.

NOT VOTING—36

Bellmon	Ellender	Metcalf
Bentsen	Ervin	Montoya
Boggs	Fulbright	Mundt
Brock	Goldwater	Muskie
Chiles	Gravel	Packwood
Cook	Hatfield	Percy
Cotton	Hollings	Saxbe
Cranston	Jordan, Idaho	Sparkman
Curtis	Mansfield	Taft
Dole	McGee	Thurmond
Dominick	McGovern	Tower
Eagleton	McIntyre	Young

So Mr. JAVITS' amendment was rejected.

AMENDMENT NO. 648

The PRESIDING OFFICER. As the Chair understands, the next amendment to be called up, beginning tomorrow, is amendment No. 649, offered by the Senator from Minnesota (Mr. MONDALE), which the clerk will state.

The legislative clerk read as follows:

On page 3, before line 1, in the table of contents immediately after the item relating to section 702, insert the following:

"TITLE VIII—POSTPONEMENT OF INCREASE IN SOCIAL SECURITY WAGE BASE

"Sec. 801. One-year postponement.
"Sec. 802. Amendments to Social Security Act.
"Sec. 803. Amendments to Internal Revenue Code."

Add after the final line:

"TITLE VIII—POSTPONEMENT OF INCREASE IN SOCIAL SECURITY WAGE BASE

"SEC. 801. ONE-YEAR POSTPONEMENT.

"Section 203(c) of the Act entitled 'An Act to increase the public debt limit set forth in section 21 of the Second Liberty Bond Act, and for other purposes', approved March 17, 1971 (Public Law 92-5) is amended by striking out '1971' each place it appears therein and inserting in lieu thereof '1972'.

"SEC. 802. AMENDMENTS TO SOCIAL SECURITY ACT.

"(a) Section 209(a) of the Social Security Act is amended—

"(1) by striking out '1972' in paragraph (5) and inserting in lieu thereof '1973'; and

"(2) by striking out '1971' in paragraph (6) and inserting in lieu thereof '1972'.

"(b) Section 211(b)(1) of such Act is amended—

"(1) by striking out '1972' in subparagraph (E) and inserting in lieu thereof '1973'; and

"(2) by striking out '1971' in subparagraph (F) and inserting in lieu thereof '1972'.

"(c) Sections 213(a)(2)(ii), 213(a)(iii), and 215(e)(1) of such Act are each amended—

"(1) by striking out '1972' and inserting in lieu thereof '1973'; and

"(2) by striking out '1971' and inserting in lieu thereof '1972'.

"SEC. 803. AMENDMENTS TO INTERNAL REVENUE CODE.

"(a) Section 1402(b)(1) (relating to tax on self-employment income) is amended—

"(1) by striking out '1972' in subparagraph (E) and inserting in lieu thereof '1973'; and

"(2) by striking out '1971' in subparagraph (F) and inserting in lieu thereof '1972'.

"(b) Section 6413(c)(1) (relating to special refunds of employment taxes) is amended—

"(1) by striking out '1972' each place it appears therein and inserting in lieu thereof '1973'; and

"(2) by striking out '1971' each place it appears therein and inserting in lieu thereof '1972'.

"(c) Section 6413(c)(2)(A) (relating to special refunds of Federal employee employment taxes) is amended—

"(1) by striking out 'or 1971' and inserting in lieu thereof '1971, or 1972'; and

"(2) by striking out 'after 1971' and inserting in lieu thereof 'after 1972'."

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, immediately following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate amendment No. 649, and that the time then begin running thereon.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR STAR PRINT OF S. 2410

Mr. BAKER. Mr. President, I am advised that S. 2410, regarding the release of certain restrictions in a deed to the Columbia Military Academy contains a latent ambiguity as to the identity of the ownership of the property in question. I therefore ask unanimous consent to have this bill star-printed to include citations identifying the landowner more specifically.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m.

After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of morning business, the Senate will proceed to consider amendment No. 649, offered by the Senator from Minnesota (Mr. MONDALE), an amendment dealing with the postponement of the increase in the social security wage base. There is a time limitation agreement thereon of 2 hours. It is my understanding that all of that time may not be used, and that a vote could occur as early as 10:30 o'clock.

I am also informed by the distinguished mover of the amendment that there will be a rollcall vote on that amendment.

On the disposition of amendment No. 649, the Senate will proceed, under the previous order, to the consideration of amendment No. 670, offered by the able Senator from New Jersey (Mr. WILLIAMS), an amendment to remove the excise tax on urban transit buses. An agreement has been entered into under which there will be a time limitation of 30 minutes on the amendment, to be equally divided, and it is anticipated that there will be a rollcall vote on that amendment.

Mr. President, there will be rollcall votes tomorrow, and it is expected that the Senate should stay in session as late as 4:30 or 5 o'clock, if amendments are offered and if the legislative business flows as expeditiously as it flowed today.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 7 o'clock and 45 minutes p.m.) the Senate adjourned until tomorrow, Saturday, November 13, 1971, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate November 12, 1971:

U.S. DISTRICT COURTS

Levin H. Campbell, of Massachusetts, to be a U.S. district judge for the district of Massachusetts, vice Charles E. Wyzanski, Jr., retired.

Ralph F. Scalera, of Pennsylvania, to be a U.S. district judge for the western district of Pennsylvania, vice John L. Miller, retired.

U.S. PATENT OFFICE

Donald W. Banner, of Illinois, to be Commissioner of Patents, vice William E. Schuyler, Jr., resigned.

IN THE AIR FORCE

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

To be captain (Dental)

Wilson, Aaron H., Jr., 236502380.

To be captain (Nurse)

Hale, Diann A., 571449381.

The following Air Force officers for appointment in the Regular Air Force, in the grade of major, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

Able, William A., Jr., 251445671.
Adams, Glen L., 267441397.
Allen, Charles J., 368261645.
Anderson, John P., 335244310.
Barnes, Jack, 443202644.
Barr, James A., 165280570.
Berg, Raymond A., 517320548.
Bissland, Alexander, 277248921.
Bomar, Jack W., 480266612.
Brazier, Thomas E., 367304577.
Bryant, Richard D., 030244150.
Byrnes, Joseph A., Jr., 056269764.
Campos, Frank, 562306129.
Carter, Charles H., 325228318.
Case, Thomas F., 411405062.
Clark, Harry G., 026249148.
Clark, Jimmie R., 496328419.
Conley, Robert M., 469290612.
Davy, Albert W., 368226599.
Dobbins, Robert S., 245888715.
Durrill, Russell G., 723081625.
Ellers, Charles A., 299288189.
Ellenburg, Grady F., 247367790.
Engle, Robert L., 525609040.
Esposito, Anthony, 094269294.
Few, James C., 250402922.
Fisher, Ralph E., 272284564.
Fox, Eugene H., 380283657.
Frazier, Stephen T., 513283289.
Frey, Russell B., 135246830.
Fuller, Donald O., 562405965.

XUM

Funderburg, Charles, 728012821.
Gilreath, Bernard S., 232380967.
Guyton, Sidney L., 425407105.
Hall, David M., 314225482.
Hammerle, Robert C., 083247399.
Harvey, Amos C., 322240643.
Hicks, Leo H., 362306981.
Johnson, Albert W., 258380500.
Johnson, Bradley J., 463403821.
Kendrick, Anthony G., 149221931.
Klebe, Alton S., 186226054.
Lentz, Karl O., Jr., 516309347.
Little, Norman R., 143243416.
Lowrey, Jack A., 531284733.
Macko, Charles, 060242549.
Madden, Richard G., 176345731.
Martel, Richard W., 002207106.
McGilvary, David R., 245266812.
Millsap, Luther E., 462303105.
Neely, John K., 428509495.
O'Brien, Denis R., 071227586.
OToole, Joseph W., 033223746.
Peterson, George A., 381265172.
Powers, Elliott, 510200685.
Rackley, Inzar W., Jr., 462422067.
Railey, Douglas J., 438423400.
Ruck, Robert L., 386260426.
Russell, Donald M., 006304518.
Savage, Myron L., 499321597.
Schmidt, Lyle E., 513264779.
Smith, Joe S., 429441477.
Solomon, Leo T., 527386269.
Staton, Willis E., 110205580.
Stine, Joseph M., 185244754.
Strain, Charles R., 425481116.
Tingley, Richard D., 529360086.
Wetzel, Lewis W., 377282523.
White, Ralph L., 266401895.
Williams, Herman H., 213269702.
Williams, Peter D., 573354779.
Wistrand, Robert C., 091225922.
Wrye, Blair C., 023225884.

IN THE ARMY

The following-named persons for reappointment in the active list of the Regular Army of the United States, with grades as indicated, from the temporary disability retired list, under the provisions of title 10, United States Code, sections 1211 and 3447:

To be colonel, Regular Army, and colonel, Army of the United States

Copeland, Kenneth W., 482104771.

To be major, Regular Army, and lieutenant Colonel, Army of the United States

Robinson, William B., 545200960.

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Wood, Richard W., 144241842.

To be captain

Bernard, Kenneth W., 502345196.
Bredemeier, Laura J., 513285637.
Burns, Marlene G., 007344768.
Frey, William E., 560582754.
Gale, Ronald E., 126309873.
Graham, Edward S., 012264569
Henchy, Michael J., 090248639.
Janzen, Robert W., 513402967.
Keener, Ross F., Jr., 579462214.
Kelley, Floyd J., 346281697.
Knaebel, Mary L., 391402854.
Krieger, Michael P., 132325253.
Lopez, Jesus, Jr., 585100117.
McDowall, John W., 266528140.
Mullinax, Ellis T., 424501196.
Newbry, Everett G., Jr., 524386249.
Parsons, Al D., 494444963.
Saunders, Phillip A., 106286628.
Seng, George F., 493403085.
Stack, Robert C., Jr., 521465527.
Sutherland, Cameron, 226486580.
Williams, Terrell R., 552362230.

To be first lieutenant

Archebelle, Edwin B., 260629896.
Campbell, Colin M., 223640757.
Cestaro, Michael J., 106309347.
Cheney, David H., 008328031.
Clark, Jack L., 565548534.
Comella, Martin C., 539384914.
Cooper, Maxwell A., 555621094.
Cressler, John W., 314460956.
Culwell, Kenneth L., 546541569.
De Perro, John F., 287362359.
Dethlefsen, Mac H., 455746007.
Edwards, Daniel H., 241661086.
Gordon, John C., 300381052.
Gravatt, Arthur B., III, 229564921.
Greene, Robert E., Jr., 051369239.
Guilbeault, Jeanne E., 034301357.
Heinrich, Robert G., 576443309.
Hogsett, Alvin G., 527621269.
Huchun, Kim, 475449007.
Hurley, Michael W., 104340119.
Jackson, Charles M., Jr., 358365105.
Johnson, Clifford L., 459704452.
Johnson, Clyde T., 407603120.
Jones, Thomas D., Jr., 158349980.
Keller, Ulrich H., 286421694.
Lackey, Jimmie R., 423569399.
Lee, Michael F., 410726110.
Matthews, David J., III, 024325701.
Meyer, Elizabeth G., 301427585.
Meyer, John Gilmore, Jr., 266742481.
Miller, Michael W., 235688708.
Mitteer, Jack A., 363466949.
Moyer, Edwin A., Jr., 265767545.
Newbold, Donna E., 024368684.
Olson, Brian L., 383446632.
Ottmer, Peter P., 388464290.
Parkes, Michael A., 359320962.
Ragosta, Ralph J., Jr., 089360596.
Rinke, Wolf Joachim, 197343374.
Roberts, Shelby C., 406523209.
Rodman, Terral L., 442428382.
Ross, Edward W., 495466567.
Shipp, Thomas R., 257607222.
Steiner, Darryl L., 278306793.
Swift, Roy A., 513403574.
Turner, Kenneth D., 456609098.
Valersky, John A., 522680649.
Van Horn, Jerry, 254561932.
Webb, John R., 425923062.
Whittier Walter C., 501387844.
Woolsey, Gerald D., 459702342.

To be second lieutenant

Barnes, Richard H., 176328650.
Baxter, John H., III, 418626880.
Cenname, Alfred J., 193342061.
Dearing, John L., 932340710.
Fess, Kenneth E., 564744658.
Guthrie, William R., 239703184.
Houck, William D., 130306830.
Joyce, Michael J., 117382043.
Kelley, Harold V., Jr., 257644852.
Kelly, James C., 425885559.
Kershaw, Dean A., 156363787.
Lescallett, Kenneth L., 224664127.
Luczu, Louis J., 135405433.
Montiel, Ruben R., 422588042.
Neilans, Gale D., 317485914.
Nienhouse, Terry L., 493489628.
Parrack, Cecil T., Jr., 522546649.
Stevenson, Ford L., 529565568.
Throgmorton, Fred J., 438667437.
Wagoner, Donald H., 238725688.
West, Charles E., 509449340.

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2105, 3283, 3284, 3286, 3287, 3288, and 3290:

Aaron, Ralph P., 436841318.
Barlotta, Samuel J., 267022449.
Bauer, Jeffrey P., 268462195.
Beveridge, Mark L., 499506776.
Bippus, David P., 304506501.
Borman, Terry R., 506645183.
Camp, Walter F., 430924271.
Canella, James J., 497524911.
Cippele, Alfred D., 466826624.
Cotten, Frank R. Jr., 411505062.
Cotter, James E., 344440744.
Craig, Wallace H., 463864067.
Crowden, Ronald G., 574186357.
Dias, John P., Jr., 465840496.
Duncan, Debron C., 453747830.
Durgens, Elray, 464902382.
Evans, Thad D., 446466505.
Fender, David A., 269481429.
Ferguson, Stephen K., 435742693.
Gianelloni, James R., 493842186.
Hall, Clark C., 511564106.
Hall, Jon J., 309547955.
Hatch, James P., 021342550.
Hayles, Ralph E., Jr., 463826065.
Hosek, Frank E., 467643426.
Icenogle, Larry F., 321420056.
Inouye, Randall R., 575569948.
Johnson, Craig A., 511339206.
Jones, Clinton C., 260644019.
Karlovetz, James L., 290400425.
Katagihara, Alvin M., 575527984.
Keating, Jeffrey M., 167403687.
Kettler, Keith L., 516486427.
Knudson, Kenneth N., 515506359.
Lanning, Lawrence E.,161367758.
Laurich, Jon S., 483608062.
Main, Thomas E., 358385665.
McAllister, Larry C., 432900551.
McFarling, Leslie H., 504566179.
McGlothlin, Stanley W., 514444448.
Miller, Stephen C., 483642580.
Mittlestadt, Donald R., Jr., 505586485.
Munson, Richard D., 374544163.
Murders, Larry W., 430803344.
Noe, John W., Jr., 299447700.
Ozbolt, Bernard R., 247804576.
Panning, Glen A., 507667206.
Pierce, Stephen H., 511547349.
Robertson, Larry H., 235769314.
Roelke, Norman L., 317545545.
Schroeder, David L., 391448272.
Smith, George H., 494543036.
Tekell, Robert S., 467768354.
Tengan, Wendell T., 575545967.
Thomas, Dwight P., II, 062428375.
Tieszen, Randal M., 504585163.
Truesdell, Stephen C., 250606096.
Ursone, Richard L., 047445290.
Wagner, Stephen B., 507629326.
Warnement, Jerry J., 294423666.
Willey, James M., 232761062.
Yamamoto, Clifford I., 575541480.
Yarnell, Albert R., II, 430669292.

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

Dick, Walter F., 286463306.
Fives, John T., 572764474.
Rockstroh, Eric M., 253767772.
Rogers, Michael G., 137402538.

IN THE MARINE CORPS

The following-named women officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel:

Carolyn J. Auldridge Vea J. Smith

The following-named women officers of the Marine Corps for permanent appointment to the grade of major:

Barbara E. Doiyak Lynn Mertes
Karen J. Grant Charlene M. Summers

The following-named women officers of the Marine Corps for permanent appointment to the grade of captain:

Sandra L. Mahoney Ingrid M. Pranger
Cheryl J. McCauley Alice B. Speizman
Eleanor J. McElroy Linda C. White

The following-named officers of the Marine Corps for temporary appointment to the grade of major:

Ronald E. Ablowich John L. Adkinson, Jr.
Carl P. Ackerman William S. Ainsley III
William R. Acree Alfred J. Allega
Charles N. Adams Robert T. Allen
David H. Adams John D. Alexander
James S. Adams David G. Amey
Larry G. Adams Andrew G. Anderson II
Robert A. Adams
Wayne T. Adams David L. Anderson

Donald F. Anderson
John F. Angil
Fred W. Anthes
John C. Arick
Mordecai R. Arnold
Thomas D. Ashe
Lowell E. Austin, Jr.
Clair E. Averill, Jr.
Wayne A. Babb
Larry A. Backus
John C. Baggette
Hubert A. Baker
Maurice R. Banning
Emory W. Baragar
Richard D. Barba
Henry D. Barratt
John J. Barrett
Harvey C. Barnum, Jr.
William C. Bartels
Robert O. Bartlett
Thomas Y. Barton, Jr.
Delbert M. Bassett
Harry C. Baxter, Jr.
George Berthelson
Dale S. Beaver
Frederick W. Beekman III
Richard T. Beitel
Thomas M. Beldon
Donald R. Bell, Jr.
George E. Bement
Charles S. Bentley
Roderick E. Benton
Allan E. Berg
George V. Best, Jr.
Lance V. Bevins
Dennis C. Beyma
Richard L. Bianchino
James W. Bierman
Roy D. Black
Arthur C. Blades
Charlton H. Blanks
Clifford G. Blasi
Harold W. Blot
Michael A. Blunden
Walter G. Boeck
Kenneth L. Bourgeois
Ronald R. Borowicz
Charles R. Bridges
William T. Bridgham, Jr.
Frederick Bubenhofer, Jr.
James A. Brabham, Jr.
Robert A. Bracy
Gary R. Braun
Walter J. Breede III
George D. Brennan II
Patrick J. Brennan
Anthony D. Brewin
Gary E. Brown
Gene A. Brown
Michael E. Brown
Raul B. Brown
Robert D. Brown
Samuel H. Brown, Jr.
Robert A. Browning
Frederick T. Bryan
John G. Burke
Donald E. Burns
Ronald G. Burnsteel
Henry W. Buse III
John M. Butler, Jr.
Thomas G. Byall
Peter E. Byrne
Michael J. Byron
August J. Calimano
Richard D. Camp, Jr.
Jack R. Campbell, Jr.
Thomas E. Campbell
John W. Cargile
Kenneth C. Carlon
Thomas M. Carpenter
Henry S. Carr, III
John J. Carroll
Kenneth L. Carter
Marshall N. Carter
Robert D. Caskey
Gene E. Castagnetti
Paul R. Catalogne
James H. Champion
James M. Chance
Lonnie S. Chaves
David J. Christensen
George B. Christmas
Donald E. Christy
Jorel B. Church
Dennis Churchin
David L. Chilcote
Theodore C. Cieplik, Jr.
John J. Clancy, III
Gary D. Clark
Robert F. Clark
William B. Clary
Roger J. Claus
Robert F. Clemmons
William H. Climo, Jr.
David W. Clingman
Michael L. Cluff
Richard L. Cody
William F. Coenen
Richard V. Coffel
Lee D. Coker
Ernest E. Collins
Randy J. Collins
Bernis B. Conatser, Jr.
Thomas M. Conley
William J. Conley
Anthony C. Conlon
Charles R. Connor
Charles E. Conway, Jr.
Everett E. Cossaboon
Walter J. Costello
Paul H. Courtney
Cryspin J. Cowell
David E. Cox
Edward V. Cox
Merle L. Crabb
Miles H. Crafton, Jr.
Wayne N. Crafton
Richard J. Craig
Richard W. Crain
Robert A. Crane
Dennis W. Craney
John B. Creel, Jr.
Ronald R. Critser
Albert B. Crosby
Harvey T. Crouch, Jr.
Thomas B. Cullen
Paul W. Culwell
James E. Curran, Jr.
Herbert L. Currie
Charles A. Cushman
Reid E. Dahart
Joseph C. Dangler
Charles E. Daniel
Marshall B. Darling
Douglas M. Davidson
James F. Davis
James R. Davis
Leslie H. Davis
Robert G. Dawson
Andrew D. Debona
Carmine J. Delgrosso
Angelo C. Demeo
Thomas F. Demsey
Chadwick H. Dennis
Raymond E. Dennison
Francis T. Dettrey
Ted O. Dickson
Elliott S. Dix
Billy H. Dobbs
Wilson R. Dodge
Howard R. Donehower
David J. Douglas
Francis H. Douglas
Noel E. Douglas
Charles W. Dow
William J. Dowd
Thomas V. Draude
Dennis W. Duerden
Peter A. Duffy
Thomas J. Dumont, Jr.
Dorris A. Duncan
David S. Durham
William G. Dwinell
Joseph M. Dwyer
Joseph J. Dzielski
Terry J. Ebbert
Ronald R. Eckert
Bob E. Edwards
James E. Edwards, Jr.
Jerry A. Edwards
Roy T. Edwards
Francis X. Egan
Norman E. Ehlert
Russell A. Emerson
Robert E. Enis
John O. Enockson
Gene B. Erwin
Harold A. Erwin
Donnie C. Evans
James L. Eyre
Brian J. Fagan
Fred T. Fagan, Jr.
Rupert E. Fairfield, Jr.
Robert W. Falkenbach
Thomas A. Farley
Leo J. Farrell
Robert J. Faught
Frank Ferrante
Peter B. Field
Alan J. Finger
Richard A. Flaherty
Walter J. Fleming
George A. Focht
James J. Foley, Jr.
Elbert A. Foster
James F. Foster
Joel R. Foster
Bert R. Francis
Donald R. Frank
Howard A. Franz
Luis R. Fresquez
Frederick C. Frey
James R. Fulreigh
Robert J. Gadwill
William R. Gage
Willard F. Galbraith, Jr.
James A. Gallagher, Jr.
Bruce A. Garnish
Ronald C. Garten
Gerald G. Garwick
Albert R. Gasser, Jr.
Ronald L. Gatewood
Ronald T. Geddes
Robert W. Gehring
Charles R. Geiger
John R. Gentry
Jon R. Gibson
Larry R. Gibson
Robert F. Gibson
Gerald L. Gill
James H. Gillespie
Bobby G. Girvin
Eugene M. Glass
Aloya A. Glose
John A. Goehring
Paul B. Goodwin
Henry F. Gotard
Edwin T. Gray
William B. Gray
Robert R. Green
Richard L. Greene
Joseph P. Greeves, Jr.
Nelson H. Gremmels
Michael V. Griffith
Darcy E. Grisier
Nicholas H. Gross, Jr.
Norman R. Guidry
Leon A. Guimond
Gordon H. Gunniss
Michael A. Gurrola
Joseph S. Hack, Jr.
John A. Hadley
Joseph J. Hahn, Jr.
Mark L. Haiman
John F. Hales
Samuel T. Hall
Francis X. Hamilton, Jr.
George C. Hamilton
Thomas L. Hampton
David Hancock
Donald L. Hand
Joseph A. Haring
William M. Harborth
James D. Hardaway
John D. Harrill, Jr.
Robert F. Harrington
William G. Harris, Jr.
Edward T. Harrison
John C. Harrison
Frederick F. Harshbarger
Jude M. Hartnett
Alan H. Hartney
Edward J. Hassinger
Leonard C. Hayes
Solomon P. Hill
Richard D. Hearney
Mark T. Hehnen
Hans R. Heinz
Frederick W. Hemphill, Jr.
Thomas W. Hemsath
James C. Henderson
Porter K. Henderson
John B. Hendricks
Gene D. Hendrickson
Billy C. Henry
Jerry L. Henson
Jerome L. Hess
William A. Hesser
Francis E. Heuring
James B. Hickok
Billie E. Hicks
Martin C. Higgins
Jon C. Hill
Michael J. Hilsinger
Thomas F. Hinkle
Marlin N. Hinman
Amos B. Hinson III
Alan W. Hitchens
Daniel A. Hitselberger
Byron H. Hogue
Kenneth L. Holm
Glenn E. Hooker, Jr.
Richard J. Hooton, Jr.
George P. Howle
Jefferson D. Howell, Jr.
John Y. Howo
Donald E. Hubbard
Ray E. Huebner
Robert A. Hughes
Richard C. Hulit
Gerald Hunt
Abram J. Hunter, Jr.
Robert M. Hunter
Delbert M. Hutson
Fred L. James
Jack C. James
John L. Jenkins
Robert G. Jessee
Harry N. Johnson
Herbert C. Johnson
Robert B. Johnston
Ken H. Johnson
John N. Jolley, Jr.
Patrick J. Jones
Philip T. Jones
Ray C. Jones
Robert E. Jones
Robert L. Jones, Jr.
Thomas E. Jones
William D. Jones
Kenneth D. Jordan
Robert W. Joyce
Hugh L. Julian
Wayne A. Julian
Ernest H. Kasold, II
Thomas P. Keenan, Jr.
John R. Kelbaugh
Gerald J. Keller
Gerard H. Kelly
John A. Kelly
John A. Kelly
James L. Kerney
John H. Key
George A. Kiesel
Roger E. Kilb
Francis J. Kirchner
Francis T. Klabough
Joseph F. Kline
Timothy J. Klug
Frank H. Koa, Jr.
Thomas L. Kosciw
Stephen J. Kott
Eugene L. Kratcoski
Dennis E. Kraus
Charles C. Krulak
William M. Krulak
Larry J. Kuester
Nicholas J. Laduca, Jr.
Carlton E. Land
Richard H. Langenfeld
Alfred Lardizabal, Jr.
Anthony V. Latorre, Jr.
James Lau
Linden T. Laviano
Glenn C. Lawty
Robert P. Learnard
David C. Lecount
Gregory W. Lee
Antone D. Lehr
Edward O. Leroy
Perry C. Lindberg
Theodore P. Lingenfelter
Wayne M. Lingenfelter
Louis A. Link
Bertram L. Linkonis
Raymond A. List
David R. Little
James E. Livingston
Calvin A. Lloyd, II
Edward J. Lloyd
Richard E. Lochner
Robert E. Lorch
L. J. Lott
Darrell M. Lowe
Michael J. Lucci
Howard L. Luttrell
Haymond R. Luzadder
Charles A. Lyle
Peter M. Mack
Kenneth R. Maddox
Robert W. Maddox
Robert A. Madeo
Raymond C. Madonna
Gerald G. Madson
Phillips S. Makowka
Edward J. Manco
James P. Mangan
Anthony E. Manning
William E. Marcantel
Robert C. Marshall
Arville D. Martin
Edward G. Massman
Robert J. Mastrion
Brian M. Mathews
Lyle D. Mathews
Enrique A. Mauri
Gregory A. McAdams
Gary T. McAlpin
John F. McCammon
Frederick A. McCaughan
Thomas C. McClay
Harry M. McCloy, Jr.
James L. McClung
Richard R. McCormick
Kenneth D. McCurry
Charles E. McDanal
Patrick L. McDermott
Daniel B. McDyre
Robert D. McGinn
Michael J. McGowan
Bernard J. McGraw
Gerald L. McKay
Denis A. McKinnon
John J. McNamara
Paul V. McNutt
Richard G. McPherson
Donald M. McVay
Laurence R. Medina
Michael E. Mee
Bion E. Merry
Thomas H. Metzger
Anthony F. Mielczarski
John L. Mikkelson
Perry W. Miles III
Donald G. Miller
Jerry L. Miller
Jon Miller
Wallace L. Mills
George J. Miske
Charles H. Mitchell, Jr.
Christopher R. Mitchell
Hubert Mitchell
David F. Miller
Neil F. Mitchell
Robert L. Mitchell
Robert J. Mockenhaupt
Paul J. Montague
Joe D. Moody
Alfred H. Moore
Allen R. Moore
Arthur L. Morland
Richard L. Morey
Jerry L. Morgan
John B. Moriarty
Thomas E. Mossey
Charles G. Mulford
Charles H. Mulherin, Jr.
Thomas P. Mulkerin
Joseph F. Mullane, Jr.
John J. Mullen, Jr.
Donald R. Muncie
Raymond M. Murphy
John A. Murray
James M. Myatt
John R. Myrdal
Bert L. Nale
Herbert Nelke
Jimmie C. Nelson
Eugene T. Nervo
James L. Neyman
David N. Noble
Kenneth E. Noland
Mell B. Nolley
William B. Nye
Gerald J. Oberndorfer
Paul W. O'Brien
Peter J. O'Brien, Jr.
William L. O'Connor
Paul F. O'Keefe
Loren J. Okrina
Holland W. Olive
Robert V. Olson
Jeffrey W. Oster
Larry J. Oswalt
Sammy L. Owens
John F. Palchak
Nelson Paler
Fred Palka
Richard K. Palmer
Robert L. Pappas
Joseph R. Paquette
Edwin N. Parker
Carmen N. Pastino
James A. Patterson
Jerome T. Paull
Frank G. Pearce
Nicola M. Pereira, Jr.
Leon E. Perry
Allan E. Peters
Harold D. Pettengill
Harold J. Phelan
William E. Phelps
Roger P. Pilcher
John C. Pilley
Thomas E. Pitts
Marvin F. Pixton III
Stephen P. Porcari, Jr.
Herbert F. Posey
Gary L. Post
David G. Pound
Stanley G. Pratt
Charles P. Preston, Jr.
Ernest E. Price III
Jesse L. Pugh
David G. Purdy
Charles J. Pyle
Robert A. Queen
Thomas F. Rafferty
Arch Ratliff, Jr.
John P. Ray

XUM

H. L. Bedding
Lawrence E. Reed
Clyde M. Regan
Edmund W. Reilly
Gregory A. Rengel
Ronald W. Rensch
Richard R. Reuschling
John A. Reusmeyer
Michael E. Rich
James E. Rickmon
Albert R. Rideout III
Jon K. Rider
Edward F. Riley
Michael B. Riley
John W. Ripley
Eugene S. Risler III
Larry C. Roberts
Morris R. Roberts
Thomas W. Roberts
Donald J. Robinson II
Jean O. Robinson
John H. Rodgers
John M. Rodosta
Thomas E. Roe
Maurice A. Roesch III
William R. Roll
Joseph G. Roman
Joseph M. Romero
Christopher J. Rooney
Donald L. Rosenberg
Dale C. Ross
George A. Ross
Larry H. Ross
Leo K. Russell
John W. Ruymann
James E. Sabow
Henry J. Sage
William Sahno
Herbert M. Sanchez
Vinson J. Sanangelo
Don C. Satcher
Anthony A. Scafati
William E. Scaplehorn, Jr.
Anthony J. Scaran
Paul M. Schafer
Thomas A. Scheib
George R. Schipper
Arthur J. Schmidt, Jr.
Dennis A. Schoen
Richard W. Schulz
Ludwig J. Schumacher
Richard E. Schwartz
Denver D. Scott
Edward R. Seiffert
William J. Selwitschka
Robert E. Setser
Bernard K. Severin
Arthur G. Shadforth
Harry J. Shane
Delmas D. Sharp, Jr.
Harry F. Sharp, Jr.
John F. Shea
John J. Sheehan
Kenneth E. Shelton
Roy H. Shelton, Jr.
James A. Shepherd
Donald K. Shockey, Jr.
David R. Shore
Moyers S. Shore II
John C. Short, Jr.
Louis L. Simpleman
Billy E. Simpson
James M. Sims
Roy W. Sims
Cloyce E. Sinclair
James G. Sketoe
Walter H. Skierkowski
Harold W. Slacum
Albert C. Slater, Jr.
Raymond F. Smart
Clarence D. Smith
George E. Smith, Jr.
Gordon F. Smith
William R. Smith
Ray G. Snyder
Edward W. Sonneborn, Jr.
Charles R. Sorensen
Don F. Sortino
Ronald D. Sortino
Peter B. Southmayd
Gerald R. Sowa
James D. Sparks
William M. Sparks
Burton P. Sperry III
John W. Spivey
Roger F. Staley
Robert D. Staples
John D. Steel
John F. Stennick
Richard L. Stewart
William A. Stickney
Roy J. Stocking, Jr.
Phillip A. Stone
Simon F. Stover
Jerry L. Stricker
J. K. Stringer, Jr.
Frank D. Strong
Laurence A. Stults
William W. Stumpf
Joseph J. Sucha, Jr.
John P. Sullivan
Michael V. Sullivan
Alver J. Swett
Victor M. Szslankiewicz
Glenn S. Tait
Lawrence E. Tanksley
Richard T. Tanner
Walter Tarnopilsky
Augustus T. Tavis
James L. Taylor
Joseph Taylor
Thomas C. Taylor
Gary L. Telfer
Gary E. Thiry
James R. Thomas
Robert A. Tiebout
William E. Tisdale
Richard P. Toettcher
Richard D. Tomlin
Philip H. Torrey III
Patrick L. Townsend
Richard B. Trapp
Henry J. Trautwein, Jr.
Timothy M. Treschuk
Bennie J. Trout
James L. Trudeau
Robert L. Turley
Samuel D. Turner, Jr.
Jimmy Turrietta, Jr.
David F. Underwood III
Joseph E. Underwood
Kenneth R. Updegrove
Igor R. Valentine
Paul A. Vanderberg
Klaas Vanesselstyn
Daniel P. Vangrol III
Charles W. Vanhorne
Dennis S. Vanliew
Hugh M. Vann III
James E. Vangorder, Jr.
James K. Vanriper
Paul K. Vanriper
Forest N. Varn
Leslie R. Vay
Dellie A. Vick
Michael H. Vidos
John L. Vogt
Bill D. Waddell
David L. Walker
Philip J. Walsh
Milton T. Warring, Jr.
George M. Wastila, Jr.
Lewis C. Watt
Allen B. Webb
Dellas J. Weber
Dwight D. Weber
Malcolm M. Wehrung
Jerry R. Weibel
John D. Weides
George J. Weinbrenner
Julian A. Weingarten
James E. Wells
David B. Werner
Jo..n B. Whalen
Carl B. Wheeler
Theodore L. Whisler
Robert C. Whitener, Jr.
George A. Whitfield
Harold W. Whitten
Clifford Wieden, Jr.
Charles E. Wilhelm
Morgan L. Wilkinson
James R. Williams
John A. Williams
John K. Williams
Robert B. Williams
Thomas Williams Jr.
Bobby J. Williamson
Robert J. Wilson
David F. Winecoff
Donald T. Winter
Joseph C. Winter
Thomas J. Wise, Jr.
Regan R. Wright
Robert M. Wright
Edwin A. Wroblewski
Michael W. Wydo
Peter B. Wyrick
Michael D. Wyly
Michael G. Wystrach
Richard A. Yaeger
Carl R. Yale
James H. Yarnell
Rufus C. Young, Jr.
Carl H. Yung
Frank J. Zanin
Stanley M. Zenda

The following-named officers of the Marine Corps for temporary appointment to the grade of captain:

Richard L. Abraham
Garth L. Adams
Larry G. Adkins
Joseph O. Alber
Burt E. Alexander
Robert C. Allen
Steve N. Allen
Gary C. Allord
James H. Amos, Jr.
Joseph T. Anderson
Russell A. Andres, Jr.
David A. Andriacco
Daniel B. Ardoin
Michael L. Aslaksen
Ronald H. Asmus
James W. Atherton
William F. Atwater, Jr.
William R. Autrey
Grey C. Axtell
Peter T. Bahry, Jr.
James E. Bailey
Charles G. Baker
Michael S. Baker
George H. Baldwin, Jr.
Henry W. Baldwin
George W. Ball
Charles J. Barnhart
Michael E. Barnhart
Dale E. Barnes
Harry K. Barnes
Michael J. Barnes
Peter T. Baron
Martin J. Basar
Gary W. Basham
Michael W. Bassler
Marcus M. Baukol II
Albert E. Bauman III
William W. Baumann
David C. Beard
Donald A. Beaufait
Larry R. Beeson
Albert M. Bensley
Robert M. Beasley
Donald B. Beaver
Jennings B. Beavers II
Roy S. Belcher III
Bruce R. Belrose
Edward A. Benes
Gerald B. Benes
Gary W. Benson
James H. Benson
James R. Benson
Ralph L. Bertelson
Dennis M. Bevis
Donald R. Bibb
Kenneth C. Bickley
Steven R. Bland
Richard K. Bloedau, Jr.
Frederick M. Bobbitt
John A. Bohn
Charles F. Bolden, Jr.
Donald R. Bolger
Reed T. Bolick
Dennis L. Boudreaux
Craig P. Boulton
Kenneth W. Bowen
Tillman S. Boxell
Joseph M. Boyle
Michael J. Boyd
James W. Brady
Gary L. Brandt
Stephen C. Brandt
William J. Brennan
Lawrence J. Brent, Jr.
Christopher W. Brindle
William W. Broadway
Matthew E. Broderick
Robert A. Brooks
Michael O. Brosee
Gary W. Bross
David Brown
Jack P. Brown
Kenneth J. Brown
Richard A. Brown
Thomas F. Brunk
Gary L. Bruno
Danny L. Bryant
M. L. Buchanan, Jr.
Robert R. Buckley
Richard D. Buettner
Marcus J. Bumm, Jr.
Gregory J. Burcham
Harold E. Burcham
James D. Burke
Michael W. Burkhart
Lynn A. Burrill
Dennis M. Buckovetz
Randolph C. Burwell
Christopher P. Butler
Donald L. Buzan
Bruce B. Byrum
Conrad H. Cadman
Robert E. Cahill
Charles F. Caldwell
Thomas P. Callahan
Roland E. Carey, Jr.
Reid O. Carlock
Roy L. Carter
William A. Carter
Garry R. Carver
Blake J. Cate, Jr.
Joseph M. Chaisson
Richard W. Chambliss
John B. Champeau
Howard D. Chapin
Orville G. Chase
Robert A. Cheever
Ralph J. Chipman
Carl F. Cain, Jr.
Richard M. Caret
Martin E. Carney
John T. Caselli
Mark H. Caspersen
Richard P. Cassidy
Louis E. Cimaglia
John E. Clancy
James L. Clark, Jr.
William A. Clark III
Larry G. Clarke
Donald R. Clevenger
Larry B. Coffman
Robert L. Collins
William R. Collins
William T. Collins
Leonard J. Comaratta
Paul R. Conner
George S. Converse
Donald C. Cook
Michael L. Cook
Gerald J. Cooper
Gary R. Corn
Wayne L. Courtney
Thomas V. Cowperthwait
James R. Coyle
Larry A. Craig
Thomas M. Craig
Norman B. Crawford
Wallace R. Creel, Jr.
Daniel D. Critchfield
Charles D. Cross
Wayne T. Crowder
Clarence S. Crowe
Anthony H. Cucina, Jr.
Michael J. Cummings
William C. Cuseo
Thomas R. Cushman
John F. Dalton
Stephen J. Danaher
Louis E. Dougherty
Jack A. Davis
James E. Davis
Bruce I. Davis
George B. Davis
William R. Davis III
James L. Dawson
Charles G. Dean, Jr.
Leonard E. Dechant
Peter M. Degnan
Robert R. Degolian
Victor D. Deitz
John F. Demars, Jr.
David K. Denson
Albert A. Desantis, Jr.
Armand H. Desjardin
Charles A. Dittmar, Jr.
James M. Dixon
Ronald B. Dobie
Walter L. Domina
William I. Donaldson, Jr.
Thomas P. Donnelly, Jr.
Charles R. Donofrio
Robert M. Dowd
James H. Dubose, Jr.
Larry W. Dudley
Gregory W. Duesing
Brendan Duff
Richard H. Duff, Jr.
Dennis E. Dugan
Andre J. Dumas
Raymond B. Dunn, Jr.
William R. Dunn
Eugene H. Dunning
James W. Duthie
George E. Dyer
Daniel Dylewsky, Jr.
Douglas C. Earle
Samuel G. Easterbrook II
Jerry D. Edwards
Phillip P. Egoscue
Gordon L. Eisert
Donald E. Elkins
Patrick N. Ellis
Harvey W. Emery, Jr.
Terry W. Emmons
John P. English
Chauncey H. Ervin
Gordon E. Evans
Richard S. Everhart
Richard G. Ewers
Leo A. Falasco
Charles F. Falkenberg
Michael O. Fallon
Paul C. Farmer
Peter M. Farris
William W. Faulkner
Peter O. Fay
Oscar B. Fears, Jr.
David E. Feigel
Roger L. Feldhaus
Alfred T. Felter
John R. Fenton
Jean V. Fitzsimmons
Thomas P. Finnerty
John J. Flaherty
Marvin H. Floom, Jr.
Howard C. Florence
Thomas J. Fong
Melvin W. Forbush
Walter G. Ford
Thomas W. Foster
Roger D. Fouts
Frederick T. Fowler
Edgar Franklin, Jr.
John F. Fraser, Jr.
Paul L. Frederick
Kenneth R. Frederickson
Thomas N. Fremin
Joseph D. Friel
Warren T. Frommelt, Jr.
James A. Fulks
Steve M. Fuqua III
James M. Galbraith
William N. Gamble
Jon A. Gangloff
Milton J. Ganier
Jon N. Garner
Thomas E. Garrick
Anthony L. Gasper
Jesse D. Geren
John W. Gerwig, Jr.
Andre G. Gib
Richard E. Giantz
John X. Golich
Ronald J. Gonzales
Robert B. Goodrich
Adrian J. Gordon
Paul D. Gordon, Jr.
Gary J. Goslin
Joel L. Goza
Richard H. Green
William W. Green
Robert J. Greene
Wallace C. Gregson, Jr.
Thomas J. Greaka
Paul S. Griffin
John F. Grosseweiler
John W. Ground IV
James M. Guerin
David R. Guernsey
Steven E. Gugas
John W. Guild
Henry E. Gurney
William H. Hackett, Jr.
Clarence E. Hagstrom, Jr.
Earl B. Hailston
Jack M. Hall
Johnie A. Hall
George E. Halloran
Lee A. Haltom III
Roger C. Ham
Robert E. Hamilton
Thomas B. Hamilton, Jr.
Richard D. Hammer
Leon Hammond
Stuart D. Hammons
George W. Hance, Jr.
James H. Haney
Robert P. Hansen
Thomas G. Harkins
William Harley
Thomas F. Harper
Ronald C. Harrington
George K. Harris
Randall R. Harris
Michael J. Hart III
Timothy M. Hartsook
Robert C. Haskett
Jerry B. Hatfield
Dean H. Hattan
John E. Hayes
Daniel J. Healy
Bruce E. Heath
Matthew J. Heck
Richard A. Hedin
Lloyd M. Hekhuis
Robert G. Hempel
John F. Hendry
Clifford F. Henes II
Robert W. Hensley
Ralph E. Henson
John C. Hergert III
Richard S. Heuring
Thomas H. Hicks
William R. Hicks
Walter T. Hicock
Ray W. Hinsch
Michael G. Hire
Michael C. Hodgins

Michael D. Hoke
John J. Holly
John W. Hooper
William J. Horne
Assen A. Horster
Edward F. Houff
Dennis K. Howe
Ernie W. Howe
Paul A. Howes
John C. Howland
Harvey E. Huffman
Marvin E. Hughes
William C. Hunt
William R. Hyatt III
Erin L. Ireland, Jr.
Harry M. Isenberg
Robert A. Iverson
Stephen R. Jackson
Roger A. Jacobs
Richard L. Jaehne
Donald W. James
Barry E. Jankiewicz
Harry Jensen, Jr.
Richard N. Jeppesen
Michael C. Jochum
Fred W. Johnson
Gerald E. Johnson
Kenneth W. Johnson
Maxwell O. Johnson
Richard W. Johnson
Morelle C. Jones
Robert D. Jones
Ronald L. Jones
Richard V. Jordan
Jimmy L. Justice
Ronald L. Kaba
Michael A. Kalashian
Richard H. Kayser
James Keane
Lawrence G. Kelley
John R. Kelly
Clarence W. Kelso, Jr.
Patrick F. Kennedy
Lawrence H. Kener
Charles W. Kershaw II
Edward P. Keszenheimer
Hubert G. King, Jr.
Charles H. Kinney
Samuel V. Kirk
Grover R. Klemmer
Michael J. Kloberdanz
David T. Knapp
Bruce B. Knutson, Jr.
Frank L. Kocevar
Bernard F. Kolb
John H. Korneder
John L. Kosinski
Dwight D. Kranz, Jr.
James A. Kuch
Steven A. Kux
Steven T. Kuykendall
Philip A. Lahlum
Robert R. Lalonde
Robert D. Lankes
Ralph V. Lanning
William P. Lanza
Roy A. Larkin
Ivan G. Larsh
Arthur K. Law
Allan J. Leach
Thomas I. Leach
Frederick E. Leek II
John P. Leonard III
John W. Leslie
Victor J. Levern
Ralph E. Lewis
William M. Liebenow
Alastair J. Livingston
William J. Lohmeyer III
David M. Lohr
Duane D. Loncosky
Andrew K. Long, Jr.
Theodore T. Long, Jr.
Thomas E. Loughlin
Connie B. Lovett
Claude H. Loveless, Jr.
Bernard F. Luby, Jr.
Thomas P. Luddy
Robert C. Lundell
Bruce C. Lyon
Ross M. Macaskill, Jr.
Richard G. Mace
David B. MacFarlane
John M. Mack
Robert J. Mack
Thomas W. Mackie, Jr.
Kendall A. Madaras
Robert W. Magnuson
Michael V. Mahony
Richard J. Marien
James D. Majchrzak
Thomas O. Malzahn
James A. Marapoti
Jeffrey A. Marlin
Roger D. Marlow
John Marsella, Jr.
James F. Martin
John D. Martin, Jr.
John P. Martin
Stephen M. Martin
Robert P. Mauskapf
Warren D. Maxon
Craig L. Mayer
Charles W. Mayo, Jr.
Willard J. McAtee
William H. McBride, Jr.
John J. McCarthy, Jr.
David J. McCarty
Michael R. McCarthy
Charles W. McCoy, Jr.
Merrill C. McClure
Scott E. McDaniel
William P. McElyea
Thomas M. McEntire
John C. McKay
Lauren M. McKenzie
Fred L. McClane III
Richard E. McClane II
Sidney E. McLaughlin
Michael G. McMicken
David D. McNally
Stephen B. McNeil
Linwood H. McNeill
Jon M. McNerney
Kenneth E. McNutt, Jr.
Alden W. McPike
Anthony R. Medley
James M. Messer
John R. Michaud
Charles A. Millard
Robert D. Millberry
Donald F. Miller
Thomas S. Miller
Barry C. Milo
Charles P. Minor III
Hubert Minx, Jr.
Joseph A. Mitchell, Jr.
Christopher R. Mohr
Thomas J. Molon
Charles E. Moore
William W. Moore, Jr.
Bernard P. Mordret
Jon W. Morrow
Michael C. Morschauser
Leonard J. Mrozak
Mark K. Mulder
Gerald D. Mullinix
Curtis W. Murray, Jr.
John T. Murray
Terrence P. Murray
Richard P. Musgrove
Stefan Mytczynsky
Martin J. Nacrelli
William S. Nadler, Jr.
John E. Neithammer
Deane A. Nelson
Garry D. Nelson
Larry G. Nelson
John F. Newhouse
Leonard L. Nicholson
James E. Nickel
Dominic Nicolosi, Jr.
Raymond A. Nielsen
Michael J. Nipper
Keith M. Nolan
Harvey R. Norton
Patrick A. Nourot
Timothy P. Nunan
Michael A. Nyalko
William L. Nyland
Christopher C. O'Banks
Bryan D. O'Connor
Steven J. Oder
Jerome X. O'Donovan, Jr.
Malcolm L. Ogilvie, Jr.
James R. Oldham
Willie J. Oler
Richard J. Olsen
John F. O'Neil, Jr.
Glenn P. Orgeron
Thomas M. Orth
Karl F. Osmus
Richard R. Page
Steven S. Palmer
William M. Palmer, Jr.
Edward R. Palmquist, Jr.
Thomas A. Pantke
John E. Parker, II
Robert D. Parker
Thomas L. Parrish, Jr.
Gregory W. Parsons
Larry F. Parsons
Michael L. Patrow
James R. Pazourek
George M. Pease
Daniel P. Pender
John A. Penne
Lawrence E. Pergerson
John D. Perry
Philip J. Persiani
Robert R. Petering
William G. Peters
Thomas H. Petersen
Harry W. Peterson, III
Leslie B. Petty
Gordon W. Phelps
Cheser R. Pino
John E. Platt
Eugene L. Polderdyke
Simon Poljakow
Karl J. Porisch
Richard D. Porrello
John W. Post, Jr.
Joseph W. Pratte
Richard T. Primrose
Phillip E. Prince
Theodore M. Printy
Bernard J. Prosser
Lloyd H. Prosser
Billy J. Pruett
Robert L. Pruett, Jr.
Richard L. Pugh
Jerry B. Pullium
Arnold L. Punaro
Theodore L. Quinter
Burton C. Quist
Norman D. Raderer
Raymond C. Rasco
James B. Ramsden
Anthony Raniszewski, Jr.
Arthur J. Rauchle, Jr.
Alfred Rawls, Jr.
James S. Rayburn
John E. Ready
Bruce J. Reed
John B. Reeside IV
Robert W. Reid
Raymond W. Reisner, Jr.
Victor F. Reston
Raymond B. Reynolds, Jr.
John E. Rice
Robert L. Richendrfer
Larry M. Ricker
John H. Rickert
Jesse W. Rigby
Charles L. Riley
David B. Ripley
James D. Ritchie
James H. Roach
Larry S. Roadman
Ray A. Roberts
John H. Robertus
Joe D. Robinson
Sands A. Robnick
Christian A. Rodatz
Earl C. Rodenberg
Humberto W. Rodrigues
Robert Rodrigues
Bruce L. Rogers
Michael F. Rohlfs
Mark A. Roman
Lester D. Roth, Jr.
Thomas H. Rouse
Daniel M. Rowland
Clinton L. Rudesill
Harry G. Rudge
Charles B. Rupp
James A. Ruska
Gilbert A. Rusterholtz
Charles A. Sakowicz
Robert J. Sargent
Joseph E. Satterthwait
John R. Saunders
Paul O. Schaefer
Rex T. Schalch
Martin E. Schechter
Edwin S. Schick, III
David N. Schweitzer
John A. Scire
Richard E. Scott
John T. Seabrook
William R. Seagraves
Richard A. Sergo
Irving E. Shafer III
James P. Sheehy
Darrel W. Sheets
Charles F. Shepard
David H. Skusa
Gordon L. Silliker, Jr.
Colin B. Sillers, Jr.
Herbert P. Silva
Charles H. Silver, Jr.
Daniel C. Silver
Joseph A. Silvoso II
Michael K. Simmons
Ronald C. Skelton
Ronald D. Skow
Clyde E. Smith, Jr.
Herman W. Smith
Lawrence W. Smith III
Thomas O. Smith, Jr.
William A. Smith
Carrol P. Soape
George Solhan
Ricky E. Somerall
Elmer R. Spears, Jr.
Hugh B. Speed III
Mark S. Splain
William F. Stacey II
Christopher C. Staley
Louis J. Stanislao
William W. Steele
Brian L. Steffen
Eric N. Steinbaugh
William O. Steinberg
Arnold T. Stevens, Jr.
James G. Stewart
Michael D. Stewart
George F. St. John III
Dennis M. Storm
Donald B. Strong
William J. Sublette
Tom E. Sulick, Jr.
William R. Sullivan
Fredric J. Swango
Calvin L. Swanson
Thomas W. Swihart
Michael B. Taggart
Thomas K. Tardy
James W. Taylor, Jr.
Ronald L. Taylor
William M. Taylor
Barry A. Teller
Dan M. Tennent
James P. Terry
Allan G. Thaut
Donald W. Thomas
James L. Thompson
Thomas H. Timberlake, Jr.
Richard J. Tipton
William P. Titterud
Gary G. Todd
John R. Tood
Joseph C. Tomasello
David F. Tomsky
George L. Townsend
Tompson R. Toyama
Dick A. Tracy
Byron M. Trapnell
James N. Treadwell
Mark C. Treanor
Robert A. Tretsch, Jr.
Robert E. Trevino
Rodolfo Tristan, Jr.
Drake F. Trumpe
Courtney L. Tucker
George E. Tucker
William T. Tucker
Thomas D. Turner
Daniel V. Urban
John W. Vagnetti
Edwin R. Valdez
Dyrck H. Vandusen
Rondall L. Vanhoutan
Earnest A. Vanhuss
Richard W. Vaughn
Melvin Voight
James L. Volkmar
Henry J. Vonkelsch III
Rudy J. Wadle, Jr.
Kim A. Wahtera
Arthur J. Walz, Jr.
James H. Weigert
Stephen T. Walmey
Edwin C. Walke
Raymond L. Walter, Jr.
Roger P. Waniata
Buddy A. Ward
William D. Warren
Myron Wasiuta
Urulee Watson
Jeffrey P. Weed
Terence A. Weigel
Charles T. Westcott, Jr.
Robert L. Whitaker
Charles E. White
Virgil W. Whitehead
Cornelius B. Whitehurst
John F. Whittle
Douglas P. Wiita
Patrick D. Wilder
Charles S. Williams, Jr.
Frederick C. Williams, Jr.
John R. Williams
Leslie K. Williams
Rickey D. Williamson
Leonard H. Willis
Charles E. Wilson, Jr.
Paul E. Wilson
Robert L. Windham
Guy C. Windheim
Joe B. Wisdom, Jr.
James D. Wojtasek
Walter J. Wood
Thomas G. Woods
Robert M. Worley
Willie T. Worrell
Donald I. Wright
Ronald J. Wroblewski
Roger A. Wroistad
Wayne W. Wynkoop
Frank A. Yahner, III
Joseph C. Yannessa
Robert A. Yaskovic
Fred J. Young, Jr.
William A. Young, III
Donald F. Zeller
Jeffrey M. Zimmerman
Ralph P. Zullo

CONFIRMATIONS

Executive nominations confirmed by the Senate November 12, 1971:

DEPARTMENT OF JUSTICE

Scott P. Crampton, of Virginia, to be an Assistant Attorney General.

OFFICE OF EMERGENCY PREPAREDNESS

Elmer F. Bennett, of Maryland, to be an Assistant Director of the Office of Emergency Preparedness.

U.S. ARMY

The Army National Guard of the United States officer named herein for appointment as a Reserve commissioned officer of the Army, under provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Ferd L. Davis, SSAN 237-50-9524, Adjutant General's Corps.

U.S. NAVY

Adm. Jackson D. Arnold, U.S. Navy, for appointment to the grade of admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

Vice Adm. Arthur R. Gralla, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

U.S. MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

Louis H. Wilson, Jr.
John N. McLaughlin
Robert R. Fairburn
Homer S. Hill
Leo J. Dulacki
Carl W. Hoffman
William G. Johnson
Herman Poggemeyer, Jr.
William C. Chip

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of major general:

John R. Blandford
William J. Weinstein

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

Victor A. Armstrong
Thomas H. Miller, Jr.
Robert H. Barrow
Herbert L. Beckington
Leonard E. Fribourg
Robert D. Bohn
William F. Doehler
Edward J. Miller
Wilbur F. Simlik
James H. Berge
James R. Jones

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of brigadier general:

Louis Conti
Verne C. Kennedy
Harold Chase

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be lieutenants

Abram Y. Bryson, Jr.
Warren K. Taguchi

IN THE ARMY

The nominations beginning Woodrow W. Stromberg, to be major general, and ending Bruce W. Wolitarsky, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 28, 1971; and

The nomination of Anthony B. Herbert, to be major, which nomination was received by the Senate and appeared in the CONGRESSIONAL RECORD on November 1, 1971.

IN THE NAVY

The nominations beginning Joseph P. Barreca, Jr., to be captain, and ending Lois E. Harden, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 26, 1971.

The nominations beginning Robert P. Ace, to be commander, and ending Anna Lee Steenburgen, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 26, 1971;

The nominations beginning Fletcher J. Barnes III, to be commander, and ending William C. Krieg, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 28, 1971; and

The nominations beginning Peter S. Capernaros, to be commander, and ending Franz Hatfield, to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 28, 1971.

EXTENSIONS OF REMARKS

MCI FOSTERS CULTURAL EXCHANGE

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mrs. HECKLER of Massachusetts. Mr. Speaker, the world focus is on travel, both for business and leisure purposes. "See America First" is a slogan that has truly touched the hearts of the American people. More and more Americans are taking advantage of every opportunity to spend their leisure time in the enjoyment of our Nation's varied advantages. The cultural assets of our cities and the peace and contentment of our national parks and rural areas are chief tourist attractions to our Nation at vacation time.

But it is not only American travelers whose attention is centered upon the United States today. As we advance in history, all the peoples of the world are closer together in time if not in space. More than ever, foreign nationals are disposed to visit the United States, now that airline travel and improved communications have brought the continents together.

America has much to offer—our cultural life, our scenic beauty, our people of ethnic diversity. These many different factors compose a nation of the greatest possible appeal and potential for tourism. The time is ripe for America to encourage the peoples of other lands to visit, explore, and enjoy our great Nation.

And yet the primary stimulus to visit America for those of other lands remains at this time our technological progress. It is the businessmen of the world who are the most familiar with American geography. Unfortunately, however, too many of our foreign visitors touch only the business places here and hurry home again, without savoring even a taste of our cultural inheritance, and without allowing their families the opportunity to become acquainted with our people and our land. Throughout the world today, business men and women and professionals of every nationality must rush from airport and appointment with little respite representative of American traditions of entertainment or cultural interest.

It is a fact that to experience the predilections of an unfamiliar country in a relatively short period of time, the businessman must have preplanned activities to make the most of his brief leisure. The concept of helping the businessman to achieve full use of his time and to encourage business groups to visit the United States for exchange of ideas with their American counterparts is the basis for a new consulting firm, Marketing Coordinators International, founded on the belief that technological exchange should be combined with travel experience and cultural understanding.

Under the able leadership of Daniel A. Botkiss, president, MCI offers a multifaceted program of cultural preparation and coordination for professional conventions and conferences. This firm stimulates and facilitates visits by business groups to the United States through travel assistance, interpretive services, and professional exchange.

To reach a full segment of the international market, offices have been established in Paris, London, and Caracas, in addition to the Washington headquarters, with new locations planned for 1972 and 1973. The Paris office serves as an illustration of the coordinated concept of cultural exchange on which Mr. Botkiss has founded his new venture.

Directed by Countess Irene Gabrielle de Lambilly, who is chairman and managing director of Les Hôtesses Independantes Associées, Paris MCI has undertaken an active campaign to bring groups of businessmen and tourists to conferences in the United States. Exhibitions are arranged, speakers provided, and business tours and conferences are developed in conjunction with the comprehensive exchange program.

This new emphasis on technological and marketing transfer and identification on an international basis should be a great asset to our country in the world market and should serve to enhance our balance-of-payments record as well. I am pleased that American business is actively encouraging foreign travel to the United States in a systematic manner. To acquaint foreign businessmen with the American cultural heritage and geographic beauty will undoubtedly be a step forward toward our national goals of augmenting human awareness and international understanding in the hearts and homes and marketplace of all the peoples of the world.

THE TRAGEDY OF NORTHERN IRELAND

HON. JAMES R. GROVER, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. GROVER. Mr. Speaker, as a cosponsor with Congressman BIAGGI of House Resolution 672, I have for some time been concerned with the situation in Northern Ireland. I do not wish to exacerbate an already volatile situation by joining with those whose statements are merely calculated to twist the British lion's tail. However the time has arrived when international observation and concern should be turned to that troubled isle in an effort to bring a rational and just political settlement to a problem that increasingly gives indications of developing into a full scale civil war. Traditionally our Nation has had strong ties to both the Irish and British people, and I am certain that men of good will in Britain are as concerned as we are here over the recent reports of brutalities suffered by the Irish.

It is in this regard that I have been particularly distressed by the reports in the world press detailing the inhumane treatment accorded prisoners who have been interned in Northern Ireland. The New York Times of November 9, 1971, published a story concerning the efforts of Amnesty International to secure better treatment of these prisoners and charging that they were subjected to savage beating and torture. I submit for the RECORD a copy of an article in the London Sunday Times of October 17, 1971, detailing these brutalities:

HOW ULSTER INTERNEES ARE MADE TO TALK

The growing success of the British Army's efforts in Ulster to trace suspected IRA men and their weaponry stems, the Army claims, from an increasing flow of information. Privately, the Army acknowledges that most of this is coming from those already detained.

As one Northern Ireland Cabinet minister said on Friday: "Those fellows are singing like hell." If so, what has made them "sing."

There is now a weight of circumstantial evidence which cannot be brushed aside that the interrogation methods being used in Ulster "ought"—to quote a Stormont Opposition MP—"to be unacceptable in a civilised country." Insight with John Whale report:

The military camp at Hollywood, just outside Belfast, has a reassuring name: Palace Barracks. Men of the First Battalion, the Parachute Regiment, are currently stationed there. But visitors to the camp have noticed a special compound at the back, with four huts surrounded by a corrugated iron fence.

The Army seems uncertain what to say about this. "There is a police holding centre there," one spokesman admitted, but of its purpose he said: "I don't think there is an interrogation centre there." But another spokesman agreed: "A certain amount of interrogation did go on at Hollywood straight after internment. It was a police affair, nothing to do with the Army."

The Royal Ulster Constabulary, on the other hand, say: "We are not prepared to disclose whether or not there is a place at Palace Barracks which we use for interviewing persons detained."

"DISORIENTATION" CENTRE

The facts are these. The compound at Palace Barracks houses an interrogation centre set up by a unit of MI12—the section of Military Intelligence dealing with Ulster. The centre is using top-secret "disorientation" techniques of interrogation to break down suspected IRA men. We have statements, smuggled from prison, by 11 men—all suspected by the Army of being "Provisional IRA leaders—who have been interrogated in this fashion."

The 11 men are: Kevin Hannaway, aged 22, Francis McGuigan, 23, Joseph Clarke, 19, and James Auld, 20, all of Belfast; Patrick McNally, 24, and Brian Turley, 25, of Armagh; Gerald McKerr, 27, of Lurgan; Sean McKenna, 42, of Newry; Michael Donnelly, 22, of Derry; Patrick McLean, 38, of Berargh, Co. Tyrone; and Patrick Chivers, 31, of Toomebridge, Co. Antrim. All these were given the full "disorientation" treatment.

Corroborating details about life in Palace Barracks come from a 12th man, Tony Rosato, a 24-year-old second-year student of modern history and economics at Queen's University, Belfast, who spent 36 hours in the place before his release last Tuesday afternoon. Rosato was not given the treatment.

The technique was the same for all 11 men. They had been rounded up at various points in the province—mostly at Girdwood Barracks in the centre of Belfast. All were blindfolded by having a hood, two layers of fabric thick, placed over their heads. These hoods remained on their heads for up to six days.

Each man was then flown by helicopter to an unknown destination—in fact, Palace Barracks. During the period of their interrogation, they were continuously hooded, barefoot, dressed only in an over-large boiler suit, and spread-eagled against a wall—leaning on their fingertips like the hypotenuse of a right-angled triangle.

PERVASIVE NOISE

The only sound that filled the room was a high-pitched throb, which the detainees usually liken to an air compressor. The noise literally drove them out of their minds.

At intervals, they would be taken from this room for questioning by RUC Special Branch men. Unless they were cooperative, they were returned to the room. This continued for up to six days.

The "disorientation" technique of interrogation is among the most secret areas of the British armed services' training techniques. Using Russian brainwash techniques, it was refined for British service use by an RAF wing-commander, who committed suicide later. It is taught to select military personnel at the Joint Services Interrogation Centre, whose location is an official secret.

The interrogation at Palace Barracks was organised, so far as we have been able to ascertain, by men from the Joint Services Interrogation Centre. The actual questioning appears to have been carried out by members of the Royal Ulster Constabulary Special Branch.

The statements of the 11 after their experience are jumbled and often incoherent. (One, subsequently released, is now under treatment for mental disorder.) The best description of the actual interrogation technique at Hollywood—as opposed to the disorientation process—comes from the student Tony Rosato

They said that my brother had said I was a member of the IRA. They said that the girls picked up from my house had said I was a member of the IRA. They asked me to sign a statement, saying that I had made incendiary devices for these girls. The date they said was 1970. I was in Oxford in 1970 and didn't even know these girls.

There were three interrogators. One was what I call the intellectual. He was obviously more intelligent and he was meant to be more intelligent than the others. That was his role, to defeat me intellectually, in my political and socialist ideas. One interrogator would be very kind, smiling at you now and again asking if you would like cups of tea. The other would be brutal and trying to get around the desk to get at you and being restrained by other policemen, who would be saying 'remember they've got these inquiries now.'

Each policeman is on duty in Palace Barracks for about 12 hours a day. There are only two shifts in the day. Each shift behaves exactly the same as the next shift and that is not just coincidental. Each officer uses the same methods, coming up to you and whispering and suddenly changing the tones of his voice and screaming at you. For instance, 'fold those blankets Tony.' There were maybe 40 of them, which I did. A very kind policeman acting the father showed me how to do it. I did it in the same fashion. Another came in and shouted 'what are you doing?' I said I was asked to fold them. He kicked them all over the place and said, 'You silly bastard, you're not meant to do them like that.'

I said to the intellectual interrogator that only a fool, would say no one could break under the treatment. Someone without intelligence might survive it, but I have seen grown men crying and young fellows pleading to scrub the floors, clean out the toilets, because of the pressures in the detention room. You plead for work to clean pebbles or wash windows covered in paint.

The intellectual's whole attempt was to defeat and change my political beliefs. He said, 'Look, Tony. if we let you out—and there is a very good chance we will—will you stop it? Just get your degree and emigrate.'

Mr. Rosato's experience should be set beside those of Mr. Patrick Chivers, one of five detainees released on Friday. He was given the full "disorientation" technique after his arrest at his Toomebridge home on August 9:

I was taken into a room. In the room there was a consistent noise like the escaping of compressed air. It was loud and deafening. The noise was continuous. I then heard a voice moaning. It sounded like a person who wanted to die. My hands were put high above my head against the wall. My legs were spread apart. My head was pulled back by someone catching hold of the hood and at the same time my backside was pushed in so as to cause the maximum strain on my body. I was kept in this position for four, or perhaps six hours until I collapsed and fell to the ground. After I fell I was lifted up again and put against the wall in the same position and the same routine was followed until I again collapsed. Again I was put up and this continued indefinitely. This treatment lasted for two or three days and during this time I got no sleep and no food. I lost consciousness several times.

A prisoner of the surname of Shannon—William Anthony Shannon, of 24 St. James's Place, Belfast—was still untraced yesterday after his arrest a week before. Mr. Rosato had more to say about the detainee he knew as Shannon.

He whispered to me that he had ulcers. He must have been 26, perhaps, crying, and in agony with his stomach. I didn't understand what it was. He said he had been hit a couple of times in the stomach. I thought back to when I went in. They ask if you have any ailments. I had asthma and I told them, and that became another subject for abuse. They took my inhaler off me. They bargained to give you a tablet. My inhaler was used on other people, people who did not know what it was. Policemen would be bragging about a new truth drug and things like this. They would march into a room and the next thing I would hear was my inhaler being used, and police saying "Open your bloody mouth, that thing is dangerous. It is poisonous."

When I was released I could not even walk without looking round me. I couldn't even walk without someone telling me to walk. For the last two days we had been told to walk to the left, walk to the right, to run, to walk slowly to do this, to do that. We had done nothing of our own free will. The only activity on my own I had was purely intellectual. If I scratched myself I was told to stop. My hand was beaten off my head. They try to smash your individuality.

The noise is an essential part of the breakdown technique. One man, Paddy Joe Mclean, of Main Street, Beragh, refers in a signed and witnessed statement to a whole range of disquieting sounds: "Compressed air escaping all the time, moaning, death services, hymns, execution order, protest moans, firing squad, mob singing."

Other testimony related more simply to physical ill-treatment, though accompanied by powerful threats. In a signed and notarised statement, Bernard McGeary, of Ardmore Row, Coalisland, who was held for about 30 hours on 17 and 18 September spoke of his interrogation in a cubicle in a place he believed to be Palace Barracks.

Everybody who questioned me was in plain clothes and had Northern Ireland accents. I was put against the wall, fingertips touching and feet spread apart. One man thumped me in the stomach with his fist while the other stood by to watch me. Meanwhile, the man at the desk and the man beside me shouted questions. This lasted five minutes. The two beaters left and I was questioned for another ten minutes. The two beaters returned and asked if I had talked. Then they put me up against a wall again and did the same thing over again for five minutes. They then said, He better talk before we get back or he will get the needle. They indicated a needle with a handle four inches in length, which was lying on the desk. I was questioned for another five minutes.

Then I was told to sit down, and asked if I had anything more to say to save myself. I would be sent to the Maidstone [detention ship] for 10 or 15 years. They said the interrogations and beatings could go on for a week or more unless I talked. One of the beaters returned and said, "Bannigan has talked and Morgan has talked. At this point I could hear thumps and squeals from behind the partition.

Mr. McGreary told us that when he was let out he had to sign for his belongings. On the back of the same form was a declaration to the effect that he had no complaints about his treatment. He signed that too. "At that stage I would have signed anything."

The army is determined that this phase of its battle with the IRA shall remain secret. The official inquiry under Sir Edmund Compton, now looking into allegations of brutality towards detainees, was given terms of reference specifically designed—according to a high military source—to prevent its inquiring into these interrogation techniques. For Compton can only inquire into brutality "prior . . . to their being lodged in a place specified in a detention order."

This phrase relates of Regulation 11, paragraph 2, of the Special Powers Act—which lays down that the detention order, signed by the Minister of Home Affairs, must refer to a specific place of detention.

So far as we can tell, all those later taken to the Barracks had not only been served with such detention order—but had also, however transiently, been "lodged" in the place specified.

The catch is that they were then served with another document—this one signed personally by Brian Faulkner, Prime Minister and Minister of Home Affairs. [The detention order merely had his rubber-stamp signature.] The second document allowed them to be moved—under Regulation 11, Section 5—to "any place where his presence is required in the interests of justice." The place was the interrogation centre at Palace Barracks.

So anxious was the Army to keep the affair legal within the terms of the Special Powers Act that a few men were flown back to their place of detention, handed the movement order, and then flown for a second time to Palace Barracks—this time, for thorough interrogation. But the fact of an illegal first journey in several cases may be the loophole under which, should he choose, Sir Edmund Compton could look into the affair.

U.S. TRADE BARRIERS

HON. ARTHUR A. LINK

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. LINK. Mr. Speaker, I call attention to an article that appeared recently in the Washington Post:

NIXON IGNORES U.S. BARRIERS WHILE PRESSING 10-PERCENT SURTAX

(By Hobart Rowen)

President Nixon and Treasury Secretary John B. Connally, in the high stakes international poker game they're playing to win lowered trade barriers, are trying to convince the world—and appear to have convinced themselves in the process—that the cards have been stacked against the United States in recent years.

And so, with great reluctance (they say) they uncorked a lethal weapon, the 10 percent import surcharge, to set things straight.

Now, it is true that since the Bretton Woods monetary system was set up in 1944, many of the world's currencies have been devalued, and the United States has suffered from this cumulative, competitive cheapening of money.

Moreover, Japan and West Germany were allowed to start out at the end of World War II with deliberately undervalued currencies to give them, as defeated nations, a headstart on economic recovery.

So the dollar had gotten out of whack—it was overvalued, especially in comparison to the yen and the Deutschemark, and a realignment of currencies and reform of the antiquated Bretton Woods system was long overdue.

But the facts on the trade situation do not square with the administration's charges.

The truth is that the United States has just as many, if not more, trade restrictions than our partners and competitors all over the world, although one would never learn this from Mr. Connally's Treasury Department.

And the insensitive use of the surtax as a lever to force trade concessions is seriously jeopardising many long-term and close relationships—as in Canada—which may never be repaired.

A speech given by John C. Renner, Director of the State Department's Office of International Trade on January 30, 1971, deserves to be recalled. It showed:

Although the U.S. and European average tariff rates will be very close at the end of the Kennedy round (8.3 percent and 8.4 percent), a breakdown of major industrial sectors shows that the European community (EEC) will have the highest tariff in none of the 23 major industrial sectors, and the lowest in 11. The U.S. score is not quite so good, the highest in 4, and lowest in 6.

In the distribution among 919 categories of industrial products, the U.S. has considerably more high tariffs and also more lows, whereas the EEC's tariffs are grouped more closely around the average.

A small but significant number of the 919 industrials is also hampered by quantitative restrictions such as quotas. The U.S., Canada, and the U.K. are using this device more freely than a decade ago, while discrimination against Japan—especially by the EEC—is widespread.

On the agricultural side, as everyone knows, the Europeans have a bad record, with a highly protectionist Common Agricultural Policy. But in terms of industrial quotas, according to Renner, the U.S. restrictions "cover a relatively large number of products and relate to the largest amount of trade," whereas the EEC's quotas, which also cover a large number "pertain to a comparatively small amount of trade." Japan's quotas cover the largest number of products and affect "a considerable amount" of trade.

The point of Mr. Renner's exercise in January is just as valid today: all of the industrialized countries, including the United States, maintain substantial tariff and non-tariff barriers against industrial and agricultural products.

He said then, and it is worth repeating to his colleagues elsewhere in the U.S. government:

"Unilateral action by any country to restrict trade, changes the balance of concessions arrived at over the years, and is most likely to provoke counteraction to restore equilibrium."

Moreover, the anti-American feeling generated by the bull-in-the-China-shop technique has lost us friends. Thoughtful Canadians (distressed as well that President Nixon erroneously named Japan, not Canada, as the No. 1 U.S. trading partner) wonder whether their government should seek to maintain the historic ties between the two nations. "When they imposed the surtax," said one Canadian sadly, "they didn't even say they were sorry they had to do it."

But U.S. policy, in the face of concern abroad over the possibility of retaliation and world recession seems unbending. Secretary Connally told the American Bankers Association in San Francisco the other day that the surtax "is going to stay on for awhile because it frankly is to our advantage to keep it on for awhile."

Mr. Renner's analysis shows there is plenty of discrimination on our side, running from the American Selling Price valuation system to Buy American practices, now exacerbated by the 7 percent investment tax credit proposal and the DISC idea (see Professor Surrey's separate piece on that issue).

Perhaps Messrs. Nixon and Connally should be reminded that a cutthroat international trade policy between the two great wars brought on Hitler.

FOREIGN AID—RARICK REPORTS TO HIS PEOPLE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. RARICK. Mr. Speaker, I recently reported to my people on foreign aid. I insert my report in the RECORD at this point:

RARICK REPORTS TO HIS PEOPLE ON FOREIGN AID

The rejection of the foreign aid bill by the Senate was the most responsible action by that Body in quite some time. The internationalists, however, never give up and on November 5th the Senate Foreign Relations Committee voted unanimously to make an effort to revive foreign aid.

I thought we'd discuss foreign aid today since our nation is again confronted with this costly boondoggle which has cost the American taxpayers in excess of $200 billion when interest is included. American taxpayers have over the past 25 years paid billions in interest on money borrowed by our Government to give to foreign countries.

The United Nations Relief and Rehabilitation Administration which came into being near the close of World War II followed by the Marshall Plan which lasted from 1948-52 are accepted by many as the beginning of foreign aid. A forerunner of these programs, however, should be mentioned in any discussion of foreign aid. I refer to lend-lease. Lend-lease was provided at first to help the British to fight the Germans and to ostensibly help keep the U.S. out of World War II. It was also given to help Russia.

Lend-lease has through the years been replaced from time to time with new labels, appropriations and purposes, but all undertake the same operation—to share with the rest of the world all we have. Harry Hopkins, Roosevelt's Herr Kissinger, stated at a public Russia aid rally at Madison Square Garden in June 1942, "We are determined that nothing shall stop us from sharing with you all that we have . . ." The concept of foreign aid was revealed earlier by Joe Stalin in 1921 when he said that the advanced countries should render aid to other nations to socialize and equalize the economic development of all nations which was so essential for their assimilation in a one-world socialist system.

The apparent purpose of the Lend-Lease bill was to provide munitions to Britain which was in dire need of them at that time. However, the bill was so cleverly drafted that it authorized the President to give almost anything—to anyone.

A most illuminating account of Lend-Lease was provided by Major George Racey Jordan, who, as an officer in the U.S. Army Air Corps, was directly involved in administering the program. Major Jordan relates that his orders to Active Service in May, 1942 read: "United Nations Depot No. 8, Lend-Lease Division, Newark Airport, Newark, N.J. International Section, Air Service Command, Air Corps, U.S. Army." Amazingly, 1942 was three years before the United Nations came into existence!

Except for appropriations by the U.S., Lend-Lease was never an American program. It was from the beginning a branch of the United Nations even before there officially was a U.N. Jordan relates further that detailed information as to what was given to Russia was not published by the Roosevelt Administration for Congress or for the public. In a diary which he kept, Major Jordan recorded the many items which he from first hand knowledge saw being shipped to Russia. Included were a tire plant, aluminum rolling mill, pipe fabricating works, a complete oil refinery, printing machinery, agricultural products and many other materials. Three items of exceptional interest sent to Russia were materials for the atom bomb, our production equipment for the manufacture of gold mining machinery, and our money-printing plates to print military marks for use in Germany as Allied Military Occupation currency. It is estimated that Lend-Lease shipments totaled $11 billion. World War II provided a good cover to give the Soviets most of the progress they made. Major Jordan provides many more details about Lend-Lease in his books *From Major Jordan's Diaries* and *Gold Swindle: The Story of our Dwindling Gold.*

The next label for foreign aid was United Nations Relief and Rehabilitation Administration (UNRRA). This was again a U.N. agency financed by the United States taxpayers. Its purposes was said to be to rehabilitate war-torn Europe and help the European nations recover economically. A large amount, estimated in excess of $1 billion, went to Russia and helped bolster the Soviets in their enslavement of central and eastern European countries.

As the American public began to see through the fallacy of one foreign aid program, the CFR dominated State Department came forth with another new label for a dressed up old program.

Next came Greek-Turkey aid followed by the Marshall Plan. In March 1947, President Truman called upon Congress to provide military and economic aid to nations threatened by powerful neighbors. He recommended $400 million for Greece and Turkey on the border of the Soviet Union to spend in defending themselves. A few months later General George C. Marshall began developing a program for spending billions of American dollars to help war-torn European nations to rebuild their cities, industries, and economies. Under the Marshall Plan both friends and former enemies regained prosperity.

Other titles under which the American taxpayers have paid for the foreign giveaway programs are Point-Four, Mutual Assistance, Mutual Defense, Mutual Security, Economic Cooperation Administration, and International Cooperation Administration. It presently goes under the name of Agency for International Development (AID).

Then, as the general public would wake up and begin to get disenchanted with the foreign giveaway, the share our wealth planners would subtly change the way the program was operated. Outright gifts became "soft" loans, International Agencies were established by our government to "lend" our money to foreign nations instead of giving it to them. The loans are usually long-term and at a very low rate. Even then, many of the loans are never repaid.

Foreign aid has been sold to the American people as a program for containing Communism. Yet, most knowledgeable persons feel that foreign aid is a subversive plot to help remake the entire world under a one-world communistic style government. Evidence to support this point of view was brought out in 1956 by the Senate Internal Security Subcommittee. The evidence showed that foreign policies, including foreign aid, were formulated by American communist Harry Dexter White, alias Weiss, a member of the Council on Foreign Relations, an undercover Soviet spy and Assistant Secretary of the U.S. Treasury in the Roosevelt Administration. White was our principal spokesman at the Bretton Woods Monetary Conference in 1944.

The policies set by that conference have been followed by our government since the end of World War II. They are our policies today. Wonder what happened to our money? They were intended to do the following: (1) to transfer the U.S. gold reserve to other countries; (2) to enhance the industrial capacity of other nations at our expense so as to end American productive superiority; (3) to take markets, domestic and foreign, away from American producers so as to end American domination of world trade; and (4) to make American affairs so interdependent with those of other nations as to destroy American independence and to force the U.S. to become an interdependent part of a worldwide socialist system. During the past 25 years unfortunately these policies have been implemented.

Foreign aid is generally classified as military assistance and economic assistance.

The arguments justifying military aid to other nations are that such aid enables these nations to defend themselves against communism, promotes peace and also saves American taxpayers' money since it is cheaper to equip others to fight than for our men to do the fighting against communism. The records of recent history belie these arguments. More than a billion human beings in over 20 nations have ended up under the yoke of tyrannical communism since our foreign aid programs started. In 1945, America was the strongest nation in the world and the military might of communist nations was no threat. Today the threat is a serious one since they have strengthened their defenses—thanks to our aid—while our own defenses have been deliberately weakened.

By our world wide distribution of arms, American weapons have been used by both sides in numerous conflicts. A good example is the India-Pakistan war of the early 1960's in which both sides used U.S. weapons. As a consequence, both countries hate us for helping the other side. Also, India has now made defense treaties with Russia and Pakistan has denounced us and embraced communist China.

Since mid-1945, we have given Bolivia and Chile in excess of $2 billion, apparently to stimulate their economies and help raise living standards of their poor so they wouldn't become targets for communist exploitation. Nevertheless they have both come under communist regimes.

The proven result of our aid to other nations has been not to finance freedom but socialism—the sophisticated term that means communism.

While the foreign aid has been explained as needed to contain communism, some of it has even gone to bolster communist nations.

Since mid-1945, we have provided Poland $580 million of foreign aid. Yet, at the same time in recent years when American wheat was being unloaded in a Polish harbor, Polish goods for communist North Vietnam were being loaded in other ships.

Not only has foreign aid been a failure in stopping the spread of communism, but it has also caused nations once considered our friends to hate America. We should have learned by now that with nations as with individual persons, friends cannot be bought. Britain, Sweden, Canada, and other nations we have helped actually trade with the Communist enemy that America alone is fighting in the no win war in North Vietnam. South American countries have seized our fishing vessels in international waters and have fined their owners. Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Mexico, and Peru have confiscated or expropriated about $3 billion worth of property owned by U.S. businesses with inadequate or no reparations at all. In other instances, damage has been done to American embassies and other installations abroad and our officials have been insulted. Yet, our leaders—Republican or Democrat—continue to dish out foreign aid to these countries.

President Nixon stated in 1969: "Certainly our economic aid to developing nations helps develop our own potential markets overseas." This is simply not so. Sales of American goods have decreased. Why should any foreign countries buy from us what they can get from us free?

Our give away programs have financed foreign government owned or sponsored shipyards, textile mills, steel mills, and cement plants. These industries, subsidized by favored government treatment and with U.S. AID funds, have been able to undersell American domestic goods. The net effect of this has been to cause American businesses to shut down and to swell the unemployment rolls here at home.

And while aiding foreign industries at the expense of American industries, the Nixon administration because of a U.N. sanction refuses to allow American industry to buy high grade chrome from Rhodesia, one of our few real friends left and which offered to help us in Vietnam. American industry buys inferior chrome from Russia, who aids our enemy in North Vietnam, at double the Rhodesian price. This alone removes U.S. products from the competitive price market. And to show the total insanity of the whole chrome situation, Russia—in violation of U.N. sanctions—buys the superior Rhodesian chrome at the lower price.

The foreign aid program has proved detrimental to any interests of America. My first objection to it is that is is unconstitutional. The Constitution, which doesn't even authorize the federal government to finance education and housing in this country certainly doesn't authorize it to tax Americans to perform these functions for foreign countries.

A second objection to foreign aid is that we don't have the money to finance it. With this nation having a public debt approaching $400 billion and an estimated deficit in the budget this fiscal year from $25 to $40 billion, foreign aid is inflationary, fiscally irresponsible, and immoral.

And finally, the program over the past quarter century has promoted the spread of slavery under communism—not freedom. It would be the height of folly to continue this program. Foreign aid should be phased out as soon as possible. The necessary portion of unexpended funds still in the pipeline estimated in the billions should be used to close down the program, AID should be disestablished, and the remaining funds returned to the Treasury.

The argument that foreign aid must be reestablished to give money to Israel so she can buy U.S. airplanes doesn't hold water. I maintain that this country should follow a hands off policy in the Middle East. In a legislative poll taken of my constituents, 61.2% favored a hands off policy by the United States regarding the Mid East dispute. If the American people, however, want Israel to have jet planes, then we should give her the planes, not the money. We can buy planes wholesale and at least cut out the middlemen.

This is the costly record of the U.S. foreign aid—it has helped no people, least of all U.S. citizens.

THANKSGIVING DAY SALUTE TO SENIOR AMERICANS

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mrs. GRASSO. Mr. Speaker, at this time of Thanksgiving, it is a pleasure to offer special thanks to our older friends—those who have given so generously of their vitality and spirit.

In a society increasingly geared to the youth culture, the elderly are too often shunted aside and cast adrift. Today, there are more than 20 million older people in our population of over 200 million. This number is growing at a rate of 330,000 a year. Their needs are real. Income assurance and health care, nutrition, housing and transportation—all

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are areas that demand our attention and require programs of adequate dimensions. Let us look at some facts.

In the Sixth District, there are some 46,000 persons, aged 65 and older. The latest available figures in Connecticut indicate that the median income of persons between 65–74 years of age is $1,785 a year, while the median income of those 75 years and older drops to $1,153. Over 57 percent of the 65-75-year-olds and some 73 percent of those over 75 have an annual income of less than $2,000. In the area of housing, Connecticut had only 5,072 occupied units of Federal and State financed housing by 1970 for an elderly population of nearly 289,000. In addition, only 2,330 units were either under construction or in the planning stage last year.

Fixed incomes, minimal social security and pension payments, and inadequate medicare coverage place severe limitations on the full and secure retired life older Americans deserve. These difficulties are coupled with a lack of mobility and resulting loneliness and isolation. The valuable skills of the elderly are also often ignored and forgotten.

Since entering the Congress, I have urged far greater commitment from the Government to help older Americans. This year, social security benefits were raised by 10 percent. I supported this legislation, and am also supporting legislation to raise benefits by 50 percent. Other legislation which has my strong backing extends medicare coverage to some persons now not included, establishes a comprehensive drug insurance program for the 20 million Americans covered by medicare, and creates a Select Committee on Aging. In addition I am vigorously supporting legislation to provide low cost, nutritionally sound meals to millions of older Americans; as well as legislation to make available, inexpensive public transportation for the elderly.

The problems and needs of older Americans have always been a special concern of mine. As a Nation we cannot be satisfied so long as millions of our finest, most valuable citizens meet with unnecessary suffering and misfortune in the twilight of their lives. The efforts of Johnny Unitas, Carmella LaSpada, and the American Association of Homes for the Aging in organizing a Thanksgiving Day Salute to Senior Americans are certainly to be commended.

As we now focus our attention during this Thanksgiving season in deserved tribute to our senior citizens, let us commit ourselves as a Nation to take the first steps in building a bold and comprehensive national program to improve the lives of older Americans. There could be no more positive and appropriate way to celebrate Thanksgiving Day.

THE TOTAL ENVIRONMENT

HON. VERNON W. THOMSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. THOMSON of Wisconsin. Mr. Speaker, we all share a common concern for the condition of our environment. Sometimes, however, in our eagerness to restore nature to its natural condition, we lose sight of the obvious fact that man is an integral part of the environment. Our efforts to protect our air and waters should be firmly rooted in man's requirements. We are not seeking to conserve nature as an end in itself, but rather as a means to enrich the human condition. Our air and waters must be clean, not for the intrinsic value of clean air or water, but because the very survival of human life depends on it.

Economic development is entering a new era of environmental consciousness. Business decisions are beginning to respect the limitations imposed by our natural habitat. And, yet, these business decisions must also insure production and employment to sustain the population.

Frances L. Harper, editor of the Prescott Journal, in Prescott, Wis., cogently expressed this often-overlooked facet of environmental concern. I am including his November 4 editorial at this point in the RECORD:

EDITORIAL

As someone pointed out recently, there is more to the environment than the air we breathe, the water we drink and the trees and forests. Our environment also includes the house in which we live, the office, farm or factory in which we work to give us the wherewithal with which to live and the commerce upon which a healthy economy depends. All of these things go to make up the total environment, which, according to the dictionary, is the aggregate of the external conditions and influences affecting the life of an organism.

So far as the environment is concerned, man must be considered as a mere organism. He requires the necessities and the amenities of his life that are part of his environment just as surely as air, water and forests. Pollution control must conform to our total environmental requirements. In short, we need air, water, forests—and factories, homes and businesses.

NATIONAL POLICY QUESTIONS INVOLVED IN THE BLUE RIDGE PROJECT

HON. WILLIAM B. SPONG, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, November 11, 1971

Mr. SPONG. Mr. President, two articles have come to my attention which discuss the fallacy of the concept of "pollution dilution" as it relates to the proposed Blue Ridge power project on the New River in southwest Virginia.

I am concerned over pollution in the Nation's rivers, but I have never believed that the burden of providing clean water for the Kanawha River at Charleston, W. Va., should be borne by the Blue Ridge project to the extent proposed by the Department of the Interior and the Environmental Protection Agency. Using water from the proposed reservoir to flush pollution out of the Kanawha is bad policy. Pollution dilution should not be substituted for at-source treatment.

Mr. President, the articles to which I refer are an editorial published November 5 in the Winston-Salem, N.C. Journal, and an account by Mr. E. W. Kenworthy of the New York Times News Service, published in the Winston-Salem Journal of November 7.

Because national issues are involved, the information in the articles will be of interest to every Member of the Senate. I ask unanimous consent that the editorial and the article be printed in the Extensions of Remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Winston-Salem Journal, Nov. 5, 1971]

MORE REASON FOR DELAY

The proposed Blue Ridge hydroelectric project, as most Northwest North Carolinians know by now, would require the storage of vast amounts of water on the New River for pollution control downstream in the Kanawha River valley.

But little by little we seem to be getting away from "pollution dilution" as a workable concept. The latest evidence of that was the overwhelming Senate vote in favor of legislation which would eventually outlaw discharges of pollutants into American waterways. Supporters of the bill are looking toward the year 1985 as the target date for this achievement; and although that may well be too ambitious a deadline, the drift toward a policy requiring at-source cleanup is unmistakable.

All of which suggests that the Federal Power Commission ought to delay a while longer the licensing of the Blue Ridge project. A preferable alternative would be to reject the plan outright, and order Appalachian Power Company to come back with a more modest proposal. But that is unlikely. The best hope for critics is to get a delay which will allow time for another in-depth study of the potential consequences.

The Senate's support of a stringent clean-water policy comes at an opportune moment. The FPC has called a special hearing this month to give supporters and opponents of the project a chance to sum up their arguments against it. Chauncey Browning Jr., the attorney general of West Virginia, says he will present to the commission evidence that the Interior Department based its support on "erroneous information" which ought to be stricken from the record.

He is supported in this, at least indirectly, by Stewart Udall, the former Secretary of Interior who endorsed the project when it was first proposed and later withdrew that endorsement.

But the more compelling reason for delay, it seems to us, is the changing shape of our national water policy. We can be fairly certain now that Congress will never adopt a policy based on Interior's faulty dilution concept. That concept, hurriedly embraced without adequate consideration of the damaging effects it would have on the New River valley, always had something of a stopgap flavor, anyway. Even at best, we could dilute the water of the Kanawha only up to a minimum acceptable level, and this, as we now admit, will not be good enough.

Furthermore, it is apparent that there will be no water available for flushing until sometime in the 1980s, if critics go through with their threat to appeal an unfavorable FPC ruling to the federal courts. Given a certain conjunction of events, this could mean that the discharge now responsible for the pollution of the Kanawha will have been eliminated completely before the flushing dams are ever built.

The Blue Ridge controversy has in some ways taken on the air of a Kafkian plot. Whether the FPC has gotten the message remains very much in doubt, however.

[From the Winston-Salem Journal & Sentinel, Nov. 7, 1971]

"FLUSHPOT" PLAN MAKES DAM A NATIONAL ISSUE

(By E. W. Kenworthy)

(NOTE.—The controversy about building a hydroelectric project on the New River has produced some questions of national interest. E. W. Kenworthy, a New York Times reporter whose speciality is the environment, took a look at the Blue Ridge project. This is what he found about the arguments for and against the project)

WASHINGTON.—On Thursday the Federal Power Commission will hear more arguments about whether a license should be granted to the Appalachian Power Co. for a $350 million hydroelectric project on the New River on the western border of Virginia and North Carolina.

The hearing room will be crowded and tension-laden because the project has aroused bitter opposition, not only locally but also nationally among environment organizations.

The controversy is now approaching a climax after a five-year battle of hearings and lawyers' briefs. The argument on Thursday will be the penultimate administrative proceeding.

Twice—on Oct. 1, 1969, and June 21, 1971—the power commission's presiding examiner, William C. Levy, has issued a license subject to commission review on appeal. Twice opponents have appealed. Now if the commission approves the license, the opponents' last recourse will be the courts.

The Blue Ridge project, as it is known, will produce a whopping 1,800 megawatts of power and an annual income of $39 million for Appalachian Power, a subsidiary of American Electric Power Co. of New York. Its two reservoirs, besides storing water for power, will also store 160,000 acre-feet for flood control and 400,000 acre-feet initially (650,000 by 1987) to be used to dilute the pollution of the Kanawha River by the industrial complex at Charleston, W. Va., 260 miles away.

(An acre-foot is the water necessary to cover an acre to the depth of one foot.)

The reservoir will also obliterate 44 miles of the New River, one of the few remaining clean rivers in the eastern United States, and 212 miles of tributary creeks, including some of the country's best trout water. They will flood thousands of acres of rich bottom land and pastures and about 1,200 homes, requiring the relocation of roughly 5,000 people.

Hence the controversy.

On one side are the presiding examiner and some of the staff of the power commission, the Department of Interior and the power company.

On the other side are the State of Virginia; the State of West Virginia in the person of its Democratic attorney general, Chauncey H. Browning, Jr., Republican Gov. Arch A. Moore, Jr. has tried unsuccessfully to block Browning's intervention); Grayson County, Va., and Ashe and Alleghany counties, North Carolina, whose people would be affected; the Appalachian Regional Commission; a number of state environmental organizations all with national affiliations, and the North Carolina Farm Bureau (North Carolina has also intervened, but in such a minor way as to draw protests from Ashe and Alleghany counties at what they regard as indifference to their interests by Gov. Robert W. Scott and Atty. Gen. Robert Morgan, who intends to run for governor.)

The proponents argue that the project is essential to provide needed power at lowest cost for other areas served by American Electric's system (it would not be used locally); that the opponents are standing in the way of "progress"; that the lakes formed by the reservoirs will enhance the recreational potentialities of the area and prove a boom to what is now "a marginal economy"; that while the fishing will be altered, it will be improved; that while there may be some loss of tax base for the counties, this will be offset by tourist income, taxes on new industry that may locate in the area and by savings on some services such as schools that "may not have to be provided to the same extent" because of the relocation of former residents.

VAST CHANGE

The power company, in an environmental impact statement, summed up its arguments for the project in these words:

"The project will unquestionably result in a vast change in the area. Applicant believes that on balance the project and its attendant amanities to thousands upon thousands of people—residents of the area and visitors—are of much greater significance than the possible adverse environmental effects. . . ."

And Mr. Levy, the presiding examiner, said in his decision last June:

"The long-term benefits will create a new and better environment and way of life for many people in the region . . . Low density hunting and fishing, limited tourism . . . will be replaced with large lakes, a substantial increase in fishing benefits and superior water oriented recreation . . . Water quality will be improved all the way down to the Ohio River . . . The New-Kanawha will be a bigger, better, more productive and esthetically pleasing river . . . On balance, the region and the proud, independent, self-sufficient people who live there will benefit from the project."

PROUD PEOPLE DISAGREE

Most of the proud, independent and self-sufficient people, judged by seven days of interviewa recently, disagree on about every point, and so do the affected counties and the State of West Virginia in their briefs.

They contend that the area is not poverty-stricken and note that good farm land is now valued from $600 to $1,000 an acre and more. They ask what is to become of families whose property is condemned since comparable land is not to be had, even if the company fulfilled its promise to help in relocation. As for improved fishing, recreation and esthetics, they cite the effects on all three of the drawdown of the water level in the two reservoirs for power production and water quality storage for Charleston, which they refer to scornfully as "pollution dilution" or "flushpot."

44.4 FEET

The maximum drawdown on the lower reservoir will be 44.4 feet. On the lower it will be 10 feet between June 1 and Labor Day—the summer recreation season—and 12 feet at other times.

The opponents cite in their briefs extensive testimony at power commission hearings by marine biologists that the bass, for which the New River is famous, will not be able to reproduce because fluctuations in water levels will destroy the eggs, and much of the trout fishing will be destroyed by the backing up of the water in the creeks.

The opponents note that Levy's decisions and the impact statements of the company and the power commission staff did not refer to this expert testimony, but cited only the testimony of their own chosen witnesses.

STEEP BANKS

They emphasize that even the company concedes that, except for some fishing, the drawdown of 44 feet will effectively eliminate recreational development in the lower reservoir which in most places will have steep banks.

As for the upper reservoir, Paul J. Johnson, Appalachian's superintendent of hydrogeneration, says that the 10-foot drawdown would expose only 50 feet of mudflats horizontally on the average, and that a 12-foot drawdown would expose only 60 feet on the average. The opponents reply that, while the averages may be correct, in many areas where the flooded land is gently sloping, unsightly, foul-smelling mudflats hundreds of yards wide will be exposed. They question whether the recreation on such a lake will be preferable to that now afforded by the New River, with its drift fishing from flatboats and its canoeing.

Standing in front of the filling station at Grassy Creek that he and his father have run for 50 years and that will be under water, Bradley E. Sturgill, brushing aside all the technical arguments, expressed to a visitor the other day the feeling of many people in the valley.

"I feel it is a dangerous thing" he said. "It's pretty hard to stop progress. But there's more to it than stopping progress. I feel we have about the only river left you can call an unpolluted river. I hate to see it destroyed. We have a lot of fine people along the river. I hate to see them moved out of here. They're going to be unhappy."

QUALITY STORAGE

But all the disputes over the effects of the project stem from one cause—the requirement that the company must impound above its power requirements 400,000 acre-feet for "water quality storage," that is, the water to dilute periodically the industrial pollution of the Kanawha into which the New River flows. The companies chiefly responsible for this pollution are Union Carbide, Dupont, Monsanto, FMC-American Viscose, FMC-Organic Chemicals, FMC-Inorganic Division, and Abbott Laboratories.

In their brief, the Conservation Council of Virginia, the West Virginia Natural Resources Council, and the Izaak Walton League charged: "It is for the benefit of these limited operations that the Interior Department would make a sacrificial offering of the New River."

BLACK BEAST

For the states the counties and the environmental groups, the Interior Department is the black beast of Blue Ridge because it insisted that provision for water quality storage be included in the project.

It is this provision that has transformed the controversy from one involving parochial interests to one of national import. And it is around this provision that argument will swirl once again this Thursday.

The issue has become national because the Federal Water Pollution Control Act states that while water quality storage may be considered in the planning of any federal project or any project requiring a federal license, "such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source."

NECESSARY SUPPLEMENT

The project's advocates insist that the 400,000 acre-feet (650,000 by 1987) will be used not as a substitute for treatment at the source, but as a necessary supplement to such treatment because the technology is not now available, and will not be available "in the foreseeable future" to reach West Virginia's immediate goal of 3 parts per million of dissolved oxygen in the Kanawha at Charleston, or its ultimate goal of 4 ppm, without dilution of wastes by "low flow augmentation," that is, "pollution dilution."

The project's opponents, relying on testimony of several nationally known engineers and scientists, insist that technology is now available to treat most of the pollution and

will soon become available to treat the remainder. Therefore they contend that the law is being evaded, if not violated.

DANGEROUS PRECEDENT

Further, the environmentalists believe that if this concept is given federal sanction, it will set a precedent with disastrous consequences, permitting companies to postpone indefinitely the installation of adequate waste treatment systems and contributing to steadily increasing fouling of the nation's rivers.

Lorne R. Campbell, counsel for Grayson County who is also an ardent conservationist, expressed this fear in a brief filed with F.P.C.:

"We believe," he said, "if the project proposed is licensed that every river basin in America will be endangered . . . Any industrial complex, by similar strategies employed in the Blue Ridge project, might contrive to bring about the inundation of thousands of acres of land under the guise of emergency power needs or pollution control."

There are two ironies in the situation. The first is that in the initial plan submitted to the power commission, the power company did not propose any water quality storage; that the whole concept was imposed on it by the Interior Department, acting through the power commission, and that Appalachian still takes a dim view of the concept, although it would now like to have the extra impoundment required for pollution abatement for generation of power.

Thus, in a recent interview in Roanoke, Johnson said:

"We've never asked for the 650,000 acre-feet, but if it's imposed on us by F.P.C., we can live with it. We'd be better off economically without the 650,000 acre-feet for water quality storage."

SECOND IRONY

The second irony is that there was almost no opposition at state or local level to the company's original project proposed in February, 1965. The company had, the local residents admit, done "a good selling job."

But in June, 1966, one month after the Federal Water Pollution Control Administration had been shifted to the Department of Interior from Health, Education and Welfare, Interior Secretary Stewart Udall, at the urging of his advisers, petitioned to intervene in the proceedings. His petition was granted.

Udall insisted the project include provision for water quality storage. He said later in a news conference that he had indicated to F.P.C. and the company that unless the Blue Ridge project, and "all future water resources projects," incorporated water quality storage, Interior would oppose the granting of a license. The company at first resisted the secretary's demand. Udall, according to his own account at the news conference, discussed the matter "privately" with Donald Cook, president of American Electric Co.

REVISED PROPOSAL

The result of all this, Udall related, was "a revised proposal." This "modified plan," submitted by the company in June, 1968, provided for water quality storage and closely approximated one prepared by the F.P.C. staff.

Udall has since had a change of mind. In his syndicated column last April 24, he said he had been "misguided" in forcing water quality storage on the Blue Ridge project, and vigorously attacked the whole concept.

The effect of his intervention was a doubling of the size and cost of the original company proposal.

MUCH HIGHER

The original project would have flooded 19,450 acres—16,600 in the upper reservoir and 2,850 in the lower. The modified project will flood 40,400 acres—26,000 in the upper reservoir and 14,400 in the lower.

The original would have impounded a total of 1,441,000 acre-feet of water; the modified will impound 3,261,000.

The original would have cost $140 million and produced 980 megawatts; the modified will cost about $350 million and produce 1,800 megawatts.

The original would have displaced 500 people, the modified, ten times that number.

Opponents of the modified project are particularly aroused by two things.

The first is that William Levy, the examiner, did not mention in his two decisions the testimony of two expert witnesses—Professor Vinton W. Bacon and Dr. David D. Woodbridge, both with recognized credentials, who testified before the F.P.C. that technology was available now for treating much of the industrial waste dumped into the Kanawha. Instead, they complain, Levy relied almost entirely on the testimony of Curtis Bell, an Interior Department lawyer who was the leading advocate of the project; Edgar N. Henry, head of the West Virginia Water Resources Board, and Richard Vanderhoof, a former Interior Department official now with the Environmental Protection Agency.

The attorney general of Virginia charged in his brief last Aug. 19 that "the presiding examiner has obviously disregarded the evidence in his efforts to sustain his original initial decision," and ignored all recommendations except those of the Department of Interior.

Second, the opponents assert that information supplied to the power commission by Interior was "erroneous" because it assumed, in stating the need for water quality storage, that there would not be any treatment at the source at all.

The power commission staff, in its brief, agreed that Interior's figures were erroneous, and said that therefore the 400,000 acre-feet insisted on by Levy and Interior were "excessive."

SUGGESTED NO STORAGE

It recommended no more than 250,000 acre-feet of storage for water quality control, and even suggested that no storage be provided.

In a brief for the Environmental Protection Agency, its associate general counsel, Robert W. Zener, said that the Environmental Protection Agency had no objection to licensing the project as proposed and that the question of whether the water quality storage was needed could be left for later determination.

In an interview, Zener was asked what recourse a farmer who had sold his land under condemnation proceedings following issuance of a license for the Blue Ridge project and then, when his land was under water, it was decided that water quality storage was not needed, Zener replied that there was little good farm land that would be taken. He was asked if he had visited the site of the proposed reservoirs.

WHAT COULD I LEARN?

"What could I learn by going down there?" Zener replied.

And so the lines are firmly drawn on the central issue. In his latest decision, Levy said:

"Conceding that Interior's waste load estimates may be excessive, that a better job of waste-load reduction and pollution control can and should be done by the Charleston area chemistry industry . . . the fact remains that . . . the desired water quality clearly requires low-flow augmentation in addition to adequate at-source treatment."

And Page Evans, standing on a low-water bridge over the Little River, an estuary of the New, the other day put the substance of all the opponents' legal briefs into the language of a countryman:

"THEIR OWN FLUSHPOT

"As far as we are concerned, it's the ruination of the beauty of our country. Let West Virginia industry build their own flushpot. We don't feel we should be punished 200 miles up the river."

And Guy Halsey of Independence, swinging slowly in a slatted wooden swing on his porch in the warm fall sunshine, looked over his rich green pasture land, and said:

"This is the best land that lays out of doors. The size of the project is too large. We are taking out of production the most efficient land in the county."

TRIBUTE TO ROBERT RITTER EYERLY

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. FLOOD. Mr. Speaker, thousands of residents in Columbia County, Pa., which I am privileged to represent in the House, were saddened to learn last month of the untimely death of a noted newspaper publisher and civic leader, Robert Ritter Eyerly. Death came at age 58 to this distinguished gentleman, following a short illness.

Robert Eyerly was widely recognized as an astute and capable newsman. When not concerned with the burdensome duties of the publishing field, he found time to give his talent in full dedication to a wide variety of civic and fraternal causes.

Mr. Eyerly was copublisher of the Bloomsburg Morning Press, and for several years the Berwick Enterprise which his firm acquired.

I extend my sympathies to Mr. Eyerly's widow, his relatives and friends, and his associates in the newspaper world, all of whom mourn his passing.

Mr. Speaker, I submit herewith for publication the text of his obituary from the Bloomsburg Morning Press:

RETIRED MORNING PRESS CO-PUBLISHER, 58, DIES

Robert Ritter Eyerly, fifty-eight, Oak Lane, one of the State's best known newspaper publishers and long a Bloomsburg civic leader, died unexpectedly at his home at 7:20 yesterday morning.

In ill health for some time, a circumstance which led to his retirement on June 30 of this year as co-publisher of The Morning Press and president of The Berwick Enterprise, he had a lively interest in civic affairs and within a week of his death discussed future projects for Town Park.

He was a leader in development of that recreational area and a moving spirit in decision to construct the swimming pool as a memorial to area men and women who made the Supreme Sacrifice in World War II. He was a veteran of that conflict and participated in the invasion of Europe.

HELD TWO POSTS

At the time of his retirement he was serving as business manager and vice president of The Morning Press Corporation posts he had assumed upon the death of C. T. Vanderslice, a co-publisher, in 1957.

During his illness over a period of more than two years he was frequently hospitalized but often recovered within an unexpectedly short time.

His wife and he were on a European tour in late summer but he returned home earlier than he had originally planned. He was stricken at his home on September 24 and was removed to the Bloomsburg Hospital where he was placed in intensive care. A few days later he was removed to a private room and, after steady progress, returned to his home on September 29.

Survivors include his wife, the former Marjorie Gould; a brother, Paul R. Eyerly, town; a sister, Mrs. Felix (Virginia) Schwammberger, Old Greenwich, Conn., and a number of nieces and nephews.

RITES THURSDAY

Funeral services will be at eleven o'clock Thursday morning at the William Elwell funeral home, 325 Market street, with the Rev. James T. Berger, rector of St. Paul's Episcopal Church, officiating. Burial will be in New Rosemont cemetery.

NATIVE OF BLOOMSBURG

A lifelong resident of Bloomsburg, he was the second son (third child) born to the late Paul R. and Amy Ritter Eyerly Sr. He attended the public schools here and then was graduated from The Hill School, Pottstown, where he was a member of the track team.

Because of his interest in newspaper work and his desire to lose no time in entering that field he decided, upon the successful completion of his freshman year at Yale University, to transfer to the Empire School of Printing, Ithaca, N.Y. Shortly after his completion of his course there and some practical experience elsewhere in the field, he entered The Morning Press where he remained active until his retirement.

INTERESTED IN PHOTOGRAPHY

During his early years with this publication, in addition to working in advertising, he spent considerable time in the development of the photographic and engraving departments and brought them to a standard that set the pace for newspapers of comparable and frequently much larger size throughout the nation. Among his other duties he was one of the first staff photographers.

WAR II VETERAN

He served in the 348th Combat Engineers during World War II, with service in the European Theater. His division was one of the units participating in the landing at Omaha Beach, a great maneuver of military history and the action which led to the capitulation of Nazi Germany a year later. He entered service in August, 1943, and was overseas from March, 1944, until January, 1946, when he was returned to the United States because of the serious illness of his father.

CIVIC ACTIVITY

Immediately upon his return to civilian life he became active in the civic projects of the town. In 1952 he served as president of the Bloomsburg Rotary Club, of which his father was a charter member, and had a leading role in the Bloomsburg Sesqui-Centennial of that year. He also served on the board of directors of this oldest of town civic clubs.

He was the founder in the late forties, of Bloomsburg's first radio station.

KEY ROLE IN PARK

In the fifties he took a key role in the project for the development of town park. He was motivated in this both by his civic interests and a pledge to his father that he would follow through on the park project which was launched in 1927 when thirty local residents purchased the first thirteen acres in the present forty-acre tract.

After the Depression Thirties and War II delayed development, the project went into high gear with the two fund campaigns for Memorial Swimming Pool, additional park land and other improvements. He had served on the Swimming Pool Authority from its inception.

HONORED BY PUBLISHERS

He inaugurated the Pennsylvania Newspaper Publishers Association Foundation, devoted to the development and advancement of employes of all member papers, and in recognition of this service PNPA, at its annual sessions early this year, presented him with a plaque. He had served as president from the time the program was launched. Its aim is to provide a trust fund of at least a half million dollars.

He was a member of the American Newspaper Publishers Association, with offices in New York, and served two years on the committee on taxation. He was also a member of the National Press Club, Washington, D.C.

In the PNPA, of which his father was founder, he served two terms as director and was president in 1966. The latter post had been earlier held by his father who had assumed office in the second year of the organization's history and was the first selected by vote of the membership. He also served on numerous committees and at the time of retirement was a member of the board of directors and advisory council.

Other affiliations were Bloomsburg Lodge of Elks, 436; Bloomsburg Lodge of Moose, 623 and Winona Fire Company.

L.B.J.: THE VANTAGE POINT—REVIEW BY A TENNESSEAN

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. EVINS of Tennessee. Mr. Speaker, Mr. Charles Overby, the distinguished political writer for the Nashville Banner, has written an excellent review of the Vantage Point, the recently published book by President Lyndon B. Johnson reflecting his perspective of the Presidency.

Mr. Overby concludes in his review that:

President Johnson has imparted in his memoirs a wealth of insights, significant not only for their historical meaning but for their reflection of the man LBJ himself.

Because of the interest of my colleagues and the American people in the period of the presidency between 1963 and 1969, I place the review of this book of history in the RECORD herewith. The review follows:

[From the Nashville Banner, Nov. 5, 1971]

JOHNSON REMEMBERS—MEMOIRS REVEAL WEALTH OF INSIGHTS, SIGNIFICANT FOR HISTORICAL MEANING

(Reviewed by Charles Overby)

Bringing to the Presidency all the drive and determination he exhibited for three decades on Capitol Hill, Lyndon Baines Johnson was not known for hesitation or uncertainty.

A man of action, in deed as well as word, LBJ faced trying times, five years of staggering problems, tragedies and pressures of engulfing proportions.

Unfolding his first-hand account of these times in his memoirs, "The Vantage Point," Johnson describes the phone calls in the middle of the night from the Situation Room, the all-night military and diplomatic strategy sessions, the legislative struggles for domestic programs, the peaks and the valleys of an administration required by history to act with decisiveness.

"My administration was never without at least one crisis," Johnson recalls.

Recurrent theme of the Johnson memoirs is the Vietnam War—why we were there to begin with, how and why our involvement increased, who helped shape our war policies, the pain, the agony, the necessity.

"In 1954 the French knew they could transfer the problem of Southeast Asia's security to our shoulders," Johnson writes. "But if the United States abandoned its responsibilities who would pick them up? The answer, in the short run, was: No one.

"We did not ask to be guardians at the gate, but there was no one else. There was no question in my mind that the vacuum created by our abdication would be filled inevitably by the Communist powers."

As unflinching today as he was then, Johnson emphasized: "If we failed to act in that patient, measured way, I believed that we would be risking far greater casualties, far more danger than we faced in Vietnam."

Now as then, Johnson shows little patience for the nation's fair-weather patriots.

The President recounts the why and wherefores of the SEATO treaty, cornerstone of American involvement in Southeast Asia, a document ratified by the Senate 82–1 that states flatly the U.S. will give military protection to Southeast Asia if its security is threatened by aggressive forces.

Johnson details the care he took to bring Congress into his Vietnam deliberations, chiefly through the Gulf of Tonkin resolution which authorized the President in advance to take actions he deemed necessary to the security of South Vietnam.

Both houses gave near unanimous approval to that blank-check policy.

What Johnson is saying and what the evidence supports is that the Senators who later turned sour on the war approved of, even contributed to, increased American involvement in Vietnam.

Johnson imparts the numerous efforts he made for peace in Vietnam. In its appendix, "The Vantage Point" lists 16 bombing pauses, ranging from one day to the halt of all bombing of the North ordered on the eve of the 1968 election, also 17 contacts with North Vietnam and 72 "major peace initiatives."

In the end, of course, Johnson made the politically supreme sacrifice, choosing to retire from the White House rather than cloud his peace initiatives with campaign politics.

The former President writes of his decisions to retire: "I was never more certain of the rightness of my decision. I was putting everything I could command and everything I had personally into the search for peace—not a false peace carrying the seeds of a new war, but a true peace forged to endure, with freedom intact."

"The Vantage Point" represents more than a dissertation of historical events, it presents, at times, a folksy insight into Johnson's White House days.

In the closing weeks of his administration, President Johnson exerted every effort to help President-elect Nixon and his staff make the transition of power.

So smoothly had the transition gone, Johnson writes, that an unprecedented event took place, with Johnson's personal staff in the White House mess.

"The White House staff reception, I was told, began rather stiffly and formally, since few of the men knew each other and even fewer had much in common politically. Some of those attending the party were eyeing each other suspiciously, while others made half-hearted attempts at conversation.

"Finally Charlie Murphy, sensing the situation, got up and delivered a humorous little speech. 'We want to welcome you here tonight,' he said, 'and we hope you will feel welcome. You will find that the typical Lyndon Johnson staff member is a peculiar breed of cat. He is very loyal to his boss. And when Lyndon Johnson tells him to do something, he does it, without question. Well, tonight President Johnson has told us to be nice to the Nixon people, and you might just as well make up your minds that we're going to be nice to you.' Everyone laughed and the tension evaporated."

From the time he assumed the Presidency in the aftermath of President Kennedy's assassination at Dallas to the day he returned to the hill country of Texas, Johnson has im-

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parted in his memoirs a wealth of insights, significant not only for their historical meaning but for their reflection of the man L.B.J. himself.

NORTHWEST TEXAS NEEDS NATIONAL CEMETERY

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. PRICE of Texas. Mr. Speaker, I rise to introduce legislation authorizing the Secretary of the Army to establish one or more national cemeteries in northwest Texas.

At the present time there are no national cemeteries in this area of the State. The nearest in-State facilities lie far to the south at Fort Bliss in El Paso and at Fort Sam Houston in San Antonio. This means that the national pledge that every veteran should have the right to be buried in a national cemetery reasonably close to his home has not been fulfilled as far as the needs of Texas residents are concerned.

As a people emerging from a costly conflict in lives in Southeast Asia, we are confronted with the solemn and sad, but ever increasing, need to provide additional burial space for those who have made the supreme sacrifice in Vietnam, for those who have fought in other wars, and for war veterans' immediate families.

Regrettably our Nation has not kept pace with the increasing demands for veterans' burial grounds, and a nationwide shortage of national cemetery facilities is becoming more acute with each passing day. According to the Department of the Army, it and the Department of Interior operate only 52 national cemeteries that are still open and available for the burial of deceased veterans. During this decade, 14 of these cemeteries will be closed. Before the turn of the century an additional 20 will also cease to inter veterans. Given this trend, the approximately 750,000 servicemen who are being separated annually from the Armed Forces will find even greater restrictions being placed on their privileged burials in national cemeteries.

Mr. Speaker, when a good hard look at our public policies toward national cemeteries is taken it becomes quite obvious that the cemeteries have largely been created in particular spots as a result of historical accidents rather than deliberate planning. Most of them are located near Civil War battlefields, hospitals, or prison camps. They also have a magnetic attraction for military bases. I believe this placement policy should be abandoned in favor of a policy that reflects the true needs of our veterans and their families. The overall picture must be examined. The location of pockets of veterans throughout the Nation must be determined. More rational Federal land use policies must be divised.

While all these things will help ease the present situation and will help redress the growing imbalance between national cemetery spaces and veterans' burial needs, immediate attention must be given to expanding the national cemetery system in areas where the need exists but where there are no facilities available to meet regional in-state needs. Northwest Texas is such as area; this is why I implore my colleagues to give the Secretary of the Army authority to establish one or more national cemeteries in this portion of the State.

MRS. ROMANA BANUELOS

HON. JOHN G. SCHMITZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. SCHMITZ. Mr. Speaker, the recent nomination of Mrs. Romana Banuelos of Gardena, Calif., as Treasurer of the United States was followed by an outburst of news reports linking her with illegal aliens who had been found among the numerous employees of her large-scale manufacturing business. In the interests of fairness, and in view of Mrs. Banuelos' record as a member of a minority group who made good in our free enterprise system, I am taking this opportunity to call the attention of my colleagues to a well-stated editorial in the Los Angeles Herald-Examiner presenting the other side of this story. I insert the following editorial:

[From the Los Angeles Herald-Examiner, Oct. 19, 1971]

THE BANUELOS CASE

Critics of Mrs. Romana Banuelos' nomination as treasurer of the United States should note some heretofore ignored facts.

Mrs. Banuelos is a highly successful businesswoman. She has attained a position of respect granted few women in banking and she has parlayed a little taco stand into a multi-million-dollar manufacturing business that employs many of her fellow Americans of Mexican extraction.

The fact that illegal aliens were found working at Mrs. Banuelos' food products plant in Gardena would have rated nothing more than an activity report of Dept. of Immigration agents, were it not for the fact that Mrs. Banuelos has been nominated for a top post by the President.

Such "raids" are frequent occurrences. The department receives a tip and acts, arresting any illegal aliens found on the premises. Immigration agents know where to look—and they make frequent checks at those places. The "warnings" supposedly issued Mrs. Banuelos on five previous occasions were merely the department's notification that illegal aliens had been found in the employ of a firm she controlled.

To suggest that Mrs. Banuelos should have prevented hiring of such persons is to be totally unaware of the procedures involved. Few employers have the staff to verify the immigration status of every person applying for a job. That is the Immigration Dept.'s job. Each of the people hired in Mrs. Banuelos' plant had been issued a Social Security number by the federal government. The blame belongs to Social Security for issuing the cards to illegal aliens, making it possible for them to go to work.

Mrs. Banuelos is innocent according to law. There is no law against hiring illegal aliens—the aliens themselves broke a law by falsifying information to obtain Social Security numbers, but Mrs. Banuelos had no way of knowing which ones were guilty.

A final point should be taken into account. These people have been used by the liberal establishment to pile up fraudulent statistics to further liberal causes. Surveys among Spanish-speaking people include illegal aliens as well as registered aliens—with a resultant lower educational level for the group as a whole—and more money allotted for special educational programs.

Since most illegal aliens are not fortunate enough to work for an employer such as Mrs. Banuelos, most of them are paid sub-standard wages, making them live in poor conditions—and piling up more statistics. For the same unfortunates to be used now as a weapon against one who has worked consistently for ethnic betterment is almost inconceivable.

Mrs. Banuelos' career reflects well on the American free enterprise system. She is a credit to womanhood and to Americans of Mexican descent. She is able and suited to do the job for which the President has nominated her and her appointment should be confirmed without further attempts at character assassination.

FOUR NASHVILLE STUDENTS EARN AWARDS FROM THE NATIONAL COUNCIL OF TEACHERS OF ENGLISH

HON. RICHARD H. FULTON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. FULTON of Tennessee. Mr. Speaker, this week, I learned of the achievements of four young Nashvillians, high school writers whose talents have earned them awards from the National Council of Teachers of English, and whose efforts I believe should be brought to the attention of my distinguished House colleagues.

Honored as first-place winners in Tennessee are Mr. David S. Noble, 917 Davidson Drive, a student at Peabody Demonstration School seeking a college major in English and psychology; and Mr. Robert Anthony Perkins, 2022 Clifton Avenue, a student at Pearl High School looking to gain college training in law and the literary arts.

Announced as runners-up are Miss Debra Lynn Brown, 6117 Elizabethan Drive, attending Hillwood High School and preparing for psychology and English literature college coursework; and Miss Alison Reynolds Cook, 119 Pembroke Avenue, a student at Hillsboro High School planning journalism and history collegiate studies.

These students were selected from the more than 7,000 high school juniors nationwide who last year were nominated by their schools for the NCTE achievement awards competition. The number of winners and runners-up allotted any State was determined by that State's number of Representatives in Congress. All told, 852 awards were granted this year, and as the national council notes:

The finalists, now seniors, are among the most competent high school students in English in the country.

These four Nashvillians, now recommended for scholarships as a result of their work, have my congratulations and best wishes as they move toward their college days. I am sure my colleagues will join me in paying these students tribute, and I ask unanimous consent that their achievements be noted in the RECORD.

NOVEMBER 11—VETERANS DAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. ANDERSON of California. Mr. Speaker, over half a century ago, President Woodrow Wilson proclaimed November 11 as Armistice Day, to honor those who had fallen in the war said "to end all wars."

Celebrations were regularly held each year after the end of World War I, but it was not until 1938 that Congress passed a law declaring that each November 11 "shall be dedicated to the cause of world peace and hereafter celebrated and known as Armistice Day."

Regretably, the peace that was ours in 1918 was interrupted by a Second World War—then by Korea—and now, Vietnam.

Thus, by evolution, Armistice Day became known as Veterans Day—to pay homage to all those who had worn their country's uniform. We pay tribute to both the dedicated veterans of yesterday, and the active servicemen of today.

Again, in 1968, the Veterans Day was changed from the historically significant date of November 11 to "the fourth Monday in October."

Whether we agree with this latest change or not, let us never forget November 11 and those who fought and died—trudging their way through the mud and rain and the shell-pocked fields of France to bring us peace in 1918.

Nor can we forget those who fought and died in North Africa, Normandy, Guadalcanal, and Iwo Jima. Or those veterans of more recent vintage—Inchon, Pusan, Porkchop Hill and, most recently, the Mekong Delta, Danang, Khe Sanh, Pleiku.

From the Revolutionary War to the present, more than 39 million men and women have served their country in uniform during wartime. Those who have defended our Nation, with their very lives when necessary, have rightfully earned the honor and respect of all Americans.

Mr. Speaker, we can never restore the lives of the fallen—nor fully repay the loyalty of their souls—but we can honor the nobility of those who survived and their loved ones.

As President Lincoln reminded us over 100 years ago, we must "care for him who shall have borne the battle and for his widow and orphan."

We have passed the Widows' Equity Act, H.R. 10670, to establish a survivor's benefit plan. This bill is now in the Senate awaiting action.

But, two measures demand our attention. First, we must enact legislation which would provide a pension of at least $100 a month for our 1.6 million living veterans of World War I. This pension would be paid without regard to the annual income of the recipient. Of the surviving veterans of World War I, slightly less than half have an annual income from all sources of less than $2,500 per year.

The World War I veterans of this country deserve a pension; not as a matter of need, but as a matter of right. They fought to preserve our flag; they earned our respect and they earned our thanks. I am pleased that the Veterans Affairs Committee is currently holding hearings on this legislation.

Second, we should enact legislation to equalize the retirement pay of members of the uniform services of equal rank and years of service. This would allow us to honor a moral obligation to retired servicemen, which we broke in 1958.

Ever since 1958, when the system was switched, a serviceman who retires keeps getting the same pay as long as he lives, except for periodic cost-of-living adjustments.

In short, the change has created a marked inequality among peers—an equality which will continue to widen unless Congress restores the traditional system of computing retired pay on the basis of current active duty rates.

REHABILITATIVE CENTER HELPS WITH SOLID WASTE PROGRAM

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. ROGERS. Mr. Speaker, the issue of solid waste disposal is receiving increased attention by the American people, and rightly so, for we have, in the past 40 years, disposed of enough solid waste to cover an area seven times the size of the State of Rhode Island.

However, many citizens are not just talking about solid waste problems—they are making significant contributions to coping with the problem and to reduce its severity.

One such effort is being undertaken by the Pioneer Occupational Center for the Handicapped in Stuart, Martin County, Fla. The occupational center, with the cooperation of the Martin County Conservation Alliance, has been collecting newsprint, magazines, and cardboard on the third Saturday of each month.

The solid waste material is then taken by truck to West Palm Beach for recycling and the proceeds from the sale of the solid waste is used for the training of handicapped individuals at the occupational center.

To date, since April 1971, when the project began, approximately 276 tons of waste material has been collected from Indian River, St. Lucie, and Martin Counties and taken to the recycling facility.

I commend Mr. Ray N. Radtke, executive director of the Pioneer Occupational Center, his staff and trainees for their excellent contribution to improving our environment and I am hopeful that other handicapped centers throughout the Nation will consider similar programs.

SPEEDY TRIAL

HON. WILLIAM J. KEATING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. KEATING. Mr. Speaker, today, I am introducing a bill designed to give meaning to the sixth amendment right to speedy trial. This legislation goes further, and is more comprehensive in scope, than any measure thus far introduced in Congress attempting to deal with congestion in our Nation's courts.

The median time interval for the disposition of criminal cases has been steadily rising over the past several years. The situation in courtrooms across the Nation has deteriorated to the point where criminal justice has become a matter of disposing of statistical masses. This aids neither society nor the defendant. This only perpetuates the cycle of crime and increases disrespect for justice under the law. In summary, there can be no argument that we must guarantee all criminal defendants the right to a speedy trial. As stated in the Magna Carta:

To no one will we deny justice, and to no one will we delay it.

This legislation is needed for many reasons. For one, speedy trial is without question an effective deterrent to crime. If a deterrence to crime is to be established, there must be a clear, direct, and swift connection between the commission of a crime and the apprehension, trial, and sentencing of an offender. On the other hand, when trials are delayed for months, as they often are, the connection between the defendant's crime and his sentence is broken.

Delays before trial are also responsible for many crimes committed by defendants who are free on pretrial release. The President's Commission on Crime in the District of Columbia, reporting in 1966, found that 7.5 percent of the persons released on bail in the District were later indicted for offenses allegedly committed while free and awaiting trial. Obviously, an important step in reducing the danger of criminality released defendants is to shorten the time between arrest and trial.

Delay in bringing criminal defendants to trial also results in countless lost convictions, and reductions of charges for serious crimes to charges for minor crimes. It is a simple fact that the longer the time for trial is delayed, the more memories fade, witnesses die or become unavailable, and cases become stale. It is also fact that clogged court dockets result in increased pressures on prosecutors to give the defendant a lesser charge in return for a guilty plea and waiver of jury trial.

Current delays also lower the esteem that citizens have for the criminal justice system. For if this system is to operate effectively, the citizenry must believe that justice is operating fairly. Unless an attempt is made to head off the disaster that our criminal justice system is headed toward, we may look forward only to increasing disgust, complete cynicism, and popular pressure for radical change.

Anxiety and uncertainty about their

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fate, experienced by many defendants, is one of the obvious costs of delay. The heaviest burden of all falls on the poor defendant who cannot afford bail or retained counsel, and who faces pretrial incarceration. These are the defendants whose jobs and family are completely interrupted when accused of a crime. These are the defendants who cannot return to a normal life until their trial date has arrived or they have decided to plead guilty. Clearly, something must be done.

Mr. Speaker, this bill will require the trial of Federal criminal defendants within 60 days of their arrest. Failure to accomplish this will result in dismissal of the charge against the defendant. It is recognized that highly unusual circumstances may require a longer period of time to bring some defendants to trial. Allowance for such cases is made in the bill. However, the overwhelming number of criminal cases will not fall under this category. In these instances, the defendant simply must be given a speedy trial.

My proposal also provides for closer and more effective supervision of persons released on bail prior to trial. This would be accomplished through the establishment of pretrial service officers throughout the entire Federal district court system. These officers would supervise released defendants, recommend appropriate release conditions, aid defendants in finding employment, medical, and other social needs, and perform those functions necessary to insure fair and equitable treatment for criminal defendants awaiting trial. To achieve this goal, $20 million would be authorized annually for expenditure in Federal districts.

Finally, those States which fail to make the reforms necessary to follow the example of Federal courts will face having funds from the Law Enforcement Assistance Administration cut off. Since receipt of these Federal funds is a privilege enjoyed by the States, and not an inalienable right, this provision in the bill is intended only to provide States with an incentive to act. Although this incentive should not be required, this is the only action which the Federal Government may take without infringing upon the integrity and inviolability of State court systems.

Mr. Speaker, I urge the prompt consideration of this bill. The need for this legislation is clear. As stated in the task force report to the 1968 Presidential Commission:

> As the backlog of cases becomes overwhelming, clearing the docket comes to be an end in and of itself, and haste rather than intelligent deliberation is the norm of practice. Disposition by dismissal or by guilty plea is often characterized by little attention given to the panel and correctional needs of the offender.

The time to act is now. Enactment of this bill into law will be required if the constitutional guarantee of right to speedy trial is to have substantive meaning.

AMERICA—THE MELTING POT

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. COTTER. Mr. Speaker, all too often we read in the news of the hatred and bigotry that is manifested in today's society. It is sad that we so often forget of the cooperation and understanding that does occur among the peoples of many different cultural and ethnic backgrounds living in the United States today.

Most recently I saw an article appearing in the Hartford Times that reminded me of the cooperation that can, and indeed does, exist here in America. Mr. Speaker, I submit this article to be printed in the RECORD so as to remind us all of the lessons we may learn from our children, and also to reassert the concept that America is still the melting pot of the world.

The article follows:

NO CHILD IS WITHOUT A FLAG AT BURNS

(By John Cleary)

In the entrance lobby of the Dominick F. Burns School on Putnam Street there's a row of little flags, each the national emblem of a different nation. Each flag represents one or more pupils in the school who were born in that country or whose parents came from there.

The flags are the gift of the Connecticut Bank and Trust Company. Principal Herbert F. Shedroff says, "The bank's gift is a valued community participation in the life of the school. This school is very much a part of the community in which it's located—not just the city of Hartford, but a high-density residential district with a distinctly international flavor."

The school has been nicknamed the "United Nations School" for the diversity of ethnic origins represented among the children. Shedroff hasn't yet counted up this year's national origins, but last year there were at least 26. By "national origin" he means that a child or one of his parents was born in the country named:

Chile, Colombia, Peru, Venezuela, Brazil, Portugal, Poland, Canada, Italy, Greece, the Philippine Republic, Romania, China, Hungary, Lithuania, Germany, France, Switzerland, Yugoslavia, England, Scotland, Ireland, the Netherlands; two countries now parts of the Soviet Union, Latvia and the Ukraine, and the section of the Eastern Mediterranean whose people are usually called Armenian.

And, of course, the United States of America.

There's a serious purpose behind the nickname of the school. Shedroff said, "Children who feel they belong to any minority are likely to have bad feelings about themselves. Their self-image is poor because they are so frequently 'put down.' We try to teach them explicitly and by and by example that diversity is a source of richness. This is a love school.

"The children get the message better than their parents. When we began to emphasize the dignity and color of each different ethnic culture, the window-breakage rate went down. The children began to have pride in the school.

"But it's difficult to get the parents of a French-Canadian child, for example, to identify in himself anything in common with a Puerto Rican or a Portuguese. Our parents organization moves chiefly on the work of members of our staff."

At the Burns School, it isn't a PTA; it's a PTSA—a Parent-Teacher-Student Association. "The children have a part in decision-making and the shaping of policy," Shedroff said.

The diversity of languages presents the staff with some problems. "It's more important for a child to be able to tell time than just to be able to tell time in English," Shedroff said. "If he speaks Spanish at home, we teach him to tell time in Spanish first."

The staff is multilingual. The guidance counsellor is fluent in Portuguese. A fifth-grade teacher speaks Greek. (The school has all grades from kindergarten through eighth). Several para-professionals speak other languages.

The ethnic mix of the children reflects that of the neighborhood, roughly bounded by Washington Street, Madison Street, Pope Park and Capitol Avenue. It has long had a large French-Canadian population, and in recent years many Puerto Rican families have moved in.

"It's a low-rent district," Shedroff said. "Immigrants tend to settle here first when they come to Hartford. Some of them become stabilized here, like the French Canadians and the Portuguese. Others drift away a few at a time."

Among Burns' distinguished alumni is Mayor Athanson. Another (who would still be a pupil if his family had not moved to another school district) is Wesley Robinson who last year, at the age of 12, was chosen by a national magazine to visit the Marshall Space Flight Center and experience for a few days the training of an astronaut.

MARINE COMMANDANT PRAISES BROTHER SERVICES

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BROOKS. Mr. Speaker, the distinguished Commandant of the Marine Corps, Gen. Leonard F. Chapman, Jr., paid honor to the other services as well as the Marine Corps on the Marine Corps 196th anniversary, November 10, 1971, at a memorial ceremony held at the Iwo Jima Memorial Monument. He stated that the greatest tribute to fallen comrades and to those still held captive is in the readiness of every weapon, and every marine to fulfill the purpose of the Marine Corps: The defense of the United States. I insert his remarks in the RECORD at this point.

REMARKS OF GENERAL CHAPMAN

Today, on the 196th anniversary of the birth of our Corps, we have joined together to honor all Marines who have given their lives in fulfilling the purpose of our Corps: "fighting our country's battles."

Today, as is our custom, we remember the battles fought, the work accompliahed, and the past and present honors bestowed upon our Corps. And we remember the Marines, the few good men who chose to serve and gave their lives in that service.

But as Marines, professionals, who are proud of their Corps and its service, we know that no force can stand alone in the line of battle. So today, in paying honor to those Marines who have fallen, we also pay honor to our brothers of the Army, the Navy, the Air Force and the Coast Guard. And we look to our left and right with great pride to see their flags, like our own, decorated with the battle streamers of this country's history. It is a good history. We are proud to share it.

Now, another hard and long conflict has become a part of our Corps history. Several months ago the last Marine unit left the Republic of Vietnam. Only a few hundred Marines remain there. This marks the first Marine Corps anniversary since 1964 that Marine battalions and squadrons have not been engaged in combat. And today we think of the Marines still held POW in enemy hands. Today we remember the purpose of our Corps remains unchanged. We are ready—every Marine, every weapon, and every piece of equipment is in constant readiness to fulfill that purpose: The defense of the United States.

And in this is our greatest tribute to fallen comrades, and those held captive.

THE RHODESIA BOYCOTT: THE END OF A SAD ERA

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. PRICE of Texas. Mr. Speaker, I must applaud the action taken by the House this past evening in voting to put an end to the ridiculous and self-defeating policy of embargoing the importation of chromium ore from Rhodesia. For years apologists and functionaries in this Government have attempted to legitimize a masochistic policy which has made us the laughing stock of the world.

We have been constantly rebuked and reminded of the importance of living up to our "commitments" to the United Nations—an organization which has had no difficulty at all in turning its back on the United States time after time. As an extension of our own civil rights problems here at home, the United States was duped into going along with a U.N. sponsored program of sanctions against Rhodesia which has only served to cut off our nose to spite our face. While liberals here and abroad have sought to justify a Rhodesia boycott to show disapproval of that government's internal policies, they have overlooked the fact that they have placed the United States in the position of dependence for a strategic material upon the U.S.S.R., whose government is undoubtedly the most notorious, sinister, and antilibertarian in the entire world. We have been "Uncle Sap," and while we have been chastized about living up to our "commitments," other pious U.N. members have continued to carry on a brisk under-the-table trade with Rhodesia, whose clientele list probably includes the U.S.S.R.

Mr. Speaker, if we have any feelings toward the internal affairs of the Rhodesian Government, we can better offer a constructive influence only if channels of communication and trade are open—we can accomplish nothing by maintaining a stone-faced, hard-nosed stance. And certainly, if we are now willing to talk with and trade with the Russians, and the Red Chinese, there can be no justification whatsoever for maintaining an unrealistic policy toward friendly, independent, and strategically important Rhodesia.

Mr. Speaker, I especially commend the distinguished chairman of the Armed Services Committee, Mr. HÉBERT, my good friend JIM COLLINS of Texas, and Senator HARRY BYRD of Virginia for their constructive and skillful efforts. I strongly urge the Senate to give its final assent to the military procurement bill as amended and for the President to sign the bill into law.

And as a final note, I believe the action of the House is most timely in giving its approval of this important bill on the eve of the sixth anniversary of Rhodesia's Independence Day. May I extend warmest congratulations to the people of Rhodesia whose strength of character make November 11 a day worth celebrating.

THREAT TO MIDDLE-CLASS AMERICA

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BROYHILL of Virginia. Mr. Speaker, the uproar in Detroit, over the anticipated court order for massive, city-suburban schoolbusing, highlights what is in store for most large metropolitan areas nationwide. Only a constitutional amendment, as provided in House Joint Resolution 620, to counteract the Supreme Court's Swann decision, can stop it now.

I would like to point out, Mr. Speaker, that the "flight to the suburbs"—which in recent years has been accelerating, partly because of increased overcrowding and air pollution in the "asphalt jungles"—predates the famous Brown desegregation decision by at least a third of a century. The flight started at the end of World War I when city dwellers who could afford it moved to the outskirts of town, where they could raise their children in a cleaner, healthier, less crowded, more attractive environment.

As wages and salaries rose, blue collar city workers became white collar workers, and followed the more affluent to greener pastures. And as more and more city blacks became better and better educated and entered the professions, they too became middle class and moved to the suburbs. This upward and outward mobility of blacks as well as whites in the pursuit of happiness is now threatened by court orders to bus suburban children back into the overcrowded, crime-ridden, polluted, inner cities from which their families fled.

There are exceptions perhaps, but I cannot believe that Americans, black or white, who seek a better way of life for themselves and their children in the suburbs do so because of animosity against the less fortunate who are left behind.

Surely there are better ways to help the city poor—through provisions for more parks, vastly improved educational and job opportunities and opportunities for outward mobility—than to drag great numbers of middle-class children back into the "asphalt jungles."

Mr. Speaker, I urge passage of House Joint Resolution 620; and I insert a New York Times report of October 2, 1971, on Detroit's busing dilemma at this point in the RECORD.

BUS RULING JARS DETROIT SUBURBS

A Federal judge's ruling that Detroit's schools are segregated has started an uproar in the suburbs.

Even though there is no order calling for any city suburban black-white busing, protests and short boycotts involving thousands began this week.

The issue of exchanging city blacks with suburban whites was raised by a white anti-busing group in Detroit. There is not likely to be any decision on the matter for some time. Federal Judge Stephen Roth, who ruled that the Detroit system was guilty of segregation although he blamed almost all of society for the problem, is scheduled to begin hearings on a solution this week, and the hearings could go on for months.

The Detroit system with 300,000 children is two-thirds black, and integration in the city alone would leave all city schools largely black. The suburban schools are largely white.

SUBURBANITES UPSET

Suburbanites are concerned that the judge might order the state to create a metropolitan school district, stretching from the all-white schools of Dearborn—for years an openly segregated community—on Detroit's west to the rich Grosse Pointe suburbs to the east and to the rows of working and middle class suburbs in a band a few miles north of Detroit.

Any such plan would mean sharing Detroit's school troubles, which many of the suburban residents moved from. The big Detroit district averages about $650 in spending per student while the suburbs may run past $1,000.

The Detroit schools score low on standardized learning tests, and racial fighting in integrated schools is not uncommon. Since the new school year started, for example, there have been outbreaks of violence at Ford High School in Detroit and Ferndale High, an integrated suburban school.

The dispute has political implications, too. The Democratic state party chairman, James McNeely, said this week he supports busing as a method of eliminating inequality in education. But the heart of the opposition comes from working class and solidly Democratic suburbs.

HEAVY ABSENTEEISM

In Warren, Mich., for example, a solidly Democratic suburb on election day, absenteeism ran into the thousands and passed 40 per cent in some schools after a call for a one-day boycott to protest the possibility of city-suburban busing.

Republican office holders have been more cautious: Senator Robert P. Griffin, who will run for re-election next year, said he opposed force busing but also opposed boycotts. Gov. William Milliken said he favored integrated schools but it would take "the wisdom of Solomon" to work out a plan.

The Governor and Frank Kelley, Democratic attorney general who is a likely candidate to oppose Senator Griffin also announced a state court challenge this week to the property tax system that is used to finance the schools.

Any effort to find a more equitable method of financing schools is connected to the in-

tegration issue because the large black areas generally have less tax base per pupil, and thus less money to spend on schooling.

BACKGROUND OF DISPUTE

The controversy began after the Detroit board of education last year ordered white students, the minority, spread more thinly in the Detroit schools for integration. The Legislature killed the plan and ordered a decentralized school system in Detroit, which blacks supported.

Conservative white groups in Detroit then led a successful recall movement against the board of education members. The National Association for the Advancement of Colored People then brought suit against the state and the Detroit school board. But the suburban busing question was not raised in this suit.

The Citizens Committee for Better Education, which is against busing, intervened in the suit saying that all suburban schools should be included in any desegregation plan for Detroit, which started the worries in the suburbs.

MONTHLY CALENDAR OF THE SMITHSONIAN INSTITUTION

HON. HENRY P. SMITH III

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. SMITH of New York. Mr. Speaker, our late colleague, the Honorable James Fulton, placed in the RECORD each month the Smithsonian calendar of events. I have been requested to carry on that tradition, and I am honored to do so. The November calendar of events follows:

NOVEMBER AT THE SMITHSONIAN

MONDAY, NOVEMBER 1

Exhibition: Washington from Banneker to Douglass: 1791–1870. Portraits, photographs and documents, including the original Emancipation Proclamation signed by Lincoln in 1863, portray the history of the Nation's Capital from a perspective rarely used—Washington's black community. A second part of this exhibit, Washington in the New Era: 1870–1970 will open in February 1972. National Portrait Gallery, through January 28.

Exhibition: Early Electrical Appliances. Household appliances ranging from egg beaters to shavers to a marshmallow cooker. Many of the objects were given to the Smithsonian by individual donors as the result of a plea from the curator printed in newspapers across the country. All are early examples of their type, some dating from the late 19th century. In the new Hall of Electricity, first floor, Museum of History and Technology.

WEDNESDAY, NOVEMBER 3

Lunchbox forum: The Changing Rationale of the Federal Government in Airport Development: 1926–1970. An informal discussion by Dr. Elmore A. Champie, FAA Historian. Sponsored by the National Air and Space Museum. Room 449 Smithsonian Institution Building. 12 noon—Bring your lunch!

Free film theatre: John J. Audubon. Documentary tracing the steps of Audubon through Europe and North America. Scenes are taken from his most famous books, Birds of America, revealing the painstaking detail of his work. 12:10 and 1:10 p.m., Natural History Building auditorium.

THURSDAY, NOVEMBER 4

Free film theatre: John J. Audubon. Repeat. See November 3 for details.

NOVEMBER 4 TO 11

Black Arts Week. Black artists are being honored at the National Collection of Fine Arts by a week of special activities in conjunction with the opening of an exhibit of works by William H. Johnson, a major black artist.

Films: Two programs shown daily in the Lecture Hall, NCFA.

10:30 a.m. First World Festival of Negro Arts; Five—five celebrated black artists and their various techniques; John Otterbridge—the sculptor, his background and ideas.

1 p.m. Black Dimensions in Contemporary American Art; Bernie Casey—the poet-painter on art and life; Aretha Franklin, Soul Singer.

Tours: William H. Johnson Exhibition. Nov. 4–5, 8–11, 11 a.m., 1 and 3 p.m. Nov. 7 from Noon to 5 p.m. on the hour. Art by Black Americans (1930–1950). Self-guided tour with written material available.

FRIDAY, NOVEMBER 5

Exhibition: William H. Johnson (1902–1970). Paintings, watercolors, drawings, and prints by this little known but highly talented black American artist comprise the major fall exhibition of the National Collection of Fine Arts. Through January 9, 1972.

Exhibition: Fisheries and Wildlife Centennial. Graphics and photographs on the 100-year history of national involvement in fisheries and fish management, from the original National Fish Commission to the present National Marine Fisheries Service, National Oceanographic and Atmospheric Administration, and the Bureau of Sport Fisheries and Wildlife. Included are old and new photographs showing the progress made in research and service, as well as a "Did You Know" section of under-sea curios. Museum of Natural History.

SATURDAY, NOVEMBER 6

Black Arts Day

Panel Discussion: *Black Arts Today.* Moderator: Mrs. Evangeline Montgomery, black art consultant, Oakland Museum, California. Panelists: Leroy Gaskin, Samella Lewis, Lois Jones Pierre-Noel, and Percy Ricks. 11 a.m., Granite Gallery, National Collection of Fine Arts.

Lecture: *W. H. Johnson and His Contemporaries,* by Carroll Greene, consultant on Afro-American art for the Museum of Modern Art, New York. 3 p.m., Granite Gallery, National Collection of Fine Arts.

Music From Marlboro: First of a three-part series presented by the famed Marlboro Music Festival of Vermont. Works by Mozart, Boccherini, and Brahms performed by violinists Pina Carmirelli and Ronald Copes, violists Philipp Naegele and James Dinham, cellists Jerry Grossman and Steven Doane, and oboist Georges Louis Haas. 5:30 p.m., Natural History Building auditorium. Series tickets are $12.50; single tickets, $5, student tickets, $1.50 with I.D. at the door as available. Special Associates rates: $11, series; $4, singles. The remaining concerts will be held on February 5 and March 25. For information call 381–5395.

MONDAY, NOVEMBER 8

Botany Seminar: *Floral Anatomy and Systematics of Eugenia (Myrtaceae),* by Dr. Rudolf Schmid, Visiting Research Associate, Department of Botany. 6 p.m., Natural History Building, Room WW531. Public is invited.

TUESDAY, NOVEMBER 9

Illustrated Lecture: *Chinese Landscape, Blue and Green.* Professor Martie Young, Cornell University, traces the history of landscape paintings of the "blue and green" technique, that first appeared in the T'ang Dynasty (A.D. 618–907) and was revived periodically through the centuries by Chinese artists. 8:30 p.m., Freer Gallery of Art.

WEDNESDAY, NOVEMBER 10

Lunchbox Forum: *Early New England Aviation—Depression Years.* Informal discussion by Lt. Col. Franklin E. Jordan, AUS, Retired. Sponsored by the National Air and Space Museum. Room 449, Smithsonian Institution Building. 12 noon—Bring your lunch!

Free Film Theatre: To be announced. 12:10 and 1:10 p.m., Natural History Building auditorium.

THURSDAY, NOVEMBER 11

Free Film Theatre: To be announced. 12:10 and 1:10 p.m., Natural History Building auditorium.

Changes of address and calendar requests: mail to Mrs. Fisher, 107 Smithsonian Institution Building, Washington, D.C. 20560. When applicable, please include old calendar label.

FRIDAY, NOVEMBER 12

Lecture: *Man and His Environment,* by Marshall T. Augustine, sedimentation specialist, Maryland Department of Water Resources. Man's impact on his environment from colonial days to the present with special attention to present day exploitation of natural resources for development of subdivisions, industrial parks, highways and surface mining and suggestions on preventive and remedial measures. Sponsored by the National Parks and Conservation Association. 8 p.m., Natural History Building auditorium.

Folk Concert: *Grant Rogers,* folksinger, guitarist, songwriter and fiddler. 8:30 p.m., History and Technology Building auditorium. Sponsored by the Smithsonian Division of Performing Arts and the Folklore Society of Greater Washington. FSGW members, free; non-members, $1. For ticket information call 381–5395.

SUNDAY, NOVEMBER 14

Symposium: *Print Prices Today.* Sponsored by the Washington Print Club. Moderator: Alan Fern, Assistant Chief, Prints and Photographs Division, Library of Congress. Panelists: Elizabeth Stevens, and Sylvan Cole. 2 p.m., Granite Gallery, National Collection of Fine Arts.

WEDNESDAY, NOVEMBER 17

Lunchbox Forum: *A Slide Visit to West Coast Aviation Museums.* Informal discussion by Carl F. Emde of TRW Systems. Sponsored by the National Air and Space Museum. Room 449, Smithsonian Institution Building. 12 noon—Bring your lunch.

Free Film Theatre: *Hippo; Antelopes on the Plains of Africa; High Over the Borders*—annual bird migrations from North to South America. A series of short films on animals and birds from the New York Zoological Society. 12:10 and 1:10 p.m., Natural History Building auditorium.

Meeting Royal Sikkim: 3 p.m. Fashion show and reception. See box, this page.

THURSDAY, NOVEMBER 18

Creative Screen: *Daguerre: The Birth of Photography*—the fascinating early history of photography depicting Daguerre and contemporaries; *Pas de Deux*—An unforgettable ballet, stroboscopic effects and the ingenuity of Norman McLaren produce film as art; *Daphnis and Chloe*—still photography, kinetic light, and special effects present the abstract visualization of Maurice Ravel's *Suite No. 2.* National Collection of Fine Arts, 11 a.m., 12 noon, 1 and 2 p.m.

Free Film Theatre: Hippo! Antelopes on the Plains of Africa; High Over the Borders. Repeat. See November 17 for details.

FRIDAY, NOVEMBER 19

Folk Concert: Malvina Reynolds, a leading writer of contemporary folksongs, in a special concert sponsored by the Folklore Society of Greater Washington and the Smithsonian Division of Performing Arts, 8:30 p.m., Natural History Building auditorium. Admission: FSGW members, $1; non-members, $2.

Exhibition: Thomas Eakins: His Photographic Works. Approximately 200 photographs by or of the great 19th century American artist including portrait photographs that served as notes for paintings and examples of the artist's outdoor work. National Collection of Fine Arts, through January 3, 1972.

SATURDAY, NOVEMBER 20

Creative Screen: Daguerre: The Birth of Photography; Pas de Deux; Daphnis and Chloe. Repeat. See November 18 for details.

MONDAY, NOVEMBER 29

Audubon Lecture: Outdoor Yearbook. Karl Maslowski, photographer for Walt Disney and writer for Cincinnati Enquirer, will show a color movie of usual and unusual natural phenomena with the sounds of 60 different species of wildlife. 5:15 and 8:30 p.m., Natural History Building auditorium.

FAITH, HOPE, AND CHARITY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. MAZZOLI. Mr. Speaker, I would like to call to the attention of my colleagues a newspaper article which appeared in the Louisville Times on September 17, 1971.

It concerns Mr. L. A. (Lewis) Gerton of Louisville, Ky., who, despite the fact he lost his sight 4 years ago, is able to see certain things quite clearly.

I would like, most particularly, to call attention to Mr. Gerton's observation that financial benefits alone do not meet the needs of our handicapped citizens.

What is more important than money, in the words of Mr. Gerton, is simply the gift of a "little kindness, a little humanity."

Because I think that Mr. Gerton's message to those of us who are more fortunate is an important one, I insert the following article, by Miss Laurel Shackelford, in the RECORD.

FAITH HOPE AND CHARITY: THE BLIND HELP OTHERS

(By Laurel Shackelford)

About 3:45 p.m. yesterday L. A. (Lewis) Gerton called the regular monthly meeting of Faith Hope and Charity to order by tapping his collapsible blindman's cane on a marred, but sturdy, Sunday-school table in the basement of Grace Hope Presbyterian Church.

Gerton is a tall, good-looking man who enjoys dressing sharply even though he cannot see the results. Yesterday he had on a bright purple pullover sweater, with leather trim, and grey plaid slacks. The sighted women at the meeting admired the apparel and Gerton was pleased.

Gerton has always been a man on the go, especially since he lost his sight four years ago through glaucoma. He is involved with a lot of projects—he's chairman of the board of directors of the Jackson Area Council and teaches ceramics at Grace Hope—but his favorite is the Faith Hope and Charity group.

Gerton started the group about three years ago when he learned there were a number of blind people in the area who needed to get out of the house once in a while, people who needed a little fun.

The purpose of the group is to help other people and to help each other. Members who can afford it pay a dollar a month dues, plus 25 cents for the birthday fund.

The dues help fund the group's special projects, such as delivering Christmas baskets to nursing-home shut-ins, and are occasionally used to help a Faith Hope and Charity member who has an emergency. Proceeds from the birthday fund are given to each member on his birthday.

Collecting the dues is a serious, time-consuming matter at the meetings. One woman who has sight collects the money and calls out the names of the people who have paid, while two other members—one with sight and one without—record the figures.

When they are finished with the business affairs, Louis Matthews, a blind man, begins recording the minutes, which will be read at the next meeting, in Braille.

JUST A LITTLE RESENTFUL

Gerton is not bitter about being blind, just a little resentful.

He believes people with sight are fooling themselves when they think they have done their bit for the blind by having the state send them a disability check each month.

He said, "They figured they took the blindman off the streets by giving him money. They seem to think a little money is the answer. It's not. Most of us could make more money by begging. But more importantly, we're looking for a little kindness, a little humanity."

He said, "Blind people are almost like children in this respect. You have no idea how excited the group gets when I tell them someone is going to take an interest in us, that someone is going to come see us. But that rarely happens—people fall down on what they said, and the group gets so disappointed."

Gerton told about a seminary student who took an interest in the group last year and wrote to 75 area churches asking for volunteers who would be interested in "adopting" a blind person.

Gerton said the seminarian thought it would be nice if the church members would stop in to see the blind people a couple times a week, perhaps bringing them a little present and sitting and talking to them for awhile.

However, none of the churches answered the letters, according to Gerton, and the Faith Hope and Charity members still remember the disappointment.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,600 American prisoners of war and their families.

How long?

NATURE AND MAN—AND WATER

HON. WAYNE N. ASPINALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. ASPINALL. Mr. Speaker, the RECORD of this body in recent years has been filled with predictions of doom and foreboding concerning the environment; what man is doing to it; and with cries for the elimination of all activity that makes it possible for man to use our resources for any basic economic purpose. Perhaps no field of public activity has been so attacked and castigated as have our water resource development programs.

Those of us who have been privileged to be active in the water field have recognized the potential for some adverse effect and have supported measures to limit such effects without depriving ourselves of all benefits of the works of man. I was, therefore, deeply impressed and encouraged by a recent speech by one of our distinguished colleagues, the Honorable JIM WRIGHT of Texas, who was precisely on track when he made an eloquent request for balance between "use" and "preservation" of our natural resources.

Mr. WRIGHT addressed the All States Banquet of the National Water Resource Association during that organization's annual convention in Dallas, Tex., on November 4, 1971. I was privileged to be present on that occasion and am glad to share his remarks with all of my colleagues, feeling that they are well worth careful reading regardless of one's persuasion.

Mr. WRIGHT's remarks follow:

NATURE AND MAN—AND WATER

(Remarks of Congressman JIM WRIGHT)

Tonight I want to talk with you about Nature and Man.

Let us think together of Man and Nature—and of Water, nature's most priceless gift and man's most useful servant.

In the Book of Genesis, we find the commandment that man is to "subdue the earth." Obviously this did not mean to ravage the earth. But, of equally obvious truth, it does not mean to be subdued by the earth.

Nature is a marvelous mechanism. So is the human body. Both were engineered and created by the Divine Intelligence to perform their appointed functions efficiently and effectively.

But just as the human body can get out of balance and require corrective surgery to perform its functions properly, so also nature itself can get out of balance and require the corrective, healing surgery of man to perform its functions effectively, efficiently, and beneficially in the interests of both nature and man.

Nature exists for man, and man is expected to exercise beneficent dominion.

He is not expected to prostrate himself supinely before the floods; nor to abandon the arid earth to dust where water lies beneath the soil; nor let the waters wash away the land and leave both man and earth bereft. All of our knowledge cries out against such folly.

PARABLE OF THE DAM

Recently George W. Ball, former Under Secretary of State, wrote a whimsical little

story which he called the *Parable of the Dam*. It was published in *Newsweek* magazine. Secretary Ball no doubt intended its deeper meaning to apply to the world of international affairs. But the parable has a more direct and even more obvious application in light of recent developments in the United States.

The story goes like this:

Since the beginning of time, the villages in a mountain canyon had been periodically ravaged by floods. Finally, the leaders convened a great meeting and decided to invest their efforts and resources in building a large, strong dam.

Thereafter, for a quarter of a century, the dam sheltered the villages from disaster, prosperity prevailed, and life was tranquil—until, at last a new generation began to grow up, free from the apprehensions of the past and filled with exciting ideas about a world of song and beauty.

Inevitably the new leaders turned their attention to the dam. It was, they announced, huge and ugly and an affront to the environment. Besides it blocked out the sunset.

One leader wrote a folk song proclaiming it a symbol of imperialist megalomania, and people spoke excitedly of little else, until someone brought forth an argument that seemed quite unanswerable. After all, it was pointed out, no one ever talked about flood damage except the old fogies over 30 who were not to be trusted anyway. Who among the new leaders could recall any floods in his lifetime?

It was perfectly clear that floods were completely outmoded, a matter of the past—perhaps just a fiction manufactured to frighten the people. Since there had not been one for 25 years, clearly there would not be another.

So, after a season of demonstrations, more speeches, a pageant and several rock festivals, they blew up the dam and used the fragments for a people's playground. And let me tell you straight, man, when the waters came down it was really the Age of Aquarius!

THE "ECOLOGY" MOVEMENT

In the past two years, a sudden public awareness of our environment has burst upon the scene like an earthquake. To those of you who for decades have led the lonely and often thankless struggle for conservation and environmental quality, this should be great good news. A public awakening was long overdue! But—as is so often the case—the price we pay for long public neglect is a sort of hysterical over-reaction.

Unfortunately, among the new converts there is vast misunderstanding of all that the dedicated handful of conservationists has been doing for all these years. There is a deadly tendency to want to stop everything, to tear out all that man has built, to reverse the hard-won victories the conservation movement has achieved, and—incredibly—to turn the clock back to the unenlightened era when nature ravaged man and man was powerless to protect himself.

For many in the newly popular "ecology" movement, scapegoats have become more popular quarry than solutions. Stopping programs of resource development has become more fashionable—and it was always easier—than performing those programs.

ENVIRONMENTAL POLICY ACT

For some the Environmental Policy Act of 1969 has been misconstrued as a trumpet call to retreat into the past and seek the improbable goal of a dead and distant age before man's massive intrusion, when nature was supreme—an age when floods were thought to be the inevitable will of God and when it was the accepted rule that a river would cleanse itself in seven miles without any help from man.

But those who so interpret the commandment of that legislation have failed to understand its meaning. And this misunderstanding exists not only among the enthusiasts of the preservationist movement, but among some in our agencies of administrative government—and, sadly, in some of our Federal courts.

Let me quote the purposes of the Environmental Policy Act as set forth in the very preamble to that legislation. These are the purposes declared by Congress:

"To declare a national policy which will encourage *productive and enjoyable harmony* between man and his environment (and I underline those words, productive and enjoyable harmony); to promote efforts which will prevent or eliminate damage to the environment and biosphere and *stimulate the health and welfare of man;* to enrich the understanding of the ecological systems and natural resources *important to the Nation;* and to establish a Council on Environmental Quality."

Nowhere do I read in these purposes any intent to halt the development of our nation's water resources.

Nowhere do I see expressed a desire to lock up our rivers for the exclusive enjoyment of those few who wish only white-capped waters running rampant and uncontrolled.

Nowhere in that legislation is implied a call for retrogression. The law contains no mandate for any self-appointed group to exalt itself above the established agencies of orderly government and bring their work to a grinding halt!

Nowhere in that law do I read any intent to abrogate the clear will of Congress as reflected in water development projects fully authorized for construction—and some of them already begun—by the Bureau of Reclamation, the Soil Conservation Service, and the Corps of Engineers.

Yet, sadly, some have mistakenly read into the passages of that law a commandment to do these very things.

MAN'S EXPERIENCE

My father once told me that, unless each generation can capitalize upon the *mistakes* of its predecessors and avoid a *repetition* of those same mistakes, we'd suffer the greatest waste of all—the waste of man's hard-won experience.

I am not so young, and neither perhaps are most of you, that we cannot recall the ups and downs of an uncontrolled public economy, the booms and busts of an unprotected farm economy, the flickering lights of rural America where electrification was only a dream—or the devastating floods and droughts inflicted by a nature uncontrolled by man.

The Environmental Policy Act provides the machinery for a valuable service—new tools to evaluate the environmental effect of each of our public decisions. Congress most emphatically *did not* intend that only the *adverse* effects of every act should be subject to evaluation. To adopt such an attitude would lead us to but one conclusion: do nothing!

A BALANCED VIEW

It was quite clearly intended by Congress that the machinery originated in that act should give us the information for a *balanced* view.

While we do want to know of any possible effects on wildlife, we are preeminently concerned with the effects on *human* life. That, in any sane scale of values, must always come first!

Obviously, when navigation opens up the gates of commerce and job-producing enterprise to an underdeveloped area and helps reverse the massive tides of migration to the overcrowded cities, that is a *positive* environmental effect!

When the Soil Conservation Service builds levees and up-stream dams and encourages terracing and cover cropping to retard the siltation of our reservoirs, that is a positive environmental impact.

When homes and businesses are saved from periodic floods and the human wreckage that lies in their wake, who can regard the environmental effect as anything but *positive?*

When the waters of subterranean streams bring forth their bounty and transform deserts into gardens where the family of man can live and prosper, this is a *positive* environmental impact.

When a city is given a dependable water supply, the living environment is *enriched.*

When a reservoir provides the means of wholesome outdoor recreation for thousands of city-bound Americans, the environmental quality has been *enhanced.*

When the management practices of enlightened man augment low flows downstream, stabilize the river banks and replace the stagnant pools where only mosquitoes have bred, the environment quite manifestly has been *improved.*

Each of these effects is *positive* and *helpful* to the human race. Congress most emphatically does not intend that any one of them shall be slighted or ignored.

CONGRESSIONAL INTENT

This year in Congress we have had two votes which clearly establish the will of the people's elected representatives.

The first came upon an amendment to the Agriculture Appropriation bill which would have directed that we halt all works of channelization including those already approved by Congress and subject them all to further "study."

The second came upon a motion to amend the Public Works Appropriation by stopping the development of a key project in the Delaware River program—one on which construction already had begun—until further vaguely defined "studies" might be conducted.

Both amendments were decisively defeated! And this should be an unmistakable expression of the clear intent of Congress that the soundly conceived works of water resource development shall go forward unimpeded!

The projects which would have been delayed or denied by these amendments had already been studied and restudied. They had been analyzed, evaluated, adopted and begun—just as numerous others against which well-meaning but pitifully misinformed minorities have sought injunctions in the courts.

It is devoutly hoped that the courts will understand the intent of Congress as expressed in these resounding votes and govern themselves accordingly.

STUDY NO SUBSTITUTE FOR ACTION

There comes a point in every human society when study must give way to action. The average water resource development project of the Corps of Engineers today must traverse the labyrinthine path of almost 16 years of study and restudy between the point of a survey resolution and the turning of the first spadeful of dirt.

To suggest that, after all this, the will of Congress be stymied and the directed action be stalled simply for the sake of further "study" is reminiscent of the words of Kipling in his description of old men. He said:

"They peck out, dissect, and extrude to the mind
The flaccid tissues of long-dead issues
Offensive to God and mankind
Like vultures over an ox
That the Army has left behind."

Study at best is merely a guide and precursor to action. It is not a substitute for action!

CONSERVATION AND DEVELOPMENT

Conservation and development are not mutually exclusive. Development of the earth's resources is the tool by which man carries out the goal of conservation.

There is no irreconcilable gulf between a sound ecology and a sound economy.

To be a wise conservationist or an intelligent environmentalist does not mean to halt our development and harnessing of the water resources of our planet. To greater or lesser degree this has been necessary since man first intruded upon the earth. It is more necessary today than ever because there are more and ever more people.

We cannot, alas, keep people from intruding upon the earth. And the interest of people must come first.

POPULATION PRESSURES

Already the stark statistics of population growth contain in their overtones a prophecy of world famine. Already, in spite of our pockets of affluence, we see a preview of this prophecy on the subcontinent of India.

At the beginning of the Christian era, there were only some 250 million people on the entire earth. Within our generation, we shall have more than that right here in the U.S.—on about seven percent of the world's land area.

It took mankind more than 3,000 years to achieve a population of three billion people. Demographers forecast that we shall double this in 30 years. In three decades, if the present trend continues, we shall add to the living total as many as our progenitors added in more than three millennia.

The same amount of land and air and water and mineral resources, then, must be made to serve more and ever more people. Every year in our own country, we have a population growth equivalent to a new state of Maryland.

Not much longer can agricultural surpluses be our problem in the United States. Instead, we rapidly approach the time when we shall need millions of additional acres in production if we are merely to feed our own people—let alone the famine-bent billions of a hungry world.

Every drop of water that can be conserved, every inch of top soil that can be saved, every field and forest we can renew, every ore and mineral we can develop and conserve, and every stream we can cleanse of pollution will be our greatest possible gifts to future generations.

This is why the work of your association is so extremely important. And this is why the development of our resources must never slacken.

As most of you know, this nation used only about 40 billion gallons of water a day in 1900. This year we will use more than 400 billion gallons daily. The entire structure of our modern life depends, therefore, upon the maximum development and conservation of this finite resource.

NATURE'S ENDOWMENT AND MAN'S CHOICE

The amount of water in the world is constant—unvarying and abundant. The total quantity has been precisely the same since the very beginning when . . . God created the heaven and the earth. And the earth was without form and void; and darkness was upon the face of the deep. And the spirit of God moved upon the face of the waters.

An unending cosmic rotation steadily moves man's lifegiving liquid by gravity through the gentle and incessant flow of streams to the great reservoirs of our oceans, then draws it skyward by the sun's attraction to be purified anew, conveys it by cloud and wind, and returns it by rain to refresh the thirsty earth and renew man's lease on life . . . *ad infinitum.* It is an ever-recurring miracle, the most wondrous natural marvel of a wondrous universe.

Science can comprehend it, but never quite duplicate it. Man cannot change it. He can locally and temporarily befoul the process, and bring death. He can fail to act, quibble and quarrel with his neighbor while the tides of man outpace the provender of nature. Or he can form a sort of divine partnership with nature, help it along—and preserve life. This is his choice.

Twentieth-century America, like the prodigal son, has drawn heavily upon the bank account of its native endowment and squandered the substance in riotous misuse. More bountifully endowed than any nation in history, we've adopted the rather casual assumption that Providence protects America. We've extracted the riches of our natural legacy, exploited them to build a shining society, and wasted them in copious quantities.

We recall that other civilizations, also blessed with a spark of greatness, have strutted across the stage of world eminence only to fade and wane, their brief, bright promise unfulfilled. In the uncomprehending sand and heat of arid desert waste, their monuments lie buried.

Let no future archeologist tell the story for us. We have the knowledge to tell it for ourselves—if we have the wisdom. There is enough water to serve our needs for future time, if we learn to use and reuse it well. And there is enough time to do what we must. But there's not much of either to spare.

HOUSE RESOLUTION 630

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. JACOBS. Mr. Speaker, I was wondering if at this late date any Member of Congress or any member of the executive branch would care to say he or she is willing, from this day forward, to give his or her life, limb, sanity, or freedom—POW even for another day—further to prop up the Saigon dictatorship.

Other Americans are being ordered to do so today.

Following is the language of House Resolution 630, which I introduced on September 30, 1971:

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madame Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Vietnam stated on July 1, 1971, that the policy of her government is: "If the United States Government sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of United States forces and those of the other foreign countries in the United States camp, the parties will at the same time agree on the modalities:

"A. Of the withdrawal in safety from South Vietnam of the totality of the United States forces and those of the other foreign countries in the United States camp;

"B. Of the release of the totality of military men of all parties and the civilians captured in the war (including American pilots captured in North Vietnam), so that they may all rapidly return to their homes.

"These two operations will begin on the same date and will end on the same date.

"A cease-fire will be observed between the South Vietnam People's Liberation Armed Forces and the Armed Forces of the other foreign countries in the United States camp, as soon as the parties reach agreement on the withdrawal from South Vietnam of the totality of the United States forces and those of the other foreign countries in the United States camp."

Resolved, That the United States shall forthwith purpose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from South Vietnam within sixty days following the signing of the agreement: Provided, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

GEORGE ROCHE III—NEW PRESIDENT OF HILLSDALE COLLEGE

HON. EDWARD HUTCHINSON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. HUTCHINSON. Mr. Speaker, there are still some institutions of higher education in America, independent colleges, which continue to jealously guard their freedom from State control. Among them is Hillsdale College, a very fine small college of liberal arts in southern Michigan within my congressional district. Our colleague, the gentleman from Illinois (Mr. CRANE) and our former colleague, Hon. E. Ross Adair, now U.S. Ambassador to Ethiopia, are members of its board of trustees.

On October 9, 1971, it was my privilege to attend the inauguration of Dr. George C. Roche III as the 11th president of Hillsdale College. His inaugural address was so filled with the kind of educational philosophy so much needed in the Nation today that I asked him to permit me to include it in the RECORD.

I commend it to my colleagues. The inaugural address follows:

INAUGURAL ADDRESS

(By Dr. George C. Roche III)

Things fall apart; the centre cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tide is loosed, and everywhere
The ceremony of innocence is drowned;
The best lack all conviction, while the worst
Are full of passionate intensity.

In these words, William Butler Yeats described a collapsing world, a world gone mad, lost beyond recall. Sadly enough, Yeats' poetry has a prophetic ring today. We are confronted with distress and confusion on every hand, and nowhere have these symptoms been more apparent than on the college campus. Many Americans, especially the young, seem to be saying that their present life is not worth living, that our institutions and indeed our entire social structure have been found wanting. There seems to be abroad in the land a desire to start life anew, to reaffirm the unique aspects of individual personality.

A large proportion of the distress, confusion and alienation which so many people suffer today is directly traceable to the sad estate of present-day higher education. The proper goal of education is the development

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of the individual. And the great task is to bring the educational structure back to that purpose. Unfortunately, the trend continues in the opposite direction. The multiversity, to use the term coined by Clark Kerr, would appear to be a modern hybrid with a scale of values oriented toward everything but the individual student. While such a bureaucracy cannot educate, it lends itself admirably well to social engineering, to turning out technically proficient automatons ideally suited to running the system without questioning its values. This is one of the valid complaints our students have. We can see this in a bit of doggerel originating from the Berkeley uprising, to be sung to the tune of Beethoven's Ninth Symphony:

From the tip of San Diego,
To the top of Berkeley's hills
We have built a mighty factory,
To impart our social skills.
Social engineering triumph,
Managers of every kind
Let us all with drills and homework
Manufacture human minds!

Small wonder that our young people feel alienated when caught in the grip of the monstrous multiversities which leave no room for the development of individual personality.

A second failing of present-day education has been the calculated retreat from the lasting values by which society may be ordered and the individual's life may be governed. One of the patron saints who helped to produce the intellectual climate of twentieth-century America was J. Allen Smith, the history professor who originated the debunking view of the Founding Fathers and the United States Constitution later made famous by Charles Beard's *An Economic Interpretation of the Constitution*. Smith, in a moment of reflection, apparently had his misgivings. "The trouble with us reformers is that we made reform a crusade against standards. Well, we've smashed them all, and now neither we nor anyone else have anything left! Nothing left! Strong words, coming from a prophet of the modern academy.

How did we reach such a stage of moral bankruptcy? One of the most basic principles of the Deweyite pragmatism and instrumentalism which infect our schools and our social order is that the truth of an idea is measurable only by the consequences to which it leads. Presumably, if the consequences of an idea are good, then the proposition is true. How do we measure good consequences? The good, so we are told by the instrumentalist, is that which achieves the proper social goals. Does the individual have judgment in this matter? Is there some Divine sanction by which we can evaluate these "proper social goals?" The modern answer to both questions has been "No." The measure of good is now to be exclusively social, eliminating individual judgment, eliminating any fixed standard of right and wrong, and indeed eliminating the very concept of truth.

Today, many of our young people are more concerned than previous generations to know "the reason why," to examine the moral premises of our society. Perhaps they hunger for this because our present institutional structure offers them so few values and principles on which to build their lives.

The state of education today is, like the state of our civilization, the sad consequence of ideas which have been enjoying increasing popularity in recent decades, mistaken ideas on the nature of man and the meaning of human life. Today's educational structure and today's society, valuing neither individual personality nor the guidance of a fixed moral order, tend to produce "other-directed men," hollow men, rootless men, men without enduring conviction, ignorant of the past and careless of the future. Various social critics have identified this new creature produced by your modern educational and social structure. For José Ortega Y Gasset, the distinguished Spanish philosopher, they were the "mass men." For Wilhelm Roepke, the distinguished German political economist, they were the proletariat. For the distinguished Christian apologist and professor of Medieval and Renaissance literature, Clive Staples Lewis, they were "men without chests," men deprived of those very attitudes and understandings concerning the nature of the human experience which make it possible for us to be fully human. Describing the new-style intellectual thus produced, Lewis wrote:

"It is not excess of thought but defect of fertile and generous emotion that marks them out. Their heads are no bigger than the ordinary: it is the atrophy of the chest beneath that makes them seem so. And all the time—such is the tragi-comedy of our situation—we continue to clamour for those very qualities we are rendering impossible. You can hardly open a periodical without coming across the statement that what our civilization needs is more 'drive' or dynamism, or self-sacrifice, or 'creativity'. In a sort of ghastly simplicity we remove the organ and demand the function. We make men without chests and expect of them virtue and enterprise. We laugh at honour and are shocked to find traitors in our midst. We castrate and bid the geldings be fruitful."

There *are* certain values which distinguish man from animal. These values are the essence of civilization. These values are the essence of education. The primary failure of contemporary higher education has been the failure to communicate those values.

ULTIMATE VALUES

What can we say concerning the values which we must communicate to our young if civilization is to endure?

First—such values have strong religious overtones. The Christian experience of the Western World—with its emphasis upon human personality, upon the unique character of every soul, upon the concept of human dignity, upon the nature of rights, duties, and personal responsibility—is the cornerstone upon which our system rests.

Second—Western civilization and the American experience draw heavily upon the idea of ordered liberty as reflected in our law and politics. The freedoms which built our society derive from the recognition of the necessity for restraints upon political power and the insistence that only private, voluntary cooperation can build a sense of true community.

A third portion of the values which must be reflected in education if society is to endure might be summarized as a willingness to credit the past with substance. As Richard Weaver once described our modern society, "One would think, from the frantic attempts made to cut ourselves off from history, that we aspire to a condition of collective amnesia." Yet the past has a great deal to teach us if we will but listen. In fact, no restoration of values is possible unless we appreciate the wisdom and experience which the past offers us.

We are told on every hand that the clock cannot be turned back. But such an assumption means that we are prisoners of the moment, that an idea must be "new" to have meaning. And yet surely those things of lasting value, of permanent significance, are not affected by the passage of time. If time did affect the truth of an idea, then truth itself would become impossible.

As Fulbert of Chartres told the world in the eleventh century, and as Edmund Burke and Russell Kirk have reminded their contemporaries in the eighteenth and twentieth centuries, "We are dwarfs mounted upon the shoulders of giants."

Despite our vaunted "modern breakthroughs in knowledge," it is doubtful that anyone now alive possesses more wisdom than a Plato, an Epictetus, a Paul, or an Augustine. Yet much of what passes for "education" in our time either denies this accumulation of past wisdom or belittles it in the eyes of the student. Truth, after all, is a measure of WHAT IS, a measure of an infinite realm within which the individual is constantly striving to improve his powers of perception. As the individual draws upon his heritage and applies self-discipline, he comes to recognize more and more of that truth and to understand it. The individual is thus able to find himself and his place in the universe, to become truly free, by recognizing a fixed truth, a definite right and wrong, not subject to change by human whim or political dictate.

The individual can be free only when he serves a higher truth than political decree or unchecked appetite. Such a definition of freedom in consonance with a higher law has its roots deep in the consciousness of civilized man. It is this premise, founded upon intuitions concerning the nature of the human experience, that lends substance to that great tradition of liberal education in its original meaning. Unless he seeks only the freedom of a shipwrecked sailor, the freedom to drown in an existential sea, the individual desperately needs to recognize that his truly liberating capacity to choose must be hinged upon a moral framework and upon certain civilized preconditions which at once limit and enhance his choice. It is this recognition which constitutes civilization.

What is it then, that civilized and properly educated men come to value? One possible answer is given by Harold Gray, the creator of Little Orphan Annie and of the equally delightful Maw Green, Irish washerwoman and homey philosopher *par excellence*. In one of Gray's comic strips, he confronts Maw Green with a slobbering, unkempt, aggressive boob, who shouts, "I got rights, ain't I? I'm as good as any o' those big shots! Nobody's better'n me! I say all men are born equal! Ain't that right?"

Maw Green maintains her boundless good humor and agrees that all men are indeed born equal, but she turns aside to confide to the reader, "But thank Hiven a lot of folks outgrow it!"

Perhaps that civilizing task of "outgrowing it" is how the educative process can best help the individual. It is in pursuit of that civilizing task that we must cultivate a healthy distrust for today's dominant political mystique, substituting a proper respect for tradition, community and universal moral values.

OUR RESPONSIBILITIES

We live in an age in which we hear on every side, "It does not matter what a man believes." A proper view of education must be founded upon the fervent belief that it matters a very great deal what each of us believes. Not everyone may be a philosopher, but one can scarcely hope to order his life or find meaning in the world around him unless he has some idea of the underlying problems of the universe and of the human experience, some guiding rationale which serves to provide a pattern and purpose to his existence.

I believe that most persons in this nation still harbor within their hearts many of the ancient verities. As a people, or at least as individuals composing our society, we believe in God, in right and wrong, in individual dignity and decency, and in the necessity for individual freedom.

Many men, including some fine thinkers presently sitting in this audience, have provided excellent definitions of education. One of my favorites is the definition provided by Jacques Maritain, the distinguished French philosopher:

"We may now define in a more precise manner the aim of education. It is to guide man in the evolving dynamism through which he shapes himself as a human person—armed with knowledge, strengthened judgment, and moral virtues—while at the same time conveying to him the spiritual heritage of the nation and the civilization in which he is involved, and preserving in this way the centurys-old achievements of generations."

What are the prerequisites for such a traditional liberal education? First, we must be free from political influence. A liberal education is premised upon the achievement of freedom. The word "liberal" comes from a Latin word signifying "free." Unless education liberates, it ceases to be truly liberal. And such liberating truths cannot be presented unless the educational structure is left independent enough to espouse those truths, regardless of any political pressure. The sad record of educational institutions which have fallen into the hands of the state should make this point abundantly clear.

A second prerequisite for a truly liberal educational institution would be that the values which we intend to impart to our young people must be values which live in us, as teachers, as parents, as an institution devoted to truly liberal education. In his book, *The Idea of A University*, John Henry Newman wrote over a century ago:

"The general principals of any study you may learn by books at home; but the detail, the color, the tone, the air, the life in it, you must catch all these from those in whom it already lives."

We cannot expect to share values with our young people unless those values hold a significant place in our own lives.

After hearing even these first two prerequisites, you may wonder whether the task I am describing is possible of achievement. The process of preserving civilization is always supremely complex and demands a high order of performance. This will be especially true in our own age, an age immersed in relativism, scientism, skepticism, and all the forces dedicated to the destruction of truth and the destruction of individual personality. And yet, however dark the picture men of good will must not despair. God does not ask that we win, but He does ask that we try.

As well, in every challenge there is an opportunity. Presumably, the greater the challenge, the greater the opportunity. Despite the fact that our modern educational structure is so largely controlled by forces opposed to the values I have been describing here, I beg you, do not underestimate the power of men dedicated to the achievement of their deeply held aims. If enough of us decide that we truly want to achieve such educational standards, we can surpass ourselves. The money, the teachers and the students can be found, students who in time will form the leadership community through which these ideas will spread.

Those who effect great revolutions are always small in number. Such people need not wait to become a majority. No one else *can* do the job except those who understand what needs to be done. The disruptive influence of political centralization in education will continue until it has been overshadowed and rendered meaningless by a moral force of sufficient intensity, a force generated by individuals who understand what is at stake and who serve notice by their own example that a better way exists to educate our young.

The Old Testament recalls the doubts which assailed the prophet Isaiah in circumstances not unlike our own. As Albert Jay Nock recounts the Biblical tale, Isaiah despaired of preaching the truth in a society which seemed unconcerned about such matters. The Lord counseled the prophet to worry less about all those skeptics who did not understand, urging Isaiah to concentrate instead upon the Remnant of good people who, though unknown to Isaiah, were out there somewhere, waiting for the message.

It has been suggested that man has two duties on earth. He must come to know God and must make the effort to realize himself as a person. It may well be that, when our understanding has progressed far enough, we will find that knowing God and realizing ourselves as persons are different facets of the same single reality. Some men with such understanding already exist. They are the Remnant to whom Isaiah was instructed to carry the message.

May God grant us the wisdom and courage to play some small role in insuring that this school, this nation and this civilization shall have a future as well as a past.

HOUSE JOINT RESOLUTIONS 8598, 10870, AND 11170

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. METCALFE. Mr. Speaker, a few years ago, scientists discovered the cause of a disease that has been afflicting millions of individuals of black ancestry since the beginning of time.

Until now, however, very little attention was given to this disease, and often people with this affliction went for a lifetime without ever knowing that such a disease existed, not to mention that they themselves had the disease and that it might be transferred to their offsprings.

At present, an estimated 50,000 black Americans have sickle cell disease. At least 5,000 require hospitalization each year and many others are treated as outpatients in hospital emergency rooms. In addition, these patients are subject to general lassitude due to anemia, chronic infections, and other complications. Most never live beyond the age of 30.

The most important and effective measure of decreasing incidents of sickle cell anemia is prevention through what is called genetic counseling. This means that the black population must become aware of the disease and of its inherited trait, and that blood tests can and should be given to detect the 8-plus percentage of Americans who are carriers of this trait.

This Congress should establish programs for the treatment and control of this disease that affects such a large number of black Americans.

I have cosponsored three bills which will provide funds for the detection, treatment, and research of sickle cell anemia.

I cosponsored a bill which will provide for the establishment of a national sickle cell anemia institute. The institute will conduct and support comprehensive programs for the diagnosis, treatment, and prevention of sickle cell anemia; establish related traineeships in the institute and elsewhere; establish nationwide screening programs to determine incidents and traits among school age children; develop counseling and education programs in consultation with community representatives to make known the services available under this legislation; and provide assistance to the Secretary of Defense for screening persons entering the Armed Forces for the disease.

I also cosponsored a supplemental appropriations bill that would restore the $6 million that was cut from the Health, Education, and Welfare appropriations for 1971–72 to aid current programs for the detection, treatment, and research of the disease.

In addition to these two bills, I have cosponsored a sickle cell anemia proposal to attack the sickle cell problem on a local level. This bill would provide funds for local community efforts to screen for the disease and would make large grants for major research in a pilot program here in the District of Columbia.

In December, the congressional black caucus, along with the National Dental Association, the National Medical Association, Howard University, and Meharry Medical College, will sponsor a national health conference on the status of health in the black community at Meharry in Nashville, Tenn.

The conference will be divided into eight discussion workshops, one of which will be a section on special minority problems. Sickle cell anemia will be discussed in this workshop and hopefully, participants in this conference will bring this disease, along with other social health problems affecting the black community, to an appropriate level of concern for the total black population.

If sickle cell crises can be avoided through treatment and prevention, much greater control of this disease may be possible in the future. Only extensive clinical trials and better understanding of the disease can enable those afflicted to live longer with less pain and disability.

THE DROPOUT AS REVOLUTIONARY

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. ICHORD. Mr. Speaker, since that brilliant Frenchman Alexis de Tocqueville so eloquently analyzed democracy in America early in the 19th century, we have learned that the most penetrating views of the American body politic are frequently rendered by foreign observers. I think it is fair to say we tend to learn more about ourselves as a nation by seeing it through non-American eyes.

Such is very definitely the case with the much too infrequent commentaries from the pen of Dr. Frank Knopfelmacher, a professor at the University of Melbourne, Australia. I recall reading a column written by him in 1970 on the Students for a Democratic Society which fairly and concisely put that organization and its leaders into sharp focus with respect to student unrest at that time.

His latest contribution to our understanding is entitled "The Dropout as Revolutionary," which appeared on the editorial page of the Wall Street Journal on October 25, 1971. Dr. Knopfelmacher correctly assesses not only the nature of today's revolutionaries in the

American society but also notes the inherent strength of our Nation to withstand the nihilism of the extreme left among our youth. With particular adroitness, he lays bare the fallacies popularized by Charles Reich's best-selling "The Greening of America" which glorifies the dropout mentality of the "hippie" cult and the antiestablishment do-nothings of our era which Reich calls the Consciousness III as opposed to the ordered society of democracy and technology he calls Consciousness I and II. Pointedly, Dr. Knopfelmacher notes:

The serious problem is, surely, how to work safeguards of individual liberty into the interstices of the managerial-corporate state which cannot be abolished because with it our technetronic culture would also go, and with it our civilization. For whenever a Reichian Consciousness III switches on the light on his desk to write an essay against Consciousness I and II on his electric typewriter, he votes against his essay with his typewriter keys.

For the benefit of those of my colleagues who may have missed this significant article by Dr. Knopfelmacher, I now insert it in its entirety in the RECORD at this point. I thank you, Mr. Speaker.

The article follows:

THE DROPOUT AS REVOLUTIONARY

(By Frank Knopfelmacher)

Serious political theory can be—very roughly—divided into three categories which I shall call respectively, the conservative, the liberal and the revolutionary. Their dominant themes run throughout the history of Western political thought, and while they sometimes overlap, it is by and large possible to fit any one thinker at any one time into one of the three.

Not much needs to be said about liberalism, which possibly has dominated America since the establishment of the U.S. The basis of this ideology is the belief that human secular destiny can be steadily improved by improving the environment, and that the human person is, by and large, the function of his natural and social conditions and if you change the latter for the better you will improve the former.

The revolutionaries differ from both the liberals and the conservatives in that their "ultimate" beliefs are closer to those of the liberals, yet the more immediately practical ones appear to be based on much the same assumptions as those of the conservatives. The revolutionaries share the liberal's trust that man can be perfected, or at least progressively improved, but unlike the liberals they don't believe that this can be achieved without a catastrophic restructuring of the world as it is and as it has been since the beginning of civilization.

A MIXED BAG

The New Left in America and elsewhere is revolutionary, insofar as it is made up of serious people who in some sense mean what they proclaim and who are not mere poseurs, TV entertainers, or promoters of exciting homo-erotic fashions in the textile trade. Their prophets from Marx to Marcuse have made it abundantly clear that they reject our society in toto. By and large, also, the New Revolutionaries tend to display the classical specific differences in tactics, temperament, organizational methods and philosophy which have always emerged, in one way or another, within revolutionary movements; there are elitist Leninist or crypto-Leninist followers of Lukacz (whose work has been bowdlerized and popularized by Marcuse), the participatory democrat-anarchists who favor elective soviets, the advocates of more or less organizationally undirected individual action and nihilistic terror, and finally, the drop-outs, the hippie-freak element.

The drop-outs, which can be further subclassified according to costume, style of noise-making and manner of deviance, are, strictly speaking, not revolutionary. Their actions tend to be irreductibly apolitical and their life-style is far too erratic to lend itself to systematic political manipulation and direction by revolutionary technicians. Yet their actions tend to have unforeseen and unintended political consequences. The drop-outs are at the same time despised and courted by the revolutionary and counter-revolutionary alike, since both regard them as a hopeful sign. For the revolutionary, the drop-out represents a symptom of decadence in the target society, while for the counter-revolutionary, a sign of decay in the quality and morals of the revolutionary movement. Charles Reich's book, "The Greening of America," is essentially an apotheosis of the drop-out and his penumbra of attentuated imitators, and it represents an attempt to elevate him to the status of the revolutionary par excellence.

The central political thesis of the book is the proposition that the American corporate state will disintegrate purely as a result of a mental metamorphosis in its subjects and not as a result of political or revolutionary action. People's consciousness will simply change from II to III and the corporate state will wither away. The old corporate, anti-human Gesellschaft will give way to a free yet organic society of spontaneous sensualists and creative artistic producers.

The Consciousness III chaps are not exhorted by Reich to do anything. As a matter of fact they are actually exhorted to do nothing political in the ordinary usage of the term. They are merely urged to drop out, to fall if possible on the soft cushion of sustaining corporate wealth and to enjoy themselves.

THE ANATOMY OF A BESTSELLER

What made Reich's book into a bestseller? Why should it have sold so many more copies than other intellectually more competent books, which have appeared roughly at the same time, and which were written for a similar, fairly well-educated, middle to upper-middle-brow public? Why should men of affairs, and their wives, used to sound arguments in the pursuit of their corporate business and to good material texture in their private pleasure, prefer a discourse on the redemptive properties of Consciousness III on skis, in hip clothes, to sober and rationally argued treatises based on sound political knowledge and adequate empirical evidence? Perhaps somewhat underneath Reich's Consciousness III there lurks the old impish One and Two, an eye for the fast buck and a promoter's instinct for what the public loves.

Even if one were to accept fully Professor Eugene Genovese's hypothesis that the American New Left is made up largely of economic parasites extruded from the loins, nurseries and schools of a liberal middle class which has by now mismanaged everything, including the socialization of their children, one may nevertheless concede that the enterprise of radically chic social parasitism is occasionally inconvenient, at times morally disturbing, and an object of sarcasm from both conservatives and from more seriously committed revolutionaries. The sense of one's own basic fraudulence—living in affluence and leisure, spouting a revolutionary rhetoric, and inducing in oneself counterfeit emotions of communion with the wretched of the earth—spoils at times one's delight with the game.

Reich's doctrine frees "the kids" and their parents from all this. Reich, in fact, says that in being a social parasite one is being a revolutionary. There have been occasional parasitic playboys who were also revolutionaries—who, as it were, "made it" in revolutionary politics, e.g. the younger Verkhovensky. Yet, according to Reich, the playboy no longer has to make it since he is it. No wonder the book should please so many. The law-enforcement agencies and their allies will naturally opt for revolution in the minds, rather than by bombs, violence and political subversion. The media will welcome a revolutionary who does not question the legitimacy of property, but the most delighted will surely be the liberal academics and the college presidents, for here at least is a radical whose message does not increase the insurance rates of academic real-estate. The replacement of arsonists and bullies by bums and deviates will relieve many an administrative headache.

The people who should be disturbed by the prominence of Reich's book are those—American and non-Americans alike—whose personal freedom and survival is linked with the fortunes of the American republic. For it is obvious that the real revolutionary, as against the psycho-revolutionary of Reich's Consciousness III, represents no serious danger in America. Like all modern state machines in developed countries, the American state apparatus is effectively unchallengeable from within. Foreigners like myself, and even some natives, are deceived into believing that a violent revolution is possible in America by the degree of tolerated violence and dissent, and by the remarkable extent to which Americans tend to doubt the stability of their social order. The amount of slippage in the American law-enforcement apparatus is, perhaps greater than in any other highly industrialized society, and certainly greater than in other "English-speaking" cultures, but there is no evidence that a head-on challenge against the social order would not be swiftly and successfully crushed.

The New Left is divided into two groups, of which by far the greater part would opt for the role of comfortable social parasitism celebrated in Reich's book. The values of that group have now permeated American society down to the women's magazines and comic books. The situation is reinforced by the fact that the belief in the basic dispensability of government in the pursuit of individual happiness is one of the most cherished American myths. In no other developed country is the need for sovereignty and government viewed with greater suspicion than in America. Indeed, the lurking feeling that governments are dispensable after all, or if not, that they should be reduced to the barest minimum provides an occasional link between the thinking of the Left and the conservative Right in their joint nostalgia for a vanished past. It is a part of American tradition and, hence, even conservatives are highly vulnerable to it.

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THE TOTALITARIAN CHALLENGE

At the present time the still open societies of America and her allies are challenged by totalitarian despotisms of various kinds, of which the USSR remains the most formidable. They can withstand the challenge only if they consolidate and extend their institutions of conflict management to prevent disruption of the minimum of continuity and coherence which are a prerequisite for the successful conduct of world affairs, and if they can confront the system of terror and propaganda which threatens us from without by a force based on an internalized sense of civil responsibility.

There is only one libertarian counter to terror and totalitarianism—determined resistance based on a civic consensus rooted in loyalty to the Republic, and supported by a variety of virtues, shrewdly tamed vices and skills which together constitute the functioning human person within the context of his culture-bearing polis. The polis, any polis other than a tyranny, requires Consciousness II. Consciousness III is for those who wish to live like animals, nasn whom the ancients called cynics—the dogs like.

If the Reich ideology were to prevail in the U.S., and if Americans in large numbers were to follow the pied pipers of social irresponsibility, we might yet see the "greening" of America, since the grass might grow where the machines of civilization once stood. And life would again become solitary, poor, nasty, brutish and short, though admittedly with lots of unpolluted fresh air.

Yet, more likely, we would witness the internal disintegration and eventual conquest of a sensate, demoralized and self-hating mass of crazed consumers by other tyrannical societies based on order, myth, hierarchy and unrestrainted violence. And their regime would be oppressive in the palpably real sense rather than in the contrived-pickwickian sense propagated by Marcuse and aped by Reich as a sophist's weapon against the legitimacy of the social order of the American Republic.

MUSIC FROM THE HEART: JOE BATAAN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. RANGEL. Mr. Speaker, one of the most promising sounds in contemporary music is rising from East Harlem in the 18th Congressional District. I am speaking, of course, of Joe Bataan, the Latin bandleader who has attracted national notice and an international following.

Joe Bataan grew up in East Harlem and, despite his professional success, has chosen to live in his own community where his music, in the words of Felipe Luciano:

Talks of cops, riots, unwed mothers, prayers to God, abandoned children, and the names of streets in El Barrio.

New York Magazine carried an article on Joe Bataan, his years in the streets of East Harlem, his experiences at Coxsackie prison and his music which has endeared him to millions of Americans. I commend it to my colleagues.

The article follows:

[From New York Magazine, Oct. 25, 1971]

THE SONG OF JOE B

(By Felipe Luciano)

There was a time in El Barrio when only one thing mattered, whether you lived on Dragon turf or Viceroy turf. Legends persist about the shootouts between the two gangs, the all-night orgies, the humiliating defeats, the fistfights between individual warriors that lasted for hours. The Torres brothers and George Robles of the Viceroys, Georgie Bass and Joe Bataan of the Dragons: *"Ellos fueron los malos."* They were the bad ones.

In the early fifties very few escaped the milieu of gang culture. Some died violently with 22 stab wounds in their chests or were hit by a garbage can full of bricks pushed from the top of a tenement. Some went to jail convicted of murder, assault or rape. Some got married early and began the life of pack mules, pulling cold, gray metal racks of cheap dresses down Eighth Avenue in the garment district. Others went to drugs, a life alien to the gang style. The gangs were a collective endeavor, you fought *together;* smack was an individual experience. If you had to cut your brother's throat to get the money needed to buy a nickel bag you'd do it . . . and justify it later.

Those of us growing up then in El Barrio cherished the legends of gang heroism and exploits. But by now most of the warriors have died, in spirit if not in fact. Except for Joe Bataan. His rep is still intact in East Harlem. He survived the streets and prison to become a successful Latin singer and bandleader. In 1966 his first album, *Gypsy Woman,* put him on the record charts and last January he formed his own record company, Ghetto Records.

Joe B, as he's known in the Latin music business, is a street singer, our own troubadour. His ties to his past are ever present in his recordings. That is the real reason Joe Bataan is loved. It is not so much for the quality of his voice but for the memories he evokes in Puerto Ricans in the inexorable melodic lines of "oldie but goodie" grind-'em-up cuts like "When We Get Married," "Gypsy Woman," and "Sad Girl."

Latin and soul music have been the traditional musical forms in Spanish Harlem; Latin music because it represents our own unique life-force, and soul because for better or worse our destinies are inextricably tied to that of the black nation insofar as we live, work, and die with it. In every slum in New York there were always several singing groups who would stand on street corners hunched up in a circle to avoid the ridicule of passing adults and to make sure the harmony was tight. Hands cupped over their ears to magnify the sound, they would croon for hours in the sultry ghetto summers or the dry cold of New York winters. They sang songs like "The Wind," "Valerie," "Florence," "Who Wrote the Book of Love," "Tears on My Pillow," and "Look in My Eyes"—cuts that still crack the facades of some of the meanest hustlers in Harlem.

I first met Joe Bataan at Coxsackie prison in 1965. When I set eyes upon the big dude that we had talked so much about as children in El Barrio, I thought, "Damn, the mother can't be over five-seven. He's as short as me." He was the celebrity in "Spain," the Puerto Rican sector of the jail, and he charmed the entire prison population. His appearances at the annual talent shows in Coxsackie, where he would accompany himself on the piano singing both commercial and original songs, are still talked about by the inmates.

Joe B was born in 1942 of black and Filipino parents. He grew up in El Barrio during the mid-to-late fifties when "jitterbugging" (gang warfare) was at its height with stabbings every other week and shootouts in between. It was the time of Red Devil lye mixed with Pepsi-Cola thrown into the eyes, and Mau Mau Chaplins in Fort Greene being benevolent enough to give a rival gang member a jug of wine before they threw him off a project roof. It was the time of fancy earrings in the earlobe and stocking caps made from our mothers' torn nylons which we wore to keep the kinky hair down.

Those were the days when manhood was determined by how well you could imitate Frankie Lymon and the Teenagers, by wearing your gang sweater into school or, what was worse, into alien turf, and by your expertise on pigeons, whether you could tell the difference between a clinker, a tiplet, a tumbler, a baldie, and a homing.

Puerto Rican women always had it worse than their male counterparts. Couple the strict Catholic morality of their parents (particularly the fathers, who didn't mind their sons' sowing their wild rice and beans as long as their daughters remained pure) with the morality of the streets and you find a state of conflict that boggles the mind. Femininity was throwing a hooky party while your parents worked, and going out with the prez of the Viceroys. It was trembling, sweating, groping and clawing in a wine-smelling hallway, all sounds muffled so that Señora Martinez, *la bochinchera* (the gossip) next door, wouldn't find out.

I was eleven years old and though my only interests were shooting water on buses and cars with open-ended beer cans and playing hot peas and butter on 112th Street in El Barrio, I had already heard about Bataan. I had never seen him, but then again I had never seen Old Testament David. Both warriors were very real to me then. Joe's becoming prez of the Dragons had nothing to do with elections but rather with the swiftness of his hands, their impact on someone else's jaw and, of course, the fact that his heart pumped hot blood, not Kool-Aid. He had already graduated from Patrick Henry J.H.S., a school infamous in El Barrio for the quality of Dragon gang leadership and the quantity of illiterates, and had gone on to the New York High School of Commerce.

After his stint with the Dragons, Joe took over the presidency of the Young Copasetics, another gang in East Harlem. His youth was a disadvantage in fighting gangs with older members because they would be totally humiliated if they knew they had gotten stomped by a seventeen-year-old kid. They would usually come back for blood. Needless to say, Joe never told anybody his real age. But there was also an advantage to being young. As Joe put, "I was pretty reckless, but I knew that if I ever offended a dude, they wouldn't give me much time."

Bataan had a rough year in '59. He had suffered the paranoia of a gang leader who comes to the gut-churning realization that he is a target every hour, every day. Though he had dropped out of Commerce, he felt no elation. At that time dropouts, particularly non-white, lower-class dropouts, knew that there were only three ways of burrowing out of the get-tow: the gun, the diploma, or whatever soul you retained that white folks were willing to buy. They knew that all of the options were just a hustle. America's con games for the coons.

If you didn't go to school, you just hung out on the block. You sat on fire escapes and draped yourself over stoops and outer doorways of tenements trying to look as mean as Bogart. The usual mean street look was a scowl, out of which protruded a toothpick and a cigarette. Other identifying affectations were a hat turned backwards on your head, the latest style of clothing, some chump change in your pocket and nothing in your brain except total boredom.

This pervasive boredom led Joe to get arrested on a felony charge. He had been busted from time to time on gang-related charges but had always emerged without serving time. This time it was a stolen car and a black cop who wouldn't accept a bribe from Joe's family. After being freed on bail, Bataan entered Benjamin Franklin High School.

There were two institutions that were integral to the stability and wellbeing of Puerto Ricans in East Harlem—Franklin High and the Thomas Jefferson pool. The school kept you warm in the winter and the pool kept you cool in the summer. Both were on Italian turf. Gang membership was determined by ethnic background and geographic location and in most cases, your nationality determined where you lived. Thus, in East Harlem if you were an Italian you lived east of Third Avenue and if you were a Puerto Rican you lived anywhere west of Third Avenue up to Fifth Avenue bounded by 110th and 125th Streets. When Puerto Rican and Italian gangs fought each other it was a family affair. It was not uncommon to see older Italian men in their summer undershirts throwing beer bottles at the backs of fleeing Puerto Ricans or Puerto Rican mothers screaming encouragement from their windows as their sons fought Italians in the street below.

In addition to the threat of the Italians to the east, Bataan's former Dragons had to worry about the Viceroys to the north, the most famous Puerto Rican gang in El Barrio. The conflict between the Dragons and the Viceroys was traditional, like a hillbilly mountain feud. Most of the Viceroys were black P.R.s and the majority of the Dragons

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were white P.R.s Rigid social lines separating white P.R.s from their black-skinned brothers emanate from the slave days in Puerto Rico. "Unconscious racism" was not a familiar term in El Barrio at that time, but it did almost as much damage to the Puerto Rican tribe as poverty.

Through some miracle, Joe B. survived his Franklin experience despite the fact that he was one of only three Dragons in the school. But, in the end, he didn't have much time to fight. Six months after entering Benjamin Franklin he was finally sentenced to five years in jail.

Joe cultivated his musical talent at Coxsackie in spite of the unsympathetic jail administration. Under the tutelage of Mark Francis, a brilliant black music instructor, he started learning the fundamentals of music.

When Bataan was paroled in 1962 after serving two years, his friends had made a social transition from gangfighting to partygoing. The former teenage members of the Viceroys and the Dragons were now young adults who frequented the Latin dance halls on weekends. Going dancing was the new sign of maturity in East Harlem. At first Joe attributed the deterioration of the gang structure to death, jail and early marriage. What he didn't notice was the glassed look in his friends' eyes, the limp handshakes and the constant drowsiness of his neighbors.

Heroin was beginning to have its impact on the Puerto Rican youth. No more fights, no more camaraderie. The gang for some Puerto Ricans was the only family they had, and it was gone. Nobody wanted any action anymore. It was now time to be cool, ultra cool, as cool as Death nodding his head on a street corner to music that only he heard and understood.

The warriors of the Puerto Rican tribe fell, seduced by a drug, humiliated by a poison. The ebony princes of the Viceroys fell, the *jibaros* (mountain people of Puerto Rico) of the Dragons fell, but they weren't the only gangs in El Barrio. Small gangs like the Turbans and the Young Copasetics died too. Heroin was like an amoeba with pseudopods reaching into Black Harlem and destroying the Imperial Lords and the Tiny Tots. The Lower East Side where the Sportsmen had reigned for years was now a wasteland. Even the Redwings, a proud and fierce Italian gang that controlled virtually everything east of Second Avenue in East Harlem, succumbed to the wrath of the devil.

The white venom eventually seeped into Brooklyn. In Brownsville, the Roman Lords, the Spanish Romans, the Frenchmen, the Count Bishops, the Jolly Midgets and the John Quells all were rotted away by dope. Bedford-Stuyvesant, which housed the El Quintos, the Stompers, the Bishops, and plenty of Chaplins, was like a disaster area.

But one of the biggest tragedies was to watch the Chaplins die. They were the biggest black gang in Brooklyn, with divisions in every community: Fort Green Chaplins (formerly the Mau Maus), Jefferson Avenue Chaplins, Albany Avenue Chaplins, Marcy Avenue Chaplins, the Canarsie Chaplins, etc. During the height of the Chaplins' power one Easter Sunday in the Brooklyn Paramount, Murray the K, the rock and roll deejay, asked the audience in jest, "How many of you'all out there?" A scream pierced the darkness of the theater: *"Chaplilllins"* and almost the entire audience stood up. I didn't stand and I survived the wrath of the Chaplins only because my cousin was prez of the Little People's Division of the Canarsie Chaplins.

All the famous gangs from these slum communities fought the decisive battle and lost. They could duke it out with each other but they couldn't duke it out with themselves. "Going to Duke City," a phrase we used to mean a fight was going to take place, was never heard. The gangs went from communal fighting to communal nodding.

Joe B realized that what was now respected in his community was the almighty transition, the ability to make good from B.D. (Before Dope) to A.D. (After Dope). He worked for two years as a stock and delivery boy in the garment district, had a bit part in *The Cool World*, a film about gang warfare in Harlem, and for a while tried Bronx Community College.

In 1964 he was arrested again for violation of parole and sent back to Coxsackie.

After serving the final year of his sentence Joe came out rattled but determined to deal with himself and the world. Having received his high school diploma in jail, he entered Hunter College and simultaneously started a little band "with anyone who could blow." The small Latin dance halls where Joe played still exist in Manhattan, Brooklyn and the Bronx. They're usually rented lofts and storefronts frequented by older Puerto Ricans and serve as social clubs. It's not uncommon in our communities to see P.R. women wearing their hair in Minute Maid hair rollers through the week just to be able to fluff it out for the dance on Saturday night and confession on Sunday morning. Puerto Ricans sweat it out all week and let it all hang out on the weekends. Everyone goes to the dances—the pimps, the dope fiends, the hustlers, the workers and the students. It's almost always difficult to tell who is who because the same grimy guy you saw under a car on Friday, on Saturday looks as clean and sharp as a hustler on Seventh Avenue.

In these same dance halls Joe's new group was paid less than the union scale for musicians, but who the hell cared. With a jail record it would've been difficult for Joe to get the necessary cabaret license; furthermore, none of these marginal enterprises made the kind of money needed to pay union rates. The contract was simple and usually verbal. "You play a little, we pay a little," Joe remembers. "Man, I was carrying big pianos to dances without pay just because I wanted to play. People thought I was crazy."

The conflict in his life between music and school became apparent when he found himself doing more playing than studying. And a wife (the former Sylvia Roman, whom he had married in 1961) and child placed added demands on his time. Joe left Hunter College. Months passed as he endured the grueling schedule of one-night stands. Finally, Jerry Masucci, a producer from Fania Records, discovered Joe B and with his first album, *Gypsy Woman*, Bataan became a Latin bandleader celebrity in the barrios of New York.

I walked into Manhattan Center recently just as Bataan's group was starting its set. Joe beats out the rhythm with his foot to the uptempo tune "Puerto Rico Me Llama." The band constructs a driving rhythm that eventually soars into the musical bridge with trombones straining at their upper registers. The percussion in Joe's band provides the polyrhythmic foundation that is the trademark of Latin bands. Joe Bataan did not invent the mambo; it's as old as Cuban and Puerto Rican farmers, but it still swings.

The effect of a fast mambo or guaguanco on a Puerto Rican crowd must be seen to be appreciated. There are the usual stage clingers entranced by the poetry of the musicians' movements. Pete, *el timbalero* (the timbal player), is the most active body in the band as he sways from side to side, his arms seemingly detached from his body as they flail against the drum tops with rim shots and rolls. *El congero* (the conga player), Rocky, is eighteen and plays with youthful exuberance. Latin band is usually three fourths percussion and one fourth brass, reeds, or violins. But there is a percussion group within the percussion group—the congas, the timbals and the bass. It is this group that can make or break a tune. Louie is the only bassist I've seen sit down to play. With a cigarette always in his mouth and his eyes squinted to avoid the smoke, Louie plucks his strings looking straight into the crowd as if looking for his long lost brother. Then there are the two trombones, Robert and Eddie, mod dressed, blaring out melodic lines. There's Mel, the Latin lead solo and drummer who has to run from playing the cowbell to the traps. And there's Karl, the guitar player, Italian, brought up poor and respected for his technique.

Finally, there's Joe Bataan sitting at the piano—leading them home, watchful like a daddy.

But the dancers are their own music. *Portorroe* (slang for Puerto Ricans) forget propriety and themselves when they get up to dance. Watch the women move, heads thrown back laughing heartily at some dude's rap, their brown hair alive and curling up under the sweat, showing the kinkiness that is their heritage. Watch the men twirling their partners in the most complex pattern of steps imaginable. The mambo, used to be smooth and fluid. These days the youngbloods have made it into a test of Latino hipness: Who can turn the girl the most and which couple has the most intricate dance steps. The men draw crowds as they tear up the dance floor with their extraordinary clothing and their seemingly impossible steps.

There are the old folk, *los ancianos*, not afraid to dance a stiff boogaloo. And there are couples doing the grind. If done correctly, the grind is a slow, close dance done either passionately with limbs almost interlocking and some heavy breathing, or sensuously, with barely perceptible movement. It's as varied as love-making. Like *"el abrazo,"* the warm, all encompassing embrace of Latinos, the grind is eloquent. It screams through gritted teeth, "I love the hell outta you," or whispers gently. "I love you . . . dearly." It is, assuredly, nothing like the foxtrot.

Despite their enormous popularity in the Spanish-speaking communities, bands like those led by Joe Bataan, Tito Puente, Tito Rodriquez, Eddie Palmieri, and Machito have not been able to break into the big time. No one seems to care about promoting these great Latin bands nationally. The few Latin records that reach the larger commercial market are rejected because of the Spanish name on the label. American business and the public will sooner or later find out that there is more to Puerto Rican culture than José Feliciano and Santana.

Black musicians and singers had a similar problem several years ago. The hottest cuts coming from the black community were heard only on "ethnic stations." It took a political movement, black nationalism, to struggle for change. And when white rock artists acknowledged black songs and inflections as the sources of much of their music, America began to realize where the heavy stuff really came from. Puerto Rican music is already beginning to influence white musicians. Many bands lift entire pieces off the musical charts of Latin bands. Some Latin musicians call this robbery and lambaste the guilty for not acknowledging the source of their "hot tempoed" numbers. But, as Joe B points out, the white world is not solely responsible for the lack of success of Latin bands. "Latin bandleaders are plagued by petty jealousies," Joe says. "Get a group of them together to form something like Latin Power, and when it comes to struggling to make it happen, hell, they cop out, saying, 'When you get it together, come see me.' At the same time they'll go around the corner and work with another company whose sole interest is to suck them dry. The older bandleaders are scared of losing what they have and the young ones are still struggling."

Joe B and his band also have an internal problem, acquiring a mastery of musical technique—sight reading, arranging, composing, transposing. Joe says, "I'm in such a bag, I ain't got no time. What I don't have in terms of musical training, I have to make up with my ideas. I don't really believe you need a musical education to be an accomplished musician and to reach people. It comes from the heart. But without technique you never get to the money."

Things are beginning to come together for Joe B, however. His newly formed record company, Ghetto Records, has had the number-one and number-two spots on the Latin record charts in the past few months with Paul Ortiz' "Tender Love" and Joe Acosta's "I Need Her." Ghetto records is getting more air play than any other Latin company except the very successful Fania Records. Joe himself has just released a new album, *Sweet Soul*, and he's waiting to see if it takes off. Joe was recently invited back to Coxsackie prison by his former music teacher and the warden. He spoke to the inmates about his problems while in prison, the dreams that kept him going, and the realities of facing the world again once he was out. He's still riding high on that visit to Coxsackie. "It was a great experience," he says jubilantly.

Joe Bataan has never forgotten his people. He lives in El Barrio, unlike some of the big bandleaders who moved away physically and spiritually, and this has endeared him to Puerto Ricans as much as the memories he evokes with his style of singing. Joe Bataan is tangible, you can see him walking along 106th Street and shopping on Third Avenue with his wife and two children. Andy Gonzalez, a Latin bassist who now works with Dizzy Gillespie, once told me, "Whatever happens on the streets you'll hear in Joe Bataan's records." It's true. Bataan's songs talk of cops, riots, unwed mothers, prayers to God, abandoned children, and the names of streets in El Barrio we all know.

HEALTH PLANNING

HON. WENDELL WYATT

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. WYATT. The magazine, Portland, published by the Greater Portland Chamber of Commerce, contains a short but thoughtful piece on comprehensive health planning. It was written by Les AuCoin, a State representative from Washington County. I would like to share the following article with my colleagues:

COMPREHENSIVE HEALTH PLANNING ASSOCIATION

(By Les AuCoin)

The prestigious, often conservative Fortune Magazine said in its January, 1970 issue ". . . the time has come for a radical change. The financial distortions, the inequities and the managerial redundancies in the (health care) system are the kind that no competent executive could fail to see or would be willing to tolerate for long."

When Fortune calls for a "radical" change, we know something must be wrong. The cost of health care benefits to employees is the fastest rising cost now faced by business and industry. It's true in the Portland metropolitan area.

Hospital costs have reached all time new highs. Health insurance premiums continue to go up. The hard fact is most Oregonians could still be financially destroyed by a prolonged serious illness in the family, a fact which Fortune says is virtually impossible in countries such as West Germany, Sweden and Great Britain. And none of those countries devote as large a percentage of their gross national product to medical care as does the U.S.

Health care is not the first "crisis" to strike our communities. The dynamics of what brings such a problem to a climax are not readily understood. However, the staggering problem of delivering the best health care to every American at a price we can afford is becoming a national frustration.

A dozen new plans have been produced in the Congress. At least six of those can be considered major health plans to be debated by the country.

The Chamber's Congressional Action this year said, "Employers as a group are the largest single private purchasers of health care services, and unions are pushing hard at the bargaining table for broader and more complete coverage. In 1968 (the latest figures available) business spent between $12 and $13 billion for this purpose."

In the metropolitan area, the Comprehensive Health Planning Association, created by Congress in 1966 (the Partnership in Health Act) is attempting to conduct short and long range planning in health care and health care systems. CHPA is a voluntary, nonprofit, non-government organization. Its Board of Directors is made up of 38 representatives from almost every segment of the metropolitan community.

In order to share in the Federal largess, hospitals and organizations seeking Federal monies for new programs, for manpower training, for special public health programs, must present their plans through CHPA before state, regional and federal officials will even consider their proposal for funding.

A new state law says hospitals must obtain a Certificate of Need before new construction or remodeling can take place. Local comprehensive health planning groups will be the clearinghouse for such needs.

CHPA committees are broadly based in consumers and providers of health services. As a consumer of health services, each businessman is entitled to participate in the planning decisions of CHPA. A number already are.

Zane Campbell, active in Chamber activities, is a member of the Board of CHPA and of the State Comprehensive Health Planning Group. Waldemar Seaton, formerly of PGE, is a newly elected Board member. V. P. Booker of the Freedom Bank is a newly elected consumer representative.

Comprehensive Health Planning Association for Metropolitan Portland has been getting the job done. It has hired the best Executive Director it could find in Richard A. Rix. Rix came to Portland from Iowa and New York where he was the head man for two significant health planning associations. Rix has gathered around him a staff of professional planners who have already made an impact on the health community.

After years of frustration, a coordinated Emergency Services Plan is about to emerge. By combining a half dozen reports and the expert opinion of dozens of witnesses, the volunteer committee and the professional staff will be soon announcing a plan to coordinate ambulance services, emergency manpower, communications, industrial safety, emergency rooms in hospitals and other facilities into a working unit.

Comprehensive Health Planning Association deserves the support and attention of the business community. If for no other reason than its own self interest, business should be giving it active manpower support and its pledge of financial assistance.

Comprehensive Health Planning Association is financed one-half by federal grants and the other half by local contributions. The association operates on a $160,000 budget a year currently.

Contact with CHPA can be made at the Portland metropolitan office, phone number 224-2560, located in the Marquam Plaza Building at 2525 S.W. Third.

VOTING ON NATIONAL CANCER ATTACK ACT OF 1971 ON MONDAY, NOVEMBER 15, 1971

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. ROGERS. Mr. Speaker, I am pleased to announce that H.R. 11032, the National Cancer Attack Act of 1971, has been placed on the suspension calendar for Monday, November 15, I am hopeful that this bill—which will provide the most extensive and comprehensive attack on a single disease in the history of this Nation—will be overwhelmingly passed by my colleagues.

Mr. Speaker, this bill is the product of intense work by the Subcommittee on Public Health and Environment. Following 4 weeks of hearings—1 day of which was at a major cancer center, Roswell Park Memorial Institute in Buffalo, N.Y.—and hours of meeting in executive session a unanimous subcommittee voted to report H.R. 11302 to the full committee on Interstate and Foreign Commerce. The bill was ordered reported to the House by a vote of 26 to 2 with two minor amendments, which were agreed to unanimously. Attempts to substantively change the provisions of the bill were overwhelmingly rejected by the full committee.

Mr. Speaker, copies of the committee report are available in the House Document Room and the Office of the Clerk of the Interstate and Foreign Commerce Committee. Because of the intense interest surrounding this landmark legislation, I include the text of the bill and a section-by-section analysis in the RECORD at this point:

H.R. 11302

A bill to amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order to conquer cancer as soon as possible.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as "The National Cancer Attack Act of 1971".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that cancer is the disease most feared by Americans today;

(2) that new scientific leads, if comprehensively and energetically exploited, may significantly advance the time when more adequate preventive and therapeutic capabilities are available to cope with cancer;

(3) that cancer, heart, and lung diseases and stroke are the leading causes of death in the United States;

(4) that the present state of our understanding of cancer, heart, and lung diseases and stroke is a consequence of broad advances across the full scope of the biomedical sciences;

(5) that in order to provide for the most effective attack on cancer it is important to use all of the biomedical resources of the National Institutes of Health, rather than the resources of a single Institute; and

(6) that the programs of the research institutes which comprise the National Institutes of Health have made it possible to bring

into being the most productive scientific community centered upon health and disease that the world has ever known.

(b) It is the purpose of this Act to enlarge the authorities of the National Cancer Institute and the National Institutes of Health in order to advance the national attack upon cancer.

NATIONAL CANCER ATTACK PROGRAM

SEC. 3. (a) Part A of title IV of the Public Health Service Act is amended by adding after section 406 the following new sections:

"NATIONAL CANCER ATTACK PROGRAM

"SEC. 407. (a) In his capacity as an Associate Director of the National Institutes of Health, the Director of the National Cancer Institute shall coordinate all of the activities of the National Institutes of Health relating to cancer with the National Cancer Attack Program.

"(b) In carrying out the National Cancer Attack Program, the Director of the National Cancer Institute shall:

"(1) With the advice of the National Cancer Advisory Council, plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the other research institutes, and other Federal and non-Federal programs.

"(2) Expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of the opportunities for the conquest of cancer in areas of special promise.

"(3) Encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research.

"(4) Collect, analyse, and disseminate all data useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

"(5) Establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials.

"(6) Support research in the cancer field outside the United States by highly qualified foreign nationals (where the Director determines that such support can reasonably be expected to inure to the benefit of the American people); support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States.

"(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professional personnel, for participation in clinical and basic research and treatment programs relating to cancer, including where appropriate the use of training stipends, fellowships, and career awards.

"(8) Call special meetings of the National Cancer Advisory Council at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

"(9)(A) Prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate for the National Cancer Attack Program, after opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Council; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute.

"(c) The National Cancer Advisory Council shall meet at the call of the Director of the National Cancer Institute or of such Council's Chairman, but not less than four times in each calendar year.

"(d)(1) There is hereby established the President's Cancer Attack Panel which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Attack Program. At least two of the members of the panel shall be distinguished scientists or physicians.

"(2)(A) Members shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(B) The President shall designate one of the members to serve as Chairman for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

"(3) The Panel shall meet at the call of the Chairman but not less often than twelve times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

"(4) The Panel shall monitor the development and execution of the National Cancer Attack Program under this section, and shall report directly to the President. Any delays or blockages in rapid execution of the program shall immediately be brought to the attention of the President. The Panel shall submit to the President annually an evaluation of the efficacy of the National Cancer Attack Program and suggestions for improvements, and shall submit such other reports as the President shall direct. At the request of the President, it shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Cancer Institute.

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

"SEC. 408. (a) The Director of the National Cancer Institute is authorized to provide for the establishment of fifteen new centers for clinicial research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

"(b) The Director of the National Cancer Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Council, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 405), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) training (including training for allied health professions personnel) and (4) demonstration purposes; but support under this subsection (other than support for construction) shall not exceed $5,000,000 per year per center. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Cancer Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Cancer Institute.

"CANCER CONTROL PROGRAMS

"SEC. 409. (a) The Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the prevention, control, and eradication of cancer.

"(b) There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, and $40,000,000 for the fiscal year ending June 30, 1974.

"AUTHORITY OF DIRECTOR

"SEC. 410. The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Council), in carrying out his functions in administering the National Cancer Attack Program and without regard to any other provision of this Act, is authorized—

"(1) if authorized by the National Cancer Advisory Council, to obtain the services of not more than fifty experts or consultants who have scientific or professional qualifications, in accordance with the provisions of section 3109 of title 5, United States Code (but any such expert or consultant may be appointed for a period in excess of one year);

"(2) to the extent that the Director of the National Cancer Institute deems it necessary in order to recruit specially qualified scientific or other professional personnel without previous competitive service, to establish the entrance grade for such personnel at not to exceed two grades above the grade otherwise established for such personnel under the applicable provisions of title 5 of the United States Code;

"(3) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Cancer Institute for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"(4) To appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deemed desirable to advise him with respect to his functions;

"(5) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(6) to accept voluntary and uncompensated services;

"(7) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(8) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

"(9) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"SCIENTIFIC REVIEW; REPORTS

"SEC. 410A. The Director of the National Cancer Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Council and the Director of the National Institutes of Health, other formal peer review groups as may be required.

"(b) The Director of the National Cancer Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the National Cancer Advisory Council and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the National Cancer Attack Program during the preceding calendar year and a plan for the program during the next five years.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 410B. For the purpose of carrying out this part (other than section 409), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; and $600,000,000 for the fiscal year ending June 30, 1974."

(b) Section 301(d) of the Public Health Service Act is amended by adding at the end thereof the following: Provided further, That, under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants for research or training purposes—

"(1) in amounts not to exceed $35,000 after appropriate review for scientific merit but without requirement or review and approved by the National Cancer Advisory Council, and

"(2) in amounts exceeding $35,000 after appropriate review for scientific merit and recommendation for approval by such council."

REPORT TO CONGRESS

SEC. 4. (a) The President shall carry out a review of all administrative processes under which the National Cancer Attack program, established under part A of title IV of the Public Health Service Act, will operate, including the processes of advisory council and peer group reviews, in order to assure the most expeditious accomplishment of the objectives of the program. Within one year of the date of enactment of this Act the President shall submit a report to Congress of the findings of such review and the actions taken to facilitate the conduct of the program, together with recommendations for any needed legislative changes.

(b) The President shall request of the Congress without delay such additional appropriations (including increased authorizations) as are required to pursue immediately any development in the National Cancer Attack program requiring prompt and expeditious support and for which regularly appropriated funds are not available.

PRESIDENTIAL APPOINTMENT OF INSTITUTE'S DIRECTORS

SEC. 5. (a) Title IV of the Public Health Service Act is amended by adding after part F the following new part:

"PART G—ADMINISTRATIVE PROVISIONS

"DIRECTORS OF INSTITUTES

"SEC. 454. The Director of the National Institutes of Health and the Directors of the National Cancer Institute, the National Heart and Lung Institute, and the National Institute of Neurological Diseases and Stroke shall be appointed by the President. The Directors of the National Cancer Institute, the National Heart and Lung Institute, and the National Institute of Neurological Diseases and Stroke are designated as Associate Directors of the National Institutes of Health, and shall report directly to the Director of the National Institutes of Health."

(b)(1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(58) Director, National Institutes of Health."

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(95) Deputy Director for Science, National Institutes of Health.

"(96) Deputy Director for Science, National Institutes of Health.

"(97) Associate Director, National Institutes of Health—Director, National Cancer Institute.

"(98) Associate Director, National Institutes of Health—Director, National Heart and Lung Institute.

"(99) Associate Director, National Institutes of Health—Director of National Institute of Neurological Diseases and Stroke."

EFFECTIVE DATE

SEC. 6. (a) This Act and the amendments made by this Act shall take effect sixty days after the date of enactment of this Act or on such prior date after the date of enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) The first sentence of section 454 of the Public Health Service Act (added by section 5(a) of this Act) shall apply only with respect to appointments made after the effective date of this Act.

SECTION-BY-SECTION ANALYSIS

TITLE

Section 1. The Act is titled "The National Cancer Attack Act of 1971."

FINDINGS AND DECLARATION OF PURPOSE

Section 2. States that cancer is the disease most feared by Americans; that if the new scientific leads are comprehensively and energetically exploited, they may advance the time when more adequate preventive and therapeutic capabilities can cope with cancer; that cancer, heart and lung diseases, and stroke are the leading causes of death in the United States; that the present understanding of these diseases is the result of broad advances of all the biomedical sciences; that the most effective attack on cancer should use all of the resources of the National Institutes of Health; that the programs of the National Institutes of Health have produced the world's most productive scientific community centered upon health and disease; and that the purpose of this Act is to enlarge the authorities of the National Cancer Institute and the National Institutes of Health in order to advance the national attack on cancer.

NATIONAL CANCER ATTACK PROGRAM

Section 3(a). Amends Title IV of the Public Health Service Act to include the following new sections:

New Section 407(a). As an Associate Director of the National Institutes of Health, the Director of the National Cancer Institute is to coordinate all cancer-related activities of the National Institutes of Health with the National Cancer Attack Program.

New Section 407(b). Assigns to the Director, National Cancer Institute, a range of responsibilities necessary to accomplish the conquest of cancer. Specifically, this subsection would require the Director of the National Cancer Institute to:

(1) With the advice of the National Cancer Advisory Council, plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, and under policy control by the Director, NIH, related programs of the other research institutes, and other Federal and nonfederal programs.

(2) Expeditiously utilize, and under policy control by the Director, NIH, existing facilities and personnel of the National Institutes of Health to rapidly explore opportunities for the conquest of cancer in areas of special promise.

(3) Encourage and coordinate cancer research by industrial concerns which evidence a capability for such research.

(4) Collect, analyze, and disseminate all data useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer data bank.

(5) Establish or support the large-scale production or distribution of specialized biological materials or other therapeutic substances for research and set standards of safety and care for their use.

(6) Support meritorious foreign research, collaborative research involving American and foreign scientists, and the training of Americans abroad and foreign scientists in the United States.

(7) Support appropriate manpower training programs in fundamental sciences and clinical disciplines, including the use of stipends, fellowships, and career awards to provide an expanded manpower base from which health professional personnel will be selected to participate in clinical and basic research programs related to cancer.

(8) Call special meetings of the National Advisory Cancer Council as the Director deems necessary to gain maximum benefit from new scientific or technical findings.

(9) Prepare and submit an annual budget estimate for the national cancer attack program directly to the President after the Secretary, the Director, National Institutes of Health, and the National Advisory Cancer Council have had an opportunity to make comment on but not change the estimates. Receive from the President and the Office of Management and Budget directly the funds appropriated by the Congress for the National Cancer Institute.

New Section 407(c). The National Advisory Cancer Council shall meet at the call of its chairman of the Director of the National Cancer Institute but not less than four times each calendar year.

New Section 407(d). President's Cancer Attack Panel. Establishes a three-person panel (of whom at least two shall be distinguished scientists or physicians) appointed by the President to appraise the national cancer attack program. Members shall be appointed for three-year terms (except that appointment provides that terms of original members will be staggered so that one term expires yearly) with a member to be designated each year by the President as chairman. Vacancies will be filled for remainder of unexpired term. The Panel will meet at the call of the chairman but not less than 12 times a year. A transcript will be kept of the meetings of the Panel, which shall be public information. The function of the Panel will be to monitor the National Cancer Attack Program and report directly to the President. It shall immediately bring to the President's attention any delays or blockages in program execution and shall an-

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nually report to him on the efficacy of the program with suggestions for improvements. At the President's request, it shall also submit a list of names of persons for consideration for appointment as Director of the National Cancer Institute.

NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

New Section 408. The Director of the National Cancer Institute is authorized to provide for the establishment of 15 new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. This subsection also authorizes cooperative agreements with public and private nonprofit agencies for the planning, establishment, strengthening, and basic operating support of existing or new centers. Federal payments may be used for construction, staffing, basic operating costs, training, and demonstration purposes but support shall not exceed $5 million per year per center, excluding construction. Support under this subsection shall be for three years but may be extended by the Director, National Cancer Institute, for additional three-year periods after review by an appropriate scientific review group.

CANCER CONTROL PROGRAMS

New Section 409. The Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the prevention, control, and eradication of cancer. For this purpose, there are authorized to be appropriated $20 million, $30 million, and $40 million for fiscal years 1972, 1973, and 1974, respectively.

AUTHORITY OF DIRECTOR

New Section 410. Authorizes the Director of the National Cancer Institute, after consultation with the National Advisory Cancer Council, to:

(1) Obtain the services of not more than 50 experts or consultants who have scientific or professional qualifications, if authorized by the National Advisory Cancer Council.

(2) Recruit specially qualified scientific or other professional personnel (without previous competitive service) at two grades above the grade otherwise established for such personnel.

(3) Acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property as necessary, and acquire by lease buildings in the District of Columbia or adjacent area for use of the National Cancer Institute for a period not to exceed 10 years.

(4) Appoint advisory committees.

(5) Utilize the services of other Federal, State, or local public agencies.

(6) Accept voluntary and uncompensated services.

(7) Accept unconditional gifts or donations of services.

(8) Enter into contracts, leases, cooperative agreements, and other transactions as may be necessary to the conduct of his functions.

(9) Assure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and other disciplines and organizations, nationally and internationally.

SCIENTIFIC REVIEW

New Section 410A(a). The Director of the National Cancer Institute shall provide for proper scientific review of all research grants and programs over which he has authority. He shall utilize to the maximum extent possible appropriate peer review groups established within the National Institutes of Health but when appropriate may, with the approval of the Director, National Institutes of Health, and the National Advisory Cancer Council, establish other formal peer review groups as may be required.

REPORTS

New Section 410A(b). The Director of the National Cancer Institute, in consultation with the National Advisory Cancer Council, shall prepare an annual program report to the President for transmittal to the Congress. This report shall include the activities, progress, and accomplishments of the cancer program during the preceding calendar year as well as a plan for the program for the next five years.

AUTHORIZATION OF APPROPRIATIONS

New Section 410 B. For programs other than Cancer Control, there are authorized to be appropriated $400 million, $500 million, and $600 million for fiscal years 1972, 1973, and 1974, respectively. Sums appropriated under this section shall remain available until expended. This section, and section 409, constitute the exclusive authorizations in the Public Health Service Act for the programs and activities of the National Cancer Institute.

Section 3(b). Section 301(d) of the Public Health Service Act is amended by adding new language to provide that the Director of the National Cancer Institute, under procedures approved by the Director, National Institutes of Health, may approve grants not to exceed $35,000 after appropriate review for scientific merit but without advisory council review and approval. Grants in excess of $35,000 would continue to require approval by the advisory council.

REPORT TO CONGRESS

Section 4. The President shall conduct a review of all administrative processes under which the National Cancer Attack Program shall operate. Within one year, such findings shall be reported to the Congress together with recommendations for any legislative changes. This section also directs the President to request without delay any additional appropriations and authorizations as are required to immediately pursue any development in the National Cancer Attack Program for which regularly appropriated funds are not available.

PRESIDENTIAL APPOINTMENT OF INSTITUTES' DIRECTORS

Section 5(a). Amends Title IV of the Public Health Service Act to include the following new part: "Part G—Administrative Provisions."

New Section 454 provides for Presidential appointment of the Director, National Institutes of Health, and the Directors of the National Cancer Institute, National Heart and Lung Institute, and the National Institute of Neurological Diseases and Stroke. The Directors of the NCI, NHLI, and NINDS are also designated as Associate Directors of the National Institutes of Health and shall report directly to the Director of the National Institutes of Health.

Section 5(b). Elevates in rank certain officials of the National Institutes of Health. The Director of the National Institutes of Health is elevated to Executive Level III. The following officials are elevated to Executive Level IV: the Deputy Director, National Institutes of Health; the Deputy Director for Science, National Institutes of Health; the Director, National Cancer Institute; the Director, National Heart and Lung Institute; the Director, National Institute for Neurological Diseases and Stroke, the latter three as Associate Directors of the National Institutes of Health.

EFFECTIVE DATE

Section 6. Provides that the Act take effect 60 days after its date of enactment. This section also provides that Section 454 (requiring that certain NIH officials be presidentially appointed) shall apply to officials appointed after the effective date of this Act.

PRICE INTRODUCES WATER QUALITY BILL

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. PRICE of Texas. Mr. Speaker, this afternoon I am introducing a series of amendments to the Federal Water Pollution Control Act. While my proposals are based on the legislation that passed the Senate last week, they are designed to correct what I consider to be some substantial defects in the Senate-passed measure.

In the process of drafting my proposals, I discussed the Senate bill at some length with appropriate officials in the White House and the Environmental Protection Agency. Not only did we concur in our judgments regarding the flaws in the Senate measure, the bill I am introducing today is a direct product of these conversations.

To restore the quality of our Nation's water is a monumental task. It will take a great deal of time, effort, and expense. Because it is such an important endeavor, one with such important consequences, great care must be taken to insure our efforts are well conceived and well executed. Bearing these thoughts in mind, I analyzed the Senate-passed bill and concluded that although it has much to recommend it, it is deficient in certain key respects.

In terms of the available funds that can be diverted to clean up the Nation's water, the Senate bill sets forth a framework of Federal expenditures that are excessive when viewed in relation to the general availability of our national resources. Like it or not, the Nation is in a financial squeeze. We can no longer act like it does not make any difference how we spend our money or on what we spend it. The plain fact of the matter is that the Federal Government cannot successfully be "Uncle Sugar" to the Nation and world; our present economic difficulties bear graphic witness to that. Regrettably, the Senate bill fails to take economic and fiscal realities into account and for this reason, if left unchanged, it may well do an ultimate disservice to the cause of clean water and may further erode the belief the average American has in the promises of the Federal Government. My proposal is designed to make the Federal Water Pollution Control Act more manageable and effective. It establishes a more reasonable framework that can, insofar as is practically possible, eliminate water pollution from the national scene by the target date of 1985.

Despite the statements made regarding the importance of the several States in combating pollution, the terms of this Senate bill relegate the States to a secondary role and place the Administrator of the Environmental Protection Agency in the driver's seat. Not only does such policy downgrade the importance of the States in combating pollution; there is considerable doubt in my mind whether the EPA Administrator and his staff can adequately make the tens of thousands of individual decisions on pollution standards that will have to made under the Senate bill as written. My bill, in contrast, makes the States and the Federal Government more equal partners in the war on water pollution, and better preserves the constitutional balance between Federal and State levels of power and spheres of influence.

Finally, my bill holds the present line on the level of Federal financing for the construction of waste treatment centers and other pollution control facilities. Under present law, the Federal Government can contribute up to 55 percent to such projects, and the States contribute the rest. According to the Senate bill, however, the Federal share is increased to a maximum of 70 percent, an increase I find unsupportable in terms of other conflicting claims on scarce Federal dollars; for example, national defense, education, transportation, and health. I also am not convinced that increasing the Federal share up to 70 percent will stimulate the construction of more waste treatment facilities. I say this because, despite the fact that the present pollution abatement grants were started in 1966 with a Federal share of 30 percent, as of last September 13 States had still not taken the neeessary steps to qualify for the increased Federal grants of 55 percent. This is but another example of the fact that complex problems cannot be solved by merely burying them in tax dollars.

Mr. Speaker, in the main, the changes I have made in the Senate bill are technical in nature. They are designed to make the war on water pollution be conducted on a more efficient and more effective basis than will be possible under the Senate bill as is presently written. It is my hope that my proposals will provide a starting point from which the House Public Works Committee can construct a truly workable bill.

In closing, I urge my colleagues to give this proposal their closest attention. The American people have a right to enjoy clean water. We in Congress have the responsibility to provide the legislative framework within which this much-sullied right can be realized. We have, however, an even larger responsibility in this affair, for the United States is the foremost polluter of water in the world. As we know, water is the source of all life. If it is rendered unfit for use, mankind and all life on this planet will face extinction. Some environmentalists are predicting that world water supplies will reach the critical pollution point before the close of this century. If it does, this Nation will bear a substantial share of the blame, for we have within our power the ability to avert this catastrophe.

We must clean up our water—ultimately, it is a matter of life or death.

THE LATE HON. A. WILLIS ROBERTSON

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. SATTERFIELD. Mr. Speaker, I wish to join with my colleagues from Virginia and throughout the Nation in paying tribute to my friend, the Honorable A. Willis Robertson, who passed away on November 1.

Willis Robertson was a dedicated public servant who loved his State and Nation. He was a strong man—a man's man—and in every instance of public service he conducted himself with dignity and forthrightness.

He served Virginia as a State senator, as a commonwealth's attorney, as chairman of the State Commission on Game and Inland Fisheries, and then for 14 years in the House and 20 years in the Senate.

Willis Robertson was throughout his life an ardent conservationist. While the public record lists his many contributions in the areas of banking, currency, and economics, he, on one occasion stated:

I would be happy if history records my efforts on behalf of conservation as being a worthwhile contribution to my day and generation.

His integrity and patriotism were never questioned and his devotion and strict adherence to the Constitution were fundamental to his philosophy.

I am honored to have known Willis Robertson. Virginia and this Nation are better for his service. He deserves the gratitude of all Americans.

I insert the following editorial from the Thursday, November 4, 1971, Richmond Times-Dispatch in the RECORD at this point:

A. WILLIS ROBERTSON

Sen. A. Willis Robertson served his state and his country well. He was an able, high-minded conservative whose knowledge of banking, currency, taxes and the tariff were exceptional, but whose greatest contribution of all was probably as a pioneer in the sphere of conservation and the preservation of our wild life and scenic resources from pollution and destruction.

He served with great ability back in the 1920's as the first chairman of the just-established State Commission on Game and Inland Fisheries. When he went to the House of Representatives, he served for 12 years as chairman of the Committee on Wildlife Conservation. During that period he was co-patron of the Pittsman-Robertson Act to provide grants in aid to the stages for upland game, and of the Migratory Duck Stamp Act to provide funds for refuge and breeding of migratory birds. Under other legislation that he sponsored, the U.S. Forest Service was directed to make the conservation of wildlife in our millions of acres of National Forest one of its major aims.

In the House he also was appointed to the powerful Ways and Means Committee, which handles all tax legislation. He was the first Virginian in a third of a century to be named to that body, and he rose to become the highest ranking Virginian on the committee since 1850.

Willis Robertson was elected to succeed Carter Glass in the Senate upon the latter's death, and he proved a worthy successor, especially in the field of banking and currency. Robertson became chairman of the Senate Committee on Banking and Currency, and a recognised authority in the field.

He rose fairly frequently on the floor of both the House and Senate, and was a speaker of exceptional ability, who got his facts firmly in mind before undertaking to discuss any question. A strong believer in states' rights, he was never a demagogue or rabblerouser. As an orator on ceremonial occasions he reminded one of the old "stemwinders" of an earlier generation, for he gestured frequently and spoke in the rhetorical style that has now passed almost completely away.

Willis Robertson's defeat for reelection in 1966 by 611 votes at the hands of William B. Spong Jr. is attributable, ironically enough, to the Conservative Party, which urged its adherents to stay out of the primary, since Robertson had not resigned from what it termed "the foul and filthy Democratic party." The result was that one of the leading conservatives in the Senate was retired from that body.

Willis Robertson was a companionable man, with a great love for hunting and fishing in both of which he was a recognized expert. He liked to raise his voice in song, and during the Korean War he belonged to a congressional quartet which entertained the hospitalized soldiers with barbershop harmonies. He was also a raconteur of unusual gifts.

Although, by an astounding coincidence, he and Harry F. Byrd Sr. were born within two weeks of each other in Martinsburg, W. Va., and they entered the Virginia Senate and the U.S. Congress in the same year, they did not remain lifelong political intimates. Robertson's practice of regularly endorsing the Democratic nominee for the presidency did not appeal to Byrd. Robertson felt that "to maintain party government you have got to maintain party regularity and support some candidates you don't personally care for" Byrd disagreed.

The integrity and patriotism of Willis Robertson were strongly marked characteristics, as they were of Harry Byrd. The two men differed sincerely on some questions.

Sen. Robertson accumulated few material goods during his more than half a century of public service, but he died with the admiration and respect of his fellow-citizens. He was entitled to feel that he made a lasting contribution to his state and to his country.

POLAND'S INDEPENDENCE DAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. DERWINSKI. Mr. Speaker, today, November 11, is Independence Day for Poland. We all know that, since the close of World War II, Poland has been a captive of the Communists. Her people have been oppressed since the Russian forces drove into the country during World War II, prohibited the restoration of the legitimate government of Poland, and then forced onto the people of Poland a Communist regime which has so badly served them for the past 26 years.

The Polish Government in Exile continues its activities on behalf of Poland and, therefore, I believe it appropriate to place into the RECORD a message from the President of the Polish Government in Exile on the occasion of Poland's historic Independence Day.

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The message follows:

MESSAGE OF THE PRESIDENT OF THE REPUBLIC OF POLAND, TO THE POLISH NATION ON THE OCCASION OF POLAND'S INDEPENDENCE DAY, NOVEMBER 11, 1971

His Excellency August Zaleski, President of the Republic of Poland/in-exile/, has issued in London the following message to Poles all over the world on the occasion of Poland's Independence Day, proclaimed in pre-war Poland to commemorate to the restoration of Polish independence in 1918:

Citizens of the Republic of Poland and Poles in the Free World:

The history of a nation is a constant struggle for the preservation of values that are transmitted from father to son, from one generation to another. The nation's glories are reflected on all its members, and all of them take part in its sorrows. Descendants pay for the faults of their ancestors or benefit by the services they have rendered. Hence the great importance in a nation's life of the achievements of each several generation. As Article 5 of the Polish Constitution of 1935 succintly expresses it: "The creativeness of every individual citizen is the lever of collective life."

In celebrating the anniversary of the recovery of Polish independence on 11 November 1918, we pay homage to all those who, by their common effort, reasserted the nation's right to live and develop freely after more than a century of enslavement. Under the leadership of Józef Pilsudski the nation successfully resisted the onslaught of a new tyranny which threatened it from the east. The noble principles of self-determination, proclaimed during the war by President Woodrow Wilson and embodied in the victors' charter, restored freedom not only to Poland but to many other peoples of central and eastern Europe.

Poland, however, was not to enjoy its independence for long. The treacherous attack of Nazi Germany and Soviet Russia in September 1939 plunged the world into the Second World War. In the tragic aftermath of that war, not only were Poland and her neighbors robbed of political and cultural freedom, but the whole world was placed under a permanent threat as a result of the division into rival spheres of influence.

Today, more perhaps than ever, those of us Poles who remained outside our country after the war are in duty bound to contribute, by their own labor and their own efforts, to the defence of those values which are our nation's heritage: its right to be independent once more and to live its life in justice and freedom.

AUGUST ZALESKI.

REDESIGNATE NOVEMBER 11 AS VETERANS DAY

HON. WILMER MIZELL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. MIZELL. Mr. Speaker, I rise at this time to join with my distinguished colleague from Florida (Mr. YOUNG), and with others in this body, in introducing a resolution to redesignate November 11 as the official date for observance of Veterans Day.

Mr. Speaker, I was not a Member of Congress at the time the so-called Monday Holiday Act was considered and passed, so I am not very familiar with the circumstances that led to this important date in our national life being discarded for the sake of a day of idle pleasure.

Frankly, I am disappointed and dismayed that Congress ever approved of making a national observance of such historical significance and meaning into nothing more than the third day of a 3-day weekend.

This practice has now been followed for 3 years, and in that time, Veterans Day and all it should mean to the American people has been seriously diminished and neglected.

I believe it is time we correct this mistake, and I think it is fitting that we begin our effort on this day, November 11, and that we rededicate ourselves and our country to the principles and ideals for which this Nation's veterans fought and suffered and died.

Our debt to them can never be fully repayed, but by the passage of this resolution we can show them once again that they hold a very special and important place in our society, and that they deserve our respect and our abiding gratitude.

POLAND'S INDEPENDENCE DAY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. DERWINSKI. Mr. Speaker, 53 years ago today the guns on the western front, which had been booming for more than 4 years, became silent—an armistice had been reached between the Allied Powers and Germany. November 11, 1918, proved to be a turning-point in history, as it marked the conclusion of a world-wide conflict.

Americans observed Armistice Day for several decades, but the day became an anachronism when the nations of Europe resumed fighting in 1939. The observance was replaced last month by Veterans Day, the fourth Monday in October, when we honored the veterans of all our wars. In Poland, however, November 11 retains great significance. There it is observed as Independence Day.

Poland, a nation that took great and justifiable pride in its long and glorious history, disappeared from the map of Europe in the latter part of the 18th century when three partitions by Austria, Prussia, and Russia eventually robbed it of all its territory. It was not to become free again for almost a century and a quarter.

Germany and Austria-Hungary fought against Russia during World War I, which meant that Poles fought on both sides, brother against brother. The collapse of Russia in March 1917, and the final defeat of the central powers a year and a half later gave Polish patriots, who had been busy behind the scenes, their opportunity to reestablish the nation whose people had suffered so much from their oppressors.

Poland declared its independence on November 11, 1918, a declaration that was recognised the following summer by the treaty of Versailles. No longer were Poles to be referred to as Austrian Poles, German Poles, and Russian Poles. They were now Poles, no more and no less, citizens of a free country.

Poland enjoyed her independence for but 20 years. In 1939 her neighbors, National Socialist Germany and Communist Russia, divided its territory, the fourth partition of Poland. Nazism was destined to be defeated after 5½ years of bitter fighting, but communism remains firmly in the saddle today and unhappy Poland is one of the many colonies that make up the far-flung Soviet Empire.

Mr. Speaker, long-intrenched regimes have been disestablished before and international communism is no more endowed with immortality than was nazism or the dynasties that preceded it. May God speed the day when Poland and the other countries behind the Iron Curtain will once again be free.

NEEDED: EXTENSIVE OVERHAUL OF STATE DEPARMENT BY OUTSIDE PANEL

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1971

Mr. ASHBROOK. Mr. Speaker, two further items of indictment of the U.S. State Department have recently appeared in the press which make a thorough overhaul of that Department urgently necessary. The November 15 issue of Time dealt with conditions in the Foreign Service, with particular emphasis on the tragic case of Charles W. Thomas, who had been selected out of the Service, had tried vainly to appeal his case to officials at State, had tried to no avail to seek gainful employment in other areas, and finally shot himself to death in April of this year. President Nixon asked for a report on the tragedy and one State Department official admitted that the Thomas case did help expedite proposed reforms. The reforms advanced by State unfortunately do not correct one serious condition—an appeals procedure for Foreign Service officers outside of the control of the Department. One official is quoted in the Time article as saying:

I don't care if a grievance panel is headed by Charles Evans Hughes or Jesus Christ, it still remains an in-house procedure without any chance of outside appeal.

The second item describes the State Department in operation at the U.N. during the admission of Red China debate. The veteran columnist of the Chicago Tribune, Walter Trohan, recounts how the State Department types at the debate tried to muzzle Congressman EDWARD DERWINSKI of Illinois who is serving as a congressional delegate to the U.S. mission at the U.N.

The two above-mentioned accounts demonstrate graphically why, whether in matters of policy or personnel, the complete State Department structure is in dire need of a revamping and, as in the case of a new grievance procedure for FSO's—by a review mechanism outside of the Department itself.

I insert at this point the two items mentioned above:

THE STATE DEPARTMENT

UNDIPLOMATIC REFORMS

Charles W. Thomas was a desperate man. A lawyer and a career diplomat, Thomas, 48, had been "selected out" of the Foreign Service. Reason: he had not been promoted from the Class 4 level to Class 3 within the mandatory eight years. He was dismissed with only one year's salary and $323 a month (money he had himself put into a retirement fund) to support a wife and two children. In nearly three dispiriting years Thomas endured early 2,000 job rejection letters; he was "too old" or "too qualified," and anyway, he had been fired by the State Department. Finally on an April afternoon in Washington, Charles Thomas took up a gun and shot himself to death.

There is a Kafkaesque cast to the Thomas tragedy. Try as he might, Thomas could not get his day in court to determine whether his selection-out was based on the fact that he had received poor performance ratings or that the State Department had somehow failed to consider his highly favorable ratings. In fact, it was the latter. Thomas had carved a distinguished career in posts such as Tangier, Port-au-Prince and Mexico City, where he became a specialist in Mexican radical politics. Indeed, he had high marks from his superiors and colleagues alike; the explicit blemish on his record was an observation by a Mexico City superior that Thomas did not exercise proper "control" over his secretary.

In contrast, a laudatory report from the Foreign Service Inspector, Ambassador Robert McClintock, was accidentally misfiled under the name of another Charles W. Thomas, then Consul General in Antwerp. The report was eventually logged into its proper place, two days after Thomas had been turned down by the promotion board. The board deemed it too much bother to reopen the case.

Fang and claw

The Thomas affair is certainly the most shocking to occur within the labyrinth of Foggy Bottom personnel practices, but it is by no means the only one of its kind. Willard Brown, a Class 2 officer, discovered after his selection-out that the State Department had lost all of his personnel records and that consequently his name had not been considered for promotion for several years. Nor are good men being passed over just for clerical errors. The selection process in the department has traditionally been the last word in Darwinistic elitism. McClintock, although a highly regarded professional, had a reputation for sending overly favorable reports on many officers. With little negative to go on, promotion boards used the tiniest criticisms as justification for passing over a candidate. Hence Thomas' dismissal.

There are 3,000 field officers and aides serving in the Foreign Service, and around 100 are weeded out every year. Two hundred more resign annually. The process follows a fundamental Government pattern. Every man is rated at least once a year by his superior, who then passes his reports on to a departmental reviewing officer, who in turn presents his recommendations to the reviewing boards. While no one in the department argues that incompetents should not be winnowed out, the feeling is that the rating system has deteriorated into an endless round of pettifoggeries and petty jealousies, where too frequently the men who do not play up to their superiors' vanities wind up on the short end.

This fang-and-claw attitude has prompted a thorough reappraisal of the State Department's personnel system. Rather belatedly, Deputy Under Secretary William Macomber Jr., the department's top administrative officer, called in Thomas' widow Cynthia and offered her virtually any job she wanted. More broadly, the selection-out rules have been changed to prevent the flagrant injustice in the systems. Now an officer who achieves Class 5 cannot be fired until he has reached age 50 or served 20 years. This way, at least, he is entitled to retirement pay.

Scornful

Further, the State Department has set up new, formidably titled Interim Grievance Procedures, the first major amendment to the Foreign Service Act since it was passed in 1946. These procedures are to last until employee-management relations are reformed under a plan projected by President Nixon. However, many officers are scornful of Macomber's new measures, since they stipulate that an employees must first take up his grievance with his superior—against whom the grievance is usually brought in the first place—and can only appeal to a board picked by the department. Says one legal official at State: "I don't care if a grievance panel is headed by Charles Evans Hughes or Jesus Christ, it still remains an in-house procedure without any chance of outside appeal."

Help is forthcoming from the outside. The Senate Foreign Relations Committee last week refused to report the confirmation of Howard P. Mace, 55, as U.S. Ambassador to Sierra Leone, which is tantamount to defeat of his nomination. As director of personnel for four years, Mace was the source of much of the department's interior turbulence. He was known behind his back as the "executioner," the man primarily responsible for the selecting-out process. Officers also noted that under his aegis men with high diplomatic potential were often bypassed for plush jobs in favor of men little experienced in diplomacy from his department. Congress is also taking more direct measures. There are two bills pending before Congress that would overhaul and codify the grievance system.

Concerned DOS officers are seizing their own initiative. A group has banded together to launch a class action against the Secretary of State; to raise money for this expensive exercise, they have instituted the Charles W. Thomas Fund. One junior officer invoked a more primitive grievance procedure. Furious over what he considered an unfair performance rating, he stopped his superior in a corridor of the State Department and cut loose a smacking right cross to the nose.

[From the Chicago Tribune, Nov. 8, 1971]

STATE DEPARTMENT TYPES FAIL UNITED STATES

(By Walter Trohan)

WASHINGTON.—The other day, while we watched his pretty and accomplished daughter Maureen, 10, take her pony over the jumps at the International Horse Show in the District of Columbia National Guard Armory, Rep. Edward J. Derwinski (R., Ill.) told the sad story of the American defeat in the United Nations by the expulsion of Nationalist China from that body. It was a tale to freeze the blood and make the hair stand on end.

Derwinski, a veteran of 13 years of service in Congress, who is serving temporarily on the United States delegation to the U.N., placed the blame squarely where he feels it belongs—the State Department types at the U.N. who seek to control the words and actions and even the thoughts of the members of the delegation (and frequently do so). He also saw the visit of Henry Kissinger to Peking, the Red Chinese capital, as giving some American allies the green light to block Nationalist China.

The congressman emphasized that the State Department types are not traitors in thought, word, or deed. It's just that they seem to put the interest of every other country ahead of their own. They try to put, themselves in the position of Mohammed's coffin, which is halfway between heaven and earth, so that they are at best only half Americans.

When Derwinski wanted to answer any Communist speaker, a State Department type was at his hand to shush him. This had obviously worked with delegation members in the past, but Derwinski made it clear that he was the one to decide whether he would speak or not. And when the congressman chided delegates of nations who had said they would support the U.S. proposal to admit Red China and retain Nationalist China, the department types had attacks of the dithers.

The State Department types appealed to George Bush, U.S. ambassador to the U.N. Bush told Derwinski that while he can say what he feels impelled to say, it would be appreciated if the congressman would advise him about what he proposed to do. Derwinski makes it clear that he feels that one of this country's major difficulties at the U.N. is that the State Department lacks the guts to do what should be done against the Communist bloc.

Some of the trouble stems from President Nixon's failure to keep his campaign promise to clean out the State Department. The department isn't a nest of traitors, as some extremists contend. The great trouble is that so many can't seem to realize that what is best for the United States is also good for its friends and bad for its enemies. They seem to consider diplomacy as something above and beyond the call of reason.

Part of the trouble stems from the fact that the State Department is now pretty much of a club or closed corporation. Virtually all the ambassadorial plums fall to career men, where they used to go to men who had made their marks in business and industry or other fields, men who were often heavy contributors to the party in power. These were wealthy enough to afford the expenses of the office and were competent to deal on their own, even though they accepted advice from career men below them.

Now the State Department types are convinced that if they don't rock the boat they can expect to crown their careers with the rank of ambassador and never more sit below the salt at dinner tables. Not rocking the boat means to many cooperating as far as they can with countries other than their own and subordinating American interests, even to unfriendly powers.

Finally, it means working for that nebulous goal of one world, which was the impossible dream that was accepted as workable reality a generation ago. The world has been fragmenting so rapidly that 10 per cent of the world's population in Africa holds the majority power in the U.N. General Assembly, and nationalism is the greatest force in almost every country but our own.

LANDMARK DECISION IN PRISON REFORM CASE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mrs. ABZUG. Mr. Speaker, the recent tragic events at Attica Prison, in upstate New York, have again brought the need for drastic prison reform into the national spotlight. By and large, our correctional institutions are designed, operated, and funded more for revenge than for rehabilitation.

Last week, in ruling on a lawsuit brought by the American Civil Liberties Union, U.S. District Judge Robert H. Merhige, Jr. found that certain practices of the Virginia State prison system violated the eighth amendment to the U.S. Constitution, which prohibits the imposition of cruel and unusual punishment. Among the practices enjoined by Judge Merhige's order were limiting prisoners' diets to bread and water for breaking prison rules, using chains, handcuffs, and tear gas unnecessarily, confining more than one inmate in any "solitary" cell—these cells measure 6½ feet by 10 feet—except in emergency circumstances, and interfering with prisoners'

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efforts to file court documents or communicate with their lawyers.

The plaintiffs in the case were represented by Philip Hirschkop, a noted Washington lawyer in the field of civil rights and civil liberties, who was specially retained by the ACLU to handle this case.

Mr. Speaker, I include the text of two news stories about this landmark decision, as well as the text of Judge Merhige's order and scholarly opinion in the RECORD at the conclusion of my remarks:

[From the New York Times, Nov. 1, 1971]

U.S. JUDGE BIDS VIRGINIA HALT ABUSE OF PRISONERS

(By Ben A. Franklin)

WASHINGTON, October 31.—A Federal judge in Virginia has issued a sweeping injunction against that state's prison system, barring as cruel and unusual punishment of inmates the regular use of bread and water, chains, physical punishment, enforced nudity and the censorship of mail.

The order of Federal District Judge Robert H. Merhige Jr., accompanied by a 78-page opinion, was filed yesterday without public notice at his court in Richmond. It was released here today by Philip J. Hirschkop of suburban Alexandria, Va., the lawyer who argued the case for the plaintiffs.

The prohibitions were effective immediately.

Mr. Hirschkop, who was engaged by the American Civil Liberties Union, called the courts' action "a bill of rights for inmates."

"I think you have to expect the state to appeal this decision," he said, "unless Governor Holton can prevail upon his Attorney General and others to accept it. I really expect an appeal, but I do not think that any important part of Judge Merhige's order will be stayed pending the appeal. This is going to be affirmed."

Key state officials received advance notice of Judge Merhige's findings several days ago so that his ruling could be put immediately into effect.

Judge Merhige declared in his opinion that the evidence presented during a two-week trial last November disclosed "a disregard of constitutional guaranties of so grave a nature as to violate the most common notion of due process and humane treatment."

He specifically enjoined the State Department of Welfare and its Division of Corrections from doing the following:

Imposing bread and water punishment on any inmate for any infraction of prison rules.

Using chains, handcuffs, hand-restraining tape or tear gas "except when necessary or required to protect a person from imminent physical harm or to prevent escape or serious injury to property." Testimony at the trial disclosed that such restraints were used commonly on "obstreperous" inmates, often without disciplinary hearings.

Using physical force "against any inmate for purposes of punishment."

Forcing nudity or bodily restraint of any kind as a means of punishment or otherwise "for any period longer than it shall be reasonably necessary to secure the services of a doctor" to determine whether an inmate must be restrained to protect himself from self-inflicted injury.

Placing more than one inmate in the same solitary confinement—Virginia's solitary cells are 6½ to 10 feet—"except in an emergency."

Interfering with or imposing punishment for efforts by inmates to file court documents, to have confidential communication with lawyers, even when confined to solitary, and to write legislative or other government officials.

The judge also ordered the restoration of "good time," or credit toward early release for good behavior, to all prisoners who had been docked such time without hearing or "without compliance with minimum standards of due process," such as written charges and written findings by disciplinary boards.

Judge Merhige gave the defendants, who are the top correctional officials and the directors of many of the 36 state prison facilities, 60 days to institute uniform due-process hearing procedure for cases involving the docking of good time.

All prisoners now in solitary or "padlocked cells" as a result of discipline that cost them good time were ordered freed from such confinement pending a rehearing.

In most Virginia prisons, particularly the maximum-security penitentiary in Richmond and the medium-security state prison farm at Goochland, Judge Merhige said, a prisoner who is docked good time and placed in solitary is effectively denied any reaccumulation of good time as long as he remains in solitary. Such punishment, he said, has been meted out for "indeterminate" periods.

In a specific reference to the so-called C-cell, the solitary confinement cell block at the Virginia State Penitentiary in Richmond, where a week of the trial was held, Judge Merhige directed that prisoners being held there be afforded full due-process hearings within 30 days or be released to the general prison population.

The judge ordered the State Division of Corrections to prepare and distribute to the court, as well as to Virginia's 6,000 state prisoners, a complete list of rules and regulations, setting forth "standards of behavior expected of each inmate" and the minimum and maximum punishments for each rule violation.

"In many instances," the judge found, "punishment has been of such a nature as to be abusive and violative of the most generic elements of due process and humane treatment."

VIOLATIONS FOUND

Judge Merhige ruled that Virginia's prison system had consistently violated the Eighth Amendment to the Constitution, which prohibits cruel and unusual punishment.

He said that inmates could be sentenced to punishment for such undefined offenses as insolence, sarcasm or agitation and that there was no appeal.

He noted that prisoners committed to solitary confinement were sometimes placed on bread and water, were in every case given a diet of no more than two meals a day, were allowed to shave and take showers only once a week and were denied exercise, sometimes for months.

In cases of misconduct, "obstreperousness," "agitation" or "bad attitude," Judge Merhige said, the trial record disclosed that inmates were denied mattresses and forced to sleep on a concrete floor.

Mr. Hirschkop said that two different United States Courts of Appeals overturned within the last three years district court findings less sweeping than Judge Merhige's, but he described the Virginia case as "the first one of these suits with such a massive trial record."

The case is known as Landman v. Royster. The plaintiffs included Robert J. Landman, who is now free after serving a sentence for armed robbery. M. L. Royster, the former superintendent of the state prison farm, is dead.

[From the Washington Post, Nov. 1, 1971]

VIRGINIA PENAL REFORMS ORDERED

(By William Nye Curry)

Finding that Virginia state prison officials "violate the most common notions of due process and humane treatment," a federal district judge has ordered sweeping reforms in the way the officials discipline inmates.

The judge, Robert R. Merhige, Jr., of Richmond, decreed an end to a multitude of traditional prison practices, such as diets of bread and water, the use of physical force as a form of punishment, and he set forth far-reaching "minimum standards" for officials to follow to protect inmates' constitutional rights.

And his action, which immediately affects 5,700 inmates in 35 state facilities, also called for officials to suspend any present punishment not meeting those minimum standards.

Judge Merhige's findings and orders were contained in a 78-page opinion filed in Richmond Saturday. It was the result of 10 days of trial a year ago in which five prisoners challenged the constitutionality of the prison system's disciplinary process—prison regulations, the adjudication of alleged violations and the punishment imposed. Merhige ruled in their favor on all three points.

Judge Merhige said, "The proof shows three general classes of constitutional deprivation. . . . Discipline has been imposed for the wrong reasons. It has been imposed in cases of what may have been validly punishable misconduct but without the requisites of procedural due process. And punishment of a sort that the Constitution bars in any event has been imposed."

He said, "The evidence adduced has disclosed as to each of these points a disregard of constitutional guarantees of so grave a nature as to violate the most common notions of due process and humane treatment by certain (prison officials)."

The prisoners' American Civil Liberties Union lawyer, Philip J. Hirschkop, hailed the ruling as "the best prison opinion in the country." He said two similar findings in New York and Missouri have been overturned on appeal, but Merhige has the factual evidence "to make it stick" if there is an appeal.

Virginia Attorney General Andrew P. Miller said he has not yet studied the ruling to decide on any appeal. He said he expects to meet today with Otis L. Brown, director of the Department of Welfare and Institutions, to discuss that possibility, among others.

Brown, in a telephone interview, said he has not thoroughly reviewed Judge Merhige's orders but that "I'm sure there will be some problems" in carrying them out.

W. K. Cunningham Jr., director of the division of corrections, declined to comment. According to Merhige's opinion, Cunningham's vast power over prisoners' lives invites intrusions on their right, and cannot continue.

The Merhige ruling, which applies only to Virginia's prison system for now, reflects a growing nationwide challenge to longstanding prison conditions once taken for granted. The challenge has taken a form varying from the Virginia prisoners' lawsuit to the inmate insurrection this fall at the Attica state prison in New York.

(The ruling does not cover Virginia's 96 county jails and 66 other lockups.)

For 25 pages, Judge Merhige summarized case histories in which he found abuses. The judge noted that the testimony of convicted men can be open to doubt, but he also observed, "All of the unreliable testimony in the case has not, however, come from members of the plaintiff class (the prison population)."

Merhige said, "The court has observed a disturbing number of inconsistencies in the officials' accounts of applicable rules . . . Testimony by prison administrators illustrated the accuracy of Tolstoy's observations about the limits of bureaucratic power.

"A specific order invariably deteriorates in content as it travels from chiefs to subordinates on the line. Higher prison officials, generally speaking, displayed a confident perception of the rules and procedures applicable in various situations. Lower officers who in fact implement the rules were, however, less sure about the regulations governing the prisoners' conduct and their own."

The result, Judge Merhige said at one point, is that "administrators have not been in complete control of their subordinates." And, he went on, new prison regulations issued last year are not sufficient to prevent further instances where officials have exceeded the legal limits of discretion.

Judge Merhige made these specific findings, among others:

Prisoners were held in solitary confinement—one for 265 days—without "even the rudimentary elements of a hearing or opportunity to defend any allegations made against (them)."

Punishments were imposed because prisoners attempted to help fellow inmates file suits and take other court actions.

Letters to attorneys and legislators were not mailed by prison officials, in violation of First Amendment rights.

One inmate's term was extended a year and 11 days after he read aloud a letter to another inmate. He was given no hearing.

Others were punished for talking to their attorneys about prison conditions and challenging racial segregation of prisoners in court.

"Disciplinary action was accorded . . . in some instances simply upon the whim of a guard."

"Regulations which existed frequently became clear only when one was punished for a violation (of them)."

Officials at road camp 30 in Fairfax County refused an inmate's requests for a doctor.

"The purpose and intended effect of a (bread and water) diet is to discipline a recalcitrant by debilitating him physically. Without food, his strength and mental alertness begin to decline immediately . . . Moreover, the pains of hunger constitute a dull, prolonged sort of corporal punishment . . . The court has no difficulty in determining that it is a violation of the Eighth Amendment," which forbids cruel and unusual punishment.

Restraint of two prisoners with chains and handcuffs "constituted physical torture" and is "unconstitutionally excessive."

"Four men were penned like animals in a small cell, designed for one, for 14 days without respite."

Judge Merhige held that such instances as these are not isolated but "have been a consistent course of conduct by prison administrators and those beneath them . . ." The judge then issued the orders designed to overcome the shortcomings he said exist.

Most far-reaching, perhaps, was a "panoply of guarantees" to protect inmates' rights during disciplinary action, except those with minor punishments, such as a small fine.

First, Judge Merhige said, an "impartial tribunal" shall hear allegations of infractions, and, unlike the practice in the past, officials who report the infraction may not sit on the tribunal.

The inmates shall have a right to a hearing, which includes the right of defending himself and the cross-examination witnesses. "The court appreciates the concern of prison officials," Merhige wrote, "that interrogation by prisoners of the guard force may be at variance with their respective positions in the penal heirarchy."

Inmates should be permitted to have lay counsel to present their case, and if there is a possibility of "the loss of substantial rights" the inmate may obtain a lawyer.

The judge said the above "minimum standards" must be followed "when solitary confinement, transfer to maximum security confinement or loss of (time off for good behavior) are imposed, or a prisoner is held (locked in his cell) for more than 10 days."

Judge Merhige gave the prison system 15 days to submit to him a list of rules governing inmates' behavior "and the minimum and maximum punishments to be accorded" for violations. He ruled out "such ill-defined offenses as 'misbehavior' and 'agitation.'"

The rules must be circulated to inmates, too, the Judge said. He also gave the system a limited period to rehear past violations in accord with his ruling. Until then, existing punishments will be suspended, he ordered.

Time off for good behavior that has been revoked shall likewise be restored, he said. The physical restraint of inmates shall be only for the inmates' protection, not punishment, and be based on a doctor's written report.

[In the U.S. District Court for the Eastern district of Virginia, Richmond Division, Civil action No. 170–69–R (C.A. No. 417–70–R, C.A. No. 419–70–R)]

ROBERT J. LANDMAN, ET AL. v. M. L. ROYSTER, ETC., ET AL.

ORDER

For the reasons stated in the memorandum of the Court this day filed, and deeming it proper so to do, it is adjudged, ordered and decreed as follows:

The defendants, their successors, agents, servants, employees, and all acting in concert therewith, be, and they are hereby, enjoined and restrained from performing, causing to perform, or permitting the performance of any acts found in the memorandum of the Court to be violative of the prohibition against cruel and unusual punishment, and specifically:

1. The imposition of a bread and water diet on any inmate of the Virginia State Penitentiary System, or

2. The use of such force as chains, handcuffs, tape or tear gas, except when necessary or required to protect a person from imminent physical harm, or to prevent escape or serious injury to property. In no event shall the use of any of the foregoing be for a longer period than is necessary to isolate any prisoner against whom said actions may have been taken. In no event shall *any* physical force be used against any inmate for purposes of punishment.

3. No inmate shall be kept nude, or restrained, for any period longer than it shall be reasonably necessary to secure the services of a doctor, to the end that said doctor may determine whether or not said inmate's health will be affected thereby, and further whether or not such nudity or restraints are required by reason of a substantial risk of said inmate injuring himself. No inmate shall be so confined or restrained except in those cases wherein a doctor affirmatively states, in writing, that the health of the inmate will not be affected thereby, and that the inmate presents a substantial risk of injuring himself unless said steps are taken. Any such statement shall contain reasons upon which the doctor's conclusions are based.

4. No inmate shall be put in a solitary cell with any other inmate except by reason of an emergency and in no event for longer than it shall be reasonably necessary to make other arrangements.

5. The defendants will cause to be put into full force and effect, forthwith, those minimum due process standards referred to in detail in the Court's memorandum, and they are enjoined from the imposition of penalties prior thereto except as may be necessary to maintain order within the State Prison System until such time as arrangements have been made for the orderly implementation of the requirements of due process referred to in the Court's memorandum.

6. No inmate shall be prevented from exercising his rights of access to the courts and counsel by way of confidential mail communication or interviews by counsel at the place of the inmate's confinement. There shall be no undue interruption of mail from or to members of the legislative and executive branches of the government while acting in said capacity.

In addition, the said defendants, their successors, agents, servants, employees and all acting in concert therewith, shall cause all good time lost to the individual inmates of the Virginia Prison System as may have resulted from the lack of hearings or those hearings conducted without compliance with the minimum standards set forth in the Court's memorandum of this date be restored. Upon the restoration of such good time, in accordance with this provision of this order, leave is granted the defendants to re-try in accord with due process standards those inmates thereby affected within sixty (60) days from this date. Those inmates confined in padlocked or solitary cells who have not been accorded a hearing encompassing the minimum standards of due process, as set forth in the Court's memorandum, shall be released from such confinement, subject to a hearing or rehearing within sixty (60 days from this date, pursuant to and in accord with the Court's memorandum.

Inmates in C-cell and other maximum security units shall be afforded hearings as contemplated by the Court's memorandum on the derelictions which gave rise to their special incarceration, within thirty (30) days from this date, or shall be released to the general population.

In addition, the defendants are mandatorily enjoined to prepare and file with the Court within fifteen (15) days of this date a list of rules and regulations concerning standards of behavior to be expected of each inmate, and the minimum and maximum punishments to be accorded those who violate any of said rules and regulations. The defendants shall in addition take such steps as may reasonably be necessary to cause each member of the inmate population to be aware of the rules and regulations aforesaid.

The defendants shall file with this Court a concise report of each incident in which physical restraints or tear gas is used in connection with any inmate. Said report shall be filed within five (5) days of any such incident and shall describe the period of time in which any such restraints have been so used against any inmate, and the reason therefor. Copies of such reports shall be forwarded to counsel for the plaintiffs.

Defendants shall forthwith take the necessary steps to inform all members of the custodial staff of all units of the Virginia State Penitentiary system of the injunctive terms of this order.

Defendants shall report in detail to the Court within twenty (20) days from this date such steps as they have taken in compliance with this order.

All other issues in this cause be, and the same are hereby, continued until the further order of the Court.

Copies of this order and the memorandum referred to herein shall be forwarded to all counsel of record, and a copy of the order shall be mailed by certified mail to each of the named defendants.

ROBERT H. MERHIGE, Jr.
U.S. District Judge.

Date: October 30, 1971.

[In the U.S. district court for the eastern district of Virginia, Richmond Division, Civil action No. 170–69–R]

ROBERT J. LANDMAN, ET AL. v. M. L. ROYSTER, ETC., ET AL.

MEMORANDUM

This class action by prisoners of the Virginia Penal System is brought against defendants charged with the powers and duties encompassing the maintenance and supervision of the correctional system of the Commonwealth of Virginia. The jurisdiction of the Court is acquired pursuant to 28 U.S.C. §§ 1343(3), (4), 2201, and 42 U.S.C. §§ 1981, 1983, 1985.

Defendants named in the complaint, or their successors, are the Director of the Department of Welfare and Institutions, the Director of the Division of Corrections, the

Superintendent of the State Penitentiary, and the Superintendent of the State Farm.

Plaintiffs, who are representative of the class they purport to represent, mount their attack upon the administration of discipline within the prisons: the reasons for invoking sanctions, the adjudication process, and the various penalties imposed. The evidence adduced has disclosed as to each of these points a disregard of constitutional guaranties of so grave a nature as to violate the most common notions of due process and human treatment by certain of the defendants, their agents, servants and employees.

One of the principal issues before the Court has to do with lack of appropriate due process prior to punishing members of the class for supposed infraction of rules. As the Court has already indicated, it finds that in many instances punishment has been of such a nature as to be abusive and violative of the most generic elements of due process and humane treatment.

Of necessity the Court must herein set out an extensive review of the testimony to illustrate the existence of what the Court finds to have been a consistent course of conduct by prison administrators and those beneath them, resulting in the denial of the fundamental elements of due process.

A prefatory remark is due on a point of terminology. The good conduct allowance—"good time"—is a credit of ten days against one's sentence for each twenty days served without a rule infraction. Va. Code § 53–213 (Supp. 1970). The Director of the Department of Welfare and Institutions is empowered to impose forfeitures and restorations of accumulated good time. Va. Code § 53–214 (1967 Repl. Vol.).

"C–cell" inmates at the Virginia State Penitentiary and occupants of other "segregation" units there and at the Virginia State Farm enjoy substantially fewer privileges than men among the general population. Prisoners in C–cell cannot be employed in any work program; thus they are denied the opportunity to earn money. A reduced diet—two meals a day—is served. Religious services and educational classwork are unavailable, although men may be visited by a chaplain. There is no access to a library, although the men can receive magazines (under a recent change in rules) and books. The likelihood of release on parole is almost nonexistent for men placed in C–cell, and in practice there is no chance that lost good time will be restored. In addition, showers are permitted only at weekly intervals instead of daily, and men in some segregation units are unable to exercise outdoors.

In the Virginia penal system there are five major units and about thirty smaller correctional field units. About 1100 inmates, all felons, are housed in the maximum security Virginia State Penitentiary, located in the City of Richmond. The Virginia State Farm, a medium security facility, holds about 1200. The Virginia Industrial Farm for Women contains about 300 inmates. Southampton and Bland Correctional Farms each hold about 450. The combined Correctional Field Units, minimum security institutions, hold some 2200 inmates. There are about 30 of these "road camps;" the permanent ones house about 80 to 90 men, and the semi-permanent units contain 50 to 60.

The volume of testimony concerning rules generally covering sanctions and their application in specific instances is immense. Even allowing for the changes in policy which no doubt took place over the time period—over two years—embraced by the deposition and ore tenus evidence presented, the Court has observed a disturbing number of inconsistencies in the officials' accounts of applicable rules. These factfindings must be read, and compared with the evidance, with the awareness that when it is said that a given disciplinary procedure is followed, the Court is speaking of theory and not necessarily practice, and, at that, theory as expressed by the most apparently authoritative individual.

There was at the time the Court heard this case no general, central set of regulations for the penal system stating which offenses justify the taking of a prisoner's good time or his commitment to a solitary cell.

As of July, 1970, according to depositions then taken, the Superintendent of the Virginia State Penitentiary was empowered to take a man's good time in any amount on the recommendation of a disciplinary committee. No guidelines exist for the penitentiary fixing the range of penalties available for particular infractions. Men in C–cell maximum security section seem generally to be ineligible for restoration of good time. For men among the general population there is a rule of thumb that good time cannot be restored unless a man has served at least twelve months without an offense.

The disciplinary committee does not call as a witness the guard who reported an offense. Needless to say, cross–examination is therefore impossible. No written charges are served on the prisoner before or after the proceedings, and lawyers may not participate. The committee does not make factfindings. No formal appeal procedure exists.

The Disciplinary Committee jurisdiction, in late 1970, was extended to cover offenses committed in C–cell. It now, therefore, generally hears as well any charge that may result in solitary confinement. The question whether a man should be placed in C–cell in the first instance, however, is not always determined by a disciplinary committee hearing. This decision may be made by the Superintendent alone.

Once he is in C–cell, a man's release to less rigorous quarters may be gained by means of a recommendation to W. K. Cunningham, Jr., Director of the Division of Correction, by a committee composed of the Penitentiary Superintendent, Assistant Superintendent, and two high guard officers.

As of July, 1970, a C–cell inmate could be moved by a guard into meditation without a hearing. Only the Superintendent or Assistant Superintendent could order the man's release. A guard could request leave to keep a man in solitary for more than 30 days, in which event a written report by the guard was to be passed on to Cunningham who, on the basis of the report, would approve or disapprove the request. The meditation cells measure about 6½ feet by 10 feet and contain a mattress (at night), a sink and commode. The usual C–cell diet is served, although bread and water is reserved as a selective form of additional punishment. A man may also be denied use of his mattress for up to about three days as a form of penalty, in which case he sleeps on the bare cement with a blanket.

If a penitentiary prisoner is continually obstreperous in solitary, there is no further method used to control him other than by chaining or tear gassing. On occasion a man's clothing may be taken if he appears to be a suicide risk or a menace to others.

Transfers from the general population to C–cell, since at least 1969, were in theory made only on the recommendation of the disciplinary committee to the Superintendent. Peyton, the Superintendent in February of that year, said, however, that such a transfer, made solely on the recommendation of the Assistant Superintendent, would not necessarily violate regulations. It was his practice, he said, to interview all prisoners in C–cell every six months to determine whether a return to general population was indicated. Criteria determining the decision to place a man in C–cell or remove him were extremely hazy. A man's attitude, his disruptiveness, tendency to challenge authority, or nonconforming behavior, as reflected in written or oral guards' reports, may condemn him to maximum security for many years.

In 1969 C–cell inmates' offenses for which good time might be lost were "tried" usually by the Assistant Superintendent on the record of a guard officer's report.

In the penitentiary the B–basement category of punitive segregation was instituted in September of 1968. Superintendent Peyton himself selected the inmates who were to be placed there. Conditions there were substantially as in C–Building, but somewhat more restrictive. For several months, for example, B–basement inmates were not permitted outdoors for exercise.

Isolation of prisoners in maximum security cells of this sort has often been effected without any formalities. No investigation was made into Leroy Mason's responsibility for a prison work stoppage, yet for that reason, apparently, he was placed in C–cell for nearly two years. As a matter of practice no hearings were held, according to Oliver, when he was at the Penitentiary, on the question of transfers into C–cell, and inmates were held there at the discretion of himself and the then superintendent, Peyton. Generally speaking these two administrators relied exclusively upon written reports submitted by the guards in retaining men such as Mason, Landman, Hood, and Arey in maximum security units. Elaboration as to the Court's findings as to each of these men will be set forth in later paragraphs.

The Assistant Superintendent at the Penitentiary may "padlock" a man without any hearing for any length of time.

In the penitentiary it appears that several disciplinary sanctions are imposed by guards acting alone, or with the permission of the officer in charge. Meditation prisoners lose their mattresses for misconduct, for example. Mechanical restraints such as chains, tape, and handcuffs are placed on rambunctious inmates by guards. At least once an inmate was taken directly to meditation from death row by a guard captain. Several times fines have been imposed by guards. Furthermore, one Captain Baker has both charged inmates with offenses and sat on disciplinary committees which sentenced them to meditation.

Superintendent R. M. Oliver described the punishment procedures which prevailed at the Virginia State Farm in December of 1970.

There are 32 solitary cells at the southside part of the State Farm, and 16 at northside. Permissible punishment, without special authorization by the Director of the Division of Corrections, is 30 days' confinement. Prisoners are given a mattress at night only; during the day they sit on the floor or on the toilet bowl. Two meals per day are served. It is standard fare, save that no beverage, dessert, or second helpings are provided. Prisoners in solitary cells could not initiate legal proceedings nor answer any letters save those concerning pending proceedings or family crises.

Confinement under this regimen is directed only by a disciplinary committee composed of a guard lieutenant, Assistant Superintendent Jackson, a guard captain, and Mr. R. O. Bennett. The group meets as soon as possible after the offense, preferably within 24 hours. Mr. Oliver stated that he would object to assistance by lawyers at such hearings and likewise to lay counsel's presence as encouraging excessive "hassling." He would not object to using written charges in cases of serious offenses but saw no need for written factfindings.

At the State Farm a prisoner may be taken by a guard directly to a solitary cell if he is incessantly disruptive. In any case, however, a hearing by disciplinary committee is held within 24 hours of the alleged offense. At least since February of 1969, a committee has met on questions of good time loss, which they might recommend to the Superintendent, and transfers to maximum security.

Confinement to maximum security areas at the State Farm (formerly C–6 now M Building) entails a reduced diet, rationalized on the basis that the inmate is not working, weekly showers only, and no outdoor exercise.

At the State Farm, testified Assistant Superintendent Jackson, no prisoner would be confined to meditation without a hearing before himself. Once at least, he said, he placed a prisoner in meditation not for violation of any regulation but because he was mentally incapable of abiding by rules governing life in the general population.

Solitary confinement cells at the State Farm are similar to those at the Penitentiary. The bread and water regimen is now very rarely used, and meditation inmates have not in recent years been deprived of clothing as a type of punishment. Both of these sanctions, however, are held in reserve.

Current practice on good time loss is for the disciplinary committee to forward its recommendation that a man lose good time to the Superintendent. That officer almost invariably approves the recommendation and determines, all on the basis of written reports, by how much time a man's sentence should be lengthened. No specific guidelines prescribing penalties for various offenses exist.

The Assistant Superintendent of the Virginia State Farm may place a man in confinement in his own cell—"padlocked"—without a hearing. This is usually done on a guard officer's recommendation. There is no maximum term.

As of July 1970, the Superintendent of one Field Unit had four men in solitary for various offenses, such as general "misbehavior." While this witness' testimony was to some extent inconsistent and contradictory, the Court concludes that men at this particular Field Unit have been jailed summarily, without a hearing, on the authority of either the Superintendent or a guard. Such solitary confinement has been for an indeterminate period in the sense that as of the time of the taking of evidence in this case the witness could not say for how long those then in solitary would be so confined. In at least one instance a hearing of sorts was held in the Superintendent's office in which one of the men who sat in judgment of the accused prisoner was the guard who had accused him.

This witness also said that no particular standards governed his requests that good time be taken. No hearings are held at which the men are allowed to disprove the information on the basis of which good time loss is recommended.

In 1969, one Reynolds, Superintendent of Field Unit No. 9, stated that he permitted men in meditation to write an attorney whenever they wished, even when held in isolation cells. Whenever an offense meriting taking good time was involved, he said, he would call the inmate accused before him; he did not mention that a formal hearing was requisite.

At Bland Correctional Farm, disciplinary proceedings are conducted by a committee including the Superintendent, Assistant Superintendent, and a captain of the custodial force. Good time forfeiture is often haphazardly administered. After one incident including a sitdown strike involving several inmates, the Superintendent docked several participants all their good time, despite that some had accumulated far more than others, and even though in professed theory the amount forfeited is related to the gravity of the offense. At the hearings inmates were not informed of their right to present evidence by witnesses.

The Superintendent of Unit 7 confirmed that on one cold day when several inmates declined to work, some were given the choice of road work or solitary confinement. One Wade Thompson was sent to solitary. A prisoner named Melton, whom the witness felt had instigated or agitated the strike, was also sent to solitary. No firm evidence lay behind this finding of "agitation" by Melton. Nevertheless the man was kept in jail and put on a diet of bread and water for two days out of three because the administrators disapproved of his "attitude." Although permission is nominally required for extended "jail" terms and bread and water, Blankenship, the Superintendent, did not secure this before the extra sanctions were imposed.

Good time also was taken. This witness stated that he had never held a formal hearing of any sort on restoring lost good time, and the Court so finds.

Good time administration in the field units is in the control of D. P. Edwards, Superintendent of the Bureau of Correctional Field Units, who acts on the basis of written reports and recommendations by the disciplinary courts in the various field units. A guard is often one member of the court panel, although theoretically not the man who reported a violation. Procedure is not fixed by written rules, but the practice prescribed for field units does not provide for a written notice of charges but does allow some cross–examination and the presentation of a defense. This code of practice is passed on by word of mouth to camp superintendents at regular meetings.

A man at a field unit who claims to be ill will be taken to a doctor at his request; there is, however, no provision for regular visits by doctors to some units, much less to men in solitary. There are no medical staffs at any field units.

A prisoner who escapes, or attempts to escape, is automatically docked all accrued good time when he is recaptured, whether or not he is tried and convicted, and he is not considered eligible for restoration of that credit. When a prisoner is put in solitary he sometimes stops accruing good time and some times does not, depending on the administrators' views of his attitude.

Certain principles with respect to discipline apply throughout the Virginia Penal System in theory. There have been, however, no general rules which establish those offenses for which commitment to solitary confinement or the taking of good time may be imposed.

Confinement in meditation is ordered by the institution superintendent or assistant superintendent after a hearing. One of these officials and one or more of his subordinates hear the case. In theory the complaining officer presents his charge in the inmate's presence, and then the presiding hearing officer asks the convict to make a defense or explanation. The prisoner may then depart while the disciplinary committee discusses the case. Subsequently a decision is announced.

The prisoner about to be tried is not given a written notice of the charge he faces. Only custodial personnel sit on the disciplinary boards. No explicit recognition of the prisoner's right to cross–examine exists. After the hearing no written factfindings are made or given to the prisoner. No particular process for appellate review exists, although no one can complain by letter to higher officials.

Before his hearing an inmate, if considered violent, may be held in a detention lockup on a guard's authority, but in theory no guard may commit a man to meditation. Nor does an accusing guard sit on the adjudicatory panel.

No lawyer or lay assistant is permitted to represent or advise an accused prisoner.

These rules also govern proceedings resulting in a recommendation to deny good time. There are no procedures set up to review requests to restore good time.

Until very recently, an inmate in solitary confinement was subject to almost total restriction of his correspondence privileges. On entering meditation he might send a form letter to his family explaining his status and that he could not correspond or receive visitors. The man could receive mail from an attorney, however, and correspond with counsel concerning pending litigation only. He could not file suit.

Meditation cells are equipped with a mattress at night only. No man is fed on a bread and water diet save with the permission of the Director of the Division of Corrections. A doctor's approval is not required, however, and this practice is authorized on the basis of brief written requests. A man in meditation is alone, save when overcrowding requires the placement of more than one man in an isolation cell. The only reading matter is a Bible.

The use of further restraints such as chaining or gagging is not covered by regulation, but is left to the discretion of the unit superintendent. Cells almost uniformly are equipped with a sink and a commode. No specific regulation allows inmates to have a toothbrush, toilet paper, soap, and so forth. Most are given a towel. They are permitted to shower and shave once a week only. A doctor does not regularly visit men in solitary cells. In the penitentiary a man will be examined by a doctor only if the male nurse—a former military medical corpsman or man of equivalent training—recommends that he be taken to the hospital.

W. K. Cunningham, the Director, testified that no intelligible guidelines govern the taking of good time, save that escapees and escape attempts always result in full forfeiture. He could not recall any instance of his overruling a superintendent's decision to take good time. Field Unit superintendents forward their recommendations to Mr. Edwards, the overall superintendent of field units; he usually follows their lead. The individual unit superintendents are for the most part former guards who worked up through the ranks, and not all are high school graduates; in fact a majority are not.

The great majority of prisoners have lost good time restored to them, according to Cunningham nonetheless he testified that in the last eight months of 1970 only one penitentiary inmate received such grace.

Disciplinary boards have at times included the accusing guard. Furthermore, although representation by another is forbidden, the Director testified that some inmates are so very dull mentally that they probably cannot properly present their case.

Good time has been taken in amounts at least as large as one year on the basis of the briefest of guards' reports. Maximum security confinement has often been imposed out of unsubstantiated fear, suspicion, or rumor. In some cases this form of detention has been used for prisoners who were simply too feeble minded to adhere to the usual prison routine.

On October 1, 1970, less than two months before trial on this case, Division Guideline 800 was put into effect. These regulations, as adapted to cover all institutions, govern inmate discipline. They are set out in full as "Appendix A." These were the first substantive regulations on the subject put into effect in the Virginia penal system.

The new guidelines require a three to five member "adjustment committee" composed "normally" of department heads or their assistants. A counselor—a social worker assigned to one of the large institutions—may be present if one of his charges is accused.

There is provision for notice of charges to the inmate, although not in writing. The inmate is put in "detention" pending hearing, which takes place within 48 hours. There is some vague provision for witnesses and cross–examination, at the discretion of the committee chairman. The result of the hearing is recorded and transmitted to the Superintendent for "review and approval;" whether that officer can reverse a not guilty verdict is unclear.

The new regulations do not forbid a charging officer from sitting in judgment. Presumably this practice will be disapproved in

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theory, as in the past. In practice, however, an accusing official has sat on the panel; Assistant Superintendent H. P. Jackson of the State Farm has done so numerous times.

Offenses are described only as major or minor misconduct. There is no apparent restriction on available penalties, save that corporal punishment is outlawed, and described "minor" penalties can be imposed by a guard supervisor, with appeal to the committee.

The guidelines place conditions on the use of solitary confinement cells. Normal practice will be to permit an inmate to keep his usual clothing. The cells are to be lighted and heated, and occupants receive something to sit on in the daytime. Mail is not substantially curtailed, and "jail" terms are limited to 15 days. However, a "supervisor officer" may direct the removal of all furnishings and clothing from the cell if the inmate is "destructive," and a man can be kept in isolation longer than 15 days at the order of the Director. Alternatively, he may be placed in a maximum security cell "until he can, with reasonable safety, be returned to the general population."

Forfeiture of good time is imposed on the recommendation of the adjustment committee to the institutional superintendent. That official withholds his decision for seven days while the inmate presents his case to him in writing. There is no procedure established to cover the restoration of lost good time, although the discipline board may "set new behavioral goals . . . and offer restoration of good time." Final authority to restore credit, however, seems to rest in the superintendent, as it did previously.

Procedure for transfer to maximum security facilities is not established, although there is provision for a "formal review" every 120 days of each inmate's "behavior and attitude."

Finally there is a saving provision reserving full authority over disciplinary matters in the Director.

Copies of these regulations were not sent to inmates.

The rules do not seek to define offenses. As before, inmates may be penalized for "abusive language," a term particularly vague in its content in the prison milieu, where the norms of polite conversation do not prevail. Whether language is "abusive," according to Cunningham, depends a great deal on the tone of voice or manner in which words are spoken. In the past, nevertheless, men have been punished for "abusive language" on the basis of written guards' reports which sometimes did not even report the words spoken.

"Insubordination," "insolence," and "sarcasm," likewise offenses, are also undefined; their substance is left to the judgment of administrators. A superintendent also may penalize men for "poor work" and "disrespect" if their conduct is such, in his opinion.

Whether a man has in fact attempted to escape or has escaped will be left to the determination of the adjustment board and the superintendent, as before.

"Agitation" is also undefined. Cunningham states that it consists of influencing others to do illegal things, or acts which would be disturbing to the institution. Guards' reports, however, occasionally give no specifics as to the acts constituting "agitation."

No maximum time of padlock confinement is fixed by the new rules. Cunningham stated that the decision to padlock a man must be made by an official of the office of Assistant Superintendent or higher, but the "minor misconduct" provision appears to allow the chief guard officer to impose this penalty.

The guidelines make no reference to the practice of imposing fines. In the past this has been done summarily by guard officers.

Maximum and minimum amounts of good time that can be taken for various offenses are not set forth. As before, these will be governed, under guideline 800, by patterns and rules of thumb passed on orally. Moreover in practice a superintendent's decision to take or restore good time will not be effectively appealable. At most correctional field units this means that the ruling will be made by a man without a high school education or any special training in the goals and techniques of penology.

Guideline 800 also authorizes a continuation of the practice of confining mental defectives in the maximum security segregation cells. The inmates Elbe and Gonzales were referred to C–5 segregation at the State Farm for the offense of having insufficient mentality to participate in ordinary prison business. This is still authorized for those who "cannot safely function in the regular inmate population."

Regular appeal procedures are not established. In the past prisoners aggrieved by decisions against them have been able to "appeal" to the institution superintendent or the Director, by writing a letter. Review, however, has been highly informal, and the Director has not hesitated to go outside the record to secure information on a man's behavior both on the incident in issue and in the past. Never, however, has he reversed a superintendent's decision to take good time.

The Court finds that the reserved powers clause would retain for Cunningham the power to take good time without a committee hearing, to place someone in a solitary cell without a statement of reasons, and to keep a man in maximum security indefinitely on his sole order. Despite that according to Guideline 800 a normal diet is served in isolation, the director may still nonetheless impose a bread and water menu. Moreover, even the adjustment committee may extend a man's term in "jail" if it finds that he committed a second offense during his first fifteen-day term.

Cunningham had informed no fixed opinion on whether counsel should be admitted to the disciplinary committee hearings. He thought that lawyers might be unfamiliar with the goals and means of penology, even by comparison with some of the guards. The director had no objection to the presence of lay counsel, however.

Going to the Court's findings concerning not only the named plaintiffs but others of the class, the Court makes the following additional factual findings:

ROBERT JEWELL LANDMAN

Landman, a prisoner now released from the Virginia system after having served his full term on August 28, 1970, had been technically eligible for parole for six years prior to his release.

Commencing in 1964, Landman embarked upon a career, well-known to this Court, as a writ-writer. The evidence before the Court is that between that time and the time of his release, on behalf of himself he filed a minimum of 20 suits, and it is estimated that in addition he assisted fellow inmates in approximately 2,000 other petitions.

Landman's troubles with the prison authorities apparently commenced with his having written a letter to one of the local newspapers, for which he served 20 days in solitary confinement. This was followed with correspondence to the then Governor, and in 1964 he was sent to what is known as the "C" Building and placed in punitive segregation where he was held for a period of 150 days. He was removed from there and put in the general population until January 1965 when he was moved to a prison camp. His move from the penitentiary to the camp came the day before he was due to confer with a local attorney.

His reassignment to the penitentiary from the camp undoubtedly came about by reason of his having by then commenced his writ-writing endeavors, and in May 1965 it was recommended that he be placed in the "C" Building for his efforts in that regard. In "C" Building his life appears to have been a series of transfers to and from solitary confinement. In at least one instance he was put in solitary confinement for 58 days and never given any reason whatsoever for this confinement.

Apparently for assisting another prisoner in preparing a writ in 1966, he was once again put in solitary confinement.

This Court finds that up to November 1968, the man was punished 16 times and had good time taken from him once. He served a total of 266 days in solitary confinement and 743 days on padlock.

In August of 1968, this Court entered a consent injunction enjoining the prison officials from denying inmates of the Virginia State Penitentiary certain of their rights. The day following the injunction, Landman was once again put in solitary confinement for a period of 40 days, allegedly for conferring with another prisoner. Landman's attempts to contact his lawyer were to no avail. From March 15, 1969, to July, Landman was placed on what is known as "padlock," wherein a padlock is placed on a particular cell so that when all other cells are opened electronically, that particular cell remains closed.

In short, the Court finds that there was imposed upon Landman over 265 days of solitary confinement and in no instance did he receive even the rudimentary elements of a hearing or opportunity to defend any allegations made against him. The Court is satisfied that Landman's exercise of his right to file petitions with the courts, and his assisting other prisoners in so doing, were the primary reasons for the punishments put upon him.

CALVIN M. AREY

Arey was placed in solitary confinement on December 6, 1965. Although the record is devoid of any accounts of violence on the part of Arey, he had with justification been considered an escape risk and remained in "C" Building for a period of more than 4½ years until released into the general population in July 1970. At least twice while in maximum security he was placed in solitary confinement, one of the times for allegedly discussing with Landman an order of this Court, and he, like Landman, was transferred to solitary confinement for a period of 42 days during which time neither of them was permitted to file legal pleadings or to send letters to courts or attorneys; and in one instance he was placed in solitary confinement for reading to inmates a letter that he had received from a state senator. No notice or hearing of any kind was held in regard to these punishments, nor in regard to his loss of good time which he sustained. It would appear from the evidence that Arey's good time was taken on the basis of information received from a guard and upon the recommendation of the Assistant Superintendent that his good time be taken. Not even the rudimentary elements of a hearing or opportunity to be heard was given this man prior to the taking of good time.

The fact that some of the matters which gave rise to the many punishments received by Arey may well have been factually accurate can in no way be used as an excuse for the failure to accord him due process.

The record abounds with evidence of Arey's attempts to communicate with attorneys, only to be subjected to delay or frustration. In at least one instance Arey was forbidden by the Superintendent to communicate with an attorney who was not then currently representing him. Perhaps the most striking example of the indignities suffered by Arey is exemplified by an incident which occurred on August 13, 1968. On that day radio news reports gave an account of this Court's injunction against the employment of certain methods of punishment in the state prisons.

According to punishment reports submitted by guards, Arey yelled to other inmates concerning the Court order, telling the population of "C" Building generally that tear gas and the taking of bedding had been prohibited. Arey's commitment to solitary for this was approved by Superintendent Peyton who, so far as the evidence before this Court shows, failed to check out the account of the occurrence with anyone who had been allegedly present. The prison records as to this incident show the spaces on the form designed to record the members of the disciplinary panel who heard the case to be blank. Obviously no hearing was held. In fact it was standard practice at that time, the Court finds, to discipline men in C-cell without any hearing. On occasion, according to the testimony of R. M. Oliver, a committee might sometimes be used.

Arey was released from his isolation on September 23rd. That same day he found on his cell cot a letter he had tried to send to an attorney on August 14th; permission to mail it had been refused. He, of course, had been denied leave to write counsel during his solitary confinement.

The record shows that a letter went from Superintendent Peyton going to Director Cunningham, which indicates as well that copies of this Court's order mailed by an attorney to certain prisoners were intercepted apparently on instructions of an Assistant Attorney General.

It was three days after his release from meditation, where he had not been allowed to shave, brush his teeth or comb his hair, and after having been on a bread and water diet for two days out of three while incarcerated in a cell which contained only a sink and a commode, and, in the night, a mattress and two blankets, that he wrote a letter to a state senator which ultimately was returned to him without having been mailed. The letter, which concerned penitentiary conditions, was taken to R. M. Oliver who disapproved this correspondence. No satisfactory explanation for this action has ever been received.

In 1969 Arey received a copy of a letter from a state senator which he read aloud to another inmate. While there is some dispute over how loud he spoke and what extemporaneous remarks he added, as a consequence a guard filed a punishment report. While no hearing was held, Arey lost all accumulated good time and stayed in meditation until February 5, 1970. The effect of the loss of good time was to extend his term by a year and eleven days.

Arey was kept in C–cell through 1969 and well into 1970. In early 1969 no concrete reason could be given by Peyton as to why Arey was still in maximum security. At least one official testified that it was principally on account of his alleged disruptive, contentious attitude. The same official, however, in conversation with the state senator who visited the prison, stated that Arey's litigiousness was at least a contributing cause for the resolve to keep him in C–cell.

In mid-1969, after J. D. Cox succeeded Peyton as Superintendent, a four-man review committee for the penitentiary recommended to W. K. Cunningham that Arey, Leroy Mason and several others be returned to the general population from C–cell. Cunningham rejected this proposal and the men were kept in segregation for many more months.

ROY E. HOOD

Hood had been in the penal system continuously since 1963 and in at least two instances escaped from road camps and undoubtedly has admittedly caused difficulty, in some instances, during his stay, although in at least one instance he had been made a trusty. Some of the punishment accorded Hood, such as allegedly for refusal to work, fails to show up on the records kept by the authorities.

While in most instances Hood knew of the reason for a particular punishment, the Court finds that he has been put in "the hole", or solitary confinement, in some instances without benefit of any opportunity to be heard as to whether the punishment was either deserved or appropriate. He has lost good time under the same circumstances.

From January 1967 to November 1968 this particular prisoner was apparently devoid of any particular problems until he conferred with an attorney, and within eight days thereafter he was transferred to the penitentiary. Interestingly enough, the attorney with whom he had conferred was the same attorney who was representing the inmates in their suit to desegregate the penitentiary. The attorney had conferred with Hood and one Lambur, and had asked the prisoners to send him information concerning alleged tear gas incidents which might be useful in a case he was then litigating. The same day of the conference prisoner Lambur was incarcerated in a high security section and, as heretofore stated, eight days later Hood was transferred to the penitentiary and put in a padlocked cell. No satisfactory reason for the treatment accorded these men has ever been given. The response received to his several inquiries as to why he had been accorded the treatment referred to was a brief notation from an official to the effect that Hood knew the answers as well as he did.

The files reflect a letter from the Director indicating that Hood and others had been sent to the penitentiary as a result of "agitation" that they were allegedly committing among State Farm inmates. The evidence before this Court shows that the agitation apparently was Hood's inquiries about tear gas incidents.

On March 31, 1969, guards took an inmate named Hargrove from a cell near Hood in a fashion that Hood thought was rough. On that same day he wrote to an attorney—the same attorney with whom he had conferred at the State Farm—and in this letter he wrote of the alleged rough treatment and remarked about alleged poor medical care. The following day he was placed in B-basement, a high security area. That the prison authorities imposed summary punishment on Hood for exercising his right to communicate with an attorney about conditions of confinement is clear. As a consequence he remained in B-basement for thirteen months.

LEROY MASON

A named plaintiff, Leroy Mason, admitted to the Richmond Penitentiary in 1965, had no noteworthy clashes with prison authorities prior to 1968. In early 1968 Mason was known by the authorities to have contacted an attorney concerning certain prison conditions, in particular the alleged segregated nature of the State Penal System. In July 1968, while he was working as a Chaplain's Assistant at the penitentiary, there came about an inmates' non-violent strike or work stoppage. The Court finds that Mason had no prior knowledge of the work stoppage.

The then Superintendent, Peyton, suggested that the prisoners go to their respective work places and elect several spokesmen with whom he would confer. Of those spokesmen Mason was elected as an inmate representative, and generally he spoke for those representatives and met with Superintendent Peyton several times, but continued to perform his regular job. By that time Mason was a named plaintiff in a class action suit pending in this Court for the purpose of requiring a racial desegregation of the Virginia Penal System.

On July 19, 1968, four guards came to Mason's cell, handcuffed him and took him to the isolation cell block in the prison hospital where he remained in what amounted to solitary confinement for approximately a month. It is to be noted that another spokesman, one Pegram, met the same fate. Prison records indicate that the transfer of Mason was allegedly for refusal to return to work, for his own protection, and in an effort to keep him incommunicado. No hearing in regard to this punishment was held and he was kept in an isolation cell for approximately thirty days.

Shortly after being released from isolation he was transferred on August 20, 1968 to the maximum security lockup, i.e. C-cell segregation block, and was held there until April 27, 1970. In addition, it was ordered that he lose ninety days good conduct time.

The Court finds that he was not accorded any hearing, and in addition his release from maximum security had been recommended for some time prior to his actual release from same. The record is devoid of any valid reason as to why he was not released sooner. While the Court is not fully apprised as to the use of punishment report forms in the prisons, it notes with some interest that the report of Mason's August 20th transfer to C-cell was apparently received by the Superintendent's office on August 19th.

While much disciplinary action was accorded many of the prisoners without notice or hearings and for reasons still vague to the Court, and in some instances simply upon the whim of a guard, in the treatment accorded Mason the record is devoid of any justification, and the Court is therefore satisfied that his punishment was attributable to his instituting an action in this Court for purposes of desegregating the Virginia Penal System.

Superintendent Peyton had stated that he could not say for sure whether Mason had stopped work during the strike. According to Peyton's explanation Mason was put into isolation only to keep him out of danger and contact with other inmates. Yet in spite of the uncertainty expressed by Peyton concerning any alleged work stoppage by Mason, ninety days good time penalty was imposed for allegedly refusing to work.

In late 1969 in spite of recommendations of the prison staff that Mason be released from maximum security, Cunningham refused to go along with the recommendation apparently on the basis of Peyton's reports that Mason had been a strike ringleader. Mr. Cunningham's justification for the continued refusal to air these charges in a hearing was based on the grounds that an emergency condition still persisted at the penitentiary. The proffered justification for Mason's segregation confinement and loss of good time is so specious as to add weight to the Court's conclusion that he had been penalized for his participation in a law suit begun in January 1968 in this Court in which he sought and achieved the desegregation of the Virginia * * *.

THOMAS C. WANSLEY

Wansley, serving a life term, had apparently been in no difficulty prior to the strike in July 1968. He, like Mason, was one of the original parties in the suit filed in February 1968, for the purpose of desegregating the penitentiary. Wansley was one of several hundred inmates who refused to work on July 18th at the time of the alleged work stoppage. The Court finds that shortly thereafter he did request an opportunity to return to work. As a consequence of his actions he was placed in solitary confinement from July 1968 to August 1968 and kept in a cell for a period of ten months.

The Court is satisfied that, unlike Mason, Wansley knew of the contemplated work stoppage. It is of particular note that Wansley remained confined for some considerable period after other striking prisoners were returned to their regular duties. It is a fair assumption, and the Court finds, that the reason for this was his actions in the suit to desegregate the Virginia Penal System.

Penitentiary records indicate that the padlocking of Wansley was allegedly for "agitat-

ing" by advising other prisoners to file suits contesting their treatment and by telling others, after his return from Court on August 13, 1968, that guards were barred from using tear gas against them and, apparently according to him, would be jailed if they did. Wansley, the Court finds, was never formally confronted with this alleged charge of agitation and never saw the prison reports prior to the trial of this case. In short, he was put under padlock on the basis of reports that he was yelling in the cellhouse and "agitating." The witness Oliver recalled no details save that Wansley had not been violent. Peyton, in February 1969, made no effort to justify Wansley's detention beyond saying "in his judgment" he should be confined.

As already indicated, the trial of the issues before the Court consumed many days of testimony in which the Court heard at least 46 witnesses, including the named plaintiffs, and read designated depositions of others. As one would expect, the witnesses called on behalf of the plaintiff were for the most part prisoners who either were or had been confined in places of incarceration under the jurisdiction of the defendants. The Court is satisfied that the testimony received is representative of conditions existing generally throughout the Virginia Penal System.

The Court has attempted to bear in mind in its ultimate conclusion that the burden is upon the plaintiffs to prove their case by a preponderance of the evidence, and this the Court is satisfied has been done.

The following additional factual findings are intended to be illustrative to the end that the Court's legal conclusions based upon same may be more readily understandable:

FREDDIE LEE HYTHON, JR.

Hython, a State Farm inmate for approximately six years prior to the date of hearing in this case, refused to perform work at that facility allegedly because another inmate had threatened him and he feared to mingle in the population. He explained his plight to a guard lieutenant and he was forthwith ordered to an isolation cell.

Hython's testimony has been waived by the Court in light of the Court's conclusion that apparently he was a person of extremely limited intellectual capability. He had had his good time taken from him several times without benefit of a hearing, although he did have at least one hearing concerning good time forfeiture.

NATHAN BREEDEN

Breeden, a prisoner at the State Farm, was incarcerated in the C-5 high security section at his own request because of his alleged fears of persons in the general population. His testimony was of significance to the Court in that it corroborated the allegation brought out during the trial that it was common practice to place mentally ill inmates in solitary confinement.

While incarcerated in C-5 Breeden witnessed, in a manner of speaking, the death of another inmate, one Philip Lassiter. The Court finds that in late August of 1970, Lassiter was placed in a meditation cell by reason of the fact that he was mentally disturbed and his behavior was sometimes uncontrollable. Breeden, through an inmate named Marsh Whitney, secured copies of records of Lassiter's psychiatric care over the prior three years.

Between August 25th and Lassiter's death, while Lassiter was confined to a meditation cell, he screamed day and night apparently seeking help. Indicative of Lassiter's state of mind was that on that day he plugged the commode in his cell with a shirt, causing the flooding of his cell.

Efforts, were made by Breeden to bring to the attention of the prison nurse the records he had secured from inmate Whitney. On August 27th Breeden spoke to a lieutenant and subsequently gave him a copy of what purported to be a doctor's letter diagnosing Lassiter's condition as chronic schizophrenia. On August 29th Breeden wrote to Superintendent R. M. Oliver about the case.

Lassiter continued to scream for help until he died on August 31st. At least four inmates in nearby cells corroborated Breeden's account including the fact that at some point, which the Court determines to be approximately August 26th, at least one guard had an altercation with Lassiter concerning a food tray, during which Lassiter, if not the guard, landed some blows.

It should be noted that Superintendent Oliver said that Lassiter had been placed in solitary confinement at his own request, and while he knew that the inmate was under psychiatric care, he never received reports of Lassiter's alleged screaming.

The Court finds that while it was not the routine practice to put mentally disturbed persons in solitary cells, they were occasionally placed there for want of other space pending commitment proceedings.

EDWARD R. BELVIN

The prisoner, Belvin, a person with a Sixth Grade education, had lost 66 days good time for alleged attempted escapes. He was accorded no hearings prior to the taking of his good time. The prison administration simply sent him a "green slip" revising his sentence. As a consequence of these sanctions, 66 days were added to his term.

In April, 1970, Belvin was in the prison hospital for treatment of a nervous condition. On one occasion he threatened to scream if he was not given a shot which he felt he needed. As a result he was taken to a meditation cell without a hearing. There the guards restrained him by handcuffing him and chaining his body to the cell bars. They wrapped tape around his neck and secured that to the bars also. Belvin remained in this position for fourteen hours until a guard cut him down at 4:00 a.m. Belvin was kept nude in a bare meditation cell for seventeen days during April. His clothing was taken because he refused to surrender a food tray to guards.

Guards in the penitentiary have had the authority to chain a violent man until recently; currently it can be done only at the Superintendent's orders. Prison policy, however, dictates that mentally disturbed inmates not be so treated, but rather that commitment proceedings be begun as soon as possible. It is inexplicable why Belvin was placed in an ordinary punishment cell rather than some less brutal form of confinement. He had reportedly twice attempted suicide prior to this episode, yet medical supervision appears to have been lax. The decision to chain him was made by guards, without the prior approval of any doctor, yet this incident did not, so far as the record shows, result in so much as a reprimand for those responsible.

BARRY CLINTON JOHNSON

Johnson, a prisoner under sentence of death, was placed in meditation three times. In January, 1969, he spent about seven days in meditation for complaining to guards and arguing about officials' treatment of money sent to him at the prison. The guards' reports recount a very poor attitude in making requests and nasty remarks about personnel. No hearing was held; Johnson gathered from a guard that his complaints about his money were cause for his "jailing." Just before his confinement, Johnson filed a complaint in this Court along with one Short alleging mistreatment by guards.

The second time, Johnson was reported as having harassed a guard when he inquired of him about some shirts which another correctional officer had promised him. The week before he had been shot with tear gas in his cell and had written to Philip J. Hirschkop, an attorney in his case, complaining about the incident. He also encouraged other inmates subjected to such treatment to write Hirschkop. Before his transfer to solitary, Johnson was accorded a semblance of a hearing in that he was taken to a bank office and confronted with the charge by three guards, two of whom were officers. The allegedly harassed guard was not present at this hearing to be questioned. The guards sent him to meditation without advising him of the length of his stay.

In July, 1970, Johnson was sent to solitary for loud talking, although the man with whom he allegedly was engaged in loud talking was not punished. One guard, Captain Baker, had previously threatened to punish him for cursing other guards. Another, Gibbs, told him to stop complaining to courts and lawyers or he would be placed in solitary. Johnson was taken to solitary by five or six guards and brought the next morning to the guards' office. There, Gibbs threatened to cut off commissary privileges, hot water, and coffee if he did not cease his complaints. Others accused him of cursing a guard; he denied it, but they refused to check out his story. Less than two weeks before this incident Johnson had written a complaint letter to the Governor of Virginia.

When he was taken to C-cell solitary the third time, Johnson was punched by Captain Baker with a tear gas gun and when, at Baker's orders, chained to the cell bars. This endured for five days. His waist and arms were secured to the bars in such a fashion that he could just barely recline. He was not released in order to urinate or deficate.

At trial there was no cross-examination of this witness.

SAMUEL MACKMAN

Mackman, a fifteen-year veteran of the Richmond penitentiary, gave accounts of being placed in solitary and losing "good time" for breaking up a fight and for having requested his prescribed medicine. On October 31, 1968, punishment report has it that Mackman threatened to hit a guard, one Catron. This occurred, the prisoner said, after Catron shot him with tear gas for failing to eat.

In January of 1969, Mackman lost 90 days good conduct time for "yelling . . . cursing and raising hell." He spent ten days in meditation and received a "green slip" extending his sentence 90 days. No hearing was held.

When the authorities concluded that Mackman in fact had only sought to break up a fight, they restored good time earlier lost. No hearing was held on the charge, however, at any time.

BERNARD S. BOWSER

Inmate Bowser, serving a five year sentence, has lost good time without any hearing. The Court is satisfied that Bowser, on being placed in meditation, was cognizant of the reason for it as well as the reason for good time being taken. The Court does find that no hearing, in at least several instances, was held with a view to finding the facts.

The same situation exists as to the witness Robert Powell and one Wiley A. Reynolds, another State Farm prisoner who although he did receive the benefit of one or more hearings, stated the accusing guard was sometimes not present. The Court concludes that the regulations which existed frequently only became clear when one was punished for a violation.

WADE EDMOND THOMPSON

Wade Edmond Thompson testified concerning discipline in the correctional field units, the state convict road force. At Field Unit No. 27, he was placed in solitary confinement three times.

The first time, in March of 1969, a guard complained of his conduct and he was brought before a lieutenant, acting as superintendent. The complaining guard and a state highway employee were present as well. After about a week Thompson was released from "jail"; he learned sometime later that the charge had been insubordination.

In August, 1969, Thompson, feeling unwell, requested to see a doctor. Instead he was given the option of working on the road or going into solitary. He chose the latter.

In January of 1970, Thompson, having had a series of run-ins with one particular guard, was brought before the Superintendent on the latter's complaint. The guard stated that Thompson had used profane language; another verified this, and the prisoner was sent to solitary by the Superintendent without an opportunity to state his side of the case.

On his request, Thompson was transferred to Unit No. 7 soon thereafter. At that camp, in February of 1970, Thompson and a number of others refused to work when the temperature fell to eleven degrees. Thompson was called into the Superintendent's office. He told that official that he would not work in such cold weather, as he understood he was not required to do, under applicable regulations. He was ordered to solitary confinement, where he spent twenty-four days, without a disciplinary hearing. Some weeks after his release he learned that he had lost sixty days' good time. Conditions in "solitary" were extremely crowded; from four to seven men were put in a one-man cell.

Thompson later went to Field Unit No. 18, from which he escaped. After trial and conviction for this offense, he was also docked eighty days of good time; no hearing was held.

This witness approached the Superintendent of Unit 18 to request another transfer, stating that he had difficulty living under the regulations. As an example, he stated that a guard in the mess hall had once forced another prisoner to eat a raw sweet potato. In response to this complaint, the Superintendent ordered Thompson summarily taken to solitary confinement. While in "jail," Thompson complained of his plight in a letter to Philip Hirschkop, an attorney. The very day that the letter was mailed, he was given a hearing on his infraction by three guards. The charge was "agitating" the inmate who balked at eating raw food. In fact, Thompson never spoke to the man, nor did he tell anyone save the Superintendent of the incident. This was the only "hearing" that Thompson ever was granted on the issue.

STANLEY DOUGLAS POWELL

Powell, an inmate of Correctional Field Unit No. 4, for six months prior to trial, stated that he was summarily punished for allegedly cursing a guard. Two days after the offense he was taken aside by that guard, Anderson, and one other; the latter ordered him to strip naked. Lieutenant Anderson thereupon struck him with a nightstick. Powell was taken to a doctor some time later and his head was stitched up. The same day he was taken before the Superintendent and ordered into solitary confinement. At some point during this episode, Powell wrote his brother about the incident. Anderson, having apparently intercepted the mail, called him in and said that if he made no trouble about the beating he need not go to "jail." Powell spent eighteen days in solitary confinement; he never had a hearing, nor was he given reasons for his punishment.

The guard, Anderson, testified that he struck Powell only after being attacked himself. Cunningham stated, however, that it is the policy throughout the penal system that any man who attacks a guard loses all of his good time. This did not occur in Powell's case. The Court rejects the account given by Lieutenant Anderson.

THOMAS JEFFERSON

Jefferson gave an account of a series of units. His innocence of misconduct may be and indeed is open to question; nevertheless the procedures followed in imposing sanctions is not seriously disputed.

At Field Unit 16 he was sent to solitary three times at the order of various guards or guard officers. No hearing or statement of reasons was offered. A bread and water diet was enforced at various times.

As soon as he was transferred to Unit 2, Jefferson was jailed for 31 days for misbehavior without a hearing. Following an argument with guards in the dinner line, Jefferson was committed to solitary a second time. The guards refused to let him see the superintendent. When he argued, a guard shot him with tear gas and kicked him, although he did not resist. Twice again that day he was tear gassed in his cell. This jail term lasted 56 days, during which Jefferson did not have a shower nor get a change of clothing. In addition, he lost between sixty and ninety days of good time. No hearing was ever held.

Jefferson's reputation as a trouble maker accompanied him to Field Unit 4. Only minutes after his arrival he was jailed for "misbehavior"—cursing a guard. Jefferson, who is black, says this occurred when a white guard called him "boy." No hearing was held on this offense. This was the first of twenty-one terms he spent in "jail" in Unit 4. His offenses included refusing to work, refusing to work in cold weather, and talking to civilians on the highway. For an escape attempt he lost 60 days' good time. No hearings were held in any case, but he knew generally the nature of his alleged offense each time he was punished.

Superintendent Honeycutt of Field Unit No. 2 wrote to D. P. Edwards, Superintendent of the Bureau of Correctional Field Units, after the chow line affair, stating that he intended to keep Jefferson in a solitary cell indefinitely until his attitude toward authority changed for the better. Honeycutt in theory had no power to confine a man more than thirty days, but Edwards made no objection.

TIM SCOTT

Scott witnessed part of Jefferson's chow line melee. Jefferson was loud, Scott says, but he made no physical threats, nor did he resist physically. Another inmate persuaded him to submit and go to jail, according to Scott's testimony, which the Court accepts.

Scott himself is an adherent of the Black Muslim faith. As part of his religion he must each day wash the exposed parts of his body. At Field Unit 2 he was committed to a solitary cell when he was discovered washing in a basin in the dormitory. A guard, one Wyatt, directed him to stop. Scott protested that he was not breaking any regulation, but continued to wash. The guard drew up a charge and Scott went before the superintendent the next day. That official confronted him with Wyatt's charge and asked why he had not complied with the guard's order; Scott again replied that rules had been posted and no regulation forbade using the basin in the evening. He was sentenced to seven days in jail.

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A guard lieutenant then brought him some medicine which had been prescribed and told him to take it. Another inmate told him that the "medicine" was suppositories, not to be taken orally; Scott had received no instruction. The lieutenant returned and discovered that Scott had not taken the medicine. After a hearing of sorts before the guards, the details of which do not appear, the prisoner was taken to another camp and put in solitary for nineteen days. On his return to Camp 11 he was notified that he had lost 30 days' good time for "misconduct." He asked the superintendent what his offense was; that officer said that Scott had asked to see the doctor when there was nothing wrong with him and then refused to take his prescribed medicine. Scott infers that he was punished because only a few days before a man in his camp, one Page Early, had died while begging to be allowed to see a doctor, and the authorities wanted to keep the matter quiet. In fact the superintendent and a guard told other inmates that if they tried to get word of Early's death out of the institution and into court they might be put in solitary or lose good time.

Scott's Islamic religion threatened to bring other sanctions upon him. A guard sergeant threatened him with transfer from Camp 2 if he continued to proselytise; a captain directed him to speak to no more than one or two at a time. Such restrictions are not imposed upon conversations on other topics, nor is the use of the washbasin restricted for others as it is for Scott. Cunningham himself said that by Scott's own account he had committed no offense.

GEORGE D. CEPHAS

Cephas experienced back trouble while assigned to Field Unit No. 26 in July of 1969. The camp authorities had him taken to two doctors on three different occasions. One of these told a guard lieutenant that Cephas should not be assigned to road work; the other confirmed that he needed medication, but that he should work. Some days after his last examination, Cephas had an attack of pain allegedly so severe that he could not get out of bed. The guard captain had him shackled and moved to Camp 30, where he spend twenty-six days in meditation. At Camp 30 Cephas' requests to see a doctor were denied. After his "jail" term he was returned to Camp 26 and reassigned to road work, although the foreman apparently allowed him to do light work. This was Cephas' only offense in prison.

FREDDIE LEE COLLINS

Collins, who has spend most of his term in Correctional Field Unit No. 2, was placed in solitary confinement three times between November 1969 and April 1970. Each time the charge was poor or unsatisfactory work. No formal hearing was held. Instead he was simply called before the superintendent, who informed him that his guards had reported Collins' misconduct. Collins went to jail. On one occasion the superintendent said merely that "his guards don't lie." During the twenty-one day stay Collins lost twelve pounds.

DAVID LEON BROOKS

Brooks also was committed to solitary confinement in field units three or four times without a prior hearing. At one time in October 1968, he lost 60 days of good time and was jailed for allegedly refusing to work. During one period of confinement Brooks was kept nude in his cell for nine days.

CHARLES LEE MELTON

Charles Lee Melton had a substantial record of infractions at Field Units 2, 31 and 7. "Jail punishment reports" indicate that in most cases the decision to punish was made by a two or three man board, including the superintendent. At unit 31, Melton said, he was usually given a chance to explain his conduct by Superintendent Sumner.

On December 4, 1968, according to the defendants' records, Melton was jailed for the following reason:

Offense: When E. Phillips #90872 was put in solitary, he said, might as well put him in.

Melton was heard on this "charge" by the superintendent alone. Records show that he was not released until March 12, 1969. Until February 12 he received full rations only every third day. Meals the other days consisted of four slices of bread, served twice each day. During the first 32 days of "jail" a window was left open in Melton's cell and snow fell in on him.

From July 29, 1970, through September 15, 1970, Melton was in a meditation cell in Camp 7; during this time his diet was bread and water for two of every three days and his weight fell from 160 to 140 pounds.

After his three month term in meditation had been served in 1969, Melton was transferred to the penitentiary where he was notified that he had lost all his accumulated good time—over twelve months—for refusing to work. No hearing was held.

Testimony by prison administrators illustrated the accuracy of Tolstoy's observations about the limits of bureaucratic power. A

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specific order invariably deteriorates in content as it travels from chief to subordinates on the line. Higher prison officials, generally speaking, displayed a confident perception of the rules and procedures applicable in various situations. Lower officers who in fact implement the rules were, however, less sure about the regulations governing the prisoners' conduct and their own.

The rules for years has been that, absent claims of gross violations of fundamental rights, federal courts will make no inquiry into the manner in which state prison officials manage their charges. *McCloskey* v. *Maryland*, 337 F. 2d 72 (4th Cir. 1964). It is not difficult to discern the principal rationales for this doctrine. A prisoner after all is presumed to have been justly convicted and sentenced; that presumptively valid judgment imposed a punishment of confinement under certain contemplated conditions. "Lawful incarceration brings about the necessary withdrawal or limitation of many privileges and rights, a retraction justified by the considerations underlying our penal system." *Price* v. *Johnstone*, 334 U.S. 266, 285 (1948). This is not to say that prisoners possess no further rights to be infringed or liberties to be taken. However, while confined, their fate is by law in the hands of administrators whose acts, like those of most administrative decision-makers, may be presumed legal.

Furthermore, courts have, perhaps implicitly, honored the theory of criminal punishment that holds that men who have been found guilty of violations of criminal laws may be utilized, so to speak, by society for ends related to the general welfare, such as the deterrence of similar acts by others and the alteration of their own patterns of behavior. Criminal activity, it is thought, once proved by legal procedures, fairly works a forfeiture of any rights the curtailment of which may be necessary in pursuit of these ends, such as the right of privacy, association, travel, and choice of occupation. Because federal courts have considered themselves both lacking in the authority to dictate those uses to which society may put convicts and without the specialized knowledge to test the necessity of losing certain liberties to accomplish various goals, they have not generally questioned such deprivations. Even now no court has required that states adapt their penal system to the goal of rehabilitation.

Moreover, in a society concededly subject to increasing legal regulations, prisoners more than any others are subjected to state control. State officials govern inmates' lives by a series of decisions on an hourly, indeed continual, basis. Many of their decisions may be subject to more than colorable constitutional attack. If each is to be subject for federal examination of a plenary sort, the energy and time of the federal judiciary and of state penal officials would be diverted to an inordinate extent. Even if the law permitted many such matters to be determined without the taking of testimony, little if any saving in time would be accomplished. Concerns of judicial efficiency must be among the reasons which cause courts to pause in considering whether Congress intended federal civil rights jurisdiction to extend over such claims. *See Sostre* v. *McGinnis*, —— F. 2d ——, 8 Cr. L. Rptr. 2437 (2d Cir., Feb. 24, 1971); *Weddle* v. *Director*, 436 F. 2d 342 (4th Cir. 1970).

Nevertheless, whether detention should be imposed at all has always been matter for federal review. In consequence any substantial restriction upon access to a federal forum for examination of the legality of confinement has been barried as well. See, *e.g., Johnson* v. *Avery*, 393 U.S. 483 (1969); *McDonough* v. *Director*, 429 F. 2d 1189 (4th Cir. 1970).

Recent caselaw too supports inquiry into prison administrators' restriction of constitutional rights other than that of liberty itself.

There is no doubt that discipline and administration of state detention facilities are state functions. They are subject to federal authority only where paramount federal constitutional or statutory rights supervene. It is clear, however, that in instances where state regulations applicable to inmates of prison facilities conflict with such rights, the regulations may be invalidated. *Johnson* v. *Avery, supra*, 486.

Prior to *Johnson* and since, federal courts have directed state and federal penal officials to honor convicts' claims to religious freedom, freedom of speech and association, and freedom from racial classification. See, *e.g., Brown* v. *Peyton*, 437 F. 2d 1226 (4th Cir. 1971); *Carothers* v. *Follette*, 314 F. Supp. 1014 (S.D. N.Y. 1970); *Lee* v. *Washington*, 390 U.S. 333 (1968). The reasoning supporting such intervention must be that the prison authorities have shown no compelling need to suppress these rights. Plainly stated, they have not shown such remarkable success in achieving any conceivable valid penological end by means which entail the abridgement of these constitutional guarantees as might make their denial seem worthwhile. Cf. *In re Gault*, 387 U.S. 1 (1967).

Courts have also intervened when sentences are administered in a manner that seems unintended and unauthorised by the convicting court. Relief is justifiable in some cases on the fairly basic rationale that to extend or augment punishment beyond that imposed by a state court is to penalize without due process. A valid state judgment affords no license to exceed its terms. *Perkins* v. *Peyton*, 369 F. 2d 590, (4th Cir. 1966).

Inquiry into the administration of sentences has also been promoted by the trend elsewhere in law to reject the so-called right-privilege distinction. Although state law may authorize the grant or withdrawal of certain benefits during incarceration, and state authorities may be taken, in sentencing, to contemplate the administration of their judgments in conformity with state law, still the federal Constitution circumscribes governmental power to withhold such benefits arbitrarily or discriminatorily.

Finally, penal authorities have been constrained to refrain from punishment deemed cruel and unusual in situations where some other penalty might legally be imposed. Some courts have, further, held that any penalty at all for an act which could not legally be a violation amounts to cruel and unusual punishment. *Carothers* v. *Follette, supra*, 1026.

Rejection of the right-privilege distinction as a sterile form of words has likewise cast doubt upon the logical difference between deprivations constituting "punishment" and those presented as techniques for the maintenance of "control" or "security." Presumably the consequence of labeling a deprivation a matter of control is that it may be imposed without procedural preliminaries. The distinction is unpersuasive. Substantial deprivations of rights even in matters called civil where no misconduct is alleged have not been permitted without due process. Reasons of security may justify restrictive confinement, but that is not to say that such needs may be determined arbitrarily or without appropriate procedures. In an obvious sense, too, any treatment to which a prisoner is exposed is a form of punishment and subject to eighth amendment standards. This is not to say, though, that prison officials may not treat their charges as individuals. Deprivations of benefits of various sorts may be used so long as they are related to some valid penal objective and substantial deprivations are administered with due process. "Security" or "rehabilitation" are not shibboleths to justify any treatment. Still courts must keep in mind that a recognised valid object of imprisonment is not just to separate and house prisoners but to change them. When it is asserted that certain disabilities must be imposed to these ends, courts may still inquire as to the actuality of a relation between means and end. The test of necessity will, as mentioned above, be more stringent when a deprivation of a fundamental constitutional right is involved. When officials assert lack of funds needed to achieve their goals by means which would not infringe constitutional rights, moreover, the attempted justification will usually fail. *Hamilton* v. *Love*, —— F. Supp. ——, 9 Cr. L. Rptr. 2293 (E.D. Ark. June 2, 1971).

Extensive evidence was presented and detailed factfindings have been made for the reason that the plaintiffs contend, and the Court has concluded, that the constitutional violations of which they complain are not isolated deviations from normal practice but rather indicated traditional procedures in the penal system. When such a showing is made it is the Court's duty not solely to amend so far as possible the defaults of the past but to prevent their likely recurrence in the future.

The Court, at trial, granted counsel a certain amount of leeway in presenting evidence; as a result the record runs at some points far afield into issues not strictly of constitutional scope. For this reason it bears examination not only by lawyers but by any officials of our state government concerned to provide a penal system better, perhaps, than required by minimum constitutional guaranties.

One problem raised and not resolved by a study of the cold record, the credibility of much of the testimony, pervades this case as it has few others in this Court's experience. Witnesses drawn from a society of convicts as a rule may not have so refined a regard for the value of truth as most citizens. All of the unreliable testimony in the case has not, however, come from members of the plaintiff class. Custodial personnel life with their charges in a climate of minimum tension; it would be surprising indeed if an exchange of standards and values did not take place between them. Prison administrators too, perhaps understandably, may develop a self-protective instinct that manifests itself in a tendency to preserve and fall back on the written record of propriety, although it may not reflect reality. These observations must lead this Court, and anyone else concerned with maintaining fairness in the operation of our penal system, to conclude that the fairest rules must fail to fulfill that goal if they are not administered by fair-minded and intellectually capable men. The work of custodial personnel is such as to frequently try the patience of Job. Nevertheless, the daily administration of rules for conduct of an admittedly different society requires not only firmness but awareness of the purpose of incarceration.

The proof shows three general classes of constitutional deprivation, each a subject for injunctive relief. Discipline has been imposed for the wrong reasons. It has been imposed in cases of what may have been validly punishable misconduct, but without the requisites of procedural due process. And, punishment of a sort that the Constitution bars in any event has been imposed.

Just as the cruel and unusual punishments clause restrains the judiciary and the legislature, *Ralph* v. *Warden*, —— F. 2d ——, (4th Cir. 1970), *reh. denied*, —— F. 2d —— (4th Cir. 1971), so also it limits the discretion of administrators. The evidence here shows that these limits have been exceeded.

In gauging the compliance of Virginia officials with this constitutional command, the Court has not found it necessary to explore deeply the question whether a practice in issue constitutes a punishment. Compare *Trop* v. *Dulles*, 356 U.S. 86 (1958). As noted above, in an obvious sense any term of incarceration, with all of its incidents, constitutes a penalty. The purposes of the eighth amendment might best be served by treating the preliminary issue as thus resolved. Any treatment imposed upon the convict would than be tested by the cruel and unusual standard. See, *e.g., Holt* v. *Sarver*, 309 F. Supp. 362 (E.D. Ark. 1971), aff'd. —— F. 2d ——, 9 CrL. Rptr. 2171, (8th Cir., May 5, 1971). A deprivation imposed for purposes not of deterring misconduct in the institution but instead for some nonpunitive end, such as disabling a man from injuring himself or property, or for no specific purpose at all, might nonetheless be unconstitutional. A defect in that approach taken alone is that it tends to obscure the issue of disproportion between offense and penalty—a valid eighth amendment inquiry—when a deprivation has concededly been imposed as a consequence of past misconduct within the prison and for the end of deterrance and example. A prisoner is both a participant in society as a whole and a member of the smaller penal community, a relatively closed society subject to a separate set of rules. The cruel and unusual test may validly be applied, in effect, on both levels to intraprison discipline.

Courts have not articulated detailed standards establishing what penalties are cruel and unusual. It is recognized that standards may change. Indeed it is hoped that they will.

The basic concept underlying the Eighth Amendment is nothing less than the dignity of man. . . . The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society. *Trop* v. *Dulles, supra*, 100–01.

The provision, some have suggested, may be violated by the imposition of a penalty that is excessive in comparison with prevailing practice, disproportionate with the gravity of the crime, or greater than is necessary to achieve the permissible aims of punishment. *Rudolph* v. *Alabama*, 375 U.S. 889 (1963) (Goldberg, J., dissenting from detail of certiorari). It is cruel and unusual, furthermore, to impose any punishment whatsoever upon an individual guilty of no harmful act but solely possessed of an incriminating condition. *Robinson* v. *California*, 370 U.S. 560 (1962).

A penalty may likewise violate the clause even though it consists only of exposing an individual to a high probability of suffering grievous injury. Cruelty exists for example in imposing on a man the anguish of continued uncertainty as to his fate, with knowledge that severe consequences may befall him for unforeseeable reasons against which he is powerless to protect himself:

This punishment is offensive to cardinal principles for which the Constitution stands. It subjects the individual to a fate of ever-increasing fear and distress. He knows not what discriminations may be established against him, what proscriptions may be directed against him, and when and for what cause his existence in his native land may be terminated . . . It is no answer to suggest that all the disastrous consequences of this fate may not be brought to bear on a stateless person. The threat makes the punishment obnoxious. *Trop* v. *Dulles, supra*, 102; See also, *Holt* v. *Sarver, supra*, 309 F. Supp. at 372–73.

Our own Court of Appeals has stated that lawful incarceration must not include exposure of the prisoner to the risk of arbitrary and capricious action, *Landman* v. *Peyton*, 370 F. 2d 135, 141 (4th Cir. 1965), *cert. denied* 388 U.S. 920 (1967).

Although most of the administrators who testified in this case stated that the imposition of a bread and water diet is now extremely rare, the issue is not moot nor unsuitable for injunctive relief. The director still retains the power to approve bread and water, and in the past he has done so on application by subordinates. Moreover, subordinates have on their own initiative used the practice without approval in the past.

Bread and water provides a daily intake of only 700 calories, whereas sedentary men on the average need 2000 calories or more to maintain continued health. Evidence is not presented on the other nutritional shortcomings of a bread diet, but it does no violence to doctrine of judicial notice to remark that vitamin, protein, and mineral content is probably deficient as well. The purpose and intended effect of such a diet is to discipline a recalcitrant by debilitating him physically. Without food, his strength and mental alertness begin to decline immediately. It is a telling reminder too that prison authorities enjoy complete control over all sources of pleasure, comfort, and basic needs. Moreover, the pains of hunger constitute a dull, prolonged sort of corporal punishment. That marked physical effects ensue is evident from the numerous instances of substantial weight loss during solitary confinement.

Even the Superintendent of the Virginia State Farm, one of whose foremost concerns, and rightly so, must be the safe confinement of dangerous men, has not found it necessary to use bread and water in his memory. Other officials report a very rare use of the tactic. A current manual on prison practices strongly disappproves any disciplinary diet which impairs health. American Correctional Association, Manual of Correctional Standards (hereinafter A.C.A. Manual), 417 (1966).

The practice is therefore both generally disapproved and obsolescent even within this penal system. It is not seriously defended as essential to security. It amounts therefore to an unnecessary infliction of pain. Furthermore, as a technique designed to break a man's spirit not just by denial of physical comforts but of necessities, to the end that his powers of resistance diminish, the bread and water diet is inconsistent with current minimum standards of respect for human dignity. The Court has no difficulty in determining that it is a violation of the eighth amendment. *Jackson* v. *Bishop*, 404 F. 2d 571 (8th Cir. 1968); *Wright* v. *McMann*, 321 F. Supp. 127 (M.D. N.Y. 1970).

Likewise, to restrain or control misbehavior by placing an inmate in chains or handcuffs in his cell is unconstitutionally excessive. The evidence showed that in Belvin's case this practice left him with permanent scars, and in his case and that of Johnson it caused lack of sleep and prolonged physical pain. Neither man was released to respond to a call of nature, nor could they eat. Further details are not necessary in order to reveal that it constituted physical torture.

Corporal punishment should never be used under any circumstances. This includes such practices as . . . handcuffing to cell doors or posts, shackling so as to enforce cramped position or to cut off circulation, . . . deprivation of sufficient light, ventilation, food or exercise to maintain physical and mental health, forcing a prisoner to remain awake until he is mentally exhausted, etc.

. . . *The regulations of well-run prisons usually provide, in effect, that force may be used only when necessary to protect one's self or others from injury, or to prevent escape, or serious injury to property.* A.C.A. Manual, *supra*, 417 (italics original).

Corporal punishment of this variety is outmoded and inhuman. The Constitution forbids it, and this Court shall enforce that ban. It is not contended that a man in a locked solitary cell cannot be kept from escaping, injuring others, or destroying things of value. The only justification for the policy is to prevent self-injury. (Ironically, Belvin seems to have been seriously cut by his "protective" chains, either despite or on account of his own efforts). The Court simply cannot conceive that no less drastic means can achieve that legitimate end. The extent of the constitutional guaranty is not fixed by the administrators' budget or imagination. *Jackson* v. *Bishop, supra*, 580. Here the evidence shows that Belvin's fetters were put on without medical approval.

A doctor, if called on for a recommendation, might well have prescribed some form of drug treatment. Only recently have penitentiary officials sought to borrow some strait jackets for such emergencies. Indeed to a great extent the control of violent inmates has been left in the hands of guard personnel, who call to their superiors' attention incidents such as Belvin's experience only after the fact by brief written reports. Thus efforts to explore alternative treatment methods have not been exhausted; indeed they have hardly been commenced. On this showing the practice of fettering inmates in closed cells is both cruel and unnecessarily so.

The practices of taking inmates' clothing while in solitary and keeping them in unheated cells with open windows in the winter have been disapproved in *Wright* v. *McMann*, *supra*. Such penalties, which work to degrade an inmate by denying him any of the sources of human dignity and imperil his health as well, are cruel and unusual. The Court recognises, as pointed out by the prison authorities, that recalcitrant inmates may well, and undoubtedly do, break windows deliberately—nevertheless this conduct can surely be punished by a method less likely to endanger the health of the inmate. See also, *Anderson* v. *Nosser*, 438 F. 2d 183 (5th Cir. 1971). The Court will permit an inmate to be kept nude in his cell only when a doctor states in writing that the inmate's health will not thereby be affected and that the inmate persents a substantial risk of injuring himself if given garments.

The instances of chaining, denial of clothing, and exposure to cold have, on the evidence, not been everyday occurrences. New regulations in Guideline 800 also purport to outlaw some of these practices. Nevertheless injunctive relief seems appropriate for the reason that in the past punishments of this sort have been inflicted by guards acting alone. Administrators, in other words, have not been in complete control of their subordinates. There is no particular reason to believe that this situation is being remedied. See *Landman* v. *Peyton, supra*. Only injunctive relief will adequately protect the plaintiff class.

On occasion prisoners in solitary confinement have been deprived of their mattresses and blankets as punishment for misconduct. The new guidelines authorise this to be done to punish "destructive behavior." In the past this has been done for such offenses as noisemaking, as in Moon's case. The penalty is undoubtedly harsh, but the Court is not persuaded that it is cruel and unusual. There is no evidence that it had a substantial effect upon anyone's health. If the cell is otherwise clean, and well heated, and the prisoner keeps his clothing, it should not be detrimental. Other cases holding solitary confinement, which included a denial of bedding, cruel and unusual generally included the element of unsanitary conditions. See *Wright* v. *McMann*, *supra*, 321 F. Supp. at 139–41; *Knuckles* v. *Prasse*, 302 F. Supp. 1036, 1061–62 (E.D. Pa. 1969); *Hancock* v. *Avery*, 301 F. Supp. 786, 792 (M.D. Tenn. 1969); *Jordan* v. *Fitzharris*, 257 F. Supp. 674 (N.D. Calif. 1966).

The practice of crowding several men into a single "solitary" cell, however, must be condemned. Ware Edmond Thompson was held for twenty-four days in a meditation cell at Field Unit No. 7. When first "jailed," he was put in a one-man cell with six or seven others. All had apparently refused to work in cold weather, but there is no evidence that any threatened violence. Thompson was taken briefly to a solitary cell at another camp, but then for some reason he was returned to Unit 7 and kept for a further two weeks in a cell with three other men. Three men slept on two mattresses, and the fourth

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slept in one corner with his feet stretched over the others. They were also denied the usual Bible to read. Several administrators stated that more than one man should be put into a solitary cell only if emergency conditions required it. In Thompson's case, however, no such justification is shown. Clearly if a number of men had earned a term in meditation, the authorities had the capacity to distribute them among various penal units. The crowding is thus shown unnecessary and takes on a vindictive aspect.

Cases involving overcrowding in prison cells have generally included aggravating conditions such as denial of clothing, unhygienic conditions, and other abuses. *Anderson* v. *Nosser, supra; Knuckles* v. *Prasse, supra.* Here there is no sign that health was in fact jeopardized. *Anderson* and *Knuckles* concerned conditions that prevailed for less than three days. Four men here were penned like animals in a small cell, designed for one, for fourteen days without respite. Lack of space made sleeping very difficult. If confined men retain any claim at all to human dignity, they cannot be needlessly so dealt with for such long periods of time. The system's new guidelines provide that superintendents shall "proceed to alleviate [excess occupancy] as promptly as possible." Again, in view of the system's past difficulties in securing compliance with its regulations at lower levels, the Court shall enjoin extended, unnecessary confinement in solitary cells of more men than the cell was meant to hold.

Tear gas has also been used to silence noisy, misbehaving men while confined to their cells. Thomas Jefferson was gassed three times, and others have been gassed in their cells at the penitentiary. The problem of dealing with convicts who persist in disturbing entire cell blocks and inciting others to join in the disorder is a real one. The Court has not found any instances of gassing men in cells who were not currently disruptive. Yet the use of gas to disable a man physically who poses no present physical threat constitutes a form of corporal punishment, the use of which in such a situation is generally disapproved. Undoubtedly it is effective, but it is painful, and its abuse is difficult to forestall. The problem appears to arise because there appears to be no way to isolate a misbehaving inmate to an area where his rantings will not disturb anyone. This difficulty is, however, one of the system's own creation. If chaining a man to his bars, punishing him with a strap, and other corporal punishment should be enjoyed, *Jackson* v. *Bishop supra*, this Court cannot make a principled distinction which would permit the use of tear gas to punish or control the nonthreatening inmate.

There was evidence, furthermore, that some inmates were not permitted to shower during extended stays in solitary. Relief on this score will be denied because there is no proof that at such times they were also denied the necessary sanitary items so that they might wash in their cells.

The Court would not enter upon a review of the procedural aspects of prison discipline were there a lack of evidence in this case that discipline had been imposed upon men guilty of no infraction. Unfortunately, there is credible evidence to the contrary. Many of the prisoner witnesses, who testified that they were placed in solitary cells or lost certain privileges, readily admitted that they had disrupted legitimate prison functions. Others, however, just as plainly were penalized for communicating with courts or lawyers in a fashion that might not be punished, for protected litigation activities, for offenses that simply had not occurred, or on the basis of unfounded suspicion. In other cases the reasons men were punished cannot be determined with certainty; had more explicit procedural directions been followed in such cases there might well be no question now. These factors distinguish this case from *Sostre* v. *McGinnis, supra*, where the evidence did not disclose a pattern of due process violations, and from such cases as *Burns* v. *Swenson*, 430 F. 2d 771 (8th Cir. 1970), and *Courtney* v. *Bishop*, 409 F. 2d 1185 (8th Cir. 1969), where procedural faults did not work to deny any fundamental rights.

Still, matter for preliminary inquiry is whether this Court ought to consider any claim of unlawful denial of good time credit prior to the exhaustion of state court remedies. The general rule is that the 1971 Civil Rights Act, 42 U.S.C. § 1983, will not serve as substitute for the federal habeas corpus remedy, such that one might avoid the exhaustion requirement by invoking the former. *Brigham* v. *McGinnis*, —— F. Supp. ——, 9 Cr. L. Rptr. 2050 (2d Cir., Mar. 16, 1971). So stated, the rule begs the question: When must a claim be presented in habeas?

Recent caselaw has expanded the scope of federal habeas corpus, so that the writ is available to achieve relief other than immediate release. See, *e.g., Peyton* v. *Rowe*, 391 U.S. 54 (1968). In consequence it has been said that "[i]nsofar as one attacks only the state computation of sentence-service, and not the validity of the entire sentence, habeas corpus is still the proper remedy in those exceptional cases where the state's computation of service of a sentence presents a federal question." *Schiro* v. *Peyton*, No. 13,086, *mem. decis.* (4th Cir. Dec. 23, 1968).

In a sense, of course, any claim of violation of a prisoner's constitutional rights amounts to an allegation that he is "in custody in violation of the Constitution . . . ," 28 U.S.C. § 2254(a). Still it has long been clear that many such claims, whether or not they might have been raised in a habeas case, see Developments in the Law—Federal Habeas Corpus, 83 Harvard L. Rev. 1038, 1079–87 (1970), are nonetheless properly presented in a civil suit in equity.[1] Prevailing precedent in this Circuit permits claims that good behavior time has been arbitrarily denied, and that injunctive relief is therefore owing, to be litigated in § 1983 action, and indeed disapproves the use of habeas corpus. *Roberts* v. *Penelew*, 313 F. 2d 548 (4th Cir. 1963). If the scope of habeas has since expanded, see *Johnson* v. *Avery, supra; Peyton* v. *Rowe, supra*, there is nonetheless no reason to assume that the ambit of § 1983 has thereby *pro tanto* contracted. Other circuits as well have dealt with "good time" claims under the Civil Rights Act. *United States ex rel. Campbell* v. *Pate*, 401 F. 2d 55 (7th Cir. 1968); *Douglas* v. *Sigler*, 386 F. 2d 684 (8th Cir. 1967). The rule of *Rodriguez* v. *McGinnis, supra*, does not prevail in this Circuit.

Whether certain procedural prerequisites are required before intraprison discipline is imposed is governed by conventional due process standards, adapted as may be necessary to the prison environment. The argument that the right to be free of the substantial restraints of solitary confinement, "padlock," or maximum security segregation or to earn statutory "good time" are matters of mere legislative or administrative grace fails in the face of current constitutional doctrine.

The constitutional challenge cannot be answered by an argument that public assistance benefits are "a 'privilege' and not a 'right.'" *Shapiro* v. *Thompson*, 394 U.S. 618, 627 n. 6 (1969). Relevant constitutional restraints apply as much to the withdrawal of public assistance benefits as to disqualification for unemployment compensation, *Sherbert* v. *Verner*, 374 U.S. 398 (1963); or to denial of a tax exemption, *Speiser* v. *Randall*, 357 U.S. 513 (1958); or to discharge from public employment, *Slochower* v. *Board of Higher Education*, 350 U.S. 551 (1956). The extent to which procedural due process must be afforded the recipient is influenced by the extent to which he may be "condemned to suffer grievous loss," *Joint Anti-Fascist Refugee Committee* v. *McGrath*, 341 U.S. 123, 168 (1951) (Frankfurter, J., concurring) and depends upon whether the recipient's interest in avoiding that loss outweighs the governmental interest in summary adjudication. Accordingly, as we said in *Cafeteria & Restaurant Workers Union* v. *McElroy*, 367 U.S. 886, 895 (1961), "consideration of what procedures due process may require under any given set of circumstances must begin with a determination of the precise nature of the governmental function involved as well as of the private interest that has been affected by governmental action." See also, *Hannah* v. *Larche*, 363 U.S. 420, 440, 442 (1960). *Goldberg* v. *Kelly*, 397 U.S. 254, 262–63 (1970); see also, *Caulder* v. *Durham Housing Authority*, 433 F. 2d 998 (4th Cir. 1970).

Our Court of Appeals has given effect to this principle in a closely related area, that of parole revocation. *Bearden* v. *South Carolina*, No. 14,079, —— F. 2d —— (4th Cir. June 10, 1971). The court there required, at a minimum, notice of allegations said to amount to noncompliance with parole conditions, and an opportunity for a hearing at which one might present witnesses. The Fourth Circuit has also expressed concern over the lack of certain due process elements in the Penitentiary, which lack may bring about the arbitrariness that the due process clause forbids. In *Landman* v. *Peyton, supra*, the court took note that the entrusting of disciplinary matters to guards, so that contact between prisoners and administrators is seldom made, invites capricious and partial decision making. *Id.*, 141.

In dictum, the Second Circuit has recognized the requirement of procedural fairness:

> We would not lightly condone the absence of such basic safeguards against arbitrariness as adequate notice, an opportunity for the prisoner to reply to charges lodged against him, and a reasonable investigation into the relevant facts—at least in cases of substantial discipline. *Sostre* v. *McGinnis, supra.*

That case has been followed in this Circuit in *Bundy* v. *Cannon*, —— F. Supp. ——, 9 Cr. L. Rptr. 2254 (D. Md., May 26, 1971), where the court required procedural safeguards prior to withholding of good time credit, transfer to maximum security, and solitary confinement.

Similar possible penalties were found sufficiently grievous in *Clutchette* v. *Procunier*, —— F. Supp. ——, 9 Cr. L Rptr. 2291 (N.D. Cal., June 21, 1971), to require notice, hearing before an impartial tribunal, confrontation, the presentation of witnesses, counsel or a substitute, and written factfindings. See also, *Nolan* v. *Scafati*, 430 F. 2d 548 (1st Cir. 1970); *Meola* v. *Fitzpatrick*, —— F. Supp. ——, 8 Cr. L. Rptr. 2404 (D. Mass., Feb. 2, 1971); *Carothers* v. *Follette, supra; Kritsky* v. *McGinnis*, 313 F. Supp. 1247 (N.D. N.Y. 1970); *Morris* v. *Travisono*, 310 F. Supp. 857 (D.R.I. 1970).

As directed in *Cafeteria Workers, supra*, the Court must identify and analyze the precise nature of the individual interest at stake and compare it with the purpose and function of the governmental body. See also, *Hannah* v. *Larche, supra*, 440–53. The disciplinary function fulfilled in the decision to place a man in solitary confinement, to deny good time credit, to "padlock" him in his cell involuntarily, or to impose the substantial disabilities of maximum security confinement, adjudicates the question of a substantial deprivation or grievous injury. Whether cast in terms of a finding of unfitness to circulate in the general population or seen as a determination of guilt, the decision to place a man under greater than usual restraint is founded upon a finding of noncompliance with general prison standards. Cf. *Goldberg* v. *Kelly, supra*. The effort to depict "C" cell and the like as a rehabilitative facility, usable at the penal authority's discretion, is unsuccessful. See *Howard* v. *Smyth, supra.*

The individual interest at stake is obvious—the avoidance of severe punishment. The privileges at stake are substantial. A man in solitary confinement is denied all human intercourse and any means of diversion. Padlock confinement isolates the individual as well from his fellows. Maximum security confinement is a lesser penalty, but like the others it interrupts a prisoner's efforts at rehabilitation and curtails many recreational activities. Loss of good time credit may in effect amount to an additional prison sentence. On the other hand, the effect on a man in prison of a further sixty day term may be less than the effect of a sixty day jail term on a free man. The prisoner, one assumes, has already suffered loss of his job and damage to his reputation, and his family ceased to rely upon him, when he was convicted, whereas the free man may find these interests imperiled by even a short sentence. The losses which ensue from a prison disciplinary action may not be as lasting as the employment opportunities at stake in *Greene* v. *McElroy*, 360 U.S. 474 (1959) and *Willner* v. *Committee On Character and Fitness*, 373 U.S. 96 (1963). At the same time deprivation may be momentarily as telling as the loss of financial support or housing which were treated in *Goldberg* and *Caulder*.

A proper consideration is the effect that the introduction of procedural safeguards may have on legitimate prison functions both within and without the ambit of discipline. The security of a population confined against its will in close quarters is a prime concern. Moreover, administrators must have a certain leeway in allocating scarce resources available for rehabilitative purposes. The speed with which misbehavior is punished may rightly be considered essential to its effectiveness. Administrators with many nondisciplinary duties must not be sidetracked from their tasks. Minor on-the-spot exactions for minor offenses may well be deemed necessary to keep order effectively; it is not only major regulations, after all, that must be enforced.

However, to say that individual rights may be sacrificed to custodial or rehabilitative necessity is not to state that courts will not inquire as to the need for such sacrifices and the reality of the claimed benefits. *In re Gault, supra*, 17–31.

In these adjudicatory proceedings the Court concludes that certain due process rights are both necessary and will not unduly impede legitimate prison functions.

First, the decision to punish must be made by an impartial tribunal. This bars any official who reported a violation from ruling. *Goldberg* v. *Kelly, supra*, 271; *Escalera* v. *New York City Housing Authority*, 425 F. 2d 853, 863 (2d Cir. 1970). A substantial question arises whether field unit officials can ever so divorce themselves from events in their small units sufficiently to sit impartially. The Court has not been shown that this is impossible, but in any individual case participation in occurrences giving rise to a charge shall bar any man from sitting in judgment. There appears to be no reason to require that the disciplinary board be composed of any specific number of individuals. Each member of a panel must, however, be free of prior involvement with the incident under examination so that he may settle the case on the basis of the evidence at the hearing.

Second, there shall be a hearing. Disposition of charges on the basis of written reports is insufficient. Prisoners are not as a class highly educated men, nor is assistance readily available. If they are forced to present their evidence in writing, moreover, they will be in many cases unable to anticipate the evidence adduced against them. "Particularly where credibility and veracity are at issue . . . written submissions are a wholly unsatisfactory basis for decision." *Goldberg* v. *Kelly, supra*, 269. Necessarily a hearing encompasses the right to present evidence in defense, including the testimony of voluntary witnesses.

A hearing must be preceded by notice in writing of the substance of the factual charge of misconduct. Only with written notice can a prisoner prepare to meet claims and insist that the hearing be kept within bounds. *In re Gault, supra*, 33. A reasonable interval to prepare a defense must be allowed as well, but the Court declines to fix any definite period. Rather whether a trial has been too speedy must be determined on a case-by-case basis.

Cross-examination of adverse witnesses likewise is necessary. The Court appreciates the concern of prison officials that interrogation by prisoners of the guard force may be at variance with their ordinary respective positions in the penal hierarchy. Because most disciplinary cases will turn on issues of fact, however, the right to confront and cross-examine witnesses is essential. *Escalera* v. *New York City Housing Authority, supra*, 862. It is, however, well within the power of the disciplinary official or tribunal to restrict questioning to relevant matters, to preserve decorum, and to limit repetition.

Fundamental to due process is that the ultimate decision be based upon evidence presented at the hearing, which the prisoner has the opportunity to refute. *Goldberg* v. *Kelly, supra*, 271; *Escalera* v. *New York City Housing Authority, supra*, 862–63. "To demonstrate compliance with this elementary requirement, the decision maker should state the reasons for his determination and indicate the evidence he relied on," *Goldberg* v. *Kelly, supra*, 271. To permit punishment to be imposed for reasons not presented and aired would invite arbitrariness and nullify the right to notice and hearing.

The Court will not require an appellate procedure. However, if higher authorities than the disciplinary committee feel duty bound to re-examine decision, their review must be restricted to the charge made and the evidence presented. The practice of going outside the record in search of bases for punishment must cease. "It is as much a violation of due process to send an accused to prison following conviction of a charge on which he was never tried as it would be to convict him upon a charge that was never made." *Cole* v. *Arkansas*, 333 U.S. 196 (1948).

In addition, for the reason that the evidence shows that some inmates are unfortunately intellectually unable to represent themselves in discipline hearings, the tribunal should permit a prisoner to select a lay adviser to present his case. This may be either a member of the noncustodial staff or another inmate, serving on a voluntary basis. See *Bundy* v. *Cannon, supra.* Notice of charges shall include the information that such assistance is available.

In other instances where proceedings may result in the loss of substantial rights, the right to representation by counsel has been considered an essential element of due process. "Counsel can help delineate the issues, present the factual contentions in an orderly manner, conduct cross-examination, and generally safeguard the interests of the recipient." *Goldberg* v. *Kelly, supra*, 270; see *Caulder* v. *Durham Housing Authority, supra*, 1004. Following *Bearden* v. *South Carolina*, No. 14,079, —— F. 2d —— (4th Cir. June 10, 1971), it seems that there is no requirement that the state provide legal aid. However, where substantial sanctions are possible and the assistance of counsel may be of benefit, retained counsel is necessary to protect the factfinding and adjudication process unless there is shown some "compelling governmental interest in summary adjudication," *Caulder* v. *Durham Housing Authority, supra*, 1004 n. 3, the fulfillment of which is inconsistent with the right to retained counsel. Cf. *Brown* v. *Peyton, supra*, 1231. The state has not endeavored to do so, other than by testimony that the presence of counsel might turn the hearing into a "hassle." The Court does not accept this speculation as well-founded. Experience with *pro se* trial litigants indicates that the contrary is more likely true. On the other hand, the Court has observed that prison officials legitimately desire to conduct disciplinary proceedings speedily. Therefore a prisoner who desires to secure counsel for hearing may be required to notify the committee of that fact, and postponement of the hearing to secure counsel may reasonably be limited to four days.

These minimum due process standards are necessary when solitary confinement, transfer to maximum security confinement, or loss of good time are imposed, or a prisoner is held in padlock confinement more than ten days.

The imposition of the minor fines disclosed by the evidence, for example, or, hypothetically, loss of commissary rights, restriction of individual recreational privileges, or padlocking for less than ten days, do not require this panoply of guaranties. The right to be represented by another may be omitted. Written notice may be dispensed with, and appellate review need not be formally conducted. The Court will only require verbal notice and the opportunity for a hearing before an impartial decision maker, with a chance to cross-examine the complaining officer and to present testimony in defense. As always, however, procedural formality may not shield arbitrary action. Impartiality and a chance to air the facts may be expected to prevent arbitrary action as well as the good faith factual errors which the Court has observed in the record.

Few of the opinions to date on prison discipline treat in depth the real problem of vagueness in institutional regulations. The evidence, however, shows that the purposes of the constitutional requirement of reasonable specificity—fair warning so that one may conform to the rules, and exactness so that arbitrary penalties or penalties for protected conduct will not be imposed—have been ill-served by the rules enforced against Virginia prisoners. Particularly in a situation where the safeguard of public trial is absent, cf. *McKeiver* v. *Pennsylvania*, —— U.S. ——, 39 U.S.L.W. 4777, 4786, (June 21, 1971) (Brennan, J., concurring and dissenting), and necessarily so, other procedural safeguards against arbitrariness should not be slighted. *Morris* v. *Travisono, supra*, 861, notes the seriousness of the problem, but does not resolve it. *Talley* v. *Stephens*, 247 F. Supp. 683 (E.D. Ark. 1965), required in cases of corporal punishment that recognizable standards of conduct be set. Likewise it is settled that imprisonment does not remove a prisoner's right to be free from arbitrary sanctions. *Landman* v. *Peyton, supra.* The Constitution requires even of minor criminal laws that they give in advance fair notice of forbidden acts. *Palmer* v. *City of Euclid*, —— U.S. ——, 39 U.S.L.W. 4612 (May 24, 1971); *Bouie* v. *City of Columbia*, 378 U.S. 347 (1964). Virginia prisoners have been penalized for such ill-defined offenses as "misbehavior" and "agitation." Recent amendments to discipline procedure have not sharpened the outlines of these offenses.

[1] See, *e.g., McDonough* v. *Director*, 429 F. 2d 1189 (4th Cir. 1970); *Blanks* v. *Cunningham*, 409 F. 2d 220 (4th Cir. 1969); *Jackson* v. *Godwin*, 400 F. 2d 529 (5th Cir. 1968); *Abernathy* v. *Cunningham*, 393 F. 2d 775 (4th Cir. 1968); *Arey* v. *Peytor*, 378 F. 2d 930 (4th Cir. 1967); *Landman* v. *Peyton*, 370 F. 2d 135 (4th Cir. 1966); *Howard* v. *Smyth*, 365 F. 2d 428 (4th Cir. 1966); *Coleman* v. *Peyton*, 362 F. 2d 905 (4th Cir.), *cert. denied*, 385 U.S. 905 (1966); *Rivers* v. *Royster*, 360 F. 2d 592 (4th Cir. 1966); *Edwards* v. *Duncan*, 355 F. 2d 993 (4th Cir. 1966); *Fircus* v. *Director*, 331 F. 2d 613 (4th Cir. 1965; *Childs* v. *Pegelow*, 321 F. 2d 487 (4th Cir. 1963), *cert. denied* 376 U.S. 932 (1964); *Roberts* v. *Pegelow*, 313 F. 2d 548 (4th Cir. 1963); *Sevell* v. *Pegelow*, 291 F. 2d 196 (4th Cir. 1961).

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On the other hand, existing regulations governing maximum security facilities, which are in the record, demonstrate that the prison authorities are capable of phrasing their requirements with reasonable specificity. The Court does not imply approval of all of those rules; they show, however, that the authorities themselves believe in the practical value and feasibility of rules. See also the disciplinary code reproduced in *Bundy* v. *Cannon, supra.*

To recanvass the full range of justifications for the vagueness doctrine would unduly prolong this opinion. For useful commentary, see *McGautha* v. *California*, —— U.S. ——, 39 U.S.L.W. 4529, 4542-62 (May 3, 1971) (Brennan, J., dissenting); *Soglin* v. *Kaufman*, 418 F. 2d 163 (7th Cir. 1969). In the prison context these considerations argue for application of the requirement:

1. At least in Virginia, where discipline has been used to suppress litigation efforts, the need exists to establish in advance, to avoid a chilling effect, the limits of administrators' power.

2. Like other elements of due process, prior notice of standards of behavior enhances the prisoner's sense of fair treatment and contributes to rehabilitation. See *In re Gault, supra.*

3. Equal treatment of similar conduct—at least to the extent of recording offenses, if not in penalties—will be more certain with fixed rules.

4. The ingredient, in vagueness law, of something like a doctrine forbidding delegation of legislative powers is essential in prison, where the risk of arbitrary action by lower officials is great.

5. The need for judicial review of prison disciplinary actions may greatly decrease in the future if violations of existing rules can be shown.

6. Prison life is highly routine; it therefore ought not to be difficult to establish in advance reasonably clear rules as to expected behavior. Automatic compliance may be expected of many.

7. Specificity has been required in the academic sphere, where administrators likewise are not specialists in legislation.

8. Severe sanctions may result in prison; the greater the individual loss, the higher the requirements of due process.

Countervailing considerations deserve mention:

1. Life is complex in prison as well as outside, and all forms of misbehavior cannot be anticipated. Some may go unpunished for want of a rule.

2. Administrators ought not to be put to the choice of foregoing discipline in such cases or resorting to the ordinary criminal process, for flexibility may work to the benefit of the institution and the inmates as well.

3. Legalistic wrangling over whether a rule was broken may visibly undermine the administration's position of total authority, necessary for security's sake.

4. Prisoners, unlike free men, must well know that they are considered potentially dangerous men and must expect to be highly regimented. In such cases the law requires less in the way of notice, and places a greater burden on the individual to make inquiry or ask permission before acting. Cf. *United States* v. *International Minerals & Chemical Corp.*, —— U.S. ——, 39 U.S.L.W. 4650 (June 1, 1971).

The objections to the application of some vagueness principle may all be met simply by relaxing the standard somewhat in deference to the state's legitimate needs, rather than by abandoning it. The Court concludes, therefore, that the existence of some reasonably definite rule is a prerequisite to prison discipline of any substantial sort. Regulations must in addition be distributed, posted, or otherwise made available in writing to inmates. Discussion here will be confined to those bases for punishment disclosed in the evidence.

"Misbehavior" or "misconduct," for which for example, Jefferson and Scott were penalized, offers no reasonable guidance to an inmate, *Giaccio* v. *Pennsylvania*, 382 U.S. 399 (1966), whereas it leaves the administrator irresponsible to any standard. Penalties may not be imposed on this ground.

"Agitation" appears to encompass discussing litigation with other prisoners, assisting them in litigation, or advising them as to the law It also includes, as is apparent from Thompson's case, complaining to the authorities, and according to Cunningham, it may include the giving of incorrect legal advice Prison authorities may legitimately fear the incitement of rule violations and the interruption of orderly activities, and may punish men who engage in such conduct. However, the ban on "agitation" at once gives no fair warning that certain conduct is punishable and, in practice, includes the rendition of legal advice and the preparation of legal pleadings, protected activities.

On the other hand, the Court is not persuaded that the offenses of "insolence," "harassment," and "insubordination," directed against custodial or administrative personnel, are unduly vague. This is not to say, however, that in a given case the imposition of sanctions on such grounds may not be found arbitrary if not based on evidence.

The evidence has shown as well certain instances of the imposition of penalties for constitutionally protected activities. The law by now should be clear that whereas prison officials may reasonably regulate the preparation of legal pleadings in service of valid state interests, they may not prohibit or punish inmates for conducting litigation of their own or for rendering assistance to other inmates, in the absence of any other adequate source of legal aid. *Johnson* v. *Avery, supra; Ex parte Hull, supra; Nolan* v. *Scafati, supra; Gittlemacker* v. *Prasse*, 428 F. 2d 1 (3d Cir. 1970); *Blanks* v. *Cunningham supra; Landman* v. *Peyton, supra; Coleman* v. *Peyton, supra; Edwards* v. *Duncan, supra; Meola* v. *Fitzpatrick, supra.* These rights have been construed to extend to prisoners desiring to sue under the Civil Rights Act, *Nolan* v. *Scafati, supra; Blanks* v. *Cunningham, supra.* There is also a corollary right to communicate for the purposes of enlisting an attorney's aid. *McDonald* v. *Director, supra.* The evidence as to procedural irregularities makes it unnecessary to analyze in depth how these rights have been abridged in disciplinary proceedings according to the evidence. Nevertheless express findings of fact have been made as to each instance in which such abuses were disclosed, for the sake of a complete record.

The exercise of the right to contest confinement or punishment has also been restricted by less sophisticated means. Landman and Hood were transferred to the Penitentiary from lower security institutions. Arey was kept in maximum security for many months, and some of his letters to attorneys simply were not mailed. Hood's correspondence with counsel was intercepted and copied. Landman and Johnson were explicitly told to refrain from filing complaints or, in Landman's case, doing so for others. Landman's papers too have been taken or destroyed. Mason was kept in "C" cell as retribution for his successful desegregation suit.

In addition, for many years persons held in meditation could not file suits or write to counsel. Counsel have suggested that recently this prohibition has been lifted. In view of the difficulty, which the Court has mentioned before, which administrators have experienced in securing compliance with regulations by subordinates, and the tardiness of changes in regulations, injunctive relief is nonetheless due. *Lankford* v. *Gelston*, 364 F. 2d 197, 208 (4th Cir. 1966); *Rakes* v. *Coleman*, 318 F. Supp. 181 (E.D. Va. 1970).

Arey's attempts to communicate with a state legislator likewise deserves relief, on the evidence. The Court can conceive no interest that the State's executive arm might have in keeping whatever information penitentiary inmates may have out of the hands of lawmakers. Compare *New York Times Co.* v. *United States*, —— U.S. ——, 39 U.S.L.W. 4879 (June 30, 1971). No witness has suggested one. Interruption of mail to public officials infringes upon the first amendment rights of prisoners and likewise the right of legislators to be informed. *Palmigiano* v. *Travisono*, 317 F. Supp. 776, 786 (D.R.I. 1970). An injunction shall issue as to this practice.

Appropriate relief for the class shall look both to past and to future violations. Damages are not at issue in this instant proceeding. The Court shall direct that all good time lost as a result of hearings conducted without compliance with the standards set forth herein be restored, with leave to retry those punished within a reasonable time. Those confined in padlocked or solitary cells likewise shall be released, subject to retrial. Men reasonably thought dangerous may be detained apart from the general population pending their hearings. Inmates in "C" cell and other maximum security units shall be afforded hearings on the derelictions which gave rise to their incarceration within thirty days or shall be released to the general population. Injunctive relief shall likewise be granted as to those practices deemed cruel and unusual or violative of other constitutional rights.

Rehabilitative treatment, to repeat, constitutes no talismanic state interest which will justify any exactions from individual prisoners. In this case the state officials have candidly not attempted to make it so; the word rarely was spoken in the course of the trial. Partly because they failed to assert the necessity for current disciplinary procedures for the sake of rehabilitation, the Court has presumed to intrude as it has into the workings of the system.

For the time may come in the future when substantial reasons for depriving men of various liberties, to the end that their behavior may be amended, may be presented. "Prison authorities have a legitimate interest in the rehabilitation of prisoners, and may legitimately restrict freedoms in order to further this interest, where a coherent, consistently-applied program of rehabilitation exists." *Brown* v. *Peyton, supra*, 1231. At such time the best justification for the hands-off doctrine will appear. While courts by definition are expert in the field of quasi-criminal procedures, their knowledge of the administration of programs that educate and change men may rightly be questioned. Likewise, it may be imagined that judicial intervention or formal administrative procedures might be positively harmful to some rehabilitative efforts.

This is not to say, of course, that courts should then abandon the individual. However, where the state supports its interest in certain practices by demonstrating a substantial hope of success, deference may be owing, and courts may tend to find certain rights, now protected by conventional procedures, implicitly limited while a man is incarcerated.

ROBERT H. MERHIGE, Jr.,
U.S. District Judge.

Date: October 30, 1971.

TRADE: TOO MUCH OF A GOOD THING

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BOLLING. Mr. Speaker, the following article by Richard Ablin presents a point of view too little considered in current discussions of international trade. The article appeared in the Wall Street Journal of November 10. It follows:

[From the Wall Street Journal, Nov. 10, 1971]

TRADE: TOO MUCH OF A GOOD THING

(By Richard Ablin)

It is commonly overlooked in current discussion of the so-called international monetary crisis that the stakes are at least as high for the trade surplus nations as for the deficit nations. More precisely, they are much higher.

That this is overlooked is a classic example of the fallacies of composition that have continuously plagued the field of international trade since at least the merchantilist times of the 17th and 18th centuries. More sales are always good for an individual businessman or exporter, ergo more exports are always good for a nation.

But trade can thrive only in a state of balance. A nation can increase its exports indefinitely only by increasing its total imports at about the same rate. Otherwise where will foreign countries get the additional currency needed to purchase its exports? If the exporting nation accepts the currency of the importer or of some third country (e.g. the dollar) it will inevitably find itself in a ridiculous position. Since it will be earning steadily more foreign currency than it spends for imports it will simply be heaping up indefinitely larger reserves of foreign currency.

What on earth for? Is it in the interest of a nation, after it has provided itself with a reasonable liquid reserve against emergencies, to go on converting the labor and capital of its people into an endlessly growing heap of foreign currency (or even foreign time deposits paying low interest)? What this means is simply that part of the increased product of its people cannot redound to their benefit in the form of higher real wages and other incomes and higher living standards. In effect, the people of such a curiously managed economy produce more and more only to save more and more so that the fruits of their growing productivity can be enjoyed as higher living standards by the people of importing countries overseas.

SOME ARE 'SITTING PRETTY'

The nations on the other side of this unbalanced trade, on the other hand, are in a real sense sitting pretty. They experience a growing "import surplus"—imports larger than and growing faster than exports. For the extra imports, which contribute directly to their real living standards, they pay, not in sweat and real wealth, but by exporting pieces of paper or, even more simply, entries in a bank account.

Well, then, why, if the export surplus country is in a fundamentally ridiculous position, and the import surplus country in a very convenient one, does the pressure for an end to the trade imbalance generally come from the latter?

This is unfortunately very simple to answer as well. It is merely another example of the political and psychological supremacy of concentrated producer interests over much larger but diffused consumer interest. The industries in direct competition with the undervalued exports of the surplus country protest loudly and vociferously. Since the benefits of the under pricing of imports are spread almost evenly over the entire population and represent only a very small fraction of their total real income, they do not react with anything like the same furor.

By the same token, the "exploited" population of the surplus country—Japan, for example—hardly notices its marginal loss of real income due to the exclusion of a larger and larger export surplus from domestic market supplies (thus keeping prices higher than they otherwise would be), while the export industries of the surplus country are keenly alive to any threat to their continued expansion.

So we see the pathology of a long-engrained trade imbalance under fixed exchange rates. The trouble obviously arises from the long persistence of the tendency toward undervaluation of one currency and overvaluation of the other. This has led industries to adopt to an unhealthy resource allocation, creating the vested special interests that resist disturbance. The fact is that a reduction of export profitability in the surplus country would not mean the end of sales but a reorientation of some resources and sales toward the home market. Of course, such a process cannot proceed without friction. Each export firm would redirect some sales to the home market and some export-oriented firms would naturally suffer losses or even bankruptcy. More will imagine that they face such losses and so the resistance to a change in the exchange rate will be intense. It is quite a natural trait for men (and firms) to fight harder to resist retreat or ruin than to obtain windfall gains or extra prosperity.

This all explains clearly enough the resistance of special interests to socially beneficial change. It does not excuse the governments of these countries for paying more attention to such pressures than to the obvious general interest. Perhaps, however, it should lead us to expect that the governments which, by maintaining excessively rigid exchange rates, are responsible for the disequilibrium in the first place, would pay some attention to the problems of those who stand to lose because of the need finally to remove it. They can do this in two ways, by moving toward equilibrium gradually rather than abruptly, or by compensating the obvious losers for their worst losses.

The first point militates against the attitude expressed by Treasury Secretary Connally with his demand for a $13 billion turnabout in the U.S. trade balance. Here is the representative of a power that has permitted the gradual development of disequilibrium not over 2 or 3 years, but over 15 years, during which time industries world-wide could be fully adapted to the overvaluation of the U.S. dollar, demanding that the imbalance be eliminated in one coup. Worse still, since we cannot really know the "turnabout" in U.S. trade appropriate to present market forces without an extended period of free flotation of the dollar—without capital export restrictions or import surcharges—the insistence on measures that will bring about a particular change may just as well reverse the disequilibrium as end it.

AN EQUITABLE SOLUTION

The second alternative suggests the best, most economical and equitable solution. Let currencies float freely to their true equilibrium rates so that the public need not be deprived of the full benefit of an early return to equilibrium. And let governments in formerly surplus countries seek to remove the sting by paying special temporary compensation to export industries and, perhaps, to industries particularly dependent upon imported inputs in formerly deficit countries. Such compensation should of course, be related not to the quantity of continued exports, but to the capital losses suffered by the investors (and workers) who have specialized in the affected industries.

But however refined the policy adopted toward sectorial losses in a correction of the disequilibrium, by no means should we accept the tacit reversal of basic national interest so commonly seen in journalism and governmental statements alike. It is pre-eminently the interest of the surplus countries to end the absurdity of a persistent imbalance. By no means should the U.S. or the deficit country adopt a belligerent or extreme tone in order to browbeat the surplus countries into appropriate action—and this is the image that the U.S. has apparently begun to project. If not "benign neglect," a gentle prod is all that makes any sense. The surplus countries will finally stop intervening in foreign currency markets to keep at least a part of the dollar's overvaluation when they finally tire of accumulating absurdly large reserves of inconvertible dollars.

The danger of the present U.S. tone is that, by giving the impression that we are the one most interested in a sharp reversal of the present situation we shall wrongly convince other countries that they are expected to sacrifice something significant or even vital merely for our benefit. Nothing could more greatly stimulate nationalist obstinacy abroad. And this is an exact reversal of the true state of affairs. The surplus countries stand to gain the most from a return to balanced growth in trade. We are actually being a little altruistic even to prod them in this direction.

HIGHER EDUCATION BILLS ARE ON THE WRONG TRACK

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. MICHEL. Mr. Speaker, as one of the 38 House Members voting against the higher education bill a few days ago, I was interested to see the following article in a recent edition of the Chicago Sun Times. The author, D. J. R. Bruckner, terms the House bill destructive, and warns that—

Congress at last seems about to find a way to wipe out variety and excellence in higher education at the same time.

I commend the article to the attention of my colleagues:

HIGHER EDUCATION BILLS ARE ON THE WRONG TRACK

(By D. J. R. Bruckner)

NEW YORK.—The search has been long, but Congress at last seems about to find a way to wipe out variety and excellence in higher education at the same time. The House higher education bill is more destructive than the one voted by the Senate, but perhaps a conference committee will agree on all the worst features of both and dissipate the rich intellectual heritage of the United States with a single measure.

The Senate bill actually had some good features. Most of the money it would make available would go into grants to students; it would give special support to graduate students, and it would give money to institutions in proportion to the number of students in each one receiving federal grants. That system of aid would tend to distort the balance and limit the freedom of a university, but not disastrously.

However, it included an ingenious device of mischief that the House did not get into its bill: a special fund to be used by the Office of the Commissioner of Education to promote innovation and experiment in universities and colleges. Evidently the principle is: Grab them by their greed and the educators will wreck their own institutions without any outside help.

On the whole, the House is a better vandal. Its bill would allocate two-thirds of its funds strictly on a per capita basis. It provides a little padding of the formula to give an extra buck or two to small institutions, but in general it would simply enrich the big ones. Payments would go to the institutions rather than the students, which ought to encourage them to grow like mad.

In a fit of sanity, the House voted down a pernicious section that would have denied funds to any institution the government thought was not giving males and females

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an equal chance. For some reason, the section, as proposed, would have exempted church-affiliated institutions, possibly on the grounds that faith justifies chauvinism. The House will have another chance to resurrect this one.

Hundreds of universities and colleges are in serious financial trouble. They need help. But Congress is rushing into this crisis without sufficient consideration of what education is, might be, or should be. It seems to think of higher education as a kind of resource supply and service industry. Higher education will meet all needs, correct all wrongs, open all doors, improve all people's fortunes, eliminate all physical differences, end all discrimination, enlighten all ignorance and triumph over all evil. American mediocrity will then become superior to any mediocrity known in history.

There are 3,000 institutions of what is called higher education in the United States. A few of them are places of learning. Is there any reason to think that America could afford the commitment of resources needed to make them all places of excellence? Their present financial condition is evidence to the contrary. Three hundred, maybe. But only maybe. And is the society so rigidly controlled and so unimaginative that it can think of no access to life and dignity except the academic portal?

Unless the question of access to higher education is decided first, the attempts by the federal government to fund that education will, in the long run, destroy both standards and variety in learning. A recognition of this priority would not be politically embarrassing to any member of Congress or any administration, if they did not make it so.

The people of the United States are not ignorant of the value of a group of learned people, nor are they so silly as to think that intellectual excellence is a group experience. They are not going to be offended if the political leadership of America recognizes that excellence is essentially discriminatory; even if all people were equally bright, all people cannot do everything at the same time. The politics of spreading the money around is phony; it is an ignoble response to the lobbying of the institutions themselves.

If present trends continue, many of the smaller private colleges will probably be absorbed into state systems. That would not be a bad development, especially if the states would allow them to continue being different. And, if the states need financial help for their institutions, it would be much the safest method to give it to them as part of general revenue sharing.

Finally, if the federal government gives aid to private institutions, there are reasonable means of doing this. One is to give direct grants, without strings, to students, allowing universities to assess more realistic tuitions and fees, and leaving them with their freedom. Or, if the government insists on giving money directly to institutions, then it should face the fact that some are better than others, that there is great variety in the educational institutions, and that grants have to be tailored according to some judgment about the worth of the recipient.

Given the complexity and cost of the enterprise, could Americans establish some of the great private institutions of the United States today? I suspect Americans could not; the task would be beyond the United States. Americans ought to be very careful about preserving them, then, and very cautious.

PHOSPHATES IN DETERGENTS

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BOB WILSON. Mr. Speaker, many Americans have found themselves in a quandry trying to analyze and assimilate the mass of conflicting testimony on the dangers to our environment caused by phosphates in detergents. Several congressional committees are currently considering the problem. Two months ago, the administration cast some much-needed light on the controversy in announcing that eutrophication due to phosphates is a problem only in a limited number of areas and that the Environmental Protection Agency will study and identify those bodies of water which have a eutrophication problem due to phosphates. In the meantime, a warning has been issued to the public on the hazards of the untested products which have hastily appeared on the market in the wake of the phosphate controversy. Howard J. Morgens, the president of Procter & Gamble Co., in an address delivered in October before the annual meeting of the company's shareholders in Cincinnati presented an excellent case history of the phosphate controversy and the myriad complexities in which it has become enmeshed. I know my House colleagues will find his comments of interest and insert his speech at this point:

PHOSPHATES IN DETERGENTS

(By Howard J. Morgens)

The story of phosphates in relation to detergents, the environment and public health represents an interesting case history of how confusion and misunderstanding can sweep the country.

It started in 1967 when a federal agency said that phosphates were "polluting" the lakes and should be removed from detergents. This statement was based on quite inadequate information and without any understanding at all of the alternatives.

The country accepted this well-intentioned but ill-considered statement as gospel. The word spread like wildfire. Many segments of the press and a number of politicians fanned the flames. Some state and local governments leaped to legislate against phosphate detergents. Opportunistic manufacturers rushed to sell non-phosphate detergents without anything approaching adequate testing. It became the fashion in certain circles to talk emotionally about detergents "choking the life out of our rivers and streams" and "murdering or poisoning our lakes."

Since those first days, however, the subject of phosphates and eutrophication has received a great deal of quiet study by independent scientists across the land—by medical, environmental and sanitation authorities and by men who have spent their lives studying algae and the chemistry of fresh water lakes. More than fifty of these independent scientists submitted testimony last spring to the Federal Trade Commission. Since then, many others have testified before local and state organizations. We cannot say that all scientists agree on this subject; indeed, it may be impossible ever to get all scientists to agree on anything. However, the overwhelming majority of the scientists who came forward used their specialized knowledge to oppose irrational actions and attitudes in regard to phosphates in detergents. This ground swell of independent scientific opinion was well under way before the Federal Government began to change its views.

Since those early days also, the subject of phosphates and eutrophication probably has received more study by all branches of the Federal Government involved with public health and the environment than any other health-environmental subject has ever received. These various departments of the government have recently united to take a new stand based upon new knowledge.

On September 15, 1971, the Federal Government issued a statement attempting to give the country a clear direction for dealing with this complex problem. The Council on Environmental Quality, the Department of Health, Education and Welfare, and the Environmental Protection Agency all joined forces to urge people to continue to use detergents containing phosphates. They asked state and local governments to reconsider any laws they may have passed against them.

However, we have not yet come full circle. Once people have expressed themselves publicly on an issue of this kind, they find it difficult to reverse their position regardless of the facts. Many of those people who rushed blindly to accept the original statement of one branch of one Federal agency now refuse to accept the considered and combined view of all the Federal departments concerned with public health and the environment. Confusion in the public mind still exists. It is hoped that this statement will explain how all this confusion came to pass.

It began with a desire to do something about the eutrophication of lakes—a process which is marked by an excessive growth of algae.

The men in the Federal Government who originally considered this problem of eutrophication started by recognizing that some 15 or 20 chemicals nourish the growth of algae. These same chemicals, of course, nourish the growth of all life—yours and mine—all human, animal and plant life whether on land or in water. These 15 or 20 nutrients include carbon, nitrogen, phosphorus, calcium, iron, sodium, potassium and many others. If any one of these nutrients is eliminated completely, we die. Every living cell of either plants or animals requires all of them.

These same men decided that if they could "control" any one of these 15 or 20 nutrients, they could control the growth of algae. They decided rather arbitrarily that phosphorus was the most "controllable." Because it was considered the most controllable nutrient phosphorus was labeled a *pollutant*. Then the finger was pointed at detergents because they contained phosphates, and the detergents became in the public eye a pollutant. The public thinks of something that pollutes the water as something nasty, dirty, or vile. When the term is applied to either phosphates or detergents, nothing could be further from the truth.

A few key facts were either overlooked or discovered later.

First of all, it came to be recognized that the vast majority of homes in the United States can use detergents containing phosphates without in any way contributing to eutrophication or in any other way harming the environment.

No one knows today exactly how large this vast majority of homes is. Outstanding independent scientists testified before the Federal Trade Commission that 85% of the homes in the country can use phosphate detergents without having any adverse effect upon the nation's waters. In answering questions at a press conference on September 15, an Administration spokesman said that from 70 to 85% of the homes did not contribute to eutrophication by using phosphate detergents. Mr. Russell E. Train, Chairman of the President's Council on Environmental Quality, in his letter to the Federal Trade Commission dated September 22, 1971, said on this point that ". . . phosphates are not the limiting nutrient, and hence a pollution problem, for a number of communities and in certain important types of water bodies. Phosphates are rarely the limiting nutrient in salt waters and rapidly flowing rivers."

The fact is that eutrophication is a problem only in shallow slow moving bodies of water. Most of those homes which discharge their sewage into septic tanks draining into the earth make no contribution to eutrophication by using phosphate detergents because in most areas of the country the earth forms an effective barrier to phosphate penetration. *All* those homes in municipalities whose sewage treatment facilities discharge their effluent into the oceans or into rivers that eventually flow into the oceans cannot contribute to eutrophication. Remember that the only attack on phosphates in detergents that has ever been made is that they contribute to eutrophication. It is difficult to escape the arithmetic which says that some 80 to 85% of the homes in this country cannot harm the environment by using detergents containing phosphates.

Secondly, it has been learned that, even in those limited areas of the country where eutrophication is a problem, phosphates are not always the villain.

It is difficult for anyone today to make a definite statement of fact on this point also because almost every lake has a different water chemistry. In some lakes, carbon or carbonates can be the critical element. In others nitrogen can be the limiting factor. There are lakes with very high phosphate content that show no sign of eutrophication. There are lakes with very low phosphate content with heavy algae growth.

Phosphates can help to nourish the growth of plant life in a lake only when they are present in proper combination with all other nutrients. If what we eat or drink contains too many phosphates, our bodies absorb only what is needed. Similarly, if a lake contains more phosphates than can be used in proper combination with all other nutrents in that lake, those excess phosphates can't nourish the growth of algae or other plant life. Phosphates by themselves do not cause eutrophication in any body of water.

The Administrator of the Environmental Protection Agency announced on September 15 that a study would be made by his agency to identify those bodies of water that have a eutrophication problem *due to phosphates!* Such a study is badly needed because there is a great lack of knowledge on this point.

Thirdly, even after the Government identifies those lakes which have a eutrophication problem due to phosphates, there is an increasing question about whether the problem in those lakes can be "controlled" by the elimination of phosphates from detergents alone.

In other words, if phosphates are in fact more "controllable" than the 15 or 20 other nutrients, what must be done to achieve that control?

There are many sources of phosphates other than detergents. All human waste, all animal waste, all agricultural run-off contain phosphates. Leaves that fall, trees and shrubs and weeds that die all produce phosphates that flow into our lakes in the run-off of surface waters from the land. Within the lakes themselves, all fish and plant life produce phosphates when they die.

Thus, algae can be a problem in farm ponds and lakes that are never exposed to detergents. Algae was a problem in Lake Erie long before the advent of detergents. When the white man first discovered Green Bay, it was so named because of the algae on its surface.

The Environmental Protection Agency has stated that once it identifies those lakes which have a eutrophication problem *due to phosphates* it will help the communities which border those lakes to control the problem through better sewage treatment plants. Such sewage treatment can remove 85% to 90% of the phosphates from municipal sewage along with many other nutrients that nourish the growth of algae. This is the only sound way to control the problem.

Here again in recent months a great deal has been learned about the removal of phosphates and other nutrients by means of sewage treatment. Testimony before the House of Representatives' Committee on Public Works last month revealed that technology has been developed, and is available now, to remove phosphates from sewage and other waste water in an efficient manner in today's existing waste water treatment plants. It further revealed that this technology can, right now, be rapidly and inexpensively implemented. Technically, almost all present sewage disposal plants could be made to remove phosphates in a period of months rather than years. The Environmental Protection Agency is currently sponsoring a demonstration project in the City of Grand Rapids, Michigan, where this technology is being used. Thus, here again, the Government has developed new knowledge on this subject.

In summary, 80% to 85% of the homes in this country cannot harm the environment by using detergents containing phosphates. Even if all detergents containing phosphates were eliminated from the remaining 15% to 20% of the homes, there is no assurance, and certainly no proof, that this step alone would have any significant effect upon eutrophication problems. There is a need to identify those lakes in which phosphates—as opposed to some other nutrient—may be the cause of a eutrophication problem and the Environmental Protection Agency is now doing this. In those lakes in which eutrophication exists due to phosphates, improved sewage treatment may be the best and, indeed, the only answer to the problem, and this answer can be applied rapidly and inexpensively to existing sewage treatment plants.

Another very compelling fact, of course, is that there are no safe materials that can be satisfactorily substituted for phosphates in laundry detergents in the United States at this time. Procter & Gamble is convinced that NTA is a safe alternative to phosphates but we have agreed, at the request of Federal agencies, to delay using it in this country until further testing has been completed. As far as other alternatives are concerned, the United States Government—after many months of study—has now spoken repeatedly and quite emphatically about them. On September 15 the Surgeon General and the head of the Food and Drug Administration again warned of the dangers of most *non*-phosphate detergents now being sold in this country, saying that the labeling of these products as "hazardous substances" may not be sufficient warning. Detergents are, after all, in quite a different category from hazardous products like drain cleaners due to the volume of detergents used in the home, their frequency of use, the many rooms in the home in which they are used and stored, and the fact that for generations they have been symbols of safety.

There are, of course, two types of *non*-phosphate detergents. There are those that are safe but just won't get dirty clothes clean and these account for about 15% of all non-phosphate detergents sold. Then there are those that rely on highly alkaline and corrosive materials for what cleaning power they have and these account for an estimated 85% of all non-phosphate detergents moving to the consumer today. Procter & Gamble could easily make either type of these products—and improve its profits in so doing—but we have consistently stated our conviction that this would not be a responsible thing for us to do.

However, the fact that *non*-phosphate detergents can be dangerous to people should not be used to disguise the errors in previously taken positions about detergents which contain phosphates. Neither should the hazardous nature of most *non*-phosphate products be used to hide the new understanding about the very limited role which phosphate detergents play in the eutrophication problems of the country.

This does not mean that we should not continue to learn more about eutrophication and about excess algae wherever they may exist and about the best method of solving these localized problems. Procter & Gamble, for one, will continue to work intensively to develop sound alternatives to phosphates in detergents and to prove their safety both to the environment and to people. When we have developed such products and proven their safety, they will be made available to the public promptly.

AEC COMMISSIONER WILLIAM O. DOUB LAYS IT ON THE LINE

HON. ORVAL HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. HANSEN of Idaho. Mr. Speaker one of the most important and forthright statements indicating the new directions that the Atomic Energy Commission is likely to take in the licensing and regulation of nuclear powerplants was made recently by one of its newest members, William O. Doub. In addressing a meeting of the Atomic Industrial Forum in Miami, Fla., last month, Commissioner Doub discussed some of the factors that have contributed to delays in licensing nuclear powerplants and some steps that can be taken by the Commission and by the industry to deal with the problem while protecting the right of the public to participate in the decisionmaking process.

Commissioner Doub is uniquely qualified to speak on this subject. He brings to his assignment on the Commission a wealth of background in the field of utility regulation. Prior to his appointment to the Commission in August, he served as chairman of the Maryland State Public Service Commission.

Mr. Speaker, I include as part of my remarks the text of Commissioner Doub's speech to the Atomic Industrial Forum:

"THE RIGHT TO BE HEARD"—LAYING IT ON THE LINE

(Remarks by William O. Doub)

It is a distinct honor and pleasure for me to be here today. The Forum brings together an unusually stimulating and perceptive segment of the nuclear community, and I look forward to meeting many of you personally.

The topic for your symposium session is "The Crisis in the Licensing and Regulation of Nuclear Power Plants." While there may be divergent viewpoints as to the aptness of the word "crisis" for describing the present situation, there is an undeniable and widely shared concern as to the ability of the nuclear licensing process to cope with the demands which are being placed upon it—a problem to which I am devoting a substantial amount of my time together with my fellow Commissioners.

At a time when the Nation is demanding more electrical power and when nuclear facilities are being called upon to meet a constantly mounting share of that energy demand, we have been encountering varing—and frankly untenable—delays in completing the licensing consideration of nuclear power plants.

There is, to be sure, a complex mix of factors which enter into the overall "delay" picture. A full survey of these matters is plainly not feasible within the scope of my brief remarks this afternoon. Instead, following the enjoinder to "particularize," which I hope will soon become the hallmark of our licensing hearings, I am going to focus on one element in this mix, that of public participation in decision-making on nuclear plant siting, construction, and operation. This is not to imply that other important

parts of the regulatory program are not receiving vigorous review, and I intend to comment briefly on some of these aspects also.

So that there will be no mistaking the guiding premise in my approach to this subject, let me state my basic and fundamental belief at the outset. In my judgment there are sound practical and social reasons why the public properly claims and is afforded the right to be heard in our licensing proceedings. Public participation is a cornerstone of administrative law and is an inherent and necessary factor in the regulatory processes of a public agency such as the Atomic Energy Commission. As far as I am concerned, this right of the public to be heard is non-negotiable and should not be the subject of time-consuming debate. For in the final analysis, it is the public which derives the very real benefits from the safe operation of well designed and constructed nuclear power plants and which must as a corollary of that benefit shoulder the associated environmental costs.

I recognize that many thoughtful observers are disquieted by the fact that the systematic environmental inquiry, which is an integral part of the nuclear licensing process, is singularly absent (at least at the Federal level) when it comes to the construction of fossil-fueled plants which concededly have appreciable environmental consequences of their own. Some environmentalist and other concerned groups are seeking to fill this "gap," using legislation such as the National Environmental Policy Act (NEPA) to require broad-gauged environmental reviews in individual cases, like that of the Four Corners project in the Southwest. More broadly, power plant siting legislation now pending in the Congress would provide a national structure for thermal plant environmental reviews on an across-the-board basis.

But whatever the future may hold in the non-nuclear sphere, in the nuclear area we are presently operating within the demanding framework of existing law, and of court decisions applying that law. The Calvert Cliffs decision,[1] regardless of individual personal opinions as to its merits, leaves no doubt as to its "holding" and I believe that the AEC is being responsive to its clear definition of the agency's responsibilities under NEPA. Nuclear plants are now subject to a plenary environmental review prior to the issuance of a construction permit—and then again before operation—and at each stage affected segments of the public have the legal right to be heard in a quasi-judicial proceeding.

Of course, as I am continually discovering, stating these obvious requirements is one thing; translating them into a viable regulatory process—one which keeps step with a dynamic technology and equally dynamic social patterns—is quite another matter. And nowhere is this more evident than with the hearing phase of the process. We are confronted today with formidable problems in restructuring our hearing procedures so as to meet not only our obligation to the participating public but also our responsibility to the general public—a responsibility to arrive at sound decisions in a timely fashion. This present broad-gauged AEC responsibility demands a total in-depth review of the AEC licensing program with equal attention to the past approach of industry intervenors, and the utilities in the process. My initial reaction—which is more than just an impression—is that there is need for considerable improvement across the board.

The dimensions of problems are reflected in the increasingly lengthy proceedings which we are seeing in plant licensing. In some instances, hearing times are beginning to be measured in years—not simply weeks or even months. Parenthetically, as we all know, the time factor between the filing of an application and the granting of a construction permit or operating license has been increasing in recent years on the average of something in excess of 20% annually. And a look to the future, with the additional review responsibilities stemming from the *Calvert Cliffs* decision, serves only to underline the potential scope and the seriousness of these matters.

What are some ways that the hearing procedures and the actual conduct of the hearings can be improved? This is the focus of our attention this afternoon.

In approaching the matter, I should like to put to one side the legislative proposals affecting plant siting—nuclear and otherwise—now before the Congress. We have, whatever their outcome, an independent administrative obligation to act now with the means we presently possess.

Moreover, I am not disposed to be pessimistic about the possibilities for substantial progress through changes which are within our present capabilities: changes which build on concepts which have been subjected to intensive reexamination in recent months by the Commission. I would like to share with you some of these possibilities this afternoon. While the majority of my suggestions—particularly the ones for procedural change—are within the domain of the AEC, before I conclude these remarks I should like to discuss several suggestions for changes which the industry itself might undertake and also some observations for those environmental groups which have taken an active interest in our licensing proceedings.

Let me turn first to the licensing hearing itself the ground rules under which it is conducted, and the role—and responsibilities—of the respective parties in a contested proceeding.

I see no inconsistency between active public participation in the decision-making process and the legal prerequisite that this participation take place in a reasonably ordered manner. Indeed, if it cannot, the concept of public participation will be on a collision course with another concept—that of the necessity for the administrative process to permit decision-making on a basis timely enough to serve vital public needs.

I am not willing to concede that there is any inherent incompatibility between these two concepts. Hearings, of course, take time; but agencies, like courts, are not without means to so structure a proceeding as to accomplish its purpose with the maximum possible dispatch. The Commission recently issued proposed amendments to its procedural guidelines (Appendix A to Part 2) which were designed to take account of the fact that reactor licensing had passed from an era of essentially uncontested hearings, where public education was a primary function of the licensing proceeding, to one of contested hearings, where the settlement of disputed matters was the central purpose of our adjudicatory process.

The recent *Calvert Cliffs* decision clearly called for a reexamination of the matters dealt with in those proposed guidelines; and we are now in the process of recasting them—as well as some of the basic procedural rules in Part 2 itself—to take account of *Calvert Cliffs* and also of suggestions received from industry, environmental groups, and some further thoughts of our own. I might add that we expect shortly to complete a new draft issuance of Part 2 and its appendix and that we plan to discuss our proposals with representatives of industry and environmental organizations and to assess their further comments prior to adoption of new procedures.

As to our present thinking, let me outline briefly some of the procedural changes we are considering. Functionally, these changes are built around two objectives, which I view as being mutually complementary: First, to provide for earlier public participation in licensing proceedings, within a context of maximum and convenient public access to facility licensing information and, second, to demand a sharper focus on matters which are actually in controversy, and a greater discipline in dealing with those matters, during the hearing phase of the licensing proceeding.

To be more specific about the direction the thoughts of some of us are taking:

In the sphere of earlier public participation, consideration is being given to allowing intervention in licensing proceedings at a much earlier point in time than is now permitted—even under our early notice procedure. This is a step which some environmentalists have been urging the AEC to take to facilitate public participation and to expedite the conduct of the later hearing—and I believe it makes sense.

As a correlative step, we would plan to assure that the application and all of its amendments, the staff-applicant correspondence, the safety review and NEPA documentation and the like, would be conveniently accessible to the public as they become available from the date of the filing of the application onward. We have just recently moved in this area by establishing a public document room at each site locality.

As an additional measure in pursuit of this objective, we are considering liberalizing further our rules dealing with availability of AEC records by eliminating certain of the present privilege exemptions for internal documents. This would not only broaden information access to the public—desirable in and of itself—but could also appreciably lessen the time loss involved in licensing proceedings through protracted arguments over document production.

Early, readily available access to all of the foregoing information, and a forthright approach in the manner and attitude of applicants with regard to the production of information—about which I'll say more in a moment—could make early intervention a highly useful step. It is painfully apparent to me that a considerable, and to a large degree unnecessary, amount of time is expended by concerned parties in simply trying to acquire what I believe should be readily available information regarding the proposed plant.

Let me add one further thought on the matter of early public participation. I can well understand the concern—if not the sense of frustration—of local citizens and civic and environmentally minded groups who observe site preparation and construction to grade of a proposed plant prior to an opportunity to be heard. I believe constructive steps are needed to come to grips with this problem, and we will be giving this additional attention.

Turning to the matter of providing a sharper focus and a more orderly process for the contested hearing, we are looking at the following steps:

Early identification of the issues to be considered in operating license hearings and restriction of testimony to those matters which are actually in controversy;

Greater utilization of the prehearing mechanism for the purpose of showing substantiality of issues both in construction permit and operating license proceedings, as a prerequisite to the raising of radiological safety or NEPA contentions;

Greater utilization of prehearing conferences and procedures to better define and narrow controverted issues and to deal with related discovery matters; and

Recognition of the authority of the licensing boards to impose limitations, where appropriate, on the time within which a hearing or any part of it may be completed. This last point, as some of you will recall, is in line with the provisions of our revised NEPA regulations in Appendix D to Part 50.

I believe, moreover, that our procedures should contain some express recognition of the role which can properly be played by party settlements of disputed matters in contested licensing procedures. Settlement by mutual agreement of all parties is an accepted aspect of judicial proceedings and, as a practical matter, it is an essential ingredient in day-to-day business and personal affairs. There are sound public interest considerations for encouraging this kind of settlement of disputed matters in our licensing procedings and our procedures should not only reflect this but also provide mechanisms which take account of productive party settlement efforts.

Beyond these and other measures which might be adopted, a cardinal objective on our part will be to set the tone for the conduct of hearings by our presiding officers—a tone which while demanding recognition of legitimate party rights would also require the shouldering of corresponding responsibilities. The boards would be urged in this regard to use the tools given them by our rules and in principal accepted by the courts as precepts of effective administrative law—for control of prehearing and hearing schedules, for preventing abuse of discovery mechanisms and for maintaining rein over hearing examination and cross-examination—to move the parties to completion of the decisional record as expeditiously as possible consistent with the right of all parties to be heard.

Having said all this, I want to emphasize that a licensing hearing is obviously not an opportunity for a free-for-all nor is it a Hyde Park where unlimited oratory can be practiced. Such a hearing functions—or should function—within reasonably defined sensible and logical rules. Intervenors, equally with the staff and applicant, must be required to respect the rights of all participants. Hearing boards are obligated to consider all timely presented, relevant evidence, but should not unduly accord special privileges to any one participant. In practical terms and putting it bluntly, this means that no one has the right nor should be permitted to use a hearing simply as a device to delay a decision on construction or operation of a plant.

In advancing these suggestions, I would not want to appear the pollyanna or to profess to believe that licensing miracles can be wrought with these or any other rules changes. But I do believe that earlier, informed, public participation can only help the licensing process; and, further, that such participation provides the most viable framework for subsequent adherence to firm procedural groundrules.

As to the efficacy of those groundrules, we must, of course, recognize their practical, and proper, limits. We do know, however, that our country's judicial system has been able to achieve similar goals within the framework of procedural rules roughly parallel to our own; and I know from my own experience as People's Counsel before, and then as Chairman of the Maryland Public Service Commission, that fair and well-defined rules administered by tough, impartial and fair-minded hearing officers can do a great deal to move a proceeding forward to its conclusion.

I promised earlier that I would have a few thoughts regarding changes in approach on the part of the industry which could help in the amelioration of hearing delays.

At the outset, let me remind you that the hearing is only the capstone of an overall process which begins with utility planning and ends with governmental licensing. The public's disposition to raise contentions for governmental consideration at the relatively late adjudicatory stage is, more often than you may care to acknowledge, a byproduct of a utility-applicant's failure to do its "homework" with its constituency in the earlier phases of the process. In all too many cases a frustrated, confused, and often alarmed citizenry has no other recourse than to contest an application—if initially only to acquire information.

I am speaking now of early, open and full communication of utility plans for facility siting and construction. I recognize that some utilities have established a fairly impressive track record in this regard of late, and that others are improving on past performance. But we still see instances of plant construction plans that are disclosed relatively close to, if not contemporaneous with, the filing of governmental licensing requests. And we also know that public information programs, when they have been mounted—as they increasingly are these days—have ofttimes been found to be superficial by responsible environmental groups; and that some utilities may not be prepared to give these groups the hard information they are seeking. This old-line, close to the vest approach is a residual byproduct of a philosophy of managerial prerogatives that is not viable in an economy such as this where electricity plays such a significant role.

Moreover, the impact of delays that occur at the hearing stage cannot be divorced from events within a utility's control that occurred much earlier: less than adequate plans for load growth; indecisiveness in making basic determinations, such as whether to go fossil fuel or nuclear; woefully incomplete initial construction permit applications; failure to develop in-house quality assurance expertise; not pressing for licensing hearings as early as one might because of what may be termed "local resistance" factors. These are only the examples that most readily come to mind.

In another vein, the industry has quite rightly urged the Commission to utilize rulemaking for the establishment of generally applicable design and other standards, rather than leaving matters to *ad hoc* facility review and adjudication. The Commission has, in fact, been moving in this direction but our pace is in no small measure influenced by the degree of standardization which obtains among the equipment vendors and particularly the architect-engineers. Reading some of Craig Hosmer's comments in this year's Joint Committee hearings on the regulatory program, I am convinced that there is considerable room for improvement on this score. Whereas there appears to be a gradual and encouraging trend toward limiting the types of nuclear steam supply systems being offered by the vendors, the non-nuclear portions of the plants (by far the largest fraction of the investment made by the utilities) change from one plant to the next. In my own mind, this seems to be an unnecessarily expensive approach and there is no question that it complicates the regulatory process when the interaction between the nuclear and non-nuclear portion of each plant must be exhaustively studied in a safety context.

In terms of the hearing itself, the most useful step I could urge upon the utility-applicant is maximum openness with information in its possession. Proprietary information may present special problems but, with limited exceptions such as that, I frankly believe that a license applicant is best advised to make available to a requesting intervenor the greatest amount of information possible. And I include within the "availability" category information which may only be arguably relevant. The hearing boards, after all, will ultimately determine the evidentiary admissibility of any information furnished. The dividends realized in enhanced communication—and in simple savings in hearing time—make this, to my thinking, the eminently sensible course.

Since I am being liberal with my advice today, it is only appropriate that I save a few words for the representatives of environmental organizations. I hope you will be frank and recognize that these organizations have been instrumental in rightfully bringing to light a national lack of concern about the environment. As a result, a striking and irreversible change in the outlook of policy makers has occurred and "concern for the environment" is no longer a catch phrase but a mandate that we must follow and enforce. As in most matters involving radical change, adaptation has been accompanied by the need to resolve practical as well as legal and administrative problems. For example, in the past, a primary complaint of a number of the environmentalists was the jurisdictional refusal of the AEC to consider the full environmental impact of proposed nuclear plant licensing actions. The grounds for that complaint went by the boards, so to speak, with the enactment of NEPA, the subsequent Calvert Cliffs decision and our recent procedures implementing that decision. We now have a system, and scope of review, which is truly unique insofar as environmental examination of industrial undertakings is concerned.

The basic question confronting us now is whether this system can be made to work in a fashion timely enough to serve essential public needs—or whether it will be overwhelmed, as some are fearful. I can only assume that it is in the best interest of environmentalists to help us make the new system work, as they have repeatedly stated in the past that it could be made to work. Responsible participation in our proceedings and a recognition of the practical limits of the new system—particularly at this early state—will be key elements in this regard.

I would hope also that the emotionalism which has marked the approach of some to the question of nuclear plant environmental impact will be tempered in the cold light of the NEPA review process. The Commission fully intends, as Chairman Schlesinger has stated, to be responsive to the conservation and environmental concerns of the public. But we would be serving no sound public purpose, and defeating NEPA's ends, if we were to deal with these matters other than through the process of dispassionate and balanced assessment.

CONCLUSION

Let me add a concluding observation on the licensing "crisis" we are examining this afternoon.

I harbor no illusions as to the magnitude of the task facing the Commission as we move forward into what, in a very real sense, is a new era of licensing responsibility. We are called upon to match the capabilities of a dynamic and complex technology to the urgent energy and environmental needs of the country, and to accomplish this within a legal and social framework which calls for the most sophisticated type of decision-making.

But meeting the challenge which changes poses is hardly a novel experience for either the Commission or you members of the nuclear community. The Commission's licensing program and the industry it covers never have been static. They are today the end-product of evolvement and of adaptation to the constantly changing circumstances of the past 15 or so years.

Without pretending to special insights—only a willingness to tackle the problems—I am cautiously optimistic for the future. We have available the talents of an unusually gifted group of people, both in the public and the private sectors, and the pressing needs of our country provide an unremitting reminder that we have no choice but to succeed.

[1] *Calvert Cliffs' Coordinating Committee, Inc., et al.* v. *United States Atomic Energy Commission, et al.* (Nos. 24,839 and 24,871, D.C. Cir., July 23, 1971).

FACTS AND MYTHS IN WORLD AFFAIRS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. CRANE. Mr. Speaker, there have for some time been many myths about world affairs and America's international role which have been given currency by spokesmen in the Congress, in the academic community, and in the mass media.

One of these myths is that America has been arrogant, even imperialistic, in its use of power. Such a charge, of course, overlooks the fact that at the end of World War II the United States was the only Nation in possession of the atomic bomb. Had we desired to do so, we could have imposed any kind of peace we chose upon the world.

Instead of imposing an American peace, we permitted communism to dominate the nations of Eastern Europe and to come to power in China. We assisted our former enemies, the Germans and the Japanese, to become free and prosperous. We ignored the construction of the Berlin wall, and the revolts in East Germany, Czechoslovakia, and Hungary. This may have all been foolish, even acting against self-interest. But it was hardly arrogant, or imperialistic. Still, despite the facts, these false charges are heard with increasing frequency.

Many other myths are also being heard. One is that the cold war is over and that communism has changed its goal of world domination. Recently, the distinguished journalist, Edgar Answel Mowrer, now retired and living in New Hampshire, discussed what he called the facts versus the myths of foreign policy.

To the statement that communism has really changed and that the cold war is over, Mr. Mowrer writes:

Within the USSR, Red China and even Red Cuba, the Cold War has never been so much alive. Communist leaders admit this. Western democrats refuse to believe they mean what they say.

To the charge that recent events in Southeast Asia have proven the domino theory to be invalid, Mr. Mowrer states that:

To the contrary, North Vietnam's military determination has already helped Communism in Thailand, Burma and India—with no end in sight.

I wish to share Mr. Mowrer's thoughts with my colleagues, and insert his analysis into the RECORD at this time:

A LONG VIEW OF FACTS VERSUS MYTHS

(EDITOR'S NOTE.—A former foreign correspondent and syndicated newspaper columnist, Edgar Ansel Mowrer has viewed the U.S. and its relations with the rest of the world close-up for half a century. Now retired and living in New Hampshire, he occasionally writes on world events as he sees them. In this report, Mowrer discusses what he calls the "facts" versus the "myths" of foreign policy.)

(By Edgar Ansel Mowrer)

Myth: "The Cold War is over."

Fact: Within the USSR, Red China and even Red Cuba, the Cold War has never been so much alive. Communist leaders admit this. Western democrats refuse to believe they mean what they say.

Myth: "The United States is fighting in Vietnam primarily to keep South Vietnam democratic—and obviously failing."

Fact: Americans are fighting in Vietnam to prevent the spread of a totalitarian system that aims at subjugating the entire world—that is, in defense of their national interest.

Myth: "Events are proving Eisenhower's 'domino theory' of Communist expansion in Southeast Asia an illusion."

Fact: To the contrary, North Vietnam's military determination has already helped Communism in Thailand, Burma and India—with no end in sight.

Myth: "The war in Vietnam has revealed the limits of American power."

Fact: Untrue. The United States *could* have won the war in six months and perhaps eliminated the regime in North Vietnam in the process had it not refrained from using all possible weapons—through fear of provoking the Soviet Union.

Myth: "The Vietnam war is really just a police action."

Fact: Only because neither the Kennedy nor the Johnson Administrations realized how hard it is for a democracy to support the restrictions inherent in an undeclared war. Had either secured a proper declaration from Congress, the American people's attitude toward the struggle in Vietnam would have been totally different. And how can you call a struggle in which some 50,000 fine young Americans have died a "police action"?

Myth: "Former Secretary of Defense McNamara helped relax the Cold War by his acceptance of military parity with Moscow."

Fact: Nonsense. Such acceptance has not only nourished the Cold War but will, if not speedily reversed, sooner or later, lead either to a nuclear war or to the acceptance of a Soviet ultimatum by an American Administration.

Myth: "By trading with Red China, the democratic countries are increasing the rivalry between Peking and Moscow and strengthening democracy."

Fact: Only up to a point. Any strengthening of Communist countries encourages their common aggressivity. In a war against capitalist imperialism, they will cooperate—as Russia and Red China are doing in Vietnam.

STATE MAY FACE ELECTRIC, GAS SHORTAGES

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. HILLIS. Mr. Speaker, I would like to call the attention to Members of the House of the critical effects that face us as a result of the United Mine Workers' strike.

Unless this strike is soon ended, many Americans will be out of work.

I would like for the Members to read the following newspaper story which was published in the Indianapolis Star.

The article follows:

STATE MAY FACE ELECTRIC, GAS SHORTAGES

(By John S. Mason)

Hoosiers may face shortages of both electricity and natural gas this winter, W. W. Hill Jr., chairman of the Public Service Commission of Indiana, said yesterday.

The electric problem is caused by coal shortages at generating plants due to the United Mine Workers' strike, now in its fifth week.

The natural gas shortage, due to inadequate national supplies, is a greater long-term problem, Hill said.

If the coal strike continues, electric service cutbacks will occur before the end of the month, Hill said.

He will meet Wednesday with officials of electric utilities most seriously threatened by the coal shortage to discuss plans for possible service cutbacks.

Officials of Indianapolis Power and Light Company, Southern Indiana Gas and Electric Company and Public Service Indiana have indicated they will attend.

Some Public Service Indiana plants may have to cut back service in about two weeks if they do not receive additional coal, it was learned.

Underground supplies of coal are plentiful and only the strike threatens electric power supplies, Hill said.

The natural gas shortage stems from a lag in development of natural gas wells. This occurred because the Federal government long imposed a low price limit on natural gas, making well exploration and development unprofitable, Hill said.

In recent years the Federal government has allowed natural gas prices to increase, making well exploration profitable enough to attract investment.

Vaughn C. Beaty, deputy chief engineer of the PSC's accounting and engineering department, said the cost of gas to the retailer increased an average of 11½ per cent between August, 1970 and August, 1971.

Seriousness of this winter's gas shortage will depend on how severe Indiana's winter weather is, he said. Most Indiana gas utilities use natural gas at least in part.

PSC and gas utility officials are working out plans for cutbacks in natural gas service.

The first plan, for Central Indiana Gas Company of Muncie, was approved by the commission earlier this week.

Under the Central Gas plan, first gas users to feel cutbacks would be "interruptible" customers, large industrial users who buy gas at reduced rates with the provision that continuous service is not guaranteed.

These users, who have alternate power sources available, can expect service cutbacks this winter, Beaty said.

Some industrial users who purchase gas on a constant supply basis also can expect service cutbacks, particularly if winter weather is severe, he said.

Large commercial store and similar users would be next on the cutback list.

Last service to be affected would be that provided residences, schools, hospitals and other "human needs," Beaty said.

However, the shortage is not expected to be severe enough to affect commercial or human needs users this winter, Beaty said.

One pipeline firm has informed its utility customers it will reduce the amount of natural gas it supplies by 3 to 6 per cent this winter.

"This is a sizable amount," Beaty said.

While "critical problems" are not expected, there will be more "curtailment of gas service" than in the past, Beaty said.

Development of new wells may ease the shortage problem within about two years, Beaty said.

However the shortage "could be a little worse" next winter, depending upon the speed with which new wells are put in service, Beaty said.

FOUNDING OF THE PERSIAN EMPIRE

HON. GRAHAM PURCELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. PURCELL. Mr. Speaker, last week the capable Ambassador of Iran, Dr. Amir Aslan Afshar, spoke before the 26th annual meeting of the Iran American Chamber of Commerce in New York.

On the occasion of the 2,500th anniversary of the founding of the Persian Empire it seems significant to me that, in the scope of things, the United States is a comparatively young nation. However significant the matters before the Congress might seem at this time, it is the context of history that the majority of all peoples destined to populate the earth will judge us. Let us legislate and couch our actions, Mr. Speaker, toward that end, as well as to answer the pressing problems of the present and immediate future.

We in the United States are fortunate to have such a capable Ambassador from Iran as Dr. Afshar. Because his speech so aptly illustrates the progress made under the Shahanshah Arymehr, in his "White Revolution," I commend it to my colleagues. As an outsider's opinion, the people of Iran are fortunate to have such a forward looking leader guiding Iran now what, we here can only hope, will be a prosperous and rewarding second 2,500 years.

The statement follows:

STATEMENT OF HIS EXCELLENCY, DR. AMIR ASLAN AFSHAR, AMBASSADOR OF IRAN TO THE UNITED STATES BEFORE THE 26TH ANNUAL MEETING OF THE IRAN AMERICAN CHAMBER OF COMMERCE IN NEW YORK ON NOV. 5, 1971

Your Excellency Ambassador Hoveyda, Mr. Miklos, Mr. Consul General, President Cross, Honorable Members of the Iran-American Chamber of Commerce and distinguished guests:

Let me first extend my thanks to Mr. Cross for his kind and warm introduction regarding myself and my country, I am greatly honored to have the privilege of addressing the 26th annual meeting of the Iran-American Chamber of Commerce, a forum which permits our two countries to engage in a continuing effort to strengthen our economic and commercial ties.

This year's annual meeting is especially significant because it coincides with the 2500th anniversary celebration of the founding of the Persian empire and the declaration of human rights which is being celebrated not only in our country but throughout the world. A nation draws strength from its history and on this occasion we pause to recall our great heritage stretching back thousands of years, but which is little known to some westerners. The late Dr. Arthur Pope, an eminent scholar who devoted his life to the study of Iran's cultural heritage and who now rests in peace in the country he loved and admired so much, put it most eloquently when he said:

"In western education, Perria has, since the days of Xenophon, been a blank page, or at most, a footnote to the history of ancient Greece. Yet, scholars now agree that the Iranian Plateau was probably the cradle, first of the human race and later of civilization itself. Independent considerations have led Sir Arthur Keith, Dr. Henry Field, and Professor Ellsworth Huntington, working separately, to the belief that man emerged as Homosapiens in the land of Persians. That this land and the adjoining regions in the Northwest produced the first civilized communities now seems certain to most scholars."

For sixty known centuries—some even say for 7,000 years—the Iranian Plateau has contributed ideas and techniques which have helped to sustain and humanize mankind, writing, numbers, the art of agriculture and of working metals, the sciences of astronomy and mathematics, the beginning of religions and philosophical thinking—these all come from the near east, and the fountain head of much near eastern culture was on the Iranian Plateau.

The 2500th anniversary celebration was also a celebration commemorating the emergence of a modern and dynamic Iran. The world witnessed a strong, viable, self-sufficient, prosperous nation standing as a bastion of freedom and democracy in the turbulent region of the Middle East. News media throughout the world focused on this aspect of the commemoration.

For example, one of this country's leading newspapers, the Christian Science Monitor, in a comprehensive article headlined, "prosperity, Vitality Mark Iran's 2500th Year," Summarized the prevailing view throughout the world by observing "Iran has become an Asian power commanding respect and admiration from its neighbors and the world's big powers alike." And the well known British publication, the economist, commented: "The Shah has put his message across: Iran is now a force to be reckoned with."

This was more than a national commemoration; it had international significance because the founding principles of the Persian empire were based on the declaration of human rights set forth by Cyrus the Great which included a rule of law based on morality, justice and equality. Her imperial highness, Princess Ashraf Pahlavi has recently presented for posterity a replica of the cylinder containing this declaration of human rights to the United Nations.

This momentous and unique occasion in history, brought to Iran world leaders from the corners of the globe who were able to meet in a congenial atmosphere free of tension, and exchange ideas which are proving to be of great value and significance. The fact that Iran could host such a distinguished gathering and marshal various sectors of the country together to achieve this noble goal indicates not only the pride, national spirit and unity of the people of Iran, but also the world-wide recognition of Iran's past and present contribution to world civilization.

The unity and pride of the Iranian people and their desire to show the world their new Iran is indicative of the results of the White Revolution led by my august sovereign, His Imperial Majesty the Shahanshah Aryamehr. The revolution was achieved without repressive tactics but, instead, was a positive, bloodless revolution of far-reaching consequences; hence it is known as the white revolution since it is being fashioned without the violence typically associated with such drastic changes. It was achieved, under the enlightened leadership of His Imperial Majesty—aptly called in a recent U.S. News & World Report article, a "king and revolutionary," a combination rarely found. He has blended modern technology, modern managerial concepts and a reordering of priorities for the benefit of all of the people.

Although time does not permit a full discourse on all aspects of the White Revolution, which I am sure are familiar to you, a few highlights should be mentioned. Iran has implemented a vast land reform program of such a magnitude that Iran's peasants now own their own land. The success of our land reform, one of the few of its kind successfully implemented, is widely recognized and admired throughout the world. A dedicated group of 75,000 youths have banded together to serve in the literacy corps throughout the country to teach all how to read and write and set an example for other countries in combating the illiteracy problem. Iran's goal for the 2,500th anniversary celebration was 2,500 new schools, but 3,000 have already been built from funds contributed by people of different walks of life. To maximize their efficient use, we nationalized our water resources and put our forests under public ownership. On the other hand, showing that we ascribe to no particular ideological dogma, state-owned industrial plants were sold to private corporations and industries. Iran has established profit sharing for factory workers. We have greatly improved our health services through the establishment of a public health corps. We have established universal women's suffrage. Now women have equal rights in all phases of Iranian life. We have women members of the lower house and the senate and a woman Minister of Education. Her Imperial Majesty Empress Farah, Shahbanou of Iran stands as a shining example of the role of women in Iran with her outstanding work in the arts and social welfare programs. We created village courts of equity where the farmer or townsman can get a fair hearing in minor grievances or disputes. The White Revolution—a revolution for all of the people which has gained the support of all the people—has thus brought even greater political stability to Iran.

As I am sure you sophisticated observers of economics and commerce are well aware, political stability breeds economic stability. Iran stands as a classic example of this rule. The facts speak for themselves. Per capita income, which was approximately $180 ten years ago, has almost doubled and now exceeds $350. The gross national product is expected to increase 11% this year, a growth rate second only to Japan. Foreign investment, always a good barometer of investment confidence of the world community, has risen to 1.3 billion dollars, of which $700 million is American capital.

These are the facts. But what is the story behind the facts? Basically we see an economy no longer entirely tied to oil but which has been diversified to include many industries such as petrochemicals, tires, pharmaceutical products, appliances, cars, machinery and other consumer goods. The constant traffic jam in Teheran caused by Iranian made automobiles attests to our progress in this area. Perhaps the harried pedestrian attempting to cross a main thoroughfare can take comfort in knowing that by diversifying our industries we in Iran now produce over 90% of our needs in consumer goods.

Just as our industries have diversified so have our exports, whereas in the past our exports traditionally were raw materials, and carpets, we are presently exporting finished goods such as clothing, shoes, transistors, television sets, air conditioning units and all kinds of electrical appliances, buses and automobiles in large quantities.

Although we have turned inward to revitalize our economy we have not abdicated our international responsibilities but in fact have taken a greater role in the council of nations. With the withdrawal of the British from the Persian Gulf at the end of the current year the role of Iran will be even greater in the future.

As a founding member of the United Nations, one of the cardinal principles of Iran's foreign policy has been respect for the charter of the United Nations and we have always adhered to the resolutions of this body.

Iran will fulfill its international responsibilities using the same simple principles it has always followed: A peaceful settlement of disputes, understanding of the problems of others, a support for efforts to maintain justice, cooperation to bridge the gap between the poor and the wealthy countries and cooperation to combat illiteracy. These principles have been exemplified in the peaceful solution set forth to the Bahrian principle which was lauded by U Thant of the United Nations as an example for the solution of international disputes. These have also been exemplified in the fruitful mediation undertaken by the Shahanshah of Iran between Pakistan and Afghanistan and between Pakistan and Malaysia which resulted in amicable settlement.

We live in peace with our neighbors as illustrated by our close cooperation with Turkey and Pakistan and our friendly relations

XUM

with the Soviet Union and Afghanistan. And, there is and has always been a cordial relationship between the United States and Iran, even prior to the emergence of this great country as a global power with immense international responsibilities. Both countries recognise the rights of individuals to pursue their freedom and both countries view government as a vehicle to bring a better life to their people. Iran is most grateful, and will never forget, the helping hand extended by America during the dark days following World War II; the United States will always maintain a warm spot in the hearts of every Iranian.

Iran and the United States have also been trading partners for many years and this Chamber of Commerce through its dedicated and distinguished members has played a significant role in strengthening not only economic and commercial ties between the United States and Iran but also in promoting friendship between our two countries. Last year you celebrated your twenty-fifth anniversary. I offer my congratulations and hope that you will one day celebrate your twenty fifth hundred anniversary.

Let me say that our energies in Iran are directed to the improvement of the lives of our people as well as making a positive contribution to world peace, stability and prosperity. We can achieve these goals by using technology and harnessing our resources in an organized and efficient manner. I think that it was most eloquently put by my august sovereign in his welcoming speech at the 2500th anniversary celebration which carried the theme that man's eternal and changeless nature is an effort toward perfection when he said:

"Each one of us must try as hard as possible, as much as circumstances allow, to turn the world into one of love, peace and cooperation for mankind, a world in which every person may enjoy the benefits of science and civilization."

Thank you very much—I have enjoyed being here tremendously.

THE SECOND MILE

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BROWN of Ohio. I am pleased at this time to place in the RECORD the full text of a recent sermon entitled, "The Second Mile" by Lowell Russell Ditzen, D.D., LL.D., L.H.D., Litt.D., which I wish to bring to the attention of my colleagues:

THE SECOND MILE

Text: ". . . whosoever shall compel thee to go a mile, go with him twain."—Matthew 5:14

Scripture: Matthew 5:33–48

The Bible is alive! It is contemporary!

The longer I read it the more I find myself present when first it came into being. The more vividly, too, do I find it speaking to us and to our times.

Let me give you an example. I have visited the land, as have some of you, where Jesus walked and where He spoke to His day and to eternity. Recently, reading again the Sermon on the Mount, the scene was before me. There came to me a picture of how one individual was affected by what was said on that occasion.

Though the multitude seemed welded into united attention as the Master spoke, one young man, who had recently seated himself on the hillside above Capernaum, seemed to be only partially listening. If you had watched him you would have been aware of a restlessness that came from deep within him.

His eyes roved. They took in the flower-jeweled hillside that curved down to the waters of Galilee. He looked intently for a moment at the gray-red escarpment on the opposite shore, above which rose the Syrian plain. His eyes, sharp with seeking, might even have noted, through the crystal air, the tip of Mount Hermon far to the north.

His body, naked to the waist, glistened with perspiration. Across his shoulders were raw, red bruises, as though he had just been freed from some heavy burden.

Someone, unknowing, might have asked, "Is he a slave?" But any native would have immediately answered, "No, no slave." The tunic tied loosely at his girdle was of too fine a fabric. The careful chiseling of his face and the independent set of his chin revealed a high-bred youth. If he were a slave, he had not long been subjected to serfdom.

Yet it was obvious, as you looked at him, that there was conflict in that man. His jaw was tense. His eyes smoldered with resentment, and the knuckles of his fists were white, as though anxious to strike a blow of retaliation or vindictiveness.

And why should it not have been so?

For, a few hours earlier, he had been on the road toward Magdalena, where it was his monthly custom to spend the day with the wisest man of the area, a great tutor and scholar. Nearing the place, he was accosted in the middle of the road by a Roman legionnaire, stumbling and groggy with his carousal of the night before. He obviously was being transferred from one barracks to another. The soldier roughly turned him about, tore his tunic down to his waist, and taking off the full burden of his impedimenta, lashed it firmly on the other's shoulders. Then he commanded huskily, "You know the law. Carry it now one mile."

The young man burned with anger at every step that he took. The thought of his grandfather's counsel that "as life requires us to do things, we must do them with patience and without resentment," was an old man's folly. He seethed at the century-long injustice, practiced by the ancient Persians centuries before, which legalized impelling the person or conveyance of a citizen to carry the goods or the messages of royalty or the conquering soldiers. Here he was, a man of refined tastes and affections, being required to act like a beast of burden.

Finally the irksome mile ended.

People were gathered on a hillside listening, apparently, to some itinerant preacher. Wearily he settled among them, trying to find in the scenery about him, in the impersonality of the situation, some release of the inner anger that ate at his heart.

Then the sound of that voice speaking, the quiet authority of the "rabboni," captured his attention. And he found himself increasingly alerted—with an electric intensity that began to shock out of his mind and system the dragging anger—as he heard these words: "You have heard it has been said, 'an eye for an eye and a tooth for a tooth,' but I say unto you, do not resist one who is evil. But if anyone strikes you on the right cheek, turn to him the left also."

He had never heard such daring, such unconventional words! The books of Exodus, Leviticus, Deuteronomy, all condoned the principle of retaliation—"an eye for an eye, a tooth for a tooth." Why, it was an old law as far back as Hammurabi!

And then he was taut with surprise and shock, like some woodland animal that has been pierced by the huntsman's arrow, as he heard the Teacher say *"And whoso shall compel thee to go one mile, go with him twain."*

From years of talking with boys and girls and men and women. I know that there is someone listening in this congregation who feels he's wrongly compelled to go that awful mile—who has a sense of resentment at what life has required him or her to do—someone who feels forced to assume and carry burdens that didn't seem to be in the original contract of life—someone for whom duty is a painful thing, who asserts that he's being taken advantage of, who feels he's overburdened, that there are unjust expectations made of him. I know this person is here, because that person is a part of me.

And the words that the Master spoke, seemingly so long ago, need speaking today—the words that say, "There's no real mastery of life, no real mastery of yourself, when you're always struggling against life's minimal requirements." You're a whining slave. You're increasingly ineffectual until, as someone said who had the second mile idea, "You stop kicking about what you have to do, and give the kick to yourself."

Not as inelegantly as that, it could be put this way, "You begin really to build yourself into a fulfilled person when you let the idea get hold of you *to do more than is required!* Make of life a quality and a quantity beyond what is expected! Do it and you become a mighty precious person to yourself and to those about you."

The application of this principle is so obvious in our work. Where is the growing edge? Where is the most vital part of any institution, any industry, any profession, any calling? Is it in the clock-watching group? The individual lamenting about what he has to do? The dropouts? The one who cries about what the job is doing to him? Or the one who says, "What are the opportunities here? What additional responsibility can I take on? What can I do for this company?" Not "What can my customer's clients do for me," but "How can I most fully help my customers, my boss, my employees, my clients, my patients, my parishioners, my constituents, my subscribers?"

What marks a great teacher? A great student? Isn't it always the quality that is willing to go the second mile?

In this mood, if someone were foolish enough to ask me to nominate a Commencement address that was to be emphasized in every graduating assembly in the country, I would be moved to give the theme in fifteen words. There are three points:

(1) Life will always demand that you go one mile.

(2) You go two!

(3) Now get going!

There's power there. There's the rootage of ultimate success wherever we are and in whatever we have to do, as we get the spirit of not just one mile—but two.

I want here to talk to the young people and the youth in every heart here today, no matter what your chronological age.

Our country is going through troubled waters! We have grave problems, both nationally and internationally, economically, socially, politically, morally. It's a time of flux and change with our concerns vastly more complex over what they were when I, as a boy, became conscious of our corporate life.

I know few of the answers. But this I do know—we have *portentous opportunities!*

One of the fields that intrigues me is that of "Cybernetics." It concerns the various forms of technology and control that will determine the future. For example, with a properly programed computer we can foresee the end results which will come from any given action. This we could not do with the beginning of the automobile—see the landscape chewed by highways, the parking lots, the air pollution, the mobility of our population, the problems in our urbanization.

But mankind will not be moved forward by these means and instruments ecologically, politically, humanely by people who resent going mile one.

This is Labor Day Weekend. Can I reach someone who will use this occasion to live more unselfishly; who will dedicate himself to our country's welfare more sincerely; who will work for our future with creativity and hope? Friend, our past and our future call out to enroll you as a "second miler."

II

Looking at it from another angle, one of the surest ways to really get a "kick," use what word you will—to get "joy" in living is in this way.

I knew a man some years back who was in the social service field, employed by an institution. Due to a change in personnel, he was asked to be in charge of the Boy Scout troop. He whined about it. It wasn't a part of the original deal. He had no training or inclination. And, he growled, as for dealing with twelve-year-old boys, he'd rather try training a cage full of panthers. Grudgingly! Resentfully! He went at what appeared to be a nasty necessity, a duty.

Some time later I saw that individual inquiring about sources for maps that could be used in his Boy Scout program. He was happy as a lark! I asked him about the change and, in essence, he said that he went to the first Boy Scout meeting jaded and resentful. But he couldn't escape the eyes of a towheaded boy who had come, eager and hopeful, to his first meeting as a Boy Scout. The lad was expecting so much. My friend said, "I couldn't be a traitor to what I read in that boy's eyes." He went on to say, "The interesting thing is that, as I began reading about the history of the Boy Scout movement, its programs, its aims, and as I began devising means of keeping ahead of that boy and others so they wouldn't be let down, *I found that I was the one who was getting the lift.*"

Isn't it always so?

In cooking a meal, when does it become fun? When it's another one of those painful, regular duties that comes three times a day, 365 days a year, and one wants to get rid of it as fast as possible with a minimal effort? Or when one treats a meal with the extra touch—the special recipe of grandmother's is prepared with care, the food is arranged beautifully, and the best linen and candles may be placed on the table. When is it fun? When is there joy and lift, in one mile or two?

When do we get a "kick" out of human relations? When we do the minimal in the way of social duty, what's expected, what we think is required—saying "thank you" to the hostess, being sure we won't forget talking to this individual five minutes about the weather, and don't overlook talking to those boring ones on raising dogs, about baseball, or stamp collecting, and then getting away as fast as possible? Or when in human relationships, with interest, inquiry, concern, and really caring, there is the second mile of interest and concern and support?

A helpful book some years back divided life into the four categories of work and worship and love and play. Ask yourself when ones does what is required—when do the tasks and demands of life—turn that corner of drudgery and become play, become fun? When is there delight and love in what one is doing? When does it have a preciousness, almost of sacramental quality? Well, the individuals who are the one-milers will never know. It's only those who go two.

Here's the matter of religion. How do we get the real meaning out of religion? Not from the point of view that says, "Oh, I suppose it's the thing to do. We're in a community where there's a social pressure to belong to the church."

"It's the thing to do. I'll join the church because my wife twists my arm and tells me I ought to go to it for the sake of appearance and the children. But it gripes me. I'm offended by some of the tenets of orthodox theology. Religious leaders, I find, are not realistic. I find references made to God and vague spiritual values that really are irritating." Grudgingly, one mile.

Friends, you or I don't get any treasures of faith until, in this area as in every other one, we get the second mile attitude. There are ethical principles, alive and vital, in every religious tradition. How can these be applied specifically in business, in my industry?

There are Christian ideals of justice in human affairs and good will that have been held up for two thousand years. What can be done to give them impact in our world? People for centuries have talked about prayer, about the healing of the spirit, of the mind, and the body. How about going two miles in investigating this avenue of human experience and practicing it in my life?

Where is both progress and joy to be found? One mile? Or two?

I wonder, as I ask myself, if it really is imagination that sees that young man all resentful, centuries ago, by the shore of Galilee, listening to the Master. Is it imagination?

Yes, in a sense.

But perhaps, in an even truer sense, it isn't imagination. For He was there, and is here too.

And the words that were spoken there that day so long ago, and the spirit that prompted them—are they limited to one circumstance, one day in Palestine, centuries ago?

Yes, but also, no! For the One who spoke them, speaks them still. And hearts and minds—as then, so now—need to listen to them and apply them, to really get from life these: "Whoso shall compel thee to go a mile, go with him twain."

THE WATERSHEDS PAPER

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BOB WILSON. Mr. Speaker, as a Member long interested in the problem of our defense posture vis-a-vis the Soviet Union, I read with particular interest a recent column by Joseph Alsop and am pleased to share his comments with my House colleagues.

[From the Washington Post, Oct. 27, 1971]

THE WATERSHEDS PAPER

(By Joseph Alsop)

Something called "The Watersheds Paper" is circulating in the governmental inner circle; and it is causing talk. The paper's details are naturally not discoverable, but its main point is known. The point is that a watershed in world affairs has been passed, and a quite new situation has been created, because of the enormous increase of Soviet nuclear-strategic power.

The point is well taken, alas. Yet one can hardly imagine an official paper putting the problem bleakly enough to describe the real nature of this new world situation, even if a major watershed is beginning to be timidly and belatedly recognized.

The essence of the new situation is very simple, however. With their vastly increased nuclear-strategic power, the Soviets can comfortably think about doing all sorts of things that would have been quite unthinkable before. One such is the surgical nuclear strike, to destroy the Chinese Communist nuclear program, which the Soviets have in fact been actively and methodically preparing.

The illustration is particularly relevant, because the Soviet preparations abovementioned have conspicuously included a huge, immensely costly build-up of conventional military power along the Sino-Soviet frontier. The two kinds of investment in power go hand in hand, in other words; and each serves the other.

No sane person can suppose this country will do anything but wail and wring hands, if the Soviets eventually decide to make the unprovoked nuclear attack they have been getting ready for. That particular aspect of the new world situation will not be changed in the least by President Nixon's forthcoming visit to Peking.

As the Chinese also lack the means to defend themselves, what still seems unthinkable to most people in this flabby-minded country, is in truth an almost risk-free choice for the Soviets. The sole remaining question, in fact, is what the Soviet choice will be in the period before the Chinese gain the power for a counter strike.

It is vitally important to note, moreover, that the same rules apply in other areas more vital to U.S. interests than the Sino-Soviet border. Particularly at sea, the build-up of Soviet conventional power has been worldwide in its potential impact. And in the new world situation, the American "deterrent" cannot be rationally expected to "deter" anything at all, except (one hopes) a direct Soviet nuclear attack on this country.

Hence, lots of other formerly unthinkable things have become things the Soviets can quite comfortably think about. Here consider the troubled Middle East. Our State Department is overjoyed at the moment because the Soviets have become "our silent partners"—the phrase is actually used—in pressing for an interim agreement on the Suez front.

The Soviets are undoubtedly exerting a strong negative pressure on Egypt's President Anwar El-Sadat, to prevent him from reopening hostilities with the Israelis. There is a real chance that this will end by Sadat's accepting terms for an interim agreement that the Israelis can also accept.

Suppose, then, that this is the outcome. Israel will still be very much there, as a permanent irritant to inflame the Arab world against the U.S. Meanwhile, however, the main result of an interim agreement will be the reopening of the Suez Canal, about six months after the agreement has been reached.

When that happens, all the problems of the Soviet Navy in the Indian Ocean will be automatically solved. At present, Soviet vessels in those waters are commanded from Vladivostok, halfway 'round the world, because that is their nearest port. With the canal reopened, the nearest port will be Odessa. And Soviet naval power in the Indian Ocean will be predictably multiplied by ten.

Meanwhile the Persian Gulf, where the world oiltap is conveniently located, is being left a political and military vacuum by the departure of the British. No place on earth is more beautifully arranged for the practice of 19th century gunboat diplomacy. Ask yourself, then, what will happen if the Soviets do the unthinkable in the Persian Gulf—if they in fact end by resorting to gunboat diplomacy to gain control of the world oil-tap?

In the new world situation, the answer is that the U.S. will do nothing, once again, but wail and wring hands. So it seems a bit odd, to a returning traveler, that so many Americans also want to impair the world balance of power still further, by needlessly losing the war in Vietnam.

THE DAVIS-BACON ACT OUGHT TO BE REPEALED

HON. ROBERT PRICE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. PRICE of Texas. Mr. Speaker, I speak today on behalf of a measure which I am cosponsoring with my colleague, BILL ARCHER. This legislation

would repeal the Davis-Bacon Act, which requires contractors and subcontractors working on Federal and federally assisted projects amounting to $2,000 or over to pay laborers and mechanics at least the rates prevailing on similar contract projects in the area in which the work is to be performed.

The original Davis-Bacon Act, enacted in 1931, was designed to protect local wage standards against the then popular practice of importing cheap labor into a local community. The law was essentially an emergency measure passed to help stabilize wages in the construction industry. It was also hoped the act would increase wages and prices thereby helping to pull the Nation out of depression. Lastly, many were beginning to conclude that in labor-management relations, the cards were stacked in favor of management. Davis-Bacon seemed a logical way for the Government to offer unions a helping hand.

Today it is an entirely different game with the building trades holding the high cards. They no longer need the Government to do battle for them as is evident by recent wage settlements they have won. For example, contracts negotiated in 1970 provided for annual wage increases averaging 15 percent over the life of major contracts, while in the first quarter of 1971 new contracts pushed that figure up even higher to increases averaging 16 percent.

Mr. Speaker, because of the Davis-Bacon Act wage rates on Federal projects have been artificially set at an extremely high level rather than being a reflection of market forces. Continuing the Davis-Bacon Act means Federal endorsement of severe inflationary pressures.

Furthermore, there are many problems in administering the act and determining the prevailing wage rate. The General Accounting Office recently completed a survey of Labor Department wage rate determinations covering a 10-year period for 29 selected construction projects. GAO estimated that, as a result of minimum wages being established at rates higher than those actually prevailing in the area of the project, construction costs increased 5 to 15 percent.

Repeal of the Davis-Bacon Act would not deny construction workers Government protection. Contractors would still be subject to the Fair Labor Standards Act and the Contract Work Hours Standards Act. But repeal of the Davis-Bacon Act would help the construction industry return to free collective bargaining and voluntary agreements between labor and management.

Mr. Speaker, today conditions in the construction industry are far different from what they were in 1931. Management no longer maintains an unfair advantage over labor, and construction workers no longer receive substandard earnings. In 1931, the Davis-Bacon Act was designed to aid the struggling worker; today it supports inflation and limits free collective bargaining. I strongly urge my colleagues to repeal this outdated harmful law.

REA CO-OPS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. OBEY. Mr. Speaker, most of my colleagues are aware of the very useful work being performed by rural electric co-ops throughout this country. It was rural electrification which "lighted" our rural areas 35 years ago, and their growth is truly vital to the continued growth of rural America today.

Recently the National Rural Electric Cooperative Association of region V, including the States of Illinois, Iowa, and Wisconsin, held their annual meeting in Des Moines, Iowa. The farm and rural leaders passed a number of resolutions reflecting their attitudes toward issues of concern to Americans in both rural and urban communities. I think it would be worth the time of my colleagues to read them, and I ask that they be printed below:

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION, REGION V, DES MOINES, IOWA

5-1. REAFFIRMING PAST ACTIONS

Resolved, we reaffirm our support of the Continuing Resolutions adopted at the NRECA Annual Meeting at Dallas, Texas, February 18, 1971, subject to the following amendments:

Be it resolved that Continuing Resolution No. 38 be deleted, and in lieu thereof, the following Resolution, titled Rural Housing, be substituted:

38. *Rural Housing*—We recommend that the level of the Farmers Home Administration insured housing program be set at 300,000 units a year beginning with the current fiscal year so as to make possible the achievement of the rural part of the national housing goal set by Congress in 1968. We urge NRECA, state-wide associations, power supply and distribution systems to continue their vigorous support of the National Rural Housing Campaign which in large measure has been responsible for the tremendous momentum gained by the FmHA rural housing program during the past year.

Be it further resolved that Continuing Resolution No. 48 be amended by omitting the period after the word program and adding the following phrase: *and as a step towards compliance with the Federal Occupational Safety and Health Act of 1970.*

Be it further resolved that Continuing Resolution No. 52 be amended by striking the words Women's Participation from its title and by striking the first two sentences and by striking the word *also* from the next sentence.

Be it further resolved that the following resolutions be added to the list of Continuing Resolutions:

63. *Reorganizing USDA*—We recommend that as an alternative to the Administration's proposal for reorganizing the Department of Agriculture out of existence that the USDA be given the official overall responsibility for the mission of rural development which it is obviously better suited to perform than any other existing or proposed department by virtue of its rural people, and its extensive local field operations. Further, we recommend that Congress devise a comprehensive, nationwide rural development program to be undertaken by the Department of Agriculture with provisions for additional components that the USDA will require along with provisions for expanding existing components and for changes or innovations in existing USDA structure that will be necessary to insure success.

64. *Community Facilities*—We recommend that the Farmers Home Administration insured water and sewer loan programs beginning in fiscal 1972 be set at a level of $750 million and that the accompanying grant program be set at $250 million. Water and waste disposal systems for rural America are especially essential for the sound orderly growth and ecology of the country. We urge rural electric systems to help develop, support and organize such services as necessary to provide necessary management, maintenance and other technical assistance to them as appropriate to maintain their feasibility.

65. *Streamline FmHA*—We urge Farmers Home Administration to streamline its administrative procedures in order to increase the productivity of its local county offices involving such things as standardization of regulations, enlisting the assistance of third parties in preparing loan documents, and contracting for as much of the detail work of servicing loans as possible. We also urge the Congress to appropriate adequate funds for additional FmHA personnel in order to handle the agency's tremendously expanded workload.

66. *Geothermal Resources*—We urge the Congress to amend the present law on disposition of geothermal resources underlying Federal lands, first, to provide that the U.S. Geological Survey shall explore and assess the magnitude of such geothermal resources; and secondly, to establish by law policies governing the disposition of such resources to prevent monopoly control over them and to assure preference in their sale to publicly owned and consumer-owned power systems.

67. *National Power Grid*—We reaffirm our support for development of a national power grid capable of moving large blocks of electricity back and forth across the country as may be required to meet load requirements; with various segments of the systems to be owned and operated by individual electric systems or voluntary combinations of such systems without limitation as to type or ownership, and in such manner as to preserve the pluralistic character of the industry and the integrity of individual participating systems. The capacity of the grid should be planned so as to accommodate the needs of all systems desiring to participate in its utilization. We support and urge construction and operation by the Federal government of such transmission facilities as are necessary segments of a national power grid, but are uneconomic in terms of return necessary to justify private investment.

68. *Women's Task Force*—We urge every distribution system to organize and support a Women's Task Force as a means to generate active local participation. We also urge NRECA to continue assisting these groups as is within its resources.

69. *Mobile Home Standards*—Because there is no required national uniform inspection or certification program for mobile homes, we encourage member systems to seek adoption as a minimum standard of their state government, the industry standard for Mobile Homes, A119.1, American National Standards Institute.

70. *Women's Action*—We strongly urge that women be made equals in the rural electrification program. Women can and must be placed in positions of leadership. They should be nominated and elected to the board of directors of our electric cooperatives. They can competently serve on advisory committees and aid effectively in special projects sponsored by the systems. We especially recommend that all systems develop an active program to involve women in cooperative governmental affairs committees. We recognize the need for zealous interest in consumer affairs. Women are substantial users of electricity and are the major purchasers of appliances, furniture, clothing, foods and other supplies used in the home. Our cooperatives must offer assistance, aid in securing educational resource persons and materials, and support efforts by women in securing better laws and protection for the consumer.

71. *Nuclear Fuel Enrichment*—We strongly oppose AEC's revised nuclear fuel enrichment price criteria, and urge prompt passage of legislation requiring that such prices be based on actual cost incurred by the Government in providing the service. Also we remain strongly opposed to the sale of any of AEC's gaseous diffusion nuclear fuel enrichment plants.

5-2. NATIONAL FUEL POLICY

Whereas, the United States is currently experiencing a progressively worsening shortage of fossil fuels, including natural gas, coal and oil, which threatens the ability of electric utility systems to meet their public responsibility of providing reliable service, and

Whereas, this shortage has been accompanied by sharp increases in gas, oil and coal unit prices of from 50% to 100%, and

Whereas, there exists a significant interlock of corporate control over the production and processing of otherwise competitive power plant fuels; for example, nine major oil companies, which also produce large quantities of natural gas, hold substantial interests in the coal, oil shale and uranium industries, and

Whereas, such interlocking control could reduce or eliminate price competition between various fuel types, thereby raising the cost to the American public of nearly all goods and services, and

Whereas, certain types of anti-truet law violations can, as a practical matter be prosecuted only by the Federal Government, which in some cases is also uniquely capable of preventing repetitions of such violations.

Now, therefore, be it resolved that we urge the President, the Congress, the Federal Trade Commission and the Department of Justice to explore all avenues which may uncover evidence of potential violations of existing anti-trust laws in the fuel industry, to vigorously prosecute all such violations and to enact laws designed to prevent future abuses of the economic power peculiarly inherent in large energy companies;

Be it further resolved, that:

(1) We urge the Federal Trade Commission to investigate the mergers of major oil and coal companies, and urge Department of Justice cooperation in such investigations.

(2) We urge the Department of Justice to conduct a grand jurry investigation of coal prices;

Be it further resolved that we urge the President and the Congress to take all further measures necessary to assure the nation of an adequate fuel supply in future years, including limitation on export of coal and removing restrictions on import of oil.

5-3 ACCESS TO NUCLEAR POWER

Whereas, the Congress has amended the Atomic Energy Act of 1954 to require that the U.S. Atomic Energy Commission, prior to issuing a license for the construction of any nuclear power plant, investigate the anti-trust implications of said plant and obtain from the Attorney General of the U.S. his opinion as to whether operation of the proposed facility is likely to violate any anti-trust law, and

Whereas, the Congress has further amended the 1954 Act to empower the AEC to deny a license for any such plant which it deems will so violate the anti-trust laws, or to condition its licensing on implementation by the applicant of measures designed to avoid such violations;

Now, therefore, be it resolved that we express appreciation to Congress for these changes in the law, and urge the AEC and the Department of Justice to exercise a high order of vigilance in these matters, and to vigorously apply and enforce the anti-trust provisions of the nuclear power plant licensing law so that small electric systems are assured of their rightful share of benefits attributable to nuclear power stations.

5-4. ESSENTIALITY OF REA LOANS AT 2-PERCENT INTEREST AND CFC PROGRAM

Whereas, many people's needs for modern central station electric service are being met only because of the Federal program of loans at two percent interest to consumer-owned rural electric systems, and

Whereas, the economic development of rural areas, especially those which are, either because of economic problems or declining population or both, disadvantaged, is possible only if those areas have electric service on a par with that of more fully developed areas at fully competitive rates, and

Whereas, the rural electric systems which borrow capital from the Rural Electrification Administration sign and carry out agreements—in return for the privilege of borrowing at an interest rate of two percent—to serve customers in remote areas on the same basis as those living near the sources of electric power, and

Whereas, many systems have expressed their willingness to supplement their REA loans with higher cost capital, and have for this purpose organized and invested in their own self-help supplemental financing institution, the CFC (National Rural Utilities Cooperative Finance Corporation);

Now, therefore, be it resolved, that we oppose any and all efforts to phase out the REA program in its present form with interest rates at two percent;

Be it further resolved that we petition the Administration and the Congress to provide adequate funds for loans at two percent interest to meet the full capital requirements of both distribution and power supply cooperatives serving areas suffering from lack of population or from economic under-development while at the same time meeting the basic requirements in all other rural service territories;

Be it further resolved that we pledge our cooperation with each other to assure the success of our supplemental financing operation through CFC and to assure adequate funding for the REA program in its present form.

5-5. DEFERMENT OF PRINCIPAL PAYMENTS

Whereas, the House and Senate Appropriations Committees of the Congress have this year for the second time advised the Administration to use existing authority to accelerate the capitalization of our supplemental financing institutions, CFC, and

Whereas, such existing authority is the power to defer capital repayments by REA borrowers who would voluntarily invest in CFC amounts equivalent to the deferred payments, and

Whereas, use of the opportunity pointed out by Congress potentially could provide a large increase in capital for CFC and enable it to increase its lending operations much faster than would otherwise be possible;

Now, therefore, be it resolved that we urge the Administration to give REA borrowers the opportunity through voluntary payment deferments to increase their CFC investments above and beyond those required for membership in keeping with the advice of the Congressional appropriations committees.

5-6. IMPROVING RURAL-URBAN UNDERSTANDING

Whereas, this Nation will not be able to solve either the rural or the urban crisis unless and until city and rural people understand each other's problems and are willing to work together to improve the economic and social conditions of our urban and rural areas, and

Whereas, the Committee for Low-Cost Capital for Rural America has recommended that rural electric systems and their statewide associations foster greater rural-urban understanding by inviting urban Members of Congress to visit rural electric service areas to learn, first-hand, of the problems and potentials of life in rural America, and

Whereas, a number of rural electric systems and statewide associations have already begun to implement this recommendation by sponsoring rural visits by urban Congressmen that have resulted in a meaningful dialogue on rural and urban problems;

Now, therefore, be it resolved that we commend those rural electrics and statewides which have pioneered in this Rural-Urban Exchange Program, and that we urge all rural electrics and statewides to become active this year in this program in the interest of better rural-urban understanding and cooperation.

5-7. CONSUMER PROTECTION

Whereas, all Americans, regardless of their vocations and divergent interests, share a common interest as consumers, and

Whereas, there are all too many examples of fraudulent and deceptive practices used by the unscrupulous and the negligent to the detriment of the consumer's pocketbook and, all too frequently, to his health and safety, and

Whereas, we and other consumers deserve to be protected against fraud, price-gouging and indifference to the needs of consumers;

Now, therefore, be it resolved that particular emphasis be placed on working with consumer groups, such as Consumer Federation of America and its affiliated local and state organizations, in behalf of meaningful consumer protection legislation, as these efforts will result in the double benefit of protecting our individual interests as consumers and of showing urban Congressmen and their constituents that rural electrics support legislation which directly benefits all people, urban and rural.

5-8. ELECTRIC RATES

Whereas, the concept of lowest cost electricity has proved to be an important factor in the development of our nation and the improvement in the standard of living of our citizens, and

Whereas, the cost of electricity is an important element in the cost of all goods and services;

Now, therefore, be it resolved that although we recognize that increased costs experienced by power suppliers means that some increases in electric rates may be inevitable, we reaffirm our support of the concept of providing power at the lowest possible cost, and

Be it further resolved that we also urge the Administration to do all within its authority to hold the line on wholesale power rates as part of its policy of combating inflation.

5-9 RECOMMENDED NRECA BYLAW CHANGE

Whereas, the delegates of Region V support the National Rural Electric Cooperative Association in providing valuable and essential services for its members in matters of vital national concern relating to rural electrification, and

Whereas, the delegates of Region V believe that the National Rural Electric Cooperative Association can be of increased service to its members through certain improvements in its procedures and operations;

Now, therefore, be it resolved that the delegates of Region V recommend to the National Rural Electric Cooperative Association that appropriate changes be made in its By-Laws and other procedures whereby the Board of Directors of NRECA be composed of Members, Directors or elected officers of a

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member system and that no employee of the member system be eligible for election to the NRECA Board of Directors, and that such Board of Directors meet not less than four times each year to consult and develop effective policies and procedures to meet the needs of its members;

Be it further resolved that the delegates of Region V and its member cooperatives recommend that the National Rural Electric Cooperative Association continue its wholehearted cooperation with the Rural Electrification Administration and devote its energies and resources to those problems directly affecting rural electrification.

5–10. COOPERATIVE–MUNICIPAL COOPERATION

Whereas, rural electric cooperatives and municipal electric systems have numerous common characteristics and share many common problems;

Now, therefore, be it resolved that rural electric cooperatives be urged to explore the possibilities of gaining strength in the wholesale power area by working together with municipal electric systems;

Be it further resolved that we strongly oppose any Internal Revenue Service regulations that impose taxes on bonds issued for construction of generating facilities which would serve more than one locality, thus depriving municipals of the economies of large scale operation and depriving co-ops of a source or power vitally needed by consumers.

5–11. ACTION COMMITTEE FOR RURAL ELECTRIFICATION (ACRE)

Whereas, the rural electrification program is dependent upon public acceptance and legislative support;

Now, therefore, be it resolved that we support the Action Committee for Rural Electrification (ACRE) as a voluntary vehicle through which we as individuals can promote the interest of the rural electrification program by helping our friends in state and national office;

Be it further resolved that we urge all directors, employees and members of rural electrics to maintain annual memberships in ACRE and to join the Century Club if possible;

Be it further resolved that we invite special contributions from members and non-members, and participation in special ACRE functions such as luncheons and dinners so that ACRE has the broadest possible base of support.

5–12. KEEPING G&T A VIABLE FORCE

Whereas, G&T loans are, and have been from the beginning, a most vital element in the REA program because they have provided the rural electric systems with effective bargaining leverage and have given the systems a realistic alternative when existing power suppliers refuse or are unable to provide wholesale power on acceptable terms and conditions, and

Whereas, this bargaining leverage is even more important to the rural electrics today as they have to struggle to survive in an industry where technology and economics are putting a dangerous squeeze on the smaller electric systems, and

Whereas, the G&T program cannot serve as a bargaining tool if wholesale power suppliers can feel assured that Congressional and/or Administrative policy decisions or lack of loan funds will put a lid on G&T loans, and

Whereas, over and above the bargaining leverage aspect of G&T loans, the backlog of loan requirements enabling G&Ts to meet their existing commitments to pools and member systems is approaching $1-billion;

Now, therefore, be it resolved that we urge REA and CFC to continue their work with the G&T systems in the development of ways to finance generating units and transmission systems with two basic objectives in mind:

(a) To obtain at the lowest possible cost the number of dollars required to take care of the ongoing load requirements, and

(b) To effectively retain in the G&T program the bargaining leverage it must have to stay alive;

Be it further resolved that the 1972 fiscal year plan now being developed to blend REA, CFC and private money market funds be commended for its ingenuity in providing funds;

Be it further resolved that all deliberate haste be exercised to insure implementation of the new plan before the end of the fiscal year.

5–13. GRANTS FOR RURAL DEVELOPMENT

Whereas, prominent national leaders including the President have emphasized the importance to the national welfare of reversing migration from rural to urban areas, and

Whereas, 1970 Census figures reveal continuing out-migration at a high rate with more than 1,400 counties having lost population during the decade of the 1960's, and

Whereas, the chaotic consequences of rural out-migration are evident everywhere and can only result in the social and economic bankruptcy of countless rural communities as well as many of our largest cities unless there is a national commitment of sufficient magnitude to correct rural-urban imbalance, and

Whereas, the leadership and efforts of the Federal Government in rural redevelopment have been too limited and too fragmented among too many agencies:

Now, therefore, be it resolved that the Administration and Congress should provide funds so that the Rural Area Development program can make grants-in-aid for rural industrial developments which would provide more jobs in the rural areas, thus stopping the out-migration to the cities and hopefully produce an in-migration to rural areas.

5–14. NATIONAL ENERGY POLICY

Whereas, the economic and social structure of our country is dependent upon an abundant and reliable supply of electric energy, and

Whereas, the people in many parts of the Nation live in constant danger of blackouts and brownouts, and

Whereas, the Nation's requirements are increasing 100 percent every 100 years, much faster than supply facilities are being expanded, and

Whereas, industry and commerce, which take 60 percent of our total consumption of electric energy, can expand only when and where they can get adequate electric service, and

Whereas, the American laboring man and woman increase their productivity by using ever-increasing amounts of electric energy—the present amount used by the average worker being equal to the labor of 560 persons, and

Whereas, increases in generation and transmission of electric power are inhibited by many factors including environmental problems, inadequate supplies and high prices of desirable fuels, a trend toward monopolistic control of energy sources, inadequate technology, and the lack of a national power grid, and

Whereas, our national resources can be marshalled and allocated properly to meet the power crisis only if the Nation develops a national power policy;

Now, therefore, be it resolved that we give our utmost support to the prompt development of a national energy policy aimed at ensuring all Americans an abundant, dependable, enduring supply of electric power at lowest possible cost consistent with conserving our environment and resources;

Be it further resolved that we seek the active help of all groups and individuals who are, or can be made aware of their vital stake in such a policy;

Be it further resolved that we ask the major political parties and candidates for national office to take policy positions on this matter to the end that during the next campaign there will be a fair debate of the issues, leading to affirmative action in the next Congress.

5–15. RESEARCH & TECHNOLOGICAL DEVELOPMENT

Whereas, as consumer owned organizations, rural electric cooperatives have a special interest in improving quality of life for all consumers everywhere,

Whereas, the nation's rural environmental, economic and social development is greatly dependent upon our ability to generate, transmit and distribute electric power in a way that is compatible with today's and tomorrow's environmental requirements, and

Whereas, the national interest requires the assignment of top priority in use of funds and scientific talent to research which is designed to improve technology for meeting our new environmental challenges, to conserve and better utilize the nation's dwindling energy resources, and to develop new sources and ways to generate electrical energy and meet the rapidly growing demands of an expanding economy;

Now, therefore, be it resolved that the rural electric cooperatives pledge their full support for a greatly expanded and massive research and development effort to develop the technology for providing a continued abundance of electric power according to priorities adopted by NRECA membership at their 1971 Meeting in Dallas, Texas, February 18, 1971; and that they urge the President and Congress to take necessary action to provide for the necessary funding—preferably, since the need for such is a national problem that affects all citizens, through direct appropriations of general revenues but if necessary, by means of earmarked taxes as provided by the Magnuson Bill.

5–16. RURAL ELECTRICS—COMMUNITY BUILDERS

Whereas, rural America cannot prosper and expand without the dependable services of the rural electric cooperatives and, on the other hand, the rural electric cooperatives cannot exist for long without a growing and prospering rural population, and

Whereas, experience the last several decades demonstrates that people, especially young people, will not stay in rural America unless they can have housing, water, sewer systems, electricity, and the whole range of community facilities, and income opportunities comparable with that obtainable in other parts of the country, and

Whereas, more and more the Congress, the Administration and the Nation recognize that this country can move forward only if all segments move forward together and the government has underscored this recognition by providing programs to help achieve rural-urban balance—an example of this being the $1,625,000,000 that has been made available for rural housing, rural water and sewer systems alone for this fiscal year;

Now, therefore, be it resolved that the rural electric systems of America, having the tremendous stake that they do in the growth of rural America, commit themselves to a dynamic program of leadership in building their communities for themselves and for the future, since such a program will spell growth for the systems and greater prosperity for their areas;

Be it further resolved that, since agriculture still remains the major industry in rural areas, we lend support and cooperation to those who seek to increase a stable farm income, reversing the downward trend that is now causing severe problems for rural America.

5–17. RURAL DEVELOPMENT HEARINGS

Whereas, governmental actions in the field of rural development still are fragmented and inadequate despite the congressional commitment in the Agricultural Act of 1970 to give highest priority to this problem area;

Now, therefore, be it resolved that we commend the Rural Development Subcommittee of the Senate Agriculture Committee including its chairman, Senator Hubert H. Humphrey, and its members for holding hearings in various parts of the country to determine what government actions are needed;

Be it further resolved that we urge the Congress to follow up promptly on the basis of the Subcommittee's findings with legislation and financing to carry out more aggressively rural development programs.

5–18. SENATE SUBCOMMITTEE HEARING

Whereas, rural electric systems are confronted with staggering problems in obtaining and providing their consumer members adequate supplies of electric power at reasonable cost;

Now, therefore, be it resolved that we commend the Senate Subcommitee on Agriculture Credit and Rural Electrification—its chairman, Senate George McGovern, and its members—for scheduling public hearings to examine the problems that solutions may be determined;

Be it further resolved that all systems take advantage of the Subcommittee's invitation to supply facts about their own situation.

5–19. ECONOMIC STABILIZATION

Whereas, any emergency action to deal with the inflation is bound to have inequities such as have been experienced by individual citizens, groups, and business institutions, including some rural electric systems, since the freeze was announced August 14, and

Whereas, there now is time to develop in the second phase those measures that will be more equitable generally and that will deal more effectively with problems that usually are outside the national spotlight, such as:

(a) the extreme underemployment in rural areas,

(b) the continuing increase in farm production expenses while there is a downward trend in net farm income,

(c) the need for maintenance of adequate power services in rural areas,

(d) the rural out-migration problem;

Now, therefore, be it resolved that we urge the Administration to incorporate in the second phase plan the following:

1. Designation of REA to handle for the Federal Government those rural electric cases involving the economic stabilization program.

2. Selection of representation from the rural electrification program to serve on the body to be established to develop and supervise the new control program.

3. Early release of the full REA $545-million loan fund appropriated by Congress in the interest of rural development, job creation, and increasing the productivity of rural industry.

4. Acceleration of Federal programs to assist rural area development.

5. Provision in the investment tax credit proposal of a differential in favor of enterprises that locate or expand in rural areas and that could provide jobs for chronically underemployed and unemployed people.

6. Presentation to Congress of legislation dealing with the farm income depression.

5–20. FARM CREDIT LEGISLATION OF 1971

Whereas, the credit needs of agriculture and of rural America continue to grow and have changed significantly since the original Farm Credit System laws were enacted, and

Whereas, the Commission on Agricultural Credit, a panel of 27 farm and rural leaders which included NRECA General Manager Robert D. Partridge, conducted a 10-month study of present and future credit needs of farmers and rural communities which resulted in recommendations for modernizing and expanding the scope of the Farm Credit System's lending operations to meet the changing needs of rural America, including the growing need for loans for rural farm and non-farm homes and home improvements, and

Whereas, these recommendations are the basis for the Farm Credit legislation introduced in the first session, 92nd Congress, and approved by the Senate;

Now, therefore, be it resolved that we commend the Commission on Agricultural Credit for its forward looking recommendations in this area, the Farm Credit Administration for translating these recommendations into proposed legislation and the Senate for passing the Farm Credit legislation;

Be it further resolved that we urge the House of Representatives to act promptly and favorably on the bill as passed by the Senate;

Be it further resolved that a copy of this resolution be sent to the Members of Congress representing this Region.

5–21. STUDY OF NEED FOR DIRECTORS' LIABILITY INSURANCE

Whereas, the Boards of Directors of rural electric cooperatives make many decisions involving the interests of the members and many other individuals and business concerns, and

Whereas, the amounts of money involved in directors' decisions are increasingly large and

Whereas, the discharge of official duties may on occasion subject directors personally to the risk of litigation;

Therefore, be it resolved that we request NRECA to survey the needs for, availability and costs of insurance covering liability risks incurred by directors of rural electric systems in the discharge of their official duties and to report the results at the 1972 annual meeting if not before.

5–22. APPRECIATION

Be it resolved that the delegates here assembled take this means of expressing our appreciation to all those who are helping to make our program the effective endeavor that it is. Particularly, we want to give recognition to:

1. The NRECA officers and directors for their leadership and dedication.

2. Robert D. Partridge, General Manager of NRECA, for his dynamic leadership and to his staff for their service and devotion to our program.

3. David A. Hamil, Administrator of REA, and his staff, for their great devotion to rural electrification. We especially appreciate the cooperation and support of Mr. Hamil and his staff in our effort to establish the National Rural Utilities Cooperative Finance Corporation.

4. The many individuals, suppliers, the Savery Hotel, the I. A. E. C. and other rural electric cooperatives, NRECA and other organizations which have contributed to the success of this meeting.

5–23. IN MEMORIAM

Whereas, we feel deeply the loss of several of Region V's finest rural electric cooperative leaders during the past year;

Now, therefore, be it resolved that we pause a moment in silence and pay our respects to those leaders who have served our program so long and so well.

TRIBUTE TO AN UNSUNG HERO

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. MANN. Mr. Speaker, every now and then an extraordinary contribution to mankind is substantially overlooked by society in general. Spartanburg Post No. 28 of the American Legion is to be commended for bringing to the attention of the people of that community, and hence to my attention, one of the unsung heroes of our country. Howard Wofford McCravy of Spartanburg, S.C., while serving in the South Carolina State Senate, introduced and pursued to passage the first schoolbus stop law enacted in the United States. Since that time, most, if not all, of the States have adopted similar legislation. It has saved the lives of many schoolchildren. It was motivated by love and compassion. It is an unfortunate commentary upon modern society that some of the most humane of our achievements as a people go unnoticed, while the petty, the vindictive, the divisive receive front-page play in the news media.

I am privileged to call to the attention of the Nation the contribution of Senator Howard Wofford McCravy. I ask that there be published at this point the following story from the South Carolina Legionnaire of October 1971:

[From the South Carolina Legionnaire, October 1971]

SPARTANBURG POST NO. 28 HONORS UNSUNG HERO OF THOUSANDS OF OUR CHILDREN

Spartanburg Post No. 28, commanded by the wide awake WWI Legionnaire Commander John D. Rush, recently honored one of their long time members whom they discovered was definitely an Unsung Hero to thousands of children and now many grown citizens of our great state when it was discovered that former State Senator Howard Wofford McCravy was the author of the original South Carolina School Bus Stop Law.

The Post selected as the date for this honor the birthday of the honoree, Monday, 30 August and presented him with a "Citation For Public Service."

Accompanying the Citation was a resolution passed by the Post in which it pointed out that Senator and Legionnaire McCravy had in fact been the author of the original School Bus Stop Legislation and that this legislation, not only fathered by the honoree but piloted through the South Carolina Legislature, has been copied by most of the other 49 states of the Union as well as bringing out the certain fact that this humane and necessary legislation has saved the lives of many innocent children as well as prevented many injuries, pain and suffering.

The resolution also brought to light the fact that never before had the Senator received any recognition for this remarkable foresight and love of our children and in its resolved clause extended to him the grateful thanks of parents, and school administrators throughout the Nation for his compassion for children, which has resulted in untold benefits to the entire population of the United States of America.

We note with interest a postscript added to the report received by this publication that Senator McCravy was enroute one morning to attend a session of the Legislature when he came upon the scene of a fatal accident of a school child run over while attempting to board a school bus. This moving experience prompted the Senator to take immediate action to insure it not being repeated. (A picture of the presentation appears in the middle spread of this issue.)

The South Carolina Legionnaire joins with Post No. 28 in congratulating Senator McCravy. We are proud to have him as a member of our great organization.

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HON. JAMES WRIGHT ADDRESSES THE NATIONAL WATER RESOURCES CONVENTION IN DALLAS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. TEAGUE of Texas. Mr. Speaker, the question of water, its sources, its availability, its cleanliness has always been of concern to mankind. Today probably more so because of the great concern which the Congress has placed on our environment. One of our colleagues in this body has manifested a greate interest in water and mankind's future since his assignment to the public works committee, and that is my friend from Texas, the Honorable JIM WRIGHT. Under leave to extend my remarks in the RECORD, I wish to include the text of Mr. WRIGHT's remarks to the National Water Resources Association Convention in Dallas, Tex., November 4, 1971:

NATURE AND MAN—AND WATER

(Remarks of Congressman Jim Wright, National Water Resources Association, Dallas, Tex., November 4, 1971)

Tonight I want to talk with you about Nature and Man.

Let us think together of Man and Nature—and of Water, nature's most priceless gift and man's most useful servant.

In the Book of Genesis, we find the commandment that man is to "subdue the earth." Obviously this did not mean to ravage the earth. But, of equally obvious truth, it does not mean to be subdued by the earth.

Nature is a marvelous mechanism. So is the human body. Both were engineered and created by the Divine Intelligence to perform their appointed functions efficiently and effectively.

But just as the human body can get out of balance and require corrective surgery to perform its functions properly, so also nature itself can get out of balance and require the corrective, healing surgery of man to perform its functions effectively, efficiently, and beneficially in the interests of both nature and man.

Nature exists for man, and man is expected to exercise beneficient dominion.

He is not expected to prostrate himself supinely before the floods; nor to abandon the arid earth to dust where water lies beneath the soil; nor let the waters wash away the land and leave both man and earth bereft. All of our knowledge cries out against such folly.

PARABLE OF THE DAM

Recently George W. Ball, former Under Secretary of State, wrote a whimsical little story which he called the *Parable of the Dam*. It was published in *Newsweek* magazine. Secretary Ball no doubt intended its deeper meaning to apply to the world of international affairs. But the parable has a more direct and even more obvious application in light of recent developments in the United States.

The story goes like this:

Since the beginning of time, the villages in a mountain canyon had been periodically ravaged by floods. Finally, the leaders convened a great meeting and decided to invest their efforts and resources in building a large, strong dam.

Thereafter, for a quarter of a century, the dam sheltered the villages from disaster, prosperity prevailed, and life was tranquil—until, at last a new generation began to grow up, free from the apprehensions of the past and filled with exciting ideas about a world of song and beauty.

Inevitably the new leaders turned their attention to the dam. It was, they announced, huge and ugly and an affront to the environment. Besides it blocked out the sunset.

One leader wrote a folk song proclaiming it a symbol of imperialist megalomania, and people spoke excitedly of little else, until someone brought forth an argument that seemed quite unanswerable. After all, it was pointed out, no one ever talked about flood damage except the old fogies over 30 who were not to be trusted anyway. Who among the new leaders could recall any floods in his lifetime?

It was perfectly clear that floods were completely outmoded, a matter of the past—perhaps just a fiction manufactured to frighten the people. Since there had not been one for 25 years, clearly there would not be another.

So, after a season of demonstrations, more speeches, a pageant and several rock festivals, they blew up the dam and used the fragments for a people's playground. And let me tell you straight, man, when the waters came down it was really the Age of Aquarius!

THE "ECOLOGY" MOVEMENT

In the past two years, a sudden public awareness of our environment has burst upon the scene like an earthquake. To those of you who for decades have led the lonely and often thankless struggle for conservation and environmental quality, this should be great good news. A public awakening was long overdue! But—as is so often the case—the price we pay for long public neglect is a sort of hysterical over-reaction.

Unfortunately, among the new converts there is vast misunderstanding of all that the dedicated handful of conservationists has been doing for all these years. There is a deadly tendency to want to stop everything, to tear out all that man has built, to reverse the hard-won victories the conservation movement has achieved, and—incredibly—to turn the clock back to the unenlightened era when nature ravaged man and man was powerless to protect himself.

For many in the newly popular "ecology" movement, scapegoats have become more popular quarry than solutions. Stopping programs of resource development has become more fashionable—and it was always easier—than performing those programs.

ENVIRONMENTAL POLICY ACT

For some the Environmental Policy Act of 1969 has been misconstrued as a trumpet call to retreat into the past and seek the improbable goal of a dead and distant age before man's massive intrusion, when nature was supreme—an age when floods were thought to be the inevitable will of God and when it was the accepted rule that a river would cleanse itself in seven miles without any help from man.

But those who so interpret the commandment of that legislation have failed to understand its meaning. And this misunderstanding exists not only among the enthusiasts of the preservationist movement, but among some in our agencies of administrative government—and, sadly, in some of our Federal courts.

Let me quote the purposes of the Environmental Policy Act as set forth in the very preamble to that legislation. These are the purposes declared by Congress:

"To declare a national policy which will encourage *productive and enjoyable harmony* between man and his environment (and I underline those words, productive and enjoyable harmony); to promote efforts which will prevent or eliminate damage to the environment and biosphere and *stimulate the health and welfare of man;* to enrich the understanding of the ecological systems and natural resources *important to the Nation;* and to establish a Council on Environmental Quality."

Nowhere do I read in these purposes any intent to halt the development of our nation's water resources.

Nowhere do I see expressed a desire to lock up our rivers for the exclusive enjoyment of those few who wish only white-capped waters running rampant and uncontrolled.

Nowhere in that legislation is implied a call for retrogression. The law contains no mandate for any self-appointed group to exalt itself above the established agencies of orderly government and bring their work to a grinding halt!

Nowhere in the law do I read any intent to abrogate the clear will of Congress as reflected in water development projects fully authorized for construction—and some of them already begun—by the Bureau of Reclamation, the Soil Conservation Service, and the Corps of Engineers.

Yet, sadly, some have mistakenly read into the passages of that law a commandment to do these very things.

MAN'S EXPERIENCE

My father once told me that, unless each generation can capitalize upon the *mistakes* of its predecessors and avoid a *repetition* of those same mistakes, we'd suffer the greatest waste of all—the waste of man's hard-won experience.

I am not so young, and neither perhaps are most of you, that we cannot recall the ups and downs of an uncontrolled public economy, the booms and busts of an unprotected farm economy, the flickering lights of rural America where electrification was only a dream—or the devastating floods and droughts inflicted by a nature uncontrolled by man.

The Environmental Policy Act provides the machinery for a valuable service—new tools to evaluate the environmental effect of each of our public decisions. Congress most emphatically *did not* intend that only the *adverse* effects of every act should be subject to evaluation. To adopt such an attitude would lead us to but one conclusions: do nothing!

A BALANCED VIEW

It is quite clearly intended by Congress that the machinery originated in that act should give us the information for a *balanced* view.

While we do want to know of any possible effects on wildlife, we are preeminently concerned with the effects on *human* life. That, in any sane scale of values, must always come first!

Obviously, when navigation opens up the gates of commerce and job producing enterprise to an underdeveloped area and helps reverse the massive tides of migration to the overcrowded cities, that is a *positive* environmental effect!

When the Soil Conservation Service builds levees and up-stream dams and encourages terracing and cover cropping to retard the siltation of our reservoirs, that is a *positive* environmental impact.

When homes and businesses are saved from periodic floods and the human wreckage that lies in their wake, who can regard the environmental effects as anything but *positive?*

When the waters of subterranean streams bring forth their bounty and transform deserts into gardens where the family of man can live and prosper, this is a *positive* environmental impact.

When a city is given a dependable water supply, the living environment is *enriched.*

When a reservoir provides the means of wholesome outdoor recreation for thousands of city-bound Americans, the environmental quality has been *enhanced.*

When the management practices of enlightened man augment low flows downstream, stabilize the river banks and replace the stagnant pools where only mosquitoes have bred, the environment quite manifestly has been *improved.*

Each of these effects is *positive* and *helpful* to the human race. Congress most emphatically does not intend that any one of them shall be slighted or ignored.

CONGRESSIONAL INTENT

This year in Congress we have had two votes which clearly establish the will of the people's elected representatives.

They first came upon an amendment to the Agriculture Appropriation bill which would have directed that we halt all works of channelization including those already approved by Congress and subject them all to further "study."

The second came upon a motion to amend the Public Works Appropriation by stopping the development of a key project in the Delaware River program—one on which construction already had begun—until further vaguely defined "studies" might be conducted.

Both amendments were decisively defeated! And this should be an unmistakable expression of the clear intent of Congress that the soundly conceived works of water resource development shall go forward unimpeded!

The projects which would have been delayed or denied by these amendments had already been studied and restudied. They had been analyzed, evaluated, adopted and begun—just as numerous others against which well-meaning but pitifully misinformed minorities have sought injunctions in the courts.

It is devoutly hoped that the courts will understand the intent of Congress as expressed in these resounding votes and govern themselves accordingly.

STUDY NO SUBSTITUTE FOR ACTION

There comes a point in every human society when study must give way to action. The average water resource development project of the Corps of Engineers today must traverse the labyrinthine path of almost 18 years of study and restudy between the point of a survey resolution and the turning of the first spadeful of dirt.

To suggest that, after all this, the will of Congress be stymied and the directed action be stalled simply for the sake of further "study" is reminiscent of the words of Kipling in his description of old men. He said:

"They peck out, dissect, and extrude to the mind
The flaccid tissues of long-dead issues
Offensive to God and mankind;
Like vultures over an ox
That the Army has left behind."

Study at best is merely a guide and precursor to action. It is not a substitute for action!

CONSERVATION AND DEVELOPMENT

Conservation and development are not mutually exclusive. Development of the earth's resources is the tool by which man carries out the goal of conservation.

There is no irreconcilable gulf between a sound ecology and a sound economy.

To be a wise conservationist or an intelligent environmentalist does not mean to halt our development and harnessing of the water resources of our planet. To greater or lesser degree this has been necessary since man first intruded upon the earth. It is more necessary today than ever because there are more and ever more people.

We cannot, alas, keep people from intruding upon the earth. And the interest of people must come first.

POPULATION PRESSURES

Already the stark statistics of population growth contain in their overtones a prophecy of world famine. Already, in spite of our pockets of affluence, we see a preview of this prophecy on the subcontinent of India.

At the beginning of the Christian era, there were only some 250 million people on the entire earth. Within our generation, we shall have more than that right here in the U.S.—on about seven percent of the world's land area.

It took mankind more than 3,000 years to achieve a population of three billion people. Demographers forecast that we shall double this in 30 years. In three decades, if the present trend continues, we shall add to the living total as many as our progenitors added in more than three millennia.

The same amount of land and air and water and mineral resources, then, must be made to serve more and ever more people. Every year in our own country, we have a population growth equivalent to a new state of Maryland.

Not much longer can agricultural surpluses be our problem in the United States. Instead, we rapidly approach the time when we shall need millions of additional acres in production if we merely are to feed our own people—let alone the famine-bent billions of a hungry world.

Every drop of water that can be conserved, every inch of top soil that can be saved, every field and forest we can renew, every ore and mineral we can develop and conserve, and every stream we can cleanse of pollution will be our greatest possible gifts to future generations.

This is why the work of your association is so extremely important. And this is why the development of our resources must never slacken.

As most of you know, this nation used only about 40 billion gallons of water a day in 1900. This year we will use more than 400 billion gallons daily. The entire structure of our modern life depends, therefore, upon the maximum development and conservation of this finite resource.

NATURE'S ENDOWMENT AND MAN'S CHOICE

The amount of water in the world is constant—unvarying and abundant. The total quantity has been precisely the same since the very beginning when—

God created the heaven and the earth.
And the earth was without form and void;
And darkness was upon the face of the deep
And the spirit of God moved upon the face of the waters.

An unending cosmic rotation steadily moves man's lifegiving liquid by gravity through the gentle and incessant flow of streams to the great reservoirs of our oceans, then draws it skyward by the sun's attraction to be purified anew, conveys it by cloud and wind, and returns it by rain to refresh the thirsty earth and renew man's lease on life . . . *ad infinitum*. It is an ever-recurring miracle, the most wondrous natural marvel of a wondrous universe.

Science can comprehend it, but never quite duplicate it. Man cannot change it. He can locally and temporarily befoul the process, and bring death. He can fail to act, quibble and quarrel with his neighbor while the tides of man outpace the provender of nature. Or he can form a sort of divine partnership with nature, help it along—and preserve life. This is his choice.

Twentieth-century America, like the prodigal son, has drawn heavily upon the bank account of its native endowment and squandered the substance in riotous misuse. More bountifully endowed than any nation in history, we've adopted the rather casual assumption that Providence protects America. We've extracted the riches of our natural legacy, exploited them to build a shining society, and wasted them in copious quantities.

We recall that other civilizations, also blessed with a spark of greatness, have strutted across the stage of world eminence only to fade and wane, their brief, bright promise unfulfilled. In the uncomprehending sand and heat of arid desert waste, their monuments lie buried.

Let no future archeologist tell the story for us. We have the knowledge to tell it for ourselves—if we have the wisdom. There is *enough* water to serve our needs for future time, if we learn to use and reuse it well. And there is *enough* time to do what we must. But there's not much of either to spare.

KISSINGER'S ABOUT FACE ON POLICY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. DERWINSKI. Mr. Speaker, as a member of the Foreign Affairs Committee, I have a special interest in the continuing debate over the conduct of our foreign policy and the shadowy role of Presidential adviser, Henry Kissinger. He is quite properly the subject of controversy.

In a concise, hard-hitting column from the Chicago Tribune of November 5, the veteran columnist of the Chicago Tribune, Walter Trohan, discusses Kissinger and foreign policy.

The article follows:

KISSINGER'S ABOUT FACE ON POLICY

(By Walter Trohan)

WASHINGTON.—Only six years ago Henry A. Kissinger branded as "suicidal" the policy of Communist appeasement on which he has embarked the President and the United States. The assistant to the President on national security affairs has done a complete about face.

In 1965, while he was at Harvard University, Kissinger wrote a book, "The Trouble Partnership," which was published by the McGraw-Hill Book Co. In this book he clearly warned against efforts by our leaders to deal with their Communist Russian counterparts. He wrote frankly and to the point.

". . . Since leaders generally do not reach eminence without a touch of vanity and since some stake their prestige on their ability to woo their Soviet counterparts, they tend to present their contacts with the Soviets as a considerable accomplishment. But the real issues have gone unresolved because they are genuinely difficult; hence they are usually avoided during summit diplomacy in favor of showy but essentially peripheral gestures.

"The vaguer the East-West discourse, the greater will be the confusion in the West. Moreover, each leader faces two different audiences, toward his own people he will be tempted to leave the impression that he has made a unique contribution to peace; toward his allies he will be forced to insist that he will make no settlement in which they do not participate. Excessive claims are coupled with reassurances to uneasy allies which are in turn tempted to pursue bilateral diplomacy.

"Such a course is suicidal for the West. It will stimulate distrust within the alliance. The traditional western balance of power diplomacy will reappear manipulated by the Kremlin. [One may substitute Peking, if one pleases.] Any Soviet [Peking] incentive to be responsible will vanish. The Soviet [Peking] leaders will be able to overcome their difficulties with the assistance of the West and without settling any of the outstanding issues.

"Since in the Kremlin [or Peking]—as in the West—there must be many who consider the status quo preferable to change, the result is likely to be diplomatic paralysis obscured by abstract declaration about peace and friendship."

The U.S.-promoted move to get Red China into the United Nations has stimulated distrust within the western alliance. Nationalist China was expelled by the votes of our allies. Allies were encouraged to vote against Nationalist China by Kissinger's second trip to Red China at the time admission was an

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issue in the U.N. Already France is pursuing a course of bilateral diplomacy with the Kremlin. So is Canada.

Much is promised of President Nixon's visits to Red China and Red Russia, but the result may be what Kissinger said, "showy but essentially peripheral gestures." Mr. Nixon has been led to do what he promised in his campaign for the White House he would not do—recognize and aid Red China. With Red China in the U.N., there is no necessity for Peking to make any concessions; they have what they want. A valuable bargaining point has been surrendered.

Undoubtedly, Kissinger played a major role in the new policy, perhaps even greater than Secretary of State William P. Rogers. The German-born adviser has long craved such power.

Under Mr. Nixon, Kissinger is something of a swinger. When he isn't playing ring around the rosy with the leaders of the Kremlin or Peking, he is swinging various more or less well known jet set flames. Altho he mixes women and statecraft, many here believe he is no expert on either.

EXEMPTION OF SUBSTANDARD WAGES FROM WAGE RESTRAINTS DURING ECONOMIC STABILIZATION

HON. WILLIAM F. RYAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. RYAN. Mr. Speaker, there is a growing sentiment in the Congress that economic stabilization legislation as finally enacted must contain a provision which exempts substandard wages from Government restrictions on wage restraints until these wages rise to the point where they are no longer substandard. I have introduced legislation concerning this matter—H.R. 11406 and House Concurrent Resolutions 414, 423, and 434, with cosponsors. The House Banking and Currency Committee has adopted this legislation as follows:

(T)he Economic Stabilization Act . . . shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is amongst the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor.

In this connection I think it vital to consider a report of the U.S. Department of Labor, Bureau of Labor Statistics on cost estimates for urban family budgets. The report points out that a minimum budget for a family of four in an urban area is $6,960 a year. For a family in a small city and town the analogous figure is $6,512 a year.

This report is impressive because of the care and depth of its analysis. There is a regional breakdown; consumption costs are given; and budgets for families of various sizes are analyzed. The following summary was released by the U.S. Department of Labor on December 21, 1970:

SPRING 1970 COST ESTIMATES FOR URBAN FAMILY BUDGETS

The U.S. Department of Labor's Bureau of Labor Statistics has updated its estimates of the annual costs of family budgets at three levels. Based on spring 1970 prices, the new budgets are about 6 percent higher than the previous estimates, which were for spring 1969. Budget costs varied widely among cities and regions, with the lowest costs in small cities and in the South.

The U.S. average budget cost for an urban family of four ranged from $6,960 a year at a lower level, to $10,664 at an intermediate level, and to $15,511 at a higher level. These costs are for a very precisely defined urban family of four: a 38-year-old husband employed full time, his nonworking wife, a boy of 13, and a girl of 8. After about 15 years of married life, the family is well established, and the husband is an experienced worker. The budgets are illustrative of three different levels of living and reflect the costs of different specified types and amounts of goods and services. The family has, for each budget level, average inventories of clothing, housefurnishings, major durables, and other equipment. The dollar estimates pertain only to an urban family with the specified characteristics; no estimates are available for rural families. The estimates, even at the lower level, do not represent the cost of a minimum or subsistence level of living.

CONSUMPTION COSTS

Family living expenses—including food, housing, clothing, transportation, medical care, etc.—were updated to 1970 by applying changes in the Consumer Price Index to the spring 1969 budget estimates for these components. These expenses came to 80 percent of the total budget, at the lower level. The remaining 20 percent covered gifts and contributions, occupational expenses, life insurance, and social security and personal income taxes. In the intermediate budget, consumption costs represented 77 percent of the total budget. For the higher budget, these costs were 73 percent of the total budget.

The cost of all food (at home and away from home) was 34 percent of consumption costs in the lower budget, 30 percent at the intermediate, and 27 percent at the higher level. Similarly, medical care took 10 percent of the lower consumption costs, but only 7 and 5 percent at the intermediate and higher levels, respectively. Total housing (including not only shelter costs, but also the cost of housefurnishings and household operation) reversed this pattern. At the lower level, where shelter was provided by a rented dwelling unit, housing was 26 percent of all consumption costs. It was 30 percent in the intermediate and 33 percent in the higher budget. Roughly the same proportion (about 14 percent) was spent on clothing and personal care at all three levels, and for transportation the proportionate differences between the levels were small. (See first chart.)

CONSUMPTION COSTS FOR DIFFERENT FAMILY TYPES

How family consumption costs for an equivalent level of living vary for urban families whose size and composition differ from the budget family is shown in the following table.

ESTIMATED ANNUAL COST OF FAMILY CONSUMPTION FOR SELECTED FAMILY TYPES, URBAN UNITED STATES SPRING 1970[1]

Family size, type, and age	Lower level	Intermediate level	Higher level
Single person under 35 years	$1,944	$2,872	$3,971
Husband and wife under 35 years:			
No children	2,721	4,020	5,560
1 child under 6	3,443	5,087	7,035
2 children, older under 6	3,998	5,908	8,169
Husband and wife, 35 to 54 years:			
1 child, 6 to 15 years	4,553	6,728	9,304
2 children, older 6 to 15 years[2]	5,553	8,205	11,346
3 children, oldest 6 to 15 years	6,441	9,518	13,161
Single person, 65 years and over	1,555	2,297	3,177
Husband and wife, 65 years and over	2,832	4,185	5,786

[1] For details on estimating procedures, see "Revised Equivalence Scale," BLS Bulletin 1570-2.
[2] Estimates for the BLS 4-person family budgets.

DIFFERENCES IN LIVING COSTS AMONG THE URBAN AREAS

Area cost indexes (based on urban U.S. equaling 100) reflect not only differences among the areas in price levels, but also regional variations in consumption patterns and differences in climate, types of transportation facilities, taxes, etc. Thus, they are estimates of comparative cost indexes and not simply comparative price indexes.

Consumption costs in metropolitan areas were about 8 percent higher than in nonmetropolitan urban areas, for the lower budget. The metropolitan-nonmetropolitan difference was 13 percent for the intermediate budget and 17 percent for the higher. Total budget costs were lowest in the South, where small cities had the lowest indexes at all three levels. The inter-area range in costs was narrowest in the low budget and widened as the level rose.

All indexes relate to the costs for established families in each area. They do not measure cost differences associated with moving from one area to another, or the living costs of newly arrived residents in a given community.

Further details on the budgets are presented in the accompanying tables.

CHANGES IN LIVING COSTS, 1967–1970

Since the three family budgets were first published in spring 1967, consumption costs for each of the budget levels have risen 14 percent. Total budget costs—including social security payments and Federal, State, and local income taxes—rose by approximately 18 percent between 1967 and 1970. The rise in taxes, which accounted for 30 to 40 percent of the increase in the different budgets, reflects in part the effect of progressive income taxation on rising money incomes, as well as changes in tax laws at 11 governmental levels. As a result, for the illustrative 4-person budget family the distribution of income between consumption and taxes changed between 1967 and 1970 as follows:

BUDGET LEVEL

	Lower		Intermediate		Higher	
	1967	1970	1967	1970	1967	1970
Total budget	100	100	100	100	100	100
Cost of consumption	82	80	80	77	77	73
Other costs[1]	5	5	5	5	6	6
Taxes[2]	13	15	15	18	17	21

[1] Includes gifts and contributions, life insurance, and occupational expenses.
[2] Social security and disability payments, plus Federal, State, and local personal income taxes at 1969 rates.

ESTIMATING METHODS

The 1970 estimates of consumption were derived by applying price changes between spring 1969 and spring 1970, reported in the Consumer Price Index, to the appropriate spring 1969 final cost of each main budget class of goods and services. This method of updating provides only an approximation of current budget costs because the Consumer Price Index reflects spending patterns and prices paid for commodities and services purchased by wage earners and clerical workers generally without regard to their family type and level of living. Other costs and Old Age, Survivors', Disability and Health Insurance were also updated to spring 1970, but personal taxes were computed from tax rates in effect for 1969.

SENATOR BUCKLEY SCORES UNWISE "CHILD DEVELOPMENT" BILL

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. ARCHER. Mr. Speaker, on September 30, the House added—by a narrow vote of 186 to 183—a comprehensive "child development" program to H.R. 10351, the Economic Opportunity Act Amendments of 1971.

The bill contains a revolutionary concept and is obviously far more than another antipoverty measure. The distinguished junior Senator from New York, JAMES L. BUCKLEY, has made a penetrating analysis of this unwise and dangerous proposal. This analysis is contained in a speech which the Senator recently gave before the New York State Associated Press Editors Association luncheon in Rochester.

The Senator also makes some cogent comments surrounding the tragedy which occurred at the Attica State Prison. I commend the Senator's remarks to the attention of my colleagues. The full text of the speech follows:

ADDRESS BY SENATOR BUCKLEY

It's a pleasure to be here today—and a special pleasure to appear before this audience. It isn't often that I get a chance to catch a whole room full of you at one time; and with your leave, I intend to take full advantage of the situation. In the first place, it gives me an opportunity to express my appreciation for the objectivity and fairness of your coverage of my campaign and of my work in the Senate to date. Your task is not an easy one by any means. I have had to discover on my own these last eight months how hard it is to get a straight story out of someone who may not want to tell it to you, and I sympathize with the difficulties you face in trying to keep the public informed. Let me therefore take this occasion to say "Thank you"—and to express the hope that we will continue to enjoy cordial relations in the future.

Appearing before you today has also given me a chance to pull together some of my own thoughts on the role of the press in a free society. I offer them to you in the hope that they will prod some of you into thinking a little more self-consciously about the kind of contribution an informed and vigorous press can make to the nation.

It occurs to me, at the outset, that you and I have a good deal in common. We are all doers of the public business. As such we bear a public trust that imposes grave responsibilities—not the least of which derives from the knowledge that the lives of thousands, perhaps millions, will be affected by what we do and say.

Moreover, you and I share a deep and abiding concern for the state of the nation. We spend most of our waking hours—and a good many others as well—trying to articulate why this or that proposal is in the public interest.

But what you and I have in common most of all, I suspect, is the hard necessity of having to act, and what's more, having to act so much of the time with inadequate—or in some cases—even false information. We know that what we decide to do or not to do creates ripples of influence extending ever outward, affecting the lives—and certainly the fortunes—of many whom we shall never know or see. And whether our influence in any particular matter be great or small, we know from experience that the consequences of our action are often unpredictable. Yet, knowing all this, we cannot avoid the iron necessity of having to decide.

With these thoughts in mind, let me turn to two events of recent vintage which seem to me to contain the seeds of a valuable experience and which I commend to you for your further consideration.

The first of these concerns Senate bill No. 2007, a bill that I daresay no one in this room can identify. I make that statement with some confidence, because until a few days before it was voted on, I didn't know what was in it either. It was simply there as the pending business when the Senate returned from its summer recess. Even though the bill passed the Senate on September 9 by a vote of 49 to 12, I daresay a working majority of the Senate was unaware of what was really in it. And one of the reasons why neither I nor a sizeable number of my colleagues knew what was in the bill is that *you* didn't tell us. I suspect the reason why you didn't tell us is that you hardly gave a second thought to a bill innocuously titled, "S. 2007, a bill to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes."

In short, a simple two-year extension of OEO, or so it seemed. But if you had paused to study the bill, you would have found that the phrase "and for other purposes" included what may prove to be one of the most deeply radical pieces of social legislation ever considered in the halls of Congress. I refer to the proposed establishment by the federal government of so-called "comprehensive child development" centers, to the tune of 100 million dollars for this year, rising sharply to two billion dollars next year, and to who knows what heights thereafter.

Now to many of you, the phrase "comprehensive child development" may seem innocuous enough. But I believe that even a cursory glance at the bill would disabuse you of that idea rather rapidly. For what is proposed here is not just a fancy federal baby-sitting service for children of the disadvantaged. As the name implies, it is truly comprehensive—both as to the number of people to be covered and as to the range of services sought to be provided. As to eligibility, the bill would cover, immediately, better than 32 per cent of the population. And in the future, it proposes to include every child in the nation, without regard to income. I cannot do better on this point than to read to you from Section 501(a) of the bill:

"The Congress finds that (1) millions of children in the nation are suffering unnecessary harm from the lack of adequate child development services, particularly during early childhood years; (2) comprehensive child development programs, including a full range of health, education, and social services, are essential to the achievement of the nation's children and should be available as a matter of right to all children regardless of economic, social, and family backgrounds."

For those of you who may want to know what "a full range of health, education, and social services" might entail, let me read to you from the report of the Senate Committee on Labor and Public Welfare. This proposal would, among other things, authorise the federal government to establish:

"Comprehensive physical and mental health, social and cognitive developmental services; food and nutritional services (including family consultation); special programs for minority groups, Indian, and bilingual children; specially designed programs (including after school, summer, weekend, and overnight programs); identification and treatment of physical, mental, and emotional problems, including programs for emotionally disturbed children; prenatal services to reduce malnutrition, infant and maternal mortality, and the incidence of mental retardation; special activities for physically, mentally, and emotionally handicapped children and children with special learning disabilities; training in the fundamentals of child development for family members and prospective parents; use of child advocates to assist children and parents in securing full access to other services; and other activities."

Let there be no mistake about it: a federal comprehensive child development program will establish the federal government as the most important, and ultimately the strongest arbiter of child-rearing practices in the United States. For those of you who may still be skeptical, I would ask you to listen to the words of Dr. Reginald Lourie, who testified in favor of the bill during the Senate hearings. Comprehensive child development, he said, should begin as early as possible because, in his words:

"In the first 18 months of life, the brain is growing faster than it ever will again. It is then also *more plastic and most available for appropriate experience and corrective interventions.*"

I have not pulled that statement out of George Orwell's *1984*, nor have I taken it out of context. Dr. Lourie means precisely what he says, and the implications of what he says, frankly scare the living daylights out of me. Dr. Lourie, I might add, is no johnny-come-lately to this business. He is a widely recognized authority on children and recently served as director of the Joint Commission on the Mental Health of Children. His opinions are precisely those which will dominate the planning and implementation of the federal child development programs proposed in S. 2007. Now I have nothing against Dr. Lourie personally. I have no reason to suspect that his intentions are anything less than perfectly benevolent. But experience teaches us to be most on our guard precisely when the government's intentions are most benevolent.

Unfortunately, I am only one man, and mine only one voice. The public, like me until a few weeks ago, like most members of Congress even at present, simply has not been informed on this issue. It matters less to me at the moment whether you happen to favor or oppose such legislation than whether the public has been informed of what's at stake. I can say that with genuine conviction because I have every confidence that if the American people knew what was tucked away in Senate bill S. 2007 and its House counterparts, they would be raising howls of protest from coast to coast because I believe that the American parent is not yet prepared to delegate the development of his child to the white-coated bureaucrats who will inevitably dominate the program.

I mention this issue not only because its implications concern me deeply, but also to remind you of something we are all prone to forget: that public officials no less than the public at large are dependent upon the working press for much of their information—even about their own affairs. You, ladies and gentlemen, much more than any member of Congress, are really the final arbiters of what shall, or shall not, be considered an important or controversial piece of legislation. And "comprehensive child development," it seems to me, deserves that much-abused label "controversial" as much as any piece of legislation in recent memory. Consider: the Congress of the United States is about to enact into law a bill that would put the federal government irrevocably into the business of providing virtually complete physical and mental services to every child that is conceived, from the prenatal stage right on through grammar school. That, it seems to me, is a major step—indeed, a revolutionary step—on the part of the federal government. That, it seems to me, is something that elected officials ought to consider most carefully. That, it seems to me, is

something the public has a right to know about in detail.

Now, having that off my chest, let me turn to a second matter, one that arises out of the tragic events at Attica State Prison. On balance it seems to me that the press is not doing as thorough a job as it might, and in so failing, runs the risk of alienating large segments of public opinion. If the mail which has come into my office is any indication, there is a growing resentment against the rather easy way in which events at Attica are being likened to the slaughter at My Lai; against the casting of the prisoners as the heroes, and the Governor as the villain, of some heart-rending proletarian drama; against the way in which the final significance of the events there is being limited to an argument on behalf of penal reform; against the way in which some members of the press seem to gloat in discovering yet another flaw in American institutions. Consider, for example, a story put out by one of the wire services on the aftermath of Attica. The lead read as follows:

"A boiling controversy over the deaths of 42 men in the Attica prison revolt continued unabated yesterday with sharp criticism in the U.S. and abroad on the way officials handled the insurrection."

The article went on to quote a dispatch filed by Ivor Key, the U.S. correspondent of the London *Daily Express*, as follows:

"For the first time in four years of living and working here, I am shocked to the point where I seriously question whether this is the country I want to raise my children in!"

The wire story neglected, however, to report the next two paragraphs of Mr. Key's dispatch, which I shall now read:

"True, a nation's pulse cannot be taken from the thousand hardened criminals who took over the jail.

"But my fear is that the courts and politicians, mainly for their own ends, have become so liberal to the criminal that we are on the verge of wholesale anarchy."

In short, the wire service story carried the completely opposite implication of that which Ivor Key sought to convey. This, I suspect, was an act of reportrial negligence and not of malice, but it reflects a compulsion for national self-flagellation which may destroy us yet.

Or consider this example of television news reporting by a New York City station: for two hours, live and during prime time, six panelists discussed the issues of Attica. So interested were city viewers that the station reported receiving more than 1000 telephone calls.

Sadly though, New Yorkers watched only one side, one point of view of the Attica story, for the six panelists were for the most part of the same philosophical stripe and all were highly critical of the Governor's action. Where was the balance in this news report?

This, it seems to me, is no small matter. If there is one thing I have acquired since going to Washington, it is a sizeable and still growing respect for the common sense, courage, generosity, and essential fairness of the American people. But I have discovered as well that they are also capable of fear; fear at times for their own physical safety, but most especially, fear for the stability and safety of their country. They are a people who, like Ivor Key, fear to raise their children in a land grown so permissive. And as a consequence, despite their generosity; despite their sense of justice; despite their sympathy for the disadvantaged; despite their knowledge that Attica might have been handled differently, they simply will not buy the pro-prisoner story line that seems to characterize so much of the reporting on the mutiny. To cast convicted robbers, rapists and thugs as the oppressed victims of a tyrannical social order simply will not wash with the great majority of the American public. They are rather more inclined to accept the view of columnist John Roche who wrote recently in another context that "The beginning of wisdom is to know who is going to shoot you if he gets the chance. From there you can go on to Plato and the classics." And, he might have added, on to penal reform. The failure of the press to highlight the frankly and avowedly *political* character of the Attica revolt does an injustice not only to those prisoners who refused to take part in the riot—three of whom, incidentally, were viciously slaughtered by their fellow inmates during the insurrection—but it does an injustice also to the cause of penal reform. For it is the public who in the last analysis must say yea or nay to penal reform; and it is the public, certainly, who must pay for it.

Nor will it wish to argue, as some have, that the Attica tragedy reveals the fundamentally racist character of American institutions. This is an old saw, of course, a continuation of the theme that was echoed in certain quarters during the '68 presidential campaign, in which it was alleged that "law and order" was a code word for racism. This prompted one wag to remark, well, if "law and order" is a code word for racism, I'd like to know what the code word is for "law and order." Because that happens to be what the country most urgently needs. Those who claim that criminal justice in the United States is racist fail to note that the most common victim of violent crime is both black and poor.

The Attica revolt, in short, is being viewed by the public somewhat differently than it is being viewed by certain segments of the press. Rather than perceiving the issue in terms of penal reform, the public sees it as but another example of growing lawlessness. For the public believes—and I speak here for myself as well—that we are only now reaping in our prisons the harvest of seeds of lawlessness that were planted elsewhere and long ago. The public believes, as I do, that the root cause of Attica has less to do with the state of our prisons than it does with the state of our attitudes towards the law. Somewhere along the way in the last few years, the idea somehow got itself accepted that one must obey only those laws with which he agrees, and that one who disobeys a law, so long as he is righteous enough, is entitled to relative impunity.

That sounded pious, safe, and harmless enough in the early Sixties, at least in the Northeast, so long as the laws in question were court orders in Birmingham, Alabama. And even when the spirit of disobedience rooted itself on the Berkeley campus in 1964, few public officials and even fewer reporters saw it as anything other than a classic vindication of the rights of conscience. In the last four or five years, however, the spirit of disobedience has acquired a rather more sinister aspect. For some of my colleagues, it took a bomb in the Capitol building and a brace of Mayday demonstrations to convince them that one man's "civil disobedience" is another man's mayhem, and that the distinction between the two is often impossible to maintain. Indeed, many public officials and members of the press are only now catching up with the common sense exhibited by the American people as early as eight or nine years ago. For the American people sensed then, as indeed they sense even more strongly now, that in a democratic republic it is really only obedience to the law which separates civil society from the jungle, and that if you destroy reverence for the law you end up destroying the possibility of civilization altogether. And events such as those which took place at Attica remind the public that the line which separates us from barbarism these days is very thin indeed. The public's concern for law and order is neither racist nor oppressive, although it could become both if mutinous convicts are continually held up as the heroic revolutionary vanguard of some new social order.

I think the difference between the public's perception of the Attica tragedy and the view generally prevailing in the media is a difference which deserves your most searching consideration. For I think that the press has tended to underestimate—and in some cases it has actually pooh-poohed—the public's concern for law and order. And I suspect that a good deal of the public's distrust of the media may stem from this issue alone.

I think you would do well to ponder the fact that the public, rightly or wrongly, tends to associate the media (or at least large segments of it) with the encouragement of lawlessness. It is for this reason that I am somewhat skeptical about whether the recent Supreme Court case on the Pentagon Papers was really such a great and grand victory for the freedom of the press. Whether it turns out to be a triumph or a tragedy will depend less on the verdict in the Supreme Court than it will on the verdict in the court of public opinion. The same holds true, I believe, with regard to the recent effort in the House of Representatives to cite CBS for contempt of Congress. Had the choice been mine, I would have voiced my indignation at some of the techniques used in such documentaries as "The Selling of the Pentagon." But, here too, the ultimate vindication or condemnation of CBS will be determined less by a vote of Congress than by the determination of the public at large.

In closing, I would like to leave you with this thought. We who devote ourselves to the public business—you in trying to inform public opinion, I by trying to influence it, both of us in trying to lead it aright—we sometimes tend to forget that in a democracy public opinion is, in the final analysis, everything. It is the ultimate arbiter of public morals no less than of public dress. Above all, it is the ultimate arbiter of the law. And it is the law which decides, in turn, who shall enjoy how much freedom and when. It is therefore necessary to remind ourselves from time to time that the last redoubt of freedom of the press is a favorable opinion among the very public whose right to know you so earnestly—and at times so courageous—seek to defend. The public, I think, better understands the distinction between liberty and license than do many members of the press; they understand that the line between civilization and anarchy is measured by obedience to the law; and they understand that that line must sometimes be drawn in blood. They understand, too, that a free society depends on the self-discipline of its people; that anything which erodes that self-discipline erodes freedom itself, because a free society cannot co-exist with chaos. If a people will not maintain the public order through a willing submission to the law—even bad law—then order will inevitably be imposed on them, and that will mean the eclipse of all our freedoms.

This, I submit, is the true significance of the road to Attica; a significance which we who cherish the freedom of the press will ignore at our peril.

TIME FOR ACTION

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. SIKES. Mr. Speaker, the great importance of forestry continues to be spelled out in appropriate language by leading figures in this field. Kenneth H. Pomeroy, chief forester of the American Forestry Association, wrote a very informative article entitled "Time for Action" which appeared in the December 15, 1970, issue of Southern Lumberman. His article emphasizes the objectives set forth in new forestry legislative programs which have passed the House and are now pending in the Senate. I submit it for reprinting in the RECORD:

TIME FOR ACTION

(By Kenneth B. Pomeroy)

What are we going to do about private forests?

We have talked about them since Ben Franklin noted a lack of fuel wood within wagon haul of Philadelphia.

We have counted them—4,500,000.

We have measured them—309,000,000 acres.

We have inspected them. Some need planting. Others are cluttered with useless relics of former tree crops. Only 29 per cent are in satisfactory condition.

We have weighed their role in the national economy. They must produce wood more efficiently if future needs are to be met.

All of these observations and more have been documented expertly by the Southern Forest Resource Council in its excellent report *The South's Third Forest*. Additional findings have been reviewed by "Trees For People," a national task force of conservation, industry and public advisors.

The time for talk and study has passed. No magic formula has been found. Nor is one likely to be devised. Techniques that work abroad fit different economic and social conditions. We must rely upon our own proven methods.

The initial stage is to place greater emphasis on activities that forest owners cannot handle adequately by themselves.

Why? Because private forests serve all the people—forests yield pure water; they shelter wildlife; they cleanse the air; they add beauty to the countryside; and they furnish wood for countless uses.

But these vital public services must be provided under threats of loss by fire, damage by wind and attack by diseases or insects. We can help our own cause by reducing the risks so that land owners can practice better forestry. There are several ways to do this.

1. *Protect forests from fire.*

Protection of present and future crops is basic to sound management. Yet 31 million acres, six per cent of all commercial forests, do not receive any protection at all. A much larger area, over 200 million acres, is not protected adequately.

Why does this situation exist? It exists because citizens, you and I, have not insisted that adequate funds be appropriated.

Federal appropriations for cooperative forest fire protection under the Clarke-McNary Act of 1924 have not been made at the level authorized by Congress. The Congress authorized an annual appropriation of $20,000,000, but after much prodding by state foresters, forest industries and conservationists, only provided $16,469,000 for the current year.

This key forestry appropriation should be increased to the full authorization of $20,000,000. It can be and will be only if you insist upon it.

2. *Controlling diseases and insects.*

Disease and insects cause losses estimated in the billions of dollars annually. They attack shade trees in cities as readily as timber trees in forests. Dutch elm disease has changed the appearance of many communities. Gypsy moths defoliate hardwood forests in the Northeast. Bark beetles ravage pine forests in the South. Dwarf mistletoe damages trees in the West. Sawflies and tip moths deform young trees everywhere.

Some of these pests have been held in check in the past with DDT and other chemicals now known to be harmful to animals, birds, fish and people. Urgently needed are new, less-hazardous methods of control. Some promising leads have been found by research workers. Their efforts should be accelerated and intensified greatly.

Appropriations at the Federal level should be increased from the present allotment of $4,783,000 for insect research and $2,810,000 for disease research to at least $10,000,000 for both activities.

3. *Provide technical assistance.*

Technical assistance, some free and some at modest cost, has been available to limited numbers of forest owners for some time. More people should benefit from this service. But 4,500,000 owners are far too many to be aided by 800 cooperative Federal-State service foresters and 300 consulting foresters. At best one public forester can only aid about 100 owners in a year. Consulting foresters are more limited in their contacts because they usually work on larger properties. Add to these limitations the fact that tenure of ownership averages about 15–20 years and it becomes apparent why many forest owners are not receiving the benefits of professional guidance.

The Federal share of the Cooperative Forest Management program is now bumping against its authorized ceiling of $5,000,000 annually. In 1971 the Congress will be asked to raise the authorization in order to meet rising costs of operation. At the same time the Congress and the states should be urged to double manpower on the ground so that technical assistance programs can be implemented more fully.

The ranks of consulting foresters should be expanded ten-fold. These men, spurred on by private incentive, can perform services a public forester can not provide. For example, a consultant can work on a property as long as it takes to get the job done, whereas a public forester may be limited to three or four days in which to show the landowner how it ought to be done.

Consulting foresters, being private businessmen, face the same hurdles as young attorneys in establishing their business. It takes money to tide them over during the year or two required to create a flow of funds. For example, work done today may not be paid for until months later. Meanwhile, there are payments to make on equipment and payrolls to meet.

The Tennessee Valley Authority and the National Association of Consulting Foresters have attempted to break this bottleneck with an agreement that enables TVA to underwrite certain establishment costs during a two-year period. Two promising young foresters have been selected for the program. They will be aided with referrals from TVA and other public agencies.

This pioneering effort holds great promise It should be initiated in other forested regions.

4. *Cost-sharing.*

Conversion of useless brushy areas to productive forests, planting trees to assure a future supply of wood, protection of watersheds, improvement of wildlife habitat and enhancement of the environment are public-interest activities that usually require considerable labor to initiate but do not yield cash returns on the investments for a long time. Many forest owners may not be in a position to undertake such projects, because of age or financial limitations. Yet future economic and social needs of the nation require that private forests fulfill their role.

There are two ways to solve the problem; i.e., regulation as in some other countries, or public assistance in the form of cost-sharing. Regulation was ruled out in this country two decades ago. What about cost-sharing?

Public assistance in the form of cost-sharing under the Agricultural Conservation Program has been available since the mid-1930's. Yet total accomplishments have been but a "drop in the bucket" compared to the job that needs to be done.

Seventy-five million acres of private land needs to be planted. The actual acreage planted annually is slightly more than one million acres. The accomplishment is not enough to keep up with new areas being denuded by fire and other causes.

One hundred forty million acres of partially productive private forests need stand improvement such as thinning and removal of useless cull trees that occupy valuable growing space. Here again annual accomplishments are pitiful in comparison to the magnitude of the job.

A separate assistance program, geared to the needs of forestry, should be devised. It should contain the following key features:

(a) Be in the public interest;

(b) Emphasize long-term activities that forest owners are not likely to undertake by themselves;

(c) Require owners to commit themselves to a forest plan of long enough duration to make assistance effective;

(d) Make assistance available over a period of years;

(e) Consider cost-effectiveness in establishing priorities for assistance.

A forestry assistance program is being drafted now by the Administration for presentation to the Congress early in 1971. When its details become available, it should be studied carefully.

5. Other incentives.

Utilization, marketing, taxation, leasing and insurance also are important factors in an owner's forest management program. These considerations vary considerably from one locality to another and for that reason are not being discussed in detail here. But, all are important to the successful management of the small, privately-owned forest and must be dealt with before these lands can yield their full potential.

SUMMARY

Fire protection, insect and disease control, technical assistance and cost-sharing are basic elements of efforts at the Federal level to improve management of 4,500,000 private, non-industrial forests. Aggressive action should be taken immediately on each element so that owners can achieve the objectives of which their properties are capable.

HOW JANE'S FIGHTING SHIPS GETS ITS INFORMATION

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BOB WILSON. Mr. Speaker, the most authoritative compilation of statistics on the navies of the world is Jane's Fighting Ships. Each new edition is studied carefully by all major nations as a means of measuring the strength of individual navies. How this vital information is gathered by Jane's and the significance of great growth in the Soviet fleet were covered in a recent interview with Norman Polmar, the editor of Jane's, in the San Diego Union. Knowing that this is information of interest to our colleagues, I insert the Union interview in the RECORD.

[From the San Diego Union, Sept. 5, 1971]

JANE'S FIGHTING SHIPS EDITOR GIVES HIS VIEW: WHY IS THE SOVIET NAVY NO. 1?

(NOTE.—Norman Polmar is an associate of Luiejian & Associates, a research organization, and the American editor of Jane's Fighting Ships, the world's most authoritative compilation of data on navies of the world.)

Question: How long have you been the American editor of Jane's Fighting Ships?

Answer: Four years.

Q: How difficult is it to come by the essential facts that appear there?

A: It is relatively easy but extremely tedi-

ous and extremely frustrating at times. All of the information that is in the book is visible in the broad world. But it is a fantastic problem of sifting, for instance, the hearings of eight congressional committees. It also entails going through a very large number of publications, some in foreign languages. The Soviets publish a tremendous amount of material, some of which goes directly to the Jane's people. Some is translated; some is not. The Eastern and Western European nations are very maritime oriented and publish a large amount of material.

Q: Have you ever seen any evidence that the Soviet Union is interested in making propaganda out of what you publish in Jane's?

A: My natural inclination is to answer that in the affirmative. However, I have seen nothing direct. In fact we have tried to obtain Soviet photographs which obviously are unclassified. These are available from Western sources, but we would like to get them from a Communist source and we haven't been able to.

Q: How often do you discover something in the public domain which some nation, let us say the United States, has classified?

A: Often. As an example, Navy regulations prohibit photographs of submarines with periscopes and antennas raised. And yet, you find a large number of photographs in Jane's of U.S. submarines with periscopes and antennas in the raised position, all of which have been released by the Navy.

Q: How does this happen?

A: In some cases the general rules are too broad for the real situation. In others, Navy people don't know all the rules, and aren't familiar with all the problems.

Q: Does anybody ever offer you secret material?

A: I have come across some material of this type. When I do, I call one of my contacts in government. If he says do not use that, I won't.

Q: Comparing Jane's of today and Jane's of 1921, what fraction of the book is occupied by the United States Navy, as contrasted with the rest of the navies of the world?

A: Today the U.S. Navy has, roughly, one third of the book. In the 1920's we had, perhaps, a quarter of the book. At that time, the British Navy was the largest; the U.S. was the second largest. Today the United States Navy occupies a third of the book because auxiliary ships, including the experimental, research, survey and intelligence ships, have a much more important role than they did in the 1920's. Today we are also talking about amphibious warfare, which didn't exist as a category in the twenties. The current Jane's Fighting Ships has a section of 15 pages on amphibious warfare ships and landing craft, a section which, as an entity, did not exist in the 1920's.

Q: What percentage of the book does the Soviet Navy occupy?

A: In the 1920's the Soviet Navy was usually last. The Soviets built no ships in the twenties. Their first five-year plan, about in 1925 or 26, was when they started to build a few submarines. Their first five-year plan had five submarines in it. In the 1920's and 1930's the Soviet Union was not a major naval power. The Soviets had the world's largest submarine fleet at the beginning of World War II. It accomplished this on next to nothing.

Q: What does this Soviet naval growth mean in terms of maritime strength?

A: I see a tremendous growth in their navy in numbers of modern units. What is particularly frightening is that every year or two we see a new type of surface warship, a new class of submarine, a new missile, a new electronic system, a new radar.

Q: Does this mean focus on research and development?

A: Yes, and research and development at a rate which is faster than ours if you take any item, say shipboard ash trays.

Q: Do they have better ashtrays than we do at this time?

A: In some areas they have, such as submarines weapons and submarine anti-ship weapons. They can go after our warships with submarine-launched missiles which can probably reach beyond the range of our own anti-submarine warfare weapons, whereas the only means the U.S. has of attacking Soviet ships is with torpedoes. Torpedoes leave something to be desired.

Q: How does Jane's vouch for the authenticity of the data concerning the Soviet vessels?

A: It doesn't. It stands on the prestige of 74 years of publication. And there is no better source.

Q: Is there a considerable contrast between accessibility of the United States fleet to you and accessibility to you of the Soviet fleet?

A: There is a problem with the Soviet fleet. You will notice that pages on U.S. ships have more facts and more exact numbers.

Q: How big a staff do you have to gather Soviet data?

A: About four to six people.

Q: Do you, for example, go out to look for Soviet ships?

A: Yes, there are people all over the world, in navies, who contribute to Jane's Fighting Ships.

Q: Why doesn't the Soviet Union build aircraft carriers?

A: They don't have the facilities. It would be cheaper for them to buy something like Newport News, Va., by several orders of magnitude, rather than to go out and start building such a facility. Second, they don't have the years of experience of operating carriers or flying aircraft from them, of operating screen ships, of replenishing them at sea. This experience comes long and hard. We have made a lot of mistakes in carrier aviation and we have 50 years of experience. Also, we are very strong in carriers. Where the Soviets are looking for counters to our navy, they are not going to try to match us where we are already strong.

Q: How long do you think it will be before the Russians can overtake us in submarine nuclear strength?

A: They are overtaking us this year, 1971, in terms of number of nuclear powered submarines.

Q: What are the numbers?

A: As of July of this year they had 92 to 94. We are building them at the rate of four or five a year. They are building them at the rate of nearly 15 a year. I also am very concerned about the increasing vulnerability of our bombers and our Minute Man missiles. I don't think we should adopt only one strategic defense system. I think that the United States has a fantastic option in ULMs, a long range submarine system missile, which can force the Soviet Union to defend itself at great distances. It forces Soviets to go to a 360 degree defense against ballistic missiles.

Q: How much naval research and development should we be doing?

A: We have not produced a strategic missile since 1967. If tomorrow the President said "go build me one" it would be at least four years before we had one. I think that submarine technologies and missile technologies have advanced tremendously since the early 1960's when the Polaris was designed. We should take the most advanced missile design we can develop and build it. For instance, there are a number of advantages in putting missiles in canisters outside of submarines. It would balk the possibility of detecting by satellite a missile coming through the water. Tubes in the submarine tell you exactly where it is. Canisters float off. You can launch them 20 minutes later by sonar control, after the submarine is a mile away.

Q: Do we or the Soviets have the advantage in detection capability?

A: I think we are ahead. However, I am bothered, speaking on the basis of unclassified literature, because the Soviet Union every year or two, comes out with a new type of submarine and a new type of surface ship. I am sure they are doing a lot under water also in both ship board sensors and bottom-laid sensors. It seems logical if submarines are so important in warfare today, that Russia also is going ahead in underwater research and development.

Q: What was the origin of Jane's Fighting Ships?

A: Fred Jane was a British newspaperman in the late 1800's. He was in the Mediterranean covering some small naval conflict and, with his story, he sent hand sketches of the ships. When he got back to England, the paper wanted to put together all the sketches and publish a special section. I don't think the special section ever was printed, but a book publisher heard of this, and 75 years ago he published a book which contained sketches and the names of ships and size of their biggest guns. It was a very scanty book with about 200 ship drawings. With advent of the photoengraving process at the turn of the century the publishers started a book with pictures of ships. Pretty soon they were covering all the navies, giving strengths as well as descriptions on all vessels.

MILITARY PROCUREMENT CONFERENCE REPORT

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. DENT. Mr. Speaker, the House last night acted wisely in agreeing to the language contained in the Military Procurement Conference Report with respect to Rhodesian chrome. Mr. E. F. Andrews, vice president of purchases, Allegheny Ludlum Industries, Inc., spoke to this in testimony before the Senate Foreign Relations Committee. His presentation was cogent and persuasive, and relates directly to the problem faced by so many of the specialty steel producers in my area. I am pleased to include it in the RECORD for the benefit of my colleagues:

PRESENTATION OF E. F. ANDREWS

Mr. Chairman, my name is E. F. Andrews. I am Vice President of Purchases, Allegheny Ludlum Industries, Inc. One of our member companies, Allegheny Ludlum Steel Corporation, is a major producer of stainless and specialty steels. I also represent the Tool and Stainless Steel Industry Committee and am chairman of the Critical Materials Supply Committee of the American Iron and Steel Institute. We appreciate this opportunity to speak in favor of S–1404.

As one who spends a major portion of his waking hours concerned with the problems of materials supplies for this country, I am quite naturally interested in any legislation that has as its purpose the protection of such supplies.

The United States is very much a negative nation in regards to the availability of strategic raw materials. It has been reported that, of the 30 strategic metals, so defined by the Office of Emergency Preparedness, 25 must be imported by the United States in order to supply the needs of important American industries. For this reason, we strongly supported the Boggs' Amendment establishing a Materials Policy Commission so that we, as a nation, could start officially addressing ourselves to the long-range problems of critical material shortages and hopefully adopt laws and enunciate policies that will protect and provide for the nation's future material needs. S–1404 is in harmony with

the purpose of that commission in that it would be established to prevent the unilateral action of one segment of government from interrupting the flow of vital and strategic materials to our shores regardless of how meritorious the intent of such action may be. It reduces the danger of unwise and unnecessary injury to this country while not preventing support of the issues involved.

It already has been said in these hearings that the Rhodesian sanctions and their effect on the chrome situation are a perfect case in point. As a major consumer of chrome we are quite familiar with the effects of those sanctions on the economy of the United States, the Specialty Steel Industry, and its employees.

The importance of chrome to industrial America cannot be overstated. While steel remains the most useful, most versatile, and most reasonably priced metal in modern industrial civilization, specialty steels—developed and manufactured by a large group of relatively small companies in the United States—not only have those three principal characteristics but, in addition, in their latest forms and new specifications, have made possible not only our nation's aerospace program but also its advanced communications, improved power generation and distribution, its growing Chemical Industry, greater comfort and efficiency at home and at work, and continuing progress in such advancing sciences as oceanology, ecology, surgery, medicine and health care, and atomic particle physics. From the last named will come not only new sources of energy but great new strides in scientific progress in virtually every field.

Thus, gentlemen, when we speak of alloying elements—and chrome of course is an important one of these—we are talking about no ordinary commodity. It goes to the root of our industrial civilization. In fact, by definition, stainless steel is a corrosion resistant, ferrous alloy containing 11% chrome or more. In other words, broadly speaking, there is no substitute for chromium insofar as corrosion resistant or stainless steel is concerned.

Nearly 70% of the world's known metallurgical chrome reserves (see Attachment 1) are found in Rhodesia. To our knowledge, there has not been a new find of chrome reserves since World War II, and there are no known competitive deposits in the Western Hemisphere. Prior to sanctions, Rhodesia was our largest supplier of metallurgical, high-grade chrome ore. Due to the sanctions, this has diminished to zero, with the main benefactor of this attractive and profitable volume of business being the Soviet Union. In fact, according to the United States Bureau of Mines' data, in 1970, of the 363,840 short tons of chromium contained in ore, with a chrome content of 46% or better, 224,877 short tons, or better than 60%, were imported from the Soviet Union.

In spite of the fact that the world price of chrome ore had dropped from 1956 through 1966, the Russians, acting in a highly "capitalistic" manner, increased their price to us more than 100% since the sanctions were imposed (see Attachments 2 and 3). As evidence of the fact that this rise is substantially greater than inflation during this period of time, when one examines the years 1967 through 1970, we cite the following cost increases which were incurred for various commodities consumed by the Steel Industry:

[In percent]

Grinding wheels	21
Graphite electrodes	14
Refractories	20
Bearings	15
Ingot molds	16
Mill rolls	16
Coke	50
Fuel oil	81
Manganese ore	15
75% ferrosilicon	19
Vanadium	42
APT tungsten	57
Nickel	56
Cobalt	10
Fluorspar	10
Magnesium	5

But now, looking at the impact of the rise in chrome ore prices during this time, we see ferrochrome silicon up 80% and high carbon ferrochrome up 67% (see Attachments 4 and 5). In fact, if we examine Attachment 4, the dotted line shows the price rise of silicon in ferrochrome silicon over the past four years, and the solid line shows the rise in the cost of chrome contained in this product over the same period of time.

The situation would undoubtedly have been worse had it not been for sizable disposals from the Federal Government stockpile during this time. It is estimated that, during 1969, 31% of the metallurgical chrome consumed in this country came from the stockpile, and something over 20% in 1970. In order to provide this material to industry, the O.E.P. has seen fit to continually drop the stockpile objectives, thus making material available. This action is deemed by some members of Congress as being unwise because of chrome's strategic importance and the zero production in the United States. Over 900,000 tons of material have been sold out of the stockpile since 1966. However, the availability of high-grade, metallurgical chrome ore from this source will someday run out; therefore, we must not count upon this as a long-range answer to our problems. Reduction to the new objective of 1,500,000 tons of ore will take us to below a two-year supply.

As we said earlier, Russia has been the major source of supply; but if you will look again at Attachment 1, you will see that the Bureau of Mines estimates that Russia possesses only 5.6% of the world's supply of chrome—yet this is now our major source. Russia is now selling us chromite limited to 450,000 tons per year at ever-increasing prices. It is our understanding that they are now requesting customers to take one ton of fines with each ton of good material. Is this, by policy, to hold up the price or is it all they have to sell us? We are at the bottom of this barrel also. One could rightfully ask the question—are we buying Russian material at inflated prices while they supply their needs with Rhodesian material at lower prices?

As stated above, the stockpile is our second source. This will also run out in time, and good grade metallurgical lump is low at this time. In fact, a large part of the Government's stockpile is unsuitable for metallurgical use.

Turkey is our third source. According to the United States Bureau of Mines, Turkey has only 2% of the world supply. Turkish output of ore is just under 500,000 tons per year, of which approximately 250,000 tons per year are exported, almost entirely to the United States.

According to the April 12, 1971, issue of Metals Week, the Japanese have just completed an arrangement with the Turkish producers to take 100,000 tons of this material per year on a long-term contract.

Thus, our three sources—Russia, 50–60% of our needs; the stockpile, 20–30%; and Turkey, 10–15%—present a bleak picture of our major sources of supply. The outlook for chrome can only be for tightening availability and rising prices, so long as we deny ourselves access to the 70% of the world's supply in Rhodesia.

South Africa is a fourth source and is limited in its metallurgical suitability. But even here, there are those who desire to extend the sanctions to that country.

While denying ourselves this major and vital raw material, one needs only to visit Southern Rhodesia to realize that its chrome ore has been finding its way into the world markets. There is little ore seen above ground although they work the mines seven days a week. As we know, they were unable to ship but a mere 15% of the 150,000 tons approved many months ago for import. The United Nations has itself offered the best evidence of the sanctions' failure. In the third report of the United Nations Security Council Sanctions Committee, published in June, 1970, it was estimated that Rhodesian exports were running at approximately 70% of their presanctions level. Twenty-one complaints of violations were investigated by the U.N. involving chrome ore from Rhodesia to France, Japan, Netherlands, Italy, Spain, and West Germany. It is generally admitted that we and Britain are the only ones seriously abiding by the sanctions.

We realize that the Government has made a noble effort to try and prove conclusively that this material is flowing into the hands of members of the United Nations in the free world. Indications are that it is not flowing directly from Rhodesia to these nations but is probably being trans-shipped when repackaged. This we do know—the mines are operating in Rhodesia, and there is no ore being stockpiled there. The free world would probably have run out of chrome a long time ago if the major supplies from Rhodesia were totally cut off from the free world market.

Thus, many reliable sources indicate that substantial quantities of this material are flowing into the hands of foreign specialty steel producers, undoubtedly substantially aiding foreign producers of specialty steels in moving into and capturing large segments of the American market for specialty steels, producing a chaotic price situation here, bringing about unemployment and affecting the profitability of small American companies to the point where there is serious question about their economic viability. A question has been raised as to the impact of the cost of chrome on stainless steel. Neither time nor space here will permit complete detail of the effect on all the multiple grades of specialty steels produced, but let us suggest the following example that would cover the majority of the tonnage. There are approximately 400 pounds of chrome contained per ton of 18–8 stainless steel. Thus, a 1¢ price increase in chrome would increase the cost per ingot ton by $4.00. With a 50% yield factor, the cost per finished product would thus be $8.00 per ton. Since the Rhodesian embargoes, the cost of low carbon ferrochrome, for example, has risen 14¢.

Thus, the cost per ton of stainless steel would be $112 per ton. Last year, approximately 900,000 tons were produced. Thus, the industry impact would have been a $100 million cost increase. Also, markets have been sufficiently encroached upon that we are beginning to see cutbacks in vital programs. Foreign producers of specialty steel, who are beneficiaries of the Rhodesian sanctions, have penetrated the American market for specialty steels, at the end of four months of 1971, at an all-time high, exceeding 22%. For individual specialty steel products, the penetration is even greater: some 35% of stainless steel cold rolled sheets; 68% of the market for stainless steel wire rods; 54% of the market for stainless steel wire. One can rightfully ask how much embargoed Rhodesian ore is contained in this imported stainless steel coming into this country, adding insult to the injury of the unemployed or about-to-be unemployed American steelworker. We are able to identify Rhodesian chrome ore coming into this country as ore, but there is no known way to identify it if it is contained in stainless steel sheet. I am sure that the unemployed steelworker wonders who is being helped and who is being hurt by these sanctions. Fortune magazine reported in April that the Rhodesian growth in real GNP was better than 4% per year, substantially more solid than either the United States or Britain. France, Japan, and

Germany are reportedly continuing to trade. A visit to Rhodesia reveals a very stable, busy, growing country, with Toyotas and Renaults very much in evidence.

Chrome is but one example of what could happen in many other vital materials if similar unilateral actions are taken. For example, there was a proposal before the United Nations to extend these sanctions to Portugal and South Africa. To have extended them to South Africa would have cut us off from 90% of the world's metallurgical chrome. It would have also placed us in an emergency situation with regard to vanadium supplies. A similar sanction against the Congo would cut off our cobalt; against Canada, our nickel; against Mexico, our fluorspar; and against Brazil, our iron ore. Were it not for the substantial American stockpile, we would now be dependent upon Red China for tungsten.

The list could go on and on. S-1404, we believe, is designed to permit us to support those political and social issues throughout the world that have merit and deserve our support without injuring ourselves economically and militarily more than the one we bring such action against. We therefore urge your immediate and enthusiastic support of this resolution. Thank you very much, Mr. Chairman.

CHROMIUM RESERVES OF THE WORLD

[Amounts in thousands of short tons]

	As chromite		As metal		As high Cr chromite	
	Amount	Percent	Amount	Percent	Amount	Percent
Republic of South Africa	2,200,000	(74.5)	575,000	(74.2)	110,000	(22.5)
Southern Rhodesia	660,000	(22.2)	175,000	(22.5)	330,000	(67.4)
Turkey	11,000	(.4)	3,000	(.4)	9,900	(2.0)
United States	8,800	(.3)	2,000	(.3)	440	(.1)
Philippines	8,250	(.3)	1,000	(.1)	1,650	(.3)
Finland	8,250	(.3)	2,000	(.3)		
Canada	5,500	(.2)	1,000	(.1)		
Other	12,485	(.4)	1,000	(.1)	8,983	(1.8)
Total free world	2,913,285	(98.1)	760,000	(98.0)	460,973	(94.1)
U.S.S.R.	55,000	(1.8)	15,000	(2.0)	27,500	(5.6)
Albania	1,650	(.1)	800	(.1)	1,650	(.3)
World total	2,969,935	(100.0)	775,800	(100.1)	490,973	(100.0)

Source: U.S. Bureau of Mines, best estimate.

PRICE QUOTATIONS OF VARIOUS GRADES OF FOREIGN CHROMITE

	1965	1966	1967	1968	1969	1970	1971
Rhodesia: 48 percent Cr_2O_3, 3:1 Cr/Fe ratio	$31.00–$35.00	$31.00–$35.00	$31.00–$35.00	NA	NA	NA	NA
Turkey: 48 percent Cr_2O_3, 3:1 Cr/Fe ratio	29.50– 31.50	29.50– 31.50	32.50– 33.50	$34.50–$35.50	$37–50–$38.50	$47.50–$48.50	$56–$
South Africa: 44 percent Cr_2O_3	20.00– 21.50	20.00– 21.50	18.00– 21.50	19.00– 21.50	19.00– 21.50	26.00	$3
U.S.S.R.* 55 percent Cr_2O_3, 4:1 Cr/Fe ratio	25.00	29.25	30.40	34.10	44.00	58.00	$7

*Actual prices to Foote Mineral Co., f.o.b. Burnside.

Source: U.S. Bureau of Mines.

TV PROGRAM SPOTLIGHTS LOWER EAST SIDE

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mrs. ABZUG. Mr. Speaker, on October 12 a very sensitive and informative program on the problems of the Lower East Side, called "The Melting Pot Grows Older," appeared on WNBC–TV's New York illustrated series.

This area, the gateway to the promise of America for successive waves of immigrants from many lands and speaking many languages, is changing, in some cases for the better, in others for the worse.

As the narrator, Ken Alvord, points out, in the early days—

If times were hard and prospects were dim for the parents then, there was always hope for the children. They became educated, grew up, left the poverty and the tenements behind.

But, he asks—

Can it still happen here amidst the winos and junkies and garbage and the wreckage of abandoned buildings? . . . Today's conditions are not the same as yesterday's. The poverty is more hopeless, the dangers more acute. In such an environment the children must do their best. Simply to survive.

I am including in the RECORD at this point the full script of this excellent TV program.

THE MELTING POT GROWS OLDER

(Written and Produced by Tom Schactman; photography Art Goldman; film editor Vince Sarubbi)

Mr. ALVORD. Gateway to New York and to the rest of the country for more than a century and a half, the lower East Side. Ghettoes within ghettoes, impacted, poor, alive—America's melting pot. The tenements are fading, yielding to the inevitability of the high-rise. The old ethnic waves have climbed out of poverty and passed on. But still these few square miles are first homes to thousands of new immigrants and to those left from earlier waves unable or unwilling to change. As America soars into modernity and assimilation, can the people and the character of the lower East Side survive?

ACT I

In the flux of changing progress America's immigrants sought from their new home, often the customs brought from the old country submerged, dissolved and were lost for ever. But here on the lower East Side of Manhattan, many things from many old countries survive. A bocci game on a Sunday afternoon is the focal point for Italians from what is known as Little Italy—an island, comfortable and familiar in the caldron of the big city.

In former years people from the specific regions and even from individual towns would migrate many thousands of miles to settle not only in one area, but often in one block to be near people and customs they knew. Today the old neighborhood lines are changing, melting, but the style of life continues. The problems of the lower East Side have grown more acute with the passage of time. The claustrophobic atmosphere of the tenements teeming with people and the streets where the people go to escape the tenements. The ethnic groups, different as they are, live in many ways similar lives—conditioned by similar environments. This used to be an Italian food market. Now it is run by Chinese, but the change is barely noticeable. The style continues. In the shops the various nationalities express themselves at their most characteristic. Each country's people brought with them native foods—cheeses, meats, wines, vegetables. In the new country the shops that sold them bound the settlers to their places of origin. Today, shops like this have a further function. Magnets, they draw back to the neighborhood those who managed to climb out of the poverty and insularity here. They may live elsewhere now, but their hearts and their stomachs all return here. When the annual festival of San Genaro, now in its 45th year, comes each year to Mulberry Street, Little Italy sounds its own glory to the whole city. Spilling onto the streets, the tenement dwellers find the excitement and amusement in the carnival. For the myriad ethnic clusters at the lower East Side like this provide one of the few recreational activities available to those who are poor and often unable to get along in English very well. Many of the national groups have annual festivals. The Chinese, the Hungarians, Germans and Poles in addition to the Italians. Though today they are mostly secular carnivals, their beginnings were religious.

They stem from a time on the lower East Side when the houses of worship formed the centers of the small communities. They were islands of calm in the turmoil of ghetto life, providing a link with quieter origins in the past. This place, the Marble Church's cemetery on East First Street, was such an island to tenement dwellers. The gravestones speak the old, near-forgotten history of New York. Before the city became a jumble of building blocks and crowded streets. Before even the first tenement was built in 1833. Markers here date back to the 1700's. A member of the Roosevelt family

whose farm covered the territory now between Chambers and Jane Streets is buried here. The lower East Side is awash with American history. The early Dutch settlers' farms or boweries were along the East River. Their names are our streets today—Delancey, Doyer, Van Cortlandt, Gouverneur, Bayard. Distinguished by hills and large ponds—nowhere to be seen—the East Side was mostly a swamp. The area between Houston and Third Street was cut off from the mainland and was called Manhattan Island. Many skirmishes of the Revolutionary War were fought along Grand Street. Nathan Hale was hung at the corner of Market and East Broadway. Washington's first residence as President on Cherry Street seen here is now the site of the foundations of the Brooklyn Bridge. In Peter Stuyvesant's time—he donated land for a church on his farm and in 1795 the cornerstone of St. Mark's Episcopal Church was laid. St. Mark's has seen many changes in the territory around it. It was thought of as the northern edge of town in 1785. Generations of immigrants worshipped here, peered at the old burial mounds, passed by the church as the area prospered, weathered and later went into decline. Like all the other immigrants, the latest and perhaps the most alien group, the hippies passed by as well. St. Mark's Place became the focal point for the flower children, the dropouts, the freaks, many of whom thought by escaping to the East Village they too were starting a new life in a new land. Rock music, long hair, psychedelia—freedom from all the strictures of straight society, a new culture alien to the old. But for these seekers too the promised land was not all they expected it to be. The newness and excitement passed quickly and the centers of the attraction, the high centers of rock music closed down, thrusting the area once more into decline. What has been left behind in the East Village are drugs, crime, venereal disease, poverty, violence. These people are trying to fight such problems. The concern of Project Eye-opener of St. John's Lutheran Church are those belated immigrant runaways. Each year hundreds of thousands of young people run away from home; a great many flee to the East Village. They come seeking love and freedom. And what they find is neither lovely nor free, but very often ugly and dangerous. Project Eye-opener tries to help parents locate their runaway children. Here they show pictures of runaways to people in the neighborhood. It is an arduous task finding a long-haired teenager here—like finding a needle in a haystack. And when on occasion they are found, it is not always possible to convince them to leave the new land. Reverend Fred Eckhardt:

Reverend ECKHARDT. . . . in the East Village there—how long have you really been here in town?

MALE VOICE. Just about a week.

Reverend ECKHARDT. Well, you know there is a great deal of difference between here and the West where you came from. How do you feel about it now?

MALE VOICE. Well, I feel—I don't want to go home. I really feel I can stay in—in the Village.

Reverend ECKHARDT. Well, you know, Billy, we know a lot of other kids who thought they could make it too, and—a great deal of danger in the Village. I hope you don't get in bad company. And very soon—why don't you go home? Your folks love you—are there—any indication of it? Problems?

MALE VOICE. I can't talk to my parents. They really don't have any love for me.

Mr. ALVORD. In the bewildering complexity of the lower East Side, immigrants have always sought an ideal. But fantasies must yield to reality. And as ever, reality is uncompromising and harsh.

End Act I.

ACT II

Mr. ALVORD. America, nation of immigrants. America, the melting pot. "Give me your tired, your poor, your homeless yearning to breathe free." They came from everywhere. Escaping starvation in Ireland, death in China, poverty in Italy. Fleeing the Austrian army or the Cossacks of the Czar. Escaping religious programs, or just leaving generally intolerable conditions in Europe or Asia for the great promise of America, the golden land. Ellis Island to be remembered for all their lives as the place where they first set foot on American soil. Here they were detained for weeks, inoculated, indoctrinated, their papers processed. Here families were reunited with relatives who had proceeded them and then sent the money for their passage. Since records first were kept in 1920 America has opened up its arms to 45 million foreigners. In the late part of the 19th century and early decades of the 20th, over half a million people each year came to this country, many of them destined for the lower East Side. For the most part they were peasants, oppressed in their home lands, largely unwanted. They carried with them all their worldly possessions for a grave in a country whose language and customs were totally foreign to them. The lower East Side soon teemed with over a quarter of a million immigrants who found that the land of their dreams was bustling, exciting, crowded and harsh. Sweat shops, disease, intense poverty, fires, tenement living. Built initially as ghetto housing to contain the immigrants, the tenements still serve that purpose today. The more things changed, the more they stayed the same. Despite the harshness, the immigrants found their own joys and entertainment. It was an exciting time, especially for the children for whose sakes the new starts had been made. The newcomers suffered and struggled. Formed unions to protect their labor. Founded schools, newspapers, churches, temples, countless business enterprises. Each generation built on the work of the last. The eternal story of people struggling up out of poverty. Grand Street, Canal Street, Orchard Street—these became the marketplaces of the city. For the immigrants. Here anything a tenement dweller might need could be purchased at prices that were always negotiable.

The pushcarts of the peddlers were their department stores. It was the dream of free enterprise come to life. America fulfilling its promise. Many a merchant got his start with a pushcart along Orchard Street. Today Orchard Street is still a shopping extravaganza thronged with those seeking bargains and the entertainment of the colorful parade. Nearly anything can be bought on Orchard Street though clothes are the big attraction. The ethnic atmosphere has changed. The middle Europeans giving way to later immigrants like the blacks and Puerto Ricans. The pushcarts full of clothes have been replaced by the stores and the stalls of modern merchants, but much else remains the same. The excitement of bargains. The fun of a snow-cone on a hot summer's day.

From Broadway to the East River, from 14th Street down to City Hall, throughout the history of the lower East Side the cast of characters has been perpetually changing, but the immigrant story remains the same. From insularity and poverty to assimilation and a foothold in the middle class, making way for the next immigrant group. One group that resisted change is the Chinese. Isolated by language and color they neither assimilated nor dispersed. Remaining, they have fallen heir to more than the old problems. Overcrowding, always a problem, was accelerated by a recent jump in the immigration quota which coincided with a rise in the historically low crime rate of the area. And so the island that is Chinatown, like the rest of the lower East Side, slides steadily down into the morass of today's urban problem. Removed from the gleaming towers of mid-Manhattan, the lower East Side has always seemed physically and spiritually separate. But the old immigrants could eventually be assimilated into a white society. Today's newcomers—blacks, Puerto Rican, brown—have no such chance. In these crumbling tenements, some built a hundred years ago and inadequate even then, the early immigrants passed their lives. Now the same buildings provide fertile soil in which all of the urban problems fester and seethe. The new immigrants have become our hard-core poor. There are few bottom-rung jobs, traditionally filled by immigrants in modern society, so they languish and the problems multiply. Among these the most serious is drugs. As they lead regularly to crime and violence, the Lower East Side Service Center tackles the problems of addiction head-on. Along with a Methadone program, the Center gives hope and training to those whom our society and its problems have caused to fail.

MALE INSTRUCTOR. So how you doing, Rodriguez, any question? — The correct size is ⅞ by 2¾ except you got three mistakes. You didn't put down the material it is made out of—You also didn't put down what parts become machine.

Sudent RODRIGUEZ. Right.

MALE INSTRUCTOR. Also, more of your fractions should be decimals.

Mr. ALVORD. Vocational training and guidance, educational and remedial programs, assistance with welfare and legal problems, services for families with drug users—these are the main works here. Some who come are the new immigrants. Some are the old. A group of elderly Chinese addicted to opium and then to heroin are now in Methadone. Ex-convicts who can't get a job, those overlooked in the tumult of the city, newcomers have become victims.

MALE INSTRUCTOR. Now you see the pin bar holes? You see this little shield over here? In order to start the plate on, you get it underneath the shield, line it up on the pin bar holes and just hold it like this before you roll it up, huh?

Mr. ALVORD. The drug users who come here for help and treatment are, of course, only the tip of the iceberg, those actively seeking to help themselves.

MALE INSTRUCTOR. That's it. Put some tension on there. Hold it down like that. Now you are rolling. That's it. You got it.

Mr. ALVORD. 600 were treated here last year, but the problems they personify are symptomatic of a malaise far more general and serious than the poverty which affected most of the early immigrants on the lower East Side. If times were hard and prospects were dim for the parents then, there was always hope for the children. They became educated, grew up, left the poverty and the tenements behind. The immigrant version of the American dream fulfilled. Can it still happen here amidst the winos and junkies and garbage and the wreckage of abandoned buildings? It is often argued that it should be happening here, that the children of the new immigrants should grow up and surpass their parents as the old immigrants did. But today's conditions are not the same as yesterday's. The poverty is more hopeless, the dangers more acute. In such an environment the children must do their best. Simply to survive.

End act II.

ACT III

Mr. ALVORD. St. Mary's on Grand Street dates back to 1833, but the parish it served for 140 years is all but gone now. The tenements around the church were finally torn down to make way for new buildings. The first tenements were the most efficient way known of crowding immigrants into small spaces for high profit. Even the new tenement law of 1901 which eliminated many bad building practices did not help much. But we know better ways of squashing people now. And so in the Seward Park urban renewal area, near St. Mary's, already the site of large co-ops, the last rows of tenements finally are coming down. Although few are sad to see them go, what is going with them

XUM

is something of the character of the area. For when the tenements come down, the people just seems to disappear. St. Mary's was a parish of relatively poor Catholics, the new buildings of the surrounding area are filled primarily with middle-class Jews. The Grand Street Guild of St. Mary's, which will erect the new apartment houses, fears that their original parishioners long since relocated out of the East Side, will not be able to come back to occupy the new buildings when they are ready. Even today the new buildings have taken over large portions of the old tenement areas; most of the waterfront section—since the days of the Dutch a center of perpetual activity—has been torn down and now blocks on blocks of high-rises line the East River from 14th Street down more than a mile to the foot of the Brooklyn Bridge, housing more than a thousand people. Co-op City, other low- and middle-income dwellings marching from the river perceptibly westward, somewhat cold and sterile in their monumental sterility. The wave of the future. The buildings push ever higher. The financial and governmental complexes of lower Manhattan creep nearer and the charm of polyglot ghettoes like Henry Street between Catherine and Market seems irrevocably compromised. The Telephone Company has bought up most of this block. They are not building now, but in ten years they may. Today in one small tenement the clashes and meltings of 100 years of immigration can be read. But soon there may be no names left. There is a relocation office right down the street.

The block is charged with history. The Jacob Riis house is now a church, with Chinese, English and Spanish services—incredible diversity of national origins, all here in one small block. But for how much longer? All over the lower East Side we read in the signs the fading of the days of strong ethnic enclave. Where 100 signs boasted in Polish or Russian, only a few remain, antique and faintly apologetic in the modern city. Along the great thoroughfare of East Broadway, the Yiddish language once flowered forth in a half dozen newspapers tying together Jewish immigrants from many countries. Today the circulation of the Yiddish papers has dwindled to a few thousand readers, most of them old. Change and more change. An area perpetually in transition. Progress passes by, but still some of the old ones remain, scattered in pockets about the old neighborhoods, still living much as they did in younger days. The children grow up and move away, seeking a better life. The tenements crumble, torn down for the march of the co-ops. The push-carts give way to the bodgas, as new immigrants come in and take the places they themselves once filled. Perhaps they have experienced too much change in their lives and are no longer willing to flow with it having grown old. It might be feasible for them to move away, to change, but they don't want to. So, they play a few games, sit in the sun, feed the pigeons, and talk, as the melting pot grows older. And the lower East Side they once knew changes and crumbles and slowly disappears. This is Ken Alvord for New York Illustrated.

J. W. McSPADDEN WILL RETIRE AS TREASURER

HON. ED EDMONDSON

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. EDMONDSON. Mr. Speaker, in January 1969, it was my pleasure to share with my colleagues the story of a remarkable man and dedicated public servant, Mr. J. W. McSpadden, of Tahlequah, Okla.

At that time, Mr. McSpadden, at age 84, was contemplating seeking his 26th term as city treasurer of Tahlequah. About the possibility of running for re-election he stated:

I won't make up my mind until I see how I feel.

When it was time to file, he felt fine. He won another term and is still serving.

On November 17, 1971, J. W. McSpadden will end a record 54 years as city treasurer. He will be greatly missed in city hall, and his place will be hard to fill, but the many people who have benefited from his work through the years wish him great happiness in his well-earned retirement.

I insert an article, in the RECORD from the November 4, 1971, edition of Mr. McSpadden's hometown paper, the Pictorial Press:

TAHLEQUAH TREASURER ENDS 54 YEAR CAREER

A 54 year reign as Tahlequah City Treasurer will end November 17 for J. W. McSpadden, who is believed to hold the record for the longest in city government in Oklahoma.

McSpadden, 87, announced his decision to retire from office several months ago.

Mayor Jack Ross named George McJunkin of Liberty State Bank to serve the remainder of McSpadden's term during the November council meeting Monday night. The council voted approval.

McSpadden was named Tahlequah City Treasurer in 1917 to replace H. B. Upton, who had resigned in mid-term.

A native of Tahlequah, McSpadden lives at 317 Bluff. Both his father and grandfather moved to Tahlequah prior to statehood.

McSpadden served as Cherokee County's first automobile tag agent, and held the job for 14 years. He also owned and operated the Tahlequah Mill and Elevator from 1915 to 1962.

His wife, Callie, died in 1964 and McSpadden has eight children, four sons and four daughters.

PRESIDENT NIXON BEGINS ENVIRONMENTAL AWARDS PROGRAM FOR NATION'S HIGH SCHOOL STUDENTS

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Thursday, November 11, 1971

Mr. RANDOLPH. Mr. President, the young people of our country continue to express a real concern for the environment. Almost daily we learn of instances in which young people are actively involved in making the United States a better place to live in through their efforts to end pollution.

The youth of America do more than just talk about the environment: they are dedicating their energies and enthusiasm to improving the situation.

In response to many requests from students who want to be involved, President Richard Nixon is beginning a new program of awards for those working in environmental protection. The incentive provided by this program should lead to even greater student participation in the campaign for a clean world.

Mr. President, this worthwhile effort started by President Nixon was explained in a letter from William D. Ruckelshaus, Administrator of the Environmental Protection Agency, to the principals of the country's 38,000 public and private high schools.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C., October 25, 1971.

DEAR PRINCIPAL: President Nixon's deep commitment to the restoration and preservation of our environment has been warmly embraced by the American people, and has won the wholehearted, bipartisan support of the Congress.

The crusade to protect our natural inheritance has captured the imagination of young people, particularly. To them, and to their own children in the years ahead, it is truly a matter of life, itself.

Since December of 1970, when the President created the Environmental Protection Agency, we literally have been swamped with letters from high school students who want to "do something."

The President has initiated his Merit Awards Program to give them that opportunity.

The program is designed not only to get them in on the action at every level of individual competence, but to provide environmental educational opportunity and motivational stimulus.

I urge you to read the enclosed handbook and to establish the President's Environmental Merit Awards Program at your school.

Although this first letter is necessarily a general one, I would like to hear from you personally—by letter or on the enclosed card. Please, also advise me of the name of the faculty member whom you appoint to head the President's Program.

The poster is for your bulletin board—as a suggested starter for other student-designed artwork calling attention to the Merit Awards.

Sincerely yours,
WILLIAM D. RUCKELSHAUS,
Administrator.

UNITED STATES TO BUY RHODESIAN CHROME IN SPITE OF U.N. BOYCOTT

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. RARICK. Mr. Speaker, Thursday night in consideration of the conference report on military procurement, the House voted 251 to 100 to retain section 503 of the conference report authorizing U.S. industry to import chrome ore from Rhodesia.

This vote has been discussed by the communications media and in fact the action itself is unknown to many people in our country. What a striking comparison this is to the news coverage accorded another recent vote involving the U.N.—the seating of Red China.

Perhaps the significance of the vote is best explained in the arguments of those opposing Rhodesian trade who claimed that such action would be in violation of the U.N. economic sanctions. In fact, it was even suggested that if the House adopted the resolution we would be guilty of deliberate wrongdoing by openly defying the United Nations.

Most Members who voted for the legalizing of free trade with Rhodesia did so knowing that the military requires chrome to defend our Nation. They placed their country above the spiteful sanctions by the U.N.

A related newsclipping follows:

[From Manchester Union Leader, Nov. 5, 1971]

WASHINGTON, LONDON AND UN MUST FACE REALITY OF INDEPENDENT STATE—UNITED STATES COULD END RHODESIA BOYCOTT FARCE

(By Prof. Edward McGlynn)

A ray of light shone through the United States Senate when that august body, following the lead of Virginia's Sen. Harry Byrd, voted 46 to 36 to permit the import of Rhodesian chrome ore.

Chrome is a vital defense material essential for such items as jet aircraft, missiles, and nuclear submarines, but since 1966 our defense industry has been denied the use of Rhodesian chrome and has been forced to rely upon imports from the Soviet Union, the world's other principal source of this vital mineral.

Former President Lyndon Johnson, in keeping with the United Nations' international boycott of Rhodesia, prohibited trade between our two countries. The economic boycott was the world body's chief weapon against the breakaway British colony that had dared to unilaterally declare its independence of London. The then British Prime Minister, Harold Wilson, swore to bring the Rhodesians to their knees within a few weeks but finding this impossible he threw the problem to the United Nations, which chose to attempt to break the Rhodesian economy via an international boycott.

In retrospect the "Rhodesian crisis" of 1965–66 seems farcical. The Rhodesian declaration of independence caused the United Nations to go into emergency session. Many Third World spokesmen called upon Britain to crush the rebellion by force but public opinion polls revealed that the great majority of Britons opposed the use of troops in Rhodesia.

Frustrated by the reluctance of the British government to employ force, Egypt's President Nasser and Ghana's Kwame Nkrumah actually went through the motions of declaring war against Rhodesia, in what was probably the most laughable aspect of the entire silly situation. The American news media spoke of an imminent blood bath in Rhodesia. But no massive revolts or foreign invasions took place.

REMAINS STABLE

Today, six years after its declaration of independence, Rhodesia remains one of Africa's most stable countries. And while many of those leaders who inveighed against Rhodesia—Johnson, Wilson, Nasser, and Nkrumah—are out of power or deceased, the man who led the Rhodesians to independence, Prime Minister Ian Smith, is still very much in command of the situation in Salisbury, the Rhodesian capital.

While the United Nations' boycott admittedly harmed Rhodesia, its impact was not so great as London and Washington hoped it would be. Even Harrison Baldwin, the former military editor of the New York Times, admits that the boycott was a failure and proved more harmful to the United States than to Rhodesia as it made this country dependent upon the Soviet Union for its source of chrome.

Political pundits in Washington maintain that the House of Representatives will follow the lead of the Senate and vote to permit the importation of Rhodesian chrome. Should the United States resume trade with Rhodesia it will not only bolster the Rhodesian economy but will also put Ian Smith in a good bargaining position next month when negotiations with Britain resume over the issue of legalizing Rhodesian independence.

WONDER AT NIXON

One fascinating aspect of the Rhodesian issue has been the attitude of the Nixon administration. While President Nixon has held out the olive branch to Red China and other Communist states, he has done nothing to improve our relations with Rhodesia. As recently as March 1970 Washington severed our last official link with Rhodesia by withdrawing our consul from Salisbury. And last month the White House unsuccessfully sought to defeat Senator Byrd in his effort to have the Senate endorse the resumption of trade between the United States and Rhodesia.

Many wonder why the President seeks better relations with Communist lands while at the same time continuing to follow a policy that was designed to destroy Rhodesia—one of Africa's few stable countries and a land of strategic importance that has done us no harm.

Sooner or later Washington as well as London and the United Nations will have to face the hard fact that the Republic of Rhodesia is a sovereign independent state, and as such a reality of international life.

DO NOT GIVE UP THE SHIPS YOUR TAX DOLLARS HELPED TO BUILD

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mrs. SULLIVAN. Mr. Speaker, a bill scheduled to come before the House next week from the Committee on Merchant Marine and Fisheries would wash out a huge investment by American taxpayers in five fine passenger ships built with Federal construction subsidies. The legislation would permit the bargain-rate sale of those ships to foreign maritime interests which would then use those same ships to carry American tourists on ocean cruises out of American ports.

Instead of American seamen manning the ships, foreign seamen would do so, and all of the wages paid to the crews would go to support foreign economies, not the families of American citizens. The fares paid by passengers embarking at American ports, instead of bolstering the American economy, would go abroad—every cent of this money—to increase further our serious balance-of-payments deficit. And the American flag would virtually disappear, probably for good, from the passenger or cruise trade out of Eastern ports; at most, under the terms of this revised bill, there would be only one American-flag passenger ship in operation on the East Coast, and even that one is not certain.

The five ships involved in the bill H.R. 11589 are the SS *Brasil*, the SS *Argentina*, the SS *Constitution*, the SS *Santa Paula*, and the SS *Santa Rosa*. They are famous liners on which countless passengers have enjoyed luxurious and, above all, safe ocean transportation.

Because the ship lines which own them have been unable or unwilling to exercise the ingenuity to operate them successfully as cruise ships, now that point-to-point ocean passenger transportation has succumbed to the competition of the big jets, the Congress is being asked to let the ship lines dispose of them to foreign purchasers despite the contracts entered into when the construction subsidies were authorized. Under the law, a ship built with subsidy may not be sold foreign for 25 years.

The American taxpayers, who invested millions of dollars in the construction of these ships, including the special cost of features important for national defense purposes, would write off the investment so that the ship lines which now own the ships can claim substantial tax benefits.

As the ranking member of the Committee on Merchant Marine and Fisheries, I oppose the giveaway of these five ships. I hope a clear majority of the Members of the House will join me, Mr. Speaker, in voting against H.R. 11589 when it comes before us.

PREVIOUSLY, SEVEN SHIPS WOULD HAVE BEEN INCLUDED

Originally, the legislation to dispose of our passenger ships to foreign purchasers included not only the five ships I have already named but also the SS *Independence*—sister ship to the *Constitution*—and the SS *United States*, the finest, fastest, safest passenger ship in existence. A bill to permit the foreign sale of all seven ships was reported from the committee on September 28, as H.R. 10577, but was indefinitely postponed in the Rules Committee after a spirited hearing in which I strongly opposed the entire bill, but particularly the provision to permit disposal of the SS *United States*, whose $75 million original cost included a $40 million subsidy by American taxpayers.

During the marathon session of the House last Thursday, lasting until 2:30 a.m., Friday morning, the newer bill, H.R. 11589 was introduced and, at 8 p.m. Thursday night we were notified there would be a committee meeting on it at 11 a.m. Friday. At that meeting, the revised bill, exempting the SS *Independence* and the SS *United States*, was approved, and it was reported to the House that same afternoon. So this has been a rush-rush-rush proposition to bail out the owners of the five remaining ships and permit them to dispose of them in time for 1971 tax deductions. The bill was cleared by the Rules Committee on Tuesday.

I am pleased that the SS *United States* would not be sold abroad under the revised legislation. It would be a national disgrace, I feel, to sell this ship to foreign interests after the taxpayers spent $40 million to build into it incomparable features for national defense purposes. I am also pleased that the revised legislation leaves out the SS *Independence*, which American cruise interests have indicated a desire to purchase and use. It is my firm conviction that the other five ships can also be used by American interests in the lucrative American cruise trade. It would take ingenuity, a willingness on the part of the unions to cooperate—and I have been assured that such cooperation will be forthcoming—and some sensible revisions in our subsidy program as regards cruise operations. If foreign in-

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teresis can operate them profitably, why can not we?

None of the five ships included in H.R. 11589 is presently in operation. All are in layup. Offers have been made for purchase of two of the five ships by an American group of investors, but as long as there is the possibility of H.R. 11589 being enacted, the present owners are not anxious to dicker, preferring to wait until foreign interests can also bid for them.

MINORITY VIEWS ON H.R. 11589

Mr. Speaker, I submit at this point my minority views in House Report 92–617 on the bill H.R. 11589, as follows:

MINORITY VIEWS OF REPRESENTATIVE LEONOR K. SULLIVAN

As the ranking majority member of this committee, and having sat through the hearings on this bill, I cannot in good conscience support H.R. 11589, that would permit the sale to foreign registry of certain U.S.-flag passenger vessels. I recognize that this bill differs from H.R. 10577, upon which I expressed minority views in House Report No. 92–519.

The present bill does remove the SS *United States* and the SS *Independence* from the provisions which would permit foreign sale.

With respect to the SS *United States*, I am pleased that this great ship will not go to foreign interests. I expressed strong views in the report accompanying H.R. 10577 that this vessel should be excluded from the provisions of the bill. It is indeed a national symbol and was built to serve this country in peace time not only as a passenger vessel but to be available in the event of emergency for a troop carrier. Accordingly, I agree with that portion of the bill which would direct the Secretary of Commerce to purchase this vessel at its depreciated book value either for retention in our National Defense Reserve Fleet or for sale or charter to a new owner for service under the American flag.

Likewise, I approve that portion of the bill which in effect denies authority for the foreign sale with respect to the SS *Independence*. The hearings disclosed that there is an American operator prepared to buy this vessel for service in the cruise trade of the United States. I believe this new owner should be given every opportunity to pursue this venture to a successful conclusion. Further, I would hope that the Maritime Administration would provide all the necessary assistance toward that end.

At the same time, I must once more express my strong views against this bill to the extent that it would authorize the foreign sale of the SS *Brasil*, SS *Argentina*, SS *Constitution*, SS *Santa Paula*, and SS *Santa Rosa*. My reasons for this were also expressed in the minority views contained in the report accompanying H.R. 10577. I do not believe that the Maritime Administration has thoroughly explored all possible avenues by which these ships can once more sail under the American flag. I feel that the Maritime Administration has not fully discharged its responsibilities in connection with U.S.-flag passenger ships, because of the admitted fact that they have conducted no formal study of the problem involved.

I must once more reiterate that the cruise trade out of our ports is lucrative. Enormous sums are being expended by our citizens to foreign corporations without a single dollar coming back to the United States. This of course has a substantial adverse effect on our balance-of-payments account.

Furthermore, in the light of a new offer this week to the Moore-McCormack Lines for the purchase of two of the ships, namely the SS *Argentina* and SS *Brasil*, to be used as cruise ships from American ports under the U.S. registry, I think is further evidence that this legislation should not be enacted at this time.

In conclusion, I regard this legislation at best to be premature and not in the best interests of the United States.

LEONOR K. SULLIVAN.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 5, 1971.

Hon. EDWARD A. GARMATZ,
Chairman, House Committee on Merchant Marine and Fisheries, Washington, D.C.

DEAR MR. CHAIRMAN: I am sorry that I cannot attend the meeting that was called last night for 11 a.m. this morning, due to a commitment I have with people from my district on a highway problem. I would appreciate your reading this letter into the record, knowing that I cannot vote by proxy.

According to the information given to me by you last night, two of the proposed amendments to be made to the bill, H.R. 10577, would eliminate the SS *United States*, which would be taken over by our Government and the exemption also of the SS *Independence*.

While I believe the exemption of these two ships is a move in the right direction, I am sure you, as chairman, know that there has also been a legitimate offer by another cruise operator and the investor who expects to negotiate the purchase of the two Moore-McCormack ships, the SS *Brasil* and the SS *Argentina*. This is a legitimate offer by legitimate individuals who hope to begin at once to work with our Maritime Administrator and to negotiate for the purchase of the two ships from the owners of Moore-McCormack Lines. This leaves three ships in question.

As I said in my previous letter of September 23, 1971, I am opposing the sale of these passenger liners owned by firms with U.S. registry. I am still of the opinion that these ships can be taken over by some American operating firm to be operated under the U.S. flag, if given the opportunity to do so. Therefore, I still oppose this legislation at this time and feel I must use every means possible to defeat the bill should it be voted out of Merchant Marine and Fisheries Committee and sent to the Rules Committee for action.

Sincerely yours,

LEONOR K. SULLIVAN,
Member of Congress, Third District, Missouri.

SOME IMAGINATIVE IDEAS FOR USING OUR AMERICAN FLAGSHIPS

Mr. Speaker, during the maneuvering which has been going on over this legislation, a letter came to me from a maritime official who presented some truly imaginative ideas for the use of our American-flag passenger ships in coastwise cruising—a field in which foreign operators by law cannot compete. This letter came from a former navigator on the SS *United States*, Mr. Richard D. O'Leary, now the assistant general manager of the Norfolk Port and Industrial Authority, and is well worth reading. The letter is as follows:

NORFOLK, VA.,
November 8, 1971.

Hon. LEONOR K. SULLIVAN,
Merchant Marine and Fisheries Committee, House of Representatives, Washington, D.C.

DEAR MADAM: It would appear that the Congress is about to pass legislation to permit the sale of American passenger ships to foreign interests. American operators who are largely unaware of recent passenger ship market trends have used historical demand and cost data to show why American ships are no longer useful.

At the same time foreign companies have adapted to market trends and are creating new product offerings by modifying their ships to suit changes in the market, while simultaneously generating new demand by using modern, imaginative marketing techniques.

Conditions are changing so rapidly in the industry that historical demand and cost data is not necessarily relevant. Conditions associated with past operations have vastly changed and should be carefully reevaluated before a decision to sell is made. Of more importance, business conditions, from an American point of view, have become unique. Exploitation of these unique conditions combined with adaptation of techniques employed by foreign operators make some American passenger operations feasible. These ships should not be sold without a more careful study of the industry and its future.

My background and experience have allowed me to gain a good deal of knowledge about all aspects of this business. I spent five years on the bridge of the liner United States as Second and Third Officer from 1957 to 1962. After that, I became Commandant of Midshipmen at the U.S. Merchant Marine Academy at Kings Point. I also worked for the Maritime Administration in Washington promoting the American Merchant Marine. More recently, I have been working as Assistant General Manager of the Norfolk Port and Industrial Authority and Managing Director of the Virginia Cruise Corporation.

More importantly, I have personally led the effort to make Norfolk the third major cruise gateway on the East Coast. As you may know, Cunard Line will be sailing the Queen Elizabeth 2 from this port and also placing its newest ship, the Cunard Adventurer here for weekly sailings on a regular basis.

The Port Authority, along with Cunard, is planning a major promotional program to generate new business in the central part of the Eastern Seaboard. My involvement in this project over the last two years has given me an opportunity to learn a good deal about the passenger ship business from an entirely new perspective. As a matter of interest, I have attached an article that appeared this month in the Baltimore Chamber of Commerce magazine that rather objectively reports on my work in this area.

Although not well known, people around the world, especially on the U.S. East Coast, are traveling by ship (cruising) in rapidly increasing numbers. It is a booming business with tremendous future potential. More foreign research and marketing funds are being spent to motivate the American consumer toward cruising than have ever before been spent in the passenger ship industry.

American passenger ships are lying idle and their value as business resources are rapidly diminishing. It is a buyers market for these ships. Concurrently, the labor unions whose personnel would work on these U.S. ships have indicated a willingness to consider attractive long-range agreements in order to recapture some of the positions that have been lost. It would seem that the elements are right for an imaginative American entrepreneur to investigate the potential for operating American passenger ships under these conditions. Certainly it would seem that the U.S. government would exert tremendous effort to find some way to usefully employ these resources that have been created with large amounts of taxpayers money.

Yet, almost all of the testimony of the ship owners and the government officials charged with promotion of the American Merchant Marine describe a hopeless situation with only one solution—sale of the ships to foreign interests. The same private and public entities that did not foresee the possibility of this bleak situation when they planned and successfully acquired public money for these ships, now say there is no hope for their use by American interests.

In my judgment, the position of these interests is lacking in vision and imagination and more importantly, in a determined desire to turn around a situation which probably has a solution. If we continue to write away from every business problem without really making a thorough effort to explore

potential, it is the future of the country itself that is bleak.

I am not suggesting that all these ships can be operated against the type of competition that now exists. I am suggesting that with boldness, imagination, and determination at least some of these ships can be usefully employed in a way that will bring more return to the public interest than the funds involved in their sale. Below are some of my own ideas on how these ships might be usefully employed.

Let me start by stating that under any operator, one of the first things that would have to be done is to have the ships surveyed by an efficiency team. It is well known that most of the ships were models of inefficiency under past operations. Formulas that relate the number of crew to number of passengers should be developed and agreed to by the unions under any type of operation.

There is one area of passenger ship operations in which foreign interests cannot compete; that is coastwise service. Increased and more sophisticated foreign marketing efforts will cause Americans to go to sea in increasing numbers. Research has shown that cruise business is a "high repeat" business. Statistics show that better than 50% of the people who go on cruises do it again. In general, awareness of travel by sea is increasing rapidly in the American consumer market. I believe this interest is transferable to coastal travel, and careful employment of one or more U.S. vessels in the coastwise service might produce remarkable results.

For instance, one or more of the smaller ships might be scheduled between U.S. East Coast ports in a way that would be an attractive proposition from the consumer's point of view and also offer great operational cost savings. Much of the luxury and inefficiency could be eliminated and a modest price offered.

The idea would be to employ the ships in such a way that they would be primarily in the "floating hotel" business and secondarily, in the transportation business.

In the summer a ship might be operated between Norfolk, Baltimore, and New York, or between Boston and New York. The schedule would allow the ships to be in port much of the time and always over the weekend, so that only a reduced number of deck and engineering personnel would be on the payroll and weekend overtime could be greatly reduced. Much of the operating crew could be assigned on the short sea voyage much as night officers are presently assigned. Two ships in such an operation would eliminate the need for return transportation by providing round-trip employment.

The idea of sailing into New York harbor on a ship, and the convenience and glamour of a shipboard hotel would have great appeal to people in the middle section of the East Coast or New England. On the other hand, the idea of sailing to Tidewater Virginia and visiting Virginia Beach and Williamsburg and the other Virginia attractions, would have appeal to many people. The same is true of New England.

In winter months the ships might run from mid-Atlantic ports to Cape Kennedy (Disney World), Port Everglades, or Miami, and serve as floating hotels.

Or perhaps ships could run on a "See the East Coast by Water" concept with stops at various East Coast ports. Other possibilities are numerous.

The key to this proposition is that present laws prohibit foreigners from engaging in this business, thus there is no competition. Freight and mail contracts might add to the economic viability of such ventures. There are many interesting origins and destinations on our coastlines that the right American ships might connect for an American public that is becoming increasingly sea travel conscious.

It would have to be a carefully constructed operation from an operating cost point of view and it would have to be *marketed*.

If subsidy was considered a prudent investment for such a venture, the fact that present laws do not provide for subsidy in the domestic trade represents but a small obstacle, considering the fact that it seems possible to obtain legislation to sell the ships.

Another idea I have had relates solely to the S/S United States. The S/S United States has two characteristics that separate her from the other laid-up American ships. She is very large and very fast. The quality of her construction, and her speed, size, and depressed value are what make the ship attractive to foreign purchasers.

The only plan that I have heard of proposed by American interests envisions some alterations to the ship in order to compete with foreign ships in the cruise trade, and in the super-luxury "round the world" service. I don't believe this ship could ever again compete in this kind of business.

I believe the secret to her successful employment is to steal concepts from what foreign interests would probably do with her. Her characteristics of size and speed make her suitable to move large numbers of people at a high speed. If the concept of transportation of large numbers of people in comfort is substituted for the concept of transporting smaller numbers of people in luxury, the ship gains a new dimension. She can transport people economically. This in turn, opens a whole area of marketing opportunities.

The ship has a commercial capacity of 1900 and a military lift capacity of a full division, about 17,000.

If the ship were reconfigured to carry 3200 people in modest but comfortable surroundings, the possible results from an economic point of view are very interesting. In my judgment, this reconfiguration would not be as great or as expensive a task as might be supposed. The Greeks are masters at changing the configuration of passenger ships, and we might borrow their techniques.

The former per diem operating costs to United States Lines when the United States was in transatlantic service amounted to about $77,000 per day in 1968. In addition, the government provided about $27,000 per day in operating differential subsidy for a total cost of about $100,000 per day.

Revenue during the same period amounted to about $50,000 per day resulting in a very unprofitable situation. Of course, these costs are based on a grossly inefficient type of operation.

The operation I have in mind would involve creating a top capacity for about 3200 passengers on the ship in modest accommodations similar to a modestly priced hotel. The ship would be employed from about April through September on the Atlantic on an itinerary from New York to one European gateway port. From October to March she would operate from Los Angeles to Honolulu. The Atlantic voyages would be of 4½ days' duration and the Pacific voyages would be somewhat shorter.

The price would be established at a level that would be competitive with economical air fares. The Atlantic fares would be from $99 to $199 and the Pacific fares from $75 to $150—about $20 to $50 per day. The price would include a selection of good food served buffet style with a limited selection of entrees. Beds would be made once per day and basic housekeeping accomplished. While the ship is in a U.S. port, only crew members actually engaged in work would be paid. Major cleaning of the ship would be accomplished by shore gangs in port, at either end of the voyage. There would also be a modest entertainment program offered.

According to preliminary marketing research done by the Graduate Business School at the University of Virginia, there would be a tremendous demand for this type of service in the college market alone.

The concept could be marketed offering "Transportation For The People" on two attractive itineraries during good seasons from both coasts. On the Atlantic run it would serve as an inducement to Europeans to visit this country.

Marketing could be aimed at attracting people who would like to have a "sea experience" and those who do not care to fly, as well as those who could not otherwise afford a vacation at a more expensive per diem rate. The value of this offering (i.e., five days of travel, food, and lodging) versus the eight hours in the air could be exploited.

Under such an operation at 90% capacity, revenues would be in the area of $86,000 to $100,000 per day, without income from concessions, etc. This concept of operation should allow very large cost savings and should put the operation in the black, even with increased cost of certain items such as fuel. These savings would be in large crew reductions approaching 50%, large cost savings in food, as well as cost savings in general efficiency of operation. Perhaps a quasi-public authority could perform this operation with a goal of merely breaking even.

This is not meant to be a definitive plan of operation, but rather I have tried to demonstrate how a new concept can drastically change the economics of operating an American passenger ship.

Aside from this possibility, I feel certain there are other uses of the *United States* that have merit that may have been proposed or have not yet been thought of. The ship, because of its fame and uniqueness would lend itself well to many projects, either private or public. The idea of converting her into a traveling American ship of commerce with space rented by American business for exhibits of American products and technology might help improve our balance of trade. The idea of a great sea-going university would seem to have merit.

Such projects should be analyzed from a macro-economic point of view and from the point of view of national public relations value.

The *United States* is the finest commercial vessel ever built and during the 1950s was a symbol of our technological leadership. She brought great glory to the country during a period when our position of maritime leadership was eroding. In my judgment, it would be disgraceful not to find an American use for this vessel for the next few years until she reaches a respectable old age from an operating point of view.

There are also reasons why these vessels should not be sold which are related to defense. Several of these ships have had features built into them, at great cost, at the request of the Department of Defense. For example, length of the S/S United States was governed by the demands of getting through the Panama Canal, and many of her basic characteristics were dictated by the ability to turn her into a troop carrier on short notice.

As a reserve naval officer and a student of transportation, it is almost inconceivable that we could with any confidence write off every possibility for the need to transport personnel by ship in all future contingencies. (During two world wars we have experienced great disadvantages, and demand for tremendous amounts of money because of our pragmatic attitude and short-sightedness with regard to merchant vessels). To me, the idea of requiring an agreement from prospective foreign purchasers not to alter defense features and return the ships to this country under certain conditions is less than a satisfactory arrangement and an implicit acknowledgment of the possible need for these ships.

In general, I think it would be a mistake to sell most of these ships at this time, even if it is necessary for the government to relieve the present owners of the financial drain they are experiencing in maintaining them.

From a national point of view, the funds

involved are so insignificant that I think the proposition of government purchase of some of these vessels should be considered. The opportunity for a foreign sale is not likely to disappear in the near future so the funds could be largely recaptured and hasty action could be avoided.

I believe that a carefully appointed task force with a goal and a strong desire to find a way to productively employ some of these resources would be successful. I even believe that if nothing is done that American business interest will develop in these vessels in the next two years because of changing conditions in the sea travel business.

As an American I am concerned that we have not looked hard enough at this situation. It is simply inconceivable to me that we cannot find a better alternative than the course we seem about to take. There is no great urgency for the sale other than the financial relief of the companies involved, which might be handled in some other way. This obviously is an important decision that is irrevocable once it is made. It is deserving of further exploration and careful deliberation.

Yours very truly,

RICHARD D. O'LEARY.

[From the October 1971 Issue of Baltimore]

GUESS WHAT NEARBY PORT IS BEATING US IN THE CRUISE BIZ?

(By John C. Schmidt)

It's Norfolk, and the Virginia city is waging an aggressive promotional campaign which seems destined to make it the third major passenger cruise port on the East Coast.

In mid-July, several dozen representatives of Baltimore's commercial, governmental and marine communities met at Danny's Restaurant to applaud the humor of comedian Victor Borge and hear vice president Reginald Martine, Jr., of Norwegian Caribbean Lines, for which Mr. Borge was billed as "honorary commodore," announce a series of six passenger cruises from Baltimore in 1972. The occasion was reported in the financial and maritime pages of local papers, and Mr. Borge's appearance drew TV film crews.

At an earlier, similar gathering in late April at Norfolk's Golden Triangle Hotel, there was no comedian present, but Richard B. Patton, president of Cunard Lines, Ltd.-North America, was. He announced that Norfolk had been chosen as home base for Cunard's newest cruise vessel, the *Adventurer*, and that the 700-passenger ship would make a total of 26 week-long Caribbean cruises from Norfolk between May and November of next year. He commented that Norfolk and the *Adventurer* were "made for each other" and announced the opening of a regional office of Cunard in the tidewater Virginia city. In Norfolk, it was Page One news.

In the view of Baltimore travel promoters, the situation represented by these two incidents is such that this city's future as a passenger cruise port, if it is to have one, may be decided for years to come within the next few seasons. For not only has Norfolk quietly but effectively captured a strong foothold toward becoming the third major East Coast gateway behind New York and Miami, but Baltimore is doing virtually nothing even to place itself in contention for this position. According to Mr. Patton, Baltimore was never considered as a base for the *Adventurer*.

One reason for this, in a sense, is that Norfolk got there first. But the winning of the new Cunard liner was no isolated bit of good luck or fortunate timing. A few months earlier it had been announced by Cunard that the pride of its fleet, the *Queen Elisabeth II*, would make two long-duration cruises from Norfolk next January and February. Also previously announced was news that Holland-American Line's *Nieuw Amsterdam* would cruise twice from Norfolk in January instead of once, and that three other vessels, the *Hanseatic*, the *Bohème* and the *Skyward*, would make up to half a dozen embarkations from Norfolk which had not previously been scheduled.

This brings the total of major passenger cruise ship visits to Norfolk in 1972 to as many as 86, whereas previously the port had rarely had more than one a year. Baltimore, including the announced spring and fall sailings by Norwegian Caribbean for 1972, can look forward to ten—the six of the Norwegian Caribbean Lines, two of which are charters, and four of the Greek Line, which began its Baltimore cruises in 1968.

Norfolk's ability to build virtually overnight a business from one cruise a year to three dozen is basically the story of the missionary zeal of one man and of the enthusiasm and support for the cruise-port idea that he has received in the Norfolk area. The man is Richard D. O'Leary, 38-year-old former navigator for the *United States*, which, coincidentally, is now laid up in Norfolk, sharing the fate of almost all other American passenger ships.

Mr. O'Leary came to Norfolk in the spring of 1969 from Washington, D.C., where he was doing promotional work for merchant marine interests. He was hired by Norfolk principally to promote the container business, but part of his job as assistant general manager of the quasi-public Norfolk Port and Industrial Authority was to be also managing director of the Virginia Cruise Corporation, a small, non-profit operation not unlike Maryland Cruises. (Maryland Cruises was originated in 1962 as a joint venture of the Chamber of Commerce and the Maryland Port Authority—each of which invested $10,000—principally to get the cruise business started in Baltimore. In that, it was successful, and successful, too, in promoting the cruise idea among the public. The organization has been to all intents and purposes out of business since 1967.)

Having made some 120 sailings on the *United States*, O'Leary's cruise-ship orientation (a bathroom to him is still a head) soon surfaced and was given a strong boost when he and his wife booked passage on what was then Norfolk's once-a-year passenger sailing. "This immediately started me thinking about expanding Norfolk's role as a cruise port," he explains. "As I looked at it—and I tried to look objectively—I found only pluses, no minuses, as far as getting further into this business."

He says he had long believed in a need for a third major cruise port on the East Coast, and his first effort was to see if research would support that belief. One of the important things he found was that the widely held belief that the passenger ship business had been dealt a death blow by the jet airplane simply wasn't so. Jets did effectively kill the trans-Atlantic trade, but in order to remain in business, steamship companies turned to cruising.

"People read about all the American ships being laid up and think passenger business is dead," Mr. O'Leary exclaims. "The opposite is true—it's a booming business! Between 1965 and 1968, it grew about 15 per cent a year. In 1969, it was up 27 per cent. Last year, even with an 'off' economy, it still went up. The other significant thing we found is that there are right now 23 new passenger ships being built around the world—all foreign ships I'm sorry to say—to go into the East Coast trade."

Research gave equal support to O'Leary's feeling that two widely separated ports on the East Coast were not adequate to best serve the needs of people living in the Mid-Atlantic and Midwestern parts of the country. He makes the point that one-third of the nation's population lives within a day's drive or an hour's flying time from Norfolk, including such potentially right target cities as Washington, D.C., Baltimore, Pittsburgh and the rapidly-growing cities in the Carolinas.

"I think if you were to start all over again and do a marketing study of these parts of the country with respect to cruise business, you wouldn't want to set up two embarkation points at either end of the coast 1,200 miles apart. This deprives people living in the vast midsection of the country of any reasonable alternative."

Persons living in the central part of the country must either pay to travel north to New York and then pay to travel south again on a ship, which he says hardly makes good economic sense, or they must go to Florida. "And whether you drive or fly to Florida from the middle part of the country," O'Leary says, "the difference in cost between going there and coming here to Norfolk, for example, for two people is just about equal to the price of one of the cruise tickets."

Convinced that he was on solid ground, O'Leary proceeded to sell his idea. He admits that when he started, many people, even in Norfolk, thought he was crazy. He began with a road map of the United States on which he had circled the region from which he believed Norfolk could draw cruise business. The road map was soon replaced by more sophisticated surveys, comparisons of operating costs among various ports and marketing studies conducted both by his people and a New York advertising firm, Ogilvy & Mather, Inc. One of the agency's contributions was a revealing study of travel agents' attitudes toward Norfolk, which proved to be a valuable tool in planning.

As it developed, Mr. O'Leary's approach was first to point out the disadvantages of the present two-cruise-port situation and then to cite the advantages of Norfolk as an alternative.

Where New York was concerned, drawbacks cited included complex air schedules, costly taxi rides, squalid dock conditions, overcrowding, labor difficulties, general disenchantment with the city and a location one full day farther away from the warm latitudes than Norfolk.

Miami, in addition to the expense of getting there, has poor port facilities, according to O'Leary, and, in his words, "is a very unnatural place to cruise from—it's all been done there by sheer promotion." Both New York and Miami, he contends, share the disadvantage of having their best cruise seasons during their worst weather—New York in winter and Miami in summer.

Other East Coast ports as far north as Boston and as far south as Savannah were studied by the Norfolk group to assess their cruise potential. The only serious contender to emerge was Baltimore, which offered many of the advantages of Norfolk. These included a good harbor, relatively low port charges, a stable labor situation and convenient parking for cruise passengers. Baltimore was even thought to have an edge over Norfolk in terms of air schedules to anticipated market areas.

"But Baltimore has the major drawback compared to Norfolk of being about two steaming hours up the Chesapeake Bay," O'Leary points out. "This means that on a cruise out of Baltimore, you spend a total of about 20 hours—almost a full day—essentially within the confines of the harbor. This is particularly critical on short cruises, and since this is the type of business we see developing for this region, we feel that Baltimore is at a serious disadvantage, especially if there is ever lively and competitive cruise promotion between the two ports.

"Although I am certain this will be difficult for Baltimore people to accept, the fact remains that Baltimoreans will be able to purchase a better cruise travel package from Norfolk, because they will be able to trade off a $21 plane fare or a five-hour drive for an extra day at sea." (O'Leary says he is not now planning an aggressive campaign in Baltimore in connection with the *Adventurer*, although some effort will be made to draw passengers from this area.)

Once his data were assembled, O'Leary went to work on local marine interests, port authority officials, city fathers, politicians, bankers, businessmen, civic leaders and others whose influence held sway in Norfolk. While the city has long suffered from a conservative image and has been regarded as an apathetic coal port and Navy town, this is no longer true, and O'Leary got the backing he needed. James J. Gara, the chairman of the Norfolk Port and Industrial Authority, summed up the prevailing feeling at the meeting last April: "We will attempt to gain support for this program within both the public and private sectors of the economy. We will work to make this the most convenient, pleasant and inexpensive passenger interface on the coast." (As an indication of the change that has taken place in Norfolk recently, the Chamber of Commerce proposed essentially the same idea about developing cruise business ten years ago and got nowhere.)

O'Leary's next approach was to travel interests throughout the eastern and midwestern parts of the country. With John L. Roper III, a port authority commissioner and executive vice president of the Norfolk Shipbuilding and Drydock Company, he spent six weeks visiting almost every company operating passenger vessels on the East Coast, knowing full well that he was proposing something revolutionary in the tradition-bound and historically non-innovative steamship industry.

At a meeting he had arranged last November in New York with Cunard president Patton to discuss the then-proposed visits of the *QE II*, O'Leary laid out the whole scheme for developing Norfolk as a major cruise port. He was able to show with hard data the points in Norfolk's favor and more, because of the backing he had received at home, was able to offer to share with Cunard some of the risks involved.

The port authority, for example, would underwrite a promotional campaign costing several hundred thousand dollars. Some of this would be city money channeled through the Norfolk Department of Community Promotion, the balance from revenue which the port authority generates through industrial development and operation of Norfolk's airport.

The authority also agreed to refurbish the Norfolk International Terminals, scene of the embarkation of thousands of troops in World War II, by installing baggage handling systems and such amenities as elevators, carpeting and a lounge. The authority would conduct joint advertising campaigns with local hotels, car rental agencies and airlines and arrange with bus companies to provide free transportation of cruise passengers to dockside.

The arguments and the freshness of Norfolk's approach were enough to persuade Patton, in his words, to take the full plunge, and the *Adventurer* deal was the result. "The thing that led us to Norfolk was the enthusiasm of the port authority," Patton says. "O'Leary is a good man, but alone he couldn't have done it. The city and the port authority gave him a tremendous amount of support."

The promotional program now being mounted is two-pronged. One effort is aimed at travel agents and brokers throughout the Middle-Atlantic region and Midwest, including such cities as St. Louis, Cincinnati and Chicago. Agents are being supplied with informational brochures on the *Adventurer* sailings and on the various collaborative plans being worked out among the airlines and hotels serving Norfolk.

"This should appeal to a lot of people who have been on a cruise and know what it's all about," Mr. O'Leary says. "But we're also putting a lot of effort into selling the idea of going on a cruise to people who've never done it, and it's estimated that only one quarter of one per cent of the people in this country have cruised. Most people have the idea that cruising is very expensive and that only the rich can afford it.

"We're going to show people how for about $50 a day you get everything you need on a cruise: transportation, lodging, entertainment, six wonderful meals a day, plus the excitement of an ocean voyage and that wonderful life at sea. And you can forget about problems like traffic, noise, street crime, pollution and so forth. At sea, they don't exist."

The basic strategy for approaching both groups, O'Leary says, is packaging. Cunard is now planning to fly some passengers to the *Adventurer* from cities such as Baltimore. Beyond that will be the free transportation for passengers between airport or hotels and dockside.

O'Leary is developing an even more imaginative plan which will take advantage of the many tourist attractions in the tidewater Virginia area, such as Williamsburg, Yorktown and Virginia Beach. He envisions a combined cruise and land vacation package which he tentatively calls "The Best Two Weeks in America," which would include several days in Washington and visits to the Norfolk area's historic shrines, in addition to a week-long cruise.

For the long-range future, if the cruise business develops as successfully as hoped, he foresees a large new downtown complex of hotels, motels, a parking garage, restaurants, night clubs and other facilities catering especially to the cruise passenger trade.

All this, he acknowledges, will require a lot of effort. "Most of the promotion of the cruise business that's been done up to now is very passive in nature. And most of it has been designed to appeal to people who have already cruised. To generate the new business we want, I think we have to do more to sell the idea of cruising, as much as to sell a particular cruise deal—we have to make people cruise-conscious. I would like to see the industry get together and do some joint institutional promotion along these lines. I think it would pay off."

Among the more enthusiastic supporters of the port authority's plans is the Norfolk Chamber of Commerce and Convention Bureau. This does not necessarily go without saying, for in some port cities, including Baltimore, passenger cruise business has not been so eagerly sought.

Curtis E. Brooks, assistant executive vice president of the Norfolk chamber, sees two principal benefits to the city from increased cruising: more immediate business for hotels and vendors of many types, such as florists, photographers and caterers; and long-range benefits resulting from the exposure of the city and its attractions to thousands of persons who otherwise would never have gone there.

"We know from experience that every cruise ship attracts to the port not only passengers themselves, but many relatives and well-wishers who come for bon voyage parties and the like," Mr. Brooks says. "The average is from two to three visitors for every passenger, and most of these people will spend at least one night. Already, two of our hotels are preparing independent advertising pieces telling what they will do for *Adventurer* passengers, such as special rate discounts and complimentary cocktail parties.

"Also, since we are responsible for promoting Norfolk as a convention site, we are very interested in this aspect of cruising, for there are many groups that have conventions and are exclusively interested in cruising. Our new convention center is well along toward completion now, and with the cruise possibility, we'll have a strong selling point to lay before these groups that we didn't have before."

Brooks has made a study of the economies which a large convention-cruise group can effect. "If a group can get together enough people to charter the entire ship—which for the *Adventurer* would be about 350 couples—they can either charge their members an average of $100 less per ticket, or charge the regular rate and make a good deal of money for the organization, something on the order of $50,000 for one cruise."

Another reason why Norfolk is especially interested in building a cruise business, the chamber official says, relates to industrial development. A regular schedule of passenger sailings will bring through the community many people who are potential investors in business and industry. As Brooks puts it: "The investor's mind is never idle. If he looks around while he is here and likes what he sees, there is a strong possibility that he will keep this area in mind as investment opportunities arise."

While outwardly optimistic about the chances for success of the cruise business in his city, Brooks admits that everyone from the Mayor on down realizes that there is a lot at stake beyond the financial and physical resources which the city is committing to the effort.

"We think this comes at a very good time psychologically," says Brooks, "because after a long period of low-level activity in Norfolk, there is now a rising tide of dissatisfaction with just holding our own and a good deal of enthusiasm for taking a chance.

"And this is a big chance. If we don't succeed in this venture, the prospects in our lifetime for becoming a cruise port, we believe, are lost. This is a once-in-a-lifetime shot, literally, and the reputation and the future of the community are clearly on the line."

BALTIMORE BEGINS TO MOVE

Two developments in recent weeks indicate that interest in promoting more passenger cruises through the port of Baltimore is gaining momentum, both on official and semi-official levels.

Largely at the instigation of a small number of local businessmen, a meeting was held in August to discuss the cruise situation in Baltimore. It was attended by Maryland's Secretary of Transportation Harry R. Hughes, by the Attorney General and by representatives of the Maryland Port Administration, the Baltimore Area Convention and Visitors Council and the Economic Development Department.

At the meeting it was decided to urge the Governor to appoint an "outstanding dollar-a-year man" to lead an effort to attract more passenger cruise business to the city. (The group proposed a candidate for this position, but at press time for this issue he had not yet been approached or identified.)

One of the businessmen involved said he came away from the meeting encouraged because there was a mood of general enthusiasm on the part of the parties concerned and considerable sympathy for the idea that, in his words, "We just can't sit around and place second to Norfolk in this matter. The key to it now is to get the right man to head up and coordinate the effort."

On the official level, the Maryland Port Administration is moving ahead with plans to request $12 million in its budget for fiscal 1972–1973 for the construction of a major passenger terminal at Locust Point near Fort McHenry. If the request is approved by the Department of Transportation and the Legislature, this new terminal could be a reality by 1975.

Passenger cruises from Baltimore are now handled through a converted cargo shed at the Dundalk Marine Terminal, and while Port Administration officials say this service is adequate for the amount of cruise traffic that goes through the port, they acknowledge that it has serious drawbacks.

According to Joseph L. Stanton, port administrator, the most serious problems stem from the fact that the Dundalk Marine Terminal is already at the stage of over-utilisa-

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tion. And, the arrival and departure of each cruise ship in effect places one berth normally used and needed for cargo out of service for three days.

The proposed new terminal, Mr. Stanton said, would be a first-class facility with all the necessities and amenities for the comfortable movement of people in and out, including a large protected parking area. He added his belief that if such a terminal is approved and constructed, it would have to be a subsidized operation for a long time to come, and even optimistically speaking, given about 20 cruises a year through the port, it would just about break even on its operating costs. Twenty cruises a year is a figure which a Port Administration study indicates could be supported by the region from which the city would expect to draw cruise passengers.

Mr. Stanton acknowledged that backers of increased cruise trade believe that the economic benefits to the city from such a facility would justify its cost in the long run. He says there are also people who believe equally strongly that the economic impact of increased passenger cruising through the port would be of little consequence. A lot, he said, will depend on the kind of promotion that crusing is given by travel agents, the steamship lines and the various local promotional agencies.

UNION LEADERS DISPUTE STATEMENT MADE IN COMMITTEE REPORT

Mr. Speaker, the committee report on H.R. 11589 states that as a consequence of informal discussions between representatives of the shipowners and the National Maritime Union, "it was stated to the chairman, in clear and unequivocal terms, that agreement had been reached which would eliminate objection to the bill" by eliminating the SS *United States* and the SS *Independence* from its purview. President Joseph Curran, of the National Maritime Union, disputes that statement, and assures me his union strongly opposes H.R. 11589.

Mr. Hoyt S. Haddock, executive director of the AFL-CIO Maritime Committee, of which Mr. Curran is chairman, has sent the following letter to the chairman of the Merchant Marine and Fisheries Committee on this same point:

AFL–CIO MARITIME COMMITTEE,
Washington, D.C., November 8, 1971.

Hon. EDWARD GARMATZ,
Chairman, House Merchant Marine and Fisheries Committee, House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: No U.S. flag passenger ship should be sold to foreign flag interests so long as there exists an opportunity to operate it under the U.S. flag.

I have before me House Report No. 92–617, accompanying H.R. 11589, a bill "To authorize the sale of certain passenger vessels". Beginning on page 9 the report says, "After H.R. 1577 was reported by your committee, informal discussions continued between representatives of the owners and representatives of the National Maritime Union. As a consequence of these discussions, an informal meeting was arranged in the office of the chairman of your committee on Thursday, October 28, 1971. This meeting was attended by representatives of two of the owners and by representatives of the National Maritime Union. It was stated to the chairman, in clear and unequivocal terms, that agreement had been reached which would eliminate objection to the bill. The proposal was that the bill be amended to remove the SS Independence and SS United States from its purview. This gave rise to the introduction of H.R. 11589, on November 4, 1971, which by its terms carries out the agreement made between the union and the owners.

On Thursday, October 28, 1971, I attended a meeting in your office together with Nicholas Pasco, Moore McCormack Lines, Richard Kurrus, American Export Isbrandtsen and Ben Man, Deputy Executive Director, AFL–CIO Maritime Committee.

Mr. Chairman, the committee report, as quoted above, correctly states ". . . an informal meeting was arranged in the office of the chairman of your committee . . .". Yes, this was an informal meeting, and I made it quite clear that I was not speaking for anyone at this meeting except Hoyt Haddock. I also stated that I personally believed that we should find a method which would assure the continued operation of U.S. flag passenger ships.

Mr. Chairman, no statement was made in that meeting which could have been interpreted by you or anyone else present ". . . that agreement had been reached which would eliminate objection to the bill." I stated in very clear language that Chairman Joseph Curran of the AFL–CIO Maritime Committee could not and would not change his position of opposing the sale of any U.S. flag passenger ship to foreign interests. I further stated that I would report the results of our meeting to Mr. Curran, recalling that he makes the policy not me. I don't understand how I could have made my position clearer. At this informal meeting we did discuss:

1. The possibility of removing the SS *Independence* from the bill because an agreement had been reached between a Mr. Matalon and the American Export Isbrandtsen Lines and Moore McCormack Lines to operate her under the U.S. flag. You stated that you thought everyone understood that this agreement would be carried out when H.R. 10577 became law.

2. The need to keep the SS *United States* was also discussed and you agreed that you would use your good offices to have the Maritime Administration explore all possibilities of returning the ship to active duty as a passenger ship, trade fair ship, hospital ship or a floating university. We also discussed:

3. Amending the law to permit twelve (12) months cruising;

4. Your involvement with the Maritime Administration in insisting on a feasible passenger ship program;

5. You would consider a new operating subsidy approach which we had developed that could eliminate rate cutting and assure that U.S. flag passenger ships would be on a parity with foreign flag passenger ships;

6. Giving the Federal Maritime Commission authority to set minimum rates and maximum sailings for passenger ships; and

7. The problems which could face the maritime pension and welfare funds, including your involvement in a solution to these problems.

So much for the setting the record straight, with respect to your unfortunate inclusion in the report referred to hereinabove.

The Congress should not consider selling any U.S. flag passenger ship foreign so long as there exists a possibility of operating them under U.S. flag. Clearly such a possibility does exist.

Mr. Chairman, I am in complete agreement with the minority views of Congresswoman Leonor K. Sullivan ranking majority member of the House Merchant Marine and Fisheries Committee.

Sincerely yours,

HOYT S. HADDOCK,
Executive Director.

H.R. 11589 SHOULD BE DEFEATED

Mr. Speaker, H.R. 11589 should be defeated. A genuine effort should be made by the Maritime Administration to find American interests to operate the five ships so that they would remain American-flag ships, carrying our flag as well as our own citizens on the high seas.

If sold foreign, the ships would still be operated out of American ports, carrying mostly American passengers. But not a dime of the income from the passengers would be spent in this country, and all the wages would go to foreign seamen. And we would write off a huge investment by the American taxpayers while at the same time giving a windfall tax concession to the former owners.

THE CRISIS IN CHILD CARE—THE PARENT REPLACEMENT PROGRAM

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. RARICK. Mr. Speaker, additional voices of indignation and protest are heard because of the impending takeover of America's children by Federal planners aided by their psychologists, psychiatrists, social workers, change agents, and assorted paraprofessionals.

I insert for the benefit of our colleagues a most perceptive, illuminating, and thought-provoking commentary on the Federal child care threat as appearing in issue No. 8 of the publication "Rough Beast," 1952 Connecticut Avenue NW., Washington, D.C., and entitled "The Crisis in Child Care—A Federal Fantasy" by Marilyn P. Desaulniers.

The commentary follows:

THE CRISIS IN CHILD CARE—A FEDERAL FANTASY

On the surface, day care centers sure seem like a good idea, and not just for working mothers and the children of the poor. Every, but every, non-working mother from time to time needs someone to take care of her kid because she has business, or—Why not? simply wants to get away and do something by herself or with a friend, and wouldn't it be nice if there were a friendly neighborhood day care center where she could leave the child, confident that he would receive the same loving care she generally tries to give him? But what if the available day care centers were run by the state (anybody's state, Nixon's, Muskie's, McGovern's, anybody's)? What if they weren't day care centers as we've by-and-large known them up to now, but "development" centers, and with billions of dollars to spend on the "developing" and huge staffs to implement the programs and a vast bureaucracy to administrate them and great banks of computers overseeing the whole thing, something like the Defense Department? What if parents didn't have a choice about them? What if parents had to send their children there, like to school? What if a representative of a center, a "developer," could come into your home and give you instructions on how you had to deal with your kids at home? What if it were decided they couldn't come home but had to reside at the center for full-time "developing"? Sound far-fetched? There are people in the United States today with big plans, and the plans are beginning to be approved by yours and our elected representatives in Congress at this very minute. For instance, there's Dr. Urie Bronfenbrenner, a top consultant to the government on child "development" programs. He has testified to a Congressional committee that "it is not the parent . . . it is society that has responsibility" for child "development." That quote is from the article which follows. Read on.

Legislation to provide free or low cost child care for millions of American children is presently under consideration by both houses of Congress. Promoted as a means of getting welfare mothers into jobs, or with the emphasis on concern for the child and a determination to provide everything from dental to mental health for him and his family, the basic argument offered by the Nixon Administration is a "crisis" in day care a picture of horrible child neglect by working mothers, single parents, or simply indifferent families

Like any fiction, however, believing in the crisis in child care described by the Executive Branch requires a suspension of the audience's critical faculties. The simple processes of arithmetic, for example, must be discarded in considering the statistics offered to support direct federal control of early childhood education.

For, despite the method of presenting the figures in a confusion of fractions and percentages, spaced by paragraphs of incoherent sophistry and circular thinking, the documentation of a child-care "crisis" depends for its acceptance on sheer mind-boggling abuse of the English language which dulls the senses and obscures the fact that the figures used actually prove that no crisis exists at all, nor even any significant problem, nor any real desire for day-care facilities by those most directly affected, the mothers of the children.

The mainstay document used to establish the urgent need for immediate federal entry into the business of child care is the Children's Bureau (HEW) publication, 461–1968. Its figures are usually expressed in a variety of arithmetic forms, such as "one-half the children are cared for in their own homes," "13% were cared for by their own mothers at work," or "nearly one million cared for themselves." The relevant base figures are generally lacking in the "crisis" documentations, and the confused presentations are not subject to analysis. Only access to the basic document itself could give any idea of the real value of such atatistics. And, their meaning in normative terms is far short of a national crisis—in fact, no crisis at all.

The Children's Bureau study of the nation's 12.3 million children, under 14, whose mother work included those whose mothers were employed part-time as well as full-time, and for periods of as little as 26 weeks in the year. The effect of their situations, therefore, should weight the statistics concerning the actual number of working mothers as well as the need for expanded child-care facilities. This has not been done.

Ignoring any interpretations, however, the existing totals show that 92% of the children of working mothers were totally supervised during the mothers' absence, while the "latchkey children" whose plight is the emotional bomb in the issue make up less than 1/12th of the children under consideration (and, most of these are older children, including early teen-agers, who are semisupervised after school for an hour or so).

The most recent figures indicate that, nationally, between 6,000 and 6,000 younger children may lack supervision while the parents work. Although neglect of even one child is of proper concern, such figures compared to the 12.3 million children whose mother's work, or the nearly 50 million of the same age whose mothers do not, is scarcely cause for the *massive* involvement of the federal government in this area.

Indeed, the official figures themselves indicate a possible national child-care deficiency that relates to less than 1/60th of all the nation's children under 14 in its broadest estimates, and more accurately involves .6% of the same group.

The federal government, however, with its newly created Office of Child Development (HEW; the OCD is separate from and equal to the Children's Bureau and the Office of Education) to supervise the nation's youth, purports to find a crisis in this situation justifying a minimum annual expenditure of

$12 billion! With the application of these billions, Dr. Edward Zigler, the chief of the Office of Child Development, described in a recent interview the failures of American parents that he intended to undo in his capacity as the Nixon Administration's "super parent" for American children.

He intends more sex education for the little ones, and more baby-sitting demanded as part of required high school courses in "parenthood." By training them in advance, he intends to insure that tomorrow's adults do not stray from the state's ideas of how they should raise their children. In the meantime, he looked forward to expanding the parent training already in effect under some federal programs for Dr. Zigler does not believe that Americans are very good parents. Thus, by introducing federal funding to child care, *federal supervision even in the child's own home would be required under the Federal Interagency Day Care Standards.* The physical, emotional, mental, and social affairs of the child and his family would be directed by the agencies under federal control. Even the meals served in the home would be open to question and change under the guidance of health and nutrition experts a requirement of the Federal Day Care Standards already operating in limited fashion today.

In such a noble crusade, can anyone be deterred or hampered by the mere fact that only 35% of all the nation's married women with or without children work at all? Or that the mothers of only 1/5th of the nation's children under 14 are employed? Or that ⅔ of working and 71% of nonworking mothers expressed a strong preference for child care performed in their own home? Is it reasonable to expect "super parent" and his friendly lawmakers, or the non-representative special interest lobbies to be influenced by the Children's Bureau analysis that "care of children outside the home or family . . . plays a relatively limited role at the present time"? The government's own figures show that only 2% of all the children of working mothers are presently cared for in day-care facilities.

The unreal quality of the thought processes is staggering in its disregard for fact and in its single-minded pursuit of a predetermined objective: federal control of the first vital years of life, for, with the entrance of federal funds directly or indirectly into any day-care program in any community, the requirements of the Federal Interagency Standards are automatically introduced to the organization and definition of day care.

Via the bureaucratic vocabulary, innovative definitions (much like creative spelling) have been built into administrative requirements, corrupting any normal understanding of words into a nightmare of cliquethinking combined with an ever present contempt for accuracy and language. With Joycean extravagance, it indulges not merely double entendre, but precariously derived multiple levels of meaning in the commonest words and phrases until the structure and goals of agency directives are perceptible only to the initiate. Thus, in federalese, "day care" equals "early childhood education" equals "preschool education" equals "early childhood development" equals "human growth and development" equals "comprehensive development of school age children"; that is, whatever effects the child's "functioning in cognitive, affective, motivational self-image, emotional and social areas; in other words, in all of those areas which contribute to creating an effective adult" (quoted from the presentation of the Office of Child Development and Children's Bureau in December 1969, when the two bureaucracies were organized as one, before the Select Subcommittee on Education, House of Representatives). Further identifying this all-inclusive direction of the child as a definition of "education," the presentation admitted the implications of such government activity by the identification of "society as the third parent for every preschool child" a monolithic and totalitarian description that is a functional element in all federally assisted programs.

It is therefore strictly in the terms of *federal* definitions that a shortage of day-care facilities and a "national child-care crisis" must be understood. After all, at the same time that HEW insisted there was "a critical national shortage of day-care facilities . . . "the Westinghouse Learning Corporation Study discovered 63,000 unfilled day-care slots. However, excepting those already under the Federal Standards, few could meet the requirements.

The Westinghouse Study identified most existing day-care facilities as either "custodial" or "educational." The first was described as "approximating good home care," the second as providing "trained personnel on the staff and intellectually stimulating environments, i.e. games and toys designed for specific learning objectives, musical instruments, art equipment, animals, plants, good books, and they keep progress records on the children." Neither of these kinds of day care is acceptable to the federal government because they are not comprehensive enough, i.e. extending to the social, mental, emotional and developmental areas of the child's life, and that of his family, to include "all institutional settings," such as the home.

There are indeed few formal or informal arrangements for children (including in-home care by auntie or grandma) which meet the Federal Interagency Standards for day care. Nor, among the non-federal providers of such services is there any desire to meet them. Few outside the federal priesthood (where such miracles of national crises are wrought) are willing to promote or endorse the interagency requirements without the backing and muscle of the federal government; for few parents with a choice would expose their children to the requirements' processes and the concept that "society is the third parent."

The federal faith, however, is demanding, and all who come under its stern guidance must learn the ways of combining fait accompli with illogical premises. Thus, society is the third parent, and the government is society. Therefore, government must be "super parent."

Acting out its private fantasies, the federal bureaucracy already indulges its monolithic self-image with such demands as that under Title 45, Chapter II Code of Federal Regulations, Part 220.18(c)(1)(ii). This little known exercise of central government control of children requires that, with reference to care in the child's own home, "child care provided by relatives, friends, or neighbors must meet standards . . . that, as a minimum, cover age, physical and emotional health" and more. Thus, Grandma or Aunt Jane are subject to tests for emotional health before mother can leave the baby with them; and who knows what male chauvinist mental health worker will determine that the hormonal stresses of a 40ish neighbor prohibit her from coming into watch little Joe after school? After all competition is eliminated, the alternative is of course a federally approved day care center.

The applications hypothesized here are not nearly so fantastic as those already carried out by the straight-faced social revolutionaries in their determination to control children's personalities and values. The revolution is here, and we'll all raise our children the way "super parent" thinks we should, no matter how great our misgivings about a project oblivious to mere facts and unconcerned about little things like individual liberty, free will, or self-determination.

Representing as it does a step backward toward the cradle from the acknowledged constitutional infringements of the elementary and Secondary Education Act of 1965, no greater concern about the Bill of Rights can be expected from this new federal assault on the legal rights of parents, the sovereignty of state and local govern-

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ments, or the protections of the First Amendment. Just as Title II of ESEA specifically provided for by-passing state governments, through direct federal funding where such funding was prohibited by the state's constitution, so the myriad "child care" programs under consideration in the House and Senate, with the endorsement of the Nixon administration, also proposed to disregard local and state government requirements for teacher certification (S. 2007, already passed by the Senate); to reduce safety and fire codes of state and local governments as they apply to child-care facilities; and through announcement of a "federal responsibility" for child care, create a sort of reservation for American children in every community, under the sole control of the central government.

The concern of that government for the children already enjoying its superior parenthood is difficult to discern in testimony before the Select Subcommittee on Education which revealed that child-care centers in New York were shut down because of serious fire and safety hasards—presumably they were operating due only to a shortage of city inspectors. The reaction of the federal priesthood to such experience is terrifyingly consistent with its other encounters with real life. It proposes to lower fire and safety standards for child-care centers, on the theory that the mean old state and local governments are unrealistically strict in their requirements for buildings housing children. And, it's tough enough keeping the propaganda ball rolling, without having to meet sticky requirements for trained personnel or safe buildings or adequate lighting. If this does a little more damage to the Constitution in the process, why just trot out the fictional "crisis" and insist that the problem is urgent and explain that "we have to do something. . . ." Even commit institutional suicide.

The alliance of child-care programs with the Elementary and Secondary Education Act of 1965 is organic. S2007 tied the two programs together under Title V. The "research" funded under Title IV of ESEA is a major element in promoting expanded childcare programs. Preschool programs directed at total populations are funded under Title III of this disastrous piece of legislation. The concept of total development of the child—mental, physical, emotional, social—was introduced to private as well as public elementary and secondary schools through the same Title III.

The Elementary and Secondary Education Act of 1965 did not travel under the guise of crisis legislation, although it was railroaded through the Congress. It wore, instead, religious ecumenical garb, drawing all religious faiths together under the gentle direction of the central government, through the imagery that the child, not the parochial or private school, was the recipient of federal funding. Such imagery has not been carried so far that families of these children actually receive a tax credit of perceptible proportions, but, as new packaging to sell federal entry into the religious domain, it wasn't bad for a starter.

It wasn't good enough to rely on, however, since President Johnson apparently felt it necessary to communicate his desire to the Senate that ESEA be approved without debate or amendment. And, since he was bargaining with a landslide victory behind him, good politicians all, they did, thus preparing the way for the federal government to feed its totalitarian visions with small programs, and develop an appetite for big ones wherein the "comprehensive development" of children from infancy would be a recognized "federal responsibility."

Thus, perceiving that children already in school hadn't been properly raised, Title III programs (designed to provide services lacking or in short supply) rushed group therapy, preventive psychiatry, mental health, "family-life" education, sensitivity training, increased psychological services and liaison with community mental health centers for drug treatment of "behavior problems" into public and private schools across the country. Recognizing the dangerous lack of government direction in the early years of the children, special curricula structured with modern operant conditioning techniques were substituted for standard classroom texts and courses in every required subject, from social studies to language, from gym to health education. Each of these "Education Systems 70s" products of super-parenthood is designed to produce specific "behavioral changes" through application of the built-in conditioning. The specific stated intent of these general classroom activities is the creation and direction of ethical and moral values as determined by a public/government agency.

After all, the ecumenical bargain had been sealed: federal cash in return for the abolition of First Amendment guarantees. And who can blame Dr. Urie Bronfenbrenner, a consultant for federal child development programs, for the casual reference to the trade-off when testifying before the House Select Subcommittee on Education and Labor on proposed universal federal child care in December 1969? "Separation between church and state," he explained, "which was an important separation at the time, had the effect of splitting responsibility for the child's development. There was subject matter which became the school's responsibility and his development as a human being, which became the responsibility of the family and the church." A mere historical reference, in the past tense. (No more before this same committee which had the greatest responsibility for the Elementary and Secondary Education Act of 1965 was any challenge issued to the public burial of the free practice of religion.)

In an agreeable exchange with Mr. Collins, of the Subcommittee, Dr. Bronfenbrenner concurred with the legislator's equation that society equals government and that ". . . it is not the parent . . . it is society that has the responsibility" for child development. The best way to introduce such concepts, it was agreed, was to begin by promoting them for the poor "because we can get it done there" just as so many other outrages have been introduced to American communities during the past ten years by inviting the majority to judge minorities and then impose on them "social solutions" that include assaults on human dignity and civil liberties alike. The fine print, however, says that what is a cure for minority groups is likely a good preventive for the rest of the population. And the righteous judges soon find themselves labeled "bad parents," their children being inculcated with religious, political and social values by public agencies.

Thus, federally funded child care has developed primarily as a program for the "economically deprived," "cultural minorities," and welfare families. The willingness of otherwise nice people to strip these groups of their rights and dignity was clothed in the language of social justice-cum-urgent need. Since continuing welfare dependence, in the judgment of the behavioral scientists, did not reflect persistent vocational handicaps but, rather, cultural and personality defects, the rationale for imposing government-directed value systems expressed itself as "breaking the welfare cycle," or eliminating the curse of poverty.

C. Kenneth Johnson, manager of the Washington, D.C. model for Federal Child Care has explained the "change" in the meaning of day care, from a philosophy of service to families to a "preventive program" for "very young children" in recent testimony. "We know that by the time the child reaches 6 to 8 years of age, he has his whole personality, his whole style of living, his sense of values—those have been pretty much developed by this time." The concept of Federal Child Care Standards, in his words, is to give "this child an opportunity to develop the way we think he should be developing, at a very early age in life."

"Unfortunately," he admitted, "this change [in defining child care] is only in the minds of those people who are most directly involved in day care."

The change, however, becomes operational in every instance where federal funding is directly or indirectly involved, for, 4–Cs, Community Coordinated Child Care, is the required organizational form under Federal Interagency Day Care Standards. 4–Cs is the administrative tactic by which all organizations, groups and professionals in the community are penetrated and absorbed by the federal apparatus. It no longer relies only on funded programs to provide the "super parent's" philosophy of child-rearing to special groups. A qualification for receiving federal funds, under the Interagency Standards, is a guarantee that in terms, of philosophy and common goals all professionals, church and civic organizations, as well as public facilities, have been coordinated with the agency seeking the grant. The rationale for this mechanism of central government control is that it "will prevent duplication of services."

Thus, continuing as well as expanded day-care programs, funded directly or indirectly by the federal government, provide the means of converting every child-directed activity in affected communities into the extensions of a federal "super parent." If you think it couldn't happen, consider briefly the proprietor of a private preschool faced with the demand that he comply with coordination or be responsible for denying day care to the children of needy mothers in the community. The application is as valid for church-operated facilities. What businessman or minister could hope to explain such callous disregard for our social problems? For shame.

The lack of clear explanation of federal definitions makes resistance even harder. Day-care or child-care facilities in the minds of the general public are best defined by the two kinds which the Westinghouse Study defined as "custodial" and "educational." The term "comprehensive" is generally delivered to the public in terms indicating free medical care for low-income children. When the Administration glowingly reports on its "commitment to the first five years of life," it refers to providing everything necessary for "optimal development" of the child, whatever that may be. However, the sum total of the purple prose and statistical sleight of hand, generated on behalf of massive, multi-billion dollar federal entrance into the lives and homes of American children from infancy, omits any reference to the "change" in the definition of day care, which "is only in the minds of those people who are most directly involved in day care."

It is little wonder, then, that Senator (a sponsor of federal child-care legislation) remarked on the fact that the programs were being enacted "without much public notice." It is scarcely surprising that Dr. Zigler himself commented that "people don't recognize the monumental nature of this legislation and what effect it can have on the country in 20 years."

Take the federal definition of government equals society, and the observations of another federal consultant in support of "super parenthood," and the effect of such programs on the country in 20 years is totally predictable: "It is possible," says expert Bruno Bettelheim, "to create a viable personality type wholly different from that of the parents, in a single generation."

Different, no doubt. But, like the other products of this federal fantasy, this one is also flawed, for, according to the Office of Education, Planning, Research and Evaluation, in December 1969, although "over the past decade, evidence has accumulated in the behavorial sciences as to the relative malleability of the child in his early years . . . what experiences are appropriate for what developmental stages . . . what environmental conditions provide experiences which optimize development" are not yet known.

After ten years of experience and experiment with child development programs, the Office of Child Development admitted, "As we enter the 1970's we are still seriously deficient in (a) our understanding of how children develop, (b) the causes and nature of the deficits found among disadvantaged children, (c) the technique for appraising the state of development and (d) the design and delivery of programs and curriculum to prevent or overcome developmental deficits."

The situation could scarcely be made clearer; the federal child-care experts don't know what they are doing, can't show any good reason for doing it, and can't measure their own programs adequately to determine the effects of all this intervention in the development of children.

The same statement, in fact, frankly admits that, in practice, "the results of those experiences [with developmental programs] have not been fully reassuring. In fact, in some cases they have been rather difficult. We have been discouraged by some of the findings."

Not discouraged enough, however. For despite the inability of any expert or federal child-care official to predict the results of deliberate tampering with the developmental processes of infants and children, despite the admitted lack of any benefits from the preceding ten years' experiences, the current proposals in House and Senate are designed to increase the use of the behavioral sciences on increasingly younger children in experimental procedures contemptuously labeled "child care."

Thus the House Education Committee summed up testimony on universal early childhood education and day care: "One can make the case, I obviously don't, that we don't know enough about what makes the difference in the development of children; therefore, we do nothing . . . until we have satisfied ourselves that adequate research has been done . . . Now, in earlier testimony with other childhood experts, we were told, no, that is not the attitude to take, 'You should go ahead with programs, and at the same time, carry on very effective and careful evaluation of ongoing programs,' which is one very important means of conducting research."

The key words, "conducting research," are identical with the processes activated in elementary and secondary schools through federal funds. The philosophy and goals are also the same. Thus, from a standard text on activities in the regular classroom, it is interesting to note that the title "Introduction to Educational Research: A methodology of design in the behavioral and social sciences" identifies the changed definition of education described by the Office of Child Development. Published in 1963, this standard reference contains suggestions on helping teachers overcome their reluctance to experiment on other people's children (pg. 49), identifies the "change" in education away from imparting skills and information and toward study of the child and his development under manipulated circumstances—with emphasis on his value systems (pp. 91, 92, 353, 379). With the expressed anticipation that educational research will be to the behavioral sciences what clinical psychology was in the past (pg. 477), emphasis is placed on study of children's value systems in "intrafamilial" contexts (pg. 479).

Recognizing the possibility of damage to the "normal and healthy" child-subjects of this educational research, the text contains the suggestion that the experimentation be carried out under the concept of "liability without fault," a flat statement that the government should assume responsibility for rehabilitation of damaged children or payment of indemnities to the families of those who cannot be rehabilitated. For, says this text by Carter V. Good, Dean, School of Education, University of Cincinnati, government-as-society supports most of the experimentation to begin with.

How ironic that the increasing number of children with emotional problems has been blamed on the parents by those tampering with the children. What skillful misdirection permits the use of these tragic figures to justify increased federal "child-care" and "education" programs, wherein no information or skills are imparted, wherein no care for any child exists? How ingeniously the proven failure of Head Start and other "remedial" programs is used to justify access to even younger children.

But, the federal fantasy of a child-care crisis is not amusing. It is as dangerous to the survival of the nation's political, social, and economic institutions as any foreign aggression.

Whether sold to Women's Lib as a way to free women from the home, or to professional women as a humane provision for those less fortunate than themselves, to welfare mothers as a "Head Start" to help their children catch up with the middle class, or to welfare critics as a way to get those lazy mothers off the dole and into jobs—whether promoted to liberals in the properly vague but beautiful language of social justice, or to conservatives with creative statistics indicating a national crisis that does not exist, the sheer dishonesty of the advertising indicates the quality of the product, and the level of acceptance its promoters would expect from the public if its nature were understood.

The echoes of Dachau and Auschwitz in the potentially dangerous, involuntary experimentation on children would not likely be acceptable to the American public. Nor could the citizens really be expected to endorse the assumption that the central government should control moral and ethical values through a private arrangement to disregard First Amendment guarantees.

The deliberate attack on the political existence of state and local governments, begun with the Elementary and Secondary Education Act and continuing through current child-care standards and legislation, presents the serious possibility that the collapse of these sources for representation in the Congress will, as they succumb, render the House and the Senate illegal bodies like the "coordinated" Reichstag of 1933.

Certainly, imposing federal standards and regulations at the expense of state constitutions and local control casts doubt on the viability of the federal system. The value of the individual vote is diminished in direct proportion to the erosion of its Constitutional resources and the expansion of central government control.

The definitions of federal child care and education, in their many guises, are expressions of authoritarian contempt for the principles of individual liberty, free will, and self-determination. The support of too many individuals and groups has been secured for them simply by rewording the old saw that the end justifies the means.

Subjected to the artificial crises trumpeted day and night, by media sophmorically determined to change the world, the resistance of normally rational people collapses under emotional overload. Pressed from all sides to support the kindly central government's plan to take responsibility for infants and children, even before birth, and loved by the federal priesthood's miracles of statistics and pseudoscience, paraded with the modest assurance that Super Parenthood will prevent all social, physical, mental and economic ills forever more, too many responsible leaders have succumbed.

The sheer stun-effect of so much illogic and garbled prose silences initial objections. Subsequent failure of the promoters to communicate the facts—thus promoting propaganda instead of news—effectively isolates objectors in an environment where they seem alone in disagreement and, therefore, in error.

There are undoubtedly more fools than villains, more mad scientists than fascists, more who are coerced than coercing. But the fact remains that federally funded programs of child care and education (since ESEA) represent an expression of monolithic, total power by the central government, at the expense of the states, local governments, the federal system, the Constitution, and the individual's essential human dignity and liberty.

Only public rejection of these programs can halt them. Letters to the President, your Senator and Representative are in order. But, the time is short. And the Administration has let it be known that only a massive outcry will stop expansion of the cynical "child care" and "early childhood education" to every community, family and child in America.

Who has the youth, said Adolf Hitler, has the future. No government, if we dream of liberty, should ever have control of our children—Marilyn P. Desauliniers. The author is completing a book. "Revolution from the Top; The Making of Nazi America."

DEDICATION AND ENTERPRISE OF OUR FEDERAL WORKERS

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 12, 1971

Mr. DULSKI. Mr. Speaker, over the years our many dedicated Federal employees have been maligned time after time in the public eye.

This is both unfortunate and unfair—as anyone knows who deals with the Government and its employees on a regular basis. As in any large organization, there are exceptions—but that only goes to prove the rule.

Since I came to Congress in 1959, and immediately was assigned to the House Committee on Post Office and Civil Service, I have come to know well of the conscientious work and the working conditions of our Federal employees. I had some knowledge of their plight before I came to Washington since I had served several times as a Federal employee in my home city.

Mr. Speaker, I believe the report this year by the Civil Service Commission speaks for itself in indicating the caliber of people who serve in our Federal establishment. I include the text of the announcement from the Commission as a part of my remarks.

PRESS RELEASE BY U.S. CIVIL SERVICE COMMISSION, NOVEMBER 8, 1971

Federal employees made record contributions to Government economy and efficiency valued at $344.8 million through their suggestions and superior accomplishments during Fiscal Year 1971, Chairman Robert E. Hampton of the U.S. Civil Service Commission announced today. This all-time record in the 17-year history of the Government-wide Incentive Awards program exceeded the previous high of $343.5 million recorded in Fiscal Year 1967.

Assessing the results, Chairman Hampton stated:

"I wish to commend these Federal employees who have so admirably demonstrated their awareness of the great need for economy and high level of performance in Government. This evidence of their efforts and initiative sets a high example for Federal employees and should be of particular interest to American taxpayers as an illustration of employee contributions to achieving greater Government efficiency and economy."

A total of 96,879 employee suggestions achieved savings of $170,844,320 in reduced man-hours and costs of materials and equipment, and contributed immeasurable benefits in improved services to the public and increased efficiency. Employees received $5,060,038 in cash awards for adopted ideas, with an average cash award of $82, compared to $65 the previous year. Average benefits to the Government per cash award were $2,125 for FY 1971, compared to $1,873 the previous year.

For meritorious performance exceeding job requirements, 105,937 Federal employees received a total of $17,835,240. Benefits totaled $173,949,083 and were 75.6% higher than in FY 1970. The average lump-sum performance award in FY 1971 was $185, and average benefits per cash award were $1,410.

The largest special achievement award ($10,000) was earned by a group of 29 engineers and technicians of the Radar Techniques Branch, Naval Research Laboratory, Washington, D.C., for developing radar equipment that can "see" over the horizon. In addition to its immediate value in military use, this development will contribute to safety in commercial and private air traffic control. The Naval Research Laboratory has been a pioneer in radar technology since its invention there by Dr. Robert M. Page, the laboratory's retired director. (Dr. Page was a recipient of the President's Award for Distinguished Federal Civilian Service.)

Another notable award recipient was James S. Griffiths, a special agent with the Department of the Treasury, who received $1,000 for his outstanding initiative and judgment in working to eradicate counterfeiting in the Los Angeles area. Under his leadership, over $1,180,000 in counterfeit bills was seized in 5 cases alone.

The following agencies had outstanding results in their Incentive Awards programs:

Army led all agencies in dollar benefits from suggestions ($62.1 million) and from special achievements ($61.7 million).

Navy established a new Department record of $33 million in measurable benefits through the suggestion program.

Air Force, second among agencies in benefits from suggestions, topped the $50 million mark for the fifth time in 6 years with over $54.3 million.

The Incentive Awards programs of the Department of the Treasury, District of Columbia Government, and General Services Administration showed significant increases in all areas—including more suggestions received, more adopted, more special achievement awards granted, and increased dollar benefits.

Other individuals receiving awards for exceptional accomplishments included:

E. P. Davitt, a General Engineer at Naval Ordnance Systems Command Headquarters, Washington, D.C., who earned $9,705 for developing the Sonobuoy Missile Impact Location System at less than one-fifth of the cost of designing, engineering, and manufacturing a competitive system, with a savings to Government of over $18 million. (Mr. Davitt was a 1971 winner of the Presidential Management Improvement Award.)

Walter K. Sterling, engineering technician at the U.S. Naval Air Station, Patuxent, Md., who received $7,455 for suggesting and developing an adapter device to carry practice bombs on training flights. His idea resulted in estimated savings of $6,353,181 during the first year of use.

A five-member team of research scientists at NASA's Ames Research Center, Moffet Field, Calif., who received $5,000 for their outstanding contributions to scientific progress in the field of deep-space radio communications.

Clarence M. Poole, a physical examination specialist with the Department of the Army, Fort Benning, Ga., who was awarded $3,350 for suggesting an improved method for processing the release of enlisted men who disqualify physically for military service. His idea has achieved savings of $1,249,740 and produced additional immeasurable benefits.

Paul L. Glasener and Robert E. James, Agency for International Development, who were granted $2,790 for their team effort in finding a way to significantly reduce costs of shipping voluntary agency food shipments to India.

Stanley Hansen, a marine surveyor for the Department of Commerce, San Francisco, Calif., who was granted $1,255 for devising a way to take impressions of ships' gears using materials and techniques similar to those used by dentists and dental technicians. This development, which permits engineers to determine the condition of gears without costly disassembly, has been adopted by the U.S. Coast Guard and the American Bureau of Shipping.

Pierre C. Boucher, a poultry products marketing specialists with the Department of Agriculture, who was awarded $1,220 for suggesting the use of an improved method of packaging dried egg mix used in direct food distribution programs.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1600 American prisoners of war and their families.

How long?

PHASE II PROGRAM

HON. RICHARD T. HANNA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. HANNA. Mr. Speaker, the President's phase II program is based on too narrow a premise to solve our present economic dilemma. It assumes that our sole battle to reduce inflation is in containing the wage-price spiral. I do not agree. Certainly, where the load of amortizing unused capacity is not absorbed in loss of profit, it is a cost distributed in higher prices. Additionally, where there exist inefficiencies in production and distribution, these are also read out in price structures. Finally, with a tax proposal to give 7 percent incentive credit for adding to an already excessive production capacity and tolerating both a reduction in earnings and a high unemployment, we are enduring a substantial loss in tax revenue. I would point out, Mr. Speaker, that there are in reality two sources for governmental deficits. The first and more widely known of course, is spending too much. The second, and equally as successful yet not too well-known, is collecting too little. To my mind, this loss in tax take is contributing more to the budget deficit than the so-called excess spending.

When you realize that the most predictable consequence of increasing wages and increasing wage earners is to increase tax revenue, the essence of governmental benefits from a full employment economy becomes apparent.

It therefore strikes me that where wage increases do not, or should not, effect price increases, they should be encouraged. Also, some price increases which reflect honest and fair assessments of costs should not be measured as inflationary. Again, programs and policies for increased employment should be promulgated and fostered and these cannot be limited to investment credit inducements. Rather, investment tax credits should be tied to the following:

First, actual increase in jobs;

Second, demonstrated increases in efficiencies of production and delivery of goods and services; and

Third, demonstrated increases or improvements in markets.

These, it would seem, have more dynamics than the mere encouragement of investment per se.

Our problem now lies in the total effort of both management and labor to make our production competitive. It lies also in recognizing we have underconsumption of a serious kind which suggests increases in purchasing power at home and increases in market activity abroad. Once we have the dynamics of full employment, our tax revenues will quickly fill the gap now suffered in revenue which is largely responsible for our present shocking deficit, a deficit revealingly portrayed by my esteemed colleague from Texas (Mr. MAHON) whose committee has projected a 4-year deficit for the present administration of in excess of $100 billion—a deficit we simply cannot afford, by any meaning of the word. For further background on this disturbing figure, I urge my colleagues to review Chairman MAHON's remarks in the RECORD of October 28 at page 38053.

THE SUSAN B. BILL?

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. GUDE. Mr. Speaker, our distinguished colleague, the Honorable SEYMOUR HALPERN, has recently proposed that the $2 bill be reissued carrying the portrait of Susan B. Anthony. I believe this to be an excellent suggestion and the gentleman from New York is to be congratulated for offering it.

Should the $2 denomination again be brought into use, the Federal Government could realize an annual savings of $2.1 million in printing costs. This, at a time when our economy is in need of all the help it can get, is a positive contribution.

Additionally, with the gospel of women's liberation deservedly gaining converts, I think it most appropriate that Mrs. Susan B. Anthony, a woman who contributed so much both to womanhood and to our national heritage, be honored in this fashion.

The Washington Daily News has published an editorial in support of this proposal and I would like to share it with my colleagues at this point.

The editorial follows:

[From the Washington Daily News, Nov. 3, 1971]

THE SUSAN B. BILL?

Rep. Seymour Halpern's proposal to reissue the $2 bill and put suffragette Susan B. Anthony's picture on it seems to us to have a lot going for it.

The $2 denomination, discontinued in 1966, makes even more sense today when the buck doesn't go nearly as far as it used to. And it would save the government an estimated $2.1 million a year in printing costs by replacing half of the ones with bills of twice that value.

True, Founding Father Thomas Jefferson, whose serenely handsome face used to grace the $2 bill, would be replaced by the rather grim visage Susan B. presented to a male chauvinist society.

But richly honored Tom already is represented on the nickel. And, Virginia gentleman that he was, we can't believe he'd mind a bit stepping aside for a lady whose company he might have found tedious but whose zeal for social progress he certainly would have admired.

One hitch seen by New York Republican Halpern and cosponsors of his proposal is that Women's Libbers will view it as an insulting sop to their ambition to innumerable high offices. Their suspicion might be merited if he had proposed putting Susan B. on a $3 bill.

But, given the economic temper of the times, Susan B. Anthony on a $2 bill might become even more familiar to the citizenry than two famous males popularized by our coinage. The Indian on the old penny. And the buffalo on nickels when nickels used to buy a good cigar.

LEGAL SAFEGUARDS FOR U.S. WORKERS IN DANGER

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 12, 1971

Mr. DULSKI. Mr. Speaker, the very capable Federal Spotlight reporter for the Washington Evening Star, Joseph Young, has indicated that plans are afoot to change the legal safeguards with regard to Federal employees.

This is a matter which merits our concern and I call the article to the attention of all our colleagues:

U.S. MOVES TO FIRE "SUBVERSIVES"; AUTOMATIC OUSTER CALLED FOR IN PLAN

(By Joseph Young)

The Nixon administration is drafting plans for the automatic firing of all federal employes who are members of any organization the government decides is "subversive" or "revolutionary-terrorist."

The plan would abolish present legal safeguards adopted following the witch-hunts of the Joseph McCarthy era in the 1950s and the loyalty programs of the late 1940s.

It would apply to both "sensitive" as well as "non-sensitive" jobs in government.

Mere membership in a group listed by the attorney general as "subversive" is not now grounds to fire a federal employe. The government must prove that an employe is an "active and knowing" member of such an organization.

The proposed new standards would bring the dismissal of an employe if the government decided his continued employment "would not promote the efficiency of the service."

Apprised of the administration's proposed changes, federal employe union leaders expressed alarm that this could result in a new witch-hunt in the federal service.

They also express concern that the proposal would mean virtually any employe could be fired on vague charges.

WHO LISTS ORGANIZATIONS?

The union leaders ask who is to determine in theee rapidly changing times of social stress and upheaval which organizations are "subversive" or "revolutionary" and which are not?

Federal union leaders say there is a grave danger that government employes belonging to groups demanding an end to the fighting in Vietnam or in the cause of school and housing integration and other social issues would stand to lose their jobs if the plan becomes effective.

Asst. Atty. Gen. Robert C. Mardian, chief of the Justice Department's internal security division, referred to the proposal in remarks prepared for an Atomic Energy Commission security conference. Mardian has also indicated the administration's thinking on the matter in testimony before Congress.

The ideas discussed by Mardian are only "working proposals," a Justice Department spokesman said today.

"These proposals," he said, "are simply part of our current evaluation of the existing security system."

Officials have not yet decided whether it would take new legislation or only a presidential order to put the proposals into effect, if a decision is made to implement them, the spokesman added.

DESCRIBED AS "LEGALISM"

In his remarks to the AEC group, he described as "legalism," federal court decisions which carefully circumscribed operations of internal security programs.

He said that "legal distractions . . . have placed an onerous, if not impossible, burden on government and industrial security officers," and that the new standards are part of several proposals to correct this.

Among others he named was a July 2 executive order from President Nixon authorizing the Subversive Activities Control Board to hold hearings and designate groups that fall into the "subversive" or "revolutionary-terrorist" category.

This order is under attack in Congress. There have been bills introduced by Sen. Sam Ervin, D-N.C., to bar use of federal funds to enforce the order.

Mardian argued that evaluating the membership in groups "dedicated to revolutionary-terrorist" principles would offer a "more realistic" test than present standards.

JUSTICE DEPARTMENT VIEW

Mardian argued that government agencies should be able to fire employees if membership in an offending group would diminish his agency's efficiency.

Mardian added that "the vast majority of Americans would . . . agree that persons who are knowing members" of such groups "should not be employed in even non-sensitive positions, not simply because they are disloyal, but because such people are not likely to improve the delivery of governmental services of a government system they are trying to destroy."

Queried by Jared Stout of the Newhouse News Service as to which additional organizations would be named as subversive or which kind of activities by federal employes would be regarded as subversive or revolutionary-terrorist, Justice Department spokesmen declined to do so.

A Justice Department spokesman said the proposed plan could take the form of either legislation or a presidential executive order.

RUSSIAN GRAIN SALE HISTORIC STEP

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. FINDLEY. Mr. Speaker, the sale of nearly 3 million tons of U.S. feed grains to the Soviet Union, announced last week, is an historic event of great importance to the American farmer.

The shipments that will be made between now and July 1972, equal more than 15 percent of all U.S. feed grain exports last year. This is particularly significant as we are in the midst of harvesting the largest corn crop in history. In addition to the tremendous lift this gives to agriculture, it also benefits the U.S. balance-of-payments position, since the Soviet Union will pay for the grain with U.S. dollars.

Beyond the immediate benefits of such a large sale—2 million tons of corn alone—are the long-term implications for U.S. agriculture.

This sale is further evidence that the Russians are making a serious effort to produce more meat and poultry products, and it means that they could be a continuing an important market for the feedstuffs required for a thriving livestock industry. While feed grains made up the initial sale, a good potential for sales of soybeans to Russia also exists.

XUM

It is an historic development that has opened the door to a new market of great potential for the U.S. farmer. I am inserting in the RECORD as part of my remarks the initial announcement of the sale from the U.S. Department of Agriculture and a fact sheet outlining the products being sold:

[From U.S. Department of Agriculture News]

UNITED STATES TO SELL GRAIN TO SOVIETS

WASHINGTON, November 5.—Two U.S. firms have firm offers to sell more than $125 million worth of grain to the Soviet Union and an agreement has been reached with the U.S. maritime unions to make the overseas shipment, Acting Secretary of Agriculture J. Phil Campbell announced today.

The Secretary said approximately 3 million tons of feed grains, "primarily corn," but including barley and oats will be involved in the sale.

"This historic development opens the door to an important market for American farm products—not only for this year but it can develop future avenues of trade that will be even more important to American farmers," Mr. Campbell said.

The sales of grain to the Soviet Union have been made by Continental Grain Company and Cargill, Inc., Mr. Campbell said. The grain, primarily corn, will be delivered between now and July, 1972. Payment will be in cash, with U.S. dollars.

Mr. Campbell also praised the leadership of President Nixon and the "statesmanship" of union leaders in negotiating to ship the grain.

Mr. Campbell called the agreement to move the grain a "breakthrough which offers major possibilities for American farmers."

The grain sale, which is equivalent to more than 15 percent of all U.S. feed grain exports last year, comes at a time when the U.S. is harvesting a record 5.4 billion bushels of corn.

The record corn crop is the result of increased plantings by farmers to offset a possible loss to a new, more virulent strain of corn blight, which cut the size of last year's crop by 15 percent. But weather conditions kept the blight in check, and a record production was the result.

Mr. Campbell said the corn involved in the sales will come from the free market—that part of the barley and oats will be from Government stocks and will move at world prices.

"These historic sales of grain to the Soviet Union may open a new era of understanding with the people of the Soviet Union," Mr. Campbell said. "There is every indication that Russia is expanding its livestock industry. Two USDA-sponsored teams which have recently completed study missions in Russia report that if the Russians carry out their present intentions they will need substantial quantities of feed stuffs which the United States is in a position to supply."

Mr. Campbell said, the arrangement that led to the completion of the sales agreement between the commercial grain companies and the Soviet Union is a result of President Nixon's charge to his staff to do everything practical to break a long impasse over the handling of grain shipments to the Soviet Union.

The Maritime Act of 1970 provides for a significant modernization of our merchant fleet. This Administration initiated this legislation to make it possible to compete in an ever-expanding market, and we are confident that the U.S. flag fleet will be competitive and will participate in new export fields.

GRAIN SALES—SOVIET UNION

I. CORN

2,000,000 metric tons—80,000,000 bushels—15% of last year's exports.

II. BARLEY

600,000 tons—28 million bushels—36% of last year's exports.

III. OATS

300,000 tons—21 million bushels—117% of last year's exports.

EXPORTS

[1970–71]

Million bushels

Corn	509
Barley	77
Oats	18

PRODUCTION

[1970]

Corn (billion bushels)	4.1
Barley (million bushels)	410.0
Oats (million bushels)	909.0

[1971]

Corn (billion bushels)	5.4
Barley (million bushels)	470.0
Oats (million bushels)	885.0

DELBA AWARD TO MILTON BERLE

HON. CRAIG HOSMER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. HOSMER. Mr. Speaker, the dedicated and public-spirited members of the Downtown Long Beach Associates next month will pay a richly deserved tribute to a great American entertainer and humanitarian—Milton Berle.

Milton will be the 1971 recipient of the "DELBA" award, presented annually by the Downtown Long Beach Associates to recognize the often unheralded humanitarian and philanthropic activities of our show business personalities.

In recent years, the organization has honored Danny Thomas and Bob Hope with this fine award and the presentation to Milton Berle will give it added lustre.

He is truly one of the giants of the entertainment industry, called "Mr. Show Business," "Mr. Entertainment" and "Mr. Television." But like many stage personalities, there is another side to Milton Berle that the public rarely sees.

Berle's stage personality, like many a movie villain, is entirely different than the real-life Milton Berle. While he comes off brush, arrogant, and fast onstage, it is just his act. In person, Milton Berle is rather a gentle man, kind, considerate, an innate gentleman. It is a personality far removed from the nightclub Berle.

He is a quiet humanitarian, sometimes too much so for his business managers. He has amassed millions as an entertainer but he would have given it all away if his advisers had not limited him to $150 a week pocket money.

Berle's talents need no detailed renumeration. His versatile artistry has found expression on the stage, motion pictures, nightclubs, radio—and television. Berle long was tagged "Mr. Television" for good reason. He was the first superstar of the youthful industry and he has remained consistently on top during the years of its growth.

Berle has probably done more benefits than any other star in show business. His philanthropies are many, and he gives to them generously of his time and money. A beloved figure in the world at large, Berle rehearses as hard for a benefit show as he does for the engagements which have earned him millions over the years.

No greater accolade can be given Milton Berle than when the Television Academy of Arts and Sciences honored him with this well-earned tribute: "The industry honors the man who made the industry."

Berle has come a long way since he started in show business at the age of 5.

He made his debut on television in 1929—to a closed-circuit audience in Chicago of 129 persons. He later became the first big name to break into TV when he bowed on NBC–TV's "Texaco Star Theatre" June 8, 1948.

Until 1956, he rode the medium s pinnacle of popularity for 8 consecutive years.

During much of that time, he stood alone as the first and biggest attraction offered by the electronic infant.

Known then as "Mr. Tuesday Night," he literally cleared the Nation's streets as millions turned to the nearest TV set—usually in appliance stores or at the home of a prosperous neighbor or relative—to catch his weekly hour-long show. Berle is generally credited with selling more TV sets in those days than all the Nation's appliance salesmen combined.

But where the comedic Milton Berle is more widely known, there is a serious acting side to Berle. His Emmy-nominated performance in television's "Doyle Against the House" and his critically acclaimed performance of the harassed agent in "The Oscar" added a new dimension to this multitalented performer's artistry.

In fact, his performance in "The Oscar" was so widely praised in Germany that the U.S. mission in West Berlin petitioned the White House to name Berle head of the U.S. delegation to the 1966 Berlin Film Festival. This, President Johnson did and Berle acquitted himself with distinction at the festival.

Mr. Speaker, I am pleased to join my friends of the Downtown Long Beach Associates in paying tribute to a great entertainer and wonderful human being.

AN ADMINISTRATION CRITIC MEANS NEVER HAVING TO SAY YOU ARE SORRY

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. SCHERLE. Mr. Speaker, Monday, the weekly publication of the Republican National Committee, has printed many a telling observation of the political scene. Under the able editorial hand of John Lofton, Monday has been the source recently of some excellent political analysis. A good example of the kind of sound reporting which has made Monday respected on both sides of the aisle is the following article from the November 8 issue:

BEING AN ADMINISTRATION CRITIC MEANS NEVER HAVING TO SAY YOU ARE SORRY

Being a liberal critic of the Nixon Administration means never having to say you're sorry—even when the facts ultimately prove your charges wrong.

Back in February of 1969, after company executives of three major Southern textile manufacturers assured Defense Deputy Secretary David Packard that they would take "affirmative action" to reach equal employment goals, the Department of Defense announced approval of $9.4 million in contracts to the three firms.

"The lesson of my experience is that one can move ahead at the fastest pace on these employment issues when one enlists the cooperation and personal backing of the top executives of a company," Packard testified before a Congressional subcommittee explaining the Administration's flexible approach. "I believe that this is the best way to achieve what we are working for."

CRITICS WANT BLOOD

But the Administration critics disagreed. They wanted no part of any effort which emphasized mediation, persuasion and voluntary cooperation.

Massachusetts Sen. Edward Kennedy, as head of the Judiciary Subcommittee on Administrative Practices, called a hearing and sternly rebuked Deputy Secretary Packard for awarding the contracts on the basis of "nothing more than a gentleman's agreement."

Former Vice President Hubert Humphrey accused the Administration of inconsistency and a "marked disparity between words and deeds."

Michigan Sen. Philip Hart called the Defense Department decision "unfortunate." Minnesota Sen. Walter Mondale charged that the Department of Defense "is the first Federal agency in the new Administration to impede efforts for racial justice here at home." Eight black Democrats in the House wrote the President expressing concern.

WASHINGTON POST CRITICAL

The *Washington Post* editorially criticized the Administration's procedure as an "odd act" and warned: "They will have the most cause for regret if they opened a Pandora's box of resistance and regression."

In another editorial the *Post* labeled as "disturbing" Deputy Secretary Packard's personal, special dealing with the companies and said that "That way lies real trouble."

The "trouble" the *Post* worried about has now occurred but it is not quite what the Administration's critics suggested it might be. According to Defense Department statistics released at the end of September 1971, the Nation's five largest textile firms (including the three awarded contracts in 1969), show substantial increases in minority employment during the period 1968–1971.

MINORITY EMPLOYMENT IMPROVES

Reviews conducted by the Defense Department's Contracts Compliance Office show that in these five companies—Burlington Industries, Dan River Mills, J. P. Stevens, Fieldcrest Mills and Spring Mills—employment of minority males increased 25.7 percent; minority female employment rose 118 percent and total minority employment increased from 21,031 to 31,182, an increase of 48.3 percent.

Back in 1969, before Sen. Kennedy's subcommittee, Deputy Defense Secretary Packard told the Massachusetts Democrat: "We can measure progress by the results they have achieved and I think that's the important part of it."

Now that they have been proven wrong, will Sens. Kennedy, Mondale, Humphrey and Hart; the eight black Democrats in the House and the *Washington Post* admit they were in error? Don't hold your breath.

FORMER SPEAKER OF CUBAN HOUSE OF REPRESENTATIVES BECOMES AMERICAN CITIZEN

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. RARICK. Mr. Speaker, Mr. Antonio Martinez-Fraga, a former Cuban Congressman, twice Speaker of the House and a Senator for many years prior to the overthrow of Cuba by Castro, has now become an American citizen and I am proud to say resides in my congressional district.

Mr. Martinez-Fraga has recently written to me expressing his views on the dangers which threaten our liberties and of his dedication to our country as the last bulwark of freedom.

I feel that all our colleagues will benefit by reading Mr. Martinez-Fraga's letter and will appreciate the inner feelings of one of our new citizens who knows firsthand what it is to have been forced to flee from the Communist menace which has subjugated his country and people and of his intense devotion to the United States as his adopted country.

I ask that his letter follow and commend it to our colleagues.

KING'S FOREST,
Covington, La., November 8, 1971.

Hon. JOHN R. RARICK,
House of Representatives
Washington, D.C.

DEAR MR. RARICK:

As a Cuban—who has had the honor of being a congressman, twice Speaker of the House and a senator for many years up to the unfortunate Batista's coup d'etat in 1952, and a graduate as a lawyer and a doctorate in International Laws and Public Affairs at Havana University—I have performed during my exile in America for more than twelve years my best efforts and sacrifices for the freedom of the Cuban people from the Russian slavery represented by its puppet Fidel Castro, the notorious gangster at the service of the International Communism since the bloody episode of Bogota, Columbia, in 1948.

But the fulfillment of my duty could not and cannot be accomplished especially after the personal and unconstitutional pact negotiated between the late president John F. Kennedy and the also late communist dictator Nikita Khrushchev in order to secure to the Soviet Union its control and domination upon Cuba—just in the heart of the Western Hemisphere—in exchange for a promise which could never be verified during the so-called Cuban crisis in 1962, nor thereafter. This last and dramatic chapter of the Monroe's doctrine funeral has never been approved by the U.S. Senate, and it is a permanent violation of the Joint Resolution approved by the Legislative Branch in Congress assembled on October 3, 1962.

Such irreparable fact, direct result of serious political mistakes, has been increasing the growing peril under which the United States has to live as long as Communism stands for the total domination of the world. And all Cubans who have been received by the American people with open arms cannot ignore such peril, nor they either can forget their eternal debt of gratitude with the American people. I think that now my time has come to start paying such special kind of indebtness, and the best way to do that for all Cubans in America is acquiring the American citizenship, so that we can fight with our votes in defense of America, the only country in the world which is able to save mankind from the Soviet Union domination. But now, when the United States is suffering the most perverse subversion put in motion by Communism from inside America; now, when such a subversion is largely coming from the Russian colony in the Caribbean Sea, especially through Canada. But now, when the "new isolationists", the demagogic politicians, the faint-hearted and weak-kneed peacemakers, the color bearers of the protests and strikes, the outstanding representatives of the very well-known communist organizations, the notorious preachers who claim that the cold war is only a memory perpetuated by the "military-industrial complex", and that the necessary and successful nuclear test on Amchitka Island in Alaska would be a tremendous crime against mankind, but all of them unified, by chance perhaps, under the flying colors of the radical liberals whose purposes are to crush the moral principles of the American family, to destroy the American economy, to reduce to ashes our military defenses, and to break the enforcement of the law and order in evident coincidence with the same finality pursued by Communism. Such a decision has to be taken now, when you, as well as many congressmen and senators are fighting with real courage against the aforementioned small but numerous groups. Now, in order to use in due time the powerful weapon of the American citizenship: the vote.

All of us, the Cubans from birth, in the United States should begin paying our debt of eternal gratitude helping America to be saved, and through America when time comes with the help of God to restore freedom in Cuba and in all the unhappy countries which are dying under the thumb of Communism.

Therefore, one of our most important civic duties now, as American citizens, is to alert the Cuban exiles toward the above-mentioned purposes.

God bless you, Mr. Rarick, that is my salute and the salute of my family as new American citizens.

Very respectfully,
ANTONIO MARTINEZ-FRAGA, LL.D.

SEND THE U.N. SPIES TO MOSCOW?

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. ASHBROOK. Mr. Speaker, the June 1971 issue of the publication of the Veterans of Foreign Wars, VFW magazine, carried a very informative article by FBI Director Hoover entitled "Mao's Red Shadows in America."

In the article Mr. Hoover stated:

Red Chinese intelligence in the United States, as compared with Soviet Russia's, has a major handicap in that Peking is not recognized diplomatically by this country nor is it a member of the United Nations. This deprives the Red Chinese of a legal base from which to operate spies. A high percentage of Soviet espionage, for example, is carried out by Soviet diplomats assigned to either the Soviet embassy in Washington or the USSR's Mission to the United Nations in New York.

Mr. Hoover's statement, of course, predated the infamous action of the United Nations in admitting Red China to the world body while at the same time expelling our friend and ally, the National-

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ist Chinese Government on Taiwan. The Red Chinese now have a "legal base from which to operate spies"—the United Nations. In another example of its excellent coverage, the New York Daily News of November 11 carried a front-page headline reading "Red China Envoy Tabbed As Spy."

Two articles on page 3 of the News pointed out that Kao Liang, the head of Red China's advance party at the United Nations, is an old intelligence pro who has done yeoman work for the Chinese Reds in a number of African nations. Now, in addition to the U.S.S.R., the Soviet-bloc nations and Cuba, we can look forward to a Red Chinese network of spies working from an additional legal base within our country. Year after year, Mr. Hoover in his annual appropriations statements, has warned of the increasing activities of the Communist representatives here in the United States in addition to the "illegals" who sneak into the country and ply their espionage wares. On March 17, 1971, before a House subcommittee of the Appropriations Committee Mr. Hoover stated:

Some of the Soviet-bloc intelligence officers in our country are "illegals" who have no ostensible connection with the USSR. They are deep-cover intelligence professionals who easily blend into our population using assumed identities. Eventually each becomes the nucleus of an espionage network. The detection and identification of these deep-cover agents constitute counterintelligence problems which require much detailed and extensive investigative effort.

Now that the Chinese Reds have a U.N. base, they can take a lesson from Fidel Castro on how to use their U.N. mission as a base for intelligence operations and in coordinating the efforts of violence-prone radical groups of American citizens who seek to create trouble both here and in Latin America. Lest one doubt that there are American citizens who will do the revolutionary bidding of Mao and the Reds, the above-mentioned article by Mr. Hoover in the VFW magazine should dispel such doubts. This article which was first inserted in the CONGRESSIONAL RECORD on June 15 of this year by Congressman JOHN SCHMITZ, of California, is of such importance that I am again inserting it at the end of my remarks.

Concerning the use of the U.N. as an espionage base and what possible solution might eliminate this problem, a resolution on the U.N. passed earlier this year by the American Legion at Houston, Tex., recommended consideration, among other things, of the following:

For the second 25 years Russia should provide a U.N. site and buildings.

If such a change were to come to pass, it would indeed be interesting to see how the Soviets would handle the likes of Kao Liang in Moscow.

I request that the following material be inserted in the RECORD at the end of these remarks:

The two items from the New York Daily News by its news bureau and reporter William Federici; excerpts from Mr. Hoover's appropriations statement of March 17, 1971; the article from the VFW magazine, "Mao's Red Shadows in America"; and the American Legion resolution on the U.N.

[From the Daily News, Nov. 11, 1971]

CHINA ADVANCE MAN CALLED AN EXPERT SPY

WASHINGTON, Nov. 10.—Kao Liang, head of Red China's advance party at the United Nations, is an espionage expert who once selected African recruits for guerrilla training at Chinese camps in Cuba, United States officals disclosed today.

These officials, revealing Kao's role as a top Chinese intelligence agent, told THE NEWS that he was active in East Africa between 1961 and 1967.

While ostensiblv serving as a journalist for Peking's New China news agency, they said, Kao was a major figure in a pro-Peking coup in Zanzibar in 1964, then moved to the French Congo (Brazzaville), when he advised the government's counterespionage police and serve as China's chief guerrilla recruiter for East Africa.

Kao arrived in New York Monday as head of a six-man advance party for the official Peking UN delegation scheduled to arrive tomorrow. He paid his first visit to UN headquarters yesterday.

U.S. intelligence maintains a fat file on the Chinese diplomat-journalist, who was kicked out of India in 1960 for "tendentious reporting."

Kao had arrived in New Delhi as a New China news agency correspondent four years earlier. About a year after his expulsion, he surfaced as a roving correspondent in Africa.

Soon after, Western intelligence identified him as the principal Chinese Communist espionage agent in East Africa. He was expelled from Mauritius, an island nation in the Indian Ocean off the African mainland, in 1964.

He was reportedly active in Nepal and in Switzerland, where he attended the 1961 Geneva conference in Laos. His most recent public appearance was last spring, when he accompanied the Chinese ping-pong team to Japan for a tournament that led to the historic invitation for a U.S team to visit Red China.

Sources said that Kao passed out money and arms to pro-Chinese insurgents in Zanzibar in 1961. One of them was Shiek Abdul Rahman Muhammed, a New China news agency stringer who emerged as foreign minister after the coup.

While in Africa, Kao lived lavishly, maintaining a large house and car and throwing expensive parties. He left Africa in March 1967.

BEGAN WITH NEW CHINA

The Chinese news agency, like the Tass news agency, its Soviet counterpart, is considered by United States intelligence as a front for espionage activities in some countries. Red China's deputy foreign minister, Chiao Kuan-hua, who heads the official delegation to the UN, began his career as a correspondent for the agency before entering the diplomatic service.

Using the UN as a cover for espionage is not new, according to U.S. sources. Last month, American intelligence sources leaked a charge that Vladimir Pavlichenko, a director of the UN public information office, is an officer of the Soviet intelligence agency, the KGB.

American intelligence estimated that at least half the Soviet officials at the U.N. are KGB agents.

INSCRUTABLE SUPERSPY PLAYS IT COOL . . .

(By William Federici)

United States authorities had expected that at least one member of Peking's advance party to the United Nations would be a spy. But when the word was passed through the intelligence network that Kao Liang was to head the group that arrived Monday, intelligence people here flipped.

So far, Kao, the man billed as a top Red Chinese agent, has spent most of his time here looking for an unbugged home for the delegation.

SECURITY CHIEF FRONT

But nobody is taking any chances. The 5-feet, 10-inch, 175-pound superspy is being watched by an assortment of undercover cops, as well as by agents from Russia, Britain and the United States, to mention but a few.

Everybody, including local police, have been given a complete description of Kao's modus operandi.

There are strong suspicions that his role here will be that of "coordinator," never making any subversive contacts or deals himself but fronting as chief security officer for the new mission.

Kao's appointment here was considered "very interesting" by one top U.S. agent. "Either they think we wouldn't believe it possible that he would be used as a spy, or their intelligence chief is a very sophisticated man and they are going to make the most of him."

ANOTHER IS REAL SPY?

Meanwhile, Kao has made the agents' job easy. He has been photographed repeatedly and is talking freely and pleasantly to any man with a badge.

One government agent believes that Kao's main job here will be to keep an eye on another member of the advance party, who is the real spy.

Privately, agents say there is the possibility that Kao is being rewarded for a series of jobs well done all over the world and assigned to great duty in the glass house on the East River.

Nobody has told U.S. authorities where the Red China delegation will take up permanent residence here. But it is expected that Kao will be the man who selects it and finally tells them, "when he thinks it is necessary," a source said.

ESPIONAGE AND COUNTERINTELLIGENCE

THE SOVIET BLOC

Mr. HOOVER. The most serious threat to the security of our country is Soviet Russia and its satellites. As the power of the USSR has grown since the end of World War II, so has the intensity of the Soviet-bloc espionage aimed at the United States. The FBI as a result has been confronted with a constantly increasing volume of work.

There has been a steady increase over the years in the number of personnel from the Soviet-block countries assigned in the United States. As of March 1, 1971, there were 1,172 Soviet-block officials and 1,454 of their dependents in our country. The buildup is evident when we compare these figures to the 806 officials and 1,174 dependents here as of July 1, 1966. Not included in the figures cited are the numerous couriers, members of special delegations and other officials temporarily in this country but not assigned to official establishments.

(Discussion off the record.)

Mr. HOOVER. A Soviet defector has stated that 70 to 80 percent of all personnel assigned to Soviet diplomatic establishments work in the intelligence field.

I hand to the Chairman two charts which show the number of Soviet-bloc personnel in this country since 1966 and a breakdown by countries of the personnel currently here.

Mr. ROONEY. The two charts referred to by the Director will be inserted at this point in the record without objection.

Mr. HOOVER. The targets of the Soviets aided by the intelligence services of the satellite countries of Poland, Czechoslovakia, Romania, Hungary, Bulgaria, and Mongolia, are our most closely guarded military, scientific, political, economic and industrial secrets. In addition to engaging in clandestine activity to obtain vital data of these types, the Soviet-bloc intelligence officers collect a wealth of publicly available information at conferences and conventions as well as from periodicals and magazines to which they subscribe.

Some of the Soviet-bloc intelligence officers in our country are "illegals" who have no ostensible connection with the USSR. They are deep-cover intelligence professionals who easily blend into our population using assumed identities. Eventually each becomes the nucleus of an espionage network. The detection and identification of these deep-cover agents constitute counterintelligence problems which require much detailed and extensive investigative effort.

COMMUNIST CHINA

Despite its differences with the Soviet Union, Red China continues to regard the United States as the common enemy of the people of the world and its propaganda is designed to stimulate disruption of our society. The so-called "sleeping giant," Red China, has awakened from the lethargy of the cultural revolution and is forging ahead with its intelligence-gathering and revolution-inspiring activities against the United States.

Although the Chinese Communists have no diplomatic establishment in the United States, they carry out their intelligence activities through representatives in Canada and broad-based contacts among established Chinese-American communities in this country. The large number of Chinese entering this country as immigrants or temporary visitors includes some undercover agents dispatched to gather intelligence.

The Chinese Communists have shown support for revolutionaries in the United States. Eldridge Cleaver, Black Panther Party Minister of Information and a fugitive from justice, was hosted in Peking in September 1970 prior to the opening of the Black Panther's international office in Algiers.

A number of pro-Chinese Communist organizations and groups within our country militantly oppose the U.S. policy on Vietnam as well as the Chinese Nationalist Government. One of these is the Red Guard in San Francisco, a militant group of oriental youths which encourages its members to become proficient in the use of firearms. Another militant organization is I Wor Kuen (meaning righteous, harmonious fist) which is composed exclusively of Chinese-Americans, many of whom are from the educational community. This group, based in New York City, contends the yellow race is oppressed and should fight for equality. The I Wor Kuen has a publication which parrots the lines of the Black Panther Party and the Students for a Democratic Society.

Also active in this country is a 500-member group of native Taiwanese who advocate the overthrow of Chiang Kai-shek and self-determination for the Formosan people. The ever-increasing violent posture of this group surfaced in April 1970 when two of its members attempted to assassinate Chiang Kai-shek's son, Vice Premier Chiang Ching-Kuo, who was visiting in New York City.

Our work in Chinese Communist matters has increased consistently over the years and with the intensification of intelligence efforts by Red China, this work is expected to increase substantially.

CUBA

Fidel Castro uses the Cuban Mission to the United Nations as his base for intelligence operations inside the United States. Officers of the Cuban Intelligence Service make up over half of the entire complement at the Cuban Mission.

These agents are well-trained professionals dedicated to Castro. Cloaked in diplomatic immunity, they have been deeply involved in such varied activities as the dissident student movement, the Puerto Rican independence efforts and the racial and New Left movements. There is mounting evidence of Cuban Government support of individuals and groups engaged in violence in our country, such as the Weatherman faction of the Students for a Democratic Society, the Puerto Rican Socialist Workers Party, the Armed Revolutionary Independence Movement of Puerto Rico, and Cuban-trained Puerto Rican terrorists, Filiberto Ojeda Rios, Narcisco Rabell Martinez, and Roberto Todd Pagan.

On October 9, 1970, the Department of State, acting on documented evidence developed by the FBI, declared two Cuban intelligence officers persona non grata. Rogelio Rodriguez Lopez and Orlando Prendes Gutierrez were counsellor and first secretary, respectively, at the Cuban Mission to the United Nations. Rodriguez was the intelligence principal of Jennifer Enid Miles, a foreign national who admitted that she had been recruited by the Cuban Intelligence Service to develop in Washington, D.C., political intelligence of interest to the Cuban Government. Until her voluntary departure from the United States, she was employed in a clerical capacity at the embassy of a friendly foreign government.

Castro made a lasting impression on the dissident groups which visited and worked in Cuba during the past year. Some 1,300 members of the Venceremos Brigade, for example, went to Cuba to cut sugar cane. While there, they were subjected to heavy doses of revolutionary propaganda and constantly reminded that they were the vanguard of the revolution in the United States. The members of these groups provide the Cuban Intelligence Service with excellent recruitment possibilities.

While the Cuban Government has curtailed the refugee flow to other countries, the freedom flights continue to bring over 3,000 refugees into the United States each month. The vast majority of Cuban refugees are genuinely anti-Castro; however, some have actually been covert agents dispatched from Cuba with intelligence assignments.

Even though we are confronted with much additional work, we cannot relax our vigilance in attempting to neutralize Castro's continuing efforts to build up his intelligence potential in our country.

[From VFW magazine, June, 1971]

MAO'S RED SHADOWS IN AMERICA

(By John Edgar Hoover)

Mao Tse-tung, the Red Chinese dictator, is some 6,000 miles from the United States. But the shadows of pro-Peking subversion are daily becoming a more serious problem in this country.

EXAMPLE 1

It was a warm evening in May. In a city not far from San Francisco several cars drove through a suburban area and then parked. Their occupants hurried into an attractive small home. A friendly gathering of people.

But, not quite. This was a meeting of a "collective" (or cell) of the Revolutionary Union (RU) a group dedicated to Mao Tse-tung and his doctrine of the Marxist-Leninist revolution.

Inside, the meeting came to order. The chief speaker, one of RU's West Coast leaders was talking.

"The RU," he said, smacking his fist into his hand, "is placing far too much emphasis on theoretical work. Reading, studying and theory have their place—but not now. The times demand direct action."

He paused for a moment, almost caught up in a rage. He turned and slowly looked into the eyes of every member present, as if he were talking to each individually. This was a group small in numbers, but hysterically dedicated to the teachings of Chairman Mao.

The leader leaned forward, almost hissing between his teeth. "We must start arming. Only in this way will we awaken the revolutionary masses."

EXAMPLE 2

The man had entered the United States from a foreign country. He was a "tourist"—there was no doubt about that. He wouldn't stay permanently. But he had assignments other than just sightseeing. As a pro-Peking intelligence agent, he was gathering information of many types.

In the eyes of this spy, and his masters in Red China, the U.S. was the "citadel of imperialism," "Enemy Number One"—a nation with a vast array of scientific, technological, military and other types of information which, as much as possible, must be stolen or otherwise obtained for use by Mao's government.

EXAMPLE 3

The woman was medium in stature. Her brown eyes reflected a cold, steel fanaticism. She stood behind the podium with a sheaf of papers scattered in front of her.

"I have lived in the Peoples' Republic of China under Chairman Mao. His thoughts and teachings have brought success to the 'people's revolution.' He represents the wave of the future. You must learn more about him—who he is, what he stands for and what you can do to help him.

"You are in an excellent position to tell the story of Mao to Americans. Many of you here today are students. You are working with students on college campuses and young people in industry. Carry to them Chairman Mao's message of revolution."

The group?

A New England cadre training session of the Progressive Labor Party (PLP), a pro-Maoist activist organization with headquarters in New York.

The woman speaker?

A person very closely connected with the Peking regime.

What do these three incidents tell us?

First, there is a variety of pro-Maoist groups in the United States, such as the Revolutionary Union and the Progressive Labor Party, which, although often in dispute over the tactics of bringing about the revolution, are working zealously for the Red Chinese cause.

Second, this nation today is the target of a growing Red Chinese espionage campaign designed, among other things, to gather confidential data for Peking.

Third, Red China desperately wants to make contact with and influence our rising generation, both college and high school students as well as youthful workers employed in industry.

Let's examine in more detail these Maoist thrusts.

The two main pro-Maoist groups, highly competitive with each other, are the Progressive Labor Party and the Revolutionary Union. Each has its own program, origins and, on occasion, feuds with the other. But both are fanatically loyal to Mao doctrines.

PLP's chief contribution to the Red Chinese cause has been the "pulling off" of an almost unbelievable revolutionary feat—that of not only influencing, but ideologically capturing a sizeable number of America's most militant and radical youth!

Here is what happened—and this technique looms as a threat as to what can happen in the subversive indoctrination of youth.

First of all, we must realize that the PLP is what we call an Old Left group, that is, it draws its ideological roots from the Bolshevik Revolution of 1917 (as do the pro-Moscow Communist Party, USA, and the Socialists Workers Party or Trotskyists). Actually PLP was formed in 1962 by dissidents expelled by the Communist Party after bitter internal dissension caused by the Sino-Soviet dispute.

Moreover, not only is PLP Old Leftist (which means strict discipline), but it represents the most orthodox, traditional and dictatorial interpretation of Marxism-Leninism, namely, that delineated by Mao.

Yet, despite this Old Left background, PLP was able, through hard work, masterly maneuvering and a keen sense of strategic timing, to so project a "face" of activism,

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revolutionary zeal and youthful appeal as to strike deep roots on college campuses.

The Worker-Student Alliance (WSA), a PLP-sponsored college group, grew steadily. (The name comes from PLP's emphasis that students and workers form an alliance to bring about the Communist revolution.) In June, 1969, WSA even attempted to gain control of the New Leftist Students for a Democratic Society (SDS).

This attempt tore SDS apart, leading to the rise of factions, such as the extremist-anarchist Weatherman, which were to become separate entities. The WSA faction claims to be the legitimate SDS and today, with headquarters in Chicago, it calls itself by this name and issues a newspaper, *New Left Notes*, the name of SDS's former official paper.

In other words, an Old Left group, believing in Maoist Communism, with its strict discipline, organizational control, and concept of the dictatorship of the proletariat, was able to influence and control students who, caught up in the mood of New Left extremism, were denouncing the "tyrannical Establishment" and demanding more "freedom!"

Surely, PLP's exploit must rank as one of the most remarkable and paradoxical in Marxist history in this country.

In late December last year, WSA–SDS held a national convention in Chicago, with an estimated 900 to 1,000 registered.

PLP's newspaper, *Challenge*, headlined the proceedings: "Best SDS Convention: 'Worker-Student Unity is Key to Victory'" and wrote:

"Over a thousand students came from dozens and dozens of schools from every corner of the country. . . . This convention showed that SDS is a strong and growing organization composed of students who want to ally with workers, and NOT a group of crazy terrorists."

As part of the convention proceedings, delegates conducted on-the-street agitation, handed out PLP literature, made personal contact with workers:

"Nearly 400,000 flyers were handed out. Many students on the brigades (organized by the convention) passed out PLP leaflets. All 100,000 PLP flyers were given out in the first two days, 6,000 *Challenges* were sold, and over 600 workers from the communities and factories gave us their names and phone numbers so that we would work together in the future."

Here is a pro-Maoist group, active on campuses, which says, among other things:

"We see that millions are awakening to the need to seize power and set up a dictatorship of the working class . . . Resist the military; fight ROTC and veterans organizations. Agitate inside the armed forces if drafted: There are many ways of resistance within the Army, literature, discussions, organized rebellions, sabotage. Disrupting the courts: Carry the struggle to the courts—turn the court into a political forum . . . Hate the law of the land and the law enforcement officer. Indoctrinate the workers in industry with Maoist Communism. Make the university an agency for propagandizing the revolution."

Membership of the parent PLP group is not large, running over 300. However, through the WSA–SDS, this pro-Maoist organization is able to reach thousands of young people, especially on campuses. It is known, for example, that PLP maintains close contact with pro-Red Chinese organizations abroad. The Chinese Communist subsidize the PLP through the purchase of its publications. PLP leaders have been in periodic contact with Chinese agencies and these leaders on occasion have visited the Chinese mainland.

No wonder PLP proudly sent greetings to Mao Tse-tung last fall on the occasion of the 21st anniversary of his regime's seizure of power.

What about PLP and WSA–SDS opinion regarding the use of violence?

Being Old Leftists, they are not opposed in principle to violence, but they do not feel the time is yet ripe for its use to bring about a revolution. Hence, they oppose the anarchist style of Weatherman violence:

"SDS is Not against violence," says an article in *New Left Notes*, "but we oppose the mindless violence of small terrorist groups isolated from the people, lashing out in frustration at friend and enemy alike. This includes aimless property destruction and attacking other students and workers on campus."

A growing minority inside PLP and WSA–SDS, however, is chafing at this policy of nonviolence. This group feels that violence is needed to bring about the destruction of the hated Establishment. Much will depend on the outcome of this internal argument.

The second major Maoist group's emphasis, is on violence. The Revolutionary Union believes guerrilla warfare is essential to revolutionary action:

"We recognize the need for organized armed struggle against the power of the state . . ." "The people must be armed . . ." "The organized repressive violence of the state (police) must be met with the organized revolutionary violence of the people."

As one observer commented, RU's policy is "g before p"—guns before politics!

FBI investigation reflects that RU members have accumulated weapons and have engaged in firearms and guerrilla warfare training.

Originally based in the San Francisco area, RU has now spread to other cities, in the South, Midwest and East.

Membership is not large, perhaps several hundred. Adherents have come from former members of the Communist Party, USA. At the same time, RU has been successful in attracting both high school and college activists. One youthful member of RU claims to have lived in China and participated in Mao's infamous Red Guards. Key leadership has been given to RU by self-styled intellectuals.

The RU has been rent recently by a violent dispute on the question, "When the revolution?"

In late 1970, a splinter group, calling itself Venceremos, split from the parent RU. This group feels that RU is hesitating on its commitment to armed struggle now, preferring to build a mass base before an actual insurrection. In Venceremos' eyes, the time for an armed struggle is now:

"We believe that armed struggle is an actuality now, not an eventuality."

These militants give strong support to the Black Panther Party: "We support the Black Panther Party and recognize it as the vanguard of the American revolution. We want to unite with the Black Panther Party in every way possible."

What is Mao's fascination for these individuals? Here is a man in a distant foreign country, whom these radicals have never seen. They know little, if anything, about Red China. Why are they so infectiously enamored with him and Peking's program?

For some of the old-line Marxists in the PLP and the RU, Mao is the personification of the "original purity" of Marxism-Leninism, a Communist leader who bitterly resisted the Khrushchev brand of "revisionism." To these comrades, the Soviet Union and its mouthpiece in this country, the Communist Party, USA, have betrayed the "revolution." They feel that Mao, as one of international Communism's pioneers, alone held firm to the original revolutionary principles of Lenin and his successor, Stalin.

To these adherents, Mao is a man of the "old school," believing in discipline, strict organizational control and Communist orthodoxy. They view Mao's "Great Cultural Revolution" as a purge necessary to oust the decadent and revisionist elements which are gradually creeping into Communism.

For the younger members, Mao (like Fidel Castro and Che Guevara) is a charismatic guerrilla leader who fought the "Establishment of his day" and won. They think in terms of the young, tempestuous, romantic guerrilla leader. They feel Mao's call to arms is what is needed in the United States.

All the time, the red wind of espionage from the Far East continues to blow. The FBI's investigation reflects stepped-up intelligence activity by Peking.

Red Chinese intelligence in the United States, as compared with Soviet Russia's, has a major handicap in that Peking is not recognized diplomatically by this country nor is it a member of the United Nations. This deprives the Red Chinese of a legal base from which to operate spies. A high percentage of Soviet espionage, for example, is carried out by Soviet diplomats assigned to either the Soviet embassy in Washington or the USSR's Mission to the United Nations in New York.

Peking is attempting espionage in a variety of ways, one is to endeavor to introduce deep cover intelligence agents into the United States, trained Peking agents who clandestinely enter this country using false identities and identifications and attempt under the cover of being an American to conduct spy operations.

Third countries are used as bases of attack against the United States. The New China News Agency, an agency of Communist China, has an office in Canada. Though claiming to be a legitimate news-gathering organization, it is obvious that the New China News Agency serves as Red China's chief propaganda outlet abroad and has the potential of supplying Peking with intelligence of all types.

Penetration of Chinese ethnic groups in the United States is also tried. The overwhelming majority of Chinese Americans are loyal to this country, and only a very small percentage are sympathetic to Peking. Yet, Mao leaders constantly seek to identify those Chinese Americans who might help them, especially among the younger elements who might have a sentimental pride in the so-called "accomplishments" of Mao in the ancestral homeland.

Recruiting of agents among indigenous pro-Maoist American groups, such as the Progressive Labor Party, Worker-Student Alliance and the Revolutionary Union, is yet another method. The indoctrination of members of these groups in Mao ideology makes them prime candidates for the carrying out of Red Chinese espionage assignments.

Spy couriers are developed. They are individuals who travel between the United States and other countries and can engage in spy activities. This also includes the development of mail drops in third countries whereby spy data can be transmitted.

We must be alert constantly to the possibility that, following an established espionage pattern, we may find the Red Chinese attempting to introduce "sleeper agents" into the United States among the thousands of Chinese refugees who immigrate annually. The same observation applies to hundreds of Hong Kong-based merchant seamen who desert in American ports, some of whom vanish into the American mainstream.

The shadow of Mao Tse-tung can be seen and felt in the United States today. We can expect the subversive danger to grow as time passes. The only way to meet it is to be prepared. This the FBI is doing through its investigations and the training of its personnel. For example, we are giving instruction to FBI agents in the various Chinese dialects. In this way, our agents are capable of conversing in the native tongue, and the FBI will be able to handle present and likely future contingencies.

Above all, the FBI needs the constant and concerned cooperation of patriotic Americans such as the men and women of the Veterans of Foreign Wars. You, as veterans, know the perils of subversion.

My associates and I are deeply grateful for the splendid cooperation which you have given the FBI. To all the readers of the *V.F.W. Magazine*, we say, "thank you."

SUBJECT: UNITED NATIONS ORGANIZATION

Whereas, when the United Nations Organization was formed in San Francisco in 1945, The American Legion acquiesced in United States membership with the provision that it not become a World Government; that our sovereignty not be impaired; that it not become "the cornerstone of United States foreign policy;" and

Whereas, by 1953 House and Senate hearings caused misgivings as to U.N. activities and personnel, as shown by two articles in the Legion Magazine; and

Whereas, the U.N. now has 127 members, one but a tiny island, others of county size, yet all having a vote equal to that of the United States despite the fact that 66 have failed to pay all dues and assessments; and

Whereas, in the 1970 U. N. General Assembly, the Soviet Union, its satellites, and votes of neutralist nations, with those of Canada, Italy, Sweden, Cuba and Chile, mustered a majority of 51 to 49 for admission of Communist China; and

Whereas, the next session might remove the two-thirds voting requirement for admission, and the United States being $400 billion in debt and forced to curtail foreign aid, will be deserted like a sinking ship; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Houston, Texas, August 31–September 1, 2, 1971, that the Legion's Foreign Relations Commission formulate an up-to-date Legion policy toward the United Nations for submission to the May 1972 NEC meeting, giving consideration to the following:

1. The Peking government does not qualify as a legitimate one having seized the China mainland by force; likewise Tibet; and is an aggressor in both Korea and Vietnam.

2. Russia has 3 votes in the Assembly; the United States should demand one each for Alaska and Hawaii before the next session.

3. U. N. staff personnel being apportioned on population, Communist China with 800 million people, would fill more positions than the 5 other largest nations.

4. The Two-China policy is a deception and sell-out, because loss of face for the U. S. in the Orient is serious.

5. A new Association of Free Nations of the World might be preferable to U. S. withdrawal from the U. N. which Russia might try to hold together under her sway.

6. For the second 25 years Russia should provide a U. N. site and buildings.

7. Congress should limit our dues to $30 million and 30% of assessments.

8. The term of our quota of U. N. employees should be 4 years so that the disloyal and incompetent can be replaced and not be reinstated with back pay by the U. N.

9. The United States financial contribution be limited to its fair share of the cost of operation in a ratio of one nation, one vote to the total membership in the United Nations.

THE TRANS-ALASKA PIPELINE: CONCERNS OF THE CORDOVA DISTRICT FISHERIES UNION

HON. NICK BEGICH

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. BEGICH. Mr. Speaker, on February 16, 1971, at the Department of Interior hearings on the environmental impact statement for the Trans-Alaska Pipeline, I testified as follows:

As an Alaskan who is dedicated to the development of a prosperous economy for the people of my State, I want to insure that the present impact statement is a comprehensive and probing analysis into the environmental aspects of the project. I want to be certain it contains none of the fatal shortcomings of the prior report.

I want to know that this project can be accomplished with minimal damage to the genuine principal resource of Alaska—its magnificent natural environment. If you can prepare a final statement that will stand up to incisive public scrutiny on this issue, then a project of unprecedented economic value to Alaska and the Nation can begin. Simply stated, I want your final statement to be excellent because I want full knowledge regarding the environmental impact, and I want it to be excellent because I believe it must be so for the project to begin. My comments and criticisms are offered in that spirit.

I still adhere to that position and believe that in the case of the pipeline, as well as all aspects of our Government, that openness of the process is the best guarantee of wise decisionmaking. Today, I am inserting in the RECORD a fact sheet prepared by the Cordova District Fisheries Union, made up of fishermen from the Prince William Sound area of Alaska. They raise a number of concerns which should certainly be considered as the final environmental impact statement is prepared.

The fact sheet follows:

FACT SHEET

MEMBERSHIP

The Cordova District Fisheries Union—478 membership in 1971. All members are commercial fishermen that fish in Prince William Sound and the adjoining Copper River Delta areas.

INVESTMENT

Average investment in equipment, vessels and other related fishing equipment of all Union members in the aggregate is estimated at over 11 million dollars according to a recent survey. This figures out to an average investment of $23,200 for each individual member. The only source of income for the majority of fishermen is from the waters of Prince William Sound and the Copper River areas.

CORDOVA

The town of Cordova is the center for the great majority of all fishery activities in the Prince William Sound and Copper River districts. The population is estimated to be 1,500 in the summer and 1,100 in the winter. A recent survey indicated that 84.9 per cent of all local business in Cordova is directly dependent on the fishery. The total value of all fishery products up to and including the wholesale level was $19,613,680.00 in 1969, the latest year for which complete figures are available. Up to 90 per cent of this value is directly attributable to the various salmon species that are fished in the area.

PRINCE WILLIAM SOUND

One of the great natural sounds in North America. Well over two thousand miles of rugged beautiful shoreline lay within the confines of the confines of the several large outer islands that separate it from the open ocean. The Sound is very irregular in outline, with great arms spreading in all directions. Many of the islands and peninsulas in the Sound are low and tree covered, but behind these rise eternal barriers of ice and snow. On the north shore glaciers come down to the heads of the bays.

The waters of the Sound are very deep and are chilled by large amounts of ice from the surrounding glaciers. The meeting of cold water and the colder air from the mountains with the warmer waters and vapor-laden airs of the Gulf of Alaska causes changeable weather, and sudden wind squalls and thick fogs are common.

During very cold weather ice sometimes forms in the arms of the Sound which reach well into the mountains, and is at times heavy enough to impede navigation.

FISHERY RESOURCES

According to the Alaska Department of Fish and Game there are 679 salmon spawning streams located within the Sound. The Department of Fish and Game also estimates that as high as 20 per cent of all salmon that spawn in the Sound do so in areas within Valdez Arm. Valdez Arm is the proposed location for the terminus of the trans-Alaska pipeline. The five species of salmon that spawn in the Sound are the king (spring), sockeye (red), cohoe (silver), chum (dog) and pink (humpback). All of these species return to the area of their origin to complete the life cycle and replenish the species. All are dependent on clear unpolluted waters and well sorted gravel areas for deposition of the eggs. A large portion of the pink and chum salmon deposit their eggs in what is referred to as the intertidal zone. This zone is the area that is affected by the rising and falling tides each day. The mechanism that causes the adult salmon to return to the precise area of origin each spawning cycle is little understood by scientists, but it is strongly suspected that some delicate chemoreceptive structure within the fish is responsible for this ability.

Juvenile salmon when they emerge from the gravel in the spring are at the most delicate and critical phase of the life cycle. They migrate from the streams and intertidal gravels into the estuarine waters where they are dependent on a plentiful supply of food organisms. The fry spend three to five months in the estuaries where they can often be seen by the thousands as they dimple the surface of the water. The Prince William Sound estuary is also an important rearing area for many other species of fish and shellfish. A large part of its productivity originates in the intertidal and littoral zones. Species other than salmon that are also abundant are halibut, red snapper, shrimp, king tanner and dungeness crab, octopus, many species of bottom fish, and several different types of clams.

WILDLIFE RESOURCES

In Prince William Sound are found many species of mammals and birds. Sea otters, which were once extremely abundant but were nearly harvested to extinction during the fur trade are now growing each year in numbers. Sea lions and hair seals are plentiful through the Sound. Other sea mammals in the Sound are porpoises, blackfish, little piked whales, bowhead whales, and killer whales. Fur seals pass occasionally through the area.

Port Valdez is used by many types of birds, including waterfowl, shorebirds and sea birds. Prince William Sound is habitat for migrants of many species. Almost the entire world population of black brant migrates across the Gulf of Alaska in the fall and as many as 40 per cent of all the continent's swans and a large proportion of the game ducks that winter in California pass through Prince William Sound during migration.

The Copper River Delta to the east is important nesting habitat for trumpeter swans and many geese and ducks, including the dusky Canada goose, which has no other nesting grounds.

The tremendous fish, wildlife, and scenic values have led the U.S. Forest Service to recommend and study Prince William Sound as a Wilderness Area in the western portion.

XUM

THE PROBLEM

The problems associated with the construction and operation of a massive oil transfer and super tanker facility at the village of Valdez, Alaska located in Port Valdez in Prince William Sound pose large numbers of unresolved and very likely, irresolvable, problems. A number of these will be mentioned briefly.

LOW LEVEL CHRONIC POLLUTION

The Department of the Interior draft environmental impact statement of January 1971 states, "There will be considerable tankship traffic to transport the oil through Prince William Sound, the Gulf of Alaska and other waters. Although the frequency and volumes of spills cannot be predicted, the volume handled is expected to result in some biologically-significant oil losses to the marine environment . . The productive littoral and intertidal zones of the Sound would be particularly vulnerable, both to gradual deterioration resulting from chronic low level pollution and to the short and long-term effects of major spills."

LACK OF STUDIES

To the present date, 5 November, 1971, there have been no studies conducted in the field to determine what the effects of the so called low-level pollution will be on the valuable salmon resources of Prince William Sound. In private discussions with scientists at the University of Alaska at Fairbanks it has been learned that influence from oil industry funding has determined the nature if not the content of the studies that have so far been conducted. The fisheries biologists at the University's Institute of Arctic Biology are extremely dismayed that some of the research proposals which they have offered in attempts to resolve some of the serious questions have been given no consideration, while funding by the oil industry has been provided to the Institute of Marine Science whose director is known to be eagerly anticipating increased oil moneys for his department.

ATTITUDE OF ALYESKA PIPELINE SERVICE COMPANY CHAIRMAN, MR. E. L. PATTON

It was learned recently by Cordovans from a Valdez news editorial that Mr. E. L. Patton was wondering what all the controversy was regarding fish. He is reported to have told the Valdez press at a luncheon interview that some industry people are maintaining two tanks of fish, one of which is receiving a controlled amount of Prudhoe Bay oil. He indicated that the oil fed fish appeared to be fatter and healthier than those in the control tank.

SUPERTANKERS

The Seattle based Puget Sound Pilots Association has recently had a split in its ranks. Some members contend that Puget Sound would be subjected to unwarranted pollution threats should super-tanker traffic be allowed in the area. This from an organization that is responsible for the safe passage of large vessels through Puget Sound. Coast Guard materials indicate that 250,000 dwt. vessels are not safely maneuverable at slow speeds and that from cruising speed it takes as much as eight miles and up to forty minutes to stop during which time the helmsman has only limited control.

The economic pressures on the ship captains for quick turn-around times introduces elements of risk that sometimes results in disaster.

If the American Petroleum Institute reserve figures for Prudhoe Bay oil are rejected as being excessively conservative and one uses figures produced at the University of Alaska's School of Social, Economic and Government Research and suggested reserves possibly totaling 50 billion barrels are achieved, this would indicate super-tankers on the Alaska coast for at least seventy years. Is it reasonable to expect that a fragile fishery resource such as salmon can survive that encroachment.

THREAT TO NORTH PACIFIC OCEAN RESOURCES

As a result of oil occurrences of undetermined origin scientists of the federal Sport Fish and Wildlife Agency have stated that we may be already unknowingly destroying large water-fowl populations that reside much of the year in the north Pacific waters. This came to light as a result of large numbers of bird carcasses and oil covered seals that washed ashore on over 1000 miles of Alaska coastline from February-April 1969. It is not unlikely that ballast pumping at sea by the small Cook Inlet oil tankers was responsible for this occurrence which became evident as a result of winter storms blowing the remains ashore to be found by fishermen, trappers and others living along the remote coast. It can be assumed that this is only the beginning of much greater problems to come. Jacques Cousteau in recent statements indicated that areas that he knew as formerly rich in marine life are now virtually dead due to pollution.

TOO MUCH AS YET UNKNOWN

Neither the state of Alaska nor the oil industry is willing to take the time necessary to conduct the studies that would indicate what the real cost to the fisheries resources or the individual fishermen would be. The fact is that very little is known about the effects of oil on the marine biota. Woods Hole Oceanographic Institute, one of the few scientific groups that has done extensive research into the effects of hydro-carbons of marine resources is not inclined to agree that oil and fish can co-exist. The senior chemist at Woods Hole, Dr. Max Blumer, stated in Senate Sub-Committee hearings that his findings indicate that "the presence of an oil port and of refineries is incompatible with the maintenance of an unpolluted environment. I believe that the seriousness of oil pollution has been underestimated because of the lack of in-depth studies of its long term effect. I believe that the public health hazard of oil pollution is just now coming into focus and that more stringent limitations will have to be placed on the acceptability of polluted foods."

FISHERMEN FEARFUL FOR THE FUTURE

It appears to many Alaskan fishermen that they are fighting for their very existence. The Cordova District Fisheries Union members agreed this year to assess themselves one cent for each fish caught in order to bring a law suit in federal court to attempt to prevent development of the trans-Alaska pipeline terminus on the Alaskan coast. The Cordova fishermen feel that the people of the United States have a right to hear their story.

SOLUTION

Before a permit to construct the trans-Alaska pipeline can be issued there must be adequate in-depth studies conducted to determine just what is at stake with regard to the affected marine resources that are the heritage of all of the people of the United States. To date there has been no public forum where any discussion of the cost-benefit ratio has been brought to people's attention. What has been unfortunately emphasized by the oil industry's expensively funded public relations propaganda is the fundamentally false specter of "Energy Crises", when what is basically at stake is the carefully shored up import quota system that has over the years created artificially high oil prices, cheated the American consumer, and depleted our own domestic reserves.

What is drastically needed now is a total North American energy policy. The United States government should direct its attention to the real potential of the Canadian and Alaskan Arctic oil resources and plan for long range development with these resources in mind. Many independent experts feel that the logical place to begin is with a joint-venture with our Canadian neighbors to construct a pipeline to the lower forty-eight states. It is apparent that all agree that transportation of oil by pipeline is far safer than transportation by supertanker.

The fishermen of Alaska and the Pacific coast ask a very simple question: Why take unnecessary chances?

OUR FISHING FLEET NEEDS GOVERNMENT HELP AND COOPERATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 11, 1971

Mr. ANDERSON of California. Mr. Speaker, our fishing industry is in jeopardy. First, our fishermen are harassed and their boats seized by pirate nations which violate international law.

Second, the oceans have become septic tanks—full of garbage, waste, and pesticides.

Third, our fishing fleet is in direct competition with the huge "floating factories" of the sea operated by foreign governments.

In the first instance, ironically, we must first convince our own State Department that they must take action to show the pirate nations that we will not tolerate piracy on the high seas. The State Department is content to wait until the International Conference of the Sea in 1973 before taking action. Meanwhile, the pirate nations go their merry way—collecting our foreign aid, misusing our patrol boats, receiving preferential treatment in exporting coffee and sugar to the United States, and continue to seize our fishing vessels and demand ransom. While the State Department fiddles, our fishermen get "burned" on the high seas.

I was pleased to coauthor H.R. 7117, which has passed the House and is now in the Senate. This bill is designed to, first, mandate the Secretary of State to withhold foreign aid from those nations who seize our vessels on the high seas; and second, immediately reimburse those fishermen who were forced to pay ransom.

In the second instance, we have passed a bill, H.R. 9727, designed to do our part in cleaning up the world's oceans. This bill, now in the Senate, prohibits the unregulated dumping of waste material into the oceans. In accomplishing this purpose, the transportation and dumping of radiological, chemical or biological warfare agents and high level radioactive wastes would be banned. There would also be a ban placed upon the transportation and dumping of all other waste materials, unless authorized by the Administrator of the Environmental Protection Agency or the Secretary of the Army, as the case may be.

The clean water bill, S. 2770, which recently was adopted by the Senate, contains a similar provision prohibiting the unauthorized dumping into the oceans. As a result, we can anticipate the enactment of a stringent ocean dumping bill in the near future.

Third, Mr. Speaker, we must move on all fronts to revitalize our fishing industry so that we can compete with the foreign-subsidized fleets, such as those operated by Russia and Japan.

At this point, Mr. Speaker, I place in the RECORD an article that appeared in the October 1971 issue of the Reader's Digest entitled "Why Our Fishing Fleet Is Sinking." This article states the problem with shocking clarity, and it also offers solutions to the problem that, I believe, merit our consideration.

WHY OUR FISHING FLEET IS SINKING

(By James E. Roper)

In July 1966, a freshly outfitted commercial fishing boat, the *San Vito*, sailed from Aberdeen, Wash., on a proud mission: to catch the first load of hake for the economically hard-pressed town's new fish-reduction plant. But a dismaying discovery awaited the *San Vito* at the fishing grounds 12 miles offshore. Eighty huge Soviet fishing vessels, 4,500 miles from home, were already there, scooping up hundreds of tons of hake and scattering the rest. The *San Vito*, darting among Soviet ships two and three times as big, could catch only a few fish. "It was a disaster," moaned her captain.

Worse was to come. Before the summer was out, the Soviet fleet swelled to 100 vessels, with 3,800 persons aboard, hungrily ranging the hake fisheries off both Washington and Oregon. At night, lights on the boats twinkled as if a city had risen from the sea.

Off New England, a Soviet fleet has invaded the haddock grounds, causing the American catch to drop from 62,000 tons to probably less than 10,000 tons this year, and forcing a 50-percent rise in U.S. retail prices. This spring, while American boats off Massachusetts refrained from catching yellowtail flounder because of quota regulations, Soviet vessels hauled in tons of the fish for Moscow tables.

With such moves, Soviet fishermen are taking enormous catches from Alaska to California and from Maine to North Carolina, even sending Soviet-sponsored Cuban trawlers into Florida waters where Americans are forbidden to fish.

Nor are the Soviets alone. The Japanese, the Norwegians, the Peruvians have outfished the United States. The world catch has doubled over the last decade, while ours has *fallen* slightly. The United States catch is so inadequate that we have become the world's biggest importer of fish products, which caused a balance-of-payments drain of $921 million last year.

RISE OF THE FLEET

To understand what we're up against, one needs to see a truly progressive fishing nation in action. Take the Soviets.

In 1953, the new Kremlin leaders decided that the cheapest way to provide their people with badly needed animal protein was through massive distant-water fishing. To this end, they purchased models of the best Western trawlers and refrigerator boats, then duplicated them until they had learned to design their own. This done, they began to spend vast sums on the construction of a fishing fleet, port facilities and processing plants.

Today, Russia is investing more than any other country in fishery expansion. It is enlarging its 18,500-vessel fleet with 200 to 300 new craft a year. Its 200 oceanographic-research vessels give it the world's greatest capacity to study the sea. (The information collected is also valuable, of course, for submarine warfare—and the Russians may know more than we do about the waters off our mid-Atlantic states.)

Thirty schools have been established to train ships' officers and technicians, who are attracted by the fact that fishing has become the fourth-highest-paid industry in the Soviet Union. Vast shore facilities have been constructed in the Soviet Far East, and the Arctic Circle city of Murmansk is now the world's busiest fishing port, handling a million tons of fish per year.

NOTHING ESCAPES

The Soviet Ministry of Fisheries directs the operation with naval precision. First, exploratory vessels laden with scientific equipment map sea bottoms, study water currents and temperatures and identify likely fishing grounds. Next, a few boats fish experimentally. If the catch is good, out goes a full fleet, a formidable array ranging up to 300 ships. A veteran U.S. skipper back from fishing off New England reported, "I sailed for 100 miles, never out of sight of a Russian vessel. Some are so big you could put one of our boats on their decks and never see it."

When scout boats using echo sounders and other sophisticated gear locate a school of fish, the Soviet fleet commander radios catcher boats—sometimes a dozen or so lined up shoulder to shoulder—to sweep through the area. "Nothing escapes—nothing!" says a dismayed American fisherman. The trawlers deliver their catch to giant factory ships, where the fish are frozen, canned or otherwise processed at sea. Supply ships ferry out water, fuel and food, even relief crews. The fleet stays at sea for as long as a year.

Sometimes the big Soviet ships over-fish an area, poach in exclusively American waters, break American nets or bully American fishermen in smaller coastal boats. But mostly the Russians follow the rules of the sea. In fact, the U.S. government feels that Moscow is generally cooperative in conserving marine resources. One U.S. official explained: "The Russians know they can catch more than their share of whatever is conserved."

VIGOROUS COMPETITION

Other countries also reap rich sea harvests. Little Peru hauls in the world's largest tonnage, almost all of it anchoveta caught within 40 miles of her coast. Peru grinds the anchoveta into meal for animal feed, then sells much of it to the United States.

The next largest harvest—and most valuable at $2.5 billion a year—is collected by Japan, which, like Russia, sends a huge fleet of catcher and factory ships thousands of miles to distant waters. Since 1962, Japan has doubled her high-seas fishing fleet to 3,000 vessels, some even more efficient than the Soviets'. Last May, 320 Japanese ships were off Alaska for the high-seas salmon season. The Japanese fish in vigorous competition with Americans throughout the Bering Sea and, to some extent, off Washington and Oregon, for crabs, herring, pollock, flat fish and other species. They also roam the North Atlantic, although mostly for species that Americans ignore, such as squid.

Japan has 164 major marine research institutions. The government itself operates 497 research vessels, and energetically swaps information with commerical fishermen. Japan has entered about 50 joint ventures in foreign countries, and, according to a Washington analyst, received "substantial benefits to her domestic fishing industry."

Communist China, fishing close to shore, ranks fourth among the world's fishing nations, and Norwegian fishermen, benefiting from a government program to scrap old boats and build new ones, range around the world. They increased their catch 20 percent last year and sold more than $18 million worth to the booming frozen fishstick market in the United States alone.

DISMAL RESPONSE

Instead of rising to this global challenge, the United States has let its own fishing industry stagnate. The fleet and its techniques of locating, harvesting and preserving fish are obsolete. Of the 13,000 U.S. boats larger than five tons, 14 percent are more than 50 years old; only 16 percent have hydraulic winches, only eight percent have refrigeration. The crews, too, are old: full-time Boston fishermen, for instance, have a median age of 59. Young men take better-paying city jobs.

The industry itself is much to blame. In American fishing, one person usually owns one boat and operates it with fierce independence—in the tradition the Pilgrims established in 1620. Today this means that one American boat ordinarily does not help another American boat locate fish. The result is that many cannot compete against a foreign fleet operation. And the independent American captain rarely accumulates enough capital to buy a new boat, reequip his old one or pioneer new technology.

Federal and state governments, moreover, impose some curious handicaps, often forcing American fishermen to use inefficient methods. One federal law, in effect since 1793, requires the use of U.S.-built boats. This has been a boon to the U.S. shipbuilding industry for 178 years, but today it means that an American fisherman must pay up to twice as much for a boat as his foreign competitor.

Then, too, an American may not use a net to catch halibut in the North Pacific; he may not use electronic equipment to locate salmon off Washington. All this in the name of conservation.

UNTOUCHED BOUNTY

The most conservative estimates are that the present world catch of fish could be tripled without impairing future resources. Our National Marine Fisheries Service estimates that the American industry could perhaps quintuple its catch without even leaving American shores. Obviously, then, we should get on with the job of finding economically feasible ways of taking our share of the ocean's harvest.

Numerous fishery authorities see the ultimate solution in a joint government and industry effort, emphasizing these basic points:

The federal government, which has long neglected our fishermen as politically unimportant, must start treating them as vital to the economic and political goals of the United States. It must not sacrifice them automatically to the interests of other groups. Twice the U.S. Tariff Commission has ruled that imports of fish were damaging fishermen, but Washington responded by lowering our tariffs on fish even further in return for foreign tariff concessions on U.S. exports.

The federal government must vigorously support our fishermen in conflicts with foreigners. Congress has finally declared that Americans have exclusive fishing rights within 12 miles of our shores, but we were one of the last major powers to set such a limit. And we still tolerate Peru's and Ecuador's enforcement of their unilaterally declared 200-mile limit. When they haul American tuna boats into port, the U.S. government ends up meekly paying the fines—as much as $155,340.

Washington must centralize its scattered efforts to help: at times, 22 federal agencies have had a say in commercial fishing. The industry must modernize, with government subsidies if need be.

Both government and industry must do more basic research on the seas around us and, specifically, learn better ways to locate, catch, handle and market fish. Dayton L. Alverson, of the National Marine Fisheries Service, remembers visiting a Soviet scientific boat in the Black Sea: "It had more electrical equipment than all the Service's vessels combined."

State governments must lay aside local politics and remove the restrictions that make American fishing unnecessarily inefficient.

Most of all, fishermen must cast off their lethargy and work toward becoming efficient enough to face a competitive world without permanent subsidy.

"There are no reason why we cannot be a major exporter of fish and fish products," said the late Wilbert Chapman, nationally known fishing authority and government consultant. "We rail against the Russians for developing fisheries off our coasts. What we refuse to face up to is that a communist society is out-competing us capitalists by applying science and technology to its operations. We must stop crying and do what needs doing."

SENATE—*Saturday, November 13, 1971*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou Creator of all beauty and order in the universe, help us to tidy up our lives as we begin this day. Tune our lives to Thy spirit and put us in focus with reality that we may quit ourselves as a people who love and serve Thee. For added duties give added strength. Bind us to one another that in unity of spirit we may advance the welfare of the Nation and bring a blessing to the whole world. As we work this day prepare us for the worship and rest of the Sabbath. May goodness and mercy follow us wherever we go and in whatever we do. Hear us, O Lord, in these supplications and in the deeper longings left unsaid.

In His name who was lifted up upon a cross. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, November 12, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 431, 432, 433, 434, and 436.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ADDITIONAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS

The bill (H.R. 4729) to amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-441), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of H.R. 4729 is to increase the number of ROTC scholarships and, at the same time, place certain restrictions on the use of these scholarships in the ROTC program.

BACKGROUND OF THE BILL

Army and Air Force ROTC enrollments have dropped substantially over the past 3 years. In the beginning of academic year 1968-69, there were 218,466 students enrolled in the program; in academic year 1969-70, 161,507; and in 1970-71, 114,950. The reduction is due largely to two factors. One is that many students have taken a wait-and-see attitude with respect to their status under the selective service draft, anticipating that they may avoid military service altogether. The other factor is a decline in the number of schools which require all physically able male students to participate in the first 2 years of ROTC.

The overall decline in enrollment between fiscal years 1969 and 1971 is 51 percent for the Army and 45 percent for the Air Force. Navy enrollments have not suffered the same decline mainly because the Navy program is smaller and the percentage of scholarships higher than with the Army and Air Force. Navy nonscholarship enrollment shows a decline of approximately 37 percent.

The final measure of success insofar as numbers are concerned is, of course, whether the number of ROTC graduates meets the objectives set by the services.

The Navy forecasts that its ROTC graduation objectives for fiscal years 1971 and 1972 will be met. The Air Force anticipates a minor shortfall in graduating cadets in fiscal year 1971 and is concerned about the fiscal year 1972 production shortfall which will be in excess of 400 officers. The Army's ROTC graduates will decline, but it will meet its graduation objectives for 1972. However, in projecting the current freshmen and sophomore enrollments through to their graduations, both Army and Air Force anticipate a shortfall. It is difficult to project the magnitude at this time because of changes in the Selective Service System. A large number of ROTC enrollees are draft induced.

EXPLANATION OF THE BILL

As introduced H.R. 4729 would have increased the number of ROTC scholarships from 5,500 for each service to an amount equal to 10 percent of the total officer force. This would increase the number of authorized scholarships from 16,500 to 33,400 by fiscal year 1976. The House ascertained that there are many more students attending ROTC who are not on the scholarships than those who were.

Thus, this brought into focus whether the payment of tuition, books, fees, and subsistence to some students, while only paying subsistence in the last 2 years to others was really the best method by which to attract students into the ROTC program. Therefore, the House requested the Department of Defense to initiate a study to determine whether a more effective officer procurement program could be obtained by increasing the subsistence allowance to all and reducing the number of scholarship students. The Department agreed to undertake such a study and to have the results forwarded to the Congress early in 1972. However, the House determined that the decrease in the number of students entering the ROTC program forecast a critical officer shortage if it did not increase the number of scholarships at the present time. Therefore, an interim solution was provided by increasing the numbers as shown above. This is a substantially lower number than requested originally by the Department of Defense. The committee agrees with this reduction and has been assured by Defense witnesses that this will in no way jeopardize the program.

The House also amended H.R. 4729 to provide that not more than 20 percent of the persons appointed as cadets or midshipmen by the Secretary in any year may be appointed from persons in the 2-year Senior Reserve Officers' Training Corps courses. The Department had originally asked that 30 percent of such appointments be made for a 2-year program. Heretofore, there have been no scholarships provided, except to students who would undertake a 4-year program. However, it is now estimated that by 1980 more than half of the students enrolled in higher educational institutions will be in junior colleges as an increasing number of universities are considering the restriction of their enrollment to upper class and graduate students. In order to attract the bright, young graduates of junior college programs into ROTC, a reduced pilot program appears to be in order.

The House also added a provision requiring that 50 percent of the cadets and midshipmen must qualify for instate tuition rates at their respective institutions and will receive tuition benefits at that rate.

At present, a ROTC student is permitted to select any school which has a ROTC program. During the course of the hearings it was learned that the instate rate for tuition at the University of California is $500 per semester as distinguished from $1,500 tuition per semester for an out-of-State student. It is believed that the Government will get more for its money if limitations are placed on the number of students who could attend out-of-State schools without providing an undue hardship on either the student or the service.

The services will permit military students to go to schools of higher learning which have withdrawn from the ROTC program only in those cases where there is a unique capability at a particular university.

The committee agrees with the House that it is morally wrong for the military to spend dollars sending students to a particular college or university which has chosen not to cooperate with the military services in providing career opportunities for those students who desire to make the military their career.

FISCAL DATA

As submitted by the administration, the increased budgetary requirements for the Department of Defense as a result of this legislation were estimated to be as follows:

[In million]

Fiscal year:	Cost
1972	$6.3
1973	16.1
1974	26.0
1975	36.4
1976	41.0

However, because of the reduction in the number of scholarships available and the other charges, the costs in each of the next 5 years are estimated to be $3.16 million.

SUBSISTENCE ALLOWANCES FOR MARINE CORPS OFFICER CANDIDATE PROGRAMS

The bill (H.R. 6723) to provide subsistence allowances for members of the Marine Corps officer candidate programs, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-442), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to provide financial assistance to certain Marine Corps officer candidates while they are pursuing a baccalaureate degree, in order to procure required future Marine officer accessions.

EXPLANATION OF THE BILL

The platoon leaders class program was organized in 1935 and is the oldest Marine Corps sponsored officer procurement program for civilian college students. Formal training is accomplished at the Officer Candidates School in two 6-week courses for those candidates approved while enrolled as college freshmen or sophomores. For those who enroll as juniors, a single 10-week training course is given. Thus, there are two types of programs; one consisting of two 6-week training periods; and the other of a single 10-week training program. Through the years, the platoon leaders class program has provided a dependable "base" for officers accessions, although often augmented by other short-term programs when officer requirements increased. Marine Corps reliance on the platoon leaders class program is illustrated by the following recent statistics of officers commissioned through civilian source Marine male officer programs.

Fiscal year	Percent PLC-source officers	Percent all others
1968	40	60
1969	37	63
1970	33	67

During the many years the platoon leaders class program has been in existence, it has remained virtually unchanged in basic concept. The college undergraduate enlists as a class III inactive reservist, completes two periods of active duty for training during the summer vacation, is commissioned upon receipt of a baccalaureate degree, and is subsequently ordered to active duty unless further delayed for an advanced degree. Each member of the platoon leaders class program accrues longevity from the date of enlistment. He receives pay and allowances only for the period of active duty for training. He has never received financial assistance of any type during the academic year except such as may have occurred as a result of his being eligible for pay by virtue of injuries incurred during training.

As indicated above, those in the platoon leaders course accrue longevity by virtue of their membership in the enlisted reserve. The committee is aware that longevity credit is not authorized by virtue of membership in the various ROTC programs and for the cadets and midshipmen at the three military service academies. These are matters which have been settled by law over a period of many years. Participants in the ROTC programs, for the most part, and the academy programs receive far greater benefits of various kinds during their membership in these programs than those in the platoon leaders course.

The committee therefore wishes to emphasize that membership in the enlisted reserve, carrying with it longevity credit which has been a part of the platoon leaders program for a number of years, should not be considered a precedent for demands by those in the ROTC or academy programs for similar recognition.

The platoon leaders class program has recently experienced increasing shortages of new candidates:

	Percent
Platoon leaders class quota attained:	
Fiscal year 1968	97
Fiscal year 1969	77
Fiscal year 1970	72

In order to continue the necessary input of platoon leaders class candidates, service-connected incentives are required. It is considered that monetary subsidization of platoon leaders class applicants would greatly increase the enrollment incentive.

The present platoon leaders class program poses a financial problem to those students who are not financially well-to-do. The student is required to devote a portion of his summers to training which reduces his earning power to assist in paying for his education. Accordingly, considering the high cost of a college education, many qualified and desirable officer candidates are lost. If the proposed legislation were passed, the financial assistance provided in the platoon leaders class program would offset the loss of earning power and, therefore, make the program more attractive to qualified undergraduates.

It is envisioned that under normal circumstances, financial assistance would be provided to a selected platoon leaders class candidate only during the school year (9 months) and then only if he satisfactorily completes the required military training during the previous summer. There would be no additional clothing, training, or travel expenses beyond those currently existing in the present platoon leaders class. A stipend equal to that paid to members of the Senior Reserve Officers' Training Corps is considered an appropriate amount to provide partial assistance in defraying educational costs, though not so much as to be the main attraction for enrollment. In return for acceptance of financial aid, individual candidates would become liable for a minimum of 2 years' enlisted service should they fail to complete the program by acceptance of a commission, with an increasing service obligation of 6 months for each part or whole school year during which financial assistance was received. With acceptance of a commission, an officer's initial period of active duty would be increased by 6 months for academic year during which he received subsidy, commencing with a 2½-year obligation for those who complete the program without drawing any subsidy.

The program as envisioned would be phased into operation to reach a maximum goal of 3,000 officer candidates drawing a stipend at any one time.

FISCAL DATA

The cost of the program for the next 5 years based on 1970 dollars is estimated as follows:

Year	Number of officer candidates	Cost
1	1,000	$900,000
2	1,500	1,350,000
3	2,000	1,800,000
4	2,500	2,250,000
5	3,000	2,700,000

The above figures are based on the assumption that the subsistence allowance for members of the Senior Reserve Officers' Training Corps will be increased to $100 per month as is currently proposed. The cost of the program would reach a maximum of $2,700,000 annually. Authority for the program is required for 5 years, with extension to be the subject of future study and recommendations.

DEPARTMENTAL POSITION

The Department of the Navy on behalf of the Department of Defense strongly recommends enactment of this legislation as indicated by a letter from the Acting Secretary of the Navy which is set forth below and made a part of this report.

INCREASED SUBSISTENCE ALLOWANCES FOR SENIOR RESERVE OFFICERS' TRAINING CORPS

The bill (H.R. 6724) to amend section 209 (a) and (b) of title 37, United States Code, to provide increased subsistence allowances for Senior Reserve Officers' Training Corps members, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-443), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

Section 209 (a) and (b) of title 37, United States Code, was enacted to provide members of the ROTC, appointed under sections 2104 and 2107 of title 10, United States Code, with a subsistence allowance. A member selected for advanced training under section 2104 of title 10, United States Code, is entitled to a subsistence allowance of not less than $40 per month nor more than $50 per month beginning on the day he starts advanced training. A financial-assistance-grant member appointed under section 2107 of title 10 is entitled to a subsistence allowance at the rate of $50 a month beginning on the day that he starts his first term of college work.

The allowance for the financial-assistance-grant member is derived from the act of August 13, 1946, chapter 962, section 4, 60 Stat. 1058. This act established the so-called Holloway Plan whereby certain Naval Reserve Officers' Training Corps students were provided with full tuition scholarships at selected colleges and universities. In addition to the payment of tuition, the Government paid for books and laboratory fees, and the student was provided with retainer pay at the rate of $600 per year. Subsequent amendments changed the retainer pay from the rate of $600 per year to retainer pay at the rate of $50 per month. The purpose of the allowance—originally called retainer pay—was to help defray the cost of food, lodging, and incidental expenses.

It has been noted above that the $50 allowance was originally established in 1946, and, for financial-assistance-grant students has remained unadjusted since that time. The subsistence allowance provided full coverage of room and board expenses at 85 percent of these institutions in 1946. In 1970, the $50 per month allowance will not cover room and board expenses at any of the 53 schools having an NROTC program.

The Committee agrees that the $100 per month is a proper allowance for ROTC cadets. The Committee also agrees with the House amendment which would prohibit cost of living adjustments to this $100 per month allowance without congressional approval. Further, the Committee is in agreement that no justification exists for the payment of

subsistence allowance during the first 2 years while the cadets are not in school and have no military obligation to participate in summer training.

FISCAL DATA

The bill as introduced is estimated to have cost $22,600,000 annually. By reducing the number of months a first- and second-year ROTC student could draw subsistence, we have reduced the bill by approximately $930,000 per year. Additionally, because the number of scholarships requested were also reduced, this amounts to a further reduction of $1,500,000 or a total committee reduction in the bill of $2,430,000. Thus, the total annual cost of the program is now estimated to be $20,170,000.

PILOT RATING REQUIREMENTS FOR MEMBERS OF UNIFORMED SERVICES

The bill (H.R. 7950) to repeal sections 3692, 6023, 6025, and 8692 of title 10, United States Code, with respect to pilot rating requirements for members of the Army, Navy, Marine Corps, and Air Force; and to insert a new section 2003 of the same title, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-444), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to repeal sections 3692, 6023, 6025, and 8692 of title 10, United States Code, so as to eliminate specific flying hour requirements and certain obsolete provisions, and to add a new section to the same title to permit military pilots to be trained in a manner consistent with mission need, safe operation in U.S. airspace, and up-to-date pilot training techniques.

EXPLANATION OF THE BILL

The current law, written in 1916 and amended in 1926, requires that for pilot training a pilot must fly in a heavier-than-air space craft for at least 200 hours. New techniques in flight simulators make this requirement over-restrictive with respect to current and future development in flight training. The language in this bill would eliminate that requirement and would substitute therefor a provision which would permit the Secretary of a military department to prescribe an undergraduate pilot course of instruction.

DEPARTMENTAL POSITION

The Air Force on behalf of the Department of Defense strongly recommended enactment of this legislation.

FISCAL DATA

Enactment of this proposed legislation would not result in an increase in budgetary requirements.

PROMOTION OF MEMBERS OF THE UNIFORMED SERVICES IN A MISSING STATUS

The bill (H.R. 8656) to amend titles 37 and 38, United States Code, relating to promotion of members of the uniformed services who are in a missing status, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-446), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of this bill is to insure that promotions of personnel carried as missing under title 37, United States Code, are valid for all purposes, including Federal benefits to survivors, even when the date of death of the missing member is later determined to have occurred prior to the promotion date.

EXPLANATION OF THE BILL

Under the present law, title 38, United States Code 402(a), dependency and indemnity compensation paid to the survivors of a serviceman who dies on active duty are based on the pay grade held by the member on the date of his death. If this date is determined to have been prior to the effective date of promotion, the promotion cannot be considered in determining compensation payments.

After the cessation of hostilities in Southeast Asia, there is a strong possibility that personnel accounting and identification procedures for those members carried in a missing status, as defined in title 37, United States Code 551(2)(B) will uncover positive evidence that many of them died during the period of their captivity. Under title 37, United States Code 556, the service Secretary or his designee is charged with the responsibility of making status determinations in these cases. The actual date of death for these people must be based on the evidence and information available, such as aircraft wreckage and remains, intelligence data, eyewitness reports of released prisoners, and other similar sources. In certain cases where conclusive evidence such as this may not be available, a presumptive date of death will be made predicated on circumstantial evidence. Although any money credited to a member's account or received by his next of kin as a result of promotion to a higher grade is not repayable to the Government, the family must suffer the anguish of being notified that payment of death gratuities and any subsequent benefits will be based upon the lower grade held on the date of death.

Enactment of this bill would provide for increased dependency compensation payments to survivors based on the higher grade or rank held and may serve to alleviate some of the burden borne by survivors in these cases.

The effective date of February 28, 1961, is necessary to cover all missing in action personnel of the Vietnam conflict.

FISCAL DATA

Enactment of this bill will not result in any increase in budgetary requirements to the Department of Defense. However, assuming the worst possible circumstances, the additional cost of the Veterans' Administration will not be in excess of $135,000 yearly.

NEW U.S. TROOP WITHDRAWALS FROM VIETNAM

Mr. MANSFIELD. Mr. President, I commend President Nixon for his announcement yesterday afternoon that 45,000 U.S. troops will be withdrawn in the months of December and January. This is a decided increase over the 14,000 a month withdrawal rate which is in effect at present. It is an indication that by the end of January 1972, U.S. forces in Vietnam will be reduced to somewhere around 139,000 men.

It is anticipated, based on what the President said, that before the end of January arrives he will make another decision and report it to the American people.

It is to be hoped that this acceleration will continue and that it will not be too long before all American troops will be withdrawn from Southeast Asia and "the rug pulled out from under" those of us who have been advocating such a procedure. I am delighted at the prospect if it means all U.S. Forces will be withdrawn sooner.

It is to be hoped, also, that the reason for the 2-month announcement lies in the possibility that there may be negotiations. There have been no negotiations up to this time. I feel quite certain that the President is working through all possible channels, public and private, to bring about an end to the war in Vietnam. I wish him all the success in the world.

I am hopeful, too, that when the final withdrawal is announced, it will be final and there will be no residual U.S. force left in Indochina.

May I say that I adhere quite strongly to the views expressed by Gen. Matthew B. Ridgway—a soldier in the tradition of George Marshall—who advocated in a Foreign Affairs Quarterly article last summer that there should be a complete withdrawal within 9 months and that the only military personnel left should be the Marines who would be on guard at the U.S. Embassy, as they are in practically every other country in the world.

The President is to be commended for stepping up the withdrawal rate. I hope that the acceleration will continue; that it will not be too long before our prisoners of war are released and the fate of the locatable MIA's is determined; and that this war, which has caused so much damage to this country, mentally, physically, socially, culturally, and otherwise, will be brought to an end.

Mr. GRIFFIN. Mr. President, I commend the distinguished majority leader for his statement. It was temperate and statesmanlike, which is in keeping with the statement he is generally disposed to make. I associate myself with most of what he has said.

The announcement yesterday by President Nixon and his answers to questions presented at the press conference provide a most encouraging picture for all of us who want the war in Southeast Asia to come to an end, particularly to get U.S. troops out of there.

It was heartening for the President to state and acknowledge a fact; namely, that the offensive combat role of U.S. troops in Vietnam has already ended.

As the distinguished majority leader has said, the rate of withdrawal will be significantly stepped up as a result of the announcement yesterday. Surely, even the most dubious, the most doubtful must be convinced by now that this President is doing what he said he would do; namely, to bring our role in that war to an end. The President is doing just that. He has kept every promise he has made, up and down the line.

Mr. President, I ask unanimous consent that a transcript of the President's announcement and news conference be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF PRESIDENT NIXON'S NEWS CONFERENCE ON FOREIGN AND DOMESTIC AFFAIRS

OPENING STATEMENT

Won't you be seated, ladies and gentlemen?

Ladies and gentlemen, I have an announcement of a substantially increased troop withdrawal from Vietnam. When I entered office on Jan. 20, 1969, there were 540,000 Americans in Vietnam and our casualties were running as high as 300 a week.

Over the past three years, we have made progress on both fronts. Our casualties, for example, for the past five weeks have been less than 10, instead of 300, a week, and with regard to withdrawals, 80 per cent of those who were there have come home—365,000.

I have now had an opportunity to appraise the situation as it is today. I have consulted with my senior advisers and I have an up-to-date report from Secretary Laird.

Based on those consultations and consultations with the Government of South Vietnam, I am now able to make this announcement: Over the next two months, we will withdraw 45,000 Americans. I will make another announcement before the First of February. As far as that second announcement is concerned, before the First of February, the number to be withdrawn—the rate that is—as well as the duration of the announcement, will be determined by three factors.

First, by the level of enemy activity and particularly by the infiltration route and its rate, because if the level of enemy activity and infiltration substantially increases, it could be very dangerous to our sharply decreased forces in South Vietnam.

Second, the progress of our training program, our Vietnamization program in South Vietnam, and third, any progress that may have been made with regard to two major objectives we have, obtaining the release of all our P.O.W.'s wherever they are in Southeast Asia and obtaining a cease-fire for all of Southeast Asia.

Those three criteria will determine the next announcement, both its duration and its rate.

Now, I will be glad to take questions on this announcement or any other subject, domestic or foreign, you would like to make.

QUESTIONS AND ANSWERS

1. Laos and Cambodia

Q. Mr. President, to be clear on the cease-fire, that includes Laos and Cambodia as well as South Vietnam?

A. That is our goal, Mr. Lisagor. Yes, sir. As you know, we offered that in my talks of last year in October. We have been continuing to offer it. We would, of course, believe that attaining that goal would bring peace to the whole area, which is what we want, and of course would greatly reduce any need for a very heavy American aid program that presently we have for particularly Cambodia.

2. Prisoners of war

Q. Mr. President, do you have any reason for encouragement on the release of prisoners of war from any source?

A. No reason for encouragement that I can talk about publicly. I can say, however, that we are pushing this subject as I have indicated on several occasions in a number of channels and we have not given up. We will never give up with regard to our prisoners of war. That is one of the reasons why an announcement is being made for a shorter period rather than a longer period, because the moment that we make an announcement that is too long, it means that whatever negotiating stroke we might have is substantially reduced.

3. Infiltration by enemy

Q. Mr. President, what has been the most recent trend towards the infiltration by the enemy and do you have figures for that and also, what rate would have to be maintained for you to carry out your optimum plan?

A. We would have to examine that situation at the time. The infiltration rate has come up some as it always does at this time of year. However, it is not as high now, just as the casualties are not as high now and the level of enemy activity as it was last year. We want to see however, what the situation is in December and January, which, as you all know, are the key months when infiltration comes along, because that will determine what the activity will be in April, May, June and July on the battlefield.

Q. Mr. President.

A. Yes, Mr. Bailey.

4. February troop ceiling

Q. To be clear, what is your new Feb. 1 troop ceiling or are you doing it the way you have done it before by setting a new troop ceiling at the end of the withdrawal period?

A. It will be a new troop ceiling for the end of the withdrawal period. I think we would have to cover that later. The 45,000 should be taken off the present ceiling. We are reducing the ceiling by 45,000.

Now, incidentally, I should say, too, that in terms of the withdrawal, I think it would be proper to inform the press on this matter. We are going to withdraw 25,000 in December and 20,000 in January. Obviously we would like to get a few more out before Christmas and we were able to do this after Secretary Laird made his report.

Q. In this present situation, you are announcing a two- or three-months—

A. Two months.

Q. Two-months withdrawal, whereas the last time it was seven or eight months, I believe. How does this situation, in terms of negotiating need that you spoke of, differ from the other one and can you tell us if you now, as a result of this two-month withdrawal, foresee an end to the United States combat role in Vietnam?

A. Well, first, the situation is very different because, as wet get down in numbers, each withdrawal has a much more dramatic effect on the percentage that we had there; 45,000 as against, for example, 184,000, which is the present troop ceiling, is a lot different from 25,000 as against 539,000 or 540,000, which was our first withdrawal program.

So, consequently, it is essential, as we get closer to the end, if we are going to maintain any negotiating leverage, that the withdrawal periods, in my opinion, be somewhat shorter.

With regard to the other questions that we have on this—does that cover that point?

Q. Yes, sir. About the combat role though.

A. Well, the combat role, let us understand, based on the casualties, as far as the offensive situation is concerned, is already concluded. American troops are now in a defensive position. They, however, will defend themselves, and what casualties we have taken—they are very small—will be taken in that defensive role.

You will find, as you analyze the battlefield reports, as I do from time to time, that the offensive activity, search and destroy, and all the other activity that we used to undertake, are now being undertaken by the South Vietnamese.

5. Role of U.S. troops

Q. Mr. President, have you sent or are you sending orders to the forces in South Vietnam regarding the offensive and defensive role? Could you outline that for us?

A. That is a matter which is worked out by General Abrams in the field, and it is one that has just gradually come about. No orders need to be given for that purpose. And, incidentally, that is possible due to the fact that the South Vietnamese have gained the capability to handle the situation themselves.

Also, there is another reason. As we get to 184,000, and at the end of this period, 45,000 less than that, what offensive capabilities we have are very, very seriously limited.

6. Peace negotiation

Q. Mr. President, you said there was no movement on the prisoners-of-war issue. Is there anything at all to report on negotiations either through Paris or through some other means?

A. I would respond to that only by saying that we have not given up on the negotiating front. This announcement is somewhat of an indication that we have not given up on the negotiating front. I, however, would not like to leave the impression that we see the possibility of some striking breakthrough in negotiations in the near future.

But we are pursuing negotiations in Paris and through whatever other channels we think are appropriate.

7. Private POW talks

Q. One might infer from what you said previously that there has been progress on the prisoner question privately. Would that be a correct inference to draw?

A. No, it would not be a correct inference to draw. I wish it were, because this issue should, of course, as well all, I think, be separated from the issue of the combat role of Americans and our withdrawal program. It is a humanitarian issue. We have not, as yet, had any progress in our talks with the North Vietnamese in getting them to separate that issue from the rest.

On the other hand, we have not given up on the negotiating track, and we are going to continue to press on that track because that is the track on which we eventually are going to have success in getting our prisoners back.

8. Progress on prisoners

Q. There has been no progress, either publicly or privately, on getting release of our prisoners?

A. I do not want to give any false encouragement to those who are the next of kin or who are close relatives of our prisoners. I can only say, however, that we, on our part, have taken initiatives on a number of fronts here. So the possibility of progress in the future is there. As far as the enemy's position is concerned, it is still intransigent.

9. Air power in Vietnam

Q. Mr. President, from the conditions that you know now in Vietnam and Southeast Asia, can you foresee in the near future a substantial diminution of American air power use in support of the Vietnamese?

A. Well, air power of course, as far as our use of it is concerned, will continue to be used longer than our ground forces, due to the fact that training Vietnamese to handle the aircraft takes the longest lead times, as we know, and we will continue to use it in support of the South Vietnamese until there is a negotiated settlement or, looking further down the road, until the South Vietnamese have developed the capability to handle the situation themselves.

As far as our air power is concerned, let me also say this: As we reduce the number of our forces, it is particularly important for us to continue our air strikes on the infiltration routes. If we see any substantial set-up infiltration in the passes, for example, which lead from North Vietnam into Laos and, of course, the Laotian trail which comes down through Cambodia into South

Vietnam—if we see that, we will have to step them up.

That is why we have been quite categorical with regard to that situation, because as the number of our forces goes down, their danger increases, and we are not going to allow the enemy to pounce on them by reason of our failure to use air power against increased infiltrations, if it occurs.

10. Peking-Moscow trip

Q. Mr. President, do you expect to discuss methods, possibly, to help alleviate the situation in Indochina in your visit to Peking and to Moscow?

A. I do not think it would be helpful to indicate at this time what we will discuss with regard to Indochina when our visits to Peking and Moscow take place. We are hopeful and continue to be hopeful that we can make progress on handling this problem ourselves, and that it may not have to be a problem that will have to be discussed in those areas.

Incidentally, I think it would not be well to speculate as to what, if anything, either Peking or Moscow can or will do on this matter. All that I can say is that we are charting our own course, and we will find our own way to bring it to a halt.

We will, of course, welcome any assistance; but we are not counting on it from either source.

11. North Vietnam's strength

Q. Is it not true that at this particular point the North Vietnamese are probably at their weakest they have been since the war, and is this because of floods and lack of resources?

A. The major reason they are the weakest since the war is because of Cambodia and Laos, and the floods, of course, have hurt them, too.

Miss Thomas?

12. 1968 campaign promise

Q. In connection with your answer on negotiations, is what you are saying that perhaps you might not be able to keep your 1968 promise to end the war, which I believe was your campaign pledge, rather than just ending America's role in the war?

A. I would suggest that I be judged at the time of the campaign, rather than now, on that. I would also suggest that every promise that I have made I have kept to this date and that usually is a pretty good example of what you might do with regard to future promises.

13. Residual U.S. forces

Q. Mr. President, we read much speculation that you plan to keep a residual force, 40,000 or 50,000 men, in Vietnam until the prisoner-of-war issue is settled completely and all prisoners are out. Is that still valid?

A. Well. Mrs. Cornell [Laughter.]

Q. Touche. [Laughter.]

A. First, if the situation is such that we have a negotiated settlement, naturally that means a total withdrawal of all American forces. It also not only means a total withdrawal of American forces in South Vietnam; it means a discontinuation of our air strikes and also withdrawal of forces stationed in other places in Southeast Asia or in the Asian theater that are directly related to the support of our forces in Vietnam.

That is, in other words, what is involved if we can get a negotiated settlement. If we do not get a negotiated settlement, then it is necessary to maintain a residual force for not only the reason—and this is, of course, a very primary reason—of having something to negotiate with, with regard to our prisoners, but it is also essential to do so in order to continue our role of leaving South Vietnam in a position where it will be able to defend itself from a Communist take-over.

Both objectives can be fulfilled, we believe, through a negotiated settlement. We would prefer that. If they are not fulfilled through a negotiated settlement, then we will have to go another route and we are prepared to do so.

14. Amnesty for exiles

Q. Mr. President, do you foresee granting amnesty to any of the young men who have fled the United States to avoid fighting in a war that they consider to be immoral?

A. No.

15. Arms limitation talks

Q. Mr. President, you met this afternoon with our SALT negotiating team, which is returning to Vienna. Earlier this year you expressed the hope that some kind of agreement could be made. Do you foresee some kind of SALT agreement before the end of the year?

A. We have made significant progress in the arms limitation talks. The progress, for example, with regard to the hot line and the progress with regard to accidental war is quite significant. Also, we have made significant progress in the discussion on limitation of defensive weapons and we are beginning now to move into discussions on offensive weapons.

Whether we are able to reach agreement by the end of the year, I think, is highly improbable at this point. I say highly improbable—not impossible. It depends on what happens.

Our goal is—and I discussed this at great length with Mr. Gromyko when he was here—our goal is, of course, at the highest level to urge our negotiators to try to find a common basis for agreement. But it must be a joint agreement. We cannot limit defensive weapons first and then limit offensive weapons. Both must go together. It will happen.

I would say this: I believe we are going to reach an agreement. I believe we will make considerable progress toward reaching that agreement before the end of the year. I think reaching the agreement before the end of the year is probably not likely at this time, but great progress will be made and I think by the end of the year we will be able to see then that our goal can be achieved.

16. Wage-price guidelines

Q. Mr. President, are you satisfied with the guidelines laid down by the pay commission and the price board and are you concerned about the effect of a likely bulge of increases in wages and prices after the freeze and public confidence on Phase Two?

A. Well, the possibility of some bulge, of course, has always been there, as you know, so when I announced the freeze it was widely speculated that once the freeze was off and once we then moved to guidelines, that there would be therefore some increase in wage rates and some increase also in prices. The freeze could not be kept on indefinitely.

However, I think the decisions of both the pay board and the price board have been very sound. They did not, in some instances, perhaps, reach the goals some would have liked. I think some businessmen thought the wage increases should have been in the neighborhood of 3 to 4 per cent. That would have been a very good thing from their standpoint, perhaps. It would have been totally unrealistic. It would have broke the board wide open.

I think 5.5 per cent is an achievable goal. That would be a substantial reduction insofar as the wage-price push for 1971, as compared to 1960, 1969, and 1968.

As far as prices are concerned, the guidelines that have been laid down would cut the rate of inflation approximately in half. That is real progress.

One other point I should make. I noticed that many of you very properly have written about the uncertainty with regard to Phase Two. That is inevitable. It is inevitable in any free economy. We can have total certainty only with total control of the economy. But with a totalitarian economy we have no freedom as far as our economy is concerned and we would destroy the major advantage the United States has in its competitive position in the world, in other words, the free-enterprise system.

I believe that this answer of the pay board and the price commission is a very realistic one. I believe it will succeed and one of the major reasons I believe it will succeed is the enormous public support that we had not only during the 90-day period, but that we continue to have for the period after the freeze. That public support will make this work.

Q. Mr. President, could I be quite clear on the withdrawal?

A. You mean "perfectly clear," right? [Laughter.]

Q. Is the 45,000 to be taken from the 184,000, sir? Does it come from the Dec. 1 target figure?

A. Yes, that is right. You take your ceiling of Dec. 1 and take 45,000 from that and you get where we will be on Feb. 1. Let me point out, incidentally, that we are always slightly below our ceiling, as you know, with regard to actual withdrawals. But we have set as the ceiling for Feb. 1 the 45,000 from 184,000, but we will probably be below that at that time by a few hundred or maybe even a few thousand.

17. Date for Peking trip

Q. Mr. President, have you set a date to go to China yet?

A. I have nothing to announce on that at this time.

18. Reaction of Thieu

Q. Mr. President, if we can assume that President Thieu was informed at least of the withdrawals, can you tell us what his reaction was?

A. Complete approval. President Thieu, along with General Abrams, and General Binh and the others who work together in the combined joint chiefs over there, have been, just as Secretary Laird has reported, enormously impressed with the speed of the training program and the ability of the South Vietnamese to defend themselves.

It has gone faster than we had thought, and also, as was pointed out by one of the earlier questioners here, the level of enemy activity has not been as great as it was, due to the fact that the enemy doesn't have the punch it had. Cambodia took a great deal out of the enemy's punch. Laos took a great deal out of its punch. And in addition to that, those torrential floods have made it difficult for the enemy to be as effective in its attacks as it was previously.

That does not mean, however, looking to the future, that we must not be on guard. That is why I said we are going to watch this infiltration route and rate very, very carefully in the critical months of December and January before making another withdrawal announcement.

19. Aid for Cambodians

Q. Mr. President, in your most recent foreign aid bill, you requested a total of $341-million in military and economic aid for Cambodia. The head of the Government of Cambodia has just renounced democracy as a viable form of government, which some people think has analogy to earlier developments in Vietnam. What assurance can you give the American people that we are not sliding into another Vietnam in Cambodia?

A. We didn't slide into Vietnam. That is the difference. In Vietnam, conscious decisions were made to send Americans there to become involved in combat. I am not criticizing the decision; I am reflecting what the situation was.

It was not a question of sliding in; but was a question of decisions being made, first, to send American combat troops in. Those were first made by President Kennedy, the first troops that went in; and then the decisions to bomb in the north. Those were made by President Johnson, and the increases in forces.

Let's look at Cambodia. We have made a conscious decision not to send American troops in. There are no American combat troops in Cambodia. There are no American combat advisers in Cambodia. There will be no American combat troops or advisers in Cambodia.

We will aid Cambodia. Cambodia is the Nixon doctrine in its purest form. Vietnam was in violation of the Nixon Doctrine. Because in Cambodia what we are doing is helping the Cambodians to help themselves, and we are doing that rather than to go in and do the fighting ourselves, as we did in Korea and as we did in Vietnam. We hope not to make that mistake again if we can avoid it.

20. Stock market advice

Q. Mr. President, in May of 1970, when stocks hit their biggest low of the year, you gave counsel to buy. Now that we have reached the biggest low in 1971, what is your counsel today to the American investor?

A. Don't sell. [laughter].

I would like to comment on that particular matter, because if my advice had been taken, you would have done reasonably well then, as you know. As I said in Detroit, whether it is investments in stocks or bonds, or, for that matter, in real property, which is my only source of investment, if I may paraphrase what one of the television commercials I have heard often enough, I am bullish on America. However, I would strongly advise anybody who invests to invest on the long term, not the short term.

On the long term, 1972 is going to be a good year. When we see, for example, inflation cut in half, which is our goal, when we see employment beginning to rise—it rose over a million during the period of the freeze—and when we see something else, when we see our economy now being built on the basis of peace rather than war, this is a time when people looking to the future, planning to hang on, could, it seems to me, well invest in America with the hope that their investments will prove well.

1968, for example, was a very bad time to buy, and yet it appeared to be like the best of times. Stocks were high. Unemployment was low. Everybody thought we had high prosperity, but prosperity was based on 300 American casualties a week, 500,000 Americans in Vietnam, 25 to 30 billion dollars being spent on a war in Vietnam and on a burgeoning rate of inflation.

At that time, therefore, I would not have advised, and I trust many brokers did not advise their clients, to buy, because when prosperity is based on war and inflation, you are eventually going to have a setback.

The new prosperity that we are working toward—and we have some rocky times; we have had some and we may have some more—but looking toward the year 1972, as I appraise the situation, the new prosperity, based on jobs in peacetime, on peace production primarily, and based on a checked rate of inflation, will be a much sounder prosperity and, therefore, a better time to invest in America.

Q. Thank you, Mr. President.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes. Is there morning business?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

THE FISCAL SITUATION OF THE UNITED STATES

Mr. BYRD of Virginia. Mr. President, the Revenue Act of 1971 as reported by the Committee on Finance reduces the revenues for fiscal 1972 by $11.2 billion. It reduces the revenues for fiscal 1973 by $9.8 billion. Those figures include ADR's.

Mr. President, the Senate yesterday in amending the pending bill further reduced the revenues by slightly less than $3 billion.

The deficit for the fiscal year which ended this past June was $30 billion. The Joint Committee on Internal Revenue Taxation estimates the deficit for the current fiscal year at $35 billion.

I think it is cause for serious concern that the Government has been running these tremendous deficits for last year and the current fiscal year. For that reason it seems unwise to reduce the revenues further while the deficit is so large.

QUORUM CALL

Mr. BYRD of Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. GRIFFIN. Mr. President, if I may be recognized, I would like to ask, for the benefit of the Senate, what the distinguished majority leader can tell us about the schedule for the rest of the day and also anything he can tell us about the schedule for next week.

Mr. MANSFIELD. Mr. President, for the information of the Senate and in response to the question raised by the distinguished acting Republican leader, it is anticipated that there will be a number of rollcall votes today, and there is a possibility even that the first vote will occur around 10:30.

Following that, we will have an amendment offered by the distinguished Senator from New Jersey (Mr. WILLIAMS), on which there is a 30-minute limitation, and on which very likely there will be a rollcall vote. Other amendments will be offered today, and other votes will be taken.

It is anticipated that the Senate, in view of the hard day's work completed last night, will be in until 4 or 5 o'clock this afternoon. I think that would be a reasonable time unless, of course, the Senate decides otherwise.

It is hoped that the unfinished business will be completed sometime around the middle of next week. However, that is only a hope at present. We do not know.

It is anticipated that following the disposal of the tax legislation before the Senate, either the defense appropriations bill or phase II of the President's economic package will be taken up. So we do have some important legislation.

Speaking personally, I am tremendously pleased with the way in which the Senate functioned yesterday and the amount of work which it accomplished. Regardless of how one voted, I thought the Senate was operating at its best.

UNANIMOUS-CONSENT AGREEMENT TO PROVIDE FOR 15-MINUTE ROLLCALL VOTES FOR THE REMAINDER OF THE SESSION

Mr. MANSFIELD. Mr. President, in view of the fact that we have for the last several days had the first of the rollcall votes for the day on a 20-minute basis, as has been the custom throughout the year, I ask unanimous consent, with the approval of the acting minority leader, that beginning today and for the rest of the session the rollcall votes be limited to 15 minutes, with the proper notification, on the five-bell basis, be in effect as it has been over the past several days.

Mr. BYRD of West Virginia. Mr. President, there was some suggestion yesterday by our able colleague (Mr. HUGHES) that the warning bells ring midway.

Mr. MANSFIELD. I think that is a good idea in order to give Senators a little more time. I amend my request to that extent. I hope that the attachés on both sides will notify Senators of this situation and inform them that this will be the procedure for the rest of the session.

The PRESIDENT pro tempore. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letter, which was referred as indicated:

PROPOSED AMENDMENT OF TITLE 28, UNITED STATES CODE

A letter from the Director, Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend title 28 of the United States Code to provide for the appointment of officers and employees of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court, and for other purposes (with an accompanying paper); to the Committee on the Judiciary.

SENATE RESOLUTION 192—SUBMISSION OF A RESOLUTION TO CREATE A SELECT COMMITTEE ON THE COORDINATION OF THE U.S. ACTIVITIES ABROAD TO OVERSEE ACTIVITIES OF THE CENTRAL INTELLIGENCE AGENCY

(Referred jointly to the Committees on Armed Services and Foreign Relations.)

Mr. SYMINGTON. Mr. President, I submit a resolution, and I ask unanimous consent that it be jointly referred to the Committee on Armed Services and the Committee on Foreign Relations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The resolution reads as follows:

S. RES. 192

Whereas, it is the responsibility of the Senate to exercise general oversight with respect to the foreign relations of the United States; and

Whereas all Ambassadors of the United States are the President's representatives in the countries to which they are accredited and are responsible for supervising and coordinating the activities of all United States Government agencies in that country; and

Whereas the activities abroad of all United States Government departments and agencies affect the conduct of the foreign relations of the United States: Therefore be it

Resolved, That there is hereby created, effective at the beginning of the Second Session of the Ninety-Second Congress, a select committee to be known as the Select Committee on the Coordination of United States Government Activities Abroad (hereinafter referred to as the Select Committee) to consist of six Senators of whom three shall be appointed by the chairman of the Committee on Foreign Relations from among the members of that committee, and three shall be appointed by the chairman of the Committee on Armed Services from among the members of that committee. No more than two of the members appointed from each such standing committee shall be from the same political party. The chairmanship of the Select Committee shall alternate at the beginning of each new session of the Congress between the Chairman of the Committee on Armed Services and the Chairman of the Committee on Foreign Relations or their respective designee.

SEC. 2. (a) It shall be the function of the Select Committee to oversee the coordination of activities of United States Government departments and agencies, including the Department of Defense and the Central Intelligence Agency, operating abroad under the authority of the Ambassador and affecting the foreign relations of the United States. In carrying out its functions under this resolution, the Select Committee shall keep itself fully and currently informed of all such activities.

(b) The Select Committee shall meet at least once a month while the Senate is in session and at such other times as the Select Committee shall determine.

SEC. 3. (a) For the purposes of this resolution, the Select Committee is authorized in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses and adjournment periods of the Senate, (4) to employ personnel, (5) to subpena witnesses and documents, (6) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (7) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under section 202 (i) and (j), respectively, of the Legislative Reorganization Act of 1946, (8) to interview employees of the Federal, State, and local governments and other individuals, and (9) to take depositions and other testimony.

(b) The Select Committee shall have a professional staff of at least three members appointed by agreement of the two senior members of the Select Committee from the majority party and the two senior members of the Select Committee from the minority party.

(c) Subpenas may be issued by the Select Committee over the signature of the chairman or any other member designated by him, and may be served by any person designated by such chairman or member. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.

(d) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the Select Committee, shall constitute a quorum for the purpose of taking sworn testimony.

SEC. 4. All departments and agencies of the United States Government which conduct activities abroad under the authority of any Ambassador of the United States shall keep the Select Committee fully and currently informed of their activities abroad.

SEC. 5. The Select Committee shall take special care to safeguard information affecting the national security.

SEC. 6. The expenses of the Select Committee under this resolution, which shall not exceed $250,000 through February 28, 1973, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

SENATE CONCURRENT RESOLUTION 50—SUBMISSION OF A CONCURRENT RESOLUTION TO AUTHORIZE PRINTING OF HANDBOOK ENTITLED "GUIDE TO FEDERAL PROGRAMS FOR RURAL DEVELOPMENT" AS A SENATE DOCUMENT

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE. Mr. President, when I became chairman of the Senate Commitee on Agriculture and Forestry, I immediately established a Subcommittee on Rural Development. I felt that the problems of the rural areas of the Nation demanded more attention and a greater effort on the part of the Federal Government.

The lack of job opportunities and economic activity in many of our rural areas has driven millions of people into the Nation's cities. The subcommittee has attempted to examine the causes of the decline of some of our rural areas and it has attempted to devise legislation which will revitalize rural America.

The subcommittee has held extensive hearings on the problems and the promise of rural America, both in Washington and in field hearings around the country. One recurring theme that has come from these hearings has been the local citizens' dismay and frustration in attempting to deal with a complex and confusing Federal bureaucracy. Not only are Federal rural development programs underfunded and scattered in a number of different Federal agencies, but there is no centralized coordination of programs in the executive branch designed to aid the people of rural America.

Our committee is attempting to deal with this problem through legislation. Two bills pending before the committee include provisions for the coordination of the rural development activities within the executive branch. My distinguished colleague from Oklahoma (Senator BELLMON), has proposed an amendment to S. 1612, the President's rural revenue sharing proposal, which would go a long way toward the coordination of rural development activities in Government.

One important provision of this amendment would require that an office be established as near as possible to the headquarters of every multijurisdictional planning and development district in the States. This office would have all the necessary information in regard to all rural development programs and it would accept the filing of applications for funds under these programs.

I believe that the Bellmon approach has considerable merit, for it attempts to coordinate Federal programs on the local level. It is the local level which is important to the average citizen. A citizen's impression of his government is formed primarily by his contacts with the officials in the local offices of government.

One of the things that the Subcommittee on Rural Development noted during its hearings and studies is that there is no good Federal publication which is designed to tell local government officials and lay leaders what Federal assistance is available.

The need for this kind of information is much greater in rural America than it is in our large cities. Large cities can, of course, afford to hire experts and technicians who can seek Federal funds on a full-time basis. The smalltown mayor and the rural county commissioner have no such assistance. They must rely on their own knowledge and on the information given to them by their representatives in Congress. Where there are good multicounty planning districts, the local government officials can get information through the staffs of these districts. Our examination of existing documents which are supposed to explain Federal programs convinces us that there is no government published document which gives an understandable explanation of the Federal programs available for the development of rural America.

The Office of Management and Budget does publish annually a "Catalog of Federal Domestic Assistance." The first thing that is wrong with this document is that it is too big and poorly organized to be understandable by a small town mayor or lay leader. It contains information about several hundred programs that have no relevance to rural America. It contains a great deal of unnecessary statements which are difficult to understand about programs that are relevant to rural America. I have examined this document myself and I would not know where to begin looking to find information about a specific problem.

The OMB publication is organized according to the Federal Government's pattern of agency organization, not according to the needs of the ultimate user of Government services.

In addition, the catalog of Federal domestic assistance omits a great deal of information that is quite essential for an understanding of the Federal Government. It does not tell a smalltown mayor a rural businessman, or a lay leader where to go or what to do. But the most important shortcoming of the OMB publication is that it fails to use plain English. Apparently it is not within the capacity of the Federal bureaucracy to produce literature which the average person can understand.

When the junior Senator from Delaware (Mr. ROTH) was a Member of the House of Representatives he did considerable work in classifying and disseminating information about Federal assistance programs. He even had a catalog of these programs published as a House document. I understand that the publication of the Roth compilation led to many improvements in the OMB catalog of domestic assistance programs. However, Mr. ROTH's compilation was published in 1969 and it was not aimed specifically at rural development programs. Moreover, it follows the agency pattern of organization in its organization of Government programs rather than classifying programs according to the needs of the people who use Government services.

I have been extremely impressed by the "Guide to Federal Programs for Rural Development" that was published by the Independent Bankers Association. Senator HUMPHREY, chairman of the Rural Development Subcommittee, brought this document to my attention and I have distributed a few copies to some interested people in my State. These people were very enthusiastic about the publication and requested several additional copies to give to their friends. Senator HUMPHREY and I became interested in making this document available to the leaders of rural America.

The organizational structure of this "Guide to Federal Programs for Rural Development" is designed to be of greatest usefulness to the local banker, county agriculture agent, and lay leader who is largely unfamiliar with the organizational structure of the Federal Government and with the detail laws and regulations governing the programs they operate. The following paragraphs taken from the introduction to this publication explain its basic organizational structure:

> There are four general categories covered in this Guide: Part I—Business, Industry and Agriculture; Part II—Community Facilities; Part III—Community Functions and Services; Part IV—Planning. Each category (or section) is printed on a different colored paper stock in order to make the guide-book as "easy-to-use" as possible.
>
> Each Chapter in this handbook is devoted to a specific community development function for which there are related or matching Federal assistance programs. The Chapters are intended to parallel "spheres of interest" at the local level; and each Chapter includes the government-wide approach to a particular local problem. This type of organization brings the resources of several different Departments and agencies together under one Chapter heading. All programs with similar objectives will be found side-by-side, regardless of how they are separated organizationally at the Federal level for administrative or budget purposes.
>
> Individual programs are described in summary form, and arranged alphabetically under chapter headings. Cross references are used to avoid repetition.

I know that the U.S. Congress should not be in the printing business. However, I feel that it is our right and our responsibility to print documents which are really needed to help people cope with our gigantic Federal bureaucracy.

I believe that we can have this guide to Federal programs printed for a bargain price. The Independent Bankers Association contracted with John A. Baker, former Assistant Secretary of Agriculture for Rural Development, to produce this book.

If the Senate had to contract to have this job done again, the research and composition required would cost the Congress at least $50,000. In order to get this document published for the use of rural development leaders around the country, the distinguished Senator from Minnesota (Mr. HUMPHREY) asked the president of the Independent Bankers Association for the right to publish the book as a Senate document. Mr. Donald M. Carlson graciously gave his consent for the publication.

Therefore, I am today submitting a Senate concurrent resolution to authorize the printing of the "Guide to Federal Programs for Rural Development" as a Senate document with 12,000 copies for the Committee on Agriculture and Forestry.

The concurrent resolution reads as follows:

S. CON. RES. 50

Resolved by the Senate (the House of Representatives concurring), That with the permission of the copyright owner the handbook entitled "Guide to Federal Programs for Rural Development", published by the Independent Bankers Association of America, be printed with emendations as a Senate document, and that there be printed 12,000 additional copies of such document for the use of the Senate Committee on Agriculture and Forestry.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 325

Mr. BEALL. Mr. President, on January 27, 1971, I introduced S. 325 which would establish a survivors annuity program for widows of military personnel.

I am pleased that Senator MARGARET CHASE SMITH, the ranking Republican member of the Civil Services Committee, in cosponsoring this measure and I ask unanimous consent that at the next printing of the bill her name be added.

The PRESIDING OFFICER (Mr. STAFFORD). Without objection, it is so ordered.

S. 2507

At the request of Mr. BAYH, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2507, to amend the Gun Control Act of 1968.

S. 2551

At the request of Mr. ROTH, the Senator from Montana (Mr. MANSFIELD), the Senator from Utah (Mr. MOSS), and the Senator from Tennessee (Mr. BROCK) were added as cosponsors of S. 2551, to provide for a national program for an improved national securities transfer system, including a commercial securities depository corporation, and for other purposes.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 671

(Ordered to be printed.)

Mr. TUNNEY proposed an amendment to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENTS NOS. 672 THROUGH 674

(Ordered to lie on the table and to be printed.)

Mr. FULBRIGHT submitted three amendments, intended to be proposed by him, to House bill 10947, supra.

AMENDMENT NO. 675

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted an amendment, intended to be proposed by him, to House bill 10947, supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 619

At the request of Mr. STEVENSON, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 619 to the bill (S. 2712) to extend and amend the Economic Stabilization Act of 1970, as amended, and for other purposes.

ADDITIONAL STATEMENTS

OUR FOREIGN AID PROGRAM

Mr. MANSFIELD. Mr. President, in the Billings, Mont., Gazette of November 8, 1971, appears a rather thought-provoking editorial entitled "Toward Better Aid."

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TOWARD BETTER AID

The death in the Senate of the creaky, costly foreign aid program that has functioned since Marshall Plan days need not be considered calamitous.

It opens the door for a revaluation of the whole idea of aid, and creates the opportunity to introduce new programs geared closer to the need of developing nations.

Indeed, a presidential commission has already blueprinted radical reforms for the aid program, including a complete separation of

military and economic aid; the dissolution of the old Agency for International Development; and the creation of a new U.S. lending agency that would make capital available on a loan basis to nations desiring to modernize their economic infrastructure.

The old foreign aid program deserved to die. In the postwar years it was a valuable primer for the economies of war-torn nations. And in the 50s and 60s, the program was justified as a tool of the cold war: if people in the poverty nations were given the means to advance, they would not turn toward communism.

That idea was never sound: the belly-theory of anti-communism was invalid. Poverty has little to do with the communization of nations; indeed, communism flourished in many of the more preperous nations. And so that rationale died a quiet death.

Then, more recently, the aid seemed to exist simply as a part of the status quo: we continued with it because we had always done it. We did it even though it had little visible effect on the economies of recipient nations. We did it because there had evolved a large aid bureaucracy whose business was to promote and administer foreign aid.

The demise of the aid program will surely result in a great debate on the merits of future aid programs. And out of that debate, will, we hope, emerge a new concept of lending and technical assistance that will enable a rich and generous people to share some of our bounty with the world's desperate and hungry ones.

THE GULFCOAST PULPWOOD ASSOCIATION STRIKE

Mr. HARRIS. Mr. President, there is a myth in this country—which a lot of powerful people want to see perpetuated—that poor black people are the enemies of poor white people. That is not so. Their only enemies are the politicians and others in our society who have profited for so long from the division between blacks and whites.

This is the lesson we must learn and make clear to the Nation from the strike of the Gulfcoast Pulpwood Association against the Masonite Corp. in Mississippi.

Three thousand wood haulers—half of them black and the other half white—have gone on strike in protest over Masonite's new procedure for measuring the wood these men haul. This new procedure has reduced the hauler's incomes by 20 to 25 percent. When you are making between $2,000 and $3,000 a year—which is the average income for these men—you begin to realize that it is not enough in this country just to be white anymore.

White wood haulers in Mississippi have realized this—and joined forces with blacks to win a strike that will decide whether they and their families will ever have the opportunity to share in the good things in American society.

I support the strike of the Gulfcoast Pulpwood Association, and will do whatever I can to help them in their struggle. My deepest hopes are that this common effort of the black and white people of Mississippi is only the beginning of a new effort across the country, a political movement in which people of all types of backgrounds will stand up together to fight the entrenched interests in America.

PAY BOARD AND PRICE COMMISSION REGULATIONS

Mr. MATHIAS. Mr. President, every American is affected by the regulations of the Pay Board and the Price Commission. I believe the detailed provisions of these regulations, which have been published today in the Federal Register, should be disseminated as widely as possible. For this reason, Mr. President, I would like to ask unanimous consent that the regulations be printed in full at this point in the RECORD.

There being no objection, the regulations were ordered to be printed in the RECORD, as follows:

There being no objection, the regulations were ordered to be printed in the RECORD, as follows:

TITLE 6—ECONOMIC STABILIZATION

CHAPTER I—COST OF LIVING COUNCIL

Part 101—Coverage, exemptions and classification of economic units

Part 101—Coverage, Exemptions and Classification of Economic Units is added to Title 6, Chapter I, Code of Federal Regulations.

Since the immediate implementation of Executive Order No. 11627 is required, the Council finds that notice and public procedure with respect to these regulations is impracticable and that good cause exists for making the regulations effective in less than 30 days. Therefore, Title 6 of the Code of Federal Regulations is amended by adding a new Title 6, by adding a new Chapter I, and by adding a new Part 101, as set forth below, effective at 12:01 a.m. on November 14, 1971.

DONALD RUMSFELD,
Director, Cost of Living Council.

Subpart A—General

Sec.
101.1 Purpose and scope.
Subpart B—Price Adjustments—Classification and Procedures
101.11 Price category I firms; prenotification and reporting requirements.
101.13 Price category II firms; reporting requirements.
101.15 Price category III firms; monitoring and spot checks.
101.17 Reclassification.
Subpart C—Pay Adjustments—Classification and Procedures
101.21 Category I pay adjustments; construction pay adjustments; prenotification requirements.
101.23 Category II pay adjustments; reporting requirements.
101.25 Category III pay adjustments; monitoring and spot checks.
101.27 Reclassification.
Subpart D—Exemptions; Items Not Included in Coverage
101.31 General.
101.32 Exemptions.
101.33 Items not included in coverage.
Subpart E—Definitions
101.51 Definitions.
Subpart F—Special Temporary Provisions
101.101 Special provisions applicable from Nov. 14, 1971–Jan 1, 1972.

AUTHORITY: The provisions of this Part 101 issued pursuant to Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–588, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Executive Order No. 11627, October 15, 1971, 36 F.R. 20139.

Subpart A—General

§ 101.1 Purpose and scope.

(a) The purpose of this part is to establish the economic units and transactions which are covered by, and exempt from, the controls, standards and criteria established for the post-freeze economic stabilization period. The purpose is also to establish categories of economic units which must comply with the prenotification, reporting, and other procedural requirements prescribed by the Cost of Living Council. In general, such controls, standards and criteria are applicable to all price adjustments and to all pay adjustments, unless otherwise provided, regardless of the category into which any such adjustment falls. However, the procedural requirements vary depending upon the category.

(b) This part applies to all price adjustments and all pay adjustments which occur during the post-freeze economic stabilization period, except those which are specifically exempt under this part.

(c) This part does not apply to economic transactions which are not prices, rents, wages, and salaries within the meaning of the Economic Stabilization Act of 1970, as amended. Examples of transactions not within the meaning of the Act are:

(1) State or local income, sales and real estate taxes;
(2) Workmen's compensation payments;
(3) Welfare payments;
(4) Child support payments; and
(5) Alimony payments.

(d) The Cost of Living Council may allow such exceptions or permit such exceptions as it deems appropriate with respect to the coverage, classification, and other procedural requirements prescribed in this part. Requests for exceptions to and exemptions from the coverage, classification, and other procedural requirements of this part shall be submitted to the Cost of Living Council through procedures established by the Internal Revenue Service.

Subpart B—Price Adjustments—Classification and Procedures

§ 101.11 Price category I firms; prenotification and reporting requirements.

(a) A price category I firm is a firm with annual sales or revenues of $100 million or more.

(b) Each price category I firm shall submit a prenotification to the Price Commission of each proposed price adjustment in accordance with regulations issued by the Price Commission.

(c) No proposed price adjustment shall be put into effect by any price category I firm unless such price adjustment has been approved or permitted to take effect in accordance with regulations issued by the Price Commission.

(d) Each price category I firm shall submit quarterly reports to the Price Commission with information on prices, costs, and profits in accordance with regulations issued by the Price Commission.

§ 101.13 Price category II firms; reporting requirements.

(a) A price category II firm is a firm with annual sales or revenues from $50 million to $100 million.

(b) Each price category II firm shall submit quarterly reports to the Price Commission with information on prices, costs, and profits in accordance with regulations issued by the Price Commission.

§ 101.15 Price category III firms; monitoring and spot checks.

(a) A price category II firm is a firm with annual sales or revenues of less than $50 million.

(b) The price adjustments of price category III firms are not subject to prenotification or reporting. However, they are subject to monitoring and spot checks, as are price adjustments by firms in other categories.

§ 101.17 Reclassification.

(a) Upon the recommendation of the Price Commission, the Director of the Cost of Living Council has authority to reclassify firms so as to subject a price category II firm to the procedures applicable to price category I firms, and to subject price category III firms to the procedures applicable to price category I firms or price category II firms.

(b) If the pay adjustments of a firm are classified as category I pay adjustments, the Director of the Cost of Living Council has authority to reclassify the firm, for price adjustment purposes, as a price category I firm. If the pay adjustments of a firm are classified as category II pay adjustments and for price adjustment purposes, the firm is classified in category III, the Director of the Cost of Living Council has authority to reclassify the firm as a price category II firm.

Subpart C—Pay Adjustments—Classification and Procedures

§ 101.21 Category I pay adjustments; construction pay adjustment; prenotification requirements.

(a) A category I pay adjustment means a pay adjustment which applies to or affects 5,000 or more employees or which applies to or affects employees who are engaged in construction as defined by section 11(a) of Executive Order No. 11588, March 29, 1971.

(b) Prenotification of each proposed category I pay adjustment shall be submitted to the Pay Board in accordance with regulations issued by the Pay Board.

(c) No proposed category I pay adjustment shall be put into effect unless such pay adjustment has been approved or permitted to take effect in accordance with regulations issued by the Pay Board.

§ 101.23 Category II pay adjustment; reporting requirements.

(a) A category II pay adjustment means a pay adjustment which applies to or affects from 1,000 to 5,000 employees.

(b) Each category II pay adjustment shall be reported to the Pay Board in accordance with regulations issued by the Pay Board.

§ 101.25 Category III pay adjustments; monitoring and spot checks.

(a) A category III pay adjustment means a pay adjustment which applies to or affects less than 1,000 employees.

(b) Category III pay adjustments are not subject to prenotification and reporting. However, they are subject to monitoring and spot checks as are pay adjustments by firms in other categories.

§ 101.27 Reclassification.

(a) Upon the recommendation of the Pay Board, the Director of the Cost of Living Council has authority to reclassify category II pay adjustments to category I pay adjustments, and to reclassify category III pay adjustments to category I pay adjustments or category II pay adjustments.

(b) If a firm is a price category I firm, the Director has the authority to classify all pay adjustments of the firm as category I pay adjustments. If a firm is a price category II firm, the Director has the authority to classify all pay adjustments of the firm as pay category II pay adjustments, unless that firm's pay adjustments are already classified as category I pay adjustments.

Subpart D—Exemptions; Items Not Included in Coverage

§ 101.31 General.

Price adjustments with respect to the property and services set forth in this subpart are exempt from or not included in the coverage of the economic stabilization program established pursuant to the Economic Stabilization Act of 1970 and Executive Order No. 11627, October 15, 1971.

§ 101.32 Exemptions.

(a) *Raw agricultural products.* Agricultural products which retain their original physical form and have not been processed. Processed agricultural products are products which have been canned, frozen, slaughtered, milled, or otherwise changed in their physical form. Packaging is not considered a processing activity. Examples:

Exempt	*Nonexempt*
Live cattle, calves, hogs, sheep and lambs.	Carcasses and meat cuts.
Live Poultry	Dressed broilers and turkeys.
Raw milk	Pasteurized milk and processed products such as butter, cheese, ice cream.
Shell eggs, packaged or loose.	Frozen, dried or liquid eggs.
Sheared or pulled wool.	Wool products.
Raw honeycomb honey.	Processed and blended honey-butter product.
Mohair.	
Hay: bulk, pelleted, cubed or baled.	Dehydrated alfalfa meal or alfalfa meal pellets.
Wheat	Flour.
Feed grains including:	
Corn	Mixed feed.
Sorghum	Cracked corn.
Barley	Rolled barley.
Oats	Rolled oats.
Soybean	Soybean meal and oil.
Leaf tobacco	Cigarettes and cigars.
Baled cotton, cottonseed, cotton lint.	Cotton yarn, cottonseed oil, cottonseed meal.
Fresh potatoes, packaged or not.	Frozen french fries, dehydrated potatoes.
Unmilled rice	Milled rice
All raw nuts—shelled and unshelled.	Roasted, salted or otherwise processed nuts.
Fresh mushrooms	Canned or freeze dried mushrooms.
Fresh mint	Mint oil.
Fresh hops.	
Dried beans, peas, and lentils.	
Sugar beets and sugar cane.	Refined sugar.
Maple sap	Maple syrup and sugar.
All seeds for planting.	Seeds processed for other uses.
Raw coffee bean	Roasted coffee bean.
All fresh vegetables and melons including:	Canned and frozen vegetables.
Tomatoes.	
Lettuce.	
Sweet corn.	
Onions.	
Green beans.	
Cantaloupe.	
Cucumbers	Dill pickles.
Cabbage	Packaged slaw.
Carrots.	
Watermelons.	
Green peas.	
Asparagus.	
Pepper.	
Broccoli.	
Cauliflower.	
Spinach.	
Green lima beans.	
Honeydews.	
Escarole.	
Garlic.	
Artichokes.	
Eggplant.	
Brussels sprouts.	
Beets.	
Unpopped popcorn	Popped popcorn.
Stumpage, or trees cut from the stump.	Milled lumber.
All fresh or naturally dried fruits, packaged or not, including:	Canned, artificially dried frozen fruit or juices.
Fresh oranges	Glazed citrus peel.
Grapes and raisins.	Canned grapes, wine.
Apples	Applesauce.
Peaches	
Strawberries	
Grapefruit	
Pears	
Lemons	
Plums and prunes	Canned prunes and prune juice.
Cherries	
Cranberries	
Avocados	
Blueberries	
Apricots	
Tangerines	
Olives, uncured	Canned olives.
Nectarines	
Raspberries	
Blackberries	
Figs	
Tangeloe	
Limes	
Dates	
Papayas	
Bananas	
Pomegranates	
Currants	
Persimmons	
Garden plants and cut flowers.	Floral wreath.

(b) *Seafood products.* Raw seafood products including those which have been shelled shucked, iced, skinned, scaled, eviscerated, or decapitated.

(c) *Custom products and services.* (1) The folowing products when custom made to individual order:

(i) Leather goods;
(ii) Wigs and toupees;
(iii) Fur apparel;
(iv) Jewelry.

(2) The following custom services when provided to individual order:

(i) Tailoring of clothing;
(ii) Framing of pictures and mirrors;
(iii) Taxidermy.

(d) *Exports, imports, and shipping rates.* (1) Exports, including products sold to a domestic purchaser who certifies that the product is for export.

(2) Imports, but only the first sale into U.S. commerce.

(3) International ocean shipping rates.

(e) *Damaged and used products.* Damaged products and used products other than rebuilt products.

(f) *Government property.* (1) Abandoned or confiscated property sold by a government agency (Federal, State or local) pursuant to authorization of a court.

(2) Property sold by the United States, including lease-sales.

(g) *Real estate.* (1) Sales:

(i) Unimproved real estate.

(ii) Real estate with improvements completed prior to August 15, 1971.

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(iii) Real estate with improvements completed on or after August 15, 1971, if

(*a*) The sales price is determined after the completion of construction; or

(*b*) The wage rates are known to the builder and are not altered by actions of the Pay Board after the sales price is established.

(2) Rentals:

(i) Industrial, farm, and nonresidential commercial property.

(*a*) Rental units, including houses, apartments, or any other residential rental property, on which construction is completed, and which are offered for rent for the first time, after August 15, 1971.

(*b*) Rehabilitated dwellings for which the cost of rehabilitation exceeds one-third of the total value of the rehabilitated property (including the cost of rehabilitation), offered for rent in the newly rehabilitated condition for the first time after August 15, 1971.

(h) *Securities and financial instruments.*

(1) Securities as defined in § 101.51.

(2) Property subject to net leases as defined in 26 United States Code 163(4)(a).

(3) Commercial paper.

(4) Commodity futures sold on an organized commodities exchange but not including the commodity (unless otherwise exempt).

(i) *Miscellaneous.* (1) Royalties and other payments from the sale of copyrights, manuscripts, and like materials prepaid for publication.

(2) Dues paid to nonprofit organizations.

(3) Wages below the minimum wage established by Federal law.

(4) Insurance premiums charged for all new life insurance policies including ordinary, term, and group policies, and individual endowments and annuities (fixed and variable), but excluding credit-life insurance.

(5) Antiques.

(6) Art objects including paintings, etchings, and sculpture.

(7) Collectors' coins and stamps.

(8) Precious stones and mountings into which precious stones are set.

(9) Rock and stone specimens.

(10) Handicraft objects.

§ 101.33 Items not included in coverage.

The following items are not covered by this part or Executive Order No. 11627, October 15, 1971, on and after the effective date of this part.

(a) *Federal pay adjustments.* Federal Government employees' pay adjustments which are based upon Federal law and regulations and are determined by Presidential directives and adjustments in the compensation and allowances of members of the Armed Forces.

(b) *Raw sugar prices.* Raw sugar price adjustments, which are controlled under the provisions of the Sugar Act of 1948, as amended.

Subpart E—Definitions

§ 101.51. Definitions.

As used in this part—

"Annual sales or revenues" means the total income of a firm during its most recent fiscal year from whatever source derived.

"Cost of Living Council" means the Council established pursuant to Executive Order No. 11615, August 15, 1971, as amended, and continued under the provisions of Executive Order No. 11627, October 15, 1971.

"Employer" means a firm which employs one or more persons who receive a wage or salary.

"Exception" means a waiver in a particular case of the requirements of any order or regulation issued pursuant to the Economic Stabilization Act of 1970, as amended.

"Exemption" means a general waiver with respect to a certain class of property, services, or economic transactions set forth in Executive Order No. 11627, October 15, 1971, or these regulations and which excludes such property, services, or economic transactions from the application of the Economic Stabilization Act of 1970, as amended.

"Firm" means any person, corporation, partnership, joint-venture, or sole proprietorship or any other entity however organized, including charitable, educational, or other eleemosynary institutions and any Federal, State, or local governmental entity.

"Pay adjustment" means a change in wages and salaries which includes all forms of direct or indirect remuneration or inducement to employees by their employers for personal services, which are reasonably subject to valuation, including but not limited to: Vacation and holiday payments; bonus; layoff and severance pay plans; supplemental unemployment benefits; night shifts, overtime, production; and incentive pay; employer contributions for insurance plans (but not including public plans, e.g. old age, survivors, health, and disability insurance under the Social Security system, Railroad Retirement Acts, Federal Insurance Contributions Act, Federal Unemployment Tax Acts, Civil Service Retirement Acts and the Carriers and Employees Tax Act); savings, pension, profit sharing, annuity funds, and other deferred compensation and welfare benefits; payments in kind, job perquisites; housing allowances; uniform and other work clothing allowances (but not including employer-required uniforms and work clothing whether or not for safety purposes); cost-of-living allowances; commission rates, stock options, and other fringe benefits; and benefits which result in more pay per hour or other unit of work or production (e.g. by shortening the workday without a proportionate decrease in pay).

"Pay Board" means the Board established pursuant to section 7, Executive Order No. 11627, October 15, 1971.

"Prenotification" means notice submitted to the Price Commission or Pay Board relating to a proposed price adjustment or pay adjustment.

"Price adjustment" means a change in the unit price of property or services or a decrease in the quality of substantially the same property or services, unless exempt or outside the scope of the Economic Stabilization Act of 1970, as amended.

"Price Commission" means the Commission established pursuant to section 8, Executive Order No. 11627, October 15, 1971.

"Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificates of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to our purchase, any of the foregoing.

Subpart F—Special Temporary Provisions

§ 101.101 Special provisions applicable from Nov. 14, 1971-Jan. 1, 1972.

Notwithstanding the provisions of §§ 100.11 and 100.21:

(a) Pay adjustments scheduled to take effect between November 14, 1971 and January 1, 1972 pursuant to existing contracts or pay practices in effect before November 14, 1971, need not be prenotified to, or approved by, the Pay Board, but must be reported to the Pay Board in accordance with its regulations and will be otherwise subject to such regulations. The provisions of this subparagraph shall not apply to pay adjustments which are subject to the provisions of Executive Order No. 11588, March 29, 1971.

(b) After November 14, 1971 and until January 1, 1972, a price category I firm is not required to submit a prenotification and obtain approval of a proposed price adjustment if it meets the criteria of § 300.51 of this title.

[FR Doc. 71-16762 Filed 11-12-71; 7:06 pm]

CHAPTER II—PAY BOARD

Part 201—Stabilization of wages and salaries

On August 15, 1971 the President announced a freeze on prices, rents, wages, and salaries for a period of 90 days ending midnight, November 13, 1971. By Executive Order No. 11627 of October 15, 1971, the President provided for an orderly transition from the 90-day general freeze to a more flexible system of economic restraints. Under that Order, the President established a Pay Board to be composed of 15 members (i.e., five representatives each from labor, business, and the general public) to be appointed by him. On November 8, 1971, the Pay Board adopted policies governing pay adjustments to be effective after the 90-day general freeze. A statement of that policy is set forth below as an appendix to regulations prescribed by the Pay Board.

Pursuant to the authority vested in the Pay Board by the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, Stat. 38), Executive Order No. 11627 (36 F.R. 20139, October 16, 1971), and Cost of Living Council Order No. 3 (36 F.R. 20202, October 16, 1971), the Pay Board hereby adopts the following regulations (including the policy statement) in implementation of the President's economic program. A new Chapter II—Pay Board is hereby established in title 6—Economic Stabilization of the Code of Federal Regulations and a new Part 201—Stabilization of Wages and Salaries is added thereto.

Because of the need for immediate guidance from the Pay Board with respect to the provisions contained in these regulations, it is hereby found impracticable to issue such regulations with notice and public procedure thereon under 5 U.S.C., sec. 553(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

Effective date. This part shall be effective at 12:01 a.m. on November 14, 1971.

GEORGE H. BOLDT,
Chairman of the Pay Board.

Subpart A—Introduction

Sec.
201.1 Purpose.
201.2 Extent to which the regulations under this chapter supersede or affect prior regulations and other published matter.
201.3 Definitions.

Subpart B—Pay Stabilization

201.10 General wage and salary standard.
201.11 Review of new contracts and pay practices in relation to the wage and salary standard.
201.12 Reduction of wages and salaries.
201.13 Scheduled increases in wages and salaries for services rendered after August 15, 1971, and before November 14, 1971.
201.14 Wage and salary increases effective after November 13, 1971.
201.15 Unaffected wages and salaries.

Appendix—Policies Governing Pay Adjustments Adopted by the Pay Board November 8, 1971

AUTHORITY: The provisions of this Part 201 issued under Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, Stat. 38), Executive Order No. 11627 (36 F.R. 20139, Oct. 16, 1971), and Cost of Living Council Order No. 3 (36 F.R. 20202, Oct. 16, 1971).

Subpart A—Introduction

§ 201.1 Purpose.

The purpose of these regulations is to establish rules and standards to stabilize wages and salaries, as defined in § 201.3, in accordance with the provisions of Executive Order No. 11627, and to provide guidance and procedures for an orderly transition from the 90-day general freeze imposed by Executive Order No. 11615. All persons are required by law to comply with the provisions of the Economic Stabilization Act of 1970 as amended, and all Executive orders, regulations (including this regulation), circulars, and orders issued thereunder, and all persons are expected to comply voluntarily with such law, orders, and regulations. The policies governing pay adjustments, adopted by the Pay Board on November 8, 1971, are attached as an appendix to this part.

§ 201.2 Extent to which the regulations under this chapter supersede or affect prior regulations and other published matter.

(a) To the extent that any provision of Economic Stabilization Regulation No. 1, as amended, or any provision of the circulars issued pursuant thereto is inconsistent with the provisions set forth in this chapter, the provisions of this chapter shall be controlling.

(b) To the extent that neither the Cost of Living Council nor the Pay Board issues regulations with respect to specific matters concerning wages and salaries, such matters shall continue to be subject to Economic Stabilization Regulation No. 1, as amended, and the circulars issued pursuant thereto.

§ 201.3 Definitions.

For purposes of this part—

"Party at interest" means:

(1) A bargaining representative of employers who could be required to pay the wages and salaries in question, or in the absence of such bargaining representative, an employer who could be required to pay the wages and salaries in question; or

(2) A bargaining representative of employees who could receive payment of wages and salaries in question, or in the absence of such bargaining representative, an employee who could receive payment of wages and salaries in question.

"Wages and salaries" includes all forms of direct and indirect remuneration or inducement to employees by their employers for personal services, which are reasonably subject to valuation, including but not limited to: Vacation and holiday payments; bonuses; layoff and severance pay plans; supplemental unemployment benefits; night shift, overtime, and incentive pay; employer contributions for insurance plans (but not including public plans, e.g. old-age, survivors, health, and disability insurance under the Social Security system, Railroad Retirement Acts, Federal Insurance Contributions Acts, Federal Unemployment Tax Acts and Civil Service Retirement Acts); savings, pension, profit sharing, annuity funds, and other deferred compensation and welfare benefits; payments in kind; job prerequisites; housing allowances; uniform and other work clothing allowances (but not including employer-required uniforms and work clothing whether or not for safety purposes); cost-of-living allowances; commission rates, stock options, and other fringe benefits which result in more pay per hour or other unit of work or production (e.g. by shortening the workday without a proportionate decrease in pay).

Subpart B—Pay Stabilization

§ 201.10 General wage and salary standard.

On and after November 14, 1971, the general wage and salary standard shall be applicable to new labor agreements and, where no labor agreement is in effect, to existing pay practices. On and after such date, permissible annual aggregate increases will be those normally considered supportable by productivity improvement and cost of living trends. Initially, the general wage and salary standard is established as 5.5 percent. The appropriateness of this figure will be reviewed periodically by the Pay Board, taking into account such factors as the long-term productivity trend of 3 percent, cost of living trends, and the objective of reducing inflation.

§ 201.11 Review of new contracts and pay practices in relation to the wage and salary standard.

In reviewing new contracts and pay practices, the Pay Board will consider ongoing collective bargaining and pay practices, and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

§ 201.12 Reduction of wages and salaries.

No reduction in wages and salaries being paid November 13, 1971, will be required pursuant to this part unless and to the extent that such wages and salaries were increased in violation of the Economic Stabilization Act of 1970, as amended, and orders and regulations issued pursuant thereto.

§ 201.13 Scheduled increases in wages and salaries for services rendered after August 15, 1971, and before November 14, 1971.

Payments of scheduled increases in wages and salaries for services rendered by employees after August 15, 1971, and before November 14, 1971, which were not made because prohibited by the freeze, may be made retroactive only if approved by the Pay Board. The Pay Board may approve such payments in the following circumstances applicable to individual cases or categories of cases:

(a) It is demonstrated that the employer of the employees on whose behalf such payment is being sought raised the prices for his products or services prior to August 16, 1971, in anticipation of wage and salary increases scheduled to be paid to such employees after August 15, 1971.

(b) It is demonstrated that a wage and salary agreement or pay schedule or practice adopted after August 15, 1971, succeeded an agreement, schedule, or practice that expired or terminated prior to August 16, 1971, and retroactivity is demonstrated to be an established past practice of an employer and his employees or retroactivity had been agreed to prior to November 14, 1971.

(c) It is demonstrated that the proposed retroactive payment satisfies such further criteria as the Pay Board may hereafter establish to remedy severe inequities.

§ 201.14 Wage and salary increases effective after November 13, 1971.

Existing contracts and pay practices previously set forth will be allowed to operate according to their terms except that specific contracts or pay practices are subject to review, when challenged by a party at interest or by five or more members of the Pay Board, to determine whether any increase is unreasonably inconsistent with the criteria established by this Board. In reviewing existing contracts and pay practices, the Pay Board will consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employee's compensation.

§ 201.15 Unaffected wages and salaries.

Until further action of the Pay Board, those classes of wages and salaries which were held by the Cost of Living Council not to be subject to control by the freeze shall not be affected by this part. However, this section shall not exempt any contracts subject to Executive Order No. 11588 of March 29, 1971, relating to the stabilization of wages and prices in the construction industry, as amended by Executive Order No. 11627 of October 16, 1971, further providing for the stabilization of the economy, from the general wage and salary standards in this part.

APPENDIX

Policies governing pay adjustments adopted by the Pay Board, November 8, 1971

1. Millions of workers in the Nation are looking to the Pay Board for guidance with respect to permissible changes in wages, salaries, various benefits and all other forms of employee total compensation. It is imperative to have a simple standard with as broad a coverage as possible at as early a date as possible. There is probably a need for exceptions and for individual consideration of special situations as soon as practical, and guidance to the millions whose pay relations are relatively simple is an early essential.

2. This general pay standard is intended, in conjunction with other needed measures, to meet the objectives which led to the establishment of this Board.

3. The general pay standard should be applicable to:

(1) Changes that need approval before becoming effective;

(2) Changes that must be reported when they become effective; and

(3) All other changes requiring compliance but not requiring specific approval or reporting.

4. (a) Effective November 14, 1971, the general pay standard shall be applicable to new labor agreements and, where no labor agreement is in effect, to existing pay practices. The general pay standard would provide:

On and after November 14, 1971, permissible annual aggregate increases would be those normally considered supportable by productivity improvement and cost of living trends. Initially, the general pay standard is established as 5.5 percent. The appropriateness of this figure will be reviewed periodically by the Board, taking into account such factors as the long-term productivity trend of 3 percent, cost of living trends, and the objective of reducing inflation.

In reviewing new contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employees' compensation.

(b) Existing contracts and pay practices previously set forth will be allowed to operate according to their terms except that specific contracts or pay practices are subject to review, when challenged by a party at interest or by five or more members of the Board, to determine whether any increase is unreasonably inconsistent with the criteria established by this Board. In reviewing existing contracts and pay practices, the Pay Board shall consider ongoing collective bargaining and pay practices and the equitable position of the employees involved, including the impact of recent changes in the cost of living upon the employee's compensation.

(c) Scheduled increases in payment for services rendered during the "freeze" of August 16 through November 13, 1971, may be made only if approved by the Board in specific cases. The Board may approve such payments in cases which are shown to meet any of the following criteria:

(1) Prices were raised in anticipation of wage increases scheduled to occur during the "freeze."

(ii) A wage agreement made after August 15, 1971 succeeded an agreement that had expired prior to August 16, 1971, and retroactivity was an established practice or had been agreed to by the parties.

(iii) Such other criteria as the Board may

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hereafter establish to remedy severe inequities.

5. Following approval of special procedures by the Pay Board with respect to hearing "prior approval" cases and other special situations, application may be made for an exception to the general pay standard and for a hearing on such matters as inequities and sub-standard conditions.

6. No retroactive downward adjustment of rates now being paid will be required by operation of the general pay standard unless the rates were raised in violation of the freeze or of the general pay standard.

7. Provisions may be considered for vacation plans, in-plant adjustments of wages and salaries, in-grade and length of service increases, payments under compensation plans, transfers and the like.

(FR Doc. 71-16753 Filed 11-21-71; 4:43 pm)

CHAPTER III—PRICE COMMISSION

Part 300—Price and rent stabilization

It is the purpose of the regulations hereby adopted to provide guidance and procedures for the implementation of Price Commission policies designed to achieve a goal of holding average price increases across the economy to a rate of no more than 2½ percent per year. It is expected that all persons will voluntarily comply with the provisions contained in these regulations and all orders and other guidance issued hereunder.

In order to prescribe regulations for the stabilization of prices and rents after November 13, 1971, a new Chapter III—Price Commission is hereby established in Title 6—Economic Stabilization of the Code of Federal Regulations, and a new Part 300—Price and Rent Stabilization is added thereto and the following regulations are hereby adopted effective November 14, 1971:

Subpart A—General

Sec.

300.001 Summary.
300.011 General rule.
300.012 Manufacturers.
300.013 Retailers and wholesalers.
300.014 Service organizations.
300.015 Rental of real property.
300.016 Regulated public utilities.
300.051 Prenotification firms.
300.052 Reporting firms.
300.080 Other considerations.
300.101 Definition of terms.
300.201 Seasonal patterns.
300.202 Taxes.
300.203 Contracts entered into prior to August 15, 1971.
300.204 Formula-determined rentals.
300.401 Exemptions.
300.498 May 25, 1970, limitation date.
300.499 Price Commission address.

Subparts B–E [Reserved]

Subpart F—Base Price

300.501 In general.
300.505 Sales and leases of personal property and services.
300.507 Sales and leases of real property.
300.509 New property and new services.
300.511 Geographic limitation.
300.513 Definitions.

Subpart G—Procedures and Administration

300.601 Records and ceiling price lists.
300.612 Exceptions by ruling.
300.613 Rulings.
300.614 Adverse determinations and appeal.
300.615 Failure to obtain relief.
300.616 Reports of alleged violations.
300.651 Penalties.

AUTHORITY: The provisions of this Part 300 issued under the Economic Stabilization Act of 1970, as amended (Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38), Executive Order No. 11627 (36 F.R. 20139, October 16, 1971), and Cost of Living Council Order No. 4 (36 F.R. 20202, October 16, 1971).

Subpart A—General

§ 300.001 Summary.

The rules contained in this subpart relate to increases in prices and rents which are allowable after November 13, 1971, with respect to:

(a) Sales and leases of personal property,
(b) The furnishing of services, and
(c) Sales and leases of real property.

See § 300.011 for the general rule regarding increases in prices with respect to sales and leases for property and with respect to services. For special rules applicable to—

(d) Manufacturers, see § 300.012,
(e) Retailers and wholesalers, see § 300.013,
(f) Service organizations, see § 300.014,
(g) Rental property, see § 300.015,
(h) Regulated industries, see § 300.016.

For rules relating to firms required to notify the Price Commission before a price and rent increase can take effect, see § 300.051. For rules relating to firms required to make periodic reports to the Price Commission, see § 300.052. See § 300.101 for definitions of terms used in this subpart. For rules with respect to certain special situations, see §300.201 and following. For rules exempting certain transactions from the operation of this subpart, see §300.401.

§ 300.011 General rule.

Except as otherwise provided in this subpart, no person may charge a price or rent, with respect to any transaction involving sales or leases of property or services occurring after November 13, 1971, which exceeds the base price as determined under the rules prescribed in Subpart F of this part.

§ 300.012 Manufacturers.

A manufacturer may charge a price in excess of the base price (as determined under Subpart F of this part), to reflect allowable cost increases in effect on or after November 14, 1971, reduced to reflect productivity gains; provided, however, that the effect of all of a manufacturer's price changes is not to increase its profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period (as defined in § 300.101).

§ 300.013 Retailers and wholesalers.

(a) *In general.* A person engaged in retailing or wholesaling may charge a price in excess of the base price where—

(1) The customary initial percentage markup with respect to the property sold is equal to or less than such person's customary initial percentage markup which prevailed during the base period (as defined in § 300.101), provided

(2) The effect of all such person's price changes is not to increase its profit margin as a percentage of sales, before income taxes, over that which prevailed during the base period.

(b) *Posting Requirement.* (1) a retailer is required to display prominently at the place of sale, base prices with respect to:

(i) All food products (except those which are exempt under the provisions of § 300.-401); and

(ii) Those 40 items in each department which have the highest sales volume, or those items which account for 50 percent of total sales in each department, whichever is less.

Such base prices must be posted on or before January 1, 1972. No increase in price is allowable under paragraph (a) of this section until such base prices have been posted.

(2) A retailer must utilize the following interim procedure until base prices are posted under subparagraph (1) of this paragraph, with respect to base prices for all products (except for those exempted under § 300.401), and thereafter, with respect to base prices not posted under subparagraph (1) of this paragraph:

(i) There shall be posted on each floor of his establishment at least one sign (minimum of 22" x 28"), as specified below, announcing availability of base price information:

Base Price Information

Information regarding the lawful base price for any item sold by this store not posted may be obtained by filling in a Base Price Information Request Form available at (specify location) and by handling it to (fill in). You will receive a speedy answer by mail.

(ii) There shall be made available in at least one location on each selling floor, Base Price Information Request Forms, as specified below:

Base Price Information Request Forms

Please furnish me with your base price on the following item sold in your store:

Item _____
(Describe)
Retail price_____
Style No_____
Department where sold_____
Name _____
Address _____
_____ Zip _____

(c) The retailer shall respond to each such written request for base price information within 48 hours from receipt of the request using a letter, in substance similar to the one specified below, and signed by the owner or by an officer of the company:

To: (Name, Address, City, Zip)

Dear _____:

In reply to your request, we are pleased to inform you that our base price for _____ is $_____.

Sincerely,

_____
Owner or company officer

§ 300.014 Service organizations.

A person which is a service organization may charge a price in excess of the base price with respect to the furnishing of services or the leasing of personal property only to reflect allowable cost in effect on November 14, 1971, and cost increase incurred after November 14, 1971, reduced to reflect productivity gains: *Provided, however,* That such increased price shall not result in an increase in such person's profit margin as a percentage of sales, before income taxes, which prevailed during the base period.

§ 300.015 Rental of real property.

(a)–(c) [Reserved]

(d) *Special record requirement.* Persons leasing or offering to lease any real property shall maintain records showing—

(1) The base price (as defined in Subpart F of this part) charged with respect to each unit of real property,

(2) The reason for any difference in the price described in subparagraph (1) of this paragraph and the price allowable on or after November 14, 1971, and

(3) The reason for any difference between the price described in subparagraph (1) of this paragraph and the maximum price allowable during the period beginning August 15, and ending November 13, pursuant to executive Order 11615.

Such records shall be made available upon the request of any tenant, prospective tenant, or representative of the Price Commission.

§ 300.016 Regulated public utilities.

(a) *In general.* A person which is a regulated public utility as defined in section 7701 (a)(33) of the Internal Revenue Code of 1954 (26 U.S.C. section 7701(a)(33)) may

charge a price, rate, or tariff in excess of the base price if such increase has been approved by a regulatory agency. A regulated person who had gross receipts of $100 million or more during its most recent fiscal year ending on or before November 13, 1971, shall inform the Price Commission of all requests for rate increases and immediately notify the Commission in writing of any agency order granting an increase and of any other authorized increase. A regulated person who had gross receipts between $50 and $100 million during its most recent fiscal year ending on or before November 13, 1971, shall immediately notify the Commission in writing of any agency order granting an increase and of any other authorized increase.

(b) *Special rule.* In the case of rate increases which were approved by a regulatory agency before November 14, 1971, but which were not permitted to take effect due to Executive Order 11615, such rate increase may take effect with respect to transactions occurring after November 13, 1971. However, before such increases may take effect, such regulatory agency shall review such increases with regard to their consistency with the purposes of the Economic Stabilization Act of 1970, as amended.

§ 300.051 Prenotification firms.

(a) *In general.* A person which is a prenotification firm (as defined in § 300.101) may not charge a price in excess of the base price before the Price Commission has approved such increased price. However, in the event the Price Commission does not act upon a requested price increase within 30 days after receipt by the Price Commission of the request for such increase, such increase may go into effect.

(b) *Exceptions.* Prenotification requirements are not applicable:

(1) For wholesalers and retailers.

(2) With respect to price changes resulting from calculation of a base price under Subpart F of this part or from the operation of § 300.203, relating to contracts entered into prior to August 15, 1971.

(3) In respect of any price increase which reflects increases in costs of labor which become effective during the period November 14, 1971, through December 31, 1971.

(c) *Manner of notification.* Such person shall notify the Price Commission of its intention to raise the price of a product or service on forms to be prescribed by the Commission and shall provide information sufficient to enable the Commission to make a determination with respect to such proposed increase. If the Commission finds that the information submitted is not sufficient to make such a determination it shall notify the person and the 30-day period provided in paragraph (a) of this section shall begin to run from the time the additional information is submitted.

(d) *Reporting requirement.* Such person shall file a quarterly report with the Price Commission within 15 days after the end of each fiscal quarter commencing with its first fiscal quarter ending after November 13, 1971. Such quarterly reports shall be made on forms to be prescribed by the Commission and shall contain the information required by such forms.

§ 300.052 Reporting firms.

(a) *In general.* A person which is a reporting firm shall file a quarterly report with the Price Commission in the form provided in paragraph (b) of this section within 15 days after the end of each fiscal quarter commencing with its first fiscal quarter ending after November 13, 1971.

(b) *Manner of filing.* The quarterly report required under paragraph (a) of this section shall be made on forms to be prescribed by the Commission and shall contain the information required by such forms.

§ 300.080 Other consideration.

In making any determination, the Price Commission will take into account whatever factors it considers relevant to an equitable resolution of the case and considers necessary to achieve the overall goal of holding average increases across the economy to a rate of no more than 2½ percent per year.

§ 300.101 Definition of terms.

(a) *In general.* Except as otherwise provided, the definitions contained in this section shall only apply for purposes of Subpart A of this part.

(b) *Organizations subject to freeze*—(1) *Manufacturer.* The term "manufacturer" means a person who carries on the trade or business of making, fabricating, or assembling a product or commodity by manual labor or machinery for sale to another person or persons.

(2) *Retailer and wholesaler*—(i) *Retailer.* The term "retailer" means a person who carries on the trade or business of selling property to ultimate consumers.

(ii) *Wholesaler.* The term "wholesaler" means a person who carries on the trade or business of purchasing property and, without substantially changing the form of such property, reselling it to another person who is not the ultimate consumer.

(3) *Service organization.* The term "service organization" means a person who carries on the trade or business of selling or making available services, including the leasing of property to another person or persons. The term also includes nonprofit organizations, governments and governmental instrumentalities which carry on such activities. The term also includes a person which provides professional services.

(4) *Person.* The term "person" includes any individual, trust, estate, partnership, association, company, corporation, or instrumentality of a governmental unit. However, such term does not include a foreign government, an instrumentality of a foreign government or an international organization.

(c) *Accounting terms*—(1) *Customary initial percentage markup.* The term "customary initial percentage markup," means, the customary initial percentage markup, determined on an item, product line, department, store or other pricing unit basis according to the person's customary pricing practice. For these purposes, the initial markup is that markup which is applied to merchandise when first offered for sale.

(2) *Allowable cost.* The term "allowable cost" means any cost, direct or indirect, unless disallowed by the Price Commission.

(3) *Profit margins.* The term "profit margin," means the ratio that net profits (determined before taxes) bears to gross sales as reported on the person's published financial statement and in accordance with generally accepted accounting principles consistently applied. For purposes of determining net profits, extraordinary items and taxes on income shall not be taken into account.

(d) *Reporting requirements*—(1) *Firm.* The term "firm" means a person whose gross income, in whole or in part, is derived from sales. For purposes of this section, if a firm or firms are controlled directly or indirectly by another firm, the controlled firm or firms and the controlling firm shall be treated as a single firm.

(2) *Reporting firms.* The term "reporting firm" means a firm subject to the requirements of § 101.13 of Chapter I, Part 101 of this title.

(3) *Prenotification firms.* The term "prenotification firm" means a firm subject to the requirements of § 101.11 of Chapter I, Part 101 of this title.

(e) *Base period*—(1) *Base period.* The term "base period" means the average of any two of a person's last 3 fiscal years ended prior to August 15, 1971, the selection of such 2 fiscal years to be made by such person.

(2) *Markup base period.* The term "markup base period" shall mean, at the person's option, either

(i) The last customary initial markup prior to November 14, 1971, or

(ii) The person's last fiscal year ending prior to August 14, 1971.

(f) *Base price.* The term "base price" means base price as defined in Subpart F of this part.

(g) *Other definitions*—(1) *Product.* The term "product" means an item of tangible personal property offered for sale to another person or persons.

(2) *Product line.* The term "product line," means an aggregation of products of the same manufacturer or different manufacturers, substantially similar as to intended function, usage, and structure, and offered for sale simultaneously, or within the same commercial season, by a person or persons.

(3) *United States.* The term "United States" means the States, the District of Columbia, the Commonwealth of Puerto Rico.

§ 300.201 Seasonal patterns.

(a) *In general.* Notwithstanding any provisions of this subpart, prices (including rents) which normally fluctuate in distinct seasonal patterns may be adjusted subject to the provisions of this section.

(b) *Distinct fluctuation.* Prices must show a large or otherwise distinct fluctuation at a specific, identifiable point in time. Such distinct fluctuations must be an established practice that has taken place in each of the past 3 years. New persons may determine their qualifications from those generally prevailing with respect to persons similarly situated, selling or leasing in the same marketing area. If there are no such similar persons in the immediate area, qualification may be established by reference to the nearest similar marketing area.

(c) *Time of price fluctuation.* The price fluctuation referred to in paragraph (b) of this section may not take place at a time other than the time at which such fluctuation took place in the preceding year unless the date of the price fluctuation is tied to a specific event such as a previously planned introduction of new models.

(d) *Allowable price.* If the requirements of paragraphs (b) and (c) of this section are met, the maximum price which may be charged by such person shall be either—

(1) The base price determined under the provisions of Subpart F of this part, or

(2) The price charged by such person during the first 30 days of the period following the seasonal price adjustment in the preceding year, whichever is greater. For purposes of this subparagraph (2), the price charged during such 30-day period shall be the weighted average of the prices charged on all transactions occurring during such period.

(e) *Limitation.* Notwithstanding the provisions of paragraph (d), of this section, the price charged by such person may not result in an increase of its profits margin as a percentage of sales, before income taxes, over that prevailing during the base period.

(f) *Return to nonseasonal prices.* Prices must be adjusted downward at the same date or identifiable point in time as in the previous season.

§ 300.202 Taxes.

Notwithstanding any other provision of this subpart, prices with respect to transactions occurring after November 13, 1971, may be increased dollar-for-dollar to reflect increases in excise taxes (including sales and use taxes), and duties on imports (including the import surcharge imposed by the President on August 15, 1971), but not increased

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franchise, gross receipts, property, or income taxes.

§ 300.203 Contracts entered into prior to August 15, 1971.

Notwithstanding any other provisions of this subpart, the price specified in any binding contract for the sale of property or services entered into prior to August 15, 1971, with respect to any delivery or performance occurring after November 13, 1971, shall be allowable provided that the contract price shall not exceed that amount which would result in an increase in the person's profit margin as a percentage of sales, before income taxes, over that prevailing during the base period.

§ 300.204 Formula-determined rentals.

Leases of personal or real property entered into prior to August 15, 1971, in which the periodic rental price is determined by means of a formula specified in the lease agreement may continue with such formula in effect. However, any increases in the periodic rental price due to the passage of time or increases in the consumer price index shall not be allowed.

§ 300.401 Exemptions.

The provisions of this Part 300 shall apply to all transactions involving the sale or lease of property and services except those enumerated in Subpart D of Part 10 of this title.

§ 300.498 May 25, 1970, limitation date.

No provision in this subpart shall operate to require a person to establish a price or rent which is lower than the average price which was received by the person in arms-length transactions involving the property or service on May 25, 1970. In cases where there were no arms-length transactions on May 25, 1970, involving the person, the nearest date preceding May 25, 1970, on which such a transaction did occur shall be deemed to be May 25, 1970, for purposes of this section. However, the rules contained in this section shall not apply if the person did not offer the property or service on May 25, 1970, due to causes other than the temporary closing of his business.

§ 300.499 Price Commission address.

Any document, report, or other information required by these regulations to be sent directly to the Price Commission shall be addressed to—Price Commission, 2000 M Street NW., Washington, DC 20508.

Subparts B—E [Reserved]

Subpart F—Base Price

§ 301.501 In general.

The rules in this subpart relate to the determination of the base price for the purposes of applying the provisions contained in Subpart A of this part, after November 13, 1971, with respect to:

(a) Sales and leases of personal property,

(b) The furnishing of services, and

(c) Sales and leases of real property.

The base price is either (1) the ceiling price permitted for the period beginning August 15, 1971, and ending November 13, 1971, or (2) such ceiling price as adjusted in accordance with the rules provided in this subpart which shall then constitute the base price. See § 300.505 for rules relating to the determination of the base prices with respect to sales and leases of personal property and with respect to services, § 300.507 for rules relating to the determination of base prices with respect to sales and leases of real property, and § 300.509 for rules relating to the determination of base prices with respect to sales and leases of new property and with respect to new services, as therein defined.

§ 300.505 Sales and leases of personal property and services.

(a) *Sales of personal property and services.* The base price with respect to sales of personal property and services is the highest price charged by the person to a specific class of purchasers in a substantial number of transactions involving such personal property or services during the freeze base period (as defined in § 300.513).

(b) *Leasing of personal property.* The base price with respect to the leasing of personal property is the highest price charged to a specific class of purchasers with respect to leases of the same or substantially identical personal property in a substantial number of transactions during the freeze base period.

(c) *Ten-percent rule.* For purposes of paragraphs (a) and (b) of this section and paragraph (b) of § 300.507, the highest price in a substantial number of transactions during the freeze base period shall be the highest price at or above which 10 percent of the units were priced in transactions with a specific class of purchasers during the freeze base period.

§ 300.507 Sales and leases of real property.

(a) *Sales of real property.* This section applies to sales of real property not exempted under § 300.401. The base price with respect to the sale of any interest in real property which is held by the person for sale in the ordinary course of trade or business is the highest price received with respect to the same type of interest in similar real property during the freeze base period. In the case of a sale of an interest in real property which is not held for sale in the ordinary course of a trade or business, such interest shall be deemed to be new property for purposes of paragraph (d) of § 300.509.

(b) *Leases of real property*—(1) *In general.* The base price for a lease of an interest in real property is the highest price charged by the person with respect to the same or substantially identical rental units in a substantial number of transactions during the freeze base period. A provision is a lease of an interest in real property executed prior to August 15, 1971, which provides for an increased rental to take effect August 14, 1971, may take effect after November 13, 1971, to the extent such increased rental does not exceed the base price for the rental of such real property.

(2) *Property vacant during freeze base period.* If the property had been vacant for more than 1 year prior to the beginning of the lease period, the provisions of § 300.509 (b) relating to new real property shall apply.

§ 300.509 New property and new services.

(a) *In general.* For purposes of this section, new property or new services means property or services which the person has not offered for sale (or lease in the case of property) at any time during the 1-year period immediately preceding the date on which the person is offering the property or service for sale (or lease).

(b) *Lease of real property.* In the case of a person offering real property for lease which was never previously leased, the base price shall be determined by a computation based on the average arms-length price received by persons leasing comparable property in the same marketing area. For purposes of determining the average price referred to in the preceding sentence, only a quantity of transactions which is not insubstantial in relation to the total number of such transactions need be taken into consideration. A property, or part thereof, which undergoes a substantial capital improvement shall be treated as new property for purposes of a lease. For purposes of this paragraph a substantial capital improvement means a permanent improvement or betterment made to increase the value of the property or to restore the property or part thereof, the cost of which equals or exceeds at least 3 months' rent and exceeds $250.

(c) *Personal property or services.* Personal property or services shall be deemed new if substantially different from other property or services in purpose, function, quality, or technology or if the use of such property or service effects a substantially different result. Property or services that differ from other property or services only in appearance, arrangement, combination, or function shall not be considered as new. A change in fashion, style, form, or packaging will not ordinarily be deemed to create a new property or service. A property, or part thereof, which undergoes a substantial capital improvement shall be treated as new property for purposes of a lease. For purposes of this paragraph a substantial capital improvement means a permanent improvement or betterment made to increase the value of the property or to restore the property, the cost of which equals or exceeds at least 3 months' rent and which exceeds $100.

(d) *Base price determination.* In the case of a person offering new property or new services, the base price shall be deemed to be, at the election of such person, either—

(1) The price determined under the method prescribed in paragraph (e) of this section, or

(2) The price determined under the method prescribed in paragraph (f) of this section.

(e) *First method.* The method referred to in paragraph (d)(1) of this section is a method by which a person may determine the price with respect to new property or services by a computation based on the unit cost (including direct and indirect costs) of a similar property or services of such person plus a factor for profit (before income taxes) which equals the profit rate actually earned with respect to such similar property or services. The rules in this paragraph shall not be applicable to transactions involving property or services with respect to which the person offers no other property or services which are similar thereto.

(f) *Second method.* The method referred to in paragraph (d)(2) of this section is a method by which a person may determine the price with respect to new property or services by a computation based on the average prices received in a substantial number of arms-length transactions by persons selling or leasing comparable property or services in the same marketing area.

§ 300.511 Geographic limitation.

The provisions of this subpart shall not be applicable to transactions for sales, leases, or services occurring outside the United States. For purposes of this paragraph, a transaction shall be deemed to occur outside the United States if delivery of the property or rendering of the service which is the subject matter of the transaction occurs outside the United States, or if real estate which is the subject matter of the transaction is located outside the United States. If personal property which is the subject of a lease is used both inside and outside the United States during the period of the lease, the transaction shall be deemed to have occurred exclusively in the United States and the provisions of this subpart shall apply. Similarly, if services are partially rendered in the United States, and partially outside the United States, the services shall be deemed to have been performed exclusively in the United States.

§ 300.513 Definitions.

(a) *In general.* Unless otherwise indicated, the definitions contained in this section shall apply for purposes of Subparts F and G of this part.

(b) *Transaction.* A "transaction" shall be deemed to occur at the time and place a binding contract is entered into between the parties to the transaction. A "transaction" shall mean an arms-length transaction, and shall include only transactions between unrelated persons which are not members of a controlled group.

(c) *United States.* The term "United States" means the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) *Person.* The term "person" includes any individual, estate, trust, partnership, association, company, corporation, governmental unit, or instrumentality of a governmental unit. However such term does not include a foreign government, an instrumentality of a foreign government, an international organization.

(e) *Freeze base period.* The term "freeze base period" means either—

(1) The period beginning July 16, 1971, and ending August 14, 1971, or

(2) If a person had no transaction during the period specified in subparagraph (1) of this paragraph the nearest preceding 30-day period in which he had a transaction.

(f) *Unrelated person.* The term "unrelated person" refers to a person other than a person described in 26 U.S.C. section 267(b), as amended.

(g) *Controlled group.* The term "controlled group" means a controlled group of corporations are defined in 26 U.S.C. section 1563(a).

(h) *Price.* The term "price" includes commissions, membership dues, margins, rates, fees, charges, tariffs, and premiums without regard to the form in which paid. The term also includes rents for the lease of real or personal property.

(i) *Service.* The term "service" includes all services rendered by one person for another person other than in an employment relationship (determined under the normal common law rules). The term also includes for example professional services of any kind and services rendered by membership associations for which dues are charged.

(j) *Sale.* The term "sale" includes all sales, exchanges, transfers, and dispositions.

(k) *Lease.* The term "lease" includes any contract for the use of real or personal property of any description.

(l) *Rent.* The term "rent" means any price for the use of real or personal property of any description. The term also includes any charge, no matter how denominated in the lease or other agreement, for the use of any property or for any service in connection with the use of leased property.

(m) *Class of purchasers.* The term "class of purchasers" means purchasers to whom a person has charged a comparable price for comparable property or service during the freeze base period pursuant to customary price differentials between those purchasers and other purchasers. The term "customary price differentials" includes, but is not limited to, price distinctions based on discounts, allowances, add-ons, premiums, and extras based on differences in volume, grade, quality, or location or type of purchaser, or terms or conditions of sale or delivery.

Subpart G—Procedure and Administration

§ 300.601 Records and ceiling price lists.

(a) *In general.* Any person who sells property or services, or leases property subject to the price and rent stabilization requirements of this Part 300 shall keep such permanent books of account or records as are sufficient to establish the base prices for all such property or services offered for sale or lease by such person and the prices at which such property or services were actually sold or leased.

(b) *Inspection of records or lists.* Records required to be maintained under paragraph (a) of this section shall be made available for inspection at any time upon the request of an officer or employee of the Internal Revenue Service for the purpose of ensuring compliance with the requirements of this part.

(c) *Special rule for imported items.* In addition to the records and lists required to be maintained under paragraphs (a) and (b) of this section, any item which has been imported into the United States and upon which an import surcharge has been imposed by the President in conjunction with other measures taken under the Economic Stabilization Act of 1970, as amended, shall when sold, clearly have indicated upon the accompanying sales ticket or invoice the exact amount of the import surcharge the seller is passing on to the customer or that such an import surcharge though so imposed, is not being passed on.

(d) *Period for keeping records.* All records required to be kept under this section shall be maintained and preserved by the person required to keep such records for at least 4 years after the last day of the calendar year in which the transactions or other events recorded in such accounts or records occurred or the property was acquired by such person, whichever is later.

§ 300.612 Exceptions by ruling.

(a) *In general.* The Chairman of the Price Commission, or his delegate, will by rulings make such exceptions from the operation of this Part 300 as the Price Commission deems necessary for the purpose of preventing or correcting gross inequities.

(b) *Requests for exceptions.* Except as otherwise prescribed by the Price Commission, persons requesting exceptions from the operation of this Part 300 should submit their request, in writing, to the District Director of Internal Revenue for the district in which such person has his residence or principal place of business. The request should state the reason why the exception is being requested and should contain sufficient information to establish to the satisfaction of the Price Commission that—

(1) The application of the provisions of this part to such person would result in a serious hardship or gross inequity, and

(2) That the request for exception is not part of a plan having as one of its principal purposes the avoidance of the purposes of the Economic Stabilization Act of 1970, as amended, and this Part 300. (See § 300.613 for a more detailed description of the manner in which a request for determination by the Price Commission should be made.)

§ 300.613 Rulings.

(a) *In general.* In the interest of sound administration of the Economic Stabilization Act of 1970, as amended, and this Part 300, the Internal Revenue Service will answer inquiries of persons regarding their status for price and rent stabilization purposes and as to the applicability of this Part 300 to their proposed acts or transactions.

(b) *Price stabilization ruling.* A "Price Stabilization Ruling" is an official interpretation of the law by the Internal Revenue Service which has been published in the Price Stabilization Bulletin. Price Stabilization Rulings are published for the information and guidance of the Price Commission, Internal Revenue Service officials and others concerned.

(c) *Ruling guidelines.* (1) Rulings will be issued only with respect to prospective transactions.

(2) Rulings will not be issued on alternative plans of proposed transactions or on hypothetical situations.

(3) A ruling will not be issued if the national office of the Internal Revenue Service knows or has reason to believe that the same or identical issue in connection with a possible violation of this part by the person who is the subject of the ruling request is before any field office of the Service or any other agency charged with enforcement of this part.

(4) Further, a ruling will not be issued with respect to a matter upon which a recent court decision adverse to the Government has been handed down until the Government has decided whether to follow the decision or litigate further.

(d) *Instructions.* Any person requesting a ruling should direct such request, in writing to the District Director of Internal Revenue for the district in which such person has his residence or principal place of business. Each request for a ruling must include—

(1) A complete statement of all such information as is relevant to the status of the person and proposed transaction under this Part 300,

(2) Copies of all relevant documents affecting such status or transactions, and

(3) A statement, executed under penalty of perjury, that such statements and documents, to the knowledge of the person making the request, are true and accurate. Only one ruling request may be made with respect to a particular transaction, and no ruling request may be made with respect to an issue described in paragraph (c)(3) of this section.

(e) *Determination letters.* In the discretion of the Internal Revenue Service the request of the person may be answered with a determination letter directed solely to the attention of the person in cases in which the Service deems the question not of sufficient importance to the Price Commission, the Internal Revenue Service, or the public in general to warrant the issuance of a ruling.

§ 300.614 Adverse determinations and appeal.

If a person receives an adverse determination letter (as described in paragraph (e) of § 300.613) he may, within 10 days, file a written request for a conference with the district director who issued such adverse determination letter. If the district director fails to reverse his initial determination following such conference, the person affected may, within 10 days after notice of such final determination, file written application for an appeal, together with a brief outlining the basis for such appeal, with the Price Commission. A copy of the application for appeal and the brief shall, at the same time, be directed to the Internal Revenue Service, Attention: Assistant Chief Council (Stabilization), Washington, D.C. 20224.

§ 300.615 Failure to obtain relief.

If a person is denied relief by the Price Commission, either because of an adverse determination or because of the Price Commission's refusal to grant an appeal, such person may, within 30 days, file an action for relief in the appropriate U.S. District Court.

Whenever any person has reason to believe that a violation of these regulations has taken place, such person should contact the nearest office of the Internal Revenue Service. Such cooperation on the part of every citizen will insure that the price stabilization program achieves its maximum and intended effect.

§ 300.651 Penalties.

(a) *Illegal practices.* Any person who, by means of inducements, commissions, kickbacks, retroactive increases, transportation arrangements, premiums, discounts, special privileges, tie-in agreements, trade understandings, in the falsification of records, the substitution of inferior commodities, the failure to provide the same services and equipment previously sold or leased, or in any other manner seeks to obtain a higher price or rent than is permitted by this part shall be subject to the provisions of paragraphs (b) and (c) of this section.

(b) *Injunctions.* Whenever it appears that any person is engaged, or is about to engage, in any act or practice described in paragraph (a) of this section, the U.S. Government may, in its discretion bring an action in the proper district court of the United States to enjoin such acts or practices. Upon a proper showing, a permanent or temporary

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injunction or restraining order may be granted. In addition, upon proper applications, such court may issue mandatory injunctions commanding any person to comply with any provision of this Part 300.

(c) *Fines.* Any person who willfully violates the provisions of this Part 300 shall, upon conviction thereof, be subject to a fine of not more than $5,000 for each violation. See section 204 of title 2 of Public Law 91-379 (84 Stat. 800).

Because the purpose of this Price Commission regulation is to provide immediate guidance as to the price and rent stabilization rules applicable after November 13, 1971, it is hereby found impracticable to issue this Price Commission regulation with notice and public procedure thereon under 5 U.S.C., section 553(b), or subject to the effective date limitation of 5 U.S.C., section 553(d).

C. JACKSON GRAYSON, Jr.,
Chairman of the Price Commission.

[FR Doc. 71-16759 Filed 11-12-71; 4:43 pm]

COST OF LIVING COUNCIL

[Order No. 5]

SECRETARY OF THE TREASURY

Delegation of Authority Concerning Implementation of Stabilization of Prices, Rents, Wages, and Salaries

Pursuant to the Economic Stabilization Act of 1970, as amended (hereinafter referred to as the Act), and the authority delegated to the Cost of Living Council by Executive Order No. 11627 (hereinafter referred to as the Executive order) it is hereby ordered as follows:

1. There is hereby delegated to the Secretary of the Treasury (hereinafter referred to as the Secretary), subject to the general policy guidance of and coordination with the Cost of Living Council (hereinafter referred to as the Council) and in accordance with the general policy of the Act, authority to interpret, implement, administer, monitor, and enforce the stabilization of prices, rents, wages, and salaries pursuant to the coverage, classifications, and implementation procedures established by the Council. Such functions will include, but not be limited to, the following:

(a) Operation and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as the Secretary may determine;

(b) Dissemination of information and guidance to the public;

(c) Issuance of rulings and the receiving, analyzing, and responding to inquiries relating to the application of regulations and other guidance issued by the Council and the establishment and operation of an appeal procedure;

(d) Receiving, analyzing, investigating, and preparing and forwarding recommendations upon applications for exceptions and exemptions from coverage, classifications, and the implementation procedures to the Council for decision;

(e) Conducting monitoring investigations as to the effectiveness of the stabilization program;

(f) Receiving, investigating, and resolving by obtaining compliance, where possible, complaints received with respect to program violations and recommending enforcement action to the Council, where necessary;

(g) Making factual determinations on behalf of the Council in furtherance of any functions herein delegated; and

(h) Maintaining adequate records and the making of periodic reports to the Council.

2. All executive departments and agencies shall furnish such necessary assistance to the Secretary as may be authorized by law.

3. The Secretary may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

4. The Director, Office of Emergency Preparedness, shall continue to exercise responsibility and authority under Council Order No. 1 as necessary to complete actions in process and to effectuate an orderly transfer of functions to the Pay Board established by section 7 of the Executive order and the Price Commission established by section 8 of the Executive order.

5. Nothing in this order shall be construed to limit or otherwise supersede the authority heretofore delegated to the Pay Board by Council Order No. 3 or to the Price Commission by Council Order No. 4.

6. This order shall be effective at 12:01 a.m., November 14, 1971.

By direction of the Council.

DONALD RUMSFELD,
Director.

[F.R. Doc. 71-16760 Filed 11-12-71; 4:43 am]

PRICE COMMISSION

[Order No. 1]

SECRETARY OF THE TREASURY

Delegation of Authority Concerning Implementation of Stabilization of Prices and Rents

Pursuant to Executive Order 11627 and the authority delegated to the Price Commission (hereinafter referred to as the Commission) by Cost of Living Council Order No. 4 (hereinafter referred to as the order), it is hereby ordered as follows:

1. There is hereby delegated to the Secretary of the Treasury (hereinafter referred to as the Secretary), subject to the general policy guidance of and coordination with the Commission and consistent with the general policy of Executive Order 11627 as developed by the Cost of Living Council, authority to interpret, implement, administer, monitor, and enforce the stabilization of prices and rents pursuant to the criteria, standards, and implementation procedures established by the Commission. Such functions will include, but not be limited to, the following:

(a) Operation and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as the Secretary may determine;

(b) Dissemination of information and guidance to the public;

(c) Issuance of rulings and the receiving, analyzing, and responding to inquiries relating to the application of regulations and other guidance issued by the Commission and the establishment and operation of an appeal procedure;

(d) Receiving, analyzing, investigating, and preparing and forwarding to the Commission for decision recommendations upon applications for exceptions from the criteria, standards, and the implementation procedures;

(e) Conducting monitoring investigations as to the effectiveness of the stabilization program;

(f) Receiving, investigating, and resolving by obtaining compliance, where possible, complaints received with respect to program violations and recommending enforcement action to the Commission, where necessary;

(g) Making factual determinations on behalf of the Commission or in furtherance of any functions herein delegated; and

(h) Maintaining adequate records and the making of periodic reports to the Commission.

2. All executive departments and agencies shall furnish such necessary assistance to the Secretary as may be authorized by law.

3. The Secretary may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

4. This order shall be effective at 12:01 a.m., November 14, 1971.

By direction of the Commission.

C. JACKSON GRAYSON, Jr.,
Chairman.

[FR Doc. 71-16761 Filed 11-12-71; 4:43 pm]

PAY BOARD

[Order No. 1]

SECRETARY OF THE TREASURY

Delegation of authority concerning implementation of the stabilization of wages and salaries

Pursuant to Executive Order 11627 and the authority delegated to the Pay Board (hereinafter referred to as the Board) by Cost of Living Council Order No. 3 (hereinafter referred to as the order), it is hereby ordered as follows:

1. There is hereby delegated to the Secretary of the Treasury (hereinafter referred to as the Secretary), subject to the general policy guidance of and coordination with the Board and consistent with the general policy of Executive Order 11627 as developed by the Cost of Living Council, authority to interpret implement, administer, monitor, and enforce the stabilization of wages and salaries pursuant to the criteria, standards, and implementation procedures established by the Board, Such functions will include, but not be limited to, the following:

(a) Operation and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as the Secretary may determine;

(b) Dissemination of information and guidance to the public;

(c) Issuance of rulings and the receiving, analyzing, and responding to inquiries relating to the application of regulations and other guidance issued by the Board and the establishment and operation of an appeal procedure;

(d) Receiving, analyzing, investigating, and preparing and forwarding to the Board for decision recommendations upon applications for exceptions from the criteria, standards, and the implementation procedures;

(e) Conducting monitoring investigations as to the effectiveness of the stabilization program;

(f) Receiving, investigating, and resolving by obtaining compliance, where possible, complaints received with respect to program violations and recommending enforcement action to the Board, where necessary;

(g) Making factual determinations on behalf of the Board or in furtherance of any functions herein delegated; and

(h) Maintaining adequate records and the making of periodic reports to the Board.

2. All executive departments and agencies shall furnish such necessary assistance to the Secretary as may be authorized by law.

3. The Secretary may redelegate to any agency, instrumentality, or official of the United States any authority under this order, and may, in carrying out the functions delegated by this order, utilize the services of any other agencies, Federal or State, as may be available and appropriate.

4. This order shall be effective at 12:01 a.m., November 14, 1971.

By direction of the Board.

GEORGE H. BOLDT,
Chairman of the Pay Board.

[FR Doc.71-16763 Filed 11-12-71; 7:16 pm]

A TRIBUTE TO POLISH INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, 53 years ago the proud and courageous people of Poland, determined to, once again, obtain and preserve a "free and united Poland," announced their independence. November 11, 1918, will continue to be appropriately honored by Poles and their descendants as "Polish Independence Day." It is especially fitting that all Americans join in paying tribute to this outstanding accomplishment.

Prior to 1918, however, the people of Poland were faced with both triumph and disappointment. A successful attempt to establish a constitutional government in the late 1700's demonstrated the Polish desire to become a self-governing nation, and its capability of self-determination. Unfortunately, however, the powerful Russian Army destroyed this form of government following only 1 year of existence, and soon divided this small country with Prussia.

The ensuing years were intermittently shared with hardship and misrule. A continual struggle by Russia and Germany to control Poland eventually led to the German occupation in the early 1900's. It was not until 1918, following the disarming and expelling of German troops, that the people of Poland were once again given the opportunity to proclaim their independence.

Mr. President, although these years of renewed liberation and self-government were again short lived for these courageous people, their struggle to be free continues. It is, therefore, particularly appropriate that we, in the United States, acknowledge this great accomplishment and pay special tribute to "Polish Independence Day."

POLITICAL PRISONERS IN CUBA

Mr. GURNEY. Mr. President, in light of recent proposals advanced by certain Senators regarding a change in the Nation's position toward the Castro government of Cuba, I should like to bring to the attention of the Senate a matter of great importance. It is the exceedingly poor condition of Castro's political prisoners inside Cuba.

I ask unanimous consent that an article published recently in the Miami News and a letter from a constituent of mine on the subject be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

"TIGER CAGE" PRISONS REVEALED

(By Hilda Inclan)

Thousands of persons locked in tiny, airless cells in Communist Cuba, wasting away, waiting to die . . .

Their only "crimes," in many cases: Their political inclinations.

This is the gist of letters smuggled into this country from prisoners in those jails; from prisoners in the 1971 version of the infamous "Tiger Cages" of the Vietnam War, where thousands of prisoners of war were herded together like animals.

They are men and women from all walks of life; sugar cane cutters, blue-collar workers, peasants, clerks, doctors, teachers, technicians, newspapermen.

The Miami News today is publishing from one of these prisoners a letter that reveals details never before made public in English. He is in the Boniato jail.

Prisoners in this jail, in Oriente Province, have been kept incommunicado for two years. Their entire dinner fits in a small can of condensed milk.

Plagued by scurvy and other diseases, they are denied medical attention. The windows in their tiny 5' by 10' cells are securely boarded up with steel plates. They are allowed no sunshine or exercise. Their bathroom is a hole in the floor.

Two persons are in each cell.

"It seems impossible that what we are telling is actually happening here," the Boniato prisoner wrote. "Only you, those that were here, the Frenchmen that were prisoners of the Communists in Indochina, the North Americans taken prisoner in Korea; only they know that we are not lying."

Pictures of German concentration camps after World War II shook the world. But no pictures can be taken of Cuba's prison camps.

In Boniato, no outsiders can enter.

In another prison camp—in Manacas—conditions are slightly better. Isolation is not as complete.

Still, a sugar mill worker who would have been freed in December was murdered Aug. 5.

He fell to the ground, a gunshot wound in his head, a victim of the rage of the Prison Camp Director.

He was shot during a flurry that occurred when prisoners from another jail were being transferred to Manacas. Other prisoners were wounded.

In Boniato, three other political prisoners were killed by guards during an alleged escape attempt.

The letter, and others, being smuggled out by the prisoners at great personal risk, are the only way they have of communicating their plight to the outside world.

The method of smuggling the letters out cannot be told.

Some of the prisoners in Boniato, Manacas and other jails have been there virtually since Fidel Castro came into power in 1959.

All are accused of anti-Castro activity and opinions.

They all share the same cells, the same fate.

Estimates as to the number of prisoners run as high as 100,000. No one seems to know for sure exactly how many jails there are.

TRANSLATION—"WE ARE SUBJECT TO EXTERMINATION"

"Tiger Cages" of Cuba, Boniato Prison, June 10, 1971 My dear brother . . .!

This letter is not an outcry, it isn't a call for help. We know that we are alone. We know about the apathy of international bodies, of the press of the free world, that which appears to be so dynamic in denouncing injustices but doesn't say one word about what is going on in the prisons of Cuba. What do they want, that we send them photographs? The communist jails are not the jails of democratic countries. Nobody can enter here. This is the only piece of paper that I have been able to get to write to you. The physical integrity of many prisoners will be risked to try to get these lines out to you.

Our situation is very difficult. These are the "Tiger Cages" of Cuba. All of the political prisoners of Boniato are being subjected to the most brutal and inhuman plan of physical extermination that America has heard of in all its history.

We've already been here for two years incomunicado in cells with windows and doors hermetically walled up with steel plates. The total lack of light has made many of us almost blind. I am writing this letter lying down on the floor, using the very soft light that comes in through the small space underneath the bottom of the door. . . .

The cells are five feet wide and ten feet long. That's the way political prisoners here live, two for each cell, without getting out of their cells for years. As a bathroom we have a hole in one corner and a faucet that never has any water. Our excrement and our urine accumulate constantly in fetid puddles. We lack any articles of personal hygiene. Our food doesn't reach 900 calories per day. Everything served is carefully weighed. One lunch fits inside an empty can of condensed milk; one dinner, the same; that is our plate, one of those cans. Our breakfast; hot water with sugar and one ounce and a half of bread.

"LOOK LIKE PRISONERS IN CONCENTRATION CAMP"

Our diet is composed solely of corn flour and boiled noodles and white rice, all of it served with tiny spoons. The absence of proteins and other foods is total. There are men here whose weight has gone down to 70 pounds. I must weigh 115 pounds. The last time they came over to weigh us with a portable scale my weight was 120 pounds. I have lost 35 pounds. My thighs measure 15 inches, my biceps 10. My legs, 11, my waist, 26. All of us look like the prisoners in the concentration camps at the end of the Second World War. Those photographs shocked the world. But here, no pictures can be taken.

Our fate is that of every prisoner of the communists that will not accept their "rehabilitation" plan: physical extinction and biological experimentation is our destiny.

There is no medical assistance. All of us are sick. Scurvy is creating havoc here. Our bodies are full of some dark pustules, our gums are swollen, our teeth are loose, bloody. Hemorrhages through the nose follow every sneezing spell. Our ankles, in many of us, are a hodgepodge of varicose veins. It's been more than ten years already, and you've been more than ten in communist jails.

Skin illnesses, ulcerations of all mucous tissues, mouths full of sores, constant diarrhea. It seems impossible that some of the men here be alive. They are ghosts. The government promised in this type of imprisonment to "punish" us for our decision not to go into the "rehabilitation" plan, and to reduce us to rags. They have already accomplished that. A. — We are already rags. Physically, we will never again be men. Many of us will die here.

We are being subjected, scientifically, to a plan of mental and physical liquidation directed by Czech, Cuban Communist and Russian doctors. They experiment biologically with us, observe us constantly, and subject us to diverse stimuli.

Many of us have reached a crisis point and gone mad. There's been several suicide attempts. The terror and the physical tortures of these years have been too much.

Fernando Lopez del Toro hung himself. We are under the constant threat that the people in the garrison may come over and beat us savagely; the constant pressures, the total isolation. For two years, our families have known absolutely nothing about us. The government denies to them our real situation. That is why I'm telling you, our situation is very difficult.

But we expect nothing from Democracy or from the Latin American governments that have ignored us and turned their backs on our sacrifice.

To denounce this situation to the world is useless. We have become disillusioned about the reception given these letters. It seems impossible to the outside world that what we are telling them is actually happening here. Only you, those that were here, the Frenchmen that were prisoners of the Communists in Indochina, the Northamericans taken prisoner in Korea; only they know that we are not lying.

We are here, in the "Tiger Cages of Cuba," dying for Democracy, defending the principles of the free nations. But it is sad to fight defending freedom and justice and be

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forgotten by the free and just men of the world

Long Live Free Cuba!
Long Live Democracy!
Down with communism!
Your brother,
A.
Tiger Cages of Cuba
Political Prison of Boniato, Oriente, Cuba.

HIALEAH, FLA.,
October 5, 1971.

Mr. EDWARD J. GURNEY,
U.S. Senate,
Washington, D.C.

DEAR MR. GURNEY: Thank you for your letter congratulating me for becoming a citizen of the United States.

I am proud of being a citizen of this wonderful country where I have found the freedoms that I was denied in my native land. I believe that with my background I can fully appreciate the freedoms endowed by your ancestors, since I know the distress of living without them, and I can assure you that I would take active part in government.

But just because I have attained these rights does not mean that I must forget those who are still suffering, specially those in communist jails. This is the reason I am writing you, to ask you to please bring this subject up in Congress, so that the United States will formally accuse Cuba before the United Nations regarding the brutal treatment given to the political prisoners in the communist island.

I am enclosing a letter secretly taken out of the Boniato prison in Cuba, which appeared in a recent issue of the Miami News. Please read it, and learn of the atrocious conditions in which these prisoners live, and let other Congressmen know about it.

This man is not alone, there are close to 100,000 political prisoners living under identical conditions. These men are hopeless, and have no faith, any more, in what the free world can do for them. Let it be the United States, the greatest nation on earth, the champion of freedom and democracy, who accuses Castro and his government of this ignominious prison. The United Nations should force him to better the living conditions of these human beings whose only crime have been defending freedom and justice.

Very truly yours,

CELIA SUAREZ.

THE NECESSITY OF ENLIGHTENED EDUCATION

Mr. MATHIAS. Mr. President, at this time of increasing concern over the financial crisis facing our Nation's institutions of higher education, I think it appropriate that we take time to remember the absolute necessity of enlightened education to the individual and to this Nation. We cannot afford to imperil such quality through financial neglect of our colleges and universities. Richard Franko Goldman, president of Baltimore's famed Peabody Institute of Music, recently brought this point home in an address on the occasion of the Institute's annual convocation. This address illustrates the potential of education at its best. I ask unanimous consent that the text of his speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

ADDRESS BY RICHARD FRANKO GOLDMAN

I shall take a few minutes of your time today to talk about a concept of education, and particularly about how this concept relates to the Peabody. What kind of school Peabody is, should be, or will be, is a matter of concern to all of us. And I will try today to outline very briefly some of the thoughts and ideas that motivate me as Director and President.

I shall begin by quoting one of the great educators and artist-philosophers of all time. Goethe observed that "the instruction which the true artist gives us opens the mind." On that simple observation, we can begin to construct an abbreviated and condensed, but nevertheless workable definition of what both art and education ideally can be.

Education is of course—and this seems to us merely a platitude—an opening of the mind. But although most would acquiesce in the platitude, everything possible is done in general education today to *prevent* the opening of the mind. On this, I recommend to you a somewhat incendiary book, recently published, by Ivan Illich. The book is entitled "Deschooling Society." Illich is quite serious about his thesis that the school, as now constituted, must be abolished if real education is to be made possible. Education today, as most of us know, is confused with the acquisition of skills (some marketable, some not), with the retention of what are presented as facts (without of course any reference to antecedent principles), with the arithmetic of curricula, and the confirmation of local or transient prejudices.

This is, of course, *not* the opening of the mind. We must assume that education has been, is, and always will be possible, but this may indeed prove to be a rash assumption. For the moment, however, I will make it, and try to talk a bit about our school in this context. One must, also, begin with negatives. The concept of instruction by the true artist, as Goethe intended it, is not exactly the concept of education requiring the accumulation of a specified number of points over a given period, usually four years, in the field (more or less) of specialization, whether this be academic or professional. Students here have made a choice; the art and practice of music. For some of you, I am afraid, the study of music means simply the development of a marketable skill (let us hope that it will remain marketable!); to others among you, it may mean that, but much more besides. It is to both kinds of musicians that I wish to address myself.

I daresay that I have already distressed and disturbed some of you by my off-hand reference to the development of skills. I hope, however, that you will give me credit for being very much in favor of skill. I assure you that I am. But I do wish to insist, as many have done before me, that skill alone is not art, and that the acquisition of a technical or mechanical skill is not the result of education, but of training or physical education.

Training and education are not the same, but our current simplifications do not always make this distinction. We have reached a fairly simple-minded view of education, especially in the United States, in which an arithmetical total of points qualifies anyone for a degree, and in which the possession of a degree, conversely, guarantees that the possessor is "educator." We award "academic" degrees in Physical Education, in Retail Marketing, and a wondrous variety of other intellectual pursuits, in which, no doubt, baton-twirling will eventually be included.

There are many absurd ideas abroad. We even hear such extraordinary phrases as "terminal education." We are told that everyone has a *right*, without any effort implied, to "receive" an education. But education is simply not something that one *receives;* nor is it anything that ever ends or ought to end. To learn, rather than to be taught, is a privilege, not a right; it also implies willingness, interest and liveliness. It is easy to be taught, but it is hard to learn. Education cannot be made easy; it is by nature difficult. And if it does not go on and on and on, it is possible to say that it never began. And, despite rumors to the contrary, there has never been a demand for education in any higher sense; the demand is for some easy substitute that will provide an officially sanctioned illusion.

As a result of the delightfully mad idea that education, like any other product, can be packaged and sold in 4-year installments, we are faced with the mountainous task of educational book-keeping, with questions of courses, credits, simplifications, complications, specializations, and with the idea of the Curriculum, which has become a sacred cow, tended by "officially" sanctioned groups of evaluators, accreditors, educational lobbyists, and statisticians who send out endless questionnaires in an attempt to find out what time it is, or what percentage of your faculty is left-handed. We are afflicted by a low seriousness about higher things. The curriculum becomes a matter of formal and rigid design, departure from which is punishable by statute. But it should perhaps be remembered that the word *Curriculum* in Latin originally meant race-course, and one can perhaps draw a moral from our derived definition. You may run as fast as you can to the finishing line, but do not be surprised if, as you think you are getting there, that finishing line seems to be moving faster than you are.

There are, I fear, a number of practical realities. An institution, even an enlightened one, cannot be totally disorganized or even unorganized. But we can cope with the organization if we keep our minds and hearts alive to the ideal possibilities.

To return to Goethe for a word of transparently simple sense that can be directly applied to the Conservatory: "It is but a part of art that can be taught; the artist needs it all." This, our artist-teachers understand, because they are artists. They know that skill alone is not art, and that skill itself is not easy. They know that art and life are whole and inseparable, not to be divided up into little segments not related one to another. They know this because the teacher and the artist in each of them also are whole and inseparable. Our teachers and artists say to us, again in Goethe's words: "Let us keep a clear and steady eye on what is in ourselves; on what endowments of our own we mean to cultivate; let us be just to others; for we ourselves are to be valued only insofar as we can value."

And what of our endowments and our values? Let us consider for a moment some reasons for our being here at all. The first reason is simple: we are here at the service of the art of music, the practice and study of which imply the value which we attribute to it. We are not, ideally, here simply occupied with Voice or Trombone or Conducting or Counterpoint, but rather with the sum of all these and more. And just as music is larger than the sum of all of these, so it is larger than all of us. This is something we must never forget. The uses of musical skill are many, but perhaps the most rewarding and enduring is the formation of the mind and spirit through the understanding of those masterpieces that have come to us from the past, or of those that may today exist in our midst. Let us remember that the *past* now includes Webern, Schoenberg and Stravinsky. That we may perceive continuity, and yet still place our skills at the service of the present, is an essential aim of education in music, or, for that matter, in any thing at all.

To take a parallel example: we may choose to learn German for a variety of reasons, such as becoming a stewardess on a Lufthansa plane; but one of the more plausible, if less immediately practical reason, is to be able to read Schiller or Goethe or Nietzsche or Hesse in the original. And it is surely one of the properties of a serious education that it forms us to *prefer* reading Schiller or Goethe to reading Hitler. So also

education forms our minds to prefer reading any original work to any prepared summary, opinion or commentary. Such education is, in virtue of its realization, simultaneously a selection. We must see and think for ourselves, must learn to prefer the artist to the commentator, and (if I may be permitted) the poet to the pedant. We must learn, in fact, that the music is more important that the program note.

In music we have certain advantages. We deal almost always with the thing itself, the real thing, the object of our study. We *perform* Mozart instead of reading anecdotes about his life or writing essays on his character. This is the justification—and no other is needed—for the development of skills and techniques. For the *educated* or *complete* musician knows that Bach, Mozart and Beethoven are not merely vehicles for his skills. They are indeed the justification of his cultivation of his endowments. And this cultivation never ceases. The end is acquaintance with the masterpiece, even with the beautiful and the sublime; but it is not easy; for of the masterpiece it has been said: "We must grow up to it; it will not descend to us."

Thus, in a very real sense, before you can do anything for Mozart, in the way of understanding and performing, there is much that Mozart must have done to, or for, you. And you must be willing and able to accept and realize what Mozart or Beethoven can do for you, and to know that compared to this, what you can do for them is very little, even at best. At that best, your understanding and love can then provide a living and moving experience for your listeners and hearers; you will have communicated some knowledge of your own, and that communication, in turn, is also a part of an education, both your own and that of those surrounding you whose lives you can in some small way influence.

We must not think that we can learn or know everything. That is an illusion that has nothing to do with education. In this Phi Beta Kappa address of 1909, Woodrow Wilson, then President of Princeton, said: "The mind does not live by instruction. It is no prolix gut to be stuffed. . . . The object of a liberal training is not learning, but discipline and enlightenment of the mind. . . . What we should seek to impart in our colleges, therefore, is not so much learning itself as the spirit of learning. You can impart that to young men, and you can impart it to them in the three or four years at your disposal. . . . (This spirit) means citizenship in the world of knowledge, but not ownership of it."

What we must know is how much there is to know, and to find some basis of judgment to determine what is worth knowing. Education, conceived in this way, should have as its primary aim that of enabling us to recognize excellence, whether artistic, intellectual or moral. It should teach us not to settle for the second best of all possible worlds, whether in art or music, or morality. For education, and particularly esthetic education, is indeed and must be, directed toward moral ends.

By this I mean simply that response to education requires a certain transcending of one's self, or one's immediate capacities and interests, at the same time as it means the establishment of a real self, of a "selfhood" as conceived by philosophers such as Karl Jaspers and Martin Buber. It involves a humility and a reverence for what is truly to be revered, and what is truly beyond us, and for what can help us grow in perception ultimately reflected in conduct.

We cannot continually live on the rarefied plane of the masterpiece, of works such as the D minor Quartet of Mozart or the Opus 131 of Beethoven. They are not for every day, for such intensity of experience can be tolerated only when every nerve is prepared and every sense alive. But one must know that they are there, and that there are illuminated occasions when one can experience them. One must sometimes experience *awe*, and the D minor and Opus 131 are awful and terrifying; one must experience the sense of one's own littleness, but at the same time of one's limitless potential. We can learn to know that despite our own insignificance, if we are responsive, how important and great man can be, at least for a moment.

Philosophers from Plato to our own day have cherished the belief that the study of any art, the pursuit of any artistic discipline, should conduct the mind to Ideas of Order, Ideas of Harmony and Ideas of Perfection. To do things reasonably, to do things congruously, to do things well—these are not ignoble ends. The opened and activated spirit does not arrive at these ideas or these ends by an immediate gravitation; it progresses toward them on a long road that takes more than four years to travel. But one must be willing to begin.

If Peabody is to be the kind of educational institution that I should like it to be, we must learn together how to perceive and to value what is excellent, enduring, transcendent and alive. We must strive not only to become better artists, but better people. We must be aware of the light this is given us, and attempt to make our own small light, felt.

FEDERAL SALARY ADJUSTMENTS

Mr. MOSS. Mr. President, last night I addressed the Veterans' Administration Council, assembled in Washington, on a very difficult subject—Federal salary adjustments. All day, bits of information on phase II of the President's economic plan were trickling out. The President himself made an announcement of permissible pay increases to be effective on November 13, 1971. I struggled to get final, accurate word to these elected representatives of the Federal employees of the Veterans' Administration—the second largest department of our Government in terms of number of employees.

During the day, I was told that the President's freeze of the pay increase granted to Federal workers as of January 1, 1972, remained in force—that indeed he may not have power to unfreeze, since he acted under the terms of the law in his action to freeze, and Congress failed to disapprove the freeze within the time granted to it by law. However, at 6 o'clock on November 12, the TV news reported the freeze lifted from Federal salaries next January, and a phone call to the wire services confirmed this information.

Therefore, at 8 o'clock I passed this word to several hundred Federal employee representatives. You can picture my embarrassment to find I was misinformed and that I had passed along the misinformation. My speech, as written, was correct. Federal salaries remain frozen through June 30, 1972, even though military salaries and private industry salaries may rise at once. The Federal employees are victimized unfairly.

I ask unanimous consent that my speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

PHASE II AND THE FEDERAL EMPLOYEE

(By Senator FRANK E. MOSS)

I talk to you tonight on the eve of phase II of the President's new, new economics. The big question is what is going to happen when the thaw sets in tomorrow. I wish I could turn the clock ahead and tell you.

The painful spelling out of phase II is now underway. Both the price and pay commissions are working long hours, and each day we learn a little more of what our future holds.

We already know that some hikes will be allowed in the private sector. The pay board voted earlier this week to apply a five and one half percent yardstick to new pay increases coming due after November 14. As I understand it, the five and one half percent criterion is intended as an average, and it is possible some agreements may exceed this figure for equity reasons, and some may be limited to a smaller percentage raise. But the important point is that the wage freeze is to be allowed to thaw a little, and that an increase in the neighborhood of five and one half percent will be permissible any time after November 14.

As things now stand, this thaw will not apply to the Federal employee. He will not be allowed the 5.6% wage increase the Bureau of Labor Statistics said he is entitled to on January first under the provisions of the Federal Pay Comparability Act of 1970. He will not be allowed any part of it in January. The freeze the President placed on the Federal pay raise still stands, denying to the Federal employee any benefits other wage earners may receive under the new guidelines.

It is risky to make any positive statements about what will, or will not, happen in Washington, particularly on Capitol Hill. But in my opinion there could be some clearer pay raise weather ahead for the Federal employee. The United States Senate could act in his behalf and the House of Representatives could too. I can't speak for the White House.

You all know what has happened thus far to the Federal employee pay raise. The Nixon administration bitterly opposed lifting the freeze in the first week in October, when I led the fight in the United States Senate to do so.

And, as you are also aware, we lost this fight by a sizeable vote.

You might be interested in hearing about some of the "behind the scenes" maneuvering.

On Wednesday, October 6, the United States Senate passed, quickly and by a substantial margin, the Moss-Mathias amendment to the military appropriations bill guaranteeing equitable treatment to all wage earners under phase II—whether they worked for the government or for private industry.

By this action the Senate said that the Federal employee should be given a pay raise at the same level which the pay commission decided was equitable for the private enterprise employee. We did not say the raise should be set at the 5.6% level which BLS has said was necessary to achieve comparability. We merely said that if wages in the private sector were allowed by the pay commission to rise, the same wage increase should be allowed for the Federal employee.

We had every reason on that Wednesday in October to believe that the Senate would take the next logical step and put an end to the special "freeze" on Federal salaries. For, how could the principle of equitable treatment possibly be implemented if private industry wages were to be "unfrozen" on November 14 while Federal wages were to remain "frozen" for an additional seven and one half months—until June 30, 1972?

But overnight the administration whips went to work, and many Senators who voted for this principle on Wednesday, reversed themselves and voted against this principle when the crunch came on Thursday. The Moss Resolution went down—resoundingly.

Some people have criticized my challenge of the administration on this Federal pay issue. They said that I was somehow "inter-

fering" with the administration's economic program—worse yet, that I was obstructing its efforts to fight inflation.

I don't agree. For two and a half years, Congress asked the President to do something about the economy. For two and a half years, the Congress argued for an adequate incomes policy to fight inflation and for an adequate program of fiscal incentives to create more jobs. For two and a half years the administration followed its "game plan" and said everything was fine . . .

Then on August 15, 1971, the administration made a complete turnabout. With unemployment at its highest level in a decade, with inflation eating up our savings at a greater rate than we could earn interest on it, with the economy on the brink of catastrophe, the President agreed to act.

And what did he do? He put together a program composed largely of those same proposals which he had so long resisted. Now people are saying that no one should question any part of the new program.

I believe that criticism is essential—it is the breath of a democracy. I believe, moreover, that it was the criticism of our economic policies by the Congress and the press and the public which helped bring about the needed change.

Like everyone else, I want the administration's program to succeed—we must control inflation, we must bring down prices, we must put our economic House in order. But free and open discussion in the American tradition cannot go out the window while we seek these most desirable goals.

Furthermore, I feel that it is the role of the Congress not only to question those policies which they feel are wrong, but to offer constructive alternatives. Criticism by itself is sterile, constructive recommendations and action are not.

I like to think it was the constructive action we tried to take a month ago in the United States Senate to right a wrong inflicted upon the Federal employee which triggered the alternative solution offered last week.

What Senator Mathias and I tried to do in early October, and which was opposed on the floor by some of the members of the Senate Post Office and Civil Service Committee, has now become, in November, the official position of that committee. For on November 3, the committee unanimously reported a bill which would in one stroke lift the freeze the President has placed on federal pay raises and allow the Federal employee to receive pay increases on January 1 to the extent that wage earners in the private sector are authorized wage adjustments by the wage board.

A similar bill by Congressman Udall has been ordered reported in the House.

As I said earlier, it is hazardous duty to be positive about what congress will do with any piece of legislation, but there is a good chance, in my opinion, that the new bill will be considered by the Senate, and I hope, passed. There is considerable steam behind it—steam generated by the American Federation of Government employees, the AFL–CIO, and other representatives of organized labor, and by the protests of thousands of individual Federal employees.

I also can't help but wonder whether the sudden mellowing in the views of several Republican members of the Post Office and Civil Service Committee, and their sponsorship of a proposal they voted to defeat on the Senate floor only a scant month ago, could indicate that the administration is having some second thoughts about a policy which treats in such a cavalier fashion those who might be called "its own."

I don't know—I can only wonder.

We shall see.

Now, on this eve of Phase II, what else is there which indicates the shape of things to come for the federal employee.

By its very nature, a freeze captures a moment of time and locks us into it. Nothing is ever quite the same again—A period of history is gone forever.

The first question about Phase II that most federal employees want answered is this:

Will longevity pay step raises be resumed?

As of this afternoon, no formal decision had been announced, regardless of what you may have read in the newspapers. But I can assure you that longevity pay step raises will be allowed.

I talked with the pay board late this afternoon and I was told that a notice is being prepared to appear in the Federal Register either tomorrow morning or Monday morning (depending on how fast the attorneys can work) which will spell out the regulation allowing step increases.

So they are everything but official tonight.

Longevity pay step raises, however, will not be retroactive to cover the three month period of Phase I. Those that occurred during Phase I will be made effective only with the beginning of Phase II.

There are some other things we can also say with assurance about Phase II:

Promotions of positions of greater responsibility will continue to be permissible for federal employees.

The setting of initial pay for new employees will not be affected—that usual regulations will be followed.

Federal employees returning to service will have their salary set depending on the job they have accepted.

Pay may be increased if there was an administrative error in processing the personnel action.

Premium pay will not be affected, regardless of when the employee begins to work over-time or night or holiday or Sunday or hazardous duty.

There will be no retroactive payment for any within grade or quality increases which were frozen during Phase I. This is true for both wage and general schedule employees.

Phase II, whatever it may bring, will not sweep into law a cornucopia of Federal employee legislation. There have been times, in the past, when a legislator could appear before an audience of this sort and honestly label a session of the Congress—or a full Congress itself—as a landmark Congress for the Federal employee—as one in which singular progress has been made in providing employee benefits and strengthening employee rights. The first session of the 92nd Congress will not fall into this category.

Few of the bills pending which establish new pay schedules, such as the wage board bill, or increase the Federal share of payments, such as the health insurance bill, are likely to see final action.

This is true also of the fringe benefit bills, such as the measure on which the House has held hearings to allow a person to retire when his age and years of service total 80, and of other bills improving early retirement prospects. I doubt that they are going anywhere right now either.

The economic belt-tightening in which the country is engaged in an effort to stem inflation, makes very unlikely the passage and signing of bills which bring economic benefits to the Federal worker.

I look on these days of phase II as a period in which friends of the Federal worker must be vigilant to make sure that the Federal employee is treated fairly and equitably, and that none of the rights and privileges he now has are taken away from him.

As much as I regret it, I fear that the establishment of new programs or the making of old ones more equitable must wait for more propitious times—that is, if they would increase Federal take-home pay.

In the few minutes I have remaining, I would like to use you, the members of the Veterans Administration Council, as a sounding board for reactions on some new legislation I am developing.

I am concerned, as I know you are too, about what is going to happen to the many men and women who are being "riffed" from the Federal Government under the President's instructions to cut personnel back by five percent. Some agencies and departments may be able to make the adjustments by attrition—by cutting jobs through retirements and normal job turnovers—but others are having to let people go.

I know, because a number of them from my State have appealed to me to help them repair their shattered plans and altered status. The rif notices have come like bolts out of the blue, and few families have enough of an economic cushion to keep up for many months their house and insurance and car payments, and buy their groceries and children's shoes, without a salary check, or some other type of income trickling in.

A "riffed" person is particularly up against it when there is also a federal freeze on hiring. And, when in addition, the employee lives in an area of high unemployment, when there are few jobs in private industry, he is in monumental trouble.

The bill I shall propose in the next few days is patterned after the Emergency Employment Act of 1960. It would amend Civil Service Laws to provide funds for local and State government in areas of high unemployment to hire "riffed" Federal employees for periods up to two years. This would make available to hard-pressed local governments the talents and skills of federally trained public servants who would, in many instances, be able to step right into a job, and do it well.

It would give the "riffed" Federal employee the assurance of being useful and receiving a paycheck during his period of transition, and afford him time to find another job for which he is suited either in private industry or the Federal Government. It might also even provide him with permanent employment with the State or county unit by which he is employed, should this prove advantageous both to him and the local government involved. Or the temporary job might teach him new skills he could use in finding a permanent one elsewhere. The possibilities are great; the horizons are limitless.

I see in this program also a sturdy vehicle to help us readjust from a war to peacetime economy—from the changing priorities we are already facing as the war in Vietnam winds down. Some Federal agencies will have less work as the war ends—others will have more as we concentrate more fully on domestic problems.

There are likely to be large segments of our Federal work force in transition between jobs—and out of luck completely in areas where there are no other Federal installations, and transfer elsewhere is not practical for one reason or another and where private jobs are scarce too.

The type of program I am envisioning could be a life-saver in the months and years ahead—as I see it. But I would like your opinion.

JUVENILE DELINQUENCY HEARING IN BALTIMORE

Mr. MATHIAS. Mr. President, on October 8, I held a hearing in the city of Baltimore on the problems of juvenile delinquency. The hearing was also intended to elicit comment from the Baltimore community on S. 2148, the Juvenile Delinquency Prevention and Rehabilitation Act of 1971 which I introduced on this subject along with 30 of my Senate colleagues.

I was grateful for the participation of Mr. Michael J. Kelly, administrative assistant and criminal justice coordinator for the mayor of Baltimore, and Messrs. Robert M. Thomas, John T. Enoch, and James Bundy, who make up the Ad Hoc Juvenile Delinquency Committee of the Baltimore City Bar Association.

I found these hearings most helpful in my inquiry into the causes of juvenile delinquency and possible avenues of Federal interest in its prevention. I hope this will be just a first of its kind. I know of no more useful way to spend my time and energy than on the eradication of crime and the assistance of America's youth.

Mr. President, I ask unanimous consent to print in the RECORD various statements presented at this hearing.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR CHARLES MATHIAS, JR.

I want to welcome you all here today for what I hope to be a productive exchange between those of us here who are on the dias, and those of you who are in the audience and will be testifying.

I hope that you will all be free to ask questions and respond to any of the testimony. I do not wish to control these hearings; they are for the benefit of all of you as well as for the benefit of the Federal legislative process.

In my capacity as a member of the Senate Judiciary Committee, I have called these hearings for two reasons. First, and most importantly, I want to get a greater understanding of the problems of juvenile delinquency in the state of Maryland. This, I hope, will be the first of a number of statewide hearings. It is my earnest intention to explore this problem in the greatest detail. I have started in Baltimore City, for I feel that the need is the greatest in the large urban areas, and it is here where the Federal Government has been guilty of the greatest neglect.

My second reason for having these hearings at this time is to get some reaction from you regarding a piece of legislation which I have recently introduced in this field of Juvenile Delinquency. Senate Bill 2148, with well over one-fourth of the Senate as cosponsors is, in my mind a unique—even revolutionary—piece of legislation.

We have attempted here today to gather individuals from different professions and interests throughout the city. There are indeed so many people who have something valuable to say in this important area that no doubt we have excluded many. Let me say, however, if any of you who, after listening to the testimony today, feel that you would like to make a further contribution to this hearing, this committee will receive your testimony and insert it into its permanent record.

I do not wish to take up much of the time, for I am here today to hear you—to listen and ask questions—not to make a speech. But let me briefly explain to you Senate Bill 2148.

[Reference to a displayed chart.]

This chart clearly indicates what S. 2148 does to the present law. There should be extra copies of this bill for those who want to follow as I explain, as well as a limited number of copies of the present law governing federal distribution of law enforcement funds.

The Law Enforcement Assistance Administration (or LEAA) was established as part of the Safe Streets Act of 1968. It required each state to establish a State Planning Agency which would have the function of submitting to the LEAA a comprehensive law enforcement plan for that state which, if approved, would be funded by the federal government. In Maryland, this state agency is called The Governor's Commission on Law Enforcement and the Administration of Justice. Funds are appropriated to LEAA by Congress; this fiscal year almost $500 million is given to implement this federal grant program, with about 7 million of this going to our Governor's Commission.

So we are talking about a considerable amount of money.

FIRST COMPARISON

At the present time, this comprehensive state plan submitted to LEAA does not require a juvenile justice component. This to me is just ridiculous, when in many jurisdictions, offenses by juveniles comprise over 50 percent of the total crime picture. If we are to alleviate this category of crime, *at the very least we must plan for it.*

SECOND COMPARISON

At the present time, even though juvenile delinquency comprises such a high percentage of a jurisdiction's crime, there is no guarantee that the state will spend the needed money to combat it. Each state can spend any amount it wishes. This amendment requires 40 percent of all Federal assistance from LEAA to be spent on juvenile delinquency. This figure is not inflexible and it might be altered. But the objective of this section is to assure that a certain amount of this Federal assistance will be spent on juvenile delinquency.

THIRD COMPARISON

At the present time, states are not pursuing as vigorously as I would like them to alternative methods of incarceration. We have seen—we now know—that bad prisons produce bad results, that our traditional institutions are simply not doing the job. And, the more inadequate the job, the more you—the public—will suffer, S. 2148 requires 50% of the money appropriated under this new Title F to be allocated to alternative methods of incarceration and rehabilitation. The bill does not attempt to dictate what these alternatives should be; it only recognizes the present failure and requires the states to find substitutes. And again, the 50 percent figure is only for purposes of the bill's introduction.

FOURTH COMPARISON

This is an area which I am most concerned about; a problem which I believe we have just *got* to correct. Most states still house and treat—at one particular correctional level—both juveniles and adults. They put them in the same cell, with the juvenile's cell companions often becoming his teacher in crime. The juvenile comes out of the correctional experience a lot worse than he was when he went in, and the whole vicious recidivistic cycle begins—and ends with one of you. In the area of status crimes—which are juveniles crimes which if committed by adults would not be punishable as crimes—the juvenile has most to lose. For it is here, if he or she is treated like the adult criminal recidivism is the *greatest* and the sameness of treatment is the unfairest. Status crimes for instance are truancy and runaways—crimes which really require no criminal intent and are purely inherent to juveniles. These crimes—if they are to remain crimes—must be treated distinctly and this bill accomplishes this objective.

FIFTH COMPARISON

Presently, many states just don't put enough energy into creating advanced techniques to fight juvenile delinquency, in addition to creative alternative method of incarceration mentioned above, the juvenile justice component must contain other advanced techniques. For instance, disagnostic facilities and services on a state wide, local and regional level, comprehensive drug abuse education and prevention programs, and delinquency prevention programs including family and school counseling, are all encouraged in this amendment.

SIXTH COMPARISON

Eighty-five percent of money alocated to the states by LEAA is presently being distributed on the basis of overall population. The total juvenile and adult population is considered. None of the money reflects the juvenile populations of each state and the added expense or burden which that risk population incurs. S. 2148 requires 85 percent of its appropriation to be distributed to the states on the basis of their juvenile population.

SEVENTH COMPARISON

At the present, LEAA is spending about $90 million, or 19 percent of its funds, on the prevention and treatment of juvenile delinquency. S. 2148 authorizes to be appropriated $500 million. This would raise that proportion figure to about 50 percent, which would then be in line with the proportionate amount of crimes committed by juveniles and the law enforcement energies spent to alleviate the problem.

END CHART

The bill is clearly designed to give more money to states and to those cities with big juvenile delinquency problems.

The fight against juvenile delinquency is not an easy one. It must start in the home, continue in the school and be watched over by our city, state and Federal governments. But clearly, if we lose this fight, our nation has the most to lose. Quite frankly, ladies and gentlemen, we *are* losing this fight.

The juvenile delinquents of today can be the taxpayers of tomorrow or the criminals of tomorrow. The choice is both theirs and ours.

I have some figures about Baltimore City crime but since our time is so short—I will withhold these and refer to them in my questioning.

CRIMES OF JUVENILE POPULATION

Crimes of violence, among the juvenile population, increased over a ten year period. Measuring 1970 against 1960 there were 151 percent more arrests for crimes of serious violence. I think what this reflects is the climate of our country—the climate of our society over the last several years—where violence has become an accepted way of life; one to which we have become inured. I think the Vietnam conflict has certainly been a significant contributing factor to this escalating violence, and I think the availability of weapons is certainly a contributing factor. I think that what is happening among juveniles, insofar as crimes of violence are concerned, is merely an indication of what is happening throughout our whole social fabric.

The fact is that in cities you have the tensions, the hostilities, and the breeding grounds for sudden eruptions and violence that are not found, too often, in the suburbs. As I indicated before, juvenile crime in the suburbs is increasing at a greater rate than in the cities, although it is basically a property type offense. I think that in our cities the crowded conditions, the deprivations of some of the young people, the fact that so many youths have dropped out of school, the availability of weaponry, and the tremendous increase in drug use by adolescents have contributed immeasurably to the increase in violent crimes committed by young people. The simple fact is that just like their older comrades in the drug field, youths must resort to crime to satisfy their drug habits. I would say that approximately 50 percent of the crimes of violence that we see in Juvenile Court, the assaults and robberies, have their roots in drugs. This is particularly a serious problem in our metropolitan areas today.

I must say, in all candor, that I do not feel the "correctional system" as such, has been able to make a satisfactory adjustment in this area. I say this, not because they do not see the need, not because they do not want to, but because they just do not have the tools and the equipment to be able to cope with the situation. The training schools are no more than warehouses. At present, the average length of a child's residence in a training school in Maryland is four months. This is essentially because authorities have to push children out the back door to make room for those coming in the front door.

If we had alternative facilities for training schools and if the training schools themselves were able to segregate out the hard-core incorrigibles, then we could concentrate on those youths who need the treatment. We could give these children much lengthier treatment, more in-depth treatment. One of the superintendents of the training schools told me recently that 10 percent of his juvenile population demands 90 percent of the time of the staff, so that the other 90 percent of the children get 10 percent of the attention of the staff.

I think that this bill is one of the most significant and vital pieces of legislation introduced in the United States Congress in many, many years. If we look at our priorities correctly, this is, to me, the most fundamental problem facing our society. I think that the enactment of this legislation would be the greatest step toward meeting the crime problem that we all decry and towards meeting the basic needs of our children.

TESTIMONY OF MR. RONNIE CLARK, INVESTIGATOR, PUBLIC DEFENDERS OFFICE, BALTIMORE, MD.

To try to throw out of the minds all those terrible myths about America, to try to look at it as clearly as possible, one is still confronted with a whole system of contradictions. A great many of these contradictions are due to the fact that American people have not yet, by and large, been able to resolve their relationship to the old world that they fled or to the new world that to some degree at least, one may say they conquered. The Black problem in America is certainly the greatest and the most significant contradiction in American life today. It may also prove to be, after all, the most hopeful fact in all of our history. Black Americans are so uncertain of themselves because there is nothing, in effect, at one's back; by that I mean—when you look back to find out who you are, you find yourself before a kind of vanishing history. Vanishing, in fact, all the way back to the shores of Africa and never really excavated into any useful human terms on the continent in which we now live. We have that and now the conclusion is that everybody in America knows, feels that everything is changing. Everything!

If you are an American of African ancestry it may take some time to discover exactly who you are, and we are talking about nearly 30 million people who are embarked in one way or another in their search. No one knows what this present course will bring about and many suffered a certain terror for this reason. It means that there are a great many things that one takes for granted, and if everything is changing the identity that I have involved is terribly menace and indeed may disappear. How are we going to reconstruct a reality that will be our identity. That will serve us through our lives again? You forget, therefore, in America, what you get in every society when this begins to happen. You get a tremendous social strain, stress, and chaos. Very hard to read it from the outside and very hard to endure and sometimes very hard to read from the inside. There are those people, of course, everywhere, forever, who are determined that change shall not come. They're among us, they are in every generation and I suppose it's one of the parts of the human condition. Then there are those people, and thank heaven they appear in every generation, too, who are aware that the very constant in life is change, and they struggle to implement this change so that you get, for an example, a Senator Mac Mathias, a man who has embarked upon a campaign to better the life conditions of his constituents regardless of race, creed, or color. It is with this fact in mind that I offer the foregoing testimony in support of his campaign to rectify the inequities in the Senate Bill S. 2148.

It is without reservation that I can attest to both personally and as, shall we say, a sort of crusader in seeing that justice is brought to the Black community especially among its juveniles.

I can say that if this type of concern was available during my childhood and my early teens, there is a very good possibility that I would not have ran afoul of the law.

My name is Ronnie Clark, ex-school dropout, ex-addict, ex-convict, and currently a fugitive in the white man's society because I'm black. I was born in Baltimore City some 25 years ago and as a result of the racist society in which I was born, I became the product of a broken home because this society did not then, as it will not now, allow a Black man the satisfaction of advancing on his own merits.

I attended the public schools of Baltimore City in which I managed to learn a little of nothing that was relevant to my existence in a Black ghetto. I was taught the run of the mill subjects by teachers who really didn't give a damn—whose only interest was in getting a paycheck each pay-day. The school system itself was not interested in giving Black children skills that would enable them to learn the type of material that would enable them to identify with their surroundings, and to me this was my first introduction to the White man's penal institutions—taught nothing, expected to learn even less, but told "I must be able to cope within this honkie society." I finally was kicked out of both Forest Park and Carver for truancy and fighting, but not before I had learned the lesson that the White man wanted me to learn. I was an addict—a hard-core addict—at the age of 13, introduced to this hellava existence by my older friends.

At the age of 16, the Orioles felt I had enough potential to become a professional baseball player and signed me to a contract to play with their farm team in Bluefield, West Virginia. But, under my physical condition—drug addiction—I was forced to return home to seek relief for this habit. From then on, it was a constant down-hill pattern.

It was only a short time after returning that I got "ripped off" for larceny and was placed on probation, which I immediately violated and was busted on another larceny charge and incarcerated in the Baltimore City Jail. Before my life of crime ended, I had been "ripped off" approximately 25 times for various charges, ranging from misdemeanors to felonies, for such things as pushing drugs to homicide.

Now, let me tell you about this damn place they send you for so-called rehabilitation. At age 16, I was locked up at Baltimore City Jail, with hardened criminals. This is where my education began. I believe in that short period of time, I learned more tricks on how to be a better thief than I learned during my 11 years in the public schools. After being sentenced, I was sent to Maryland State Penitentiary and then to Hagerstown. There were no facilities in any of these institutions for teaching juveniles any type of useful trade except at Hagerstown.

While at Hagerstown, I was enrolled in a butcher shop class and believe it or not, I completed the course. But, would you believe that whitey had another trick bag for me when I hit the street on parole. I applied for a job in a Government-funded program to be told simply that there were no jobs available for ex-drug addicts. Trained by the establishment to come out and steal again. This is what they have for most young Blacks who have had the unfortunate experience of being sent to your so-called rehabilitation centers.

Let's not get me wrong. I did receive a thorough education in racism, direct, overt. Beyond a shadow of a doubt—racism. My teachers were White, Anglo-Saxon, Protestant, God-fearing, flag-waving and nigger hating • • •. These kindergarten dropouts and fugitives from the hills of Tennessee and dummies from the clay pits of Georgia hated a Black man more than God hates sin.

Then one bright day a newly scrubbed know nothing honkie tells you—"I have come to counsel you on how to survive in society." This individual who really doesn't know his • • • from a hole in the ground about the way Blacks live or drug addiction is going to put the in-mates on the straight and narrow, but the only thing they succeed in doing is drawing a paycheck, because the majority of the programs that are effective in the prisons are run by in-mates and all the personnel do is police you. Their major concern is security.

Something has to be done to modify this system. We first have to start with the fact that the reason that you have a large segment of Blacks on addiction is because, until recently, when the Great White Witch started riding the backs of the nice suburbia honkie kids in suburbia, we did not have a drug problem in the United States, because we all know whitey didn't sell dope, shoot dope, and hang on corners all night. You do not see the pigs running up and down the streets in suburbia and taking names on every corner because whitey's kids didn't do any wrong. But, now it has hit the fan and whitey finds that his kids, in a more sophisticated way, are being turned on and trung out on the Great White Witch. So he's concerned. He is becoming concerned about what is going on in the institutions because his kids are finding out what it is like behind those closed doors. But the Black kids know how to survive in this jungle. But the man still shows his contempt and hatred for the Black kid because whitey is not called in for offenses like Black kids. He is not subjected to confinement in the same ratio as Black kids for the same identical crime. He is released in the custody of his parents because they say "we're going to get him to the doctor for psychiatric help." But tell me how in the hell is a Black mother on welfare going to get her little Black baby the same type of help.

We can help do something about this problem by not snatching the Black kids out of society or trading one institution for another. But give them some hope such as half-way houses equipped with personnel who understand the problem and put some programs in them for him. Allow him to remain where he can establish a meaningful society. Locate the problem and work with the problem and not the result. Ask the kid what he wants to do and help him to do it. Help him to learn to deal with himself.

I've been home now since August 1970, clean, because the urinalysis test verifies this fact, and I take them regularly to maintain my job with the Public Defender's office where I am an investigator seeking to aid my brothers who are in the same bind that I was in a year ago. I can relate because I know where they are coming from and I know where they are going. I got my Ph. D. from the University of the Streets. But, I feel that when a program such as this is successful, whitey will find a way to kill it. Will Steve Harrison, Chief Public Defender, who really gave me a chance to start a new life for myself be allowed to continue his crusade? In the event he isn't appointed permanent chief of Baltimore City, will my co-

workers and I die because of our backgrounds? Will we die? Because a dream is a hope, and a hope is a chance, and Steve Harrison gave us our chance.

STATEMENT OF EDDIE M. HARRISON, DIRECTOR, PRETRIAL INTERVENTION PROJECT

Senator McC. Mathias and Honorable Members of the Committee: I wish to express my appreciation for this opportunity to speak at this hearing and urge the passage of the proposed Juvenile Delinquency Prevention and Rehabilitation Act of 1971.

The problem we are faced with today is a prime concern of everyone. The cry has gone out from Courts, prosecutors, police, correctional institutions and parole departments throughout the country for increased funds to meet a situation that has grown to crisis proportions and is still growing.

Statistics concerning the rate at which crime has increased are readily available, and rather than waste time restating figures which are common knowledge to most of us, I would like to present my views on the problems and possible solutions to crime as they relate to our urban areas, and in particular as they relate to youthful offenders.

First, let us realize that crime is *not* a problem in Baltimore or in any other large urban area. More mace, guns, riot equipment, judges, police, prisoners, and a slight change in the law could solve any city's crime problem by simply eliminating those persons accused of crimes for an indefinite period. But by doing so we would be fostering the same situations that resulted in the recent Attica massacre.

I along with many others contend that crime is *not* the real problem that we should be concerned about. The commission of a crime is only the symptom of a much greater and more complex maze of problems. We can never hope to cause any substantial decrease in crime as long as we continue to ignore the problems of the people accused of the crime. Simply stated, the *real* problem is the social, economic, political and educational deprivation of human beings who refuse to be suppressed.

I speak to you in two capacities; first, as a man who started out as a juvenile offender in 1957 and was a part of the identical problems we are attempting to solve in 1971; and secondly, as Director of the Pre-Trial Intervention Project, which on a very small scale is just beginning to provide what I consider to be a realistic approach to the problems we are actually faced with.

To clarify my statement concerning crime, I would like to relate an experience from my childhood. I was put out of junior high school after numerous conflicts with teachers and other students. I was a trouble-maker in the first degree and created a problem for the school. The obvious solution was to have me transferred to another school.

This proved not to be much of a solution after all, because instead of waiting to be put out of the second school, I just refused to attend. I eventually became known to the juvenile authorities. Their solution was to remove me from the community and place me in the School for Boys at Laurel, Maryland. At no time during the whole process did anyone consider *my problems!* The school dealt with its problem—a trouble making juvenile. The Juvenile Court dealt with its problem—a delinquent youth. And I wandered by the wayside, labeled a juvenile delinquent, until in 1960 I was charged with first degree murder, convicted, and sentenced to die in the electric chair.

This course, in varying degrees, can be multiplied by 12,000, and it will give you an approximate account of what the situation in Baltimore City could look like for the coming year, if our public institutions do not come to grips with the real situation and apply viable and realistic methods of solving those problems. As in my case at school, I felt that education was not relevant to my everyday living experience. The things I needed to know could not possibly be taught in school; for example, how to shoot crap, pimp, back numbers, and cut dope. The real problem was that the standards of my environment, though considered abnormal and in fact illegal by the established society, were normal and acceptable to my peer group. Just as committing a crime was not a problem to me, learning to shoot crap was not a problem for the school or for the Court. No one understood that I was simply trying to assert my manhood and be respected among my peers as a success. In no way, then, could society correct the problem I created for them without first having an indepth understanding of the conditions which caused it.

As Director of the Pre-Trial Intervention Project, I am charged with the responsibility of guiding youthful offenders toward more socially acceptable methods of dealing with the realities of their environment and how to attain their adulthood.

All of us here today have the equal responsibility of effecting the type of change that will enable more people to escape the vicious cycle which begins with being born poor and deprived.

I am here today to urge support for the proposed "Juvenile Delinquency Prevention and Rehabilitation Act of 1971" which points up the neglect on the part of the Federal Government to spend sufficient money and effort to solve the growing problems of juvenile delinquency. As the rate of crime has increased over the years, we should have responded with new treatment approaches and realistic preventative measures in proportion to the expenditures in apprehension and detention of persons suspected of crime.

Perhaps the Omnibus Crime Control and Safe Streets Act of 1968 was a step in that direction. However, I too feel that the federal aid offered under that Act should concentrate more heavily in the area of juvenile delinquency prevention, because, plainly, the present methods and facilities for dealing with juveniles are not only grossly inadequate but simply do not work. By insisting that states who receive federal aid under this Act allocate considerable monies to development programs for juveniles, these agencies are forced to recognize the entire scope and magnitude of the problem facing them.

In supporting the present bill, S. 2148, I strongly recommend that consideration be given to the pre-trial diversion concept, which removes alleged offenders from the traditional court process at a crucial point and, with supportive services, attempts to deal with the problems which may have led the individual to commit criminal acts.

In conclusion, it is my sincere hope that this Bill is passed by the Congress so that agencies needing assistance will receive proper guidelines in realistic and essential utilization of those funds.

Thank you.

STATEMENT OF DR. JOEL ELKES, JOHNS HOPKINS UNIVERSITY

I welcome the opportunity to testify in strong support of this farsighted Bill. It is clear that there is a link between crime and youth. More somber still is the rising spectre of crimes committed by children. I think we know some of the factors which make for crime: Poverty, crowding, urbanization, a breakdown of family life, unfulfilled high expectations, the free availability of small cheap guns, the continued presentation of violence on TV, and an antiquated welfare system, are among such factors. Organized crime has also become part of the highly profitable economic cycle of Drug Abuse. I believe that we also know the remedies. A profound turning around of our National priorities: Housing, Work, Education, restoration of Family and Community, and a productive use of leisure. If I restate the obvious, it is simply to make the point that in Juvenile Delinquency and Drug Abuse, we are merely witnessing the overt symptoms of a deeper disorder, which is within our means to treat, if and when we so decide. Until then, our work in delinquency will be merely remedial. Yet even in such remedial work, there is hope and opportunity. For, in such work, carried out now, and carefully evaluated over time, there may lie the germ of many innovations and social inventions which may serve our youth well when the process of reordering and recovery truly gets on its way. The analogy of the peacetime application of wartime inventions may not be out of place. We are "at War"; against poverty, crime, drug abuse, alcoholism, juvenile delinquency. We have to deal with emergencies. We are in need of economic, social and educational inventions of high order. We are in need of new kinds of institutions, new attitudes; in need of people trained appropriately in new mixes of skills and approaches. It is this opportunity which I sense in this Bill.

There is a relation between environment and interpersonal attitudes and values. If the environment breeds and perpetuates crime, alternative environments must be provided. The bill rightly addresses itself to the traditional models of Correctional institutions and Detention Centers, which are not preventing recidivism. A restructing of existing institutions is not easy, but should be tried. A *network* of alternative facilities is needed, reaching from Out-patient care and Screening Centers, through Halfway Houses, Group Homes, Residential Centers, to Training schools, which should live up to the mission implied in this term. Yet one would submit that such efforts would be well meant, and ineffective, unless they are accompanied by a profound change in attitude and responsibility in the community to which the offender returns. Environments shape people. Values are socially generated, maintained and reinforced. A society fearfully relegating its responsibilities to authority and to the "expert" colludes in the very process it wishes to avoid. Participation by the community in the preventive and rehabilitative process is essential.

The family and the school are the most important nurturing agents in this process. It is the failure of the family *as* a school, and the lack of any social institutions to take over its functions, which has, in large measure, led to the erosion of culture and community which we are witnessing. Urban and suburban children are both deprived. In an age of mass communication, (where the average child spends as much time in front of a television screen as he will in a college classroom) the American family, traditionally strong and well joined, seems to have abrogated much of its native responsibility. I happen to be committed to the concept of a *self-helping society*, i.e. a society capable of using the skills of the expert without abrogating its primary responsibility for its own well being. The concept of Self-Help, Accountability, and Responsibility have always been at the heart of the American ideal. Our specialized technologies could be used to serve these ends, rather than defeat them.

I suppose that what I am arguing for is a *Systems Approach* to our problem aimed at creating, in each community, a self-reinforcing network of competent persons and institutions who are charged with planning *with* the young, opportunities and outlets for the young. The coping capacities of young people can be very great provided they have Support (including peer support); Models (including peer models); and are allowed an honest access to their feelings. Children first learn to love and to hate, and learn many things on this primitive template.

If awareness of hate, including self hate, passes unexpressed, it bars the awareness or expression of other feelings, including affec-

tion. There is a blunting of feeling, the shrinking of self-image, or flight into florid phantasy, which may be acted out in crime. Good communication can, thus lead to good self-communication; constructive channeling of aggression through work, gaming, or 'rapping' in a peer group can provide alternative to the loneliness of the street, or the way of the gun.

I would submit that the Behavioral Sciences may have a good deal to offer in dealing with the present emergency. We know something about the Learning Process in man. We know, for example, that motivation is deeply connected with learning. That nothing spurs a youngster like curiosity, and the sense of personal discovery. We know that man responds more readily to reward than to punishment; that social recognition among peers, and in the family, can powerfully enhance self-image, and, thus, one's perception of the world. We know that awareness of hate and other negative emotions is as important to effective functioning as awareness of sterile 'positive' phantasies. We know that reality of the self is best experienced through a combination of work, play, and love between people. To put it another way, an honest access to real feelings, as and when they are experienced, coupled with well-rewarded tasks in a system in which social values are shared and reinforced, run as a kind of common denominator through a good family, and a good school and a well working institution.

The young of today are the parents of tomorrow. By helping the young toward personal competence and responsibility; by giving them opportunities to foster these qualities through contact with younger children, or with peers, or in the service to dependent people, we may, in fact, be training competent parents for tomorrow.

A number of techniques are now available to enhance personal competence, personal awareness, achievement, and motivation. Other techniques include parent effectiveness training, and an understanding of the rules governing family life. Yet other techniques include Behavior Modification, and the use of Positive Reinforcement, including social or interpersonal reinforcers to enhance academic performance and social skills. Some approaches employ mixtures of programmed instruction and group methods to teach youngsters some of the basic elements of citizenship. Also, a range of experimental techniques is being tried in various imaginative experiments to enhance the effective element in cognitive education. Yet, a carefully planned use of these 'mixes' in the prevention, treatment, or the rehabilitation of juvenile delinquency is still lacking.

The lack, as always, is of trained people. I would like to recommend four lines of action.

1. *A survey* of all facilities and resources in the juvenile care area in each state, cutting across agencies, and bureaucratic domains, to identify persons, institutions, and organizations who could participate in the design of alternative environments, educational methods, and care systems for the young. A mutually reinforcing Network of Resources, and persons could be established in each state, region by region, county by county. A Special Action Office of Youth, responsible directly to the Governor of each state, could initiate and maintain such a process. The application of the Behavioral Sciences in such an approach is still in its infancy.

2. *The creation of Centers (or Colleges) for Training for Youth Leaders.* These Centers should be charged with developing curricula in the applied Social, Behavioral, and Educational Sciences relevant to training of youth leaders for field work. A Center (or College) could act as a coordinating body for field experience and field placement. It should emphasize Learning by Doing; and should judge its product by performance in the field, rather than academic distinction. There is already considerable emphasis on interpersonal skill training, and the application of behavioral sciences in community colleges. Yet a central resource would catalyze the development of effective new mixes of instruction, and the acquisition of skills.

3. The Systematic *Creation of Work Opportunities for the Young*, preferably in the area in which they live; the work to be done part-time while at school, and full-time during vacation. This could be done through the setting-up of corporate entities, bringing together private initiative and public funds to train youngsters in skilled trades, and personal services. Training opportunities could be arranged through State and Vocational Schools and Colleges. Compensation could come from counties or cities, through private contributions, or public funds. A series of *Neighborhood Work Programs* where skills are fed directly into the youngsters' community, (with the ensuing pride and recognition) could go some way toward absorbing the frustrated energies of such children.

4. For specialized at 'risk groups,' the creation of work and training programs *away* from their neighborhood. These special environments should combine work and values, cognitive skills, and development of interpersonal relationships. Specialized Sheltered Workshops, or Farm Communes well led, vested with responsibility and some self-governance, could be envisioned in this category.

In essence, I suppose, we speak of the biological need of Youth for Hope. We must create an Ecology for Hope.

STATEMENT BY DR. STEPHEN M. BERMAN, DIRECTOR OF PSYCHOLOGICAL/PSYCHIATRIC SERVICES

Senator and Gentlemen: I appreciate the opportunity to address you today. Although I don't presume to be so bold as to speak with such authority as if I have the answers to juvenile delinquency and crime, I hope, as a result of my training and professional endeavors that I will be able to identify some causes of juvenile delinquency, the consequences for which individuals and society pay so dearly, and finally, to demonstrate the need for positive movement towards a solution such as the bill we are discussing here today.

Research has repeatedly demonstrated that delinquency and criminal behavior are learned and not inborn. Further, that problem behavior in a child is indicative as well as predictive of future problems in adulthood. This is most certainly substantiated by the fact that most people who are presently incarcerated in penal institutions have a history of criminal and delinquent behavior dating back to childhood. We must first recognize that juvenile problems not dealt with have a much greater probability and propensity of working their way into more intricate and serious adult offenses—offenses against property as well as persons.

Clearly, then, we must consider the prevention and correction of juvenile delinquency as a process of habilitation as opposed to rehabilitation; the thought presented here is that rehabilitation means restructuring what was once appropriate, turned inappropriate, eventually restructured back to appropriate behavior while habilitation refers to the original learning, understanding and carrying out of appropriate behavior.

The task that our society must come to grips with concerns not only strong programming, but direct involvement with the parents, neighborhood and community if we are to achieve the goal of adequately responding to the task of defeating juvenile delinquency. Juveniles must learn self-discipline, self respect, confidence, respect and not fear of the law, and be able to incorporate the meaning and nature of their lives as individuals with respect to the total society. If any degree of success is to be achieved, I am positive that the parents and community must be totally immersed in a mammoth effort or it is doomed to failure. The correctional system as it is presently structured, has not met with the success desired and this is due to the lack of parental and community involvement. Too often the term corrections and correctional facilities are limited to institutions whether they are of a maximum, medium, or minimum security type. Only when the stark realization strikes us that corrections must extend into society will we be able to cope with the rehabilitation of convicted felons and the prevention of juvenile delinquency. The major thrust here is that the habilitation or rehabilitation of juvenile delinquents as well as adult offenders cannot be conquered through administrative, custodial and treatment efforts alone. It must include the people in the free society. Time and time again it has been shown that the recidivist returns because he has not been able to adjust nor gain acceptance in a free society. The proposition that a juvenile or an adult be taken from an environment and institutionalized or incarcerated and after a period of time be returned to the same environment that originally contributed to his deviant behavior, with the expectation that he will somehow be changed for the better and become a productive citizen, borders on moronic simplicity.

It is imperative that juvenile delinquency and criminal behavior as well as the correction of same be recognized as a massive social problem; one that can no longer be cast aside as not demanding immediate attention and swift action. In certain primitive and ancient societies the way deviant behavior was treated was to banish the individual. With the idea in mind of habilitation and rehabilitation of persons as well as the realization that it is no longer feasible or even possible in most cases to banish individuals, we must accept and deal with this huge social problem.

It is not only necessary to educate the offender, but also the public as well. In this way all persons will be afforded a better understanding of this social problem and remove the stigmas and sterotypes which it fosters. In so far as prevention is concerned, juveniles must be made knowledgeable in relation to the world in which they live and taught sellable skills in addition to promoting specific interests and hobbies. In order to effectivly and efficaciously deal with the massive problem of juvenile delinquency and ensuing rehabilitative efforts, all energies must be centered in and around the individuals in our neighborhoods and communities and for the most part be directed at the heart of these areas so that the pulse of society as well as of the individual who makes it up can be intelligently dealt with. In view of what has been stated above, I wholeheartedly endorse Senate Bill S. 2148. Thank you for the opportunity of speaking before you today and if you have any questions, I will be most happy to answer them.

STATEMENT OF THE BALTIMORE POLICE DEPARTMENT, REPRESENTED BY LT. COL. GEORGE C. SCHNOBEL, MAJ. EDWIN L. LAWRENCE, AND MAJ. CLARENCE E. ROY

Senator Mathias—ladies and gentlemen: As a member of the Baltimore Police Department, I wish to thank you for the opportunity to bring before you some facts concerning juvenile delinquency in our great city of Baltimore.

Commissioner Donald D. Pomerleau would like to have made this presentation himself, but a prior out of town commitment has prevented him from being here.

However, he has asked me to express these sentiments concerning juvenile delinquency and Senate bill #2148.

In order to make this presentation as concise and succinct as possible, I have purposely divided it into three (3) categories:

(1) The growing problem of juvenile delinquency in Baltimore.

(2) The efforts being made by our department to prevent and combat juvenile delinquency, and

(3) The present needs to modernize and expand our facilities for processing juvenile offenders.

The crime picture in Baltimore indicates a severe rise in the number of juvenile offenders in recent years. The fact that this picture is reflected across our Nation is obvious. The uniform crime report, published by the Federal Bureau of Investigation, indicates that 1,846 persons under the age of 18 years were arrested for murder or nonnegligent manslaughter in 1970, in the United States. The report also informs us that 312,066 youths were arrested for larceny, theft. These figures would certainly indicate the need for the proposed legislation.

Baltimore police officers arrested a total of 6,803 persons under the age of 18 years in 1965.

By 1970, the same category of arrests totaled 12,835.

As of August 31, 1971, our officers had arrested 10,377 youthful offenders.

A projected figure for the year 1971 would exceed 13,500 arrests.

The flagrant use of narcotics and dangerous drugs has played a significant role in the rise of juvenile offenses.

The expertise of the modern day police officer in the detection of drugs and drug violations, has also contributed to the rising arrest figures. For instance:

In 1965, only 55 youths were arrested for violations of narcotic and drug laws.

However, in 1970, the police arrested 497 juveniles for narcotic violations.

359 males, 74 females.

Of course, the social and economic factor also enters the picture. The appalling detail in the youthful crime picture is the 60% rate of recidivists in Baltimore.

Many programs have been implemented by the police department in our efforts to combat the delinquency problem.

The Boys Clubs, one of our most fruitful programs, was established in 1944. Because of its success and demands for its services, the number of Boys Clubs was increased to four in 1945. There are many activities involved in the program which stress the development of the total person, including:

(1) Athletic programs.

(2) Instructions in arts and crafts.

(3) The use of wood working tools in fully equipped workshops.

(4) Bus trips to places of interest to boys.

(5) Each club is equipped with ping pong tables, pool tables and television sets for use by the boys.

During the winter months, the boys are taken to indoor swimming pools on Wednesday nights, while others are instructed in the proper care and use of rifles. (This portion of the program is affiliated with the National Rifle Association.)

During the summer months, the summer camp is in full swing. Located at Fort Ritchie, in Cascade, Md., atop the Catoctin Mountains, the camp offers the use of three large barracks, a dining hall, athletic fields, hiking areas as well as boating and swimming facilities.

The summer program is available to all club members at a price of $15.00 for a two (2) week period. This fee represents about one third the cost of their keep. (Underprivileged children who cannot afford this fee are taken to camp, free of charge). Approximately 500 boys take advantage of the camp each summer. The far reaching value of this program cannot be estimated. Over 20,000 boys have been taken to camp during the past 26 years. However, it has been found that the personal, sympathetic and constructive guidance provided by the police officers have resulted in creating good wholesome attitudes and conduct on the part of the boys.

This is reflected by the fact that over 350 former members of the Boys Clubs have become police officers. Former members have also gone on to become successful doctors, lawyers and clergymen. Many are commissioned officers in the various military services. Several members of the Maryland legislature, the head football coach at Towson State College and one member of the U.S. Foreign Service are former Boys Club members.[1]

Since there was no allocation of money in our budget for such a program, a search for community support was necessary. The variety clubs of Baltimore agreed to assist us and did so for many years, until the cost became prohibitive.

In 1954, a group of prominent businessmen formed an organization to be known as "Buddies, Incorporated" and have supported the Boys Clubs in fine fashion. However, since "Colt Night" has been discontinued, these men are looking for new sources of financial assistance.

It is my belief that each of the nine police districts should have a Boys Club in operation, and that their activities should be expanded.

Another valued program involves our four store front centers which are located in the inner city. These are convenient neighborhood locations for citizens, including juveniles, to meet and talk to members of the police department in an informal atmosphere. The officers assigned to the store fronts also participate as coaches for little league baseball clubs, basketball teams, softball and football teams. They also organize clubs for boys and girls in the neighborhood. These officers also transport children to rock and roll shows at the civic center and arrange trips to the Naval Academy, Enchanted Forest, Friendship Airport, Washington, D.C., Fort McHenry and other places of interest.

The most recent program adopted by the community relations section is the use of a large command truck, which has been utilized as a mobile unit, manned by community relations personnel.

This unit responds to areas in the city which have experienced social unrest.

The truck is constructed so that upon arrival at a given location, its sides can be opened, creating a roof and flooring which expand the size of the vehicle tremendously. The officers exhibit films pertaining to crime prevention, education, and even cartoons for the little tots.

Many juveniles seek the advice of the officers pertaining to their own particular problems.

The use of this unit has been praised by community leaders, as well as the parents throughout the areas.

This unit acts as a mobile store front.

During the year 1970, the community relations section presented a drug abuse program in many elementary, junior and senior high schools. Officers in this division are graduates of the Bureau of Narcotics and Dangerous Drugs Training School in Washington, D.C.

Our community relations section is also involved in Project Go, a program co-sponsored by industry and commerce. The Baltimore public schools and the police department. This project is designed to:

(1) Involve the pupil in curriculum development;

(2) Help the pupil in planning for his future;

(3) Make the school important as a vehicle for growing opportunities in careers;

(4) Help the pupil develop an awareness of his potential;

(5) And assisting the pupil in developing realistic concepts of his self worth and dignity.

The officer friendly program, another involvement of the community relations section began its operation in November, 1970. This program is co-sponsored by our department and the Sears Roebuck Foundation.

The objectives of the program are to provide the primary grade children with the opportunity to develop an understanding of his rights, responsibilities and obligations, as junior citizens living in the city of Baltimore. The program is set up in three phases:

(1) The orientation period

(2) A class room demonstration

(3) A follow up period

The program is geared to the kindergarten and first grade levels.

Four officers are assigned to Officer Friendly and in the short time it has been in existence, they have reached 20,000 children in 120 schools.

In the fall of 1969, Sergeant Dickerson, officer Day, and Reverend Metcalf, a local minister, inaugurated the "Police Awareness Program" in the high schools of one of our police districts.

This was a pilot program to test the value of police involvement in public schools.

The officers hoped to create a better understanding between the police and the youth of our city, through better communication. Funded by the Mayor's Commission on crime, the program far surpassed the officer's expectations.

The officers announce their coming in advance, to overcome the apprehension of students who observed their entrance into the schools. Classes were first shown a slide presentation which dealt with the major functions of the police department.

These classes were followed up by the personal appearance of an officer in each individual classroom, at which time the officer initiated a dialogue with the students. There were no prepared talks on the part of the officers. They allowed the students to decide the subject matter. In this way, the officers found that many misunderstandings could be erased. Many attitudes toward policemen were changed. The students began to understand why police have to react to certain situations in various manners. All question by the students were answered honestly, a point which the students quickly recognize.

In the fall of 1970, two additional officers joined the staff and the program was geared to reach as many high schools as possible throughout the city.

As a result, the officers were able to relate to 18,000 students on at least two (2) occasions. Again, the reaction was quite positive. The program has been acclaimed by the Mayor, the President of the City Council, School Principals Department heads and the news media. The programs that I have described are each making a great contribution to the prevention of juvenile delinquency but they should be expanded.

A greater need, at this time, is the upgrading of youth detention to be coupled with youth rehabilitation.

Our present facility at the Pine Street Station is slated for demolition within a matter of weeks.

We will then be housed in the northeastern police station. This move represents an improvement, but should be considered a temporary arrangement at best.

The northeastern district facility, presently approved by the courts, will rapidly reach the point of saturation.

There will be a limited number of rooms and beds and when these are filled to capacity, detention cells will have to be used for supplemental quarters.

The number of juvenile detentions are increasing and during the detention period, the youth has a bed but little else.

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[1] George Freeburger, City Council Charles Wheatley.

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For instance, there are inadequate facilities for the juveniles to bathe and there is no form of recreation during the detention. There is an urgent need in the city of Baltimore for a juvenile reception center, staffed by the Department of Juvenile Services—probation and after care division, who could process the child during the initial confinement period.

The use of police station or jail cells prior to the evaluation of the child is no longer socially acceptable.

It would remove the police from the "jailing" process into the more desirable field of juvenile protection.

A desirable atmosphere would reflect that of a reception center rather than a police facility.

Processing of the youthful offenders by the Department of Juvenile Services would allow our youth and patrol divisions to concentrate more vigorously on the problem of crime prevention.

You have probably already come to the conclusion that something must be done to assist local law enforcement agencies in preventing and combating juvenile delinquency. The Senate bill before us has within it's text a means of helping to alleviate this problem. Through this amendment to the Omnibus Crime Control and Safe Streets Act of 1968, a larger portion of the allocated funds would be used for preventing and combating juvenile delinquency. These funds are desperately needed if we are to make a positive impact upon crime involving our young people.

Presently, our facilities for handling youthful offenders are archaic and totally inadequate for the simple reason that there are insufficient funds to update and improve them. Although we are using our present manpower to it's greatest efficiency, we are unable to meet the continuing requests for juvenile services. If we had the funds available, we could increase the number of officers and related personnel working in this area.

Remember, the youthful offenders of today will be the hardened criminals of tomorrow, if positive action is not taken.

STATEMENT BY D. N. FORNARO, PRESIDENT, METROPOLITAN BALTIMORE COUNCIL, AFL-CIO UNIONS

I speak in favor of S. 2148 to provide for a comprehensive grant program for the prevention of juvenile delinquency and for the rehabilitation of juvenile delinquents.

The time has long past that definite and constructive procedures be instituted for the prevention of juvenile deliniquency and especially, for the rehabilitation of juvenile delinquents. We have sat still too long and watched the sore of juvenile delinquency fester and spread the disease among our young people, those to whom the reins of leadership will be passed. Oh, I know that many arguments will be ventured as to the whys of this problem of juvenile delinquency—an unpopular, undeclared war—the uncertainty of the times—the change of accepted manners and morals—and many others, but while the whys are being argued, the problem is growing greater. The need for action is long overdue—the time has past when we can foolishly waste precious time in arguing—something must be done and it must be done yesterday!

S. 2148 is a start—it is a beginning—a step to be followed by another and another—but at least for the present, a step. To merely remove from society a juvenile who has committed a wrong and close him away in an institution to brood, to harbor resentments, is no sane or logical answer to our problems. These juveniles must be provided with every opportunity to understand themselves, their weaknesses, their needs, their rights and their responsibilities. They must be given every opportunity to be able to take their place in the community as responsible, law-abiding citizens, with a definite place in society and a definite role which they must fill. For many, the process will be long because they must first become a vital part of a family unit, which is of course the firm basis of any community, of any society. Too many of our juvenile delinquents have never known the security of a family, have never felt the warmth of a home where love and respect prevail, have never been made to feel that they are important, as human beings who are vital and needed in the family unit. *Would* that we could start from the very beginning and correct all the wrongs that society has committed on these young people, but unfortunately, time has wickedly denied us that opportunity. And so, we must take up the task of working backwards to rehabilitate those who are delinquents and hope that in doing so, we can prevent the need for such extensive rehabilitation programs in years to come.

It is noteworthy to me that in S. 2148 specific attention has been given to the provision for "special training and other qualifications in order to meet personnel standards required in dealing effectively with juvenile delinquents and pre-delinquents". This, to me, is especially significant because it is an indication that at least we have realized that our young people deserve to be treated as special, that a program of this importance must be dealth with by those especially trained to communicate with the juvenile, and thereby be more effective in his rehabilitation and more importantly, in the prevention of possible delinquency.

I could go on at greater length about the merits of this bill, but suffice it to say that I support S. 2148. It is, I hope, only a stepping stone, to be improved and enlarged until hopefully one day the need for rehabilitation programs will be minor as a result of an adequate and positive prevention program. Perhaps it could be summed up with an old saying—"an ounce of prevention is worth a pound of cure."

MR. HERMAN KATKOW, DIRECTOR OF THE MAYOR'S ADVISORY COMMITTEE ON SMALL BUSINESS

I presume that the invitation for me to testify this afternoon was extended in my official capacity as the Director of the Mayor's Advisory Committee on Small Business. However, I would also use this opportunity to express views based upon my experience and observations as a businessman in a high crime area, as a father, and as a deeply concerned citizen. Let me confess that I bring with me no data that might be considered "expert" testimony—I assume that the statistics and the case histories are available from other sources.

Over the years the problems of small businesses have been so numerous, what with competition from chain stores and discounters, deteriorating neighborhoods, inability to obtain adequate insurance, lack of capital, high taxes, urban renewal and shoplifting, just to name a few, that one might have been hard-pressed to identify problem #1, and indeed, problem #1 may have varied from one small businessman to another. In recent years, however, identification has been no problem at all. Few would disagree that crime is our prime problem, and that a substantial part of that problem is that of juvenile crime. We tend to think of juvenile crime in terms of overt anti-social actions which break the law, which, of course, is correct. Insofar as the small businessman is concerned, however, there is an additional element which cannot really be so classified, and is yet, part of the very same problem. For lack of better definition, I'll call it juvenile harassment. The juveniles involved here are generally the younger ones, whose actions, for lack of alternative things to do, take the form of group loitering in front of and in the vestibules of stores, baiting the merchant and his employees in various ways and other varieties of game-playing. This group possesses a high degree of amorality and can really be considered as a cadre of criminals-in-training. It is no exaggeration to say that crime has been a major contributing factor to the closing of many small businesses and a strong deterrent to attracting new businesses in the inner city. I might add, parenthetically, that while a few years ago, the term "inner city" referred to a few selective areas generally located just beyond the boundaries of our Central Business District, today, it can be applied to just about anywhere between downtown and the Beltway.

This, of course, has resulted in less goods and services being available to the residents, an acceleration in the decline of the neighborhoods, and an increasing erosion of the tax base. It has been estimated that within ten years, more than half of the population of the United States will be under 25 years of age. We really have little time or alternatives. We *must* find solutions to juvenile crime and find them quickly.

I am glad that this bill resists the temptation to again hack away at the exposed branches of the crime problem by the usual recommendations for beefing up security and more punitive measures, but looks to the much more difficult job of getting down deeper into the twisted and tangled roots from which the problem grows. The former is certain to be more politically popular and more easily saleable, but I believe it would be a most grievous mistake if we utilized the funds provided in this bill only for that. We are witnessing daily, often in the most tragic way, the futility of imposed discipline. Of course, it is necessary, but, at least, it can only be of short term duration. The only discipline worth the use of the word must be self-directed and self-controlled. This inner discipline is the only permanent solution to juvenile delinquency. I believe the most serious problem we face, and that which mitigates against this solution, is the complete lack of motivation by those who are potential or actual delinquents. Even among those young people who tend to shy away from actual law breaking, there is a very large element who have become completely disenchanted with the status quo, or to use their own vernacular have been "turned off" from the "system" and have developed a set of values completely different than ours. The more sophisticated of this element try in many ways to tell us—we, who are identified as the "establishment"—of the great social and economic inequities that our system has produced. We tend to give them better and more rational arguments than they give us—but despite the most legitimate justifications that we can muster, the harsh fact remains—yes, there *are* great inequities, and if we are to be completely honest with ourselves, we are only taking teeny baby steps in trying to resolve them. They do not believe the lip service we render as to ameliorating people problems when they see $30 billions per year and thousands of lives poured down the drain in Southeast Asia during the past decade. Some of this frustration and feeling of powerlessness has got to rub off on their less sophisticated peers who may justify criminal actions with a feeling of retaliation against those they see as responsible for their plight.

Last week, I sat as a member of a small group discussing drug abuse. I would like to bring you one observation made by our guest at that meeting, a man who has dealt with narcotic addicts on a privileged communication basis every day for many years. He stated that, despite the tremendous diversities that existed within the hundreds of addicts he has counseled, there was one factor that was common to all of them, be they black or white, rich, poor or middle class, juvenile or adult, male or female. That factor is a sense of worthlessness. I would submit that a similar feeling of lack of self-esteem or even self-hatred is a consistent pattern among juvenile delinquents, be they addicts or not. They have been told by society, by parents, and others in various ways that they are just no good s.o.b.'s and will never amount to anything—they have been told this, verbally or non-verbally, so often that it becomes a self-fulfilling prediction.

Every now and then, when I run across something I consider profound, I jot it down. A European philosopher wrote this in another generation, but it seems to apply even more today: "Man would fain be great and sees that he is little, would fain be happy and sees that he is miserable, would fain be perfect and sees that he is full of imperfections, would fain be the object of the love and esteem of men, and sees that his faults merit only their aversion and contempt. The embarrassment wherein he finds himself produces in him the most unjust and criminal passions imaginable, for he conceives a mortal hatred against that truth which blames him and convinces him of his faults." This bill provides funds to seek new and innovative ways to deal with the problem of juvenile delinquency. Extensive research is needed in how to provide motivation—how to furnish a sense of achievement and accomplishment. The problem is as much psychological as it is educational and economic. In addition to the group therapy these new programs might provide, I would hope they would borrow heavily from the experience gained in such varied programs as Junior Achievement, Daytop Village, George Junior Republic, and others, all designed for active individual participation building towards the ultimate goal of self-pride and self-discipline.

I would further hope that funds would be available to study and to recommend a new experimental, controlled program of education beginning in the elementary schools, and utilizing a highly specialized teaching cadre who can travel from school to school so that each class would have at least one weekly session. Such a program, however titled, would have as its primary objective the instilling within each child a feeling of high regard for his own individual status, and should include such subject matter as sex education and drug abuse. Some will scorn this kind of approach as impractical and unrealistic. However, as a businessman, I am of necessity a pragmatist, or perhaps a better self classification is a "practical idealist", and when I see how the world has changed in our time, and is continuing to change, creating new problems and intensifying old ones, and how these problems cry out for new approaches, then I must feel that perhaps the idealistic approach is truly the genuinely practical one.

I would close with another profound bit I jotted down recently—this one in years by an American psychiatrist: "Man's humanity to man can be a kind of medicine for individuals who have been deeply afflicted by inhumanity."

STATEMENT BY EDWARD J. MCNEAL, EXECUTIVE VICE PRESIDENT OF THE MARYLAND RETAIL MERCHANTS ASSOCIATION

My name is Edward J. McNeal and I appear here as the Executive Vice President of the Maryland Retail Merchants Association. We are appreciative of the opportunity to testify before you today and to make comments upon Senate Bill 2148, introduced by Senator Mathias and twenty-five other Senators.

In presenting our testimony today, we wish to indicate at the outset that we do not profess great expertise in the field of juvenile delinquency or the rehabilitation of juvenile delinquents. We have, however, over the past few weeks, under the auspices of the Retail Merchants Association of Baltimore, been conducting a campaign directed primarily at the juveniles, which concerns itself with the serious problem of shoplifting.

About thirty days ago the FBI released, in its annual report, statistics which revealed the startling figure that the incidents of shoplifting had increased 221% in the past ten years. This economic loss is one that is shared not only by the stores but by all those who seek to acquire goods.

Our studies indicate that a substantial percentage of all the shoplifting which is done by amateurs is done by teenagers between the ages of 13 and 19. Our program is not designed primarily as a vehicle to apprehend, prosecute and convict the teenager, but rather to inform him of the consequences of shoplifting and hopefully to deter him from stealing in the first place.

We take no pleasure in apprehending anyone in our stores, and in fact we are in the business of selling and would much prefer to concentrate on that rather than to establish an elaborate security force to apprehend the thief. We certainly take no pleasure in spending tens of thousands of dollars for elaborate electronic equipment and other devices, all designed to curb this ever-growing social problem.

We would much prefer, as I am sure your committee and the Congress would prefer, to see ways and means developed whereby offenders could be made aware of the consequences of their acts and whereby genuine and constructive rehabilitation programs were made available. Only through this kind of an approach will long-term benefits accrue to individuals and to society as a whole.

We are particularly pleased to note the proposal which you have under consideration today has as its purpose providing assistance to local government to develop and implement programs and projects for the prevention of juvenile delinquency and for the rehabilitation of the delinquents. This we applaud; and congratulate you, Senator, for taking the initiative.

We particularly note, among the services that might be provided, under this proposal, is the expanded use of probation as an alternative to incarceration, including programs of probation subsidies. An interesting suggestion was made to us by one of the District Court judges at the beginning of the anti-shoplifting program. This judge said that it is very frustrating to him to see the young offender brought before him with no previous record and to have the facts presented which give clear indication that the person apprehended is guilty. The dilemma that he faces every day is either to grant probation or to subject the individual to a severe penalty which is provided for under the law.

He frankly admitted that more often that not be granted probation, but he indicated he would much prefer to have some alternative . . . perhaps the development of a clinic whereby the subject could be granted probation subject to his attendance at a series of classes once a week for a stated period in which he would be subjected to a specific course on the dangers inherent in the acts which he had committed, e.g., how these acts have the potential of jeopardizing his future, his entrance to college, his permanent work record, or any one of a number of opportunities.

As we read the legislation which you have before you, an opportunity might be developed to create such a clinic or a school, and the judge to whom I refer might be able to grant probation to an individual subject to the qualification that he attend this clinic for a period of time.

We are embarked on a massive public awareness campaign through the media of television, radio and the press, and we are receiving excellent cooperation. We have as our goal the curtailment of the serious problem of shoplifting because we believe that everyone suffers when people steal from stores. Ours, in a sense, is a negative kind of effort designed to curb a serious problem.

The way we see it, the legislation which you have before you provides an outstanding opportunity for a constructive, positive effort. It gives to the states and the local sub-divisions the chance to utilize much-needed federal funds to create new programs and to take action in a positive way to deter the youngster from activities which have the potential for permanently damaging his future. Sure, we are interested primarily today in the problem of shoplifting, but as citizens of the community we realize that there are many other problems, particularly the drug problem, which are commanding the immediate and serious attention of the Congress.

In the limited expertise that we have in this field, we would lend our enthusiastic support to the proposal which you have before you because we believe that it provides a positive alternative to the beginning of a life of crime.

We applaud the stated purposes of the act. We know of no more constructive way to assist the young offenders or potential offenders than to develop and implement a program for the *prevention* of juvenile delinquency and the rehabilitation of juvenile delinquents. Only through this means will we prevent them from going on to more serious offenses and prevent them from permanently jeopardizing their future.

A LETTER WRITTEN TO MR. ROBERT BONNELL OF BALTIMORE

MR. ROBERT BONNELL,
Baltimore, Md.

DEAR BOB: I thank you for the support you give to Senate Bill 2148 introduced by our own Senator Mathias out of great concern for our young people of today.

We desperately need programs and facilities to deal with thousands of young people here in America who are very apt to find themselves becoming juvenile delinquents unless something is done. In the area of drug abuse alone, we know our most critical need in Maryland is for residential facilities for adolescents and at the moment we have *none*. While countless young people can be helped by ambulatory programs, seeing a doctor or going to group therapy, on a once a week basis; there are many, many more who need to be taken out of their environment completely for three to nine months. This is necessary if they are going to "get their heads together" and determine what they want to do with their lives while they are protected from the daily pressure from their peers to "do some stuff" or to continue firing up. There are so many of these young people, I would say a majority, who we can help to get over the hump and live full productive lives if we can give them assistance now. They need help in recognizing their strengths, developing their abilities, knowing how great they really are but they can't do it alone and most families are not prepared to give the concentrated attention this calls for.

Many people don't realize that many young people, and some not so young, while on methadone programs are still supplementing their methadone with additional methadone or with heroin and are continuing to get involved in crime in order to do this. Methadone is an important tool when properly controlled and with supportive services, but we need so much more for our adolescents. I hope you will give Senator Mathias' bill all the support you can possibly give. Our young people are fantastically good but they do need help.

Faithfully,

FREDERICK HANNA,
Rector, All Saints Episcopal Church.

STATEMENT OF ROBERT C. HILSON, DIRECTOR OF THE DEPARTMENT OF JUVENILE SERVICES OF THE STATE OF MARYLAND

Senator Mathias and other distinguished Committee Members, I deem it a pleasure to

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have this opportunity to appear before you to express my views on Senate Bill 2148 and its potential impact, not only upon the juvenile system, but also its impact upon the entire criminal justice system.

My name is Robert Hilson and I am the Director of the Maryland Department of Juvenile Services—the State Agency charged with the administrative responsibility for the provision of those services rendered to the several juvenile courts and for the operation of the State juvenile training, diagnostic, detention and rehabilitation institutions. I am also here today representing Dr. Neil Solomon, Secretary of Health and Mental Hygiene for the State of Maryland under whose administration, the Department of Juvenile Services falls.

Senate Bill 2148 undoubtedly is one of the most enlightened pieces of legislation concerning delinquency that I have seen. Enlightened because it begins at the most crucial stage of our justice system enlightened because major focus is placed on those considered to be most amenable to change; and enlightened because of the emphasis and stress placed on the development and expansion of rehabilitation programs which are community-oriented rather than institutionally-oriented.

Unfortunately, our juvenile courts have had far too few alternatives available to them as dispositional means of handling the many troubled youth who appear before them. Even more unfortunate is the fact that far too little attention and resources have been directed in the areas of prevention and proper diagnoses of needs, which in effect, would have a direct correlation with the number of inadequate resources available to the courts for dispositions.

Maryland is very fortunate in having legislation which vests responsibilities for comprehensive services under a single State agency, i.e., thhe Department of Juvenile Services. It is the goal and objective of the Department to develop appropriate community based programs of varying types to meet the varying needs of our youngsters. It is our considered opinion that the overwhelming majority of our troubled youth can, and will, make the necessary changes in attitude and behavior within such community programs, thereby leaving the institutional programs available only for those selected youngsters who require external controls whereby they can return to the community where the ultimate adjustment has to be made.

The Department of Juvenile Services has embarked upon a program to attain these goals. Presently we have well over 250 children in residential care in the community through the use of specialized foster homes, group homes, purchase of services from private vendors, etc. These youngsters might well have been confined to institutions were it not for this approach. We, however, have just begun to scratch the surface as to the needs in this area. And, as usual, the availability of funding is the major reason for the pace at which we are proceeding. State funding for the Department has steadily increased during the four years of the Department's existence; federal funds under the Omnibus Crime Control and Safe Streets Acts of 1968 have been utilized to the extent available. Yet, additional massive amounts of funding are required if we are ever to make a dent in the increasing rates of delinquency, and in the development of programs which prevent delinquency and which are truly rehabilitative for the adjudicated youngster.

There is no question that traditional methods of treating delinquency have not been successful. Recidivism rates remain high; staff frustrations increase by the inability to supply them with the needed tools to do the job so many of them desperately desire; and community and legislative responses continue to mount at what appears to be an ineffective use of the tax dollar.

New and innovative programs must be developed. The children of today have different needs than those of a generation ago yet we are still, to a large extent, operating on principles developed several generations ago. Change is long overdue and Senate Bill 2148 provides a vehicle for this change. Forty percent of Federal funding granted to a State should indeed be a minimum amount and I am not unaware of the many, many needs in the other areas of our criminal justice systems. However, I feel that the emphasis must be placed at the juvenile level if we are going to make any changes at all in the adult system. Money *effectively* spent at this level should certainly reduce the need for increasing funding at the adult level. Changes *must* be made at the juvenile level, particularly in the area of juvenile delinquency prevention. These youngsters deserve the opportunity, which heretofore has not been available in sufficient quantities, to make the needed changes within themselves and within the community if they are to avoid what has been for too many of them, a graduation into the adult system. Senate Bill 2148 would permit this opportunity.

We heartily support your efforts as expressed in the Bill.

LETTER SUBMITTED BY GEORGE P. BROWN, DIRECTOR, INSTITUTE OF CHILDREN

Hon. CHARLES MCC. MATHIAS, Jr.
U.S. Senator, U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: Thank you for enclosing a copy of your Bill S. 2148 and inviting me to submit comments. To me, the most impressive features of this proposed legislation, in addition to the attention directed at rehabilitation of the delinquent, are: (1) The provisions for prevention through the employment of a variety of community based services—family and individual counseling, advanced educational concepts and practices which improve the youths abilities to think and to learn. (2) A body of persons referred to as the administration with the responsibility for assessing the merits of a grant proposal, after setting down rules and regulations to be adhered to.

Left not spelled out in this Bill is the consideration of who will constitute the administration. This is a very crucial consideration because it is well established that the causes of any given socially unacceptable behavior have multiple causes that cut across disciplinary lines and therefore members of all such disciplines should have representation on any such administrative board in order to assure that all factors operating in a particular case receive due weight. One of the major recommendations of the Joint Commission on Mentally Ill Children which incidentally was chaired by a resident of Maryland, Dr. Reginald Lourie, was that advocate groups, multidisciplinary in composition, be established at federal, state and local levels to assure the provision of comprehensive services to all children and their families. Important members of such boards would be lay citizens. A model of this kind could, it seems to me, be included in your legislation which would greatly enhance the likelihood of its achieving its goals.

It is very heartening to see evidence, exemplified by your bill, that there is concern for the welfare of our fallen families and their children. Hopefully, in the not too distant future, the statement made in the preface of the Report of the Joint Commission on Mentally Ill Children to the effect that America neglects its children will no longer have validity.

Again thank you for inviting me to offer comments and suggestions.

Sincerely,

GEORGE P. BROWN, Sr., M.D.
Superintendent, Regional Institute for Children and Adolescents—Baltimore.

STATEMENT OF JACK COHEN, EXECUTIVE VICE PRESIDENT, BOYS' TOWN HOMES OF MARYLAND

Ladies and gentlemen: It is my pleasure to speak here today, in support of this bill which strives to assist our nation in its battle against Juvenile Delinquency, spiraling crime rates, costly expenditures and the terrible loss of human resources. I am here as a "friendly critic" . . . in an effort to present certain views, that in my opinion, would greatly enhance the funding methods, directing emphasis to specifics.

Since 1961, when the Juvenile Delinquency Act began, efforts have been made to attack our nation's No. 1 problem—crime.

We are all aware that a multitude of factors contribute to the over-all problem; however, it has become quite obvious that massive efforts must be directed toward Juvenile Delinquency Prevention and Rehabilitation.

Herein lies a "fuzz" area that needs more definition and more specific direction. Since actual criminal activity confronts us daily and since the need for more apprehension and more containment is most obvious, the major portion of funds never reach the area of pure prevention.

This is easily understood, since our city fathers do not find pure prevention "dramatic or visual" . . . thereby continuing to spend available funds elsewhere.

In 1970–71 merely six percent of safe streets funding was directed to the area of pure prevention.

This is a big mistake!

The 15-year-old boy commits more serious crime in the United States than any other age group.

Only 1½ per cent of Baltimore's teen-agers commit 45 per cent of the City's crime.

Each year in Maryland, 1200 youngsters, for want of a better place, are sent to hard-core penal institutions, where more likely than not, they were trained to be criminals instead of tamed to be good citizens.

For many, many years such facilities were the only available route . . . and as many as 70 to 80 per cent of the "rehabilitated" boys became "repeaters" within a very short time.

This terrible recidivism rate points up the need for new approaches.

Boys' Town Homes of Maryland is one of those groups that seeks to head off crime, to diagnose the potential delinquent early . . . long before he is the 15-year-old boy.

We believe in getting these troubled youngsters early . . . we work toward preventive programs . . . designed to offer "Pre-Entry" therapy, to prevent the youngster from incarceration and keeping him out of the Criminal Justice system.

We believe that this process must begin early in his elementary school education after the first sign of serious antisocial behavior patterns.

Our "pilot" program, now more than five years old, is greatly responsible for a movement away from training school incarceration and to the establishment of community-based, "people size" homes, serving approximately a dozen boys (8–12 years of age) for a period of six months to a year.

It can cost up to $300,000 to keep one offender locked away from society for a period of 35 to 40 years. Isn't it good business to spend approximately $7,000 a year now . . . and avoid the big price tag later?

To reduce incarceration . . . we must reduce recidivism!

When we reduce recidivism we reduce crime.

In an effort to make Senate Bill S. 2148 more effective and more likely to deal in specific areas of concern, I suggest:

(1) That we acknowledge rehabilitation to be that type of therapy that deals with a discharged offender or criminal after he has been incarcerated in a security facility . . . attempting to break the "repeater" pattern.

(2) We suggest that we acknowledge that the term "pure prevention" be that type of therapy that deals with youth when he first shows serious antisocial behavior patterns and prior to his assignment to a training school or institution.

This effort should be designed to prevent the first incarceration and motivated to keep this troubled youngster out of the Juvenile Justice system entirely. It can truly be considered Pre-Entry therapy.

(3) In order to start promptly enough and to gain the greatest opportunity for correction, we suggest that the priority age group be limited, directed to the 6-12-year-old child.

If the 15-year-old boy commits the most serious crime in the United States, it is obvious that our target for "pure prevention" should begin early enough with the elementary school child.

In this light, we suggest the following changes to Part "F" Sections 471 through 474—

(A) We suggest that an appropriation of $100 million—no less than $75 million be specifically directed to the area of "pure prevention" and pre-entry therapy.

(B) We suggest that Section 474 be changed to: "Determination of funding be determined by population of juveniles 6–17 years of age (not 11–17)."

COMMENT

Utilizing the 11–17 category would be a direct contradiction to Section 473, which "directs professionals from elementary and secondary schools to detect, work with and divert from the Juvenile Justice system, any youngsters in need of assistance.

This obviously means the age of initial contact and concern must be as early as the 6-year-old. The "pure prevention" would most likely be applicable in the 6-12-year-old age group if we are going to prevent the occurrence of the 15-year-old criminal.

"Rehabilitation" however, would most likely be applicable in the 11-17-year-old age group, since a very large percentage of youth do begin incarceration in training schools at 11 years of age.

In our Boys' Town Homes program (8-12-year-olds), the first five boys released to their own home environment, were 11 to 12 years old.

We therefore, take strong objection to a late start . . . we must stop pushing aside the first and second-grader who shows signs of future criminal activity, simply because he is more easy to ignore, in the presence of the overbearing criminal activity that is ever present. We must stop pushing the mild offender and troublesome child to the "rear of the bus."

"When you find yourself knee deep with alligators . . . it is quite difficult to remember that you should have long ago drained the pond!"

(C) We suggest that Section 471 be changed to read: "It is the purpose of this Part to assist states and units of general local government and through sub-grants, assist nonprofit, private agencies or organizations to develop and implement programs and projects for the Prevention of Juvenile Delinquency and for the Rehabilitation of juvenile offenders."

COMMENT

State and city agencies must be encouraged to seek out non-profit, private agencies, religious groups and organizations . . . and encourage their participation in "pure prevention" and "rehabilitation" programs.

They must encourage community groups to take hold and bring forth a multitude of "Pilot" programs such as: Big Brothers, Scouting, and Boys' Town Homes of Maryland, to seek other ways to fight the spiraling crime percentage.

As an objection to the appalling crime activity, Boys' Town Homes of Maryland was created over five years ago and pioneered the first move toward "preventive crime", through the use of small community-based homes instead of institutional incarceration . . . encouraging "Preventive" and "Corrective" Therapy as early as 8 years of age.

Today, all of Maryland's surrounding states—Virginia, Delaware and Washington, D.C., are already adopting community-based homes as a substitute for training schools and institutions.

Most times, our professionals are too overburdened, too entrenched, underfinanced and understaffed, to "reach out" for the new, less dramatic, "pilot" approaches—such as "pure prevention" and pre-entry Therapy.

Please, Ladies and Gentlemen, let us begin early and act effectively . . . let us prevent incarceration because it is six to seven times more costly and more difficult to achieve successful results.

When you save a boy . . . you gain a man!

FORMER SENATOR SPESSARD HOLLAND OF FLORIDA

Mr. MUSKIE. Mr. President, I wish to express my deep personal grief at the recent death of the distinguished former Senator from Florida, Spessard Holland. Certainly one of the pleasures of my career in the Senate was the opportunity to work with and know this outstanding American.

Senator Holland served the public in every level of government. He was a county prosecutor, a judge, a member of the Florida State Legislature, Governor of the State of Florida, and finally a U.S. Senator. In each of these public offices, he served ably and well. This great diversity of experience enhanced the contribution that Senator Holland made in the Senate in the consideration of national legislation. Few men in the Senate could draw on such a wealth of experience to aid the Senate in the consideration of the great issues of our time.

As someone who has been concerned for some time with the environment, I should like to acknowledge Senator Holland's contributions in this area. As Governor of Florida, he established the Game and Fresh Water Fish Commission which did much to preserve the environment of Florida. He is rightly known as the father of the Everglades National Park.

Spessard Holland is no longer with us, but his contributions to his State and to our society remain.

Mr. MATHIAS. Mr. President, Tom Wicker is a sensible man. Few citizens, journalists or otherwise, can rival his intellectual grasp of the problems of our Nation and our age. But unlike many of those who may aspire to be his intellectual equals, he is also able to distinguish between the objective and the subjective, between the facts and the emotions.

An example of his ability in this regard is a recent article in the New York Times entitled "The Rehnquist Dilemma," and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE REHNQUIST DILEMMA

(By Tom Wicker)

The spectacle of Senator Edward Kennedy defending the reputation of William Rehnquist against allegations by Joseph Rauh of the A.D.A. suggests the painful dilemma in which liberals and civil libertarians have been placed by Mr. Rehnquist's nomination to the Supreme Court.

This nomination is not like that of Clement Haynsworth, whom President Nixon earlier tried to put on the Court. Judge Haynsworth was not confirmed by the Senate on the ostensible ground that his record on the bench showed a lack of perception of possible conflict-of-interest situations.

Nor is the Rehnquist case similar to that of Mr. Nixon's other rejected nominee, G. Harrold Carswell. Judge Carswell was found to have made misstatements to a Senate committee, and his confirmation hearings disclosed a glaring lack of qualification for the Supreme Court.

The Rehnquist matter is not even like that of Lewis Powell, whom Mr. Nixon has also named to the Court.

Mr. Powell is a pillar of the Southern establishment, a good credential in the Senate; he is 64 years old and his tenure on the Court will be limited by that; he is not expected by most observers to become a powerful leader within the Court.

Mr. Rehnquist is a horse of a very different color. At 47, he can look forward to a long and active tenure on the bench. Moreover, his record is that of a hard-working and vigorous champion of conservative political causes, both in Arizona and within the Nixon Administration. Persons in and out of the Administration who know his work credit him with superior intellect and skill in the law.

Thus Mr. Rehnquist on the Court is altogether likely to become a driving force for the principles he espouses. There are those who believe that as the years go along he will be a more formidable leader than Chief Justice Burger in the conservative wing of the Court—a wing that may already be in the majority on some issues and will almost surely become dominant if Mr. Nixon wins another term in the White House.

It is no wonder, then, that liberals and libertarians are desperately casting about for means of defeating the Rehnquist nomination in the Senate. Mr. Rehnquist's record of opposition to civil rights measures, his strong advocacy of state powers that would threaten Bill of Rights guarantees—at least what many people passionately believe to be guarantees—his youth and his obvious leadership qualities might alter the course of the Supreme Court for decades to come.

But the hard fact is that no one has as yet produced any evidence of the kind of ethical tangles that ruined Judge Haynsworth's chances—and before that led to the resignation of Abe Fortas from the Court; nor has anyone been able to identify misstatements like those that sank Judge Carswell, let alone a lack of legal or intellectual qualifications.

It was, in fact, on the matter of Mr. Rehnquist's integrity that Senator Kennedy rebuked Mr. Rauh. The latter had suggested that the nominee had been less than candid in denying ever having been a member of the John Birch Society. The Senator could hardly be sympathetic to a man of Mr. Rehnquist's views, but he insisted that the nominee's basic integrity was unchallenged.

So the real question before the Senate is whether it can, or should, reject Mr. Rehnquist solely because of his political views. On the one hand, the writers of the Constitution, in giving the Senate the power to confirm or reject Presidential nominees to the judiciary, clearly meant the legislative branch to play a substantive role with the executive branch in this process. The Senate has the right, therefore, to judge for itself the qualifications of a man to sit on the Supreme Court.

On the other hand, to make that judgment solely on the basis of his political views (which, after all, may change) is dangerous business. It presumes some kind of rightfull political orthodoxy; it would tend to

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politicize the courts according to the temporary political coloration of Congress; it could punish some individuals for their ideas and frighten others out of having any.

Moreover, it is bound to lead to retaliation, as it did when Republicans and conservatives defeated President Johnson's nomination of Justice Fortas to be Chief Justice, at least partially on political grounds. Paying off that score had a good deal to do with Judge Haynsworth's subsequent rejection.

It may be argued that Mr. Nixon should not have handed Senators this dilemma by appointing an activist political figure to a nonpolitical court, but the precedents are ample, and the Senate is likely to compound the damage if it denies Mr. Rehnquist his Court seat solely because of his political views.

AGENDA FOR PHARMACISTS

Mr. HUMPHREY. Mr. President, on October 14, 1971, I addressed the 73d annual convention of the National Association of Retail Druggists, meeting in New Orleans, La.

In my remarks I laid out a three-point agenda for America's pharmacists in addressing the national priority of achieving quality health care for the American people. First, it is essential that our pharmacists undertake a major educational drive to overcome the extensive problem of drug abuse in America. Second, they have a vital role to play in the national effort to control the dispensing of dangerous drugs. And third, retail druggists must directly participate in the development of effective health care delivery systems across the Nation.

In connection with these programs, I outlined several legislative objectives which I believe must be achieved in the present Congress. I ask unanimous consent that the full text of my remarks be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY

Few statements about the neighborhood drugstore have been as emphatic and to the point as that made recently by Willard Simmons, who has done such an outstanding job as your executive secretary. "The community's first line of defense," he said, "in providing effective health care for all citizens lies in the efficiency of the independent retail pharmacist."

I say this is a vital truth that must be heard in America today as we struggle to get our forces in position to launch a major attack on the grave problems threatening the denial of the effective prevention and treatment of illness to increasing numbers of people.

I call on you today to move forward from this vital line of defense at three critical points. First, it is essential that our pharmacists press home a major educational drive to overcome the extensive problem of drug abuse in America.

Second, there must be a combined assault to establish effective controls over the dispensing of dangerous drugs and to stop the traffic in narcotics.

And third, as I have urged on previous occasions, our pharmacists must insist upon being in the vanguard of our Nation's offensive against inadequate health care delivery and sharply rising hospital and medical costs.

The pharmacist is the only health-care professional whose exclusive specialization is in the area of drugs, including drug abuse. He is exceptionally well equipped both to screen and to promulgate information on the "generic equivalents" of "uppers" and "downers", "snappers", "yellow submarines", and "Dolly"—that lexicon of totally new names that frightens not only parents but our children and youth.

That is why I have strongly endorsed the national education and information program, recently announced by the American Druggist Blue Book, to assist the nation's 55,000 drug stores in focusing public attention on the growing drug abuse epidemic across America. The sign to be posted in the neighborhood drug store under this program says it all: "This Pharmacy Is A Drug Abuse Information Center."

And Richard Wilson and my friend George Wilharm, NARD, past president, have rendered an important service in calling a meeting earlier this year to plan the expanson of N.A.R.D.'s program of education and publicity about drugs. The emphasis on this program's theme, "Never Abuse . . . Respect Drugs," ought to be the rallying point of a nationwide effort to bring under control the spreading physical and psychological dependence upon drugs that undermines human dignity and destroys people's ability to cope effectively with reality, thereby tearing the fabric of society.

You are all aware of my proposal that pharmacists in uniform be utilized as an integral part of drug abuse education teams in our armed services. Colleges of pharmacy are already doing a tremendous job in an all-out faculty-student campaign on their respective university campuses to get across the message of drug abuse to the youth of America. But unfortunately, our military services have failed to recognize this outstanding resource that can effectively "reach" hundreds of thousands of young men and women. Bill Skinner, of the American Association of Colleges of Pharmacy, has put the case very well, in saying that "what is needed is an officer who knows drugs, has authority to deal with the causes of drug abuse on various command levels, and who has the respect of the troops he educates. Today's pharmacy graduate is just the man for the job." And yet, in response to my request, the Department of Defense has been unable to identify the number of pharmacists used in drug education programs, nor does it know how many of these potential drug abuse educators are in the military ranks as jeep drivers, typists, and infantrymen.

But the neighborhood pharmacists have a vital job to perform right in their own towns as well. So often, parents are unaware of the chemical components of diet pills, pain pills, pep pills, and tranquilizers—that whole family of "mind-altering" drugs whose abuse can be quite "legal" but whose effect can be physically and psychologically destructive from an overdose, or even a so-called "adult" dosage taken by a child, or just from the refusal of the patient to follow the pharmacist's directions about the period of time between doses. And yet so often the person on the other side of the pharmacy counter really hopes for guidance from the pharmacist that he or she cannot get elsewhere about a prescription or an over-the-counter drug purchase.

The second line of attack in which the pharmacist must be involved in defending the health of the American people is in the area of establishing controls over the traffic in dangerous drugs. Congress launched this offensive last year in the enactment of the Controlled Dangerous Substances Act. But we have learned that there is much more to be done before this attack can be pressed home.

I have introduced legislation for a two-pronged offensive, through the establishment of a Drug Cure and Control Authority as an independent agency to coordinate the many drug abuse programs in the Federal Government. One thrust is aimed at public education and the treatment and rehabilitation of the drug addict. The other is aimed at more vigorous and better coordinated law enforcement to crack down on the illegal narcotics traffic. I feel the Administration's proposal fails to give adequate attention to this vital requirement for effective enforcement of the law.

And I have introduced further legislation to establish drug abuse treatment programs at our community mental health centers across the land. We have simply got to reach the abuser of drugs where he is, if we are truly concerned to help him, and if we want to break the web of despair before others become trapped in it.

The pharmacist is going to have an increasingly vital role as we struggle to bring drug abuse and narcotics addiction under control. You are all aware that our major pharmaceutical companies are moving toward a crash program to develop antagonist drugs to combat narcotics addiction. The problem is severe, or it would not have led one physician to recommend recently that control at present may be possible only through giving addicts the drugs that they crave.

And yet we have not begun to recognize the scope of the problem if the words "drug abuse" paint for us only a picture of an addict in the throes of withdrawal in a filthy tenement. For there is a great measure of truth in the charge that America has become a drug-abused society, taking pills to get started and then to slow down, to get a lift or to relax, and so on. And psychiatrists are becoming increasingly concerned about a possible trend toward the excessive prescription of psychoactive drugs to treat what may be really life situations and problems outside the pale of psychiatry or medicine.

Medical practitioners and pharmacists must be working together now if such problems are going to be solved. I strongly believe that the dispensing of drugs must be the responsibility of the pharmicist who is able to evaluate the quality and properties of various and constantly "new" drugs, and who must keep accurate records and assure the use of proper labels and containers. He has strong professional and business incentives to perform these tasks to the best of his ability, and these incentives should be respected and strengthened.

Finally, the voice of our nation's pharmacists must be heard as plans are developed to bring rising health care costs under control and to assure the effective delivery of health services. In fiscal 1970, Americans spent $67.2 billion for medical care, but it is expected that this level will jump to $105.4 billion by fiscal 1974. And we know that the paychecks of the American people will not increase 56 percent by then to meet these costs.

One fact that is often overlooked, however, is that prescription costs have been held down, the average charge reported in a pharmacy survey for 1970 being $4.06, or only some 4 percent higher than the previous year—and a reported net decline over a longer period. Meanwhile, with average sales showing an increase, these pharmacies reported a net profit at the lowest level since 1932. Now these are facts, and they should be kept clearly in mind as we seek to determine the inflationary forces pushing up our health care costs.

But it is also a fact of life that there can be no further delay in the establishment of a national program of health-cost insurance, tied to a comprehensive program to substantially expand our health care resources and assure their equitable distribution and the efficient delivery of health services.

We must, in short, guarantee every child at birth a right that is as precious as the right of citizenship—the right to good health.

To do this we must match supply with the heavy demand for adequate health care that exists in America today. That means more hospitals, more doctors, nurses, and allied professional personnel, more regional

medical programs for our rural areas and neighborhood health centers for the inner city, and assistance for more group practice plans.

And a national program of health insurance must be designed to meet the needs of people, providing for the effective prevention as well as the immediate treatment of illness, and at a reasonable cost, and with efficient administration that assures adequate and prompt compensation to health care providers.

There is a great deal we can learn from the strengths and weaknesses of the Medicare and Medicaid programs. I have been particularly concerned to fill one of the major gaps in medicare coverage for the elderly—prescription drugs for home patients. Last May I introduced legislation to include this coverage. Of importance to retail pharmacists is the requirement in this bill that reimbursement be on the basis of actual acquisition cost plus a dispensing allowance to cover such elements as cost of overhead, professional services, and a fair profit, in clear recognition of variable factors affecting costs and services in different local areas. I strongly believe that this requirement should be directed to all health insurance and group practice plans. A second basic requirement, also included in my bill, is that the pharmacy must be reimbursed within a reasonable period, or the Government will have to pay interest on the debt.

Prescription drugs represent the largest single personal health expenditure that the aged must meet almost entirely from their own resources. But there is another reason for expanding this coverage, and that is that drug therapy is carrying more and more of the burden of restoring people to health and usefulness. Why, then, under Medicare, should a person have to be hospitalized to be furnished drugs? This is a grossly inefficient practice, taking up badly needed hospital bed space, and contributing to skyrocketing health care costs. It is well known that many patients can receive drugs for an entire year for the price of one day's stay in the hospital.

This then, is the three-fold agenda I want the pharmacists of America to pursue vigorously over the coming months: Drug abuse education: the control of dangerous drugs; and involvement in the planning and development of health-care plans to assure equity, efficiency, and reasonable compensation in the delivery of health services to all the people of America.

You have an enviable and proud tradition, going back more than 4,000 years, in the performance of these tasks—a tradition of professionalism and of good business sense, but above all, a tradition of human compassion. You have an increasing responsibility to be a health advisor in your neighborhood. This is a profound challenge, but it also presents an unparalleled opportunity to serve the people of this great land.

REIMBURSEMENT OF REASONABLE COSTS OF HOSPITAL SERVICES

Mr. MATHIAS. Mr. President, many of my colleagues will be interested I think in what, seemingly, is a rather insignificant provision of H.R. 1, the social security amendments, which is now pending before the Senate Finance Committee.

This provision, even if obscure, is nevertheless very significant. It is of great importance not only to our Nation's hospitals, many of which are in desperate financial straits, but indeed to the quality of medical care for many millions of Americans. And I refer, Mr. President, to a group of Americans which, the Congress has already acknowledged, are in great medical need: the beneficiaries of medicaid and maternal and child health programs.

The provision of H.R. 1 to which I address myself is section 232, which relates to reimbursement of reasonable costs of hospital services. The Maryland Hospital Association has recently and very eloquently written to me in opposition to section 232:

This proposed amendment would permit the states to make their own determinations of what constitutes the "reasonable cost" of hospital care delivered to beneficiaries of the Medicaid and Maternal and Child Health Programs. Further, this section forbids such payments to exceed those paid under Medicare, but it *grants permission to the states to pay less than the Medicare per diem.*

As further described by the Maryland Hospital Association, this provision is threatening to the very existence of some Maryland hospitals—so much so, the association suggests that—

It will move up the due date for financial collapse of those hospitals that choose to continue to care for and about the patients covered by the two programs.

What is more, the MHA asserts that—

Consideration of the patient has been neglected in this formula and that is the most depressing aspect of the entire matter.

Mr. President, section 232 of H.R. 1 obviously raises a number of very serious questions. For the benefit of my colleagues in the Senate I ask that the entire text of their letter be printed in the RECORD

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LUTHERVILLE, MD.

Hon. CHARLES MCC. MATHIAS, JR.,
Hon. J. GLENN BEALL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS AND SENATOR BEALL: Your colleagues on the Senate Finance Committee are preparing to decide an issue of such profound importance to voluntary hospitals that we are compelled to approach you in this somewhat unusual manner to request unusual joint action.

We ask that you deliberately involve yourselves in the Finance Committee's current consideration of H.R. 1, the Social Security Amendments Bill of 1971.

As in previous versions, this measure contains a number of provisions which Maryland hospitals believe will add difficulty to their responsibility to see that certain government health insurance programs work programs work properly. New administrative irritants are presented by some provisions while other provisions would introduce hindrances to the actual process of delivery hospital care and services to covered patients. Both of you will recall past correspondence from me conveying our objections to elements of this sort in other legislative proposals.

The bill in question is different. Irritants and hindrances aside, H.R. 1 contains one section so threatening to the very existence of some Maryland hospitals that we draw your attention only to it in seeking your joint action on the matter.

See Section 232. This proposed amendment would permit the states to make their own determinations of what constitutes the "reasonable cost" of hospital care delivered to beneficiaries of the Medicaid and Maternal and Child Health Programs. Further, this section forbids such payments to exceed those paid under Medicare, but it *grants permission to the states to pay less than the Medicare per diem.*

That is a generous invitation and it is one that no state will choose to ignore.

In Maryland, where hospitals are now reimbursed by Medicaid and the Maternal and Child Health Programs on the basis of the raw cost of delivering services (a basis we contend is inadequate in the first place), the effect on some institutions of a Section 232 state license will be quick and grim. Especially in light of the fecent consultants' study—documenting the various ways that Maryland hospitals have been battered by cost-based reimbursements—we can anticipate the immediate consequences of an approval of this amendment. It will move up the due date for financial collapse of those hospitals that choose to continue to care for and about the patients covered by the two programs. Other institutions will immediately see that they no longer enjoy the choice.

Our alarm over this matter is grounded not only upon our knowledge of what it will do to hospitals, but also upon our perception of what the thing itself represents.

Section 232 reveals a peculiar legislative assumption that some hospitals are able to enrich themselves by serving a volume of patients covered by the programs in question. The only institutions that serve such a volume, however, are the ones located in the inner city. If Congress permits and encourages the states to squeeze further in that place, the people of the inner city will have no hospitals available to them. Look at the financial condition of such institutions already.

Section 232 also suggests to us that the Congress—or some members of it—believe that a new way has been found to ease certain financial burdens of the states. This amendment, we agree, appears to constitute an easy way to do just that—far easier than say through formal revenue sharing. If we are correct in identifying the prime political virtues of Section 232 i.e., it will give the appearance of decisive action to cut hospital costs; it will provide financial relief to the states; and it is directed against an industry that has yet to earn respect for its political clout, then we can be certain that this section can indeed win Congressional approval. Somehow, consideration of the patients has been neglected in this formula and that is the most depressing aspect of the entire matter.

I would fail to execute an important duty if I did not take additional space here to carry this tact further in advising you of the enormous resentment now held by hospital trustees, administrators and medical staffs in Maryland over the ease and frequency with which the federal and state governments are escaping their enacted commitments to health care.

Hospital people in this state are sick and tired of being sick and tired over the ways and means by which the executive and legislative branches of government eviscerate their own health care creations. The players are familiar—the executive with his rules and regulations and the lawmaker with his amendments. Together they set out not to abandon or repeal a program (for to do so on the cold basis of cost alone would embarrass), but to make it impossible for those entrusted with *the duty to deliver on the promises of the program* to do so.

Physicians and hospitals are entrusted with the delivery responsibilities of such health care programs. Neither can understand how government can manage its constant surprise over the fact that health care is expensive. Neither can understand how government can advance a Section 232 and not see at the same time that if you liquidate the very institutions that care for the governmentally-insured patient, you also strike at the patient himself.

We specifically and respectfully request you to take whatever actions you can take

together to delete Section 232 from H.R. 1 before it is reported out of the Senate Finance Committee.

We look forward to hearing from you as soon as possible.

Sincerely,

RICHARD J. DAVIDSON,
Executive Vice President.

CANADA AND THE NEP

Mr. GRAVEL. Mr. President, high among the cases of either bungling or bad judgments in the conception and implementation of President Nixon's new economic policy must be the shoddy treatment of our closest neighbor—Canada. As a result, anti-American feeling in Canada has probably never been higher. Add to this the recent Amchitka nuclear test in the face of deep-felt and widespread Canadian opposition and the near term outlook for United States-Canadian relations is gloomy indeed.

Contrary to the President's remark that Japan is our largest trading partner, trade between Canada and the United States is equivalent to the United States's trade with Japan, Germany, Italy, France, and Great Britain combined—some $11 billion. The United States takes 70 percent of Canada's exports and provides 75 percent of her imports. This latter figure represents 25 percent of all U.S. exports.

The President's 10-percent import surcharge directly affects about $2¼ billion in Canadian exports to the United States—mostly in the processed and manufactured products sectors which are labor-intensive. Canada's manufacturing sector—already adversely affected by the appreciation of the Canadian dollar—produces 40 percent of her total exports and 83 percent of that 40 percent goes to the United States. In the agricultural sector certain Canadian exports enter the U.S. duty free and certain others come in under fixed import quotas; but there remain about 65 percent of Canada's agricultural exports valued at $219 million on which the surcharge will apply.

These statistics indicate some of the realities the import surcharge portion of the President's new economic policy foists onto the Canadians. It was in this context that Prime Minister Trudeau in a September interview remarked with admirable restraint:

> It's a bit disconcerting—but when the Americans look at what they're doing they say: "Well you know, we're doing this to the Europeans," they don't seem to realize what they're doing to Canadians.

In our efforts to rectify the Japanese and German international trade and finance relations with us we have surely—and I believe unnecessarily—complicated life for the Canadian Government. I understand that some quick estimates of the likely impact of the surcharge on Canadian firms—many of them multinational in character—are a direct loss of export sales at annual rates of $400 million after 3 months, $700 million after 6 months, and $900 million after 1 year. The resulting loss of jobs in export industries might approach 40,000, 70,000, and 90,000 over these respective periods. Of the 1,300 firms responding to the Canadian Government's inquiry, 150 said they would have difficulty surviving if the surcharge lasted a year. Those particular companies export about $377 million worth of goods and services to the United States and employ around 45,000 persons. And this at a time when the number of unemployed in Canada is nearing a half million—or 7 percent of the work force.

As virtually everyone agrees, the real key to the hurtfulness of the administration's 10-percent surcharge is the length of time it stays on. Such crass protectionist features have a way of hanging on, and Secretary Connally has given no reason for optimism in his statements on the matter. From Canada's point of view if this surcharge remains in effect, employment would be exported from Canada to the United States at a time when unemployment in Canada is running at a level higher than that in the United States.

Moreover, Canada's export opportunities in U.S. markets will be damaged further if Congress approves the adoption of the President's "job investment-tax credit" with a buy American provision and the proposed disc legislation.

These are perhaps some of the considerations which prompted Prime Ministre Trudeau to say in the same interview mentioned earlier:

> If we can decipher what the Americans are doing, assuming they themselves can make it clear, then we will be able to discuss with the Canadian people what posture we must follow, and what posture we would advise to them.

It is informative to recall the purposes of the 10-percent import surcharge as expressed by the President on August 15 and elaborated by other spokesmen:

To encourage the U.S. trading partners to revalue their currencies in terms of the American dollar;

To encourage the lowering or removal of tariff and nontariff barriers that discriminate against American imports;

To encourage other nations to accept a greater share of their international responsibilities.

Canada's record in these three areas deserves high marks indeed. Canada has held its foreign exchange reserves in U.S. Treasury bills and dollars instead of gold. Its dollar was floated in May of 1970 and has stabilized around a 6- or 7-percent upward revaluation. The United States has not contended that Canada maintains protectionist trade restrictions that hinder our exports to that country the way Japan does, for example. Canada is a NATO ally, shares the defense of the North American continent in Norad, and conducts a significant foreign aid and development program.

Therefore, Mr. President, in the administration's own terms there is no real explanation for applying the 10-percent import surcharge to Canada except indifference or ignorance.

Everyone understood the need for the United States to undertake a new economic program to strengthen both the external and the internal position of the U.S. economy. This program contains some elements with great constructive potential. I think primarily of the initiatives to reduce the rate of cost and price inflation in the United States. There is no question but what inflation in the United States has contributed greatly to the present international finance problem, and good price performance in the United States will contribute greatly to its solution.

Unfortunately, the new U.S. program contains elements that are prejudicial to the development of world trade on a sound and sustainable basis. There is great danger that our policies may set the tone for other countries, and that a solution of the imbalance in world trade and payments will be sought through widespread use of protective practices. As pointed out by E. J. Benson, Canada's Minister of Finance, and others, this is what will happen if international cooperation fails to find a means of adjusting the world imbalance within a framework of expanding trade. This is what will happen if countries are left to deal with the situation in isolation.

The cumulative spreading of restrictive trade practices would be a disaster for all of us. It would mean the end of the expanding world trading system, from which the world has derived such great benefit in the past 25 years. Some would be hurt worse than others. Canada is among those who have the greatest interest in an open trading system, and who is most vulnerable to a fracturing of that system. But no country would be immune. Even those who depend relatively little on world trade could not escape the widespread frustration and political turmoil that would be spawned by a shrinking of world commerce.

In light of the way we have treated Canada so far in our new economic policies it is the mark of considerable magnanimity that the Canadian Government, in the wake of the President's announcements, has directed its efforts on the international front toward dampening tendencies abroad to adopt countermeasures of retaliation which would escalate into a trade war.

Still the Canadians are quite properly keeping careful watch for what signals we may give. It is hard not to sympathize with Mr. Trudeau when he says of the United States:

> They will have to realize that Canadians are also a proud nation and that if they are really trying to rearrange the North American Continent so that we are just a supplier of natural resources and that we won't be able to find jobs for our growing labour force and we won't be able to have an advanced technological society that we can manage ourselves, that is a very, very serious hypothesis. I don't think the Americans realize this or envisage it.

For my part, I feel that we have once again not distinguished ourselves in dealing with our closest friend and neighbor with whom we share the continent and a highly integrated pair of economics. I hope the administration will recognize this and rectify these mistakes as phase II of the NEP unfolds. It does not really become us to treat Canada in the manner of the person who never writes to his friend and counts on the presumed strength of that friendship to weather the neglect.

THE GOLDEN RULE

Mr. MATHIAS. Mr. President "Do unto others as you would have others do unto you" is one of the oldest rules governing the conduct of man. It has been called the Golden Rule. Unfortunately one does not hear the Golden Rule quoted very often today. It seems that modern man is deaf to the words his ancestors preached. Perhaps, in the jargon of the 1970's, the Golden Rule cannot hack it and is destined to be buried with relics from the past.

WBAL–TV, in Baltimore, believes that a resurrection of the Golden Rule is in order. In an advertisement, the station discussed the problems that could be eliminated if man would do unto others as he would have others do unto him.

I commend WBAL's initiative and ask that the station's message be included in the RECORD.

There being no objection, the advertisement was ordered to be printed in the RECORD, as follows:

WHEN DID THEY REPEAL THE GOLDEN RULE?

A recent FBI report cites the alarming fact that, during the past decade, "serious crimes" in the U.S. increased nearly fourteen times faster than the population.

This started us wondering, too, about increases in the "little crimes."

Not the countless misdemeanors which clog court dockets, but rather those minor abuses committed daily by, and upon, our fellow citizens—those little acts of carelessness or callousness which add their slight, but persistent, burdens to the general malaise.

Disrespect for the rights of others, thoughtless slander, cheating (in all its varied and subtle forms), rudeness, unwillingness to hear other points of view, littering (including the mindless scattering of verbal, as well as more tangible, rubbish), infecting our young with our ignorances and prejudices—the list is seemingly endless.

Each little bit adds to the common load, to further worsening of the quality of life.

Now, we doubt that the link between "serious crimes" and "little crimes" is quite as obvious as 19th century essayist Thomas De Quincey's wry observation:

"If once a man indulges himself in murder, very soon he comes to think little of robbing; and from robbing he next comes to drinking and Sabbath-breaking, and from that to incivility and procrastination."

Still, the suspicion lingers that unpleasantness just may be contagious.

A possible remedy has been suggested which, frankly, we almost hesitate to mention.

For one thing, it has been around such a long time, and everyone has heard it. For another, it sounds too simple.

Do unto others as you would have others do unto you.

Never has anything been more sorely needed, or more seldom mentioned, than this Golden Rule in today's plastic world. Despite the cynics' jeers, we can't think of a better guideline for helping people get along with people—whether neighbor with neighbor, or nation with nation.

Yet, judging by mankind's record, it must be the most difficult of all rules to follow.

Or, in reality, has the Golden Rule been working for us all along, whether we subscribe to it or not?

Could it be that those scowling store clerks, those gruff business associates, those abrasive people down the street, are possibly—just possibly—giving us only what they get?

If so, maybe it's time we find out if pleasantness can be contagious, too.

We're not suggesting, of course, that a mere reaffirmation of the Golden Rule would solve all the world's woes.

But it might be worth a try.

Let's work together . . .

ISRAEL SHOULD BE ALLOWED TO SURVIVE

Mr. RIBICOFF. Mr. President, on November 7, the distinguished senior Senator from Missouri, who serves both the Senate Foreign Relations and Armed Services Committees, spoke on the subject of American assistance to Israel. In his address, Senator SYMINGTON authoritatively set the record straight on this issue. Refuting the false claims of Israel's detractors, Senator SYMINGTON pointed out that—

> Despite the heavy military contributions to these other countries, the State of Israel has never received one cent of grant military assistance from the United States. All transactions with respect to military equipment have been made either through the Foreign Military Sales program, or by direct commercial sales.

He then compared this with the fact that—

> The Arab nations who currently threaten the existence of Israel have received $1.5 billion in military assistance from American taxpayers.

Senator SYMINGTON summed up his careful analysis of total American economic assistance to Israel by stating that the true figure of what the United States has given Israel in its struggle for survival is $660 million, less than one-half of 1 percent of our total foreign aid costs.

In conclusion, the Senator urged widespread support of Senate Resolution 177, calling for the immediate shipment of Phantom jets to Israel. This measure, in which Senator SYMINGTON had such a vital role, is only the latest in a number of important actions undertaken by Senator SYMINGTON in order to protect vital American interests in the Middle East. His deep understanding of the military, strategic, and foreign policy implication of our Nation's policies in the Middle East, and his leadership in the Senate on this subject, rank him as one of America's foremost statesmen in this area.

The widespread support recently shown in the Senate during consideration of the foreign aid bills for American economic and military assistance to Israel, makes Senator SYMINGTON'S remarks last week particularly timely.

I ask unanimous consent that the text of Senator SYMINGTON'S remarks be printed in the RECORD at this point:

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ISRAEL SHOULD BE ALLOWED TO SURVIVE

Thank you, very much, for the honor you extend me this evening at your Forty-sixth National Convention. This evening I could never forget.

Nineteen years ago next January, Colonel—now General—Chaime Herzog, military attache to his brother-in-law Ambassador Abba Eban, came to my newly acquired office in the Senate and asked this question:

"If the United States gives arms to certain countries behind the Iron Curtain, countries you know would never be on your side in any real confrontation, why won't your Government sell them to Israel, who you know would?"

As Secretary of the Air Force under President Truman at the time the State of Israel was founded in 1948, I was well informed about the sympathetic interest and efforts of my Government towards that creation; therefore it appeared a logical question.

Nineteen years later it would still appear logical. The cast of characters has been altered, but the thrust of Herzog's question is equally pertinent.

The United States continues to defend the so-called free world in such places as Korea, Vietnam, and Europe, with relatively little help from some of its allies and none whatever from others.

Why, therefore, should there be continuing hesitancy on the part of the Administration in the selling—note that word "selling," not "giving"—of military equipment to a country of the free world that has been willing, and continues to be willing, to invest the blood of its youth as well as its treasure in the defense of its freedom.

The cost of the Vietnam, Laos, Cambodian, and Korean ventures, along with our defense expenditures in Europe and other parts of the globe, have been heavy indeed; whereas the cost of our grant military aid to Israel has been nothing.

Under these circumstances, and in any case, surely it is to our own national interest to stand by a country which is both willing and anxious to be a partner in the fight for freedom and self-determination. Based on the realities of the world in which we live today—and not on any theoretical or nostalgic basis—this would clearly seem to be in our own interest.

For years the old other two countries which make planes of the type Israel needs for its security, France and the Soviet Union, have been either giving or selling their latest model planes to the Arab countries; and that means Israel now has but one source of plane supply left if it is to survive—the United States.

This Administration justified its current policies of withholding plane sales on the grounds it is maintaining a "military balance" between Israel and the Arab states.

Well, as Governor Al Smith used to say, let's look at the record.

About fifteen months ago we received irrefutable evidence that Soviet pilots were flying MIG–21's out of Egypt; and only a few weeks ago were told by this Administration that Soviet pilots are currently flying in Egypt new MIG–23 (Foxbat) planes, the world's most modern long-range fighter. (In passing, the United Arab Republic is the first country in which the Soviets have stationed Foxbats outside the borders of Russia proper.)

Despite intelligence reports which state regularly that the ratio of number of planes favors the Arab countries against Israel by around six to one, this Administration, in defending its "non-sale" policy, has consistently maintained that the superior quality of the Israeli pilots balances out this tremendous difference in quantity.

If the balance was right, however, prior to our finding out that these Mach 3 Foxbat planes were stationed in the UAR along with their Russian pilots, how can said balance be right today?

Now to another aspect of this strange situation.

An oft repeated story has gained some credence around Washington to the effect that this Government of yours and mine has been giving at least as much support to Israel as to any other nation.

Once again, "Let's look at the record."

How many here tonight realize that from 1945 to the present the United States has distributed over $149 billion in foreign aid to

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some 130 countries around the globe, more than $40 billion of which has been in military assistance?

To South Vietnam we have now given the most—$15.2 billion in various forms of assistance up to the fiscal year 1971. Much additional has been hidden in the Defense Budget and it would appear inevitable that further United States assistance will continue for some time.

Next in given aid is South Korea, a nation that has fought bravely against Far East communist satellites—but no more bravely than Israel has against Middle East communist satellites.

To South Korea we have given some $10.1 billion (that figure not including the cost of the Korean War); and this year this Administration is requesting an additional $642 million for Korean military assistance.

To India, a country which consistently criticizes our polices and almost never votes with us in the United Nations on important issues—example, the recent expulsion of Nationalist China—we have given over $8 billion.

Turkey, Taiwan and Italy have each received some $5 billion in aid from the United States.

The following nations have received more aid from the United States than has the State of Israel: Great Britain, France, Pakistan, Greece, Germany, Japan, Brazil, Yugoslavia, the Netherlands, Spain, Iran, the Philippines, Belgium, Thailand, Laos and Indonesia.

In addition we gave Indochina—the four countries of North and South Vietnam, Laos and Cambodia, prior to their partition in 1954—over a billion and a half dollars.

Now as to Israel.

Despite the heavy military contributions to these other countries, the State of Israel has never received one cent of grant military assistance from the United States. All transactions with respect to military equipment have been made either through the Foreign Military Sales program, or by direct commercial sales.

Compare that with the fact the Arab nations who currently threaten the existence of Israel have received $1.5 billion in military assistance from American taxpayers.

With respect to economic assistance, since Israel first became a nation the United States has provided a total of $1.3 billion in economic aid. In that connection, however, let us note that in ranking the largest recipients of United States overseas loans and grants—military and economic—Israel is not even among the first 20, actually is twenty-fourth on the list.

There have also been vague and inaccurate rumors about the purchase of Israeli bonds and straight contributions on the part of our citizens; so let's get that record straight.

Since 1953, United States citizens have invested $1,402,000,000 in these non-tax-deductible bonds; and up until July of this year those investors have received a total of $667 million return on their investment.

In addition, the United Jewish Appeal, a voluntary agency, has collected some $1.55 billion during a similar period. This money has been given to various voluntary agencies in Israel.

Although contributions to the United Jewish Appeal are considered "tax deductible" by the United States Government, these funds are transferred strictly on a non-governmental basis, both here, and in Israel.

With respect to these two types of private transactions, at our request the U.S. Treasury Department now estimates that the total loss of revenue resulting from the tax deductible nature of the $1.55 billion contributed to the United Jewish Appeal is $430 million.

This latter amount, however, is partially offset by an estimated revenue gain of $130 million paid on the investment return of $667 million on Israeli bonds; therefore, the net revenue loss to the United States Treasury is $300 million.

In other words, if this net revenue loss of $300 million is added to the $360 million of grants-in-aid, the total amount our Government has given Israel in 22 years—nearly a quarter of a century—is less than $700 million; or, if loans are included, total assistance amounts to $1.4 billion.

Loans really shouldn't be included, however, because, contrary to what has happened with respect to loans to many other countries, Israel is completely current in its repayment of these borrowings.

In other words, and in summary, the true figure of what we have actually given this nation in its struggle for survival is some $660 million. That is less than one half of one percent of the total cost to us of foreign aid since the program was started.

Most of my adult life has been connected in some fashion with problems that have to do with the security of the United States—and after long experience I am certain in my own mind that the more brave and resourceful friends we have in this nuclear space age, the better for our own future.

This presentation to you this evening is based on the cold, hard facts. No one can know the people of Israel over a period of years, however, without developing for them friendship and deep respect; and that is the chief reason why I am truly grateful at receiving this award. That is why also I urge you to join seventy-seven of my Senate colleagues in a plea to this Administration to sell Israel the planes they consider essential to their security and progress.

FOREIGN MILITARY AID

Mr. MATHIAS. On Thursday, November 4, the Council for a Livable World sponsored a conference in Washington on the subject of foreign military aid. Few topics are of more immediate importance to the Congress today than foreign aid and I believe that the conference provided a very useful contribution to our deliberations. I should like to share with my colleagues two of the presentations made at the conference: the first an address by the distinguished senior Senator from Idaho, FRANK CHURCH; the second a speech by the former Assistant Secretary of Defense for International Security Affairs, Paul C. Warnke, I ask unanimous consent that the speeches be printed in the RECORD.

There being no objection, the speeches were ordered to be printed in the RECORD, as follows:

CLOSING THE DOOR ON ARSENAL DIPLOMACY

(By Senator Frank Church)

One week ago, the United States Senate rejected the 1972 Foreign Aid Bill. Whether this action will be viewed in future years as a beginning of the end of our "arsenal diplomacy" remains to be seen.

What can be said is that for a generation the United States, in the eyes of the world, has seemed more intent on furnishing swords than plowshares. During the last 20 years, we have bestowed on foreign governments $8.1 billion in military vehicles and weapons, $7.1 billion in aircraft, $6.1 billion in ammunition, $2 billion in ships, $2.2 billion in communications equipment, $1.5 billion in missiles and $3.1 billion in other supplies. Services, granted in the form of base construction, training, repairs and spare parts, amounted to an additional $8 billion for a staggering total of $37 billion dispensed abroad since 1950.

The armaments which these sums represent—that is, delivered weapons—are no less staggering:

Nearly 4,400 F-84 fighters; more than 2,800 F-86 fighters; nearly 3,350 aircraft trainers; 22,000 tanks; 83,000 trailers; 160,300 two-and-one-half ton trucks; 2.3 million carbines; 2.4 million rifles; 77,500 machine guns; 30,000 mortars; and 32,500 missiles.

As if to augment these massive gifts of arms, the Defense Department is now engaged in a rambunctious sales campaign. Our subsidized sales to foreign governments already exceed $16.1 billion, while Pentagon officials anticipate orders worth another $15 billion in the next decade.

Clearly, these Pentagon-packaged sales—quite apart from ordinary commercial sales by private American manufacturers—have become a big business in which our Federal Government plays a central role. Today, the United States Government is the principal arms dispenser of the world—giving away, arranging credit and promoting the sale of a volume of arms more than six times that of our nearest rival, the Soviet Union. It is estimated that, since 1945, the total military outflow from the United States is an estimated $165 billion. However, government accountants throw up their hands at the task of ever obtaining an exact accounting. In January of this year, the chief auditor of the Congress, Comptroller General Elmer Staats, told the Joint Economic Committee that nowhere in government is there a complete tabulation of the billions we have spent to arm foreign nations.

Reviewed historically, this lavish dispersal of armaments is a relatively new development—a development that cuts against the grain of our national traditions. Before World War II, sentiment in this country was decidedly against export of weapons. Munition makers were scorned; their trafficking in arms condemned as mischievous, if not evil.

The shift came in 1940 with the outbreak of World War II. France was to fall in May of that year, and Great Britain brought under siege. President Roosevelt approved transfer of 50 American destroyers to the British Navy in exchange for rights to build military bases on British territory in the Western Hemisphere. The gates to the American arsenal, thus pried apart, were soon thrown open to the enormous demands of the war. Under the far-reaching Lend-Lease Act, we furnished $48.5 billion worth of weapons and supplies to 42 foreign governments—nine-tenths of which went to Great Britain, the Soviet Union and France.

The guns of World War II, however, had hardly fallen silent before we commenced a new program of arms aid. We provided Chiang Kai-shek with arms and supplies originally worth $800 million in an unsuccessful effort to help him retain his faltering grip on the mainland. Starting in 1947, with the Truman Doctrine, we helped Greece, threatened by a Communist guerrilla war, and Turkey, then under intense Soviet pressure. The onset of the "Cold War" brought additional demands for military aid—demands which intensified with the invasion of South Korea. In 1950, Congress voted $1.3 billion in military assistance to 14 countries, thus inaugurating the post-war period of "arsenal diplomacy" for the United States.

Subsequently, the dollars rained so thick and fast that, at one point unfilled orders in the "pipeline" exceeded $12 billion, leading Congress, in some embarrassment, to level off new appropriations at about $1.5 billion a year. Even so, between mid-1950 and mid-1955, our military aid totaled $14 billion, more than one-half of the total $26 billion in foreign aid during that five-year period. By 1963, an all-time high of 67 foreign governments were receiving some form of assistance from us; each had its own special shopping list brought to our disbursement window. Currently, 46 countries are allocated assistance. And more than 8,900 Americans are engaged abroad administering our arms-disbursement programs. In addition, 320,000 foreign soldiers from 70 countries have been trained within the United States or at special schools operated abroad, at a total cost of $1.4 billion.

In recent years, however, financial pressures have increased the emphasis on sales. Much of what we gave away for 20 years, we are now selling. During the past five years of sales for cash or easy credit, 30 countries have bought for cash and 15 for credit. Total sales to date exceed $13 billion.

"Buy American," *Business Week* once reported "is becoming an increasingly prevalent slogan in the world arms market." It has an Orwellian cast because under our "Food-for-Peace" program approximately $700 million in military sales have been consummated, through the device of counter-part funds to recipient nations.

So it has happened that, within the short span of 30 years, the pendulum of our governmental policy toward export of arms has swung all the way from naive abstention to zealous promotion. Neither extreme is acceptable; the time has come for us to recover our balance.

To be sure, our present involvement is based, like a stool, on the legs of three seductive arguments: First, that we give military aid to help foreign governments resist Communist aggression from without and subversion from within; second, that we give it to strengthen our influence with the military elite in other lands, frequently an important bulwark against Communist penetration; third, that the sale of weapons helps to redress the deficit in our balance of payments—caused, in large part, by the overseas deployment of our own troops.

These arguments grow out of our immediate post-war experience. In the wake of World War II, the westward thrust of Russian power did threaten to engulf Western Europe. The Marshall Plan—NATO formula produced spectacular results in rejuvenating the war-torn economy of Western Europe and forging a common shield against the Soviet Union.

The general success of this policy in Europe inoculated our thinking on other fronts. Around the whole periphery of the Communist world, in the Middle East and Asia, we were soon applying the same formulas for assistance that had worked so well in Western Europe. But in these seething countries which had just thrown off colonial rule, conditions called for a highly discriminating kind of military aid. Instead, we slapped it on with eager hands.

We agreed to support armed-force levels totally devoid of strategic reality, as though it were possible for Turkey or Iran, without American intervention, to defend themselves successfully against a major Russian attack, or for Taiwan to resist successfully an all-out invasion from the mainland of China.

Such unrealistic force levels, fed by our military assistance programs, have inevitably imposed top-heavy burdens on the fragile economies of many of these underdeveloped lands, with the result that we have had to prop them up with huge financial transfusions just to prevent their collapse. We have robbed our effort to better the threadbare life of the multitudes, as we fostered that repugnant spectacle, so familiar around the rim of Asia today, a "combination of ill-fed people and well-fed armies deploying the most modern equipment."

In the course of this policy, the scale of our military aid has led to scandalous waste. Many a country on the periphery of the Communist world has been turned into a dumping ground for American military equipment. A staff report of the Foreign Relations Committee issued this year points out that the GAO found in one country that although the military assistance program had been "virtually completed" in 1966, the Defense Department decided to keep the program staff in operation and not until 1969 was the staff even reduced. We also have been told of parking lots filled with rusting vehicles and rows of tanks inoperative for lack of trained mechanics.

But these logistical excesses are more than matched by the political naivete which has characterized our military assistance programs in Asia and the Middle East. With the containment of Russia and China our avowed objective, we have been easily seduced into fueling regional arms races motivated more by ancient rivalries than by any shared concern over the threat of Communist aggression. We armed Greece and Turkey to strengthen their defenses against the Soviet Union, but they spoil over Cyprus, where U.N. troops have been sent to police an uneasy truce. We armed Pakistan that she might better resist invasion by Russia or China, but Pakistan didn't reckon either Russia or China an enemy and knew, in any case, that the arms had value only as against India.

All this is not to say that we should never have embarked on a military assistance program in Asia or the Middle East. In a country such as Korea, arms aid was essential to deal with the militant nature of the Communist threat, and may have to be extended to cover the withdrawal of half of our own troops. But the program should have been restricted to countries where the need was clearly apparent, and, where given, scaled to the capacity of recipient countries to absorb.

The second broad justification for serving up American military hardware on a global platter, much of it to countries far removed from Communist neighbors, is that it serves to bolster resistance to subversion from within, and gives us more leverage with the military "elite" in many foreign lands. By supplying American weapons, so the argument goes, we can win favor with the army commanders and thus contribute to the maintenance of internal stability.

Our obsession with stability betrays our misconception of the dynamics of change in underdeveloped societies. Violent revolution will eventually occur wherever legitimate grievances can find no other outlet. Even if it served our interest to generally suppress revolutions elsewhere—which it assuredly does not—we haven't bayonets enough in our arsenal, or money enough in our treasury, to quench the smoldering fires of revolution wherever they occur. Therefore, instead of globalizing our military assistance in pointless proliferation, we should converge it on those particular fires which, in our own national interest, we must try to put out.

The revolutions which have concerned us most are those the communists either start or try to take over. Usually they are labeled by the insurgents as "wars of liberation." When any government is so challenged, its survival depends less upon the weapons we supply than upon the willingness of the population to rally behind it. If the great bulk of the people are loyal, then the guns and ammunition we furnish can make the difference. This was the case for us in Greece, as it was for the British in Malaya. But in Cuba, where the Batista government was loathed, the weaponry we gave it proved of no avail against Castro. He didn't walk over Batista's army, he walked through it.

The most poignant example, of course, is Vietnam itself. Our involvement there began with the military aid we extended to the Saigon Government, equipping it with forces vastly superior to its adversaries. Yet, the Saigon Government steadily lost ground. Massive injections of U.S. weapons, ammunition, equipment and supplies failed to turn the tide against the insurgents, though they were overmatched in numbers and totally outgunned. Our own troops had to be summoned and the war converted into an American engagement.

The lesson of Vietnam should make us wary of instituting new military aid programs elsewhere. But it hasn't happened that way. Even now, we are rapidly expanding our military aid in Cambodia, from a modest start of $7 million 18 months ago, to $341 million for this fiscal year!

And far from the theater of war in Southeast Asia, we are busily engaged in instituting new—and perpetuating old—military aid programs, even in the most unlikely place of all, Africa. Here our favorite rationalization is that the gift of arms may gain us favor with the restless young African armies which have either seized or which threaten to seize political power. We cling to this belief despite all the evidence which has accumulated against it. As an institution, particularly in unstable lands, the military will often assert control over the government, but its allegiance can never be bought by the gift of arms.

The army we equipped in Iraq brought down the government we supported by a coup which caught us by surprise. The military assistance we furnished the armed forces of the Dominican Republic did not prevent them from overthrowing the elected regime of Juan Bosch, which we strongly favored at the time. Moreover, the same army later proved unable to put down the subsequent uprising in Santo Domingo, where the landing American marines only underscored, as it did in Vietnam, the failure of military aid.

For that matter, the communist powers have done no better. In Indonesia, it was a Soviet-equipped army which turned upon the Indonesian Communist Party, putting 200,000 or more of its members to the sword. In Algeria, it was Russian-furnished tanks which ringed Ben Bella's palace and helped overthrow the Soviet-supported leader. Even in Egypt, the military aid that Sadat receives from the Soviet Union equips the very security forces that regularly suppress communist activity along the Nile.

Not only have we refused to recognize that foreign armies are a risky investment, but we seem never to take into account the political cost we bear for supporting them. In any poor country of Asia, Africa or Latin America, where there is an unconscionable concentration of wealth in the hands of the few, where civil liberties are suppressed and despotism dominates, the army is usually the hated symbol of the status quo. Military governments, however stable they may appear, tend to be brittle as well as repressive, and lavishing upon them "Made-in-America" tanks and jet fighter planes can't help but estrange the United States from the discontented people, thus delivering into Communist hands a lively issue to exploit against us.

For these reasons, our military grants, which have become a routine part of the foreign aid package we offer foreign governments, ought to be terminated in most cases. The give-away arms program should be drastically curtailed.

As for our sales of the wares of war, helping to alleviate our balance-of-payments deficit, we should not let such palliatives blind us to far more important long-range foreign policy considerations. It may make good fiscal sense to sell arms to developed nations—Britain or Canada or West Germany—but we should avoid export sales into troubled regions where war hangs in the balance and we should never promote sales contracts that conflict with our basic foreign policy objectives. Yet, as it now stands, the tail often wags the dog, with short-range tactics frequently usurping our long-term strategic interests.

There are beginnings of encouraging signs of change.

The 1971 report of the Senate Foreign Relations Committee on our military-economic aid program states:

"The issue is not 'should we provide aid?' It is 'How?' and 'How much?' The first question must be answered before the second can be approached sensibly—and the old answers of the past to 'How?' are outmoded and discredited. The future of foreign aid is

bleak indeed until a new program can be developed which will command greater respect and support, both with the public and the Congress, than the current program commands."

The pressures which have made the United States the leading arms merchant to the world must be thoroughly probed. The beginning of wisdom is the recognition that there is a problem and then the search for answers can begin.

The defeated foreign aid bill contained authorizations for 46 countries to receive military grant aid and 43 to receive military sales or credit assistance. In recent years, the Committee has attempted to construct the program, both as to the number of recipient countries and the amount of funds authorized. In the latest instance, the Committee reduced from $705 to $565 million the authorization for military grant assistance. Before the bill was defeated on the Senate floor, my amendment to reduce it further by another $113 million was approved by nearly a two-to-one majority. The depth of the feeling against military grant aid was best expressed by Senator Kennedy who said that this program is "the worst aspect of the bill now before us, contaminating what remains by its very presence."

A few minutes later, the Senate killed the entire bill. Again and again, we in the Senate have asked for meaningful revision of foreign aid, particularly the military component, only to be ignored by the Executive Branch. The Senate vote apparently has gotten the message across. Now, perhaps, we can draft a new and sensible program.

REMARKS OF PAUL C. WARNKE

The entire focus of this Conference has, of course, been dramatically altered by last week's vote of the United States Senate to reject the Foreign Aid Bill. Despite widespread criticism of the program and growing uncertainty as to its basic objectives, the abrupt Senate action came as a shock and a surprise. Because of the many programs designed to alleviate massive human suffering and to improve the international quality of life, continuation of American participation in aid to poor countries seems to me essential. But, at the same time, we must not miss the present opportunity to take an overall look at foreign aid and to analyze and even dissect its various components.

Among the most important consequences of this development should be the complete separation of military aid from economic aid. Virtually everyone who has studied the aid program over the past several years, either from within or from without Government, has concluded that this separation should take place. Indeed, I don't think it will be possible to regain any wide base of support for foreign aid if the persistent and uneasy pairing of economic and military assistance continues to leave the entire aid program in the context of the Cold War between the United States and the two Communist giants.

Accordingly, it would be my hope that the Congress can find some formula to continue emergency relief and economic development programs on an interim basis pending the working out of a new and comprehensive foreign aid program. I also hope, however, that no such stopgap approach will be applied to military assistance. Instead, the unexpected development of last week should lead the Congress to do that which should have been done long ago—that is, to look at military aid not as a prepackaged composite, but instead on a country-by-country basis, with each individual decision being made in light of our own stakes and the impact of our arms on the well-being of the people of the area.

I regard it as both unfortunate and inaccurate that the insistent Administration response to the Senate vote is to characterize it as a threat to our national security and a blow to our hopes of bringing about a peaceful world through negotiations. I don't believe that either our own security or the interests of peace are served by continued shipment of weapons of war to every corner of the globe. Neither do I agree that more military aid to small American allies is necessary to permit us to withdraw our forces overseas. If our own security requires strong military capability in some area, we cannot leave our fate even in friendly foreign hands. If our security is not endangered, we should be shown some very good reason for fueling someone else's fight.

I should make it clear that I don't believe that peace would be ensured if only we would disarm unilaterally. I don't discount the great military strength possessed by the Soviet Union, nor can I feel fully confident that the Soviet Union, under its present or some future leadership, can be trusted always to forgo the use of military force to achieve its objectives. Nor, at this early stage in our efforts to bring about improved relations, can I be confident that the People's Republic of China can be counted upon to refrain voluntarily from the development and exercise of its immense military potential.

But most of our military aid is of little or no utility in terms of the military threats that are or may be posed by China and Russia. The NATO Alliance and our assured nuclear retaliatory capability are the means by which any Soviet aspirations for military conquest can be kept in check. Of the NATO group, only Greece and Turkey are recipients of military aid. Our programs for these countries can be reviewed in terms of their over-all importance to the strength of the NATO forces. Included in this review should be the countervailing consideration posed by overt American financial support for a Greek government that shows no signs of moving to restore democratic processes. The strength of NATO depends not on troops and firepower alone but also on its morale and the domestic support within each nation for its role as a NATO member. Military assistance to Greece contributes incrementally to NATO's physical strength. But our partial subsidization of a regime resolutely opposed to the principles of freedom can only erode NATO's moral base.

Outside of Western Europe, it is, I suggest, silly to think that military aid to small countries can be of any significance to deterrence of the Soviet Union or the People's Republic of China. This, to me, has been one of the obscured premises of the Nixon Doctrine. It has now been made explicit. As phrased by Secretary Rogers: "The Nixon Doctrine . . . provides that we will gradually reduce our troop strength in some of the Asian countries and, at the same time, support them financially and in military ways so they can take up the slack."

We have, in the past, followed a policy consistent with the thesis that military aggression from China or Russia had to be anticipated and could be controlled. But to the extent that there is genuine threat of military aggression from one or both of these countries, American military assistance—whether doubled, trebled or increased by any other multiple—is not a realistic alternative to direct American military participation. A Defense Department spokesman is quoted as saying: "We think the substitution of money for U.S. manpower is a policy worth pursuing." As against Soviet or Chinese threats, it's no policy at all.

Only the American guarantee of direct involvement can provide a military deterrent to aggression against Western Europe. In the Pacific, our naval and air forces, and the absence of any Chinese amphibious capability, provide military protection for the countries off the Asian mainland. But no amount of military assistance to the small countries of Asia could make them remotely a match for a China or a Soviet Union bent on military conquest.

Insofar as the threat of superpower confrontation is concerned, military aid to small American allies, or even to big American allies outside the NATO context, can only be an irritant. Our greatest hope here, indeed the only real hope for world survival, is a course of development in relations that will keep all of the superpowers away from mutual annihilation. In this respect, all of us must welcome the President's efforts to arrive at mutually beneficial understandings with Peking and with Moscow. And in disengaging ground forces from Asia or elsewhere, the proffer of increased military aid may make the withdrawal of American troops politically more palatable, and the lives of our ambassadors a little easier, but this is at very best an inordinately expensive palliative.

The twin constraints on the superpowers are the common sense realization that the game isn't worth the candle and the fear of other superpower retaliation. Accordingly, in continuing military assistance to Korea, to Taiwan, to Pakistan, to the Middle East and to countries in Africa and South America, we must justify it on grounds other than the continuation of a cutrate Cold War by use of American proxies.

In some instances, it seems to me, the elimination of an American military presence and an increase in American military aid might significantly increase the risk of local conflict and hence the dire prospect of superpower involvement.

We can and should, in my opinion, continue to remove American troops from Korea. They are irrelevant to any Chinese threat and unneeded to provide a purely incremental part of South Korea's ground force superiority over North Korea. But would an effort to make the South Koreans completely self-sufficient militarily, by providing an air force to match that of North Korea, actually lessen the danger of forceful attempts at reunification of that divided peninsula?

Military aid to Taiwan was once justified as keeping alive the hope of eventual recovery of the mainland. I assume we need no longer indulge that myth. But what then is the present justification for substantial military assistance? Does Taiwan need more—or as much—to defend itself? And would its decisions be sounder if it had to finance modernization of its forces out of its own healthy economy?

The sorry history of military aid to India and Pakistan need not be recounted this morning. But certainly the Pakistani do not regard our arms aid as necessary to defend themselves against China, which has become their principal arms supplier. The role of outside nations, and of the United States in particular, should be to reduce tensions between Pakistan and India and find some solution to the Bengali tragedy, rather than in arming the potential antagonists.

The Middle East presents, of course, a special problem because of our special interest in Israel. The amount and type of arms necessary to provide Israeli security must be considered apart from any over-all program of military assistance and, in my view, should be dealt with outside the Cold War context. No amount of Israeli military might can match Soviet capability. But Israeli security from attack by the other nations of the area can provide the confidence that may permit an eventual resolution of the local problem. As for aid to countries like Jordan, I am not impressed by the argument that we must furnish it or else they will turn to the Russians. I see no political gain and surely no military necessity in our insistence in remaining No. 1 in the sale of arms to countries that don't need them and can't afford them. The only practical purpose in arming Jordan is to help King Hussein maintain control in a sorely divided nation. Is this a legitimate goal for American military aid in Jordan or anywhere else?

Insofar as military assistance in Africa or South America are concerned, the traditional justifications have been the continuation of American influence and the preservation of internal security. There are, I submit, a lot of unanswered questions about the influence we derive from arms supply. A State Department White Paper of a couple of years ago documented persuasively the thesis that the withdrawal of military assistance was ineffective in influencing a country's internal policies. I submit that this is equally true of the bestowing of military assistance. Military hardware may be an effective bribe for vocal support internationally. It has yet to be shown to be a useful tool for improving domestic behavior. I would prefer to believe that the instability and poverty in South America reflect an absence of American influence, rather than the results of our positive efforts. Our military aid there, and in Greece, cannot fairly be blamed for causing military coups. But it obviously did not serve to prevent them. Our influence should be directed in the poorer countries, toward economic programs that may better the lot of the ordinary citizen rather than indulging the whims of a fading military elite.

Regrettably, in the present state of world affairs, we can't get entirely out of the arms business. Until we can move toward genuine political accommodation, arms limitation, and mutual troop reduction, we cannot, I believe, afford to disband the NATO military alliance. History gives us special responsibilities in Korea and in the Middle East. But any program to substitute American military aid for American military presence is self-defeating, misleading and dangerous. At best, it can only retard the development of the kind of relations with the other superpowers where our competition can be confined to the political and diplomatic arenas. Far more likely is the possibility that such a substitution will intensify local antagonisms and encourage efforts to resolve political differences by military force. At worst, the local hostilities that ensue can lead to direct involvement of the nuclear superpowers.

If the Nixon Doctrine rests on increased military aid, then it's no new policy for the 70's. It is, instead, an effort to continue an old policy by less effective means. Before accepting the means, the American people should insist first that we know and accept the policy.

THE RIGHT TO HEALTH

Mr. HUMPHREY. Mr. President, last month I was invited to deliver the fourth annual Harold S. Diehl lecture at the annual meeting of the American Public Health Association in Minneapolis, Minn. I called for new directions in domestic and international health care under a firm public policy commitment that the right to health must be regarded as a basic right for every American citizen.

We know that a major and comprehensive effort must be made to meet the deep concern of the American people over the inadequacy and rising costs of our health care delivery system. That effort should include an intensive and sustained program of research on major diseases where information on the latest developments is immediately collated and disseminated. Second, the maldistribution of our health care resources must be corrected through the widespread establishment of health centers in rural areas and in the inner city. And these centers, tied in with medical schools and major hospitals, can initiate innovative measures for the prevention and diagnosis of illness, as well as its treatment.

Third, there must be a substantial expansion of educational resources to provide more doctors, and particularly now more paramedical and allied health professions personnel; and existing medical manpower must be more effectively organized on an areawide basis through the extensive promotion of such programs as group practice plans.

And while reforming our health care system, we must design an insurance system that will effectively help people to meet the costs of health care.

But we must also come to recognize that illness cannot be dealt with only through medical research and treatment. We must get at the broader causes of ill health that lie in the increasing tensions of daily life, in deteriorating and unsafe neighborhoods, in the degradation and despair of poverty, and in widespread child malnutrition that is not confined to poor families.

However, the establishment of effective health care in America will not succeed until we address the international challenges of major diseases and widespread illness. America must make a major investment in international medical research, accelerating measures to combat deadly sicknesses that afflict entire peoples, and providing for the instantaneous telecommunications exchange of medical discoveries and progress.

Basically, we must come to recognize health as fundamental to hope and progress at home and throughout the community of nations.

Mr. President, I ask unanimous consent that the full text of my remarks before the American Public Health Association be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY

I am honored by your invitation to deliver the Fourth Annual Harold S. Diehl Lecture, however uncertain I may feel about following the distinguished presentations by Dr. Robert Q. Marsden, Sir George Godber, and by my good friend, Dr. Luther Terry.

It has been my high privilege and genuine pleasure to have known Dr. Diehl as a personal friend since the days when I served as mayor of this great city and he was dean of the University of Minnesota Medical School. And this nation remains in debt to this great man for his intensive efforts in the American Cancer Society to focus public attention on the health hazards of cigarette smoking.

There is an old proverb that speaks to a profound concern of the American people today:

"He who has health, has hope.
He who has hope, has everything."

Hope is what makes for a dynamic people, for change, and for improvement. But hope in the promise of the future is diminished in direct proportion to the difficulties people confront in obtaining adequate health care, and to the continuing prevalence of major diseases in America despite remarkable advances in their prevention, treatment, and cure.

I am speaking about crowded hospital wards—about entire rural counties without a doctor—about the heavy burden of high medical costs—about the poor mother in the city ghetto who must take her sick child miles to a hospital clinic and then wait in line for hours.

I am talking about arteriosclerosis that accounted for almost one-half of all deaths from all causes in the United States in 1968—about cancer that will strike two of every three families over the years—about the 20 million people in America suffering from some form of mental or emotional illness and the 126,000 children born this year who will be diagnosed as retarded—about the 17 million Americans afflicted with severe arthritis requiring medical care, while arthritis and rheumatism rank second among the chronic conditions which prevent people from carrying on their major activity—and about the harsh fact that 94 times every day of the year an American man, woman, or child will lose his or her sight.

These killing and crippling diseases can and must be overcome.

The right to health must be regarded as a base right for every citizen.

And we must recognize that the conquest of major diseases and the establishment of effective health care delivery systems demand a comprehensive and sustained *international* program of close cooperation. Far too often, the political leaders of the world, in their attempt to solve major problems, have forgotten that in vast regions of the globe—in many areas of Africa, South Asia, the Middle East, and Latin America—we are dealing with largely sick populations. The solution of the social and economic problems of these areas is directly inter-related with the solution of the health problems of the people. And the major diseases known to man do not respect national boundaries. There can be no East-West ideological conflict, for example, in the conquest of cancer.

But in America we must begin now, today, to launch an all-out attack on the causes of ill health and disease. This demands a fundamental political decision at the national level to channel resources, knowledge, and hard cash into the establishment of a sustained and comprehensive drive to make health care and biomedical research in America second to no other nation.

First, government must recognize that effective medical research demands a continuity in Federal funding. It takes time for a research team to work together and to develop a precise and instantaneous information exchange network with other research centers. A temporary shut down of laboratory experimentation and clinical treatment creates a lag period many times over in the progress of research.

Yet, the Administration "defunded" some 19 research clinic programs under the National Institutes of Health in 1970. And its original budget request for NIH research programs for fiscal 1972, with the exception of the $100 million Special Cancer Research appropriation, actually represented a decrease of $20 million below the level of appropriations for these research programs in 1971.

However, the will of Congress was made absolutely clear in the enactment of the final appropriations bill in August, which included an increase of $142 million in NIH research program funds. And it will probably be necessary, once again, for Congress to strongly oppose the impoundment of any of these appropriated funds by the executive branch.

On-going, widespread, and diverse biomedical research programs are absolutely essential in the discovery of new cures and new methods of treatment for major diseases. To make this point abundantly clear, we need only recall the sharp decline in death rates for polio, whooping cough, hypertensive heart disease, and tuberculosis that have resulted from these discoveries.

But the second part of a new national program to protect the health of the American people bears directly on the process of achieving these discoveries. And that is the establishment of an extensive information system to collate, index, evaluate, and disseminate the results of new developments in medical science.

An important beginning was made by Congress in the enactment of legislation estab-

lishing the National Library of Medicine. But except for the recent passage of appropriations for building construction and facilities improvement, the library has been forced to operate on a minimal budget.

Third, the Federal Government must target all health resources assistance on bringing health care to the people. Men, women, and children who are sick and without hope must be the focus of our concern—not expanded research for the sake of publishing more technical monographs; not improved hospital facilities for the greater convenience of doctors alone.

There are two programs of direct relevance here: Regional Medical Programs and Neighborhood Health Centers. And both are few and far between.

Regional Medical centers play a vital role in the delivery of health care throughout this country, particularly in rural areas where there is a serious shortage of doctors and medical facilities. Yet this year it was clear that the administration had cut back on this program.

Over Fiscal 1971, Congress had appropriated a total of $121.6 million for the regional medical programs, recognizing the progress being made in experimental health delivery systems in rural areas, in advanced training programs for nurses to handle physical examinations so that doctors could concentrate their attention on special medical problems, or in the development of a college training program in the allied health professions, to cite only a few examples.

In Minnesota, the RMP has helped train 631 nurses, 544 doctors, and 114 medical electronic technicians for intensive coronary care units. The program has also worked to improve 119 medical libraries in community hospitals.

But the Administration impounded $44.5 million in funds appropriated by Congress for these programs. In its original budget request for the current fiscal year, the Administration went even further, asking for less than half of what the Congress had appropriated the previous year. But Congress appropriated almost $103 million.

Nevertheless, there is more to be done. The regional medical centers are not yet effectively tied in to medical schools and to both public and private research centers. Nor is there yet a close cooperation of the private and public health professions in these programs.

But there must also be an intensive effort to improve health care in the inner city. The vital program of Neighborhood Health Centers, receiving assistance from the Office of Economic Opportunity, must be transformed from an experimental project into a substantially expanded, permanent program where preventive as well as curative medicine is practiced, and where diagnosis through multiphasic health screening makes the detection of disease as important as its treatment. And there must be an emphasis upon making out-patient services directly accessible and readily available to community residents, particularly to assure good health care for children and infants.

Neighborhood health centers cannot stand alone, however. They must be tied in wherever possible with medical schools and community hospitals, providing the essential back-up of specialized resources and services.

Nor can health professionals involved in neighborhood health centers overlook the vital importance of sustained programs of education in personal health care and nutrition for neighborhood residents.

The fourth part of a new health program for America must be the substantial expansion of professional personnel resources. We know that our Nation is currently short 50,000 doctors, 18,000 dentists, 150,000 nurses and thousands more allied and para-professional health personnel. But even last year, 61 of our 101 medical schools were drawing Federal distress funds simply to remain in operation.

And the total supply of health personnel is only part of the problem. The health manpower that exists is maldistributed—it is concentrated in middle-class suburban America.

It has remained for Congress to address these problems. It has had to reverse budget cutbacks in funds for medical school construction grants. It has had to act and act again, in the face of Administration vetoes, to expand medical education resources. Right now, additional health manpower and nurses training bills are in conference, awaiting final action.

I cannot understand the Administration's sense of priorities in medical education. Though the Soviet Union's population is only 17 percent larger than ours, their medical schools turn out 350 percent more graduates. Meanwhile, the United States is importing about 1,700 foreign-trained physicians every year, who now make up about 14 percent of our available medical manpower, and account for a much higher percentage of our hospital internships and residencies.

We must continue to expand the range of health education opportunities—through increased scholarships, particularly for youths of lower-income families; through expanded and improved medical school resources and streamlined curricula; and through a greater emphasis on the paraprofessional fields. And we must place the emphasis on getting the graduates where they are needed, through appropriate incentives.

And I believe the redistribution of medical manpower can be greatly furthered by making financial aid available for starting hundreds of additional group practice plans. These should be allied with efficiently administered hospitals, where there is professional and public participation in the formulation of policies, and where there is an area-wide coordination of total health care resources. In any such program, the health professional should be assured reasonable and adequate compensation, and the person seeking health care should be granted a reasonable freedom of choice.

Last year, Congress had to over-ride a Presidential veto of a major new program of hospital construction and modernization which it had enacted to meet a national need for the modernization of 455,000 bed spaces, and the provision of 250,000 new hospital bed units. Hospital costs have soared, while again and again we witness patient beds crammed into hospital corridors. This is unconscionable, and every effort must be made to bring the supply in line with the demand before hospital costs can be brought under control.

Matching supply and demand—that is the key, I believe, to the establishment of an effective, comprehensive health care system. And we must design an insurance system that will effectively help people to meet the costs of health care.

But a new program of health care for America cannot be addressed solely to the problems of costs and of resources. For we are talking about the care of people. And health care professionals must expand the horizon of their perception and study to recognize the impact of the physical and social environment on health.

I am talking about the tensions of everyday life that continue to rise with the pace of our existence. What has been termed the threat of "future shock", an adaptational breakdown in the face of the pace of social change, is already very much with us.

That is why preventive as well as curative psychiatric care must be made an integral part of group-practice or health center programs. That is why we must recognize the impact of the political environment on health—the deep need of people for livable, decent, and safe cities. And that is why the despair of poverty must be assigned a key role in the causes of ill health.

And I am talking about the extensive evidence of malnutrition among children, even children of higher-income families.

That is why I intend to press for legislative action on the Universal Child Nutrition and Nutrition Education Act, which I recently introduced, to eliminate the incredible patchwork of limiting legislation and regulations that afflict our child nutrition programs. We must assure that every child has the right to good nutrition.

These are the comprehensive and perceptive investments that the United States simply must make if the health of the American people is to be protected. Our goal should be to assure each child born a right that is as precious as the right of citizenship—the right to health. For it is health that nourishes hope, and it is hope that has always been the strength of this great Nation.

But we cannot be satisfied with doing the job of establishing effective health care within our own boundaries. Nor will we succeed in this effort unless we recognize the international challenges of major disease and sickness, which demand a comprehensive and sustained attack by the entire community of nations.

It is in recognition of this basic truth that I undertook the chairmanship of the International Health Study of the U.S. Senate in the late 1950's. The work of that Senate committee opened a whole new range of challenges and opportunities in the conquest of disease, to the American public.

We pressed hard for the enactment of a Joint Resolution to establish a National Institute for International Medical Research. I called upon Chairman Krushchev to agree to a program of unlimited Soviet-United States cooperation in a united war against cancer.

These were startling proposals at the time, but I strongly feel they are absolute requirements now. We must launch an offensive for health, and it must be international in scope.

There is an acceleration of activity in this direction. Vital programs of medical research, vaccination, and treatment under the auspices of the World Health Oragnization are having increasing success in combatting tropical diseases, such as malaria, and in turning back tuberculosis and smallpox and yaws. Cholera has been resurgent, however, and the control of trachoma and leprosy is made difficult by limited resources and manpower.

And the Stockholm conference on pollution represents an important recognition of the broader scope that must be given to an attack on the causes of disease and ill health.

Important programs are underway to exchange medical knowledge and research, as exemplified by the enactment of the International Health for Peace Act, providing vital financial assistance and scholarships.

These are but a few examples of what can be accomplished. But further opportunities can be seized. We must continue to support the establishment of American sponsored research hospitals in areas of greatest need, as has been done in Poland. This can be furthered by the use of generated currencies under American aid programs, and administered through the establishment of binational foundations.

We must give central importance to the expansion of basic research across the world—a critical resource for medical science, that is in incredibly short supply.

The United States should make a substantial investment in the World Health Organization program for the mass eradication of selected diseases.

And the United States Public Health Service must have the means to make its technical know-how available to the world.

Let us, then, launch an international war against the enemy which limits mankind, deprives him of his birthright, cuts him down prematurely—the enemy of disease and disability.

And let us recognize that an important step can be taken, through an unselfish and cooperative health effort, to create a climate of relationships out of which further political agreements between East and West may some day be reached, and the basic right of the new nations of the world to equality of opportunity for development be given full recognition.

It is this climate of hope and promise for all peoples that we earnestly seek.

Let us, therefore, dare to try!

HAROLD D. MILES

Mr. MATHIAS. Mr. President, I rise to salute Harold D. Miles, a 15-year-old Annapolis, Md., youth who last summer rescued two little girls and a man from drowning. Young Mr. Miles has been presented citations for heroism both by President Nixon and by the Governor of Maryland, Marvin Mandel.

Mr. President, I ask unanimous consent that the Senate join in honoring Harold D. Miles by printing in the RECORD the report of the Annapolis Evening Capital of his awards.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NIXON, MANDEL CITE HERO, 15

(By Kathryn Woestendiek)

An Annapolis youth who saved two little girls and a man from drowning last month has received recognition for heroism from both President Nixon and Governor Marvin Mandel.

Harold D. Miles, 15, son of Mr. and Mrs. Elmer J. Miles of 721 Monterey Ave. received a letter and certificate from Nixon Monday praising his recent act of heroism.

"Your willingness to help others in need deserves the respect and admiration of all our fellow Americans," the President's letter in part said, "and in recognition of your outstanding humanitarian concern, I want you to have the enclosed certificate. It comes to you with my best wishes for the future."

Young Miles met yesterday with Sen. Robert Pascal and Gov. Mandel and was presented an award for heroism as well as a silver plate embossed with the state seal.

He has also received a letter of appreciation from the family of the two little girls whose lives he saved.

Mr. and Mrs. Virgil Brown, parents of Robin, 9, and Cheryl Downs, 11, thanked Harold for rescuing their daughters as well as attempting to prevent the drowning of Annette Lorraine Brown, 10.

The family also extended thanks to Harold's mother, for ordering the ambulance that transported the victims to Anne Arundel General Hospital.

Miles saved the children and the man, a relative, from drowning in Weems Creek on July 26.

REPRESSION IN NORTHERN IRELAND

Mr. RIBICOFF. Mr. President, the violence and acts of terror in Northern Ireland are bound to continue and increase in intensity unless the oppressed minority there feel there are genuine prospects for peaceful alternatives.

Today's New York Times carries an account by Tony Lewis, writing from London, of the ordeal of one man interned without trial under the Special Powers Act. The article states that there was nothing special about this particular episode, and shows, according to Lewis, "why, despite all the announced reforms of recent years, the Catholics remain so totally alienated from the Ulster system." Lewis, who in the past has written perceptively on this subject, gets to the crux of the issue in Northern Ireland today.

The end of internment, and the abolition of the current Parliament in Northern Ireland are two of the key elements in Senate Resolution 180, which I introduced, and which is cosponsored by Senators KENNEDY and WILLIAMS.

As time goes on, more people, in Britain, in the United States, and elsewhere, will come to the inescapable conclusion that the present system in Northern Ireland, as Mr. Lewis states, "can never bring peace."

I would like to call this article to the attention of all of my colleagues who are seeking a better understanding of the crisis in Ulster.

I ask unanimous consent that the text of the column by Mr. Lewis, "The Incident of Mr. Fox," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE INCIDENT OF MR. FOX

(By Anthony Lewis)

LONDON, November 12.—It began with a letter from the Ardoyne, a Roman Catholic ghetto of Belfast.

"My husband's name is John Joseph Fox, he was in the British Army for six and one-half years, also he was on reserve. We came home to Ireland after 25 years in England where all the children were born. . . .

"Now they have taken my husband into prison from his home on the 9th of August and he is still a detainee at Crumblin Road Prison. He was beaten up terrible, in fact he thought it was the end for him. . . . I know they have made a mistake so why don't they let him go? I just don't understand. . . ."

Mrs. FOX wrote to Victoria Brittain, an English journalist who had stayed in the Ardoyne last spring on assignment for The Times of London. Miss Brittain turned the letter over to The Times, which printed it.

Stormont, the Northern Ireland Government, at once denounced the letter as false. Mr. Fox was not being detained without trial as a suspected terrorist, an official said: He was in jail awaiting trial on a charge of car theft. He had appeared in court on that charge on Aug. 25, been remanded to prison (denied bail), and appeared and been remanded again on five later occasions.

When that official denial was published, it seemed odd. Do British courts really deny bail in auto theft cases? Could a man be held in jail for months before trial on such a charge? A simple check showed that the answer to these questions was no.

The Stormont statement was in fact a farrago of untruths. Officials, asked to check, took two days and then admitted they had been wrong: Mr. Fox was being detained under the Special Powers Act, just as his wife had said. The facts were:

Mr. Fox was charged with the theft of a car last June. He pleaded innocent, producing what he said was a canceled check for the car and its proper documents. He was freed on bail of $1,200, later reduced to $480.

On Aug. 9, the day Stormont began interning suspected Catholic terrorists, Mr. Fox was seised under the Special Powers Act and taken with other detainees to Crumlin Road Prison. If it were not for that, officials now agree, he would be free on bail. But the Government has neither lifted the detention order nor proceeded with the car theft case.

Mr. Fox has now been detained under the Special Powers Act for more than three months. Ordinarily Stormont decides within 28 days whether it has grounds to enter a formal internment order against a suspect, but even that has not happened. Mr. Fox is in limbo. And his prison is not in Greece or Brazil or the Soviet Union but in what the Ulster Protestants proudly insist is a part of the United Kingdom.

There is nothing very special about the episode—it does not come near the worst horrors of Northern Ireland. It just happened to be played out before a public audience, and it shows why things are as they are: why, despite all the announced reforms of recent years, the Catholics remain so totally alienated from the Ulster system.

If you live in the Ardoyne, you are convinced that there is no truth in Stormont, that there can be no real commitment to equal rights. You are convinced also that there is no assurance of fair treatment from the Ulster police, or of justice in an Ulster court.

None of this is to say, from an outsider's viewpoint, that injustice is all on one side. It would be impossible to say that after the I.R.A.'s cruelties, or after the terrible scenes of Bogside women shearing and tarring a girl because she loved a British officer.

But no nice balance from outside can change what the Catholic one-third of Northern Ireland perceives as reality: It lives in a sectarian Protestant state, created fifty years ago for the very purpose of maintaining Protestant domination, and there can be no hope until the structure of that sectarian state is dismantled.

That is the truth that successive British Governments have tried to avoid: The Stormont system, with its separate, perpetually Protestant Parliament and Executive for Northern Ireland, can never bring peace. No one should pretend that there is an easy way out of the Irish troubles, but the way has to begin with British recognition that the Stormont idea has failed.

OBSCURE COLLEGES DESERVE AID

Mr. MATHIAS. Mr. President, amidst the growing national concern for the financial plight of our colleges and universities, I would like to bring to the attention of my colleagues a type of college which is particularly threatened. As described in a recent article by Eric Wentworth in the Washington Post, the Carnegie Commission on Higher Education has issued a report underscoring the difficulties faced by our Nation's 500 "invisible colleges," seven of which are located in Maryland. Coauthored by Calvin B. T. Lee, new chancellor of the University of Maryland's Baltimore County campus, the report makes evident the vital role which this type of small private college plays in offering American students a diversity of choice, as well as a chance to secure their education in a close, cohesive atmosphere. Furthermore, the authors suggest that "subsidizing these small private colleges could prove

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less costly in many cases than further expanding the public higher education facilities." Mr. President, I ask unanimous consent that the full text of Mr. Wentworth's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OBSCURE COLLEGES DESERVE AID

(By Eric Wentworth)

If America's 500 "invisible colleges" are to be rescued from extinction, the states are going to have to subsidize them, according to the Carnegie Higher Education Commission.

A commission report—written by Alexander W. Astin, research director for the American Council on Education, and Calvin B. T. Lee, new chancellor of the University of Maryland's Baltimore County campus—contends that these colleges "by and large . . . justify their existence."

As Astin and Lee define them, "invisible colleges" include those private, four-year campuses which tend to be small, unselective, underfinanced, often church-linked and concentrated in the Southeast and Midwest.

They have names like Avila and Biola, Yankton and Yampa Valley, St. Mary of the Woods and St. Mary of the Plains, Olivet Nazarene and Free Will Baptist Bible, Embry-Riddle Aeronautical Institute and the Kansas City Art Institute.

Local institutions on their "invisible colleges" list included:

District of Columbia: Benjamin Franklin College Capitol Institute of Technology, Gallaudet College, Southeastern University and Washington Bible College.

Maryland: Columbia Union College, Eastern College, Maryland Institute College of Art, Ner Israel Rabinical College, Peabody Conservatory of Music, Saint Mary's (formerly Saint Charles College) and Woodstock College.

Virginia: Bridgewater College, Eastern Mennonite College, Frederick College, Lynchburg College, Randolph-Macon Women's College, St. Paul's College, Shenandoah College and Virginia Union University.

Despite their obscurity, these colleges represent about a third of all four-year institutions and enroll nearly half a million students, both white and black.

The "Inviable Colleges" deserves to survive, Astin and Lee assert, because they provide diversity in an era when the more prominent institutions have been playing follow-the-leader.

Moreover, they "provide a warmer and more cohesive atmosphere . . . give the student greater opportunities to participate in a number of activities, and . . . have traditionally designed their programs to suit a student clientele that is in many respects similar to the less able and less well-prepared students who are currently imposing a heavy burden on the public institutions."

Astin and Lee believe these colleges neither can nor should upgrade their students, faculty and other academic resources to the levels of more elite institutions.

They thus propose a novel approach for state aid, suggesting that "it might be possible to convince legislators that subsidies should be based on an institution's lack of selectivity; preference might be given to those institutions whose entering students' high school grades and ability test scores fall below a certain level."

The authors propose that subsidies be further limited to support for strengthening the colleges' "unique educational programs," for developing new programs to help less able or poorly prepared students, and for helping boost enrollment.

Many of these colleges, they point out, have uneconomically low enrollments at present. They face increasing competition from low-tuition public colleges which largely attract the same types of students.

On the other hand, increasing enrollments at the "invisible colleges" could help ease some of the growth pressures at state-run campuses. Indeed, the authors suggest, subsidizing these small private colleges could prove less costly in many cases than further expanding the public colleges.

Astin and Lee thus propose that both state and federal policymakers take a closer look at the role of "invisible colleges" and include them in higher education planning.

Some 35 states, according to the Chronicle of Higher Education, are providing direct or indirect aid to private colleges at present. Others are considering such steps.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

REVENUE ACT OF 1971

The PRESIDENT pro tempore. Under the previous order, the Chair will now lay before the Senate the unfinished business, H.R. 10947, which the clerk will report.

The legislative clerk read the bill by title, as follows:

A bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDENT pro tempore. The pending amendment is No. 649, offered by the Senator from Minnesota (Mr. MONDALE), with a limitation of 2 hours, equally divided and controlled by the proponents and the opponents of the amendment.

Mr. MONDALE. Mr. President, I yield myself such time as I may need.

The PRESIDENT pro tempore. The Senator may proceed.

Mr. MONDALE. Mr. President, this amendment would defer for 1 year the social security tax increase scheduled to go into effect next year.

Under the present law a $3 billion social security tax increase is scheduled for January 1, 1972. This comes about because the amount of earnings subject to the social security tax rises from $7,800 to $9,000 under existing law. In addition, the social security bill now before the Committee on Finance calls for a further increase in the tax base to $10,200, and an increase in the tax rate from 10.4 to 10.8 percent.

Coupled with the tax base increase already legislated for 1972, this would represent one of the largest social security tax increases in history. We do not know either when or in what form the social security bill will finally pass Congress, but there can be little question that these tax increases come at the wrong time from the standpoint of economic recovery. Almost all economists agree that economic recovery now requires a major increase in consumer spending. But while the present tax bill includes some cuts for individuals, unfortunately these cuts are largely canceled by the social security tax increases scheduled to go into effect January 1, 1972.

I will shortly distribute to Senators a table showing the effect of scheduled increases in social security taxes upon the individual tax savings which will come out of this tax bill. The table shows that when one looks at social security tax increases and individual tax relief through an increased exemption together, rather than separately, there is virtually no tax relief for the individual taxpayer. This is true even when the effect of the Hartke amendment increasing the personal exemption to $800 is included.

For example, a family with an income of $10,000 under the present law pays $962 in income tax. Under the House-passed bill he would pay $905 in income taxes. With the Hartke-adopted increase of personal tax exemptions he would pay $867. His maximum tax saving therefore is $95 under presently scheduled taxes.

But, Mr. President, if you subtract the scheduled social security tax increase of $62 from the $95 saving, as one must do, the net tax saving to a family with an income of $10,000 is only $33. So there is practically no aggregate improvement at all for the average taxpayer.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the complete table and analysis to which I have referred.

There being no objection, the table and the analysis were ordered to be printed in the RECORD, as follows:

INDIVIDUAL TAX SAVINGS AFTER SCHEDULED INCREASE IN SOCIAL SECURITY BASE TAKES EFFECT

[Average family of 4. Assumes deductible personal expenses of 10 percent]

Income	Tax liabilities					Tax saving after social security increase
	Present law	H.R. 10947	W/ $800 exemption	Savings w/$800 exemption	Social security increase	
$5,000	$170	$98	$70	$100		$100
$7,500	561	484	450	111		111
$10,000	962	905	867	95	$62	33
$12,500	1,371	1,309	1,266	105	62	43
$15,000	1,864	1,820	1,776	88	62	26
$20,000	3,060	3,010	2,960	100	62	38
$25,000	4,296	4,240	4,084	112	62	50

Mr. MONDALE. Mr. President, my amendment to defer this social security tax increase for 1 year has received the support of a number of economists and others concerned with economic problems. Deferral of the increase was recommended by the Joint Economic Committee in its excellent 1971 midyear review of the economy, dated August 16, 1971.

In the report of the Joint Economic Committee, which incidentally, was agreed to on a bipartisan basis, the committee said:

The increase in the social security tax base presently scheduled for January 1972 should be postponed until January 1973. The further increase in the tax base and the increase in the tax rate presently being considered by Congress as part of social security and welfare reform legislation (H.R. 1) should be instituted on a gradual basis, beginning no sooner than January 1973.

The committee then stated as follows:

Our second recommendation, the postponement of social security tax increases, has been less widely discussed. The magnitudes of scheduled and contemplated social security tax increases may not be generally recognized. An increase in the social security tax base from $7,800 to $9,000 is already scheduled for January 1972, as a result of action taken by Congress last spring postponing this tax increase from the January 1971 starting date originally recommended by the Administration. This Committee supported that postponement. January 1971 was not an appropriate time to raise taxes. The continued sluggish performance of the economy makes it highly probable that January 1972 will be an equally inappropriate time to raise taxes. Therefore we believe that this increase in the tax base should be postponed for an additional year.

The social security and welfare reform legislation presently being considered by Congress (H.R. 1) contains, as presently formulated, a further increase in the social security tax base from $9,000 to $10,200 and an increase in the social security tax rate from 10.4 to 10.8 percent, both scheduled to take effect in January 1972. Coupled with the tax base increase already legislated, these provisions would result in one of the largest social security tax increases in history and would exert a significant and most unfortunate restraining effect on the economy. Therefore, we believe that these further tax increases should be put into effect gradually, with none of them beginning any earlier than January 1973. The social security trust funds presently contain a large surplus. Even without the tax increases, this surplus will grow by some $7 to $8 billion in fiscal 1972. Thus, postponement of these tax increases does not present any danger of impairing the sound financing of the social security system. There was virtually unanimous agreement among our witnesses, however, that the whole system of Social Security taxation raises increasingly serious questions of equity and that major reform should be given high priority.

Mr. President, this delay in the increase in social security taxes was also supported by the Committee on Economic Affairs of the Democratic Policy Council and it received enthusiastic endorsement from many of the witnesses participating in the Joint Economic Committee's recent hearings on the President's new economic policies. The Senator from Wisconsin (Mr. PROXMIRE), chairman of the Joint Economic Committee, has summarized this testimony as follows:

Postponement of Social Security tax increases scheduled for next January received widespread support from witnesses, including Heller, Schultze, Ackley, Okun and Nathan. . . . They all said that we ought to suspend it, that we should not impose it, that it would depress the economy, that it is unnecessary and could be postponed without a permanent loss of revenue.

It is quite clear that a broad spectrum of the Nation's top economists agree that we can safely defer the imposition of the social security tax increases for an additional year.

Mr. President, I ask unanimous consent that I may have printed in the RECORD some of the comments made by economists with respect to this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM A STATEMENT BY PROF. OTTO ECKSTEIN, DATA RESOURCES AND HARVARD UNIVERSITY BEFORE THE JEC

Postpone for one year, part or all of the social security tax increases scheduled to take effect next January. In total these will add $7 billion to the tax bill paid by workers and employers in calendar 1972 (assuming enactment of the social security provisions in H.R. 1). A fully employed worker, earning $10,000 per year will pay $175 extra in social security taxes next year (and his employer another $175). On the other hand, that same worker, assuming he headed a family of four, would get only about $80 in income tax benefits from the speedup in tax reliefs proposed by the President. If half of the scheduled social security increase were postponed, the fiscal impact would be a $3 billion reduction in tax liabilities.

EXCERPT FROM A STATEMENT BY ARTHUR M. OKUN, SENIOR FELLOW, BROOKINGS INSTITUTION

Social security taxes are slated to rise on January 1, 1972—$3 billion is scheduled by present law and an additional $4½ billion is proposed by H.R. 1. If the H.R. 1 provisions are enacted, a family with a $10,000 income will have a net *increase* in combined income and payroll taxes.

The tax proposals are also unbalanced in their effects on various industries. They would provide $8 billion of incentives for the production of business equipment and automobiles, on top of the $3 billion from accelerated depreciation. In contrast, they virtually ignore all other industries, which produce nearly 90 percent of our national product.

The imbalances are incontrovertible. They are also, in my view, economically and socially unjustifiable.

Mr. MONDALE. Mr. President, the economy desperately needs further stimulation. I do not believe it is generally recognized how slow and sluggish the present economy is, how desperately short we are of the growth we need to achieve full employment, and regain the economic productivity which full employment brings.

The figures for 1971 show that in the first quarter the gross national product rose by an annual rate of 7.7 percent; in the second quarter it dropped to 4.8 percent; and in the third quarter it dropped again to a sluggish and wholly inadequate rate of 2.9 percent in real dollar terms, which is the thing we must be concerned with.

Let us compare that growth—that stagnant level of growth—and what is needed if we are interested in full employment. According to the President's manpower report, the labor force will grow at an annual rate of 1.6 percent. Productivity increases will improve at a rate of about 3 percent. Therefore, about a 4.5-percent growth rate in real terms is required to merely stay even with the growth rate of the labor force.

In other words, there must be at least a 4.5-percent growth rate if we are to avoid growing unemployment, that is unemployment higher than the already unacceptable level of 5.8 percent, which everyone knows understates the unemployment rate existing in the country.

I think any reasonable view of the economy demonstrates the need for more stimulation, for more growth: The best way to achieve it is to improve the power and the capacity of the consumer to buy, to spend as a consumer.

Postponement of the social security base increase will have favorable fiscal effects, and it has several other virtues as well.

First, it brings some relief to middle income taxpayers who are already paying excessive taxes.

If one looks at the disproportionate way in which we are delivering tax relief in the bill before us, one would have to agree with Walter Heller, who said, in effect, that the bill gives a great big juicy steak to big business and a picked-over soupbone to the average taxpayer.

The House income tax bill over the next 10 years would provide business $75 billion worth of tax relief and individual tax relief of only $14 billion. That degree of individual relief came about only because the committee went much further than the President asked to bring some relief to the individual taxpayers. I commend them for those changes, but under that improved bill we still are offering to big business the most tax relief ever accorded to them in their history; and when one considers the social security increase, the average taxpayer's bill will be largely unaffected. Moreover, this continues a trend which since 1961 has seen corporate taxes decline drastically as a percentage of total Federal taxes while social security taxes have increased even more strikingly.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the trend of corporate taxes, personal taxes, and social security taxes as percentages of gross national product.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—THE FEDERAL SECTOR AT FULL EMPLOYMENT AS A PERCENT OF POTENTIAL GROSS NATIONAL PRODUCT: NATIONAL INCOME ACCOUNTS

Calendar years	1961	1970	1972
Personal taxes	8.7	9.2	8.6
Corporate taxes	4.6	4.3	3.6
Indirect business taxes	2.7	2.1	1.8
Social security taxes	3.9	5.0	6.0
Total revenues	20.4	20.5	20.0

Mr. MONDALE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table showing the distribution of income tax revenue loss over the next decade.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

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TABLE I.—DISTRIBUTION OF INCOME TAX REVENUE LOSS, REVENUE ACT OF 1971 (H.R. 10947)

[Billions of dollars]

Calendar year	Business				Individuals			
	ADR	7 percent investment credit	DISC	Total	Personal exemptions	Standard deductions	Low-income allowance	Total
1971	$0.7	$1.5		$2.2	$0.9		$0.4	$1.3
1972	1.7	3.6	$0.1	5.4	1.9	$0.3	1.0	3.2
1973	2.4	3.9	.2	6.5			1.1	1.1
1974	2.9	4.2	.2	7.3			1.1	1.1
1975	3.5	4.5	.2	8.2			1.2	1.2
1976	3.7	4.8	.3	8.8			1.2	1.2
1977	3.4	5.1	.3	8.8			1.3	1.3
1978	3.1	5.5	.3	8.9			1.3	1.3
1979	3.1	5.8	.4	9.3			1.4	1.4
1980	3.0	6.2	.4	9.6			1.4	1.4
Total	27.5	45.1	2.4	75.0	2.8	.3	11.4	14.5

Sources: U.S. Treasury. Joint Committee on Internal Revenue Taxation.

Mr. MONDALE. Mr. President, social security tax relief, it seems to me, is desperately needed to achieve equity for the middle income taxpayers.

Second, this form of tax relief, has the virtue of involving no permanent revenue loss to the Federal Treasury.

In contrast, the President's 1971 tax proposals would reduce Federal revenues by $8 billion a year permanently. Over the next 10 years, that means a $80 billion loss in Federal funds.

I think that is a highly doubtful public policy at a time when increased revenues are desperately needed for many compelling reasons here at home, whether it be for welfare reform, health insurance reform, pollution control, to bring fiscal relief to State and local governments, or for the many other high priority national needs.

What is needed now are short-term measures to stimulate consumer spending, without undermining or destroying the Federal tax base. Deferral of the social security tax increase is such a measure.

Third, this proposal heads off a rise in the cost of labor to business. This is because the employer pays half of any social security tax increase. By holding down the cost of labor, this amendment will tend to encourage employment.

In other words, in addition to stimulating the economy in terms of increased consumer purchasing, postponement of the social security tax increase also reduces the cost of labor to the employer and encourages an increase in the labor force for that reason as well. As the social security tax rises, as it is rising today so steeply, this consideration is of very great importance.

A number of arguments have been made against the deferral of this tax increase.

First, it is argued that deferring the social security tax increase will have no impact on the economy until the second half of 1972.

The argument is as follows: The social security tax increase scheduled to go into effect next January involves an increase in the tax ceiling from $7,800 to $9,000.

The tax is applied to total wages starting at the beginning of the year and continuing until the tax ceiling is reached. Therefore, deferral will not have a significant impact until the third quarter—when workers start to reach the ceiling.

To be sure, it would be better if we could find policies that would stimulate the economy immediately. At the same time, however, there can be little doubt that the fiscal help provided by deferring this tax increase will be needed in the second half of 1972.

Few people now believe that we will be at full employment by the third quarter of 1972. Indeed, most economists predict that unemployment will be within the range of 5 to 6 percent, perhaps even higher late in 1972. If the unemployment growth rate trends I have just referred to continue, unemployment will still be of great concern late in 1972. In that case, stimulus will be needed at that time to continue to work down our unemployment rate. Late 1972 is hardly the time for an onerous tax increase to become effective. Unless we defer the increase, next year the economy will be hit with a $3 billion tax increase when it can least afford it. This could be a cruel blow, indeed.

The second argument against deferral is that the tax increase is required to maintain the financial soundness of the social security system.

The answer to this is that the old-age-survivors, and insurance disability trust funds are generating surpluses. For 1971, the surplus is expected to be $3.4 billion. For subsequent years, the surpluses are shown in the table which I ask unanimous consent to have printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

NET INCREASE IN FUNDS, OLD-AGE AND SURVIVORS INSURANCE AND DISABILITY INSURANCE TRUST FUNDS

[In billions]

	Under present law	Under House-passed Social Security bill (H.R. 1)
1972	$7.2	$2.7
1973	13.0	2.9
1974	14.9	2.9
1975	16.6	12.8

Mr. MONDALE. Mr. President, the trust funds are generating surpluses because social security financing is based on some extremely conservative assumptions.

If these assumptions were discarded in favor of more realistic ones, it would be possible to considerably reduce social security taxes. Recently reports have been appearing in the press indicating that the Nixon administration is considering this very move. Adoption of more realistic assumptions has been unanimously recommended by the social security system's advisory council. This council is a prestigious, nonpartisan group of experts and advisers. In their report, entitled "Report of the 1971 Advisory Council on Social Security," dated April 5, 1971, they clearly come out for a revision in the actuarial assumptions and methodology by which we fund the social security benefits.

Mr. President, I ask unanimous consent that the recommendations of the advisory council on this subject be printed in the RECORD at this point.

There being no objection, the recommendations were ordered to be printed in the RECORD, as follows:

Actuarial Assumptions and Methodology

7. *Earnings Assumption.*—The Council recommends that the actuarial cost estimates for the cash benefits program be based—as the estimates for the hospital insurance program now are—on the assumptions that earning levels will rise, that the contribution and benefit base will be increased as earnings levels rise, and that benefit payments will be increased as prices rises.

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The Size and Function of the Trust Funds

10. *Current-Cost Financing.*—The financing of the program should be on a current-cost basis, with the trust funds maintained at a level approximately equal to one year's expenditures.

Mr. MONDALE. According to the Washington Post on October 31 of this year, the conclusions of the social security advisory council also won the support of the Social Security Administration and of the Secretary of Health, Education, and Welfare, Mr. Richardson. I ask unanimous consent to have printed in the RECORD an article entitled "1972 Social Security Dividend Eyed," written by Vincent J. Burke and published in the Washington Post of October 31, 1971.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

1972 SOCIAL SECURITY DIVIDEND EYED

(By Vincent J. Burke)

Confronted with evidence that cash benefits of the Social Security System are overfinanced for the next 40 years, the Nixon administration is considering asking Congress to declare an election-year dividend.

The dividend could be used up entirely canceling a major portion—$20 billion a year—of the staggering load of new payroll taxes scheduled to be imposed in the coming decade.

But it seems more likely that political pressures would dictate that a share of the dividend be passed out to beneficiaries in the form of an election-year increase in benefit payments.

The extraordinary plan—which President Nixon probably will find politically irresistible—would produce an actuarial surplus in the Social Security trust fund by shifting the system to a less conservative method of accounting in determining whether the fund is in balance.

STARTING IN 2010

The new method of accounting would, however, require sharp increases in tax rates, starting in the year 2010, when the present generation of American youth starts going on the benefit rolls.

If the new method should be enacted, and all of the "dividend" applied to erasing future tax increases, it would have this effect on Social Security taxes.

Tax rates—At present employees and their employers each pay 5.2 per cent of covered earnings—and the rate would rise to 7.4 per cent by 1977 under terms of a House-passed Social Security liberalization. If the new accounting method should be enacted, there still would have to be one more quick increase in the tax rate to help cover a deficit in Medicare's hospitalization fund. But then the rate could be frozen for decades at 5.4 per cent.

Taxable earnings—The plan would not prevent a steady rise in the maximum Social Security tax. The amount of earnings subject to tax (now $7,800 and scheduled to rise next year to $9,000) would continue rising in future years. This would be necessary to provide cost-of-living increases for beneficiaries and cover rising hospitalization costs.

WAYS OF SPENDING

In theory, the "dividend" generated by the shift in accounting methods could be "spent" in three different ways.

1—All of it could be used to provide relief to this generation of workers and businessmen from a portion—$20 billion a year—of the additional Social Security taxes which now confront them in the coming decade. Even if this were done, the payroll tax of every worker and employer would still rise above today's level. But the increase would be much smaller than is now in prospect.

2—All of it could be used to provide an across-the-board increase of close to 50 per cent in cash benefits for the 26 million persons on the rolls (who include 20 million voters over 60). But there seems no chance that the administration or Congress would choose this option, since it would require the quick imposition of a staggering new load of Social Security taxes on every worker and employer and self-employed person covered by the program.

TWO-WAY ADJUSTMENT

3—A combination prospective tax and immediate benefit adjustment—the option with the greatest political appeal—would permit some increase in the election-year benefit boost of five per cent which the House already has voted to put into effect next July.

Under the present accounting method, the projections indicate that by the end of the decade a worker earning $15,000 might be paying 7.4 per cent of $15,000, or $1,110 in Social Security taxes. Under the new accounting method, this projected tax payment would drop to 5.4 per cent on $15,000, or $810.

The shift to the less conservative accounting method would require these two steps:

1—The pretense would be abandoned that the Social Security System will someday accumulate a gigantic retirement fund to help pay future benefits. As a matter of explicit policy, the retirement fund would operate in the future as it generally has in the past with only enough reserve to pay one year's benefit.

2—Future tax needs for the retirement fund would be projected on the assumption that wages (and prices) will rise, instead of remaining level for the next 75 years, the present conservative assumption.

BACKED BY COUNCIL

Both steps were unanimously recommended last spring by the Social Security System's advisory council whose members, broadly representative of the public, included spokesmen for business, labor and private insurance companies. Since then, the two-part plan has won the backing of the Social Security Administration and Elliot L. Richardson, Secretary of Health, Education, and Welfare, and is being considered now at the Office of Management and Budget.

The first step is not controversial, but the second is opposed as imprudent by Robert J. Myers, former chief actuary of the Social Security System.

It is the second step that unlocks the door to the actuarial windfall. Because retirement benefits are weighted in favor of low-income workers, rising wages tend to produce a "profit" for the Social Security System over and above the amount needed to pay cost-of-living benefit increases.

Congress has used the profit from past wage rises to periodically liberalize benefits or postpone scheduled rises in tax rates. However, if the new accounting method were adopted, the actuarial profit achieved by projecting future rises in wages would be extracted from the retirement system in one fell swoop.

If these were done, Congress would have to boost current Social Security Tax rates whenever it chose to hike benefits above levels required to keep up with the cost of living. Rising wages could no longer be counted upon to generate profits in the Social Security System for Congress to use in periodically tinkering with liberalizing changes.

SORT OF PERPETUAL MOTION

Thereafter, if wages continued to rise almost twice as fast as prices (as they generally have in the past), the retirement system could operate for 40 years as a sort of perpetual motion machine. A benefit escalator would automatically boost benefits periodically to offset rises in the cost of living and a wage escalator would increase periodically the amount of wages subject to the payroll taxes. But there would be no need to hike the retirement fund's tax rates until 2010.

This is conceivable only because there will be for 40 years a fairly constant ratio between the number of benefit-collectors (persons over 65) and the number of benefit-payers (persons 20 to 64).

However, starting in or about 2010, this ratio will begin changing radically as the bumper crop of post-World War II babies (today's youth under 26) begins going onto the benefit rolls. Then, the ratio of beneficiaries to taxpayers will rise sharply, requiring tax rates to be set higher, perhaps 25 to 30 per cent.

Presumably, the resistance of the taxpayers would escalate, accordingly. By then, however, persons over 65 would constitute a much greater portion of the voting populace—and would wield proportionately greater political power—than they do today.

THIRTEEN-MONTH RESERVE

Because it would destroy a fiction that is part of the mythology of Social Security, an announced decision to limit the future size of the retirement fund might trouble some Americans. But "pay-as-you-go" is the practice that has been followed for years. Money currently paid out to beneficiaries comes from taxes currently paid in by workers and employers. The fund now has a reserve big enough to pay only 13 months of benefits.

Myers, a nationally known actuary who developed cost projections for the Social Security System for several decades, objects switching to the rising-wage method of projecting the system's tax needs because it assumes that wages in the future will continue to rise almost twice as fast as prices. (The difference being what economists call "productivity"). Myers says it's imprudent to assume future productivity gains will be anywhere as great as in the past and notes that in the last few years productivity gains have been almost non-existent.

But the proposal has gained support among business and labor representatives in Washington, a development that Rep. John W. Byrnes, of Wisconsin, senior Republican on the House Ways and Means Committee, finds deplorable, but understandable.

"The business guy thinks if he can postpone his taxes, that's great," Byrnes said. "And labor unions want to avoid payroll tax increases and raise benefits by taxing money out of general revenues, making the system a welfare hybrid.

"The attitude seems to be that if we can postpone the day of reckoning, let's do it. Let somebody else worry about it. We have become a soft society. We want our cake and let's not pay for it."

Mr. MONDALE. Mr. President, by the end of 1971, the social security trust fund will have a reserve of about $41 billion—more than the cost of supporting the system for 1 year. Moreover, the trust funds are generating surpluses, for the reasons just noted. Therefore, it is hard to see what harm can come from deferring next year's $3 billion tax increase.

This is not the only change that needs to be made in financing social security. The payroll tax is one of our most regressive taxes. It falls disproportionately on lower- and middle-income workers. The rapid increase in social security taxes—they are now the second largest source of Federal revenue—highlights the need for comprehensive reform.

Mr. President, earlier this year the distinguished Senator from Maine (Mr. MUSKIE) and I introduced a measure to fundamentally reform and revise our present method of funding and financing social security benefits. I ask unanimous consent to have printed in the RECORD the measure which Senator MUSKIE and I introduced, together with selected editorial comments in support of that proposal, and more particularly in support of the need for a fundamental reform in the financing of social security.

There being no objection, the bill and editorials were ordered to be printed in the RECORD, as follows:

S. 2656

A bill to amend chapters 2 and 21 of the Internal Revenue Code of 1954, and title II of the Social Security Act, to reduce social security tax rates and provide a new method for their determination in the future, to remove the dollar limitation presently imposed upon the amount of wages and self-employment income which may be taken into account for tax and benefit purposes under the old-age, survivors, and disability insurance system (making allowance for personal income tax exemptions and the low-income allowance in determining such amount for tax purposes), and to increase benefits under such system to reflect the next tax and benefit base

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TAX AND BENEFIT BASE

SECTION 1. (a)(1)(A)(i) Chapter 2 of the Internal Revenue Code of 1954 (relating to tax on self-employment income) is amended by inserting immediately after section 1401 the following new section:

"SEC. 1401A. DEFINITION OF SOCIAL SECURITY INCOME.

"For purposes of this title, the term 'social security income', in the case of any individual with respect to any taxable year, means the wages and self-employment income paid to or derived by such individual in such year, reduced by the sum of—

"(1) the total dollar amount of any personal exemptions to which such individual is entitled for such year under section 151, and

"(2) an amount equal to the low-income allowance which is determined with respect to such individual for such year under section 141(c) (or which would be so determined if such individual were eligible for and claimed the standard deduction under section 141 for such year);

except that with respect to periods before 1972, such term means only the individual's wages and self-employment income as determined under the provisions of sections 3121(a) and 1402 which were in effect with respect to such periods."

(ii) The heading of section 1402 of such Code (relating to definitions) is amended by inserting "other" before "definitions".

(iii) The table of sections for chapter 2 of such Code is amended by striking out the second item and inserting in lieu thereof the following:

"Sec. 1401A. Definition of social security income.
"Sec. 1402. Other definitions."

(B) Section 1402(b)(1) of such Code (relating to self-employment income) is amended—

(i) by striking out "; and" at the end of subparagraph (E) and inserting in lieu thereof "; or", and

(ii) by striking out subparagraph (F).

(2)(A) Title II of the Social Security Act is amended by inserting immediately after section 210 the following new section:

"DEFINITION OF SOCIAL SECURITY INCOME

"SEC. 210A. For purposes of this title, the term 'social security income', in the case of any individual with respect to any taxable year, means the wages and self-employment income paid to or derived by such individual in such year; except that with respect to periods before 1972, such term means only the individual's wages and self-employment income as determined under the provisions of sections 209 and 211 which were in effect with respect to such periods."

(B) Section 211(b) of such Act is amended—

(i) by striking out "; and" at the end of subparagraph (E) and inserting in lieu thereof "; or", and

(ii) by striking out subparagraph (F).

(b)(1)(A) Section 3121(a)(1) of the Internal Revenue Code of 1954 (relating to definition of wages) is amended to read as follows:

"(1) that part of the remuneration, received by an individual during any payroll period, which is equal to the number of withholding exemptions claimed by such individual under chapter 24 with respect to such payroll period multiplied by the amount of one such exemption as shown in the table in section 3402(b)(1); except that this paragraph shall not apply in determining an individual's 'wages' for purposes of the tax imposed on employers with respect to wages received by such individual under section 3111(a)".

(B) Section 3122 of such Code (relating to Federal service) is amended by striking out the second sentence.

(C) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by striking out the last sentence of subsection (a), the last sentence of subsection (b), and the last sentence of subsection (c).

(D) Section 6413(c)(1) of such Code (relating to special refunds of certain employment taxes) is amended—

(i) by striking out "or (E) during any calendar year after the calendar year 1971, the wages received by him during such year exceed $9,000,"; and

(ii) by striking out ", or which exceeds the tax with respect to the first $9,000 of such wages received in such calendar year after 1971".

(E) Section 6413(c)(2)(A) of such Code (relating to applicability in case of Federal employees) is amended by striking out "$7,800 for the calendar year 1968, 1969, 1970, or 1971, or $9,000 for any calendar year after 1971," and inserting in lieu thereof "or $7,800 for the calendar year 1968, 1969, 1970, or 1971,".

(F) Section 6654(d)(2)(B) of such Code (relating to failure by individual to pay estimated income tax) is amended to read as follows:

"(B) The term 'adjusted self-employment income' means the net earnings from self-employment (as defined in section 1402(a)) for the months in the taxable year ending before the month in which the installment is required to be paid."

(2)(A) Section 209(a) of the Social Security Act is amended by striking out paragraph (6).

(B) Section 213(a)(2) of such Act is amended by striking out "$9,000" where it appears in clauses (ii) and (iii) and inserting in lieu thereof "twelve times the second figure specifically set forth in the last line of column III of the table in section 215(a) (as in effect on the last day of the year)".

(C) Section 215(e)(1) of such Act is amended by striking out "the excess of $7,800 in the case of any calendar year after 1967 and before 1972, and the excess of $9,000 in the case of any calendar year after 1971" and inserting in lieu thereof "and the excess of $7,800 in the case of any calendar year after 1967 and before 1972".

(c) The amendments made by subsection (b) (except paragraphs (1)(F) and (2)(A)(ii) thereof) shall apply only with respect to remuneration paid after December 1971. The amendments made by subsection (a) and by subsections (b)(1)(F) and (b)(2)(A)(ii) shall apply only with respect to taxable years beginning after 1971. The amendment made by subsection (b)(2)(C) shall apply only with respect to calendar years after 1971.

DETERMINATION OF SOCIAL SECURITY TAX RATES

SEC. 2. (a)(1) Section 1401(a) of the Internal Revenue Code of 1954 (relating to rate of tax for purposes of old-age, survivors, and disability insurance) is amended—

(A) by inserting "beginning before January 1, 1972" after "imposed for each taxable year" in the matter preceding paragraph (1);

(B) by adding "and" after the semicolon at the end of paragraph (2);

(C) by striking out "January 1, 1973" in paragraph (3) and inserting in lieu thereof "January 1, 1972";

(D) by striking out "and" at the end of paragraph (3);

(E) by striking out paragraph (4); and

(F) by adding at the end thereof (after and below paragraph (3)) the following:

"and there shall be imposed for each taxable year beginning after December 31, 1971, on the social security income of every individual derived in or attributable to such taxable year, a tax as follows:

"(4) in the case of any taxable year beginning after December 31, 1971, and before January 1, 1975, the tax shall be equal to 4.6 percent of the amount of the social security income for such taxable year; and

"(5) in the case of any taxable year beginning after December 31, 1974, the tax shall be equal to the percentage determined (with respect to such income) under section 3126."

(2) Section 1401(b) of such Code (relating to rate of tax for hospital insurance purposes) is amended—

(A) by inserting "beginning before January 1, 1972" after "imposed for each taxable year" in the matter preceding paragraph (1);

(B) by striking out "January 1, 1973" in paragraph (1) and inserting in lieu thereof "January 1, 1972";

(C) by striking out paragraphs (2) through (5); and

(D) by adding at the end thereof (after and below paragraph (1)) the following:

"and there shall be imposed for each taxable year beginning after December 31, 1971, on the social security income of every individual derived in or attributable to such taxable year, a tax as follows:

"(2) in the case of any taxable year beginning after December 31, 1971, and before January 1, 1975, the tax shall be equal to 1.2 percent of the amount of the social security income for such taxable year; and

"(3) in the case of any taxable year beginning after December 31, 1974, the tax shall be equal to the percentage determined (with respect to such income) under section 3126."

(b)(1) Section 3101(a) of such Code (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended—

(A) by striking out "the calendar years 1971 and 1972" in paragraph (3) and inserting in lieu thereof "the calendar year 1971"; and

(B) by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar years 1972, 1973, and 1974, the rate shall be 4.0 percent; and

"(5) with respect to wages received after December 31, 1974, the rate shall be the percentage determined (with respect to such wages) under section 3126."

(2) Section 3101(b) of such Code (relating to rate of tax on employees for hospital insurance purposes) is amended—

(A) by striking out "1971, and 1972" in paragraph (1) and inserting in lieu thereof "and 1971"; and

(B) by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar years 1972, 1973, and 1974, the rate shall be 1.2 percent; and

"(3) with respect to wages received after December 31, 1974, the rate shall be the percentage determined (with respect to such wages) under section 3126."

(c)(1) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended—

(A) by striking out "the calendar years 1971 and 1972" in paragraph (3) and inserting in lieu thereof "the calendar year 1971"; and

(B) by striking out paragraphs (4) and (5) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar years 1972, 1973, and 1974, the rate shall be 5.2 percent; and

"(5) with respect to wages paid after December 31, 1974, the rate shall be the percentage determined (with respect to such wages) under section 3126."

(2) Section 3111(b) of such Code (relating to rate of tax on employers for hospital insurance purposes) is amended—

(A) by striking out "1971, and 1972" in paragraph (1) and inserting in lieu thereof "and 1971"; and

(B) by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages paid during the calendar years 1972, 1973, and 1974, the rate shall be 1.2 percent; and

"(3) with respect to wages paid after December 31, 1974, the rate shall be the percentage determined (with respect to such wages) under section 3126."

(d)(1) Subchapter C of chapter 21 of such Code (general provisions relating to taxes on employees and employers under Federal Insurance Contributions Act) is amended by redesignating section 3126 as section 3127 and by inserting after section 3125 the following new section:

"SEC. 3126. DETERMINATION OF TAX RATES.

"(a) INITIAL DETERMINATION OF RATES.—On or before October 1, 1974, the Secretary or his delegate and the Secretary of Health, Education, and Welfare shall jointly estimate and determine (in accordance with subsection (c))—

"(1) the rates of tax under sections 1401(a), 3101(a), and 3111(a) which would be required in current prices, for the five-year period beginning January 1, 1975, and for each subsequent five-year period beginning on or before January 1, 2045, to assure that social security revenues for the five-year period involved will be equal to social security expenditures for such period and that the total amount in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund will not be less at the end of such five-year period (assuming the continuation of the current method of allocation between such Funds) than 90 percent of the estimated amount of the social security expenditures to be made during the first year of the immediately following five-year period; and

"(2) the rates of tax under sections 1401(b), 3101(b), and 3111(b) which would be required in current prices, for the five-year period beginning January 1, 1975, and for each subsequent five-year period beginning on on before Juanary 1, 1995, to assure that hospital insurance revenues for the five-year period involved will be equal to hospital insurance expenditures for such period and that the total amount in the Federal Hospital Insurance Trust Fund will not be less at the end of such five-year period than 90 percent of the estimated amount of the hospital insurance expenditures to be made during the first year of the immediately following five-year period.

"(b) PERIODIC REVIEW OF RATES.—On or before October 1, of 1979 and of each fifth year thereafter (up to October 1, 2044, in the case of rates specified in subsection (a)(1), and up to October 1, 1994, in the case of the rates specified in subsection (a)(2)), the Secretary or his delegate and the Secretary of Health, Education, and Welfare shall jointly review the rates of tax determined under subsection (a) for the five-year period beginning on the following January 1. If in their judgment any of the rates as so determined do not give the assurance required by subsection (a) they shall jointly redetermine such rates in the manner provided by such subsection; and such redetermination shall supersede the estimate and determination made with respect to such rates for the five-year period involved under subsection (a).

"(c) METHOD OF DETERMINATION.—The rates of tax determined under subsection (a) or (b) with respect to any calendar year in a given five-year period shall be such that—

"(1) the total revenue received in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund as a result of the tax under section 3101(a) with respect to wages received during such calendar year will be the same as the total revenue received in such Trust Funds as a result of the tax under section 3111(a) with respect to wages paid during such calendar year;

"(2) the total revenue received in the Federal Hospital Insurance Trust Fund as a result of the tax under section 3101(b) with respect to wages received during such calendar year will be the same as the total revenue received in such Trust Fund as a result of the tax under section 3111(b) with respect to wages paid during such calendar year; and

"(3) the rates of the taxes under sections 1402(a) and 1402(b) on social security income derived in or attributable to taxable years beginning in (or with the first day of) such calendar year are equal to the rates of the taxes under sections 3101(a) and 3101(b), respectively, with respect to wages received during such calendar year.

"(d) DEFINITIONS.—For purposes of this section—

"(1)(A) the term 'social security revenues' means all amounts appropriated to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund under section 201 (a) and (b) of the Social Security Act, plus all interest and proceeds from sales and redemptions credited to such Trust Funds under section 201(f) of such Act, plus any other amounts (including amounts described in sections 201(g), 217(g), 218(h), and 228(g) of such Act) which may be appropriated or transferred to or deposited in such Funds in accordance with any provision of the Social Security Act or of any other law;

"(B) the term 'social security expenditures' means all benefit payments made from such Trust Funds (as described in section 201(h) of such Act) under sections 202, 223, and 228 of such Act, plus all administrative expenses incurred in connection with the payment of such benefits or otherwise incurred in connection with the programs involved, plus any other amounts which may be transferred from or expended out of such Funds in accordance with any provision of the Social Security Act or of any other law;

"(2)(A) the term 'hospital insurance revenues' means all amounts appropriated to the Federal Hospital Insurance Trust Fund under section 1817(a) of the Social Security Act, plus all interest and proceeds from sales and redemptions credited to such Trust Fund under section 1817(e) of such Act, plus any other amounts which may be appropriated or transferred to or deposited in such Fund in accordance with any provision of the Social Security Act or of any other law; and

"(B) the term 'hospital insurance expenditures' means all benefit payments made from such Trust Fund under part A of title XVIII of such Act, plus all administrative expenses incurred in connection with the payment of such benefits or otherwise incurred in connection with the program under such part A, plus any other amounts which may be transferred from or expended out of such Fund in accordance with any other provision of the Social Security Act or of any other law.

"(e) ROUNDING.—Each rate of tax determined under subsection (a) or (b) shall be rounded to the nearest .1 percent (or to the next higher .1 percent if it is a multiple of .05 but not of .1).

"(f) PUBLICATION AND EFFECTIVE DATE OF NEW RATES.—Upon determining under subsection (a) or (b) the rates of tax to be imposed under sections 1401, 3101, and 3111 during any five-year period, the Secretary or his delegate (on or before October 1 of the calendar year in which the determination is made) shall publish such rates in the Federal Register; and, if any such rate as so determined for such five-year period is different from the corresponding rate for the year in which the determination is made, he shall also publish in the Federal Register the actuarial assumptions and methodology used in making the estimates and determinations involved. The rates as so published shall be effective—

"(1) in the case of the tax under section 1402, with respect to taxable years beginning in (or with the first day of) the five-year period with respect to which the determination is made.

"(2) in the case of the tax under section 3101, with respect to wages received during such five-year period, and

"(3) in the case of the tax under section 3111, with respect to wages paid during such five-year period."

(2) The table of sections for subchapter C of chapter 21 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 3126. Determination of tax rates.
"Sec. 3127. Short title."

(e)(1) Chapter 2 of such Code (relating to tax on self-employment income) is amended by redesignating section 1403 as section 1404, and by inserting after section 1402 the following new section:

"SEC. 1403. CREDIT FOR TAX ON WAGES.

"(a) IN GENERAL.—The amount of tax deducted under section 3102 from the wages of any individual shall be allowed to the recipient of such wages as a credit against the tax imposed by section 1401.

"(b) YEAR OF CREDIT.—The amount so deducted during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than one taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so begnning."

(2) The table of sections for chapter 2 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 1403. Credit for tax on wages.
"Sec. 1404. Miscellaneous provisions."

(f) The amendments made by this section shall apply only with respect to taxable years beginning after December 31, 1971, and with respect to wages received or paid after December 31, 1971.

BENEFITS RESULTING FROM INCREASE IN TAX AND BENEFIT BASE

SEC. 3. (a) Section 215(a) of the Social Security Act is amended by adding at the end thereof (after the table of benefits) the following new paragraph:

"In order to reflect in the computation of benefits any social security income in excess of the maximum amount specifically set forth in column III of the preceding table, the Secretary shall determine, keep current, and publish in the Federal Register a revision of such table, extending columns III, IV, and V in the manner provided in this paragraph. The amounts on each additional line of column III shall be the amounts on the preceding line increased by $5 until the second figure in the last such additional line of column III is equal to the second figure in the last line of such column as specifically set forth in the table plus one-twelfth of $10,000. The amount on each additional line of column IV, up to and including the line on which in column III appears the figure most nearly equalling the second figure in the last line of such column as specifically set forth in the table plus one-twelfth of $5,000, shall be equal to the amount on the preceding line (in column IV) increased by an amount (per dollar of difference between the second figure in column III on such additional line and the second figure in column III on the preceding line) equal to one-half of the amount (per dollar of difference between the second figure in the last line of column III as specifically set forth in the table and the second figure in the next-to-last line of such column) by which the last figure specifically set forth in column IV

of the table exceeds the next-to-last figure specifically set forth in such column; and the amount on each remaining additional line of column IV shall be equal to the amount on the preceding line (in column IV) increased by an amount (per dollar of difference between the second figure in column III on such additional line and the second figure in column III on the preceding line) equal to one-fourth of the amount (per dollar of difference between the second figure in the last line of column III as specifically set forth in the table and the second figure in the next-to-last line of such column) by which the last figure specifically set forth in column IV of the table exceeds the next-to-last figure specifically set forth in such column. The amount on each additional line of column V shall be equal to 1.75 times the amount on the same line of column IV. Any amount determined under the preceding provisions of this paragraph which is not a multiple of $0.10 shall be increased to the next higher multiple of $0.10. For purposes of the first sentence of this subsection and section 203 (a), and for all other purposes of this title, the extension of the table as determined and published in the Federal Register at any given time under this paragraph shall be deemed to be a part of such table as in effect at such time."

(b) The amendment made by subsection (a) shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 1971, and with respect to lump-sum death payments under such title in the case of deaths occurring after December 1971.

TECHNICAL AND CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT

SEC. 4. (a) The following provisions of title II of the Social Security Act are amended by striking out "wages and self-employment income" each place it appears and inserting in lieu thereof "social security income":

1) Subsection (h) of section 201.

(2) Subsection (b)(1)(B), (d)(1) (last sentence), (d)(2), (d)(6), (e)(1) (C) and (D), (e)(4), (e)(5), (f)(1)(C), (f)(5), (f)(6), (g)(1) (D) and (F)(iii), (g)(1) (last sentence), (h)(2) (B) and (C), (i) (third sentence), (k)(1), (k)(2)(A), (l), (m), (n)(1), (q)(4)(B), (q)(5)(A)(ii) and (D), (q)(7) (B) and (C), (t)(4) (A), (B), and (D), (t)(5), (t)(6), and (v) of section 202.

(3) Subsections (a), (b), (c)(4), (d)(1), (f)(1), (f)(7), (h)(1)(B), (h)(3), and (i) of section 203.

(4) Subsections (a)(1) and (d) of section 204.

(5) Subsections (c)(2), (c)(6), and (o) of section 205.

(6) Subsection (1)(4)(B) of section 210.

(7) Subsection (g)(2) of section 215.

(8) Subsection (h)(1)(B) of section 216.

(9) Subsection (a)(1), (a)(2), (b)(2), (e)(1), (e)(2), and (f)(1) of section 217.

(10) Subsection (b)(3) of section 222.

(11) Subsection (a)(1) of section 224.

(12) Subsections (a)(6), (a)(7), (a) (last two sentences), (d), (e), (f)(1), and (g) of section 224.

(13) Section 225.

(14) Subsection (a) of section 229.

(b)(1) Section 201(a)(4) of such Act is amended—

(A) by inserting "or social security income (as defined in section 1401A of such Code)" immediately before "reported";

(B) by striking out ", which self-employment income" and inserting in lieu thereof "or social security income, which self-employment income or social security income"; and

(C) by striking out "records of self-employment income" and inserting in lieu thereof "records of self-employment income and social security income."

(2) Section 201(b)(2) of such Act is amended—

(A) by striking out "self-employment income (as so defined)" in clause (D) and inserting in lieu thereof "self-employment income (as so defined) or social security income (as defined in section 1401A of such Code)"; and

(B) by striking out "records of self-employment income" and inserting in lieu thereof "records of self-employment income and social security income."

(c) Section 202(u)(1) of such Act is amended by striking out "there shall not be taken into account" and all that follows and inserting in lieu thereof "there shall not be taken into account any social security income of such individual or any other individual which is derived in or attributable to a taxable year in which such conviction occurs or any prior taxable year."

(d)(1) Section 205 (c)(2) of such Act is amended by inserting "and other social security income" after "self-employment income" where it first appears.

(2) Section 205(c)(3) of such Act is amended by inserting "or other social security income" after "self-employment income" each place it appears.

(3) Section 205(c)(4) of such Act is amended—

(A) by striking out "wages or self-employment income" each place it appears in the matter preceding subparagraph (A) and inserting in lieu thereof "wages or self-employment income, or other social security income,";

(B) by inserting "or other social security income" after "self-employment income" in subparagraph (A);

(C) by striking out "self-employment income" the first two places it appears in subparagraph (C) and inserting in lieu thereof "social security income other than wages"; and

(D) by striking out "self-employment income" the last two places it appears in subparagraph (C) and inserting in lieu thereof "social security income".

(4) Section 205(c)(5) of such Act is amended—

(A) by inserting "or other social security income" after "self-employment income" where it first appears;

(B) by striking out "wages or self-employment income" each place it appears in the matter preceding subparagraph (A) and inserting in lieu thereof "social security income";

(C) by inserting "or other social security income" after "self-employment income" in subparagraph (B);

(D) by striking out "self-employment income" in subparagraph (F) and inserting in lieu thereof "social security income other than wages"; and

(E) by striking out "wages or self-employment income" in subparagraph (G) and inserting in lieu thereof "social security income".

(e) Section 208(a) of such Act is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) whether other social security income was derived, or the amount of such income or the period during which it was derived or to which it is attributable, or the person by whom it was derived; or".

(f) Section 212 of such Act is amended—

(1) by striking out "SELF-EMPLOYMENT INCOME" in the heading;

(2) by striking out "self-employment income derived during any taxable year" in the matter preceding subsection (a) and inserting in lieu thereof "social security income (other than wages) derived in or attributable to any taxable year"; and

(3) by striking out "self-employment income" in subsections (a) and (b) and inserting in lieu thereof "social security income (other than wages)".

(g) Section 213(a)(2) of such Act is amended—

(1) by striking out "self-employment income" in the matter preceding clause (1) and inserting in lieu thereof "social security income (other than wages)"; and

(2) by striking out "has self-employment income for a taxable year" and inserting in lieu thereof "for a taxable year has social security income (other than wages)".

(h)(1) Section 215(b)(1)(A) of such Act is amended by striking out "his wages paid in and self-employment income credited to" and inserting in lieu thereof "; social security income credited to".

(2) Section 215(b)(2)(B) of such Act is amended by striking out "the total of his wages and self-employment incoms" and inserting in lieu thereof "; social security income".

(3) Section 215(f)(2) of such Act is amended by striking out "wages or self-employment income" and inserting in lieu thereof "social security income".

(i) Section 1870 of such Act is amended by striking out "wages and self-employment income" where it appears in subsections (b)(4), (e)(2), (e)(3), and (e)(4) and inserting in lieu thereof "social security income".

(j) Whenever the term "wages and self-employment income" is used in any other provision of law or any regulation or document, with respect to the insurance system established by title II of the Social Security Act or the coverage of any individual thereunder, such term shall be construed to mean "social security income" as defined in section 210A of the Social Security Act and section 1401A of the Internal Revenue Code of 1954.

(k) This section, and the amendments made by this section, shall take effect January 1, 1972.

TECHNICAL AND CONFORMING AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

SEC. 5. (a)(1) The heading of chapter 2 of the Internal Revenue Code of 1954 (relating to tax on self-employment income) is amended by striking out "SELF-EMPLOYMENT INCOME" and inserting in lieu thereof "SOCIAL SECURITY INCOME".

(2) The table of chapters for subtitle A of such Code (relating to income taxes) is amended by striking out the item relating to chapter 2 and inserting in lieu thereof the following:

"CHAPTER 2. TAX ON SOCIAL SECURITY INCOME."

(b) Section 1402(h)(1)(B) of such Code (relating to exemption for members of certain religious faiths) is amended by striking out "wages and self-employment income" each place it appears and inserting in lieu thereof "social security income".

(c) Section 1403(a) of such Code (relating to title of chapter) is amended by striking out "Self-Employment" and inserting in lieu thereof "Social Security".

(d) The amendments made by this section shall take effect January 1, 1972.

[From Christian Science Monitor, Nov. 2, 1971]

FINANCING SOCIAL SECURITY

President Nixon's tax bill and congressional response to it recognize the need to spur the lagging economy by means of personal and corporate tax cuts. But in this context, there is an apparent inconsistency in the fact that social security payroll taxes, scheduled to go up as of Jan. 1, 1972, will siphon $5.2 billion more out of workers' paychecks.

The contradiction inherent in cutting income taxes simultaneously while raising payroll taxes has been noted by many economists and congressmen. To correct it, the Joint Economic Committee has proposed that the 1972 increase be postponed until January, 1973. This makes good economic sense, and it should be done.

However, the fact that another $5.2 billion is to be taken mainly from the paychecks of low- and middle-income workers raises further questions about the social security system.

To achieve this added income, Congress rewrote the withholding schedule last March so that the wage base on which the tax is assessed will go up from $7,800 to $9,000, with employer and employee each contributing 5.2 percent of the worker's salary. Under this schedule, the maximum tax on a worker would rise from $405.60 to $468. Future increases, already scheduled under the same law, would bring the employer-employee contribution up to 6.05 percent each, for a maximum worker contribution of $544.50 by 1987. These figures do not include other possible increases that might be written into the welfare reform bill in its final form. In the House version of that bill, passed in June, the taxable base would rise to $10,200 with a maximum 7.4 percent deduction by 1987. And that could go up still further, if a clause guaranteeing cost-of-living increases is retained.

Such snowballing of social security taxes over the years has raised total collections from $765 million in 1937, the first collection year, to $43 billion in 1971. If HR–1 were passed as written, the amount would reach $51.5 billion in 1973.

Critics of the payroll tax argue with reason that most of this increase has fallen on the low- to middle-income taxpayer. In so doing, it has pretty much offset efforts to cut the federal tax burden on this same class of earners. Unlike the progressive income tax, the withholding tax has a cutoff ceiling. Its effect is thus regressive. Lower-income workers depend more heavily on that first $7,800 or $10,200 than do higher-income people.

This anomaly has been noted by as nonpartisan a group as the respected Brookings Institution, which has proposed several ways by which social security financing could be subsidized from general revenues.

Another approach is reflected in a bill (S 2654) introduced by Senators Muskie and Mondale. They would make the system more progressive in effect by eliminating the taxable wage ceiling and allowing the same exemptions as are allowed for personal income taxes. The two Democratic senators would also allow a deduction equal to the low-income allowance, which exempts poor persons from income taxes. Employer contributions would remain equal to the employees' share, reflecting all exemptions. And the tax rate would be adjusted to maintain an annual balance between income and outgo.

Faced with the need to increase social security funding from one direction or the other, Congress is going to have to make some hard political choices. Strong opposition can be expected to the Muskie-Mondale proposal from Republicans and business interests, who resist the idea of transferring the principle of progressive taxation to the social security system. At the same time, this sector will likely favor the pay-as-you-go aspect of the two Democratic senators' bill. As for the Brookings Institution proposals to shift all or part of the costs of social security over to the general revenue budget, this is likely to prove little more palatable than a graduated payment system with no cutoff point for higher-income earners.

In weighing the options, one key fact should be kept in mind. Contrary to the belief of many Americans that they are putting aside dollars for their own retirement through payroll taxes—which is the way the system was originally designed—most of the money withheld from payrolls for social security is being dispensed to current recipients.

In effect, instead of saving for his own retirement the young working taxpayer is supporting his retired parents through a government-controlled system, rather than maintaining them at home as used to be the case. This means that the "trust fund" aspect of social security, based on a "save for tomorrow" philosophy, has given way to something more closely resembling the welfare or guaranteed minimum income systems which other countries fund out of general revenues. While this may be regrettable in some respects, there is an element of equity in it. Today's retirees, who put aside their payroll taxes in good faith that these funds would carry them through their autumn years, have had their savings eroded by an inflation in large part caused by policies pursued by their progeny. They deserve compensation through benefits geared to today's costs. That obligation should spur Congress to find an acceptable formula for getting the job done.

[From the Washington Post, Oct. 6, 1971]

WHO SHOULD PAY FOR SOCIAL SECURITY?

Senators Muskie and Mondale have introduced a bill which raises a fundamental economic issue: Who should pay for social security? The senators allege that the vast social security system is not only inadequately, but extremely unfairly financed: too much of the burden falls on the low and moderate wage earners. We agree and we commend them for their courage in plunging into the thicket of social security finance to try to focus national attention on this thorny but vital question.

Although almost everyone is now covered by social security, there is surprisingly little public concern about the taxes that pay for the system. Ask even a quite knowledgeable person to name the second laregst source of federal tax revenue and he is likely to hesitate. He knows the largest source is the personal income tax. The second largest source, he guesses bravely, must be the corporate income tax. Wrong. A glance at the federal budget reveals that the second largest revenue item is "social insurance taxes and contributions," scheduled to bring in nearly $50 billion in fiscal year 1972, one quarter of all federal revenue and substantially more than the corporate income tax.

At this point the knowledgeable person may protest that the social security payment is an insurance premium, not a tax. Perhaps, but it is a compulsory premium, deducted from one's paycheck just as the income tax is. Moreover, there is no close relationship between social security benefits received and the amount a particular individual has contributed. Under the law millions of people receive social security benefits who have made little or no contribution and all current beneficiaries receive benefits substantially in excess of the value of their past payments. It is time to stop pretending that the federal government just happens to be running an insurance company and face the fact that, like all civilized countries, we have a national pension system under which the working population pays taxes to support a decent level of living for those past working age. Once the problem is put that way, without the confusion of the tenuous insurance analogy, it clearly makes sense to ask, not only whether the benefits are indeed adequate, but whether the tax burden is equitably distributed.

If an "equitable" tax is one that relates an individual's contribution to his ability to pay, the social security payroll tax gets low marks for equity. Everyone pays a flat 5.2 per cent of his earnings up to $7,800 and his employer puts in a like contribution. There are no exemptions, everyone pays on the first dollar of earnings including the very poor. A large family pays the same tax as the small one with the same earnings. Since no one pays on earnings over $7,800, people with high salaries pay a smaller proportion of their earnings than people with low salaries.

Senator Muskie attempted to dramatize the problem for an Iowa audience recently with an example. "A dishwasher in Sioux City takes home $70 a week. He puts 5.2 per cent of that into social security—and he can't afford to buy a bike for his daughter. Across town, the corporate executive with $40,000 income just bought his son a new car. He's not worried about the social security tax . . . because that tax doesn't apply to any income over $7,800." That certainly does not sound very fair and one might wonder why liberal politicians have been so slow in pointing it out.

There are at least three reasons why the inequities of the payroll tax have received so little notice. First, the tax did not start out so inequitably. When it was enacted in the 1930's it applied to earnings up to $3,000, which in those days included 95 per cent of the earnings of those covered by the system. The ceiling has risen, but not as fast as average earnings, with the result that an increasing share of the burden has gradually been shifted to those in the lower part of the income distribution. Second, the payroll tax is much bigger than it used to be, both absolutely and relative to the income tax. Over the past few years income tax rates have come down while payroll tax rates have gone up; an increasing proportion of the total tax burden is being carried by the less equitable tax. Third, liberals have been reluctant to criticise the payroll tax because, with all its faults it has proved such an easy and publicly acceptable way to raise the revenue needed to support the social security system.

Senators Muskie and Mondale are not proposing to do away with the payroll tax—just to make it less burdensome to low and middle income earners. Their bill would remove the $7,800 ceiling on earnings subject to tax, and permit some exemptions from taxable earnings to relieve the burden on low-earners and people with dependents.

If the rate were kept at the present 5.2 per cent with the proposed changes, most taxpayers (63 million of them) would pay less and about 8 million people with high earnings would pay more.

The two senators may not have hit on the optimum formula, but they are certainly heading down the right track. We are glad they have raised the issue of social security finance and turned the spotlight on the shocking unfairness of throwing an increasing share of the burden of paying for social security on those least able to afford it. We hope their proposal will receive the serious attention it deserves.

Mr. MONDALE. But our proposal today to postpone the increase in the social security tax base is a much more modest one. It would bring some tax relief to the middle-income taxpayer, and increase the likelihood that consumer spending would regain its strength and promote economic recovery. At the same time it avoids the further dissipation of badly needed Federal revenue.

Postponing the increase in the social security tax base will give us time to consider important changes in the financing of social security.

As I have mentioned, the bill which Senator MUSKIE and I have introduced does propose major changes in social security financing. It is aimed at promoting the principles of equity and progressivity in social security taxation. The present system of taxation, at a flat rate, places a crushing burden on the low- and middle-income wage earner. A delay in the tax base increase should give us time to develop a social security tax system providing the progressive features we have come to expect in other tax areas.

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I would hope we could delay this tax increase for an additional year, and use the time for a review of the present, I think, indefensible taxing system.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. PASTORE. What concerns me is, what will happen in the likelihood we decide to raise social security benefits, which I think is the important thing?

If we want to put money in the hands of people who are going to spend it, I know from my own experience that people on social security are having a hard job of it to get by. Of course, we keep promising that we are going to do it next year; we are going to do it later on. The big question is can we afford to postpone the payment of the contribution of industry, where we have provided a 7-percent investment tax credit, and we have already passed the ADR, which are two great boons for business. Now, on top of all this, we are going to forego their responsibility to pay into this social security fund? It is also a fact that people who are employed are in a better position to pay toward social security than those who are collecting it, for the simple reason that the latter have reached an age where they had to leave their jobs.

My big question at the moment is, Are we not better off if we increase the benefits now, rather than forego the payment into the fund?

Mr. MONDALE. I thank the Senator. I recall the question, because it is the same question that the Senator from Rhode Island put to Walter Heller the other day.

Mr. PASTORE. I raised it in committee, that is right.

Mr. MONDALE. I would give the same answer Mr. Heller gave, and that is that we can do both. It is not a question of being restricted to one or the other. We can delay the imposition of the social security tax increase, which amounts to about $3 billion, and achieve the results to which I have made reference earlier in my remarks, and we can also, and I think should, increase social security benefits.

The Senator from Rhode Island knows that I have joined with him and many others in this body in urging liberalization of benefits for those eligible under social security. I refer the Senator to a table which I introduced earlier, which shows that in 1971 there is a residual of $41 billion in the social security fund; that builds to $48 billion in 1972, $61 billion in 1973, $76 billion in 1974, and $93 billion, under present law, in 1975.

So there are adequate funds to liberalize benefits and also to delay for a single year—and that is all this amendment would do; it does not reform the social security financing system—the increase in social security taxes.

I would like to see the financing system reformed, and I hope it will be. But this amendment simply delays for a single year the $3-billion input into that fund.

Mr. PASTORE. I have been told by the staff of the Committee on Finance—and I am only repeating what has been said to me—that under the bill that was sent from the House of Representatives over here, H.R. 1, which contained this increase in benefits, plus special benefits for widows, children, and so forth, we will have to increase social security tax payments.

There seems to be an inconsistency here. The Senator from Minnesota says we can do both, and I am told we cannot even raise the benefits without raising the tax. I would like to have this explained.

My point is that if we want to place money into the hands of people who will spend it and do it immediately, I say, let us pull out from H.R. 1 that social security aspect, and do it now, then I think we would be a lot better off, because what the Senator is doing is forgoing the obligation on the part of the people who can afford to pay it as against the people who, if they got the money, would have to spend it. I do not know of anyone on social security, really, who saves any money.

Mr. MONDALE. I agree with the Senator from Rhode Island. But the Senator's question asumes that we cannot raise social security benefits. I disagree. I think we can. That is what I think Walter Heller said the other day, and I think we could have both and ought to have both.

There is another feature to this particular proposal, in that it decreases the cost of employment, so that, in addition to stimulating the economy, it makes it less expensive to hire labor, and that contributes to the incentives by reducing unemployment.

If it were a question of forgoing social security benefits, I would be opposed to this amendment. I think there is no such conflict. I think we could and should have both.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. LONG. Mr. President, I am not sure which approach the Senator wants to use; but if one proceeds on the assumption that social security revenues ought every year to bring in just enough money to pay for the benefits that are paid out, on a cash-in and cash-out basis, then the amount of social security increases in the bill that the House has sent us—and I might mention that the Senate approved almost everything in that bill last year by a vote of 81 to 0—would completely wipe out any excess in that fund.

The Senate is always of a disposition—I have never seen it fail, and I do not think I will find the Senate voting any differently in the future—to put on benefits in addition to what the House passes, for no better reason than the House has a closed rule and the Senate does not. Senators can offer their individual suggestions, and some will be appealing and will muster a majority vote. So there is no doubt in my mind, and I think the Senator from Minnesota will agree with me, that when social security legislation next comes up in the Senate, this body will vote for benefits that exceed what the House passed.

If that is the case, even to do what the Senate has already approved unanimously last year and what the House has already sent over in H.R. 1 would more than wipe out any excess in the trust funds.

Does the Senator propose that we finance the benefits that the House has already proposed, and which have already passed the Senate by unanimous vote last year, by depleting the social security fund and postponing the day when we have to raise taxes, or does he propose to finance the benefits simply by running a deficit until the fund is all gone?

Mr. MONDALE. I think there is a question of how we look at the fund. If we look at it in the conservative actuarial basis that many do, and try to be ready for some sort of deficit in the year 2010, I suppose that makes a point. But as I have shown all the experts think that this is the wrong way to view the fund. The truth is that we have a surplus in the fund of $41 billion right now. My amendment affects for only a single year the amount of the surplus flowing in the fund. We can easily delay this increase for a year, help the economy, and increase social security benefits at the same time.

Mr. LONG. That $41 billion is not a surplus: it is the trust fund itself.

Mr. MONDALE. Yes. But it depends on how we look at that fund. I think there is a great need to examine the fund and to reform it along the lines which the Senator from Maine and I suggested in the bill we introduced earlier this year. There is no question of depleting the fund. But it is wrong to build up unnecessary surpluses with unnecessary taxes which hit working people particularly hard.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. RIBICOFF. May I have the attention of the distinguished chairman at the same time, for some inquiries I would like to make?

What would the cost of the Senator's amendment be to the fund?

Mr. MONDALE. Approximately $3 billion.

Mr. RIBICOFF. And what would be the impact of the Senator's amendment on the medicare fund?

Mr. TALMADGE. $400 million.

Mr. RIBICOFF. Would the distinguished chairman enlighten us as to the status of the medicare fund today? Do we have a surplus?

Mr. TALMADGE. It will be broke in 1974.

Mr. LONG. It is in a deficit position, and it will completely run out of funds in 1974.

Mr. RIBICOFF. In other words, if the amendment of the distinguished Senator from Minnesota were adopted, not only would it have an effect upon the social security basic fund, but also it would have a deleterious effect on the medicare fund, which is in bad shape.

Mr. LONG. That is correct.

Furthermore, to the extent we reduce taxes now, we will have to raise them by even more later on. What kind of sense does that make?

Mr. RIBICOFF. May I ask this question of the distinguished chairman, with the permission of the distinguished Senator from Minnesota: H.R. 1 contains many provisions affecting social security. Is that not correct?

Mr. LONG. Yes.

Mr. RIBICOFF. It is my understanding that the chairman of the Committee on Finance has assured the majority leader, as well as myself, that as soon as this bill is finished or the beginning of next year, depending upon adjournment, H.R. 1 will be given priority by the distinguished chairman of the Finance Committee. Is that correct?

Mr. LONG. The Senator well knows that we were proceeding on the basis that H.R. 1 was our priority bill for this Congress until the President presented his suggestion that we have this freeze on all prices and wages and that we pass this economic package, which is the pending bill, to try to stimulate the economy. After this bill is behind us, we plan to go back to H.R. 1, and to stay with it until we can complete action on that measure.

Mr. RIBICOFF. In H.R. 1 there are many amendments and revisions to the Social Security Act in its entirety. Is that not correct?

Mr. LONG. The Senator is correct, and I might add that many have already passed the Senate by unanimous vote.

Mr. RIBICOFF. May I also comment to the distinguished Senator from Minnesota—for whom I have the greatest respect as one of the most constructive Senators of this body—that many complicated factors are involved in social security. The Senator is correct in saying that the time has come for a very careful look at social security. I think the Senator is also correct in saying that we have about reached the stage to reexamine some of the basic concepts and structures of the social security system.

But may I point this out to the distinguished Senator: There are many of us who have thoughtful ideas of how the social security fund can best be used. If I may have the permission of the distinguished Senator from Rhode Island, I should like to mention an idea he has which has great merit. The idea is that, instead of excusing the payment of this tax, we should utilize these taxes for the purpose of raising social security benefits.

The distinguished chairman has talked to me about an idea that I think is constructive. As I indicated yesterday, our chairman does have some excellent ideas. The chairman, who is concerned about poverty in this country and is concerned about the working poor—even though his concepts and mine diverge in many instances—has talked with me about a proposal in the case of people who work and do not pay an income tax, because they do not earn enough.

Perhaps we should rebate to them the social security taxes that they pay and that are paid by their employers. Under such a plan a man with two children, married, earning $4,000, who pays no income tax, who has been paying into the fund 5 percent, and whose employer has been paying 5 percent, would be getting $400 a year, in order to try to encourage the working poor to work.

The reason I bring up these two suggestions is that within a few months, we will have on this floor the social security bill. There are enough ideas being advanced, including the thoughts of the distinguished Senator from Minnesota, that it would seem to me that the Finance Committee, when it goes back to marking up H.R. 1, should very seriously take into consideration the concepts of the Senators from Minnesota, Rhode Island, and Louisiana, and many others, including economists such as Prof. Walter Heller, who have felt that the time has come to reexamine the social security fund.

I fear that if the amendment of the distinguished Senator from Minnesota is adopted, we will be making it impossible to do a thorough, constructive job on real social security reform. While I sympathize with the Senator from Minnesota for what he is trying to do, I will find myself constrained to vote against him, because I think he will be setting back social security reform.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LONG. Mr. President, in line with the point just mentioned by the Senator from Connecticut, we have had a discussion on this matter and it is true, as the Senator has said, that the social security tax hits the low-income worker harder than income tax. The Senator from Connecticut and I have both agreed, and we plan to join next year in offering a proposal which we have been working on which would provide that for persons who do not make enough money to pay an income tax, we will rebate to them or make payment to them—we had in mind not taking it out of the social security fund, but from general revenues—of an amount equal to their social security contribution.

I personally think that we should consider even paying them not only the 5 percent they have contributed, but also the 5 percent contributed on the part of the employer, because that is income generated by those people. We would prefer to pay to these low-income workers the amount of the taxes generated by their work and endeavor, both the employer contribution and the employee contribution, which would increase their income by approximately 10 percent, so that if those people would have that additional amount of money as a work incentive, they would tend to be lifted out of poverty by giving them an amount equal to their social security tax contribution.

That proposal would cost a great deal of money. As a matter of fact, I think the cost involved in the Senator's amendment here may be not quite that much. It would be a great deal of money, but it would be an efficient way to help working people who, through no fault of their own, have to get along on low earnings.

Mr. RIBICOFF. There is pending before Congress and the country the problem of what we will do in the whole field of health care. At this time, none of us knows what form of health care system will be adopted. There is the President's proposal. We have the proposal of the Senator from Massachusetts (Mr. KENNEDY) and others, and also the social security bill, H.R. 1, which contains a substantial number of health care reforms, which would have to be cut back if the Mondale amendment were agreed to. Given increased health care costs, a medicare trust fund that will soon be exhausted unless changes are made, and a desire to implement constructive reform along the lines of the suggestions of the Senator from Rhode Island (Mr. PASTORE) and the chairman, it would be impractical to accept the amendment of the distinguished Senator from Minnesota.

So, would it be the feeling of the distinguished Senator from Louisiana that, while the amendment offered by the Senator from Minnesota has some merit, it could await 2 more months or so, while we consider various reform proposals?

Mr. LONG. Let me mention two things. First, every bit of money involved in the pending amendment we will be needing for the benefits which the Senate has already indicated by a unanimous vote it is willing to provide, and which the House has also indicated it is willing to provide by sending us H.R. 1. Second, if we want to move in terms of reducing revenues, I think we could draft a much more efficient provision that would be far more helpful to the poor. That is, after all, where we would like to do something if we are going to make reductions in the social security tax picture. I would think we could draft something far more effective for those who need it the most than the bill here would provide.

Our point of view is that, in terms of tax relief, we could provide a far more efficient device to help those who need it the most. On the other hand, I think that all the revenues to the trust fund under present law, and more besides, will be needed to provide a very well merited social security increase, which we intend to recommend to the Senate this coming year. In fact, we would have, probably, voted on it already had it not been for the controversy over the welfare provisions of H.R. 1.

Mr. RIBICOFF. My prediction would be that the Senator from Minnesota would support many of these proposals. He realizes that the benefits will accrue to people who are in the lower ranges of income and those who are retired and now find great difficulty making ends meet in the inflationary economy we now have.

Mr. LONG. Knowing how the distinguished Senator feels toward the aged, the sick, the children, and the poor, my guess is that he will want to do more than we on the committee have recommended, and we have already recommended, which would use up all the trust fund revenues.

Mr. RIBICOFF. If this revenue were lost to the fund, then we would be prevented from pursuing a wide range of alternative social security reform measures.

Mr. LONG. Either that, or we would be placed in what I think is an even more indefensible position: that of having cut taxes that would be triggered in January, and then putting on a tax increase sometime next year. I think the public would not understand why we would vote to cut taxes 1 month and then double them the following month. We would do far better, I think, voting for a more modest tax increase, which is what we will have to do to shore up the medicare trust

fund, to provide for a social security benefit increase and to raise widows' benefits, and many other provisions.

Mr. PASTORE. For those of us who are not members of the Finance Committee, and for the benefit of all Senators, my very dear friend from Connecticut, Mr. RIBICOFF, has made a categorical statement that if this amendment proposed by the Senator from Minnesota should carry, it would be impossible next year to do the things that he has been talking about; that is, increasing benefits and doing all the other things which have been recommended by the House-passed bill.

Does the chairman of the Finance Committee agree with him categorically on that statement?

Mr. LONG. Yes, if we are to preserve the fiscal soundness of the trust funds. There is an alternative——

Mr. PASTORE. Either that or we raise taxes.

Mr. LONG. Or deplete the fund. Keep in mind that the amount in the fund now is sufficient to pay out only about 1 year's benefits. It has generally been agreed that we should keep at least 1 year's benefits in the fund, which is about what there is now.

Mr. PASTORE. My inescapable conviction is that if we can do anything today on social security, we should raise the benefits. If we want to put money in the pockets of the people who will spend it, then let us give it to the recipients of social security.

We have already taken care of industry. We did it last night. We gave them ADR's. We are going to give them a 7-percent investment tax credit. We have already provided for the individual taxpayer a dependency allowance of up to $800. However, we have done precious little or nothing for the people over 65 who are on social security.

If we are going to help anyone on social security, let us give it to the people who are poor. They need it. They will spend it. They will not put it in a savings account. They will spend it for rent, food, and clothes.

Mr. LONG. Mr. President, as the Senator knows, there are persons who feel we could reduce the size of the social security trust fund. What I have said is not meant to be critical of the Senators who are for the amendment.

The pending amendment provides a $1.8-billion tax cut for business—the employer share of social security taxes. Practically all of us on this side of the aisle think we have given business enough tax reduction in the bill already. Some feel we have gone too far already. However, as between voting a $1.8-billion tax cut for business or a social security benefit increase, I could not agree with the Senator from Rhode Island more, that those people who have been the most affected by inflation should be the beneficiaries of congressional action.

As between the two, if we have to choose, I would much prefer them to have a 5-percent increase than to reduce social security taxes on employers.

Mr. PASTORE. That is the point I make. When did the House pass their bill?

Mr. LONG. In June, I believe.

Mr. PASTORE. And the House said at that time they were entitled to a 5-percent increase. Here we are. We have not passed the bill in the Senate. Almost 6 months will have passed. I doubt that we will have H.R. 1 passed in the Senate before February. Then we will be in conference. And the people will have been waiting almost a year to get a miserable 5 percent that we promised to them a year ago. If that makes sense, I do not know what does.

Mr. LONG. I agree. The pending amendment would reduce the taxes that would otherwise pay for the 5-percent benefit increase. As between a benefit increase and the alternative of cutting the tax, we would do better to pay the benefits.

Mr. RIBICOFF. Mr. President, if the Senator would yield further, there is nothing to stop us when we pass the social security measure, H.R. 1, from taking into account the delay and establishing a fund to make the social security benefits retroactive. This would allow us to take care of the problem that has been so cogently put by the Senator.

I point out something else. The senior Senator from Louisiana, as I look at the summary of the amendments, has a series of very worthwhile proposals. To me, many of the proposals of the Senator are preferable, from the standpoint of best utilization of available funds, than that of the Senator from Minnesota. I have a fear that if we begin to pass amendments relating to social security in this bill, it will start a runaway Senate which will keep piling one social security amendment on after another. We will then find ourselves in a state of chaos. Then when we begin consideration of H.R. 1, we will perhaps be harpooning the President's family assistance program. So, it would seem to me that to try to write a Social Security Act by a series of amendments now will not make best use of the judgment of the Senate as to how these valuable funds in the social security fund should be expended.

Mr. LONG. Mr. President, in addition to that, when we talk to the House conferees about this measure, if we want to talk about Senate social security proposals, they will say, "Where are our social security proposals? We are the House which is supposed to initiate revenue bills. We sent you a bill 6 months ago. Where is it?"

That committee is headed by Representatives MILLS and BYRNES. They have a way of being so insistent as to be almost insulting about this kind of thing, when we propose to lift out some item about which they have given us a comprehensive suggestion.

This will happen when we want to talk about our suggestions rather than talking about the package they sent us.

I feel that this is not the appropriate time to consider or propose social security measures.

We are going to need all this revenue and a lot more to do the things that I am positive the Senator from Minnesota wants to accomplish. And I know that is the feeling of the Senator from Rhode Island. I am confident that the Senator from Indiana wants to do that, and so does the Senator from Connecticut. Everyone here wants to do that: improve the social security program. And I know I share those feelings and want to do these things. Why would we want to reduce the revenue now and then have to turn around and vote for a tax increase next year when we act on social security benefits?

Mr. HARTKE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. HARTKE. Mr. President, I agree with what the Senator from Minnesota wants to do. If there is any defect in the amendment it is that it does not go far enough.

For too long a time now poor and lower middle-class people have been the victims of a system which is clearly regressive. It is a system which bears heaviest on those with the least ability to pay. I am talking about those people working for a living and not those who are welfare recipients. I am talking about the man who earns a paycheck and goes to work every morning and comes home at night and sits up with crying children and his wife is complaining about the amount of money in his paycheck, and who finds he cannot make ends meet.

There is a story about Will Rogers who used to say that when he was about ready to make the ends meet, somebody moved the ends. That is the case today. A lot of people simply cannot make ends meet.

I am reluctant to help President Nixon out of an economic crisis which is clearly of his own making. He has put us in this mess. Now he is asking us to use programs that have been long advocated to put this country back on its feet. This amendment if passed will give a needed push to consumer spending. I will support this amendment not because it will help the President, but because it will help the country.

What the Senator from Rhode Island and the Senator from Connecticut are talking about is the effect of inflation on social security legislation generally. The Senator from Minnesota and I are talking about a temporary expedient which will provide purchasing power to a section of the economy which desperately needs it.

The basic fact is that millions of Americans who work for a living can no longer pay their bills. The wage earner is the No. 1 victim of an economic crisis which was not of his making. It is Nixon that caused that trouble.

He says that he is keeping every promise he ever made to the American people. And even some he didn't make. If he had promised to give us a recession, I did not hear about it. However, he has one now.

The Senator from Minnesota wants to pull the country out of the mess that Nixon put us in and I agree with that purpose.

Mr. LONG. Mr. President, I yield the floor at this time.

The PRESIDING OFFICER. Who has the floor?

Mr. MONDALE. Mr. President, I yield myself such time as I may require. I had promised some Senators that, if possible, I would try for a vote at 10:30.

Does the Senator from Louisiana have any objection to that?

Mr. BENNETT. I would like about 2 minutes.

Mr. LONG. I am aware of the fact that there is an awareness by Senators to vote that soon. If we can accommodate them, I would be happy to do so, but I am not sure I can. For example, the Senator from Utah wants to speak on the subject. How much time does the Senator desire?

Mr. BENNETT. I would like 2 minutes.

Mr. MONDALE. Mr. President, I would like to ask one more question and then I will be finished.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. MONDALE. I would like to ask the Senator from Indiana a question. Earlier I submitted a table which showed that under present law this year there is a $41 billion surplus in the social security fund and it will build to $93 billion in the present law by 1975. With that realization, is it not possible to have this one-shot tax deferral and still have benefits for social security recipients?

Mr. HARTKE. There is no question, as anyone knows who has watched the development of this program, and I think the Senator from Connecticut, who is an expert on this subject will agree, there is going to be a major change in the social security system. The administration, whether out of the goodness of its cold heart or whether for other reasons is trying to figure a way to get its hands on the surplus in the trust fund.

The real tragedy of the social security fund lies in the fact that this administration, under combined budget procedures, took $7 billion of the money contributed to the social security fund and put it into the general fund and treated it as revenue to reduce the budget deficit under the old accounting procedure from a $30.5 billion deficit to a $23.5 billion deficit. That has been treated as income by the administration although it has to be repaid with interest. This piece of accounting slight-of-hand cheats the social security recipient while artificially reducing the massive deficits run up by the Nixon administration.

The Senator from Minnesota is correct that there is a surplus in the social security fund. And for what is that surplus being used? It is being used to fund the cost of the war.

If Nixon thinks that war is over, tell him to stop using the social security fund to pay for the planes, and the bombs, and the guns, that continue the killing over there. Mr. President, it is wrong to use the workingman's social security deductions to pay for a war. It should go, as stated by the Senator from Rhode Island, to the people who are old.

As of January 1, unless something is changed, the withholding pay will be more in that first paycheck than it is in December. And all this talk about tax cuts, including my proposal on the $800 exemption, will mean that the amount of take-home pay, and that is what the wage earner understands, will be less on January 15 than it was on December 31.

I will say to the Senator from Connecticut, yes, if the Senate is going to deal with social security reform, many amendments are more preferable than this expedient action the Senator from Minnesota is talking about. If this is the only amendment dealing with social security I do not intend to call up my amendments which would radically rework the social security laws, but if we are going to change the social security laws I want to go all the way with my amendments and have real reform.

It is time to realize that our mistreatment of the elderly must stop. I regret that reform of social security cannot take place if we are going to have meaningful welfare reform, we must have social security with it.

If you really want to cure Nixon's recession, this is one of the most significant ways to do it.

I commend the Senator for his proposal and I will support him.

Mr. MONDALE. Mr. President, the Joint Economic Committee which studied this problem unanimously recommended this 1-year deferral.

Mr. BENNETT. Mr. President, will the Senator yield to me for 3 minutes?

Mr. LONG. I yield 3 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, we are anxious to get to a vote so I am not going to again go over all the arguments made so effectively by the chairman. There are two matters I would like to point out.

If we go this route, since social security taxes are collected beginning with the first dollar of wages, any benefit that this amendment will provide will not start next January; it will not start before about the middle of November, and no one will feel the effect until that time. By then, in spite of the pessimism of my friend from Indiana, the economy may not need it at that time.

The amendment would reduce benefits very substantially for the family of the young worker who dies or becomes disabled in the next few years. These young workers have the benefit of high rates. Some of us who have been in social security since the beginning find our benefits are reduced because for 20 or 25 years we were being credited with low rates.

It is estimated that this amendment could make a difference of as much as $34 a month in family benefits to a young worker who dies in the next 2 or 3 years, or $11,000 in benefits over the lifetime of that family.

Before we vote I would like to continue to talk about the aggregate costs we are piling up. In the bill that came from the House there were $7.6 billion in tax reductions. Using the figures of the Senator from Minnesota (Mr. MONDALE), if we agree to this amendment we will add another $3 billion in tax reductions, so that becomes something over $10 billion of tax reductions we will have piled on top of an economy that cannot raise enough taxes now within $25 billion to pay for the cost of the program.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. LONG. I will yield the Senator an additional 2 minutes.

In addition to what the Senator said, the President's fiscal plans are based on the assumption there will be a delay in initiating the family assistance plan.

Mr. BENNETT. The Senator is correct.

Mr. LONG. Similarly, the President has requested a delay in enacting and implementing revenue sharing, and that there be some postponements and savings in some other Federal programs which would tend to offset to some extent the tax cuts that are in this bill, so that there would be some compensating savings. His economic program, in other words, included some expenditure cuts as well as some revenue cuts.

If one looks at this amendment on a consolidated budget basis, it is a big deficit proposal. That is the only way one can view it.

Mr. BENNETT. The Senator is correct. I thank the chairman for bringing this to my attention.

Mr. President, it is 10:29 a.m. and I am happy to yield the floor. I hope we can get to a vote.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. There is time remaining. The Senator from Louisiana would like to move to table this amendment at some point because if this is to be the matter we vote on, I believe some Senators would like to offer amendments in the nature of a substitute or perhaps have other suggestions. I do not have in mind offering amendments myself but there are those who would offer a substitute, or other amendments in the social security area.

May I inquire as to the parliamentary situation with regard to time insofar as it concerns offering amendments to the amendment?

The PRESIDING OFFICER. Amendments to the amendment would not be in order until the time had been consumed on this amendment or yielded back, except by unanimous consent.

Mr. LONG. Mr. President, if an amendment to the amendment is offered after time is yielded back, will time be available on the amendment?

The PRESIDING OFFICER. Amendments will be in order, but will not be debatable except by unanimous consent.

Mr. LONG. In that case, I ask unanimous consent that amendments to the amendment have a time limitation on them of 20 minutes, to be equally divided between the mover of the amendment and the Senator from Minnesota.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MONDALE. What is the purpose of the request? As I understand, we have a unanimous agreement to vote on my amendment at the conclusion of 2 hours.

Mr. LONG. I may say to the Senator that I have about 30 minutes left. I am willing to yield my 30 minutes back and make a motion to table. If the motion to table does not carry, I am aware of the fact that there is at least one amendment that would be offered to the amendment,

and perhaps there are others. The Senate should have an opportunity to know what they are and have an explanation of them. I feel there should be 10 minutes allotted to the Senator sponsoring such an amendment and 10 minutes on the other side.

Mr. MONDALE. I would be willing to yield back my time for the purpose of voting on the merits of my amendment. Does the Senator have any objection to that, rather than tabling it?

Mr. LONG. If we are going to wander into the social security area, other amendments will be offered. The question is whether we will have time to debate those amendments. That is all I had in mind. I think there should be consent to my request so that if amendments are offered they can be debated at that time. I do not think it would be proper to debate or even offer alternative suggestions any further while we are on the amendment itself which is pending.

Mr. MONDALE. I would have no objection. I wish the Senator would not do it, but I would not have any objection to a unanimous-consent agreement making it in order to do that. I wish he would not do it.

Mr. LONG. I seldom ask unanimous consent to do something that I do not need to do. I can always yield back my time.

Mr. MONDALE. The point is, if the Senator is going to move to table, he can do it an hour from now as a matter of right. If he is going to do it, he may as well do it now.

Mr. LONG. All I want is to ask unanimous consent that if the motion to table fails, we will have some time on amendments to the amendment in order to discuss those amendments.

Mr. MONDALE. I have no objection.

Mr. LONG. Mr. President, I ask unanimous consent that there be 10 minutes on each side.

The PRESIDING OFFICER. Did the Senator yield back his time?

Mr. LONG. Not yet, but I will yield it back when there is an agreement.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. LONG. Mr. President, I am prepared to yield back my time if the Senator from Minnesota is prepared to yield back his.

Mr. MONDALE. Mr. President, I yield back my time.

Mr. LONG. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. LONG. Mr. President, I now move that the amendment be tabled, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, may I ask if the yeas and nays have been ordered?

The PRESIDING OFFICER. They have not been on the motion to table.

Mr. LONG. Mr. President, I ask that the yeas and nays be ordered.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is the rollcall vote on the motion to table?

The PRESIDING OFFICER. On the motion to table the amendment of the Senator from Minnesota.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Hawaii (Mr. INOUYE), the Senator from Alaska (Mr. GRAVEL), and the Senator from Michigan (Mr. HART) are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. MCGEE) would vote "nay."

On this vote, the Senator from North Carolina (Mr. ERVIN) is paired with the Senator from Alaska (Mr. GRAVEL). If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Alaska would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Maryland (Mr. BEALL), the Senator from Kentucky (Mr. COOPER), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 41, nays 25, as follows:

[No. 321 Leg.]

YEAS—41

Aiken	Fong	Bibicoff
Allott	Griffin	Roth
Anderson	Gurney	Smith
Baker	Hansen	Sparkman
Bennett	Hruska	Spong
Bible	Jackson	Stafford
Boggs	Jordan, N.C.	Stennis
Burdick	Long	Stevens
Byrd, Va.	Magnuson	Symington
Cannon	McClellan	Taft
Church	Miller	Talmadge
Eastland	Pastore	Thurmond
Ellender	Pearson	Weicker
Fannin	Pell	

NAYS—25

Allen	Hartke	Nelson
Bayh	Hughes	Proxmire
Bentsen	Humphrey	Randolph
Brooke	Kennedy	Schweiker
Buckley	Mansfield	Stevenson
Byrd, W. Va.	Mathias	Tunney
Case	Mondale	Williams
Fulbright	Moss	
Harris	Muskie	

NOT VOTING—34

Beall	Ervin	McIntyre
Bellmon	Gambrell	Metcalf
Brock	Goldwater	Montoya
Chiles	Gravel	Mundt
Cook	Hart	Packwood
Cooper	Hatfield	Percy
Cotton	Hollings	Saxbe
Cranston	Inouye	Scott
Curtis	Javits	Tower
Dole	Jordan, Idaho	Young
Dominick	McGee	
Eagleton	McGovern	

So the motion to lay on the table was agreed to.

PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, and to emphasize what has already been said, the joint leadership has agreed—and the Senate has indicated its approval—that from now on, the rollcalls will be for 15 minutes, with the warning signal given halfway.

Second, in response to a question raised by the distinguished acting Republican leader, it was indicated that the Senate would be in session until 4 or 5 o'clock this afternoon, which will be a reasonable day's work. But if the Senate desires to go beyond that, the joint leadership will be willing to go along with it.

Mr. GRIFFIN. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. I think it should be made clear that the unanimous-consent agreement reducing the time for rollcalls to 15 minutes applies not only to today but for the rest of the session as well.

Mr. MANSFIELD. The rest of the session; that is correct. I am glad the Senator added that, because that is the fact.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. MONDAY, NOVEMBER 15, 1971

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The PRESIDING OFFICER. Pursuant to the previous order, the amendment of the Senator from New Jersey (Mr. WILLIAMS) will now become the pending question. The amendment will be stated.

The legislative clerk read as follows:

On page 109, between lines 18 and 19, insert the following:

"(D) EXCLUSION FOR LOCAL TRANSIT BUSES.—The tax imposed by subparagrapt (A) shall not apply to a sale by the manufacturer, producer, or importer of buses which are to be used predominantly by the purchaser in mass transportation service in urban areas."

The PRESIDING OFFICER. Does the Senator from New Jersey ask unanimous consent that his amendment may be modified as he submitted it?

Mr. WILLIAMS. Yes.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

There is a limitation of 15 minutes to a side on this amendment. Who yields time?

Mr. WILLIAMS. I yield myself 4 minutes.

Mr. President, the purpose of this amendment is to repeal the present 10 percent manufacturer's excise tax on local transit system buses.

Section 401 of H.R. 10947 repeals the present 7-percent excise tax on automobiles and the 10-percent excise tax on light-duty trucks and buses—under 10,000 pounds. The only buses which fall into this weight category are the mini-type buses. Local transit buses weigh from 19,000 to 25,000 pounds.

This amendment would apply to buses which provide mass transportation service in urban areas. It would not repeal the excise tax on the so-called over-the-road buses which operate on intercity routes.

The present 10-percent excise tax on buses applies only to private bus systems as publicly owned systems are not subject to the tax.

Last year, 1,442 local transit buses were purchased by publicly and privately owned systems. Of this total an estimated 300 were purchased by private systems. The excise tax realized on these buses amounted to less than $1.2 million.

While the revenue realized by the Federal Government from the excise tax on buses is negligible, to the individual bus company it is a sizable amount. The average 50-passenger city transit bus requires payment of a Federal excise tax of as much as $4,000. This tax must, of course, be passed on to the purchaser as part of the purchase price. This is an added cost burden which privately owned systems no longer can afford. Such a tax is not in the country's best interest as it thwarts rather than contributes toward adequate and up-to-date transit systems able to provide fast and efficient transportation to the maximum number of people.

In recognition of the important role of urban transit systems and the serious financial problems that they all face, Congress only last year passed milestone legislation to provide a $3.1 billion, 5-year capital grant program for urban mass transit.

It, therefore, seems incongruous that at a time when the Congress had finally given first-priority consideration to transit, that it should impose an excise tax of 10 percent on urban transit buses purchased by private systems. It should be borne in mind that 938 of the 1,079 urban transit systems in the United States are privately owned. In view of the mounting deficits, many of these privately owned systems face the prospect of going out of business or selling out to the towns and cities which they serve and which are already sorely pressed and are not desirous of assuming additional financial burden. Two hundred and fifty-eight cities over the last 17 years have lost their transit service. To aid these companies, the least we can do is to repeal the 10-percent excise tax on urban mass transit buses.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. WILLIAMS. I am happy to yield to the Senator from West Virginia.

Mr. RANDOLPH. My helpful colleague, the Senator from New Jersey, is correct about the problem of the operation of these private bus systems in many communities of the United States.

In the two largest cities in West Virginia, Huntington and Charleston, we have had privately owned bus companies operating for many, many years. Within the past few weeks and months, these operations have come to a halt, due to severe financial problems and strikes. In both areas, local officials have been in contact with Federal and State officials, and Members of Congress in efforts to develop plans for public transit authorities which will be able to assume responsibility for operation of transportation services. In the case of Charleston, the West Virginia Public Service Commission revoked the franchise of the bus company and granted a temporary franchise to the Kanawha Valley Regional Transportation Authority to operate the buses, with partial funding coming from Emergency Employment Act. This action, while resuming needed operation of the buses, does not provide a final solution. The acute public transportation problem continues to exist.

In Huntington, local officials have been working diligently to develop a plan for the takeover of the bus operations by a transit authority. However, differences involving the appraised value of the company, together with the complicating factor of a current strike, have precluded substantial progress in formulating a transportation plan.

Mr. President, I refer to these two cases in some detail to emphasize that public transportation problems are very real not just in the metropolitan areas with millions of people but also in medium sized areas. There are other cities in our State with difficult transportation problems, including Weirton, Wheeling, and Parkersburg.

The Senator from New Jersey states the case well. This is a grave situation which exists in perhaps 100 or 200 communities or more—I am not sure of the figures—throughout the United States of America.

We cannot allow, if I understand my obligation correctly, systems of transportation so urgently needed to take people to and from work to close shop, as it were, in this country. We are only adding to the problem of the movement of people and products if we fail to give the necessary relief. Although it may not be always sound from the standpoint of a hard financial analysis, the mobility of people and the changing conditions in transportation can and must be met.

As Senators know, this problem is not new. Many of us have tried to develop answers to the vexing problem of failing local bus service. During the 91st Congress, I sponsored, S. 3293, legislation to permit the use of urban highway funds to support bus service. In the course of considering Federal-aid highway and economic development legislation this coming year I shall address this issue and seek establishment of an effective assistance program.

I appreciate the thorough manner in which the Senator from New Jersey, who has been a leader in mass transit, is attempting to carry this argument, hopefully, to approval by the Senate. I should like to ask the Senator from New Jersey to add me as a cosponsor of his amendment.

Mr. WILLIAMS. I am gratified that the Senator from West Virginia would like to be a cosponsor. Mr. President, I ask unanimous consent that the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of my amendment.

The PRESIDING OFFICER (Mr. BAYH). Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I am grateful for the Senator's contribution to this colloquy and to his understanding of what we as supporters of mass transit are faced with in this country. We should certainly find ways to encourage and improve transit within our towns and cities. We should not discourage it. This 10-percent excise tax could well play a part in discouraging mass transit participation by private companies.

Mr. RANDOLPH. One further comment. As I understand it, there are at least 50 privately owned operations now on the ragged edge of bankruptcy. I am not sure that that figure is correct, but I do believe the situation is very acute and involves not only the employment of people in the companies concerned, but more to the point, the hundreds of thousands of people who will have no form of transportation as they go to and from their places of gainful livelihood.

Mr. WILLIAMS. I appreciate the Senator's statement. There are 81 privately owned transit companies in serious fi-

nancial difficulty. During the past 17 years, 258 cities have lost their transit systems entirely. This is fully descriptive of the plight of urban transportation. When I say "urban," I mean not only the great cities but also the towns of America.

Mr. CASE. Mr. President, will my colleague from New Jersey yield to me?

Mr. WILLIAMS. I am happy to yield to my distinguished colleague.

Mr. CASE. I would be happy to be a cosponsor of the Senator's amendment.

Mr. WILLIAMS. I shall be happy to do so. Mr. President, I ask unanimous consent that my colleague, Mr. CASE, be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CASE. Mr. President, we have worked together on this matter without regard to party lines, and we will continue to do so. I thoroughly support the amendment. It is not a big item, yet it may save some companies from bankruptcy. Some companies in the cities are attempting to reduce their services, which has led to a loss of revenue and a loss of patronage, but most of all to a loss of service to the people of our State.

We must do all we can, and this is a step in the right direction.

Mr. WILLIAMS. I certainly appreciate the comments of my distinguished colleague. In terms of money, the figure is small, but it can be critical where the private bus company is just hanging on and wants to improve its service and purchase new buses.

Mr. FANNIN. Mr. President, will the Senator respond to one or two questions regarding what assurance we have that the benefits would be carried through to the purchaser of the equipment?

Mr. WILLIAMS. There is that assurance.

Mr. FANNIN. We have that language in previous legislation where it is mandatory that this be carried through. Does the Senator's amendment provide that this would be carried through? Do we have that assurance?

Mr. WILLIAMS. That is certainly the intention.

Mr. FANNIN. I understand it is the intention——

Mr. WILLIAMS. If there is any meaning in the wording of the amendment that might make our intent questionable, I would be glad to change it in order to make sure that this is exactly where the benefits would go.

Mr. FANNIN. I want to try to determine what language was used in the previous stipulation on equipment. We did have language for that purpose.

Mr. LONG. If the Senator will allow me to trespass on his time for a moment to reply to that, I would like to point out that this amendment is subject to the provisions in the committee report indicating that the tax saving should be passed on. It fits in that section of the bill. The Senator from Massachusetts (Mr. KENNEDY) indicated that he wants to offer some legislative language in the bill to require the Secretary of the Treasury to provide regulations to assure that the tax savings on the repeal of the auto tax are passed on. I do not object to that. In fact, it was the intent of the committee as shown in its report that the tax savings with regard to the repeal of the automobile and light truck excise taxes be passed on to the consumer. Since this amendment would be in the same section, I believe we would have the same assurance in this regard that we would have with regard to the automobile and light truck excise taxes.

Mr. WILLIAMS. I did not know that was in question. I am certainly glad the Senator raised that point.

Mr. FANNIN. Another question I would like to pose to the Senator from New Jersey, in this particular stipulation, on the manufacturer of imported buses, does the Senator have any idea how much money is involved there so far as the importation of buses would be concerned?

Mr. WILLIAMS. I rechecked that this morning. No companies that fit this category have been importing buses and there are no orders pending for imported buses. My language follows language in other parts of the legislation. It would apply to domestic manufacturers who have historically produced our nation's buses. All the orders we know of are for American-made buses.

Mr. FANNIN. The whole idea of the bill is to assist the American producer and exclude the importer. The Senator's amendment seems to provide for the selling by the manufacturer of——

Mr. WILLIAMS. Of buses.

Mr. FANNIN. Of buses—was that not stricken——

Mr. WILLIAMS. I had submitted it that way to the desk.

Mr. LONG. I have great sympathy for what the Senator from Arizona has said, but if the amendment were to be in the form the Senator desires, it will cause the administration to oppose it. The administration is very much concerned about upholding its obligations under GATT; so if the exemption is to be in the bill, in the case of imports it should be in a form which, when we go to conference, it will be possible to provide for suspension of the tax in the case of imports of these buses to be used for mass transit.

This would make it possible for the President to be in a better bargaining position to insist that foreign countries remove their discrimination against our exports. This provision of the bill also allows the President discretionary authority to extend the benefits to those countries that are not discriminating against our commodities.

Mr. WILLIAMS. Mr. President, I understand this language is the same as used in a similar area of the bill which deals with vehicles.

Mr. LONG. The amendment is offered in a form that in conference we could make conform to the other provisions of the bill. If we strike out the provision that relates to imported buses, we would not in conference be able to make it conform to the other provisions of the bill. We would then have the opposition of the administration and, in all probability, the House would decline to accept the exemption at all because we would not have the power to conform it to the other sections of the bill.

Mr. FANNIN. Where we are not now importing buses, we do not need to give an incentive for buses to be imported. I understand that some companies are operating in Canada. I refer to some of the companies from across the ocean that are now manufacturing and probably will be manufacturing trucks, buses, and other items. If it is in Canada, it is subject to the excise tax.

Mr. LONG. Mr. President, the way the amendment is drafted, we can conform it in conference to the general language used for imported cars and trucks where we have suspended the tax. However, the modification that might be necessary to avoid a conflict with the administration's views on the General Agreement on Tariffs and Trade could not be accomplished if we did not have this language. We should not make any modifications to the amendment at this time, but let us work it out in conference and then conform it to the other provisions in the bill.

Mr. FANNIN. Mr. President, if that is the feeling of the chairman of the committee, I withdraw my request.

Mr. BENNETT. Mr. President, will the Senator yield me 3 minutes?

Mr. LONG. Mr. President, I yield 3 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, may I have the attention of the Senator from New Jersey. As the amendment is written, it seems to me that there is nothing in it which would prevent privately owned bus systems from buying buses and then turning right around the next day and selling them without the tax to a sightseeing company or some other company not intended under the amendment. I hope that we can make some legislative history on this point.

Mr. WILLIAMS. As the printed copy reads, the Senator is correct. That is why I modified it to put in language that would require that they be predominantly used in mass transportation services in urban areas.

Mr. BENNETT. That is not my point. The Washington bus company could buy 10 buses and the day after they buy them they could use them in their transit system. They are not in any other business. However, the next day they can sell them to the Gray Line Co., which is a sightseeing bus company.

I would suggest to the Senator that another sentence be added to provide as follows: "which are predominantly used by the purchaser in mass transit urban areas for at least 1 year." In that way, they really become used buses by the end of that first year.

Mr. WILLIAMS. That is certainly my objective, and hope. The administrative problems, I cannot assess. But you have correctly stated my objective, and I would be willing to accept your language. Perhaps the chairman of the committee can assess the administrative imponderables.

Mr. LONG. Mr. President, I would think that this matter could be resolved in conference and taken care of as suggested, or, if it is possible to draft an amendment, we could take care of it now. The intent of the amendment is clear, however, and I understand that with the modifications made we may not need any further change.

Mr. BENNETT. If the Senator wants to offer an amendment, that would be agreeable as far as I am concerned or we could work it out in conference along that line.

I agree that is what we will try to do. That is what I would have in mind. The sponsor of the amendment wants it for buses used in urban mass transit, and he is not trying to use it for buses not used in urban mass transit.

Mr. WILLIAMS. Exactly. And the best procedure might be to put in the protective phrase.

Mr. LONG. Mr. President, might I suggest that we simply vote on the amendment and before the bill is finally passed, we will have the staff prepare an amendment, if any is needed, that will include the suggestion of the Senator from Utah.

Mr. BENNETT. That is fine with me. We have made the legislative history as to the intent of the amendment very clear which is the intent of the sponsor of the amendment. So, I am sure we can work it out.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MILLER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The Chair saw sufficient hands for the yeas and nays to be ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, I am not unsympathetic with the Williams amendment. However, I propose to offer an amendment to the amendment, to add at the end of the Williams amendment these words before the words "buses," "livestock trailers and—"

There is a problem that the Senator from New Jersey is trying to resolve. We have a problem with respect to livestock trailers. As so well pointed out yesterday in the debate on the Humphrey amendment, the agricultural areas of the country are in a depressed state. We need a broad-based benefit. This is not going to be very big because the 10-percent excise tax that goes into the livestock trailer, I am quite sure, is going to be passed on to "Mr. Farmer."

If we want to be helpful across the board, we ought to take the excise tax off here. I might say to the Senator from Utah that my information is that we have practically no imported livestock trailers. I do not think we will run into any problem on that point. However, all of us from States that have livestock growers know that they pay hauling rates which include the cost of the excise tax. That is where it is passed on. The livestock owner does not absorb the cost. He passes it on to the farmer.

I hope the Senator from New Jersey would be amenable to conforming this amendment to his, and I think we can get the job done both ways.

Mr. WILLIAMS. Mr. President, the amendment seems to be nongermane. However, I have seen a lot of buses used for the transportation of people in which the people are herded in like cattle. So perhaps there is some germaneness.

I have no feeling about this matter. However, I am sure that the chairman will want to assess the impact of this amendment.

The amendment that I have offered has a negligible impact to the Treasury. It is less than $2 million, as a matter of fact. But I can only speak with respect to the amendment which I have offered.

Mr. MILLER. Mr. President, my understanding is that the cost of my amendment would be somewhere in the range of the Senator's own amendment. So, I do not think we are talking about a lot of money here.

I repeat that we want broad-based help in the rural areas of the country as far as the farmers are concerned. Some areas of the country have a very broad based farming population, and they are going to pay the excise tax. This is one way to provide some relief which is needed.

Mr. WILLIAMS. I would accept the amendment.

Mr. LONG. Mr. President, I hope the Senate does not get involved in all of that. These are two separate questions. I would like to suggest we vote with regard to the Senator's proposal and he is talking about buses used in urban transit. Then, if the Senator from Iowa wants to raise the matter with respect to what he wants to do about livestock trailers—and I think we have taken pretty good care of farmers in things of that sort—that should be raised on its own merits. That is an entirely different matter than the matter about the buses, and I hope we have the opportunity to vote on one and then the other.

Frankly, if the Senator accepts it, I would be compelled to ask for a division so we will have two separate votes.

I suggest we vote on the Senator's amendment.

Mr. WILLIAMS. Mr. President, I defer to the chairman of the committee.

Mr. LONG. Then, if the other amendment is offered, we can take a look at it and see what the costs are and the problems involved, and submit it on the merits.

Mr. GRIFFIN. Mr. President, will the chairman of the committee yield?

Mr. LONG. I yield.

Mr. GRIFFIN. I agree with the chairman on his approach. Certainly, I am not necessarily opposed to what the Senator from Iowa wishes to do. But the junior Senator from Michigan is interested in making sure that Congress does not go too far in the matter of repealing excise taxes. We appreciate the fact that the committee bill is helpful and justified in this area—but I hope the Senate will not go so far that the bill cannot become law.

I am concerned that more and more amendments, some of them not germane, are being adopted. It is beginning to look more and more like a Christmas tree with a variety of ornaments.

It seems to me that if the words "livestock trailers" were inserted prior to "buses" in the pending amendment, as I read it, the language would be technically deficient and would not accomplish the purpose of the Senator from Iowa. It would then read "manufacturer, producers, or importer of livestock trailers and buses which are used by the purchaser in mass transportation service in urabn areas." Of course, there are no such livestock trailers.

I think it would be well if the advice of the chairman were followed and the Senator from Iowa offered his as a separate amendment.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MILLER. Mr. President, will the Senator yield?

Mr. WILLIAMS. I yield.

Mr. MILLER. There is only one answer to the comment made by the Senator from Michigan. The "which" clause modifies "busses." That is a grammatical interpretation. It is an absurdity to interpret it any other way.

If we are going to have a vote separately, we might as well have a vote on the amendment to the amendment.

I appreciate the reaction of my friend from New Jersey. I was hoping we would not have a hassle over this. There is no reason they could not be coupled. We might as well have this as an amendment to the amendment. I am not trying to delay the Senate; I am trying to speed it up. I hope there is not objection to this. The Senator from New Jersey recognizes it. I hope we can have a vote on the amendment to the amendment by voice vote and then go ahead on the Williams amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, will the Senator yield to me for 2 minutes?

Mr. LONG. I yield.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that all time of the distinguished Senator from Louisiana has expired.

Mr. WILLIAMS. Do I have time?

The PRESIDING OFFICER. The Senator from New Jersey has the great sum of 1 minute remaining.

Mr. WILLIAMS. I yield to the Senator from Utah.

Mr. BENNETT. The bill already contains a provision that the tax shall not apply to trailers up to 10,000 pounds. Now, the farm trailers above 10,000 pounds are pretty good-sized trailers. I do not know why we would have to take care of them expressly.

Mr. MILLER. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS. I yield 30 seconds to the Senator.

Mr. MILLER. The Senator from Utah well knows that in talking about livestock trailers we are talking about livestock trailers in excess of 10,000 pounds. They do not bring them in in anything except large trailers. So I am trying to meet a gap.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment.

Mr. MILLER. Mr. President, I send to the desk an amendment to the amendment and ask that it be read.

XUM

The PRESIDING OFFICER. The amendment will be read.

The amendment was read as follows:

On line 4 insert "livestock trailers and" before the word "buses."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa (putting the question).

The amendment was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 670) of the Senator from New Jersey, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator fram Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Missouri (Mr. SYMINGTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Connecticut (Mr. WEICKER) and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 63, nays 0, as follows:

[No. 322 Leg.]

YEAS—63

Aiken	Ellender	Nelson
Allen	Fannin	Pastore
Allott	Fong	Pearson
Anderson	Fulbright	Pell
Baker	Griffin	Proxmire
Bayh	Gurney	Randolph
Beall	Hartke	Ribicoff
Bennett	Hruska	Roth
Bentsen	Hughes	Schweiker
Bible	Humphrey	Smith
Boggs	Jackson	Sparkman
Brooke	Jordan, N.C.	Spong
Buckley	Kennedy	Stafford
Burdick	Long	Stennis
Byrd, Va.	Magnuson	Stevens
Byrd, W. Va.	Mansfield	Stevenson
Cannon	Mathias	Taft
Case	McClellan	Talmadge
Church	Miller	Thurmond
Cooper	Mondale	Tunney
Eastland	Moss	Williams

NAYS—0

NOT VOTING—37

Bellmon	Gravel	Montoya
Brock	Hansen	Mundt
Chiles	Harris	Muskie
Cook	Hart	Packwood
Cotton	Hatfield	Percy
Cranston	Hollings	Saxbe
Curtis	Inouye	Scott
Dole	Javits	Symington
Dominick	Jordan, Idaho	Tower
Eagleton	McGee	Weicker
Ervin	McGovern	Young
Gambrell	McIntyre	
Goldwater	Metcalf	

So Mr. WILLIAMS' amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the amendment of the Senator from Massachusetts (Mr. KENNEDY) be limited to 20 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill, and that upon the disposition of that amendment, the amendment of the distinguished Senator from Minnesota (Mr. HUMPHREY) be called up, and that time on that amendment be limited to 30 minutes, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. GRIFFIN. Mr. President, reserving the right to object, I do not believe that we could agree to 10 minutes on the first amendment——

Mr. BYRD of West Virginia. Ten minutes on a side.

Mr. GRIFFIN. Without having some indication of what the amendment of the Senator from Massachusetts is all about.

Mr. LONG. Call up the amendment.

Mr. KENNEDY. Mr. President, I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 122, line 3, add the following new subsection:

"(i) BENEFIT TO ULTIMATE PURCHASER.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be appropriate to insure that the benefit of the repeal or suspension of tax in this section shall be available to the ultimate purchasers of tax-repealed articles."

Mr. GRIFFIN. Mr. President, if I correctly understand the purpose of the amendment, I believe it relates to the auto excise tax repeal; is that correct?

Mr. KENNEDY. That is correct.

Mr. GRIFFIN. I would have no objection to the objective of the Senator's amendment. It is a matter that the committee intended to cover in the committee report. So far as this particular Senator is concerned, I would have no objection.

Now, as to the other unanimous-consent request that coupled with it——

Mr. BYRD of West Virginia. Mr. President, would the distinguished Senator from Minnesota indicate the nature of his amendment?

Mr. HUMPHREY. Mine relates to a report to Congress and to the Comptroller General on the impoundment of funds. It merely calls for a report by the President to Congress and to the Comptroller General of such funds as are impounded, and of the amounts thereof.

Mr. GRIFFIN. If I may, I wish to point out to the majority whip with respect to these particular requests that no provision is made for time to discuss a possible amendment to the amendment.

Even when the time allotted for the principal amendment is relatively short, I believe that 5 or 10 minutes of time should be available for discussion if an amendment to the amendment is proposed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, in connection with each of these amendments, time on any amendment to an amendment, motion or appeal with the exception of nondebatable motions, be limited to 10 minutes, to be equally divided between the mover of such and the distinguished manager of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, if the distinguished Senator from Massachusetts will yield further. I ask unanimous consent that on the amendment No. 669 to be offered by the distinguished Senator from New York (Mr. BUCKLEY), there be a time limitation of 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill, with the same understanding as to amendments in the second degree, motions, and appeals.

Would the distinguished Senator from New York indicate the nature of his amendment?

Mr. GRIFFIN. I would appreciate that, unless the Senator from New York will indicate the number of his amendment.

Mr. BUCKLEY. Mr. President, the amendment is No. 669. Its purpose is to urge the President to exempt from the import surcharge at the earliest possible date goods produced by Canada and Mexico.

Mr. GRIFFIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, with the indulgence of the able Senator from Massachusetts, I make one further request.

I ask unanimous consent that on an amendment to be offered today by the distinguished Senator from Wisconsin (Mr. NELSON), there be a time limitation of 1 hour, to be equally divided between the distinguished mover of the amendment and the distinguished manager of the bill, with the same understanding with regard to amendments, motions, and appeals as heretofore.

Mr. GRIFFIN. Mr. President, here again, I think if there were some indication as to which amendment by Mr. NELSON will be offered, it would be helpful to Senators.

Mr. NELSON. Mr. President, my amendment would set a $1 million limitation on the capital investment against which the 7-percent tax credit may be applied.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. BAKER. Mr. President, if I may have the attention of the acting majority leader, I have one small amendment I wish to offer, and if he wants to get a 10-minute limitation on it, I shall be glad to do it. It has to do with an exception from the excise tax suspension on buses and automobiles.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes on the amendment of the distinguished Senator from Tennessee (Mr. BAKER), to be equally divided under the same conditions; and I ask unanimous consent, if it is agreeable to the Members, that the amendments on which the Senate has agreed to time limitations be considered in the order that we have referred to them.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. I yield myself such time as I may require.

Mr. President, the clerk has stated the amendment. It is a very straightforward amendment to the automobile excise tax repeal, which the committee itself considered in its deliberations. The purpose of the amendment is to insure that benefit of the repeal is passed through to the consumer, the purchaser of the automobile. In other words, the amendment is intended to insure that the repeal means lower prices to the purchaser, not higher profits to the dealers.

On page 79 of the committee report, it is clear that the committee, as well as the House, were concerned to insure that the benefits from the excise tax repeal would actually be passed on to the consumers. The Senate committee report requests a review and a periodic report by the Council of Economic Advisers on the extent to which the excise tax reduction is actually passed on to the purchasers.

The amendment I have offered would ask the Secretary of the Treasury to prescribe regulations to insure that the benefit of the repeal or suspension of the tax will be available to the ultimate purchasers themselves. We want to insure, Mr. President, that the consumers will really have the benefit of this reduction in the tax, and this amendment asks the Secretary of the Treasury to develop regulations to achieve that goal.

I think the amendment is consistent with the approach of the Finance Committee. They considered the issue in the course of their deliberations. The committee report requests an after-the-fact review by the Council of Economic Advisers. I think we can carry our intention one step further, and give more protection to consumers who are buying automobiles and other lightweight vehicles, by requiring the Secretary of the Treasury to develop safeguards that will operate in advance. I hope that the committee will take the amendment to conference, and that it will be accepted.

We have all heard the repeated stories in recent weeks that the repeal of the excise tax will be a big windfall for the dealers, because they will simply give purchasers lower new car discounts or lower trade-in allowances, thereby capturing the benefit of the repeal that ought to be received by the purchaser. Obviously, we cannot close every avenue, but I think the amendment will be helpful in enabling the Secretary of the Treasury to prevent at least the most flagrant abuses, and I hope it will be accepted.

Mr. LONG. Mr. President, I yield myself 2 minutes.

We have language in the Financial Committee report designed to do what the Senator from Massachusetts seeks to accomplish. I ask unanimous consent that the paragraph appearing in the report at the bottom of page 79 and the top of page 80 be printed in the RECORD at this point.

There being no objection, the excerpt from the committee report (No. 92-437) was ordered to be printed in the RECORD, as follows:

COMMITTEE REPORT EXCERPT

In repealing (or suspending) the excise taxes on passenger automobiles, light-duty trucks, etc., the committee, as did the House, intends that the full amount of the repealed tax be passed on to the consumer, thereby reducing the price of the automobile or the truck. The major automobile manufacturers have pledged to pass the tax reduction on to consumers. To give added assurance that this consumer benefit actually occurs and continues in the case of passenger automobiles and light-duty trucks, the committee, as did the House Committee on Ways and Means in its report, requests that the Council of Economic Advisers review vehicle prices and report periodically to Congress regarding the extent to which the tax reduction is in fact being passed on.

Mr. LONG. Mr. President, the Senator from Massachusetts seems to feel that it is possible for the Secretary, by means of regulations, to more effectively assure that the benefit of this excise tax cut does get to the consumer. As I understand, he has in mind situations such as a purchaser of an automobile being made to accept a smaller price for his trade-in car, with the result that, although he is theoretically getting a tax cut or a price reduction, it tends to be washed out by a lower price on the car he trades in. It may be that there is a way to prevent this type of denial to the purchaser of the full benefit of its tax repeal. If the Secretary of the Treasury could draft regulations that would help to assure that the consumer gets the full benefit of the repeal of this tax, I would have no objection to it. I am not positive, however, that there is a way to do it, but if it can be done, I would be happy to see it.

Mr. KENNEDY. I recognize that there may be some technical questions, but I think it is important that the Senate go on record very strongly—as I think it has, but I think this reinforces it—that it is the intention of the Senate to insure that the benefits of this tax cut will be passed on to the consumer.

I would hope the committee could take it to conference and, working it out with the Treasury, make every effort to achieve it.

Mr. LONG. I would be willing to vote for the amendment. If anyone cares to oppose the amendment, I would be happy to yield time to him.

Mr. BENNETT. Mr. President, will the Senator yield me 2 minutes?

Mr. LONG. I yield.

Mr. BENNETT. The amendment is not printed, so I have not had a chance to study it. Does it impose a penalty on an automobile dealer who, in the course of the kind of negotiation that always goes on in the sale of a new car, could be brought to court, because of an allegation that he did not allow quite so much for the used car, because he was attempting to get around the tax cut?

Mr. KENNEDY. No penalty is suggested in this amendment. There is only the requirement that the Secretary must establish these regulations. Of course, the dealers themselves will have to comply—with such regulations. I realize that there may be some technical questions in terms of the feasibility of regulations that would be 100 percent effective. But it does seem to me that the Secretary can prescribe regulations in a variety of areas, such as recordkeeping, discount pricing, and other subjects, and that these regulations can be extremely effective, both as guidelines and as deterrents to dealers.

I think all of us are concerned, as the chairman of the committee has pointed out, with the question of trade-ins and markdowns on new vehicles. Obviously, in this sort of ambiguous area, there is a real danger that the benefit of this tax cut will be going to the dealer rather than to the consumer. I think the clear intent of all of us here is that it should go to the consumer.

I hope that the amendment will be accepted and that the committee will work with the Treasury Department in drafting these regulations and achieving this purpose.

Mr. BENNETT. I appreciate the explanation of the distinguished Senator from Massachusetts. Having had a little experience in this business, I know that it is almost impossible to lay down a rule and attempt to enforce it with respect to judgment as to the owner of a used automobile.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the amendment.

XUM

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further discussion of the amendment?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. BENNETT. I yield back the chairman's time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Massachusetts. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. EAVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from North Dakota (Mr. YOUNG) is detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Texas (Mr. TOWER), and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 65, nays 0, as follows:

[No. 323 Leg.]

YEAS—65

Aiken	Fannin	Pastore
Allen	Fong	Pearson
Allott	Fulbright	Pell
Anderson	Gravel	Proxmire
Baker	Griffin	Randolph
Bayh	Gurney	Ribicoff
Beall	Hartke	Roth
Bennett	Hruska	Schweiker
Bentsen	Hughes	Smith
Bible	Humphrey	Sparkman
Boggs	Jackson	Spong
Brooke	Jordan, N.C.	Stafford
Buckley	Kennedy	Stennis
Burdick	Long	Stevens
Byrd, Va.	Magnuson	Stevenson
Byrd, W. Va.	Mansfield	Taft
Cannon	Mathias	Talmadge
Case	McClellan	Thurmond
Church	Miller	Tunney
Cooper	Mondale	Weicker
Eastland	Moss	Williams
Ellender	Nelson	

NAYS—0

NOT VOTING—35

Bellmon	Goldwater	Metcalf
Brock	Hansen	Montoya
Chiles	Harris	Mundt
Cook	Hart	Muskie
Cotton	Hatfield	Packwood
Cranston	Hollings	Percy
Curtis	Inouye	Saxbe
Dole	Javits	Scott
Dominick	Jordan, Idaho	Symington
Eagleton	McGee	Tower
Ervin	McGovern	Young
Gambrell	McIntyre	

So Mr. KENNEDY's amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized for the purpose of offering his amendment. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

After the item relating to section 702, insert the following:

TITLE VII—FEDERAL IMPOUNDMENT INFORMATION

Sec. 801. Short title.

Sec. 802. Amendment of Budget and Accounting Procedures Act of 1950.

At the end of the bill add the following new title:

TITLE VIII—FEDERAL IMPOUNDMENT INFORMATION

SEC. 801. SHORT TITLE.

This title may be cited as the "Federal Impoundment Information Act".

SEC. 802. AMENDMENT OF THE BUDGET AND ACCOUNTING PROCEDURES ACT OF 1950.

Title II of the Budget and Accounting Procedures Act of 1950 is amended by adding at the end thereof the following new section:

"REPORTS ON IMPOUNDED FUNDS

"SEC. 203. (a) If any funds are appropriated and then partially or completely impounded, the President shall promptly transmit to the Congress and to the Comptroller General of the United States a report containing the following information:

"(1) the amount of the funds impounded;

"(2) the date on which the funds were ordered to be impounded;

"(3) the date the funds were impounded;

"(4) any department or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

"(5) the period of time during which the funds are to be impounded;

"(6) the reasons for the impoundment; and

"(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

"(b) If any information contained in a report transmitted under subsection (a) is subsequently revised, the President shall promptly transmit to the Congress and the Comptroller General a supplementary report stating and explaining each such revision.

"(c) Any report or supplementary report transmitted under this section shall be printed in the first issue of the Federal Register published after that report or supplementary report is so transmitted."

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

PRIVILEGE OF THE FLOOR

Mr. AIKEN. Mr. President, I ask unanimous consent that Mr. Stephen Terry, or Mr. Charles Weaver, members of my staff, be granted the privilege of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, as we consider H.R. 10947, the Revenue Act of 1971, a relevant area of discussion is the administration's disposition of tax revenues that it collects.

The legislation currently before the Senate involves a reduction in tax revenues of over $8 billion.

At the time that we are considering this measure as part of the effort to halt severe unemployment and inflation, I believe that the Congress must also recognize the fact that the administration has collected at least $8 to $12 billion in tax revenues which it is currently impounding.

Mr. President, President Nixon's economic program falls woefully short in providing jobs for the more than 5 million Americans out of work. The fiscal stimulus legislation before us now does not insure that people will be put to work immediately following final passage of the bill. There is no mechanism to create jobs for the unemployed who are exhausting their unemployment compensation every week.

Not only does the President refuse to spend billions of dollars which could create jobs now, but he refuses to inform the Congress of the precise amount of congressionally appropriated funds that the Office of Management and Budget has placed in reserve. Furthermore, the OMB will not provide Members of Congress with an itemized list of impounded funds.

I speak from experience in this area because I have been attempting since mid-September to obtain the precise amount of impounded funds as well as an itemized list of impoundments. OMB Director George Shultz has written to me saying that my request would be granted. However, I have not received the information I requested and the information that all Members of Congress and the public deserve to have.

At the end of September, I introduced the Federal Impoundment Information Act which would require the President to notify promptly the Congress and the Comptroller General, when appropriated funds are partially or completely impounded.

The Deputy Director of the OMB, Mr. Caspar W. Weinberger, has written the distinguished chairman of the Government Operations Committee to give his comments on the legislation which I offered. Mr. Weinberger concluded that the legislation would create excessive work for the OMB, interfere with pending legislation in the Congress because we would have to receive and review the reports of impoundments and could confuse the public.

With all candor, Mr. President, the Deputy Director's opposition to this legislation seems to be based on rather weak excuses of added workload and some additional costs because of the reporting procedures. I find it difficult to believe that Mr. Weinberger would have us believe that the OMB reports of impoundments to Congress would encumber the legislative branch to the extent that it would fall behind in its work, or that the added costs of informing the Congress and the public are too great.

It is clear to me that the OMB is unwilling to support this legislation because the President is able to impound billions of dollars in a semisecret fashion away from the eyes of the Congress and the public.

Mr. Weinberger claims that a quarterly report of impoundments is sent to the House Appropriations Committee by each executive agency. Few members of Congress have ever seen these reports and certainly the public does not have access to these documents. Both the Congress and the public have a right to know the exact amount and why tax revenues appropriated by Congress are not being spent.

In order to secure this right for the Congress and the American public, I am today offering an amendment to H.R. 10947 that will insure that when tax revenues appropriated by the Congress are impounded, the Congress and the public will be informed by the President. In his notification report the President would be required to include the following:

First, the amount impounded; second, the date on which the funds were ordered to be impounded; third, the date the funds were impounded; fourth, any department or establishment of the Government to which the impounded funds would have been available for obligation except for such impoundment; fifth, the period of time during which the funds are to be impounded; sixth, the reasons for the impoundment; seventh, to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

Mr. President, I believe this amendment goes to the heart of the relationship between the executive branch and the Congress. We are asked to approve legislation that will reduce tax revenues by $8 billion. But at the same time, Members of Congress are not informed of the amount of unspent, collected tax revenue. I urge my colleagues to join with me in correcting this serious imbalance of information between the executive and legislative branches of Government.

Let me say that a considerable amount of time has been devoted to hearings on impoundment. It is my judgment that what we are seeking here is a bill which effectuates an accurate reporting from the executive branch as to the impoundment amounts.

I believe the amendment has considerable merit. It recognizes the problem that many of us have had.

Mr. RANDOLPH. Mr. President, I am pleased to join my diligent colleague, the Senator from Minnesota (Mr. HUMPHREY), in this amendment to require detailed reports to the Congress before appropriated funds may be curtailed, withheld, or impounded by the President. Unrestricted executive action in holding and releasing funds has excluded the Congress from exercising its proper role in overseeing the administration of vital national programs. This proposal, which I am privileged to cosponsor, would reestablish the cooperative nature of the legislative and executive process. I am gratified to be associated with this effort which is actually a continuation of my endeavors on the issue of unilateral action by the executive branch in withholding appropriated funds. Senate action, favorable to the amendment, will be strong evidence of our determination to know the facts on Presidential impoundments and provide information on which Congress can act.

Mr. LONG. Mr. President, I have no objection to the amendment. If someone wishes to speak in opposition, I would be glad to yield him time.

Mr. BENNETT. Mr. President, will the Senator yield 2 minutes to me?

Mr. LONG. I yield 2 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, which committee is it that has held extensive hearings on the amendment?

Mr. HUMPHREY. I know that the distinguished Senator from North Carolina (Mr. ERVIN) has given a good deal of attention to this matter. Hearings were held before his subcommittee.

Mr. BENNETT. Mr. President, it seems to me that since the bill is in the jurisdiction of the Finance Committee, the amendment is truly nongermane. I would hope that it would be offered to a bill under the control of one of the two committees that have had hearings on it. The Finance Committee has never had any hearings on this measure.

Mr. HUMPHREY. Mr. President, may I say most respectfully to the Senator from Utah that this relates to tax funds, funds raised under the terms of revenue acts.

It is a matter that I think is of critical importance. One of the purposes of the pending bill is to stimulate the economy.

As to impounded funds, I think that from a budgetary point of view the appropriated funds ought to be spent for the purposes for which they are appropriated. It was the direction of the Congress that that be done. Otherwise, we ought to know why not.

That is the only purpose of the amendment. It does not direct the President to do anything else except to inform the Congress as to what funds are being impounded, for what reason, and under what department or branch the funds are impounded.

Mr. BENNETT. The Senator from Utah made the only point involved here, I think. This may be greatly opposed when we get to conference. The House Ways and Means Committee is very jealous of its prerogative and right to issue regulations affecting taxes, and since we have to go before that conference and say that we have no jurisdiction over this particular idea, that it has never been offered to us for hearings, and testimony was heard before other committees, I fear that there will be objection.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LONG. Mr. President, I yield additional time to the Senator from Utah.

Mr. BENNETT. I just think this is a fruitless and futile gesture to put this in the pending bill. On that basis, I rest my opposition. I agree with my friend, the chairman of the Finance Committee that it is probably inconsequential. However, sometimes these questions of jurisdiction become quite consequential in the minds of people who feel that the jurisdiction is taken away from them.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I wish to associate myself with the arguments made by the ranking minority member of the committee. It seems unfortunate that we are confronted with an unprinted amendment that is not germane, the jurisdiction of which is clearly within the province of other committees.

The Senator from Minnesota pointed out that the pending bill deals with taxes and revenues. That is true. However, the Senator's amendment deals with appropriations rather than taxes. Furthermore the hearings referred to apparently were held by some other committee. The hearings held are not of much benefit to Senators since we had no advance notice of this amendment. The amendment was not printed, and we have had no access to the hearings that were held.

Finally, it would be of great help to the Senate and the country if Senators could confine themselves to offering amendments that are germane to the pending bill.

Mr. BENNETT. Mr. President, I am prepared to yield back the remainder of my time.

Mr. HUMPHREY. I wish to add the Senator from West Virginia as a cosponsor of the amendment, and I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. If Senators are prepared to yield back their time will they please do so.

Mr. BENNETT. I yield back my time.

Mr. HUMPHREY. I yield back my time.

XUM

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Minnesota (Mr. HUMPHREY). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Texas (Mr. TOWER), are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from North Dakota (Mr. YOUNG) is detained, on official business.

If present and voting, the Senator from Kentucky (Mr. COOK) and the Senator from Pennsylvania (Mr. SCOTT) would each vote "nay."

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Texas would vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 48, nays 18, as follows:

[No. 324 Leg.]

YEAS—48

Aiken	Gravel	Pastore
Allen	Harris	Pearson
Anderson	Hartke	Pell
Bayh	Hughes	Proxmire
Bentsen	Humphrey	Randolph
Bible	Jackson	Ribicoff
Brooke	Jordan, N.C.	Smith
Burdick	Kennedy	Sparkman
Byrd, Va.	Long	Spong
Byrd, W. Va.	Magnuson	Stafford
Cannon	Mansfield	Stennis
Case	Mathias	Stevenson
Church	McClellan	Talmadge
Eastland	Mondale	Tunney
Ellender	Moss	Weicker
Fulbright	Nelson	Williams

NAYS—18

Allott	Cooper	Miller
Baker	Fannin	Roth
Beall	Fong	Schweiker
Bennett	Griffin	Stevens
Boggs	Gurney	Taft
Buckley	Hruska	Thurmond

NOT VOTING—34

Bellmon	Goldwater	Montoya
Brock	Hansen	Mundt
Chiles	Hart	Muskie
Cook	Hatfield	Packwood
Cotton	Hollings	Percy
Cranston	Inouye	Saxbe
Curtis	Javits	Scott
Dole	Jordan, Idaho	Symington
Dominick	McGee	Tower
Eagleton	McGovern	Young
Ervin	McIntyre	
Gambrell	Metcalf	

So Mr. HUMPHREY's amendment was agreed to.

Mr. HUMPHREY. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BAYH). Pursuant to a previous order, the Senator from New York (Mr. BUCKLEY) is now recognized. He is to be followed by the Senator from Wisconsin (Mr. NELSON), who will be followed by the Senator from Tennessee (Mr. BAKER).

Mr. BUCKLEY. Mr. President, I call up my amendment No. 669 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 182, after line 8, it is proposed to insert:

SEC. 606. PRODUCTS OF CANADA AND MEXICO.

The President is urged to exempt at the earliest feasible dates articles which are the product of Canada and Mexico from any exercise of the authority conferred on him by section 601 and from the import surcharge imposed under Proclamation 4074.

Mr. BUCKLEY. Mr. President, on my amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKLEY. Mr. President, I believe this is a simple amendment, one which I hope will not prove to be controversial.

The purpose of the amendment is to urge the President to lift the import surcharge on goods imported from our immediate neighbors, Canada and Mexico, just as soon as this can be accomplished within the framework of our overall effort to achieve reform of the international monetary system and to secure a more appropriate balance in our international trade.

The amendment recognizes that the imposition of the surcharge has had a particularly harsh impact on Canada and Mexico because of the unique dependence of their economies on trade with the United States. In each case, their exports to this country account for about 70 percent of their total exports; and of their total exports, 25 percent in the case of Canada, and 38 percent in the case of Mexico, are affected by the surcharge. Thus the impact of the President's Proposition 4074 is dramatically greater on their economies than it has been on any other of our trading partners.

I recognize that at present we have a significant trade deficit with Canada, and one of the major contributing factors to this has, of course, to do with the automobile agreement, as to which I would trust that the President is trying hurriedly to initiate discussions.

The effect on our economy accounted for about $1 billion last year, out of a total trade deficit of about $2 billion. On the other hand, I think we should keep in mind that Canada, some time ago, freed her dollars in relation to ours. This is a major step adverse to her trade, a step which, undoubtedly, in the near future will have the effect of rectifying some, if not most, of the present imbalance.

In the case of Mexico, over the past several years, the trade balance has clearly been in favor of the United States; therefore, the purposes of the surcharge certainly do not seem to warrant the harsh impact it has had on that country.

I suggest, therefore, that, given the special relationship which exists between the United States and each of its immediate neighbors, it is important that Congress signify in this manner its understanding of their difficulties and its desire to see them relieved of this additional burden on the economy at the earliest possible date.

Mr. President, I have no further remarks. If the sponsor of the bill has none, I should be glad to yield back the remainder of my time.

Mr. LONG. Mr. President, Canada and Mexico are good friends of the United States, as are most other countries to which this 10-percent import surcharge applies.

But with regard to Canada, we have had one of our most severe problems which has compounded our balance-of-payments difficulties. This amendment would seek to put pressure on the Secretary of the Treasury and the President of the United States to remove the surcharge with regard to Canadian and Mexican products before they remove it on the products of others.

We have some serious commercial problems with those countries. One of the most serious problems came about because we passed a bill to help Canada sell automobiles in this country—the United States-Canadian automobile agreement—and Canada has not fulfilled her part of the bargain. Their failure to do what was intended under that agreement has caused our balance of payments to turn from a favorable balance to a very unfavorable balance with Canada.

We have these matters under negotiation with them. The Secretary of the Treasury is doing the very best he can to resolve that matter in a way that meets U.S. interests compatibly with Canadian interests.

I do not think we ought to be singling out Canada for favored treatment any more than some of the other countries with whom we want to cooperate, but with regard to whom it must be a two-way street.

The Secretary of the Treasury came before our committee when this matter started, and he implored the members of the committee to try to understand his problems, and not to jerk the rug out from under him, or indicate a lessening of congressional support, until he could resolve this balance of payments crisis.

Insofar as this amendment would have any effect at all, it would indicate a slightening of support for the Secretary of the Treasury and the President in trying to work out our differences with Canada and Mexico. We want the surcharge to come off with regard to those nations as soon as our differences can be practically worked out, but we do not want to do anything to put pressure on the Secretary of the Treasury, or do anything other than protect the interests of this country in negotiating with those countries.

I do not see why this body would want to weaken the hand of the President of the United States or the Secretary of the Treasury in the present critical phase of those negotiations. Therefore, I hope the amendment will be defeated.

Mr. BENNETT. Mr. President, will the Senator yield me 3 minutes?

Mr. LONG. I yield 3 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, why should we pick out two nations, one on either side of us, one of which, as the chairman has pointed out, is probably giving us more trouble with our export-import problem than any other nation with which we deal?

The other is just there by accident of geography; we do not have any particular trouble with Mexico. But if I were in Brazil or Argentina, or any other Latin American country where we have a favorable balance of trade, I would be saying, "Why do you single out Mexico and Canada? Why do you not lift ours first? Why give special consideration to those two countries?"

I am sure the President and the Secretary of the Treasury are working just as hard as they can to accomplish the purpose for which the tax was imposed, and I think it would not help them accomplish that purpose if the Senate says, "Look you have got to single out these two, never mind the others."

I believe it would be very bad judgment either to try to force the hand of the President on any of them, or to specifically mention two.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. BENNETT. I yield.

Mr. LONG. The Senator recalls, does he not, that when the Bay of Pigs crisis occurred, Castro felt that Nicaragua had permitted Americans to train people there to try to liberate Cuba, and it has been said since that time that efforts have been made to assassinate the president of that country because he was so friendly to the United States?

Those people have a very unfavorable balance of trade with us. They are subject to the 10-percent surcharge, and they have virtually risked their existence standing by our side. Why would we want to favor Mexico over Nicaragua or our other friends in the area, when they have at least as much right to an exemption as Mexico and Canada.

We want to lift the surcharge as soon as we can, but we realize we have a problem, and we need cooperation from all of our friends and allies.

Mr. BENNETT. Mr. President, I hope that the Senate will not attempt to set up this kind of a priority and impose this psychological pressure on the Secretary of the Treasury. I talked with him just 15 minutes ago. He has just returned from Japan, where he has been attempting to work on this problem. I do not think we should say to him, "Mr. Secretary, forget Japan, and help Mexico."

Mr. LONG. Is it not true that the Secretary of the Treasury plans to recommend to the President that the surcharge be lifted, and that the President plans to lift the surcharge, just as soon as they think they can, all factors considered?

Mr. BENNETT. I am sure the Senator from Louisiana has had that personal assurance from the President, as I have, and there is no question about it. So I think we can leave the question of the orderly procedure to the President and the Secretary and not try to second-guess them.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the name of the Senator from Alaska (Mr. GRAVEL) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. I yield 2 minutes to the Senator from Vermont.

Mr. AIKEN. Mr. President, I shall vote for this amendment, because I feel it will have a very healthy effect upon other great producing countries of the world which are making it difficult and costly for us in the realm of world trade.

The amendment would not compel the President to do anything. It does not repeal the 10-percent surcharge. It is only a recommendation.

I would gladly include Nicaragua, or even the rest of the Western Hemisphere, but I do not think they are seriously affected, because most of what we bring in from Nicaragua and those Central American countries is not subject to the 10-percent surcharge. Certainly most imports from Mexico are not. Even 75 percent of our imports from Canada are not subject to the tax. So it would be a very friendly gesture at this time, to show to the Canadians and the Mexicans that we are really trying to work out something with them and then settle down and have a fair and reasonable trade policy for the whole world.

As I say, I feel if we pass this amendment, some of the other great producing countries of the world, which have been taking the bulk of the business we have lost, will realize that if they go too far, they will force situations which will react upon them even more strongly than they do in the Western Hemisphere.

I do not like the trend toward isolation in our country—but other great nations can force it upon us—and Canada and Mexico as well.

Mr. LONG. Mr. President, Mexico is perhaps the most developed country in Latin America. There is no good argument, other than the fact that Mexico shares a common boundary with us, for singling Mexico out over all these other countries of Latin America, many of which have a far greater need of expanding their exports to the United States, and have demonstrated the utmost of friendship, good will, and cooperation with the United States.

Furthermore, Mr. President, with regard to Canada, you could not pick out a better example of a country with regard to which we ought to back the Secretary of the Treasury until he gets this matter worked out. For example, in 1970, we had an unfavorable balance of trade with Canada of over $2 billion. How did it get that way? The best indications are that it got that way because we passed this Canadian Auto Agreement. I was the manager of that bill, and I asked the Senate to vote for it. But at that time, we had a $613 million advantage. Now we have a disadvantage of $1,651 million a year in automobile trade with Canada. I was led to believe it was a free trade agreement. Now it appears that it was free trade only one way—into the United States—while the Canadians continue to protect their industry.

Why is it that way? Because Canada did not do what Canada was supposed to do under the agreement. Now we are trying to get the matter worked out to where we think Canada will do what she is supposed to do under the agreement. Frankly, it is a miracle to me that the United States would take that kind of beating without moving on this subject sooner.

But it is being worked out. I think the most inappropriate thing we could do would be to put pressure on the Secretary of the Treaury to do anything until this matter is resolved.

Mr. AIKEN. The Senator has cited figures showing imbalance of our trade with Canada. How does the balance-of-payments stand?

Mr. LONG. The balance of trade is minus $2 billion, and the overall balance-of-payments deficit with Canada is minus $1,651 billion.

Mr. AIKEN. Does the Senator take into account that a good share of Canadian industry is owned by Americans?

Mr. LONG. Yes. The overall balance of payments takes all that into account, including dividends and everything else. So we are in a minus position of $1,651 billion. This is one of the largest items

that must be corrected if we are ever going to straighten out our balance of payments.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. LONG. I yield to the distinguished Senator from Utah.

Mr. BENNETT. Mr. President, how much time does the Senator have?

The PRESIDING OFFICER. The Senator from Louisiana has 4 minutes.

Mr. BENNETT. Mr. President, I should like to read from the committee report, speaking of Canada and the automobile agreement:

> In this regard, the committee notes with concern that nearly seven years after the agreement was signed the Canadian duty remains virtually unchanged and Canadian citizens still cannot import automobiles duty-free from the United States, although there is no such restriction on imports from Canada. This Canadian restriction and other conditions frustrate the achievement of the free-trade objectives of the agreement. They artificially permit the continuation of a price differential and interfere with commercial decisions in an industry in which it has been agreed that market forces would be allowed to operate freely.

Mr. AIKEN. May I ask a question of the Senator from Utah? He is speaking of the automobile industry, and it is important. What about the airplane industry? Are the engines which the big airplane companies import from Europe subject to the 10-percent surcharge now?

Mr. BENNETT. Is the Senator talking about airplane engines that come into the United States?

Mr. AIKEN. For example, Lockheed, which uses a British engine.

Mr. BENNETT. The Senator and I are not talking about the same thing. I am talking about the lack of reciprocity in our automobile trade with Canada which has caused a sharp change in our overall trade balance with Canada, and the Senator is talking about the surcharge on aircraft engines.

Mr. AIKEN. That is right.

Mr. BENNETT. I am sure that airplanes manufactured in Europe are subject to the 10-percent surcharge.

Mr. AIKEN. Are the Rolls-Royce engines subject to it?

Mr. BENNETT. Yes.

Mr. AIKEN. I do not know about that.

Mr. BENNETT. The staff assures me that I am right, that they are subject to the surcharge.

Mr. AIKEN. That is one thing that has happened to our economy—instead of buying in Utah, Vermont, and Louisiana, or other States they are buying from foreign countries. The Common Market is not being developed in order to expand U.S. exports abroad; I am sure of that.

Mr. LONG. This amendment would urge the President to take off the 10 percent with respect to Mexico, before we could settle our differences. For several years, Mexico has had a 10-percent surcharge with respect to goods from the United States, and it will continue to be that way unless we can work it out and equalize the differences. Why should we prejudice a successful negotiation by telling the President to grant a special favor to a country which we want to negotiate with.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the names of the Senator from Washington (Mr. JACKSON) and the Senator from California (Mr. TUNNEY) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. I thank the Senator from Vermont for his support.

I have tried to make clear in my remarks in offering the amendment that I was totally cognizant—and I am sure Congress is totally cognizant—of the special difficulties which are offered by the automobile agreement. It is for that reason—because of these difficulties—that I did not seek to make the exemptions mandatory.

I recognize that there are other sensitive areas which need to be negotiated, and I commend the efforts of the Secretary of the Treasury to do that. But, far from considering any amendment of this sort as a handicap to the Secretary, I would think it would give him the ability to reassure our geographical neighbors that the sensitive Congress is sufficiently sympathetic to their problems which result from that geographic propensity that they can see themselves being relieved of this added burden once mutually satisfactory arrangements have been negotiated.

We cannot ignore the fact that because of the accident of geographical location, both Mexico and Canada have developed over the years a particular dependence on their trade with the United States. Because of this unique relationship, because 70 percent of their total exports go to the United States, I feel that a special exemption or a special attitude is warranted in their case.

We in North America have to learn to work together effectively. I think that too often the United States tends to take her two neighbors for granted, tends to ignore their special problems which are created not deliberately by the United States but because of the effect which anything we do automatically has on those peoples and on those economies. I think that for Congress to record its concern for that impact of our policies on Canada would do a great deal to insure the spirit of cooperation which would help the Secretary in his negotiations.

Mr. AIKEN. If the Senator will yield, the Senator is well aware that not long ago Congress appropriated $200 million to assist the Lockheed Corp., which buys Rolls-Royce engines from England? I assume that part of this $200 million—and I believe $50 million already has been advanced—could be used to pay the surtax which is paid on the engines brought in from the Rolls-Royce Co.

Mr. BUCKLEY. That might quite likely be the effect.

I also invite attention to the fact—I don't have the figures with me; I wish I had—that a significant portion of the balance-of-payments deficit is undoubtedly the result of continuing American capital investment in Canada. I have always felt that such investments are in the long run healthy for the country and that, therefore, this imbalance we see, if we eliminate the factor of the automobile agreement, is probably not nearly as significant as would appear.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield back the remainder of my time.

Mr. BUCKLEY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), and the Senator from New Mexico (Mr. MONTOYA), would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from North Dakota (Mr. YOUNG) and the Senator from Arizona (Mr. FANNIN) are detained on official business.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Oregon would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Pennsylvania (Mr. SCOTT). If present and voting, the Senator from Texas would vote "yea" and the Senator from Pennsylvania would vote "nay."

On this vote, the Senator from Kentucky (Mr. COOK) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 29, nays 36, as follows:

[No. 325 Leg.]

YEAS—29

Aiken	Griffin	Roth
Allott	Harris	Spong
Baker	Humphrey	Stafford
Boggs	Jackson	Stevens
Buckley	Kennedy	Stevenson
Burdick	Magnuson	Taft
Church	Mansfield	Thurmond
Cooper	Mathias	Tunney
Fulbright	Mondale	Williams
Gravel	Nelson	

NAYS—36

Allen	Eastland	Pastore
Anderson	Ellender	Pearson
Bayh	Fong	Pell
Beall	Gurney	Proxmire
Bennett	Hartke	Randolph
Bentsen	Hruska	Ribicoff
Bible	Hughes	Schweiker
Brooke	Jordan, N.C.	Smith
Byrd, Va.	Long	Sparkman
Byrd, W. Va.	McClellan	Stennis
Cannon	Miller	Talmadge
Case	Moss	Weicker

NOT VOTING—35

Bellmon	Gambrell	Metcalf
Brock	Goldwater	Montoya
Chiles	Hansen	Mundt
Cook	Hart	Muskie
Cotton	Hatfield	Packwood
Cranston	Hollings	Percy
Curtis	Inouye	Saxbe
Dole	Javits	Scott
Dominick	Jordan, Idaho	Symington
Eagleton	McGee	Tower
Ervin	McGovern	Young
Fannin	McIntyre	

So Mr. BUCKLEY's amendment (No. 669) was rejected.

AMENDMENT NO. 543

The PRESIDING OFFICER (Mr. PROXMIRE). Under the previous order, the Senator from Wisconsin (Mr. NELSON) is recognized.

Mr. NELSON. Mr. President, I call up my amendment No. 543.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to read the amendment.

Mr. NELSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 3, line 9, before "RESTORATION" insert "PARTIAL".

On page 3, line 15, strike out "Section" and insert "Subject to the provisions of subsection (c), section".

On page 4, line 19, strike out the closing quotation marks and after line 7 insert the following:

"(c) LIMITATIONS.—

"(1) IN GENERAL.—Subsection (a) shall apply—

"(A) in the case of a corporation, only to the extent that the qualified investment for the taxable year does not exceed $1,000,000, and

"(B) in the case of any other taxpayer, only to the extent that the qualified investment for the taxable year does not exceed $1,000,000.

"(2) SPECIAL RULES.—

"(A) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified in paragraph (1)(B) shall be $500,000 in lieu of $1,000,000. This subparagraph shall not apply if the spouse of the taxpayer has no qualified investment for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

"(B) CONTROLLED GROUPS.—In the case of a controlled group, the $1,000,000 amount specified in paragraph (1)(A) shall be reduced for each component member of such group by apportioning $1,000,000 among the component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term 'controlled group' has the meaning assigned to such term by section 1563(a).

"(C) OTHER TAXPAYERS.—Under regulations prescribed by the Secretary or his delegate, rules, similar to the rules provided by sections 46(d) and 48(f)(3) shall be applied for purposes of this subsection.

"(3) SPECIFICATION OF PROPERTY.—Under regulations prescribed by the Secretary or his delegate, the taxpayer shall specify property placed in service during the taxable year to which (after the application of this subsection) subsection (a) applies. With respect to such property (to the extent of the qualified investment attributable to such property taken into account under this section), paragraphs (5) and (6) of section 46 (b) and the last sentence of section 47(a) (4) shall not apply."

On page 4, line 24, strike out "described in section 50" and insert "to which section 50 applies".

On page 5, beginning with line 10, strike out all down to line 14 on page 5 and insert the following:

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 50. Partial restoration of credit."

On page 27, beginning with line 17, strike out all through line 3 on page 21.

UNANIMOUS-CONSENT AGREEMENT ON STEVENS AMENDMENTS

Mr. BYRD of West Virginia. Mr. President, will the Senator yield to me for the purpose of making certain unanimous-consent requests?

Mr. NELSON. Mr. President, I yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, if I may have the attention of the Senator from Alaska (Mr. STEVENS), I ask unanimous consent, after having discussed this matter with the Senator from Alaska, that on each of the two amendments to be offered by Mr. STEVENS there be a limitation of 30 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill.

Mr. GRIFFIN. Mr. President, reserving the right to object, again I would like to know what the amendment is about and also whether there would be time available for amendments to the amendment.

Mr. BYRD of West Virginia. With the same understanding as heretofore with respect to amendments to amendments, motions and appeals.

Mr. STEVENS. Mr. President, these are two amendments I offered in the form of original bills previously. I have discussed them with members of the staff.

Mr. GRIFFIN. Could the Senator please tell us what they would do?

Mr. STEVENS. One amendment deals with the procedural aspects of due process in connection with the construction of a levy by the Internal Revenue Service.

The other amendment has to do with the problem of granting a reduction for repair or improvements to individual homes.

Mr. GRIFFIN. I understand that the revenue aspects of the second one are quite substantial.

Mr. STEVENS. The revenue aspects of the second measure approach $500 million a year.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. GRIFFIN. Mr. President, I have no objection.

The PRESIDING OFFICER. Will the Senator from West Virginia clarify his request? Was the provision with respect to an amendment to an amendment 10 minutes?

Mr. BYRD of West Virginia. Ten minutes, to be equally divided on amendments in the second degree, motions, or appeals, with the exception of nondebatable motions.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that this time not be charged against the time of the Senator from Wisconsin.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST ON BOTH AMENDMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent on amendment No. 642, which will not be called up today, an amendment by the Senator from Delaware (Mr. ROTH), which deals with a ceiling on the Federal spending, that there be a limitation of 2 hours, such time to be equally divided between the mover of the amendment and the distinguished manager of the bill; and further providing for 30 minutes on any amendment, motion, or appeal thereto, with the exception of nondebatable motions, the time to be equally divided between the mover of such and the manager of the bill.

Mr. LONG. Mr. President, I regret that I must object at this time. When the amendment is called up, I may be able to agree. However, I do not want to do so in advance.

UNANIMOUS-CONSENT AGREEMENT ON TUNNEY AMENDMENT

Mr. BYRD of West Virginia. Very well. Mr. President, I ask unanimous consent that the time on the amendment to be offered by the Senator from California (Mr. TUNNEY) be limited to 30 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill; with the further understanding that that amendment be laid down at the close of business today and made the pending business for Monday.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I certainly hate to object, I think that we ought to let the Senate have some idea of what these amendments are about, especially if we are going to limit our time to less than an hour. I think that an hour on

any amendment might not be too bad without getting into too much detail. However, if we are going to limit the time to less than an hour, we ought to know what they are about before agreeing.

Mr. BYRD of West Virginia. Mr. President, I think the Senator is well within his rights.

Mr. President, I change the request to 1 hour to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

YEAS AND NAYS ORDERED

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the Tunney amendment at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the Tunney amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Will the Senator from Wisconsin yield further so that the Senator from West Virginia may explain the provisions for amendments to the Tunney amendment?

Mr. NELSON. I yield.

Mr. BYRD of West Virginia. With the understanding that the time not be charged to either side.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. With respect to the Tunney amendment, the time will be limited to 1 hour, to be equally divided between the mover of the amendment and the manager of the bill; provided further, that time on any amendment to that amendment, motion, or appeal, with the exception of nondebatable motions, be limited to 30 minutes, the time to be equally divided between the mover of such amendment, motion, or appeal, and the manager of the bill; and, provided further, that at the close of business today, the amendment be laid before the Senate and made the pending question. The yeas and nays have been ordered thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, this amendment would set a $1 million ceiling on the 7-percent investment credit. Up to $1 million of investment in plant and equipment would be eligible for the credit. In effect, every firm would be limited to a total investment credit of 7 percent of $1 million, or $70,000.

This amendment is similar to the recommendation of the National Federation of Independent Business presented in testimony before the Finance Committee.

Small- and medium-sized firms and farmers would receive the full credit. These groups are much less able to borrow at reasonable interest rates than the large corporations. They have been hit much harder by the recent credit squeeze.

Moreover, it should be our policy to encourage family farmers and small businessmen. They are the "backbone" of the Nation. Both have been going through particularly trying times recently.

This limited credit would cost the Treasury $1.7 billion in 1972, according to the Joint Committee on Internal Revenue Taxation. This contrasts with a cost of $3.6 billion in 1972 for the unlimited credit. In short, this amendment would save the Treasury $1.9 billion in 1972 and increasing amounts thereafter. Over the next 10 years, it would save well over $25 billion.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the maximum qualified investment and the revenue loss at the 1972 level of investment.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Revenue loss at 1972 level of investment

[In millions]

Maximum qualified investment:	Loss
$25,000	$850
$250,000	1,400
$1,000,000	1,700
$5,000,000	2,250
No ceiling	3,600

Source: Joint Committee on Internal Revenue Taxation.

Mr. NELSON. Mr. President, my amendment would not affect the great bulk of American firms. Thus, in 1968, about 400,000 firms took the investment credit. But as shown in the table below, only 2,700 firms would have been affected by a ceiling of $1 million.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing qualified investments and the number of corporation returns.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Qualified investment (maximum):	*Number of corporation returns*
$25,000	74,000
$250,000	9,200
$1,000,000	2,700
$5,000,000	1,200

Source: Joint Committee on Internal Revenue Taxation.

Mr. NELSON. Mr. President, although only the corporations at the top would be affected by this amendment, the saving of revenue is considerable. Indeed, one of the notable features of the investment credit is that its benefits are highly concentrated among a few firms at the top.

Table 3 shows this concentration for 1967. In that year, while 395,625 corporations received $2.075 billion from the investment credit, the top 21 firms received $419.4 million in benefits—only 20 percent of the total. The top 301 firms received $1,209 million—58 percent of the total. The top 808 firms received 70 percent of total.

Mr. President, I ask unanimous consent to have printed in the RECORD table number 3 which shows returns with investment credit by size of credit in 1967.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 3.—RETURNS WITH INVESTMENT CREDIT BY SIZE OF CREDIT, 1967

Size of credit	Number of returns	Total amount of credit (millions)
10 million plus	21	419.4
1 to $10,000,000	280	789.9
500,000 to $1,000,000	197	137.6
250,000 to $500,000	310	106.3
100,000 to $250,000	749	116.0
$50,000 to $100,000	1,030	71.6
$25,000 to $50,000	2,204	74.9
$20,000 to $25,000	1,145	25.0
$15,000 to $20,000	1,841	30.6
$10,000 to $15,000	4,167	48.9
$6,000 to $10,000	7,908	56.4
$2,500 to $6,000	22,406	82.4
$500 to $2,500	91,614	114.1
Under $500	261,754	
Total	395,625	2,075.0

NOTES

The top 21 firms received $419,400,000 from the credit; 20.2 per cent of the total.
The top 301 firms received $1,209,300,000 from the credit; 58 .3 percent of the total credit.
he top 808 firms received $1,455,200,000 from the credit; .1 percent of the total credit.

Mr. NELSON. Table 4 shows the benefits of the investment credit to a few large corporations over the 9-year period that the credit was in effect. General Motors received $297 million, United States Steel $207 million, and Union Carbide $89 million. In some cases, the credit resulted in a tax cut of up to 30 percent.

In short, this amendment restricts the credit available to about 2,700 firms. It does this at a saving of $25 billion over the next 10 years.

On the whole, the investment credit is a waste of money. With industry operating at 73 percent of capacity, most economists doubt it will have much impact on investment and jobs in the short run.

Many businessmen agree with the economists. As Chairman John Roche of General Motors said recently:

It should be understood that most companies of any size determine their purchases of equipment by the needs of the business and not by any short-term tax advantages.

Mr. Roche then went on to say that what mattered was consumer purchasing power:

It must be noted that the tax credit and accelerated depreciation applies only after equipment is purchased and put to use. This, like the other elements of the program, means very little unless we can achieve the improved economy the President has called for.

Mr. Roche's argument has been supported by numerous surveys.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the investment tax credit for selected corporations.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 4.—INVESTMENT TAX CREDIT FOR SELECTED CORPORATIONS

[Millions of dollars]

	General Electric		Union Carbide		PPG Industries		General Motors		U.S. Steel	
	Amount	Percent tax rate reduction	Amount	Percent tax rate reduction	Amount	Percent tax rate reduction	Amount	Percent tax rate reduction	Amount	Percent tax rate reduction
1962	$5.5	2	(1)	(1)	$1.2	2	$16.9	2	$8.2	6
1963	7.4	2	(1)	(1)	2.5	6	29.1	Nil	12.0	6
1964	6.0	4	$12.6	9	1.1	3	35.1	2	13.4	6
1965	9.0	2	13.5	7	1.7	5	39.7	2	13.7	6
1966	13.9	4	18.1	12	2.1	5	49.8	4	20.8	10
1967	14.3	4	19.3	18	2.5	8	31.5	2	33.4	31
1968	17.6	6	17.7	17	7.2	18	39.4	2	38.6	28
1969	10.3	4	7.4	9	3.0	5	35.8	4	35.3	35
1970	3.0	0	(1)		2.0	14	19.9	9	31.3	(1)
Total	87.0		88.6		21.3		297.2		206.7	

1 Not available.

Mr. NELSON. Mr. President, the New York Times of September 20, 1971, carried a column by Michael Jensen entitled "Tax Credit Seen as a Spur to Profits Not Jobs," The column began:

President Nixon's proposed tax credit of 10 percent on business investments in new machinery and equipment appears more likely to increase corporate profits than to create additional jobs for unemployed workers next year.

And although the tax credit has been almost universally welcomed by business leaders, it probably will not have a major effect on capital spending plans for 1972, particularly during the first half of the year according to a New York Times survey.

Most companies said they will replace machinery and equipment at about the same rate they had planned before last month's announcement of the proposed tax credit.

If the large business tax cuts proposed by the administration are not going to increase investment, their likely result will be to increase corporate cash. Indeed, the new depreciation rules—ADR—have already had this effect.

On October 22, 1971, the Wall Street Journal featured a story headed: "Corporations Manage To Rebuild Cash, Cut Their Short-term Debt: Surge in Depreciation Funds, Increasing Profits, Bring Huge Climb in 'Cash Flow'."

The text included a table and text which I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 3

[Dollars in billions]

	Profits	Depreciation	Cash flow
1969:			
3d quarter	$43.0	$51.9	$94.9
4th quarter	42.3	53.2	95.5
1970:			
1st quarter	41.5	54.4	95.9
2d quarter	41.3	55.7	97.0
3d quarter	42.9	56.7	99.6
4th quarter	39.2	58.0	97.2
1971:			
1st quarter	42.9	62.6	105.5
2d quarter	46.0	64.0	110.0
1971:			

As Phase 2 of President Nixon's new economic program approaches, much has been made of the lagging profit record—especially by management spokesmen fearful of any move to control profit increases in coming months. A statistic frequently cited is that after-tax profits now amount to less than 5% of gross national product, the lowest rate since before World War II.

When the big rise in depreciation is taken into account, however, the picture appears much less gloomy. In fact, cash flow has recently been climbing even as a percentage of GNP, and currently it about matches the rate that prevailed in the early 1960's, when business activity was expanding rapidly. A major factor in the especially rapid rise or cash flow this year was the Treasury Department's decision last June to liberalize depreciation regulations, retroactive to Jan. 1, 1971. Economists say one effect of this move, which is being challenged in the courts and may well be scaled down in Congress, has been to make corporations seem more starved for cash than they really are.

Mr. NELSON. This amendment would save $1.9 billion that will otherwise go to the largest corporations. This $1.9 billion represents 7 percent of about $27 billion of investment expenditures.

Is it not reasonable to assume that these very large corporations would undertake these capital expenditures even without the investment credit—or at least would undertake most of it—say $25 billion of it? Do we really want to spend $2 billion of Federal revenue to get $2 to $3 billion more capital spending by these large corporations?

This amendment would be a major improvement in H.R. 10947. It would greatly cut down the enormous corporate tax cuts. It would provide us with some additional revenue which could be used in the short run to stimulate consumer spending. In the longer run, this revenue could be used for the many priority items on the agenda of social reform. Finally, the amendment would return a measure of fairness to a tax package that now is blatantly biased in favor of the corporations.

Mr. President, I would point out this very significant fact and emphasize it. There will be about 400,000 firms and farmers in America that will take advantage of the investment credit. Of those 400,000 firms 397,300 will be totally covered by the $1 million limitation. Those 397,300 firms will receive a $1.7 billion investment tax credit. The other 2,700 firms—of the 400,000—will receive, under the present bill, $1.9 billion. So we have a situation in which 2,700 giant corporations get a tax benefit of $1.9 billion, whereas 397,300 firms get a benefit of $1.7 billion.

The key argument by the administration in support of all its proposals in this bill is that this is a job creation bill. I have not been able to get the Treasury or anybody else to tell me what new jobs will be created by the 2,700 firms that will be getting a tax benefit of $1.9 billion. Those firms will spend about $25 billion in capital investment and they will spend it whether or not there is a 7-percent investment credit. So, where is there job creation claimed by the administration?

It is estimated they might spend $2 billion more than they otherwise would spend. So we are asking the taxpayers of the country to give them $2 billion in tax benefits to get them to spend $2 billion more than they would otherwise spend in capital investments. So if, as estimated, with a 7-percent tax credit they will spend $27 billion in capital investments instead of the $25 billion they would spend anyway. So we are going to give the big corporations $2 billion in tax benefits to induce them to buy $2 billion more in capital goods.

I do not think it is a justifiable expenditure of taxpayer money. It is nothing but a tax give away to the largest corporations in America.

Mr. President, if we want to do something meaningful with this $1.9 billion, give it to the taxpayer in the low-tax brackets, who have to spend the money, because they do not have enough to adequately feed, clothe, and house their families. Let them receive a little of the benefits in this tax bill.

We would be better off to limit it to $1 million and keep the $1.9 billion and give it to the people in the lower-income bracket.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Mr. FANNIN. Mr. President, the purpose of this tax bill is to stimulate the economy and provide additional jobs for the American workingman. It is illogical, therefore, to limit the amount available for the job development credit. We should be doing all we can to offer incentives to all companies, regardless of size, to purchase new equipment and to make them more competitive with foreign firms if we want to keep our jobs from going abroad.

The amendment would reduce by approximately 74 percent the amount of Job Development Credit—JDC—allowed to corporations. The credit provided by the bill would cost about $3.6 billion in the first full year, 1972, and of this, about

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$2.9 billion would go to corporations. The Senator's proposed limit, however, would cut this down to $800 million.

The total cost of JDC would be reduced—in terms of 1972 liabilities—from $3.6 to $1.5 billion, a reduction of $2.1 billion.

The proponents of this limit advance an argument that the credit is not likely to provide an incentive for more investment by larger firms. Larger firms, they argue, make investments because they are forced to do so. There is no evidence whatever for this point of view. The argument is tantamount to an assertion that large firms make investment decisions without regard to tax or cost considerations. But large businesses, like small ones, seek profit, and consider new investments in terms of cost and expected returns. It is perfectly clear that large firms, just as small firms, will undertake investment projects if they are thought to be profitable and reject those thought to be unprofitable. JDC reduces the cost of investment for both large and small firms and will induce greater investment by both.

There is some evidence on this point. In 1962, corporations with assets under $1 million purchased property which was eligible for investment credit in an amount which came to 2.4 percent of their total assets. By 1965, their purchases of credit property rose to 3.1 percent of assets, an increase in the ratio of 30 percent. For firms with assets over $250 million the ratio of credit property to assets with 1.6 percent in 1962 and 2.5 percent in 1965, an increase in the ratio of 56 percent. Thus, large companies increased their relative investment in machinery and equipment under the 1962 credit more than smaller companies.

Still another problem with this amendment is that the credit that it does allow to large corporations will be wasted from an incentive standpoint. In 1972 and 1973 the proposal will allow $1.6 billion of credit per year. Of this, $175 million will go to the 2,500 firms large enough to be affected by the ceiling. For these 2,500 firms, the credit will be a fixed $70,000. Expenditures in excess of the level yielding $70,000 in credit cannot be affected by the credit and for such expenditures the credit can provide absolutely no incentive. In these circumstances the credit would be allowed only for investment that was going to occur anyway. The credit provides cash but not an incentive for job development. Per dollar given up, the credit under the amendment is bound to have less effect than the credit in the bill.

The net effect of the proposal is that we would remove the incentive with respect to corporations doing nearly 81 percent of the corporate investment to reduce the cost—in the corporate sector—by 74 percent. This is bad policy.

The intricate interrelations of large and small firms should also lead us to reject the amendment. Small businesses do subcontracting and similar work for large businesses. If the investment growth of large firms is reduced, this would directly cut the market opportunities for small firms.

Finally, the limitation is very discriminatory across industries. It is an economic fact of life that firms in certain industries require a large capital stock in order to operate efficiently. Examples of such industries are steel, chemicals, automobile, and public utilities. By limiting the amount of credit available to firms in these industries, consumers of products produced by these industries will be deprived the benefits of lower capital costs.

Technically, the provision creates problems, because of efforts in larger businesses to organize as separate corporations to avoid the limit. There can be a related corporation rule but this becomes difficult to police and would still leave loopholes.

Mr. President, we cannot lose sight of the fact U.S. corporations must operate as efficiently as possible if they are to compete in this highly competitive industrial world. At present, we do not have corporations that are competing with large foreign corporations. They are not competitive. So to take their power away from them, to reduce their ability to compete in the world's market is a great mistake.

Today it takes well over $25,000 in capital investment to create one new industrial job. The total labor force is expected to grow by some 15 million during the 1970's and it will require at least $30 billion annually in new expenditures just to employ this net addition to the work force. A more favorable public policy climate to enable the corporate sector to provide such investment flows is certainly needed now and throughout the 1970's.

Clearly, the previous 7 percent credit was successful in encouraging capital investment, employment, and increased productivity over its lifetime in the 1960's. While other factors were involved, it was not just coincidental that from 1962 to 1968 investment in producers durables increased 10½ percent per year, output per manhour in manufacturing industries rose at better than 3 percent per year, and employment in manufacturing went up by 2.8 million. Currently employment in manufacturing is over 1 million below its 1968 average. Part of this loss can be attributed directly to the loss of the investment credit and the slackening of capital spending.

Prompt action must be taken to reestablish incentives for capital investment. If new jobs are to be created, if productivity is to be increased, and if our high standard of living is to be extended to all citizens without inflationary results, American business must be encouraged constantly to improve and modernize its plant and equipment. New jobs result only from greater productive activity.

This is a very important factor in what we are trying to do in the proposed legislation. This body should be considering methods to increase incentives to purchase new equipment; not to build in severe disincentives, as this amendment would do.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Arizona has 24 minutes remaining; the Senator from Wisconsin has 24 minutes remaining.

Mr. FANNIN. I reserve the remainder of my time.

Mr. FULBRIGHT. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. I yield.

Mr. FULBRIGHT. May I clear up what percent of the overall tax credit went to 808 firms?

Mr. NELSON. In 1967, some 395,000 firms, businesses, and farmers took advantage of the 7-percent investment credit. Of those 395,000 firms, 808 received 70 percent of the total credit that was given.

Mr. FULBRIGHT. They would be companies of the size of General Motors and United States Steel?

Mr. NELSON. The top companies of our country.

Mr. FULBRIGHT. I was under the impression that companies like IBM, A.T. & T., and others of that size did not rely on tax credits of this kind to determine whether they would install new machinery; their business is so big that they buy the latest equipment whenever it is needed.

Mr. NELSON. I think that is perfectly clear. As a matter of fact, I tried to get the Treasury representatives, in an executive session of the Committee on Finance, to explain to me how much more capital investment big corporations would make with the 7-percent investment credit than without it.

I suggested to them that if the top 2,000 companies, or thereabouts, were to make a capital investment of $25 billion next year, how much more would they make if they got a 7-percent investment credit. I suggested to the Treasury that they should make an agreement that if the investment credit does not increase the investments of those companies substantially, we ought to repeal that provision next year. But the Treasury was not prepared to agree to that because they know it will not cause any significant increase in capital investment.

General Motors will make their planned capital investment whether or not Congress passes a 7-percent investment tax credit. So will A.T. & T. and IBM. So will all the rest of the big companies. This is just part of the administration's tax-sharing program for the rich.

We are going to take the little people's revenue and share it with the largest corporations in America; that is the only kind of revenue-sharing program we can get passed in this Congress.

Let me read to the distinguished Senator from Arkansas what Chairman of the Board John Roche of General Motors had to say recently:

> It should be understood that most companies of any size determine their purchases of equipment by the needs of the business, not by any short-term tax advantages.

Mr. Roche then went on to say that what mattered was consumer purchasing power. He said:

> It must be noted that the tax credit and the accelerated depreciation applies only after equipment is purchased and put to use. This, like the other elements of the program, mean very little unless we can achieve the improved economy the President has called for.

So we have Mr. Roche saying exactly the same thing as Walter Heller, former Chairman of the President's Council of Economic Advisers: That you have got to put purchasing power in the hands of the consumers in order to stimulate the economy. That is what has been said by a number of Senators during the last 2 days here on the floor of the Senate. As Mr. Roche says, what matters is consumer purchasing power.

The investment tax credit does not add to the consumer purchasing power at all. It is not a job creation program. As I have said, it is a fat man's revenue-sharing program, created by the administration to boost the profits of the richest corporations in this country.

Mr. FULBRIGHT. If I understand it correctly, 2,700 of the companies would share the $1,900 million. Is that correct?

Mr. NELSON. Yes. Everybody would be permitted to apply a 7-percent tax credit against a million-dollar capital investment.

Mr. FULBRIGHT. But if the Senator's amendment were to go into effect, it would save $1,900 million?

Mr. NELSON. Yes.

Mr. FULBRIGHT. And it eliminates 2,700 firms?

Mr. NELSON. No, it does not eliminate 2,700 firms. Those 2,700 firms are allowed to take a tax credit against $1 million in capital investments, but not above.

Mr. FULBRIGHT. And the amount disallowed, over and above the $1 million, would save the taxpayers $1.9 billion?

Mr. NELSON. That is correct.

Mr. FULBRIGHT. Which means, then, that if the Senator's amendment is adopted, it would save $1.9 billion which would otherwise be paid to 2,700 firms?

Mr. NELSON. Correct.

Mr. FULBRIGHT. That is all?

Mr. NELSON. That is correct.

Mr. FULBRIGHT. So it would have the effect of not giving $1.9 billion to 2,700 firms.

Mr. NELSON. That is correct.

Mr. FULBRIGHT. As they are the biggest ones and the least likely to be influenced by any such minor considerations to a firm of that size?

Mr. NELSON. That is correct.

Mr. FULBRIGHT. General Motors, as I understand, had the biggest month in their history in September of this year, in sales; is that correct?

Mr. NELSON. Yes.

Mr. FULBRIGHT. I do not know what the point of this is, to give them another several million.

Mr. NELSON. I think the Senator knows very well what the point is: to fatten up the treasuries of the richest corporations in America, while forgetting about the little people of this country, it is as simple as that. Under the guise of creating jobs they are going to give away $2 billion a year to those who need it least.

Mr. FULBRIGHT. The only thing that would really induce a greater degree of investment and jobs would be more customers, would it not?

Mr. NELSON. Yes; and Mr. Roche went on to say that what mattered was consumer purchasing power.

Mr. FULBRIGHT. Yes.

Mr. NELSON. So if we gave that $1.9 billion to the consumers, that would do more than giving it to the 2,700 corporations.

Mr. FULBRIGHT. It would seem that way to me. I do not understand the answer to that. What is the other argument? What is the answer to the Senator's argument?

Mr. NELSON. Well, you hear these answers, you know, they sort of spin around in space, and are kind of fuzzy, and do not really mean anything. When one is able to stand on the floor of the Senate and answer the proponents of this legislation with quotations from the chairman of the board of the biggest corporation in the world, you would think that ought to be answer enough; would the Senator not agree?

Mr. FULBRIGHT. I would have thought so.

Mr. NELSON. I usually am not given to quoting Mr. Roche in support of any position I take, but here he is, on the side of the liberals here, who want to create purchasing power.

I would ask the distinguished Senator from Arizona to tell me how many billions of dollars more of capital investment is going to be made by those 2,700 corporations because of the 7-percent investment credit than they would otherwise make. Treasury spokesmen thought maybe $2 billion, or an increase from $25 to $27 billion. They are going to spend almost all of that anyway, or 95 percent. So if we are going to spend $2 billion more for an estimated increase in their capital investment by these 2,700 corporations from $25 to $27 billion, we are asking the taxpayers to give them $2 billion in tax credits in order to make $2 billion more in capital investments. That is a whale of a lot of the taxpayers' money to give away, dollar for dollar, and it is not creating jobs anyway, because 95 percent of all those capital investments are going to be made by those corporations without it.

No one has been able to explain it to me; I have been asking this question of financial experts from all over for the last month, and have not been able to find an answer that my 10-year-old boy would find believable.

Mr. FANNIN. Mr. President, I yield 5 minutes to the Senator from Ohio.

Mr. TAFT. Mr. President, there is a very, very basic fallacy in the approach of the Senator from Wisconsin with regard to the investment credit—or the job investment credit, as the President very correctly calls it.

The purpose of the job investment credit is to stimulate productivity in this country. That is its primary purpose.

I do not care what the chairman of the board of General Motors may say about what his investment policies may be with regard to the investment tax credit, the fact of the matter is that on the record, we have got economic results. I do not care what Mr. Heller may conjecture, we have got economic results as to what has happened when the investment credit has been in effect in this country and when it has not. The rate of increase in productivity has been approximately doubled during those periods on the last occasions when we have had the investment credit, as compared to those eras in which we have not had it.

Let us go on from that. The Senator from Wisconsin asked what jobs are involved. I will tell you what jobs are involved. At least a thousand jobs are involved in the machine tool industry, in the major machine tool areas of this country. I happen to come from one of those areas, so I am very much aware of what the result would be.

The Senator speaks of corporate giants. They have to have a tremendous accumulation of capital, and therefore may be earning an extremely small return. Steel companies, for example, earn only 1 or 2 percent on their capital investment, and they may well have use for a tax credit well above the million-dollar figure in the steel industry.

What has happened in the steel industry? Why are we in trouble in the steel industry today? Why is steel production down?

I will tell you. It is because in many instances increased imports are coming in and comparing very favorably in price with anything we can produce in this country, in spite of the tremendous additional transportation costs.

Let us take the average figure, having nothing to do with wage differentials between Japan and the United States, which are about $3 an hour. Let us take the average figure of the number of man-hours it takes to produce a ton of steel in this country as compared with Japan. I wonder if the Senator from Wisconsin knows what that is.

The average number of man-hours in this country is 7.3. The average number of man-hours it takes in Japan is 5.7, regardless of the wage differential.

Mr. NELSON. Mr. President, will the Senator yield for a brief question?

Mr. TAFT. I am glad to yield for a brief question.

Mr. NELSON. What is the Senator's explanation as to the reason why it takes fewer man-hours to produce a ton of steel in Japan than here?

Mr. TAFT. I will give the Senator a very brief explanation. The Japanese have new oxygen furnaces. We do not have nearly so many oxygen furnaces. Furthermore, this relates to another subject the Senator from Wisconsin is very much interested in, environmental pollution. An oxygen furnace has very much less environmental pollution involved in its operation than the old blast furnace.

We are trying to give these companies an incentive to go out and make the additional investment that is necessary in order to reestablish America's position in steel productivity. There are thousands and thousands of jobs involved in the equipment required for those new type oxygen furnaces. There are many very small companies in this country who will take on workers and put on jobs if we enact this investment credit. It will make it more possible for companies to go ahead and do something about it.

This investment credit for these large companies, just as much as for the small companies, is going to result in the placing of orders for equipment. The placing of orders for equipment will be for companies of all sizes in this country. Every company is going to be involved in producing some of the parts necessary for the particular capital investment involved. That is the whole theory behind the investment credit, and the Senator has overlooked it.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

Mr. NELSON. The claim of the administration of proponents of the bill, is that this is a job-created bill. Will the Senator answer this question for me, which the Treasury Department could not answer? The question is, How much more capital investment will these top 2,500 corporations make with the 7-percent investment credit than they would make without it?

The best guess is that they are going to make an investment of $25 billion, and they might be induced to go to $27 billion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FANNIN. How much additional time does the Senator wish?

Mr. TAFT. Three minutes.

Mr. FANNIN. I yield 3 additional minutes to the Senator.

Mr. NELSON. I took some time, if the Senator needs more.

My question is this: What does this 7-percent investment credit do to induce an expansion of jobs in the economy when almost everybody agrees that almost all this money is going to be invested in capital by big companies, anyway?

Mr. TAFT. I do not believe the Senator is correct in that. I think it is an unsound assumption, on the basis of a remark by the chairman of General Motors Corp. The board of directors, in looking at whether or not they are going to make a capital investment, have to look at how quickly they are going to recover their capital. That is one of the problems in the productivity picture.

I cite some figures that I put in the record as early as May 5 of last year with regard to the rate of cost recovery allowance in the United States as compared to our major industrial competitor.

The rate, for example, in the United States in the first year is about 7.7 percent of recovery. Of course, the tax credit would greatly speed up that recovery for those companies taking advantage of it. In the first seven taxable years we recover only 66 percent.

Compare those figures with Japan, where there is 11 percent recovery in the first year and 100 percent the first 7 years.

In Sweden, there is 30 percent recovery in the first year and 100 percent in 7 years.

In the United Kingdom, there is 12 percent in the first year and 102 percent in 7 years.

These are the major countries with which we are competing.

In West Germany, it is 9 percent and 83 percent.

The United States, through its tax policies, is putting itself at a major disadvantage with its principal industrial competitor. It is about time we did something about it. One of the most effective things we can do about it is to make the investment credit applicable to all companies.

One thing the Senator has not discussed it not allowing the investment credit for amounts over a million dollars for very large corporations whose percentage of profit, in the case of steel, may be far lower for its hundreds of thousands of stockholders than the percentage of profit of some company that may take the million dollars, or most of it, and have a smaller rate, with a smaller number of stockholders, and the overall effect is highly discriminatory.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. TAFT. I yield.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FANNIN. I yield the Senator 2 additional minutes.

Mr. FULBRIGHT. I do not disagree with what the Senator said about the general effect of the tax credit. All we are talking about here are the very large corporations. It has been my impression for some time that a number of our largest corporations are the least efficient in the business today. We have already had an example of the Pennsylvania Railroad, the biggest railroad in the country, going broke. We have the example of Lockheed, which is the biggest contractor with the Government and ought to be very profitable. Many of its contracts are cost-plus. I do not know how they are able to reach the point of bankruptcy, which was the case before we gave them a loan.

I thought that traditionally—and the Senator knows much more about this than I do—the most efficient of the steel companies, which is the sickest of all these businesses, has been the medium-sized companies.

United States Steel, for many years, has not been considered as efficient as National Steel or Inland Steel—some of the medium-sized steel companies. It is an example.

Mr. TAFT. United States Steel shut down its plant in Youngstown this year because it does not have modern equipment. This resulted in a loss of 2,500 jobs in that area.

Mr. FULBRIGHT. It is shown by its bureaucracy as well as other things.

Mr. TAFT. The reason United States Steel has not gone ahead and made the investment there is that it has not been economical for it to do so. If we provide an investment credit, they will very likely reconsider.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FULBRIGHT. Mr. President, will the Senator from Wisconsin yield me time?

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 11 minutes, and the Senator from Arizona has 13 minutes.

Mr. NELSON. I yield 3 minutes to the Senator from Arkansas.

Mr. FULBRIGHT. I submit to the Senator from Ohio—he comes from one of the principal steel producing States—that United States Steel had a dismal record during the earlier investment credit period, long before this. They did not equip themselves with better machinery. They have not been competitive with other companies in this country, much less with the Japanese.

The thrust of this amendment is not to take the credit away from the largest 2,700 companies but to limit it to $1 million investment per company. Out of approximately 83,000 companies, all of them would continue to get what they normally would under the previous experience, except the very largest ones.

United States Steel is probably the least efficient in the business. If the Senator wants to rescue them, why can it not be done as it was in the case of Lockheed, by giving them a direct loan, instead of subsidizing companies like General Motors and IBM, who do not need it, except to put it into the pockets of their shareholders.

Most of them are very profitable companies, with exceptions such as United States Steel, which is one of the least efficient of any major industrial corporation, excluding, of course, such companies as Lockheed and other special pets of the Government. They have been pampered to the point where there is no incentive for them to be efficient.

In the aid program, which many supported steel is bought from United States Steel and shipped abroad at cost-plus, I suppose. Private people in this country, however, have been buying Japanese steel.

I do not see why we use this device. The Senator from Wisconsin is saying that it should be given to everybody, where it is likely that they will need it—those who are investing a million dollars or less. The unlimited 7-percent proposal takes care of 2,700 out of 83,000 firms. Spread around that way, it is quite logical that many more jobs will be inspired by that. If you want to take part of the $1.9 billion and give a direct loan to United States Steel simply because you set the precedent for Lockheed, I think that ought to be considered. They are probably as worthy as Lockheed or Pennsylvania Railroad.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. FANNIN. I yield myself 3 minutes.

Mr. President, I should like to respond to what the distinguished Senator from Wisconsin has stated about these large corporations not wanting this tax credit or not needing it.

Mr. NELSON. They want it, all right.

Mr. FANNIN. The chairman of the board of the General Electric Co.—it is a fairly large company, one of the largest in the world—said this on October 12 of this year:

> In the United States, productivity—in terms of output per man hour—increased 14% between 1964 and 1970. Among our major trading countries the increase ranged from 22% in the United Kingdom to 99% in Japan.

I would call that to the attention of the Senator from Arkansas, that we know United States Steel is one of those industries which is not competitive now because it has not had the incentive nor the encouragement to go forward.

I want to finish this statement:

> It is certainly true that output per man-hour in other countries has grown much more rapidly than in the U.S. in recent years. It should! All other industrial countries have much greater incentives to modernize their manufacturing facilities to increase productivity—via their tax structures, such as our pre-1969 investment tax credit of 7%, much more rapid depreciation for tax purposes, and so forth.

Mr. BENNETT. Mr. President, will the Senator from Arizona yield?

Mr. FANNIN. I yield.

Mr. BENNETT. Mr. President, we have got ourselves in a trap talking about United States Steel and General Motors. Let me bring our minds into another aspect on which every Member of the Senate will agree that help is needed. I am talking about the railroads, most of whom would spend more than $1 billion in the purchase of new rolling equipment and the modernization of their track and other equipment if they had it.

The Department of Transportation estimates that for the next 9 years we will need an investment in rolling stock of $15.3 billion. This investment translates into an actual investment of $1.7 billion and acquisition each year of 83,000 new freight cars. Here I am quoting from the testimony given the committee by a representative of the Association of American Railroads.

He said:

> The actual cash outlay necessary to underwrite this program—only over the 9 years—is some $8.1 billion, that is explained and shown in Exhibit D of my written testimony.
>
> We cannot hope to achieve this goal without the credit. Freight orders in 1970 were only 58,201—a non-credit year—far short of the 83,000 acquisition called for by DOT.
>
> However, during 1966—a 7-percent credit year—our orders reached a peak of 112,898 cars.

Nearly double.

Yet we are making a blanket sweep across the economy and saying, "All we are doing is helping General Motors." I am sure that most western Senators are concerned every year because there are not enough freight cars to haul the farm produce.

Mr. PASTORE. Mr. President, will the Senator from Arizona yield?

Mr. FANNIN. I yield.

Mr. PASTORE. The strong assertion has been made here, which is the predicate of this amendment, to the effect that the big firms we have been talking about, whether or not they get the 7-percent investment credit, will spend a lot of money for expansion anyway. Does the committee agree with that?

Mr. BENNETT. No. The committee rejected that idea when it was offered in committee.

Mr. PASTORE. The argument has been made here, a specific case, that Mr. Roche, president of General Motors, says they have plans to spend many billions of dollars and that they will spend it anyway, whether they have the 7-percent or not. Did all the others testify the same way and, if not, who are they?

Mr. BENNETT. Mr. Roche did not testify, so far as I know. This is a statement outside the committee. I do not know what its context is or what the situation was in which the statement was made.

Mr. PASTORE. In other words, Mr. Roche never came before the committee to say so, did he?

Mr. BENNETT. No.

Mr. PASTORE. Well, now, is there any proof at all that the big firms will spend that money anyway, whether we give it to them or not? It would be foolish to give it to them if they are going to spend the money anyway. On the other hand, it would be foolish not to give it to them if they were going to spend the money if they got it.

Mr. BENNETT. We go back to the basic problem of increasing the productivity of our existing capacity. In the Senator's State of Rhode Island, with the question of textile mills, he knows that the millowners will spend more money and go further with modernization programs if they have the credit.

Mr. PASTORE. That is true, but I cannot imagine anyone in our State really spending more than $1 million in 1 year; but I can imagine this, that a lot of small firms in the State, if the big companies are going to spend more than $1 million in 1 year, they might give their contracts to the small companies in our State. I can see the benefits that way, if that is the case.

Mr. BENNETT. It is the blocking off of a lot of business to the small companies to whom the Senator is willing to give the 7-percent investment credit, if the big companies were not in a position to buy the machinery that the small companies make. General Motors does not make the machinery with which it makes its cars.

Mr. PASTORE. That is true. Another thing, we have mentioned General Electric. We have some small General Electric plants in my State, but I do not think they buy more than $1 million a year for the plants in my State but, over all, I suppose, they would get the benefit of it if they were granted a 7-percent investment tax credit.

Mr. BENNETT. That is right. May I read one more paragraph from the statement of Mr. Barnett, on behalf of the Association of American Railroads:

> Moreover, the credit will also have an immediate and forceful impact on unemployment. Our car and locomotive builders and suppliers during the effective years of the 7-percent credit employed in excess of 500,000. We all remember what happened to them when that credit was suspended—the plants that were closed—and the drastic reductions in their work forces.

That is another aspect of the proposition. I do not think that we should take a doctrinaire approach and pick a figure and say in effect that no one is entitled to more than $70,000 of investment credit, which is equivalent to the purchase of $1 million in equipment and machinery and, therefore, regardless of its need, regardless of the value it will have for the economy, and chop it off, on the theory that we are going to help only the little man. As I have tried to say, General Motors does not make the machinery which it buys to make its cars with the money which generates the 7-percent investment credit.

It does not do a machine manufacturer any good to know that he could have a 7-percent investment credit if his customers, the big companies, cannot have it to buy what he produces. This goes all through the economy. In fact, I think it would be safe to say that the 7-percent investment credit in the larger factories would probably have more benefit for smaller business than if we left them with the 7-percent investment credit and took it away from their customers.

It is very interesting.

I hold in my hand a copy of the report of the committee, that in 1967, early 1968, the machine tool business had risen to a volume of $500 million—nearly $600 million—and when the credit was taken off, it dropped below $300 million and by the end of the year, 1970, it was down to a little above $100 million. That is the effect of the 7-percent investment credit.

Mr. FULBRIGHT. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I yield.

Mr. FULBRIGHT. But that assumption would wipe it all out. The Senator is not proposing to wipe it all out.

Mr. BENNETT. We are wiping it out, all but $800 million. We are wiping out $2.1 billion, leaving only $800 million.

Mr. FULBRIGHT. Not according to——

Mr. NELSON. The figures are not 74 but 400,000 corporations and businesses will take advantage if it, of which 27,000 of those corporations will use $1,900 million—$3,600 million——

Mr. FULBRIGHT. That is right. Would the Senator allow one observation relative to the railroad question?

The Southern Railway Co., during the last several years, without this credit, but because of good management, has modernized and innovated its company. It is one of the most profitable railroads in the country. What we intend to do here is what we did in the case of Lockheed and Pennsylvania Railroad—to subsidize bad management. The Southern Railroad Co., has proved that it can be done and can be efficient.

Mr. BENNETT. Mr. President, the Southern Railway probably modernized on a 7-percent investment tax credit.

Mr. FULBRIGHT. Then, why would the Senator completely discount the effect of good management? It surprises me, since the Senator from Utah was president of the National Association of Manufacturers, that he is downgrading good management.

Mr. BENNETT. Oh, here it comes. The witness testifying before the committee was with the Western Pacific. That is as good a railroad as we have in the United States.

Mr. FULBRIGHT. It does not need it. It is one of the better ones. We have a lot of them that are very poorly managed. I do not know why we should subsidize the less-efficient companies.

The Senator referred to the enormous increase in productivity of the Japanese. I submit that it is not because they have a tax investment credit. They have the best labor relations. They have fewer strikes and less time lost through strikes or slowdowns than any modern country in the world. They hardly ever have a strike, and if they do, it is on Sunday or on some other day when it will not interfere with productivity.

The same way with Sweden. That country has good labor relations.

Mr. BENNETT. The Senator is not

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arguing about the comparative labor relations as between Sweden, Japan, and the United States. We are talking about one means by which productivity can be increased.

Mr. NELSON. Mr. President, whose time is being used?

Mr. BENNETT. My time. I will reserve the remainder of my time.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator has 1 minute remaining. Who yields time?

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 8 minutes remaining.

Mr. NELSON. Mr. President, the proponents of the bill have been talking about putting our corporations in a better tax situation. I would point out that the effective corporate tax rates in the major industrialized countries show that the United States is just about exactly in the middle.

The effective corporate tax rates in the United States, including depreciation and all other factors, is 42.10 percent. West Germany is 43.30 percent. Canada is above us.

So, France, Germany, Canada, and Italy are taxed at a higher rate than the United States. Germany as everyone knows is one of our toughest competitors.

Mr. TAFT. Mr. President, will the Senator yield at that point for a question?

Mr. NELSON. I yield for a question.

Mr. TAFT. Mr. President, is not the Senator omitting the matter of the write-off of equipment? I gave the Senator earlier the figures for many of these countries which show that they have a greater writeoff than does the United States. The tax credits would have a direct effect upon this situation.

Mr. NELSON. No. This figure is the effective corporate tax rate in the major industrialized countries. It includes accelerated depreciation, percentage depletion, and taxes.

Mr. President, I will have printed in the RECORD in a few days some testimony by Prof. Walter Adams, of Michigan State University, on the steel industry. He testified yesterday on matters before the subcommittee concerning the efficiency of the steel industry of the United States. I suppose he is the most distinguished student of our steel industry in this country.

He stated that the trouble with the steel industry in this country is spelled "incompetent management." He said that given good, tough, continued competition from Japan, maybe they will modernize and compete. He said that the worst thing we can do is to put such a barrier against Japanese steel in favor of the incompetent steel industry.

That is the problem, the incompetence of the management of the steel industry in America. It is not the 7-percent investment tax credit.

As to modernization, we had investment tax credit benefits in this country for 9 years, from 1962 to 1970. During that 9-year period, United States Steel alone got $206,700,000 in tax investment credits.

So, they had 9 years in which to modernize. But they did not modernize. They are even behind Europe. So, the investment tax credit is not going to help do anything about the management of that company.

I repeat that what we are talking about here is a tremendous giveaway of the taxpayers' money to a group of companies that do not need it. Surely, it will benefit them. It will increase their benefits. There is no question about that. It will help their stockowners. There is no question about that. However, everyone knows that starting with the chairman of the Board of General Motors, all of the economists in this country agree that what we need is to increase the purchasing power of the people to stimulate the economy.

The $2 billion we are giving away to these 2,700 corporations would be better spent for the purposes of stimulating the economy by giving it back to the taxpayers in the lower income bracket than by giving it away in a 7-percent investment tax credit, giving away almost $2 billion to the top 2,500 corporations in this country. They will get about $2 billion, while some 397,300 corporations end up getting less money—$1,700 million.

Mr. HARRIS. Mr. President, will the Senator yield?

Mr. NELSON. Mr. President, I yield to the Senator from Oklahoma.

Mr. HARRIS. Mr. President, I commend the distinguished Senator from Wisconsin for the excellent work he has done on this bill and particularly in regard to the accelerated depreciation range.

Mr. President, the investment tax credit should be eliminated from this bill. I wish also we could have ended the accelerated depreciated range. There is no indication that either will fulfill the function for which it is intended, and there is every reason to believe that it will instead provide a huge windfall for the big corporations. The investment tax credit will cost more than $3.6 billion in fiscal year 1972, and, if continued, will cost over $45 billion by 1980. And to what end? We are getting the same story we got when it was first offered in 1962: That it will improve our trade position, increase productivity, and promote jobs and economic growth.

What the investment tax credit did in the 1960's was to stimulate an excess capital goods boom which generated inflationary pressures—adding to the economy's productive capacity at a much faster pace than the demand for goods and services. It was not until 1964, when a massive tax cut was instituted and there were substantial increases in public investment due to Great Society programs, that there was an appreciable increase in employment.

Proponents of the investment tax credit argue that stimulating new equipment expenditures ultimately increases labor productivity. However, in his testimony before a House committee in 1969, Paul McCracken, Chairman of the Council of Economic Advisers, states:

> We have tried to make some rough estimate of what the effect would be on the long run growth capacity of the economy if we were to terminate the investment tax credit. I do not recall the figure precisely, but it was surprisingly small.

This implies rather conclusively that the past investment tax credit had very little impact on the growth potential of the economy. On the international front, then Secretary of the Treasury Kennedy added that even with the tax credit our trade position with Japan continued to erode.

We can see, then, that what the administration is leading us to believe about the results of this bill are all so much rhetoric. What this bill really does is give away billions of dollars to the big corporations.

The investment tax credit has been misnamed the "Job Development Tax Credit." No one seems to be able to tell how many and what kind of jobs will be created by this bill. It is admitted by many notable economists, even some in the administration, that the effect of the tax credit on the level of investment will be marginal at best. If that is so, its contribution to decreasing unemployment will be marginal at best. There is much evidence to make us believe that the tax credit may actually have a negative effect on employment. Surely, with plant capacity being utilized at only 73 or 74 percent, there can be little incentive to invest in expansion. What industry lacks today is not machinery but customers, and the investment credit could—by parallel decreases in Federal spending—actually lead to the decrease in available jobs—much less create new jobs. The cutback in Federal employment and the postponing of needed social programs hits the low- and middle-income American while making fat the wallets of the big corporations. I see very little in such a program that would warrant a title "Job Development Investment Credit."

Mr. President, as you well know I am suspicious of concentrations of economic and political power. I think the people of the United States have also had a history of rightful suspicion of concentrated power.

The investment tax credit will bestow most of its benefits on capital-intensive firms, and these firms frequently are found in oligopolistic and monopolistic industries. Small, new, and less capital-intensive firms are discriminated against by the structure of the tax credit, while large firms reap high tax benefits. This discriminatory treatment caused by the investment tax credit cannot help but further the concentration of economic power in our society. Those firms with most to gain include manufacturers of machine and equipment, equipment leasing companies, heavy users of equipment and financial corporations. Those with the least to gain will be the little man, the noncapital-intensive firms, the wholesale and retail dealers, and new independent companies. This giveaway to the large corporations can lead to profit increases of over 10 percent at minimum. Yet, corporate profits are now at a healthy level, and cashflows have increased substantially during the present recession.

The prime determinant of business investment is demand. Investment in plant and in equipment will fall off when the economy is generally sluggish and excess capacity makes additional plant and equipment unnecessary. In such a situation, the investment tax credit is likely to have little effect, particularly in the short run. With unemployment too high and output too low, policy should be directed to stimulating the economy in such a way as to put people quickly back to work, train those lacking necessary skills for realistic employment and invest where new capital is most needed. It is common knowledge that by increasing public expenditures we can both overcome deficiencies in public facilities and services and accelerate economic expansion, yet the administration seems to assume that all public spending is wasteful and evil. Instead they feel that by giving money to the big healthy corporation, that it will eventually trickle down to the people. That is neither logical nor practical. The President's program runs a real risk of creating a difficult social and economic situation if it fails to stimulate the economy sufficiently, which is very possible, while concentrating most of the tax relief on big business.

I wish we could eliminate the investment credit altogether, but that does not seem possible. Therefore, I intend to support the amendment of the distinguished Senator from Wisconsin (Mr. NELSON).

I hope very much that the Senate will agree to the amendment.

Mr. NELSON. Mr. President, I thank the Senator from Oklahoma.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 1 minute remaining.

Mr. NELSON. Mr. President, I yield back the remainder of my time.

Mr. BENNETT. Mr. President, I understand that I have one minute remaining.

The PRESIDING OFFICER. The Senator from Wisconsin is correct.

Mr. BENNETT. Mr. President, the chart to which I referred earlier shows very graphically that when they put on the 7-percent investment tax credit, as was done in 1963, the figure went up dramatically. When we took it off, as was done at the end of 1964, it went down. When it was put back on in 1967, it went up even higher than it had done in 1963. But when it was taken off the last time, in 2 years—15 months—it carried the investment in machine tools down to a level lower than at any point in the last 10 years. So we are dealing with a very powerful tool.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. RIBICOFF. The United States today is fourth in machine tool production.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from Wisconsin.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from California, (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. EVINS) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 13, nays 53, as follows:

[No. 326 Leg.]

YEAS—13

Aiken	Fulbright	Mansfield
Bayh	Gravel	Mondale
Burdick	Harris	Nelson
Byrd, W. Va.	Hughes	
Church	Kennedy	

NAYS—53

Allen	Eastland	Moss
Allott	Ellender	Pastore
Anderson	Fannin	Pearson
Baker	Fong	Pell
Beall	Griffin	Proxmire
Bennett	Gurney	Randolph
Bentsen	Hartke	Ribicoff
Bible	Hruska	Roth
Boggs	Humphrey	Schweiker
Brooke	Jackson	Smith
Buckley	Jordan, N.C.	Sparkman
Byrd, Va.	Long	Spong
Cannon	Magnuson	Stafford
Case	Mathias	Stennis
Cooper	McClellan	Stevens
Stevenson	Thurmond	Williams
Taft	Tunney	Young
Talmadge	Weicker	

NOT VOTING—34

Bellmon	Goldwater	Miller
Brock	Hansen	Montoya
Chiles	Hart	Mundt
Cook	Hatfield	Muskie
Cotton	Hollings	Packwood
Cranston	Inouye	Percy
Curtis	Javits	Saxbe
Dole	Jordan, Idaho	Scott
Dominick	McGee	Symington
Eagleton	McGovern	Tower
Ervin	McIntyre	
Gambrell	Metcalf	

So Mr. NELSON's amendment was rejected.

The PRESIDING OFFICER (Mr. STAFFORD). Under the previous order, the Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I call up my amendment, which is at the desk. I ask that the reading of the amendment be dispensed with, but that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, line 18, it is proposed to insert the following:

"(D) EXCLUSION FOR DOMESTICALLY PRODUCED BOXES AND CONTAINERS, ETC.—The tax imposed by subparagraph (A) shall not apply to a sale by the manufacturer or producer of any box, container, receptacle, bin, or other similar article which is not designed for the transportation of freight and which is not designed to be permanently mounted on or permanently affixed to an automobile truck chassis or body or a truck trailer or semitrailer chassis or body, or parts or accessories designed primarily for use on, in connection with, or as a component part of any such aforesaid article.".

And, On page 109, line 16, insert before the word "during" the following: "or excluded pursuant to subparagraph (D)".

The PRESIDING OFFICER. On this amendment there is a limitation of 20 minutes of debate, to be divided evenly between the Senator from Tennessee and the Senator from Louisiana (Mr. LONG).

Mr. BAKER. Mr. President, I yield myself such time as I may utilize.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I shall not take long. The purpose of the amendment is to add to the list of exclusions from the impact of the excise tax on trucks and automobiles, the containers which are manufactured to be used in conjunction with trucks for the disposal of solid waste.

The system involves metal or other types of containers that are manufactured for placement at locations to receive solid waste from industrial, municipal, and other waste disposal sources. Periodically, trucks specially equipped with crane hoists collect and move the containers from the concentration points to points of ultimate disposition of the waste.

The language of the bill as reported would include an excise tax on that portion of the system which is not a part of the truck. The amendment would make it clear that it is the intention of Congress to exclude from the impact of the excise tax only that portion of the system which is not a part of the truck.

It is pointless to state, of course, that

we have excluded from the excise tax buses used for urban transit, light trucks, light truck chassis, and light bodies placed on tractors that are used primarily on the highways. Also, in the tax reform bill of 1969 we excluded the concrete-making machinery which is used on a truck, but is not a part of the truck. We also, by interpretation of previous law, excluded other devices of this sort.

It seems to me that the issue before us is whether a portion of a system is clearly not a part of a truck or a vehicle ought to be taxed or to have an excise tax as a part of the truck system. I think it should not; and the purpose of the amendment is to make that clear.

Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, I yield myself 2 minutes.

Mr. President, my understanding is that the article to which the Senator has reference is something which in many cases is purchased by governmental units, because it is used in the course of collecting garbage, trash. Is that correct?

Mr. BAKER. I am not sure what the proportion is. Many of them are sold to cities, for municipal waste collection systems, but many are also sold to industry.

Mr. LONG. They are used mostly for waste disposal; is that right?

Mr. BAKER. Yes.

Mr. LONG. So many of the units are sold to units of Government, such as cities, counties, and States which already are exempt from this tax. Is that correct?

Mr. BAKER. A very high percentage of it would go for that purpose, Mr. President. I do not have a breakdown, but they are the largest single group of users.

Mr. LONG. Mr. President, I do not object to the amendment. The container units for trash which are not sold to units of government are often used by contractors working for governmental units and I see no reason for their having to pay the tax. Even in other cases we would not want to increase the costs of waste collection. However, the majority leader has indicated that he would prefer that we vote by record vote today, so I must ask for the yeas and nays on the amendment.

Mr. BAKER. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I am prepared to yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back his time?

Mr. LONG. Mr. President, unless there is someone who wishes to use time in opposition, I yield back the remainder of the time in opposition.

The PRESIDING OFFICER (Mr. STAFFORD). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Tennessee (Mr. BAKER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. ERVIN), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Mexico (Mr. MONTOYA) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 62, nays 1, as follows:

[No. 327 Leg.]

YEAS—62

Aiken	Fannin	Pell
Allen	Fong	Proxmire
Allott	Fulbright	Randolph
Anderson	Gravel	Ribicoff
Baker	Griffin	Roth
Bayh	Gurney	Schweiker
Beall	Hartke	Smith
Bennett	Hruska	Sparkman
Bentsen	Hughes	Spong
Bible	Humphrey	Stafford
Boggs	Jackson	Stennis
Brooke	Jordan, N.C.	Stevens
Buckley	Kennedy	Stevenson
Burdick	Long	Taft
Byrd, Va.	Magnuson	Talmadge
Byrd, W. Va.	Mansfield	Thurmond
Cannon	Mathias	Tunney
Case	McClellan	Weicker
Cooper	Nelson	Williams
Eastland	Pastore	Young
Ellender	Pearson	

NAYS—1

Moss

NOT VOTING—37

Bellmon	Goldwater	Miller
Brock	Hansen	Mondale
Chiles	Harris	Montoya
Church	Hart	Mundt
Cook	Hatfield	Muskie
Cotton	Hollings	Packwood
Cranston	Inouye	Percy
Curtis	Javits	Saxbe
Dole	Jordan, Idaho	Scott
Dominick	McGee	Symington
Eagleton	McGovern	Tower
Ervin	McIntyre	
Gambrell	Metcalf	

So Mr. BAKER's amendment was agreed to.

Mr. STEVENS. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 72, following line 19, insert the following:

SEC. 211. (a) section 6331 of the Internal Revenue Code of 1954 (relating to levy and distraint) is amended by redesignating subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) SALARY AND WAGES.—

"(1) IN GENERAL.—Levy may be made under subsection (a) upon the salary or wages of an individual only after the Secretary or his delegate has notified such individual of his intention to make such levy.

"(2) JEOPARDY.—Paragraph (1) shall not apply to a levy if the Secretary or delegate has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy."

(b) The amendments made by subsection (a) shall take effect on the first day of the first month which begins more than ten days after the date of the enactment of this Act.

Mr. STEVENS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. STEVENS. I yield myself 5 minutes.

Mr. President, this is a bill that I introduced previously. It is in the form of an amendment. It has been modified. This amendment is designed to require the Internal Revenue Service to give notice to an employee before levying on the salary or wages of an individual. I gave some examples at the time I introduced this bill.

For example, I was told that a taxpayer had claimed that he had already paid a deficiency that the IRS said was still owed. The IRS notified the taxpayer that the question was being looked into. The next thing the taxpayer knew, his salary was attached.

Recently, I was told of a situation in which a young attorney in my State had a fee coming to him from a client—from an independent school district. That fee was attached before he had any notice that he had any levy.

The bill, as I originally introduced it, would have required a notice of levy and a hearing. There has been strong objection to the hearing, and we have deleted that requirement. This would provide the taxpayer with a notice of the fact that there was a levy outstanding against his income.

I think this is a first step, at least, in a new concept of due process for taxpayers so far as taking care of their reputation is concerned. The young attorney who had his fee levied upon suffered some embarrassment that he could have taken care of immediately if he had been given notice of the intention of the IRS to levy.

I know that these levies are presented in delinquent situations, and perhaps they require other considerations. But I hope that this amendment will be adopted, so that in conference the committee can work with the IRS and see whether they can modify their regulations and find some way to give taxpayers notice before this action is taken—in particular, the attachment of money on a deficiency when the taxpayer had gone to the IRS and asked that the matter be looked into, was told it would be, and the next thing he knew, his salary was levied upon. I think this action should not be taken until absolutely necessary and the final notice to the taxpayer ought to be given, at least.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. BROOKE. Is it the Senator's intent that the notice be given prior to the levy?

Mr. STEVENS. Notice ought to be issued that a levy would be issued.

Mr. BROOKE. Is there any time in which the IRS must notify the taxpayer prior to the act of levy?

Mr. STEVENS. There is no time limit provided in the amendment; just that they have to notify the taxpayer of the intent to make a levy.

Mr. BROOKE. Could that be made in the notice that goes out the same day from the IRS to the taxpayer?

Mr. STEVENS. After the taxpayer receives that notice. That is the committee's feeling. I discussed this with the staff of the Finance Committee, and it is their feeling that there is a problem that should be worked out by the IRS itself. They will be on notice that we have taken cognizance of the problem and this will put the burden on the IRS to come up with a reasonable alternative, if this is unworkable.

Mr. BROOKE. In order to make legislative history, I am trying to ascertain the intent of the Senator from Alaska, that the notice will be received by the taxpayer prior to the time the levy is made; is that not correct?

Mr. STEVENS. Yes; except in the case of a jeopardy assessment. Where there is some indication that there may be jeopardy, so far as the Government is concerned, there is an exception that would not apply to the jeopardy assessment, and in other cases they should give notice to the taxpayer before making the levy.

Mr. BROOKE. Because of the kind of case the Senator from Alaska discusses, the taxpayer would be at no advantage if he received a notice that a levy had been made because he was injured, as I understand it, from the Senator's case.

Mr. STEVENS. That is correct.

Mr. BROOKE. So that the notice should be received prior to the time the levy is made.

Mr. STEVENS. That is correct. That is the intent of my amendment.

Mr. BROOKE. I thank the Senator from Alaska.

Mr. LONG. Mr. President, as this amendment is modified, I see no objection to it. It may be that the Treasury Department may have objections to it and, if so, we will be able to explore the matter in conference. It may be that this matter will require further study, but I would be willing to accept the amendment and we can discuss it with the Treasury while the bill is in conference. Perhaps we can agree to it, or perhaps we can agree on a modification which still meets the essential purposes of the Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the Senator from Louisiana.

Mr. President, I yield back the remainder of my time.

Mr. BENNETT. Mr. President, just for the purpose of making legislative history, I am reading from a letter addressed to the chairman on August 16, 1971, written by John S. Noland, Acting Assistant Secretary, where he is describing the present process:

Once an assessment is made, every reasonable effort is made to secure voluntary payment before the Internal Revenue Service resorts to levy action. Normally, three notices are sent to the taxpayer after assessment of the tax, and a period of five months or more will elapse before any action is considered. During this period the taxpayer has ample opportunity to make payment, or if his financial circumstances are such that he cannot do so, there is an adequate opportunity to meet with the Service and to make some arrangement for extended payments.

If the taxpayer continues to ignore his tax obligation, he is notified verbally or in writing that this levy action will be taken unless payment is made promptly. This notice normally precedes the actual levy by at least two weeks, unless the taxpayer has already been granted the privilege of paying his tax in installments. Any such agreement includes the provision that, in the event of default, levy action will be taken without further notice, and the taxpayer signifies in writing that he understands this condition.

Mr. BROOKE. I thank the Senator very much for reading this information into the RECORD. I take it that the practice of giving notice within 2 weeks would be satisfactory to the Senator from Alaska. But the excerpt the Senator from Utah just read from indicates that it is oral or in writing.

Mr. BENNETT. That is correct.

Mr. BROOKE. It would seem to me that it would be the intent of the Senator from Alaska to make it mandatory that the notice be in writing. I think that a 2-week period would be an ample period, particularly in view of the other notices which the taxpayer receives prior to the time of the actual levy.

It is most helpful to have this stronger legislative history we are trying to make here, and now we will make it mandatory that the notice will be in writing rather than orally.

Mr. BENNETT. Thank you, Mr. President.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STAFFORD). All the time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Wyoming (Mr. MCGEE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senators from New York (Mr. JAVITS and Mr. BUCKLEY), the Senator from Idaho (Mr. JORDAN), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the

Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) would each vote "yea".

The result was announced—yeas 59, nays 0, as follows:

[No. 328 Leg.]

YEAS—59

Aiken	Gravel	Proxmire
Allen	Griffin	Randolph
Allott	Gurney	Ribicoff
Anderson	Hartke	Roth
Baker	Hruska	Schweiker
Bayh	Hughes	Smith
Beall	Humphrey	Sparkman
Bennett	Jackson	Spong
Bentsen	Jordan, N.C.	Stafford
Bible	Kennedy	Stennis
Brooke	Long	Stevens
Burdick	Magnuson	Stevenson
Byrd, Va.	Mansfield	Taft
Byrd, W. Va.	Mathias	Talmadge
Cannon	McClellan	Thurmond
Case	Moss	Tunney
Cooper	Nelson	Weicker
Eastland	Pastore	Williams
Fannin	Pearson	Young
Fong	Pell	

NAYS—0

NOT VOTING—41

Bellmon	Ervin	McIntyre
Boggs	Fulbright	Metcalf
Brock	Gambrell	Miller
Buckley	Goldwater	Mondale
Chiles	Hansen	Montoya
Church	Harris	Mundt
Cook	Hart	Muskie
Cotton	Hatfield	Packwood
Cranston	Hollings	Percy
Curtis	Inouye	Saxbe
Dole	Javits	Scott
Dominick	Jordan, Idaho	Symington
Eagleton	McGee	Tower
Ellender	McGovern	

So Mr. STEVENS' amendment was agreed to.

Mr. MANSFIELD. Mr. President, it is my understanding under the agreement reached that the amendment of the distinguished Senator from Alaska is to be made the pending business. It is my further understanding that there has been a time limitation of 30 minutes attached thereto.

I ask unanimous consent at this time that that time be reduced to 20 minutes under the same circumstances outlined.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, there will be one more amendment after that, an amendment by the distinguished Senator from Minnesota (Mr. HUMPHREY), a tax awareness amendment. I have talked with the manager of the bill and the ranking Republican member of the committee, and I ask unanimous consent that on that amendment there be a time limitation of 20 minutes, the time to be equally divided between the sponsor of the amendment and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. When that has been done we will be through, but the net result will be 10 rollcall votes this Saturday.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with and that the amendment may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 106 after line 2, insert:

(a) part VII of subchapter I of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as section 219 and by inserting after section 217 the following new section:

"SEC. 218. REPAIR OR IMPROVEMENT OF TAXPAYER'S RESIDENCE.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the ordinary and necessary expenses paid during the taxable year for the repair or improvement (including painting, papering, carpentry work, plumbing, electrical work, roofing and glazing, and any similar items) of property used by the taxpayer as his principal residence.

"(b) LIMITATIONS.—The deduction allowed a taxpayer under this section shall not exceed $1,000 for any taxable year. No deduction may be allowed under this section with respect to any capital expenditure."

(b) The table of sections for such part VII is amended by striking out

"Sec. 218. Cross references."

and inserting in lieu thereof

"Sec. 218. Repair or improvement of taxpayer's residence.

"Sec. 219. Cross references."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (8) the following new paragraph:

"(9) REPAIR OR IMPROVEMENT OF TAXPAYER'S RESIDENCE.—The deduction allowed by section 218."

SEC. 2. The amendments made by this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

Mr. STEVENS. Mr. President, today I am introducing an amendment to the Internal Revenue Code of 1954 to permit a deduction for expenses incurred by a taxpayer in making repairs and improvements on his personal residence.

Specifically, my amendment would permit the deduction of ordinary and necessary expenses paid during the taxable year for the repair or improvement of property used by the taxpayer as his principal residence. Qualified repairs and improvements would include painting, papering, carpentry work, plumbing, electrical work, roofing and glazing, and similar activity. The deduction allowed a taxpayer under this legislation would be limited to $1,000 in any taxable year. As a further limitation, a deduction would not be permitted for capital expenditures incurred in connection with the taxpayer's personal residence. Also, the deduction would apply only to taxable years ending after the date of enactment of this act.

Mr. President, my amendment is designed to accomplish several important purposes. First, it would help to alleviate the tremendous financial burden imposed on residential homeowners, who are subject to ever increasing property taxes, special assessments, and other levies. This tax relief would be somewhat analogous to that already provided to the owners of rental and business property under existing law. As you know, such owners are permitted to deduct specified amounts for the depreciation of their property. In addition, section 167(k) of the Internal Revenue Code permits a 5-year depreciation of rehabilitation expenditures incurred in connection with rental property occupied by low and moderate income homeowners.

The enactment of the amendment that I am introducing today would also make home ownership more attractive by helping to alleviate prohibitive repair costs. As a result, more people would have the opportunity to experience the pride of home ownership and the sense of community associated with owning and being responsible for one's own dwelling. Moreover, the quality of life in many areas would be significantly improved since more homeowners would have the economic wherewithal to make improvements and repairs which they have postponed for lack of sufficient funds.

This legislation should also have a beneficial impact on carpenters, plumbers, roofers, painters, electricians, and similar workers all of whom have been adversely affected by the slump in home construction. The beneficial economic consequences to be derived from increased activity in these trades will extend far beyond the workers involved to many manufacturing and service related industries which are heavily dependent upon the consumer dollar. Thus, the "ripple" effect should stimulate new activity in many sectors of the economy.

In my State of Alaska, where residential repair costs are from 25 percent to 50 percent higher than in the "Lower 48" States, this amendment should have a very salutary effect. All of the factors which I have referred to are present but are magnified by our very high costs, often deplorable housing conditions, rigorous natural environment, and high unemployment. As an example, the unemployment rate in my State is usually more than twice the national average, and is even greater in rural Alaska, where it is not uncommon to find villages with from 80 to 100 percent unemployment during certain seasons of the year. In addition, we have more substandard housing than virtually anywhere else under the American flag. In rural Alaska, almost all of the residential dwellings fall far below acceptable standards. The enactment of the legislation which I am introducing today would help to alleviate these conditions by facilitating home improvements and repairs and by stimulating new economic activity and the creation of additional jobs.

Mr. President, for all of the reasons that I have outlined today. I urge favorable consideration for this amendment.

Mr. President, the purpose of the amendment is to permit a deduction for the ordinary and necessary expenses of the improvement of homes up to $1,000 per year. This would include painting, papering, carpentry work, plumbing, electrical work, roofing, glazing, and similar activity which is paid for by taxpayers on their principal residence, with a limit of $1,000 in any taxable year, with no deductions for capital expenditures.

I know it will be said that the cost would be $500 to $600 million a year. If that is so, if the cost would be $500 to $600 million a year, there would be $2 billion paid to the small laborer, the small contractor, the carpenter, the plumber, the electrician and the roofer. These are the very people affected by the current economic conditions.

Mr. President, I feel this is an incentive. We are trying to find some way to put money back into circulation. This would be an incentive to taxpayers to do that.

As a sidelight, at one time after the 1960 flood in Fairbanks, we faced the problem of how to get people to start rebuilding their homes. We devised a similar incentive and provided that the State would, in fact, make a contribution to those people who would rebuild in the winter.

If there is a cost involved, as I am sure the chairman or the ranking minority member of the committee will outline, of $500 to $600 million, it will be a loss to the Government on the one hand, as far as the loss of income that would have been received from taxpayers, but they have not offset it with money they will receive from taxes from the small carpenter, the small contractor, who would be doing the work.

I think it is necessary to do something to provide an incentive to homeowners to refurnish and modernize their homes and to keep them from being in disrepair.

Mr. President, that is my argument in favor of the amendment. I think the amendment is worthwhile and I hope it will be agreed to.

Mr. LONG. Mr. President, I yield such time to the Senator from Utah as he may require.

Mr. BENNETT. Mr. President, this is one of those situations where I can say it hurts me more than anybody else because the Bennett family has been in the paint business for 50 years. But I still must rise to oppose the amendment.

This amendment would allow a deduction for the cost of repairing a personal residence, and as an "above-the-line" deduction in determining adjusted gross income. Thus, it is allowed in addition to the standard deduction. On this basis, it will cost $700 million per year.

Since roughly 30 million taxpayers are homeowners and thus will claim the deduction, whether or not they "itemize," it will further complicate the individual tax return and its actual preparation. The costs will have to be listed; the limit will have to be applied; the deduction cannot be adjusted for in the withholding tables, so there will be greater overwithholding, and so forth.

On tax policy and equity grounds, this is a bad amendment. These are personal expenses, and there is even less reason for making them deductible than the cost of business suits worn to work, lunches during the work week, automobile repair costs where the automobile is used for commuting, and so forth. We should not make personal expenses deductible unless there is some major policy reason, such as encouraging support of charities or educational institutions—charitable contributions deduction.

On equity grounds, it is equally objectionable. It provides no equivalent benefit for the large number of families and single persons who "rent," and because of economic or other considerations are forced to do so. They pay for "repairs" in the rent they pay.

It provides more benefit to higher income taxpayers. Most high-income taxpayers will certainly use this opportunity whether or not they would otherwise "repair" their homes, to let the Government pay up to 70 percent of the cost of a new paint job, new roof, repapering, and so forth. Low-income taxpayers who get only a 14-percent benefit from the deduction still will not have the funds in many cases, if they did not otherwise, to make the repairs. For the 7 or 8 million families with incomes below the poverty levels, the deduction provides them no help whatsoever.

We cannot afford to spend $700 million in Federal revenues to encourage home repairs which would be accomplished in any event if really necessary, particularly where the $700 million would be spent in such an inequitable way. This is part of our tax base, and if we begin the process of eroding it by allowing deductions for personal expenses whenever some emotional argument is made—helping the homeowner—we will have embarked on a serious reversal of long-standing policy and nobody knows what the end would be.

Therefore, Mr. President, I believe the amendment should be rejected.

Mr. President, I have another reason for asking that it be rejected. Thus far today we have not passed a single amendment which would reduce the Federal revenue. This is a great change from what we did yesterday because yesterday we reduced the Federal Treasury by approximately $3 billion. One of the clerks and I figured out that we were giving money away yesterday at the rate of $5 million a minute. Today we have done better and I hope we do not break the record now.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I have two points to make relative to what the Senator from Utah has said.

First, as to people who rent apartments or who rent homes, the cost of the repairs is deductible by the person who owns the rental unit. It is not deductible by a homeowner who lives in his own home. That is what this amendment would rectify. It would provide equality as between a rental owner and a homeowner.

Second, those in higher brackets would use these deductions. I hope they will, because if they do, at a cost to the Treasury of $700 million, it would result in about $2.5 billion to $3 billion of income. It would bring $500 million or $200 million or $300 million of income to the people who are currently unemployed. I thought this was a bill to stimulate employment through the use of tax policy, and if there is a way to do it, this is certainly one way to do it. It is a cheap and very worthwhile goal, at the same time.

I personally do not believe we can equate the loss of revenue by the United States with the loss to a taxpayer who is going to deduct the amount it costs him when we take into account the amount that is going to come in to the Treasury from plumbers, painters, and others who will be employed. I think we ought to take into account the loss of income to persons who are unemployed. It seems to me that this is a method that will provide work for those now unemployed in great numbers.

Mr. President, I ask unanimous consent that my colleague from Alaska be joined as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I am ready to yield back the remainder of my time.

Mr. STEVENS. I yield back the rest of my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

On this vote, the Senator from New Mexico (Mr. MONTOYA) is paired with the Senator from Wyoming (Mr. MCGEE).

If present and voting, the Senator from New Mexico would vote "yea" and the Senator from Wyoming would vote "nay."

I further announce, that, if present and voting, the Senator from North Carolina (Mr. ERVIN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senators from New York (Mr. JAVITS and Mr. BUCKLEY),

the Senator from Idaho (Mr. JORDAN), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BAKER) is detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) and the Senator from Pennsylvania (Mr. SCOTT) would each vote "nay."

On this vote, the Senator from Kentucky (Mr. COOK) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Kentucky would vote "yea" and the Senator from Texas would vote "nay."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 15, nays 45, as follows:

[No. 329 Leg.]

YEAS—15

Aiken	Hartke	Pearson
Bayh	Humphrey	Randolph
Case	Jackson	Ribicoff
Cooper	Magnuson	Stevens
Gravel	Pastore	Thurmond

NAYS—45

Allen	Fong	Proxmire
Allott	Fulbright	Roth
Anderson	Griffin	Schweiker
Beall	Gurney	Smith
Bennett	Hruska	Sparkman
Bentsen	Hughes	Spong
Bible	Jordan, N.C.	Stafford
Brooke	Kennedy	Stennis
Burdick	Long	Stevenson
Byrd, Va.	Mansfield	Taft
Byrd, W. Va.	Mathias	Talmadge
Cannon	McClellan	Tunney
Eastland	Moss	Weicker
Ellender	Nelson	Williams
Fannin	Pell	Young

NOT VOTING—40

Baker	Ervin	Metcalf
Bellmon	Gambrell	Miller
Boggs	Goldwater	Mondale
Brock	Hansen	Montoya
Buckley	Harris	Mundt
Chiles	Hart	Muskie
Church	Hatfield	Packwood
Cook	Hollings	Percy
Cotton	Inouye	Saxbe
Cranston	Javits	Scott
Curtis	Jordan, Idaho	Symington
Dole	McGee	Tower
Dominick	McGovern	
Eagleton	McIntyre	

So Mr. STEVENS' amendment was rejected.

AMENDMENT NO. 645

Mr. HUMPHREY. Mr. President, I call up my amendment No. 645.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 209 insert after the last sentence the following new title VIII: Tax Expenditure Awareness Act:

An act to require the Secretary of the Treasury to provide each taxpayer with an analysis of the proportionate dollar amounts of his tax payment which were spent by the Federal Government, during the latest fiscal year for which data is available, for certain items

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"Sec. 7517. TAX EXPENDITURES ACCOUNTING.

"(a) STATEMENTS BY SECRETARY.—Upon the receipt of each individual's income tax return, the Secretary or his delegate shall furnish to that individual a statement setting forth in dollar amounts the proportionate amounts of that individual's income taxes which were spent by the Federal Government, based upon the most recent budget message of the President, for each of the following:

"(1) national defense;
"(2) space research and technology;
"(3) agriculture and rural development;
"(4) natural resources;
"(5) transportation;
"(6) community development;
"(7) housing;
"(8) education;
"(9) manpower;
"(10) health;
"(11) social services;
"(12) welfare payments;
"(13) veterans' pensions;
"(14) veterans' benefits and services;
"(15) law enforcement;
"(16) general administrative expenses of government;
"(17) interest payments;
"(18) foreign aid consisting of military assistance; and
"(19) foreign aid consisting of economic and technical assistance.

"(b) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"Sec. 7517. Tax expenditure accounting."

SEC. 2. The Director of the Office of Management and Budget shall furnish to the Secretary of the Treasury in December of each year a report, based upon data from the most recent fiscal year for which such data is available, setting forth that part of the total Federal outlays for such fiscal year which was expended for each of the items listed in section 5717(a) of the Internal Revenue Code of 1954.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the names of the Senator from Alaska (Mr. GRAVEL) and the Senator from California (Mr. TUNNEY) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, this will be the last amendment and the last vote for today. May we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Minnesota may proceed.

Mr. HUMPHREY. Mr. President, I understand we have 10 minutes to a side. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUMPHREY. I shall attempt to explain this amendment briefly, and hopefully in a manner that all of my colleagues can readily understand.

The purpose of the amendment is to chart a course toward greater citizen interest and accountability in the budget and financial decisionmaking of this country. I think we all know we are in the area of the big budget—about a $225 billion budget—and our Government expends enormous sums of money for all kinds of functions—national defense, aerospace, medical research—and that this money all comes ultimately from the productive enterprise of this Nation.

Even though our citizens pay a great deal in taxes, they lack information on how to require accountability, or persuasively seek to redirect Government expenditures. Once the income tax is paid, the citizen is seldom kept informed about what that tax money is used for, or purchases. As a result, people are skeptical that they are getting their money's worth. And they are certain that they are buying some goods and services that are not necessary or vital to their well-being.

We have heard a great deal of talk, Mr. President, about reordering our priorities, and it generally ends there, with talk. Until we begin to understand where this tax money goes, how it is expended, and devise that accounting, we are not going to have the kind of awareness that I think a taxpayer ought to have as to what our Government is doing with the taxpayers' receipts and with the Federal revenues.

It is one thing, Mr. President, to have a big picture in the paper that shows you what happens with the tax dollar. I submit that when most of us get our bills from a department store, we do not want them just to be an accounting that we owe so much.

Many is the time I have asked, "Would you please give me a detailed accounting of what the purchases were rather than the sum total?"

This amendment accomplishes that purpose. After the Internal Revenue Service has received each individual return and has determined the amount of tax each individual would pay, the IRS would send to the taxpayer a breakout of that tax: How much John Jones' tax money was spent on the following functions—and I list them, from national defense, space research, agriculture, natural resources, transportation, community development, housing, manpower, health, social services, social security, welfare, veterans pensions, benefits, and services, law enforcement, general administrative expense of Government, interest payments, foreign military assistance, and foreign economic assistance.

Thus, if the taxpayer, filing jointly or separately, paid, let us say, $1,000 in calendar year 1971 in Federal income taxes, the Internal Revenue Service would send him a notification, after the payment, that $408 of that money was spent on national defense, that $19 went on space, that $32 went for all programs related to agriculture, that $13 went for natural resources, that $47 went for commerce and transportation, that $16 went for community development, that less than $37 went for education, that $66 went for health.

I know the argument will be made that it is going to cost a great deal. Mr. President, I have worked on this for some time, and I have received the cooperation of the Internal Revenue Service. I have been informed that the total computer cost for the printout of the computer for this procedure would be less than $350,000.

Mr. President, I think the taxpayer is entitled to a receipt. I think he ought to know for what his money went.

I say that when a taxpayer pays his tax bill, he ought to know for what it went—other than in the generalities we usually give him.

I believe this amendment merits approval. I think it would be a distinct service. I have mentioned the purpose of this amendment to the Assessors Association, the U.S. Conference of Mayors, the National Association of County Officials, and a host of other groups. There is overwhelming support for this kind of accountability.

I would hope that the amendment might be adopted.

Mr. LONG. Mr. President, the Senator said that the only cost of his proposal would be a $350,000 computer cost. He must keep in mind that his amendment would require that after a taxpayer pays his taxes, as I understand it, a letter has to be mailed to him saying, "Your tax was $6.15, and of the $6.15, $3.09 went to national defense, 11 cents went to the post office, 15 cents went to something else, and so many dollars and so many cents went to the space endeavor, and so much went to health, so much went to welfare payments," and so forth. It would cost about $7 million to mail these letters to all 65 million taxpayers.

We could save this $7 million in mailing costs just by putting the information on the tax return package—just say 48 percent goes to national defense, 11 percent goes to this, and such a percentage goes to that. But the Senator does not want to do it that way. He wants to subsidize the junk mail business—not so far as the junk mail dealers are concerned, but so far as the Post Office is concerned. I hope he is not going to do it at Christmas time, when the mail is heavy.

It would be much more efficient to give this information over television, rather than pack it on the mail carrier's back and have him fight Fido in the front yard to get in with a letter to tell you something that you may well already know. After people get that the first year, they are going to throw it in the trash basket; because they will understand that this information, broken into dollars and cents, is no more than the information broadcast on television and published in the newspapers.

There are a great number of things we could spend money on, that taxpayers need rather than incur an expense of $7 million in mailing costs alone, for something that most taxpayers already know. The press has done everything in its power to educate the taxpayer on this cost by putting it in the newspapers every year. They show him the percentage of the budget that goes for all the items to which the Senator refers.

I submit that if you want to do this kind of information, the electronics media would be a far more effective way to talk about how much money is spent on natural resources or transportation or community development, rather than mailing all this stuff to people.

It seems to me that this is merely a Federal make-work project. I think we can do a great deal more good by putting people to work picking up trash rather than by creating trash.

I would be willing to go along with the Senator and say that if anybody wants to know this information, all he has to do is to mail in a request for it and we will send him all the information he wants and even refund whatever postage and other expense he might have incurred in asking for it.

I am curious to know this: Is the Senator also going to inform the taxpayer how much it cost him to mail this thing through the mail, which I think is totally unnecessary? If you broke it all down, would he still get the information he wanted? Would he not want to know how much it cost to fight fire ants? That is an important item in Louisiana.

I think it would make better sense to put on the taxpayer's return: "If there is anything you want to know about where your tax money went, write us, and we will send you what you want to know." "We will send you the whole agricultural yearbook," or, "We will send you everything the mind of man could conceive about the subject"; and he would have more information in this way about what he wanted to know than if he received in the mail a breakdown stated on the same basis as every newspaper and television station in the country has already broken it down and stated it.

Mr. HUMPHREY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 4 minutes.

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Louisiana has 6 minutes.

Mr. BENNETT. Mr. President, will the Senator yield?

Mr. LONG. I yield 3 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, after so stellar a performance, I probably should not have risen. But it occurs to me that we may have made a mistake a little earlier this afternoon when we took the tax off the trash containers. Perhaps we should have retained that tax so we could collect enough on the containers to cover the cost of this flood of trash.

The other thing that rises in my mind is the specter of a horrible computer error, when the taxpayer gets a notice that he paid $45 in taxes and that $3,700,000 of that has gone for fighting fire ants in Louisiana. I do not know where we would end.

Mr. President, I think we can trust the American people to be able to do the arithmetic necessary to translate percentages into dollars; and if we cannot, I think we might send out a mailing from Congress to all our constituents, saying, "Send us your tax form, and we will compute your tax for you."

Mr. LONG. I would say to the Senator from Minnesota that if he insists on sending the taxpayers this information, why do we not let every Senator mail it out under his frank and at least get some credit for it?

Mr. FULBRIGHT. Mr. President, will the Senator yield me 30 seconds?

Mr. LONG. I yield.

Mr. FULBRIGHT. I think it is a bad idea, too, because if you inform the people how their money is wasted, there probably will be a revolt. They will not pay any taxes at all.

Mr. HUMPHREY. Mr. President, I appreciate the good humor of my colleagues today. Now that we have had the entertainment, we will get down to the serious part of the business.

First, the American public, the taxpayer, is entitled to a receipt and is entitled to know for what his money goes.

Second, Senators and Representatives surely think so, because they mail tons of newsletters every week out of this place—tons of it. All kinds of information goes out from the Government to the people to get information from the people.

I want the Government trying to give information to the people about what the Government is doing with the people's money.

The IRS says it will cost $350,000 or less for the computer printout and at a maximum cost, $4 million for all the mailing—not $7 million but $4 million.

We collect over $200 billion in taxes every year. We collect a great deal of that in individual taxes. I think that the man or woman who pays that bill is entitled to know for what his money goes.

We do not use percentages when we go to a filling station. We do not say, "Give me a percentage of this from my income. I want to know how much it is on oil, gas, or brakes, and so forth." That is all we are asking for here.

I think the amendment is worthwhile. The IRS is not opposed to it.

The cost will be less than what the Government is doing to get information from the people. It will cost less than the spying activities the Army conducts at mass meetings.

So let us give the public something for a change.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LONG. Mr. President, the Senator said that the IRS did not object. He did not say that the Treasury Department did not object. He said this thing would cost $350,000. Perhaps so. But the minimum mailing cost would have to be about $7 million. I do not believe the public is anxious about that spending item because we are spending too much money the way it is now. I have had no one request this information of me, not any taxpayer, in the 23 years I have been here. Most of the public is outraged at the money we are spending now, and then to fill up their mail boxes with junk mail which they did not request at a time when many have been working diligently to get junk mail cut off anyway, would outrage them even more.

If the Senator wants to amend his amendment so that if someone wants information about spending he could write to his Congressman and say, "Please send me this information," or under a special service the Senator from Minnesota himself could provide what the taxpayer wanted to know. The Senator from Minnesota could give him a lot more detail about it, I am sure. But I believe the public thinks we are spending too much

money already and would not like us to consider spending another $7 million, even for this.

As I say, I have not had a request from any taxpayer in the 23 years I have served here, and in the years I have served as chairman of the Finance Committee, to have any information of this kind sent to him. If the taxpayer asks what our costs are in Europe, or the amount of money we put out for national defense, or information as to interest on the national debt, and we give them that, I have found that they are generally satisfied. But I would say that to spend $7 million to provide information to someone who does not want it, or direct information to someone who has not indicated any interest in having it, is not a good idea.

I find no particular appeal in the kind of report which the Senator thinks would be interesting. I think that if any taxpayer knew it would cost $7 million to mail this information out, after receiving the first letter, he would say, "Please discontinue filling up my mailbox with junk mail."

Mr. President, there is no demand for this information, but if the Senator thinks that everybody wants it, then I would say let us vote on the amendment, but I think it would be a mistake to adopt it, and I urge the Senate to reject it.

Mr. GURNEY. Mr. President, if the Senator will yield me 1 minute, I was curious and most interested to hear the distinguished Senator comment on the fact that taxpayers are reluctant to spend any more money.

I received a letter from a constituent in my State, a very short letter—and I got the message quickly.

It read:

Don't vote anything more for me. I can't afford it.

[Laughter.]

Mr. HUMPHREY. Mr. President, let me make just one point. I do not think it is junk mail to tell a man for what he has paid. A lot of junk mail goes out from Congress and the executive branch, but this is not one of them.

I am not going to argue with the figures except to say that the Internal Revenue Service says that $4 million will be the maximum cost and that is one-third of the price of an F-14 airplane.

I submit that when the taxpayer gets his breakdown, he might agree that we are spending too much money, and this, therefore, may be the best amendment to save money in the Government that we have ever had. People will know for what the money is going. They will know that we voted against certain things. They want to see economy in Government and as a result of this amendment we might get a little.

Mr. President, the amendment has some merit. I am through.

I yield back the remainder of my time.

Mr. LONG. Mr. President, one last comment. It may well turn out that sending out this kind of information would make taxpayers still more reluctant to pay their taxes. As the Senator from Arkansas said to me a few minutes ago, some person will say, "My goodness, we are spending too much money. So far as I am concerned, I am going to refuse to pay any more income taxes."

Senators know that people have done that about the Vietnam war. Adoption of this amendment might make it more difficult to collect our taxes and, therefore, it would increase the cost of the Government. It may be true that we can say, "Here is the way we spent your money and you may not be satisfied, but you had better pay your income taxes or we will put you in jail because it is a Federal penalty not to pay your taxes."

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. STAFFORD). All time on the amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Minnesota (Mr. HUMPHREY).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from California (Mr. CRANSTON), the Senator from Missouri (Mr. EAGLETON), the Senator from Georgia (Mr. GAMBRELL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from Ohio (Mr. SAXBE) and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

The Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), the Senators from New York (Mr. JAVITS and Mr. BUCKLEY), the Senator from Idaho (Mr. JORDAN), the Senator from Iowa (Mr. MILLER), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessary absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Kentucky (Mr. COOK), the Senator from Nebraska (Mr. CURTIS), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Illinois (Mr. PERCY), and the Senator from Texas (Mr. TOWER) would each vote "nay".

The result was announced—yeas 19, nays 42, as follows:

[No. 330 Leg.]

YEAS—19

Brooke	Humphrey	Proxmire
Byrd, W. Va.	Kennedy	Randolph
Case	Mansfield	Stevenson
Cooper	Mathias	Tunney
Gravel	Moss	Williams
Hartke	Nelson	
Hughes	Pell	

NAYS—42

Aiken	Ellender	Pearson
Allen	Ervin	Ribicoff
Allott	Fannin	Roth
Anderson	Fong	Schweiker
Baker	Fulbright	Smith
Bayh	Griffin	Sparkman
Beall	Gurney	Spong
Bennett	Hruska	Stafford
Bentsen	Jackson	Stennis
Bible	Jordan, N.C.	Stevens
Burdick	Long	Taft
Byrd, Va.	Magnuson	Talmadge
Cannon	McClellan	Welcker
Eastland	Pastore	Young

NOT VOTING—39

Bellmon	Gambrell	Metcalf
Boggs	Goldwater	Miller
Brock	Hansen	Mondale
Buckley	Harris	Montoya
Chiles	Hart	Mundt
Church	Hatfield	Muskie
Cook	Hollings	Packwood
Cotton	Inouye	Percy
Cranston	Javits	Saxbe
Curtis	Jordan, Idaho	Scott
Dole	McGee	Symington
Dominick	McGovern	Thurmond
Eagleton	McIntyre	Tower

So Mr. HUMPHREY's amendment was rejected.

Mr. MILLER subsequently said: Mr. President, I ask that the permanent RECORD reflect my position on the record votes taken on November 13, 1971, as follows:

No. 327 Leg.—Baker amendment to exclude from the excise tax on trucks and automobiles containers to be used with trucks for the disposal of solid waste—yea;

No. 328 Leg.—Stevens amendment to require the Internal Revenue Service to give prior notice to taxpayers on whose salary a levy is to be attached to recover delinquent taxes—yea;

No. 329 Leg.—Stevens amendment authorizing a tax deduction of up to $1,000 for expenses to maintain or improve a residence—nay;

No. 330 Leg.—Humphrey amendment No. 645 to require Internal Revenue Service to furnish individual taxpayers with an annual statement showing how his taxes were spent—nay.

BIRTHDAY GREETINGS TO SENATOR BENNETT

Mr. MANSFIELD. Mr. President, I take this occasion to extend felicitations and congratulations to the distinguished senior Senator from Utah (Mr. BENNETT) on this, his birthday. I did not know about it until a few moments ago.

I have watched WALLACE BENNETT day in and day out in the performance of his tasks, doing them without complaining, but with integrity and dedication. He is one Senator who has never made a request which was in the least out of line, and he has never requested a postponement of a vote or the postponement of a piece of legislation. He has done so much for his State and for the country, and he has performed so magnificently on the pending business before us, which is a most difficult and comprehensive bill, and a bill that very few of us understand. However, the Senator from Utah and the chairman of the committee have done a magnificent job.

Again, I extend congratulations and best wishes.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. LONG. Mr. President, I wish to join my majority leader in extending congratulations to the Senator from Utah on his birthday.

It is rather typical of WALLACE BENNETT that he has been here working diligently all day on Saturday, as he is every Saturday when there is work to be done. Now, after a great deal of hard work, some of us have just discovered it is his birthday. As I said, it is typical of WALLACE BENNETT. If there is work that must be done, he is there regardless of what the problem is or what the situation may be. We all admire him and love him for the fantastic work he has done for his country and his State over the years.

It is an honor to serve with him; it is more than an honor—it is also a pleasure, because he is the kind of Senator who always thinks of the national interest. He has never had a petty thought in his life. He will cooperate and work with his colleagues on any reasonable basis where there is a prospect for advancing the national interest.

We are all very proud to have him with us. Those of us who serve on the Committee on Finance with him, where he is the ranking minority member, are especially proud of him.

Mr. GRIFFIN. Mr. President, I would like to add that I am delighted that the distinguished majority leader has taken notice of the fact that today is the birthday of Senator WALLACE BENNETT. He is truly a Senator's Senator. He is beloved, respected, and admired by everyone in this body on both sides of the aisle.

I join the statements that have already been made in wishing Senator BENNETT happy returns on his birthday, and best wishes for many more.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 671

The PRESIDING OFFICER. Pursuant to the previous order, the Chair lays before the Senate the amendment of the Senator from California, which will be stated.

The amendment was read as follows:

On page 71, line 2, insert the following: Strike out "$12,000" and insert in lieu thereof "18,000".

ORDER FOR SENATE TO CONVENE AT 9 A.M. ON TUESDAY THROUGH FRIDAY OF NEXT WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Tuesday, Wednesday, Thursday, and Friday of next week the Senate convene at the hour of 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, as far as next Saturday is concerned, that is still open to question. We will see how the situation develops in the meantime.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The PRESIDING OFFICER. Does the Senator from California seek recognition?

Mr. TUNNEY. Mr. President, yes, but I first yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that time on the amendment by Mr. TUNNEY not begin to run until Monday.

The PRESIDING OFFICER. The Chair wishes to advise the Senator from West Virginia that that has already been ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday, at the conclusion of the period for the transaction of routine morning business, the Chair lay before the Senate the amendment of the distinguished Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, as we all know, the American motion picture industry in recent years has been suffering the consequences of the Nation's economic recession most severely. Unemployment in the industry has been disastrously high, and in recent years has been far worse than has existed in virtually all other industries.

This has resulted in a terrible hardship for thousands of families in California. In particular, it has deeply affected many local communities. It has severely impeded our efforts to expand equal employment opportunities where there have been no jobs available.

I have been deeply concerned by the impact of this unemployment in my home State of California and across the Nation. Thus, in the past few weeks, I have been working particularly closely with the Committee on Finance and its most capable chairman, the distinguished Senator from Louisiana (Mr. LONG) to assure that the economic benefits which are being made available under the administration's economic package apply equally to the movie industry. I am most appreciative of the cooperation of the Senator from Louisiana (Mr. LONG) in this endeavor. He has been willing to spend a substantial amount of time discussing the alternatives for action with me and has agreed to include a substantial discussion of problems in the industry in the Finance Committee's report on the Revenue Act of 1971 which we are presently considering on the floor of the Senate.

Mr. President, I think it is most significant that this year, for the first time, we are stating directly that the investment tax credit, which has benefited other industries in this country shall now be made available to the motion picture industry. In past years when this credit has been employed, it has been generally available for depreciable, tangible personal property. In the past however, questions have arisen whether motion picture and television films are tangible as distinct from intangible personal property eligible for the credit. There seems to me to be no doubt that such should be the case, but as I have indicated, it has been in doubt.

A recent court case decided this question in favor of the taxpayer but, of course, in the absense of a definitive appeal on the question, there could continue to be uncertainty. Thus I am particularly pleased that the committee has agreed to clarify this area. As the committee report makes clear:

The Committee agrees with the court that motion picture and TV films are tangible personal property eligible for the investment tax credit.

If I might address a question to the distinguisted chairman of the Committee on Finance I take it, that this language is intended to resolve finally the uncertainty over the eligibility of films for the investment tax credit, is it not?

Mr. LONG. The Senator is correct.

Mr. TUNNEY. And in determining the amount of credit available with respect to a particular motion picture or TV film, all costs of production which the taxpayer capitalizes are to be taken into account in determing the basis of the film, is that not also correct?

Mr. LONG. The Senator from California is correct. The committee's report makes it clear that all costs of production which the taxpayer capitalizes should be taken into account. The committee felt that it was important to clarify this point as you and I have discussed earlier, and therefore the language of the report is explicit.

Mr. TUNNEY. Mr. President, I am most appreciative that the distinguished chairman has stated this point so clearly. I believe it will be of substantial importance in the legislative history of this bill and thus I thank him for his assistance.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday, following the recognition of the two leaders under the standing order, there be a period for the transaction of

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routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIMITATION OF DEBATE ON AMENDMENT NO. 655, BY MR. SPARKMAN

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at such time as amendment No. 655, by Mr. SPARKMAN, is called up, there will be a limitation thereon of 1 hour, to be equally divided by the mover of the amendment (Mr. SPARKMAN) and the manager of the bill (Mr. LONG); provided further, that time on any amendment to the amendment, motion, or appeal, with the exception of nondebatable motions, be limited to 30 minutes, to be equally divided between the mover of such amendment, motion, or appeal, and the manager of the bill.

This request has been cleared with the manager of the bill, with Mr. SPARKMAN, Mr. RIBICOFF, and Mr. NELSON.

I assume that the amendment will be called up on Monday, following the disposition of the amendment by Mr. TUNNEY.

Mr. GRIFFIN. Mr. President, reserving the right to object, will the distinguished majority whip yield for a brief quorum call?

Mr. HUMPHREY. Mr. President, will the distinguished Senator from Michigan withhold his request so as to permit me to speak for a few minutes before the quorum call?

Mr. GRIFFIN. Surely.

NOMINATION OF DR. EARL BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. HUMPHREY. Mr. President, Mr. Earl Butz, President Nixon's nominee to replace Secretary of Agriculture Clifford Hardin, formerly served as an Assistant Secretary under Secretary of Agriculture Ezra Taft Benson during the 1950's. Mr. Butz' nomination for this high office of Secretary of Agriculture is neither surprising nor inconsistent with the administration's current agricultural policies and programs. Mr. Butz was one of—if not the chief architect of—and spokesman for—Secretary Benson's farm policies.

Those of us who were around during that period remember only too well the adverse impact that Mr. Benson's farm policies had on American agriculture—depression level prices; surplus; high Government costs; massive reduction in the number of family farms; encroachment of nonfarm interests in agriculture; forced migration from farms and small communities to our larger cities, and extensive deterioration of rural America.

Those happenings are now being repeated by this administration. Therefore, one should not be surprised at Mr. Butz's nomination. That is, if it is his and the administration's intention to continue present farm policies. Today's low-farm prices, mounting surpluses, rising Government farm program costs, and declining farm income all give me cause to wonder regarding the true significance of Mr. Butz' nomination. Furthermore, the public statements he made while serving under Mr. Benson also make it difficult for me to identify him as a champion of family farm agriculture. For instance, he was quoted in the Record Stockman of March 10, 1955, as saying:

Adapt or die! Resist and perish . . . Agriculture is now a big business. Too many people are trying to stay in agriculture that would do better somewhere else!

Mr. President, this is not just an isolated quote. It is merely typical of the statements made by Mr. Butz during his term in office as an Assistant Secretary of Agriculture.

I call attention to Mr. Butz' past, not for the purpose of suggesting that it should be used to bar his nomination, but merely for the purpose of stressing the importance of our asking now what policies and programs he intends to pursue for family farm agriculture in this country if he is confirmed by the Senate.

Yesterday, I asked the distinguished chairman of the Senate Committee on Agriculture and Forestry (Mr. TALMADGE) to schedule at least 1 day of open hearings on Mr. Butz' nomination so that both members of the committee and responsible organizations can examine and comment on his qualifications and policy orientation. Chairman TALMADGE has agreed to do this.

Mr. Butz currently serves on the board of directors of several major corporations either involved in or having interests in agriculture.

They are all prominent corporations, highly regarded, of course. The corporations are as follows:

Ralston Purina Corp.;

I. J. Case Co. of Racine, Wis.;

Standard Life Insurance Co. of Indiana; and

International Mineral and Chemical Corp.

He also has established and maintained close relationships with the banking interests of this country.

Again, Mr. President, I mentioned these facts not to suggest any wrongdoing, but merely to stress the importance of our examining these relationships carefully to insure and assure both the American people and Mr. Butz that no conflicts of interest will either occur or be implied once he takes office if confirmed by the Senate.

The food and feed grain producers of this Nation are in serious economic trouble today. Prices are at all-time lows for these commodities and all indicators for the future point to a worsening of the situation. I would like to think that this change in leadership at the Department of Agriculture suggests that the farmers of this country might expect some improvements to be made in current policies and programs of that Department. Clearly, that opportunity now exists if the President and Mr. Butz wish to pursue such changes. If they do, they can count on my support. If they do not, they can depend upon my opposition.

I have introduced and testified on legislation which I believe will correct the problems created by the administration set-aside programs for wheat and feed grain. S. 2729 which I introduced would establish reserve inventories for these commodities to insulate them from continuing their price depressing impact on the marketplace. It would also provide protection from arbitrarily "dumping" at a later time to artificially depress prices. It is this aspect of the building up of Government inventories that concerns me when I hear rumors of USDA money going into the market to buy several hundred million bushels of grain without such protective machinery to avoid the "dumping" of grain within the next few weeks.

I know that a number of our distinguished colleagues and Members of the other body have called upon the Secretary of Agriculture and the President to make large purchases of grain in the market in order to bolster grain prices. This is commendable, provided that such purchases do not result in dumping, later on, to depress prices and thereby promote more instability and insecurity in the marketplace. I have to say, quite honestly, that this has happend before, and I do not want to see it happen again. That is why the bill which I have introduced together with some other Senators would insulate these purchases of grain commodities from the marketplace and permit their release only under certain conditions set forth in the legislation.

The other measure I introduced was Senate Joint Resolution 172 which would require the Secretary to do three things: First, return to a base-acreage program for feed grains in 1972; second, institute an additional diversion payment program for wheat in 1972; and third, increase the loan levels for both 1971 wheat and feed grain crops.

Mr. President, in order to resolve both the short- and long-run problems that we now face concerning these crops, both S. 2729 and Senate Joint Resolution 172 must be enacted before this session of Congress adjourns.

I will be asking Mr. Butz about these measures when he appears before our committee, because I believe it is important to establish immediately whether this administration's farm policies are likely to be changed under Mr. Butz or whether they will remain the same. Millions of farm families and main street businessmen in rural America are awaiting the answer to that question.

We shall also want to ask Mr. Butz his views on such things as the rural development bank, the school lunch program, and a number of other measures that are pending in the committees of Congress.

I do not want my remarks to be interpreted as any personal comment on Mr. Butz. I know him as a fine man and a good gentleman. But I am concerned about the policies he will pursue. It is my judgment that these policies come from on high; that is, from the President himself or from the Office of Management and Budget. I would hope that the President, in light of the severe conditions that now exist in rural America, would give careful study to the farm program. The authority is available to change whatever is underway. The act of 1970 authorizes the Secretary to make those changes. I would hope, therefore, that immediate action would be taken to make substantial purchases of grain from the marketplace. I would hope that the loan rate would be increased, thereby increasing the price of grain in the marketplace.

One further note: I have just received information today that prices for feeder calves hit an all-time high last month of $36.80 per hundredweight.

On the face of that, it sounds good, because it means high prices for feeder calves. But, Mr. President, what it means is that this is directly related to the current low feed grain price situation. It indicates an expansion of the cattle industry which such low prices for feed grains usually creates. It is a signal that livestock numbers are on the rise, which if left unchecked, with no rise in feed grain prices, will result in an excess of livestock over utilization next year which will, of course, mean a sharp decline in livestock prices.

Mr. President, there is not a single member of the Committee on Agriculture and Forestry, which studied these matters, who does not know that low feed grain prices are reflected, about a year later, in low cattle and hog prices. This is a historic truth, it is not a new observation. That situation has been with us for the last 40 years.

The statistic I have is clear and unmistakable. Therefore, I would urge remedial action at once on feed grain prices, not only to help the feed grain producer of this year and next year, but that high cost, high quality agriculture which is involved in dairying, in cattle, and in hogs. These are all high cost operations; and if we get into high cost operations without corresponding prices for the products, we can end up with some of the best farmers in America having to liquidate their investments, go out of business, and thereby seriously jeopardize the entire agricultural economy.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. BYRD of West Virginia. Mr. President, does the Chair now wish me to repeat my earlier unanimous-consent request?

The PRESIDING OFFICER. Will the Senator repeat it?

Mr. BYRD of West Virginia. I ask unanimous consent that, at such time as amendment No. 655 by Mr. SPARKMAN is called up, time thereon be limited to 1 hour, to be equally divided between and controlled by the able mover of the amendment and the able manager of the bill (Mr. LONG); provided further, that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 30 minutes, to be equally divided between the mover of such amendment, motion, or appeal and the distinguished manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for Monday is as follows:

The Senate will convene at 10 o'clock a.m.

After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes.

At the conclusion of morning business, the Senate will resume its consideration of the pending amendment offered by the distinguished junior Senator from California (Mr. TUNNEY). At that time, the agreement with reference to time will begin operating. There will be 1 hour on the amendment, to be equally divided, and 30 minutes on any amendment in the second degree, motion, or appeal, except nondebatable motions. The yeas and nays have been ordered on the Tunney amendment. Therefore, there will be a yea and nay rollcall vote on Monday, circa 11:30 a.m.

There will be additional rollcall votes on Monday. It is expected that the amendment (No. 655) offered by the Senator from Alabama (Mr. SPARKMAN), on which there is a time limitation agreement, will be called up on Monday, probably, but not for certain, immediately upon disposition of the amendment offered by Mr. TUNNEY.

Mr. President, the Senate will run early and late daily next week, the distinguished majority leader having already entered an order, with the unanimous consent of the Senate, that the Senate convene on Tuesday, Wednesday, Thursday, and Friday at 9 a.m. Senators may expect rollcall votes daily. It is hoped that the Senate will complete action on the unfinished business, the Revenue Act of 1971, by Tuesday or Wednesday of next week.

Following the disposition of the Revenue Act of 1971, the Senate will proceed to the consideration of either the defense appropriation bill or the phase II economic measures, not necessarily in the order I have stated. There will be rollcall votes daily, and, as the distinguished majority stated a few minutes ago, judgment will be reserved with respect to Saturday next until the picture is more clear.

ADJOURNMENT UNTIL MONDAY AT 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 o'clock a.m. on Monday next.

The motion was agreed to; and (at 4 o'clock and 46 minutes p.m.) the Senate adjourned until Monday, November 15, 1971, at 10 a.m.

EXTENSIONS OF REMARKS

UTILITIES AND CIVIC RESPONSIBILITY

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Saturday, November 13, 1971

Mr. GRIFFIN. Mr. President, recently the newly installed chairman of the American Gas Association, Ralph T. McElvenny of the Michigan Consolidated Gas Co., delivered a very thoughtful and constructive address before the annual meeting of the association in Boston.

I was particularly impressed and encouraged by the emphasis placed by Mr. McElvenny on the responsibility of industry generally, and his own gas industry in particular, to play a more active role in the development and improvement of the communities they serve.

Mr. President, the efforts by Michigan Consolidated Gas Co. to build low- and moderate-income housing in Detroit—an effort with which I am very familiar—exemplifies the real concern and commitment of the new AGA president.

I ask unanimous consent that Mr. McElvenny's address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

STATEMENT OF RALPH T. MCELVENNY

CAPITALIZING ON TODAY'S CHALLENGES

Today

It is a pleasure to appear here today at the concluding session of the convention. You have heard much expert testimony these past few days on the course of our industry and the unprecedented challenges confronting us. Many of these challenges are not confined to our industry but are symptomatic of all business. They reflect deep-seated uncertainties, particularly in academia and among our youth, about our nation's priorities, our business principles, and our individual value systems. Today I would like to place some of these challenges in perspective and to indicate my thinking on where our Association should be moving in the months immediately ahead.

Price freeze

Before doing so, however, I would like to comment briefly about the most serious problem immediately confronting our industry—the President's 90-day price freeze and the policies to be followed by the Federal Government after its scheduled expiration on November 13. Under this freeze, as you all know, the rates of regulated utility companies were frozen at currently effective

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levels just as in the case of unregulated businesses. Whatever the practical necessities of the President's across-the-board action, the fact is that it created particular hardships for regulated utilities, many of which had had rate increase applications pending before regulatory commissions for many months and were already absorbing the cost increases which necessitated the rate relief requested.

If our industry is to fulfill its vital public service responsibilities, it is essential that after November 13, 1971, regulation of utility rates be returned to the state and federal agencies established many years ago for that specific purpose. It is a fundamental tenet of utility regulation that rates must be fixed at levels which will permit the utility to attract capital and maintain its credit. This simply reflects the fact that utilities are obligated to meet the demand for additional service and must provide that service safely and efficiently—all of which requires continuing capital investment. Only if utility rate regulation is conducted under these principles by the agencies who are expert in the field can the gas industry carry out the vast gas supply programs required to maintain adequate service to the public and fight inflation, which is everyone's enemy, by bringing needed fuel supplies to our vast productive machine. At the same time, the utilities should make sure that any increases in rates they may seek are fully justified and are no more than necessary to permit them to obtain additional gas supplies and render adequate service to their markets.

The AGA has already filed a vigorous statement with the President's Cost of Living Council urging the return of utility rate regulation to the respective state and federal agencies, as has INGAA. NARUC has adopted a resolution taking the same position. I urge you all to give this matter the attention and support which it deserves.

State of the gas industry

I would like next to spend a few moments on the present state of the gas industry as I see it and the attitudes I believe our Association should take toward certain of the problems affecting our industry.

To begin with, I feel very strongly that the gas industry has a tremendous future and that our attitude should be one of confidence and optimism. Of course, the gas industry has problems. Any progressive, dynamic industry has problems. But the problems of today are merely the challenges, goals and opportunities of tomorrow.

I have been involved in the gas business now for over 25 years. During that period our industry has gone through a number of phases, each of which involved its own set of problems. Immediately after World War II we were faced with gas shortage and allocation problems not unlike those with which we are presently confronted. This was followed by an era of expansion and competition between pipelines, and sometimes between distribution companies, over service to new territories. Next we entered into a period of vigorous competition with coal and fuel oil, followed by a period during which competition with electric utilities appeared to be the major problem. Now we have come back full circle to gas shortages and allocations.

I have recited this history merely to indicate that circumstances can and do change rapidly and that we must not let the problems of today obscure our vision of a continually growing, expanding, healthy industry. I think, frankly, that the gas industry sometimes has a tendency to overreact to the problems of the moment. By that I do not in any way wish to minimise the gas supply problem that now confronts us. What I am saying is that, in my opinion, the doomsayers who are writing off the future of the gas industry are premature by at least a couple of hundred years and that, when the 21st Century is ushered in, the gas industry will be alive and well and providing service in every city and town of the United States.

Let me remind you of some of the advantages our industry enjoys. The gas industry sells a product that is in great demand. It has a solidly-based reputation for reliable service to 150 million Americans, and its product is delivered underground, causing relatively few ecological problems. Its service is essential to the economy and the welfare of the nation. It is recognized as making a positive contribution towards improving the environment.

I would agree that these assets could be dissipated if we were unable to overcome the current trend in the discovery and production of new gas supplies. But let me remind you of a few salient facts in that regard.

First, recognition of the fact that the industry faces a shortage of supply is very recent. I recall that less than five years ago, when our System was attempting to construct a new pipeline to import Canadian gas into the United States—now completed and expanded—other interests opposed the project on the ground that U.S. gas supplies were more than adequate and that introduction of Canadian gas would adversely affect the competitive position of the domestic gas and coal industry. Similarly, during the mid-1960s the Federal Power Commission rolled back producer prices without adequate evaluation of the effect of that action upon the exploration for future gas supplies; I should add in candor that many members of our industry and several State Commission urged the FPC to take the action it did.

I want to emphasize, therefore, that the gas shortage problem is one to which the industry is only beginning to address its tremendous resources of skill and ingenuity. Furthermore, we are fortunate in the fact that it is a problem that is susceptible of technological solution—an area where our nation's greatest strengths lie. Surely a nation which has several times put men on the moon and returned them safely to earth can successfully tap the vast hydrocarbon deposits as yet undeveloped in our country. I am entirely confident that the resources of industry and government that are now being marshalled will successfully meet the challenge of providing adequate supplies to meet the energy requirements for which gas is best suited and necessary.

In this connection, I wish to make two personal observations. First, without minimizing the gravity of the gas shortage or the pressures generated by customers and regulatory agencies to provide more gas, I would again caution against overreacting to the problems of the moment. By this I mean that we should not forget the sound economic principles on which the gas industry was founded or turn to short-range expedients that have no economic justification. Soundly conceived gas supply projects based upon research and analysis and a broadly-based, orderly increase in exploration and development are what is required.

Second, when we talk about overcoming the gas shortage, we should not give anyone the impression that it is either feasible or desirable to provide gas for every conceivable energy requirement for which gas can be used. Indeed, in some respects the gas shortage has served a useful purpose in that it has required all of us to reconsider from a new perspective the proper role and the economic value of gas in the total energy picture.

Conservation—Upgrading use

In my view, the time has come when gas companies have both the duty and opportunity to reshape the markets they serve—to upgrade their product both in terms of the uses for which it is employed and the value of the commodity they deliver. Because of a combination of historical factors, gas is now and has for a number of years been significantly underpriced in relation to other forms of energy. In view of the present shortage of gas and the new awareness of its value in combatting air pollution, it seems clear that uneconomic and wasteful uses of gas can no longer be tolerated.

An example of the changed thinking that is increasingly evident today among the public and the regulatory commissions is seen in the study on gas supplies released last month by Chairman Joseph Swidler of the New York Public Service Commission. The study not only calls for incentives to develop potential gas reserves but also recommends end-use controls. It urges that domestic supplies of natural gas be directed to "high-priority, firm markets," and endorses federal government regulation so that all fuels be directed to their most efficient uses. Although further controls are not to be desired, they may be the price we will be required to pay during the current period of gas shortage and pending the development of our great gas supply potential.

I might state that our System's largest distribution company, Michigan Consolidated Gas Company, has already adopted, with the approval of the Michigan Public Service Commission, a Controlled Service Program which establishes priorities for new gas service based upon the end-use of the gas. Under this plan, domestic and commercial uses, including space heating, are given highest priority. Industrial plants with access to alternate fuels are in a lower category, while those who need gas to comply with air pollution control regulations are assigned higher priority. The lowest priority, as you would suspect, is for straight boiler fuel. The company has the responsibility to make the determination, within the guidelines, as to whether or not a load can be supplied.

The necessity of upgrading the end-use of gas is essential for another very practical reason, namely, the fact that the cost of new gas supplies is going to increase very significantly over the next decade. Prices of new natural gas discovered in the United States have already been increased by the FPC to provide additional incentive for increased exploration and development. Imported LNG, natural gas from the Arctic and gas produced from coal are all estimated to cost approximately double the present city-gate price of natural gas. While the cost impact of these new supplies is ameliorated to some extent by the fact that they can be rolled in with the older, lower-cost supplies, the price effect will nevertheless be very substantial. For that reason alone, it behooves the gas distribution companies to reshape their marketing policies to place more emphasis on the efficient and high end-use of gas.

Fortunately, because gas is presently underpriced, is so adaptable and efficient, and because of its great value in combatting pollution, the market for higher-priced gas appears to be more than adequate to assimilate all of the new supplies in prospect. However, having recited a little earlier the many phases the gas business has passed through in the last 25 years, I would not want to wager very much that we would not be back in some kind of competitive situation 10 or 15 years from now.

Changing financing patterns

Another significant recent development in our industry, and of great portent for the future, is the change in the traditional method of financing the acquisition and development of natural gas reserves. In the past, the great petroleum companies have found the gas reserves and have done the necessary development work, stripped the gas and brought it to a central delivery point where it was purchased by the pipeline for interstate transportation. Under this procedure the oil companies themselves provided the vast amount of capital necessary to find and develop the reserves. Now, however, some of this financing burden is being shifted to the natural gas industry. The pipelines and the distribution companies are now being requested to advance money required to develop the reserves and, in many cases, to contribute toward financing the exploration programs as well. Thus, in addition to providing the massive amounts of capital necessary to build the transmission and distribution facilities to bring the gas to market, our industry is now facing the necessity of also putting up tremendous sums to help finance the exploration and development activities. This extra burden will involve hundreds of millions of dollars annually. But if we can feasibly handle this added burden and reach the point where we are not so dependent upon others, we will have achieved the real benefit of having gained greater control of our future.

In summary, therefore, for the reasons stated, I believe that the present state of the gas industry is good—not because we do not have some very serious practical problems facing us, but because we have begun to recognize those problems and to mobilize the vast human and technical resources of the industry to meet them.

Business leadership

Let me turn now from the problems of the gas business to the problems of business generally. Because broad problems of this kind do not have the same immediate impact upon a company as the problems peculiar to that company and its industry, we are tempted to ignore them or to assume that others are attempting to find solutions.

I am convinced that the management of any substantial company in a community, and particularly utility managements, must take leadership positions in community and civic affairs. We as corporate citizens in a great public service industry have unique community responsibilities. Because we serve a very large segment of the population in our communities, we are particularly affected by the moods, attitudes and frustrations of the people in our communities.

Furthermore, utilities more than any other kinds of business, are rooted in the communities they serve. They cannot move their facilities to sections of the country where the business climate is considered to be more favorable. They cannot tell a customer to take his business elsewhere if he doesn't like the service. They are always fair game for politicians or agitators looking for a public controversy to exploit. Public ownership of utilities in many other countries of the world is a constant reminder that private ownership—although far better—is not an essential and inevitable condition.

Let me suggest, therefore, that a gas company's goals and objectives should include some significant contribution to the improvement of the communities it serves. Our System has attempted to meet its community responsibilities in a number of ways. For example, Michigan Consolidated pioneered the construction of low and moderate income housing in the City of Detroit. Within little more than a year we constructed over 500 housing units in the Detroit area, and following our example other organizations have constructed several thousand more. We had expected to construct about 500 units per year but are currently prevented from doing so by an order of the Security and Exchange Commission reversing its earlier approval of our program. Your Association, as well as the Administration, is supporting legislation before Congress to permit our system and other utilities similarly situated to engage in this type of activity.

In addition, we sponsor a program for on-the-job training of inner-city high school youths, who received both school credit and compensation from the company for their work. We have an active department of community affairs which devotes full time to supporting and coordinating our company's efforts with responsible community organizations. I personally devote considerable time to the New Detroit Committee, an organization established following the Detroit riots of 1967 to focus the efforts of business and the black community on alleviating the conditions out of which the riots arose.

A utility company must give special attention to providing employment to members of minority groups and it must have an affirmative program for the promotion of these qualified men and women to positions of increasing responsibility. We in the gas industry can help ourselves and help our communities by providing such job opportunities. In the past, I am afraid, the utility industry has been somewhat laggard in this important area of responsibility.

I should emphasize that, in my opinion, much of the current antagonism toward business and the "consumerism" movement, particularly as it relates to the gas industry, is unjustified and ill-considered. I believe that business is doing a much better job than it is given credit for in the universities and political forums. And I am convinced that our industry has both the right and the duty to resist efforts to further control and restrict management's ability to manage.

But I should add very candidly that we as an industry, and business as a whole, have not been very successful in selling our point of view. As I will indicate more fully in a moment, educational programs and improved communications are essential to refute the half-truths and untruths which underlie much of the current criticism. At the same time, however, we must critically reexamine our performance both as gas companies and members of the larger business community. And we must recognize that a passing grade in public approval of our performance is much higher today than in the past. In short, my friends, we must answer our critics by telling them what a good job we are doing—and by proving it!

The AGA program

I would like now to direct your attention to some of our AGA activities. You have heard many of the details earlier in this convention. In general, our game plan for 1972 looks similar to the one which has been pursued successfully this year. Our major goals remain as before, namely, to increase gas supply and conserve energy resources, to speed technological progress through research, to develop more profitable markets and to communicate more effectively with all of our publics. Under Jack Tankersley's administration we have moved forward on all of these fronts.

In the supply area, which remains our overriding concern, the Association has aggressively and articulately presented the gas industry's case for unlocking more natural gas supplies. The major parts of this program have been:

To support higher wellhead prices.

To promote more frequent lease sales in the Federal domain and particularly in offshore Louisiana, and to improve the leasing procedure for federal lands so as to develop more gas reserves more quickly.

To endorse legislation to ensure contract price sanctity as an inducement to increase supplies.

It is our purpose to continue vigorously to advance this program throughout the year. At the same time, AGA is committed to an active research program to develop new synthetic gases and supplementary supplies.

Research

Of major importance, of course, is the accelerating coal gasification research program and the important new agreement with the U.S. Department of the Interior. Under this agreement, $30 million a year will be provided over a four-year period—$20 million from government and $10 million from the gas industry—to speed up pilot plant development. With this program, the level of research in which our Association is directly involved will have tripled over the present effort.

The impact of today's national priorities and the unfolding energy shortage are plainly evident in our research program. Current plans AGA research budget in 1972 to be devoted call for more than 50 percent of the regular to the area of gas supply, distribution and storage, up from about one-third of the funds devoted to this effort in 1971.

Emphasis on research activities in the utilization area has declined correspondingly. This year some 55 percent of the regular program funds were allocated to climate control, and residential and commercial gas applications. This will drop to approximately 33 percent in 1972. Basic research will continue at nearly the same level.

Marketing program

Just as the research program has responded to the energy situation, so has the industry's marketing program. In May of 1970 the Marketing Executive Committee established five objectives which can be broadly divided into two areas. The first is to maintain the image of gas in the marketplace and to preserve profitable loads. The second involves communicating the industry's position on higher prices, conservation and acceptance of social responsibility.

At the time the new objectives were adopted, the entire AGA residential print advertising budget of about $2 million was assigned to product promotion. This year, about 30 percent of the program has been allocated to statements regarding supply, conservation and—broadly—the relationship of price to the great value of our product. It is anticipated that this type of advertising may well exceed 50 percent of the total effort in the coming year.

While advertising relating to residential use has changed significantly, the new trend is even more pronounced in AGA's industrial and commercial campaign. The technology and energy leadership themes, including gas supply and conservation, dominate the 1972 program schedule. It is also significant that the mass-audience TV specials sponsored by the Association will be accompanied increasingly by institutional messages on vital industry issues.

While our print and television advertising programs are being redirected to provide a better understanding of the industry's achievements and its basic requirements, AGA's public relations program is increasingly being concentrated on the basic problems which must be solved if the goals of our industry are to be reached. Able industry TV and radio spokesmen are being recruited to explain the complexities of supply and price matters. Background information in "white papers," feature articles in newspapers and magazines and presentations on radio and TV are placing the energy picture in perspective and giving the public an informed view of our position.

Better communications

Now what does all this mean in terms of our guidelines for a productive Association program for the coming months? It means that AGA executives have taken most seriously, indeed, the suggestion of NARUC President George Bloom at our Executive Conference that while wrestling with the energy gap, the industry must take positive steps to close the information gap.

Mr. Bloom was most convincing in stressing the need for clear, strong communication with the public. He made it clear that we must all—companies and associations alike—work harder to make sure that public officials at all levels of government have a thorough understanding of the energy industry, and particularly the natural gas segment. The consumers must be informed, he said, because "today's social considerations have a

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much greater impact than ever before on utility operations and the energy industries."

Thus, it seems to me that a major goal of AGA and our companies must, of necessity, be improved communications among ourselves and with all of our publics. We have a substantial, on-going program in regard to supply, technology and markets, as well as a vigorous program of communications. We have not yet, however, won full public understanding and active support of our industry goals. We must overcome the deficiency not only by our deeds but also by telling our story more effectively than ever before. This will surely include explaining to the consumer the facts concerning our present gas supply tightness, the real value of gas and the necessity of higher rates to bring large additional supplies of this superior fuel to hungry markets.

At the Association level, therefore, we will devote much attention next year to achieving the maximum coordination of all forms of public communication—advertising, public relations, government relations, marketing, operations and research. We now have a working level committee chaired by President Don Hart to achieve this objective and to cut down on the communications time lag.

Government relations

Because of its importance, I have left to the end my comments on the Association's activities at the government level.

The last decade has seen a sharply growing trend in the involvement of the Federal government in areas which at one time were held to be the exclusive domain of business. A part of this has resulted from the failure of industry to recognize the development of various problems and to act promptly or adequately to meet them. Government involvement has progressed to the point where any party or any administration or any Congress is likely to advocate measures involving consumer protection, the environment, the energy shortage, product safety—or any of a host of other issues—without any real consideration of the economic burden which would be imposed or the real need for additional legislation.

This trend has made it imperative for the gas industry—and all industry—to become increasingly vigilant and active in the legislative arena—to see that the facts are presented and understood. In this regard, AGA has found it necessary on a number of occasions to present testimony on legislative measures before Congress. AGA has also been increasingly active in connection with regulation involving the Department of Interior, Transportation, Commerce and the Treasury, the Federal Power Commission and the Environmental Protection Agency.

Consumerism

The field of consumerism will continue to occupy a great deal of AGA's time and effort both on Capitol Hill and with the appropriate agencies. Pending before this Congress are matters concerning product safety, manufacturing product standards, consumer class action, independent consumer agencies and consumer representation by the Federal government. New, stricter and more costly standards of construction have recently been imposed.

As you know, consumerism is a very fashionable word today. I would like to remind you that we of the gas industry have been engaged in active consumerism programs for 40 years with our Blue Star certification program and over 10 years with our National Appliance Field Observation Program.

Both have been successful. However, I am sure that none of us would argue the point that the appliance field observation program has been less effective than we would like it to be. At the request of the Consumer Affairs and Safety Committee, a task force has been working on a recommended revision of this program.

This revised program we hope will be the vehicle for more effective cooperation between the utilities and the appliance manufacturers. The program will require support of the entire industry and a considerably greater than normal participation from certain companies. I urge that each of you who will be asked to take part in this new program to respond as fully as possible.

Our activities in the environmental area will include monitoring the enforcement of the Clean Air Act amendments of 1970 and the pending omnibus water quality legislation—including possible controls of offshore oil and gas production. Other matters of concern include the nationwide health and safety standards being implemented under the Department of Labor and the development of regulations under the Pipeline Safety Act of 1968, and many more.

It is axiomatic, however, that the major efforts of AGA must be directed to the continuing assessment of the nation's energy crisis and a search for solutions consistent with national economic and environmental goals.

On the basic problem of gas supply, the FPC has undertaken a National Gas Survey to establish the magnitude of our gas reserves, competitive and price factors, capital requirements, technological needs, and other matters. An authoritative and objective study would appear to be a necessary prelude to the establishment of a sound national energy policy. Bill Elmer heads our representation on the national study group. I commend your support for this project and your companies' cooperation in supplying necessary data as the study goes forward.

I cannot leave this topic of government relations without noting the tremendous shift in the last decade on the part of corporations and trade associations to the Washington scene. The AGA move, more than a year ago, reflects this industry's response. The increasing involvement of government in business underlines the soundness of that move. It is important for our industry to recognize that the dialogue which has been building between government and industry has created a tremendous interdependency. We have built a bridge but we must be ever vigilant that it does not become a one-way passage.

The year ahead

In closing, let me urge again that we in the gas business keep open our options and attempt to maintain the initiative on the national scene. A great foundation has been laid this year in our Association's program. With the implementation of our reorganized and strengthened staff, we have much greater potential for effective action. It remains for us to capitalize fully on our opportunities. I look forward to an interesting year in this job and, with your help and support, I am confident that it can be a productive one for the industry and the nation.

HOUSE OF REPRESENTATIVES—*Monday, November 15, 1971*

The House met at 12 o'clock noon and was called to order by the Speaker pro tempore (Mr. BOGGS).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

THE SPEAKER'S ROOMS,
November 15, 1971.

I hereby designate the Honorable HALE BOGGS to act as Speaker pro tempore today.

CARL ALBERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Come unto me, all ye that labor and are heavy laden, and I will give you rest.—Matthew 11: 28.

Almighty God, without whom all our labor is in vain, prosper our work this day and may we so respond to Thee that the programs planned and the progress accomplished may be in accordance with Thy holy will.

We pray for our Nation set amid the perplexities of a changing order and faced with new tasks. Bestow upon our people a responsiveness to duty, a willingness to work, a desire to lift the level of life about them, and an utter loyalty to Thee. By Thy grace make us all joyful in spirit, radiant in life, steadfast in faith, and eager to serve that we may usher in a better day for all mankind.

In the mood of the Master we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4729. An act to amend section 2107 of title 10, United States Code, to provide additional Reserve Officers' Training Corps scholarships for the Army, Navy, and Air Force, and other purposes;

H.R. 6723. An act to provide subsistence allowances for members of the Marine Corps officer candidate programs;

H.R. 6724. An act to amend section 209 (a) and (b) of title 37, United States Code, to provide increased subsistence allowances for Senior Reserve Officers' Training Corps members;

H.R. 7950. An act to repeal sections 3692, 6023, 6025, and 8692 of title 10, United States Code, with respect to pilot training requirements for members of the Army, Navy, Marine Corps, and Air Force; and to insert a new section 2003 of the same title; and

H.R. 8656. An act to amend titles 37 and 38, United States Code, relating to promotion of members of the uniformed services who are in a missing status.

A COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works; which was read together with the accompanying papers, referred to the Committee on Appropriations:

WASHINGTON, D.C.,
November 10, 1971.

HON. CARL ALBERT,
Speaker of the House of Representatives, Washington, D.C.

MY DEAR MR. SPEAKER: Pursuant to the provisions of Section 201 of Public Law 89–298, the Committee on Public Works of the House of Representatives on November 10, 1971, adopted Committee resolutions authorizing the following water resources development projects:

Murrells Inlet, Georgetown County, S.C., and
Northport Harbor, Wis.

Kindest personal regards.

Sincerely,

JOHN A. BLATNIK,
Chairman.

CONSENT CALENDAR

The SPEAKER pro tempore. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

CONSENTING TO THE KANSAS-NEBRASKA BIG BLUE RIVER COMPACT

The Clerk called the bill (H.R. 8116) to consent to the Kansas-Nebraska Big Blue River compact.

There being no objection, the Clerk read the bill as follows:

H.R. 8116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to the Kansas-Nebraska Big Blue River Compact which is substantially as follows:

"KANSAS-NEBRASKA BIG BLUE RIVER COMPACT

"PREAMBLE

"The State of Kansas and the State of Nebraska, acting through their duly authorized Compact representatives, Keith S. Krause for the State of Kansas and Dan S. Jones, Jr., for the State of Nebraska, after negotiations participated in by Elmo W. McClendon, appointed by the President as the representative of the United States of America, and in accordance with the consent to such negotiations granted by an Act of Congress of the United States of America, approved June 3, 1960, Public Law 489, 86th Congress 2nd Session, have agreed that the major purposes of this Compact concerning the waters of the Big Blue River and its tributaries are:

"A. To promote interstate comity between the States of Nebraska and Kansas;

"B. To achieve an equitable apportionment of the waters of the Big Blue River Basin between the two States and to promote orderly development thereof; and

"C. To encourage continuation of the active pollution-abatement programs in each of the two States and to seek further reduction in both natural and man-made pollution of the waters of the Big Blue River Basin.

"To accomplish these purposes the said States have agreed as set forth in the following Articles.

"'ARTICLE I—DEFINITIONS

"'As used in this Compact:

"'1.1 The term "State" shall mean either State signatory hereto, and it shall be construed to include any person, entity, or agency of either State who, by reason of official responsibility or by designation of the Governor of the State, is acting as an official representative of the State;

"'1.2 The term "Kansas-Nebraska Big Blue River Compact Administration," or the term "Administration," means the agency created by this Compact for the administration thereof;

"'1.3 The term "Big Blue River Basin" means all of the drainage basin of the Big Blue and Little Blue Rivers in Nebraska and Kansas downstream to the confluence of the Big Blue River with the Kansas River near Manhattan, Kansas;

"'1.4 The term "Big Blue River Basin in Nebraska" means all of the drainage basin of the Big Blue River in Nebraska and is exclusive of the drainage basin of the Little Blue River in Nebraska;

"'1.5 The term "minimum mean daily flow" means the minimum mean flow for any one calendar day;

"'1.6 The term "pollution" means contamination or other undesirable alteration of any of the physical, chemical, biological, radiological, or thermal properties of the waters of the basin, or the discharge into the waters of the basin of any liquid, gaseous, or solid substances that create or are likely to result in a nuisance, or that render or are likely to render the waters into which they are discharged harmful, detrimental, or injurious to public health, safety, or welfare, or that are harmful, detrimental or injurious to beneficial uses of the water;

"'1.7 The term "water project" means any physical structure or any man-made changes which affect the quantity or quality of natural water supplies or natural streamflows and which are designed to bring about greater beneficial use of the water resources of an area;

"'1.8 The term "natural flow" means that portion of the flow in a natural stream that consists of direct runoff from precipitation on the land surface, ground-water infiltration to the stream, return flows to the natural stream from municipal, agricultural, or other uses, and releases from storage for no designated beneficial use;

"'1.9 The term "inactive water appropriation" means a water right that is subject to cancellation or termination for non-use.

"'ARTICLE II—DESCRIPTION OF THE BASIN

"'2.1 The Big Blue River, a tributary of the Kansas River, drains an area of 9,696 square miles in south central Nebraska and north central Kansas. About 75 percent of the Big Blue River Basin is in Nebraska, and the remainder is in Kansas. The Big Blue River and its principal tributary, the Little Blue River, join near Blue Rapids, Kansas. From there, the Big Blue River flows generally southward to join the Kansas River near Manhattan, Kansas, as shown on Exhibit A.

"'2.2 Much of the upper portion of the basin in Nebraska is underlain with sands and gravels that supply large quantities of water to irrigation wells. The lower portion of the basin in Nebraska and that portion of the basin in Kansas lack significant ground water supplies except within the major stream valleys.

"'ARTICLE III—ORGANIZATION OF COMPACT ADMINISTRATION

"'3.1 ADMINISTRATION AGENCY. There is hereby established an interstate administrative agency, to be known as the "Kansas-Nebraska Big Blue River Compact Administration," to administer the Compact.

"'3.2 ADMINISTRATION MEMBERSHIP. The Administration shall be composed of one ex officio member and one advisory member from each State, plus a Federal member to be appointed by the President if he so desires. The ex officio member from each State shall be the official charged with the duty of administering the laws of his State pertaining to water rights. Said official shall designate a representative who may serve in his place at meetings of the Administration. All actions taken by the designated representative in the transaction of the business of the Administration shall be in the name of the official he represents and shall be binding on that official. The advisory member from each State may serve in any capacity within the Administration. He shall reside in the Big Blue River Basin portion of the State he represents.

"'The Governor of each State shall appoint the advisory member from that State for a term of 4 years. This appointment shall be made within 90 days after the effective date of this Compact.

"'3.3 ADMINISTRATION GOVERNMENT. The Administration shall hold its first meeting within 120 days after the effective date of this Compact, and it shall meet at least annually thereafter. The Federal member, if one be designated, shall serve as Chairman, without vote. If no Federal representative is appointed, the Administration shall select a Chairman, in addition to such officers as may be provided for in rules and regulations, to serve at the will of the Administration. A meeting quorum shall consist of the ex officio members from both States, or their designated representatives. Each State shall have but one vote, cast by the ex officio member or his representative. All actions must be approved by both ex officio members or their representatives. Minutes of each meeting shall be kept, and they shall be available for public inspection.

"'3.4 ADMINISTRATION POWERS AND DUTIES. The Administration shall have the power to adopt rules and regulations consistent with the provisions of this Compact, to enforce such rules and regulations, and to otherwise carry out its responsibilities. It may institute action in its own name in courts of competent jurisdiction to compel compliance with the provisions of this Compact and with the rules and regulations it adopts.

"'The Administration is hereby authorized to employ the technical and clerical staff necessary to carry out its functions, and to maintain the office and appurtenances necessary to conduct its business. It may employ attorneys, engineers, or other consultants. It may purchase equipment and services necessary to its functions.

"'The Administration shall publish an annual report including a review of its activities and financial status. It may also prepare and publish such other reports and publications as it deems necessary.

"'In order to provide a sound basis for carrying out the apportionment provisions of this Compact, the Administration shall cause to be established such stream-gaging stations, ground-water observation wells, and other data-collection facilities as are necessary for administering this Compact; and it shall install such other equipment and collect such data therefrom, for a period of not less than 5 years, as are necessary or desirable for evaluating the effects of pumping of wells on the flows of the Big Blue and Little Blue Rivers at the Kansas-Nebraska State line. The well area to be considered is described in article V, paragraph 5.2.

"'The Administration shall have authority to accept funds from local, State, and Federal sources. It may enter into cooperative agreements and contribute funds to support such data-collection and analysis programs as are necessary for administration of the Compact.

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"'ARTICLE IV—RESPONSIBILITY OF EACH STATE

"'4.1 EXPENSES OF ADMINISTRATION. Each State and Federal member of the Administration shall receive such compensation and such reimbursement for travel and subsistence as are provided by the government he represents, and he shall be paid by that government.

"'BUDGET. Each year, the Administration shall prepare a properly documented budget covering the anticipated expenditures of the Administration for the following fiscal period. Each State shall make provision in its budget for funds to pay its share of the expenses of the Administration, which shall be divided equally between the States of Kansas and Nebraska. The Administration shall establish a fund to which each State shall contribute equally and from which the expenses of the Administration shall be paid.

"'4.3 RECORDS AND INFORMATION. The State of Kansas and the State of Nebraska shall cooperate with the Administration and furnish to it such records, information, plans, data, and assistance as may be reasonably available; and they shall keep the Administration advised of Federal activities in connection with planning, design, construction, operation, and maintenance of water-resource projects in the Big Blue River Basin.

"'Any local, public, or private agency collecting water data or planning, designing, constructing, operating, or maintaining any water project or facility in the Big Blue River Basin shall keep the Administration advised of its investigations and of any proposed changes and additions to existing projects and facilities, and it shall submit plans for new projects to the Administration for review of those project aspects affecting surface-water flowage and quality.

"'ARTICLE V—APPOINTMENT OF WATERS OF THE BIG BLUE RIVER BASIN

"'5.1 PRINCIPLES OF APPOINTMENT. The physical and other conditions peculiar to the Big Blue River Basin constitute the basis for this apportionment, and neither of the signatory States hereby, nor the Congress of the United States by its consent hereto, concedes that this apportionment establishes any general principle with respect to any other interstate stream.

"'The States of Kansas and Nebraska subscribe to the principle of including storage capacity for low-flow regulation in reservoirs constructed by the U.S. Bureau of Reclamation and the U.S. Army Corps of Engineers, and to the principle of such administration as is required to assure that water released from storage for low-flow regulation shall remain available in the stream to accomplish its intended purpose.

"'5.2 NEBRASKA APPORTIONMENT.—The State of Nebraska shall have free and unrestricted use of the waters of the Little Blue and Big Blue River Basins in Nebraska, such use to be in accordance with the laws of the State of Nebraska, subject to the limitations set forth below.

"'(a) Water appropriations of record in the Little Blue and Big Blue River Basins in Nebraska on November 1, 1968, that were then inactive, shall be cancelled by due process of laws in effect in that State.

"'(b) During the period, May 1–September 30 the process of laws in effect in that State.

"'(b) During the period, May 1–September 30 the State of Nebraska shall regulate diversions from natural flow of Streams in the Little Blue and Big Blue River Basins by water appropriators junior to November 1, 1968, in order to maintain minimum mean daily flows at the state-line gaging stations (which are now located at Fairbury and Barneston, respectively, but which may be relocated at such other places as may be designated state-line gaging stations by the Administration) during each month as follows:

Little Blue River	
May	45 cfs
June	45 cfs
July	75 cfs
August	80 cfs
September	60 cfs

Big Blue River	
May	45 cfs
June	45 cfs
July	80 cfs
August	90 cfs
September	65 cfs

"'When such action is necessary to maintain the above schedule of flows, the State of Nebraska shall:

"'(1) Limit diversions by natural-flow appropriators in Nebraska in accordance with their water appropriations;

"'(2) Close, in reverse order of priority, natural-flow appropriations with priority dates subsequent to November 1, 1968, including rights to store water in the conservation-storage zones of reservoirs;

"'(3) Enjoin all persons not holding valid natural-flow appropriations from taking water during periods when the exercise of junior natural-flow appropriations is being restricted

"'(4) Regulate, in the same manner that diversion of natural flows is regulated, withdrawals of water from irrigation wells installed after November 1, 1968, except equivalent wells drilled to replace wells installed before that date, in the alluvium and valley side terrace deposits within one mile from the thread of the river and between the mouth of Walnut Creek and the Kansas-Nebraska State line on the Little Blue River and between the mouth of Turkey Creek and the Kansas-Nebraska State line on the Big Blue River (as delineated on Exhibits A and B of Supplement No. 1 to the Report of the Engineering Committee) provided that, if the regulation of such wells fails to yield any measurable increases in flows at the state-line gaging stations as determined by the investigations to be undertaken under Article III, paragraph 3.4, the regulation of such wells shall be discontinued. Determination of the effect on streamflow of the pumping of such wells shall rest with the administration.

"'Delivery of water under the terms of this article shall be deemed to be in compliance with its provisions when the amounts passing the state-line gaging stations are substantially equivalent to the scheduled amounts. Minor irregularities in flow shall be disregarded.

"'(c) The storage capacity provided in reservoirs in the Little Blue River Basin in Nebraska shall be limited to a total of 200,000 acre-feet. Similarly, the storage capacity in reservoirs in the Big Blue River Basin in Nebraska shall be limited to 500,000 acre-feet. These limitations are exclusive of storage capacity that may be found necessary for regulation and use of waters imported into these basins in Nebraska; exclusive of storage capacity in small reservoir projects where the storage of water for subsequent use is less than 200 acre-feet; exclusive of storage capacity allocated to sedimentation and flood control; and exclusive of storage capacity allocated to, and from which water is released to accomplish low-flow augmentation for improvement of water quality, for fishery, wildlife, or recreation purposes, or for meeting the flow schedules at the Kansas-Nebraska State line as set out in Article V, paragraph 5.2.

"'5.3 KANSAS APPORTIONMENT. The State of Kansas shall have free and unrestricted use of all waters of the Big Blue River Basin flowing into Kansas from Nebraska in accordance with this Compact, and of all waters of the basin originating in Kansas, excepting such waters as may, in the future, flow from Kansas into Nebraska.

"'5.4 TRANSBASIN DIVERSION. In the event of any importation of water into the Big Blue River Basin by either State, the State making the importation shall have exclusive use of such imported water, including identifiable return flows therefrom. Neither State shall authorize the exportation from the Big Blue River of water originating within that basin without the approval of the administration.

"'ARTICLE VI—WATER QUALITY CONTROL

"'6.1 The States of Kansas and Nebraska mutually agree to the principle of individual State efforts to control natural and man-made water pollution within each State and to the continuing support of both States in active water pollution control programs.

"'6.2 The two States agree to cooperate, through their appropriate State agencies, in the investigation, abatement, and control of sources of alleged interstate pollution within the Big Blue River Basin whenever such sources are called to their attention by the Administration.

"'6.3 The two States agree to cooperate in maintaining the quality of the waters of the Big Blue River Basin at or above such water quality standards as may be adopted, now or hereafter, by the water pollution control agencies of the respective States in compliance with the provisions of the Federal Water Quality Act of 1965, and amendments thereto.

"'6.4 The two States agree to the principle that neither State may require the other to provide water for the purpose of water quality control as a susbtitute for adequate waste treatment.

"'ARTICLE VII—GENERAL PROVISIONS

"'7.1 RIGHT TO STORE WATER IN UPPER STATE. The right of the State of Kansas or of any person, corporation, local agency, or entity in Kansas to construct or participate in the future construction and use of any storage reservoir or diversion works in the Big Blue and Little Blue Basins of Nebraska for the purpose of regulating water to be used in Kansas shall never be denied: *Provided*, That such right is subject to the laws of the State of Nebraska and that any such storage for use by Kansas shall be excluded from the limitations on storage under Article V, paragraph 5.2(c).

"'Releases of water from storage provided by Kansas interests in the State of Nebraska shall not be counted toward meeting the minimum flow requirements at the State line under the provisions of paragraph 5.2(b).

"'7.2 DISCLAIMER. Nothing contained in this Compact shall be deemed:

"'1. To impair, extend, or otherwise affect any right or power of the United States, its agencies, or its instrumentalities involved herein;

"'2. To subject to the laws of the States of Kansas and Nebraska any property or rights of the United States that were not subject to the laws of those States prior to the date of this Compact;

"'3. To interfere with or impair the right or power of either signatory State to regulate within its boundaries the appropriation, use, and control of waters within that State consistent with its obligations under this Compact.

"'7.3 INVALIDITY IN PART. Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of either signatory State or to the Constitution of the United Sates, all other severable provisions of this Compact shall continue in full force and effect.

"'7.4 FUTURE REVIEW. After the expiration of 5 years following the effective date of this Compact, the Administration may review any provision hereof; and it shall meet for such review whenever a member of the Administration from either State requests such review. All provisions hereof shall remain in full force and effect until changed and amended within the intent of the Compact by unanimous action of the Administration, and until such changes in this Compact are ratified by the Legislatures of the respective States and are consented to by the Congress of the United States, in the same manner that this Compact is required to be ratified and consented to before it becomes effective.

"'7.5 TERMINATION. This Compact may be terminated at any time by appropriate action of the Legislatures of both signatory States. In the event of amendment or termination of the Compact, the water-resource developments made in compliance with, and reliant upon, this Compac' shall continue unimpaired.

"'ARTICLE VIII—RATIFICATION

"'8.1 This Compact shall become binding and obligatory when it shall have been ratified by the Legislature of each State and consented to by the Congress of the United States and when the Congressional Act consenting to this Compact includes the consent of Congress to name and join the United States as a party in any litigation in the United States Supreme Court, if the United States is an indispensable party and if the litigation arises out of this Compact or its application, and if a signatory State is a party thereto.

"'8.2 Notice of ratification by the Legislature of each State shall be given by the Governor of that State to the Governor of the other State and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of the consent by the Congress of the United States.'

"In witness whereof the authorized representatives have executed three counterparts hereof, each of which shall be and constitute an original, one of which shall be deposited with the Administrator of General Services of the United States, and one of which shall be forwarded to the Governor of each State.

"Done at Lincoln, Nebraska, this 25th day of January 1971.

"Keith S. Krause
"KEITH S. KRAUSE,
"Commissioner for the State of Kansas.
"Dan S. Jones, Jr.
"DAN S. JONES, JR.
"Commissioner for the State of Nebraska.

"Approved:

"Elmo W. McClendon
"ELMO W. MCCLENDON
"Representative of the United States of America"

With the following committee amendment:

Page 17, after line 23, add a new section 2, renumbering the present section 2 to section 3:

"SEC. 2. To carry out the purposes of article VIII of the compact, the Congress hereby consents to have the United States named and joined as a party in any litigation in the U.S. Supreme Court, if the United States is an indispensable party and if the litigation arises out of the compact or its application, and if a signatory State is a party thereto."

The committee amendment was agreed to.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, H.R. 8116 will give the consent of Congress to the compact negotiated between the State of Kansas and Nebraska on the Big Blue River, a major tributary of the Kansas River. The consent of Congress to negotiate this compact was granted by the act of June 3, 1960.

The compact has been agreed to by the negotiators, including a representative of the United States designated by the President, and was ratified by the legislatures of the two States in April 1971, by unanimous vote in each case. Consent of Congress as provided by H.R. 8116 completes the processing of this important instrument.

The text of the compact is set out in H.R. 8116. The Interior and Insular Affairs Committee considered the document in connection with our hearings and found no basis for objection in any of its provisions. Neither did we ascertain any objections on the part of the State governments, the House delegations from the signatory States, or from the public at large. The bill is supported by the administration.

The compact provides a workable formula for the apportionment of the flows of the Big Blue River, sets limits on conservation storage in the State of Nebraska, and creates an administrative body for management of compact affairs.

The compact also provides that it shall become binding when the Congress consents to have the United States joined as a party litigant in any action in the Supreme Court growing out of the compact in which either or both States are parties to the action. H.R. 8116 specifically contains this provision.

For these reasons, I am pleased to offer the measure to the House for its consideration and recommend its enactment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DESIGNATING THE MOUNTAIN PARK RESERVOIR, OKLA., AS THE TOM STEED RESERVOIR

The Clerk called the bill (H.R. 9418) to designate the Mountain Park Reservoir, Okla., as the Tom Steed Reservoir.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, I would simply inquire as to whether or not we are now as in the past, such as cases of the designation of the Truman Reservoir on the Osage River in Missouri, or the Arkansas River Senator McClellan complex under the jurisdiction of the Corps of Engineers and perhaps others; are we now and by virtue of this bill completely forgoing the past policy of the Congress not to name such projects after living—and, indeed, in this case an honored seated Member—individuals?

Mr. EDMONDSON. Mr. Speaker, will the gentleman yield?

Mr. HALL. I will be glad to yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Speaker, I thank the gentleman from Missouri very much for yielding, because the gentleman correctly states what has been a general policy of the Congress for many years, but I think a study of the record will indicate that there have consistently been exceptions to that policy at fairly regular intervals throughout the years, going back to Jefferson's time.

Mr. HALL. Mr. Speaker, will the gentleman tell us how you define "consistent exceptions"?

Mr. EDMONDSON. When you have exceptions almost every 10 or 15 years throughout the years, although the general policy prevails, I think you have some fairly consistent exceptions in the case of outstanding individuals where the local people in the State want to pay the honor to them.

In this instance, the local people joined in asking our delegation in Congress to introduce this bill to honor our colleague, the Honorable TOM STEED. The citizens of the two towns that are immediately adjacent to the reservoir and are served by its water supply asked for it, and the Mountain Park Conservancy District asked for it.

Mr. HALL. Mr. Speaker, at the risk of appearing to be somewhat rude, but in order to expedite the business of the Congress, there is no question in this Member's mind about the deservedness of the subject person, so I do not think we need to go into that.

I appreciate the gentleman's remarks, and I would hope that the "consistent exceptions" be kept minimal in the future, but I certainly withdraw my reservation.

Mr. EDMONDSON. I thank the gentleman very much.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 9418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Mountain Park Reservoir, Oklahoma, authorized to be constructed by the Act of September 21, 1968 (82 Stat. 553), shall be known and designated hereafter as the Tom Steed Reservoir. Any law, regulation, map, document, record, or other paper of the United States in which such reservoir is referred shall be held to refer to such reservoir as the Tom Steed Reservoir.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRANSPORTATION OF MAIL BY THE U.S. POSTAL SERVICE

The Clerk called the bill (S. 996) relating to the transportation of mail by the United States Postal Service.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CHAPEL OF THE ASTRONAUTS

The Clerk called the bill (H.R. 11487) to authorize the Administrator of the National Aeronautics and Space Administration to convey certain lands in Brevard County, Fla.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, I wonder if anyone could give us any indication of what this bill may eventually cost?

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Mr. TEAGUE of Texas. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Texas.

Mr. TEAGUE of Texas. Mr. Speaker, it costs nothing to the Federal Government.

Mr. GROSS. Except for the land.

Mr. TEAGUE of Texas. The Government is selling the land to this organization.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

H.R. 11487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of the National Aeronautics and Space Administration is authorized to convey for fair market value to the Chapel of the Astronauts, Incorporated, a nonprofit Florida corporation, all right, title, and interest of the United States in not to exceed seven acres of unimproved land situated adjacent to the present Visitor Information Center, John F. Kennedy Space Center, National Aeronautics and Space Administration, Brevard County, Florida, together with necessary rights of vehicular, pedestrian and utilities access, for the purpose of construction, operation, and maintenance thereon by the said corporation of a nondenominational, nonsectarian, nonprofit public facility for worship or meditation and a memorial to the Astronauts, who have served as envoys of all mankind in the exploration of outer space, including the moon and other celestial bodies, which facility shall be open at all times to any individual or group without discrimination as to race, creed, color, or national origin: *Provided,* That—

(1) such conveyance shall take place when the Administrator determines that (A) said corporation is ready, willing, and financially and otherwise able to construct, operate, and maintain the said facility, and (B) the plans for such facility are appropriate for the intended purpose, will not detract from the surrounding Government facilities and have made adequate provision for access by, and accommodation of, the public and for the safe operation of the facility and surrounding Government facilities; and

(2) the deed of conveyance shall include suitable covenants (A) restricting the use of the property to the purpose for which it was conveyed, (B) requiring the corporation to construct, maintain, and operate the facility for, and in a manner appropriate to, the purposes for which the property was conveyed, without at any time impairing the safety or interfering with the operation of surrounding Government facilities; and (C) providing that title to the land conveyed thereunder and any improvements thereon shall revert to the United States, without payment of compensation therefor, whenever the Administrator or the official having jurisdiction and control over adjacent Government-owned land, determines that any of the foregoing covenants are breached.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INVESTMENT COMPANY ACT AMENDMENT

The Clerk called the bill (H.R. 9758) to amend the Investment Company Act of 1940, as amended.

There being no objection, the Clerk read the bill as follows:

H.R. 9758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27(f) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a–27(f), is amended to read as follows:

"(f) With respect to any periodic payment plan (other than a plan under which the amount of sales load deducted from any payment thereon does not exceed 9 per centum of such payment), the custodian bank for such plan shall mail to each certificate holder, within sixty days after the issuance of the certificate, a statement of charges to be deducted from the projected payments on the certificate and a notice of his right to withdrawal as specified in this section. The Commission may make rules specifying the method, form, and contents of the notice required by this subsection. The certificate holder may within forty-five days of the mailing of the notice specified in this subsection surrender his certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from the underwriter or depositor, equal to the difference between the gross payments made and the net amount invested. The Commission may make rules and regulations applicable to underwriters and depositors of companies issuing any such certificates specifying such reserve requirements as it deems necessary or appropriate in order for such underwriters and depositors carry out the obligations to refund sales charges required by this subsection."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NAMING OF VETERANS' ADMINISTRATION HOSPITAL AT BEDFORD, MASS., FOR EDITH NOURSE ROGERS

The Clerk called the bill (H.R. 950) to designate a Veterans' Administration hospital in Bedford, Mass., as the Edith Nourse Rogers Memorial Veterans' Hospital.

There being no objection, the Clerk read the bill as follows:

H.R. 950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration hospital at Bedford, Massachusetts, shall hereafter be known and designated as the Edith Nourse Rogers Memorial Veterans' Hospital. Any reference to such hospital in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the Edith Nourse Rogers Memorial Veterans' Hospital.

With the following committee amendment:

Page 1, after line 9, add the following:

SEC. 2. The Administrator of Veterans' Affairs is authorized to provide such memorial at the above-named hospital as he may deem suitable to preserve the remembrance of the late Edith Nourse Rogers.

The committee amendment was agreed to.

Mr. MORSE. Mr. Speaker, I would like to take this opportunity to thank the chairman and the members of the Committee on Veterans' Affairs for bringing this bill to the floor of the House.

I feel that it is indeed appropriate that the Veterans Administration hospital in Bedford, Mass., should be designated the Edith Nourse Rogers Memorial Hospital and stand as a memorial to the dedication Mrs. Rogers always showed for our Nation's veterans.

Mrs. Rogers represented the Fifth Massachusetts Congressional District, which I am now privileged to represent, for 25 years until her death in 1960. During her distinguished career in the House, Mrs. Rogers served on the Veterans' Affairs Committee and made the cause of better hospital care for the Nation's veterans one of her major concerns. As the ranking Republican member of the committee, she was instrumental in the passage of the GI bill in 1944. She served as chairman of the Committee on Veterans' Affairs during both the 80th and 83d Congresses.

During her long service in the Congress, Mrs. Rogers was especially interested in the entire operation of the Bedford Hospital, located in her congressional district, and I feel that the designation of this facility in her memory is a fitting tribute to her steadfast dedication to the cause of veterans everywhere.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to designate the Veterans' Administration hospital at Bedford, Mass., as the Edith Nourse Rogers Memorial Veterans' Hospital, and for other purposes."

A motion to reconsider was laid on the table.

SERVICEMEN'S GROUP LIFE INSURANCE COVERAGE FOR CADETS AND MIDSHIPMEN

The Clerk called the bill (H.R. 9096) to amend chapter 19 of title 38 of the United States Code, to extend coverage under servicemen's group life insurance to cadets and midshipmen at the service academies of the Armed Forces.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, reserving the right to object, I query how much this would be used by these students already being educated and trained at the expense of the Government. They are being given complete security and sanctified protection by the Government. I wonder if this is included in the report, because there should be some explanation before this goes through on the Consent Calendar.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HALL. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding. As the Chairman of the Subcommittee on Insurance and Veterans Affairs, I would like to answer the gentleman's question and comment on the bill.

The bill has been recommended by the Veterans' Administration and was unanimously approved by our committee.

The cadets and midshipmen are covered for all other veterans' benefits and were inadvertently left out of the coverages extended to the military services in this group life insurance program.

There will be no cost to the Government. These young cadets, over 12,000 of them, in the four service academies are in excellent health and, as I said earlier, there will be no cost to the Government. This is optional—they do not have to take the insurance if they do not desire it. It would cost about $2.50 per month to the midshipman or the cadet.

Mr. HALL. Now, as to my question, is there any estimate; as to the numbers of those to whom this additional benefit is to be proffered; who would participate or accept it?

Mr. MONTGOMERY. Ninety-eight percent of the active duty servicemen participate now. I would think well over 95 percent would take advantage of the program.

Mr. HALL. I doubt very much that these men in these sanctuaries, so to speak, will participate to that degree.

But I have no objection to this insurance and if it is requested by the departments involved, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

H.R. 9096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 765 of title 38, United States Code, is amended by—

(1) striking from paragraph (B) of clause (1) "and";

(2) striking the period at the end of paragraph (C) of clause (1) and inserting "; and" in place thereof; and

(3) adding the following new paragraph to clause (1):

"(D) full-time duty as a cadet or midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy."; and

With the following committee amendments:

Page 1, line 9, strike out "and".

Page 2, line 6, add the following at the end thereof: "; and

"(4) adding immediately after the word "grade" in paragraph

"(A) of clause (5) the following: ", or as a cadet midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy".

The committee amendments were agreed to.

Mr. MONTGOMERY. Mr. Speaker, H.R. 9096 would extend servicemen's group life insurance coverage to cadets and midshipmen at the U.S. Military, Naval, Air Force, and Coast Guard Academies. As the Members know, the Congress established this new group insurance program in 1965 for all persons in the active service. Although cadets and midshipmen at the academies and their survivors are now, and have been for many years, included in title 38, United States Code for all of the established veterans' programs, unfortunately the specific statutory wording of the entitlement provision in the SGLI law was such as to deny them coverage thereunder. According, this bill, in effect, merely places them in the same position as they should have been placed under the original law in 1965. I should point out that while this insurance coverage is automatic in the first instance every serviceman has the privilege of declining coverage in whole or in part. The Defense Department deems such cadets and midshipmen as full-time members of the military community and, therefore, along with the Veterans' Administration, favors this bill. The young men concerned are in excellent health and we are advised that the extension of this coverage would involve no additional cost to the Government.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TO PROVIDE UNIFORM DEFINITIONS OF CERTAIN BENEFICIARIES OF SERVICEMEN'S GROUP LIFE INSURANCE

The Clerk called the bill (H.R 9097) to define the terms "widow," "widower," "child," and "parent" for servicemen's group life insurance purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 9097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 765 of title 38, United States Code, is amended by adding the following definitions thereto:

"(7) The term 'widow' or 'widower' means a person who is the lawful spouse of the insured member at the time of his death.

"(8) The term 'child' means a legitimate child, a legally adopted child, an illegitimate child as to the mother, or an illegitimate child as to the alleged father, if (a) he acknowledged the child in writing signed by him; or (b) he has been judicially ordered to contribute to the child's support; or (c) he has been, before his death, judicially decreed to be the father of such child; or (d) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the insured was the informant and was named as father of the child; or (e) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the insured was named as the father of the child.

"(9) The term 'parent' means a father of a legitimate child, mother of a legitimate child, father through adoption, mother through adoption, mother of an illegitimate child, and father of an illegitimate child but only if (a) he acknowledged paternity of the child in writing signed by him before the child's death; or (b) he has been judicially ordered to contribute to the child's support; or (c) he has been judicially decreed to be the father of such child; or (d) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the claimant was the informant and was named as father of the child; or (e) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the claimant was named as father of the child. No person who abandoned or willfully failed to support a child during his minority, or consented to his adoption may be recognized as a parent for the purpose of this subchapter. However, the immediately preceding sentence shall not be applied so as to require duplicate payments in any case in which insurance benefits have been paid prior to receipt in the administrative office established under subsection 766 (b) of this title of sufficient evidence to clearly establish that the person so paid could not qualify as a parent solely by reason of such sentence."

SEC. 2. The provisions of this Act shall apply only to Servicemen's Group Life Insurance in effect on the life of an insured member who dies on or after the date of enactment of this Act.

Mr. MONTGOMERY. Mr. Speaker, H.R. 9097 would also amend the servicemen's group life insurance provisions of the law so as to provide a uniform definition of the terms "widow," "widower," "child," and "parent." Experience under the program to date discloses that there is a great lack of uniformity in determining eligibility of beneficiaries since the insurer must follow the State law applicable in each case. As a result, a "child" may receive the insurance in one case under a particular State statute whereas a similar "child" of a veteran who perhaps was killed under the same circumstances but resided in another State would be barred.

The SGLI program is federally sponsored and, since its inception in 1965, has required a subsidy in Federal funds on almost a matching basis. We believe that the definitions of beneficiaries should therefore be uniform and this would be entirely consistent with the definitions of beneficiaries of other veterans' programs which are now spelled out in title 38. Enactment of the bill will not result in any additional cost to the Government.

Mr. Speaker, H.R. 11334 would provide a new option under national service life insurance policies under which an insured might elect to have his dividends used to purchase additional paid-up NSLI. This bill is another effort on the part of our committee to find means that are actuarially sound to extend some relief to the holders of term policies under which—as all members have become painfully aware—the premiums are increased every 5 years and at the higher ages become practically prohibitive. Under this bill, if a veteran elects the option, we are advised that in 15 to 20 years he can accrue, depending on various factors, additional paid-up insurance of $3,000 to $4,000. In such a case, he could well afford to drop a portion of his term insurance then running at an excessive premium.

The committee is informed that the option to use dividends to purchase additional paid-up insurance is a right now enjoyed by most commercial life insurance policyholders and, therefore, it seems most appropriate to incorporate this new option in the NSLI program. As I stated, enactment of the bill would constitute a further effective and sound approach in our continuing efforts to minimize the ever-increasing term insurance premium problem. It would establish a program under which the holders of NSLI term policies could acquire some permanent plan coverage on which no premium

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would be payable. The premiums on term insurance increase with the age of the insured on each 5-year renewal, and at the older ages are practically prohibitive. This creates financial hardship and dissatisfaction. The Veterans' Administration advises that their experience shows that it often results in a reduction or discontinuance of the insurance at a time when it is most likely to mature. The paid-up insurance authorized by the bill would alleviate some of these hardship cases.

It is estimated that the cost of the bill, other than the administrative cost, will be negligible. The initial cost of notifying all policyholders of the benefits of the bill is estimated to be about $450,000. Thereafter, the administrative cost will approximate $7,900 per 1,000 dividend option changes.

Mr. Speaker, H.R. 11335 would authorize a new modified life plan of NSLI with reduction at age 70. This, again, represents another small step toward extending an additional avenue under which term policyholders may find that they can salvage some portion of their insurance before it is too late.

Our committee recommended, and the Congress enacted in 1965, a new modified life plan of NSLI with reduction at age 65, it was possible to extend this plan with a premium somewhat higher than the term premium but lower than the required premium for converting to ordinary life insurance, and at a premium that would remain level throughout the lifetime of the insured. In such case, the principal amount of the insurance would be reduced by 50 percent at age 65. The bill before us would authorize such a plan but make it more attractive by postponing the reduction until the insured reached age 70. Under the bill, all holders of the present age 65 plan will be given the opportunity to exchange to the new plan, without a showing of good health, but subject to a one-time additional payment necessary for the higher reserve value and, of course, at a slightly higher premium. The committee was assured that the adoption of this new plan in the insurance program will in no way impair or adversely affect the values, dividends, and so forth, to which policyholders under the various other plans of insurance are now entitled.

Enactment of the bill will involve no additional benefit cost to the Government. It is estimated that the administrative cost the first year will be approximately $100,000.

Mr. Speaker, I ask permission to revise and extend my remarks on the bill H.R. 9096.

Mr. Speaker, I ask permission to revise and extend my remarks on the bill H.R 9097.

Mr. Speaker, I ask permission to revise and extend my remarks on the bill H.R. 11334.

Mr. Speaker, I ask permission to revise and extend my remarks on the bill H.R. 11335.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

TO DESIGNATE THE VETERANS' ADMINISTRATION HOSPITAL IN SAN ANTONIO, TEX., AS THE AUDIE L. MURPHY MEMORIAL VETERANS' HOSPITAL

The Clerk called the bill (H.R. 11220) to designate the Veterans' Administration hospital in San Antonio, Tex., as the Audie L. Murphy Memorial Veterans' Hospital.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Veterans' Administration hospital now under construction at San Antonio, Texas, shall hereafter be known and designated as the Audie L. Murphy Memorial Veterans' Hospital. Any reference to such hospital in any law, regulation, document, record, or other paper of the United States shall be deemed a reference to it as the Audie L. Murphy Memorial Veterans' Hospital.

With the following committee amendment.

Page 1, after line 9, add the following:

"Sec. 2. The Administrator of Veterans' Affairs is authorized to provide such memorial at the above-named hospital as he may deem suitable to preserve the remembrance of the late Audie L. Murphy."

The committee amendment was agreed to.

Mr. TEAGUE of Texas. Mr. Speaker, H.R. 11220 provides for the naming of the new VA hospital, which is about to be completed in San Antonio, Tex., in memory of the most decorated soldier of World War II, Audie L. Murphy.

Mr. Speaker, it was a great honor for me to introduce this bill and it is cosponsored by all members of the Texas congressional delegation. A companion bill has also been introduced in the Senate by Senators BENTSEN and TOWER and it is my fervent hope that this legislation will be promptly enacted.

Mr. Speaker, just as the name of Sgt. Alvin York epitomized the heroes of World War I, Audie Murphy is remembered by most all Americans as the hero of World War II. Both of these great citizen soldiers came from similar backgrounds—they were born and lived their early years in rural areas of our country—they both suffered from poverty during childhood and in their young adult lives. Notwithstanding many handicaps, unlike many today, when their country went to war to protect liberty and freedom they, along with millions of America's finest young men from all walks of life, joined the Armed Forces of America to help defeat our country's enemies. Both of these heroic men fell upon hard times after their military service but their indomitable courage and their personal dignity remained with them until the end. They symbolize the generations of men who have been willing to put their personal safety aside to preserve freedom for their fellow man.

During World War II, Audie Murphy, the son of a Texas tenant farmer, was awarded 24 citations for his battlefield deeds, including the Medal of Honor and a battlefield commission as second lieutenant. In January 1945, the infantry company which Lieutenant Murphy commanded in eastern France was besieged by six German tanks. Lieutenant Murphy ordered his men to withdraw to prepared positions in a woods, while he remained forward at his command post and continued to give fire directions to the artillery by telephone. Behind him, to his right, one of our tank destroyers received a direct hit and began to burn. Its crew withdrew to the woods. Lieutenant Murphy continued to direct artillery fire which killed large numbers of the advancing enemy infantry. With the enemy tanks abreast of his position, Lieutenant Murphy climbed on the burning tank destroyer, which was in danger of blowing up at any moment, and employed its .50 caliber machinegun against the enemy. He was alone and exposed to German fire from three sides, but his deadly fire killed dozens of Germans and caused their infantry attack to waiver. The enemy tanks, losing infantry support, began to fall back. For an hour the Germans tried every available weapon to eliminate Lieutenant Murphy, but he continued to hold his position and wiped out a squad which was trying to creep up unnoticed on his right flank. Germans reached as close as 10 yards, only to be mowed down by his fire. He received a leg wound, but ignored it and continued the single handed fight until his ammunition was exhausted. He then made his way to his company, refused medical attention, and organized the company in a counterattack which forced the Germans to withdraw. Lieutenant Murphy's indomitable courage and his refusal to give an inch of ground saved his company from possible encirclement and destruction and enabled it to hold the woods which had been the enemy objective.

After having been wounded three times in later combat activity, young Audie Murphy returned home to a nation eager to honor its war heroes. He wanted to stay in the Army and become a career soldier but was turned down after being classified 50 percent disabled because of his war wounds.

Twenty-five years later patriotic attitudes among many have changed. Seldom does a discharged combat serviceman come home to a heroic welcome. More often than not he fades into society without recognition while vocal minorities capture the headlines by burning their draft cards and blowing up public buildings.

The $36 million San Antonio VA hospital is soon to be completed. When this great medical center opens its doors to receive sick and disabled veterans, it will be one of the most modern hospital facilities in the world.

Mr. Speaker, by dedicating the new San Antonio VA hospital to a gallant American soldier who has passed from our midst, it is my fervent hope that in these troubled times the spirit and gallantry of Audie Murphy will help rekindle a greater degree of patriotism in all Americans, especially among our young adults, to defend the freedoms which Audie Murphy so valiantly fought to preserve for them.

Mr. Speaker, I am pleased to state that this legislation has great support among veteran leaders in Texas and there follows communications I have received on this bill from the Department Commander's of the Veterans of Foreign Wars and the American Legion:

DEPARTMENT OF TEXAS, VETERANS OF FOREIGN WARS OF THE UNITED STATES
Austin, Tex., September 22, 1971.

Re Veterans' Administration Hospital, San Antonio, Tex.

Hon. OLIN E. TEAGUE,
Congressman from Texas, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN TEAGUE: The Veterans Administration is now in the process of constructing a Veterans Administration Hospital in San Antonio, Texas.

It is my understanding that some of the Hospitals in the past have been named for outstanding individuals who have distinguished themselves while serving in the Armed Forces in the United States, or who have distinguished themselves as a Public Servant.

We the Officers and Members of the Veterans of Foreign Wars, wish to call upon you to use your influence to have the above mentioned Hospital named after Audie L. Murphy. I am sure that you are familiar with the late Audie Murphy's distinguished record as a Second Lieutenant in the United States Army, Commanding Company B, 15th, Infantry, 3d Infantry Division.

He, as you probably know, was born in Farmersville, Texas, and was one of the most decorated Veterans of World War II.

Your usual consideration to this request will be sincerely appreciated.

With my kind regards, I am

Yours in comradeship

MEL STANLEY,
Department Commander, Veterans of Foreign Wars, Department of Texas.

THE AMERICAN LEGION
DEPARTMENT OF TEXAS, AUSTIN—
RESOLUTION NO. 1

Whereas, Audie Leon Murphy, born June 20, 1924, at Kingston, Texas, was America's most decorated soldier of World War II, having earned twenty-four awards for combat action in North Africa and Europe including the Medal of Honor; and

Whereas, With the death of Audie Murphy, the Nation lost one of the most courageous men ever to wear the military uniform of the United States in defense of freedom; and

Whereas, His example is a memorial to all persons; and

Whereas, It is fitting and proper to name the Veterans Administration Hospital, now under construction at San Antonio, Texas, in honor of this distinguished Texan; now, therefore be it

Resolved, That the American Legion, Department of Texas, Veterans Affairs and Rehabilitation Commission, assembled at Austin, Texas, this 9th day of October 1971, go on record with this resolution to support and seek legislation to name the VA Hospital now under construction at San Antonio, Texas "Audie Murphy Veterans Administration Hospital," and be it further

Resolved, That copies of this resolution be be forwarded to the Administrator of Veterans Affairs, Mr. Donald E. Johnson; Honorable Olin E. Teague, Chairman, Veterans Affairs Committee of the House of Representatives; and the two Texas Senators, Honorable John Tower and Honorable Lloyd Bentsen, and to all Texas Congressmen.

GN. MOODY,
Department Commander.

Attest: W. H. MCGEHEE,
Department Adjutant.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read "A bill to designate the Veterans' Administration hospital in San Antonio, Texas, as the Audie L. Murphy Memorial Veterans' Hospital, and for other purposes."

A motion to reconsider was laid on the table.

USE OF DIVIDENDS TO PURCHASE ADDITIONAL PAID-UP NATIONAL SERVICE LIFE INSURANCE

The Clerk called the bill (H.R. 11334) to amend title 38 of the United States Code to provide that dividends may be used to purchase additional paid up national service life insurance.

There being no objection, the Clerk read the bill as follows:

H.R. 11334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 703 of title 38, United States Code, is amended by adding the following sentence at the end thereof:

"The limitations of this section shall not apply to the additional paid up insurance the purchase of which is authorized under section 707 of this title."

SEC. 2. Section 707 of title 38, United States Code, is amended to read as follows:

"§ 707. Payment or use of dividends

"(a) Until and unless the Veterans' Administration has received from the insured a request or directive in writing exercising any other dividend option allowable under his policy, any dividend accumulations and unpaid dividends shall be applied in payment of premiums becoming due on insurance subsequent to the date the dividend is payable after January 1, 1952.

"(b) The Administrator, upon application in writing made by the insured for insurance under this subsection, and without proof of good health, is authorized to apply any dividend due and payable on national service life insurance after the date of such application to purchase paid up insurance. Also, the Administrator, upon application to in writing made by the insured within six calender months after the effective date of this amendatory Act, and without proof of good health, is authorized to apply any national service life insurance dividend credits and deposits of such insured existing at the date of his application to purchase paid up insurance. Any dividends, dividend credits, or deposits on endowment policies may be used under this subsection only to purchase additional paid up endowment insurance which matures concurrently with the basic policy. Any dividends, dividend credits, or deposits on policies (other than endowment policies) may be used under this section only to purchase additional paid up whole life insurance. The paid up insurance granted under this susbection shall be in addition to any insurance otherwise authorized under this title, or under prior provisions of law. The paid up insurance granted under this subsection shall be issued on the same terms and conditions as are contained in the standard policies of national service life insurance except (1) the premium rates for such insurance and all cash and loan values thereon shall be based on such table of mortality and rate of interest per annum as may be prescribed by the Administrator; (2) the total disability income provision authorized under section 715 of this title may not be added to insurance issued under this section; and (3) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable."

SEC. 3. The analysis of chapter 19 of title 38, United States Code, is amended by deleting therefrom:

"707. Dividends to pay premiums."

and inserting in lieu thereof

"707. Payment or use of dividends."

SEC. 4. The amendments made by this Act shall take effect on a date established by the Administrator but in no event later than the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act.

With the following committee amendment:

Page 1, strike out line 3 and all that follows thereafter down through line 9 on page 2 and insert the following:

That section 708 and section 741 of title 38, United States Code are amended by adding at the end thereof the following new sentence: "The limitations of this section shall not apply to the additional paid up insurance the purchase of which is authorized under section 707 of this title."

"Sec. 2. Section 707 of title 38, United States Code, is amended—

(1) by striking out "in writing for payment in cash," in subsection (a) and inserting in lieu thereof "or directive in writing exercising any other dividend option allowable under his policy,";

(2) by adding at the end thereof the following new subsection:

"(c) The Administrator, upon application in writing

AMENDMENT OFFERED BY MR. MONTGOMERY TO COMMITTEE AMENDMENT

Mr. MONTGOMERY. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. MONTGOMERY to the committee amendment: On page 2 beginning at line 12, after "703", insert "and" section 741".

The amendment to the committee amendment was agreed to.

The committee amendment, as amended, was agreed to.

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the remaining committee amendments.

The Clerk read as follows:

Committee amendments: Page 2, line 16, strike out "amendatory Act" and insert "subsection".

Page 3, line 15, insert "; and" immediately after the quotation mark, and between lines 15 and 16 insert the following:

(3) by amending the side heading to read as follows: "§ 707. Payment or use of dividends".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

NEW MODIFIED LIFE PLAN OF NATIONAL SERVICE LIFE INSURANCE WITH REDUCTION AT AGE 70

The Clerk called the bill (H.R. 11335) to amend section 704 of title 38, United

States Code, to permit the conversion or exchange of national service life insurance policies to insurance on a modified life plan with reduction at age 70.

There being no objection, the Clerk read the bill as follows:

H.R. 11335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 704 of title 38, United States Code, is amended effective the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act by the addition of the following new subsection thereto:

"(e) On and after the effective date of this subsection and under such regulations as the Administrator may promulgate, insurance may be converted to or exchanged for insurance on a modified life plan under the same terms and conditions as are set forth in subsections (b) and (c) of this section except that at the end of the day preceding the seventieth birthday of the insured the face value of the modified life insurance policy or the amount of extended insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any insured whose modified life insurance policy issued under this subsection is in force by payment or waiver of premiums on the day before his seventieth birthday may be granted insurance on the ordinary life plan upon the same terms and conditions as are set forth in subsection (d) of this section except that in applying such provisions the seventieth birthday is to be substituted for the sixty-fifth birthday. Notwithstanding any other provision of law or regulations the Administrator under such terms and conditions as he determines to be reasonable and practicable and upon written application any payment of the required premiums, reserves, or other necessary amounts made within one year from the effective date of this subsection by an insured having in force a modified life plan issued under subsections (b) or (c) of this section, including any replacement insurance issued under subsection (d) of this section or other provision of this title, can exchange such insurance without proof of good health for an amount of insurance issued under this subsection equal to the insurance then in force or which was in force on the day before such insured's sixty-fifth birthday, whichever is the greater."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the veterans' bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

APPROVING AN ORDER OF THE SECRETARY OF THE INTERIOR CANCELING IRRIGATION CHARGES AGAINST NON-INDIAN-OWNED LANDS UNDER THE MODOC POINT UNIT OF THE KLAMATH INDIAN IRRIGATION PROJECT, OREGON

The Clerk called the bill (H.R. 489) to approve an order of the Secretary of the Interior canceling irrigation charges against non-Indian-owned lands under the Modoc Point unit of the Klamath Indian irrigation project, Oregon.

There being no objection, the Clerk read the bill as follows:

H.R. 489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with the Act of June 22, 1936 (49 Stat. 1803; 25 U.S.C. 389–389e), the order of the Secretary of the Interior dated December 31, 1968, canceling $76,302.29 of irrigation assessments and costs and any interest and penalties accrued thereon, chargeable against non-Indian-owned lands in the Modoc Point unit of the Klamath Indian irrigation project is hereby approved.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD).

Mr. ASPINALL. Mr. Speaker, the purpose of H.R. 489 is to approve an order of the Secretary of the Interior which cancels $76,302.29 in irrigation assessments against non-Indian lands in the Modoc Point unit of the Klamath Indian irrigation project, plus accrued interest and penalties. The order of the Secretary of the Interior was issued pursuant to the act of June 22, 1936 (25 U.S.C. 389), and under the terms of that act the order will not be effective until approved by Congress.

All units of the Klamath Indian irrigation project are being operated by the landowners without cost to the United States, except the Modoc Point unit. The Modoc Point Irrigation District, organized under Oregon law, is willing to accept a transfer of the unit if all remaining construction charges against the lands are canceled.

The Secretary's order of December 31, 1968, cancels the remaining reimbursable charges against the non-Indian lands, conditioned on the completion of an agreement with the irrigation district to take over the unit. After that order is approved by enactment of the pending bill, the Secretary of the Interior will cancel administratively under authority of the Klamath Termination Act of August 13, 1954, the remaining reimbursable charges against the Indian lands in the project.

The irrigation system needs to be rehabilitated and extended at an estimated cost of $302,000. This cost would be beyond the ability of the water users to pay, unless the existing reimbursable charges are canceled. The cancellation of these charges will permit the irrigation district to assess the lands for the rehabilitation and betterment work, and the assessment will be within the economic ability of the lands to pay.

The committee is convinced that the proposed cancellation, together with a transfer to the irrigation district of all future responsibility for operation and maintenance of the unit, will be in the financial interest of the United States. The Secretary of the Interior shares that conclusion.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DECLARING THAT CERTAIN FEDERALLY OWNED LAND IS HELD BY THE UNITED STATES IN TRUST FOR THE LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

The Clerk called the bill (H.R. 2185) to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians.

There being no objection, the Clerk read the bill as follows:

H.R. 2185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in and to the northwest quarter, northwest quarter, section 35, township 41 north, range 5 east, forth principal meridian, Wisconsin, containing forty acres, more or less, including improvements thereon, is hereby declared to be held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, subject to valid existing rights-of-way of record and to the continued use of the fire observation tower located on the above-described land by the State of Wisconsin, for so long as it is needed for fire protection purposes.

SEC. 2. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the purpose of H.R. 2185, introduced as the result of an executive communication from the Department of the Interior, is to convey to the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin the beneficial interest in 40 acres of Federal land. The land was purchased by the United States in 1932 for $500, and it has a present value of $2,100. Although the conveyance will be made without the payment of a consideration, the value of the land will be considered for set-off purposes in any future claim allowed by the Indian Claims Commission.

The land is located within the reservation, is no longer needed by the Department of the Interior in connection with the administration of Indian affairs, and is desired by the Band for use in connection with its forest management plan and its recreational development plan.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE ACQUISITION OF A VILLAGE SITE FOR THE PAYSON BAND OF YAVAPAI-APACHE INDIANS

The Clerk called the bill (H.R. 3337) to authorize the acquisition of a village site for the Payson Band of Yavapai-Apache Indians, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 3337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) a suitable site (of not to exceed eighty-five acres) for a village for the Payson Band of Yavapai-Apache Indians shall be selected in the Tonto National Forest within Gila County, Arizona, by the leaders of the band in cooperation with the Secretary of the Interior and the Secretary of Agriculture.

(b) Upon the transfer of the land referred to in section 3, the lands selected under subsection (a) for the village site are hereby eliminated from the Tonto National Forest and all right, title, and interest of the United States in and to such lands are hereby declared to be held by the United States in trust as an Indian reservation for the use and benefit of the Payson Band of Yavapai-Apache Indians.

SEC. 2. The Payson Band of Yavapai-Apache Indians shall be recognized as a tribe of Indians within the purview of the Act of June 18, 1934, as amended (25 U.S.C. 461–479, relating to the protection of Indians and conservation of resources), and shall be subject to all of the provisions thereof.

SEC. 3. There is authorized to be appropriated such sums as may be necessary for the acquisition (within the boundaries of the Tonto National Forest) by the Secretary of the Interior (after consultation with the Secretary of Agriculture) of lands (or interests in lands) for the purpose of transfer to the Secretary of Agriculture as additions to the forest in lieu of the lands to be eliminated from the forest by the first section of this Act.

With the following committee amendments:

Page 1, lines 6 and 7, strike out "band in cooperation with" and insert "band, subject to approval by".

Page 2, strike out lines 1 through 2 and insert the following:

(b) The Secretary of Agriculture is authorized and directed to convey without consideration all right, title, and interest of the United States, except as provided in section 2 of this Act, in and to the property selected pursuant to this section to an association, which shall be an Arizona corporation organized for the benefit of the Payson Band of Yavapai-Apache Indians and whose membership shall be the members of the Payson Band of Yavapai-Apache Indians, subject to the following conditions:

(1) Such association shall use such property only in accordance with its corporate purposes set out in its original articles of incorporation, such articles to be subject to the approval of the Secretary of the Interior prior to their being filed with the Arizona Corporation Commission.

(2) Title to such property shall be held by such association for the common benefit of all the members of such association and no part of such property shall ever be conveyed for the benefit of any private organization, association, group, or individual, and such restriction shall appear in the Articles of Incorporation.

(3) Such other conditions as the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall deem necessary to protect the interest of the United States.

If any condition imposed by this section is breached at any time, all of the real property conveyed under authority of this Act shall revert to the United States.

The conveyance of such lands shall eliminate them from the Tonto National Forest.

SEC. 2. Any conveyance under this Act shall contain a reservation to the United States of all minerals included under the mining laws and mineral leasing laws for which the land as of the date of issuance of the conveyance is deemed by the Secretary of Agriculture, after consultation with the Secretary of the Interior, to be valuable or prospectively valuable, together with the right of the United States, its lessees, permittees, or licensees to prospect for, mine, and remove them under applicable provisions of law.

The committee amendments were agreed to.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the purpose of H.R. 3337 is to convey to the Payson Band of the Yavapai-Apache Indians not more than 85 acres of land in the Tonto National Forest for use by the Indians as a village site.

The Payson Band is a part of the San Carlos Apache Tribe. The members of the band lived on private land called Indian Hill from 1904 to 1954, when the land was sold. The Indians then migrated to the Tonto National Forest where they lived without specific authority in unsanitary and unhealthful surroundings. There is a need to relocate the Indians on a more satisfactory site, and a new site containing about 15 acres has been agreed upon by the Indians, the Department of the Interior, and the Department of Agriculture.

An unrestricted title to the land will be conveyed to a membership corporation organized under Arizona law and composed of members of the band. The title will revert to the United States if the land is not used in accordance with the conditions stated in the bill. The conveyance also reserves to the United States all minerals in the land.

The committee did not adopt an amendment recommended by the Department of the Interior which would disclaim any Federal responsibility to provide special services to these Indians because of their status as Indians. By omitting this language, and also the language in the bill specifically recognizing the band as a separate tribe of Indians, the committee intended to maintain the status quo, neither affirming nor disaffirming their eligibility for a particular service under present law.

The committee also disapproved an amendment proposed by the Department of Agriculture that would have authorized the Federal purchase of lieu lands, costing $60,000, to replace the national forest lands conveyed to the Indians. The Department made no showing that additional lands are needed, and the departmental witness did not insist on this amendment.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR DISPOSITION OF JUDGMENTS FUNDS FOR CONFEDERATED TRIBES OF THE COLVILLE RESERVATION

The Clerk called the bill (H.R. 6291) to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets numbered 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 6291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds that may hereafter be deposited to the credit of the Confederated Tribes of the Colville Reservation to pay a judgment arising out of proceedings presently pending before the Indian Claims Commission in docket numbered 178 and the funds appropriated by the Act of July 6, 1970 (84 Stat. 376), to pay a judgment in favor of the Confederated Tribes of the Colville Reservation, and others, in Indian Claims Commission docket numbered 179, and apportioned to the Confederated Tribes under the Act of April 24, 1961 (75 Stat. 45), and interest thereon, after payment of attorney fees and other litigation expenses, shall be distributed per capita to enrolled members of the Confederated Tribes of the Colville Reservation, who were born on or prior to and living on the date of this Act.

SEC. 2. None of the funds distributed per capita under the provisions of this Act shall be subject to Federal or State income tax. Any per capita share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines will adequately protect the best interest of such persons.

With the following committee amendments:

Page 1, line 3, strike out "that may hereafter be".

Page 1, lines 5 and 6, strike out "presently pending".

Page 2, lines 7 to 9, strike out "per capita" and the remainder of the sentence, and insert in lieu thereof: "on a per capita basis, each share amounting to not more than $950, to the extent such funds are available, to each person born on or prior to and living on the date of this Act, who meets the requirements for membership, in the Confederated Tribes of the Colville Reservation. The remaining balance of such funds, and the interest thereon, shall be combined and distributed with any other tribal funds that may hereafter become available for per capita distribution."

The committee amendments were agreed to.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the purpose of H.R. 6291 is to authorize the use of a judgment against the United States that was recovered by the Confederated Tribes of the Colville Reservation in the Indian Claims Commission. The net amount available is about $5,216,452. The money has been appropriated, but it may not be used until authorizing legislation has been enacted.

The bill provides for a per capita distribution of the entire sum. There are about 5,309 tribal members, and about half of them live away from the reservation. A per capita distribution will serve the best interests of the entire group. The tribe has other income which will finance reservation programs and provide educational assistance.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE ACT OF AUGUST 9, 1955, TO AUTHORIZE LONGER TERM LEASES OF INDIAN LANDS LOCATED OUTSIDE THE BOUNDARIES OF INDIAN RESERVATIONS IN NEW MEXICO

The Clerk called the bill (H.R. 7701), to amend the act of August 9, 1955, to authorize longer term leases of Indian lands located outside the boundaries of Indian reservations in New Mexico.

There being no objection, the Clerk read the bill as follows:

H.R. 7701

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of the first section of the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (25 U.S.C. 415), is amended by inserting immediately after "the pueblo of Zuni," the following: "Indian trust or restricted lands located outside the boundaries of Indian reservations in the State of New Mexico,".

With the following committee amendment:

Page 1, strike out lines 8 through 11, and insert "415), is amended by inserting immediately after the word 'except' the first time it appears the words 'leases of land located outside the boundaries of Indian reservations in the State of New Mexico, and' ".

The committee amendment was agreed to.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the purpose of H.R. 7701 is to grant 99-year lease authority for trust or restricted Indian land in New Mexico that is located outside the boundaries or reservation.

The act of August 9, 1955 (69 Stat. 539) authorizes the Indian owners of trust or restricted land to lease the land, with the approval of the Secretary of the Interior. The term of the lease normally may not exceed 25 years, with one option to renew for 25 years.

In the case of specified reservations, leases may be for as long as 99 years. This long term lease authority has been granted by Congress on a selective basis after a need for the authority has been demonstrated, because a lease for 99 years effectively alienates the land during the lifetime of present owners.

The Navajo Reservation is one of the reservations where long-term lease authority has been granted. There are, however, about 4,000 Navajo allotments outside the reservation, mostly in New Mexico, and these allotments may not be leased for long terms without the enactment of this bill. The bill will also apply to some Navajo tribal land located outside the reservation, and to some allotments to Indians who are not Navajos.

The long-term lease authority is needed to permit the full economic development of the lands.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR DISPOSITION OF JUDGMENT FUNDS FOR THE YANKTON SIOUX TRIBE

The Clerk called the bill (H.R. 7742) to provide for the disposition of funds to pay a judgment in favor of the Yankton Sioux Tribe in Indian Claims Commission docket numbered 332–A, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 7742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by the Act of July 22, 1969 (83 Stat. 49), to pay a judgment to the Yankton Sioux Tribe in Indian Claims Commission docket numbered 332–A, together with the interest thereon, after payment of attorney fees and litigation expenses, and such other expenses as may be necessary in effecting the provisions of this Act, shall be distributed as provided herein.

SEC. 2. Prior to the approval of this Act and/or date of this Act, the Yankton Sioux Tribal Business and Claims Committee is hereby authorized and directed, pursuant to General Indian Tribal Council meeting held on March 3, 1971, to use not to exceed $150,000 of the tribal funds standing to the credit of the Yankton Sioux Tribe of Indians in the State of South Dakota arising from the judgment award on docket numbered 332–A, known as the Royce 151 claim and that this fund or so much thereof as may be needed shall be used to pay the expenses and compensation of the competent experts that is needed for assistance and that these experts will be assisting in the final completion of the litigation on the combined Sioux Laramie lands and Royce 410 Yankton homelands along with the issues of consideration and offsets in docket numbered 332–C and the accounting claim in docket numbered 332–B.

SEC. 3. The Yankton Sioux Tribal Enrollment Committee shall prepare a roll of all persons born on or prior to and living at midnight on January 28, 1968, who meet the membership requirements of the tribal constitution approved on October 5, 1932, as amended. Applications for enrollment for the purpose of this payment must be filed with the tribe within one hundred and twenty days after the date of this Act.

SEC. 4. The judgment fund, less funds otherwise provided in section 2, shall be distributed per capita to those persons whose names appear on the roll prepared in accordance with section 3 of this Act. Sums payable to adult living enrollees or to adult heirs or legatees of deceased enrollees shall be paid directly to such persons. Sums payable to enrollees or their heirs or legatees who are less than eighteen years of age or who are under legal disability shall be deposited in a local depository and paid in accordance with such procedures as the Yankton Sioux Tribe determines appropriate to protect the best interests of such persons. Shares of schoolchildren may be budgeted for school purposes at not to exceed $10 per month per school term. The balance of the share of an individual schoolchild may be paid directly to said schoolchild upon his or her reaching eighteen years of age.

SEC. 5. The funds that are distributed per capita under the provisions of this Act shall not be subject to Federal or State income tax. No part of any of the funds distributed in accordance with the provisions of this Act shall be subject to any lien, debt, or attorney fees except delinquent debts owed by the tribe to the United States or owed by individual Indians to the tribe or the United States. The funds distributed in accordance with the provisions of this Act shall not be considered as "other income" within the meaning of the Social Security Act or be in lieu of aid to dependent children.

SEC. 6. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

With the following committee amendments:

Page 1, line 10 through page 2, line 18, strike out all of section 2 and insert a new section 2 as follows:

"SEC. 2. The Secretary of the Interior shall withhold from distribution a sum not to exceed $150,000, pending a decision by the Yankton Sioux Tribal Business and Claims Committee regarding the needs of the tribe for expert witnesses in the Yankton Sioux claims in Indian Claims Commission dockets Nos. 332–B, 332–C, and 74. The sum withheld may be used for such purpose or for other programing needs, subject to the approval of the Secretary."

Page 2, lines 16 through 23, strike out all of section 3 and insert a new section 3 as follows:

"SEC. 3. The Secretary of the Interior, in cooperation with the Tribal Council, shall prepare a roll of all persons born on or prior to and living on the date of this Act who meet the requirements for membership of the Yankton Sioux tribal constitution approved on October 5, 1932, as amended."

Page 3, lines 8 through 13, strike out the word "deposited" and the remainder of the section, and insert the following: "paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons."

Page 3, lines 14 through 23, strike out all of section 5 and insert a new section 5 as follows:

"SEC. 5. None of the funds distributed per capita under the provisions of this Act shall be subject to Federal or State income taxes."

The committee amendments were agreed to.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the purpose of H.R. 7742 is to authorize the use of a judgment against the United States that was recovered by the Yankton Sioux Tribe in the Indian Claims Commission. The net amount available is about $1,234,555. The money has been appropriated, but it may not be used until authorizing legislation has been enacted.

The bill provides for withholding $150,000 from the judgment to finance the cost of expert witnesses in litigation that is still pending. The balance of the judgment will be distributed per capita to all members of the tribe. The membership is estimated to be around 2,900, more than half of whom live away from the reservation. Both the tribe and the Department of the Interior agree on the need of this per capita distribution. Reservation programs will be financed from other sources.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE PURCHASE, SALE, AND EXCHANGE OF CERTAIN LANDS ON THE KALISPEL INDIAN RESERVATION

The Clerk called the bill (H.R. 8381), to authorize the purchase, sale, and exchange of certain lands on the Kalispel Indian Reservation, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 8381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of effecting consolidations of land situated within the Kalispel Indian Reservation in the State of Washington into the ownership of the Kalispel Indian Community and its individual members and for the purpose of attaining and preserving an economic land base for Indian use, alleviating problems of Indian heirship, and assisting in the productive leasing, disposition, and other use of tribal and individually allotted lands on the Kalispel Reservation, the Secretary of the Interior is authorized in his discretion to:

(1) Purchase for the Kalispel Indian Community with any funds available to such tribe and to otherwise acquire by gift, exchange, or relinquishment any lands or interests in lands or improvements therein within the Kalispel Indian Reservation.

(2) Sell or approve sales of any tribal lands, any interest therein, or improvements thereon.

(3) Exchange any tribal trust lands, including interests therein or improvements thereon, for any lands or interests in lands situated within such reservation.

SEC. 2. The acquisition, sale, and exchange of lands for the Kalispel Indian Community pursuant to this Act shall be upon request of the business community or the Kalispel Community Council of the Kalispel Indian Community evidenced by a resolution adopted in accordance with the constitution and bylaws of the tribe, and shall be in accordance with a consolidation plan approved by the Secretary of the Interior.

SEC. 3. Any moneys or credits received by the Kalispel Indian Community in the sale of lands shall be used for the purchase of other lands, or for such other purpose as may be consistent with the land consolidation program, approved by the Secretary of the Interior.

SEC. 4. The Secretary of the Interior is authorized to sell and exchange individual Indian trust lands or interests therein on the Kalispel Indian Reservation held in multiple ownership to the Kalispel Indian Community or to other Indians if the sale or exchange is authorized in writing by owners of at least a majority of the trust interests in such lands; except that no greater percentage of approval of such trust interests shall be required under this Act than in any other statute of general application approved by Congress.

SEC. 5. That, notwithstanding any general statutory prohibition against the use of tribal funds to acquire land in Washington if the acquisition would exempt the land from local taxation, the title to any lands or any interest therein acquired pursuant to this Act shall be acquired in the name of the United States of America in trust for the Kalispel Indian Community and shall be subject to the same laws as other Indian trust lands on the Kalispel Indian Reservation.

SEC. 6. Any tribal land may, with the approval of the Secretary of the Interior, be encumbered by a mortgage or deed of trust and shall be subject to foreclosure or sale pursuant to the terms of such mortgage or deed of trust in accordance with the laws of the State of Washington. The United States shall be an indispensable party to any such proceedings with the right of removal of the cause of the United States district court for the district in which the land is located, following the procedure in section 1446 of title 28, United States Code: *Provided,* That the United States shall have the right to appeal from any order of remand in the case.

SEC. 7. The second sentence of section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is hereby further amended by inserting the words "the Kalispel Indian Reservation."

With the following committee amendments:

Page 1, line 11, strike out "to:".

Page 2, strike out lines 1 through 10 and insert "to sell or approve sales of any tribal trust lands, any interest therein, or improvements thereon."

Page 2, line 11, strike "acquisition, sale, and exchange" and insert "sale".

Page 3, lines 2 and 3, strike out "Community or to other Indians" and insert "Community, to any member thereof, or to any other Indian having an interest in the land involved,".

Page 3, lines 8 to 15, strike out all of Sec. 5 and renumber the following sections.

Page 3, lines 16 to 18, strike out "Any tribal land may, with the approval of the Secretary of the Interior, be encumbered by a mortgage or deed of trust and" and insert "The Community Council of the Kalispel Indian Community may encumber any tribal land by a mortgage or deed of trust, with the approval of the Secretary of the Interior, and such land".

Page 4, line 5, after "inserting" insert "after 'the Fort Mohave Reservation,' ".

Page 4, line 6, delete "Reservation." and insert "Reservation,".

The committee amendments were agreed to.

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ASPINALL. Mr. Speaker, the purpose of H.R. 8381 is to give the Kalispel Indian Community additional land management authority within the Indian reservation.

The bill authorizes the Secretary of the Interior to sell tribal lands within the reservation on behalf of the Kalispel Indian Community. Any sale of tribal lands must be approved by the tribe in accordance with its constitution, and must conform to a land consolidation plan approved by the Secretary of the Interior. The proceeds of sale must be used to purchase other lands, or in furtherance of a land consolidation program.

The bill also authorizes the Secretary of the Interior to sell or exchange "heirship" land on request of the owners of a majority interest in the land. The committee amendment limits a sale to the tribe, to a member of the tribe, or to an Indian who has an undivided interest in the land.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read: "A bill to authorize the sale of certain lands on the Kalispel Indian Reservation, and for other purposes."

A motion to reconsider was laid on the table.

PROVIDING FOR THE DISPOSITION OF JUDGMENT FUNDS OF THE PUEBLO OF LAGUNA

The Clerk called the bill (H.R. 10352) to provide for the disposition of judgment funds on deposit to the credit of the pueblo of Laguna in Indian Claims Commission, docket numbered 227, and for other purposes.

There being no objection, the clerk read the bill as follows:

H.R. 10352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the unexpended balance of funds on deposit in the Treasury of the United States to the credit of the pueblo of Laguna that were appropriated to pay a judgment by the Indian Claims Commission in docket numbered 227, and the interest thereon, after payment of attorney fees and expenses may, be advanced or expended or invested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior, including the transfer to the unrestricted funds of the pueblo of Laguna.

SEC. 2. Any part of such funds that may be distributed to members of the pueblo shall not be subject to Federal or State income tax.

The SPEAKER pro tempore. The Clerk will report the committee amendment.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that a similar Senate bill (S. 2339) to provide for the disposition of judgment funds on deposit to the credit of the Pueblo of Laguna in Indian Claims Commission, docket No. 227, and for other purposes, be considered in lieu of H.R. 10352.

Mr. HALL. Mr. Speaker, are we not going to complete action on the committee amendment first?

The SPEAKER pro tempore. The Clerk will report the title of the Senate bill first.

The Clerk read the title of the Senate bill.

Mr. ASPINALL. Mr. Speaker, may I say at this time that the Senate bill which I asked to have before us is the same as the House bill with the amendment, so I ask for its consideration instead of the House bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There being no objection, the Clerk read the Senate bill as follows:

S. 2339

An act to provide for the disposition of judgment funds on deposit to the credit of the Pueblo of Laguna in Indian Claims Commission, docket numbered 227, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the unexpended balance of funds on deposit in the Treasury of the United States to the credit of the Pueblo of Laguna that were appropriated to pay a judgment by the Indian Claims Commission in docket numbered 227, and the interest thereon, after payment of attorney fees and expenses, may be advanced or expended or invested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior, including the transfer to the unrestricted funds of the Pueblo of Laguna.

SEC. 2. Any part of such funds that may be distributed to members of the pueblo shall not be subject to Federal or State income tax.

Mr. ASPINALL. Mr. Speaker, the purpose of S. 2339 is to authorize the use of a judgment against the United States that was recovered by the Laguna pueblo in the Indian Claims Commission. The

net amount available is about $821,747. The money has been appropriated, but it may not be used until authorizing legislation has been enacted.

The bill authorizes the money to be used for any purpose authorized by the tribal governing body and approved by the Secretary of the Interior. Unlike most bills of this kind, the bill also authorizes the money to be transferred, with the approval of the Secretary, to the unrestricted funds of the pueblo. If this should happen, the Secretary would have no further responsibility with regard to the use of the money. The Secretary advised the committee that the tribe is competent to handle the money, and that he has no objection to the inclusion of this language in the bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 10352) was laid on the table.

The SPEAKER pro tempore. This concludes the call of the eligible bills on the Consent Calendar.

AMENDING INVESTMENT COMPANY ACT OF 1940, AS AMENDED

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of S. 2216, to amend the Investment Company Act of 1940, as amended, which is a Senate bill identical to H.R. 9758 as passed on the Consent Calendar.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. HALL. Mr. Speaker, reserving the right to object, will the distinguished gentleman from West Virginia relate the Senate bill he is asking unanimous consent to take up to the bill which was just passed by the House on the Consent Calendar?

Mr. STAGGERS. The Senate bill is identical.

Mr. HALL. To which one?

Mr. STAGGERS. The Investment Company Act amendment, which is numbered 80 on the list.

Mr. HALL. And the gentleman says it is just the same as the bill under consideration today, and he affirms the Senate version is identical in all respects to that version passed by the House?

The amendments are germane and there are no additional costs?

Mr. STAGGERS. That is correct.

Mr. HALL. Mr. Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2216

An act to amend the Investment Company Act of 1940, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27(f) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-27(f)), is amended to read as follows:

"(f) With respect to any periodic payment plan (other than a plan under which the amount of sales load deducted from any payment thereon does not exceed 9 per centum of such payment), the custodian bank for such plan shall mail to each certificate holder, within sixty days after the issuance of the certificate, a statement of charges to be deducted from the projected payments on the certificate and a notice of his right of withdrawal as specified in this section. The Commission may make rules specifying the method, form, and contents of the notice required by this subsection. The certificate holder may within forty-five days of the mailing of the notice specified in this subsection surrender his certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from the underwriter or depositor, equal to the difference between the gross payments made and the net amount invested. The Commision may make rules and regulations applicable to underwriters and depositors of companies issuing any such certificates specifying such reserve requirements as it deems necessary or appropriate in order for such underwriters and depositors to carry out the obligations to refund sales charges required by this subsection."

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 9758) was laid on the table.

SUPPORT VOICED FOR H.R. 11589, THE PASSENGER SHIP SALES BILL

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. VAN DEERLIN. Mr. Speaker, H.R. 11589, to permit the sale to foreign interests of five U.S.-flag passenger ships, seems to have become embroiled in a great deal of controversy—despite a resounding vote of confidence by the Merchant Marine and Fisheries Committee.

It would be splendid if we could be assured of keeping these ships—once the pride of our passenger fleet.

But the harsh realities of economics and changing modes in transportation dictate that we should at least maintain options in determining the future of these ships, and that is what H.R. 11589 would allow us to do.

Representing a port area, I am naturally most concerned about whatever effects enactment of this legislation might have on employment in maritime and related industries.

If I thought this bill would take jobs from Americans, I would oppose it. But I am convinced the opposite is true—the shipping lines involved will be able to turn the proceeds from the sale of these vessels into orders for new merchant ships, creating hundreds of seagoing jobs.

Likewise, new employment will be generated in our hard-pressed domestic shipbuilding industry. One such yard, the National Steel & Shipbuilding Co., is in my own district, in San Diego. The firm currently is working to build a backlog of orders to provide job stability in an area where unemployment now exceeds 6 percent.

Passage of H.R. 11589 would put my constituent yard in a position to bid for two of the merchant ships that would have to be constructed with proceeds from the sale of the five obsolescent passenger liners.

Other shipbuilding companies and parts suppliers, in other parts of the country, would also stand to benefit. Overall, our maritime posture would be strengthened if the laid-up passenger ships could be replaced by urgently needed merchant marine vessels—all flying the U.S. flag.

In short, the net effect of H.R. 11589 would be to generate jobs, rather than take them away.

I am completely sympathetic to the purposes of this bill, and urge our colleagues to join in supporting it.

ARTICLES CRITICAL OF AMBASSADOR OF UNITED STATES TO GREECE ARE NOT CONCLUSIONS OF THE SUBCOMMITTEE ON EUROPE.

(Mr. MONAGAN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the New York Times and Washington Post yesterday carried articles critical of the Ambassador of the United States to Greece and authored by the staff consultant of the Subcommittee on Europe of the House Committee on Foreign Affairs.

As a member of the Subcommittee on Europe, I wish to state that the conclusions in this well-publicized report are not the conclusions of the subcommittee. The subcommittee never considered this report and its existence was unknown to me until a few days ago.

The subcommittee is in no position to have an opinion on the merits of the report since its members took no part in the investigation which apparently was done solely by the staff consultant. Incidentally it might be inferred that there was a bias in the investigation in view of the fact that practically no contact was made with officials of the current government in Athens, but whether or not the evidence supported the conclusions of the report, the subcommittee did not consider and pass on it.

The question of the judgment and the activities of an Ambassador to the United States is a delicate and complex one. I feel it probable that I might not agree with all the policies and judgments of the Ambassador in question, but it is highly objectionable to permit a staff consultant to issue an appraisal of these judgments and policies without the knowledge or authority of the subcommittee whose sanction is lent to the report.

It is said that the report did not come before the subcommittee for consideration because approval might not be obtained. This would seem to be a reason against publication rather than for such release. At any rate, the staff member has compromised his usefulness by this unwise and premature disclosure.

Mr. ROONEY of New York. Mr. Speaker, will the distinguished gentleman from Connecticut yield?

Mr. MONAGAN. I yield to the gentleman from New York.

Mr. ROONEY of New York. Mr. Speaker, is the staff member to whom the gentleman from Connecticut referred still an employee of the Foreign Affairs Committee?

Mr. MONAGAN. As far as I know, he is.

Mr. ROONEY of New York. Well, he should not be.

CONFERENCE REPORT ON H.R. 11418, MILITARY CONSTRUCTION APPROPRIATIONS, 1972

Mr. SIKES. Mr. Speaker, I call up the conference report on the bill (H.R. 11418) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 10, 1971.)

Mr. SIKES (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HALL. Mr. Speaker, reserving the right to object, will the gentleman explain the bill and allocate the usual time, inasmuch as copies of the conference report are not yet available on the floor to Members?

Mr. SIKES. I fully intend to explain the bill, and I trust we can have a complete understanding of the actions of the conferees before conclusion of the discussion.

Mr. HALL. That would be most helpful.

Mr. Speaker, I withdraw my reservation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Florida.

Mr. SIKES. Mr. Speaker, we bring to the House today the conference report—House Report No. 92-664—on H.R. 11418 making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes. The conference agreement would provide $2,037,097,000 in new budget authority. This is $92,708,000 below the budget as recommended by the Department of Defense. The bill is $24,651,000 higher than the House version which was passed on October 27, 1971.

However, the conferees fully support the additions. There are a number of reasons for the increase and the committee feels they are sound. For instance, there were an unusually large number of losses of facilities by fire, storm, and other reasons which commonly are called act-of-God causes. There is a $2½ million addition for planning for alternate facilities for Culebra, in the Caribbean. This is necessitated by the fact that the Navy has been instructed to prepare an alternate plan to provide target areas due to population increases and other complications which affect existing activities. This study should proceed as rapidly as possible, but the status was such that the project was not included when the bill passed the House.

A close look at the Senate action will show that the Senate cut deeply into family housing and in lieu thereof added many other items. Some of these were sufficiently noteworthy that the House conferees accepted them. However, we in the House are particularly concerned with the need to continue to deal with the critical problem of family housing and troop housing construction. In this bill we make the strongest effort ever, through addition of new housing, and by modernization and improved maintenance of other structures which are now inadequate. The House conferees feel housing is essential to retention and morale in the services.

In the main this bill provides substantial improvement in modernization of Air Force depot plants and continues in a small way the improvement of outdated naval aviation rework facilities.

We substantially held the line on providing funds for the U.S. share in the NATO infrastructure program. It is important to bear in mind that it is only through the infrastructure that we recoup funds for our facilities in NATO countries. In this program we pay 30 percent and the allies pay the remainder. But for all construction other than through infrastructure, the United States pays the entire bill. We are not happy in the progress negotiators are making in obtaining funding through NATO for our facilities and we are constantly urging tighter negotiations by all of our representatives. The fact remains that it is better to get as much as we can through this program than to underfund it and destroy it and get nothing in reimbursement.

There is no change in the bill in safeguard funding. It remains at the same level as carried in the bill passed by the House and the Senate. There is continued construction for two sites. There is advance preparation for the third and fourth, and planning only in case it is required for the fifth. This is a striking contrast to the need for 12 sites which once the Pentagon felt to be essential if we are to provide reasonable protection from a Russian or Chinese missile strike and to be able to launch a retaliatory strike. Very probably this situation is in part a result of the SALT talks. The Russians have been able to lull us into a sense of security. This is what usually happens when we become involved with endless negotiations with other powers. We have obtained nothing firm from the talks except occasional statements from the negotiators intended to express pious hope and to soothe the American public. In the meantime the Russians have an antiballistic missile capability which they continue to improve.

I feel that we have reached a sound compromise with the other body and I urge prompt approval of the conference action.

Now let me provide more specific details about the action of the conferees.

The most significant aspect of the conference agreement is that it has retained all but $4,283,000 of the funds provided for family housing in the bill which passed the House. The amount appropriated for family housing is $933,955,000. This is $33,335,000 over the Senate and $25,805,000 over the budget request. Of the total provided, $92,820,000 is estimated to be required for the payment of debt obligations in connection with family housing acquired under previous programs, leaving $841,135,000, which constitutes new budget authority. Of this amount, approximately one-third or $289,821,000, is for new construction including improvements. These funds and prior-year balances available will allow for construction of the 9,432 new units authorized for the fiscal year 1972 program. Included are funds for 88 units to replace thoroughly inadequate housing at Camp Drum, N.Y., and 90 units at Woomera, Australia, to be financed from funds available to the Air Force—as recommended by the Senate. In addition, the conferees' recommended allowance would provide for increases above the budget request and the Senate bill for urgently needed minor construction, improvements, and up to approximately 500 Navy and Air Force units for which prior-year authorizations remain available. The committee expects to be consulted in advance with regard to the location of any units at Long Beach or the construction of units overseas. The conferees deleted $2,501,000 for Army new construction, but retained $5,832,000 deleted by the Senate, with the proviso that these funds may be used for badly needed Army family housing improvements but not for the conversion from coal to oil of heating plants in housing units in Germany.

The House held strongly for the additional money for family housing because the House conferees believe that military family housing has been shortchanged in the past and that there is and will continue to be for the foreseeable future a critical deficiency in both numbers and quality of housing available to military families. This must be corrected for humanitarian as well as practical reasons. We cannot expect military families to be involuntarily separated from each other—approximately 21,000 are at the present time—to pay excessive and in some areas gouging rents, or to live in inadequate homes because of a lack of sufficient good housing where their sponsors are assigned. At present about one-half million military families suffer these

conditions. Conversely, we cannot expect to attract and retain a sufficient number of qualified personnel in the Armed Forces if their families are not taken care of.

In total, the amount agreed to in conference is a reduction of $92,708,000 from the budget, $24,651,000 above the House bill, and $34,785,000 above the Senate bill. Excluding, for a moment, the additional amount provided for family housing, the amount agreed to for military construction is $118,513,000 under the budget. This represents a cut of more than 8 percent in the amount requested for military construction. Each of the services has a tremendous backlog of facilities which need to be modernized or replaced. During the Southeast Asia conflict, they have been able to do very little replacement; in fact, they have fallen behind.

I feel that this is the maximum that the Congress wisely can cut from the program. The Senate considered items totaling $12,128,000 which were submitted by the Navy and Air Force and authorized to replace facilities destroyed by fire, wind, and so forth, or were required for rebasing of SAC alert aircraft. Adjusting for these projects, the conference action is $16,806,000 over the House bill. Major items included in this increase for the Army are: Airfield facilities to support the 101st Airborne Division at Fort Campbell, Ky., and a weapons evaluation facility at Yuma Proving Ground, Ariz. The conferees agreed to the latter only on the provision that it not be used in any way to support the further relocation of activities from Aberdeen Proving Ground, Md. We expect the Army to follow the letter and the intent of this prohibition.

For the Navy are moneys for the first increment of a management engineering complex at Charleston Naval Shipyard in South Carolina and additional planning funds to carry out a study of alternate range facilities in the Culebra area, for which funds were authorized in the military construction authorization act for fiscal year 1972. The Navy cannot accomplish this study within the prescribed time and perform a sufficient level of design work on its fiscal year 1973 program without these additional funds.

Recommended for the Air Force are a navigator academic training facility at Mather Air Force Base, Calif., and a composite medical facility at Pease Air Force Base, N.H. The latest information available to the committee indicates that it makes sense to provide this replacement for antiquated facilities at the Portsmouth Naval Hospital at this time.

Again let me state that I believe the conference action fully merits the confidence and support of the House.

I will include a comparative statement detailing the action on this bill in the RECORD.

The statement follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1971 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1972

	New budget (obligational) authority, fiscal year 1971	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	New budget (obligational) authority recommended by conference action	Conference action compared with— New budget (obligational) authority, fiscal year 1971	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill
Military construction:									
Army	[1] 321,758,000	[2] 469,700,000	437,274,000	432,946,000	438,316,000	+116,558,000	−31,384,000	+1,042,000	+5,370,000
Navy	302,483,000	405,500,000	343,766,000	357,536,000	355,500,000	+53,017,000	−50,000,000	+11,734,000	−2,036,000
Air Force	284,147,000	316,600,000	273,031,000	291,954,000	289,189,000	+5,042,000	−27,411,000	+16,158,000	−2,765,000
Defense agencies	46,300,000	25,400,000	14,801,000	14,801,000	14,801,000	−31,499,000	−10,599,000		
Transfer not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)				
Military construction:									
Army National Guard	15,000,000	29,000,000	29,000,000	29,000,000	29,000,000	+14,000,000			
Air National Guard	8,000,000	10,600,000	10,600,000	10,600,000	10,600,000	+2,600,000			
Army Reserve	10,000,000	33,500,000	33,500,000	33,500,000	33,500,000	+23,500,000			
Naval Reserve	5,000,000	10,900,000	10,900,000	10,900,000	10,900,000	+5,900,000			
Air Force Reserve	4,000,000	5,700,000	6,581,000	5,700,000	6,581,000	+2,581,000	+881,000		+881,000
Total, military construction	996,688,000	1,306,900,000	1,159,453,000	1,186,937,000	1,188,387,000	+191,699,000	−118,513,000	+28,934,000	+1,450,000
Family housing, Defense	[3] 797,664,000	[4] 908,150,000	938,238,000	900,620,000	933,955,000	+136,291,000	+25,805,000	−4,283,000	+33,335,000
Portion applied to debt reduction	−90,278,000	−92,820,000	−92,820,000	−92,820,000	−92,820,000	−2,542,000			
Subtotal, family housing	707,386,000	815,330,000	845,418,000	807,800,000	841,135,000	+133,749,000	+25,805,000	−4,283,000	+33,335,000
Homeowners assistance fund, Defense		7,575,000	7,575,000	7,575,000	7,575,000	+7,575,000			
Grand total, new budget (obligational) authority	1,704,074,000	2,129,805,000	2,012,446,000	2,002,312,000	2,037,097,000	+333,023,000	−92,708,000	+24,651,000	+34,785,000

[1] Excludes $325,200,000 for Safeguard construction.
[2] Excludes $172,500,000 for Safegurad construction not considered in bill.
[3] Excludes $8,800,000 for Safeguard family housing.
[4] Excludes $11,070,000 for Safeguard family housing not considered in bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Speaker, the distinguished chairman of the subcommittee, the gentleman from Florida (Mr. SIKES) has adequately explained this conference report.

The conferees agreed on the amounts which are essential for military construction for the services during the present fiscal year.

I have no further requests for time.

Mr. SIKES. Mr. Speaker, I yield such time as he may require to the distinguished gentleman from New York (Mr. ROONEY).

Mr. ROONEY of New York. Mr. Speaker, I should like to express my thanks and the thanks of the people of Brooklyn and of the civilian employees at the Brooklyn Army Base, to the distinguished gentleman from Florida (Mr. SIKES) and the distinguished gentleman from Michigan (Mr. CEDERBERG) and their fellow conferees for their successful action at the House-Senate conference with regard to denial of funds for the removal of the Brooklyn Army Base out of Brooklyn.

I should like to ask two questions.

First of all, do I understand correctly that the increase of the House figure—$437,274,000—for Military Construction, Army to the figure $438,316,000 agreed to by the conferees—a difference or increase of $1,042,000—is solely to provide for an airfield complex at Fort Campbell, Ky., in the amount $2 million and a weapons evaluation facility at Yuma Proving Ground, Ariz., in the amount $2,921,000, and for no other purpose?

Mr. SIKES. If my friend will yield, the answer is "yes."

Mr. ROONEY of New York. I thank the distinguished gentleman.

The second question is, do I further correctly understand that the House position denying the requested funds for projects at the military ocean terminal in New Jersey, administrative facilities for relocation of Department of Defense activities, in the amount $3,040,000 and an associated electric substation for $400,000, has been agreed to by the Senate and House conferees on this bill and in the pending conference report?

Mr. SIKES. If the gentleman will yield further, again the answer is "yes."

Mr. ROONEY of New York. I once again thank the distinguished gentleman from Florida and his colleagues.

Mr. WYMAN. Mr. Speaker, while $8 million is but a small part of a $2 billion bill, I regret that the House conferees saw fit to yield to the other body to permit an add-on of $8.1 million to construct a 55-bed hospital at Pease Air Force Base in my district. At my request this appropriation was rejected by the full House Appropriations Committee last month. It ought not to be included in this bill because it is extraordinarily wasteful of the taxpayers' money.

Within 4 miles of Pease Air Force Base there is an existing 189-bed naval hospital that is only 31-percent occupied. Need more be said? In my district or not, I am not here to squander the public money.

I believe it constitutes a breach of faith with the taxpaying public to vote $8 million for a brandnew 55-bed hospital when an equivalent facility could be constructed for millions of dollars less at the Portsmouth Naval Hospital 4 miles away, where there is administrative and support facilities in being right now. Even if a 55-bed additional facility were to be physically added, the nurses quarters, officers quarters, administrative offices, messhalls—they are all there. Why build new ones at Pease?

If, in fact, a new 55-bed facility is really needed, which I seriously question, it can be provided at the Portsmouth Naval Hospital for a great deal less than $8 million. Nobody denies this, even the Air Force.

When this Nation is operating at a deficit approaching $30 billion a year; when labor is asked to hold off on wage increases; when management is asked to keep prices down—it amounts to an abdication of responsibility by this Congress to reasonably protect the public purse, to vote today to waste these added unnecessary millions.

The truth of the matter here is that the Air Force planned and budgeted for this facility at Pease at a time when the Portsmouth Naval Shipyard was under a closure order. Subsequently President Nixon canceled the closure order but neither the Air Force nor the Assistant Secretary of Defense for Installations and Logistics withdrew the request for the Pease hospital or would admit to the savings possible by restructuring facilities at the naval hospital.

It is in the overall interests of all military personnel, active and retired, and their dependents, that whatever structural additions may be necessary to upgrade the Portsmouth Naval Hospital to meet Air Force requirements should be undertaken at Portsmouth where there are 189 beds right now. On no theory is a 55-bed hospital at Pease adequate to serve the area, and adding a brandnew 55-bed hospital at Pease on top of an existing 189-bed hospital there already that is only 30.6-percent occupied, is patently unjustifiable.

It is most unfortunate that this situation should prevail because of insistence on acceding to Air Force requests by the other body. As a member of the Appropriations Committee and its Subcommittee on Defense, I want to make it clear that I want no part of such waste, that the House Appropriations Committee took this money out of the bill, and that I have voted in committee and shall vote today on this floor, against such unnecessary waste of tax dollars.

I do not rise to kill a needed benefit to my congressional district. I rise in behalf of a better way, at millions of dollars of savings, and in the best interests of tens of thousands of residents of the seacoast region of both New Hampshire and Maine. I oppose the brandnew hospital at Pease Air Force Base for reasons of economy and efficiency.

I would also observe the likelihood that construction of such a new hospital may well be a Trojan horse in disguise in relation to the future of the Portsmouth Naval Shipyard should anything happen to President Nixon, for with Pease Air Force Base having its own independent hospital facilities and no longer dependent on the Portsmouth Naval Hospital it is bound to be just that much easier for the enemies of the Portsmouth Naval Shipyard to press for a new closure order for the navy yard.

Essentially my opposition rests, however, not on this contingency, but with regard to the obvious waste of taxpayers money in building a brandnew 55-bed hospital and supporting facilities, 4 miles away from an existing 189-bed naval hospital that is only 31-percent occupied. This, to me, represents a scandalous indifference to the public interest.

Mr. SIKES. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

AMENDMENT IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 1: Page 2, line 4, strike out "$437,274,000," and insert "$432,946,000,".

MOTION OFFERED BY MR. SIKES

Mr. SIKES. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SIKES moves that the House recede from its disagreement to the amendment of the Senate numbered 1 and concur therein with an amendment, as follows:

In lieu of the sum stricken and inserted by said amendment insert the following: "$438,316,000".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the motion was laid on the table.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the matters discussed on the conference report on the military construction bill and to include certain statistical facts.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

THE NATIONAL CANCER ATTACK ACT OF 1971

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11302) to amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order to conquer cancer as soon as possible, as amended.

The Clerk read as follows:

H.R. 11302

A bill to amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order to conquer cancer as soon as possible.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as "The National Cancer Attack Act of 1971".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that cancer is the disease most feared by Americans today;

(2) that new scientific leads, if comprehensively and energetically exploited, may significantly advance the time when more adequate preventive and therapeutic capabilities are available to cope with cancer;

(3) that cancer, heart, and lung disease and stroke are the leading causes of death in the United States;

(4) that the present state of our understanding of cancer, heart, and lung diseases and stroke is a consequence of broad advances across the full scope of the biomedical sciences;

(5) that in order to provide for the most effective attack on cancer it is important to use all of the biomedical resources of the National Institutes of Health, rather than the resources of a single Institute; and

(6) that the programs of the research institutes which comprise the National Institutes of Health have made it possible to bring into being the most productive scientific community centered upon health and disease that the world has even known.

(b) It is the purpose of this Act to enlarge the authorities of the National Cancer Institute and the National Institutes of Health in order to advance the national attack upon cancer.

NATIONAL CANCER ATTACK PROGRAM

SEC. 3. (a) Part A of title IV of the Public Health Service Act is amended by adding after section 406 the following new sections:

"NATIONAL CANCER ATTACK PROGRAM

"SEC. 407. (a) In his capacity as an Associate Director of the National Institutes of Health, the Director of the National Cancer Institute shall coordinate all of the activities of the National Institutes of Health relating to cancer with the National Cancer Attack Program.

"(b) In carrying out the National Cancer Attack Program, the Director of the National Cancer Institute shall:

"(1) With the advice of the National Cancer Advisory Council, plan and develop an expanded, intensified, and coordinated cancer research program encompassing the programs of the National Cancer Institute, related programs of the other research institutes, and other Federal and non-Federal programs.

"(2) Expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of the opportunities for the conquest of cancer in areas of special promise.

"(3) Encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research.

"(4) Collect, analyze, and disseminate all data useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country.

"(5) Establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials.

"(6) Support research in the cancer field outside the United States by highly qualified foreign nationals (where the Director determines that such support can reasonably be expected to inure to the benefit of the American people); support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States.

"(7) Support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators, physicians, and allied health professional personnel, for participation in clinical and basic research and treatment programs relating to cancer, including where appropriate the use of training stipends, fellowships, and career awards.

"(8) Call special meetings of the National Cancer Advisory Council at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

"(9)(A) Prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate for the National Cancer Attack Program, after opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Council; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute.

"(c) The National Cancer Advisory Council shall meet at the call of the Director of the National Cancer Institute or of such Council's Chairman, but not less than four times in each calendar year.

"(d)(1) There is hereby established the President's Cancer Attack Panel which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Attack Program. At least two of the members of the panel shall be distinguished scientists or physicians.

"(2)(A) Members shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(B) The President shall designate one of the members to serve as Chairman for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

"(3) The Panel shall meet at the call of the Chairman but not less often than twelve times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

"(4) The Panel shall monitor the development and execution of the National Cancer Attack Program under this section, and shall report directly to the President. Any delays or blockages in rapid execution of the program shall immediately be brought to the attention of the President. The Panel shall submit to the President annually an evaluation of the efficacy of the National Cancer Attack Program and suggestions for improvements, and shall submit such other reports as the President shall direct. At the request of the President, it shall submit for his consideration a list of names of persons for consideration for appointment as Director of the National Cancer Institute.

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

"SEC. 408. (a) The Director of the National Cancer Institute is authorized to provide for the establishment of fifteen new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

"(b) The Director of the National Cancer Institute, under policies, established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Council, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 405), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) training (including training for allied health professions personnel) and (4) demonstration purposes; but support under this subsection (other than support for construction) shall not exceed $5,000,000 per year per center. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the National Cancer Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the National Cancer Institute.

"CANCER CONTROL PROGRAMS

"SEC. 409. (a) The Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the prevention, control, and eradication of cancer.

"(b) There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, and $40,000,000 for the fiscal year ending June 30, 1974.

"AUTHORITY OF DIRECTOR

"SEC. 410. The Director of the National Cancer Institute (after consultation with the National Cancer Advisory Council), in carrying out his functions in administering the National Cancer Attack Program and without regard to any other provision of this Act, is authorized—

"(1) if authorized by the National Cancer Advisory Council, to obtain the services of not more than fifty experts or consultants who have scientific or professional qualifications, in accordance with the provisions of section 3109 of title 5, United States Code (but any such expert or consultant may be appointed for a period in excess of one year);

"(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Cancer Institute for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

(5) to accept voluntary and uncompensated services;

"(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

"(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the National Cancer Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"SCIENTIFIC REVIEW; REPORTS

"SEC. 410A. The Director of the National Cancer Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilising, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Council and the Director of the National Institutes of Health, other formal peer review groups as may be required.

"(b) The Director of the National Cancer Institute shall, as soon as practicable after the end of each calendar year, prepare in consultation with the National Cancer Advisory Council and submit to the President for transmittal to the Congress a report on the activities, progress, and accomplishments under the national cancer attack program during the preceding calendar year and a plan for the program during the next five years.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 410B. For the purpose of carrying out this part (other than section 409), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; and $600,000,000 for the fiscal year ending June 30, 1974."

(b) Section 301(d) of the Public Health Service Act is amended by adding at the end thereof the following: "*Provided further*, That, under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants for research or training purposes—

"(1) in amounts not to exceed $35,000 after appropriate review for scientific merit but without requirement of review and approval by the National Cancer Advisory Council, and

"(2) in amounts exceeding $35,000 after appropriate review for scientific merit and recommendation for approval by such council."

REPORT TO CONGRESS

SEC. 4. (a) The President shall carry out a review of all administrative processes under which the national cancer attack program established under part A of title IV of the Public Health Service Act, will operate, including the processes of advisory council and peer group reviews, in order to assure the most expeditious accomplishment of the objectives of the program. Within one year of the date of enactment of this Act the President shall submit a report to Congress of the findings of such review and the actions taken to facilitate the conduct of the program, together with recommendations for any needed legislative changes.

(b) The President shall request of the Congress without delay such additional appropriations (including increased authorizations) as are required to pursue immediately any development in the National Cancer Attack program requiring prompt and expeditious support and for which regularly appropriated funds are not available.

PRESIDENTIAL APPOINTMENT OF INSTITUTE'S DIRECTORS

SEC. 5. Title IV of the Public Health Service Act is amended by adding after part F the following new part:

"PART G—ADMINISTRATIVE PROVISIONS

"DIRECTORS OF INSTITUTES

"SEC. 454. The Director of the National Institutes of Health and the Directors of the National Cancer Institute, the National Heart and Lung Institute, and the National Institute of Neurological Diseases and Stroke shall be appointed by the President. The Directors of the National Cancer Institute, the National Heart and Lung Institute, and the National Institute of Neurological Diseases and Stroke are designated as Associate Directors of the National Institutes of Health, and shall report directly to the Director of the National Institutes of Health."

EFFECTIVE DATE

SEC. 6. (a) This Act and the amendments made by this Act shall take effect sixty days after the date of enactment of this Act or on such prior date after the date of enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) The first sentence of section 454 of the Public Health Service Act (added by section 5(a) of this Act) shall apply only with respect to appointments made after the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, last year the House passed House Concurrent Resolution 675 which expressed the unanimous sense of the Congress that the conquest of cancer is a national crusade, and stating that the Congress should appropriate the necessary funds so that the citizens of this land and other lands may be delivered from the greatest scourge in history. This bill is designed to carry through on the policies expressed in that concurrent resolution.

This bill results from 11 days of hearings before the Subcommittee on Public Health and Environment, followed by 4 days of subcommittee executive session consideration, and 2 days of executive session consideration by the full committee.

All issues involved in this legislation have been thoroughly considered and debated, and the bill was ordered reported to the House by a vote of 26 to 2. I hasten to add that the two votes against the bill reflected a disagreement over the method of achieving our objective, rather than any disagreement with the objective itself.

Mr. Speaker, we are unanimous in the Congress, and throughout this land that everything possible that can be done should be done to conquer cancer. This disease is the most feared of all diseases, although it ranks second as the leading cause of death. The very word "cancer" carries with it connotations which frighten each of us. It is a word that is often used as a synonym for something loathsome and vile. We want cancer conquered, and if it is possible to do so, we want it done at the very earliest possible date.

We believe that the bill now before the House will accomplish that objective.

Last year the Senate Committee on Labor and Public Welfare established a panel of consultants on the subject of cancer which submitted a report to that committee in November of 1970. The report summarizes the cancer problem, and makes a number of recommendations. Members will find in the report of this committee a summary of these recommendations made by the panel of consultants and the ways in which this bill carries out each of the recommendations. So far as I am aware, there is only one real difference between Members who support this bill in its entirety and those who propose alternatives, and this relates to the extent to which the new program will be administered separately from the National Institutes of Health. The issue is presented by amendments which were rejected by the committee overwhelmingly providing in substance that the director of the cancer attack program should report directly to the President.

The Senate bill states that the new cancer attack program shall be within the National Institutes of Health, but the remainder of the bill is inconsistent with this concept, since it provides complete authority for the director of the proposed new cancer authority, and provides that he report directly to the President.

The bill before us now provides independent budget authority, but otherwise keeps the program within the National Institutes of Health, and provides for the establishment of a three-member panel which would meet at least 12 times yearly to oversee the administration of the program. This panel will report directly to the President, and if at any time the panel discovers that there are any delays or blockages in the cancer attack program, they will call this problem immediately to the attention of the President.

Authorities in the field of cancer research have been somewhat divided on the question of whether the new emphasis on cancer should be administered within NIH or outside NIH, although in fairness I must say that it would appear that the majority of cancer researchers advocated the approach of the Senate bill, and the administration has expressed its support of the Senate bill. Virtually to a man, the remainder of the scientific community is opposed to the separation of the cancer program from NIH, and favors the approach contained in H.R. 11302.

The administration appears to have taken four different positions. At first they were opposed to any legislation; then they proposed their own bill; then they appeared before our committee and supported the Senate bill; and the last of their positions is support of the Senate bill with a substantial number of amendments adopted by the Subcommittee on Public Health and Environment.

Overall, the bill would enlarge the authorities of the National Cancer Institute; authorize the construction, and funding of the operation, of cancer research centers; and would reactivate cancer control programs which have been allowed to lapse in recent years. The bill contains mechanisms for expediting administrative procedures for the approval of grants, but retains the existing system of peer review of applications for scientific merit.

Mr. Speaker, as I mentioned, all the issues involved in the bill have been thoroughly considered and debated and discussed. The Subcommittee on Public Health and Environment was unanimous in recommending the bill to the full committee, and the full committee was overwhelmingly in support of the bill. I think the bill should pass the House unanimously.

Mr. Speaker, in my motion to suspend the rules, I have added amendments to the bill to delete the proposed section 410(2), as well as the amendments relating to the executive grade level of the Director, Deputy Director, and Associate Director of the National Institutes of Health. These are matters which are within the jurisdiction of the Post Office and Civil Service Committee, and are being deleted at the request of that committee.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, I would direct this question to the chairman and to the ranking minority member who will be handling the debate.

Since there are only 40 minutes of debate permitted under a suspension of the rules, I would like to know if the chairman and the ranking member are going to grant time, or would they grant time to the opposite side. If the leadership on both sides of the aisle are going to support the bill there would be no time whatsoever for the opposition to indicate the very severe differences between what was recommended by the panel of experts and by the President, and passed by the Senate as opposed to provisions contained in the House bill.

Mr. STAGGERS. I would say yes to the

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gentleman, that with the exception of the subcommittee chairman, the gentleman from Florida, (Mr. ROGERS) the rest of the time that I have for allotment will be to those who are opposing the bill.

Mr. ADAMS. Can we have an indication on how much time that would be?

Mr. STAGGERS. That will be determined after I get through speaking. It depends on how much time we have left to divide up so that everyone will have time.

As I said, I do want the subcommittee chairman to have some time, then there are four others who want to speak on the bill.

Mr. ADAMS. Mr. Speaker, I would just ask the gentleman from Illinois (Mr. SPRINGER) if anyone on his side is going to oppose the bill and, if not, if some time could be allocated to the opposition?

This is not in any way a partisan matter, but there is a severe difference of opinion as to how to approach the problem.

Mr. SPRINGER. Mr. Speaker, I am indeed sorry, but at the time the gentleman from Washington spoke to me on the floor of the House I was under the mistaken impression that we would have 30 minutes on each side, and of course, since it is under a suspension of the rules, we only have 20 minutes allotted to each side.

All I can tell the gentleman is that I will try to be as short as I possibly can, and if I can yield time to him I will, but I have already allotted all of my time.

Mr. ADAMS. In other words, then, for those who are opposing the bill, so far as you know, their time will have to come out of whatever is left at the end on this side.

Mr. STAGGERS. We will try to be fair.

Mr. TIERNAN. Could I at this time, since the gentlemen have already indicated the allotment of time to members of the committee—could I make a request at this time that I be granted some time?

Mr. STAGGERS. The gentleman is already on the list.

Mr. TIERNAN. Thank you very much.

Mr. SPRINGER. Mr. Speaker, we have readjusted our time and I will yield 3 minutes to the gentleman from Washington (Mr. ADAMS) who may use it as he wishes.

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, today we have an opportunity to cast our votes in favor of the most extensive and comprehensive attack on a single disease—cancer—ever launched in the history of this Nation.

Mr. Speaker, no disease is more insidious and more feared by our citizens today than is cancer. It is time for an all-out national effort against this dread disease.

Mr. Speaker, the National Cancer Attack Act of 1971 will do just that.

The bill, H.R. 11302, which is before you today is a product of careful and detailed consideration by our Subcommittee on Public Health and Environment. We listened carefully to over 50 witnesses from Government, medicine, and the scientific community and the public at large including the American Cancer Society and members of the National Panel of Consultants on the Conquest of Cancer over a 4-week period. We did not confine our hearings just to Washington. We also visited one of the Nation's great cancer research centers, the Roswell Park Memorial Institute in Buffalo, N.Y., to gain firsthand knowledge of our Nation's present research effort in a clinical setting.

I think it is important to note that the director of that great clinical center in New York is enthusiastically endorsing the bill before you today.

I want to commend each member of the subcommittee for the fine work they devoted to this bill which really is a composite work of all members of the subcommittee. I wish to commend each member—Mr. SATTERFIELD, Mr. KYROS, Mr. PREYER of North Carolina, Mr. SYMINGTON, Mr. ROY, Mr. NELSEN, Mr. CARTER, Mr. HASTINGS, and Mr. SCHMITZ—for his efforts. Each contributed individually to the molding of this legislation.

This bill comes to you from the subcommittee as a unanimous bill. There were but two votes against it in the full committee.

Mr. Speaker, this bill gives new vigor to cancer research through the establishment of a national cancer attack program which provides for an increased organizational efficiency for the National Cancer Institute within its present framework as part of the greatest biomedical research ever assembled in the history of mankind—the National Institutes of Health.

The bill streamlines the National Cancer Institute's administrative procedures. It protects the budget of the National Cancer Institute by providing that the Director of the NCI shall transmit his budget directly to the President without change, but with comment by, the Director of NIH and the Secretary of HEW.

It also states the goal and the commitment to funding at a specified level of money and not merely an open-ended authorization. We are saying to the American people that we commit ourselves in the fight against cancer to $400 million this year, $500 million next year, and $600 million the following year—$1½ billion over the next 3 years.

But this bill, contrary to the Senate bill, which some would espouse—not very many but some—does much more than simply improve the procedures of the National Cancer Institute and insure adequate funding. It actually reestablishes programs to help people—cancer control programs. It reestablishes programs such as the testing for early detection of breast cancer, cervical cancer, and oral cancer which were financially phased out a year ago. It also authorizes generous support of existing clinical research centers and the establishment of 15 new cancer research centers across this country.

Mr. Speaker, the bill provides for a three-man President's Cancer Attack Panel, whose duty it will be to monitor the development of the national cancer attack program and report directly to the President. This will enable direct oversight of the program by highly qualified individuals, who will meet at least 12 times a year, to evaluate the program and make suggestions for improvements, as well as to report directly to the President on any delays or blockages in rapid execution of the program. This approach was suggested by the subcommittee's ranking minority member, Mr. Nelsen and was readily agreed to by the subcommittee.

Mr. Speaker, a few months ago, Dr. Edward David, the President's distinguished science adviser, embraced the approach of retaining the Federal research effort within NIH which ultimately was to become a principal feature of the bill reported by our committee. Dr. David stated:

> Having honed and sharpened our biomedical research mechanism, the National Institutes of Health, we should now use it and call upon it as we embark on this new adventure. To isolate the cancer effort would prejudice the very outcome we seek. The problem of cancer straddles virtually all the life sciences—molecular biology, biochemistry, virology, pharmacology, toxicology, genetics—any one of these, or all of them, will contribute to the final solution. No one is wise enough to pick and choose just those components of the total biomedical spectrum that will be vital. Who knows what new discovery will become vital even next year? . . . the Administration feels that the instrument for our campaign against cancer must be forged from and within the National Institutes of Health to assure the greatest chance of success.

Mr. KYROS. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Maine.

Mr. KYROS. Is it not true that throughout the hearings on the cancer bill and the discussions, the majority of the scientific and medical community in the United States gave overwhelming support to the measure before the House?

Mr. ROGERS. No question about it. The approach of the bill before you today is endorsed by on overwhelmingly united scientific and medical community. The president of the National Academy of Science, as well as the Academy of Medicine of the National Academy of Sciences, have stated strong support of this approach. Scores of national organizations, including the Americal Medical Association, the American Hospital Association, and the Association of American Medical Colleges, as well as practically every significant scientific body in the United States, supported the concept of maintaining the Federal cancer research effort within the NIH. Several recipients of the Nobel prize in medicine, including a Nobel laureate whose award was based on his treatment of cancer patients, expressed support of the approach contained in this bill. Heads of 72 medicine departments of medical schools throughout the country expressed approval of the committee's approach. Thirteen faculty of Harvard Medical School, each long associated in cancer research or the treatment of cancer patients, publicly supported the course of action contemplated in this bill.

The committee has presented to the House a bill which constitutes a balanced innovative approach which was conceived after rational study and close scrutiny by the hard-working members serving on the subcommittee. It is our firm belief—and a unanimous one—that the National Cancer Attack Act will invigorate the best of biomedical science toward finding solutions to a complex and devastating disease. Our citizens deserve assurance that every opportunity to overcome the torments of cancer will be provided. This bill insures such opportunity. I urge my colleagues to pass it overwhelmingly.

Mr. SPRINGER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, it has been shown that cancer is the disease most feared in the United States today. Of the 200 million Americans now alive, 50 million will develop cancer at present rates of incidence and 34 million will die of this painful and often ugly disease if better methods of prevention and treatment are not discovered. Cancer deaths last year were eight times the number of lives lost in 6 years in Vietnam, five and one-half times the number killed in automobile accidents, and greater than the number of Americans killed in battle in all 4 years of World War II.

Progress across the broad front of biomedical science has opened up new avenues of scientific inquiry into the phenomena of malignancy. These leads, if comprehensively and energetically pursued, could substantially enlarge our limited understanding of this disease process and thus advance our preventive and therapeutic capability.

The question as to how we might best undertake an effort of this magnitude has been the subject of much discussion and debate. The approach of the Senate was to establish a conquest of cancer agency which would be, for all practical purposes, completely independent and outside of the National Institutes of Health. This approach troubled a great number of distinguished members of the scientific and biomedical research community, and many of them voiced their concerns in hearings before the Subcommittee on Public Health and Environment.

The nature of cancer, we are told, is deeply embedded in the most elemental life processes and is an obscure and complex part of the life cycle. Major progress in the conquest of cancer is, in the final analysis, dependent upon greater understanding of the basic life cell and its response to both internal and external forces.

It is important to realize that the new leads which seem to offer promise for advances in cancer have emerged in scientific fields which, at the time, were far removed from the mainstream of scientific effort in cancer. These scientific achievements came in the fields of virology, immunology, genetics, and cell biology. No one can predict with certainty the fields from which will come the findings that will provide further insights into the nature of cancer. A greater scientific attack upon cancer must be in a setting which assures the closest relationship to the broad array of biomedical research concerned with the nature of life and disease.

It was feared that the Senate approach of an independent agency would separate cancer research and other biomedical research to such an extent that the total effort would be fragmented rather than enhanced.

Our bill provides for independent budget authority but otherwise keeps the effort within the National Cancer Institute of the National Institutes of Health and enlarges its authorities. To insure that the effort is expanded and moves ahead as expeditiously as this bill envisions, there is provided a mechanism whereby the power of the Office of the President can be asserted in various situations if needed. This is accomplished in the bill by providing for a three-member panel to oversee the administration of the program. This panel will report directly to the President, and if at any time the panel discovers that there are any delays or blockages in the cancer attack program, it will immediately alert the President to the problem.

It is my sincere judgment, and the judgment of the overwhelming majority of my colleagues on the committee, that the approach to the cancer problem offered by this bill is the proper approach and one that will hasten the day when this dread disease can be conquered. I strongly urge unanimous passage of this extremely important bill.

Mr. TIERNAN. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield only for a question.

Mr. TIERNAN. Is it not true the President approved the Senate bill as passed?

Mr. SPRINGER. He approves this bill.

Mr. TIERNAN. But the President also approves the Senate bill.

Mr. SPRINGER. I said the President approves this bill.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, my question is: Does the President prefer this bill, or does he accept it?

Mr. SPRINGER. All he said was that is a good bill, and he approves it.

Mr. PICKLE. I think there is a great deal of difference.

Mr. SPRINGER. Mr. Speaker, I yield at this time for a unanimous-consent request by a member of the committee. the gentleman from Montana.

(Mr. SHOUP asked and was given permission to extend his remarks at this point in the RECORD).

Mr. SHOUP. Mr. Speaker, cancer is an 89-cent problem in America. That is what we have been spending on cancer research in this country for every man, woman, and child, less than the cost of a necktie or a pair of women's pantyhose. It is not much. In fact it is very little when compared to our $410 per capita expenditure in 1969 for defense, $125 for every person in this country for running the Vietnam war, and $19 each for foreign aid and the space program.

Saving lives should be our greatest accomplishment, yet the 1969 per capita expenditure for maintaining and utilizing our ability to flex military muscle across the sea was $125. Over 100 times more money was spent on foreign escapades of dubious value than was spent to combat the most feared family of diseases in this country. The paltry expenditure of 89 cents on a per capita basis is a national disgrace.

The fear of cancer in America is very well founded. Within the next year, one of every 25 Americans will develop cancer and over half of those will die. Of those dying 50 percent will be under 65 years of age, relatively young people in our society. In fact with the truly young, cancer causes more deaths among children under age 15 than any other disease. Over 16 percent of all deaths in the United States are caused by cancer, making it our second greatest killer, second only to heart disease.

While the public outcry against senseless death has been so resolutely focused on the casualties of the Vietnam war, few have marched down the streets of America demonstrating against a casualty list 18 times greater than the last 6 years of Vietnam casualties combined. Five and one-half times the number of people killed in car wrecks last year, died of cancer. More Americans were killed by cancer just last year than died during 4 bloody years of World War II.

The death bell of cancer continues to toll unimpinged by our puny efforts. John Donne's words ring terribly true for cancer today:

> Ask not for whom the bell tolls, it tolls for thee.

I dare say not a single American exists who has not been touched by cancer in some way. But despite the depth of the problem, despite the vast killing effect it has had on our society, we spent less than one four-hundredths as much last year for finding a way to successfully treat cancer than we spent to maintain our complex national defense combine, cost overrides and all.

What is more frightening, is the fact that the incidence of cancer is increasing. Not only are there a great number of Americans reaching more advanced ages, but also because of the sharp increase in lung cancer, polluted air and self-pollution from cigarette smoking, our susceptibility is on the rise. It is estimated that if the American people stop smoking cigarettes, that alone would eliminate about 15 percent of all cancer deaths. We know that human cancer is caused by certain chemicals, by certain types of radiation, and probably by viruses. But the true nature of cancer is not yet fully known. It is erroneous to think of cancer as a single disease with a single cause that will be subject to a single form of immunization as in the case of polio. Factually speaking cancer is comprised of many diseases and it results from a variety of causes that will have to be dealt with in a variety of ways.

As our knowledge is expanded more and more members of the cancer family will become preventable. The cure rate for cancer in general is gradually improving. In 1930, only about 1 case in 5 was curable. Today we cure 1 case in 3. It is estimated that the cure rate could be brought close to 1 in 2 by better application of knowledge which exists today.

There are three methods for curing cancer today including surgery, radiation therapy, and chemotherapy. Some types

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of cancer are far more curable than others; however, it is still true that those cancers which disseminate rapidly are seldom curable today. This represents a major gap in our existing knowledge. There have been major advances in the fundamental knowledge of cancer in the past decade. These advances in knowledge have opened up far more promising areas for intensive investigation than have ever heretofore existed. Some of these areas of special promise are: First, the identification of the factors that cause cancer; second, viruses causing cancer; third, cell and tumor biology; fourth, immunology or the host resistance against cancer; fifth, epitomology or the variables in cancer incidence; sixth, cancer preventative measures; seventh, improved diagnosis; eighth, chemotherapy or the use of drug techniques; ninth, radiotherapy and; 10th, surgery.

I am convinced that we are on the verge of a significant breakthrough in the control of cancer. But to really be effective we must exploit the great opportunities which are presented as a result of recent advances. To implement such a program we must have first, an administration with clearly defined authority. Second, a comprehensive national plan for attack is badly needed, and third, the financial resources have to be readily available. H.R. 11302 is designed to fulfill these three requirements.

The National Cancer Institute is identified and given greater stature with its Director given the title of Associate Director in the National Institutes of Health. It cuts the redtape surrounding the granting assessment of grants. The budget as prepared by the National Cancer Institute shall be sent directly to the President with comments only by the National Institutes of Health and the Secretary of Health, Education, and Welfare. A three-man oversight panel shall be appointed to oversee the National Cancer Institute and to report directly to the President. A national plan of attack is spelled out specifically within the bill. Critical research centers will be increased in number by 15 and cancer control programs which were phased out a year ago will be reactivated and expanded on the budget proposed in the bill, $1.59 billion for 3 years.

Recognition of problems and compassion for the victims of cancer is indeed commendable, but only an honest commitment of resources and finances can make possible the real conquest of cancer. Lest there be some misunderstanding, I would hasten to state that I am not under the illusion that the expenditure of money, even massive amounts of it, will automatically cure cancer or anything else. But it is my contention that by making finances and resources available over a broader spectrum, to include within this conquest a greater number of the scientific community, the greater chance we will have to identify, or perhaps stumble upon, the answers to our cancer problem. Quite contrary to the views of many, I am convinced that this action, as proposed in this bill, will present a more effective program through strengthening the National Institutes of Health than it would by the creation of a separate entity dedicated and directed toward the matter of cancer and cancer alone.

Mr. Speaker, I urge my colleagues to support H.R. 11302.

Mr. SPRINGER. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. NELSEN) the ranking Republican member on the subcommittee.

Mr. NELSEN. Mr. Speaker, I am extremely proud to have had a hand in the development of H.R. 11302, the National Cancer Attack Act of 1971, both in the Public Health and Environment Subcommitte, which drafted it, as well as in our full Interstate and Foreign Commerce Committee, which gave it an overwhelming vote of approval.

We anticipate that the House of Representatives will give it similar strong support, because it is, indeed, one of the most important single pieces of legislation to be considered by Congress in this session. Its urgent need is underscored by the fact that the dread disease, cancer, is today the Nation's second largest killer. Its victims run into millions of citizens, many of whom die in great anguish and suffering.

Several colleagues on our Public Health Subcommittee joined me in filing additional views in the report accompanying this bill to the House floor. Since these views sum up my own so well, I take the liberty of pointing them out at this point in my remarks:

While we concur in the committee report which is an excellent presentation of the purposes and details of the Cancer Attack bill as developed in our Subcommittee on Public Health and Environment, we would like to add our comments concerning those provisions of our bill having to do with the authority of the President over the cancer research program.

President Nixon in presenting his national health strategy outlined a bold and necessary program to deal with cancer research. Many of those who testified on the legislation before our subcommittee felt the President's declared desire to have a direct line of authority over the cancer program should be provided so that he could effectively monitor the efforts of the National Cancer Institute. Many also felt it would be unwise to separate the cancer agency from the National Institutes of Health, fearing fragmentation of cancer research might result.

To meet the goals expressed by President Nixon, H.R. 11302 provides that he appoint an Associate Director of the National Institutes of Health who will serve as Director of the National Cancer Institute. It also provides that the President appoint a three-man cancer attack panel to give him the muscle he needs to assure an effective and accelerated cancer research program. This panel will provide a direct channel of communication between the President and the Director of the National Cancer Institute and will act as overseers to monitor the development and execution of the national cancer attack. This panel will submit to the President an annual report evaluating the efficacy of the program and provide him with suggestions for improvements.

The budget of the National Cancer Institute as developed by the administration will be sent directly to the President for his approval as to the adequacy of funds to meet his program objectives.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. NELSEN. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Speaker, is it not true that the President of the United States requested a separate agency, the panel recommended a separate agency, the Secretary of Health, Education, and Welfare said he wanted a separate agency, and the Senate passed a bill carrying out these recommendations 79 to 1, and this bill is going to run into that directly if we pass it today?

Mr. NELSEN. I do not agree with the gentleman's conclusion.

The bill before us is not the bill we started with. Many amendments were added that moved to accommodate some of the objectives outlined in the Senate bill. It is my understanding that the Secretary preferred the Senate bill but found that the House bill as amended would give the President the tools that he needs.

Mr. ADAMS. I will read to the gentleman this quote and ask if this is not true: On November 3, to Chairman STAGGERS, Secretary Richardson said:

This Department • • • strongly supports expansion of the national effort to conquer cancer and therefore urges adoption of the provisions of S. 1828—

Which we would offer as a substitute—

in lieu of H.R. 10681—

Which is your bill—

which, we believe, provides the best means to accomplish this task.

There is a clear issue here. Either we are going to go with your bill or with what everybody else has recommended.

Mr. NELSEN. This bill will accommodate what the President wants. I am sure that the President will accept it.

Mr. SPRINGER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Kentucky, a member of the subcommitee, who has taken an active part in this.

Mr. CARTER. Mr. Speaker, we have before us today for consideration H.R. 11302, the so-called National Cancer Attack Act of 1971. Fifty-one million people living in the United States today can expect to suffer from one form of cancer or another. Approximately 34 million will die of cancer unless we discover a way to contain, control, or cure this disease.

For approximately 8 years it has been thought that breakthroughs in research and treatment of certain cancerous conditions resulting in cures would be made shortly. We have waited these 8 years without such breakthroughs. It has become apparent that a new concentrated attack by men skilled in detection and treatment of cancer should be made.

At the present time, there are six cancer treatment centers within the United States. These clinics are composed of the finest and most dedicated men in research, diagnosis and treatment of this dreadful disease.

No disease alarms the public as much as cancer. To concentrate the efforts of the most knowledgeable men in the cancer field, it is necessary that we today enact this National Cancer Attack Act of 1971.

Although no complete breakthroughs have been made, much improvement in detection and treatment has been accomplished.

Birkitt's tumor, a cancerous condition occurring in certain portions of Africa, is now amenable to treatment.

Acute leukemia, which resulted in death in younger patients within a year, is now subject to better control.

Hodgkin's disease, for which at one time there was no cure, can be controlled in a large percentage of the cases which occur.

To assist in carrying out a new cancer study and to formulate the steps necessary for conquest of cancer, a panel of consultants composed of 13 eminent laymen and 13 knowledgeable scientists was appointed. These men, by and large, agreed that a new and more amply funded cancer institute should be formed and that the head of the National Cancer Institute should report directly to and be responsible to the President for direction of a greatly expanded and revitalized cancer program.

There was much discussion in the subcommittee concerning the Senate bill and H.R. 11302. The present bill, H.R. 11302, does not fully comply with the recommendations of the panel of consultants. However, it does require the appointment of a Director of the National Cancer Institute who will also be a Deputy Director of the National Institutes of Health, and who will report to the President concerning budgetary requirements. The Director of the National Institutes of Health and the Secretary of Health, Education, and Welfare have the right to comment but not to change such budgetary requests as he may make.

This compromise was arrived at after much discussion and debate. I submit that this compromise will give the Director of the National Cancer Institute the power he needs to effectively obtain the funds necessary to administer the cancer program.

He will receive assistance from the National Cancer Advisory Council, which is composed of the Surgeon General, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, and 12 members appointed by the Surgeon General, with the approval of the Secretary of Health, Education, and Welfare. These men should be leaders in the fundamental sciences, medical sciences, and public affairs. Six of the 12 must be outstanding in the study and treatment of cancer. The National Cancer Advisory Council shall meet at the call of the Director of the National Cancer Institute, or of such Council's chairman, but not less than four times a year.

Under section 407, subsection (D)(1), there is established the President's cancer attack panel which shall be composed of three persons appointed by the President, who, by virtue of their training, experience, and background are exceptionally qualified to evaluate the national cancer attack program. At least two of the members of the panel shall be distinguished scientists or physicians.

One member shall be designated as chairman by the President. This panel shall meet not less than 12 times a year. The panel shall monitor the development and execution of the national cancer attack program and report directly to the President. Any delay in the execution of the program shall be brought to the attention of the President.

Under section 3, subsection 408(a), the Director of the National Cancer Institute is authorized to provide for the establishment of 15 new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer.

The Director of the National Cancer Institute, under policies established by the Director of the National Institutes of Health, and, after consultation with the National Cancer Advisory Council, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Federal payments under this subsection in support of such cooperative agreements may be used for construction, staffing and other basic operating costs, including such patient care costs as are required for research, training and demonstration purposes, but support under this subsection—other than support for construction—shall not exceed $5,000,000 per year per center.

Under section 3, subsection 409, it is provided that the Director of the National Cancer Institute shall establish programs as necessary for cooperation with State and other health agencies in the prevention, detection, control, and eradication of cancer.

There are authorized to be appropriated to carry out this section $20,000,000 for the fiscal year ending June 30, 1972, $30,000,000 for the fiscal year ending June 30, 1973, and $40,000,000 for the fiscal year ending June 30, 1974.

By means of such programs established, chest X-rays for detection of lung cancer, pap smears, and other means of early detection of cancer will be provided for at State and local levels. For instance, a test is in the process of development which will permit detection of lung cancer from concentrated specimens of sputum. This test would permit lung cancer detection long before it was visible on a chest film.

This is money well spent. X-ray programs and papanicolau smear tests have resulted in early diagnosis of many cancerous conditions and provided the basis for cures. This is probably one of the basic reasons why cures have increased from 1 in 5 in the past few years to 1 in 3.

Under subsection 410 of section 3 of this bill, the Director of the National Cancer Institute is empowered to obtain the services of no more than 50 experts or consultants who have scientific or professional qualifications. The appointment of 50 distinguished young scientists to revitalize the National Cancer Institute is a consummation devoutly to be wished. It is necessary to introduce new blood into the National Cancer Institute. Every agency or bureau of the Federal Government needs a cleansing and a transfusion of new blood every few years, just as the Veterans' Administration did after World War II.

Under subsection 410B, of section 3, for the purpose of carrying out this part of the act, there is authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973, and $600,000,000 for the fiscal year ending June 30, 1974.

This brings the total sum to be authorized to $1,590,000.

The Director of the National Cancer Institute can approve grants of as much as $35,000 without requirement of review and approval of the National Cancer Advisory Council. This is helpful. However, in amounts exceeding $35,000, appropriate review by the National Cancer Advisory Council is required. The Director of the Cancer Institute can give immediate assistance to those programs which show promise of early breakthroughs, improved methods of detection, prevention, or treatment. Such assistance previously has not been possible.

Under subsection 4(a) of section 3, within 1 year of the date of the enactment of this act, the President shall submit a report to Congress of the findings of his review of the administrative processes under this program and the actions taken to facilitate the conduct of the program, together with recommendations for any needed legislative changes.

By and large, this is an effective piece of legislation, and should result in well-directed, coordinated, dedicated efforts to eradicate this most dreadful of diseases.

Mr. ROY. Will the gentleman yield?

Mr. CARTER. I yield to the distinguished gentleman.

Mr. ROY. Thank you very much for yielding.

I wish to associate myself with the remarks of my distinguished colleague (Mr. CARTER) in support of this bill.

I am sure that both he and I went into these hearings without any predetermined idea. We worked on it very carefully and both formally and informally discussed the matter with a large number of scientists and physicians. We feel that the House bill achieves that which is necessary to have a national attack on cancer succeed.

Mr. ADAMS. Will the gentleman yield for a question?

Mr. CARTER. I yield to the gentleman.

Mr. ADAMS. This bill's fundamental difference is there is no direct line to the President in the House bill whereas there is in the Senate and there was in the panel recommendations. Is that not correct?

Mr. CARTER. For all practical purposes there is a direct line in that there is a cancer attack panel of three men to whom the Director of the Cancer Institute can report.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SPRINGER. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. CARTER. It goes directly to this panel and is relayed to the President. So it is all right. It is a good compromise.

Mr. ADAMS. It is really a compromise.

Mr. CARTER. And he can go directly to the President for his budgetary requests.

Mr. GUDE. Will the gentleman yield?

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Mr. CARTER. I yield to the gentleman.

Mr. GUDE. I thank the gentleman for yielding.

It seems to me the fact that the Director would be appointed by the President indicates that we are injecting politics into a matter which should be a medical-professional operation. Is that not correct? Is that the conclusion that the committee came to?

Mr. CARTER. I do not think there will be any political considerations whatever in this case. No President would appoint a person to such a panel for a political reason.

Mr. GUDE. I mean the appointment of the Director by the President, whereby he would be reporting directly to the President. In other words, I am concerned over the precedent that would be set by making the director of the program a Presidential appointee as this tends to imply that the program, while at NIH, is basically a policy rather than a scientific function and, therefore, a matter for political determination.

Furthermore, since the agency's budget may eventually exceed that of NIH, such an arrangement would introduce competitive lines of communication and command. The outcome of such a scheme would be disastrous—its potential for undermining the scientific integrity of NIH and the authority of its Director seems inescapable. What I want to stress is that instead of fragmenting our work to date, the national cancer attack program will build upon the existing strengths of the National Cancer Institute which I believe is the best and most expedient means to our goal. I hope I have made myself clear.

Mr. CARTER. What it does is make the channels more direct between the President and the National Cancer Institute, and that is exactly what we wanted.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. ADAMS), a member of the committee.

Mr. SPRINGER. Mr. Speaker, I will yield 3 additional minutes to the gentleman from Washington if he will allot that time.

Mr. ADAMS. Does the gentleman from Rhode Island have any time? If not, I will yield the gentleman from Rhode Island 1 minute of that time, if I might, which will leave me, as I understand it, with 4 minutes.

Mr. SPRINGER. Mr. Speaker, I yield the gentleman from Washington 2 minutes only.

Mr. ADAMS. And you will yield 1 minute to the gentleman from Rhode Island, so I will have 1.

The SPEAKER pro tempore. The gentleman is recognized for 2 additional minutes, or 3 minutes.

Mr. ADAMS. I thank the Chair.

Mr. Speaker, I would simply say to the House that we cannot possibly have a debate under these circumstances, and no one who is going to vote one way or another on this is going to be accused of being for or against cancer. That is ridiculous.

The Senate and House bill approaches, however, are completely different. The President of the United States came to this House and to the Senate and said he wanted a separate agency based upon the recommendations of a special panel that has worked on this problem for months. That panel included doctors and scientists as well as prominent lay people. The panel recommendations in a bill went first to the Senate and a compromise was made there to keep the agency within the National Institutes of Health but at the same time to have direct authority to go to the President. That is the cancer bill.

This bill before the House today is simply an NIH reorganization bill.

The President said he wanted direct authority, and he does not have it in this bill. This issue involves Government organization. It is very much organizational, and it should be determined in this House. When one says that everybody in the medical and scientific community is in agreement on this bill, that is nonsense. The medical and scientific community are split, and I will tell you how it is split.

Mr. Speaker, the medical community is split as to how to best approach this problem. Those who treat cancer and are involved in clinical research favor the bill, S. 1828, and if we come before this House under a rule, I would offer that bill as a substitute.

Mr. ROGERS. Mr. Speaker, will the gentleman yield? I am sure the gentleman does not want to leave the wrong impression.

Mr. ADAMS. I am giving the impression that I got from talking with the various parties concerned.

Mr. ROGERS. Well, it is my opinion that the gentleman's impression is incorrect.

Mr. ADAMS. Mr. Speaker, the biomedical community wants to keep things as they are. The subcommittee attempted to make a further compromise on S. 1828, and I think the gentleman will agree with me as to what that compromise is. It states that the Director of the Cancer Agency will not report to the President but to the Director of the National Institutes of Health.

The second thing that will happen is in the budgeting authority. Under the Senate-passed bill the budget goes directly to the President of the United States and the Office of Management and Budget, like any other independent agency, and money is allocated back in similar fashion.

In this bill, however, there are comments on the budget to be made by the National Institutes of Health and by the Department of Health, Education, and Welfare as the budget proposal progresses, and if you know the system, you know that when someone comments, it can sit on their desk for a long period of time of they oppose it.

Mr. Speaker, I know that the gentleman from Kentucky (Mr. CARTER), and the gentleman from Kansas (Mr. ROY) and many others have spent a great deal of time and hard work on this bill, but let us not kid ourselves that this is a noncontroversial bill. It is controversial not in terms of attacking cancer, but in terms of what should be done. You will have the Senate-passed bill, a bill which was passed by a vote of 79 to 1, that includes what the President of the United States proposed, or you are going to have a different bill which elevates a number of institutes within the National Institutes of Health and is in effect, just a reorganization of the National Institutes of Health.

So, Mr. Speaker, I hope we will vote down the bill.

Mr. SPRINGER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Rhode Island, a member of the subcommittee (Mr. TIERNAN).

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Rhode Island I minute.

Mr. TIERNAN. Mr. Speaker, I want to take this opportunity to thank both the ranking minority member of the committee and the distinguished chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS), for giving me this time.

I do want to say that the chairman of the subcommittee and the members of the committee have worked very hard to come out with legislation that is needed in this field of great urgency.

However, I think the Members of the House should have in mind what is really happening.

The panel that was appointed under the Senate resolution made specific recommendations as to how we were going to find the cure for cancer in the seventies as the President of the United States has said. The recommendation by that panel was that the Cancer Institute be made an independent agency directly under the President of the United States and that the funds for that agency would be directly appropriated by the President and that these funds would not be transferred to the Director of the National Institutes of Health.

Mr. Speaker, the Senate made a slight compromise in that request because there was some opposition to the bill in the Senate. What they did was to keep the Institute for Cancer within the structure of the National Institutes of Health. They kept it there but they said that it would be under the direct control of the President of the United States so that the President could achieve the cure for cancer in the seventies, or if he did not, we would know why he did not do that. That was the compromise that was struck in the Senate in order to meet these conflicting interests of the National Institutes of Health and what the President of the United States wants.

I tried to get out of the ranking minority member the fact that the President wanted the Senate bill. So now, what has happened?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SPRINGER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PICKLE).

Mr. STAGGERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I thank the gentlemen for yielding me this time.

Mr. Speaker, as a member of the Commerce Committee, I supported H.R. 11302 on final passage in the committee. However, before I voted for this bill, I voted for the amendments to this legislation which were defeated. I also voted to substitute the Senate bill for H.R. 11302. The House committee bill is a good bill, but I don't think it goes far enough fast enough. It is regretted that this bill comes before us today on suspension calendar where we can neither amend nor substitute.

Everybody is against cancer—the argument is how to fight it, how to direct the attack, how to either rearrange the present machinery or build another mechanism for carrying out the fight.

I submit that the American public does not care so much about the "how" of our legislation; I submit that the American people want to know about the "when."

It is clear to me that we need to get away from some of the fancy reasons and get down to a basic decision. The question before us is clear. The scientific community is split on the "how."

Reflecting on one side of the split, the Senate version would create an independent agency within the National Institutes of Health and would have the Director report to the President. Some of us on the committee voted for this Senate version, which I had originally cosponsored.

On the other side of the argument, the House version requires the Director to report to the Director of the National Institutes of Health. The House version also creates a Cancer Attack Panel, which is designed to be a buffer of consultants who report to the President on various activities of the National Cancer Institute.

In an attempt to heal the breach, I offered an amendment in committee that was neither bold nor imaginative—the main thing that I can say for it is that it makes sense. The amendment I offered would do both.

The amendment I offered in committee and had intended to offer during floor debate would keep the cancer work within the framework of the National Institutes of Health but would give the President the flexibility to require the Director to report directly to the White House, if needed. I think this amendment keeps the best of both measures.

The amendment I planned to offer reads as follows:

On page 14, line 16, after the word "and" insert the following: "except to the extent that the President may from time to time otherwise direct."

I think this is a blending of the two aproaches now being offered in the House and Senate. Both approaches have a great deal of merit.

My amendment had the general support of the administration, the American Cancer Society, the panel of cancer consultants appointed by the Senate Labor and Public Welfare Committee to recommend the best approach in fighting this insidious disease, the Secretary of HEW, and of the cancer hospitals and clinics in the United States.

Let us back up and restate both basic positions in straightforward terms. The Senate version, in effect, would create an independent agency within the National Institutes of Health with the Director required to report to the President. The House committee version would require the Director to report to the Director of the National Institutes of Health, and also would create a cancer attack panel which is supposed to be a buffer consultant group which would report to the President on the activities of the National Cancer Institute.

The House version recognizes the merit of 33 years of research already on the books at NIH. In the last three decades, the Government scientists have served up good—and dramatic—breakthroughs in finding the cause and cure of many diseases. Our scientists have developed data which private research has assimilated and amplified along the same lines.

But the fact remains—the progress on cancer has been painfully slow. The movement at times has been barely discernible. Yet we know that cancer is the one disease most feared by the American public.

It was this fear, this cry for help, this indignation over delay, which prompted the President to make his pledge to pump new money, new initiative, and new priorities into the search for the illusive cure.

I am neither pointing nor wagging a finger at anyone. Instead, I am trying to put into words the great restlessness, the great uneasiness that pervades our Nation. Let us bring cancer out of the shadows. Let us find a cure. Let us settle this procedural question and give the scientists the money they need so they can more efficiently get to work.

I regret, Members of the House, that the committee did not adopt an amendment that I had offered in committee which I had hoped would have been a compromise between the Senate and the House versions. It would have changed the language to read that the Director of the National Cancer Institute would report to the NIH "except to the extent that the President may from time to time otherwise direct."

I think that would have kept the major thrust in the NIH, but still would allow the President to step in and give some direction. As it is, the President has no real direction except perhaps either through the budget or the cancer attack panel. The question is, Is that control? I submit to you that is not control because the cancer attack panel is a sort of a floating committee that has no authority other than to run to the President and tell him what has happened. One member of the committee said that this ought to be called the "floating cancer" bill, because the cancer attack panel is floating off in the medical ozone, and has no power except to run to the President and sort of tattletale to him, and say "We think this is something you ought to know."

There is little communication. It is telephone line communication; that is about all. I wish we could have combined both the versions of the House and the Senate, and I think if we had started a little earlier before commitments had been made, that this probably could have been brought about because both the House and the Senate versions are very, very fine legislative bills, and they should both be commended for the work they have done on field.

But I submit to you the hope, as this bill goes to conference, that they will give consideration to the language I suggest, that says that the Director of the National Cancer Institute would report directly to the NIH "except to the extent that the President may from time to time otherwise direct." That is a good and sensible compromise. If that language was adopted, the fight would be over.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SPRINGER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. HASTINGS).

Mr. HASTINGS. Mr. Speaker, the question has been raised as to whether the President actually supports this proposal and is in favor of this proposal.

I would like to read into the RECORD from a release from the White House of May 11, 1971, when the President gave his national health message, and this was prior to the passage of the Senate of their bill, and prior to the House giving consideration to the cancer bill.

The President said:

In the past the National Institutes of Health have had considerable success in fostering coordination and cooperation and, in the process, they have earned both the respect of the scientific community and the gratitude of thousands who live happier and healthier lives because of NIH successes. It is for this reason that I have asked the Congress to establish a cancer cure program within the National Institutes of Health, where it can take the fullest advantage of other wide-ranging research.

The President, unfortunately, in consideration of the Senate bill did not have the advantage of knowing that this House would come up with this superior piece of legislation—and in fact that is what this House of Representatives has done.

Mr. ADAMS. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS. I cannot yield to the gentleman from Washington, since I do not have time to do so, and the gentleman knows that I gave him 3 minutes of my time.

The House at this time should support the House of Representatives in the position it has taken in this matter over the Senate version, because I believe that a compromise has been assured.

I have received telegrams from many medical and scientific groups in my State of New York who say that the time has come to pass the best bill available, and that is the compromise version that the House has brought out.

I might point out that the New York Times and the Washington Post—newspapers I do not always agree with, and they do not always agree with my position—and many other major newspapers in the United States support the approach taken by the House in the cancer attack legislation.

I believe that without any hesitation it can be said that this bill is in fact the best compromise possible after many, many months of work, and it should receive the unanimous support of the House of Representatives.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. PEPPER).

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(Mr. PEPPER asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I am no enemy of the National Cancer Institute because I was one of the cosponsors of the bill in 1937 setting up that Institute.

However, I would prefer the bill passed by the Senate and supported by the administration, and I introduced that bill in the House. However, I do feel this committee and the subcommittee headed by my able friend, chairman of the Health Subcommittee, the gentleman from Florida (Mr. ROGERS) have approached to a large degree the course that it is necessary to take in order to eliminate three weaknesses of the National Cancer Institute in the past:

First, the lack of adequate money;

Second, the business-as-usual bureaucratic approach to the program, and

Third, the lack of adequate and effective direction and coordination at the top.

Mr. Speaker, I hope that further progress can still be made in conference on this bill and if we do not achieve a determined and effective campaign against this terrible killer, cancer, this committee will produce additional and amending legislation next year which will exert the full effort of this Nation to find the cause and cure of cancer.

Mr. Speaker, one of the inadequacies of the National Cancer Institute which has in my opinion diminished the success of the Institute has been the lack of funds sufficient to meet the challenge of this complex and awful disease.

As I said, I was one of the authors of the bill adopted in 1937 to set up the National Cancer Institute.

Thereafter, the appropriations for the fiscal years following were as follows:

1938	$400,000
1939	400,000
1940	570,000
1941	570,000
1942	565,000
1943	535,000
1944	530,000
1945	561,000
1946	549,000

On January 8, 1947, I introduced in the Senate S. 93, which is described in the Digest of General Public Bills as a bill:

To authorize and request the President to undertake to mobilize at some convenient place or places in the United States an adequate number of the world's outstanding experts and coordinate and utilize their services in a supreme endeavor to discover means of curing and preventing cancer.

I, as chairman of a subcommittee of the Senate Education and Labor Committee, held lengthy hearings on S. 93 in which some of the outstanding authorities of the country appeared in behalf of my bill—which was cointroduced in the House by former Senator M. M. Neely. Due to our combined efforts to bring to the consciousness of the Congress and the country the momentous challenge of cancer, we obtained an appropriation for fiscal 1947 of $1,821,000 for cancer research.

Under the impetus of all the efforts made to try to mount a meaningful and effective campaign against cancer, the Congress almost without exception provided an increasing amount in each succeeding budget to fight cancer. The appropriations for the fiscal years 1948 through 1972 were as follows:

1948	$14,500,000
1949	14,000,000
1950	15,900,000
1951	20,086,000
1952	19,657,000
1953	17,887,000
1954	20,237,000
1955	21,737,000
1956	24,978,000
1957	48,432,000
1958	56,402,000
1959	75,268,000
1960	91,257,000
1961	111,000,000
1962	142,836,000
1963	155,742,000
1964	144,340,000
1965	150,011,000
1966	163,768,000
1967	175,656,000
1968	183,356,000
1969	185,149,000
1970	190,362,500
1971	230,383,000
1972	337,531,000

(This includes the $100 million requested by the President and provided by Second Supplemental for 1971)

All these appropriations add up to the figure of $2,619,976,220.

This is a lot of money, but, Mr. Speaker, that amount of money covers the period from 1937 through 1972, a period of 35 years. I ask the question: If we had done more beginning in 1938 and each year thereafter than we did, might we not be nearer to finding the cause and cure of cancer than we are today? And might not many lives which have been tragically and terribly lost in those intervening years have been saved?

The reason we have not had more adequate funds during all those intervening years is partially due to the procedure which has had to be followed in order to get funds. The Director of the National Cancer Institute had to submit his budget to the National Institutes of Health which had to evaluate the cancer request with all the other competing claims on the NIH. When the Director of the National Institutes of Health settled upon a figure which he could recommend, then the matter had to go to the Department of Health, Education, and Welfare, or the comparable department. And again the claim funds for research in cancer had to meet the competition of all the other demands on that department. When that department determined how much it could approve, the matter then had to go to the Bureau of the Budget and the cancer request had to meet the same competition with all the claims that the budget had to consider.

At every stage the funds for cancer research were cut, and research to find the cause and cure for cancer suffered, and people suffered and died in vast numbers all over America.

The bill passed by the Senate and supported by the administration would have put the direct responsibility for adequate funds for cancer research upon the President of the United States, bypassing all these other impediments which such requests, even now, have to meet. That is the reason that I favor and think we should have enacted the Senate bill supported by the President, who was willing—indeed requested—this responsibility and opportunity.

The Interstate and Foreign Commerce Committee through its able Health Subcommittee has chosen not to follow the route pursued by the Senate and recommended by the President, but it does provide that the budget request of the Director of the National Cancer Institute shall go directly to the President and that the Director of the National Institutes of Health and the Secretary of Health, Education, and Welfare can only make comment upon and cannot deny this budget request.

Furthermore, this bill provides that there shall be a presidential panel to report to the President periodically upon the progress being made in cancer research. Also this bill provides for additional competent staff in the agency which can be used to evaluate all of the research and the work being done by the agency in research to bring it all closer together and make it more meaningful, one part with another. This too is good.

Moreover, perhaps the greatest contribution of the pending bill, as also of the bill passed by the Senate and recommended by the President, is to give to the Congress and the country and to those who are working in the field of cancer research an awareness of the emergency, a sense of the imperative motivation which must guide this research.

While I am disappointed that our committee has not chosen to follow the Senate bill, I do commend the committee for having broadened immeasurably the scope of the National Cancer Institute and its opportunity for finding the cause and cure of cancer. As I said, I hope further progress can be made in conference with the other body and that the distinguished Committee on Interstate and Foreign Commerce will keep this matter under immediate and the most concerned review and see to it that through this measure and any amendments that may be necessary there will be adequate funds for all that can be done to find the cause and cure of cancer and that effective administration of that effort and a sense of urgency comparable to the tragedy that cancer imposes on the people of this country will actuate their efforts.

Mr. Speaker, I very much hope that the distinguished Committee on Interstate and Foreign Commerce will now proceed to make changes in the structure and operation of the other Institutes in the National Institutes of Health in a manner comparable to the improvements which this bill makes over the existing law relative to the National Cancer Institute. And to begin such an effort I am introducing a bill to make such changes in the National Heart Institute. I hope my bill will receive concerned consideration from the distinguished Interstate and Foreign Commerce Committee at the earliest possible time.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. ROONEY).

(Mr. ROONEY of New York asked and was given permission to revise and extend his remarks and include certain testimony.)

Mr. ROONEY of New York. Mr. Speaker, I realize there is not a single Member of this body who is opposed to the speedy solution and cure of cancer. This is a subject I have been interested in since the 80th Congress, 24 years ago, when I introduced a bill then known as H.R. 292.

Further, I have been a victim of the dread cancer. I had lung cancer and was successfully operated on for it at the U.S. Naval Medical Center in Bethesda.

So you see, I have some familiarity with this subject.

The bill I wish to become law is not this pending bill. I am going to vote against suspending the rules and against this bill, H.R. 11302. I support a bill that passed the other body practically unanimously, to wit, 79 "ayes" and 1 "no." That was the bill the President wanted. This is the bill known as S. 1828, which everybody who is really interested in this subject wants—not the pending bill.

On Thursday, September 16, 1971, I testified before the Subcommittee on Public Health and Environment of the House Committee on Interstate and Foreign Commerce. I shall call to your attention the testimony I gave at that time:

Thank you, Mr. Chairman and distinguished members of this subcommittee. I am truly pleased to be able to appear before you this morning on behalf of House Concurrent Resolution 2 which calls for the mobilization of our resources into a national crusade against cancer and expresses the sense of Congress:

"That sufficient funds be appropriated necessary for a program of cancer research and for the buildings and equipment with which to conduct the research and for whatever other purposes are necessary to the crusade so that citizens of this land and all other lands may be delivered from the greatest medical scourge in history."

Twenty-four years ago, in the 80th Congress, I introduced H.R. 292, the first of many bills I have introduced over these many years calling for a national drive to eliminate cancer. Now, you might think that one would get discouraged coming back to the same subject so often; but I am not. I was heartened in the last session of the Congress when my resolution, House Concurrent Resolution 675, making it the sense of Congress that a national crusade against cancer be launched, was passed by the House on July 15, 1970, passed the Senate, amended, on August 28, 1970, and the House agreed to the Senate amendments on September 30, 1970, marking final adoption. I was also heartened when the President asked for an extra $100 million this year to financially launch the campaign that so many of us have sought for so many years. And this $100 million, while it startles some people perhaps, is just a fraction of what cancer is costing our people today.

Mr. Chairman, I am sure I need not acquaint the members of this committee with the vileness of cancer and its accompanying unrelenting statistics. I would be what they call a competent witness on the subject since I suffered from lung cancer and was successfully operated on for it at the U.S. Naval Medical Center in Bethesda in 1966. Even so, I feel it is good for all of us to realise that over the days as we formulate an urgent bill on this subject for action by the House of Representatives, Americans will die of cancer at the rate of about 1,000 per day. Of the 200 million Americans alive this minute, one-quarter of them, or 50 million Americans, will contract cancer, and of that ill-fated group, more than half will die. Many, many of these deaths will be accounted for by children and young people for, contrary to supposition, cancer is not a disease that comes with aging. It kills more young people and children than any other disease.

In 1969 (the year of the latest figures available) 323,330 persons died of cancer in this country. An estimated total of 964,000 persons in all were under treatment for cancer of one type or another. An approximate $1.8 billion was spent that year for direct costs of the treatment, such as hospital care, nursing home care, and physician and nurse services. A total of 175,000 man-years of productivity accounting for another $1.2 billion were lost that same year as a result of illness or disability of members of the working force as a result of their having cancer. Although these figures are estimations at best, the National Cancer Institute figures that total economic costs of cancer, including estimated direct expenditure, indirect cost of morbidity, and present value of lifetime earnings, amounted to approximately $12.3 billion in that 1 year. I am sure I do not really have to point out that these figures would be extremely low today in view of the skyrocketing costs of hospital and medical care and other segments of the cost of living—and dying.

Why then has it taken so long to come to the point we are at today? Well, perhaps it is because until now we were not capable of what we propose here today. Our scientific knowledge and technology grows in quantum jumps and has done so unheralded over the years until we now are at the point where we approach the very real goal of a major breakthrough on the cure of cancer. Cancer unfortunately, has been with us since time immemorial but until as recently as 25 years ago there was little or no headway made. In fact, it is only within very recent memory that people started to even mention it as a cause of death.

But we find now, that although the death rate from the various forms of cancers goes on inexorably climbing, we also have begun to crack some of the mysteries surrounding the disease. Radiotherapy and surgery are recording advances never before dreamed of, and even more promising is the field of chemotherapy which has made great progress in the treatment of leukemia and is showing promise in lung and other cancers.

In recent days we have noted reports in the newspapers of advances in the treatment of Hodgkin's disease. There have also been recent discoveries in the areas of viral, genetic, and hereditary research, which are very promising according to the leading experts in the field.

In short, the goal is within our reach. We have the beginnings of the know-how; we have the financial resources; we have the impetus and Lord knows we have the desire. What we need now is the vehicle.

Until now, Mr. Chairman, cancer research activities have been, in many areas, uncoordinated, and it is the feeling of many experts in the field of cancer study that the bill, S. 1828, would do much to correct this picture. S. 1828 would create a semi-independent agency within the National Institutes of Health which would provide a fresh approach to the control and management of our cancer program. The Conquest of Cancer Agency, as it would be called, would be financially and administratively independent of the director of the National Institutes of Health, but he would serve on the Advisory Council of the agency and play a part in budget matters before the proposed budget was presented to the President and the Congress. He would be joined on the board of the Advisory Council by the Secretary of Health, Education, and Welfare and the director of the Office of Science and Technology.

Section 407 of the Senate-passed bill, S. 1828, would assure that cancer research stay under the National Institutes of Health, while at the same time guaranteeing it the authority and autonomy to prevent funds being diverted from it. I am sure, Mr. Chairman and members of the committee, that you are all familiar with the report of the National Panel of Consultants on the conquest of cancer prepared for the Committee on Labor and Public Welfare in the other body. The findings of that esteemed group are basically contained in the bill, S. 1828, and I think, therefore, that that bill deserves favorable consideration by this committee.

I thank you, Mr. Chairman and members of the committee, for your patience and courtesy in listening to me today.

Mr. ROGERS. Thank you so much for giving us your time and giving us your viewpoints, which certainly will be considered by the committee.

Mr. Kyros?

Mr. KYROS. Thank you, Mr. Chairman. I want to welcome my good friend from New York for whom I have the greatest respect. I think your testimony has been helpful.

In the Senate-passed bill, is it necessary to obtain the advice and consent of the Senate? Don't you think it would be better not to have that proviso in there, Mr. Rooney?

Mr. ROONEY. I think that could be worked out. That is a matter that could be satisfactorily arbitrated.

Mr. KYROS. That particular point?

Mr. ROONEY. I listened to your discussion with the Senator from Wisconsin on this very same point.

Mr. KYROS. So you think that part could be modified?

Mr. ROONEY. I think so.

Mr. KYROS. Thank you very much. I am delighted to see you here this morning.

Mr. ROGERS. Mr. Nelsen?

Mr. NELSEN. I want to say thank you, Mr. Rooney, for your usual fine presentation. I noted your reference to having been a victim yourself. My son 7 years ago was at the Mayo Clinic with a brain tumor. Today he is in good health and looks just great. So I have a similar interest, with one of my family having been a victim.

So I, too, join with you in the hope that in these things where there appear to be some differences of opinion as to the detail of the bill that we can work it out as you suggest. Thank you so much.

Mr. ROONEY. It is principally a question of getting the show on the road.

Mr. ROGERS. Are there any other questions? Thank you so much for your presence.

Mr. STAGGERS. Mr. Speaker, I yield 1 minute to the gentleman from Maine (Mr. KYROS).

Mr. KYROS. Mr. Speaker, actually the President is in favor of the bill before the House today and the reasons are very clear and simple.

This bill does not dismantle the National Institutes of Health, the same National Institutes of Health which you just heard a minute ago helped our colleague (Mr. ROONEY) to be alive today.

Mr. ROONEY of New York. Mr. Speaker, will the distinguished gentleman from Maine yield?

Mr. KYROS. I yield to the gentleman.

Mr. ROONEY of New York. No; I give the credit for being alive today to the U.S. Navy.

Mr. KYROS. Thank you, but I am sure that research from the National Institutes of Health also helped.

Furthermore, this bill provides direct access to the President. It is the bill supported by all medical schools, and by

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the American Medical Association, the American Hospital Association, the Association of American Medical Colleges, practically every significant scientific body in the United States, several recipients of the Nobel prize in medicine, and the heads of 72 medicine departments of medical schools throughout the country. All of these supported the concept of maintaining the Federal cancer research effort within the NIH, and all expressed opposition to the approach contained in the Senate-passed bill.

I want to take this moment to commend Members on both sides of the aisle, and particularly the gentleman from Florida (Mr. ROGERS), who in the face of a 79 to 1 vote in the other body, obtained after 3 days of hearings, nevertheless proved in a most deliberate manner in extensive and comprehensive hearings which sharply delineated the issue, what the relationship of the new agency should be to the NIH. Mr. ROGERS' painstaking efforts have, I believe, borne fruit in this well-shaped legislation.

I want also to single out my colleague, ANCHER NELSEN, of Minnesota, the ranking minority member of the Public Health Subcommittee, who assisted so ably in fashioning the National Cancer Attack Act.

Mr. SATTERFIELD. Mr. Speaker, there can be no doubt about the need for greater emphasis upon our efforts to determine the causes of and develop a cure for cancer. H.R. 11302 will fulfill that need by providing the most extensive and comprehensive attack on a single disease in the history of this Nation.

This measure was developed after the most careful and concerned consideration by the Subcommittee on Health and Environment of the Interstate and Foreign Commerce Committee. It represents a fine, realistic blend of the best aspects of existing research efforts in the National Institutes of Health and the more desirable suggestions of the administration to create a new concentrated effort in this field.

In considering the best method to administer the national attack on cancer program it was decided that it would be preferable to preserve existing interdisciplinary cooperation by utilizing, while strengthening, the National Cancer Institute rather than to create a new independent agency with its inevitable bureaucracy whose future relationship with the National Institutes of Health would have been a matter of grave doubt and whose very existence would have constituted an obvious threat to the future of the National Institutes of Health.

Accordingly, H.R. 11302 places directorship of the national attack on cancer in the hands of the Director of the National Cancer Institute, who is elevated to the position of Associate Director of the National Institutes of Health. In his capacity as Associate Director of NIH, the Director of the National Cancer Institute, is specifically charged with creating a national plan and developing an expanded intensified and coordinated attack on cancer.

The bill, in an effort to provide the degree of independence necessary for effective planning and development provides, first, that the Director of the National Cancer Institute shall be appointed directly by the President of the United States. Second, that the Director of the National Cancer Institute shall prepare and submit a budget directly to the President of the United States with comment, but without change, by the Secretary of Health, Education, and Welfare, the Director of the National Institutes of Health and the National Cancer Advisory Council. Third, that all funds appropriated by Congress for obligation and expenditure by the National Cancer Institute shall be delivered directly from the President and the Office of Management and Budget to the Director of the National Cancer Institute. Fourth, for a total of $1.5 billion to be expended for this purpose during the next 3 fiscal years in order to provide significant direction to the attack on cancer.

By designating the Director of the National Cancer Institute to head the attack on cancer program and by keeping its administration within the National Institutes of Health, H.R. 11302 will assure a continuation of the interdependence between the several disciplines within NIH which are so essential to success. This will make possible an enlargement in the base for research—including cancer—and the capability to maintain a free exchange of information and ready availability of findings between cancer research and all other biomedical research efforts.

In order to provide effective oversight by the President of the United States, H.R. 11302 will establish a three-man President's cancer attack panel to consist of at least two distinguished scientists and a qualified layman if the President so desires. This three-man panel will appraise the national cancer attack program, monitor and develop its execution, identify and report any delays or blockages in its functioning and report in every instance directly to the President of the United States. The panel is directed to report directly to the President on any other matter when requested and is charged with the duty to make an annual evaluation of the program and to forward it to the President together with suggestions and recommendations for improvements.

To reinforce the capability of the Director of the National Cancer Institute to effectively implement the program, H.R. 11302 would preserve the expert knowledge and experience of the National Cancer Advisory Council by retaining that body not only to perform its usual functions but when called upon, to counsel and advise him when necessary to obtain the maximum benefit from any new scientific or technological finding. In conjunction with this provision is the express direction to utilize existing peer groups or to create others when needed and thus to assure the retention of the existing scientific peer review system.

Furthermore, H.R. 11302 will expedite procedures for the approval of grants. Specifically it will authorize the Director of the National Cancer Institute to make grants in amounts not to exceed $35,000 after appropriate review for scientific merit by a peer group only and to make grants in excess of $35,000 after appropriate review for scientific merit and recommendation by the National Cancer Advisory Council.

In an effort to help bridge the gap between research and treatment, H.R. 11302 will authorize the establishment of 15 new centers for clinical research training and demonstrate advance diagnostic treatment methods relating to cancer which when added to the eight centers now authorized will bring the authorized total to 23 to be distributed on a geographic basis across this country. Hand in glove with this effort the bill will direct that the Director of the National Cancer Institute shall reestablish those cancer control programs which were phased out for fiscal reasons in 1970. For this purpose it will authorize appropriation of $90 million over the next 3 fiscal years.

Another important provision which is essential to successful planning, development and operation of the national cancer attack program lies in authority which the bill will vest in the Director of the National Cancer Institute to obtain the services of not more than 50 experts or consultants who have scientific or professional qualifications essential to the program.

This bill is a realistic one which adequately expresses the commitment of Congress and the people of the United States to provide a well funded flexible program which will ultimately produce success in conquering this terrible disease.

Mr. FOUNTAIN. Mr. Speaker, I am pleased to learn that the distinguished chairman of the Subcommittee on Health and Environment (Mr. ROGERS) has offered a committee amendment to strike certain personnel provisions contained in H.R. 11302. Section 5 of the bill would amend title IV of the Public Health Service Act to provide for elevating the Director, National Institutes of Health, to executive level III, and the two NIH Deputy Directors as well as three Institute Directors to executive level IV.

This is a matter of great concern to the Intergovernmental Relations Subcommittee which has been working for many years to obtain more rational administration in the National Institutes of Health and to increase the efficiency of NIH, the Public Health Service, and the Department of Health, Education, and Welfare. The subcommittee staff has worked with the staff of the Manpower Subcommittee headed by my able and distinguished colleague from North Carolina (Mr. HENDERSON), to remedy the unsuitable personnel provisions included in H.R. 11302.

Mr. Speaker, I can understand the temptation to emphasize the importance of the national cancer attack program by elevating the grade and pay level of its Director. However, to extend this same reasoning to five additional positions in NIH does violence to the relationship of these administrators to their superiors in the Public Health Service and in the Department, as well as to civil service concepts in general.

As proposed in this bill, the NIH Director would be elevated to executive level III, the same level as the Under Secretary of Health, Education, and Welfare. In addition, five other NIH officials would be elevated to level IV, the same level as the Assistant Secretary for Health and Scientific Affairs—the official to whom the NIH Director and other top officials of the Public Health Service report. It should be obvious that this is an irrational structure and cannot be justified. It would not be conducive to sound public administration.

Mr. Speaker, I cannot support a provision of this kind which would create a subordinate position in the Public Health Service at a level equal to the Undersecretary of Health, Education, and Welfare, and five even more junior positions at the same executive level as the Assistant Secretary who has responsibility for the entire Public Health Service.

We would have great difficulty in explaining such a gross distortion of the Federal civil service structure to our constituents. I believe there is something radically wrong if the Federal Government must offer subcabinet salaries to attract scientific, professional, and administrative personnel to an operating unit within the Department of Health, Education, and Welfare.

I make no judgment on whether higher salaries may be justified for some individuals in the Public Health Service. If this is the case for the Director of the Cancer Institute in the event that the Congress should enlarge his responsibilities, such action may be justified in that case.

Mr. Speaker, I should like to point out that one of the NIH Institute Directors for whom a higher salary level is proposed in this bill is presently under investigation by the Intergovernmental Relations Subcommittee. It is alleged that this official, as well as a number of other NIH officials, have engaged in irregular travel expense practices. While our investigation has not been completed, I can report that the official in question has spent a total of 5 months during the past 2 years at his cottage in Woods Hole while being paid $25 a day per diem. The explanation offered by the official for such prolonged absence from his office at the National Institutes of Health is that it is important for him to have time to conduct his personal research and to have sufficient leisure to read the scientific literature.

I make no judgments at this time on the validity of his claims. What I think is significant in the context of the legislation before the House today is that the Director of a large Institute at NIH apparently feels that his full-time attendance is not required at the Institute in order to discharge his duties. If this is the case, Mr. Speaker, it raises a serious question as to whether the Congress has created too many separate Institutes at NIH and has overstaffed them for the programs being performed. An alternative conclusion might be that some of the officials responsible for carrying out the health research programs authorized by the Congress are not doing as vigorous a job as we in the Congress intend when we authorize these programs and appropriate funds to carry them out.

Mr. JOHNSON of California. Mr. Speaker, I rise today in support of H.R. 11302, the National Cancer Attack Act of 1971. First of all, I think it is clear to all of us that a massive assault must be mounted on this dread disease which kills thousands of Americans of all ages and from all walks of life each year.

Cancer affects one out of every four individuals in this Nation. More than 51 million Americans now living will develop some form of cancer, and unless a cure is discovered soon, 34 million of these will die of that disease.

On an annual basis the death toll from this disease averages some 330,000 Americans.

A national panel of consultants has made an exhaustive study of the threat which this disease poses to our Nation and has concluded that a major systematic attack on cancer is feasible and victory can be achieved if we embark upon this crusade now.

The question is not whether to proceed but how.

The distinguished Committee on Interstate and Foreign Commerce, under the leadership of its chairman, Congressman STAGGERS of West Virginia, conducted exhaustive hearings on this legislation earlier this fall and the recommendations which we have before us today reflect the committee's vision as to how best the cancer research can be conducted to fulfill a national commitment to find a cure for the disease.

The National Cancer Attack Act of 1971 reflects the findings of the scientific community already working on this disease for they were particularly concerned about preserving the essential exchange among the scientific disciplines within the National Institutes of Health. Therefore, the proposal set before us builds upon existing strengths of the National Cancer Institute, increasing its authorities, funding, and other resources, and placing the responsibility of meeting this challenge in the hands of an Associate Director of the National Institutes of Health. The mandate given to him by the Congress and the President is to coordinate all cancer-related research, inside and outside the Federal Government, and wage a comprehensive attack upon cancer to achieve the goal which we all seek, namely, the conquest of cancer.

As a sponsor of the Conquest of Cancer Act, I support the committee's recommendations wholeheartedly and urge that we enact this legislation today and get on with the challenge.

Mr. BURKE of Florida. Mr. Speaker, I was especially pleased to join with those of my colleagues who supported H.R. 11302. Cancer is one of the most feared of all human maladies. The pain, suffering, and grief caused by this disease are monstrous. It is estimated that 345,000 Americans will die this year from cancer. It is further estimated that 600,000 new cancers will be diagnosed in the coming year.

The basic understanding of cancer's causes and its cure is still an elusive goal. Man's counterattack against it has produced victories of a sort; 40 years ago, less than one-fifth of all known victims survived 5 years after diagnosis but now one-third live at least that long. Five years of life after diagnosis is hardly a great victory. Five years anticipation of a slow certain death strains the moral fiber of the individual and tears at the heartstrings of all his family and friends. We have all seen or known people who have died of this dreaded disease and we all know its ravages before death.

President Nixon in a speech stated that—

> The conquest of cancer is one of the most important efforts of our time.

In his message to the Congress on the state of the Union on January 22, 1971, and again in a special message to the Congress concerning a national health strategy on February 18, 1971, he said he was determined to wage a successful fight against this dread disease; and called upon the Congress to appropriate an additional $100 million to support the effort.

Cancer is second only to heart disease in the number of deaths in this country. If the present incidence of cancer were to continue at the same rate, some 52 million Americans who are alive today will contract this disease. This means that cancer would strike one out of every four individuals in this country—and two out of every three American families. In the next 10 years alone, 3½ million Americans would die from cancer unless we stop it.

Needless to say all of us in the Congress are concerned with conquering this dreaded disease, but the issue is not whether cancer should be conquered but which will be the fastest way with the least expenditure of taxpayers' money.

The House and the Senate differ on this issue. The Senate feels that the medical profession knows enough about the disease to adopt a crash-program approach comparable to the Manhattan project during World War II. They proposed and passed legislation, S. 1828, on July 7 by a vote of 79 to 1 to provide for a National Cancer Institute which would lead an existence for all practical purposes divorced from the rest of the medical research establishment.

The House on the other hand feels that the scientific community who argue that not enough basic research has been done in basic cancer research have a valid point. A vast majority of scientists have testified that no single line of research can solve the problem, and that isolation of the cancer fight from the mainstream of biomedical effort not only will slow it down, but, also will weaken the other elements of NIH from which promising leads might come.

H.R. 11302, provides that the number of NCI research centers be increased from 8 to 23, that the process of awarding study grants be speeded up; and that a watchdog commission to oversee the expanded NCI be set up by the President.

I introduced legislation on May 18, 1971, H.R. 8525, to amend the Public Health Service Act so as to promote the public health by strengthening the national effort to conquer cancer. My bill provided for a cancer-cure program established in the National Institutes of Health. Further, the program, acting in coordination with the other programs

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and activities of NIH would have as its objective the conquest of cancer at the earliest possible time.

My bill in essence is the same as the House bill proposed by PAUL ROGERS. The mechanics of implementation are slightly different but the intent and method are the same.

Since 1947, the male cancer rate has climbed from 280 per 100,000 to 304, while the death rate has risen by nearly 40 percent. Black men are 65 percent more likely to suffer from cancer of the prostate than whites, 250 percent more susceptible to cancer of the esophagus. Black people are more cancer prone than whites. The only decrease in cancer has been in women. Since 1947 the incidence rate has dropped from 294 per 100,000 to 256. Fatalities among women have also declined dramatically, largely because of earlier detection of uterine cancer. Progress can be made; what is needed is more money and better organization. It is time that we stop talking and pass proper legislation to find cures for cancer. The vote on H.R. 11302 is a step forward. Now let us finish the job and end this dreaded disease.

Mr. DONOHUE. Mr. Speaker, I most earnestly urge and hope that the substantive objective of this national cancer attack bill, H.R. 11302, with strengthening amendments to perhaps bring it more in line with the measure already passed by the Senate, will be overwhelmingly approved by the House.

As is commonly known, cancer is truly the No. 1 health problem affecting the American people and the occurrence of cancer is, unfortunately, increasing.

In appreciation of the significance of such increase, together with the warning of the experts that the nature of cancer is not yet fully known, we have the clear legislative duty of enlisting and marshaling the most effective scientific resources in the country to win the fight against cancer.

The authorities tell us that there has been some encouraging progress in the war on cancer but a national and concentrated program is urgently needed now in order to more effectively pursue recent advances in diagnosing, curing, and eliminating cancer. Many of the experts who have been long and devotedly engaged in the fight against cancer tell us that this can best be done by making three significant improvements in the existing structure.

A national cancer agency and director must be set up, associated with the National Institutes of Health, but with independently defined authority and responsibility; a comprehensive national plan must be developed to project a cooperative and systematic attack on the terribly complex causes of cancer and adequate financial resources must be made available to speed the accomplishment of the overall purpose. These are the foundation improvements that this measure is designed to achieve and that we hope it will.

Mr. Speaker, the vital importance of the cancer solution problem to the American people is obvious. This measure, in itself and with suggested strengthening amendments, represents a most impressively organized and promising effort toward the earliest possible detection of and cure and elimination of cancer and it is unquestionably in the overriding national interest.

I know that the House will fully and carefully consider and exercise its most conscientious judgment on all the provisions of the bill and any proposed amendments and I am sure that the final action of the great majority of the Members will reflect a major forward step in our united march to victory over the scourge of cancer.

Mr. DULSKI. Mr. Speaker, I am delighted with the speed with which the House Committee on Interstate and Foreign Commerce has moved to consider legislation to deal with the massive attack on the scourge of cancer.

The subcommittee, chaired by the gentleman from Florida (Mr. ROGERS), held comprehensive hearings over a period of several weeks which included testimony from individuals representing all elements of the scientific, governmental, and the civic communities.

I was particularly gratified that the subcommittee chose to conclude its hearings with an onsite session in my home city of Buffalo, N.Y., where the subcommittee heard testimony from top research and clinical specialists of Roswell Park Memorial Institute, the oldest and one of the largest cancer institutes in the world.

During the midday recess of the hearing, the committee members were given a tour of key portions of the institute where they could see at first hand both the basic research and the treatment work being done in the field of cancer.

The visit of the subcommittee to Buffalo so impressed the members of the subcommittee that I had hoped some way could be found to have the entire committee as well as other Members see at first hand the work being done.

CANCER EXHIBIT ARRANGED

Since it was impossible to arrange a visit of a larger group to Buffalo on short notice, I asked officials of Roswell Park Memorial Institute to assemble as quickly as possible a photographic exhibit which highlighted both the research and treatment work being done there.

Such an exhibit was brought to Washington a week ago and all Members were advised of its availability in room 210, Cannon House Office Building.

Dr. Gerald P. Murphy, director, and Dr. Edward A. Mirand, associate director, came to Washington for the day to provide expertise and counsel to the many individuals who took advantage of the exhibit.

The work at Roswell demonstrates perhaps better than many other examples the fundamental necessity that there be very close coordination and relationship between the basic research on cancer and the clinical treatment of patients.

That is, the scientists who are working in the laboratories on the purely technical side need to have close rapport with their colleagues who are utilizing the results of basic research in actual treatment of patients.

RESEARCH, TREATMENT RAPPORT VITAL

Valid complaints have come to my attention that in some areas of cancer research, unlike at Roswell, this close coordination is lacking.

Indeed, one of the criticisms raised about the current operation of the National Institutes of Health is that it is too heavily oriented to basic research with application and dissemination of research results being a secondary consideration.

An example cited to me is that today—7 years after introduction of a good measles vaccine which was developed with federally funded research—there still are epidemics of measles and many deaths from measles, and the toll is increasing annually. I am told further that, ironically, children at the highest risk for measles are the least likely to be immunized.

Mr. Speaker, I was an original sponsor of the Conquest of Cancer Act and was gratified at the strong position of support which was given to the cancer attack program by the administration. The Senate, as has been pointed out, approved a modified Conquest of Cancer Act.

The pending bill seeks to deal with the problem of cancer in a somewhat different fashion than the Senate-passed bill.

HOPEFUL FOR COMPROMISE

As one who has been supporting and seeking support of others for cancer research ever since I came to Congress in 1959, I am very hopeful that the conflict between the House and Senate versions will not wind up in a stalemate.

In view of the strength of support for the House measure in the House committee, I am in full support of H.R. 11302. I hope sincerely, that in the House-Senate conference a final version can be worked out expeditiously so that the massive drive against cancer can get underway without further delay.

Neither the pending bill nor the Senate bill is perfect, but they both go a long way toward doing a job of attacking cancer with all the vigor the great resources of our country can muster. My interest is in results.

One of the important improvements in the program which is evident in the House bill is the provision for a speedup of the procedure for handling smaller grants, specifically those of $35,000 or less.

The committee report says that some 40 percent of all grant applications are in this area. Certainly, one of the great frustrations under the current system is the protracted delay that occurs so often in clearing research grants applications.

TWO SPEEDUPS PROVIDED

What is more, the House bill has a second speedup provision which allows the Director of the National Cancer Institute to call upon the National Cancer Advisory Council at any time to meet and consider larger grants that look promising and warrant expedited consideration.

There is absolutely no question as to the widespread concern about the increasing number of cancer cases. There have been some impressive breakthroughs in various areas and there is prospect for other important developments. These prospects can be enhanced by the massive attack proposed under both the House and Senate bills.

Mr. Speaker, in the interest of moving forward with an aggressive cancer attack program, I support without hesitation H.R. 11302 as it came from the House Committee on Interstate and Foreign Commerce.

As I said earlier, my own interest in the conquest of cancer began long before I came to Congress. My election to the House gave me the opportunity to seek legislation and appropriations to further the drive.

Shortly after I first arrived in 1959, I published a newsletter containing a lead item from which I quote the opening paragraph:

> We have voted billions of dollars for conquest of outer space. It will be a thrilling experience for the first man who reaches the moon. But I would rather be the first to discover a cure for cancer, heart disease, or mental health.

The pending legislation is without doubt the most comprehensive and far-sighted legislation in this field which I have had the opportunity to act upon in my service here.

COMMEND EXPEDITED ACTION

Mr. Speaker, I want to express my deep appreciation and my commendation to the chairman of the full committee (Mr. STAGGERS), the chairman of the subcommittee (Mr. ROGERS) and the other members of the committee for the expeditious manner in which they have handled this bill.

I would like particularly to express my appreciation to the members of the committee for agreeing to amend the bill in order to eliminate two provisions which are of great concern to the Committee on Post Office and Civil Service, of which I am chairman.

I am referring to the deletion from section 3 of that portion permitting entrance at two grades above normal for specially qualified scientific or other professional personnel in the National Cancer Institute.

The other portion of the bill is section 5(b) which would have raised the levels in the executive schedule for certain positions in the National Institutes of Health.

Our Committee on Post Office and Civil Service, in cooperation with the Civil Service Commission, has been opposing adjustments in pay scales in bills which do not come before our committee.

NO INTENTION TO BLOCK

Our committee has no intention of blocking legitimate requests for pay adjustments, but in line with its responsibility and jurisdiction over pay levels, it needs justification for proposed changes.

I would like to assure the Members that any valid justifications presented to our committee will receive sympathetic consideration.

The deletion of the two aforementioned pay items in the pending bill has relieved me of the embarrassing predicament of being forced to raise doubts about a piece of legislation which I feel is far too important to be delayed on technical questions which can and should be handled in another manner.

Mr. Speaker, I support fully H.R. 11302 as amended by the committee and urge its passage. I renew my hope for an early agreement between the House and Senate conferees on this important legislation to press the attack on cancer.

Mr. HASTINGS. Mr. Speaker, it is my privilege to support the passage of H.R. 11302, the National Cancer Attack Act of 1971. As a member of the Subcommittee on Public Health and Environment, I feel this bill, which represents hours of discussion and deliberation, is the most viable mechanism to stimulate the necessary multifaceted approach to the conquest of cancer.

I would like to compliment the gentleman from Florida, Chairman PAUL ROGERS, for his outstanding efforts, and the entire subcommittee for their endorsement of a unified approach.

The Cancer Attack Act makes the following provisions which will permit the optimum flexibility in developing the methodology necessary to expand our research capabilities:

First. A speedup of procedure of grant process by allowing grants of $35,000 and under to be reviewed by peer group on merit and then passed to director of NCI for approval instead of waiting for National Cancer Advisory Council. This should effect nearly 40 percent of all grant applications.

A second speedup provision allows the NCI director to call in the National Cancer Advisory Council at any time. Presently, this group meets quarterly. This allows for fast consideration of grants that look promising and could result in a breakthrough.

Second. Clinical research centers, which now number 8 will be increased by 15 and will be eligible for block grants from the NCI director. These grants can provide up to $5 million per center. In the past, as many as 30 or 40 separate grants were required to maintain a clinic's work.

Third. Cancer control programs which were financially phased out a year ago will be reactivated and placed under the control of NCI. Funds for these programs over a 3-year period are $90 million. This includes PAP tests for cervical cancer, breast checks, and oral examinations, and the training for personnel in cancer. The gathering of cancer statistics will also be included to give the medical-scientific communities better profiles of the disease.

Fourth. The budget for NCI is sent directly to the President, with the Director of NIH and the Secretary instructed to comment, but not alter it. As a further check on the adequacy of the budget, the outside NCAC will also comment.

Fifth. The budget proposed in the bill is $1.590 billion for 3 years. The Senate bill contains no specific authorizations.

Sixth. The Director of the NCI will be given the title of Associate Director and to give notice that the bill will not downgrade the two other major institutes, this position will also be given the directors of the National Heart and Lung Institute and the National Institute of Neurological Diseases and Stroke.

Seventh. Because of the President's interest and concern over the problem, the committee bill has created a three-man panel to oversee the NCI as the President's watchdog. They report to the President as to the progress, effectiveness, and operations of NCI and make recommendations to the President.

Eighth. To develop a comprehensive program, the bill requires a national plan of attack.

I trust that now the House and Senate will move ahead swiftly in conference to deliver this essential legislation to the President before the year's end to be signed into law.

Mr. BROOMFIELD. Mr. Speaker, the National Cancer Attack Act presents for the first time a well-organized and funded program to fight cancer. This terrible disease, which will afflict one out of every four Americans alive today, has long plagued the health and welfare of our people.

There is no better time than now to initiate the first major assault upon cancer. Indeed, for many Americans who are still alive today it is already too late to turn back this fatal disease. Nonetheless, medical research has uncovered many new answers—new keys which may unlock the solution to this perplexing problem.

However, these new possibilities raise more questions which in turn must be satisfied. We must, rather than despair, redouble our efforts if we are to succeed.

I propose, Mr. Speaker, that we have passed the point where we have the option to delay this all out attack until some future time. Cancer has grown to epidemic proportions. It strikes indiscriminately and silently.

The cost of this multiyear program pales when it is compared to such programs as space research and the Vietnam conflict. Additionally, the potential return from a cure for cancer or a successful means to retard its fatal advance when computed in terms of human life and suffering is beyond description.

Mr. Speaker, I daresay that there is no family in this country which has been left untouched by this perplexing killer. And yet, we can defeat this adversary. It is possible if we only allocate the time and money that a cure can be discovered.

A cure is within our grasp; we can prevent the needless suffering and loss of so many innocent victims. If we should ignore the challenge of cancer, if we fail to act decisively to combat its dread effect, the true tragedy will be reflected in the senseless loss of thousands of Americans who will die for no other reason than our failure to act immediately.

Mr. PRICE of Texas. Mr. Speaker, this afternoon the House is considering a critically important piece of legislation, the National Cancer Attack Act of 1971. I fully support this proposal and I urge my colleagues to give it their full endorsement as well.

Given current rates of incidence, 650,000 new cases of cancer will be diagnosed in the United States during 1972. The next year will also be marred by 340,000 cancer-related deaths. And as incredible as it may seem to us in the quiet of this Chamber, unless the rate at which cancer is spreading throughout our population can be reduced, one out of every four Americans who are living today will someday contract this dreaded disease.

To my way of thinking, we are in a race against a clock which is not measuring the time of day, but a clock which is measuring the state of health and well-

being of millions of Americans. That we are losing this race is all too painfully clear.

This is the Nation that tapped the resources, created the technologies, and focused the energies of some of its best minds toward the goal of putting a man on the moon. We accomplished this goal in the span of one decade, a goal that mankind has dreamt of through the ages. I am confident this Nation is equally well equipped to conquer cancer and minimize its threats to not only the health of the American people, but to people of the rest of the world as well.

Upon those of us in Congress rest the burdens of establishing, by law, the most effective means of focusing public and private resources on the problems of cancer, and then channeling sufficient amounts of public revenues into these resources. Not only are these tasks clearly defined and capable of reasonably swift resolution, the bill before the House today provides a sound starting point.

In terms of content the National Cancer Attack Program Act of 1971 is similar in many respects to legislation I introduced some months ago, and for this reason I am quite familiar with the terms of the bill to be voted on today. It establishes a national cancer attack program within the National Institutes of Health and by so doing capitalizes on the existing governmental structures and programs in the health area. In my mind, this would better utilize the institutions of the Federal Government than would have been the case if, as some advocated by liberals, a separate cancer agency had been established in the executive branch. Moreover, this bill has the added advantage of allowing the development of the new medical technologies needed to successfully conquer cancer to be developed within the already well developed and highly sophisticated framework of the National Institutes of Health. This structural arrangement will provide opportunities for a wide variety of medical fields to profit from new breakthroughs in cancer research. I say this because the fundamental knowledge which is essential to the conquest of cancer is also essential to the solution of many other disease problems, diseases of the heart, diseases of the lungs, and so forth. In addition, new information about life processes derived from expanding cancer research within the National Institutes of Health system can also have immense value in casting new light on other biological processes within the human body.

In closing, I would leave my colleagues with this grim thought. On the basis of the best information available, it has been estimated that unless rapid progress is made in understanding and controlling cancer, 3.5 million Americans will die from some form of cancer during the next 10 years. If this grim prediction comes true, we have no one to blame but ourselves; for, as a nation and a people, we have the means and the abilities to conquer cancer. Regrettably, it still remains to be seen whether we have the necessary resolve to get on with the task ahead.

Mr. GALLAGHER. Mr. Speaker, while I am pleased that the Congress and administration have chosen to join in my proposal for a national commitment to cure cancer, I am yet dissatisfied with the amount of funds authorized toward that goal—for it is clear that no matter how much we spend on this great effort a good result will pay us back many times. It is clear that our economy suffers more loss from permitting cancer to continue its killing game than that economy could ever pay to stop cancer. I am talking about income taxes lost through the loss of able bodied men and women who cease to function because of cancer. I am talking of medicare payments, insurance payments, and hospital payments produced by a disease which saps the very essence of human dignity. The price we pay for permitting cancer to charge us the ultimate tax—our lives, is far greater than the price I am proposing to end this scourge once and for all. Yet while I am dissatisfied with the amount being authorized today I am terribly gratified that what I called for years ago, a nationallly funded war on cancer, has finally come to pass.

Mr. Speaker, I take the liberty of enclosing for the RECORD a letter which I sent to Premier Kosygin of the U.S.S.R. on July 15, 1970, and the reply he mailed to me.

I wrote this letter at a time of considerable frustration because of the difficulties of trying to get our Nation to declare a new kind of war. A war for the improvement of the quality of life. A war against a terrible disease. A war against cancer. The letter follows:

JULY 15, 1970.

His Excellency ALEKSEY NIKOLAYEVICH KOSYGIN,
Chairman, Council of Ministers of the Union of Soviet Socialist Republics, Moscow, USSR.

DEAR MR. CHAIRMAN: This letter is as unusual for me to write as it must be for you to receive.

During my more than 12 years as a member of the House Foreign Affairs Committee many issues of great importance have developed between our nations; yet now a matter of shared concern and mutual significance compels this direct communication with you. This matter involves an area in which both your country and mine have expended considerable effort and national resources; it affects the basic question of human life.

Mr. Chairman, I am not referring to the threat of nuclear war. Rather, I am referring to an international menace which has already realized its potential for destruction by taking the lives of millions of persons throughout the world each year: that menace is cancer.

I have proposed in the Congress that the United States undertake a firm national commitment to cure and control cancer in this decade. Under my proposed legislation, such a commitment would involve the direction of at least $6.5 billion over the next ten years to eradicate the menace of malignancy from our earth.

But, as you must know, the weary wheels of bureaucracy often fail to spin with sufficient speed in the face of major new proposals. However, as you have also undoubtedly noticed, the wheels of the American Government seem to spin somewhat more quickly when sparked by a specific catalyst: namely, counter-action by the Government of the USSR.

In fact, both of our nations have done wheel-stands in response to one another. We have demonstrated a certain unmistakable sensitivity in response to the respective actions of our respective republics. Actually, what we have really demonstrated is mass akin to a knee-jerk reflex reaction! It is as if the age-old proverb could now be applied to international affairs: one nation proposes, the other disposes.

Thus, the reason for this letter.

To be precise, Mr. Chairman, I have been attempting to find an effective means of spurring my country to action on my cancer cure commitment legislation. I have considered every possible parliamentary maneuver, every potential political squeeze, and every conceivable public outcry. Finally, I believe that I have found the appropriate method to spur public support and thus the political support which must follow.

Accordingly, Mr. Chairman, I write formally to ask you to proclaim a 10 year national commitment by the USSR to cure and control cancer in this decade!

It would seem certain that the result of such a proclamation would be to spur my country into racing your country for the goal of cancer cure.

In case my suggestion seems of dubious merit, let me say that there are sufficient analogies from past experience to justify this approach. For example, you launched Sputnik, thereby indicating what could have only been an intention to race us for outer space; a knee jerked on the other side of the world, and we decided to race you for the Moon.

In the field of national defense, you know that the Soviet Union has only to breathe out the hint of new weapons development for us to inhale the information with renewed decision to build a bigger ABM, or a better MIRV, or a bolder Polaris. In this way, your policy helps us to defend our policy which helps you to defend your policy. When I visited Moscow University, I gathered from your students that the reaction cycle is not unilateral.

So, just as the United States could not afford a missile gap, neither could we possibly afford a cure gap. If you announced the firm goal of cancer cure, we would obviously have to close the gap by working with equal speed and dedication towards that goal.

And you know, Mr. Chairman, it seems to me that if we must have races in this world, then the race I suggest would be far more worth the running than any of the others before it: an international race for the human race in which no nation, or person, could lose. This could be the first international contest to eliminate disease instead of to increase our capacity to make war.

From such a race, in fact, we might perhaps realise that here is an area where we could do better by pooling our resources, our talents, and our commitments in a common crusade for a common humanity. Neither the space race nor the arms race could ever hope to match the significance of a truly human race.

I know that your country is now working as strenuously as is mine towards finding a cure for cancer. But the problem on both sides is the lack of a firm financial commitment and a fixed time goal. We both lack a nationally coordinated and properly funded commitment to cure cancer and the fear of cancer within a measured time period.

Yet the only obstacle which now stands between cancer and its cure is money. This point is supported by more than 600 eminent American scientists, educators, and physicians who signed a special public statement endorsing my cancer cure proposal, and expressing their conviction that cancer can be cured if my proposal were adopted. We have the technology; we require the commitment. And is it not time, Mr. Chairman, that we stopped using man for technology and started using technology for man?

I might say here that all of this backing for my bill produced virtually no impact whatsoever; not one word in The New York Times. Now, if the USSR made such a proclamation, you can well imagine the height of the waves of publicity which you would generate, the magnitude of public awakening which you would produce, and the great forward motion that could then begin.

So again, please let me urge you to announce that the Soviet Union intends to cure cancer in this decade. Indeed, even if the great press of other important matters makes it inopportune for you to proceed with a firm national cancer cure commitment at this time, or if, perhaps, you have already decided upon such a firm commitment with as little public notice as my proposal has received, please make the announcement anyway! Our respective nations have made many statements during the years of our rivalry that neither side always meant; most of the time, these statements involved communists making nasty comments about capitalists, and vice versa. Other times, we have directed threats at one another which were not (thank heavens) fulfilled. So, if you have to say something which you may not really mean, at least here is a chance to say something which is good and constructive at the same time. An announcement of this sort would benefit us all; for when it comes to cancer, we are neither capitalists or communists, but we are all potential victims.

Mr. Chairman, I wish that I were entirely facetious about this matter, but this is not possible. For you, I, and every human being know the anguish of cancer. We all live within its long shadow, our lives darkened by its grim terror. And we have all seen once vigorous human lives badgered and beaten by this brazen killer.

I also wish, Mr. Chairman, that I could devise another means for making our countries take up the gauntlet for a firm cancer cure commitment in this decade. But it seems these days that governments cannot respond to an ordinary plea, made by an ordinary man without benefit of computers, matrices, or geometric progressions, on behalf of all of our ordinary lives. I believe that these lives—all of our lives—are well worth the saving. And recalling your visit to my State at Glassboro, New Jersey, and the spirit your visit engendered, I think that you believe this too.

I further believe that if our two great nations can find a common goal, and can undertake a joint effort in this one area of cancer cure, then perhaps we can locate other common bonds to help move the world away from the precipice of war to the more fruitful fields of peace, using our large treasury of resources to eliminate misery, poverty, disease, and injustice. This could be our first mutual step.

I look forward to your reply.

Sincerely,

CORNELIUS E. GALLAGHER,
Member of Congress.

MOSCOW, OCT. 30, 1970.

Hon. CORNELIUS E. GALLAGHER,
U.S. House of Representatives, Washington, D.C.

DEAR MR. GALLAGHER: I received your letter and fully share your concern over the problem which cancer diseases present to the health and lives of millions of people.

In the Soviet Union, as the American oncologists are well aware, much has been done in the field of prevention and treatment of cancer. But we, of course, are not going to limit ourselves to what has been done up to now. In 1969 the Soviet government took a decision to construct a new big oncological center in Moscow.

Cooperation between the Soviet and American oncologists in this important area of medical and biological science can, undoubtedly, play a positive role in achieving the noble goal of saving mankind from this formidable disease. The Soviet Union on its part is ready to further expand cooperation with the United States in this and other areas of medicine.

The suggestion to start a kind of "competition" between the USSR and the USA in combating cancer does not seem to me to be appropriate. In our opinion, in such a noble area as fight against cancer and other diseases it makes more sense to proceed by uniting the efforts of various countries rather than by rousing rivalry among them.

Availing myself of this opportunity I would like to ask you to convey my best wishes to the citizens of the town of Glassboro which is within your congressional district. I recall with appreciation the hospitality shown to me by the citizens of that town.

Sincerely,

A. KOSYGIN.

I wish to applaud President Nixon who on May 11, 1971 in his state of the Union speech adopted my proposal and made the cure of cancer a national goal of the United States. From that moment on the campaign gathered momentum until we now have the President and the Congress united in its purpose that that war on cancer will be funded and will be fought unconditionally until this dreaded disease is eliminated. My feeling today is quite different from those days when I wrote to Mr. Kosygin. This is a rewarding moment.

As the one who originated the concept of a national war on cancer, I applaud this action in the House as a significant milestone in the campaign to conquer this dreaded disease which has cast its long shadow over so many homes.

I realize that differences exist between this leigslation and that passed by the other body and it is my fervent hope that these can be ironed out quickly so that we may get on with the job at hand.

After all the important thing is that the Nation mount a commitment so that a cure for cancer can be found, and found as quickly as possible. When you consider that about 52 million people now living in the United States probably will have some form of cancer during their lives and that about 34 million of them will die from this disease unless new treatments or cures are found it is quite obvious why it is important that we move forward.

I take pride, Mr. Speaker, in knowing that it was back in 1969 that I proposed a resolution in this House to increase cancer research and to eliminate cutbacks which were being made at that time.

Then in 1970 and again this year I offered a resolution which finds that it is both necessary and desirable that a national commitment be immediately undertaken to achieve a cure and control for cancer within this decade. This year the number of cosponsors reached almost 140. My proposal had the backing of over 600 scientists, researchers, and doctors.

I even wrote Soviet Premier Kosygin suggesting international cooperation in the battle against cancer, a disease which claimed Mr. Kosygin's wife several years ago. Interestingly enough he agreed with me and when he responded to my letter suggested that this be a war which the United States and the Soviet Union could wage together for mankind.

We cannot stand by while this disease continues to reap its harvest from the world's population. It now has reached the horrible level of claiming more than 300,000 Americans each year. What a waste, Mr. Speaker, what a waste. How many great minds have been cut off from the Nation because of our failure to cure cancer? How much love have we lost for our failure to cure cancer?

The approach which I sponsored called for spending of no less than $650 million a year for 10 years on the national cancer research program, with $250 million of this to build five new cancer research institutes during the initial 2 years.

I notice that the funding level in this 3-year authorization bill totals almost $1.6 billion, which figures out to be about $530 million annually, and that the bill envisions authority to support 15 new centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer. Another valuable feature of this legislation is the inclusion of specific authorization—$90 million over the 3-year period—to reactivate the cancer control programs which were financially phased out a year ago.

I recognize that the legislation passed by the other body would create a new agency which technically would remain within the existing National Institutes of Health but would have independent status and would report directly to the President while this legislation is geared toward strengthening the National Cancer Institute.

While these are different roadways, the objective at the end of the journey is the same. We all want an end to the pain, suffering and death wrought by this killer disease. And it is in this spirit, Mr. Speaker, that I am sure the conferees of the two bodies will meet to find a commonly desired route to conquer cancer. As I have tried to stress during this debate, what is important is that we get this program moving immediately. We need to insist that enough money is provided for a cancer cure commitment.

What we need is a massive human lobby, a lobby for life, which will insist that the Government provide the money for a cancer cure commitment.

Cancer already has claimed far too many victims, Mr. Speaker, and it is a staggering thought to realize that more than 1 million citizens of our great Nation are under treatment for this killer disease.

It is past time that we gear up for an all-out war on cancer. Let us hope and pray, Mr. Speaker, that with such a concerned effort by everyone concerned the day may come when even the word cancer is eliminated from our medical language. Now let us begin.

Mr. KYROS. Mr. Speaker, 2 weeks ago a unanimous Subcommittee on Public Health and Environment, of which I am a member, reported to our full committee, H.R. 10681, as amended, the National the Roswell Park Memorial Cancer Instiby our subcommittee, including a visit to Cancer Attack Act of 1971. This action tute in Buffalo, N.Y., and hours of consideration in executive session. It is our followed more than 4 weeks of hearings unanimous position that the national at-

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tack on cancer can best be approached through streamlining the National Cancer Institute, while maintaining the integrity of the National Institutes of Health, the world's foremost national institute. In fact and in form, I feel it would be a great error to separate the Cancer Institute from the other nine member institutes of the NIH, all of which have contributed to some degree in cancer research. To me, it makes no sense to separate cancer research from this enormous scientific community, when indeed to achieve our goal, we should open lines of coordination and cooperation. As an example of this, our most recent breakthrough on leukemia came as a result of research on sponges, and our latest advance in the role of viruses in cancer came from a man working on polio virus.

Besides maintaining the integrity of NIH, our bill makes the following eight improvements in existing law:

First, it provides for a speedup of procedure of the existing grant process by allowing grants of $35,000 and under to be reviewed by peer groups on merit, and then passed to the Director of NCI for approval, instead of the present procedure, which requires waiting for additional approval by the National Cancer Advisory Council. This will accelerate approval of nearly 40 percent of all grant applications.

A second speedup provision allows the NCI Director to call in the NCAC at any time. Presently, this group meets only quarterly. This allows for fast consideration of grants that look promising, and could result in a breakthrough. There are no such provisions in the Senate bill.

Second, clinical research centers, which now number eight will be increased by 15 and will be eligible for block grants from the NCI Director. These grants can provide for up to $5 million annually to each center. In the past, as many as 30 or 40 separate grants were required to maintain a clinic's work.

Third, cancer control programs which were financially phased out a year ago will be reactivated and placed under the control of NCI. Funds for these programs over a 3-year period are $90 million. This includes Pap tests for cervical cancer, breast checks and oral examinations, and the training for personnel in cancer. The gathering of cancer statistics will also be included to give the medical-scientific communities better profiles of the disease.

Fourth, the budget for NCI will be sent directly to the President, with the Director of NIH and the Secretary of Health, Education, and Welfare instructed to comment, but not alter it. As a further check on the adequacy of the budget, the outside National Cancer Advisory Council will also comment.

Fifth, the budget proposed in the bill is $1.590 billion for 3 years. The Senate bill has no money figures.

Sixth, the Director of the NCI will be given the title of Associate Director and to give notice that the bill will not have the undesirable effect of downgrading the two other major institutes, this position will also be given the directors of the National Heart and Lung Institute and the National Institute of Neurological Diseases and Stroke.

Seventh, because of the President's interest and concern over the problem the committee bill has created a three-man panel to oversee the NCI as the President's watchdog. They will report to the President as to the progress, effectiveness and operations of NCI and make recommendations to the President.

Eighth, to develop a comprehensive program, the bill requires a national plan of attack, a feature also not covered in the Senate bill.

I regret that so serious and so critical an issue as the national attack on cancer has become much too political. This is, unfortunately, due largely to the recent expenditure of $53,000 to place full page ads in over 20 newspapers, including those in the congressional districts of every member of our subcommittee. These ads, which voiced support of the Senate version, somehow failed to mention the existence of the House bill or the fact that our subcommittee has heard from over 50 witnesses during hearings on the various cancer bills. I believe, however, that any attempts to stampede the Congress will fail. Since the appearance of these ads, editorial comment has begun to focus on the merits of the House approach. Every recent editorial I have seen on the subject endorses the House subcommittee measure.

The House approach has been endorsed by a considerable number of scientific and medical organizations—including the American Medical Association, the Association of American Medical Colleges, the Association of Professors of Medicine, the National Academy of Sciences, the American Hospital Association—as well as several Nobel laureates, including Dr. Charles Huggins, who received the Nobel prize for the treatment of cancer patients. Indeed, as recently pointed out in Science magazine:

> No major scientific body apart from the American Cancer Society supports the (Senate) proposal.

I believe that our approach, which streamlines the cancer fight and yet prevents unwarranted fracturalization of the National Institutes of Health, is by far the most sensible and most efficient means to attack cancer, and I urge support of the committee action by the House.

Mr. PODELL. Mr. Speaker, we have before us today for the first time a comprehensive bill designed to attack America's most dreaded disease—cancer. The National Cancer Attack Act of 1971 proposes to channel American knowledge and ingenuity toward the conquest of this killing disease. By passing this most needed legislation, we will, over the next 3 years, spend over a billion and a half dollars in assaulting the mysteries of cancer. This money will be spent for construction, operation, and repair of cancer centers, laboratories, research, related facilities, and the employment of scientists, doctors, researchers, and other personnel in this fight.

The Cancer Act will authorize funds that would be spent over the next 3 years for the establishment of 15 new cancer centers for clinical research, training, and demonstration of advanced diagnostic and treatment methods. This landmark legislation would also allow for the harmonization of State and other health organization's programs. In carrying out its attack on cancer, the National Cancer Institute, under the auspices of the National Institutes of Health—NIH—will coordinate a tremendous number of activities. The cancer attack program under this legislation will plan and develop an expanded, intensified, and coordinated cancer research program, will have the full cooperation and the use of existing research facilities and personnel of NIH, will coordinate any cancer research done by private industries, will produce and distribute on a large scale the specialized biological materials and substances necessary for research, and disseminate all gathered data throughout the world for the ultimate victory over this disease.

The Conquest of Cancer Act, as presently envisioned, utilizes all the available resources of NIH by retaining the Cancer Institute within the National Institutes' organization. However, another approach has been suggested by equally concerned and dedicated people. These individuals contend that Congress should create a separate agency for the purpose of achieving the conquest of cancer. While I would vote for this other approach, with equal vigor, I believe that the organizational setup as envisioned in H.R. 11302 is superior.

Under the unified approach of this bill, the Cancer Institute will have the advantage of utilizing the biomedical resources of NIH. This coordinated approach, aimed at finding a cure for cancer, will bring to bear the combined knowledge of the Cancer Institute and the National Institutes of Health. The use of already existing research facilities and personnel will accelerate the exploration of opportunities for the conquest of cancer while avoiding the difficult problem of forming a whole new organization, administrative entanglements, obtaining office space and setting up laboratories and research facilities.

On the other hand, in order to set up an independent agency to attain the conquest of cancer, our Government would need to spend enormous additional amounts of money. The NIH already has experienced personnel and existing facilities that would be duplicated if the Cancer Institute became an independent agency. The taxpayers money would be far better spent on fighting cancer rather than in creating additional agencies.

We already suffer from a proliferation of bureaucracy in the form of different commissions and agencies. Advisory commissions alone spend approximately $75 million a year for operating expenses.

Proponents of the independent agency approach to achieve the conquest of cancer further argue that far greater achievements are possible if the cancer agency is independent of NIH. In underscoring their argument, the National Aeronautics and Space Administration—NASA—is singled out as an independent agency that brought about quick and spectacular results in the field of space exploration. It is my belief that the achievements of NASA were caused by our already advanced technology in space research and not because NASA was an independently created agency.

NASA became an independent agency not because of an attempt to make it a success, but rather, because of the world situation existing at the time of NASA's creation. Congress intent in setting up NASA was not to establish another Federal agency, but rather, to take space research and exploration out of our defense budget. During the time of heightened tensions with the Russians, Americans criticized our large expenditures for defense as a reason for the continuation of the cold war. To show the Russians not all of our moneys were directed toward bombs, but also toward peaceful research, we separated our space program from the Defense Establishment. NASA's success was a result of tremendous research done prior to its inception and it was not successful solely because it became an independent agency.

For the reasons mentioned above, I favor the conquest of cancer bill (H.R. 11302) now before the House. I want to see this bill adopted without change, but most of all, I want to see an end to cancer. To spur us toward this goal, I would like to pass on some startling statistics for my colleagues. Of the more than 200 million Americans living today, 25 percent, or 50 million, will in some way or another be inflicted with a form of cancer. In addition, 17 percent of all Americans, or 34 million people will die of one form of cancer or another. We must pass into law the most effective means of saving those lives.

Mr. BROYHILL of North Carolina. Mr. Speaker, I rise today in support of H.R. 11302, the National Cancer Attack Act of 1971, and I strongly urge my colleagues to lend their active support to this vital legislation.

The President has expressed the need for an intensive campaign to find a cure for cancer. The Congress has recognized this need and the study done by the Subcommittee on Public Health and the Environment has been intensive. The bill before us today is the product of this study and was unanimously reported to the House Interstate and Foreign Commerce Committee on which I am proud to serve. The full committee subsequently overwhelmingly endorsed the subcommittee bill.

The research into the causes of cancer has shown the picture to be a many faceted one. It is because of the wide spectrum of research that is presently being conducted that the Interstate and Foreign Commerce Committee has recommended that the national program for the conquest of cancer be retained within the National Cancer Institute of the National Institutes of Health. The need for a well-integrated plan of biomedical research and a flexible administration of these programs has been urged by the leading scientists in the cancer research field. Research scientists testifying before the House subcommittee indicated their preference that this invaluable work be continued within the existing structure of the National Institutes of Health. The Director of the National Cancer Institute, in his capacity as an Associate Director of the National Institutes of Health, would assure this coordinated effort and maintain the vital interrelationships among the scientific community.

Notwithstanding our hopes, it is not likely that the conquest of cancer is imminent. Too many questions remain unanswered.

No one disputes the need for additional moneys to continue and intensify the battle, but money is not the only answer. We must recognize that only through the introduction of new ideas and new testing methods can we hope to win this struggle.

It has been suggested that the program for cancer research "make haste more slowly." We must proceed in a sure and deliberate manner to insure that we reach our goal.

I believe that this bill before us today gives us the tools with which to work that goal—the conquest of cancer.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia (Mr. STAGGERS) that the House suspend the rules and pass the bill H.R. 11302, as amended.

The question was taken.

Mr. ADAMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 350, nays 5, not voting 75, as follows:

[Roll No. 386]

YEAS—350

Abernethy	Byrne, Pa.	Eckhardt
Abourezk	Byrnes, Wis.	Edmondson
Absug	Byron	Edwards, Ala.
Addabbo	Caffery	Edwards, Calif.
Anderson, Calif.	Camp	Eilberg
Anderson, Tenn.	Carey, N.Y.	Erlenborn
Andrews, Ala.	Carney	Esch
Andrews, N. Dak.	Carter	Eshleman
Annunzio	Casey, Tex.	Evans, Colo.
Archer	Cederberg	Evins, Tenn.
Arends	Celler	Fascell
Aspin	Chamberlain	Findley
Aspinall	Clancy	Fish
Badillo	Clark	Fisher
Baker	Clawson, Del	Flood
Baring	Clay	Flowers
Begich	Cleveland	Flynt
Belcher	Collier	Foley
Bennett	Collins, Tex.	Ford, Gerald R.
Bergland	Colmer	Forsythe
Betts	Conable	Fountain
Bevill	Conte	Fraser
Biaggi	Corbett	Frenzel
Biester	Coughlin	Frey
Bingham	Crane	Fulton, Tenn.
Blatnik	Culver	Fuqua
Boggs	Daniel, Va.	Gallagher
Boland	Daniels, N.J.	Garmatz
Bow	Davis, Ga.	Gaydos
Brademas	Davis, S.C.	Gettys
Bray	Davis, Wis.	Giaimo
Brinkley	de la Garza	Goldwater
Brooks	Delaney	Gonzalez
Broomfield	Dellenback	Grasso
Brotzman	Denholm	Gray
Brown, Mich.	Dennis	Green, Oreg.
Brown, Ohio	Dent	Green, Pa.
Broyhill, N.C.	Devine	Griffin
Broyhill, Va.	Dickinson	Griffiths
Buchanan	Dingell	Gross
Burke, Fla.	Donohue	Grover
Burke, Mass.	Dorn	Gubser
Burleson, Tex.	Dow	Gude
Burlison, Mo.	Drinan	Hagan
Burton	Duncan	Haley
	du Pont	Hall
	Dwyer	Hamilton
Hammer-schmidt	Mayne	Satterfield
Hanley	Mazzoli	Saylor
Hanna	Meeds	Scherle
Hansen, Wash.	Michel	Scheuer
Harrington	Miller, Ohio	Schmitz
Harsha	Mills, Ark.	Schneebeli
Harvey	Mills, Md.	Schwengel
Hastings	Minish	Scott
Hathaway	Mink	Sebelius
Hawkins	Minshall	Selberling
Hays	Mitzell	Shipley
Hechler, W. Va.	Mollohan	Shoup
Heckler, Mass.	Monagan	Shriver
Heinz	Montgomery	Sikes
Helstoski	Morgan	Sisk
Henderson	Morse	Slack
Hicks, Mass.	Murphy, Ill.	Smith, Calif.
Hicks, Wash.	Murphy, N.Y.	Smith, Iowa
Hillis	Myers	Snyder
Hogan	Natcher	Spence
Holifield	Nedzi	Springer
Horton	Nelsen	Staggers
Hosmer	Nichols	Stanton, J. William
Howard	Nix	Stanton, James V.
Hull	Obey	Steele
Hungate	O'Hara	Steiger, Ariz.
Hunt	O'Konski	Steiger, Wis.
Hutchinson	O'Neill	Stephens
Ichord	Passman	Stratton
Jacobs	Patman	Stubblefield
Jarman	Patten	Sullivan
Johnson, Calif.	Pepper	Symington
Johnson, Pa.	Perkins	Talcott
Jonas	Pettis	Taylor
Jones, N.C.	Peyser	Teague, Calif.
Jones, Tenn.	Pickle	Teague, Tex.
Karth	Pike	Terry
Kastenmeier	Pirnie	Thompson, Ga.
Kazen	Poage	Thompson, N.J.
Keating	Podell	Thomson, Wis.
Kee	Poff	Thone
Keith	Powell	Udall
Kemp	Preyer, N.C.	Ullman
King	Price, Ill.	Van Deerlin
Kluczynski	Price, Tex.	Vander Jagt
Koch	Pryor, Ark.	Vanik
Kuykendall	Puciński	Veysey
Kyl	Quie	Waggonner
Kyros	Quillen	Waldie
Landgrebe	Railsback	Ware
Landrum	Randall	Whalen
Latta	Rarick	White
Leggett	Rees	Whitehurst
Lennon	Reid, N.Y.	Whitten
Lloyd	Reuss	Wiggins
Long, Md.	Rhodes	Williams
Luijan	Riegle	Wilson, Bob
McClory	Robinson, Va.	Winn
McCollister	Robison, N.Y.	Wolff
McCormack	Rodino	Wyatt
McCulloch	Roe	Wydler
McDade	Rogers	Wylie
McEwen	Roncalio	Wyman
McFall	Rooney, Pa.	Yates
McKinney	Rostenkowski	Yatron
McMillan	Roush	Young, Fla.
Madden	Roy	Young, Tex.
Mahon	Roybal	Zablocki
Mailliard	Ruppe	Zion
Martin	Ruth	
Matsunaga	Ryan	
	St Germain	

NAYS—5

Adams	Corman	Tiernan
Brasco	Rooney, N.Y.	

NOT VOTING—75

Abbitt	William D.	Mitchell
Alexander	Frelinghuysen	Moorhead
Anderson, Ill.	Galifianakis	Mosher
Ashbrook	Gibbons	Moss
Ashley	Goodling	Pelly
Barrett	Halpern	Purcell
Bell	Hansen, Idaho	Rangel
Blackburn	Hébert	Roberts
Blanton	Jones, Ala.	Rosenthal
Blatnik	Lent	Rousselot
Bolling	Link	Runnels
Cabell	Long, La.	Sandman
Chappell	McCloskey	Sarbanes
Chisholm	McClure	Skubitz
Clausen, Don H.	McDonald, Mich.	Smith, N.Y.
Collins, Ill.	McKay	Steed
Conyers	McKevitt	Stokes
Danielson	Macdonald, Mass.	Stuckey
Dellums	Mann	Vigorito
Derwinski	Mathias, Calif.	Wampler
Diggs	Mathis, Ga.	Whalley
Dowdy	Matsui	Widnall
Dowling	Melcher	Wilson, Charles H.
Duleski	Metcalfe	Wright
Edwards, La.	Milva	Zwach
Ford,	Miller, Calif.	

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So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Anderson of Illinois.
Mr. Mann with Mr. Derwinski.
Mr. Blatnik with Mr. Frelinghuysen.
Mr. Dowdy with Mr. Blackburn.
Mr. Macdonald of Massachusetts with Mr. Bell.
Mr. Charles H. Wilson with Mr. McCloskey.
Mr. Abbitt with Mr. Ashbrook.
Mr. Barrett with Mr. Goodling.
Mr. Ashley with Mr. Don H. Clausen.
Mr. Downing with Mr. Hansen of Idaho.
Mr. Dulski with Mr. Metcalfe.
Mr. Moorhead with Mr. Lent.
Mr. Moss with Mr. McClure.
Mr. Mikva with Mrs. Chisholm.
Mr. Miller of California with Mr. McDonald of Michigan.
Mr. Mathis of Georgia with Mr. McKevitt.
Mr. Link with Mr. Pelly.
Mr. Jones of Alabama with Mr. Rousselot.
Mr. Cabell with Mr. Mathias of California.
Mr. Chappell with Mr. Sandman.
Mr. Roberts with Mr. Mosher.
Mr. Rosenthal with Mr. Conyers.
Mr. Vigorito with Mr. Collins of Illinois.
Mr. Stuckey with Mr. Skubitz.
Mr. Blanton with Mr. Smith of New York.
Mr. Sarbanes with Mr. Dellums.
Mr. McKay with Mr. Veysey.
Mr. William D. Ford with Mr. Stokes.
Mr. Galifianakis with Mr. Diggs.
Mr. Rangel with Mr. Halpern.
Mr. Runnels with Mr. Whalley.
Mr. Danielson with Mr. Mitchell.
Mr. Steed with Mr. Widnall.
Mr. Alexander with Mr. Zwach.
Mr. Gibbons with Mr. Purcell.
Mr. Melcher with Mr. Wright.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 1828) to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1828

An act to amend the Public Health Service Act so as to establish a Conquest of Cancer Agency in order to conquer cancer at the earliest possible date

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Conquest of Cancer Act".

SEC. 2. The Public Health Service Act is amended by adding following section 406 the following:

"FINDINGS AND DECLARATION OF PURPOSE

"SEC. 407A. (a) The Congress hereby finds and declares—

"(1) that the incidence of cancer is increasing and is the major health concern of the American people;

"(2) that the attainment of better methods of prevention, diagnosis, and treatment of cancer deserve the highest priority; and

"(3) that a great opportunity is offered as a result of recent advances in the knowledge of this dread disease to conduct energetically a national program for the conquest of cancer.

"(b) In order to carry out the policy set forth in this part it is the purpose of this part to establish a Conquest of Cancer Agency as an independent agency within the National Institutes of Health.

"CONQUEST OF CANCER AGENCY

"SEC. 407B. There is hereby established a Conquest of Cancer Agency as an independent agency within the National Institutes of Health.

"SEC. 407C. (a) The Conquest of Cancer Agency shall be administered by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall serve under the direction of the President. There shall be in the Agency a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may prescribe and shall be the Acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director.

"(b) The Director is authorized to appoint within the Agency not to exceed five Assistant Directors.

"FUNCTIONS OF THE AGENCY

"SEC. 407D. In order to carry out the purpose of this part, the Director shall—

"(1) carry out all research activities previously conducted by the National Cancer Institute, together with an expanded, intensified, and coordinated cancer research program, and shall administer the authority of the Secretary under this Act with respect to cancer;

"(2) make such grants or contracts as are desirable to accomplish the purposes of this part;

"(3) expeditiously utilize research facilities and personnel for accelerated exploration of the opportunities for the conquest of cancer in areas of special promise;

"(4) encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

"(5) strengthen existing cancer centers, and establish new cancer centers as needed in order to carry out a multidisciplinary effort for clinical research and teaching, and for the development and demonstration of the best methods of treatment in cancer cases;

"(6) collect, analyze, and disseminate all data useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country;

"(7) establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research, including viruses, cell cultures, and animals, and set standards of safety and care for persons using such materials;

"(8) support research in the cancer field outside the United States by highly qualified foreign nationals, collaborative research involving American and foreign participants, and the training of American scientists abroad and foreign scientists in the United States;

"(9) support appropriate manpower programs of training in fundamental sciences and clinical disciplines to provide an expanded and continuing manpower base from which to select investigators and physicians for participation in the programs, including where appropriate the use of training stipends, fellowships, and career awards; and

"(10) prepare and submit an annual budget estimate for the program directly to the President for review and transmittal to Congress and receive from the President and the Office of Management and Budget directly the funds appropriated by Congress for obligation and expenditure by the Agency.

"ADMINISTRATIVE PROVISIONS

"SEC. 407E. (a) The Director is authorized, in carrying out his functions under this part, to—

"(1) appoint and fix the compensation of personnel of the Agency in accordance with the provisions of title 5, United States Code, except that (A) to the extent the Director deems such action necessary to the discharge of his functions under this part, he may appoint not more than fifty of the scientific, professional, and administrative personnel of the Agency without regard to provisions of such title relating to appointments in the competitive service, and may fix the compensation of such personnel, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to pay rates, at rates not in excess of the highest rate paid for GS–18 of the General Schedule under section 5332 of title 5 of such Code; (B) to the extent that the Director deems necessary to recruit specially qualified scientific or other professional personnel without previous competitive service he may establish the entrance grade therefore at not to exceed two grades above the grade otherwise established for such personnel under such provisions;

"(2) make, promulgate, issue, rescind, and amend rules and regulations as may be necessary to carry out the functions vested in him or in the Agency and delegate any of his functions to any officer or employee under his direction or his supervision;

"(3) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain cancer centers, laboratories, research and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Agency for a period not to exceed ten years without regard to the Act of March 3, 1877 (40 U.S.C. 34);

"(4) employ experts and consultants in accordance with section 3109 of title 5, United States Code;

"(5) appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act;

"(6) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(7) accept voluntary and uncompensated services;

"(8) accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(9) enter into such contracts, leases, cooperative agreements, or other transactions without regard to section 529 of title 31, United States Code, as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution, and make grants to any public or nonprofit private agency, organization, or institution;

"(10) allocate and expend, or transfer to other Federal agencies for expenditure, including the National Institutes of Health, for cancer-related programs, such funds made available under this part as he deems necessary, including funds appropriated for construction, repairs, or capital improvements;

"(11) take necessary action together with the Director of the National Institutes of Health so that all channels for the dissemination and cross-fertilization of scientific knowledge and information existing prior to the effective date of this Act between the National Cancer Institute and the other Institutes of Health shall be maintained between the Agency and the Institutes of Health to insure free communication between cancer and the other scientific, medical, and biomedical disciplines; and

"(12) take such other actions as may be required for the accomplishment of the objectives of the Agency.

"(b) Upon request made by the Director, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available, to the greatest practicable extent, consistent with other laws to the Agency in the performance of its functions with or without reimbursement.

"(c) Each member of a committee appointed pursuant to paragraph (5) of subsection (a) of this section who is not an officer or employee of the Federal Government shall receive an amount equal to the daily rate prescribed for GS–18 under section 5332 of title 5, United States Code, for each day he is engaged in the actual performance of his duties (including traveltime) as a member of a committee. All members shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties.

"(d) The Director shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (A) by utilizing, to the maximum extent possible, appropriate peer review groups within the National Institutes of Health, and (B) when appropriate, by establishing, with the approval of the National Cancer Advisory Board, other formal peer review groups as may be required.

"REPORTS

"SEC. 407F. The Director shall, as soon as practicable after the end of each calendar year, prepare and submit to the President for transmittal to the Congress a report on the activities of the Agency during the preceding calendar year.

"NATIONAL CANCER ADVISORY BOARD

"SEC. 407G. (a) There is hereby established in the Agency a National Cancer Advisory Board to be composed of the Director of the National Institutes of Health and eighteen members appointed by the President, by and with the advice and consent of the Senate. Not more than twelve of the appointed members of the Board shall be scientists or physicians and not more than eight of the appointed members shall be representatives of the general public. Appointed members shall be appointed from among persons, who by virtue of their training, experience, and background are exceptionally qualified to appraise the programs of the Agency. The Secretary, the Director of the Office of Science and Technology, and the Director shall be ex officio members of the Board.

"(b)(1) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of two years, and six shall be appointed for a term of four years as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) A vacancy in the Board shall not affect its activities and eleven members thereof shall constitute a quorum.

"(c) The President shall designate one of the appointed members to serve as Chairman for a term of two years.

"(d) The Board shall meet at the call of the Chairman but not less often than four times a year and shall advise and assist the Conquest of Cancer Agency in the development and execution of the program.

"(e) The Director of the Conquest of Cancer Agency shall designate a member of the staff of the Conquest of Cancer Agency to act as Executive Secretary of the Board.

"(f) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the Conquest of Cancer Agency.

"(g) The Director shall submit to the Board for its evaluation, comments, and recommendations, each year's program plan and budget prior to the formal submission of the budget request to the President.

"(h) The Board shall submit a report to the President for transmittal to the Congress not later than January 31 of each year on the progress of the Conquest of Cancer Agency toward the accomplishment of its objectives.

"(i) The Board shall supersede the existing National Advisory Cancer Council, and the members of the Council serving on the effective date of this section shall serve as additional members of the Board for the duration of their terms then existing, or for such shorter time as the President may prescribe.

"(j) Members of the Board who are not officers or employees of the United States shall receive compensation at rates not to exceed the daily rate prescribed for GS–18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for person in the Government service employed intermittently.

"(k) The Director shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"(l) The board shall insure that the Director, by regulations, maintains scientific peer review of research grants and programs.

"DEFINITIONS

"SEC. 407H. For the purpose of this Act the term—

"(1) 'Director' means the Director of the Conquest of Cancer Agency;

"(2) 'Agency' means the Conquest of Cancer Agency;

"(3) 'Board' means National Cancer Advisory Board;

"(4) 'cancer center' means such cancer research facilities as the Director determines are appropriate to carry out the purposes of this part, including laboratory and research facilities and such patient care facilities as are necessary for the development and demonstration of the best methods of treatment of patients with cancer, but does not include extensive patient care facilities not connected with the development of and demonstration of such methods;

"(5) 'construction' includes purchase or lease of property; design, erection, and equipping of new buildings; alteration, major repair (to the extent permitted by regulations), remodeling and renovation of existing buildings (including initial equipment thereof); and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings;

"(6) 'function' includes power and duty; and

"(7) 'Federal agency' means any department, agency, or independent establishment of the executive branch of the Government including any wholly owned Government corporation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 408. For the purpose of carrying out any of the programs, functions, or activities authorized by this part, there are authorized to be appropriated for each fiscal year such sums as may be necessary."

COMPENSATION OF THE DIRECTOR AND THE DEPUTY DIRECTOR

SEC. 3. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(94) Director, Conquest of Cancer Agency."

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(131) Deputy Director, Conquest of Cancer Agency."

SEC. 4. (a) The heading of title IV of the Public Health Service Act is amended to read "TITLE IV—CONQUEST OF CANCER AGENCY; NATIONAL RESEARCH INSTITUTES".

(b) The heading to part A of title IV of such Act is amended to read "Part A.—CONQUEST OF CANCER AGENCY AND NATIONAL CANCER INSTITUTE".

NATIONAL CANCER INSTITUTE MADE PART OF CONQUEST OF CANCER AGENCY

SEC. 5. (a) Section 401 of the Public Health Service Act, including the heading thereto, is amended to read as follows:

"NATIONAL CANCER INSTITUTE

"SEC. 401. The National Cancer Institute shall be a part of the Conquest of Cancer Agency.".

(b) Section 402 of the Public Health Service Act is amended by striking out all that precedes clause (a) of such section, except the heading thereof, and inserting the following in lieu of such stricken matter:

"SEC. 402. In carrying out the purposes of section 301 with respect to cancer, the Conquest of Cancer Agency, in consultation with the National Cancer Advisory Board, shall—".

(c) Section 403 of the Public Health Service Act is amended (1)(A) by striking out "Surgeon General" wherever it appears in such section and inserting "Conquest of Cancer Agency" in lieu thereof; (B) by striking out "he" and "him" wherever either appears in such section and inserting "the agency" in lieu thereof; and (C) by striking out "section 402" wherever it appears and inserting "section 402 and section 407D" in lieu thereof; and (2) by striking out "Institute" in subsection (b) thereof and inserting in lieu thereof "Agency or Institute".

MERGER OF FUNCTIONS OF NATIONAL ADVISORY CANCER COUNCIL

SEC. 6. (a)(1) Sections 301(d), 301(f), 403(b), and 403(c) of the Public Health Service Act are amended by striking out "National Advisory Cancer Council" and "National Cancer Advisory Council" as it may variously appear therein, and inserting in lieu thereof "National Cancer Advisory Board". The word "Council" as used in any such section to describe the National Advisory Cancer Council or the National Cancer Advisory Council, is amended to read "Board".

(2) Section 217 of such Act is amended by striking out "the National Advisory Cancer Council" wherever it may appear.

(b)(1) Section 404 of the Public Health Service Act is amended by striking out "The council is authorized" preceding clause (a), and inserting in lieu thereof "The National Cancer Advisory Board is authorized".

(2) Such section is further amended (A)

by striking out "Surgeon General" wherever it may appear and inserting in lieu thereof "Conquest of Cancer Agency"; (B) in clause (a) thereof by striking out "section 402" and inserting "section 402 or section 407D" in lieu thereof.

EFFECTIVE DATE

SEC. 7. (a) The amendments made by the preceding provisions of this Act shall take effect sixty days after the date of enactment of this Act or on such prior date after the enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding the provisions of subsection (a), members of the National Cancer Advisory Board (as authorized under section 407G of the Public Health Service Act, as amended by this Act) may be appointed in the manner provided for in such section, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates provided for in section 407G of the Public Health Service Act, as amended by this Act. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Conquest of Cancer Agency pursuant to this Act.

AMENDMENT OFFERED BY MR. STAGGERS

Mr. STAGGERS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: Strike out all after the enacting clause of S. 1828 and insert in lieu thereof the provisions of H.R. 11302, as passed.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To amend the Public Health Service Act so as to strengthen the National Cancer Institute and the National Institutes of Health in order to conquer cancer as soon as possible."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11302) was laid on the table.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks in the RECORD on the bill just passed.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

DUES FOR U.S. MEMBERSHIP IN INTERNATIONAL CRIMINAL POLICE ORGANIZATION

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11350) to increase the limit on dues for U.S. membership in the International Criminal Police Organization.

The Clerk read as follows:

H.R. 11350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 10, 1938, as amended (22 U.S.C. 263a), is further amended by deleting "$28,500" and inserting in lieu thereof "$55,000".

SEC. 2. The Secretary of the Treasury is authorized to pay to the International Criminal Police Organization the unpaid balance of the dues for the calendar year 1970. There is authorized to be appropriated not to exceed $23,000 to carry out the provisions of this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. WIGGINS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, the bill H.R. 11350 would increase the limit on dues for U.S. membership in the International Criminal Police Organization and would allow the United States to pay that part of its calendar year 1971 dues which it has not been able to pay because of the present statutory ceiling.

Mr. Speaker, Interpol, the International Criminal Police Organization, is independent of the United Nations and other world agencies. It is an independent organization of 109 member countries designed to coordinate the police work of its members in law enforcement and crime prevention. It has become increasingly involved in fighting international drug traffic, and it should play an important role in this effort in the future.

Interpol performs no independent investigatory functions, but rather serves to transmit the needs of one country to another. For example, if a fugitive from the United States is thought to be fleeing to France, Interpol is the mechanism whereby we request the assistance of the French police in apprehending the individual. Within the United States, Interpol is represented by the Treasury Department.

Under existing law, 22 U.S.C. 263(a), there is a ceiling of $28,500 per annum on the total dues to be paid by the United States for membership in Interpol. H.R. 11350 raises the ceiling to take account of an increase in dues effective in the calendar year 1970 and provides authorization for payment of part of our 1970 dues which are still outstanding. Legislation was introduced in the last session to raise the limit, but no action was taken, and the United States could not pay its dues in full because of the statutory limit.

The United States share of the costs of Interpol represents only about 6 percent of the total amount of dues payable and is equivalent to the individual shares to be paid by each of the following members: France, Germany, United Kingdom, and Italy.

The limit established by H.R. 11350 is that proposed by the Treasury Department with a very slight cushion to take account of fluctuations in the dollar which have caused the Treasury Department to modify its original request.

Mr. Speaker, H.R. 11350 allows continued U.S. support of an international police organization which provides vitally important services to our country. This measure received the unanimous support of the Judiciary Committee and warrants the same acceptance by this body.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Iowa.

Mr. GROSS. I thank the gentleman for yielding. This is a five-nation organization, is that correct?

Mr. EDWARDS of California. No, that is not correct. It is an organization of many countries. There is a list of the countries in the hearings. The five mentioned are the major contributors, each contributing 6 percent of the annual dues.

Mr. GROSS. But the other four countries are contributing 6 percent. Do I correctly assume from this that some of the other 119 countries in this organization are paying less?

Mr. EDWARDS of California. That is correct.

Mr. GROSS. It is not contemplated that the United States pay more than 6 percent?

Mr. EDWARDS of California. No, that is certainly not contemplated.

Mr. GROSS. Nor is it contemplated that this will ever become an international police force or be other than a clearinghouse for information; is that correct?

Mr. EDWARDS of California. That is correct.

Mr. GROSS. I thank the gentleman.

Mr. EDWARDS of California. I yield to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Speaker, I strongly urge the passage of H.R. 11350, which was introduced at the request of the Department of the Treasury.

The bill has two related purposes: First, to increase the authorization for payment of the annual dues of the United States to the International Criminal Police Organization—Interpol—and, second, to authorize payment of the unpaid balance of this country's Interpol dues for calendar year 1970.

It is imperative that both of these steps be taken promptly, if the United States is to maintain in good standing its membership in this very worthwhile international organization. The Congress has not raised the $28,500 statutory ceiling on the authorization for payment of our annual Interpol dues since the general assembly of Interpol voted a general dues increase in 1969.

Computed at the current rate of exchange of U.S. dollars to Swiss francs, the current annual dues assessed against the United States amount to approximately $53,550. The slightly higher authorization contained in section 1 of the bill, $55,000, was provided to allow for possible additional small fluctuations in the exchange rate before the dues are actually paid.

Likewise, the authorization for payment of $23,000 in back dues contained in section 2 of the bill was based on the figure of $22,254.36 which the United States is computed at current exchange rates to owe for calendar year 1970.

Since 1938 this country has maintained membership in Interpol, which collects and disseminates information about individual criminal offenders and offenses to authorized police agencies in the 109 participating nations.

Interpol is completely independent of the United Nations and maintains its own Secretariat in Paris which is staffed by experts in various enforcement fields who prepare reports and studies on law enforcement subjects of international concern. U.S. membership significantly assists American efforts to combat such illicit activities as smuggling, counterfeiting and trafficking in illegal drugs.

The annual dues currently assessed against the United States represent only about 6 percent of the total amount of dues payable by member nations, and is the same portion paid by each of several countries which are considerably smaller in population than the United States: France, Germany, Italy, and the United Kingdom.

The Department of the Treasury, which since 1958 has been officially designated by the Attorney General as the U.S. representative to Interpol, assured the subcommittee during hearings held on this bill in September that, in light of the benefits which accrue to American law enforcement agencies from U.S. membership in Interpol, the relatively modest U.S. expenditure for dues to the organization represents a real "bargain."

I am confident that the House will agree and pass H.R. 11350 today.

Mr. EDWARDS of California. I yield such time as he may consume to the gentleman from Virginia (Mr. POFF).

Mr. POFF. Mr. Speaker, I was pleased to join with the distinguished chairman of the Committee on the Judiciary (Mr. CELLER) in sponsoring H.R. 11350, a bill to raise the statutory ceiling on the total annual dues authorized to be paid by the United States for membership in the International Criminal Police Organization.

The bill also authorizes the Secretary of the Treasury to pay approximately $23,000 in dues to the organization still owed by the United States for calendar year 1970.

These supplemental and increased annual authorizations are made necessary by an increase in annual dues assessed against each member nation by the membership of Interpol in 1969.

The United States benefits from its membership in Interpol more than our relatively small annual expenditure for dues would suggest. Unlike the United Nations, Interpol does not look to this country for payment of a grossly disproportionate share of its annual operating expenses. On the contrary, it would appear from the evidence adduced at the hearings which the subcommittee conducted on this bill that the United States actually pays less for its membership in Interpol than our use of its services and facilities might justify, on a strictly proportional basis.

For example, during fiscal year 1971 fully 37 percent of the requests for information on various international criminals and offenses processed through the National Central Bureau of Interpol for the United States, located in the main Treasury Building in Washington, were made by various local, State, and Federal law enforcement agencies to foreign police agencies, while the remaining 63 percent of the cases involved requests for information made to American police agencies by foreign law enforcement organizations.

The U.S. share of the total dues assessed all member nations is no greater than the shares of Britain, France, Germany, or Italy, which are all classified as "group I members" along with the United States.

Interpol maintains a relatively small but highly skilled staff at its headquarters near Paris, where records of fingerprints, modus operandi, and other useful information on international criminals is stored. The staff engages in research and the preparation of studies on topics of interest to law enforcement agencies working in the international area.

Perhaps most importantly, there can be cited specific cases in which use of the services of Interpol by American law enforcement officers has facilitated the arrest of persons engaged in illicit international operations. On June 3, 1971, for example, the Bureau of Customs seized over 200 pounds of hashish in Hollywood, Calif., as a result of a tip passed along from Interpol Damascus to Interpol Washington.

It is arguable that only a few cases such as this—and there are indeed others—would justify the annual expenditure of the relatively small sums authorized by this bill.

It is important to law enforcement agencies operating at every level of government in the United States that we maintain our membership in the only international agency for police cooperation existing today. This country has belonged to Interpol since 1938, and today more than ever, that membership is valuable to the internal peace and security of the United States.

I urge the House most earnestly to allow the Treasury Department to continue American cooperation with law enforcement agencies throughout the world by passing H.R. 11350.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. MCFALL). The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the bill H.R. 11350.

The question was taken.

Mr. HAYS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 347, nays 0, not voting 83, as follows:

[Roll No. 387]

YEAS—347

Abernethy	Andrews, N. Dak.	Baker
Abourezk	Annunzio	Baring
Abzug	Archer	Begich
Adams	Arends	Bennett
Addabbo	Aspin	Bergland
Anderson, Calif.	Aspinall	Betts
Andrews, Ala.	Badillo	Bevill
Biester	Gray	Nelsen
Bingham	Green, Pa.	Nichols
Blanton	Griffin	Nix
Boggs	Griffiths	Obey
Boland	Gross	O'Hara
Bow	Grover	O'Konski
Brademas	Gubser	O'Neill
Brasco	Gude	Passman
Bray	Hagan	Patman
Brinkley	Haley	Patten
Brooks	Hall	Pepper
Broomfield	Hamilton	Perkins
Brotzman	Hammer-schmidt	Pettis
Brown, Mich.	Hanley	Peyser
Brown, Ohio	Hansen, Wash.	Pickle
Broyhill, N.C.	Harrington	Pike
Broyhill, Va.	Harsha	Pirnie
Buchanan	Harvey	Poage
Burke, Fla.	Hastings	Podell
Burke, Mass.	Hathaway	Poff
Burleson, Tex.	Hawkins	Powell
Burlison, Mo.	Hays	Preyer, N.C.
Burton	Hechler, W. Va.	Price, Ill.
Byrne, Pa.	Heinz	Price, Tex.
Byrnes, Wis.	Helstoski	Pryor, Ark.
Byron	Henderson	Pucinski
Caffery	Hicks, Mass.	Quie
Camp	Hicks, Wash.	Quillen
Carey, N.Y.	Hillis	Railsback
Carney	Holifield	Randall
Carter	Hogan	Rarick
Casey, Tex.	Horton	Rees
Cederberg	Hosmer	Reid, N.Y.
Celler	Howard	Reuss
Chamberlain	Hull	Rhodes
Clancy	Hungate	Riegle
Clark	Hunt	Robinson, Va.
Clawson, Del	Hutchinson	Robison, N.Y.
Clay	Ichord	Rodino
Cleveland	Jacobs	Roe
Collier	Jarman	Rogers
Collins, Tex.	Johnson, Calif.	Roncalio
Colmer	Johnson, Pa.	Rooney, N.Y.
Conable	Jonas	Rooney, Pa.
Conte	Jones, N.C.	Rostenkowski
Corman	Jones, Tenn.	Roush
Cotter	Karth	Roy
Coughlin	Kastenmeier	Roybal
Crane	Kazen	Ruppe
Culver	Keating	Ruth
Daniel, Va.	Kee	Ryan
Daniels, N.J.	Keith	St Germain
Davis, Ga.	Kemp	Sarbanes
Davis, S.C.	King	Satterfield
Davis, Wis.	Kluczynski	Saylor
de la Garza	Koch	Scherle
Delaney	Kuykendall	Scheuer
Dellenback	Kyl	Schmitz
Denholm	Kyros	Schneebeli
Dennis	Landgrebe	Schwengel
Dent	Landrum	Scott
Devine	Latta	Selberling
Dickinson	Leggett	Shipley
Dingell	Lennon	Shoup
Donohue	Lloyd	Shriver
Dorn	Long, Md.	Sikes
Drinan	Lujan	Sisk
Duncan	McClory	Slack
du Pont	McCollister	Smith, Calif.
Dwyer	McCormack	Smith, Iowa
Eckhardt	McCulloch	Snyder
Edmondson	McDade	Spence
Edwards, Ala.	McEwen	Springer
Edwards, Calif.	McFall	Staggers
Ellberg	McKinney	Stanton, J. William
Erlenborn	McMillan	Stanton, James V.
Esch	Madden	Steele
Eshleman	Mahon	Steiger, Ariz.
Evans, Colo.	Mailliard	Steiger, Wis.
Fascell	Martin	Stephens
Findley	Matsunaga	Stubblefield
Fish	Mayne	Sullivan
Fisher	Mazzoli	Symington
Flood	Meeds	Talcott
Flowers	Michel	Taylor
Flynt	Miller, Ohio	Teague, Calif.
Foley	Mills, Ark.	Terry
Ford, Gerald R.	Mills, Md.	Thompson, Ga.
Forsythe	Minish	Thomson, Wis.
Fountain	Mink	Thone
Fraser	Minshall	Tiernan
Frenzel	Mitchell	Udall
Frey	Mollohan	Ullman
Fulton, Tenn.	Monagan	Van Deerlin
Fuqua	Montgomery	Vander Jagt
Gallagher	Morgan	Vanik
Garmatz	Morse	Veysey
Gaydos	Murphy, Ill.	Waggonner
Gettys	Murphy, N.Y.	Waldie
Giaimo	Myers	Wampler
Goldwater	Natcher	Ware
Gonzalez	Nedzi	

Whalen	Winn	Yatron
White	Wolff	Young, Fla.
Whitehurst	Wyatt	Young, Tex.
Whitten	Wydler	Zablocki
Wiggins	Wylie	Zion
Williams	Wyman	
Wilson, Bob	Yates	

NAYS—0

NOT VOTING—83

Abbitt	Ford,	Miller, Calif.
Alexander	William D.	Mitchell
Anderson, Ill.	Frelinghuysen	Moorhead
Anderson,	Galifianakis	Mosher
Tenn.	Gibbons	Moss
Ashbrook	Goodling	Pelly
Ashley	Green, Oreg.	Purcell
Barrett	Halpern	Rangel
Belcher	Hanna	Roberts
Bell	Hansen, Idaho	Rosenthal
Blackburn	Hébert	Rousselot
Blatnik	Heckler, Mass.	Runnels
Bolling	Jones, Ala.	Sandman
Cabell	Lent	Sebelius
Chappell	Link	Skubitz
Chisholm	Long, La.	Smith, N.Y.
Clausen,	McCloskey	Steed
Don H.	McClure	Stokes
Collins, Ill.	McDonald,	Stratton
Conyers	Mich.	Stuckey
Danielson	McKay	Teague, Tex.
Dellums	McKevitt	Thompson, N.J.
Derwinski	Macdonald,	Vigorito
Diggs	Mass.	Whalley
Dow	Mann	Widnall
Dowdy	Mathias, Calif.	Wilson,
Downing	Mathis, Ga.	Charles H.
Dulski	Melcher	Wright
Edwards, La.	Metcalfe	Zwach
Evins, Tenn.	Mikva	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Anderson of Illinois.

Mr. Anderson of Tennessee with Mr. Derwinski.

Mr. Blatnik with Mr. Frelinghuysen.

Mr. Dowdy with Mr. Blackburn.

Mr. Macdonald of Massachusetts with Mr. Bell.

Mr. Charles H. Wilson with Mr. McCloskey.

Mr. Abbitt with Mr. Ashbrook.

Mr. Barrett with Mr. Goodling.

Mr. Ashley with Mr. Don H. Clausen.

Mr. Downing with Mr. Hansen of Idaho.

Mr. Dulski with Mr. Metcalfe.

Mr. Moorhead with Mr. Lent.

Mr. Moss with Mr. McClure.

Mr. Mikva with Mrs. Chisholm.

Mr. Miller of California with Mr. McDonald of Michigan.

Mr. Mathis of Georgia with Mr. McKevitt.

Mr. Link with Mr. Pelly.

Mr. Jones of Alabama with Mr. Rousselot.

Mr. Cabell with Mr. Mathias of California.

Mr. Chappell with Mr. Sandman.

Mr. Roberts with Mr. Mosher.

Mr. Rosenthal with Mr. Conyers.

Mr. Vigorito with Mr. Collins of Illinois.

Mr. Stuckey with Mr. Skubitz.

Mr. Dow with Mr. Smith of New York.

Mr. Stratton with Mr. Dellums.

Mr. William D. Ford with Mr. Stokes.

Mr. Galifianakis with Mr. Diggs.

Mr. Rangel with Mr. Halpern.

Mr. Runnels with Mr. Whalley.

Mr. Danielson with Mr. Mitchell.

Mr. Steed with Mr. Widnall.

Mr. Alexander with Mr. Zwach.

Mr. Gibbons with Mr. Purcell.

Mr. Melcher with Mr. Wright.

Mr. Hanna with Mr. Sebelius.

Mr. Teague of Texas with Mr. Belcher.

Mrs. Green of Oregon with Mrs. Heckler of Massachusetts.

Mr. Evins of Tennessee with Mr. Mann.

Mr. ROONEY of New York changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed, H.R. 11350.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

PERSONAL EXPLANATION

Mr. SEBELIUS. Mr. Speaker, I was present in the House Chamber, seeking to reach the well to be recognized, when the vote was being announced. Had I been recorded, I would have voted "yea."

COPYRIGHT PROTECTION IN CERTAIN CASES

Mr. CELLER. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 132) extending the duration of copyright protection in certain cases.

The Clerk read as follows:

S.J. Res. 132

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case in which the renewal term of copyright subsisting in any work on the date of approval of this resolution, or the term thereof as extended by Public Law 87–668, by Public Law 89–142, by Public Law 90–141, by Public Law 90–416, by Public Law 91–147, or by Public Law 91–555 (or by all or certain of said laws), would expire prior to December 31, 1972, such term is hereby continued until December 31, 1972.

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DINGELL. Mr. Speaker, is the gentleman who just demanded a second opposed to the bill and does he propose to vote against it?

The SPEAKER pro tempore. Is the gentleman from Illinois (Mr. RAILSBACK) opposed to the bill?

Mr. RAILSBACK. No; I am not, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman from Michigan (Mr. DINGELL) opposed to the bill?

Mr. DINGELL. I am, Mr. Speaker, and I do demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. CELLER).

Mr. CELLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation can only be understood in the context of the projected general revision of the copyright law.

In the 90th Congress the Committee on the Judiciary processed and the House passed a general copyright law revision bill. Among many other provisions, that measure contained significant changes in the duration of copyright, from the present term of 28 years plus a 28-year renewal.

Under the revision proposal future copyrights are to receive a term measured by the life of the author plus 50 years. Copyrights already subsisting but not yet expired on the effective date of the revision are to receive a 19-year extension—from the present 56 years to 75 years.

Ever since we began work on the revision in 1962, the Committee on the Judiciary and the Congress have seen to it that subsisting copyright holders shall not lose the benefit of this extension of term merely because delays in the other body have prevented the revision bill from taking effect.

As a result, copyright holders have a real and reasonable expectancy that their copyright interests will survive long enough to benefit from the revision, an expectancy that should not now be thwarted. Certainly authors, composers, and lyricists should not be punished because of intransigence or because of delay in the other body.

I realize that some of my colleagues have become restive and believe that the interim extension should not be renewed. I believe, however, that we are confronted with a new situation. In introducing this measure in the other body, its author, the distinguished Senator from Arkansas (Senator MCCLELLAN) pointed out that the copyright revision bill has been delayed in the Senate principally because of the cable television controversy. He noted that the deadlock seemed about to be broken.

More recently—only last week, indeed—compromise of the CATV issue appears to be in the making, partly through intervention of the White House. However, adequate time does not remain for action on the copyright law revision bill and, therefore, another interim extension becomes necessary.

Since I received that communication from the Senator from Arkansas, I am informed that the compromise has been consummated due to the White House intervention, and that all difficulties between the broadcasting industry and the CATV are in process of being resolved and the way is now clear for the copyright law revision bill.

I know I shall be accused of inconsistency in supporting this measure, because last year I told the House that I would not support any further interim extension. Let me say a word about this. Much is going to be made, I think, by the gentleman from Michigan (Mr. DINGELL) because of my statement that I would not under any circumstances offer a renewal of the interim extension bill.

Apart from reflecting an unhealthy reliance on consistency for its own sake—and I remember Churchill once said, "I would rather be right than consistent," and I remember what Emerson said, that consistency was the hobgoblin of small minds—apart from reflecting an unhealthy reliance on consistency for its own stake, this position ignores the significant changes that have taken place, the progress that appears to be under way in the Senate and among the parties with respect to the CATV issue, and the White House has now indicated a clear-cut effort to straighten this thing out.

I submit that my position is not significantly more inconsistent than is the posture of those who have in the past supported interim extensions but who now express elaborate concern about what they call "retrospective rewards of authorship at the expense of the public domain." Of course, copyright protection is at the expense of the public domain. This is our democratic method of stimulating and rewarding authorship. We do not live by bread alone. Music, opera, drama, painting, movies, literature are part and parcel of our lives. Those who create these forms enrich our existence. This bill is for the benefit of those creators. Those who create these forms indeed, I repeat, enrich our existence. These arts must be nurtured and encouraged. Our daily chores would be exceedingly drab without the beauty and spirituality given us by these art media.

Our copyright laws are devised to encourage these arts, to enhance new creations. We should go out of our way to help, not hinder, authors, composers, poets, dramatists, producers, and publishers.

Both Houses have consistently supported the copyright term proposed in the revision bills, as the repeated enactment of the interim extension measures demonstrates.

These interim extensions granted to date do not add up to more than 9 years of the total 19-year extension of the term that is contemplated in the revision bill.

It must always be remembered that both the House copyright revision bill of 1967 and the pending Senate copyright revision bill contain this 19-year extension of all renewal terms subsisting at the effective date of the revision from 28 to 47 years. The succession of interim extension measures, of which Senate Joint Resolution 132 is the latest, indicates the congressional purpose that presently subsisting copyrights should, as far as possible, remain eligible for the longer term that will be enjoyed by holders of copyrights that have not expired by the effective date of the revision. In short, the intent and purpose of the Congress has been to avoid lapses of copyright protection on the eve of the revision, rather than to select a particular term of years apart from the revision. It would be particularly unfair if copyrighted works should now be permitted to fall in the public domain for lack of an interim extension.

A case in point involves two of the Peter Pan books by James Barrie. In his will Barrie left the proceeds of his copyrights to the Hospital for Sick Children in London. There have been substantial motion pictures and TV rights flowing from these copyrights. If the basic book titles are allowed to fall into the public domain, these subsidiary rights will also disappear at the end of next month.

Among the living authors who would lose copyright protection are Rebecca West, Louis Untermeyer, and Frank Swinnerton.

Some of the widows of prominent authors who would also be affected are: Mrs. Edgar Lee Masters, Mrs. Sherwood Anderson, and Mrs. Elmer Rice.

The surviving children of several authors would also be deprived of protection. For example, the children of Ring Lardner, Vachel Lindsay, William Butler Yeats, Sinclair Lewis and Mrs. Belloc Lowndes.

Two other authors whose family or heirs would be deprived of protection are James Joyce—Ulysses and Portrait of the Artist as a Young Man—and Somerset Maugham—Of Human Bondage.

Other important authors whose titles would fall into the public domain if this legislation fails includes George M. Cohan, Joseph Conrad, Mary Roberts Rinehart, Eugene O'Neill, Richard Harding Davis, Eugene Field, Howard Pyle and Edith Wharton.

I do not think we want to do wrongs to these famous authors and their heirs and children and widows. We must give them protection so that in the future authors will feel that they can rely on that protection when they give us something new and novel that is worthy of copyright. For all these reasons I urge the Members to vote for the resolution before us.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Louisiana.

Mr. BOGGS. Mr. Speaker, I would like to commend the distinguished gentleman from New York, the chairman of the Judiciary Committee, for his statement. I would also like to commend the gentleman from Wisconsin (Mr. KASTENMEIER) who has worked hard and diligently for a great many years on a comprehensive revision of the copyright laws of this country.

Let me see if my recollection is correct. In 1967 we passed the comprehensive copyright revision bill; is that correct?

Mr. CELLER. That is correct.

Mr. BOGGS. For all practical purposes it has been pending in the other body ever since then?

Mr. CELLER. That is correct.

Mr. BOGGS. So that what we have been up against on the House side is the failure of the other body to act on the very comprehensive piece of legislation that the gentleman's committee, guided by the chairman of the subcommittee, the gentleman from Wisconsin (Mr. KASTENMEIER) has worked on and which was reported out and passed by the House.

Mr. CELLER. That is correct.

Mr. BOGGS. If we fail to act today many thousands, if not hundreds of thousands, of copyright owners will be affected in addition to the very famous authors and authoresses the gentleman mentioned.

Mr. CELLER. Yes. I did not have time to mention everybody. I just picked out a few famous authors and composers.

Mr. BOGGS. I hope the House will act favorably, Mr. Speaker.

Mr. DINGELL. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, we are engaging now in our annual exercise in frustration in renewing dreary and tired old copyrights which have been in existence for too long a time.

All of my colleagues received a letter from me citing and quoting the remarks of the distinguished chairman of the Judiciary Committee announcing, during the session just past, on December 7, 1970, that that day was the date on which we would be extending copyrights for the last time.

I believe it ought to be known, Mr. Speaker, that the history of this Nation is one which has been built upon a friendliness for the arts. The copyright system of this Nation recognizes that friendliness and the need to afford a measure of protection to those who innovate and contribute to our cultural values. For that reason we have given an original period of 28 years, plus an additional 28 years of time. Beginning in 1962 with a 3-year extension, followed by a 2-year extension, and then by four annual 1-year extensions, we now find ourselves with a period of life for copyrights in excess of 66 years, according to the chairman of the Judiciary Committee.

I would point out to my colleagues that there comes a time when every author can be presumed to have exhausted his right to special and peculiar interests in the fruits of his genius. Certainly, at the end of 66 years such a time has come, and those documents should revert to the public domain and become the property of all the people.

It has been mentioned by my distinguished friend, the chairman of the Judiciary Committee, that it is necessary for us to take care of the heirs and assignees of a number of distinguished authors. I would point out that each of the authors he has mentioned, and his heirs and his assignees, has had the benefit of the earnings of those copyrights for in excess of 66 years. And I say that is quite time enough.

Last year on December 7 my good friend from New York, the distinguished chairman of the Judiciary Committee, and I had a little colloquy about this. I pointed out to Chairman CELLER that the time had come when we should no longer be moving forward with an extension of these tired and dreary old copyrights. I will read the colloquy that took place at that time.

My good friend from New York says that "a foolish consistency is the hobgoblin of little minds." That may well be, but I would point out that the gentleman from New York established this consistency about seven times by continuing to extend copyrights under the general impression afforded this body that this was the last time the copyright bills were going to be before us for extension. I now read from a colloquy in the CONGRESSIONAL RECORD referred to above between the gentleman from New York (Mr. CELLER) and myself at the time of the last extension.

Mr. DINGELL. How many more times are we going to have these copyright bills before us?

Mr. CELLER. I have told those in the other body who are responsible for passing this very bill that we are now considering

that I would under no circumstances renew this copyright provision, but that they must pass the comprehensive compromise code, otherwise there would be no more extensions. This is the last extension.

I am happy to hear the gentleman say that because I feel we have a bill, a resolution, for the extension of copyrights usually at the request of the same people. I think it is about time the House quit extending these copyright laws.

Mr. CELLER. I am in thorough agreement with the gentleman's point of view in that respect.

Mr. DINGELL. Mr. Speaker, I think it is time we take a look to see who the real beneficiaries of these documents are that are going to have the benefit of extending the copyrights. The answer is they are usually not the author, because the author has usually long since passed on to his eternal reward. Indeed, it is not usually the heirs, because the heirs have usually either died or seen the rights in the copyright assigned either by the copyright holder, the original author, or have since assigned them themselves. The real beneficiaries of this bill are ASCAP and B.M.I., the two holding corporations which are well known for their ability to narrowly evade the requirements of the antitrust laws and some of the ruthless practices in which they engage with regard to copyrights.

So we find ourselves at the end of this session, as we do at the end of each session, faced with the prospect of yet another extension, not for the authors and not for the heirs who have seen their copyrights assigned but for the corporate holders of the copyrights.

It is interesting to note that we are not talking about the first extension but we are talking about the seventh extension. On what basis? On the basis that perhaps the Senate might send us yet another bill relating to copyrights. Perhaps an overall code revision relating to copyrights.

In one reads the bill submitted to us by the distinguished Committee on the Judiciary, one must search very hard to find any justification for the legislation before us. One thing that is submitted to us as justification from the agencies downtown is a letter from Mr. L. Quincy Mumford, the Librarian of Congress, in which he says:

> We support S.J. Res. 132 with the fervent hope that the enactment of the general revision bill can be accomplished before the end of the next session of Congress.

But during the last Congress—and I might say the inconsistency of the gentleman from New York (Mr. CELLER) is no less glaring than that of the Librarian of Congress—the Librarian of Congress said the last time we had this miserable matter before us, as follows:

> It is important that this fifth interim extension of the subsisting copyrights be the last of the series.

So, Mr. Speaker, we find ourselves now listening to the pleas of the gentleman from New York that this body should again participate in his inconsistencies, in the further and unnecessary extension of copyrights.

I would point out that there is no real need for it. These matters have been exclusive property for in excess of 60 years of all of the beneficiaries of the copyrights.

I want to point out also that most of the original holders of the copyrights have long since passed on to glory, and it is usually the corporate assignees of the holders who would be the principal beneficiaries.

I would say it is time we took the gentleman from New York at his word and permitted the copyrights to expire and permitted the public, the American people, to get the benefit of having these copyrights pass into the public domain. After all, it was the original intention of the Founding Fathers and of the Congress that these things should now lie in the public domain after the lengthy period of private ownership which has been given them, after the lengthy period of extension which the Congress has so generously, under the leadership of the gentleman from New York, accorded the corporate assignees of the original beneficiaries.

The bill should be defeated.

Mr. CELLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. MCCULLOCH).

(Mr. MCCULLOCH asked and was given permission to revise and extend his remarks.)

Mr. MCCULLOCH. Mr. Speaker, I have heard described the extension of the legislation in this field from some of the most able and dependable Members of the House. This is the 15th of November and the new session of Congress comes soon after the first of January. There is hardly time enough to do all that should be done in reviewing that which we have gone over before. For that reason, I believe the joint resolution now pending before the House should be adopted.

Mr. Speaker, I intend to vote that way.

The SPEAKER pro tempore (Mr. BOGGS). The question is on the motion offered by the gentleman from New York (Mr. CELLER) that the House suspend the rules and pass the Senate joint resolution (S.J. Res. 132).

The question was taken.

Mr. ROONEY of New York. Mr. Speaker, on that I demand a division.

The SPEAKER pro tempore. For what purpose does the gentleman from Michigan rise?

Mr. DINGELL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. ROONEY of New York. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ROONEY of New York. I take it that the Speaker pro tempore did not hear me demand a division.

The SPEAKER pro tempore. In response to the parliamentary inquiry of the gentleman from New York, the gentleman from Michigan (Mr. DINGELL) made the point of order that a quorum was not present, which takes precedence over the request of the gentleman from New York.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 302, nays 49, not voting 79, as follows:

[Roll No. 388]

YEAS—302

Abernethy	Fish	Michel
Abourezk	Fisher	Miller, Ohio
Absug	Flood	Mills, Ark.
Adams	Flowers	Mills, Md.
Addabbo	Flynt	Minish
Anderson, Calif.	Foley	Mink
	Forsythe	Minshall
Andrews, Ala.	Fountain	Mizell
Andrews, N. Dak.	Frelinghuysen	Monagan
	Frenzel	Montgomery
Annunzio	Frey	Morgan
Archer	Fulton, Tenn.	Morse
Arends	Fuqua	Murphy, Ill.
Aspinall	Garmatz	Murphy, N.Y.
Baker	Gettys	Myers
Baring	Giaimo	Natcher
Begich	Goldwater	Nelsen
Belcher	Gonzalez	Nichols
Bennett	Grasso	O'Hara
Betts	Gray	O'Konski
Bevill	Green, Pa.	O'Neill
Biaggi	Gross	Passman
Biester	Gubser	Patten
Bingham	Gude	Pepper
Blanton	Hagan	Perkins
Boggs	Haley	Pettis
Boland	Hall	Peyser
Brasco	Hammer-schmidt	Pickle
Bray		Pirnie
Brinkley	Hanley	Poage
Brooks	Hanna	Podell
Broomfield	Hansen, Wash.	Powell
Brotzman	Harrington	Preyer, N.C.
Brown, Mich.	Harsha	Price, Ill.
Brown, Ohio	Harvey	Pryor, Ark.
Broyhill, N.C.	Hastings	Pucinski
Broyhill, Va.	Hathaway	Quie
Buchanan	Hawkins	Quillen
Burke, Fla.	Heinz	Railsback
Burke, Mass.	Henderson	Randall
Burleson, Tex.	Hicks, Mass.	Rees
Burlison, Mo.	Hogan	Reid, N.Y.
Byrne, Pa.	Holifield	Rhodes
Byrnes, Wis.	Horton	Riegle
Byron	Hosmer	Robinson, Va.
Caffery	Howard	Robison, N.Y.
Camp	Hull	Rodino
Carey, N.Y.	Hungate	Roe
Carney	Hunt	Rogers
Carter	Hutchinson	Roncalio
Casey, Tex.	Jacobs	Rooney, N.Y.
Cederberg	Jarman	Rooney, Pa.
Celler	Johnson, Calif.	Rostenkowski
Chamberlain	Johnson, Pa.	Roy
Clancy	Jonas	Roybal
Clawson, Del	Jones, N.C.	Ruth
Cleveland	Jones, Tenn.	Ryan
Collier	Kazen	Sarbanes
Collins, Tex.	Keating	Satterfield
Conable	Kee	Saylor
Conte	Keith	Scherle
Corman	Kemp	Scheuer
Cotter	King	Schneebeli
Coughlin	Kluczynski	Schwengel
Crane	Koch	Scott
Culver	Kuykendall	Sebelius
Daniel, Va.	Kyl	Seiberling
Daniels, N.J.	Kyros	Shipley
Davis, Ga.	Landgrebe	Shoup
Davis, S.C.	Landrum	Shriver
Davis, Wis.	Latta	Sikes
de la Garza	Leggett	Sisk
Delaney	Lennon	Slack
Denholm	Lloyd	Smith, Calif.
Dennis	Long, Md.	Smith, Iowa
Devine	Lujan	Snyder
Dickinson	McClory	Spence
Donohue	McCollister	Springer
Duncan	McCormack	Staggers
du Pont	McCulloch	Stanton, J. William
Dwyer	McDade	
Edmondson	McEwen	Stanton, James V.
Edwards, Ala.	McFall	
Eilberg	McKinney	Steele
Erlenborn	McMillan	Steiger, Ariz.
Esch	Madden	Steiger, Wis.
Eshleman	Mailliard	Stephens
Evans, Colo.	Martin	Stubblefield
Evins, Tenn.	Matsunaga	Symington
Fascell	Mayne	Talcott
Findley	Meeds	Taylor
Teague, Calif.	Waggonner	Wyatt
Teague, Tex.	Wampler	Wydler
Terry	Ware	Wylie
Thompson, Ga.	Whalen	Wyman
Thomson, Wis.	White	Yates
Thone	Whitehurst	Ystron
Tiernan	Whitten	Young, Fla.
Udall	Wiggins	Young, Tex.
Ullman	Williams	Zablocki
Van Deerlin	Wilson, Bob	Zion
Vander Jagt	Winn	
Veysey	Wolff	

NAYS—49

Aspin	Gaydos	Nix
Badillo	Green, Oreg.	Obey
Bergland	Griffin	Pike
Brademas	Griffiths	Poff
Burton	Grover	Price, Tex.
Clark	Hamilton	Rarick
Clay	Hays	Reuss
Dellenback	Hechler, W. Va.	Roush
Dent	Helstoski	Ruppe
Dingell	Hicks, Wash.	St Germain
Dorn	Hillis	Schmitz
Dow	Ichord	Stratton
Drinan	Karth	Sullivan
Eckhardt	Kastenmeier	Vanik
Edwards, Calif.	Mazzoli	Waldie
Fraser	Mollohan	
Gallagher	Nedzi	

NOT VOTING—79

Abbitt	Ford, Gerald R.	Miller, Calif.
Alexander	Ford, William D.	Mitchell
Anderson, Ill.	Galifianakis	Moorhead
Anderson, Tenn.	Gibbons	Mosher
Ashbrook	Goodling	Moss
Ashley	Halpern	Patman
Barrett	Hansen, Idaho	Pelly
Bell	Hébert	Purcell
Blackburn	Heckler, Mass.	Rangel
Blatnik	Jones, Ala.	Roberts
Bolling	Lent	Rosenthal
Bow	Link	Rousselot
Cabell	Long, La.	Runnels
Chappell	McCloskey	Sandman
Chisholm	McClure	Skubitz
Clausen, Don H.	McDonald, Mich.	Smith, N.Y.
		Steed
Collins, Ill.	McKay	Stokes
Colmer	McKevitt	Stuckey
Conyers	Macdonald, Mass.	Thompson, N.J.
Danielson		Vigorito
Dellums	Mahon	Whalley
Derwinski	Mann	Widnall
Diggs	Mathias, Calif.	Wilson, Charles H.
Dowdy	Mathis, Ga.	Wright
Downing	Melcher	Zwach
Duliski	Metcalfe	
Edwards, La.	Mikva	

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

The Clerk announced the following pairs:

Mr. Thompson of New Jersey with Mr. Anderson of Illinois.
Mr. Hébert with Mr. Gerald R. Ford.
Mr. Blatnik with Mr. Ashbrook.
Mr. Barrett with Mr. McKevitt.
Mr. Moorhead with Mr. Mitchell.
Mr. Link with Mr. Metcalfe.
Mr. Diggs with Mr. Derwinski.
Mr. Abbitt with Mr. Blackburn.
Mr. Cabell with Mr. Lent.
Mr. Charles H. Wilson with Mr. Collins of Illinois.
Mr. Dowdy with Mr. Mathias of California.
Mr. McKay with Mr. Don H. Clausen.
Mr. William D. Ford with Mr. Rangel.
Mr. Jones of Alabama with Mr. Goodling.
Mr. Dulski with Mr. Halpern.
Mr. Macdonald of Massachusetts with Mr. Hansen of Idaho.
Mr. Mathis of Georgia with Mr. McClure.
Mr. Vigorito with Mr. Stokes.
Mr. Moss with Mr. McCloskey.
Mr. Roberts with Mr. Mosher.
Mr. Runnels with Mr. Rousselot.
Mr. Ashley with Mrs. Chisholm.
Mr. Galifianakis with Mr. Pelly.
Mr. Rosenthal with Mr. Conyers.
Mr. Wright with Mr. Sandman.
Mr. Mikva with Mr. Dellums.
Mr. Alexander with Mr. Skubitz.
Mr. Purcell with Mr. Smith of New York.
Mr. Melcher with Mr. Whalley.
Mr. Steed with Mr. Widnall.
Mr. Chappell with Mr. Zwach.
Mr. Danielson with Mr. Bell.
Mr. Downing with Mrs. Heckler of Massachusetts.
Mr. Colmer with Mr. McDonald of Michigan.
Mr. Gibbons with Mr. Anderson of Tennessee.
Mr. Mahon with Mr. Mann.
Mr. Miller of California with Mr. Patman.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed and include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LIBERALIZATION OF DISABILITY AND DEATH PENSION

Mr. TEAGUE of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11651) to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and for other purposes.

The Clerk read as follows:

H.R. 11651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $87. For each $1 of annual income in excess of $300 up to and including $600, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $600 up to and including $1,900, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $1,900 up to and including $2,600, the monthly rate shall be reduced 4 cents. No pension shall be paid if annual income exceeds $2,600."

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $600 or less, the monthly rate of pension shall be $104. For each $1 of annual income in excess of $600 up to and including $1,400, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,400 up to and including $2,700, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $2,700 up to and including $3,800, the monthly rate shall be reduced 3 cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $3,800."

(e) Subsection (d) of such section 541 is amended by striking out "$16" and inserting in lieu thereof "$17".

(f) Subsection (a) of section 542 of title 38, United States Code, is amended by striking out "$40" and "$16" and inserting in lieu thereof "$42" and "$17", respectively.

SEC. 2. Section 503 of title 38, United States Code, is amended by (a) inserting "(a)" immediately preceding "In" at the beginning of such section, and (b) adding at the end thereof the following new subsections:

"(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

"(c) The Administrator may provide by regulation for the exclusion from income under this chapter of amounts paid by a veteran, widow, or child for unusual medical expenses."

SEC. 3. Paragraph (2) of section 3012(b) of title 38, United States Code, is amended by striking out "month" and inserting in lieu thereof "calendar year".

SEC. 4. Section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,200 and $3,500, instead of $1,900 and $3,200 respectively."

SEC. 5. (a) Paragraph (30) of section 101 of title 38, United States Code, is amended by striking the phrase "for ninety days or more".

(b) Paragraph (3) of subsection 521(g) of such title 38 is amended by inserting immediately before "World War I" the phrase "the Mexican border period or".

SEC. 6. This Act shall take effect on January 1, 1972.

The SPEAKER pro tempore. Is a second demanded?

Mr. TEAGUE of California. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without

objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas is recognized.

Mr. TEAGUE of Texas. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the bill H.R. 11651.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, H.R. 11651 is one of the most important bills our committee has considered this year and, together with the survivors' benefit bill, H.R. 11652, which we will consider next, is the result of a very substantial effort on the part of the subcommittee on compensation and pension. The Honorable W. J. BRYAN DORN is the chairman of that subcommittee and the Honorable JOHN PAUL HAMMERSCHMIDT is the ranking minority member on that subcommittee. The other members of the subcommittee are as follows: The Honorable RAY ROBERTS, the Honorable G. V. (SONNY) MONTGOMERY, the Honorable JOHN P. SAYLOR, and the Honorable WILLIAM LLOYD SCOTT.

The modern system for the payment of pension based on the non-service-connected disability or death of a war veteran has traditionally involved a basic premise of "need" on the part of the beneficiary. Accordingly, there have been established statutory income limitations which have been liberalized from time to time but which have been retained in principle to serve as the benchmarks for determining the extent of need in each individual case, in the light of certain equities and with a view to preventing undue hardship, the Congress has provided a limited number of specific exclusions from countable income in determining pension eligibility.

With the exception of such exclusions, however, all income must be considered. As a result, from time to time as income from other sources is increased, notably in the programs of social security, railroad retirement, civil service retirement, and private pension plans, the resulting impact on the veterans' pension program is direct and sometimes very substantially adverse. The committee is particularly aware, as are most members, of the growing concern among pensioners of the potential adverse effect of the recent social security increase on the amount of pension, if any, they may be entitled to in 1972. The committee has given long and serious study to this problem which defies any perfect solution as long as the basic concept of need is retained, as it must be, in the pension system.

In the light of the foregoing, the committee is enthusiastic in recommending to the House a new formula approach as a substitute for the existing statutory tables dealing with pension rates and income limitations. In this connection, I wish to express the committee's admiration for the ingenuity of the Veterans' Administration in devising this new approach as a technical service in the first instance and commend the Administrator for his later policy endorsement for such approach. We believe it will effectively minimize future concern as to the adequacy of the veterans' pension program, vis-a-vis other income maintenance programs.

Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from South Carolina (Mr. DORN) who will discuss in greater detail the various provisions of this important bill.

Mr. DORN. Mr. Speaker, the major veterans' bill, H.R. 11651, to which our chairman has just addressed his remarks, would provide an average increase of approximately 6.5 percent in the rates of non-service-connected pension payable to veterans and widows. The various pension rates and income limitations have been restructured under a formula devised and recommended by the Veterans' Administration. Under this formula, we are assured by the Veterans' Administration that notwithstanding the 10-percent increase in social security no veteran or widow on the pension rolls will suffer any reduction in pension. In fact, in view of a cost of living factor included in the increased rates, we are assured by the Veterans' Administration that practically all, if not all, pensioners will receive some increase.

Under the bill, the top income limitation is raised by $300 and a similar increase is provided for pensioners under the so-called old law. Comparable rate increases are provided for orphan children.

Upon the recommendation of the Veterans' Administration, we have also included in the bill a provision which excludes from income amounts paid by a claimant for unusual medical expenses. Further, where a veteran's spouse died during the year his pension as a married veteran will not be reduced or terminated until the end of the calendar year rather than the end of the month prior to the date of the spouse's death, as at present.

Finally, the bill corrects a problem relating to the service requirements under which a Mexican border veteran was granted eligibility for pension in our pension bill last year so as to clearly reflect what we believe was the original intent of that provision, namely, to fully equate Mexican border veterans with World War I veterans for pension purposes.

The cost of the bill for the first full year has been estimated as $127.2 million, increasing to $136.9 million the fifth year.

Mr. Speaker, I believe it is very relevant to quote the following from the testimony of the Veterans' Administration in the recent hearings on this bill:

> The cost of living council has exempted income maintenance programs, like pensions and dic, from coverage during the current freeze period. Based on this ruling, and recognizing our obligation to both the nation's economic goals and to the veteran and his family in this critical time, the Veterans' Administration feels justified in supporting an adjustment in these benefit payments to compensate for price increases since the time when benefits were last increased. We feel that price changes constitute a reasonable and appropriate benchmark for this subcommittee to use in determining the magnitude of adjustment needed.

Mr. Speaker, at this point I ask permission to insert as a part of my remarks a more detailed explanation of the eight major objectives of the bill followed by an explanation of the application of the new pension formulae, together with pertinent tabular and cost data which I am sure the members will find most informative.

Mr. Speaker, I urge approval of H.R. 11651. I believe it is an excellent bill which goes far toward solving pressing problems in the pension program and at the same time strengthen and improve this major benefit for war veterans and their survivors who are in need.

I include the following information for the RECORD:

The bill is designed to accomplish the following objectives, effective January 1, 1972:

First, provide an average cost-of-living increase of approximately 6.5 percent in non-service-connected pension rates payable to approximately 1.6 million veterans and widows and prevent such pensioners from losing any of their VA pension because of the 1971 increase in their social security benefits. The committee wishes to emphasize that such assurance against loss of pension is only in connection with the increased social security payments received by a pensioner on his own behalf. The last general increase in such pensions was effective January 1, 1971.

Second, increase by $300 the maximum annual income limitations for the non-service-connected pension program, thus providing an income limitation of $2,600 for single pensioners and $3,800 for pensioners with dependents.

Third, establish new formulas for payment of pension which will be more responsive to the needs of veterans and widows and, as long as a pensioner's income does not exceed the maximum annual limitation, preclude the loss of aggregate income in the future when a pensioner might receive an increase in income from some other source, regardless of the source.

Fourth, provide a cost-of-living increase in the pension rates payable to widows for children in excess of one, and to eligible children receiving non-service-connected death benefits.

Fifth, in determining a pensioner's income for pension purposes, exclude from the counting of income amounts paid by the claimant for unusual medical expenses.

Sixth, in the case of loss of a dependent of a payee by reason of marriage, divorce, or death during the year, permit the VA to continue paying benefits as if there had been no loss until the end of the calendar year, rather than reducing or terminating benefits at the end of the month prior to the date of the event.

Seventh, increase by $300 the annual income limitations for veterans and widows under the "old law" pension program which was in existence prior to July 1, 1960, the effective date of Public Law 86-211.

Eighth, liberalize the present law regarding the number of days a veteran of the Mexican border period must have served in Mexico, or on the borders thereof, in order to receive a non-service-connected pension. This provision will substantially equate the service eligibility of such veterans, their widows and children with that of veterans of World War I and their widows and children for pension purposes.

The formulas mentioned in (3) above would specify a maximum monthly rate for each group within designated income categories, and each individual's monthly benefit rate would be computed by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded. For example, under subsection (a) of the first section of the bill for a single veteran under 38 U.S.C. 521 the maximum monthly pension would be $130 based upon annual income of $300 or less. This monthly amount would be reduced by 3 cents for each dollar of annual income by which income exceeds $300, up to and including $1,000; by 4 cents for each dollar of income in excess of $1,000 up to and including $1,500; by 5 cents for each dollar of income exceeding $1,500 up to and including $1,800; by 6 cents for each dollar of income up to $2,200; and by 7 cents for each dollar of income up to and including $2,600. The minimum monthly rate would be $22. No pension would be paid if annual income exceeds $2,600.

There follow tables setting forth the current rates of pension payable to veterans and widows and showing certain new rates set forth in $100 increments for easy reference to typical examples which would be authorized under the formula provided by the bill:

H.R. 11651

Income not more than—	Veteran alone		Veteran and dependents			
				No loss formula		
	Current	No loss formula	Current	1 dependent	2 dependents	3 or more
$100	$121	$130	$132	$140	$145	$150
$200	121	130	132	140	145	150
$300	121	130	132	140	145	150
$400	119	127	132	140	145	150
$500	117	124	132	140	[1] 145	[1] 150
$600	115	121	130	130		
$700	112	118	128	136		
$800	108	115	126	134		
$900	104	112	124	132		
$1,000	100	109	122	129		
$1,100	96	105	119	126		
$1,200	92	101	116	123		
$1,300	88	97	113	120		
$1,400	84	93	110	117		
$1,500	79	89	107	114		
$1,600	75	84	104	111		
$1,700	69	79	101	108		
$1,800	63	74	99	105		
$1,900	57	68	96	102		
$2,000	51	62	93	99		
$2,100	45	56	90	96		
$2,200	37	50	87	93		
$2,300	29	43	84	90		
$2,400		36	81	87		
$2,500		29	78	84		
$2,600		22	75	81		
$2,700			72	78		
$2,800			69	75		
$2,900			66	72		
$3,000			62	69		
$3,100			58	66		
$3,200			54	63		
$3,300			50	58		
$3,400			42	53		
$3,500			34	48		
$3,600				43		
$3,700				38		
$3,800				33		

[1] With higher income, lesser rates are paid according to formula.

H.R. 11651—PENSION

Income not more than—	Widow alone		Widow and 1 child	
	Current	No loss formula	Current	No loss formula
$100	$81	$87	$99	$104
$200	81	87	99	104
$300	81	87	99	104
$400	80	86	99	104
$500	79	85	99	104
$600	78	84	99	104
$700	76	81	98	103
$800	73	78	97	102
$900	70	75	96	101
$1,000	67	72	95	100
$1,100	64	69	94	99
$1,200	61	66	92	98
$1,300	58	63	90	97
$1,400	55	60	88	96
$1,500	51	57	86	94
$1,600	48	54	84	92
$1,700	45	51	82	90
$1,800	41	48	80	88
$1,900	37	45	78	86
$2,000	33	41	76	84
$2,100	29	37	74	82
$2,200	23	33	72	80
$2,300	17	29	70	78
$2,400		25	68	76
$2,500		21	66	74
$2,600		17	64	72
$2,700			62	70
$2,800			59	67
$2,900			56	64
$3,000			53	61
$3,100			51	58
$3,200			48	55
$3,300			45	52
$3,400			43	49
$3,500			41	46
$3,600				43
$3,700				42
$3,800				42

FORMULA APPLYING TO PENSIONERS

VETERAN ALONE [1] [2] [3]

Top monthly rate—$130. (Countable income $300 per annum or less)

If income is in excess of $300 per annum, the $130 monthly payment is reduced on an individual basis through application of the following formula:

$301 through $1,000, payment reduced in amount of 3¢ per $1.00 of income above $300.

$1,001 through $1,500, payment reduced in amount of 4¢ per $1.00 of income above $1,000.

$1,501 through $1,800, payment reduced in amount of 5¢ per $1.00 of income above $1,500.

$1,801 through $2,200, payment reduced in amount of 6¢ per $1.00 of income above $1,800.

$2,201 through $2,600, payment reduced in amount of 7¢ per $1.00 of income above $2,200.

VETERAN AND ONE DEPENDENT [2] [3]

Top monthly rate—$140. (Countable income $500 per annum or less)

If income is in excess of $500 per annum, the $140 monthly payment is reduced on an individual basis through application of the following formula:

$501 through $900, payment reduced in amount of 2¢ per $1.00 of income above $500.

$901 through $3,200, payment reduced in amount of 3¢ per $1.00 of income above $900.

$3,201 through $3,800, payment reduced in amount of 5¢ per $1.00 of income above $3,200.

For example, a veteran with one dependent, with countable income other than pension of $3,399, will receive monthly pension computed in the following manner:

$900	$3,200	$3,399
500	900	3,200
$400×.02¢=$8	$2,300×.03¢=$69	$ 199×.05¢=$9.95

The above figures ($8, $69, $9.95) added produce a total of $86.95, which is then subtracted from $140 (the maximum monthly for this category of pensioner), to provide for payment of pension in this case in the amount of $53.05. This veteran, under current law, is eligible for a pension payment of $50, therefore he will receive a monthly increase of $3.05.

WIDOW ALONE [2] [4]

Top Monthly Rate—$87 (countable income $300 per annum or less)

If income is in excess of $300 per annum, the $87 monthly payment is reduced on an individual basis through application of the following formula:

$301 through $600, payment reduced in amount of 1¢ per $1.00 of income above $300.

$601 through $1,900, payment reduced in amount of 3¢ per $1.00 of income above $600.

$1,901 through $2,600, payment reduced in amount of 4¢ per $1.00 of income above $1,900.

WIDOW AND CHILD [2] [4]

Top Monthly Rate—$104 (countable income $600 per annum or less)

If income is in excess of $600 per annum, the $104 monthly payment is reduced on an individual basis through application of the following formula:

$601 through $1,400, payment reduced in amount of 1¢ per $1.00 of income above $600.

$1,401 through $2,700, payment reduced in amount of 2¢ per $1.00 of income above $1,400.

$2,701 through $3,800, payment reduced in amount of 3¢ per $1.00 of income above $2,700.

FOOTNOTES

[1] Pension reduced to $50 after second full month of hospitalization or domiciliary care by the VA.

[2] Applicable rate increased by $110 per month for veterans and $55 per month for widows who are patients in nursing homes or require aid and attendance of another person because of their disabilities. Similarly, the rate a veteran receives is increased by $44 per month when he is permanently "house bound" because of his disabilities.

[3] Under present law, no pension is payable if income other than pension exceeds $2,300 per annum in the case of the veteran or widow alone, or $3,500 in the case of the veteran or widow with dependent or dependents.

[4] $17 additional per month for each dependent above one.

[5] If a veteran has two dependents, payment is increased by $5; if three or more, by $10 per month.

There follows an itemized breakdown of the cost of H.R. 11651 by years, by categories of beneficiaries, and in toto for the first 5 years:

H.R. 11651

Year	Caseload	Costs
SEC. 1		
The first 5 years costs and caseloads for paras (a) through (d)—Increased pension rates for veterans and survivors are:		
1	1,637,246	$110,700,000
2	1,647,773	112,500,000
3	1,661,103	114,200,000
4	1,672,332	115,900,000
5	1,692,684	118,100,000
year costs and caseloads for para (e)—Increase in rate for children from $16 to $17 are:		
1	147,211	2,100,000
2	151,524	2,200,000
3	156,070	2,200,000
4	159,800	2,300,000
5	164,346	2,400,000
Para (f)—Increases in children's rate to $42 and $17 are:		
1	594,100	9,000,000
2	643,100	9,800,000
3	688,400	10,400,000
4	722,300	11,000,000
5	746,900	11,300,000
Total costs of sec 1 1:		
1st year		121,900,000
2d year		124,500,000
3d year		126,900,000
4th year		129,200,000
5th year		131,900,000
Fiscal year 1972 cost		60,900,000

	Number affected	Costs
SEC. 2		
Paragraph (b)—Minimal. Paragraph (c)—Extension of unusual medical expenses are:		
1	26,750	$1,900,000
2	27,200	2,000,000
3	27,650	2,100,000
4	28,150	2,100,000
5	28,600	2,100,000
Fiscal year 1972 costs		950,000
SEC. 3		
End-of-year rule changes of dependency are:		
1	10,300	1,800,000
2	10,300	1,800,000
3	10,300	1,800,000
4	10,300	1,800,000
5	10,300	1,800,000
Fiscal year 1972 costs		950,000
SEC. 4		
Increase in limitations for old law cases are:		
1	5,038	1,700,000
2	4,831	1,600,000
3	4,481	1,500,000
4	4,129	1,400,000
5	3,776	1,200,000
SEC. 5		
Paragraph (a)—Minimal Paragraph (b)—No cost: Total cost of H.R. 11651: [1]		
1st year		127,200,000
2d year		129,900,000
3d year		132,200,000
4th year		134,500,000
5th year		136,900,000
Costs by fiscal year:		
1972		63,600,000
1973		128,600,000
1974		131,100,000
1975		133,400,000
1976		135,700,000
1977		139,200,000

[1] Total caseload figures are not shown, since there would be a significant number of beneficiaries that would benefit from more than 1 provision of the bill. A summation of the caseload figures shown under the various sections would be distorted by these duplications.

Mr. SAYLOR. Will the gentleman yield?

Mr. DORN. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. We put a provision in the bill that says in case there are unusual medical expenses that they need not be reported as far as income is concerned.

Has the committee determined how much should be considered as unusual medical expense?

Mr. DORN. Neither the subcommittee nor the full committee considered how much would be extenuating or unusual circumstances in case this happens.

I might say that the total cost of this bill is $127 million, and at the end of 5 years it is estimated to be $137 million.

Mr. SAYLOR. Mr. Speaker, if the gentleman will yield further, for what might be considered unusual expenses for someone whose income is in the lower bracket would not be considered unusual expenses for someone whose income is in a bracket above the income limitation in this bill.

Mr. DORN. Well, of course, what this bill is designed to do is really to help people in the poverty category. I hesitate to even refer to our veterans who fought for our country in such phraseology but, nevertheless, that is true. This just raises them above the poverty level and makes sure that they will not lose any of their payments because of the 10-percent increase in social security.

With reference to the gentlemen's question we expect the Veterans' Administration to regulate on unusual medical expenses in the case of pensioners along the same lines now used for dependent parents. That regulation is as follows:

1262. (L) Unusual Medical Expenses. In claims for dependency and indemnity compensation (38 U.S.C. 415(g)(2)) and making determinations under VA Regulation 1262 (B)(2) in claims for pension under Public Law 86-211, there will be excluded from the amount of a claimant's annual income any amounts paid for unusual medical expenses. This includes expenses paid by a parent or spouse by reason of his illness and those paid for members of his family. "Members of his family" means those persons, including relatives in the ascending as well as descending class, whom the parent or spouse is under moral or legal obligation to support and who are members of his household (Jan. 1, 1965)

(1) A determination of whether the circumstances in the individual case represent "unusual" expenses will be made on the pertinent facts. Generally this situation will encompass expenses incurred by reason of chronic invalidism or for surgery or prolonged illness. Brief periods of illness with moderate medical expenses, which did not materially interfere with a normal mode of living, are not included (Jan. 1, 1963)

(2) Expenses paid by a parent or spouse for maintenance of the parent or spouse or paid by the parent or spouse for maintenance of a member of his family (who is actually or constructively a member of his household) in a nursing or convalescent home may be deducted. (Jan. 1, 1965)

(3) Except as provided in subdivision (4), the exclusion of unusual medical expenses is applicable only to amounts actually paid. Expenses incurred but unpaid are not deductible. It is not material that the expenses were incurred by reason of illness in a prior year. Deductions are limited to amounts paid in a particular calendar year. In the absence of doubtful circumstances the claimant's statement as to amounts paid will be accepted. (Jan. 1, 1963)

(4) Where a claimant indicates that he expects to have medical expenses which meet the requirements of this subparagraph (e.g., maintenance in a nursing home), an estimate of amounts which will be paid for such expenses may be accepted. Where an estimate of such expenses has been accepted for the purpose of authorizing prospective payments, any necessary adjustment in the award will be made upon receipt of an amended estimate or after the end of the calendar year upon receipt of an income questionnaire. (Jan. 1, 1965)

Mr. SAYLOR. Mr. Speaker, I rise in support of H.R. 11651. This measure provides for an overall increase in pension of approximately 6.5 percent for all veterans and widows on the pension rolls, and is designed to overcome the increased cost of living for those Veterans' Administration beneficiaries who are subsisting on only the lowest of incomes. Most importantly it will prevent any reduction in pension next year that, under existing law, would have resulted from the increase in social security benefits awarded in 1971.

The bill raises the income levels by $300 in all categories, including the pensioner receiving benefits under the Veterans Pension Act of 1959.

It increases the rates under a new formula which establishes several income levels with any future changes due to increased income minimized by relating them in terms of a reduction of a specified number of cents for each dollar of increase over the established levels.

Another important feature provides that a veteran, widow, or child when confronted with unusual medical expenses may deduct them from their declared incomes.

I consider this a timely bill and am in favor of it.

Mr. TEAGUE of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a pension bill. Members are aware of the fact that each time social security is increased, it can and in most instances does have an adverse effect upon veteran pensioners who receive both social security and pension.

Public Law 92-5, enacted earlier this year, authorized a 10-percent increase in social security benefits. Unless the Congress acts to protect them, thousands of pensioners, widows, and veterans alike, will have their Veterans' Administration payments reduced or terminated next January 1. The bill before you will prevent that possibility from happening by insuring that no pensioner will suffer the reduction or termination of his pension benefits solely because of the 1971 social security increase received in his own behalf. The bill accomplishes this purpose by establishing a new formula for the payment of pension which will be more responsive to the needs of veterans and widows and, as long as a pensioner's income does not exceed the new maximum annual income limitation of $2,600 for single pensioners and $3,800 for pensioners with dependents, it will preclude the loss of aggregate income in the future when a pensioner receives an increase in income from other sources.

In the process of accomplishing this worthy purpose, the bill provides an average cost-of-living increase of approximately 6.5 percent for approximately 1.6 million veterans and widows.

Although I am not a voting member of the Subcommittee on Compensation and Pension, I did attend most of the hearings and executive sessions relating to the consideration of this legislation. I was impressed with the diligence with which the subcommittee considered more than 100 bills, all offering potential solutions to the problems of pensioners. I want to commend the members of the subcommittee consisting of Mr. DORN, chairman, Mr. HAMMERSCHMIDT, ranking minority member, and their colleagues, Mr. ROBERTS, Mr. SAYLOR, Mr. MONTGOMERY, and Mr. SCOTT for bringing to the floor this fine piece of legislation.

The SPEAKER pro tempore. Does the gentleman from California desire to yield further time?

Mr. TEAGUE of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. HAMMERSCHMIDT), the ranking minority member of the subcommittee which handled this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, the bill before this House today represents a giant step forward in solving the dilemma in which most veterans who are in receipt of both monthly pension payments and social security benefits or other income maintenance programs find themselves.

Years before any of us became Members of the House of Representatives, the Congress determined that need, disability, and unemployability were essential prerequisites in determining a veteran's entitlement to nonservice connected pension benefits. Need is also a factor in ascertaining a widow's eligibility for pension.

In recent years, disability, and unemployability have been eliminated as determining factors for veterans who have reached 65 years of age. Although there has been varied opinion as to the level of income that is representative of true financial need, the Congress has consistently adhered to the philosophy that the payment of pensions to veterans and widows must be based upon financial need.

Various levels of need and the amount of pension payable are determined by a schedule of limitations on income from other sources as set forth in the law. As income increases, the amount of pension payable is reduced. Since Social Security payments and other retirement annuities are, in fact, income it follows that increases in these types of payments cause the reduction or termination of a veteran's or widow's pension.

Just a few years ago, the schedule of income limitations was divided into three income brackets. There was a significant difference in the amount of pension payable to those in each of the three groups. Thus, it was possible for a veteran to receive a modest increase in social security while suffering a far greater reduction in his Veterans' Administration pension. To correct this ridiculous situation in which an increase in social security could cause a loss in total income, the Congress revised the schedule of income limitations.

Under current law, there are 20 odd income brackets in increments of $100, ranging from a minimum for an unmarried veteran of $300 to a maximum of $2,300. Each of these income levels warrants a different rate of pension. While this schedule does eliminate the possibility of a reduction in total income upon receipt of an increase in social security, it is still possible for a veteran to lose several dollars a month in pension every time his social security or other retirement benefits are increased.

In order to preserve the status quo with respect to pensioners, the Congress has reacted to the several social security increases in recent years by carefully revising upward the rates of pension and the maximum income limits. This repeated action has protected veterans' pensions and minimized the adverse effect of the several social security increases.

Despite the improvements I have cited, we are still in the position of reacting to protect the veteran pensioner each time social security is increased.

The bill we are presently considering will, in my judgment, greatly improve the pension program and permit the Congress to consider the need for future pension increases on an independent basis and not necessarily under the stimulus of a social security increase.

This measure, first of all, protects each veteran and widow currently on the pension rolls against a reduction in pension that would otherwise occur on the 1st of January 1972, as the result of the 1971 social security increase received on his or her own behalf. It eliminates the existing statutory schedules of income limits and pension rates and substitutes an entirely new formula for determining the monthly pension payment. In the case of a veteran without dependents, the bill establishes a monthly pension rate of $130 if the income from other sources is less than $300 annually. For each dollar of annual income over $300 and up to $1,000, the $130 pension rate is reduced 3 cents. The next $500 of income up to $1,500 reduces the rate by 4 cents for each dollar. The next $300 up to $1,800 annually reduces the rate by 5 cents for each dollar, while each dollar of the next $400 up to $2,200 annually reduces the pension rate by 6 cents. Finally, each dollar of the next $400 up to a maximum income limit of $2,600, reduces the pension by 7 cents for each dollar.

This, Mr. Speaker, I repeat, is the formula set forth in the bill for the veteran without dependents. A similar formula, but varying somewhat in income levels and rates of pension is established for veterans with dependents as well as for both categories of widows.

The most significant comparisons with existing law to keep in mind are these. The maximum monthly pension payable is increased from $121 to $130 for the veteran without dependents. For the veteran with dependents, the maximum payment is increased from $132 to $140 monthly for one dependent; from $137 to $145 for two dependents and from $142 to $150 for three or more dependents.

In the case of widows, the maximum monthly pension is increased from $81 to $87 if there are no minor children and from $99 for widows with one child with $16 for each additional child to $104 and $17 respectively.

The maximum annual income limits for entitlement to any pension for both veterans and widows are increased from $2,300 to $2,600 if there are no dependents and from $3,500 to $3,800 for those with dependents.

The $300 increase in annual income limits also applies to those veterans and widows who are receiving pension under laws in effect prior to 1960, thus protecting them against reduction or termination of pension because of a Social Security increase.

Mr. Speaker, the bill also contains proportionate increases for children without parents who are in receipt of pension benefits. It permits pensioners to exclude from the computation of income amounts paid for unusual medical expenses. In case of the loss of a dependent during a year, the bill permits the Veterans' Administration to continue paying pension at the same rate until the end of the calendar year.

Finally, Mr. Speaker, the bill permits veterans of Mexican border service to receive benefits under the same criteria that is applied to veterans of the Nation's wars.

This bill is sound legislation. In the process of creating a more workable and more equitable pension program, the committee in this measure had provided an overall increase of approximately 6.5 percent to 1.6 million veterans and widows in receipt of pension benefits. The bill was reported unanimously from the compensation and pension subcommittee and it was reported unanimously from the full committee on Veterans' Affairs. The reduction formula concept embodied in this measure enjoys the support of the administration. I shall vote for the bill and urge my colleagues to do the same.

Mr. EDMONDSON. Mr. Speaker, H.R. 11651, liberalizing non-service-connected pension rates and income limitations, is urgently needed by thousands of American veterans.

I have personally sponsored legislation on both subjects and commend the committee for acting to deal more fairly with our veterans, many of whom are living today at poverty levels because of existing payment and income limitation levels.

H.R. 11651 is a good step in the right direction and will surely receive overwhelming approval.

Mr. ROBERTS. Mr. Speaker, I am pleased to rise in support of H.R. 11651. I am privileged to serve on the Compensation and Pension Subcommittee of the Committee on Veterans' Affairs, which held extensive hearings on all bills pending before our committee affecting the non-service-connected pension program, and I feel that H.R. 11651, which the Compensation and Pension Subcommittee reported after a thorough study of this program, is an outstanding bill and one which merits the support of my colleagues in the House of Representatives.

When considering the non-service-connected pension program, I think it is important to keep in mind that this program was initiated for the principal purpose of providing financial assistance to totally disabled veterans based upon need. Many bills which were considered by the subcommittee and for which there has been strong support by some groups provided no benefit whatsoever for the veterans in the lower income brackets and the ones who obviously are in the greatest need of financial assistance. H.R. 11651 benefits all veterans and widows who are now receiving non-service-connected pension benefits. It provides for an average cost-of-living increase of approximately 6.5 percent to approximately 1.6 million veterans and widows receiving benefits under the so-called new pension program. It provides for an annual increase of $300 in the income limitations for veterans and widows receiving pensions under both the old and new pension programs. As a result of the increase in the rates and income limitations, the Veterans' Administration has assured our committee that no pensioner would lose or have a reduction in his pension solely because of the recent increase in social security payments received by the pensioner on his own behalf.

One of the very important features of H.R. 11651 for elderly and seriously disabled veterans is the one which provides that in determining a pensioner's income for pension purposes, the Veterans' Administration shall exclude from the counting of income amounts paid by the claimant for unusual medical expenses. This feature probably will be more beneficial to the elderly and seriously disabled veterans than any other feature.

Many veterans and widows receiving pension benefits are constantly fearful that when they receive an increase in their income from some other source, this could cause a reduction in their pensions in an amount greater than the increase in their other income and thus result in a loss in their total income. H.R. 11651 establishes a new formula for payment of pension which will be more responsive to the needs of veterans and widows and, as long as a pensioner's income does not exceed the maximum annual limitation, preclude the loss of aggregate income in the future when a pensioner might receive an increase in income from some other source, regardless of the source.

Also under the provisions of this bill, Mr. Speaker, children now receiving non-service-connected death pension would receive a cost-of-living increase in their pension rates.

H.R. 11651 further proposes to liberalize the present law regarding the number of days that a veteran of the Mexican Border must have served in Mexico, or on the borders thereof, to receive a non-service-connected pension.

Because of the many benefits that H.R. 11651 provides for those persons receiving non-service-connected pension benefits, and particularly the more needy and elderly veterans of World War I, I strongly recommend this bill to my colleagues and urge its approval.

Mr. HILLIS. Mr. Speaker, today I rise to support two bills which were approved by the House Committee on Veterans' Affairs.

This legislation is aimed at helping the World War I veteran and his widow.

The World War I veteran has long been the forgotten man. Even though I favored legislation which would go further in helping him during his retiring years, I would like to compliment our outstanding chairman, Congressman OLIN TEAGUE, of Texas, who was so influential in getting this legislation passed.

This legislation will enable widows of servicemen who were killed in action to receive an increase in monthly payments.

These measures will also make certain that veterans and widows who are receiving pensions for disability or death that is unrelated to military service will receive monthly increases.

Approximately 176,000 widows will receive a 10-percent increase in their monthly dependency and indemnity compensation rates and 46,000 children will receive a 5-percent increase if these bills are passed.

This legislation will also provide a cost-of-living increase in non-service-connected pension rates payable to approximately 1.6 million veterans and widows and would prevent these pensioners from losing any of their VA pensions because of the 1971 social security benefit increases.

It is my hope that Members of Congress will see their way fit to support this legislation and help these forgotten veterans.

Mr. TEAGUE of California. Mr. Speaker, I have no further requests for time.

Mr. TEAGUE of Texas. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE) that the House suspend the rules and pass the bill H.R. 11651.

The question was taken.

Mr. SAYLOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 351, nays 0, not voting 79, as follows:

[Roll No. 389]

YEAS—351

Abernethy	Collier	Goldwater	Landrum	Pirnie	Snyder
Abourezk	Collins, Tex.	Gonzalez	Latta	Poage	Spence
Abzug	Colmer	Grasso	Lennon	Podell	Springer
Adams	Conable	Gray	Lloyd	Poff	Staggers
Addabbo	Conte	Green, Oreg.	Long, Md.	Powell	Stanton,
Anderson, Calif.	Corman	Green, Pa.	Lujan	Preyer, N.C.	J. William
Andrews, Ala.	Cotter	Griffin	McClory	Price, Ill.	Stanton,
Andrews, N. Dak.	Coughlin	Griffiths	McCollister	Price, Tex.	James V.
Annunzio	Crane	Gross	McCormack	Pryor, Ark.	Steele
Archer	Culver	Grover	McCulloch	Pucinski	Steiger, Ariz.
Arends	Daniel, Va.	Gubser	McDade	Quie	Steiger, Wis.
Aspin	Daniels, N.J.	Gude	McEwen	Quillen	Stephens
Aspinall	Davis, Ga.	Hagan	McFall	Railsback	Stratton
Badillo	Davis, S.C.	Haley	McKinney	Randall	Stubblefield
Baker	Davis, Wis.	Hall	McMillan	Rarick	Sullivan
Baring	de la Garza	Hamilton	Madden	Rees	Symington
Begich	Delaney	Hammer-schmidt	Mahon	Reid, N.Y.	Talcott
Belcher	Dellenback	Hanley	Mailliard	Reuss	Taylor
Bennett	Denholm	Hansen, Wash.	Martin	Rhodes	Teague, Calif.
Bergland	Dennis	Harrington	Matsunaga	Riegle	Teague, Tex.
Bevill	Dent	Harsha	Mayne	Robinson, Va.	Terry
Biaggi	Devine	Harvey	Mazzoli	Robison, N.Y.	Thompson, Ga.
Biester	Dickinson	Hastings	Meeds	Rodino	Thompson, N.J.
Bingham	Dingell	Hathaway	Michel	Roe	Thomson, Wis.
Blanton	Donohue	Hays	Miller, Ohio	Rogers	Thone
Boggs	Dorn	Hechler, W. Va.	Mills, Ark.	Roncalio	Tiernan
Boland	Dow	Heinz	Mills, Md.	Rooney, N.Y.	Udall
Bow	Drinan	Helstoski	Minish	Rooney, Pa.	Ullman
Brademas	Duncan	Henderson	Mink	Rostenkowski	Van Deerlin
Brasco	du Pont	Hicks, Mass.	Minshall	Roush	Vander Jagt
Bray	Dwyer	Hicks, Wash.	Mizell	Roy	Vanik
Brinkley	Eckhardt	Hillis	Mollohan	Roybal	Veysey
Brooks	Edmondson	Hogan	Monagan	Ruppe	Waggonner
Broomfield	Edwards, Ala.	Holifield	Montgomery	Ruth	Waldie
Brotzman	Edwards, Calif.	Horton	Morgan	Ryan	Wampler
Brown, Mich.	Eilberg	Hosmer	Morse	St Germain	Ware
Brown, Ohio	Erlenborn	Howard	Murphy, Ill.	Sandman	Whalen
Broyhill, N.C.	Esch	Hull	Murphy, N.Y.	Sarbanes	White
Broyhill, Va.	Eshleman	Hungate	Myers	Satterfield	Whitehurst
Buchanan	Evans, Colo.	Hunt	Natcher	Saylor	Whitten
Burke, Fla.	Evins, Tenn.	Hutchinson	Nedzi	Scherle	Wiggins
Burke, Mass.	Fascell	Jacobs	Nelsen	Scheuer	Williams
Burleson, Tex.	Findley	Jarman	Nichols	Schmitz	Wilson, Bob
Burlison, Mo.	Fish	Johnson, Calif.	Nix	Schneebeli	Winn
Burton	Fisher	Johnson, Pa.	Obey	Schwengel	Wolff
Byrne, Pa.	Flood	Jonas	O'Hara	Scott	Wyatt
Byrnes, Wis.	Flowers	Jones, N.C.	O'Konski	Sebelius	Wydler
Byron	Flynt	Jones, Tenn.	Passman	Seiberling	Wylie
Caffery	Foley	Karth	Patman	Shipley	Wyman
Camp	Ford, Gerald R.	Kastenmeier	Patten	Shoup	Yates
Carey, N.Y.	Forsythe	Kazen	Pepper	Shriver	Yatron
Carney	Fountain	Keating	Perkins	Sikes	Young, Fla.
Carter	Fraser	Kee	Pettis	Sisk	Young, Tex.
Casey, Tex.	Frelinghuysen	Keith	Peyser	Slack	Zablocki
Cederberg	Frenzel	Kemp	Pickle	Smith, Calif.	Zion
Chamberlain	Frey	King	Pike	Smith, Iowa	
Clancy	Fulton, Tenn.	Kluczynski			
Clark	Fuqua	Koch			
Clawson, Del	Gallagher	Kuykendall			
Clay	Garmatz	Kyl			
Cleveland	Gaydos	Kyros			
	Gettys	Landgrebe			
	Giaimo				

NAYS—0

NOT VOTING—79

Abbitt	Ford, William D.	Metcalfe
Alexander	Galifianakis	Mikva
Anderson, Ill.	Gibbons	Miller, Calif.
Anderson, Tenn.	Goodling	Mitchell
Ashbrook	Halpern	Moorhead
Ashley	Hanna	Mosher
Barrett	Hansen, Idaho	Moss
Bell	Hawkins	O'Neill
Betts	Hébert	Pelly
Blackburn	Heckler, Mass.	Purcell
Blatnik	Ichord	Rangel
Bolling	Jones, Ala.	Roberts
Cabell	Leggett	Rosenthal
Celler	Lent	Rousselot
Chappell	Link	Runnels
Chisholm	Long, La.	Skubitz
Clausen, Don H.	McCloskey	Smith, N.Y.
Collins, Ill.	McClure	Steed
Conyers	McDonald, Mich.	Stokes
Danielson	McKay	Stuckey
Dellums	McKevitt	Vigorito
Derwinski	Macdonald, Mass.	Whalley
Diggs	Mann	Widnall
Dowdy	Mathias, Calif.	Wilson, Charles H.
Downing	Mathis, Ga.	Wright
Dulski	Melcher	Zwach
Edwards, La.		

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed:

The Clerk announced the following pairs:

Mr. Hébert with Mr. Anderson of Illinois.
Mr. Celler with Mr. Halpern.
Mr. Ashley with Mrs. Chisholm.
Mr. Mann with Mr. Ashbrook.
Mr. Mathis of Georgia with Mr. Hansen of Idaho.
Mr. Danielson with Mr. Bell.
Mr. Dulski with Mr. Lent.
Mr. Purcell with Mr. Blackburn.
Mr. O'Neill with Mr. Rousselot.
Mr. McKay with Mr. McClure.
Mr. Charles H. Wilson with Mr. Don H. Clausen.
Mr. Abbitt with Mr. Goodling.
Mr. Alexander with Mr. Pelly.
Mr. Blatnik with Mrs. Heckler of Massachusetts.
Mr. Cabell with Mr. McCloskey.
Mr. Chappell with Mr. Skubitz.
Mr. Dowdy with Mr. Smith of New York.
Mr. Rosenthal with Mr. Conyers.
Mr. Moorhead with Mr. Metcalfe.
Mr. Melcher wtih Mr. McKevitt.
Mr. Galifianakis with Mr. Rangel.
Mr. William D. Ford with Mr. Dellums.
Mr. Diggs with Mr. Derwinski.
Mr. Barrett with Mr. Stokes.
Mr. Moss with Mr. Mathias of California.
Mr. Runnels with Mr. McDonald of Michigan.
Mr. Downing with Mr. Mosher.
Mr. Mikva with Mr. Collins of Illinois.
Mr. Miller of California with Mr. Mitchell.
Mr. Gibbons with Mr. Whalley.
Mr. Link with Mr. Widnall.
Mr. Jones of Alabama with Mr. Zwach.
Mr. Wright with Mr. Hawkins.
Mr. Roberts with Mr. Stuckey.
Mr. Steed with Mr. Vigorito.
Mr. Ichord with Mr. Hanna.
Mr. Leggett with Mr. Betts.
Mr. Anderson of Tennessee with Mr. Macdonald of Massachusetts.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LIBERALIZATION OF PROVISIONS RELATING TO PAYMENT OF DEPENDENCY AND INDEMNITY COMPENSATION

Mr. TEAGUE of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11652) to amend title 38 of the United States Code to liberalize the provisions relating to payment of dependency and indemnity compensation.

The Clerk read as follows:

H.R. 11652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 411 of title 38, United States Code, is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a widow, based on the pay grade of her deceased husband, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E–1	$184	W–4	$262
E–2	189	O–1	232
E–3	195	O–2	240
E–4	206	O–3	257
E–5	212	O–4	272
E–6	217	O–5	299
E–7	227	O–6	337
E–8	240	O–7	365
E–9	[1] 251	O–8	399
W–1	232	O–9	429
W–2	241	O–10	[2] 469
W–3	249		

"[1] If the veteran served as sergeant major of the Army, senior enlisted adviser of the Navy, chief master sergeant of the Air Force, or sergeant major of the Marine Corps, at the applicable time designated by section 402 of this title, the widow's rate shall be $270.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the widow's rate shall be $503.

"(b) If there is a widow with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the widow shall be increased by $22 for each such child.

"(c) The monthly rate of dependency and indemnity compensation payable to a widow shall be increased by $55 if she is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person."

SEC. 2. Section 413 of title 38, United States Code, is amended to read as follows:

"Whenever there is no widow of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

"(1) One child, $92.

"(2) Two children, $133.

"(3) Three children, $172.

"(4) More than three children, $172, plus $34 for each child in excess of three."

SEC. 3. (a) Subsection (a) of section 414 of title 38, United States Code, is amended by striking out "$32" and inserting in lieu thereof "$55".

(b) Subsection (b) of section 414 of such title is amended by striking out "$88" and inserting in lieu thereof "$92".

(c) Subsection (c) of section 414 of such title is amended by striking out "$45" and inserting in lieu thereof "$47".

SEC. 4. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b) (1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $800 or less the monthly rate of dependency and indemnity compensation shall be $100. For each $1 of annual income in excess of $800 up to and including $1,200, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,200 up to and including $1,600, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,600 up to and including $1,900, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,900 up to and including $2,100, the monthly rate shall be reduced 6 cents; and for each $1 of annual income in excess of $2,100 up to and including $2,600, the monthly rate shall be reduced 7 cents. No dependency and indemnity compensation shall be paid if annual income exceeds $2,600.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula."

(b) Subsection (c) of such section 415 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $800 or less, the monthly rate of dependency and indemnity payable to each shall be $70. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,100 up to and including $1,700, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $1,700 up to and including $2,600, the monthly rate shall be reduced 4 cents. No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $2,600."

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,000 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $67. For each $1 of annual income in excess of $1,000 up to and including $1,300, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,300 up to and including $3,400, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $3,400 up to and including $3,800, the monthly rate shall be reduced 3 cents. No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $3,800."

(d) Subsection (g) of such section 415 is amended by redesignating paragraph (2) as (3), and by inserting immediately after subparagraph (1)(M) the following new paragraph:

"(2) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar."

(e) Such section 415 of title 38, United States Code, is further amended by adding the following new subsection at the end thereof:

"(h) The monthly rate of dependency and indemnity compensation payable to a parent shall be increased by $55 if such parent is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person."

SEC. 5. Section 417 of title 38, United States Code, is amended by striking out subsection (a) thereof, and by striking out "(b)".

SEC. 6. Sections 321 and 341 of title 38, United States Code, are each amended by striking out "(or after April 30, 1957, under the circumstances described in section 417 (a) of this title)".

SEC. 7. Section 724 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) In any case in which insurance continued in force under this section matures on or after January 1, 1972, an amount equal to the amount of premiums, less dividends, waived on and after that date shall be placed as an indebtedness against the insurance and, unless otherwise paid, shall be deducted from the proceeds. In such case, the liability of the Government under subsection (b) of this section shall be reduced by the amount so deducted from the proceeds."

SEC. 8. Any person who before January 1, 1972, was not eligible for dependency and indemnity compensation under such title by reason of the provisions of the prior section 417(a) of title 38, United States Code, may elect, in such manner as the Administrator of Veterans' Affairs shall prescribe, to receive dependency and indemnity compensation, and an election so made shall be final. A person receiving, or entitled to receive, death compensation on December 31, 1971, shall continue to receive death compensation, if otherwise eligible, in the absence of an election to receive dependency and indemnity compensation.

SEC. 9. Subsection (b) of section 322 of title 38, United States Code, is amended to read as follows:

"(b) The monthly rate of death compensation payable to a widow or dependent parent under subsection (a) of this section shall be increased by $55 if the payee is (1) a

patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person."

SEC. 10. This Act shall take effect on January 1, 1972.

The SPEAKER pro tempore (Mr. BOGGS). Is a second demanded?

Mr. TEAGUE of California. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas will be recognized for 20 minutes and the gentleman from California will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 11652.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE of Texas. Mr. Speaker, the chairman of the Subcommittee on Compensation and Pension, Mr. DORN, will explain the details of H.R. 11652, but I want to make some general comments concerning this second major proposal which our committee is recommending for the consideration of the Members.

One of the major obligations of our Nation in the field of veterans' legislation is directed to providing reasonable monetary assistance to widows, children, and dependent parents of veterans who died in the service or as a result of service-incurred disabilities. The modern program designed for this purpose was the outcome of extensive hearings and deliberations on the part of a Select Committee on Survivors Benefits which presented its recommendations in 1956. The legislation enacted was effective January 1, 1957. During the succeeding years this program for widows and other survivors has proven to be a marked improvement over the previous program. However, it has been necessary to amend it from time to time as the need for further improvements have been demonstrated.

H.R. 11652 is basically a rate increase bill which can be fully justified in the light of the cost-of-living increases which have occurred since the Congress last had under consideration the adequacy of the rates.

Mr. Speaker, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from South Carolina (Mr. DORN).

Mr. DORN. Mr. Speaker, H.R. 11652 is basically designed to provide a much needed cost-of-living increase in DIC benefits for widows, children, and depended parents of veterans who died as a result of service-incurred disabilities. Under the bill, approximately 176,000 widows will receive a 10-percent increase in their monthly DIC rates and 46,000 children will receive a 5-percent increase. The higher increase for widows results from the fact that the effective date of their last statutory increase was December 1, 1969, whereas the children rates were last increased on July 1, 1970. Bearing in mind that the increases under the bill will not be effective until January 1, 1972, the percentages I have mentioned will represent approximately the percentage rise in the cost-of-living figures.

The bill will also provide an average increase of 6.5 percent in the DIC rates payable to approximately 68,500 dependent parents. As you know, there are certain income limitations for this class of beneficiaries and the top limitation will be increased by $300.

Incidentally, this is consistent with the increase in the income limitation provided under the pension bill which has just been approved by the House.

With regard to the rates of DIC which are payable according to income, the bill sets up a new formula based on income. The principle of this formula was devised and recommended by the Veterans' Administration and was discussed in detail during our previous consideration of the pension bill, H.R. 11652.

For many years certain widows have been relegated to the death compensation rates rather than the higher DIC rates because their husbands unfortunately died with a so-called inservice waiver of their national service life insurance premiums. In effect, this has caused considerable hardship and, although liberalized to some extent in the past Congress, we have been made aware of great inequities that still exist. A provision in this bill would further liberalize this situation so that all widows may now receive the higher DIC rates. This provision was also recommended by the Veterans' Administration.

Finally, we recommend two minor amendments to the bill as introduced, which would grant an additional aid and attendance allowance of $55 per month to a dependent parent receiving death compensation—the bill as introduced extends this allowance to a parent receiving DIC—and a similar additional DIC allowance to a child who has become permanently incapable of self-support.

The cost of the bill for the first full year has been estimated as $67.8 million, increasing slightly each year thereafter and reaching $70.9 million the fifth year.

Mr. Speaker, at this point I insert in my remarks pertinent tabular and cost data which I believe will be useful and informative to the Members:

Mr. Speaker, I urge approval of H.R. 11652.

I include the following:

H.R. 11652 DIC—WIDOWS

Pay grade	Current rate	Proposed 10-percent increase
E-1	$167	$184
E-2	172	189
E-3	177	195
E-4	187	206
E-5	193	212
E-6	197	217
E-7	206	227
E-8	218	240
E-9	228	251
W-1	211	232
W-2	219	241
W-3	226	249
W-4	238	262
O-1	211	232
O-2	218	240
O-3	234	257
O-4	247	272
O-5	272	299
O-6	306	337
O-7	332	365
O-8	363	399
O-9	390	429
O-10	426	469
E-9—Senior NCO of Service	245	270
O-10—Chairman, Joint Chiefs or Chief of Staff	457	503

H.R. 11652 DIC—PARENTS

	Only 1 parent		2 parents not together		2 parents—together or remarried with spouse	
	Current	Formula	Current	Formula	Current	Formula
Income not more than—						
$100	$96	$100	$66	$70	$64	$67
200	96	100	66	70	64	67
300	96	100	66	70	64	67
400	96	100	66	70	64	67
500	96	100	66	70	64	67
600	96	100	66	70	64	67
700	96	100	66	70	64	67
800	96	100	66	70	64	67
900	94	97	64	68	64	67
1,000	91	94	61	66	64	67
1,100	87	91	58	64	62	66
1,200	81	88	54	61	60	65
1,300	75	84	50	58	58	64
1,400	69	80	46	55	56	62
1,500	62	76	41	52	54	60
1,600	54	72	35	49	52	58
1,700	46	67	29	46	49	56
1,800	38	62	23	42	46	54
1,900	31	57	20	38	44	52
2,000	25	51	16	34	42	50
2,100	18	45	14	30	40	48
2,200	12	38	12	26	38	46
2,300	10	31	10	22	35	44
2,400	------	24	------	18	33	42
2,500	------	17	------	14	31	40
2,600	------	10	------	10	29	38
2,700					27	36
2,800					25	34
2,900					23	32
3,000					21	30
3,100					19	28
3,200					17	26
3,300					14	24
3,400					12	22
3,500					10	19
3,600						16
3,700						13
3,800						10

THE FORMULA APPLYING TO DEPENDENT PARENTS

ONE PARENT

Top Monthly Rate—$100. (Countable income $800 per annum or less)

If income is in excess of $800 per annum, the $100 monthly payment is reduced on an individual basis through application of the following formula:

$801 through $1,200, payment reduced in amount of 3¢ per $1.00 of income above $800.

$1,201 through $1,600, payment reduced in amount of 4¢ per $1.00 of income above $1,200.

$1,601 through $1,900, payment reduced in amount of 5¢ per $1.00 of income above $1,600.

$1,901 through $2,100, payment reduced in amount of 6¢ per $1.00 of income above $1,900.

$2,101 through $2,600, payment reduced in amount of 7¢ per $1.00 of income above $2,100.

TWO PARENTS NOT LIVING TOGETHER

Top Monthly Rate—$70 each. (Countable income of each parent $800 per annum or less)

If income of each parent is in excess of $800 per annum, the $70 monthly payment is reduced on an individual basis through application of the following formula:

$801 through $1,100, payment reduced in amount of 2¢ per $1.00 of income above $800.

$1,101 through $1,700, payment reduced in amount of 3¢ per $1.00 of income above $1,100.

$1,701 through $2,600, payment reduced in amount of 4¢ per $1.00 of income above $1,700.

TWO PARENTS LIVING TOGETHER

Top Monthly Rate—$67 each. (Joint countable income is $1,000 per annum or less)

If joint income is in excess of $1,000 per annum, the $67 monthly payment is reduced on an individual basis through application of the following formula:

$1,001 through $1,300, payment reduced in amount of 1¢ per $1.00 of income above $1,000.

$1,301 through $3,400, payment reduced in amount of 2¢ per $1.00 of income above $1,300.

$3,401 through $3,800, payment reduced in amount of 3¢ per $1.00 of income above $3,400.

For example, in the case of two parents living together, the beneficiaries might have joint countable income of $3,453. Their DIC payment will be computed as follows:

$1,300	$3,400	$3,453
1,000	1,300	3,400
$300×1¢=$3	$2,100×2¢=$42	$53×3¢=$1.59

The above figures ($3, $42, $1.59) added produce a total of $46.59, which is then subtracted from the maximum monthly rate of $67, to provide for payment of DIC to these dependent parents in the amount of $20.41. Under current law, these parents are eligible to receive $10 per month, an increase under H.R. 11652 of $10.41 per month.

A comparison of old and new rates for widows receiving dependency and indemnity compensation follows:

WIDOWS[1]

	Current rate	H.R. 11652
Pay grade:		
E-1	$167	$184
E-2	172	189
E-3	177	195
E-4	187	206
E-5	193	212
E-6	197	217
E-7	206	227
E-8	218	240
E-9	228	251
W-1	211	232
W-2	219	241
W-3	226	249
W-4	238	262
O-1	211	232
O-2	218	240
O-3	234	257
O-4	247	272
O-5	272	299
O-6	306	337
O-7	332	365
O-8	363	399
O-9[2]	390	429
O-10[3]	426	469

[1] Applicable rate increased by $55 per month if beneficiary qualifies for aid and attendance.
[2] E-9 Senior NCO of service $245; under H.R. 11652 $270.
[3] O-10 Chairman Joint Chiefs or Chief of Staff, $457; under H.R. 11652, $503

COST

There follows an itemized breakdown of the cost of H.R. 11652 by years, by categories of beneficiaries, and in toto for the first 5 years.

H.R. 11652

SEC. 1

The estimated 5-year costs for sec. 1 are as follows:[1]

Year:	Cost
1	$45,500,000
2	47,100,000
3	48,200,000
4	49,500,000
5	50,700,000
Fiscal year 1972 costs (6 months)	22,700,000

The costs and caseloads detailed by paragraph are:

PAR. (a)—DIC RATE INCREASE TO WIDOWS

Year	Widows	Annual cost
1	183,000	$43,600,00
2	190,000	45,200.00
3	194,000	46,200.00
4	199,000	47,400.00
5	204,000	48,600.00

PAR (b)—DIC WIDOWS WITH 1 OR MORE CHILDREN; EACH CHILD FROM $20 TO $22

Year	Children	Annual cost
1	75,400	$1,800,000
2	79,900	1,900,000
3	82,490	2,000,000
4	85,900	2,100,000
5	89,300	2,100,000

PAR. (c)—DIC WIDOWS A. & A. AT $55

No change to present law.

SEC. 2

The estimated 5-year costs and caseloads for sec. 2 are:

INCREASED RATES TO DIC CHILDREN ALONE

Year	Children	Annual cost
1	46,600	$1,800,000
2	46,100	1,800,000
3	45,600	1,700,000
4	45,100	1,700,000
5	44,700	1,700,000

SEC. 3

The estimated 5-year costs and caseloads for sec. 3 are:

PARS. (a), (b), AND (c)—HELPLESS DIC CHILD, 1 CHILD FROM $32 TO $55, CHILD FROM $88 TO $92, AND (c) $45 TO $47

Year	Children	Annual cost
1	6,700	$700,000
2	7,700	700,000
3	8,700	800,000
4	9,600	900,000
5	10,500	1,000,000

SEC. 4

The 5-year estimated costs for sec. 4 are:

Year:	Costs
1	$15,500,000
2	15,000,000
3	14,300,000
4	13,700,000
5	13,100,000
Fiscal year 1972 costs (6 months)	7,750,000

The costs and caseloads for sec. 4 detailed by paragraphs are:

PARS. (a) THROUGH (d)

Year	Caseload	Costs
1	50,427	$2,900,000
2	48,551	2,900,000
3	46,440	2,700,000
4	44,329	2,600,000
5	42,218	2,500,000

PAR. (e)—DIC TO PARENTS $55 A & A AND SEC. 9. DEATH COMPENSATION TO PARENTS $55 A & A

Year	DIC parents		Compensation parents		Total parents	
	Number	Annual cost (millions)	Number	Annual cost (millions)	Number	Annual cost (millions)
1	3,200	$2.112	15,900	$10.494	19,100	$12.6
2	3,300	2.178	15,100	9.966	18,400	12.1
3	3,400	2.244	14,200	9.372	17,600	11.6
4	3,500	2.310	12,300	8.778	16,800	11.1
5	3,500	2.310	12,300	8.778	16,800	11.1
	3,600	2.376	12,400	8.184	16,000	10.6

SECS. 5 THROUGH 8

The 5-year estimated costs and caseload for secs. 5-8 are:

Year	Caseload	Costs
1	3,400	$4,400,000
2	3,400	4,400,000
3	3,400	4,400,000
4	3,400	4,400,000
5	3,400	4,400,000

Note: Though there would be some savings to the insurance fund(s) as a result of implementation of sec. 7, the amount would be insignificant. The amounts shown above, thus, would be attributable to the "Compensation and pensions" appropriation.

Total cost of H.R. 11652:[1]	
1st year	$67,800,000
2d year	69,000,000
3d year	69,400,000
4th year	70,200,000
5th year	70,900,000
Costs by fiscal year:	
1972	33,900,000
1973	68,400,000
1974	69,200,000
1975	69,800,000
1976	70,600,000
1977	71,200,000

[1] Total caseload figures are not shown, since there would be a significant number of beneficiaries that would benefit from more than 1 provision of the bill. A summation of the caseload figures shown under the various sections would be distorted by these duplications.

Mr. TEAGUE of California. Mr. Speaker, the bill, H.R. 11652, will provide a cost of living increase in dependency and indemnity compensation benefits payable monthly to the survivors of veterans who died in service or as the result of service-incurred disabilities. Included in the group that will benefit from this legislation are the widows, orphans, and dependent parents of men who died on the battlefield of our Nation's wars.

The increases are 10 percent for widows, 5 percent for children when there is no widow involved, and an overall increase of 6.5 percent for dependent parents. The variation in these percentages results from the fact that the increases are representative of increases in the cost of living since the last adjustment in the rates for each of these categories of survivors.

I want to express my appreciation to the gentleman from South Carolina (Mr. DORN), chairman of the Subcommittee on Compensation and Pension, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT), the ranking minority member, and their colleagues on the subcommittee for presenting this needed legislation. The Veterans' Administration has expressed its support of an adjustment in these benefit payments to compensate for price increases since the time when benefits were last increased. This is needed legislation, Mr. Speaker, and I shall support it.

Mr. TEAGUE of Texas. Mr. Speaker, I have no further requests for time.

Mr. TEAGUE of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. HAMMERSCHMIDT), the ranking minority member of the subcommittee.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 11652 will authorize a much-needed cost-of-living increase in the monthly rates of dependency and indemnity compensation payable to the survivors of veterans who died in service or as the result of service-connected disabilities.

Mr. Speaker, let me emphasize the fact that this bill relates exclusively to the

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survivors of service-connected deceased veterans. They are the widows, children, and dependent parents of men who were killed in action or died as the result of war wounds, injuries, or disabilities. The Congress has, since its beginning, given the highest priority consideration to this deserving group and no group of our citizens is more deserving of the compassion and generosity of a grateful nation. The increased cost of living has affected the survivors of our war casualties in the same manner as it has affected other segments of our society. H.R. 11652 authorizes increases in monthly benefits that are commensurate in most instances with the percentage rise in the cost of living since the last adjustment in their monthly benefits.

Existing law authorizes monthly payments of dependency and indemnity compensation to widows, with the amount based upon the pay grade of her deceased husband. These rates currently range from $167 per month for military pay grade E–1 to $457 monthly for the widow of the highest ranking O–10. If the widow has minor children, these rates are increased by $20 for each child.

Monthly payments to this deserving group were last adjusted on December 1, 1969. Since that time, the cost of living as measured by the Consumer Price Index has risen more than 9 points. The bill proposes an approximate 10-percent increase in monthly payments ranging from $184 monthly for the widow of an E–1 to $503 monthly for the highest ranking O–10. The additional allowance for children is increased to $22 for each child.

The Veterans' Administration also pays benefits to approximately 46,000 orphaned children of service-connected deceased veterans. These children are paid a flat statutory rate that is unrelated to the military rank of their deceased father. The payments currently range from $88 for one child to $164 for three children, plus $32 for each child in excess of three. Under the bill, these rates are raised to $92 and $172, respectively, plus $34 for each child in excess of three.

Under the law, parents are also entitled to monthly dependency and indemnity compensation payments. Unlike widows and children, however, parents receive benefits only if they meet certain dependency criteria. Dependency, under the law, is determined by a schedule of limitations on annual income, much in the same manner as the schedule utilized in the non-service-connected pension program. For example, in case of only one parent, a total annual income of less than $800 a year entitles the parent to the maximum monthly DIC payment of $96. The minimum DIC payment for one parent under existing law is $10 monthly for an annual income of more than $2,200 and less than $2,300.

This schedule, under the committee's proposal, is eliminated and an entirely new formula which is more responsive to increases in income from other sources is substituted. The new formula would prevent any loss of total income when the parent receives an increase in income from sources other than the DIC payments.

The bill also provides an aid and attendance allowance of $55 per month for dependent parents if they are in a nursing home or are so disabled they require the regular aid and attendance of another person. This is similar to the benefit that is already provided to certain seriously disabled veterans and widows. The current allowance of $32 for a helpless child who is incapable of self-support upon reaching the age of 18 years is increased to $55 monthly under the bill.

Mr. Speaker, this bill will provide needed increases to 176,000 widows, 46,000 children, and 68,500 dependent parents of service-connected deceased veterans. Administration spokesmen, during the hearings that produced this legislation, said:

> We believe DIC beneficiaries should be granted an adjustment in benefits to compensate for price increases that have occurred since the last benefit increase.

H.R. 11652 accomplishes this purpose. I urge that it be passed.

Mr. SAYLOR. Mr. Speaker, I rise in support of H.R. 11652. This bill will give a sorely needed cost-of-living increase to the widows, children, and dependent parents of those veterans who either died in service or after discharge from a service-incurred disability.

The increases are approximately 10 percent to widows, 5 percent to children, and 6.5 percent for dependent parents.

Income limitations are increased by $300 for dependent parents.

A very important change is an additional allowance of $55 to the parent who is a patient in a nursing home or who is so helpless or blind as to be in need of a regular aid or attendant. This same extra allowance is extended to parents receiving death compensation under the law in effect prior to January 1, 1957.

This measure also will permit those persons receiving death compensation because they were ineligible to elect to receive dependency and indemnity compensation to now make an election in favor of the latter.

The current extra allowance of $32 to a child who is over 18 and incapable of self-support will be increased to $55.

I believe this legislation is necessary and so favor it.

Mr. EDMONDSON. Mr. Speaker, I commend the great Committee on Veterans' Affairs for its action in recommending passage of H.R. 11652, and strongly support the bill.

Adjustment of payments to the widows and children of deceased veterans is urgently needed, and the bill substantially improves the economic position of these Americans.

I am sure the bill will be overwhelmingly approved.

Mr. ROBERTS. Mr. Speaker, as a member of the Compensation and Pension Subcommittee of the Committee on Veterans' Affairs, which favorably reported H.R. 11652, I am pleased to rise in support of it.

This bill proposes to provide a cost-of-living increase for a most deserving group—widows, children and dependent parents of veterans who died as a result of service-incurred disabilities.

Dependency and indemnity compensation benefits for eligible widows were last increased effective December 1, 1969. H.R. 11652 proposes to provide a 10-percent increase in the benefits for those widows and this amount of increase will more than adequately cover the percentage of increase in the cost of living since the date of their last increase.

Dependency and indemnity compensation benefits for eligible children were last increased July 1, 1970. Therefore, the 5-percent increase proposed by H.R. 11652 for these beneficiaries more than represents the increase in the cost of living since the date of their last increase.

H.R. 11652 further proposes to increase by $300 the annual income limitations for dependent parents receiving dependency and indemnity compensation benefits as well as provide an average increase of about 6.5 percent in the monthly rates. As a result of this bill's proposed rate and income limitation increases for dependent parents' DIC benefits, the Veterans' Administration has assured us that no dependent parent would lose his DIC payments nor have a loss in his aggregate income solely because of the 1971 increase in his social security benefits.

Under the current law, widows receiving dependency and indemnity compensation benefits are entitled to an additional $55 monthly aid-and-attendance allowance if they are suffering from disabilities which require the constant assistance of another person or they are patients in nursing homes. This bill proposes to also provide the additional $55 monthly aid-and-attendance allowance to eligible parents receiving benefits under the dependency and indemnity compensation program or the death compensation program.

H.R. 11652 would establish a new formula for the payment of dependency and indemnity compensation benefits to dependent parents whereby when a dependent parent receives an increase in income from some other source and, as long as his other income does not exceed the income limitation of the dependency and indemnity compensation program, he would not have a loss in his aggregate income. I think this is an outstanding feature of this bill and one which will do much to help relieve a dependent parent's anxiety in reference to the possibility of the loss in total income because of a reduction in DIC payments whenever there is an increase in his income from some other source.

Mr. Speaker, I am pleased to recommend this bill to my colleagues and urge its adoption.

Mr. TEAGUE of California. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE) that the House suspend the rules and pass the bill, H.R. 11652.

The question was taken.

Mr. SAYLOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 350, nays 0, not voting 80, as follows:

[Roll No. 390]

YEAS—350

Abernethy	Donohue	Karth
Abourezk	Dorn	Kastenmeier
Abzug	Dow	Kazen
Adams	Drinan	Keating
Addabbo	Duncan	Kee
Anderson, Calif.	du Pont	Keith
	Dwyer	King
Anderson, Tenn.	Eckhardt	Kluczynski
Andrews, Ala.	Edmondson	Koch
Andrews, N. Dak.	Edwards, Ala.	Kuykendall
	Edwards, Calif.	Kyl
Annunzio	Eilberg	Kyros
Archer	Erlenborn	Landgrebe
Arends	Esch	Landrum
Aspin	Eshleman	Latta
Aspinall	Evans, Colo.	Leggett
Badillo	Evins, Tenn.	Lennon
Baker	Fascell	Lloyd
Baring	Findley	Long, Md.
Begich	Fish	Lujan
Belcher	Fisher	McClory
Bennett	Flood	McCollister
Bergland	Flowers	McCulloch
Betts	Flynt	McDade
Bevill	Foley	McEwen
Biaggi	Ford, Gerald R.	McFall
Biester	Forsythe	McKinney
Bingham	Fountain	McMillan
Blanton	Fraser	Macdonald, Mass.
Boggs	Frelinghuysen	
Boland	Frenzel	Madden
Bow	Frey	Mahon
Brademas	Fulton, Tenn.	Mailliard
Brasco	Fuqua	Martin
Bray	Gallagher	Matsunaga
Brinkley	Garmatz	Mayne
Brooks	Gaydos	Mazzoli
Broomfield	Gettys	Meeds
Brotzman	Giaimo	Michel
Brown, Mich.	Goldwater	Miller, Ohio
Brown, Ohio	Gonzalez	Mills, Md.
Broyhill, N.C.	Grasso	Minish
Broyhill, Va.	Gray	Mink
Buchanan	Green, Oreg.	Minshall
Burke, Fla.	Green, Pa.	Mizell
Burke, Mass.	Griffin	Mollohan
Burleson, Tex.	Griffiths	Monagan
Burlison, Mo.	Gross	Montgomery
Burton	Grover	Morgan
Byrne, Pa.	Gubser	Morse
Byrnes, Wis.	Gude	Murphy, Ill.
Byron	Hagan	Murphy, N.Y.
Caffery	Haley	Myers
Camp	Hall	Natcher
Carey, N.Y.	Hamilton	Nelsen
Carney	Hammer-schmidt	Nichols
		Nix
Carter	Hanley	Obey
Casey, Tex.	Hanna	O'Konski
Cederberg	Hansen, Wash.	O'Neill
Chamberlain	Harrington	Passman
Clancy	Haraha	Patman
Clark	Harvey	Patten
Clawson, Del	Hastings	Pepper
Clay	Hathaway	Perkins
Cleveland	Hays	Pettis
Collier	Hechler, W. Va.	Peyser
Collins, Tex.	Heinz	Pickle
Colmer	Helstoski	Pike
Conable	Henderson	Pirnie
Conte	Hicks, Mass.	Poage
Corman	Hicks, Wash.	Podell
Cotter	Hillis	Poff
Coughlin	Hogan	Preyer, N.C.
Crane	Holifield	Price, Ill.
Culver	Horton	Price, Tex.
Daniel, Va.	Hosmer	Pryor, Ark.
Daniels, N.J.	Howard	Pucinski
Davis, S.C.	Hull	Quie
Davis, Wis.	Hungate	Quillen
de la Garza	Hunt	Railsback
Delaney	Hutchinson	Randall
Dellenback	Ichord	Rarick
Denholm	Jacobs	Rees
Dennis	Jarman	Reid, N.Y.
Dent	Johnson, Calif.	Reuss
Devine	Johnson, Pa.	Rhodes
Dickinson	Jonas	Riegle
Dingell	Jones, Tenn.	Robinson, Va.
Robison, N.Y.	Sikes	Tiernan
Rodino	Sisk	Udall
Roe	Slack	Ullman
Rogers	Smith, Calif.	Van Deerlin
Roncalio	Smith, Iowa	Vander Jagt
Rooney, N.Y.	Snyder	Vanik
Rooney, Pa.	Spence	Veysey
Rostenkowski	Springer	Waggonner
Roush	Staggers	Waldie
Roy	Stanton, J. William	Wampler
Roybal		Ware
Ruppe	Stanton, James V.	Whalen
Ruth		White
Ryan	Steele	Whitehurst
St Germain	Steiger, Ariz.	Whitten
Sandman	Steiger, Wis.	Wiggins
Sarbanes	Stephens	Williams
Satterfield	Stratton	Wilson, Bob
Saylor	Stubblefield	Winn
Scherle	Sullivan	Wolff
Scheuer	Symington	Wyatt
Schmitz	Talcott	Wydler
Schneebeli	Taylor	Wylie
Schwengel	Teague, Calif.	Wyman
Scott	Teague, Tex.	Yates
Sebelius	Terry	Yatron
Seiberling	Thompson, Ga.	Young, Fla.
Shipley	Thompson, N.J.	Young, Tex.
Shoup	Thomson, Wis.	Zablocki
Shriver	Thone	Zion

NAYS—0

NOT VOTING—80

Abbitt	Galifianakis	Mitchell
Alexander	Gibbons	Moorhead
Anderson, Ill.	Goodling	Mosher
Ashbrook	Halpern	Moss
Ashley	Hansen, Idaho	Nedzi
Barrett	Hawkins	O'Hara
Bell	Hébert	Pelly
Blackburn	Heckler, Mass.	Powell
Blatnik	Jones, Ala.	Purcell
Bolling	Jones, N.C.	Rangel
Cabell	Kemp	Roberts
Celler	Lent	Rosenthal
Chappell	Link	Rousselot
Chisholm	Long, La.	Runnels
Clausen, Don H.	McCloskey	Skubitz
	McClure	Smith, N.Y.
Collins, Ill.	McCormack	Steed
Conyers	McDonald, Mich.	Stokes
Danielson	McKay	Stuckey
Davis, Ga.	McKevitt	Vigorito
Dellums	Mann	Whalley
Derwinski	Mathias, Calif.	Widnall
Diggs	Mathis, Ga.	Wilson, Charles H.
Dowdy	Melcher	Wright
Downing	Metcalfe	Zwach
Duluski	Mikva	
Edwards, La.	Miller, Calif.	
Ford, William D.	Mills, Ark.	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Anderson of Illinois.
Mr. Celler with Mr. Halpern.
Mr. Ashley with Mrs. Chisholm.
Mr. Mann with Mr. Ashbrook.
Mr. Mathis of Georgia with Mr. Hansen of Idaho.
Mr. Danielson with Mr. Bell.
Mr. Dulski with Mr. Lent.
Mr. Purcell with Mr. Blackburn.
Mr. Davis of Georgia with Mr. Rousselot.
Mr. McKay with Mr. McClure.
Mr. Charles H. Wilson with Mr. Don H. Clausen.
Mr. Abbitt with Mr. Goodling.
Mr. Alexander with Mr. Pelly.
Mr. Blatnik with Mrs. Heckler of Massachusetts.
Mr. Cabell with Mr. McCloskey.
Mr. Chappell with Mr. Skubitz.
Mr. Dowdy with Mr. Smith of New York.
Mr. Rosenthal with Mr. Conyers.
Mr. Moorhead with Mr. Metcalfe.
Mr. Melcher with Mr. McKevitt.
Mr. Galifianakis with Mr. Rangel.
Mr. William D. Ford with Mr. Dellums.
Mr. Diggs with Mr. Derwinski.
Mr. Barrett with Mr. Stokes.
Mr. Moss with Mr. Mathias of California.
Mr. Runnels with Mr. McDonald of Michigan.
Mr. Downing with Mr. Mosher.
Mr. Mikva with Mr. Collins of Illinois.
Mr. Miller of California with Mr. Mitchell.
Mr. Gibbons with Mr. Whalley.
Mr. Link with Mr. Widnall.
Mr. Jones of Alabama with Mr. Zwach.
Mr. Wright with Mr. Hawkins.
Mr. Roberts with Mr. Stuckey.
Mr. Steed with Mr. Vigorito.
Mr. O'Hara with Mr. Powell.
Mr. Jones of North Carolina with Mr. Kemp.
Mr. McCormack with Mr. Nedzi.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING GRANTS FOR THE NAVAJO COMMUNITY COLLEGE

Mr. HALEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5068) to authorize grants for the Navajo Community College, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo Community College Act."

PURPOSE

SEC. 2. It is the purpose of this Act to assist the Navajo Tribe of Indians in providing education to the members of the tribe and other qualified applicants through a community college, established by that tribe, known as the Navajo Community College.

GRANTS

SEC. 3. The Secretary of Interior is authorized to make grants to the Navajo Tribe of Indians to assist the tribe in the construction, maintenance, and operation of the Navajo Community College. Such college shall be designed and operated by the Navajo Tribe to insure that the Navajo Indians and other qualified applicants have educational opportunities which are suited to their unique needs and interests.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. For the purpose of making grants under this Act, there are hereby authorized to be appropriated not to exceed $5,500,000 for construction, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations from 1971 construction costs as indicated by engineering cost indexes applicable to the types of construction involved, and an annual sum for operation and maintenance of the college that does not exceed the average amount of the per capita contribution made by the Federal Government to the education of Indian students at federally operated institutions of the same type.

The SPEAKER pro tempore. Is a second demanded?

Mr. STEIGER of Arizona. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida, Mr. HALEY, will be recognized for 20 minutes, and the gentleman from Arizona (Mr. STEIGER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida.

Mr. HALEY. Mr. Speaker, I yield 6 minutes to the gentleman from Colorado (Mr. ASPINALL).

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Mr. ASPINALL. Mr. Speaker, the purpose of H.R. 5068 is to authorize a Federal financial contribution to the construction and operation of the Navajo Community College, which is a college established and operated by the Navajo Tribe.

The bill as amended by the committee authorizes the appropriation of $5½ million as a grant to the Navajo Tribe to assist the tribe in the construction of the college. The bill also authorizes the appropriation of annual sums as a grant to the Navajo Tribe to assist in the operation and maintenance of the college. The latter sum may not exceed the average amount of the per capita contribution made by the Federal Government to the education of Indian students at federally operated institutions of the same type.

The Navajo Community College is the first college established on an Indian reservation, and it is the only college established and operated by an Indian tribe.

The college has been in operation since January 1969. It is presently using available space in the Many Farms High School building, which is a Federal school located on the reservation. Construction of the college buildings has begun, however, and construction will be undertaken in three stages as funds are available. The total estimated cost of construction is $17,000,000. This bill authorizes the Bureau of Indian Affairs to furnish $5,500,000 of that amount.

The annual cost of operation will vary with the number of students that are enrolled. The tribe has asked the Bureau of Indian Affairs to contribute $1,200,000 based on an enrollment of 400 students, and $3,360,000 based on an enrollment of 1,500 students. Both of these figures are within the formula adopted by the committee. The average per capita cost of Indian students attending three schools of higher learning that are operated by the Bureau of Indian Affairs is $3,700.

The Office of Economic Opportunity contributed the major portion of the funds used for the operation of the college to the present time. The grants totaled $2,292,899, and they were made as a part of a demonstration and research program. The OEO's evaluation is that the demonstration was a success, that the college is functioning successfully, and that it should be continued on a permanent basis.

The Navajo Community College is different from the ordinary community college. It is tailored to meet the unique needs of the Navajo people, adults as well as children. The student body includes people of all ages, and the curriculum includes academic, vocational, and adult education subjects. The college is intended to supplement, and not be a substitute for, other college opportunities. Some students may prefer to attend off-reservation colleges. Some of them may prefer to start at the community college and continue elsewhere. Others will not wish to leave the reservation and will want an education fitted to their reservation way of life. The college recognizes these different needs.

Enactment of the bill will involve the appropriation of $5,500,000 for construction money in fiscal years 1973 and 1974, and the appropriation of annual sums for the operation of the college that would not exceed $5,500,000 per year on the basis of present cost figures. For purposes of comparison, it should be noted that in connection with the elementary and secondary educational programs on the Navajo Reservation the Federal Government has spent more than $117,500,000 for construction during the past 10 years, and the current operation expense is more than $53 million per year. The proposed expenditures for the Navajo Community College are modest in comparison.

Mr. STEIGER of Arizona. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to tell the distinguished gentleman from Colorado (Mr. ASPINALL) how very enthusiastic I am about this legislation and sincerely appreciate the efforts of both the gentleman from Colorado and the gentleman from Florida (Mr. HALEY) in bringing this legislation before the House.

Mr. Speaker, the purpose of this bill is to authorize Federal financial contribution to the construction and operation of the Navajo Community College in an amount not to exceed $5,500,000 for construction, plus or minus amounts justified by reason of fluctuations from 1971 construction costs as indicated by applicable engineering cost indexes and an annual sum for operation and maintenance of the college that does not exceed the average amount of the per capita contribution made by the Federal Government to the education of Indian students at federally operated institutions of the same type.

The Navajo Community College was established by and has been run by the Navajo Tribe of Indians since January 1969. Current enrollment is 571. Expected enrollment after completion of the new facilities is 1,500. The college has been funded by the tribe, the Office of Economic Opportunity, and by gifts and contributions. Since its inception, the college has been operating in unused space in the Many Farms High School in the Navajo Reservation at Many Farms, Ariz. That space will shortly be needed by the high school.

This college is unique and the need for it is unique. The Navajo population of school-age children is 55,181. There is no other local institution of higher learning on the reservation. Many Indians are unwilling to leave their homes to attend colleges. Many of those that do leave find their new environment hostile and drop out. Many cannot find the type of training they want. The college is tailored to meet the needs of the Navajo people—adults and children. People of all ages will be attending the school. The curriculum contains academic, vocational, and adult education subjects. At full capacity, it is estimated that two-thirds of the students enrolled in the college will be taking vocational-technical courses.

In order for the college to expand to an expected enrollment of 1,500, Federal funds will be needed. The estimated cost of building and equipping the college plant is $17,000,000. The Navajo Tribe anticipates contributing $1,000,000 toward construction and about $2,000,000 are expected to be contributed by industry, foundations, and individuals of which $98,000 have already been committed. The Department of Housing and Urban Development is expected to loan $5.5 million, and the Bureau of Indian Affairs is expected to allocate a like amount. The Economic Development Administration is expected to allocate $3,000,000 toward construction.

Annual operating costs will increase as the college enrollment increases. Presently, those costs are about $1.3 million. The tribe is currently contributing $250,000 a year toward operations and expects to continue making contributions. The Bureau of Indian Affairs has been asked to contribute $1,200,000 toward operating funds for an enrollment of 400 and $3,360,000 when enrollment is at full capacity. The need for Federal operating grants, in part, depends on the number of non-Bureau of Indian Affairs scholarship students able to meet tuition charges from personal or scholarship funds. The Committee on Interior and Insular Affairs agreed with the general policy recommendation of the Department of the Interior that the amount of Federal support for Indian students attending the college should not exceed the present per capita amount which the Federal Government pays for the education of Indian students at federally operated institutions. The bill limits annual Federal grants for operations to that amount.

I also want to point out that the college is and will be open to anyone qualified for admittance. To make that absolutely clear, the Committee on Interior and Insular Affairs amended the bill to so state.

The project, the Navaho Community College, is an example of Indian self-determination at its very best. It is the first college established on an Indian reservation and operated by an Indian tribe. The project is worthy of Federal assistance. I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the ranking member of the committee, the gentleman from Pennsylvania (Mr. SAYLOR).

Mr. SAYLOR. Mr. Speaker, I rise in support of H.R. 5068, a bill which would authorize the appropriation of $5.5 million for construction money which will probably be appropriated in fiscal years 1973 and 1974; and the appropriation of annual sums for operations, all for the Navajo Community College.

This is a case of helping those who have helped themselves. The Navajo Community College was established by the Navajo Indian Tribe in 1969. It is open to all qualified applicants. The college is run by the Navajo Tribe. The tribe contributes $250,000 annually toward operation of the college and expects to contribute $1 million toward construction of the new college plant. The Office of Economic Opportunity contributed a major portion of the cost of the college's operation to the present time under its demonstration and research grants program. OEO's evaluation of the project, as testified to before the Committee on Interior and Insular Affairs, is that it is an unqualified success.

The Navajo Tribe recognized the need for education beyond high school to keep abreast of our rapidly changing technologically oriented economy. Although some Indians do leave their reservation, enroll in existing colleges and successfully complete the prescribed course of study, of 760 Navajos enrolled in college in 1969, only 47 graduated. The reasons advanced for that woeful statistic are that tribal members are not generally willing to leave their homes to attend college; that the curriculums offered are not relevant in many instances, and that they have great difficulty in adjusting to an environment essentially alien to all they have known. In contrast to that depressing statistic, the present enrollment at the Navajo Community College is reported to be 571 students. Anticipated enrollment when the college reaches full operating capacity is 1,500.

In answer to the problems met by Navajo students at existing off-reservation colleges, the curriculum offered at the Navajo Community College encompasses not only educational subjects, but vocational and technical subjects as well. Students at the college are young and old alike. The college administrators estimate that eventually two-thirds of the student body will be enrolled in vocational and technical courses.

The college is presently accredited by other colleges in Arizona, New Mexico, and Utah and is working toward nationwide accreditation. The North Central Association of Colleges and Secondary Schools has recognized the college and awarded it correspondent status.

For this college to succeed, for it to meet the anticipated needs of the Navajo Indian community, it is going to have to have permanent quarters and associated equipment. It is presently operating out of borrowed rooms in the Many Farms High School located on the reservation under an agreement with the Bureau of Indian Affairs. Several institutions, foundations, and individuals have contributed money or will contribute money toward construction of the campus. The Department of Housing and Urban Development will loan funds for the project. The tribe, itself, will contribute funds. Of the $17 million necessary for construction, the Federal Government has been asked to contribute as a grant $5.5 million, a little over one-third.

It costs money to operate a school as well. The Federal contribution to operations will be in an amount that does not exceed the average amount of the per capita contribution it now makes to the education of Indian students at federally operated institutions of the same type. The tribe and others will also contribute.

In order to insure that this Indian-established, Indian-operated, and Indian-designed school will be built; in order to assure the Indians of the Navajo community and other qualified applicants will have the educational opportunities suited to their needs and interests, I urge your support in passing this bill.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Illinois.

Mr. CRANE. I have a question in connection with the $117 million that has been appropriated over the past 10 years for the construction of schools on the Navajo Reservation.

Mr. STEIGER of Arizona. I do not have the figure before me but there have been a great number of schools erected for elementary and secondary education for the some 130,000 Navajo people. Yes; I assume, since the gentleman has figures there, they are probably accurate.

Mr. CRANE. Then the $117 million deals with primary and secondary schools exclusively; is that correct?

Mr. STEIGER of Arizona. Yes. Heretofore there has been no institution of higher learning on the Navajo Reservation at all. So, the $117 million to which the gentleman refers—and I see the figure now—is only in connection with elementary and secondary education.

Mr. CRANE. Mr. Speaker, if the gentleman will yield further, then the question I have is this: Are not the regular colleges and universities in the States of Arizona and New Mexico and elsewhere in the United States, for that matter, available to graduates of those primary and secondary schools on the reservation?

Mr. STEIGER of Arizona. Yes. There has been no prohibition against Indian attendance at any non-Indian college or university. However, the historical facts are that the Indian students in the non-Indian colleges and universities simply have not been able to cope with the non-Indian curriculum and, therefore, the dropout rate has been phenomenal.

As the gentleman knows, I am highly conservative when it comes to the expenditure of tax dollars, but in my view this will be money extremely well spent because it will require the Indians themselves to make a major contribution and especially the Navajo Tribe to make a major contribuition.

It will require that the students themselves achieve a level at which they are able to achieve and make themselves self-sufficient, and thus remove a burden which has heretofore been present. I am enthusiastic about this program because the BIA has nothing to do with this program, and that makes me, as I say, very enthusiastic about its possible success.

Mr. CRANE. I too share the gentleman's enthusiasm over the absence of the Bureau of Indian Affairs' involvement, but I was questioning the primary and secondary levels of education there, and wondering if they are equipping the Navajo youngsters upon graduation from high school to assume the normal curriculum, unless the overwhelming emphasis in this post-high-school education would be almost exclusively a vocational and technical training designed to meet the needs of the Navajo Reservation.

As I understand it, a portion of it will be performed in technical and vocational training, but I also gather that a portion of it will be designed to help the Navajo youngsters in their transition from the high school to the liberal arts curriculum beyond their 2-year experience in a community college at the colleges and universities of their choice.

Mr. STEIGER of Arizona. I appreciate the gentleman's concern, and his concern is justified, but in this instance in which the Indians have taken control over their own elementary and secondary educational schools, such as at Rough Rock and at Many Farms, we have found that these Navajo children are better able to go on and cope with both Indian and non-Indian higher education. Because the gentleman's concerns are valid I would tell the gentleman that this, as far as I am concerned, is a step in the right direction, but it is by no means the entire ball game.

Mr. HALEY. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Florida.

Mr. HALEY. Mr. Speaker, I thank the gentleman for yielding, and I have taken this time for the purpose of responding to the gentleman's question.

This college will not prohibit in any way an Indian who wants to attend the college of his or her choice. This is a college that we are trying to build so that the Indians can learn a career and be able to cope with many things. He does not have to be a Ph. D. to make a living. And I might add, as I am sure the gentleman is well aware, the fact there are other colleges in the State of Arizona and the other States involved, but when these Indians attend these schools, these schools may be hundreds of miles from any Indian reservation. So what we are really trying to do is to assist the Indians to get on a footing of some equality by receiving an opportunity aimed at preparing them to go through their later life.

Mr. KYL. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman from Iowa.

Mr. KYL. Mr. Speaker, the gentleman from Illinois has, of course, asked a very intelligent question, and has opened up an entire area of discussion here. He ought to have a complete response.

In the first place, the Navajo Reservation is a special place with special problems. You have to remember that one out of every six Indians in the United States is a Navajo, so you have a big concentration of Indian population here. Further, as a matter of hard, cold, practical facts, 60 percent of the adult Navajo Indians do not speak English. What you have here is not a vestige of Indian civilization and Indian life, but a very practical, living example of the same.

Now, we have adopted the philosophy in recent years that we are not going to try to remake our Indian citizens in our own image. We are, as far as possible, retaining for those people all that they consider is good from their own culture.

This immediately creates a big problem for the Indian, and for the Government, and everybody else. But if we are going to permit the Indians to retain their culture we also have to find ways of accommodating that culture and the education of these Navajos into our own

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culture so that the Indian will have an opportunity to move either way.

This school will offer a unique opportunity. The student will have an opportunity to go to school and to take academic subjects which prepare him for transfer to another institution.

But beyond that, this is really a pilot project which has already been proven beneficial and workable. There will be people in this community college who never went to high school. There will probably be people who never were in school at all. There will be people who had their education interrupted. In my own mind, and I think this particular philosophy might appeal to the gentleman from Illinois, when I look at the Navajo's culture itself, I see many things we ought to adopt in a measure in our civilization. For instance, the Navajo believes sincerely that a man is part of nature, but a no more important part than anything else. We can use some of that philosophy. The Navajo believes that he suffers ill health when he falls out of harmony with the balanced nature. There is something in each culture with benefit for both.

This Navajo college, I am convinced, offers the best opportunity we have ever had to give these people control of their own education and to get the things they need in that education.

Mr. CRANE. Mr. Speaker, will the gentleman yield?

Mr. STEIGER of Arizona. I yield to the gentleman.

Mr. CRANE. Mr. Speaker, I appreciate the remarks the gentleman just made. Certainly, I am all in favor of permitting individuals in our society to the extent possible to develop their own cultures.

In the debate we had on the floor just last week, I commented on the fact that unfortunately historians have worked to blur some of those cultural inputs in American society in times past which I think is unfortunate because there is a richness in all of these cultures.

My concern over this bill is not so much the moneys allocated for vocational or adult education, but those falling under the designation "academic."

If by academic that phrase is intended to comprehend traditional requirements of a liberal arts college and university, it would seem to me that it might be more prudent to divert the moneys from that emphasis in the bill to making scholarships available to these Navajo youngsters who can make that transition and permit them to go to the University of Arizona or University of New Mexico or to Northwestern University in my own congressional district.

Mr. STEIGER of Arizona. I would just respond to the gentleman by saying that there is in my view more than an adequate mix of both the academic and vocational current proposed plans—or two-thirds vocational.

So I think all of the objections have been complied with.

Mr. Speaker, I yield back the balance of my time. I have no further requests for time.

Mr. HALEY. Mr. Speaker, I recommend the enactment of H.R. 5068.

The Navajo Community College started as an experiment in 1969 with financial backing from the tribe, from several governmental agencies, private foundations, and business organizations. It has demonstrated during the past few years that the college will fill a long-felt need of the Navajo people. It has support from Indians of all ages, and it is time now to provide a firm statuory base for the future operation of the college.

The construction costs are estimated to total about $17 million although the full amount of the money is not "in hand," so to speak; most of it is committed and the college can reasonably be expected to raise the rest of the money that is needed. The contribution to construction costs that is authorized by this bill is $5,500,000, and that is a reasonable sum when compared with the $100,000,000 plus in Federal money spent on elementary and primary school construction on the Navajo Reservation during the past 10 years.

The Federal contribution to the annual operating costs of the college will be limited to the average per capita cost of sending an Indian student to one of the Federal schools for post high school education.

The Indian Affairs Subcommittee expects to maintain continuing legislative oversight of the college, and I have great hope that the college will make an increasing contribution to the education of all age groups on the reservation.

Mr. RHODES. Mr. Speaker, we have before us H.R. 5068, "A bill to authorize grants for the Navajo Community College, and for other purposes." I strongly support this bill and urge that it receive favorable consideration by this body.

For many years the Navajo Tribe has expended substantial efforts to insure educational opportunities for tribal members. Clear proof of this commitment is provided by the figures showing an increasing number of Navajo students enrolled in and completing academic programs.

Yet for the Navajo there are often sacrifices standing in the way of education that few of the rest of us have had to face. There is a sizable number of Navajo high school graduates who are neither interested nor willing to leave their homes to go to college, and, furthermore, many of those who do leave for college will face the very serious problem of trying to adjust to a totally new environment.

Attempting to meet this dilemma, the Navajo Tribe organized and established the Navajo Community College in 1969. Since that time the college has been operating out of the Many Farms High School on the reservation. But, enrollment has increased because the program is working, and there is a desperate need for a separate facility. The Navajos need assistance to meet construction costs and operational expenses. This bill is designed to provide such aid.

The Navajos have done a good job in establishing this institution and the early steps in the accreditation process have already been achieved. I urge the passage of this worthwhile piece of legislation.

Mr. HALEY. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. STEIGER of Arizona. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days during which to extend their remarks on the bill H.R. 5068.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. HALEY) that the House suspend the rules and pass the bill H.R. 5068, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

INVOLUNTARY CONVERSION TREATMENT FOR REDWOOD TRACTS TAKEN FOR PARK

Mr. ULLMAN. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 11080) relating to the income tax treatment of just compensation received from the United States with respect to property taken under the act of the Congress which established the Redwood National Park, as amended

The Clerk read as follows:

H.R. 11060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act shall apply to any taxpayer—

(1) property of which was compulsorily or involuntarily converted into other property or money by reason of the establishment of the Redwood National Park in Del Norte and Humboldt Counties, California, pursuant to the Act of October 2, 1968 (Public Law 90-545),

(2) which elects the application of this Act pursuant to subsection (b), and

(3) which agrees to accept compensation for the property so converted to the maximum extent of the available resources provided in section 5 of such Act of October 2, 1968 (to the extent such resources are offered to such taxpayer by the Secretary of the Interior or his delegate).

Nothing in paragraph (3) or in any other provision of this Act shall be deemed to affect in any way the right of any person to administrative or judicial proceedings to determine the fair market value of property converted or of property received pursuant to such Act of October 2, 1968.

(b) (1) An election made by the taxpayer to which this Act applies shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe.

(2) In connection with any such election—

(A) the taxpayer shall choose whether or not paragraph (2) of section 2(a) is to apply with respect to all amounts described in such paragraph (2), and

(B) the taxpayer shall, at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, designate the particular properties with respect to which the reduction of basis required by section 2(b) is to be made.

(3) Any election made by the taxpayer to which this Act applies, and any choice or designation described in paragraph (2), shall be binding for the first taxable year affected thereby and for all subsequent taxable years, unless the Secretary of the Treasury or his delegate permits a revocation of such election, choice, or designation, as the case may be.

SEC. 2. (a) In applying section 1033(a)(3) of the Internal Revenue Code of 1954 (relating to involuntary conversions) in the case of a taxpayer to which this Act applies—

(1) The term "other property similar or related in service or use to the property so converted" includes (A) property to be held for productive use in a trade or business of the same kind as one in which the taxpayer, or a corporation controlled by the taxpayer, was engaged on October 2, 1968, and (B) land (and any interest in land), standing timber, and contract rights to cut timber.

(2) The term "acquisition of control of a corporation owning such other property" includes amounts received as payment pursuant to such Act of October 2, 1968, which are paid after October 2, 1968, to purchase or redeem any stock of the taxpayer which was issued during the period beginning on January 1, 1967, and ending on December 31, 1971, in the acquisition of control of a corporation (or to purchase or redeem stock equivalent thereto in number and class of shares).

(3) In lieu of the period referred to in subsection (a)(3)(B), the replacement period referred to in subsection (a)(3)(A)—

(A) except as provided in subparagraphs (B) and (C), shall be the period beginning on January 1, 1967, and ending on December 31, 1973, or

(B) in the case of any money received after December 31, 1970, pursuant to such Act of October 2, 1968, shall be 3 years after the close of the taxable year in which such money is received.

(b) To the extent gain is not recognized because subsection (a)(2) applies, such gain shall be applied to reduce the basis for determining gain or loss of the following categories of property held by corporations controlled by the taxpayer on October 2, 1968, or corporations, control of which was acquired before January 1, 1972, in the following order:

(1) Property which is similar or related in service or use (within the meaning of section 1033 of such Code, as modified by subsection (a) of this section);

(2) Property which is of a character subject to the allowance for depreciation under section 167 of such Code;

(3) Other tangible property; and

(4) Intangible property

The manner and amount of the reduction to be applied to a particular property within any of the categories described shall be determined under regulations prescribed by the Secretary of the Treasury or his delegate.

The SPEAKER pro tempore. Is a second demanded?

Mr. WALDIE. Mr. Speaker, I am in opposition to the bill, and I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, this bill, H.R. 11080, relates to the reinvestment of money and property which is received by taxpayers for redwood tracts which are taken by the United States for the purpose of establishing a Redwood National Park in California.

A bill provides, in general, that upon the election of the taxpayer, gain is not to be recognized for Federal income tax purposes when money is received from the United States for the redwood tracts. For the taxpayers to obtain nonrecognition of gain under this bill, the money must be reinvested in property used in a trade or business engaged in by the taxpayer when the redwood tracts were taken or, it must be used, in certain situations, to redeem its own stock.

In 1968, Congress provided for the creation of a Redwood National Park in California. To create this park redwood timberlands of a number of taxpayers were taken for public use. These taxpayers will be paid, or have been paid, in part in cash and in part in other timberland which the United States is exchanging for the redwood tracts. Present law allows nonrecognition only if the proceeds from an involuntary conversion are reinvested in property which is "similar or related in service and use," or, in the case of real property, property which is of a "like kind." Since the supply of redwood timber is limited it will not be possible in many situations for the taxpayers to reinvest the cash proceeds in redwood property. Also, some of these taxpayers were involved only in redwood logging and were not equipped to engage in the cutting of other types of timber.

Because of these circumstances, the committee felt that it was appropriate to allow these taxpayers, whose property was taken for the creation of the national park, to reinvest the sale proceeds in other businesses of the same kind as those in which the taxpayers were engaged at the time their redwood tracts were taken by the United States.

The provisions of this bill will apply only when three conditions are met. First, the bill has application only when property is taken by the United States under the Redwood Act. Second, the bill applies only at the election of the taxpayer. Third, the bill applies only if the taxpayer agrees to accept, as part of the compensation of the redwood tracts, certain other timberlands which the United States has offered to the taxpayer in exchange for the redwood property. This latter requirement was suggested by the Department of the Interior, which has no objection to the bill.

If these three qualifications are met the taxpayer then may obtain nonrecognition of the gain on the redwood property if the money is either: First, invested in property used in a trade or business in which the taxpayer was involved at the time of the taking; or Second, used, under certain conditions, to redeem the taxpayers own stock.

The right to redeem its own stock, and obtain nonrecognition, is limited to the extent the taxpayer issued stock during a 5-year period, 1967 through 1971, to acquire control of another corporation. Under present law, taxpayers reinvesting sales proceeds from an involuntary conversion in stock of another corporation, need not reduce the basis of the assets of that corporation by the amount of gain not recognized. This bill treats taxpayers more severely by requiring a basis reduction.

In this connection, I wish to make a point that, due to a printer's error on page 4 of the committee report, was not made entirely clear in that report. Under the bill, the gain not recognized because of the redemption of stock will be applied to reduce the cost—or other basis—of the property of the controlled subsidiaries in the following order:

First, to property similar to that converted,

Second, to depreciable property,

Third, to other tangible property, and

Fourth, to intangible property.

The period during which taxpayers may reinvest sales proceeds under this bill expires at the end of 1973, or 3 years after the close of the taxable year in which the sales proceeds were received, if later. It is estimated that this bill will reduce revenues by $25 million over the period the bill is applicable. The Treasury does not oppose this bill.

Because the redwood bill came through the Committee on Interior and Insular Affairs, at this time I yield to the distinguished chairman of that committee, the gentleman from Colorado (Mr. ASPINALL).

Mr. ASPINALL. Mr. Speaker, the legislation now before the House involves the income tax treatment of involuntary conversions resulting from the creation of the Redwood National Park in the State of California.

At the time that the Committee on Interior and Insular Affairs and the Congress was considering the authorization of this important national park, everyone recognized that the quantity of old-growth redwoods was severely limited. Conservationists testified that a park should be created so that the giants of nature would not disappear from the face of the earth. Timber companies argued that they should be permitted to harvest them at a reasonable rate because substitute sources of the product could not be found elsewhere. Many citizens living in the communities involved lamented the prospect of the demise of the redwood forest products industry.

Because we were persuaded that a national park should be created to protect a substantal portion of the remaining redwood forests of northern California, the park was authorized. At that same time, in order to resolve the matter as expeditiously as possible, to avoid future cost escalation, and to prevent the harvesting of timber in the area during the period of time between the authorization and the funding, the Congress provided for the legislative taking of the lands within the park boundaries.

As a result of that action, the owners of lands subject to the terms of that act were automatically and immediately divested of title to their property. Naturally, the act provided that they should receive just compensation for their holdings, as is always the case when lands are condemned, but questions concerning the ramifications of this action on the taxable income of the persons and companies involved remained unresolved.

During our deliberations on that legislation, it was emphasized that suitable substitute lands of the same quality and quantity were not available for purchase by any landowner holding lands within the park. Because of this fact, the Interior and Insular Affairs Committee was urged to recommend an amendment which would allow affected companies to reinvest the proceeds arising from the involuntary sale of their lands to the Government in other activities without suffering a tax penalty. We could not make such a recommendation, because we had

no jurisdiction over legislation affecting the Nation's tax laws, but I did agree to introduce legislation to grant the equitable relief sought because of these unusual circumstances. This legislation is the outgrowth of that commitment.

During the 91st Congress, the Committee on Ways and Means considered a comparable measure (H.R. 14873) and recommended its enactment on December 18, 1970, but the matter was approved too late to be considered by the House. This year, similar legislation was reintroduced. It has again been reviewed and reported favorably by the committee having primary jurisdiction over tax measures. There is no question in my mind that this matter has been thoroughly reviewed and I fully support the recommendations which the committee has made.

Mr. Speaker, the basic thrust of this legislation has been explained by our colleague from Oregon (Mr. ULLMAN). There is no need for me to consume the time of the House repeating the points already made. I merely wanted to take this moment to refresh the memories of the Members on the background which led to the introduction of this legislation.

I recommend the approval of H.R. 11080, as recommended by the Committee on Ways and Means.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Texas for a question.

Mr. BROOKS. Mr. Speaker, I would like to ask the acting floor leader of this legislation, my distinguished and old friend, the gentleman from Oregon, if he believes that this policy—of allowing recipients of funds—to reinvest them in whatever they want in effect—should be true for other types of forests?

If the Federal Government took for national parklands or some other place hardwoods or pine, for instance, would not those companies, geared up to operate pine or hardwood timbering operations, be entitled to the same treatment?

Mr. ULLMAN. Mr. Speaker, I would say to my friend, the gentleman from Texas, that one reason this legislation is before us is because we created the park and through involuntary conversion took a substantial bloc of the redwood timber from four different companies. But another reason we have the legislation is that, because of the limited supply of redwood forest, there just simply is not enough redwood available for reinvesting, so we thought it was only fair under those particular and unique circumstances to allow the tax deferral with respect to reinvestments in other businesses that the companies were then in.

Mr. BROOKS. Did they not take into consideration in determining the value of that land on which they based their payments the scarcity and the value of it as it stood there?

Mr. ULLMAN. The timber companies contend that they did not. As a matter of fact, it probably will be some time before the final valuation is placed on the timber.

Mr. BROOKS. They are in court on that now?

Mr. ULLMAN. They are, and will be for some time, I presume. This is written right in the bill, that the bill is not to affect in any way the right of any person in determining the fair market value of the property.

Mr. BROOKS. Does the gentleman feel pine timber owners or mixed hardwood owners would have that same opportunity, since they of course allege it is difficult to acquire pine or hardwood, or any other kind of timber?

Mr. ULLMAN. Might I say that pine is not in short supply. Redwood is grown in a very limited area, and pine is grown throughout the Nation. One could never make that argument.

In this case there is a very limited commodity, and there was not land available. The amount of forest they did make available for exchange was completely taken by the four companies involved in the transaction.

Mr. Speaker, I am willing to yield briefly to the ranking minority member of the committee, the gentleman from Wisconsin (Mr. BYRNES).

Mr. BYRNES of Wisconsin. Mr. Speaker, I might like to comment later. If there is opposition to the legislation it would be well to have them use some of their time.

Mr. CAREY of New York. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield briefly to the gentleman from New York (Mr. CAREY).

Mr. CAREY of New York. I just wanted to add that I had the privilege of being a member of the Subcommittee on National Parks of the Committee on Interior and Insular Affairs when we in a sense put together the elements of the compromise that produced the Redwood Park. I now serve on the committee with the gentleman handling this bill.

I assure the Members of the House there was an overriding consideration of attempting to get the utmost acreage of redwoods at the most economical possible cost. The longer we delayed the less possibility there was of getting a decent redwood stand in our National Park for preservation.

I defend now, as I did then, the principle of the exchange of lands in order to reduce the cost and add acreage of redwoods. This is one element of the compromise which, if not passed, would be an attempt to renege on the part of the Congress on the deal we entered into to try to preserve as much employment as possible at the same time we created the park.

I support the bill most firmly.

Mr. ULLMAN. I thank the gentleman from New York.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. WALDIE).

Mr. WALDIE. Mr. Speaker, I do not want to suggest what I am proposing here, that this bill be voted down, would be in any way a reneging on any commitment. I have read the reports thoroughly, and I recall there was a proposal to exchange land as a part of the purchase price. That proposal has been implemented, and as to those quantities of the purchase price represented by an exchange of land this bill has no application. They are treated as every other taxpayer of the United States is treated. They get a section 1033 investment privilege by the investment in the exchange of lands.

It is only in the cash that this bill treats these four companies unlike any other taxpayer in the United States.

In cash, then, that is roughly a $25 to $30 million tax break. It cannot be described in any other way. No other taxpayer in the United States except for these three companies by this special legislation will receive this sort of tax treatment. They have the right now to receive and they are receiving fair and just compensation. They have the right, as does every other taxpayer in the United States, to invest that fair and just compensation in like or similar property. If they do that, they escape the captal gains consequences of that condemnation action.

However, they want more than that right which every other taxpayer has. They want a special privilege above and beyond that so that they incur no tax whatsoever because the like or similar property available to them is not totally and completely to their liking.

Now, why should we, as Congressmen representing this country, give those four companies that extra break when we have already required in the law that they be given just and fair compensation?

Let me describe what we have already given or offered them in order that we might better understand how much they are in need when they come before us asking for this particular tax loophole and tax break. Here is what we have done.

Arcata—we have suggested $22,135,000 be offered to them in cash. We have offered that. We have also offered $40 million in land. They have accepted the land. As to the $40 million worth of land they will incur not $1 of tax consequences under existing law. They do not want to incur any tax consequences under the cash that they will receive. We have offered them $22 million together with their $40 million worth of land. They brought suit against the United States of America 2 weeks ago asking for $63 million in cash. So we do not know how much money we are going to have to pay them or how much tax relief they will ultimately receive if this bill is passed.

The committee report suggests $25 million, but that is a suggestion based on uncertainties as to what the court is going to say ultimately we will have to pay these companies.

It is not poor companies we are dealing with, because one of the conditions, you will recall, is that they must have received property in kind as well as cash before they can ask for absolution from the payment of any tax on the gain represented by the cash.

Georgia Pacific refused an offer of land. They want only cash, and they have received $27,565,000 in cash. They are not going to get and I presume they are not, therefore, asking for a preferential position in terms of how their gains should be treated taxwise, because they are not seeking them. As of this afternoon, I called the Department of the Interior and found that they have not sought, and, in fact, have written that they are not seeking an exchange of land in kind. They are out from under the provisions of this bill. Georgia Pacific with about $27 million will be treated just like every other taxpayer in the country. They will have to find like or similar property to invest in as described in the existing code.

Simpson, the third company involved, has $783,000 in cash and in land which has been offered, $1,450,000. So there are no tax consequences on the land and very little tax consequences under the capital gains tax treatment on the $783,000, and with the opportunity to reinvest in like or similar property under the existing code, they have very little tax consequences. It hardly seems, then, equity for Simpson to require special legislation.

Miller has been offered in cash $3,781,000 and already accepted about $8 million in property. No tax consequences as to the property. They will receive some tax consequences as to the $3,781,000, but that is it.

So you see for whom this bill is being drafted. It is being drafted and presented for the Arcata Lumber Co. which has been offered $22 million and is now suing for $63 million and which rejected the offer.

They have accepted $40 million in land.

That describes the condition of the people for whom the great worry and concern is all about, that they are being treated so unfairly and inequitably, that our Government must manifest its concern with the presentation of this legislation.

Mr. Speaker, it does not make a great deal of sense to me that they are being treated that unfairly and inequitably that we ought to go out of our way to make a special case for them, and say to them that they may have this $120 million for their redwood lands that we are acquiring for the people of the United States and that they will have to pay capital gains on, roughly, $63 million of that, unless they can find somewhere else in which they can invest it under the existing law. The sponsors of this bill claim that to be a tremendous hardship. They do not want them to have to undergo that disadvantage of finding property in which they can invest and so they are preparing a special bill for these companies which says that they can invest all that they receive into any other business they might be engaged in at the time of the date of the acquisition of the redwood parklands.

Could you ask for anything better than that, to get the proceeds from a condemnation without one dime of taxes, and not only that, but you describe where you want to invest and the Congress of the United States will enact legislation to permit you to do that.

Mr. Speaker, I think this is special interest legislation. I think it is unwarranted and I ask for a "no" vote on it.

Mr. WAGGONNER. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. Yes, I yield to the gentleman from Louisiana.

Mr. WAGGONNER. Up to a point what the gentleman says is so, but the reasoning and the rationale behind allowing for what really in effect amounts to a tax deferral is that it is totally impossible to reinvest in redwood.

Mr. WALDIE. If the gentleman will permit me to respond, the fact of the matter is the rarity of redwood which you describe as a disadvantage for investment purposes——

Mr. WAGGONNER. I did not say it was a disadvantage. I said it was not available.

Mr. WALDIE. In other words, therefore it creates a disadvantage as to their ability to take advantage of a "like" investment in order to escape tax consequences, but the very rarity of the redwood forests has resulted in this tremendous amount of premium that is paid. We are paying them for the rarity of that redwood forest. In other words, it is an unhappy thing that they do not have the opportunity for reinvestment in a business venture to their liking. However, they are not limited to reinvesting in redwood forests. It would be inconvenient for them to have to do that, to invest in other forests and timberlands.

I do not think we owe Arcata Lumber Co. the sort of preferential treatment that this legislation represents.

Mr. WAGGONNER. Mr. Speaker, if the gentleman will yield further, I think if the gentleman were a part of that lumber company and, against his will, his property is taken, he might feel differently.

Mr. WALDIE. I would state to the gentleman that I would be just as selfish in that instance as Arcata is here, but if I were representing the people of the United States as I purport to do, I would oppose it.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman from Oregon.

Mr. ULLMAN. I think what the gentleman does not realize or is not stating is the fact that under the existing law reinvesting in kind by buying stock of a company, the taxpayer does get a very distinct advantage because the tax basis of the property of that company does not have to be reduced in basis.

In other words, under existing law it is possible to avoid tax because you can get a very distinct advantage in tax basis. Under this bill, where they are redeeming stock, if they take this option, then they do have to reduce the tax basis of their property.

Then they have to carry through the necessary low base that they got in their redwood investment onto their other investment. So all it is is tax deferral. It is not a tax giveaway at all. And if there is a tax giveaway, it is in the existing law that allows you to reinvest in like kind, and get the adjusted basis in the process, and that is not included in this bill at all.

Mr. WALDIE. I only respond to the gentleman if the consequences tax-wise are as minimal as the gentleman suggests there is no necessity of enacting this legislation. They can pursue their relief under the existing tax law without the special legislation if we are providing them such minimal benefits by this legislation, as the gentleman suggests.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman from Ohio.

Mr. SEIBERLING. In reading the committee report under the heading "Effect on the Revenues of the Bill," it states that—

> Your committee estimates that the bill will reduce revenues by $25 million over the period the bill is applicable.'

Does that not mean there will be a net loss to the Government?

Mr. WALDIE. I believe the gentleman from Oregon had reference, though, to this position in the bill. If the $25 million that is estimated by the committee report as revenue loss, constitutes only a reduction in base, ultimately the Federal Government would theoretically recoup this when the properties in which the money is invested were subsequently sold, if ever. That is the catchword, "if ever." And if there are to be subsequent resales before we can recoup our loss I can see no reason to give the tax deferral. A tax deferral would suggest they are undergoing temporary great hardship and should get a deferral to get over a rough period, and ultimately we will get the money back. This is not a tax deferral. It is a technical tax deferral. But you only engage in tax deferral when you are trying to assist a company over a rocky period. This is tax avoidance, and it is an attempt to have it glossed over.

Mr. SEIBERLING. It still means the loss of the revenue for that amount of money for that period.

Mr. WALDIE. It clearly means a loss of interest for that amount of money during the period in which they seek to recoup it.

Mr. Speaker, I reserve the balance of my time.

Mr. ULLMAN. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. BYRNES).

Mr. BYRNES of Wisconsin. Mr. Speaker, I support H.R. 11080.

The act establishing the Redwood National Park in California transferred title of redwood lands belonging to private taxpayers to the United States. Under the act, the United States is required to make payment for the lands taken, either by the transfer of other timber lands, by the payment of cash, or by a combination of cash and land.

Under the provisions of existing tax law relating to involuntary conversions, taxpayers whose property is condemned are entitled to defer any gain that they realize on the property condemned, but only if they invest the proceeds in property of a like kind. In view of the special circumstances involved in the creation of the Redwood National Park, the committee decided to broaden the category of investments in which the proceeds of the involuntary conversion may be invested while still granting deferral of the gain. Since the supply of redwood timber is limited, it may be very difficult for the taxpayers involved to obtain additional tracts of redwood timber. Some of the taxpayers confined their timber business solely to redwood logging, and related manufacturing and sales activities, and do not desire to deal in other kinds of timber, although they are engaged in

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other business endeavors not associated with the lumber industry.

The committee's bill therefore permits deferral of the gain on the land condemned under the Redwood act where the proceeds are reinvested in property used in any trade or business of the same kind as one in which the taxpayer—or a corporation controlled by the taxpayer—was engaged on October 2, 1968, the date the property was condemned by the government. Additionally, under certain circumstances, the money obtained pursuant to the involuntary conversion may be used by a corporation to redeem its own stock subject to certain basis adjustments, with the deferral rules being applicable.

The bill was unanimously reported by the committee, Mr. Speaker, with the support of the Treasury Department. However, I want to make it clear that the Treasury Department felt it was important to indicate that the expansion of the normal like kind criteria for determining when deferral of gain will be permitted in the case of involuntary conversions is justified because of the particular and unique circumstances of the Redwood act, and that the action taken by the committee today is not to be considered as a precedent for any general liberalizations of the present tax rules applicable to involuntary conversions. I agree with the views expressed by the Treasury Department.

Mr. Speaker, I think the point to be remembered here is that this is not an ordinary sale of property readily available in the marketplace by the people who own it. The redwood lands here involved are unique property that was transferred to the United States by an act of Congress that was in fact based upon the unique nature of redwood forest lands. Reference has been made to a $25 million reduction of revenues resulting from this bill. I think it can be equally said that this $25 million estimate would be a windfall to the Government because the Redwoods Act forced these people to sell the property to the Government, creating a capital gain on which these revenue estimates are predicated.

The very uniqueness of the property caused the Government to condemn the property for public benefit. In view of this it seems unreasonable to currently impose a tax unless they invest in property of a "like kind." It seemed only fair under the circumstances to permit the taxpayer to defer any fine on the gain as long as the proceeds from the involuntary conversion are invested in a trade or business the taxpayer was engaged in on the date of the conversion. This seems to me, Mr. Speaker, the only fair thing to do under the circumstances.

Mr. WALDIE. Mr. Speaker, I yield myself such additional time as I may consume just to respond to the argument just made.

It is true that it is an involuntary conversion. It is a condemnation of sorts—a legislative condemnation. But that is not unique. That is not a unique set of circumstances that should elicit a unique response such as this legislation.

The tax code is designed to take care of such hardships, if any there be, that result from a condemnation. These people ought to have recourse to the existing tax code without an expansion of its provisions just to fit their closely held little circumstance of the Arcata Lumber Co. This is a unique response to a common situation and that is where my personal objections lie.

Mr. BYRNES of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman.

Mr. BYRNES of Wisconsin. The very uniqueness of this property is the reason why we enacted the Redwood National Park Act because the redwood is so unique. Therefore, since we are going to take this unique property away from this particular taxpayer, it is not sufficient; it does not seem to me to be sufficient to say that you will get a deferral of your gain if you invest in like property.

The fact is there is no really like property to this. If there was, we would not have created the Redwood National Park lands. It was that very uniqueness that makes this situation unique and requires, it seems to me, this particular adjustment in the law to coincide with this uniqueness.

Mr. WALDIE. There has been an adjustment and there is an adjustment as to that uniqueness in the purchase, and that is why Arcata is suing for $63 million more than the $20 million offered and it does not seem to me that a further unique response is necessitated under these laws.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. WALDIE. I yield to the gentleman from Iowa.

Mr. GROSS. Is not land taken every day from citizens in this country?

Mr. WALDIE. Yes, it is.

Mr. GROSS. Suppose they take an Iowa farmer's farm. This farm may be unique to him. He may not be able to replace it in comparison with the farm that he presently owns. Does he get this kind of a tax break?

Mr. WALDIE. If he had sufficient influence with Members, he could seek it—whether he would get it would be a question.

Mr. GROSS. I thank the gentleman for his response.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Oregon (Mr. ULLMAN) that the House suspend the rules and pass the bill H.R. 11080, as amended.

The question was taken.

Mr. WALDIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 148, nays 203, answered "present" 1, not voting 78, as follows:

[Roll No. 391]

YEAS—148

Abernethy	Belcher	Brotzman
Adams	Betts	Brown, Mich.
Anderson, Ill.	Blanton	Brown, Ohio
Andrews, Ala.	Boggs	Broyhill, N.C.
Arends	Bow	Broyhill, Va.
Aspinall	Brooks	Burke, Mass.
Baring	Broomfield	Burleson, Tex.
Burlison, Mo.	Hansen, Wash.	Quie
Byrnes, Wis.	Harvey	Railsback
Camp	Hicks, Wash.	Reid, N.Y.
Carey, N.Y.	Hogan	Rhodes
Casey, Tex.	Hosmer	Robinson, Va.
Cederberg	Johnson, Calif.	Robison, N.Y.
Chamberlain	Johnson, Pa.	Rostenkowski
Clawson, Del	Jones, Tenn.	Ruth
Collier	Karth	Satterfield
Colmer	Kazen	Saylor
Coughlin	Kee	Schmitz
Crane	Kluczynski	Schneebeli
Davis, Ga.	Kuykendall	Schwengel
Davis, S.C.	Kyl	Scott
Davis, Wis.	Landrum	Shriver
Dellenback	Lennon	Sikes
Dingell	Lloyd	Sisk
Dorn	McDonald, Mich.	Slack
Edmondson	McEwen	Smith, Calif.
Edwards, Ala.	McFall	Smith, N.Y.
Esch	McMillan	Stanton, J. William
Fascell	Macdonald, Mass.	Steiger, Ariz.
Findley	Mahon	Steiger, Wis.
Fisher	Mailliard	Stephens
Flood	Mayne	Stratton
Flynt	Mikel	Talcott
Foley	Mizell	Taylor
Fountain	Montgomery	Teague, Calif.
Frelinghuysen	Myers	Teague, Tex.
Frenzel	Natcher	Thompson, Ga.
Fulton, Tenn.	Nelsen	Thomson, Wis.
Fuqua	O'Konski	Ullman
Garmatz	Passman	Veysey
Gettys	Patman	Waggonner
Goldwater	Patten	Wampler
Gonzalez	Pepper	Ware
Green, Oreg.	Pettis	White
Griffin	Pickle	Williams
Griffiths	Pike	Wilson, Bob
Gubser	Poage	Wyatt
Hagan	Poff	Young, Tex.
Haley	Price, Tex.	Zablocki
Hammer-schmidt		

NAYS—203

Abourezk	Eshleman	Madden
Abzug	Evins, Tenn.	Martin
Addabbo	Flowers	Matsunaga
Anderson, Calif.	Ford, William D.	Mazzoli
Anderson, Tenn.	Forsythe	Meeds
Andrews, N. Dak.	Fraser	Miller, Ohio
Annunzio	Frey	Minish
Archer	Gallagher	Mink
Aspin	Gaydos	Minshall
Badillo	Giaimo	Mollohan
Baker	Grasso	Monagan
Begich	Gray	Morgan
Bennett	Green, Pa.	Morse
Bergland	Gross	Murphy, Ill.
Bevill	Grover	Murphy, N.Y.
Biaggi	Gude	Nedzi
Biester	Hall	Nichols
Bingham	Hamilton	Nix
Boland	Hanley	Obey
Brademas	Hanna	O'Hara
Brasco	Harrington	O'Neill
Bray	Harsha	Perkins
Brinkley	Hastings	Peyser
Buchanan	Hathaway	Pirnie
Burke, Fla.	Hechler, W. Va.	Podell
Burton	Heinz	Powell
Byrne, Pa.	Helstoski	Preyer, N.C.
Byron	Henderson	Price, Ill.
Caffery	Hicks, Mass.	Pryor, Ark.
Carney	Hillis	Pucinski
Carter	Holifield	Quillen
Celler	Horton	Randall
Clancy	Howard	Rarick
Clark	Hull	Rees
Cleveland	Hungate	Reuss
Collins, Tex.	Hunt	Riegle
Conte	Hutchinson	Rodino
Cotter	Ichord	Roe
Culver	Jacobs	Rogers
Daniel, Va.	Jarman	Roncalio
Daniels, N.J.	Jonas	Rooney, N.Y.
de la Garza	Kastenmeier	Rooney, Pa.
Delaney	Keating	Roush
Denholm	Keith	Roy
Dennis	Kemp	Roybal
Dent	King	Ryan
Devine	Koch	St Germain
Dickinson	Kyros	Sandman
Donohue	Landgrebe	Sarbanes
Dow	Latta	Scherle
Drinan	Long, Md.	Scheuer
Duncan	Lujan	Sebelius
Dwyer	McCloskey	Shipley
Eckhardt	McCollister	Shoup
Edwards, Calif.	McCormack	Smith, Iowa
Eilberg	McCulloch	Snyder
Erlenborn	McDade	Spence
	McKinney	Springer
		Staggers
Stanton, James V.	Udall	Wolff
Steele	Van Deerlin	Wydler
Stubblefield	Vander Jagt	Wylie
Sullivan	Vanik	Wyman
Symington	Waldie	Yates
Terry	Whalen	Yatron
Thompson, N.J.	Whitehurst	Young, Fla.
Thone	Whitten	Zion
Tiernan	Wiggins	
	Winn	

ANSWERED "PRESENT"—1

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NOT VOTING—78

Abbitt	Edwards, La.	Mikva
Alexander	Evans, Colo.	Miller, Calif.
Ashbrook	Fish	Mills, Ark.
Ashley	Ford, Gerald R.	Mills, Md.
Barrett	Galifianakis	Mitchell
Bell	Gibbons	Moorhead
Blackburn	Goodling	Mosher
Blatnik	Halpern	Moss
Bolling	Hansen, Idaho	Pelly
Cabell	Hawkins	Purcell
Chappell	Hébert	Rangel
Chisholm	Heckler, Mass.	Roberts
Clausen, Don H.	Jones, Ala.	Rosenthal
Clay	Jones, N.C.	Rousselot
Collins, Ill.	Leggett	Runnels
Conable	Lent	Skubitz
Conyers	Link	Steed
Corman	Long, La.	Stokes
Danielson	McCloskey	Stuckey
Dellums	McClure	Vigorito
Derwinski	McKay	Whalley
Diggs	McKevitt	Widnall
Dowdy	Mann	Wilson, Charles H.
Downing	Mathias, Calif.	Wright
Dulski	Mathis, Ga.	Zwach
du Pont	Melcher	
	Metcalfe	

So (two-thirds not having voted in favor thereof) the motion was rejected.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Gerald R. Ford.

Mr. Charles H. Wilson with Mr. Mathias of California.

Mr. Blatnik with Mr. Hansen of Idaho.

Mr. Barrett with Mr. Halpern.

Mr. Cabell with Mr. Ashbrook.

Mr. Danielson with Mr. Bell.

Mr. Dowdy with Mr. Blackburn.

Mr. Dulski with Mr. Conable.

Mr. Gibbons with Mr. du Pont.

Mr. Jones of North Carolina with Mr. Goodling.

Mr. McKay with Mrs. Heckler of Massachusetts.

Mr. Mathias of Georgia with Mr. Don H. Clausen.

Mr. Moorhead with Mr. Lent.

Mr. Mikva with Mr. Mitchell.

Mr. Leggett with Mr. Conyers.

Mr. Vigorito with Mr. Stokes.

Mr. Link with Mr. McCloskey.

Mr. Moss with Mr. Fish.

Mr. Chappell with Mr. McClure.

Mr. Ashley with Mrs. Chisholm.

Mr. Jones of Alabama with Mr. Mills of Maryland.

Mr. Rosenthal with Mr. Dellums.

Mr. Diggs with Mr. Derwinski.

Mr. Alexander with Mr. Pelly.

Mr. Abbitt with Mr. McKevitt.

Mr. Corman with Mr. Clay.

Mr. Downing with Mr. Rousselot.

Mr. Galifianakis with Mr. Hawkins.

Mr. Evans of Colorado with Mr. Rangel.

Mr. Stuckey with Mr. Skubitz.

Mr. Steed with Mr. Mosher.

Mr. Mann with Mr. Collins of Illinios.

Mr. Melcher with Mr. Metcalfe.

Mr. Runnels with Mr. Whalley.

Mr. Purcell with Mr. Widnall.

Mr. Wright with Mr. Zwach.

Mr. Miller of California with Mr. Mills of Arkansas.

Messrs. ROYBAL, LONG of Maryland, BEGICH, Mrs. HICKS of Massachusetts, Messrs. BURKE of Florida, HARSHA, and CARTER changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

INSURED EMERGENCY LOANS

Mr. ABERNETHY. Mr. Speaker, I move to suspend the rules and pass the bill (S. 2559) to amend the Consolidated Farmers Home Administration Act of 1961 to authorize insured emergency loans, as amended.

The Clerk read as follows:

S. 2559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consolidated Farmers Home Administration Act of 1961 is amended by adding at the end of subtitle C a new section as follows:

"SEC. 328. Loans meeting the requirements of this subtitle and any amendatory or supplementary Act may be insured, or made to be sold and insured, in accordance with and subject to sections 308 and 309 and the last sentence of section 307 of this title: *Provided,* That loans made under this section shall not be included in applying the $100,000,000 limitation in section 309(f)(1)."

The SPEAKER pro tempore. Is a second demanded?

Mr. BELCHER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. ABERNETHY. Mr. Speaker, this bill has passed the Senate. It has bipartisan sponsorship of Senators from several different States. The same is true of comparable bills which were introduced in the House.

Mr. Speaker, I introduced one of the House bills but to expedite action on this important measure, our committee has brought the Senate passed bill, S. 2559 to the floor today.

The object of this bill is to permit the emergency loan program of the Farmers Home Administration to operate on an insured basis. This program has been very successful to date. It has made loans available to farmers throughout the land who have been stricken with disasters of various and sundry kinds such as droughts, tornadoes, floods, and so forth.

Frequently, the emergency credit revolving fund from which these loans are made becomes dissipated and it becomes impossible to help those farmers in need. The fund must be replenished by the appropriations process which, through nobody's fault, is often time-consuming. In waiting for the appropriation of additional funds, farmers often suffer irreparable damage because the loan funds sometimes come too late to be of any help and the harm is done. All to frequently, the lack of prompt assistance results in the farmer losing all that he has worked for through much his life. We want to be able to give a farmer who has been stricken by natural disaster a chance to get back on his feet.

The enactment of this legislation will permit this excellent program to operate on a far more flexible basis by permitting the use of the private money market instead of having to always draw on Treasury funds.

Mr. Speaker, this bill will help the American farmer and rancher who is so often placed at the mercy of natural disaster. This program has kept many of our farmers on the farm and this bill proposes to do a better job of this in the future.

I am convinced that the best way to handle these emergency loans is to permit them to be made on an insured basis. The insured or guaranteed approach has worked well in the FHA farmownership and water and sewer loan programs. It will work equally as well in the emergency loan program.

The bill has the support of the administration. It passed the Senate unanimously, and was unanimously reported from the House committee. I urge the House to pass this legislation.

(Mr. ABERNETHY asked and was given permission to revise and extend his remarks.)

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi that the House suspend the rules and pass the bill S. 2559, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADDITION TO PROGRAM FOR WEDNESDAY, NOVEMBER 17

Mr. O'NEILL. Mr. Speaker, I take this time to announce the chairman of the Ways and Means Committee will call up on Wednesday four bills, reported unanimously by the Ways and Means Committee, and I ask unanimous consent to list them in the RECORD at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The bills are as follows:

H.R. 640. Duty-free importation of upholstery regulators, upholsterer's regulating needles, and upholsterer's pins;

H.R. 6065. Extending for an additional 10 years the period during which States may obligate certain transferred funds for administrative purposes;

H.R. 7577. Amending section 3306 of the Internal Revenue Code with respect to the services of insurance agents and solicitors who are compensated on a commission basis; and

H.R. 10604. Amending title II of the Social Security Act to permit payment of the lumpsum death benefit in the case of an insured individual whose body is unavailable for burial.

SALARY ADJUSTMENTS FOR FEDERAL EMPLOYEES

(Mr. WHALEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHALEN. Mr. Speaker, on October 4 I joined a majority of my colleagues in voting against House Resolution 596, which would have disapproved the President's proposal to delay a pay raise for Federal employees from January 1, 1972, to July 1, 1972.

I voted "nay" for two reasons. First, I felt if Congress raised the lid at that time, all of the initial efforts to engender public support for economic stabilization would be undermined.

Second, 5 weeks ago we did not know

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whether previously negotiated private sector wage increases would be allowed after November 12. Further, if raises ultimately were permitted by the Pay Board, the percentage of increase would have been a matter of conjecture.

For example, the autoworkers under their existing contract are scheduled to receive a 3-percent increase on November 23, 1971, to be followed by a cost-of-living adjustment on December 6, 1971. On October 4, however, the Congress could not determine whether the Pay Board would allow either, both, or any of these contracted increases. Therefore, had Congress on that date set a specific amount and time for a pay increase for Federal employees, it would have been inequitable to workers in the private sector.

My negative vote on House Resolution 596 also was prompted by my confidence that, once phase II of the President's new economic plan was announced, adjustments could be made to provide equitable treatment for all employees—both Federal and private. Minority leader GERALD R. FORD voiced this same conviction when he stated during floor debate on House Resolution 596:

> If there is a general increase granted to all employees in the private sector, all employees, then I will support comparable pay increases in the Federal sector, as I think I should on the basis of good conscience.

Mr. Speaker, I am introducing today legislation which will assure Federal employees that after January 1, 1972, they will receive salary adjustments comparable to those authorized for employees of the private sector under the guidelines established for phase II of the NEP. The Senate Post Office and Civil Service Committee unanimously reported a similar bill last week. The Senate probably will consider the committee's recommendation in the near future. I urge the House also to act expeditiously on this legislation. Certainly, we in this body must give substance to our earlier promises and our expressed convictions of equitable treatment for all employees.

WATERSHEDS AND THEIR DEVELOPMENT

(Mr. SCHWENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHWENGEL. Mr. Speaker, the Subcommittee on Conservation and Watershed Development under the wise and able leadership of Congressman JAMES KEE has just completed its sixth hearing on the problems, the capabilities, and the effectiveness of watersheds and their development as it relates to the challenge of the full use of water through a program for nailing the raindrop and preserving the greatest natural resource we have—the soil, and how it can contribute to the solutions to the pollution of our waters.

Mr. Speaker, we are preparing a report for the full membership of the subcommittee, for the Public Works Committee, for the Congress, the Department of Agriculture, and the President of the United States. This report will reveal some of the weaknses, but also the very many successful installations and their fine contributions to the local and national interest. It will reveal that the early decisions to establish a watershed program based upon the conservation program initiated by the administration of Theodore Roosevelt, furthered under the administration of Franklin D. Roosevelt, and improved on by every administration since, was good judgment and was very much in the public interest.

Today, as we confront this very important challenge to solve the problem of pollution in our waters, the work of this subcommittee and the program to carry it on in the Department of Agriculture and in other Government agencies to bring about a real solution to water pollution becomes even more important.

A study conducted by a number of people who are interested in preservation of the soil and the wise use of our natural resources has told us, as reported by the Department of Agriculture, that 700 times as much solid waste goes into the streams and rivers and waters of America as goes into those same places from all other sources of pollution. This includes, of course, the pollution caused by municipalities and the industries of America. While we wrestle mightily with the solution to pollution in these areas, we must continuously remind ourselves that the solution to pollution in these areas without the solution to pollution in the watershed areas of America will be no solution to pollution in the streams and rivers of America.

Mr. Speaker, in the days ahead I shall take the floor periodically to call attention to the challenge and the need of a coordinated, total program to meet the real solution to all pollution.

MODERN DAY McCARTHYITES—EXPERTS IN SMEAR AND INTIMIDATION

(Mr. TALCOTT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. TALCOTT. Mr. Speaker, American citizens who live away from Washington do not have a good opportunity to weigh or evaluate the motivations and behavior of some of the witnesses who appear before congressional committees.

Two witnesses before the Senate Judiciary Committee relative to Supreme Court nominees, Lewis F. Powell, Jr., and William H. Rehnquist, stooped to new lows of smear by innuendo and misrepresentation. Clarence Mitchell and Joseph L. Rauh, persistent and perennial witnesses against most anybody who disagrees with their political and social philosophy, are generally afforded extensive and laudatory media coverage.

When neither facts nor reputable opinion could be assembled to support their narrow objectives they resorted to smear and misrepresentation simply for the sake of smear and misrepresentation.

The lead editorial of the Washington Evening Star of November 11, 1971, entitled "The Advocate" is a forthright, accurate and representative evaluation of the testimony of Messrs. Mitchell and Rauh.

Citizens throughout the land should know the kinds of witnesses who are solicited by the Senate Committee on the Judiciary. They should know the level and caliber of the testimony presented. They should know the motivations of the witnesses. They should know the true objectives of the witnesses. They should know that "McCarthyism" did not begin or end with Joe McCarthy. Latter day McCarthyism is more crude and obvious—and more persistent. All citizens should know and understand this, so I include the editorial in the RECORD at this place:

THE ADVOCATE

Since our original conditional endorsement of the nominations to the Supreme Court of Lewis F. Powell Jr. and William H. Rehnquist, we have made no further comment on President Nixon's choices. Our reticence was based both on the two men's obvious intellectual credentials and on the failure of their opponents to produce anything untoward in their judicial or personal backgrounds.

We break this silence now on the basis of no new evidence either for or against Powell and Rehnquist. But we cannot remain mute in the face of the campaign of innuendo and smear, ineffective as it has been, against Rehnquist.

On Tuesday, in joint testimony before the Senate Judiciary Committee, Clarence Mitchell and Joseph L. Rauh Jr., of the Leadership Conference on Civil Rights (a pressure group of 127 labor, religious and civil rights organizations), launched an attack against the assistant attorney general the vagueness of which was matched only by its intemperance.

The 47-year-old Arizonan, Mitchell and Rauh maintained, was "a laundered McCarthyite' whose confirmation would be "an insult to Americans who support civil rights." By Rehnquist's appointment, Mitchell said, "the foot of racism is placed in the door of the temple of justice." An affidavit by Rehnquist to the effect that he is "not now and never has been a member of the John Birch Society" drew from Rauh the remarkable statement that this served only to raise fresh doubts about Rehnquist's possible association with the ultra-right organization, a remark which even Senator Kennedy, who marches to the civil rights drum, could not stomach.

To the extent that one can determine what it is that Rehnquist's foes are driving at, it seems that they charge him with opposing a Phoenix open accommodations ordinance in 1964, of denouncing civil rights marchers in the same year and of fighting efforts to wipe out de facto school segregation in Phoenix in 1967.

The curious thing about the entire exercise is that Powell, who has come in for virtually no criticism, almost certainly is just as conservative as Rehnquist. One is left with the distinct impression that the civil rights lobby has decided to stage a symbolic fight to prevent Rehnquist's confirmation because his more active judicial role—his function as a Justice Department advocate—makes him more vulnerable than the Virginian.

What Mitchell and Rauh are saying is roughly similar to the dictum of the East European Stalinists: "If you are not with us, you are against us." What they fail to see—or pretend to fail to see—is that the actions and statements of Rehnquist (like those of Powell) stem less from any anti-civil rights or anti-Negro animus than from a consistent and overt conservative judicial philosophy which holds that there are principles of equal or greater importance than those to which Mitchell and Rauh give their exclusive and sectarian devotion.

We are unaware of any constitutional prohibition against the presence of a conservative on the Supreme Court. Nor can we find in the small print of the Bill of Rights any requirement that appointees subscribe to the dictums of the American Civil Liberties Union, the Leadership Conference on Civil Rights, or any other pressure group.

On the basis of all the testimony to date, Powell and Rehnquist emerge as men of integrity, consistency, professional competence and intellectual distinction. The attack by Rauh and Mitchell, itself a classic example of "laundered McCarthyism," was, to say the least, bush league. If that is the best (or worst) their opponents can produce, both men should be speedily approved by the Senate, as indeed they almost certainly will be.

THE SPEAKER HAS BEEN SELECTED FOR ROA'S MAN OF THE YEAR AWARD

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, on Thursday of last week members of the House Armed Services Appropriations and District Committees, together with the Democratic and Republican House leadership, met for luncheon with the national president and the national staff of the Reserve Officers Association of the United States.

At this meeting, ROA's national president, Brig. Gen. Gerald A. Hart, a much decorated fighter pilot from World War II and today one of the Air Force's Reserve leaders, made an announcement which should bring pride to every Member of this body.

This announcement was that the Speaker of the House, the Honorable CARL ALBERT, has been selected to receive ROA's top award for the tremendous contribution he has made during the past quarter century to the national security of this Nation. This is the award given annually to the citizen who has contributed most to national security and it is known as the Minute Man of the Year Award. This recognition is not given lightly. It is considered one of the most prestigious awards which is given in this country. We also know that no recipient who has ever received it merited it more richly than does CARL ALBERT. He has supported by deeds as well as words the concept that every citizen of this great country must be willing, if need be, to give his energy, time, and talent to the military service and even to risk his life to preserve our freedom. CARL ALBERT gave this service to his country during World War II, and he continued long afterward as a Reservist available for service at his country's call. CARL ALBERT believes—as he told the luncheon group in characteristic humility in accepting the award—that as important as many new and progressive requirements in our society are, that national defense always must come first unless our country is secure, most things for the good of our people are impossible.

ROA's president, General Hart, made clear in his announcement that the award to CARL ALBERT was based upon his sturdy character and his devotion to the principles of progress and freedom.

This announcement by ROA follows:

ROA NEWS RELEASE

The Reserve Officers Association of the United States has selected for its 1972 award to "the citizen who has contributed most to national security" Rep. Carl Albert, Speaker of the House of Representatives and for 25 years a member of Congress from Oklahoma's Third District.

Brig. Gen. Gerald A. Hart, an Air Force Reserve leader, who is ROA's National President, made the announcement today to a group of House leaders lunching with Mr. Albert.

He will be the 15th recipient of the award, popularly known as ROA's "Minute Man of the Year" Award.

General Hart said the citation and plaque will be presented at the Association's annual Mid-Winter Banquet at Washington on February 25, at the Washington Hilton Hotel.

The Banquet will be a highlight of ROA's 50th Anniversary celebration. The Association, formed after World War I, held its first convention at Washington in 1922. Since that date, it has worked for "a military policy which will provide adequate national security."

The "Minute Man Award" has been given annually to a leader in the continuing fight for military preparedness, with programs directed also toward keeping before the public George Washington's admonition that "every citizen who enjoys the protection of a free government owes his services in defense of it."

Speaker Albert, General Hart told the congressional group, has met fully the standards always applied to this selection.

"Carl Albert served with distinction in the nation's Armed Services in a time of peril," he said. "He left the Service after victory had been achieved in World War II, and offered his continuing service in the Congress—an offer his fellow citizens have accepted thirteen times.

"He has worked to build a better America, and to insure a lasting peace. He has worked for progress, and the strengthening of all our free institutions.

"At the same time, he has been a stalwart and effective advocate of preparedness and of support for the men and women who have preserved our freedom in the past, and for those who in the future must shoulder the same responsibility.

"Carl Albert fully meets the criteria for the Minute Man Award . . . as those who were given this public acclaim in previous years. No American has done more to insure that our nation remains strong and free, and that it can remain safe and at peace."

Recipients of the "Minute Man" Award in the past have been Brig. Gen. David Sarnoff, Chairman of the Board of RCA; the late Senator Richard B. Russell, Chairman of the Senate Armed Services Committee; Mr. Bryce Harlow, Special Assistant to the late President Eisenhower; Maj. Gen. High M. Milton, a reservist who became Chief of Army Reserve and Army Under Secretary; Rep. Carl Vinson, Chairman of the House Armed Services Committee; the late Senator Dennis Chavez, Chairman of the Defense Appropriations Committee; Senator Margaret Chase Smith, ranking member of the Senate Armed Services Committee; the late Rep. L. Mendel Rivers, House Armed Service Committee Chairman; Senator John C. Stennis, Chairman of the Senate Preparedness Subcommittee; Rep. Robert L. F. Sikes, Chairman of the House Committee on Defense Construction; Rep. F. Edward Hébert, Chairman of the House Subcommittee on Reserve Forces; the Hon. John W. McCormack, former Speaker of the House of Representatives; Mr. Melvin Laird, former House member, now Secretary of Defense; Senator J. Strom Thurmond, Senate Armed Service Committee member and former ROA National President.

JOSEPH SMITH, FRONTIER PROPHET, 1805–1844

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 45 minutes.

Mr. RANDALL. Mr. Speaker, Independence, Mo., is known as the home of the 33d President of the United States. It is equally well known as the world headquarters of the Reorganized Church of Jesus Christ of Latter Day Saints.

All of the people of my home city are proud to have located in our midst the headquarters of this great church. It is my honor and privilege to represent President W. Wallace Smith and most of the other leaders of the Reorganized Church in the Congress of the United States.

Yesterday afternoon, Sunday, November 14, at about 4 o'clock, a copy of the only known life portrait of Joseph Smith, Jr., founder of the Reorganized Church of Latter Day Saints, was presented to the National Portrait Gallery by Mr. Smith's grandson, W. Wallace Smith, now president of his church.

The presentation ceremony was impressive. It was a mild afternoon for this time of year. The event was called a private ceremony, which meant by invitation only. The gallery management had indicated they would like to have the guests kept as low as 150 on the second floor sculpture court but to be on the safe side, they planned for 200. Before the ceremony was concluded, nearly double that number were present.

The National Portrait Gallery, located on F Street at Eighth NW., Washington, is a part of the Smithsonian Institution. It was established in 1962. It is housed in the third oldest Government structure in Washington on the very site on which L'Enfant in his original plan for the city designated as a pantheon to the Nation's immortals. The building is located about midway between the Capitol and the White House. Its cornerstone was laid when Andrew Jackson was President. The building was originally built to house the U.S. Patent Office. The architect, Philip Johnson, called it, perhaps with some exaggeration, "The greatest building in the world." By the middle of the 19th century, it housed the Department of the Interior and later the National Museum which enshrined the original document of the Declaration of Independence.

At the time of the Civil War, this building was called, "the noblest of Washington buildings," when it temporarily became a makeshift hospital, where Walt Whitman came "to soothe and relieve" wounded troops who were also nursed by a Patent Office copyist named Clara Barton. It was in this same building that the ball was staged in celebration of Abraham Lincoln's second inauguration.

It was in this historic building, then, on a beautiful Sunday afternoon in November that a copy of the only known life portrait of a great church leader, Joseph Smith, was presented in a second floor hall of the National Portrait Gallery situated on the very spot designed by L'Enfant for a pantheon. Because it contains the portraits of great men and

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women the gallery could be said to be a place of living history.

In October 1968 upon the occasion of the gallery's official opening, President W. Wallace Smith declared as he loaned the original picture of Joseph Smith to the National Portrait Gallery:

History has come full circle from the days of Joseph Smith; a man who was once despised and persecuted for his beliefs now has his picture hanging in the National Portrait Gallery as one having contributed greatly to the religious life of the nation.

It should be recalled that the remarks were made at the time the gallery staged an exhibition of 125 distinguished American compatriots, among whom was Joseph Smith, Frontier Prophet, 1805–1844, as a part of the category, "The American Finds God in Diverse Ways." This original portrait of Mr. Smith remained on loan for the duration of the opening exhibition and was returned in December of that year to Independence, Mo.

As one of its publications, the Gallery published a booklet entitled "A Discourse in Portraits," and in the introduction of this book is stated:

We hope that gifts of money for acquisitions and/or portraits in any medium will soon begin to appear.

Following this publication, Mr. Marvin Sadik, Director, was contacted by phone and inquiry was made of his sentiments about acquiring a Smith portrait for the gallery. He replied that he was overjoyed at the prospect and he was so enthusiastic that a group of business and professional people, members of the Washington, D.C., congregation of the Reorganized Church of Latter Day Saints wrote to President W. Wallace Smith and outlined Mr. Sadik's two propositions which were:

First. He hoped to acquire the original for which he would send, at gallery expense, Adrian Lamb, top copy artist in the country, to paint a copy of the original and present it to the church in exchange for the original.

Second, if the church would not consent to this, then he would accept any sensitively done copy of the original.

President Smith, on March 24, consented to the second proposal to have a copy made by a competent artist for the gallery. Mr. Sadik, the director of the National Portrait Gallery, did not rule out other artists, but indicated a preference to have the copy of the portrait made by Adrian Lamb. Mr. Lamb was contacted and his response was yes, he would be highly pleased to paint the portrait, and he would be free to leave for Independence around the first of June.

Without any recitation of the costs it can be reported that now that the director of the gallery had given permission for a copy of the original by Adrian Lamb and Mr. Lamb had consented to do the work, it meant that travel expenses and other costs had to be provided in a very short time. It was at this point that a group of 10 business and professional people, all residents of the Washington, D.C., area and all members of the Massachusetts Avenue congregation of the Reorganized Church of Jesus Christ of Latter Day Saints held their first meeting to invite individuals and churches to contribute to this worthy cause. The members of this group were Louella Johnson, Virginia Lambert, Alta Koyle, Armand Bailey, Margaret Farrar, Edna Van Syoc, Ada Fallon, Eleanor Switts, Ada Mesle, and Beatrice Purcell.

There was a lot of work to be done because by the middle of June Mr. Lamb was in Independence busily painting on the portrait. Letters had to be written to branches and missions for an appeal for funds. The motto of the group became, "Forward in faith." They were rewarded because little by little the necessary funds came in from 21 States.

It was on July 2 that Mr. Lamb wrote to Miss Louella Johnson in these words:

Mission accomplished. The results are good and I am pleased that our picture comes up to standard.

Mr. Lamb took the picture from Independence, Mo., back to New York with him for it to dry and be framed. There in New York an exact replica of the original oak frame was made.

Around the first of August, this year the portrait was shipped to the National Portrait Gallery. When it arrived Mr. Sadik observed it was "very handsome, indeed," and notified the group of 10 that it would be placed before the gallery's board for approval on October 27. On that date the picture was approved and on October 28, Portraits, Inc., Mr. Lamb's agents, were presented with full settlement for painting the copy and all members of the group gave a sigh of relief that they had met the deadline.

The foregoing is what we believe to be a reliable and accurate account of the painting of the copy by Adrian Lamb from the original of Joseph Smith as it hangs in the Heritage Gallery of the Auditorium at Independence, Mo.

The program yesterday afternoon was not long but it was beautiful in its brevity. The master of ceremonies, Roger Yarrington, pastor of the Washington, D.C., Massachusetts Avenue branch of the church, in his opening remarks said:

On September 16, 1842, in Nauvoo, Illinois, Joseph Smith, Jr., the American prophet, wrote in his diary that a "Brother Rogers" had begun painting his portrait.

Today, the only known portrait of Joseph Smith, Jr. painted from life hangs in the Auditorium in Independence, Missouri, the world headquarters of the Reorganized Church of Jesus Christ of Latter Day Saints. It is assumed that it is the portrait referred to in Joseph Smith's diary, and that the companion portrait of his wife, Emma Smith, was painted at about the same time by the same artist.

The portraits were possessions of the Smith family for many years. In 1953 the portraits were restored by James Roth of the Nelson Art Gallery in Kansas City. They have been viewed by hundreds of thousands of visitors to the Auditorium gallery where they are on permanent display.

Mr. Yarrington then introduced the artist Adrian Lamb who announced that as he worked upon the copy, he concluded that Joseph Smith in his lifetime was surely a man of great courage and wisdom. He went on to say that the Auditorium of the headquarters of the RLDS church, was a religious place that inspired him in his work. He concluded by saying that he hoped that his picture was a sensitively done copy of the original, and that he had done his best to provide a subtleness to the picture.

After Mr. Lamb's words, Mr. Yarrington introduced Miss Virginia Lambert, one of the group of 10 whom he described as one "who has given leadership to this project." Miss Lambert proceeded to describe the work of the group who had collected the generous gifts which made the copy of the portrait possible. Her words were, "Good news travels fast," and went on to say that while "blessings from Heaven start with nothing," they were finally able to reach a successful conclusion to their efforts.

In all fairness it should be acknowledged that it was Miss Louella Johnson who was chairman of the group of 10 who set out to assemble the necessary compensation for the artist. Someone in the course of the afternoon described Miss Johnson in what I know was intended to be complimentary terms as the "spark plug for the fund raising." On the Sunday afternoon of the presentation she yielded modestly to one of her workers, Miss Virginia Lambert, for the introduction of Director Marvin S. Sadik, director of the National Portrait Gallery.

Mr. Sadik, as he stepped forward to introduce President W. Wallace Smith, mentioned that this was a momentous month in the Smith family because the presentation of this copy of the portrait by the grandson of Joseph Smith on November 14 comes just about halfway between the birthday of President Smith and his wedding anniversary. With this, introduction the stage was set for the remarks of President W. Wallace Smith, the man who was elected the fifth president of the Reorganized Church of Latter Day Saints in 1958. He had come to our Nation's Capitol to present the copy of the portrait of his grandfather which would hereafter hang in the National Portrait Gallery between two other great religious leaders, a famous cardinal of the Catholic Church upon the one side and Mary Baker Eddy upon the other.

It is my privilege to read into the RECORD at this time the presentation remarks of President W. Wallace Smith, as follows:

JOSEPH SMITH, FRONTIER PROPHET, 1805–1844

Today's event is a milestone along the road to recognizing Joseph Smith, Jr., as the great leader, which he was, both in civic and religious matters. It is also a partial vindication from the charges leveled against him during the period of his sojourn in Jackson, Clay and Caldwell Counties in Missouri.

His spiritual perception, which made him a great religious leader whose influence has endured, has long since been acknowledged. But his political convictions are not as well known. His insight into the structure of government being required to be responsive to the needs of minorities within the general society indicates that some of today's problems are not new at all but were perceived by him even then. Evidence of his convictions is contained in a statement recorded in his journal late in 1843:

"It is morally impossible for this people in justice to themselves, to vote for the reelection of President Van Buren, a man who criminally neglected his duties as chief magistrate in the cold and unblushing manner which he did, when appealed to for aid in the Missouri difficulties. His heartless reply burns like firebrand in the breast of every true friend of liberty . . . 'Your cause is just, but I can do nothing for you.'

"As to Mr. Clay, his sentiments and cold contempt of the people's rights are manifested in his reply . . ."

This situation prompted him to become a candidate for the presidency of the United States of America at the State Presidential Convention which convened in Nauvoo, Illinois on May 17, 1844, a little more than a month before Joseph Smith and his brother, Hyrum, were killed in the jail at Carthage, Illinois on June 27, 1844.

History is replete with the accounts of accomplishment of this dynamic leader. As his grandson and leader of the Reorganized Church of Jesus Christ of Latter Day Saints, I can affirm that the church has not only been legally adjudged to be "the true and lawful continuation of, and successor to" the church which Joseph Smith, Jr. was commissioned to organize in 1830, but that it has been most faithful in preserving and expressing the philosophy of the movement many places in the world. From its headquarters in Independence, Missouri, it has borne witness of Jesus Christ to many nations, races, and cultures throughout the world.

The original portrait from which this copy was made is on display in the Heritage Museum and Gallery in the Auditorium at Independence, Missouri, which also houses the headquarters of the Reorganized Church of Jesus Christ of Latter Day Saints.

Mr. Adrian Lamb, a portrait artist of distinction, was recommended to the committee representing Washington, D.C. congregations of the Reorganized Latter Day Saint Church by Mr. Marvin Sadik, the Director of the National Portrait Gallery. Subsequently Mr. Lamb was commissioned to paint the portrait you see before you and which will now hang with distinction among other works of art which are so adequately housed and preserved in this wonderful facility.

We are indebted to Mr. Sadik for his assistance in making this occasion possible. We are indeed grateful to the members of the church for their devotion and assistance in this worthy project. We want also to compliment Mr. Lamb for his faithful reproduction of this priceless masterpiece.

Mrs. Smith and I take a great deal of pleasure and satisfaction in being here to present his portrait of my grandfather Joseph Smith, Jr., to the National Portrait Gallery of the Smithsonian Institution here in the capital of our great nation.

Mr. Sadik, director of the gallery, then accepted the portrait of Joseph Smith as he put it "with pleasure." He went on to say it was a privilege to accept this copy on behalf of the Commission whose prerogative it was to determine what pictures will hang in the gallery. He described Joseph Smith as a "great religious leader". With that comment a memorable presentation was concluded.

Mr. Speaker, I am convinced that as more archeological discoveries are made, Joseph Smith's star will glow ever brighter. Already, by countless numbers of his faithful followers, among the membership of the church he founded he is eulogized as one of the greatest personages since the first century.

STABILIZATION PROGRAM MOVES CLOSER TO AMENDMENTS ADOPTED BY BANKING AND CURRENCY COMMITTEE, DESPITE WHITE HOUSE PRESSURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PATMAN) is recognized for 30 minutes.

Mr. PATMAN. Mr. Speaker, the Banking and Currency Committee is currently putting together a phase II legislative package which will make possible a workable and equitable economic stabilization program.

Unfortunately, the administration sent the Congress a hastily drafted bill—much too vague to meet the rigorous requirements of a full-scale stabilization program. The committee has been required to adopt a number of amendments to make the legislation specific and to provide the kind of equity which will create broad national confidence in the program.

In the end, Mr. Speaker, I am convinced that we will have a good bill—a bill which meets the requirements of the President and at the same time protects the public. We are providing the tools to make this all-important stabilization program work.

It is unfortunate that some in the administration have decided to make the stabilization issue partisan. We need a broad bipartisan effort and I hope that the President will restrain his political advisers until we put this wage-price program together. The White House and its new Director of the Cost of Living Council—Donald Rumsfeld—have issued statements for the specific purpose of distorting what the Banking and Currency Committee is doing. In an attempt to generate public opinion against the Congress and the Democrats, Senator ROBERT DOLE, the Republican National Chairman, has been going around the country repeating these distortions and Secretary of Housing and Urban Development George Romney has been carrying out the same political hatchet job in speeches outside of Washington.

On the surface, these attacks appeared aimed solely at the Banking and Currency Committee and the Democrats, but in reality, they are also attempts to influence the Pay Board and the Price Commission. Under the guise of attacking the Banking and Currency Committee, the White House was attempting to influence the negotiations and deliberations going on inside the Pay Board last week.

The Pay Board's actions—on the crucial issues—were undertaken in a atmosphere of heavy White House bombardment on the pay issue—ostensibly aimed at the Banking and Currency Committee. As the Banking and Currency Committee amendments have been looked at more carefully, and as the furor from the White House has quieted, there has apparently been some reconsideration within the Pay Board. Now we understand the Pay Board is planning to come back tomorrow and reconsider some of the key issues which the Banking and Currency Committee has dealt with in its markup sessions. The Washington Post carries a headline this morning on the Pay Board: "Retroactivity an even bet."

The Pay Board and the Price Commission are trying to do a good job and they have had little time to collect data and they have not had the opportunity to conduct hearings on any of the issues before them. The Banking and Currency Committee has been struggling with these problems most of the fall—through hearings and studies—and we well know how difficult it is to come up with an equitable program in such a short period of time.

Now that the smoke is beginning to settle after the administration's distortions of the committee's actions, it is becoming obvious that the Pay Board in many respects is moving closer to the amendments adopted in the committee 10 days ago. In the end—the White House statements notwithstanding—I think there will be general public understanding that the Banking and Currency Committee did not embark on a "radical" course when it adopted its amendments. In the end, I am convinced that the White House attack will stand out clearly as an attempt at political gamemanship.

The problems of the contracts are difficult and complex, but this is one of the areas that must be settled before the stabilization program can work successfully. Without this issue settled, the stabilization effort was certain to face chaos.

Despite the claims of the administration—and administration-inspired editorials—the committee amendment does not require that all deferred wage increases in existing contracts be allowed. In fact, the committee was extremely careful to make sure that the President and his Pay Board retained the necessary power if these contracts were grossly disproportionate. In short, the committee backed noninflationary wage agreements and left the President with full power to deal with any that he could legitimately characterize as grossly disproportionate and inflationary.

It is absurd—as some have suggested—to think that all of these agreements are inflationary or that they would result in price increases. This is simply not the truth.

In this connection, it must be recognized that a number of the contracts we are talking about do not involve big unions. Many involve relatively low-income workers—maintenance people, office help and the like. Also, they involve thousands of teacher contracts and other nonunion wage agreements, and I doubt that many of these—if any—are grossly disproportionate. The granting of these wage increases could hardly cause an inflationary bulge as one television commentator describes the situation.

No one in the administration has discussed where the money for the deferred pay now resides. This money is, of course, in the corporate treasuries and much of it has been invested in certificates of deposit and similar interest-bearing instruments. This is a bonanza about which the administration is strangely silent.

The pay issue, however, is only one amendment. It is simply part of a broad package which is being put together—primarily through Democratic leadership—in the committee in an attempt to provide the equity and confidence necessary for this program. I hope at some point the newsmen will take a look at the hearing record which is filled with complaints from organizations like the American Bar Association, consumer groups, and others concerned about key features of the administration's bill.

If the committee had failed to deal

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with these inadequacies, it could have been sharply criticised—and rightfully so. The committee is not going to be intimidated by the White House's attempt to turn public opinion against these congressional initiatives.

Mr. Speaker, I am proud of the fact that virtually all of the Democrats on the committee have participated in putting together the amendments to this bill. The participation in these improvements has been widespread. The junior Members as well as the senior Members of the committee have contributed greatly to this effort and the amendments have come from Members with widely differing philosophical viewpoints. It has been a broad cooperative committee effort in the very best sense.

In this regard, I do not want to neglect commending the courage of the Republican Members who have supported these amendments in a sincere effort to make this a more workable piece of legislation.

Mr. Speaker, I do not want to take the time to go over all of the amendments today but let me list a few of the major improvements that have been adopted to date. Other amendments will be offered before we conclude the markup. Some of the major amendments adopted include provisions:

Requiring that interest rates be stabilized if the President uses any part of the authority under the wage-price act.

Giving the consumer the right to seek civil damages when victimized by price violations.

Validating legal contracts executed prior to August 15 covering wages and fringe benefits unless the Pay Board finds that the wages granted under the contracts are "grossly disproportionate" to other wages and benefits. In short, the committee is on record as approving noninflationary wage agreements.

Exempting workers below the poverty level from any wage restrictions.

Requiring that actions of the Pay Board and Price Commission be taken by a majority of the members of those bodies and not solely by the chairmen. This would apply to any commission, committee or board established under the economic stabilization act.

Establishing a board to study and report on excess profits.

Refusing to ratify all actions taken by the administration under phase I of the stabilization program. This action was taken to assure that the legislation would not deprive any person of his legal rights in challenging any unreasonable or illegal action taken under the administration of phase I.

Establishing specific administrative procedures requiring publication of orders and regulations and allowing interested parties to comment before the rules become final.

Requiring public utilities and mass transit systems to obtain prior approval from the President—presumably this would be delegated to the Price Commission—before rates or fares are increased. Every person uses the services of one or more public utilities and it is important that any rate increase be considered carefully because of its widespread effect on the cost of living.

Establishing local boards to allow complaints and to clarify orders and regulations issued under the wage-price program. This would enable people to have their problems heard without resorting to costly and time-consuming judicial remedy.

Giving the President greater flexibility in any possible rollbacks by eliminating the reliance on the May 25, 1970 date contained in present law. Under the committee amendment, he would be able to set the base at whatever level he deems appropriate.

These are the amendments which the Administration has criticized and which they are seeking to have overturned. At some point, I hope that the administration lobbyists will take a look at the words of Secretary of the Treasury John Connally when he appeared before the Banking and Currency Committee on the extension of the wage-price law last February 23.

In answer to a question concerning the administration's actions in the event of a wage-price program, Secretary Connally stated:

> Congressman, so far as I know I am thinking of coming to the Congress asking for specific authority with respect to rules, regulations, appropriations, in order to implement a full wage and price administration.

The Secretary went on to say:

> I think he (the President) would clearly want some expression, some additional expression, not only in terms of appropriation but in terms of authorities and a mandate in effect from the people themselves expressed through the Congress that they were really prepared for wage and price controls—mandatory wage and price controls and all that that entails.

Mr. Speaker, the Banking and Currency Committee is following the Secretary's wise counsel on this issue. We are doing exactly what he suggested only last February.

It should be realized—as implied in Secretary Connally's words—that the American people will not accept a program merely laid down by presidential edict. Some spokesmen indicated that the President's word should be the last word on the wage-price program and that the Congress should simply rubber stamp all of the proposals. This is dangerous and it is the kind of philosophy which could lead to failure for the entire wage-price effort.

It is dangerous—for both businessmen and workers—and the entire citizenry—when political leaders take on the mantle of infallibility. The basic strength of the Constitution is based on a carefully worked out series of checks and balances—on three separate branches of Government. The administration is suggesting very strongly that it does not agree with these basic concepts of our system.

The administration's attack on the amendments borders on the absurd. After all, it was the Banking and Currency Committee which drafted and pushed through the original bill. The committee has an obvious responsibility to take an active role in shaping phase II. The Pay Board is operating under powers delegated by the Congress and certainly Congress has a right—a specific constitutional duty—to spell out and define these powers.

In some nations of the world, proclamations by chief executives are substituted for the lawmaking process. I hope that we never see the day when this is true in the United States. It might well be easier to allow all of phase II to be established by edict, but I think we owe the Constitution and the American people a little more than this.

Mr. Speaker, the committee has originally hoped to report this bill last week, but there was strong pressure to postpone action. The postponement was voted 18 to 16. I opposed the postponement because I am committed to expediting this legislation. In fact, I have met with the President on two occasions and it was his stated desire that this legislation move as rapidly as possible.

Unfortunately, when the motion to postpone was before the committee last Thursday, the Republican Members—Members of the President's own party—supplied the margin which assured the delay. Mr. Speaker, the President's last word was a request for expeditious consideration and I have received no communication from the White House changing this request. So, I am at a loss to explain the Republican Members' action in postponing the bill.

Some newspapers have speculated that the delay was sought so that the administration could lobby the committee and overturn the amendments adopted to date. I place in the RECORD a copy of an article from the American Banker with the headline: "House Banking Puts Off Action on Phase II Bill to November 30, Giving GOP Time To Recruit Votes:"

[From the American Banker, Nov. 12, 1971]

HOUSE BANKING PUTS OFF ACTION ON PHASE II BILL TO NOV. 30, GIVING GOP TIME TO RECRUIT VOTES

(By Joseph D. Hutnyan)

WASHINGTON.—The House Banking and Currency Committee—with Republicans providing a majority of the votes—decided Thursday to postpone until Nov. 30 final action on President Nixon's Phase Two bill.

The postponement gives committee Republicans almost another three weeks to try to recruit votes to make the revisions in the bill which were requested by President Nixon.

The Senate Committee on Banking, Housing and Urban Affairs—meeting on the same legislation Thursday—adopted an amendment which would require Senate approval of future Presidential appointments to the Price Commission and the Pay Board. The committee is scheduled to resume deliberations Tuesday.

The Phase Two bill requested by Mr. Nixon would extend to April 30, 1973 his authority to set wage and price controls, and grant him power to establish controls on dividends and interest.

The House Banking and Currency Committee jolted Mr. Nixon last week when it tacked on to his bill a provision sanctioning retroactive pay increases held up by the freeze, and language compelling him to take action to stabilize interest rates whenever he sets ceilings in the wage and price sectors.

The President said decisions on retroactive pay raises and interest rate limitations should be left to the citizen and government boards established by him to supervise Phase Two. He urged the committee to strike from his bill amendments adopted in these areas.

Both controversial revisions were sponsored by committee Democrats last week and were adopted by one-vote margins.

Committee Republicans on Thursday did not have the votes to reverse last week's decisions, and it was not possible to say whether the GOP would be successful when the committee meets again.

Two Republicans—Rep. Florence P. Dwyer of New Jersey and Margaret M. Heckler of Massachusetts—cast key votes last week when they voted with the Democrats for the changes which President Nixon denounced.

Both Mrs. Dwyer and Mrs. Heckler appeared to stand firm on the issue during the Thursday closed meeting.

The vote to postpone final action on the Phase Two bill was 18–16. Eleven Republicans and 7 Democrats provided the majority.

All of the votes against the postponement were cast by Democrats with two exceptions—Mrs. Dwyer and Mrs. Heckler.

Committee chairman Wright Patman, D., Tex., told reporters after the Thursday meeting that he opposed the motion to postpone action on the bill until Nov. 30.

"I felt the bill had been thoroughly considered and that I would rather go through with it now," he said.

The chairman said he understood that some Republican votes were cast for the delay because the GOP was preparing a substitute bill to be offered at the next session.

He also said some committee members voted for the postponement after it became evident that the House could not schedule it for a floor vote until later this month.

While the committee during the Thursday session did not resolve the issues which most trouble Mr. Nixon, it did vote on a number of revisions.

It approved amendments which would:

Permit President Nixon to roll back wages and prices beyond May 25, 1970 levels—the limit in the present law used by the President to invoke wage and price restraints.

Set up a network of local protest boards which would hear citizen complaints stemming from and price regulations, and render advisory opinions.

Require public utilities and transportation companies to obtain prior approval of rate or fare increases.

Inform President Nixon that Congress would like to see him submit a balanced budget showing a reduction in Federal spending next year in hopes this would speed the end of economic controls.

Direct that future wage and price regulations be published, and that public government be received before putting them into effect.

Similar stories were carried by other news media and this would indicate that the committee will be coming under heavy pressure to reverse itself. The committee amendments have been carefully drawn after two sets of hearings and extensive staff work and I am convinced that the Members will stand by their position, political pressures from the White House notwithstanding.

These political pressures cannot be allowed to prevent the Congress from putting together the kind of law which will make phase II workable and equitable.

Mr. Speaker, I place in the RECORD a copy of a speech I made last week to the Symposium on Government Corporations here in Washington on phase II:

REMARKS OF THE HONORABLE WRIGHT PATMAN, CHAIRMAN, HOUSE BANKING AND CURRENCY COMMITTEE TO THE SYMPOSIUM ON GOVERNMENT CORPORATIONS, MADISON HOTEL, WASHINGTON, D.C., NOVEMBER 9, 1971

These are fast-moving days on the economic front, for the past 90 days, this Nation has been trying to absorb the rapid turnaround of the Nixon Administration on the economy. The Administration has gone from "do nothing" policies to the active imposition of mandatory controls over a wide segment of the society.

As this audience knows, the concept—the legislation for wage-price authorities—originated in the Banking and Currency Committee in early June of 1970. The course of this legislation has been one of the strangest in history.

When the Democrats introduced the bill, they were castigated by the Administration and by many financial writers who were convinced that the Congress had gone off the deep end. The President took to national television to denounce the Banking and Currency Committee and used the White House lobbying apparatus in an attempt to block the passage of the bill in the summer of 1970.

For the next 12 months, the President continued his sniping at the Democratic initiatives. But slowly, through a series of actions—the Administration moved farther and farther away from traditional Republican economic policies and closer and closer to the more active programs being advocated by the Democrats.

Finally, at Camp David, the weekend of August 15, the President and his Economic Advisors faced the facts and agreed to use that hated Democratic law. This was a shock—a traumatic experience—for many of the old guard economists in the Republican camp.

Regrettably, the Administration did very little to prepare its own people—its own economic staff—for the eventuality of a wage-price program. The Government had sat idly by for a full year without planning for the possibility that the wage-price law might have to be used. There was no emergency contingency planning and no studies carried out which might have guided the President when he imposed the controls on August 15. As a result, the Administration could only require a flat across-the-board freeze.

The lack of planning prevented the Administration from taking a more imaginative approach—one which would have dealt with the obvious inequities which always exist in this kind of complex program. This was unfortunate and the Administration is still paying a heavy price for its lack of contingency planning. Much of the public confidence was sapped and many groups stiffened their opposition because of the meat-axe approach the Administration took.

But Phase One is almost behind us and the real attention now must be focussed on coming up with a Phase Two economic program which is workable and equitable. As Phase II has developed, there have been lots more strange happenings.

On October 7, the President went on national television to announce his Phase II recommendations. Almost immediately, these recommendations were talked about in the press as "The Program" without regard to the fact that much of it required legislation. The newspapers and newsweeklies started running charts and background data on exactly how the program would operate. The Congress apparently wasn't supposed to do anything—except possibly rubber-stamp whatever the President sent up in the form of legislation.

In other words, we were going to have Government By Proclamation—by Television Pronouncement—the Constitution notwithstanding.

Don't get me wrong. All of us in the Congress—from both parties—want to see this program work and we want to cooperate with the Administration wherever possible. I have met the President on several occasions and I have promised him my support for expeditious consideration of the Phase Two legislation.

But, this cooperation does not mean that Congress should abandon its function as the legislative branch. It has a duty to study the President's proposals, to revamp them where needed above all to make certain they are fair and equitable for the American people. No President is well served by a Congress which simply rubber-stamps his proposals.

The Banking and Currency Committee has spent most of this Fall working on various facets of the wage-price program—and other key legislation—such as the Bank Reform Act—has been placed on the back burner.

Last week, the Committee started marking up the Phase II economic package. A number of amendments were adopted, and I am convinced that all of these enhance the program and will make it much easier for the President to convince the American people that its Government is moving in an equitable manner.

Frankly, the bill sent forward by the Administration was poorly drafted and some areas were so ambiguous that the law might be endangered in the courts if the Congress does not make the necessary changes. Actually, the Committee amendments—which had been worked out over weeks of research and drafting—are designed to give the legislation—and Phase II—two basic things—equity and clarity.

The Administration was asking for some pretty outlandish things in its bill. For example, it wanted the Committee to rubber stamp an across-the-board ratification of all orders and regulations—and interpretations—which had taken place since August 15. Included apparently would be a lot of areas the Administration has never bothered to inform the public or the Congress about over the past 90 days. In short, we were being asked to ratify the unknown. The Committee could not go along with this, and the section had to be stricken from the bill.

The Committee also took steps to make sure the average citizen—the consumer—had some recourse when he got stuck with price-gouging. So we pushed through a requirement which allows the consumer to seek civil damages if he is charged above legal ceilings during the period of the wage-price stabilization program. The Administration has conceded that it has no real plans for detailed policing of prices; so this amendment enlists the aid of the consumer in policing prices. It should be a deterrent to violations of the price orders.

As this audience knows, the President has been extremely vague about what he might do in cases where there are "excess or windfall" profits. His attitude on this has heightened the feeling among some that the stabilization is placing an unfair burden on the wage-earner while corporate profits are left unchecked. To make sure that someone is watching the profit question, the Committee adopted language insisting that a Board on Excess Profits be created and that it make regular reports on the situation. This at least assures that the spotlight will be kept on this area and should help convince the American people that runaway profits aren't going to be allowed during this program.

A similar situation exists in the area of interest rates and credit controls. You may not agree with me about this issue, but let me assure you that the American people are upset that the lending institutions have not been included in the stabilization program.

This has to be corrected, and that's why I insisted on an amendment last week which will require that orders and regulations stabilizing interest rates will have to be issued whenever similar orders are issued on prices, wages, rents, salaries and other areas. In short, this amendment will require that interest rates—and credit charges—be controlled if there are other controls in effect. If this language stands up through the House and the Senate, it will mean that the President can no longer ignore this part of the

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economy. The language of the amendment is clear on this point.

Despite some slight reductions in the prime rate and money market rates, now is the time to apply interest rate controls. They are needed now particularly to help control the high interest rates on consumer lending.

They are also needed as a bulwark to withstand the heavy pressures that are certain to appear in 1972. The Federal Government will be going into the market to finance record deficits; state and local government will be heavy borrowers; and the business community must have the loan funds to fuel the expansion so badly needed in the economy.

In fact, if the Administration's economic program—centered around the investment tax credit—has any validity at all, then we are going to see a heavy loan demand in 1972.

In my opinion, the financial community has been one of the big losers in the Administration's failure to apply controls equally across the economy. The public resents the favored treatment that has been accorded lenders under the New Economic Program, and if this continues, it may well affect future legislative efforts for all segments of the industry. My mail has reflected this public resentment, and this attitude will grow as the wage-price program bites harder into the economy.

It is my hope that the Administration will see the folly of its ways and support steps to put real equity into the wage-price program.

Last week, the committee also took actions designed to bring some order out of the chaos that has been created by the Administration's vagueness on pay contracts and related matters. Obviously, Phase II can't go forward successfully until these areas are settled.

The Committee voted to recognize the validity of agreements that were entered into by private parties prior to the August 15 freeze, but left with the President the full authority to block any wage contract which was "grossly disproportionate" to other wages in the economy generally.

The Committee's action has been misinterpreted all over the lot. Some news stories carried accounts of the pay amendment without noting that the President retained authority to block the inflationary wage agreements. The White House—apparently without reading the amendments—issued a blast shortly after the Committee action further adding to the confusion and misinformation.

Despite the claims of the Washington Post's Financial Editor in his Sunday column, the Committee amendment does not require that all deferred wage increases in existing contracts be allowed. In fact, the Committee was extremely careful to make sure that the President and his Pay Board retained the necessary power if these contracts were "grossly disproportionate."

The strange thing about the White House statements—and staff leaks to the columnists—is that the Committee action is not very far from the President's own assurances to the American people on the issue.

When Phase II was announced on October 7, President Nixon told his national television audience:

"We will permit some adjustments of prices and wages that fairness demands, but we will not permit inflation to flare up again."

The next day, Secretary Connally conducted a press conference and he repeated the same message:

"It (pay increase) depends on whether or not their peculiar situation requires a small, or a large increase, in order to bring them into an equitable position with their counterparts in the economy."

Now the Banking and Currency Committee comes forth last week and says that the pay increases are to be allowed unless they are "grossly disproportionate" to other wages in the economy. That seems awfully close to the Secretary's words.

In this connection, it must be recognized that a number of the contracts we are talking about do not involve "big unions." Many involve relatively low-income workers—maintenance people, office help and the like. Also, they involve thousands of teacher contracts, and I doubt that many of these—if any—are grossly disproportionate. The granting of these wage increases could hardly cause an "inflationary bulge" as one television commentator describes the situation.

The Committee also took other steps to protect the low-income families by exempting from coverage the "working poor." We are trying to eliminate poverty in this nation and it makes little sense to adopt a law which would, in effect, assure that low-income workers would be kept in a poverty status.

This entire wage-price program needs to be a broad bi-partisan effort, and I sincerely hope that the President's statement of last Thursday night does not disturb this approach. The President is trying, but he is surrounded by a lot of people out of the public relations and advertising world, and sometimes these advisors shoot from the hip. I guess this is a problem that all Presidents have.

The problem was intensified yesterday morning when the Republican National Committee released a statement by its Chairman—Senator Dole—charging that the Banking and Currency Committee had meddled in the President's business. This is a sad state of affairs when a political leader claims that a Committee of Congress—carrying out its legislative function—is "meddling." Perhaps all of this can be dismissed as excessive campaign rhetoric, but it also has a sinister and dangerous overtone.

It is dangerous—for both businessmen and workers—and the entire citizenry—when political leaders take on the mantle of infallibility. The basic strength of the Constitution is based on a carefully worked out series of checks and balances—on three separate branches of government. The Republican Party is suggesting very strongly that it does not agree with these basic concepts of our system.

The Administration's attack on the amendments borders on the absurd. After all, it was the Banking and Currency Committee which drafted and pushed through the original bill. The Committee has an obvious responsibility to take an active role in shaping Phase II. The Pay Board is operating under powers delegated by the Congress and certainly Congress has a right—a specific Constitutional duty—to spell out and define these powers.

In some nations of the world, proclamations by chief executives are substituted for the law-making processes. I hope that we never see the day when this is true in the United States. It might well be easier to allow all of Phase II to be established by edict, but I think we owe the Constitution and the American people a little more than this.

Whatever happens at the White House—and at the Republican National Committee—the Congress will continue to carry out its functions—its constitutional responsibility. The responsibility is even greater on this particular piece of legislation because of the broad powers implied in a wage-price control program. These are awesome powers for any Chief Executive and it is essential that the Congress lay down the ground rules carefully.

In the end, I am convinced we will work out a law which meets all of the President's requirements and at the same time gives the people the proper protection. This program must work for the survival of the whole nation.

Thank you very much for inviting me.

TAKE PRIDE IN AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of Ohio. Mr. Speaker, today we should take note of America's great accomplishments and in so doing renew our faith and confidence in ourselves as individuals and as a nation. To buy a good suit of clothes in France takes 75 hours of work and in Great Britain, it requires 40 hours. In the United States only 24 hours are needed for the same item.

ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 60 minutes.

Mr. HOGAN. Mr. Speaker, on May 3, 1971, the Senator from Oregon (Mr. PACKWOOD), introduced two abortion bills in the other body. The first was a bill to authorize abortions performed by licensed physicians throughout the United States "upon any female person who requests that action" within the first 140 days—20 weeks—of a pregnancy, and after that time if failure to perform an abortion might "endanger the life or health" of the woman, S. 1750. The second bill introduced by Senator PACKWOOD would authorize abortions under exactly the same conditions in the District of Columbia, S. 1751.[1] Neither the two bills themselves, nor Senator PACKWOOD's stated rationale in sponsoring them, have received anything like the scrutiny they warrant.

In introducing his bills, Senator PACKWOOD began his remarks by stating that his intention was "to take the Government out of the business of enforcing compulsory pregnancy" and to "permit women to control their own fertility, by early termination of pregnancy if necessary,"[2] both nationwide and specifically in the Nation's Capital. It is not clear in what sense the Government has ever "enforced compulsory pregnancy," since it is not clear how pregnancy is ever compulsory at all, except in cases of rape, and Senator PACKWOOD's two bills are not intended to deal with the problem of rape. In no other case, however, is a woman ever "compelled" to be pregnant; she must be assumed to know that pregnancy is a possible consequence of entering into a marriage or sexual relationship. In such a relationship, as in all other areas of life, she must also expect to have to take the consequences of acts she freely undertakes. Would even Senator PACKWOOD care to see established as the new norm of our society the general principle he seems to be asserting here; namely, that people are not obliged to take responsibility for acts they undertake?

As for controlling her fertility, a woman has always been able to do that simply by declining to enter into a marriage or sexual relationship. Once she has entered into such a relationship, however, she implicitly accepts a wide range of

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responsibilities, fully recognized by the laws, which go far beyond the occurrence of possible pregnancies. Should divorce, for example, or a husband's obligation to support his family, be made purely elective for any who find they do not want to face all the consequences of their decision to marry? This would be no more illogical than elective abortion for women who simply decide that they do not "want" to support the children they have nevertheless conceived. To concede such women the "right" to abortion would be to establish irresponsibility as the new norm of society; this would have incalculable consequences reaching far beyond abortion and personal and sexual behavior.

Moreover, today, by the use of modern contraceptive techniques, a woman who has no moral objections to contraception is able to control her own fertility to a greater extent than has ever before been possible in human history. It is ironic that abortion should be increasingly called for at the very time when other methods have been most effectively developed. No method, of course, except total sexual abstinence, is 100-percent effective in preventing pregnancy. Nevertheless, a failure to prevent pregnancy in a given instance in no way establishes the "right" to remedy the mistake by killing the child who has been conceived, any more than such a failure establishes any obligation of society to permit such a violent and brutal remedy. For, as the prominent Protestant moral theologian, Dr. Paul Ramsey, of Princeton University, has aptly pointed out, what Senator PACKWOOD euphemistically calls "termination of pregnancy" really means "Killing the fetus in order to terminate the pregnancy."[3] Abortion always involves the destruction of a living, though unborn, human being.

The scientific evidence that the human embryo or fetus is a unique irreplaceable human being from the time of conception can be found in any appropriate biology or medical textbook. In his "Foundations of Embryology," for example, Dr. Bradley M. Patten writes:

> Every one of the higher animals starts life as a single cell—the fertilized ovum . . . The union of two such sex cells (male germ cell and female germ cell) to form a zygote constitutes the process of fertilization and initiates the life of a new individual."[4] Within four weeks of this conception—as soon as a woman can verify the fact that she is pregnant, and hence can even consider having an abortion—the heart of the new individual inside her is already pumping its own blood. Within eight weeks of conception—the point at which many abortions are actually performed—the new human individual has "a pumping heart with fully deployed blood vessels and has all other internal organs. The face is completely formed, and the arms, legs, hands, feet, toes and fingers are partially formed. The fetus will react to tickling of the mouth or nose, and there is readable electrical activity coming from the brain."[5]

To assert, in the face of this scientific evidence, that the fetus is not a living human being would be comparable to asserting that the earth does not rotate on its axis or revolve around the sun.

Laws restricting the performance of abortions do not, therefore, represent the enforcement by the state of "compulsory pregnancy," as Senator PACKWOOD alleges. Their intent is properly to protect the rights of the child, once a living child has been conceived. As a recent Federal court decision—December 1970—upholding the restrictive Ohio abortion statue, which prohibits the operation except to save the life of the mother, has declared;

> Once human life has commenced, the constitutional protections found in the fifth and 14th amendments impose upon the State the duty of safeguarding it."[6]

This principle has been increasingly recognized in the law in cases far removed from the question of abortion. For example, an unborn child can inherit. He can have a guardian appointed. He can sue for injuries inflicted while in the womb. The leading academic authority on the law of torts has declared that an "unborn child in the path of an automobile is as much a person in the street as the mother" and the Michigan Supreme Court, in July 1971, has ruled to the same effect in an exactly analogous case.[7]

Legal doctrine such as this reflects the law's increasing recognition of the scientific facts about human conception and prenatal development. Where the courts have looked at these facts, the humanity of the unborn child has been explicitly recognized. For example, a case extending the unborn child's right to sue for injuries even to nonviable children recognizes that—

> The mother's biological contribution from conception on is nourishment and protection but the foetus has become a separate organism and remains so throughout its life. That it may not live if the protection and nourishment are cut off earlier than the viable stage of its development is not to destroy its separability; it is rather to describe conditions under which life will not continue. Succeeding conditions exist, of course, that have that result at every stage of its life, postnatal as well as prenatal. The complaint here, in alleging that plaintiff was in being in the third month of his mother's pregnancy, alleges a conclusion of fact consistent with generally accepted knowledge of the process.[8]

In the light of the scientific facts, then, and of the legal recognition of those facts, it is clear that the remark of Clare Booth Luce about abortion being primarily a "woman's problem"—a remark favorably quoted by Senator PACKWOOD—simply does not speak to the real issue. Not merely a woman but a child is involved—not to mention a man, for Senator PACKWOOD's bill placing the abortion decision solely in the hands of the woman effectively nullify the rights of a father over his children.

Similarly, Senator PACKWOOD's comment that—

> The debate on abortion has . . . been centered entirely on theological discussions of when individual life or personhood begins.

Again fails to speak to the real issue involved in abortion. Opponents of permissive abortion are quite prepared to leave theology out of the picture entirely. The Constitution of the United States by itself provides sufficient reason to reject elective abortion. The purely theological question of when a soul, assuming human beings have souls, is infused into each new human individual is irrelevant to the question of when medical abortions might legally be performed under a constitutional system which professes to take into account the rights of all. The guarantees in the Constitution remain regardless of the outcome,of any theological debate; they remain even if Senator PACKWOOD is correct in his assertion that the moral aspects of abortion can never be settled "so as to be accorded unreserved acceptance by all." Constitutional guarantees, in the American system, do not depend upon "unreserved acceptance by all," as the courts have consistently held in civil rights cases.[9]

For example, the moral aspects of slavery, formerly, were never settled, nor, today, have the moral aspects of discrimination been settled to the satisfaction of everybody. Nevertheless, the thrust of recent civil rights legislation is clear. The 14th amendment itself was adopted precisely to make clear what was already implicit in the Constitution; namely, that its legal guarantees could not be denied to any person within the jurisdiction of the State. The Constitution cannot admit of categories, whether of slaves, of blacks, or of the unborn, which are to be arbitrarily considered categories of "nonpersons," and hence denied the equal protection of the laws. This constitutional guarantee of equal protection has been held to apply even to business corporations as persons. How can it be denied to unborn children who are in actual fact living human beings?

Thus, while it may be sadly true that women who today have decided they do not want the children they have conceived are caught in "tragic dilemmas," as Senator PACKWOOD remarks, it is equally true that these dilemmas are mostly of their own making; they arise from a mistaken belief that, merely because a child has not yet managed to get born, he may be done away with because he is unwelcome or burdensome to others. Such a notion as this can no more be introduced into the American legal and constitutional system with impunity than disease germs can be introduced into a healthy body without fear of harm. To admit the principle that unborn human beings are expendable is to establish in principle that the 14th amendment's guarantees of equal protection are meaningless; it also would raise the ominous question of what other categories of human beings are expendable.

Senator PACKWOOD speaks of "real women suffering," of women "deeply mired in poverty, frantic with concern over what another baby will mean in an already overburdened household," and of those who simply "cannot think of coping with a baby." It is necessary to wonder about the future of a country whose citizens in any number "cannot think of coping with a baby." What could such people cope with? It seems unlikely that the Oregon Territory, for instance, would ever have been settled by people such as this.

Nevertheless, it is unnecessary to deny that many cases of hardship are very real. No doubt many more efforts to alleviate poverty and suffering are re-

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quired of the richest Nation in the history of the world. The good intentions of those who point to these evils in American society must be granted, and the social duty of all Americans to contribute to the well-being of the less fortunate must be insisted upon as a matter of public policy. An unescapable requirement of any measure proposed to deal with hardship, poverty, or suffering, however, must surely be that such a measure does not violate the rights of others. Abortion-on-request proposals totally fail to recognize that the unborn child has any rights. No matter how real they may be, neither sufferings nor tragic dilemmas—universal for all human beings in any case, at least in some stages of their lives—can legitimately serve as pretexts for inflicting injury, much less death, upon others. The law which would allow this is no longer a law based upon right and justice but upon selfishness, convenience, and expediency.

It is, of course, perfectly true—though, again, that does not make it right—that abortion is nevertheless resorted to today on a vast and increasing scale in many States and countries. The 165,000 legal abortions performed in New York City in the first year of New York's abortion-on-demand law [10] exceeded even the expectations of the proponents of permissive abortion. An enormous demand for abortions clearly exists. The fact that many people do want abortions, however, is hardly in itself a valid argument for legalizing the practice, if it is indeed true that it violates the rights of the child. Assault and larceny are similarly occurring on a vast and increasing scale, yet nobody argues that the laws which prohibit these crimes should be repealed merely because more and more people have apparently decided it is all right to commit them. The only way the laws against abortion can be seen as any different from those against assault or larceny is by leaving out of account not merely the child's rights, but the very fact of his existence. Only then can the question of abortion be reduced to one of a woman's control of "her own body." It is this that Senator PACKWOOD regards as the "substantive issue" involved in abortion. When the child is left out of account, abortion becomes a purely technical matter, and, as the Senator says, "the question is not whether but how society should deal with it."

Senator PACKWOOD adds the further argument that—

> A middle- or upper-class woman can usually get an abortion performed by a physician, no matter what the law says. She may have it in her own hospital with the procedure disguised under some other medical term, or she can go to another country where the practice is more liberal.

This is true, and it means that the poor and disadvantaged cannot easily resort to the same subterfuges by which the rich and affluent are able to break the law.

This widespread disregard of the law by the well-to-do, by some hospitals and some members of the medical profession is regrettable and deplorable, but should the response to it be to repeal the laws which are being violated? Or should it not be a greater effort to enforce these laws? The criminals go unapprehended and unpunished in an estimated four out of every five crimes committed in the United States,[11] but this is hardly an argument for repealing the laws against crime. There exists no well-financed lobby arguing that nobody should be "discriminated against" in his criminal undertakings, as the abortion lobby argues, in effect, that nobody should be prevented from violating the abortion laws if anybody manages to violate them. The motto of the U.S. Department of Justice is "equal justice under law," but this ideal is hardly achieved by doing away with the law. It is achieved by enforcing the law equally.

In the light of these general comments on the rationale Senator PACKWOOD offers for his two bills which would legalize abortion in the District of Columbia and in the Nation at large, it is now possible to comment on the specific "benefits" which the Senator from Oregon believes the passage of these bills will bring. He enumerates these benefits in the course of his remarks in the CONGRESSIONAL RECORD:

> First, it would clear the air by admitting that the practice of abortion exists and should be brought into the open where it can be dealt with according to safe medical procedures. Deaths and maiming from abortion could be virtually eliminated.

It is hardly necessary to pass laws in order to admit that the practice of abortion exists. Nobody denies that it exists. The question is: What should a society which is not merely humane but also just do about it? If a practice is inherently vicious, as abortion surely is, the result of bringing it out into the open will only be to make it more acceptable to more people; and, consequently, to increase the total number of abortions performed. Those who might have been deterred by the law will join those prepared to seek abortion regardless of the law. Since the total number of abortions will be greater, what Senator PACKWOOD calls "deaths and maiming from abortion" will be greater too. Abortion is by no means a completely safe procedure, even when performed by a doctor in a hospital. Prior to New York's noble experiment" with abortion on demand, it might have been possible to argue, as Senator PACKWOOD does argue, that legalization would permit abortion to be dealt with according to safe medical procedures. It is no longer possible to argue this. In New York, short-term complications for the woman have been running at a rate of 12.4 per 1,000 abortions; they include such phenomena as hemorrhage, infection, shock, retained tissue, perforated uterus, and lacerated cervix.[12] Long-term complications are yet to be verified. At least 15 women have died as a result of legal abortions, [13] a maternal death rate three times higher than anticipated by the New York City Health Services Administration when the law was passed to take effect on July 1, 1970.[14] In addition, since women are traveling to New York for abortions from all over the United States, the medical statistics in New York for post-operative complications are showing up in the woman's State of residence, not New York. There have been at least 40 recorded cases of infants born alive in New York City's first year of experience with the new law. [15] It truly becomes very hard to sustain the thesis that abortion involves only a woman's control over her own body when live infants are ripped from the protection of the womb and left to die gasping for breath in a sterile hospital basin.

> Second, it would command respect as an evenhanded law, enforceable, fair, nondiscriminatory, protecting and giving the same right to every woman, whatever her race and social class, wherever she may live. It would take the state out of the business of enforcing compulsory pregnancy on unwilling women.

No law which completely ignores the rights of at least one of the parties involved in every abortion—the child—can long command respect as either evenhanded or fair; such a law may be nondiscriminatory as far as women are concerned but there is no conceivable way it could discriminate more against children since it would allow their liquidation at will or whim. It is hard to understand how the term "enforceable" could be applied to such a law. There is nothing to enforce. A law such as this is simply an abdication of the law: everyone would be allowed to do as he pleases in the matter of abortion. Senator PACKWOOD's further comment about enforcement of "compulsory pregnancy" has already been discussed above. He continued:

> Third, it would leave the moral, ethical, and religious issues to the individual conscience, guided by whatever counsellor is trusted, leaving the legislature to protect the civil rights of the individual. Churches and other organizations would be free to advocate their positions as fervently as they wish. While the numbers of abortions might rise with such a law, at least at first, there is also the possibility that when women could seek assistance and counseling more openly, without fear, some abortions would be averted as other support and alternatives were offered. We might hope that the decision to deal with this problem on a national scale, thereby for the first time really revealing the scope of the problem, would serve as a challenge to greater effort for those who say better social conditions are the solution to the problem of abortion.

It is vain to speak of the legislature protecting "the civil rights of the individual" in the context of a law which would permit elective abortion. The civil rights of no individual are safe or secure when the rights of any—for example, the unborn—are nullified, in this case by the State's failure to protect them. As for leaving abortion to the "individual conscience," the Episcopal Bishop of Michigan, the Right Reverend Richard S. Emrich, has most eloquently shown the unacceptability of leaving a moral and ethical judgment which would affect the rights of third parties to the "individual."

Bishop Emrich writes:

> Abortion is for me and for millions of others, the killing of innocent human life. It is not like eating fish on Friday, or going to church on Sunday, or, like the Mormons, refusing to drink coffee. It is a completely central, fundamental, basic moral question involving the value of human life and I simply cannot say, "Let's be tolerant. You kill and I would not kill." If the law permits abortions for any reason—I am compelled to say that what is wicked would then be legal. I will not be quiet for the sake of "peace" or "tolerance" any more than I would be quiet before gas chambers. In some ways, we are a pluralistic society but if we cannot agree on the value of human life, then I say we are a corrupt society.[16]

It is not sufficient for the individual conscience to reject abortion for one's own self; the individual conscience must also reject it on behalf of the child victims. No one who seriously believes that the killing of innocent human beings is wrong can easily and tranquilly live in a society which legally sanctions such killing. This attitude should be especially understandable at a time when so many are in conscience finding intolerable the killing which results from a war in which their nation is involved. Anyone who has been involved in one of the State "right to life" committees can testify that many—among the most stable and productive in society—will work tirelessly on the abortion issue and give unstintingly of their own time and resources. The doctrine that abortion should be elective is an outrage to the consciences of such people, and attempts to legalize the practice, to the extent that they are successful, will also "polarize" still one more group against the "system," at a time when a fragmented American society can scarcely afford the alienation of still more people from its laws and Government. In any case, once abortion is legal it is no longer something one can choose to avail oneself of or not. Once it is legal, medicaid or other public health programs will subsidize abortions. This is actually the case where abortion has been legalized in one degree or another; it was bound to be the case when one of the stated aims of abortion "reform" has been to provide the indigent the same access to abortion which the well-to-do have managed by evading the law.

Senator PACKWOOD expressly endorses this aim, and hence his idea that with legalization those who oppose abortion would still be "free to advocate their positions as fervently as they wish" would have little meaning: everybody would be paying for abortions with their tax moneys no matter how abhorrent some might find them. Employees would be obliged to contribute to health and insurance programs paying for legal abortions as a henceforth standard medical practice. In the context of modern healthcare practices, elective abortion would mean compulsory support of abortion by the majority who are not demanding this lethal operation as a new "right." Moreover, it is quite unlikely that the problem of abortion will be altered in any way because, through greater freedom, women will be motivated to seek "counseling more openly, without fear." Counseling is already abundantly available today, yet the demand for abortions continues to rise, in part, perhaps, because almost all the organizations with counseling programs in this area have already accepted the abortion-on-request mentality; many of the women seeking abortions have been, in fact, "counseled" to receive them. It seems clear too that "social conditions" cannot be a major cause of the "abortion explosion." Few countries or periods of history, if any, can match the general prosperity that has prevailed in America during precisely the period that "reform" of abortion laws has become an issue. Senator PACKWOOD is himself the witness that it is mostly the affluent who are currently getting the abortions; if they can afford the psychiatrist who in most places must certify that they need the abortion, they can surely afford whatever "counseling" might help them.

Whatever other evils may be laid at the door of "social conditions" of poverty and deprivation, these conditions can hardly be the cause for very many of the abortions being sought right now—55.5 percent of the women who had legal abortions in New York City during 1970 came from out of State, and could presumably afford the fare to travel to New York for their abortions. More than half of all the abortions were performed on women under 24 years of age.[17] It seems to be quite out of the question that so many young women could have been "frantic with concern over what another baby will mean in an already overburdened household" or that they could already be worn-out with excessive child-bearing. Medical or psychiatric reasons were cited in less than 2 percent of all the New York abortions.[18] The New York law, then, is hardly benefiting the "hard cases" of which the proabortion propaganda so regularly speaks. Rather, the law seems to be providing legal cover for careless, callous and wanton destruction of thousands of children for no other reason that that they are not wanted; and providing society's endorsement on an unprecedented scale of the proposition that people need not be responsible for the consequences of their own actions. He said:

> Fourth, it would leave doctors free to practice medicine and hospitals to furnish facilities for such medical practice without foisting on them the burden of trying to interpret the will of society and of making decisions the rest of us do not want to face up to.

As has been pointed out from within the medical profession itself,[19] abortion on demand leaves no scope for the practice of medicine at all, in the true sense of the word. The patient does not ask the doctor to examine her condition, diagnose it through his medical knowledge and skill, and then prescribe or carry out an appropriate remedy. The patient simply demands an abortion.

If he complies, the physician is following her prescription; he is reduced to the level of a technician who merely carries out the procedure. Moreover, the practice of medicine has traditionally involved healing and the saving of life. Even doctors formerly performing therapeutic abortions only did so because they believed the operation was necessary to save the life or health of the mother. With abortion on demand, however, there is no other aim in view except the willed destruction of the child; the aim is purely destructive; this is the negation of the practice of medicine. Furthermore, once abortion is legalized, neither doctors nor hospitals will be free to refuse to perform abortions. Already, in New York, lawsuits have been filed against hospitals on this very issue.[20] Once abortion is accepted as "standard medical practice," both doctors and hospitals can be sued for malpractice if they fail to provide the standard medical care available in a community.[21] Without crediting Senator PACKWOOD's assumption that abortion is indeed a matter within the purview of "the will of society"—the Constitution, again, does not regard decisions on life or death in this light—it should nevertheless be obvious that both doctors and hospitals will have less trouble interpreting laws which strictly forbid abortions except under conditions spelled out in the law—for example, to preserve the life of the mother; abortion on demand, however, will mean, an open Pandora's box from which doctors and hospitals will be the first to suffer.

The Senator continued:

> Fifth, it would insure that virtually all abortions would be done at an early stage of pregnancy. One of the emotional issues raised whenever changing abortion laws is discussed, is the specter of viable fetuses being delivered and allowed to die. Because of the genuine concern of many, I have incorporated in this bill a very conservative time limit—16 weeks—within which an abortion would be allowed. This would make absolutely certain that there would be no abortion of a viable fetus.

Senator PACKWOOD's two bills actually provide for 20 weeks, not 16 weeks, as the time limit after which abortions can no longer be performed on request. After 20 weeks, they can only be performed if—

> In the judgment of the physician performing such abortion, a failure to perform such abortion is likely to endanger the life or health of such female person.

In practice, however, such a time limit is close to meaningless. The question of determining what conditions might endanger a woman's health is left solely to the physician. It is also a reasonably well-documented fact that physicians doing abortions today are simply taking the fact that a woman desires an abortion as itself the evidence that her health is endangered. There are no longer any clear-cut and definite medical or psychiatric "indications" for abortion accepted in the contemporary medical literature.[22] In this situation, the judgment of the doctor is purely subjective. In practice this can lead to a situation such as the one that in fact now obtains in the District of Columbia, where a statute, recently upheld by the Supreme Court, which allows abortion only to preserve the life or health of the mother, is actually treated as an abortion-on-request law. A recent article in the Washington Post, "Abortion Forces Bid To Push Washington into Big League," confirms how little effect what the laws says may have on physicians, if the law is in fact not enforced:

> The U.S. Supreme Court's decision last April 21 cleared up much of the legal haze over the abortion issue that resulted from the ruling by a U.S. District Court judge here that the District of Columbia abortion law was too vague to be enforced. The Supreme Court upheld the law, but in so

Footnotes at end of article.

doing required that the prosecution prove that the woman's mental or physical health was not at stake in order to prosecute the physician.

Doctors say that successful prosecution on these grounds will be very difficult, and that the District can, in effect, be considered as legal a place for abortions as Hawaii, Alaska, California, Washington State, and New York.

If Washington is to compete with New York City for a large share of the market, it will have to do so by drawing from the South and Midwest, areas where Washington is more accessible than New York . . .[23]

In a permissive climate such as this, where what many herald as the liberation of women from child bearing is actually seen as a particularly sordid "market" in human life, and where some doctors seem to be doing pretty much as they please without fear of prosecution, it is unlikely that a legal provision restricting abortions after 20 weeks will have much effect. Legal provisions in effect now are apparently not having any effect. Nor will a mere time limit provide any guarantee that there would be "no abortion of a viable fetus," as Senator PACKWOOD hopes. The progress of medical science has already pushed viability back to about 20 weeks in any case. A doctor comments:

The youngest survivor in medical literature is of about 20 weeks' gestation. Survivors with a birth weight between 1 and 2 pounds are documented. Practically no knowledgeable person considers the age of survivability as immutable; too many variables are involved. In this day of DNA synthesis, test-tube incubation, intrauterine transfusions, talk in high circles of chromosomal manipulation and in vitro generation, the 20-week survivability standard is about as sacred as the 4-minute mile.[24]

With the development of an artificial placenta, perhaps within the next decade, fetuses born as early as 12 weeks after conception might possibly survive.[25] In short, limiting elective abortion to some period before the supposed viability of the fetus accords neither with the scientific evidence regarding the developmental process of every human being from conception through birth, which admits no such cutoff point. Nor does it accord with modern medicine's increasing ability to insure the survival of children born long before the normal term of gestation.

All these, then, are the "benefits" which Senator PACKWOOD sees as resulting from the passage of his elective-abortion bills. Merely on the basis of the analysis attempted here, they seem to be questionable benefits, especially when it is considered that, in order to realize them, the constitutional protections inherent in the fifth and 14th amendments must be suspended as far as the unborn child is concerned.

There remains to be considered the question of why Senator PACKWOOD wants an abortion law which would be national in scope. Legislation on this subject has never been considered within the province of Congress. As President Nixon commented, in rescinding a Department of Defense directive which was allowing abortion virtually on request in military hospitals, regardless of the laws in force—

Historically, laws regulating abortion in the United States have been the provinces of the States, not the Federal Government. That remains the situation today, as one State after another takes up this question, debates it, and decides it. That is where the decision should be made.[26]

Senator PACKWOOD, however, believes national legislation is necessary because:

The present laws are such a hodgepodge—the situation is in a state of flux, with State legislatures moving in different directions—and strong countermoves underway to move them in the opposite direction. What is permissible this year may not be permissible next year; what is criminal today may be sanctioned tomorrow.

In this situation, it is perhaps not surprising that those favoring elective abortion would like to see the question settled at one stroke. This may be all the more true since abortion "reform" has not been faring so well lately as it did between 1966–70, when 13 States liberalized their statutes in one degree or another, while Alaska, Hawaii, New York, and Washington State virtually legalized the practice. During 1971, however, abortion reform bills failed in the legislatures of Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nevada, New Hampshire, North Carolina, and North Dakota.[27] The momentum of legalized abortion has clearly stopped, at least for the moment. Clearly, the passage of a Federal bill would obviate the need to fight the battle in the legislature of each State in the face of rising opposition.

However, there is serious question whether Senator PACKWOOD's national abortion bill would not be in conflict with the 10th amendment to the Constitution which provides that—

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Federal Government has never pretended to have the authority to regulate abortion in the Nation as a whole, any more than it has attempted to regulate local medical or hospital practice directly, or claimed primary jurisdiction in the province of the criminal law. Laws regulating medical practice, like laws prohibiting murder, are State laws. The passage of Senator PACKWOOD's national abortion law by Congress would constitute an assault on American federalism in every way comparable to its assault on the individual rights guaranteed by the 14th amendment. The Congress should reject S. 1750 as outside its proper province.

It is certain, however, that the Congress does have the authority to regulate abortion in the District of Columbia. This is not to say that S. 1751 is in any sense a desirable bill for the District. Rather, the Congress should consider tightening up the present District of Columbia law, in view of the fact that it is being interpreted to allow abortion virtually on demand. Passage of a more restrictive law would not be a retrogressive step. In spite of today's widespread abortion mentality, the debate going on in many States is proving that the American people have not by and large accepted the arguments for abortion on demand. The excesses of the permissive laws in New York and elsewhere are entering the public consciousness. It is clear that the victories permissive abortion has gained up to now were achieved with little opposition and little public consciousness of what was taking place. But now the opposition is beginning to appear.

An authoritative study of all the major polls taken on abortion during the decade of the sixties has recently revealed that, while there is considerable variation among Americans regarding the acceptance of abortion, depending upon the reasons for it, over 80 percent of all Americans oppose simple abortion on demand.[28] The results of this public opinion study are certainly confirmed by the defeat of reform or repeal legislation in State after State as it begins to dawn on the legislators and the public what the abortion reformers are really aiming at.

Moreover, in Iowa, Louisiana, Massachusetts, Minnesota, Ohio, and Vermont, State and Federal courts in the last year or two have been upholding as strictly constitutional laws which forbid abortion except to save the life of the mother.[29] Finally, as already noted above, the President of the United States has declined to accept the arguments for abortion. His statement on the subject might appropriately serve as the policy of the Nation:

From personal and religious beliefs I consider abortion an unacceptable means of population control. Further, unrestricted abortion policies, or abortion on demand, I cannot square with my personal belief in the sanctity of human life—including the life of the yet unborn. For, surely, the unborn have rights also, recognized in law . . .[30]

In summary, then, neither of Senator PACKWOOD's abortion bills deserves to be enacted by the Congress—for the reasons outlined above, especially because neither bill recognizes that the Constitution of the United States forbids the denial to any person of the equal protection of the laws.

FOOTNOTES

[1] *Congressional Record, Senate*, May 3, 1971. Pages 13155–56.

[2] *Ibid.*, as are all quotations from Senator Packwood's remarks in introducing his two abortion-on-request bills.

[3] Quoted in *AMA News*, October 5, 1970.

[4] Patten, Bradley M. *Foundations of Embryology*, McGraw-Hill, New York, 1964, Page 2.

[5] Cited by Byrne, Robert M. "Abortion On Demand: Whose Morality?" Notre Dame Lawyer, Vol. 46, No. 1, Fall, 1970. Pages 6–7. Byrne draws his scientific evidence from H.M.I. Lliey, *Modern Motherhood* (rev. ed., 1969) and Andre Hellegers, M.D., "Fetal Development," *Theological Studies* 3, 7 (1970).

[6] Quoted from a typescript of the federal court decision distributed by the National Right to Life Committee.

[7] Prosser, W. *Law of Torts* (3rd ed., 1964), Page 355; for the Michigan decision see Detroit *News*, July 10, 1971.

[8] Kelly v. Gregory, 282 App. Div. 542, 125 N.Y.S. 2d. 696 (Sup. Ct. 1963). Cited by Byrne, *loc. cit.*, Note 5, above.

[9] See, for example, the cases cited by Byrne, *loc. cit.*, Note 5 above.

[10] The New York *Times*, July 1, 1971.

[11] This figure cited by Wertham, Frederic, M.D. *A Sign for Cain: An Exploration of Human Violence*. The MacMillan Company, 1966. Page 31.

[12] Press Release of the Administrator, New York City Health Services Administration, February 7, 1971.

[13] The Washington *Post*, June 30, 1971.

[14] See Scott, Lael. "Legal Abortions, Ready or Not." *New York* magazine, Vol. 3, No. 21, May 25, 1970.

[15] *Life in America*, June, 1971.

[16] The Detroit *News*, May 10, 1971.

[17] The Washington *Post*, June 30, 1971.

[18] Figures summarized from available statistical data by Bernard J. Pisani, M.D., Director, Department of Obstetrics and Gynecology, St. Vincent's Hospital, New York, in a personal communication.

[19] See, for example, Connor, Edward J., M.D., F.A.C.O.G. and Aydinel, Orhan, M.D., F.A.C.O.G. "Therapeutic Abortion-Washington, D.C." *Medical Annals of the District of Columbia*, Vol. 39, No. 3, March, 1970.

[20] See *Medical Tribune and Medical News*, August 24, 1970.

[21] See Ramsey, Paul. "Feticide/Infanticide Upon Request." Condensed in Medical-Moral Newsletter, Vol VII, Nos. 3 & 4, November and December, 1970.

[22] See, for example, Callahan, Daniel. *Abortion: Law, Choice and Morality*. The MacMillan Company. New York, 1970, for an exhaustive review of the medical and psychiatric literature, both here and abroad. Since Dr. Callahan himself favors a modified abortion-on-request policy, his finding that there are no longer any clear-cut agreed-upon "indications" for therapeutic abortion would seem to be all the more impressive.

[23] The Washington *Post*, June 7, 1971.

[24] Diamond, Eugene, M.D. "Humanizing the Abortion Debate." *America* magazine, July 19, 1969.

[25] See Cavanaugh, Denis, M.D. "Reforming the Abortion Laws: A Doctor Looks at the Case." *America* magazine, April 18, 1970.

[26] Statement of President Nixon printed in full in, *inter alia*, *The Wanderer*, April 27, 1971.

[27] "Newsletter," National Right to Life Committee, April and May, 1971.

[28] See Blake, Judith. "Abortion and Public Opinion: the 1960–1970 Decade." *Science*, Vol. 171, 12 February 1971.

[29] See "Special Legal Report: Courts Defend the Unborn." "Newsletter," National Right to Life Committee.

[30] Statement of President Nixon, Note 26 above.

ADEQUATE MEDICAL CARE FOR ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. BURKE) is recognized for 20 minutes.

Mr. BURKE of Massachusetts. Mr. Speaker, I rise today to discuss the problems of the elderly in the area of health care and costs. I do not intend to assign any oratorical priority to this problem and claim it is the most serious problem facing the elderly. Last week I devoted a full speech to the problems of adequate income confronting the elderly. Next week I intend to take up the problem of adequate housing. I see nothing to be gained by putting one of these problems ahead of another. It is the combination of all three of these most pressing and overwhelming concerns which make old age the difficult period of life it is. I suppose what makes the problem of health costs such an overwhelming preoccupation for the elderly is that this is the age bracket of our population which is confined for the most part to fixed incomes. While health costs are free to spiral at a dizzying pace through the ceiling, the incomes of those most affected by these costs are fixed in the form of either pensions or social security benefits. The irony in all of this, if that is an appropriate choice of words, is that we have a situation where those least able to pay are those who most often have to pay. Statistics confirm what common sense would indicate, that those over 65 are faced with the greatest need for medical attention. Last year, the average medical bill, for instance, for each aged person is estimated to be $791 or more than six times the average youth's bill of $123 and almost three times the intermediate aged bill of $296. Yet this is the age group most likely to be affected by chronic illness, as well as general incapacitation requiring either constant medical or custodial attention.

At the outset it would be worthwhile, in order to appreciate the gravity of the present crisis in health care for the elderly to examine statistically what again common knowledge claims has happened to health costs in general in recent years. The figures in fact, speak for themselves. In the last 20 years each person's average medical bill has grown from $79—using 1950 as a base year—to $324 in 1970, representing an average yearly increase of 7.3 percent. When adjusted to account for the average increase in wage levels, over the same 20-year period, we find that we have a net real increase in health costs of 4.3 percent over the same 20-year period. But I have serious reservations whether this figure should in fact be weighted in this manner in view of the fact that the age group we are discussing happens to be, for the most part, on fixed incomes which just have not participated in the general increase in wage levels for the economy as a whole.

Clearly, it was pressure of this magnitude and this form which drove men of good conscience in the early 1960's to conclude that something had to be done then and there, unless the aged were to be forced to resign themselves to a dismal future with only two prospects, either financial ruin or lack of needed medical attention. These staggering increase in the cost of health care, in other words, provided the incentive to pass legislation providing health insurance for those over 65. Medicare, the resulting legislation, has justifiably been referred to as one of the legislative milestones of the 1960's. I know Chairman MILLS is proud of the tremendously important role he played in devising a bill which would pass both Houses and accomplish this objective. It certainly stands as a monument to the memory of the late, great John Fogarty, my dear colleague from Rhode Island. As originally conceived, medicare was a truly great step forward in the annals of this Nation's history, not just in legislation for the elderly, but in the annals of social legislation in general. It was the embodiment of our Nation's commitment to provide for the needs of our elderly citizens in the vital area of medical care. Rather than making it a handout or charity for those too proud to accept it, it was set up in the form of a social insurance program whereby workers during their productive years, and their employers, would begin to pay toward hospital and related care costs they would meet in their senior years. Today it is estimated that some 20 million persons are enrolled in the program. There can be no denying that there has been improvement in the lot of the elderly as a result of the program. In premedicare days, that is, before 1966, it is estimated that some three-tenths of an aged person's medical bill was paid for with public funds. By fiscal year 1970 it is estimated that fully two-thirds of the total bill for medical aid for the aged was Government funded, with medicare alone contributing some 43 percent and medicaid picking up the remaining 16 percent. Medicaid, a program administered by the States to aid the needy has certainly come in for its share of criticism lately, but at this stage I am only interested in focusing on the contribution it makes toward helping the elderly meet their medical expenses. According to my calculations this still leaves 29 percent of the average aged person's health bill properly classified as out-of-pocket expenses. Viewed from another angle, I think the impact of the medicare program can be seen even more dramatically. In pre-medicare days, 69 cents of every dollar spent on health care came from the individual's own finances. By fiscal year 1970, 67 cents of each dollar spent on health care was paid for by all levels of Government—in other words, almost the complete reversal of the case in 1965.

Now, if we were to leave the story at this point, as too many have, and walk away from it feeling our job has been done and we have succeeded beyond our wildest expectations, we would be making a very serious mistake. While I would hate to think of the situation facing the elderly without medicare, that is not the same as saying I am satisfied that we have gone far enough. The fact is that, whether because of or in spite of massive Federal and State involvement in health care programs for the elderly such as medicare and medicaid, there are still far too many cases being brought to every Congressman's attention where individuals in old age are being hounded to the grave by staggering and impossible medical costs. Had medical costs been frozen in at their 1965 level, the legislation might still need updating, but perhaps the word "crisis" would be an exaggeration. But as we all know, the State and Federal governments have not been able to get a handle on medical costs and they have probably risen more in the past 4 years than any other single sector of the economy. Thus, financial ruin is still a very real possibility for too many of our elderly, after they have either gone over the present 60 cost-free days of in-hospital treatment or exhausted their individual lifetime reserve. Even the statistics quoted above, impressive as they are, must be viewed with the knowledge that while 67 cents of each dollar spent on health care is being paid for by all levels of government today, since more dollars are being charged for health care, the 33 cents of each dollar borne

by the individual adds up to a very significant amount indeed. In some cases, the individual is really not any better off when he pays his share of the bill, than 6 years ago. If this were an exceptional situation, my remarks might be of very limited interest indeed but the fact is that these cases are too numerous to document here and I am sure other Congressmen have encountered similar situations.

Another indication of the increased financial burden on those with fixed incomes, even under the medicare program, is that the deductible under part A of the medicare program of inpatient hospital treatment has just been increased to $68 by the Secretary of Health, Education, and Welfare. As I pointed out on October 4, on the floor of this House, this announcement by a high administration official in the midst of a wage-price freeze would seem to go against the spirit of that program. This $8 increase represents a 13½ percent increase in the cost of medical service. To someone living on social security benefits who is used to watching percentage increases in the cost of living very carefully, this is indeed a significant increase. As I said then:

> 13½ percent increase in the cost of services in one sector of the economy—the result of a government announcement—is a bad example for the rest of the economy.

The situation is much more serious when we consider the fact that since July 1966 the deductible has been increased a total of four times. As a matter of fact, the new $68 figure represents a difference of $28 over the $40 figure at which the program began back in July of 1966. To me, this development is indicative of the way all kinds of costs have been allowed to increase under the medicare program, almost surreptitiously, buried as these announcements are in the inner recesses of the Federal Register and couched in the most obtuse legalese the HEW is capable of.

When we examine what has happened under part B of the medicare program, the voluntary supplementary program which covers the costs of doctors' services and a number of other items and services not covered under the basic program embodied in part A, the situation is even more serious if possible. Part B is largely financed through monthly premiums contributed by enrollees with matching funds from the Federal Government. What has been the record of monthly premiums paid under part B? From July 1966 when the monthly premiums stood at $3, we found ourselves in July 1971 with a monthly premium of $5.60—close to a 100-percent increase. As a matter of fact, many are now watching to see whether HEW will announce a further increase at the end of this year, pending completion of its current review of costs of the medicare program. H.R. 1, which has passed the House and is currently languishing in the Senate, does attempt to address itself to this upward trend in monthly premiums by freezing them at the present $5.60 level and permitting further increases only when there are increases in social security benefits. But even this illustrates just why the elderly never seem to get ahead under our present programs. Every time there is an increase in social security benefits, there is always someone ready to increase costs. Often it can only appear to the elderly that what the Government gives with one hand with such great fanfare and publicity, it takes away with the other hand clandestinely and without much advance notice. And I am only talking about costs that are effected by Government decree. I have not even mentioned all the elements in the cost of living which are outside direct Government control. This is the principal reason I have such serious reservations about the prospect of any real improvement in the lot of those totally dependent upon social security benefits, if all they have to depend on is a cost of living adjustment mechanism. Five dollars and sixty cents might not seem much to someone earning $300 or $400 a month, but to some one trying to live on $100 or less the situation is almost impossible.

But none of the above statistics, I think illustrate as serious a threat to the financial peace of mind of our elderly under the medicare program than the prospect that with the passage of H.R. 1 the period of cost-free hospitalization under medicare will be reduced from 60 days to 30 days. Even under the current law with provision for 60 days of free hospitalization, there are far too many well documented cases where many of our elderly citizens are encountering financial ruin—whether their own or close relatives'—if they happen to be in the middle-income bracket and need hospitalization of more than 60 days. Actually the H.R. 1 reduction to 30 days represents a distinct improvement over the original administration request to reduce the period of free hospital care from 60 to 15 days. This is but another example of the numerous frontal attacks on the medicare program—reducing, chopping, eating away at the modest coverage the original sponsors of the legislation intended. The elderly, consequently, are beginning to get the message and, not surprisingly, they do not like what they hear. Chronic illness is not so infrequent that anyone can be happy at the prospect of seeing coverage cut from 60 to 15 days, or even 30 days. I am talking now about hospitalization. But what of the thousands around the country who are faced with the prospect of spending the remainder of their lives in custodial care? My constituent mail is replete with stories of how widowers and widows were financially ruined by the costs of providing minimal home nursing or long-term nursing home care. This, in my opinion, is the most serious flaw in the current medicare set up. Because of old age, many find it necessary to spend time in convalescence and custodial care for long periods of time with no protection under the present system. Many defenders of the status quo argue, whatever happened to family loyalty of the old days when one member of the family took care of the others? The irony is that I know of many first-hand instances where members of the family were forced to take a job simply to pay for the visits of a nurse or doctor to their home on a regular basis, to treat one of their close relatives.

Another staggering contributor to the rising medical costs associated with growing old is the cost of medication for prescription drugs. The cost of prescription drugs is now the largest single medical expense the elderly must meet almost entirely from their own finances. It is for this reason that I was one of the first of 113 Congressmen to cosponsor H.R. 2513 which would expand medicare to include the cost of prescription drugs consumed out of hospitals. Congressman OBEY is to be congratulated for the leadership he displayed in introducing this far-seeking piece of legislation. It would constitute a real measure of relief to the elderly were it to pass, as the prescription drug expenditure is more than 3 times that average facing persons under 65. Confronted with these statistics, the many financial and administrative arguments raised against the Federal Government's picking up the tab for this integral part of health care appear miniscule, indeed, and so much concern about very little.

Quite apart from the problem of costs, important as they are, are the more difficult-to-pin-down gaps in coverage under the present medicare program. Unfortunately, it requires considerable time to be specific about this aspect of the problem since it requires discussion on a case-by-case basis. I think the following case, however, illustrates the sort of problem which occurs all too frequently under the present program. It is based directly on correspondence over a long period of time with one of my constituents. One gentleman has corresponded with me on numerous occasions on the serious illness of his wife, who after several operations, was transferred to an extended care facility and finally returned home. Only one of the many major health problems under medicare raised by this particular constituents was the medicare certified home health agencies' provision.

Under the medicare regulations governing home health agencies and the services they provide, an agency is only required to provide two services, one of which must be skilled nursing care. The agency may choose the other service it must provide in addition to nursing.

The Social Security Administration regional representative for health insurance informed my constitutent that the health center available to him, and the only one in his town, provided skilled nursing services and choose to provide physical therapy as its other required service. While this particular agency could, if it wished, provide other services in addition to nursing and physical therapy it is not required to do so under the medicare provisions. Consequently because this particular health center did not choose to provide home health aid services, this gentleman's wife was not eligible to receive such services. As an aside, it is interesting to note that several surrounding towns provided homemaker services, however, for my constituent to receive them it was necessary for him to do so only on a private basis for his wife.

To me this is just another indication of regulations that work against the sick and elderly—all in a program that was designed to assist people when they needed help the most.

The human element here just cannot be ignored. In the midst of his running battle to reclaim expenses from his late

social security office, the person dearest to his heart passed away. Within days after the funeral, the poor man was required to meet a deadline and file a notice of appeal. I could go on and on—but suffice it to say, whatever else it has done, medicare has not brought peace of mind to this family.

Having spent this much time criticizing the present program it is only natural to conclude by asking, where do we go from here? What should be done? I know that until now the main focus of attack by the organizations representing the elderly has been to expand present programs and reform piecemeal existing legislation. I hope I will be excused if I despair together with the elderly in my district about the magnitude of the task and the time it would require to be successful. Again, it would seem that we are asking the present generation of elderly to be patient with the promise that future generations will be better off. This sacrificed generation approach is something I find repugnant and not worthy of this Nation and its capabilities. I find myself looking with greater hope on the infinite possibilities offered by the present hearings being conducted by the Ways and Means Committee on the various national health insurance proposals. In this connection, I find myself struck by the manner in which the chairman of that committee put the problem into prospective at the opening of those hearings. Chairman MILLS was quoted on that occasion as stating the problem as follows:

> The ability to produce the highest quality care—but with services so unevenly available that the U.S. lags behind many other nations in major health indices.
>
> The capacity to consume 7 per cent of the gross national product (sum of all U.S. goods and services), but almost half the increased health care expenditures in the last decade went for higher prices not more services.
>
> Rapid growth in the number of hospital and nursing home beds—but so lacking in planning as to create costly surpluses in many areas and shortages in others.
>
> A medical education system which responds to increased demand for physicians' services largely by importing thousands of less well trained foreign medical graduates, aggravating the already serious maldistribution of physicians.
>
> A largely non-profit hospital system which actually makes "profits" from a cost-plus payment system lacking incentives for efficient services.
>
> And a clientele which is increasingly resentful of trying to find the way through a maze of referring practitioners to find services for which a higher and higher part of the family budget must be used and this without confidence that the care finally obtained is appropriate or of high quality.

The idea of national health insurance is nothing new. If you can believe it, as far back as World War I, the American Medical Association which was then an up and coming radical group proposed a comprehensive, tax-financed, health insurance package. It was only natural that the idea would be revived in the New Deal and later in the Fair Deal, again during the New Frontier and most recently during the Great Society.

At this late date I hope I would not be considered too premature if I went so far as to say that support is galvanizing behind the concept and it is an idea, if ever there was one, whose time has come.

One need go no further to find proof of the truth of this assertion than to look at the number of health insurance proposals which have been filed this session of Congress. When Congress recessed in August, there had already been filed a total of 10 different national health insurance proposals. This seems to me to be clear evidence something is about to happen when you see this many public officials wanting to get into the act and have a say about the final shape of things to come. When you see the present administration come out with its own plan, the National Health Insurance Partnership Act, then you can be sure that there is on the part of the electorate a growing impatience with the absence of any genuine national health insurance scheme.

And why would they not be? Why would the people not be fed up with skyrocketing medical costs? Why would the people not be fed up with the failure of medicare and medicaid to solve the problem? I know, both of these programs were passed with tremendous enthusiasm. The Congressmen who voted for them felt they were ushering in an historic new era of social services to the people. When I think back on it, we thought that the day medicare passed, this Nation had reached a new millenium, utopia was just around the corner. Perhaps we needed this kind of childlike faith and boundless optimism or even that much help for those in our society who needed help the most would not have been given. But medicare has not done the job. Serious reflection would indicate it could not possibly do the job.

No one can disagree with the opinion that medicare and medicaid are not the answer to this Nation's crisis in health care. It seems to me that it should not be beyond the capabilities of the richest, most technologically advanced nation in the world to devise a system which will come to grips with the problem of health care, whether viewed from the angle of delivery or cost. Other nations around this world, considerably less well off than ours, have addressed themselves to this problem. Some of the nations of Europe tackled the problem while their cities and countrysides literally were still smouldering from the bombing and destruction of World War II. They made it their first order of business. The population apparently would not have it any other way. Churchill was pushed aside because Atlee had the health plan and Churchill did not. Now no one is saying that the Europeans have managed to eliminate all of the bugs from a national health insurance system. The critics who were around at its inception are still around making constructive suggestions for reforming the system. But no one, and I repeat no one, in a position of responsibility in those countries today is advocating dismantling the system. When I read all the mail coming in against a national health insurance scheme for this country, I find myself agreeing with some of the criticisms and recognizing some of my own fears about what might possibly happen. But the crisis is getting no better for the lack of a plan—for the lack of action. It is clearly going from worse to worst. The way things now stand the Federal Government is basically powerless to control the costs and the quality of delivery but at the same time it is accused of contributing to the deterioration and quality of care and the increase in costs because of what little it has done to date; namely, medicare and medicaid. In other words, by stopping and standing still in our efforts to see to it that no American goes without health care because it just is not available or they cannot afford it, we are in danger of causing just what we set out to cure in 1960. There are some things apparently that do not lend themselves to a piecemeal approach and medical care is apparently one of these. Even the AMA and the AHA and the chambers of commerce seem to be telling us is that medicare and medicaid do not go far enough and that they have indirectly caused a good deal of the present problem. They admit something further has to be done and have filed their own proposals to do this. There is no question in my mind that piecemeal approaches to social legislation invariably wind up having the effect of putting the greatest burden on the low-income families in our society. Not the really poor, they qualify invariably according to some cutoff level formula. Of course, the well to do usually manage to find the money or contribute to an insurance scheme to take care of the vital matters of life and death. So what are we left with? That great broad cross section of our society where I am convinced the majority of our people find themselves, the low- and middle-income group. They are the ones who are bearing the brunt of the burden of skyrocketing medical costs and prohibitive insurance premiums. All you have to do is work in a Congressman's office 1 day and you will learn, if nothing else, from the mail received each day just how many Americans cannot afford to go to a hospital or pay for the care they need.

So, I say now is the time for the majority of the American people to stand up and be heard. To do away with poverty levels and means tests, which have never been administered properly any way by our bureaucracies. To scrap medicare and medicaid and with those programs all the divisiveness, mismanagement, and ineffectiveness that goes with those programs. Now is the time for a single comprehensive insurance program open to all Americans and backed up by the full faith and credit of the U.S. Government which owes us no more and no less, as part of our inalienable right to health and happiness in the world's greatest democracy. Sure it is going to cost: all good things do cost money. But in view of the billions we are currently throwing away on the current medicare and medicaid programs, the money is already being spent. It is just a matter of spending it in a better, fairer way. Hospital and medical costs will then be completely responsive to control. Right now there are a number of people walking the streets of this country who can neither afford private hospital insurance or to pay medical bills. This to me is an intolerable situation. A national insurance scheme would in effect be another element in a policy which would even out the mountains facing individuals by hav-

ing everyone bear a proportionate share of the cost. Sure this will be a tax burden, but it will not be a burden which will wipe any family out, as our present system, or lack of one, does. As to those who argue this will produce nothing but long waiting lines outside of doctors' offices, all I can say is that I would rather see some people getting medical attention who perhaps don't need it in order to see that everyone who needs it gets it. Right now I know this is not the case. I could sleep more comfortably at night even if some overuse resulted under a national health insurance scheme than I am at present knowing full well that some people are going without vital medical attention because they cannot afford it and no one cares. As for the doctors going on strike and not wanting to be part of a system run by big brother, doctors are still practicing in every country in Europe today and the medical schools are still turning down applicants for lack of space. Sure the forces we will have to overcome are great but we must come out fighting for the most we can get now so that what we do get will be better than what we now have and it must come before too much more time goes by.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ASPIN) is recognized for 20 minutes.

Mr. ASPIN. Mr. Speaker, when the bill H.R. 11731, the Defense Appropriation Act of 1971, reaches the floor of the House later this week I intend to offer a 2-percent efficiency amendment that would hold fiscal 1972 spending to the fiscal 1971 level. Today I would like to explain to my colleagues what the amendment would do and why I intend to offer it. I will discuss how defense costs have increased recently despite an anticipated decrease, the inadequate explanation by the Committee on Appropriations in its report accompanying H.R. 11731 and the reasons I believe a 2-percent efficiency amendment should be adopted.

I

Mr. Speaker, my amendment is very straightforward. The bill reported by the Committee on Appropriations provides for $71 billion, the adoption of my amendment would hold defense spending to the fiscal 1971 level of $69.5 billion. My amendment would cut the defense appropriation by $1.5 billion, an effective efficiency cut of 2 percent.

The committee in its report for H.R. 11731 correctly points out that in the past, after a war, defense spending has declined. Quite the opposite has been true as the war in Vietnam has slowly wound down. Defense spending in constant dollars has been increasing. The American people are paying more and, I believe, are getting less in terms of real security for their defense tax dollar.

This year's budget shows an increase of $3.1 billion in defense spending when the dollar figures are adjusted for inflation and the decreased costs of the war in Vietnam as indicated in table I.

Table I

New Budget Obligational Authority fiscal year 1971	$69.5
Fiscal year 1971 BOA adjusted for inflation	71.9
Estimated Savings from Vietnamization fiscal year 1972	4.0
Fiscal year 1971 BOA adjusted for inflation and Vietnamization	67.9
New Budget Obligational Authority fiscal year 1972	71.0
Adjusted increase fiscal year 1971–72	3.1

Table I adjusts the fiscal year 1971 budget for inflation and the savings of the Vietnamization program for fiscal year 1972. If defense spending did not increase in constant 1972 dollars then the defense budget would be $67.9 billion. Thus the bill that the committee has reported to the House includes an increase of $3.1 billion.

This large increase—$3.1 billion—in spending is difficult to justify given major decreases in cost that have occurred since the beginning of the Vietnam war. Both strategic forces modernization and baseline general purpose forces costs have declined using constant 1972 prices.

TABLE II

[In billions of constant 1972 dollars]

Procurement use	1964	1965–71	1972
Strategic nuclear forces	$6.1	$3.3	$3.3
Non-Vietnam general purpose forces	13.2	14.8	14.1
Anticipated savings:			Billions
Decrease cost-strategic nuclear forces			$2.8
Non-Vietnam general purpose forces			.9
Total			3.7

Thus not only has the defense budget increased by more than $3 billion in the last year, but savings that had been anticipated have not materialized.

Neither the administration nor the committee have explained where this $3.7 billion has gone. Thus we can only guess what has happened to these funds. Three possibilities come to mind: Continued goldplating and cost growth in the development and procurement of new weapons systems; failure to cut back the support structure proportionate to the reduction in operating combat forces; and vested interests succeeding in keeping marginal forces and programs. In all likelihood no single factor accounts for all the more than $3.7 billion in waste; it is probably some combination.

II

In its report accompanying H.R. 11731 the committee discusses an unadjusted increase of $1.5 billion that has occurred in the last year.

They write:

> The increase of $1.5 billion is supported by a number of factors. High costs due to economic inflation have caused defense costs to rise. The desire to continue ongoing programs and installations in order to provide jobs and in order to avoid a further increase in unemployment is probably a factor. Also the military services, as is not uncharacteristic of government agencies generally have sought the opportunity to keep their budgets at a high level and have included favored programs in the Budget which could not be funded when the war made heavier demands on appropriations.

I would like to discuss in detail each one of these three reasons offered for the increase on defense spending—inflation, employment, and the delay of favored programs.

Testifying before the Appropriations Subcommittee on the Department of Defense the Department's Comptroller, Mr. Robert C. Moot, indicated that the administration excepted a 3½-percent increase in defense costs due to inflation. As indicated earlier in table I when the fiscal year 1971 budget is adjusted for inflation and the savings that Secretary of Defense Laird estimates result from the Vietnamization program, the cost of defense is still increasing in real terms by $3.1 billion. The real cause of the increasing cost of defense is not inflation.

The President's new economic policy should further decrease the cost of inflation in fiscal 1972. If Secretary of the Treasury Connally achieves his goals of 2 percent inflation for calendar year 1972 the real increase in defense expenditures would be $3.6 billion.

Defense costs could be reduced if the Secretary of Defense adopted a major recommendation of the Blue Ribbon Panel on Defense. That group suggested that the Department of Defense ought to be able to raise its own productivity 1 percent or half of the cut that I propose should be anticipated automatically.

III

The second reason offered by the committee for the increase in war spending was the maintenance of employment. I find this argument most disturbing. All of us know that increasing defense spending is not an efficient or economically sound mechanism to maintain employment or create jobs. Defense industries produce goods that Americans do not consume. Government, when it spends on defense to maintain jobs, in effect, creates a new kind of WPA. In the 1970's the committee seems to be implicitly saying, we will make work for highly trained and skilled engineers even though we really do not need the products that they produce.

At the same time that the committee argues that the defense spending is rising to maintain employment, this administration has impounded approximately $12 billion of fiscal year 1971 funds that could not only maintain jobs but create thousands of new jobs.

In testimony before a Senate subcommittee on March 23 of this year Mayor Alioto of San Francisco revealed that $792 million appropriated by this House has been impounded by the administration. The detailed items are listed in table III.

Table III.—Federally impounded funds fiscal year 1971

[In millions of dollars]

Water and sewer facilities	$200
Public housing	192
Transportation	200
Urban renewal	200
Total	792

This $792 million as indicated in table III if spent would not only create thousands of jobs, it would be a giant step forward in meeting the problems of our cities—old and dilapidated housing, poor urban transit, and outdated and inadequate water and sewer facilities.

The committee's desire to maintain employment and the administration's refusal to release these funds comes to the heart of one of the principal reasons that I offer this amendment—to reorder our national priorities. Economic adjustments are difficult for individuals and communities and Government must help them make the necessary adjustments. But to spend on defense to maintain jobs while denying funds to meet the Nation's more pressing needs that would create thousands of new jobs, I believe dramatically illustrates how terribly misguided our national priorities have become.

IV

The third justification offered by the Committee on Appropriations for the increase in defense spending has been the desire of the military services to fund favored programs, that were delayed because of the fighting in Vietnam.

Not only is this reasoning false, but it reveals the inability and the unwillingness of those of us in Congress to withstand the pressure brought to bear by the Pentagon bureaucracy to fund often ill-conceived, problem-ridden, and even unnecessary programs.

The fact of the matter is, Mr. Speaker, that not only were few, if any, favored programs delayed by the war, but our fighting of the war in Vietnam allowed the military to conduct the most thorough modernization program since World War II.

Procurement for general purpose forces not engaged in Vietnam actually increased on the average during the 7-year period 1965–71 after allowing for inflation. Considerable modernization was financed by the war itself. As older equipment was attrited, replacements were procured. In many cases, replacements were of newer generations and models with more sophistication, reliability, maintainability, and firepower than the material and weapons that they replaced.

In addition, the administration has announced that from $3 to $5 billion in military equipment and stocks will have been returned to this country by next June. Much of his material was purchased during the war. To the extent it was treated as a Vietnam-related cost, the modernization that this material represents is in addition to the average increased non-Vietnam procurement mentioned above.

When the Committee on Appropriations mentions favored programs, it surely cannot be referring to either general purpose forces or the modernization of strategic weapons systems. As demonstrated in table II, these costs should have actually decreased since fiscal 1964. While there are many programs that fall into the favored program category, I shall only briefly discuss three: the F–14, the Navy's shipbuilding program, and the B–1 manned bomber.

Even the committee itself recognizes problems connected with the F–14 program. The plane is also the subject of separate views signed by the gentleman from Maryland (Mr. LONG) and the gentleman from Illinois (Mr. YATES). Yet, despite all the doubts expressed and the committee's recommendation that the Navy explore every avenue available under existing airframe and advanced technology • • • to minimize as far as possible the total number of F–14A's purchased, the bill reported to this House includes $801.6 million to build 48 F–14A's, precisely the action the committee recommends against. The committee has recognized problems with the F–14 program, but failed to do anything about it.

Another favored program is the $1.4 billion new ship and ship conversion program. In this case, some of the ships are unnecessary under current Navy force level plans.

Included in this bill will be $370 million for the B–1 manned bomber. Members of this House and the other body have called into question the wisdom of building a new manned bomber. Many of us have serious doubts about such an aircraft's survivability and reliability.

The committee presents three arguments to justify an unadjusted increase of $1.5 billion in defense spending. I have calculated the increase when adjusted for inflation and Vietnam savings as $3.1 billion. The inflation argument is irrelevant, since inflation coupled with Vietnam savings still indicates an increase of defense spending in constant 1972 dollars of $3.1 billion. The committee attempts to justify the increase on the basis of employment, while the administration impounds billions of dollars that could create thousands of jobs. I know of no more glaring example of this Nation's misguided priorities than a double standard of billions for aerospace and impounding of funds for our cities. The committee admits that it is funding a series of favored programs and admits, at least, implicitly that it cannot stand the pressure from the Pentagon bureaucracy. The most distressing case is the F–14 where the committee recommends that the Navy do one thing—build as few F–14A's as possible—and then hands them $801.6 million to do exactly the opposite.

In sum, it is my contention that the Committee on Appropriations has made a very poor case for an adjusted increase for military of constant 1972 dollars of $3.1 billion.

V

I would like to now discuss with my colleagues in detail why I am proposing this 2 percent efficiency amendment that is a ceiling on defense expenditures. There are three principal reasons that have led me to offer this amendment—the obvious need to eliminate waste in the Defense Department and defense industries, to reorder our national priorities, and to reassert the role of the Congress in policymaking.

I demonstrated earlier that after adjustments for inflation and savings from Vietnamization that there will be $3.1 billion increase in defense spending in fiscal year 1972 compared to last year. In addition, I indicated that expected decreases in defense costs of aproximately $3.7 billion have failed to materialize.

Mr. Speaker, the American people are being asked to pay more for defense and they are getting less not only in quantity, but often in quality.

The Senate Armed Services Committee in its report on the defense authorization bill said:

> If the geometric cost increase for weapon systems is not sharply reversed, then even significant increases in the defense budget may not insure the force levels required for our national security . . . If we can afford a permanent force structure of only one-fifth as many fighter aircraft or tanks as our potential adversaries—because our systems are about five times more expensive than theirs—then a future crisis may find us at a sharp numerical disadvantage. Present trends, if continued, make it unlikely that this level of funding will be adequate in the near future for the development and procurement of sufficient weapons to equip our forces. But to protect the national security, we must be assured that we will be able to have sufficient forces in time to defend ourselves; an insufficient number of costly, complex and ineffective weapons cannot assure us of this. The present trend of manpower and weapon system costs means that we will soon see either striking increases in Defense budgets, a sharp decline in force levels and readiness, or reform of the weapon system development and procurement process. If defense budgets are to remain more or less constant, as now seems likely, and consume an ever smaller part of the nation's resources, then the present development and procurement policies are no longer open to us. They only point the way to burdensome increases in defense spending, inadequate forces for defense, or to both of those unacceptable alternatives.

On August 4 of this year I pointed out to my colleagues the increasing cost of replacements of a variety of weapon systems:

INCREASED COST OF REPLACEMENT WEAPONS

[In constant fiscal year 1970 dollars]

Weapon	Date	Amount
(1) Tanks:		
M–3	Early 1940's	$125,000
M–48	Early 1950's	175,000
M–60	Early 1960's	200,000
M–60–A1–E2	Early 1970's	500,000
XM–803 (MBT–70)	Middle 1970's	900,000
(2) Air-to-air munitions:		
AIM–9B	Late 1905's	10,000
AIM–7D	Middle 1960's	50,000
AIM–7F	Early 1970's	120,000
AIM–54	Middle 1970's	400,000
(3) Fighter aircraft:		
P–51	Early 1940's	200,000
P–86	Late 1940's	400,000
F–100C	Middle 1950's	1,100,000
F–104C	Late 1950's	1,600,000
F–4B	Early 1960's	3,500,000
F–15	Middle 1970's	9,000,000

An F–4 costs less than $5 million a copy. An F–14 will surely cost more than the current estimate of $16.7 million. How can we possibly replace a full fleet of F–4 aircraft with F–14's without spending around $20 billion? The only alternative is to build fewer airplanes. I believe that Senator PROXMIRE was essentially right when he said that the United States has begun to engage in the more expensive gold-plated unilateral disarmament in history.

Many of our major weapons systems are either oversophisticated or simply unnecessary. The committee quite correctly endorses the Air Force's new lightweight inexpensive prototype programs. It is undoubtedly true that the United States could build a decent fighter for much less than we are paying for the F–14. Goldplating and cost growth are problems that have plagued almost every major weapon system in recent years.

Some systems in addition to being unnecessarily sophisticated are also unneeded. This appropriation includes funds for seven DD–963's for approximately $600 million. These new escorts are not needed to escort the 12 carrier Navy that the United States will be maintaining by 1980.

The United States must maintain an effective national security posture, but if we continue on our current course we might bankrupt ourselves in the process. That is why I am calling for a ceiling that is, in its effect, a 2-percent efficiency cut. The Department of Defense's track record in cost and cost overruns is well known to the Members of this House and to the American people. A recent Gallup poll revealed that 50 percent of the American people want to spend less on defense. Everybody knows that there is waste in the military services. Many of us, like myself, served in the military and know exactly how wasteful our military is.

My point, Mr. Speaker, is a simple one. With a 2-percent efficiency cut the Congress can discipline the Department of Defense to modernize its operations and become more efficient, eliminating wasteful programs and projects. The Blue Ribbon Defense Panel has already suggested a 1-percent productivity allowance which the Department has not put into effect.

All of us are concerned about efficiency in our Federal Government. Here is a tested straightforward method—a ceiling—that can trim down and tighten up the operation of the Defense Department.

In addition, to disciplining the Defense Department with the 2-percent efficiency ceiling would be a first step in reordering national priorities. Earlier I mentioned almost $800 million that the Nixon administration has impounded. This is money that could revitalize our cities and create thousands of jobs. The passage of the 2-percent efficiency cut in the form of a ceiling would announce to the American people that the time for a change had come. It would demonstrate to the American people that this House is ready to devote its energies and resources to the problems of the environment, the cities, and education.

With the passage of this amendment we would take only a first step in reordering national priorities. It is, however, the first step that would be a giant step—a sign that Government must become more efficient and responsive to the needs of all our citizens.

The third reason I am offering my 2-percent efficiency cut is to reassert the role of the Congress in policymaking. For too long we in the Congress have been unwilling to tackle the defense budget because it was too technical and too complex. All of us may have felt that only the military could decide "how much is enough" for defense.

While all of us thought that the military was merely carrying out its technical function, it has been the Pentagon bureaucracy that has been making policy as well as technical decisions regarding our Nation's defense posture. This House has not only a constitutional right but an obligation to reassert its role in the crucial aspect of policymaking. The Executive has no monopoly over the powers of war and the purse.

The question of how much is enough is not technical but a matter of policy. In the past it has been decided by the Pentagon. Rightfully the decision should rest with the Congress.

When this House decided not to build the SST it was not a question of our technical ability to build the plane, it was a matter of policy. Given the cost, its effects on the environment and other factors, we declared that the SST was not worth the expense. This week, when I offer my amendment we will have an opportunity to trim down the defense budget to the level we spent last year. This action, which is not a technical matter, would be a judgment by this House that the Defense Establishment can be more efficient and withstand a reduction of 2 percent. The passage of this amendment would indicate a change in national priorities and a reassertion of the proper constitutional role of the Congress.

I submit that a 2-percent efficiency cut would make our Defense Establishment more efficient and modern. The way to create jobs is not through a new aerospace WPA, but by reordering our national priorities and attacking those problems that need our immediate attention. By disciplining the wasteful Defense Department's spending, this House can reinvigorate its own constitutional role and function.

PADRE OF THE YEAR—RT. REV. MSGR. JOHN J. McGRATH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SHIPLEY) is recognized for 5 minutes.

Mr. SHIPLEY. Mr. Speaker, a very good friend of mine, Rt. Rev. Msgr. John J. McGrath has recently been named Padre of the Year by the National Catholic Youth Federation and has been honored by the Illinois General Assembly. I would like to place in the CONGRESSIONAL RECORD a copy of the resolution that was adopted by the Illinois House of Representatives:

ILLINOIS HOUSE OF REPRESENTATIVES HOUSE RESOLUTION No. 489

Whereas, for more than a quarter-century he has performed his priestly duties in great joy and thanksgiving to his God for having given him the call to devote his life on this earth to ministering to the spiritual needs of his people; and

Whereas, he has served parishes at Springfield, Illinois, New Berlin and currently is the pastor of St. Anthony parish in Effingham; and

Whereas, an integral part of his ministry has been his joyful service to young people through 23 years as Director of the Catholic Youth Organization in the Springfield Roman Catholic Diocese; and

Whereas, this "complete" priest was recognized by Pope Paul VI in June, 1966, who elevated him to the rank of Domestic Prelate; and

Whereas, his guidance and counsel to the youth have produced rich rewards in seeing these young people grow into maturity reflecting the qualities manifested by his teachings; and

Whereas, his selfless devotion to these youth is being acknowledged on Saturday, November 13, 1971 by the National Catholic Youth Federation in convention in Washington, D.C., by presenting him with its "Padre of the Year" Award; therefore, be it

Resolved by the House of Representatives of the seventy-seventh General Assembly of the State of Illinois, that we warmly congratulate Rt. Rev. Monsignor John J. McGrath, who proudly points to his young formative years "back of the yards" in Chicago, for this well-deserved recognition being paid to him by this national organization of young people; and that a suitable copy of this preamble and resolution be forwarded to Monsignor McGrath.

FRENCH ACT ON FOREIGN AID: A STRIKING COMPARISON

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, at a time when our discussion on foreign assistance has been characterized by much heat and acrimony, it is interesting to note that the French National Assembly has approved the largest French foreign aid appropriation on record in what the Washington Post reported was, "an effortless exercise marked neither by formal debate or rollcall vote."

The article, by Jonathan C. Randal, which described this process and which appeared in the November 5 edition of the Post, notes—

From the extreme right to the extreme left, not a single question was asked in the National Assembly. . . . Far from being embarrassed, the officials left the impression that the budgetary imprecision reflected the lack of public opposition to continuing foreign aid.

The comparison of the actions of the Congress and the National Assembly on foreign assistance is quite striking. I am sure that my colleagues will find the following article interesting:

[From the Washington Post, Nov. 5, 1971]

RECORD AID BY FRANCE APPROVED

(By Jonathan C. Randal)

PARIS, November 4.—The National Assembly today formally approved the largest French foreign aid appropriation on record in an effortless exercise marked neither by formal debate or roll-call vote.

Foreign aid has become such an accepted part of French government practice that the 15 deputies still present after a long discussion of other foreign policy questions marked their approval by a show of hands.

From the extreme right to the extreme left, not a single question was asked in the National Assembly. It was probably just as well, for not a single official among the half-dozen questioned could estimate the total official aid budget for 1972.

Their inability was symptomatic of the French tradition of scattering various aid contributions among various ministries, the most important of which came under the foreign ministry budget which was approved in the vote.

Far from being embarrassed, the officials left the impression that the budgetary imprecision reflected the lack of public opposition to continuing foreign aid.

SECOND ONLY TO DUTCH

All those queried insisted that the global government effort was a record high. Together with private investment, France is second only to the Netherlands in relative foreign-aid generosity. Both nations' contributions are well above the United Nations goal which asks industrialized nations to devote 1 per cent of gross national product to aid.

Statistics provided by the Organization of Economic Cooperation and Development show that in 1970—the last year surveyed—total French aid amounted to $1.8 billion, representing 1.24 of the French GNP.

Government aid—much of it straight grants in France's case—amounted to .96 per cent of GNP, compared with a U.S. total of .96 percent of the GNP. Less than a third of the American aid came from government funds.

France's performance is all the more astounding since opposition to foreign aid started earlier in France than elsewhere and still has a small, vocal coterie of devotees.

"CARTIERISM" OF 1950'S

Its once-powerful champion, Paris Match journalist Raymond Cartier, indeed lent his name to a doctrine, "Cartierism," which opposed foreign aid on the ground that France itself needed the hospitals, roads, schools and other social infrastructure that the government provided the underdeveloped world.

In the 1950s Cartierism reached its political zenith when it was incorporated into the ideological arsenal of those favoring rapid independence for France's expensive and far-flung empire.

Post-independence scandal in France's former colonies, involving misappropriation of funds, general waste and conspicuous prestige projects, gave Cartierism a new, but short-lived, fillip in the 1960s.

But not even the abrupt end of the special relationship between France and Algeria this year, marked by the nationalization of French oil interests in its former North African territory, sufficed to force a parliamentary debate at budget time.

MOST TO FORMER POSSESSIONS

Much of the government ease in winning parliamentary support for foreign aid is because nearly 86 per cent of the total goes to former French possessions which reciprocate in a number of ways.

French aid is "tied" to purchases of French equipment, the banking system of most recipient countries is still run by France and the former colonies bank their foreign-exchange reserves with the Bank of France.

Only once in the last decade has French foreign aid actually declined—in 1965. However, the increase in aid in the ensuing two years was so small that it represented an effective reduction given the inroads of inflation.

But in 1968 the aid budget increased by 28 per cent to make up for previous years, and since then annual increases have averaged more than 12 per cent.

A REALISTIC EXCHANGE RATE

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, the declaration by President Thieu that the accommodation rate for the exchange of the piaster would be raised to 400 to the dollar supports the contention which I made in debate at the time of the adoption of this year's foreign aid bill that the current exchange rates were unfair to the United States. It also indicates the complete unreliability of the certification on November 2 by Dr. John A. Hannah, Administrator of the Agency for International Development, the agent of the President, that the rate of 275 to the dollar was fair to the United States.

Unfortunately, the rate of 400 which is approximately the actual black market rate today will apply only to U.S. Government employees and GI's and not to U.S. Government transactions generally.

This development emphasizes the value of the Monagan amendment which was placed in the 1969 foreign aid bill and refined in the 1971 bill. Clearly the rate of 400 should be extended to all transactions between the United States and South Vietnam. In addition, the AID agency should take off the blinkers and make its certification conform to reality for the benefit of the sorely burdened U.S. Taxpayer.

FINCH'S LATIN AMERICAN JAUNT QUESTIONED

(Mr. MONAGAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MONAGAN. Mr. Speaker, I was disturbed to read recently that Robert H. Finch, counselor to President Nixon, was planning to leave on a trip to Latin America as a representative of the President in visits to six Latin American countries. My concern arises not from the fact that the President is showing some interest in this area of the world since consistent attention to its problems has been lacking in this administration. I am troubled because the gentleman from California is not one who has had the type of experience with Latin American countries and problems that is required for such a representative. Without a qualified person, a visit of the sort Mr. Finch plans will be simply cosmetic.

Nothing could be less understanding and less knowledgeable than Finch's characterization of the Kennedy and Johnson Latin American policy as "lumping the Latin American countries together as banana republics." While misguided and oversold in many ways, the Alliance for Progress and the Kennedy and Johnson choice of Ambassadors sought to differentiate between these varied countries and to give them understanding and knowledgeable representation.

Finch's "litmus paper test" approach to equal treatment of dictatorships and democratic governments also represents a peculiar and untraditional policy for the United States. While we might remain correct in our relations with dictatorships and renounce intervention in their affairs, that has not meant that we condoned repression of liberties, and this certainly has not been the policy of our Government whatever Mr. Finch's private opinions might be. I suggest that it would be desirable for the administration to use the abilities of Assistant Secretary Meyer in its contacts with Latin America, or if it is found desirable to go outside the regular State Department, to obtain the services and advice of the many experts on Latin America who are available. However knowledgeable Mr. Finch might be in the domestic affairs of the United States, his expertise in this area provides no qualification for the delicate mission which he has undertaken at a time when Latin American problems are receiving inadequate attention, and when signs of disintegration of our policy and deterioration of relations are everywhere apparent. The renewal of our policy and the restoration of traditional good relations should have a top priority. The proposed Finch trip is not adequate to achieve this objective.

DAMAGE IS SHOWING

(Mr. ASPINALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASPINALL. Mr. Speaker, the time-worn practice of "repeating a story often enough in order to gain believers" has been at work once again and it is taking its toll. The community of Grand Junction, Colo., has been coping with a problem involving the disposition of uranium mill tailings. Despite the temptation to panic, that seems to be so popular with some segments of our citizenry, the people of Grand Junction have approached this problem in a most reasonable manner, seeking to find out all of the facts possible before making decisions.

There has already been too much oversimplification of this question and I do not want to add to it but, in the interest of time, let me describe the problem in this manner. We are seeking to determine what danger, if any, exists in the low level radiation arising from the uranium mill tailings that have been placed under buildings; what remedial methods are available to eliminate or reduce the radiation below the danger point; and we are trying to determine where the responsibility for paying the cost lies.

Time is needed to make these determinations, but in one important sense time has run out for the people of Grand Junction. This is very succinctly described in a recent editorial in the Grand Junction Daily Sentinel and I urge my colleagues to read it with care:

[From the Grand Junction (Colo.) Daily Sentinel, Nov. 5, 1971]

DAMAGE IS SHOWING

We agree with Congressman Wayne N. Aspinall that federal, state, medical and Atomic Energy officials must get together immediately and set guidelines to determine whether uranium tailings should or should not be removed from Mesa County homes and schools.

However, there was no action taken in the recent Washington hearings indicating that the AEC felt responsible for—or is going to take the lead in—decisions on removal. There was not even any indication that removal will be considered.

This is a blow to Mesa County. While it is true that it has not yet been established whether or not the tailings are a health hazard, it has been proven that their presence is damaging the community.

The health hazard is relevant to those whose health may be damaged. They need to have that question answered. Further, the community itself needs to be rid of the tailings hazard.

For two or three years, Grand Junction has been battered by TV shows, slick magazine stories, big-town newspaper headlines, and pseudo-expert commentators. Most of the stories have been distorted, twisted, unreliable and damaging.

Truth has become as irrelevant as it might in a case of a "haunted house." Belief that the house is evil will send it into disrepute. It will become unsalable and end in decay and ruin, regardless of the truth.

News media in Mesa County—and some others in Colorado—set the record straight; to emphasize that nothing has been proven, to point out that we are in no more danger (and probably considerably less) than residents of smog-ridden Denver or thousands

of children going to schools sitting on the San Andreas fault in California.

Nobody listens. Our people had they chosen to believe the scare stories, could have panicked. To their credit, they have remained calm. In this they have shown considerably more sense than residents of distant areas.

But the effect of those distant reactions is being felt in our community. It is beginning to cost the county in hard cash, in growth and development. While the truth of the tailings health hazard is not relevant to this particular threat, the threat is with us and growing.

Our people have believed:

1. That danger standards would be set by established authorities.

2. That those standards would be made public and remedial recommendations implemented where necessary.

3. That since Colorado has two men on the Joint Congressional Committee on Atomic Energy (JCAE), the commission would understand the urgency involved, would discover the truth and take action to remove danger promptly. And by danger, we mean danger to the image of the community as as well as danger to health.

Up to now, the people have held to these beliefs. But now there is very real, defensible concern both about the possible damage to health and the absolute, provable damage to the area's image.

That concern is coupled with a concern about the behind-the-scenes maneuverings of the AEC; with the continued delay in authoritative information; and with the charges that the recent JCAE subcommittee hearings were rigged.

Pious platitudes about environmental protection in construction of nuclear power plants or "the need for more information" about tailings in Grand Junction homes is not enough.

Residents of the area have been patient, but enough has become too much.

NASHVILLE—HOME OF COUNTRY AND WESTERN SOUND

(Mr. FULTON of Tennessee asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FULTON of Tennessee. Mr. Speaker, for years, Nashville has been known for its music. It is the "home" of the country and western sound, the second largest recording center in the world, and the birthplace or new locale for some of America's greatest performing talent.

I now would like to bring to my colleagues' attention another Nashville "sound," a sound which sprang from Southern cottonfields as the Negro Gospel music, was adapted and transported worldwide by Nashville's Fisk University "Jubilee Singers," and will be heard in Washington December 2 when the Jubilee Singers perform in concert at Kennedy Center.

The singers, since 1871, have presented to every type of audience the deep human emotions—sorrow, joy, despair, confidence, failure, triumph—comprising the "soul" of spiritual music. They have touched the ears and hearts of European royalty and statesmen: Queen Victoria, King George and Queen Mary, Lady Astor, Gladstone, and Clemenceau to name a few. They have packed the music halls in Milan and Rome, played at the Salle Gaveau in Paris and Festival Hall in London. They have traveled to Holland, Scotland, Sweden, and Russia drawing great response to "Steal Away to Jesus," and in Germany sung the famous Lutheran hymn, "Praise God From Whom All Blessings Flow," in Martin Luther's own room at Wittenberg.

In the United States, there are few towns which have not been exposed to the Singers' moving Gospel strains. They have, to a great degree, contributed to the popularity of this music, and the acceptance of the Negro spiritual as a truly American musical form. They have also helped build Fisk, in early days providing concert funds to keep the school in operation, in later years using proceeds for construction of the new buildings and facilities required of a growing university.

That my colleagues and all Washingtonians will have the opportunity, the privilege of hearing this fine group is to me most pleasing. That the Kennedy Center, in its inaugural year, will host the Singers' centennial celebration seems most fitting.

And I urge every Member, both in this statement and in the "Dear Colleague" notice he will receive, to avail himself of this chance to hear what "Jubilee" is all about.

H.R. 3599—PROTECTING THE CITIZEN FROM "BIG BROTHERISM"

(Mr. SAYLOR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SAYLOR. Mr. Speaker, I wish to commend my colleague from Oregon, Congressman AL ULLMAN and the other sponsors of H.R. 3599, who have at great risk to their political images, introduced and fought for this bill to protect American citizens who own .22 caliber weapons from additional harassment by the agents of "Big Brother."

The bill in question is not one of those earth-shattering pieces of legislation about which there needs to be a "great debate." The measure before us is a simple snipping away of the redtape which has grown like a bad weed since the unfortunate passage of the Gun Control Act of 1968.

I believe it is well understood by most Members of the House that the 1968 law was a bad piece of work resulting from the national emotional binge following the Kennedy-King assassinations. That act has not cut down on the number of crimes committeed throughout the Nation. It has not made the streets any safer. It has not locked up the criminals who use guns. It has not brought about the domestic peace its advocates so loudly proclaimed. In fact, about the only thing the 1968 act has done is provide the Orewellian machinery for the constant harassment of millions of law-abiding American citizens who happen to own firearms.

H.R. 3599 adjusts this situation to some degree and I fully support the bill. But frankly, this is the piecemeal approach. The only way to end the useless and disgusting snooping into the lives of citizens by the agents of the Alcohol and Firearms Division of the Treasury Department is to repeal the Gun Control Act.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GALIFIANAKIS (at the request of Mr. BOGGS), for today, on account of official business.

Mr. MATHIAS of California (at the request of Mr. GERALD R. FORD), for November 15 through 19, on account of official business.

Mr. McDONALD of Michigan (at the request of Mr. ANDERSON of Illinois), for today, on account of official business.

Mr. ROBERTS (at the request of Mr. TEAGUE of Texas), for November 15, on account of official business.

Mr. MIKVA (at the request of Mr. O'NEILL), for November 15 and balance of the week, on account of official business.

Mr. BARRETT (at the request of Mr. O'NEILL), for Monday, November 15, on account of illness.

Mr. MATHIS of Georgia (at the request of Mr. O'NEILL), for November 15, on account of official business.

Mr. DELLUMS (at the request of Mr. BOGGS), for today, on account of official business.

Mr. DANIELSON (at the request of Mr. BOGGS), for today, on account of official business—discussing current legislation before the North American Judges Association.

Mr. MITCHELL (at the request of Mr. BOGGS), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. RANDALL, for 45 minutes, today.

Mr. PATMAN, for 30 minutes, today, and to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. SHOUP), to revise and extend their remarks, and to include extraneous matter:)

Mr. MILLER of Ohio, today, for 5 minutes.

Mr. HOGAN, today, for 1 hour.

Mr. BUCHANAN, on November 18, for 1 hour.

Mr. STEIGER of Arizona, on November 17, for 1 hour.

(The following Members (at the request of Mr. DENHOLM), to revise and extend their remarks and to include extraneous matter:)

Mr. GONZALEZ, today, for 10 minutes.

Mr. BURKE of Massachusetts, today, for 20 minutes.

Mr. ASPIN, today, for 20 minutes.

Mr. SHIPLEY, today, for 5 minutes.

Mr. GIBBONS, on November 17, for 60 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES in five instances, and to include extraneous matter.

Mr. SATTERFIELD, at the request of Mr. STAGGERS, to revise and extend his remarks following Mr. KYROS on the bill just passed.

(The following Members (at the request of Mr. SHOUP) and to include extraneous material:)

Mr. STEELE.

Mr. SCHERLE in 11 instances.

Mr. CONABLE.

Mr. DERWINSKI in two instances.

Mr. WHITEHURST.

Mr. LUJAN.

Mr. GROSS in two instances.

Mr. EDWARDS of Alabama.

Mr. JOHNSON of Pennsylvania.

Mr. DEVINE.

Mr. HUNT.

Mr. HOSMER in two instances.

Mr. DEL CLAWSON.

Mr. CHAMBERLAIN in two instances.

Mr. GUDE.

Mr. RIEGLE in two instances.

Mr. WYMAN in two instances.

Mr. PRICE of Texas.

Mr. BROOMFIELD.

Mr. PEYSER in five instances.

Mr. BROYHILL of Virginia in two instances.

Mr. BURKE of Florida.

Mr. CARTER in two instances.

Mr. KEMP.

Mr. STEIGER of Arizona.

Mr. SCHMITZ.

Mr. McDONALD of Michigan.

Mr. McCLORY.

Mr. HOGAN in two instances.

(The following Members (at the request of Mr. DENHOLM) and to include extraneous matter:)

Mr. HATHAWAY.

Mr. EVINS of Tennessee in two instances.

Mr. DINGELL.

Mrs. HANSEN of Washington in two instances.

Mr. HARRINGTON in three instances.

Mr. RODINO.

Mr. RARICK in three instances.

Mr. HAGAN in three instances.

Mr. ROGERS in five instances.

Mr. WALDIE.

Mr. GONZALEZ in three instances.

Mr. GAYDOS in five instances.

Mr. BOGGS.

Mr. FRASER in two instances.

Mr. HICKS of Washington.

Mr. HAMILTON.

Mr. THOMPSON of New Jersey in two instances.

Mr. BEGICH in five instances.

Mrs. SULLIVAN in two instances.

Mr. JACOBS in three instances.

Mr. DOW in two instances.

Mr. HUNGATE in three instances.

Mr. PICKLE in three instances.

Mr. JOHNSON of California in two instances.

Mr. KOCH in three instances.

Mr. WOLFF.

Mr. PODELL in three instances.

Mr. EDMONDSON in two instances.

Mr. O'NEILL in five instances.

Mrs. HICKS of Massachusetts.

ADJOURNMENT

Mr. DENHOLM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Tuesday, November 16, 1971, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1284. A communication from the President of the United States, transmitting a proposed budget amendment for the fiscal year 1972 for the Commission on the Organization of the Government of the District of Columbia (H. Doc. 92-174); to the Committee on Appropriations and ordered to be printed.

1285. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination 72-5 relative to the furnishing of sophisticated weapons systems to various countries, pursuant to section 504(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

1286. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend title 28 of the United States Code to provide for the appointment of officers and employees of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court, and for other purposes; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 7175. A bill to limit, in the case of certain vessels, the application of the duties imposed on equipments and repair parts purchased for, and repairs made to, U.S. vessels in foreign countries; with amendment (Rept. No. 92-668). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLS of Arkansas: Committee on Ways and Means. H.R. 11186. A bill to exempt from duty certain equipment and repairs for vessels operated by or for any agency of the United States where the entries were made in connection with vessels arriving before January 5, 1971; with amendment (Rept. No. 92-669). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 11753. A bill for the relief of Assyrians; to the Committee on the Judiciary.

H.R. 11754. A bill to amend title 38 of the United States Code to exclude certain increases in benefits under the Social Security Act from consideration as income for the purpose of determining eligibility for pension under title 38, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BRADEMAS:

H.R. 11755. A bill to revise the Welfare and Pension Plans Disclosure Act; to the Committee on Education and Labor.

By Mr. FISHER:

H.R. 11756. A bill to amend the Occupational Safety and Health Act of 1970 to exempt retail lumber dealers, in States having laws regulating safety in the retail lumber business, from the Federal standards created under such act; to the Committee on Education and Labor.

By Mr. GAYDOS:

H.R. 11757. A bill to amend the Fair Packaging and Labeling Act to provide that the commodity label required by that act must disclose the manufacturer's name and place of business, and packer's name and place of business if different from the manufacturer; to the Committee on Interstate and Foreign Commerce.

By Mr. HALPERN (for himself, Mr. ADDABBO, Mr. BOLAND, Mr. BURTON, Mr. DANIELS of New Jersey, Mr. DULSKI, Mr. GARMATZ, Mr. GUDE, Mrs. HANSEN of Washington, Mrs. HECKLER of Massachusetts, Mr. HELSTOSKI, Mr. KEMP, Mr. KUYKENDALL, Mr. LENT, Mr. MANN, Mr. McCLOSKEY, Mrs. MINK, Mr. MITCHELL, Mr. REID of New York, Mr. ROSENTHAL, Mr. SYMINGTON, Mr. WARE, Mr. CHARLES H. WILSON, and Mr. VEYSEY):

H.R. 11758. A bill to provide for the issuance of two-dollar bills bearing the portrait of Susan B. Anthony; to the Committee on Banking and Currency.

By Mr. HALPERN (for himself, Mrs. GRIFFITHS, Mr. McCOLLISTER, Mr. PRYOR of Arkansas, and Mr. ROY):

H.R. 11759. A bill to provide for the issuance of two-dollar bills bearing the portrait of Susan B. Anthony; to the Committee on Banking and Currency.

By Mr. HARSHA:

H.R. 11760. A bill to encourage national development by providing incentives for the establishment of new or expanded job-producing and job-training industrial and commercial facilities in rural areas having high proportions of persons with low incomes or which have experienced or face a substantial loss of population because of migration, and for other purposes; to the Committee on Ways and Means.

By Mr. KARTH:

H.R. 11761. A bill to amend chapter 89 of title 5, United States Code, to provide improved health benefits for Federal employees; to the Committee on Post Office and Civil Service.

H.R. 11762. A bill to amend chapter 81 of subpart G of title 5, United States Code, relating to compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 11763. A bill to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11764. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11765. A bill to increase the contribution of the Federal Government to the costs of employees' health benefits insurance; to the Committee on Post Office and Civil Service.

H.R. 11766. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on House Administration.

By Mr. LANDRUM:

H.R. 11767. A bill to suspend the duties on fluorspar until the close of January 1, 1974; to the Committee on Ways and Means.

By Mr. MILLS of Maryland:

H.R. 11768. A bill to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the State of Maryland, and for other purposes; to the Committee on Agriculture.

By Mr. O'KONSKI:

H.R. 11769. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PATTEN:

H.R. 11770. A bill to authorize grants and loan guarantees for construction or modernization of hospitals and other medical facilities in the District of Columbia; to the Committee on the District of Columbia.

By Mr. WHALLEY:

H.R. 11771. A bill to retain November 11, as Veterans' Day; to the Committee on the Judiciary.

By Mr. CHARLES H. WILSON:

H.R. 11772. A bill to permit suits to adjudicate disputed titles to lands in which the United States claims an interest; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 11773. A bill to amend section 135 of title 4 of the District of Columbia Code to exclude the personnel records, home addresses, and telephone numbers of the officers and members of the Metropolitan Police Department of the District of Columbia from the records open to public inspection; to the Committee on the District of Columbia.

By Mrs. MINK (for herself and Mr. MATSUNAGA):

H.R. 11774. A bill to authorize a study of the feasibility and desirability of establishing a unit of the national park system in order to preserve and interpret the site of Honokohau National Historical Landmark in the State of Hawaii, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. TALCOTT:

H.R. 11775. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE (for himself, Mr. HECHLER of West Virginia, Mr. MAZZOLI, Mr. WARE, Mr. WINN, Mr. HELSTOSKI, Mr. CLEVELAND, Mr. DERWINSKI, Mr. DENHOLM, Mrs. ABZUG, Mr. ANDERSON of Illinois, Mr. MIKVA, Mr. FORSYTHE, Mrs. GREEN of Oregon, Mr. ROBISON of New York, Mr. MCCOLLISTER, and Mr. MCCLORY):

H.R. 11776. A bill urging units and individual members of the armed services to engage in civic works; to the Committee on Armed Services.

By Mr. WHALEN:

H.R. 11777. A bill relating to comparability adjustments in pay rates of Federal employees; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida (for himself and Mr. WINN):

H.J. Res. 966. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans' Day; to the Committee on the Judiciary.

By Mr. CASEY of Texas:

H. Con. Res. 458. Concurrent resolution accepting the gift of the "Centennial Safe" and expressing the thanks of the Congress to the late donor, Mrs. Charles F. Delhm, and authorizing its display in the Capitol to create interest in the forthcoming bicentennial; to the Committee on House Administration.

By Mr. RARICK:

H. Con. Res. 459. Concurrent resolution expressing the sense of Congress that no action should be taken on the part of the Federal Government, any State or political subdivision thereof that would remove the song "Dixie" from its proper place in the history of the United States and that region of the United States known as the South, or prohibit it from being played as a part of any public function or gathering; to the Committee on the Judiciary.

By Mr. HELSTOSKI (for himself, Mr. ABOUREZK, Mrs. ABZUG, Mr. BURTON, Mr. CORMAN, Mr. DELLUMS, Mr. DRINAN, Mr. FORSYTHE, Mr. GIBBONS of Pennsylvania, Mr. HALPERN, Mr. HARRINGTON, Mr. LEGGETT, Mr. MIKVA, Mrs. MINK, Mr. MITCHELL, Mr. MOSS, Mr. ROONEY of Pennsylvania, Mr. ROSENTHAL, Mr. RYAN, Mr. SEIBERLING, and Mr. THOMPSON of New Jersey):

H. Res. 705. Resolution expressing the sense of the House of Representatives relative to the Pakistani civil war and the furnishing of relief assistance to persons affected by it; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

282. The SPEAKER presented a memorial of the Legislature of the State of California, relative to establishment of national cemeteries; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON:

H.R. 11778. A bill for the relief of Thomas G. Jolley; to the Committee on the Judiciary.

By Mr. CLARK:

H.R. 11779. A bill for the relief of George Nicolaros; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 11780. A bill for the relief of Thomas G. Jolley; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 11781. A bill for the relief of Esther Nano Ramos; to the Committee on the Judiciary.

SENATE—*Monday, November 15, 1971*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. ELLENDER).

The PRESIDENT pro tempore. The Senate will be led in prayer today by the guest Chaplain, the Reverend W. Benjamin Holmes, rector of the Church of St. Martin-in-the-Fields, at Philadelphia, Pa., which happens to be the home church of our good friend the Senator from Pennsylvania (Mr. SCOTT).

PRAYER

The Reverend W. Benjamin Holmes offered the following prayer:

Almighty God, whose perfect will for mankind is made known through the imperfect councils of men, we praise Thee for instruments of government whereby the impoverished are fed and sheltered, the young are educated, the sick are healed, the trespassers find justice and mercy, and the complexities of contemporary life are interwoven so that we may live in some peace and our self-interests find some reasonable compromise.

We thank Thee for these Thy servants and for those who assist and enable them to do their work, for their willingness to leave family and hearth, for their readiness to listen to each other, their ability to discern the possible in the midst of chaos and confusion of conflicting interests and, above all, for their private vision of life in this Nation.

Bless them in the use of their power, comfort them in their moments of cynicism, doubt, and loneliness, accept their limitations, forgive them their inadequacies, restore constantly, we beseech Thee, the stream of hope in their fellow men that we so deplenish by the hostility, callousness, and selfishness that we express to them.

Above all, O Lord, grant the Members of this council the knowledge that they are Thy chosen servants to bring Thy kingdom on earth. Amen.

Mr. SCOTT. Mr. President, it is a great privilege to welcome as our visiting Chaplain, the Reverend W. Benjamin Holmes, rector of the Church of St. Martin-in-the-Fields at Philadelphia, Pa., as that is my home church—as the President pro tempore just noted.

The church was established by members of the Houston and Woodward families a good many years ago. It is a beautiful church in the English style, in a quiet and pleasant community.

Dr. Holmes became rector some 4 years ago. Before that, I had the honor to serve on the vestry of St. Martin-in-the-Fields. So it is a great pleasure to note this occasion and to welcome him here. Since I have so few opportunities to return to Philadelphia, I am very glad that my rector was able to come down here to pray over all of us—but especially to one who needs it the most; namely, myself.

Mr. President, I am happy now to yield to my distinguished colleague, Mr. SCHWEIKER.

Mr. SCHWEIKER. Mr. President, I thank my senior colleague for yielding to me. I am delighted to join him in honoring the Reverend Holmes for offering the opening prayer of the Senate this morning. It is quite fitting and proper that we have the rector of the home church of my distinguished colleague from Pennsylvania, who is also the Republican leader on this side of the aisle.

I am delighted to join in tribute to the Reverend Holmes for offering the prayer this morning.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of proceedings of Saturday, November 13, 1971, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

A NEWSPAPER REPORTER'S FAREWELL TO VIETNAM

Mr. MANSFIELD. Mr. President, in the National Observer for the week ending November 20, 1971, an article is published, taken from the Chicago Daily News, entitled "A Writer Says His Goodby to Vietnam." The writer is Mr. Keyes Beech, one of the outstanding reporters in all of Asia—if not the most outstanding one.

Mr. President, when Mr. Beech speaks, he speaks from knowledge and understanding.

I ask unanimous consent that his well-thought-out and frank article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A WRITER SAYS HIS GOOD-BY TO VIETNAM

(By Keyes Beech)

After 10 years, more or less, the time has come to say farewell to Vietnam. I said good-by once before, but it didn't take. Tet, 1968, changed my mind and brought me back. That Tet changed lots of people's minds, including Lyndon Johnson's.

People sometimes eye me curiously and ask why I've stayed so long. One reason, I suppose, is that I was curious to see how it would turn out. Now I'm not sure I'll live long enough to find out.

Vietnam, as someone has observed, is a fickle mistress. It's time I traded her in.

After all these years I know that I should have something terribly profound to say, but I haven't. Not really. I doubt there is anything new to say about Vietnam. For every truth about Vietnam, there is an opposing truth. Truth is in the eye of the beholder.

WAITING FOR A HISTORY

Fifteen or 20 years from now, someone will get around to writing the definitive history of this war, but not before. For the present I'm rather like the Australian who said upon leaving this place after three years:

"I don't want to talk to anybody about Vietnam who doesn't know what I'm going to say before I say it."

Or, as a bright young colleague of mine remarked after a stormy evening: "All arguments about Vietnam end the same way. Everybody finally goes to bed."

Then he added casually: "I don't give a damn about your generation. I just want to get my generation out of here."

I gave him an A for honesty.

Probably it is irrelevant by now, but the Communists lost the shooting war in 1968. Yes, the war still goes on, and, yes, people are still being killed. It may go on for years. But wars often go on long after the decisive battle is fought.

The Communists' 1968 Tet offensive was the decisive battle of this war. Hanoi gambled everything on that offensive and lost. It has never recovered. Neither, for that matter, has the United States, for different reasons. Herman Kahn, the human think-tank, summed up things better than most when he said:

"Any military operation that results in the abdication of the President of the United States can hardly be called a failure. On the other hand, I'll bet there is no rejoicing in the streets of Hanoi tonight over the military outcome."

LETHAL CONSEQUENCES

In carrying the war from the countryside to the cities, including the streets of Saigon, Hanoi was aiming for a knockout blow. But the risk was great because it meant the enemy had to fight far from his sanctuaries.

The consequences were lethal. Up to Tet, 85 per cent of all enemy casualties were the result of Communist-initiated actions. After Tet that situation was radically reversed. The enemy became the hunted, and we the hunters.

The Communists were now fighting on our terms, in massed formation in relatively open terrain, terribly vulnerable to awesome U.S. firepower. We slaughtered them by the thousands, the tens of thousands.

Hanoi could afford to lose the bodies. It could not afford to lose the leadership. By autumn 1968, the big-unit war was over for all practical purposes.

Tet was a milestone in another sense. It was the beginning of Vietnamization. Because ARVN (South Vietnam army) did fight, because the Saigon government did not collapse, and because there was no "general uprising" to welcome the invaders, Washington decided something might yet be salvaged from the ruins of its policy.

So many rationales have been invented to justify our presence here that the original one has been forgotten. It was very simple: to deny South Vietnam to the Communists.

To that extent we have succeeded. We have never understood the enemy, and we still don't understand him. So we fought the only kind of war we knew how, which was largely World War II all over again.

We stomped him to death. We ran over him in our bulldozers. We plowed him under with Rome plows. We rained destruction on him from our invisible B-52s. We mowed him down with artillery and gunships.

There was nothing very noble about this, but it was effective. Today the enemy's main-force units have been driven out of the South and back to border sanctuaries. In most places he is back where he started in the early '60s.

He has by no means given up. He can't afford to give up. But at best he is engaged in a holding operation. That isn't a great deal to claim after losing more than 600,000 dead.

But what, someone will ask, do we have to show for more than 45,000 dead?

It's a good question, my friend, and I don't have the answer. Call me back 5 or 10 years from now.

DEMOCRACY: GENERATIONS AWAY

One thing we don't have is a democracy business. President Nixon made one of the few honest statements ever made on Vietnam by an American President recently when he said it would take generations for democracy to take root here. He might have added: if ever.

The Vietnamese were considerably more realistic. "We Vietnamese know Vietnam isn't ready for democracy," Maj. Gen. Nguyen Ngoc Loan once said. "But we have to talk about it to keep you interested."

Remember Loan? He was the one who made all the front pages during the 1968 Tet offensive when he shot an unarmed Viet Cong in the head.

Another thing we don't have in South Vietnam is self-determination. President Nguyen Van Thieu, with considerable assistance from the Nixon Administration, saw to that during his recent one-man election.

What we and Thieu wanted was a contested election, which Thieu would be sure to win. His chief opponent, retired Gen. Duong Van Minh, refused to go along with that, much to the outrage of Thieu and Ambassador Ellsworth Bunker. So Thieu ran all by himself.

Does all this mean that South Vietnam will go to the Communists once the Americans leave? A great many Americans in some rather high places think so.

A GUT FEELING

I don't share that view. But please don't ask me for a scenario. This country is hell on scenarios. Call it a gut feeling. Somehow the Vietnamese will muddle through. If the Communists weren't able to take over the country at peak strength in 1968, I don't see how they can do it now or in the foreseeable future.

Invariably, people ask me what lessons we have learned from Vietnam. The most obvious lesson is not to get involved in another Vietnam. If that sounds cynical or smart-alecky, I don't mean it that way.

But I would like to think that Vietnam has taught us a lesson in something else, a lesson in humility. Never has so small and primitive a country turned such a powerful nation on its ear.

In closing I would like to offer a salute to that skinny little Viet Cong somewhere out there in the jungle shivering in the monsoon rains.

He is one hell of a fighting man.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. SCOTT. I asked the distinguished majority leader to yield, because the name of Keyes Beech is one very well known to me. I was a junior officer on the flagship U.S.S. *Mount Olympus* steaming into Tokyo Bay in 1945.

From across the water, on the U.S.S *Mount Olympus*, I witnessed the surrender of the Japanese on the deck of the U.S.S. *Missouri*. One of our passengers was Keyes Beech. I remember him because he was the first member of the press that I met, as I recall, as we landed in Yokohama.

I believe that Mr. Beech stayed in Japan longer than any other member of the press, and more continuously. I came to know him very well in a place called "No. 1 Shinbone Alley" which was a gathering place for the press—perhaps I should also say a watering place—in Tokyo. It was the leading center for news and information, a sort of oasis for visiting press and friends.

Keyes Beech made a great name for himself in Japan, not only as a correspondent but also because he discovered that there was a need for paperback books. He wrote a great many romantic and lusty novels, which were translated into Japanese and read with enthusiasm by the Japanese, who must have received another impression of Americans from his paperback books. But Mr. Beech has had a long and distinguished career and I am most glad that the distinguished majority leader has placed his article in the RECORD.

Mr. MANSFIELD. Mr. President, I am delighted that the joint leadership sees eye to eye on the matter of Mr. Keyes Beech who, in our opinion, is really one of the top flight reporters in the world. Perhaps, I should say, without question, based on the long period that he served in the Far East, he is the best known and most knowledgeable reporter covering the American press in that area.

TEACHERS' PAY INCREASES

Mr. MANSFIELD. Mr. President, I listened with interest to the program on "Face the Nation" yesterday, in which the chairman of the economic boards created by the President answered questions posed by reporters.

I noted that the matter of teachers' pay raises was brought up and that some

encouragement was forthcoming that they would be given reconsideration.

May I say that if any group has a right to be reconsidered, it is the teachers group which, over a period of months before the August 15 wage-price-rent control freeze went into effect, had signed contracts in good faith and had looked forward to the increases in this school year.

May I say further that, overall, to the best of my knowledge, these increases in teachers pay agreed to last spring, last summer, and even last winter, were not overly high insofar as the percentage of increase was concerned, but did mark the recognition of a group which has done much to bring about a better understanding of this country. Indeed, these are people who have dedicated themselves, by and large, to a profession which offers a great deal of understanding for this Nation, its problems, and its difficulties.

So, without giving any advice whatsoever to the Wage-Price Board, I want to say that I am delighted they are going to reconsider this matter. I am hopeful that justice will be done to the teachers of this country, come Friday or Saturday next.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the order previously entered, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

Is there any morning business?

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A concurrent resolution of the Legislature of the State of Michigan; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION No. 172

"A concurrent resolution applying to the Congress for a convention to propose an amendment to the Constitution of the United States

"Resolved, By the Legislature of the State of Michigan, That said Legislature, hereby and pursuant to Article V of the Constitution of the United States, makes application to the Congress of the United States to call a convention for the proposing of the following amendment to the Constitution of the United States:

"'ARTICLE —

"'No student shall be assigned to nor compelled to attend any particular public school on account of race, religion, color or national origin'; and be it further

"Resolved, That this application by the Legislature of the State of Michigan constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical with that contained in this resolution before January 1, 1974, this application for a state application shall no longer be of any force or effect; and be it further

"Resolved, That since this method of proposing amendments to the Constitution has never been completed to the point of calling a convention and no interpretation of the power of the states in the exercise of this right has ever been made by any court or any qualified tribunal, if there be such, and since the exercise of the power is a matter of basic sovereign rights and the interpretation thereof is primarily in the sovereign government making such exercise and since the power to use such right in full also carries the power to use such right in part the Legislature of the State of Michigan interprets Article V to mean that if two-thirds of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to vary the text thereof nor would it have power to propose other amendments on the same or different propositions; and be it further

"Resolved, That a duly attested copy of this resolution be immediately transmitted to the secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, to each member of the Congress from this State and to each House of each State Legislature in the United States.

"Adopted by the Senate, October 27, 1971.

"Adopted by the House of Representatives, October 28, 1971."

A petition from the Association for Grand Jury Action, Inc.; ordered to lie on the table.

REPORTS OF COMMITTEES

The following report of a committee was submitted:

By Mr. BIBLE, from the Committee on Interior and Insular Affairs, with amendments:

S. 2601. A bill to provide for increases in appropriation ceilings and boundary changes in certain units of the national park system, and for other purposes (Rept. No. 92-452).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McGEE:

S. 2858. A bill for the relief of Juan Leo DeHerrera. Referred to the Committee on Veterans' Affairs.

By Mr. McINTYRE:

S. 2859. A bill for the relief of Leonard Davis. Referred to the Committee on the Judiciary.

By Mr. PERCY:

S. 2860. A bill to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY:

S. 2860. A bill to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses. Referred to the Committee on Finance.

HIGHER EDUCATION EXPENSES TAX DEFERMENT ACT

Mr. PERCY. Mr. President, if you believe, as I do, that educating our young is an investment in the very growth and development of our country, then we must make the availability of the best possible higher education for our young people a prime national goal. To help this country keep faith with the education birthright of our children, I am introducing today the Higher Education Tax Deferment Act as a much needed complement to existing and proposed student financial aid programs.

Virtually all American parents hope that they can send their children to college. At a time when a bachelor's degree can cost between $10,000 to $20,000, relatively few families, even those with substantial incomes, are prepared in advance for the staggering financial burden of higher education.

My constituents, through correspondence and during the course of "listen ins" I have conducted around the State, have made the magnitude of this problem increasingly clear to me. The increasing cost of tuition bills, the expenses of room and board, and the related fees and charges of a college degree have forced many to take on second jobs or to place second mortgages on their homes. The hardship is particularly great for parents who have more than one college age child eligible for higher education at one time.

Exactly how many young people are deprived of a college education because of the lack of financial resources is difficult to determine, but it is unquestionably true that the rapidly increasing cost of higher education is a fact that no longer can be ignored.

The price of a year on almost every campus has jumped by at least 50 percent over the last 10 years, passing the $4,000 per year mark at many private universities. Current and projected college costs are growing faster than income, and annual expenditures per student have been rising three times as fast as the cost of living.

Congress has acted to some degree to relieve the financial plight of parents contemplating a college education for their children. Still, Federal student financial aid programs are woefully inadequate in light of the tremendous rise in costs involved in sending children to college. Present Federal programs provide relief in the form of scholarships, work-study programs and loans to those most in need, as they should. A 1968 HEW study on the adequacy of present student financial aid programs found that 94 percent of the total student financial needs from the lowest income quartile—mean family income of $2,321—was covered either by grants, work-study wages, loans, or by some combination of the three. By contrast, only 31 percent of the needs of those in the second highest income quartile—mean family income of $8,359—was covered by formal aid programs, of which roughly half came from loans. Thus, as a result of this concentration on lower income groups, often there is no financial assistance available for the student from a middle-income family whose needs are also great.

Under the Federal tax laws, a family of four with one child in college and a net income of $10,000 a year would be required to pay $1,019 in income taxes, with, generally, an additional $300 in State and local taxes. Of this family, the College Scholarship Service expects a yearly contribution of $1,690 toward their child's college expenses before he is eligible for assistance, leaving only $6,991 for the family's everyday necessities of food, clothing, and shelter. A similar family earning $15,000, having $12,682 after taxes, would be required to contribute as much as $3,010.

The distressing fact is that families in the middle-income groups who are expected to meet a large portion of the burden from their own resources either have no savings plans for college or have plans that are dangerously inadequate. A 1967 study sponsored by the college scholarship service discovered that among families whose mean gross income is $14,000, 62 percent have saving plans for college, but the average amount actually saved was $310, about $100 per child.

Thus, so many families, good citizens who work hard to pay the mortgage, meet tax obligations and educate their children, are often burdened by a payment that they either cannot meet or must sacrifice to meet. Most student financial aid officers are only too familiar with the problems of parents whose income should be adequate to finance their children's higher education, who have every intention of doing so, but who simply cannot meet the college bills when they fall due. While the lower-income families may need complete financing to attain their higher education goals, middle-income families also require and deserve some help.

While my tax deferment bill is not the final answer to the skyrocketing cost of higher education, it will help middle-income families to meet college expenses as they come up. My bill would allow a taxpayer to defer a part or all of his taxes while he is paying the expenses of higher education for himself or his dependents.

My bill recognizes the great need not only for academic learning but also for quality career education. Assistance would be available for those who choose to pursue post secondary training in colleges and universities, as well as to those in technically oriented schools, be they public or private. The bill also recognizes the needs of part-time students, many of whom would be unable to obtain a higher education without working.

Under the tax deferment plan, an undergraduate or a graduate student would be eligible for a deferment of as much as $1,500 per academic year. Unlike a tax credit, the amount deferred, like a loan, must be paid back with interest at 7 percent. Repayments would be adjusted according to a taxpayer's income level, amounting to a 20 percent tax surcharge.

This bill is designed to benefit middle-income families and not wealthy individuals who can afford higher education costs. The available deferment for a taxpayer paying the higher education expenses of either himself or his dependent would begin to be phased out when taxes owed equal $1,500 and would be completely phased out when taxes owed equal $3,000. The available deferment for a family of four with one child in college would begin to phase out when the family income reaches $14,000 a year and would completely phase out when its income reaches $21,000.

I ask unanimous consent that a table outlining the available benefits to various income groups and the bill itself be printed at this point in the RECORD.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 2860

A bill to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Expenses Tax Deferment Act."

SEC. 2. (a) Subchapter A of Chapter 1 of the Internal Revenue Code of 1954 (relating to determination of tax liability) is amended by adding at the end thereof the following part:

PART VII—DEFERMENT OF TAXES IN CONNECTION WITH HIGHER EDUCATION EXPENSES

SEC. 59. DEFERMENT OF TAXES.

"(a) GENERAL RULE.—There shall be allowed to a taxpayer who is an eligible individual a deferment of a portion of the tax imposed by this chapter for a taxable year which is not in excess of the amount of the net qualified higher education expenses paid by him during that year, subject to the limitations of subsection (b).

"(b) LIMITATIONS.—

"(1) MAXIMUM AMOUNT.—The amount of the tax deferred under subsection (a) shall not exceed in any taxable year, the lower of—

"(A) 75 percent of the net qualified higher education expenses paid by the taxpayer during that taxable year;

"(B) $1,500 per academic year for an undergraduate student (not to exceed a total of $7,500 for any student; or not to exceed, when added to any amount deferred on behalf of the same individual as an undergraduate or graduate student, $10,000); or

"(C) the amount of tax imposed by this chapter for such taxable year, reduced by twice the amount that such amount exceeds the amount of tax deferrable, except for the provisions of this subparagraph, multiplied by the number of students for the payment of whose qualified education expenses a deferment is claimed.

"(2) MINIMUM AMOUNT.—The amount of tax deferred for any taxable year under subsection (a) shall not be less than 2 percent of the taxpayer's gross income.

"(3) NUMBER OF CLAIMANTS.—Only one taxpayer who is an eligible individual with respect to any student in a taxable year may claim a deferment under subsection (a) with respect to the net qualified higher education expenses of such student. If more than one eligible individual claims a deferment with respect to a particular student for any taxable year, the eligible individual who has the highest priority shall be permitted to claim the deferment. Eligible individuals have priority in the order in which they are listed in subsection (c)(1).

"(c) DEFINITIONS.—For purposes of this part—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means—

"(A) a taxpayer who is eligible to claim a personal exemption deduction for a student at an eligible institution;

"(B) a student at an eligible institution;

"(C) the spouse of such student;

"(D) the parent, step-parent, foster-parent, or guardian of such student;

"(E) the parent, step-parent, foster-parent, or guardian of the spouse of such student.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(A) an instituiton of higher education;

"(B) a vocational school; or

"(C) with respect to students who are nationals of the United States, an educational institution located outside of the United States which is comparable to an eligible institution under subparagraph (A) or (B) of this paragraph and which is approved for purposes of this part by the Secretary or his delegate.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education as defined in section 1201 (a) of the Higher Education Act of 1965.

"(4) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school as defined by section 108 (2) (C) and (D) of the Vocational Education Act of 1963.

"(5) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expense'—

"(A) means an expense incurred by a student at an eligible institution during the taxable year payment of which is made during such year, including, but not limited to, tuition and fees required for the enrollment and attendance of such student at such institution, other fees attributable to educational activities at such institution, the cost of books, supplies, and living expenses, including room and board (except that living expenses shall not exceed $150 multiplied by the number of months during the taxable year such student was enrolled as a full-time student at such institution); but

"(B) does not include any such expense which, in the case of a student who is a candidate for a baccalaureate or higher degree, is not attributable to courses of instruction for which credit is allowed toward such degree, or, in the case of an individual who is not a candidate for such a degree, which is not attributable to courses of instruction necessary to fulfill requirements for the attainment of the educational, professional, or vocational objective for which he is enrolled in such institution.

"(6) NET QUALIFIED HIGHER EDUCATION EXPENSE.—The term 'net qualified higher education expense' means the amount of a student's qualified higher education expenses for a taxable year reduced by the total amount of student financial aid received by such student during that year, including, but not limited to, funds made available to students under the National Defense Education Act or any other Act of Congress or of any State, benefits paid under chapters 31, 34, or 35 of title 38, United States Code, scholarships, grants, and other stipends.

"(7) FULL TIME STUDENT.—The term 'full time student' means an individual who is enrolled at and attending an eligible institution and who is carrying at least 75 percent of the normal full-time hours of instruction or other activity required by such institution.

"(8) STATE.—The term 'State' means each of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(d) TERMS OF DEFERMENT; REPAYMENT.—

"(1) INTEREST.—Amounts deferred under subsection (a) shall bear interest at the rate

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prescribed by section 427(b) of the Higher Education Act of 1965 beginning on the day after the last day of the taxable year in which the qualified higher education expenses on which such deferment is based were paid, but shall not be subject to any other interest or penalty until after the date on which payment is due under this subsection.

"(2) PAYMENT SCHEDULE.—Amounts deferred under subsection (a) shall be paid, with interest as provided in paragraph (1), in each taxable year subsequent to the taxable year with respect to which any amount was deferred under subsection (a), except in those taxable years with respect to which an additional tax deferment is claimed under such subsection.

"(3) AMOUNT OF PAYMENT.—The amount of the payment due under this subsection for any taxable year prior to the last taxable year of a taxpayer is an amount equal to 20 percent of the amount of tax imposed by this chapter on such taxpayer for the taxable year until the amount so deferred has been paid, with interest. If the amount remaining unpaid, with interest, in any taxable year is less than such 20 percent, it shall be the amount due for that taxable year. The amount of the payment due under this subsection for the last taxable year of a taxpayer is the aggregate amount, with interest as provided in paragraph (1), of any amounts deferred under subsection (a) and not paid as of the first day of such last taxable year.

"(4) PREPAYMENT.—A taxpayer may pay any amount due under this subsection before the date on which it is due and no additional interest or penalty shall be due on account of such prepayment.

"(5) SUSPENSION OF RETIREMENT INCOME CREDIT.—The credit provided by section 37 (relating to retirement income) shall not be allowed to any taxpayer who has deferred any amount under subsection (a) until such amount has been paid in full together with any interest due on such amount.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this part."

(b) The table of contents of such Code is amended by inserting after the item relating to part VI of subchapter A of chapter 1 the following:

"Part VII. Deferment of taxes in connection with higher education expenses 59

SEC. 3. (a) Subchapter B of chapter 65 of the Internal Revenue Code of 1954 (relating to rules of special application with respect to credits and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6428. DEFERMENT OF TAX; REFUND OF AMOUNTS WITHHELD.—

"(a) GENERAL RULE.—In the case of a taxpayer who elects to defer a portion of the tax imposed by chapter 1 for any taxable year under the provisions of section 59(a) (relating to deferment of tax for certain expenses of higher education), the Secretary or his delegate is authorized to refund to such taxpayer an amount of such taxes paid or withheld for such taxable year equal to the amount of the deferment under section 59(a) for such year reduced by any amount of such taxes not paid by such taxpayer for such taxable year.

"(b) REGULATIONS.—The Secretary or his delegate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6428. Deferment of tax; refund of amounts withheld."

SEC. 4. The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1971.

TABLE 2.—HIGHER EDUCATION EXPENSES TAX DEFERMENT ACT, MAXIMUM TAX DEFERRABLE—FAMILY OF 4 WITH 1 ELIGIBLE STUDENT

Adjusted gross income	Tax liability	Maximum tax deferrable
$7,500	$514	$514
$9,000	744	744
$10,000	905	905
$11,000	1,066	1,066
$12,000	1,288	1,288
$13,000	1,391	1,391
$13,582	1,500	1,500
$14,000	1,578	1,422
$15,000	1,765	1,235
$16,000	1,952	1,048
$17,000	2,139	861
$18,000	2,335	665
$18,000	2,548	451
$20,000	2,760	240
$21,000	2,972	28
$21,129	3,000	0

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

Mr. PERCY. Mr. President, our investment in the education of our children is an investment in our society. According to the latest Bureau of Census figures, the average lifetime earnings for high school graduates is $374,094. Those who have completed 4 years of college averaged $584,094 in lifetime earnings, and that figure increases to $633,119 for those with 5 or more years of college.

While college graduates generally earn more money than those with less education, the benefits extend far beyond either the size of their bank accounts or the returned tax dollars to the Treasury. A recent Carnegie Higher Education Commission study reported that college graduates are more likely to be happy, healthy, and hopeful than less educated Americans. An investment in higher education is an investment in people, the very best investment we can make for the future of our country.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1424

At the request of Mr. MCGEE, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 1424, a bill to amend chapter 89 of title 5, United States Code, to provide improved health benefits for Federal employees.

S. 1580 THROUGH S. 1591

At the request of Mr. PERCY, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1580 through S. 1591, bills dealing with additional health and other benefits to the elderly.

S. 2465

At the request of Mr. CHILES, the Senator from Wyoming (Mr. MCGEE), the Senator from Maine (Mr. MUSKIE), the Senator from Montana (Mr. MANSFIELD), the Senator from California (Mr. TUNNEY), and the Senator from New Mexico (Mr. ANDERSON) were added as cosponsors of the bill (S. 2465) to establish the Everglades-Big Cypress National Recreation Area in the State of Florida, and for other purposes.

S. 2711

At the request of Mr. FONG, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 2711, a bill to amend section 312 of the Immigration and Nationality Act to relax certain literacy requirements for naturalization.

S. 2828

At the request of Mr. NELSON, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Montana (Mr. METCALF) were added as cosponsors of S. 2828, the Family Farm Act of 1972.

REVENUE ACT OF 1971—AMENDMENTS

AMENDMENT NO. 677

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 679

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENT NO. 680

(Ordered to be printed and to lie on the table.)

Mr. HARRIS submitted an amendment intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENTS NOS. 682, 683, AND 684

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted three amendments intended to be proposed by him to the bill (H.R. 10947), supra.

AMENDMENT NO. 685

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON (for himself, Mr. STEVENSON, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10947), supra.

AMENDMENT NO. 686

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS (for himself, Mr. SCOTT, and Mr. CRANSTON) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 10947), supra.

BIG THICKET NATIONAL PARK, TEX.—AMENDMENT

AMENDMENT NO. 676

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to the bill (S. 118) to establish the Big Thicket National Park in Texas.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1972—AMENDMENT

AMENDMENT NO. 681

(Ordered to be printed and referred to the Committee on Appropriations.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to the bill (H.R. 11731) making appropriations for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 533

At the request of Mr. JAVITS, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Illinois (Mr. STEVENSON) were added as cosponsors of amendment No. 533, intended to be proposed to the bill (H.R. 10947) an act to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 657

At the request of Mr. PERCY, the Senator from New Jersey (Mr. CASE), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Michigan (Mr. HART) were added as cosponsors of amendment No. 657 intended to be proposed to H.R. 10947, the Revenue Act of 1971.

AMENDMENT NO. 642

At the request of Mr. ROTH, the Senator from California (Mr. CRANSTON) was added as a cosponsor of amendment No. 642, intended to be proposed to the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 643

At the request of Mr. KENNEDY, the Senator from Michigan (Mr. HART) was added as a cosponsor of amendment No. 643, intended to be proposed to the bill (H.R. 10947), the Revenue Act of 1971.

ANNOUNCEMENT OF HEARING ON CERTAIN TREATIES PENDING BEFORE THE COMMITTEE ON FOREIGN RELATIONS

Mr. SPONG. Mr. President, on behalf of Senator J. W. FULBRIGHT, chairman of the Committee on Foreign Relations, I wish to announce that the Committee on Foreign Relations will hold a public hearing on Friday, November 19, on the following treaties:

First. The Nice Agreement Concerning the International Classification of Goods and Services to Which Trademarks Are Applied—Executive M, 91-2.

Second. Tax Protocol With France—Executive O, 91-2—and Tax Convention With Japan—Executive E, 92-1.

Third. Treaty to Maintain the Rio Grande and Colorado Rivers as the Boundary Between the United States and Mexico—Executive B, 92-1.

Fourth. The Locarno Agreement Establishing an International Classification for Industrial Designs—Executive I, 92-1.

Fifth. Protocol Enlarging the Membership of the Council of the International Civil Aviation Organization—Executive K, 92-1.

The hearing on these treaties will be held in room 4221 of the New Senate Office Building, beginning at 10 a.m. Any person wishing to testify should communicate with the clerk of the committee without delay.

ANNOUNCEMENT OF HEARING ON THE NOMINATION OF EARL L. BUTZ TO BE SECRETARY OF AGRICULTURE

Mr. TALMADGE. Mr. President, I wish to announce the Senate Committee on Agriculture will hold a hearing Wednesday, November 17, on the nomination of Earl L. Butz of Indiana to be Secretary of Agriculture. The hearing will begin at 10 a.m., in room 324, Old Senate Office Building. Anyone wishing to testify should contact the committee clerk as soon as possible.

ANNOUNCEMENT OF AN OPEN HEARING BY SUBCOMMITTEE ON PARKS AND RECREATION

Mr. BIBLE. Mr. President, I wish to announce to the Members of the Senate and other interested parties that the Subcommittee on Parks and Recreation will hold an additional open hearing on S. 36, to preserve and promote the resources of the Connecticut River Valley and specifically to create the Connecticut Historic Riverway in the State of Connecticut, on November 22, at 2 p.m., in room 3112, New Senate Office Building. The subcommittee held a previous hearing on this legislation on November 8.

ADDITIONAL STATEMENTS

REPRESENTATIVE H. JOHN HEINZ III OF PITTSBURGH, PA.

Mr. SCOTT. Mr. President, the newest Member of Congress is H. JOHN HEINZ III. He is from Pittsburgh. He succeeds the late Bob Corbett, who, at the time of his death, was the dean of the Pennsylvania delegation.

JOHN HEINZ will make an outstanding Congressman. He has a bright future. I have a special feeling of warmth for this young man since he worked for me 1 year and helped in my campaign in 1964. An excellent editorial, entitled "New Face in Politics," was published in the Pittsburgh Press of November 4, 1971. The editorial also refers to my Pennsylvania colleague, DICK SCHWEIKER, and to former Representative and Governor of Pennsylvania Bill Scranton.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NEW FACE IN POLITICS

There was only one congressional election in the U.S. Tuesday, and the result was to give the Allegheny County Republican Party a fresh new representative endowed with the qualities it takes to win.

H. John Heinz III, bearer of a famous name, well-educated, well-to-do and only 33, took on the assignment of trying to keep the Republican Party in power in the 18th congressional district (North and East Hills) by running for the seat vacated by the death of Rep. Robert J. Corbett, veteran of 28 years in Congress.

Mr. Heinz won by better than 2 to 1 over a popular and energetic opponent, John E. Connelly.

There had been some trepidation among Republicans over their party's chances in the district.

Rep. Corbett, an astute campaigner, had held the congressional seat largely through the building of what was mostly a personal organization. With a Democratic registration majority of 16,000, the chances for any new GOP candidate did not appear too bright.

Mr. Heinz, youthful and skillful at handling issues, changed that outlook. His victory in the special election pute him in the forefront as a new Republican luminary.

But his tenancy in Congress is good for only the remaining 14 months of the term Mr. Corbett started last January.

In a forthcoming reapportionment of Pennsylvania's congressional districts, occasioned by the loss of representation as a result of the 1970 census, this district's boundaries are sure to be changed.

Right after Mr. Corbett's death eliminated the incumbent congressman, plans were drafted to split off parts of the district to make it conform to the new population ratio.

Then the death of Rep. James G. Fulton, also a Republican, in the neighboring 27th (South Hills) district, opened up other possibilities for reapportionment.

With two Republican incumbents eliminated, the districts could be combined in a manner which would comply with the population ratio without ousting any holdover congressmen.

The Republicans may have second thoughts about any such arrangement, now that they have discovered a successful new campaigner in their ranks. And the Democrats, whose legislative majorities in Harrisburg will enact the new congressional apportionment, may want to take another look at their plans too.

Mr. Heinz may be in politics for quite a while. The emphatic majority by which the 18th district voters elected him forecasts other campaigns to come.

It may be recalled that William W. Scranton, another young man of wealth and ability, started as a congressman and then went on to become one of Pennsylvania's most successful governors. And Richard S. Schweiker of Montgomery County, of similar pedigree, started as a congressman and parlayed his win into a seat in the U.S. Senate.

It's good to know that new men of this caliber are coming up on the horizon—and that the future seems to hold bright promise for them.

FARM OUTLOOK BRIGHT, SAYS THE RETIRING SECRETARY OF AGRICULTURE

Mr. SYMINGTON. Mr. President, when back in Missouri last Saturday, I noticed in the St. Louis Globe-Democrat an article entitled, "Farm Outlook Bright, Hardin Says."

In that I had just come from a talk and discussions in one of the leading farm areas of my State, if that assertion by the retiring Secretary of Agriculture is correct, then the people of agriculture with whom I talked, and who make their living from the land, do not know what they are talking about.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the St. Louis Globe-Democrat, Nov. 13, 1971]

FARM OUTLOOK BRIGHT, HARDIN SAYS

WASHINGTON.—Agriculture Secretary Clifford M. Hardin, who is turning in his Cabinet suit for a job in industry, says the farm situation will be brighter by spring and that President Nixon stands tall in the countryside.

Hardin, whose resignation was announced Thursday, appeared in good humor at a farewell news conference Friday. He said he expects few ripples in turning the reins over

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to Earl L. Butz, a Purdue University dean and former Eisenhower farm official.

Asked about Mr. Nixon's farm belt prospects for 1972, Hardin replied:

"I think they're very good. Yes, indeed, I do . . . and I think you'll see the farmers' situation improving during the winter and spring months."

Livestock prices are expected to improve, he said, and farmers can look forward to corn prices picking up if they use the government's price support program fully to keep excess grain off the cash markets.

Hardin refused to speculate on what Butz might do to help boost sagging corn prices, knocked down sharply by a record crop this year of more than 5.55 million bushels.

"I'm not going to dig a hole for him to dig out of," Hardin said.

At the White House Thursday when the Cabinet switch was announced, Butz acknowledged corn prices are too low and pledged a helping hand.

Hardin, 56, said his resignation will be effective sometime next week. Then he will join the Ralston Purina Co., St. Louis, as head of corporate research and development.

Hardin discounted criticism he had not been aggressive enough on behalf of farmers. The record of farm legislation, he said, suggests otherwise.

TRIBUTE TO FORMER SENATOR HOLLAND

Mr. AIKEN. Mr. President, one of the great privileges I have enjoyed as a Member of the Senate has been that of working with Spessard Holland, both as a member of the Committee on Agriculture and Forestry and the Subcommittee on Agricultural Appropriations of which he was chairman.

Spessard Holland was one of the most outstanding Senators I have known.

As a Senator, his first love was good government, and he steadfastly supported this ideal during his 24 years of service in this body.

He knew the value of a dollar and insisted upon value received for each dollar appropriated.

But perhaps his strongest influence was in the field of agriculture.

He knew this field thoroughly and his knowledge of citrus growing, livestock raising, vegetable growing, and crop raising was unsurpassed.

He was extremely devoted to his home State and Florida never got the short end of any stick so long as Spessard Holland represented it in the Senate.

He was, however, eminently fair to all the States.

When he retired at the end of his term last year, not only the State of Florida but the Nation lost a powerful disciple of good government, and I also lost a friend.

In the passing of Spessard Holland, the United States has lost a great statesman, and American agriculture lost a loyal friend.

My wife, Lola, and I join all others in extending our heartfelt sympathy to his devoted wife, Mary.

THE POCKET VETO AND THE CONSTITUTION

Mr. KENNEDY. Mr. President, the October issue of the American Bar Association Journal contains an excellent and informative article by Mr. Benny L. Kass on the current controversy over the scope of the President's pocket veto power under the Constitution. The article includes a useful analysis of the relevant Supreme Court precedents, a discussion of the bill recently pocket vetoed by the President, and a summary of the legislation now pending in both the Senate and House of Representatives to deal with the question.

Mr. President, I believe that Mr. Kass' article will be of interest to all of us concerned with the issue, so I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the American Bar Association Journal, October, 1971]

THE LAWYER'S WASHINGTON

THE POCKET VETO: AN EXCLUSIVE BONE OF CONTENTION

Every student of the Constitution knows that when a bill passes both houses of Congress, the President of the United States has but ten days to act upon it. He may sign the bill, in which case it becomes law. He may veto the bill and return it to the house in which it originated, giving Congress an opportunity to override the veto by a two-thirds vote of both houses. Or he may do nothing, in which case Paragraph 2, Section VII, Article I, of the Constitution provides:

"If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law."

When this last event happens, it is commonly called a "pocket veto", and in recent months a considerable controversy has been stirred up between Congress and President Nixon as to whether two bills suffered a pocket veto.

President Nixon received two bills from Congress on December 14, 1970. One was the Family Practice of Medicine Act, which had passed the Senate by a 64–1 vote and the House by 346 to 2, and which authorized the appropriation of $225 million over three years to help train family-practice physicians. The other was a private bill granting the Foreign Claims Settlement Commission jurisdiction to consider a dispute.

Both bills were sent to the President on December 14; thus the ten-day period expired on December 25. But the Senate, in which the bills had originated, recessed for the Christmas holiday from the close of business Tuesday, December 22, until the following Monday, December 28. Since the Senate was not in session on December 25, President Nixon announced that the bills had been pocket vetoed. No formal veto message was sent to Congress.

A legislative confrontation came quickly. When Congress reconvened, Senator Edward Kennedy, Democrat of Massachusetts, accused the President of introducing "an arbitrary element into the legislative process—an element never contemplated when the pocket veto provision was written into the Constitution by the Founding Fathers". According to Senator Kennedy: "This promiscuous use of the pocket veto in this situation was obviously designed to avoid an embarrassing vote in Congress on a veto that would surely have been overridden. The President's action raises the possibility of similar arbitrary vetoes every time Congress takes a brief recess."

But the Justice Department, in defense of the President's action, responded that the use of the pocket veto not only conformed to the two judicial precedents in the area but also "to the consistent practice of other Presidents during the last quarter century". Assistant Attorney General William H. Rehnquist wrote to Senator Kennedy that, "while I believe that the President was on very firm legal ground in taking the action he did, there is no doubt that the use of the pocket veto power has been a bone of contention between the President and the Congress throughout the years."

Indeed, it is a bone of contention, going back a long way in history. By 1928, for example, the first definitive survey into the use of the pocket veto cited more than 400 bills and resolutions that were neither signed nor returned by Presidents. And in recent years, almost every President has used the pocket veto as a means of stopping unwanted legislation.

IS AN "ADJOURNMENT" AS SIMPLE AS IT SOUNDS?

In the words of the Constitution, a bill held by the President for more than ten days becomes law "unless the Congress by their adjournment prevent its return, in which case it shall not be a law". Sounds simple, but what is an "adjournment"? Clearly when Congress adjourns *sine die*, at the end of a Congress, the President has the constitutional right to exercise the pocket veto. In effect, he has no choice, for there is no Congress in session to which he may return his veto message.

There are, however, many other periods when one or both houses are in adjournment. In *The Pocket Veto Case*, 279 U.S. 655 (1929), the Supreme Court held that the word "adjournment" was not limited to a final adjournment. The Court, through Justice Sanford, concluded:

"We think that under the constitutional provision the determinative question in reference to an "adjournment" is not whether it is a final adjournment of Congress or an interim adjournment, such as an adjournment of the first session, but whether it is one that "prevents" the President from returning the bill to the House in which it originated within the time allowed. It is clear, and, as we understand, is not questioned, that since the President may return a bill at any time within the allotted period, he is prevented from returning it, within the meaning of the constitutional provision, if by reason of the adjournment it is impossible for him to return it to the House in which it originated on the last day of that period."

The Court ruled that an interim adjournment of Congress at the end of a session prevented the return of a bill by President Coolidge, and it upheld his pocket veto. It is significant to note that while the Court drew no distinction between the types of adjournments—whether at the end of a Congress *sine die*, at the end of a session or within a session—the issue at hand was, in fact, adjournment at the end of a session.

An interesting collateral issue was then raised as to whether the bill must be returned to the house itself while it is in session or whether it may be returned to the house, although not in session, by delivering it to an officer or agent of the house. The Court decided "that the 'House' to which the bill is to be returned, is the House in session". According to Justice Sanford:

"Aside from the fact that Congress has never enacted any statute authorizing any officer or agent of either House to receive for it bills returned by the President during its adjournment, and that there is no rule to that effect in either House, the delivery of the bill to such officer or agent, even if authorized by the Congress itself, would not comply with the constitutional mandate."

Nine years later the Court again had occasion to consider the pocket veto question. In *Wright* v. *United States*, 302 U.S. 583, (1938), a majority of the Court held that when only the Senate had adjourned, and the adjournment was for a period of three days, "Congress", as that term is used in the constitutional provision, had not adjourned. Therefore, a pocket veto was not available to the President.

In the *Wright* case, a bill that had originated in the Senate was vetoed by President Roosevelt and returned with his objections to the Senate during a three-day adjournment of that body. The House of Representatives was in session. The bill with the President's message was received by the Secretary of the Senate and submitted by him to the Senate when it reconvened two days later. The issue was whether the veto was effective since the President's objections had not been received within the ten-day period by the originating house while in session. In a majority opinion written by Chief Justice Hughes, the Court held that as the Senate alone had adjourned, the constitutional provision did not apply, and the veto was effective.

Wright considerably limited the opinion and dictum of the *Pocket Veto Case*. In the latter case the Court said (in a statement that does not appear to have been necessary to its holding) that even though one or both houses of Congress were to authorize an agent to receive messages from the President, "the delivery of the bill to such officer or agent . . . would not comply with the constitutional mandate".

The Court in the *Pocket Veto Case* was concerned with the impropriety of delivering a bill during a period of adjournment to "some individual officer or agent not authorized to make any legislative record of its delivery, who should hold it in his own hands for days, weeks or perhaps months . . . In short, it was plainly the object of the constitutional provision that there should be a timely return of the bill, which should not only be a matter of official record definitely shown by the journal of the House itself . . but should enable Congress to proceed immediately with its reconsideration."

The Court in *Wright* responded to these concerns. Chief Justice Hughes wrote: "However real these dangers may be when Congress has adjourned and the members of its Houses have dispersed at the end of a session—the situation with which the Court was dealing [in *Pocket Veto*]—they appear to be illusory when there is a mere temporary recess."

While it is true that the recess taken in the *Wright* case was for only three days, it is hard to imagine the Court ruling differently for temporary or interim adjournments when only a few more days are involved. Indeed, in his letter to Senator Kennedy, even Mr. Rehnquist recognized this when he wrote: "There is undoubtedly a legal 'gray area' with respect to the question reserved in the *Wright* case—whether a pocket veto is appropriate during an adjournment for more than three days by one house of Congress. Advice from this office in the past has been to the effect that in this situation, without controlling judicial decision to guide him, the President ought to disapprove a bill by the *normal veto message and return*, rather than by the pocket veto" (emphasis added).

WHY WAS THE POCKET VETO USED FOR THESE BILLS?

Returning, then, to the two bills which were the subject of President Nixon's pocket veto, there is a real question why the President apparently ignored advice to disapprove the bills by the normal veto message. Fred B. Rooney, Democrat of Pennsylvania, the principal House sponsor of the Family Practice of Medicine Act, believes that the President, faced with a 346–2 vote in the House and a 64–1 vote in the Senate, took advantage of the pocket veto "because he knew if he did send a veto message back to the Congress, the Congress would override his veto unanimously".

During a roundtable discussion at a meeting of the Subcommittee on Separation of Powers of the Senate Judiciary Committee, Senator Kennedy asked Mr. Rehnquist why the President took the "rather extraordinary procedure of the pocket veto" instead of returning the bill with a veto message. Mr. Rehnquist responded that by the time the President determined to veto the measures, Congress had adjourned: "I felt at this point he had no choice after Congress had adjourned. If it is an adjournment which under the constitutional language prevents the return of the bill, if he wishes to veto it, he must pocket-veto it."

No matter what the legal merits of the question are, the fact remains that President Nixon's pocket veto thus far has been effective. But Congressman Rooney, Senator Kennedy and Senator Sam Ervin, Democrat of North Carolina, have indicated their intention to test the constitutionality and legality of the vetoes, and recently there have been a number of developments.

HOW CAN THE POCKET VETO BE TESTED?

One method of bringing the issue to court is for Congress to treat the Family Practice of Medicine Act as a valid public law and appropriate funds for its implementation. If the Nixon Administration were unwilling to spend the appropriated monies, then a legal action could be brought to test the validity of the purported pocket veto.

Following this approach, on May 11 Congressman Rooney introduced an amendment to an appropriation bill that would have appropriated $25 million to implement the provisions of the act. Responding to a point of order that there can be no appropriation for something that is not authorized, Speaker of the House Carl Albert ruled the amendment invalid, stating:

"The Chair is not oblivious to the fact that certain questions have been raised about the legal propriety of this veto. However, the Chair cannot rule on this constitutional question. The Chair may only refer to the statutes at large or the United States Code to find the authorization required to support this appropriation. Since no such statute can be cited, the Chair must sustain the point of order."

And the Senate similarly refused to make the appropriation.

Another method of testing the pocket vetoes might be to proceed on the private claim. One of the vetoed bills would have conferred jurisdiction on the Foreign Claims Settlement Commission to pass upon a $215,200 claim of the estate of Miloye Sokitch, a refugee from Yugoslavia. After the Germans had occupied Yugoslavia in World War II, they handed over a manganese mine owned by the Sokitch family to the Italians, and the family's loss of ore from the mine is the basis of their claim.

In April of this year the Sokitch family filed their claim with the commission, alleging jurisdiction on the basis that the private bill is now law. If the commission rejects that view and holds the pocket veto authority validly used, this may open the door for an ultimate Supreme Court ruling. Although commission rulings on claims usually are final and not subject to court review (22 U.S.C. § 1623(b)), because of the constitutional issue involved, a federal district court might be willing to accept the case for review.

CONGRESS MOVES TO DEFINE "ADJOURNMENT"

Only time and a possible judicial decision will determine the ultimate legality of the Family Practice of Medicine Act and the private claim statute. Many members of Congress believe, however, that Congress should act to prevent what they regard as the possibility of future abuse of the pocket veto power by defining what "adjournment" means. For example, Congress probably will have recessed at least seven times during 1971, and presumably the President would be able to exercise the pocket veto during at least some of those recesses.

Senator Ervin, along with Representatives Emanuel Celler, Democrat of New York, and William M. McCulloch, Republican of Ohio, have introduced bills that would define the scope of the pocket veto (S. 1642 and H.R. 6225). Specifically, the word "adjournment" in the Constitution would be defined as an adjournment *sine die* by either the Senate or the House of Representatives. The bills also would make it clear that if the respective house were not in session when a President wants to return a bill, then presentation to an officer designated and authorized by that house to receive bills under those circumstances would constitute a valid return of the bill. Both bills have been referred to the respective committees on the judiciary, where they are under active consideration.

In June of 1833, James Madison wrote Henry Clay on the President's duty to return bills to Congress, stating:

It is obvious that the Constitution meant to allow the President an adequate time to consider the bills . . . presented to him, and to make his objections to them; and on the other hand that Congress should have time to consider and overrule the objections. A disregard on either side of what it owes to the other, must be an abuse, for which it would be responsible under the forms of the Constitution.

The legislative bone of contention has been hauled out again. Perhaps this time, Congress—and the courts—will have an opportunity to bury it completely.—BENNY L. KASS

(Now a lawyer in Washington, D.C., Benny L. Kass formerly served on the legal staffs of two Congressional committees. He was educated at Northwestern University (B.S. 1957), the University of Michigan (LL.B. 1960) and George Washington University (LL.M. 1967).

NOMINATION OF WILLIAM REHNQUIST TO THE SUPREME COURT

Mr. GOLDWATER. Mr. President, needless to say, we have heard many thousands of words of arguments for and against President Nixon's latest nominations for seats on the Supreme Court to fill existing vacancies. And I am sure that I do not have to point out that the weight of opposition to the President's selections has fallen on Mr. William Rehnquist, a highly qualified constitutional lawyer from the State of Arizona.

Mr. President, I have no complaint about arguments being raised against Mr. Rehnquist so long as they have a direct bearing on an implication which might reflect upon his qualifications to serve on the highest court of the land.

We have already heard about Mr. Rehnquist's exceptional performance during many hours of close questioning by members of the Senate Judiciary Committee.

What the situation boils down to at the present time is strictly a question of Mr. Rehnquist's political views and whether they are in accord with those of some of our liberal Members of this body. Nothing that I have heard so far has in any way qualified or diminished my belief that Mr. Rehnquist would make one of the finest members ever to serve on that distinguished body, so it is with disgust and even a little sadness that I denote a deliberate effort to smear an honorable and highly qualified attorney in order to prevent the confirmation of a man who might add to the conservative forces on the High Court.

On November 2, it will be recalled, I denounced on the Senate floor a rumor campaign which was then underway to

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cast an unfavorable reflection on Mr. Rehnquist. As I mentioned at that time, the tactics being employed were beginning to look exactly like the one that Mr. Rehnquist's critics used to call "McCarthyism."

The unfair and reprehensible attempt at character assassination in this case began on a talk show the night of November 8, when a guest accused Mr. Rehnquist of being a member of the John Birch Society. And almost before Mr. Rehnquist could reply to the charge his friends and associates were being plagued with questions from newsmen on whether the charge was correct. I have personal knowledge of this because the very next day, when I held a news conference in Atlanta, Ga., the first question put to me was what I thought of charges that Mr. Rehnquist had been a member of the John Birch Society. I labeled the allegation a deliberate lie; but I must say, Mr. President, that any neutral observer listening to that recorded question and answer would be justified in believing that it was merely my word against that of a newspaperman who presumably had some inside information.

For all this, I think the campaign against William Rehnquist reached its alltime low before the Judiciary Committee, where Clarence Mitchell and Joseph Rauh, representing the Leadership Council on Civil Rights, were testifying and where Mr. Rehnquist had presented a sworn statement to the fact that he was not and had never been a member of the Birch Society. When the statement was presented to the Judiciary Committee, both Mr. Mitchell and Mr. Rauh made it plain that they did not believe the statement. Mr. Rauh stated for the record that Mr. Rehnquist's statement "was the weakest denial I have ever heard." He went on to add: "What of all the possible relations short of membership? I am flabbergasted."

This deliberate, underhanded smear was too much even for committee members who have the strongest reservations about the Rehnquist nomination; and in this connection, I want to warmly commend the senior Senator from Massachusetts (Mr. KENNEDY) for his quick and forthright action to put an end to innuendo rather than fact in the case of Mr. Rehnquist. Senator KENNEDY told Rauh his suggestion was completely unwarranted and uncalled for. He added that while he had reservations about the nominee, he was completely satisfied that the John Birch charge was false. The Senator from Indiana (Mr. BAYH), another committee member having reservations, said his investigation provided no evidence that the charge was correct. To cap it all, Senator KENNEDY admonished the witnesses not to spread charges without evidence, adding:

> You have left an atmosphere that I think is rather poisonous.

Mr. President, the smear tactics resorted to in this case come with particular ill grace from Mr. Rauh, who was one of the loudest voices in the country complaining about "guilt by association" when questions of Communist associations by persons holding sensitive Government jobs came into question back in the early 1950's.

With some of the opponents of Mr. Rehnquist, the familiar double standard is beginning to emerge. Those who were so sensitive about any hint that some liberal might actually hold membership in the Communist party now take the position that since Mr. Rehnquist was accused of belonging to a rightwing organization he must prove himself innocent beyond any conceivable objection.

It is most unfortunate that the smear tactics have reached such a low point on such an important matter. They not only distort the record and unfairly persecute the nominee, but they reflect most unfairly upon the Senate.

This situation was set forth very effectively in an editorial published in the Wall Street Journal of Friday, November 12, 1971. It commended Senator KENNEDY for cutting off a leftwing smear directed against Supreme Court nominee William Rehnquist. I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

Mr. President, I should like to say, further, that I believe it is time to bring the President's nominations for the Supreme Court to a vote in the Judiciary Committee and in the Senate. The record is about as complete as it can get. Further delay will merely encourage the smear artists to extend their propagation of the big-lie technique.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AN EXAMPLE OF DECENCY

Senator Edward Kennedy provided a fine example of fundamental decency the other day in cutting off a left-wing smear directed against Supreme Court nominee William H. Rehnquist.

Clarence Mitchell and Joseph L. Rauh Jr. were representing the Leadership Conference on civil rights before the Senate Judiciary Committee. The purpose of the exercise was to say that they disagreed with some positions Mr. Rehnquist had taken in the past, and to incant the litany about this meaning the nomination was an "insult" and "the foot of racism is placed in the door of the temple of justice," etc.

It happened that the night before, a talk-show guest some place had accused Mr. Rehnquist of being a member of the John Birch Society. The nominee promptly submitted a sworn statement that he is not now and never has been a member of that group. This did not satisfy Mr. Mitchell and especially Mr. Rauh. "The weakest denial I've ever heard," said the latter. "What of all the possible relations short of membership?" Mr. Rauh complained, "I'm flabbergasted."

"Your suggestion is completely unwarranted and uncalled for," Senator Kennedy interrupted. He said that while he had reservations about the nominee, conversations left him "completely satisfied" that the John Birch charge was false. Senator Birch Bayh, another committee member who also has reservations provided no evidence of the charge. Senator Kennedy told the witnesses they should not spread such charges without evidence, and that "you have left an atmosphere that I think is rather poisonous."

Senator Kennedy clearly recognizes that smear tactics can be used on both sides of the ideological fence. Such tactics, in fact, come with particular ill grace from those who see themselves as special guardians of civil liberties, from those who would be most outraged if the tables were turned. If, say, someone objected that a nominee's affidavit denying Communist Party membership did not cover all the possibilities no doubt Mr. Rauh would be not merely flabbergasted but apoplectic.

By now we are becoming accustomed to this particular double standard; in fact, Mr. Rauh's charge that the nominee is a "laundered McCarthyite" was a fair warning of what was to come. Today the invocation of that word is almost always a signal that the speaker is about to use precisely the tactics he is ostensibly deploring, only for opposite ideological purposes. So you have Mr. Rauh taking the position that since Mr. Rehnquist was accused he must prove himself innocent beyond any conceivable objection.

In blowing the whistle on such tactics by his natural allies, Senator Kenendy has acted in a responsible political manner. That we frequently disagree with him is no secret, but we must say he clearly recognized what political leaders more often should; that excessive charges are good neither for the case they are intended to serve nor for the political health of the nation.

CHINA IN THE U.N.

Mr. FULBRIGHT. Mr. President, in these days of agitation and heated issues, it is most refreshing and encouraging to receive the views of those whose interest in such issues is based on thoughtful and objective deliberation.

Prof. Maurice Waters of Wayne State University in Detroit, Mich., forwarded to me a copy of his letter to the President of the United States with regard to the recent United Nations vote admitting the People's Republic of China to its international body.

I ask unanimous consent that Professor Waters' letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WAYNE STATE UNIVERSITY,
Detroit, Mich., October 29, 1971.

PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to express a deep concern regarding the reaction in this country to the United Nations vote on the representatition of China. As a person who has spent some time working at the U.N., and studying and writing about it, I have been acutely aware of the great emotional feelings that prevail in many circles in this country. I am also aware that much of the public discussion on radio, television and in the newspapers, and the debates on the floor of Congress reveal either an ignorance of some of the issues, both legal and political, or an unwillingness to face up to them honestly and forthrightly. That such a condition should be reflected in the news media and in Congress is extremely distressing, primarily because both should be sources of information and should provide bases for rational thinking and judgment. When men in high office state, as Ambassador Bush did immediately after the U.N. Assembly vote, that the U.N. has reached a turning point having for the first time voted to expel a member state or, as Senator Dominick said when interviewed on NBC TV, that it was outrageous to permit those forces interested in destroying capitalism and the Free World to gain the upper hand in the U.N., and that the Chinese Peoples Republic had killed nearly 34 million Chinese, statements that are either misleading or false, or based upon totally inadequate evidence, then the nation suffers badly because the public does not have the mature and responsible leadership it so desperately needs in these serious times.

It seems that one must acknowledge, as our Founding Fathers in fact acknowledged, that every people has a right to choose their own government, and that every government that is meeting the juridical test of ruling authoritatively over its people must be acknowledged as the legitimate government of that country. It does not mean that one's own government must recognize it, although the constitutive theory may be the wisest one to adopt, but it does mean, where membership in international organizations is concerned, that governments that are in exile cannot provide any useful service to the cause of peaceful settlement of disputes if they continue to have their representatives seated in such organizations. In effect, permitting the Chiang kai-Shek delegate to speak for the Chinese people has been foolish and nonproductive. Once that government had to flee from the mainland of China, there was no reason any longer to permit it to maintain representation in the U.N. It was, in fact, only able to do this because of U.S. insistence, pressure and diplomatic maneuvering. In my own estimation, from what I observed and have learned about the issue, the emotional "binge" in the U.N. which apparently angered the President and members of Congress, was just a natural response to the realization that the country which for so long had "ruled the roost" on a matter they defined as absurd had finally been defeated. The fact that those representatives who came from Formosa were decent and honorable men does not alter the circumstances that they were illegitimate representatives. We, as a nation, would have been infinitely better off if our government had not made what is, in fact, a representation issue into one of great national importance. That error we were bound to suffer from eventually. It was therefore absolutely inevitable that when we were defeated, we would feel a loss of face. Had the very latest United States move to partially rectify our mistake succeeded, we might have been confronted in the near future with a very real loss, namely, that the Chinese Peoples Republic would have two votes in the U.N. once the two China delegations were brought under the one government speaking from Peking.

Contrary to Ambassador Bush's statement, the U.N. has not ousted a government, but finally agreed that the representatives who had been sitting for so long were no longer acceptable to the majority of nations, according to the latter's conscience and their own conception of national interest. There is no doubt that a two-thirds vote was not necessary on this matter because, in fact, no state was expelled.

Furthermore, to now take the position, as Senators Buckley, Brock, Dominick and no doubt others take, that we should reduce our financial support to the U.N. or to states who voted contrary to us, is childish, an act of petulance and reminiscent of the Soviet Union's behavior and of France's when they would not support the U.N. in its Congo operation. Surely, no Senator in the U.S. Senate would urge that his state refuse to accept the majority vote of the U.S. Congress just because his own state, small or large, had been opposed to that vote. How can the U.S. be a good member of the U.N. and a respected and responsible world power if it is going to treat the U.N. decision so disrespectfully and with such a parochial understanding of international relations.

I would urge you to exert leadership and lend your voice to instill a note of reason and calm reflection into the national debates that have erupted.

Very respectfully yours,
MAURICE WATERS, *Professor.*

NUTRITION AND DIET

Mr. PERCY. Mr. President, I would like to bring to the attention of the Senate an excellent series of articles on nutrition and diet which appeared in the Chicago Tribune last week. In this comprehensive six-part series by Ronald Kotulak, many of the problems surrounding the myths of adequate nutrition are examined as one of the causes of poor nutrition in both infants and adults. Important sections of these articles also deal with nutrition and pregnancy and the importance of diet to our health.

These subjects have been studied by the Select Committee on Nutrition and Human Needs in the past and will be a source of further indepth investigation by the committee in the near future. I commend these articles to Senators and ask unanimous consent that they be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Nov. 7, 1971]

MALNUTRITION HITS MANY: YOUR DIET JUST MAY BE KILLING YOU

(By Ronald Kotulak)

Most Americans have long taken food for granted. But now many scientists have become alarmed that our foods and eating habits have deteriorated so badly that malnutrition is widespread thruout the land, affecting the middle-class American as well as the ghetto dweller. This is the first in a series of articles exploring the crisis.

You are what you eat, but to a growing number of nutrition experts, what you are isn't so good.

In fact, the federal government has finally admitted that many of us are eating ourselves sick.

As a nation, we have the highest rate of heart disease in the world and one of the highest infant death rates; we don't live as long as people in many other countries; and death rates from many other diseases are higher here than in other nations.

"Most all of the health problems underlying the leading causes of death in the United States could be modified by improvements in diet," declares Dr. C. Edith Weir, assistant director of the human nutrition research division of the U.S. Department of Agriculture.

Americans have long thought of themselves as well-fed, healthy people. So it has come as quite a shock to learn from studies conducted in the last five years that there is widespread malnutrition in our land of plenty. The health of 30 million Americans at all economic levels may be threatened by one form or another of dietary deficiency experts say.

Malnutrition has reached the level of a national disaster, claims Dr. George M. Briggs, chairman of the nutritional science department at the University of California in Berkeley.

More costly than alcoholism, drug abuse, or crime, it accounts for $30 billion a year in poorer health, mental problems, obesity, physical deficiencies, and increased susceptibility to other diseases, he says.

NOT JUST A POVERTY PROBLEM

Malnutrition does not just occur among the poor. It cuts across all socioeconomic lines, affecting the well-off American, the millions of females constantly on and off diets, and the harried housewife who has become totally confused about what foods offer proper nutrition.

"I don't think there's really any question that malnutrition exists to a high degree in the United States population," says Dr. Myron Winick, of the Cornell University Medical College, one of the nation's leading nutrition experts.

But many find that evaluation difficult to believe. They see apparently fit people and relatively few cases of severe nutrient deficiencies that cause scurvy, rickets, or beriberi.

The signs of malnutrition are there, but they are hidden.

WEAKENS WITHOUT DESTROYING

"The less dramatic manifestations of malnutrition—growth retardation, weight loss, increased burden of chronic diseases, depression, weakness, retarded convalescence from disease and trauma, poor performance in pregnancy—are widespread and of great significance," says the American Medical Association's Council on Foods and Nutrition.

In other words, suboptimal levels of some nutrients may not cause any easily recognized disease, but will keep a person from functioning at his peak either mentally or physically, and make him more prone to illness.

More than 50 nutrients in the forms of proteins, vitamins, and minerals are known to be important for proper health.

The trouble is that too many people fail to eat a varied enough selection of foods to provide them with the desired amounts of these nutrients, says Dr. Fredrick J. Stare, chairman of Harvard's nutrition department.

BIG LOSS IN FOOD VALUE

Furthermore, the preparation, preservation, and storage of foods from the time of harvest to the time the housewife prepares them causes some loss of nutrient content, he adds. For some vitamins and minerals, the loss in the processing and preparation cycle may be 100 per cent.

The body can often compensate for low intake of certain nutrients, but what this adjustment eventually costs the total health of the body is unknown, Dr. Weir says.

For instance, the increase in adult onset diabetes may be the payoff of marginal intakes of chromium for the last 25 years, she explains. Chromium, found in liver, has recently been pinpointed as important in insulin metabolism.

FEED OUR ANIMALS BETTER

"The American public is eating a strange diet," Berkeley's Dr. Briggs says. "We feed our farm animals better, giving them all the vitamins and minerals we take out of the food for humans."

Much of the $100 billion a year Americans spend on food is spent unwisely on "junk" or "empty calorie" foods that lead to nutritional deficiencies, he says.

He points out that the average American annually consumes 276 pounds [dry weight] of sugar, fat, and white flour [often not enriched] that go into making snacks, convenience foods and soft drinks with little nutritional value.

On the other hand, he says, the average person annually eats only 250 pounds of the foods that experts regard as nutritious: meat, poultry, fish, eggs, milk, cheese, fresh fruits, and vegetables.

"This is a terrible diet, and I wouldn't feed it to a pig without fortifying it," he asserts.

DOG FOOD IS A DIET FOR SOME

This strange diet has given rise to such bizarre things as traveling business executives being treated for scurvy because they avoid citrus fruits and eat mostly meat and potatoes. There are also reports that some elderly people living on skimpy budgets eat dog food because it is cheaper and more nutritious than many other foods designed for human consumption.

Our eating habits are undergoing drastic changes. We are eating more processed or convenience foods, more meals away from home, fewer meals together as families, and more mini-meals and snacks.

One of the most revealing studies of the breakdown in our nutritional habits was conducted by Dr. Howard Bauman, vice president for science and technology of the Pillsbury Co. and a member of the A. M. A.-Food Industry Liaison Committee.

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FINDS HOUSEWIVES PUZZLED

When first asked, most women are satisfied that they are doing a good job of meeting the nutritional needs of their families, Dr. Bauman says.

But, on further questioning, it turns out that only about half of them come even reasonably close to knowing what balanced meals are, he says. Some 50 to 60 per cent of the homemakers frequently provide nutritionally inadequate meals, the Pillsbury surveys show.

Much of their nutritional knowledge is based on folk beliefs and half-remembered advice from magazines, he reports.

If their families, particularly the children, are well, active, and look good, with good color and bright eyes, the homemaker is confident she has done a good job of feeding them what they need, even tho the taste and appearance of food is her primary consideration in purchasing food, he adds.

TASTE WINS OUT, SURVEY SHOWS

"In survey after survey, women admit that when faced with the choice between serving less appetizing nutritional food and foods that the family likes, even tho they are not as nutritional, they usually opt in favor of the appetizing but less nutritional foods," Dr. Bauman reports.

The only major health consideration that consistently occurs to homemakers is dealing with overweight, he says.

The husband plays a big role in barring balanced meals, he finds. In most homes the husband's preferences determine what will be served.

To add to the problem, many mothers are losing the battle against their children's overconsumption of snacks and soft drinks "which are unhealthy as well as spoiling the children's appetite for the dinner meal," Dr. Bauman notes.

EATING PATTERNS ADD PROBLEMS

The accelerated disintegration of the family that eats together is further increasing the nutritional problem.

In up to 50 percent of the families, one or more members regularly skip breakfast, and 75 per cent of the families do not eat breakfast as a family unit.

No less than 50 per cent of school age children either have no breakfast or a nutritionally inadequate breakfast, Dr. Bauman reports.

One of the most stunning examples of the effect of food on humans has recently occurred in Japan. Until a few years ago, the shortness of the Japanese was attributed to their generic inheritance.

But contemporary teenagers in Japan tower over their parents and are as tall as American youths. The reason: a switch from the traditional rice and fish diet after the war to a high protein, Americanized food pattern.

Nutritional research has entered a promising new era where better health, a longer active lifespan, and greater satisfaction from work, family, and leisure time can be expected, Dr. Weir says.

Among the expected benefits, she says, are:

A 25 per cent reduction in heart and vascular diseases, which now affect more than 5 million Americans; a 20 per cent reduction in respiratory and infectious diseases; a 10 per cent drop in mental disease; a 50 per cent drop in the infant death rate; a 50 per cent reduction of osteoporosis; an 80 per cent reduction in obesity; a 33 per cent drop in alcoholism; and a 20 per cent decline in cancer.

Better food also can improve learning ability by raising the I. Q. levels of some persons in the 70–80 I. Q. range by at least 10 points, Dr. Weir says.

"The benefits we are talking about," she points out, "are not just for low-income groups but are those likely to accrue on a national basis."

SURVEY STUNS AMA—WELL-FED UNITED STATES? THAT'S JUST A MYTH

(By Ronald Kotulak)

Studies that opened the nation's eyes to the existence of hidden hunger and malnutrition are described in the second of a series of articles on malnutrition in America.

The myth that hunger and malnutrition do not exist in America was punctured in 1968 and destroyed this year.

Now there is growing concern among health officials that the price we are paying for this hidden malnutrition is that our children don't grow as tall as they should, are more sickly, and aren't able to learn normally.

STUDY APPEARS IN 1968

Furthermore, the studies indicate that while malnutrition is more prevalent among people in the poverty income bracket, it is nevertheless widespread among middle-class Americans.

The first study to call attention to the plight of the underfed and undernourished appeared in 1968 when the Citizens' Board of Inquiry into Hunger and Malnutrition in the United States reported that one-third to one-half of the very poor may experience hunger of varying intensity and duration.

Stunned by this disclosure, the American Medical Association stated: "The existence of hunger, in a society that can afford to abolish it, is morally and economically indefensible."

But the "Hunger U.S.A." report was only the beginning. Congress ordered the Department of Health, Education, and Welfare to conduct a survey of nutrition among Americans.

FAIL TO PROVIDE FUNDS

However, the legislators neglected to provide funds for the survey.

Normally, without enough money to conduct the study, the most that could be done would be a spot check of doctors by telephone. And since doctors haven't been reporting malnutrition problems, they were not likely to reveal any trouble.

But this was not to be. A plucky nutritionist who suspected that America did have a deep-seated nutrition problem took charge of the survey and scraped up enough funds to do a first-rate job.

SURPRISED AT FINDINGS

However, even Dr. Arnold Schaefer, of HEW's health service and mental health administration, was surprised at the findings of his survey. While bits and pieces of the study, which was conducted from 1963 through 1970, have been reported earlier, the preliminary report was sent to Congress last April.

"I don't think there's any doubt that enough evidence was accumulated during our survey to indicate that there are widespread nutritional problems," Dr. Schaefer said.

"People aren't falling over dead from malnutrition, but there are sufficient numbers whom we consider to be nutritional health risks," he said.

ONE IN FIVE IS RISK

Dr. Schaefer estimated that based on his survey, which included more than 63,000 persons, as many as one in five Americans may be a nutritional health risk of some kind.

The most widespread problem was iron deficiency with 25 per cent of the people studied having insufficient amounts in their blood, he said. Many were anemic because of their iron deficiency and needed immediate medical treatment, he added.

"Anemic kids just aren't very good students in school," he said. "They are tired and lethargic. There isn't any doubt that anemia does have an effect on their physical output and mental attitude."

VITAMIN A LEVELS LOW

Twenty-five per cent of the persons in the 10-state study had unacceptable vitamin A levels, and there were lesser deficiencies for vitamin C, proteins, riboflavin, folic acid, and thiamine.

The 10 states in the survey were Texas, Louisiana, Kentucky, Michigan, New York, West Virginia, California, Washington, South Carolina, and Massachusetts.

Some 15 to 30 per cent of the children in the study had stunted growth, Dr. Schaefer said.

"To me that's serious," he explained. "That means the children are not getting the chance to grow to their physical maximum capability."

DISCOVER RICKETS

Another big surprise was the discovery of rickets, which is caused by a deficiency of vitamin D, in 3 per cent of the infants up to 5 years of age, Dr. Schaefer said.

"That's uncalled for. God almighty, everybody said we eliminated rickets with the advent of fortified milk." The apparent cause of this deficiency, which causes bowlegs, is that many infants, especially in poverty areas, were fed powdered milk that did not contain vitamin D. As a result of this finding, the Department of Agriculture has begun putting vitamin D in powdered milk.

Some areas, such as Texas, had a high goiter rate because only 40 per cent of the salt sold there contained iodine, which prevents the enlargement of the thyroid gland in the neck.

NUTRIENT IS NECESSARY

The vitamin A deficiency uncovered in the survey is particularly ominous since it is a nutrient that is required for the proper structure of every cell and some scientists feel it is vital in fighting infections, Dr. Schaefer said.

The eye is the favorite target of a vitamin A deficiency. Mild deficiencies can lead to night blindness and severe shortages can cause permanent blindness. An estimated 80,000 of the world's children under the age of 4 go blind each year because of a lack of vitamin A.

Altho the complete findings of the survey have yet to be made public, it is clear that these nutritional deficiencies are found in every socio-economic level, Dr. Schaefer said.

WIDE INCOME RANGE

Some 40 per cent of the persons in the survey were below the poverty level but the rest were above it, he said. The annual family income ranged from $100 to $140,000.

For example, in Washington about 25 per cent of the people above the poverty level had a vitamin A deficiency as compared with 17 per cent of those in the poverty bracket.

The main reasons given for malnutrition were ignorance about what constituted a nutritious diet, lack of money to buy proper food, and indifference to good eating habits.

Worried about Dr. Schaefer's findings, the A.M.A. said "Malnutrition is debilitating; those so affected cannot perform optimally.

ESTIMATES ARE UNRELIABLE

"Current estimates of the numbers so affected are unreliable but the cost in human waste is great indeed and the effect in terms of future performance cannot be accurately measured."

For his efforts in uncovering the nutritional deficiencies in our land, Dr. Schaefer has met with frustration. He has charged that the federal government is attempting to delay or stop publication of the full report on the grounds that it might be politically embarrassing.

He has since left the HEW in despair because "they are now spending more money to study the problem than to eliminate it." He is a consulting nutritionist with the Pan American Health Organization.

The government, however, has apparently taken some heed of Dr. Schaefer's finding and has stepped up its food supplementation programs for needy people.

Almost at the same time that Dr. Schaefer started his survey, Dr. George M. Owen of Ohio State University began a similar study of iron deficiencies in a large sample of average American children.

His findings involving more than 3,000 children, were just as startling: 7 per cent of the children between 1 and 6 years of age were anemic and some 45 per cent had iron deficiencies.

"Iron deficiency is a relatively common occurrence among preschool children regardless of socio-economic status," Dr. Owen said. Furthermore, there is preliminary evidence linking iron deficiency to stunted growth, he added.

Disturbed by these findings, Dr. Philip Handler, president of the National Academy of Sciences, concluded "there is rising malnutrition in the United States."

EXTENT NOT KNOWN

"We don't know the extent of it but acute malnutrition has begun to appear again in American hospitals. That disturbs me greatly because malnutrition is occurring in a country that can produce vast agricultural surpluses it doesn't know what to do with."

Additional evidence of malnutrition has come from the Department of Agriculture, which released a report in 1968 stating that a study of 7,500 households asking people what they bought and ate revealed that half had inadequate diets.

More and more experts are beginning to think along the lines of Dr. Grace A. Goldsmith, dean of the school of Public Health and Tropical Medicine at Tulane University, who insist that "in this country, there is no economic reason why government and industry working together cannot make available a nutritionally adequate diet for all consumers."

WARNS OF CONSEQUENCES

If nothing is done, warns the A.M.A., the consequences may be disastrous:

"Hunger and malnutrition is only one of the reasons for the fierce resentments of the U.S. poor. But it is one that can be removed in very large degree.

"The cost of a massive attack upon hunger and malnutrition will be great in money; the cost of doing nothing will be immeasurable in terms of lost human potential and social unrest."

MALNUTRITION, U.S.A.: BAD DIET IN PREGNANCY CAN STUNT, KILL BABIES

(By Ronald Kotulak)

(How a mother's bad diet affects her unborn baby is told in the third article of a series on malnutrition.)

Because of the lack of proper nutrition during pregnancy, thousands of American babies are doomed to die each year before reaching the age of one month.

Others who manage to survive will be marked with stunted brains and bodies.

These are some of the findings scientists are beginning to uncover as they seek answers to such questions as why America has a relatively high infant death rate, why many people are never able to reach their full potential, and why slums perpetuate slums.

MYTH ABOUT MOTHERS

For generations it has been widely believed that an unborn infant held a privileged place because it could "rob" its mother of any nutritional ingredients essential to its own development.

Now there is growing evidence that the unborn baby has to compete with its mother's body for the available supplies of nutrition. If the mother doesn't eat right, it is more likely the baby who will suffer severe and permanent effects.

"Thousands of American babies die each year because of their mothers' bad diets and unwise use of drugs," said Dr. Tom Brewer, who works with lower income mothers at the Contra Costa County Clinic, Richmond, Cal.

DANGER IN POOR DIET

Inadequate diets during pregnancy lead to stillbirths, low birth weight or premature infants, babies with brain damage and less intelligence, and babies who contract infections, easily, he said.

The problem is especially serious among teen-age mothers because their own growth requires extra nutrition.

Some experts are becoming concerned that with the sharp rise in teen-age pregnancies, we may be breeding an inferior race.

The United States probably has more teenage marriages and pregnancies than any other nation in the world, said Dr. C. Edith Weir, assistant director of the human nutrition research division for the U.S. Department of Agriculture.

FEAR OF DEFECTS

"This creates the likelihood of a steadily increasing percentage of birth defects due to poor nutrition, because, the younger the mother, the less likely she is to enjoy professional guidance during pregnancy and the more likely she is to commit all the nutrition sins common to teen-agers," she said.

The life-threatening nature of these nutritional sins was recently documented by a Chicago Board of Health study conducted by Florence Smith, assistant director of nutrition, and Dr. Jack Zackler, deputy health commissioner.

The study of pregnant girls 15 years old or younger revealed that almost 044 per cent had poor diets. Some 6.4 per cent had fair diets and only 30 per cent had good diets.

"EMPTY CALORIE" PROBLEM

Twenty per cent ate two meals or fewer each day and they frequently consumed "empty calorie" items such as soft drinks, candy, potato chips and french fries.

The infant death rate among these girls, who came mainly from poor neighborhoods, was higher than the average for some underdeveloped countries.

To see if this death rate could be reversed, the board started a pilot project to give a group of them adequate nutrition and medical care. The board soon found the death rate from these high-risk mothers could be drastically reduced.

FEWER BABIES DIE

This group of mothers then had fewer infant deaths than the average for mothers in Chicago who were being cared for by private doctors.

The latest Board of Health figures from January to September of this year revealed that the infant death rate in this high risk group had been cut by two-thirds.

Based on this type of evidence, many authorities feel that poverty breeds poverty. According to Dr. Charles Lowe, formerly chairman of the American Academy of Pediatrics' nutrition committee, a poorly nourished mother will give birth to a lower than average weight baby.

HOW CYCLE WORKS

The infant is in danger of serious malnutrition which, if uncorrected, can lead to growth depression and possibly to mental retardation, he said.

"An infant so endowed most likely will become a handicapped adult, if he survives. The female with this heritage when adult becomes a prime candidate to emulate her mother—completing the cycle."

Malnutrition affects the brain in two ways, said Dr. Myron Winick, a nutritionist at Cornell University Medical School. If malnutrition occurs during pregnancy or the first six months of life when brain cells are rapidly dividing, permanent stunting of the brain may occur.

If malnutrition occurs later, after the first six months, a child's learning ability may be seriously reduced, Dr. Winick said.

ONE CORRECTABLE

The first type of damage is uncorrectable but the second type can be remedied with a proper diet, he added.

Concludes Dr. Philip Handler, president of the National Academy of Sciences: "There is ample evidence that protein malnutrition [in pregnancy] leads to a reduced number of brain cells."

Alarmed at the increasing number of low birth weight babies at all social levels in America, the academy's National Research Council a couple of years ago studied the problem.

It found the increase in premature births was probably due to the traditional advice doctors have been giving to pregnant women, cautioning them to keep their weight down. Mothers were told that a weight gain from 10 to 15 pounds was acceptable but that they should not go over 20 pounds.

STRIKES DOWN BELIEF

As a result of the study, the academy struck down the old taboo of limited weight gain for pregnant women, stating they should be allowed to gain as much as 24 pounds or more.

Evidence showing that the weight of babies at birth is directly related to the nutritional status of the mothers was recently reported by Dr. Aaron Lechtig, medical officer of the Institute of Nutrition of Central America and Panama.

The results of the major study showed that supplying a number of Guatemalan mothers a cupful of a high-protein food supplement each day produced dramatic results, Dr. Lechtig said.

The infant mortality rate for these mothers was reduced by 50 per cent and they produced babies that weighed an average of one pound more than the children of similar mothers who followed their routine diets, he said.

LINKED TO LEARNING

Iron deficiency anemia has long been linked to slower learning because of the victims' lack of attention and concentration. Since iron plays a major role in aiding blood cells to carry oxygen to body tissue, a shortage of the metal is believed to prevent sufficient oxygen from reaching brain cells.

When malnourished youngsters at a New Orleans school were given two meals a day to eliminate their iron deficiency, there was a marked increase in their attention and motivation, Dr. Jefferson L-Sulser, psychology professor at Tulane University, said.

The President's Committee on Mental Retardation reports that among the poor, severe mental retardation is two to three times higher than the average. They suggest that this greater rate of retardation may be due to poor nutrition, prematurity, poor hygiene, or a combination of all three.

[From the Chicago Tribune, Nov. 10, 1971]

THERE'S LOT MISSING IN CONVENIENCE FOODS

(By Ronald Kotulak)

Many experts are taking a second look at the foods we are putting into our mouths to see if they need something extra. The fourth in a series of articles on malnutrition explores their reasoning.

A growing number of nutritional experts are demanding that better, more nutritious food products be made available to satisfy the American appetite.

Prodded by reports of epidemic levels of malnutrition in low- and middle-class families, the Federal Food and Drug Administration [FDA] is reassessing the nutritional standards for the more than 10,000 edible items now being sold.

VITAMIN A IN YOUR COLA?

But to many experts, that step is not enough. They want manufacturers not only

XUM

to restore the nutrients that processing takes out of foods but also to add vitamins, minerals, and proteins to the oceans of soft drinks and mountains of snacks that now make up so much of our diet while providing no nutrition.

I feel quite strongly that man's nutrition in his new life environment will depend more and more on fortified foods, particularly fortified cereal products," said Dr. Fredrick J. Stare, chairman of the nutrition department at the Harvard School of Public Health.

The new life environment he is talking about is one in which man is using more processed and packaged foods, minimeals, and snacks. These habits, as well as skipping meals, unwise dieting, less eating together as family units, and general ignorance of good nutrition, have contributed to the disintegration of our eating habits.

MIGHT FORTIFY SUGAR, TOO

To the list of foods to be fortified, said Stare, "I might add fortified potatoes and fortified sugar, cheap and efficient sources of energy. And energy is a basic need, perhaps after water the most basic requirement of our diet.

"We will be fortifying these basic foods, possibly even tea, coffee, and soft drinks, not only with vitamins and minerals but also with amino acids [proteins] and fatty acids," Dr. Stare said.

India has already taken this path by fortifying commonly used salt with iodine to prevent goiter and vitamin A to prevent blindness.

We are in a nutritional chaos. The human body is a complex chemical factory that requires a wide range of essential nutrients, most of them on a daily basis, to operate at its optimum level.

FIFTY-SEVEN NUTRIENTS NEEDED

To feed our chemical factories we need at least 57 nutrients [there are undoubtedly some not discovered yet]. The nutrients consist of 13 vitamins, 22 amino acids [the protein we eat is broken down into amino acids, which our bodies then reconstruct into human protein], and 17 minerals, in addition to fatty acids, other fats, sugars, starches, and water.

The proteins are needed for growth and the maintenance of our body tissues. The vitamins and minerals are used to regulate cellular activity. And the fats and carbohydrates are needed for energy.

But it has become evident from studies that because of the new lifestyles, as well as poverty, Americans are not coming even close to meeting these daily nutritional requirements.

One of the reasons is that people often become confused about how to classify the new product. For instance, they may eat a pizza pie or frozen egg roll as their main food during a meal, assuming they fulfill their nutritional needs.

JUMPS TO WRONG CONCLUSION

"When the individual consumer no longer can place foods into appropriate classes, he begins to do some classification of his own, and probably puts some foods into classes which are erroneous and consumes them on the assumption they provide certain things to his total diet that simply are not there," explained Dr. Ogden C. Johnson, director of nutrition for the FDA's bureau of foods.

The startling magnitude of the malnutrition problem in America was recently documented in the 10-state nutritional survey conducted by the Department of Health, Education, and Welfare. The survey covered low- and middle-income families.

The survey revealed that in some states, up to 46 per cent of the children were stunted in growth, and one of every five persons had an iron deficiency; in another state, nearly 7 per cent of the preschool children suffered from rickets, and up to 40 per cent of the citizens consumed inadequate amounts of vitamin A. Low levels were also found for folic acid, riboflavin, vitamin C, and thiamine.

BIG CHANGE IN 10 YEARS

Just 10 years ago our food patterns were somewhat simpler, and we stood a better chance of meeting our nutrient requirements by eating a variety of foods from the four basic classes: meat, fish, eggs, poultry, legumes, and fats and oils; whole-grain and enriched breads and cereals; milk and other dairy products; and fresh fruits and vegetables.

But this pattern has drastically changed. Approximately 70 per cent of the foods we eat now are processed in one manner or another, while our consumption of fresh fruits and vegetables, important sources of vitamins and minerals, is steadily declining.

Nutritionists now recognize that this great trend toward processed foods is shortchanging us in vitamins and minerals.

NO PROBLEM IN ADDITION

"A considerable part of the vitamin content of fruits and vegetables present at harvest may be lost in subsequent handling, transport and processing operations," said Frederic R. Senti of the United States Department of Ariculture.

It would be an easy matter to put these lost nutrients back, and "such enrichment of selected food products would be a feasible and economical way to improve the dietary intake of vitamins and minerals for a large part of our population," Senti said.

For instance, the popular dehydrated instant potato mixes are so thoroughly processed that they have lost all of their natural vitamin C. The loss is critical, because the potato is perhaps the main source of vitamin C in our diet.

One of the most important factors in the destruction of nutrients in our food is the final preparation of foods in the home, restaurant, or school cafeteria, said Dr. R. E. Hein, manager of food research for the H. J. Heinz Co., Pittsburgh.

The steam table can destroy much of what had been preserved in all the prior steps of processing so that the nutritious vegetables people often think they are eating actually are providing nothing more than bulk, he said.

VITAMINS JUST DISINTEGRATE

Most vitamins disintegrate in air, light, and heat. When fresh vegetables containing these nutrients are cooked, the losses range up to 40 per cent for vitamin A, 100 per cent for vitamin C, 75 per cent for niacin, 80 per cent for thiamine, and 55 per cent for Vitamin E, he said.

Since just standing around will cause vitamins to deteriorate, fresh vegetables should be stored in a cool place and eaten as soon as possible, he advised.

Many of these nutrients are dissolved in the cooking water, which is frequently poured down the drain—"another practice that helps make the sewage system better nourished than the American family," said Marcella Katz, nutrition director of the Health Insurance Plan of Greater New York.

When cooking vegetables, a minimum amount of cooking time will help preserve more of the nutrients, experts say. The leftover water should be used for soups and gravies.

BETTER LABELING URGED

Alarmed at the growing nutritional crisis, the FDA has launched a program of nutritional labeling in which food manufacturers will be encouraged to label their products so shoppers can see a listing of all the vitamins, minerals, and proteins the goods contain, if any.

If the labeling program is to help solve the ignorance of malnutrition, it must be reasonably simple and understandable for the housewife as well as the nutritionists, said Dr. Virgil O. Woodicka, director of the FDA's bureau of foods.

While the nutritional labeling program will be voluntary, it now appears likely that so many companies will enter the program that few will dare to stay out, Wodicka said.

WHAT IT HAS, NOT HAD

The labeling program, expected to begin soon, will require that the manufacturer show the actual nutritional value inside the food package, not what the ingredients contained before processing.

"If a nutrient is declared on the label and the food in the package does not, in fact, supply the declared amount of that nutrient, this constitutes misbranding and is eminently actionable under the law," he warned.

So serious does the FDA now consider the nutritional crisis that even stronger steps are being proposed to help consumers who are unwilling or unable to help themselves to adequate nutritional status.

The FDA is gearing up for a massive food fortification program that will allow manufacturers to add vitamins, minerals, and protein to most products.

WILL ENCOURAGE ADDITION

"To sum up the regulatory prospect with respect to fortification, or more specifically, the addition of pure nutrient to foods, is that there will be considerably less restriction and, in fact, some encouragement of this practice where it is necessary or desirable to guarantee an appropriate level of nutrition in the food as eaten," Dr. Wodicka said.

"The FDA already has asked the National Academy of Sciences to establish nutritional guides for classes of foods, and the first two guidances, for complete dinners and formulated main dishes, are close to publication," he said.

"The purpose of the guideline program is to provide to the consumer those nutrients that the consumer might have reason to expect in the food offered and at the levels it might be expected."

"The principle is one of guaranteed nutrition rather than one of nutritional supplementation or medication."

DIFFERS FROM OLD PROCESS

In this respect, the nutritional guidelines program differs from earlier supplementation programs in which nutrients were added to foods that never contained them or in higher amounts than normally found in the products.

The first of these was the addition of iodine to salt to prevent goiter, followed by the enrichment of flour during World War II with nutrient levels above those naturally occurring in whole grain.

That step was widely credited with the virtual elimination of clinical deficiency diseases in this country. When wheat is milled into white flour, almost all of the nutrients are removed.

FOOD INDUSTRY EAGER

Dr. Wodicka said that the emphasis will be given to having people meet their nutritional requirements thru natural foods, since all essential nutrients are not known and the proper amounts of some others are in doubt.

The food industry is eager to make more healthful foods, but has been hampered by FDA reluctance in the past to update the enrichment and fortification standards.

According to Dr. W. H. Sebrell Jr., director of the Institute of Human Nutrition at Columbia University "Our past experience with fortification makes it clear that the future in this area is most promising and essential for our health and well-being."

OVERWEIGHT? MOM MAY BE TO BLAME

(By Ronald Kotulak)

The reasons for the high number of fat Americans are told in this, the fifth of a series of articles dealing with malnutrition.

No one would purposely condemn a child to a life of fatness. Yet there is growing evidence that many mothers are inadvertently programming their babies to become obese adults.

Obesity is the most prevalent chronic disease in America today and it is increasing. It is our most visible sign of malnutrition.

Some 10 million adolescents are obese and about one-third of these are estimated to be seriously ill with overweight.

MANY BORDER ON OBESITY

The United States Public Health Service estimates that one-sixth of the population borders on obesity and that 60 to 70 per cent of men and women over 40 years of age are above their best weight. A person is generally considered to be obese if he weighs more than 20 per cent above the average for his age and height.

In a study comparing obese with nonobese adolescents, Dr. Sherrel L. Hammar, who treats obesity problems among youngsters at the Pacific Institute of Rehabilitation Medicine in Honolulu, found three characteristics typical of obese children.

They had an increased number of feeding problems and food concerns in infancy, they were given solid foods earlier than the nonobese group [as early as six weeks after birth], and their parents used food, particularly sweets, to bribe them into good behavior.

MAY ESTABLISH PATTERN

Overfeeding and overconcern about food early in infancy may establish a biological pattern for obesity, said Dr. Myron Winick, a nutritionist at the Cornell University Medical College.

Fat is larded away in the body in adipose tissue and the number of fat cells a person has is determined quite early in life, probably by the age of 3, he said.

If a child is overweight during the period that his fat cells are multiplying, then he will get more fat cells and the chances are very high that he will be an obese child, an overweight adolescent and a fat adult, Dr. Winick said.

In this type of obesity, each fat cell may have the normal amount of fat in it, but there are too many fat cells, he explained. These cells also tend to be somewhat bigger than the average fat cell.

In adult obesity, a person may have a normal amount of fat cells but each cell is stuffed with too much fat, he said.

This may be the reason why it is so difficult for a person who has been obese from childhood to lose weight, said Dr. Donald T. Forman, a biochemist at Evanston hospital.

LOSES FROM ADIPOSE CELLS

When an obese person loses weight, he loses fat from these adipose cells, he said. The cells shrink, but their number remains the same.

Since cells deprived of their normal intake will send out chemical messages telling the body they want more food, these shrunken fat cells may constantly be perking up the dieter's appetite, Dr. Forman said.

"Early feeding habits have lifelong import," he said. "The child with normal weight will have a normal number and size of adipose tissue cells.

"The fat child will have larger cells and more of them, clamoring to be fed thruout his life. If he wants to maintain normal weight, he'll have to battle his cells to do it."

For most, the battle for weight control is too much. A long-term study of 200 overweight youngsters showed that 86 per cent of the boys and 80 per cent of the girls carried excessive fat into adulthood.

According to these experts, prevention in the form of sound eating habits and normal weight early in life is the best way to avoid obesity later.

NO FUN BEING FAT

So far, the field of medicine has failed to make much of a dent in permanent weight modification for the obese person who was fat from childhood.

And it certainly is no fun being a fat teenager, according to Dr. Hammar's study which showed that even parents often failed to have any warm feeling for their obese offspring and that brothers and sisters frequently harassed and belittled them.

"Altho life in the family environment may be most unpleasant, ridicule and rejection by their peers often prevent normal progress toward independent activity and create a frustrating, depressing role for these young people," he said. "Relief is frequently sought thru eating, and a vicious cycle occurs."

What worries doctors most about obesity, however, is that it is linked with bad health. It is regarded as a form of malnutrition because it involves faulty or imperfect nutrition.

Overweight people have far more problems with heart disease, diabetes, kidney disease, high blood pressure, respiratory disorders, postural difficulties, low back pain, and varicose veins.

SPAWN DIET FADS

America's sizable obesity problem has spawned a $100-million-a-year fad diet business, but most of these diets are useless and some may be harmful, said Dr. Philip L. White, director of the American Medical Association's Food and Nutrition Department.

In order to lose weight under any diet, you must reduce your intake of calories so that your body burns off some of the stored fat. When your body gets too much food, it stores it in the form of fat.

The sound way to drop pounds is to reduce calories without reducing intake of essential nutrients, Dr. White said. Increasing exercise and establishing proper eating habits will help keep the weight off.

TRICK IN MOST DIETS

The trick in most commercial diets is to get people to lose weight on a high-protein, low-carbohydrate diet or just the opposite on a low-protein, low-carbohydrate diet or just the opposite on a low-protein, high-carbohydrate diet, he said.

Most of these diets say you can eat all you want of certain types of appealing foods such as meat, cheese, and eggs. But the idea of eating all you want to lose weight is nonsense, Dr. White said.

AVOIDS PROPER BALANCE

In most of these cases, the dieter gradually becomes weary of the same foods and whether he realizes it or not he begins eating less, Dr. White explained. This is what leads to weight reduction, the fact that a person is eating less and not what he is eating, he said.

The problem with this type of diet is that it avoids a proper balance of foods. Nutrition is achieved thru a balance of a wide variety of foods. If this variety is severely limited, then the dieter may be endangering his health, Dr. White said.

Such health hazards have recently been documented among strict followers of the Zen Macrobiotic diet. Cases of scurvy, anemia, emaciation, kidney damage, and even death have resulted from this diet, reports the A. M. A.

One of the most popular fad diets today, Irwin Stillman's "Doctor's Quick Weight-Loss Diet," offers a new twist, Dr. White said. It urges dieters to drink up to eight glasses of water a day.

To most people on this diet it is a mystery how drinking so much water can reduce weight, but actually water has nothing to do with losing weight since a person excretes exactly as much water as he takes in, Dr. White said.

Like other fad diets, this one is a high protein, no carbohydrate diet and people who lose weight on it do so because they eat less, he explained.

And there is no magic food such as grapefruit that has the ability to eat away body fat, he added. "That's asinine."

So lucrative has the weight reduction field become that some doctors have limited their practices to treating obese patients. The A. M. A. frowns on this practice when the main regimen for treatment is a reliance on such drugs as amphetamines to suppress appetite.

SAFE TREATMENT OF OBESITY

"It is clear that the safe treatment of obesity involves a combination of reduced food intake and an increased energy output," the A. M. A. said.

NEW HOPE IS SEEN IN WONDER WATERS

(By Donald Kotulak)

(How trace elements affect health is told in the last of a series of articles describing malnutrition in America.)

Some 1,500 years ago Caelius Aurelianus, a physician in Africa, prescribed the use of alkaline spring waters to cure mood disorders.

Several months ago, a Texas scientist reported that in some Texas cities the drinking water may be similar to the ancient spring water, the wonder drug of its day.

And, he reported, these cities have far fewer cases of mental illness than towns with regular drinking water.

CREDIT LITHIUM IN WATER

Many scientists now believe that the centuries-old spring water remedy for manis and other disorders, which still is used in some European countries, is effective because the water contains trace amounts of the metal lithium.

Lithium is found in the drinking water in El Paso where the rate of admissions to state mental hospitals is drastically lower than in Dallas which has no lithium in the water, said Dr. Earl B. Dawson, a research assistant professor at the University of Texas Medical Branch in Galveston.

The discovery is even more astonishing in view of the fact that the Food and Drug Administration recently approved the use of lithium carbonate for the treatment of manic-depressive disorders. The drug appears helpful in treatment of depression and other mental diseases.

Some trace elements are known to be essential to human health, such as the body's need for iron to prevent anemia. There are more than 100 of these elements.

Many can be found in hardly measureable traces in our food and water, but no one yet knows what the bulk of them do for us.

Nutritional experts say that we may now be getting an inadequate supply of trace elements. There are two reasons for this. One is that continuous farming practices have depleted the ground and the other is that modern food processing removes many trace elements.

In their studies to understand trace elements, scientists have found that drinking water with lithium in it produces better mental health and that a number of other minerals may be able to protect from heart attacks and strokes.

Dr. Dawson thinks that lithium may be important for human nutrition and that it may turn out to be an essential nutrient.

During a three-year study, he found that El Paso has 130 micrograms of lithium per liter of drinking water.

CHECKS COMMITMENTS

When he checked the rate of commitments to state mental hospitals per 10,000 population between El Paso and Dallas, which has no lithium in the water, he found remarkably fewer cases in El Paso.

Dallas had three times as many admissions for psychosis, six times more admissions for neurosis and three times more for personality disorders, Dr. Dawson said.

"The main selling point of the Carlsbad Springs in Czechoslovakia is their lithium

water," he said. "People drink this water and get a feeling of euphoria and tranquility."

TAKES PART IN SURVEY

Dr. Dawson came across his unusual finding while taking part in the national 10-state nutritional survey which began in 1968. He studied 24 Texas communities and found a persistent relationship between the levels of lithium in the drinking water and lower rates of mental disease. The lithium is washed into rivers from granite rocks, he explained.

A study associating trace elements to production from cardiovascular disease was conducted by Dr. Hansford T. Shacklette, a research botanist for the United States Geological Survey.

The findings came to light after the federal scientists became puzzled about why persons living in one part of Georgia had 50 per cent fewer heart attacks and strokes than those living in another part of the state.

The only significant difference between the two groups was that the group which had lower death rates were exposed to more trace elements in their food and water, Dr. Shacklette said.

Studies of the trace elements in the soil showed that the area with less heart disease had greater concentrations of aluminum, barium, calcium, chromium, copper, iron, potassium, magnesium, manganese, niobium, phosphorus, titanium, and vanadium.

"If geochemical differences between the high death rate area and the low death rate area do, in fact, have a causal relationship to death from cardiovascular disease, the cause would appear to be a deficiency . . . of the elements which were studied," Dr. Shacklette said.

ROLE OF ELEMENTS

The known role of trace elements is to help put cellular enzymes together. They act like catalysts and this is why such small amounts have such a big effect. Enzymes are critical since they direct and speed up the chemical reactions necessary for life. They also influence the effect of hormones and vitamins.

The effectiveness of metals in such minute quantities, their interaction with enzymes and hormones and the profound metabolic changes resulting from deficiency, toxicity, or imbalance of trace elements, suggest they may be as important to human nutrition as the vitamins.

Dr. C. Edith Weir, assistant director of the U.S. Department of Agriculture's human nutrition research division, said preliminary studies indicate a possible relationship between diets that are submarginal in trace elements and the health of succeeding generations.

TECHNOLOGY IS BLAMED

Changes in food technology, including formulation of foods, may result in chronic marginal intakes of some nutrients, especially trace elements, with the development of subclinical deficiencies not recognized at this time as being nutritionally caused, she said.

The National Research Council, in its Recommended Dietary Allowances, lists fluorine, iron, iodine, copper, zinc, and manganese and cobalt as essential for man and it regards chromium, molybdenum and selenium as possibly essential.

But there has been recent research, especially with animals, indicating that tin, nickel, bromine, arsenic, cadmium, barium, vanadium, and strontium may play important nutritional roles. Additionally, there are some 20 to 30 other trace elements that have been found in living tissues altho no one knows what they do.

The importance of zinc is becoming evident. It is necessary for wound healing and a number of studies have found that half the patients undergoing surgery in hospitals have a zinc deficiency. As a result, some hospitals are giving all surgery patients zinc supplements.

Many trace elements, however, are removed from processed foods and perhaps they should be put back in, at least to the levels at which they occur naturally, said Dr. Walter Mertz, chief of the U.S. Department of Agriculture's Vitamin and Mineral Nutrition Laboratory.

For example, milling wheat into white flour removes most of the trace element content, including zinc, manganese, copper, molybdenum, cobalt, and others, he said.

ENRICHMENT PROPONENT

"I'm a very strong proponent of looking into enrichment and fortification [returning trace elements and vitamins to foods]," he said. "I do believe we need it very badly."

"These data should alert us to the possibility that nutritional problems for any one of these elements may be shown at some later time to exist in humans," he added.

THE TRAGEDY IN ULSTER—II—STORMONT AND THE INCIDENT OF MR. FOX

Mr. KENNEDY. Mr. President, the New York Times for Saturday, November 13, 1971, contains a significant column by Anthony Lewis on an incident that symbolizes the repression and disillusionment of the Catholic minority in Northern Ireland.

The incident concerns the plight of Mr. John Joseph Fox, who was arrested on August 9 and has now been detained without charges or trial for more than 3 months under the Special Powers Act and the internment policy being carried out under the act by Stormont, the Government of Northern Ireland. Mr. Lewis uses the incident to point up his conclusion that, so long as the present Stormont system continues, it can never bring peace to Northern Ireland.

Two of the principal reforms that Senator ABE RIBICOFF and I proposed in Senate Resolution 180, the Senate resolution we introduced last month on Northern Ireland, were a call for the end of internment and a call for the dissolution of the Stormont government and the institution of direct rule of Ulster from London. In recent days, there have been increasing reports that such steps may be near, in part because of increasing pressure by the Labor Party in Britain. I believe, therefore, that Mr. Lewis' analysis will be of interest to all of us concerned with ending the violence and brutality in Northern Ireland. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 13, 1971]

THE INCIDENT OF MR. FOX

(By Anthony Lewis)

LONDON, Nov. 12.—It began with a letter from the Ardoyne, a Roman Catholic ghetto of Belfast.

"My husband's name is John Joseph FOX, he was in the British Army for six and one-half years, also he was on reserve. We came home to Ireland after 25 years in England where all the children were born. . . .

"Now they have taken my husband into prison from his home on the 9th of August and he is still a detainee at Crumblin Road Prison. He was beaten up terrible, in fact he thought it was the end for him. . . . I know they have made a mistake so why don't they let him go? I just don't understand. . . ."

Mrs. FOX wrote to Victoria Brittain, an English journalist who had stayed in the Ardoyne last spring on assignment for The Times of London. Miss Brittain turned the letter over to The Times, which printed it.

Stormont, the Northern Ireland Government, at once denounced the letter as false. Mr. Fox was not being detained without trial as a suspected terrorist, an official said: He was in jail awaiting trial on a charge of car theft. He had appeared in court on that charge on Aug. 25, been remanded to prison (denied bail), and appeared and been remanded again on five later occasions.

When that official denial was published, it seemed odd. Do British courts really deny bail in auto theft cases? Could a man be held in jail for months before trial on such a charge? A simple check showed that the answer to these questions was no.

The Stormont statement was in fact a farrago of untruths. Officials, asked to check, took two days and then admitted they had been wrong: Mr. Fox *was* being detained under the Special Powers Act, just as his wife had said. The facts were:

Mr. Fox was charged with the theft of a car last June. He pleaded innocent, producing what he said was a canceled check for the car and its proper documents. He was freed on bail of $1,200, later reduced to $480.

On Aug. 9, the day Stormont began interning suspected Catholic terrorists, Mr. Fox was seized under the Special Powers Act and taken with other detainees to Crumlin Road Prison. If it were not for that, officials now agree, he would be free on bail. But the Government has neither lifted the detention order nor proceeded with the car theft case.

Mr. Fox has now been detained under the Special Powers Act for more than three months. Ordinarily Stormont decides within 28 days whether it has grounds to enter a formal internment order against a suspect, but even that has not happened. Mr. Fox is in limbo. And his prison is not in Greece or Brazil or the Soviet Union but in what the Ulster Protestants proudly insist is a part of the United Kingdom.

There is nothing very special about the episode—it does not come near the worst horrors of Northern Ireland. It just happened to be played out before a public audience, and it shows why things are as they are: why, despite all the announced reforms of recent years, the Catholics remain so totally alienated from the Ulster system.

If you live in the Ardoyne, you are convinced that there is no truth in Stormont, that there can be no real commitment to equal rights. You are convinced also that there is no assurance of fair treatment from the Ulster police, or of justice in an Ulster court.

None of this is to say, from an outsider's viewpoint, that injustice is all on one side. It would be impossible to say that after the I.R.A.'s cruelties, or after the terrible scenes of Bogside women shearing and tarring a girl because she loved a British soldier.

But no nice balance from outside can change what the Catholic one-third of Northern Ireland perceives as reality: It lives in a sectarian Protestant state, created fifty years ago for the very purpose of maintaining Protestant domination, and there can be no hope until the structure of that sectarian state is dismantled.

That is the truth that successive British Governments have tried to avoid: The Stormont system, with its separate, perpetually Protestant Parliament and Executive for Northern Ireland, can never bring peace. No one should pretend that there is an easy way out of the Irish troubles, but the way has to begin with British recognition that the Stormont idea has failed.

ADDRESS BY SENATOR BEALL BEFORE MARYLAND CHAPTER, ASSOCIATION OF THE U.S. ARMY

Mr. BEALL. Mr. President, recently I had the pleasure of addressing the Maryland chapter of the Association of the U.S. Army which met at Fort Meade, Md., on November 4, 1971. Coming as it did, shortly after the Senate defeat of the original foreign aid package, I was able to take advantage of this opportunity to explain in considerable detail my thinking on this matter. The Senate has subsequently enacted the two-part modified foreign aid program, proposed by the Foreign Relations Committee.

I ask unanimous consent that my speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR J. GLENN BEALL, JR.

Last Friday night when, by a vote of 41–27, the Senate refused to authorize the continuation of America's foreign assistance program for another year, it surprised the Administration, the Nation, the World—and the United States Senate. I believe it is fair to say few of us in Washington would have predicted that this vote would turn out as it did. While foreign aid authorization legislation has periodically been in trouble in the House of Representatives, there was only one previous occasion in recent years when the vote was even close in the Senate.

Many reasons have been ascribed by various people for the Senate's unexpected reversal of form:

There are those who lay the blame at the doorstep of the Administration contending that they did not make enough of an effort to win votes for the program. Perhaps this is true. I was not contacted by anyone in the Administration requesting my vote, pro or con, on this measure. Nor was I contacted by anyone from the Agency for International Development, which is even more surprising, because this is the agency with the primary responsibility for administering the foreign aid programs.

There are those who say that the defeat of this bill was the result of the action taken by the United Nations in expelling the Nationalist Chinese Government from that body. I was bitterly disappointed by the United Nations' action in this matter, although, I think that it is diplomatically reasonable and desirable to bring Mainland China into the United Nations. After all, the People's Republic of China contains 800 million people and it is certainly desirable to open lines of communication with these people. The United Nations, however, must be an inclusive and not an exclusive organization if it is to serve successfully as a forum where the nations of the world can talk out their differences. But even so, I don't think that the action taken in the United Nations is sufficient reason for the United States to discontinue the entire foreign aid program.

Many Americans, and many members of the United States Senate, are deeply frustrated by the continuing conflict in Southeast Asia. The foreign aid bill, as reported by the Senate Foreign Relations Committee, contained the so-called "Cooper-Church Amendment" which restricted the President's ability to spend money where needed in Southeast Asia. Such a proposal would clearly have restricted the President's options as he seeks to successfully conclude the withdrawal of America's military presence in Vietnam. The Administration made a strong and successful effort to have this particular section deleted from the bill, during the course of the floor debate, and thus there are those who think this affected the outcome of the Foreign Aid Bill.

Others attribute the defeat of this legislation to the fact that there is growing disenchantment with foreign spending during a period when our own nation is confronted by serious social and economic problems requiring the expenditure of large sums of public money at home. Many blame our present economic dislocations on excessive federal spending and see foreign aid as a convenient and domestically painless area to cut.

Some claim the bill lost because it includes very generous doses of military assistance, and there are those who cannot see military assistance as an extension of our foreign policy.

There are those who feel that the legislation lost because there were 32 members of the Senate who were not present when the vote was taken.

And, finally, there is a growing "isolationism" or "neoisolationism" which seems to be prevalent in our country, and the defeat of the foreign aid bill last Friday night may be the first clear-cut manifestation of this feeling.

I believe that all of these factors, in varying degrees, probably contributed to the vote ending our foreign aid. A study of the roll call vote indicates that an interesting coalition developed between some Senators who are ideologically to the right and who have traditionally opposed most foreign aid expenditures and a group of Senators who are ideologically to the left and who have recently become disenchanted with the kind of programs which we have previously embarked upon, particularly where military assistance is involved.

In any event, it now becomes a question of what to do about the siutation that we have created for ourselves. Personally, I do not feel that it is in the best interest of the United States of America to resign from the world. I think that the political, economic, and social well-being of our country depends to a great extent on our ability to maintain a position of leadership in the world—diplomatically, and economically (militarily). The facts seem to indicate that the outward looking foreign policy pursued by the United States in the years since World War II has served to avert World War III, not to hasten it. I think it is clear to any student of history that the isolationism practiced by the United States during the 1920s and the 1930s was not in the least a deterrent to our involvement in World War II. While I am *not* satisfied with our foreign aid program as it has developed and been administered in recent years, I do not think that there is sufficient justification to abruptly terminate this program and lay down the burden of responsibilities we have borne for the last quarter of a century.

Let us look at some of the positive aspects of the foreign aid programs and the contributions it makes to the overall foreign policy of the United States. As we all know, President Nixon is seeking to reduce America's presence abroad without creating a dangerous power vacuum that could bring about instability, chaos, and a golden opportunity for our adversaries to advance their cause. The Nixon doctrine makes the overall objectives of our foreign aid program substantially more important in light of the diminished role of the overt U.S. presence abroad.

One need only examine the primary objectives of the foreign assistance program as enunciated by the President himself, to begin to grasp the magnitude of its importance as an extension of our foreign policy. In a message to the Congress, the President stated that the goal of our foreign aid program is to "strengthen the defense capabilities and economies of our friends and allies." The President went on to state that it is in our nation's best interest to "assist the lower income countries in their efforts to achieve economic and social development." Addressing himself further to this point, the President has said "that the prospect for a peaceful world will be greatly enhanced if the two-thirds of humanity who live in these countries see hope for adequate food, shelter, education, and employment in peaceful progress rather than in revolution."

I have always believed that one of the greatest facets of the American spirit is our compassionate response to the human consequences of national disasters and political upheavals. Disasters, both at home and abroad, have always brought out the best in the American personality and the foreign assistance apparatus gives us the vehicle to relieve such suffering whenever and wherever it occurs.

One of the real problems when we talk of foreign aid results from the fact that there is a general misunderstanding about the program and its goals among the American people. There are many in our country who believe that foreign aid is simply a matter of giving money to irresponsible, corrupt, and overwhelmingly ungrateful recipients.

I think it is important to note that the foreign aid program is generally divided into three categories. Those being economic assistance, technical assistance, and military assistance. And it is also important to note that the funds to support this program flow to approximately 4,000 American companies and approximately 1,000 private institutions in all fifty states. Let us look for a minute at how these monies are spent:

1. In fiscal year 1970, agency for International Development funds bought $976 million worth of goods from all regions of the United States, this accounting for 96% of AID-financed commodity procurements for that year. Among the items purchased were many that need additional markets such as farm commodities; if you are acquainted at all with the farm picture today you know that new markets are essential to the farmer.

2. As of June 30th, 1970, AID had 1284 active technical service contracts with private institutions, companies, and individuals valued at $63 million. At a time when we are trying to expand our economy and produce new employment opportunities, the loss of these funds would be a serious blow.

3. Likewise, American carriers—airlines, shipping agencies, and others—earned over $90 million in 1970 transporting our products to less developed countries. Once again, industry would be hard put to make up the difference, and employment would suffer accordingly.

4. During fiscal year 1971 the foreign assistance program actually made a small contribution to the plus side of our balance of payment problem. Approximately $79 million flowed in as a result of payments of principle and interest on prior years' loans.

I think it well to point out that the consequences of the lack of a foreign aid program do not end here either:

U.S. efforts to assist underdeveloped nations to curb their skyrocketing population explosion will come to an end.

International programs aimed at cutting off the flow of narcotics and dangerous drugs will end.

U.S. participation in programs such as UNICEF will end—to the detriment of millions of children throughout the world.

Disaster relief programs that have enabled the United States to quickly and effectively respond to earthquakes, floods, famines, etc. will cease to exist.

There are today ten million refugees from the civil war in Pakistan. Think of it—that number is more than twice the population of the State of Maryland—and almost the entire U.S. program of refugee relief in this troubled region was contained in this defeated measure.

U.S. suppliers can expect to lose approximately $3 billion worth of orders for supplies and services in the coming year with a corresponding loss of jobs, a serious blow to our economy.

Approximately 15,000 students in underdeveloped nations are now enrolled in edu-

cational programs and institutions financed by the United States. These are the future leaders of the "Third World". What will their reaction be to this precipitous American action?

And, of course, our investment in men and material and money in the conflict in Southeast Asia would be vitally affected. While our military involvement is coming to an end, the whole Vietnamization program is supported through aid from this nation. No longer would we be able to provide the equipment or technical advice needed by the South Vietnamese to give them a chance for a free society when we depart.

One of the purposes of all foreign military assistance is to make other nations strong enough to defend themselves so that they can then strengthen their own economies. But cutting all assistance off in the middle of the stream we are seriously endangering the lives of many thousands of Vietnamese as well as the nation. It would be the most absolute breach of faith by this nation within memory.

This same reasoning would apply to Cambodia. HR 9910 contained $341 million of aid for this nation.

The anti-communist Cambodian Republic has confounded many of its critics by its mere survival and its gradual consolidation of strength. The Lon Nol government is presently holding its own against five North Vietnamese divisions. I think it is clear that the collapse of the government of Cambodia would free these seasoned troops for combat in South Vietnam against our rapidly diminishing forces there, and seriously endanger American lives.

And last, but certainly not least, the Foreign Assistance Act of 1971 contained over $300 million worth of aid to Israel. In the face of the rapid Soviet build up of men and material in Egypt and other Arab states I think it is utterly inconceivable that this nation could so abruptly terminate its economic and military assistance to Israel in its hour of greatest need. We cannot let this happen.

With these serious consequences facing us, I think it's clear that the Senate must reassess the vote of last Friday night. It would be easy to acquiesce and let the program die. But we must not let this happen.

Instead, I call on the Senate to act in concert with the Nixon Administration in the formulation of a new bill that recognizes the continuing need for foreign aid. We can change the system. We can make it better. We can require that our loan be repaid. We can demand that assistance go for those purposes for which it is intended. We can put teeth into enforcing the ways and means of administering the program. But we can't just drop it!

We must recognize the value of foreign aid—not just to other nations—but to our own. Foreign aid—the right kind of foreign aid—is necessary for our country as well as theirs. Let's be selfish about it! It helps our nation!

The world today is small—it is getting smaller. We cannot return to a policy of isolationism because such a policy ignores all the realities of the modern world.

America is a strong nation. But we need help. We need friends that can police their own neighborhoods.

We seek to build the foundation for a generation of peace in the last quarter of this century and foreign aid is an integral part of this effort.

I personally would prefer not to consider the implications of a decision by this nation to pursue the concept of a "little America". I am firmly convinced that a "little America" cannot guide a troubled world toward a better tomorrow. A "little America" cannot deter the expansionist tendencies on the part of our major adversaries. A "little America" cannot help to lead the underdeveloped nations into the 21st century and perhaps more importantly, a "little America" cannot guarantee the freedom and safety of its own people. This is why I have consistently supported and will continue to support responsible policies designed to preserve our nation's military, diplomatic, and economic eminence in the world today.

That is the challenge that lies before us and only history will tell whether the American nation had the wisdom and courage to reach out and achieve true greatness.

WELFARE FACTS AND FICTION

Mr. RIBICOFF. Mr. President, earlier this year I placed in the RECORD an analysis I made of the myths and facts surrounding welfare in America.

The Department of Health, Education, and Welfare recently prepared its own analysis of welfare facts and fiction.

Since the debate on welfare reform will hopefully culminate in Senate action early next year, it is important that the basis upon which we legislate is reality, not fantasy.

I ask unanimous consent that the HEW study be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

WELFARE MYTHS VERSUS FACTS

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Social and Rehabilitation Service.

AN OBSERVATION

People who work for a living—and pay taxes—frequently find it difficult to understand those who do not.

In this country, the "work ethic" spans the years from pioneer times to the present. It is a good one. We would not have a strong, productive Nation without it.

How do we explain, then, that every year different millions of fellow citizens are in and out of jobs, unable to earn enough to support themselves and their families, or dependent partially or entirely on public funds in order to survive? Why do welfare rolls grow and grow and grow when the country is economically more affluent than at any time in history? Are welfare recipients lazy, cheats, chiselers? Or is the welfare system wrong?

President Nixon identified the flaws in the system when he proposed welfare reform in August 1969. His recommendations to create a new income maintenance program with built-in work incentives expressed what millions of Americans had sensed but had been unable to articulate: "If we do not find a way to become a working nation that properly cares for the dependent, we shall become a Welfare State that undermines the incentive of the working man . . ."

This leaflet makes no attempt to explain the present welfare system and its shortcomings. Its purpose is, rather, to explode some of the popular misconceptions which have proliferated over the years about welfare recipients, especially those who receive Aid to Families with Dependent Children (AFDC)—misconceptions that not only malign the victims of poverty but the social workers who labor with dedication to make the present inadequate welfare system work.

JOHN D. TWINAME,
Administrator,
Social and Rehabilitation Service.

MYTH

Welfare families are loaded with kids—and have more just to get more money.

FACT

The typical welfare family has a mother and three children. Since 1967, the trend has been toward smaller families on welfare. The birth date for welfare families, like the birth rate for the general population, is dropping.

Most children in welfare families (90 percent) are two years old or older. Studies show that the average family receives assistance for about two years. It is clear, then, that the majority of welfare children were conceived or born *before* the family applied for assistance. Also, the typical payment for an additional child is $35 a month, hardly enough to cover the cost of rearing an additional child. Some States impose maximum payment limits; families reaching that ceiling—usually a 4- to 5-person family—get no additional money for another child.

MYTH

Most welfare families are black.

FACT

The largest racial group among welfare families—49 percent—is white.

Blacks represent about 46 percent. Most of the remaining 5 percent are American Indians, Orientals, and other racial minorities. Latin American families cut across racial lines; 14.4 percent of AFDC families are of Latin birth or ancestry: Mexican, Cuban, Venesuelan, etc.

Families headed by females account for most of those on welfare—black or white. Studies have shown that such families are significantly less able to survive economically than those with both parents present, regardless of race.

MYTH

Why work when you can live it up on welfare?

FACT

The average payment to a welfare family of four with no other income varies among States, from a low of $60 per month in Mississippi to a high of $375 per month in Alaska.

In all but four States, welfare payments have been below the established poverty level of $331 per month, or $3,972 per year, for a family of four. Unfortunately, some of the Nation's working poor—ineligible for assistance under the present welfare system—earn less than the poverty level, too.

Each State establishes its own "need standard"—the amount required for the necessities of family living. A State standard may be below or above the poverty line. A State will use its "need standard" as a base for determining eligibility. However, 38 States pay less—some much less—than their own established standard of need. The Federal Government shares the cost of payments made by the States.

Welfare reform proposals—establishing a Federal income floor nationally for welfare families—would provide an even base for payments and increase recipients' incomes in at least eight States now paying the lowest amounts. The working poor would get a cash assist as well, insuring that a family head would always be better off by working. Under welfare reform, any family head who is able to work but remains unemployed would have to take a job or job training in order to receive welfare benefits.

MYTH

Give them more money and they'll spend it on drink and big cars.

FACT

Most welfare families report that if they received any extra money it would go for essentials. A survey of welfare mothers showed that almost half would spend it primarily for food. Another 28 percent said they would spend any additional money on clothing and shoes. The survey found that 42 percent of mothers bought used clothing or relied on donated clothing to help make ends meet. Seventeen percent of the mothers said their children occasionally stayed home from school because they lacked decent clothes and shoes.

Nearly 10 percent of the mothers in the survey said they would spend extra money on rent for better housing, and 13 percent said they would spend it on a combination of food, clothes, and rent.

MYTH

Most welfare children are illegitimate.

FACT

A sizeable majority—approximately 68 percent—of the more than 7 million children in welfare families were born in wedlock, according to data compiled by the Social and Rehabilitation Service.

In addition, most middle- and upper-income families have always been able to purchase family planning counseling and services from private physicians. However, only in the past few years has government made a concerted effort to deliver such services to the poor.

MYTH

Once on welfare, always on welfare.

FACT

Length of time on welfare

Sixteen percent—less than 6 months.
Seventeen percent—6 months to 1 year.
Nineteen percent—1 to 2 years.
Eleven percent—2 to 3 years.
Fourteen percent—3 to 5 years.
Fifteen and .7 percent—5 to 10 years.
Seven and .3 percent—more than 10 years.

The average welfare family has been on the rolls for 23 months.

Studies by the Social and Rehabilitation Service, HEW, show that at any given time about two-thirds of welfare families will have been receiving assistance for less than three years. The number of long-term cases is relatively small—only 7.3 percent have been on welfare for 10 years or more. Such cases are likely to involve some form of disability.

Government-sponsored surveys show that the majority of welfare families are also embarrassed by, and discontented with, welfare. Most want to move off the welfare rolls, but it takes the average family about two years to overcome its problems.

Proposed welfare reforms are designed to strengthen work incentives, eliminate barriers to employment, and thus help present recipients rejoin the work force as soon as possible.

MYTH

Welfare people are cheats.

FACT

Suspected incidents of fraud or misrepresentation among welfare recipients occur in less than four-tenths of one percent of the total welfare caseload in the Nation, according to all available evidence. Cases where fraud is established occur even less frequently.

Another 1 to 2 percent of welfare cases are technically ineligible because of a misunderstanding of the rules, agency mistakes, or changes in family circumstances not reported fast enough. These are human and technical errors; it is not cheating.

While the proportion of those who deliberately falsify information is very low, both the Federal and State governments seek to eliminate them from the welfare rolls as well as to remove all errors in determining eligibility. The overwhelming majority of recipients, like most other Americans, are not willfully misrepresenting their situations.

State agencies are required to check the eligibility of AFDC families at least once every six months; those with unemployed fathers, once every three months. The Federal Government also analyzes State records and makes on-site checks of a portion of each State's welfare cases.

Many publicized charges of cheating or ineligibility simply have not stood up under investigation.

MYTH

The welfare rolls are full of able-bodied loafers!

FACT

Less than one percent of welfare recipients are able-bodied unemployed males: some 126,000 of the more than 13 million Americans on Federal/State-supported welfare (April 1971 statistics). Most of them—80 percent—want work, according to a Government-sponsored study; about half the men are enrolled in work training programs.

The largest group of working-age adults on welfare are 2.5 million mothers of welfare families, most of whom head families with no able-bodied male present. About 14 percent of these mothers work, and 7 percent are in work training. Many of the other mothers confront serious barriers to employment under the existing welfare system. But if day care were available for their children, and if job training and jobs were to be had, it is estimated that another 35 percent would be potential employees. An additional 4 to 5 percent of mothers have some employment potential, but require more extensive social rehabilitative service to prepare them. (The proposed welfare reform program includes provisions for day care, job training, public service jobs, and more extensive service for welfare recipients.

The remaining 40 percent of welfare mothers have little or no employment potential because they care for small children at home, have major physical or mental incapacities, or other insurmountable work barriers. In spite of this, 70 to 80 percent of welfare mothers consistently report they would work if present barriers to employment are overcome.

Factors in the employability of welfare mothers

(From a 1969 study—in percent)

Needed at home to care for small children, have a long-term disability	40
Employable if job training, jobs and day care were made available	35
Already employed full- or part-time	14
In work-training programs or waiting to be accepted	7
Need extensive medical or rehabilitative services before becoming employable	4

Federally assisted welfare population

(As of April 1971—in percent)

Children	55.5
Mothers	18.6
Aged	15.6
Blind and disabled	9.4
Able-bodied fathers	0.9

MYTH

Welfare's just a dole, a money handout.

FACT

Money is necessary to a family lacking subsistence, but it usually takes more than just cash to help the typical welfare family get on its feet and back into the mainstream of our society.

The Social and Rehabilitation Service asked welfare agencies what social services they had given to welfare families besides money. Here's what the agencies reported and the percentage of families receiving each kind of service (most families received more than one service):

(In percent)

Health care advice and referrals (including Medicaid)	55.7
Counseling on financial and home management	54.2
Employment counseling	51.0
Services to secure child support	37.5
Services to improve housing conditions	36.2
Services to enable children to continue school	27.8

Other services which many agencies provide include those related to child welfare, vocational rehabilitation, and youth development. This range of social services has been found essential in helping disadvantaged people move toward independence and constructive living.

Welfare reform, among other things, would separate the administration of cash payments from the delivery of social services. The goal is improved social and rehabilitation services, more accessible services, and more coordinated services to those in need.

THE COLLEGE PRESIDENCY TODAY—ADDRESS BY DR. JAMES L. FISHER, PRESIDENT, TOWSON STATE COLLEGE

Mr. MATHIAS. Mr. President, recently a symposium entitled "The College Presidency Today" was held at Morgan State College, Baltimore, Md., in recognition of the inauguration of Dr. King V. Cheek, Jr., as Morgan State's seventh president. I invite the attention of Senators to a speech made on that occasion by Dr. James L. Fisher, president of Towson State College, Towson, Md. Dr. Fisher has given us, in his own words, "an honest testament about the presidency today from a man who is happy in the office."

During these times of increasing concern about the whole area of higher education, Dr. Fisher has eloquently expressed a sense of mission which, I think, is essential for enlightened and effective leadership of our colleges and universities. I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE COLLEGE PRESIDENCY TODAY

For me to condense a statement on the college presidency today into 20 minutes is for me to force out an abstract that will be wanting in both insight and content. There are so many things that I want to tell you about this subject that I simply cannot do justice to it this evening.

When I was invited to participate in this symposium my response was "yes" for two reasons—my sincere admiration and affection for President King V. Cheek and my quick assessment that because I live this subject I could prepare an acceptable paper without much effort. Let me tell you that at least for me, this assignment wasn't that easy. My first draft immodestly read as if a college president today were a superhuman, my second made him a human saint, and yet I knew instinctively that both estimates were wrong, for I certainly knew that at least this college president was completely moral, rent through with the passions of joy and despair, and with the whole gambit of human strengths and weaknesses.

This third draft is a combination of the three—superman—saint—and the real man. I leave to you the definitions.

However, through all three preparations I remembered these words of Dag Hammarskjold which have meant much to me in office;

"Around a man who has been pushed into the limelight, a legend begins to grow as it does around a dead man. But a dead man is in no danger of yielding to the temptation that nourishes his legend to accept its picture as reality. I pity the man who falls in love with his image as it is drawn by public opinion during the honeymoon of publicity."

For purposes of grim reminder and objectivity I will first briefly style the shape of higher education today, then I shall speak of the presidency and the implementation of that office. I have decided to personalize this part for to do otherwise would cloud my impressions and, quite frankly, the third person would only amount to a transparent veil for me. If nothing else, what I am giving you is an honest testament about the presidency today from a man who is happy in the office.

First, the state of higher education. Since the early 1960's, higher education throughout the world has been in a state of turmoil that has included revolution, disintegration and violence. Universities in Paris, London, Tokyo, Berlin, Berkeley, New York, College Park, and Baltimore have been scarred by a Damoclian sword of disruption. Insidious attitudes born of distrust and a misguided sense of justice and morality have resulted in a foolish passion that yielded violence, bombings and death. We were stunned when many of our better members adopted a self-righteous belief that the way to freedom was to enslave others either in mind or body, and that the only free forum was theirs. Through these years the collective university stumbled on as if drugged by fear or stupidity. A worshipful society looked on in stunned disbelief that was at first sympathetic and later hostile. The world's citadels of reason and dispassion became hotbeds of hatred and unhearing zealotry.

University presidents were called wasteful, foolish, and incompetent. They had heart attacks, nervous breakdowns, were beaten, and some died in office. They went out so fast that on one occasion a full page of the *Chronicle of Higher Education* was filled with the tense faces of newly appointed college presidents.

Why? What could account for this terrible condition? Some persist in blaming the Vietnamese War, a new awareness of the plight of the poor, the domestic racial situation, the wanton destruction of our natural resources and the generally declining quality of life.

To deny the basic importance of these issues to our citizens is to be unthinking or unmoral. But to a growing number of persons in higher education, they stood as symptoms of a deeper problem that was the very nature of the American university. We were as the ancient Romans, unable or unwilling to look at ourselves.

Those who had been styled the shepherds of higher education, both administrator and faculty, had unintentionally but surely developed a system of education that was antithetical to the goals and needs of students. We rewarded behavior that was the diametric opposite of our stated purposes. We developed and enhanced programs that prepared research scholars and pretended that they were qualified and committed to teaching undergraduate students. Our stars were those who taught three-hour loads at the graduate level, published articles and books, and could hold undergraduate teaching in disdain. We assumed that what was best for the discipline or the college was best for the student and, of course, it follows that we assumed that everybody was a good teacher so we didn't need to evaluate the process. Our principal function, teaching, was assigned to our newer members and to anxious graduate assistants. And even on campuses that had not arrived at this antediluvian state of excellence, dedicated teachers felt bound to silence or apology for their lesser role and, quite naturally, therefore, aspired to become somebody in the yesterday land of the Harvards.

We had pushed our most promising young people into the university ovens of dehumanization, and from World War II to the 1960's the situation intensified.

Finally in exasperation, in 1964, students rose up for reasons that were pure but symptomatic. They were really saying to us, "I'm here. I'm somebody. You tell me I'm important and treat me like I'm a disease."

And when the students struck, we were surprised. Historians will shake their heads in wonder that our assembled wisdom could be so unseeing.

But, as I have implied, today there is emerging a new breed president, the kind of person who places human needs above institutions and whose priorities are consistent with these goals. Although still woefully few, these men and women are growing in number and impact. They are persons of courage, insight and conviction—persons who are neither afraid to love or lead. King Cheek is in their vanguard. I liked the way Dr. Cheek was characterized in a recent article in *Ebony* magazine. He was styled as a "dynamic young black Joshua before the walls of American education's old Jericho."

There is implicit in what I have said about the state of higher education today an obvious presidential characteristic—a sense of mission. He must hold a conviction that is sound and in which he is so secure that he can fend off the articulate contextual argument of yesterday and at the same time inspire others to his banner. He must embody a few unmistakable goals and he must bear them in mind with every decision. He must know that his presidential influence is limited and he should use it only for issues that threaten or deny his fundamental goals. To waste his official substance in a display of power over petty issues is to play his cards for pennies.

While he must deny none, neither can he compromise his mission except through new truth. He must be and feel confidently relevant, so much so that in doubtful hours, when even friends waver, he has the courage to stand forth alone. I cannot overemphasize the need for this characteristic in today's college president.

The mystique of presidential leadership in the new university is almost impossible to describe, but where it exists, people prosper. Oh, they anguish in the process of achieving a Franciscan-like fulfillment, but change occurs and somehow things are better. When a student body and a faculty know that their president really cares about them, "in times of crisis" they will follow and support him to the point of personal sacrifice.

By now you must sense that I have a certain belief, born no doubt out of my own prejudices, that the central person exercising moral and political leadership (in the most enlightened sense of the words) for an institution, be it college or country, must be its president. And so, to me, a most important ingredient in presidential leadership is the ability to foster trust and inspire confidence. While I do not pretend to these things, I strive for them. It is obvious that each president must establish his own credibility. I believe that he can best accomplish this through his own activities and life style. His rhetoric must shine through in his behavior and his attitudes, for I certainly agree with the implied criticism rendered by John Hope Franklin, who wrote these eloquently simple yet demanding words: "Why does such a gap exist between our public statements and our private deeds?"

The days of presidential detachment are over. If justice needs a voice the president must have the wisdom and courage to say what must be said. And at the same time, he must protect the precious neutrality of the university for he must preserve at all costs the right of others in his community to be and become unneutral. If he sees inequity or inefficiency, he must deny it. He must be able to fight antiquated and unfair systems and not men. If faculty or students need defense, he must defend them. If they need criticism, he must render it honestly. If the system is so far behind the needs of its people that it is preparing them for a non-existent world, then he must be the first to speak out . . . He must blow the trumpet loudly, because today he can do no less.

Today's president must provide a tentative sense of direction and attitude for his community and he must spend himself in their accomplishment. He must do so in a manner constantly revealing his respect for individuals, students and faculty, and their right and responsibility to participate in the shaping of the institution.

And in this I see no contradiction, for I stand convinced that an effective president can provide direction and at the same time respect and accommodate himself to a system of representative participation. Indeed, I believe that though his approach may appear schizophrenic to some, it is the only way that meaningful change can come to our institutions.

The president must know and feel the needs of the people he serves. To do this he must be with, among, and of them. He should regularly expose himself in informal settings to the scrutiny of all his community, and most especially students. He should listen to their aspirations, know their problems and feel their dreams. He must be able to stand in their shoes so fully that he is not tempted to judge or condemn or confuse. He must have experienced their struggle for identity in both a personal and representative way. Their arrival must be his peace.

What I am saying is not simply moral, it is essential to the survival of higher education, for any who know our history know that virtually all our progress has come through the influence of students—sometime vigorous but always productive. I liked Charles de Gaulle's words when greeted on his return to power by cries of acclaim from his countrymen. He answered, "je vous ai compri." ("I have understood you.") The president must understand.

Today's president must surround himself with men who are better than he. For him to be so insecure as to be comfortable only in the professional company of lessers is a guarantee for failure. His associates must be both able and good. In the eyes of the president they must be so wise that he in times of trouble will honestly ask them for advice, not out of courtesy but because he so values their judgment. There must be an administrative camaraderie that includes all of these—high respect, forgiveness, and love.

Yes, they must also be committed to at least the general parameters of the mission, for today no president can afford to have dissenting administrators. From faculty and students, yes, for their contrary positions will keep us honest and tested and are basic to the spirit of university. But today's administrator has but three choices—to agree with the president, to change the president's mind, or to resign. For once a decision is made, he implements it in both deed and spirit.

As for me, the college presidency is my life. It is a process of joint consumption; I consume the office as it consumes me. The presidency is with me on public platforms and in private places. To think that I can truly shed it on vacation, on the tennis courts, in the exercise of poetry, painting and pages of philosophy, or in the company of tested and loved associates and family amounts to childish naivete. To me, for a college president today to expect otherwise should amount to his resignation. Yes, I need the challenging exhaustion of athletic competition, the creative discipline of art and scholarly excursion, the freedom and non-judgmental acceptance of loved ones, and the anonymity of other places, but ever present is the mission and the responsibility of the office. The presidency drives and drains me. It inspires me to things beyond myself to the point of self wonder. In the quiet aftermath of frustration and lesser failure, I admit to passing thoughts of a more relaxed and personal—perhaps I should say selfish—life. But each day I revel in the job and capitalize on the rare opportunity to make real the mission that is mine.

I hope that when I go I will be remembered by these inelegant words from a cowboy's tombstone in Arizona:

"He done his damnedest."

VOTER PARTICIPATION BY YOUNG VOTERS

Mr. McGEE. Mr. President, I ask unanimous consent to insert in the RECORD a Gallup poll published in Newsweek magazine a few days ago concerning the effect of voter participation by citizens between the ages of 17 and 23.

One of the submerged issues involved in considering S. 2574, the voter registration bill which I reported earlier this week from the Committee on Post Office and Civil Service, is the relative benefit that substantially increased voter participation would give to the major political parties. There appears to be a conviction generally unexpressed, that increased registration and voting might tend to benefit the Democratic Party because most of the qualified electorate who do not now register and vote may be philosophically, economically, or socially inclined toward the Democratic Party.

This Gallup poll contradicts that supposition. According to this poll the greater the participation by young voters, the greater the benefit to the President and the Republican Party. Gallup's survey shows that if 42 percent of the youth group votes, the President loses against two prominent Democrats and does not better than tie a third; while if 100 percent of the youth group votes, the President leads all three Democrats.

In light of the unexpressed, but obvious, sentiment on the part of some Members of this body to scuttle a national voter registration program, I think these statistics bear careful consideration.

There being no objection, the poll was ordered to be printed in the RECORD, as follows:

NEWSWEEK POLL (GALLUP), YOUTH 17 TO 23, OCT. 25, 1971

	If all voted	If 70 percent voted	If 42 percent voted
Nixon	39	40	35
Muskie	38	43	48
Wallace	13	10	9
O/undecided	10	7	8
Nixon	39	41	38
Humphrey	37	40	42
Wallace	13	11	10
O/undecided	11	8	10
Nixon	41	42	40
Lindsay	33	37	40
Wallace	13	10	9
O/undecided	13	11	11

THE FBI INVESTIGATION OF MR. SCHORR

Mr. BYRD of Virginia. Mr. President, there is something disturbing about the White House-ordered FBI investigation of Daniel Schorr, a CBS news commentator.

The White House had complained about Mr. Schorr and presumably regards him as a less than accurate reporter.

Yet the White House says that the reason it had the FBI investigate Mr. Schorr is not that it disliked the way he covered the Nixon administration for CBS, but that it wanted to offer him a job—apparently an important one, since it required an FBI investigation.

The White House explanation does not increase its credibility record.

One wonders just why the White House would want to offer an important and sensitive Government position to a television commentator whose reliability it questions. Nor had Mr. Schorr been informed that he was being considered for an important Government position. Certainly, there seems something pretty fishy in all of this.

I do not know Mr. Schorr. By the time I return to my apartment each evening from my Senate office, it is nearly 8 p.m., and the TV commentaries are over. So I get very little news from television.

But as a citizen, a U.S. Senator, and a former newspaperman, I have great concern when the FBI is used to investigate the personal life and qualifications of one who has been critical of the Government.

I commend the senior Senator from North Carolina (Mr. ERVIN) for having his Subcommittee on Constitutional Rights look carefully and thoroughly into this rather strange matter.

"PHYSICIAN, HEAL THYSELF," PARTS III AND IV

Mr. KENNEDY. Mr. President, on last October 13, I asked that two articles written by the distinguished journalist, Mr. Anthony Lewis, be printed in the RECORD. Today, I should like to submit two additional installments in this series for inclusion in the RECORD.

In the third installment, Mr. Lewis deals with the problem of physicians' fees and compares various aspects of the difference in atmosphere between Britain and the United States which affects the nature of a health care delivery system. He concludes the article, referring to Wesley Hall, president of the AMA, by saying:

Wake up, Wesley Hall. The American public is tired of reactionary, selfish medical leadership and so are more and more doctors. You are losing your audience.

Mr. President, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PHYSICIAN, HEAL THYSELF: III

(By Anthony Lewis)

LONDON, Nov. 5—American doctors are an articulate group. That much is shown by the reaction to two recent columns in this space criticising aspects of medicine in the United States. The doctors wrote, some in a defensive or abusive vein but many in constructive disagreement.

Not surprisingly, they were especially irritated at the comment that too many American doctors care too much about money. For the medical profession to top all others in income, it was said, is evidence of a sick society. That phrasing was doubtless unduly provocative.

Doctors, and some of their wives, asked why people who had studied and trained for so long should not get the highest financial reward. Was it better to enrich pop singers, or athletes, or journalists? Dr. William A. Rolston of New Orleans wrote:

"If the professions were to be salaried in proportion to their value to humanity, as indeed they should be, it is logical to assume that the medical profession should be among the highest paid."

But America is not Erewhon, and men are not paid according to their social deserts. Among doctors, for example, the most highly trained may well be found in research work or teaching, at modest salaries.

No, the reason that doctors do so well in the United States (median income over $40,000 in 1969) is largely supply and demand. They control a scarce commodity desperately wanted by the consumer. And some—not a majority but enough—are greedy in using their economic leverage.

What happened after Medicare began is no secret. Seeing that more money was going to be available, many doctors simply raised their fees. When a patient complained to one distinguished general practitioner, he replied that others were doing it and he might as well get his share. As a private British doctor, a Harley Street specialist, said to an American the other day: "There is too much commerce in your medicine."

Some American doctors said as much in writing here. Dr. Harry H. Gordon, of the Einstein College of Medicine in New York, wrote: "One point is critical—that so many physicians have adopted the mores of their affluent patients in pursuit of the dollar. There is too little sense of a calling, too little appreciation of the satisfactions that come from helping people."

Now in fact most American doctors are dedicated men and women who work immensely hard and long for whatever they earn. Too much moralizing about their income is not in order. But the elements of greed in the profession are still significant for a practical reason: The aim of assuring all Americans medical care without fear of bankruptcy—as the country now earnestly desires—cannot be achieved unless any new system modifies or limits the law of supply and demand in medical economics, including doctors' fees.

The Medicare experience makes that clear. If the Federal Government were now to supply vast new funds for private medical care without any change in the system, the result would be to inflate costs enormously.

The doctors point out, fairly, that they are not the only cause of medical inflation by any means: hospital and drug and other costs mount, too. But taking one problem at a time, it is clear that any new Federal program will have to take a new approach on doctors' fees. One possibility would be to provide fixed levels of compensation for doctors serving certain numbers of patients on a panel, as in Britain.

An English doctor now living in New York, Arnold Miles, raised a question about all this that many may ask. He wrote:

"In the U.S. a man is judged by, and lives for, material gain. Until the values of this society change, it is surely hypocritical to expect doctors voluntarily to be less materialistic than their neighbors. Dedication is not an accepted form of currency, so why should not the doctor live by the current ethic?"

Yes, the materialist values of our society ought to be questioned altogether, if that is what Dr. Miles means to suggest. There are enough horrors in the tax system to occupy reformers for a long time. But it is not unfair to begin with the area of medical care.

No society can be called civilized that allows the money ethic to dominate in matters of life and death. The United States, one way or another, is going to reconstruct its way of delivering medical care. And many doctors are coming to accept—as they did in Britain a generation ago—that the process will require a fresh social commitment from them.

The problem is not, in the end, whether it is right or wrong for doctors to earn more than other people. It is that American doctors have allowed their powerful spokesman, the A.M.A., to make the mode of private practice and fees an obstacle to necessary change.

XUM

PHYSICIAN, HEAL THYSELF: IV

(By Anthony Lewis)

LONDON, November 7.—Two columns in this space last month contrasted British and American medical care. They were commenting on a charge by the president of the American Medical Association, Dr. Wesley Hall, that standards under Britain's National Health Service were tragic. The articles pointed out that health standards had risen dramatically here during the twenty years of the service and more than comparable American figures.

Numerous doctors have written to warn against the danger of facile comparisons between Britain and the United States. Some of the letters merely paraded standard A.M.A. horribles: Americans are free, while the British learned to take orders during the war and now have been socialized. But others made serious points.

Britain is a tiny country, in which even provincial doctors in most cases are in easy reach of London or other metropolitan centers. It has a relatively homogeneous society, with a long tradition of honesty in the public service. The British accept hierarchies to a remarkable extent, for instance in the commanding position given to medical specialists and the limited openings for younger doctors.

An American health program would have to be different in many ways. It should be administratively decentralized, with real independence and diversity allowed in regional or even smaller units. It neither could nor should attempt the rigid structuring of the profession that tends to apply in Britain.

That still leaves one very large difference—in the character of the two countries' populations. Several doctors made the point that a nation's standards of health may depend less on its quality of medical care than on its level of nutrition or other social factors. Dr. John V. Waller of New York wrote:

"In England there has been no problem of an uneducated, unfed, unemployed and under-housed minority comparable to that pertaining here. Eliminate those minorities and our statistics would compare favorably."

There was a moving letter from Dr. Joseph Kramer, who three years ago left a pediatric practice in the suburbs for New York's Lower East Side. If the A.M.A.'s Dr. Hall ever got to his slum area, Dr. Kramer said, he wouldn't say the situation was tragic—"He would be in shock!" Dr. Kramer continued:

"I thought that I would swoop into the slums, open an office and wipe out disease. You know what's needed down here? Housing—I see at least one rat bite a week, the most recent just over the eyelid of an eleven-month-old baby. So, Department of Community Medicine, how do you handle that? What about drugs . . .?"

Yes, the state of society matters more than the state of medical care. When an Administration tries to cut off subsidized school lunches for one million or so needy American children, everyone ought to be sickened.

But the differences between Britain and the United States should not prevent us from borrowing the best features of the National Health Service, notably its insistence on universality—the right of everyone in Britain to use the service if he wishes. Some better-off people go to private doctors, but the middle class overwhelmingly relies on the Health Service, thus preventing it from becoming a segregated system for the poor. That is crucial.

Nor does concern about underlying faults in American society mean that we should be complacent about the medical system. Least of all should doctors, that is what is so sad about the A.M.A.

Dr. Hall also wrote a letter critical of the British-American comparison. His concluding argument was: "About 85 per cent of British health care is financed through central Government tax revenues. On that basis, American taxpayers would have had to pay some $57 billion last year for Federal health programs (instead of the $19.6 billion they actually paid)."

Can Dr. Hall really believe that anyone would be naive enough to be moved by that argument? Any across-the-board Federal program would of course largely replace private expenditure. What matters is the total national cost.

The United States now spends 6.9 per cent of its gross national product for medical care, far more than Britain and in fact more than any other country. For that it gets a non-system that leaves millions without any doctors and makes others fear bankruptcy if they became ill.

Wake up, Wesley Hall, The American public is tiring of reactionary, selfish medical leadership, and so are more and more doctors. You are losing your audience.

RESPECT FOR THE FLAG

Mr. GURNEY. Mr. President, in recent times we have witnessed many instances of outright abuse of the American flag. Oftentimes it appears that too many Americans have failed to consider the significance of the Nation's banner. There is much that could be said in favor of patriotism and respect for our Star-Spangled Banner, and I think my good friend, Lee Caron, has managed to say most of it.

Lee is an entertainer in Brevard County, Fla., who produces a variety-type show for a nightclub. One portion of Lee's show is dedicated to developing patriotism. I commend Mr. Caron's dedicated Americanism and ask unanimous consent that his commentary about the American flag be printed in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

THE FLAG

As a child I did the Pledge of Allegiance because I was told to and out of rote, but as the years went by, and now that I'm an adult and listening to all the TV and news media about our militants, and watching them spit and burn our flag, I get mad because I love this beautiful flag of ours.

On different occasions when I would do something patriotic to an audience some reactions I received were that it was flag waving. Even sometimes called "Corny." Well, I believe that the greatest privilege any person can have is to wave the flag of this country.

Have you ever looked, really looked at our flag and thought of what it stands for, or wondered what it has gone through? Can you imagine if our great American symbol could talk, what it would say?

(Flag) Hello there! Remember me? Some people call me "Old Glory," others call me the "Stars and Stripes", I have also been referred to as the 'Star Spangled Banner," but—whatever they call me, I am your flag, or as I proudly state—the Flag of the United States of America. There is something that has been bothering me, so I thought I might talk it over with you—because its about you—and—me.

I remember some time ago, I think it was on Memorial Day, people were lined up on both sides of the street to watch the parade—the town's high school band was right behind me and naturally, I was leading the parade. When your Daddy saw me coming along waving in the breeze he immediately removed his hat and placed it against his left shoulder so that his right hand was over his heart—remember And you, yes, I remember you, standing there straight as a soldier, you didn't have a hat, but you were giving the correct salute—your right hand over your heart.

Oh, I was proud as I came down your street. There were some soldiers home on leave and they were standing at attention giving the military salute; also, some VFW veterans with their caps at jaunty angles were saluting smartly. Ladies as well as the men paid me the reverence I deserve—Now I may sound a little conceited—well, I am—I have a right to be, because I represent the greatest and finest country in the world—the U.S.A. More than one aggressive nation has tried to haul me down, but they all felt the fury of this freedom loving country. Remember—many of you had to go overseas to defend me—Well, now things aren't the same. What has happened? I'm still the same old flag! Oh, I've had a few more stars added since you were a boy. A lot more blood has been shed since that Memorial Day parade a long time ago. Dad is gone now. The old home town has a new look. The last time I came down your street I saw that some of the old landmarks were gone—But in their place shining majestically in the sun were a number of new buildings and homes . . . Yeesir ! ! ! The old home town sure has changed. But now, I don't feel as proud as I used to when I come down your street. You just stand there with your hands in your pockets and give me a small glance, then look or turn away. When I think of all the places I've been: Anzio, Guadalcanal, the Battle of the Bulge, Korea, and now Vietnam; I wonder what's happened? I'm still the same old flag.

Now I see children running around and shouting as I pass by. They don't seem to know who I am. I saw an old man take his hat off, and then look around, he didn't see anybody else with theirs off, so he quickly put his back on.

Is it a sin to be an American patriot anymore? Have you forgotten what I stand for? Have you forgotten all the battlefields where men fought and died to keep this nation—your nation free? When you salute me—you're actually saluting them.

Take a look at the memorial honor rolls sometime. Look at the names of those who never came back and are resting neath white crosses on a far away shore. Some of them were friends of yours, or maybe even went to school with you—that's who you're saluting ! ! !

Well it won't be long until I come down your street again. So when you see me, stand straight, place your hand over your heart, and you will see me waving back. My salute to you. I'll show you that I too remember.

CIGARETTE SMOKING

Mr. MOSS. Mr. President, the evidence continues to mount. Just last week, the Surgeon General of the United States, Dr. Jesse Steinfeld said that cigarette smoking was the No. 1 health problem in the United States. Now, Sir George Godber, chief medical officer of the Department of Health in Great Britain, reports that cigarette smoking is the biggest single avoidable killer in the United States. If we need any more evidence, just wait for the December 31, 1971 report of the Secretary of Health, Education, and Welfare on the health consequences of smoking.

And the tobacco industry says there is still a controversy. Balderdash. Mr. President, I ask unanimous consent that an article from the November 7, 1971, New York Times concerning this matter be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMOKING IS CALLED NO. 1 BRITISH KILLER

LONDON (AP)—Smoking is the biggest single avoidable killer in Britain, the Department of Health reported.

"This is still predominantly a smoking community, giving every incentive to children and adolescents to follow the foolish examples of their elders," said Sir George Godber, chief medical officer of the Department of Health, in his annual report.

"At a conservative estimate," he continued, "smoking causes one in every eight deaths among men aged 35 to 44, one in four of those 45 to 64, and one in five of those 65 to 74."

Tobacco strikes through lung cancer, bronchitis and coronary heart disease, he added, helping keep the life expectancy of the British male at 69.1 years, one of the lowest in the Western world. Out of 31 nations listed, England and Wales rate 17th, Northern Ireland 20th and Scotland 28th.

Deaths in England totalled 540,196 in 1970, compared with 543,425 in 1969. Cancer deaths rose from 108,290 in 1969 to 109,342.

ESTABLISHMENT OF GENOCIDE AS A CRIME

Mr. PROXMIRE. Mr. President, article I of the Genocide Convention establishes genocide as a crime. It has been argued that the Senate should not ratify the convention because it is not proper for this treaty, or any treaty, to establish a crime. Is this an unprecedented action?

The Interim Convention on Conservation of North Pacific Fur Seals passed the Senate without a dissenting vote. It is in many ways similar to the Genocide Convention and may help us answer this question. Article III of the fur seal convention states that the parties will prohibit all pelagic sealing in the North Pacific that is not done in accordance with the treaty. It, therefore, implicitly declares nontreaty sealing to be a crime. With the passage of the Fur Seal Act of 1966 this prohibition was enacted into law.

Mr. President, this is a strong indication that article I of the Genocide Convention is not proposing anything new in the history of U.S. treatymaking. It seems that there is some precedent for a treaty to establish a crime.

The world has known too many cases of genocide. Now for the first time in history the nations of the world are banding together to take action to prevent any further occurrence of genocide. Seventy-five nations, including almost all of our NATO and SEATO allies, have ratified the Genocide Convention. The time has come for the United States to stand up and be counted as being against this crime.

Mr. President, the Senate should ratify the Genocide Convention without delay.

TRIBUTES TO ROBERT A. LEFLAR, PROFESSOR OF LAW, UNIVERSITY OF ARKANSAS

Mr. FULBRIGHT. Mr. President, earlier this year I had the honor and distinct pleasure of joining in a special dedicatory issue of the Arkansas Law Review in tribute to Robert A. Leflar, distinguished professor of law at the University of Arkansas.

This special issue contains numerous articles and tributes which reflect the high esteem in which Bob Leflar is held by the legal community of our Nation.

Therefore, Mr. President, in order to share with Senators some of the tributes paid to this truly eminent jurist, I ask unanimous consent to have printed in the RECORD excerpts from the Arkansas Law Review.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

[From the Arkansas Law Review and Bar Association Journal, Spring 1971]

LEFLAR TESTIMONIAL

(By Warren E. Burger, Chief Justice of the United States)

Other contributors to this issue of the Review will be discussing the specifics of Professor Leflar's various ocntributions to the law. For that reason I confine myself to an overview of his career, and in particular his role in helping to bridge the gap between two words of law: the practitioners, and the academicians.

Professor Leflar's career has a uniquely American flavor. It could hardly have occurred elsewhere, for in most countries the legal profession is much more rigidly compartmentalized than here. Even in England, which has no career judiciary such as is found in civil law countries where a judge grows up in the system, one who is basically an academician cannot aspire to go on the bench; nor can one who is on the bench think of leaving it for other legal work. Nor can an academic lawyer in England expect to assume a position of controlling leadership in practical law reform.

In the United States, however, conditions are such that a man of Leflar's capacity and versatility cannot only attain distinction of a scholar and teacher, but also as a judge and as a leader in down-to-earth law reform. Although he has been a law professor, and was Dean of the School of Law of the University of Arkansas from 1943 to 1954, he has also served as an Associate Justice of the Supreme Court of Arkansas, as a Commissioner on Uniform State Laws for 25 years, as Chairman of the Arkansas Statutory Revision Commission for ten years, and as Chairman of the Arkansas Constitutional Revision Commission since 1967, to mention only some of his more important activities. One of the most interesting of his assignments has been as Director of the Appellate Judges Seminars, held each summer since 1956 at the New York University Law School under the auspices of the Institute of Judicial Administration. The idea of a "school for judges" is itself somewhat astounding, but even more astounding is the fact that it is run and administered by a professor, who presides with aplomb over both his judicial faculty colleagues and his judicial "student body."

As Professor Leflar's career attests, the legal profession in America is fluid, not rigid, and there is excellent communication between its various elements; it exemplifies the value of the "great partnership" of lawyers, judges and law teachers. Able men can and do move from one key spot to another, enriching their own lives while at the same time bringing fresh points of view to whatever tasks are currently demanding their talents. Some of America's most notable achievements have resulted from this "partnership" of the three groups. The various federal rules of procedure, the restatements and model codes of the American Law Institute, and the standards of criminal justice promulgated by the American Bar Association, the work of the Institute of Judicial Administration, to mention only a few. Herein lies much of the strength of the legal profession in America. Robert Leflar has been one of the great contributors.

THE STERLING LEFLAR OF ARKANSAS

(By Roger J. Traynor, professor of law, University of California, Hastings College of the Law; Chief Justice of California, retired).

Blessed is the nation that has attained greatness step by step, *löffelweise*, through communities joined in a national network that yet retain regional distinction. Such a community is Fayetteville, Arkansas, the home of Robert A. Leflar, sparked from the flint of the Ozarks. The farmers and traders who founded it in 1828 must have had a hare's spoon-shaped ear to the ground, a *Löffel* for strategic location, as well as an eye for beauty. Roughly a generation after its founding, it became a tug-of-war prize in the Civil War. It fell captive to one side and then the other, but not for long. When it emerged free of entangling alliances, it retained an identity all its own. Now this town of some thirty thousand people is frequently singled out as one of the most distinctive communities in the United States.

The citizens of Arkansas knew the worth of their hill town. Armed with plowshares, they lost no time in advancing to their share of booklearning, and by 1871 they had established a state university at Fayetteville. The children of Arkansas would have a way clear to a matchless education. When they looked up from their printed text for the day, which they could reckon as of no more durable form than the familiar lumber it had once been, they could look out on a scene that inspired faith in the land. Though the hills were a sound and lightspectacle of perennially changing vistas, though storm and buzz saw regularly felled the green sentinels, there remained the outline of a durable range of continuity. The campus bells that echoed through the thin air marked more than the time of day. They marked all that remained timeless despite days that were named and numbered.

Geography is a relevant preamble to a statement about one of Arkansas's greatest native sons, though it takes time to perceive that relevance. I first met Robert Leflar in 1958, not in his own highlands, but along the Atlantic Coast where large cities were already spilling over in every direction to become one monstrous pudding precariously crusted with concrete strips. I had come to the Appellate Judges' Seminar, sponsored by the Institute of Judicial Administration at New York University and directed by Professor Leflar, well-known also as Judge Leflar by virtue of his service on the Supreme Court of Arkansas.

The seminar classes met in the lowlands, in the heart of Greenwich Village and within view of the countless disjointed tall buildings whose heads point upward for a place in the sun. The only semblance of continuity in the longicorn loners is a common proximity to the Statue of Liberty that gives them a status by association as symbols of strength. The semblance is a sometime thing, constantly dispelled by the shatter and clatter of old sentinels rammed to rubble to make way for new pretenders. No reassuring outline endures in the mad sequence of gap and new filling and new gap.

For a goodly number of judges and their families, their first journey to the Seminar is also their first glimpse of urban bedlam on a massive scale. The Leflar family in New York—Robert and Helen and their two young sons—have cushioned the jolt for others simply by being themselves. At Hayden Hall, overlooking Washington Square, where visiting judges are housed on some eighteen floors, the Leflar household at the roof penthouse has a settling influence. Urban fright

subsides in newcomers when they step into a temperamental small elevator and find the Lefiars, laden with kitchen supplies or books, unobtrusive and yet friendly, and looking for all the world as if they were going eighteen paces up a pleasant country road.

It is no common faculty to make people feel at home. In the Lefiars it is one of substance, not form. They do not speak the cool small talk of the wordly; they do not undertake the folksy knit-one, purl-one overtures of instant egalitarians. Their courtesy is in a low key. Their special quality is a percolating sense of fun that may find sudden expression in a sunny phase or quizzical glance, quickening others to stop, look, and listen.

It is extraordinary that people so responsible should be possessed of such happy impishness. I still cannot predict when an imp will make its presence felt in a serious Lefiar sentence. Its unexpected presence, perhaps surprising even its possessor, can lift the mood of an assembled company from the merely sublime to that sublimely uproarious state where laughter induces new perceptions.

Those invisible spirits speak in various Lefiar voices. One of the most engaging expresses itself in a muffled mutter, tossing off asides while the visible Lefiar looks at you calmly with owlish eyes or takes to stargazing. The occasion might be a late-day gathering when chatter mounts on such trivia as the comparative merits of plays or restaurants. Out of the blue comes a subdued monotone: In case of hunger, repair to your own kitchen. Peace, good food, and a chance to catch up on comparative law. Amen.

Did one really hear that small voice? Well, surprise twists and turns appear to be characteristics of the family speech. Up at the penthouse deck young Robert and Charles might be soberly doing chores, in line with the ethic of responsibility that is also characteristic, along the garden border that stretches round the building. They shrug off compliments at their industry. It's a great way to see the city, they convey to you courteously, adding that there is plenty of time left over for projects all their own. You soon learn that the projects all their own are complicated beyond the ken of many an adult.

Helen Lefiar, too, leaves it to those around her to make whatever balance seems appropriate between her pleasantly noncommittal voice and the twinkle in her eyes. Versed in the mysteries of streets like West Fourth, whose names defy the compass, she has been the volunteer guide of many a Seminar group through the back country of New York City. We could of course take a taxi, she has a way of beginning, but then what would you see. After a pause there are sprightly sequiturs, hinting at the wonders at see-level. We could of course take a subway, but that would only save time at a great loss. Could there possibly be anyone who would not want to walk to that little old place no more than a few miles from Washington Square?

At faculty meetings Bob Lefiar talks shop in a direct and frugal speech that would have served him well as an editorial desk. It is easy to see how he has become the very spirit of the Seminar as he moves from workshop to dinner assembly to post-dinner groups, bringing his bird's-eye view of fifty jurisdictions plus one to newcomers eager to expand their sights and to oldtimers equally concerned to keep their sights well adjusted to a changing world. With fine judicial discretion, he knows when to enjoin others relentlessly to remain at their reading and when to declare a break for the informal pursuit of open questions. It is no wonder that he was able to enlist such teaching colleagues as Justice William Brennan of the United States Supreme Court, Judge Fred Hamley of the Ninth Circuit, Judge John Minor Wisdom of the Fifth Circuit, Judge Walter Schaefer of the Illinois Supreme Court, and Chief Justice Frank Kenison of the New Hampshire Supreme Court. Their pioneering inspired others of like caliber to join the ranks. The Chief Justice of the United States, Warren Burger, has recorded with pride his service at the Seminar and has encouraged other judges to take part in it.

I have never ceased to marvel at how Bob Lefiar could bring together so amiably, often to a consensus that would have beneficent repercussions throughout the country, so many judges of diverse background, temperament, and training, accustomed to having the last word in their home territories. There was some magic in the Lefiar manner that was not entirely explained in terms of gentleness and outstanding intellectual qualities.

I had yet to meet Robin Löffel of Fayetteville.

Then, in the spring of 1967, I went to Fayetteville to give a lecture at the Law School. The journey from San Francisco was far from streamlined. There was a change at Fort Smith to the small plane that flew to Fayetteville. Night was falling as we approached the town. The stunning beauty of the region took us by surprise, though we had read about it often enough. We had even marked an ancient schoolbook, which departed from its stilted language to editorialize that more people should make their homes in the Ozarks. It called upon schoolchildren to look closely at an illustrative picture of lakes and trees and to explain why this out-of-doors land was called The Land Of A Million Smiles. If you looked at the trees intently enough, if you knew how to look at them every which way, they smiled back at you.

There were no more doors on the imagination than on the land, we mused, as our plane began its bumpy descent. At the Fayetteville airport, much like a small railroad station, the weariness of travel quickly gave way to invigoration in the clear air of the Ozarks. Then Bob Lefiar appeared, with several students in tow, and smiled at us. I hope you recognize me, he said jauntily; you've seen a lot of me in New York. He presented his companions, young men and women with the friendly courtesy of those who have never been other than liberated spirits. Off we all went to the nearby hotel and we spoke for awhile about their mountains and our Sierras, and also about the wild places where doors multiply and falling plaster takes the place of falling leaves.

Even now, the memory of that visit has healing power in time of stress. We heard the gentle voices of America at a gathering of friends in the Lefiar home. Once again, the young Lefiars were immersed in projects of their own making. On the outdoor deck, looking out at the neighboring green hills, we understood why the Lefiars of New York would always return to their home in Fayetteville. It was a place where a child growing up would have reason to love his country and where adults would find in public service the natural expression of their love of country.

Bob Lefiar spoke of his students with almost parental affection and mostly he spoke of their future. There was so much work ahead for them in the law. Now and again a marginal note emerged in his fierce concern. I'll bank on their taking any place in stride, he said, but I want to make sure they'll be more than a match for the tasks that await them in Arkansas.

They have the example par excellence before them. It will take many scholars to do justice to all that Professor Lefiar has done to mitigate conflict in conflict of laws. His academic work is but one piece of his great career. The judges who have been his students at the New York Seminar, aware of his own stint on the supreme court of his state, envisage him as the ideal judicial colleague. However great the loss to his court when his term ended, he became free to render perhaps even more valuable service to his state and country. Among other tasks, he has worked heroically to advance the law of his state through statutory and constitutional revision.

How could a man remain so lighthearted throughout such uphill work? What guardian imps guarded his sweet soul? The rudiments of an answer came at the close of our visit to Fayetteville, as we waited for the plane. We bantered away the twinges of sadness that attend such leave-takings. Are you a silver spoon?, Madeleine asked him. Lefiar sounds so much like Löffel. Are you perchance Robin Löffel?

Could be, said Robin; could be that Löffel forebears gave up asking people to pronounce the name correctly because they had to get on with all the work to be done. Then he looked at us intently and added: You had better believe it's going to be done. Anyway I believe it.

On my desk is a recent announcement from the American Judicature Society that on February 8, 1971, Robert A. Leflar would give an address on judicial administration and its improvement, captioned *No Task For The Short Winded*.

The fulfillment of the task, his colleagues would add, depends on people like Bob Lefiar, who has brought to his work a superlative mind, superlative character, and one thing more. He has also brought just the right measure of flint to make what he believes in come true.

ROBERT A. LEFLAR: TORTS REALIST

(By Ralph Bischoff, Charles L. Denison Professor of Law, New York University School of Law)

Separating the many sides of Bob Lefiar is impossible. He is one person whether teaching Conflicts or Torts or expounding on legal education, whether administering New York University's Summer Seminars for Appellate Judges[1] or chairing the 30-member Arkansas Constitutional Revision Study Commission and the Constitutional Convention of 1969–70,[2] or whether functioning as Associate Justice of that state's Supreme Court or just writing as a legal scholar. It has been my good fortune to know him in many of these activities, though particularly as a scholar, colleague and friend at New York University. In one respect I am sure to I have missed a great deal; namely, I am too near his age to ever have been his student. Students at the University of Arkansas School of Law have described to me the athletic figure approaching the School shortly before his class at nine—they are already attending a 7:30 class—from the direction of his home. As I write this, he is teaching a large class of Torts, some two hundred eager first-year students. For the first weeks he instills in them a bit of fear and a maximum of respect. However, soon they too realize that here is a friend, as well as a scholar and great teacher. I am sure his colleagues will not begrudge my calling him "Mr. School of Law."

In the many semesters and summers that Bob Lefiar has spent at New York University School of Law, I have seen him particularly as colleague and co-teacher in Torts as well as "Chief Judge," i.e., Director of the Seminars for Appellate Judges. Without any reflection on younger colleagues who have taught Torts with me, the real experience has been in those years when the "other section" had as its professor either Warren Seavey or Bob Lefiar. Warren Seavey visited with us many times after his retirement from Harvard, and it was from him that Lefiar and I first learned our Torts; but whether the "other section" had the old master or Bob Lefiar, I knew they were favored students.

As for the many summers with the Judges' Seminars, this is a story in itself, one with which many readers will be familiar. The details of this Seminar do not belong in this piece. Suffice to say that in 1955 the idea was born that judges should have the opportunity of going back to school. "Acquiring a legal education is a lifetime job."[3] Every summer since then, some twenty to twenty-five judges from the highest courts of the states, the federal Courts of Appeal and the Canadian courts, have spent two to three weeks stimulating each other with the aid of a faculty made up of a few from New York University and a core of judges who return year after year. I mention only a few: Burger and Brennan of the Supreme Court, Hamley of Washington, Kennison of New Hampshire, Traynor of California, Schaefer of Illinois, Roberts of Pennsylvania, Desmond of New York and so forth. During recent summers as an additional seminar has been held for intermediate appellate judges. The director, "Chief Judge" and catalyst has been and is Bob Lefiar. For each seminar, I have been privileged with him to lead discussions in Torts in a sort of Socratic manner. Has negligence outlived its usefulness? Is proximate cause a label for a result? Since the courts created the common law, why can they not change it? Is comparative negligence a question for legislature or courts? Which of the traditional immunities should remain? Long after we both have retired, I shall hear the "Chief" bang on the table with the flat of his hand as he calls the seminar to order.

The above may explain why I talk about the man as he arrives at his seventieth birthday and retirement. My interpretation of his ideas on the law of Torts are gained from conversations, from these summer seminars and, of course, from his writings. Although the emphasis on his legal scholarship has been in Conflict of Laws, many articles and reviews have focused on Torts. At my request, the Library of New York University School of Law assembled the lengthy list of his writings, attached here as an appendix. Aside from the chief treatise on Conflicts,[4] the list includes over eighty articles in law reviews and over thirty book reviews.

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[1] The editors wish to express their appreciation to Professor Ralph Bischoff, New York University, for his compilation of the major portion of this bibliography.
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DR. ROBERT ALLEN LEFLAR

(By Edward L. Wright, member of the Arkansas Bar; A.B., 1923, Little Rock College; J.D., 1928, Georgetown University. Mr. Wright served as president of the American Bar Association, 1970–71)

Fifty years ago this summer I first met Robert Allen Leflar while we were members of the same R.O.T.C. training company at Fort Snelling, Minnesota. Since that time our personal and professional paths have intertwined frequently and intimately. Each succeeding year has added to my respect, admiration, and affection for this remarkable man. Others will speak in detail of his stature as a Professor of Law at both the University of Arkansas and New York University, as Dean of the University of Arkansas School of Law, as Director of the Appellate Judges Seminar of the Institute of Judicial Administration, as Associate Justice of the Supreme Court of Arkansas, and as author of works on conflict of laws. My brief and sincere tribute to him will be from the vantage points of a friend of nearly a half century and a co-worker in the organized bar.

The place of a man's birth does not determine the greatness of his mind. Given the opportunity for education and development, the expression of genius is not the product of geography. Bob Leflar was born and reared in Siloam Springs, Arkansas. When he came into the world on March 22, 1901, the first of eight children born to Lewis D. and Viva Pilkington Leflar, Siloam Springs was a relatively obscure community with a population of 1,748. Yet the influence of Bob Leflar has profoundly affected not only his native state but the nation as well.

In 1922 Bob Leflar received his B.A. degree from the University of Arkansas. For the next two years he taught school, one year each at Stuttgart High School and at John E. Brown College in Siloam Springs. Those were lean years for a young man determined to go to law school. And to Harvard Law School he went, receiving his LL.B. degree cum laude in 1927. I shall not dwell on the hardships and sacrifices of his student days at Harvard, for he would not want me to do so; I shall simply state for the record that in this period he was entirely "on his own" and worked at various jobs to keep himself in school.

Since 1927 Bob Leflar has had a continuous relationship with the University of Arkansas School of Law at Fayetteville, first as Professor, then as Dean, and now as Distinguished Professor of Law, although there have been periods when he was absent on leave in the performance of other legal assignments. Until comparatively recent years, few members of the law teaching fraternity had active interests in the work of the organized bar, but Bob Leflar is an outstanding exception. From his early teaching days he has been a most effective worker in the Arkansas Bar Association, the American Bar Association, the National Conference of Commissioners on Uniform State Laws, and the American Judicature Society.

It was my privilege to serve twelve years with Bob Leflar as a fellow Commissioner of the Conference of Commissioners on Uniform State Laws, of which he is now a life member. No Commissioner of that unique and hard-working body is more highly regarded than Bob Leflar. In the orderly deliberations of the Conference, his counsel is constantly sought. As a craftsman of the highest skills, his imprint may be found in the countless uniform acts adopted through out the United States.

Bob Leflar's outstanding qualities as a legal draftsman and as a leader of men have been given prominent recognition by bench, bar, and state officials through his secretaryship of the Arkansas Criminal Law Reform Commission, 1934–37; his Chairmanship of the Arkansas Statute Revision Commission, 1945–54; his Chairmanship of the Arkansas Constitution Revision Commission, 1967–68; and his Presidency of the Arkansas Constitutional Convention, 1969–70. But his interests and talents are not confined to the law; as illustrations we can cite that he has served as President of the Southwest Athletic Conference and is the commissioned author of a centennial history of the University of Arkansas.

On January 25, 1969, Robert Allen Leflar received the coveted Research Award from the Fellows of the American Bar Foundation at its annual meeting. I was present at the occasion and I shall never forget the characteristic grace and modesty with which he accepted this honor. The Award is given annually to a single recipient "In recognition of his outstanding contributions to the law and the legal profession through his research in law and government." The following is a portion of what Chairman E. Dixie Beggs of the Fellows said about Bob Leflar when the Award was presented:

"Research and scholarship have always been viewed by lawyers as noble activity. In past years this award has been presented to some of this country's most outstanding scholars—Herbert Wechsler, Austin W. Scott, E. Blythe Stason, John Cobb Cooper, Herbert F. Goodrich—men whose lives have been devoted to scholarship.

"Another such man is this year's recipient, Dr. Robert Allen Leflar. His whole career reflects a scholarly interest in research and leadership in translation of research into law.

"The contributions of Dr. Leflar to the law through his scholarly research and leadership cannot be overemphasized, and I take great pleasure in presenting this award to a distinguished lawyer highly deserving this great honor."

Today Bob Leflar is serving with great distinction as a member of the American Bar Association Committee on Standards of Judicial Conduct, which is engaged in the work of completely redrafting the current Canons of Judicial Ethics. Never in the history of the United States has the interest of the public in the action of judges, on and off the bench, been so great. The ongoing activities of the American Bar Association are numerous, varied, and important, but none is more important than the work of the Committee on Standards of Judicial Conduct.

Nearly forty-four years have passed since Robert Allen Leflar taught his first class at the University of Arkansas School of Law at Fayetteville. His influence for good in his beloved Arkansas and the nation since that time cannot be measured quantitatively, but this we know: it will continue in vital form far, far beyond the forty-four years that lie immediately ahead.

A TRIBUTE TO DR. ROBERT A. LEFLAR

(By Dr. David W. Mullins, President, University of Arkansas)

One serious problem confronting American legal education is that Robert A. Leflar can't be everywhere at once. However, this is not Dr. Leflar's fault. He has done his very best by such things as commuting between the University of Arkansas and New York University and serving as visiting Professor of Law at such institutions as the University of Kansas, the University of Missouri and the University of Colorado.

They used to say you would have to "get up early" if you wanted to catch "Bob" Leflar. He might have been on a 7 a.m. flight to Little Rock, on a New York jet, or meeting a 7:30 a.m. class on Conflict of Laws. This is in the days when he was commuting between New York and Arkansas and had little sympathy for New York students when they blamed commuting problems for poor grades. Leflar, who always arrived on time, traveled about 1,400 miles to do so, using two airplanes, a bus, an automobile, and a taxi or two subways. He lectured in New York on Mondays and Tuesdays and on the UA's Fayetteville campus on Thursdays, Fridays and Saturdays. To keep up with his split schedule he had two residences, two wardrobes and two offices.

Typically, he refused to let his hours on airplane flights go to waste. He once told a newsman that he read an average of two books on each trip. When the writer of this article was selected to become President of the University of Arkansas, he received a congratulatory letter from Dr. Leflar which was written aboard a plane during one of his commuting trips. Interestingly, Dr. Leflar said he couldn't provide a return or "place" address because "I don't know what State I'm over at the present time."

For a man of such caliber, it is easy to write a tribute. As pointed out in the *Distinguished* Alumnus Citation recently awarded him by the University of Arkansas, Dr. Leflar is a man whose career has been *distinguished* in the highest sense of the word. He is one of only two individuals ever to be honored with the rank of *Distinguished* Professor at the University, and was the first to be so designated. In 1969, he received the American Bar Association's Award for *Distinguished* Research in Law and Government. For fifteen consecutive years he has conducted a Seminar at New York University for newly appointed and elected Appellate Judges of State Supreme Courts and the United States Court of Appeals. He has served as the *Distinguished* Chairman of the Arkansas Constitutional Revision Study Commission and President of the Arkansas Constitutional Convention. And he is the *Distinguished* Journalist who now is writing the Centennial History of the University of Arkansas.

He also has won distinction through any number of other major achievements. He served as an Associate Justice of the Arkansas Supreme Court. An avid sports fan, he was President of the Southwest Athletic Conference in 1948 and 1949. He was Dean of the University's School of Law for 11 years. He was acting President of the University in 1947. He has served for 25 years as Arkansas Commissioner on Uniform State Laws. He has served the Federal Government in several capacities and is a member of the Federal Mediation and Conciliation Service Labor Arbitration Panel and of the American Arbitration Association.

In light of all of these accomplishments, it is no wonder that Dr. Leflar was elected Man of the Year in 1969 in a poll conducted by the Arkansas Democrat.

Dr. Leflar received his Bachelor of Arts Degree at the University in 1922, taught high school at Stuttgart, and then taught journalism at John Brown University while editing a weekly Siloam Springs newspaper. Deciding on a legal career, he enrolled at Harvard Law School for his LL.B. and his Doctor of Juridical Science degrees. He joined the UA Faculty in 1927 and became Law Dean in 1943. He has written several important law review articles and is the author of nationally recognized textbooks in the field of Conflict of Laws.

The Appellate Judges Seminar is a good example of Leflar's major contribution to the legal profession. As Director of the Seminar, Dr. Leflar is responsible for organization, selecting the participating judges, employing the faculty, finding topics to be discussed, assigning topics to faculty members and serving as a member of the Seminar Faculty. The Seminar is important nationally because it keeps appellate judges aware of the best procedures and practices of other courts throughout the country and keeps the justices abreast of new trends in the law. It is enthusiastically received because it gives justices a chance to gain knowledge outside the restrictive legalistic confines of their own jurisdiction.

Dr. Leflar exemplifies to the highest degree the type of scholar who is concerned not only with knowledge in his field, but in ways in which this knowledge can be applied to the progress and improvement of our society. This is dramatically illustrated in the services he has rendered to his State, including his work in the proposed revision of the State Constitution and in his service on the State Supreme Court.

Unfortunately, the history of the University which Dr. Leflar is preparing will not adequately reflect the achievements of one of the most exceptional men in the life of the University—the history's author. Since Dr. Leflar modestly refrains from dwelling upon his own career, other historians of the future must be charged with the considerable responsibility of describing his outstanding contributions to his University, the State, the Southern Region, and the nation. His contemporaries can only say, with great admiration and affection, that he is one of the greatest articulators of the law, its meaning and its services, in his day and time.

TRIBUTE TO ROBERT A. LEFLAR

(By Senator J. WILLIAM FULBRIGHT, Democrat, Arkansas; chairman, Senate Foreign Relations Committee)

It is an honor for me to participate in this special dedicatory issue of the *Arkansas Law Review* in tribute to Robert A. Leflar. Bob Leflar has had a long and distinguished career as a jurist and an educator. He is widely respected both in the legal profession and among legal academicians. His directorship of the Appellate Judges Seminars at New York University has brought him personal and professional recognition and has reflected credit on our State and the institution he represents. Arkansas should be exceptionally proud to have Bob Leflar as a citizen and on the faculty of its law school.

As a teacher, Bob Leflar has achieved a respect from his students equalled by few. Two generations of Arkansas lawyers have experienced the quality of his instructional ability and have benefited from his depth of knowledge and his respect for the law and the legal profession. His former students whom I have known consistently recall the humor and wit which were present in his lectures. His Treatise on Conflict of Laws is internationally recognized as the definitive work in that area. One of my constant fears while President of the University of Arkansas was that Arkansas might lose Bob to another law school. It is my belief that he could have assumed the Deanship of any one of this country's great law schools. Yet his roots were in Arkansas, and Arkansas should consider itself fortunate that he decided to make his contribution here.

Bob Leflar has played an important role in our State's recent history. He, perhaps more than any other man, is responsible for the proposed new constitution for Arkansas being presented to the voters. Its recent rejection was a matter of concern to many of us and a deep disappointment to him. Yet, characteristically, Bob Leflar has continued to work for its reconsideration.

It is my hope, shared by many, that our law school, the University, Arkansas, and the nation's legal profession may continue to have Bob Leflar's active counsel and guidance for many years to come. He is one of our State's native sons and one of our proud possessions.

ROBERT A. LEFLAR, ASSOCIATE JUSTICE

(By George Rose Smith, LL.B., University of Arkansas, 1933. Associate Justice, Supreme Court of Arkansas, since January 1, 1949. (Judge Smith is the only present member of the court who served with Leflar)

On August 25, 1949, Dean Robert A. Leflar was appointed associate justice of the Supreme Court of Arkansas, to fill the vacancy created by the death of Justice R. W. Robins. Justice Leflar served as a member of the court only for the remaining sixteen months of Judge Robins' term of office, being ineligible under the Constitution[1] to succeed himself. Despite the demands of his new position, Leflar continued to carry out many of his administrative duties at the law school, driving from Little Rock to Fayetteville almost every weekend. In later years, it will be remembered, Leflar commuted by air from Fayetteville to New York while he was teaching both at the University of Arkansas and at New York University.

Leflar made an excellent judge. One great merit of a bench court lies in the likelihood that the ultimate decision in a particular case will be a fusion of divergent views. To that end a certain willingness to give and take, to accept at times half a loaf, is an indispensable element of what is thought of as a judicial temperament. In fact, the most serious defect an otherwise well-qualified justice may have is an attitude of militant advocacy, characterized by a persistent unwillingness to budge one inch from his original conclusions about the case at hand.

No doubt years of experience as a teacher tend to enable a person to see both sides of even the most hard-fought controversy. Whatever the reason, Leflar brought to the court an approach to the cases that was exceptionally judicial. Unlike most new judges, he seldom persisted in his own beliefs to the point of writing a dissenting opinion.[2] There were many instances in which he helped make an opinion with which he had not at first been wholly in agreement. In fact, I remember one case in which a proposed dissenting opinion so completely convinced Judge Leflar that he rewrote his own suggested majority opinion to reach the opposite result, carrying all but one of the other judges with him.

Leflar's contributions as a judge will naturally be remembered mostly by the majority opinions (66 in number) that he wrote during his sixteen months in office. Before turning to those opinions, I should like to insert a preliminary note of caution:

Appellate advocates are apt to think that their own cases present, pretty much without exception, issues of great theoretical and practical importance. In fact, almost the opposite is true. Appellate litigation tends to be routine. True, the scales are often so evenly balanced that the decision is difficult, but the competition is between rules of law settled long ago, with innovations being a rarity.

Hence, landmark decisions are few. Think, for example, of Cardoso—surely one of America's greatest masters of the common law. How many outstandingly significant decisions did he hand down during some eighteen years on the New York court? There come to mind such classics as *MacPherson v. Buick Motor Company,*[3] *Palsgraf v. Long Island Railroad Company,*[4] *Epstein v. Gluckin,*[5] *Meinhard v. Salmon,*[6] *Loucks v. Standard Oil Company,*[7] and others, but the list is not long. Hardly one great opinion a year, perhaps not even half that many.

Thus no disparagement is implied in the observation that there did not fall to Justice Leflar the opportunity to write any of the great cases in American law. But his work as a judge was of consistently high quality. His opinions were uniformly well written, clearly worded, and straight to the point. Among the best are *Wisinger v. Stewart,*[8] *Williams v. Harris,*[9] *and Hill v. Wilson.*[10]

But a judge's worth is to be tested by the content of his opinions rather than by their form. Here is to be found the difference between what Llewellyn called the Grand Style and what he called the Formal Style. The Grand Style is not a way of writing but a way of considering and deciding cases. Rules are shaped and reshaped to allow the law to keep pace with the times. Considerations of policy are always taken into account. Statutes are implemented beyond their strict letter in accordance with purpose and reason. By contrast, the Formal Style is characterised by a wooden approach to precedents and by a literal reading of all statutes, no matter how loudly policy, reason, and justice may shriek against the result.

In the matter of construing statutes, Llewellyn had this to say:

Thus in the period of the Grand Style of case law statutes were construed "freely" to implement their purpose, the court commonly accepting the legislature's choice of policy and setting to work to implement it. (Criminal statutes and, to some extent, statutes on procedure were exceptions.) Whereas in the Formal period statutes tended to be limited or even eviscerated by wooden and literal reading, in a sort of long-drawn battle between a balky, stiff-necked, wrongheaded court and a legislature which had only words with which to drive that court. . . .

One last thing is to be noted: If a statute is to make sense, it must be read in the light of some assumed purpose. A statute merely declaring a rule, with no purpose or objective, is nonsense.

If a statute is to be merged into a going system of law, moreover, the court must do the merging, and must in so doing take account of the policy of the statute—or else substitute its own version of such policy.

Footnotes at end of article.

Creative reshaping of the net result is thus inevitable.[11]

Lefiar's opinion in *Morley v. Capital Transportation Company*[12] typifies the Grand Style of statutory construction, with a dissenting opinion in the Formal Style. The court was called upon to construe a statute levying a tax upon "motor busses." The preamble to the act recited as a basis for the new law the fact that street cars had been replaced in some municipalities by motor busses. The Capital Transportation Company had replaced its street cars with busses that were rubber-tired vehicles, but their motors were powered electrically by means of a flexible trolley rather than mechanically by means of a gasoline tank. The question was whether such busses, popularly called trackless trolleys, were taxable under the new statute.

Lefiar's opinion carefully and fairly analyzed the competing arguments of counsel and concluded that the electric busses were taxable as motor busses. He reasoned that, as a matter of policy and fairness, the legislature, in taxing vehicles that had replaced street cars, was not primarily concerned with whether the new vehicles had electric motors or gasoline motors. That approach was summarized in this final paragraph in the opinion:

> There is nothing in the nature of "trackless trolleys" that makes inappropriate the application of the statute to them. Everything in their physical characteristics and mode of operation makes it as fair as appropriate for the statute to be applied to them as to other motor busses falling within the statutory description. It would be unfair to the owners of gasoline busses and contrary to the spirit and purpose of the statute if "trackless trolleys" were not taxed under it. The statute purports to cover these busses, and we hold that there is no justification for an interpretation that would take them out of the coverage which appears on the face of the statute.

It is significant that the dissenting judge, viewing the case in the Formal Style, quoted the foregoing paragraph as the basis for what was the real heart of his disagreement: "Now I submit that this paragraph shows in itself the fundamental error; because it impliedly admits that the Court is extending a taxing statute beyond its strict language." One could hardly find a better example of the contrast between the Grand Style and the Formal Style of deciding cases. In such situations Justice Lefiar instinctively took the right view.

An interesting innovation was introduced in a case which Lefiar chose to style as *A. v. B.*[13] The case involved the adoption of a child born out of wedlock. In a compassionate effort to conceal the child's identity Lefiar omitted the names of all concerned and used instead the letters *A* and *B*.[14]

In closing, I must mention not only the great pleasure that I experienced in serving on the bench with Justice Lefiar but also the genuine benefits that are to be derived from such an association with him. In a way those benefits have been shared by hundreds of American judges, for it is doubtful if Lefiar would have been selected to conduct the annual appellate judges' seminars at New York University if he had not himself had judicial experience. Thus his service on the bench must be regarded as doubly beneficial to the law.

FOOTNOTES

[1] ARK. CONST. amend. 29.

[2] New judges *do* tend to cling to their own points of view. Statistics are not available, but perhaps my own experience is not far from the average. In my first and second years on the bench I wrote 23 dissenting opinions; in my twenty-first and twenty-second years I wrote four. What a remarkable improvement in the abilities of my colleagues!

[3] 217 N.Y. 382, 111 N.E. 1050, Ann. Cas. 1916c 440, L.R.A. 1916F 606 (1916).

[4] 248 N.Y. 339, 162 N.E. 99, 59 A.L.R. 1253 (1928).

[5] 233 N.Y. 490, 135 N.E. 861 (1922).

[6] 249 N.Y. 458, 164 N.E. 545, 62 A.L.R. 1 (1928).

[7] 224 N.Y. 99, 120 N.E. 198 (1918).

[8] 215 Ark. 827, 223 S.W.2d 604 (1949).

[9] 215 Ark. 928, 224 S.W.2d 9 (1949)

[10] 216 Ark. 179, 224 S.W.2d 797 (1949).

[11] K. LLEWELLYN, THE COMMON LAW TRADITION: DECIDING APPEALS 373–74 (1960).

[12] 217 Ark. 583, 232 S.W.2d 641 (1950).

[13] 217 Ark. 844, 233 S.W.2d 629 (1950).

[14] When the case was tried both *A* and *B* were married couples, but Lefiar scorned the puristic suggestion that the case be styled "*A. et ux. v. B. et ux.*" Moreover, the B's were actually the appellants; so this is the only instance in the Arkansas Reports in which the appellees are listed first in the style of the case. By such radical and progressive departures from precedent did Bob Lefiar demonstrate the boldness of his thinking!

BOB LEFLAR'S IMPACT ON THE JUDICIAL PROCESS

(By Albert Tate, Jr., Associate Justice, Louisiana Supreme Court; Chairman, Appellate Judges' Conference, Section of Judicial Administration, American Bar Association)

A young judge with three years' appellate service, I first met Bob Lefiar when registering to attend one of his judicial seminars at New York University. A country boy from Louisiana meeting a country boy from Arkansas, I made polite conversation about the conflict of laws, a subject I had just learned he taught. Unaware of his distinction in the field, and indeed innocent of any real acquaintance with conflicts thinking since law school days, I remarked how satisfying recently had been the resolution of the lone issue of conflict of laws I had ever been called upon to decide—in a dressed-up version of my remarks, "a pure law issue, no worry about policy or justice, just find the correct rule by legal reasoning and apply it." [1]

This remark must have seemed incredibly naive or incredibly stupid to this distinguished scholar, one of the authors of the revolution just about to result in new approaches in the judicial resolution of conflicts of law. Typically, this decent Arkansas gentleman gave no indication of this, as he politely changed the subject—although, just as typically, this honest and frank scholar could not indicate agreement with a view he did not share, even in an innocuous social conversation. In the seminar that followed, I learned his own beliefs about conflicts of law—not advanced to convert others, but to stimulate their thinking. (In the fact, of course, his writings and the perceptiveness of his views did make converts.[2])

But I do not propose to discuss here the tremendous contributions to legal thinking and scholarship made by his writings in the fields of conflict of laws and torts, let alone those about judicial administration, legal education (both garden variety and continuing), and assorted other topics. (It is appropriate, however, to note that not only in the conflicts area, but also in others his earlier writings often foreshadowed by well more than a decade the changed law of the future.[3]

My purpose, more, is to note his major contribution to the understanding throughout the United States of the nature and function of the judicial process. I wish to dwell particularly upon the contribution he has made in this regard by vitalizing the appellate judiciary through his association with a substantial proportion of the appellate judges of America, well more than half, in seminars and conferences inspired and led by him particularly those at New York University's Institute of Judicial Administration.[4]

The Judicial process, the process by which litigated disputes are adjudicated, is accomplished ultimately through men serving as judges. The judges themselves usually come on the bench fresh from a busy practice, usually concentrated in a few legal areas. They are often, as I was, influenced by the notion that to decide legal issues they just need to "find" *the* law-rule applicable and then apply it—somehow convinced that certainty can always be attained by the same process of synthesizing and explaining past decisions they formerly utilized as advocates (which actually so often yielded the opposing advocates two satisfying, but contrary, law-rules to apply). The judges often come to the bench believing that, outside of the area of their expertise, in which they recognize growth has occurred and is occurring, the "tough" law [5] they learned in law schools retains its eternal verity and remains unaffected by subsequent changes in society and legal thinking.

With such preconceptions, until recently judges came to the bench without any particular training in the judicial function, and they never received any thereafter. They were, so to speak, put at once in the batter's box and started to swing at the issues thrown to them to decide, kept busy swinging year after year, and often never had the occasion or opportunity to think about the fundamental purpose of the game. In the detached world of appellate judges, they also tended to become insulated from contact with the people and the bars they served, and to have their thinking constricted to the limits of the isolated and in-bred small courts upon which they served.

In contrast, today, continuing education for the judiciary is recognized as a necessary feature of a judicial system. Concomitant with the rapid changes in our society of the last decade or two, there have been rapid new developments in legal theory and applications. New statutes and new approaches have been conceived for more effective regulation of our ever more complex economic and social institutions and malaises. Judicial techniques and judicial precedents, sufficient for other times, have been found wanting for today's needs. Just as county commissioners, pediatricians and teachers find institutionalized techniques essential to their

[1] Some years later the writer had occasion to discuss this decision and his misanalysis in it. Tate, Book Review, 39 TUL. L. REV. 163, 171–77 (1964).

[2] *See, e.g.*, Clark v. Clark, 107 N.H. 351, 222 A.2d 205 (1966); Woodward v. Stewart, — R.I. —, 243 A.2d 917 (1968); Heath v. Zellmer, 35 Wis. 2d 578, 151 N.W.2d 664 (1967).

[3] For example, *compare* Lefiar, *The Social Utility of the Criminal Law of Defamation*, 34 TEX. L. REV. 984 (1956), with Garrison v. Louisiana, 379 U.S. 64 (1964); and *compare* Lefiar, *Negligence in Name Only*, 27 N.Y.U. L. REV. 564 (1952) *with* developments reported in Keeton, *Judicial Law Reform—a Perspective on the Performance of Appellate Courts*, 44 TEX. L. REV. 1254 (1966) and in Prosser, *The Fall of the Citadel (Strict Liability to the Consumer)*, 50 MINN. L. REV. 791 (1966).

[4] The honoree has described these in several articles, including Lefiar, *Seminars for Appellate Judges*, 52 JUDICATURE 12 (1968) and Lefiar, *Continuing Education for Appellate Judges*, 15 BUFFALO L. REV. 370 (1966).

[5] Lefiar, *Taught Law is Tough Law*, 8 WAYNE L. REV. 465 (1962).

becoming acquainted with recent developments in the fields of their own responsibilities, so judges find that judicial conferences, seminars and workshops are, more and more, necessary for a judicial system which desires to have its judges keep in touch with current developments in judicial administration and substantive law—not to speak of one which desires to enhance its efficiency and the responsible performance of its duties by creative evaluation and improvement of its functioning.

In the vanguard of this movement to help the judiciary maintain its validity and its ability to serve the needs of modern society has been Bob Lefiar. Although the initial impulse came from the ABA's Section of Judicial Administration, Bob Lefiar can be regarded as the guiding Moses and spiritual father of the New York University Appellate Judges Seminars,[6] which themselves inspired so many other developments in continuing judicial education. His insights, developed from his own broad experience (including judicial service, as well as elective candidacy [7]) his broad and authoritative legal knowledge; his concepts of the areas where discussion might be most fruitful; his essential practicability and common sense; his perception that appellate judges are *people* administering, not solely abstract rules of law, but also justice for *people;* his sympathetic understanding of and basic liking for most human beings, including, relevantly, the judges at his seminars: for these and similar reasons, most appellate judges have felt their two weeks or so at seminar with Bob Lefiar to be one of the most stimulating periods of their judicial careers, and one of the most pleasant.

For these reasons, also, through the appellate judges' seminars Bob Lefiar has made a direct and significant contribution during the past decade to the philosophy of judicial decision. He has done this not by indoctrination but instead by encouraging our judges to examine openly the nature and function of the judicial process, and to draw their own conclusions.

In so many instances, the frank exchange of views between judges has helped them and the other participants to comprehend and refine a theory of judicial decision which may justify practices and approaches barely (and sometimes, previously, shamefully) acknowledged; the determinative use of policy as the basis for decision, for instance, rather than the word-logic used to justify it. (Bob, who sits not as an exponent, but rather as the wise Socrates helping the discussion with perceptive questions here and there, has rarely expressed himself positively on the issue. However, I believe his view might be that we judges should not only ourselves realize the policy basis of a decision we make, but we should also articulate it, as part of our opinion's resolution of the issue by conventional legal techniques.[8] The articulated real reason may serve better as a rational basis for future growth of the law than a legalistic non-reason.)

In almost all instances, the thoughtful reevaluation by us judges of the way we do our work, as a result of attending a Lefiar seminar, has led us to a much more profound understanding of our function in the judicial process—a better understanding which must inevitably lead us to make more significant contributions to the administration of justice in the appellate courts throughout the country. Without a period set aside for reflection upon the fundamentals of our craft, we judges might never have the opportunity or incentive to undertake such creative re-evaluation.

I am not here speaking of the seminars' value to judicial efficiency by acquainting our judges with the latest developments in judicial administration, or with the new techniques developed to meet the surfacing problems of appellate congestion. Nor am I speaking of the practical value of familiarizing ourselves with national research facilities, nor of finding out by mutual exploration the best ways, for instance, to use law clerks or to write opinions (or how to *not* write opinions in cases which can be decided by memoranda per curia). I am speaking more of a judge's coming to realize that his duty is not so much to apply rules mechanically (although this may be appropriate in clear-cut situations), as it is to effectuate the social purpose of a law-rule. This realization may constitute a fundamental breakthrough —a difference in approach and function similar to that between a carpenter mechanically following specifications and an architect with the responsibility for adapting materials and designs to the functional needs of the situation.

The idea that even appellate judges can be educated, and the functioning of their courts thereby improved, is now commonly accepted. When the concept of appellate seminars originated, however, its success was by no means assured. Several factors contra-indicated acceptance. Most appellate judges are pretty busy with court work, or think they are. Many do not feel they need much improvement (and of course they usually are able and dedicated men). Human beings are creatures of habit, and until recently courts had a way of keeping on doing things the same way as always, despite the availability of better ways or the desirability sometimes of accommodating methodology to changed circumstances.[9] Chief Justice Vanderbilt is supposed to have had reservations because the major items of interest at most judicial conferences he had attended had been solely pensions and pay raises.

In my opinion, the smash-hit status attained by the appellate seminars could not have been attained without Bob Lefiar's leadership and imagination. The selection of the discussion topics is helped by advance polling of the judges to attend, but the final choice usually closely parallels the curriculum originated by him. The topics are a fine blend of the practical day-to-day concerns, of substantive law developments, and of sophisticated examination of abstract legal theory and jurisprudential philosophy. The advance reading helps return the judge to the library and to an overview of the judicial function for which he, in the busy practice of deciding cases, might not otherwise find time. Above all, the ten days or two weeks of discussion with fellow judges, in the peaceful atmosphere of a university and away from the pressing demands of the docket, offer an exhilarating opportunity to think and talk and read and dream about first things, and to come away refreshed with a clearer understanding of judicial responsibilities and an eagerness to perform them well.

But, without Bob Lefiar the appellate judges seminars could not have succeeded so well as they have. The format is his conception. His personal contributions to the discussions are an important reason for the easy flow of view, for the willingness of us participating judges to lay aside preconceptions and composities and roll up our sleeves and get into the fray, to listen with tolerance to positions we may abhor, to become interested in concepts and approaches previously unknown, and to awaken to implications and nuances of substantive law or legal philosophy we previously had little time to consider. Bob Lefiar does not preach so much as raise questions; but the questions are good ones, and often raise fundamental issues. His deadpan Arkansas humor sometimes underscores a point. What I am trying to say, I guess, is that the effectiveness of the discussions has owed a lot to the quality of Bob's remarkable personality, unassuming yet forceful. The participants like him, and they respect his mind and learning and practical experience. He serves as the essential catalyst by which is released the contributions of the participating judges, each enriching the experience for all.

Deepened by the experience, the participants (now more than four hundred of the seven hundred-plus appellate judges of America) return to their own courts, and their courts benefit by the insights gained at the seminars. Often, the judges themselves, as did we in Louisiana, see the value of such intensive discussion of fundamentals at a time set aside for the purpose, and therefore on their return establish periodic seminars for the judges of their own state. Such conferences, of course, lack the valuable pollination through participation by judges from other jurisdictions; but they do afford intra-state exchange of views and procedures, itself of value in a multi-court jurisdiction.

Further, without derogating the importance and the volume of the work of the trial bench, in the final analysis the judges on the appellate courts determine the approaches and the directions and the outer bounds of the process by which judicial adjudications are made. In perceiving that the functioning of the judicial process of America could be substantially improved through seminars for the appellate judiciary, Bob Lefiar conceived an escalating notion of continuing inspiration and rededication.

Each year about forty judges (twenty from high and federal circuit courts, twenty from state intermediate courts) attend the seminars, a fair cross-section from America's eighty-plus appellate benches. Each year they return to enrich their home courts with insights and experiences gained. Year by year the number of judges so enriched has increased—and, from my own personal experience, I think I can say, once our thinking and imagination has been activated by the seminar experience, we tend to continue wanting to learn and grow in the years afterwards. The inter-judge and inter-court stimulation increase year by year, so that throughout the United States appellate courts are no longer the static, isolated bodies they once were. The appellate judges themselves, with revitalized interest in judicial administration and the judicial process, tend to share and communicate this interest throughout the judicial system they serve.

Other major social and legal factors have also contributed. Nevertheless, through his appellate judges' seminars and his personal influence and writings, Bob Lefiar has all by himself made a major contribution to the quest for improvement in, and the better understanding of, the judicial process so notable over the past decade. He himself is a substantial cause of the current judicial rejection of the concept of law as a set of self-contained mechanical rules of neutral social value. The influence of his thinking—even more, of his encouraging *others* to think—has been and is a major factor in the present willingness of American appellate

[6] Burger, *School for Judges*, 33 F.R.D. 139 (1963).

[7] This modest man refers briefly to his judicial service and candidacy in Lefiar, *The Quality of Judges*, 35 IND. L.J. 289 (1960).

[8] Lefiar, *Some Observations Concerning Judicial Opinions*, 61 COLUM. L. REV. 810, 816–17 (1961).

[9] For instance, long after the typewriter (and even after Xerox), at least one high court does not circulate in advance of conference proposed opinions, nor reports on recommendations to grant or deny a writ of review. Just as did their predecessors of one hundred fifty years ago, the justices for the first time at conference learn, from an oral reading, of the action or opinion they are supposed to sign at the conclusion of the reading.

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courts to accept their responsibility for rational and creative development and application of law-rules.

ROBERT A. LEFLAR: A TRIBUTE TO A PROFESSIONAL

(By Robert R. Wright, Dean of the College of Law, Director of the Law Center, and Professor of Law, the University of Oklahoma. Professor of Law, University of Arkansas (1963–70))

Then said a teacher, Speak to us of Teaching.
And he said:

No man can reveal to you aught but that which already lies half asleep in the dawning of your knowledge.

• • •

If he is indeed wise he does not bid you enter the house of his wisdom, but rather leads you to the threshold of your own mind.

—Kahlil Gibran, The Prophet.

In a sense it seems somewhat out of place and singularly inappropriate to be writing an article in an issue of the *Law Review* devoted to Bob Leflar. It is not because he does not deserve it; it is because I do not think he is quite ready for it. It seems a little like turning a thoroughbred out to pasture after he had just won the Triple Crown. My view of Bob Leflar (distinguished professor emeritus though he may technically be) is always of a man beginning things and doing things and not of a man about to retire from the field of battle. Bob Leflar, nearing 70, has more irons in the fire and more things going than 95% of the law professors in the United States. From empirical observation, I would say that his view of "retirement" is when a man goes home around five o'clock in the afternoon, instead of putting in what he would personally regard as a decent day's work.

But the rules of the University of Arkansas Board of Trustees force them to do their duty in this case in the same manner as in others and to turn Man of War out to pasture in his prime as if he were some garden variety form of animal (for whom the rules were made) instead of the war horse that he is. Arkansas must do his duty—and so must Arkansas' man at Oklahoma. Therefore, I am quite pleased that a distinguished professorship at the University of Oklahoma College of Law will be held during the spring semester of 1971–72 by Robert A. Leflar.

You have to realize in the beginning that I find it difficult to approach the subject of Bob Leflar objectively. It is a bit different than dealing with the Rule in Shelley's Case [1] or the Arkansas stallion, jack and seed horse statutes.[2] The burden of the subject matter is overwhelming. Shelley is long since dead and doesn't give a damn about his case anymore, and the stallion, jack and seed horse statutes are largely notable for their entertainment value—somewhat on the same order as the question of whether Arkansas' Rana Catesbeianas can go out to California and be permitted to outjump interior frogs.[3] Leflar is a subject of substance, and unlike Coke (of whom I also like to write), he is very much around to tell me where I go astray when I write about him. Moreover, when you get around to looking at all the things Leflar has *written*,[4] and all the law reviews in which he has published,[5] you begin to accumulate something approaching the *Harvard Classics*. Deans have more important things to do than read all that stuff—like making sure that the Physical Plant (known locally as the sons of Dracula) has not charged more than ninety-six dollars for three men to replace a lock, or that a requisition for yellow pads has been approved by several vice-presidents, two or three accountants and a bursar (whom I used to think only existed on British vessels). Of course, it is just as Leflar once said in a faculty meeting in which some serious, inane discussion was taken place as to whether a certain man should be brought in as an Assistant Professor or an Associate Professor, and I had remarked that somewhere in between Dean and Janitor would be appropriate. Leflar pointed out that I had the "range" wrong with respect to Law School status. "The only thing lower than a Janitor," said Leflar, "is a Dean." In many respects he was correct. A Dean is to some extent a Janitor with academic degrees and with some access to power and to "aide honors" from those who do not know the truth. Leflar, a great Dean, knew the truth.

That is where we begin, I suppose. The students, now lawyers, said it best in the late 1950's with one of their ribald skits, when they referred to Bob Leflar (to the tune of "Holy, Holy, Holy") as:

Robert Allen Leflar
Dean of Arkansas's Law . . .

He has been that, and more. And we know it, and it is time that we acknowledged it. He has been the overriding figure in Arkansas law—the intellectual symbol of the quality of our law, the teacher of those who make the law and those who try it in the crucible of the courtroom—for fully two generations. Dean Waterman began the law school, and he was a mighty figure; but not even Julian S. Waterman exercised the influence over the legal profession in Arkansas that belongs to Bob. We are his products, and when we do the good things, the wise things, the work that wins cases—many times it is because of him and his influence. He was and is the master craftsman; and he has made us better than we were before, better than we were likely to have been without him. He has led us, as the prophet said, to the threshold of our understanding. To me he was the good teacher, the great scholar, the maker of lawyers, the architect of law. He still is, and thus it is as appropriate that we honor him now as it would have been some years before or some years to come.

I. LEFLAR, THE LEGAL EDUCATOR

It was altogether fitting that in honor of its centennial year, the University of Arkansas should ask Bob Leflar to write a new history of the University. He was the first man to hold the chair of Distinguished Professor at Arkansas, and certainly in its history he must stand in the front rank of those professors who have distinguished themselves at Fayetteville. His eminence as a legal educator extends far beyond the confines of the Ozarks to the point that within the law he has long since become a national figure. So many times, professors and deans from prominent law schools and leading attorneys and judges from throughout the nation, upon learning my background, have asked me about Bob and paid him high compliments. It is not just that they knew of him; they knew him personally or had worked with him in the past or were currently working with him, and invariably they would laud the quality of his work, his keen insight, his contribution to a particular project or to the profession generally. His scholarly contributions in the law of conflicts have marked him as one of the leading thinkers and authorities in that field.[6] In his work as Professor of Law and Director of the Appellate Judges program [7] at New York University, he has won renown throughout the legal profession and particularly among the judiciary for a program that has likely influenced the quality and style of the decision-making process in federal and state appellate tribunals throughout the United States. Thus, Leflar, the teacher/scholar, has earned a rare place even among distinguished law teachers. (The emphasis there should be on "*earned*".) [8]

But let us dwell for a time at least on Leflar's views on legal education generally, his place in it, and upon his contribution to legal education in Arkansas in particular.

It is a matter of history that the University of Arkansas Law School, since its institution of classes in Fayetteville in September, 1924, has only had four deans—Julian S. Waterman, Robert A. Leflar, Joe E. Covington, and Ralph C. Barnhart.[9] The small number of its deans, considering the fact that the school is now nearing the half-century mark, is a tribute to the leadership of these men and the conditions of development and stability which they created.[10] Whether as a teacher or a dean, Leflar has been an integral part of this nearly fifty years of growth in legal education in Arkansas. He joined the faculty in 1927, only three years after the school's inception and in the same year that it was approved for membership in the Association of American Law Schools (having been fully accredited by the American Bar Association almost two years earlier, in January, 1926).[11] He taught at Arkansas continuously during the period since then, except for one year during which he completed the requirements for his S.J.D. at Harvard, a year as Visiting Professor at the University of Kansas, and a year as Visiting Professor at the University of Missouri.[12] In more recent times, he has served on both the faculties of New York University and Arkansas, and during one year commuted back and forth by air, teaching in both locations. NYU would have liked to have had his services on a full-time basis, as would have some other prominent American law schools. The fact that he remained inextricably attached to Arkansas is a tribute to his dedication to the institution. As the years passed, he came more and more to feel a responsibility for it, a sort of professional stewardship which tied his future to the future of the Bar of Arkansas. "A man would be a fool to say that he would never leave," he would say. But whatever his reasons, he never did, even when opportunities beckoned. So, nearly a half-century of Arkansas lawyers bear his imprimatur, and since over half of the Arkansas Bar is composed of the University of Arkansas law graduates, it is literally true that over half of the Arkansas Bar is Leflar-educated. It is a much stronger Bar because of it.

A professor who devotes most or all of his teaching career to a single institution makes a singular contribution to that school, particularly if he is an able man whose impact the students will carry with them. And if the particular institution happens to be a state university, such a teacher will cast the shadow of his influence across the entire bench and bar of the state. His views will influence its legal development; his attitudes will touch and affect the growth of the law and the quality of the practice within the jurisdiction; and his traits will become those of many of his intellectual progeny. If he is a man of quality, he will usually be viewed as too "liberal" even by those whose professional education has taught them that law provides the vehicle for social and economic change and thus produces an orderly society. Without question, Leflar has universally been viewed in Arkansas as a "liberal," and properly so, although in the best and traditional sense of the word and not in the current pattern of misuse which occasionally elevates a down-and-out barnburning radical into the ranks of "liberalism." Moreover, when a lawyer is a teaching professional rather than a practicing professional, he will usually suffer from allegations that he is "impractical" or a "visionary." Leflar has no doubt been the subject of such assertions from time to time in Arkansas, although he was "practical" enough to sit on the state supreme court and to preside over the creation of a very down-to-earth, proposed new constitution for Arkansas and equally practical enough to steer clear of issues which would surely doom it in advance. Thus, in the words of Dean Page Keeton of the University of Texas Law School, if a legal educator "works hard and lives courageously, it can then be said that he lived for a time, and it made a difference." [13]

No great educator, of the law or otherwise, will amount to very much unless he is both courageous and a first-rate "visionary." To the layman, and even to those lawyers who are inclined to employ the word negatively, this may mean that the individual in question is up on cloud nine except when he comes down once a month to pay the rent and the utility bills. Unfortunately, some people in the teaching profession manage to promote the distortion by assuming that very image. I have heard some of them (who usually teach liberal arts courses) from time to time speak of the "outside world" or "outside community" (i.e., the non-campus or non-academic community—the "town" rather than the "gown"). Unless these people work in the pure physical sciences, where knowledge of human nature may be of lesser consequence, their "vision" is about as valuable as that of Mister Magoo on a Saturday night drunk. The true man of vision in the best sense of the word, is the man who does in fact know human nature and the weaknesses and proclivities of men, who knows history and the interrelationship of time and men and events, and who finally and most importantly can apply the knowledge to see and mold the direction of society and to determine how and where it must go to achieve its better goals. It was men of this stripe whom Judge Learned Hand had in mind when he ascribed to law schools the function of "contriving new methods, of discovering new ideas, of surveying new territory . . ." [14] By these standards, Bob Leflar is indeed guilty of being the "liberal visionary" of which some might accuse him. More than once, he foresaw time and events and steered us toward the calm waters in a practical and yet courageous manner. In the law he pursued new ideas and new methods in the manner Judge Hand suggested. Primarily, Leflar's contribution in this latter area lay in the field of conflict of laws, in his work as a Commissioner on Uniform State Laws, and in his direct participation in the law-making process in Arkansas as a member of the state supreme court. Even so, within the law school context, his influence served to keep the University law school up-to-date in its practices and approach to law teaching In his history of the school up to 1962, he discusses the "continuous re-evaluation of courses and curriculum." [15]

As for "liberals", it might be said that there are those who only preach the liberal virtues and those who practice them. Certainly Thomas Jefferson, America's foremost liberal, was not just a preacher but a practitioner, whose words were given substance in the Declaration of Independence, the Bill of Rights and the Virginia Statute of Religious Liberty, among other documents. Leflar, the practitioner, was Dean of the Law School at the time when it became predictable that the United States Supreme Court would require that Negroes be afforded equal access to law schools of equal quality in states of their residence. But the court had not yet said this—as they later would in such cases as *Sweatt v. Painter*,[16] *McLaurin v. Board of Regents*,[17] and the *Sipuel* [18] decisions—when the determination was made at Arkansas that qualified Negro applicants would be admitted. The result was that before any Court decision required it, Arkansas admitted the first Negro since Reconstruction to a "white" institution of higher learning in the South.[19] The fact that later cases would have made it mandatory does not eliminate the fact that this was accomplished voluntarily at the University of Arkansas Law School; and the fact that the Board of Trustees and the Governor acquiesced in this action [20] is a tribute not only to Leflar's vision but also to the political acumen with which he approached the situation. It would be many years before Robert Kennedy and Ross Barnett would lock horns over James Meredith at Ole Miss and before George Wallace would stand in the University of Alabama's "schoolhouse door." That these things did not occur at the University of Arkansas, that the Fourteenth Amendment came peacefully and without rancor to the Ozarks, must be attributed in no small measure to Bob Leflar.

And so, one canont help but think of Bob Leflar when he reads Dean Keeton's words:

[T]he importance of the rule of law will not change; and the legal educator will take his place, as it seems to me he already has, as free society's leading spokesman for those fundamental notions that underlie the expressions, "the rule of law" and "a free society." [21]

As Dean of the Law School, however, Leflar made a much more tangible and non-philosophical contribution in presiding over the construction of Waterman Hall,[22] which provided the school with more modern and spacious facilities than it had ever known, even though it has now outgrown those facilities and faces a serious need for additional library, office and classroom space on the Fayetteville campus. The Law School had begun in the basement of Old Main and had later acquired its own small building, which was adequate for its needs at the time but which by the late 1940's had become demonstrably inadequate. The result was described in these words:

In the summer of 1951 Dean Leflar, who had just completed a short appointive term on the Arkansas Supreme Court, was authorized by the Board of Trustees to seek contributions from lawyers in the state toward construction of a new Law School building. Approximately $75,000 was pledged, and the Board provided the balance of the $365,000 cost from University funds. Planning of the new structure had been under way for years. The result was a building, Waterman Hall, uniquely suited for law school purposes. The building has since been studied and copied by a number of other law schools in their new construction.[23]

In building Waterman Hall, Leflar and the law faculty acquired as much space and quality as they could for their money. They envisioned the school growing to the point that a maximum of around 250 students would be in attendance—substantially more than had ever previously been enrolled. Waterman Hall was built to accommodate 250 comfortably and even to take as many as 300, if necessary, but no one in 1951 could have envisioned the demands of twenty years in the future. By the latter half of the 1960's, enrollment had begun to grow by leaps and bounds and the requirement of an undergraduate degree (along with the taking of the Law School Admission Test) did little to slow it. Today, the School of Law has grown out of its "small school" status and into the medium-sized category. Over 1,500 people [24] have graduated from the Law School—to form the majority of the Arkansas Bar and to become civic leaders, businessmen, public officials, judges, law professors and deans.[25]

What they have achieved, and what quality and reputation the school has acquired in so short a span, relates in no small measure to what Bob Leflar gave them and to what he gave the school. His legacy is his energy, his loyalty and his devotion, just as much as it is his teaching and his reputation as a scholar.

And what should a law school be? When I was Director of Continuing Legal Education on the University law faculty, I thought it would be well to have Leflar express his views on the subject as a part of the 1965 fall legal institute. His discussion of the subject, which was reproduced in the *Law Review*,[26] provided certain salient views on what a good law school should be. Among them were these:

(1) A good law school should be a part of a university "because no school that is not part of a university, partaking of its university's cultural and academic atmosphere, has ever amounted to much."

(2) Obviously, a good law school should be approved by the ABA's Section of Legal Education and by the *AALS*, but there is "no magic" in such approval, because these are only minimal standards—only starting points for a good law school.

(3) "The first test of a law school's quality is the teaching that is done in it," but nothing is harder to measure. Good teaching will give a student the understanding of fundamental rules, principles, policies and the organization of the legal system, will cause him to master the technique of in-depth analysis, will cause him to appreciate the law's relationship to society, and will give him an interest in the law sufficient to "induce him to spend the rest of his life trying to learn something about it."

(4) It would be ideal if the first and second years could take care of the "subject matter courses" and the third year could be spent in "problems and drafting courses, seminars that check into narrow areas of the law in thorough detail, interdisciplinary courses that would tie law in with" human concerns and jurisprudential courses that would enable the student to think deeply on the broader picture of the law.

(5) "For the men good enough to make the staff, the law review gives the best education that law schools afford."

(6) The main value of a bar examination is that "it compels the student to engage in a comprehensive review of all that he has studied so far, at the close of his period of formal education."

(7) "After the faculty, the law library is the most important part of any law school" which means "the right boks and plenty of them, which can be expensive" and which assumes the extensive use of the library by both students and faculty alike.

(8) While the building is less important than a good faculty, a good usable library, and an atmosphere of learning, an adequate building is essential in order to accommodate the major functions and needs of the institution.

(9) Law school administrators must have reasonable autonomy within the university structure to do things that they can do better than the central administration and to fulfill the school's ties to the legal profession.

(10) A good faculty "with as low a student-faculty ratio as is reasonably possible, is the most important feature of any law school." Classes which are too large detract from the teaching process. "A good faculty is hard to get, and harder to keep."

(11) Good law teachers are made, not born. They have to work at it, and they are also expected to demonstrate their scholarly abilities through periodic articles and research. But a law teacher's main job is teaching, and if he does not take it seriously, he ought not to be in teaching. He must also be something of a long-term planner and train lawyers for tomorrow, not today or yesterday.

(12) Admission standards should exclude students who clearly cannot make the grade in law school. This is hard to do, because personal drive is hard to measure, but it is cruel to admit people who are likely to flunk out after a year and thus take a year out of their lives.

(13) The mounting costs of legal education to the student should not make law schools a haven for the well-to-do. Scholarship and loan funds should be made available to those who need them.

(14) Placement programs, student orga-

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nisations, continuing legal education, a law alumni organization, and a good moot court or skills program are important ancillary activities of law schools.

(15) Faculty participation in efforts to improve the law is quite important, as is faculty service to the university community.[37]

He concluded: "No law school ever became great by merely continuing to do what it has done in the past. That is the way to lose greatness. Only persistent work coupled with creative imagination can open the future's doors. When the doors are opened, wisdom and common sense must choose the paths beyond." [38]

And so, "Lefiar on Legal Education," without specifically saying so, leaves us with a challenge to achieve the quality which is the mark of a good law school. Quality does not come cheap. To achieve the objectives which he set forth as the definitive characteristics of a first-rate operation is to make a financial and professional commitment to the University of Arkansas Law School considerably beyond what has yet been the case. For although we could point out examples of how Arkansas meets each of the criteria which he set forth, it would be generally conceded that the fulfillment of those characteristics is uneven and imperfect at best. Through financial inadequacy, Arkansas has not yet achieved what the legal profession or the faculty would wish for it, or what Bob Lefiar has spelled out for it. That it has come as close as it has, can largely be attributed to the dedication and efforts of a relatively few men (and Lefiar in particular). There are many gaps to be filled, and one of the greatest is that which results from the retirement of Bob Lefiar.

II. LEFLAR, THE SCHOLAR

It would be not only presumptuous, but rather difficult, for someone who does not purport to be an authority on a subject to evaluate the work of someone who is. A truly worthwhile evaluation of Lefiar's contribution to his particular specialty, the law of conflicts, should come from someone like Professors Albert Ehrenzweig, David Cavers, Elliott Cheatham, Russell Weintraub, Eugene Scoles, Roger Cramton, or one of several others who might be named.[39] These are "conflicts" men, who are sometimes thought of as a rather esoteric breed in the law teaching world. I recall the remark of one law professor—not a "conflicts" man, naturally—that he thought the whole field could be taken care of by a good statute. He was being facetious, and I feel confident that he was in error anyway because the people who would be picked to draft the statute would be leaders in the field, who would never agree, and each of whom would espouse his own theory of what was "true" and "good." It would be like a gathering of theologians talking about church union, in which each would advance his own view of the Deity. As an outsider looking in (which is obviously the only way I can semi-intelligently discuss the field of conflict of laws), it would appear that conflicts theories have been in almost a continuing state of flux, the movements of which rather resemble the perambulations of an amoeba. The original *Restatement of Conflict of Laws* must surely be least or close to it on the value scale of Restatements. Not only does it largely fail to express what the law is; it fails just as much to express what the law should be (or at least what conflicts scholars *think* it should be, since their thoughts run in unison only on certain basics). The ability to bring order out of chaos, or at least out of a well-spring of different views, has seemed to be the task confronting conflicts scholars. It is my belief as an onlooker that Lefiar has done a better job of it than most anyone else.

Dean Roscoe Pound has noted the substantial effect of doctrinal writing on American law.[40] This effect may be seen in the conflicts field in the writing of Justice Joseph Story in the nineteenth century, whose book dominated during that period.[41] Modern thinking, however, probably begins with the split between Professor Joseph H. Beale of Harvard and Professor Ernest G. Lorenzen of Yale.[42] Beale took a rather mechanical approach to the subject, and his thinking dominated the *Restatement*, published in 1934, and also generally formed the basis for Judge Herbert Goodrich's text which appeared in 1927.[43] Lorenzen and his followers attacked this approach and the Lorenzen school of thought probably influenced the text by Professor George Stumberg [44] of Texas, which was less rigid in its analysis. The great Walter Wheeler Cook also opposed the Beale approach.[45] The *Restatement* (*Second*),[46] though seeking more flexibility than the original version, has nonetheless been criticized on a rather continuing basis by Professor Ehrenzweig.[47] The late Professor Brainerd Currie of Duke also set forth views the subject of which have been widely and favorably discussed.[48]

The major problem in the conflicts field, stated perhaps too simply, is what law applies when, under what conditions, in what situations, to what extent, and why.[49] (Parenthetically, it might be noted that to a substantial degree, conflicts situations actually stem from our peculiarly American system of multiple sovereignty,[49] and that every conflicts scholar, who wishes to preserve his domain, should be a dyed-in-the-wool states' righter. This oversimplification ignores international disputes, of course.) Conflicts problems, of course, are quite serious business, since the outcome of the lawsuit may hinge upon the law of which jurisdiction is applied. Will an Arkansas court apply the substantive law of Arkansas to Mr. Ecks of Oklahoma City, who has a problem with Mr. Wye of Little Rock, when they are both in court in Washington County, Arkansas? The answer is not "yes", but "maybe" (or "probably"). You have to know more about it in order to say. And what if Mr. Ecks of Oklahoma City and Mr. Wye of Little Rock are in court in Caddo Parish, Louisiana? Or what if they engaged in a transaction which occurred or a tort situation which arose in Caddo Parish, Louisiana, and they are both in court (though only God and the conflicts scholars know why) in Tarrant County, Texas? Well, of course, the more complicated this sort of multi-state milieu gets, the more the conflicts scholars rub their hands in glee. These are problems to titilate a first-rate jurisprudential juggler, not some pedestrian property or contracts man.

When you get into choice of law problems, you get into all kinds and conditions of theories. Suffice it to say that I think all or most conflicts men would agree today that it just cannot be simplified and rigidified to the point that Beale might have liked. As a one-time equity teacher (before equity was combined with damages and restitution to form the course in remedies), I would have to say that much of the sense or spirit of equity seems to have permeated the thinking of conflicts scholars. Because what they are seeking is a generalized formula with enough flexibility in it that by a judicious and equitable application of it, a court can feel its way toward what most nearly approximates justice and fairness in a given situation, rather than saying rather arbitrarily that a particular law automatically will govern.

Now to get back to Bob Lefiar and his work, it seems to me that what Bob has achieved (other than write the text which most lucidly and carefully expresses the modern American law of conflicts) [a] is to synthesize some of the best thinking into the sort of generalized formula of which I speak. I will not deal here with the "significant relationships" [a] test or "center of gravity" [a] rule, or with the principles which different courts have employed. Suffice it to say that in more recent times, conflicts scholars have concerned themselves with the identification of factors or considerations which control or bear upon the outcome in situations involving a choice of law. Lefiar undertook to analyze the cases and the considerations with the idea of "identifying, summarizing and listing the choice-influencing considerations." [a] He arrived at a list of five: (1) Predictability of results; (2) Maintenance of interstate and international order; (3) Simplification of the judicial task; (4) Advancement of the forum's governmental interests; and (5) Application of the better rule of law.[50]

It is seldorf the good fortune of any of us to see our pronouncements become living law as enunciated by the courts. But in the case of the five choice of law considerations which Lefiar summarized, this is increasingly becoming true. In a New Hampshire case, *Clark v. Clark*,[51] speaking through Chief Justice Kenison, the court summed up the five factors about as they have been expressed and applied them to the facts at hand. The Supreme Court of Wisconsin, a state tribunal which has often stood among the forefront of the more enlightened jurisdictions in the United States, followed Lefiar's choice-influencing considerations in *Heath v. Zellmer*,[52] and then again applied the considerations in several later cases.[53] Rhode Island (and to some extent other states) have followed suit,[54] and legal encyclopedias and law review articles have praised the Lefiar approach.[55]

Lefiar is the first to admit that these "choice-influencing considerations are not eternal" and that the result will not be the same in similar cases, "because different courts will weigh the considerations on different scales." [56] Then, does not this flexibility in effect create chaos in choice of law problems? Not so, says Lefiar, because "all must agree that there is virtue in flexibility for some areas of choice of law." [a] Therefore, "the search for truly relevant considerations, and frank recognition of their controlling effect, is particularly needed." [a] Thus:

"The variety is already there, presumably as it should be, but what is lacking is a reasonably clear explanation of what it is that justifies now one choice between jurisdictions and next a different one. Intelligent analysis in terms of the choice-influencing considerations should produce that explanation. Even in these areas it seems that no more flexibility than before is in prospect. The difference should be not in greater variety of results or more judicial freedom to reach various results, but in more realistic reasoning, more openly stated, behind the results." [a]

What he has done is to define the criteria, to identify the considerations, to leave the flexibility which may produce justice—or which may equally lay bare ignorance or parochial prejudices. The burden of Lefiar's "choice-influencing considerations" thereby falls upon the courts, as it ultimately must, and they will adjudicate wisely or suffer the adverse judgment of history and time. For law is not chemistry, and to the extent that Beale sought to apply the litmus paper test to the law of conflict of laws, he demonstrated a remarkably poor look down the jurisprudential road. As Professor Willard Hurst of Wisconsin has observed:

The most creative, driving and powerful pressures upon our law emerged from the social setting. Social environment has two aspects. First, it is what men think: how they size up the universe and their place in it; what things they value, and how much; what they believe to be the relations between

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cause and effect, and the way these ideas affect their notions of how to go about getting the things that they value. Second, it is what men do: their habits, their institutions. Ideas and institutions obviously are inseparable aspects of men's history. We do not have to try to decide which, if either, is the more powerful.[58]

For we exist in the midst of constant change, and law is the tool by which society responds. We reach out to grab our moment in time, to seize it for better or worse, for good or for ill. And so it is that Lefiar's "choice-influencing considerations" say: These are the criteria, the guidelines, the channelized principles from which you draw to find justice. Now, find it. And the good judges will, and the poor judges never could anyway.

III. LEFLAR, THE LAWMAKER

When I was a child, growing up in South Arkansas in the depression, Lefiar was already making laws.[59] When I was an undergraduate college student, Lefiar was then on the state supreme court determining disputes on appeal.[57] He has always performed well at that sort of thing, of course. But I will not dwell on those activities. Nor will I devote space to an enumeration of his service to the National Conference of Commissioners on Uniform State Laws, of which he is a lifetime Commissioner from Arkansas, and to which he has contributed far beyond the ability of the average member of this somewhat lawyer-intellectual elite which has produced so many laws of national significance.

For despite its unfortunate failure at the polls, perhaps the crowning achievement in the life of Bob Lefiar, the lawmaker, was the Arkansas Constitution of 1970—which may very well yet find acceptance in many of its provisions upon submission of those individually or upon resubmission of the entire document (perhaps in some modified form). I will not go into detail discussing this constitution since it has already received recent widespread attention in the State press and since an issue of the *Law Review* [60] was devoted to a symposium on the subject. Suffice it to say that its defeat seems to be attributable in large measure to an unfortunate combination of misunderstanding, ignorance and apathy—spiced with a liberal sprinkling of resistance to change, fear of increased taxes and prejudices of one variety or another.[60] Like most Arkansans, I did not agree with all of its provisions, and there were some (which I see no need to go into) to which I felt rather strongly opposed. Nonetheless, the benefits of the Constitution of 1970 far outweighed its defects, and the State is much the poorer for not having approved it. The result of its rejection is that there are hands tied by the past which should be free to work toward the future. The economic development of the State and its local governing units remains seriously hampered by the antiquity and limitations of the old Charter. This perhaps is the legacy of the defeat which will in the long run most hamper the State in its efforts to move forward, because if there is anything that people of all political hues seem to agree upon in Arkansas, it is that the State needs to move forward economically. It cannot do so when its State and local administrative structure is an antiquated drain upon the resources of the State, when its cities are constricted in their growth and development, when basic tax reform is needed, and when otherwise legitimate revenue-producing sources remain outside of even the ability of the people to vote them in by popular election or through their representatives in the legislature. Similarly, judicial and governmental reforms, of a basic nature, are needed if efficiency is to prevail over inertia.

Lefiar, and a few before the constitutional movement had really gotten under way,[60] had recognized that Arkansas could not go on with a constitution which was a century old—a document which was the product of a rural, populist socio-economic structure, which was a reaction to reconstruction, was overly detailed and which no longer had any relevance to a growing, changing society. This does not mean that certain basic truths no longer existed—nor did the Constitution of 1970 even suggest that such was the case despite occasional red herrings to the contrary. It did mean, as the great majority of educated men and women realized and as all of them should have realized, that the world of the Victorians, the world of a small-town Little Rock,[61] a world free of urban problems and modern economic needs and unrest among the young had long since passed into the mists of time. The 1970 Constitution, however one might view isolated segments of it, was as essential as blood is to the body. Its failure does not alleviate the need for massive transfusions in Arkansas government.

It was singularly appropriate that Arkansas' most distinguished legal scholar should preside over the drafting of such a document. The convention brought together a mixed variety of political views from throughout the State, although quite predominantly conservative. They produced a conservative document, in the sense that conservation in the true and best sense of the word merely preserves that which is sound while seeking to produce a legal order which recognizes and responds to constant and ever-continuing change. It was, on the whole, a well-written and carefully reasoned document, and those who wish to see the State move forward will continue in their efforts to incorporate its essentials into basic law. Over the long haul, the Constitution of 1970 will likely have left a greater legacy than those who defeated it yet realize.

IV. LEFLAR IN RETROSPECT

. . . I'm in the autumn of the year,
and now I think of my life as vintage
wine from fine old kegs, from the brim
to the dregs.
It poured sweet and clear;
It was a very good year.[62]

Bob's career, his contributions to his profession, have always been like vintage wine. For him, they have all been very good years. The stories about him are legion, as are those students who remember him with a mixture of awe, fondness and respect. You were always prepared for Lefiar. One way or another, in the early morning hours—anytime but always sometime—you prepared. And as of that moment, you became a better lawyer without knowing it.

Time has a way of changing people and things, but not Bob in the eyes of his students. Those in 1949 saw him about as those did in 1969, as the consummate teacher-scholar. All that changed was his reputation, and it grew as the years passed; and those of us who studied under him grew with it. For in all of life, we carry bits and pieces of others with us for better or worse. All of us are part of an interrelating whole; the lives of other men touch us and shape us and we become part of them and carry them with us down through the years. So it is that over two generations of Arkansas lawyers and Arkansas law bear the Lefiar imprint. There will be daya on which courts will be a bit better or wiser than they are—and Bob Lefiar will be there. There will be times when a lawyer will stand tall in a country court to do the good thing, the right thing, the courageous thing—and Bob will be there. There will be lawyer-statesmen arise in the halls of Congress and in the legislature to speak the truth as they see it—and Bob will be with them. There will also be the quiet, gentle days, the days of simple efficiency and calm, effective analysis; and that is Bob Leflar too.

We will remember him for many things, but perhaps the most for his part in helping us grow, in those years beyond today when we recall the warm Ozark sun, the crisp beauty of an Ozark autumn, the days of our youth, and the greatness and the wonder of the law.

FOOTNOTES

[1] Wolfe v. Shelley, 76 Eng. Rep. 206 (K.B. 1581). *See* Wright, *Medieval Law in the Age of Space: Some "Rules of Property" in Arkansas*, 22 ARK. L. REV. 248, 250 (1968).

[2] ARK. STAT. ANN. §§ 78–1136 through 1139 (Rep. 1957). *See* Note, *Legislative and Judicial Dynamism in Arkansas: Poisson v. d'Avril*, 22 ARK. L. REV. 724, 732 (1969) by McClodd and LePeu.

[3] ARK. STAT. ANN. § 47–508 (Repl. 1964) makes it illegal to export bullfrogs from Arkansas to other states, but Arkansans will recall that in 1970 after some minor legal gymnastics, it was decided that Arkansas' champion jumping frog could participate in the annual Calaveras County, California, jumping frog contest (which was won by the Arkansas entrant).

[4] Other than his books, Lefiar has published at least 120 law review articles or other materials (and I fear I missed a few in making a hurried count). In the words of the great historian, Will Durant, "How shall we do justice so briefly to so powerful a personality, and so fertile a pen?" W. DURANT, IV THE STORY OF CIVILIZATION: THE AGE OF FAITH 71 (1950).

[5] Outside of the *Arkansas Law Review*, its predecessor, the *Law School Bulletin*, and state bar publications, Lefiar has published in the *Harvard Law Review*, *University of Pennsylvania Law Review*, *Michigan Law Review*, *Stanford Law Review*, *Tennessee Law Review*, *Journal of Public Law*, *Missouri Law Review*, *Vanderbilt Law Review*, *New York University Law Review* (and its predecessor), *Boston University Law Review*, *Law and Contemporary Problems* (of the Duke Law School), *California Law Review*, *Texas Law Review*, *Mississippi Law Journal*, *American Bar Association Journal*, *George Washington Law Review*, *Illinois Law Review*, *Oklahoma Law Review*, *Cornell Law Quarterly*, *Rocky Mountain Law Review* (Univ. of Colorado) *Washington University Law Quarterly*, *Journal of Legal Education*, *Columbia Law Review*, *UCLA Law Review*, *Journal of the Missouri Bar*, *Ohio State Law Journal*, *Indiana Law Journal*, *Wayne Law Review*, *Buffalo Law Review*, *Cleveland-Marshall Law Review*, *Judicature*, *Trusts and Estates*, *Journal of the Society of Public Teachers of Law*, *Southwestern Law Journal* (of SMU), *Notre Dame Lawyer*, *American Law School Review*, *American Bar Association Section of Real Property Law*, *Tex Counselor's Quarterly*, and *the Trust Bulletin*.

[6] In reviewing Lefiar's newest edition of his book, entitled *American Conflicts Law* (1968), Professor Albert A. Ehrenzweig of the University of California at Berkeley, himself one of the greatest conflicts scholars, stated in *Comparative Conflicts Law*, 16 AM. J. COM. LAW 615, 616 (1968):

Here a great judge and scholar, to my knowledge uniquely, has at the same time achieved both a first edition with a totally fresh approach and a new title, and a third edition building on the experience and growing perfection of two predecessors. In 1938, Lefiar published his first text on the conflicts law of Arkansas. Not only did he thus decisively and definitively shape the law of his state. But everybody knew that the modest title concealed a national treatise which avoided the pretense and diffusiveness of other texts by concentrating on the complete analysis of the case law of one state. When in 1959 this book was followed by a Student Edition on THE CONFLICT OF LAWS, Lefiar raised the curtain, quickly to occupy the stage with the leading scholars in the field.

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He adds, in mentioning catch phrases with which the courts and legal scholars have concerned themselves:

This sorry maze of "modernism" Leflar has cut through with the sure hand of an experienced judge and wise man. In four bold steps he shows us the way to new certainties. First, he assures us "it is still law that the courts apply. After the 'gimmicks' are gone, the choice is between one rule of law or another." Second, "a court may well prefer what it regards as the better, sounder rule of law. . . ." Third, "courts in practice more often than not do use their own law rather than that of some other state. . . ." But, fourth, in their choice courts rely on several "choice influencing considerations." These considerations . . . have, during the short period since their first publication, become the principal tool of several distinguished courts in preference over the Second Restatement's obscurantist formulae.

Ehrenzweig concludes:

Perhaps this eulogy can fittingly conclude with the comment that one can hardly find anywhere a better treatment of the law of jurisdiction and the conflict law of crimes than in the book under review.

Id. at 617.

And he adds that the book is likely "the best American treatise on the conflict of laws. This book will be on every judge's, every scholar's, and every student's desk for a long time to come and American law will be the better for it." *Id.* at 619.

Similarly, the outstanding conflicts scholar, Elliott E. Cheatham, Professor of Law at Vanderbilt and Charles Evans Hughes, Professor Emeritus at Columbia, commented on Leflar's most recent edition in these words.

This excellent book sets out clearly the law of its time and is a major aid to anyone who works now in its intricate and intriguing field. It does still more and so has long lasting value. Throughout it seeks the fundamentals on which the application and development of the law should rest. In the minute examination of a particular case it is all too easy to overlook such larger factors as "the law's total task," "national interests that transcend state interests," and his choice-influencing considerations. Through attention to these factors, which Professor Leflar states so well, there will be developed conflict of laws principles adequate to the needs of the rapidly changing interstate and international systems.

23 ARK. L. REV. 804, 809–810 (1969).

In his book review in 21 S. C. L. REV. 133, 135 (1968), Professor David H. Means describes Leflar's work as "the considered judgments of a contemporary master of the subject of Conflicts of Laws."

See also, Felix, *Book Review*, 34 MO. L. REV. 304 (1969).

[7] *See* Leflar, *The Appellate Judges Seminar at New York University*, 9 J. LEGAL ED. 359 (1956), one of a number of articles which Leflar has written on the subject of the appellate judges program at NYU and his work with it. Suffice it to say that the program has become familiar to every appellate judge, both federal and state in the United States and that large numbers of these judges have attended or served as instructors or lecturers for the seminar. The program is Leflar's own unique contribution to continuing legal education, and both the quality of the program and its effect on America's judicial elite mark him not only as a particular pioneer in the field of continuing legal education, but also as having a direct hand in shaping the concepts, attitudes and approach of the American judiciary.

[8] It should be stated (although I doubt that anyone has done so quite as bluntly) that the average state university law school is not the place to go to gain a national reputation. Most law professors attempt to gravitate, if they possibly can, to the Ivy League schools, to NYU, to Chicago or a Big Ten school, to Berkeley or Stanford, or to a scattered few others such as Virginia, Duke or Texas. They feel that the chances of acquiring a "name" are better there, because the school's prestige will help—with some variance based on the institution. Although Bob has served as Professor of Law at NYU, he has largely been associated over the years with Arkansas, and it is credit to the quality of his work that he first rose to high repute without the aid (or crutch) of one of the institutions named. In so doing, he unquestionably enchanced the reputation of the University of Arkansas Law School. His life is the example of a man who, by retaining a close association with a particular state and state university, raises the esteem of both the state and its school and has an extraordinary impact upon that particular jurisdiction. This is a reward that even the best of the Ivy League scholars seldom acquire. Perhaps it is a good reason why young professors should more carefully consider the choice which Bob Leflar made. Unfortunately, money or prestige will often lead the good ones elsewhere. Moreover, few professors, including those who staff the institutions I have mentioned, ever illuminate their fields sufficiently to achieve a prestige comparable to Bob Leflar's. Too many let the institution's prestige illuminate their otherwise limited contribution. They reflect light; Leflar generates it.

[9] *See* Leflar, *Legal Education in Arkansas: A Brief History of the Law School*, 16 ARK. L. REV. 191 (1962). In making this statement, I am taking the history of the school only from its establishment by Dean Waterman in the fall semester of 1924, on the Fayetteville campus, and I am not including the earlier efforts to establish a school either at Fayetteville or at Little Rock, which Leflar's article discusses. Dean Waterman contended that graduates of the "Law Department" of the University of Arkansas, established first in Fayetteville and later in Little Rock in the late nineteenth century, were University of Arkansas Law graduates; but President John C. Futrall disputed this contention. Leflar, *id.* at 200, states that Waterman won the point, and pre-1915 graduates of the School of Law are listed as alumni. This being so, it might well be contended that the first Dean of the University of Arkansas School of Law was Frank M. Goar in 1890. On a national level, however, the University of Arkansas School of Law is generally viewed as having its inception in 1924, with Waterman as the Dean. Waterman was Dean from 1924 to 1943; followed by Leflar from 1944–54; Covington from 1954–58; and Barnhart since 1958. In listing the four deans, I am listing only those named on a permanent basis, and I do not mean to ignore the fact that Professor Emeritus E. B. Meritwether served as Acting Dean during the year following Dean Waterman's death. *See* Leflar, *id.* at 202. Judge Meriwether served practically all of his professional life as a professor of property, wills, trusts, and related subjects at the University of Arkansas, was and is extremely dedicated to the school, and is remembered fondly by his students. Dean Covington, after many years of service in a number of capacities at the University of Arkansas (including Acting President and Provost), became Dean of the University of Missouri School of Law in 1958.

[10] None of them, unfortunately—and without any criticism intended—was ever able to solve the financial problems of the University of Arkansas School of Law. The burden is too great for a single man. And so, many able professors have "passed through" Arkansas, teaching there for a time, and then moving on for more money and for what they deemed to be greater opportunity. This problem, soluble only by a mass effort on the part of the Bar and the Law School's friends on the Board of Trustees and in the legislature, is quite obviously the school's major difficulty. I have known of far more professors who left Arkansas somewhat regretfully than those who left happily. The unfortunate thing is that legal education is, dollar for dollar, the cheapest form of professional education; even the University of Arkansas could create an outstanding state university law school, perhaps of regional significance, for far less money than it could acquire prestige in perhaps any other field. I look forward to the day when Arkansas will seek this excellence, realizing that there are not too many Leflars around who can lift a school on the weight of their own reputations.

[11] *See* Leflar, *supra*, note 9, at 194, 201.

[12] *Id.* at 201.

[13] Keeton, *Legal Education: Developments, Objectives, and Needs*, 20 ARK. L. REV. 31, 41 (1966).

[14] Hand, *Have the Bench and Bar Anything to Contribute to the Teaching of Law?*, 24 MICH. L. REV. 466, 480 (1926).

[15] Leflar, *supra* note 9, at 211.

[16] 339 U.S. 629 (1950). (University of Texas)

[17] 339 U.S. 637 (1950). (University of Oklahoma).

[18] Sipuel v. Board of Regents of University of Oklahoma, 332 U.S. 631 (1948), 333 U.S. 147 (1948).

[19] Leflar, *supra* note 9, at 209.

[20] *Id.* at 208.

[21] Keeton, supra note 13 at 40.

[22] For a discussion of the construction of Waterman Hall, *see* Leflar, *Waterman Hall at Arkansas*, 6 J. LEGAL ED. 379 (1954).

[23] Leflar, *supra* note 9, at 210.

[24] This is the author's estimate, based on a projection of older figures available to him.

[25] The school has produced two deans (at three universities), professors at American University, Arkansas, Denver, Kentucky, Missouri, North Carolina, Oklahoma, South Carolina, and a teaching fellow at Harvard. Arkansas law graduates have taught as visiting professors at Cornell, Iowa, Minnesota, Texas, Oklahoma, and elsewhere. Arkansas law graduates dominate the bench and bar of the State. Congressman David Pryor is a graduate of the schools, as is Attorney General Ray Thornton, former Attorney General Joe Purcell, U.S. District Judge J. Smith Henley, U.S. District Judge Paul X. Williams and the late U.S. District Judge Gordon Young. Senator J. William Fulbright once served on the faculty as did former Senator Claude Pepper of Florida. By far the bulk of recent State Bar Presidents in Arkansas are UA graduates.

[26] Leflar, *Legal Education: The Making of a Good Law School*, 20 ARK. L. REV. 50 (1966).

[27] *Id.* at 50–60.

[28] *Id.* at 60.

[29] *See* note 6, *supra*, as to Ehrenzweig and Cheatham.

[30] 3 R. POUND JURISPRUDENCE 387 (1959).

[31] *See* R. LEFLAR, AMERICAN CONFICTS LAW 1 (1968); and Lorenzen *Story's Commentaries on the Conflict of Laws—One Hundred Years After*, 48 HARV. L. REV. 15 (1934).

[32] R. LEFLAR, *supra* note 31, at 1.

[33] Which is now H. GOODRICH, CONFLICT OF LAWS (E. Scoles, ed., 1964).

[34] G. STUMBERG, PRINCIPLES OF CONFLICT OF LAWS (3d ed. 1963).

[35] W. COOK, THE LOGICAL AND LEGAL BASES OF THE CONFLICT OF LAW (1942).

[36] Primarily the work of Professor Willis L. M. Reese of Columbia. *See* Reese, *Conflict of Laws and the Restatement Second*, 28 LAW AND CONTEMP. PROB. 679 (1963). Leflar served as one of the advisers on this Restatement.

[37] *See* A. EHRENZWEIG, A TREATISE ON THE CONFLICT OF LAWS (1962).

[38] B. CURRIE, SELECTED ESSAYS ON THE CONFLICT OF LAWS (1963) is a superb collection. Currie had a way with words that few law professors have.

[39] This is the problem as I see it, and it necessarily points the way to a definition of criteria.

[40] I thought this idea was perhaps unique, but *see* R. LEFLAR, *supra* note 31, at 13.

[41] *See* note 6, *supra*.

[42] R. LEFLAR, *supra* note 31, at 219–22.

[43] *Id.* at 384–67.

[44] *Id.* at 244.

[45] *Id.* at 245.

[46] 107 N.H. 351, 222 A.2d 205 (1966).

[47] 35 Wis.2d 578, 151 N.W.2d 664 (1967).

[48] Zelinger v. State Sand and Gravel Co., 38 Wis.2d 98, N.W.2d 466 (1968); Conklin v. Horner, 38 Wis.2d 468, 157 N.W.2d 579 (1968).

[49] In Woodward v. Stewart, 243 A.2d 917, 923 (R.I. 1968), *cert. denied*, 393 U.S. 957 (1968), the Rhode Island Court stated: "Like the Supreme Court of Wisconsin, we are persuaded that those guidelines combine a 'workable brevity' with a 'reasoned analysis,' leading this court to their application when faced with a conflicts of law situation." This case was followed in Brown v. Church of Holy Name of Jesus, 252 A.2d 176 (R.I. 1969).

Other courts, while following the "most significant relationships" test and not expressly adopting the five choice-influencing considerations developed by Leflar have nonetheless been affected by them and by the New Hampshire and Wisconsin decisions. Thus, in Fuerste v. Bemis, — Iowa —, 156 N.W.2d 831 (1968), the Iowa Court indicated that Wisconsin law on the subject of the guest statute might be superior to Iowa law, but that the New Hampshire and Wisconsin courts apparently did not intend that "this one consideration" "predominate over the others." It may be inferred, however, that in a situation which was regarded as creating greater doubt as to which law applied, Iowa would consider the matter in the light of the choice-influencing considerations which Wisconsin and New Hampshire adopted from Leflar. Similarly, in Beaulieu v. Beaulieu, 265 A.2d 610 (Me. 1970), the Maine Court adopted the "most significant relationships" test without specifically taking into account the five considerations—but it relied heavily on the New Hampshire decision in the Clark case.

Mississippi *seems* to have adopted as relevant considerations both the five choice-influencing considerations of Leflar and the factors set forth in the Restatement (Second). In Mitchell v. Craft, 211 So.2d 509, 514 (Miss. 1968), the Mississippi Court states: "In a major contribution in this field, Robert Leflar has synthesized and analyzed five principal, choice-influencing considerations." The Court then discusses these in the light of the facts of the case and applies them along with the Restatement (Second) §§ 6, 145, 175 *et al.*

Arkansas has yet to adopt the Leflar considerations, although considering previous references to Leflar as a prime authority in Arkansas conflicts cases, it would perhaps not be unreasonable to assume that the Arkansas Court would apply these considerations in an appropriate case.

[50] *See* Annot., *Torts—Lex Loci Delicti*, 29 A.L.R.3d 603, 631 (1970): Professor Robert A. Leflar has made a major contribution to American conflicts law in identifying "five choice-influencing considerations which seem to incorporate all the basic considerations. . . ." *See also* Coyne, *Contracts, Conflicts, and Choice-Influencing Considerations*, 1969 U. ILL. L.F. 323 (1969); and Juenger, *Choice of Law in Interstate Torts*, 118 U. PA. L. REV. 202 (1969).

[51] R. LEFLAR, *supra* note 31, at 264.

[52] *Id.* at 265.

[53] *Id.*

[54] *Id.*

[55] J. HURST, THE GROWTH OF AMERICAN LAW: THE LAW MAKERS 11 (1950).

[56] The reforms in criminal procedure in Arkansas in the mid-1930's were in large measure a product of Leflar's handiwork. *See* Leflar, THE CRIMINAL PROCEDURE REFORMS OF 1936—TWENTY YEARS AFTER, 11 ARK. L. REV. 117 (1957).

[57] Leflar, *supra* note 9, at 210.

[58] 24 ARK. L. REV. 155–243 (1970).

[59] *See* Arkansas Gazettes, Nov. 22, 1970, p. 1A, cols. 4–6; p. 2A, col. 3; p. 5A. This extensive discussion in the Gazette reveals that a political scientist at the University of Arkansas at Little Rock, Prof. Robert Johnston, ran two polls before the election under a project sponsored by Brown University. Johnston's poll was at random, by telephone, and probably would be subject to valid criticism by professional pollsters in that it apparently involved no carefully selected cross-section of voters. Nonetheless, the poll unquestionably has a certain degree of validity and, for the most part, supports what one might suspect. The educational groups who voted *for* the proposed Constitution reflected this support. Those who voted *for* the Constitution, according to the poll, included 73% of those with graduate or professional degrees; 67% of those with college degrees; 58% of those with some college training; 46% of those who were high school graduates; 45% of those with some high school education; but only 28% of those with less than a 10th grade education. Thus, the Constitution found substantial majority support among all those who had at least some college education and seemed to diminish in support on almost a parallel basis to the lack of education of the voter. Among economic groups, the poll showed substantial support among teachers (75%), professionals (68%) and businessmen (52%). Sales employees were 48% behind the Constitution, according to the poll. But among blue-collar workers, the Constitution found only 42% support, and only 22% of the farmers supported it. The poll indicated support was greatest in urban areas and poorest in rural areas, with the small towns in between. More younger people favored the Constitution than older people. In the 21 to 29 age group, 61% supported it; of those 30 to 39 years of age, 51% voted for it. After that, however, the index of support dropped below 50%. Of those age 40 to 49, only 43% supported it, and only 40% of those age 50 to 59 voted for it. In the 60 to 69 age bracket, a mere 31% supported the document with their votes. Strangely, after that the curve turned upward with 39% of those of age 70 or over giving the document their votes—apparently evidencing either senility or the wisdom of years, depending upon one's outlook.

It may be concluded from the foregoing that those less resistant to change—the college educated and those under 40—will give their approval to a new Constitution such as this one. This offers some hope for the future amelioration of the deleterious effects of the 1874 Constitution.

The reasons for voting against the document, as evidenced by those who expressed themselves, are hardly a commentary on voter information or wisdom. The Gazette report indicated that a number of Justice Building employees opposed the document because of its opposition from former state supreme court justice Ed F. McFaddin, the best-known of the vocal opponents of the new Constitution. One provision feared by the owner of a TV shop was wholly nonexistent. Trial judges voted against it in some instances because the judicial article combined courts of law and equity and thus would have caused them to have to gain knowledge in areas in which they had not been adjudicating. (Obviously, this was not true of all judges, but a few expressed this position.) Perhaps a very good reason why the document ran into difficulty, however, was expressed by some residents of the white-collar Sturbridge area of Little Rock. As one man expressed it, "They threw everything in it." The opposition of some people to a few of the items they new about in the Constitution led them to oppose the entire document, rather than view the total document on balance. Certainly, there were a number of items in it which this writer opposed, but you have to view the totality of the instrument and see how it compares to the old one.

[60] *See* Barnhart, *A New Constitution for Arkansas*, 17 ARK. L. REV. 1 (1963).

[61] In 1874, *all* the towns in Arkansas with more than 1,000 residents had a *collective* population of 20,000 about the present size of Helena-West Helena, and less than two-thirds the size of Fayetteville. *See* Leflar, *Constitutional Revision in Arkansas*, 24 ARK. L. REV. 155, 158 (1970). The 1874 Constitution was thus not even attuned to a small-town environment. It was prepared for a county-rural orientation in its entirety.

[62] Drake, "It Was a Very Good Year" © ASCAP. This was used in the 1970 Law Day skit in the portion relating to Leflar.

FOREIGN AID

Mr. McGEE. Mr. President, in this morning's edition of the Washington Post Bernard D. Nossiter paints a somewhat startling picture of how our foreign aid program stacks up with the rest of the non-Communist world.

As Mr. Nossiter points out:

Other rich, non-Communist nations are either maintaining or increasing what is labeled "assistance" and a few are stepping it up sharply. Over the last three years, Washington has cut back its official program from $3.5 billion to $3.1 billion in 1970.

In other words, while the U.S. Senate debates the question of whether to reduce our foreign aid program, whether to cut it out completely, or whether some new approach should be taken, some 15 other nations have moved to step up their programs by substantial increases in their commitments.

Mr. Nossiter also points out that:

In virtually all these other countries, the aid program faces no consequential political opposition and enjoys wide support from the establishment political parties.

I think it is worth noting this fact, particularly in light of recent events in this body.

As the world's richest and most powerful Nation, the United States finds itself in the most embarrassing position of ranking very low among the rich non-Communist nations with foreign assistance programs.

I believe it is time to reestablish some semblance of rationale in our debate over foreign assistance and to face the realities of the world around us. I do not believe we should be retreating from our international obligations and cloak ourselves in selfish arrogance.

I, therefore, ask unanimous consent that Mr. Nossiter's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOREIGN AID IS ALIVE AND WELL—IN OTHER COUNTRIES

(By Bernard D. Nossiter)

PARIS.—Foreign aid, or more accurately, a mixed program to promote exports, investment, influence and development in the third world, is alive and generally flourishing outside the United States.

Other rich, non-Communist nations are either maintaining or increasing what is labeled "assistance" and a few are stepping it up sharply. Over the last three years,

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Washington has cut back its official program from $3.5-billion to $3.1-billion in 1970. But the other 18 Western aid givers plus Japan and Australia have moved in precisely the opposite direction. Their programs have expanded from $3.1 billion in 1967 to $3.8 billion last year. They overtook Washington even before the Senate acted.

In virtually all these other countries, the aid program faces no consequential political opposition and enjoys wide support from the establishment political parties. In Scandinavia, Canada and the Netherlands, the government typically comes under fire for not doing enough for the world's poor.

In a few countries, notably France, Britain and Germany, a scattering of rightists complain that aid is money down a rathole. And everywhere, left youths charge that it is a scheme to perpetuate a new form of neocolonialism on behalf of privileged investors and exporters. But outside of the United States, the program as a whole is nowhere regarded as in serious difficulty.

This relative immunity flows largely from the absence of any clear link between aid schemes and highly charged foreign and military adventures. In Japan, where 96 yen out of every 100 loaned for development must be spent on Japanese goods and only one aid yen in five is contributed to international organizations like the World Bank, the dominant business community appreciates that foreign assistance is largely a subsidy for themselves. Elsewhere, the pattern of self-interest may be less pfonounced and the humanitarian aspect enjoys more popular support. But in no case—unlike the United States—is a substantial portion poured into shoring up unpopular regimes that foreign and defense ministries have labeled as vital to the nation's interest.

Perhaps the closest analogue to the United States is Portugal. There the bulk of what is called "aid" goes to the ex-colonies of Angola and Mozambique in an effort to reduce revolutionary movements. But if there is opposition to such spending, it can not surface in a totalitarian regime.

These are the chief conclusions emerging from an inquiry here into non-Communist aid schemes outside the United States. Paris is the place to come for such a study because it is the headquarters of the Development Assistance Committee, an arm of the Organization for Economic Cooperation and development, monitoring and promoting the aid programs of rich, non-Communist nations.

Despite the generally secure and growing levels of other nations' aid, the D.A.C. is not patting its members on their backs. Summing up the latest, 1970 review, chairman Edwin Martin observed that aid, as a share of the rich world's total output, actually fell a bit last year, from 0.36 per cent to 0.34 per cent. In other words, the rich slightly reduced the burden on themselves.

Martin, a former assistant secretary of state, said the record was "not encouraging." Moreover, after allowing for inflation and the rise in population in the third world, he figured that the buying power of aid per person was probably no higher than it had been ten years earlier, in 1960.

However the record is scored, it is nevertheless clear that other countries are experiencing nothing like the crisis of confidence over aid now embroiling the United States. In virtually all countries, the program moves through legislatures with little or no attention, and nowhere else is it the occasion for a searching foreign policy review.

Indeed, the program's link to foreign policy is often obscure or deliberately obscured and public opinion polls typically turn up sizeable if unenthusiastic majorities who think their country should help the poor. In Germany, with a program strikingly free of obvious self-interest, the powerful business community is pressing for a shift in aid to Latin America and Africa where industrialists see markets and investment outlets. But in Japan, with a scheme already tailored to business interests, government officials are slowly changing their program to emphasize development for its own sake.

Four nations—Britain, France, Germany and Japan—account for two-thirds or the bulk of the non-Communist aid given outside the United States. Apart from Germany, the other three send their help where their commercial and political interests clearly lie. Britain and France spend nearly 90 per cent of their nation-to-nation aid in former colonies, money that opens the way for cultural and political influence, opens markets for exports and opens doors for investment. Japan does much the same and most of its aid yen goes to those Asian nations that Japan once tried to embrace by force in the "co-prosperity sphere."

Among major powers, only the United States matches Japan in insisting that aid loans be spent on the "donor's products. But French and British aid does not go out without strings either.

Some 77 per cent of French development loans be spent on the "donor's" products. The British figure is 55 per cent.

In contrast, Germany provides half its aid to India, Pakistan, Israel and Turkey, countries where its cultural and political hegemony is virtually zero. Moreover, two of every three marks that Germany lends for development can be spent wherever the borrower finds its cheapest to buy.

The relative "purity" of the German program is not hard to understand. Its aid program reflects in part a conscience deeply troubled by World War II, the outsized aid for relatively well-to-do Israel especially reflects this fact, in addition, and until recently, Bonn was exceptionally attentive to Washington's wishes and Washington was pushing others to help Turkey, India and Pakistan.

There is no simple measure of disinterest in aid. The most common way of comparing each nation's performance is to measure the share of its total output or gross national product that goes into the official aid program. On this basis France leads the non-Communist league with 0.65 per cent, followed by the Netherlands at 0.63 and Australia at 0.59.

The United States is a poor twelfth at 0.31 per cent, trailed only by Japan, Italy, Switzerland and finally Austria at 0.13 per cent.

But this conventional measure is unsatisfactory as a gauge of altruism for several reasons. For one thing, it counts as aid the hundreds of millions of dollars that Washington pumps into Asia as supporting assistance—really a prop enabling regimes of varying stability to support outsized armies. It also counts France's big contributions to Martinique and Portugal's to Angola and Mozambique.

A better measure, perhaps, is the share of aid going to multilateral organizations like those of the United Nations or the World Bank. Aid given to these groups is less likely to buy political and military objectives because it is distributed as a lump and not identified as to national source.

On this basis, Norway comes out best with sixty per cent of its aid flowing through international organizations. Italy, with both a relatively and absolutely miniscule program, is next at 57 per cent, followed by Sweden, 46 per cent. The United States is once again near the bottom, 13th, with 13 per cent; Britain shows only 11 per cent; Australia, 6 per cent and Portugal, 1 per cent.

Another good measure of selfless assistance is the share of united development loans, money made available to the poor for spending on goods wherever they are cheapest. Here, published for the first time, is the league table of united aid loans. The percentages are official but authoritative:

Norway—100; Portugal—100; Sweden—100; Netherlands—79; Germany—67; Italy—64; United Kingdom—45; Belgium—27; France—23; Austria—12; Japan—4; United States—0; Australia (no loans, grants only); Canada, Denmark and Switzerland, zero.

In other words, all Canadian, Danish and Swiss aid loans must be spent in the "donor" country and thus amount to a disguised subsidy for exports. Virtually the same is true for Japan and the United States. In contrast, Norway and Sweden give their recipients a completely free hand. Portugal also comes in this category, but that is only because Lisbon gains nothing formally tying its own hands on expenditures in rebellious ex-colonies.

Although the point has been properly made that aid programs elsewhere are less overtly influenced by political and military considerations, Washington is not alone in taking them into account. Thus Britain has mounted sizeable efforts in Malaysia and Singapore to compensate for the withdrawal of its troops. Similarly, in the days of the now discredited Hallstein doctrine, Bonn cut off new aid from African countries recognizing East Germany.

The use of aid to generate economic pressure is not unknown elsewhere, either. Thus when France has had trouble with Tunisia over wine and Algeria over oil and gas, Paris has not hesitated to play the aid card in the diplomatic bargaining game.

This inquiry does not examine the role of private investment because economists and officials differ widely over whether profit-seeking funds should count as assistance and even whether foreign investment promotes or retards development in the third world. The D.A.C. counted $6.7 billion of profit-seeking investment flowing from the rich to the poor last year, virtually the same as the aid total from all 16 nations. But nobody has an accurate count of how much was brought home in dividends. The best estimates range from $4 billion to $7 billion, a sum equal to more than half and possibly more than all the private investment.

In contrast, only $448 million came back to the rich as interest payments on development loans, less than 7 per cent of the total spent for gifts, technical assistance and loans.

Despite the return of dividends, proponents of investment by the wealthy among the poor argue that in any event the money creates an asset—develops oil resources, builds a plant and the like—that would otherwise not exist and also provides jobs and teaches skills that would not be created. Opponents argue that foreign investment ties poor countries to the narrow, economic interests of international corporations, breeds political interference and preserves the best jobs and the exploitation of the richest resources for foreigners.

Indeed, the argument can be and is carried one step further. Does official or governmental aid promote or hold back economic development? The D.A.C. leaders, like most aid officials among member countries have no doubts. Aid helps. It adds to or complements domestic savings and provides hard currency with which to buy necessary goods and services abroad. But there are some skeptics, even deep within the D.A.C. They wonder if aid does not substitute for domestic savings, enabling recipients to continue in slack ways.

One familiar example is India. Some officials there contend that, thanks to foreign aid, Delhi has been spared from hard and necessary political decisions like taxing the incomes of rich farmers or enforcing largely paper laws to break up big land holdings.

In any event, the experts agree there is no statistical link between large amounts of aid and rapid growth. India and Pakistan got the most assistance last year, $1.1 billion for Delhi and $470 million for Pakistan: Neither is a star performer in terms of economic growth. South Vietnam, with $450 million was the third biggest aid recipient, but the money goes to repair war ravages and development is not a consideration.

On the other hand, South Korea is the fourth biggest aid beneficiary and its growth rate is near the world's top. Israel and Taiwan both get large chunks of aid in relation to their population and both grow rapidly too.

One shrewd official here sums it up. "I know I can't make the numbers prove anything about the utility of aid. Nevertheless, I am strongly for it and in increasing amounts. If you like, it's an act of faith."

The amount, in dollars, of government aid program—loans, technical help and grants—for D.A.C. members in 1970, expressed in millions of dollars, and after subtracting repayments of principal on loans:

United States, 3,050; Germany, 559; Japan, 458; United Kingdom, 447; Canada, 346; Australia, 203; Netherlands, 196; Italy, 147; Belgium, 120; Sweden, 117; Denmark, 59; Norway, 37; Switzerland, 30; Portugal, 29; and Austria, 19.

DR. WALTER HELLER: ADVOCATE FOR EXPANSION

Mr. MOSS. Mr. President, when Prof. Walter Heller of the University of Minnesota speaks out on economic issues, it behooves White House policymakers to take heed. Between 1961 and 1965, this man's economic policies guided an unbroken expansion that created 7 million new jobs, doubled profits, increased the Nation's real output by a third, and closed the $50 billion gap between actual and potential gross national product.

Dr. Heller, whose latest contribution to political economic thinking appeared in yesterday's Washington Post, has long been an advocate of Federal tax cuts as a means of stimulating a sluggish economy. He has also been an incisive critic of such policies when they fail to address current economic realities.

As far back as 1955, he was chiding a Republican administration for its heavy reliance on special tax relief to corporations as a means of stimulating growth. Dr. Heller, who later became known as "Mr. Tax-cut" for his successful advocacy of tax relief while serving as Chairman of President Kennedy's Council of Economic Advisers, attacked the Eisenhower program for assigning only a supporting role to broad-based tax reduction aimed at expanding consumer markets and increasing sales volume.

It is significant that when a Democratic President returned to the White House in 1960, CEA Chairman Heller remained consistent in his advocacy of individual tax-relief aimed at stimulating a broad-based, vigorous consumer spending. The major across-the-board tax reductions of 1964 and 1965 offered $15 billion for the consumer and $4 billion for the business firm—a sharp contrast to the untested "trickle-down" philosophy of the Nixon administration.

Since leaving office, Professor Heller has continued to promote his views publicly to the benefit of both the Congress at large and the Democratic Party leadership. He has persisted in his call for stimulants to consumer spending as the key to economic expansion.

In the article which appeared yesterday, he argues most pursuasively that President Nixon's efforts to contain inflation will fail unless there is sufficient fiscal stimulus to increase production during the "Phase II" period. He maintains there is a strong connection between increased output and increased productivity—output per unit of labor. Unless output and productivity are stimulated significantly, the 5.5-percent wage guidelines for phase II wage increase could simply result in that much more inflation.

Administration economists should pay close attention to Dr. Heller's thoughts on noninflation expansion. Between 1961 and 1965, when the economy was growing at an unprecedented rate and employment opportunities were increasing substantially, prices remained stable. During that 5-year period, inflation was less than 2 percent a year, a far better record, it should be noted, than the current administration's most optimistic goal.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HELLER: EXPANSION A MUST

(By Walter Heller)

Conventional economic wisdom associates stimulation of demand with an increase in inflationary pressures. The fear of these pressures has perhaps stayed the hand of the White House in its new economic program. Why else would it have accompanied its bold wage-price and international monetary initiatives on August 15 with such a weak-kneed program of fiscal stimulation?

The wait-and-see attitude at the Federal Reserve Board may also reflect a fear of rekindled excess demand inflation—wait and see if that $100 billion year really develops without moving from a supportive to an aggressive policy of monetary expansion.

The traditional answer to the "take-it-easy, inflation-is-just-around-the-corner" approach to economic expansion is based on the existing $70 billion GNP gap, 6 per cent unemployment, and 73 per cent operating rates in manufacturing. With this much slack, and no bottlenecks in sight, rising demand will express itself in rising output, more jobs, and higher incomes, not in higher prices.

At a time when excess demand is $70 billion away—a time when it will take three consecutive annual $100 billion advances in GNP just to catch up once more with our economic potential—bold fiscal and monetary expansion carries little risk of inflation.

But to argue that economic slack will keep expansion from being converted into inflation is essentially a passive or negative argument. Less well understood is the positive argument that, given reasonably effective wage-price restraint in Phase II, strong expansion will actually help subdue inflation. Strong expansion will generate the rising productivity that provides the vital grist for the mills of the Price Commission and the Pay Board in grinding out more moderate price and wage yardsticks as Phase II progresses.

Rising demand and rising output in today's slack economy quickly translate into rising output per man hour. Overhead costs are spread thinner. As more units of output are produced with the same machinery, equipment and plant, and without a corresponding increase in payrolls, average unit costs of output will fall.

Left to themselves, producers would be sorely tempted to capture most of this productivity surge in higher profits and higher wages, sharing little of their gains with consumers. The genius of an effective incomes policy, of successful Phase II wage-price restraints, will be to nudge business and labor into sharing their gains with consumers and thus convert rising output into receding inflation.

Within broad limits, the more rapidly output rises, the larger will be the productivity advance that the Price and Pay boards have to play with, i.e., to use in setting tough standards for prices and wages without unduly squeezing business profits and labor earnings.

For example, if productivity advances at a 4 per cent clip in 1972, the Pay Board's 5½ per cent yardstick for average pay advances would imply an increase in average unit labor costs of 1½ per cent. But if recovery lags and productivity crawls ahead at only a 2 per cent rate, a 5½ per cent wage standard would imply a 3½ per cent increase in unit labor costs, thereby making it far more difficult for the Price Commission to clamp a tight lid on prices.

On the more optimistic assumption of a 4 per cent productivity advance, converted into a tighter price yardstick and a consequent easing of inflation during 1972, the Pay Board would have less cost-of-living catch-up to build into its 1973 yardstick. It could then lower the 1973 pay standard a notch toward the 3 per cent trend growth in productivity.

In short, since productivity is the name of the game, rapid expansion is vital to the success of Phase II. And, in turn, success in Phase II will translate into more consumer and investor confidence and hence a stronger expansion.

Another vital interlock of expansion is with our international monetary and trade negotiations. On one hand, a successful reordering of exchange parities and a relaxing of trade barriers can make an important contribution to sound economic recovery. But again causation runs the other way as well. How can we expect our trading partners to bear the economic brunt of more expensive exports to us and cheaper imports from us unless we soften the blow by vigorous expansion of U.S. demand?

Given the current softness of many foreign economies, negotiations that will cut their exports and boost their imports are generating great unease and trepidation. To create an atmosphere within which our trading partners can come half way or even more, we must be able to assure them that vigorous U.S. economic expansion will offset much of the adverse trade effect of renegotiated parities and lowered trade barriers.

In other words, U.S. negotiators have to be able to hold out the prospect of a strong favorable income effect as a short-run offset to the negative price effects of U.S. initiative.

Given these imperatives, both the Price Commission and the Pay Board, not to mention our international monetary and trade negotiators, should exact a firm "do-all-possible" pledge from the administration and the Federal Reserve System to assure speedy economic recovery in 1972. With much of the economy other than autos and housing still listless, the President should be calling on the Congress to step up the temporary tax relief in the bill which is now before the Senate.

The Senate should sharply enlarge personal income tax relief. Without compromising federal revenues in the longer run—when they will be needed for high-priority social uses and for the renewed battle against demand inflation when we reach full employment—a temporary tax reduction—for example, a "recover tax credit" of perhaps $100

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per married couple—should be enacted for 1972.

This would add another $5 billion to disposable income, thus energizing consumer spending and putting some of our grossly underutilized industrial capacity (roughly a quarter of our manufacturing capacity is idle today) back to work.

Side-by-side with this action, the Congress should declare a mortatorium on further payroll tax increase. What economic sense does it make to cut income and automobile taxes to stimulate the economy and then let $7½ billion in new payroll tax hikes in 1972 ($3 billion already in the law plus $4½ billion on the way via H.R. 1) to nullify much of the stimulative effect?

For better balance in the tax bill and to protect the revenues for the longer pull, the Senate should drop the depreciation liberalization (ADR's) completely and limit the 7 per cent investment credit to a two- or three-year period.

In short, bolder expansionary policy is not only the fastest way to generate the jobs we desperately need, boost labor earnings and profits, and create incentives to increase capital spending for new capacity—but given reasonable vigilance in our price and wage boards in Phase II, it will also be an effective engine of disinflation.

DISENCHANTMENT OF THE NATION'S YOUTH

Mr. DOMINICK. Mr. President, I am becoming increasingly troubled by the educational disenchantment of our Nation's youth. I believe that a great deal of this stems from a lack of relevant educational values and goals in today's world. Recently, in my individual views to S. 650, the Educational Amendments of 1971, and in a speech before the Colorado Library Association, I advocated a redefinition of educational priorities stressing relevant skills and vocational training and deemphasizing the importance of college education and college degrees for all students.

Soon thereafter, I was most encouraged by an interview on the same topic with U.S. Commissioner of Education Sidney P. Marland, Jr., published in U.S. News & World Report. In the interview, Commissioner Marland speaks with strong convictions about one of his top educational priorities—career education. He envisions a career education program which creates "social value and prestige in a wholly different kind of education for the nearly 50 percent of young people who choose not to enter college, and for the much larger percentage which includes those who enter but soon "exit."

Career education requires a massive societal reeducation of the value of skills and trades. Commissioner Marland's interview and my speech define the problem, and hopefully represent some initial steps toward this reeducation. Commissioner Marland's interview in the November 1, 1971 issue of U.S. News & World Report contains frank and authoritative answers to some of our most vexing educational problems by a very committed man. I recommend that Senators read the entire interview.

Mr. President, because of its length, I ask unanimous consent that only that portion of the interview relevant to career education be printed in the RECORD.

I also ask unanimous consent that the text of my October 1, 1971, speech to the Colorado Library Association be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[EXCERPTS from an interview with the U.S. Commissioner of Education, Nov. 1, 1971, U.S. News & World Report]

NEW IDEAS FOR BETTER SCHOOLS

There are still too many young people leaving school because the schools simply are not providing a satisfactory experience for them. So we see clearly the unhappy statistics surrounding the dropout, the ugliness of drug abuse in our schools, the children from disadvantaged backgrounds who are failing to learn adequately, and the young people who just become disenchanted with the institution of education. I can't give you hard statistics, but I can assure you that not only young people from disadvantaged environments or from minority groups are asking more of the schools than we're giving them. This is part of my concern as I speak favorably of the other side of the coin—the side that shines—the side that shows we're doing a pretty good job for the great majority of our young.

Question: Is there anything that can be done about these young people who have become disenchanted with formal schooling?

Answer: I recommend a very substantial reform in education. I call it "career education." It's only the beginning of an idea now, but it's an idea for which the time may have come.

From the extraordinary vantage point that I have in Washington, I see ways in which the federal government—through its initiative, through its leadership, through the modest amount of leverage that we have with federal funds—may be able to change the universe of education in favorable ways to respond to this challenge.

Question: What do you mean by career education? Is that a euphemism for vocational training?

Answer: An emphatic "No!" This is anything but a trading of names, although I would be quick to say that vocational and technical education has a very large part to play in career education. But let me tell you a little bit more about the idea:

To begin with, our society has developed a kind of folklore that says to be good you must go to college—to be somebody you must have at least an A.B. degree. For many years, that was a very appropriate goal, and it served as a world model to increase the intellectual, social and economic level of our country.

But we have come to the point where a kind of self-hypnosis has set in. People are convinced that this is the only way to glory. And I hold that it is not true. I'm not talking only about differences in intellect. I'm talking about differences in aspiration, in goals; differences in human needs and what people want to do with their lives. I think there is a false set of values surrounding the whole theme of vocational-technical education that says, "That's for the other people, but my children are going to go to college."

Question: Grease education, it used to be called——

Answer: Yes, the dirty-hands school. That's the idea that's been held by many people. And if anything can come of my time of service in Washington, I hope it will be to correct that.

At present, about 54 per cent of high school graduates go on to higher education. And if you look closely at the average high school graduating class, you will see that no more than about 10 to 12 per cent studied vocational-technical programs leading directly to salable skills. And in between for all the rest of the young people there is that dubious euphemism, the general curriculum—which is a put on. It doesn't lead to anything.

I hold that we should do away with the general curriculum, which young people in our high schools now find to be a put-on. It contains no intrinsic motives, no tangible goals. It does not lead to satisfying and rewarding employment.

In talking about career education, I'm not trying to discourage young people from going to college——quite the contrary. What we must do is create social value and prestige in a wholly different kind of education for the nearly fifty per cent of young people who choose not to enter college, and for the much larger percentage which includes those who enter but soon exit. I want to give exposure to what the world of work is all about to all children.

You see, a career is something that you and I were trained for one way or another, just as did your doctor and your architect and your attorney and the man who prints your magazine. Many of us have come upon it accidentally, without very much planning and without very much information on which to make very important life choices, and, by chance or by the grace of the Almighty, we found ourselves where we are.

Now, that's a haphazard way to go about planning a life, notwithstanding the Almighty's wisdom. I hold that along about fifth, sixth or seventh grade, along about age 12 or 13, there ought to be some systematically planned information made available to young people through the curriculum so they can have a hand in shaping their own lives in a thoughtful and informed way.

Question: Do you have a plan to accomplish this?

Answer: We're now developing in the Office of Education 15 clusters-of-work categories—or curricular systems. One cluster, for example, is the health sciences, ranging all the way from the hospital orderly up to and including a highly specialized surgeon.

Then there is the electronic cluster. This has to do with everything from how to put in an electric socket to the construction and operation of a very sophisticated computer.

Those are just two examples. All the way through career education there must be the underlying academic learning that supports the specific or the generalized cluster of jobs.

This idea is far from jelled. It would be a mistake for me or for anybody in Washington to declare it as a fixed or final concept, although there is considerable enthusiasm for the idea across the country, as we explore the possibilities with school leaders, teachers and citizens at large.

Question: How would career education work in actual practice?

Answer: The concept is that the student should be ready when he leaves school—I didn't say graduate, necessarily—either to enter postsecondary education or to go directly into the world of work with pride, satisfaction and competence. He may want to be a service-station attendant at age 15, and leave school to do that. A year later he may want to come back and study about transmissions; he becomes a transmission expert for his community. Then perhaps he comes back again for some business courses. By the time he is 30 or 35 years old, he owns a garage and has become a businessman as well as a skilled craftsman.

In career education, the school system is constant, and students spin off from it and spin back onto it.

A young woman at age 14 or 15 may begin to think seriously about the health sciences. She graduates from high school and has, let's say, a year in community college and becomes a licensed practical nurse. After three or four years of earning money and finding satisfaction, she says, "I think I'll go back."

So back into the system she goes and becomes a two-year or a four-year graduate nurse.

The point is that the system is alway there supporting her or him.

I believe that one of the very important aspects of career education is that we will suddenly and finally begin to motivate young people with perfectly good minds who are not now learning effectively in school. As an educator—a teacher—that is one of my overriding hopes for the future, as I try to lend the power and influence of my office toward better schools for America.

[Speech of Senator PETER H. DOMINICK, before the Colorado Library Association, October 1, 1971]

EVOLVING EDUCATION: A CHALLENGE TO THE LIBRARIES

I will concentrate my comments on the tremendous challenges that I believe the libraries and other sources of knowledge will be confronted with during the decade of the seventies. I shall further confine my comments to those particular challenges created by a post-secondary educational system which is developing needs for increased emphasis on educational individuality rather than on formalized educational structure.

To remain a viable educational tool in the face of these needs, the libraries must develop relevant innovative resources to meet the divergent demands of America's high school graduates. It is important to stress that the phrase "post-secondary education" include not only the formalized education offered by colleges, universities and vocational institutions, but also the composite of experiences gained through work, the military, and independent study, among others.

Educators have become increasingly concerned over student discontent in our institutions of higher learning, and the increasing numbers of aimless college students they are graduating. Two of the more highly respected recent studies on post-secondary education, the Newman "Report on Higher Education", and the Carnegie Commission's special report on higher education, "Less Time, More Options—Education Beyond High School", conclude that our society's headlong rush to mystically ordained higher education institutions is proving ineffective as an educational tool and is systematically killing off the necessary and previously respected trades and careers which literally built our country. A preview of the effect of our over-sold higher educational system is best exhibited by the comparison of the salary of an unemployed Ph. D. and that of a bricklayer, a steel worker, a mechanic or a plumber.

The effectiveness of post-secondary education in America is indicated by the Carnegie Commission's estimate that of the students who were to enroll in American colleges and universities this fall, over 60 per cent of them will fail to get the degree to which they aspire—47 per cent will fail to earn a bachelor's degree and of those those who proceed to graduate school, another 15 per cent will dropout before they obtain the second degree. Statistics or estimates do not indicate the very substantial number of students who don't drop out, but are instead caught in what the Newman Report calls the "academic lockstep." Strong society pressures exerted by parents, peers, faculty, and employers keep students in an academic lockstep when they should be pursuing an occupation or a career which has relevance to their talents and desires. Instead, these students continue to attend college as a socially conditioned reflex, all the while becoming dependent upon the academic atmosphere and increasingly virgin of perspectives shaped only by non-academic experiences. More often than not, the lockstep student discovers that after four to seven years of college, he doesn't have the practical aptitudes necessary for his chosen profession or that he simply doesn't like the work.

Both of the previously cited reports suggest that the answer to our higher educational quagmire lies in a more relaxed, less structured form of what the Carnegie Commission terms "lifelong learning." Rather than perpetuating the present apartheid educational distinctions of "student" or "non-student," education should be made more a part of life. Students should not be separated from the realities of life, but rather they should mingle with their fellow citizens as part-time students and on-the-job training students and step-out rather than drop-out students. The value of off-campus experience is probably best illustrated by the high performance and sense of purpose which returning GI's and Peace Corps volunteers bring to college. Armed with these experiences, they are able to make intelligent and relevant career choices and then pursue these choices with diligence.

To accomplish this requires a massive reeducation of our society. Americans must be taught that post-secondary education need not include attendance at a college or a university. Americans must be taught that college attendance is not a precondition to future success. The dignity and appreciation of trade and career occupations must be restored so that they can once again be considered a viable occupational alternative. Once Americans stop deifying college educations in and of themselves, then they can proceed with the task of creating a proper educational environment.

That environment would consist of a lifelong learning process integrating generations of students and emphasizing less formal tools of education. Particular educational emphasis would be placed on apprenticeship and job-training programs, work/experience programs, vocational schools, and the community colleges. To accomplish this objective, colleges and universities should capitalize on their prior successes with work/experience programs in legal aid services for law students, internships for medical doctors, and the military's training of paraprofessional corpsmen by allowing credits for such experience. The importance of community colleges in such an educational scheme is apparent even today. In 1968, two million students—25 per cent of all higher educational enrollment—were in two-year institutions, and over 80 per cent of these were in community colleges.

One of the principal beneficiaries of the diversified higher educational system would be the large state universities which today, because of financial and administrative problems, have centralized into large bureaucracies. For example, the State University of New York has 65 campuses and 314,000 students; the City University of New York has 11 campuses and 123,000 students; the University of California has 10 campuses and 147,000 students; and the California state college system has 19 campuses and 288,000 students. The product of these multiuniversities is generally an homogenized education which is not responsive to the individual needs of the students. By relaxing the pressures of student admissions, the universities and colleges could stop administering and start educating with the net result being an improvement in the quality rather than in the quanity of the education. Less students would be run through a mechanized degree system, and more students would find universities better able to respond to their educational needs and interests. College and university students would be provided with rounded curricula and course requirements rather than being forced down some of today's narrow-gauged course studies. The result would be a student with a rounded and varied education—an aerospace engineer who could contribute to our environmental problems or a social worker who could assist as a paramedic.

The burden the library system must carry in such an emerging educational environment is substantial. A less structured educational system requires greater involvement of informal education sources, such as libraries. Life long learning to a great extent, requires a continuous intellectual stimulation to keep the part-time or step-out students interested in subsequent educational improvement. I see the libraries furnishing a very strong segment of this intellectual stimulation. Through their resources, they must keep the older prospective students intellectually alive.

Perhaps the greatest challenge the libraries, as well as other educational tools, face is to develop innovative programs to re-educate the American society to the values and dignities of a trade or career occupation. Vocational source materials must be made available in libraries as a good-faith, first-step effort toward the improvement of the image of vocational education. Once the dignity of skill and career occupations is restored, the libraries then would become a principal source of material to broaden and diversify the education of those individuals seeking the skill and career occupations. This once again will require innovative resources to provide the necessary stimulation to keep them interested in educational self-improvement.

In conclusion, I believe that the very real educational contribution that the library system can make in our evolving higher educational environment depends entirely upon the initiative exercised by you—the library administrators.

WEATHER MODIFICATION

Mr. DOMINICK. Mr. President, I invite the attention of Senators to an interesting article on weather modification. It is entitled "A Call for Action," and was written by Vincent J. Schaefer, director, Atmospheric Sciences Research Center, State University of New York at Albany.

Mr. Schaefer is one of the pioneers in weather modification. He was part of a research team at the General Electric Co. which developed, beginning in 1946, and later with Project Cirrus, sponsored by the Defense Department, the basic technology used in weather modification today. He reviews some of the problems which have delayed any substantial realization of its potential benefits. He is critical of the statistical analysis methodology which has been used by the Government and others in testing the effects of weather modification, and feels it is responsible for much of the delay. He suggests a reassessment of all that has been done in this field since 1946, and development of a long range program designed to apply this technology to beneficial use. He observes that the success of such a program will be dependent on active participation by the private sector, which is largely responsible for advancing weather modification technology to its state today.

In view of increasing demands on this country's limited water resources by our constantly expanding population, I agree with Mr. Schaefer that we should be thinking about the possibility of a long range program to augment our water supply through weather modification.

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Due to the length of the article, I have taken excerpts from it. The full article appears in the 1970 "Journal of Weather Modification."

I ask unanimous consent that these excerpts be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

During the first decade following my demonstration on 13 November 1946 (23 years and one day from the time I am writing this paper), there were some persons who would not believe that it was possible to employ dry ice (or silver iodide) to modify natural clouds in the free atmosphere. It took nearly twenty years for my experiment of 25 November 1946 in dispersing a supercooled ground fog, to be recognized as a valid undertaking for clearing supercooled fogs or low stratus in the vicinity of airports despite our demonstration of success at the Rome Air Force Base in the Mohawk Valley on 24 November 1948, and our now famous 17 miles long "race track-L"—"gama"—and "Figure Four" patterns cut into clouds during that same year. Following these successful demonstrations we even worked up a series of operational procedures for conducting airport clearing operations—in 1948—21 years ago!

Following my initial seeding with dry ice, Dr. Bernard Vonnegut of our group dscovered the effectiveness of silver iodide for producing effects equivalent or even superior to dry ice under some conditions. The acceptance of silver iodide as an effective substance for massive cloud seeding was not as readily accepted by some persons as dry ice even though it was quickly adopted by commercial operators as more adaptable to field operations. However, the debate as to its effectiveness when dispensed from ground generators still occupies the attention of a number of persons and a few diehards continue to deny its usefulness.

Following the termination of Project Cirrus operations (requested by our advisory group in General Electric when we lost our trained pilots due to the Korean War) a number of other field and flight activites were initiated by other groups in the United States. In other countries, notably Australia, France, Russia, Israel, Japan and Switzerland, intensive studies were started shortly after the announcement of my first laboratory and field experiments.

In 1952 at General Electric we disbanded our group whereupon I left to join the Munitalp Foundation and subsequently recruited Ray Falconer, Don Fuquay, and Paul MacCready. Bernie Vonnegut and Maynard went to Arthur D. Little where they were joined by Charlie Moore. Duncan Blanchard joined the Woods Hole Oceanographic Institute. Dr. Langmuir retired from General Electric but returned an active interest in weather dynamics and helped me in some of my activities with Jack Barrows in organizing Project Skyfire in the U.S. Forest Service. He and I were modelling tradewind clouds shortly before he died in 1957. We all retained a continuing interest in weather modification and continued the friendships nurtured by our earlier work with Dr. Langmuir at G.E.

It was during this period that a number of commercial cloud seeding firms were organized and began to offer services to farmers, ranchers, municipalities, irrigation districts, and similar groups of private and public organizations. In some instances the potentials for weather modification were exaggerated to varying degrees so that after a few years many of the customers became disillusioned. Thus, a considerable proportion of "rain making" as it was sometimes referred to became a subject of questionable merit. Contracts were cancelled and earlier critics were able to say, "I told you so." During his period, however, a number of stubborn and knowledgeable persons, who had the courage of their convictions, stayed in the field quietly conducting their operations, carefully watching the scientific community and adopting new ideas and findings as rapidly as their own experimental trials convinced them of the usefulness of the reported new knowledge. Those who had the fortitude and stick-to-it-iveness through this critical period just ending have developed an operational competence and the reputation of being effective weather engineers. This is about to pay off for these persistent pioneers.

In the early Fifties following the ineffectiveness of some commercial groups to produce obvious changes in the weather pattern they had promised to modify, it became obvious to those interested in obtaining an estimation of the economic value of some of the field operations that it would be desirable to establish proof of the value of the methods then in use.

It was at this time that an intensive effort was made to use statistical methods for testing the operational effectiveness of cloud seeding. This, I now believe, was a major mistake in our procedure. I am sure that some very competent scientists will not agree with this statement. However, I believe strongly in the contention made by Langmuir in 1948 during a meeting at Schenectady sponsored by the National Academy of Sciences that "weather" is basically a divergent phenomenon—one that is controlled by a nearly infinite number of small random events. As he said at the time, "It may be far easier to control the weather than to predict it!" Having worked with him for more than a quarter of a century, I was very much aware of his basic philosophy, his ability to take advantage of serendipitous events and his uncanny sense of "guessing" about the basic causes of important scientific phenomena and their interrelationships.

He was in strong agreement with some of the ideas expressed by pioneers such as Findeisen who in 1937 said,

"The recognition of the fact that quite minute, quantitatively inappreciable elements, are the actual cause setting into operation weather phenomena of the highest magnitude, gives the certainty that, in time, human science will be enabled to effect an artificial control on the course of meteorological phenomena. It would be going beyond the limits of the present work to discuss in detail the possibility of exercising a kind of technical control over the course of weather conditions. From the considerations under survey here, we have now come to quite new points of view on this. It can be boldly stated that at comparatively moderate expense, it will, in time, be possible to bring about rain by scientific means, to obviate the danger of icing, and to prevent the formation of hailstorms. Through the energy transformations thus secured, various other weather phenomena (e.g. temperature, wind) will be brought under a certain kind of control, which perhaps never, in a direct manner could, to an appreciable extent, be acted upon in the atmosphere. The colloido-meteorological investigations, by themselves with the only assistance of research work on the means to get some control over the weather factors, have opened up a new field for their efforts. They obviously only can solve those various problems with the close assistance of aerology."

Dr. Langmuir encouraged me to establish the routine measurement of ice nuclei on the summit of Mt. Washington which started in 1948 and has continued to the present time. In the studies there I found that the concentration of ice nuclei varied by as much as a million fold. If one concedes that the concentration of "natural" ice and cloud nuclei have any relationship to the micro- and macrophysics of clouds, it is a logical corollary that the concentration of such particles in the free atmosphere should have some effect on the development of weather and weather systems. If this is true then it is quite obvious that some aspects, at least of meso and synoptic weather systems, could be affected by the randomness of the generating areas of ice and condensation nuclei and the mass movements of these infected air masses. These vary from settling cirrus, dust storms, volcanic eruptions, forest fires, air pollutions, storms at sea, and other factors most of which cannot be classed as steady or predictable sources of such particles.

Is it any wonder that statistical methods have utterly failed to provide us with clear cut or even hopeful answers to the efficacy of cloud seeding operations? As a complete novice in the complex realm of statistics and statistical methods I still fail to see how these procedures can possibly help us to solve our current problems in testing the effectiveness of weather modification efforts. It is obvious, of course, that if the weather behaved in an orderly and repetitive manner it should be a simple matter to test the effectiveness of some specified procedures using statistical techniques. However, when one is a field man and has spent several decades on mountain tops and other places looking at the variabilities of the day after day weather, it soon becomes clear that there are few things about weather which can be used for making statistical comparisons. In fact, about the only factor which can be controlled in a realistic manner is the intentional seeding process and even this will be modified by the natural or inadvertent sources of nuclei from near and distant air pollution sources.

Thus, I believe the time has arrived when it is necessary to have the courage of our convictions and again resort to private enterprise, economic need and the ingenuity of our United States system to mount a major effort of work with local communities, municipalities, farmers organizations, ski slope operators and others having a big stake in the availability of atmospheric water resources which might be managed in a useful manner.

I am increasingly convinced that if we wait for the university community or the government to mount such an operation, it will never happen. This is not to say that the way will be an easy one! It will be necessary first of all, to solve the "people" problem. This cannot be done entirely by the federal or even the state governments. There is not enough continuity or desire on the part of those involved to get the job done in an effective manner although their services and mechanisms must be utilized. The university community cannot be involved either since they are much more capable by training and interest to become involved in basic rather than applied problems and are not a mission oriented community. Some will have transient interests in such an area but are not likely to have the "follow through" that is essential. Hopefully they can, however, be encouraged to devote considerable energies toward unravelling the complex and often baffling features of natural weather systems and cloud physics.

Only private free enterprise actuated by need and economic advantage is likely to apply the necessary effort to make such a program successful. In addition, it will be imperative to have the community likely to benefit from such services actively and intimately involved especially with their pocketbooks. If a proper educational effort is injected into the preliminary plans, I believe that the "people" problem will automatically be solved.

I should hasten to add that at the present time there are a few pioneers who understood all of these aspects of the problem more than fifteen and even twenty years ago who have not deviated in their objectives or services to the community. If it were not for their enterprise and intestinal fortitude we would now have a much larger job to do to "get going." Nor do I say that statistical methods are of no value whatsoever.

I believe we should be smart enough in sizing up the experience of the past 23+years to determine the useful aspects of all the efforts which have been expended during this period so that we can extract from it the useful factors and then collectively and individually reassess the situation and move ahead without further delay. Those who seize this opportunity, and I believe a fair number of them are in the Weather Modification Association, should have an exciting and satisfying future.

One reason why I have been forced to this conclusion is that shortly after World War II, I heard many of my friends in meteorology associated with the government and the academic community say that if they could get a radar network established they would be able to solve the forecasting problem. When a radar network became established and things didn't improve very much we heard that a very large computer was needed if satisfactory forecasts were to be made. Then we were told that weather satellites both moving and in a fixed position above the atmosphere would provide the necessary information. Now we are told that our forecasting problem will be solved by the World Weather Watch. While I presume some improvements have occurred in the course of these developments, I find myself wondering whether Langmuir wasn't right and that there will always be random factors which will forever defy man in his efforts to develop reliable methods of forecasting the weather in the detail that is desired by the average person.

One of the features of nearly all of the rather crude statistical comparisons which have been made of privately or publicly sponsored seeding operations most of which are still underway and have been running from ten to fifteen years, is the evidence in most instances of effects which indicate anomalous but positive precipitation increases during all or most of the operational periods as compared to the historical record. This tends to be the pattern which appears in most instances when the operation is carried out by knowledgeable and capable organizations.

In recent years, the introduction of more and more physical evaluation techniques has supplied us with many cause and effect relationships associated with radar anomalies, silver concentration increases in the fallen precipitation, crystal and structure of snow, concentration and size of snow particles, variation in rate of precipitation induced by the pulse operation of seeding generators, the size patterns of raindrops, and changes in cloud structure. Most of these physical studies can be used to support the evidence of precipitation augmentation by 5 to 20% above the historical target/control patterns.

I believe the time has come when an intensive effort should be mounted to do everything possible to take advantage of every opportunity to effectively control the weather pattern for some useful objective whether it be for moisture transport, lightning or hail prevention, rain or snowfall augmentation, or similar objectives. There is nothing which need prevent those who wish to conduct physical observations of seeding effects to work in such areas but they should not in any way control the basic objective of the effort to produce economic benefits for the recipients whatever their immediate and long range needs may be.

It is time to get moving!

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THE 10TH ANNIVERSARY OF THE MIKE DOUGLAS TELEVISION SHOW

Mr. SCOTT. Mr. President, next month the Mike Douglas television show, produced in Philadelphia for a nationwide audience, will observe its 10th anniversary. The date is December 10. Mike has contacted me to advise of his plans to have a mammoth birthday celebration at station KYW in Philadelphia, an affiliate of Westinghouse Broadcasting Co. He also has invited me to be a guest at his celebration and to be on his December 3 show. I would love to attend and hope we are out of session at that time.

Mr. President, the Mike Douglas show has made many contributions to the entertainment field. The most interesting guests have enabled the audience to gain an exceptional opportunity to see and hear such a diversified program. Mike Douglas is an interesting individual. He has a wonderful wit and a pleasant singing voice. His show reaches about 80 percent of the Nation. Mike has been doing the show in Philadelphia since 1965 and is now a resident of the Greater Philadelphia area.

Mr. President, I wish to extend 10th anniversary wishes to Mike Douglas and all those who make his interesting show possible.

TOY SAFETY

Mr. MOSS. Mr. President, on November 6, 1969, the Child Protection and Toy Safety Act became law. I am proud to have sponsored this legislation. In reviewing toy safety progress 2 years later, I am most pleased to note that our objective—providing safer, healthier, and a happier environment for children—is being met for the most part.

In the beginning we were faced with intolerable delays on the part of the Food and Drug Administration, the agency charged with carrying out the mandate of the act. But over the past 10 months, we have seen progress in the effectiveness of the legislation. Credit for this must be given to those at the Food and Drug Administration who seriously believe in product safety. The FDA has launched an extensive information program, providing the media with much of the information it needed in order to effectively communicate advice on toys.

The Food and Drug Administration has banned 144 toys from the market. Many of these toys have been redesigned and are again on the dealers' shelves, but there is insufficient manpower to check every dealer to see whether the banned toys have been removed. Therefore, I particularly urge gift givers to check the list closely and examine each toy closely to make sure that it is not on the banned list or, if it is, that the version in the store is the redesigned product.

Most toys are safe and most toy manufacturers take care to build nonhazardous toys. But we are well aware that a number of hazards are built into some playthings.

When we were investigating toys prior to passage of the act, we found that there were toy ovens which heat to more than 500 degrees; there were non-insulating wiring connections and places where water seepage could cause shock or short circuiting; cute, cuddly stuffed animals which when exposed to reasonable abuse exposed long sharp pins; dolls with straight pins holding hair ribbons to the head; and, rattles which come apart subjecting the child to sharp spikes and projectiles.

I would not want to put a damper on Christmas. As a matter of fact, the Washington Evening Star recently called me Santa Claus in an article about my toy safety efforts. So I would like to go over some of the items that should be checked when looking at prospective Christmas gifts for children.

Before purchasing each toy, carefully check to see whether it has sharp edges or glass or plastic which might shatter. Look for gears and springs that can catch onto clothing or little fingers. Check the thermal properties of the toys—it should not use any flammable materials or have surfaces which attain high temperatures. Try to assess its breakability; small broken off pieces can be easily swallowed.

Building blocks should be well finished and smooth. Metal toys should have rolled edges to protect against cuts. Arrows and darts should have rubber cups securely fastened. Guns which shoot projectiles are meant only for older children and should be used under supervision.

With electric toys, check to see how the service cords attach to the appliance. Examine the potential heat hazards on the surfaces. Some of the toy ovens now on the market have locks which keep them from opening until the temperature has gone down. Still, be wary of all thermal toys—they may not open until the temperature goes down, but a child can still get a severe burn from the surface temperatures. Some experts have advised that play appliances using electrical current might best be set aside. For younger children nonoperational toys sufficiently stimulate the imagination. And for older children, the real household appliance operated under the supervision of an adult, serves a more educational function.

The Christmas shopper has his work cut out for him. There are many considerations to which the shopper must be alert, but being alert every day of the year will mean that the wonderful Christmas gift remains a safe toy for the happy child.

Mr. President, I ask unanimous consent that the Evening Star article and the Food and Drug Administration's list of banned toys be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

XUM

[From the Evening Star, Oct. 24, 1971]

CONSUMER CONTACT: SANTA'S TOY BAG PARTIALLY BANNED

(By Arthur E. Rowse)

Santa Claus is riding early this year, and his real name is Frank E. Moss, the Democratic Senator from Utah.

Moss's bag is safer toys. As chairman of the Senate Consumer Subcommittee, he has been leading a campaign to get the Food and Drug Administration to enforce the 1969 Child Protection and Toy Safety Act which Moss cosponsored with Sen. Warren G. Magnuson, D-Wash.

The federal agency ran into heavy criticism last year when it waited until a few days before Christmas before taking any action to get unduly hazardous toys off the market. By that time, it was too late to keep such dangers out of reach of wide-eyed children on Christmas Day.

Continued pressure from Moss and other consumer advocates, plus the addition of limited funds for enforcing the law, has changed the picture this year. The FDA has officially banned 140 toys because of safety hasards since last December.

But for some reason the agency sought to keep the list secret, although most of the toy names had appeared on lists of recalled products. Upon learning of the FDA's unwillingness to publicize the list, Moss publicly criticized the agency and urged it to reconsider its decision.

It didn't take the agency long to respond. Later that same day, it notified Moss that it would release the list of 140 banned toys, and Moss hailed the FDA "for a quick change of policy."

According to the FDA, most of the toys on the list have already been redesigned or have been taken off the market. As one official explained, that means any that are still being sold presumably have been redesigned in order to remove that alleged hazard.

In many cases, this means that easily removable parts that could be swallowed have been glued tight, sharp corners and prongs have been removed or blunted and warning labels have been added. Most of the toys are rattles and dolls intended for toddlers.

If you have purchased a toy banned by the FDA for a defect that has not been corrected—such as loose or sharp parts—you are entitled under the law to get your money back.

But you must first know which toys have banned and then must determine whether the hazard has been corrected. The "List of Banned Toys" and the reason for banning each is available from the FDA Information Office, 200 C St. SW, Washington, D.C.

From the list, you can determine the particular hazard of each toy, but you may have to take the toy apart to tell whether the hazard has been eliminated. Some people may simply prefer to avoid toys on the banned list.

LIST OF BANNED TOYS AS OF SEPTEMBER 16, 1971

REASONS FOR BANNING AND DATE OF NOTIFICATION

(NOTE.—Most of the toys on this list have been redesigned or their production ended since the date of notification.)

Champion Ring Darts—Lawn Darts: Haecker Industries, Philadelphia, Pa.; December 21, 1970; inadequate labeling.

King Model 1700—Lawn Dart: Change Athletic, 2615 Hunting Park, Philadelphia, Pa.; December 21, 1970; inadequate labeling.

Jarts: R. B. Jarts, Inc., Glens Falls, N.Y.; December 21, 1970; inadequate labeling.

Javelin Darts—Lawn Darts: Hasbro Industries, Pawtucket, R.I., December 21, 1970; inadequate labeling.

Lawn Darts—Lawn Dart: Regent Sports Co., 2500 Ranick Road, Hauppauge, N.Y., December 21, 1970; inadequate labeling.

Rocket Lawn Darts—Lawn Dart: Towne & Country Games, Ltd., Yonkers, New York, December 21, 1970; inadequate labeling.

Squeeze "Zoo-Zee": Stahlwood Manufacturing Co., 601 West 50th Street, New York, N.Y., December 21, 1970; squeaker removes.

"Dizzy Doodle" Doll—squeeze toy: Park Smith Corporation, New York, New York, December 21, 1970; squeaker removes.

Rubber Squeeze toy football player: Leisure Group, 100 Tubb Avenue, West Point, Mississippi, December 21, 1970; squeaker removes.

Kooky Eyes—Squeaker toy: Azrak Hemway Corporation, New York, New York, December 21, 1970; squeaker removes.

Toy Rolling pin squeeze toy: Plaki Company, Youngstown, Ohio, December 21, 1970; squeaker removes.

Squeeze Toy Pig: J. L. Prescott Co., Arrow Molded Products Div., 493 Boulevard E., Patterson, New Jersey, December 21, 1970.

Little Angel play ball: Childhood Interest, Roselle Park, New Jersey, December 21, 1970; squeaker removes.

"Toys for Fun" squeeze doll: J. L. Prescott Co., Patterson, New Jersey, December 21, 1970; squeaker removes.

Toy poodle rubber squeeze toy: J. L. Prescott Co., Patterson, New Jersey, December 21, 1970; squeaker removes.

Blue Fox Model Youngster—Archery Set: Bear Archery Company, Grayling, Michigan, December 21, 1970; inadequate labeling.

Fleetwood Archery Cub Archery Set—Fleetwood Archery: Superior, Michigan, December 21, 1970; inadequate labeling.

Jerry Peta Stuffed Poodle: Jerry Elsner Co., New York, New York, December 21, 1970; sharp eyes.

Stuffed toy cat: Georg Jensen, Inc., 601 Madison Avenue, New York, New York, December 21, 1970; sharp eyes.

"Kooky-Eyes" Squeeze Doll: Uneeda Doll Co., Inc., Brooklyn, New York, December 21, 1970; removable eyes—possible ingestion.

Star Musical Rattle: Star Manufacturing Co., 100 Water Street, Leominster, Massachusetts, December 21, 1970; sharp prongs.

Tumbler ball toy: Stahlwood Manufacturing Co., 601 West 50th Street, New York, New York, December 21, 1970; small pieces.

"Honey Baby" Doll: P & M Doll Co., Inc., New York, New York, December 21, 1970; pins holding hair ribbons.

"Baby Beth" Doll: Allied Doll & Toy Corp., Brooklyn, New York, December 21, 1970; straight pin holding hair ribbon.

Little Sophisticate Doll, Model No. 79000 [exemption granted collector's item] Uneeda Doll Corporation, Brooklyn, New York, December 21, 1970; sharp hair pins & straight pin holding ribbon.

"I Cry Mama" Doll: Goldberger Doll Co., Inc., 536 Johnson Avenue, Brooklyn, New York, December 21, 1970; sharp wires.

"Candy at Play" Doll: Fun World, Inc., 200 Fifth Avenue, New York, New York, December 21, 1970; pin.

"Your Dream Bride" Doll #2060: Eugene Doll Co., Inc., 4012 2nd Avenue, Brooklyn, New York, December 21, 1970; pin in head band.

"Mini-Bend-A-Family" Doll: Pensick & Gordon Co., 6501 Flotilla Avenue, Los Angeles, California, December 21, 1970; sharp wires.

Toy Basket: Fun World, Inc., 200 Fifth Avenue, New York, New York, December 21, 1970; plastic spike.

"Jiggly" Rattle: Bomar Company, Division of Kitty Products, Inc., 542 East Squantum Street, Squantum, Massachusetts, December 21, 1970; sharp metal and protrusions when handle breaks.

"Magic Action Hammer": Childhood Interests, Roselle Park, New Jersey, December 21, 1970; sharp edges when broken.

Jackie Twisting-Waist Doll: Fun World, Inc., 200 Fifth Avenue, New York, New York, December 21, 1970; sharp pin in hat and dress.

"Moody" Doll: Holiday Fair, Inc., 46 West 37th Street, New York, New York, December 21, 1970: pins and long wire spike in neck.

Stuffed Head: Georg Jensen, Inc., 601 Madison Avenue, New York, New York, December 21, 1970; sharp eyes.

Stuffed Toy Dog or Doll: LaMar Toy Company, 148 39th Street, Brooklyn, New York, December 21, 1970; sharp eyes.

"New Born Baby" T. 80: Goldberger Doll Mfg. Co., 538 Johnson Avenue, Brooklyn, New York, December 21, 1970; sharp wires in arms and legs.

Toy Telephone Rattle: Childhood Interests, Roselle Park, New Jersey, December 21, 1970; small pieces.

Musical Merry-G-Round Canelon: F. W. Woolworth & Co., New York, New York, December 21, 1970; sharp spike.

"Squeaking" Toy Donkey: A. Ponnock, Inc., East State St. & River Road, Camden, New Jersey, December 21, 1970: squeaker removes.

Musical Hour Glass: Tico Toys, Pawtucket, Rhode Island, before April 6, 1971: squeaker removes.

Soft Baby Stuffed Dolls: Collette Toy Novelty Co., Inc., Long Island City, New York, May 26, 1971: sharp wires.

Mascon Squeeze Toy Cheerleader: Leisure Group, Inc., West Point, Mississippi, Before January 22, 1971; squeaker removes.

Bend-A-Family: Miner Industries, New York, New York, Before April 9, 1971; laceration/puncture hazard.

Plastic Squeeze Toy #20892, #1030/70: Tidy Ties Corporation, Importer, Monroe, Louisiana, About April 22, 1971; squeaker removes.

Talkie Tiger: Sanitoy, Inc., New York, New York, April 1, 1971; squeaker removes.

Protecto Squeeze Me Toy #838: Reliance Products Corporation, Woonsocket, Rhode Island, Before May 20, 1971; squeaker removes.

Stuffed Donkey #1422: Herman Pecker & Co. (dealer), New York, New York, March 29, 1971; sharp wire in ear.

Leatherette Grandpa Dog #386: Herman Pecker & Co., Inc., New York, New York, March 29, 1971; sharp wire on glasses.

Stuffed Easter Bunny #3502: Easter Unlimited, New York, New York, April 21, 1971; sharp wires.

Toy Squeeze Doll #64034, #64039, #63542; Tidy Ties Corporation, Monroe, Louisiana, April 28, 1971; squeaker removes.

Baby Gift Set #Y7452: Childhood Interests, Roselle Park, New Jersey, April 22, 1971; squeaker removes, small objects, small parts.

Pata Cake Baby Rattler: F. W. Woolworth & Company, New York, New York, April 23, 1971; sharp prongs.

Musical Rattle #37–T4037: New York Merchandise Co., Dallas, Texas, April 22, 1971.

Squeeze Toy Giraffe #125: Sanitoy, Inc., New York, New York, May 4, 1971; squeaker removes.

Musical Carousel #320: Plastic Toy & Novelty Corp., Brooklyn, New York, May 4, 1971; sharp prongs.

Hedgehog Squeaker Teethers: F. A. O. Schwarts, New York, New York, June 18, 1971; squeaker removes.

Squeeze Me Toy #835: Reliance Products Corp., Woonsocket, Rhode Island, May 6, 1971: squeaker removes.

Stuffed Dolls # 127B: Collette Toy Novelty Co., Long Island City, New York, May 11, 1971; sharp wires.

Squeaker Toys # 6565, 6576, 6590: Tidy Ties Corporation, Monroe, Louisiana, May 5, 1971; squeaker removes.

Stuffed Toy Bunny # 3450 (Mr. or Mrs. Cuddly Bunny), Eastern Unlimited, Inc. New York, New York, June 7, 1971; sharp wire in ears.

Rattle # 521, Electro Plastics, Inc., Newark, New Jersey, May 19, 1971; small pieces and sharp edges.

Rattle # 538, Toy Plastic Hammer, Electro Plastics, Inc., Newark, New Jersey, May 19, 1971; small pieces.

Rattle # 522, Happy Mates Happy Toys Electro Plastics, Inc., Newark, New Jersey, May 20, 1971; sharp pieces.

Rattle # 540: Happy Mates Action Rattle, Electro Plastics, Inc., Newark New Jersey, May 19, 1971; small pieces and sharp edges.

Rattle # 530: Happy Mates Rattle Balls, Electro Plastics, Inc., Newark New Jersey, May 19, 1971; small pieces and sharp edges.

Toy Green Cat, Squeze Toy # 679, Happy Toy 661: Electro Plastics, Inc. (dist.) Newark, New Jersey, June 7, 1971; squeaker removes.

Stuffed Dolls # 131 c/1: Collette Toy and Novelty Co., Long Island City, New York, May 26, 1971; sharp wires.

Squeeze Toys # 314: Stahlwood Toy Mfg. Co., New York, New York, June 8, 1971; squeaker removes.

Dolly Rattle # 632: Stahlwood Toy Mfg. Co., New York, New York, June 9, 1971; small objects.

Whirle Suction Toy # 660: Stahlwood Toy Mfg. Co., New York, New York, June 8, 1971; sharp edges and small objects.

Toddler Set Containing Suction Cup, Flipn'Roll # 822: Stahlwood Toy Mfg. Co., New York, New York, June 9, 1971; small objects.

Horseshoe Rattle # 200: Stahlwood Toy Mfg. Co., New York, New York, June 8, 1971; sharp edges and small objects.

Pretzel, Rocking Horse & Wishbone Toy #924: Stahlwood Toy Mfg. Co., New York, New York, June 8, 1971; squeaker removes.

Squeaker Toy #63542 with Special Squeaker: Tidy Ties Corporation, Monroe, Louisiana, May 12, 1971; squeaker removes.

Debbie Teen #1360 1/10, Thor Import, Inc., Dallas, Texas, May 27, 1971; sharp wires.

Musical Bells #105: Binky Baby Products Co., New York, New York, June 22, 1971; small objects.

Stuffed Myrtle Turtle: Len Art Mfg. Company, Petaluma, California, June 14, 1971; sharp wire & "I Love You"; sharp pin.

Toddly Toy (cat) #3/186: Star Mfg. Company, Leominster, Massachusetts, June 14, 1971; small objects.

Shake Me Rattle #818: Reliance Products Corp., Woonsocket, Rhode Island, June 14, 1971; sharp edges & small objects.

Klatter Balls #2915052: Sears, Roebuck & Company, Chicago, Illinois, Binky Baby Products (importer), New York, New York, June 22, 1971; small objects.

Baby Toys #6257 & 6258: Baby World Company, Inc., Great Neck, New York, June 14, 1971; sharp wire.

Reggie Rabbit (packaged with *Whitman's* Sampler): Imported by R. Dakin & Co., Inc., Brisbane, California, May 14, 1971; sharp wires.

"Poly-Fluff Animals": Consolidated Productions, Ft. Lauderdale, Florida, June 21, 1971; sharp nose.

Baby Rattler #831, #832, #833, and #834: Childhood Interests, Inc., Roselle Park, New Jersey, June 22, 1971; small objects.

Hour Glass: Mego Corporation, New York, New York, July 7, 1971; small objects & sharp edges.

Stuffed Yellow Teddy Bear: Fun World, Inc., New York, New York, July 13, 1971; sharp wires in ear.

Musical Chime Rattle #587: Binky Baby Products, Inc., New York, New York, around July 13, 1971; small objects.

Toy Rattle #289: Binky Baby Products Co., Inc., New York, New York, July 13, 1971; small objects.

Rolling Fun Ball #377: Binky Baby Products Co., Inc., New York, New York, July 13, 1971; small objects.

Teething Rattle #39/70: Binky Baby Products Co., Inc., New York, New York, July 13, 1971; small objects.

Happy Hassock: Kasta Corporation, Bellevue, Iowa, July 13, 1971; squeaker removes.

Toy Clown #26345: W. T. Grant Company, New York, New York, July 13, 1971; small objects.

Stuffed Bunny: Dollcraft Novelty Co., Inc., New York, New York; July 14, 1971; laceration/puncture hazard.

Squeeze Toys #690: J. L. Prescott Co., Arrow Molded Products Division, Passaic, New Jersey, July 13, 1971; squeaker removes.

Squeeze Toys, boy & girl likeness, Dreamland Creations, Bronx, New York, July 12, 1971; squeaker removes.

Rooster Pull Toy with Rattle Eggs #205, Mego Corporation, New York, New York, July 12, 1971; small objects.

Miss Fashion Doll, Blatt Distributing Company, La Mirada, California, July 14, 1971; sharp wire.

Musical Nursery Bells #640: Stahlwood Toy Mfg. Co., Inc., New York, New York, July 13, 1971; small objects.

Squeeze Toys #131: Binky Baby Products, Inc., New York, New York, July 12, 1971; squeaker removes.

Klatter Balls #793: Binky Baby Products, Inc., New York, New York, July 12, 1971; small objects.

Jingle Bells #764: Sanitoy, Inc., Palisades Park, New Jersey, July 13, 1971; small objects.

Happy-Mates Rattle #52: (improved design), Electro Plastics, Inc., Newark, New Jersey, July 12, 1971; small pieces.

"Squeeze N' Hammer Rattle" #538: (improved design), Electro Plastics, Inc., Newark, New Jersey, July 12, 1971; small pieces.

Dog Squeeze Toy #780/1: Louis A. Boettinger Co., Inc., Hewlitt, New York, July 28, 1971; squeaker removes.

Bear with Dark Glasses Squeeze Toy BV–5: Louis A. Boettinger Co., Inc., Hewlitt, New York, July 28, 1971; squeaker removes.

Cat and Duck Shape Squeeze Toy BV–8; Louis A. Boettinger Co., Inc., Hewlitt, New York, July 28, 1971; squeaker removes.

Colorscope Rattle No. 561: Louis A. Boettinger Co., Hewlitt, New York, July 27, 1971; small objects.

Assorted Rattles No. 5619P: Baby World Co., Inc., Grafton, W. Virginia or Great Neck, New York, July 23, 1971; small objects.

Telephone Shaped Rattle No. 6623: Baby World Co., Inc., Grafton, W. Virginia or Great Neck, New York, July 23, 1971; small objects and sharp edges.

Assorted Squeeze Toys No. 6500: Baby World Co., Inc., Grafton, W. Virginia or Great Neck, New York, July 22, 1971; squeaker removes.

Klatter Balls No. 238: Baby World Company, Grafton, West Va. or Great Neck, New York, July 23, 1971; small objects.

Klatter Ring No. 5868: Baby World Company, Inc., Grafton, West Virginia or Great Neck, New York, July 23, 1971; small objects.

Plastic Doll Squeeze Toy No. 297: Binky Baby Products Co., Inc., New York, New York, July 22, 1971; squeaker removes.

Duck Squeaker Toy No. 3–680: Star Mfg. Company, Inc., Leominster, Massachusetts, July 23, 1971; squeaker removes.

Monkey Squeaker Toy No. 3–160: Star Manufacturing Company, Leominster, Massachusetts, July 23, 1971; squeaker removes.

Tutti Fruitee Squeeze Toys No. 140: Stahlwood Toy Mfg. Company, Inc., New York, New York, July 21, 1971; squeaker removes.

Indian Drums No. 3715: Sally Distributors, 119 North Fourth Street, Minneapolis, Minnesota, July 26, 1971; sharp nail & small objects.

Toy Stuffed Porpoise: S. Dakin & Company, San Francisco, California, July 28, 1971; sharp wires in flippers.

Rattle Balls No. 907: Stahlwood Toy Mfg. Co., Inc., New York, New York, July 26, 1971; small objects.

Cuddle Rabbit #9406: Knickerbocker Toy Company, Middlesex, New Jersey, August 18, 1971; sharp wire in ear.

Animal Squeeze Toys #273: Stahlwood Toy Mfg. Company, New York, New York; August 18, 1971; squeaker removes.

Pata Cake Baby Rattler (new design): F. W. Woolworth & Company, New York, New York, August 16, 1971; sharp wire & small object.

Party Favors: Carousel Party Favors, Inc., Los Angeles, Calif., August 19, 1971; noisemaker removes.

Klatter Balls #4530: Formulette Company, Inc., Long Island City, N.Y., August 18, 1971; small object.

Jumbo Fun Ball #440: Formulette Company, Inc., Long Island City, N.Y., August 18, 1971; small objects.

Whiskers Toy Squeeze Lion: Ashland Rubber Products Corp., Ashland, Ohio, August 23, 1971; squeaker removes.

Shake N' Rattle #921: Stahlwood Toy Mfg. Co., New York, New York, August 23, 1971; small objects.

Whistle Packaged in "Cracker Jacks": Cracker Jacks Company, Chicago, Illinois, August 23, 1971; small object.

Squeeze Lion #3/187: Star Mfg. Company, Leominster Massachusetts, July 23, 1971; squeaker removes.

Xylophone Player #9151: Larami Corporation, August 25, 1971; sharp edges.

Suction Toy Rattle #674: Electro Plastics, Inc., Newark, New Jersey, August 31, 1971; small objects.

Toy Truck Kit. #5044: Nodel & Sons Toy Corporation, New York, New York, September 2, 1971; small objects.

Baby Toy Kit #5068: Nodel & Sons Toy Corporation, New York, New York, September 2, 1971; small objects.

"I Squeak for a Squeeze" Stuffed Mouse: Rushton Company, Atlanta, Georgia, September 8, 1971; sharp wires in ears & eyes.

Musical Ball: The Playhouse Company, Minneapolis, Minnesota, September 8, 1971; sharp prongs.

Patty Happy Landings Doll: Lovee Doll & Toy Company, Inc., New York, New York, September 15, 1971; straight pin in tam.

Squeeze Toys #2521 and 2548: West Bros. of DeRidder, DeRidder, Louisiana, September 15, 1971; squeaker removes.

Toy Whistle #662: Ralph Pressner, Metairie, Louisiana, September 13, 1971; small object.

Vinyl Bendy Dogs: Paul E. Sernau, Inc., New York, N.Y., August 18, 1971; sharp wires [exemption granted. Item used only as a part of an adult novelty ash tray.]

NOMINATION OF WILLIAM REHNQUIST TO THE SUPREME COURT

Mr. FANNIN. Mr. President, the vicious smear campaign that is being waged against William Rehnquist is appalling. It is incredible that such wild and groundless accusations should be made against this fine, extremely well qualified nominee for the highest court in our land.

It is significant that the attempt at character assassination is being led by people who have little or no personal knowledge of William Rehnquist.

People who know William Rehnquist, who have worked with him or against him, and who are familiar with his work, respect him as a man of high character who is devoted to law and to the Constitution of the United States.

The most meaningful assessments of William Rehnquist might well be those made by persons who have opposed him politically within Arizona.

On November 5, 1971, the Arizona Republic published a letter to the editor from Mr. Herbert Ely, the chairman of the Democratic Party in Arizona.

Emphasizing that he was commenting on the Rehnquist nomination as an individual and not as party chairman, Mr. Ely wrote:

Although I would not have nominated William Rehnquist as justice of the Supreme Court, nevertheless, as a Senator I would vote to confirm the appointment.

The President is entitled to someone of his own philosophical bent, providing the nominee is competent to serve and is not so extreme or radical that his biases would preclude judicial objectivity and thus make him dangerous to the republic as a Supreme Court justice.

From a decade of personal experience with William Rehnquist, I found him to be qualified to serve on the U.S. Supreme Court both in intellect and legal scholarship. He is a man who happens not to share my political philosophy. But in my opinion he is neither an extremist or a bigot.

Mr. President, here we have a political opponent who has known William Rehnquist personally for 10 years, who has done battle with him in several election campaigns, declaring that: ". . . in my opinion, he is neither an extremist or a bigot."

It seems to me that Mr. Ely's assessment is infinitely more valuable than the innuendo from those who, for one reason or another, now seek to block the Rehnquist nomination.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete text of Mr. Ely's letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

REHNQUIST WELL SUITED FOR SUPREME COURT

EDITOR, THE ARIZONA REPUBLIC: I write in response to your Oct. 31 editorial, "Vicious anti-Rehnquist tactics," and the accompanying cartoon.

I wish to make clear my position on the nomination of William Rehnquist to the Supreme Court, and to respond to your editorial handling of Mr. Rehnquist's nomination (as an individual, not as chairman of the Democratic Party).

I have stated before, and restate here, that although I would not have nominated William Rehnquist as justice of the Supreme Court, nevertheless, as a Senator I would vote to confirm the appointment.

The President is entitled to someone of his own philosophical bent, providing the nominee is competent to serve and is not so extreme or radical that his biases would preclude judicial objectivity and thus make him dangerous to the republic as a Supreme Court justice.

From a decade of personal experience with William Rehnquist, I found him to be qualified to serve on the U.S. Supreme Court both in intellect and legal scholarship. He is a man who happens not to share my political philosophy. But in my opinion he is neither an extremist or a bigot.

We debated in Phoenix on various occasions on a variety of topics. There has been a charge made that he has been aligned with the John Birch Society. My experience is the contrary.

In one particular debate (approximately a four-hour ordeal on open-end television) on the subject of dissent in a free society, a John Birch member was the third panelist. Bill Rehnquist's views were essentially opposed to the views expressed by the member of the John Birch Society.

When Rehnquist testified against the public accommodations bill for the City of Phoenix, I was there and testified for it. His position, in my opinion clearly wrong, was based not on a racist basis but on a philosophical belief that problems of racial injustice can be solved best by voluntary action.

Your editorial, however, went beyond support for Mr. Rehnquist. Its attack on liberals and others who would oppose Rehnquist was unwarranted, and will tend to polarize in an unfortunate way various groups in the community.

Detailed scrutiny of nominees for the highest court in the land is salutary. The Supreme Court, after all, makes decisions which affect the very fabric of our society. There are some who apparently have a different opinion of Rehnquist based upon facts not personally known to me. They should be heard and, indeed, if they feel he would make a poor justice, they have an obligation to expound their views.

There are many of us who believe that, particularly since 1954 (when the landmark desegregation case was decided), the Supreme Court has opened vistas of freedom through the protection of individual rights and liberties and has been a bulwark for a broad and healthy interpretation of the Bill of Rights. Many Americans rightfully do not wish the Court to back away from these interpretations. I understand and share their concern.

Your editorial further suggested that social, remedial legislation is inappropriate. But it is a little late in the game to be arguing such an anachronistic position. In public accommodations, to which you specifically referred, the facts are in. Those who oppose such legislation have been proved wrong.

In Phoenix, restaurants and motels which were closed to minorities before such legislation are now open to blacks and browns. The fears of businessmen have proved ill-founded and, if anything, their business has prospered because of these laws.

A final word for people who are opposing William Rehnquist: The remedy for keeping "strict constructionist," conservative judges off the bench is a political remedy and a very specific one—namely, to defeat President Nixon in 1972.

HERBERT L. ELY.

PHOENIX.

Mr. FANNIN. Mr. President, the Arizona Republic on October 27, 1971, published an editorial which refuted vague allegations that William Rehnquist is a "sophisticated racist." I ask unanimous consent that this editorial and another Republic editorial, published on November 11, 1971, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NO RACISM FOR REHNQUIST

The Southwest chapter of the NAACP is exposing itself to embarrassment by branding former Phoenix attorney William Rehnquist, one of President Nixon's two nominees to the Supreme Court, as a "sophisticated racist." It cannot make the charge stand.

The Rev. George Brooks, former leader of the Maricopa County NAACP chapter, declared soon after the President's announcement that Rehnquist had shown his opposition to civil rights bill by opposing a "1968" civil rights bill in the State Legislature. He soon modified that and began to speak more vaguely about Rehnquist's behavior in the "mid-60s."

The State Legislature did pass a Civil Rights Act in 1965. But leading Arizona Democrat Harold Giss of Yuma, then Senate Majority Leader as well as chairman of the Senate Judiciary Committee, said Rehnquist could not be cited as having taken a racist position.

Senator Giss added that he considered Rehnquist an outstanding nominee. Such is also the opinion of former State Supreme Court Chief Justice Charles Bernstein, also a Democrat, who described Rehnquist as a lawyer of exceptional ability.

In addition, yesterday morning the moderate-liberal Christian Science Monitor editorialized: "This newspaper reacts positively to the two newest Supreme Court nominations of President Nixon . . . the President is to be commended for seeking men of quality . . ."

And Herb Ely, liberal chairman of the Arizona Democratic Party, has said that he has "immense respect" for Rehnquist, even though the two of them may disagree on most political issues. Ely said he believes the Nixon nominee would be a first-rate justice.

We believe that neither slyness nor racism has any part in Rehnquist's personality. The NAACP has gone far astray by equating the Supreme Court nominee's conservative views with racial bigotry.

Prominent Arizonans of many diverse views utterly fail to agree with the group. The NAACP had better climb down from its shaky limb.

LOOK WHO'S TALKING

The ugly campaign to discredit Supreme Court nominee William Rehnquist has been marked by calumny and rumor. But it has not been without its humorous aspects, even though the humor is unintended.

We think specifically of the opposition to Rehnquist by Joseph L. Rauh Jr., of the Americans for Democratic Action, and the Leadership Conference on Civil Rights. Even Sen. Edward Kennedy rebuked Rauh for his "uncalled for and unwarranted" personal attacks on Rehnquist.

If there is one thing Rauh is big on, it is civil liberties. No person in Washington has ever been more vocal in support of those rights. And few people have never spoken so passionately one way and acted directly opposite.

Writing in The Progessive, May 1950, Rauh said: "Let us do away with confidential informants, dossiers, political spies . . . No one can guess where this process of informing will end." Just four years later Rauh, at that time chairman of the ADA, paid $8,500 to a self-confessed liar and confidence man—a confidential informant and political spy who was supposedly compiling dossiers on government officials.

The whole incident is part of federal grand jury records, and is amusingly detailed in William Buckley's "Up From Liberalism." Briefly, the story is this:

One Paul Hughes, 35, tried to sell the McCarthy staff and the FBI a lurid tale of high treason at a U.S. Air Force base. Both agencies sent him packing. Whereupon Hughes approached Rauh, Clayton Fritchey (then editor of the Democratic Digest), and the Washington Post with a grotesque and bizarre story, supposedly based on his knowledge as a McCarthy staff member, of intrigue between McCarthy and the White House . . . of McCarthy informers in the CIA and the State Department . . . of an arsenal of pistols, Lugers, and submachine guns that McCarthy and his staff had amassed in the basement of the Senate Office Building.

When Hughes told Rauh that McCarthy's spy on the ultraliberal New York Post was that newspaper's cooking editor, Rauh quickly informed Post editor James Wechsler—and later told the jury that McCarthy shouldn't have anybody on the newspaper, a vivid contrast to his view that loyalty risks should be allowed to hold government jobs.

Rauh and Fritchey agreed with a Hughes memorandum of December 1953 that phone taps could be used against McCarthy, that ethics should be relaxed to prove and document McCarthy's guilt, that "being nice, too ethical or squeamish, will accomplish less than nothing, where McCarthy is concerned."

The Washington Post prepared 12 articles on Senator McCarthy, based on the Hughes revelations. But when it began to check them out, the tissue of lies was revealed.

". . . Rauh and company had for years moralized about the venality of the secret informer—even when used under sanction of custom, law, and relevant administrative rulings, subject, in the end, to all judicial safeguards," wrote Buckley.

"Now it developed that even while they were loudly condemning the use of 'political spies' and 'secret informers,' they were themselves making deliberate, extended, and blanket use of a man whom they believed to be a political spy and secret informer—one who, moreover, had told them explicitly and in writing that he was not merely being personally disloyal to his employer, but was prepared to use illegal methods to get his alleged information."

That is the sort of man who now charges that William Rehnquist does not have the proper respect for civil liberties!

SENATOR SPESSARD L. HOLLAND, LATE A SENATOR FROM FLORIDA

Mr. ALLEN. Mr. President with the retirement and subsequent death of the Honorable Spessard L. Holland, the Nation, as well as his native State of Florida, lost a great patriot and one of her most distinguished sons. The United States Senate, where Senator Holland made an outstanding record during an illustrious career of almost 25 years, lost some of its greatness and some of its luster on his retirement from the Senate; for, surely, it was Senator Holland and Senators of his type who earned for the U.S. Senate the accolade of "greatest deliberative body in the world."

In the Senate Reception Room, just off the Senate Chamber, are portraits of five former U.S. Senators. The room contains no other portraits. These Senators were chosen as the five greatest U.S. Senators of all time by a Senate committee, headed by then Senator John F. Kennedy, that had been appointed to name the five greatest U.S. Senators. Predictably, Webster, Calhoun, and Clay were named, as were Robert A. Taft and Robert LaFollette. Outstanding as were all five of these famous Senators, without question, in the judgment of the junior Senator from Alabama, Senator Spessard Lindsey Holland was the peer of the greatest of these great Senators.

Senator Holland's superior intellect and silver-tongued eloquence; his integrity and statesmanship; his fairmindedness and courtesy; his logic, leadership, and dedication all contributed to his greatness.

Mr. President, a man is judged by the company he keeps, by his deeds, by his thoughts and motives, by his dedication, sincerity and integrity—yes, and by the books he reads and the music to which he listens. But, Mr. President, I suggest that a man can also be judged by the men he most admires—by who his heroes are. To the junior Senator from Alabama, Senator Holland was one of his heroes, one of the public figures that he most admired. I welcome judgment by this standard.

I had the privilege of serving with Senator Holland only in the 91st Congress, but I did have the good fortune of enjoying a close association with him, on and off the Senate floor.

Many times—actually dozens of times—I had the privilege of sitting at the same table with him at lunch in the Senators private dining room at the table reserved for Democratic Senators. While I figuratively sat at his feet on those occasions, I actually sat beside him and listened intently and with great interest as Senator Holland told of the history and traditions of the Senate, and of the many great issues that had been debated in the Senate, and of the renowned statesmen who had served in the Senate. What greater authority could have been found than Senator Holland?

Mr. President, Mrs. Allen and I were always deeply touched by the love that Senator and Mrs. Holland had for each other. She was seldom absent from his thoughts or his conversation. We had the pleasure of attending their 50th wedding anniversary and, with hundreds of their friends, shared with them the happiness of the occasion. We pray that the Lord will comfort and sustain Mrs. Holland in her loss.

Senator Holland has been gathered unto his fathers and will never again be physically present in this Chamber, but the memory of his greatness and of his illustrious record will live on as long as our Republic stands.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. STEVENSON). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

REVENUE ACT OF 1971

The PRESIDING OFFICER. Under the previous order, the Chair now lays before the Senate the unfinished business, H.R. 10947, which the clerk will report.

The legislative clerk read the bill by title, as follows:

A bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from California (Mr. TUNNEY), which will be read:

The amendment was read, as follows:

On page 71, line 2, strike out "$12,000" and insert in lieu thereof "$18,000".

The PRESIDING OFFICER. The time is under control.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be taken out of both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TUNNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TUNNEY. Mr. President, the amendment which I am offering this morning would have the effect of amending the committee bill in that it would increase from $12,000 to $18,000 the point at which the deduction for expenses of child care and domestic help would begin to phase out. Other provisions of this deduction would remain unchanged from the bill proposed by the Committee on Finance, as amended. For example, the maximum deduction of $4,800 would be available for child care and domestic help expenses if incurred to allow the taxpayer to get a paying job.

There are four main arguments for the amendment which I would like to bring to the attention of the Senate.

First, child care and domestic help expenses are work-related and ought to be business expenses at this level, just as they are for lower income families.

One news commentator on television several days ago commented that if John D. Rockefeller needed to hire a new secretary in order to be able to utilize his time more effectively in his work, he would be able to obtain a business expense under present Federal tax laws. If, on the other hand, a mother wants to go out and earn some money, perhaps so that her family can live better or so that her children can have more opportunities, and she wants to hire somebody to help care for her home and help look after her children, she is not able to claim such a salary cost as a business expense. It really is not fair to grant relief to the businessman to hire a secretary and at the same time not grant that same relief to the mother who wants to work.

Second, I think that the committee and its very distinguished chairman, the Senator from Louisiana (Mr. LONG), have made a very wise decision in including in this legislation a deduction for the working mother. I think it demonstrates an awareness of the realities of life. However, I believe that the $12,000 limit is unrealistically low. I realize that the $12,000 limit was put on because it was assumed $12,000 would be the median income for families in the coming year. However, it seems to me that families should be able to take such a deduction beyond the median when we are talking about work-related activities.

Third, the Bureau of the Census has studies which show that families in the middle-income range face large tax burdens from all sources. I was able to develop some information on that point. Families with an income of between $8,000 and $10,000 have total State, local, and Federal taxes which represent 16.7 percent of their income. In the $10,000 to $15,000 range, it is 19.1 percent. In the $15,000 to $25,000 range it climbs to 21.1 percent.

As Senators know, the Senate has already accepted an amendment of mine which would make this deduction avail-

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able to more low-income families. Beyond this the committee bill gives its greatest tax reductions generally to lower income families.

Inasmuch as Federal taxes alone increase progressively, we ought to have some additional form of tax relief for families with incomes between $12,000 and $18,000—particularly when that form of tax relief would allow a mother to work, and at the same time it would have the added benefit of giving work to a babysitter.

Fourth and finally, I feel that the deduction is necessary to avoid discriminating against women who do want to work and who are married and who have children. When a mother must work, it is unfair to require that she spend most or all of her salary on child care and domestic help expenses.

My amendment would allow a deduction of the most obvious work related expense women can have, and that is the expense that comes when a woman who works must have someone to take care of her children.

I sincerely believe that the innovative decision made by the Finance Committee and by its distinguished chairman (Mr. LONG) can be improved by increasing from $12,000 to $18,000 the amount of money a family can earn while taking full advantage of the benefit that is contained in the committee bill.

Mr. LONG. Mr. President, will the Senator yield?

Mr. TUNNEY. I yield.

Mr. LONG. I am going to yield some time in opposition to another Senator, but I am personally strongly in support of the amendment.

As one who worked in committee to get the committee to agree that there should be a deduction available for amounts paid to someone who looks after children while one is working, or looks after the house while one is working, I could not agree more with the Senator from California.

Frankly, while the provision in the bill is a good one——

Mr. TUNNEY. Excellent.

Mr. LONG. And I am 1 million percent in favor of it—as it stands now when one goes home and talks with his constituents, about half of the working mothers are not getting the benefit of the deduction under present law while half of them are, and a Senator must spend half his time explaining why one-half of the working mothers do not get the benefit of the deduction while the benefit is available for the others. People say, "What is wrong about the fact that I am able to make $700 a month? What is evil about that?" I think it is appropriate to regard such an expense as a business expense of a mother.

A mother on the "Today" television program said not long ago that she felt that if David Rockefeller could deduct as a business expense the salary of a secretary that he needed, then she should be able to deduct as an expense the cost of hiring somebody to take care of the house while she is working.

When you accept the logic of that argument, as the Senate has done, then to cut it off at the $12,000 income level means two things: First, that a lot of people will not be able to use it; and second, if they do use it, they will have its benefits very much reduced, on the theory, in effect, that if a family income is above $12,000 for a family of three, four, or five, they should not be permitted the full benefit of a deduction.

That just does not make much sense. I can understand why you might say you would not want to provide this benefit where the family income is $30,000, $40,000, $50,000, or $100,000; but to say you have gone beyond the point at which the deduction should be allowed at $12,000 is really not logical. If we did that, we would spend more time explaining and defending our votes not to extend it than anything else we could do in this bill.

Assume a case where a mother is working and making $700 a month, and the father is working and making $800 a month, and assume they hire someone for $400 a month to look after their children and tend their home while they are both out working. You will have great difficulty in explaining to those people why they should not have this deduction. What is wrong about them making $1,500 a month—$18,000 a year—with two people out working?

The Senator has a very good amendment. I urge him to offer it, because I think this would be a tremendous improvement on what we were able to do in the committee.

Mr. TUNNEY. Mr. President, I should like to ask the Senator a question, if I may.

Mr. LONG. Yes.

Mr. TUNNEY. When the distinguished chairman developed this excellent creative idea in the committee, did he feel that there would be more mothers able to take advantage of it than has subsequently turned out to be the case, based on his conversations with personnel of the Treasury Department?

Mr. LONG. Mr. President, I personally think we should do much more for people who hire someone to do domestic work than we are doing in this bill, and I tried to do much more than that. We arrived at the point where there appeared to be about a tie vote on doing more than this; and in order to try to get the committee in agreement on something, I suggested we simply take the $12,000 income limit in the House-passed welfare bill, H.R. 1, and see how many votes we could muster for the formula there.

But I am frank to say that I really do think that after the committee started thinking about this matter, most of the committee members have felt inclined to agree that we could do more in this area, and that it makes sense.

The cost of this proposal, may I say, shocked some people, to begin with, but further revenue estimates have indicated it would not cost nearly as much as we had thought. I regret to state the reason why it would not cost as much as we thought this provision for a deduction for domestic help was going to cost. The reason was that people at this income level cannot afford to hire people at $400 a month; so the cost in revenue to the Government is limited by the fact that we are restricting the benefit of the provision to people who cannot afford to fully use it.

When you get up to about $18,000, you are getting to people who can afford to fully use the $400 deduction for hiring someone to look after their children.

Mr. TUNNEY. And that will make for more employment.

Mr. LONG. Yes. The committee voted for the provision now in the bill on the basis of the estimate that it would cost about $300 million. What we propose to do with the Tunney amendment that was adopted last week, and this amendment added to it, would not cost as much as we thought when we included the provision in the bill, and the reason it would not cost as much is that people at this level of income, even the $18,000 level, would not hire domestic help to the extent they would like to, because they just cannot afford it.

Mr. TUNNEY. I think the Senator is absolutely correct. I saw estimates that the cost of this particular provision would be $55 million, but that is not really a true cost, because it is clear that the couple who are going to hire a housekeeper to take care of their children are going to provide employment for someone who would not have had employment otherwise, and it is quite probable that the person who would not have had the employment otherwise would be on welfare. Also, the parent who is then able to work will pay taxes to the Treasury on that income. So I think when we talk about a cost of $55 million, we are only talking about one side of the balance sheet. We are talking about the loss in taxes, but we are not talking about the saving to the Treasury in not keeping a potential housekeeper on welfare.

Mr. LONG. The Senator is absolutely correct. There is not one dollar of feedback in this estimate of what the overall cost would be. It is estimated that the committee amendment, plus the two Tunney amendments, would cost about $315 million. But you are not going to find one penny of feedback in that estimate.

Where are they going to find the people to look after their children? Most of those people are presumably unemployed today. So when you put those people to work, you are going to take them off welfare, at tremendous tax savings. Most people would rather put such people to work than put them on welfare. So there is a two-way benefit: First, you benefit a working woman by permitting her to employ someone to help with domestic duties and help look after her children; and second, you benefit the people who are being employed because those people are then able to earn enough to make their own way, or, if they are on welfare, they can supplement their welfare payments so that that family, too, can live a little better, while Uncle Sam saves money in the process.

So if you look at the feedback involved, it probably would not cost more than $200 million to do this. There is no doubt in my mind that if we want to help people earn their own way and take people off welfare and put them to work, this

provision would go a long way in that direction.

Mr. TUNNEY. I think that when the Senator from Louisiana created the idea in committee, he was trying to accomplish this precise result. It may be that as a result of the amendment we are offering, we are going to allow more families to take advantage of this excellent idea.

I should like to read into the RECORD some recent Treasury estimates.

Under the bill with the first amendment expanding low-income coverage that I offered and the Senate offered last week, at least 1 million families would use the child-care and domestic service expense deduction. There are 10 million husband-and-wife families with children under 14 who earn from $7,000 to $15,000 annually. Two million additional husband-and-wife families have children under 14 and earn $15,000 to $20,000.

Of these, about 600,000 families have full-time working mothers. About 400,000 families would use the deduction under this second amendment.

I think it is quite clear that we would be putting more people to work. It will save so much in welfare costs, and I compliment the Senator from Louisiana for having come up with this great idea.

Mr. LONG. Mr. President, considering the Senate's priorities, it would seem to me that here we are affording a husband and wife an opportunity to live better while at the same time creating a job.

I am well aware of one particular tragedy, because it occurred very near where I live, just across the street, where a mother had no one to help her with the children. She left to go down the street for about half an hour, tied the door shut with a string, there was an open fire, apparently a log rolled out of the fireplace, the house burned down, and two little children burned to death in that house.

When you witness this kind of tragedy, you realize how important it is that we provide care for children. This is a problem that a great number of people have. Frankly, it is more important to the mothers invovled in these families than it is for a plant to displace a perfectly good machine in order to put a more futuristic machine in its place.

So I think that in terms of the overall priorities we have in mind, this is a good way to create jobs and help those who are already working.

Mr. TUNNEY. I thank the Senator.

Mr. LONG. Mr. President, I yield to the Senator from Utah the time in opposition.

Mr. BENNETT. Mr. President, this is a very appealing political tax approach. We have seen it many, many times before. If $1 is good, then $2 is better. And we keep on going up.

I think that with this amendment we cross an interesting line. We are not providing tax relief to take care of the one-parent family, where it is usually necessary for the mother to go out to work and she needs some help to pay for care necessary for her children. We are now moving into the range where we are providing tax relief for the wife who does not have to go out to work but who, in order to get a new automobile or better clothes or for any reason of that kind, would like to go out to work and have the Federal Government provide tax relief to take care of her child.

While it is pointed out that the amendment says that we are simply raising the base from $12,000 to $18,000, we are raising it so high that before the tax relief completely phases out, we are looking at an income of $27,600 a year. On this basis, the Treasury's latest estimate is that we are adding nearly another $100 million loss to the Treasury for the purpose of providing the privilege of employing domestic servants to people whose income goes up to $27,000 a year, in order that the wife can work to supplement the income—well above the poverty level, well above the question of need.

This amendment, presumably, is limited to the providing of help for child care; but it is so written that once a person qualifies for it, once a family qualifies for it, the money can be spent for domestic help of any kind.

If a family entertains a great deal and can show that the expense is employment related, it may get tax relief for the bartenders they bring in for their entertainment. I think the only exception to the household help provision is for chauffeurs; but on the ground that they are getting caretakers, they can hire gardners and hire any other type of domestic help, whether or not they actually need child care. To me, it opens the matter up to the point where it becomes very difficult to defend.

The proposal does nothing to alleviate the problems of low-income families with young children. We have already taken care of that. The problem of child care is the problem of mothers who are required to work in order that children may have some of the necessities, not the luxuries, of life. The problem should not be to ease the tax burden so that the wife may, as I say, work to secure a second car or an extended vacation or a better home or better clothes. That is what we are getting into when we raise the level at which the phase out starts to $18,000 so that the deduction in not completely phased out until an income level of $27,000.

I suppose the Senator from Utah is old fashioned. I can understand the sacrifice in relations with our children that a mother must make if she has to go out to work. But I am wondering whether we should provide tax incentive for a mother who does not have to go out to work, to leave her children in the care of hired domestics. We can read many sage observations on the part of psychologists and psychiatrists that many of our problems in society today grow out of the fact that there is no communication between parents and children, that the breakdown of the family and the home is one of the real causes of the very serious problems we face in the country today. Now we are being asked to provide a tax benefit to make it possible for that breakdown to be accelerated.

The proposal makes it less costly for the wife of a middle-income taxpayer to pass off the motherly duty of child rearing to an employee so that the mother can secure outside employment. As I say, it has no benefits for the woman who has to work in order to take care of her family.

The proposal contains a number of interesting deficiencies, from a technical standpoint. Since it limits the amount that can be deducted on a monthly basis, the IRS would have to look at the expenditures of that family for outside help of all kinds on a monthly basis. Some months they might have to disallow part of the deduction. One can imagine the additional auditing problems that would be added.

As I say, I realize that this has an appealing background. It is nice to be able to go out and say to your constituents, including those up to the $25,000 bracket, "We have provided you with tax relief, and you can spend it on any kind of domestic service you want—so long as you have a child under 15 and your wife works." Those are the only conditions. I believe she has to work only 30 hours a week in order to qualify. This is a nice little tax loophole, a nice little bonanza, for people who really do not need it, and it is going to cost the rest of us almost $100 million a year in additional taxes that we must make up to provide it.

So I can understand why my friend, the chairman of the committee, would support it; because it is basically an extension of his idea, and it is an appealing extension. But I think we should look, also, at the cost to the Treasury and the fact that we have moved out of the question of necessity into the area where it can provide some very pleasant amenities to people who really do not need it.

Therefore, Mr. President, I expect to vote against the proposal, and I hope that my colleagues will join me.

Mr. TUNNEY. Mr. President, I just cannot agree with the distinguished Senator from Utah that this represents a loophole, any more than it represents a loophole in a tax law to allow a businessman to claim a business expense for a secretary. The secretary he hires makes the businessman more effective and allows him to do his job better. The way the committee bill is amended, it does provide for a business expense in the case of a mother who desires to work. I do not see any reason why we should not say to that mother that she has a right to claim as a business expense the cost of household help to take care of her children so that she can go out to work.

I do not know of any distinction between the two cases, other than the fact that in one case we are talking about a man and in the other case we are talking about a woman. I feel strongly that if we are going to give equal rights to women as well as to men, a woman should be given the opportunity to have a business expense writeoff for the cost of her doing business. I really believe that the question of the family breakdown is an ancillary point. There are many other factors involved, psychological and sociological, that bring about a family breakdown. I do not believe that this

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amendment will cause any further breakdown in the family that would not have occurred anyway.

Mr. LONG. Mr. President, will the Senator from California yield?

Mr. TUNNEY. I yield.

Mr. LONG. Some may not like to recognize it, but it is true that the idea that a woman is entitled to take a job and help bring income into the family, particularly if she can make arrangements for someone to discharge the family responsibilities and take care of the domestic work that ordinarily would be her task, has caught on in this country. It is accepted. The idea that a woman's place is in the home and that she cannot hire someone to do the household work in order to increase the family income is no longer current. Rather, it is recognized today as a right of women to do so. Some may not like it but at least, to that extent, the women's liberation movement has caught on.

Mr. TUNNEY. I would agree with the Senator.

Mr. LONG. Some women make better secretaries and business executives than they do housekeepers. If they want to hire a good housekeeper, they should have that privilege. The question is whether she can deduct the expense of it. That is what we are talking about.

Mr. TUNNEY. I could not agree with the Senator more.

Mr. President, one other point I would like to make. It is clear from reading the committee language, section 214, that the purpose of this provision is to enable a woman who has a child under the age of 15 to take advantage of this benefit. It is not designed to enable a family to write off the cost of a butler or a gardener, or someone like that. The language is clear.

It states:

"(1) The term 'qualifying individual' means—

"(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e).

It goes on to say in (b)(2):

The term 'employment-related expenses' means the following expenses, but only if they are incurred to enable the taxpayer to be gainfully employed:

"(A) expenses for household services, and

"(B) expenses for the care of a qualifying individual.

Mr. BENNETT. Mr. President, will the Senator from California yield?

Mr. TUNNEY. I yield.

Mr. BENNETT. I can ask this question because I do not drink. But would not the Senator consider that if someone had a big party and brought in a bartender and a couple of girls to serve drinks in their home, that that would not be a household service?

Mr. TUNNEY. It depends on the definition. Under the Senator's definition——

Mr. BENNETT. It is service in the household. I think it is a household service.

Mr. TUNNEY. It is clear that the purpose of the provision is not to pay for a butler serving drinks but to pay for a babysitter or some other individual to take care of the child while the mother is working and to provide normal domestic services.

Mr. President, I would like to ask the distinguished chairman of the committee, who drafted the language, what he intended.

Mr. LONG. Mr. President, I suggest that this language can be further restricted if necessary. That is one of the things we can do in conference, in the event the Senator's amendment is agreed to. We have drafted the language so as to exclude a chauffeur and similar nonemployment-related household services. It may be that we could draft the language much closer. We could work on that, although I think the requirement that the expenses be incurred to enable the taxpayer to be gainfully employed should be adequate.

But, on the other hand, I do not know why, if someone is working as a cook, we should make it against the law to have a drink after a hard day's work. I do not know why we should make it against the law for a cook to bring a bottle of beer to a workingman when he comes home from work if that is in addition to his other duties. I know that in some homes it would be objectionable, but if one enjoys having a drink at dinner, I do not know why we should make it against the law.

But, let us talk about the intended result of this provision. Here we are talking about a situation where a man and wife with perhaps five children are making $1,500 a month combined income, which works out to $18,000 a year. So we are talking about allowing the benefit of a tax deduction for a man and wife where both work and have children in school—some perhaps may have six or eight children. They have to hire someone to look after the children and do the housework while they are both out working.

The PRESIDING OFFICER (Mr. BENTSEN). The time of the Senator from California has expired.

Mr. TUNNEY. Mr. President, will the Senator from Utah yield me 2 minutes?

Mr. BENNETT. I am happy to yield 2 minutes to the Senator from California.

Mr. TUNNEY. I should like to add to what the Senator from Louisiana has said that it is the purpose of the amendment to allow a mother to work and have someone at home taking care of the child and caring for the house, or to use the services of the day-care center. I think that there is something to be said for the committee language allowing a little bit of flexibility. After all, we do not want the Federal Government sending IRS agents to everyone's home to make the mother punch a timeclock, and the person working for the mother punch a timeclock, to determine how many minutes a day are spent doing various jobs. Obviously, the suggestion of the Senator from Louisiana that, occasionally, we might have a member of the household doing something other than the job for which he was hired, that is, taking care of the child, is logical, but if the major purpose of being in the home is to take care of the home, then I think the purpose of the committee language is served, and we have given the mother the opportunity to have an outside job and provide employment for someone who might very well not be employed otherwise—the mother on the one hand or the babysitter on the other.

I should like to point out to the distinguished Senator from Utah that there are many secretaries who serve their bosses drinks on occasions, and bosses do not lose a business expense deduction as a result thereof. [Laughter.]

Mr. BENNETT. Well, the Senator from Utah does not impose that on his secretary.

But I think the Senator sees the difficulty. We will be moving into an area now where the service is not needed. The Senator would move us into an area where it would be done for the convenience of the parents. Once we get into that area, we can stretch the thing out to include any service, except a chauffeur, as long as it is employment related.

I see no reason for continuing debate. I think the issue is clear: Are we going to spend $100 million a year of the Federal taxpayer's money to help married couples with incomes as high as $27,600 a year by permitting them to employ household help and deduct the full amount of the expenses incurred up to an income level of $18,000 and a portion of the expenses up to an income level as high as $27,600?

Is this good tax policy? Is this equitable? Is this good social policy to encourage a mother to go out and work if she does not have to?

I agree there are certain circumstances in which she may have to, and we have taken care of that in providing a scale that begins at $12,000 and fades out at $21,600.

I think the issue is clear. I am willing to yield back the remainder of my time.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENNETT. I yield.

Mr. LONG. Mr. President, we have a bill here that creates jobs. We are talking about an expense. If people do not provide someone to look after their children, in most instances they are in violation of a State criminal law for child neglect. We can have the situation where children burn to death if the house catches on fire when there is no one to look after them when the mother has left home temporarily.

This is an expense that in many instances is required by law. If that mother is going to go to work, we are saying that should be recognized as a deduction. The deduction will create jobs and help reduce the welfare burden.

How can one say we should not permit this at all when it is an out-of-pocket expense and we allow a tax deduction for an expense that is not an expense at all. We give an accelerated depreciation allowance on machinery amounting to billions of dollars. We also give additional billions of dollars for tax investment credit for an expense which does not exist, and do not even require a basis reduction for depreciation purposes.

So, if we can do that to create jobs, why not allow a deduction for an out-of-pocket expense for which they have very little choice? That is the argument for the amendment.

Mr. BENNETT. Mr. President, I do not know how many jobs this will create. If the mother is now working and is paying for a child-care arrangement, she gets the deduction. She does not have to hire anyone else. It covers the expenses she already has. And I think that most of the people with incomes of above $18,000 a year, between $18,000 and $20,000, up in that category, probably already have their child care arranged. So, this is just a nice windfall for people in that category.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Utah has 11 minutes remaining.

QUORUM CALL

Mr. BENNETT. Mr. President, on my own time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield to me for 2 minutes?

Mr. FANNIN. Mr. President, I yield 2 minutes to the Senator from West Virginia.

Mr. BYRD of West Virginia. I thank the Senator.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

UNANIMOUS-CONSENT AGREEMENT ON AMENDMENTS NO. 564 AND 655

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the disposition of the pending amendment the Senate proceed to take up the amendment cosponsored by the Senator from Illinois (Mr. STEVENSON) and the Senator from Kansas (Mr. PEARSON), amendment No. 564; that time thereon be limited to 1 hour, to be equally divided between the distinguished mover of the amendment (Mr. STEVENSON) and the distinguished manager of the bill (Mr. LONG); that time on any amendment thereto be limited to 20 minutes, to be equally divided between the mover of the amendment in the second degree and the distinguished manager of the bill, and that the same provisions apply with regard to time on motions and appeals, with the exception of nondebatable motions, as with respect to amendments in the second degree.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, what time is the Sparkman amendment scheduled for?

Mr. BYRD of West Virginia. It is my intention, if the Senate agrees to this unanimous-consent request, to then schedule the amendment by Mr. SPARKMAN immediately following the amendment by Mr. STEVENSON, which would put it at about 12:30.

Mr. McCLELLAN. The Sparkman amendment?

Mr. BYRD of West Virginia. Yes.

Mr. McCLELLAN. That will be entirely satisfactory. I have to leave later this afternoon and I want to be present to vote on the Sparkman amendment. I understood it would be scheduled as the second amendment today.

Mr. BYRD of West Virginia. That was the thought earlier, but I understood that the distinguished Senator from Alabama was conducting hearings until noon, and that he wanted to schedule his amendment in the early afternoon.

Mr. McCLELLAN. That would be very satisfactory. How much time is allotted for that amendment?

Mr. BYRD of West Virginia. One hour.

Mr. McCLELLAN. It is quite satisfactory to me if it comes up at 1 o'clock or 2 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the amendment No. 564, by Mr. STEVENSON, the amendment by Mr. SPARKMAN (No. 655), then be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I am pleased to be a supporter of both of Senator TUNNEY's amendments permitting a tax break for child care and domestic expenses. Together, these amendments would assist at least 1½ million working mothers in their efforts to supplement the family income while raising children. We are all aware of the dilemma faced by mothers of low income or middle income families. These women must choose between staying at home to properly raise their children and maintaining a job to pay for that health care and education which each mother believes is essential to her children's development. As we consider something as precious as the development of this Nation's children, I believe we should provide an alternative which eliminates the very difficult dilemma facing families today. Therefore the fairness of the amendment pending now which permits families with a combined income of $12,000 to $18,000 a year to deduct a portion of their child care and domestic help expenses from their income tax should not be underestimated. For these families are no less deserving than those earning less than $12,000 who were originally covered.

The need for quality assistance in the home has been increasing dramatically in the last 30 years. While the proportion of working mothers with preschool children was 10 percent in the 1940's and 40 percent in the 1960's, it is estimated that the percentage will increase to between 60 and 70 percent in the decade of the 1970's. And the crucial fact is that of these millions of working mothers, nine out of 10 work to satisfy an otherwise unmet economic need such as basic support, medical bills, future educational expenses, et cetera.

The need for a second income is a need affecting all income groups. For instance, for those families in which the husband is making $10,000 or more a year, 40.8 percent of mothers with children aged 6 to 17 are working; of the mothers with children under 6 years, 26.3 percent are working. On the assumption that in most of these families husband and wife are both making close to $7,000, the additional income which the wife is able to contribute to the family is essential. This amendment would encourage middle class as well as low income families to pay for high quality child care and household assistance without worrying about unduly shrinking their total income.

The effects of increasing child care opportunities will become increasingly evident over the years. According to research which I have done in connection with my Universal Child Care and Child Development Act as well as the Women's Equality Act, there are at least 14 million children in this Nation who have working mothers. Since eight out of 10 of these children now are cared for through makeshift arrangements, their educational development would directly benefit from provisions permitting their families to deduct the expense of higher quality care.

I commend this amendment to the Senate and hope that it will decide to extend child care deductions to those families who are earning between $12,000 and $18,000.

Mr. BENNETT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from California (Mr. TUNNEY). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Georgia (Mr. GAMBRELL), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from North Carolina (Mr. JORDAN) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Iowa (Mr. HUGHES), the Senator from North Carolina (Mr. JORDAN), and the Senator from South Dakota (Mr. McGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Colorado (Mr. ALLOTT). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Colorado would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Nebraska (Mr. CURTIS). If present and voting, the Senator from Texas would vote "yea" and the Senator from Nebraska would vote "nay."

The result was announced—yeas 59, nays 24, as follows:

[No. 331 Leg.]

YEAS—59

Anderson	Fulbright	Muskie
Baker	Gravel	Nelson
Bayh	Griffin	Packwood
Beall	Harris	Pastore
Belimon	Hart	Pell
Bentsen	Hatfield	Percy
Bible	Hollings	Proxmire
Boggs	Inouye	Randolph
Brooke	Javits	Ribicoff
Buckley	Kennedy	Schweiker
Burdick	Long	Sparkman
Byrd, W. Va.	Magnuson	Spong
Cannon	Mansfield	Stennis
Case	Mathias	Stevens
Chiles	McClellan	Stevenson
Cranston	McGee	Symington
Eagleton	McIntyre	Taft
Eastland	Metcalf	Tunney
Ellender	Mondale	Williams
Fong	Moss	

NAYS—24

Aiken	Dole	Miller
Allen	Dominick	Pearson
Bennett	Ervin	Roth
Brock	Fannin	Scott
Byrd, Va.	Goldwater	Smith
Church	Gurney	Stafford
Cook	Hansen	Weicker
Cooper	Hruska	Young

NOT VOTING—17

Allott	Humphrey	Mundt
Cotton	Jackson	Saxbe
Curtis	Jordan, N.C.	Talmadge
Gambrell	Jordan, Idaho	Thurmond
Hartke	McGovern	Tower
Hughes	Montoya	

So Mr. TUNNEY's amendment (No. 671) was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer (Mr. MCGEE) laid before the Senate a message from the President of the United States submitting the nomination of H. Guyford Stever, of Pennsylvania, to be Director of the National Science Foundation, which was referred to the Committee on Labor and Public Welfare.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 564

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the amendment (No. 564), as modified, of the Senator from Illinois (Mr. STEVENSON), which the clerk will state.

The second assistant legislative clerk proceeded to read the amendment.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

Mr. STEVENSON's amendment (No. 564), as modified, is as follows:

On page 40, line 9, strike out "$675" and insert in lieu thereof "$700".

On page 40, line 15, strike out "$675" and insert in lieu thereof "$700".

On page 40, line 19, strike out "$675" and insert in lieu thereof "$700".

On page 40, line 21 strike out "$1,350" and insert in lieu thereof "$1,400".

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. STEVENSON. The personal exemption for 1971 is now $650. The House of Representatives and the Senate Finance Committeee have approved increases in the $650 personal exemption to $675. This amendment would simply increase the present $650 level to a new level of $700. It would affect only 1971, and would have no effect on subsequent years.

The effect of the increase from the $675 personal exemption approved by the other body and the Senate Finance Committee to $700 would be immediate relief to individual taxpayers in the amount of about $1 billion. That $1 billion would not only be relief for individual taxpayers, but it would also be an immediate stimulus to the economy. The effect that could be anticipated would be the conversion of that $1 billion into spending by consumers.

Most economists would agree that this is the stimulus most needed by the economy. Consumer spending has been lagging. The most recent statistics on consumer spending continue to show that consumer spending is increasing at an inadequate rate, and that this, in turn, is one of the most serious brakes upon the economy.

The PRESIDING OFFICER. Will the Senator from Illinois suspend while order is restored? The Senator is explaining his amendment. Senators who wish to converse will please retire to the cloakroom.

The Senator may proceed.

Mr. STEVENSON. Mr. President, this amendment requires very little explanation. As I have already indicated, it simply increases the personal exemption from the $675 approved by the House of Representatives and by the Senate Finance Committee for 1971 to a new level of $700. The immediate relief, not future relief would be about $1 billion in increased spending by consumers, with a consequent stimulus to the economy.

I might point out that the Senate has already approved an amendment offered by the Senator from Indiana (Mr. HARTKE) which increases the personal exemption for 1972 to $800. The exemption at present is $650. The bill reported by the Finance Committee would increase it to $675 for this year. In relation to the $800 level for 1972, $700 for 1971 would be a very modest increase.

Mr. MILLER. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. I am glad to yield to the Senator from Iowa.

Mr. MILLER. I would like to understand this amendment thoroughly. As I understand it, we would be providing for an additional $25 personal deduction for the calendar year 1971?

Mr. STEVENSON. 1971.

Mr. MILLER. The Senator is talking about purchasing power. What would this mean to the purchasing power of a low-income individual in the 14-percent tax bracket?

Mr. STEVENSON. For a family of four, it would be very little. I am told approximately $28. As the Senator knows——

Mr. MILLER. No; I am talking about a single individual now, in a low-income bracket of 14 percent.

Mr. STEVENSON. It would only make a difference of about $6 or $7.

Mr. MILLER. I am sorry; I did not hear the Senator.

Mr. STEVENSON. I am told it would only make a difference of about $6 or $7.

Mr. MILLER. $6 or $7? If my mathematics is correct, I would take the $25 extra deduction and multiply it by 14 percent, and I get $3.50.

Mr. STEVENSON. That would be the effect of an increase in the exemption from $675 to $700 for a single individual. My previous answers pertained to an increase from the present personal exemption of $650 to a personal exemption of $700.

Mr. MILLER. What would it do in increased purchasing power for the wealthy taxpayer in the 70-percent tax bracket?

Mr. STEVENSON. It would clearly do more for the wealthy individual. As his income goes up, his tax rates go up, so the effect of the exemption is to give him a larger benefit; that is true.

Mr. MILLER. What would that be? I would like to make sure we are on the same wavelength.

Mr. STEVENSON. About $17.50.

Mr. MILLER. So, as between a single taxpayer in the low income area, with a tax bracket of 14 percent, and the wealthy income person with a tax bracket of 70 percent, there would be $3.50 in additional purchasing power for the low income person, and $17.50 for the high income person; is that correct?

Mr. STEVENSON. That is correct. But very few tax returns are filed by single individuals in the 70-percent tax bracket.

Mr. MILLER. Do the Senator's mathematics agree with mine?

Mr. STEVENSON. Yes.

Mr. MILLER. Now, to carry my question a step further, let us take a husband and wife with six children, who have eight personal exemptions. That would mean that the Senator's amendment would give them an additional $25 for each exemption, or a total of $200 more in personal exemption deductions. For the low-income person in the 14-percent tax bracket, would the Senator agree that would work out to a total additional purchasing power of $28?

Mr. STEVENSON. The Senator is correct.

Mr. MILLER. Now, if we take the same size family in the wealthy category, in the 70-percent income tax bracket, that is an additional $200 of deductions, and at 70 percent that would mean an additional purchasing power for that family of $140; does the Senator agree?

Mr. STEVENSON. The Senator is correct. We are going to give the Senate additional opportunities to vote on additional amendments which would provide more relief to the low-income taxpayers, including an amendment by Senator HUMPHREY, which I am cosponsoring. That amendment would increase the low-income allowance, often called the minimum standard deduction, to $1,300, retroactive to January 1, 1971. It is now only $1,050 for 1971.

Mr. MILLER. May I say to the Senator from Illinois, we will take those amendments up as they come. I am interested in understanding the amendment that is now before the Senate, that the Senator from Illinois has offered, and I want to make crystal clear what it would do by way of the purchasing power that the Senator was talking about.

Mr. STEVENSON. It is really very simple. It would provide $1 billion in increased spending through relief for individual income taxpayers, but obviously a wealthy family would get more relief than a less wealthy one. However since most families are not in the 70-percent tax bracket, wealthy families would not get most of the relief. In fact nearly 70 percent of the tax cut would be centered on households with income below $15,000 annually.

Mr. MILLER. And in the last example I gave, that would be $28 for the low-income individuals for a husband-and-wife-and-six-children family, and $140 for the same size family for the high-income, high-tax-bracket family in the 70-percent bracket; does the Senator agree?

Mr. STEVENSON. Yes.

Mr. MILLER. I thank the Senator.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. STEVENSON. I yield to the distinguished Senator from Kansas.

Mr. PEARSON. Mr. President, I am pleased to have the opportunity to present, with the Senator from Illinois (Mr. STEVENSON) and the Senator from Minnesota (Mr. HUMPHREY), an amendment to H.R. 10947 providing an increase of $50 in the personal deduction on the Federal income tax.

If adopted, our amendment would have the effect of saving American taxpayers nearly $1 billion more than the present legislation provides by adding an additional $25 to the $675 now proposed as the standard personal deduction. The additional increase will not only implement and hasten the restoration of a normalized economy along lines proposed in the President's new economic policy, but will also add an immediate stimulus to the economy, an action which will most assuredly dovetail with the NEP's long-term salutary effects.

Mr. President, I support the measures the administration has offered to restore the economy. I believe that Congress should promptly enact the fundamental tax reductions and credits Mr. Nixon has proposed.

But Congress should not consider itself limited to the precise formula developed by the administration. Nor should we, in our desire to cure the ills which beset the economy, hurriedly approve these measures without exposing them to the light of debate and detailed discussion.

The American people are deeply disturbed about the present state of the economy. Their patience, understanding, and willingness to sacrifice during the freeze exemplified the best in our character and strength as a nation. But as we prepare to move into phase II of the NEP, apprehension will increase as the American taxpayers realize that it may be quite some time before freedom in the marketplace is restored. And as long as these restrictions—no matter how temporary—remain in effect, full confidence in the economy and its ability to advance and prosper will be somewhat inhibited.

Therefore, Mr. President, I believe it is essential to demonstrate to the individual taxpayer in a real and substantive way that the Government is confident in the success of its plan and that new prosperity and full employment are not merely dreams, but realities. It is my belief that the additional increase in the standard deduction is a sound way to demonstrate this confidence, and I support it for that reason.

I also believe, however, that in considering the tax proposals, we should attempt to strike a balance in our distribution of benefits among all aspects and sectors of the economy. We have an opportunity now to do much more than restore national and international confidence in the dollar. Success of our plan means that every American should benefit from such a restoration. In this regard, attention should be given to the adoption of special tax incentives to spur economic development and jobs in rural areas, so that a balance of growth between urban, industrialized centers, and rural communities can develop.

Likewise, Mr. President, we must achieve a balance between the benefits available to Americans in the immediately foreseeable future as well as those which will materialize in the coming years. On September 8, the Secretary of the Treasury stated in his testimony on the tax proposals before the House Ways and Means Committee that, spread over the years 1969–73, tax payments of individuals will have been reduced by $34 billion.

No one can deny that, as a long-term goal, this is indeed an impressive accomplishment. But, upon further analysis, it becomes apparent that the increase in the 1971 personal deductions for most low- and middle-income workers will be substantially negated as a result of next year's increase the social security tax. Although I understand the necessity for an increase of this nature, it means that unless the income tax breaks for the individual taxpayer are increased, an imbalance between tax cuts for the individual and tax cuts for the corporate structure will result.

I realize that in the long run, a balance could be restored through the creation of additional jobs and greater productivity. Nevertheless, it remains clear that the immediate impact on the individual consumer is limited at best.

Therefore, Mr. President, I urge approval of our amendment, in the interest of restoring the economy, encouraging the confidence of the American people in our plan for restoration, and providing a balance of benefits to all sectors of national life. Our proposal is a positive action, one which is responsive to the needs of all taxpayers, and it will not impede our efforts to restore the economy. In my judgment, it can only spur recovery by providing an added stimulus to the American consumer.

As a cosponsor of this amendment with the distinguished Senator from Illinois, I would really only repeat basic points that he developed in his explanation of this amendment. It would add a greater balance to the tax incentives that the President seeks, which I support, for industrial expansion and for consumer purchasing power. More than that, Mr. President, I think it adds some continuity and some consistency now, with the passage of the so-called Bayh amendment.

Under the Revenue Act of 1969, the personal exemption was scheduled to go to $700 in 1972 and $750 in 1973. The House passed 1971 bill, H.R. 10947, provided for an increase in the personal exemption to $750 in 1972.

While there is no great advantage in the consistency of the step, I think this amendment does provide for the orderly adjustment not only of revenues of the Government but also of the taxpayer himself. As the Senator so clearly explained, it falls into a consistent pattern in providing that it go back to the retroactive date of January 1, 1971.

Let me say in conclusion, that I think this amendment—and I have supported the President in this plan—provides for greater balance and gives a greater sense of certainty in a time when there is great public apprehension, not only at the end of Phase I of the absolute freeze but also as we go into a period of great adjustment, great accommodation, and great uncertainty as to prices and wages—what sort of incentives we need in this country.

I say to the Senator from Iowa, who brings great talent, knowledge, and experience to the Finance Committee, that the arguments he makes in relation to what this does for the low-income taxpayer could be made in relation to every exemption which of necessity must be consistent to every taxpayer.

I thank the Senator for yielding.

Mr. STEVENSON. I thank the distinguished Senator from Kansas for his statement and support, including his cosponsorship of this amendment.

As he points out, it would make for a smoother transition to the higher personal exemptions which we can expect for 1972, and it gives the tax proposals before us more balance.

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Most economists would agree that what the economy most needs now is a stimulus to accelerate spending. Yet, the great incentives, the tax concessions in the proposed legislation before the Senate, are for business, which is now operating at only 73 percent of capacity. The accelerated depreciation schedules approved by the Senate committee would cost the Treasury approximately $1.7 billion in fiscal year 1972. The 7-percent investment credit would cost the Treasury in 1972, about $3.6 billion. The removal of the excise tax on the sale of automobiles is going to benefit those consumers who purchase automobiles. It is also going to benefit the automobile industry. The repeal of that one tax alone will cost the Treasury in 1972 about $2 billion.

In addition, there are provisions such as the DISC provision. In the entire package, there is precious little relief for the hard-pressed individual taxpayer and very little incentive to the economy where the economy needs it most.

Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, it is my understanding that no time has been used by the opposition to the amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. Mr. President, will the Senator yield me such time as I may require?

Mr. LONG. I yield the Senator 15 minutes.

Mr. BENNETT. Mr. President, this is a very serious problem. If this amendment is adopted, it could become known as the amendment to make the taxpayers mad, as I shall try to point out.

It is going to make the Treasury mad, because it takes nearly a billion dollars out of the taxes due next year. It takes nearly a billion dollars more out of the revenue of the Government.

Last Friday, by amendments on this floor, we reduced the Federal revenue by $2.5 billion. Now we are taking out nearly another billion dollars.

As the Senator from Iowa makes perfectly clear, the effect on the individual taxpayer is comparatively negligible. For the man in the 14-percent bracket, it is $3.50. For the rich man in the 70-percent bracket, it is $17.50. For that little saving, you would deprive the Government of almost $1 billion. But, as I said, it is going to be the amendment that makes the taxpayer mad. The tax forms for 1971 are already being printed. They have gone so far that they cannot be stopped and reprinted if we are going to get them in the hands of the taxpayers by January 1.

What difference does that make, you might suggest? There are millions and millions of small taxpayers who, through the withholding system, overpay their taxes and count on the refund they are going to get as soon as they get the new tax form and can file for it. They are not going to get their refund soon after January 1, if we have to go back and reprint the forms. It will cost $5 to $8 million just for the job of reprinting, but that is not all. It has just been pointed out to me that 10 million taxpayers got refunds in January and February last year. So 10 million Americans are counting on that and would not be able to get it until sometime past that point because of the delay caused by reprinting the tax forms to reflect this amendment.

It seems to me that this is another case in which there are those who would like to destroy the President's program—another billion dollars out of the revenue—and we have already been told that this is only the beginning. There are other amendments to come which would have the same effect, but would change the effect of the exemption or make it apply differently to different people.

The point has been made constantly, over and over again, that we should not look to business to provide the jobs. We should not help business modernize or help it expand. All we have do is put money in the hands of the people and then they will go out and spend it and jobs will automatically blossom. The people who argue that way forget that, in the current circumstances, the people have greatly increased the volume of their savings. They are not spending the money that they get. They are socking it away in savings accounts until the uncertainty clears up. So anyone who wants to argue that by cutting taxes $1 billion now, we are increasing the purchasing pattern of the American people by $1 billion, I think, is begging the question very much.

I return to the point of the 10 million Americans who, if this passes, will not be able to file their refund requests on time. It would not only cost about $1 billion in a tax loss but it would just about drive the ordinary taxpayer up the wall.

Mr. President, I hope that the Senate has respect enough for the needs of the taxpayers of this country, under the circumstances, to reject the amendment.

Mr. PEARSON. Mr. President, will the Senator from Utah yield for a question?

Mr. BENNETT. I yield.

Mr. PEARSON. This is a question I do not actually know the answer to—like so many other questions asked here; but I was under the impression that the bill as reported by the committee on November 9 had increased the personal exemption from $650 to $675—

Mr. BENNETT. That is right.

Mr. PEARSON. And that the bill just came to the floor with a report on November 9. Have the tax forms actually been printed between the action of the Senate Committee and November 15 which we are taking up now, before we even pass the bill?

Mr. BENNETT. The Finance Committee reported to the floor a bill covering this increase and, on the basis of that action, the Treasury Department did begin to print the forms. It had to.

Mr. PEARSON. Is it subject to a time limitation? It is not the amendment of the Senator from Illinois and the Senator from Kansas, really, which is causing such a great problem in the printing. That went to the printing press before now, before even the conference report came in on this particular bill.

Mr. BENNETT. The Finance Committee figure was the same as the House figure so it was obvious that there would be no conference problem.

We had to assume that the Senate would support its committee because they had to get the forms out. If they had not been out, we would have had even more difficulties in making it possible for people to file their returns.

Mr. PEARSON. I thank the Senator.

Mr. BENNETT. So the forms are out, showing the personal exemption at $675. Most of them have already been printed.

Mr. STEVENSON. Mr. President, I do not believe that the IRS and the Treasury Department have been quite so contemptuous of the Senate as the Senator from Utah suggests. We have been in touch with the IRS and they tell us that as long as the exemption is decided upon by November 26 there will be no serious difficulties. There will be a minor increase in expense and there might be about a week's delay in getting the returns out to the taxpayers. The Senator from Utah has labeled this, "The amendment to make the taxpayers mad." I am not an authority on the taxpayers in Utah. Maybe they rejoice every time their taxes go up. In my case, in the State of Illinois, they rejoice every time their taxes go down.

Speaking for my own constituents, I feel reasonably confident they would gladly wait that extra week in exchange for a little tax relief and, if they have refunds coming, Mr. President, they do not have to wait—all they have to do is go down to the IRS office and get a flat sheet. The only delay will be in the printing of the forms with the explanations that go out through the mail.

The only other point which the distinguished Senator from Utah made was that my amendment does not amount to very much. It does not amount to a great deal of cost to the Treasury. That is one of the reasons I do not think there should be any serious objection. Collectively, it will aid all individual taxpayers to the extent of $1 billion. That is better than nothing. That is $1 billion which, translated into increased consumer spending, will benefit the economy.

The Senator from Utah also said that our people are saving more than before. That is true. That is one of the problems we have been having. The savings rate is about 8 percent of income now, nearly 2 percent higher than the normal rate. So if we apply the same savings rate to income made available to consumers under this amendment, we can assume that maybe 8 percent of the additional income—maybe a little more—would not get translated immediately into spending, but about 92 percent—in other words, slightly over $900 million—would. A $900 million increase in consumer spending is $900 million benefit to the economy, where most economists agree it is most needed.

Mr. President, I now yield to the distinguished Senator from Minnesota (Mr. MONDALE).

Mr. MONDALE. Mr. President, I rise to offer an amendment in the nature of a substitute to the pending amendment as offered by the Senators from Illinois and Kansas, and send it to the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. McGEE). The Chair is advised that the amendment is not in order at this time until all time is used or yielded back.

Mr. MONDALE. Mr. President, may I ask the authors of the amendment and those in opposition—

Mr. STEVENSON. Mr. President, how much time do I have remaining and how much time remains to the opposition?

The PRESIDING OFFICER. The Senator from Illinois has 10 minutes remaining and the opposition has 23 minutes.

Mr. BENNETT. Mr. President, on the opposition's time, may I ask the Chair to state the rules under which we are operating with respect to amendments to an amendment?

The PRESIDING OFFICER (Mr. McGEE). The Chair is advised that on a second degree amendment, under the order fixing a time limitation, there is 20 minutes, but that under the procedures of the Senate when there is a unanimous consent agreement, which operates as at the present time, limiting time on an amendment, it excludes offering a second degree amendment until all the time on the first degree amendment has been yielded back or used. Unanimous consent, of course, can change that procedure.

Mr. BENNETT. Mr. President, a further parliamentary inquiry—in operating under that rule, if time were yielded back, would we then hang without a vote on the amendment until after the amendment to the amendment has been considered?

The PRESIDING OFFICER. Yes, that would be correct. If all time were yielded back, we would proceed to the second degree amendment with a time limitation on it, and that would take precedence in action.

Mr. PEARSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kansas will state it.

Mr. PEARSON. I understand that the Senator's amendment was in the nature of a substitute. Would the same rule so apply there?

The PRESIDING OFFICER. Yes. It would still apply to an amendment in the form of a substitute.

Mr. BENNETT. Mr. President, I would be happy to yield 5 minutes to the Senator from Minnesota in order to have him explain his amendment on this time for the sake of knowing what we are talking about.

The PRESIDING OFFICER. Is that agreeable with the Senator from Minnesota?

Mr. MONDALE. Mr. President, might I first ask a unanimous consent so that I may be permitted to call up my amendment in the form of a substitute notwithstanding the earlier unanimous-consent agreement?

Mr. BENNETT. Mr. President, I would have to object because we are not through presenting our case in opposition to the amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. MONDALE. I might, at this point, then, use the short time offered to me by the Senator from Utah.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, this amendment would substitute for the Stevenson-Pearson amendment a higher personal income tax exemption.

The PRESIDING OFFICER. The Chair would like to ask the Senator from Minnesota if the page numbers should be modified in line with the number adjustments.

Mr. MONDALE. Yes. I ask unanimous consent that the page numbers be adjusted to reflect the desired form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, the Stevenson amendment makes the scheduled personal income tax exemption $700 retroactive to January 1, 1971. My amendment would increase the amount of that personal income tax exemption from $700 to $750 and also make it retroactive to January 1 of this year.

My reasons for suggesting this are based upon sound principles. I believe that the economy is being understimulated and that we need more purchasing power now to produce jobs and get people back to work.

Yesterday, in the Washington Post, there was a very strong article written by Walter Heller. He said that the key problem confronting the economy is that it is stagnant and flat. It is growing hardly at all, and surely not enough to provide the jobs we need.

My amendment is designed to treat this stagnation by increasing the amount of money in the hands of the average taxpayer. Stimulation must come from increased spending by the average citizen. The average consumer spends about 92 cents out of every dollar. The quickest way to get increased economic stimulation in the form of purchases of goods and services is to increase the amount of money in the hands of the average taxpayer.

Mr. President, that is the nature of my amendment.

Mr. BENNETT. Mr. President, I thank the Senator from Minnesota.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield 3 minutes to the senior Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 3 minutes.

Mr. PERCY. Mr. President, I shall regretfully have to oppose the pending amendment. My very distinguished colleague from Illinois knows my position, for we have had discussions on this point and we simply see the issue differently.

I firmly supported the gradual increase in personal exemptions to $750. In fact, my amendment to the tax bill then pending helped to bring about that provision. However, I do feel that the effect on consumer buying of the pending amendment will be very minimal. I think that to change the deduction at this time, at this late stage, when we have already spent $25 million to print and distribute the 1971 income tax forms, which could not be reprinted in time, would mean that taxpayers would have tax forms showing the exemption of $675. Millions of tax returns would be incorrectly filed. It would mean that Internal Revenue would have to recompute millions of tax returns and mail out refunds to millions of taxpayers.

It would create terrible confusion.

Increasing the exemption from $675 to $700, when we consider the average family of four with an income of perhaps $10,000, that would mean, at a 20-percent tax level, only $20 difference in their annual tax returns.

I do not think that will allow the economy to be significantly stimulated, particularly considering that Americans are already saving at an annual rate of 8.3 percent today.

Furthermore, I point out that an article published in the Outlook column of the Wall Street Journal today, states:

The crescendo of the cash registers now grows loud enough for even the deaf to hear.

We cannot say today that consumer retail sales are not good. The articles states:

October saw more than a million new cars sold in 1 month in the United States for the first time in history. The flow of new autos to streets and highways at such a clip offers little comfort to traffic jam sufferers, but it hardly bespeaks sluggish consumer buying power.

The article also points out that consumer durable goods, from bicycles to color TV sets, also sell at a brisk pace, and that the September furniture industry orders were a whopping 18-percent over a year ago.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Mr. President, I yield 1 additional minute to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for an additional minute.

Mr. PERCY. Mr. President, I ask unanimous consent that the entire article to which I have referred be printed in the RECORD at the conclusion of my comments.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

APPRAISAL OF CURRENT TRENDS IN BUSINESS AND FINANCE

Phase 2's coming finds the economy more steady in its course than the country's nerves. The stock market reflects the nerves. And, faced with the uncertainties of the wage-price-control fog at home and the worry about trade disruption on the global scene, the securities market has been a jittery barometer of late. But in the more basic market out on the firing line of retail trade, there has been little uncertainty. The crescendo of the cash registers now grows loud enough for even the deaf to hear.

October saw more than a million new cars sold in one month in the U.S. for the first time in history. The flow of new autos to streets and highways at such a clip offers little comfort to traffic jam sufferers, but it hardly bespeaks sluggish consumer buying power. And autos aren't alone. Other consumer durables, from bicycles to color TV sets, also sell at a brisk pace. September furniture industry orders were a whopping 18% above a year ago.

Much has been said about the importance of consumer spending in the recovery from the 1970 recession. And there has been considerable head-wagging about its "sluggishness." Against this backdrop, it will be well

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to trace the record of retail sales since last November (the recession low) to the present. The Commerce Department figures below show seasonally adjusted monthly sales in billions. (Rounded figures prevent totals from "adding" precisely.)

Month	Total sales	Durable goods	Non-durables
November 1970	$31.3	$8.9	$22.4
December 1970	31.8	9.2	22.6
January 1971	32.3	10.0	22.3
February 1971	32.9	10.2	22.6
March 1971	33.2	10.5	22.7
April 1971	33.6	10.7	22.8
May 1971	33.5	10.6	22.9
June 1971	33.8	10.8	23.0
July 1971	33.7	10.7	22.9
August 1971	34.7	11.3	23.4
September 1971	35.2	11.8	23.4
October 1971	35.3	11.7	23.6

As a barometer of consumer buying sentiment, the important column above is the middle one. Spending on nondurables—such things as food, clothing, gasoline—is not affected too much by minor ups and downs in the economy. And thus the steady climb of only 5% in nondurable sales over the period held down the rise in total retail sales to only 13%.

But, hidden behind these lesser gains, sales of consumer durables are now clipping along 31% above last year's November low point.

Nor, contrary to much popular opinion, does this big gain in retail trade reflect mere inflation of prices. It is primarily an increase in physical volume. Nondurable goods retail prices are up somewhere in the 3% range from a year ago, but on durables, where the action is, the price increases from last November's level average closer to 2%.

There is nothing now to suggest that this consumer buying pace isn't going to continue. With the big Christmas merchandising season just ahead, a survey by this newspaper just last week found most interviewed retailers predicting holiday sales will top last year's by 8% to 10%. For the first time in many moons, some of the storekeepers even spoke of possible shortages developing in some lines. With productive capacity being what it is, the shortage talk probably shouldn't be taken too seriously, but it is symptomatic of activity on the retail front.

In line with rising retail sales is the third quarter Commerce Department report on the relation between the public's spending and its saving. While still high by historical standards at 7.7% of disposable personal income, the savings rate is now the lowest since early 1970.

Commerce Department calculators figured people were saving at an annual rate of some $58 billion in the third quarer. That was actually about half-a-billion dollars less than in the recession-low final quarter of last year. But the disposable personal income (after taxes) in this past quarter, put at an annual rate of over $749 billion, was up some $48 billion from the $701 billion figure of fourth-quarter of 1970.

If the strong and rising consumer buying surge continues, it is hard to escape the conclusion that swelling production must follow in its traces. And that indeed is what most economists are still predicting.

Taking cognizance of all the confusing uncertainties associated with the Phase 2 wage-and-price-control effort, New York's First National City Bank, in its Monthly Economic Letter, commented last week: "It is noteworthy, however, that these uncertainties have not colored assessments of the likely course of the economy in 1972, although they are a factor in the recent decline in stock prices. The consensus is that the rate of advance in real output in 1972 will be the most rapid in six years, and that it will be accompanied by a decline in the unemployment rate and a further slowdown in the rate of inflation."

The bank's economists appear to be more concerned about a possible resurgence of inflation in late 1972 or early 1973 than about a slowdown in the economy.

The widespread slashing of payrolls that kept consumers in such a nervous state throughout last year seems to be clearly past. From a level well under 4% at the end of 1969, the seasonally adjusted unemployment rate bounded steadily upward for a full year, reaching 6.2% in December of last year. While it hasn't fallen much since then, it has stopped rising. The latest figure (Oct.) was 5.8%.

One little-noticed trend laterly has been the increase in "temporary" employes on business-payrolls. It is explained on the ground that employers, feeling the need for more help, are following this course because they are reluctant to hire permanent employes until an economic uptrend has been fully established. This could herald the expansion of full-time payrolls.

There is no doubt that the Phase 2 confusion puts a wet blanket on business management's psychology. And there is no doubt that, to a lesser degree, worry about the foreign trade muddle does the same. Both involve uncertainty. Both foster a "wait and see" attitude. But the fog of uncertainty may clear sooner than expected. And, when it does, expansive forces could be quickly more evident.

JOHN O'RILEY.

Mr. PERCY. Mr. President, the article points out that from a low in November 1970, of $8.9 billion, durable goods sales increased to $11.7 billion by October 1971, and total retail sales have increased in the same period from $31.3 billion to $35.3 billion.

The steady increase in consumer retail sales is a strong indication that the confidence of the consumer is a great deal better than it is in Wall Street.

I do not think that an amendment coming at this late date that would cause tremendous confusion and cost the Treasury $900 million of needed funds, would be worthwhile on this particular point, particularly when we are cutting down on welfare and other humanitarian programs because we do not have the money to carry them on.

The money for these programs will have to come from somewhere. If we are going to help someone, should we not help those people who cannot even file income tax returns and today are being deprived of welfare checks, rather than giving it to those who do not need it nearly as much.

I agree that it is a wonderful proposal with an election coming on. I would like to vote for it and so would many of my colleagues. However, in good conscience, I cannot do so.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 2 minutes.

Mr. MILLER. Mr. President, quite apart from the printing of the tax forms and their delivery to the taxpayers, it seems to me that the amendment does not meet the problem we are trying to solve.

In effect, it would mean that an individual in the low-income area would have $3.50 additional purchasing power. However, at the same time it would give a wealthy person in the higher bracket $17.50 purchasing power. The people in the $50,000, $60,000, and $70,000 bracket do not need any more purchasing power. They already have plenty. It is the people in the low area who need more purchasing power. If one believes in regressive taxation, he had better vote for the amendment.

If we take a look at the family consisting of husband, wife, and 6 children, and in the low-income tax bracket, that would mean $28 purchasing power. However, as to the person in the $70,000 bracket, it would give them $140 purchasing power. They do not need it.

The Mondale amendment would be even worse, and I will have more to say when that gets before the Senate.

It seems to me that we ought to get the purchasing power in the areas where it is needed. This is a repressive amendment. I hope it will be rejected.

Mr. MONDALE. Mr. President, will the Senator from Illinois yield for a question?

Mr. STEVENSON. Mr. President, I yield 4 minutes to the Senator from Minnesota.

Mr. MONDALE. Mr. President, one of the arguments in opposition to my amendment to increase the personal exemption to $750 in 1971 seems to be the cheery assumption that the economy is doing well and that economic growth is adequate.

I placed in the RECORD on Saturday a table showing growth of gross national product and consumption in real terms. In the second quarter of 1971, GNP grew 4.8 percent and consumption 6.2 percent. In the third quarter of 1971, and that is the latest figure, GNP increased by only 2.9 percent and consumption 3.6 percent. These are the latest official figures of the Bureau of Labor Statistics.

Does the Senator from Illinois feel that these growth rates are adequate to reduce unemployment and to increase productivity in this country?

Mr. STEVENSON. No. The gross national product in real dollars is now increasing at an annual rate of something less than 3 percent. That is not enough to even keep unemployment from rising. Consumer spending between the third quarter of 1970 and the third quarter of 1971 in real dollars increased by 3.9 percent. That compares with an average increase in the years from 1960 to 1966 of 4.8 percent.

The most recent figures indicate consumer spending is continuing to lag. Industry, as we know, is operating at only about 73 percent of capacity. So what is proposed? What is proposed are more and more tax concessions to industry so industry can modernize and improve plants that are only operating at 73-percent capacity.

What is needed to get the economy rolling is increased consumer demand which will automatically call forth greater utilization of already existing industrial capacity.

Mr. MONDALE. One argument which opponents of consumer tax relief use is the fact that automobile sales are rising. But the increase in auto sales as a result of the projected cut in the auto excise tax is an argument for similar tax relief in other areas. This is because consumer purchases of autos have been stimulated because, in effect, the excise tax cut puts money in the hands of the consumer if he buys a new car.

Mr. STEVENSON. It is an advantage to those consumers who are wealthy enough and who are in a position for one reason or another to buy an automobile and, as my distinguished colleague from Illinois pointed out, those consumers purchasing automobiles now are having an impact on the economy.

Mr. MONDALE. But the overall figures—unemployment figures—have not changed. We are at a level of economic activity which, if anything, probably will continue to result in an unacceptable level of unemployment.

Yesterday the Washington Post published an article by Walter Heller. He states that the gross national product must grow at the real rate of about 4.5 percent a year, if unemployment is not to rise. This is because labor productivity increases about 3 percent per year. The labor force grows at 1.5 percent, so that a 4.5-percent growth rate is essential just to maintain present unacceptable levels of unemployment.

The PRESIDING OFFICER (Mr. BYRD of Virginia). The time of the Senator from Minnesota has expired.

Mr. STEVENSON. I yield an additional minute to the Senator from Minnesota.

Mr. MONDALE. So if these figures are correct, the latest official figures which show gross national product growing at only 2.9 percent indicate that unemployment will probably increase, not decline. Does the Senator agree?

Mr. STEVENSON. I do agree. I think most economists would agree with Mr. Heller. They believe that what the economy needs most is a stimulus to consumer spending.

Mr. MONDALE. The effect of the Senator's amendment and the effect of my modification would be to move tax savings forward immediately so that money will get into the hands of the consumer immediately, rather than a year from now.

Mr. STEVENSON. The consumer would reap the benefits of this tax relief early next year. This would be an immediate benefit and have an immediate impact on the economy.

I commend the Senator for offering a very constructive substitute.

Mr. MONDALE. Mr. President, I ask unanimous consent to have printed in the RECORD the article by Walter Heller, to which I have referred, which was published in the Washington Post yesterday, and also two tables showing the Federal income tax burden under the present law, under the Revenue Act of 1971, and under my amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OUTPUT GAINS ANTI-INFLATIONARY: HELLER: EXPANSION A MUST

(By Walter Heller)

(Dr. Heller, former Economic Council chairman under Presidents Kennedy and Johnson, wrote the following article at the request of The Washington Post. He presently is professor of economics at the University of Minnesota.)

Conventional economic wisdom associates stimulation of demand with an increase in inflationary pressures. The fear of these pressures has perhaps stayed the hand of the White House in its new economic program. Why else would it have accompanied its bold wage-price and international monetary initiatives on Aug. 15 with such a weak-kneed program of fiscal stimulation?

The wait-and-see attitude at the Federal Reserve Board may also reflect a fear of rekindled excess demand inflation—wait and see if that $100 billion year really develops without moving from a supportive to an aggressive policy of monetary expansion.

The traditional answer to the "take-it-easy, inflation-is-just-around-the-corner" approach to economic expansion is based on the existing $70 billion GNP gap, 6 per cent unemployment, and 73 per cent operating rates in manufacturing. With this much slack, and no bottlenecks in sight, rising demand will express itself in rising output, more jobs, and higher incomes, not in higher prices.

At a time when excess demand is $70 billion away—a time when it will take three consecutive annual $100 billion advances in GNP just to catch up once more with our economic potential—bold fiscal and monetary expansion carries little risk of inflation.

But to argue that economic stack will keep expansion from being converted into inflation is essentially a passive or negative argument. Less well understood is the positive argument that, given reasonably effective wage-price restraint in Phase II, strong expansion will actually help subdue inflation. Strong expansion will generate the rising productivity that provides the vital grist for the mills of the Price Commission and the Pay Board in grinding out more moderate price and wage yardsticks as Phase II progresses.

Rising demand and rising output in today's slack economy quickly translate into rising output per man hour. Overhead costs are spread thinner. As more units of output are produced with the same machinery, equipment and plant, and without a corresponding increase in payrolls, average unit costs of output will fall.

Left to themselves, producers would be sorely tempted to capture most of this productivity surge in higher profits and higher wages, sharing little of their gains with consumers. The genius of an effective incomes policy, of successful Phase II wage-price restraints, will be to nudge business and labor into sharing their gains with consumers and thus convert rising output into receding inflation.

Within broad limits, the more rapidly output rises, the larger will be the productivity advance that the Price and Pay boards have to play with, i.e., to use in setting tough standards for prices and wages without unduly squeezing business profits and labor earnings.

For example, if productivity advances at a 4 per cent clip in 1972, the Pay Board's 5½ per cent yardstick for average pay advances would imply an increase in average unit labor costs of 1½ per cent. But if recovery lags and productivity crawls ahead at only a 2 per cent rate, a 5½ per cent wage standards would imply a 3½ per cent increase in unit labor costs, thereby making it far more difficult for the Price Commission to clamp a tight lid on prices.

On the more optimistic assumption of a 4 per cent productivity advance, converted into a tighter price yardstick and a consequent easing of inflation during 1972, the Pay Board would have less cost-of-living catch-up to build into its 1973 yardstick. It could then lower the 1973 pay standard a notch toward the 3 per cent trend growth in productivity.

In short, since productivity is the name of the game, rapid expansion is vital to the success of Phase II. And, in turn, success in Phase II will translate into more consumer and investor confidence and hence a stronger expansion.

Another vital interlock of expansion is with our international monetary and trade negotiations. On one hand, a successful reordering of exchange parities and a relaxing of trade barriers can make an important contribution to sound economic recovery. But again causation runs the other way as well. How can we expect our trading partners to bear the economic brunt of more expensive exports to us and cheaper imports from us unless we soften the blow by vigorous expansion of U.S. demand?

Given the current softness of many foreign economies, negotiations that will cut their exports and boost their imports are generating great unease and trepidation. To create an atmosphere within which your trading partners can come half way or even more we must be able to assure them that vigorous U.S. economic expansion will offset much of the adverse trade effect of renegotiated parties and lowered trade barriers.

In other words, U.S. negotiators have to be able to hold out the prospect of a strong favorable income effect as a short-run offset to to the negative price effects of U.S. initiative.

Give these imperatives, both the Price Commission and the Pay Board, not to mention our international monetary and trade negotiators should exact a firm "do-all-possible" pledge from the administration and the Federal Reserve System to assure speedy economic recovery in 1972. With much of the economy other than autos and housing still listless, the President should be calling on the Congress to step up the temporary tax relief in the bill which is now before the Senate.

The Senate should sharply enlarge personal income tax relief. Without compromising federal revenues in the longer run—when they will be needed for high-priority social uses and for the renewed battle against demand inflation when we reach full employment—a temporary tax reduction—for example, a "recover tax credit" of perhaps $100 per married couple—should be enacted for 1972.

This would add another $5 billion to disposable income, thus energizing consumer spending and putting some of our grossly underutilized industrial capacity (roughly a quarter of our manufacturing capacity is idle today) back to work.

Side-by-side with this action, the Congress should declare a moratorium on further payroll tax increase. What economic sense does it make to cut income and automobile taxes to stimulate the economy and then let $7½ billion in new payroll tax hikes in 1972 ($3 billion already in the law plus $4½ billion on the way via H.R. 1) to nullify much of the stimulative effect?

For better balance in the tax bill and to protect the revenues for the longer pull, the Senate should drop the depreciation liberalization (ADR's) completely and limit the 7 per cent investment credit to a two- or three-year period.

In short, bold expansionary policy is not only the fastest way to generate the jobs we desperately need, boost labor earnings and profits, and create incentives to increase capital spending for new capacity—but given reasonable vigilance in our price and wage board in Phase II, it will also be an effective engine of disinflation.

FEDERAL INCOME TAX BURDEN UNDER PRESENT LAW, UNDER THE REVENUE ACT OF 1971 [1] AND UNDER THE MONDALE AMENDMENT, FOR 1971

[Assuming deductible personal expenses of 10 percent of income]

	Present law	Committee bill	Saving over present law	Mondale amendment	Saving over present law
Married couple, 2 dependents:					
$4,000	$52	$35	$17	0	$52
$5,000	206	178	28	$133	73
$7,500	607	578	29	527	80
$10,000	1,019	1,000	19	943	76
$12,508	1,469	1,446	22	1,380	89
$15,000	2,018	1,996	22	1,930	88
$20,000	3,110	3,085	25	3,010	100
$25,000	4,352	4,324	28	4,240	112

	Present law	Committee bill	Saving over present law	Mondale amendment	Saving over present law
Married couple, no dependents:					
$3,000	$97	$84	$13	$63	$34
$4,000	254	230	24	208	46
$5,000	422	386	36	362	60
$7,500	853	829	24	800	53
$10,000	1,266	1,257	9	1,228	38
$12,500	1,754	1,743	11	1,710	44
$15,000	2,310	2,298	12	2,260	50
$20,000	3,456	3,442	14	3,400	56
$25,000	4,764	4,748	16	4,700	64

[1] Figures are from pp. 88–89 of House report on H.R. 10947.

Mr. LONG. Mr. President, I would be happy to yield to anyone who wishes to speak on the amendment.

SEVERAL SENATORS. Vote! Vote!

Mr. LONG. Otherwise, I am ready to yield back our time.

Mr. STEVENSON. I am glad to yield back my time.

Mr. MONDALE. Mr. President, I call up my amendment, No. 582, as modified, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 40, line 9, strike out "$675" and insert in lieu thereof "$750".

On page 40, line 15, strike out "$675" and insert in lieu thereof "$750".

On page 40, line 19, strike out "$675" and insert in lieu thereof "$750".

On page 40, line 21, strike out "$1,350" and insert in lieu thereof "$1,500".

The PRESIDING OFFICER. Who yields time?

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Do I understand that the unanimous-consent request proposed by the distinguished Senator from Minnesota may be acted upon only after all time has been yielded back?

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. MONDALE. This is not a unanimous-consent request.

The PRESIDING OFFICER. There was provision in the original unanimous-consent request for amendments to the amendment, with 20 minutes to a side.

Mr. HANSEN. I thought an earlier ruling indicated that the proposal now before the Senate made by the Senator from Minnesota (Mr. MONDALE) could not be acted upon until all time had been yielded back. Am I correct?

The PRESIDING OFFICER. All time has been yielded back.

Mr. HANSEN. On both sides?

The PRESIDING OFFICER. Yes.

Mr. MONDALE. Mr. President, I yield myself 5 minutes. How much time is available?

The PRESIDING OFFICER. Ten minutes to a side.

Mr. MONDALE. Mr. President, the arguments made by the distinguished Senator from Illinois and his cosponsor, the Senator from Kansas (Mr. PEARSON) for a $700 exemption retroactive to January 1, 1971, apply to my substitute to raise the personal exemption to $750 retroactive to the same date.

The biggest missing element in this Nation's economic policy today is adequate concern about stimulating growth to provide employment and industrial productivity. I am surprised that the administration continues to underestimate the need to deal with that problem. Yesterday the article in yesterday's Washington Post by one of the Nation's most distinguished economists, Dr. Walter Heller, stresses this point. In the article Professor Heller points out that such growth is absolutely essential. He points out that growth is the best prescription for fighting inflation because the more the economy expands, the more the fixed costs are spread over greater volumes of output, and the better able industry is to live within the confines of the present economic control program. With growing output, industry can have stable prices and expanded profits. We faced the same issue in the early 1960's when we had a similarly sluggish economy with under use of productivity and high unemployment. We began first with the strategy to improve business profits and to try to increase business purchases, the 7-percent tax credit.

Walter Heller points out it did not work out as well as anticipated; that it only began to work effectively when it was coupled with a tremendous tax reduction for the average consumer in 1962 or 1963. It was only then that the economy began to move and to achieve the rapid and impressive economic growth rates which are now a part of history of the mid-1960's.

Mr. LONG. Mr. President, I yield myself 2 minutes.

The pending amendment would increase the cost of the Stevenson amendment up to a figure of $2.7 billion. The objections to the Stevenson amendment spelled out by the distinguished Senator from Utah and other Senators would apply to this amendment, the principal one being that it would greatly increase the revenue loss. Most people would not get this benefit until they filed their tax returns, and it would make the tax return forms obsolete. It would also involve a very heavy revenue loss.

It is difficult to see how this amendment could encourage people to engage in further productive endeavor, because it applies to a tax liability that has already been incurred.

For that reason, Mr. President, it would seem to me that every argument that supports the side against the Stevenson amendment would apply with much greater force to the Mondale amendment, because it would greatly increase our deficit. It is difficult to see how it would provide any stimulating effect on our economy that would make a difference in the short run. For that reason, I would be compelled to vote against it.

Mr. BENNETT. Mr. President, I would just like to take a minute or so to express my agreement with the position taken by the chairman of the committee. We can get carried away with our enthusiasm for providing tax relief until we have no income left. We are now engaged in a game of leapfrog, one man trying to leap over the other man and increase the benefits the other man has offered. I think it is a pretty expensive game to play at $900 million to $1 billion per leap.

I hope the Senate will realize that, tempting as these suggestions are, we have the responsibility of providing the revenue on which this Government operates. I am sure that many of those who see the glittering temptation of tax amendments also are anxious to have the Government increase its expenditures for programs that are just as politically desirable as tax decrease. We cannot have it both ways.

So I hope the Senate will reject both the amendment of the Senator from Minnesota and the Senator from Illinois, for which the former is a substitute.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I would like to ask the Senator from Illinois if he is in support of the amendment of the Senator from Minnesota.

Mr. STEVENSON. I intend to vote for the substitute amendment.

Mr. LONG. If the Senator intends to vote for it, then I would ask unanimous consent that the Senator have the privilege of modifying his amendment to accept the amendment of the Senator from Minnesota.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENSON. Yes, Mr. President, I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. It would seem to me then, Mr. President, if the Senate wants to do this, we may as well find out by one roll-call rather than two. I am prepared to

yield back my time, and when I do. I will then move to table the amendment, which would carry this amendment with it.

I ask the Chair if that is not correct—that a motion to table the Stevenson amendment would carry with it the Mondale amendment.

The PRESIDING OFFICER. The Senator from Louisiana is correct.

Who yields time?

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. The amendment offered by the Senator from Minnesota is in the nature of a substitute, and I do not believe the motion to table my amendment also underlies the amendment for which I seek to offer a substitute.

The PRESIDING OFFICER. The Senator from Louisiana stated he would move to table the amendment offered by the Senator from Illinois. If that motion prevailed, it would take with it the amendment of the Senator from Minnesota.

Mr. MONDALE. Mr. President, a further parliamentary inquiry. Is that the pending business? The pending business, I understand, is the amendment which I have offered.

The PRESIDING OFFICER. The Chair will read from page 643 of Senate Procedure, under "Rule XXIII, Amendment, Tabling of":

An amendment to a bill may be laid on the table without prejudice to that bill . . .

The section pertinent to the inquiry of the Senator from Minnesota reads:

an amendment to which an amendment has been proposed and is pending, may be laid on the table, and if such a motion is agreed to, the amendment proposed thereto is carried with it.

Who yields time?

Mr. MONDALE. I yield myself 1 minute. My amendment is in the nature of a substitute, but I shall not argue that.

Permit me to say this: It is strange that mammoth, $2 billion tax cuts for big business are called manageable and are said to be good for the economy, but $10, $15, or $20 to the average citizen in the form of tax relief is called an irresponsible fiscal act. This is especially strange in light of the fact that most economists who are respected in this society say that the major economic problem today is the understimulation of the economy, and that the best way to stimulate the economy is to increase purchasing power.

I think the economists are right. There is another theory put forward by those who oppose tax relief to consumers because they say it is irresponsible. These people think that if you just keep giving big business more and more and more money, a little bit of it will trickle down and the average American might spend some of it. I disagree with that philosophy. I do not think it will work. I do not think when it has been tried it has worked.

For example, I ask unanimous consent to have printed in the RECORD at this point an article entitled "Money in the Till," written by Alfred L. Malabre, Jr., and published in the Wall Street Journal of October 22, 1971, showing that American big business is surfeited with cash, with rising and dramatic increases in cash flows for the American corporation, and the article points out that the accelerated depreciation bonanza of $4 billion given to big business has helped do that.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 22, 1971]

MONEY IN THE TILL: FIRMS REPLENISH CASH, TRIM THEIR SHORT-TERM DEBT

(By Alfred L. Malabre, Jr.)

However sluggish some aspects of the business recovery may be, one long-depressed item is making a strong comeback—corporate cash.

Less than 18 months ago, business analysts were openly wondering whether the financial collapse of the cash-starved Penn Central Transportation Co. would be merely the opening round in a series of major bankruptcies. Today, many corporations are still low on cash, but the general picture is much brighter than after the Penn Central failure.

John Gorman, an economist at the Commerce Department, voices the opinion of many analysts in and out of government. "The fact hasn't received much attention, but we've witnessed a vast improvement in the financial positions of corporations during the past year or so," he says, "I regard this as a very healthy development."

A "DRAMATIC" CHANGE

A. Gary Shilling, chief economist of Estabrook & Co., a New York securities firm, agrees. "There's no question that many corporations have managed to put their houses in order," he declares. "The change from the cash-hungry situation that prevailed a year ago is dramatic."

The trend can be glimpsed in government statistics that show the amount of cash held by corporations and the amount of their current liabilities, or obligations that must be paid within a year. The dollar figures in the table below are in billions.

	Corporate cash	Current liabilities
1969:		
3d quarter	$66.3	$330.9
4th quarter	67.6	342.7
1970:		
1st quarter	65.4	347.7
2d quarter	63.2	352.7
3d quarter	63.0	353.6
4th quarter	66.6	355.2
1971:		
1st quarter	65.9	356.5
2d quarter	68.9	356.3

Since the pit of the 1969–70 recession, the table shows, corporations have added nearly $6 billion in cash to their coffers. Still more significant, in the view of many economists, there has been a sharp slowing in the long climb of current liabilities. In fact, the liabilities actually fell slightly in the second quarter, the latest period for which data are available. This marks the first decline in 13 years.

The improving ability of corporations to pay their bills can be seen by measuring their cash as a percentage of their current liabilities. In the third quarter of 1970, this so-called corporate liquidity ratio stood at only 17.8%, down from 20% a year earlier. In the latest 1971 quarter, the ratio was back up to 19.8%, higher than at any time since late 1969.

"I would not have thought it possible for this much progress to be made in such a short period of time," says Tilford Gaines, chief economist at New York's Manufacturers Hanover Trust Co.

Analysts attribute the improvement in the liabilities picture chiefly to the fact that many corporate treasurers, frightened by the Penn Central's failure to pay its bills, have been scrambling to convert their companies' short-term debt, such as bank loans, into long-term debt, such as bond issues. Long-term debt, of course, must eventually also be paid off, economists note. But at least, as the government's Mr. Gorman puts it, the settlement dates have been "shoveled into the future."

THE ROLE OF PROFITS

The climb in corporate cash in recent quarters partly reflects the fact that corporate profits have been on the increase. After-tax profits in the second quarter, the latest period for which figures are available, amounted to $46 billion, at an annual rate, up from a recession low of $39.2 billion in the final three months of 1970. While a decided improvement, the recent rise still leaves the after-tax profit level slightly below the total for as long ago as 1965, when a dollar was worth about 25% more than today.

The main factor in the corporate cash buildup, economists claim, is the rapidly rising amount that companies have recently been deducting from pre-tax profits for the depreciation of such fixed assets as machine tools. While they don't appear as profits in company earnings reports, these depreciation funds are nearly as good as profits, according to analysts. Cash from depreciation, for example, can be used to meet all sorts of corporate expenses, including the purchase of additional machinery, which can lead in turn to larger profits.

"Unquestionably, profits backed by heavy depreciation funds are worth more than profits that are not," says an analyst at Chase Manhattan Bank. The table below pinpoints the rise of depreciation funds, as well as the profit picture, since mid-1969. The figures, at seasonally adjusted annual rates, are in billions, and the last column, titled cash flow, represents the sum of columns one and two.

	Profits	Depreciation	Cash flow
1969:			
3d quarter	$43.0	$51.9	$94.9
4th quarter	42.3	53.2	95.5
1970:			
1st quarter	41.5	54.4	95.9
2d quarter	41.3	55.7	97.0
3d quarter	42.9	56.7	99.6
4th quarter	39.2	58.0	97.2
1971:			
1st quarter	42.9	62.6	105.5
2d quarter	46.0	64.0	110.0

As Phase 2 of President Nixon's new economic program approaches, much has been made of the lagging profit record—especially by management spokesmen fearful of any move to control profit increases in coming months. A statistic frequently cited is that after-tax profits now amount to less than 5% of gross national product, the lowest rate since before World War II.

When the big rise in depreciation is taken into account, however, the picture appears much less gloomy. In fact, cash flow has recently been climbing even save percentage of GNP, and currently it about matches the rate that prevailed in the early 1960s, when business activity was expanding rapidly. A major factor in the especially rapid rise of cash flow this year was the Treasury Department's decision last June to liberalize depreciation regulations, retroactive to Jan. 1, 1971. Economists say one effect of this move, which is being challenged in the courts and may well be scaled down in Congress, has been to make corporations seem more starved for cash than they really are.

Many economists view the improved financial status of most corporations as a solid plus in the business outlook for the months just ahead. A major reason that the business recovery has been disappointingly sluggish, many say, is the fact that since the Penn Central collapse, corporations have been using available funds increasingly to trim their short-term debt, rather than to buy, say, new machinery, an expenditure that would spur business activity.

Looking ahead, many analysts anticipate that, with healthier financial positions, corporations will be more apt to channel available funds into spending that will tend to lift economic activity. "Until now, corporate efforts to rebuild liquidity have acted as a sort of sponge, sopping up funds that would otherwise be spent on new facilities," says an analyst at New York's First National City Bank. "Now, however, the sponge isn't so dry anymore, and as a result we should begin to see more corporate money moving into areas that contribute directly to economic growth, new jobs and so on."

A dramatic example of improved financial strength is provided by Norfolk & Western Railway, a company whose balance sheet appeared exceptionally strong even during the 1969–70 recession. In the first six months of 1971, the carrier's cash holdings jumped about $21 million, while its current liabilities remained approximately unchanged. As a result, N&W's liquidity ratio soared to 63% at midyear, up from an already-healthy 49% at the end of 1970. Hamilton M. Redman, vice president for finance, explains that during 1970 "everybody suddenly realized that the balance sheet needed much more attention than it had been getting."

Economists generally believe President Nixon's new economic policy certainly won't hurt corporations' financial strength, and most predict that the new measures will help strengthen corporate finances, to the extent that they lead to a more vigorous economic recovery. In any event, most forecasters are convinced that corporate profits are in the middle of a sustained rise, a trend that obviously would further strengthen corporate balance sheets.

Normally, such a rise in profits would be followed by a boost in dividend payments. But the Nixon administration has placed heavy pressure on corporations not to increase dividends while the fight against inflation goes on. As a result, some analysts say, corporations will find themselves with even more cash than would normally be kept on hand after an improvement in operations. Mr. Shilling of Estabrook predicts that at least some of this would-be dividend money will be used instead to pay off debts.

Mr. MONDALE. What is needed are purchasers buying commodities, so that production can increase, people can be put back to work, and idle productivity put back to work.

That is what this country needs, that is responsible, and I believe that if we proceed in that way, we will have the kind of economy that can fight inflation, give people jobs, and deal with the tremendous unmet social needs of this country. That is what needs to be done, and those who consistently resist every attempt to help the average taxpayer, but stand and sing "Glory Hallelujah" for every extra billion dollars we give to big business, I think, are going to have some tough questions from the American voters in the next election, and they should have.

Mr. LONG. Mr. President, let me make it clear that I asked unanimous consent that if the Senator from Illinois wanted to agree to the substitute amendment, we let him accept it as a modification of his amendment. That was declined by the mover of the amendment.

It seems to me, if the Senate wants to get into this particular area, there are all kinds of ways to provide additional tax cuts, if we want to do it. I have voted for some of them myself that have cut revenues considerably more than the Stevenson amendment, although I would think, as a matter of fiscal responsibility, that it might be well to insist that there be some reduction of other tax reductions in the bill to cushion the cost to the public of putting in these additional cuts.

I should think that Senators would have all the opportunities they want to vote for all the tax cuts they want. There will be additional choices, beyond the choices we have voted for. If Senators want to, they can vote to repeal the whole Internal Revenue Code before this bill is behind us. But I should think we could get on with the job by disposing of this matter, if the Senate is so disposed, by one vote. If the motion to lay on the table does not carry, we can see if the Senate wants to increase this matter so as to lose $2.7 billion rather than just $1 billion.

But when it is appropriate, I shall move to lay on the table the Stevenson amendment, which would carry the amendment to the amendment with it, just to get on with the business of the Senate.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. LONG. I am ready to yield back the remainder of my time, if Senators on the other side will yield back theirs.

The PRESIDING OFFICER. Does the Senator from Minnesota yield back the remainder of his time?

Mr. MONDALE. Yes. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

Mr. LONG. I yield to the Senator from Iowa.

The PRESIDING OFFICER. All time on the original amendment has expired.

Mr. MILLER. Mr. President, if the pending amendment in the nature of a substitute has been withdrawn, I shall withhold my remarks. I thank my colleague for yielding.

The PRESIDING OFFICER (Mr. BYRD of Virginia). All time having expired, the question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON).

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. I thought the Senator from Louisiana was going to move to table the amendment by the Senator from Illinois.

Mr. LONG. Mr. President, I ask unanimous consent that I may have just 1 minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LONG. I was intending to move to table only because I wanted to see if the Senate wanted to conclude its engagement in this area by one vote rather than two. But if we are to have just one vote on the Stevenson amendment, I have no objection to voting on it up or down, on its merits.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. STEVENSON). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from South Carolina would vote "nay" and the Senator from Minnesota would vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES) would vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Alaska (Mr. STEVENS) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Tennessee (Mr. BROCK) and the Senator from Michigan (Mr. GRIFFIN) are detained on official business.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS) and the Senator from Texas (Mr. TOWER) would each vote "nay."

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Minnesota (Mr. HUMPHREY). If present and voting, the Senator from South Carolina would vote "nay" and the Senator from Minnesota would vote "yea."

The result was announced—yeas 38, nays 44, as follows:

[No. 332 Leg.]

YEAS—38

Allen	Hart	Muskie
Bayh	Hatfield	Nelson
Burdick	Inouye	Pastore
Byrd, W. Va.	Jordan, N.C.	Pearson
Cannon	Kennedy	Pell
Case	Magnuson	Proxmire
Chiles	Mansfield	Ribicoff
Church	Mathias	Sparkman
Cranston	McGee	Stevenson
Eagleton	McIntyre	Symington
Fulbright	Metcalf	Tunney
Gravel	Mondale	Williams
Harris	Moss	

NAYS—44

Aiken	Dominick	Miller
Anderson	Eastland	Packwood
Baker	Ellender	Percy
Beall	Ervin	Randolph
Bellmon	Fannin	Roth
Bennett	Fong	Schweiker
Bentsen	Gambrell	Scott
Bible	Goldwater	Smith
Boggs	Gurney	Spong
Brooke	Hansen	Stafford
Buckley	Hollings	Stennis
Byrd, Va.	Hruska	Taft
Cook	Javits	Weicker
Cooper	Long	Young
Dole	McClellan	

NOT VOTING—18

Allott	Hughes	Mundt
Brock	Humphrey	Saxbe
Cotton	Jackson	Stevens
Curtis	Jordan, Idaho	Talmadge
Griffin	McGovern	Thurmond
Hartke	Montoya	Tower

So Mr. STEVENSON's amendment was rejected.

UNANIMOUS-CONSENT AGREEMENT ON AMENDMENT NO. 654

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on amendment No. 654 by Mr. HOLLINGS there be 2 hours to be equally divided between the able mover of the amendment and the distinguished manager of the bill, and that time on any amendment thereto, motion, or appeal, with the exception of nondebatable motions, be limited to 30 minutes, to be divided equally between the mover of such amendment in the second degree, motion or appeal and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. Mr. President, reserving the right to object, may I ask a question? I understand we are operating under a 1-hour limitation now. This request would extend that to 2 hours.

Mr. BYRD of West Virginia. No. This would have nothing to do with the amendment now pending.

Mr. MILLER. I understand that, but I understand further that we are operating under a 1-hour limitation on all amendments.

Mr. BYRD of West Virginia. No; that is not correct. May I say, most respectfully, we are operating just from amendment to amendment, with no general understanding as to time.

Mr. MILLER. May I ask my colleague from West Virginia what the amendment is about?

Mr. BYRD of West Virginia. The distinguished Senator from South Carolina is here.

Mr. President, I ask unanimous consent that this little bit of time not be charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, amendment No. 654 deals with sales and property tax reimbursement, which I presented before the Finance Committee.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request made by the Senator from West Virginia?

Mr. BENNETT. Mr. President, I have no objection.

The PRESIDING OFFICER. The Chair hears no objection to the unanimous-consent request, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, if the Senator will yield futher, I ask unanimous consent that amendment No. 654 be laid before the Senate upon the disposition of amendment No. 655, which is the amendment by the Senator from Alabama (Mr. SPARKMAN).

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on amendment No. 653 by Senator HOLLINGS there be a time limitation of 1 hour, the time to be equally divided between the mover of the amendment and the manager of the bill; provided further, that on any amendment in the second degree, motion or appeal, with the exception of nondebatable motions, there be a limitation of 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that amendment No. 653 be called up upon the disposition of amendment No. 654.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on an amendment to be offered by the Senator from Indiana (Mr. BAYH), on accelerated depreciation, there be a time limitation of 1 hour, to be equally divided between the mover of the amendment (Mr. BAYH) and the manager of the bill (Mr. LONG); provided further, that on any amendment in the second degree, motion or appeal, with the exception of a nondebatable motion, there be a limitation of 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the amendment by Mr. BAYH be laid before the Senate upon the disposition of amendment No. 653 by Mr. HOLLINGS.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 655

The PRESIDING OFFICER (Mr. BYRD of Virginia). Pursuant to the previous order, the Chair now lays before the Senate amendment No. 655 which the clerk will report.

The legislative clerk read as follows:

Add at the end of title III thereof a new section as follows:

SEC. 316. (a) Section 103(c)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended—

(1) by striking out in subparagraph (E) "energy, gas, or water, or" and by inserting in lieu thereof "energy or gas,";

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following:

"(G) facilities for the furnishing of water, if available on reasonable demand to members of the general public."

(b) Section 103(c)(6) of such Code (relating to exemption from industrial development bond treatment for certain small issues) is amended—

(1) by striking out "$1,000,000" in subparagraph (A) and by inserting in lieu thereof "$5,000,000"; and

(2) by striking out subparagraphs (D), (E), (F), (G), and (H).

(c) The amendments made by this section shall apply with respect to obligations issued after January 1, 1969.

ORDER OF BUSINESS

Mr. RIBICOFF. Mr. President, could I ask unanimous consent to have this amendment postponed, as I have an amendment to the amendment which is in the process of being drawn up and which is not out of the typewriter yet.

Mr. McCLELLAN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I ask unanimous consent that we may have a short discussion, without the time being charged to either side.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that that discussion be limited to 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SPARKMAN. Mr. President, I want to ask the Senator from West Virginia, what would be the next amendment and how long would it take?

Mr. BYRD of West Virginia. Mr. President, in response to the inquiry of the able Senator from Alabama, the next amendment which has been clocked into the program, by unanimous consent, following the Sparkman amendment, will be an amendment by the distinguished Senator from South Carolina (Mr. HOLLINGS) on which there is a time limitation of 2 hours. That would be followed by another amendment by the Senator from South Carolina (Mr. HOLLINGS) on which there is a limitation of 1 hour. That would be followed by an amendment by the distinguished Senator from Indiana (Mr. BAYH) on which there is a limitation of 1 hour. That makes a total of 4 hours, not counting the time for rollcall votes or any time on amendments in the second degree, motions, or appeals.

Mr. SPARKMAN. I had assured the Senator from Arkansas, after getting clearance with the leadership, that this amendment would be called up in the early afternoon because the Senator has to leave and he was very much interested in the amendment.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that 1 additional minute be allowed for this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I have the same understanding of the leadership. I do not want to oppose anything the Senator from Connecticut has in mind, but I want to be here to support the amendment and to be able to vote for it.

Mr. RIBICOFF. My feeling is, in view of the fact that the Senator has half an hour, by the time his time expires my amendment will be out of the typewriter.

XUM

Mr. SPARKMAN. Very well. We will go ahead.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent on behalf of the Senator from Connecticut (Mr. RIBICOFF) that Mr. John Koskinen and Mr. Theodore Leary of his staff be allowed the privilege of the floor during consideration of the Sparkman amendment and any amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SPARKMAN. Mr. President, I ask unanimous consent that Mr. Robert Locklin of my staff also be permitted the privilege of the floor during consideration of this amendment and any amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Maine (Mr. MUSKIE), I ask unanimous consent that Richard Fay be allowed on the floor of the Senate, except during rollcall votes, while the Senate is debating H.R. 10947.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, do I correctly understand that we have 30 minutes to a side on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPARKMAN. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the names of the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from West Virginia (Mr. RANDOLPH) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, this amendment has to do with industrial development bonds. Senators will recall that several years ago, the Congress authorized tax-exempt status for industrial development bond issues not exceeding $5 million. During the time that Congress was considering this legislation, as a part of a compromise worked out with the Treasury Department, the section providing exemption for these small issues made the further provision that the exemption be available only if the total capital expenditures made on the development project during the 6-year period beginning 3 years before the date of the bond issue and ending 3 years after that date did not exceed $5 million.

Mr. President, this provision in the law has created a number of problems. Obviously, when one of these exempt bond issues is used, the industry for which it is used is limited in the amount of further capital expenditures that it, or anyone else, may make on the industrial development project. This is because of the fact that, under the law as presently written, should the capital expenditures on the project amount to $1 more than $5 million during the 6-year period, the tax-exempt status of the bonds is lost. This not only affects the marketability of the bonds; it brings about numerous requests for tax rulings on the question of what constitutes a capital expenditure, and, more important, it has the effect of discouraging industrial expansion.

Mr. President, this provision in the law has simply created so many problems that it has seriously hindered the utilization of this very fine program which contributes so much to industrial development. My amendment will clear up this provision in the law by doing away with the 6-year limitation on capital expenditures. If my amendment is adopted, the tax exemption will continue to be limited to issues of no more than $5 million. The amendment simply removes the restriction against further capital expenditures. Of course, if further capital expenditures are made and if they are financed by bonds, those bonds would be taxable.

Mr. President, there is the provision in the law that the limitation on these bond issues will not apply to issues which are used to provide various kinds of public facilities, one of which is water systems. However, this provision has been interpreted by regulations insofar as water systems are concerned to cover only water systems which serve a single municipality or two counties, whichever is the greater. In many areas of the country, there is a need for water systems which serve more than two counties.

Accordingly, my amendment would also remove this restriction.

Mr. President, the exemption in our tax laws for small issues of industrial development bonds has made a tremendous contribution to industrial development throughout the country. It has been especially helpful in providing jobs in rural areas of the country. All Senators are aware, I am sure, of the great need to provide jobs in rural areas in order to halt the increasing urbanization of our population. I do not mean to say that this program has not been helpful in urban areas. It has. But it has truly made a significant contribution in rural America.

Mr. President, I reserve the remainder of my time.

Mr. President, I yield 5 minutes to the Senator from Arkansas (Mr. MCCLELLAN).

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. MCCLELLAN. Mr. President, I wish to commend the distinguished Senator from Alabama for offering this amendment, and I am very happy that I am permitted to cosponsor it.

Mr. President, national attention has been focused on the pressing plight of our cities for so long and with such intensity that we have often overlooked the equally pressing problems of our rural areas.

Today, however, that situation is changing and concern over the deteriorating economic conditions of many of our rural sections is being voiced daily. The President has spoken on the issue many times. And in the last Congress more than 40 bills were introduced dealing with rural problems.

During the latter part of the 91st Congress, I urged the President in Senate Resolution 463, to adopt and implement a national policy which would encourage industry to decentralize and expand in rural areas. Thirty-eight Senators cosponsored that resolution. This year I introduced S. 10, a more comprehensive version of that resolution. To date 43 Senators have joined me in cosponsoring this bill. I am hopeful of getting this bill passed during this Congress. Some hearings have been held and more are to be scheduled.

Mr. President, S. 10 has a dual objective—to revitalize withering, rural economies while at the same time giving urban areas—especially our decaying and compacted inner cities—an opportunity to concentrate on their own programs of revitalization and restoration.

S. 10 is not a complicated bill. It would simply establish a national growth policy by encouraging rural development and thereby reverse present migration trends which only serve to further drain the ebbing resources of our major cities.

The pending amendment to the tax bill to remove restrictions on the $5 million limitation on tax-exempt industrial development bonds is, I believe, another effective way to help develop rural America. Certainly, it is in keeping with the expressed concern over trying to help some of our job-starved rural areas. As members know, present law prohibits public financing support of large projects by limiting the capital spending of the recipient firm to a total of $5 million in any one location over a period of 3 years before and 3 years after the issue. In my judgment this limitation should be removed, thereby providing much more flexibility to municipalities which are trying to build an industrial base and generate jobs.

My own view is that the Senate should seriously consider raising the limitation from $5 million to $10 million. Certainly at today's inflated prices an increase to $10 million is modest.

The industrial development bond is a simple, straight-forward method of helping the rural areas to help themselves. It does not involve a big new Government agency or a complex Federal administrative apparatus. It simply gives the people an opportunity to use this developmental tool as a means to grow and to create new jobs.

Prior to 1968 municipalities had the authority to issue tax-exempt industrial bonds. In 1968 the issues were limited first to $1 million and then to $5 million with certain restrictive provisions. I was pleased to join with the Senator from Nebraska (Mr. CURTIS) in sponsoring legislation to increase the limitation to $5 million (S. 3782, 90th). That increase was subsequently incorporated into law by way of an amendment to a revenue act. The House accepted the increase to $5 million; however, it did impose restrictions which were written into the final law. The limitation and restrictions were deemed necessary since there were

apparently some abuses in the authority.

Mr. President, I concur in the need to place a reasonable limitation on the authority—a limitation that gives due regard for Federal revenues—and I have no reservations about imposing appropriate restrictions to curb any possibilities of abuses.

In my judgment, however, we are unnecessarily restricting and hampering rural growth by unrealistic limitations on these issues.

Mr. President, our rural areas need help.

If we want to be constructive and successful in our efforts to put rural America back into the economic mainstream;

If we want to effectively implement our concern about the lack of jobs in those areas;

If we are ever to reverse the migratory trends that are depleting the countryside and adding to the big-city woes, then we should adopt this modest amendment.

Mr. President, this is what has happended in my State with respect to this amendment.

According to information furnished by the Arkansas Industrial Development Commission, Arkansas has had 306 issues of industrial bonds since June 16, 1959, in the amount of $667,594,350. The industries involved employ 50,553.

Since the limitation on these bonds was put into effect in October 1968, there have been 61 issues in the amount of $114,188,000 to plants employing 7,909.

Thus, in the 9 years before the limitation, average annual issues totaled $61,489,593 with a resulting average total jobs amounting to 3,738. In the 3 years since the limtation was placed on industrial bonds, the average annual issues totaled $38,062,783 with jobs averaging 2,636.

Average annual issue	*Jobs*
$61,489,593—Prelimitation	3,738
$38,062,783—Postlimitation	2,636
$23,426,810	1,102

In other words, Mr. President, the annual growth rate was 1,100 jobs greater before the limitation was imposed than at the present time.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Mr. President, I yield the Senator from Arkansas 1 additional minute.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 1 additional minute.

Mr. MCCLELLAN. Mr. President, these jobs that are being kept in my State are responsible for relieving the pressure on the big cities and congested centers of this country where people go to find jobs. If they cannot find jobs, they wind up on the relief rolls.

For this reason, it is much cheaper to grant this tax exemption. It is much more economical when the Government provides these jobs where the people are born and raised than to pay the welfare costs arising from their relocation.

States are not able to finance the bonds without this tax exemption. Without it the people will go into the metropolitan centers where they cannot find jobs and then go on welfare where they become a burden to that community and a burden to the Government.

The amendment should be agreed to.

Mr. LONG. Mr. President, I favor the amendment. I yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. FANNIN. Mr. President, I certainly agree that we want to help provide jobs for our people. At the same time, we do have problems as to how it is done.

Mr. President, this amendment to section 103 of the Internal Revenue Code would again open the door to abuse in the area of sale—and lease back of property by municipalities to corporations for the purpose of unfairly enticing corporations to relocate at the expense of the Federal Government.

Section 103 of the code, provides that interest on obligations of State and local governments generally is exempt from Federal income tax. The term "obligations" means some kind of a written instrument executed by the State or political sub-division thereof, in the exercise of its borrowing power.

The Revenue and Expenditure Control Act of 1968 withdrew tax exempt status from industrial revenue bonds which State and local governments were using to finance and attract private industrial development within their jurisdictions. This legislation applies generally to industrial development bonds issued after April 30, 1968, and was intended to prevent State and local governments from abusing the tax-exempt status of their obligations by using it as a basis for interstate competition to attract industry. The legislation, however, provides a special exemption for industrial development bonds which are part of an issue of $1 million or less and where substantially all of the proceeds from the issue are used first to acquire, construct, reconstruct, or improve land or depreciable property, or second to redeem all or part of a prior bond issue which was issued to acquire the property described above.

Mr. President, if we increase the limitations from $1 million to $5 million we will again be in an area where this method of financing is subject to abuse.

Mr. President, this is my great concern. A similar amendment was considered in the committee and voted down. It was a little more expensive in amount, but not as to coverage. The cost to the government would be less expensive, though the issue was up to $10 million rather than $5 million. However, as I say, it did not provide the coverage that is provided under the pending amendment.

Mr. President, this is, from everyone's standpoint, a very undesirable change in the tax law. It is proposed under the guise of benefiting local governmental authorities, but in fact it will operate to the serious detriment of the overwhelming majority of State and local governments.

Industrial development bonds are simply a device to enable private businesses to borrow funds by using the tax exemption privilege of State and local governments. The device arose as a means of attracting industry to a locality by the significantly lower financing costs available through tax exempt borrowing.

This device was stopped by Congress in 1968 because nearly every State had begun to issue industrial development bonds. Before Congress acted, the ability of any one State or locality had been, for the most part, neutralized; on the contrary, the State and local governments had found it necessary to offer the tax exempt financing benefits to industry as a defensive matter—they had to offer this advantage to keep from losing industry. The problem we have is that the States outbid each other. I know that most of the States in this country now have provision in the State to permit issue of these bonds.

The principal undesirable result that flowed from all of this was the increased competition for the very limited funds available for purchase of tax exempt bonds. This, of course, forced the interest rate on all tax exempt issues to rise, in turn raising significantly the financing costs of States and localities attempting to meet the pressing demands for capital needed to provide critical governmental services such as police and fire protection, schools, and sewage disposal.

Thus the 1968 legislation served its purpose well. Appropriate exceptions were made for semigovernmental functions carried on by private industry which had traditionally been financed through tax exempt bonds—such as airports, mass transit facilities, pollution control facilities, and others. Also an exception was made for issues of $1 million and less.

The present amendment would increase the $1 million exemption to $5 million; to that extent it would allow the competition among States and localities to be renewed—to the detriment of financing for traditional governmental functions.

In short, a vote for this amendment is a vote against the cities and other local governmental authorities most in need of help. The least we can do is help these hard-pressed local governments by protecting the integrity of their tax exempt financing privilege.

The cost is estimated at $350 million.

Mr. President, to go into this matter in a little more depth I want my colleagues to know that the Treasury is strongly opposed to this amendment.

Under present tax law, a State or local government may issue up to $5 million of tax-exempt industrial revenue bonds, but only if the total capital expenditures with respect to the facility being financed by the bonds do not exceed $5 million during the 3 years before, and the 3 years after, the date of issue. The proposed amendment would increase this $5 million exemption to $10 million.

Industrial development bonds are a mechanism to provide tax-exempt financing for private industry. Typically, a State or local government will issue its tax-exempt bonds and use the proceeds to construct a facility for the use of a

private business. The facility is leased to the private user at a rental sufficient to meet the debt service on the bonds. Since the interest paid on the bonds is exempt from Federal taxes, the cost of borrowing is lower for the municipality, and this savings is passed on to the industrial user in the form of a lower rent.

At current interest rates, the availability of tax-exempt financing represents a significant savings in the annual interest paid with respect to borrowings to finance such facilities. For example, if the taxable interest cost on a $10 million facility is 7.5 percent and the tax-exempt cost is 5 percent, the proposed amendment would result in an annual savings to the user of approximately $250,000. Over the life of a 20-year bond, the use of tax-exempt financing could result in a subsidy of some $5 million for each facility.

This tax bill already includes two significant steps to reduce the cost of capital equipment for industry. The 7-percent job development credit is designed to reduce the cost of new machinery and equipment and thus facilitate the construction of new factories. The new class life depreciation system represents a liberalization of tax depreciation policies on capital investment and also will act as such an incentive. These incentives encourage new capital investment in a healthy way which will increase the productivity of our workers without any serious and disruptive side effects on the economy.

Additional tax incentives for industrial investment in the form of tax-exempt financing through industrial development bonds will, however, have very serious disruptive effects on State and local government financing, and this additional kind of incentive simply is not necessary or advisable at this time.

The provisions in this bill are also opposed by the Securities and Exchange Commission because other problems are involved.

I have a memorandum from the Securities and Exchange Commission which states in part:

Although it does not appear on the face of the bill, the proposed amendment would also affect the amount of such bonds which would be exempt from certain provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, in view of the provisions of Title IV of the Employment Security Amendments of 1970 (Public Law 91-373) which were enacted August 10, 1970, as explained below.

Mr. President, I ask unanimous consent that the memorandum prepared by the Securities and Exchange Commission be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM PREPARED BY THE SECURITIES AND EXCHANGE COMMISSION FOR THE SENATE COMMITTEE ON FINANCE WITH RESPECT TO S. 1644, 92D CONGRESS

S. 1644 which was introduced on April 23, 1971 by Senator Dole, would amend Section 103(c)(6) of the Internal Revenue Code of 1954 so as to increase the small issue exemption thereunder for certain classes of industrial development bonds from $5,000,000 to $10,000,000 under Clause (D), and from $250,000 to $500,000 under Clause (F).

Although it does not appear on the face of the bill, the proposed amendment would also affect the amount of such bonds which would be exempt from certain provisions of the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, in view of the provisions of Title IV of the Employment Security Amendments of 1970 (Public Law 91-373) which were enacted August 10, 1970, as explained below.

Insofar as S. 1644 would increase the amount of industrial development bonds which would be exempt under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939, all of which are administered by this Commission, the Securities and Exchange Commission would be opposed to enactment of the bill in its present form. However, the Commission takes no position with respect to the effect of the bill on the exemptions for such bonds under the Internal Revenue Code as such, and this memorandum will discuss only those aspects of the bill which would have an impact on the federal securities laws mentioned above.

I. BACKGROUND OF PERTINENT FEDERAL SECURITIES LEGISLATION

The Securities Act of 1933 was enacted to afford to investors generally full and fair disclosure of the nature and character of the securities which are offered for sale in interstate commerce or through the mails so as to enable them to exercise an informed judgment regarding their suitability for their investment objectives.

The Securities Exchange Act of 1934 was enacted the following year to provide generally for continuous information to be available to securityholders regarding the issuer of securities listed on national securities exchanges which they may have acquired, to give them a voice with respect to their interests in the issuer and to prevent unfair use by corporate insiders of information regarding the issuer which is not available to all securityholders. This Act was amended in 1964 to extend such benefits and protections to holders of unlisted securities of issuers having over $1,000,000 in assets and 500 or more shareholders.

The Trust Indenture Act of 1939 was enacted to afford to holders of debt securities the benefits of disinterested and impartial trustees, under trust indentures meeting specified statutory requirements, to look out for their interests and to act in their best interests in the event of a default by the obligor on the securities, as well as to eliminate conflicts of interests between such trustees and the issuer and underwriters of such securities.

Certain exemptions are provided by each of these Acts for securities of certain classes, for securities involved in certain types of transactions, or for securities issued by certain classes of issuers. Among the latter are the exemptions provided in Section 3(a)(2) of the Securities Act of 1933 [15 U.S.C. 77c(a)(2)] and Section 3(a)(12) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(12)] for securities issued or guaranteed by the Federal, State or local municipal governments or their political subdivisions or instrumentalities.

Prior to enactment of Public Law 91-373, Section 3(a)(2) of the Securities Act of 1933 exempted from all except the anti-fraud provisions of that Act:

"Any securities issued or guaranteed by the United States or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories, or by any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, . . ."

During such period, Section 3(a)(12) of the Securities Exchange Act of 1934 provided that for the purposes of that Act:

". . . The term 'exempted security' or 'exempted securities' shall include securities which are direct obligations of or obligations guaranteed as to principal and interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest and for the protection of investors; securities which are direct obligations of or obligations guaranteed as to principal and interest by a State or any political subdivision thereof or any agency or instrumentality of a State or any political subdivision thereof or any municipal corporate instdumentality of one or more States; . . ."

Section 304(a)(4) of the Trust Indenture Act of 1939 [15 U.S.C. 777d(a)(4)] incorporates by reference for the purposes of this Act the exemption set forth in Section 3(a)(2) of the Securities Act of 1933 and in Section 3(a)(12) of the Securities Exchange Act of 1934.

II. HISTORY OF EXEMPTION FOR INDUSTRIAL REVENUE BONDS

A. Under The Federal Securities Laws

Industrial revenue bonds as in use today were unknown at the time of the passage of the Securities Act of 1933 and the Securities Exchange Act of 1934. Their genesis springs from the municipal revenue bonds which came into existence during the mid-30s at a time when municipalities had reached the maximum permissible limits of their legal debt obligations or taxing power. At that time a new type of security was devised to raise funds with which to acquire and provide for the benefit of the citizens of a community certain services which prior to then might normally have been obtained with funds raised through taxation. Such services included new toll roads, bridges, tunnels, as well as airports, municipal water works, municipal power plants, sewer and sewage disposal systems, etc. Revenues obtained from such service were designated to be used for the payment of principal and interest on such revenue bonds, and the holders of such bonds could only look to such sources for payment, except that in some cases the full faith and credit of the municipality or State issuing such bonds were also pledged in an effort to obtain more favorable interest rates.

The present-day industrial revenue bond came into existence after World War II as a variation on the municipal revenue bond, but for an entirely different purpose. It was used as an inducement to entice manufacturers and other industries and employers to move into their communities so as to provide jobs as a solution to the post-war unemployment problems, and also to help boost sagging local economies. Funds obtained from their sale were employed in the purchase of land and construction of plants thereon which were then leased to such potential employers and businesses on a long-term lease basis generally geared to the normal life expectancy of the plant which had been constructed. Such bonds usually provide that the revenues obtained from such lease arrangements are pledged to the payment of interest and principal on the bonds in question, and the purchaser can look only to such revenues for repayment since the full faith and credit of the issuing municipality or authority are not pledged thereunder and they cannot be paid from tax revenues. Such arrangement is designed to obviate any constitutional challenge on the right of a municipality or an agency thereof to issue such securities for such private purposes and on the issuance of general obligation bonds without a vote of the electorate. As a fringe benefit, the municipalities may

also exempt the lessee from local taxation on such property for certain periods primarily because title to the land is in the name of the municipality or its agency. Lease payments in such cases are normally scaled so as to pay off the entire obligation on the bonds in question during the life of the lease.

As industrial revenue bonds grew in popularity as a means of encouraging local economic expansion, the amounts required to accomplish such purposes increased, and problems in financing were created since the local investors could not always absorb all of the issues proposed. In such cases, such bonds began to be offered in neighboring States and to be underwritten by underwriters and offered in interstate commerce. When brought to the attention of the Commission, the securities in question were found not to meet the test for exemption under the Securities Act of 1933 when they were offered and sold outside of the State, and thus were not eligible for either the exemption in Section 3(a)(11) of the Act for purely local financing, or the exemption in Section 3(a)(2) of the Act since investors could not look to the government or governmental agency named thereon for payment, but could only look to the revenues produced on the property constructed for private lessees not engaged in any essential governmental function or service for the community within the meaning of that section. For the same reason they failed to meet the requisite test for exemption under Section 3(a)(12) of the Securities Exchange Act of 1934 and were likewise not exempt under the Trust Indenture Act of 1939.

After asserting this conclusion on a case by case basis for several years the Commission decided in February 1968 to clarify this position by publishing a proposed rule under both Acts for public comment [Release Nos. 33-4896, 34-8248, published at 33 Federal Register 3142]. On August 28, 1968, the Commission announced adoption of Rule 131 under the Securities Act of 1933 [17 CFR 230.131] and Rule 3b-5 under the Securities Exchange Act of 1934 [17 CFR 240.3b-5], in Release Nos. 33-4921, 34-8388 [published at 33 Federal Register 12647]. Copies of these rules as proposed and adopted are attached thereto, and the releases contain an explanation of the rationale behind their adoption.

Following adoption of such rules, some municipalities raised questions concerning the impact of these rules on the issuance of bonds by municipal and other governmental units of the type described earlier as municipal revenue bonds, and the Commission thereupon amended Rule 131 and 3b-5 to make it clear that those bonds issued by a State or municipality to finance revenue producing projects of a governmental service nature such as toll roads, municipal water systems, transportation facilities, municipal recreational facilities and the like were still regarded as exempt under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934 as were also the industrial revenue type bonds under which the full faith and credit of the State or municipality was pledged for payment of principal and interest. The amendment to these rules was to make it clear that only those industrial revenue bonds for the payment of which the investor-purchaser could look only to the revenues produced under the leasing arrangement and not the full faith and credit or taxing power of the State or municipality would be subject to these Acts, [attached Release Nos. 33-5055, 34-8850; 35 Federal Register 6000].

B. Enactment of Title IV of Public Law 91-373

When the Employment Security Amendments of 1970 bill was introduced as H.R. 14705 and passed by the House of Representatives on November 13, 1969 it contained no provision relating to exemptions under the federal securities laws for industrial revenue bonds, nor was such a provision in the bill when it was reported out to the Senate by its Committee on Finance. However, Title IV was added to the bill during debate on the floor of the Senate on April 7, 1970 when it was presented as an amendment to H.R. 14705 and was adopted by voice vote [Congressional Record, Vol. 116, Part 8, pp. 10578-10579]. The Conference Committee retained Title IV in the bill and it was accepted by both Houses of Congress when the Conference Report was adopted by them [Congressional Record, Vol. 116, Part 19, pp. 25608 to 25617, and Vol. 116, Part 20, pp. 27305-27323], and the bill was enacted into law on August 10, 1970 as Public Law 91-373.

Title IV of Public Law 91-373 amended both Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934 to add to each of them the following language: "or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excluded from gross income under section 103(a)(1) of such Code if, by reason of the applicattion of paragraph (4) or (6) of section 103(c) of such Code (determined as if paragraphs (4)(A), (5), and (7) were not included in such section 103(c)), paragraph (1) of such section 103(c) does not apply to such security;".

As a result of such amendment, securities which heretofore were not exempt were to be treated the same as those issued by a State or municipal government or governmental authority where the full faith and credit as well as the taxing power of such State or municipality were pledged or where they were issued in connection with the furnishing of an essential governmental function or activity. The exemption was limited to a maximum of $1,000,000 except that it could be increased in certain instances to $5,000,000 by action of the government concerned upon certain specified findings spelled out in the Internal Revenue Code.

III. COMMISSION'S VIEWS ON EXEMPTIONS ADDED BY TITLE IV OF P.L. 91-373

The Commission was not afforded an advance opportunity to comment on the proposed amendment in Title IV of Public Law 91-373 either through an oversight or through a misunderstanding regarding what may have been believed to have been a change of position. The first notice of such amendment was received after Title IV had been added and the bill had been sent to Conference, when the Commission received informal word of such action from the Office of Management and Budget. It was the consensus then that the only way any Commission objection to Title IV could be given recognition was by way of delaying further consideration of the Employment Security Amendments of 1970 which could have been fatal to the bill since it was so close to the time for adjournment of Congress. It was also decided that it would not be proper at that time for the Commission to recommend a veto to the President merely on the basis of the inclusion of this rider since the bill itself was otherwise a very important piece of legislation which had been sought by the Administration and by most members of the Congress.

Nevertheless, the Commission felt then, and it feels now, that such an amendment was ill-advised and runs contrary to the purpose and intent of the federal securities laws that investors are entitled to exercise informed judgment in purchasing securities based on full and fair disclosure of the nature and character of the securities which they are asked to purchase.

The Commission feels that an investor could easily be misled to believe that he is purchasing a "government guaranteed" security where the name of the State or municipality or that of one of its agencies appears on the security and only after reading the fine print does he find out that he cannot look to that issuer for payment but can only hope that the enterprise leasing the particular property involved is successful long enough to be able to pay off the interest and principal on the bonds as they become due. He is not afforded the protections of the federal securities laws in obtaining the minimum essential information prior to making up his mind and in giving him the remedies to which he would be entitled for any breach of the requirements of such laws. He should be entitled to know before making such purchase, for example, that his investment would depend upon the success of the lessee's venture and that it could be unfavorably affected if the enterprise leasing the property is not successful, if the lessee's business should terminate, become insolvent or be rendered obsolete and no other lessee could be found for the property on at least the same terms, and that in any case he could not rely upon the issuer of the bonds to make good on the payment of interest and principal if the revenue generated from the property in question is insufficient.

The Commission believes that the Title IV exemptions added to the federal securities laws are unfair to the investors concerned and that there appears to be no substantial reason for expanding them any further; in fact the Commission would prefer that such exemptions be repealed rather than enlarged.

Accordingly, the Commission does not favor enactment of S. 1644 insofar as it would affect those provisions of the Internal Revenue Code incorporated by reference by Title IV of Public Law 91-373, and which would have the effect of expanding further the federal securities laws exemptions for industrial development bonds.

NOTICE OF PROPOSED RULE 131 UNDER THE SECURITIES ACT OF 1933 AND PROPOSED RULE 3b-5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt two new rules relating to "industrial revenue bonds"; Rule 131 under the Securities Act of 1933 and Rule 3b-5 under the Securities Exchange Act of 1934. "Industrial revenue bonds" generally are instruments issued in the name of a government or its instrumentality to finance the acquisition of a revenue producing facility which is leased to a private commercial or industrial company, to whose specifications the facility is usually created. The principal and interest on the bonds are payable from the proceeds of the lease, and the bonds are not backed by the taxing power and general credit of the governmental instrumentality in whose name they are issued. Such a bond is an instrument that represents: (1) an obligation on the part of the government or its instrumentality to perform certain acts, usually to collect the rental under the lease and to use it to discharge interest, sinking fund and other monetary obligations contained in the instrument; and (2) an interest in the obligation of the private company to make payments under the lease in order to provide funds for payment by the governmental instrumentality in whose name the bond is issued of principal and interest on the bond. Since the purchaser of an industrial revenue bond looks principally, if not entirely, to the lease payments for the payment of principal and interest on the bond, he is in reality purchasing an interest in the lease obligation of the private company. The new rules are proposed for the purpose of identifying the interest in the obligation of the private company as a separate "security" issued by the private company. These rules do not relate to, and have no effect on, the obligation of the government or its instrumentality nor do they require registration by the govern-

ment or instrumentality. The purpose of the rules is to provide prospective investors with adequate information concerning the nature of the obligation of the private lessee and sufficient information about the lessee and its business as well as the terms, nature and identity of the persons involved in the distribution to enable investors to make informed investment judgments.

Since the typical industrial revenue bond financing plan represents a financing by a private company, investors should be given information concerning the business, prior experience, fiscal responsibilities and earnings of the company that has leased the facility, as well as the terms and conditions of the lease arrangement, in order to assess the worth of such investment. The municipality or other governmental unit usually has no significant obligation under the bond, except to the extent of applying lease payments received from the private company to the payment of principal and interest. The investor cannot look to the municipality for interest payments or repayment of the principal; he can look only to the possibility of success or failure of the private company. The municipality serves as a conduit through which the amounts payable under the lease arrangement flow from the private company to the bondholder. In these circumstances, the investor is offered an interest in an obligation of the private company which is a "security" within the meaning of the securities acts and should have the benefit of the disclosures required by the Securities Act of 1933 and the Securities Exchange Act of 1934 when applicable.

The proposed rules do not question the availability of the exemption, provided in Section 3(a)(2) of the Securities Act, to the obligations of municipalities or of the states or their political subdivisions or instrumentalities. Such exemption is not available, however, to the separate security issued by the private company. Absent an exemption under the Act, the securities of the private company will be subject to the registration and prospectus delivery requirements of Section 5 of the Securities Act. Registration will not be required by the municipality or other political subdivision or instrumentality.

On the basis of available information, it appears that substantial amouts of these bonds have been sold to the public. Accordingly, the Commission believes that the proposed rules are appropriate to inform persons who may be issuers of securities identified by the rules, as well as person offering, selling, distributing or dealing in such securities, as to their obligations under the securities acts. Consideration should also be given to the applicability of the Trust Indenture Act of 1939 to the securities identified in the rules. It should be emphasized that the application of the registration requirements of the Securities Act to the securities of private companies which are identified in the proposed rules is intended to provide investors with material financial and other information concerning the private company and the nature and limitations of its obligations. The rules are not intended to affect the determination whether to utilize financing plans involving the issuance of industrial revenue bonds.

PROPOSED RULE 131

Under paragraph (a) of the proposed rule, any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any state or territory of the United States, any political subdivision of a state or territory, or any agency or instrumentality of one or more states, territories or political subdivision thereof, which is payable from from rentals received in respect to property which will be used under a lease by or for industrial or commercial enterprises, shall be deemed to be a separate security issued by the lessee under the lease. In addition, as essentially the same kind of financing plan could be carried out by a governmental body or instrumentality loaning the proceeds of the bonds to private enterprise or selling the revenue producing facilities to private enterprise on a deferred payment basis, paragraph (a) provides that any part of the obligation evidenced by any bond, etc. which is payable from payments received under a loan or sale arrangement, shall be deemed to be a separate security issued by the obligor under such loan or sale arrangement

The proposed rule is directed to financing plans in which any part of the principal and/or interest on a bond, note, debenture or evidence of indebtedness issued in the name of a government or its instrumentality is payable from payments which are to be made under a lease, sale or loan arrangement by private enterprise for property or money to be used by industrial or commercial enterprises. The rule does not apply to revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation systems or municipal recreational facilities. The rule also is not intended to apply to financing plans involving the issuances of revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor.

The Commission is aware that for many years issuer of the securities identified in this rule have not considered their obligations to be separate securities and that they have acted in reliance on the view, which they believed to be the view of the Commission, that registration under the Securities Act was not required. Under the circumstances the Commission does not believe that such issuers are subject to any penalty or other damages resulting from entering into such arrangements in the past. Paragraph (b) provides that the rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds or other evidences of indebtedness issued after the adoption of the rule.

The text of the proposed rule is as follows:

Rule 131. Definition of Security Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States, Territories or political subdivisions thereof, which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprises, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness issued after ———, 1968.

Proposed Rule 3b–5

The Commission believes that it is appropriate to adopt proposed Rule 3b–5 to make it clear that securities identified under Rule 131 are also "securities" within the meaning of Section 3(a)(10) of the Securities Exchange Act of 1934. The provisions of the proposed rule correspond to those of Rule 131. The proposed rule is intended to inform brokers and dealers who deal in industrial revenue bonds, that consideration should be given to the existence of separate securities issued in connection with the issuance of industrial revenue bonds, in determining their obligations under the Securities Exchange Act, where any part of the obligation evidenced by any bond, note, debenture or other evidence of indebtedness is payable from payment made in respect of property or money which is or will be used under a lease, sale or loan arrangement by or for industrial or commercial enterprises. Such separate securities ordinarily would not be exempted securities within the meaning of Section 3(a)(12) of the Act.

The text of the proposed rule is as follows:

Rule 3b–5. Non-Exempt Securities Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States, Territories or political subdivisions thereof, which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale or loan arrangement, by or for industrial or commercial enterprises, shall be deemed to be a "separate" security within the meaning of Section 3(a)(10) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness issued after ———, 1968.

All interested persons are invited to submit their views and comments on the proposed rules, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before March 29, 1968. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission.

ORVAL L. DUBOIS,
Secretary.

ADOPTION OF RULE 131 UNDER THE SECURITIES ACT OF 1933 AND RULE 3b–5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

The Securities and Exchange Commission announced today that it has adopted the Rule 131 under the Securities Act of 1933 and Rule 3b–5 under the Securities Exchange Act of 1934. The new rules relate to "industrial revenue bonds."

Proposed rules were published for comment on February 1, 1968 in Securities Act Release No. 4896 (Securities Exchange Act Release No. 8248). The Commission received many helpful comments that pointed out problems that would be created by the rules in the form in which they were proposed, and that suggested means of overcoming these problems. In light of these comments, the Commission determined to revise the proposed rules to meet the objections raised in these comments and incorporate some of the suggestions for revision.

As was pointed out in the Release announcing the proposed rules, the typical industrial revenue bond financing plan represents a financing by a private company. Accordingly, investors should be given information concerning the business, prior experience, fiscal responsibilities and earnings of the company that has leased the facility, as well as the terms and conditions of the lease arrangement, in order to assess the worth of such investment. The municipality or other governmental unit usually has no significant obligation under the bond, except to the extent of applying lease payments received from the private company to the payment of principal and interest. The investor cannot look to the municipality for interest payments or repayment of the principal; he can look only to the possibility of success or failure of the private company. The municipality serves as a conduit through which the amounts payable under the lease arrangement flow from the private company to the bondholder. In these circumstances, the investor is offered an interest in an obligation of the private company which is a "security" within the meaning of the securities acts and should have the benefit of the disclosures required by the Securities Act of 1933 and the Securities Exchange Act of 1934 when applicable.

There appeared to be a failure on the part of many persons who submitted comments to understand that the proposed rules were interpretive rules that identify securities of private companies which are offered and sold in industrial revenue bond financing plans, and that the proposed rules were not intended to affect the exemptions for municipal or governmental bonds contained in the securities acts. In addition, in some of the comments it was noted that although the Release announcing the proposed rules pointed out that the rules would not affect the exemption for municipal or governmental bonds, they were broad enough in scope to have a contrary implication. As a consequence, the rules have been revised to remove such implication.

RULE 131

Paragraph (a) of the rule has been modified to relate specifically to Section 3(a)(2) of the Act. This was accomplished by deleting the words "State or Territory of the United States, any political subdivision of a State or Territory, or any agency or instrumentality of one or more States. Territories or political subdivisions thereof," and substituting therefor the words "governmental unit specified in Section 3(a)(2) of the Act."

Many of the comments that were received pointed out that a definition of the term "industrial or commercial enterprises" should be included in the rules, and gave suggestions as to how that term should be defined. In the light of those comments, the Commission has added a new paragraph (b), which states that "An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in Section 3(a)(2) of the Act." This paragraph would make it clear that registration is not required where the lessee is a governmental unit specified in Section 3(a)(2) of the Securities Act.

Paragraph (b) of the proposed rule has been relettered (c) and the word "issued" in the last line of the paragraph has been changed to the word "sold" and the rule will become effective January 1, 1969. These changes were made in response to comments that pointed out certain technical and timing problems that were raised by the proposed rule.

The rule is directed to financing plans in which any part of the principal and/or interest on a bond, note, debenture or evidence of indebtedness issued in the name of a government or its instrumentality is payable from payments which are to be made under a lease, sale or loan arrangement by private enterprise for property or money to be used by industrial or commercial enterprises. The rule does not have the effect of requiring registration of revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation facilities and systems or municipal recreational facilities, or revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor. New paragraph (b) of the rule is designed to remove all doubt as to the effect of the rule. In this connection, concern was expressed in many comments that the rule would have the effect of requiring registration of bonds issued to finance construction of airports, wharves, recreational and sporting facilities and convention facilities. Paragraph (b) would clearly make the rule inapplicable to the financings of such facilities that are owned by a municipality and operated by it or a public instrumentality.

It should be noted, however, that if the municipality were not to control the facility but were to lease it or sell it to a private enterprise to operate for a profit, the bonds would be payable from an industrial or commercial enterprise and registration would be required, absent an available exemption. On the other hand, the Section 3(a)(2) exemption would be applicable where a governmental unit having taxing authority or other resources guarantees payment of the bond obligation in the event of default under the lease, or where such governmental unit is responsible for all the bond payment obligation even though a portion or all of the facility is leased to a private enterprise. Further, whether or not Section 3(a)(2) of the Act is applicable, if the securities are offered and sold exclusively to residents of the state in which the lessee company is organized and doing business and in which the facility is located, the exemption in Section 3(a)(11) of the Act would be available; or if the securities are not publicly offered, the exemption in Section 4(2) of the Act would be available.

It should be noted that the rule relates only to that part of an obligation evidenced by industrial revenue bonds which is payable from an industrial or commercial enterprise. Thus, if the lease obligation is in an amount less than the principal amount of the bonds, registration would be required of only that portion representing the lease obligation. Similarly, if a facility were leased to two separate lessee companies, each of which was obligated to make lease payments representing a portion of the principal amount of the bonds, each would be required to register its respective portion of the lease obligation.

The Commission has determined, based on a number of lease obligations that have recently been registered, that existing rules, procedures and policies under the Trust Indenture Act of 1939 are adequate in connection with the applicability of that Act to the securities indentified in the rules. For example, the indenture, which contains the provisions required by the Trust Indenture Act of 1939, may be executed between the trustee and the lessee and the lessee will be required to file the necessary reports and perform the other obligations of an obligor thereunder. However, it has been the practice for the municipality to execute the indenture and to assign its rights under the lease to the indenture trustee, in which case the lessee assumes the statutory functions of an obligor in the lease.

The text of Rule 131 follows:

Rule 131. Definition of Security Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(2) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in Section 3(a)(2) of the Act.

(c) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness sold after December 31, 1968.

Rule 3b–5

Rule 3b–6 has been modified in the same manner as Rule 131.

Rule 3b–5 makes it clear that securities identified under Rule 131 are also "securities" within the meaning of Section 3(a)(10) of the Securities Exchange Act of 1934. The provisions of the rule correspond to those of Rule 131. The rule informs brokers and dealers who deal in industrial revenue bonds, that consideration should be given to the existence of separate securities issued in connection with the issuance of industrial revenue bonds, in determining their obligations under the Securities Exchange Act, where any part of the obligation evidence by any bond, note, debenture or other evidence of indebtedness is payable from industrial or commercial enterprises. Such separate securities ordinarily would not be exempted securities within the meaning of Section 3(a)(12) of the Act. In such instances all the provisions of the Exchange Act and the Commission's rule thereunder will apply to any part of the obligation evidenced by the bond which is not issued by a lessee or obligor described in Section 3(a)(12) of that Act.

The text of Rule 3b–5 follows:

Rule 3b–5. Non-Exempt Securities Issued Under Governmental Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(12) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 3(a)(10) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed payable from industrial or commercial enterprises if such obligation relates to a public project or facility owned and operated by or on behalf of and under control of a governmental unit specified in Section 3(a)(12) of the Act.

(c) This rule shall apply to transactions of the character described in paragraph (a) only with respect to bonds, notes, debentures or other evidences of indebtedness sold after December 31, 1968.

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

AMENDMENT OF RULE 131 UNDER THE SECURITIES ACT OF 1933 AND RULE 3b–5 UNDER THE SECURITIES EXCHANGE ACT OF 1934

The Securities and Exchange Commission has amended Rule 131 under the Securities Act of 1933 and Rule 3b–5 under the Securities Exchange Act of 1934. Each rule relates to "industrial revenue bonds" and was designed to define those circumstances where bonds issued by a municipality or other governmental unit specified in Section 3(a)(2) of the Securities Act and in Section 3(a)(12) of the Securities Exchange Act of 1934 would be deemed to involve the issuance of a separate security by an industrial or commercial enterprise under a lease, sale or loan arrangement. The purpose of the amendment is to clarify certain situations where no

such separate security will be deemed to be involved.

Questions have been raised concerning the impact of the registration requirements of the Securities Act and Rule 131 thereunder to the issuance of bonds by municipal and other governmental units to finance airport improvements for leasing to airlines serving their areas. A similar question has been raised under Rule 3b-5 as to the existence of a separate security for the purposes of the Securities Exchange Act. These questions have been raised notwithstanding the following statement which was included in the Commission's Release No. 4921 under the Securities Act, announcing the adoption of Rule 131:

". . . The rule does not have the effect of requiring registration of revenue bonds issued by a state, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation facilities and systems or municipal recreational facilities, or revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a state or a political subdivision or public instrumentality of a state or a municipality which is the lessee or obligor. New paragraph (b) of the rule is designed to remove all doubt as to the effect of the rule. In this connection, concern was expressed in many comments that the rule would have the effect of requiring registration of bonds issued to finance construction of airports, wharves, recreational and sporting facilities and convention facilities. Paragraph (b) would clearly make the rule inapplicable to the financing of such facilities that are owned by a municipality and operated by it or a public instrumentality."

In view of the concern which has been expressed that paragraph (b) of Rule 131 as presently written might be construed as being applicable only if, for example, a particular airport facility, such as a hangar or a commissary, were to be operated and controlled by or on behalf of a governmental unit, the Commission has concluded that paragraph (b) should be clarified in such respect. The amendment of paragraph (b) of Rule 131 would make it clear in subdivision (3) thereof that it is not the purpose of the paragraph to require as a condition to its applicability that each separate facility constituting a part of a public project be operated and controlled by a governmental unit if the public project as a whole is owned by and under the general control of a governmental unit or an instrumentality thereof.

The amendment also makes explicit in subdivision (1) what had previously been implicit in Securities Act Release No. 4921 that the rules would not apply to any obligation which is payable not only out of the payments from the arrangements referred to in paragraph (a) but also from other substantial sources of revenue of the governmental unit.

The text of amended Rule 131(b) under the Securities Act of 1933 is as follows:

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(2) of the Act, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section, or an instrumentality thereof.

The text of amended Rule 3b-5(b) under the Securities Exchange Act of 1934 is as follows:

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(12) of the Act, having other resources which may be used for payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section, or an instrumentality thereof.

The foregoing action was taken pursuant to Section 19(a) of the Securities Act of 1933 and Section 23(a) of the Securities Exchange Act of 1934. Since the action relates to interpretative rules and is simply a clarification of the Commission's prior interpretation of the scope of the statutory exemptions for securities of governmental instrumentalities, the Commission finds that notice is unnecessary and that the amendments to the rules may be made effective immediately. Accordingly, the amended rules shall be effective as of March 31, 1970.

By the Commission.

ORVAL L. DUBOIS, *Secretary.*

Mr. PROXMIRE. Mr. President, this is, from everyone's standpoint, a very undesirable change in the tax law. It is proposed under the guise of benefiting local governmental authorities, but in fact it will operate to the serious detriment of the overwhelming majority of State and local governments.

Industrial development bonds are simply a device to enable private businesses to borrow funds by using the tax exemption privilege of State and local governments. The device arose as a means of attracting industry to a locality by the significantly lower financing costs available through tax exempt borrowing.

This device was stopped by Congress in 1968 because nearly every State had begun to issue industrial development bonds. Before Congress acted, the ability of any one State or locality had been, for the most part, neutralized; on the contrary, the State and local governments had found it necessary to offer the tax exempt financing benefits to industry as a defensive matter—they had to offer this advantage to keep from losing industry.

The principal undesirable result that flowed from all of this was the increased competition for the very limited funds available for purchase of tax exempt bonds. This, of course, forced the interest rate on all tax exempt issues to rise, in turn raising significantly the financing costs of States and localities attempting to meet the pressing demands for capital needed to provide critical governmental services such as police and fire protection, schools, and sewage disposal.

Thus the 1968 legislation served its purpose well. Appropriate exceptions were made for semigovernmental functions carried on by private industry which had traditionally been financed through tax exempt bonds—such as airports, mass transit facilities, pollution control facilities and others. Also an exception was made for issues of $1 million and less.

The present amendment would increase the $1 million exemption to $8 million; to that extent it would allow the competition among States and localities to be renewed—to the detriment of financing for traditional governmental functions.

In short, a vote for this amendment is a vote against the cities and other local governmental authorities most in need of help. The least we can do is help these hard-pressed local governments by protecting the integrity of their tax exempt financing privilege.

Mr. RIBICOFF. Mr. President, I have an amendment to the Sparkman amendment which I send to the desk.

The PRESIDING OFFICER. Is the Senator simply sending an amendment to the desk?

Mr. RIBICOFF. Yes. I will call it up at the proper time.

The PRESIDING OFFICER. The amendment is received, and will lie on the desk.

Who yields time?

Mr. RIBICOFF. Mr. President, will the Senator from Arizona yield to me 10 minutes in opposition to the amendment?

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 23 minutes remaining.

Mr. FANNIN. I yield 10 minutes to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the problem of the tax treatment of industrial bonds is not a new one. We dealt with it first in the Revenue and Expenditure Control Act of 1968. When we considered the Renegotiation Act later the same year the treatment of industrial revenue bonds was liberalized.

The problem which faced us at that time was that industrial revenue bonds were being used extensively and often abused. Originally, industrial revenue bonds may have had a worthwhile purpose; namely, to attract industry to areas in need of economic development. This original purpose, however, has been long gone. According to my last count there were 44 States using industrial revenue bonds. As a result, industrial revenue bonds generally do not make investment in one State more attractive than investment in another State. Instead, these bonds merely represent an unjustified subsidy reducing the interest cost to industrial corporations and representing a tax loophole for wealthy investors.

The worst part of it is—and this is the point which is usually overlooked—the tremendous growth in the use of industrial revenue bonds in recent years has actually hurt rather than helped State and local governments. The demand for increasing and new varieties of governmental services have caused States and local governments to rely more and more on the municipal bond market to obtain necessary funds. The increased need for these funds has placed severe demands on the municipal bond market and driven up the cost of these bonds. The tremendous growth of industrial revenue bonds has further aggravated this situation since these bonds have used up the relatively limited quantity of funds available for State and local bonds. Generally, the effect has been to substantially increase the cost of State and local government bond financing. Under today's conditions this is the very last thing we should seek to do.

Mr. President, it was reasons of this type which led the Senate to limit the income-tax exemption for interest on industrial revenue bonds to a maximum of $1 million. Later some of my colleagues argued that we ought to permit plants to be built up to a limit of $5 million on the grounds that these were small industries. I approved that proposal. However, the Congress agreed finally to permit industrial revenue bonds to be used up to a total of $5 million but only where the total expenditure may with respect to a plant in the period beginning 3 years before and ending 3 years after the bond issue, aggregated no more than $5 million. Now, the distinguished Senator from Alabama (Mr. SPARKMAN) proposed to take this restriction off. He would permit any industrial bond issue to be exempt up to a total of $5 million.

This will have the effect of exempting a very large portion of all industrial revenue bonds and will almost put us back into the same position we were in when the tax-free issues of industrial bonds were first limited. The average size of an industrial plant issue today amounts to about $9 million, so you can see from this that if we exempt the first $5 million of any issue we will in fact be exempting more than one-half of all industrial issues if they seek State or local industrial bond financing. I can think of no more crippling amendment that we could provide insofar as State and local governments, generally, are concerned. Nothing that I can think of would be so likely to drive up the cost of the financing and to make it difficult to finance new issues for school construction, for highways, for sewage treatment plants, and the many other pressing needs of our local governments.

The Treasury Department for much the same reasons that I have given you, strongly opposes this amendment. The Treasury Department opposes this amendment not only because it increases the use of tax exempt bonds in a manner which will have serious disruptive effects on the State and local bond market, but also because it narrows the tax base by substituting more tax exempt income for taxable income and in this manner extenuates the problem of tax preferences.

The SEC opposes this amendment because these issues are excluded from the reporting requirements of the Securities Act and, as a result, even though these, in fact, are corporation issues rather than true Government issues, investors are not afforded proper protection.

It is ironic that this amendment should be added at this time when we are restoring the 7-percent investment credit. The 7-percent credit will be a substantial aid to industrial development throughout the country and certainly we need not add further to this by increasing the exemption with respect to interest on industrial bonds.

I strongly oppose this amendment. Historically we have heard that these bonds help develop jobs, but the AFL-CIO has always opposed the program. Local government supposedly favors these bonds but the National Association of Counties has always objected to their use. And the Advisory Council on Intergovernmental Relations—representing a broad cross-section of State, local, and Federal officials—has sought to have industrial development bonds totally removed from the tax exempt market.

We successfully curbed a large part of the abuses in this program in 1968. I would hope that we would not subject the cities and States of our country to those abuses again.

Mr. President, I therefore urge my colleagues to oppose the amendment of the Senator from Alabama.

Mr. FANNIN. Mr. President, if I believed that this amendment would provide an advantage to State and local governments in attracting industry, I would be very much in favor of it. But it does not provide an advantage to State and local governments in attracting industry since virtually all States authorize industrial revenue bonds. It does not have the great appeal that has been expressed. Congress dealt with this problem in 1968, and allowed industrial development bonds up to $5 million only where the total cost of the facility was under $5 million. Even with that restriction, the use of these bonds is growing at a faster rate today than in the early 1960's.

Mr. President, I have a chart which shows the industrial revenue bond issues for 1960 to 1970. They reached a peak in 1967 and 1968 and then fell off in 1969, following the legislative action of Congress. These bond issues, however, started picking up again in 1970.

Mr. President, I ask unanimous consent that the chart be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

INDUSTRIAL REVENUE BONDS, 1960-70

[Dollar amounts in millions]

Year	Number of issues	Amount	Average amount per issue
1960	55	$41	$0.7
1961	46	72	1.6
1962	66	84	1.3
1963	69	133	1.9
1964	90	192	2.1
1965	91	210	2.3
1966	124	499	4.0
1967	180	1,372	7.6
1968	165	1,606	9.7
1969	68	51	.8
1970	82	110	1.3

Source: Investment Bankers Association.

Mr. FANNIN. Mr. President, in 1968, Congress enacted tax changes to halt the proliferation of industrial development bonds. During the 1960's, a large number of State and local governments authorized the issuance of industrial development bonds. The practice was initially developed as a means to attract new industry to underdeveloped areas by offering business the use of the issuer's tax exemption. As more States authorized these bonds, the competitive advantage in luring industry to a particular area was neutralized. Large numbers of industrial development bond issues were competing with school bonds, sanitary bonds, and so forth. Thus, while the industrial users were saving money through the use of tax-exempt issues, there was a corresponding increase in the interest paid on traditional municipal financings.

Prior to the 1968 legislation limiting the use of industrial development bonds, there had been a steady increase in the use of this device. In 1960, 55 such issues were sold, representing a total face amount of $41 million; an average of $700,000 per issue. In 1968, the last year before the new provision was in effect, there were 165 such issues representing an annual face amount of $1.6 billion; an average of $9.7 million per issue. From 1960 through 1968, the aggregate face amount of industrial revenue bonds was over $4 billion.

The 1968 legislation continued to allow tax-exempt financing of projects whose total cost does not exceed $5 million.

In other words, that legislation continued to allow the use of industrial revenue bonds for small industrial plants.

The amendment before us, however, would extend this privilege of issuing $5 million of tax-exempt bonds for an industrial plant to all plants, regardless of their size—regardless of whether a $5 million or $100 million plant was involved. Under the proposed amendment, the first $5 million of costs of any industrial plant—regardless of its size—could be financed by tax-exempt municipal bonds.

Mr. SPARKMAN. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. SPARKMAN. The Senator pointed out that this big increase swelled up to 1968.

Mr. FANNIN. Yes.

Mr. SPARKMAN. We all recognize the fact that there was an abuse of the old law.

The PRESIDING OFFICER. The Senator's 2 minutes have now expired.

Mr. SPARKMAN. I yield myself 1 minute.

We all recognize the fact that it had been abused.

We agreed to a limitation back in 1968. As I recall it, we wrote it into the bill on the Senate floor, but when we got to the House they wrote in these 6 drag years, under which no company could spend a dollar on capital expenditures. We are not changing the limitation. We are trying to remove those 6 years.

This operates primarily under the section 502 program of the Small Business Administration. All through this land we can find places where these section 502 projects have gone in and utilized this program and provided jobs in areas where they badly needed jobs. We gave liberally to big business. This is a plea for small business. The amount is no more in my amendment than it is under the present law. It takes away the 6 drag years.

Mr. FANNIN. I do agree that States originally had some benefits. Many indi-

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vidual States have had benefits, my own State included. But by 1968, so many States were issuing these bonds that the competitive advantage had disappeared. The procedure we followed in 1965 in allowing small issues of these bonds was to prevent a $100 million plant from being constructed with it. There were limitations, and they were called for.

I am concerned about the long-term effect of the expansion in tax exempt industrial development financing which this amendment would permit and, in fact, encourage. This effect will be an increase in the cost of financing for traditional government projects, such as schools, bridges, police, and fire protection. States will have to pay more to finance these services because of the subsidies this amendment will provide to private industry. In other words, financing for these activities would be forced to compete with large industrial development bond issues. Local taxpayers will have to pay higher taxes to finance their schools, so that some States can attempt to lure industry away from other States in an effort that in the end is bound either to disrupt the economy as a whole or to fail because all States offer the same subsidy.

The Senator knows this is a competitive situation. One State will offer an incentive. Then another State in competition with it for these industries will offer the same or more lucrative opportunities for the industry. So it goes back and forth, without really making a great change, other than increasing the cost to the taxpayers, and here we are talking about $350 million, which is a sizable sum.

The Securities and Exchange Commission also is opposed to any expansion of the small issue exemption. Under a 1970 amendment to the securities laws, industrial development bonds which are exempt as "small issues" under the tax law are also exempt from the application of the Federal securities laws. This means that prospective investors in such bonds are not afforded the protection of the disclosure requirements in those laws. An investor could easily be misled to believe that he is purchasing a Government guaranteed security where the name of the issuing municipality appears on the security. Since the proposed amendment would bring a number of issues into the category of exempt small issues, it would have the undesirable effect of expanding the scope of this exclusion from SEC disclosure requirements.

Mr. SPARKMAN. Mr. President, will the Senator yield for a question?

Mr. FANNIN. On the Senator's time.

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes.

I have the highest regard for the Senator from Arizona, but the statement that has been prepared for him simply does not jibe with the facts and does not make sense. It does not cost the Government anything more, because the limit is still the same, $5 million. It just takes away the 6 years in which that company or that plant or that man could not spend one extra dollar for capital improvements. If he does, he loses his whole tax benefit. Why put these chains on him? This is a small business proposal.

I did not hear this argument made in connection with rapid depreciation, which I support. I did not hear any of this argument in connection with the 7-percent investment credit, which I support. I think they are both good for the economy of the country. But now when we have this small business provision, which I also think is good for the economy of the country, I do not see how one could stand up here and blandly vote for rapid depreciation and investment tax credit—I did, and I believe in them—but when we come to the small businessman, say it is going to cost the Government more money. It cannot exceed the sum already provided. The limit is the same. All we are doing is keeping the law, except we are saying to small business, "When you get this $5 million tax-exempt loan, you are handcuffed for 6 years. You cannot spend another dollar."

There is another provision which lets money made available under the program which the distinguished Senator from Vermont wrote into the law a few years ago go into water and sewer systems throughout the country. This has benefited very greatly small towns and rural areas. There is a limitation there, under the interpretation of the Internal Revenue Service, that they cannot go outside a metropolitan area or an area that is bigger than two counties.

I know that in my State there are places where three or four or five counties are trying to work together to get the benefits written into the law, and which was promised to people in the rural areas, which would provide them with the decent living provided by water and sewer systems. That is what we are trying to do. All this is a part of the amendment. I say it is a good amendment, which should be written into law.

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 12 minutes remaining.

Mr. FANNIN. Mr. President, with reference to what the distinguished Senator from Alabama has said, I would not expect him to be for this amendment unless he thought it would increase the issuance of industrial development bonds. Now, if it does increase industrial development bond issues, it is going to cost more money. If I thought we were going to have additional benefits from the amendment, I would be in favor of what is proposed, but no one area of the country would receive any competitive advantage from the increased usage of industrial development bonds, because practically all States now have that privilege. So I do not think the amendment would have the effect the Senator from Alabama refers to. Moreover, as I indicated, it is not a small business amendment since it would allow tax-exempt bond financing regardless of whether a $10 million or a $100 million plant were involved.

I certainly want to help create jobs, but I do not agree at all that the way to do that is to encourage the issuance of industrial development bonds. Today, the only one who benefits from industrial development bond financing is the private industry which obtains lower cost financing for a plant it was going to build in any event. The State issuing the bonds obtains no benefit and the taxpayers obtain no benefits.

There are many reasons why this proposal should not be adopted. I think the principal reason, however, is that it would create tremendous additional pressures on the municipal bond market and thus would drive up interest costs on all municipal bonds, especially those affecting our schools and our other pressing local governmental needs.

I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. SPARKMAN. I yield 3 minutes to the Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I thank my colleague from Alabama for yielding so I may make these remarks in support of the amendment.

I was happy to cosponsor the amendment which effectuated the compromise on this issue when it was offered by the distinguished Senator from Alabama some time ago. In that debate I think all of us agreed—and the distinguished Senator from Connecticut was in the forefront of that debate—that there were substantial abuses in the industrial development bond concept.

So a compromise was worked out that provided for a $5 million limitation on the amount of bonds that might be sold and still maintain a tax free status. As I say, I participated in those negotiations and that compromise, and I think it was a good compromise. I think $5 million is a realistic and reasonable limitation to put on them.

But, Mr. President, we now run up against one of those situations which not infrequently occur, that some of our friends in the executive department of the Government do not exactly interpret the statute the same way we thought we understood it, so that the unfortunate effect has been to provide that we put an unrealistic ceiling on the further operation, development, or expansion of facilities built with the proceeds of industrial development bonds.

The example used by the Senator from Alabama, as I understood him, was that if $5 million in industrial development bonds were sold, and the interest income from those bonds qualified as tax-free income, and then later the lessee company that operated that plant chose to use its own money, say $1 million of its own private funds to expand, upgrade, renovate, or modernize that plant, then the interest income from the whole $5 million would lose its qualification as tax-free income.

That situation, Mr. President, was not one of the intended effects of the compromise we reached. The amendment by the distinguished Senator from Alabama, in my judgment, does nothing more than clarify an unintended conflict which has developed between the interpretation of the statute as we passed it and what we as legislators intended at the time.

So I think the amendment is necessary and desirable, and I commend the Senator from Alabama for offering it.

The PRESIDING OFFICER. Who yields time?

Mr. FANNIN. Mr. President, is there any Senator who would like to make a further statement in opposition?

If not, I am prepared to yield back the remainder of my time.

Mr. SPARKMAN. No, no, Mr. President, I cannot do that.

Mr. FANNIN. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from Arizona has 8 minutes. The Senator from Alabama has 12 minutes.

Mr. FANNIN. I reserve the remainder of my time.

Mr. SPARKMAN. Mr. President, I yield 3 minutes to the Senator from Georgia (Mr. GAMBRELL).

Mr. GAMBRELL. Mr. President, I should like first to address a question to the distinguished Senator from Alabama with reference to this amendment, to clarify it for me.

If this amendment is adopted, as I understand, if there is additional investment within the 3-year period, that is not exempted; in other words, it is only the principal investment that is made that is under tax-exempt financing, but any additional investment would not be, within that period?

Mr. SPARKMAN. Five million dollars is the maximum of the tax exemption. But it is worse than the Senator says. If the $5 million loan is made, then for 3 years after that, the borrower cannot spend one single dollar of capital payments. Suppose something breaks down, and he has to buy new machinery. He loses his exemption. All in the world I am trying to do is take out those 3 years, before and after.

Mr. GAMBRELL. After the amendment is adopted, if that situation should arise and an additional investment should be made, based on borrowed money, would that be subject to tax exemption?

Mr. SPARKMAN. It would not.

Mr. GAMBRELL. It would not?

Mr. SPARKMAN. It would not. Only the $5 million would be tax exempt.

Mr. GAMBRELL. So the effect of the amendment does not extend the $5-million limit?

Mr. SPARKMAN. No; not by $1.

Mr. GAMBRELL. This is, I think, a very important point, because, as the Senator has said several times, this is not an effort to increase the amount of the exemption, and in that respect does not deny the Federal Treasury one single tax dollar by way of any additional exemptions.

My own experience in this field of municipal finance and tax-exempt financing—and the Senator knows this, I am sure, very well—has been that in the bond market for municipal securities, any kind of little possible variation which might cause the bonds to lose their tax exemption does not simply impair their marketability, it just abolishes it. The possibility that at some later date within 3 years, someone out there would make a mistake or forget they were not supposed to make a capital investment, is something that would break the tax-exempt status, and this is something the market has no control over. The bonds are sold into the hands of people all over the country, and they become subject to tax exemption. How do you tell the investor in this market that his bond has now become subject to taxation? I think this is an important point.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the names of the Senator from Texas (Mr. BENTSEN) and the Senator from Georgia (Mr. GAMBRELL) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPARKMAN. Mr. President, I yield 3 minutes to my colleague from Alabama.

Mr. ALLEN. I thank my distinguished colleague.

Mr. President, I urge my fellow Senators to support amendment No. 655, because it is designed to promote capital investment by industry and the creation of additional jobs. I know of no amendment that has been adopted, on such a small scale, that will be as productive as this amendment in promoting capital investment and in creating jobs.

A companion bill has been introduced in the House of Representatives by the chairman of the Ways and Means Committee, Mr. WILBUR MILLS. I ask unanimous consent that a copy of that bill, H.R. 11124, be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(c)(4) of the Internal Revenue Code of 1954 (relating to certain exempt activities) is amended—

(1) by striking out in subparagraph (E) "energy, gas, or water, or" and by inserting in lieu thereof "energy or gas,";

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or"; and

(3) by adding at the end thereof the following:

"(G) facilities for the furnishing of water, whether or not to the general public."

(b) Section 103(c)(6) of such Code (relating to exemption from industrial development bond treatment for certain small issues) is amended—

(1) by striking out "$1,000,000" in subparagraph (A) and by inserting in lieu thereof "$5,000,000"; and

(2) by striking out subparagraphs (D), (E), (F), (G), and (H).

(c) The amendments made by this Act shall apply with respect to obligations issued after January 1, 1970.

Mr. SPARKMAN. Mr. President, may I ask the Senator, is that not almost identical with our amendment?

Mr. ALLEN. It is identical, word for word, except as to the issue date of the securities proposed to be affected by the amendment, and a little different language which will assure that these water systems provided for in the amendment will be available on reasonable demand to the general public.

This amendment would remove a provision from the existing law that pretty well nullifies the exemption sought to be given thereby, because the existing law provides that if the entity issuing the bonds has made capital investments in the 3 years preceding the issuance of the bonds, or if it makes capital investments in the ensuing 3 years, then the securities cannot be tax exempt.

This puts a tremendous burden on the issuing entity, and it is self-defeating, in that once the bonds are issued and the improvements are made, then no further improvements can be made for 3 years, even if there is great need for additional improvements.

So the pending amendment eliminates the 3 back years and the 3 prospective years in which there may be no capital investments.

There was no real reason for that prohibition in the original law, that the junior Senator from Alabama can detect. This amendment would leave the ceiling exactly where it is, at $5 million, but would provide a method for getting the bonds issued and the capital investment made.

The PRESIDING OFFICER (Mr. BROCK). The Senator's 3 minutes have expired.

Mr. ALLEN. I yield myself 1 additional minute.

I know of at least one industry waiting on the passage of this bill to add to its existing facilities in my State, to the extent of several million dollars. They contemplate putting on some 2,500 new employees. This bill does carry the concept of the President's plan to create more jobs, to provide for more capital investment, and to promote rural development, for most of the plants are in small towns and rural areas.

I urge my colleagues to vote favorably on the amendment.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 4 minutes remaining.

Mr. SPARKMAN. Mr. President, the Senator from Alabama will bear me out in this statement. Under the industrial bond development plan, we have been able, in Alabama, to locate in small towns, in rural areas, many small businesses that have given employment to people who needed jobs. Is that not correct?

Mr. ALLEN. That is definitely correct. Furthermore, it carries out the concept of rural development which the administration is interested in, which the Committee on Agriculture and Forestry is interested in, and which the Subcommittee on Rural Development, headed by the distinguished Senator from Minnesota (Mr. HUMPHREY), is greatly interested in.

Mr. SPARKMAN. We have bills here that the administration sent up, urging rural development.

Mr. President, one thing I am afraid of in the President's economic program—and I am supporting it wholeheartedly—the only part in it of which I am afraid, is that of unemployment. Yet, here is something that makes it possible to get jobs where they are needed.

I want to point out another thing. I want to emphasize what the Senator from Georgia said. As it stands now, if this law continues, how are you going

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to sell a $5 million bond issue? You would almost have to shave it down by something so as to make room for those capital improvements. The way it is now, you spend $1 on capital improvements after you get that loan, and then the tax-exempt status is lost with respect to the whole issue. Who would buy a bond issue of that kind?

Mr. President, I have referred to section 502 of the Small Business Act. I want to say that that was written into the small business law primarily upon the example that New England had set. Several States in New England, if not all of them, had local industrial development associations, and many of them were assisted by the States. Arkansas had one. It was primarily upon the example that we had from those areas that we wrote into the law section 502. It is under that section that most of these bond issues are made. It is a rural development program. It is a small business program. It is one that makes for better economy throughout the country, and we certainly ought to vote for it.

Mr. President, I am ready to yield back the remainder of my time, if I have any more time.

Mr. FANNIN. Mr. President, I will take 2 minutes, and then I will yield back the remainder of my time.

Mr. SPARKMAN. I reserve the remainder of my time, then.

Mr. FANNIN. Mr. President, why was this device stopped by Congress in 1968? Because there is a limited market for tax-exempt bonds—high-bracket individual investors—and the floodings of the market with these bonds had sharply raised interest rates on all other bona fide State and local bond isues—for school financing, road construction, and other needed State and local government purposes. I think we need to reemphasize that the net effect of these industrial development bond issues is that State and local taxpayers, in general, pay a higher interest rate to finance their government needs so that some States can lure manufacturing plants away from other States by enabling the private business to pay a lower interest rate to finance their factories.

The PRESIDING OFFICER. Does the Senator from Arizona yield back the remainder of his time?

Mr. FANNIN. If the Senator from Alabama will.

Mr. SPARKMAN. I yield back the remainder of my time.

Mr. FANNIN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

Mr. RIBICOFF. Mr. President, I have at the desk an amendment to amendment No. 655 which I believe could correct some of its deficiencies.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 2, line 15, insert the following:

Section 103(c) is further amended by adding a new paragraph (8) as follows:

(8) Employee Housing: The exception provided in paragraph (6) shall not apply to any industrial development bond issued by any state, territory or possession of the United States or any political subdivision thereof that has not complied with the following requirements:

Definitions

(A) As used in paragraph (8), except where otherwise specified, the following terms shall bear the definitions provided—

(i) "facility" shall mean any building, complex of buildings, plant, factory, installation or other place of business financed by an industrial development bond which is occupied by more than 25 employees;

(ii) "company" shall mean any person, corporation, partnership, or association with more than twenty-five employees;

(iii) "immediate area" shall mean any area which is within the corporate limits of the community in which a facility is located and which is within a reasonable commuting distance as defined by the Secretary;

(iv) "Secretary" shall mean the Secretary of Housing and Urban Development or his designee;

(v) "Commissioner" shall mean the Commissioner of the Internal Revenue Service or his designee;

(vi) "community" shall mean any political subdivisions of a State;

Community Agreement

(B) (i) Before approving the tax exempt status for any industrial development bond issue under this section, the Commissioner must have received from the Secretary certification that the community in which the facility is to be located has entered into an agreement with the Secretary whereby adequate housing is or will be made available to persons employed as a result of the construction of the facility.

(ii) Should, after the acceptance of the agreement by the Secretary, any community fail to comply with its approved agreement, the Secretary shall bring suit in the United States District Court for the District of Columbia to secure an injunction to require such community to conform to its agreement.

(iii) The agreement required by paragraph (B) (i) shall contain a timetable for provision of the housing units required under the agreement: *Provided*, That at least one-half of such units shall be in existence within six months after the actual completion date of the facility, with the remaining units to be in existence within twelve months after the completion date.

(C) (i) Should the Secretary determine that a change in the local situation, the size of the facility or other relevant factors necessitates a modification of the agreement, he may approve such modifications, if they are proposed by the community or require a community to make necessary modifications: *Provided*, That such modifications do not impede the effectuation or achievement of the purposes of paragraph (8);

(ii) Should the Chairman determine that, as a result of the size, location, and accessibility of two or more communities, it would facilitate implementation of the purposes of this Act for such communities to develop a joint agreement he may approve such a plan: *Provided*, That any such agreement otherwise meets the requirements of paragraph (8); *And provided further*, That each such community shall be jointly and severally liable for specific performance under paragraph (B) (ii).

(D) The community's agreement shall also provide the necessary assurances from the company that any previous employees of the company who might lose their jobs as a result of the new facility shall be given the right of first refusal for the new jobs.

FINANCIAL ASSISTANCE

(E) Each community that files an agreement under paragraph (8) may also file an application with the Secretary for financial assistance and the Secretary shall grant to each an amount not to exceed $100,000 to reimburse such community for the expense of developing an agreement to conform to the requirements of paragraph (8).

APPROPRIATIONS

(F) For fiscal year beginning July 1, 1971, and for each fiscal year thereafter there are authorized to be appropriated sufficient funds to allow the Secretary to fulfill the requirements of paragraph (8).

The PRESIDING OFFICER. Each side on the amendment to the amendment has 15 minutes.

Mr. RIBICOFF. Mr. President, I have opposed the use of industrial development bonds for many years because they are a subterfuge which only serve to undermine the legitimate municipal bond market.

I am also opposed to them because these tax exempt bonds are being used by communities which have exhibited a noticeable lack of concern for meeting the needs of the incoming company's employees.

I do not believe that such local communities should be allowed to tap the Federal treasury and then turn their backs on problems these bonds create—such as the shortage of housing for the new workers. Yet this is precisely what is happening across the Nation. Federal funds are being used to establish plants in communities which do not have an adequate supply of housing.

Consider the situation nationwide. The growth of manufacturing and service jobs in the suburbs and beyond has begun to distort our labor market because those most able to fill those jobs are often unable to reach them. Our present housing policies have served to effectively exclude millions of low- and moderate-income Americans from new employment opportunities.

Most of the Nation's housing units now being constructed are going up outside the cities. The housing being built, however, is simply too expensive for low- and moderate-income families. The land is there to be used, but all but the most expensive housing has been zoned out through the use of large-lot zoning and the absence of any provisions for low density multifamily housing.

For example, the 20 local governments in a 400-square-mile area around Princeton, N.J., have zoned enough underdeveloped land for industry and research firms to support 1,200,000 jobs. The same towns, however, have zoned the remaining land to house only 144,000 workers—one-tenth of the potential work force.

The effect of such practices is obvious. The House Banking and Currency Committee found earlier this year that 28.4 million families—101 million people—cannot afford payments on a $20,000 mortgage. Yet the median sales price for an existing single family home is now over $25,000.

In fact, approximately 60 percent of the housing on the market nationally now is above the level a family with an

$8,000 income can afford. This means that the people who need the jobs opening up in new areas are trapped in the central city. The result is a scarcity of needed employment for the poor and in some cases an actual shortage of low- and moderate-income employees for new concerns. Numerous communities are now discovering that they have even priced their teachers, firemen, policemen and other municipal employees out of their own cities.

The only solution to this housing shortage and labor market distortion is to build more housing units near the new jobs. Unless the Government begins to assist in building the necessary housing, the unemployment, welfare and social dependency now endemic to the central cities will continue to soar upward at an alarming rate.

I believe it is unconscionable for the Federal Government to subsidize the establishment of industry in a community which does not have an adequate supply of housing for its employees.

Yet this is how many tax-exempt industrial development bonds are being used.

Too many towns offering such bonds want the benefits an industry brings in, but none of the responsibilities, such as schooling or housing the new employees.

Furthermore, people in the town which is losing the industry to another community find that people who have worked for 20 or 25 years no longer have a job.

The purpose of this amendment is simply to bring equity to the situation. If a community wants to use tax exempt industrial development bonds, it has an obligation to arrange for adequate supply of housing for the new employees the bonds will bring us.

Furthermore, any employee whose job is being lost because a plant is moving from one section of the country to another section of the country should have priority on that job. So, if a company should be moving from Wisconsin or Rhode Island or Connecticut to Alabama, Georgia, or Arkansas, the employee in Connecticut or Rhode Island or Wisconsin should have the right of first refusal on the job opening up in the new plant.

That, in essence, is the amendment I have offered to the amendment of the distinguished Senator from Alabama.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. RIBICOFF. I yield.

Mr. NELSON. Do I correctly understand that the theory of the requirement in the Senator's amendment, that they give first preference to a current employee, is that if we are going to have legislation which uses tax exempt revenue bonds, under a statute passed by Congress, to induce industries to build in a particular community, they should then be required to give their older employees—that is, their current employees—in whatever community they are now living, the right to their job in the new plant, as a preferential matter, over any other new employee?

Mr. RIBICOFF. That is correct.

It has been said that these new plants will generate new jobs in rural areas. The distinguished Senator from Alabama referred to a new plant that gave 2,500 jobs to people in Alabama. That is all well and good. But where did that plant come from, and what happened to those 2,500 employees in the community that lost that plant?

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. NELSON. The Senator from Connecticut has the floor.

Mr. RIBICOFF. I yield.

Mr. ALLEN. I will state, for the Senator's benefit, inasmuch as he was quoting the junior Senator from Alabama, that this is an enlargement of an existing plant that has been in Alabama for several decades, and it is not a plant that has been raided from another State. It is merely the enlargement of an existing plant.

Mr. RIBICOFF. I am pleased to be corrected. But in many instances they are not the enlargement of existing plants, but they are plants that are being taken from one section of the country to another and are aided by tax-exempt industrial development bonds.

Nothing is as cruel as to take a job from a man who has worked on it and lived in a community for 20 or 25 years, who is now 50 or 52 years of age, and who suddenly finds the plant is sold out from under him, and has gone to another community, which issues tax-exempt bonds that Uncle Sam pays for. If that man is willing to move to the new community, he should have the first shot at any new job he can qualify for.

Mr. PASTORE. If the Senator will yield, as a matter of fact, that is the historic story of the moving, the exodus, of the textile industry out of New England. I mean, concessions were made in other States to which we had been making concessions on this floor time and again because of their low per capita wealth. In every case we gave them the advantage and the consideration because they were the more depressed States and we were happy to do this. Then along with that in those States came special, nontax, situations which were attracting textiles to go out of Rhode Island.

When I was Governor of Rhode Island, the gross income of my State was 45 percent from the textile industry. Today it is less than 15 percent.

Mr. President, do you know where those factories are? They are in Alabama, North Carolina, and South Carolina. They are all over the South.

Mr. RIBICOFF. May I ask the Senator at that point, what happened to the workers in Rhode Island who lost their jobs?

Mr. PASTORE. Many of them went on relief.

Mr. SPARKMAN. Mr. President, will the Senator from Connecticut yield right there?

Mr. RIBICOFF. I am pleased to yield.

Mr. SPARKMAN. There is not a single textile plant in the State of Alabama that came down. We have had textile plants from 1830 and we have had them ever since throughout the State. Furthermore, I want to answer the question of the Senator from Rhode Island—he may not remember but JOHN MCCLELLAN remembers and BILL FULBRIGHT remembers, because they were here when we had a terrific fight over trying to equalize freight rates in this country. In those days, they could buy cotton from the South, have it shipped to New England, manufacture it into goods, and then send it to Chicago and sell it there more cheaply than we could in the South, because of freight rates.

Mr. PASTORE. I never resisted that——

Mr. SPARKMAN. I am not saying that the Senator did, but when those freight rates were equalized and made fair, then there was no need to ship cotton to New England or to manufacture it there and ship it back to the South.

Mr. PASTORE. That may be so——

Mr. SPARKMAN. That is the reason the plants came down.

Mr. PASTORE. I am saying that Federal money was used to finance and construct the mills—modern mills——

Mr. SPARKMAN. Not in my State.

Mr. PASTORE. I do not know whether in the Senator's State, but in the South—in the South——

Mr. RIBICOFF. If that is the case, may I make this comment to my colleague. If we say the purpose is not to raid the northern plants then, may I ask, what objection is there to giving priority to the northern worker from the northern plant who has followed his job south? I mean, is there any objection on your part, then, to complying with a request to give priority to that northern worker who has lost his job after 30 years? I would like an answer to that from my Southern colleagues.

Several Senators addressed the Chair.

Mr. RIBICOFF. I yield to the Senator from Georgia.

Mr. GAMBRELL. I am not sure I can answer that question specifically, but I would like to say that I think there is a red herring running loose in this Chamber today, because the tax-exempt financing we are talking about is just as available in Connecticut as it is in Georgia. We are not talking about the matter of concessions to build a textile plant in Georgia, in North Carolina, in South Carolina, or in Alabama. The same financing program can be used to build textile plants in Connecticut or in Rhode Island, and if there is a need to keep jobs in Connecticut or Rhode Island, this plant can be used.

Mr. RIBICOFF. May I say to the distinguished Senator from Georgia that Connecticut does not permit the use of these bonds. Nevertheless, if a northern town took a plant from the South, then the new plant should give priority to the Southern worker who lost his job. This should apply throughout the 50 States.

Mr. PASTORE. Mr. President, I will give you one example. We were called upon to support the TVA. We supported the TVA. Since they were not paying any taxes to the Federal Government, they were able to give reduced rates to their commercial users. What happened? You would pick up the New York Times or Newsweek and you would find their invitation, "Come to us because electricity is cheaper." This was after we helped them build the plant at the TVA, and only because they were tax free. In our State,

because our public utilities are not tax free, they have to pay taxes to the tune of 52 percent of their profits. So that we were losing our mills. So what did we do? We came on the floor of the Senate and developed and financed the TVA and then they used the TVA to take our industries away from us. If that is not pirating, I do not know what pirating is.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield to me?

Mr. RIBICOFF. The Senator from South Carolina (Mr. HOLLINGS) asked me to yield to him and I would like to do that now and then yield later to the Senator from North Carolina.

Mr. HOLLINGS. Mr. President, my friend from Rhode Island comes on and talks about his concern for the textile mills. Well, he could just as well be talking about Tokyo now. The fact is, the Senator could very well talk about two things: One is about the municipal tax-free bonds—the industrial development bonds. There are no other States developing more industry in the South than the State of South Carolina. Governor Hodges and myself, we never used the new development bonds in bringing industry to our State. We came to the Senator's State of Connecticut and adopted his program of industrial and technical programs and we put those in, but we never used TVA power in South Carolina, either.

The fact is, that is the worst way to run industry away, that is, to take away from the taxing power of a particular community which is going to build a school or wants to provide public facilities. Industry is not coming to southern communities where they have been denuded of their taxing power by giveaways and gimmicks and otherwise. They cannot provide for fine community facilities. They could say, "Here we have good educational facilities," and you are in the wrong key."

Regarding the textile industry, I had the Senator from Maine (Mr. MUSKIE) come down and he could not find it, if it had moved down 10 years before, because it has gone over to Tokyo now.

Mr. RIBICOFF. Will the Senator from Alabama (Mr. SPARKMAN) yield time to some of his colleagues on this colloquy so that I may have a few minutes left for my side? I will be glad to yield to the Senator from North Carolina (Mr. JORDAN) and to the Senator from Arkansas (Mr. MCCLELLAN) on the time of the Senator from Alabama.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. BROCK). The Senator from Connecticut has 4 minutes and the Senator from Alabama has 15 minutes.

Mr. SPARKMAN. How many?

The PRESIDING OFFICER. Fifteen minutes.

Mr. RIBICOFF. I have 4 minutes.

Mr. SPARKMAN. Mr. President, the Senator from Alabama has not used any of his time. The Senator from Connecticut yielded to me on this colloquy so that the Senator from Alabama has not used any of his own time yet.

Mr. RIBICOFF. The Senator has 15 minutes remaining.

Mr. SPARKMAN. Oh, was it 15 minutes? I am sorry. I thought we had 20 minutes. Yes, I yield.

Mr. RIBICOFF. If the Senator would please yield some of his time to his colleagues so that I could answer some of their questions.

Mr. SPARKMAN. Yes, I am very pleased to yield—wait a minute—wait a minute——

Mr. RIBICOFF. Go ahead.

Mr. SPARKMAN. I thought the Senator was going to yield some time.

Mr. President, I wonder whether I could say a few words before we continue. I have considerable sympathy with the Senator from Connecticut in his general overall thesis here. He presented a program to the Committee on Banking, Housing and Urban Affairs which was much more comprehensive than this one. When he presented it to me today, I said, "I wish you would wait and let it come on the housing bill and let us see what we can do with it as a part of the housing bill."

Mr. McCLELLAN. Mr. President, will the Senator from Alabama yield right there?

Mr. SPARKMAN. We are going to act on that in the early part of the new year.

I want to remind the Senator from Rhode Island (Mr. PASTORE) that it is true the TVA is not taxed, as you and I are; but they give more money to the Federal Treasury each year, I suppose, than any taxation on them would amount to. They do not pay on navigation or on flood control and neither does any other part of the country, but they pay on their power. Every dollar's worth of power that they sell they pay into the Treasury.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. PASTORE. Mr. President, will the Senator deny that in other States they buy TVA power that is tax free and at a much lower rate than the rate in Rhode Island?

Mr. SPARKMAN. They are not tax free since they are required by law to pay into the Treasury a certain amount each year.

Mr. PASTORE. A certain amount that they cannot use.

Mr. SPARKMAN. They are far ahead on the payment schedule.

Mr. President, I yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 2 minutes.

Mr. JORDAN of North Carolina. Mr. President, we never have used it. We do not get TVA power there. We do not get any of it in North Carolina. They do have some cheaper rates, that is quite true. However, I think the distinguished Senator from South Carolina (Mr. HOLLINGS) hit the nail on the head when he said we had better go to Tokyo, South Korea, Taiwan, and Hong Kong to find out what happened to the plants. American money was spent to accomplish that.

Mr. PASTORE. Mr. President, no one fought harder about the situation that the Senator is talking about than the Senator from Rhode Island. I have been defending the mills in the South. However, we are talking about tax concessions to build plants and, at the same time, taking the work out of other States. Whether it goes into Rhode Island or South Carolina or North Carolina, when this is done, we should give the jobs to the people who have lost jobs because of those concessions. What is wrong with that? It works both ways.

If we in Rhode Island were to take advantage of this market and build a mill and take it out of South Carolina, the workers in South Carolina would have first preference to come to Rhode Island and work in that mill. What is fair for one is fair for the other.

Mr. JORDAN of North Carolina. Is the Senator saying that they have to move or that they have a right to move?

Mr. RIBICOFF. No. My amendment provides that in the event a company uses tax-exempt bonds to move a plant from one section of the country to another, two things must be done. The company must give first priority to the people that had been working in the plant at its previous location.

Mr. JORDAN of North Carolina. Does the Senator mean the worker has to move there?

Mr. RIBICOFF. No. The worker must be given the opportunity to move there if he wants to do so.

Second, if he chooses to move, the community must make arrangement for a sufficient supply of adequate housing so that when a person moves he will have a decent place in which to live.

Mr. JORDAN of North Carolina. Is the Senator proposing to put him on a pension before he moves?

Mr. RIBICOFF. No. He may, however, be forced to go on welfare if he does not move because his job was shipped out from under by the use of tax exempt industrial development bonds.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. AIKEN. Mr. President, Vermont lost its lowest wage industry, the textile industry, some years ago. We have been better off since that textile industry went to other lower wage States. It has been replaced by electronic and plastic industries and by other high-grade industries until today the average worker in Vermont gets a larger rate of pay and takes home more pay than workers in four of the other New England States. The only reason that he does not get more than the worker in Connecticut is that Connecticut has been so involved in Government contracts and contracts at higher prices that they can continue to pay higher wages—although at present Connecticut has a much higher level of unemployment.

I will say that Vermont encourages people to come there with their industries. And when an industry moves from Connecticut or any other State to Vermont, their employees usually come with them if they want to. However, up to recently they have not had the opportunity. New industry has now been developed to encourage them to come to Vermont. The latest census shows Vermont to have had a 14-percent increase in population in the last decade.

The State of Vermont pays one-fourth the cost of rural water and sewerage programs. That has been a tremendous help in developing rural living and rural industry. It is the only State that does that, so far as I know.

Mr. President, I want to add one other thing. We do not have the TVA in Vermont. However, we have the lowest electric rates of any State in the Northeast. We are, in effect, the yardstick for the Northeast in the electric field.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPARKMAN. Mr. President, I yield 1 additional minute to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 1 additional minute.

Mr. AIKEN. Mr. President, the monopoly-minded utility boys in the other States around our State do not like that one bit. They are now doing the best they can to make our power companies fail so that they can take them over.

We are doing all right. One company in southern New England which bought a machine tool business in Vermont and took it over has been losing business to foreign countries so fast that it is not funny. Overall we still have the best wage rates in the Northeast, the lowest power rates, the lowest rate of unemployment, and the most contented men and women that one ever saw.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alabama has 6 minutes remaining.

Mr. SPARKMAN. Mr. President, I yield 1 minute to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. Mr. President, in addition to the other points that have been mentioned, I know that as a matter of fact, this is, in the first place, a very small tax exemption. It just increases it to $5 million.

Mr. SPARKMAN. Mr. President, it does not change the amount.

Mr. STENNIS. We had a terrible struggle a few years ago to even survive there.

I appreciate the fact that it was set at a certain figure and the Senator from Rhode Island was agreeable to that.

A great deal of this is used to create small, new industries for villages and rural communities that are helping to supply the expanded demand of the economy of the Nation.

With respect to light bulbs, for instance, the first factory in the South that made light bulbs was located in Mississippi a few years ago. We have been the purchasers and the consumers for many years. Now through this little effort, we are getting the opportunity to have small industry located there. It benefits those with small incomes. It is a miraculous thing to watch how it works.

I hope the amendment is agreed to.

Mr. SPARKMAN. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. FULBRIGHT. Mr. President, the existing law has worked extremely well in my State. Of the plants that I am aware of in my State, the major ones use the domestic raw materials such as the aluminum in the bauxite which is to be found there and the fuel and water transportation.

It appears to me that the amendment is not necessarily to provide housing.

The senior Senator from Arkansas has discussed with me, and we are all aware of the fact, that we face a shortage of housing and that there is unfunded appropriation for housing already. We cannot get the money.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. FULBRIGHT. I yield.

Mr. McCLELLAN. Mr. President, in the last 2 fiscal years, 5,178 units have been authorized and funded at a cost of $21 million-plus. We have pending applications for 14,028 units.

We had applied for funding in the amount of $96 million. In other words, we were only able to get one-third of what we wanted to get funded. If we want to achieve the objectives of the distinguished Senator from Connecticut, we ought to be given priority to build houses.

Mr. FULBRIGHT. They do not move the plants there. Those plants are indigenous to our local climate and raw materials.

We have only a few textile plants. They did not come from New England. There is one that makes a certain kind of velveteen. It is a branch of a plant from Virginia. It did not originate in New England.

It appears that the Senator's amendment is designed to prevent the Sparkman amendment from being agreed to.

If he is serious about doing something about housing, which I would support, I do not know why the Senator does not pursue the matter in the regular course with the chairman of the Committee on Housing, who has already stated it would be put in the regular bill carrying housing authority. I am for the housing bill and I would vote for more money.

We have been underfunded. This money for rural water and sewers, which is very much needed in my State, has been impounded. But there are many implications involved here. The Sparkman amendment is a constructive way to reduce the population trend toward the swelling urban ghettos of the North and to encourage people to live in rural areas. I would guess an insignificant percentage of employees in plants in Arkansas came from other areas.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RIBICOFF. Mr. President, I yield myself 1 minute in order to reply.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. If what the Senator from Arkansas states is so, there would be no problem because if they did not take a plant from another section of the country there would be no obligation to give an employee a job.

I am trying to be practical and fair, and so far I have heard nothing to controvert the equity, soundness, and decency of my amendment.

Mr. FULBRIGHT. There is nothing here that says they have to pick up the plant and bodily move it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. SPARKMAN. I yield 1 minute to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. BAKER. Mr. President, I want to say that in the overall view the amendment to the amendment offered by the distinguished Senator from Connecticut, in my humble judgment, has the effect of making a challenge to the validity for this method of financing.

I believe the ultimate question on the vote is whether we will have industrial development revenue bonds with a tax-free status. I thought we settled that question in the previous session when we had extended debate and agreed on a compromise between unlimited financing of this type and the limitation of $5 million. I think $5 million is reasonable.

If the Senate were to agree to this amendment to the amendment it would have the practical effect of killing industrial bonds for industrial financing, and I am opposed to it.

Mr. RIBICOFF. Mr. President, I will vote for the Sparkman amendment if my amendment is agreed to. My purpose is to put some social purpose behind the use of tax exempt industrial development bonds.

Mr. PASTORE. I know there is very little time left but I wish to say that is my sentiment too. If the amendment of the Senator from Connecticut is not carried, I will vote for the Sparkman amendment. I am not gaging one against the other.

Mr. BAKER. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. SPARKMAN. Mr. President, I shall use that minute for one purpose.

I have read this amendment. I do not see any tie-in with a plant being moved. The only place we have anything about employees with respect to being in some other plant is where it states:

> The community's agreement shall also provide the necessary assurances from the company that any previous employees of the company who might lose their jobs as a result of the new facility shall be given the right of first refusal for the new jobs.

There is nothing there about housing and there is nothing there about plants being reimbursed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIBICOFF. Mr. President, the answer is in section (B)(1) of my amendment. Section (D) provides that if a company does move as a result of these bonds the first refusal of jobs should be given the employee whose plant was moved out from under him.

That is the substance of my amendment.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. AIKEN. Mr. President, what amendment is the Senate now going to vote on?

The PRESIDING OFFICER. This is the amendment of the Senator from Connecticut to the amendment offered by Senator from Alabama.

Mr. AIKEN. We are voting on the amendment offered by the Senator from Connecticut to the amendment offered by the Senator from Alabama?

The PRESIDING OFFICER. The Senator correctly stated the parliamentary situation.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Montana (Mr. MANSFIELD), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), and the Senator from Iowa (Mr. HUGHES) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from Pennsylvania (Mr. SCOTT), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 37, nays 42, as follows:

[No. 333 Leg.]

YEAS—37

Bayh	Eagleton	Kennedy
Bible	Gravel	Magnuson
Brooke	Griffin	Mathias
Burdick	Hart	McGee
Cannon	Hatfield	McIntyre
Case	Hollings	Metcalf
Church	Inouye	Mondale
Cranston	Javits	Moss
Muskie	Percy	Symington
Nelson	Proxmire	Tunney
Packwood	Ribicoff	Williams
Pastore	Schweiker	
Pell	Smith	

NAYS—42

Aiken	Cook	Jordan, N.C.
Allen	Cooper	Long
Anderson	Cotton	McClellan
Baker	Dole	Miller
Beall	Dominick	Pearson
Bellmon	Eastland	Randolph
Bennett	Ervin	Roth
Bentsen	Fannin	Sparkman
Boggs	Fong	Spong
Brock	Fulbright	Stafford
Buckley	Gambrell	Stennis
Byrd, Va.	Gurney	Stevenson
Byrd, W. Va.	Hansen	Taft
Chiles	Hruska	Welcker

NOT VOTING—21

Allott	Humphrey	Saxbe
Curtis	Jackson	Scott
Ellender	Jordan, Idaho	Stevens
Goldwater	Mansfield	Talmadge
Harris	McGovern	Thurmond
Hartke	Montoya	Tower
Hughes	Mundt	Young

So the Ribicoff-Nelson amendment to the Sparkman amendment was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Alabama (Mr. SPARKMAN).

Mr. SPARKMAN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BENNETT (after having voted in the negative). Mr. President, on this vote, I have a pair with the Senator from Nebraska (Mr. CURTIS). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Montana (Mr. MANSFIELD), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from Iowa (Mr. HUGHES) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The pair of the Senator from Nebraska (Mr. CURTIS) has been previously announced.

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Pennsylvania (Mr. SCOTT). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Pennsylvania would vote "nay."

The result was announced—yeas 55, nays 23, as follows:

[No. 334 Leg.]

YEAS—55

Aiken	Eagleton	Mondale
Allen	Eastland	Moss
Baker	Ervin	Muskie
Bayh	Fong	Packwood
Beall	Fulbright	Pastore
Bellmon	Gambrell	Pearson
Bentsen	Gravel	Pell
Bible	Hansen	Percy
Boggs	Hollings	Randolph
Brock	Hruska	Roth
Burdick	Inouye	Sparkman
Byrd, W. Va.	Jordan, N.C.	Stafford
Cannon	Long	Stennis
Chiles	Magnuson	Stevenson
Cook	McClellan	Symington
Cooper	McGee	Tunney
Cranston	McIntyre	Welcker
Dole	Metcalf	
Dominick	Miller	

NAYS—23

Anderson	Griffin	Proxmire
Brooke	Gurney	Ribicoff
Buckley	Hart	Schweiker
Byrd, Va.	Hatfield	Smith
Case	Javits	Spong
Church	Kennedy	Taft
Cotton	Mathias	Williams
Fannin	Nelson	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bennett, against.

NOT VOTING—21

Allott	Humphrey	Saxbe
Curtis	Jackson	Scott
Ellender	Jordan, Idaho	Stevens
Goldwater	Mansfield	Talmadge
Harris	McGovern	Thurmond
Hartke	Montoya	Tower
Hughes	Mundt	Young

So Mr. SPARKMAN's amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG and Mr. RANDOLPH moved to lay the motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11418) entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes."; that the House receded from its disagreement to the amendment of the Senate numbered 1 to the bill and concurred therein with an amendment in which it requested the concurrence of the Senate.

The message also announced that the House had passed, without amendment, the following bills:

S. 2216. An act to amend the Investment Company Act of 1940, as amended; and

S. 2339. An act to provide for the disposition of judgment funds on deposit to the credit of the Pueblo of Laguna in Indian Claims Commission, docket numbered 227, and for other purposes.

The message further announced that the House had passed H.R. 11341, an act to provide additional revenue for the District of Columbia, and for other purposes.

HOUSE BILL REFERRED

The bill (H.R. 11341) to provide additional revenue for the District of Columbia, and for other purposes, was read twice by its title and referred to the Committee on the District of Columbia.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

AMENDMENT NO. 654

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate amendment No. 654 by the Senator from South Carolina (Mr. HOLLINGS), which will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. .(a) This section may be cited as the "Tax Reimbursement Act of 1971".

(b) Commencing with taxable year 1971, the Secretary, through the Internal Revenue Service, shall pay annually to any eligible family which applies for such payment an amount determined under subsections (b) and (c) as reimbursement for sales taxes on food and property taxes on a residence paid by the family during the preceding calendar year.

(c) The amount payable to any family under subsection (a) as reimbursement for sales tax on food shall be determined by multiplying the combined State and local sales tax rate in effect for that calendar year in the locality in which such family lived by the cost of the low-cost food plan established by the Department of Agriculture for that calendar year for a family of that size and composition. For the purpose of this subsection, any locality in which there is no sales tax shall be held and considered to impose a combined State and local sales tax of 4 percent on purchases of food.

(d) The amount payable to any family under subsection (a) as reimbursement for property tax imposed on that family's residence shall be:

(1) in the case of a residence owned by a family an amount equal to the property taxes paid by the family during the preceding calendar year;

(2) in the case of a residence which is rented by the family, an amount equal to 20 percent of the total rent paid by the family during the preceding calendar year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as part of the rental agreement.

(e) A family entitled to a payment under subsection (a) shall file an application with the Secretary in such manner as he shall prescribe. The application shall be filed on or before April 15 for a calendar year ending on the next preceding December 31. The applications shall set forth the applicant's address, the income of the family for the calendar year, the age and sex of each member of the family, whether any member of the family was pregnant or nursing an infant during such calendar year, the total amount paid during the calendar year as property tax or rent for the household, and such other information as the Secretary shall deem appropriate.

(f) The amount of the payment to which the family is entitled under subsection (a) shall be reduced by 50 cents for each dollar of income received by the family during that taxable year in excess of the poverty level income established for a family of that size and composition.

(g) As used in this section, the term—

(1) "family" means an individual living alone, or two or more persons living together in the same household provided these persons are over 65, or related by blo , adoption, or marriage, including a comm law union recognized by the laws of the State wherein the persons reside; and

(2) "poverty level income" means minimum family size annual income levels established by the Bureau of the Census in its 1970 Current Population Report adjusted annually by the Secretary to reflect changes in the Consumer Price Index; and

(3) "Secretary" means the Secretary of the Treasury.

(h) The Secretary of the Treasury shall prescribe such regulations as shall be necessary to carry out the provisions of this section.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 4. (a) Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125 and by inserting after section 123 the following new section:

"SEC. 124. AMOUNTS RECEIVED UNDER THE TAX REIMBURSEMENT ACT OF 1971.

"Gross income does not include amounts received during the taxable year under the Tax Reimbursement Act of 1971 as reimbursement of food sales and property taxes paid during the taxable year."

(b) The table of sections of such part III is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Amounts received under the Tax Reimbursement Act of 1971.

"Sec. 125. Cross references to other Acts."

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the names of the Senator from Wisconsin (Mr. NELSON) and the Senator from Minnesota (Mr. MONDALE) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, it seems that Congress repeatedly in the past decade has been enacting revenue act after tax reform act after investment credit act after tax reform act, all designed to make more equitable the tax burden, and all sold on the basis of helping the poor.

We had the Revenue Act of 1962, the Revenue Act of 1964, an Investment Credit Act of 1967 and, again, the Tax Reform Act of 1969.

Each time the intent was to obtain a job for the poor or lessen the burden of the poor.

And the fact of the matter is that each has not only missed its mark but also has slightly and positively drawn tighter the tax noose about the neck of the poor.

Some would withdraw in shock and say, "What about the low-income allowance plus the personal exemption which shields the poor from exactions of the Federal income tax?"

True, personal exemptions are permitted to all taxpayers, not just the poor, and when you compare the amount of tax revenue lost per personal exemption, we find that three-quarters of the revenue loss accrues to the benefit of those groups other than the needy.

While State, local, and other Federal tax measures continue to increase, sales tax, property tax mostly by way of rentals, sick pay, unemployment insurance, workmen's compensation insurance, and social security tax continue to grow.

The average Federal legislator feels that he has just about excluded the poor from the impact of taxation where in truth 28 percent of the poor's income is taken each year in State, local, and Federal taxes.

Of course, one reason for this misapprehension is that the Federal income tax represents only about 2 percent of the 28 percent taxation burden that is carried by the poor. The Revenue Act of 1971 only exacerbates the pitiful predicament. It relieves the haves, it relieves the havesomes, but the relief gun completely misses the target of have-nots.

Before elaborating upon this, I ask unanimous consent to have printed in the RECORD an analysis of the Tax Reform Act of 1969 by Paul M. Dodyk, professor of law at the Columbia University appearing in the Columbia University Law Review of May 1971.

This, to me, is the finest discourse, rendered from the hand of a technician rather than that of a bleeding heart, and it includes the compassion that we think we demonstrate each time we vote on a so-called tax reform act.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

THE TAX REFORM ACT OF 1969 AND THE POOR

(By Paul M. Dodyk, professor of law, Columbia University. B.A., Amherst, 1960; B. Phil., Oxford, 1961; LL.B., Harvard, 1964)

I. INTRODUCTION

The purpose of this article is to assess the impact of the Tax Reform Act of 1969[1] (hereinafter referred to as the Reform Act), and more particularly the individual income tax provisions of that Act, on the tax structure of this country from the vantagepoint of the poor. I am impelled to adopt this per-

Footnotes at end of article.

spective on the Reform Act because of a conviction that the interest of the poor are too often unrepresented in the tax councils of the nation and that this lack of representation has permitted to remain unanalyzed numerous aspects of the Internal Revenue Code of 1954 (hereinafter referred to as the Code) which are distinctly detrimental to the interests of the poor.

The perspective which I seek to represent is that of the lowest income stratum of our society. Though debates have raged over the meaning of poverty in a modern industrialized society, no extended definition of that class is necessary for present purposes. It is widely recognized that a large segment of our society lacks the wherewithal to provide for themselves the essentials of a decent and healthful existence, and it is their perspective which I seek to represent. One attempt, though an imperfect one, to define the scope of this class has been the Poverty Index developed by the Department of Health, Education and Welfare.[3] Another is that of the New York City Human Resources Administration whose subsistence schedule for families receiving welfare is set forth in Table IV.[4] Whatever the precise dimensions of this class, the basic point is that there is a large group of people in this country who lack the means to provide for themselves the most basic essentials of life: food, clothing, shelter, medical assistance, education. Various methods have been suggested for dealing with the needs of the deprived. Some suggestions involve tax innovations which would hopefully induce the channelling of increased economic resources to serve these needs; most involve the establishment of direct expenditure programs of one sort or another. All but a few such suggestions have foundered, the reason most commonly advanced being lack of funds. It is not my purpose to recommend a program for the satisfaction of these needs. Nor am I proposing any particular adaptation of the Code to serve these needs. Rather, I seek only to draw attention to certain aspects of the American system of taxation which have over the years worked grave yet unremarked disservice to the interests of this segment of the population and to suggest certain largely unexplored possibilities for redirecting the financial benefits presently conferred by the Internal Revenue Code.

A. The relevance of tax expenditures

A significant, though by no means exclusive, aspect of this assessment will be an examination of what are sometimes called "tax expenditures"—those provisions of the Code that cause the base to which the federal income tax is applied to be narrower than a comprehensive income tax base including all income from whatever source derived—and an attempt to explore the relevance of these tax expenditures to the poor. Among the most commonly mentioned of these tax expenditures are percentage depletion of gross income from natural resource exploitation, the exclusion of social security benefits from taxable income, and the various capital gains preferences.

The conceptual foundation underlying most discussions of tax expenditures is based upon acceptance of the Haig-Simons concept of income—that is, consumption, plus increase in net worth during any given period (hereinafter referred to as "comprehensive tax base")—as the theoretically proper measure of income for purposes of a system of taxation based on taxpayers' relative abilities to pay.[4] Acceptance of the concept of a comprehensive tax base, then, means acceptance of the proposition that income taxes should be apportioned in accordance with taxpayers' total incomes, defined as consumption plus increase in net worth, from whatever source derived.[5] Acceptance of the concept also entails the recognition that deviations from the comprehensive tax base are departures from a tax system based upon relative abilities to pay, in order to advance other objectives, most commonly, encouraging or discouraging certain kinds of behavior or promoting efficient tax administration.[6] Under this view, departures from the comprehensive tax base by means of exclusions, deductions, credits, lower tax rates, and the like are "tax expenditures" which accrue to the benefit of some more or less limited class of taxpayers and which are to be justified, if at all, not in terms of income tax theory but in terms of the contribution which the tax expenditure makes to the attainments of some other public purpose.[7]

Needless to say, the phrase "consumption plus increase in net worth" falls far short of providing clear resolution of all the innumerable problems that arise in the course of constructing a comprehensive definition of income. Books have been written in the effort to give that concept sufficient content to guide the resolution of those many problems.[8] And some writers have pointed out the many hard definitional problems involved in any attempt to sort out tax expenditures from the basic structural elements of an expenditure-free income tax.[9] The focus of the present effort does not permit joining issue in that debate. Without intending to belittle the significance of those questions, it is necessary for present purposes to assume the validity of the tax-expenditure concept and the distinctions imported thereby.

A convenient summary of the major tax expenditures built into the Code (the tax expenditure budget) is found in the 1968 Annual Report of the Secretary of the Treasury which is set forth, in amended form, in Table I.[10] That budget is an effort to set out "the major respects in which the current income tax bases deviate from widely accepted definitions of income" [11] in order to estimate the revenue loss (or "tax expenditure") arising from such deviations, to categorize tax expenditures in accordance with the functional categories employed in the Federal Budget, and to facilitate comparison of direct expenditures and tax expenditures. The Treasury study does not attempt to identify every variance between taxable income under the Code and what would result from thorough-going application of a comprehensive tax base.[12] It does, however, find its theoretical grounding in that concept and identifies most of the Code's significant departures from that concept.

Of what relevance are these tax expenditures to the poor? Discussion of such expenditures normally concerns the "efficiency" with which they attain their ostensible objectives, the effects of their use on the governmental decision-making process, their revenue cost, or their impact on horizontal equity.[13] There has seldom been public discussion of their relevance to problems of deprivation. This silence is more than a little strange, for it comes in the midst of a cacaphonous conflict over "priorities." Rarely in the history of the country has there been such dissension over the uses to which our national productivity is being or should be put, or over the morality of customs currently prevailing in the distribution of income. The persistence of deprivation in a society that is said to be the world's wealthiest has become to many an increasingly unbearable anomaly. The full force of the storm has gathered over the choice between defense expenditures and social welfare expenditures such as public assistance, housing, health, and education. Despite insistent demands for the satisfaction of these pressing domestic needs, the Administration currently in office, plagued by the most persistent inflation in recent times and constrained by the fiscal requirements of what it perceives to be its international obligations, has been unable to find economic resources commensurate with these demands. In light of this apparent impasse over the satisfaction of public needs, it is more than a little surprising that the tax expenditures built into the Code have not come under renewed scrutiny, for these expenditures are of profound significance in determining the distribution of income and, concomitantly, the condition of the poor.

B. The perceptions of the deprived

Of the many things that could be said of the relevance to the poor of the Code and its structure of tax expenditures, I would like to focus on four principal perceptions.

1. *The Dimensions of the Tax Expenditure Budget.* First, tax expenditures are of importance to the poor because they reflect decisions to commit enormous amounts of revenue to the service of certain public purposes and to the benefit of certain private citizens. The aggregate significance of these expenditures for the distribution of income and the allocation of productive resources is vast. Viewed from the perspective of the deprived, the patterns of purpose and benefit served by these provisions (as, for example, the decision to spend billions to encourage natural resource exploitation rather than to provide universally adequate medical care) stand in need of re-examination. This article is, however, not the proper forum for indulging in quick judgments about the wisdom of prevailing preferences and deprivations. More appropriate is the objective of taking some aggregate measure of the revenues spent through tax expenditures and of assessing the impact of the Reform Act on the amount of such expenditures. One of the principal objectives of the Reform Act was to curtail the long continued erosion of the tax base arising from the increasing significance of tax expenditures.[14] Upon completing these introductory remarks, I turn first to a brief recapitulation of the Reform Act's most significant individual income tax provisions designed to restore comprehensiveness to the tax base.[15] I do so in an attempt to provide a preliminary assessment of the Reform Act's accomplishments and of the opportunities that remain for redirection of the public revenues disbused through tax expenditures.

2. *Subsidization of Private Needs Through the Tax Expenditure Budget.* A second perception is that these tax expenditures commit public revenues to support the satisfaction of certain needs—such as housing, medical care, education—and that such support confers private benefits on those classes of people who are able to benefit from them. Moreover, the needs subsidized are matters of central concern to the well-being of all Americans—both those who have sufficient income to benefit from tax expenditures and those who do not. Yet, despite an increasingly painful awareness of the current inadequacies in the provision of housing, education, medical care, and public assistance to the poor, there has been surprisingly little analysis of the way in which the kindred benefits of these "implicit federal programs" have been distributed among different income classes. If the result of the Code's current structure of tax expenditures is to channel large amounts of revenue to subsidize the satisfaction of some universally experienced human need and to channel that revenue largely to the well-to-do, and if at the same time the poor are unable to satisfy that same need, perhaps more searching scrutiny of the distributive consequences of these tax expenditures is required. Certain provisions of the Code that deal with housing will be analyzed as a means of exploring the relevance of such expenditures to the poor.[16]

3. *Taxing the Poor.* A third perception involves the problem of taxing the poor.[17] Though it is commonly acknowledged that a modern industrial state such as the United States should not tax those who lack the income to provide for themselves the minimum essentials of health and common decency, it is as commonly acknowledged that the federal income tax has in recent years done exactly that. One of the principal purposes of the Reform Act was to end our reliance on the poor for tax revenues [18] and, to accomplish this purpose, the Low Income Allowance was created.[19] In a later section I shall undertake a brief analysis of the Reform Act's accomplishments in terminating the governmental reliance on the poor for revenue and the effectiveness of current tax expenditure techniques in dealing with this problem.[20]

4. *Income Maintenance and the Code.* Finally, I close with a few words about the Code and the problem of greatest concern to the poor: that is, not being poor any more. Just as the Code contains implicit programs for the support of housing and the amelioration of state and local tax burdens, so also it contains programs directed at income maintenance. Of what significance are these programs? To whose benefit do they redound? What opportunities are there for redirecting these income maintenance programs to benefit the poor? How significant a contribution would such redirection make toward altering the distribution of income in this country so as to assure to all the people the prerequisites of decent living? [21]

II. TAX EXPENDITURES AND THE TAX REFORM ACT OF 1969

A. The aggregate significance of tax expenditures

Table I sets forth, in amended form, the Tax Expenditure Budget contained in the Report of the Secretary of the Treasury for 1968.[22] The Budget has been altered by the addition of categories for the imputed rental value of owner-occupied housing and personal exemptions, and certain other categories necessary to facilitate evaluation of the Reform Act's changes.[23] Even the most cursory perusal of Table I will reveal the significance of the implicit federal programs implemented in the interstices of the Code. The expenditures involved are enormous, totaling approximately 70 billion during fiscal 1968, an amount rivaling the $97.4 billion collected through the federal income tax for that year.[24] Put another way, in the fiscal year 1968 the federal government spent as much public revenue through the federal income tax as it collected from individual income taxes ($68.7 billion).[25] One need hardly go on to point out that the aggregate amount of the revenue involved is of such magnitude as to make critical re-examination of the supported programs essential to any serious search for a way out of the current impasse between public need and fiscal constraint. Turning from aggregate figures to specific items, one finds the following order of significance among the specific items of expenditure which comprise the tax expenditure budget:

(1) personal exemptions, $23 billion;
(2) capital gains preferences, $8.5 billion;
(3) deduction of charitable contributions, $3.2 billion;
(4) exclusion of income earned by employee pension plans, $3 billion;
(5) deduction of medical insurance premiums and medical expenses, $2.6 billion;
(6) exclusion of imputed rental value of owner-occupied housing, $2.6 billion;
(7) credits and exemptions for the aged and exclusion of social security payments, $2.3 billion;
(8) deduction of mortgage interest, $1.9 billion;
(9) deduction of real property taxes, $1.8 billion;
(10) exclusion of state and local bond interest, $1.8 billion;
(11) deduction of individual income taxes, $1.35 billion;
(12) exclusion of the excess of percentage over cost depletion, $1.3 billion;
(13) deduction of consumer credit interest, $1.3 billion.[26]

It has long been recognized that the ultimate effect of these various tax expenditures has been to make the reality of federal income taxation far less burdensome than the threatening egalitarian shadow cast by the rate tables.[27] One of the principal announced purposes of the Reform Act was to limit the corrosive influence of tax expenditures on the federal income tax base.[28]

B. Individual income tax provisions of the reform act

1. *The Minimum Income Tax.* Of the many provisions directed at limiting corrosion of the tax base, perhaps the most ingenious is the new minimum tax on tax preferences.[29] Weary of fighting tax expenditures head-on (and losing), the Treasury resolved to limit the impact of tax expenditures by persuading Congress to impose a 10% minimum tax on tax "preferences." For purposes of the minimum tax, "preference" is defined to mean: (1) the untaxed portion of long-term capital gains; (2) the excess of percentage over cost depletion; (3) the excess over option price, of stock subject to qualified or restricted options, of the stock's fair market value at the time the option is exercised; (4) the excess of accelerated depreciation deductions over deductions allowable on a straight-line basis in the case of real property; (5) the excess of accelerated depreciation deductions subject to recapture under Code section 1245 over deductions allowable on a straight-line basis in the case of personal property subject to net lease; (6) excess investment interest (as defined below); [30] (7) depreciation deductions in excess of those otherwise allowable under Code section 167 arising out of depreciation over a 60-month useful life as permitted by section 57(a)(4) in the case of certified pollution control facilities and by section 57(a)(5) in the case of railroad rolling stock; and (8) the excess of a financial institution's bad debt reserve allowance over its actual bad debt experience.[31]

The minimum tax applies only to the amount by which the sum of these preference items exceeds $30,000 plus the amount of federal income tax otherwise imposed upon the taxpayer.[32] The tax applies even though the preferences do not result in a tax saving (as where the taxpayer is in a net loss position for the year and is unable to avail himself of the net operating loss provisions of section 172), and it applies in addition to possible future recapture of deductions as in the case of accelerated depreciation under Code sections 1245 and 1250.

Though the Reform Act's minimum tax represents an ingenious means of striking at certain extreme tax avoidance situations, and though it may provide a basis for the development of more far-reaching legislation in the future, it is of rather limited efficacy in its present form. Take, for example, a married taxpayer, Mr. *X*, who was fortunate enough during 1970 to realize $64,000 in taxable income and $250,000 in capital gains. The tax on his ordinary income is $24,420. The tax on his capital gains, using 1970 rates, is 25% of the first $50,000 (or $12,500) plus 29½% of the remaining $200,000 (or $59,000), making a total of $71,500. To these taxes must be added a 2½% surtax (or $2,398) making a total tax burden of $98,318. His tax preference is $125,000, the "excluded" portion of his capital gains. From this $125,000 Mr. *X* is entitled to subtract his $30,000 exemption plus his regular tax of $98,318 for a total minimum tax shield of $128,318, more than enough to defeat application of the minimum tax altogether. Had Mr. *X* had no taxable income other than his capital gains of $250,000, his tax situation would be only slightly changed. His regular tax, including surcharge, would be $73,267 which, when added to his exemption of $30,000, would shield from minimum tax all but $21,713 of his tax preference and result in a minimum tax of $2,171; this represents an increase in Mr. *X*'s average effective tax rate of .0067.[33]

2. *Capital Gains Amendments*

a. *The alternative capital gains tax.* The Reform Act also makes a frontal attack on one of the most expensive of the tax expenditures, namely, that group of preferential provisions governing the taxation of capital gains. First, the Act limits significantly the role played by the alternative capital gains tax of 25%. Under the pre-Reform Act provisions of the Code, an individual taxpayer was able either to deduct one-half of capital gains and pay his ordinary income tax on the other half, or to pay a tax of 25% on the entire capital gain, whichever was lower. Under the Reform Act, the deduction of one-half of one's capital gains emerges unscathed. The alternative tax continues to be applicable to capital gains up to $50,000 per year ($25,000 per year for married taxpayers filing separately), but beginning in 1972 it will not be available for capital gains in excess of $50,000 per year.[34] During the intervening years of 1970 and 1971, the alternative tax (on capital gains over $50,000 per year) scales transitionally upwards to 29½% and 32½% respectively. The net effect of this change, coupled with the minimum tax, is that after 1971 capital gains will be taxable at a rate that can be as high as 40%: one-half the capital gain may be taxed at a marginal rate as high as 70% (which is equivalent to 35% of the entire capital gains) while the other half of the capital gain may be subject to the minimum tax at a rate of 10% (representing an additional 5% of the entire capital gain).

b. *Capital losses.* The Reform Act also limits the utility of long-term capital losses. Under the pre-Reform Act Code an individual taxpayer was directed to deduct his long-term capital losses from his long-term capital gains and his short-term capital losses from his short-term gains. Any excess of long-term capital loss was deductible against short-term capital gain, and any excess in short-term capital loss was deductible from long-term capital gain. Any excess capital loss (long-term or short-term) over capital gain was deductible from ordinary income of up to $1,000 per year. There was, in short, precious little difference between long-term and short-term capital loss. Except in the case where a taxpayer had realized both long-term gain and short-term gain and was deciding whether to realize either long-term or short-term loss aggregating less than his total capital gain (in which event he would want to realize the short-term loss), either loss would produce the same result.

The Reform Act has added another difference by making long-term losses deductible against ordinary income on a $2-for-$1 basis.[35] To reduce one's ordinary taxable income by $1, $2 of long-term loss must be deducted. Long-term losses may still be deducted on a dollar-for-dollar basis against long- and short-term capital gains, and short-term losses may still be deducted from long-term gains, short-term gains, and up to $1,000 of ordinary income per year on a dollar-for-dollar basis. Capital losses (long- and short-term) can still be carried forward indefinitely, but long-term losses must be reduced on a two-for-one basis to the extent deducted from ordinary income.[36] Whether long-term capital losses carried forward must be reduced to the extent deductible from ordinary income, whether or not deducted, is unclear. Net long-term capital losses realised prior to January 1, 1970, retain their dollar-for-dollar potency as deductions against ordinary income even though carried forward into 1970 and later years.

c. *Deferred taxation and restricted stock.* The Reform Act also included provisions to limit the use of certain capital-gains-produc-

Footnotes at end of article.

Footnotes at end of article.

ing devices as techniques of executive compensation. Prior to the Reform Act, the Code permitted capital gains treatment of certain distributions to employees from qualified pension, profit-sharing, or bonus plans if the distributions were made within a distributee's single taxable year. The Reform Act requires an employee to include as ordinary income that portion of the lump-sum distribution that is contributed to the plan by his employer after December 31, 1969.[37] Pre-1970 employer contributions and income earned by the plan remain entitled to capital gains treatment.

Similarly limited in utility are restricted stock plans. Under such plans, a corporation typically grants an employee stock that is forfeitable to the corporation if the employee leaves its employ within a stated period. Prior to the Reform Act, the employee would include nothing in his income upon receipt of the stock. Upon lapse of the restriction or earlier sale, the employee would include as ordinary income the lower of (i) the value, determined without regard to forfeitability, of the stock when received or (ii) the value of the stock when the restrictions lapsed. The excess over and above this value of any amount realized upon the sale or exchange of the stock was treated as a capital gain. Such plans permitted the taxpayer to defer payment of tax until lapse of the restriction and to obtain capital gains treatment of all increments in value after receipt of the restricted stock.[38] The Reform Act permits the recipient of restricted stock to defer taxation if the stock (or other property) is subject to substantial risk of forfeiture and cannot be transferred free of such risk, but requires that the recipient include as ordinary income the value of the stock at the time the restrictions lapse or the stock becomes transferable free of the restriction.[39] The recipient of restricted stock is thus disabled from obtaining capital gains treatment of increments in value accruing between the receipt of the stock and the lapse of the restrictions. The Reform Act offers the recipient the option of including in ordinary income the value of the stock upon receipt determined without regard to forfeitability but no deduction is allowed should the stock later be forfeited.

d. *Sales of life estates.* Another intriguing possibility for reaping capital gains in order to avoid ordinary income was sanctioned by *McAllister v. Commissioner*.[40] Involved in *McAllister* was the not uncommon situation in which a taxpayer receives, upon the death of his benefactor, a life interest in securities held in trust. Were the taxpayer to retain the life estate, the income received from the securities would typically be taxable as ordinary income. If, however, the taxpayer sold that life estate, he would be entitled both to deduct his basis (here determined with reference to the value of the trust securities upon the benefactor's death) from the sale proceeds and to treat the difference as a capital gain. Furthermore, the purchaser of a life estate would be entitled to amortize his purchase price against the income accruing to him from the life estate [41] and whatever net income remained was often taxable at a lower rate than that which would have been applied to the seller. Such rules could not but whet the imagination for tax-saving possibilities inherent in the creation and sale of life estates.

The Reform Act makes this game decidedly less attractive by disallowing the selling life tenant a deduction for his basis in the property unless his transfer is part of a transaction wherein the entire property of which his life interest is a part is being disposed of.[42] The Reform Act does not, however, challenge the capital gains status of the proceeds received upon sale of a life estate.

Footnotes at end of article.

e. *Earned income.* Coupled with these limitations on capital gains preferences is the Reform Act's limitation on the rate of tax imposed on earned income to 60% for taxable years commencing after December 31, 1970, and before December 31, 1972, and to 50% for taxable years commencing thereafter.[43] The 50% maximum rate on earned income, combined with the minimum tax on preferences and the elimination of the alternative tax on capital gains, will do much to narrow the dispersion of effective tax rates in the upper income brackets and to restore some measure of horizontal equity at those levels. Earned income is defined to include most payments received as compensation for the rendering of personal services, whether in the form of wages and salaries, professional fees, or proceeds from the licensing or disposition of property by the individual who creates the property. It does not, however, include (i) deferred compensation within the meaning of Code section 904, (ii) compensation deferred subject to a risk of substantial forfeiture unless received before the end of the taxable year following the year in which the recipient's right is not subject to substantial risk of forfeiture, or (iii) compensation received in any year in which the taxpayer elects to average his income pursuant to Code sections 1301 and 1302. The earned income tax ceiling is applicable only to earned income and cannot be applied to reduce rates of tax applicable to income derived from other sources where a taxpayer enjoys both earned and unearned income.[44] Moreover, the amount of taxable income subject to the earned income tax ceiling is reduced by the greater of (i) the excess of an individual's tax preferences over $30,000 or (ii) the excess over $30,000 of the average of an individual's tax preferences over the current and past four years.[45]

3. *Limitations on Deductions.*

a. *Excess investment interest.* The Reform Act also limits the use of various deductions to reduce a taxpayer's taxable income. Most closely related to the capital gains problem is the deduction of interest incurred to finance property held to produce capital gains, a practice which produced complicated stratagems such as that frustrated by Justice Brennan, writing for the Supreme Court, in *Knetsch v. United States*.[46] The Reform Act treats excess investment interest—defined as the excess of interest on borrowing to carry investment property over and above net investment income from such property—as a preference subject to minimum tax until December 31, 1971.[47] For all taxable years beginning thereafter, one-half of excess investment interest over and above $25,000 per year will be disallowed.[48] Net investment income is defined as the excess over investment expense of gross income from interest, dividends, rents, royalties, net short-term capital gains from the disposition of investment property, and depreciation recapture.[49] It is interesting to note that in disallowing the deduction for investment interest, the Reform Act makes yet another breach in the alleged administrative inability to distinguish between income-producing and other interest; that alleged inability has long served to justify the general deductibility of interest payments.[50]

b. *Charitable contributions.* The Reform Act also places significant restrictions on the deductibility of charitable contributions. Prior to the Reform Act, donors were generally permitted deductions for the fair market value of contributed property if they gave their entire interest therein to a charity, up to a maximum of 20% of their adjusted gross income for the run-of-the-mill charity and 30% for certain favored charities. As such deductions were allowed even though the contributed property would have produced ordinary income if sold, giving became for some taxpayers both more blessed than receiving and more profitable than selling. For example, a taxpayer with a 70% marginal rate of tax who had an asset with a fair market value of $1,000 and a basis of $200 could realize $700 in tax savings by contributing it, but only $440 after tax by selling it. The relative rewards of charity were even more attractive where the property was more charitably valued by the appraiser than by the market place. For those donors who sought to mix business with generosity, the Code permitted allocation of the entire basis of an asset sold to a charity to the sale proceeds so that one selling an asset worth $1,000 with a basis of $200 to a charity for $200 was permitted to realize no gain while deducting $800 as a charitable contribution.

The Reform Act limits all these possibilities. First of all, deductions for the charitable contribution of property which would produce income taxable at ordinary rates if sold are limited to the taxpayer's basis.[51] Property which can be sold at long-term capital gains rates is still deductible at its fair market value when contributed. The Reform Act limits deductions for property which would produce both ordinary income and capital gains if sold at fair market value to the fair market value of the property less the amount which would have been taxable as ordinary income, in effect applying the pre-1969 rules for recapturable depreciation deductions and the like.[52] To limit the inflation of deductions by extravagant valuations, the Reform Act took the rather draconian step of limiting the deduction for tangible personal property contributed by an individual to its basis plus one-half of its appreciation if such property is unrelated to the charity's exempt purpose (except for governmental doness in which case the property need only be related to any charitable purpose) or if such property is donated to certain nonoperating foundations.[53] Sales to charities now require an allocation of basis between the donative and commercial aspects of the transaction; thus, the taxpayer selling a long-term capital asset worth $1,000 to a charity for its basis of $200 will be permitted to allocate only one-fifth of the basis, or $40, to the sales proceeds.[54] The result is a taxable gain of $160 and a charitable deduction of $800. A taxpayer selling other than a long-term capital asset, having no deduction for his unrealized appreciation, would apparently not be required to allocate his basis.

Also severely limited by the Reform Act are deductions for charitable contributions of less than the donor's entire interest in property. To limit the taking of current deductions for charitable contributions of remainder interests where there is great uncertainty as to the value of the charitable remainder, the Reform Act requires that intervening income interests be explicitly defined. Deduction of charitable remainders is permitted where the income interest is in (i) a "pooled income fund," which is a commingled trust fund controlled by the donee or some party other than the donor in which the donors or other private beneficiaries have life interests in income fixed by reference to the trust's income for the current year, or (ii) a "charitable remainder trust" wherein the income beneficiaries' interests are defined in terms of specified amounts per annum (not less than 5% of the initial market value of the trust corpus) or specified percentages of the net fair market value of the trust assets (which is to be not less than the lower of 5% of the fair market value of the trust assets or the current income of the trust).[55] The deductibility of a charitable contribution of a nontrust remainder interest in a taxpayer's personal residence or farm property is still permitted, but the value of the remainder interest must take into account intervening depreciation and must reflect a 6% discount rate.

Turning to charitable deductions of income interests, contributions of the right to use a taxpayer's property or a part thereof are no longer allowed.[57] Similarly, the short-term charitable trust, whereby a taxpayer was enabled to remove from his gross income the return of a trust established for two or more years, is destroyed by the Reform Act.[58] To obtain the benefits of exclusion, a taxpayer must comply with the generally applicable ten-year trust period. If the trust is of shorter duration, the taxpayer must include its income in his gross income and take a deduction for the present value of the amount to be contributed. Such deductions are allowable only if the charity's income interest is a fixed annuity or a specified percentage of the current market value of the corpus, computed annually.

Such deductions are of course allowable only if within the annual percentage limitations imposed on the deduction of charitable contributions, but the Reform Act liberalizes these limitations, raising from 30% to 50% of adjusted gross income the contributions to favored charities that may be deducted.[59] However, the unlimited deduction of charitable contributions, formerly available to taxpayers whose charitable contributions and income taxes exceeded 90% of their taxable income in eight of the preceding ten taxable years, has been eliminated. Finally, deductions for contributions of long-term capital assets still may not exceed 30% of adjusted gross income unless the taxpayer elects to subject such contributions to the limitations placed on the contribution of tangible personal property, that is, deduction of only the taxpayer's basis and one-half of his gain.[60]

c. *Repeal or investment tax credit.* The Reform Act also limited the utility of a variety of deductions designed to stimulate commercial investment. Most important was the repeal of the investment tax credit which had permitted the deduction of 7% of the cost of depreciable personal property used to generate income.[61]

d. *Depreciation and recapture.* Also deleted from the Code were most provisions permitting accelerated depreciation of real property. Double-declining-balance and sum-of-the-years-digits methods of depreciation formerly available for all new real property have been limited to new residential real property. All other new real property is limited to methods of depreciation not faster than 150% declining balance, and all used real property is limited to straight-line or comparable ratable methods, except for used residential property with a useful life of at least 20 years which may be depreciated by the use of the 125% declining-balance method.[62]

Coupled with these limitations on accelerated depreciation of real property are stiffened recapture provisions. The recapture method generally applicable to real estate prior to the Reform Act, which treated as ordinary income 100% of the gain on sales less than 1% for each month the property was held in excess of 20 months (up to the total amount of depreciation previously deductible in excess of what would have been deductible on a straight-line basis), is made available only to government-assisted projects constructed or acquired before 1975.[63] Gain reflecting prior accelerated depreciation on the sale of residential property or rehabilitated low-income housing is recapturable as ordinary income at a rate of 100% of the gain less 1% for each month property is held in excess of 100 months. Gain reflecting accelerated depreciation on the sale of all other forms of real property is recapturable in full.

These stiffened recapture rules apply only to depreciation taken after December 31, 1969, and the old depreciation rules continue to apply to buildings acquired or contracted for before July 25, 1969, or begun before July 25, 1969 and acquired by the taxpayer as an original user thereafter.

Footnotes at end of article.

deductions reflected in gains on the sale remain unchanged. However, the Reform Act contains certain provisions setting a 60-month useful life without allowance for salvage to encourage certain specific types of investment, such as the rehabilitation of low income housing, the installation of pollution control facilities certified by the appropriate state and federal authorities, qualified railroad rolling stock, and certified coal mine safety equipment.[64]

e. *Percentage depletion rates.* Also somewhat restricted by the Reform Act are the tax-sheltering potentialities of natural resource exploitation. Most significant is a reduction of percentage depletion rates for oil and gas wells from 27½% to 22% of gross income.[65] Reduced by a percentage point, from 23% to 22% or 15% to 14%, depending on the mineral's classification, are depletion rates for all metal mines and most of the more valuable mineral products,[66] except gold, silver, copper, iron ore, and oil shale, all of which remain depletable at 15%. Also unaffected by the Reform Act are all resources depletable at the lower rates of 10% (*e.g.*, coal, sodium chloride), 7½% (*e.g.*, clay, shale), and 5% (*e.g.*, gravel, sand, stone).

The general rules permitting the accelerated depreciation of personal property and requiring the recapture of all depreciation

f. *Production payments.* Further limiting the utility of percentage depletion deductions are the Reform Act's restrictions in regard to production payments. Pre-Reform Act rules made the sale of production payments (the right to receive a share of production or income from a mineral property) by mineral owners an economically attractive possibility.

Production payments have been widely used by mineral owners to sell partial interests in their properties and as part of a three-cornered method of disposing of an entire mineral interest, known as an ABC transaction. In the former situation, a mineral owner would sell a "carved-out production payment" consisting of the right to receive some fraction of the production, revenue, or income from a mineral deposit until a specified sum had been paid out.[67] Proceeds from the sale of the production payment would be included in the seller's income as depletable income. The purchaser of the production payment would be treated as the acquirer of a depletable economic interest in the minerals with the result that the seller could exclude from his gross income the revenue used to pay out the production payment. One common use of carved-out production payments was to avoid the limitation of percentage depletion deductions to 50% of taxable income. Year-end sales of production payment were used to inflate taxable income so as to enable producers to take full advantage of the 27½% of gross income which they were allowed to deplete.

Under the Reform Act, the sale of a "carved-out" production payment will be treated as a loan to the seller by the purchaser of the production payment with the consequent exclusion of the "loan" proceeds from the seller's gross and taxable income and the inclusion of the revenue servicing the payment of the production payment "loan" in the seller's income.[68] The producer is thus deprived of the power to shift depletable gross income between tax years by the sale of production payments.

In the typical *ABC* transaction, *A*, the owner of a mineral interest, sells the interest to *B*, with *A* retaining a production payment which he sells to *C*.[69] *A* obtains capital gains treatment of his gain on the sale, and *B* and *C* both acquire depletable interests in the mineral property. In the heyday of the ABC transaction, *B*, the new owner of the mineral property, would have been entitled to exclude from his gross income the revenue servicing the production payment, yet he could deduct all operating expenses of the well or, as an alternative, he could claim percentage depletion of the income accruing to him and such other deductions as were consistent with percentage depletion. *C* would normally amortise what he paid for the production payment over its life and report the excess as income. In effect, *B* was empowered to finance part of the cost of acquiring a mineral property by securing *C*'s participation, yet he could obtain a current "deduction" of the amounts required to amortise his loan from *C*, rather than add the amount of the loan to his basis and depreciate it as productive property. This result was achieved by virtue of the exclusion from *B*'s income of the revenue which paid out *C*'s production payment. By treating *C*'s participation in the *ABC* transaction as a loan, the Reform Act requires *B* to include in his gross income the entire amount of the revenue produced by the property. Moreover, payments to *C* are deductible only to the extent that they represent interest, since they are treated as loan repayments, not operating expenses. *B* does, of course, get the benefit of a higher basis in the mineral property for amortisation purposes; or, as an alternative, he can claim percentage depletion of the income servicing *C*'s production payment; however, the economic advantages of these alternatives are obviously much less attractive than pre-Reform Act treatment.

The precise impact of the Reform Act's changes on the mineral industry is difficult to gauge. The effect of the one significant change in depletion rates, that for oil and gas, depends in part on the provision limiting percentage depletion deductions to 50% of taxable income. In fact, the average effective rate of percentage depletion for producers has always been limited to less than 27½% of gross income by the 50% limitation; and for many producers, the Reform Act's alteration of percentage depletion rates will be of little if any significance. Furthermore, the production payment is but one of many modalities for creating and conveying partial interests in mineral properties. Whether other legal forms can be adapted to serve the purposes formerly served by the production payment and whether these or other forms can avoid the Reform Act's limitations on production payments remains to be seen.

C. The impact of Reform Act measures upon the tax expenditure budget

What impact will these Reform Act measures have upon the tax expenditure budget of approximately $70 billion? As is evident from Table I, the most significant change is the repeal of the investment tax credit which alone is estimated to save some $3.3 billion in tax expenditures. Next in order of significance are the limitations on accelerated depreciation of real property; these limitations will reduce tax expenditures by an estimated $1,005 million. The group of Reform Act provisions affecting capital gains should further reduce tax expenditures by somewhat more than $630 million, consisting of $330 million saved by increases in capital gains rates; $175 million in adjustments to corporate capital gains; $65 million by limitations on the deductibility of capital losses; $50 million by elimination of capital gains treatment of lump-sum distributions from qualified pension and similar plans; $10 million from reforms affecting the taxation of sales of life estates; and an additional amount, for which no estimates are currently available, that will be saved by the reforms affecting compensation by means of restricted stock and certain other aspects of the capital gains/ordinary income distinction.

Also significant are those provisions affecting the exploitation of natural resources which are estimated to involve a $450 million

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reduction in tax expenditures and the novel minimum tax scheme which will save an estimated $320 million. Certain provisions of the Reform Act not within the purview of this article, such as the elimination of multiple corporate surtax exemptions ($235 million), and the limitation of bad debt reserve deductions by financial institutions ($410 million), will also entail significant savings. Of lesser significance are the fiscal results of certain changes in the taxation of trusts ($100 million), and the limitation on deductions for investment interest expense, charitable contributions, and farm losses, each of which is estimated to involve savings of $20 million.

Whatever the achievements of the Reform Act, they cannot be said to include a fundamental assault upon the tax expenditure concept. In part, this is due to the limitations imposed upon the Treasury's reformist aspirations by the maelstrom of political force encountered. The reduction of oil and gas depletion by 5½% and of the depletion of other minerals by 1% or nothing, when faithful homage to the comprehensive tax base would have indicated the abolition of percentage depletion altogether, is symptomatic of this dimension of the Reform Act's limitations.

More significant is the fact that the reformist impulses which gave birth to the Reform Act never contemplated a thoroughgoing assault on the tax expenditure citadel. Of the 56 categories of pre-Reform Act tax expenditures listed in Table I, only 10 are directly amended by the Reform Act. And even if the Treasury had succeeded in attaining all its objectives, the bulk of the Code's tax expenditures, and the revenues expended thereby, would have been unaffected. Of the over $70 billion of public revenue annually disbursed through the tax expenditure budget, the Reform Act will eliminate little more than $65 billion, or somewhat under 10%. Looking at the matter another way, Mr. X, the taxpayer whose plight we considered in analyzing the minimum tax[70] and whose income was $314,000, would have paid $86,920 in tax, or 28.3% of his income, prior to the Reform Act; he would pay $106,920, or 34.0% of his income, under the Reform Act. In either case, his tax is a far cry from the $191,180, or 60.9%, which he would pay were current rates of income tax applicable in full to his entire income.

Moreover, the ultimate effect of the Reform Act is not to limit but to enlarge the amount of public revenue disbursed through tax expenditures. For every dollar saved, nearly two new ones were spent. Some $5.75 billion is dedicated to raising the level of personal exemptions from $600 to $750; some $1,373 billion is spent to make the standard deduction more generally available; some $750 million is devoted to liberalizing the Code's income-splitting provisions; some $625 million is spent on the Low Income Allowance (exclusive of the 1970 "phase-out" provisions) and some $2.027 billion on the elimination of that "phase-out."[71]

To be sure, some of the funds are committed to diminishing the exaction of federal revenues from the poor and so reflect a redirection of federal tax expenditures to benefit the deprived. That effort, however, absorbs but a small fraction of the revenues involved. The Low Income Allowance, designed to relieve from taxation the "poor," as perceived and defined by Congress, involves a revenue loss of $625 million compared to new tax expenditures aggregating $9.6 billion and to a total tax-expenditure budget of approximately $75 billion.[72] Even if one takes the view that a somewhat larger fraction of these new tax expenditures inure to the benefit of the poor, the basic point remains unaffected. The amount of public revenue disbursed through the tax expenditure budget prior to the Reform Act was vast, and it remains vast today. Whatever the Reform Act's achievements in limiting certain extreme tax avoidance techniques and restoring equity in the taxing of higher income individuals,[73] it left unexplored and unexploited most of the significant opportunities for the redirection of public revenues to uses benefitting the least privileged members of our society.

TABLE I.—THE REFORM ACT AND THE TAX EXPENDITURE BUDGET[74]

Budget function	Pre-Reform Act tax expenditure (millions)	Change effected by Reform Act (millions)
NATIONAL DEFENSE		
1. Exclusion of military benefits	$500	None
2. Exclusion of certain veterans's benefits	550	None
Total	1,050	None
INTERNATIONAL AFFAIRS		
3. Exemption for income earned abroad	40	None
4. Exemption for income earned in U.S. possessions	80	None
5. Western Hemisphere trade corporations	50	None
6. Exclusion of grossups on dividends from less developed countries	50	None
7. Exclusion of income of controlled foreign subsidiaries	150	None
Total	370	None
AGRICULTURE		
8. Expensing and capital gains treatment in farming	800	−$20
9. Capital gains treatment of lumber income	130	None
Total	930	−20
NATURAL RESOURCES		
10. Expensing of exploration and development costs	300	None
11. Excess of percentage over cost depletion	1,300	−450
12. Coal and iron capital gains	5	None
Total	1,605	−450
COMMERCE		
13. Investment tax credit	2,300	−3,300
14. Excess depreciation on buildings	500	[75] −1,005
15. Dividend exclusion	225	None
16. Corporate capital gains	500	None
17. Excess bad debt reserves	600	−410
18. Credit union exemption	40	None
19. Deduction for consumer credit interest	1,300	None
20. Expensing R. & D. expenditure	500	None
21. $25,000 surtax exemption	1,800	−235
22. Tax deferral for shipping companies	10	None
Total	7,775	−4,950
COMMUNITY DEVELOPMENT AND HOUSING		
23. Deduction of mortgage interest	1,900	None
24. Deduction of real property tax	1,800	None
25. Exclusion of the imputed net rental value of owner-occupied housing	2,600	None
26. Excess depreciation of rental housing	250	None
Total	6,550	None
HEALTH AND WELFARE		
27. Added exemption for aged, retirement income credit, and OASDHI exclusion	$2,300	None
28. Added exemption for the blind	10	None
29. Exclusion of sick pay	85	None
30. Exclusion of unemployment insurance	300	None
31. Exclusion of workmen's compensation	150	None
32. Exclusion of public assistance	50	None
33. Exclusion of employee pension plan income	3,000	None
34. Self-employed retirement plans	60	None
35. Exclusion of group life insurance	400	None
36. Exclusion of accident and death benefits	25	None
37. Exclusion of employer provided medical insurance premiums and medical care	1,100	None
38. Exclusion of private unemployment insurance	25	None
39. Exclusion of employee meals and lodging	150	None
40. Exclusion of life insurance interest	900	None
41. Deduction of medical expenses	1,500	None
42. Deduction of child care expense	25	None
43. Deduction of casualty losses	70	None
44. Standard deduction	3,200	+$1,373
45. Low income allowance (as reduced by phase out provisions)		+625
46. Elimination of low income allowance phase out		+2,027
47. Personal exemptions	23,000	+5,750
48. Deduction of charitable contributions	3,200	−20
Total	39,550	+9,755
EDUCATION AND MANPOWER		
49. Additional student exemption	500	None
50. Deduction of contributions to educational institutions	170	None
51. Exclusion of scholarships	50	None
52. Earned income preference	—	+100
Total	720	+100
AID TO STATE AND LOCAL GOVERNMENT FINANCING		
53. Exemption of State and local bond interest	1,800	None
54. Deduction of individual income taxes	1,350	None
55. Deduction of general sales taxes	775	None
56. Deduction of gasoline taxes	400	None
57. Deduction of personal property taxes	150	None
58. Deduction of other taxes	125	None
59. Deduction of property taxes on owner-occupied houses [76]	1,800	None
Total (State and local nonbusiness taxes)	4,600	None
Total (including State and local bond interest exclusion)	6,400	None

Footnotes at end of article.

TABLE I.—THE REFORM ACT AND THE TAX EXPENDITURE BUDGET[74]—Continued

Budget function	Pre-Reform Act tax expenditure (millions)		Change effected by Reform Act (millions)
OTHER			
60. Capital Gains Treatment (including (1) increased basis at death; (2) Exclusion of one-half of capital gains; and (3) alternative tax.)	$5,500	−$8,500	−650
61. Minimum tax			−320
62. Trust rule changes			−100
Total	5,500	−8,500	−1,070
Total pre-reform act preferences		$68,605	−71,650
Aggregate effects of the Reform Act:			
A. Reduction of preferences	−6,490		
B. Increase in preferences	+9,855		
C. Net change in preferences		+3,365	
Post Reform Act preferences			
Total		72,015	−75,015

III. THE INTERNAL REVENUE CODE'S REGRESSIVE HOUSING PROGRAM: THE DEPRIVED'S PERSPECTIVE

The point is not merely that the Internal Revenue Code conceals in its interstices implicit federal programs involving vast amounts of public expenditure. These programs are designed to subsidize the satisfaction of certain needs. In satisfying these needs, tax expenditure programs confer benefits upon certain classes of persons and not upon other classes—particularly, not upon the poor. At the same time, the unbenefitted classes of persons experience the very same needs. To be sure, the poor may benefit from other programs—most commonly, direct expenditure programs—satisfying these needs, but one must not casually assume that the benefits conferred upon the poor by these other programs bear an equitable relation to the benefits conferred upon other classes of citizens by tax expenditure programs; for the fact of the matter is that the equitable questions implicit in the coexistence of tax expenditure and direct expenditure programs directed at the same end have seldom been subjected to serious scrutiny. The entire notion that the federal government spends money through the Code to satisfy private needs has not been widely appreciated. Indeed, it is only in the recent past that any systematic attempt has been made to categorize these expenditures in a fashion suitable for comparison with direct expenditure.[77]

Take, for example, the problem of housing. One need hardly dwell at length upon the statistics to establish the proposition that this country is experiencing a serious shortage of adequate housing. The 1960 Census of Housing reported that nearly one of four housing units in the country—12.6 million units—was deteriorating, dilapidated, or lacking some plumbing facilities.[78] That substandard housing units are occupied largely by the poor is equally plain. A recent study of substandard housing units in New York City revealed that 22% of the occupant households had incomes of less than $2,000; 44%, less than $3,000; 60%, less than $4,000; and 83%, less than $6,000.[79] Despite the existence of 12.6 million substandard housing units and nearly seven million families who are officially recognized as poor[80] the federal government had succeeded in building only 636,000 housing units during the period from the inception of the federal low-rent public housing program through the end of 1966.[81] The problem, of course, is and has always been lack of funds.

Yet at the same time that the federal government has limited its direct housing expenditures to such modest proportions, it has engaged in a massive housing program within the confines of the Code. During fiscal 1968, the federal government spent over $7 billion through the Code to support private housing.[82] Under the Code a home owner is allowed to deduct both the interest paid to carry his mortgage[83] and the real property taxes imposed on his dwelling.[84] During the fiscal year 1968, deductions for interest payments on residential mortgages cost the federal government $2.2 billion in lost taxes and deductions for residential real property taxes cost some $2.3 billion.[85]

In addition, the net rental value of owner-occupied housing is excluded from a homeowner's gross income. By means of such exclusion, the homeowner is enabled to remove from his tax base the return on capital invested in his dwelling. Through the tax loss resulting from the exclusion of such imputed income is difficult to estimate, it is clearly of great significance and is here estimated at not less than $2.6 billion.[86]

Each of these provisions, the deductions for mortgage interest and residential real property taxes and the exclusion of the rental value of the owner-occupied housing, represents a deviation from the comprehensive tax base, a decision to exempt from taxation part of a taxpayer's income devoted to providing housing for himself. In this sense, the Code contributes to the taxpayer's housing expense the amount of tax foregone by virtue of these tax expenditures, and so subsidizes the cost of his housing.

It is true that other purposes served by these provisions can be identified. The deduction for mortgage interest is in part a result of the Treasury's alleged inability to find an equitable way of administratively differentiating mortgage interest from interest which is deductible because of its income-producing character.[87] The deduction for real property taxes is said to be a federal accommodation alleviating the difficulties of raising state and local revenues.[88] The exclusion of the imputed rental value of owner-occupied housing is both the result of administrative difficulties in valuing residential property and the logical consequence of permitting the exclusion of imputed income generally. In all of these assertions there is some truth. However, the fact remains that, whatever other purposes may be ascribed to these provisions, they have the effect of reducing a taxpayer's income tax by reason of his home ownership and so may be properly characterized as housing subsidies, benefitting those persons in a position to take advantage of them.

At the same time that the federal government spent over $7 billion to subsidize housing through the tax expenditure budget contained in the Internal Revenue Code, only $1 billion was spent by means of direct expenditure for all housing and community development purposes.[89] As is evident from this comparison of direct and tax expenditures and from the rather modest achievement of federal housing programs over the years, the truly significant federal housing program is administered not by the Department of Housing and Urban Development but by the Internal Revenue Service.

To whose benefit does this implicit federal housing program accrue? What income classes receive the benefit of this program? Because of the paucity of available information, it is difficult to provide a definitive answer to the question; however, there are a number of ways of arriving at tentative answers. First, there is the obvious fact that the proportion of deductible or excludable housing expense which a taxpayer is able to recoup by means of deduction or exclusion increases with his taxable income. The higher a taxpayer's taxable income and hence the higher his marginal rate of tax, the greater the proportion of his housing expense will be recouped through deduction or exclusion. A taxpayer with a marginal tax rate at the maximum of 70% will enjoy a $700 tax saving for each $1,000 of deduction or exclusion; a taxpayer with a marginal tax rate at the minimum of 14% will enjoy a tax saving of $140 for each $1,000.[90]

Further light is cast on the distribution of the Code's housing subsidies by Table II[91] which sets forth for fiscal 1968, by adjusted gross income class, (i) the amount of real property taxes deducted, (ii) the amount of mortgage interest deducted, (iii) an estimate of the amount of imputed rental of owner-occupied housing excluded, and (iv) estimates of the revenue expended by these deductions and this exclusion. Due to the limited information available, the estimates are necessarily approximate and provide only rough orders of magnitude of the distribution of these benefits among income classes.

Looking from the bottom of the income scale up, less than $188 million, or approximately 2.5% of the $7 billion spent through the Code by reason of the deductions for mortgage interest and real property taxes and the exclusion of net rental value inures to the benefit of taxpayers with adjusted gross incomes under $5,000 per annum. The vast majority of all persons regarded as poor by most governmental agencies concerned with the problem will be found in this category. As is indicated in Table IV,[92] the maximum New York State welfare budget (one of the country's most generous) for a family of six was recently established at $5,228 per annum, so that only those families with seven or more members can have appreciably more than $5,000 per annum and still be officially recognized as deprived.* It is therefore clear that the poor are virtually excluded from participation in the Code's housing program. Turning next to those taxpayers above the level of poverty but with adjusted gross incomes of only $5,000 to $10,000, one finds that class of taxpayers to be receiving about $1.5 billion of the $7 billion of potential tax revenue spent on housing, or approximately 20%. Three-quarters of the funds spent on housing through the Internal Revenue Code inure to the benefit of taxpayers with adjusted gross incomes of more than $10,000 per annum, who, with rare exceptions, can by no stretch of the imagination be deemed needy, with $3.3 billion accruing to those with adjusted gross incomes of $10,000 to $30,000 and $2.1 billion to those with adjusted gross incomes in excess of $30,000 per annum.

Turning from aggregate considerations to the impact of these provisions on individual taxpayers, one finds that the average amount of federal housing subsidy per tax return increases directly and dramatically with a taxpayer's income, ranging from $.88 per return for a taxpayer with an adjusted income of $1,000 to $3,000 to $7,286 per return for a taxpayer with income in excess of $300,000. Taxpayers with adjusted gross incomes (A.G.I.) of $4,000 to $5,000 received federal housing subsidies averaging $19.18 per return; those with an A.G.I. of $9,000–$10,000, the sum of $103.79; those with an A.G.I. of $10,000–$15,000, the sum of $182.26; those with an A.G.I. of $20,000—$25,000, the sum of $430.97; and those with an A.G.I. of $30,000–$50,000, the sum of $627.66.

* This comparison assumes that there is one return per family unit. To the extent that the number of returns exceeds the number of families, the result is that increased incomes of less than $5,000 are in fact nonpoor as they enjoy higher disposable incomes because of their family situations. This would mean that some portion of the 2.5% of housing subsidies accruing to taxpayers with adjusted gross incomes of less than $5,000 accrues to nonpoor families.

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TABLE II.—SUBSIDIZATION OF PRIVATE HOUSING THROUGH THE INTERNAL REVENUE CODE [88]

Adjusted gross income class	Real estate taxes deducted (thousands)	Revenue lost (thousands)	Mortgage interest deducted (thousands)	Revenue lost (thousands)	Imputed value of owner-occupied housing (thousands)	Revenue lost (thousands)	Total housing assistance (thousands)	Total housing assistance per return
$1,000 to $2,000	$19,562	$2,741	$5,197	$728	$22,519	$3,152	$6,621	$0.88
$2,000 to $3,000	69,841	9,778	27,038	4,185	80,318	11,244	25,207	4.27
$3,000 to $4,000	137,286	20,693	66,642	9,996	157,872	23,794	54,483	9.09
$4,000 to $5,000	219,864	35,178	153,969	25,635	252,670	40,446	101,259	19.13
$5,000 to $6,000	282,554	48,034	272,924	46,397	324,875	55,236	149,667	29.93
$6,000 to $7,000	338,843	57,603	434,000	73,780	389,620	66,240	197,623	38.72
$7,000 to $8,000	478,973	91,004	571,606	108,605	549,735	104,650	304,259	64.73
$8,000 to $9,000	591,818	112,445	768,368	145,990	680,570	129,160	387,595	82.52
$9,000 to $10,000	828,701	119,453	812,626	154,399	781,405	137,310	411,162	102.79
$10,000 to $15,000	2,831,275	662,880	3,519,578	774,307	3,255,650	762,220	2,199,407	183.28
$15,000 to $20,000	1,353,775	338,444	1,494,237	373,559	1,565,950	389,160	1,101,163	300.86
$20,000 to $25,000	558,575	164,801	565,001	158,200	676,765	189,520	512,521	430.97
$25,000 to $30,000	307,122	98,279	275,770	88,146	333,165	112,010	298,435	573.83
$30,000 to $50,000	550,492	214,692	344,496	134,353	632,960	246,890	595,935	827.68
$50,000 to $100,000	331,910	175,912	126,463	67,025	381,685	202,281	445,218	1,484.06
$100,000 to $200,000	107,930	66,907	21,037	13,043	123,985	76,935	156,885	2,490.02
Over $200,000	65,877	46,835	5,930	4,091	75,750	53,845	104,771	7,286.00
Total	8,874,418	2,265,679	9,464,882	2,182,439	10,285,494	2,604,093	7,052,211	

These figures plainly reveal that the federal housing subsidies contained in the Code are inversely related to need, benefitting most those who are least in need, and so are in a sense "regressively" distributed.‡ Thus the federal government is engaging in regressive subsidization of a need that is universally experienced—by the deprived as well as the affluent—and is doing so at a time when this need remains manifestly unfulfilled for a major segment of our population. What is more, the significant of the Code's subsidies cannot be doubted. During fiscal 1968, over $7 billion was spent in this fashion and over $2 billion was spent to subsidize the housing needs of taxpayers with adjusted gross incomes of more than $20,000 per annum, an amount more than twice the federal government's total direct expenditures on all housing and community development affairs.

The point may be generalised. The structure of the Code is shot through with departures from the comprehensive income tax base—deviations which, whatever their origin, have the effect of reducing a taxpayer's income tax burdens by reason of assorted personal expenditures and exigencies. In affording tax relief, these provisions subsidize those needs. Moreover, the needs subsidized include the most fundamental and universally experienced of human needs. Apart from housing, one can find in the Code provisions that subsidize taxpayer expenditures for needs such as medical care, education, and income maintenance. Though universally experienced, each of these needs is inadequately provided for among the needy. In most cases, the dispersion of benefits accorded by these tax expenditure programs is the simple unanalyzed reflex of the deduction or exclusion mechanism used to effect tax relief—a mechanism which increases the amount of the subsidy with the taxpayer's income. In many cases, the amount of revenue so spent is substantial. In each case, the decision so to distribute public revenues stands in need of re-examination. The amount of public revenue expended for the satisfaction of a particular need through tax expenditures and direct expenditures need to be calculated. The distribution of these funds among the various income classes needs to be determined. The extent and seriousness of unsatisfied needs must be gauged. And finally, the wisdom of currently prevailing practices in distributing public revenues to satisfy these needs should be re-examined in light of the information developed by such inquiries.

‡The term regressive is here used because of the connotations acquired by the term "progressive" over the years of tax usage. Although the term progressive may be mathematically defined as a relation of any variable to income in which the variable increases more rapidly than income, the term has also acquired a broader social significance connoting a certain positive relation to egalitarian income distribution. A "progressive" income tax advances equalitarian income distribution because the burdens of taxation increase more rapidly than taxpayer's incomes. The distribution of the Code's housing benefits is concomitantly "regressive" because access to these benefits increases more rapidly than income and thereby renders the distribution of income less egalitarian.

IV. THE REFORM ACT AND TAXING THE POOR

A. Taxing the poor

Up to this point, we have focused on the Code's function as a source of subsidies supporting the satisfaction of private wants, and we have examined the magnitude of such subsidies and the way in which they are distributed. But from the perspective of the deprived, the problem is not merely that the Code disburses large amounts of public revenue in a regressive fashion; the Code contributes to the further deprivation of the poor by subjecting them to the federal income tax. It is commonly agreed that persons who lack the wherewithal to provide for themselves the basic essentials of a decent living should not be called upon to contribute to the public revenue.[84] Recognition of that principle has always been a part of the federal income tax structure. By providing basic exemption levels below which no tax is imposed, the Code seeks to relieve from taxation those at the bottom of the income spectrum. Until the Second World War, these exemption levels did indeed relieve from taxation not only all those who could be said to be needy, but considerably more as well, with exception levels ranging from $3,000 for a single person (equivalent to $8,982 in 1960 prices) and $4,000 for a married couple ($11,976 in 1960 prices) at the inception of the current income tax system to $1,000 for a single person ($2,128 in 1960 prices) and $2,500 for a married couple ($5,319 in 1960 prices) in 1939.

Despite public adherence to the view that the poor should not be taxed, the fiscal exigencies of the Second World War and ensuing difficulties produced exactly that result. The basic pattern which confronted the draftsmen of the Reform Act was fixed in 1948 when a personal exemption of $600 each for the taxpayer, his spouse, and his dependents was established. However, during the ensuing 21 years inflation eroded the real value of the exemption from $716 in 1948 to $468 in 1969, measured in relation to 1957–59 prices. Availability of the standard deduction of 10% of a taxpayer's adjusted gross income increased the tax-free minimum income for an individual to $667.[85] Introduction of the minimum standard deduction in 1964 enabled taxpayers to shield from tax an additional $200 plus $100 for each personal exemption (up to a maximum of $1,000), thus increasing tax-free income to $900 for a single person, $1,600 for a married couple, and $3,000 for a married couple with two children. [86]

The impact of inflation upon exemption levels eventually forced Treasury recognition that the federal income tax had come to burden the poor. The Treasury Department's Tax Reform Studies and Proposals [87] (hereinafter referred to as the "Treasury Report") acknowledged the "[a] major problem of the individual income tax is that the tax is imposed on some people whose incomes fall below the poverty line," [88] and went on to estimate that more than 20%, or 2,180,000, of the 10,670,000 families living in poverty were subject to federal income tax.[89] Based on standards developed by the Department of Health, Education and Welfare, the Report estimated that, though a single person required a disposable minimum income of $1,735, the Code imposed a tax on all income over $900; though a married couple required $2,240, the tax began at $1,600; though a married couple with two children required $3,535, the tax began at $3,000.[90]

B. The Reform Act's accomplishments

To ameliorate the tax situation of the poor, the Reform Act created the Low Income Allowance, a two-part deduction consisting of a "basic allowance" and an "additional allowance." The basic allowance is simply the old minimum standard deduction; that is, $200 plus $100 for each personal exemption up to a maximum of $1,000. The additional allowance is computed by subtracting the basic allowance from a base figure set at $1,100 in 1970, $1,050 in 1971, and $1,000 in 1972. This reduction of the base figure will be offset by planned increases in personal exemption levels from $650 in 1971 to $700 in 1972 and $750 in 1973. The net effect of the Low Income Allowance is to increase the amount of a taxpayer's income shielded from tax to the amount of his exemptions plus $1,100. The result of adopting the Low Income Allowance, as demonstrated in Table III, will be to exempt from taxation approximately the amount of income which Congress deemed to be minimally sufficient for subsistence. As that table demonstrates, the Reform Act significally reduces the impact of income taxation upon the poor, relieving most poor families of tax by virtue of the approximate equality of poverty thresholds and Taxability Thresholds.

C. The Reform Act's limitations

The Reform Act's accomplishments in limiting the impact of taxation upon the poor, though important, are limited. They are limited both because of the unrealistic definition of poverty adopted by the Congress and because of the limited role played by the federal income tax in the American tax structure.

1. *Failures in Defining the Poor.* In defining the target class to be benefitted by the Low Income Allowance, the Congress adopted the Poverty Index developed by the Department of Health, Education and Welfare and adjusted by 6% the 1966 figures yielded by that Index for family groups of varying size in order to take account of inflation.[91] Passing the congressional failure to equate its new Taxability Thresholds with the Poverty Thresholds thus developed, the first question to be asked is why only a 6% adjustment was made to the H.E.W. 1966 Index. Such an adjustment was clearly inadequate at the time the Reform Act was enacted at year-end 1969, as evidenced by the fact that the consumer price index stood at 113.1 in 1966 and 131.3 in December, 1969.[92] It was even more clearly inadequate as a projection of the probable state of economic affairs at the end of the Allowance's first effective year; by December 1970, the index had in fact reached a level of 138.5. An adjustment of approximately 20%, rather than 6%, was necessary to update the 1966 Poverty Index figures realistically, and Table III shows the effect of such an adjustment.

TABLE III

Family size	Post Reform Act taxability threshold	1966 HEW poverty threshold plus 6 percent	1966 HEW poverty threshold adjusted to December 1970
1	$1,700	$1,735	$2,012
2	2,200	2,240	2,598
3	2,400	2,755	3,196
4	3,500	3,535	4,103
5	4,100	4,165	4,831
6	4,700	4,675	5,433
7	5,300	5,755	6,676

More serious than the failure to make an adequate adjustment for inflation is the dubious judgment involved in basing the Code's Taxability Thresholds on the H.E.W. Poverty Index in the first instance. That Index was developed by the Department of Health, Education, and Welfare in an attempt to refine the benchmarks—$3,000 for a family of two or more and $1,500 for a single individual—which the Council of Economic Advisors adopted in 1964 in connection with the federal government's war on poverty.[94] It is based on work done earlier by the Department of Agriculture. The Department of Agriculture has long prepared a food plan for the purpose of estimating the cost of food needed to satisfy minimal nutritional requirements. This plan, known as the "low cost plan," yielded a minimum food cost estimate of $5.90 per person per week for a four-member family in January, 1964 prices.[95] In the mid-sixties the Department began to issue its "economy" food plan devised for "temporary or emergency use when funds are low." [96] The economy plan yielded a minimum food cost estimate of $4.60 per person per week for January, 1964. It is the latter plan which lies at the core of the H.E.W. Poverty Index.[97] Per-person food costs are translated into aggregate food budgets for families of different sizes, ages, sex compositions, and places of residence (urban or rural). Some indication of the food budget's spartan quality is given by the following description.

For a meal all four of them ate together, she could spend on the average only 95 cents, and to stay within her budget she must allow no more a day than a pound of meat, poultry, or fish altogether, barely enough for one small serving for each family member at one of the three meals. Eggs could fill out her family fare only to a limited degree because the plan allows less than 2 dozen a week for all uses in cooking and at the table, not even one to a person a day . . . [98]

To derive its Poverty Index from these food cost estimates, H.E.W. merely multiplied the estimates by three. The multiplier is based on H.E.W.'s empirical studies which demonstrated that lower income families spend approximately one-third of their budget on food.[99] In effect, the H.E.W. Poverty Index is built on spending habits of the poor existing in the mid-1950's, on assumptions that yielded $1.50 per person per day for persons living in a four-member family to cover all nonfood expenses (in 1966 prices).[100] What is important to note is that the Department made no attempt to develop a list of basic nonfood needs or to determine their cost. However inadequate the provision for such needs by the poor whose expenditure patterns gave rise to the H.E.W. multiple of three, these inadequacies are faithfully reflected in the Poverty Index. The H.E.W. Poverty Index is thus in no sense a comprehensive normative standard of need.[101] Whatever utility the Index may have for H.E.W.'s analytical purposes, it is of doubtful validity as a Taxability Threshold.

This is not the place for an extended discussion of the measure that might properly be used to fix Taxability Thresholds. Suffice it to note that alternatives, specifically designed to determine the income required to survive in a fashion compatible with minimum standards of health and decency, are available. Welfare agencies in most states have long grappled with such problems. By way of example, Table IV shows a comparison of the Reform Act's Taxability Thresholds and a recent welfare estimate of need for the State of New York.

TABLE IV [102]

Family size	Post Reform Act taxability threshold	New York State maximum welfare budget as of June 1, 1970
1	$1,700	$1,908
2	2,200	2,648
3	2,400	3,168
4	3,500	4,032
5	4,100	4,668
6	4,700	5,228
7	5,300	5,988

While the New York welfare budget standards are themselves subject to criticism, they were at least developed in an attempt to estimate comprehensively a family's needs. The fact that they are so significantly higher than the Reform Act's Taxability Thresholds not only further demonstrates the inadequacy of those thresholds, but also creates the awkward situation that a person earning $1,908 receives less than he would were he on welfare because welfare payments are not subject to Social Security or federal income taxes.[103]

2. *The Limited Role of the Federal Income Tax in the American Tax System.* The federal income tax is but one of the ways in which American governments—federal, state, and local—raise revenue. The principles that give rise to the demand that the poor be relieved of taxation provide little, if any, basis for distinguishing among the various taxes used to support the American governmental system. The ultimate significance of the Reform Act in ameliorating the impact of taxation upon the poor can therefore be properly assessed only in the context of the entire tax system and its impact upon the poor.

The federal government collects revenue by means of individual income taxes, corporate income taxes, excise and customs taxes, payroll taxes, and estate and gift taxes, all but the last of which affect the poor. Indeed, not only do these other federal taxes affect the poor, but a recent Tax Foundation study concluded that families having incomes of less than $2,000 paid less of their income through federal income taxes than through any other federal tax save estate and gift taxes.

TABLE V [104].—FEDERAL TAXES AS A PERCENTAGE OF INCOME FOR FAMILIES HAVING ANNUAL INCOMES OF LESS THAN $2,000

Tax	1961	1965
Individual income	2.0	1.9
Corporate income	4.4	4.5
Excise and custom	3.4	3.3
Payroll	3.0	3.2
Total	12.8	12.9

Most significant for the shape of the future is the federal government's increasing reliance on payroll taxes to finance Social Security and other public welfare benefits. During the decade from 1960 to 1970, individual income tax revenues increased by 124% while employment taxes increased by 255%.[105] F.I.C.A. taxes are currently imposed at a rate of 10.40% on all earnings up to $7,800 per year, half payable by the employee and half by the employer. As Table V indicates, in 1965 the federal government collected more than half again as much from payroll taxes imposed on the poor as from individual income taxes.

The significance of the Reform Act's revisions shrinks still further when attention is turned to the impact of state and local taxes upon the poor, for these taxes actually consume more of the poor's income than do all federal taxes. As is shown in Table VI, state and local taxes, particularly state sales and local property taxes, account for approximately 15% of the poor's income.

TABLE VI [106].—STATE AND LOCAL TAXES AS A PERCENTAGE OF INCOME FOR FAMILIES HAVING ANNUAL INCOMES OF LESS THAN $2,000

Tax	1961	1965
Individual and corporate income	0.4	0.6
Sales and excise	5.7	6.1
Property	6.7	6.9
Social insurance	1.6	1.5
Total	14.4	15.1

Moreover, the expansion of state and local expenditures and the consequent reliance on revenue measures bearing on the poor is at the moment outstripping the increase in federal expenditures. Thus, during the decade from 1959 to 1969, total federal expenditures increased from $91 billion to $191.9 billion while state and local expenditures increased from $46.8 billion to $121 billion.[107] And looking further back, one finds state and local governmental receipts steadily increasing as a percentage of gross national product from 5% in 1945, to 6.6% in 1950, to 7.1% in 1955, to 8.6% in 1960, and 9.3% in 1965.[108]

D. Future prospects for taxation of the poor

The Reform Act's accomplishments in ameliorating the impact of taxation upon the poor are thus severely limited. The Act's attempt to eliminate the imposition of federal income taxes is deeply flawed by a niggardly definition of the class to be relieved. Moreover, no matter how successful the Reform Act may be in eliminating the imposition of federal income taxation on the poor, its impact on the overall tax status of the poor is bound to be marginal; for federal income taxes comprise only 2% of the total of 28% paid out in federal, state, and local taxes by taxpayers having incomes of $3,000 or less.[109]

To ameliorate the impact of American taxation on the poor in a truly significant fashion, it will be necessary to ease the burden of state, local, and federal taxes of all kinds. It

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may be objected that such a suggestion strays beyond the boundaries of federal income tax reform both in terms of moral obligation and technical capacity. However, if one takes seriously the principles that underlay adoption of the Low Income Allowance, continued taxation of the poor through these other avenues remains a problem to be faced—a problem, moreover, which realistically can be dealt with on a comprehensive basis only through the Code. To hope for 50 states and countless local governments to take the necessary ameliorative action is surely futile, particularly in light of their current fiscal exigencies.

Nor is there satisfactory refuge in the notion that it is technically impossible to solve this problem through the Code. Without belittling the many problems inevitable in such an effort, fiscal techniques suitable to such a purpose seem readily identifiable. Refunds of excess taxes paid or withheld have been with us since the inception of the federal income tax, as has the notion of allowing deductions from income or credits against tax for tax payments to other jurisdictions. All that is technically required is to adapt these techniques to repay to taxpayers all tax payments—federal, state or local—that have the result of reducing after-tax incomes to a level below those minimum standards necessary for a decent and healthful existence. One would first determine the amount of all taxes paid by a deprived taxpayer. This could be accomplished through taxpayer declaration, as is the practice with the present deduction of state and local taxes; the taxpayer could rely upon tables similar to those currently used to estimate such taxes for purposes of deduction. One would also establish minimally acceptable standards of living. The federal government would then refund to all taxpayers whose incomes were reduced below such standards by state, local, or federal taxes, the amount of such tax that is necessary to restore the taxpayer's income to the minimum acceptable standard. To provide continuously effective relief from such taxation, refunds should be integrated into the withholding system and paid periodically throughout the year. Through such relatively simple adaptations of existing tax techniques, the federal income tax system could accomplish that abstention from fiscal dependence on the poor which the Reform Act so diffidently approaches.

The cost of such an effort would doubtless be considerable, but the present confrontation between need and fiscal exigency need not inevitably balk efforts to relieve the poor of taxation. At least such efforts should not be abandoned without renewed scrutiny of related programs presently being implemented to relieve the burdens of state and local taxation. Just as the Code contains a program to subsidize private housing needs, so also does it expend considerable amounts of revenue to subsidize state and local financing. During fiscal 1968, deductions allowed for the purpose of ameliorating the impact of state and local taxation cost the federal government $6.2 billion in the aggregate.[130] Some indication of the distribution of these benefits among different income strata has already been considered in connection with Table II.[131] That table indicates that of the $2.266 billion in revenue lost by reason of this deduction some $.068 billion, or 3% inures to the benefit of taxpayers with adjusted gross incomes of less than $5,000; and $.497 billion, or 22% to taxpayers with adjusted gross incomes below $10,000 per year. Another indication of the distribution is provided by Table VII which sets forth the amounts of (i) real estate taxes, (ii) general sales taxes, (iii) state and local income taxes, and (iv) total taxes deducted by taxpayers in various adjusted gross income brackets and the tax revenue lost by such deductions.

As Table VII demonstrates, only $1.06 billion, or 4.5% of the $23.7 billion total amount of taxes deducted is deducted by taxpayers with adjusted gross incomes of less than $5,000; $7.02 billion, or 29.6% is deducted by taxpayers with adjusted gross incomes of $10,000 or less per year. The amount of deductions taken for taxes is thus markedly skewed toward the higher adjusted gross income classes.

TAX REFORM ACT

TABLE VII[132].—DISTRIBUTION OF DEDUCTIONS FOR TAXES PAID

Adjusted gross income class	Real estate taxes (thousands)	General sales taxes (thousands)	State and local income taxes (thousands)	Total taxes (thousands)	Revenue lost (thousands)
$1,000 to $2,000	$19,582	$10,786	$2,615	$42,166	$5,903
$2,000 to $3,000	69,841	38,310	10,795	153,154	21,446
$3,000 to $4,000	137,286	82,153	30,726	327,392	49,109
$4,000 to $5,000	219,864	137,194	60,767	540,041	86,407
$5,000 to $6,000	282,554	196,818	91,279	729,836	124,072
$6,000 to $7,000	338,843	253,534	144,700	1,006,168	171,049
$7,000 to $8,000	478,973	290,182	186,760	1,203,753	228,713
$8,000 to $9,000	591,818	355,480	247,485	1,489,536	283,012
$9,000 to $10,000	628,701	363,284	268,810	1,531,172	290,923
$10,000 to $15,000	2,831,275	1,528,051	1,438,625	6,896,658	,417,265
$15,000 to $20,000	1,353,775	700,927	921,601	3,416,853	853,813
$20,000 to $25,000	$558,575	$282,252	$522,492	$1,544,309	$432,407
$25,000 to $30,000	307,122	144,312	332,433	856,962	274,215
$30,000 to $50,000	550,492	244,253	777,229	1,689,085	658,743
$50,000 to $100,000	331,910	134,574	698,374	1,237,153	655,681
$100,000 to $200,000	107,930	35,640	340,380	515,770	319,777
$200,000 to $500,000	45,570	11,889	206,106	282,922	195,216
$500,000 to $1,000,000	11,555	2,914	76,309	97,555	67,013
$1,000,000 or more	8,752	2,592	80,092	98,677	68,103
Total	8,874,418	4,815,145	6,407,518	23,659,162	6,202,877

Since the tax revenue lost per dollar of deduction increases with the taxpayer's income, tax expenditures subsidizing the burdens of state and local taxation are even more heavily skewed in favor of the upper income classes. Thus, of the $6.2 billion of tax revenue lost by virtue of the Code's efforts to relieve taxpayers of the burdens of state and local taxes, only 2.6% inures to the benefit of taxpayers having adjusted gross incomes of less than $5,000. Similarly, only $1.1 billion or 18% inures to the benefit of taxpayers having adjusted gross incomes of less than $10,000. In short, nearly 80% of the tax revenue lost by virtue of the Code's current program for the amelioration of state and local tax burdens inures to the benefit of taxpayers having adjusted gross incomes of more than $10,000 per year.

The federal government is thus currently spending some $4.6 billion to relieve taxpayers of the burdens of state and local taxation, and, as in the case of its housing subsidies, it is distributing such benefits in a manner that is based on neither need nor per capita equality, but rather is directly related to the taxpayer's income. Put more simply, the federal government is distributing its tax-relief subsidies regressively. It is doing so at a time when all elements of the American governmental system continue to rely heavily upon the poor for tax revenues, taking approximately one out of every four dollars of their meager incomes through taxes of all types. Some measure of relief could be afforded the poor by redirection of the $6.2 billion currently being spent to relieve the burdens of state and local taxation. This amount would doubtless fall far short of the funds necessary to eliminate governmental fiscal dependence on the poor. Such reduction would, however, constitute an ameliorative act of considerable significance, particularly when compared with $.625 billion devoted to that purpose by the Reform Act.[133]

V. TAX EXPENDITURES AND THE AMELIORATION OF POVERTY

Of the many ways in which the tax expenditure budget is relevant to the poor, the one of greatest interest from the perspective of the deprived is the amelioration of poverty itself. The relevancies upon which we earlier focused, such as the Code's implicit housing and tax-subsidy programs, though of importance, are of only limited significance to the poor. More central to their perspective is the basic failure in the distribution of income that has given rise to a population of nearly 30 million who are officially recognized by the federal government as being poor.[134] Measured by the spartan standards of the Health, Education, and Welfare Department's Poverty Index, some 29,650,000 people found themselves poor, including 12,500,000 children and 5,400,000 aged persons.[135] The so-called "poverty gap," the amount by which the aggregate income of the poor falls short of acceptable minimum standards, has been variously estimated at $11 to $12.5 billion.[136] The relevance of the tax expenditure budget to the elimination of this poverty gap and to improving the material condition of this population is of central concern to the deprived.

Certain aspects of the relevance of the tax expenditure budget to the central problem of poverty are foreshadowed by our earlier discussion. We have already touched upon the potentialities for benefitting the poor by departing from the Code's current reliance on exclusions and deductions, and we have noted the possibility of integrating into the Code a system of transfer payments designed to relieve the poor of all tax exactions, state, local, and federal.[137] Similar transfer payment programs designed to extend the Code's housing subsidies to the poor could doubtless be devised.[138] However, such specific purpose transfer programs are in a sense but partial approaches toward the basic problem of income maintenance itself.

Rather than dealing with such specific aspects of deprivation as the exaction of tax revenues or housing inadequacy, the transfer program could be directed at the basic income maintenance problem itself by designing the transfers so as to guarantee each family a level of income commensurate with minimum requirements of health and decency. Just as taxpayers now file income tax returns, they would, under such a system, file declarations of anticipated income. If the declaration showed an anticipated income falling below acceptable minimum standards, the federal government would make periodic payments of the amounts necessary to guarantee a minimum annual income. The suggestion that a guaranteed annual income be integrated into the Code is of course not a novel one. Much has been written on the subject of a guaranteed annual income, or as it is sometimes awkwardly styled, the negative income tax.

Footnotes at end of article.

This is not the place to reconsider the structure and problems of so ambitious an undertaking. Rather, I limit my present comments to noting that such a transfer program within the structure of the Code, like the more modest programs earlier discussed,[139] is certainly a technical possibility, and to pointing out that the Internal Revenue Code is already deeply involved in income maintenance programs.

A number of the tax expenditure programs implicit in the Code are designed primarily or partially for the purpose of supporting income maintenance. Perhaps the clearest example of the Code's income maintenance policy is the exclusion from income of Social Security payments.[140] This exclusion has long been a part of the Code's policy. Though historically it may have been based in part on constitutional doubts concerning the taxation of gifts, its contemporary justification is clearly based on the desirability of easing the financial condition of persons dependent upon Social Security payments for income. Similarly justified in terms of income maintenance are the additional exemption for aged taxpayers and the retirement income credit.[141] Nor can the monetary significance of these programs be doubted, for the three of them accounted for tax expenditures of $2.3 billion in fiscal 1968.[142] Similarly directed at income maintenance are the Code's exclusions from income of sick pay ($85 million),[143] unemployment insurance ($300 million),[144] workmen's compensation ($150 million), [145] public assistance ($50 million),[146] and private unemployment insurance ($25 million).[147] In a somewhat different category, but also closely related to income maintenance, is the exemption from income tax of income earned by employee pension plans ($3 billion)[148] and self-employed retirement plans ($60 million).[149] Such income is exempted from tax for the purpose of aiding the accumulation of funds to support pension payments and so to maintain the income of the group benefitted. Standing on a similar footing is the exemption from tax of interest earned on life insurance savings which cost the Federal Government some $900 million in lost revenue during 1968.[150]

As Table VIII makes clear, these programs involve a substantial commitment of Federal resources to income maintenance, involving expenditures of $6.87 billion.

TABLE VIII.—*Income maintenance programs*[151]

[In millions]

	expenditure Tax
Exclusion of Social Security Payments, Retirement Income Credit and Aged Exemption	$2,300
Exclusion of Sick Pay	85
Exclusion of Unemployment Insurance	300
Exclusion of Workmen's Compensation	150
Exclusion of Public Assistance	50
Exclusion of Private Unemployment Insurance	25
Exclusion of Income from Self-Employed Retirement Plans	60
Exclusion of Income From Employee Pension Plans	3,000
Exclusion of Life Insurance Interest	900
Total	6,870

As in the case of the Code's implicit housing and tax subsidy programs, the wisdom of spending nearly $7 billion to support income maintenance programs through exclusion of certain types of income may be questioned. Approaching income maintenance by such exclusions reflects a judgment that the beneficiaries of these categories of income stand in need of tax relief to support their incomes. Basing an income maintenance program on categories of income necessarily precludes a precise focusing of support on persons who are in financial need. For most categories of income, there is simply no precise correlation between the type of income and the need of the beneficiary. Take, for example, the exclusion of Social Security payments from income. A priori, the assumption that Social Security beneficiaries are as a group in need of income maintenance support would seem eminently reasonable. However, on further reflection, one notes that an individual's right to receive Social Security benefits is not related to need but rather to his work experience. In point of fact, it is estimated that approximately 40% of all Social Security payments go to persons[152] who would not be in financial need had they not received these benefits. The proportion of non-needy persons benefitted by the exclusion of income earned by employee pension plans and life insurance payments is doubtless even greater.

Redirection of these billions to benefit the deprived would make a material contribution to ameliorating their condition. It would not, however, make available the funds necessary for a comprehensive income maintenance system. We have thus far identified approximately $7 billion in tax expenditures directed at income maintenance. Since some significant portion of these funds presently accrues to the benefit of the poor, the amount that could be redirected to their further benefit is necessarily smaller. As noted above, the amount of additional income necessary to close the "poverty gap" has been estimated at $11 to $12.5 billion, and this measure is based on the exceedingly spartan standards of the H.E.W. Poverty Index.[153] Moreover, the cost of actually implementing a program directed at comprehensive amelioration of the income deficiency of the poor would be considerably higher than the $11 to $12.5 billion poverty gap, primarily because of the costs of administering the program and designing it so as to limit the work disincentives created by the guaranteed income.[154] Estimates of the cost of a workable comprehensive income maintenance system have approximated $20 to $25 billion.[155] Redirection of the income maintenance programs identified above can make a significant, but by no means sufficient, contribution toward funding a comprehensive income maintenance program.

There is, however, another possibility. Personal exemptions available to every taxpayer have always been a basic structural element of the federal income tax. The Reform Act's most expensive single change was an increase in personal exemption levels from $600 to $750 per person.[156] The amount of lost revenue attributable to personal exemptions is enormous, approximating some $23 billion prior to the Reform Act and $28.75 billion after taking the Reform Act's changes into account.[157]

On first impression, it may appear somewhat odd to direct attention to personal exemptions as a possible source of revenue to fund a comprehensive income maintenance program. After all, it is the personal exemption, coupled with the Low Income Allowance, which shields the poor from the exactions of the federal income tax. However, although personal exemptions are customarily justified in terms of their effect in shielding the lower income strata from tax, the fact of the matter is that most of the tax forgone by virtue of the personal exemption does not accrue to the benefit of the needy. Personal exemptions are permitted to all taxpayers, not just the poor, and as with deductions, so with personal exemptions: the amount of tax revenue lost per personal exemption varies directly with the taxpayer's taxable income from $14 per $100 of exemption at the bottom of the tax rate schedule to $70 per $100 of exemption at the top. As Table IX indicates, less than a quarter of the revenue loss by virtue of personal exemptions accrues to taxpayers having adjusted gross incomes of less than $5,000 per year. Three quarters of the revenue lost—over $15 billion a year—thus accrues to the benefit of persons other than the needy.

TABLE IX[158].—DISTRIBUTION OF REVENUE LOST BY PERSONAL EXEMPTION

[In thousands]

Adjusted gross income class	Exemptions	Revenue loss
Under $5,000	$35,793,832	$5,370,000
$5,000 to $10,000	44,183,692	8,360,000
$10,000 to $15,000	26,275,178	5,720,000
Over $15,000	14,520,260	4,060,000

Obviously, then, large amounts of revenue currently expended by means of personal exemptions on persons not in need could be redirected to support an income maintenance program directed at the poor. Of course, personal exemptions do not serve merely to shield the poor from tax. They also serve to reduce the tax imposed on larger families vis-a-vis smaller families with like income in recognition of the higher living costs of such larger families and so serve equitable interests apart from shielding the poor from federal income tax. Whether the values to be gained through a comprehensive income maintenance program warrant subordination of such equitable interests may be fairly debated. As matters stand now, we reduce the tax burdens of parents with an income of $10,000 in recognition of their parental burdens, but we do not contribute to the parental burdens of a couple with an income of $2,350.

One finds a similar dispersion of benefits among income classes arising from what the Reform Act somewhat paradoxically calls the Low Income Allowance. Though enacted for the avowed purpose of relieving the poor of taxation, the allowance is structured in such a way that $3.00 is put in the hands of the nonpoor for every dollar put in the hands of the poor, as that class is defined by Congress. Whereas the revenue loss from the Low Income Allowance is estimated at $625 million, the revenue loss estimated from use of the Low Income Allowance by the nonpoor (that is, from elimination of the phase-out) is $2.027 billion.[159] As with personal exemptions, the $1,100 Low Income Allowance is available not only to the poor but to all taxpayers who choose to take advantage of it. To some extent dispersion of the benefits of the Low Income Allowance (and of personal exemptions) beyond the needy is inevitable. One could hardly provide an $1,100 Low Income Allowance to an individual with an income of $1,734 ($1,734 being the Reform Act's Poverty Threshold) and none to an individual with an income of $1,736. It would, however, have been possible to reduce the Low Income Allowance by a dollar (or some fraction thereof) for each dollar the taxpayer's income exceeds $1,735. Congress was not unaware of this possibility. It consciously rejected that possibility and chose, as Table X indicates, to spend $2,027 billion in making the Low Income Allowance available to all taxpayers regardless of their income.

TABLE X

Adjusted gross income class (thousands)	Revenue loss: Low income allowance (millions)	Revenue loss: Elimination of phaseout (millions)
$0 to $3	$552	$202
$3 to $5	72	788
$5 to $7	1	584
$7 to $10		335
$10 to $15		83
$15 to $20		16
$20 to $50		8
$50 to $100		1
Over $100		

Footnotes at end of article.

The Internal Revenue Code thus contains a variety of tax expenditure programs designed in one way or another to maintain income. Many billions of dollars are spent in the implementation of these programs. The aggregate amounts spent rival, if they do not exceed, the estimated requirements of a comprehensive income maintenance system. Though the Code's income maintenance programs contribute significantly to the income of our lowest income strata, by far the greater part of these tax expenditures do not accrue to the benefit of the deprived. Redirection of these tax expenditures would provide the necessary funding for an income maintenance program far more ambitious and more nearly adequate than any of the proposals now receiving serious public consideration.

VI. SUMMARY

The major points may be briefly recapitulated. The basic problem stems from the existence of extensive deprivation in America which results in people who cannot adequately provide for their needs. Though widely deplored, such inadequacies remain unremedied. Financial inability is the reason most commonly advanced to excuse our continued failure to provide for the basic needs of the deprived.

"Not only has it proved impossible to locate funds for such needs; it has proved impossible to forego fiscal dependence on the poor. In recent years, state, local, and federal taxes have taken approximately 28% of the poor's income. Though one of the Reform Act's primary proclaimed purposes was to end fiscal dependence upon the poor, it succeeded in reducing the poor's overall tax burden by less than 10%, from 28% to 26% of their income."

Meaningful amelioration of fiscal dependence upon the poor can be accomplished only by departure from the techniques of deduction and exclusion which have traditionally circumscribed the reach of tax relief measures and channelled their benefits to the privileged. By replacing the network of deductions through which the Code presently channels tax relief with a transfer payment system that restores to each taxpayer who lacks the wherewithal for minimally decent self-support all taxes exacted from him, fiscal dependence on the poor can be eliminated. Such elimination will prove costly, for our preexfit dependence on the deprived is great. However, we do find it possible to spend over $6 million annually on relieving the state and local tax burdens of the more fortunate. Before one resignedly accepts the defense of financial constraint, this program of tax relief for the more fortunate should be re-examined.

The relief of state and local tax burdens is but one example of the ways in which the Internal Revenue Code regressively subsidizes private needs, that is, it is only one of the ways in which the Code distributes benefits not in accordance with need or per capita equality, but in relation to income. Perhaps the clearest example of the Code's regressive subsidization of basic human needs is to be found in the housing area. By means of deductions for residential mortgage interest and real property taxes and the exclusion of the net rental value of owner-occupied housing, the Code spends more than $7 billion annually to support private housing expenditure. Less than 1/6 of that amount is expended directly by the federal government for all housing and community development needs. As with tax relief, so with housing, one finds in the interstices of the Internal Revenue Code expenditure programs that commit vast amounts of public revenues to the service of basic human needs that the deprived also experience but are unable to satisfy.

One could redirect the funds currently taxspent on housing and tax relief to provide for the same needs among the poor by means of direct or tax expenditures; however, such revisions, though significant, would be but partial approaches to the basic problem of deprivation, that is, the problem of guaranteeing each person an income sufficient to provide the basic essentials of a civilized existence. The Code offers opportunities for escape from the fiscal constraints that have ostensibly blocked a serious attack on the income maintenance problem; for the Code contains a variety of implicit programs directed in one way or another at the maintenance of income. These programs involve annual expenditures well in excess of $25 billion. The amount required to support an adequate income maintenance program of universal coverage is no greater.

Looking beyond the possibilities of redirecting tax expenditures for housing, tax relief, and income maintenance to serve those same purposes in ways that benefit the deprived, one comes finally to the sheer size of the tax expenditure program. That program involved an aggregate revenue loss of over $70 billion in fiscal 1968. Though limiting the efficacy of certain tax avoidance techniques, the Reform Act left the basic structure of the tax expenditure program intact. Indeed, the Reform Act resulted in an increase in the aggregate revenue lost through tax expenditures and its achievements in redirecting these tax expenditures to benefit the deprived are modest indeed. Redirection of a significant proportion of these tax revenues to serve the public and private needs of the deprived would dramatically improve their condition. Whether the interests sacrificed by redirection are of such great relative social value as to warrant their continued support is to my mind highly doubtful. Unhappily, the opportunities afforded by massive redirection of our current tax expenditure program and the moral issues implicated by our current refusal to undertake such redirection have yet to be conscientiously explored by our political leaders.

FOOTNOTES

[1] Act of Dec. 30, 1969, Pub. L. No. 91–172, 83 Stat. 487, codified in various sections of INT. REV. CODE of 1954.

[2] *See* section IV C(1) *infra*.

[3] *See id.*

[4] The concept is normally named for Professors Richard Haig and Henry Simons whose publications—R. HAIG THE FEDERAL INCOME TAX (1921), and H. SIMONS, PERSONAL INCOME TAXATION (1938)—are credited with the early development of the concept. *See also* Schanz, *Der Einkommensbegriff und die Einkommen Steuergesetze*, 13 FINANZ ARCHIV 1 (1896), for an earlier discussion of the concept.

[5] H. SIMONS, *supra* note 4, at 55. *See also* Pechman, *Erosion of the Individual Income Tax*, 10 NAT'L TAX J. 1 (1957).

[6] *See generally* Surrey, *Tax incentives as a Device for Implementing Government Policy: A comparison with Direct Government Expenditures*, 83 HARV. L. REV. 705 (1970).

[7] *See* 1968 SEC'Y OF TREAS. ANN REP 322–41 for official discussion of the tax expenditure concept.

[8] *See, e.g.*, H. SIMONS, *supra* note 4.

[9] Bittker, *Accounting for Federal "Tax Subsidies" in the National Budget*, 22 NAT'L TAX J. 244 (1969); *contra*, Surrey & Telmuth, *The Tax Expenditure Budget—Response to Professor Bittker*, 22 NAT'L TAX —. 528 (1969). *See also* Bittker, *"A Comprehensive Tax Base" as a Goal of Income Tax Reform*, 80 HARV. L. REV. 925 (1967); Musgrave, *In Defense of an Income Concept*, 81 HARV. L. REV. 44 (1967); Pechman, *Comprehensive Income Taxation; A Comment*, 81 HARV. L. REV. 63 (1967).

[10] Table I is set out in section II C *infra*.

[11] 1968 SEC'Y OF TREAS. ANN. REP. 327.

[12] *Id.* at 326–30.

[13] *See, e.g.*, Surrey, *supra* note 6.

[14] H.R. REP. No. 91–413, 91st Cong., 1st Sess., pt. 1, at 8–12 (1969).

[15] *See* section II *infra*.

[16] *See* section III *infra*.

[17] *See* section IV *infra*.

[18] H.R. REP. 91–413, *supra* note 14, pt. 1, at 201–04.

[19] Tax Reform Act of 1969, § 802 [hereinafter cited as Reform Act], INT. REV. CODE of 1954, § 141.

[20] *See* section IV *infra*.

[21] *See* section V *infra*.

[22] Table I is set out at the end of this section II, *infra*.

[23] *See* Table I: item 25, exclusion of the imputed net rental value of owner-occupied housing; item 44, standard deduction; items 45 and 46, low income allowance; item 47, personal exemptions; item 60, capital gains treatment changes; item 61, minimum tax; item 62, trust rule changes.

[24] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 249.

[25] *Id.*

[26] *See* Table I, *infra*.

[27] *See generally* Pechmann, *supra* note 5.

[28] H.R. REP. No. 91–413, *supra* note 14, pt. 1, at 8–12.

[29] Reform Act § 301, INT. REV. CODE of 1954, §§ 56–58.

[30] *See* section II B(3)(a) *infra*.

[31] Reform Act §301, INT. REV. CODE of 1954, § 57.

[32] Reform Act § 301, INT. REV. CODE of 1954, § 58(a).

[33] The .0087 figure is calculated by dividing total income ($250,000) into the minimum tax ($2,171).

[34] Reform Act § 511, INT. REV. CODE of 1954, § 1201.

[35] Reform Act § 513(a), INT. REV. CODE of 1954, § 1211(b).

[36] Reform Act § 513(b), INT. REV. CODE of 1954, § 1212(b).

[37] Reform Act § 515, INT. REV. CODE of 1954, §§ 72, 402–03.

[38] Treas. Reg. § 1.421–6(d) (1959).

[39] Reform Act § 321, INT. REV. CODE of 1954 § 83.

[40] 157 F.2d 235 (2d Cir. 1946), *cert. denied*, 330 U.S. 826 (1947).

[41] Bell v. Harrison, 212 F.2d 253 (7th Cir. 1954).

[42] Reform Act § 516(a), INT. REV. CODE of 1964, § 1001(e).

[43] Reform Act § 804, INT. REV. CODE of 1954, § 1348.

[44] Reform Act § 804, INT. REV. CODE of 1954, § 1348(b)(1).

[45] Reform Act § 804, INT. REV. CODE of 1954, § 1348(a).

[46] Reform Act § 804, INT. REV. CODE of 1954, § 1348(b)(2)(B)(ii).

[47] 364 U.S. 361 (1960).

[48] Reform Act § 301, INT. REV. CODE of 1954, § 57(b).

[49] Reform Act § 221, INT. REV. CODE of 1954, § 163(d).

[50] Reform Act § 301, INT. REV. CODE of 1954, § 57(b).

[51] *See also* INT. REV. CODE of 1954, §§ 264–65, which limit the deductibility of interest paid on funds borrowed to buy tax exempt securities or to carry life insurance.

[52] Reform Act § 201, INT. REV. CODE of 1954, § 170(e)(1)(A).

[53] INT. REV CODE of 1954, § 170(e), as in force prior to the Reform Act.

[54] Reform Act § 201, INT. REV. CODE of 1954, § 170(e)(1)(B).

[55] Reform Act § 201, INT. REV. CODE of 1954, § 170(e)(2).

[56] Reform Act § 201, INT. REV. CODE of 1954, § 170(f)

[57] *Id.*

[58] Reform Act § 201(c), INT. REV. CODE of 1954 § 673(b).

[59] Reform Act § 201, INT. REV. CODE of 1954, § 170(b)(1).

[60] Reform Act § 201, INT. REV. CODE of 1954, § 170(b)(1)(D).

[61] Reform Act of § 703, INT. REV. CODE of 1954 § 49.

[62] Reform Act of § 521(a), INT. REV. CODE of 1954, §§ 167(j)–(k).

[63] Reform Act § 521(b), INT. REV. CODE of 1954, § 1250.

[64] Reform Act §§ 521, 704–07, INT. REV. CODE of 1954, §§ 165(k), 169, 184, 185, 187, and 263.

[65] Reform Act § 501, INT. REV. CODE of 1954, § 613.

[66] *Id.*

[67] A typical transaction would be the sale by an oil well owner of 25% of the proceeds to be received from the sale of oil from his oil well up to $10,000, with the sale price being discounted to take account of both the anticipated timing of the payments and the risk of interruption in production or payment.

[68] Reform Act § 503, INT. REV. CODE of 1954, § 636.

[69] For example, *A* might sell an oil property to *B* for $1,000,000, retaining an interest in 75% of the proceeds subsequently to be received from the sale of oil from that property, up to a maximum of $2,000,000; *A* simultaneously sells this retained interest to *C* for an amount discounted to take account of the anticipated timing of the payments and the risk of interruption in production or payment.

[70] *See* section II B(1) *supra*.

[71] The so-called phase-out of Low Income Allowance is a provision designed to ensure that the benefits of the Allowance accrue only to the poor. As more fully described below (section IV B *infra*), the Low Income Allowance has the effect of shielding from tax $1,100 of a taxpayer's income in excess of his personal exemptions. To limit the benefit of the Low Income Allowance to lower income groups, the Reform Act provided that the amount of the allowance in excess of whatever minimum standard deduction would have been available to the taxpayer prior to the Reform Act should be reduced as a taxpayer's income increased. This excess of the Allowance over the previously available minimum standard deduction was dubbed the Additional Allowance; and for every dollar that a taxpayer's income exceeded the sum of the Low Income Allowance plus applicable personal exemptions (a sum equalling $1,700 in the case of a single individual), this Additional Allowance was reduced by 50 cents. This reduction (dubbed the phase-out), was, however, only a transitional mechanism effective for 1970. For 1971 the phase-out reduction is only 6⅔ cents per dollar, rather than the 50 cents per dollar for 1970. For all years after 1971, the phase-out is eliminated, and the cost of its elimination is estimated at $2.027 billion more than three times the cost of the Low Income Allowance prior to the phase-out elimination. *See* note 151 *infra*.

[72] Due to the difference in base years, the magnitude of changes in tax expenditures resulting from the Reform Act is overstated. *See* note 74 *infra* for further explanation.

[73] These accomplishments should not be overlooked. By limiting the rate of tax applicable to earned income to 50% while eliminating the alternative rate of tax for capital gains over $25,000 and subjecting capital gains to the minimum tax, the Reform Act substantially narrowed the disparity between taxes imposed on capital gains and earned income.

[74] Except as noted below, the amounts shown in Table I for each tax expenditure are taken from the 1968 SEC'Y OF TREAS. ANN. REP. 322–41, and the amounts shown for the change in tax expenditure arising from the Reform Act are taken from H.R. REP. No. 91–413, *supra* note 14, or S. Rep. No. 91–552, 91st Cong., 1st Sess. (1969), or estimated from the foregoing reports and H.R. No. 91–782, 91st Cong., 1st Sess. (1969) as appropriate. Inasmuch as the amounts shown in the 1968 SEC'Y OF TREAS. ANN. REP. refer to the fiscal year 1968 and the amounts shown in the reports pertaining to the Reform Act are longrun estimates, the amount of charge in tax expenditure relative to the absolute amount of tax expenditure shown should be discounted to take account of rising tax revenues and expenditures. The following entries are not based upon the above-mentioned sources but upon the author's estimates: item 47, personal exemptions, and item 25, exclusion of the imputed net rental value of owner-occupied building.

[75] The figure of $1,005 million includes reduction in depreciation allowances with respect to housing depreciation which appears in item 26.

[76] This figure is also shown in item 24 under Community Development and Housing.

[77] *See* 1968 SEC'Y OF TREAS. ANN. REP. 322–41.

[78] *See* Keith, *An Assessment of National Housing Needs*, 32 LAW & CONTEMP. PROB. 209, 209–13 (1967).

[79] *See* C. RAPKIN, THE PRIVATE RENTAL HOUSING MARKET IN NEW YORK CITY (1965).

[80] P. DODYK *et al.*, CASES AND MATERIALS ON LAW AND POVERTY 1–3 (1969).

[81] KEITH, *supra* note 19, at 215–18.

[82] *See* Table I, section II *supra*, items, 23, 24, and 25.

[83] INT. REV. CODE of 1954, § 163.

[84] INT. REV. CODE OF 1954, § 164(a)(1).

[85] *See* Table I, section II *supra*, items 23 and 24. Estimates of tax loss are taken from 1968 SEC'Y OF TREAS. ANN. REP. 337.

[86] No official estimate of the tax loss arising from the exclusion of owner-occupied housing for any relevant period could be located. The author's estimate of $2.6 billion is based on the estimate made by R. GOODE, THE INDIVIDUAL INCOME TAX 120–30 (1964), and adjusted to 1968.

[87] This justification becomes increasingly difficult to maintain as the Treasury makes more and more inroads on the deductibility of interest in other contexts. *See* INT. REV. CODE OF 1954, §§ 163(d), 265.

[88] *See* R. GOODE, *supra* note 86, at 175–79.

[89] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 251. Including net lending, community development and housing expenditures for 1968 aggregated $4.076 billion.

[90] A taxpayer's marginal rate of tax is, of course, the rate of tax applicable to the last or highest dollar of income he received. Thus, under the rates in effect for 1970, a married taxpayer filing a joint return with a taxable income of $25,000 would pay $5,660 plus 36% of the excess over $24,000. Such a taxpayer's marginal rate of tax is thus 36%. The appropriate measure of the tax benefit to him of a deduction of $1,000 is the $360 in tax saved by reducing his taxable income from $25,000 to $24,000.

[91] Table II is set out at the end of section III.

[92] Table IV is set out in section IV C(1) *infra*.

[93] The amounts shown in Table II for real estate taxes and mortgage interest deducted are taken from INT. REV. SERV., 1968 STATISTICS OF INCOME 68, 71. The amount of the exclusion shown for the imputed rental value of owner-occupied housing was determined as described in note 86 *supra*. The amounts shown are for taxable returns only, the data being insufficient to distribute deductions appearing on nontaxable returns among the adjusted gross income classes. The figures shown accordingly exclude $427,694,000 of real property taxes and $471,136,000 of mortgage interest deducted on nontaxable returns. The amounts of excluded net rental value of owner-occupied housing have been distributed among adjusted gross income classes in the same proportion as real estate tax deductions. The revenue loss for real estate tax deductions, mortgage interest deductions, and exclusion of the imputed rental value of owner-occupied housing for each adjusted gross income class has been computed by calculating the average taxable income per return for each such class and multiplying the rate of tax applicable to such taxable income by the aggregate amount of deduction or exclusion shown for that class. The figures derived by such computations are significantly higher than those shown in the 1968 SEC'Y OF TREAS. ANN. REP. 340 and in Table I. The distribution of housing benefits among adjusted gross income classes is distorted by the above-mentioned exclusion of nontaxable returns and by disregard of the effect of the standard deduction. If one accepts the view that some portion of the revenue lost by virtue of the standard deduction is properly attributable to the real estate tax and mortgage interest deductions in lieu of which, *inter alia*, the standard deduction is taken, some adjustment of Table III would be required, for inclusion of some part of the standard deduction would doubtless increase the relative amounts of housing aid accruing to the lower and the lower-middle adjusted gross income classes.

[94] "It is almost unanimously agreed that some exemption keyed to at least a minimum subsistence standard of living is desirable." Blum & Kalven, *The Uneasy Case for Progressive Taxation*, 19 U. CHI. L. REV. 417, 420 (1952).

[95] A single taxpayer with an adjusted gross income of $667 would be entitled to take a standard deduction of $67 and a personal exemption of $600, thereby reducing his taxable income to zero.

[96] INT. REV. CODE of 1954, § 141.

[97] HOUSE WAYS AND MEANS COMM., 91st Cong., 1st Sess., UNITED STATES TREASURY DEPARTMENT, TAX REFORM STUDIES AND PROPOSALS (Comm. Print 1969).

[98] *Id.*, pt. 1, at 74.

[99] *Id.*

[100] *Id.*

[101] H.R. REP. No. 91–413, *supra* note 14, at 204.

[102] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 209.

[103] Figures for the "Post Reform Act Taxability Threshold" and the "1966 H.E.W. Poverty Threshold plus 6%" columns are taken from H.R. REP. No. 91–413, *supra* note 14, at 204, 206.

[104] 1964 COUNCIL OF ECONOMIC ADVISORS ANN. REP.

[105] Orshansky, *Counting the Poor: Another Look at the Poverty Profile*, 1965 SOCIAL SECURITY BULL. 3, 6.

[106] *Id.*

[107] *Id.* at 5.

[108] *Id.* at 10.

[109] *Id.* at 7–9.

[110] Orshansky, *Who Was Poor in 1966*, in CHILDREN'S ALLOWANCES AND THE ECONOMIC WELFARE OF CHILDREN 20–21 (E. Burns ed. 1968).

[111] It is, of course, "normative"—that is, an attempt to state the quantity of funds a family should have to meet minimal standards of health and common decency—to the extent that it is based on the Department of Agriculture's nutritional standards.

[112] "Post Reform Act Taxability Threshold" figures are taken from H.R. REP. No. 91–413, *supra* note 14, pt. 1 at 204; "New York State Maximum Welfare Budget" figures were obtained from the New York City Human Resources Administration.

[113] Rev. Rul. 68–38, 1968–1 CUM. BULL. 446; Rev. Rul. 57–102, 1957–1 CUM. BULL. 26; I.T. 3447, 1941–1 CUM. BULL. 191–92.

[114] TAX FOUNDATION, TAX BURDENS AND BENEFITS OF GOVERNMENT EXPENDITURES BY INCOME CLASS, 1961 & 1965, at 14, 24. To compare the relative impact of different federal taxes on the poor, of course, requires certain assumptions concerning the incidence of indirect taxes, and these assumptions may be questioned. Without arguing the point, it

should be noted that the impact of the different taxes shown in Table V assumes that excise, customs, and payroll taxes fall on the consumer and that corporate taxes fall equally on the consumer and the shareholder.

[115] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 251.

[116] TAX FOUNDATION, *supra* note 114, at 14, 24.

[117] 1970 COUNCIL OF ECONOMIC ADVISORS ANN. REP. 257.

[118] J. PECHMAN, FEDERAL TAX POLICY 275 (1971).

[119] The $6.2 billion figure is taken from Table VII and derived as described in note 93 *supra*. For the reasons there stated, this figure is significantly higher than those shown in the 1968 SEC'Y OF TREAS. ANN. REP.

[120] *See* items 54–59 of Table 1, section II C *supra*.

[121] Table II is set out in section III *supra*.

[122] The amounts shown in Table VII for real estate taxes, general sales taxes, state and local income taxes, and total taxes are taken from INT. REV. SERV., 1968 STATISTICS OF INCOME 68. *See* note 93 *supra*, for explanation of the derivation of the revenue loss by adjusted gross income class. The "Total Taxes" column includes taxes other than those detailed in the previous three columns: the table consequently does not "cross-foot."

[123] This is the amount of revenue loss anticipated to accrue to taxpayers recognized by the Congress as poor by virtue of the Low Income Allowance. *See* item 45 of Table I, set out in section II C *supra*. It should be noted that since the Congress defined the target class to be benefitted by the Low Income Allowance in an excessively restrictive fashion but at the same time allowed all taxpayers to claim the benefit of the Low Income Allowance, some portion of the $2.027 billion in revenue lost due to elimination of the phaseout (item 46 of Table I) will accrue to persons who by any reasonable definition are deprived.

[124] P. DODYK, *supra* note 80, at 1–3.

[125] *Id.*

[126] *Id.* at 2.

[127] *See* section IV D *supra*.

[128] It would be possible to integrate into the Internal Revenue Code a transfer mechanism that would pay over to the poor taxpayer the difference between the amount of his housing expenditure and a certain percentage of his income, subject to whatever limitations might be thought appropriate. For example, the program might be designed to pay to the deprived taxpayer the amount by which his housing costs exceeded 25% of his income up to a limit of $250 per family member per year. A family of four with an income of $3,000 paying $1,200 annually in rent would then receive $450 (*i.e.*, $1,200–[.25 x $3000]).

[129] That is, the tax relief and housing subsidy possibilities mentioned above. *See* section IV D and note 128 *supra*.

[130] *See* note 113 *supra*.

[131] INT. REV. CODE OF 1954, §§ 37, 151 (c).

[132] *See* item 27 of Table II, section II C *supra*.

[133] INT. REV. CODE 1954, §§ 104 and 105; *see* item 29 of Table I, section II C *supra*.

[134] I.T. 3230, 1938–2 CUM. BULL. 136–37; Rev. Rul. 55–652, 1955–2 CUM. BULL. 21; *see* item 30 of Table I, section II C *supra*.

[135] Rev. Rul. 54–19, 1954–1 CUM. BULL. 179; *see* item 31 of Table I, section II C *supra*.

[136] Rev. Rul. 57–102, 1957–1 CUM. BULL. 26; *see* item 32 of Table I, section II C *supra*.

[137] *But see* Rev. Rul. 56–249, 1956–1 CUM. BULL. 486; *see* item 38 of Table I, section II C *supra*.

[138] INT. REV. CODE of 1954, §§ 401–07, 501; *see* item 33 of Table I, section II C *supra*.

[139] INT. REV. CODE of 1954, §§ 401–07; *see* item 34 of Table I, section II C *supra*.

[140] INT. REV. CODE of 1954, §§ 801–20; *see* item 40 of Table I, section II C *supra*.

[141] TAX expenditures taken from 1968 SEC'Y OF TREAS. ANN. REP. 322–41.

[142] Of all transfer payments made in the United States, only about 50% reach the poor. *See generally* C. GREEN, NEGATIVE TAXES AND THE POVERTY PROBLEM (1967). Green's estimates of the proportion of Social Security and other transfer payments accruing to the needy is based on 1961 data.

[143] *See* section IV C(1) and text accompanying notes 124–26 *supra*.

[144] The simplest program of transfer mechanisms designed to assure acceptable minimum standards of income would pay to the needy individual the difference between his income and such minimum standard. However, for all individuals whose employment brought them an income less than or approximating this standard, the prospect of receiving the same income without working might prove an irresistible temptation to lassitude. Consequently, most proposals designed to assure acceptable minimum standards of income also incorporate provisions designed to encourage employment by permitting the taxpayer to retain some portion of the government payment, even though such payment, when added to that person's earnings, would result in his receiving more than the minimum income established by the standard. A typical example of such provision would reduce the government payment by $1 for every $2 received through employment. Such a policy would encourage the retention of employment, but would involve substantial costs in excess of the so-called poverty gap.

[145] *See* P. DODYK, *supra* note 80, at 305–17.

[146] Reform Act § 801, INT. REV. CODE OF 1954, § 151.

[147] *See* item 47 of Table I, section II C *supra*.

[148] Exemptions claimed taken from INT. REV. SERV. 1968 STATISTICS OF INCOME. *See* note 93 *supra* for explanation of the derivation of the revenue lost by adjusted gross income class.

[149] A taxpayer with a family and an income of $10,000 receives a tax reduction equal to his marginal rate of tax multiplied by $625 for each dependent. However, a family with an income of $2,300 would receive no tax benefit because of dependent children, their income being fully shielded from tax by virtue of the husband's and wife's personal exemptions and their Low Income Allowance.

[150] *See* note 71 *supra* for an explanation of the "phase-out" and its relation to the Low Income Allowance. It should be noted that the $2.027 billion is an estimate of the revenue loss arising from elimination of the particular "phase-out" of benefits adopted by Congress as a transitional measure. That phase-out was the reduction of the Low Income Allowance by $1 for every $2 by which the taxpayer's income exceeded the congressionally adopted Taxability Threshold. Different patterns of phase-out would entail greater or lesser revenue losses depending on the degree to which the Allowance is reduced as income rises.

[151] Table X sets forth the distribution among adjusted gross income classes of the benefits of the Low Income Allowance. The revenue loss shown under the caption "Low Income Allowance" represents the loss of tax revenue by virtue of the Allowance being claimed by the poor (as defined by Congress). The revenue loss shown under the caption "Elimination of Phaseout" represents the loss of tax revenue by virtue of the programmed abolition of the reduction of the Allowance by $1 for each $2 by which the taxpayer's income exceeds the Reform Act's Taxability Thresholds. H.R. REP. No. 91–413, *supra* note 14, pt. 1 at 13. *See also* note 71 *supra*.

Mr. HOLLINGS. Mr. President, before directing my remarks specifically to the President's program and the bill at hand and in time my amendments, let me emphasize that I do not come with tears for the hungry poor. I come with economic sense and justice for all America.

Already tax experts steeped in the field have analyzed the pinch.

Already States within this Republic responding to this pinch have enacted specialized tax measures to really give for the first time relief to the needy.

During the past decade the States of Wisconsin, Minnesota, California, Vermont, and Kansas have all enacted the circuit-breaker tax.

These measures recognize the tax overload that has fallen upon aged citizens in the property tax field, that the real estate tax as a percentage of income on these senior citizens is far out of proportion to their ability to pay.

These tax measures are similar in principle to the circuit-breaker that prevents electrical overload.

My measure is not presented as a half-baked gimmick but one going to the heart of the problem, one that is economically sound, fiscally responsible and legal.

It promotes social justice as well.

Mr. President, any economic legislation which wins the imprimatur of the United States Congress should answer in the affirmative two central questions:

First. Is it fair?

Second. Will it work?

I submit today that the economic program put forward by the administration falls short in both respects. It is not the most efficient of the methods available. And in many important respects, it is not equitable. It is laced with intolerable favoritism.

Nobody faults the President for changing course. Lord knows how many of us stood in the well of the Senate and pleaded for new directions in policy. And some of the initiatives taken should command the support of us all. I supported the freeze, and I support the implementation of the Pay and Price Boards. I support the import surcharge. And I support the cut in Government spending, although not the discrimination against Government employees.

But from there on, I find the administration proposals contrary to good economic sense and contrary to elemental fairness toward the average American. I find the President seeking refuge—or escape—in the shopworn theories of the long-dead past. He is the prisoner of that old shibboleth—the percolator theory of economic progress. According to that dismal and long since disproved concept, the way to bring prosperity is to enrich the wealthy few at the top, and then sit back and wait until some of their money trickles slowly through to the rest of the people. When the captains of industry and the leaders of finance prosper, so the percolator has it, everyone will prosper. It is the old idea that "What is good for General Motors is good for the country."

The fact of the matter is that the President's economic proposals are blatantly probusiness. He has come forward with plans to grant tremendous tax concessions to business and industry, on the theory that if big business is stimulated, every other sector of the economy will prosper. That, Mr. President, is economic nonsense.

We all know that the tax bill is going

to contain some kind of investment tax credit. The administration asked for 10 percent; the committee bills of the Congress provide 7 percent. Now, it is all well and good to modernize our industrial plant. If our hoped for prosperity is to be thorough and long-lasting, the American industrial sector is going to have to do more in the way of increasing productivity. The investment tax credit can help business do that.

But it cannot bring prosperity of and by itself.

Today we are utilizing 73 percent of America's productive capacity. Twenty-three percent of our machinery stands idle. Almost 6 percent of the labor force walks the street in joblessness. The economy needs a quick shot in the arm. And it will not get that needed shot by increasing our productive capacity so that instead of 27 percent we can have 40 percent or 50 percent of our industrial capacity going unused.

The advocates of reinstituting the investment tax credit argue that it brought us prosperity in the Sixties. Economists know differently. It was only when the tax credit for business was combined with the tax cuts for individuals that the economy really took off.

Mr. President, I have long advocated a program aimed at stimulating consumer demand. The only thing which can get those factory furnaces fired again is the purchasing power of the consumer. As I heard a distinguished economist say the other day, "The quickest way to profits is through the stomach of the consumer." You can have all the latest machinery, all the fancy technology and push-buttons in the world—but unless Mr. and Mrs. Average American have an incentive to buy, the economy is in deep trouble. The sooner that both Mr. Nixon and big business learn that lesson, the sooner they will have the prosperity they desire.

So, Mr. President, while the investment tax credit can serve a needed purpose in helping the economy toward long-term growth, its immediate effects are inadequate to the task of restoring prosperity. In order to encourage business to take advantage quickly of the investment tax credit, I believe there should be a time limit on its duration. A limitation on the order of 2 to 3 years would add push and impetus to the credit.

Earlier this year, business received a depreciation windfall of $3.9 billion. When combined with the investment credit we are considering today, these two tax breaks provide too much favoritism for business. Most economists believe that the stimulus of the investment tax credit is more direct and speedier than the depreciation write-off. I agree. And I would like to see accelerated depreciation end. The $3.9 billion break could much more effectively be distributed elsewhere in the economy.

When you come right down to it, there is precious little for the average taxpayer in the new proposals. Except for the low-income allowance, the tax reductions provided in the bill before us are simply speedups of changes approved by Congress in 1969. And I would suggest that we look at that $300 increase in the low-income allowance a little more closely. What that does is establish that families living in poverty simply will not have to pay income taxes in 1972 and thereafter. That is all well and good, Mr. President—but as you know, that principle was agreed to 3 years ago. When you clear away all the rhetoric, you can see that for a family of four with an income of $4,300—the poverty level—this bill is only going to save that family $20 this year. As far as meaningful tax relief and an economic incentive to spend go, $20 is a drop in the bucket.

The Senate must consider more direct and more effective individual tax incentives. The case for a postponement in scheduled social security tax increases is overwhelming. The scheduled $7.5 billion increases for 1972 would just about wipe out the gains from all the other tax incentives.

Mr. President, as we tackle the immense problem of putting our economic house in order, it is of paramount importance to guarantee simple justice to all members of American society. We have been witnessing since the mid-sixties an unprecedented erosion of confidence in Government. This loss of faith has already cost us far too much. Should it continue, our institutions will not escape profound, and unwise, change. Confidence in Government is founded on trust. And trust, in turn, depends upon simple equity. Unless every citizen knows that his or her Government is dealing fairly and without favoritism, there will be mistrust in the land. That applies to economic policy as much as to any other realm of decisionmaking.

What the economy needs as much or more than anything else is a return to confidence. The best way to get that kind of confidence is to return to our citizens the fullest possible measure of buying power.

Today I am introducing proposals on behalf of a large segment of Americans completely forgotten in the President's economic package. I am talking about direct financial relief for the poor. For those who reap no benefit from income tax exemptions. For those denied work. For the 15 million hard-core hungry in America. In the halls of government, the compromises and tradeoffs have always been between the haves and have-somes. The have-nots have almost always been overlooked. It is time we do something about them. In doing so, we will also be prodding the economy and moving it forward.

My program focuses on three of man's most basic needs—food, shelter, and education. It would return cash to eligible households for expenditures made on these essential items. This will stimulate more demand for goods and services. And, in turn, the fires of our factory furnaces will be lighted again.

First, I propose a direct payment to each poverty household in the form of sales tax relief based upon the amount of sales taxes paid in the purchase of food. The impact of sales taxes is far greater for those with little income, since a greater percentage of their meager funds must be spent on life's necessities. Indeed, in 1965, sales taxes took a 6.1-percent bite out of family incomes that were under $2,000, whereas a family making above $15,000 pays only about 1 percent in sales taxes. That is economic discrimination of the worst kind. It is unjust. And it makes no economic sense, either. A detailed explanation of the mechanics of this proposal accompanies the text of my amendment, and I ask unanimous consent at this time that both the amendment and the text of the explanation be included at the end of my remarks.

Mr. President, 30 months after the President's promise to end hunger in America, 45 percent of the poor remain unserved by a family feeding program. Two Thanksgivings after the President's promise to provide free or reduced-cost school lunches, nearly 2 million children are left without food. In denying them food, we break their human spirit. And we also wreak untold harm on the American economy.

Second, I will propose property tax relief to every poor household to reimburse it for State and local property taxes paid either as a homeowner or as a renter. The property tax is universal. It is also inequitable, falling hardest upon the poor. Families with incomes in excess of $15,000 require only 1.4 percent of their income to meet property taxes. Families whose income falls under $2,000 are compelled to spend an average 8.5 percent of their scarce dollars on property taxes. And over 3 million low-income homeowners pay over 10 percent of their incomes in property taxes.

Some States have already taken steps to provide property tax relief for the elderly. Five States—California, Minnesota, Wisconsin, Vermont, and Kansas utilize what is called the "circuit breaker" approach. Just as a mechanical circuit breaker prevents electrical overload, so does the circuit breaker I propose prevent a tax overload on the poor.

The property tax rebate would be equal to the State and local amount actually paid by homeowner households. We know also, of course, that persons who rent pay property taxes indirectly. So for those who pay rent, the relief would be calculated as 20 percent of their annual rental payments. A household of four paying $80 a month rent—$960 a year—would receive a $192 payment. I shall include a phase out provision, whereby the relief payment for sales and property taxes would be reduced by 50 cents for every $1 in income over the poverty level.

Third, I will propose tax relief to American families in the form of partial reimbursements for the cost of providing a child's trade school or higher education. A tax credit would be given for part of the expenses incurred for a dependent's schools tuition, books, and equipment. The credit would be calculated on a sliding scale with a $325 maximum. Should the credit exceed the tax liability, a positive payment would be made to the taxpayer.

The sliding scale favors those whose children attend low-tuition schools, because credit is given on a maximum $1,500 as follows: 75 percent of the first $200, 25 percent of the next $300, and only 10 percent of the remainder. To illustrate, a family earning $4,000 and

spending $300 to put a child through trade school or college would receive a $175 credit. Seeing this family has no income tax liability, it would receive a payment in that amount. A family earning $15,000 and paying $1,200 toward a child's higher education would receive a credit of $295.

A similar provision has passed the Senate on two previous occasions. The most recent was in December 1969, when the distinguished Senator from Connecticut (Mr. RIBICOFF) sponsored it as an amendment to the Tax Reform Act. Regrettably, it was deleted in conference.

In the future, Mr. President, I would like to see us go far beyond the programs for education that we now have. I believe nobody should be deprived of an education because of financial inability to pay. I believe that every young man and woman with the desire to learn is entitled to a paid education. It is time to take the dollar sign off the development of the next generation's brains. It is time to guarantee free higher education to all.

The three specific measures which I will introduce would pump something on the order of $3.5 billion back into the economy. They put money into the hands of those who need it most and who are most likely to spend it, thereby giving an immediate shot in the arm to our ailing economy. I should also point out that these programs in no way interfere with State and local tax collections or revenue sources. The tax relief envisioned would come through payments on the Federal level.

My program meets the two crucial tests mentioned at the outset. Will it work? Yes. It is based on our real economic needs, and addresses itself to the critical problems of underconsumption and underutilization of our economic resources. Is it fair? Yes. It gives everyone a break and avoids the shameful favoritism running through the administration tax proposals. It recognizes that the backbone of America is still the little man—just as it has always been the little man.

The promise of America—the promise which uprooted 40 million people and brought them across the oceans to a new land—was liberty and justice for all. That is really what we are discussing today as we confront the parceling out of economic benefits. In the practical world of economics, a society's professed values and ideals are confronted and tested. I hope that in the decisions we take here in Congress, our deeds will match our rhetoric. The American people hope so, too.

Mr. President, the President's recommendations of August 15 almost become a matter of law. When he talks about automobile excise taxes, investment tax credit, accelerated depreciation, increasing the income tax exemptions and everything else, it almost automatically goes to the House Ways and Means Committee without any real chance of debate. All amendments almost automatically are passed by the House of Representatives. Then they are acted upon by the Finance Committee here. And for the first time on the floor do we have a chance to submit amendments to try to get for the poor of America some money which may go as a result immediately into consumerism or into the economic bloodstream.

Let me emphasize the number of poor families that this would immediately have an impact upon, because so often we miss the fact that we have in this country over 3,377,300 families—that is 6.7 percent of all families—who make under $2,500 a year. That is $200 a month. That comprises more than 10 million persons.

Let me emphasize this point. This is not a tax cut. We will hear all of the arguments about the cost of this measure and the deficit, I am sure.

We will say, "How will we balance the budget?"

I do not believe the President, when he spoke on television, was trying to balance the budget. He was trying to find out how to spread around $30 billion in the economy to get it moving. We spread it around.

On the one hand, he said:

We will have a surcharge tax to help domestic industry. However, to make sure we help the multinational corporation, we will pick up $1 billion and put it in the direct sales thing. Then we have the investment tax credit.

Former Senator Everett Dirksen, the former distinguished minority leader, had something to say to this on July 30, 1969, a little over 2 years ago.

I was sitting in the Chair when former Senator Dirksen said that it was one of the worst things we had on the books, referring to the investment tax credit. He said that the Finance Committee had had extensive hearings and found that this was contributing more than any one thing to inflation.

When we get to the particular proposal of the President, he characterizes it as job development. Business also gets accelerated depreciation because they say they want to keep industry moving and they want to get the economy moving.

I will support the President in his economic mission. I will support the President's surcharge. I will support him in his restriction on salaries. I will support him in his cutting of Government employees. I will support the investment tax credit.

Mr. President, this whole thing is best exemplified by an article published in yesterday's Washington Post written by Walter Heller, Chairman of the President's Economic Advisory Council from 1961 to 1964.

He expresses my feelings on this particular score of investment tax credit and other economic measures taken by the President.

As Mr. Heller said in his article:

For better balance in the tax bill and to protect the revenues for the longer pull, the Senate should drop the depreciation liberalization (ADR's) completely and limit the 7 percent investment credit to a 2 or 3 year period.

Mr. President, I ask unanimous consent that the entire article by Mr. Heller be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 14, 1971]

HELLER: EXPANSION A MUST

(By Walter Heller)

(NOTE.—Dr. Heller, a former Economic Council chairman under Presidents Kennedy and Johnson, wrote the following article at the request of The Washington Post. He presently is professor of economics at the University of Minnesota).

Conventional economic wisdom associates stimulation of demand with an increase in inflationary pressures. The fear of these pressures has perhaps stayed the hand of the White House in its new economic program. Why else would it have accompanied its bold wage-price and international monetary initiatives on Aug. 15 with such a weak-kneed program of fiscal stimulation?

The wait-and-see attitude at the Federal Reserve Board may also reflefict a fear of rekindled excess demand inflation—wait and see if that $100 billion year really develops without moving from a supportive to an aggressive policy of monetary expansion.

The traditional answer to the "take-it-easy, inflation-is-just-around-the-corner" approach to economic expansion is based on the existing $70 billion GNP gap, 6 per cent unemployment, and 73 per cent operating rates in manufacturing. With this much slack, and no bottlenecks in sight, rising demand will express itself in rising output, more jobs, and higher incomes, not in higher prices.

At a time when excess demand is $70 billion away—a time when it will take three consecutive annual $100 billion advances in GNP just to catch up once more with our economic potential—bold fiscal and monetary expansion carries little risk of inflation.

But to argue that economic slack will keep expansion from being converted into inflation is essentially a passive or negative argument. Less well understood is the positive argument that, given reasonably effective wage-price restraint in Phase II, strong expansion will actually help subdue inflation. Strong expansion will generate the rising productivity that provides the vital grist for the mills of the Price Commission and the Pay Board in grinding out a more moderate price and wage yardsticks as Phase II progresses.

Rising demand and rising output in today's slack economy quickly translate into rising output per man hour. Overhead costs are spread thinner. As more units of output are produced with the same machinery, equipment and plant, and without a carresponding increase in payrolls, average unit costs of output will fall.

Left to themselves, producers would be sorely tempted to capture most of this productivity surge in higher profits and higher wages, sharing little of their gains with consumers. The genius of an effective incomes policy, of successful Phase II wage-price restraints, will be to nudge business and labor into sharing their gains with consumers and thus convert rising output into receding inflation.

Within broad limits, the more rapidly output rises, the larger will be the productivity advance that the Price and Pay boards have to play with, i.e., to use in setting tough standards for prices and wages without unduly squeezing business profits and labor earnings.

For example, if productivity advances at a 4 per cent clip in 1972, the Pay Board's 5½ per cent yardstick for average pay advances would imply an increase in average unit labor costs of 1½ per cent. But if recovery lags and productivity crawls ahead at only a 2 per cent rate, a 5½ per cent wage standard would imply a 3½ per cent increase in unit labor costs, thereby making it far more difficult for the Price Commission to clamp a tight lid on prices.

On the more optimistic assumption of a 4 per cent productivity advance, converted into a tighter price yardstick and a consequent easing of inflation during 1972, the Pay Board would have less cost-of-living catch-up to build into its 1973 yardstick. It could then lower the 1973 pay standard a notch toward the 3 per cent trend growth in productivity.

In short, since productivity is the name of the game, rapid expansion is vital to the success of Phase II. And, in turn, success in Phase II with translate into more consumer and investor confidence and hence a stronger expansion.

Another vital interlock of expansion is with our international monetary and trade negotiations. On one hand, a successful reordering of exchange parities and a relaxing of trade barriers can make an important contribution to sound economic recovery. But again causation runs the other way as well. How can we expect our trading partners to bear the economic brunt of more expensive exports to us and cheaper imports from us unless we soften the blow by vigorous expansion of U.S. demand?

Given the current softness of many foreign economies, negotiations that will cut their exports and boost their imports are generating great unease and trepidation. To create an atmosphere within which our trading partners can come half way or even more, we must be able to assure them that vigorous U.S. economic expansion will offset much of the adverse trade effect of renegotiated parities and lowered trade barriers.

In other words, U.S. negotiators have to be able to hold out the prospect of a strong favorable income effect as a short-run offset to the negative price effects of U.S. initiative.

Give these imperatives, both the Price Commission and the Pay Board, not to mention our international monetary and trade negotiators, should exact a firm "do-all-possible" pledge from the administration and the Federal Reserve System to assure speedy economic recovery in 1972. With much of the economy other than autos and housing still listless, the President should be calling on the Congress to step up the temporary tax relief in the bill which is now before the Senate.

The Senate should sharply enlarge personal income tax relief. Without compromising federal revenues in the longer run—when they will be needed for high-priority social uses and for the renewed battle against demand inflation when we reach full employment—a temporary tax reduction—for example, a "recover tax credit" of perhaps $100 per married couple—should be enacted for 1972.

This would add another $5 billion to disposable income, thus energizing consumer spending and putting some of our grossly underutilized industrial capacity (roughly a quarter of our manufacturing capacity is idle today) back to work.

Side-by-side with this action, the Congress should declare a moratorium on further payroll tax increase. What economic sense does it make to cut income and automobile taxes to stimulate the economy and then let $7½ billion in new payroll tax hikes in 1972 ($3 billion already in the law plus $4½ billion on the way via H.R. 1) to nullify much of the stimulative effect?

For better balance in the tax bill and to protect the revenues for the longer pull, the Senate should drop the depreciation liberalization (ADR's) completely and limit the 7 per cent investment credit to a two- or three-year period.

In short, bolder expansionary policy is not only the fastest way to generate the jobs we desperately need, boost labor earnings and profits, and create incentives to increase capital spending for new capacity—but given reasonable vigilance in our price and wage boards in Phase II, it will also be an effective engine of disinflation.

Mr. HOLLINGS. Mr. President, I would go next to the property tax reimbursement.

PROPERTY TAX REIMBURSEMENT

The property tax reimbursement provides tax relief to every household whose income is at or below the officially defined Census Bureau poverty level.

As with the food sales tax reimbursement, it would take the form of an annual payment through the Internal Revenue Service.

The payment would be equal to the State and local property taxes actually paid by homeowner households.

We all know that persons who rent pay property taxes indirectly.

Therefore, for those who pay rent, the tax relief would be 20 percent of their annual payments. The article published in the Columbia University Law Review that I just had printed in the RECORD speaks very eloquently on this point.

In operation, this proposal would mean that a household of four paying $80 in rent per month—$960 per year—would receive payment of $192.

The property tax is universal.

It accounts for more than one-fourth of all revenues raised by State and local governments from their own sources.

But its impact is inequitable, falling hardest upon the poor.

Families with over $15,000 in total annual income require only 1.4 percent of their income to meet property taxes.

Families whose income is less than $2,000 are compelled to spend an average 8.5 percent of their meager incomes on property taxes, while 3.1 million low-income nonfarm homeowners actually are assessed over 10 percent of their incomes for this purpose.

To offset the regressive nature of the property tax, particularly where the low-income elderly are concerned, five States—California, Kansas, Minnesota, Vermont, and Wisconsin—have adopted so-called "circuit-breaker" statutes.

These statutes provide a variety of income tax credits or rebates for elderly homeowners, and in some instances renters, whose incomes fall below fixed levels.

In no case, however, is full relief granted.

In other attempts to protect impoverished homeowners from property loss due to nonpayment of taxes, seven States have homestead exemptions and 16 States have a modified homestead exemption tailored to veterans, frequently limited to the disabled.

However, none of these methods is free of discriminatory characteristics.

The Advisory Commission of Intergovernmental Relations advocates the "circuit-breaker" approach as introducing "a badly needed element of modern economic realism and social justice into the administration of the property tax."

There is no reason for not extending such relief to a widow with a houseful of children or an unemployed father with a family since they, too, are forced to carry extraordinary residential tax loads in relation to their income.

The 20-percent figure assigned in connection with rent was selected to guarantee all renters relatively complete relief.

At the same time, calculation of the relief would be administratively simple.

The Wisconsin "circuit-breaker" law assumes that 25 percent of the rental payment goes for property taxes, while the other four States apply the 20-percent factor.

Assuming that all eligible households apply, this form of tax relief would total approximately $1.25 billion.

This projects an average rent for a family of four of $80 per month, or slightly over $190 in annual relief per family.

Written into the property tax reimbursement is a phaseout provision. Under it, the relief payment for the property taxes would be reduced by 50 cents for every $1 in income over the poverty level.

Mr. President, our amendment, No. 654, is the first proposal to help the really hardcore poor of America and reimburse them for taxes paid in accordance with the principle of our law, the principle of our economy, and the principle of our tax practice in this country, adopted and practiced over the years, but never applied to the poor.

Only 2 percent of the Federal income tax burden do the poor carry in America. Therefore, at this particular level it is difficult for us to grapple with the 2 percent.

I think the President has a good family assistance program. A number of Senators on both sides of the aisle have cosponsored revenue sharing to the States and localities for the very same reason. What we are doing is initiating revenue sharing for the poor of America on a merit basis without disturbing the tax base of the local community or the States themselves and without any real impact to the Federal Treasury, but with a tremendous impact to President Nixon's economic proposal before Congress at this time, because it really promotes consumerism more directly than any other measure proposed.

Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, will the Senator yield to me for 15 minutes?

Mr. LONG. I yield 15 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, this proposal was presented to the Committee on Finance and we did not accept it for a number of reasons that seemed very convincing to us.

The Committee on Finance has before it H.R. 1, a bill to amend and improve the welfare program. We will take up that bill as soon as this bill is finally passed. This amendment, if agreed to, probably would make it difficult, if not impossible, for significant welfare amendments to be adopted in that bill because this amendment would cost $1.7 billion. If that much is going to be used for the benefit of the poor people of this country through this kind of device, then obviously we must reduce the amount we could give to them through a more orderly welfare program by a similar amount.

I know one of my colleagues apologized this morning for $1 billion, say-

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ing that it is only $1 billion but it is better than nothing. This is $1.7 billion, and it could have a very serious effect on our ability to handle the welfare program.

Second, the benefits of the amendment will be applied on a highly inequitable and unfair basis. I suppose my friend, the Senator from South Carolina, did not realize this, but under many State welfare laws every dollar a welfare recipient receives as a result of this program must be deducted from his present welfare payments. So the amendment would not be increasing his income but just shifting the sources of it.

There are 14 States in which if a person received $100 under this program, he would lose a full $100 of welfare payments. Those States are Colorado, Connecticut, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, North Dakota, Pennsylvania, Rhode Island, South Dakota, and Vermont. In the other States he would lose somewhat less than the full $100. The people who live in Mississippi would come off better than anyone else. They would be able to keep 70 percent of their $100 and would only lose $30. But everybody who receives money under this program would lose part of it immediately because under the law it would cause reductions in the person's welfare payments.

Another thing that bothers me about the proposal, and is evident to me that it is unfair, is that it proposes to reimburse the individual for the amount of money paid for State sales taxes on food. If I remember what the Senator said, there are 20 States that have no sales taxes on food. So, in these cases, the Federal Government would be giving these people money they never paid out, a pure windfall, while people who live in States that have paid sales taxes on food would only be reimbursed for all or part of what they have actually paid out.

The Senator assumes, in figuring the tax in those States where there is no sales tax that it should have been 4 percent, so he would "reimburse" the nonexistent tax at a 4-percent rate for food purchases. But what about a man who lives in a State where the tax is 3 percent? He actually paid that out but he would not get back as much as his neighbor in the next State who paid out nothing.

Then the Senator proposes to reimburse a person's property taxes, or if a family lives in rented property, they will be reimbursed for 20 percent of the rent they pay, excluding charges in the rent for facilities and services.

Mr. President, can you imagine the problems of a person who has to sit down and figure how much of his rental charge is for heat, how much is for water, how much is for electricity. He must figure this out because he is not going to be reimbursed for those expenses.

This is a problem that the ordinary taxpayer is going to have a great deal of difficulty figuring out. Moreover, for the first time many of these people will have to file what, in effect, is a tax return in order to get the payment. They do not now file Federal income tax returns. They have not had experience in filing returns. In fact, in recent years, and in this bill, we have eliminated the necessity for many, many low-income people to file tax returns. Now, the Senator, in effect, proposes to undo all this and require all those low-income people to, once again, have to file returns.

We have heard a lot said about the people who make a living making out tax returns and that sometimes their charges are unreasonable. This amendment would create an interesting new field in which they can operate and probably would have to operate because of the competition problems involved for the person on welfare who has never filed an income tax return and is now supposed to figure out how much of his rent is for services which are apart from the actual privilege of living in the building, such as heat, water, and electricity.

It also would seem to me that if this proposal were agreed to then, since local property taxes paid directly or indirectly by low-income taxpayers will be reimbursed by the Federal Government municipalities are going to say: "Let us double these property taxes. We will get twice as much money, but it won't cost our low-income taxpayers anything.

Mr. President, it seems to me that it is amply clear that there is no equity in this kind of proposal. Admittedly these low income people need help. Our committee expects to try to figure out the best way to provide them with help, but this is not the best way; it is arbitrary, it will produce different effects between people earning the same amount of money in different States and it will be a terrible thing to administer.

Imagine the job of checking all these statements of all these poor people with respect to how much of their rent is for water and heat or any other service. Think how much of a job it will be to find out whether the figure they present as 20 percent of their rent is in fact 20 percent of their rent not counting the types of items I mentioned.

These were the reasons, among others, why the committee decided not to add this provision to the tax bill when it was presented to us earlier. I hope the Senate will see it as we have been forced to see it, and not foreclose us from efforts to make proper improvements in the welfare program. Let us not kid these people into believing they are going to get a net increase in their income when actually what is paid to them must be offset against the welfare check they are now getting to the extent of between 30 and 100 percent.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD of West Virginia. Mr. President, will the Senator yield me 1 minute?

Mr. HOLLINGS. Mr. President, I yield 1 minute to the Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that immediately following the disposition of the pending amendment by Mr. BATH this afternoon, the amendment by Mr. MILLER dealing with a tax credit be called up; that time on that amendment be limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill; provided further that debate on any amendment thereto be limited to 10 minutes, and that debate on any motion or appeal, with the exception of nondebatable motions, be limited to 10 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the disposition of the amendment by Mr. MILLER, the amendment by Mr. HARRIS be called up, and that time for debate thereon be limited to 30 minutes to the side, to be controlled equally by the mover of the amendment and the manager of the bill; provided further, that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill. By way of identification of that amendment, it would extend the most-favored-nation status to all countries with which we have diplomatic relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at such time as the amendment by Mr. ROTH is called up and made the pending business, there be a limitation of 2½ hours on that amendment, to be equally divided between the mover of the amendment and the manager of the bill; provided further, that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, may I have 1 minute to address a question to the Senator from West Virginia?

Mr. BYRD of West Virginia. Yes.

Mr. BENNETT. In adding these additional amendments to the list of the Senator from West Virginia and then talking about how we would start in the morning, the Senator did not mean to assume that we would be handling all these amendments tonight, did he?

Mr. BYRD of West Virginia. It is the intention of the leadership to continue until a reasonably late hour tonight and, hopefully, to act on all the amendments I have enumerated, with the exception of the amendment by Mr. ROTH.

Mr. BENNETT. Has the acting leader timed that out?

Mr. BYRD of West Virginia. Yes; it would be in the neighborhood of 8:30 or 9 o'clock if all time is used on the amendments. I do not think all time will be used on the second amendment to be offered by the distinguished Senator from South Carolina.

I ask unanimous consent that on the amendment to be offered by Mr. PERCY, cosponsored by Mr. WEICKER, there be a limitation of 3 hours, to be equally divided between the mover of the amendment—either of the two Senators—and the manager of the bill; provided, further, that time on amendments thereto be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill; and the same request with regard to motions or appeals, except nondebatable motions. When I say "the same," I mean the same request as with respect to amendment in the second degree.

Mr. PERCY. Mr. President, reserving the right to object—and I do not intend to object—for the purpose of clarification, would it be the intention of the leadership that the amendment be laid before the Senate tonight?

Mr. BYRD of West Virginia. Yes.

Mr. President, I ask unanimous consent that the amendment by Mr. Percy be laid before the Senate tonight at the close of business.

Mr. BENNETT. Mr. President, would that put the Percy amendment ahead of the Roth amendment?

Mr. BYRD of West Virginia. It would.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I want to congratulate the majority whip for the assiduous way in which he has been expediting the consideration of the amendments, but I was wondering if he could tell us when we might be able to get to third reading of this bill, the way we are going.

Mr. BYRD of West Virginia. Mr. President, I think the manager of the bill would be in a better position to answer that question. I would only hope that we could finish the bill tomorrow, or no later than Wednesday.

Mr. President, I ask unanimous consent that the last 2 minutes not be charged to the Senator from South Carolina.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECOGNITION FOR SENATOR PROXMIRE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the recognition of the two leaders on tomorrow, the distinguished Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. HOLLINGS. Mr. President, I would like to ask my distinguished colleague from Utah if it is the Senator's position that he supports the President's proposal on the family assistance plan? Is that the Senator's position? Does he oppose this proposal so we can go to work on the family assistance plan?

Mr. BENNETT. The Senator from Utah supports the objective of the family assistance plan and states that the committee should be able to work out a practical program to accomplish that purpose. The Senator from Utah is not particularly wedded to the details of the President's family assistance plan

Mr. HOLLINGS. How could this amendment interfere with the objectives of the President's family assistance plan? How would it interfere with that program in any way?

Mr. BENNETT. It would take away and commit $1.7 billion we might consider using for an orderly and equitable program of welfare reform.

Mr. HOLLINGS. Is it not the President's position, "Mr. Congress, you delay on welfare reform for 18 months. That is the way to get me by the election next year. Then bring it up"? Then when it comes up, I believe the Senator from Nebraska (Mr. CURTIS) asked in the Finance Committee how long it would take to get this razzmatazz program going, this really ominous program, which would take 80,000 employees, and it would be 18 months before they could pay the first check?

Is it the Senator's position that we ought to hold it up until that program is put into operation before we would have tax reform for the hungry and poor of America?

Mr. BENNETT. The reason for my opposition is that the suggestion made by the Senator from South Carolina is inequitable and uneven; in many cases it would not deliver the benefits it was thought to deliver. The Senator from Utah is opposed to it on the ground that it is not a satisfactory solution to the problem.

Mr. HOLLINGS. Well, I listened with interest to the Senator from Utah and went down as close as I could. I heard the Senator say it was unfair, inequitable, and that it would make it difficult to get something for the welfare recipient and the hungry and poor of America 2 years from now. The property tax, by the way, he said, was very, very difficult to understand. In fact, they were too dumb to figure it out. In fact, they would never get it figured out. When you thought of it, it would be the first time they would have to file a return. The Senator from Utah said it would be a terrible burden for the husband and wife to fill out the form showing what they paid on sales taxes on food. All they would have to do would be to give the income level and what the family size was, but he said it would be a terrible thing to fill out and a terrible thing to administer. They have these computers to figure out these involved tax returns, but when it comes to the hungry and the poor, with a very simplified problem, he says it is too complex.

Let me comment on how it works, because I have placed on each Senator's desk how I tried to work it out just as simply as I could.

I will be glad to yield to the Senator from Utah. Did he have a question?

Mr. BENNETT. No, I am just listening.

Mr. HOLLINGS. All right. Assuming that a family of four, two parents and two schoolchildren, live in a 4-percent sales tax area, pay a rent of $90 a month, $1,080 a year. The 1970 poverty level is $3,970; in 1971 it will be approximately $4,050. Under the low-cost food plan given by the Department of Agriculture, their food allowance would be $137.60 a month, or $1,651.20 a year.

You would be amazed how the hungry poor can learn that pretty quick. They have got a lot of friends around, all over, welfare recipients and otherwise, Government employees, assistants, and volunteers, that would help them figure that out right quick like in January. The food sales tax reimbursement would then be 4 percent of $1,651.20, or $66.04.

The property tax would depend essentially on the rent, without all the utilities—heat, light, water, and the other payments. We can take the rental payment at a 20-percent level, which would be 20 percent of the rent paid by the hungry poor; I do not know of any of them that do not own or rent, at least a little shack of some kind. All they would have to do is state how much they paid in tax on a home they own, or how much rent they paid. The IRS would take 20 percent of their rental payment, $1,080 in my example, and the property tax reimbursement would be $216. The total payment that this poor family would receive would be $282.04.

Mr. BENNETT. Maybe I misunderstand the Senator.

Mr. HOLLINGS. Yes.

Mr. BENNETT. But when I pay rent, I also receive for that rent electricity, heat, and water.

M. HOLLINGS. And, of course, in the slums they do not get any of it.

Mr. BENNETT. The Senator says, as I understand it, that the 20 percent of rent reimbursement must be minus those things.

Mr. HOLLINGS. Right.

Mr. BENNETT. So you cannot just say arbitrarily that you take their rent and reimburse 20 percent of it. From the rent they have to deduct the figure representing the value of the heat, the electricity, the water, or whatever else they get for their rental payment in addition to the lodging.

Mr. HOLLINGS. My distinguished friend from Utah and I met early this morning in Cleveland Park. These people we are talking about do not live in Cleveland Park. They are down in the slums. They have got to pay that man the rent. They know what the rental payment is, and they have got to pay him that rent.

It is not really too difficult to subtract the heat bill or the water bill, if you have to figure that, particularly when you are filling out a form to be reimbursed. That gives them a credit with the Government. It gives them a payment based in fairness and equity, and that is the reason I cannot understand my friend's opposition.

Mr. BENNETT. The reason I am so stupid and obtuse is that I do not know what my landlord's water bill or his heat bill is. I do not have access to that information. We rent our apartment, and the water, the electricity, and the heat are furnished, and the bill goes to the landlord. As a tenant, I cannot go to him

and say, "I need to know what the share of your electricity, heat, and water bills for my apartment are, so I can deduct it from my return when I make out my request for a refund." The amounts are just not allocated that way and the information is not available to the tenants.

Mr. HOLLINGS. Well, if the Senator please, Mr. President, is it the case in America that we are going to say if you are a big corporation, if your are a big businessman, if you can hire a lawyer, if you can hire a tax auditor and a lawyer, then you are going to get some help out of this U.S. Senate, because they can understand it, but for the hungry poor, things are going to become obtuse, they are just not going to be able to figure this thing, and we do not want to bother our minds; is that the position the Senator takes?

Mr. BENNETT. No; my position is that they will not have the information on which to base the figures. That is in the possession of the landlord.

I live in an apartment project with 804 apartments, and I would hate to be the landlord, having to prorate the electric or water costs of 804 apartments in order to take care of the needs of a person on welfare—and there are some living in the apartments in which I live. So it seems to me it is an impossible calculation.

Mr. HOLLINGS. An impossible calculation. How do you help the poor? Here he is; he is paying his sales tax. We know how to calculate that. He is paying his property tax. The Government knows how to calculate that. Here he is; he is paying his payroll taxes and social security tax. We know how to figure out how that can be calculated. So he pays it. But there is one little consideration to be given on a basis of equity—not any wild-eyed giveaway of the money. Here he is, on a basis where he has a 28-percent tax burden, and we can compute it and say, "All right on the sales tax paid on food, but on the property tax represented in your rental payments we are not going to try to reimburse you."

Five States in America did not find it obtuse. California does it, and not just for citizens below the poverty level. Wisconsin does it for the senior citizens. Kansas is a good all-American State; they did not find it obtuse out there.

Mr. BENNETT. Does the State of Kansas ask the taxpayers to calculate that portion of their rent represented by the value of the water?

Mr. HOLLINGS. Yes; that is right. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a publication of the Advisory Commission on Inter-Governmental Relations, an article entitled "A Circuit Breaker on Property Tax Overload," describing the system and how it works for the States of Wisconsin, Minnesota, California, Vermont, and Kansas. It is all right here in four neat pages, in black and white, not obtuse at all, and it has been working, and the senior citizens appreciate it.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A CIRCUIT-BREAKER ON PROPERTY TAX OVERLOAD

Property taxation, as it is administered in communities across the Nation, often forces the elderly into real privation to finance the education of the young. The Advisory Commission on Intergovernmental Relations recommends an approach to relieve individuals of excessive tax burdens while not heaping new fiscal burdens on localities. The idea has been translated into model legislation which is available on request from the Commission.

The INTERGOV proposal is similar in principle to the circuit-breaker that prevents electrical overload. By means of tax credits and rebates, it protects the poor from tax overload without disrupting the flow of revenue from those able to pay. It is State financed to maintain the fiscal solvency of local governments and State administered to promote the greatest efficiency, provide the widest base, and maintain the dignity of the recipients. Four States have adopted it since 1963 and a fifth uses a variant of the same principle. Several other States have the circuit-breaker under serious consideration.

The average urban household pays about 4 percent of its income for the local residential property tax. But there are more than 3 million households that pay 10 percent or more, 2.5 times the average. And low-income families in substantial numbers turn over as much as 50 percent of their meager incomes for the local tax on shelter (see Table 1).

The property tax had its roots in a rural society where the value of a family's physical holdings, land and buildings, served as the single best measure of taxable capacity. Urbanization has changed the gauge—the most precise measure now of ability to pay taxes is annual flow of money income—but not the character of the property tax, and it is still the single most important revenue source for local government.

The four States that use the circuit-breaker approach are Wisconsin (adopted in 1963), Minnesota (1967), Vermont (1969) and Kansas (1970). California, in 1967, provided for a similar type of relief (see Table 2). These States all administer their programs in generally the same manner, but the principle of the circuit-breaker permits wide flexibility and adaptation to individual tax systems and State-by-State tax relief needs.

HOW IT WORKS

This is a generalized picture of the program. Each State might have exceptions to many of the particulars. The circuit-breaker program is administered by the income tax division of the State tax department and funded entirely out of State money. The State determines the amount of property tax burden it deems excessive. The excesive amount—with certain restrictions to avoid abuse—is then rebated.

To obtain the relief, the applicant files a statement as a supplement to his income tax return. He lists all forms of money income, including all social security and veterans benefits and railroad retirement payments. After audit, he is allowed a credit against his State income tax liability—if he has sufficient income to pay an income tax—or he receives back in the mail a direct cash refund, the case with 98 percent of the recipients.

Although the circuit-breaker is part of the income tax process, the Wisconsin applicant does not have to pay his property tax bill and then wait until income tax filing time to get his refund. As soon as the property tax bill comes, he may file the statement and receive the cash when he needs it. Because the program is administered by the State tax department and the refund sent through the mails, there is no more stigma than when a Federal income taxpayer receives a tax reduction because he incurred extraordinary medical expenses. Local social welfare workers and county courthouse clerks are bypassed. If a State did not have an income tax, the circuit-breaker could be administered in the form of direct cash rebates to all eligible property taxpayers.

DETERMINING OVERLOAD SITUATIONS

The property tax takes a different bite out of householders in different parts of the Nation. Because the average burden varies, what varies, what is excessive would also vary. The Minnesota circuit-breaker comes into play when the property tax burden exceeds 6 percent of household income; Vermont's cuts in at 7 percent; and under the 1969 Wisconsin formula, the circuit-breaker begins to work when the property tax reaches more than 11 percent of family income.

To avoid providing property tax relief to the little old lady who lives in the mansion on the hill, several of the States have written into the law income ceilings or limits on the amount of rebate. They also have progressive rates to provide the most relief to the most needy cases. California has a $3,350 income limit; Minnesota, a $3,500 limit; Wisconsin and Kansas a $3,700 limit. The ceiling in Vermont is not explicit.

WHO SHOULD BE ELIGIBLE?

The flexibility of the circuit-breaker extends to the type of recipients as well as the amount of need. At present, all the States using the procedure grant relief only to persons age 65 or older. But death of the breadwinner, physical disability or severe unemployment would make the property tax just as devastating to a younger family as to the elderly.

Minnesota, Vermont and Wisconsin at present grant circuit-breaker relief to renters as well as homeowners, on the theory that most landlords pass on most of the property tax burden to their tenants. Wisconsin assumes that 25 percent of the rental payment goes for property taxes while Minnesota and Vermont use a 20 percent figure.

The possibilities don't stop here. A State wanting to provide relief for small farms or businesses could write circuit-breakers into their property taxes as well. The circuit-breaker would assure that the neediest taxpayers in any class would receive the most help. A circuit-breaker for corporations is now under consideration in Ohio, for instance.

This type of relief is objective, impartial, and legal. Property tax relief of the non-legal, non-objective variety is going on in many communities right now, especially where assessors are elected. Compassionate assessors may have a tendency not only to look at property merely as an object of value but also to take into account the circumstances of the owner. The harsh burdens that an objective assessment might bring can sway the valuation of the property. This might be humane, but it is not legal. The circuit-breaker promotes tax equity in a way that is legal and does not interfere with the orderly and impartial valuation process that is necessary if property is to be assessed fairly.

HOW MUCH DOES IT COST?

One of the great advantages of the circuit-breaker is that it is a State-financed relief program. Too often State legislators grant relief in the form of partial tax exemptions but force the local governments and the school districts to pick up the tab. Local governments and local property owners should not be forced to underwrite property tax relief because it erodes their already precarious fiscal position and aggravates tax inequities. This is especially true in metropolitan areas where the poor tend to cluster together within the same jurisdiction. In sharp contrast, State-financed property tax relief in an indirect way tends to reduce intergovernmental fiscal disparities between high- and low-income communities within the same metropolitan area.

What is even better, the circuit-breaker is relatively inexpensive to the State. Take Wisconsin, for example. In 1968, the Wisconsin circuit-breaker program cost the State about $6.1 million—about $1.50 a person. Yet, this modest outlay enabled the State to extend aid to 66,000 elderly householders. About 7,000 of them had an income of less than $1,000 and would otherwise have had to pay

out in residential taxes about 30 percent on the average of their total subsistence income.

The inexpensiveness of the Wisconsin program can be illustrated further by these comparisons. In 1968, relief cost was—

2 percent of the local residential real estate levies in the State;

1.5 percent of State personal income tax collections;

0.6 percent of total State tax collections;

0.4 percent of State-local tax collections; and

2.5 percent of State-local public welfare expenditures.

ANSWERING THE OBJECTIONS

Like any innovative program, the circuit-breaker has opponents who raise various objections. Most of them can be answered quite simply.

Some complain that the circuit-breaker does not cure the real disease, poverty. True, but something must be done now, while the Federal Government is working out a broad program to eradicate poverty. The circuit-breaker makes sure that the government does not impose extraordinary burdens on the poor while poverty remains among us.

Others complain that the circuit-breaker approach makes welfare operators out of State tax collectors. This over-simplified worry is nullified by recent experience which indicates that this approach represents the most efficient and dignified way to administer a local property tax relief program.

There are some who claim that State-financed property tax relief might encourage local officials to adopt reckless spending policies. The small amount of relief to local governments that the circuit-breaker provides is not enough to make local officials spendthrifts. Besides, the majority of citizens paying property taxes without relief will continue to exert a powerful restraint on local budget expansion.

Those who wish to recover the relief after the death of the homeowner object that the circuit-breaker provides unwarranted aid to the children who will inherit the property. A man's home must be viewed as a rough yardstick of his—not his children's—ability to pay taxes out of current income. When this is demonstrably not the case, the homeowner should be entitled to unconditional relief. It is becoming increasingly repugnant to the public to force the liquidation of an estate in order to pay property taxes, even if the liquidation is held off until the death of the benefited homeowner.

Finally, some complain that tax relief for the elderly can enable a homeowner to hold his property off the market thereby working against the highest and best use of land. This cut-off-the-nose-to-spite-the-face logic would deny relief to a substantial body of taxpayers carrying extraordinary burdens in order to take care of a very few exceptional situations. Moreover, this objection vastly overstates the effect that a tax rebate of a couple hundred dollars can have on a person's decision either to sell or to hold the homestead.

SUMMARY

The circuit breaker approach to property tax relief introduces a badly needed element of modern economic realism and social justice into the administration of the property tax. By extending relief to those who need it the most, it turns a highly regressive tax into an essentially proportional levy. In effect, the adoption of this plan can insure that the ancient property tax will no longer be allowed to do gross violence to our contemporary concept of ability to pay as determined by the taxpayer's annual income.

The circuit-breaker thus provides significant local property tax relief at modest State cost, to those who really need it without disrupting the regular property tax system. This distinguishes it from the more common kind of "homestead exemption" which may reduce the official tax base considerably, provide a benefit to high-income homeowners as well as others, and afford no relief to householders living in rented homes.

For more information about the circuit-breaker, and a copy of the ACIR model State law to enable it, write to John Shannon, Assistant Director (Taxation and Finance), Advisory Commission on Intergovernmental Relations, 726 Jackson Place, N.W., Washington, D.C. 20575.

TABLE 1.—REAL ESTATE TAX RELATED TO INCOME FOR NONFARM HOMEOWNER PROPERTIES, 1960 AND 1968

Real estate tax as a percent of income [1]	1968 (estimate) Number	1968 (estimate) Percent distribution	1960 Number	1960 Percent distribution
Total	26,500,000	100.0	22,485,146	100.0
Less than 1	3,066,000	11.6	3,573,291	15.9
1 to 1.9	3,940,000	14.9	4,592,195	20.4
2 to 2.9	3,633,000	13.7	4,239,356	18.9
3 to 3.9	2,611,000	9.8	3,043,484	13.5
4 to 4.9	3,818,000	14.4	2,028,333	9.0
5 to 7.4	4,641,000	17.5	2,465,970	11.0
7.5 to 9.9	1,721,000	6.5	913,631	4.1
10 or more	3,070,000	11.6	1,628,886	7.2
Median (percent)	4.0		2.7	

[1] Income of owner and relatives living with him.

Source: U.S. Bureau of the Census, U.S. Census of Housing 1960, vol. V, and unpublished data. 1968 data estimated by ACIR staff.

TABLE 2.—STATE FINANCED AND ADMINISTERED RESIDENTIAL PROPERTY TAX RELIEF FOR PROTECTING LOW-INCOME HOUSEHOLDS FROM PROPERTY TAX OVERLOADS (THE "CIRCUIT-BREAKER")

State	Beneficiaries description	Income ceiling	Tax relief formula	Form of abatement and estimated per capita cost	Date of adoption	Statutory citation
Wisconsin	Homeowners and renters age 65 and older.	$3,700	(1)	State income tax credit or rebate—Cost, $1.50 (1968).	1963	Ch. 71, sec. 71.09(7).
Minnesota	do	3,500	Relief ranges from 75 percent of tax payment if household income is under $500 to 10 percent if family income is between $3,000 and $3,499.	State income tax credit or rebate—Cost, $0.50 (1968). (This aid is in addition to a general State-financed property tax relief that approximates 35 percent of the homeowners' tax bill.)	1967	Ch. 290, sec. 290.0601 et seq.
California	Homeowners age 65 and older; no relief for renters.	3,350	Relief ranges from 95 percent of tax payment if household income is less than $1,000 to 1 percent of tax payment if household income is $3,350.	State rebate only—Cost, $0.40 (1969)	1967	Revenue and taxation code division E., sec. 19501 et seq.
Vermont	Homeowners and renters age 65 and older.	(2)	Relief limited to that part of tax payment in excess of 7 percent of household income times a local rate factor that varies by tax rate of local community.[3]	State income tax credit or rebate—Cost, $1.25 (1969).	1969	H.B. 222.
Kansas	Homeowners age 65 and older; no relief for renters.	3,700	Same as Wisconsin tax relief formula	State income tax credit or rebate	1970	H.B. 1253.

[1] Household income—$1,000 or less—relief ranges from 75 percent of amount by which property tax exceeds 3 percent of household income between $500 and $1,000; household income—over $1,000—60 percent of amount by which property tax exceeds 3 percent of household income between $500 and $1,000, 6 percent of income between $1,000 and $1,500, 9 percent of income between $1,500 and $2,000, 12 percent of income between $2,000 and $2,500, and 15 percent of all income over $2,500. The maximum property tax to be used for this credit is limited to $330.

[2] Not explicit.

[3] The commissioner shall annuelly prepare and make available the local rate factors by arraying all municipalities according to their effective tax rate and dividing the population of the State into quintiles from such array with those having the lowest effective tax rates being in the first quintile. The local rate factors shall be as follows: 1 quintile, 0.6; 2 quintile, 0.8; 3 quintile, 1; 4th quintile, 1.2; 5 quintile, 1.4. The amount of property taxes or rent constituting property taxes used in computing the credit are limited to $300 per taxable year.

Mr. BENNETT. Will the Senator take an example in Kansas, and tell me what proportion of a tenant's rent is calculated for a service, for example supplying water?

Mr. HOLLINGS. Well, in Kansas they have it for homeowners age 65 or older; there is no relief for renters in that particular State. The income ceiling is $3,700, and they figure it on a credit basis, a State income tax credit or rebate. They have a point down in here where they break down the quintiles, and I have assimilated just exactly what they have done here in this particular proposal. Does the Senator have a copy of this mimeographed sheet on his desk?

Mr. BENNETT. I have not seen it.

Mr. HOLLINGS. Well, we will get the Senator another copy of it. But that is the way the tax credit is worked out, and they subtract. I never have seen the basis on which they subtract the water bill and the electric light bill.

Mr. BENNETT. In other words, Kansas is probably not the right example. Since they do not provide relief for renters. Let us take another State. Can the Senator show me, in any State, under this circuit-breaker philosophy, how they separate out these ineligible costs, costs you must deduct from the gross rent that you cannot be reimbursed for?

Mr. HOLLINGS. Let me ask, so that I can bring this into perspective, does the distinguished Senator from Utah have any bills relative to the present income tax law? I have here one of these 1040 tax return forms and the answer, of course, is very simple. The poor would just subtract the heat and the lights and the water, just as simple as that. On the other hand, this particular 1040 form we have now in America, has more forms and lines and fine print, that, I maintain, it truly is obtuse. But all the Senator wants to talk about is light and water and heat, and how that becomes obtuse.

Mr. President, I ask unanimous consent to have printed in the RECORD form 1040, the U.S. form for individual income tax returns.

There being no objection, the form was ordered to be printed in the RECORD, as follows:

Form **1040** **US** Department of the Treasury / Internal Revenue Service
Individual Income Tax Return
1970

For the year January 1–December 31, 1970, or other taxable year beginning _____, 1970, ending _____, 19____

Please print or type

Please use this form. Correct name, etc., if necessary. Enter social security number(s) at right only if incorrect or not shown on label.

Transfer address label from cover and place it here

Your social security number

Spouse's social security number

Occupation: Yours / Spouse's

Filing Status—check only one:
1 ☐ Single; 2 ☐ Married filing jointly (even if only one had income)
3 ☐ Married filing separately and spouse is also filing. If this item checked give spouse's social security number in space above and enter first name here ▶
4 ☐ Unmarried Head of Household
5 ☐ Surviving widow(er) with dependent child
6 ☐ Married filing separately and spouse is not filing

Exemptions — Regular / 65 or over / Blind — Enter number of boxes checked ▶
7 Yourself ☐ ☐ ☐
8 Spouse (applies only if Item 2 or 6 is checked) ☐ ☐ ☐
9 First names of your dependent children who lived with you _____ Enter number ▶
10 Number of other dependents (from line 34) ▶
11 Total exemptions claimed ▶

Please attach Copy B of Form W-2 to back

Income

12 Wages, salaries, tips, etc. (Attach Forms W-2 to back. If unavailable, attach explanation)	12	
13a Dividends (see pages 5 and 9 of Instr.) $_____ 13b Less exclusion $_____ Balance ▶ (Also list in Part I of Schedule B, if gross dividends and other distributions are over $100)	13c	
14 Interest. Enter total here (also list in Part II of Schedule B, if total is over $100)	14	
15 Income other than wages, dividends, and interest (from line 40)	15	
16 Total (add lines 12, 13c, 14 and 15)	16	
17 Adjustments to income (such as "sick pay," moving expense, etc. from line 45)	17	
18 Adjusted gross income (subtract line 17 from line 16)	18	

● See page 2 of instructions for rules under which the IRS will figure your tax and surcharge.
● If you do not itemize deductions and line 18 is under $10,000, find tax in Tables. Enter tax on line 19.
● If you itemize deductions or line 18 is $10,000 or more, go to line 46 to figure tax.

Tax and Surcharge

19 Tax (Check if from: Tax Tables 1–15 ☐, Tax Rate Schedule X, Y, or Z ☐, Schedule D ☐, or Schedule G ☐)	19	
20 Tax surcharge. See Tax Surcharge Tables A, B and C in instructions. (If you claim retirement income credit, use Schedule R to figure surcharge.)	20	
21 Total (add lines 19 and 20)	21	

Please attach Check or Money Order here

Payments and Credits

22 Total credits (from line 55)		22	
23 Income tax (subtract line 22 from line 21)		23	
24 Other taxes (from line 61)		24	
25 Total (add lines 23 and 24)		25	
26 Total Federal income tax withheld (attach Forms W-2 to back)	26		
27 1970 Estimated tax payments (include 1969 overpayment allowed as a credit)	27		
28 Other payments (from line 65)	28		
29 Total (add lines 26, 27, and 28)		29	

Make check or money order payable to Internal Revenue Service.

Bal. Due or Refund

30 If line 25 is larger than line 29, enter BALANCE DUE. Pay in full with return ▶	30	
31 If line 29 is larger than line 25, enter OVERPAYMENT ▶	31	
32 Line 31 to be: (a) Credited on 1971 estimated tax ▶ $; (b) Refunded ▶ $		

Sign here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.

Your signature _____ Date _____

Spouse's signature (If filing jointly, BOTH must sign even if only one had income)

Signature of preparer other than taxpayer, based on all information of which he has any knowledge. Date _____

Address

Page 2 Form 1040 (1970) — Attach Copy B of Form W-2 here. ▶

Foreign Accounts (check appropriate box) ▶ Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)? ☐ Yes ☐ No
If "Yes," attach Form 4683. (For definitions, see Form 4683.)

PART I.—Additional Exemptions (Complete only for other dependents claimed on line 10)

33 (a) NAME	(b) Relationship	(c) Months lived in your home. If born or died during year write "B" or "D"	(d) Did dependent have income of $625 or more?	(e) Amount YOU furnished for dependent's support, if 100% write "ALL"	(f) Amount furnished by OTHERS including dependent.
				$	$

34 Total number of dependents listed above. Enter here and on line 10 ▶

PART II.—Income other than Wages, Dividends, and Interest

35 Business income (or loss) (attach Schedule C)	35	
36 Sale or exchange of property (attach Schedule D)	36	
37 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E)	37	
38 Farm income (or loss) (attach Schedule F)	38	
39 Miscellaneous income (state nature and source) _____	39	
40 Total (add lines 35, 36, 37, 38, and 39). Enter here and on line 15 ▶	40	

PART III.—Adjustments to Income

41 "Sick pay" if included in line 12 (attach Form 2440 or other required statement)	41	
42 Moving expense (attach Form 3903)	42	
43 Employee business expense (attach Form 2106 or other statement)	43	
44 Payments as a self-employed person to a retirement plan, etc. (attach Form 2950SE)	44	
45 Total adjustments (add lines 41, 42, 43, and 44). Enter here and on line 17 ▶	45	

PART IV.—Tax Computation

46 Adjusted gross income (from line 18)	46	
47 (a) If you itemize deductions, enter total from Schedule A, line 22 (b) If you do not itemize deductions, and line 46 is $10,000 or more, enter $1,000 ($500 if married and filing separately)	47	
48 Subtract line 47 from line 46	48	
49 Multiply total number of exemptions claimed on line 11, by $625	49	
50 Taxable income. Subtract line 49 from line 48. (Figure your tax on this amount by using Tax Rate Schedule X, Y, or Z unless the alternative tax or income averaging is applicable.) Enter tax on line 51	50	
51 Tax. Enter here and on line 19 ▶	51	

PART V.—Credits

52 Retirement income credit (attach Schedule R)	52	
53 Investment credit (attach Form 3468)	53	
54 Foreign tax credit (attach Form 1116)	54	
55 Total credits (add lines 52, 53, and 54). Enter here and on line 22 ▶	55	

PART VI.—Other Taxes

56 Self-employment tax (attach Schedule SE)	56	
57 Tax from recomputing prior-year investment credit (attach Form 4255)	57	
58 Minimum tax. See instructions on page 7. Check here ☐, if Form 4625 is attached	58	
59 Social security tax on unreported tip income (attach Form 4137)	59	
60 Uncollected employee social security tax on tips (from Forms W-2)	60	
61 Total (add lines 56, 57, 58, 59, and 60). Enter here and on line 24 ▶	61	

PART VII.—Other Payments

62 Excess F.I.C.A. tax withheld (two or more employers—see instructions on page 7)	62	
63 Credit for Federal tax on gasoline, special fuels, and lubricating oil (attach Form 4136)	63	
64 Regulated Investment Company Credit (attach Form 2439)	64	
65 Total (add lines 62, 63, and 64). Enter here and on line 28 ▶	65	

XUM

Mr. HOLLINGS. I want the Senator to look at this particular form, and see if this is not obtuse. Perhaps, we ought to both cosponsor a bill to do away with it.

Mr. BENNETT. The Senator from Utah has seen and looked at that form every year, unfortunately.

Mr. HOLLINGS. And that is not obtuse?

Mr. BENNETT. Mr. President, that is not the point. The Senator is evading my question. The Senator says, in his amendment:

> In the case of a residence which is rented by the family, an amount equal to 20 percent of the total rent paid by the family during the preceding calendar year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as part of the rental agreement.

I am saying that for the ordinary renter, even a man who is not at the poverty level, the job of finding out how much of his total rent is represented by what the landlord paid for water or for electricity or for heat or other services, or for the appliances which he furnished, is almost impossible to do. Yet he must do it so he can figure it into his request for a reimbursement payment.

Mr. HOLLINGS. Mr. President, if my distinguished colleague finds that obtuse or impossible to compute or determine from his landlord, I would be glad to take either his case or his landlord's case, because we are both paying it.

I will put it in the RECORD. With all the complex tax laws we have in America on income rebate, depreciation allowance, investment credit, direct investment sales credit, exemptions, deductions, and everything else, for someone to all of a sudden come along and tell a poor family it cannot receive some help in paying property taxes because the family is presumed to be unable to deduct his light, his water, his electricity, or any appliances furnished him. I think he is pulling my leg. I think that it can be computed easily. I am not evading the question. The answer is patent.

Mr. BENNETT. My answer is that the answer to that question does not exist. A landlord does not break down the cost of water and divide it among every apartment in his building. The tenants in our building have their electricity furnished, and I do not think it is possible to determine how much of the light bill the Bennett apartment actually created. Some of the tenants burn their lights 24 hours a day. We do not.

It seems to me that the Senator is putting an impossible condition into this amendment. It is not a question of being smart. It is just the fact that the information does not exist and the tenant can neither obtain it nor supply it to the Government.

Mr. HOLLINGS. Mr. President, I think I am taking up too much time on an obtuse point. Perhaps that is the strategy.

I will reserve the remainder of my time for the moment.

Mr. HANSEN. Mr. President, I wonder whether the distinguished chairman of the committee will yield me about 3 minutes to establish a little legislative history, in order to clear up a point that I think is important.

Mr. LONG. I yield to the Senator such time as he requires for that purpose.

Mr. HANSEN. Under the bill, is it intended that the 7-percent job development credit be allowed on the investment of U.S. international telegraph companies in submarine cable systems which originate within the United States and end without the United States when used predominantly for the transmission and receiving of messages in the United States?

Mr. LONG. Yes. For example, a cable system from the United States to Europe would receive the 7-percent investment tax credit to the midpoint of the Atlantic—that is, in the case of a submarine cable.

Mr. HANSEN. If the chairman would be kind enough to yield further, I should like to put the same question to the distinguished Senator from Utah, the ranking Republican member of the committee.

Mr. BENNETT. My answer would be the same as that of the chairman of the committee. This was thoroughly discussed during the committee's consideration of the bill, and I think we all understand it as the chairman has explained it.

Mr. HANSEN. I thank the chairman and the ranking minority member of the committee.

Mr. LONG. I yield myself 2 minutes.

Mr. President, when the Senator appeared before the committee, he inspired some of us to believe that we should do something in this direction. For one, I was inspired to think that it would be desirable to reimburse low-income earners for the amount of taxes generated by their efforts and paid into the Social Security fund. I had in mind that it would be well to make them a payment equal to both the employee as well as the employer part of the tax, which would increase their income by about 10 percent. That would cost more than $2 billion, and that would be a payment to offset a Federal tax that is collected.

The Senator is directing his amendment toward State taxes—both those that are paid and those that are not. It has considerable merit, but it does require further study and further sophistication to make it work out right.

For example, it is my impression that the Senator intends to rebate 4 percent for sales tax collections of a State that has no sales tax. That would seem appropriate, in view of the fact that one would not want to encourage a State to levy a sales tax on food just so that the Federal Government would reimburse it to the State; but if someone had a 2-percent sales tax, the people would be worse off, compared with what they would get if there were no sales tax on food in that State.

These types of things, I suppose, could be worked out if we had time to study them and to seek to perfect them, but we do not have that opportunity at this moment.

The proposal of the Senator should, in my judgment, be considered as an alternative to some of the proposals in H.R. 1, the so-called family assistance plan. I am very much convinced that it is a far better approach to pay back to the poor and the working people taxes that have been collected from them than if you just put them on welfare as a result of taxes that you collected from them.

So it would seem to this Senator that it would be better to wait and consider this in connection with the welfare bill when we have that matter before us. Something that would give poor people a rebate, or some payment, to offset their Federal and State taxes, social security, or other taxes that may be collected, would have much appeal when considered against the estimated first-year cost of $5 billion when that welfare program is in effect.

But I hardly think it would be appropriate to get into it at this time, in this bill. It seems to me that we would do better to wait and consider this, as well as well as some other suggestions which will be made—including one of my own which would cost, I believe, even more money than the Senator is asking for here for the poor—when we get around to H.R. 1. As far as the committee is concerned, that bill is scheduled to be the next item of business after we dispose of this major bill.

I think it would be best to reserve judgment on this matter until we do have the opportunity to look at the welfare bill. In connection with that, I think it would be appropriate to take a look at this suggestion of the Senator.

Mr. HOLLINGS. Mr. President, seemingly, the only point they can really make is the difference between a 3-percent and a 4-percent State.

Would there be any objection to amending the amendment? Mr. President, I ask unanimous consent to delete the language on lines 8 to 10, page 2, beginning with "There is no" and ending with "purchases of food" by just inserting in lieu thereof the words "the combined State and local sales tax rate is less than 4 percent on purchases of food, it shall for the purposes of this provision be considered to be 4 percent." That would equalize it, and there would not be any differentiation between a 3-percent and a 4-percent State. Is there objection?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Will the Senator send the modification to the desk?

Mr. HOLLINGS. I just did it verbally, under the rules.

The PRESIDING OFFICER. Under the rules, the Senator must submit the modification in writing.

Mr. BYRD of West Virginia. He must do so only if there is a demand to submit it in writing.

The PRESIDING OFFICER. The Senator is correct.

Mr. HOLLINGS. I will be delighted to send it to the desk.

The assistant legislative clerk read as follows:

On page 2, change lines 1 to 13 to read as follows:

> (c) The amount payable to any family under subsection (a) as reimbursement for sales tax on food shall be determined by multiplying the combined State and local sales tax rate in effect for that calendar year in the locality in which such family lived by the cost of the low-cost food plan established by the Department of Agriculture for that calendar year for a family of that size and composition. For the purpose of this subsection, any locality in which the combined State and local sales tax rate is less than 4 percent on purchases of food, it shall for the purposes of this provision be considered to be 4 percent.
>
> (d) The amount payable to any family under subsection (a) as reimbursement for property tax imposed on that family's residence shall be:

Mr. HOLLINGS. Now, Mr. President, we have corrected the inequity part of the difference between a 3 percent and a 4 percent State. What would further study give us? We come back to the most equitable thing I know of. The trouble with the family assistance is that it is a misnomer and really it is a guaranteed annual income.

I advocate to all my colleagues a speech delivered on August 6, I believe, by the Senator from Louisiana, the distinguished chairman of the Finance Committee. Is this really welfare reform or not? I agree with the Senator from Louisiana (Mr. LONG) that it is not welfare reform but a tremendous departure and a fanciful guaranteed annual income.

The whole hang up is not how you get the money to the poor but how to get the poor to work. That is where it has been hung for the past several years. I hope it stays hung up there. As it stands now, it would be one of the worst things that ever passed.

The President says that we have to jazz up the economy, that we have to get the American industrial machine going, and that in addition to investment credit, you need consumer spending. What do you do, in the main, if you just have nothing but investment credit? You will buy what Senators were arguing about with respect to textiles and all the other industries—new machines, which will displace labor, which will displace jobs.

Now, what is going to really get it going is money in the hands of the consumers and particularly those in the lower end of the spectrum. The Senator from Utah, if he were here, and other Senators—because I have been listening to the debate—have said that purchasing power was needed. Every time one of our colleagues on this side would recommend some increased exemptions or a liberalization of credit, they say, "Oh, that gives the low man only $20 but the man in the $20,000 bracket, that gives him $185. What we need is a little bit of help where it does the most good for purchasing power down at the lower end of the spectrum." But when we propose to give it to the hungry poor of America, then they say, "Let us study it. This thing is impossible. Look out—wait a minute—that fellow is going to fill out that form for the first time. This is one of those things that cannot be worked out at all."

In order to get more food to them, in order to help this particular group, I would agree with the suggestion of the Senator from Utah if he had a more equitable way. He and I, and every other Senator knows, that every landlord in Washington—which he was using as an example—allocates his water, his light, and his heat per tenant. That is how he knows how much to charge that particular tenant. He allocates it around and he considers the person responsive to it. That is the reason we designed the second paragraph on page 2, line 11, subparagraph (d), reading:

> (d) The amount payable to any family under subsection (a) as reimbursement for property tax imposed on that family's residence shall be:
>
> (1) in the case of a residence owned by a family an amount equal to the property taxes paid by the family during the preceding calendar year;
>
> (2) in the case of a residence which is rented by the family, an amount equal to 20 percent of the total rent paid by the family during the preceding calendar year, exclusive of any charges for utilities, services, furnishings, or appliances furnished by the landlord as part of the rental agreement.

That is why it was written that way. If that is bothering my friend, I would say, let us knock it out. But I was trying to do this in an equitable, fair, and businesslike fashion. When we get businesslike, for the poor, or equitable or fair, they say, "stop it. We have got to study it. Remember that this will be the first time the fellow will be filling out the form. It is a terrible thing to administer with all these different forms coming in."

I want to make one part of the RECORD clear: I was disturbed about these things because I knew the charges that would be made here. I talked to—you call him now the Commissioner—and he says that it can work. He can work it. He does not want it. I would agree with him. That is one of the real charges I thought they would have, that I do not like to burden the IRS with additional programs and paying money out on this particular basis, because it becomes controversial in our society. Our tax system functions because it is paid on a voluntary basis, and I do not want anything to be done to the particular office that would really go against their credibility and cause public controversy. So if we could get it enacted now, later on we might find that the Department of HEW could better handle this particular payment, and we could transfer it out of the IRS. We do not want to bring any controversy upon them.

The bill has got to go through the Ways and Means Committee and all the way through the House, then all the way through the Senate Finance Committee, and then when we finally get it up, they say, "We have got to study it. We are going to give a man a form to fill out that he never had before. It is a terrible thing to administer. They are too dumb to figure it. They make it difficult to pass the welfare program that we have in mind 2 years hence."

It is unfair and inequitable. They use nothing but adjectives. They cannot point to a single thing because by unanimous consent, when my distinguished colleague was on the floor, we got a 4-percent rate rather than a 3-percent level, because that could be considered inequitable, but I was trying to let it relate to the actual situation.

Mr. President, I reserve the remainder of my time. The Senator from Wisconsin will be on the floor shortly.

Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I am ready to yield back the remainder of my time in opposition, if the Senator from South Carolina is ready to yield back his time.

Mr. HOLLINGS. Mr. President, I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BROCK). All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from South Carolina.

On this question the yeas and nays—

The Chair would inquire of the Senator from South Carolina, have the yeas and nays been ordered?

Mr. HOLLINGS. Yes, Mr. President, the yeas and nays have already been ordered. I asked for the yeas and nays.

Mr. PASTORE. Yes, the Senator from South Carolina did.

The PRESIDING OFFICER (Mr. BROCK). It is the memory of the Chair that the distinguished Senator from South Carolina is correct.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Washington (Mr. JACKSON) would each vote "yea."

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Nebraska (Mr. CURTIS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 26, nays 58, as follows:

[No. 335 Leg.]

YEAS—26

Bayh	Hollings	Mondale
Brooke	Inouye	Nelson
Case	Javits	Ribicoff
Chiles	Kennedy	Sparkman
Cranston	Magnuson	Stafford
Fulbright	Mansfield	Symington
Gambrell	McGee	Tunney
Gravel	McIntyre	Williams
Harris	Metcalf	

NAYS—58

Aiken	Dole	Muskie
Allen	Dominick	Packwood
Anderson	Eagleton	Pastore
Baker	Eastland	Pearson
Beall	Ellender	Pell
Bellmon	Ervin	Percy
Bennett	Fannin	Proxmire
Bentsen	Fong	Randolph
Bible	Goldwater	Roth
Boggs	Griffin	Schweiker
Brock	Gurney	Scott
Buckley	Hansen	Smith
Burdick	Hart	Spong
Byrd, Va.	Hatfield	Stennis
Byrd, W. Va.	Hruska	Stevenson
Cannon	Jordan, N.C.	Taft
Church	Long	Weicker
Cook	Mathias	Young
Cooper	Miller	
Cotton	Moss	

NOT VOTING—16

Allott	Jordan, Idaho	Stevens
Curtis	McClellan	Talmadge
Hartke	McGovern	Thurmond
Hughes	Montoya	Tower
Humphrey	Mundt	
Jackson	Saxbe	

So Mr. HOLLINGS' amendment (No. 654) was rejected.

The PRESIDING OFFICER. Under the previous order the Chair lays before the Senate amendment No. 653 of the Senator from South Carolina. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the appropriate place, insert the following:

Sec.—HIGHER EDUCATION EXPENSES CREDIT.

(a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by renumbering section 39 as 40, and by inserting after section 38 the following new section:

"Sec. 39. EXPENSES OF HIGHER EDUCATION.

"(a) GENERAL RULE.—There shall be allowed to an individual, as a credit against the tax imposed by this chapter for the taxable year, an amount, determined under subsection (b), of the expenses of higher education paid by him during the taxable year to one or more institutions of higher education in providing an education above the twelfth grade for himself or for any other individual.

"(b) LIMITATIONS.—

"(1) AMOUNT PER INDIVIDUAL.—The credit under subsection (a) for expenses of higher education of any individual paid during the taxable year shall be an amount equal to the sum of—

"(A) 75 percent of so much of such expenses as does not exceed $200.

"(B) 25 percent of so much of such expenses as exceeds $200 but does not exceed $500, and

"(C) 10 percent of so much of such expenses as exceeds $500 but does not exceed $1,500.

"(2) PROBATION OF CREDIT WHERE MORE THAN ONE TAXPAYER PAYS EXPENSES.—If expenses of higher education of an individual are paid by more than one taxpayer during the taxable year, the credit allowable to each such taxpayer under subsection (a) shall be the same portion of the credit determined under paragraph (1) which the amount of expenses of higher education of such individual paid by the taxpayer during the taxable year is of the total amount of expenses of higher education of such individual paid by all taxpayers during the taxable year.

"(3) REDUCTION OF CREDIT.—The credit under subsection (a) for expenses of higher education of any individual paid during the taxable year, as determined under paragraphs (1) and (2) of this subsection, shall be reduced by an amount equal to 1 percent of the amount by which the adjusted gross income of the taxpayer for the taxable year exceeds $25,000.

"(c) DEFINITIONS.—For the purposes of this section—

"(1) EXPENSES OF HIGHER EDUCATION.—The term 'expenses of higher education' means—

"(A) tuition and fees required for the enrollment or attendance of a student at a level above the twelfth grade at an institution of higher education and

"(B) fees, books, supplies, and equipment required for courses of instruction above the twelfth grade at an institution of higher education.

Such term does not include any amount paid, directly or indirectly, for meals, lodging, or similar personal, living, or family expenses. In the event an amount paid for tuition or fees includes an amount for meals, lodging, or similar expenses which is not separately stated, the portion of such amount which is attributable to meals, lodging, or similar expenses shall be determined under regulations prescribed by the Secretary or his delegate.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means—

"(A) an educational institution (as defined in section 151(3)(4))—

"(i) which regularly offers education at a level above the twelfth grade; and

"(ii) contributions to or for the use of which constitute charitable contributions within the meaning of section 170(c); or

"(B) a business or trade school, or technical institution or other technical or vocational school in any State, which (i) is legally authorized to provide, and provides within the State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; and (ii) is accredited by a nationally recognized accrediting agency or association listed by the United States Commissioner of Education; and (iii) has been in existence for 2 years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subparagraph.

"(3) STATE.—The term 'State' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands.

"(d) SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—The amounts otherwise taken into account under subsection (a) as expenses of higher education of any individual during any period shall be reduced (before the application of subsection (b)) by any amounts received by such individual during such period as—

"(A) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includable in gross income, and

"(B) education and training allowances under chapter 33 of title 38 of the United States Code or educational assistance allowance under chapter 35 of such title.

"(2) NONCREDIT AND RECREATIONAL, ETC., COURSES.—Amounts paid for expenses of higher education of any individual shall be taken into account under subsection (a)—

"(A) in the case of an individual who is a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction for which credit is allowed toward a baccalaureate or higher degree, and

"(B) in the case of an individual who is not a candidate for a baccalaureate or higher degree, only to the extent such expenses are attributable to courses of instruction necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective.

"(3) PAYMENT OF EXCESS CREDIT TO TAXPAYER.—If the amount of the credit allowable under subsection (a) to a taxpayer for the taxable year exceeds the amount of the tax imposed on the taxpayer for that taxable year by this chapter, reduced by the sum of any credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property), then such excess shall be held and considered an overpayment and shall be paid to the taxpayer by the Secretary of the Treasury or his delegate as a refund for that taxable year. If no tax is imposed on the taxpayer for that taxable year, the total amount of the credit allowable under subsection (a) shall be paid to the taxpayer by the Secretary or his delegate.

"(e) DISALLOWANCE OF EXPENSES AS DEDUCTION.—No deduction shall be allowed under section 162 (relating to trade or business expenses) for any expense of higher education which (after the application of subsection (b)) is taken into account in determining the amount of any credit allowed under subsection (a). The preceding sentence shall not apply to the expenses of higher education of any taxpayer who, under regulations prescribed by the Secretary or his delegate, elects not to apply the provisions of this section with respect to such expenses for the taxable year.

"(f) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such subpart A, is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 39. Expenses of higher education.
"Sec. 40. Overpayments of tax."

(c) The amendments made by this section shall apply beginning with taxable year 1972.

The PRESIDING OFFICER. On this amendment there is 1 hour to be equally divided.

Mr. HOLLINGS. Mr. President, I yield at this time to the principal author of this amendment, which provides a tuition tax credit and which has been favorably acted on by this Senate on two occasions, most recently as a part of the Tax Reform Act of 1969.

Mr. COTTON. Mr. President, a point of order. We cannot hear the Senator.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

The Senator may proceed.

Mr. HOLLINGS. Mr. President, at this time I yield to the principal sponsor of the amendment, the senior Senator from Connecticut (Mr. RIBICOFF).

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. COTTON. Mr. President, in view of the fact that the amendment was not read, would the Senator please enlighten us as to the number of the amendment? We cannot hear.

Mr. HOLLINGS. The amendment is No. 653.

Mr. COTTON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. Mr. President, I am pleased to cosponsor the amendment being offered by the distinguished Senator from South Carolina.

Over 7 years ago, I first introduced legislation to provide tax relief for those families burdened with the rising costs of higher education. The Senate has passed this legislation two times, most recently as the Ribicoff-Dominick tuition tax credit amendment to the 1969 Tax Reform Act. A majority of Republicans as well as Democrats joined in passing the measure, only to see it deleted by the House in conference.

The need for this legislation is greater than ever before. Increasing tuition costs and Federal, State, and local taxation make it impossible for many low- and middle-income families to send a child to college without considerable financial assistance.

In the last 5 years, tuition costs of public institutions have risen by 50 percent. At private colleges and universities tuition has increased by 70 percent. The result is that today, it costs between $10,000 and $20,000 to obtain a bachelor's degree. Moreover, estimates by the Office of Education show that tuition alone will increase by 25 percent at public institutions of higher learning and by 38 percent at private institutions in the next 10 years.

The college scholarship service of the College Entrance Examination Board assists over 2,000 colleges and universities in setting guidelines for financial assistance. The service has made an authoritative study of what colleges must expect from students and their families toward covering the cost of education.

A family with one child in college and a pretax income of $10,000 is expected to pay $1,570 toward a year's college expenses.

Under the Federal tax laws, this family in 1972 would be expected to pay about $1,400 in income taxes. An additional $300 would generally be paid for State and local taxes. This leaves only $6,730 for all other living expenses for the entire family.

As we face the necessity of finding solutions to the complex social problems facing this Nation, we must recognize the essential role that education plays in our society. Our children's education is an investment in the future. A better educated population is the strongest tool for the continued growth and development of our Nation.

I know of no other amendment that would be of such help to the lower- and middle-income groups in our country, to those who are so sorely beset with expenses on all sides and at the same time find means to educate their children, knowing that the most important factor in their children's future is education.

I commend the Senator from South Carolina for offering this amendment.

Mr. DOMINICK. Mr. President, will the Senator yield me a couple of minutes?

Mr. HOLLINGS. I yield to the Senator from Colorado.

Mr. DOMINICK. I appreciate very much the Senator's yielding. I was somewhat surprised, but certainly not upset, by the offering of this amendment, because the Senator from Connecticut and I and the Senator from South Carolina have been working on this kind of proposal for a long time.

Not being on the Finance Committee—unfortunately I was not present when the Senator made his remarks—I do not know whether this amendment was discussed in the Finance Committee this year. It has, of course, been discussed at length on the floor on many other occasions, and we have not only lost by a very close vote, but we have also won by a very close vote.

The difference between the Ribicoff-Dominick amendment and the Hollings amendment is that this gives a little more edge to the lower income people who are educating their children. Heaven knows that with the costs of education going up and up it has been a difficult burden for many people. There are scholarships for people with low income, and there are fellowships and foundations for those with higher income. There is very little anywhere for the middle-income people. I shall support the amendment.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. PASTORE. Mr. President, the time has come when we must do something about this matter. It is an old chestnut; we have had it before us many times. There are many parents who, at great sacrifice, and with pride, want to pay for their children's education. They do not want a handout or a grant or a scholarship. They want to feel they are paying for their children's education. For that reason, we ought to give them a concession so they can do it. It costs anywhere from $3,000 to $7,000 to send a student to college. We ought to do something about it. This is a modest concession for those people who have pride and want to pay for their children's education.

Mr. RANDOLPH. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. RANDOLPH. The amendment that is offered by the able Senator from South Carolina, or its essence, as the Senator from Colorado (Mr. DOMINICK) has said, has had the attention of many Senators, including that of the Senator from Connecticut (Mr. RIBICOFF).

In the Subcommittee on Education of the Committee on Labor and Public Welfare, we have given attention to the general subject matter in terms of grant and loan programs. Of course, the approach under discussion rests with the Finance Committee.

Is it not, then, a subject which has been thoroughly considered by many Senators in several committees?

Mr. HOLLINGS. It very definitely has been. That is true.

Mr. RANDOLPH. I wish to associate myself with my colleagues, including the Senator from Rhode Island (Mr. PASTORE), who have risen to say that this is not a handout, but a helping hand to parents who need funds to pay for the costs of educating their children. This is a proposal which has had my support in the past.

Mr. HOLLINGS. I thank my distinguished colleague from West Virginia, who, for the last several years, has been primarily interested in this particular field, for his cooperation and support.

Mr. McGEE. Mr. President, will the Senator yield me some time?

Mr. HOLLINGS. I yield.

Mr. McGEE. What I would, frankly, ask for is a little clarification. In general in the past when we have had this issue, it has been suggested that the land-grant colleges are penalized by the proposal. This proposal used to be referred to as the Ivy League bill. Coming from a State that has only one land-grant university, we are not interested in penalizing our present status.

I would be grateful if the Senator from South Carolina could comment on the consequences of his proposal to those colleges and universities in the land-grant States.

Mr. HOLLINGS. I shall be delighted to answer. The amendment provides a tax credit for expenses paid not only for public but private institutions of higher learning. It applies not only to institutions of higher learning, but specifically to technical or trade schools for the poorer families who have to pay $100 to $200 to take specific courses in technical arts in order to obtain a technical training. So the amendment, rather than penalizing, would put them on an equal basis with other colleges and universities, as well as technical schools.

Mr. McGEE. I think the misgiving was not that they were not equal, but that right now they have an advantageous position in the income question. It was less a fear that we would not get as much but that, in effect, the others would be getting more than they now get and that that amount would have to come out of what now goes to land-grant colleges

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. RIBICOFF. Is it not true that the amount paid for tuition and books, whether in land-grant colleges or otherwise, today certainly exceeds the total amount that the credit would be allocated against? In other words, the Senator's proposal provides 75 percent or so much of the expenses that do not exceed $200. Therefore, there would be a credit of 75 percent to the student or family for the first $200 paid. I do not know of any college in the country where the fees do not exceed $200.

The next provision says 25 percent of so much of the expenses that exceeds $200 but does not exceed $500.

So the bulk of the credit being proposed by the Senator from South Carolina goes to those paying under $500 in tuition and fees. Therefore, the young

man going to the University of Wyoming benefits in his tax payments as a result of this credit for his school expenses up to $500, and the parents are receiving as much of a tax credit as those of the boy who goes to Harvard, and who pays perhaps $3,000 for tuition and books a year.

Mr. McGEE. I think the point was that a higher percentage of young people in the land grant institutions would generally come from lower-income families; that we would find a larger percentage of lower-income groups sending their children, for the advantages of tuition and the like, to land-grant schools in their particular State.

Mr. RIBICOFF. Looking at my own State of Connecticut we have the University of Connecticut and our community colleges. Although we have many private institutions in my State, I would say that the overwhelming majority of the families today are sending their children either to the University of Connecticut or to the community colleges. If all my colleagues will examine the enrollments at their own State universities, I think they will find the overwhelming number of students are attending them, because of the much higher cost of private institutions. So, basically, every young man or woman at a State university or his parents would be able to take full advantage of the proposal put forth by the Senator from South Carolina.

Mr. McGEE. I thank the Senator from South Carolina for his courtesy.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. CANNON. Does that include also the community colleges, of which the Senator from Connecticut spoke?

Mr. HOLLINGS. yes.

Mr. CANNON. Because here is a 2-year college, not necessarily directed toward a degree, but directed toward training students to assume a proper productive role in the community.

Mr. HOLLINGS. That is exactly right. Under the definition, it would include higher education above the 12th grade level. It applies to junior colleges.

Mr. RIBICOFF. The Senator was very careful to define it as education above the 12th grade, so someone going to a junior college or to a technical school could take advantage of this credit, too.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. JORDAN of North Carolina. What has been the reaction, if any, of the universities and private institutions and technical schools to this proposal?

Mr. HOLLINGS. They are very much in favor if it. They are badly in need of help.

Mr. JORDAN of North Carolina. I know they are badly in need. Does the Senator think this provision will help those institutions get scholars?

Mr. HOLLINGS. Oh, yes.

Let me give an exact explanation of this.

Fifteen years ago there were 2.5 million students enrolled in college. Last year that figure reached 7.9 million, and it is estimated that by 1972 there will be an additional 1 million students enrolled.

The pressures of this influx of students has terrifically inflated educational costs, and a quality education is rapidly becoming prohibitively expensive. In 1958, colleges and universities spent $5.2 billion. Ten years later, this had increased to $17 billion, in 1970 it went to $28 billion, and the 1971 estimate is $31 billion. At the same time, the expenses borne by the students and their parents have been increased. Tuition costs at public institutions have more than doubled in the past 7 years, and at private institutions they have increased by over 70 percent. The cost of tuition alone averages $360 in public universities and $1,741 in private ones. The average minimum cost of a year of college is $2,844 at a private college, an increase of $500 in 2 years, and $1,324 at public institutions, an increase of over $300 in the past 2 years.

Because of the continued increase in student enrollment projected for the future, about one-half million per year, these educational costs are certain to continue to increase. In a country which places a premium on education, we are rapidly pricing the average family out of the market.

It is time to confront this problem head on. Individual families cannot do the job alone. Well educated and trained young people are an essential asset to this country. The tax credit which I propose is a form of assistance from which we will derive more value than the approximately $2 billion we would lose in tax revenues.

The amendment which I propose today would permit a tax credit for part of the expenses paid by a taxpayer to provide for his own, or another person, tuition, books, and equipment. Room and board expenses are excluded, and scholarship assistance can be deducted. Should the credit exceed the tax liability, a positive payment would be received by the taxpayer.

The credit would be calculated on a sliding scale which favors those who are attending low tuition schools. The maximum credit would be $325. The credit is given against allowable expenses of up to $1,500 as follows:

First, 75 percent of the first $200 of allowable expenses.

Second, 25 percent of the next $300 of allowable expenses.

Third, 10 percent of the remaining $1,000 of allowable expenses.

These expenses must be incurred at a qualified educational institution which includes recognized colleges, universities, vocational, business, and trade schools.

The credit favors those in lower-tax brackets by providing for reduction in the credit of $1 for each $100 in income over $25,000

To illustrate, a family earning $4,000 and spending $300 to put a child through a trade school or a public institution, would receive a $175 credit. Since this family probably would not pay income tax, it would receive a payment in this amount. A family which earns $15,000 and pays $1,200 toward a child's higher education, would receive a credit of $295.

Mr. President, visit Sweden. Go to Brazil. Go to Russia. In all those places, there is free tuition. Here is great America, premised on free public education, the most developed of all the nations on the face of this globe, and we are still turning down these proposals, and yet, come around to the 15th of August, when they are wanting to stir up the industrial machine, you have got to buy a $3,000 car to get a $200 credit. What kind of equity and justice is that?

Here is the Senate. The other body of Congress has passed this twice, and here, come August 15, we have a proposal to buy a $3,000 car to get a $300 credit, when we are paying for two wars.

I ask unanimous consent that the names of the Senator from Connecticut (Mr. RIBICOFF), the Senator from Nevada (Mr. CANNON), the Senator from South Dakota (Mr. McGOVERN) the Senator from West Virginia (Mr. RANDOLPH), the Senator from Rhode Island (Mr. PASTORE) the Senator from Nevada (Mr. BIBLE), the Senator from West Virginia (Mr. BYRD) and the Senator from Washington (Mr. MAGNUSON) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. RANDOLPH. Could I ask the Senator one question?

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. As I understand it, and I think the Senate understands it—but I want the record to show it again because I missed parts of the Senator's excellent presentation—the money is not given to any institution. It is given to the family or the young person who is to go to college?

Mr. HOLLINGS. That is exactly right. This is a bill to make this credit directly available to aid in all post-secondary education.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield.

Mr. MAGNUSON. Some years ago, a few of us tried to get a deduction——

Mr. MILLER. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. I shall be happy to in due course, but right now I am yielding to the Senator from Washington.

Mr. MAGNUSON. I merely wanted to say that some years ago, five or six Senators, I forget their names now, tried to get a deduction. So we have come a long way, and I am happy to support this amendment.

Mr. HOLLINGS. I thank the Senator, and I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, do I understand the amendment correctly in this respect, that the maximum amount of the credit for one student would be $350?

Mr. HOLLINGS. It is $325.

Mr. MILLER. It is $325?

Mr. HOLLINGS. Yes.

Mr. MILLER. Now, Mr. President, in all deference to my friend from South Carolina, I am concerned about two aspects of this matter. The first aspect is that unless one is in a tax bracket, unless one is paying taxes, they get no benefit under this proposal.

Mr. HOLLINGS. No, sir.

Mr. MILLER. There is no income tax payable, and they derive no benefit from the measure, as I see it.

The second is that the Senate, by an overwhelming majority, voted to pass the Higher Educational Amendments Act of 1971 back before the August recess, in which I think we really did a job in this area by providing for a basic educational grant of up to $1,500, which would be scaled down, depending upon the income position of the parents, depending upon the number of children in the family who are going to college, and providing, in addition to that, a supplemental education allowance which could be used for those who needed more income or more of a stipend, and also covered those who would not be eligible for the basic education allowance, but would have to have some stipend in order to go through college.

This is a very expensive proposition, but it seemed to me that for the first time Congress really met the issue head on, at least the Senate did, and the Senate did a good job. As I recall, that measure passed practically unanimously.

If we are going to try to do something for people going to college, and cannot afford it, it is far better to give them $1,500 in a basic educational allowance than to give the parents $325. I wonder why we should not pursue the work the Senate did in the Higher Education Amendments Act, rather than try to do this on a tax bill, which at best will be woefully inadequate.

Mr. HOLLINGS. Mr. President, responding to my friend from Iowa, on page 6, line 11, we have included in the amendment a section on payment of excess credit to the taxpayer, which provides that if the amount of the credit allowable to the taxpayer exceeds the amount of the tax imposed on the taxpayer, then such excess shall be held and considered an overpayment, and be paid directly to the taxpayer by the Secretary of the Treasury. If no tax is imposed on the taxpayer for that taxable year, the total amount of the credit allowable under subsection (a) shall be paid to the taxpayer by the Secretary or his delegate.

So we do help the low income people. We have supplanted that particular vision.

Mr. MILLER. Mr. President——

The PRESIDING OFFICER. The Senate is not in order, and it is difficult to hear. The Senate will be in order.

The Senator from Iowa may proceed.

Mr. MILLER. Mr. President, I appreciate the Senator from South Carolina clearing that point up, but I would get back to the second point, which is the major one I had. What the Senator has just pointed out is that in a low-income family, where there are no income taxes due, that they can get a $325 refund, so to speak, with respect to a boy or girl that they have got going to college.

But what the Senate did before the August recess, in the Higher Education Amendments Act, was to provide that that boy or girl can get $1,500, and, if necessary, even an amount above that, I would guess that a $350 refund to a family like that probably would not make the difference between that boy's or that girl's receiving an education. But it would certainly make all the difference in the world if they could get a $1,500 basic grant, such as we provided in the Basic Education Act of 1971.

Mr. COOK. Mr. President, will the Senator from South Carolina yield me 2 minutes?

Mr. HOLLINGS. I yield.

Mr. COOK. Mr. President, I think the Senator from South Carolina should be commended. Frankly, I find myself in a position where I would love very much to vote for this amendment, but I have quite a conflict of interest. I have three children in college this year, and I listened with interest to what the distinguished Senator from Iowa (Mr. MILLER) said relative to the fact that someone would get a grant or a stipend. But there are many, many people in the country today who have two or three or more in college at the same time, who would not be entitled, nor would their students be entitled, to this.

I might suggest to the Members of the Senate that if they think inflation has run rampant in some fields of cost in the United States over the last few years, if they have not had any children in college, they have not seen anything, because inflation in the cost of education has been really rather remarkable. As a matter of fact, every year that I have received tuition bills, they are higher every year; and you hardly get a letter any more telling you that they are going to be higher, so you cannot even be prepared for it.

So I would say that there are many people in this country who followed the suggestion of their Government right after World War II when they were told, "if there is anything you do, remember to educate your children; remember to get them a college education." We picked up this challenge, and we saw our universities grow and grow and grow, and then we watched the cost grow and grow and grow.

So I merely say that there are many, many people in the United States who do not fall within the category set forth by the Senator from Iowa, who, even if they have exceptionally fine children, find themselves just at that category of income where there is no aid or assistance that the university could give them, because their child would not be eligible for it, anyway, and who find themselves in the position in which this Senator finds himself, with a senior, a sophomore, and a freshman in college.

Because I feel so strongly about it, I would implore Senators to vote in favor. But when it comes to me, I must confess that I have a little conflict of interest, and I will announce "present."

Mr. DOMINICK. Mr. President, will the Senator yield me 2 minutes?

Mr. HOLLINGS. I yield to the Senator.

Mr. DOMINICK. I thank the Senator.

Mr. President, I commend the Senator from Kentucky. I must say in all candor that I have a son in graduate school, I have a daughter in college, and I have another son coming up, and I have no intention of voting "present." I am going to vote according to what I think is right, because I have introduced this bill ever since 1961 and have been fighting for it all the way through.

With regard to what the Senator from Iowa said, I think this comment should be made. First of all, the higher education bill, as we all know, is in a great deal of trouble. We have a definite disagreement with the House. We have not yet gotten to conference, and we probably will not until next year. What will happen at that point, nobody knows.

Second, no matter what we did under the Higher Education Amendments of 1971, the fact remains that what this would tend to do would be to entice more people out of the private school area and into the public school area so they could get the benefit of this stipend. This is going to overload the universities more than they are now, and it could create a real problem in the educational field for the rest of the country.

I would prefer to see us go this way on the tax route. I am not naive enough to think that this is going to go swimmingly through. So far as the House is concerned, it is going to be a long, tough battle. I think we ought to put it up and say that this is the will of the Senate and try to get the House to consider this type of approach to these interminable costs of higher education.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Tennessee (Mr. BROCK) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, will the Senator also add my name?

Mr. HOLLINGS. Mr. President, the Senator from Colorado sponsored this measure long before I came here, and I am delighted to ask unanimous consent that his name be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I ask unanimous consent that the name of the Senator from Indiana (Mr. BAYH) also be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The time of the Senator has expired.

The Senator from Louisiana has 30 minutes.

Mr. JORDAN of North Carolina. Mr. President, will the Senator yield me 1 minute?

Mr. LONG. I yield 1 minute to the Senator.

Mr. JORDAN of North Carolina. This does not preclude a private college at all, does it? It is the same for any institution?

Mr. HOLLINGS. The same for any institution. It takes care of the private instituton.

Mr. JORDAN of North Carolina. I thought that was correct.

Mr. HOLLINGS. Yes.

Mr PERCY. Mr. President, will the Senator from Louisiana yield me 2 minutes?

Mr. LONG. I yield 2 minutes to the Senator.

Mr. PERCY. Mr. President, I will have to oppose this amendment, and I am

sorry that I must, because I am a cosponsor of the bill.

I think we have to do much more to help middle-income people educate their children, particularly those who have two or three children in institutions of higher education at one time. But I feel that the cost—$2.2 billion—simply cannot be afforded at this time. I feel that hearings should be held.

I think that a proposal as worthy as this one does deserve full hearings. But I believe there are alternative possibilities. One is the possibility of creating a tax deferral program to relieve the costs of higher education, and I am preparing legislation along this line.

It is not because I do not recognize the problem that the distinguished Senator is trying to solve. It is a very real and pressing problem, but I do not think we can afford so much money for it at this time. Particularly, I am not prepared to vote on this amendment because I think the subject matter is deserving of the fullest possible hearings and these have not been held.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. LONG. How much time does the Senator desire?

Mr. HANSEN. Three minutes.

Mr. LONG. I yield 3 minutes to the Senator.

Mr. HANSEN. Mr. President, I find myself in the unique position of having to oppose a measure in which I have found much merit over the past several years. As the distinguished Senator from Colorado knows, I was a cosponsor with him of his amendment which would have afforded some much-needed relief for the parents of youngsters going to colleges and universities. I still think this is a good bill, but it is a good bill at the wrong time, at a bad time.

The whole thrust of this effort that has resulted in the tax proposal package before the Senate has had several ideas in mind: No. 1, to try to stimulate the kind of business activity from which would develop jobs. I think it is going to be pretty difficult for anyone to relate the direct relationship that this kind of tax relief can have to the development of jobs.

I point out to my colleagues, as has already been done, that this is not an inexpensive measure. It will cost $2.2 billion, according to the latest Treasury estimates.

I would further remind my colleagues that, according to the running account that has been kept by the senior Senator from Utah, we have already added to the Treasury costs, in amendments that have been approved by the Senate, $2.6 billion. So that if this amendment were adopted, we would have a combined additional Treasury obligation of $4.8 billion.

This is a good bill. It is a good bill, but this is not the time for it. It is not the time for it for a number of reasons. The benefits of this proposal will not flow to all taxpayers with income below $25,000 but only to those who have children attending a college, university, or training school. To provide $2.2 billion of specific tax relief for a limited group of individual taxpayers will do nothing to provide needed support for colleges, universities, and vocational training schools. If funds were available, this same amount of direct aid could go a long way toward alleviating many of the problems facing our educational institutions and under the aid approach, no specific group of taxpayers would receive a disproportionate benefit.

Furthermore, the proposed credit will not be of much assistance to low-income families. In order to receive the maximum credit of $325 a family would have to expend $1,500 in addition to any scholarships or veterans' benefits available to the child and, obviously, few low-income families are in a position to expend this amount.

On the other hand, families whose incomes approach the $25,000 limit will no doubt incur tuition expenses in excess of $1,500 in any event and a credit of $325 will have no bearing on whether their children attend college.

In view of the high revenue cost of this proposal and the fact that it provides tax relief principally benefiting taxpayers with children in college and whose incomes approach $25,000, while doing nothing to expand opportunities for higher education in general, the amendment should not be accepted.

I would point out that we have made available for this year $7.5 billion in support of higher education. As has been stated, Congress now has before it a proposal to make grants to students who want to attend colleges and universities in this country. It seems to me that this is not the way to extend further aid for an additional number of objectives, so as to enable young people to continue their education beyond the high school level.

I regret that I shall be obliged to vote "nay" on a proposal that I think would have much merit at some other time.

Mr. LONG. Mr. President, I yield myself 2 minutes.

It would seem to me that it would be far more equitable to provide a tax deferral for persons who go to college rather than to provide a special tax benefit. The reason I say that is that colleges are very heavily subsidized both by the States making direct contributions to them and by Congress providing deductions for anyone who makes a contribution to a university by making charitable or educational gifts.

There are all sorts of laws that subsidize universities, directly or indirectly. The result of this amendment would be to further subsidize universities.

As I understand, we start by giving a 75-percent tax credit on the first $200 of expenses, then 25 percent on the next $300, and finally 10 percent on the next $1,000, making a total credit of $325.

My recollection is that Louisiana State University, which I attended, does not have tuition as high as $200. So the university would immediately raise the tuition to $200, at little cost to the student or his parents because of the 75-percent tax credit. In many instances, it is not the student who gets the benefit, so it is not a sensible way to use the money to assist education. It makes no difference to the youngsters anyway, if their families are able to put up the money for them to go to college.

After we get through subsidizing, we tax the benefits that already exist. For the most part, it is the sons and daughters of the affluent who go to college. After they have finished college, they become professional people—doctors, lawyers, and the like—and they have a better income in later life than others. This makes one ask, Why should the working people, whose sons and daughters will never go to college, have to pay taxes all their lives so that others can obtain a better advantage?

Then, as usually is the case with those who enjoy a tax benefit and are subsidized in order to go to college, when they graduate, they usually take advantage of the H.R. 10 benefits, the self-employment provision, which allows them to defer paying taxes on money set aside for retirement, even though they are making as large amounts as $50,000 or $75,000 a year. We just finished one amendment which I could not vote for because it had not been thoroughly considered and that was to subsidize the poor. In general terms, insofar as we look at classes of people, that is the effect of what it will do and who would get the advantage. So that first we hit from the left and then we hit from the right. First, we have the case of the poor and then someone proposes to take care of the sons of the affluent. I would think that if we want to load this thing on the bill, we should go back and reconsider the first Hollings amendment where he wanted to give things to the poor rather than where we now want to give it to those who are better off.

I would say to my friends who voted against the first Hollings amendment that we voted not to help the poor but now we turn around and are asked to vote for the welfare of sons of the affluent.

Now, of course, I know that is not the entire case but, generally speaking, to benefit from this, the money has to be available to the parents to send their child to school. If they do not have the money to send their youngster to a school, then the tax benefit is not going to do much good. A private school costs about $3,000 a year for one child, and if the parents do not have the money to send him, a $325 tax credit is not going to do very much good anyway.

So, Mr. President, I would think that there are better ways of doing this, ways that would have more justice and tax equity. I believe that a deferral proposal would be more fair. Those who benefit from all sorts of tax subsidies to give their children an education would be making more money in later life and therefore, better able to pay than those who cannot go to college.

This amendment should have a lower priority than those that would benefit all the taxpayers or those that would benefit the poor. So I hope, Mr. President, that this amendment will not be added to the bill.

The committee was given no opportunity at all to consider this proposition, even though the original sponsor, Senator RIBICOFF, is a member of the committee. We had no chance to consider this proposition, or the alternatives to it. It was not even offered in committee. So there was no opportunity to conduct hearings, to consider the alternatives, or anything along that line.

I hope that the amendment will not be agreed to.

Mr. BUCKLEY. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. (Mr. EAGLETON). The Senator from New York is recognized for 2 minutes.

Mr. BUCKLEY. Mr. President, I believe that this approach to relief from the heavy cost of higher education is undoubtedly a most correct one and a most balanced one, but I cannot see how the Senate, in good conscience, at this time, can suggest further ways to increase our deficit by $2.2 billion without, at the same time, pointing to areas where we can cut back existing costs by an equivalent amount.

So, although I am wholeheartedly in sympathy with the approach of the amendment, and although I hope that it will be pursued with adequate hearings, I trust that it will be pursued in the context of the educational package where we can shift some of the Federal grants under current programs and chain them down; so that we can give this type of relief to people who, especially in the middle-income brackets, are hardest hit to educate their children; so that we can continue to help parents help their children without, at the same time, having a Federal budget get so topheavy that we will spur the present inflationary pressures to a point where all these deductions and additions will prove meaningless in the long run.

Mr. President, because there is no indication that we will be saving somewhere in the neighborhood of $2.2 billion, I must, at this time, state that I will vote against the pending amendment.

Mr. GRIFFIN. Mr. President, I wish to associate myself with the remarks just made by the distinguished junior Senator from New York. I have been a cosponsor of this tax credit proposal for a number of years. I favor the objective of the amendment now before us. But how can I responsibly vote for it under the circumstances which now confront us?

Two of the young people in my own family are now in college. So, I am very conscious of what the proposal means. But this is the wrong way and the wrong time to legislate with respect to a measure that will cost the Treasury so much. The question at the moment is one of priorities. We should confine our consideration as closely as possible to the tax package that was considered and reported by the Finance Committee.

Then I would hope and urge that the Finance Committee would proceed to hold hearings on this college tax credit proposal—of which I am a cosponsor—and try to find a responsible way to report it favorably, taking into account its impact upon the Treasury.

Mr. BENNETT. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield 3 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 3 minutes.

Mr. BENNETT. Mr. President, this matter has had careful study by a number of prestigious panels which have been studying the problem of higher education. President Nixon's task force on education, President Johnson's task force on education, the Carnegie Commission on Higher Education, the Association of American Universities, and the American Council on Education, have all recommended, if not recommended against this, have all indicated that they think this is not the right way to solve the problem.

I would be inclined to agree with them. This is a scatter gun approach. It would provide tax relief for the man who has $1 million to send his child to college. It provides no tax relief for the man who cannot raise the $1,500 to send his child to college. It is one of these things that, to me, seems worthy on the surface. No one can quarrel with its objective. But it really does not provide a fair and equitable solution to the problem.

As has been pointed out, it will help those in the middle brackets and provide no help at all for those with lower incomes that cannot spend enough money to justify the tax credit.

In view of the fact that there is a bill waiting to go to conference, a bill that this committee passed last August, a bill that had very extensive hearings and that has been studied very carefully, I think we would do well to have a chance to look at the results of that conference rather than to try to take this quick and not thought-through solution to the problem.

Therefore, I hope the Senate will stand with the committee and not add his amendment to the bill.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I say to the Senator from Utah that I cosponsored and voted for a measure similar to this several times in years gone by. The situation is somewhat different now. As a matter of fact, the Senator from Washington and others who serve with me on the Appropriations Subcommittee on HEW are well aware that we are now, with authorization from Congress, giving more and more money every year in the form of scholarships to aid needy students and students from poor families. So, at the present time, we have spent a great deal of money. Perhaps in time to come we can do this again.

Although I agree that it is a scatter shot approach and helps the rich as well as the poor, at this time I am constrained to vote against it, even though I have sponsored such legislation in the past.

Mr. HOLLINGS. Mr. President, would the chairman of the committee yield me 2 minutes?

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I did not realize that there would be so much interest from my colleagues in this matter. I have a difficult enough time following this group that wants to help those who want to go to college and say they try to do that when they voted against the amendment. Now they say that this would help the millionaires.

That is quite inaccurate, for the total amount of credit allowed under subsection (a) which shall be granted to the taxpayer, is reduced by 1 percent of the amount his income exceeds $25,000.

Second, this measure has been studied and has passed the Senate twice. When we talk about the fact that now is not the time, that no one on the Finance Committee proposed any of these things, I must ask when any Members of the Senate get a chance to propose anything. I am not a Member of the House. I am not on the House Ways and Means Committee. I am a Member of the Senate. I am not on the Senate Finance Committee.

The measure has been heard and considered and found to be a very fine and salutary approach to the matter of education.

It is not the automobile excise tax. It is not the accelerated depreciation. It is not a matter of machinery. It is not something that goes to the corporations that go overseas. It is something that is going to the average American, the man who is making this country work.

That is what it means. The measure has passed the Senate before. Now is the time to do this. We are two times late. The Senate has acted on this matter two times already.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment of the Senator from South Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOK (when his name was called). Present.

The legislative clerk resumed and concluded the call of the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) and the Senator from South Dakota (Mr. MCGOVERN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from Oregon (Mr. PACK-

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WOOD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Nebraska (Mr. CURTIS).

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea" and the Senator from Nebraska (Mr. CURTIS) would vote "nay."

The result was announced—yeas 56, nays 27, as follows:

[No. 336 Leg.]

YEAS—56

Allen	Ellender	Nelson
Baker	Fong	Pastore
Bayh	Fulbright	Pearson
Beall	Gambrell	Proxmire
Bentsen	Goldwater	Randolph
Bible	Gravel	Ribicoff
Boggs	Harris	Schweiker
Brock	Hart	Sparkman
Brooke	Hatfield	Spong
Burdick	Hollings	Stafford
Byrd, W. Va.	Inouye	Stennis
Cannon	Jordan, N.C.	Stevenson
Case	Magnuson	Symington
Chiles	Mansfield	Taft
Church	Mathias	Thurmond
Cranston	McIntyre	Tunney
Dominick	Metcalf	Weicker
Eagleton	Mondale	Williams
Eastland	Moss	

NAYS—27

Aiken	Ervin	McGee
Anderson	Fannin	Miller
Bellmon	Griffin	Muskie
Bennett	Gurney	Pell
Buckley	Hansen	Percy
Byrd, Va.	Hruska	Roth
Cooper	Javits	Scott
Cotton	Kennedy	Smith
Dole	Long	Young

ANSWERED PRESENT—1

Cook

NOT VOTING—16

Allott	Jordan, Idaho	Saxbe
Curtis	McClellan	Stevens
Hartke	McGovern	Talmadge
Hughes	Montoya	Tower
Humphrey	Mundt	
Jackson	Packwood	

So Mr. HOLLINGS' amendment (No. 653) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMINICK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the amendment of the Senator from Indiana (Mr. BAYH) for himself and other Senators, which the clerk will read.

The legislative clerk read the amendment, as follows:

On page 36, lines 11 and 12, strike out the words "not more than 20 percent (rounded to the nearest half year) of such life," and in lieu thereof insert the following: "not more than 5 percent (rounded to the nearest half year) of such life. There shall be allowed a credit of $25 to an individual ($50 in the case of a married couple filing a joint return) against the tax imposed by this chapter for the taxable year ending before January 1, 1972, and beginning after December 31, 1970, except that such credit shall not exceed the amount of the tax imposed by this chapter for such taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property)."

The PRESIDING OFFICER. The time is controlled. Who yields time?

Mr. BAYH. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

PRIVILEGE OF THE FLOOR

Mr. BAYH. Mr. President, I ask unanimous consent that my staff assistant, Mr. J. Berman, may stay with me on the floor through the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

May we have order? Will Senators who have conversations that are not on the present subject please take them elsewhere? Will Senators please take their seats? Will all staff employees not connected with the pending business please leave the Chamber?

Until that happens, the Senator will suspend.

May we have order in the Chamber, please?

The Senator from Indiana may proceed.

Mr. BAYH. Mr. President, pursuant to the unanimous consent agreement, there is a half-hour's limit on each side on the amendment offered by myself and the Senator from South Carolina (Mr. HOLLINGS). I do not know whether it will be necessary to take that much of the Senate's time in view of the similarities between this amendment and the one which was offered on Friday and failed by two votes.

Specifically, our amendment would provide a $25 tax credit for each taxpayer, retroactive to January of this year, and thus applicable to this year's taxes. It would permit a $50 credit for a joint return.

It should be pointed out that this is a 1-year revenue loss only.

I have discussed this measure at some length with the chairman of the committee. He has been very patient. I apologize for taking so much of his time the last 3 or 4 days, when he has been involved in a number of matters.

A number of persons have asked, "Why don't you propose only the credit?"

Why did you bring in the second part of your amendment, which involves decreasing ADR?

This is an effort to be fiscally responsible. If we are going to give our taxpayers a break of $25 per individual and $50 per joint return, we have to have something to pay for it. I suppose we would have a better chance of passing the tax credit alone without tying it to ADR, because I know of Senators, on the other side particularly, who will vote against this amendment because it is tied to the ADR.

The amendment of the Senator from Indiana and the Senator from South Carolina that failed by 2 votes on Friday would have abolished ADR completely. I must admit that I feel this is the wisest approach. However, in an effort to accommodate those who feel there is a place for the accelerated depreciation, we have cut the range from 20 percent under the present bill to 5 percent. Thus, this matter will be thrashed out in the conference committee between the House and the Senate.

I feel we have to pay, in the long run, for the little goodies we are passing on to our constituents. Cutting ADR from 20 percent to 5 percent would provide a $500 million saving the first year, a $1.2 billion saving the second year, a $1.6 billion saving the third year, a $2 billion saving the fourth year, and a $2.5 billion saving the fifth year.

Thus, with reference to the tax credit that we propose be applicable to this year's tax return, which costs about $2.4 billion, cutting ADR would save a $7.8 billion drain on the economy in tax revenues. So we have a net revenue gain.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. LONG. As I understand it, if we were to assume that the investment tax credit together with the other measures being put into this bill are successful in getting this country moving again and, after about a year, we have full employment and we do not need any more stimulus in terms of additional accelerated depreciation or additional spending power to be passed through, is it true that this proposal would be a big revenue saver and that over a 10-year period we would save about $8 billion?

Assume for the sake of argument that, with the investment tax credit, the realinement of currencies for trade purposes, the various tax benefits that are elsewhere in the bill, plus the stabilization program, we are going to get the country moving again and that we are then able to achieve full employment. In that event, it would be a big revenue saver in the long run.

Is that correct?

Mr. BAYH. That is right, plus the fact that we would provide the stimulus when we need it. We know we have problems right now, and it seems to me the proposal of the Senator from North Carolina, the Senator from Indiana, and some of our other colleagues, has two or three things to recommend it. First of all, it tends to redress the balance of the President's tax plan, which is a bit heavy in giving tax breaks to industry and corporations. This would give a $2.4 billion tax break to the consumer.

Second to recommend it is the timing. As the Senator from Louisiana points out, now is when we need the stimulus. We had the $800 exemption adopted by the Senate, but it does not take effect until the following year. We need help now, and the 1-year benefit provided in our amendment would apply to this year's tax and would be available next year to spend and help stimulate the economy.

Next year, if we need some stimulus, we can make that determination then.

Mr. LONG. If we do not need it, then it helps balance the budget.

Mr. BAYH. That is right. It helps balance the budget and probably it will help pay for more of the goodies we have put in this bill.

Mr. LONG. Meanwhile, if we want to go ahead with the construction of roads and public projects and pollution control programs and others we would like to spend some money for, and do it a year from now, the money would be available for that. Is that correct?

Mr. BAYH. That is right. We would make that determination then.

Mr. HOLLINGS. Mr. President, I yield myself 2 minutes.

Mr. President, I think the RECORD should show, in trying to find the clue to President Nixon's budget message here, that he has sought the counsel of Democratic economists as well as Republicans. I put in the RECORD, during the debate earlier today on the other amendment, the article by Walter Heller in the Washington Post of yesterday. I know Dr. Heller, of the University of Minnesota, has been called in by President Nixon and his advisers, and all have had differing views to express.

We need to get the economy moving and still not waste tax moneys down the line, because this country is in need of tax revenue. We need to get back to the environment, the highways, the housing, the urban areas, the rural areas, and everything else. What this article pointed up in my mind was that he said:

Yes, do away with the accelerated depreciation, but go ahead with the investment credit, and then spur it on by an increase in consumerism.

My distinguished colleague has been opposing amendments as fiscally irresponsible, including one we have now passed to provide for $2.2 billion in tax credits for tuition.

We can balance that off by the $8 billion saved. After all, this is not a budget balancing bill. The President, on August 15, did not come by and say, "Look, fellows, we have got a $23 billion deficit, and we are going to start balancing the budget." He said:

We have got a stagnant economy, and we are about to devalue the dollar, and the American industrial machine is going down the drain. It must be saved. The question is how to do it as quickly, as promptly, and as fiscally soundly as we can.

This can be distinguished from the amendment lost by a vote of two on Friday by the fact that there we did away with the entire depreciation allowance. This one has an allowance of only 5 percent, which is considered fiscally sound by all the economists, and it meets a dual need: It puts $25 or $50 credit back to a couple and helps bring about consumerism, which is the best way to profits in America, and at the same time, over a 10-year period, saves some $8 billion in revenue.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I intend to vote for the amendment, so I yield the time in opposition to the distinguished Senator from Utah (Mr. BENNETT).

Mr. BENNETT. Mr. President, here we go again. The blow is not quite so heavy as it was on the last go around, but we are again being asked to believe something that is not true, in order to make this particular approach seem reasonable.

The thing we are being asked to believe is that the tax situation today, and in the bill as it came from the committee, is heavily loaded in favor of corporations and against the individual, and that it is necessary to redress that imbalance.

Taking the 1969 Tax Act and this bill, as it came from the committee, and projecting forward for 10 years, over that 10-year period, cumulatively, individual taxes would be reduced $157 billion, an average of about $16 billion a year.

The tax on corporations, leaving ADR at 20 percent over that 10-year period, would be cut by only $10 billion. So the tax cuts for individuals, under existing law and the bill as it came from the committee, are 15 times the tax cuts for corporations.

Under the Senator's amendment the $10 billion tax relief that would be provided for business over 10 years would be turned into a tax increase. Instead of receiving relief of $10 billion, corporations would have an increase in tax of $15 billion. How anyone can say that it is necessary to make this kind of a change in order to equalize cuts between business and individuals is more than I can understand, in the face of these figures.

I can understand the real argument of my friends who are the sponsors of this amendment. They do not like business to have any tax relief. They say, "Give it to the individual, and he will get out and spend it, and then, by a kind of trickle-up theory, suddenly business will be good."

On this, let me first say that already we have added, over the next 10 years, by actions on the floor of the Senate, an additional $41 billion of tax relief to individuals. So we are now up to $198 billion relief for individuals. This has been done in the name of equalizing the benefits to individuals with those provided to corporations. As I have shown, if this amendment passes, we will in fact have taken away the small tax benefits that corporations would have had under present law and the bill and turned it into an additional tax burden.

Second, I realize that many of my colleagues in the Senate have never been a part of the business system. They do not recognize what it takes to provide a job. It is easy to understand how they can think that business should somehow take care of itself and jobs should grow on trees. But that is not the way it is done. You can tax American business to the point where, facing the competition that comes from overseas, the companies will not be able to keep themselves operating, and the number of jobs will continue to shrink.

This whole bill started with the idea that we had to rearrange our tax priorities so that we could make American business more competitive, so that it could employ Americans. The ADR is one of the devices designed to do this. As I showed in the debate last Friday, even with the full ADR, American business is still in a worse position than its competitors in other countries when it comes to acquiring the new equipment which is needed to increase productivity and the competitive position of American business. Without the ADR, and with the 7-percent credit, the cost of capital in the United States in effect would be reduced by tax benefits from 100 down to 90.15. This amendment would further reduce it a tiny bit, perhaps from 90 down to 89.5.

But this must be compared with the effect the tax benefits provided by other countries have on the cost of capital there. In Great Britain, tax benefits reduce the cost of capital from $100 to $79; in Japan it is $81, in Italy $18, and West Germany $82. In other words, in all these countries, there are substantially more attractive climates for investment than exist in the United States. The ADR is a device by which we can make investment in American industry and American jobs more attractive. It has a very substantial long-range value in making U.S. industry more competitive in world markets.

And it has a long term, permanent effect upon the job producing capacity of American industry. If ADR is largely eliminated, as the Senator proposes, there will be a serious decline in that capacity and in the ability of American industry to provide the level of jobs to Americans that is desirable.

I yield to the Senator from Virginia.

Mr. BYRD of Virginia. Could the Senator from Utah inform the Senate as to what the net reduction of the revenue would be for fiscal 1972 if the amendment of the Senator from Indiana is adopted?

Mr. BENNETT. It is my understanding that the amendment of the Senator from Indiana does not affect 1972. It is a one-shot deal. It would cost about $2.4 billion for calendar 1971, and it would give relief to taxpayers, many of whom have already paid most of their taxes.

Mr. BYRD of Virginia. Not fiscal 1971.

Mr. BENNETT. Calendar 1971.

Mr. BYRD of Virginia. That brings me to fiscal 1972. It would have an effect on fiscal 1972?

Mr. BENNETT. The net loss from the amendment in fiscal 1972 would be approximately $1.7 billion.

Mr. BYRD of Virginia. $1.7 billion in fiscal 1972.

Mr. BENNETT. That is correct.

Mr. BYRD of Virginia. What would the loss be in fiscal 1973?

Mr. BENNETT. Since this is a one-shot deal, it would not produce a loss in fiscal 1973.

Mr. BYRD of Virginia. But for fiscal 1972, it would be $1.7 billion?

Mr. BENNETT. That is my understanding.

Mr. BYRD of Virginia. I thank the Senator.

Mr. BAYH. The whole purpose of this is to be just a one-shot deal—if all these things work, and the economy is supposed to be booming a year from now we will not need more stimulus. We need this now, and that is why we confine it to 1 year.

Mr. BENNETT. I would point out that as a stimulus it probably will not be felt until the middle of 1972, because the people will not get the effect of the savings in their tax until they file their tax returns and the Government processes their returns and then sends out the refunds. It will not put any more money into anybody's pocket in calendar year 1971.

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Mr. BAYH. I am advised by the committee staff that anybody who claims a refund can get this money beginning in January and can start spending it right away, and that is when we need it. Nobody knows what the future holds, but we know the present, and the present is is not as good as we would like it nor as good as the President would like it. That is why we feel this additional buying power is needed. Nobody can guarantee that it is going to be spent. But we are taking out of the pocket of the taxpayer an additional social security tax, and this $25 and $50 will help fill that gap, so that buying power will stay about where it is.

Mr. BENNETT. As was pointed out this morning, there is already a substantial upturn in retail sales. The program that has been aimed at that goal is beginning to operate.

I cannot believe that it is sound to provide another $2.5 billion worth of relief in amounts which would mean very little to each individual taxpayer but which, added together, would mean approximately a $2.5 billion revenue loss to the Federal Government.

I cannot see that as a successful stimulus, and certainly not if it is provided at the cost of taking away from American business in the future its opportunity to increase its capacity to provide jobs for the American people.

Mr. LONG. Mr. President, will the Senator yield me 3 minutes?

Mr. BAYH. I yield.

Mr. LONG. Mr. President, a study has been made by the Brookings Institution to show what income tax as a percentage of full employment Gross National Product would be, and this relates to the changes that have been made in the tax law. The Brookings study takes into account something that the Senator from Utah has not considered, and that is the fact that as incomes rise, individuals pay a higher proportion of their income in taxes because they move into steeper income tax brackets, while the same is not true of corporations, because corporations are confronted with a flat tax which is not a graduated tax.

Therefore, if you look at what happens when we have a full employment Gross National Product—and that is what the administration wants to base its budget on, and does—you find that, based on the laws we had in 1961, individuals were paying 8.6 percent of Gross National Product in taxes, and corporations were paying 4.6 percent.

If you look at how it will be in 1972 under the House bill, individuals will be paying 8.6 percent, and corporations will be paying 3.6 percent. In other words, individuals will be paying about the same, while corporations will have had a cut of about 20 percent, if you look at what their taxes would be as a percentage of a full employment gross national product.

Mr. President, I ask unanimous consent that this chart, prepared for me by the staff, be printed at this point in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

INCOME TAX AS A PERCENT OF FULL EMPLOYMENT GNP

	Individual	Corporate	Total
1961	8.7	4.6	20.4
1970	9.2	4.3	20.5
1972 (House bill)	8.6	3.6	20.0

Source: Compiled from data supplied by Brookings Institution.

Mr. LONG. So, as a practical matter, if you want to take into account what has happened since 1969—and that is going back a bit before the point the Senator had in mind—you include the Tax Reform Act and include the items that happened since that time; and by far the best benefit has gone to the corporations, because individuals, because of higher money incomes due in part to inflation have had higher taxes imposed, by virtue of the graduated income tax, which causes them to pay more tax as their dollar earnings increase.

So, taking that into account, one would find that the bill is loaded in favor of corporations, as against individuals, and the Senator's amendment would move in the direction of correcting some of that differential.

Furthermore—I should like the attention of the Senator from Indiana—the Senator from Utah makes an argument that assumes that everything was just hunkydory and just exactly the way it was supposed to be before we passed the Tax Reform Act of 1969. Some people do not think that. Some people think that there are altogether too many loopholes in the tax laws and that there was a prospect of a taxpayers' revolt, because it was possible for a man to make a million dollars and pay no taxes. Many people felt that after we passed the 1969 Tax Act, the tax burden was the way it should be, rather than before. You can pay your money and take your choice.

Congress did not seem to think that individuals were getting altogether too much the better of it and that corporations altogether too much the worse when Congress passed that Act; because if that had been the thought of Congress, they would not have passed it to begin with.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BAYH. Would not one be hard pressed to explain his vote for the tax reform bill of 1969 unless he thought provisions need to be changed?

Mr. LONG. Fundamental to the argument of the Senator from Utah is that the Tax Reform Act of 1969 should never have been passed, because the fundamental of his argument is that we did altogether too much for individuals and not enough for corporations in that law—that is, so far as the overall sharing of the burden is concerned. So that if one assumes that was a good bill and should have been passed, the entire argument falls.

Even if that is taken into account, look at what has happened and what does happen as people move up the income tax scale. The fact is that since 1961, the burden on individuals at a percentage of gross national product is just about what it was 10 years ago; and for corporations, by the same comparative standard, the burden is about 20-percent less.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BAYH. I should like to read one paragraph from page 709 of this document studying this particular act as it was deliberated on in the Senate under the leadership of the distinguished Senator from Louisiana. I think it pretty well sums up his argument about why the type of amendment the Senator from Indiana, the Senator from South Carolina, and the Senator from Oklahoma, and the rest of us are proposing is not extreme—the Senator from Louisiana will recall this, but let me read it to the Senate:

• • • if account is taken of the progressivity of individual income tax rates and the need to reduce personal taxes as nominal incomes rise—due to real growth or inflation, or both—then the tax cut for individuals under the combination of the 1969 Reform Act and the Ways and Means Committee action is negligible. For individuals, the combined actions return the 1972 relationship between taxes and income to that which held in 1967—before the 1968–70 surtax.

So we are about where we were when we started, despite the concern expressed by the Senator from Utah.

Mr. LONG. Mr. President, the fact is, every time we have put the investment tax credit on, to encourage business to buy more equipment, it has accelerated the economy to the extent that we had to take it off again. That has happened twice. So, against that background, what conceivable basis can there be to say that the investment tax credit is not enough; that we have to provide that much more in accelerated depreciation which actually exceeds the normal depreciation. Look what has happened with the investment tax credit at 7 percent. It has been enough to accelerate the economy and so denude the money markets for the purchase of new plants and equipment not necessarily needed, that we had to repeal it so that somebody else might be able to build a house or an office building. The past experience has been that the investment tax credit has accelerated the economy; so why put the accelerated depreciation into permanent law, since it would lose money on and on into the future, when we already have enough incentive to accelerate the economy based on the experience we have had every time we put the investment credit into operation.

Mr. HARRIS. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER (Mr. MCINTYRE). The Senator from Oklahoma is recognized for 5 minutes.

Mr. HARRIS. Mr. President, I want to commend the distinguished Senator from Indiana (Mr. BAYH) for the excellent leadership he has given on this whole question of the asset depreciation range plan of the Nixon administration. I am very much pleased that he has not quit with one or two efforts, and that he is still back here in the Senate trying to do something about repealing the inordinate windfall for business while the average taxpayer is paying more than his fair share of taxes.

May I say also, Mr. President, that since I was a student in college I have been a student of the history of Huey P. Long, late a member of this body. I think that what the distinguished chairman of the Finance Committee has said just now in regard to this whole ADR question is exactly in furtherance of what the late Huey P. Long had to say, that corporations and big business in Louisiana, in his day—and in my day in Oklahoma—around the country, have had too much of a preference in regard to taxes.

The average taxpayer in this country has been educated very well. He knows now, particularly in regard to what is called the Tax Reform Act we passed lately, that he pays much too much tax while a lot of rich people do not pay enough and corporations do not pay enough.

I am pleased to join with the chairman of the committee to redress that. Many Members of the Senate and a lot of politicians generally have not awakened to what is happening in this country.

Henry Howell was just elected Lieutenant Governor of Virginia on a populist government, on his idea that the average working man and woman in this country and the average taxpayer are being treated unfairly.

Rubin Askew, Governor of Florida, had overwhelming approval of a tax plan to tax corporations that he presented to the people of Florida. That would have been considered political suicide, I suppose, in a lot of other States—perhaps even in Florida, 5 or 10 years ago—but Governor Askew found overwhelming approval at the polls for his plan.

In my State of Oklahoma, Governor David Hall, an old classmate of mine in college, was elected Governor of Oklahome as the first Governor of Oklahoma to say that oil companies were not paying their fair share of taxes and also that they were not doing what they should do in regard to pollution.

Many people thought that was political suicide but it was not. As a matter of fact, Governor Hall was elected Governor of our State.

The truth is that the people of this country know that the average working man and woman are paying too much tax. They know that a lot of big corporations and others are not paying their fair share of taxes. Now the Nixon administration comes along and instead of giving relief to the average taxpayer, wants to give relief to the big corporations.

Mr. President, the asset depreciation range plan should be completely eliminated. It is nothing but a windfall on top of another windfall.

The average taxpayer should get a tax reduction. The pending amendment—of which I am pleased to be a cosponsor—would cut down on the ADR windfall to big business and give a much-needed tax break to the working people of this country. There does not seem to be any credible authority that will tell us that the ADR will help to stimulate the economy. What we do hear, however, are many economists telling us that the ADR plan will only result in a gross resource misallocation, will have very little stimulative effect on investment in the short run, will reward firms who have deliberately avoided meeting the existing reserve ratio test, and will remove pressure on inefficient producers to modernize. Since it applies to both old and new equipment, it is a windfall to a considerable extent, and the cost to the Treasury will be over $27 billion by 1980.

There are numerous programs needed in this country in these next years to increase the quality of life, reduce the tax burden on individuals, assure every able-bodied man a job, and improve our environment. Those programs could well use the $27 billion being given to big business by the ADR giveaway. Additionally, those necessary programs will be a direct stimulus to the economy and will directly affect the people who most need a stimulus—the lower and middle income persons who make up the bulk of our population.

The main argument given by the Treasury for the ADR is that it will stimulate investment and thus jobs. I can find absolutely no foundation for this claim. American industry is now using about 73 percent of its plant and equipment. Under such circumstances, businesses will have little reason to increase their purchases of equipment. The uselessness of the ADR as a stimulus is even admitted by those who will be taking full advantage of its benefits. John Roche, chairman of the board of General Motors—a man with whom I am not generally in agreement—said recently:

It should be understood that most companies of any size determine their purchases of equipment by the needs of the business and not by any short-term tax advantages.

In other words, until business picks up and consumers start buying again, investment is unlikely to make major gains—even with both the investment credit and ADR.

Another administration story has been that we need to adopt the ADR as a means of lowering corporate income taxes, because they are "too high as compared with other industrialized countries." The facts just do not support that contention. U.S. corporate taxes are very much in line with those of our major international competitors—lower, in fact, than Canada, Germany, and France. In addition, most European countries impose a value added tax in addition to a corporate tax.

The Treasury has attempted to get around those facts by presenting a table that purported to show that the cost of capital in the United States is above other countries. But no one tells us how that table was computed, and in fact, reputable economists feel that the table must be based on a wrong conception.

The fact is that we do not know the facts. And since we do not, it seems incongruous to me that we should approve a $27.5 billion tax bonanza to big business. We agonise over every tax reduction to the individual to assure ourselves that we know the exact amount of revenue loss, expected stimulus, and a myriad of other considerations, before we give the little man a break. However, it seems easy and natural for this administration to send us proposals to make the rich richer and expect us to approve them without so much as a professional hearing and examination of valid facts. Well, I will not vote for this giveaway or for any other giveaway. I consider the ADR and the Investment Tax Credit as two proposals that do the same thing—provide more tax breaks to big business at the expense of the workingman. I do not see how any man in this Senate can go home and tell his constituents that he voted a $27.5 billion tax break to big business without knowing what he was voting for or why.

I intend, therefore, to support the Bayh amendment as our best chance to stop, at least in part, what the administration wants to do.

Mr. BENNETT. Mr. President, I yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER (Mr. MCINTYRE). The Senator from Arizona is recognized for 5 minutes.

Mr. FANNIN. Mr. President, as the Senator from Utah has brought out, we are behind the industrial nations of the world in encouraging job-producing investments if we take all tax benefits into consideration.

We know that when incomes rise, people have jobs. That is what we are trying to do, to get legislation through that will help us compete with the other nations of the world so that we will be in a position to hold jobs in the United States which at present we are not able to do.

Since 1965 we have gone downward so far as the other countries are concerned. Consider for a moment just what has happened to U.S. industry principally as a consequence of the lowest capital recovery tax allowances of any of the principal nations:

First. The United States has the lowest rate of investment in new plant and equipment in relation to GNP of any of the leading industrial nations.

Second. The United States has the highest percentage of overage, obsolete production facilities of any of the leading industrial nations. Sixty percent of all machine tools are obsolete.

Third. The United States in 1970 had a smaller percentage increase in investment in production facilities than Japan or West Germany, our principal competitors in world trade.

Fourth. The United States now ranks 20th—Japan is first—in productivity growth, with less than a 3-percent average annual growth rate of gross domestic product per employee for the period 1959–69. Japan's growth rate was 10 percent, over three times as much.

Our basic tax problem is, of course, that we rely more than any of these other industrial nations on the income tax which puts a premium on inefficiency—on high-cost production. The higher the costs, the lower the tax. Inefficient, marginal companies, losing money with obsolete facilities, are rewarded. They pay no income tax at all.

Foreign nations have been wise enough to discard outworn depreciation accounting concepts and procedures that chain taxpayers to their "historical replacement practices," and to the tax collector's arbitrary guesses about "anticipated useful life." These nations have been well aware for a long time of the unpredictable impact of technological change; and they have been entirely realistic about the absolute necessity of providing tax allowances that will insure the installation of all the industrial facilities they require. Accordingly, nearly all of them adopted some years ago the same kind of conventionalized capital recovery tax system that the President's task force recommended in 1970.

For some time now foreign nations have been giving us a tax lesson in just how capital cost allowances can stimulate productivity at home and exports abroad. In 1970, the President's task force made a diligent effort to get the Government to heed the lesson, but to no avail. Not until the ADR proposal, and the President finally took emergency action in August was there any indication that anyone in Government really understood the tax lesson and the reason we were losing out in world markets. Just 20 months earlier in December 1969, Congress had repealed the 7-percent credit upon its expressed conviction and the prior Treasury Secretary's quite ridiculous representation that inflation could be slowed by discouraging investment in the very facilities that would have reduced costs, increased productivity, and fought inflation in 1970 and 1971.

Understanding this tax lesson has seemed to be completely beyond the competence of those who so bitterly fought the ADR system tooth and nail on every conceivable political and legal ground, no matter how flimsy. They seem to have the mistaken notion that somehow or other U.S. industry will be resourceful and ingenious enough to work miracles of competition even in a straightjacket of inequitable taxation. They simply do not realize that the age of such miracles is over, that we can no longer be complacent and that industry, to a very considerable extent, has run out of capital and the investment momentum provided by the 7-percent credit in the 1960's.

The necessity for economic growth, and even survival, has taught our foreign competitors another lesson—that they can no longer afford to play politics with their tax structures by pitting individuals against business. Even the more Socialist nations have learned that in a ruthlessly competitive world, individuals and business, labor, and management, have a common interest in evolving a tax structure that will assure the requisite private investment for full employment and maximum productivity.

We have a great need for change in this situation so that we can become competitive with other countries. Let us look at what America can do. This has been brought out quite a few times during our debate in the Senate. Look at where our Nation is now. Nine out of 10 home radios are imported. One out of every six new cars sold is a foreign car. That is rapidly increasing. It is now about one out of four. Two out of every five pairs of shoes are imported and one out of every two black and white TV sets.

Hundreds of other import inroads could be cited: 96 percent of our motorcycles, 30 percent of ceramic tile, 90 percent of baseball gloves, 30 percent of bicycles, and 70 percent of tennis racquets are imported

Where are we going? We have seen figures that indicate what is happening. We can talk about textile plants, automobile plants, and other plants. Electronic equipment is a good example. The impact of these imports on our employment has been equally severe in many areas of the country.

Admitting that his statistics were only rough guesses, Andrew J. Biemiller, director of the AFL–CIO's Department of Legislation, estimates that approximately 700,000 American jobs were lost directly as a result of foreign competition between 1966 and 1969 alone.

What is going to correct this? Certainly we know that we must be competitive with the other countries in many other ways. As far as wage rates are concerned, that has not been accomplished even with some of the strides we have made. In fact, we are going the other way, the gap is widening. However, we have an opportunity in this bill to give an opportunity to business and industry to become more competitive, to have at least a chance to make the investments that are so necessary to help them to modernize and be able to provide jobs to American workers.

The countries of Europe and Japan have revealed what they do. The benefits they provide account for the many American companies which are now building companies abroad.

Thus without ADR we were behind every other industrialized nation. Thus without ADR—as modified by the House bill—and the level 7-percent credit proposed by the House, the U.S. figures would be 87.1, placing it behind six nations and ahead of only France, the Netherlands, and Canada. If ADR were not modified, the U.S. figure with a 7-percent credit would be 86.2 which is still higher than six major nations.

Other countries have many tax benefits that far more than offset what would be involved here if we had all the provisions we are talking about in the pending bill. If we take ADR out, we will weaken our position that much more.

We have this opportunity to go forward, if we will do so, and provide American industry with what is needed if it is to even begin to become competitive with foreign industry and to modernize our productive facilities and provide jobs for American workers.

Mr. BENNETT. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized for 2 minutes.

Mr. BENNETT. Mr. President, I am sorry the chairman of the committee left the room, because he made a statement that intrigued me. He indicated that in discussing the anticipated revenue losses from this bill and the 1969 act, I had not told the whole story because I did not go back of the 1969 act.

From 1962 to 1969, when the other party was in control, there were tax reductions every year both for individuals and for corporations.

The tax reductions between 1962 and 1969, inclusive, for individuals were $107 billion. The tax reductions for corporations were $28 billion.

As a result of the 1969 act in 1970, the tax reductions for individuals were seven times greater than the tax reductions for corporations. And for 1971 and 1972 were five times greater.

At no point does the record show that tax reductions for corporations have come anywhere near equal the tax reductions for individuals.

Mr. President, I now yield 7 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 7 minutes.

Mr. PERCY. Mr. President, I thank the distinguished Senator from Utah.

I would like to emphasize that the depreciation provision of this bill is one of the most important to be considered here. It goes back to the basic theory of how we want this country to grow and the fundamental difference between those who believe that all we have to do is to pump in consumer purchasing power, and those who feel that we have to do it systematically, as all other industrialized nations have, by taking into account that adequate incentives must be provided to keep industries efficient by purchasing modern capital equipment.

The very fact that we pump money into the consumer spending stream does not mean that it will benefit American industry. Consumers are quite ready to buy foreign imports. As, relatively, our tax laws do not take into account the need to provide incentives for capital investment, and other countries have provided those incentives year after year, American industry has been getting older. Our equipment is becoming outdated. Our steel industry has been grinding down and becoming obsolete. The industries of other countries have been becoming much more efficient.

Consumers in the American economy are free to buy where they want. And they have increasingly been buying from abroad.

That is why we had to take action to impose a surcharge on imports to temporarily restrain imports.

We know that other countries are going to retaliate. They are veterans at finding ways to exclude our products. If we lose this fight, the whole foreign economic policy of our country will have to change. It was a bipartisan policy. We have depended on our trade surplus to carry the cost of our military commitment abroad, and to carry our foreign humanitarian, cultural, and economic assistance programs. If we lose this competitive fight, as we are losing it now, we place our position in the world in danger.

I know it is very popular to be able to say, "I have given the consumer a tax cut or a credit or benefit." But I argue that we are in fact hypocritical if we do not go the next step and say, "I took it away from the very industry that is going to create the jobs for which you will be hired."

We had better find out why we are not creating jobs in America; why steel plants are leaving Indiana, and are being built all over the world, and why we are trimming down steel production in Illinois, Ohio, Pennsylvania, and other States. It is because other governments have provided incentives for capital investment.

We systematically are paying our labor much more. How can we afford to pay our labor so highly, put less and less into capital equipment, and then expect to be able to compete in the world market?

The key to our world economic position has to be our inventiveness; our products have to be better than the products of others. We know that technology is so available that we can get an idea on Monday, and in Japan they are starting to produce that idea on Friday.

I would like to direct the attention of my colleagues to the chart in the back of the Chamber. Since it is rather small we have placed on the desk of each Senator an identical copy of the chart showing the comparative capital costs of manufacturing machinery and equipment as influenced by income tax policies, corporate income tax rates, depreciation allowances, and investment credit, for major industrial countries in 1971. The chart shows the United States in 1970 as 100. What is the capital cost to manufacturing plants in other countries? I suggest that, as businessmen, my colleagues would wonder why they should invest in the United States with its high capital cost of 100, when they can go to the United Kingdom and have a relative cost of 78, or to France with a relative cost of 90, to Japan with a relative cost of 81, Italy 82, Sweden 83, West Germany 83, Belgium 85. Only when we get the Netherlands and Canada do we get to 94 and 97, which approach the cost of capital in the United States.

We well know, as pointed out by Dr. Henry Wallich, when he testified before the Joint Economic Committee on September 21, 1971:

> Prior at least to the introduction of the new depreciation rules, business was underdepreciating its capital investment at a rate of perhaps 15 percent below replacement requirements.

The U.S. schedules, outdated by economic change, had fallen well behind those of our foreign competitors prior to the Treasury's action. The President's Task Force on Business Taxation reported that U.S. rules permitted a cost recovery allowance of only 7.7 percent in the first year, against a first year write-off of 16.5 percent for West Germany, 20 percent for Italy, 21.5 percent for France, 34.5 percent for Japan, and 57.8 percent for the United Kingdom in the period 1967–68. It seemed to me, therefore, that the Treasury's proposed change in the "first year convention" to permit fuller depreciation of assets in the first year was necessary to make U.S. practice more comparable to foreign practice. And, the Treasury's action in shortening guideline lives by 20 percent was a necessary modernization of the schedules to reflect the many economic changes that have occurred during the past decade. I believe, as I testified at Treasury hearings, that these changes are necessary to increase our rate of reinvestment, which was 16.5 percent of GNP in 1967–68, compared with 23 percent in West Germany and 34 percent in Japan in the same period.

As the distinguished Senator from Indiana knows, when I appeared at the U.S. Treasury Department hearings to testify for the Asset Depreciation Range (ADR), the room was very crowded.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PERCY. Mr. President, will the Senator yield to me for 2 additional minutes?

Mr. FANNIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. FANNIN. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I thank the Senator.

As the Senator from Indiana will recall, because he also testified at the hearings, that room was crowded. I know organized labor has taken the position ADR is a windfall to American industry. But it is not looked upon as a gift by most other industrial nations in the world. It is taken into account that the cost of capital equipment is a very major factor in investment, productivity, economic growth, and jobs.

One reason other countries are attracting so much industry is that their laws are more reflective of the productive lines of capital equipment.

I challenged every labor union representative—and every major union was represented—to send their economists to my office and exchange ideas. I have no interest other than to create jobs and make our productive ability the greatest in the world so that we can continue to serve world markets, not just U.S. markets. I have repeated this offer several times to labor leaders and none of them has sent an economist to my office to express their position against ADR. It is called a giveaway, but I think the facts demonstrate that it is the best investment we can make in the American economy.

John F. Kennedy recognized this in 1962 when he offered a revised schedule which at that point helped generate one of the best stimulants we have had to create jobs and better products in America, sold in America and abroad. These are the reasons why I believe this amendment should be rejected.

Mr. HANSEN. Mr. President, will the Senator yield to me for 1 minute?

Mr. FANNIN. I yield.

Mr. HANSEN. Mr. President, I commend the distinguished Senator from Illinois for a very able presentation. I am sorry that the Chamber is not filled so that we might all have had the benefit of his observations.

As a member of the Committee on Finance I have listened to testimony from the chiefs in industry in this country. We had before us the chairman of the board of Zenith, Joseph Wright, the chairman of the board of General Electric, and the chairman of the board of Burlington. Each of them told us what the Senator from Illinois (Mr. PERCY) has said today, as he summarized the flight of industry from this country abroad. It is just that simple.

We can talk about trying to pass out a few crumbs, which this proposal would do, to make people feel good this year. If we want to do that, that is our choice. A far wiser course would be to see that we create jobs that could make it possible for people to work in this country.

Mr. HOLLINGS. Mr. President, will the Senator yield to me for 2 minutes?

Mr. BAYH. I yield 2 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, in response to the Senator from Illinois, yes, John F. Kennedy did institute the investment tax credit in 1962, but the former Chairman of the Council of Economic Advisers, Walter Heller, stated only yesterday and prior to that at a hearing with Senators last week that it did not have any effect until the tax cut of 1964 went into effect.

What are the facts? We had an investment tax credit for 7 of 9 years. That is the first fact.

What is the second fact? The second fact is that we have had an accelerated depreciation since January, when the President on January 2 at San Clemente gave a 20-percent depreciation allowance.

What is the third fact? The third fact is that just 3 days ago the New York Times, in an article entitled "Company Profits Up from One Year Ago," reported that third quarter profits of 1,267 nonfinancial corporations rose 11 percent to $7,010,800,000. That is 11 percent higher than the $6 billion and some odd million of the similar 3-month period last year, according to a tabulation by the First National City Bank.

What does the Wall Street Journal say? It says the corporations managed to rebuild cash. That is what they have, a cash problem.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. Mr. President, will the Senator yield to me for 1 additional minute.

Mr. BAYH. I yield 1 minute to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the contest is not between the corporations and labor or who is going to get the most, the corporations or the individual. I would be in favor of giving it to anybody if we can get the economy moving.

I have been there with United States Steel. They had a tax investment credit for the last 10 years, I wish to say to the Senator from Wyoming—$206 million in the last 10 years, and yet they are operating at 73 percent capacity because it has not brought jobs. They do not need increased consumerism. That is what they need, and the very gentleman who put in the investment tax credit says, "Do away with ADR," and this amendment only puts it down to 5 percent, and lets us get some consumerism.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAYH. Mr. President, a few of my colleagues requested time, but they are not here.

Let me take this time to reemphasize what my distinguished colleague from South Carolina has said. I ask unanimous consent to put in the RECORD excerpts from the committee hearings, particularly the testimony of Mr. Charles Davenport, at page 745 of the hearings, a former member of the Tax Legislative Council in the U.S. Treasury Department, when he pointed out that the business of the cost of capital that was mentioned by our friend from Illinois really has little relevance to the problem before us.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

It is sometimes argued that our depreciation system does not allow adequate capital cost recoveries. In support of this argument the proponents turn to the capital cost allowances of foreign nations. Let me point out that the Western European nation generally considered to have the most vigorous economy, Western Germany, allows somewhat slower recovery than is allowed in this country. On the other hand, the United Kingdom permits the speediest recovery. If we assume some connection between cost recoveries and economic vigor, these data support a constriction of depreciation rather than a liberalization. Or put another way, should we attempt to solve our present economic miseries by emulating the British?

Mr. BAYH. I would take the words of the Senator from Illinois as he quoted them. He talked about how fortunate Great Britain was. He said until we got down to the Netherlands and Canada——

The PRESIDING OFFICER. The time of the Senator has expired. He has 3 minutes more.

Mr. BAYH. I yield myself some time.

Not until we get to them does the cost of capital become comparable.

Interestingly, if we take the cost of capital in Great Britain, it is better than that of any of the other nations on the chart, but none of them would change their rate of growth with Great Britain, which also is the lowest. None of them would change their per capita gross national product.

The two nations on that chart that are closest to the United States in the cost of capital and closest to the United States in gross national product are the Netherlands and Canada.

So to suggest that the figures on that chart relate to productivity and business health is not borne out by the facts.

Our friend from Utah said some of us do not want to help business. I want to help business. That is why I want to see the investment tax credit. I also want to give some help to those who need to spend money next year. Hopefully, the other parts of the program will help the economy and we will not have to continue with the ADR, which is a permanent revenue loser.

The PRESIDING OFFICER. All time has now expired. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. RIBICOFF. Mr. President, on this vote I have a live pair with the Senator from Minnesota (Mr. HUMPHREY). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. PASTORE. Mr. President, on this vote I have a live pair with the Senator from Indiana (Mr. HARTKE). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Louisiana (Mr. ELLENDER), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from South Dakota (Mr. MCGOVERN), are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also the Senator from Massachusetts (Mr. BROOKE) and the Senator from New York (Mr. JAVITS) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 39, nays 40, as follows:

[No. 337 Leg.]

YEAS—39

Bayh	Gravel	Moss
Bentsen	Harris	Muskie
Bible	Hart	Nelson
Burdick	Hollings	Pell
Byrd, W. Va.	Inouye	Proxmire
Cannon	Kennedy	Randolph
Case	Long	Sparkman
Chiles	Magnuson	Spong
Church	Mansfield	Stennis
Cranston	McGee	Stevenson
Eagleton	McIntyre	Symington
Fulbright	Metcalf	Tunney
Gambrell	Mondale	Williams

NAYS—40

Aiken	Dole	Miller
Allen	Dominick	Pearson
Anderson	Eastland	Percy
Baker	Ervin	Roth
Beall	Fannin	Schweiker
Bellmon	Fong	Scott
Bennett	Goldwater	Smith
Boggs	Griffin	Stafford
Brock	Gurney	Taft
Buckley	Hansen	Thurmond
Byrd, Va.	Hatfield	Weicker
Cook	Hruska	Young
Cooper	Jordan, N.C.	
Cotton	Mathias	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Pastore, against.
Ribicoff, against.

NOT VOTING—19

Allott	Jackson	Packwood
Brooke	Javits	Saxbe
Curtis	Jordan, Idaho	Stevens
Ellender	McClellan	Talmadge
Hartke	McGovern	Tower
Hughes	Montoya	
Humphrey	Mundt	

So Mr. BAYH's amendment was rejected.

Mr. BENNETT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HANSEN. I move to lay that motion on the table.

Mr. BAYH. I ask for the yeas and nays.

Mr. BENNETT. Mr. President, I withdraw my motion.

Mr. FULBRIGHT. Mr. President, I object. It requires unanimous consent to withdraw his motion.

The PRESIDING OFFICER. It takes unanimous consent to withdraw the motion.

The yeas and nays were not ordered.

Mr. BAYH. Mr. President, I ask for the yeas and nays. It is a matter that is very critical. There is a one-vote difference.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MILLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MILLER. Are we voting on the motion to table or the motion to reconsider?

The PRESIDING OFFICER. The motion to table the motion to reconsider.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. No inquiries are in order while the quorum call is in progress.

The second assistant legislative clerk resumed the call of the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I ask unanimous consent that my request for a rollcall vote be retracted.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on the motion to table (putting the question).

The motion was agreed to.

Mr. MILLER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 41, line 11, insert the following:

(d) CREDITS AGAINST TAX.—

(1) Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable against tax) is amended by inserting after section 41 the following new section:

"SEC. 42. CREDIT FOR PERSONAL EXEMPTION.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter the amount of $25 for each personal exemption for which a deduction is allowable under section 151.

"(b) LIMITATION ON AMOUNT OF CREDIT.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under section 32(2) (relating to tax withheld at source on tax-free covenant bonds), section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and 40 (relating to credit for expenses of work incentive programs).

"(c) LIMITATION ON DEDUCTIONS.—For years to which this section applies, the amount of the deduction allowable under section 151 shall not exceed $675 for each personal exemption."

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following:

"Sec. 42. Credit for personal exemption."

(3) Section 46(a)(3) (relating to definition of liability for tax) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding after subparagraph (C) the following new subparagraph:

"(D) section 42 (relating to personal exemptions)."

(4) Section 56(a)(2)(A) (relating to minimum tax for tax preferences) is amended by striking out "and" at the end of clause (ii), by striking out "; and" at the end of clause (iii) and inserting in lieu thereof ", and", and by adding after clause (iii) the following new clause:

"(iv) section 42 (relating to personal exemptions); and".

(5) Section 154 (relating to cross references) is amended by adding after paragraph (4) the following new paragraph:

"(5) For credit against tax for personal exemptions, see section 42."

(6) Section 443(c) (relating to adjustment in deduction for personal exemption) is amended—

(A) by striking out "Deduction" in the heading and inserting in lieu thereof "Deduction or Credit"; and

(B) by striking out "deduction in lieu thereof)" and inserting in lieu thereof "deduction in lieu thereof) or credit under section 42".

(7) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1971.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MILLER. I yield.

Mr. BYRD of West Virginia. Mr. President, following the disposition of the pending amendment by Mr. MILLER, there will be one more amendment—to be offered by the Senator from Oklahoma (Mr. HARRIS)—to be acted on tonight. I have discussed the two amendments with the authors thereof and the able manager of the bill.

I, therefore, ask unanimous consent that the time on the amendment by the Senator from Iowa (Mr. MILLER) be reduced; that there be a limitation on the amendment of 20 minutes, to be equally divided between the mover of the amendment and the manager of the bill; that the time on the amendment by the Senator from Oklahoma (Mr. HARRIS) be likewise reduced to a total of 20 minutes, to be equally divided between the mover of the amendment and the manager of the bill; that, regarding both the Miller and Harris amendments, the time on any amendments in the second degree, motions, or appeals—with the exception of nondebatable motions—be limited to not to exceed 10 minutes on any such, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MILLER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MILLER. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, can we find out what the amendment is about?

Mr. MILLER. Mr. President, if the Senator from Rhode Island will indulge me, I will be happy to try to give him a quick explanation.

The PRESIDING OFFICER. Who yields time?

Mr. MILLER. I yield such time as I may require.

Mr. President, this amendment would do this: We have already gone on record as favoring an increase in the personal exemption to $800. What that means, as a practical matter, is that this year the exemption is $675 under present law. For 1972, we propose to make it $800. That is a $125 increase in the personal exemption. That is going to cost approximately $1.8 billion. But the tragedy of this $800 exemption is that the large income taxpayers get the lion's share, because all you have to do is to take the $125 increase in the personal exemption and multiply it by a 70-percent tax rate, and you come out with $87.50. But the low-income taxpayer, in the 14-percent tax bracket, would get only $17.50.

What I propose is to leave the $675 personal exemption alone for everyone, but anything above that will be in the form of a uniform credit of $25 for every exemption. If it is a single taxpayer, no matter what his tax bracket will be, he will get a $25 credit in addition to his $675 exemption. If it is a husband and wife and two children, the normal size family, they will have $100 in credits—four $25 credits.

I suggest to Senators that if they really are concerned about the low-income taxpayer—and I think most of us are—they would like this approach; because under the $800 exemption approach, they will only receive $17.50. I am talking about a $25 uniform credit. To give the 70 percent tax bracket taxpayer his $675 exemption and then, on top of that, the $87.50 tax bracket, I suggest, will not be putting the purchasing power in the hands of the people who really need it.

Mr. PASTORE. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I yield.

Mr. PASTORE. Is the Senator's amendment a substitute for the Bayh amendment?

Mr. MILLER. Not quite, may I say to my colleague from Rhode Island. There is a parliamentary problem, so that I cannot offer it as a substitute. It adds another section and is worded so as not to interfere.

Mr. PASTORE. The Senator's amendment does not affect the Bayh amendment then?

Mr. MILLER. It can, because it provides that for the years that this particular credit would be in effect, namely 1972, and thereafter, for those years, the $675 personal exemption would stay.

Mr. PASTORE. I realize that it affects it, insofar as its substantive effect is on what the Bayh amendment would do or would not do; but on the other hand, it still leaves the Bayh amendment alive; is that not correct?

Mr. MILLER. It would still leave the Bayh amendment alive; yes. The Senator is correct.

My point is that I believe, as my colleagues know, that the Bayh amendment was adopted by a very narrow vote——

Mr. PASTORE. It was not adopted.

Mr. MILLER. I am sorry. The Hartke amendment was. But this does not interfere with the Bayh amendment, may I say to my friend from Rhode Island. This applies to 1972, not to 1971. I suggest that it is the equitable approach to do something about the regressive box we are in. Every time we start raising the personal exemptions, there are some who say that we should abolish personal exemptions altogether and replace it by a tax credit.

After checking into this, I do not think it is timely to do that. Too many people would be affected who are now in the middle and larger income tax brackets, and they would have their taxes increased as a result. So what this amendment does is not to increase anyone's taxes but to preserve the $675 personal exemption, and anything over and above that is a $25 credit for every personal exemption, regardless of whether it is a high income or a low income taxpayer.

Mr. PASTORE. I am very much amenable to the logic——

Mr. MILLER. Mr. President, we do not have order in the Chamber.

The PRESIDING OFFICER (Mr. HART). Will the Senate please be in order? There is very little anyone can do about it, except by those who are distracting us.

The Senator may proceed.

Mr. PASTORE. I am very much amenable to the logic which is expressed by my good friend from Iowa, but what puzzles me is what he says about 1971 and 1972. When we file the tax return by April 15 of 1972, will we be able to make this deduction?

Mr. MILLER. No.

Mr. PASTORE. We have to wait until 1973?

Mr. MILLER. We will, because it is too

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late, from a practical standpoint, to affect 1971. The tax returns have already been printed, and everything else, so that it does not take effect in 1972.

Mr. PASTORE. Will that not be too late? What we are trying to do is to put money in the hands of the consumer to do something about it now. I do not see why we have to wait until 1973. The picture may be a little different then, and then I might agree with the Senator, but I would hope that we could do this by April 15, 1972.

Mr. MILLER. May I say to my friend from Rhode Island that we are going to start on the first day of January 1972, because this will show up in the withholding tables.

Mr. PASTORE. That may be soon but the fact is, the money in hand will not be in until next year.

Mr. MILLER. Well, Mr. President, may I say to my good friend from Rhode Island that it is not going to be there until next year with respect to the $800 exemption, either.

Mr. PASTORE. That may be so, but——

Mr. MILLER. All I am trying to do is to have the same impact in 1972 as the $800 exemption. The effective date of January 1, 1972, will show up in the withholding tables, too. They are not going to save very much withholding by giving the low-income taxpayer a $17.50 tax break over 12 months.

Mr. PASTORE. Will it show up in the witholding tables? Is the Senator sure of that?

Mr. MILLER. Yes, indeed. The $800 exemption will show up, or my tax credit will show up.

Mr. PASTORE. All right.

Mr. MILLER. So I realize what the Senator is getting at and I want to assure him that this will help the purchasing power beginning early next year.

Mr. CASE. Mr. President, will the Senator from Iowa yield?

Mr. MILLER. I yield.

Mr. CASE. If the Senator's amendment is adopted, there will be one exemption for every person on his own account? Is that how it works?

Mr. MILLER. One exemption of $675 plus one credit of $25 for each person, for each dependent, and for each exemption. Everywhere we find an exemption on the tax return, whether it be one exemption or 10 exemptions, that exemption will be $675 as it is now and then, in addition, there will be a $25 tax cut or credit for each one of the exemptions.

Mr. CASE. I see. So this takes the place of the increase, in other words?

Mr. MILLER. That is correct.

Mr. CASE. Would the Senator allow one further question?

Mr. MILLER. Yes.

Mr. CASE. What would the effect of this be on the tax of the person earning $10,000, married, and with two children? That is the person we are talking about here and not the person in the 14-percent bracket.

Mr. MILLER. With a husband and wife and two children in the $10,000 bracket, we have got $2,400—$2,450—and we have roughly a $6,000 taxable base. I would say that would, probably, be about a 20-percent tax rate, showing the extra $125 at a 20-percent tax rate, which would be $25. So it probably would not make much difference.

Mr. CASE. Then the Senator says, at the $10,000 rate, that this would be washed out?

Mr. MILLER. I think it would or it would come pretty close to that. It might be a little better, depending on the size of the personal exemptions. It could be down to $20 in tax benefits.

Mr. CASE. What would the cost to the Treasury Department in each case be?

Mr. MILLER. I am glad the Senator asked that question——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MILLER. I ask unanimous consent that I may proceed for 3 additional minutes on my side because the Senate took that much time in trying to come to order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MILLER. The Senator from New Jersey asked about the revenue impact on this, with the $25 credit. The way the amendment is set up—and I would particularly like to have the attention of my colleague from Utah, Mr. BENNETT, on this—I am pointing out that if we adopt the amendment there will be a $300 million in principal savings over the $800 exemption approach.

Mr. BENNETT. I am glad the Senator has that in the RECORD. I shall not take any of his time further.

Mr. MILLER. Mr. President, I reserve the remainder of my time.

Mr. COOPER. Mr. President, will the Senator from Iowa illustrate again regarding a husband and wife, with two children, earning $10,000 in income, as to what would be the impact on the $800 exemption as compared to the Senator's amendment. What would be the amount which would accrue to the family under the two plans?

Mr. MILLER. That would depend on the tax bracket they found themselves in——

Mr. COOPER. I know that.

Mr. MILLER. My guess would be they would be in a 20 percent bracket and with an $800 exemption, that is a $25 present exemption increase under present law, so that with the increase of 20 percent or $125, you have got a $25 in tax savings. My credit is $25. So I would say it would be a wash, although they would do better under the credit in that tax bracket because of their page 2 itemized deductions. But to be on the safe side, I do not want to mislead my colleague and I suggest that it will not be anything more than a wash.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, this adds another complexity to the tax system. Under this proposal, we first have to figure our personal exemption and then on top of that we have to figure the $25 credit. It is obvious that this is difficult to understand because during the debate here we have had Senators ask for an explanation.

I think the present system is simple. It is understandable. My own feeling is that we should leave it the way it is without adding this new feature. If in the future we should decide to substitute tax credits for personal exemptions, I think this matter should be carefully studied by both tax writing committees on its merits. However, to take this kind of hybrid approach at this late time does not make any sense to me.

Mr. LONG. Mr. President, in the committee the distinguished Senator from Iowa proposed that we simply change the whole system and eliminate all personal deductions so that we have tax credits. The committee thought about it and found that a great number of people would have to pay more taxes. They would have a difficult time understanding why they have to pay more taxes when others get a tax cut.

The committee thought we had better not go into this at this time but that in the future we might consider it in an overhaul of the tax structure. But as it stands now, the people will have read all across the country that we voted to give this $800 exemption.

As far as I am concerned, when the people in Louisiana have read that Senator LONG voted to give them an $800 exemption, I do not want to see them read in the papers that I voted to take it away.

Some people might benefit more and some might benefit less. I do not see why we should change it. If we are to change it, we should not have done it to begin with. We voted to give them the $800 exemption and we ought to leave it that way.

Mr. MILLER. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. MILLER. Mr. President, does not the Senator think it is more equitable to give a $25 tax break to a taxpayer in the 14 percent bracket than to give him $17.50 and give the 70 percent taxpayer an $82.50 tax cut.

Mr. LONG. Mr. President, it all depends on the point of view. The reason they get less by reason of a single exemption is because they pay less.

If they were to pay zero tax income, we could not do anything except to take something off of their income tax. That would be considered a welfare package. That could perhaps be done later, if we want to go beyond that. However, as a tax bill, it will be popular with the people to vote as we did vote the day before yesterday for a $800 tax exemption. That has been popular with the rank and file.

After having sent the word across the Nation that we have done this, I do not see why we should do something different. We should leave it that way.

Mr. MILLER. Mr. President, will the Senator from Utah yield to me for a question?

Mr. BENNETT. The time belongs to the Senator from Louisiana.

Mr. MILLER. Will the Senator from Louisiana yield me 1 minute in which to ask the Senator from Utah a question?

Mr. LONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. LONG. I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. MILLER. Mr. President, the Senator from Utah is troubled about what he calls the complexity of the amendment. Actually, I hope the Senator understands that all this would entail would be just adding the $25 credit or if it is a husband and wife and two children, four times that amount to what we already have.

Since this would save the revenue $300 million a year, does the Senator not think that would be worth that complexity to save that amount for the revenue while at the same time giving all income-tax payers a much fairer shake?

Mr. BENNETT. Mr. President, as I said earlier, I think we should make comparisons between the two approaches. But I do not think we should mix them up at this time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Iowa. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. MONTOYA) and the Senator from Washington (Mr. JACKSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

If present and voting the Senator from Texas (Mr. TOWER), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Nebraska (Mr. CURTIS) would each vote "nay."

The result was announced—yeas 20, nays 59, as follows:

[No. 338 Leg.]

YEAS—20

Baker	Gurney	Pastore
Boggs	Hansen	Pell
Chiles	Harris	Ribicoff
Cooper	Kennedy	Stevenson
Dominick	Miller	Thurmond
Fannin	Mondale	Tunney
Gravel	Nelson	

NAYS—59

Aiken	Eagleton	Metcalf
Allen	Eastland	Moss
Anderson	Ellender	Pearson
Beall	Ervin	Percy
Bellmon	Fong	Proxmire
Bennett	Fulbright	Randolph
Bentsen	Gambrell	Roth
Bible	Griffin	Scott
Brock	Hart	Smith
Buckley	Hatfield	Sparkman
Burdick	Hollings	Spong
Byrd, Va.	Hruska	Stafford
Byrd, W. Va.	Inouye	Stennis
Cannon	Jordan, N.C.	Symington
Case	Long	Taft
Church	Magnuson	Talmadge
Cook	Mansfield	Weicker
Cotton	Mathias	Williams
Cranston	McGee	Young
Dole	McIntyre	

NOT VOTING—21

Allott	Humphrey	Mundt
Bayh	Jackson	Muskie
Brooke	Javits	Packwood
Curtis	Jordan, Idaho	Saxbe
Goldwater	McClellan	Schweiker
Hartke	McGovern	Stevens
Hughes	Montoya	Tower

So Mr. MILLER's amendment was rejected.

The PRESIDING OFFICER (Mr. BENTSEN). Under the previous order, the Senator from Oklahoma (Mr. HARRIS) is recognized.

Mr. HARRIS. Mr. President, I call up my amendment, which is at the desk.

The PRESIDING OFFICER. The amendment of the Senator from Oklahoma will be read.

The legislative clerk proceeded to read the amendment.

Mr. HARRIS. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in full in the RECORD.

The amendment is as follows:

In the Table of Contents after section 702, insert the following:

TITLE VIII—COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES

Sec. 801. Authority To Enter into Commercial Agreements.
Sec. 802. Benefit To Be Provided by Commercial Agreements.
Sec. 803. Provisions To Be Included in Commercial Agreements.
Sec. 804. Extension of Benefits of Most-Favored-Nation Treatment.
Sec. 805. Requirements for Negotiations.
Sec. 806. Transmission of Reports to Congress.
Sec. 807. Relation to Other Laws.

On page 210, line 1, insert the following:

TITLE VIII—COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES

AUTHORITY TO ENTER INTO COMMERCIAL AGREEMENTS

SEC. 801. In the case of a country with which the United States has diplomatic relations, but to the products of which it denies most-favored-nation treatment, the President may make a commercial agreement with such country providing such treatment to one or more products of that country whenever he determines that such agreement is in the national interest and is likely to result in commercial benefits to the United States equivalent to those provided by the agreement to the other party.

BENEFITS TO BE PROVIDED BY COMMERCIAL AGREEMENTS

SEC. 802. The commercial benefits to the United States to be obtained in a commercial agreement may be of the following kind, but need not be restricted thereto:

(a) arrangements for the protection of industrial rights and processes;

(b) arrangements for the settlement of commercial differences and disputes;

(c) arrangements for participation in trade fairs and exhibits, for sending of trade missions, and for facilitation of entry and travel of commercial representatives; or

(d) most-favored-nation treatment with respect to duties or other restrictions on the imports of the products of the United States, and other arrangements that may secure market access and assure fair treatment for products of the United States.

PROVISIONS TO BE INCLUDED IN COMMERCIAL AGREEMENTS

SEC. 803. A commercial agreement shall—

(a) be limited to an initial period specified in the agreement which shall be no more than 3 years from the time the agreement becomes effective;

(b) be subject to suspension or termination in whole or in part at any time upon reasonable notice;

(c) provide for consultations at regular intervals for the purpose of reviewing the operation of the agreement and relevant aspects of relations between the United States and the other party; and

(d) be renewable for additional periods, each not to exceed 3 years.

EXTENSION OF BENEFITS OF MOST-FAVORED-NATION TREATMENT

SEC. 804. (a) In order to carry out a commercial agreement and notwithstanding the provisions of any other law, the President may by proclamation extend, for the period of effectiveness of the agreement, most-favored-nation treatment to one or more products of the other party.

(b) The President may at any time suspend or terminate in whole or in part any proclamation issued under subsection (a). The President shall suspend or terminate such proclamation whenever he determines that—

(1) the other party is no longer fulfilling its obligations under the agreement; or

(2) the suspension or termination of the agreement is in the national interest.

REQUIREMENTS FOR NEGOTIATIONS

SEC. 805. Before the negotiation of a commercial agreement under this title, the President—

(1) shall seek information and advice with respect to such agreement from the interested departments and agencies of the United States Government, from interested persons, and from such other sources as he may deem appropriate; and

(2) shall, upon the recommendation of the Speaker of the House of Representatives, select two members (not of the same political party) of the Committee on Ways and Means, and shall, upon the recommendation of the President of the Senate, select two members (not of the same political party) of the Committee on Finance, who shall be accredited as members of the United States delegation to such negotiation.

TRANSMISSION OF REPORTS TO CONGRESS

SEC. 806. The President shall submit to the Congress an annual report on the commercial agreements program instituted under this title. Such report shall include information regarding negotiations, benefits obtained as

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a result of commercial agreements, the texts of any such agreements, and other information relating to the program.

RELATION TO OTHER LAWS

SEC. 807. (a) This title shall not apply to any agreement made with a country whose products are receiving, when such agreement is made, the benefits of trade agreement concessions extended pursuant to section 231(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1861(b)).

(b) Headnote 4 to part 5B of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202) is repealed.

The Senator has 20 minutes.

Mr. HARRIS. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment gives discretion to the President of the United States, if he sees fit, to negotiate the most-favored-nation status with any country with which we have diplomatic relations.

During the latter part of this past April, I visited the Soviet Union, Rumania, Hungary, Czechoslovakia, and Poland. I went as a member of the Senate Finance Committee to discuss improved trade relations between the United States and these countries.

I learned our trade policy with the East penalizes ourselves most of all. It deprives our businessmen of needed sales. It exports precious American jobs and capital by forcing the location of plants abroad to serve these presently proscribed markets. It deprives us of foreign earnings to help offset our worsening balance of payments. It prevents us from getting to know better—and becoming better known by—millions of our fellow occupants of this globe.

While total annual exports to the Soviet Union and Eastern Europe, between 1948 and 1968, from the United States, Canada, Japan, and our NATO allies were increasing from $810 million a year to $4.5 billion a year, annual U.S. exports to these countries only increased from $123 million to $215 million.

Some liberalization in the laws caused our exports to these countries to go up to $353 million in 1970, but that still means that we account for only 1 percent of total Western nation exports to the Soviet Union and Eastern Europe.

In 1968, these Socialist countries bought $1.5 billion worth of capital equipment from the West. This is a field in which American business and labor excel, but you would not know it from the sales figures. That year, our total sales of machinery to the East was only $35 million. We simply gave the jobs and sales receipts and balance-of-payment earnings to others.

I visited the Soviet Union immediately following the 24th Party Congress and the announcement of a new 5-year plan. All of the countries of Eastern Europe plan large increases in Western purchases in the next half decade. In the Soviet Union the planned increase is 35 to 40 percent. These countries will never constitute our most important market. But they do represent what can become a significant market, and one we should begin now systematically to develop.

We need not fear that by selling the Eastern countries capital goods we will seriously undercut U.S. exports to third countries. We and the Eastern countries are at entirely different stages of economic development. Our fields of specialization—items of high technology and the products of a highly capitalized agricultural system—are not areas where the Eastern countries can compete with us effectively in international markets in the foreseeable future.

Now is the time for new action to normalize trade with the East—and to move toward better relations generally.

It cannot be said with a certainty that improved political relations will result from improved trade. But improved trade is a goal worth seeking for its own sake for commercial and economic reasons. And, if accompanied by wider citizen contact, broadened trade can result in less likelihood of mutual miscalculation. And any widening of contacts is worthwhile especially, as in the case of trade, when there are other good reasons.

Congress should free the President of the United States of unreasonable restrictions on his powers to broaden trade with the East.

The present law barring most-favored-nation status for the Soviet Union, China, and Eastern European countries should be repealed. This amendment, however, deals only with countries with which we have diplomatic relations. The President should have the power to negotiate such status for these countries—permitting them, if the President in his discretion so decides, to sell in our market on the same basis as others of our trading partners.

It would be particularly appropriate for the Congress to take action now. The President is planning a trip to Moscow where he will confer with top Soviet leaders. One of the principal areas for discussion will lie in the field of trade. We should give the President the authority he will need to carry on fruitful discussions with Soviet officials.

There are other steps besides MFN which I believe the administration should take. The President should seek to dramatize in several ways our new determination to normalize relations with the East in a way that would tend to draw affirmative reaction from each of the other countries. We should begin simultaneous negotiations in each country.

We should issue an Executive order agreeing to stretch out Poland's repayments to us for commodities we furnished them under Public Law 480. Poland is one of the few nations repaying us in cash and on time for these commodities. The new Government there has serious financial problems, but one way or another, they intend to maintain their good international credit rating by paying their debts when due. However, they would be willing to make a corresponding increase in purchases from us if the payments on this particular debt could be stretched out.

We should agree to return to Czechoslovakia their $20 million in gold bullion which we captured from the Germans at the end of World War II, and we should make a response, now, to their pending offer to settle the war claims and expropriation claims still in dispute between us.

We should return to the people of Hungary the Holy Crown of St. Stephen. This Hungarian national treasure is symbolic to the people of Hungary of their rich heritage. It belongs to them, and it is doing no one any good wherever it is now being kept.

By this and other means we should have our Nation make the first moves. And we should follow these moves with serious negotiations.

We should make clear that, as much as possible, trade and commercial matters are going to be separated from political matters. I believe that President Nixon has been wrong in tying them all together. We should make progress on better relations with these countries wherever we can and wherever it is in our mutual interests to do so.

We should immediately expand the commercial sections in our embassies in the Soviet Union and in the Eastern European countries. Basically, our Government needs to get out of the way of American businessmen; they can compete and take care of themselves pretty well. But we could be helpful in furnishing market information and getting them in touch with the right people.

The Soviet Union after the 24th party congress has embarked upon a great expansion of trade with the West. They realize they must make major improvements in their technology, and they are determined to do so. I think they recognize a dilemma which is for them as old as the czars: Improved technology requires increased contacts with the West; increased contacts with the West could mean greater internal political and economic dissatisfaction and ferment.

They need and seek greater trade with the West in general and with the United States in particular. They will not, however, in my judgment, submit to humiliation to secure it; neither will we. They will make no major political concessions to gain it; neither will we.

I believe they will agree to a settlement of our lend-lease claims against them as a part of negotiations for increased trade. There is also reason to believe, I think, that they may agree to a minimum amount of annual purchases from us in return for our relaxation of trade restrictions.

We should insist upon better treatment of our nationals in the Soviet Union and freer travel by them, particularly the right of our businessmen to visit plants and plant managers to develop markets—and for wider citizen contact generally.

The socialist group countries of Europe also need and seek increased western technology and trade. We should respond at once.

None of these countries are going to discard its basically socialist economic system nor break its ties with the Soviet Union in the foreseeable future. None can be expected to go past whatever line might bring on Soviet invasion.

A policy based solely on hope of dividing Eastern Europe countries from the Soviet Union will not work; negotiations should commence with the Soviet Union at the same time. Further, it is not wise to attempt to make progress on trade relations with Rumania alone or with any other single country, spotlighting it and perhaps causing reactive pressures on it.

Within these limits, progress can and should be made. Negotiations should begin in each Eastern European country simultaneously, though, obviously, for a variety of reasons, negotiations may not proceed at the same pace nor may agreements be reached at the same time. But we should begin now seriously to negotiate with each country concerning what might be expected in return for a relaxation of trade barriers on our part, including the settlement of pending war claims and expropriation claims.

There is growing fear in Eastern Europe of protectionism in the European Economic Community. There is a growing desire to become less fully dependent upon Western Europe—particularly the Federal Republic of Germany—for nonsocialist country trade. Maintaining our essential ties with Western Europe, we can, nevertheless, follow their own lead in expanded trade with the East, responding to the real desire for such trade which exists in the Eastern European countries.

There is no reason why American-based companies and workers should not have the benefit of sales in these countries, now already being heavily served by American-owned subsidiaries and foreign workers located in Western European countries.

The Federal Republic of Germany, for example, enjoys a tremendous amount of trade with these countries, even without diplomatic relations. We have diplomatic relations with them but deny ourselves and our workers most of the benefits of these markets.

We should move to take advantage of the opportunities in Hungary and Rumania, particularly, for joint ventures, encouraged by new laws there. They need technology which they hope to secure through internal enterprises jointly financed by the Government and American private businesses, with both sharing in the profits. All of these countries will, increasingly, view joint ventures as an acceptable means of gaining needed technology and management expertise to produce goods for internal consumption and for earning foreign credits, which are badly needed by most of these countries. Rumania and Hungary have changed their laws to allow within the framework of the socialist system, agreements to be entered into on an ad hoc basis with individual American companies to guarantee against brankruptcy and for shared ownership and assured repatriation of profits and capital.

Such joint ventures entered into under acceptable terms by American businesses would provide foreign earnings for us and develop continuing future markets for sales to the joint enterprises themselves.

But before any of these steps can be truly fruitful, we must clear away the trade disputes of the past and give the President the authority to restore MFN to nations in Europe not now enjoying this advantage.

I urge support for my amendment from all who wish to see the President's trip to Moscow take place in the most advantageous circumstances.

Mr. President, this amendment would free the Yankee merchant from unreasonable restrictions. Let us give the President the power, in his discretion, to negotiate for most favored nations status for all countries with which we have diplomatic relations.

I hope the amendment may be adopted.

Mr. LONG. Mr. President, I yield myself 4 minutes.

The administration is not asking for authority to make these concessions to various Communist countries to whom the Senator from Oklahoma would give the most favored nation treatment. As a matter of fact, the administration came before the committee and asked them authority to get rid of some protection for companies who are faced with competition from free-world countries. The committee turned them down. We said we would be willing to consider that as part of a trade package at a later date. We would be willing to consider it, but right now it appeared to us that, with our balance of payments in such bad shape, it would be better to take back some of the protections we had given away to protect our own businesses and protect our own people before we gave any more away. That is the position the administration took when it imposed the 10-percent surtax.

The Communist countries do not keep books anywhere near the same way we do. They will sell their products at any price they please, without any relation to their cost of production, whenever there is a market they want to penetrate.

Let me describe what some of the Communist countries such as Russia, Bulgaria, Czechoslovakia, and others are selling: steel, oil, manganese ore, machinery, aircraft.

Incidentally, I do not think they are more efficient than we are in the production of aircraft, but they are offering planes for sale at one-third the price of similar American planes.

If Senators would like to displace more American aircraft workers, there is no place we will displace them in a greater hurry.

In Czechoslovakia, they are big producers of machine tools, aircraft, textiles, shoes, and glassware, and I point out that under their way of doing business, they can sell all these articles for any price their fancy dictates. Those people do business on a state trading basis, so that they would have a life or death right of decision over every industry in the United States, unless someone took some care to protect American industry.

Who is going to protect it? If you have any manufacturing industry in your State, including textiles and shoes, who will protect you? You are not going to get any protection under this proposal, because when we pass it, we will have surrendered away all our rights to protect American industry. We will have to count on President Nixon to do it for us. Maybe he will.

However, we on the Finance Committee were not all that confident. We have looked at some of the things he wants to give away now. So we said:

If it is all right with you, we suggest that you come in and tell us what you want to give away, and what we are going to get in return, and then we will talk to you about it.

We felt that was the least we could ask with regard to this proposal to trade with these Communist powers.

I would point out that we just got through getting the Japanese to enter into a voluntary agreement to permit our textile industry to exist at all. Now the President is headed for China, and the Senator wants to say, "Mr. President, before you get on your way, we want to give you some authority to give Red China, the power to liquidate our textile industry and our shoe industry and some others."

Mr. HARRIS. Mr. President, that does not apply to Red China.

Mr. LONG. It does not apply to Red China; I am glad to know that. But the day we extend diplomatic recognition to them it does, does it not?

Mr. HARRIS. It does and it should; yes.

Mr. LONG. I am glad the Senator corrected me. That will give us a little solace, until the President gets back from Red China, that he cannot yet put us out of the shoe and textile business.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. LONG. I yield myself 2 more minutes.

It seems to me the least thing we can do before we give the President any more power to liquidate American industry is wait until he asks for it, and then say, "Let us see what you want to do, have a hearing, and see what the proposed impact is, what industries are likely to be displaced, and see what the American industries themselves have to say about it."

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. SCOTT. The Senator is making the point I would like to have made myself. Moreover, suppose there are two countries which would like to have most-favored-nation treatment, and the President would like to do it for one and not the other. Would he not be better off to leave the decision to Congress, and have the protection of letting Congress decide?

I do not know why we would want to invest in the President more power in foreign policy than he asks for, when we spend most of our time talking about his having more power than we would like for him to have.

Mr. LONG. Mr. President, Senators may recall that we gave the President, under the Kennedy round of tariff ne-

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gotiations, the right to cut tariffs. But we expressly did not give him the power, under that act, to dispense with the American selling price, and we did not give him the power to do anything about the anti-dumping statute situation, because we thought American industries were being injured too badly by dumping already. We did not want that. They went on and sought to negotiate it away at Geneva, but we passed resolutions by almost a unanimous vote saying, "If you try to give this away, we point out you do not have that authority."

They said, "We understand that, but notwithstanding that, we are still going to negotiate it away and present you with a fait accompli."

That is what they did. I was assistant Democratic leader of the Senate myself at that time, and I practically had to fight my own President to keep him from giving away things we told him we would not go along with if he did give them away.

This is the kind of thing the State Department people want to get their teeth in anyhow, to get the President to commit himself to something like that, and then trying to get all of us, under a spirit of loyalty, to go along with him.

I have fought my own President on this issue, and I say the least we can do is ask him, "What do you want to give away, what jobs and where?" before we give him all this authority. The least we can do is wait until the President asks for the authority.

Mr. FANNIN. Mr. President, I agree with the chairman of our committee that we have given the President sufficient authority already.

We do have a special subcommittee, under the chairmanship of the distinguished Senator from Connecticut (Mr. RIBICOFF), with jurisdiction in this area, and I would like to have his thoughts on this question, because I think it is very important; he has perhaps studied this subject more than anyone else in this body, and if he would like to respond on this subject, I would like to hear him.

Mr. RIBICOFF. Mr. President, I had not intended to make any comments at this time, but I do intend to support the amendment of the Senator from Oklahoma.

The Secretary of Commerce will soon be in Moscow to discuss trade questions with the Soviet Union. The President of the United States will soon go to China to discuss the problems that separate our two nations. Great changes are taking place in the entire trade picture throughout the world.

One of the great ironies of the current American position on East-West trade is that the nations that we are allied with and whom we have most-favored-nation treaties are doing some $18 billion worth of business a year with the East. But the United States does only $600 million worth of business with the Eastern countries.

The best remaining markets for the high technology content products in which the United States excels are in Eastern Europe, the Soviet Union, and mainland China. When you look at our balance of trade today, you will find that the only favorable balance we still have is in capital goods and high technology items. It is sad to state that the United States is no longer competitive——

Mr. LONG. Mr. President, has my time expired?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. HARRIS. Mr. President, I yield 1 minute to the Senator from Connecticut.

Mr. RIBICOFF. The United States, unfortunately, is no longer as competitive in producing many consumer goods as Germany, Japan and the Common Market nations. But the level of United States technology is still higher than that of any other nation in the world, and the eastern countries need, and need desperately, the goods the United States can produce. Here we have a great potential market for the United States. It is my feeling——

Mr. FANNIN. Mr. President, before the Senator continues, will he yield for a question?

Mr. RIBICOFF. I yield.

Mr. FANNIN. Is the Subcommittee On International Trade inclined to hold hearings?

Mr. RIBICOFF. The Senator asked for my position on this amendment, and I am giving my opinion. It is my intention to have full hearings on the subject of American trade with the East. I am expressing my personal opinions now, not that of the subcommittee. I have arrived at these conclusions from my own study and observations; and I had not intended to debate the issue at this time.

Mr. FANNIN. I would think the Senator would desire to have these hearings before we enter into any transactions of this nature, so that we would be better prepared.

Mr. RIBICOFF. As I stated, I would hope to have lengthy hearings on the entire subject of East-West trade and its implications for this Nation. But the Senator from Arizona asked for my position, and I am in all candor expressing my personal opinion.

Mr. FANNIN. I understand the Senator holds that position, but at the same time, I think he will agree that these hearings are highly essential before we get too far along.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired.

Mr. RIBICOFF. I would say they are absolutely necessary. This country should be aware of all the implications of our East-West trade policies. My prediction would be that within a year or two, whoever is President of the United States will ask for the authority to grant most-favored-nation treatment to Eastern countries.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Oklahoma has 2 minutes remaining.

Mr. HARRIS. Has time on the other side expired?

The PRESIDING OFFICER. Time on the other side has expired.

Mr. HARRIS. Let me say these three quick things, Mr. President:

First of all, the restrictions in this bill and under present law in regard to tariffs, the 15-percent surcharge, and so forth, would apply to any of these countries, so we are not just opening the door to imports.

Second, Mr. President, we are penalizing ourselves. As the distinguished Senator from Connecticut has said, we are denying ourselves this market. That is all we are doing. Even American-owned subsidiaries with foreign workers, located in Germany—a country which does not even have diplomatic relations with these countries—and elsewhere are selling in these markets, and we cannot, with American workers. I want to open up these markets to American workers.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. HARRIS. I yield.

Mr. PASTORE. On the very day at the United Nations when they voted to seat Red China, Belgium entered into an agreement with Red China on trade, and 3 days later Italy did the same thing. That is what is happening to us.

Mr. HARRIS. The Senator is correct.

Mr. PASTORE. It is about time we got wise to ourselves.

Mr. HARRIS. We are denying the market to Rhode Island, Connecticut, and every American worker. We are sticking our head in the sand.

Second, we are not granting most-favored-nation status. We are saying that the President of the United States, in his discretion, can negotiate for it.

Third, this amendment says that the President must get commercial advantages in return.

The PRESIDING OFFICER. The Senator's time has expired.

There was a miscalculation as to the time. The Senator from Louisiana has 1 minute remaining.

Mr. LONG. Mr. President, so far as I am concerned, anyone who wants to can give away all the industry and jobs in his State, provided it does not affect Louisiana. I think that over a period of time they will come to see that that is not the thing to do.

So far as I am concerned, representing the State of Louisiana and speaking in that capacity, I am not willing to give anybody a blank check to give away the jobs we have left in my State until I see what we are supposed to get out of that deal. If Senators want to vote a blank check to give away their industries, that is their privilege. Go ahead.

Mr. HARRIS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Washington (Mr. JACKSON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Maine (Mr. MUSKIE), and the Senator from Missouri (Mr. SYMINGTON), are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Idaho (Mr. JORDAN), the Senator from Arizona (Mr. PACKWOOD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Ohio (Mr. SAXBE) and the Senator from Alaska (Mr. STEVENS) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are necessarily absent.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 22, nays 55, as follows:

[No. 339 Leg.]

YEAS—22

Case	Inouye	Pastore
Church	Kennedy	Pell
Cranston	Magnuson	Ribicoff
Gravel	McGee	Stevenson
Harris	McIntyre	Tunney
Hart	Metcalf	Weicker
Hatfield	Mondale	
Hollings	Nelson	

NAYS—55

Aiken	Cotton	Moss
Allen	Dole	Pearson
Anderson	Dominick	Percy
Baker	Eagleton	Proxmire
Beall	Eastland	Randolph
Bellmon	Ellender	Roth
Bennett	Ervin	Scott
Bentsen	Fannin	Smith
Bible	Fong	Sparkman
Bogga	Gambrell	Spong
Brock	Griffin	Stafford
Buckley	Gurney	Stennis
Burdick	Hansen	Taft
Byrd, Va.	Hruska	Talmadge
Byrd, W. Va.	Jordan, N.C.	Thurmond
Cannon	Long	Williams
Chiles	Mansfield	Young
Cook	Mathias	
Cooper	Miller	

NOT VOTING—23

Allott	Humphrey	Muskie
Bayh	Jackson	Packwood
Brooke	Javits	Saxbe
Curtis	Jordan, Idaho	Schweiker
Fulbright	McClellan	Stevens
Goldwater	McGovern	Symington
Hartke	Montoya	Tower
Hughes	Mundt	

So Mr. HARRIS' amendment was rejected.

Mr. MANSFIELD. Mr. President, I understand that there are two more amendments coming up which will be acceptable.

MILITARY CONSTRUCTION APPROPRIATIONS, 1972—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11418) entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1972, and for other purposes."

I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. WEICKER). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of November 10, 1971, at pp. 40425–40427.)

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the requirement that the conference report be printed as a Senate report be waived, inasmuch as under the rules of the House of Representatives it has been printed as a report of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, may I just state for the RECORD that I have conferred with the distinguished ranking minority member of the committee, the Senator from North Dakota (Mr. YOUNG) and, of course, the conference report is agreeable with him and also with the distinguished Senator from Massachusetts (Mr. BROOKE), who cannot be here at this time and asked that his remarks on this subject be printed in the RECORD; and I ask unanimous consent that that be done.

There being no objection, the remarks of Senator BROOKE were ordered to be printed in the RECORD, as follows:

Mr. President, the conference report on appropriations for military construction, now pending before the Senate, contains a total of $2,037,097,000 for the Army, Navy, Air Force, military housing, and related agencies.

The bill which passed the Senate contained appropriations totalling $2,002,312,000 and the Senate conferees tried hard to maintain that level. On certain items, the House conferees were adamant and a compromise had to be reached. But in other areas the Senate succeeded in having its position approved. Two items of particular importance will, in fact, lead to longer-run cost savings.

Section 111 of the bill now includes a provision which will reduce the cost of construction by requiring a thorough and immediate investigation of charges by construction agencies for supervision, inspection and overhead. For far too long, the charges entered by agencies of the armed services have greatly exceeded comparable charges paid by private industry. The GAO must submit an interim report of its findings within six months, with a final report to be filed within 10 months. The Congress will thus have these figures to work with in preparing next year's legislation.

The conferees also agreed to strike the Army's request for $5,835,000 for conversion of heating plants from coal to oil in more than 16,000 housing units in West Germany now used to house American military personnel. These units are owned by the West German government, and any improvements will in the long run benefit the West Germans. It was consequently felt that *that* government should bear the costs of any improvements required in the Army family housing program.

Mr. President, I commend my distinguished chairman, Senator Mansfield, my fellow committee members, and the diligent and helpful committee staff, for a thorough investigation of the construction needs of our armed forces. I believe the bill before us represents a carefully pruned and responsible appropriations request, and I urge its adoption.

Mr. MANSFIELD. Mr. President, the conference committee agreed on an overall figure of $2,037,097,000 in new obligational authority for the military construction bill for fiscal year 1972. This is $34,785,000 over the amount allowed by the Senate, $24,651,000 over the figure approved by the House, and $92,708,000 under the budget estimate of $2,129,805,000, and, as an added note, I must say that the foregoing figures do not contain $183,570,000 for the Safeguard System construction and Safeguard family housing. This appropriation will appear as a line item in the defense appropriation bill.

The conference committee agreed on the following amounts for military construction and defense family housing:

Military construction—Army	$438,316,000
Military construction—Navy	355,500,000
Military construction—Air Force	289,189,000
Military construction—Air Force Reserve	6,581,000
Defense family housing	933,955,000
Army	55,776,000
Navy and Marine Corps	135,717,000
Air Force	109,045,000

Mr. President, I wish to emphasize that the military construction bill this year is indeed an austere bill. Quite a few projects were deleted from this bill which were considered nonessential to the operation of the military services. I can state categorically that there are no moneys in this bill for plush accommodations for the military services.

I do not intend to make a long and involved statement of the action of the conference committee. The conference report explains in a succinct manner the complete actions of the conference committee.

Mr. President, this completes my statement. I shall be glad to answer any questions which individual Senators may have regarding construction projects in their States.

I ask unanimous consent that a tabulation containing a summary of the conference action on the military construction appropriation bill for fiscal year 1972 be printed in the RECORD.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

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MILITARY CONSTRUCTION APPROPRIATION BILL FISCAL YEAR 1972—H.R. 11418

Item	New budget (obligational) authority, fiscal year 1971	Budget estimates of new (obligational) authority, fiscal year 1972	New budget (obligational) authority recommended in the House bill	Amount recommended by Senate committee	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
Military construction, Army	$646,958,000	$642,200,000	$437,274,000	$432,946,000	$438,316,000
Military construction, Navy	302,483,000	405,500,000	343,766,000	357,536,000	355,500,000
Military construction, Air Force	284,147,000	316,600,000	273,031,000	291,954,000	289,189,000
Military construction, Defense Agencies	46,300,000	25,400,000	14,801,000	14,801,000	14,801,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)
Military construction, Army National Guard	15,000,000	29,000,000	29,000,000	29,000,000	29,000,000
Military construction, Air National Guard	8,000,000	10,600,000	10,600,000	10,600,000	10,600,000
Military construction, Army Reserve	10,000,000	33,500,000	33,500,000	33,500,000	33,500,000
Military construction, Naval Reserve	5,000,000	10,900,000	10,900,000	10,900,000	10,900,000
Military construction, Air Force Reserve	4,000,000	5,700,000	6,581,000	5,700,000	6,581,000
Family housing, defense	806,464,000	919,220,000	938,238,000	900,620,000	933,955,000
Portion applied to debt reduction	−90,278,000	−92,820,000	−92,820,000	−92,820,000	−92,820,000
Homeowners assistance fund, defense		+7,575,000	+7,575,000	+7,575,000	+7,575,000
Subtotal, family housing	716,186,000	833,975,000	852,993,000	815,375,000	848,710,000
Grand total, new budget (obligational) authority	2,038,074,000	[1] 2,313,375,000	[2] 2,012,446,000	2,002,312,000	2,037,097,000

[1] Includes $334,000,000 for safeguard regular program and safeguard family housing.

[2] Includes $183,570,000 for safeguard regular program and safeguard family Housing.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield to the Senator from Louisiana.

Mr. ELLENDER. Mr. President, as a member of the conference committee, I reluctantly signed the report. Because of one item. The House provided $15 million of the $20 million budget request. The Senate had reduced this amount to $10 million. The conference agreed on $14 million.

Mr. President, my reason for objecting to this amount is that it strikes me that our erstwhile allies should bear a greater share of the costs of these infrastructure construction costs. It should be remembered that we spent hundreds of millions of dollars in France not too long ago, for which we received in settlement $96 million.

I tried to get the conferees to accept as part of this amount $26 million which we will receive from the NATO countries.

To prove my point I would like to quote from the NATO statement made by Mr. Loveland, who testified before the Appropriations Military Construction subcommittee in our hearing this year for fiscal year 1972 construction.

We now expect to receive the $96 million payments from NATO as follows: the first $28 million from reimbursements (already received) for projects constructed under authority of FY 1969 and prior year military Construction programs; the remainder, or approximately $68 million, by direct NATO funding of US relocation projects. Included in the $68 million is the $26 million of US relocation projects approved by the Congress in the FY 1970 US Military Construction programs. In the March 10th letter from SecDef, you were advised that the $26 million would be prefinanced and later recouped from NATO. Since it is more advantageous for the US to use direct NATO funding, and since NATO has approved this procedure, we intend to use NATO direct funding to the maximum of $68 million, including FY 70 approved Military Construction projects. Approximately $26 million in US Military Construction funds which may be released subsequently will not revert to the Infrastructure account, but will become available under regular reprogramming procedures to US Military Construction appropriations.

It is my contention that this $26 million we are receiving from NATO in the form of recoupements, because of the move from France, should be used to finance infrastructure construction rather than come to the Congress for $15 million in appropriations.

However, I was informed by the House Members that we had no right to follow this procedure because the army intended to use this money for other purposes. The $26 million that I wanted to use in order to pay for these infrastructure construction will become available under the regular reprograming procedures of the U.S. military construction appropriations.

For that reason, Mr. President, I opposed that part of the conference, although I signed it. I want it to be known also that we are still paying for the expense of all our soldiers in Western Europe. We are still paying for all the bombers we have there and for all the airplanes we have there. We are still paying for the 6th Fleet in the Mediterranean. We are paying for the Atlantic Fleet in the eastern part of the ocean. All of that is at our expense. And in addition, we are being asked to put up more funds in order to construct more NATO construction.

I think we are paying more than our fair share. As far as that is concerned, if I had the chance to strike the $15 million from the bill, I would do it. However, the conferees outvoted me, and I presume we have to abide by it.

So we are putting up cash money from the Treasury which could be obtained from the NATO countries to finance NATO construction. I do not think we are in a financial position to continue spending this money in order to continue building structures for NATO. There must be a stopping point. I will continue my efforts in the future to try to get the NATO countries to shoulder a great share of their own defense burden.

Mr. MANSFIELD. Mr. President, I move the adoption of the conference report.

The conference report was agreed to.

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 11418.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate numbered 1 with the following amendment:

In lieu of the sum stricken and inserted by said amendment, insert "$438,316,000."

Mr. MANSFIELD. I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 1.

The motion was agreed to.

REVENUE ACT OF 1971

The Senate resumed the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

Mr. BENNETT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 5, before line 14, insert:

(c) Accounting for Investment Credit in Financial Reports.—It was the intent of the Congress in enacting, in the Revenue Act of 1962, the investment credit allowed by section 38 of the Internal Revenue Code of 1954, and it is the intent of the Congress in restoring that credit in this Act, to provide an incentive for modernization and growth of private industry. Accordingly—

(1) no taxpayer shall be required, without his consent, to use, for purposes of his financial reports, any particular method of accounting for the credit allowed by section 38, and

(2) a taxpayer shall disclose, in any financial report made by him, the method of accounting for the credit allowed by section 38 used for purposes of such report.

Mr. BENNETT. Mr. President, the purpose of this amendment is to codify and put into the bill language which was put into the report for the purpose of making it clear that the committee "considers it undesirable to preclude the use of flow-through in the financial reporting of net income."

In a way it is a technical amendment because if the 7-percent investment credit remains in the bill it may either be considered as being available in the year in which it is allowed or spread over the life of the asset to which it is applied.

It was the committee's decision to give the taxpayer the right to make a choice. That was put in the report. This language gives that right in the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a copy of a letter addressed to the chairman of the committee from Charls E. Walker, Acting Secretary of the Treasury, indicating the Treasury's support for the proposal.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, November 12, 1971.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Questions have been raised about the position of the Treasury Department concerning the financial accounting treatment of the 7 percent Job Development Credit.

The Treasury Department's overriding interest in seeking the credit is to create jobs both in the short run and the long run by stimulating the purchase of new machinery and equipment. This will improve the productivity of our workers on a permanent basis and thereby will increase the output and competitiveness of U.S. industry.

For financial accounting purposes, companies previously have had the option of either—(1) treating the credit as an immediate reduction in tax liability in the year the assets are acquired, when the credit is allowed; or (2) spreading the benefit of the credit over the service life of the asset as if the credit, in effect, was a reduction in the cost of the asset.

The vast majority of the companies have followed the former alternative—reflecting the benefit of the credit immediately in earnings. It seems self-evident that these businessmen will have less motivation to purchase new equipment if the benefits of the credit are not reflected in operating results when realized, as they have been in the past in their case.

Accordingly, since any change in the pre-existing well-established financial accounting practice might operate to diminish the job-creating effect of the credit, the Treasury Department strongly supports a continuation of the optional treatment.

The Treasury would prefer that the accounting profession on its own motion recognize the importance of continuing the prior practice so as not to interfere with the function of the credit to stimulate new capital investment. The Senate Finance Committee has expressed a similar view in its report.

If it is concluded that the desired objective—optional treatment for accounting purposes—cannot be achieved by committee report language, then the Treasury Department will support a legislative resolution of this matter.

Sincerely yours,

CHARLS E. WALKER,
Acting Secretary.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows.

At the end of the bill insert: That (a) subchapter B of chapter 61 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions relating to information and returns) is amended by renumbering section 6110 as 6111, and by inserting after section 6109 the following new section:

"SEC. 6110. CONSENT TO USE OR DISCLOSURE OF INFORMATION BY PERSONS PREPARING RETURNS.

"(a) ADDITIONAL DECLARATION.—In addition to the requirements of part IV of subchapter A, any return of the tax imposed by chapter 1, and any declaration of estimated tax required by section 6015, which is prepared by a person other than the taxpayer, shall contain a written declaration, under the penalties of perjury, by the person preparing the return or declaration that, either—

"(1) he has not used and will not use any information furnished by the taxpayer for any purpose other than the preparation of the return or declaration, and has not made and will not make any such information available to any other person for any such purpose, or

"(2) he has obtained a valid consent of the taxpayer to use such information for purposes other than the preparation of the return or declaration, or to make such information available to another person or persons for such purposes.

"(b) FORM AND CONTENTS OF CONSENT.—For purposes of subsection (a)(2), a consent of a taxpayer shall be valid only if it—

"(1) is set forth in a separate document signed by the taxpayer,

"(2) is printed in eight point or larger type (or is typed or written in letters of comparable size), and

"(3) specifies the information which may be used by the preparer, or made available by him to another person or persons, and the purpose or purposes for which such information may be used or made available."

(b) The table of sections for such subchapter B is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6110. Consent to use or disclosure of information by persons preparing returns.

"Sec. 6111. Cross references."

SEC. 2. Section 7213 of the Internal Revenue Code of 1954 (relating to unauthorized disclosure of information) is amended by redesigning subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) PERSONS PREPARING RETURNS.—Any person who receives any information furnished by a taxpayer to enable such person to prepare or have prepared for such taxpayer a return of the tax imposed by chapter 1 or a declaration of estimated tax required by section 6015 and who—

"(1) uses any such information for any purpose other than the preparation of the return or declaration, or makes any such information available to any other person for any such purpose, unless a valid consent (as described in section 6110(b)) to so use such information, or to so make such information available, has been obtained, or

"(2) uses any such information, or makes any such information available, for a purpose not specified in such valid consent.

shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

SEC. 3. The amendments made by this Act shall take effect on the first day of the first month which begins more than 20 days after the date of the enactment of this Act.

Mr. MATHIAS. Mr. President, this is a very simple amendment. It will not require any time to explain.

It simply preserves the confidentiality of information provided by the taxpayer to the one who prepares the returns as a professional act. It requires the one who prepares the tax return for another to certify that he will not disclose that information to any third party without the consent of the taxpayer. It provides a penalty of $1,000 and a year in prison for anyone who violates this provision. It is just as simple as that.

Mr. President, I understand that the Treasury Department has no objection. I believe the distinguished chairman of the committee is familiar with the amendment. I respectfully ask that the Senate approve the amendment and add it to the bill.

Mr. LONG. Mr. President, I have looked over the amendment. It seems that it is in order. The Treasury Department finds no objection to it, as the Senator has stated. In addition, I have no objection to it.

I would point out that the distinguished Senator from Connecticut (Mr. RIBICOFF) raised a number of questions dealing with the preparers of returns. The committee agreed that we would conduct hearings on that subject either during the remainder of this year or next year. We expect to act in greater detail in this area. However, for the time being we think it will be a forward step to agree to the amendment offered by the Senator from Maryland. I know of no objection.

Mr. MATHIAS. Mr. President, I thank the Senator from Louisiana.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maryland.

The amendment was agreed to.

AMENDMENT NO. 657

Mr. PERCY. Mr. President, I call up my amendment No. 657.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, in the table of contents, strike the item relating to section 402.

On page 122, beginning with line 4, strike out through line 2 on page 123.

Mr. PERCY. Mr. President, it shall be my intention to speak briefly this evening. Then, as I understand it, under the unanimous consent agreement, we have 3 hours on this amendment in the morning and it is to be the pending business.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a unanimous consent request?

Mr. PERCY. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on the pending amendment not start running until tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Now, will the distinguished Senator indicate how long he will be speaking?

Mr. PERCY. At the most 5 minutes.

Mr. BYRD of West Virginia. I thank the Senator.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I should like first of all to make perfectly clear

that this amendment, intended to prevent funds from the alcohol excise tax being diverted to the Highway Trust Fund, is supported by the administration.

I have talked with representatives of the Treasury Department; and I talked to George Shultz, the Director of the Executive Office of the President, Office of Management and Budget, and I have his assurance that the administration supports my amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter from Donald B. Rice, Assistant Director, Office of Management and Budget, dated November 15, 1971.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 15, 1971.

HON. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: The Administration strongly supports your proposal to amend the pending tax bill to delete the provision which diverts alcohol tax revenues into the highway trust fund.

We believe that taxes paid by the user should bear a relationship to the benefits he receives and total user taxes levied should bear a relationship to the total level of services provided. Using alcohol taxes to fund highway programs does not meet these tests. Furthermore, reducing general revenues by diverting them to the highway trust fund further restricts the already limited funds available for other high priority national needs.

Sincerely,

DONALD B. RICE,
Assistant Director.

Mr. PERCY. Mr. President, the Committee on Finance approved an amendment to the Revenue Act which calls for the transfer of 7 percent of the receipts from the Federal excise tax on alcohol from the general revenues into the highway trust fund. This transfer represents a gain of approximately $350 million to the highway trust fund, and a loss of the same amount to the Treasury.

The committee justified its action on the grounds that repeal of the manufacturers' excise tax on light-duty trucks and trailers, as provided in the bill, would result in a net revenue loss of approximately $340 million to the trust fund; and because these additional funds will be necessary for the completion of the Interstate Highway System, the revenue loss should be recovered.

The committee suggested that, because alcohol abuse accounts for many highway accidents, it is appropriate to transfer alcohol tax receipts into a trust fund whose outlays go partially for highway safety programs. The $350 million allocated for the trust fund was not, however, specifically earmarked for highway safety programs.

THE QUESTION OF THE NEED FOR ADDITIONAL TRUST FUND REVENUES

The Finance Committee maintains that the additional $350 million, and money accruing from the alcohol excise tax in the future, is necessary in order not to impair the completion of the Interstate Highway System. This assertion disregards that, at the end of fiscal year 1971, the highway trust fund had an accumulated balance of $3.648 billion. Even with the loss of the funds from the excise tax on light trucks and trailers, the trust fund would have a net increase in its balance of $796 million by the end of fiscal year 1972. This unspent balance is projected to rise to $10.7 billion by fiscal year 1977, when the authority for the fund expires.

Mr. President, I ask unanimous consent to insert at this point in the RECORD a table showing the fiscal status of the highway trust fund, fiscal year 1957—fiscal year 1970, and estimates for fiscal year 1971—fiscal year 1978.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STATEMENT NO. 2.—STATUS OF HIGHWAY TRUST FUND, ACTUAL FISCAL YEARS 1957–70, AND ESTIMATES 1971–78, UNDER EXISTING LEGISLATION

[In millions of dollars]

	Receipts								Expenditures					
		Deductions												
Fiscal year	Gross excise Taxes	Transfers [1]	Refunds	Net excise taxes	Interest (net)	General fund advances	Repayment of advances (deduct)	Reimbursements from general fund [2]	Total	Interstate highways	Primary, secondary, urban, rural, TOPICS, and urban system [3]	Other [4]	Total	Balance in the fund
Actual:														
1957	1,479			1,479	3				1,482	208	743	15	966	518
1958	2,116		90	2,026	18				2,044	675	809	27	1,511	1,049
1959	2,171		97	2,074	[5] 13				2,087	1,501	839	273	2,613	523
1960	2,642		103	2,539	—3	359	359		2,536	1,861	879	200	2,940	119
1961	2,924		126	2,798	[5] 1	60	60		2,799	1,719	877	23	2,619	299
1962	3,080		131	2,949	7				2,956	1,914	860	10	2,784	471
1963	3,405		216	3,279	14				3,293	2,109	906	2	3,017	747
1964	3,645		127	3,519	20				3,539	2,635	1,004	6	3,645	641
1965	3,786	4	123	3,659	11				3,670	3,016	990	20	4,026	285
1966	4,065	28	120	3,917	[6] 7	70	70		3,924	2,978	937	50	3,965	244
1967	4,684	31	212	4,441	14				4,455	2,976	954	44	3,974	725
1968	4,523	30	114	4,379	34			15	4,428	3,207	947	17	4,171	982
1969	4,889	28	224	4,637	53				9,690	3,149	984	18	4,151	1,521
1970	5,414	28	32	5,354	115				5,469	3,289	1,043	46	4,378	2,612
Estimate:														
1971	5,717	28	119	5,570	180				5,750	3,481	1,147	86	4,714	3,648
1972	5,803	28	116	5,659	245				5,904	3,304	1,301	163	4,768	4,784
1973	6,070	30	116	5,924	285			61	6,270	3,478	1,318	429	5,225	5,829
1974	6,302	31	116	6,155	330			27	6,512	3,802	1,364	582	5,748	6,593
1975	6,520	32	115	6,373	380			24	6,777	3,921	1,383	467	5,771	7,599
1976	6,722	33	114	6,575	440			23	7,038	3,941	1,398	469	5,808	8,829
1977	6,926	34	114	6,778	525			21	7,324	3,535	1,410	491	5,436	10,717
1978 [7]	[7] 2,114	11	84	2,019				103	2,122	3,815	3,713	1,219	[8] 8,747	[9] 4,092
Total	94,998	376	2,519	92,103	2,692	489	489	274	95,069	60,514	25,806	4,657	90,977	4,092

[1] Transfers to the land and water conservation fund in accordance with Public Law 88–578, approved Sept. 3, 1964 (78 Stat. 897).

[2] Reimbursements to the fund for emergency fund expenditures authorized by the 1954 amendments to the Alaska Omnibus Act, the Pacific Northwest Disaster Relief Act of 1965, and the Federal-aid Highway Act of 1966. Expenditures related to these reimbursements are included in "Other" expenditures (see footnote 4).

[3] Assuming authorizations will be extended for fiscal years 1974–78 at the annual rate of $1,100 million for the primary, secondary and urban program; $125 million for the rural program; $100 million for the TOPICS program and $100 million for the urban system program.

[4] Includes emergency relief funds; bridge and dam design and construction funds; advances to States; special $400 million of primary, secondary and urban funds; and $300 million transfer to the right-of-way revolving fund authorized by the Federal-aid Highway Act of 1968. Also includes programs designated for Trust Fund financing by the Federal-aid Highway Act of 1970—forest highways; public lands highways; economic growth center development highways; bridge replacement; Alaskan assistance; rail crossing demonstration projects; Baltimore-Washington Parkway; highway safety programs (23 U.S.C. 402) and highway safety research and development.

[5] Receipts of interest on investments netted by payments of interest on general fund advances of $5 million in 1960, $1 million in 1961, and $1,000 million in 1966.

[6] Through Sept. 30, 1977.

[7] Includes receipts on tax liabilities accrued prior to Oct. 1, 1977, but collected thereafter.

[8] Provides for complete disbursement of all funds authorized for fiscal year 1978 and prior fiscal years including expenditures estimated to occur after Sept. 30, 1977.

[9] Available for additional authorizations including $1,986 million Interstate system cost identified by 1970 Interstate cost estimate for which authorizations have not yet been provided.

Source: 15th Annual Report of the Secretary on the highway trust fund.

Mr. PERCY. Mr. President, I would like to make another point. I have been a great admirer of what has been done by the highway trust fund and by those Members of this body who have done so much to insure an interstate highway system. I want the Federal Government to fulfill its responsibility to help our States and counties with secondary roads. The role of the Federal Government in this matter has made possible the transportation on the roads we now have in this country.

Mr. President, I wish to commend the distinguished Senator from West Virginia (Mr. RANDOLPH), the chairman of the Committee on Public Works, and my distinguished colleague, the ranking minority member of the Committee on Public Works, the Senator from Kentucky (Mr. COOPER), for the work they have done.

Mr. President, I regret that this amendment necessarily has had to come up at a time when, because of other official business, the dinstinguished Senator from Tennessee (Mr. BAKER) will not be in the Chamber tomorrow, but he also has contributed greatly as a member of the Committee on Public Works to our highway system. It is not to detract from the magnificient job that has been done, but I feel we have a responsibility to other modes of transportation, and we have a moral commitment to not in any way rob general revenues, which are needed for such programs as education, health, and welfare, and other areas of vital interest to the Senate and to the national interest.

Mr. President, it is worth noting that the Ways and Means Committee reportedly discussed in executive session the question of replacing the money lost to the highway trust fund by removal of the excise tax on light trucks, and chose not to replace this loss with funds from another source.

I understand the concern of the distinguished chairman of the Public Works Committee that the removal of the 10-percent excise tax on light trucks might erode revenues accruing to the trust fund, and eventually impair its capacity to fund highway programs. But I suggest that the device of taking a percentage of the alcohol excise tax receipts, which now go into general revenues, and diverting them to the trust fund, is inappropriate and an unnecessary precaution. If the trust fund proves unable to fund highway programs deemed necessary in the future, then it would be more appropriate for Congress to increase revenues from remaining highway user taxes: For example, the tax on gasoline. This would retain the underlying principle that the trust fund should be financed by taxes on highway users—a concept in which fund supporters have taken great pride.

ISSUE OF ALTERNATIVE USES OF THE DIVERTED $350 MILLION

While the highway trust fund maintains an accumulated balance of close to $4 billion, the Federal budget—Federal funds basis—now has an estimated deficit of $34 billion for this fiscal year—according to the most recent report of the Joint Committee on Reduction of Federal Expenditures.

The Finance Committee's view that a revenue loss to the trust fund should be recovered is double edged. It is equally fair and appropriate to ask: What will replace the $350 million lost in general revenues?

Many worthwhile programs financed partially from Federal dollars are suffering acutely from funding shortages and cutbacks. An example is our mass transit programs, which are facing severe funding shortages.

On the same day that the Finance Committee decided to divert $350 million to the highway trust fund, the Transportation Committee of the National Conference on Mayors called for an emergency appropriation of the same amount for urban mass transit systems.

There is presently a backlog of $2.6 billion in grant applications filed with the Urban Mass Transportation Administration, and bus systems across the country are having to raise fares as high as 40 and 50 cents or face bankruptcy.

We all know of other programs which are in trouble because of lack of funds from general revenues. Several weeks ago in the Senate, we were discussing the exclusion of thousands of schoolchildren from the school lunch program, and 5 months ago, we were battling to keep alive a very valuable program offering low-cost meals to the elderly poor.

OPPORTUNITY FOR CONGRESSIONAL SCRUTINY OF EXPENDITURES OF PUBLIC FUNDS

With the exception of highways, virtually all Federal programs must come to Congress each year to prove their worth and obtain appropriations. Housing, health, school lunches, nutrition for the elderly, education, and not least of all, mass transit—all of these programs must compete annually for scarce Federal dollars.

By contrast, our interstate highway program has enjoyed relative insulation for 15 years from any real congressional examination through the annual appropriations and authorization process. In one sense, I am pleased that the Finance Committee injected this issue into the Revenue Act, as it gives this body a rare opportunity to discuss publicly the merits of the highway program and its trust fund financing.

HIGHWAY "NEEDS"

One aspect of this discussion in which I am particularly interested is the manner in which highway "needs" are assessed. The 1970 national highway needs report—prepared every 2 years by the Federal Highway Administration—estimated that there is a "need" to allocate $320 billion to road construction over the next 15 years. But as a Joint Economic Committee report—dated August 17, 1970, by the Subcommittee on Economy in Government—points out, this estimate is based on the misleading concept of equating "need" with travel forecast. The "need" here refers to "capacity adequate to accommodate the highway travel forecast for the given target year."

The JEC report further explains that: Since funds are apportioned to the States in accordance with their estimated "needs," the financing system contains a considerable incentive to produce inflated travel forecasts. Furthermore, there is persuasive evidence that the "demand" for highways, as measured by traffic volume, is partly a function of highway availability. Increasing the highway mileage may merely stimulate more automobile travel.

IMBALANCE IN PRESENT TRANSPORTATION OUTLAYS

There are serious imbalances in our Federal expenditures for various modes of transportation. According to the counter budget proposed by the Urban Coalition Federal Aid to Transportation was as follows in fiscal year 1971:

FEDERAL AID TO TRANSPORTATION

[In millions of dollars]

	Outlays	Percent of transportation outlays
Mass transit	215	2.8
Highways	4,880	62.9
Aviation	1,620	20.9
Railroads	48	.6
Water	1,000	12.8
Total	7,763	100.0

It has been estimated that as much as 60 to 70 percent of our total population lives on less than 10 percent of the land—in crowded, metropolitan areas where mass transit is the most practical and efficient mode of transportation, and where highways are the least efficient and least economical. According to the 1969 copy of "America's Lifelines," a publication of the Department of Transportation, the average cost per mile of highways in rural areas is $887,000, whereas the average cost per mile of highways in urban areas is $4 million. It would seem more logical were the percentages of Federal funds going for mass transit and highways reversed; that is, were 62.9 percent of Federal outlays for transportation spent for mass transit and 2.8 percent spent for highways.

I should think that the highway interests themselves would be quite alarmed at the proposed change in the method of highway trust fund financing, for it will no doubt accelerate the movement for a more balanced and flexible national transportation system.

As a final note, I wish to reiterate my strongly held opinion that, at a time when we face a Federal deficit of over $30 billion and are witnessing critical budget cuts in numerous worthwhile programs, it is not appropriate to transfer $350 million from the deficit-ridden Federal budget into the oversubscribed highway trust fund.

Mr. LONG. Mr. President, I hope that tomorrow members of the Committee on Public Works will be present to discuss this amendment. The Committee on Finance agreed to maintain the amount of funds that would have been flowing into the highway trust fund under present law. This matter was brought to our attention by members of the Committee on Public Works who are more conversant with the need for going ahead with

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highway funds than those of us who are not on that committee.

Mr. President, the reason we have the surplus in the highway trust fund is because recent administrations have not done what Congress intended in connection with getting on with the program. There have been slow down orders and various administrative decrees not to do what Congress intended with the highway program.

We have lost tens of thousands of lives because the program has not been completed. Right now I challenge anyone to try to come from Virginia to the District of Columbia or from Maryland to the District of Columbia at working time in the morning, and try to get home at quitting time, if one has to travel beyond the circumferential highway. Highways and roads are jammed to capacity with the result that on magnificent roads designed for travel at 65 miles an hour, one has to stand still sometimes for 4 or 5 minutes waiting for a chance to move just a few feet.

We are far behind what we should have done. Frankly, it has always been my thought that we should build for tomorrow; that we should build a road system which at the time of its completion is adequate to fulfill the need for years in the future. Roads should be projected ahead so we would have what is needed in advance rather than making people spend their lives tied up for hours in bumper-to-bumper traffic fussing and perspiring with their cars burning out, with their automobile hoods lifted up because their cars are generating so much heat they will not operate any longer. This is a typical scene on the interstate highways of America today because of their inadequacy. The slowdowns that are imposed cause the construction of roads to take so long that no President expects to see some of these roads completed during his term. That is a sad commentary on the status of the highway program.

The idea of a separate fund for the construction of roads has actually resulted in a slowdown of the program. When we have a slack economy and cannot get things moving ahead, as we have now, because of a limitation on the use of funds, roads seem to be the first thing to be slowed down even though it was intended that money should be made available and spent.

So I do not want to participate in the deliberate decisions of the Executive during the last 10 years to postpone construction of much-needed highways, and which run up the death toll on those highways, by further postponing completion of this program.

Maybe we cannot get the executive to spend the money anyway, but if we do not put it there we cannot have it spent because that would provide one more excuse not to get on with the program. I believe most people think highways are one of the most pressing matters in this country.

THE RETIREMENT OF PAUL G. HOFFMAN

Mr. PERCY. Mr. President, this January marks the retirement of Mr. Paul G. Hoffman, who will step down from his post as administrator of the United Nations development program. I am honored to salute Mr. Hoffman's distinguished record of service and proud to be able to call him my friend.

Paul Hoffman, who is 80 years of age, has had a long career in industry and international affairs. He was president of the Studebaker Corp. for 13 years before being appointed by President Truman in 1948 as the first Administrator of the Marshall plan for the economic recovery of war-torn Europe. Later, he was president of the Ford Foundation for 2 years before joining the world organization in 1959 as managing director of the United Nations Special Fund, created to stimulate investment opportunities in developing countries. In 1965, the special fund was merged with the expanded program of technical assistance into the United Nations development program, and in 1966 Mr. Hoffman took the reins as Administrator of this vitally important undertaking.

The U.N. development program assists low-income countries in making more fully productive the vastly underutilized, potential wealth of their human and natural resources. At the request of the governments of these developing countries, it works in carrying out preinvestment and technical assistance projects, with the aim of uncovering sound opportunities for capital investment and creating conditions under which such development financing and other growth resources can be used with maximum effectiveness.

I think that Mr. Hoffman has best stated the mission of the U.N. development program:

> It cannot be said too often that the poverty which dreadfully oppresses hundreds of millions of the world's people is unnecessary, simply and truly unnecessary. All the human, natural and technological resources needed to eradicate poverty from the low-income lands are available now, and a great deal is known about how to use these resources effectively.
>
> But the job can only be done if the richer and the poorer countries build a strong, dynamic partnership for development.

In his farewell address, Mr. Hoffman stated that he regards development "as one of the greatest causes to which mankind has ever devoted itself in all its long history—a cause which the future may reveal as the seedbed for a flowering of human well-being that could cover the face of this planet."

U.N. Secretary General U Thant calls Mr. Hoffman's contribution to the work of the United Nations in the economic and social field, and his services to the cause of multilateral ecnomic and social development, beyond praise. He said:

> His efforts have helped improve the lives of hundreds of millions of people throughout the world, and strengthened the cause of international cooperation.

Mr. President, the United Nations will be losing a gifted leader and a distinguished humanitarian. The world community is thankful for the work of Paul Hoffman, and I wish him well in his retirement years.

THE "GOLD" AMENDMENT

Mr. MATHIAS. Mr. President, we frequently hear, the desirability of constructive alternatives to legislative proposals, and I should like to acknowledge one to my amendment to put income tax forms in simple American English. This alternative is the "Gold" amendment, proposed by the distinguished author of the District Line in today's Washington Post.

My only hestitation in calling the Senate's attention to it is that it may be considered coercive. At the very least, it may be unconstitutional as a violation of the eighth amendment. In any event, the "Gold" amendment speaks for itself. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAC'S TAX REFORM

> Sen. Charles McC. Mathias of Maryland has proposed that "common every-day American English" be made the official language of the Internal Revenue Service. Additionally, he wants tax return forms revised so that ordinary citizens can understand them.
>
> Sen. Mathias is to be commended, and I wish him a lot of luck. I have no pride of authorship in my own tax reform proposal, and would be happy to settle for his.
>
> However, if the Senate turns down the Mathias version of tax reform, I reserve the right to go back to plugging for my own idea: Just forbid any Congressman to use professional help in filling out his own tax return.
>
> If the men who pass our tax laws had to make them simple enough for Congressmen themselves to understand, the rest of us wouldn't have much trouble, either. Our problem right now is that the average Congressman can't make any more sense out of the tax laws he passes than the average citizen can, with the result that most returns that involve anything more than a standard deduction require professional assistance. And on returns of even minor complexity, even the professionals disagree among themselves. Ask six of them about your return and you'll get six different answers.

H.R. 9961 RELATING TO FEDERAL CREDIT UNIONS—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at such time as the so-called credit union bill is called up—and that bill is numbered H.R. 9961—time on that bill be limited to 30 minutes, to be equally divided and controlled between the distinguished Senator from Alabama (Mr. SPARKMAN) and the distinguished ranking minority member of the committee (Mr. BENNETT); that time on any amendment thereto be limited to 30 minutes, to be equally divided between the mover of such amendment and the distinguished manager of the bill, with the exception of an amendment by the distinguished Senator from Wisconsin (Mr. PROXMIRE), on which there be a time limitation of 2 hours, to be equally divided between the mover of the amendment and the manager of the bill; provided further, that time on any amendment in the second degree, motion, and appeal, with the exception of nondebatable motions, be limited to 10 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President——

The PRESIDING OFFICER. The Senator from Michigan.

Mr. BYRD of West Virginia. Mr. President, may I say, in explanation of this request, it has been discussed with the distinguished manager of the bill (Mr. SPARKMAN), the distinguished ranking Republican Member (Mr. BENNETT), and the distinguished Senator from Wisconsin (Mr. PROXMIRE), and with the minority leadership.

Mr. GRIFFIN. Mr. President, it has been discussed with the distinguished ranking Republican Member, the Senator from Utah (Mr. BENNETT), and is agreeable. I wanted to indicate one concern that I had, however. The distinguished Senator from Tennessee (Mr. BAKER) is not on the floor, but the distinguished majority whip is limiting amendments here to 30 minutes with no requirement that amendments be germane. It bothers me a great deal to think we might be limiting the Senate, in the consideration of some extraneous amendment, the proportions of which we have no way of knowing, to 30 minutes. I wonder if we should do that.

Mr. BYRD of West Virginia. I thank the distinguished assistant Republican leader. He has certainly made reference to something that could become an eventuality here.

Could we agree that, in the event a nongermane amendment should be offered on which additional time over and above 30 minutes was desired, that amendment would not be under the restriction of the agreement?

Mr. GRIFFIN. I would accept that.

The PRESIDING OFFICER. Without objection——

Mr. SPARKMAN. Mr. President, reserving the right to object—and, of course, I shall not object—let me say that the bill itself is noncontroversial.

Mr. BYRD of West Virginia. Mr. President, the Senate is still in session. Would the Senate clerks take their seats or leave the Chamber?

The PRESIDING OFFICER. The point of the Senator from West Virginia is well made.

Mr. SPARKMAN. Controversy comes on one amendment that has been referred to. I have discussed with the Senator from Wisconsin (Mr. PROXMIRE) the idea of cutting that time down to 1 hour and a half. That can be taken up in the morning. I feel very strongly that the whole matter can be disposed of in not more than 2 hours. We will certainly cooperate.

Mr. BYRD of West Virginia. Yes. I share that hope.

Mr. President, was the request agreed to?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from West Virginia, as modified by the request of the Senator from Michigan?

The Chair hears none, and it is so ordered.

REVENUE ACT OF 1971

The Senate continued with the consideration of the bill (H.R. 10947) to provide a job development investment credit, to reduce individual income taxes, to reduce certain excise taxes, and for other purposes.

UNANIMOUS-CONSENT AGREEMENTS

Mr. BYRD of West Virginia. Mr. President, I have a number of requests which I shall propose. They have been cleared with the distinguished manager of the bill, with the distinguished ranking minority member of the committee and they have also been discussed with the distinguished assistant Republican leader, and have of course, been authorized and approved by the distinguished majority leader, and I make the requests at his direction.

Mr. President, I ask unanimous consent that upon the disposition of the pending amendment, the amendment by Mr. PERCY and Mr. WEICKER, the Senate then proceed to take up the amendment by Mr. ROTH, amendment No. 642.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the disposition of the amendment by Mr. ROTH, amendment No. 642, the Senate proceed to consider an amendment by Mr. CRANSTON, amendment No. 640. That amendment, as I understand, would delete title VI of the bill. It would knock out the President's authority to impose import quotas.

I ask unanimous consent that the time hours, to be equally divided between the mover of the amendment and the manager of the bill; that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 30 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, upon the disposition of amendment No. 640 by Mr. CRANSTON, the Senate proceed to consider an amendment by Mr. HARRIS. By way of identification, it would prohibit corporate tax deductions as business expenses for advertising on public questions.

I further ask unanimous consent that time on that amendment be limited to 30 minutes, to be equally divided between the mover of the amendment and the manager of the bill; that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 5 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at such time on tomorrow as the Senate shall complete its business, a second amendment by Mr. CRANSTON, amendment No. 685, be laid before the Senate and made the pending question; that time on that amendment, which may be identified as dealing with the excise tax on autos, be limited to 2 hours, the time to be equally divided and controlled between the distinguished mover of the amendment (Mr. CRANSTON) and the distinguished manager of the bill (Mr. LONG); that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

Mr. GRIFFIN. Mr. President, reserving the right to object, I came to attention because that amendment deals with the auto excise tax. Can we lengthen the time for amendments to the amendment, if there are such offered, a little, from 20 to 30 minutes?

Mr. BYRD of West Virginia. Yes. I modify my request accordingly.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon disposition of amendment No. 685 by Mr. CRANSTON on Wednesday next, the Senate proceed to consider an amendment by Mr. HARRIS, which may be referred to as the combined DISC and foreign corporation tax amendment; that time on that amendment be limited to 1 hour, to be equally divided between the mover of the amendment and the manager of the bill; that time on any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions, be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I am conscious of the fact that this is a rather controversial matter—has this been cleared with the ranking minority Member?

Mr. BYRD of West Virginia. Yes. All of the requests have been so cleared.

Mr. GRIFFIN. Once again I think that I would like to suggest that perhaps amendments might be allotted 30 minutes.

Mr. BYRD of West Virginia. Very well. I so amend my request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I think the distinguished assistant Republican leader would include with and amendment in the second degree, any motion, or appeal, with the exception of nondebatable motions, so that it would be clearly understood that they have the same time limitation as amendments in the second degree.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. President, I ask unanimous consent that on an amendment which may be identified as the tax deduction for political contributions amendment—to be offered by Mr. CRANSTON for himself and others, or by others—the time be limited to 6 hours, to be equally divided between and controlled by the mover of such amendment and the manager of the bill; and that time on any amend-

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ment in the second degree, motion, or appeal with the exception of nondebatable motions be limited to 1 hour, to be equally divided between the mover of such and the manager of the bill.

Mr. GRIFFIN. Is this the last amendment as to which the distinguished majority whip is going to ask unanimous consent?

Mr. BYRD of West Virginia. Yes.

Mr. GRIFFIN. And this has to do, not with the business for tomorrow, but for the day after tomorrow?

Mr. BYRD of West Virginia. This would be for the day after tomorrow, and I would hope that it could follow the second Harris amendment, but I hesitate to attempt to clock it in at this point.

Mr. HUMPHREY. Mr. President, will the distinguished majority whip yield?

Mr. BYRD of West Virginia. I yield.

Mr. HUMPHREY. I have an amendment, No. 693, relating to a low-income allowance, and I may want to call that up tomorrow. If I do, I would like to have the majority whip include that in his unanimous-consent request. I do not think I would need over 30 minutes. It seems to me that is a maximum amount of time, 30 minutes on a side, or a maximum of an hour to the two sides. I imagine I would be able to cut that down substantially, as we did on Saturday.

Mr. BYRD of West Virginia. Will the distinguished Senator hold that until we get the other requests cleared?

Mr. HUMPHREY. Yes. I understood the Senator was finishing his unanimous-consent requests, and I wanted to be sure to get it under the umbrella.

Mr. BYRD of West Virginia. Yes.

Mr. GRIFFIN. Mr. President, may I ask whether this amendment and the number of hours was cleared with the distinguished ranking Republican member of the committee (Mr. BENNETT)?

Mr. BYRD of West Virginia. Yes, the request for 6 hours was.

Mr. GRIFFIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. I am sorry, Mr. President, that I cannot be more definite with respect to the identification of the author of that amendment. I discussed it with Mr. CRANSTON, and he gave me assurance that if he did not offer the amendment, he would be a cosponsor of it, and that the amendment, by whomsoever offered, would still come within the time limitation that has been agreed to.

Mr. GRIFFIN. Now, with respect to the request the distinguished Senator from Minnesota wants to make, here is the situation, and it is very awkward for the minority whip: Because the amendment, I take it, is one that the people on my side are not yet familiar with, particularly Senator BENNETT, the ranking minority Member, I do not know how I can agree to it, although I am sure the Senator will be reasonable about it tomorrow.

Mr. HUMPHREY. Yes; I was perfectly willing to wait until tomorrow. I understood that the majority whip was trying to complete a total roundup of the number of amendments pending with unanimous consent requests. But I shall raise this issue tomorrow.

Mr. GRIFFIN. Yes; the Senator can see the problem.

Mr. HUMPHREY. Yes.

Mr. GRIFFIN. These others have all been studied, and they are familiar with them and realize how much time they are willing to agree to.

Mr. BYRD of West Virginia. Mr. President, may I address this question to the able assistant Republican leader and the distinguished Senator from Minnesota (Mr. HUMPHREY)?

Could we agree to a time limitation on the amendment by Mr. HUMPHREY, so that the Senator from Minnesota would know where he stood with respect to a time limitation and with respect to the sequence?

Mr. GRIFFIN. May I suggest that he make it an hour and then, if he wants to reduce it, that would be fine?

Mr. HUMPHREY. Yes; an hour equally divided.

Mr. GRIFFIN. That would give adequate protection, I think.

Mr. BYRD of West Virginia. I was going to make this suggestion, which the Senators may or may not prefer: That the time be limited in accordance with the suggestion of the distinguished Senator from Minnesota, and conditioned on objection by the ranking Republican member of the committee or the chairman. In other words, if in the morning, Mr. BENNETT or Mr. LONG wishes to object, we will change the time to 2 hours to be equally divided.

Mr. HUMPHREY. Yes.

Mr. GRIFFIN. Fine.

Mr. BYRD of West Virginia. But unless Senator BENNETT or Senator LONG objects, then the time limitation would be understood; it would be 1 hour, to be equally divided, on the amendment, with 30 minutes allotted to any amendment in the second degree, motion, or appeal, with the exception of nondebatable motions.

Further, Mr. President, I ask unanimous consent that the amendment by Mr. HUMPHREY follow the amendment by Senator HARRIS on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, will the assistant majority leader yield for just one other observation?

Mr. BYRD of West Virginia. Yes.

Mr. HUMPHREY. It was necessary for the Senator from Minnesota to be absent today, on what I would call official business, to participate in the General Forum of the National League of Cities and Municipalities as one of the participants, together with former Governor Scranton of Pennsylvania and others, on the whole subject of revenue sharing—by the way, in support thereof—and of the Rural Development Bank proposal, at a conference that was held in Atlanta.

I make note of this because of the very important business that is before the Senate, and I deeply regret not having been able to be here today, but I had to either completely disappoint, because of the responsibility I have in that conference, an entire conference, or be absent from some votes here today.

As the majority whip knows, I was concerned about that on the weekend, and spoke to him about it.

Mr. BYRD of West Virginia. Yes, the able Senator did indeed, and the situation was such, as he has explained it, that it necessitated our having to move ahead with votes here, and we appreciate the explanation for the record by the distinguished Senator from Minnesota, of which I was already aware. It is regretted that the circumstances were such that the able Senator from Minnesota could not be present throughout the day, but it should be noted that, even at this late hour—and it will soon be 9 o'clock in the evening—he has returned to the Senate floor to help complete the business here.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of the remarks by the distinguished Senator from Wisconsin (Mr. PROXMIRE), there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate the pending question, which is the amendment by Mr. PERCY and Mr. WEICKER.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD of West Virginia. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 9 a.m.

After the two leaders have been recognized under the standing order, the distinguished Senator from Wisconsin (Mr. PROXMIRE) will be recognized for not to exceed 15 minutes, following which there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

At the conclusion of morning business, the Senate will resume its consideration of the amendment by Mr. PERCY and Mr. WEICKER, on which there is a time limitation of 3 hours.

Upon the disposition of that amendment, the Senate will proceed to the consideration of the amendment (No. 642) by Mr. ROTH, on which there is a time limitation of 2½ hours.

On the disposition of the amendment by Mr. ROTH, the Senate will proceed to the consideration of amendment No. 640 by Mr. CRANSTON, on which there is a time limitation of 3 hours.

When the Cranston amendment (No. 640) has been disposed of, the Senate will take up the first of the two Harris amendments, the amendment to prohibit the corporation tax deduction as a business expense, on which there is a time limitation of 30 minutes.

Following that, the Senate will consider the amendment by Mr. HUMPHREY on which there is a limitation of 1 hour.

At the close of business tomorrow, the Chair will lay before the Senate the second amendment by Mr. CRANSTON, amendment No. 685, the excise-tax-on-automobiles amendment. It will be made the pending question. A time limitation of 2 hours has been agreed to with respect to that amendment.

Following the disposition of the Cranston amendment—No. 685—on Wednesday, the Senate will proceed to consider the second amendment by Mr. HARRIS, the combined DISC and foreign corporation tax amendment—in other words, the old Gore amendment—on which there is a time limitation of 1 hour.

An agreement has been entered into with respect to the so-called political contributions amendment, with a limitation of 6 hours on the amendment. That amendment will be called up on Wednesday at some point.

Mr. President, there will be rollcall votes tomorrow. It is certainly hoped that the Senate will complete its consideration of the unfinished business on Wednesday. Of course, there will be rollcall votes on Wednesday as well. There will be a long day tomorrow and a long day on Wednesday.

Mr. GRIFFIN. Mr. President, will the majority whip yield for one further observation?

Mr. BYRD of West Virginia. I yield.

Mr. GRIFFIN. In the cases where reference has been made to numbered printed amendments, the Senators are on notice and can understand what is going to be taken up and can prepare themselves for the debate. In several instances, as the majority whip has indicated the reference has not been to a printed numbered amendment but has been identified with a description, which is helpful. But I would hope that perhaps tomorrow—I am thinking now of the so-called political contribution amendment, whatever that is—we could have something more definite as to what the amendment is, so that Senators could have notice and be able to prepare themselves.

Mr. BYRD of West Virginia. Mr. President, the point that has been made by the distinguished assistant Republican leader is well taken. Certainly, Mr. President, we are operating a little in the dark by virtue of the fact that we are unable to identify all amendments by number.

I think it can be explained by the fact that we are up against somewhat of a deadline, and that we hope to complete our work here on "must" legislation by December 1. In order to expedite the action on the unfinished business as early as possible, we are attempting to get time limitations on the various amendments.

Some amendments to which I have referred are printed, I am positive. For example, the amendment by the Senator from Oklahoma (Mr. HARRIS), the combined DISC and foreign corporation tax amendment, is a printed amendment, I am informed by the Senator. I do not have the number.

Mr. GRIFFIN. Perhaps tomorrow we will be better able to identify them.

Mr. BYRD of West Virginia. Perhaps tomorrow we can do so. I hope we can. I join in the remarks of the distinguished assistant Republican leader with respect to the importance of identifying the amendments by number where possible.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 52 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, November 16, 1971, at 9 a.m.

NOMINATION

Executive nomination received by the Senate November 15, 1971:

NATIONAL SCIENCE FOUNDATION

H. Guyford Stever, of Pennsylvania, to be Director of the National Science Foundation for a term of 6 years, vice William David McElroy.

EXTENSIONS OF REMARKS

PRESS ANGRY OVER U.N. ACTIONS

HON. G. ELLIOTT HAGAN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HAGAN. Mr. Speaker, the press in the First Georgia District, as well as over the Nation, is fighting mad over the recent failures of the United Nations and the declining influence of the United States.

In strong editorials the papers denounce the U.N.'s ousting of Nationalist China, the joyous face-slapping of the United States, the failure of 15 nations to have the fortitude to vote, the dumping of the U.N.'s major expenses on the United States, and the general ineptness of the United States in foreign matters.

The value of the following three editorials in giving a cross section of the mood of the people in my area, is most evident.

The Savannah Press of October 27, 1971, in an editorial entitled "Appalling Decision" said:

> The appalling decision of the United Nations to cast out Taiwan should lead the United States to reconsider its role in that organization.
>
> What good can the U.S. accomplish if its members are going to defy the very principles on which the body was founded?
>
> The General Assembly's action was nothing more than capitulation to the Communist Chinese regime which demanded Taiwan's ouster as a price for acceptance of membership in the U.N.
>
> This action was taken despite the fact that Taiwan has observed the U.N.'s rules and Peking has observed none of them.
>
> Is Communist Chinese membership really all that important to the other nations of the world?
>
> At the present time, the United States pays 35 per cent of the expense of maintaining the U.N., an expense hardly justified when the organization bows and scrapes to a Communist nation that has engaged in war against the United Nations and is behind most of the conflict under way in the world.
>
> If Red China is so very important to the U.N., then Red China and those governments which believe in its being essential to the UN should begin to pay the freight now borne by American taxpayers.
>
> Some may argue that because Communist China has a tremendous population, Peking should be in the U.N. Well, what about Taiwan, which has a population larger than that of many U.N. members? Why shouldn't the people of Taiwan be represented?
>
> The outcome in the General Assembly, which was a crushing defeat for the so-called Two-China Policy, smacks suspiciously of a contrived deal by the United States, and it is only fair to ask if the Nixon Administration has provided the proper support for an ally who supported us in vote after vote.
>
> We will get none of that support from Peking. Quite the opposite. With the entrance of Peking as a replacement for a staunch ally, the influence of the United States in the U.N. is now but a wan echo of what it was at the U.N.'s birth.
>
> Other allies of the U.S. may well wonder if the day is coming when Washington will pull the carpet from under them as well. We have done ourselves no honor, and the U.N. has done itself even less.

The Dublin Courier-Herald of October 28, 1971, carried an editorial entitled "Take a New Look at the Sun," as follows:

> Almost since its inception, this country has underwritten the operation of the UN as far as finances are concerned. There are many of the larger nations who take active parts in the UN but refuse to contribute anything but a mere token contribution to the expenses of the world body.
>
> In the past this country has picked up the tab in the naive belief that the UN served as a place for the exchange of ideas and was thus a valuable organization to have around.
>
> But we are a bit weary of being "used" by the nations who make up the United Nations. There are far too many who are active, voting members who do not have as many people as most of the states in this nation.
>
> The two votes this week, one expelling Taiwan and the other admitting Red China to UN membership, demonstrated beyond any shadow of doubt that most UN nations no longer look to us for leadership. To them all we have become is a big, bumbling, simpleminded giant who can be bandied from pillar to post and stripped of its wealth to support every scheme they can conceive.
>
> For our part, we are ready to support the UN in the exact ratio of our vote to every other country's vote. After all, this nation through Supreme Court decisions is committed to the idea of one-man-one-vote. Why not in the United Nations when it comes to financially supporting the operations of that body?
>
> We must admit that our foreign policies have been amateurish and ineffective. Our efforts to buy friends with foreign aid and non-repayment loans have made us persona non grata to many nations, even those whose very existence today was made possible by sacrifices of American lives and millions of dollars in aid for reconstruction, all in one debt.

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Thus we think this nation should reevaluate its financial support of a group that has placed itself over whelmingly the basic concepts of government that we believe in.

And we also think it is time for the Congress and the Administration to stand up and demand rather than following the pollyannaish policies we have followed since World War II. If we are as great and powerful as we are, let's act like it.

The Augusta Chronicle of October 28, 1971, in an editorial entitled "An Odd Situation," had this to say:

In the wake of the infamous decision by United Nations delegates to throw out a peaceful, law-abiding founding member and replace it with an outlaw nation, a very strange paradox develops.

On one hand, Free China, in the words of President Chiang Kai-shek, will "continue to be guided by the purposes and principles of the United Nations Charter."

On the other, the usurping Peking regime, although now in, will work against everything the UN was supposed to stand for. This is not opinion, but a realistic look at facts. The Associated Press, an objective newsgathering organization, states in a dispatch without qualification the obvious fact that the Mao dictatorship undertakes its UN "role while promoting 'people's wars' against regimes that fail to fit Peking's notions of ideological acceptability." Not "has promoted," mind you, but "while promoting"—a realization by hardheaded AP observers that this anti-peace process is due to continue while Chinese Communists hypocritically talk about peace in the UN deliberations.

The Associated Press appraisal of facts also noted that Red China is in a position "to wield a paralyzing veto over whatever peacemaking efforts the Security Council might seek."

And it concluded that "there is a good chance that Peking will demand drastic restructuring of the UN and its agencies on the complaint that the poor nations are underrepresented." The poor nations referred to also happen to be in many cases those in which Communist subversion has made them puppets—a fact that helped get the Republic of China thrown out in favor of Mao's gang. And their "under-representation" consists of each, no matter how small and lacking in its contribution to UN effectiveness, having the same vote as the United States, Britain, France and other major nations.

Maybe if Mao "restructures" sufficiently, he can get two votes each for Albania, Algeria and Cuba, as compared to the United States' one.

SCHOOL BUSING BECOMES A NATIONAL ISSUE

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. BROYHILL of Virginia. Mr. Speaker, it seems to me quite significant that a large, liberal, Eastern newspaper, the New York Times, in a headline almost entirely across a page, has proclaimed that forced school busings has become a national issue. The Times article has pointed out that the issue has become a national one "primarily because this year, for the first time, a substantial number of urban school districts outside the South were faced with school desegregation plans, many of them requiring additional busing." The forced school busing problem is spreading throughout the country.

It is interesting to note that not only outraged parents—many blacks as well as whites—in the North as well as in the South, are angry over having their children forcibly bused away from their neighborhood schools, but also even a number of civil rights leaders have spoken out against forced busing, which represents a loss of freedom in America.

Mr. Speaker, at this point I insert in the RECORD the text of the New York Times article to which I refer. I hope that all who see it will give active support to House Joint Resolution 620, of which I am one of the sponsors. This resolution would initiate action to restore to the American people a part of the freedom which unwise judicial decree has taken away from them.

The article follows:

SCHOOL BUSING BECOMES A NATIONAL ISSUE THAT MAY AFFECT 1972 PRESIDENTIAL RACE

(By John Herbers)

The busing of schoolchildren to achieve integration has emerged this fall as a national political issue.

Busing, which was formerly of interest largely in the South and border states, has become a factor and (sic) school board contests now under way in a number of Northern, and Western cities.

In Philadelphia, for example, both the Democratic and Republican nominees for Mayor in the November general election have come out strongly against a State Human Relations Commission order calling for integratiton that would require much additional busing.

Nationally, there is a consensus among political leaders that busing could have a significant impact on next year's Presidential race, particularly in some of the Democratic primaries. There is disagreement, however, about how important the busing issues will be.

The issue has become a national one primarily because this year, for the first time, a sugstantial number of urban school districts outside the South were faced with school desegragation plans, many of them requiring additional busing.

Before schools opened, President Nixon gave the issue prominence with a public statement opposing busing "simply for the sake of busing."

Democrats who are traveling the country as contenders or possible contenders for the Presidency have been asked at almost every stop to state their stand on busing, along with a number of other issues ranging from the economy to drugs.

Senator Edmund S. Muskie's recent experiences with the issues in California and Tennessee point up part of what is involved. Senator Muskie, who is considered the frontrunning candidate for the Democratic Presidential nomination, was asked about the issue on Sept. 7 in San Francisco, which was under court order to implement additional busing.

ORDER OPPOSED

The order was opposed by parents of Chinese and white pupils; and Mayor Joseph L. Alioto, a candidate for re-election this year, had added his voice to the opposition.

Senator Muskie voiced distaste for the busing of children to desegregate schools, but he sharply criticised President Nixon for asking Congress to prohibit the use of Federal funds to acquire buses.

He added that until the nation integrated housing patterns, "we're going to have to rely on busing to some extent to deal with the problem."

The comments did not stir much reaction in California, but when he appeared in Chattanooga later in the month and said essentially the same thing, with more emphasis on the need for busing, a number of Tennessee Democrats said that he killed his chances of winning the Presidential primary there next spring.

Tennessee Democrats, seeking a centrist candidate for next year, were reported to have tentatively chosen Senator Muskie to address a party fund-raising dinner in Nashville Nov. 18, but to have changed their minds after the Senator's Chattanooga statement, made in response to questions at a news conference.

"Muskie's appearance would have been totally successful," said Lieut. Gov. Frank Gorrell, "If he had not expressed himself on the busing question."

What the Senator said was this:

"All I can tell you is my view of busing and its relationship to the chief objective, which is to break down inequality of educational opportunity in this country. That is a wrong that must be righted. It's a wrong that's ingrained in our educational system, and to right it is going to require the use of means that are not always going to be comfortable, and we must face that as well.

"The courts have told us that busing is a way, and a legitimate way, and in many cases the only way to get at that wrong. So I don't think we ought to exclude it as a tool for doing just that."

Later, the Senator said that what all Americans wanted was "mobility" and that that was what blacks did not have. To deal with that, "we must from time to time use uncomfortable means that put us to inconvenience, that impose burdens, create risks and fears; but if we just are content to remain frozen in our present inequities all we do is exacerbate the problem," he said.

The issue has boiled up in Tennessee because of an integration order imposed this fall in Nashville and is not as likely to be as heated in other states. But it is an important issue in Florida, where Senator Muskie and other liberals hope to make a good showing early next year, and in some of the other primary states.

Gov. George C. Wallace of Alabama, who is expected to be an independent candidate for President next year, has indicated that he will run his campaign chiefly on an anti-busing program, contending that President Nixon "talks one way and acts another" and that all the Democratic candidates favor busing.

There is a wider range of opinion among Democrats than Governor Wallace suggests. Senator Henry M. Jackson of Washington, who is looking to the Florida primary to establish his candidacy, has said he favors busing if it enhances educational opportunity, does not impose hardships on the children and is not arbitrarily ordered. On a swing through North Carolina he left the impression that he opposed busing, at least in some degree.

"He is generally opposed to busing for busing's sake," said a spokesman for Senator Jackon. "He finds it a national issue. He runs into it in Seattle, and in San Francisco and the Northeast it is as validly an issue as in the South."

Representative Wilbur D. Mills of Arkansas, chairman of the House Ways and Means Committee, has said in his travels around the country that he opposes busing to achieve racial balance. Mr. Mills is reported to be gaining strength in Tennessee and other Southern states because of this stand.

Senators Fred R. Harris of Oklahoma and George McGovern of South Dakota, who are announced candidates for the Democratic nomination, and Birch Bayh of Indiana, Hubert H. Humphrey of Minnesota and Edward M. Kennedy of Massachusetts, who are considered possible candidates, are less equivocal than either Senators Jackson or Muskie in their support of busing as one tool to achieve equal education. They do not believe busing will be a major issue next year.

Senator McGovern has said he does not believe busing would have been a national issue this year if President Nixon had not made his statement against during the summer.

It is such an emotional issue, however, that liberals seldom bring it up themselves. Senators Walter F. Mondale, Democrat of Minnesota, and Jacob K. Javits, Republican of New York, were among the few liberals who spoke out voluntarily in favor of busing after President Nixon's statement.

On the other hand, a number of civil rights advocates have spoken out against busing. Senator Robert P. Griffin of Michigan, the Republican Senate whip, said in urging the Justice Department to intervene in court cases against busing:

"I am deeply concerned that forced busing solely for the purpose of achieving racial balance is counterproductive. Instead of helping in the effort to promote better race relations, it is resulting in more bitterness and more polarization."

How important an issue busing will be next year depends, some officials believe, on how much of it the courts order next fall.

On the other hand, they add, busing is an emotional issue that peaks in a city just before a busing order is carried out and then diminishes, as has happened many times in the South. By election time, they say, the issue may have declined in Tennessee and emerged elsewhere.

GOVERNOR MILLIKEN'S DECISION AN APPEAL TO REASON

HON. CHARLES E. CHAMBERLAIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. CHAMBERLAIN. Mr. Speaker, the recent controversial ruling by a U.S. district court with regard to the integration of Detroit public schools raised widespread concern over a number of fundamental questions. One of the most important of these derives from the court's suggestion that the busing of students across school district lines may be an appropriate remedy. To date the Supreme Court has upheld integration plans involving the use of busing within a single school district only. In order to obtain a full and complete review by higher Federal courts on this issue, Gov. William G. Milliken has announced that he will order a State appeal of the district court's decision as soon as it is finalized to insure that no new plan goes into effect until the Supreme Court has had the opportunity to examine its legality. The State Journal of Lansing, Mich., in a thoughtful editorial appearing November 7, 1971, supports the Governor's action and the need to encourage the rule of reason in this highly emotional issue, and I commend it to the attention of my colleagues.

MILLIKEN'S DECISION AN APPEAL TO REASON

Like a small brush fire which suddenly becomes a raging inferno, the school busing integration issue has erupted in anger, shouting and fear. Reason, temporarily at least, seems to have gone out the window.

Sparking what has become a frenzied controversy in Michigan was a ruling by U.S. District Judge Stephen J. Roth that the Detroit public schools become racially segregated because of both official action and inaction. In both Detroit and Grand Rapids, one suggested remedy is court-ordered busing across school district lines.

Such an order, if it is given, would raise legal questions still untested by the U.S. Supreme Court in previous school bus integration rulings.

Because of the storm of controversy on the proposed crossing of district lines, Gov. William G. Milliken last week announced that he will order a state appeal of Roth's decision when it is finalized.

The governor, we believe, has made a reasoned and sensible decision in an attempt to restore some calm to a dispute which has caused an almost irrational drawing of battle lines and in which a crescendo of political shouting is drowning out common sense.

The issue involved in the Detroit dispute not only involves integration and methods of achieving this goal, but also concerns the independence of local school districts and future methods of state financing of schools.

If a cross-busing decision is made across school district lines it would indeed be a landmark ruling, one which would affect every major school district in the nation. The governor in reality is only asking that such a decision be given a full judicial review all the way to the U.S. Supreme Court.

In view of the Grand Rapids test case and others likely to arise, a Supreme Court appeal is almost certain in any event and Gov. Milliken has decided to take that step now because the state of Michigan is a defendant in the Detroit case.

We do not accept the shallow accusations being made by a few who are calling the governor a bigot, a racist and worse. Gov. Milliken is no racist and those making the charges are only pouring gasoline on the flames by such a tactic.

We also agree with the governor that any effort to prohibit all busing is wrong since that is going to another extreme and could scuttle much progress already made in integrating schools.

Some reasoned solutions must be found to bring about equal educational opportunity. It is correct and sensible, however, that these solutions, when they present wholly new concepts, be decided by the nation's highest legal tribunal.

We believe that was the reasoning behind the governor's announcement, and we support it.

HAVE PLANT, WILL TRAVEL—THE MULTINATIONAL

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. GAYDOS. Mr. Speaker, the administration finally has recognized America's precarious position in the international trade market and taken some steps to alleviate the unfair competition now faced by the American industry and its workers. The 10-percent import surcharge is evidence of that.

However, there is another facet of the trade problem which is attracting ever increasing public attention. I refer to the multinational corporation which, for one reason or another, locates in countries throughout the world and produces goods there for sale here.

The November issue of Steel Labor contains an interesting article on these globe-circling firms. It states the number of U.S. affiliates abroad has skyrocketed from 10,000 in 1957 to 25,000 today. The direct investment of U.S. firms abroad has doubled in the decade from 1960 to 1970 from $31.9 billion to $77.4 billion. The price the United States has paid for this "Have Plant, Will Travel" shift is some 400,000 jobs, according to Steel Labor's story.

Mr. Speaker, I submit the article for the RECORD, and call it to the attention of my colleagues.

The article follows:

[From Steel Labor, November, 1971]

HAVE PLANT, WILL TRAVEL—THE MULTINATIONAL

On Oct. 31 and Nov. 1, as this issue of Steel Labor goes to press, the first worldwide conference of unions in the nickel industry is being held in Lausanne, Switzerland, sponsored by the International Metalworkers Federation in response to a suggestion by the United Steelworkers of America. Earlier this year, union leaders from 19 nations gathered in London to draw up a basic plan for collective bargaining in the worldwide auto industry.

Such international labor conferences can be expected to increase in frequency in the future. Why? Because the rapid rise of the multinational corporation—the company with holdings in two or up to two dozen or more countries—today confronts members of the USWA and all of organized labor with what well may be the most serious threat since the very inception of the trade union movement. This development, involving tremendous economic concentration at the same time that these corporations are spreading out over the world poses these grave problems:

1. For workers, a threat to existing wages and working conditions, as well as the very existence of their jobs.

2. For governments, founded upon the principle that elected officials represent the interests of the people, threat to their ability to carry out that political and social responsibility.

Time and again in recent years, USWA President I. W. Abel and other labor leaders have warned against the growth of conglomerates—widely diversified corporations operating in a variety of unrelated industries. To meet the serious difficulties in negotiating with such companies, unions increasingly have turned to coordinated collective bargaining.

If conglomerates are tough cookies with which to deal, however, multinational corporations may well prove to be even more so. Beyond their ability to endure lengthy shutdowns in any one segment of their operations, labor faces the additional threat that production at struck facilies may be shifted out of the country.

Both workers and government indeed have something to fear if some predictions are correct. Observers see fast-growing supercorporations becoming, in the near future, more powerful economically than all but the world's strongest nations. Howard V. Perlmutter of the Wharton School of Finance at the University of Pennsylvania is one who holds this viewpoint. "By 1985," he declares, "some 800 super-giants will dominate international business, producing more than half of the world's industrial output. The million-man company should not be unusual by the 1980s."

While many top international executives feel that this development will occur over the next 50 years, rather than the 15 years he projects, they generally share his predictions of the emergence of a global industrial system with huge "stateless worldwide firms"

XUM

having fantastic business volumes. Assuming that many will be joint ventures between Communist governments and companies of the so-called free world, Perlmutter believes that, by the 1980s, each will be doing from eight to 160 billion dollars' worth of business annually. The nearly 19 billion in total sales reported last year by General Motors, the largest U.S. manufacturer, would rank in the lower end of such a spectrum.

What makes possible the type of corporate internationalism he envisions is modern technology. Through today's methods of communication and transportation, capital, management, technical achievement, and skill are all readily transferrable from one country to another. And what makes that transfer desirable in the search for high and easy profits is the availability, in other countries, or material resources and especially of labor—at cut-rate prices. The fact is that the direct investment of U.S. firms abroad has doubled during one short decade, from $31.9 billion in 1960 to $77.4 billion last year. Foreign sales of U.S. affiliates in manufacturing alone totaled almost $60 billion in 1968 and are estimated at between $70 and $75 billion in 1970, which is three times the figure at the beginning of the 1960s.

Since 1957, the number of U.S. affiliates abroad has skyrocketed from 10,000 to about 25,000. The degree of economic concentration that is taking place, however, is indicated by the additional fact that, during that period, the number of parent corporations controlling those foreign affiliates rose only from 2,800 to 3,500. Yet, figures on direct investment overseas tell only part of the story. Licensing and patent agreements with foreign producers also have grown, providing royalties and other advantages to the corporations, while depriving American workers of potential job opportunities. By 1968, some 800 American companies were reporting income from royalties and licensing fees paid by foreign concerns.

Out of the 200 biggest U.S. companies, 40 per cent are now doing one-fourth or more of their business in other countries. For some of these firms, the proportion of business abroad is as high as one-half. Corporations headquartered in other countries also, of course, are getting into the "multinational" game. Eighty of the 200 largest firms outside the U.S. also are doing 25 per cent or more of their business in foreign markets, and some foreign companies are establishing plants in the United States, often financing them with the extraordinary profits derived from low-wage exploitation in other areas. But the trend is mostly in the other direction. "By 1975, about 25 per cent of the approximately $1 trillion Gross National Product of the rest of the free world will come from branches and subsidiaries of U.S. corporations, and some 35 per cent will be 'U.S. tinged'—that is, would be associated with either direct or portfolio investment by Americans," according to a "Fortune Magazine" report of a National Industrial Conference Board appraisal.

The reasons for this are far from mysterious. Beyond living standards and wage differentials between the U.S. and other countries, current tax laws provide special advantages for American businessmen who control factories overseas. Among those tax breaks is one exempting foreign subsidiaries from American taxes on their profits until those profits are repatriated back to the U.S., which may seldom occur. Patent policies, too, encourage the transfer of technology. Finally, multinational firms can juggle their bookkeeping, their prices and their taxes.

Notes an article on multinational corporations, entitled "New Breed of International Cat," in a recent issue of the IUD's "Viewpoint," "When they have perfected their product, they are able to move production anywhere, to take advantage of low wages, benign governments, favorable tax laws, and any other factor that boosts profit. In effect, they have created an international economy of their own."

"The multinational," Andrew J. Biemiller, director of the AFL–CIO's Department of Legislation, told a Congressional subcommittee this summer, "is not simply an American company moving to a new locality where the same laws apply and where it is still within the jurisdiction of the Congress and the government of the United States. This is a runaway corporation, going far beyond our borders." Even Ellison L. Hazard, president and chairman of the Continental Can Company, itself an important international concern, has stated that tax and tariff and antitrust laws are inconsistent and discriminatory among the various countries of the world. "Tax havens abound. Fraudulent organizations, often operating with funds fleeced from trusting people, enjoy far-reaching immunity by operating from countries which have no meaningful regulations or supervision to restrict illicit operations, actions that bring disrepute upon private enterprise," he has said.

As the multinational corporations shift operations to areas of the world where living standards and wages are low, American jobs are lost in staggering numbers. Such production shifts have been responsible for U.S. firms eliminating some 400,000 American jobs between 1966 and 1969, the AFL–CIO estimates. Thus, American workers are denied many opportunities for producing goods for export to other countries, and, in many cases, goods imported into the U.S. are produced in factories abroad which are owned or controlled by American manufacturers. Organized labor maintains this is now true of about 25 per cent of all American imports. The Bureau of Labor Statistics has estimated a theoretical loss in 1969 of 2.5 million jobs due to imports, of which almost two-thirds are in manufacturing.

A very large proportion of imported footwear is produced in American-owned factories abroad, according to George O. Fecteau, president of the United Shoe Workers of America. Yet, he continued, "it is sold in the American market at the same price it would command if it had been made here. Thus the cost differential between the low-wage foreign operation and the modest wages of American shoe workers becomes a profit differential for manufacturers, wholesalers and retailers. The consumer gets no share in it."

Nor can it be said that America's loss brings a proportionate gain to the lucky nations visited by the multinational corporations. They are in business to make profits, not to spread social advancement. By adroit management, multinational corporations escape obligations and elude government regulations in both their parent countries and the nations in which they operate as foreign entities. Yet their expansion has often been encouraged by governments. Since 1967, when the Mexican government launched a program to attract U.S. companies into that country, the number of such firms operating in the border area has jumped from 30 to about 250—mostly in the electronics and garment industries. These U.S.-owned plants were granted special Mexican tax breaks as well as a special tariff break from the U.S. government, but the wages paid to their workers range from 20 to 46 cents an hour.

Like conglomerates (and many of the multinationals are conglomerate corporations as well), the company with operations in several countries can shift its production emphasis at will, compounding labor's collective bargaining difficulties. In addition, a multinational corporation can almost be said to benefit from a strike if it produces abroad the same product, which it can sell at prices driven higher in world markets because of the relative scarcity caused by the shutdown.

A huge conglomerate is but one example of a firm, with which the USWA has experience, that crosses both industry lines and national boundaries. Even a brief description of this family of companies, however, is enough to provide an indication of their growing economic power. Included is the eleventh largest steel company in the U.S. (58 per cent-owned by the corporation); the fourth largest aluminum producer in the world (30 per cent-owned); a cement and gypsum operation (37 per cent-owned); and aerospace and electronics, broadcasting, sand and gravel, and glass fiber operations (all wholly-owned by the conglomerate).

The aluminum and chemical operations alone are among the largest and most widespread in the world. Besides its major U.S. properties, scattered in 27 of the 50 states, this single branch of the conglomerate has its own or subsidiary bauxite mining properties in Jamaica, India, and Australia; primary aluminum production facilities in Germany, India, Ghana, Bahrein, Australia, and New Zealand; and aluminum fabricating plants in Brazil, Argentina, Belgium, Germany, Sweden, Switzerland, Turkey, the United Kingdom, India, Thailand, Singapore, Korea, Japan, and Australia.

Heribert Maier, an official of the International Confederation of Free Trade Unions, has summed up how the multinationals often approach collective bargaining: "By conceiving profitability on a worldwide rather than a national basis, and by centralizing decision-making at their international headquarters, they tend to exploit established industrial relations systems at national levels."

"The following," he continued, "are some of the grounds on which difficulties have arisen in dealing with multinational companies: preconceived anti-trade union policies; foreign managers unaware of or ignoring established industrial relations procedures; difficulties in identifying the real center of decision making; threats dangled during negotiations to shift production to other countries; difficulties in finding out the profit situation of the company because of the practice of 'profit smoothening' or because of transfer of profits to low tax countries."

The rise of the multinational corporation, of course, is partially responsible for the import problem that has alarmed the entire American labor movement. To help combat the problem, labor is mobilizing support for the Burke-Hartke bill recently introduced in the Congress. This proposal would revise our trade rules and plug some of the tax loopholes and wipe out financial incentives that have encouraged U.S. companies to expand abroad.

Several other countries have begun to react to the multinational threat. Certain of them now require that majority control companies operating within their borders be retained by indigenous investors. More drastically, as in Chile, foreign enterprise is being taken over by expropriation of other means. Further American action is needed, too, however, if the multinational corporations are to be brought under effective regulation and control. The failure to do so almost certainly will lead to destructive concentration of economic, political, and social power in the hands of a few unregulated entities that are without any obligation to use those powers for constructive social advancement.

In testifying during the 1911 hearings which led to passage of the Clayton Anti-Trust Act, Louis D. Brandeis declared, "You cannot preserve political liberty, you cannot secure American standards of living, unless some degree of industrial liberty accompanies it." Compared with today's industrial elite, the early 28th century business monarchs ruled very modest domains.

BRITAIN'S INVOLVEMENT IN NORTHERN IRELAND

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. DEVINE. Mr. Speaker, I call to the attention of my colleagues the following editorials found in the Philadelphia Inquirer, the Philadelphia Bulletin, the Oregonian, the Portland Press Herald, the Arizona Republic, and the Detroit News. Referring to American comment on Britain's involvement in Northern Ireland, the Inquirer's editorial states:

We Americans have enough unsolved problems of our own without blundering into someone else's and making them worse.

I enter in the RECORD six editorials from the newspapers previously cited in hopes that most Americans will refrain from making further rash demands:

[From the Philadelphia Inquirer, Oct. 27, 1971]

GRATUITOUS AND MUDDLE-HEADED

Many Britons are infuriated over that congressional resolution introduced the other day by two Democratic senators, Abraham Ribicoff of Connecticut and Edward Kennedy of Massachusetts.

The resolution calls upon the British to withdraw the 14,000-man contingent of troops they have sent to keep order in Ulster, where Catholics and Protestants are at each other's throats, and urges that the province, a part of England, be unified with the Republic of Ireland.

The British minister of state for defense, in the House of Commons, said he "resented very much indeed" the resolution. One British newspaper, the Sun, called the speech Senator Kennedy gave in introducing the resolution "a blatant piece of electioneering." The Daily Telegraph advised Senator Kennedy not to interfere, "especially in such an irresponsible manner, in the internal affairs of another country."

Quite. The British have the right to be annoyed. We would suggest, though, that they keep their celebrated stiff upper lips. The Ribicoff-Kennedy resolution is only a mild exemplar of an old American political custom of playing politics with the Irish question.

That it is an old American political custom, however, does not make it any the less inexcusable. The recommendations in the resolution are not only gratuitous; they are muddle-headed. Those British troops are not in Ulster because they want to be or because the British Government wants them to be but because without them the violence would escalate and a satisfactory solution to an ancient problem would become even more difficult to find.

The solutions, though, are for those immediately concerned to find. We Americans have enough unsolved problems of our own without blundering into someone else's and making them worse.

[From the Philadelphia Bulletin, Oct. 27, 1971]

UNWARRANTED INTRUSION

A great disservice has been done the people of Ulster—Catholics and Protestants alike—in the resolution sponsored by Senators Kennedy of Massachusetts and Ribicoff of Connecticuit calling for withdrawal of all British troops from the riot torn country and reunification of the country.

Withdrawal of the troops at this juncture would almost certainly precipitate violence on an unprecedented scale, making a peaceful settlement that much harder to achieve. Members of British Parliament and the Ulster government of Prime Minister Brian Faulkner have reacted with understandable anger to the senators' intrusion. The resolution has done the senators no credit.

[From the Oregonian, Oct. 27, 1971]

SENATOR'S INTRUSION

Precedent is clear that the authority over U. S. foreign relations resides in the presidency. The Senate is confined to "advice and consent," and the Supreme Court has said that the chamber "is powerless to invade" the field of relations with other nations. But senators have, particularly in recent years, violated the spirit of that division of responsibility.

One of the latest instances of senatorial invasion of the field was the call by Sen. Edward M. Kennedy for immediate withdrawal of British troops from Northern Ireland. Teddy's speech may have been received warmly by his Irish constituents in Massachusetts; but it was not the same with the Irish of Ulster, about two-thirds of whom favor the current union with other parts of the United Kingdom.

Sen. Kennedy's pitch was for the Catholic one-third of the Ulster population, many of whom favor union with Ireland to the south.

Removing British troops (many of whom, by the way, are North Ireland residents) from the embattled counties would be a step toward full-scale civil war between extremists of both sides in Northern Ireland. The chief mission of the troops is to prevent such a major conflict. The Kennedy intrusion in foreign affairs amounts to a reckless political exploitation of the crisis in Ulster.

[From the Portland Press Herald, Nov. 1, 1971]

KENNEDY IGNORED FACTS ABOUT IRELAND

(By Smith Hempstone)

WASHINGTON.—In aligning himself with the Green Panthers of the outlawed Irish Republic Army, Sen. Edward M. Kennedy has demonstrated yet again that in Irish affairs his passion is matched only by his prejudice.

The Massachusetts Democrat, in a resolution co-sponsored by Sen. Abraham Ribicoff, D-Conn., who may be forgiven if he sees the gunmen of the IRA as a Gaelic incarnation of the Stern Gang, has called for the "immediate withdrawal of (14,000) British troops from Ulster and the establishment of a United Ireland."

The six counties of Northern Ireland, Kennedy states, are "becoming Britain's Vietnam" and "Ulster teeters on the brink of a civil war that threatens to engulf all of Ireland." If only Britain will pick up its marbles and go home, Teddy asserts, Ulster's Protestants and Catholics more than likely "will work together in a new Ireland, to create the sort of political and social arrangements under which both can live and work in peace together, with full and mutual respect for the rights of all." Beautiful.

To prove his point, Kennedy, whose mathematics apparently are as weak as his Spanish, asserts that the Republic of Ireland's history of tolerance toward its "300,000 Protestants" (there are, in fact, less than 175,000 Protestants under Dublin's rule) shows that there will be no trouble if only the horrid British will go home.

Now Kennedy, like the rest of us, is entitled to think and say anything he wants. But as a putative candidate for the presidency of the United States, his suitability for that office must at least in some measure be judged by his public utterances.

Any examination of the present and future of Ulster must begin with one undisputed fact: For the past 50 years, Northern Ireland's one million Protestants have grievously discriminated against the province's 500,000 Catholics politically, socially and economically. But Kennedy, in his examination of the situation, chooses to ignore certain salient facts. Among them:

(1) While almost all of Ulster's 500,000 Catholics undoubtedly would welcome unification with the republic, its one million Protestants are equally fervently opposed to any such development and, presumably, they have the same right to self-determination as the Catholics.

(2) As to Ulster being "Britain's Vietnam," surely it is at least worth noting in passing that Northern Ireland is as much an integral part of the United Kingdom as Scotland, Wales or Cornwall and has been so for considerably longer than our own Southwestern states, which we took from Mexico, have been American.

(3) As for those Protestants "who feel they could not live in a united Ireland," Kennedy urges that "Britain could open its arms" to them, thus studiously ignoring the fact that the Protestants have been in Ulster for 30-years, which is to say considerably longer than the Kennedys have been in Massachusetts.

(4) British troops were dispatched to Ulster in 1969 to protect the Catholic minority from Protestant toughs. Since then, IRA gunmen, infiltrating from the republic (where the organization also is banned), have indulged in an indiscriminate orgy of sniping, nail-bombing, arson and high-explosive attacks which have resulted in the deaths of 28 persons on both sides of the barricades.

(5) Under British prodding the provincial government in Belfast has set in train a series of reforms which ultimately will go far toward eliminating many if not most of the inequities which Catholics have endured in Ulster.

The truth is that if Britain were to say it intended to pull out all its troops next week, Irish premier Jack Lynch would be on the first plane to London to urge them to stay a while. For Lynch knows, if Kennedy does not, that Ulster's one million Protestants, who are just as tough and well-armed as the Catholics, would fight to avoid domination by Dublin.

Finally, the intellectual process by which Kennedy determines that the United States has a right to intervene in the internal affairs of the United Kingdom is interesting. He simply states that, because the "Irish yield to none in their contributions to the peoples and culture of America," the principle of non-intervention "is utterly without application."

Under this reverse Brezhnev Doctrine, presumably the United States has an equally "irresistible" right to intervene in the internal affairs of Germany, Italy, Poland or any of the many other nations which have made weighty ethnic and cultural contributions to America. Or perhaps those nations have the right to intervene in our domestic matters since they created America.

In short while Kennedy's speech might have been eminently suitable if delivered before a St. Patrick's Day meeting of the Ancient Order of Hibernians in South Boston, its delivery on the floor of the Senate reflected small credit on that house or on the Senator from Massachusetts.

[From the Arizona Republic, Oct. 28, 1971]

SOPHISTRY ABOUT NORTHERN IRELAND

Sen. Ted Kennedy's speech in the U.S. Senate of Oct. 20, a prelude to his introducing a resolution calling for the immediate withdrawal of British troops from Northern Ireland, was both irresponsible and uninformed. As even a Roman Catholic member of Ulster's new Alliance Party, Oliver Napier, noted, Kennedy's main proposals, if taken seriously, "would actually cause the civil war he wants to avoid."

Kennedy's speech and resolution (which would urge the U.S. government to pressure Britain) is an ideologically disoriented bit of

flag waving designed to appeal to America's Irish Catholic voters. It is also a perfect example of liberal dogma in action.

For Kennedy, who was called to task by every responsible British official, suggested that Ulster was becoming Britain's Vietnam. In a letter to the Times of London, in which he claimed that the fierce reaction to his withdrawal proposal issued from "a guilty conscience," Kennedy said that the continuing presence of British troops in Ulster is compounding the violence.

Although Kennedy equated the British presence with colonialism, Jack Lynch, Prime Minister of the Republic of Ireland and an outspoken foe of the Ulster government, has said, "There is no real invader here. . . . This whole unhappy situation is an Irish quarrel."

Again and again British governments, Labor and Conservative, have indicated their willingness to allow Northern Ireland to join the Irish Republic. But the Protestant majority in Northern Ireland (approximately 1 million of Ulster's 1½ million population) is vehemently opposed. Protestants account for only 20 per cent of the population of the Emerald Isle, and they are determined to maintain their rule in Ulster where they are a majority.

Ostensibly, Northern Ireland's troubles are religious, but neither group is really interested in converting the other. It is a problem of "religious politics," involving primarily the lower economic Catholics and the lower economic Protestants.

There is no doubt that Ulster's Catholics have been discriminated against in jobs, housing and education. There is also no doubt that the ruling Unionist Party is a coalition of interests firmly united only in its determination to maintain Protestant rule. Therefore, there is good reason to condemn the ruling elite's refractory and even harsh (but not repressive) rule.

But Kennedy did not do that. He tried to blame the British, who are widely credited with preventing more blood from flowing than from the 137 who have already been killed in Ulster—most of them by terrorists—during the past two years.

Indeed, when the British troops entered Ulster in August 1969 they were eagerly welcomed by both sides, but particularly by the Catholics, who feared extermination by B-specials, the all-Protestant 8,000-man police reserve force, a group initially recruited in 1920 to back up Northern Ireland police in special emergencies but which over the years used its special status to intimidate Catholics.

Northern Ireland is confronted by an agonizing problem that affects us all. But it will not be solved by the shallow analysis and superficial comments of Teddy Kennedy, who, to be charitable, hasn't the slightest idea of what he is talking about.

[From the Detroit News, Oct. 31, 1971]

KENNEDY IN TROUBLE ABROAD

If Senator Edward Kennedy's recent performances in the field of foreign affairs suggest how he would conduct foreign policy as president of the United States, one can only hope that he means it when he says he's not a candidate.

His conduct on at least three occasions in the past six months provides classic examples of how to lose friends and alienate people.

Last April, the senator and his wife, Joan, descended upon Germany with a numerous personal entourage and the Boston Pops Orchestra, with which Mrs. Kennedy performed as reader for "Peter and the Wolf."

Although he must know that the Germans put great store in punctuality, Senator Kennedy consistently showed up late for appointments. He kept a chancellery minister waiting for half an hour, a minister president cooling his heels for 90 minutes and a foreign minister waiting dinner for two hours.

Last August, during a trip to the Far East, Senator Kennedy could not restrain himself from partisan comment on the tragic but politically sensitive situation in India and Pakistan. Pakistan, resentful because of his commitment to the Indian cause, declared him personna non grata and revoked permission for him to visit the country.

Recently, the redoubtable young senator severed his relationships with the British by demanding in a Senate speech that the British pull out of Ireland. The proposal, obviously a bid for the Irish-American vote in this country, drew the retort from the London Daily Mail that Kennedy is playing a "grim and cynical game" which callously ignores the loss of life that would occur if British troops were withdrawn.

Prime Minister Edward Heath was reported extremely angry at what he considered to be an irresponsible, ill-informed and provocative intervention, the U.S. embassy in London stated that Kennedy's proposal does not represent American policy.

Whether blundering or calculated, such disregard for diplomatic subtleties and foreign political issues provides but one more indication of the immaturity of Ted Kennedy. This immaturity has caused his family and associates great anguish, robbed him of his job as Senate Democratic whip, and may rob him of the Democratic presidential nomination, which otherwise—simply because his name is Kennedy—would probably have dropped in his lap like an overripe apple.

RICE POLICIES IN THE 1970'S

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. FRASER. Mr. Speaker, Dr. Vernon W. Ruttan recently sent me a copy of his paper, "Rice Policies in the 1970's: A Perspective on the International Rice Research Institute (IRRI) Conference." It is a summary of the discussion that took place at the Rice Policy Conference held at the IRRI, Los Banos, Philippines, May 9–14, 1971.

Dr. Ruttan is a professor in the department of agricultural and applied economics, college of agriculture, University of Minnesota. His paper is a useful contribution to our knowledge of the "Green Revolution." It assesses the implications of this important development in national price and trade policies in south and Southeast Asia.

The article follows:

RICE POLICIES IN THE 1970'S: A PERSPECTIVE ON THE IRRI CONFERENCE

(By Vernon W. Ruttan)

INTRODUCTION

What rice policies are currently being pursued by the rice producing countries of Asia? What are the policy implications of the rice problems these countries are facing, or will be facing in the near future? What policy options are open to governments in the region? What research related to rice policy issues is now being done, and what are the priority areas for policy or policy related research? These were the questions which provided a focus for a conference on rice policies held at the International Rice Research Institute (IRRI) in May 1971.

The conference was attended primarily by economists who are engaged in research related to rice policy or who are directly making policies. There was also participation from members of other social science fields, particularly sociology and communications. A number of IRRI staff members from agricultural science disciplines related to rice production also participated in one or more of the conference sessions.

During the first day of the conference, IRRI staff members reviewed their approach to research on rice problems, particularly those of rice production, and outlined the current status and potential developments in rice production technology in Asia. On the second day, the participants discussed policy issues related to farm resource utilization and the distribution of the benefits of new technology. The third day focused on the modernization of rice processing for domestic consumption and for export. The last day of the conference dealt with issues related to price and fiscal incentives for agricultural production and economic development. On the afternoon of the third day, participants visited rice milling facilities, irrigation systems, and rice farms near IRRI in the province of Laguna.

The format of the conference represented a departure from the usual system of formal papers and discussions. On arrival at Los Banos each participant received a set of papers on rice policy in various countries, papers related to rice technology, and reports or research on the economics of rice production, marketing, and policy. Each conference session then operated as an open forum under the direction of a discussion leader. Professor M. L. Dantwala, Director of the Department of Economics, Bombay University (India) served as the conference chairman.

Within this broader perspective, this summary attempts to give an insight into the major areas of agreement and disagreement rather than a precise record of the conference discussions.

RICE TECHNOLOGY IN THE 1970'S

Diffusion of the new rice (and wheat) technology in Asia has been extremely rapid during the last 5 years (Table 1). The initial diffusion of rice technology involved a limited number of new high yielding fertilizer-responsive varieties developed by IRRI and national research agencies. These varieties are now being succeeded by others which incorporate further advances in grain quality, resistance to pests and diseases, and adaptation to varying conditions of water control and weather (rainfall, temperature) uncertainty. Rice research in the 1970s, at IRRI and in many national programs, will place somewhat less emphasis on creating a new high yield potential. Rather somewhat greater priority will be given to realizing the yield capacity that has already been identified under a broader range of environmental and economic conditions.

Throughout the conference, a good deal of discussion related to the environmental, institutional, and economic conditions associated with performance of the new varieties relative to older varieties.

Considerable research has already been completed, particularly in the Philippines, Indonesia, and India on the performance of the "first generation" of new varieties under field conditions. Some discussants emphasized the extremely rapid diffusion of the new varieties in response to their substantial yield advantage in areas in which they are well adapted. Other discussants emphasized the limitations of the new varieties—lack of adaptation to extreme variations in water (under deep flooding, rainfed, and upland conditions), problems associated with disease and pest control, problems associated with market quality in domestic and export trade, and others.

The IRRI director, B. F. Chandler, Jr., emphasized the importance, for purposes of planning and policy, of assessing adequately the potential impact of the varieties that are currently being released or will be released over the next few years. He stressed the usefulness of feedback from micro-level studies in guiding further research. He also pointed out the danger, in a situation characterized by rapid technological change, of drawing policy implications from limited observations based on the performance of the "first generation" of new varieties.

Augustine Tan (Singapore) and others emphasized the difficulty of drawing inference for macro-economic behavior and policy from either experimental data or micro-economic observations during the initial stages of technological innovation and diffusion. This is clearly an issue to which statisticians and economists have not yet given sufficient attention. As a result, the macro-economic implications of current or potential technical change are not treated with the same level of analytical and quantitative precision as other variables for which more reliable aggregate data are generated by national statistical systems.

The net effect of the discussion of technical change in rice production and processing, both during the first day and throughout the conference, was to reject any simplistic view regarding the characteristics and potential of the new rice technology. There was general agreement, however, that if the momentum of the present research effort in Asia can be maintained, rice producers will have access to new sets of varieties and production practices adapted to a much wider spectrum of environmental and economic conditions.

An important area of policy research emphasized by a number of conference participants is the quantification of several technical constraints on growth.

SELF-SUFFICIENCY AS A POLICY GOAL

Several governments in Asia have identified self-sufficiency as a major policy goal. The goal reflects both political and economic considerations. For most countries of the region, foreign exchange earnings represent a major constraint on the capacity to import either consumption or investment goods. Even where imports of rice, or other food grains are available on concessional terms, dependence on another country for rice may be political suicide for many government leaders. The new rice technology has, in some countries, sharply reduced the cost of achieving self-sufficiency, but has at the same time reduced the cost of imports.

There are also several seeming inconsistencies in the self-sufficiency policies being pursued. In the Philippines, self-sufficiency in rice apparently has great political significance although the growing imports of wheat cause little apparent concern. In Malaysia, the high prices designed to encourage self-sufficiency in rice production impose higher labor costs on the nation's major export commodities. In India and Indonesia and in some other countries, the goal of self-sufficiency has in the past been pursued at the regional level at the expense, in the view of some participants, of national economic integration. These apparent contradictions led some participants to view self-sufficiency primarily in a political rather than in an economic context.

Hayami (Japan) said, however, that the concern with self-sufficiency has a national, though perhaps implicit, foundation in the long term decline in the terms of trade between wheat and rice. Before World War II the prices of wheat and of rice were quite similar. By the early 1960s, the price of rice relative to the price of wheat had increased in both international and domestic markets.

This sharply worsened the terms on which consumers in the rice producing countries of the tropics had access to food grains. It also weakened the competitive position of the rice producing countries of tropical Asia, in which rice is a wage good that enters directly into the cost of producing other (non-rice) agricultural products, industrial products, and other goods and services for domestic use or for export. He argued that the long run significance of the "green revolution" in rice production for Asia is that, if its momentum can be maintained, food grains may again become available to the underdeveloped countries of tropical Asia on terms that are as favorable as in the developed countries of the temperate region. The national basis of the quest for self-sufficiency becomes more apparent when it is put in the context of removing the food production constraint on economic growth rather than when it is cast in terms of self-sufficiency at any cost.

Discussion of the self-sufficiency issue carried over into the discussion of two closely related issues—trade and diversification.

INTERNATIONAL TRADE IN RICE

For nearly 3 years the price of rice has been declining in international markets. Rice trade patterns have changed rapidly. The United States has replaced Thailand as the largest rice exporter. Japan has accumulated substantial surplus stocks. The Philippines is approximately self-sufficient in rice. Pakistan, India, and Indonesia have sharply reduced their imports. These changes lent considerable intensity to the discussion of trade policy.

The issue of whether a set of regional trade policies can be evolved that are consistent with comparative trade policies received vigorous discussion. Ruttan (U.S.) argued that agriculture is now a technology-based industry rather than a resource-based industry. Shifts in the production function are being achieved at a relatively low cost. In this dynamic environment the policy implications of traditional comparative advantage are somewhat less clear than in a world in which resource endowments represent the major source of output growth.

Sura (Thailand) pointed out that in spite of the rapid technical changes in rice production elsewhere in Southeast Asia, there can be little doubt that Thailand, where farmers have received less than $50 a metric ton during the last crop, remains a low cost producer. Noting the high prices of rice in Japan and the U.S., he claimed that the major source of distortion in price and trade relationships, at least up to 1970, has been the domestic price and trade policies in Japan and the U.S. The issue of whether Japan and the U.S. will be content to act as residual suppliers or will be major competitors in the international rice trade was regarded as a serious handicap for Asian countries as they try to plan national rice trade policies during the next decade.

Again the question was debated of whether rice trade policy is amenable to economic analysis or is subject primarily to political considerations. In spite of considerable skepticism, a view was expressed that present policies do reflect, to a considerable degree, the economic circumstances in which countries find themselves. The options available to small countries are clearly different from those available to larger countries. Thailand and Nepal are price takers in the export markets; they remain concerned with maintaining the volume of their exports in spite of adverse price movements. Malaysia and Korea continue talk about self-sufficiency but have not yet been willing to impose the full costs of achieving self-sufficiency on their consumers.

The Philippines, Indonesia, Pakistan, and India—where the proportion of the rice crop imported has now declined—indicate a major concern with stabilization policy. In the U.S. and Japan, the relatively high support prices for rice are viewed as part of the political cost of other policies which have greater national priority than efficiency in rice production. The conference reluctantly, and with considerable criticism, accepted the conclusion that neither Japan nor the U.S. is likely to bring production capacity in line with domestic consumption in the near future.

It was also generally conceded that the rice export market would remain depressed in the immediate future. There is a general tendency for wheat prices to move more in line with feed grain (corn and sorghum) prices than in the past, and it is possible that the gap between rice prices and wheat prices will continue to narrow in international markets. But in view of current rates of growth in population and per capita income, there was concern that pressure on food supplies might again emerge as a serious issue by the end of the decade.

AGRICULTURAL DIVERSIFICATION

The emerging potential in some Asian countries to expand rice-producing capacity more rapidly than the growth in demand raises important problems of resource adjustment at least for the immediate future. If significant growth in rice exports is unlikely, the growth dividends from higher rice productivity must be taken through some combination of lower rice prices in domestic market and a shift of resources to the production of other commodities.

It was pointed out, however, that there are serious obstacles to diversification. Much of the rice production in Asia is in the great river valleys and deltas where water control and climate preclude the production of alternative crops. It was also suggested that a shift of resources from rice to other crops implies a type of resource adjustment that rich countries, such as the U.S. and Japan, have been unwilling to make. Can we assume that resource use is less rigid in the developing than in the developed countries?

There was rather general agreement that resources could be substantially readjusted through diversification, particularly in some upland rice areas and in some highly developed irrigated areas. Most countries have already experienced some diversification though not under as intensive systems of management as in the crop diversification studies now under way at IRRI.

The pace of diversification will reflect not only the rate of growth of productivity in rice but other constraints operating on both demand and supply. On the demand side, the growth of per capita income limits the ability of the market to absorb other crop and animal products. Economic policies which distort price incentives in favor of rice (Japan) or against rice (Thailand) also have important implications for diversification. It does appear, however, that at present income levels consumers will be ready to use a large part of their higher incomes to improve the quality of their diet. If both rice and alternative crop and livestock products can be made available at lower real prices, this tendency will be reinforced by the relatively high priced elasticities.

On the supply side, the potential for diversification is limited by the development of improved technology for alternative crop and animal production, by lack of environmental control, and by the fact that rice in many areas is a subsistence not a commercial crop. If productivity of rice (and other food grains) continues to advance satisfactorily, some research resources should be reallocated to make the production of vegetable proteins, green vegetables and fruits, feed grains, and livestock more efficient.

In his discussion of diversification, Mosher (ADC) placed particular emphasis on the development and management of water resources to achieve greater environmental control. He argued that an appropriate development strategy would aim for neutral policies with respect to the commodity composition of agricultural output. Future investments in water control—irrigation and drainage—should provide potential flexibility in crop-

ping pattern to take advantage of future shifts in demand and technological opportunities.

MODERNIZATION OF PRODUCT AND INPUT MARKETS

The session on modernisation of processing and distribution systems focused primarily on two issues: economies of scale in processing, and the appropriate role of the public sector in marketing and distribution.

The initial discussion was characterised by considerable confusion with respect to the dichotomies—large vs. small and modern vs. traditional—as applied to the milling industry. The issue, as it finally emerged, centered on the question of the gain in milling efficiency and product quality in a large modern facility (25–30 tons/hour) as compared to either the existing (huller and sheller) small mills (2–4 tons/sour) or the modern small scale mills now in the development stage. Rawnsley (UNDP-Philippines) stated that the existing small scale mills, when properly operated and maintained, are relatively efficient. Khan (IRRI) indicated that development work now under way suggests that the efficiency of small scale drying and milling operations can be improved. Lele (India) underscored the loss in efficiency in large scale facilities resulting from higher assembly costs and deplored the social inefficiency of substituting capital-intensive milling and warehousing facilities for more labor-intensive systems in economies where labor is relatively cheap.

The view emerged, both among the economists and engineers, that there is a role for large modern drying, milling, and storage facilities to handle the export trade. But with this exception a small scale decentralised system is likely to be more efficient both economically and socially.

It was also observed by Ruttan (U.S.) that the growth dividends from improvements in the product marketing system would under any circumstances be relatively small except where substantial export opportunities existed. Available evidence suggests that in most countries of the region the private sector has performed much more effectively than is frequently assumed. It was suggested that there is an important role for the public sector in the establishment and enforcement of grades and standards, in the provision of market news, and in the stabilisation of producer and consumer expectations.

Discussion about the modernization of factor markets (see, fertilizer, pesticides, credit) emphasized the relative under-development of factor markets, compared with product markets. Golden (IRRI-Ceylon), in particular, emphasized the constraints on producer response to the new varieties which are imposed by the lack of development of factor markets capable of making inputs available in rural areas.

In addition to the issues involved in the modernization of the marketing system, the issue of price supports and subsidies in factor and product markets was examined closely in several of the conference sessions. There was general agreement that in most countries, particularly those in transition from deficits to self-sufficiency or to surplus status, buffer stocks could play an important role in stabilising prices and price expectations in producer and consumer markets. Serious reservations were expressed about the financial and administrative capacity of governments to manage stabilization schemes in which the differential between floor prices and ceiling prices is so narrow that a substantial share of total product is either acquired by or moved through public channels. Representatives of two exporting countries, Thailand and Nepal, said that their countries were so dependent on prices in external markets that any attempt to stabilise prices between "good" and "bad" years would be very expensive both financially and in terms of real resources.

Desai (India) indicated that he has concluded from his research, that price supports represent an effective device for speeding the rate of diffusion of new varieties and associated technology.

There was also considerable discussion on the effectiveness of input market subsidies vs. product market price support in facilitating the adoption of new technology. Park (Korea) argued that it is useful to distinguish between (a) production practices that depend only on better knowledge; (b) production practices that are embodied in inputs purchased from the industrial sector; and (c) production practices that are dependent on public infrastructure development (such as irrigation development). He contended that subsidies on inputs are less expensive than price supports when the constraints on production can be overcome through the purchase of inputs from the private sector. However, if such subsidies are continued for more than a few years, their effects on the marketing system and on public administration will become costly.

Desai (India) challenged the view that fertilizer should be subsidized at all. He argued that his own studies showed that when fertilizer is introduced it flows first to the crops that are of highest value and only later to lower value crops (such as rice). He stated that for such crops, technical changes leading to a steeper fertiliser response curve are much more significant than modest changes in the factor-product price ratio.

There was a consensus that generalizations with respect to factor-product price ratios had not given sufficient attention to the technical response of varieties or crops to fertilization. There was general agreement that in both factor and product markets the farmer would be better served by efforts to create a viable marketing system by attempts to use factor and product markets to achieve equity objectives. Park (Korea) observed that this good advice is more difficult to follow under democratic than under more authoritarian regimes.

TECHNICAL CHANGES AND INCOME DISTRIBUTION

The implications of the new rice technology for income distribution in rural areas were discussed during the second conference session and emerged as a major item of concern throughout the conference.

On the basis of the questionnaires filled out by the participants before the conference, Muhyarto (Indonesia) suggested four generalizations with respect to the income distribution effects of the new cereals technology for which he found fairly widespread acceptance:

(a) That the new technology has resulted in cheaper rice production, but that it does not necessarily mean higher real income or greater benefits to all concerned, especially the rice producers.

(b) That the landowner and the larger farmers receive a large share and greater benefits than the tenant or the smaller farmers, which means an increase in the disparity in income distribution.

(c) That the new technology does not alleviate but even aggravates the problem of un- and under-employment in the rural areas because it encourages more mechanization in agriculture.

(d) That the general smallness of landholding makes it impossible to measure the farm viability by rice production alone.

There was, however, substantial disagreement with all four hypotheses. Chandler (IRRI) said that all four could be rejected for the Philippines. Ruttan (U.S.) said he would accept only the first part of hypothesis (a) regarding cheaper rice production. He criticized hypothesis (b), asserting that the new technology is neutral with respect to scale but not with respect to such institutions as land tenure, credit sources, village power structure, and others. He noted that political problems may have been increased because of the new technology as the several social classes and economic interests try to gain access to or control over the new income streams resulting from application of the new technology.

Hypothesis (c) was questioned by Rao (India) and Barker (IRRI). Rao cited Indian data for 1964–69 showing rising employment and real wages in areas that had adopted the new technology. He foresaw an increased demand for draft power, and felt that although the structure of employment might change, the total man-hours employed would not. Barker cited the stable demand for labor in Central Luzon in spite of new technology.

On the general effect of technology on equity, Ladejinsky (IBRD-India) cited the experience with wheat in the Punjab. With new technology, land values and land rents rose. Tenants found it difficult to remain as operators and began to be displaced and converted to agricultural laborers. Even in relatively developed areas where agricultural labor has gained from the new technology, there may be increasing mechanization and consequent problems in the future. Finally, access to credit was difficult for tenants and owners without ownership certificates. However, Dantwala (India) and Desai (India) argued that attention should be placed on the *absolute gain* to the small farm from new technology. Rao (India) disagreed, saying that standards of equity are offended when the relative share of large farms in total income is increased even though small farms also gain in absolute terms.

Managhas (Philippines) observed that the major income distribution problems occur within the rural sector and within the urban sector rather than between sectors. Dantwala said that with respect to the incomes of laborers, whether rural or urban, the most effective way to improve the income distribution is through a sufficiently rapid rate of productivity growth to permit the output of agricultural products to expand more rapidly than growth of demand. The effect would be a decline in the real prices of food to rural laborers in urban and rural areas. Falcon (USA) argued that in view of current population growth rates, large works programs are imperative in rural areas to absorb the unemployed and dampen rural-urban migration.

Perhaps the only level of agreement that was reached in this discussion centers around Mosher's (ADC) assertion that growth involves a continuous disequilibrium. Technical changes lead to new income streams that are distributed differently than earlier sources of growth. A society that achieves viable economic, social, and political development must institutionalize transfer mechanisms and redistribute the income streams in a manner that will reduce the social and political stress resulting from development.

IMPLICATIONS FOR RESEARCH

In assessing the implications of the rice price policy conference for further research, it seems reasonable to assume that:

(a) During the 1970s, it will become feasible to shift away from a primary policy objective of simply meeting food needs to one which evaluates national investments in agricultural development in terms of contribution to national economic growth, the welfare of agricultural producers, and the generation of employment.

(b) The material and human resources available for organizing programs and projects will continue to be a major limitation in achieving agricultural development objectives, though clearly this is less serious than in the 1960s.

(c) The substitution of formal quantitative information and analysis for less formal qualitative judgments in economic policy and planning has a relatively high pay-off in achieving development objectives.

There seemed to be agreement that two areas of research deserved particularly high priority:

(1) Research designed to identify and evaluate quantitatively the technological investment and institutional constraints on growth of agricultural output. This research is essential if research resources, capital investment, and planned institutional changes are to be directed into high pay-off areas.

(2) Research related to the resolution of conflicts arising from the distribution of the new income streams resulting from technical and institutional change. The design of economic policies that are consistent with economic viability in factor and product markets and that distribute the gains of progress in a manner consistent with viable social and political development represents an important challenge to economic, social, and political innovation.

There was considerable disagreement about the skills and perspectives which economists must bring to this task. There was general agreement that the traditional pattern of academic organization of professional resources in the West, and in institutions based on Western models, wastes professional manpower. There also was disagreement about the role of the economist, as an economist, in the political process.

[In thousands of acres]

	Rice				Wheat			
	1966–67	1967–68	1968–69	1969–70	1966–67	1967–68	1968–69	1969–70
Turkey					1	420	1,430	1,540
Iran							25	222
Afghanistan					5	54	302	361
Nepal			105	123	16	61	133	186
West Pakistan		10	761	1,239	250	2,365	5,900	7,000
East Pakistan	1	166	382	652			30	(1)
India	2,195	4,408	6,625	10,800	1,270	7,270	11,844	15,100
Ceylon			17	65				
Burma		8	412	356				
Malaysia	104	157	225	316				
Laos	1	3	5	5				
Vietnam		1	100	498				
Indonesia			488	1,850				
Philippines	240	1,733	2,500	3,346				
Total	2,505	6,486	11,620	19,250	1,542	10,170	19,654	24,409

[1] Not available.

Source: Dana G. Dalrymple, "Imports and Plantings of High-Yielding Varieties of Wheat and Rice in the Less Developed Nations," Foreign Economic Development Service, U.S. Department of Agriculture, in cooperation with Agency for International Development, (Washington, D.C. January 1971), pp. 35–36.

Mr. Speaker, my constituent, Dr. Ruttan, also forwarded me his observations on the NEP of President Nixon and its reception in Japan, Korea, and the Philippines. His remarks which follow, are helpful and I would like to share them with my colleagues:

OCTOBER 14, 1971.

Representative DONALD R. FRASER,
U.S. House of Representatives,
Capitol Building,
Washington, D.C.

DEAR CONGRESSMAN FRASER: I have recently returned from a trip to Japan, Korea and the Philippines. During the trip I was in contact with a number of economists closely identified with economic policy in the three countries. It occurred to me that you or your staff might find the following observations of interest.

In Japan there was clearly very great official concern with the "new economic policies" particularly the surcharge and the use of "voluntary" and other quota arrangements to regulate trade. At the same time, I sensed a good deal of confidence that the Japanese economy does have the capacity to adjust to the structural changes that may be necessary as a result of Japan's changing role in the Asian and world economy.

In Korea, I sensed much greater concern than in Japan, at both the official level and among economists who are not attached to the government. Korea has, in the last few years, begun to achieve substantial growth. This growth has been fueled to an important extent by exports to the U.S. and world markets.

There is real concern in Korea and in the Philippines that their development will be severely dampened as a result of a trade struggle between larger countries which the smaller or economically weak countries are powerless to influence. The economic growth of the smaller and less developed countries are more vulnerable to these policies since their economies do not have the capacity for structural change that the more developed countries possess. In my own judgment a strong case can be made for immediately removing the 10% surcharge on imports from the developing countries. This would not substantially weaken the value of the surcharge as a bargaining device in negotiations with the other industrial countries.

At a more general level I am personally concerned with two related issues. First, part of the pressure of Japanese imports on the U.S. market could be relieved by more liberal trading policies with respect to imports from Japan on the part of the European common market countries. I fear that the mutual interest of both the U.S. and Japan in trade liberalisation in Western Europe may be obscured by the short-run struggle that is now going on between the United States and Japan. Secondly, I continue to be concerned with the lack of Congressional control over the executive action in the area of economic and foreign policy. The interpretation that the Trading with the Enemy Act gives the executive the right to impose quotas on imports without new Congressional sanction, in order to appease the interests of a particular industrial sector, is to me quite disturbing.

Your staff may find the enclosed paper "Rice Policies in the 1970's: A Perspective on the IRRI Conference" useful to have on file. The paper summarises the results of a conference held to assess the implications of the "Green Revolution" on national price and trade policies in South and Southeast Asia.

Sincerely yours,

VERNON W. RUTTAN.

OFF-RESERVATION INDIAN LAND

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. LUJAN. Mr. Speaker, H.R. 7701 will provide 99-year lease authority for off-reservation Indian land in New Mexico. If passed, it will provide for the following:

First. Permit economic development. Off-reservation land cannot be leased for more than 30 days. The bill will permit leases up to 99 years which will spark increased interest in the area. Inquiries have already been received from companies interested in locating there.

Second. Extend coverage of existing legislation. Reservation land is already covered by 99-year lease authority. Unfortunately, the facilities—such as rail and interstate highway—that would be most useful are on the off-reservation Indian land. The bill would permit off-reservation land to be equal to reservation land in this respect.

Third. Would permit homeowners to qualify for FHA insurance under the National Housing Act, mortgage insurance is available for residential housing loans only if the lease on the land has less than 50 years to run. The bill would stimulate investing in homebuilding and homeownership.

THE 18- TO 21-YEAR-OLDS

HON. LOUISE DAY HICKS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mrs. HICKS of Massachusetts. Mr. Speaker, I am pleased to add my voice to those who have commented on the inconsistency between laws that recognise the maturity of persons between 18 and 21 years of age when it comes to the most important responsibility in a democracy—voting in Federal and State elections—and yet deny it in selection of jurors.

I am proud to be a sponsor of H.R. 11415, a step in the direction of giving full citizenship to persons between 18

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and 21 who are old enough to fight, die for and pay taxes to their Government and have, by the recent ratification of the 26th amendment, been given the right to assist in choosing our national leaders at all levels of government.

It is inconsistent for us to say that our newly-enfranchised citizens can play such an important role in our political processes and yet be denied the equivalent role in the judicial process.

Furthermore, it is wrong to treat an 18-year-old as an adult when he is a criminal defendant in our courts—and all Federal courts and 49 of our State courts classify an 18-year-old offender as an adult—and yet deny the 18-year-old admission to the panel to consider the guilt or innocence of such young people.

The legal exclusion from juries of persons who can be convicted of crime is inconsistent with the oft-repeated constitutional requirement that the right to a trial by jury carries with it the right to be judged by a panel in which the peers of the defendant could serve.

The Supreme Court has repeatedly recognized that the Constitution requires that our juries consist of a cross-section of the community. Even before most of the civil rights cases were considered by the Court, in 1942, the Court in *Glasser* v. *United States*, 315 U.S. 60 at page 86, declared:

> The proper functioning of the jury system, and, indeed, our democracy itself, requires that the jury be a "body truly representative of the community" and not the organ of any special group or class . . . (Jury officials) must not allow the desire for competent jurors to lead them into selections which do not comport with the concept of the jury as a cross section of the community . . . If such practices are to be countenanced, the hard won right of trial by jury becomes a thing of doubtful value, lacking one of the essential characteristics that have made it a cherished feature of our institution.

From my exposure to persons between the ages of 18 and 21, I have not the slightest doubt of persons in this age bracket's ability to serve competently on juries in civil and criminal trials. There is nothing magic in the age of 21 that has not usually occurred earlier, as we recognized when we lowered the voting age.

A person of 18 is no more likely than a person of 30 to make a wise or a foolish voter. In the court system, we have greater safeguards than in the election registration system to keep incompetent or biased persons from service. In the power of trial counsel to exercise their power to strike jurors for cause or to a lesser extent by exercise of personal privilege to strike, we have a greater check on keeping unworthy or undesirable persons off juries than we do at the polls.

Furthermore, at a time when our Federal judicial system is creaking under the strain of huge backlogs, the additional manpower that would be available by lowering the minimum age for jurors is badly needed. Congress has not been reluctant to increase the number of judges in our district courts to meet the added demands upon our judicial system. Congress should not be reluctant to give these judges jurors to hear cases that are awaiting trial for often far too long periods of time.

It has often been difficult for persons advanced in their careers or with family responsibilities to serve as jurors. The time required away from occupation and family has often made jury service a burden from citizenship joyfully accepted. Persons between the ages of 18 and 21 often have not yet acquired the positions or responsibilities that have made jury service an unwelcome duty thus increasing the likelihood that from this source will come truly dedicated jurors.

I hope that Congress will set an example for the States as we did in our approval of the 26th amendment and promptly approve H.R. 11415.

MUSKIE'S SOUTHERN STRATEGY

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. EDWARDS of Alabama. Mr. Speaker, issues are certainly important in a campaign, yet one must avoid the opportunity to create or design issues for mere political gain. I call your attention to the following editorial from the Birmingham News in hopes that we follow the advice provided by a southern newspaper concerning the South and southern political strategy:

MUSKIE'S SOUTHERN STRATEGY

Sen. Edmund Muskie was at the University of Florida last week to make a speech which was, coincidentally, interrupted by a company of women's libbers.

If there were such a thing as "Southern lib," its members would be the ones who should have protested, for Muskie delivered still another in a seemingly endless series of denunciations of the so-called "Southern strategy" allegedly guiding the Nixon administration.

This "Southern strategy," Muskie said, is "an insult to the South" which must be rejected in 1972.

We understand Sen. Muskie's political motivation in making such charges. He (or almost any of the other national Democratic presidential aspirants) would be beaten badly by Mr. Nixon in most Southern states—although a "Southern strategist" headquartered in Montgomery could be a complicating factor if the '72 choice is three-way rather than two-way.

But the Maine senator should explain just what it is about the President's "Southern strategy" that is insulting to this region.

For that "strategy" is purely and simply to treat the South as an equal part of the Union.

This is not insulting to Southerners. What is insulting is the anti-South bias on the part of "liberals" who assume that every white Southerner is a racist who has only hidden his Kluxer sheet in the linen closet until another day, and that the South is a hopeless region that has to be governed by discriminatory policies and punitive legislation formulated by pure hearts elsewhere who know what's best for us.

It is these people, Sen. Muskie included, who are following a "Southern strategy."

Their strategy is to promote themselves in the rest of the country by trying to make it appear that anyone the South supports—especially if he is a Republican and his name is Richard Nixon—must be somehow un-American.

THE UNITED STATES AND THE MIDDLE EAST: A POLICY PAPER

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HARRINGTON. Mr. Speaker, a thoughtful study prepared for the New England Leadership Conference on the Middle East has been brought to my attention. Prepared by Arnold M. Soloway and the ad hoc policy committee consisting of Sumner Z. Kaplan, Prof. Gerald Caplan, Prof. Ben Halpern, Prof. Marshall Goldman, Prof. David Landes, Dr. Herbert O. LeVine, Prof. Henry Rosovsky, Dr. Richard Wurtman, and Prof. Manuel Zymelman, the report is well worth reading by my colleagues as a cogent analysis of the situation. At this point, I wish to include the report in the RECORD:

THE UNITED STATES AND THE MIDDLE EAST: A POLICY PAPER

Shortly after the outbreak of the June 1967 War, it became evident that the third Arab attempt in twenty years to annihilate the State of Israel had failed. Only days earlier, Egypt, Syria and the U.S.S.R. had ridiculed Israel's and America's futile efforts to induce the strangely apathetic U.N. Security Council to take action following President Nasser's unexpected and unprovoked acts of war against Israel—his blockade of the Israeli port of Eilat, and mobilization and forward thrust of his army toward Israel's border. While the international community passively awaited Israel's doom, Israel's citizen army defeated the Soviet-equipped Arab military machine. In the wake of this self-inflicted catastrophe, the Arab-Soviet bloc initiated psychological and diplomatic warfare aimed at distracting world public opinion which overwhelmingly supported Israel.

With memories too fresh for the facts to be obscured by rhetoric, Moscow's and Cairo's first efforts to transform their intended victim, Israel, into the "aggressor" appeared patently absurd. Even the United Nations, where the numerical predominance of Soviet and Arab bloc votes for years had produced a one-sided pattern of anti-Israeli resolutions, found this too much to accept. However, the incessant reiteration of "anti-Zionist" slogans and slanders by the U.S.S.R. and its clients, abetted by France, showed its first effects in U.N. Security Council Resolution 242, of November 22, 1967. An avowed "compromise" between the victorious Israeli victim and the defeated Arab aggressors, in fact the Resolution was less than "even-handed": Israel, by name, was called upon to make only concrete and irreversible concessions such as "withdrawal from territories"—a major strategic sacrifice—while the Arab states, referred to only implicitly, were asked merely to make symbolic, verbal and easily reversible concessions.

Israel nevertheless accepted Resolution 242, hoping that this might, at long last, persuade Arab leaders to enter into the meaningful negotiations required by the Resolution, and trusting U.S. assurances on the operative meaning of 242.

Ever since its adoption, and as the true meaning and intent of Resolution 242 have faded with time, the Soviet-Arab bloc has solicited diplomatic support for an utterly distorted reading of the Resolution's key principles. In effect, Moscow has been attempting to fulfill its promise to its Arab clients that it will maneuver the international community, and especially the U.S., into forcing Israel to withdraw from all territories that the Arab states had occupied between 1949 and 1967, and, moreover, without a freely-negotiated peace treaty. Developments since 1969, have seemed to bring Moscow closer to gaining such a gratuitous victory, while also encouraging the Arab regimes to maintain a militantly uncompromising posture. Most regrettably, the U.S. State Department now appears to be joining the effor to "reinterpret" Security Council Resolution 242, and thus handing the U.S.S.R. its sought-after victory—even at the expense of any remaining trust that Israel, or other small nations, may have in the good faith and reliability of U.N. and U.S. undertakings.

The facts concerning Resolution 242 and the lamentable erosion in the posture of the U.S. State Department on this as on other Middle Eastern issues are of sufficient significance to require detailed analysis:

U.N. Security Council Resolution 242, adopted on November 22, 1967, recommended basic guidelines in its first operative paragraph for "the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

"(i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;

"(ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every state in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force . . ."

These two principles were subjected to intensive debate and negotiation; their meaning and intent were amply clarified before the Security Council unanimously adopted the British-sponsored Resolution in its original English-language formulation.

Under these circumstances, it is all the more surprising that otherwise informed commentators have offered so little resistance to the Soviet-Arab-French campaign since 1967 to distort the meaning and intent of these two key principles in the carefully worded and delicately balanced Resolution.

The Arab-Russian claim is that the Resolution requires Israel's commitment to withdrawal from *all* occupied territories, and, moreover, *before* any negotiations can take place. (Hence, the argument that Big Four pressure is justified in order to force Israel to comply with that "requirement".)

In fact, of course, the precise wording of the Resolution reads "withdrawal of Israel armed forces from territories"—not withdrawal from *the* territories or from *all the* territories. The omission in the authoritative English text of the definite article before the word "territories" was not accidental or casual; the fact that the Resolution did not call for Israeli withdrawal from *all the* territories marked a deliberate and considered policy decision. Security Council Resolution 242 makes no reference to, nor even implies, reestablishment of the situation existing before June 5, 1967. On the contrary, it couples the withdrawal principle with that of each State's right to live in peace *"within secure and recognized boundaries"*.

The pro-Arab bloc in the United Nations made strong efforts to amend the British draft introduced by Lord Caradon, which eventually was adopted as Resolution 242:

On November 16, 1967, Arab delegates met with Mr. V. V. Kuznetsov of the Soviet Union, and insisted that the wording read either that Israeli forces would be withdrawn from *"all the* territories", instead of "territories", or that Israel should *"withdraw to the positions of June 4, 1967"*. The Arabs also stated their objection to the phrase *"recognized boundaries"*.

On November 17, 1967, Arab representatives argued the same points with Lord Caradon, who steadfastly refused to upset the delicate balance of the draft.

On November 20, 1967, the Soviet Union introduced a draft resolution calling for *withdrawal of all forces to the positions held before June 5, 1967*, which was not even put to a vote in the Security Council. Earlier, the Security Council had repeatedly rejected various Soviet-sponsored resolutions calling for *a return to the former armistice demarcation lines*.

On November 22, 1967, after these attempts to amend the text of the draft resolution had failed, Lord Caradon firmly rejected an Indian-Soviet maneuver to interpret the text as if it were in fact consonant with the amendments which the Security Council had refused to accept. The U.S. Representative, supporting Lord Caradon and the majority, emphasized that the voting would be on the draft resolution as it stood and "not on the individual discrete views and policies of various members". Israeli Foreign Minister Abba Eban similarly declared: "The resolution says what it says. It does not say that which it has specifically and consciously avoided saying."

The Resolution's primary territorial objective was the establishment of "secure and recognized boundaries" in the Middle East. It was precisely because the Arab delegates had clearly recognized the incompatibility between that requirement and the re-establishment of the fragile armistice lines of June 4, 1967, to which they aspired, that they had attempted to insert *"all the"* before "territories" and had sought to delete the requirement for "secure and recognized boundaries". The majority of the Security Council refused to accede to these Arab demands precisely because it considered the establishment of "secure and recognized boundaries" of primary importance, and regarded the old armistice lines as incompatible with the objective of a lasting peace.

Thus, the Security Council Resolution did not and does not require Israeli withdrawal from *all* the territories or the restablishment of the June 4, 1967, armistice demarcation lines. It does require the establishment of "secure and recognized boundaries", acknowledging that the pre-June, 1967 armistice demarcation lines were neither "boundaries" nor "secure" nor "recognized". In fact, Jordan's Permanent Representative to the United Nations had himself stressed this point before the Security Council on May 31, 1967, less than a week before the outbreak of the June War:

"There is an Armistice Agreement. The Agreement did not fix boundaries; it fixed the demarcation line. The Agreement did not pass judgment on right—political, military or otherwise. Thus I know of no boundary; I know of a situation frozen by an Armistice Agreement."

On June 19, 1967, one week after the June War, President Lyndon Johnson underlined this very point:

"The nations of the (Middle East) region have had only fragile and violated truce lines for twenty years. What they need now are recognized boundaries that will give them security against terror, destruction and war."

On November 15, 1967, the U.S. Representative told the Security Council:

"Historically there have never been secure or recognized boundaries in the area. Neither the armistice lines of 1949 nor the ceasefire lines of 1967 have answered that description.... Now such boundaries have yet to be agreed upon."

On September 10, 1968, President Johnson added:

"We are not the ones to say where other nations should draw lines between them that will assure each the greatest security. It is clear, however, that a return to the situation of June 4, 1967, will not bring peace. There must be secure and recognized borders. Some such lines must be agreed to by the neighbors involved as part of the transition from armistice to peace. At the same time, it should be clear that boundaries cannot and should not reflect the weight of conquest. Each side must have a reason, which each side, in honest negotiation, can accept as part of a just compromise."

The clear intent of Resolution 242 is that the parties to the conflict should arrive through negotiation at mutually determined "secure and recognized" boundaries, replacing the vulnerable June 4, 1967 armistice lines which had constituted a standing invitation to aggression.

That this indeed is the correct interpretation of the Security Council resolution of November 22, 1967, was made clear repeatedly by the sponsoring United Kingdom Government. On November 17, 1969, in the House of Commons, Mr. Stewart, the then Foreign Secretary, was asked about the "wording of the 1967 Resolution" and whether the right honourable Gentleman understands it to mean that the Israelis should withdraw from all territories taken in the late war". The Foreign Secretary replied:

"No Sir. That is not the phrase used in the Resolution. The Resolution speaks of secure and recognized boundaries. Those words must be read concurrently with the statement on withdrawal."

Some three weeks later, Sir Alec Douglas-Home, subsequently Mr. Stewart's successor as the Foreign Secretary, demanded that "the House should be told whether or not this Resolution requires the complete withdrawal of the Israelis." Mr. Stewart replied:

"As I have explained before, there is reference, in the vital Security Council Resolution, both to withdrawal and to secure and recognized boundaries. As I have told the House previously, we believe that these two things should be read concurrently and that the omission of the word 'all' before the word 'territories' is deliberate."

The fact that Resolution 242 can be implemented only through negotiations between the parties themselves, and not through Big Power dictates, was stressed on January 25, 1970, by President Richard Nixon:

"The United States believes that peace can be based only on agreement between the parties and that agreement can be achieved only through negotiations between them. We do not see any substitute for such negotiations if peace and security arrangements acceptable to the parties are to be worked out.

"The United States does not intend to negotiate the terms of peace. It will not impose the terms of peace. We believe a durable peace agreement is one that is not one-sided and is one that all sides have a vested interest in maintaining. The United Nations resolution of November, 1967, describes the principles of such a peace."

Despite all the evidence which the public record so amply provides, the Arab-Soviet campaign to distort Resolution 242—to rewrite it after the fact—has made ominous gains. Sir Alec Douglas-Home, now Britain's Foreign Secretary, has moved to reverse the United Kingdom's position. In his Harrogate speech, and more recently in Cairo, possibly motivated by oil and other commercial considerations, he called for virtually complete Israeli withdrawal from the territories. Thus, three of the Big Four have now undermined the balance and negated the intent of Resolution 242.

Somewhat more circuitously, the U.S. State Department has been moving in the same unfortunate direction. The speech delivered by Secretary Rogers on December 9, 1969, reflecting the customary attitude of the Department's Arab-Affairs specialists, diverged substantially from established U.S. policy and moved toward the Soviet-Arab position. Reneging on the commitments of Presidents Johnson and Nixon to leave the drawing of boundary lines to the parties themselves, the speech called for Israeli withdrawal to the old "international border" with Egypt—in fact, practically a return to the armistice lines of June 4, 1967. With re-

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spect to Jordan, the speech would allow nothing more than "insubstantial" alterations of the June 4, 1967 lines.

Yet, President Nixon, in a television interview on July 1, 1970, specifically stated: "Israel's neighbors, of course, have to recognize Israel's right to exist. Israel must withdraw to borders—borders that are defensible."

Clearly, in speaking of "defensible" borders, the President could not have been referring to the ludicrously fragile lines of June 4, 1967. The contrast, therefore, between the President's concept and that of the State Department's Arab-Affairs specialists is obvious.

Nevertheless, the State Department has persisted with efforts to implement the so-called "Rogers Plan", thus fostering the illusion in Cairo that U.S. pressure will induce Israel to hand back the entire Sinai without meaningful negotiations. As in 1957, Egypt has again been insulated from the need for negotiating with Israel; Cairo believes that it need only deal with the Big Powers. Despite public assurances, the U.S. appears to be increasingly pressing Israel to surrender her rights under Resolution 242 to negotiate "secure and recognized boundaries" with the Arab states.

Moreover, this retreat from the intent of Security Council Resolution 242 has undermined the Jarring mission. Under the influence of the erosion in the U.S. State Department's posture, Jarring's controversial letter of February 23, 1971, in effect called on Israel to subscribe to the Soviet-Arab distortion of the Resolution. The letter asked Israel to make a prior commitment, without negotiations and without reaching an agreement with the Arabs, that she will withdrawn not to "secure and recognized boundaries" but—significantly repeating a phrase from the Rogers speech of December 9, 1969—to the old "international border" with Egypt.

It is Israel, in refusing to accept this distortion of Resolution 242, which is upholding the integrity of the U.N. Resolution.

One may ask why it is important that the meaning of a U.N. resolution accepted four years earlier is being reinterpreted in the light of 1971 political convenience. The importance, and it is crucial, involves both the issue of equity and fairness, upon which a viable United Nations must base its appeal for universal support, and also the issue of juridical contractual obligations incurred by signatories to a U.N. resolution. If each time the balance of political power shifts we permit a cynical departure by one side from positions that all parties previously accepted, resolutions will become meaningless pieces of paper, and the U.N. will fail in its mission of restraining the stronger and more violent national groupings from infringing on the security of their weaker fellows, who will then be forced into wars of desperate resistance to protect their integrity. And if the international community accepts the Rule of Law, a contract must bind those who sign it and must not be set aside by tendentious reinterpretations of its wording. If the U.N. is allowed by the United States to abandon these principles, it will become a dangerous instrument of international power politics rather than the instrument of reconciliation and peace that the world so desperately needs.

The erosion of 242 also has had its inevitable effect on chances for reaching a limited agreement covering the Suez Canal area. It has encouraged Egypt to insist that any such agreement can be only a first step toward a complete retreat by Israel to the old indefensible armistice lines of June 4, 1967. However, this is not the only damage resulting from the current posture of the State Department toward a limited as well as a complete Middle East settlement.

In this connection, it is necessary to recall the origin of the present concept of a limited Suez Canal area agreement: After suffering a devastating defeat in 1969/70, in his self-proclaimed "war of attrition" against Israel, declared in open defiance of the U.N.'s unlimited and unconditional cease-fire resolution of June 10, 1967, the late President Nasser sought a breathing spell for his shattered forces by suggesting a limited cease-fire of a few months, which would be made conditional on Israel's acceptance of the Egyptian interpretation of Resolution 242. The U.S. State Department adopted a major portion of this concept, even though a limited and conditional cease-fire at this stage gave Nasser ex-post-facto legitimization for having unilaterally broken the unconditional, unlimited U.N. cease-fire resolution.

Under heavy U.S. pressure, and with dire forebodings that such an arrangement would enable the Egyptians and Russians surreptitiously to push their sophisticated missiles to the very edge of the Canal, Israel accepted the cease-fire. However, Israel stressed that it regarded this step as a re-institution of the open-ended cease-fire of June 10, 1967, and that any subsequent Israeli withdrawal would not be to an Egyptian-dictated line, but to secure recognized and defensible frontiers to be negotiated between the parties.

Egypt and the U.S.S.R. immediately violated the cease-fire, as feared by Israel, by unlawfully introducing missiles into the cease-fire standstill zone adjoining the Canal, and the U.S. State Department proved incapable of making the violators respect the agreement they had only just concluded.

At this point of apparent deadlock, Israel's Defense Minister Dayan suggested the elements of a partial agreement covering the Suez Canal area: The Egyptians would withdraw their illegally-introduced missiles and other heavy war material from the west bank of the Canal; Israel would then thin out its forces on the Israeli side of the Canal, even though they had been positioned there prior to the cease-fire and did not constitute a violation of its clauses; the cease-fire would be unlimited and unconditional, as originally stipulated by the U.N.; the opposing forces would disengage from each other, diminishing the likelihood of conflagration and, in the semi-demilitarized zone thus created, Israel would allow Egypt to reopen the Canal to international shipping and to resume normal civilian life on both banks of the Canal.

Egyptian President Sadat subsequently altered Dayan's concept beyond recognition: Israel's troops were not only to be thinned-out along the eastern bank of the Canal, they were to be totally withdrawn into the heart of the Sinai peninsula; the Egyptians and Soviets not only would refuse to withdraw their unlawful missiles from the Canal, but would even insist on sending military units across to the Israeli side of the Canal, a feat they had been incapable of achieving in four years of sporadic warfare; the cease-fire would be prolonged for a mere few months and Egypt not only refused to commit herself to keep the peace without limitation, but specifically threatened to resume warfare unless Israel subsequently withdrew to the old armistice lines, as dictated by Moscow and Cairo; the Suez Canal would be cleared with no promise to permit Israeli shipping through the Canal, as specifically required by U.N. Resolution 242.

In other words, Egypt was to be rewarded for its unilateral and blatant violation of the original cease-fire as well as for its unlawful introduction of missiles into the standstill zone, and Israel was to pay a major strategic and political price for a development which, in fact, would benefit Egypt rather than Israel—namely, the re-opening of the Canal with the consequent flow of income to Egypt and the resumption of normal Egyptian civilian life on both banks. A most significant benefit would accrue to the U.S.S.R., whose warships would be able to debouch into the Indian Ocean.

The U.S. State Department initially described President Sadat's demands as unreasonable, especially his call for a crossing of the Canal by Egyptian military forces which would vitiate the very purpose of a limited settlement, namely, the disengagement of the opposing armies. Developments since then, however, including Secretary Rogers' U.N. speech of October 4, 1971, reveal that State Department officials have substantially acquiesced in President Sadat's ultimative demands.

It should be noted that Israel has consented to steps which require it alone to make all the concessions, such as an Israeli withdrawal without a corresponding Egyptian withdrawal of missiles, and the abandonment of the shortest and most defensible strategic line along the Canal without a final peace settlement, at a time when Soviet troops remain in Egypt to threaten Israel. Nevertheless, it is Israel that is deemed "intransigent" by State Department officials, and it is President Sadat's extravagant demands that are appeased.

Yet, the U.S. has repeatedly and solemnly declared that it does not expect and will not demand that Israel should withdraw "a single soldier or from a single inch of territory" except in the context of a final peace agreement freely negotiated between the parties.

However, this is precisely what State Department officials now are requesting Israel to do in return for a mere prolongation of the cease-fire for a limited period. Moreover, as part of this new posture, the State Department is putting heavy pressure on Israel, at the expense of Israel's vital security needs in the face of the common Soviet adversary, by withholding essential aircraft in spite of repeated solemn U.S. declarations that Washington will not permit the military balance in the Middle East to be affected to Israel's disadvantage.

In the face of the uninterrupted massive influx of ultramodern Soviet military equipment and personnel into Egypt, confirmed by U.S. officials, it is absurd to pretend that the Middle Eastern military balance has remained unaffected. A meaningful concept of balance can hardly be based on the assumption that Israel should be able merely to stave off defeat in a potential conflict, after heavy loss of life and materiel. If renewed warfare is to be avoided, Israel's strength must visibly suffice to deter and discourage the hostile Soviet-Egyptian force from implementing its openly proclaimed aggressive intentions. This deterrent strength is clearly undermined when the U.S. State Department, to all intents, imposes an embargo on aircraft requested by Israel.

President Nixon, in his press conference on March 4, 1971 told Robert Semple of the *New York Times* that

> "The question is whether or not the United States will impose a settlement in the Mideast, and the answer is no . . . we can make suggestions, but we are going to have to depend upon the parties concerned to reach an agreement. And we, of course, will be there to see that the balance of power is maintained in the Mideast, which we shall continue to do. Because if that balance changes that could bring on war."

Unless State Department officials are instructed to desist from the erosion of President Nixon's clearly enunciated policy, a gratuitous victory will be handed to the Soviet Union. The U.S. will have undermined and abandoned Israel, its only dependable friend in the Middle East, for the sole benefit of its adversaries. The self-defeating posture of the State Department's Near Eastern section reflects not only the classic delusions of futile appeasement; it also demonstrates a pathetic blindness regarding Middle Eastern realities. Surely it is most unrealistic to believe that one can make "arrangements" for the region behind the backs of the leaders of the one modern, progressive, democratic nation in the area, whose people have repeatedly demonstrated an unshakable resolution and ability to defend their vital security interests.

Both the cause of a genuine, lasting Middle Eastern peace and a realistic evaluation of U.S. national interests, require the faithful and consistent implementation of America's solemn commitment and promises.

In President Nixon's own words:

"Peace can be based only on agreement between the parties and that agreement can be achieved only through negotiations between them. We do not see any substitute for such negotiations. The U.S. does not intend to negotiate the terms of peace. It will not impose the terms of peace."

UNVEILING OF CONGRESSMAN F. EDWARD HÉBERT'S PORTRAIT

HON. HALE BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. BOGGS. Mr. Speaker, recently many of us were privileged to gather in the chamber of the Committee on Armed Services and to pay tribute to its distinguished chairman, our friend and colleague, Congressman F. EDWARD HÉBERT. The occasion was the unveiling of the chairman's official portrait. It was a memorable ceremony, but it was made more memorable by the presence of his excellency Archbishop Philip M. Hannan who offered the invocation. Archbishop Hannan's prayer, I think, eloquently conveys our esteem for EDDIE HÉBERT and our best wishes to him as he conducts the important business of the Committee on Armed Services. I am inserting the text of Archbishop Hannan's invocation in the RECORD, and calling it to the attention of my colleagues of all faiths:

UNVEILING OF PORTRAIT OF CONGRESSMAN F. EDWARD HÉBERT, HOUSE OF REPRESENTATIVES, WASHINGTON, D.C., OCTOBER 12, 1971

(By Philip M. Hannan)

O God, our Father, we implore your special blessing today on your servant, F. Edward Hébert, his family and all assembled here on this memorable occasion.

As an institution is the lengthened shadow of a great man, so the work of defending freedom through the Armed Services Committee has been the achievement of the great men, past and present, who have served as chairmen and members of the Committee.

We ask you to continue your blessing on our Chairman and his colleagues so that our might will only be used to defend the right. Make us remember that while might does not make right, right will not prevail today unless supported by our might. O God, bless our honores and his colleagues so that this Committee will continue to give an example to the world of the judicious use of means to protect the freedom of the family of man so that this nation under God will merit His blessing as we have received His bounty.

Bless our honores and his colleagues with the highest dedication and loyalty so that they, and we, may serve our country as it deserves—with our minds to serve it, our strength to protect it, our hearts to love it so that it may be the beacon for the whole human family. Amen.

FACTS AND PROBLEMS FACING THE U.N.

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HUNGATE. Mr. Speaker, these recent articles in the Christian Science Monitor of October 29, 1971, outline the facts and problems involved in recent actions in the United Nations:

WE REPEAT, DON'T BLAME THE U.N.

Secretary of State William Rogers has stated the responsible and proper position for the United States to take on the subject of the United Nations and China. His position is:

The admission of Communist China to the U.N. "is consistent with the policy of the U.S."

While Washington regrets the unnecessary vote to expel Taiwan it must abide by the decision of the majority and "we, of course, accept that decision."

"We hope that the UN will not have been weakened by what it has done. We continue to believe in its principles and purposes . . . ."

"We will not support a reduction of funds for the United Nations in retaliation for this vote."

This position is consistent with the facts, which can stand repeating.

The admission of Communist China to the UN became inevitable from the moment President Richard Nixon disclosed his new policy toward China.

The effort to soften its impact by the campaign in the UN for the "two-China policy" was dubious from the beginning. Chiang Kai-shek and Mao Tse-tung are united on the one essential point of Chinese doctrine; that there is only one China. At no time did it seem probable that Peking China could enter the UN without Taiwan China going out.

It was not necessary for the UN to expel Taiwan. It would have gone out anyway, once Peking came in. Quite possibly, quiet diplomacy might have allowed Taiwan to go out quietly on its own, instead of being thrown out.

But Washington chose a visible campaign to achieve the impossible. Veteran diplomats say they have never even heard of such an extravagant pressure campaign as was waged. It proved to be counterproductive. The resentment which welled up last Monday night on the floor of the UN was a reaction not against the U.S. but in response to that pressure campaign, as the accompanying article by former UN Ambassador Charles W. Yost makes clear.

Even Israel voted against Washington on the Taiwan issue. Like others it had its own reasons; perhaps including not yet getting the promise of those Phantom jets.

We can understand (while regretting) the domestic political reasons why the Nixon White House unleashed the noisy campaign in the UN at the very moment that its emissary, Henry Kissinger, was in Peking. Mr. Nixon had shocked the right wing of his party by his opening to China.

But there is a disturbing and dangerous feature to this. Antiforeignism is a weapon used down through the ages for domestic political purposes. Russians and Chinese love to hurl the charge of "chauvinism" at others; and are themselves the most flagrant users of it.

There is latent chauvinism in the U.S., as in all countries. It can always be aroused, easily enough, as a smoke screen or turned against a scapegoat. But it is terribly dangerous to arouse it, particularly right now. Mr. Nixon is conducting one of the most difficult of all maneuvers in the affairs of great nations: a withdrawal from overextended positions. The U.S. was overcommitted in the world. The "Nixon doctrine" and "Vietnamization" both mean the same thing: getting back to commitments and positions which can be held within the range of available resources.

But the danger in any withdrawal is moving too fast and too far. And nothing could so speed the withdrawal as the unleashing of a wave of antiforeignism. The end result could be that very return to isolationism which Mr. Nixon himself warns against.

So it needs to be repeated, loud and clear, that all the UN did last Monday night was to make de jure what Washington had already made de facto. The deed came from Washington. To blame the UN can only be domestic politics, of a most dangerous variety.

SOUR GRAPES OR BITTER TEA

(By Charles W. Yost)

While it is natural for the administration and some members of Congress to express disappointment at the outcome of the UN vote on Chinese representation, the reactions are excessive and in some cases disingenuous. They taste more of sour grapes than of bitter tea.

When a simple majority of the General Assembly in November, 1970—a year ago—approved the Albanian resolution [attempting to substitute Peking for Taipei] it was quite clear that, whatever the United States might do, the days of Taiwan in the UN were numbered. It would clearly be impossible for the UN much longer to ignore that Mao, not Chiang, governs China.

President Nixon, presemably for this and other reasons, decided that a dramatic new departure in U.S. policy toward the People's Republic was in the United States national interest. That was a wise decision.

However, from the moment he announced his trip to Peking, it became extremely unlikely that a seat for Taiwan in the UN could be preserved. The final blow to the American attempt to preserve it through a "dual representation" formula was Henry Kissinger's second visit to Peking at the very moment the UN vote was about to be taken.

Prominent members of the Congress are now reproaching some of our friends for having "deserted" the U.S. on the vote, and are threatening in consequence either to cut aid to them or to the UN or both. Particularly at a time when an unhealthy trend toward "neoisolationism" is appearing in the U.S., members of Congress would do well to look at the other side of the picture.

What do our friends who voted "against us" say? First, they point out that the U.S. had for 20 years insisted that only one Chinese government should sit in the UN. Others had repeatedly proposed a "dual representation" formula, and we had repeatedly rejected it. Our sudden conversion to it in August, 1971, was simply too late.

Nor were our protestations that it would be outrageous to exclude the representatives of the 14 million people on Taiwan very persuasive, when we ourselves had for two decades been excluding the representation of the 700 million people on the mainland.

Second, it was clear that "dual representation" would not bring the People's Republic into the UN, as the U.S. now professed to desire, because Peking considered that its acceptance of such a formula would admit the existence of a rival Chinese government, which Chiang Kai-shek still unshakably claims to be.

Third and most important, as the representative of a NATO ally said to me, at the moment you are reestablishing your relations with Peking by setting up the Presi-

dent's visit, you are asking us to jeopardize ours by this vote. And you are exerting the crudest sort of pressure on us and others to to do so. Is that a proper way to treat your allies?

If the U.S. wishes the support of its friends and allies in a matter of major importance, it must hammer out with them a policy of common interest to all.

In this case a substantial majority of our allies had decided that it was in their interest to bring Peking into the world community and the UN, whatever might be the effects on Taiwan of doing so. They interpreted President Nixon's decision to visit Peking, over the strong objections of Taiwan, as a recognition of the wisdom of that policy.

From their point of view, therefore, it was the U.S., not they, which by its last-minute introduction of the dual-representation proposal was deviating irresponsibly from a policy in the interest of the alliance as a whole.

It seemed to them, moreover, that the administration was behaving in this contradictory way primarily for domestic political reasons—in an attempt to appease rightwing Republicans who had been outraged by the President's intention to visit Peking and to deflect their rage from him to the UN.

It is heartening that the administration has opposed "retaliation" against the UN through cutting our contributions to it, but unfortunate that the administration and some members of Congress have suggested that cuts might be appropriate because U.S. contributions to the UN are "disproportionate."

Of course the real sense in which our contributions are "disproportionate" is that they are considerably less than our share of the world's GNP would warrant. On that basis we should be contributing closer to 40 percent than to 30 percent of the regular budget, and more—rather than less, as the administration has itself proposed—to UN development programs.

Moreover, all the major UN programs to which we contribute are ones for which we voted—indeed, often ones we proposed and vigorously advocated on national as well as international grounds.

The overriding fact should be that it is clearly in the U.S. national interest to strengthen rather than weaken the UN.

LANGUAGE OF HOUSE RESOLUTION 630

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. JACOBS. Mr. Speaker, I was wondering if, at this late date, any Member of Congress or any member of the Executive branch would care to say he or she is willing, from this day forward, to give his or her life, limb, sanity or freedom—POW even for another day—further to prop up the Saigon dictatorship.

Other Americans are being ordered to do so today.

Following is the language of House Resolution 630, which I introduced on September 30, 1971:

Whereas the President of the United States on March 4, 1971, stated that his policy is that: "as long as there are American POW's in North Vietnam we will have to maintain a residual force in South Vietnam. That is the least we can negotiate for."

Whereas Madame Nguyen Thi Binh, chief delegate of the Provisional Revolutionary Government of the Republic of South Vietnam stated on July 1, 1971, that the policy of her government is: "If the United States Government sets a terminal date for the withdrawal from South Vietnam in 1971 of the totality of United States forces and those of the other foreign countries in the United States camp, the parties will at the same time agree on the modalities:

"A. Of the withdrawal in safety from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp;

"B. Of the release of the totality of military men of all parties and the civilians captured in the war (including American pilots captured in North Vietnam), so that they may all rapidly return to their homes.

"These two operations will begin on the same date and will end on the same date.

"A cease-fire will be observed between the South Vietnam People's Liberation Armed Forces and the Armed Forces of the other foreign countries in the United States camp, as soon as the parties reach agreement on the withdrawal from South Vietnam of the totality of United States forces and those of the other foreign countries in the United States camp."

Resolved, That the United States shall forthwith propose at the Paris peace talks that in return for the return of all American prisoners held in Indochina, the United States shall withdraw all its Armed Forces from South Vietnam within sixty days following the signing of the agreement: *Provided*, That the agreement shall contain guarantee by the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam of safe conduct out of Vietnam for all American prisoners and all American Armed Forces simultaneously.

SOVIET JEWS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. PEYSER. Mr. Speaker, last week I attended a rally in White Plains, N.Y., sponsored by the Westchester Conference on Soviet Jewry which was attended by more than 3,000 people who came to express their conviction that the struggle of the Jews of the Soviet Union shall not be forgotten.

These people turned out at this rally to express their outrage at the fact that the more than 3 million Jews of the Soviet Union are being exposed to a course of religious and cultural repression which is aimed at destroying their religious identity.

I feel that we in the Congress must view every abuse of the rights of a Russian Jew as a blow against the freedom of religion all over the world, and for this reason I urge my colleagues in the Congress to speak out on this matter and to tell the Soviets to end their repression of these people.

Furthermore, I urge the President to put discussion of the handling of Soviet Jews on this agenda for his upcoming trip to the Soviet Union, and for him to plead for more humane treatment of these people. It is my strong hope that by doing this, President Nixon will make it very clear to Soviet officials that we in this country are very concerned about this situation and world opinion is focused on this situation.

OVERPOPULATION

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HOGAN. Mr. Speaker, there is a great deal of misinformation in circulation concerning overpopulation. It was refreshing to have the insights of Dr. Andre Hellegers, director of the Kennedy Institute for the Study of Reproduction and Bioethics, as set forth in the Evening Star today.

I include the article at this point in the RECORD:

THEY'RE ALL "OUT OF WHACK"

(By Mary Anne Dolan)

In the forensics of population debate, Andre Hellegers is something akin to Sir John Gielgud in a room full of cockneys. Most of his fellow spokesmen speak a markedly different language.

The hawks on the affirmative side of whether there is a "population explosion" in the U.S. say the country is overrun and the "baby boom" will soon suffocate us if we don't achieve a zero population rate by any means available—including sterilants in drinking water.

The negativist doves, on the other hand, say there's still plenty of room "out West," "on the frontier." If we hand out enough contraceptives, they claim, the "baby bust" (a reported 15.5 percent decrease in the under five population in 1970, the greateat in U.S. history, according to the Census Bureau) will take care of everything.

ACADEMIC SORT

Dr. Hellegers, a lean looking, academic sort of man who has been named director of the newly established Kennedy Institute for the Study of Reproduction and Bioethics at Georgetown University, thinks they're all "out of whack."

"It's absurd, if you take an aeroplane (sic) out of Washington to Los Angeles and take a window seat, to say the United States is too densely populated. The problem is that it's totally maldistributed.

"The population grows and contracts, grows and contracts and gives people all kinds of problems . . . We build a mass of schools and in a few years they're empty . . . We must decentralize, but decentralize with justice."

We cannot, says the Catholic executive of a Catholic-funded foundation located at a Catholic University, go by what "Catholic priests have been saying for years: 'There's no population problem because there's lots of room in Brazil.'"

HOLLAND-BORN

Born in Holland—a country 18 times more densely populated than the U.S., Hellegers is pleading for emphasis on planning based on demography (the statistical study of populations in regards to size, density, growth, distribution, migration, etc.)

Properly anticipated, he says, "a trip from Washington to Bethesda could have taken you through the country," as does a trip from Antwerp to Ghent, instead of, "what will be concentrated ugliness 50 years from now."

But we cannot plan, Hellegers says over and over again, until we approach the key question in population: not whether the American woman is having too many babies or not enough, but how many children she and her husband want to have and why:

"People who do not want to have children do not have them.

"In France in the early 19th century, they were at a state of two children per family and that was before IUDs, pills, condoms, diaphragms or even the vulcanization of rubber."

LIKE A HEADMASTER

Sitting in his third floor office at Georgetown University Hospital, the 45-year-old professor of obstetrics and gynecology speaks in lengthy, thought-ridden sentences which are touched with a Flemish-British accent.

From apearances, Hellegers could be someone from a "think tank," or, maybe the prep school headmaster in a Louis Auchincloss novel, khaki pants, striped tie, blue blazer. Left hand in his pocket, right hand on his cigarette.

"In the United States in the 1950s, people suddenly liked having children. In the 30s, they did not like having children and they didn't have them. Today, they do not like having children."

But, says the expert populationist from beneath framed pictures of his four children, "If you were to come out tomorrow with the absolutely perfect contraceptive, and people want four children, chances are they will have them and will contribute to the population growth." (The present replacement rate is 2.2 children per family).

Hellegers jumps from his chair to a desk piled with books, pamphlets and reams of sheets carefully underlined with red magic marker. He pulls out a demographic curve prepared at Princeton University.

"In the white population of America in 1800, the average total fertility per childbearing woman was 7.2 children. Steadily decreasing, the average hit the four child family mark in the late 19th century.

By the Depression years of the 1930s, the average went down to slightly over two children. Then, in the prosperous '50s, families shot up to 3.8, before falling off again in the '60s and '70s.

"This question is, what is it that makes you determine to have four or one or none. That has nothing to do with contraceptive technology, it has to do with the sociology of family building, what factors make people decrease their family size. And that is precisely the part we know least about.

"Ironically," Hellegers adds with a mocking chuckle, "it is also the part which the United States government is the least interested in."

In fiscal 1971, the budget for contraceptive services was $39.6 million. The accepted proposal for 1972 was $90.9 million. The increase in the same period of time for what Hellegers would call "true population research" (demography, sociology, behavioral sciences) was a little over $1 million.

Hellegers' dream, after studying fetal physiology in Britain, lecturing in population dynamics at Johns Hopkins University, and participating in population research nationally (on President Lyndon Johnson's special committee) and internationally (on Pope John XXIII's commission on world population), was to "get it all together."

GIVEN HIS CHANCE

He decided that "someplace I'd like to see established a unit in the study of 'bioethics' that would combine all the biological, ethical and social problems related to the whole question of reproduction."

Now, after nearly seven years as resident expert on population at Georgetown, Hellegers has been given his chance in the form of $1.35 million from the Joseph Kennedy Foundation.

There are several known answers which Dr. Hellegers mentioned as giving some light to the enigma of when, why and how many children people want.

Used properly, he adds, this knowledge renders "pleasant ways of inducing small family size."

For example, "is a very well established fact that migrants have a lower fertility rate than non-migrants . . . People that came off the farm in the South and moved into the big cities, had fewer children when they got through than they would have had they stayed on the farm . . . They were 'upward socially mobile,' and consequently they had smaller family sizes.

"Now we have taken the factories out of the cities . . . imprisoned the workers in the inner city and taken away their mobility.

"In other words, there are two ways of decreasing family size which are utterly reasonable. One is to give a job to the poor who have the larger family sizes and thereby give them some hope and upward social mobility.

"The other, which, up to now we have chosen is to take everything away, take the condoms in and stand surprised that they are not used."

Hellegers says too that "one of the greatest things to be done to decrease family size is to have women go to college. Then, there are a number of options open to her instead of sitting around and having a bunch of kids."

VIEWS ON ISSUES

"We also know," Hellegers stressed, "that contrary to what the man in the street tends to think, middle and upper class negroes—income for income—have fewer children than whites of the same class. And, upward socially mobile negroes have smaller families than whites of equivalent income."

Hellegers also commented on these population-connected issues:

Abortion.—In the future, he feels abortion will probably resemble some sort of tribalistic ritual: "It is philosophically out of date and will not be viable historically. I have a suspicion that in 50 years, the idea of regulating family size by putting your legs in the stirrup and being scraped out is something we'll look back on as, my God . . . incredible.

". . . A large fraction of abortions—and much more than we thought—is used in the never pregnant or unmarried women, that is shown in the annual register of abortions performed.

"But—and here is the thing—the fact that in the unmarried state, she got an abortion does no at all mean that when she gets married she will have a fewer than 2.2 children.

"What we hope to find out is what happens to ultimate family size with those aborted in the unmarried state."

Catholic Church.—"I am perfectly convinced that, as far as the position of Catholicism is concerned, it is going to have to go for the perfect method of family planning (contraception) because people are just not going to have 7 or 12 children.

"By the same token, I think the church is on excellent historical grounds in holding on to the dignity of the fetus and considering it in the human race instead of out of it."

Divorce.—"I tend to believe that divorce is counter productive in terms of population decrease. There is an increase in the number of people who have the family size they intend having, say three kids, by the age of 24 or 25, who then at age 32 or 30 get divorced and remarried and then have another child to 'cement' the new marriage."

Male contraceptive.—"It's nowhere and it's got real problems. The thing is that with the pill, you do not hit the woman's ovaries. You fire at the pituitary and that takes care of the ovary.

". . . The difficulty in the male is that it's much harder not to hit the gonad itself. There is no nice indirect way of hitting it and that means your methodology endangers the sperm that you want to keep intact for the future.

". . . In the female, what you are after is the money that's in circulation. In the male, it's rather like attacking the mint."

A HARD LOOK AT BUSING

HON. DONALD W. RIEGLE, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. RIEGLE. Mr. Speaker, this past weekend I delivered a statement to the Rotary meeting in Flint, Mich., discussing our educational crisis today and the need for positive leadership to end school segregation and provide equal educational opportunities for all American children. With your permission, I would like to insert my remarks and add them to the ongoing congressional discussion of this important problem:

A HARD LOOK AT BUSING

As we all know, recent court decisions have found numerous instances of deliberate school segregation and unequal educational opportunity based on race. Deliberate racial segregation—in schools, jobs, housing, or public accommodations—is a violation of our Constitution and Bill of Rights—and where found—must be corrected. This is the law of our land, and I support those laws as do virtually all of our citizens.

In an effort to remedy segregated schools and unequal educational opportunity, some courts in some instances have ordered busing plans to achieve racial integration and equal education.

Each case is different and each has to be weighed on its own individual merits.

As I review these cases one by one, some findings seem reasonable, some do not. For example, where busing has previously been used to create a separate black and white school system, as often was done in the South, I believe that same existing busing system can now be used to intelligently integrate these same schools. I do not believe black youngsters should be bused 25 miles past a white school because of race, or vice versa. And I think that is the view of most Americans. Further, I believe that in cases where the courts have imposed busing plans which have been implemented, the federal government should provide emergency funds for communities that otherwise will have to lay-off teachers, policemen or make other critical cutbacks.

In other cases we find school systems, in various regions of the country, where racial segregation was not practiced openly, but where school boundary lines have been deliberately drawn to prevent the natural integration of students. In these instances, a conscious effort was made to force black students and white students in adjoining neighborhoods to attend separate black and white schools. That practice is a violation of the law and, where it exists, must be stopped. It was in the Pontiac case here in Michigan that the courts found that school boundary lines had been redrawn repeatedly in order to keep students segregated on the basis of race.

We have not done that here in our own city of Flint. There has been no effort—that I am aware of—to segregate our school children based on race. In racially mixed areas we find racially mixed schools; in areas which are all black or all white, the neighborhood schools there reflect that fact. Although I have not done a detailed study of our school boundary line history here in Flint—as the court would if a suit were brought—it appears to me that a good faith effort has been made by local officials to avoid arbitrary school assignment based on race. And I congratulate our local school officials for this.

Flint is different in yet another respect. Virtually all of our neighborhood schools are

also community schools offering a wide variety of after-hour activities. The community school idea—one of the best educational developments in the last century in America—works best if students are naturally assigned to the schools nearest their homes. I strongly favor neighborhood schools—especially for elementary school children—and I am personally committed to finding an answer that will produce racial integration and equal education within the framework of neighborhood schools.

We now face a new and difficult issue. It concerns the difference between deliberate school segregation on the basis of race (de jure) and unplanned school segregation based on housing patterns (de facto). Some courts seem on the verge of ordering massive cross-town, or cross-district, busing plans to overcome unplanned, or de facto, segregation.

Understandably, this has touched off great public concern and anxiety. And many of us who strongly support integrated schools and truly equal education are deeply troubled about the practical wisdom of large scale busing to overcome de facto segregation.

Many factors have to be considered and they include: cost of buses, student time spent on buses, safety of buses, traffic congestion, pollution—etc. Also, do we wish to see neighborhood schools eliminated with children sent to distant schools? In such cases after-school activities become harder to participate in, parents find it harder to serve as home-room mothers and in the PTA, and youngsters are harder for parents to get to in emergency situations—particularly those of elementary school age.

Also we must consider the general social disruption that occurs when citizens are asked to accept governmentally imposed programs they do not favor. While the law is the law—and we all should obey it—wise law is that which earns the support of reasonable people.

I personally see the benefits of racially integrated education. I endorse it and support it. I had the good fortune in Flint to attend school with students of all races, and I feel fortunate to have had that opportunity. Further I believe in equal education—and want to see each and every American youngster receive an equal educational opportunity. At the same time I support the neighborhood school/community school concept—and do not wish to see that system disrupted.

These goals necessarily bring me to the conclusion that the wholesale busing of students to overcome de facto segregation is not, in my judgment, a sound practical answer to the problem at hand. I believe better answers exist which can, and must, be found. I am personally dedicated to the search to find those better answers.

In that respect, several things seem clear. First, we must and racial discrimination in our society in all its forms so all our people are free to develop and succeed on the basis of their individual abilities. When this occurs, I believe economic equality will follow for all races and will substantially eliminate other racial inequities we now find in our society.

In housing integration, our community took the lead nationally and became the first major city in America to pass an open housing ordinance in a public referendum. When people of all races are free to move into neighborhoods of their own choosing, I believe the present heavily segregated housing patterns we find in our country will begin to dissolve.

Further, I am convinced we must find a new method of financing education—no longer relying mainly on property taxes—and then we must truly equalise the expenditure among our school children so that each youngster in America has an equal educational opportunity to learn and develop. Poor children in poor neighborhoods—whether black or white—must not be condemned to a second-class education in a run down school. That is wrong.

After long thought then, most citizens, myself included, have concluded that wholesale busing of students is not the best way to achieve the above goals. And so I have joined with others to seek to delay the implementation of court-ordered busing plans until all appeals have been heard and all other remedies considered. I strongly support the position Governor Milliken has taken in this regard and the general statement he made.

That would give us time—if we get busy—to figure out a better and permanent answer as an alternative to large scale busing. I think we can, but it will mean knowing more than just "what we are against"—it also means doing some work so we can decide "what we are for".

So I am asking each citizen to help find that answer. To engage in a thoughtful, reasoned search for alternatives based on an objective evaluation of the facts we have to work with. It will mean blacks and whites working together to find the answer that is best for all our people and for our country.

That means it is no longer a question of "which side you are on". Our job is to find an answer that can unite us—that will let us come together on the same side. If we remain divided and polarized, we hurt our country—and ultimately ourselves and our children.

Education in America has traditionally been a local responsibility. I favor that approach. I believe we have the creativity and devotion here in our communities to devise and operate our own school systems. I would prefer to see us keep the Federal Government out of the act as much as possible. But gentlemen, today—that requires leadership. And not just from those few people elected to local public office, but also from each of you as well. Your brains, problem solving ability, experience, and ability to persuade and *lead*, is essential at this time, and on this issue.

You, here in this room, will play an essential part in finding the "better answer" to our education problem. If your role is passive—and limited to armchair observations, our community faces a prolonged period of potential agony and turmoil. Frankly that would be inexcusable. If you invest yourselves actively and take your leadership out into the community and put it on the firing line, then we can start building the bridges and bring our people together behind new plans and ideas that can work.

I ask you—in behalf of every youngster in this district—to take up this challenge, and at this critical moment in our history, to use your talent to make self government work.

I believe there's a better answer than bussing—let's find it.

MEMORIAM TO RICHARD EMBLY

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. WOLFF. Mr. Speaker, only a few men have had the front row vantage point and the backroom knowledge of history in the making as did Richard Embly, 58, a former superintendent of the House Press Gallery, who passed on November 11 after a heart attack at his home in his native Port Deposit, Md.

Before his retirement in 1969, Mr. Embly served 30 years in the gallery, the last 9 as superintendent. The daily flow of news releases, reports and other official paper plus the flood of telephone calls that engulf the gallery were always handled with efficiency and courtesy by Dick Embly and his staff. For a Congressman and his staff, Dick Embly always seemed to know here to find needed newspapermen, who can be just as elusive as Congressmen.

For 30 years Dick Embly watched Congressmen arrive and depart, newspapermen come and go, and he knew them all by sight and by name as well as much of their background. He was conversant with every move of the legislative battles on Capitol Hill which have done so much to shape the course of this Nation's history. Every 4 years, he was one of those who handled press arrangements at the national political conventions, so he knew Presidents before they became Presidents.

A member of my staff, Ed Edstrom, tells me that members of the Capitol's press galleries count the ballots at the often hotly contested annual elections of the National Press Club.

"I ran for office four times at the club and Dick was always one of those who tallied the votes," Ed says. "I won each time so I know that Dick was an honest man."

I think Dick Embly would have chuckled at that.

NO JUSTIFICATION FOR MAYOR'S COMMITTEE TO SUPPORT HEROIN MAINTENANCE

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. KOCH. Mr. Speaker, there are proposals now being advanced in New York City to legalize the dispensing of heroin on a test basis. I am distressed to see that the city administration is giving support to these proposals by creating a committee to advance them. I am opposed to the legalization of heroin. Legalization in effect means that we are throwing in the towel and saying to the estimated 200,000 addicts in New York City "you can go on ruining your lives and the lives of your families and we the public will help you do exactly that." Not me.

I have been in communication with Dr. Vincent P. Dole who is the originator with his wife, Dr. Marie Nyswander of the methadone program and I have asked his opinion on the advisability of the proposed free heroin test program advocated by New York City's administration. For the interest and information of our colleagues, I am appending the correspondence with Dr. Dole.

Mr. Speaker, a board of education report in New York City shows that more than 25,000 youngsters are on heroin and I find it indefensible that anyone would suggest that we follow that habit.

The correspondence follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., June 30, 1971.

Dr. VINCENT DOLE,
Beth Israel Hospital,
New York, N.Y.

DEAR DR. DOLE: I hope you will recall that we met when I was in the City Council. At that time, I requested your assistance in obtaining a methadone bed for a young man who desperately wanted to go into your program. My recollection is that at the time you had 43 such beds. He was fortunate and went into the program in, as I recall, 1968.

About a month ago, I was standing at a subway at 8th Avenue and 57th Street handing out reports to my constituents. This young man came out of the subway and introduced himself to me and told me how his whole life had been changed. He has since married and is now working in the building construction trade. He is doing very well and is still, of course, on methadone maintenance.

I have taken a position in opposition to the Mayor's Committee which has proposed heroin maintenance. Aside from every other argument which one might use in opposition to heroin maintenance, my major argument is that there are thousands of heroin addicts who are standing in line waiting to get into the methadone program. And before we begin a heroin program, we ought to at least give to everyone eligible for methadone that opportunity.

I would appreciate your advising me as to how many methadone beds now exist, how many people are waiting to get into the program and how long one must wait before he or she is accepted. Whatever else you might give me by way of information in support of extending and funding the methadone program would be very much appreciated.

With the thought it might be of interest, I am enclosing a recent statement I made on the subject of drug addiction.

Sincerely,

EDWARD I. KOCH.

THE ROCKEFELLER UNIVERSITY,
New York, N.Y., August 17,1971.

DEAR CONGRESSMAN KOCH: I am very glad that you are taking a position in opposition to the Mayor's Committee on the issue of heroin maintenance This proposition is wholly unjustified in terms of social need or scientific merit. There are at least five thousand heroin addicts who have applied for methadone maintenance and are forced to remain on the street as heroin addicts for lack of facilities. Basically, this means lack of about $1,000 per man-year to provide maintenance treatment and the essential minimum of social supports.

As you probably know, I have been working in the Detention Prisons for the past five months. Here we have started an interview system to enable prisoners, while still in detention, to apply for aftercare in a treatment program of their choice. The great majority of these criminal addicts have asked for methadone maintenance treatment. All that we can do at present is to put their names on a list and assure them that we are trying to expand facilities to provide treatment in the future. If adequate facilities were available to meet the needs of every criminal addict who applied to us for treatment, I believe that within a two year period we could make a substantial impact on the problem of criminal addition.

Scientifically, the only justification offered by proponents of heroin maintenance is that it is an experiment. This label is hardly justification for doing something foolish. What we know from past experience is that it is not possible to stabilize an addict on heroin. With this drug he requires several injections per day and his need for the drug constantly increases. If he is not given increasing doses, he feels symptoms of abstinence and, of course, will go back to the street to seek supplementary drug. Moreover, it would be necessary to give large amounts of heroin and needles and syringes to addicts to take home to the neighborhoods. Experience in England has left no doubt that this procedure leads to a spread of heroin addiction.

I do not see any merit in distributing heroin, but if any competent professional feels that more pharmacological studies of heroin maintenance are indicated, the way is open to him now, and he need only follow normal procedure for research on human beings: He prepares a careful protocol of the proposed experiment, submits it to his institutional review group and then, with their support, makes application to a medical granting health agency, such as New York City's Health Research Council, or the National Institutes of Health. These agencies again subject the application to review, and if it meets their standards, funds and support are forthcoming. This is the procedure that I followed when, in a quiet, unpublicized series of experiments at Rockefeller University Hospital, I actually tested the effect of administering narcotic drugs in different doses and by different routes to volunteer addict subjects. It was clear to me from these experiments, as it has been clear to previous investigators at the Lexington Hospital in Kentucky, that heroin maintenance has no promise as an answer to our social problem of heroin addiction. I am afraid that the proposals generated by the Mayor's Council were more political than scientific.

I do indeed remember our first meeting when you were in the City Council and have followed with interest your career in the House of Representatives. It is good to know that you are there and although it has not been necessary to put the matter to test, I have always felt confident that you were there as a strength if I needed you.

With best wishes.

Sincerely yours,

VINCENT P. DOLE, M.D.,
Professor and Senior Physician to the Hospital.

NOVEMBER 1971, REPORT ON ENVIRONMENTAL QUALITY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. DINGELL. Mr. Speaker, so that my colleagues may have an opportunity to be advised of its contents I insert the text of the November 1971 issue of the Council on Environmental Quality's "102 Monitor" to appear at this point in the CONGRESSIONAL RECORD:

ONE HUNDRED TWO MONITOR COUNCIL ON ENVIRONMENTAL QUALITY

TWENTY QUESTIONS AND ANSWERS EXPLAINING THE NEPA SECTION 102 ENVIRONMENT IMPACT STATEMENT PROCESS

(NOTE.—CEQ Weekly Notice of 102 Statements in Federal Register—Beginning this month, the CEQ will give faster public notice of the availability of 102 Statements and comments by inserting a weekly list in the *Federal Register*. You may subscribe to the *Federal Register* for $25 yearly by sending your name and address to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. You will also find copies of the *Federal Register* in many public libraries.)

Question. 1. What is a "102 statement"?

Answer. It is a detailed analysis of environmental aspects of proposed action which all Federal Government agencies are required to prepare and use in their agency review processes before they take any "major actions" (including recommendations and reports on legislation) which "significantly affect the quality of the human environment."

Question: 2. Why is it called a "102 statement"?

Answer: Section 102, in particular 102(2)(C), of the National Environmental Policy Act ("NEPA") (Public Law 91-190, 91st. Congress, January 1, 1970, 42 U.S.C. Sec. 4332(2)(C)) created the requirement for the statement, and set forth the procedure to be followed in its preparation and the topics it must discuss:

(i) The environmental impact of the proposed action

(ii) any unavoidable adverse effects

(iii) alternatives

(iv) the relationship of short-term uses and long-term productivity

(v) any irreversible and irretrievable commitments of resources.

The Council on Environmental Quality has issued Guidelines on how agencies are to meet this requirement (36 *Federal Register* 7724, April 23, 1971) and most agencies have set up procedures applying the requirement to their own programs.

Q: 3. Who prepares 102 statements?

A: The law says only that it shall be prepared by "the responsible official". Agencies are currently working to prepare final procedures for making their particular operations accord with the Act, and each agency's procedures identify which official must issue 102 statements.

Q: 4. Do agencies of State Government have to prepare these statements?

A: Unless the State requires this under its own law, States prepare statements only when their actions are supported by Federal contracts, grants, or permits, *and* the Federal agency procedures have delegated initial preparation of statements to the state level. An example is the Federal Highway Administration, which provides matching grants for many state highway construction programs. The draft statements here are generally prepared by the State Highway Departments; the Department of Transportation takes responsibility for the final statements.

Q: 5. Must industry prepare 102 statements?

A: Generally speaking, no. The exception comes when an industry action requires a Federal license or permit—such as a Corps of Engineers dredging permit, a transmission line right-of-way across Federal land, or Federal Power Commission license for a dam.

When a Federal regulatory or permit action calls for a statement, the Federal agency will still prepare the environmental statement, but may require the private industry proposing the action to file a preliminary environmental report analyzing the environmental aspects of what it proposes to do.

Q: 6. What if two or more agencies are involved in the same project?

A: One is chosen to be the "lead" agency and made responsible for the environmental impact statement.

Q: 7. How large must a project be before it is considered a "major action" with "significant impact"?

A: Again, this varies from department to department, as each applies NEPA to its own activities and problems. The CEQ Guidelines (§ 5(b)) indicate that "highly controversial" actions are to be covered, as well as decisions taken over a period of time which, though individually not major, have a "cumulatively significant impact."

To note some examples, the Corps of Engi-

neers' proposed final procedures (*Federal Register*, June 11, 1971) call for statements not only on the Corps Water Resource Projects but also on "leasing of project lands for industrial uses, requests for overhead rights-of-way mineral extractions such as sand, gravel, rock, etc. . . ."

The Federal Power Commission's proposed regulations (36 *Federal Register* 13040, July 13, 1971) place the cutoff line for hydroelectric projects at 2,000 horsepower; above that, regulation involves a major action, while below it does not.

Q: 8. When are statements prepared?

A: The Council's Guidelines indicate that they must be made "early enough in the agency review process before an action is taken in order to permit meaningful consideration of the environmental issues involved" (§ 10(b)). In addition, the "action-forcing" 90 day waiting period requirements (see Q #17) means that the Federal agency considering a project must anticipate a minimum ninety day wait from filing the draft statement to beginning action.

Q: 9. How many 102's does the CEQ receive in a month? How many since enactment of NEPA?

A: The November 1971 Monitor listed 101 draft and 95 final statements, for a total of 196 of which over half related to highway construction. Since enactment of the National Environmental Policy Act on January 1, 1970, almost two thousand draft and 850 final statements have been catalogued, covering a total of 2040 actions (including legislative proposals and reports) subjected to environmental analysis under the Act.

Q: 10. What is the difference between a "draft" and a "final" statement?

A: The CEQ Guidelines require that each statement be prepared in two stages: first, the sponsoring agency prepares a draft statement using its own expertise and information. The draft is then reviewed and commented on by other agencies which have specialized expertise relating to the project. Finally, the sponsoring agency uses these comments to modify the project plans (if indicated) and to prepare a final statement.

Q: 11. Who is asked to comment?

A: The Guidelines contain an appendix which lists Federal agencies with expertise in particular aspects of the environment which should be asked to comment. In addition, when State or local review is relevant, copies of the draft are either sent to the State, regional, and metropolitan clearinghouses set up by Circular #A-95 of the Office of Management and Budget or directly to State and local agencies authorized to develop and enforce environmental standards. The CEQ receives ten copies of every statement and may also comment.

Q: 12. What role do members of the public have in the commenting process?

A: The agency preparing the draft statement is responsible for making it available to the public (under the Freedom of Information Act (5 U.S.C. § 552)—see Q #18). Any individual or organization may then comment on the draft; he may express support or opposition, suggest alternatives, or point out project effects that may have escaped the attention of its sponsors. These comments may be in the form of a letter, a critique, or even, as done by some citizen's groups, a "counter-102" setting forth their views and analysis in as great a depth as the draft itself.

Q: 13. How soon must comments be made?

A: Ordinarily agencies must allow at least thirty days for comments (forty-five for EPA comments on projects with effects in the areas of EPA jurisdiction). Some have written longer periods into their procedures. The Guidelines suggest that requests for 15 day extensions should be considered favorably.

Q: 14. How can people find out about comments?

A: The summary sheet attached to each draft statement lists the agencies consulted; the final statement is made available with copies of all comments received. The sponsoring agency is responsible for making comments available on request (under the Freedom of Information Act); such request should be directed either to the sponsoring agency's nearest regional office, or to its environmental liaison officer (listed in Appendix II of the Guidelines).

Q: 15. How can the public get copies of statements and comments on such statements?

A: All draft and final statements, unless classified are listed in the *102 Monitor;* since May they have been given a NTIS (National Technical Information Service) order number, and since August, an ELR (*Environmental Law Reporter*) order number. (see p. 8 for information on how to order the statements from NTIS or the Environmental Law Reporter). It is particularly important to a prompt response that the order number be sent to NTIS.

Copies of statements are also kept at the offices of the agency that prepared them, as well as being available to the public at the State and regional clearinghouses (see Q. #11).

Representatives of conservation groups who feel that they will want to comment on many of an agency's statements should contact either the nearest regional office or the agency's environmental liaison official (see Q #14) with the request that their names be added to the mailing list for commentators.

Q: 16. Is there any other way to involve the public in project review?

A: Yes—the public hearing. Some agencies (e.g., the Federal Highway Administration) are required to hold them as a matter of statute, while others are encouraged by Executive Order 11514 to hold them as a point of contact with public opinion. For non-regulatory hearings, the draft statement must be made available fifteen days in advance of the hearing.

Q: 17. What chance is there for the draft and final 102 statements to affect agency action?

A: CEQ's Guidelines § 10(b) provides that "to the maximum extent possible" no administrative action is to be taken within 90 days after the draft statement has been made available to the Council and the public, nor is it to be taken within thirty days of the final statement's availability (the time periods may overlap). In other words, an agency cannot start work until the public and the Executive have had at least 90 days to examine the environmental consequences of the plan—and if the final follows the draft by more than 60 days the review time is extended as well.

These waiting periods only apply to actions the agency can take itself—not legislative proposals or reports—and may be modified with the CEQ's consent when emergency circumstances, expense to the Government, or impaired program effectiveness make modification appropriate.

Q: 18. What is the CEQ's role in the 102 process?

A: As the agency supervising the whole § 102 process, the Council must pay special attention to maintaining the "traffic rules" for the flow of reports, leaving most substantive comments to the particular "expert" agencies.

The Council also serves as advisor to the President on environmental questions. In this capacity the Council may comment on particularly important or controversial projects and suggest what courses of action might be followed.

Q: 19. What effect has the § 102 process had?

A: Federal agencies have taken, modified, and avoided actions on the basis of the NEPA environmental analysis. For example, the Corps of Engineers refused to grant some dredge and fill permits in order to protect ecological and esthetic values. The Corps also has suspended some water resource projects pending consideration of the environmental impacts. The Coast Guard has denied several bridge construction permits to avoid adverse environmental consequences. The Forest Service switched from clearcutting to selective cutting in a National Forest, the Department of Transportation reconsidered several proposed Interstate Highway routes, and the Department of Defense amended plans for munitions disposal.

(For a fuller discussion of this question see the CEQ's Second Annual Report, pp. 25–27 and Chapter V, "The Law and the Environment.")

Q: 20. What legal rights does the citizen have under NEPA?

A: Most courts have concluded that the NEPA "102" environmental statement procedure is court enforceable at the suit of interested citizens. The extent of the citizen's right to sue is still being defined by the courts, particularly since it is linked to broader questions of administrative law, such as scope of judicial review, "standing," sovereign immunity, etc. (see Chapter V "The Law and the Environment," of the Council's Second Annual Report for more detailed information).

The 102 Monitor is published by the Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006. If your address is incorrect, please write to Hope Hale, Acting Editor.

The title of this publication refers to Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(c). File this and subsequent issues in a ring binder for handy reference.

SOURCES FOR ENVIRONMENTAL IMPACT STATEMENTS

In order to receive more efficient and prompt service, requestors are urged to order draft and final impact statements from the Department of Commerce's National Technical Information Service (NTIS) rather than the preparing agency. Each statement will be assigned an order number that will appear in the 102 Monitor (at the end of the summary of each statement) and also in the NTIS semi-monthly Announcement Series No. 68, "Environmental Pollution and Control." (An annual subscription costs $5.00 and can be ordered from the NTIS, U.S. Department of Commerce, Springfield, Virginia 22151.)

Final statements will be available in microfiche as well as paper copy. A paper copy of any statement can be obtained by writing NTIS at the above address and enclosing $3.00 and the order number. A microfiche costs $0.95. (Paper copies of documents that are over 300 pages are $6.00.)

NTIS is offering a special "package" in which the subscriber receives all statements in microfiche for $0.35 per statement.

Statements will still be available for public scrutiny in the document rooms of the various agencies. However, only limited copies will be available for distribution.

Yet another possible source of statements is from the Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036. To order a document, please indicate the Department, date, and ELR Order No. (given at the end of each summary). The Institute charges $0.10 per page, and as you will note the number of pages is also given at the end of the summaries. Please enclose the correct amount of money with your order and mark the envelope to the attention to the "Document Service."

SOURCE FOR BACK ISSUES OF THE 102 MONITOR

Because the supply of past issues of the 102 Monitor is not sufficient to meet all requests, a list is provided below indicating where the various issues of the 102 Monitor appeared in the *Congressional Record*. You may wish to order these *Congressional Records* from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 ($.25 per copy).

Vol. 1, Nos. 1, 2 & 3—*Congressional Record*—April 28 (Extension of Remarks), page E 3607.

Vol. 1, No. 4—*Congressional Record*—May 27 (Extension of Remarks), page E 5151.

Vol. 1, No. 5—*Congressional Record*—June 16 (Extension of Remarks), page E 6023.

Vol. 1, No. 6—*Congressional Record*—July 28 (Extension of Remarks), page E 8458.

Vol. 1, No. 7—*Congressional Record*—Sept. 13 (Extension of Remarks), page E 9453.

Vol. 1, No. 8—*Congressional Record*—Sept. 24 (Extension of Remarks), page E 10002.

Vol. 1, No. 9—*Congressional Record*—Nov. 1 (Extension of Remarks), page E 11596.

ON THE FOLLOWING PAGES ARE ENVIRONMENTAL IMPACT STATEMENTS RECEIVED BY THE COUNCIL FROM OCTOBER 1 THROUGH OCTOBER 31, 1971

(NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.)

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250 (202) 388–7803.

Agricultural Research Service

Draft

Title, Description, and Date of Transmittal

Cooperative Diapause Control Program for Boll Weevil, *Texas* and *Mexico*. The statement describes present and future plans for controlling the spread of boll weevils in the Texas High Plains. Recommends the use of the insecticide, aldicarb, in order to reduce the use of malathion. Aldicarb is highly toxic and will be applied only to rows in the margins of selected fields near ideal overwintering quarters. Some studies have been done to determine aldicarbs effect on insects, animals, etc. (ELR Order No. 1069, 18 pages) (NTIS Order No. PB–203 608–D) 10/22.

Forest Service

Draft

Title, Description, and Date

Proposal to declassify the Uncompahgre Primitive Area, Uncompahgre National Forest, *Colorado:* consists of 58,252 acres of National Forest and 16,001 of privately owned lands that embody few characteristics of wilderness as defined in the Wilderness Act of 1964. (ELR Order No. 1050, 29 pages) (NTIS Order No. PB–203 515–D) 10/14.

Six Rivers Timber Management Plan, Six Rivers National Forest, *California*. Plan to use a combination of even-aged and all-aged management with emphasis on even-aged management for developing timber resource. Some 2,064 million board feed will be harvested over a 10 year period. Statement discusses impact on soil, water, wildlife, fish, etc. Thought had been given to making Six Rivers National Forest a Wilderness area. Comments made by DOI, various State of California agencies, Sierra Club, KIEM Television Station, Western Lumber Mfg. and consulting foresters. (ELR Order #1001, 49 pages) (NTIS Order #PB–203 319–F) 10/12.

Soil Conservation Service

Draft

Title, Description, and Date

Hollow Creek Watershed, Lexington and Saluda Counties, *South Carolina*. Proposes conservation land treatment over 2,700 acres supplemented by two floodwater retarding structures. Project will destroy agricultural use and wildlife habitat on 91 acres of pasture—and woodland. (ELB Order #936, 8 pages) (NTIS Order #PB–203 233–D) 10/6/71.

Carbon Hill Watershed project, *Montana*. Includes land treatment measures such as ditch lining, land leveling and water control structures. Other parts of the project are: 4 reservoirs, and open channel, floodway and drainage system, etc. Purpose: reduce flood water and sediment damages, etc. Requires 287 acres for these measures; may also increase salinity of the water. (ELR Order #998, 12 pages) (NTIS Order #PB–203 315–D) 10/8.

Palatlakaha River Watershed project, *Florida*. Involves installation of 19.4 miles of channel improvement, 10 grade stabilization structures and 11 water control structures. Purpose: reduce erosion, sediment, floodwater damages, etc. Will result in loss of 185 acres of sloughs, marshes and open water since will be used for spoil storage. (ELR Order #1014, 27 pages) (NTIS Order #PB–203 477—D) 10/13.

East Fork of Whitewater Watershed project, *Indiana*. Provides for land treatment practices on over 91,000 acres with 47 small dams, 3 multiple purpose structures for flood prevention and public recreation, 10.3 miles of stream environmental corridor development for public recreation, 19.6 miles of channel impovement, etc. Purpose: reduce flood damage, erosion of sediment. About 250 acres of woody wildlife habitat, 250 acres of grassland and 800 acres of cropland will be inundated or destroyed. (ELR Order No. 1044, 16 pages) (NTIS Order No. PB–203 512–D) 10/19.

Hurricane Creek Watershed structural project measure, Hopkins, *Kentucky*, in the Tradewater River Resource Conservation and Development Project (flood prevention). Consists of accelerating land treatment, installing 3 floodwater retarding structures, and improving 4 miles of channel. (ELR Order No. 1057, 10 pages) (NTIS Order No. PB–203 511–D) 10/20.

Final

Title, Description, and Date

Lost River Watershed project, *Indiana*. (An earlier statement was sent on August 11, 1970. It was considered a final, but in fact was a draft.) Plan calls for a comprehensive land treatment program, 11 floodwater retarding structures, 2 grade stabilization structures and 44 miles of stream channel improvement. Purpose: reduce erosion, flood damages, increase recreation area. Will result in a change of land use. For example, 327 acres of woodland and 52 acres along channel banks will be lost for its wildlife value, approximately 22 miles of River will be inundated. (ELR Order No. 903, 76 pages) (NTIS Order No. PB–202 976–F) 9/27.

Yaeger Ditch Project Measure, Southeast Texas Resource Conservation and Development Program, Orange County, *Texas*. Involves additional land treatment measures on 150 acres of pastureland supplemented by about 12,135 ft. of channel work. Of this 10,735 ft. will be to increase capacity of the Yaeger Ditch and about 1,400 ft. will be construction of a lateral channel. Purpose: reducing flooding, erosion and sediment damage. Comments made by Army COE, USDA, South East Texas Regional Planning Comm., EPA, various State of Texas agencies. (ELR Order No. 906, 14 pages) (NTIS Order No. PB–201 350–F) 9/29.

Sugar River Watershed project, *New Hampshire*. Includes land treatment on about 80,000 acres and installation of 10 impoundments. Purpose: to reduce annual flood damage. Will flood or cover by dams 1,196 acres of land and 4.4 miles of stream. (ELR Order No. 929, 49 pages) (NTIS Order No. PB–203 150–F) 9/30.

Headwater-Yellow River Project Measure, Gwinett County Resource Conservation and Development Project, *Georgia*. Consists of a floodwater retarding structure (earth embankment) and a spillway, designed to form a 32 acre sediment pool and work on 11.2 miles of channel (removal of trees and debris). Purpose: reduce flood damages, bank erosion, etc. Comments made by Army COE, DOI, USDA, EPA, various State of Georgia agencies (ELR Order No. 595, 18 pages) (NTIS Order No. PB–201 331–F) 10/8.

DEPARTMENT OF DEFENSE

Department of Air Force

Contact: Col. Cliff M. Whitehead, Room 5E 425, Pentagon, Washington, D.C. 20330 (202) OX 5–2889.

Draft

Title, Description, and Date

National Guard Use of Arnold Engineering Development Center (AEDC), Coffee and Franklin Counties, *Tennessee*. Air Force proposes making available to Tennessee National Guard for training of mechanized units 2,500 acres of AEDC land near Tullahoma. Will involve conversion of land from wildlife management area. (ELR Order #948, 22 pages) (NTIS Order #PB–203 238–D) 10/4.

Department of Army

Corps of Engineers

Contact: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office; Office, Chief of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314 (202) 693–6329.

For the reader's convenience we have listed the numerous statements from COE by State in alphabetical order.

Draft

Title, Description, and Date

Fish and Wildlife Mitigation Plan, Cache River Basin Project, *Arkansas*. Modifies authorized project to acquire approximately 30,000 acres of woodland in the flood plains of lower Cache River and Bayou DeView and their development for mitigation of anticipated fish and wildlife losses. (ELR Order #924, 152 pages) (NTIS Order #UEX208 158–D) 9/30.

Columbia Drainage and Levee District No. 3, Monroe County, *Illinois*. Modification work on the levee project consists of constructing 2 pumping stations, 2,500 linear ft. of interception ditches, 36,160 linear ft. of drainage ditches, etc. Purpose: remove impounded interior drainage, reduce flooding. (ELR Order No. 1062, 13 pages) (NTIS Order PB–203 614–D) 10/20.

Falmouth Lake, Licking River, Pendleton County, *Kentucky* (flood control project). Consists of constructing dam and lake 9 miles upstream from Falmouth. Will inundate about 12,300 acres of land and convert 75 miles of free-flowing stream to a slack water impoundment, with concomitant loss of wildlife cover. (ELR Order No. 946, 4 pages) (NTIS Order No. PB–203 221–D) 10/7.

Bucks Harbor navigation project, Machiasport, *Maine*. Consists of dredging an 11 acre anchorage, 8 ft. deep along the southwesterly side of Bucks Harbor. Purpose: improve commercial fishing capability at the Harbor. Dredged materials will be placed at an offshore site, as yet not determined. (ELR Order No. 1005, 11 pages) (NTIS Order No. PB–203 693–D) 10/22.

Choptank River, Caroline County, *Maryland*

XUM

(navigation project). Consists of dredging a navigation channel 12 ft. deep by 100 ft. wide from Pealiquor Shoals to Denton, Md. Will use hydraulic method for dredging. (ELR Order No. 1078, 80 pages) (NTIS Order No. ——) 10/22.

New Bedford and Fairhaven Harbor navigation project, *Massachusetts*. Provides for widening 1,100 ft. long section of 15 ft. deep channel by 100 ft; deepening 900 ft. long, 10 ft. deep channel to 15 ft. and widening it by 100 ft. and at a depth of 6 ft. Purpose: to upgrade navigation and to accommodate commercial fishing craft and recreation boats. (ELR Order No. 923, 108 pages) (NTIS Order No. PB–203 156–D) 9/23.

Mud Creek flood protection project, Broken Bow, *Nebraska*. Channel improvement involves enlarging and realigning, replacing 4 bridges, constructing levees, etc. Also involves diverting the South Branch Mud Creek into North Branch Mud Creek. Will reduce the amount of wildlife habitat. (ELR Order #1034, 12 pages) (NTIS Order # PB–203 473–D) 10/15.

Sugar and Briar Creeks project, Catawba River Basin, *North Carolina* (flood control project). Consists of creek channelization for a combined 7.5 miles from Archdale Dr., Charlotte, to Princeton Ave. on Little Sugar Creek and to Randolph Rd. on Briar Creek. (ELR Order #53, 16 pages) (NTIS Order No. PB–203 232–D) 10/5.

Jetties at Beaufort Inlet, Morehead City Harbor, *North Carolina*. Involves construction of an east and west jetty—the East Jetty tieing into the Shackleford Banks and the West Jetty tieing into the jetty in the Fort Macon State project. Purpose: improve navigation by reducing shoaling in the inlet. (ELR Order #1015, 8 pages) (NTIS Order # PB–203 478–D) 10/12.

Dyersburg, *Tennessee* (flood protection project). Consists of constructing a levee from Highway 51 Bypass, east to the leveed sewage treatment plant and northeast to a point south of the Illinois Central Railroad. Purpose: provide flood protection which will enable implementation of an urban renewal project. (ELR Order #954, 8 pages) (NTIS Order # PB–203 237–D) 10/4.

Arkansas-Red River Basins Water Quality Control Study, Part I, Areas VII, VIII and I, *Texas*. (This draft statement supersedes statement sent April 14, 1971 described as Arkansas-Red River Chloride Control Part 1.) Involves construction of 4-low-flow dams, 3 brine storage dams and about 37 miles of pipeline. Purpose: provide facilities for water quality control and control brines entering Lake Kemp. (ELR Order #1074, 26 pages) (NTIS Order # PB–203 603–D) 10/15.

Stonewall Jackson Lake, West Fork River, *West Virginia* (flood control project). Constructing a multipurpose dam 680 ft. long and 97 ft. high and a lake. Purpose: flood and water quality control, water supply, and recreation. Will inundate 3,470 acres of farmland and wildlife habitat and will result in loss of 35 miles of free flowing stream. (ELR Order #907, 10 pages) (NTIS Order #PB–202 980–D) 9/16.

Final

Title, Description, and Date

Chena River Lakes flood control project, Fairbanks, *Alaska*. Construction of 2 earthfill dams on the Chena and Little Chena Rivers and a levee system on the Tehana River. Project will impound 2 miles of free-flowing stream habitat and will inundate 10,000 acres of marsh and stream habitat during peak flood levels. Purpose: provide protection from flooding, recreation, etc. Comments made by DOI, USDA, EPA, various State of Alaska agencies. (ELR Order #1068, 72 pages) (NTIS Order #PB–201 532–F) 10/27.

Stockton Ship Channel, Venice Island to Stockton, *California* (bank protection project). Involves placement of 6,765 lineal ft. of rock revetment at 6 selected erosion sites on slope of levees, clearing and dredging. Purpose: to repair presently eroded levees, reduce future damage from wave action against levees. Comments made by DOI, Commerce, EPA, HEW, various State of California agencies. (ELR Order #1021, 62 pages) (NTIS Order #PB–199 873–F) 10/14.

Fort Myers Beach Channel, *Florida* (navigation project). Dredging a 2,000 ft. channel extension (11 ft. x 125 ft.) with a turning basin at the easterly end of the existing channel (adjacent to Matanzas Pass). Dredge material will be pumped across Estero Island and placed along the beach. Purpose: to facilitate shrimp boats and barge traffic to and from terminal facilities. Comments made by EPA, DOI, DOT, HUD, various State of Florida agencies. (ELR Order #999, 35 pages) (NTIS Order #PB–199 611–F) 10/11.

Okeechobee Waterway, vicinity of Ft. Meyers, *Florida* (navigation project). Involves enlarging a 5-mile reach of the Waterway in the Caloosahatchee River. Purpose: to improve navigation conditions for commercial use from the Gulf to Lake Okeechobee. Dredge material will be placed in upland diked area and 7 open water areas enclosed by barriers. Comments made by USDA, DOI, EPA, DOT, various State of Florida agencies. (ELR Order #1069, 44 pages) (NTIS Order #PB–199 872–F) 10/27.

Cottonwood Creek Dam, Cottonwood Creek, *Idaho*. Construction of an earth and rockfill structure 117 ft. high. Purpose: provide flood protection to eastern section of Boise. Comments made by EPA, DOI, USDA, Ada County, City of Boise, various State of Idaho agencies. (ELR Order #1090, 36 pages) (NTIS Order #PB–198 724–F) 10/27.

Martin Channel improvement project, *Kentucky*. Involves enlarging and realigning 4.5 miles of channel in Beaver Creek at the Levisa Fork of the Big Sandy River. Purpose: reduce flood stages in Martin. Will result in loss of some wildlife habitat. Comments made by EPA, DOI, Commonwealth of Kentucky Dept. of Natural Resources. No draft statement received. (ELR Order #933, 20 pages) (NTIS Order #PB–203 157–F) 9/30.

Taylorville Lake flood control project, *Kentucky*. Construction of a dam and lake about 25 miles southeast of Louisville. Will inundate 3,050 acres of land and 18 miles of stream, stream bank habitat and stream fishery. Comments made by USDA, EPA, DOI, various State of Kentucky agencies, Lincoln Trail Area Development District, Ind. (ELR Order #1091, 48 pages) (NTIS Order #PB–202 789–F) 10/27.

Mill Creek (Ohio River Basin), *Kentucky*. This channel improvement project involves work on about 3.5 miles of Mill Creek (located between Cane Run Road and US–3100, in southwestern Jefferson County). Purpose: flood relief, drainage control, etc. Comments made by USDA, EPA, DOI, various State of Kentucky agencies and Ohio Metropolitan Council of Governments. (ELR Order 1099, 18 pages) (NTIS Order #PB–202 653–F) 10/26.

Goose Creek navigation project, Somerset County, *Maryland*. Involves dredging channel to a depth of 6 ft. with an additional 2 foot overdepth by hydraulic dredge methods. Begins at Manokin River and extends for 4,400 ft. to a point about 500 ft. upstream of the county wharf at Rumbley. Purpose: improve navigation for commercial fisherman. Comments made by DOI, EPA, various State of Maryland agencies. (ELR Order #1048, 24 pages) (NTIS Order PB–202 642–F) 10/19.

Tocks Island reservoir project, *New Jersey, New York* and *Pennsylvania*. Proposed construction of a dam and 12,400-acre reservoir on the Delaware River. Purpose: flood control, water supply, hydroelectric power, etc. Will result in the loss of 37 miles of free-flowing streams and 10,000 acres of wildlife habitat. Comments made by DOI, HEW, FPC, EPA, Delaware River Basin Commission, Commonwealth of Pennsylvania, State of Delaware, State of New Jersey, State of New York, Del. Valley Conservation Assoc., Lenni Lenape League, Savs. N.J.'s, Natural Environment, Sandyston Township Assoc., Inc., Sierra Club, Tocks Island Citizens Assoc., Tocks Island Regional Advisory Council, Trout Unlimited, Water Resources Assoc. of Delaware River Basin. (ELR Order #902, 214 pages) NTIS Order #PB–202 972–F) 10/1.

New Hope Lake project, Haw River Basin, *North Carolina*. Involves construction of an earth dam, forming lake with a surface area of 14,300 acres. Will inundate about 22 miles of free-flowing stream. Purpose: flood protection, water supply, water quality control, etc. Statement is divided into three volumes—Vol. 1 includes items required in a 102 statement; Vol. 2 provides additional correspondence received after March 30; and Vol. 3 contains the transcripts of depositions. Comments made by EPA, USDA, DOI, DOT, HUD, various State of North Carolina agencies, ECOS, Inc. N.C. State University. (NTIS has assigned a separate order number for each volume—Vol. 1: PB–198 999–F–1; Vol. 2: PB–198 999–F–2, Vol. 3: PB–198 999–F–3. Vol. 1 & 3 are over 300 pages and therefore cost $6.00 apiece.) 10/22.

Mill Creek Lake, Mill Creek, Scioto River Basin, Delaware and Union Counties, *Ohio*. Construction and operation of a dam and other facilities. Purpose: flood control, recreation and water quality control. It will regulate the runoff from a 181 square mile watershed. Will result in loss of farm land and some types of aquatic and terrestial habitat. Comments made by DOI, EPA, Ohio Historic Society. (ELR Order #1006, 54 pages) (NTIS Order #PB–200 949–F) 10/7.

Salt Creek Reservoir, Salt Creek, Scioto River Basin, *Ohio*. Involves construction of a dam and reservoir in Appalachian Region. Purpose: regulate runoff from a 285 square mile waterahed. Comments made by Public Health Service, EPA, DOI, USDA, various States of Ohio Historical Society. (ELR Order #1022, 66 pages) (NTIS Order #PB–202 654–F) 10/28.

Los Esteros Lake, Santa Rosa, *New Mexico*. Involves construction of an access road, an earth and rolled rockfill dam, a tunnel type conduit, and an uncontrolled spillway channel in Guadalupe County. Purpose: flood control, irrigation, etc. 7,360 acres of wildlife habitat will be lost, and about 14 miles of free-flowing stream will become a slack water area. Comments made by DOI, EPA, various State of Mexico agencies, N.M. Ornithological Society, Sierra Club (ELR Order #1078, 69 pages) (NTIS Order #PB–202 431–F) 10/28.

Bristol Harbor navigation project, *Rhode Island*. Consists of an offshore breakwater 1600 ft. long. Purpose: to protect vessels and shore facilities from storms. Comments made by Commerce, EPA, DOI. (ELR Order #950, 31 pages) NTIS Order #PB–203 240–F) 10/6.

Office of the Assistant Secretary

Contact: Col. William P. Gardiner, Chief of Construction Division, Office, Deputy Chief of Staff for Logistics, Washington, D.C. (202) OX4–4380.

Draft

Title, description, and date

Demilitarization of Toxic Munitions at U.S. Army Materiel Command Installations: Anniston Army Depot and Pine Bluff Arsenal, *Alabama;* Pueblo Army Depot, *Colorado;* Lexington-Bluegrass Army Depot, *Kentucky;* Umatilla Army Depot, *Oregon;* and Tooele Army Depot, *Utah*. Involves disposal of toxic (GB, VX, and Mustard) filled munitions. (ELR Order No. 1046, 127 pages) (NTIS Order No. PB–203 509–D) 10/14.

Final

Title, description, and date

Phase 1 deployment of the SAFEGUARD Ballistic Missile Defense System, Grand Forks, North Dakota and Malmstrom AFB, *Montana*. (System must be located close to Minuteman fields in N.D. and Mont. to protect them.) System consists of Missile Site Radar (MSR) and Perimeter Acquisition Radar (PAR), two types of interceptor missiles (SPARTAN and SPRINT), a high speed computer system, etc. Purpose: protection from ICBM attack. Information attached on community impact (several thousand persons will move into the communities to work on the system). Comments made by USDA, HEW, AEC, EPA, DOI, Montana Water Resources Board and North Dakota State Planning Comm. (ELR Order No. 1006, 65 pages—does not include information on community impact) (NTIS Order No. PB–206 321–F—does not include information on community impact) 10/15.

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. George Marienthal, Acting Director of Environmental Impact Statements Office, 1750 K Street, N.W., Room 440, Washington, D.C. 20460 (202) 254–7420.

Draft

Title, description, and date

Waste Treatment project, Spencer, *Iowa*. Application by City of Spencer for a grant to construct a system consisting of an anaerobic-aerated-aerobic lagoon system, intercepting sewer, 2 pumping stations, odor control facility, etc. (ELR Order No. 1000, 17 pages) (NTIS Order No. PB–203 316–D) 10/4.

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Deputy Administrator, GSA–AD, Washington, D.C. 20405, (202) 343–6077.

Alternate Contact: Aaron Wolcshin, Director, Office of Environmental Affairs, GSA–AD, (202) 343–4161.

Draft

Title, Description, and Date

Disposal of portion of Camp Parks, Alameda County, *California*. Involves 4 parcels totaling about 767 acres and 245 buildings. Some of the land will be conveyed to schools. (ELR Order #906, 17 pages) (NTIS Order #PB–202 977–D) 9/29.

Final

Title, Description, and Date

Transfer of 12.36 acres of Los Alamitos Naval Air Station, Orange County, *California* to the Office of Education, HEW. Purpose: to enable the Office of Education to consolidate the Southwest Regional Educational Laboratory by constructing a building on this land. Comments made by HEW, DOT, DOI, EPA, City of Los Alamitos, Resources Agency of California. (ELR Order #1004, 13 pages) (NTIS Order #PB–199 459–F) 10/6.

Disposal of 35.3 acres comprising the Administrative and Launcher Areas, NIKE Batteries LA–70 and LA–73, Los Angeles, *California*. Proposes sale of this land to the Calif. Department of Airports. Comments made by DOT, HEW, EPA, City of Los Angeles. (ELR Order #969, 11 pages) (NTIS Order #PB–198 886–F) 10/12.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Richard H. Broun, Director, Environmental and Land Use Planning Division, Washington, D.C., (202) 755–6186.

Draft

Title, Description, and Date

Marshall Union Manor Corporation Apartments, Portland, *Oregon*. (Section 236 Project No. 126–44802–NP,) The Union Labor Retirement Association has applied for mortgage and interest subsidy assistance for development of a high-rise designed for senior citizens. (ELR Order #998, 8 pages) NTIS Order #PBZ203 312–D) 10/1.

Final

Title, Description, and Date

New Community of Maumelle near Little Rock, *Arkansas*. Proposed offer of commitment to guarantee up to $7.5 million in obligations to finance costs of land development over a 20 year period to Maumelle Land Development, Inc. Projected population is between 45,000 and 60,000 on this 5,319 acre site. The site has a 3.5 mile frontage on the Arkansas River. (The Army Corps of Engineers has underway presently a flood control and navigation project in this area.) Comments made by EPA, Army COE, Metroplan, OEO. (ELR Order #928, 50 pages) (NTIS Order #PB–201 236–F) 10/1.

DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Washington, D.C. 20240 (202) 343–6416.

Bureau of Land Management

Draft

Title, Description, and Date

Jim Bridger Thermal-Electric Generation Project, *Wyoming* and *Idaho*. Includes a 1,500 MW coal-fired steam electric plant (under construction in Rock Springs, Wyoming.), a strip mine nearby, a 42-mile water delivery system, and rail and highway access. Distribution system includes three 345 KV transmission lines between plant and substations in Bingham and Bannock Counties, Idaho. (ELR Order No. 1045, 145 pages) (NTIS Order No. PB–203 520–D) 10/15.

Final

Title, Description, and Date

Proposed Oil and Gas Lease Sale, Outer Continental Shelf, Gulf of Mexico. Lease sale consists of 86 tracts of submerged lands offshore Louisiana, Mississippi and Alabama. Would add 396,250 acres to the total 3,782,796 presently under Federal lease offshore *Louisiana*. 75 to 125 additional platforms and other structures may be necessary to develop these tracts. Also may require 40 new pipelines. (ELR Order No. 1058, 129 pages) (NTIS Order No. PB–201 517–F) 10/21.

Bureau of Mines

Draft

Title, Description, and Date

Oil Shale Retort Research project, *Colorado*. Proposes further research on the development of surface retorting of oil shale (retorting is a process of extracting oil) at the Anvil Points Oil Shale Research Facility near Rifle, Colorado. In addition will provide information on how to dispose of retorted shale. Project is to be conducted over a 5-year period. (ELR Order No. 1003, 22 pages) (NTIS Order No. PB–203 318–D) 10/13.

Bureau of Reclamation

Draft

Title, Description, and Date

Huntington Canyon generating station and transmission line. The Utah Power & Light Co. plans to build a coal-fired thermal-electric generating plant at Huntington Canyon, *Utah*. (This draft statement is an updated version of the statements sent 4/23. It contains information from the Forest Service, Federal Highway Administration, Bureau of Land Management and Bureau of Sport Fisheries and Wildlife. See 102 Monitor, May 1971, p. 83, for more details on the project.) (ELR Order No. 925, 169 pages) (NTIS Order No. PB–198 736–D) 9/30.

Gila Gravity Main Canal; Yuma County, *Arizona* (irrigation project). Rehabilitation and betterment of approximately 14.7 miles of channel, consisting of access road construction, canal bank road improvement, and drainage structure construction. (ELR Order No. 951, 17 pages) (NTIS Order No. PB–206 222–D) 10/5.

Dust Abatement at Canyon Ferry Lake, Canyon Ferry Unit, Helena-Great Falls Division, Pick-Sloan Missouri Basin Program, *Montana*. Involves construction of dikes to form subimpoundments to cover exposed areas, dredging of fine material into subimpoundments, and flooding subimpoundments for development as wildlife habitat. (ELR Order No. 930, 11 pages) (NTIS Order No. PB–203 097–D) 10/5.

Navajo Project: *Arizona, Nevada, New Mexico*, and *Utah*. A consolidation of materials presented in 5 draft statements for: (1) Navajo Generating Station: construction begun April 1970 of coal-fired, 2,310-mw generating station (see 102 Monitor, March 1971, p. 33); (2) Black Mesa and Lake Powell R.R. (formerly called Navajo-Black Mesa Coal Haul R.R.): electric railroad to haul coal to Navajo Generating Station (102 Monitor May 1971, p. 32); (3) Black Mesa Coal Mining Operation: development of strip mining operating to supply fuel for Navajo and Mohave Steam Generating Stations (102 Monitor, August 1971, p. 34); (4) Southern Transmission System (formerly called Navajo-Phoenix Transmission System): construction of two 250-mile, 500,000 v transmission lines (102 Monitor, May 1971, p. 31); and (5) Western Transmission System (formerly called Navajo-McCullough Transmission Line): construction of 500 kv transmission line (102 Monitor, July 1971, p. 34). (ELR Order No. 951, 279 pages) (NTIS Order No. PB–203 222–D) 10/5.

Final

Title, Description, and Date

Manson Unit, Chief Joseph Dam irrigation project, *Washington*. Works include a main pumping plant on Lake Chelan, 8 relift pumping stations, 12 regulating reservoirs, 71 miles of buried pipe. Conversion of grazing and dryland crop acreage to irrigated farmland. Will reduce winter range for deer, and reduce food for game-birds. Comments made by DOI, USDA, Commerce, DOT, FPC, Army COE, various State and local agencies in Washington. (ELR Order No. 1060, 86 pages) (NTIS Order No. PB–198 968–F) 10/18.

Mt. Elbert pumped-storage powerplant, Fryingpan-Arkansas Project, *Colorado*. Located on the north shore of Twin Lakes, construction includes a 100 megawatt reversible pump-turbine-motor generator unit and preparatory work on a second unit. Powerplant structure equivalent to a 15 story building. Will have an impact on marine life of Twin Lakes (a prime trout fishery is located there). Purpose: irrigation, hydroelectric power, flood control, industrial water, etc. Comments made by DOT, USDA, FPC, DOI, various State of Colorado agencies, National Wildlife Federation. (ELR Order No. 1080, 37 pages) (NTIS Order No. PB–203 507–F) 10/19.

National Park Service

Draft

Title, Description, and Date

Delaware Water Gap National Recreation Area: Northampton, Monroe, and Pike Counties, *Pennsylvania* and Warren and Sussex Counties, *New Jersey*. Establishment of 70,000-acre recreation area on the 12,000-

acre Tocks Island Reservoir and 60,000 acres of adjacent lands. Will involve Federal acquisition of 47,000 acres of land, most privately owned, and will create problems of water supply and waste disposal. (ELR Order No. 949, 59 pages) (NTIS Order No. PB-203 234-D) 10/6.

Recreation Development Plan for Lake Berryessa, *California*. Outlines land use and development of public recreation opportunities to serve San Francisco Bay, Sacramento and Stockton region. Proposes acquisition of approximately 4,300 acres. (ELR Order #1098, 108 pages) (NTIS Order #——) 10/27.

Office of the Secretary

Draft

Title, Description, and Date

Proposed Geothermal steam leasing program: *Alaska, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington* and prospectively *Arizona, Colorado, South Dakota*, and *Wyoming*. Implementation of the Geothermal Steam Act of 1970 involves adopting leasing and operating regulation redevelopment and production of geothermal resources in Federally owned lands. (ELR Order #931, 233 pages) (NTIS Order #PB-203 102-D) 10/6.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Ralph E. Cushman, Special Assistant, Office of Administration, Washington, D.C. 20546 (202) 962-8107.

Final

Title, Description, and Date

John F. Kennedy Space Center, Cape Kennedy, *Florida*. Statement is a general description of the Space Center's programs, facilities and consequent environmental impact. (ELR Order #927, 13 pages) (NTIS Order #PB-203 059-F) 9/29.

Manned Spacecraft Center, Houston, *Texas*, and White Sands Test Facility, *New Mexico*. Describes environmental impact of these facilities and their current and planned activities. The test facility is in a remote location where NASA can run hazardous tests associated with development of the Apollo Spacecraft Propulsion Systems. (ELR Order #926, 48 pages) (NTIS Order #PB-203 160-F) 9/29.

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartrell, Director, Environmental Research and Development, 720 Edney Building, Chattanooga, Tennessee 37401 (615) 755-2002.

Draft

Title, Description, and Date

Construction and operation of Sequoyah Nuclear Plant, Units 1 & 2, Hamilton County, *Tennessee*. To be located on a peninsula jutting out into the Tennessee River on the west shore of Chickamauga Lake about 15 miles northeast of Chattanooga. The plant will be composed of 2 reactor containment buildings, a turbine building, auxiliary building, 500-kv and 161-kv switchyard, etc. (ELR Order #1093, 298 pages) NTIS Order #PB-203 607-D) 10/19.

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser*, Director, Office of Program Co-ordination, 400 7th Street, S.W., Washington, D.C. 20590, (202) 462-4837.

For the reader's convenience we have listed the numerous statements from DOT by State in alphabetical order.

*Mr. Convisser's office will refer you to the correct regional office from which the statement originated. In the case of the Federal Highway Administration, a separate page is included in this Monitor giving the names of the Regional Administrators (see page 57).

Federal Aviation Administration

Draft

Title, Description, and Date

Danbury Municipal Airport project, Danbury, *Connecticut*. Involves relocation of airfield lighting vault, installation of drainage culverts and security fencing, and runway end identifier lighting system (REILS). Purpose: to assist pilot identification of runway ends and provide circling guidance. (ELR Order No. 904, 14 pages) (NTIS Order No. PB-202 979-D) 9/28.

Honolulu International Airport project, Honolulu, *Hawaii*. Proposes construction of new runway, necessitating a breakwater to prevent storm wave damage, in order to reduce noise levels and improve safety. Involves loss of 1,240 acres of marine and wildlife habitat and aquatic recreational area. (ELR Order No. 952, 28 pages) (NTIS Order No. PB-203 235-D) 10/5.

Purdue University Airport project, West Lafayette, *Indiana*. Consists of lengthening and widening runways, constructing new taxiway and installing ALS. (ELR Order No. 1071, 55 pages) (NTIS Order No. PB-203 605-D) 10/16.

Fleming-Mason Airport project, Flemingsburg, *Kentucky*. Involves land reimbursement and acquisition, construction of runway and taxiway, etc. Purpose: provide a 24-hour landing area capability. (ELR Order #1072, 20 pages) (NTIS Order #PB-203 604-D) 10/26.

Pittsfield Municipal Airport project, Pittsfield, *Massachusetts*. Involves installation of runway lighting and relocation of approach lighting system. (ELR Order #1035, 22 pages) (NTIS Order #PB-203 471-D) 10/18.

Manchester Municipal Airport project, Hillsborough County, *New Hampshire*. Proposes acquisition of easements and removal of trees and poles obstructing approaches to a runway. (ELR Order #963, 10 pages) (NTIS Order #PB-203 226-O) 10/5.

Lorain County Regional Airport project, Lorain County, *Ohio*. Proposes construction of taxiway, expansion of pad, and acquisition of 27 acres. (ELR Order #947, 7 pages) (NTIS Order #PB-203 236-D) 10/5.

Abernathy Field airport project, Pulaski-Giles County, *Tennessee*. Consists of extending runway 500 feet, installing a medium intensity lighting system, and adding to apron. (ELR Order #955, 15 pages) (NTIS Order #PB-203 231-D) 10/5.

Shively Field airport project, Saratoga, *Wyoming*. Involves extending and paving runway, constructing taxiway, etc. (ELR Order 1010, 24 pages) (NTIS Order PB-203 475-D) 10/15.

Final Title, Description, and Date

Autuaga County Airport project, Prattville, *Alabama*. Construction of a General Aviation Airport to accommodate propellor aircraft under 12,500 pounds. Requires use of 55 acres of land for airport. Comments made by EPA, USDA, DOI, Army COE, HEW, Alabama Development Office, City of Prattville, Town of Autuagaville. (ELR Order #992, 26 pages) (NTIS Order #PB-201 580-F) 10/1.

Chandler Municipal Airport project, Chandler, *Arizona*. Involves extending runway, taxiway, paving access road, etc. Will result in shift in traffic pattern. Comments made by DOI, HEW, Army COE, HUD, USDA, City of Chandler Maricopa Assoc. of Governments and Ariz. Dept. of Economic Planning and Development. (ELR Order #885, 25 pages) (NTIS Order #PB-201 578-F) 10/1.

Nut Tree Airport project, Vacaville, *California*. Involves acquisition of land, extending, overlaying and widening of runway and taxiway, channel relocations, runway light system, etc. Comments made by USDA, DOI, Army COE, HEW, State Clearinghouse, Assoc. of Bay Area Governments, various State of California agencies. (ELR Order #984, 40 pages) (NTIS Order #PB-201 236-F) 10/1.

Santa Barbara Municipal Airport project, Santa Barbara, *California*. Involves constructing a portion of a parallel taxiway to serve the main instrument runway at the Municipal Airport and installing lights. A portion of this taxiway will be constructed on the edge of a tidal lagoon, which is a haven for birds and other small wildlife known as the Goleta Slough. Comments made by EPA, DOI, USDA, Army COE, HUD. (ELR Order #983, 107 pages) (NTIS Order #PB-201 533-F) 10/7.

Waterloo Municipal Airport project, Black Hawk County, *Iowa*. Extension of existing runway, connecting taxiway, and strengthening of taxiways, etc. Purpose: to accommodate the Boeing 727-200 aircraft. Comments made by USDA, Commerce, EPA, DOI, Army COE, various State and city agencies in Iowa. (ELR Order #1062, 25 pages) (NTIS Order #PB-201 666-F) 10/26.

McCarran International Airport project, Las Vegas, *Nevada*. Involves land acquisition, runway extension, etc. Purpose: accommodate larger aircarrier aircraft. Comments made by DOT, EPA, Army COE, DOI, USDA, AEC, HEW, and the State and Metropolitan Clearinghouses. (ELR Order #1066, 36 pages) (NTIS Order #PB-200 801-F) 10/26.

Sidney Municipal Airport project, Sidney, *New York*. Involves land acquisition, construction of runway, taxiway, apron, parking area, perimeter fencing, installation of medium intensity lights, etc. Will allow business jets to land. Comments made by Army COE, DOT, EPA, DOI. (ELR Order #997, 40 pages) (NTIS Order #PB-198 755-F) 10/1.

Grove City Airport project, *Pennsylvania*. Involves acquisition of land, construction and marking of runway, installation of medium intensity lighting system including VASI, etc. Comments made by DOT, HUD, Army COE. DOI and various State of Pennsylvania agencies. (ELR Order 965, 24 pages) (NTIS Order #PB-203 247-F) 10/1.

Wittman Field Airport project, Oshkosh, *Wisconsin*. Involves acquisition of land (117.43 acres) for clear zone, expansion of existing apron; construction of an entrance and service road, etc. Comments made by DOI, various State of Wisconsin agencies. (ELR Order #1083, 45 pages) (NTIS Order #PB-201 766-F) 10/26.

Federal Highway Administration

Draft

Title, Description, and Date

FAS Rte. 5313: Perry County, *Alabama*. Proposes replacing gravel road and steel truss bridge over Cahaba River to complete improvement of route. Will begin approximately 2 miles southeast of Marion at Rice Creek to Alabama Hwy. 14. at Fullers (5 miles). Highway project S-5313(102). (ELR Order #956, 7 pages) (NTIS Order #PB-203 230-D) 10/5

US-82: Pickens County, *Alabama*. Construction of a rural type 4-lane highway on new location between Alabama-Mississippi State Line and Reform, Alabama (16 miles). Rerouting will be in wooded undeveloped areas. Highway project F-432(2). (ELR Order #989, 9 pages) (NTIS Order #PB-203 218-D) 10/6.

Northway Road: Alcan Highway, *Alaska*. Realigning and constructing 7.4 miles of roadway between Northway Village and Northway Junction. Will include grading, alignment, drainage, bridges, and other minor construction. Highway project S-0791 (1). (ELR Order #912, 41 pages) (NTIS Order #PB-203 108-D) 9/27.

Winslow-Kayenta Highway, extension of SH-87: Navajo County, *Arizona*. Extending Rte. 87 making it a connecting link with the Black Mesa area, Peabody Coal operations and

Page. Will involve loss of approximately 1,300 acres of rangeland which is Indian land. Highway project S-244-507, 509, 510, 511. (ELR Order #913, 11 pages) (NTIS Order #PB-203 109-D) 10/1.

Santa Ana Freeway: Orange County, *California*. Constructing new overcrossing at Broadway and modifying interchange at Main St. Will require relocation of 130 residents. (ELR Order #915, 13 pages) (NTIS Order #PB-203 103-D) 10/1.

Route 405: Orange County, *California*. Modifying interchange between points 1 mile south of Seal Beach Blvd. and .4 mile south of Route 605 (San Diego Freeway). (ELR Order #908, 38 pages) (NTIS Order #PB-203 106-D) 10/1.

Route 20: Yuba County, *California*. Initial construction of a 2-lane expressway (ultimate conversion to a freeway) on new location between the east city limits of Marysville and the Nevada County Line. Replacement of this section of highway is necessary because of the Army Corps of Engineers' Marysville Dam project. Discusses different alternate locations—lengths vary between 15.7 miles and 17.5 miles. Project will intrude upon the Spenceville Wildlife Area. Highway project 03-YUB-20 P.M. 3.3/21.7 (ELR Order #1042, 37 pages) (NTIS Order #PB-203 519-D) 10/15.

SH-152: Los Banos, *California*. Construction of a pedestrian overcrossing at intersection of 7th and SH-152. Will affect the Los Banos Recreation Park. TOPICS Project T-3042( ). (ELR Order #1070, 22 pages) (NTIS Order #PB-203 612-D) 10/21.

SH-16: El Paso County, *Colorado*. Extension of highway to intersect the extension of Markaheffel Road. Ultimately will be constructed to expressway standards. Discusses different alternatives. Highway project S 0016 (34). (ELR Order #1063, 81 pages) (NTIS Order #PBZ203 617-D) 10/19.

A1A: Volusia County, *Florida*. Modernizing and expanding Ocean Shore Blvd. from 2- to 4-lane capacity between SR-40 (Granada Ave.) in Ormond Beach and a point approximately 6 miles north. State Job 79080-1509, Federal Highway project U-030-1(13). (ELR Order #937, 45 pages) (NTIS Order #PB-203 161-D) 9/29.

SR-24: Levy County, *Florida*. Replacing bridge No. 4 with a low-level concrete structure and realigning and replacing 8 curves with 1. Approaches will be a rural 2-lane roadway. Length of project will be about 1.5 miles. Will alter about 15 acres of salt marsh and natural vegetation. State Job 34070-1510, Federal project S-702(2). (ELR Order #909, 13 pages) (NTIS Order #PB-203) 162-D) 9/29.

SR-312: St. Johns County, *Florida*. Construction of a multi-lane facility, including a bridge across the Matanzas River, on a new alignment at SR-5 (US-1) east to SR A1A. State job # 7800 2-1502. (ELR Order #1016, 30 pages) (NTIS Order #PB-203 486-D) 10/12.

SR-50: Brevard County, *Florida*. Improvement of 5-mile facility to 4-lane highway from Orange-Brevard County line to I-95. Involves land under option by the Dept. of Interior for proposed St. Johns National Wildlife Refuge and will require a 4(f) determination. State Job 70110-1502; Federal Job F-022-1(10) 10/20.

SR-45 (US-41): Charlotte County, *Florida*. Construction of a multi-laned facility and bridge along same alignment northwesterly from the Lee County line, 15.3 miles to the 4-lane pavement at Charlotte Harbor. Bridge will go over the Peace River. Federal highway project F-011-1(11). (ELR Order #1079, 27 pages) (NTIS Order #PB-203 606-D) 10/21.

FAP Route 51, Ahukini-Nawiliwili Cutoff Road: Lihue, Kauai, *Hawaii*. Construction of 1.1 mile section of highway to provide a faster road between the Lihue Airport and the Lihue Industrial Park, Nawiliwili Harbor and resort areas. Will require agricultural land for right-of-way. Highway project F-051-1(1). (ELR Order #996, 9 pages) (NTIS Order #PB-203 313-D) 10/8.

Halawa Heights Road: Oahu, *Hawaii*. Extending road from Halawa Interchange to Salt Lake Blvd. Will provide a major access to the new Oahu Stadium. Highway project I-H1-1(94) (ELR Order #1066, 21 pages) (NTIS Order #PB-203 608-D) 10/21.

Illinois Route 4 (FAP Route 68), Section 11-R: Madison County, *Illinois*. Relocation of a 1-mile section of road about 25 miles easterly of St. Louis, Missouri. Involves replacing or upgrading structure of US-40. Highway project F 171 ( ). (ELR Order #990, 30 pages) (NTIS Order #PB-203 220-D) 10/5.

Harding Blacktop (County Highway 1, FAS Route 257): LaSalle County, *Illinois*. Reconstruction of 10 miles of road beginning at the intersection of US-52 and 23, north of Ottowa, and extending northwesterly through Harding to US-34. Will require a total right-of-way of 100 ft., presently 60 ft. Approximately 60 maple trees that are 100 years old will be removed. Highway project S-257(101), Section 129. (ELR Order #1012, 10 pages) (NTIS Order #PB-203 479-D) 10/14.

FAS Route 459 (North Ninth Street Road): Tippecanoe County, *Indiana*. Replacement of bridge and approaches over the Wabash River on adjusted alignment about 400 ft. east of present facility. Bridge is about 2 miles north of Lafayette. Highway projects S-154(11), S-154(12). (ELR Order #1011, 11 pages) NTIS Order #PB-203 476-D) 10/8.

E. Jacksonburg Road: Wayne County, *Indiana*. Involves relocating a bridge and approaches over to No Name Creek, just east of Jacksonburg. A 4(f) determination is attached describing .2 acre of land required for the right-of-way which belongs to the Martindale Lake Preserve. Highway project S-789(3). (ELR Order #1047, 13 pages) (NTIS Order #PB-203 517-D) 10/15.

SR-1 (FAS Route S-175): Franklin County, *Indiana*. Construction of a bridge over Whitewater River to replace present structure. Will be on new location. (ELR Order #1077, 15 pages) (NTIS Order #PB-203 689-D) 10/22.

US-65: Polk County, *Iowa*. Widening road by adding 2-lanes on northbound side. Begins just north of the I-80 interchange and extends northeasterly to junction with Iowa 238 in Bondurant (3 miles). (ELR Order #1065, 8 pages) (NTIS Order #PB-203 611-D) 10/21.

US 62 (Blandville Rd.): MacCracken County, *Kentucky*. Proposes widening section to 4-lane, divided roadway from Lone Oak Rd. (US-45) to Friendship Church Rd., excluding I-24 interchange limits. Highway project S 318, SP 73-182. (ELR Order #964, 9 pages) (NTIS Order #PB-203 233-D) 10/8.

I-69: Clinton and Eaton Counties, *Michigan*. Extending interstate from Charlotte to I-96 northwest of Lansing as a final line of a freeway network connecting all major State population centers. Highway project I-69-2(7)62, Item 1156. (ELR Order #911, 27 pages) (NTIS Order #PB-203 107-D) 10/1.

Trunk Highways 61 and 316: Goodhue and Dakota Counties, *Minnesota*. Relocating between points 1 mile south of Red Wing and 4 miles southeast of Hastings. Will involve acquisition of approximately 360 acres of tillable land. Highway project F 008-8, S.P. 1926, 2514, and 2516. (ELR Order #910, 37 pages) (NTIS Order #PB-203 104-D) 9/27.

County State Aid Highway 12: Olmstead County, *Minnesota*. Construction of two 12 ft. driving lanes generally on the same alignment between T.H. 52 at Cronoco and T.H. 63 about 6 miles north of Rochester (6.7 miles). There will be an entrance to an Olmstead County operated park. (ELR Order #986, 16 pages) (NTIS Order PB-203 215-D 10/6.

Bridge over Red Lake River: Polk County *Minnesota*. Replacement of existing bridge at Mallory at a different location. Discusses alternative locations. Will provide bypass of East Grand Forks. Highway project SP 60-663-01 ER 69 (11). (ELR Order #988, 17 pages) (NTIS Order #PB-203 217-D) 10/7.

US-71: Jackson County, *Missouri*. Constructing 4 lanes in either direction for portion of South Midtown Freeway extending south from 14th to 63rd Sts. in Kansas City. Will connect Rte. 71 into the Kansas City Freeway network. Relocation of 78 businesses and 1,626 residences required. Highway project U-71-4(15)-R/W. (ELR Order #938, 11 pages) (NTIS Order #PB-203 239-D) 9/27.

Howdershell Road: St. Louis County, *Missouri*. Extending and improving road from a point 450 ft. north of Uts Ln. to a point west of Brown Road Bridge to facilitate safe and efficient traffic movement. Highway project T-4189 (36). (ELR Order #934, 5 pages) (NTIS Order #PB-203 105-D) 10/4.

Route 86: Newton County, *Missouri*. Reconstruction of route between I-44 in Joplin to south of Spring City, generally on same alignment (about 4 miles). Will cross Silver Creek and Shoal Creek. 59 people will be displaced. Section 4(f) lands are involved since project requires use of land in Wildcat Park; a 4(f) determination is attached. (ELR Order #1096, 22 pages) (NTIS Order #PB-203 691-D) 10/26.

Nebraska Highway 100: Rockville, Jefferson County; and Highway 68: Buffalo County, *Nebraska*. Hard-surfacing of 2 sections of highway, N-100 for 8.1 miles from N-10 west of Rockville to N-58 in Rockville and N-68, which will be relocated, for 4.5 miles from .5 miles north of Ravenna to N-100. Highway projects S-36(4) and S-201(5). (ELR Order #921, 11 pages) (NTIS Order #PB-203 099-D) 9/30.

Nebraska Highway 10 (2nd Avenue): Kearney, *Nebraska*. Widening road between 31st and 39th St. on the same alignment (1.4 miles). Highway project U-73(10). (ELR Order #1041, 10 pages) NTIS Order PB-203 518-D) 10/18.

US-6 (FAP 4): Ely, *Nevada*. Relocation and construction from a point near intersection with Mill St. and Aultman St. to an intersection with Fayette Ave. (2 miles). (ELR Order #1067, 32 pages) (NTIS Order #PB-203 610-D) 10/14.

US-3: Tilton-Sanborton-Belmont, Belknap County, *New Hampshire*. Proposes construction of a bridge, improved bridge approaches, and a service road. Purpose: to replace inadequate bridge. State projects BR-S-319(1); F-1663-A; S-319(2); F-1663. (ELR Order #960, 11 pages) (NTIS Order #PB-203 227-D) 10/5.

SR-44: San Ysidro, *New Mexico*. Construction work begins near the west boundary of the Zia Indian Pueblo Reservation and extends northwesterly for 8.6 miles. Highway projects F-033-1(13) & F-033-1(14). (ELR Order No. 986, 13 pages) (NTIS Order No. PB-203 214-D) 10/7.

Route 9: Westchester County, *New York*. Upgrading route between Tarrytown and Crotonville. Discusses various alternate routes ranging from reconstruction on existing location to an expressway on new location. All alternatives will have an impact on residences, churches, recreational areas, historical sites, etc. (ELR Order No. 991, 180 pages) (NTIS Order No. PB-203 219-D) 10/5.

Route 9D: Dutchess County, *New York*. Reconstruction of 3.5 miles of route beginning south of Dutchess Jct. extending northerly through Beacon to point just north of

I-84. A Section 4(f) determination is attached as project requires 8 acres from the Hudson Highlands State Park. Highway project FIN 8327.00. (ELR Order No. 1006, 30 pages) (NTIS Order No. PB-203 217-D) 10/8.

SR-2564: Raleigh, Wake County, *North Carolina*. Widening of Tarbor St. and Rock Quarry Rd. to 4-lane roadway from New Bern Ave. to Raleigh corporate limits (2.7 miles). State project 9.8082087. (ELR Order No. 961, 26 pages) (NTIS Order No. PB-203 294-D) 10/7.

US-17: Pasquotank and Camden Counties, *North Carolina*. Upgrading and widening highway to 4-lanes from end of present 4-lane facility near SR-1338 to Virginia State line (about 17 miles), including construction of 3 interchanges and dual bridges. Will necessitate relocation of 26 to 37 families and 3 to 10 businesses. State project 6.803143. (ELR Order No. 1051, 31 pages (NTIS Order No. PB-203 516-D) 10/20.

Charlotte Inner Loop: Mecklenburg County, *North Carolina*. Construction of the southwestern segment of the circumferential thoroughfare (between NC-49 to I-85). Right-of-way will require land from a proposed city recreational site; 4(f) submission attached. Highway project 6.801777. (ELR Order No. 1043, 36 pages) (NTIS Order PB-203 514D) 10/20.

Corporation Freeway: Forsyth County, *North Carolina*. Construction of freeway beginning at intersection of US-421 and I-40 to South Main St. in Winston-Salem. Project will require 6 acres of Bolton Street Park; a 4(f) determination is attached. Highway project 9.8091831 (ELR Order #1068, 44 pages) (NTIS Order #PB-203 613-D) 10/20.

Relocated Mason Road C.R. 13: Erie County, *Ohio*. Constructing and maintaining .84 miles of 2-lane roadway, including replacement of bridge over Huron River. Purpose: to correct deficiencies in alignment and grades. (NTIS Order #PB-203 164-D) (Cannot be reproduced by ELR) 9/28.

Succor Creek Secondary Highway No. 450: Malheur County, *Oregon*. Replacement of Ridgeview School-Mallory Ranch Section between Jordan Valley and Adrian, about 32 miles, 1.7 miles of which is within park boundary. Will require 4(f) determination. Highway project S-25-00(—). (ELR Order #1023, 127 pages) (NTIS Order #PB-203 472-D).

Pacific Highway West (Rte. 99W), Hess Creek-Chehalem Creek Section: Yamhill County, *Oregon*. Consists of separating the northbound and southbound traffic through the city center of Newberg, several streets are involved. (ELR Order #1097, 14 pages) (NTIS Order #PB-203 692-D) 10/27.

Tulleytown Bridge projects: Bucks County, *Pennsylvania*. Proposes new bridge over Penn-Central R.R. connecting US-13 (LR 778) with Bordentown Rd. (LR 09015), an interchange at US-13 and widening of US 13. Will involve channelisation of highway drainage into Martin's Creek. Project S.P.N. 6:778:A:3:A10:061 (ELR Order #962, 10 pages) (NTIS Order #PB-203 225-D) 10/6.

SH-50: Yankton and Clay Counties, *South Dakota*. Providing additional lanes and upgrading road between Yankton and Vermillion (24 miles). Includes new structures across the Vermillion River and James River. Involves acquisition of additional right-of-way. Highway project F 012-3 and F 012-4. (ELR Order #995, 11 pages) (NTIS Order #PB-203 313-D) 10/1.

SH-36: Brasoria County, *Texas*. Construction of a 4-lane divided highway for about 2.5 miles on new location and a fixed structure over the Brazos River Diversion Channel. Located near Freeport. (ELR Order #987, 13 pages) (NTIS Order #PB-203 216-D) 10/12.

Park Road 100 on Padre Island: Cameron Island, *Texas*. Construction of 11.7 miles of new road from 7 miles north of Andy Bowie Park to the Cameron-Willacy County line. Will provide access to a large undeveloped section of the Island. (ELR Order #1013, 7 pages) (NTIS Order #PB-203 490-D) 10/15.

Vermont Route 30: Newfane, *Vermont*. Continuing reconstruction of substandard highway from a point adjacent to the Dummerston-Newfane Town Line 2.5 miles north to southerly Newfane Village limits. Will involve conversion of 11 acres of woodland to highway. Highway project S 0119. (ELR Order #934, 26 pages) (NTIS Order #PB-203 163-D) 9/29.

SR-63: Wise and Dickenson Counties, *Virginia*. Improving curvatures of 4.3 mile, 2-lane roadway beginning in Georges Fork and ending west of Pound. Rte. 63 is ultimately planned as a 4-lane divided facility. Will displace 22 families. Highway project F-DP-084-1(1). (ELR Order #917, 32 pages) (NTIS Order #PB-203 096-D) 9/29.

Route 612: Augusta County, *Virginia*. Reconstruction of route from west of the intersection with Rte. 626 (Quicks Mill) to the intersection with Rte. 11 (Verona) (1.6 miles). Will improve the horisontal alignment by reducing the curves and increasing the width. Highway project S-1128. (ELR Order #1009, 6 pages) (NTIS Order #PB-203 474-D) 10/14.

SR-82 (I-82): Yakima and Benton Counties, *Washington*. Construction of a 42 mile segment of divided highway beginning near Union Gap and ending near Prosser. Four alternate routes under consideration for 27 mile section. (Not available for ELR due to the size and shape of the document) (NTIS Order #PB-206 487-D—$3.00) 10/12.

US-51: Boulder Junction Road, County Trunk "M", Vilas County, *Wisconsin*, Reconstructing C.T.H. "M" in Boulder Junction 7.3 miles south to C.T.H. "N". A 4(f) determination included as approximately 90 acres of Highland State Forest lands will be converted to roadway and landscaping. Hwy. projects S 0611(2), (3) & 4; ID 9506-3-00, 9406-4-00, and 9506-5-00. (ELR Order #905, 12 pages) (NTIS Order #202 978-D) 9/27.

Robert Street Bridge and approaches: Fort Atkinson, Jefferson County, *Wisconsin*. Relocating structure and approaches, approximately 1,500 feet in length, to relieve congestion and unsafe conditions. (ELR Order #914, 12 pages) (NTIS Order #PB-203 096-D) 9/30.

S.T.H. 150: North County Line Road, US-41, Menasha, Winnebago County, *Wisconsin*. Proposes closure of public access by construction of roads paralleling US-41 from interchange with S.T.H. 150 to interchange with C.T.H. "BB" and construction of interchange for US-41 traffic and the proposed Little Lake Butte des Morts crossing of the ultimate Tri-County Expressway. Project ID 1123-0-00, F 03-2( ). (ELR Order #987, 11 pages) (NTIS ORDER #PB-203 229-D) 10/5.

S.T.H. 13 (Marshfield-Abbotsford Road, Marshfield Belt Line Section): Wood and Marathon Counties, *Wisconsin*. Construction of a freeway to the west of Marshfield to serve as a peripheral route around the City (11 miles). Approximately 450 acres of land presently used for dairy farming operation will be converted to highway use. Highway project F 04-4( ); ID 1623-0-00. (ELR Order #1030, 12 pages) (NTIS Order #PB-203 470-D) 10/15.

Sauk City-Utica Road: Dane County, *Wisconsin*. Construction of a freeway facility on relocation around the south and west sides of Madison to join with I-90-94 near Lake Delton (46 miles). Will pass through Stoughton, Fitchburg, Verona, Springfield, etc. Highway ID 1671-0-61. (ELR Order #1076, 21 pages) (NTIS Order #PB-203 688-D) 10/26.

Final

Title, Description, and Date

US-72: Madison and Jackson Counties, *Alabama*. Construction of a 4-lane highway from west of Gurley, Alabama to Ala. 79 south of Scottsboro (24.5 miles). Present facility is two lanes. 4(f) approval given by DOT for project utilizing 90 acres of land from the North Sauty Wildlife Refuge (130 acres on the south side will be isolated by the project). Highway project F-235(12) & S-122-E. Comments made by EPA, DOI, DOT, ARC, USDA, Commerce, TVA, FPC, Army, various State of Alabama agencies, City of Scottsboro. (ELR Order #960, 56 pages) (NTIS Order #PB-203 246-F) 10/6.

Eastern Bypass and US-80: Montgomery County, *Alabama*. Construction of a diamond interchange at the intersection of Montgomery Bypass and US-80. Involves relocation of existing frontage roads along Eastern bypass. Highway project F-352(5). Comments made by DOI, Army, DOT, HUD, EPA, various State of Alabama agencies. (ELR Order #1040, 23 pages) (NTIS Order #PB-203 508-F) 10/18.

I-65: Mobile-Baldwin Counties, *Alabama*. Projects I-65-1 (84), (85) & (87). The last gap to be closed in I-65 between Alabaster and Mobile. Route will bridge many rivers, lakes, and streams in an area with much wildlife. It will provide a bypass of Bay Minette. Project begins near US-43 (at end of construction project I-65-1(56)) and goes to project I-65-1(55) near Alabama 225. Comments made by HUD, DOI, DOT, EPA, various State of Alabama agencies. (ELR Order #1094, 44 pages) (NTIS Order #PB-203 696-F) 10/27.

Steese Highway: *Alaska*. Reconstruction of two portions: from Montana Creek to Eagle Summit, and from Eagle Summit to Central (44 miles). Alaska projects S-0670(8), S-0670 (9). Comments made by DOI, DOT, various State of Alaska agencies. (ELR Order #979, 54 pages) (NTIS Order #PB-199 147-F) 10/7.

SH-59: Benton County, *Arkansas*. Widening and straightening highway from Illinois River Bridge to Siloam Springs (5.5 miles) Highway project S-SU-444(4). Comments made by Commerce, DOI, various State of Arkansas agencies. (ELR Order #969, 16 pages) (NTIS Order #PB-199 630-F) 10/7.

Route 49: Amador County, *California*. Construction of a 4-lane controlled access highway from Rte. 88 at Martell, California to Rte. 16 at Central House, California (7.7 miles). Highway project FPA-76, 10-Ama-49. Comments made by Army COE, HEW, DOI, AEC, various State of California agencies, American Forest Products. (ELR Order #1031, 39 pages) (NTIS Order #PB-199 316-F) 10/18.

Colorado State Highway 340 (Grand Junction-West): construction of 2 additional lanes (to make a 4-lane divided facility) beginning 1.2 miles west of the junction of US-50 and SH-340, proceeding easterly for about 1.2 miles, to 1 block west of US-50 and SH-340 junction. Grand Junction, *Colorado*. Highway project SU 0340(2). Comments made by HUD, The Assoc. for Beautiful Colorado Roads, concerned citizens. (The statement was not changed from its draft form.) (ELR Order #1064, 19 pages) (NTIS Order #PB-199 320-F) 10/4.

Colorado State Highway 65: realignment and improvement from .75 mile south of Mesa, northwesterly for 2.6 miles. Highway project S 0065(4). Comments made by USDA, HUD, DOI, Col. Dept. of Natural Resources. (The statement was not changed from its draft form.) (ELR Order #1065, 23 pages) (NTIS Order #PB-198 672-F) 10/4.

SH-34: Weld County, *Colorado*. Extending the Greeley Bypass beginning at the South Greeley Interchange of US-34 and US-35 and ending near the community of Kuner (11 miles). Highway project F-034-2(1). Comments made by Army COE, USDA, DOI, HUD, EPA, various State of Colorado agencies. (ELR Order #1007, 33 pages) (NTIS Order #PB-203 320-F) 10/13.

I-75E (Tampa Bypass): Hillsborough and Manatee Counties, *Florida*. Project diverges from alignment of proposed I-75 north of the Bradenton-Palmetto area. Merges with it about 3.5 miles south of Pasco-Hillsborough County Line. Federal job no. I-75E-6(31)435. Comments made by Army COE, EPA, USDA, DOT, HUD, DOI, various State of Florida agencies. (ELR Order #1502, 64 pages) (NTIS Order PB-199 006-D) 10/19.

I-95: Palm Beach, Martin and St. Lucie Counties, *Florida*. Construction of a multilane facility beginning at Monet Rd. in Palm Beach Gardens extending northward 59.5 miles to Indian River-St. Lucie County line. This will provide route along east coast of Florida. According to statement, the recommended corridor described above compared with the other alternate routes would have the least adverse effect on the Jonathan Dickenson State Park and Loxahatchee and St. Lucie Rivers. Federal job no. I-95-2(8) 88, I-95-1(142)78. Comments made by DOI, DOT, HUD, EPA, USDA, AVC, various State of Florida agencies. (ELR Order #1085, 92 pages) (NTIS Order #PB-203 624-F) 10/22.

Maitland Boulevard interchange and connector road (SR-528): Orange County, *Florida*. Provides for an interchange with SR-400 I-4) between existing interchange at SR-438 (Lee Road) and SR-436 and a connecting roadway corridor from SR-400 (I-4) to SR-600 near Maitland. Highway project UI-4-2(65)106, State project 75280-1438 and 75504-1601. Comments made by HUD, DOI, USDA, Commerce, various State of Florida agencies, City of Maitland. (ELR Order #1092, 75 pages) (NTIS Order #PB-200 536-F) 10/22.

Section of S-1010 (Secondary Route S-2481[2]): Gilmer and Fannin Counties, *Georgia*. Highway construction through scenic mountain and national forest area, from intersection of S-2481(1) to Newport Rd. Comments made by USDA, DOI, HUD, Army COE, various State of Georgia agencies. (ELR Order #1029, 24 pages) (NTIS Order #PB-203 242-F) 10/18.

US-27 (SR-1): relocation of 4 miles of 4-lane highway in Walker-Catoosa Counties, *Georgia*. Purpose: to provide for future development of Chickamauga-Chattanooga National Military Park, and eliminate through traffic within the park. 4(f) approval has been given. Comments made by USDA, EPA, Army COE, DOI, HUD, various State of Georgia agencies. (ELR Order #1025, 31 pages) NTIS Order #PB-203 481-F) 10/18.

US-441, SR-31: Douglas, Coffee County, *Georgia*. Constructing an urban type roadway through the city. Highway project F-075-1(4). Comments made by EPA, USDA, HUD, various State of Georgia agencies. (ELR Order #1064, 18 pages (NTIS Order #PB-203 626-F) 10/27.

Federal Aid Secondary Route S-644: Bartholomew County, *Indiana*. Involves replacing bridge over the East Fork of White River and the appurtenant approach work. 4(f) approval given for the required .49 acre permanent land use from the Asalia Public Fishing Site. Project will require removing several sand bars and relocating an overflow channel. Highway project S-834(2). Comments made by DOI, USDA, various State of Indiana agencies. (ELR Order #1032, 31 pages) (NTIS Order #PB-200 201-F) 10/18.

US-20: Black Hawk County, *Iowa*. Relocation of highway between Cedar Falls and Waterloo. Requires 13 acres of the Cedar River and George Wyth State Park; 4(f) approval has been given. Highway project U-20-6(9). Comments made by DOI, EPA, HUD, various State and local agencies in Iowa.

(ELR Order #976, 28 pages) (NTIS Order #PB-203 242-F) 10/6.

US-50: Reno County, *Kansas*. Upgrading and widening road from Reno-Stafford County line to a point 1.5 miles north of Sylvia (about 4.8 miles). Discusses 2 location studies. Location A would require land from the city park and Sylvia Grade School. Highway project 50-76 RF 050-4(36) (ELR Order #971, 53 pages) (NTIS Order #PB-200 328-F) 10/7.

Kansas-96: two construction projects which are a part of the state freeway system and serve as the final link on K-96 from Hutchinson to Wichita, *Kansas*. Two alternate routes are under consideration. One would require all new right-of-way. Highway project (SF) 96-57 F-044-1(11) and (SF) 96-57 U-044-1(13). Comments made by USDA, HEW, DOI, Army COE, EPA, various State of Kansas agencies. (ELR Order #1026, 44 pages) (NTIS Order #PB-199 322-F) 10/18.

I-670: Wyandotte County, *Kansas*. Construction of 1.6 miles of new highway from I-70 near Mill St. easterly to the Kansas-Missouri line. All but 350 ft. of construction will consist of viaduct or bridge structures. Proposed segment of highway will provide interchange with I-70. Highway project 670-105 I-670-6(26). Comments made by USDA, HEW, DOI, DOT, Army COE, EPA, various State of Kansas agencies. (ELR Order #1055, 68 pages) (NTIS Order #PB-200 784-F) 10/19.

Donaldson-New Orleans Highway and Iliona-Sunshine Bridge Highway (Westbank Expressway): St. James, St. John and Ascension Parishes, *Louisiana*. Project is part of long-range plan to have a 4-lane highway from Shreveport to New Orleans. Highway projects F-420(1), F-420(2). (ELR Order #1037, 34 pages (NTIS Order #PB-203 482-F) 10/18.

Industrial loop arterial in Shreveport, *Louisiana*. Construction of a 4-lane divided highway from Flournoy Interchange on I-20 to the east terminus of the Inner Loop Expressway (15 miles). Highway project 700-06-03. Comments made by DOI, Commerce, AEC, USDA, HEW, various State of Louisiana agencies. (ELR Order #1038, 30 pages) (NTIS Order #PB-203 485-F) 10/18.

Maryland Route 2: Baltimore, *Maryland*. Replacement of Hanover Street Bridge over the Patapsco River and upgrading approaches. Highway project U 903-1(300) Comments made by Army COE, various State of Maryland agencies. (ELR Order #972, 15 pages) (NTIS Order #PB-199 736-F) 10/17.

Route 61: Lewis County; Routes 24 and 66: Marion County, *Missouri*. Project is between communities of LaGrange and Palmyra, beginning at Wakonda State Park. Involves reconstruction and relocation of 5.4 miles of Rte. 61, as well as upgrading interchange at junction of Rtes. 24 and 61. Highway project F-FG-61-4(10, F-61-4(11). Comments made by USDA, DOI, EPA, various State of Missouri agencies. (ELR Order #918, 18 pages) (NTIS Order #PB-203 058-F) 9/30.

Route M: Iron County, *Missouri*. Construction of 4.8 miles of highway (2 miles over an existing country road) between the Johnson Shut-Ins State Park and towns of Pilot Knob, Ironton and Arcadia. Highway project S-329(2) Comments made by USDA, EPA, DOI and various State of Missouri agencies. (ELR Order No. 966, 15 pages) (NTIS Order No. PB-203 248-F) 10/1.

Route H: Boone and Callaway Counties, *Missouri*. Road construction from Route H east to Route J, partly on new location. Will serve as connecting link between US-63 and US-54. Project will require land from Cedar Creek Management Area. Highway project 5-S-9. Comments made by DOT, USDA, EPA, and State of Missouri. (ELR Order No. 944, 23 pages) NTIS Order No. PB-203 244-F) 10/1.

Route 65: Taney County, *Missouri*, Boone County, Arkansas. Involves improving alignment and surface of existing road from Rte. 165 8.6 miles to the Arkansas line (includes 2000 ft. of construction in Arkansas). Missouri project F-64-1(16). Comments made by HUD, DOI, HEW, State of Missouri. (ELR Order No. 976, 14 pages) (NTIS Order No. PB-203 251-F) 10/4.

Route B: Cole County, *Missouri*. Construction of a multi-lane, controlled access facility on new location from Ellis Blvd. in Jefferson City to Wardsville (4 miles) Highway project CO36-B(2). Comments made by USDA, DOI, EPA, and State of Missouri. (ELR Order No. 977, 19 pages) (NTIS Order No. PB-203 243-F) 10/4.

Midland Boulevard: St. Louis County, *Missouri*, Extension of roadway westwardly to Dorsett Road, with the construction of an interchange and grade separation at Lindbergh Blvd. Highway project T-4189(24). Comments made by USDA, HEW, EPA, East-West Coordinating Council, various State of Missouri agencies. (ELR Order No. 943, 17 pages) (NTIS Order No. PB-200 389-F) 10/4.

Route BB: Rolla, *Missouri*. Construction of road from 10th St.-Elm St. to Iowa St. providing a direct route to Rte. 63. Highway project US-USG-1176(4). Comments made by HEW, DOI, DOT, USDA, EPA, State of Missouri. (ELR Order No. 961, 18 pages) (NTIS Order No. PB-203 252-F) 10/5.

Route 50: Cole County, *Missouri*. About 5.7 miles of highway will be upgraded to a dual lane facility, from Moreau River to west of Osage River. Present route has poor alignment and is overloaded. Comments made by DOI, USDA, EPA, State of Missouri. (ELR Order #974, 18 pages) (NTIS Order #PBX 203 250-F) 10/7.

Route 61: Lincoln County, *Missouri*. Construction of 24 ft. lane along the west side of the present road between Bowling Green and Troy (6.5 miles). Job no. S-F-61-1. Comments made by DOT, DOI, EPA, Mo. State Clearinghouse. (ELR Order #1019, 13 pages) (NTIS Order #PB-199 586-F) 10/13.

Route E: Newton County, *Missouri*. Relocation of route adjacent to north city limits of Granby, Missouri (4 miles). Involves replacing a 1-lane bridge over Shoal Creek, constructing new roadbed and bridge approaches and providing a grade separation between highway and St. Louis and San Francisco railroad. Job No. 7-S-E-9. Comments made by DOT, HUD, DOI, USDA, EPA, Mo. Dept. of Community Affairs and Ozark Gateway Regional Planning Comm. (ELR Order #1033, 16 pages) (NTIS Order #PB-203 483-F) 10/18.

Route 61-54: Pike County, *Missouri*. Involves upgrading 8.1 miles of road to dual lane, controlled access facility on new location from north of Bowling Green to south of Bowling Green. Highway project CO62-61 (6). Comments made by DOI, USDA, EPA. (ELR Order #1039, 16 pages) (NTIS Order #PB-203 505-F) 10/18.

Route 61: Lincoln County, *Missouri*. Widening 8.5 miles of the present road (from 2 to 4 lanes) between Bowling Green and Troy, ends just north of the Cuivre River crossing. Highway project F-61-4(17). Comments made by DOI, EPA, various State and local agencies in Missouri. (ELR Order #1063, 16 pages) (NTIS Order # PB-203 506-F) 10/19.

Route 13 (Crane Bypass): Stone County, *Missouri*. Construction/upgrading of highway from just north of Rte. 248 southerly to 1.2 miles south of Bailey Creek. Involves replacement of 3 bridges. Comments made by USDA, EPA, DOI, HUD, State Clearinghouse, Lakes Country Regional Planning Comm. ELR Order #1060, 7 pages) (NTIS Order #PB-201 246-F) 10/26.

Scottsbluff-Gering Bridge: Scotts Bluff County, *Nebraska*. New 2-lane structure for southbound traffic on Nebraska 71 across the

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North Platte River. Nebraska project F-520 (5). Comments made by DOI, EPA, various State of Nebraska agencies, City of Scottsbluff. (ELR Order #978, 19 pages) (NTIS Order #PB-199 142-F) 10/7.

SR-22: Westchester County, *New York*. Widening route from 4- to 6-lanes between Katonah and Croton Falls (6.1 miles). Highway project FIN 9061.00. Comments made by DOI, USDA. (ELR Order #1016, 27 pages) (NTIS Order #PB-199 562-F) 10/13.

SH-12: Jefferson and Lewis County, *New York*. Reconstruction and resurfacing 3 segments of route, encompassing SH-147, SH-626, SH-1129 and SH-637. Highway project 7197.00 Comments made by USDA, FPC. (ELR Order #1016, 25 pages) (NTIS Order #PB-200 215-F) 10/13.

US-17: Chowan County, *North Carolina*. Relocation of highway to bypass Edenton, North Carolina (6.6 miles). Will displace 22 families and 1 business. Highway project F-75(9). Comments made by USDA, Army COE, GSA, HUD, DOI, OEO, Chowan County, Town of Edenton. (ELR Order #1026, 43 pages) (NTIS Order #PB-203 494-F). 10/18.

Licking Country Road 311: Heath, *Ohio*. Involves 1.8 miles of highway construction on new location. Consists of a new bridge over the South Fork of the Licking River, at-grade crossings, etc. Highway project S-SU-229(2). Comments made by DOI, Army COE, various State of Ohio agencies. (ELR Order #1017, 17 pages) (NTIS Order #PB-198 684-F) 10/13.

SH-63, SR-123: Warren County, *Ohio*. Construction begins on SR-63 at the West Corp. in Lebanon continuing to intersection with US-42 and SR-123. From this point the project continues along SR-123 to a point near interchange of SR-123 and I-71. Length of project (divided into urban and rural portion) is 3.5 miles. Comments made by DOI, HUD, DOT, City of Lebanon and Ohio-Kentucky-Indiana Regional Planning Authority. (ELR Order #1020, 20 pages) (NTIS Order #PB-200 387-D) 10/13.

SH-51: Payne County, *Oklahoma*. Addition of 2-lanes to existing highway beginning at Western Ave. in Stillwater continuing westerly 5.5 miles. Will result in loss of 100 acres of mixed pasture and cultivated land. Highway project F-176. Comments made by DOT, DOI and various State of Oklahoma agencies. (ELR Order #920, 12 pages) (NTIS Order #PB-199 590-F) 9/30.

US-169: Tulsa and Rogers Counties, *Oklahoma*. Upgrading of road on new alignment between Owasso and Collinsville (7.4 miles). Will require use of 270 acres of land. Highway project F-267. Comments made by DOI, various State of Oklahoma agencies, City of Tulsa, Town of Owasso, City of Collinsville, City of Claremore, Indian Nations Council of Government, NECO. (ELR Order #940, 38 pages) (NTIS Order #PB-200 214-F) 10/4.

Fairpark Blvd.: Stephens County, *Oklahoma*. Construction of highway on new alignment from a point east of 13th St., 0.6 mile to just east of East Rd. in Duncan. Highway project SU-6919 (100)c. Comments made by DOT, various State of Oklahoma agencies. (ELR Order #1034, 36 pages) (NTIS Order #PB-200 765-F) 10/18.

Snake River (Adrian) Bridge Section, Succor Creek Highway (Parma Spur): Malheur County, *Oregon*. Proposed project is to replace a bridge over the Snake River. Associated work such as approach construction, grading and paving will also be accomplished. Highway project S-22-016(1). Comments made by DOT, DOI, EPA, Army COE, City of Ontario, various State of Oregon agencies. (ELR Order 1054, 28 pages) (NTIS Order #PB-201 247-F) 10/19.

Legislative Route 14014, Section A01 (Whitehall Rd.): College Township and State College Borough, *Pennsylvania*. Relocation of 1.2 miles of 2-lane roadway. This study considers 2 alternate alignments. Comments made by USDA, DOT, Commerce, EPA, various Commonwealth of Pennsylvania agencies. (ELR Order #945, 35 pages) (NTIS Order #PB-198 919-F) 9/30.

Legislative Route 03013, Section 2, L.R. 10086, Section 1, L.R. 10087, Section 1: Armstrong and Butler Counties, *Pennsylvania*. Road construction on new location (3.7 miles). Purpose: to join the two plants of the Butler County Mushroom Farm. About 30 acres of farm land and 40 acres of woodland will be lost. Comments made by USDA, various Commonwealth of Pennsylvania agencies and local agencies. (ELR Order #919, 40 pages) (NTIS Order #PB-198 674-F) 9/30.

Legislative Route 10063, Section 2; L.R. 10068, Section 2; L.R. 60005, Section 2: Butler and Venango Counties, *Pennsylvania*. Project crosses large swamp. This relocation of Traffic Rte. 308 is 8.1 miles long. Comments made by various Commonwealth of Pennsylvania agencies, Supervisors of Venango, Marion and Clinton, Butler County Planning Comm. (ELR Order #1067, 52 pages) (NTIS Order #PB-198 681-F) 10/26.

US-377: Denton, *Texas*. Rerouting of about a mile from existing US-377 north along Carroll St. to Hickory St. Highway project F-143. Comments made by Commerce, North Central Texas Council of Governments. (ELR Order #939, 13 pages) (NTIS Order #PB-203 241-F) 10/4.

US-287: Hardeman County, *Texas*. Construction of 2 additional lanes from the Childress County line, southeast to a mile west of Acme (10.7 miles). Texas Highway project F 533. Comments made by Commerce and Nortex Regional Planning Commission. (ELR Order #982, 17 pages) (NTIS Order #PB-203 245-F) 10/5.

TOPICS Street 11: in Laredo on Washington St. between Santa Rita Ave. and Pinder Ave., *Texas*. Construction of a railroad overpass and approaches to serve as entrance to the old Fort McIntosh area (.3 mile). Highway project T-T6 9012(2). Comments made by Commerce, DOT, EPA, Texas Development Council. (ELR Order #1061, 17 pages) (NTIS Order #PB-203 625-F) 10/26.

US-340: construction of a bypass of Luray, *Virginia* along the existing Secondary Rte. 615. Project begins at intersection of US-340 and ends at Rte. 211. Length of project appears to be about 3 miles. Highway project F-010-( ). Comments made by HUD, EPA, various Commonwealth of Virginia agencies. (ELR Order #916, 17 pages) (NTIS Order #PB-199 317-F) 9/30.

Route 33: Green County, *Virginia*. Relocation of route to provide a 4-lane bypass of Stanardsville. The project requires 10.2 acres belong to the School Board; 4(f) approval has been given. Highway project F-016-1( ). Comments made by HUD, EPA, various Commonwealth of Virginia agencies. (ELR Order #942, 16 pages) (NTIS Order #PB-200 361-F) 10/1.

Rtes. 13, 58 and 460: Nansemond County and City of Chesapeake, *Virginia*. Widening existing section to 6-lanes. Project extends about 3 miles west and 1.6 miles east of the west corporate limits of Chesapeake. Project runs through Dismal Swamp (one of the largest swamp lands on east coast). Virginia projects F-024-3( ) and U-131-1( ). Comments made by DOT, EPA. (ELR Order # 976, 16 pages) (NTIS Order #PB-203 249-F) 10/4.

Route 640 (Appomattox Bypass): construction on new location of route around Appomattox, *Virginia* (2.9 miles). Highway project F-04-1(x). Comments made by DOI, HUD, HEW, EPA, Commonwealth of Virginia. (ELR Order #970, 16 pages) (NTIS Order #PB-199 261-F) 10/7.

S.R. 515: King County (Renton City), *Washington*. Reconstruction and realignment of route from 196th St. to Grady Way. Highway project S-0228. Comments made by DOT, HUD, Army COE, DOI, USDA, EPA, various State of Washington agencies. (ELR Order #1027, 62 pages) (NTIS Order #PB-198 920-F) 10/18.

FHWA 4(f) statements

The following are not 102 statements. They are explanations of the Secretary of Transportation's approval of projects to be implemented under Section 4(f) of the Department of Transportation Act. 49, U.S.C. Section 1653(f).*

FAP-100 (Route 244): Sacramento, *California*. Highway requires about ¾ acre of land from the Del Paso Park. (ELR Order #893, 4 pages) 9/29.

SR-37: Solano County, *California*. Highway project requires use of 3 acres from the Vallejo Municipal Golf Course. (ELR Order #994, 3 pages) 10/1.

I-75: Charlotte County, *Florida*. Project, located between Punta Gorda and Fort Myers, requires use of land belonging to the C. M. Webb Wildlife Management Area. (ELR Order #892, 4 pages) 9/22.

US-51 and 66: Bloomington, *Illinois*. Project requires the taking of 1.3 acres of land from the Highland Park Golf Course. (Does not have ELR Order #—order by title, date and Department—6 pages) 10/22.

US-422: Cuyahoga County, *Ohio*. Highway project requires use of 3.31 acres of the Bedford-South Chagrin Parkway. Highway project U-468(8). (ELR Order #894, 3 pages) 9/29.

U.S. WATER RESOURCES COUNCIL

Ohio River Basin Commission

Contact: Fred E. Morr, Chairman, ORBC, 1427 4th and Walnut Building, Cincinnati, Ohio 45202 (513) 684-3831.

NOTE.—The Ohio River Basin Commission along with other River Basin Commissions in the United States are under the aegis of the U.S. Water Resources Council.

Draft

Title, Description, and Date

Wabash River Comprehensive Report, *Ohio, Indiana, and Illinois*. The report is of a general nature describing the conceptual basis for developing the plan, the alternate courses of action evaluated during the formulation period, and briefly the special project proposals. (Individual environmental impact statements will be prepared on each project.) Some of the projects recommended include: 13 major multipurpose reservoirs, 147 small watershed projects for flood control, 2 coal mine drainage pollution abatement projects, etc. These proposals are divided into early action and long range plans. (ELR Order #1066, 39 pages) (NTIS Order #PB-203 615-D) 10/18.

Kanawha River Comprehensive Report, *North Carolina, Virginia*, and *West Virginia*. Early action programs recommended include: 21 multipurpose reservoirs, 17 upstream watershed projects, a land stabilization and resource development special study, etc. Statement in general describes the basin area, its economy, the needs as relate to development of the water and land resources, etc. (ELR Order #1067, 18 pages) (NTIS Order #PB-203 616-D) 10/18.

REGIONAL FEDERAL HIGHWAY ADMINISTRATORS

Region 1 (Conn., N.H., R.I., Mass., Puerto Rico, Me., N.J., Vt., N.Y.)

Administrator: Gerald D. Love, 4 Normanskill Blvd., Delmar, N.Y. 12054 Tel: (518) 472-6476

Region 2 (Del., Ohio, Md., W.V., D.C., Penna., Va.)

Administrator: August Schofer, Rm. 1633, George H. Fallon Federal Office Bldg., 31 Hopkins Plaza, Baltimore, Md. 21201 Tel: (301) 962-2361

Region 3 (Alabama, S.C., Georgia, N.C., Fla., Tenn., Miss.)

Administrator: Harry E. Stark, Suite 200, 1720 Peachtree Rd, N.W., Atlanta, Georgia 30309 Tel: (404) 526-5078

Region 4 (Ill., Ky., Wisc., Indiana, Mich.)

Administrator: Fred B. Farrell, 18209 Dixie Hwy., Homewood, Ill. 60430 Tel: (312) 799-6300

Region 5 (Iowa, Neb., Minn., Mo., Ka., N.D., S.D.)

Administrator: John B. Kemp, P.O. Box 7186, Country Club Station, Kansas City, Missouri 64113 Tel: (816) 361-7563

Region 6 (Ark., Oklahoma, La., Texas)

Administrator: James W. White, 819 Taylor St., Ft. Worth, Texas 76102 Tel: (817) 334-3232

Region 7 (Arizona, Hawaii, Calif., Nevada)

Administrator: Sheridan E. Farin, 450 Golden Gate Ave., Box 36096, San Francisco, Calif. 94102 Tel: (415) 556-3951

Region 8 (Alaska, Montana, Wash., Idaho, Oregon)

Administrator: Ralph M. Phillips, Rm. 412, Mohawk Bldg., 222 Southwest Morrison St., Portland, Ore. 97204 Tel: (503) 226-3454

Region 9 (Col., Utah, N.M., Wyoming)

Administrator: William H. Baugh, Bldg. 40, Denver Federal Center, Denver, Colorado 80225 Tel: (303) 233-6721

*These statements cannot be ordered through NTIS.

SUMMARY OF 102 STATEMENTS FILED WITH THE C Q THROUGH OCT. 31, 1970

BY AGENCY

	Draft[1]	Final[2]	Total[3]
Agriculture, Department of	40	87	128
Appalachian Regional Commission	0	0	0
Atomic Energy Commission	7	4	51
Commerce, Department of	0	7	
Defense, Department of	3	2	5
Air Force	4	0	4
Army	5	5	10
Army Corps of Engineers	153	249	402
Navy	5	4	9
Delaware River Basin Commission	3	0	3
Environmental Protection Agency	4	8	12
Federal Power Commission	15	4	19
General Services Administration	14	16	30
HEW, Department of	1	0	1
HUD Department of	8	9	17
Interior, Department of	48	34	82
International Boundary and Water Commission—United States and Mexico	3	2	5
National Aeronautics and Space Administration	16	6	22
National Science Foundation	2	0	2
Office of Science and Technology	0	1	1
Tennessee Valley Authority	12	1	13
Transportation, Department of	820	388	1, 208
Treasury, Department of	1	3	4
U.S. Water Resources Council	4	0	4
Total	1, 190	850	2, 040

[1] 102's for actions on which no final 102's have yet been received.
[2] 102's on legislation and actions.
[3] Actions on which final or draft 102 statements for Federal cations have been received.

Note: Separate 4(f) statements not incorporated in 102 statements received from DOT are not included.

BY PROJECT TYPE

	Draft	Final[2]	Total[3]
AEC nuclear development	8	7	15
Aircraft, ships and vehicles	2	3	5
Airports	27	109	136
Buildings	1	4	5
Bridge permits	14	4	18
Defense systems	1	2	3
Forestry	2	4	6
Housing, urban problems, new communities	7	5	12
International boundary	4	2	6
Land acquisition, disposal	10	21	31
Mass transit	3	1	4
Mining	5	1	6
Military installations	10	2	12
Natural gas and oil:			
Drilling and exploration	3	5	8
Transportation, pipeline	4	2	6
Parks, wildlife refuges, recreation facilities	9	12	21
Pesticides, herbicides	6	10	16
Power:			
Hydroelectric	18	4	22
Nuclear	24	16	40
Other	15	1	16
Transmission	7	5	12
Railroads	1	0	1
Roads	660	256	916
Plus roads through parks	114	16	130
Space programs	6	2	8
Waste disposal:			
Detoxification of toxic substances	4	1	5
Munition disposal	2	3	5
Radioactive waste disposal	1	1	2
Recycling	0	0	0
Sewage facilities	3	4	7
Solid wastes	1	0	1
Water:			
Beach erosion, hurricane protection	2	20	22
Irrigation	16	9	25
Navigation	38	89	127
Municipal and industrial supply	3	1	4
Permit (Refuse Act, dredge and fill)	4	0	4
Watershed protection and flood control	123	207	330
Weather modification	7	3	10
Research and development	13	6	19
Miscellaneous	12	12	24
Total	1, 190	850	2, 040

[1] Draft statements for actions on which no final statements have yet been filed.
[2] Final statements on legislation and actions.
[3] Total actions on which final or draft statements for federal actions have been received.

MAYOR LINDSAY'S POLITICAL BELIEFS AND MOTIVATIONS

HON. JOHN E. HUNT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HUNT. Mr. Speaker, I have here an editorial and a column, both from the Indianapolis Star. These statements provide information on Mayor John Lindsay's political beliefs and motivations. I urge my colleagues to examine these entries as the analysis is worthy of our consideration.

SIMMERING IN HIS OWN JUICE

An old political rule is: "If your own constituency, which knows you well, can't stomach you, seek a larger constituency, which knows you less."

New York Mayor John V. Lindsay is following that rule. The last time he ran for re-election, more New Yorkers voted for others than for him. Only because his opposition divided behind two mayoralty candidates did Lindsay manage to squeak through, under the Liberal Party banner, for another term. Unable to marshal the majority of New Yorkers behind him, he now seeks a larger constituency—the majority of Americans. Lindsay, it is all too apparent, wants to be President.

A Republican—at least in name—most of his life, Lindsay two months ago quit the GOP and joined the Democratic Party. This led one comedian to remark, "It was a brilliant move. Having ruined New York as a Republican, Lindsay became a Democrat so he can criticize what the other party did to the city."

But Lindsay is having troubles in his role as Democrat, mainly because the regular Democrats now regard him in the same way many Republicans always did—as an opportunist.

Further, Lindsay is in hot water even with the liberals, whose leader he always wanted to be, and often was. The liberals, too, are beginning to distrust him. Evidence of this was revealed in a letter to him from the New Democratic Coalition (NDC), which helped re-elect him in 1969. The letter expressed "deep disappointment" in what the NDC charged was the mayor's failure to work for a coalition of Democrats from "the liberal, progressive and reform elements in our party." The NDC looks with disdain upon some of the people Lindsay cozied up to in recent political jaunts out of New York.

The letter, written by NDC's New York State chairman Dan Collins, said, "We are quite distressed with your indorsements and accolades for persons like Mayor Joseph Alioto of San Francisco, Mayor Frank Sedita of Buffalo and various politicians in Indiana, including Controller Bob Pastrick of East Chicago, Ind."

The NDC was formed after the 1968 Democratic National Convention, largely from the ranks of those who had campaigned for the late Senator Robert F. Kennedy or Eugene McCarthy, former senator from Minnesota.

The letter puts Lindsay in a bind from which even a Houdini would have difficulty escaping. As a new Democrat, Lindsay is expected to earn his membership by displaying a certain amount of party loyalty, such as indorsing regular Democratic nominees for public office. But by such regularity Lindsay could alienate the very people he hoped to lead. Lindsay's hopes in this direction are based on his having taken Senator Edward M. Kennedy (D-Mass.) at his word that he will not be a presidential candidate in 1972.

It will be interesting to see how Lindsay tries to get himself out of his dilemma. If he doesn't indorse regular Democrats, he'll increase their distrust of him. If he does keep on indorsing them, he'll get more scathing letters from the liberals. This is one of those cases where the chameleon is caught on a Scotch plaid and doesn't know which color to turn.

LINDSAY IS WRONG IN VIEW OF UNITED STATES

(By Alice Widener)

NEW YORK.—Trying to form a national political constituency of what he describes as "street people" or "outsiders," Mayor John Lindsay of New York City went to Laurel, Miss., to make one of the most outrageously demagogic, divisive and rabble-rousing speeches in recent American history. What he said was untrue and an insult to our country.

Mayor Lindsay had a right to reply to the charge of his being an "outsider" in his campaigning for a local candidate in Mississippi. But the mayor had absolutely no right to go on and define as outsiders "all the people who this country has closed the door on, people without power, and people who are poor, white people who have lost their jobs."

To say that our country has closed the door on all elderly shut-ins, on poor people and unemployed people is to impute a deliberate policy of calculated hard-heartedness to the United States government. That our country has such a policy is a downright lie and the official figures for the U.S. Budget for fiscal 1970 (see World Almanac 1971) prove

it as a lie. In fact, no other country in the world does so much for its people as we do, including the young and old, the shut-ins and itinerants, the working people and jobless people.

Here are just a few of the U.S. Budget statistics for fiscal 1970:

Appalachian development program (for poor mining families), $191,986,000.

Disaster relief, $144,909,000.

Office of Economic Opportunity (for poor people), $1,807,607,000.

Family housing, $619,902,000.

Health, Education and Welfare, $52,286,856,000.

Housing and Urban Development (for lower income people), $3,027,535,000.

Civil Rights and Equal Employment Opportunity Commissions, $14,494,000.

As every American can see, the foregoing U.S. budget items make a total for 1970 of $58,093,317,000 which our country opened its Federal heart to pour out to young and old people, poor people and sick people, disabled people and people without power enough to help themselves.

To form an idea of how very much money that total is, perhaps it is helpful to take note that for fiscal 1951—just 20 years ago—the total of all U.S. Government receipts was $47,567,613,000. That 1951 total is approximately $10.5 billion less than our country spent in fiscal 1970 only to aid people!

When John Lindsay harangues prospective voters about "all the people who this country has closed the door on," he knows that nowhere in the entire world is there a country which has done nearly so much, either relatively or actually, to open the door of opportunity and good living to its people. Lindsay pictures Uncle Sam as a cold hearted skinflint; actually, Uncle Sam is the most generous world leader and the softest touch in the whole wide world.

NATIONALIST CHINA OUSTER OF U.N.

HON. ALBERT W. JOHNSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. JOHNSON of Pennsylvania. Mr. Speaker, the seating of Red China in the United Nations is history, but the world's inheritance is the memory of a Nationalist China that was ousted after a laudable record as a charter member. This act is discussed in a recent column by Newsday's Dick Thimmesch, and I offer it in the RECORD as one who deplores the action that was taken.

Following is the full text of Mr. Thimmesch's commentary:

[From Newsday, Oct. 30, 1971]

NATIONALISTS DON'T DESERVE THUMBS DOWN

(By Dick Thimmesch)

WASHINGTON.—Kicking the Republic of China out of the United Nations is a disgrace. It's done now, but those who had a part of it win no salutes for goodwill. Red, whoops! mainland China was rightfully admitted, but the Republic of, whoops! Nationalist China deserved better treatment. This island sanctuary government has been a good citizen in the U.N. and in the world as well.

The Nixon Administration struggled to do the decent thing here, but it didn't work. The stored-up mean, petty feelings residing in the opulent U.N. body were vented on the beaten but still dignified Taiwan delegation. If anybody looked good in this sorry episode it was this delegation, heads high, as it walked out of the U.N. building from whence it rightfully entered a generation ago.

It seemed as if the world itself had succumbed to the relentless, exhausting barrage of anti-American propaganda Communist regimes have fired at us all these years. All that stuff about old (84) Chiang Kai-shek and his "bandits," straining to be unleashed for an attack on the mainland. Baloney.

In terms of deportment, the Republic of China was a charter member of the U.N. in good standing. It actively participated in the "good works" of the U.N., was a sponsor of the World Health Organization and through its "Vanguard" program quietly provided selfless aid to 30 African nations for several years.

Unlike many noisy members, the Republic of China played a role in such uplift work as UNICEF, telecommunication and meteorological studies beneficial to the whole world. Like many other U.N. members, this government was behind in its dues.

Moreover, whatever belligerence the Taiwan government manifested, it was mostly words. The debates over Matsu and Quemoy are well behind us. The Red Chinese and Nationalists haven't shelled each other in years. The Republic of China is infinitely better behaved than Red China which recorded some violent innings against United Nations forces in Korea and against U.N. consensus in India.

That seemed to matter little to the vast majority of U.N. members who also seemed to have forgotten the origins of this peace organization. The United Nations got started because the great nations which fought the two great aggressors of our time—Nazi Germany and Imperial Japan—called all "peace-loving" nations together at the Dumbarton Oaks Conference and others.

China was awarded one of the five seats on the Security Council because China had fought off Japanese invaders since 1931. This is the same China which was cruelly thrown out of that same United Nations this week.

The same kind of brutality, the same kind of Roman circus atmosphere which characterized the Nazi and Japanese Imperialist regimes was expressed in the U.N. General Assembly hall when the Republic of China was beaten down. It was death, not decency, for the loser.

"It was unbelievable," U.S. Ambassador George Bush told me. "The Chinese delegates took this massive punishment with great dignity. It was body punch after body punch, a thirst for blood like the gladiator was finishing his man. People jeering and shouting insults. I put my arm around Chow Shu-kai (foreign minister) when he left and told him it was just awful."

There they were, the great paragons of virtue, the delegates who live fat-cat lives in New York, thanks largely to the laviah contributions the United States makes to the U.N. There was sanctimonious Sweden, host to the Nazis in World War II, the pious nation which allowed our ambassador, a black man, to be assaulted with rocks and called "nigger"; the hypocrite which forgets its dalliance with Nazism and cries about blood on our hands in Vietnam. Sanctimonious Sweden jeered plenty.

Strong as my feelings are about the brutal handling of the Republic of China, reason dictates that mainland China must be recognised. What is, is. But the facts of life must also call for recognition of the reality of 14 million people on Taiwan, a country larger than 60% of the members of the U.N.

If Red China has any class, it will look down the road and one day, from the seat it got from the Republic of China, show some goodwill, sportsmanship perhaps, in moving to admit the Taiwan government to the U.N. Chiang and his old Nationalists will fade away and die.

When Sukarno misgoverned Indonesia it left the U.N. In 1966, when Suharto took over Indonesia, that troubled country re-entered. This is not analogy but precedent. Peking should one day give its blessing to Taiwan. There must be a way if there are men of goodwill. Isn't that what the United Nations is all about?

WHITHER VIETNAM?

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HAMILTON. Mr. Speaker, Peter Kann of the Wall Street Journal has written a penetrating article on the future of South Vietnam. The November 11 article offers a realistic assessment of the situation that balances the unceasing optimism coming from the administration.

I urge my colleagues to read this fine piece, which follows:

WHITHER VIETNAM?—U.S. AIDES IN SAIGON ARE MORE PESSIMISTIC AS AMERICAN ROLE EBBS

(By Peter R. Kann)

SAIGON.—"There will be no debacle here before the '72 election in the States. But in the longer term? My computer says: 'Do not compute.'"

"I'm not saying Thieu won't be around four years from now, but I'm sure not betting that he will."

"A degree of military stability to 1974." "1965 by 1973."

The quotes are from recent conversations with four old Vietnam hands—U.S. officials with a total of nearly 40 years of Vietnam service. Obviously, they aren't in complete agreement on what the future holds for this country to which they have devoted much of their adult lives. But, if there is a mood common to these men—and others like them—it seems to be one of growing uncertainly and, among many, of gathering gloom.

In the last nine months or so it seems that the "new optimists" have become tired optimists and that traditionally cautious in-house critics are turning into outright, though not public, pessimists. The reasons have less to do with any specific setbacks than with a somewhat fussy feeling that security has slipped, that political opportunities have been lost and that the time for new starts has passed.

ANOTHER BLUE PERIOD

Moods are by nature vague and, on the basis of experience here, exaggerated and transitory. But perhaps the present one is different. During earlier blue periods (after the 1968 Tet offensive for example) Americans at least could go out and try to do something about it: chalk up higher body counts, start a new pacification program, stop bombing, start bombing again, invade a neighboring nation or two.

But not these days. A large part of the current low mood may simply be the realization that America's active role in Vietnam is pretty much over. The American military, with just under 200,000 men still in this country, has all but ceased ground combat. Indeed, sapped by problems of drugs, race, discipline and morale, the U.S. military's very ability to fight if called upon to do so is increasingly in question. And America's influence with its Saigon client appears to be at its nadir—as demonstrated by President Nguyen Van Thieu's victory last month in a one-candidate electoral charade that embarrassed and angered the U.S. Embassy.

America, of course, continues to perform important, perhaps vital, military and other functions for the Vietnamese. But how much longer and at what level America will aid the Vietnamese are in doubt. American and Vietnamese officials generally have been assuming that a U.S. "residual force" of about 40,000 men will be stationed in Vietnam for years to come. But wide disagreement has existed here as to what sort of functions that force should perform and how vital such a force really would be. Of late, there has been considerable concern as to whether there will be a residual force at all.

CONFUSING THE ENEMY—AND ALLIES

Some of these questions may be answered by President Nixon in a Vietnam policy speech, expected within the next few days. But for some time, the President's policy has seemed to have his officials and his allies confused along with the enemy. Thus, the whole residual-force issue is adding to the mood of uncertainty and unease. The defeat by the U.S. Congress of the foreign-aid bill compounds this problem. Also adding to the mood is the President's planned visit to China. The White House says Vietnam won't be discussed in Peking. But many here still think (some hope, others fear) that the trip could influence Vietnam's future.

In Washington, the view on Vietnam is more optimistic than that held by many U.S. officials here. In fact, the Washington estimate is described as one of only slightly bounded optimism. A cross section of Washington officials believes that the security situation in Vietnam is improving, Saigon's army is fighting more efficiently, the economy is doing well and the political scene is at least tolerable.

Analysts in Washington say the pessimism often heard in Saigon comes from aides overly influenced by transitory or localized developments. They don't reflect the big picture, Washington's big-picture experts contend.

THE FACTOR OF TIME

One reason for the differences of viewpoints in the two capitals may be a time factor. Many here in Saigon are concerned with the longer-term prospects of the Vietnam government and how well it will ultimately deal with its many problems. In Washington, officials put more emphasis on the short term; this results in an optimism that officials feel justifies continued troop withdrawals and slow political disengagement from the current Saigon government.

As ever, the question looming over all scenarios is what the aims and the capabilities of the Communists are. Hanoi, no less than Saigon, is worried over President Nixon's Peking visit and the possibility of some deal being made at its expense. Hanoi also has been indulging in increasing self-criticism over economic problems, poor public morale, crime and corruption. In June, North Vietnam was struck by its worst flood of the century. It may have left 10,000 dead and a third of the nation's rice crop destroyed. And Hanoi's manpower pool continues to be drained on the battlefields of South Vietnam, Cambodia and Laos.

"I think South Vietnam has a pretty good chance of surviving because I just don't see how the North Vietnamese can keep going," a senior U.S. official says. But another analyst puts it differently: "I would be optimistic about South Vietnam's future if it weren't for the dreadful ebullience of the enemy."

How North Vietnam—which President Johnson is once said to have called "a raggedy-ass little country of 17 million people"—has been able to keep fighting this long against America's military might has confounded waves of U.S. war planners. The betting by most veteran analysts here seems to be that Hanoi will keep on fighting and thus confound some more.

The South Vietnamese, meanwhile, seem increasingly embittered by American policy. President Nixon's Vietnamization program will—sooner or later—get Americans out of the war. But no one has any indication that the President has a "game plan" for getting the Vietnamese out of it. The toll of combat deaths announced last week was down to two Americans, but the toll of South Vietnamese was 269. Indeed, South Vietnamese casualties this year are running ahead of 1968. Americans may view this as a success of the Vietnamization program, but that's little consolation to the Vietnamese.

As usual, the Vietnamese attitude is ambivalent and, at least to Western eyes, contradictory. On the one hand, there is resentment at America for "bugging out" and leaving Vietnam to cope with a continuing war. And among the Vietnamese the suspicion is growing that all the U.S. really cares about by now is a "decent interval" between withdrawal and collapse. "The stability here will last long enough to show that if the Vietnamese fail, it will be their own fault," says one ranking American official, who seems to confirm what the Vietnamese suspect.

On the other hand, the Vietnamese are increasingly open in their criticisms of the U.S. presence here; "Americans go home" is a fashionable non-Communist slogan these days. More and more Vietnamese are talking, in vague terms, about a "Vietnamese solution to a Vietnamese war" once the American presence—and U.S. backing for President Thieu—is withdrawn. In this view the American presence postpones peace. The view may be naive, but it is significant that even some traditionally staunch anti-Communist Catholic priests are talking in this vein, and so are some younger South Vietnamese army officers.

Few Americans, of course, are talking about outright collapse here—at least not for some time. Pacification statistics still show more than 95% of the people living under government control. The economy continues to display a remarkable degree of stability, and President Thieu's reelection at least demonstrated the ubiquity and even efficiency of the government's administrative apparatus on an issue that counts to its leader.

The South Vietnamese army (ARVN) has been assuming more combat and other responsibilities as Americans withdrew. While the army has suffered some reverses in Laos and Cambodia, the Communists right now don't seem capable of inflicting a major military defeat on ARVN forces within South Vietnam. Main-force Communist units are mostly operating near the Cambodian and Laotian borders and are generally avoiding sustained contact.

In short, compared with two years ago, the present South Vietnamese position seems stronger in almost every respect.

But, compared with about nine months ago the present situation shows signs of slippage. Some observers believe that a military high point may have been reached at the beginning of 1971 and that security has been on a very gradual decline ever since. Veteran officials speak of an increase in enemy attacks on Mekong Delta militia outposts, of roads being a bit less safe to travel, of enemy units appearing closer to Saigon, of an increase in enemy infiltration and activity in the northern I Corps, of enemy inroads in formerly pacified hamlets in the key coastal province of Binh Dinh, and of ARVN forces being stretched too thin to defend the Central Highlands against a slowly mounting enemy threat there.

Much of this slippage may be an inevitable effect of American withdrawal. It is hard to see how even an improved South Vietnamese military force of 1.1 million plus about 200,000 American noncombatants can be as potent a military power as 1.1 million South Vietnamese soldiers and a half-million American combatants.

Moreover, the grace periods purchased by the June 1970 invasion of Cambodia and the April 1971 invasion of Laos are about up. Both operations, whatever their failings, certainly bought some precious time for South Vietnam, but that time was never claimed to be unlimited.

And the chances of another dramatic time-buying foray seem nil. For one thing, South Vietnam has no more neighbors (except North Vietnam) left to invade. Mainly, however, the declining American presence and logistical support seem to rule out a repetition of the drive against the Ho Chi Minh Trail complex or even a major ARVN assault deep inside Cambodia. U.S. military sources, however, are talking about ARVN launching some far smaller, briefer and less ambitious cross-border operations in coming months, and the South Vietnamese still do have about 19,000 troops occupying Cambodian territory along the borde. .

Optimistic scenarios for South Vietnam's future aren't bolstered by retrospective assessments of that Ho Chi Minh Trail operation or of ARVN's performance at Snoul, in Cambodia, four months later. In the Laotian trail operations, despite massive American air support of all sorts, ARVN was forced to pull out of Laos well before planned, and the most favorable assessment that anyone now makes of the operation is to call it a standoff. It may have demonstrated that ARVN with U.S. air power is roughly equal to the enemy, but how long will ARVN have even a fraction of that level of air support? The combat, of course, took place on enemy turf, and that may be to ARVN's credit. But the set-pieces of 1972 or 1973 combat may have to be fought closer to home.

If that foray was in some sense a standoff, Snoul was more of a rout. There, with less U.S. air support but on much more favorable terrain, the ARVN Fifth Division withdrew in panic, abandoning at least 50 vehicles and three artillery batteries to the enemy and losing at least 450 men killed and another 300 listed as missing.

Last month's confrontation between the North and South Vietnamese armies near the Cambodian town of Krek turned out more favorably for ARVN, which managed to reinforce and thus cause the enemy to back off. But again there was heavy American air support and the ARVN division commander in charge stated: "American air power turned the tide; it was decisive, all-important." Once again, how long and at what level will ARVN have available to it American air power—helicopters for troop lift and resupply, Cobra gunships, tactical bombers and B52s? No one is sure.

The future test for ARVN, whatever its level of U.S. support, could well come in the Central Highlands of II Corps. The present Vietnamese strategy (approved, if not devised, by American advisers) is to concentrate most ARVN forces in that corps along the narrow coastal plain in which more than 90% of that area's population lives. American advisers express confidence that Saigon forces can hold the coast. "To get the willing cooperation of those people is a very difficult, very long-term objective, but to get their forced cooperation is easy because of the geography," a high-ranking American says. Meanwhile, he adds, "there will be no more stomping the Central Highland boondocks;

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now the aim in the five Highland provinces is to just survive." He thinks that American bombing plus a few mobile ARVN units can prevent the Communists from overrunning Highland towns.

Other veteran American analysts question that strategy. One recalls that enemy inroads in the Highlands in 1965 nearly forced ARVN to withdraw from the Highland centers of Kontum and Pleiku. It was only the arrival of American forces that forestalled abandonment and prevented South Vietnam from being cut in two—in the view, among others, of Gen. William C. Westmoreland, the current Army chief of staff and former U.S. commander in Vietnam.

"If you control the Highlands, you eventually get the coast," one longtime analyst says. He sees a repetition of 1965 but without any Americans to ride in to the rescue—thus, "1965 by 1973." He and others suggest that enemy forces will try to consolidate control of the Highlands, adding the area to contiguous territory in southern Laos and northeast Cambodia that they already control. The Communists could then lay formal claim to a tri-country "liberated zone" in future peace talks. Or they could use the zone as a vast base for attacks on the central coast of Vietnam, the Mekong River towns of south Laos and the heartland of Cambodia.

Most experts questioned tend to believe that within two to three years Saigon will have abandoned to the enemy large chunks of territory, if not towns, in the Central Highlands and the western part of I Corps in the north. "There will be a northeast-southwest line along which two-thirds of the regular South Vietnamese army will be fighting in conventional format," a ranking official says. He thinks ARVN could hold that line, at least to 1974.

Others wonder if Saigon could ever get two-thirds of its regular army into sustained combat. The ARVN high command recently had to abandon efforts to send the Ninth Division north from its safer stomping grounds in the Mekong Delta; the division simply refused to go. In most ARVN units desertion rise dramatically when units are about to be shifted or sent into combat.

President Thieu frequently talks about a climactic showdown with the Communists in the dry season of 1973, but not all U.S. officials are confident that Mr. Thieu will be around by then. For public consumption the U.S. has tried to put the best possible face on his reelection, sending California Gov. Ronald Reagan and Treasury Secretary John Connally to congratulate him, stressing the dearth of democracy in most parts of the world, taking some solace from the Saigon government's election-day efficiency, telling the ARVN generals that President Thieu is still Washington's man and warning them against any thought of coups.

But, privately, U.S. officials' reactions to the election ranged from disappointment to dismay. Some believed democracy could be made meaningful here and thus see the Oct. 3 exercise in population control as a lost opportunity. Others are less concerned about Vietnamese democracy than about American leverage and thus see Mr. Thieu's election shenanigans as a kind of intramural contest between Mr. Thieu's palace and Ambassador Ellsworth Bunker's embassy, and, of course, the embassy lost.

There is a general American concern that the Vietnamese electorate, at least in urban areas, knows it was somehow cheated on Oct. 3 and that, as a result, Vietnam's numerous political factions may henceforth find more fertile ground for sowing seeds of political ferment. Officials also worry that an increasingly unpopular President Thieu will henceforth isolate himself further from his people and from social and political realities and that he will be more suspicious, more repressive, more reliant on vested interests, less reformist, less willing or able to deal with the moral malaise that infects almost every aspect of this society.

(One interesting indication of President Thieu's state of mind is the manner in which he has surrounded himself, politically and geographically, with members of a single trusted family. Le Van Tu, one of the president's closest cronies, is the chief of Gia Dinh Province, which surrounds Saigon. Tu's brother, his brother-in-law and two of his cousins are all chiefs in other provinces near Saigon—gateways for past military coups.)

While Mr. Thieu is markedly unamenable to U.S. influence, his fate ultimately remains tied to American aims. So long as America's paramount concern is stability under which orderly U.S. withdrawal can proceed, Mr. Thieu can presumably count on American backing. But if President Nixon chose rapid, complete withdrawal (or if a new American administration wanted to dump Mr. Thieu in hopes of achieving a political settlement with the Communists), President Thieu might be hard pressed to hang on. Even without any abrupt change in U.S. policy Mr. Thieu's position may get shakier. American influence with the ARVN generals is mostly based on American aid to fuel their patriotism and fatten their pocketbooks. And as U.S. aid inevitably declines, so may ARVN loyalty to American's man—Nguyen Van Thieu.

Pacification planners no longer seem to be bubbling with enthusiasm and new ideas. They find satisfaction in various developments of the last few years: improved performance by local militiamen, village and hamlet elections and land reform in the Mekong Delta. But public-works programs are being hurt by reduced American assets, a new program for "people's organizations" seems to have flopped, and the Phoenix program to attack the Vietcong infrastructure now is widely viewed as a failure. The program has been partly "Vietnamized," and, perhaps as a result, it is increasingly ineffectual and corrupted. There is also a feeling that the regional and popular forces that provide "territorial security" have gotten about as big and as good as they are going to get and that efforts to make them more mobile will probably fail.

An awareness is growing that Vietnam is an increasingly urbanized society (largely as a result of the war), that urban problems will worsen as American spending and employment decline and that the more politically sophisticated urban citizenry cannot be pacified with sheets of tin roofing or demonstration pigpens.

The expert who talks of gaining the "forced cooperation" of the people of the central coast is at least implying the crucial catch in pacification: Controlling people by military occupation or even pleasing them with increased prosperity is still some distance from really winning their hearts and minds. "These people are still Vietcong in their hearts," said an ARVN general recently of the people in some officially pacified hamlets of Binh Dinh Province.

Finally, pacification—whatever its failures and accomplishments—has always been a heavily American-motivated concept, and, as the American role in Vietnam diminishes, so probably will pacification.

Vietnam's economy, after years of inflationary crisis, now is something of a success story. At least galloping inflation has been checked. Economic controls are being relaxed. Rural prosperity is a reality in much of the Mekong Delta. A new round of economic reforms is expected to further stabilize and stimulate the economy.

But the longer-term outlook is gloomier. Vietnam's exports this year will total less than $15 million. Its imports, which keep inflation in check, total about $750 million a year, mostly financed by the U.S. Long-range plans for economic development remain hazy, and the most optimistic forecast one hears is $100 million in exports by 1978. Foreign private investment remains leery of Vietnam. There is talk of possible oil deposits off Vietnam's coasts, but so far it's only talk.

America is leaving behind here a vast complex of ports, airfields, bases and communications, but these aren't the kind of assets an underdeveloped economy can make good use of. For as far as anyone here is willing to peer into the future, Vietnam will be a beggar nation, overwhelmingly dependent on U.S. aid. And that aid is dependent on the whim of the American Congress.

The general view here is that without continued U.S. economic assistance at roughly the present level, the Vietnamese economy would collapse. Similarly, even the most critical or pessimistic U.S. officials seem to agree that to give the Saigon government even a fair chance of survival, America must continue providing military aid and material. A frequently mentioned figure for future military and economic assistance is $2.5 billion a year.

Another consensus is that some continued U.S. air power will be required, but no agreement exists on how much and what sort. Some analysts believe that the minimum requirements can be provided by planes based in Thailand and on aircraft carriers off Vietnam's coasts. Others see a need for at least a few Vietnam-based tactical air squadrons plus helicopters.

All sorts of "ideal" residual-force mixes are being mentioned these days. One, which assumes a residual force of about 40,000 men, breaks down like this: 500 helicopters with crews and maintenance and support units requiring about 10,000 men, three tactical air squadrons totaling about 4,000 men, four artillery battalions requiring a total of 5,000 men, a few thousand advisers, and another 20,000 logistics personnel with a small combat force to help protect their bases. The U.S. now has in Vietnam about 2,000 helicopters, a dozen artillery battalions, nine tactical air squadrons, 19 combat maneuver battalions and about 100,000 logistics personnel.

Other officials argue against any residual presence in Vietnam itself. Their reasons vary. One ranking official thinks the only way to assure the continuance of vital economic and military aid is to get all American soldiers out of Vietnam; this, he believes, might make a continued aid program more palatable to the U.S. public and its Congress.

Others fear for the safety of a residual force that would be largely dependent on ARVN troops for protection. Even enemy sapper attacks and mortar barrages could take a toll of American helicopter maintenance men or logistics units. An alternative would be to try to leave enough U.S. combat troops here to provide the protection.

However, the way the U.S. Army works it takes four or five support soldiers to back each combatant. Thus, the U.S. would wind up with a fat logistical structure to support the combat troops who would be protecting the logistical units that would be supporting the ARVN combat forces. And that would all add up to a very large residual force indeed.

Some officials see a residual force having adverse psychological effect on the Vietnamese. U.S. troops would be living in relative (to the Vietnamese) comfort in several big enclave bases. Their presence would continue to fuel various Vietnamese resentments (Americans living too well, warping their society, prostituting their women and so on) and there would no longer be the cogent counterargument that Americans are also out in the jungles dying for the Vietnamese. Rather, it would be a case of Vietnamese boys living in mud bunkers on the outskirts of U.S. bases, protecting (or failing to protect) the Americans.

Some officers further fear that even with a compact, all-volunteer residual force, there would continue to be problems of drugs, discipline and morale.

And then there are those analysts who just don't see a residual force making much difference—except for delaying the inevitable. They figure that the only long-term hope for Vietnam is a political settlement with the Communists and that a U.S. residual presence only encourages the Saigon government to keep postponing that settlement.

In all the uncertainty and disagreement over residual forces, there is one thing that the old Vietnam hands seem to agree on: much of the current U.S. presence here could and should be reduced forthwith. One senior official says the mission council—the working committee of top U.S. officials in Vietnam—spends most of its time these days dealing with problems of the American presence in Vietnam rather than with the problems of Vietnam.

"We've just got to get leaner faster," another ranking officer says. And a third tells the story of discovering two adjacent military units on the sprawling U.S. logistics base at Cam Ranh. One was a signal unit and the other a base-support unit. The sole function of the signal unit, he says, was providing communications for the support unit, while the sole function of the support unit was providing services for the signal unit.

THE NATIONAL HUMANITIES SERIES: A SUCCESS STORY

HON. FRANK THOMPSON, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. THOMPSON of New Jersey. Mr. Speaker, while the American people must read weekly kill statistics, must watch violence in the streets, must hear daily about drug addiction and domestic security problems, a Government funded experiment in public education and enrichment goes quietly into its third year of operation.

The National Humanities Series, a unique learning-by-entertainment venture, was established in June 1969, by the National Endowment for the Humanities in Washington, D.C. Administered by the Woodrow Wilson National Fellowship Foundation of Princeton, N.J., the series was fortunate in having access to the foundations' vast network of more than 18,000 outstanding young scholars plus over 2,000 established college professors and administrators all across the Nation.

Since those early days my vote in the House counted toward the creation of the National Endowment for the Humanities, I have followed its progress with special interest. The National Humanities Series is one of its most original and successful experiments. In it, an idea became a reality as teams of professors, performers, and creative artists traveled throughout the country, visiting small remote communities where they presented public humanities programs to nonacademic audiences. They sought out the local people in their clubs, churches, businesses, schools, and homes, and offered presentations which indicated the connections between the world of the humanities and the life of America today. By drawing upon history, philosophy, literature, and the arts, they demonstrated it is proper and desirable to place high value on the individual and his powers to reason and to see himself within the historical framework of the human race. I for one am pleased with the experiment, for, in an age of polarization, approaching our problems without partisanship, stressing what we have in common rather than what divides us, represents a significant step in the direction of national unity.

The aims of the National Humanities Series are set forth concisely by Dr. Barnaby Keeney, the first permanent chairman of the National Endowment for the Humanities:

> [It] will afford a wide variety of local and regional groups throughout the country an opportunity to hear humanists who are particularly effective in conveying humanistic knowledge in terms relevant for persons outside the academic community. It is hoped that public audiences will be encouraged to consider current issues in their broader historical and conceptual contexts, and that professors and other humanists will be encouraged to engage in meaningful discourse with people whose interests are not primarily scholarly. It is also hoped we will learn something about what formats and arrangements are most productive in pursuing these goals.

The National Humanities Series went into production in September of 1969 under the direction of Bill Fegan, managing director of the State Theatre of New Mexico at Raton. Since finishing college in his native Pennsylvania, Fegan, a deeply dedicated and talented producer and director, founded a succession of regional theaters, worked as a concert booking representative, created a series of successful literary-theatrical tours, and served as chairman of the department of drama at Stillman College in Alabama. In my view his achievements during the first 2 years of the National Humanities Series are truly remarkable.

Once Fegan has picked a possible community, he seeks a local person enthused enough by the idea of the series to gather together a group of influential citizens. A staff member from Princeton then meets with them, explains the series in detail, and arranges for the formation of a local humanities council. These committees, without whose working support the humanities teams could not succeed, served the role of involving as many townspeople as possible and also relieved the small Princeton staff of some of the routine chores of planning and arranging the scheduling, promotion, and transportation. Soon a chairman, known and active in the community, would be selected; he or she might be a minister, teacher, postmaster, storeowner, or housewife.

By October 1969 the first six "humanists" had been selected from some 75 candidates, and long weeks of planning, recruiting, performing, and rehearsing ensued. Planning sessions between professors and actors and singers were half rehearsal, half seminar; the professors outlined their programs and their expectations of the performers, and while they were at it might explain the difference between romanticism and neoclassicism or between Sophocles and Aeschylus. The actors suggested scenes, poems, readings and songs, and explained "upstage" and "downstage" to the scholars.

A word of caution to the humanist-chairman was sounded early by Dr. Hans Rosenhaupt, president of the Woodrow Wilson Foundation:

> We realise . . . a college professor is not used to receiving advice on his performance as a teacher or as a scholar. It is important from the beginning that you prepare yourself mentally to accept advice . . . Put yourself in the shoes of the hardware store owner in Liberal, Kansas. . . . What could you possibly say that would first of all make him want to hear you out, and secondly be of value to him?" He also suggested to the performers who asked "what is a humanist?" that . . . a humanist is to the arts what a scientist is to nature.

The "travelling intellectual circusses" set out early in 1970, headed for 41 communities in 19 States, from New England to the Rockies, and ranging in population from 1,500 to 70,000. Over the next 3 months, the series presented a total of 1076 programs. By the time the humanist-led team arrived, a series of appearances had been arranged, according to the needs and interests of that particular town or area, culminating in the major performance by the whole team on the last evening of the visit. Every effort was made to reach as wide an audience as possible, and there has never been a charge for admission of any sort.

The end of the first year of the National Humanities Series saw ever increasing requests for visits, both to the same towns and new ones, and requests to join the teams by both scholars and performers. Reports were coming in from all parts of the country. From Smethport, Pa.:

> The enthusiasm and response—exceeded all expectations—pages could be written providing testimonial evidence—Smethport has become more unified in this cooperative action than it has been in some time.

From Webster, S. Dak., where cumulative total attendance exceeded the population of the town:

> It seems to me that nothing greater could happen to this country than for the National Humanities Series to be so expanded until the spirit of it permeated the whole of the country.

From Toms River, N.J., a lady was overheard saying:

> They are marvelous performers. It really makes you stop and think; so many people doing so many creative things and all I worry about is getting to work on time.

A letter from the Institute for American Indian Art in Santa Fe said in part:

> The programs were absolutely terrific and the team which gave them exceptional.

In its second year, 1970–71, the National Humanities Series, continuing the

theme, "Time Out For Man," grew in scope and reputation. For the fiscal year beginning July 1970, the National Endowment for the Humanities more than doubled last year's grant by providing for $420,000 outright, and $40,000 in matching funds for gifts. It was the hope of the endowment that the series would continue to "provide an exemplary pattern for conveying humanistic knowledge and insight to general public audiences." The series was to continue the pattern of visits by scholars and artists to audiences throughout the United States. Supplementary programs, including senior professors as lecturers, participants, and consultants, were made available. Furthermore, series communities were encouraged in the development of locally initiated humanistic programs and activities.

The summer of 1970 was devoted to the preparation of four major presentations of the fall tour and the organization of new series communities, "Face to Face"—"How and Why People Create"—incorporated the music of Bach, Bernstein, Simon and Garfunkle, and the Beatles; the poetry of T. S. Eliot, Dylan Thomas, Robert Frost, Langston Hughes, and Shakespeare. "Justice, Trial and Error," incorporated scenes from Annouilh's "Antigone," and Lerner and Lowe's "Camelot" with material from Locke, Plato, Judge Roy Bean, Thoreau, the "Ten Commandments," and A. E. Housman. "Poetry in Black" was a one-man show created by black actor Nat Simmons, who acted and read poetry and prose from Langston Hughes to Kahlil Gibran. This was to be one of the series' favorite performances with almost universal appeal especially among the younger audiences. One youngster wrote to Simmons, "Man, you just kept me in school." "Stop, Look, and Listen," a program on "The Good Life," dealt with the attempt to distinguish between illusion and reality and used folk music, scenes from Arthur Miller's "Death of a Salesman," and Shakespeare's "The Tempest," poetry of Hart Crane, readings from Plato's "Republic," films from the turn of the century as well as from new and experimental directors. These were some of the presentations for which scripts were created, supporting programs put together, team chairmen and members selected and rehearsed. Twenty-two of the first year communities were revisited, and another 22 were added to bring the initial total of communities to 44 in 28 States, all the way from Oregon to Georgia, and from Maine to Texas.

A planning conference was held in September 1970 for all participants in the National Humanities Series, as guests of the Johnson Foundation at Wingspread, Racine, Wis. Among those taking part were Wallace B. Edgerton, acting chairman of the National Endowment for the Humanities, whose address gave participants a firsthand account of the Endowment's objectives; others of his staff; program chairmen and performers; representatives from 35 series communities and the Princeton staff. This conference proved valuable in preparing for the second series year, for it cleared up ambiguities of purpose which arose during the first experimental season. Teams could compare notes and local chairmen could exchange ideas. Most important, local chairmen had a chance to meet some of the humanists and performers who would visit their communities.

By the second year of the series, any doubts about the Endowment's belief that "Humanities could be taken to the grass roots of America" must surely have evaporated. To be sure, only the surface had been scratched, but the yearning and even starvation for intellectual stimulus exceeded all expectations.

Eventually, an audience of approximately 225,000 was reached with over 1,648 presentations in 69 communities. But, far more impressive than sheer numbers were the results of series activities. Professors went out to instruct and learned from their audiences things they had never experienced in the classroom. People in small towns saw portrayed slices of life they had hitherto only imagined. Students, teachers, foresters, farmers, professional men, housewives, the young and the retired came together, and, in the discussions which grew out of each performance, found a new level of communication. In an exciting and unusual partnership of scholarship and "show biz," the generation gap, credibility gap, and people-gap were bridged here.

What happened in Waldwick, N.J., is typical of the kind of local initiative generated during the second series year. In this New Jersey town of 17,500, the public school administrators announced plans to integrate next year's humanities curriculum into the themes to be presented there by the series. Several communities expressed an interest in developing local versions of the series format; in Bartlesville, Okla., a high school sponsored humanities series is in formation. In Luverne, Minn., the series sparked monthly town meetings in which residents discuss community concerns; in the words of the local committee chairman—

The Humanities Series taught us that we can enjoy discussing ideas.

Twenty of the series communities have begun to function as regional humanities centers, farming series programs out to neighboring towns or drawing audiences from a radius of up to 60 miles. Some Western communities have adopted the idea of bringing outlying audiences into a central location by using school buses.

Unsolicited reactions on many levels from all corners of the country arrived daily at the Princeton headquarters. They varied all the way from "your series stinks" to highest praise—negative opinions accounting for less than 1 percent. A presentation before a women's church group in Dalhart, Tex., drew the comment:

Best thing to come out of it was the realization on the part of the white women who were there that the black women were more intelligent and informed than they had dreamed. Also, we discovered that the library didn't subscribe to any Negro periodicals, and the librarian, who were there, vowed to see that *Ebony, Black World*, etc. would be made available to the community.

At an Indian school in Stephen, S. Dak., Nat Simmons "Poetry in Black" produced an inspired, but perhaps not so unexpected, result—the children decided to put together a program of their own, a kind of "poetry in red" using American Indian material. A recent letter from Poplar Bluff, Mo., alluded to a social function of the humanities. After a brief description of previous attempts to make social changes in the community, the writer of the letter went on to describe the way in which the series may have induced change not directly through persuasion, but indirectly through its dramatic form—

There was a dimension of sympathy and understanding achieved through this artistic and dramatic medium. I haven't seen this demonstrated before. I've been trying to work through social action myself, in the NAACP, but it hasn't worked. There were a lot of young people who expressed ideas and ideals last night who have never thought any adult would listen to them—The team acted as catalysts.

The response to "Poetry in Black" by actor Simmons who became—

An absolute genius at getting people to open their mouths and hearts about racial tensions—broke down barriers to communication between parents and children, whites and blacks.

It would be impossible to list all the ideas and possibilities, the optimism and plans, generated by the series. But for the record, I should note that there were also misjudgments and even failures. At one evening performance in a southern town, only six persons showed up. Some of the communities were unable to draw an audience other than the "intellectual elite," who had no real need for what the series would give them. But how does one measure success and failure? Has a program really failed if only one person was reached?

The Cherokee, Iowa, Times editorialized aptly the meaning of series visits—

Get off the treadmill long enough to gain perspective. Perhaps you are on your particular treadmill because you have never known anything else. Perhaps circumstances put you there. Or maybe unrealistic dreams. But have you taken time to consider that life goes around only once and that there might be more joy if you took another approach? Have you made your vocation your life because, in the beginning, you had to struggle—and now you are still struggling and have forgotten why, and in that forgetting not stopped long enough to look out into the broad world from your narrow, confined tunnel?

More eloquently than anything I could say of this valiant experiment, perhaps a new art form, in bringing Michelangelo and Shakespeare, Bach, and Robert Frost to our neighbors beyond the urban sprawls, is this tribute from the Webster, S. Dak, postmaster;

The committee joins me in expressing hearty thanks . . . for a magnificent experience. I have lived in this community almost constantly all of my life and I can say unequivocally that nothing heretofore has struck this community which brought it so much joy as did the National Humanities Series. Joy which comes from something that is readily recognizable as being of lasting value. There remains so much to remember, to think about, and to guide. Thank you.

Here surely is recompense for this exciting and imaginitive undertaking, for the time, the work and the funds used to bring time out for man to our fellow citizens throughout this country.

KENNEDY AND IRELAND

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. SCHERLE. Mr. Speaker, it is not the responsibility and it is a dubious right of any individual American, particularly a political spokesman, to make emotional and shortsighted demands on a foreign government's internal policy. I speak specifically of Senator KENNEDY's recent remarks on what Britain's role should be concerning the tragic situation in Northern Ireland. I call to the attention of my colleagues the following editorials from the Dallas News, the Christian Science Monitor, the Memphis Press Scimitar, the Richmond Times-Dispatch and the Omaha World Herald.

The articles follow:

[From the Dallas (Tex.) News, Oct. 23 1971]

KENNEDY AND IRELAND

Sen. Edward Kennedy has invaded the affairs of another nation by taking sides in the Northern Ireland conflict. He demands that British troops stop persecuting Irish Catholics and go home.

The North Irish government accuses him of playing American politics with Irish lives—which is exactly what this unheard-of meddling amounts to.

If any world situation defies the power of anybody to short its rights and wrongs, it is the Irish one. Yet Kennedy ignores both history and reality in aiding, perhaps emotionally, with one religious element while making the political demand that the North Irish government be dissolved and all Ireland united.

Protestants rule North Ireland, which is by no means an all-Irish country and one less than eager to unite with Eire. North Ireland, moreover, is British—a product of history too ancient to be undone in the name of one Ireland or even one religion.

British troops are there to keep warring Catholics and Protestants from one another's throats. Whatever the wrongs done the Catholic minority, it is no doing of the British tropa. They die almost daily trying to control the immemorial prejudices of both sides.

Kennedy, as the North Irish government has retorted, reveals both prejudice and ignorance by treating the tragedy as an all-Irish question and the British troops as colonial dragoons.

The U.S. Government has rejected his interference. Most Americans will wonder how much of it is blind emotion and how much of it sense.

[From the Christian Science Monitor, Oct. 23, 1971]

UNWARRANTED INTRUSION

Sen. Edward Kennedy's demand in Congress for the withdrawal of British troops from Ulster and the unification of Ireland can only be described as a totally unwarranted intrusion into British internal affairs.

It portrays a dismaying lack of sensitivity to the complexity of the tragic situation in Northern Ireland. It ignores the fact that Ulster is an integral part of the United Kingdom and that two-thirds of its population are ardently committed to preserving that relationship.

By urging the immediate withdrawal of British troops, Mr. Kennedy is doing just what the Irish Republic Army terrorists want. Their priority goal is to force the British Army out of Ulster as a first step to unification of the island.

But moderate opinion in Ireland, both north and south of the border, knows perfectly well that a solution to the Ulster problem is just not that simple. Both the British Government and the provincial government in Ulster are moving toward a broader concept of the political structure in the north, which would open the door to participation by the Roman Catholic minority in the administration.

But this can only come when terrorism in the north has been stamped out, and as of now the presence of British troops is essential to combat that terrorism. For the British this is a painful but unavoidable assignment. For them to throw in the sponge and quit would very probably lead to civil war in the north.

British newspapers justifiably point out that Senator Kennedy made no condemnation of the terrorists and are shocked at his calling the Ulster situation "Britain's Vietnam."

Politics apart—and the motive was, of course, purely political—Senator Kennedy's gesture hardly enhances his reputation on foreign policy matters.

Happily the Nixon administration was quick to disassociate itself from the Kennedy statement in Congress and from the resolution presented jointly by him and Sen. Abraham Ribicoff to the Senate Foreign Relations Committee. Reassurances by American officials both in Washington and London that the demands made in the resolution in no way reflect American policy should help to soothe the ruffled feelings of the British.

[From the Memphis (Tenn.) Scimitar, Oct. 25. 1971]

ADVICE OF IRELAND

Senator Edward M. Kennedy is the prime mover of a resolution calling for the immediate withdrawal of British troops from Northern Ireland and the joining of that province to the Irish Republic.

The move has stirred accusations in the internal affairs of another country and, moreover, playing ethnic politics.

Such charges take the matter too seriously. It is characteristic of ambitious senators that they stick their noses in people's business all over the world. And Kennedy's special interest in Ireland is no more surprising, say, than those of Senators Jacob K. Javits in Israel, Edmund S. Muskie in Poland and John O. Pastore in Italy, or Vice President Agnew in Greece.

What is striking in Kennedy's intervention is that it carries such bad advice. A rapid withdrawal of British troops from Ulster would lead to bloodshed, perhaps civil war, in which the worst victims would be the Catholic minority.

People tend to forget that the British army was sent to Ulster in 1969 to protect the Catholics from attack by Protestant extremists. Its presence has made possible the disarming of Protestant police and auxiliary forces that were regarded as dangers by the Catholics.

Since then, the threat to peace has come from gunmen and bombers of the outlawed Irish Republican Army, who have infiltrated Ulster from the South.

They dream that their wave of terror will cause Britain to tire of its losses in Northern Ireland and withdraw its army. Then the IRA could count of undoing the partition of 1920 and unifying the six counties of Ulster with the Irish Republic.

In any event, such a trial at arms would be cruel, tragic and bloody. And that is precisely what politicians are risking when they say pull the 13,000 British soldiers out.

Quite sensibly, Prime Ministers Edward Heath of Britain and John Lynch of Ireland know that a political solution is essential. Heath is pressing Ulster's Protestant officials to give the Catholics fair play in voting, jobs and housing—which they have been deprived of for 50 years.

The hope is that equal treatment will undercut Catholic support for the IRA and that Ulster will be able to work out its future in peace. After so much hatred and violence, what Heath is trying is difficult and, in the end, may fail. But his chances are not helped by uninformed advice from abroad.

[From the Richmond (Va.) Times-Dispatch Oct. 25, 1971]

KENNEDY AND THE IRISH

Sen. Edward M. Kennedy, D-Mass., stirred a hornet's nest in the United Kingdom last week when he presumptuously demanded that all British troops be immediately withdrawn from embattled Northern Ireland and that predominantly-Protestant Ulster and and predominantly-Catholic Eire be reunited as one Ireland.

"What Sen. Kennedy's remarks may do is to give support to the Belfast gunmen, for which he is likely to face criticism," the British Press Association roared. "As a Catholic of Irish descent himself, there will be an inevitable suspicion that he has political motives."

Sixth Conservative Party members of the British Parliament signed a motion stating, "This house deeply resents the quite unwarranted incursion of Sen. Kennedy into the domestic affairs of the United Kingdom, but is confident that it does not reflect the views of responsible American leaders."

Brian Faulkner, prime minister of Northern Ireland, observed that Kennedy "has shown himself willing to swallow the hoary old propaganda line that IRA (Irish Republican Army) atrocities are on behalf of the Irish people and the British army is here as a colonial power."

Since the IRA terrorists are currently trying to accomplish the two objectives Kennedy commends by force, and since they seem to have no compunction about murdering innocent men, women, and children in the process, and since the prime ministers of Britain, Ulster, and the Republic of Ireland, meeting jointly, have not solicited American advice on solving their problems, it does seem slightly incredibable that Kennedy chooses at this moment in history to poke his nose into this explosive affair.

Ah ha, there is an explanation! Sen. Kennedy declared on the Senate floor that America cannot remain silent because "Britain has lost its way" and "Ulster is becoming Britain's Vietnam." But the Senator perhaps forgets (or fails to realise or admit) that America crossed the Rubicon into its own massive Vietnam involvement when the

Kennedy Administration, in 1963, meddled in another nation's internal affairs by supporting the overthrow of the established government of South Vietnam. The British may be forgiven for not exactly falling over backward, then, to take an American liberal's advice on how to "avoid a Vietnam," especially when the politician's name is Kennedy.

[From Omaha World Herald, Oct. 26, 1971]

TED POINTS THE FINGER

Sen. Edward Kennedy's intervention in the troubles of Northern Ireland and his finger-pointing at the British government are not completely explained by the obvious fact that his words will sound sweet to the ears of some Irish-American voters.

In the first place, not all American Irish are sold on the virtues of the rebel cause in Northern Ireland. The extremism of Bernadette Devlin and her links with Communists have raised a caution flag in the minds of many who are sympathetic to the rebels.

It is not easy to sort out "good guys" and "bad guys" in this complicated struggle, but Sen. Kennedy's attitude suggests that he finds it easy: Simply blame the British. We expected a little better from Kennedy.

THE PUZZLE

HON. GILBERT GUDE

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. GUDE. Mr. Speaker, our Nation is facing a crisis in the disposal of solid waste. I would like to call to the attention of my colleagues the results of an extremely valuable Solid Waste Symposium that was organized by the Montgomery County Chamber of Commerce, the editors of Pollution Engineering, and my office:

THE PUZZLE

Like every other county in the U.S., Montgomery County, Maryland, has environmental control problems. But, here solid waste disposal has reached a crisis stage. A new 1,300-ton-per-day incinerator does not meet state pollution control regulations and is not operating at maximum capacity. The county's landfill, which was supposed to be finished off level with the surrounding grade, is now a 5-acre mountain more than 50 ft. above grade, and growing. The site is far from sanitary and is plagued with sea gulls, rodents and blowing debris. Each time county officials have attempted to buy a new landfill site, they have met with strong opposition. It's the same old story—no one wants someone else's garbage. So, the county has had to continue using its existing facilities.

Montgomery County forms the northwest boundary of the District of Columbia and is the headquarters of many federal offices including the U.S. Department of Health, Education and Welfare; U.S. Bureau of Standards; Atomic Energy Commission; National Institute of Health; Army Map Service; Naval Ordnance Laboratory and the U.S. Environmental Protection Agency.

The county also has 7,600 other businesses and industries as well as many branch offices of other federal agencies. It is a highly professional community, with more than 30 percent of the residents being college graduates. It is the richest county per capita in the country; the average family income is in excess of $19,000. The population has tripled since 1950 to its present total of 522,000, and is expected to grow to over one million by the year 2000.

The editors of Pollution Engineering were already involved in the county assisting businesses in a self-evaluation pollution control program when the Montgomery County Chamber of Commerce decided to undertake a project to solve the county's most pressing problem. A. S. Damiani, facilities manager of Fairchild Industries and a vice president of the county chamber of commerce, joined by R. D. Wooten for the University of Maryland, set about creating a problem-solving program. Pollution Engineering's editors were asked to help provide technical support.

U.S. Congressman Gilbert Gude agreed to be honorary chairman. His office personally invited a key representative of every business, organization and association in the entire county to attend and participate in the program. Because of the large audience anticipated, it was decided to hold the program in the main auditorium of the National Bureau of Standards. Ultimately some 300 individuals from 7 states and one foreign country attended this unique symposium.

The two-day program was designed for total audience participation and education. On the first day a panel would present the problem, and then a panel of technical experts would discuss specific solutions and answer questions from the audience. On the following day the audience would be divided into small discussion groups to deliberate the problem and arrive at answers using information from the technical panel, while providing the necessary input of what was acceptable to the residents of the county.

Upon arriving at a concensus of all of the discussion groups, another panel would present the county officials with recommendations, as well as transcripts and tape recordings of the proceedings. Thus, the symposium was designed to provide the county government—without charge—expertise to resolve its problems, and to determine what the community leaders considered an acceptable solution.

The solid waste disposal problem of Montgomery County was presented to those attending the symposium by a panel of representatives from the county government and board, U. S. Environmental Protection Agency, State of Maryland's solid waste control office, and an individual representing the many citizens' organizations. Each panel member described the problem from his viewpoint, providing the audience with a total picture of the problem.

THE SOLVERS

As explained by the county officials, the problem was simple—planty of refuse and no place to put it. The quantity of solid waste received at the county incinerator and landfill during fiscal year 1969–70 amounted to 282,000 tons of incinerable refuse (an average of 906 tons per working day) and approximately 69,000 tons of non-incinerable bulky refuse (an average of 222 tons per working day.) County officials estimate that these figures will increase to 920,000 tons per year of incinerables and 262,000 tons per year of non-incinerables by 1995—an increase of over 200 percent between 1971 and 1995. Adding to the difficulty, the state of Maryland adopted air pollution control regulations which will force shutdown of the incinerator facility by July 1978, if costly major redesign considerations are not carried out.

The State of Maryland and the U. S. Environmental Protection Agency are sympathetic and understanding of the problems involved, but to them the solution is clear-cut—just comply with the law. As viewed by the citizens, the problem becomes involved with personalities. The residents would like the county officials to be more open about the problem and what is being done to solve it.

Once the problem had been fully aired, Pollution Engineering's technical panel of solid waste disposal experts sat down to provide data on solving it. Extreme care had been taken in selecting the technical panel. It was important that all sides were represented including government, consultants, researchers and manufacturers. This also enabled the panel to discuss legislation, financing and projects in the development stage. To ensure that prejudice would not creep into the discussions, the panel was structured to include at least two individuals who could speak with authority on a specific facet of solid waste disposal, such as compacting.

However, the technical panel did deviate from what might be considered normal practice in its analysis. Most of the audience knew the many advantages of incineration, landfilling, pyrolysis, shredding, high temperature incineration, compacting and recycling. However, probably very few of them fully understood the limitations of the various processes. Since official recommendations from the symposium would be determined by the general audience, it was imperative that everyone be provided with a total unbiased picture of the methods and equipment available. Therefore, in its analysis of the problem, the panel stressed the limitations of the solid waste handling and disposal processes from equipment to economics.

Several weeks prior to the start of the symposium, each panel member reviewed the technical data furnished by the county and submitted in writing a detailed statement on how he proposed to solve the problem viewed only from his immediate field of expertise. This was done without collaborating with fellow panel members.

Then just before the symposium started, all panel members were given copies of the statements made by one another. This immediately provided a base for discussion between panel members with differing viewpoints. It also demonstrated to the audience how methods could be logically combined to form a complete solid waste disposal system.

During this discussion among panel members, the audience submitted questions for clarification and elaboration. For example, questions were directed to the federal government representatives asking about funding to relieve the cost burden. And, why are shredding demonstration programs being reevaluated? The panel was asked to discuss the problem of increased decomposition time in a landfill created by compaction and baling of refuse. Panel members were asked to discuss the use of ultraviolet radiation to increase the decomposition rate.

Industry's contribution to the solid waste problem was also dealt with at great length. It had been suggested before the symposium, that industries using the county's disposal services should be forced to carry a greater portion of the cost or find their own places for disposal. It had also been suggested in the press that industry should be required to perform some type of processing of refuse before it left the plants. This might range from separation of incinerables and non-incinerables all the way to required compaction and baling.

The panel members did not feel the problem was sufficient to require industry to find its own disposal sites. They did, however, feel that manufacturers should be investigating on-site preparation or disposal systems for the economic benefit to be derived. Many examples were presented detailing the cost advantages of on-site compaction, shredding, baling and incineration.

Legislation requiring homeowners to perform some type of refuse preparation were also thoroughly discussed. For example, it was requested that the panel consider possible legislation requiring home incineration. The panel determined that, considering the number of residences in the county and the operating efficiency of most home incinerators, required residential incineration would be prohibited by the air pollution control regulations of Maryland.

Advocates of recycling asked the technical panel to discuss required on-site segregation of materials. Though all the panel members were in favor of recycling, they felt that a sufficient, stable market for recycling paper did not exist in the immediate area, and therefore did not feel that requiring legislation to separate this material from refuse was justified.

However, the panel felt that possibilities for additional processing of the ash from the county incinerator showed promise for savings in operating costs. In addition, while the incinerator is not presently designed or equipped to capture heat and generate steam for sale, it was agreed that, if major modifications are required to meet state pollution standards, incorporation of this capability should be considered.

The technical panel then presented several workable solutions for the audience to consider. These recommendations encompassed the whole problem including collection, processing and disposal. It was stressed by one of the panel members, however, that several new disposal techniques are nearing completion of tests by the U.S. Bureau of Mines. Therefore, any final recommendations for long-range disposal planning should leave the door open for the county officials to investigate and incorporate newer and possibly more economical methods.

The audience left the first day's proceedings to personally consider the problems, solutions and limitations brought out by the panel. They were, however, requested to return the following day to deliberate this material in small discussion groups. In turn, these groups were to arrive at a series of guidelines that county officials could follow in proceeding to solve the problem.

THE RESULTS

The success of any program should be measured by the results achieved.

Generally, people were unhappy with the amount of money they were paying for services received. Therefore, no one was in favor of additional costs to the homeowner and business for improving service.

One hot item which drew much discussion, but no results, was the question of imposing limitations on packaging materials. The discussion groups were made up of individuals with strong attitudes on both sides of the problem. Though people understood that plastic would not decompose in a landfill, some were willing to accept this environmental contaminant for the opportunity of see-through packaging materials when purchasing groceries such as meats.

Of major significance, however, was the concensus reached on the question of separating materials at their source for collection and possible recycling. The majority of people agreed that they did not want to be inconvenienced by this task and would do so only if compelled by law. This feeling also answered the question about the need to have pickup collection stations strategically located by the county to which individuals could voluntarily bring recyclable materials. Although these depositories would be used by a few people, the reduction in the overall amount of waste to be handled would be insignificant.

This question has extreme national importance. Practically every community in the country is considering the operation of some type of recycling program. Many cities have operated a one- or two-day collection project with great success. However, if the vast majority of community residents will not continually support and supply a recycling station, its impact will be negligible in terms of alleviating the solid waste problem. Americans must be educated about the problem and realize the necessity of some personal inconvenience.

The greatest benefit to the county officials came from the recommendations of the discussion groups to the question: "What do you feel would be the most feasible disposal system—present and future?" To solve the immediate situation the group concensus was that the present incinerator must be upgraded to comply with state pollution standards. Since a small landfill is required for incinerator residue, the county should take immediate steps to acquire property for that purpose only.

Also, since a vast number of individuals with solid waste interest and expertise live and work in the county, it was recommended that the government should immediately create a task force to continually investigate problems and techniques and report to the officials and the public.

Finally, the symposium recommended that the county government embark on a long-range education program to keep the public informed of the solid waste problem and attempt to change attitudes about recycling. This would be combined with a long-range program investigating high-temperature incineration, improved collection and operation of a processing/recycling facility.

We, the editors of Pollution Engineering, feel that the symposium accomplished far more than appears on the surface. For the first time all sides were able to unemotionally discuss the difficulties each was having with the other—citizens with the county, other governments with the county government, and Montgomery County officials with the residents. This did much to further the education of the people and to resolve many differences in understanding.

Additionally, county officials were provided with a fantastic amount of free expertise on their specific problem by the technical panel. The experts put the problem in its true perspective, and set out to educate the government and citizens alike. It was an outstanding display of dedicated men believing that pollution can be controlled through reason and understanding, giving of their time and abilities to meet that end.

Solid waste in Montgomery County is still of concern. But now county officials know what citizens consider acceptable to alleviate the situation. In turn, the people understand that there is not one easy, quick solution to the problem. As long as communication continues to exist between all parties, the problem will be controlled and soon solved.

GROUP PRACTICE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. CARTER. Mr. Speaker, the growth of group medical practice in this country has been quite steady for a number of years. As a physician, I find that the American Medical Association is often accused of opposing a group practice. I believe a recent editorial from the American Medical News states the position of the AMA on this topic and I insert the editorial in the RECORD at this point:

[From the American Medical News, Sept. 13, 1971]

GROUP PRACTICE

Group practice has become a favorite topic in the continuing debate over America's health care system.

Some participants in the debate claim that group practice is the answer to many problems of health care delivery. Legislation has been introduced in Congress that would provide financial subsidies for the development of group practice, a move which the American Medical Association has opposed because it favors the development of one type of practice over all others. This opposition has led to rebirth of the oft-repeated myth that the AMA always has opposed group practice.

This is not true.

The AMA in the 1930s questioned so-called "contract" practice, in which entrepreneurs hired willing physicians and sold their services in such a way that both the physicians and the patients were exploited. This, however, is not group practice; it is "contract practice."

In 1933, the AMA House of Delegates said: "Those forming a group should be guided by the same principles regarding professional qualifications for practice, ethical relations to fellow practitioners, and consideration for the economic position of these whom they serve as should guide the individual practitioner."

In 1957, the House said: "It is within the limits of ethical propriety for physicians to join together as partnerships, associations, or other lawful groups provided that the ownership and management of the affairs thereof remain in the hands of licensed physicians."

In 1970, AMA recognized "the need for multiple methods of delivering medical services," and pledged to encourage and participate in efforts to develop them. It called for maintenance and creation of incentives in medical practice, and pointed out that "Among these incentives are a multiplicity of practice options, maximum professional independence, and freedom of choice for both physicians and patients."

Group practice has enjoyed a steady growth in the past few decades. Since physicians comprise those group practices, and since 82% of MDs involved in office-based patient care belong to the AMA, the continued charge of AMA opposition to group practice is difficult to uphold. Furthermore, two members of the AMA Board of Trustees are in group practice, and since 1962, the AMA has made available to MDs a book, *Group Practice—Guidelines to Joining or Forming a Medical Group.*

The AMA has stated on many occasions its belief that a pluralistic system of medical care, utilizing solo practice, group practice, group practice prepayment, and other mechanisms, is the best way to assure that the public will receive quality health care, with each patient and physician having the right to choose the type he prefers. What the AMA opposes is coercion—through legislative, financial, or other methods—to force physicians to practice in any setting, or to force patients to receive care from any one type of practice.

PHILLIPS PETROLEUM TAKES TOP HONORS IN ENVIRONMENTAL CONTROL DEVELOPMENT

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. COLLINS of Texas. Mr. Speaker, Phillips Petroleum has won first place recognition for its innovations in resource utilization optimization of Petroleum

Engineer's environmental control program. Phillips was cited for its technique developed to utilize an off-gas produced at its Toledo, Ohio, carbon black plant.

Not only is the petroleum industry seeking new ways to prevent pollution, but as Phillips Petroleum has ably shown, they are developing positive uses for what was up to this time seen only as industrial waste. America salutes the petroleum industry as one of the leaders in her increasingly important program of environmental control.

The award to Phillips Petroleum stated:

Industry has been spurred to seek imaginative ways of utilizing processing byproducts once regarded as "waste." Prime example of Phillips Petroleum Co.'s efforts in this area is a newly developed system to utilize an off-gas produced at its Toledo, Ohio, carbon black plant.

The plant produces about 60 million lb of carbon black every year, made in a reactor by the partial combustion and thermal decomposition of oil in an atmosphere of limited oxygen. After reaction, carbon black-ladened gases flow from the reactor through a water quench, where they're cooled and into a complex filter system where the carbon black particles are separated from the gas.

The remaining gas is roughly 50% water vapor formed during the cooling process and nitrogen, smaller amounts of carbon monoxide, hydrogen, carbon dioxide, unburned hydrocarbons, sulfur compounds, and a trace of carbon black. Normally produced at a rate of about 2.5 million cu ft/hr, this "off-gas" under many industrial situations would be vented to the atmosphere after filtration.

To further protect the environment, however, as well as utilize the energy value of the gas, Phillips devised a method whereby the gas could be burned and the resulting heat put to a useful purpose

Oxidization of this off-gas is more difficult than that of conventional fuels because of its low concentration of combustible materials and high concentration of water vapor. Off-gas heating value is extremely low—only 35 to 50 Btus/cu ft. By contrast, natural gas has a heating value of about 1000 Btus/cu ft, 60 times greater.

The off-gas is used as fuel for the plant's two carbon black dryers as well as two boilers which supply steam for various processes. Because of the low Btu value, it was necessary to design these units with larger fire boxes than would be required had a conventional fuel been used. Technical problems also had to be overcome to accommodate the rapid fluctuation in the fuel's heating value. Extensive instrumentation was installed to constantly monitor and make automatic adjustments for these fluctuations.

During partial plant shutdowns or other occasions where the off-gas output may be reduced, natural gas is introduced into the fire boxes to sustain adequate heat level. Should operating conditions result in more off-gas than can be consumed, the excess gas is sent to an incinerator, where it is burned.

Although off-gas utilization at the Toledo plant has involved higher investment costs and closer operating supervision than would be required by conventional heat generating systems, Phillips believes the savings in fuel costs and the environment advantages outweigh these drawbacks. From a maintenance standpoint, the system has performed without major difficulty since its installation in June 1970, Phillips said.

DEFEAT OF PRAYER AMENDMENT CREATES SNEAKY PRAYING

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. RARICK. Mr. Speaker, I thought our colleagues would enjoy a bit of satire which appeared in the local paper following defeat of the prayer bill. There might well be more truth than humor in it.

The news clipping follows:

[From the Washington Star, Nov. 12, 1971]

THOSE SLY KIDS WILL PRAY ANYWAY

(By Arthur Hoppe)

Is Congress out of its mind? Killing the constitutional amendment that would have allowed our little children to pray in school?

It is obvious these venal politicians care more for the votes of their godless Communist constituents than they do for the needs and desires of our American youth.

True, the amendment was not without its faults. While it would have guaranteed the right of children to pray in school, it said nothing about their right, for example, to pray on school buses.

As anyone who has been aboard a brakeless school bus careening down a mountain road will testify, one right is surely the equal of the other.

The school bus section of the prayer amendment was reportedly dropped as a sop to anti-busing forces. More mysterious was the failure of the amendment to say a word about the people's right to pray in other public structures such as libraries, football stadiums and the offices of the Internal Revenue Service.

But wishy-washy as the amendment was, it was at least a start. And what a boon it would have been to our little children! For, after all, as long as they're going to do it anyway, we might as well let them do it openly and legally.

The way it is now, of course, our little children in public school have to sneak their prayers when the authorities aren't looking. This not only creates a disciplinary problem for the teachers, but it instills in our young a disrespect for rules and regulations.

Take a typical classroom scene these days. Take the scene in Miss Penelope Prudence's fifth grade class at the Garret A. Hobart Elementary School.

Miss Prudence: All right, class. Let's open our Sex Education books to the center fold and . . . Just a minute! Herman, what are you mumbling under your breath?

Herman (nervously): Just the Gettysburg Address, honest, Miss Prudence.

Miss Prudence (frowning): Are you certain it wasn't the Lord's Prayer, Herman? I distinctly heard you say, "Our Father."

Herman (quickly): Oh, no, Miss Prudence. "Our forefathers." You know, "who brought forth . . ."

Miss Prudence: Hmmm. I needn't remind you, Herman, that you're on probation since the principal caught you in the boiler room with those sixth graders sneaking Hail Marys. All right, now, we'll . . . Martha Lynx, I saw Sparky pass you that note! Bring it up here this instant.

Martha (blanching): It's just a mash note, Miss Prudence.

Miss Prudence (grabbing it): Aha! Just as I thought. The Twenty-Third Psalm! Passing prayers in class again, eh? And what's that you've got hidden behind your sex education text? Ah, the Book of Common Prayer!

Martha (in tears): I'm sorry, Miss Prudence. I was praying for a B-minus in sex education.

Thats no excuse, Martha. I'll have to send a note to your poor parents. This illegal praying in school has got to stop!

But keep the faith, fellow Americans. The prayer amendment is bound to be revived next year. Let us pray.

Miss Prudence (sternly): It will be stronger, more inclusive and less wishy-washy. And let us pray it will be speedily passed. But let's not rely on the efficacy of prayer.

After all, our congressmen begin each day's session by praying for divine wisdom. And look where that's got them.

EUPHORIA ON PRESIDENT NIXON'S COMING VISIT TO RUSSIA

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. DERWINSKI. Mr. Speaker, euphoria automatically develops when a U.S. President makes the predictable announcement that he will visit Moscow, and President Nixon's proposed trip next spring is no exception.

Therefore, it was with special interest that I studied and restudied the very penetrating column by Crosby Noyes in the October 24 Washington Sunday Star which, I believe, is well worth reviewing, especially among White House staffers.

DOUBTS ON COMMUNITY OF INTEREST WITH RUSSIA

(By Crosby S. Noyes)

The makings of a sharp disagreement between the White House and the Pentagon over a reading of Russian military and political intentions could seriously affect the prospects for President Nixon's projected summit meeting in Moscow next May.

The White House at this stage is uncharacteristically optimistic. In announcing his plan for the Moscow trip, Nixon is holding out the promise of "significant progress" in various areas of East-West negotiation and most especially in the area of armaments limitation.

In the President's hopeful view, Moscow and Washington "can both agree that neither major power can get a decisive advantage over the other, an advantage which would enable it to launch a preemptive strike which might enable it to engage in international blackmail."

This, in itself, is quite an assumption. If one buys it on the basis of what has gone on so far in the strategic arms limitation talks (SALT) at Helsinki and Vienna, then indeed a great deal may be possible. But there is fairly good evidence that Nixon's optimism is not shared by all of the top administration leadership.

It was hardly coincidental that at the same time the President was explaining why the Russians would negotiate seriously on armaments limitations, the Pentagon broke out with a rash of announcements on Soviet activities that point toward considerably grimmer conclusions.

First, the Air Force reported that the Russians had deployed operationally a new and potentially deadly nuclear delivery system known as FOBS (Fractional Orbital Bombardment System). According to a spokesman, the new device represents a weapon "which can approach us from virtually any direction and without detection."

Next, it was disclosed that the Russians are continuing rapid construction of three different new types of missile silos. Although Soviet land-based missiles already outclass the American strategic arsenal in numbers (1,550 to 1,054) and size (up to 25 times the megatonnage of the largest American missiles), they are busily forging ahead on more than 90 large new emplacements.

And finally, Defense Secretary Melvin Laird warned that the Soviet Union is doubling its production facilities for nuclear missile-firing submarines. At the present rate of building, said Laird, the Soviets would match the American fleet of Polaris submarines by 1973 and possibly pull rapidly ahead thereafter. President Nixon's coming talks with the Soviet leaders, the secretary said, were "indeed very important."

It is possible to be cynical about these markedly different appraisals of what the Russians are really up to. Around appropriation time, it is not unusual for the Pentagon to come along with alarming data on Russian efforts in the field of weaponry. It is not surprising, either, that the President chooses to accentuate the positive in his analysis of the Russians' willingness to resolve major differences with the West.

But it also is possible to see in the various negotiations that have been going on a pattern which suggests that the Russians have a very clear concept of their own interests and objectives. And which suggests further that these interests and objectives may not coincide as closely with our own as Nixon apparently hopes.

The Russians, for example, have negotiated an agreement on Berlin which everyone accepts as being very much in the interests of the West. In return, however, they are confident of getting ratification of a treaty with West Germany which consecrates the division of Germany and the status quo in Eastern Europe for the foreseeable future. The Berlin agreement, furthermore, could clear the way for a negotiation on troop reductions in Europe, leading to substantial cuts in American forces assigned to NATO.

Again, in the area of arms limitation, the Russians seem to be having things so far very much their own way. From the beginning of the SALT talks, they have shown considerable interest in limiting defensive nuclear weapons systems and very little interest in putting a ceiling on the deployment of offensive weapons.

The United States, which entered the talks with the firm resolve to keep defensive and offensive systems linked in an inseparable package, apparently has abandoned that resolve in the hope of reaching at least an interim agreement at an early date. Last May, it was agreed to concentrate on a formula for limiting defense weapons by the end of this year "and on certain measures to limit offensive weapons."

Whether this vague phrase justifies Nixon's assertion that neither of the major powers will try to "get a decisive advantage over the other" remains to be seen. Apparently there are still a number of skeptics who believe that in the coming era of negotiation, the Russians may try very hard to do just that.

WAR ON WILDLIFE

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. WHITEHURST. Mr. Speaker, a number of bills are now before the Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries, chaired by Mr. DINGELL, and I am confident that some valuable, meaningful legislation will be the result.

I had the opportunity to submit testimony before this subcommittee on behalf of my own bills, H.R. 6804 and H.R. 7240. I pointed out the need to do away with such cruel and dangerous means of trapping and killing as steel jaw traps, coyote getters, and Compound 1080. Let me commend to my colleagues the following article by Faith McNulty, which has been reprinted from the National Parks and Conservation magazine. I regret that the RECORD cannot also reproduce the pictures which accompany it, because they are further testimony to the tragic effects of the encroachment of what we like to call civilization.

The article follows:

WAR ON WILDLIFE

(By Faith McNulty)

Imagine you are standing and looking over the rolling grassland somewhere out West. The hill on which you stand is dotted with the small, earthen mounds of burrowing rodents called prairie dogs. Nearby is a little stream, its banks green with tall grass and brush. It is ideal wildlife habitat. The country is home to coyotes, badgers, foxes, raccoons, skunks, various rodents, and many birds. We will say that this is public land. (A third of the continent is still in the public domain.) Theoretically you, a citizen, own an interest in it no matter where you live.

A pick-up truck drives over the hill and stops. A man gets out carrying a shovel and walks toward the stream. You decide to accompany him. He pokes around in the shrubbery until he uncovers a trap. A badger, caught by the leg, snarls and cowers. The man hits the badger on the head with the shovel. Momentarily stunned, it lies still and he releases it. He resets the trap. The injured badger crawls away. Moving a little farther downstream, the man comes across the corpse of a coyote but continues until he finds an unusual object sticking up out of the ground. It looks like a piece of pipe some 6 inches tall. The man examines it briefly and turns away. He then goes to the pickup truck where he takes out a sack and slings it over his shoulder. He starts walking from one prairie dog hole to another, and at each he drops a tiny gift—a few grains of oats.

Imagine further that you question the man about what he is doing. You learn that he set the trap for bobcats, but caught the badger accidentally. The pipe device is called a coyote getter. It fires a dose of cyanide into the mouth of any animal that tugs at its scented wick. The oats dropped at the doorsteps of the prairie dogs are also lethal—they will kill 90 per cent of the dog town's population. Survivors will later be "cleaned-up" with cyanide cartridges thrown down the holes. This will also "clean up" any other denizens of the holes—burrowing owls, snakes, toads, rodents, and so on.) If it is winter, the man is likely to have set up a bait station somewhere in the vicinity. A bait station is a hunk of poisoned horsemeat—50 or 100 pounds—staked to the ground. It is designed to kill coyotes, but it is also capable of killing various other animals and birds. At some other location the man may have broadcast hundreds of small baits of poisoned tallow or distributed dozens of poisoned eggs.

Thus you have been introduced to the main weapons in a continuing war on wildlife carried on throughout the West under various names such as "husbandry," "conservation," and "multiple use."

Imagine that you continue your conversation with the man while he is poisoning the prairie dogs:

Q. "Why are you killing all these animals?"

A. "We don't call it killing. We call it 'animal damage control.'"

Q. "How do you control animal damage?"

A. "By killing the animal."

Q. "What damage do animals do?"

A. "Coyotes eat sheep. Prairie dogs eat grass. Bobcats kill game birds. The ranchers want to get rid of them. Then there are the 'nuisance' animals—skunks, badgers, 'coons. We kill them, too. And foxes."

Q. "But this is public land, isn't it? Doesn't the wildlife belong to the public?"

A. "We don't call predators and rodents 'wildlife.' The rancher who leases this land has the right to make the most possible profit out of it, and that means getting rid of the vermin."

Q. "How many animals do you kill?

A. "Nobody really knows. We can't go around and count every dead body. We think we kill a couple of hundred thousand coyotes a year. We poison maybe a million acres for rodents. The small animals and the animals that are killed accidentally we can only guess at."

Q. "What does all this poison do to the ecosystem?"

A. "Nobody knows. Every location is different. But it isn't economically important so it hasn't been studied very much."

Q. "Doesn't anybody object to your poisoning wildlife?"

A. "It sure drives the Protectionists up the wall!"

Q. "What's a Protectionist?"

A. "Protectionists are people who think wild animals are more important than a man's right to make a profit. Out here we think they ought to mind their own damn business. They don't live here."

Q. "Who is *we*? Who is doing all this killing?"

A. "*Please* don't call it 'killing'! That gets the public upset. Call it 'control' or 'management.' That's the scientific term."

Q. "Who is doing all this 'managing'?"

A. "The United States government. The Bureau of Sport Fisheries and Wildlife has overall responsibility for wild animals. The division that I work for that controls animals is called Wildlife Services. We think it sounds like something everybody can be in favor of."

The scene described may be imaginary, but the situation is real. It is one of the incongruities of our policy toward wildlife that the public agency charged with conserving it for all the people is also responsible for decimating large segments of it. It comes as a further shock to those of us who think of America as a nation of animal lovers to find that we do not in reality grant to wildlife the right to exist unless it pays its way. Game animals and birds are worth money—hunting is a billion-dollar business—so these species are fostered and fattened for the harvest. But species that have no dollar value—and this is a large group—have few rights and little protection. On the contrary, if they get

in someone's way or conflict with maximum profit from the land, they are destroyed.

The federal government's official policy was expressed in a statement issued in 1967. Though it recognized the right of the public to enjoy wildlife, it also defined "animal damage control" as "the management of damaging bird and mammal populations at levels consistent with the needs and activities of man." Obviously, with ever-expanding human activity, this level can sink to zero.

Unwanted animals are killed by landowners, by farm and livestock associations, and by state agencies, but far and away the most lavish destroyer is the Bureau of Sport Fisheries and Wildlife, which is authorized by Congress to kill virtually any animal that can be accused of any damage. Funded by both state and federal money, the Bureau's "control" division spends over $7 million a year and employs nearly a thousand men. The necessity for this killing, its justification in economic or any other terms, its benefits to individuals versus the detriment to the public, and its ecological results have been challenged and debated for 40 years. And while the debate continues, so does the killing.

The Federal Government got into the animal killing business by accident. In the early days the only federal agency that dealt with wildlife was the Biological Survey. Its main functions were to carry out research and to advise farmers and ranchers on problems of husbandry, problems that included damage by predators and rodents. During World War I efforts were made to increase beef production. Congress appropriated $125,000 to kill the wolves that still sometimes harassed western herds. The money was given to the Biological Survey, which hired hunters and trappers.

Soon sheepmen wanted the same service to protect their flocks from coyotes. It was not long before western congressmen recognized the killing as a valuable subsidy for their constituents. The trappers and hunters were given more duties, and more and more money was appropriated for the Survey's animal-killing division, known then as Predator and Rodent Control (PARC). Bureaucratic prosperity set in. Supervisors in Washington mapped the west into districts, and a small army of field men was hired to shoot, trap, and poison everything from the lordly mountain lion to the lowly gopher. ("Gopher-choker" was the field man's unaffectionate nickname.)

Naturally, men hired to do a job want to make sure there is a continued demand for their services. PARC agents became propagandists against predators and rodents, searching out instances of alleged animal damage and working to convince landowners that "control" increased profits. They built an ever-widening constituency that brought pressure on Congress for more funds for PARC. More funds hired more field men, who in turn worked to increase demand, so that a circular system was established. PARC came to dominate the Survey's more benign and less profit-oriented activities. By 1930 PARC had a million-dollar budget.

The widespread killing so dismayed conservationists and scientists that the American Society of Mammalogists urged Congress to abolish PARC. Congress very nearly did so. But officials of the Biological Survey promised reform—less killing, less propagandising and soliciting, more research. Their promises were accepted, and PARC made a new start. In 1940 the Biological Survey was transferred to the Department of the Interior and renamed the Fish and Wildlife Service. PARC became part of the Service's Bureau of Sport Fisheries and Wildlife.

After World War II the sheep industry encountered financial troubles and labor shortages. Owners began to employ fewer herdsmen and to run larger flocks. They demanded more federal control of coyotes. Once again PARC's appropriations, congressional support, labor force, and scope of killing began to increase. Its deadly work again dismayed conservationists, particularly when it killed wildlife on public land.

In the western states much of the sheep grazing and cattle raising, and consequently much of the poisoning, is carried out on public land. The Bureau of Land Management and the Forest Service control nearly 700 million acres—a vast domain, three times the area of Texas. Congress has declared a policy of leasing the land under the concept of "multiple use"—including sheep, cattle, mining, logging, and so forth. When wildlife conflicts with these commercial interests, lessees demand that it be eliminated. The Bureau of Land Management and the Forest Service employ the Bureau of Sport Fisheries and Wildlife to do the job.

Conservationists object. They declare that wildlife is public property of value to the nation as a whole and is a worthy use of the land. In the name of multiple use, they ask that holders of grazing leases coexist with wildlife even if this requires the sacrifice of a portion of their profit. Why, they ask, should the public sacrifice its irreplaceable heritage of wildlife in order to further subsidize leaseholders who in many cases are paying as little as a quarter of the open market value of the grazing they receive from the federal government?

The indignation of conservationists is further increased by PARC's use of a hideously lethal poison, sodium fluoroacetate, known as 1080, which was introduced in the mid-forties. From the point of view of those engaged in killing animals it is a great advance over earlier poisons. It is orderless and tasteless so animals cannot detect it, soluble in water, slow to deteriorate, and extremely cheap. A few cents worth of 1080 injected into meat or absorbed by grain can make enough bait to kill thousands of animals. Bait can be broadcast from airplanes to "treat" hundreds of thousands of square miles. Thanks to 1080 it is now possible to wipe out animal life on an enormous scale.

Another disastrous property of 1080 is its stability. It does not break down in the body of its victim. Any animal or bird that feeds on the carcass of a 1080 victim may be poisoned. Its body in turn may become another lethal bait. Dying animals may travel some distance, vomiting deadly doses of undigested meat, attractive to many animals and birds, along their trail. The possibilities of a chain reaction are great. A Bureau of Sport Fisheries and Wildlife biologist described 1080 as having "the potential of a biological high explosive."

In the fifties conservation organizations criticized PARC with increasing bitterness. In 1963 Secretary of the Interior Stewart Udall responded by appointing a board to evaluate PARC's work. Its chairman was Dr. A. Starker Leopold of the University of California, and the other members were well known in wildlife circles: Dr. Ira N. Gabrielson, an NPCA trustee and president of the Wildlife Management Institute; Dr. Clarence Cottam, NPCA board chairman and a former assistant director of the Fish and Wildlife Service; Thomas L. Kimball, now executive director of the National Wildlife Federation; and Dr. Stanley A. Cain of the University of Michigan. These men were by no means "hysterical protectionists," as PARC customarily termed its critics.

The Leopold board proceeded from the premise that "local population control" is essential where a species of animal causes "significant" damage to property. But it coupled this with the relatively new concept that *all* native animals are resources of value to the people of the United States. This resource, it found, was being needlessly wasted by Bureau control. Its investigation of PARC revealed a situation every bit as ghastly as the conservationists had said it was. The board found that PARC men still pressed their services as though they were peddling vacuum cleaners. Killing was their business, dead animals their product. Field men competed to see who could kill the most animals. Killing, the board said, had become an end in itself.

The board found a number of factors accounting for this grisly situation. One is the psychological fact that hired killers can be expected to think of maximum killing as doing the "best" job. Another factor in overcontrol is the peculiar way the Bureau finances its killing. It gets money not only from Congress but also from those "benefiting" from the work. These may be other federal agencies (principally the Bureau of Land Management, the Forest Service, and the Bureau of Indian Affairs), state and county agencies, livestock associations, commercial firms, or private ranchers. To keep money flowing, the Bureau must satisfy its customers. Thus those who want control have a strong voice in determining how much killing is "necessary." On the other hand, conservationists are unrepresented in the Bureau's councils. In fact, the board found, their complaints about too much killing were customarily stifled and evaded by Bureau officials. Thus the system puts the fate of wildlife in the hands of its enemies and excludes its friends.

The Leopold board also found that the Bureau justified needless killing with unwarranted biological assumptions. It is, for instance, unproven that coyotes do significant damage to cattle, but the Bureau kills coyotes for the supposed benefit of cattlemen as well as for sheepmen. Bobcats are on the Bureau's death list although the board found their depredations "insignificant." The board declared that killing predators to protect game animals is biologically unsound. In most cases predators keep prey populations balanced and healthy. The board also found that the Bureau leans heavily on the fact that rabies flares up in wild animals from time to time and is very frightening to the public (even though few human cases occur). In truth no one knows how best to suppress rabies in the wild, short of total extermination of furbearers, but the Bureau responds to rabies outbreaks among animals with carloads of poisoned eggs and often cites rabies "suppression" to justify its claim that it "promotes human health and safety."

In going about their animal killing, Bureau field men theoretically were bound by rules designed to minimize damage to nontarget wildlife. Poisoned horsemeat, for instance, was supposed to be used only in winter when many small furbearers are inactive, and the baits were supposed to be spaced a certain distance apart. The board found that such safety rules often were violated and that these violations greatly increased the death toll.

In appraising 1080 the board gave a split verdict. It declared that 1080 is probably the best available poison for coyotes in that it is highly effective and, if the safety rules are followed, no more damaging to other wildlife than such substitutes as arsenic, strychnine, or thallium. On the other hand, it attacked the Bureau's heavy use of 1080 for rodents, which results in the death of countless innocent coyotes, badgers, bears, foxes, raccoons, skunks, opossums, eagles, hawks, and owls. The board recommended that legal means be found to control the use of 1080 to prevent ecological abuse.

Although the board conceded that some animals damage some property, it found that the Bureau worked more from assumption of damage than from knowledge. No reliable figures have been collected to show the extent of loss of crops or livestock to predators and rodents, nor is there any evaluation of property protected. This failure, the board found, made it impossible to reach an objective determination of the need for control.

In short, the board thoroughly damned the way the Bureau operated. "The program," it said, "has become an end in itself. . . . For more animals are being killed than would be required to protect livestock . . . , crops, wildland resources, and human health." It found "scant relationship to real need and even less to scientific management."

The Leopold board recommended a thorough overhauling of the system to end overcontrol. It conceded that in far western areas where large bands of sheep are the principal use of land, federally operated control may be the best system. But it found the federal program in the Midwest unnecessary. It recommended abolishing federal animal killing east of the 98th parallel (a line running through the eastern Dakotas and eastern Texas) and replacing it with the extension system that conservationists had long recommended.

This system is used in Missouri and Kansas, which never have subscribed to federal control. Instead, the state department of agriculture employs one or two specialists who are available to advise farmers or ranchers on how to protect their crops and livestock from animal damage or how to kill the offending animal without harming others. Experience in these states has shown that the system places animal control on a much more selective basis. Landowners who might casually subscribe to a federal program of wholesale killing are far less eager to do the work themselves unless the need is truly urgent. The net result is that fewer animals are killed.

In other recommendations, the board urged the creation of an advisory board to represent conservationists as well as economic interests; expanded research to find ways other than killing to prevent damage by animals; and a greater effort to determine the real economic need to kill animals, so that needless killing can be eliminated.

Secretary Udall accepted the Leopold Report in 1965, and conservationists waited hopefully for it to be implemented. PARC was rechristened with the soothing title Wildlife Services and put in the hands of a new director, Jack H. Berryman. He and the new Bureau director, John Gottschalk, promised vigorous reform. But soon it was clear that they planned to accomplish it not by any radical change in the system, as the Leopold Report had urged, but merely by trying to reeducate Bureau employees to the concept that wildlife has intrinsic value and only necessary control should be undertaken.

Berryman set to work to end such abuses as soliciting business, flouting rules, and killing without any economic need; but the system that had fostered these abuses went essentially unchanged. There is still no advisory board, no mechanism by which conservationists have equal representation with livestock men, no objective way to evaluate the need for control, no friend of wildlife present when a decision to kill is made. Killing remains the usual method for preventing damage by animals.

Although conservationists are bitter that the Leopold Report has been ignored, Bureau officials are equally angry that their reform efforts have not been appreciated. They claim that conservationists misrepresent them in order to appeal to the lunatic fringe of overwrought protectionists. In an effort to make their work more palatable, they attempt to "educate" the public with almost Orwellian language. Killing animals is often referred to as a "management plan." A recent poster shows a Bureau employe against a background of birds and animals caught in the act of destroying property or endangering humans. Its message reads: "Wildlife resources are of interest and value to all people of the United States. Basic policy is one of husbandry. Local population control is an essential part of management where a species is causing significant damage to resources and crops, or where human health and safety is endangered. Good conservation today—more sport tomorrow." Surely these sentiments are all faultless, but strangely they seem intended to add up to the conclusion that killing animals is "good conservation" of animals, when in fact its aim is conservation of property. The casual reader could easily conclude that the Bureau is helping wildlife by killing it, and that the only value wildlife has is "sport."

Equally odd is the opening of a description of Wildlife Services work prepared for the Bureau of the Budget: "The objective of the Wildlife Services program is to cooperate with federal, state, and local agencies in the conservation and management of the nation's wildlife resources for the use and enjoyment of the entire citizenry." Who would ever guess that this means the destruction of countless thousands of animals for the benefit of ranchers and farmers?

Conservationists have continued to press for replacement of federal control with the extension system. Livestock interests, however, have mounted a powerful defense of their subsidy. At the moment it is considered unlikely that the Leopold Report will be implemented further. However, conservationists are considering a new approach. Both Defenders of Wildlife and the Environmental Defense Fund are preparing lawsuits to assert the right of the public to preserve and enjoy wildlife.

Such lawsuits pose a question more fundamental than whether the Bureau of Sport Fisheries and Wildlife functions properly in killing unwanted wildlife, or whether the responsibility should lie elsewhere. The deeper question is of competition between man and animal for use of the land. To whom does wildlife belong? Who will share in the cost of supporting it? Can the landowner be forced to accept less than maximum profit in order to allow wildlife to coexist? Or should the public reimburse him? Will ecological research show that such "pests" as coyotes and prairie dogs contribute more to our total well-being than would the lambs and the grass that these wild animals consume? Can our economic system respond to intangible values so that an animal that cannot be directly used can compete with marketable goods? The way these questions are answered will determine what level of wildlife, if any, will still exist a few years hence.

We are just now in the midst of redefining a number of our values, attempting belatedly to paste price tags on such "free" commodities as sunshine, air, and water. Wildlife is in the same category. Unless value is assigned to all wildlife—even to the most "useless" species—it will be no match for its prime competitor, the dollar.

In the long war on wildlife, man has steadily advanced and wildlife retreated. We are now in danger of achieving total victory. We have the capability to wipe out competing life on a tremendous scale. In such a victory we would surely find catastrophic defeat.

COMMISSION ON PENAL REFORM

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. McCLORY. Mr. Speaker, on November 3, my distinguished colleague from Missouri (Mr. HUNGATE) and I joined in introducing H.R. 11544, a bill to establish a Commission on Penal Reform.

In my remarks on the floor on that day I stated that we were fully cognizant of the fact that numerous commissions had been established in the past on a variety of issues only to have their findings and recommendations fade into oblivion.

Nevertheless, we are convinced that the subject of prison reform is so complex and riddled with problems, both substantive and procedural, that a Commission is essential.

Numerous proposals have been put forth in the House since Attica—all motivated by a sense of urgency. It is indeed commendable—and urgent—that Congress accept the responsibility for the reform of our Nation's penal system. And it is encouraging to note that Subcommittee 3 of the House Judiciary Committee is giving this matter its closest attention.

Mr. Speaker, I am submitting a copy of H.R. 11544 for insertion in the RECORD at this point, and I urge my colleagues to study its provisions, as Congressman HUNGATE and I intend to seek cosponsors during the next week.

The bill follows:

H.R. 11544

A bill to establish a Commission on Penal Reform

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on Penal Reform Act of 1971".

ESTABLISHMENT

SEC. 2. There is established a Commission to be known as the Commission on Penal Reform (hereinafter in this Act referred to as the "Commission").

FINDING OF FACT AND DECLARATION OF POLICY

SEC. 3. The Congress finds that conditions in many American penal institutions are deplorable and a matter of national concern. The problem, however, is not one which can be solved at any one level of government. For its part, the Federal Government has a responsibility to mount a concerted legal attack on the unconstitutional forms of punishment which are inflicted upon those incarcerated in American correctional facilities. Confinement within an institution where conditions are so bad as to be shocking to the conscience of a civilized people calls forth the urgent need to redress present grievances and to make a prompt start toward eliminating such conditions for all time. The State and local governments share responsibility on their respective levels, and any attempts to penetrate the closed doors behind which the lives, safety, and health of human beings, to say nothing of their dignity, are at stake, should be a coordinated effort at the various governmental levels. It is the purpose of this Act to establish a Com-

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mission whose purpose shall be to recommend advisable, appropriate, effective, and constitutional reforms of the Nation's penal system.

MEMBERSHIP

SEC. 4. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of nine members as follows:

(1) Three members appointed by the President from persons in private life, one of whom shall be an individual who has been incarcerated for a period in excess of one year in a State or Federal correctional institution and has assumed a rehabilitated place in society,

(2) Three Members of the Senate appointed by the President pro tempore of the Senate, and

(3) three Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(b) CHAIRMAN.—One of the individuals appointed by the President under paragraph (1) of subsection (a) shall be designated by him as Chairman of the Commission.

(c) POLITICAL AFFILIATION.—Not more than two members of the Commission appointed under paragraph (1) of subsection (a) shall be of the same political party. With respect to members of the Commission who are Members of Congress, not more than two Representatives and not more than two Senators shall be of the same political party.

(d) VACANCIES.—Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made and subject to the same limitations with respect to party affiliations as applied to the original appointment.

(e) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 5. (a) Members of Congress who are members of the Commission shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

(b) A member of the Commission from private life shall receive $75 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

STAFF OF THE COMMISSION

SEC. 6. The Chairman of the Commission is authorized to appoint and fix the compensation of such personnel as he deems necessary to carry out the Commission's functions. He is also authorized to procure services to the same extent as authorized for the executive departments by section 3109 of title 5, United States Code, at rates not to exceed $75 per diem for individuals.

POWERS OF THE COMMISSION

SEC. 7. (a) HEARINGS AND SESSIONS.—The Commission may for the purposes of carrying out this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) OBTAINING OFFICIAL DATA.—The Commission, acting through its Chairman, is authorized to request from any executive department or agency any information and assistance deemed necessary to carry out its functions under this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall, to the extent permitted by law, furnish such information to the Commission.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(d) SUBPENA POWER.—(1) The Chairman of the Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpena under paragraph (1) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which such person is found or resides or transacts business may (upon application by the Chairman of the Commission) order such person to appear before the Commission to produce evidence or give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas issued by the Chairman of the Commission shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

ESTABLISHMENT OF THE ADVISORY COMMITTEE

SEC. 8. (a) There is hereby established a committee of twenty-five members to be known as the Advisory Committee on Penal Reform (hereinafter referred to as the "Advisory Committee") to advise and consult with the Commission and otherwise assist the Commission in its work. The Advisory Committee shall be appointed by the Commission from among lawyers, judges, penologists, criminologists, and other persons knowledgeable and experienced in disciplines related to the Commission's objectives.

(b) Members of the Advisory Committee shall not be deemed to be officers or employees of the United States by virtue of such service and shall receive no compensation, but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them by virtue of such service to the Commission.

REPORT OF THE COMMISSION; TERMINATION

SEC. 9. The Commission shall transmit to the President and to each House of Congress an interim report not later than one year after the date of the enactment of this Act and shall transmit a final report to the President and to each House of Congress not later than two years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative, administrative, and other action as it deems appropriate. The Commission shall cease to exist sixty days after submitting its final report.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There are hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, such amounts, not to exceed a total of $300,000, as many be necessary to carry out the provisions of this Act. Authority is hereby granted for appropriated money to remain available until expended.

STUDY IN VALUES: PRAYERS IN SCHOOLS

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. DEL CLAWSON. Mr. Speaker, the Los Angeles Herald Examiner for Sunday, November 14 carries an editorial which places the vote in the House of Representatives on the prayer amendment and the surrounding controversy in proper perspective. Under leave to extend my remarks in the RECORD I hereby include the report by William Randolph Hearst, Jr., editor in chief of the Hearst newspapers which follows:

EDITOR'S REPORT—STUDY IN VALUES: PRAYERS IN SCHOOL

(By William Randolph Hearst Jr.)

NEW YORK.—A curious aspect of our democracy, which is supposed to be government by the people, is that the Congress of the United States frequently ignores the will of the voters who elect its members as legislative proxies.

That is exactly what happened this week when the House, in a really classic disavowal of mandated responsibility, rejected a proposed constitutional amendment to permit voluntary prayers or meditation in public schools.

What makes the rejection so flagrant is the overwhelming public sentiment it simultaneously spurned. National opinion polls had consistently shown that up to 90 per cent of Americans favored adoption of the amendment.

The only remotely encouraging fact about the House action was that a considerable majority—240 members—actually did vote affirmatively in line with the clear wish of the electorate.

It was not enough. The measure failed by 28 votes to get its required two-thirds support when 162 other members voted no. A total of 29 more didn't vote at all.

When our so-called House of Representatives fails to give two-thirds support to an amendment favored by over 85 per cent of the people it is supposed to represent—then you have a situation which surely deserves some close inspection.

Plus a lot of indignation, if you happen to feel as I do about this.

It is happens I went to a Dutch reform grammar school—collegiate by name—as a kid. We went to chapel every morning and read and learned a bit about the world's all-time best seller—the Bible. Offhand I don't recall experiencing any ill effects from this habit. As a matter of fact, most of the great institutes of learning were founded under religious auspices, starting with Harvard. The list is too long to note here.

Starting the day with a prayer is good for kids. If nothing else the humbling practice teaches them that they are parts and not masters of the awesome mystery called creation.

Our Founding Fathers certainly knew this, and they took it for granted. In their day, in fact, the Puritan traditions were still so strong that daily prayers in public schools were a major rather than minor event.

The point is that prayers by school children could hardly have been an issue when the Bill of Rights was written and the following words set down:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."

In those words is contained the basic principle of church and state separation which has resulted in so much confusion and misinterpretation in recent years. It is well to consider the original intent of the words.

When they were written, I submit, the idea was simply to stop the United States from ever setting up a state religion. Our forefathers had in mind the restrictions represented by the Holy Roman Empire and the Church of England. They wanted no part of that, yet religion itself should be free to flourish.

It was a sweeping, intelligent and foresighted concept. It was followed for more than 175 years—and in all that time no one came up with any serious challenge to prayers in public schools.

Then, suddenly, the nit-pickers and the trouble-makers got busy. Joined by atheists and others whose seeming desire is to tear down the finest traditions of American life, they made a Supreme Court case of the kiddies' prayers.

It was a terrible thing, they contended, for officially operated institutions to be mixed up with any kind of religious endeavor. School prayers, however innocuous in themselves, could lead to an eventual corruption of freedom itself.

This hogwash got a sympathetic hearing from the Supreme Court then headed by Earl Warren, the former California district attorney who had never sat in judgment on anything prior to his appointment to the Nation's highest tribunal.

In 1962 the court ruled that school prayers do, in fact, violate the Constitutional restrictions for separation of church and State. They were banned and have been banned ever since despite insistent public demand for a reversal.

To understand how Congress works, you have to realise that its members are subject to a wide variety of pressures—some legitimate, some questionable and others so vague yet powerful that resistance is difficult if not impossible.

In the first category, of course, is the pressure to do what the electorate back home wants done. In the second is the pressure from wealthy lobbies and special interest groups. The third is much more complicated.

It can and often does consist of fashionable ideas, usually backed by the liberal intellectual establishment and press, which are advanced with such force that common sense itself becomes the victim.

This is what happened in the latest school prayer defeat. It lost because enough members of Congress and even a sizeable number of church spokesmen, were sold on the notion that the principal of church-State separation was being dangerously threatened.

Following the vote, we were regaled with liberal press editorials hailing it as a triumphant reaffirmation of the Bill of Rights. Congressmen who voted against the amendment were congratulated for their "courage" in defying possible voter retaliation at the polls.

What the House did, in actual fact, was succumb to the pressure drive of the nit-pickers, trouble-makers, atheists and the kind of niggling legal mind that attacks the issuance of Christmas stamps as a threat to freedom.

In so doing it not only surrendered common sense—it acted with an irrationality which is almost beyond belief.

Consider this. When the House convened for the showdown vote its members, as first order of business, listened to their chaplain, The Rev. Dr. Edward Gardiner Latch, intoning as follows:

"Lord, teach us to pray . . ."

In other words it's all right and no violation of the Constitution for the nation's lawmakers to start off with a prayer—but when little children do the same thing it might destroy the fabric of democracy.

How can any sensible person justify this double standard?

If a harmless, non-partisan prayer in public school violates the principle of church and state separation, why doesn't a similar prayer in the halls of Congress?

If a church and state are to be totally separate, how come our officials take their oaths of office on the Bible?

And if the division is to be really complete, how come the teardown legal beagles haven't succeeded in purifying our very state-issued money by expunging the words : "In God We Trust?"

Non-sectarian prayers by school children are not a threat to our freedom.

That real threat comes from those who go about attacking and weakening our finest traditions in the name of spurious idealism.

And from those stupid enough to be duped by them.

MEYER KAHN TO RECEIVE "SHALOM AWARD"

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. KEMP. Mr. Speaker, on the evening of Wednesday, November 17, at Temple Beth Zion of Buffalo, N.Y., the National Israel Bond Organization will bestow its distinguished "Shalom Award" upon a constituent of mine who is well deserving of the honor. Mr. Meyer A. Kahn has shown himself to be an outstanding citizen of western New York, always displaying an unselfish dedication to his community and his country.

A graduate of the University of Buffalo Law School—1927, Mr. Kahn saw the need to do more than merely reflect upon the issues and concerns of the day. His willingness to participate and use his talents for the betterment of others is the finest example of good citizenship.

The award cites Mr. Kahn for his "deep devotion to . . . the land of Israel". As well as his efforts in Israel Bond Drives, Mr. Kahn has over the years served as president of the Montefiore Club, the Rosa Coplon Old Folks Home, advance gifts chairman of the United Jewish Fund, chairman of the board of the Anti-Defamation League of western New York, and he has been involved in numerous other campaigns whenever he felt his assistance could be of use. Currently, Mr. Kahn is the first vice president of Temple Beth Zion and serves as president of the Duo-Temp Corp., which makes him the largest employer in Depew, N.Y.

As a noted industrialist, humanitarian, and civic leader, Mr. Kahn has given a great deal of his time and energies in service to others, and at this point, Mr. Speaker, I would like to include in the RECORD excerpts from "Invest In A Growing Democracy" issued by the Development Corp. for Israel. Their words demonstrate quite clearly the successful efforts made by people such as Meyer A. Kahn. The article follows:

INVEST IN A GROWING DEMOCRACY

The dramatic history of the State of Israel since its establishment in May, 1948 has provided a remarkable example of dedication to human freedom and the principles of democracy. It is no less remarkable that Israel has been able to make enormous progress in developing a modern and stable economy without compromising the rights of its citizens and despite almost constant siege and crisis on its borders.

Israel as a dynamic and growing democracy owes much of its success to the friendship and support of the United States. From the very first days of the proclamation of Israel's independence, the American people have welcomed the birth of the new nation as a significant addition to the community of the free world. To this very day the common interests and identity of national purpose shared by the United States and Israel have been reflected in an ever closer relationship and a continuing flow of material support.

One of the most important channels of financial aid for economic development has been the Israel Bond Organization (Development Corporation for Israel) which (as of the end of 1970) sold a total of $1.64 billion in Israel Bonds since May, 1951. The proceeds from the sale of Israel Bonds have been a decisive factor in stimulating the steady growth of the country's economy.

The confidence produced by the unusually impressive progress of Israel's economy has created a very favorable climate for the sale of State of Israel Bonds. For the past twenty years they have been a major source of capital for the development of agriculture, commerce, industry, mining and other branches of Israel's economy. They have also promoted trade between Israel and the U.S.

Various institutions have purchased Israel Bonds as an indication of their faith in Israel's future and in recognition of its achievements in building an economically sound democracy.

A special issue of Israel Bonds, with interest of 5½% per year, payable semi-annually, is offered for sale to banks, insurance companies, labor unions and employee benefit funds (pension funds, retirement and welfare plans, profit-sharing plans, etc.).

Credit unions, endowment funds, community funds (public funds of charitable, religious and educational organizations set up on a community-wide basis), city and state governmental pension and welfare funds, and building funds, including cemetery and perpetual care funds, are also eligible to subscribe to this security.

The $250 million issue of Dollar Bonds, known as the Third Development Investment Issue, consists of 20-year Coupon Bonds.

Within ninety days after written demand, the State of Israel will repurchase Bonds of the Third Development Investment Issue, as stated in the prospectus.

There has been a rising rate of Israel Bond purchases by both national and state banks. It is worth noting that 60% of the three hundred largest banks in the United States have added Israel Bonds to their portfolios. In all some 1900 banks have purchased Israel Bonds in amounts up to $2 million each.

The Controller of the Currency has ruled that Israel Bonds are a proper investment for national banks and banks which are part of the Federal Reserve System.

Israel Bond sales to trade unions have also shown a substantial increase. A total of 2100 pension funds have been enrolled as investors in Israel Bonds in the past six years.

A large proportion of the funds provided through Israel Bonds remains in the United

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States, paying for the purchase of machinery and equipment which Israel needs. Israel's imports from the United States in 1970 amounted to $584 million. Its exports to this country last year totalled $298 million, thereby reflecting a trade balance substantially in favor of the United States.

The extent of Israel's economic reconstruction since the inception of the Israel Bond program in 1951 can be seen in the growth of its gross national product, which has increased at an average rate of 10% a year. The country's population has increased from 1,577,000 to 3,000,000 and its standard of living has risen steadily during the twenty-year period.

Since 1951 exports of goods and services have increased from $70 million to $1.315 billion in 1970. Industrial production in the same period jumped from $383 million to $3.050 billion and agricultural production climbed from $83 to $545 million.

Important basic development projects financed in part by Israel Bonds include the construction of the new deepwater harbor at Ashdod; the expansion of port facilities at Haifa and Elath; the exploitation of mineral resources, including the copper deposits at Timna and the construction of its refinery; the completion of the National Water Carrier, which is now irrigating much of the Negev; the extension of highways and railroads; the expansion of the merchant marine and development of El Al Israel Air lines.

Early in 1970 work was completed on a 163-mile-long 42-inch pipeline carrying 20 million tons of oil a year in its initial stage from Elath and Ashkelon on the Mediterranean coast. A new refinery is being built at Ashdod to process some of the oil from the new pipeline. Israel Bonds have also financed the expansion of the Dead Sea Works at S'dom and the construction of over 690,000 permanent housing units.

Israel Bonds are helping to expand industrial production for export through a shift to highly sophisticated industries such as electronics and chemicals to improve the country's balance of trade.

Through its accomplishments in human redemption and economic progress, Israel has shown the world what a small democracy can accomplish in the face of critical challenges. Many developing countries in Asia and Africa have drawn upon the example and know-how of Israel to improve their own economy as a foundation for progress under freedom.

SCHOOL PRAYER AMENDMENT

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HAMMERSCHMIDT. Mr. Speaker, last week, Members of the House of Representatives failed to approve by two-thirds a joint resolution proposing an amendment to the Constitution of the United States, which would have provided for the offering of voluntary prayer or meditation in public schools and other public buildings. The vote was 240 for to 162 against, just 28 votes shy of passing.

I voted for the amendment.

In my judgment, the Supreme Court decisions of 1962 and 1963 imposed a restriction on Bible reading and recitation of the Lord's Prayer in public schools.

The decisions have been interpreted to be an infringement on a citizen's right to free religious exercise, as was guaranteed by the first amendment, before the Supreme Court ruling took that right from him.

The prayer amendment clearly would have reinstated the rights of those who wished to take part in a religious exercise of prayer and meditation in public places.

Those of us who believe in the sovereignty of the people should have had no hesitancy in submitting to them a proposed constitutional amendment in which there is great public interest. In fact, the Congress has an obligation to do so.

Mr. Speaker, we are a religious people. Religion is closely identified with our history and government. The Constitution never intended to forbid the recitation of voluntary prayers in public schools.

I subscribe to the language of the dissenting opinion written by Mr. Justice Stewart, which reads:

To deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our nation.

I wish to restate the reasons for my vote.

The resolution to propose an amendment to the constitution would have made prayer permissible in public buildings. It would have allowed children to use school buildings for voluntary prayer.

The resolution would have given the American people the opportunity to decide through their elected State legislative members if, in fact, a basic constitutional right was being taken away.

The opponents of the resolution, for whom I have the greatest respect, contended that such an amendment would violate the long-established principle of separation of church and state. I just do not share their apprehensions nor agree with their conclusions.

The first amendment directs that:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

This means that Congress and State legislatures are prohibited from establishing a state church. As far as government is concerned, there is to be no single "official" church or creed.

There is to be no religious examination as a prerequisite for citizenship, for voting, or holding office.

The first amendment did not mean, however, that there is to be no religion, or no religious prayer or expression in public places.

While we must forever respect and diligently protect the rights of all who disagree and must never require the minority to embrace the opinion of the majority, the fact remains that this Nation in solemn truth does believe in God.

This amendment seems in accordance with the wishes and desires of most of the people, certainly in my district. It seems harmonious with the doctrine of separation as most have understood it for 171 years.

After debate and just prior to the question of the joint resolution, House Members agreed to strike the term "non-denominational" and substitute "voluntary prayer or meditation." But that was not enough to gain the required two-thirds vote.

And after all was said, I draw the conclusion that not one of my colleagues is against prayer or a person praying in a public building.

Even though the proposed constitutional amendment failed to win two-thirds approval of the House, I do not believe the issue is dead.

SPEECH AND HEARING HANDICAPPED CHILDREN WEEK

HON. WILLIAM D. HATHAWAY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. HATHAWAY. Mr. Speaker, Gov. Kenneth M. Curtis of Maine recently proclaimed the week of October 17–23 "Speech and Hearing Handicapped Children Week" in the State of Maine. The Governor has taken this action in recognition of the outstanding work done by the speech and hearing profession in meeting the tremendous needs of speech and hearing handicapped children in the State.

For the benefit of my colleagues and in recognition of the work being done by members of the speech and hearing profession in Maine, I would like at this time to include in my remarks for the RECORD an article from the newsletter of the Maine Speech and Hearing Association, September 1971, describing the Governor's action, the progress that has been made by speech and hearing professionals in the last several years, and the needs still existing in this area:

SPEECH AND HEARING HANDICAPPED CHILDREN WEEK—OCTOBER 17–23, 1971

Governor Curtis will again recognize the special assistance being provided to Maine children with speech and hearing problems, and call attention to our goals with reference to these children.

It is appropriate to recognize the progress that has been made in the delivery of speech and hearing therapy to our school age population. Looking back at the level of services just three years ago in the 1968–69 school year provides a very significant contrast with the level of services available during the current 1971–72 school year. Here is the picture, based on information provided by the Maine Department of Education:

1. School age pop. Grades K–12: 1968–69, 235,000; 1971–72,[1] 250,000.

2. Est. no. of child. with spch. and hear. problems[2]: 1968–69, 11,500; 1971–72,[1] 12,500.

3. Number of children receiving therapy in schools and clinics: 1968–69, 1,900; 1971–72,[1] 4,000.

4. Percentage of estimated number needing therapy act. receiving therapy (item No. 3/item No. 2): 1968–69, 16 percent; 1971–72,[1] 32 percent.

5. Number of in-school special-hearing therapy programs: 1968–69, 16; 1971–72,[1] 40.

[1] Based on best estimates 9/15/71.

[2] Based on 5% prevalence in school age population.

An examination of the information indicates that the reported school age population three year period. However, the number of children receiving speech and hearing therapy has increased by approximately 110% in this same period of time—more than twice as many children are receiving speech and hearing therapy this year than received help in the 1968–69 school year.

It is important to note that since the 1968–69 school year, 24 new in-school speech and hearing therapy programs have been established. This is a 150% improvement in the number of school programs for these handicapped children.

It appears that a very substantial gain has been made with reference to that portion of this special group of children now receiving therapy. In 1968–69, only 16% of the estimated number of speech and hearing impaired children were receiving therapy. It appears that in the current school year approximately 32% of this group of 12,500 children will be receiving services.

These very dramatic improvements must be attributed to the increasing awareness of school committees and school administrators throughout the State of Maine. Making use of Maine's excellent reimbursement provisions for the education of handicapped children, in-school programs have been instituted. The benefits derived from the programs have been apparent to the children involved, their parents, and their teachers.

A share of the responsibility for these improved services belongs to two additional groups: the Maine Department of Education and the Maine Speech and Hearing Association. The Department of Education and the MSHA have worked cooperatively to bring the needs of these children to the attention of the public, school administrators, and school committees. Through workshops, consultive-advisory services, and a constant readiness to speak on behalf of those with impaired speech, the MSHA and the Department of Education deserve recognition.

And what of the future—the next three years? It is apparent that a significant leap has been made to narrow the gap in services to these children. However, it is equally obvious that there are still over 8,000 children in our schools now who are not receiving the special service they need for their speech or hearing impairments.

The answer is clear: more programs must be established; and existing programs must be expanded. It is well recognized that some established progams are necessarily limited in the number of children served. This limitation exists because the program is understaffed. While the maximum effective caseload for one speech and hearing clinician varies with a number of factors it is generally true that 50–70 children wih impairments constitutes a maximum load for one clinician. This is an area that must not be neglected.

Furthermore, it seems necessary that speech and hearing clinicians within the state continually strive to improve their professional competencies. The MSHA has supported the principles expressed in the proposed revision in school certification standards for speech and hearing personnel. The members of the profession must individually continue to work to improve their competencies. We must take advantage of the workshops now being offered by the Department of Education. The meetings of our association provide other opportunities. Demands must be made on the two speech and hearing programs of the University for course offerings that are relevant to the pofessional needs within Maine. We do have the resources. We do have the means to make these resources work on behalf of the speech and hearing impaired person.

What will the picture be in October, 1975, as we look back at the three years that have just elapsed? What you do today, tomorrow, and next week will determine a portion of that picture, because you own a piece of it right now.

Mr. Speaker, I insert the proclamation issued by Governor Curtis declaring the week of October 17 "Speech and Hearing Handicapped Children Week" at this point:

STATE OF MAINE PROCLAMATION

Whereas, over the past three years the number of children with speech and hearing impairments receiving speech therapy has more than doubled; and

Whereas, there are presently over 8,000 children in Maine with impaired speech and hearing who are not receiving the therapy they are entitled to receive; and

Whereas, during the past three years there has been a very substantial increase in services to speech and hearing impaired children in the State of Maine; and

Whereas, approximately 32% of the estimated 12,500 Maine school children with problems in speech and hearing are now receiving help, whereas in 1968–69 only 16% of these children were receiving the help they were entitled to under Maine law; and

Whereas, there is still a need for more in-school programs for these children, as well as the need to expand some existing programs;

"Now, therefore, I, Kenneth M. Curtis, Governor of the State of Maine, do hereby proclaim the week of October 17, 1971, as Speech and Hearing Handicapped Children Week in the State of Maine and commend the Maine Speech and Hearing Association and the Maine State Department of Education for the outstanding job they have done in providing increased services to the school children in need of speech and hearing services.

Given at the office of the Governor at Augusta, and sealed with the Great Seal of the State of Maine, this Seventh day of October, in the Year of Our Lord, One Thousand Nine Hundred and Seventy-one, and of the Independence of the United States of America, the One Hundred and Ninety-sixth.

KENNETH M. CURTIS.

THE YOUTH CONSERVATION CORPS OF THE DEPARTMENTS OF AGRICULTURE AND INTERIOR

HON. BOB BERGLAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 15, 1971

Mr. BERGLAND. Mr. Speaker, I would like to call to the attention of the House one of the most successful, yet unsung, youth programs that has ever been sponsored by the Congress of the United States. I refer to the Youth Conservation Corps, administered jointly by the Departments of Agriculture and Interior.

This program has completed the first of a 3-year pilot project. Operating under severe funding limitations imposed by the Office of Management and Budget, 2,800 young people lived and worked in 36 camps under the jurisdiction of the Forest Service of the Department of Agriculture and 28 camps on lands operated by the National Park Service of the Department of the Interior. Under this program young people from all background were brought together to engage in meaningful and valuable tasks to improve Federal park and forest lands and to gain a greater awareness and appreciation of our environment.

This program has received much and frequent praise from the President of the United States, Congress, and administering agencies. But none of us can give the more practical and down-to-earth evaluations which can be provided by the young people who took part in it. I am fortunate to have such an evaluation from Miss Laura Campbell of East Grand Forks, Minn., who worked at the Youth Conservation Corps camp located in the Chippewa National Forest of my district. I would like to share her letter to Mr. M. K. Lauritsen, supervisor of the Chippewa National Forest:

EAST GRAND FORKS, MINN.,

October 11, 1971.

DEAR MR. LAURITSEN, I'm not sure where to begin, but I'd just like to give a few afterthoughts about camp, after being away nearly two months.

Quite obviously, the hardest thing to get used to upon returning home was the absence of such a close-knit community. It's really rare to feel so close to kids and really feel like you've gotten to be a part of them, and they a part of you. Even more rare though, I think, is the fact that it didn't stop with kids. There seemed to be almost no generation gap. In fact, such total reasonableness and willingness to change in the interest for advancement seems almost unreal now. Authority was so flexible. Like some sort of Utopia gone forever, or until a much future time at least. Other campers have mentioned the fairyland type thing too. Some of us had more trouble returning to society than others, but living this kind of existence, if only for a month, left a lasting impression on almost everyone. I'll always be glad that we appreciated it even when we had it, not just in retrospect.

There are some things that I appreciate more in the absence of them. Like going on a picnic with people who found it more natural to pick up a few extra pop cans than throw out their own. Having everyone around me very, very interested, in a practical way, in conservation.

How lucky I was to be with people who were careful of forests and wildlife because they really loved it. They really cared.

Actually, it's not that I live in an uncooperative community. But that's the thing; they cooperate with, rather than initiate. I always seem to be in the position of one trying to convince.

Probably the best thing about Y.C.C. is that it gives kids a chance to taste a different kind of life. Not really a Thoreau-type existence, but something they can achieve if they want it bad enough. Because, without tasting it, you can't tell what you're looking for. You can take anything if you have a goal.

I've thought of reapplying for Y.C.C., but I don't really think it would be fair not to give someone else a chance. Just the chance to get to know some people in forestry and actually DO some of the work is really an experience. To work with adults who love their work and know the forest because they love it is really great.

Thank you for everything.

Sincerely,

LAURA CAMPBELL.

During this Congress, I am hopeful that we will have the opportunity to expand and extend this program by enact-

ing H.R. 10456 introduced by the distinguished gentleman from Washington (Mr. MEEDS). H.R. 10456 would expand the program to allow 100,000 young people to become part of the Youth Conservation Corps. It should be noted that an estimated 126,000 students applied for the program which only had room for 2,300 and that the only criticism that can be made of the program is that too many enthusiastic potential participants were turned away. H.R. 10456 would also allow cost sharing with State governments so they may sponsor similar programs on State-owned lands. In addition, during the times that YCC camps are not being utilized for their primary purpose they would be made available to schools, colleges, and universities as centers for the study of our environment.

I fully endorse this project and I hope that every Member of the House of Representatives and Senate will give it their full support.

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